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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

SENATE—*Tuesday, January 31, 1995*

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *love is the fulfilling of the law.*—Romans 13:10.

Father in Heaven, when pressure becomes heavy between those who hold opposing views, we are less inclined to concentrate on issues and more inclined to think personally. Our reason tells us we are united in one purpose for the common welfare, but our emotions incline us to see those who oppose us as enemies. We thank Thee for Senate tradition which respects political adversaries and for Senate language which never fails to recognize each other as distinguished.

Grant, O God, that this tradition will always be taken seriously and this language will always be more than polite rhetoric. Keep us mindful that we debate a point not because we are stubborn and inflexible, but because we are strongly convinced that our position is the best for that objective to which we all are dedicated.

Help us to keep our cool in the realization that "* * * love is the fulfilling of the law," that the two great commandments are comprehended in love for God and neighbor. Never allow us to feel that love is unbecoming the dignity and decorum of this powerful body. Gracious, loving Lord, help us to conduct all our business on this floor, as well as in our offices and homes, in love.

In the name of Him who is incarnate in love. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. LOTT. Thank you, Mr. President.

RESERVATION OF LEADER TIME

Mr. LOTT. Mr. President, time for the two leaders has been reserved.

SCHEDULE

Mr. LOTT. Mr. President, there will be a period for the transaction of morning business not to extend beyond 10 a.m. with Senators permitted to speak for not more than 5 minutes each with the following Senators to speak for up to the designated times of 15 minutes: Senator DOMENICI and Senator BREAUX.

The Senate will then resume consideration of House Joint Resolution 1 at 10 a.m., the balanced budget amendment to the Constitution.

There will be a recess between the hours of 12:30 p.m. and 2:15 p.m. for the weekly policy luncheons to meet.

Mr. President, I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator from Mississippi is recognized.

FARM AND NUTRITION PROGRAMS

Mr. COCHRAN. Mr. President, I ask unanimous consent to insert in the RECORD a copy of an article written by Mr. Neely Mallory in the Commercial Appeal of Memphis, TN, on Sunday, January 29, dealing with the importance of agriculture and nutrition programs.

It is a cautionary signal and call to the Congress to recognize the importance of these programs as we work through the efforts for reform, reduction in spending, balancing the budget, and the other important challenges that we are considering now in the Congress.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Commercial Appeal, Jan. 29, 1995]

A PROUD HARVEST

(By Neely Mallory)

The new year is barely out of the bag but the debate concerning the new farm bill already has begun in earnest. Every five years, Congress must decide whether to reauthorize a set of farm and nutrition programs that have been in place for about 60 years.

An editorial in this newspaper Jan. 2 lent its voice to a group that wants farm programs to be either abolished or significantly changed. In so doing, this newspaper has done a disservice to the thousands of Mid-South farmers who read it, the needy who benefit from food assistance programs and the American public.

As the editorial stated, there are far fewer farmers today than there were 60 years ago—but there are many more mouths to feed and bodies to clothe. The importance of food and fiber to every person on this planet has not declined one iota over these many years. Research, huge capital investments, advancing technology and successful farm programs have made this incredible jump in efficiency possible—without for one moment jeopardizing our nation's supply of reasonably priced food and fiber.

Agriculture and related businesses contribute more than $40 billion annually to the Mid-South economy alone. Farming may not be the nation's principal occupation, but it is, nevertheless, an important one. About one job out of six in the United States is somehow farm or food related. Certainly, the jobs and economic activity created by farmers drive this region's economy.

Farm programs are not the relics critics would lead the public to believe. Farm programs have changed, evolved with every farm bill and with changing economic conditions. In the 1930s, those programs were designed to keep farmers in place and to prevent shortages of food and fiber for a hungry nation. In the 1990s, these programs are a crucially important component of industrial policy that enables U.S. agriculture to remain viable in a world market where its comparative advantage is taken away by foreign subsidies.

Today's commercial farm is a high-tech, capital-intensive enterprise. The implications of this evolution in farm organization and management are not understood nearly as well as they should be. The relatively large gross sales of farming operations lead many people to believe that farmers have no need for government programs. The truth of the matter is that the narrow margins on sales of agriculture commodities are simply not adequate to compensate for the tremendous risk associated with today's capital-intensive farming. Neither a prudent farmer nor his banker would consider making the kind of investment currently necessary for

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

commercial agriculture production in the absence of either a farm program that provides the producer with a safety net or much higher market prices that are commensurate with the investment and risk involved.

There is a rather badly misplaced belief that the new General Agreement on Tariffs and Trade will do away with agriculture subsidies around the world, after which U.S. agriculture should be able to take advantage of its competitive edge. If, in fact, GATT did away with subsidies, U.S. agriculture would be generally well positioned, with its vast agriculture land resources, favorable climate, unequalled technology and excellent processing, handling and transportation infrastructure.

The United States offered during the early stages of GATT negotiations to end agriculture subsidization, but no other country would hear of it. They cannot compete with us without government help. The final agreement requires very minimal changes in the subsidy programs of other nations. So U.S. agriculture will continue to be confronted with a system of foreign subsidies that undermines our comparative advantage in agriculture production and marketing.

It is no accident or quirk of fate that every American enjoys the lowest-cost and best available supply of food and fiber in the world. This prized result came about because of American ingenuity and successful farm programs that have enabled U.S. farmers to compete worldwide and produce an abundant supply of food and fiber for domestic consumption. And it has happened in spite of foreign subsidies, tremendous natural disasters and the huge financial risk associated with farming.

The agriculture reforms suggested in this newspaper's editorial already have been set in motion. A massive reorganization and downsizing of the U.S. Department of Agriculture and the total revision of the federal crop insurance program are but two examples. Farm program spending (which makes up less than 1 percent of the entire federal budget) has been cut by two-thirds since 1986. This is not "trimming," as the editorial suggests; this is slicing and dicing. If the rest of this nation's federal spending had been reduced by half as much as agriculture, we would be running a federal surplus.

A review of farm programs is certainly in order during 1995 as Congress considers new farm legislation. We would be the first to admit that farm programs are not perfect, and that some farmers have taken improper advantage of them. But on balance, it is safe to say that farmers are no more or less likely to cheat than any other person. Responsible lawmakers should not ignore the plain success of U.S. farm and nutrition programs. Abolition or weakening of programs whose success can be measured every day does not qualify as needed reform. It would be imperiling a 21-million-job industry.

I believe the new secretary of Agriculture and those in Congress responsible for writing the laws will know the difference between so-called reform and preserving an industry-government partnership that returns enormous benefits to the American public.

Mr. COCHRAN. Mr. President, I thank my good friend for permitting me to make that unanimous-consent request.

Mr. DOMENICI. The Senator is welcome.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico [Mr. DOMENICI] is recognized for up to 15 minutes.

Mr. DOMENICI. Will the Chair advise me when I have used 10 minutes?

The PRESIDING OFFICER. The Chair will so advise.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 298 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PROTECTION OF MEDICARE

Mr. KENNEDY. Mr. President, yesterday the Speaker of the House addressed the American Hospital Association. His comments should be reviewed by every Member of the Senate and by the American people as well, because they are an unmistakable preview of what we can expect if the constitutional amendment before us is enacted and of what the Republican Contract on American really means.

The Speaker said that Medicare would be "rethought from the ground up." He said that he would "make every decision within the context of getting to a balanced budget."

I am not surprised by the Speaker's words, because the fact is that you can't balance the budget, protect defense spending, and provide billions in tax cuts for the rich without savage cuts in the Medicare Program. If Social Security is kept off limits, the Treasury Department estimates that Medicare would have to be cut by $77 billion by 2002—an almost unthinkable 31 percent of projected program outlays. If Social Security is also cut, the reductions would still be 21 percent of program costs—nearly $2,000 less Medicare for every senior citizen.

Speaker GINGRICH and the other authors of the Republican contract don't seem to know or care how dependent senior citizens are on Medicare. Even without any Medicare cuts, senior citizens spent an average of $2,800 out of their own pockets for health care last year. This is four times what nonelderly Americans spent. Just 7 years ago, in 1987, senior citizens had to spend 15 percent of their income for medical care—and that was too much. Today, that proportion has soared to 23 percent—almost $1 in every $4 of limited incomes that are already stretched to pay for food, housing, heat, clothing, and other essential expenses of daily living. Senior citizens should be paying less for medical care, not more.

A word we are hearing more and more from our friends on the other side of the aisle is restructuring the Medicare Program. All of us are interested in improvements in Medicare, but restructuring is a barely disguised euphemism for forcing seniors into managed care and cutting benefits. Senior citizens should have the opportunity to join managed care plans—as many do today. They should be entitled to share in any savings from managed care in the form of better benefits and lower premiums—as many do today. But we should vigorously oppose any scheme to balance the budget by cutting Medicare and forcing senior citizens into managed care programs that deny them the freedom to go to the doctor of their choice.

When Speaker GINGRICH and his allies talk about a balanced budget, they don't seem to be very concerned about the budgets of American families—and particularly the limited budgets of our senior citizens. When they talk about freedom from big Government, they don't seem to be very concerned about the freedom of senior citizens to go to the doctor of their choice. But I say those are the budgets and the freedoms that we ought to be protecting, not attacking.

The distinction between Medicare and Social Security is a false one, because Medicare is a part of Social Security. Social Security and Medicare are the twin pillars of retirement security for millions of senior citizens. Like Social Security, Medicare is a sacred compact between the Government and the people. It says, "Work hard all your life, pay your dues, and we will guarantee you security in your old age." We have an obligation to protect that compact, not only for today's senior citizens but for their children and their grandchildren, for all of us, if we are fortunate, will some day be old.

When Republicans in other years tried to break the promise of Social Security, senior citizens and their families all over this country told them that the answer was "no." And the Congress responded. Today, it is time to say to NEWT GINGRICH and his friends that, when it comes to breaking the promise of Medicare, the answer is just as resounding and just as unequivocal. And once again, the answer is "no."

The PRESIDING OFFICER. Under the previous order, the Senator from Louisiana [Mr. BREAUX] is recognized to speak for up to 15 minutes.

WELFARE REFORM SUMMIT

Mr. BREAUX. I thank the Chair. Mr. President, I would like to take this time to comment on the event that occurred this weekend on Saturday and congratulate the President of the United States for calling, for the first time, a bipartisan summit on the issue of welfare reform.

The President of the United States, President Clinton, spent almost 5 hours sitting in an all-day meeting at the Blair House, and in that meeting were Republican Governors, Democratic Governors, Republican Members of the House, Democratic Members of the House, Democratic Members of the Senate, as well as Republican Members of the Senate. It was truly a bipartisan effort to discuss, I think, one of the most pressing problems that is facing this Congress today; that is, how do we fundamentally reform a system that I think everybody agrees is fundamentally flawed.

I think everyone in that room agreed that welfare as we know it today does not serve well the people who are on it nor does it serve very well the people who are paying for it, the taxpayers of the United States.

I think that we found in that meeting that there was a great deal of common agreement about some of the things that we should embark upon to try to fundamentally reform welfare. I think the Governors said essentially, "We would like to have more responsibility. Let us be innovative. Let us try to suggest things that work in a particular State," like my State of Louisiana that may not work in Vermont or in Mississippi or in California or any other State in the country. "Let us be innovative. Let us come up with solutions to welfare that fit the people in our respective States."

I think there is a common sense of agreement around that particular proposition.

There was also, I think, common agreement that there should be time limits; that people should not be able to be on public assistance forever if, in fact, they are able to perform work in the private sector or even in the public sector.

But I think, Mr. President and my colleagues, that something has happened, particularly since the November election. I think we have lost the proper focus of what welfare reform should concentrate on.

We have heard wonderful speeches about illegitimacy and the problem that it is, and it is. We have heard speeches about crime related to welfare. We have heard speeches about the breakup of the family which is a result of welfare programs. We have heard speeches about teen pregnancy and what we should do to try to eliminate it in the problem areas in which we see it occurring.

But I think the fundamental focus of welfare reform should be work. The fundamental focus should be how do we get a person who is a welfare recipient into a job, because I believe that the best social program that we could ever write is a good job.

You could talk about how to solve the problems of illegitimacy and crime and breakup of the family and all of these other very important issues, but the fundamental focus, I think, has to be on how do we refocus our attention on work and how do we get that person from dependency into the work force.

Now, the President's first proposal in this area was a good start. He said, "Look, there should be a time limit on welfare. It should be no more than 2 years. And then we should increase the opportunities for education and training." But he did not provide the missing link, which is: How do we, after we reach that point, get the person from welfare into the work force?

One of the first Republican proposals really just suggested a time limit—2 years, and that is it—but it did not address the fundamental problem of getting the person on welfare after that 2 years into the work force.

The latest Republican proposal seems to say, "Let's have block grants and give it to the States."

I addressed the Governors Conference this weekend, both the Democratic Governors and the National Governors Conference. I suggested to them to be careful. Do not let Congress put all of the welfare problems in a box and send the box to the States and say, "Here, it's yours." And then, when the Governors and the legislators on the State level open up that box, they see a lot of problems, but they do not see any solutions and they do not see any money to help them solve the problems. I suggest that is not a solution. That is passing the buck through a block grant to the States.

What I think we have to do is recognize that we on the Federal level who raise taxes to pay for these programs have a fundamental responsibility to see to it that these tax dollars are used in a way that truly improves welfare as we know it, that provides real answers and suggestions on what should be done. Yes, of course, maximize the flexibility to the States. I support that very strongly. But also work with the States. Do not walk away from our responsibility as Federal legislators, who have a responsibility to the Federal tax dollar to see that it is used wisely and not wasted, who have a real responsibility to come up with some ideas and suggestions as to what needs to be done.

Let me suggest one approach that has been developed by myself, along with others, including the Progressive Policy Institute of the Democratic Leadership Council, which spent a great deal of time working on this effort, together with Republicans who have commented on it. The Hudson Institute, essentially a Republican think tank, is one, I believe, that likes this idea.

I have discussed this with my colleague from Colorado, Senator HANK BROWN, who I believe will hopefully be joining with me as a cosponsor of this effort.

Here it is: I suggest that there is a missing part of the puzzle, there is a missing link, if you will, between the welfare recipient and the job. How do we get this person into this position, which I happen to think is the best social program that we could ever devise. I suggest that we consider taking existing welfare subsidies and use them to create job placement vouchers.

When a welfare recipient comes into his State welfare office seeking assistance, he enters into a contract arrangement with the State welfare office and receives a voucher that is good for payment. He gets a list of organizations, both public and private, that are in the job placement business. That welfare recipient enters into a contract arrangement with one of these corporations to help them find a job.

Some of these organizations will interview this welfare recipient and say, "They are ready to go into the workplace right now. They have the training. They are just down on their luck. We can find this person a job tomorrow." And they put that person in that job the next day.

Others will look at a welfare recipient and say,

> No, this person needs more training or education or on-the-job training. We know just the job that fits this person's ability. We are going to put them in it because that job has on-the-job training, on-the-job skill training and education that will fit this particular welfare recipient's needs. We can put them in this job next week.

Others will look at the welfare recipient and say,

> No, this person really needs to brush up on reading and writing and arithmetic and basic English skills. They are going to have to have 6 weeks or 6 months of training, but then I know exactly where I can place that person after that particular period of time.

Now, the essential feature of this is that we are talking about privatizing the job placement portion of finding a welfare recipient a job. There are a number of institutions that are doing this right now.

Let me refer you to America Works, which has programs in New Jersey and New York. Let me talk about Cleveland Works, which has a similar program in the city of Cleveland. The Goodwill Industries work program in the State of Florida and also in the State of Louisiana is this type of program.

Here is the good feature about this particular suggestion. That private sector corporation, when they enter into that contract with the welfare recipient and receive a voucher to find them a job, only is going to get paid when that welfare recipient gets the job, No. 1, and stays in that job, No. 2, for a certain period of time. Somewhere between 7 months to 1 year has been suggested.

Let me tell you what that does to both parties. It creates a tremendous incentive for that job placement service to find that welfare recipient a job that is a good job and one that they stay in, because they know they do not get paid unless they put that person in a job situation that meets their skills and allows them to stay in it for a year or more.

Many of our welfare recipients will take a job, they will stay there 2 days or 2 weeks, and they quit. They are back on welfare, because they have not been put in the right circumstances that meets their ability to perform.

But this job placement voucher system, really, I think, provides the missing link or the missing part of the puzzle between a person who is on welfare and the job they need to be put into.

If you tell a company that they are only going to get paid if they find that welfare recipient a job that they stay in for a year, then one important thing happens. They pay a lot of attention to getting that person into the right job, because they know if they put them in the wrong job and that only lasts for 1 week, they are not going to get paid. So they make sure that the person has the proper skills and training to fit into a particular job that will allow them to stay in that job for a year or more.

I would suggest, Mr. President, that in places where this type of program has been tried, a number of good things have happened. No. 1, we have saved the State a lot of money, because if a person gets into a job position, he is earning a salary, paying taxes and is no longer on welfare. The State who has contracted with these private placement centers are paying the private placement center a lot less than they are paying the welfare recipient when he or she is on welfare.

Therefore, the concept of privatizing the missing link between the welfare recipient and the job that he or she needs is provided by this concept that we are suggesting today.

Mr. President, I think that welfare should not and cannot be a partisan issue. If it is, we will never solve it. We have to reach out to our Republican colleagues, and they to us, to sit down and come up with real solutions to a very serious problem in this country.

All of these other problems that I talked about—illegitimacy and teen pregnancy and breakup of the family, the increase in the crime rate—I think if we resolve the welfare issue in this country we will have created the best social program that we could ever create: That is, a good job. And a good job brings about responsibility and creates opportunities and helps solve the other tangential problems which are very, very serious indeed.

I am suggesting that the missing part of the puzzle can be replaced with a job placement voucher. We will be introducing such legislation that still allows the State maximum discretion that they need to tailor the needs of their respective State. I think if we move in this direction, we will have taken a giant step toward doing what the American people would like Members to do.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I see the distinguished manager of the bill rising. What I was going to do, I will tell the Chair, I was going to speak on the balanced budget, but I see the distinguished Senator from Minnesota. I was going to speak a few minutes and yield to him, to accommodate a scheduling problem I have. I do not want to interfere with the prerogatives of the chairman. I have to be at another place in about 6 or 7 minutes.

Mr. HATCH. Mr. President, are we on the amendment?

The PRESIDING OFFICER. I have not called for House Joint Resolution 1 yet. The manager can do that at this time. The hour has arrived.

Mr. HATCH. I move that we move to it.

Mr. LEAHY addressed the Chair.

Mr. HATCH. Mr. President, would the Senator yield for a short statement without losing his right to the floor.

Mr. LEAHY. I would yield.

Mr. HATCH. I was hoping we could go back and forth, and then go to the distinguished Senator from Arizona. I hope we will have comity here, can speak and then whoever is next. If we can go back and forth, I think it would be a good thing.

Mr. LEAHY. Then I ask, Mr. President, unanimous consent that when I am finished, I be able to yield to the Senator from Arizona and then be able to yield to the Senator from Minnesota.

Mr. REID. Could someone restate this unanimous-consent request?

The PRESIDING OFFICER. The unanimous-consent request was that after the Senator from Vermont is finished the Senator from Arizona would be recognized and then the Senator from Minnesota.

Mr. HATCH. We may be able to solve this problem. The distinguished Senator from Arizona has 3 minutes unrelated. He wanted to do it in morning business. We have kind of jumped the gun.

Mr. LEAHY. Mr. President, I was trying to accommodate the distinguished manager and I thought this might do it. I think we are going to do it quickly. If we went on this we would probably take less time than asking for the unanimous consent.

Mr. REID. Mr. President, it is my understanding that the Senator from Arizona wants to speak 3 or 4 minutes in morning business, is that right, and then we would go to the constitutional amendment?

The PRESIDING OFFICER. That would be the regular order of the unanimous-consent request.

Mr. REID. I just want to understand what is going on.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, an objection to 4 minutes of morning business, and then going to the bill, is that the question?

The PRESIDING OFFICER. That is the request.

Without objection, it is so ordered.

Mr. KYL addressed the Chair.

The Senator from Arizona is recognized for 4 minutes.

Mr. KYL. Mr. President, I thank the Chair and the Senator from Vermont for accommodating my request.

(The remarks of Mr. KYL pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TRIBUTE TO KEN L. LOTT, JR.

Mr. HEFLIN. Mr. President. I want to pay tribute to one of my longtime friends, Ken L. Lott, Jr., who passed away on January 16.

A native of Selma, and longtime resident of Mobile, Ken was known to many as a leader and a friend.

Ken received a bachelor's degree in commerce from Auburn University, where he was an Army ROTC cadet.

The leadership skills he learned while a cadet helped him rise to the position of a field artillery captain in the 29th Infantry Division. His service to his country led to him receiving the Bronze Star and Purple Heart.

After Ken's enlistment in the Army ended, he began a professional career in the banking industry.

His professional affiliations included memberships with Southland Bancorporation and the International Division of First Alabama Bancshares, Inc. He was also the former chairman of Merchants National Bank.

Although Ken was very involved in his professional career, he still found time to devote to his community. He was cofounder of the Community Foundation in 1975 and served as its first president.

Additionally, his community involvement can be seen through the directorships and affiliations he once had. These included the Mobile Kiwanis Club, the Country Club, Goodwill Industries, and the chamber of commerce.

His community and State showed great appreciation to Ken by inducting him into the Alabama Senior Citizens Hall of Fame in 1991.

The Mobile community is highly grateful for what Ken gave it over the years. He will be greatly missed by those fortunate to have known him. My deepest condolences are extended to his family and loved ones.

TRIBUTE TO MUSICIAN VERNON RAINES

Mr. HEFLIN. Mr. President, conductor Vernon Raines is one of those rare individuals who has been truly blessed with a divine talent for music, and who has worked effortlessly to spread musical enlightenment to the citizens of south Alabama. It is as if the music has always been in his heart, as if it were his destiny.

At the age of 6, Vernon had already written his first violin composition, and had begun to play the piano by ear. By the time he was 18, he had become the musical director of the Mobile Chamber Orchestra and had begun a career that included over 28 years as conductor and musical director of the Meridian Symphony Orchestra. He also served for 3 years as the conductor of the University of Southern Mississippi symphony, opera, and ballet; and was the associate professor of music and the chairman of the music department at Livingston University, in Livingston, Alabama for nearly 8 years.

In addition, Mr. Raines was an organizer of the Mobile Chamber Orchestra, was a key facilitator of the Mobile Symphonic Society, and served as the guest conductor of the Kwangju Philharmonic of Korea in 1987. He has also performed many times on public radio and television, and has made five guest appearances at the Mobile Opera Guild Workshop.

Mr. Raines graduated from Murphy High School in Mobile, and received his bachelor of music degree from the University of Alabama. He then went on to receive his master of music degree from Florida State University, studied at the American Symphony Orchestra League's Eastern Institute of Orchestral Studies, and studied privately under such noted conductors as Leo Mueller and Ernst von Dohnanyi.

It is my sincere pleasure and honor to commend and congratulate Mr. Vernon Raines on his outstanding career as a musician and conductor. He is truly a guiding force in the Greater Gulf Coast musical scene, and is an inspiration to the young musicians of Alabama. May he continue to enlighten the hearts of Alabamians with the beautiful music of our past.

TRIBUTE TO DR. JOHN M. LONG

Mr. HEFLIN. Mr. President, I rise today to pay tribute to the accomplishments of musician Dr. John M. Long, who recently was inducted into the National Band Association's Hall of Fame. When looking back at John's accomplishments, one can see why he has had such an impact on the music industry.

John's phenomenal career began while directing the Robert E. Lee High School Band in Montgomery, AL. This band set several records and became the envy of many others.

John later went on to Troy State University to even greater achievements. In the 29 years he directed the Troy State band, it made numerous recordings; appeared at four U.S. Presidential inaugurations, and played for the President twice. His accomplishments have obviously made his coworkers and students think highly of him. In fact, they named the band room at Troy State in his honor.

While directing his various bands, he has received numerous honors. In 1977, he was the first active director to be elected to the Alabama Bandmasters Hall of Fame. Later on in 1984, he was the first person to receive the Alabama Music Educator of the Year award. This is a great accomplishment because no one has been the recipient of this award for 40 years. There is no question in my mind that School Musician magazine made the right choice in choosing him as one of the 10 outstanding band directors in the United States.

Additionally, the hard work he has put forth for the love of his job and music can be seen through the various music-related organizations he has associated himself with. They are the American Bandmaster's Association; the College Directors Association; the National Band Association.

Dr. Long's influence on students, musicians, and the public truly make him a legend in the music industry. His accomplishments in the field have opened up a whole new world for many people, young and old alike. It is my pleasure to congratulate Dr. Long on all of his achievements and wish him much happiness for the future.

TRIBUTE TO LT. GEN. ROBERT B. JOHNNSTON, U.S. MARINE CORPS, ON RECEIVING THE MARINE CORPS RESERVE OFFICERS ASSOCIATION "NON SIBI; SED PATRIAE" AWARD

Mr. NUNN. Mr. President, on Saturday, February 4, at Camp Lejeune, NC the Marine Corps Reserve Officers Association will bestow upon Lt. Gen. Robert B. Johnston its highest award. The award is "Non sibi, sed patriae, which is Latin for "Not for self, but for country."

Lieutenant General Johnston, currently commander of U.S. Marine Corps Forces, Atlantic, headquartered at the base the marines call "The Home of Expeditionary Forces in Readiness" richly deserves this award. Nothing better characterizes this man than his selfless service to his country. Commissioned a second lieutenant in 1961, he ended up 30 years later as Chief of Staff of the U.S. Central Command during Operation Desert Shield and Operation Desert Storm.

Along the way, General Johnston completed two tours of duty in Vietnam, where he was decorated for valor in combat. He then went on to perform a host of other assignments with great distinction.

Mr. President, it is most fitting that Robert Johnston was in the eye of the American military hurricane that swept the Iraqi Army from Kuwait. General Johnston's association with Desert Storm was no mere coincidence. He was born in Edinburgh, Scotland, and we know the Scots are a fighting people. This is clearly true when they become U.S. citizens and marines. Moreover, General Johnston has more than a few items in common with Scotland's Robert Bruce, later King Robert the First, who gained Scotland's independence from the English in 1314 by handing them a defeat in battle that Sir Charles Oman, the great historian of the Middle Ages, called "the most lamentable defeat which an English army ever suffered." In the Battle of Bannockburn, which was as cleverly planned as Desert Storm, Robert Bruce, lured an English army half again the size of his own into a well-disguised trap, and managed to destroy it, inflicting on it four times the number of casualties as his own army suffered.

Robert Bruce devoted his life to creating a country; Robert Johnston has devoted his to defending one. Neither Robert is known for self-promotion or loquaciousness, which may explain why both names are associated with country, not self.

Mr. President, I commend the Marine Corps Reserve Officers Association for selecting Lieutenant General Johnston to receive this award, and I add my congratulations and thanks to Lieutenant General Johnston for his outstanding service to our Nation.

TRIBUTE TO KENTUCKY FIRST LADY MILDRED WATKINS CHANDLER

Mr. McCONNELL. Mr. President, I rise today to honor the memory of former Kentucky First Lady Mildred Watkins "Mama" Chandler, who passed away on January 23 at her home in Versailles.

Over the course of her 95 years, Mrs. Chandler's strength of spirit and keen intellect were clearly evident in every facet of her life. For Kentuckians, her legacy begin in 1925 when she wed Mr. Albert B. Chandler and soon became his most accomplished campaigner and political supporter. The grace of Mrs. Chandler's musical talents and attentive demeanor provided invaluable support to her husband Albert's distinguished service as Kentucky's Governor, U.S. Senator, and commissioner of major league baseball.

Politics did not embody her whole life, however. Mrs. Chandler developed strong career interests of her own. She taught piano and voice prior to her marriage. During her husband's term in the U.S. Senate, she worked as a writer for 20th Century Fox in Hollywood. At home in Kentucky, her award-winning weekly column for the Woodford Sun was enjoyed by many. Above all, she most cherished her time as mother and mentor to her children and grandchildren.

Mr. President, I ask that my colleagues join me in sending this Chamber's sincere condolences to the family of Mrs. Mildred Watkins "Mama" Chandler. Kentucky will remember

Mrs. Chandler as one of our most beloved first ladies, and I am confident that her breadth of accomplishment and strength of character will remain a standard of excellence for generations to come.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let us have that little pop quiz one more time: How many million dollars are in a trillion dollars? When you arrive at an answer, remember that it was Congress that ran up a debt exceeding $4.8 trillion.

To be exact, as of the close of business yesterday, Monday, January 30, the Federal debt, down to the penny, at $4,803,795,968,326.50—meaning that every man, woman, and child in American now owes $18,235.29 computed on a per capita basis.

Mr. President, to respond once more to the pop quiz question—how many million in a trillion: There are a million million in a trillion, and you can thank the U.S. Congress for the existing Federal debt of $4.8 trillion.

OPPOSE EFFORTS TO ROLL BACK MOTOR-VOTER LAW

Mr. WELLSTONE. Mr. President, the National Voter Registration Act of 1993, often called the motor-voter bill, was one of the most important pieces of bipartisan legislation approved by the 103d Congress. Recently, several Senators have suggested they intend to try to delay final implementation of motor-voter, or to repeal it outright. Today a hearing was to be held on these issues in the Rules Committee. That hearing has now been postponed indefinitely, I hope as an indication of waning enthusiasm for this proposal. We must resist any efforts to weaken or to delay final implementation of this landmark measure, which is providing access for so many Americans to one of their most fundamental rights: the right to vote.

Most States have moved forward quickly, responsibly, and effectively to implement the motor-voter bill at very low cost, with only a few States resisting. States which have recently implemented the motor-voter provisions have seen tremendous increases in the number of people registering to vote. For example, since the first of the year Florida has been averaging over 3,000 new voter registrations per day from people getting driver's licenses. Approximately 3,700 voters were registered in Washington State in the first week of motor-voter operation through the combined use of motor-voter procedures, registration by mail, and agency-based registration. In Georgia, over 18,000 people have been registered since the new procedures went into effect on January 1, 1995. In Kentucky, in the first 10 days of implementation of the act, over 10,000 new voters were registered, and over 15,000 changes of address for voters were completed through the motor-voter procedures. Since Minnesota implemented its own motor-voter process in 1987, our Secretary of State estimates that we have registered over 700,000 voters using those procedures. We must not reverse this extraordinary progress, which is allowing many more people to participate in our political system.

In order to protect the fundamental right to vote of all U.S. citizens regardless of their State of residence, the U.S. Justice Department has filed suit against three States—California, Illinois, and Pennsylvania—which have so far refused to implement the motor-voter procedures. As Attorney General Reno observed in the complaints against these three States, when Congress enacted the motor-voter bill we were exercising our constitutional right to regulate Federal elections under article I, section 4. States cannot simply ignore the direct statutory directives of Congress as the Attorney General said just after the law suits were filed:

> Congress has the authority to regulate Federal elections, and it used that authority when it passed the law. We now must use the authority that Congress gave us to enforce it.

The motor-voter law enacted last year was designed to protect potential voters in all States, and not just in States where elected officials choose to obey properly enacted Federal laws. It is in our national interest to ensure access to the voting both for all, whether you live in Minnesota, California, or Alaska.

In light of the importance of the Motor-Voter Act, and the support it is receiving from around the country, I ask unanimous consent that the following editorial appearing in the Washington Post on January 25, 1995 be reprinted in the CONGRESSIONAL RECORD, along with the full text of my statement.

The 1993 National Voter Registration Act was passed with bipartisan support because many of our colleagues understood how important the right to vote is in our society. The motor-voter law is part of a long line of landmark protections for the right to vote, starting with the adoption of the 15th amendment to the Constitution, through the enactment of the 1965 Voting Rights Act, and culminating with its passage. We must not return to the days when access to the voting booths in our country was limited by serious barriers to registration. We must stand up for the fundamental right to vote. I urge my colleagues to join me in opposing any effort to undermine the motor-voter law, or to delay its full implementation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY RESIST THE 'MOTOR VOTER' LAW?

On Monday the Justice Department filed suit against California, Illinois and Pennsylvania for refusing to comply with the National Voter Registration Act, popularly known as the "motor voter law." The 1993 law requires that states allow people to register to vote when they get their driver's licenses, when they apply for social service and other government benefits, and by mail. The law was a good idea. Its purpose was to streamline the U.S. voter registration system, which is unusually cumbersome by the standards of most other democracies.

What are the arguments being made against the law? A group of Republican governors that includes California's Pete Wilson, who has already sued to have the law overturned, objects on four principal counts: (1) that voter registration is a state responsibility and the federal government has no right to impose prescriptions as specific as those contained in the new law; (2) that the law is another unfunded mandate requiring states to spend their own money to achieve a purpose dictated by Congress; (3) that it is also a ploy by Democrats to strengthen the party's electoral chances, since many of those whom easier registration might add to the voter pool are groups inclined to vote against the GOP; and (4) that the law could facilitate voter fraud.

The issue of the power of the federal government on this particular matter will now be settled by the courts, but Attorney General Janet Reno made a plausible point when she argued that "Congress has the authority to regulate federal elections, and it used that authority when it passed this law." As for the mandates argument, it's true that the Congressional Budget Office estimated the new law would have a cost, though less than an average of $1 million in each state annually. This has not bothered most states. On the third point (that the GOP would be hurt and the Democrats helped), the evidence is not so clear. Back in 1989, for example, Newt Gingrich urged his party to support eased voter registration "not only because it's good policy but also because it's good politics." Since young people are disproportionately unregistered and since many in their ranks lean Republican, he said, the party might actually gain from an expanded electorate. Mr. Gingrich is not a fan of this law, but that was a good point. As for fraud, registration at motor vehicle offices and by mail already works fine in many parts of the country, including in the District.

Both political parties should want to take their chances with the broadest possible electorate. The governors ought to reconsider.

HOMICIDES BY GUNSHOT IN NEW YORK CITY

Mr. MOYNIHAN. Mr. President, I rise to announce to the Senate that during the past week, 14 people were killed with firearms in New York City, bringing this year's total to 58.

A recent national study released by the Centers for Disease Control and Prevention indicated that homicide is the second leading cause of death among teenagers aged 15 to 19. If current nationwide trends continue, it is estimated that annual deaths from gunshot wounds will surpass annual deaths from automobile accidents by 2003. In New York State, as in the District of Columbia and five other States, this has already occurred. In 1992, there were 2,345 gunshot-related deaths in New York State, compared with 1,959 motor vehicle-related deaths.

By the middle of the century, we recognized that traffic accidents constituted perhaps the greatest of the Nation's public health problems. So we did something about it. We passed the Motor Vehicle Safety Act in 1966 and increased the use of seatbelts, padded dashboards, and, more recently, airbags. As a result, traffic death and injury was reduced by 30 percent, even as the number of miles driven by Americans increased dramatically. Estimates suggest that we prevented as many as 250,000 deaths.

We should apply our experience in reducing traffic fatalities to reducing the death rate by gunshot. There are certainly ways we could achieve this: by establishing stricter requirements for gun ownership, by restricting access to the guns used most often to commit crimes, by making guns themselves safer, and by teaching people to use them safely. However, I propose that we can best reduce the incidence of firearm-related deaths not by restricting the supply of guns, but by restricting the supply of ammunition, particularly those rounds used disproportionately in violent crime. Even if we were able to resolve the intense conflicts surrounding the gun control debate, we would still have enough guns on the street to last us more than a century. Our current supply of ammunition, on the other hand, might well last only 3 or 4 years.

We must heed the lessons of the past. Clearly we cannot change the behavior of criminals overnight, as we could not change the behavior of drivers. But there are other ways to control the escalating death rates. I believe that ammunition control is the best way, and I hope my colleagues will agree.

FUNDING FOR PUBLIC BROADCASTING

Mr. SARBANES. Mr. President, today we find ourselves in the midst of an information services technological revolution. At no time in our history has access to information and information services been more important. In light of this, I am concerned about recent proposals to reduce drastically or to eliminate Federal support for public broadcasting, a primary source of information for millions.

As we consider the future of public broadcasting, let us not forget that cable television, which many have suggested can fill the gap, currently reaches only 60 percent of U.S. households. Forty percent of American households do not have cable television primarily because it is cost prohibitive or because cable service is simply unavailable in their communities. While cable television has given millions of Americans remarkable access to information and entertainment, it is not an adequate substitute for public broadcasting. Mr. President, currently on no other network can you find the variety of programming which public broadcasting offers.

Children's programming on public broadcasting provides parents with a guaranty of quality without violence. Programs such as "Ghostwriter," "Reading Rainbow," "Bill Nye the Science Guy," "Sesame Street," and "Where in the World is Carmen Sandiego" educate and entertain our children without bombarding them with commercials. In addition, from "Wall Street Week With Louis Rukeyser" to "MacNeil/Lehrer NewsHour," from "Austin City Limits" to "Live From Lincoln Center," millions of adult Americans turn to public broadcasting for exposure to cultural events, news and commentary, documentaries, and instructional programming. Public broadcasting has brought our Nation unparalleled historical and political documentaries such as "Eyes on the Prize" and "The Civil War." For a little less than $1 per American annually, we make an investment in our children and in the preservation and dissemination of our culture and our history.

I am proud that my own State of Maryland has a State public broadcasting network, Maryland Public Television [MPT], with an unequalled commitment to State historical and educational programming. Maryland Public Television produces more local documentaries than any other local station in the State. Marylanders can study for their GED or earn college credit through MPT. MPT has also been one of the leaders on the information superhighway. Through its electronic classroom, MPT has made it possible for students to see and talk to scientists at the South Pole. MPT is just one example of the many superb public broadcasting networks across the Nation which, on very limited budgets, manage to serve viewer needs while keeping up with the technological advancements currently sweeping the telecommunications industry.

We have recently heard claims that public broadcasting is elitist. I would suggest, Mr. President, that it is in fact anything but elitist. Public broadcasting is the one network available to Americans regardless of where they live or how much money they earn. There are communities in my State, both rural and urban, in which a public broadcasting station is one of perhaps two or three stations accessible without cable. In fact I grew up in one of those towns, Salisbury, MD, and my mother still resides there. Corporation for Public Broadcasting [CPB] statistics show that 48 percent of Americans who listen to National Public Radio [NPR] have household incomes of $40,000 or less annually. Public broadcasting is often one of the tools used by rural America to attract businesses and residents. The presence of a public broadcasting radio or television station assures prospective businesses and residents that they will not be cut off from cultural events and access to news and information.

Often when we discuss the future of public broadcasting we talk only about television. We forget the importance of public radio. How will cable compensate for the loss of public radio? Nearly 90 percent of all Americans have access to a public radio signal. Public radio provides its listeners with local community-oriented programming while also linking them to the Nation and the world. Public Radio International [PRI] and National Public Radio [NPR] are the two major distribution services for public radio. PRI's mission of operation is to engage listeners with distinctive radio programs that provide information, insights, and cultural experiences essential to understanding a diverse, interdependent world. PRI distributes to public radio stations across the Nation such widely popular shows as Garrison Keillor's—"A Prairie Home Companion" and the "Baltimore Symphony Orchestra," jointly produced by WJHU of Baltimore and WETA in Washington, DC. NPR is known nationwide for producing outstanding programs such as "All Things Considered" and "Morning Edition." Individual public radio stations can be affiliates of both PRI and NPR. This assures public radio stations of access to the broadest possible range of programming regardless of their location.

Many public radio stations serve rural communities which would otherwise be entirely without radio service. Over 90 percent of public radio's share of public broadcasting funds goes directly to local stations serving local communities. These radio stations respond directly to the needs and wants of their communities. Many of these communities and ethnically disparate, therefore requiring a commitment to diverse programming. Commercial radio has declared many of these areas commercially inviable. These communities are often too small and too far flung to support stations on their own. In my own State of Maryland, public radio stations such as WESM on the Eastern Shore play an important role in supporting the goals of education, literacy, volunteerism, and in working to combat youth violence. Are we now prepared to tell these communities that at a cost of 29 cents per taxpayer, the Federal Government is also declaring them unworthy of radio access to news, information, and entertainment?

Mr. President, throughout its history public broadcasting has set the standard against which we have measured the quality of commercial programming, and with the advent of the information superhighway public broadcasting is needed now more than ever. Millions of Americans will find themselves on byroads instead of the superhighway without public broadcasting. In my view, we should protect the access of all Americans to reliable educational programming and quality entertainment. I look forward to working with all of my colleagues in affirming the contributions of public broadcasting to our society and in ensuring that public broadcasting continues to enhance our lives and enlighten our minds.

TRIBUTE TO FRANK E. RODGERS

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Mayor Frank E. Rodgers, who may well have set a record that will stand forever as the longest serving mayor in the history of the United States.

Mayor Rodgers has 58 years of experience in public service. He served for 48 years as the mayor of Harrison, NJ. That set the record for the longest successive tenure as a mayor in the history of the United States.

That would be impressive enough by itself. But even while he was serving as mayor, Frank Rodgers also found the time to hold several other pubic service appointments. He served as secretary to the New Jersey Racing Commission between 1963 and 1964. He served as clerk to the Board of Chosen Freeholders of Hudson County from 1964 to 1982. And he served as a member of the New Jersey Highway Authority from 1976 to 1978.

In 1978, he was elected to the New Jersey State Senate where he served until 1983. And from 1984 to 1994, Mayor Rodgers served as a commissioner of the New Jersey Turnpike Authority.

Mr. President, who could help but be in awe of this committed public servant? Who could help but wonder how he stayed so popular for so long?

The answer is actually quite simple. Mayor Rodgers has devoted his life to the people of New Jersey. He has doggedly pursued our vital interests, although in the time he served as mayor, those interests have changed dramatically.

When Mayor Rodgers was first elected in 1946, America had just won World War II. Mayor Rodgers was swept into office on a veteran's ticket, and he focused, in his first term, on post-war concerns.

Over the years, Mayor Rodgers continued to respond to the needs of his constituents, whether they were young or old, veterans or new immigrants.

More recently, he has proved adept at tackling more contemporary issues, including transportation, crime, and economic development.

Mr. President, I believe that we can all learn a great lesson from Mayor Rodgers, a gracious statesman who faced Harrison voters 29 times without a defeat.

Over the last five decades, Mayor Rodgers has developed a close working relationship with the people of Harrison. He did so by listening to their concerns, responding to their needs, and always sticking to his word.

Those are characteristics that all of us, in the private and public sectors, could learn a lot from.

I yield the floor.

IN MEMORY OF ROSE KENNEDY

Mr. KERRY. Mr. President, I rise to honor the memory of a woman and a mother from Massachusetts. Not just any woman, not just any mother, but a most extraordinary example of both.

Rose Fitzgerald Kennedy's long life will be remembered by a grateful Nation as a legacy of parental strength and family leadership.

To those of us who remember images of her campaigning with her sons, or mourning in quiet dignity, she shall always reflect a moment in time when we believed in ourselves, in our families, in our faith, and in our ability to survive.

She lived through incredible victories and wrenching tragedies, but through it all her resolve, her deep religious devotion, and her profound belief in family and community, gave this Nation a vision of who we could be.

To my generation she defined faith, courage, and dignity, and once said, "A mother should be a bulwark of strength." And in her courageous response to sorrow, and in her reflections on how good life can be, and on how lucky we are, she was that bulwark of strength for all of us.

During good times and bad times that touched the hearts and lives of every American, we looked to her for guidance and for a mother's perspective, and she gave us both.

She set a standard of parental leadership that will live long after those of us lucky enough to have shared God's Earth with her are gone.

I remember being invited to Hyannis, and meeting Rose Kennedy for the first time. And I remember being moved by her intensity and concern, by a warmth and graciousness that recalled a proud time when our belief in ourselves demanded that we accept what God has bestowed upon us, and that we bare the burden and share the bounty.

Rose Kennedy was an extraordinary woman and mother. Now it is time we pay tribute to her for what she sacrificed for service to the community.

Mr. President, I know I speak for every member of this institution and for the people of Massachusetts in offering my deepest and most sincere condolences to my friend and colleague, the senior Senator from Massachusetts, and the entire Kennedy family.

I say to Senator KENNEDY and to his family that we will always remember Rose Fitzgerald Kennedy, and that we are a better people for having had her among us for over a century.

Thank you, Mr. President.

Mr. President, I ask unanimous consent that the eulogy delivered by the senior Senator from Massachusetts be printed in the RECORD.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

TRIBUTE TO ROSE FITZGERALD KENNEDY

On my office wall, there is a note from Mother, reacting to a comment I once made in an interview. "Dear Teddy," she wrote in the note, "I just saw a story in which you said: 'If I was President * * *'. You should have said, 'If I were President * * *', which is correct because it is a condition contrary to fact."

Mother always thought her children should strive for the highest place. But inside the family, with love and laughter, she knew how to put each of us in our place. She was ambitious not only for our success, but for our souls. From our youth, we remember how, with effortless ease, she could bandage a cut, dry a tear, recite, from memory the "The Midnight Ride of Paul Revere," and spot a hole in a sock from a hundred yards away.

She sustained us in the saddest times—by her faith in God, which was the greatest gift she gave us—and by the strength of her character, which was a combination of the sweetest gentleness and the most tempered steel.

She was indomitable for all her days. Each summer for many years, we would gather 'round at night, and sitting at the piano, Mother would play "Sweet Rosie O'Grady," the song that became her own special ballad:

Just around the corner of the
  street where I reside,
There lives the cutest little girl
  that I have ever spied.
Her name is Rosie O'Grady,
  and I don't mind telling you,
That she's the sweetest little Rose
  the garden ever grew.
I love sweet Rosie O'Grady,
  and Rosie O'Grady loves me.

When she finished, her voice would lilt, and her eyes would flash, and she would ask if we would like to hear it one more time. And we always would.

All her life, Mother also loved learning, and she was an excellent student herself. We still have her report card from Dorchester High School. In her 3 years there, she received 71 A's, 22 B's, and 1 C. I asked her about that C, which was in geometry. She said there must be some mistake. She didn't remember anything but A's.

One spring some years ago, when she was in her nineties, I took her on Good Friday to the Three Hours devotion. But the nurse warned me in advance that Mother had to eat, so we would have to leave after only an hour.

At one o'clock, I whispered: "Mother, it's time to go." She looked at me and sternly said: "Not yet, Teddy." So I asked a second time, and her answer came in a tone that was distinctly not a whisper: "Teddy, the service is not over yet."

By now, the congregation was discreetly staring at us and clearly thinking: See, he's trying to get out of Church early, but that sainted Mother of his—isn't she wonderful?—just won't let him.

Later that night, of course, Mother and I said the Rosary, as she did every night, by herself or with any of her children or grandchildren who happened to be home. In the Kennedy family, you learned the glorious Mysteries at an early age.

You learned just as early how to catch a pass, sail a boat or serve a tennis ball. All her life, Mother was interested in our games. The summer she turned 101, I went into her room and showed her my tennis racket. She said, "Are you sure that's your racket, Teddy? I've been looking all over the house for mine."

Jack once called her the glue that held the family together. We learned a special bond of loyalty and affection, which all of us first came to know in the deep and abiding love that Mother shared with Dad for 57 years.

From both of them together, we inherited a spirit that kept all their children close to each other and to them. Whatever any of us has done—whatever contribution we have made—begins and ends with Rose and Joseph Kennedy. For all of us, Dad was the spark, and Mother was the light of our lives. He was our greatest fan; she was our greatest teacher.

She was born in 1890, the year of the Battle of Wounded Knee, when Benjamin Harrison was in the White House. And she never let us forget that she had lived so much of the history that we only read about. Our dinner table was her classroom, and the subject was the whole world of human events.

One evening early in 1984, when mother was 93, she asked if we thought President Reagan would run again. One of our guests replied, "Of course he'll run, Mrs. Kennedy. After all, he's very young. He's only 73." Mother looked at the guest for a second and then answered him with a twinkle in her voice: "You're just trying to flatter me. I know that he's the oldest President in American history." Unless it came from her, there was no blarney when Mother was around.

So what now secures for Rose Fitzgerald Kennedy the high place in history that she will have? I think it is most of all the warm place she holds in the hearts of so many people everywhere, from Boston to Dublin, from Berlin to New Delhi to Buenos Aires. Millions who never met her sensed the kind of rare and wondrous person she was, a shining example of the faith that sustained her through even the hardest sorrow. She had an inner strength that radiated from her life. She was a symbol of family in this country and around the world.

She cared for a retarded child as much as for the most powerful statesman. She truly did believe that we are all, royalty and disability alike, created in the image and likeness of God.

She was the granddaughter of immigrants who saw her father become the first Irish-Catholic Congressman from Boston, and her son and grandson succeed him. She saw three sons serve in the Senate—actually she was sure that it was her campaigning that put us there—and we all thought that as usual she was right. She saw the son who proudly carried her Fitzgerald name become the first Irish-Catholic President of the United States.

And she was just as proud to see a new generation of her family carrying on her belief in public service.

But Mother also taught us that you do not have to run for office to make a difference. She was equally proud of her daughters and the contributions they have made. Jean—the founder of Very Special Arts and now, like our father before her, the Ambassador. Pat, for the pioneering support she has given to young writers. Eunice, founder of Special Olympics and the leader of a global revolution of human rights for the retarded and disabled.

And Mother had a special place in her heart and prayers for our sister Rosemary, for her bravery and the things she taught us all.

Mother gave not only to her children, but she gave her children, fired with her own faith, to serve the Nation and the earth. To us, she was the most beautiful Rose of all the roses in the world. Her life shows us the truth and the way.

Mother knew this day was coming, but she did not dread it. She accepted and even welcomed it, not as a leaving, but as a returning. She has gone to God. She is home. And at this moment she is happily presiding at a heavenly table with both of her Joes, with Jack and Kathleen, with Bobby and David.

And as she did all our lives, whether it was when I walked back through the rain from school as a child, or when a President who was her son came back to Hyannis Port, she will be there ready to welcome the rest of us home someday. Of this I have no doubt, for as they were from the beginning, Mother's prayers will continue to be more than enough to bring us through.

Not long ago, I found a beautiful poem that symbolizes what all of us feel today. Its title is "The Rose Still Grows Beyond the Wall:"

Near a shady wall a rose once grew,
Budded and blossomed in God's free light,
Watered and fed by morning dew,
Shedding its sweetness day and night.

As it grew and blossomed fair and tall,
Slowly rising to loftier height,
It came to a crevice in the wall,
Through which there shone a beam of light.

Onward it crept with added strength,
With never a thought of fear or pride.
It followed the light through the crevice's length
And unfolded itself on the other side.
The light, the dew, the broadening view
Were found the same as they were before;
And it lost itself in beauties new,
Breathing its fragrance more and more.

Shall claim of death cause us to grieve,
And make our courage faint or fail?
Nay! Let us faith and hope receive;
The rose still grows beyond the wall,

Scattering fragrance far and wide,
Just as it did in days of yore,
Just as it did on the other side,
Just as it will for evermore.

THE BIOMATERIALS ACCESS ASSURANCE ACT

Mr. McCAIN. Mr. President, I am pleased to be the primary cosponsor of the Biomaterials Access Assurance Act of 1995 to ensure the availability of raw materials and component parts for implantable medical devices. This bill, which we introduced as S. 2215 last year, is necessary for Americans to have continued access to a wide variety of life-saving devices, such as brain shunts, heart valves, artificial blood vessels, and pacemakers.

Currently, the manufacturers and suppliers of materials used in implantable medical devices are subject to substantial legal costs and possibly liability for selling small amounts of materials to medical device manufacturers. These sales generate relatively small profits and are often used for purposes beyond their direct control. Consequently, some of the manufacturers and suppliers of these materials are now refusing to provide them for use in medical devices.

It is absolutely essential that a continued supply of raw materials and component parts is available for the invention, development, improvement, and maintenance of medical devices. Most of these devices are made with materials and parts that are not designed or manufactured specifically for use in implantable devices. Their primary use is in non-medical products. Medical device manufacturers use only small quantities of these raw materials and component parts, and this market constitutes a small portion of the overall market for such raw materials.

While raw materials and component parts suppliers do not design, produce or test the final medical implant, they have been sued in cases alleging inadequate design and testing of, or warnings related to use of, permanently implanted medical devices. The cost of defending these suits often exceeds the profits generated by the sale of materials. This is the reason that some manufacturers and suppliers have begun to cease supplying their products for use in permanently implanted medical devices.

Unless alternative sources of supply can be found, the unavailability of raw materials and component parts will lead to unavailability of life-saving and life-enhancing medical devices. The prospects for development of new sources of supply for the full range of threatened raw materials and component parts are remote, as other suppliers around the world are refusing to sell raw materials or component parts for use in manufacturing permanently implantable medical devices in the United States.

The legal concerns that are causing the unavailability of raw materials and component parts for medical implants are part of a larger product liability crisis in this country. Immediate action is necessary to ensure the availability of such materials and parts for medical devices so that Americans have access to the devices they need. Addressing this problem will solve one important aspect of our broken medical product liability system.

This issue initially came to my attention when I was contacted by one of my constituents, Linda Flake Ransom, about her 7-year-old daughter, Tara, who requires a silicon brain shunt. Without a shunt, due to Tara's condition called hydrocephalus, excess fluid would build up in her brain, increasing pressure, and causing permanent brain damage, blindness, paralysis, and ultimately death. With the shunt, she is a healthy, happy, and productive straight-A student with enormous promise and potential.

Tara has already undergone the brain shunt procedure five times in her brief life. However, the next time that she needs to replace her shunt, it is not certain that a new one will be available due to the unavailability of shunt materials. This situation is a sad example of a medical liability system that is out of control. It is tragic, but not surprising that manufacturers have decided not to provide materials if they are subject to tens of millions of dollars of potential liability for doing so.

It is essential that individuals such as Tara continue to have access to the medical devices they need to stay alive and healthy. Enacting the Biomaterials Access Assurance Act of 1995 would help to ensure the ongoing availability of materials necessary to make these devices. It would not, in any way, protect negligent manufacturers or suppliers of medical devices, or even manufacturers or suppliers of biomaterials that make negligent claims about their products. However, it would protect manufacturers and suppliers whose materials are being used in a manner that is beyond their control.

Mr. President, we must act quickly to pass the bill to ensure that the lives of Tara and thousands of other Americans are not jeopardized.

LBJ AND THE BALANCED BUDGET

Mr. HOLLINGS. Mr. President, I would like to include in the RECORD an article by Jack Valenti that appeared in the Los Angeles Times on Jan. 20 on the Presidency of Lyndon B. Johnson.

Mr. Valenti enumerates many of President Johnson's accomplishments, including his fight for civil rights and voting rights for all Americans, the initiation of the Medicare and Head Start programs and the passage of the Elementary and Secondary Education Act, which helps provide Federal loans, scholarships, and grants to all American college students.

Indeed, President Johnson's accomplishments are many. And I would emphasize one more, which no President since has matched. Lyndon Johnson not only balanced the Federal budget, but gave Richard Nixon a surplus. In this era of a $4.8 trillion debt, that is one heck of an accomplishment.

Mr. President, I urge my colleagues to read this article and ask that it be printed in its entirety in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Jan. 20, 1995]

RECALLING A MAN WHO STAYED THE COURSE

(By Jack Valenti)

On this day 30 years ago, Lyndon B. Johnson was inaugurated in his own right as the 36th President of the United States. He had been elected President the previous November in a landslide of public favor, with the largest percentage of votes in this century, matched by no other victorious President in the ensuing years. This day plus two is also the 22nd anniversary of his death.

Is it odd or is it merely the lament of one who served him as best I could that his presidency and his passing find only casual regard on this day?

He was the greatest parliamentary commander of his era. He came to the presidency with a fixed compass course about where he wanted to take the nation, and unshakable convictions about what he wanted to do to lift the quality of life. Against opposing forces in and outside his own party, in conflict with those who thought he had no right to be President, contradicting conventional wisdom and political polls, he never hesitated, never flagged, never changed course. He was a professional who knew every nook and cranny of the arena, and when he was in full throttle, he was virtually unstoppable.

He defined swiftly who he was and what he was about. He said that he was going to pass a civil-rights bill and a voting-rights bill because, as he declared, "every citizen ought to have the right to live his own life without fear, and every citizen ought to have the right to vote and when you got the vote, you have political power, and when you have political power, folks listen to you." He promptly told his longtime Southern congressional friends that though he loved them, they had best get out of his way or he would run them down. He was going to pass those civil-rights bills. And he did.

He made it clear that he was no longer going to tolerate "a little old lady being turned away from a hospital because she had no money to pay the bill. By God, that's never going to happen again." He determined to pass what he called "Harry Truman's medical-insurance bill." And he did. It was called Medicare.

He railed against the absence of education in too many of America's young. He stood on public rostrums and shouted. "We're going to make it possible for every boy and girl in America, no matter how poor, no matter their race or religion, no matter what remote corner of the country they live in, to get all the education they can take, by federal loan, scholarship or grant," And he passed the Elementary and Secondary Education Act.

He was in a raging passion to destroy poverty in the land. He waged his own "War on Poverty," giving birth to Head Start and a legion of other programs to stir the poor, to ignite their hopes and raise their sights. Some of the programs worked. Some didn't. But he said over and over again, "If you don't risk, you never rise."

He often said that no President can lay claim to greatness unless he presides over a robust economy. And so he courted, shamelessly, the business, banking and industrial proconsuls of the nation and made them believe what he said. And the economy prospered.

On the first night of his presidency, he ruminated about the awesome task ahead. But there was on the horizon that night only a thin smudge of a line that was Vietnam. In time, like a relentless cancer curling about the soul of a nation, Vietnam infected his presidency.

If there had not been 16,000 American soldiers in Vietnam when he took office, would he have sent troops there? I don't believe he would have. But who really knows? What I do know is that he grieved, a deep-down sorrow, that he could not find "an honorable way out" other than "hauling ass out of there."

I think that grieving cut his life short. Every President will testify that when he has to send young men into battle and the casualties begin to mount, it's like drinking carbolic acid every morning.

But it was all a long time ago. To many young people not born when L.B.J. died, he is a remote, distant figure coated with the fungus of Vietnam. They view him, if at all, dispiritedly.

But to others, to paraphrase Ralph Ellison, because of Vietnam, L.B.J. will just have to settle for being the greatest American President for the undereducated young, the poor and the old, the sick and the black. But perhaps that's not too bad an epitaph on this day so far away from where he lived.

COMMENDING TOMAS JICINSKY

Mr. LIEBERMAN. Mr. President, I rise today to honor the exemplary and commendable efforts of Tomas Jicinsky to bring about democracy in the former Czechoslovakia. Mr. Jicinsky was instrumental in orchestrating and supplying democratic forces with information within the former Czechoslovakia. I salute the effort of Glenn Piasecki of Southington, CT, in recognizing Tomas Jicinsky's tireless struggle.

Mr. Jicinsky supplied democratic forces with information within the former Czechoslovakia, and organized underground meetings to begin the eventual downfall of the Communist regime. He worked with Charter 77, an organization dedicated to initiating and sustaining democratic principles throughout the world. I salute Mr. Jicinsky for his dedication to bring about democracy in the former Czechoslovakia.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that I may speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. I thank the Chair.

EMERGENCY SPENDING CONTROL ACT OF 1995

Mr. FEINGOLD. I rise today to join with my good friend, the Senator from Arizona, Senator McCAIN, to discuss the measure we recently introduced, the Emergency Spending Control Act of 1995.

I want to just first relate how Senator McCAIN and I came to work together on this.

After the election, of course, the results were not particularly happy for those of us in the minority party at this point, but the Senator from Arizona [Mr. McCAIN], even though he is now in the majority, was kind enough to call and say he wanted to work together on a number of reform items during the 104th Congress and that he wanted to do so on a bipartisan basis.

We talked about the revolving door issue, the issue of Members of Congress and staff leaving this institution and going to work for some of the interests that they have worked with and regulated in the past. We talked about the gift ban legislation. We also talked about the issue of what happens sometimes when we have a piece of emergency spending, a disaster bill, that comes before us and sometimes things are added to those bills that have very little to do with the disaster and sometimes have very little at all to do with what is being addressed.

So the Senator from Arizona and I decided to join together and introduce a piece of legislation that would limit the abuse of the emergency legislation. I am happy to say we also have some good bipartisan support in the form of cosponsorship by the Senator from Kansas [Mrs. KASSEBAUM]; the Senator from California [Mrs. FEINSTEIN]; and the Senator from Colorado [Mr. CAMPBELL].

The goal of our bill is simple. It is to limit the consideration of nonemergency matters in emergency legislation.

Mr. President, I think this is the right time for this legislation for many reasons but especially for two. The first is, of course, that once again we have the tragic reality of yet another disaster in this country, in particular in the State of California. This time it is floods, and there is a possibility of another bill arising out of the sympathy and concern and need to help the people of California.

Let me be clear. Even though this legislation is about preventing abuses on these disaster bills, my feelings and concerns for those who have suffered from that disaster are very real, and I know that is true of the Senator from Arizona and everyone who is involved in this legislation.

This follows after bills that have had to do with California earthquakes, floods in the Midwest, hurricanes, fires, droughts, you name it. We have had a terrible rash of these disasters in this country so there could, unfortunately, be more vehicles coming through the Congress that would allow the attachment of extraneous matter to this must-pass type of legislation.

So that is one reason. The other is, this is a very good time to bring this up because what we are discussing here in the Chamber, is the balanced budget amendment, the fact that we have got to find a way, whether we agree with the balanced budget amendment or not we have got to find a way to clean up our budget process here. And the balanced budget amendment is one approach. There are other examples of where the American people have seen what they believe to be an abuse of process, the insertion of pork items into pieces of legislation. That means money being spent that probably would not have been approved by the majority of Members if they were subjected to a separate vote and held up to the plain light of day.

So I think it is very important, in looking at the need to achieve a balanced budget and ways to do this, we find a way to stop this practice of funding some of these questionable items. Whether it be the Lawrence Welk thing or the tea-tasting board, these are the things that, even though they might not amount to a whole lot of money, stick in the craw of the American people as symbols of perhaps a fear that the folks out here are not always keeping their eye on the ball and worrying about the tax dollars they have to work so hard to raise and send to the Federal Government.

It is these types of things that wind up on the prime time type of shows, these types of things that cause other pieces of legislation that would otherwise be worthy types of legislation to get names like "Christmas trees" or "gravy train," and this becomes particularly unpleasant when the purpose of legislation is to show the compassion of the Federal Government, in particular the American people, for those who have suffered horrible unnatural disasters in their States.

So these are good reasons to bring this legislation forward at this time. The provisions of the bill limit emergency spending solely to emergencies by establishing a new point of order. The point of order lies against nonemergency matters if they are not rescissions of budget authority or reductions in direct spending. A point of order would apply to any emergency bill that contains a non-emergency measure or any amendment to an emergency measure or a conference report that adds nonemergency matters to the emergency measure.

Mr. President, there are also additional enforcement mechanisms. We prohibit the Office of Management and Budget from adjusting the caps on discretionary spending or from adjusting the sequester process for direct spending for any emergency appropriations bill if that bill includes the type of extraneous items that we have been discussing.

Mr. President, those are the main provisions of the Emergency Spending Act. I think they are timely also because of the progress that has been made in the last couple of years in reducing the Federal deficit by almost half, by almost $100 billion. It is encouraging but unfinished progress that has been made that has come from a willingness to identify and follow through on making specific spending cuts and certain revenue increases. I realize that simply creating a point of order is not going to be sufficient to help us make the hard choices out here that we have to make in order to balance the budget. I would say, though, Mr. President, that those points of order and the other rules we have and the rules that we have imposed upon ourselves in terms of caps are some of the effective things that buttress the efforts to identify specific spending cuts.

In terms of the progress in the last 2 years, I think we can very honestly say that we made a downpayment on reducing the Federal deficit, but we have a lot more ground to cover. The rules do help stop it, but no particular procedure, statute or even a constitutional amendment can replace specific policy action, making the hard choices that we must. I think this new point of order can assist us, at least, when it comes to emergency legislation.

The reason I rise on this issue and on this particular bill is that it is these exceptions that cause the people to feel we are not serious about everything we do here.

I am also worried that if we do not go forward with cleaning up the process by which emergency legislation is considered, in the end it is possible people will not look kindly on the idea of having emergency legislation at all—just let people fend for themselves in these places if there is a possibility this will be used to circumvent the fiscal discipline that is needed.

What I do suggest is emergency legislation that has to recognize the urgency but not allow the circumventing of the normal budget process. There are two ways that this process has been circumvented in the past. One way is to declare something an emergency and then have it attached to the emergency bill. That is possible. You do not have to have it be the same set of circumstances or the same natural disaster. If an emergency designation is made, these bills can be put together. The other possibility is the adding of explicit nonemergency items to emergency legislation to get expedited consideration.

Mr. President, our bill does not take care of the first problem. It does not take care of the problem where somebody has actually declared an emergency that may not, in fact, be a real emergency. And I think that is something we have to look at in the future.

Last year, on the California earthquake bill, I recall the Department of Defense managed to call an emergency a $1.2 million expenditure that was supposed to be for peacekeeping operations, ongoing, continuing peacekeeping operations that we knew about for the operations in Somalia, Bosnia, Iraq, and Haiti. Unfortunately, in my view, that was designated an emergency and suddenly attached to the California earthquake bill. And even though I tried to stop it with an amendment, that amendment was rejected, in part, out of fear that somehow this would derail the California earthquake bill. So I think this is a problem. I think it needs to be addressed. But at this point the problem that I think we can actually address correctly is to establish new rules when it comes to attaching specifically nonemergency items to emergency legislation.

Mr. President, let us look at the California earthquake bill. What was it originally set up to do? Well, it had $7.8 billion for the L.A. earthquake. It had $1.2 billion for the peacekeeping missions which I just mentioned and which I think should not have been in there. It had $436 million for the Midwest floods and $315 million as a result of the continuing problems from the 1989 California earthquake.

Mr. President, that was the status as the bill came into the Congress. But by the time it left, these additional extraneous items had been tossed on to the California earthquake bill: A $1.4 million expenditure to fight potato fungus, a $2.3 million item to give the FDA people pay raises, $14.4 million for the National Park Service, $12.4 million for the Bureau of Indian Affairs, $10 million for a new Amtrak station in New York, $20 million for a fingerprinting lab, $500,000 for the U.S. Trade Representative's travel office, and finally $5.2 million for the Bureau of Public Debt.

All of this was thrown onto and became part of the gravy train pulled by the California earthquake bill. Under current law, if these nonemergency items are on a bill and they are still under the spending caps, then the legislation can go forward. And that is exactly what happened. In the case of the California earthquake bill, the caps had actually been reached but the rescissions had been used, a group of rescissions had been used essentially to offset the cost of these additional items. That, I suppose you could say, is paying for what you want to do.

But, the fact is, those rescissions could have been much better used to reduce our Federal deficit, to do a little bit about the problem we are going to be talking about so much here in the next couple of weeks on the floor of the Senate. How do we specifically find ways to eliminate the Federal deficit? So this process was an unfortunate one. These items, of course, could have been considered separately in an appropriate appropriations bill and in a more honest and direct manner.

So this issue of emergency spending and preventing nonemergency items from being attached to emergency spending is part and parcel of the overall goal of budgetary sanity and the goal of stopping the abuse that so many Americans like to call putting pork into bills.

I think it could also help make sure that our bills that have to do with disasters have some credibility as they go through the process. They should not be the subject of laughter or derision or prime time shows. The disaster bills should be the expressions of the American people's compassion for those who have been unlucky and subject to disasters that they had nothing to do with creating.

This identical legislation passed the House, the other House, last session, the 103d Congress, on a bipartisan vote as a substitute amendment, 322 to 99, and then finally, as amended, 406 to 6.

I now urge my colleagues to join me and the Senator from Arizona, in supporting this measure. As we engage in this very intense debate on the balanced budget amendment, let us at least join together on a bipartisan basis to get rid of the abuses that have to do with emergency legislation.

Mr. President, I ask unanimous consent that the text of the bill and an editorial from The Washington Post dated August 22, 1994, on this type of legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Spending Control Act of 1995".

SEC. 2. TREATMENT OF EMERGENCY SPENDING.

(a) EMERGENCY APPROPRIATIONS.—Section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not adjust any discretionary spending limit under this clause for any statute that designates appropriations as emergency requirements if that statute contains an appropriation for any other matter, event, or occurrence, but that statute may contain rescissions of budget authority.".

(b) EMERGENCY LEGISLATION.—Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not designate any such amounts of new budget authority, outlays, or receipts as emergency requirements in the report required under subsection (d) if that statute contains any other provisions that are not so designated, but that statute may contain provisions that reduce direct spending.".

(c) NEW POINT OF ORDER.—Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(d) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".

[From the Washington Post, Aug. 22, 1994]

EMERGENCIES ONLY

The House voted 322 to 99 the other day in favor of a new budget rule that's a good idea. The Senate should concur in it. If not, the House leadership should find some other way of putting it into effect, for Congress's own good.

The revolutionary notion is that emergency appropriations bills should be limited to * * * emergencies. There tends to be at least one of these bills almost every year. They are used not just to provide emergency funds, but often as vehicles for funding lesser projects of a much more ordinary kind. What better place for a little something for the folks back home than in the fine print of a bill intended to rescue a region from a natural disaster? Who would sink so low as to complain about a minor extra favor in a bill with as generous a purpose as that?

The emergencies-only rule—no hitchhikers in the ambulance—is one of a series that have been proposed by Reps. Charles Stenholm, Tim Penny and John Kasich to tighten up the budget process. We've opposed some of the other changes. This one is called for.

For the sake of the spending that matters, Congress ought to learn to lay off the pork. You see the bad effects of doing otherwise, of lapsing into self-indulgence, all the time. The crime bill is only the latest example of a measure in which critics have been able to use questionable spending to tar and hold up constructive spending as well.

In fact, the amount of pork in the budget each year is greatly exaggerated—and of course what seems to one man to be pork may genuinely seem to another to be spending for an essential public purpose. There's no magic line. But there is some line—and some things seem to be pretty clearly on the porky side of it. Those are the things that people remember, the indefensible examples that come to typify all spending. If only they'd cut out the pork, the public is led to believe, there wouldn't be a deficit. It isn't true, and some of the greatest critics of pork are also among the greatest porkers on the side—but that doesn't matter.

The spenders ought to clean up their act. In this case, the anti-spenders are helping to point the way. The leadership should disarm them by doing as they suggest. Emergencies-only in emergency bills makes sense.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. FRIST). Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. Under the previous order the Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, we are now, really, beginning debate on the proposed amendment to the Constitution of the United States.

I think before we propose to alter our fundamental charter of freedom, in fact, the blueprint for our representative democracy, I believe that we need to each step back from the political passions of the moment. We are debating a constitutional amendment, not just a political slogan or plank of a campaign platform or partisan win or loss or something that is supposed to fit on a bumper sticker. This is the Constitution. This is the bedrock of 200 years of the greatest democracy history has ever known. This is the standard set for the most powerful Nation on earth, the most powerful democracy ever imagined in history.

And even though we have very, very carefully amended this Constitution over the past 200 years—rarely amending, because we know that our whole democracy is built on it—suddenly the floodgates open. We have in the first 3 weeks of this new Congress 75 proposed amendments to the Constitution—75 proposed amendments. Can you imagine what the Founders of this country would think if they actually thought that in 1 year 75 proposed amendments would be here? Seventy-five.

The Founders of our country assumed that maybe once every several generations there might be some huge matter so necessary to amend the Constitution. Nobody ever assumed 75 proposals would come rushing in.

The House has passed one. It is not the extreme version supported by the House Republican leadership, but they still passed one. The Senate Judiciary Committee sent a companion measure to the full Senate for consideration.

Indeed, we have a backlog of proposed constitutional amendments in the Judiciary Committee. After a single day's hearing, we have two constitutional amendments to limit congressional terms on the committee's next agenda. There was also a hearing on another important topic, line-item veto, on which are pending four more constitutional amendments.

The proposals for constitutional amendments already introduced in this Congress range from the so-called balanced budget amendments—incidentally, there are at least three Senate versions, six versions considered by the House—to congressional term limit amendments, line-item veto amendments, school prayer amendments, retroactive tax amendments, and we are about to receive a proposed amendment to the first amendment regarding the American flag.

I have not seen an amendment to rewrite the taking clause of the fifth amendment, but when you look at the revised name of the subcommittee, the Subcommittee on the Constitution, Federalism and Property Rights, you have to assume it is not far away.

Some of these constitutional amendments call for proposed ratification through the State legislatures, but others demand a constitutional convention be convened.

There is a feeling, I guess, that we can do far better by convening one than those who wrote the original Constitution—Madison, Hamilton, Franklin, Morris, and Washington—that we can now do much better. They did not have the advantage of radio talk shows, I guess, or multi-million-dollar political consultants.

I have to ask, with a new majority in both the House and the Senate, what are their plans for rewriting our Constitution? Why the sudden need to change our 200-year Constitution? Do they want to have a host of constitutional amendments come forward or one, two, or five or six? Enough.

The Constitution is a good document. It is not a sacred text, but it is as good a law as has been written. That is why it survived as the supreme law of this land for over 200 years with few alterations. It is binding us together rather than tearing us apart.

Look at the great compromise in the Constitution that allowed small States and large States to join together in a spirit of mutual accommodation and respect, an amazing step, not done because of the passions of the moment, but by great thinkers in this country. And it has stood the test of time. It gives meaning to our inalienable rights to life, liberty, and the pursuit of happiness. It requires due process, it guarantees equal protection under the law, it protects our freedom of thought and expression, our freedom to worship or not to worship as we choose, and our political freedoms as well. It is the basis for our fundamental right of privacy and for limiting Government's intrusions and burdens in our lives.

I worry that we are so bent on moving so rapidly, as though we are passing some kind of an amendment to a minor bill, that we can not fully debate this amendment. That is not the way the Constitution should be amended.

I have to oppose what I perceive to be a growing fascination with laying waste to our Constitution and the protections that have served us well for over 200 years.

The first amendment—the separation of powers, the powers of the purse—these should be supported and defended. It is the oath we all swore when we entered service in this great and historic Chamber. That is our duty, not only to the Senate and the American people today, but to those who forged this great document, our responsibility to those who sacrificed to protect and defend our Constitution, often times laying down their lives to do it, and our commitment to our constituents today, and our legacy to those who will succeed us in this body.

In this constitutional amendment to try to balance the budget, there is added irony. The Republican Party has assumed majority status in both the House of Representatives and the Senate. They control the legislative agenda. They can pass any budget they want. We are talking about a two-thirds vote amendment, a constitutional amendment to balance the budget in the year 2002. It only takes 50 percent plus 1 to pass a balanced budget today. There are far more Republicans than that. There are a majority of Republicans in the House and the Senate. They could pass a balanced budget tomorrow if they wanted and not have to fiddle with our Constitution and say, "Maybe in the next century, the next millennium, in the year 2002, whoever is standing will do it for us."

They want to balance the budget, eliminate the deficits, start paying off the debt, including the huge debt of the Reagan years. The Republican majority could do that by a simple majority vote in both Houses of Congress in a matter of days.

I think that would show the leadership necessary. Instead, having taken over the majority, they propose a constitutional amendment which basically says we cannot trust the majority in the House and the Senate. There is somewhat of an irony here, Mr. President. If they really trust themselves, let us pass one right now.

I am concerned that we are too ready to seek what appears to be the quick fix. The Constitution cannot be amended by sound-bite. Supermajority requirements undercut our constitutional democracy. They evidence distrust not only of our Constitution but of the people who sent us here.

Proposed amendments to our fundamental charter require consideration whether they are, in the language of article V of the Constitution, constitutionally necessary. I hope that we are not going to burden the public or the States with a hodgepodge of poll-driven, popular-sounding constitutional amendments at some helter-skelter pace to beat some artificial deadline.

I hope that we will fulfill our responsibilities, not only in our individual committees, but in the bodies of both the House and the Senate, to have fair and open discussion.

I have studied the so-called balanced budget amendment. I have summarized 10 reasons to oppose the proposed constitutional amendment in my supplemental minority views contained in the Senate Report No. 104-5. I will have occasion to speak to these and other reasons during the course of our debate.

I urge my colleagues to consider the views of Senators BIDEN, HEFLIN, and KYL; the minority views, including those of Senators KENNEDY and FEINGOLD; the hearings of Senators BYRD and HATFIELD on this last year. These are, in my view, essential background for this debate.

Let us take a look at this. Let us turn away from what appears to be a closed shop on this issue. Let us turn back from this path before partisan bickering and legislative gridlock overwhelm us to the detriment of the American people. In the U.S. Senate, of all places, we should not be afraid to have ideas debated, openly debated and voted on. Let us not resort to tabling motions on amendments, which allow you to be on both sides of an issue; but let us vote straight up or down. You do not come here to vote maybe, you come to vote yes or no. That is what we should do.

Our distinguished Judiciary Committee chairman has called this the most important matter that we will consider this year. I agree with him, but let us offer amendments and vote on their merits instead of engaging in procedural shortcuts.

There will be much more said. But, Mr. President, I come from a family that has revered the Constitution. I grew up with a father who told me how important it was because it protected the rights of not only the majority but of the minority.

I came from a family that found itself in the early part of this century in a religious minority and most of its life in a political minority in our State. But we knew the protections were always there. We knew they were always there for everybody. We knew we had a Constitution that stood the test of time. That was strong, that could be changed only by great effort, and only when there was an extreme need in the Nation to do so.

Mr. President, that is the philosophy with which I grew up. It is neither a liberal nor conservative philosophy. It is an American philosophy. I hope we hold to it.

I yield the floor, and I understand under the previous order that it would go to the Senator from Minnesota.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that as soon as I finish my short remarks, the next person to be recognized be the distinguished Senator from Minnesota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I thank the Chair.

Now, there is nothing more important we can do than improve the general welfare of all the American families and reduce the national debt that is eating away like a swarm of termites on a log. The way to do that is to pass the balanced budget amendment to the Constitution. To me, unless we do this, we are going to be in real trouble in this country. This past week, the House of Representatives answered the question: If you have to balance your checkbook every month, should not the Federal Government have to balance its books every year?

Their answer was "yes," 300 to 132. They answered the question: Has Washington spent your tax dollars wisely? And their answer was "no"—228 Republicans and 72 courageous Democrats bit the bullet and did the right thing. What a victory for all of us.

Right now, our debt is a staggering $4.8 trillion. That means that each and every one of us in this country, including every child, owes a whopping $18,500, and it keeps going up every day.

We can no longer saddle our children with decade after decade of unbalanced budgets. We have not balanced this budget in 26 years, and it appears to me that we have not balanced it but a few times in the last 60 years.

Current interest on the national debt is $300 billion a year and rising. Believe it or not, that is more than the total revenues that came to the Federal Government back in 1975. If the current trends in Federal spending continue, the Federal Government will double in size and consume nearly half of our gross domestic product in the next 35 years, where today it is consuming a lot less than that although more than it should.

The annual deficit causes untold damage to our economy. It hurts our wages. It raises our interest. It reduces the number of job opportunities for all of us. For those Americans who are retired, the biggest threat to Social Security is the Federal Government's fiscal responsibility—fiscal irresponsibility, I should say—because they are making the Federal dollar less and less important, and actually we will reach a point where it will be worthless. If we do not stop the spending binge, it will kill Social Security.

Instead of supporting the balanced budget amendment, the administration points to its so-called deficit reduction plan as the solution to our problems, but in fact President Clinton's deficit reduction plan was his 1993 tax increase, the largest in history. If you think raising taxes is the way to solve our budgetary problems, then hang onto your hats. You had better hang onto your wallets and pocketbooks as well.

Under the President's plan, the national debt will increase by $1 trillion in the next 5 years alone, even if all of his optimistic economic assumptions turn out to be true.

It is ironic that while many oppose the Balanced Budget Amendment Act because, they argue, it is nothing but a gimmick, the special interests are out in full force to protect their favorite, expensive, pork barrel spending programs. But whatever happened to the national interests? What about protecting the economic well-being of America and the future economic well-being of our children and grandchildren? We have to make these decisions now, and that is why this debate is important.

Personally, I do not like to amend the Constitution, but we have reached a point of no return where, if we do not amend the Constitution of the United States, we do not put this fiscal mechanism into the process, and we do not adopt a mechanism that forces Members of Congress to make priority choices among competing programs, this country will not be able to maintain its strength as the greatest country in the world and everybody, including every special interest in this country, will suffer in the process.

I have taken enough time this morning. I know my dear friend from Minnesota is about to speak, and I will yield the floor at this time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank my good friend and colleague from Utah for his graciousness, Mr. President. And he is, agree or disagree, a good friend. It feels good for me to say that.

MOTION INTENDED TO BE SUBMITTED

Mr. WELLSTONE. Mr. President, I ask unanimous consent to have a motion printed in the RECORD which I intend to make at some time while House Joint Resolution 1 is pending.

There being no objection, the motion was ordered to be printed in the RECORD, as follows:

MOTION TO REFER HOUSE JOINT RESOLUTION 1

Mr. WELLSTONE. Mr. President, I move to refer House Joint Resolution 1 to the Budget Committee with instructions to report it to the Senate accompanied by a report containing a detailed description of a 7-year budget plan that would achieve a balanced budget by 2002.

Mr. WELLSTONE. Mr. President, I will in the course of my remarks respond to some of what my colleague from Utah had to say, but first, so that my other colleagues in the Senate are aware of what I intend to do on the floor of the Senate at the right time, let me summarize this motion.

I intend at some time to move to refer this resolution, House Joint Resolution 1, to the Budget Committee with instructions to report it back to the Senate, accompanied by a report containing a detailed description of a 7-year budget plan that would achieve a balanced budget by the year 2002.

Mr. President, I ask unanimous consent that a piece by Al Hunt in the Wall Street Journal of Thursday, January 12, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 12, 1995]

THE BALANCED BUDGET AMENDMENT: A CONTRACT WITH EVASION

"We propose * * * to restore the bonds of trust between the people and their elected representatives. That is why, in this era of official evasion and posturing, we offer instead a detailed agenda. * * *"—The House Republicans' Contract With America.

"The fact of the matter is once members of Congress know exactly, chapter and verse, the pain that the government must live with in order to get to a balanced government [sic], their knees will buckle."—House Majority Leader Richard Armey on "Meet the Press" last Sunday, justifying GOP plans to pass a balanced budget constitutional amendment without specifying how it'd be achieved.

Dick Armey probably remembers House consideration last year of a real balanced budget measure offered by Rep. Gerald Solomon (R. N.Y.). It proposed huge cuts in health care, agriculture and income security for the poor, while completely eliminating all aid to Russia and subsidies for Amtrak and air service to remote areas.

The Solomon proposal got a grand total of 73 votes; Republicans, by more than a 2-to-1 margin, voted against it. Passing a balanced budget amendment may be easy; getting a balanced budget isn't.

In a reasonable path to balance by 2002, the budget would have to be cut by more than $1 trillion. This would be almost 30% larger than the 1990 deficit reduction legislation and more than 40% bigger than the 1993 measure.

The Republicans have excluded Social Security and defense, and discretionary domestic spending already is frozen. Thus a huge burden would be borne by the budget's fastest growing area, health: Medicare and Medicaid now are about 3.8% of gross domestic product; by 2002, without congressional action, these entitlements would soar to 6% of GDP.

The public is solidly behind a constitutional amendment; that's why it's featured in the Contract With America. But, as the Wall Street Journal/NBC News poll revealed last month, voters dramatically turn against it if that means 20% cuts in Medicare, Medicaid and veterans benefits. Thus, Dick Armey & Co. find evasion and posturing more attractive.

(Ironically, in contrast to this duplicitious measure, Senate Budget Committee Chairman Pete Domenici genuinely worries about deficits and wants to atone for the fiscal sins of the early 1980s. His House counterpart, John Kasich, is as knowledgeable and honest as he is earnest on these matters.)

It's outrageous that the GOP's self-proclaimed foes of the old politics whine that it's political suicide to address Social Security now. Last year two old dinosaur Democrats, Dan Rostenkowski and Jake Pickle, specifically proposed to trim cost of living increases for Social Security, raise the retirement age and cut benefits for more affluent recipients. Is it too much to ask the supposedly fiscally responsible Republicans to be as serious?

The $69 billion current trust fund surplus disappears in less than 20 years when the baby boomers start retiring. To suggest, as some Republicans do, that it'll be more politically palatable to address Social Security when more of these baby boomers are closer to actually retiring is, to be charitable, illogical.

Under a constitutional amendment, even if unfunded federal mandates are abolished, the states will take it on the chin. Governors will embrace a 10% reduction in the 600 categorical grants if they are turned into bloc grants with fewer strings attached. But a balanced budget amendment would necessitate more reductions. The big entitlements for the states—Medicaid, food stamps and welfare—would be cut drastically. Vermont's Democratic governor, Howard Dean, calculates that state funding would be reduced by 40% over seven years; on a state-by-state basis, it's calculated that New York, for example, would lose $11.225 billion in fiscal 2002, two-thirds of that from Medicaid.

At least those would be real cuts and there would be real debates. More commonplace would be gimmicks such as increased use of loan guarantees or unrealistic assumptions. (The measure doesn't require a balanced budget; it only requires that actual outlays don't exceed projected outlays.) Look for a huge increase in the use of regulatory instead of budgetary measures to meet demands for action, affecting state and local governments and business.

Conservative legal expert Robert Bork, an eloquent opponent of this amendment, has noted that "government need spend nothing on a program if it can find groups in the private sector that can be made to spend their own funds." He also envisions that unelected judges would be dealing with hundreds of suits to enforce—or not enforce—the amendment, as does Ronald Reagan's solicitor general, Charles Fried, who warns that the litigation would be "gruesome, intrusive and not at all edifying." (When House Republicans follow their speaker's advice to read the Federalist Papers, they may glance at number 78, where Alexander Hamilton proclaims that the judiciary should have "no influence over either the sword or the purse.")

Remember, the Gramm-Rudman legislation specifically promised to eventually balance the budget; instead the deficits soared. Democratic Rep. David Obey of Wisconsin sees that pattern re-emerging: "The cycle which quadrupled the deficit in the 1980s will be repeated. The amendment says we need 60 votes to pass a budget that's not balanced." When that horse trading starts, Rep. Obey ventures, all the pressures will be to add spending to attract votes. "In all my years as a legislator I don't think I've ever seen a member say I'll vote for something if you take things out. If this baby passes, I'll make a flat prediction: Three years after it is passed we still have a deficit well over $100 billion."

More than adding to public cynicism, that will debase the Constitution. Imagine a decade from now a businessman trying to collect $100,000 because the state has unconstitutionally taken part of his property for governmental use. When the country is violating the Constitution by $100 billion or $200 billion, who's going to worry about a paltry $100,000 constitutional offense?

Mr. WELLSTONE. His piece begins with an interesting quote:

> We propose * * * to restore the bonds of trust between the people and their elected representatives. That is why in this era of official evasion and posturing, we offer instead a detailed agenda * * *.

This is a direct quote from the House Republicans' Contract With America. And the following comes from House Majority Leader DICK ARMEY, on Meet the Press:

> The fact of the matter is that once Members of Congress know exactly, chapter and verse, the pain that the Government must live with in order to get a balanced budget, their knees will buckle.

Mr. President, yesterday, in Minnesota, I called on the legislative leadership in our State to put together a task force to assess the impact of a balanced budget amendment on the State of Minnesota. I did this, Mr. President—and this has been met with a positive response by legislative leadership—because last week I came to the floor with an amendment based upon a resolution from my State of Minnesota. This resolution was passed unanimously by the State Senate, Democrats and Republicans alike, almost unanimously by the House of Representatives, and signed by our Republican Governor, Governor Carlson, on January 20.

What this resolution said was, "when"—I changed my amendment to "if"—the constitutional amendment passes the Congress, Congress should send to the States, send to Minnesota, an analysis of the impact of this balanced budget amendment on State and local government and on the people in our State.

That amendment was defeated by essentially a party-line vote. I think I received 45 votes for that amendment. Talk about the right-to-know: my amendment simply said that if we pass a balanced budget amendment, before we send the amendment to the States we should provide an analysis of its impact on the people of the different States. I think every single one of my Republican colleagues voted against it. Talk about the importance of being straightforward, stepping up to the plate, being direct with the people we represent. Talk about the importance of the right to know—people should have the right to know what the impact of this balanced budget amendment will be on their lives before we pass it. Talk about the sort of crazy proposition that before you buy a used car you shouldn't lift up the hood and look at the engine. I was really dismayed that this amendment was defeated.

What I am now saying is very consistent with, I think, responsible public policy. My fundamental disagreement with some of my colleagues on the other side of the aisle is that I think we owe it to people in this country to lay out a detailed 7-year plan as to where we are going to make these cuts before we pass this. I think the reason my colleagues do not want to do this is because they do not want to lay out their plans.

Let me give some context, which I think really gets to the heart of this. Using conservative estimates, the Congressional Budget Office estimates that the interest savings that would come from the cuts—let us factor that in, let us be fair—even taking that into account we are talking about a little over $1 trillion worth of cuts between now and 2002. To get to a balanced budget —$1 trillion worth of cuts. Where are we going to make the cuts?

On the next graph, Mr. President, is illustrated some real numbers. People in the country have a right to know where we are heading. By the way, I think the analysis I am about to make is in many ways irrefutable, just in terms of the basic commitments that some of my colleagues have already made. If you add the defense increases, and you also add tax cuts—I think the defense increase was, roughly speaking, $80 billion over 5 years and I think the tax cut was, roughly speaking, $360 billion over 5 years—now we are not talking about $1 trillion, we are talking about $1.481 trillion.

Now we are no longer talking about $1 trillion, we are talking about $1.481 trillion that we are going to have to cut between now and 2002. That is why I am going to move at the appropriate time that we refer this resolution to the Budget Committee with instructions to the Budget Committee that it bring to the Senate a report that contains a detailed description of a 7-year budget plan as to how we are going to cut $1.481 trillion.

Do we not at least owe that to people in the country? Is that not called truth in budgeting? Is that not called being straightforward? Is that not called stepping up to the plate and being clear and being honest about what we intend to do? Mr. President, $1 trillion says CBO, and in addition we have a bidding war to raise military expenditures, and in addition we have a bidding war for more tax cuts. Now we are talking about $1.481 trillion.

Let me turn to the next graph. Here is what I believe my colleague, Senator CONRAD from North Dakota called—and I say this to you always in good grace, "the Republican credibility gap." So far the spending cuts we have heard detailed in the Republican Contract is about $275 billion. We have seen specifics of $277 billion of budget cuts. Mr. President, $1,481 billion is what we have to cut to get to this balanced budget by 2002. So far my Republican colleagues have laid out budget cuts totaling $277 billion. There is a long ways from $277 billion here to $1,481 billion. That is truly the Republican credibility gap. And that is why at the appropriate time I will move to refer this resolution to the Budget Committee with instructions to the Budget Committee that it lay out a detailed plan as to exactly where we are going to make these cuts. We are not going to do well with people in this country once they realize we are quite unwilling to specify where we are going to make the cuts. People are going to begin to see this as a shell game, shifting burdens to the States, to personal income, property, and sales taxes of the states.

When I was back in Minnesota yesterday I said one of the reasons why it was so important to have some truth in budgeting—so important that people have a right to know where we are heading—is because of the likely impact on my State.

The Center on Budget and Policy Priorities issued a report yesterday, and I have some preliminary figures from that report. By 2002, in that 1 year alone where will we in Minnesota be? We will have $143 million less in Federal education. Where will we be: $1 billion, in 1 year, less in Medicaid; about $3 billion of cuts over the next 7 years.

This is another part of what I consider to be, really, a shell game. The cuts accelerate. They are less over the first 2 years and then they get deeper and deeper. When I say in the State of Minnesota we could very well be faced with $1 billion of cuts in Medicaid in 1 year alone, I want my colleagues to understand that half of Medicaid expenditures go to older people for nursing home expenditures. These are our parents and our grandparents. I think the figures on Medicare go even higher.

What do these figures mean? The Children's Defense Fund estimates that such cuts in 2002 would result in almost 30,000 Minnesota babies, preschoolers, and pregnant women losing WIC nutrition supplements; over 351,000 children losing food stamps; over 154,000 children losing free or subsidized lunches; over 2,004 blind or disabled Minnesota children losing SSI; and over 24,000 children losing access to remedial education.

I have heard my colleagues talk about our children and our grandchildren and the debt. I have voted for deficit reduction. I have voted for several years in a row for the deepest cuts we have seen in deficit reduction in decades and I will continue to do so. But for many children, the future is now. We keep talking about our children and the future, and I bring an amendment to the floor of the Senate 2 weeks ago asking the U.S. Senate to go on record saying that nothing we shall do by way of spending cuts or legislation will increase the number of homeless or hungry children in America and I cannot get a majority vote for that.

Let me repeat that. My colleagues talk about our children and our grandchildren. Maybe our children and our grandchildren are doing well now. We have fairly high salaries, and do well economically. But a lot of our children and grandchildren are not doing well now. For them the future is now. And I came to the floor 2 weeks ago with a reasonable sense-of-the-Senate amendment that we would go on record saying we are not going to do anything that would increase hunger or homelessness among children in America.

Mr. President, did you see the report today that one out of every four children in the United States of America are poor? One out of every four children under the age of 6. What about those children now? I could not get my colleagues to vote for that amendment. I think I understand why.

Let me go back to the chart on the credibility gap for a moment, if I could. Let me tell you why, Mr. President, the two amendments I have introduced in the last 2 weeks have failed with every single Republican voting against it. The first amendment, we will not do anything that will increase homelessness or hunger among children. The second amendment said we will at least provide States with financial analysis of the impact of the balanced budget on them before we send it to them for ratification. Why were those amendments voted down? What is it that my colleagues do not want people in Minnesota or Tennessee or Utah or anywhere else in the United States to know about the implications of this balanced budget amendment? It is the credibility gap.

These are the parameters. We are talking about, roughly speaking, $1.481 trillion worth of cuts, and so far my colleagues have specified $277 billion. That is a big credibility gap. And after you raise the Pentagon budget, and after you do more by way of tax cuts—and then we are saying that we are not going to be cutting Social Security; there seems to be strong agreement on that—in addition you pay interest on the debt. Do we think people do not see through this charade? It is clear where we are going to be making the cuts. Mr. President, I do not know about other States, but I will tell you one thing. When we cut the WIC Program, the Food Stamp Program, subsidized lunches, remedial education, law enforcement, environmental protection, higher education, and any number of other key areas, either our States will walk away from the people or our States will end up having to assume the costs.

These burdens are going to go back to the States. And I can predict what is going to happen. Just as we now, unfortunately, have moved to several tiers—people on the top and many people on the bottom—either we are going to have States that are going to pick up the costs—I can tell you, I will speak for Minnesotans. We are not going to let children go hungry. We are going to make sure that our young people can afford higher education. We are not going to break our contract with veterans. If there are going to be deep cuts in Medicaid and Medicare, we are going to make sure that people continue to have health care when they need it.

So we are going to end up having to pay for it. That is the shell game to this. That is why my colleagues are unwilling to specify what we are going to do. My colleagues are unwilling to step forward and say what we are going to do.

Mr. President, for myself I have never signed on to the notion of a balanced budget in the year 2002 because I think it is so political—and because it would depend on the economic circumstances at the time. For example, we wouldn't want to do huge spending cuts if we were in a recession. Of course, we have to continue with deficit reduction. Of course, we have to balance the budget. But the question is, What gets taken off the table and what gets put on the table? I have not heard a word so far about cuts in the military budget.

Mr. President, Senator BUMPERS, Senator BRADLEY, and I and several other Senators 2 or 3 weeks ago had a press conference looking at a lot of analysis that has been done on defense needs and potential defense and other related cuts. We essentially made the argument that here are some military expenditures that are just simply not necessary when we have to make these difficult choices, and we had cuts totaling $33 billion over the next 5 years; $114 million from 1996 to 2010. There are a lot of different programs listed. I will not itemize them today. I will later on in the debate.

Some of these are worthy programs. For example, let me say the space station has many exciting possibilities. But I would far prefer to feed children on Earth in the United States of America than to send a station into space. We have to start making these difficult choices. But I do not hear people talking about any of these big military contractors having to sacrifice. Oh, no. Oh, no. It is the children, a quarter of whom are poor, who do not have lobbyists, who do not have political power. So what we are going to do—which is why we are unwilling to specify the cuts beforehand—is we are going to make cuts based upon the path of least political power.

It is interesting. Again, I borrow from the fine work of Senator BUMPERS. When I hear my colleagues say we have to raise the Pentagon budget. But we will cut the School Lunch Program, we are going to do it. The arithmetic is compelling. We are not coming anywhere close to telling people how we are going to cut $1.4 trillion. We know where we are going to cut. That is why we are unwilling to be clear about it. That is why we are unwilling to specify before we pass the balanced budget amendment. I have not heard any discussion about cutting military contracts.

Just a couple of interesting figures on this chart. If we take the U.S. defense budget and you add NATO and other allies, altogether we are spending about $530 billion. Russia, China, and all the rest of our potential adversaries combined, total potential adversaries combined, only spent $121 billion. The United States alone has a larger defense budget—$280 billion—than all of our potential adversaries combined, which is $121 billion. Yet some are talking about raising the Pentagon budget. We are talking about a little more to cut taxes for people, and then we say we are going to have deficit reduction through a balanced budget amendment, but we are unwilling to specify where we are going to make the cuts. We are unwilling to tell people in Minnesota, Tennessee, and Utah, all across the country where they are going to be at 2002 and what they are going to be faced with.

There are, of course, other choices to be made. I will be on the floor later on with Senator FEINGOLD and others talking about this. But it does strike me as odd and politically troubling, if you look at the Republican contract, if you look at the Contract With America, there is no mention of anything that asks large corporations, or large financial institutions, or any other wealthy interests, to sacrifice at all.

They say we are going to cut nutrition programs for children. There is no question about that. We are going to cut child care. We are going to cut higher education. We are going to cut Medicaid. We are going to cut Medicare—deep, deep cuts that will accelerate as we approach the year 2002. We will likely not do much the first year, before the elections. It is all carefully designed. It has to happen. The arithmetic is clear. But we are not going to touch oil company subsidies at all. We are not going to go after bloated military contracts. We are not going to deal with some of the other loopholes and deductions that a variety of different large, powerful financial institutions are able to take. We are not asking them to sacrifice at all.

That is the reason, Mr. President, we do not want people to know where we are going to make the cuts. We are likely going to go forward and pass a balanced budget amendment without even being willing to be straightforward and clear with the citizens we represent as to what this means for their lives, as to what kinds of cuts we are going to make, in what kinds of programs and how it is going to affect them and their children.

That is why I intend, at an appropriate time, to move to refer this resolution to the Budget Committee with instructions to report it to the Senate accompanied by a report from the Budget Committee containing a detailed description of a 7-year budget plan that would achieve a balanced budget by the year 2002.

Should we not be honest with people and straightforward with people? Why do we not do that? The answer is, we do not want to tell people where we are going to make these cuts. We want to pass perhaps the most important piece of legislation that has been passed in decades, with far-reaching consequences for the people we represent, for the lives of people we represent, and we do not want to, before we pass the balanced budget amendment, lay out the plan as to where we are going to make the spending cuts and other policy changes required, and how they are going to affect our States and counties and our cities, how they are going to affect the people we represent.

Mr. President, it is interesting, I want to make this clear that this is not just an urban issue. I was this past weekend in Jackson County in southern Minnesota meeting with corn and soybean growers. I say to my colleague from Utah that I will bet you the vast majority of the people there are for a balanced budget amendment; I think that is true. But what they are worried about is that they want to know where the cuts are going to take place. When we hear that subsidies are going to be eliminated, we are all for it if we know where they are and if you give us a fair price in the marketplace. For those of you who know this language—and if you come from Minnesota, you certainly do—they are talking about the loan rate and Commodity Credit Corporation. Give us a fair price, that is all we ask for. Then they say: We have not heard people talk about the fair price and about cutting back on the conservation program, not giving us a fair price. If you do that, you are taking a good percentage of farm income of people who are barely hanging on.

Mr. President, under a balanced budget amendment there are going to be deep cuts and a lot of people are going to be hurt. My colleagues say, well, we have to do all this, it is in the national interest. It is in the national interest to continue to reduce the deficit. It is in the national interest to move toward a balanced budget. It is in the national interest to do it by the same standard that every single family in this country lives by when they balance their budget, which is a standard of fairness, not just targeting those with the least amount of political clout, or going after health care and education, or children and leaving all sorts of other subsidies untouched. That is the way we should do it.

But, Mr. President, we are not going to do it that way. Let me be crystal clear. We are not going to do it that way. Instead, we are going to make deep cuts, we are likely going to pass a balanced budget amendment, and ultimately we may not, because I think the longer this debate goes on and the more people pay attention to this debate, they are going to say wait a minute.

Back to the chart on the credibility gap one more time. They are going to say, wait a minute, Senators, we heard there was going to be a trillion dollars in spending cuts, and then we hear that there are those saying they want to increase the Pentagon budget by $80 billion over 5 years; then we hear everybody is in this bidding war to cut more taxes which means less revenue, which has to be offset somewhere. Now we hear that the estimate, conservatively speaking, is $1.481 trillion. So far, proponents of the amendment have only specified $277 billion worth of cuts they are willing to make. We would like to know, Senators, Democrats and Republicans alike, where are you going to make the cuts? How is it going to affect us? Is it going to be according to some standard of fairness? Are we going to have to pick it up at the State level? Is it going to be the property tax or sales tax that now we are going to get hit with?

Well, people have every right to ask those questions. In fact, there is overwhelming support in the United States of America for the right-to-know proposition: Recent polls show over 85 percent in favor. Last week, I came to the floor with an amendment that I thought would pass. It was so reasonable. It said if we pass a balanced budget amendment, let us send it to the States with a detailed analysis of how this will affect Minnesota or Tennessee, and the people who live in our States. It was voted down, essentially a straight party vote.

Mr. President, over the weekend, I have been thinking long and hard about this. I have decided, before we get too far into this debate, I should come to the floor before we get too far into the amendments and move to refer this resolution to the Budget Committee, with instructions for the Budget Committee to come back with a report that contains a detailed description of the 7-year budget plan. That is reasonable. It is consistent with being accountable. It is consistent with being straightforward with people and with the people of the United States of America knowing exactly what we are going to do. I think that is exactly what people believe in strongly.

So I have filed this motion, and a little later on I will go forward with this motion. I thank my colleague from Utah.

I yield the floor.

Mr. HATCH. Mr. President, I have listened to my distinguished friend from Minnesota. As usual, he is an advocate for those who are poor and have difficulty in our society. I admire him for that. On the other hand, I do not think there is a person in America who thinks for one second that this voracious, money-eating, money-grubbing Federal Government does not eat up an awful lot of this money right here in the bureaucracy. In fact, there are many authorities who seem to indicate that of all the billions of dollars taxpayers are spending for the poor, welfare, food stamps, AFDC, you name it, and the thousands of programs that we have, some believe that only 28 percent of all of that money we pay actually gets to the poor.

Mr. WELLSTONE. Will the Senator yield for a minute?

Mr. HATCH. I will be happy to.

Mr. WELLSTONE. I want to make it clear that I know everything the Senator says he says in good faith, and he is always rigorous in his analysis. When I hear the Senator talk about how there are all sorts of overly centralized programs and bureaucratized programs and there are cuts we can make, I say to the Senator: Fine, the only thing that I am going to do in this motion is to say to the Budget Committee, before we vote, let us be clear about where we are going to make the cuts.

I do not necessarily disagree with what the Senator is saying. I have to see the numbers. But let us lay them out. If the Senator and other members of the Budget Committee can tell me how we get from $277 billion to over $1 trillion in cuts and where they are going to be, that is what we should do.

Mr. HATCH. I will get into that in just a minute. I want to make this point, and I am glad the Senator recognizes there may be some merit to this point. We, in the interest of controlling everybody—we liberals back here in Washington—and that is what you have to call us—we have built such a bureaucracy that we are robbing everybody, and very little of that money actually gets to the people that my friend is worried about. And I too worry about those less fortunate than most.

I am the author of the child care bill, along with Senator DODD. He and I were there at the last minute of that particular Congress making sure it went through. Nobody in America was more concerned about child care than I was, and I am a conservative. So I take second seat to no one on this problem. It is not an unknown fact that I was the person who helped to save the Job Corps Program, which is the only program for unemployed youth in our society. It is expensive. It costs over $20,000 per youth per year. On the other hand, if we just write them off, they are going to cost us better than a million dollars a person by the time they die. We will all have to pay for that.

I can name a number of other programs I have helped to save and have passed here that are very important. I have just as much feeling about the poor and the sick and the needy and our senior citizens as any Senator in this body, including the Senator from Minnesota.

But I know that this bureaucracy back here, that this liberal Federal Government which employs an awful lot of people here in Washington at pretty high rates of pay compared to the average citizen's salary, is eating us alive before the moneys get to those who really need it. And when the moneys finally get there, they are minuscule compared to what we taxpayers have paid.

I hear the distinguished Senator talking about how we have to cut the military so that children can eat. No, we have to cut the bureaucracy so both the military can be strong and children can eat. And we will never do it without a balanced budget amendment.

We get credit for these programs. We get a lot more credit for spending than we do for standing on the floor and conserving.

Having said that, I have been very intrigued by colleagues on the other side, almost none of whom is for the balanced budget amendment. Why? Because they like to spend. They do not want any hampering restrictions on their ability to do good. And I am not questioning their sincerity, but I do question whether they are doing good all the time, laundering the moneys to an all voracious eating Federal bureaucracy.

I would rather send those moneys to the States, where the States, who understand local problems, will do a far more efficient job than the Federal Government. Our Governors are begging us to send block grants for welfare to them. They do a better job. They will make it more efficient. They will get more help to people and in the end people will be better off.

When Reagan became President, I became chairman of the Labor and Human Resources Committee. That committee overviews between 2,000 and 3,000 Federal programs. President Reagan came to me and said, "Orrin, you have six of the seven block grants in your committee."

Now, it was an interesting thing, because I had a heck of a time getting any block grants passed. It was still a pretty liberal Congress, even though the Republicans had taken over control of the Senate. But the House was still controlled by Democrats.

I was having a rough time. One day President Reagan called me and said, "Orrin, what is the matter with you up there? Why can't you do what I have asked you to do?"

And I have to say that I was not quite as respectful to the President as I should have been—and I have always been. I said, "Wait a minute, Mr. President." I said, "Have you looked at the makeup of our committee?" There were seven total liberals on the Democrat side and two liberals on the Republican side. The committee was 9 to 7 in favor of what Senator KENNEDY wanted. I said, "How do I put through block grants with that kind of a lineup?"

I will be honest with you. We did. We fought for them and we were able to get some of them through. Some of them were pure block grants and they work magnificently. Some of them were hybrids. They were partly block grants and partly categorical programs. And some were called block grants but were not.

I give a lot of credit to Senator KENNEDY for working with me to do some of the things that we did. And they worked. In fact, one of the leading liberals in the Congress came to me—in fact, I would say one of the three or four leading liberals in the Congress—came to me and said, "Now, don't ever quote me by name"—and I am not—"but those block grants work." They work. And the reason they work is because we do not go through this voracious grab by Federal bureaucracy for everything.

When I see the little bit of money that gets back to the poor from the programs advocated by those who share the viewpoint of my friend from Minnesota, who has been making these wonderful arguments about how deeply he feels about the poor—nobody feels more deeply about them than I do—when I see the little amount of money that gets back to them once it is laundered through the Federal bureaucracy, where we see all these sociologists, all these Ph.D.'s, and all these people who are paid pretty high wages as they manipulate, manage, fuss, and bother, and work on programs and come up with new ideas every time you turn around, when I see how little money gets to those people, I just shudder.

This balanced budget amendment will make the Federal Government more efficient. It help us help the poor more. It will make every dollar count. And I do not care how liberal you are; I do not care how conservative you are. You are going to have to work within a structure that requires us to live within our means, or at least go in that direction.

This amendment does not always necessarily require a balanced budget. It just puts on a fiscal mechanism which forces us to at least move in that direction. Because if you want to increase the deficit, you are going to have to have a three-fifths vote to do it. That means 60 Senators in the Senate would have to vote for any increase in spending. If you want to increase taxes, you are going to have to have a constitutional majority, which means you cannot do that with less than 51 actual votes in the Senate and 218 actual votes in the House. Most importantly, you are going to have to vote, where now we just hide it by voice votes. We just go along with business as usual.

We do not worry about these things. The fact is this amendment would make us worry about these things. It would make us a little more concerned about where all the moneys go.

If there is waste in the military, and we all know there has been—I do not think there are any more $600 toilet seats and $500 hammers or screwdrivers—but the fact of the matter is, if there is waste, we as Members of Congress can no longer blithely ignore that. We are going to have to look for it and we are going to have to get rid of it, because we are going to have to live within certain economic constraints, which is where we ought to be and what we ought to do.

(Mr. KYL assumed the chair.)

Mr. HATCH. The poor are being ripped off because, as the distinguished Senator from Illinois has said on many occasions, if we keep going in the direction we are going, we are going to have to monetize the debt. And once we do that, this country's power in the world, economic clout in the world, its stability in the world will be gone, because nobody will believe in the dollar after that, because we will have paid off all these debts with worthless dollars, or at least very, very much devalued dollars.

Now, that is where we are headed unless we do what is fiscally responsible, that which Thomas Jefferson indicated he thought we should have put in the Constitution from the beginning: That is, put in a fiscal mechanism in the Constitution that is not so tight that you cannot operate within it, but is not so tight that you cannot have unbalanced budgets if that is in the best interests of the country.

If military spending is not efficient or unnecessary, we ought to correct the military. But there are not the incentives or the pressures to do that today because we simply spend the money with virtually no restraint. We just spend the money.

If we are wasting money on social programs, we ought to correct those wastes. But we do not do it today because we just spend the money.

If there are other programs in the Federal Government that are not working and are not as valuable as some programs, we ought to bite the bullet and get rid of them. But today we just spend the money.

Now I have seen for 18 years those who are against the balanced budget amendment come on this floor time after time or speak in public time after time or on television shows or on the radio, and say, "We ought to have the guts to do what is right here. We ought to balance the budget and we ought to do it without a balanced budget amendment."

Well, we ought to. But the fact of the matter is, there are not the votes to do it. People will not do it because there is no fiscal mechanism in the Constitution that requires them to do it.

So when somebody comes on the floor and says, by the way, they have always been an opponent of the balanced budget amendment, and almost all of these who are critics are, the new game in town is to say, "Show us how you are going to the get to a balanced budget in 7 years." We have three or four plans around here that show that. The problem is, we do not have the votes for any one of those plans to do it. So nobody in this context can show exactly how we are going to get it in the year 2002 unless we have a mechanism that forces us to do it. That is what this is all about.

So when the new methodology to defeat the balanced budget amendment is, "Show us how you are going to get there in 2002," I can give them 20 plans that will show them that. The point is there is no incentive or power or force or mechanism to enact any of them in the current Congress without a balanced budget amendment forcing us to meet these problems.

So that is why this is important. We do not want to put the cart before the horse. We need to pass the amendment. That puts the mechanism in that makes Members of Congress make priority choices among competing programs.

I happen to believe that Members of Congress believe in the Constitution. I happen to believe that they believe in the oath of office that they have taken. I have seen a reverence for the Constitution no matter what the philosophy of people in the Congress. It is the same in the States. The State legislators revere their constitution. We revere ours.

I do not think it is a naive belief to say if we pass the balanced budget amendment and it is submitted to the States and it is ratified by three-quarters of the States, that we will do what has to be done; we will live within our budget limits; we will force ourselves to debate the implementing legislation and how we get to a balanced budget by the year 2002, if possible; or we will vote to either increase taxes or to increase the deficit, because it cannot be done. But that will never happen. But today that type of a debate will never happen—with any hope of fruition—unless we have the amendment mechanism in the Constitution to force Members to do it.

Government excess spending is our biggest threat, to our eyes on this side of the floor. To the distinguished Senator from Minnesota, failure to curtail excess spending in the military is one of the biggest threats. Military spending is now the third largest item in the Federal budget. The second is that interest against the national debt, that is over $300 billion and will approach $500 billion shortly after the first of the century if we do not do something now.

So, this call, to cut military spending without a balanced budget amendment, is a fruitless call. Nobody has been able to do it so far. We have tried through the statutory methodology. I was sitting right back there in 1978, and I remember when we passed the Byrd amendment that required the Senate to balance the budget in what I believe was 1980. Yet, an amendment was offered that required a 51-percent majority vote for a balanced budget. This completely subverted the very important Byrd measure that had previously just passed by an overwhelming vote on the Senate floor. There was no constitutional force or requisite to meet that challenge that Harry Byrd made. It went down to defeat.

Then we came up with Gramm-Rudman-Hollings. I cannot say that it did not work at all. But in the end it was a simple statute that we did away with and changed its goal and timetables. Frankly, it never really worked well. And today we are right back where we started. True, with the largest tax increase in history, the deficit trend line has gone down and will go down until 1996, when it just shoots right straight back up again.

What are we going to do, raise taxes again and solve this problem that way? Or are we going to start working on priority choices between competing programs in the budget? The only thing that will get Members to do that is a balanced budget constitutional amendment. It is not because people in Congress are bad people or they do not want to do what is right. It is that there is so much pressure to spend here. There is so much pressure by every special-interest group in this country to cover their problems and solve their difficulties.

We are sincere. We want to do what is right. But right now we do not have to because there is no mechanism forcing Members to consider doing what is right. This amendment is a bipartisan consensus amendment that we have worked out over a period of almost 10 years now, since we passed the first balanced budget constitutional amendment through the Senate and lost in the House back in 1982.

A lot of us, somewhere, worked on it. It is important. A lot of Democrats have worked on this. A lot of Republicans have worked on this. Any one of us could write a tougher amendment, one way or the other. But this is a bipartisan consensus amendment. This is the only one that has a chance of passage. It will do the job because it does three things. It does more than three things, but three things I want to mention. It requires a recorded three-fifths vote to increase spending. To increase the deficit, you will have to get a recorded three-fifths vote to do so. Once you do that, everybody in America will know who voted that way. They may agree with it. But they may not, either. And everybody here will have the pressure on their backs to determine whether or not it is the right thing for them to do. Today, we generally lift the debt ceiling by a voice vote. Nobody wants a recorded vote on that issue, and thus raising the debt ceiling has become automatic because we do not have a recorded vote.

Second, if you want to increase taxes, you have to have a constitutional majority. That is important. Any legislation could be passed here by a vote of 26 to 25 because we have 51 Senators making a quorum. Anything else could be passed by less than 51 votes. Once this amendment becomes law, the only tax bills that could be passed through both Houses will be those bills that get an actual 218 Members to vote for them in the House, and an actual 51 in the Senate.

Third, and I have alluded to this before, we have a recorded vote to raise the debt ceiling and there is a three-fifths requirement to do so.

Those are three very important reasons why we should enact this balanced budget constitutional amendment.

Now, there are good worries on both sides of the aisle on almost every aspect of this. We can raise all kinds of hairy problems. The fact of the matter is that this is a bipartisan amendment, done by Democrats and Republicans, which is the only one in history that has a chance of passage and, for the first time in the history of this country, has passed the House of Representatives. Back in 1982, an amendment that was not quite as good as this one passed the Senate by 69 votes; in other words, 2 more than we need. We have to have 67 votes on a constitutional amendment in the Senate.

I believe this amendment is worthy of passage. I am fighting arm in arm with my fellow Democrats who are linking arms with me and with others on this side who have worked so hard to try to pass this amendment. We are fighting together, side by side, trying to get it through. I believe we have a chance at doing it if the American people really get on the backsides of their Senators and let them know that this is something that has to be done. Nothing short of that will get this done.

There are other things I would like to say, but I think there are others on the floor who would like to speak to this matter. I defer other remarks to a later time. I yield the floor.

Mr. GRASSLEY. Mr. President, I want to support House Joint Resolution 1. The significance of the No. 1 is very important. If Members go out and talk to people at the grassroots, they think, to have a balanced budget, there is a need for a constitutional amendment. They think this amendment is the first order of business of any Congress. I think the last election said that it ought to be the first order for this Congress. It is very simple, particularly for middle-class people in America, and the small entrepreneurs and to the farmers of America, that Federal spending must be controlled, the deficit eliminated, and the national debt brought down.

There are very important economic reasons to balance the budget, but more essentially, there are moral reasons to balance the budget. The moral issues, in fact, now, are more important than the economic reasons. Early on, I think we could justify the amendment on economic reasons, but now the immorality of our generation living high on the hog and leaving the bill to our children and grandchildren to pay makes it much less an economic issue. We are borrowing the future of our children and grandchildren through the bad fiscal policies. We must end this practice.

Because every other means has failed to produce a balanced budget, we must enact an amendment to the Constitution. Every other means has failed. Gramm-Rudman I and II. I even remember when I was a Member of the House of Representatives, I worked very closely with another person by the name of Byrd, Harry Byrd, who was a Member of this body, a Senator from the State of Virginia. He was very much a fiscal conservative. He thought, just pass a law that would say that Congress cannot expend more than the taxes raised.

I was in the House of Representatives at that time, and I worked very closely with former Senator Byrd of Virginia to make sure that amendment he passed in the Senate would get through the House of Representatives. I had to, in a sense, camp out in the Chamber of the House of Representatives for about a 2-week period of time to be there from gavel to gavel. I knew that the leadership of that body would want to avoid the membership being forced to vote upon the Byrd amendment when it came over to that body.

Finally, when they knew I was going to stay in the Chamber of the House and force a vote on a motion to instruct, they let it come to a vote, and it was overwhelmingly adopted. So in 1978—maybe it was 1979—we had a law on the books saying that Congress could not spend more than it took in.

But did it do any good? No. The theory is one Congress cannot bind a succeeding Congress, and I suppose that is good constitutional law. So when we passed the succeeding budget that was out of balance, it was then read as overriding the Byrd-Grassley amendment.

So after that and after Gramm-Rudman 1 and 2, we still did not have a balanced budget. Then there were several attempts on my part to merely freeze the budget across the board, and I was joined in that effort, let me say, by my good friend, Senator BIDEN of Delaware, and Senator KASSEBAUM. The freeze in and of itself would not have brought about a balanced budget in the first year, but in 2½ years we would have had a balanced budget. But we could not get a majority for that. After all those efforts, I have become a supporter and advocate for a constitutional amendment to require a balanced budget.

More so than what I have said is my rationale for the constitutional amendment is the fact that in my own State of Iowa we have a constitutional amendment requiring a balanced budget, and I have seen our State legislatures faithfully abide by that, whether controlled by Democrats or controlled by Republicans. I think it works. So we must enact an amendment to the Constitution because nothing else has or nothing else will work. Irresponsible debt threatens our future, not just the future of the young people that are our future but the very form of our society and the freedom, both political and economic, that is an integral part of our society.

I think the reason we look at it the way we should, as a moral issue, is because it threatens our children's future. Our deficits have not occurred because Congress has not taxed the American people sufficiently. Rather, these deficits have developed because of runaway spending. And all you have to do is look at efforts to increase taxes to reduce the deficit—and we have had four or five of those in the period of time I have been in this body—and the deficit does not get smaller. It is still yet larger.

The reason for that is because the Government not only spends every dollar that comes in in taxes, but it borrows another 50 cents almost to spend in conjunction with it. So in fact I think lower taxes, less income, is one less dollar to have an excuse to borrow another 50 cents against to ratchet up spending and ratchet up the deficit.

Washington has not only been irresponsible, but I think this process of our fiscal irresponsibility fosters the wrong values in our society. Spending is increased, and the results of the spending have not been to accomplish what was promised. Programs which have a philosophy that all you have to do is tax and appropriate money and you are going to solve a social problem just have not worked.

We have to stop the immoral behavior of passing along increased debt to our children and future generations and get out of this time warp that we are in that somehow money spent through the Federal budget or the creation of some new program is going to solve our problems.

A balanced budget amendment fits appropriately within the design of the original document because, as the preamble says, the Constitution was adopted by,

> We the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.

"Posterity" is a word that we do not hear much anymore. We run our Government as if the only relevant considerations are what are in today's newspapers, what we do today. We, in elective office, tend to be more concerned about the next election just 2 years away than about the next generation. We consider the consequences of our acts in short timeframes. Rarely do we take account of the effects that our actions will have on posterity's ability to enjoy the blessings of liberty in the way that my generation has and the way that the preamble presumes that our future generations should be able to enjoy the blessings of liberty.

Among the blessings of liberty that our constitutional system has maintained is a standard of living that rises with each generation. Keys to this enhanced economy have been productivity, growth, and investment. In recent years, productivity, investment and savings rates have declined with the concomitant negative impact upon the economy.

The 26-year continuous string of unbalanced budgets has contributed to these poor economic results. I do not think it coincidental that the stagnation of average wages over the last 20 years has been accompanied by high budget deficits by our Government.

Moreover, economic growth in the last 26 years of counting deficits has fallen short of the prior 26 years. Budget deficits have been run up to fund current consumption. The effects of these deficits are already negatively affecting the budget. When we last balanced the budget—and that was in 1969—9 cents of every dollar of Federal spending went to payment of interest on the national debt.

Now, however, 26 cents of every dollar goes toward paying the interest on the national debt. We receive nothing for making these payments, but we will force future generations to pay an even greater proportion of the budget as interest unless we act to pass this constitutional amendment, because all the other acts in good faith that this body has taken have not produced the desired results of a balanced budget.

Moreover, we will have to tax future generations at incredibly high rates just to pay the interest on the national debt if nothing is done. The figures for that problem that lies ahead for future generations vary depending on the assumptions made.

Future generations will pay the vast majority of their lifetime earnings in Federal taxes. Various assumptions bring up various percentages of two-thirds or three-quarters or even 93 percent that future generations might have to pay in taxes just to pay interest on the national debt.

So it is unacceptable that we live high on the hog by masking the true costs of the programs while leaving future generations to pay the cost, meaning the principal plus the interest.

That was not done to us by our grandparents or parents or great grandparents or any of the 11 generations that we have had. It seems to me because it was not done to us, we have even more of a responsibility to make sure we treat future generations with the same respect that past generations have shown us.

I am concerned that some people think that the deficit and the national debt are issues of declining importance. While it is true that the deficit will fall this year, we cannot afford to declare victory and stop worrying about the deficit. The deficit will rise in the near future by the administration's own estimates.

Moreover, I believe that the administration's interest rate forecasts have been too low. Higher interest rates will only increase the portion of the budget spent on interest on the debt. Moreover, deficits themselves increase interest rates in the long run, and higher interest rates harm renters, home buyers, farmers, and small business people—maybe everybody who borrows. But it seems to me that it particularly hurts those people who have to borrow for need or those people who have capital-intensive industries and small businesses to create their own jobs.

Deficit spending has produced other negative consequences. Last year at the hearings held on the amendment in the Judiciary Committee, the former chief actuary for Social Security testified that deficit spending has led to lax Government accounting. If the balanced budget amendment were enacted this actuary testified that Congress would finally have to start examining Government accounting. Just the simple accounting procedures by the Federal Government are way off. There is no incentive to correct the procedures as long as the Government can borrow and borrow and borrow and not have to meet a legal, constitutional requirement of a balanced budget. According to his testimony, one account at the Department of Defense has been mismanaged for 30 years. The State Department has lost account of billions of dollars worth of property. And the Comptroller General has said that some Government bills have been paid twice.

A balanced budget amendment will force us to take a tough look at Government accounting as well as Government spending. This is all to the good. Rooting out wasteful spending is the best way to make headway against the deficit.

Yes, there is wasteful spending to cut.

Cutting spending does not have to mean that people will be hurt. We have spent trillions on social programs, and the problems remain. In many instances, the programs have made the programs worse. As Ronald Reagan said, "We fought a war on poverty—and poverty won."

Even when a program has good ends, it is frequently mismanaged. We all know how much of the money is wasted on too many bureaucrats, regardless of how well intentioned they are or how much work must be done. It may be true that there are now fewer Federal personnel than in the past 30 years. But does anyone miss the ones no longer there? Has anyone's life suffered as these surplus employees have left and not been replaced?

I believe that the worthwhile and important programs could grow at a smaller rate, and could be just as effective, if they were critically examined and changes made. The programs that do not measure up should be eliminated. We can balance the budget this way under the proposed amendment. Cutting the Washington bureaucracy is the key.

Since the deficit itself is a significant problem, why not just cut the deficit now? Why enact a constitutional amendment to balance the budget? Because, as I hope I made clear, I see no other way. Congress has passed statutes to reduce the deficit. Congress has raised taxes supposedly to cut the deficit. But the deficit has risen. It rose after Gramm-Rudman. It rose after the 1990 budget deal. That was a Republican one.

And in a few years even by our President's own admission, and he is a Democrat, his 1993 tax bill and the budget agreement that went with it will still not keep the deficit from going up within 2 more years, and continue to go up unless we do something more.

We cannot ever eliminate the deficit if we continue on our present path.

If we are to reduce the deficit, we must put a binding obligation on Congress to balance the budget gradually until the deficit is eliminated soon after the passage of the amendment.

Those who believe we can cut the budget deficit down to zero without this amendment should offer an effective plan to accomplish the result. However I believe that they will not do it. Congress as an institution will not cut spending or reduce the deficit unless it is forced to do so. And the only force I know is through the Constitution. There is plenty of will in this body, but that will is directed toward spending, not cutting. It is toward deficits, not toward a balance of the budget.

We have heard it said that section 6 of the amendment which gives Congress the power to enforce the statute is inconsistent with the claim that statutes alone will not end the deficit. But there is no contradiction. As I have said, in 1978 I was a part of the Byrd-Grassley efforts by a statute that we got through and signed by the President to require a balanced budget. So I think I know. Many amendments are given life by provisions extending Congress the power to enforce them. This constitutional amendment gives us a basis for what was not there when the Byrd-Grassley amendment was law.

Implementing legislation is necessary to make the balanced budget amendment function fully. But the difference between statutes enacted under this amendment and Gramm-Rudman, or Byrd-Grassley is that the Constitution will demand that the new statutes be adhered to, unlike earlier legislation lacking the constitutional imperative.

Mr. President, we need to balance the budget. We can only do so if we pass a constitutional amendment. The American people are watching to see if we make this commitment. The quality of the existence of future generations is at stake. We cannot afford to fail again. We cannot afford to fail making tough decisions today to lighten the burden on our children and grandchildren. We must enact this constitutional amendment to balance the budget.

I think this is the fourth time—maybe the fifth time—since I have been in the Senate that this issue has come before us.

We have passed it at least once. It was by two votes. It was defeated once by one vote. Another time it was defeated by two or three votes, and then a couple of other times we could not get the votes to stop the filibuster. I hope this time we will be successful.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I am sorry. I did not see the Senator from Colorado. I yield time for the Senator.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, thank you. I thank the Senator from Delaware.

Mr. President, I too, rise to speak on the balanced budget amendment to the Constitution. As a person who has been a prime cosponsor of this legislation three different times and on the House side voted for it, I am very permanently committed to it. In fact, in the 102d Congress, as the Presiding Officer well knows since he was also a supporter when we served together over there, we missed it by just six votes. It was awfully close. A couple of times before that we both signed a procedure in which to take the amendment directly to the floor, and we could not even get it out of committee of the 101st Congress, as I remember.

So there have been a lot of efforts to move this along, and basically do what people are saying now—that is, save us from ourselves. I know in the course of this debate, which may last a week or even 2 weeks, there are going to be a lot of efforts to weaken it, lots of efforts to get us to succumb to the feeling by some Americans that we really do not need to balance the budget, and in fact will hurt jobs or hurt individuals. I do not subscribe to that, and would oppose weakening this in any way, shape, or form.

As better speakers before me have already alluded to on the floor, we are simply in a downward spiral. Last year, $200 billion was wasted on interest payments. As the Senator from Utah said, not one dime of that money helped build a square yard of highway, or helped build one cell for a hardened criminal, or helped one youngster in need of counseling. All we got for our efforts in the last few years was an $18,000 bill as they said for every man, woman, and child in America.

There is no question in my mind—and I think everyone knows—that balancing the budget will be perceived as hurting some people in the short run. But in the long run balancing the budget will raise the Nation's standard of living and the rate of savings. According to GAO, a balanced budget by the year 2001 would produce a 36-percent improvement in our standard of living by the year 2020.

OMB Director Alice Rivlin estimates that balancing the budget within 5 years would raise the national savings rate to 6.1 percent. Yet, if we fail to pass a balanced budget, the savings rate will be a mere 3.7 percent—that certainly means trouble for the United States in a competitive global economy where other nations save far more.

Our voters told us that it is time to draw the line. We know that we cannot pass a constitutional amendment to solve every problem. Certainly this is not an ordinary problem. This amendment is required because history has proven, as other speakers have said, that legislation simply will not work.

I remember very well the days of the Gramm-Rudman-Hollings act in which we ended up before we could finally get it passed exempting something like 72 percent of all spending and thereby trying to balance the budget on the remaining 28 percent of the revenues. And it simply will not work. If we make all kinds of exemptions to this legislation, this will not work either.

In an ideal world, this amendment will not be necessary. But, in the real world, it is necessary. I do not think that in fact the elected officials should take all the blame for it because I know my office, like many offices, is inundated with people who say in one breath, "Balance the budget, reduce my taxes, and get me $10 million more for my special project." Those special interests, which we sometimes called the third House around here, has had so much influence in protecting turf that we simply cannot balance the budget by legislation.

Just look at the recently disbanded Kerry-Danforth bipartisan entitlement commission. It spent $1.8 million but failed to come up with a unified proposal on where to cut entitlement spending, which is the largest sector of Government spending.

This amendment gives Congress and the public a constitutional reason to bite the bullet. Congress will have to bite the bullet—we will have plenty of tough choices. Clearly, popular programs probably will be cut, and in fact some good programs may be cut. We must make our very best effort to concern ourselves with the most vulnerable in our society and make sure that they do not get unduly hurt.

According to most estimates, about $1.2 trillion of spending cuts are going to be needed to balance the budget in the next 7 years.

Already, nearly 50 percent of spending programs have been removed from the new leadership's deficit reduction plan—Social Security, defense, and net interest.

In addition, Congress will probably be required to find more cuts to offset the middle-class tax cut proposals, and other tax cut proposals, that are being circulated around the Capitol.

Certainly, the challenge is enormous. Congress has a responsibility to come up with spending cuts before it passes any tax cuts, and our eyes narrowly focused on a balanced budget in 7 years.

THE RIGHT TO KNOW

Congress also has a responsibility to tell the American people how it will accomplish a balanced budget before it passes one. That is why I support Senator DASCHLE and Senator EXON in their efforts in the right-to-know budget amendment.

Congress must be honest with voters because they have a right to know what we already know. Congress cannot allow its knees to buckle at the prospect of making spending cuts.

We have a duty to fill in the blank lines of the promise of a balanced budget, so that Americans can understand what it means for their lives.

THREE-FIFTHS TAX LIMITATION

Some have suggested that a provision be added to require a three-fifths approval for income tax increases. I oppose such a provision.

It would scare away many supporters of last year's version which almost passed. We have worked far too long to see this opportunity missed.

I also worry that this provision would allow a zealous minority to hijack our Nation's budgetary policies.

More importantly, I think a three-fifths requirement undermines the amendment's flexibility. The amendment should be flexible, able to last the ages, and not dictate the path to a balanced budget.

Congress will pass the balanced budget amendment this year. Passage of this amendment will not be the silver bullet to kill the deficit—only tough choices will do that. I hope we can work together in a bipartisan, responsible fashion for a balanced budget and the future of our Nation and our children.

Certainly, the challenge is enormous. Congress has the responsibility, and I am certainly willing to step to the plate, as many of my colleagues are.

I yield the floor, and just say in passing that I certainly commend both Senator SIMON and Senator HATCH, who are going to be spending an awful lot of hours here on the floor in the next week, for their leadership on this balanced budget amendment.

Mr. SIMON. Mr. President, will my colleague yield?

Mr. CAMPBELL. Yes.

Mr. SIMON. Mr. President, I certainly want to commend the Senator from Colorado for being solid on this issue.

He mentioned the GAO report—which has been largely ignored around here—that says if by the year 2001 we balance the budget, by the year 2020 we will have an average increase, adjusted for inflation, in income of 36 percent per American.

Our choices are very, very striking. I happen to have that report here. I would just like to read this:

> Eliminating the budget deficit, and, if possible, achieving a budget surplus, should be among the Nation's highest priorities. Because of the accumulating burden of interest on the mounting public debt, it is important to move rapidly in this regard. Postponing action only adds to the difficulty of the task.

Again, I want to commend our colleague from Colorado for standing up so solidly on this. I really appreciate his leadership.

Mr. CAMPBELL. If I might say, too, in that report, it indicates that because of some severe actions we have taken in the last year or two the deficit is going down a little bit now. But, clearly in next few years, it is going to start to rise again. What we do legislatively is not going to amount to a hill of beans, but it is still going to go up without this constitutional balanced budget amendment.

I look forward to supporting this amendment, and thank the Senator for his nice comments.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I state the obvious. The Senate has begun debate on a proposed amendment to the Constitution. This is, as it ought to be, a solemn moment in the life of our Constitution, for what we debate today, and I expect in the following weeks, is whether to change, alter, or modify the basic document of governance that we have operated under.

Since 1791, the year the Bill of Rights was ratified, Members of Congress have introduced over 10,000 proposed amendments to the Constitution. Admittedly, the new Republican majority is making their weight felt here. We have not only this amendment, but I do not know how many more to amend the Constitution. But there have been over 10,000 proposed amendments to our Constitution. Of those 10,000 since 1791, we in Congress have approved just 22. And, of the 22, just 17 have been ratified by three-quarters of the States and have become part of the Constitution.

We stand here again this year confronting one of our most profound constitutional responsibilities as we consider a change in our fundamental charter. It is one of the glories of the U.S. Constitution that it has been so resilient. Its authors' insight into human behavior and political institutions have proved accurate from our early years as an outpost on the coast of the new world to our current status of a space-aged superpower.

Few changes have been necessary to permit the Constitution to keep pace with our social, economic, and technological revolutions that have transformed our Nation since its founding. But in recent decades, we have faced the problem that we do not seem to be able to solve. We cannot balance our budget, or, more correctly, we will not. And to put it in even sharper focus, I think it is much less important that our budget be balanced. There is nothing magic about the budget being balanced. But what is critically important is that our deficit continue to decline, and that we have a small deficit, if any deficit at all.

At the beginning of the Reagan administration, we swerved from the course that had, since the end of World War II, shrunk the national debt, and we turned onto a path that has led us to where we are today; the so-called Laffer curve. Speaking of "Laffers," it is probably the ultimate "Laffer"—the "Laffer curve." Many of us have worked to impose disciplines needed to restrain the temptation to spend beyond what we tax.

(Mr. GREGG assumed the chair.)

Mr. BIDEN. When the Reagan administration deficits began, I proposed, along with Senator GRASSLEY and Senator KASSEBAUM—and he mentioned this earlier—that we freeze every single solitary program in the Government, anything the Government had to do with, every single solitary one, that we not spend a penny more, not even accounting for inflation, than we spent the year before. Although I wrote the plan with my two Republican colleagues, we received very little support from either side of the aisle. I think our high-water mark 3 years later was 38 votes.

I also supported the Gramm-Rudman process that has been much maligned here in the Congress. It has not worked, but I argue that absent that things would even be worse than they are today. Gramm-Rudman put caps on the amount of deficits allowed and required a balanced budget. But the requirements changed every year, and the only constant in the process was the annual increase in the national debt and the guarantee of annual deficits.

Those are not the only things that we have tried. Over 10 years ago, I offered my own constitutional amendment to balance the Federal budget—and you might expect me to say, parenthetically, I think it was a superior document to the one we are about to vote on this year. Up through my vote for Senator REID's balanced budget amendment last year, I have held that this is an issue worthy of constitutional consideration. Many suggest that this is not an issue worthy of constitutional consideration.

Well, the fact of the matter is, I think my friend from Illinois is correct when he keeps quoting and referencing Jefferson. If this is not worthy of constitutional consideration—how we are able to bind or not bind future generations—I am not sure what is worthy of constitutional consideration.

That in no way undercuts the opposing argument that writing fiscal policy into a constitution or into a document of governance is a difficult and maybe impossible thing. But the notion that this is not worthy of constitutional consideration, I think, is not accurate. The decision to encumber future generations with financial obligations is one that can rightly be considered among the fundamental choices addressed in the Constitution.

But from the first time the resolution before us here today was proposed, I have been concerned that it could bring with it problems that, taken together, could be almost as bad as the deficit problem that we are all worried about. In the Judiciary Committee, I have described some of those concerns. This year, in committee a number of amendments were offered to fix what I, at least, perceive to be problems in this constitutional amendment. Some of us tried to make this a better proposal. We tried to avoid tying up the courts with constitutional questions about such important details as the President's role in enforcing the balanced budget. We tried to keep the Social Security trust fund off budget, where it is now and where it should stay. We tried to assure that the real cost of the balanced budget amendment, and not just its surface lure, is known to the citizens who will be asked to ratify this amendment in the coming months. We tried to provide a capital budget to treat public investments the way families, businesses, and States treat their own investments.

These and other amendments were not accepted. The reason they were not accepted—and you will hear it repeatedly; my friend from Utah referenced it. It is the one thing that worries me most, as I am one of those undecided votes. I am told that there are five, six, seven, or eight of us in this place who do not oppose the notion that we have a mechanism in the Constitution to deal with deficits. But we are very unsure of this mechanism. The camps generally divide into two areas. One suggests that it is bad policy, period, to put anything in the Constitution. And there are those who suggest that this is the only answer. I am with that handful or maybe a couple of hands full of people here who find myself believing that it is not inappropriate but believing that what we have before us may not do the job. I have been here long enough to realize that there are often unintended consequences of our actions which are sometimes worse than the problem we have attempted to cure.

Where do we stand now? We have before us the balanced budget amendment, about which many of us have expressed serious reservations, the effects of which in both the short and the long term cannot be predicted with any degree of certainty, although we will find plenty of people on the floor who will predict with certainty how they think this will work. I think any reasonable person, though, will acknowledge that it is almost impossible to predict with a degree of certainty what will happen if this passes.

I hope we can improve the proposal by passing amendments. But there is a second refrain you will hear on the floor, I expect, time and time again: This is the best we could do. This is the best we could do. We have to pass exactly what the House sent to us, because we have never been so close before. We have to take what is before us. For example, I will, in my opening statement here, make reference to some Governors and others who have suggested that a capital budget is a good idea. When I ask people why it is a bad idea, the Senator from Illinois gives me his well-thought-out rationale why it is not necessary or why it is counterproductive. Most others look at me and say: "We cannot fool with this or tamper with this because it is the only game in town now. We are getting perilously close, and we cannot change anything at all."

I respectfully suggest that that is not a very enlightened way to deal with amending the Constitution. I cannot say that I am optimistic that the improvements, from my perspective, that I and others will suggest will be accepted. I fear that there are those who will believe that the mere fact that we will suggest improvements is really designed to kill the amendment. The truth of the matter is that these amendments are designed to make it better. I will speak to the specific changes I would like to see. But the changes I suggest will not in any way undermine the principle of this amendment and would make it more workable, not less workable.

Whether or not we amend this amendment, Mr. President, this balanced budget amendment, may in fact change our ways. Perhaps we will use the opportunity of a constitutional constraint and make the tough choices to restore sobriety to our budget process. I devoutly hope so.

Of course, it may be that we will decide that the economic and political cost of an annual budget balance are not worth the benefits. It may be that we will make use of both the legitimate escape clauses in this amendment, and other, unforeseen devices to evade the intent of the amendment. Mr. President, I hope we do not, if this passes.

We, quite frankly, cannot be sure that a vote for this amendment will have the effect the authors promise. But we can be sure that if we try nothing, we will remain on the path that we have been on for too many years now, with the notable exception of the last 3 years under the leadership of this President. I know the stereotype is that all Democrats are big spenders and that all Republicans are conscientious with the taxpayers' dollars. Obviously, history does not support that conclusion. If we had not had the Reagan budgets that we all voted on—and we could have stopped them—but had we not had the Reagan budgets and that unusual theory of the Laffer curve, we would have a budget in balance right now. It's out of balance just because of the interest accumulated on and the debt that has occurred as a consequence of the Reagan additional deficits—I should not say Reagan—the deficits produced by Reagan and the Democratic Congress both.

But we will hear a good deal of hyperbole on this amendment. Its supporters promise that it is a cure-all, and its opponents promise that, if it passes, we are going to go to hell in a hand basket rapidly and all our liberties will be taken from us. I hope we keep our eye on the ball here and at least have an open mind to the prospect that we can make this amendment better and still have an amendment.

We will continue to add every year to the debt burden of future generations. We will steal today from the future, squeezing out the savings and investments that could increase our future wealth if we do not do something about stopping the size of these deficits, even if we do not actually balance the budget, if we do not make a change.

The Senator from Iowa pointed out—I think I heard him say, and I stand to be corrected—that in 1969, the last time we balanced the budget, for every tax dollar collected, six cents, or thereabouts, went to pay interest on the debt, and every tax dollar collected in 1993 or 1994—I forget which year he used, maybe it was 1991—but anyway, every tax dollar collected in the last year or so, 29 cents, I believe was the number he gave, or 26 cents, goes to pay interest on the debt.

I am sure someone has looked out over the next 15 years and concluded that if we stay on the track, even the one predicted by the President of the United States, that we will be requiring an increasingly larger share of every tax dollar just to pay the interest on the debt.

And to me that is the driving force behind this amendment. To me, the beginning, middle, and end is not whether there is a mechanism that guarantees a balanced budget amendment. It is not whether or not there is any magic about it being actually in balance. It is not whether or not we come close. It is about that increasingly larger proportion of the tax dollars collected going for the most useless investment of paying interest on the debt.

When I introduced my budget freeze proposal years ago, the liberals of my party said, "It's an awful thing you are doing, Joe. All the programs we care about, you are freezing them—money for the blind, the disabled, education and so on."

My argument then is one I make now, which is the strongest, most compelling reason to be for this amendment—or an amendment—that if we do not do that, all the things I care most about are going to be gone—gone. So what do we have? We end up with essentially a net reduction in the programs that I cared about over the last 10 years, a net increase in other programs, and a net increase in the portion of the budget that goes to pay interest on the debt.

So the people I care most about—the reason I ran for public office in the first place—are the people that got hurt the most in this process and are likely to get hurt the most because they are the weakest in our society. When an interest group like the PTA comes down here to support money for education, and other interest groups support money for tax expenditures for major businesses, I have no doubt who is going to win that fight. I have no doubt how that is going to turn out.

So if this debt continues to increase, we will continue to tie our hands and our ability—indeed, our responsibility—to set national priorities in our annual budget process because of the interest on the debt required to be paid every year.

This year, the interest on the national debt will cost us $235 billion. The entire domestic discretionary budget will be $253 billion.

Now we use phrases like that "discretionary budget," and my staff writes that stuff in. And I keep telling them nobody in the world but people in this Chamber and inside the beltway know what "discretionary budget" means.

Let me translate. The discretionary budget includes everything from the FBI to education, from help for the mentally retarded to the Library of Congress. That is everything. Everything out there that people think is the place where we are wasting money, that people think is the place we can cut to cut the deficit, does not include Social Security, does not include entitlement programs, does not include interest on the debt. The point is, it is all those things that everybody when I go home who says, "JOE, if you just cut the waste in Government"—if we shut down every department in the Government, we would in effect have an inability to balance the budget in the outyears because we are already talking about interest on the debt equaling almost the same amount of money of all the money we spend on the Government for what the average person thinks are Government expenditures. They do not usually think of Social Security as a Government expenditure. They do not think of the things we generally talk about as the big-ticket items here as expenditures.

By the time this amendment is intended to become law, in the year 2002, the interest on our debt will be $344 billion, larger than every other category in the budget except Social Security. That is just interest on the debt.

If we do nothing, our inability to control the growth of debt, and the cost of carrying that debt, will tie our hands, preventing us from shifting resources to meet changing needs, which is the essence, in my view, of responsible budgeting, responsible Government.

So, Mr. President, the question before us today and in the coming weeks is not the simple one: "Are you for balancing the budget or not?" Under most circumstances, everyone would agree we should balance our books.

No, it seems to me Mr. President the question is: "Does our repeated failure to balance the budget necessitate a response that all of us agree is extraordinary?" And that is amending the Constitution.

It is by no means that clear that the amendment before us will eliminate deficits. It certainly will make deficits more difficult—which in and of itself is a worthy undertaking—but with a three-fifths vote, we can in fact continue to borrow.

And I hope no one is under the delusion that by hook or by crook some future Congress, less virtuous than we, will not be able to find ways around the restrictions in this amendment.

With little faith in human nature, but a healthy respect for human ingenuity, we should have no delusions on that count.

I think both the supporters and the opponents of this amendment quite frankly overstate the case, though.

I expect the supporters of this balanced budget amendment will, as they already have, proclaim it as a panacea that will cure a structural defect in the way that a democratically elected legislature weighs fiscal responsibility against the demands of constituents. The supporters will proclaim its passage as the end of deficit spending.

The opponents of this amendment may agree that it will drastically change our Government, but, they will argue, for the worse. I expect they will describe the pain that the deep cuts will cause to the American people—the elderly, the poor, the military, the farmers, and the rest who depend on Government—and paint a bleak picture of life under a balanced budget regime.

I say to my colleagues on both sides of this debate that all these claims overstate the case.

This amendment will not magically cause deficits to disappear. The hard work of cutting must still be done—and it should be done by us.

This is hard work. Evidence the fact that everybody acknowledges that the President's budget package reduced the deficit, yet everyone went out last year and ran on this gigantic tax increase. It increased it only for the very wealthy. The middle-class taxpayers paid no more. In fact, they got reductions in some cases. And those who were low- or middle-class income taxpayers with children, they got an actual reduction in their taxes.

But yet this thing, this horrible thing we did, which touched the top 1 percent of all the taxpayers in America in any meaningful way, was so horrible and so bad—even though, by the way, in that same document the President said and we voted that we would freeze spending; we would freeze spending in all these other categories—it was so bad the other side could not even muster up the courage to give one single, solitary vote for reducing the budget deficit by a half-trillion dollars over the outyears. And the deficit went down. It actually went down.

Yet, if they could not muster the courage for that vote—which obviously cost a lot politically because if you notice there are fewer desks on this side of the aisle than there are on that side of the aisle; obviously they were right, politically anyway. If they could not muster the courage for that vote, how are we going to find over $1 trillion to cut?

I mean, this is incredible. It is incredible the degree of self-delusion you will see us all engage in over the next couple days, the next couple weeks. But this amendment will not magically cause deficits to disappear.

Nor will this amendment turn democratically elected officials in Congress, as the opponents say, into hardhearted authoritarians who will ignore the cries of their constituents. That is what my friends opposed to this amendment basically will say.

Even under this amendment, the economy will falter and need shoring up. That is going to happen no matter what we pass. I do not think anyone can tell me that this amendment is going to take us out of the cycles we have been in for the past 200 years, particularly the past 60 years. The economy will falter at some point and it will need shoring up.

Foreign dictators will rattle their swords and we will be called upon to respond by spending billions of dollars to send armies somewhere.

Rains will fall and plains will flood, and Federal disaster relief will be called for, to the tune of billions of dollars. I remember when, in the section of the country of my friend from Illinois, he and others were in here pleading that we should continue to reroute the Mississippi and every other river in America and we should reimburse people for that disaster. And most Members stepped up to the ball and helped. Now our friends on the west coast are accurately pointing out that there are billions of dollars worth of damage because of earthquakes and fires and floods and rains. Are such natural disasters going to stop? Is anyone going to suggest that this balanced budget amendment will send a message to God, as well, and say, "OK, God, we balance our budget, now you hold off from here on."

Our population will age, and the need to support the medical and social needs of those who supported us when we needed it will not diminish. It will grow. Costs will grow. And on and on and on and on.

I predict that from time to time—perhaps more frequently—three-fifths of Members in Congress will agree that some need of our people is so great that we will agree that this year we will not balance the budget, or this year we will screw up the courage to have people pay for what they say they want through the Tax Code.

I realize, incidentally, that is a horrible thing to suggest. I always find interesting, everything that we hear about the balanced budget—with the notable exception of my friend from Illinois and a few others that are the chief sponsors of this—is always in terms of "cut spending."

Whatever happened to the old conservative discipline about paying for what you spend? Paying for what you spend. I thought that meant that if we spend, then we ought to tell people how much it will cost to spend. If they do not want Members to spend, then we should not spend. But if they want to spend, we should be honest, must tell them what it will cost.

Which brings me to the argument raised by some that before passing this amendment we should tell the American people how we intend to balance the budget. There are those who claim that this is just a sham on the part of the opponents of the balanced budget amendment. Well, I am not an opponent of that amendment, but I want to tell Members it does not seem to be unrealistic for someone to lay out in broad details at least how it will work. Those people say, "Wait a minute; if you are for the balanced budget amendment, you ought to say how to balance it." Most people who are against the balanced budget amendment are not saying that we have to balance the budget; they are saying that our budget should be somewhere around 19 percent of GNP, that we should not put ourselves in the position where we are out of whack. They argue, like many economists, that balancing the budget in and of itself is not a sacred undertaking and could be counterproductive.

It seems to me that we should tell the American people. I look at the polls out there. For example, I want to go on record, and I am up for re-election this year, and I will remind everybody what I did at home, which will cost me politically. When I argued that we should freeze Federal spending, I meant Social Security as well. I meant Medicare and Medicaid. I meant veterans benefits. I meant every single solitary thing in the Government. And I not only tried it once, I tried it twice, I tried it a third time, and I tried it a fourth time.

Somebody has to tell me in here how we are going to do this hard work without dealing with any of those sacred cows, some deserving more protection than others. I am not quite sure how you get from here to there. I am sure that we should tell the American people straight up that such an amendment is going to require some big changes.

The balanced budget amendment will not end our deficit in one fell swoop, nor will it cause our Nation to turn its back overnight on those who depend on us. All it means, as the Senator from Utah said, is that we will have to stand up more often and be counted on these things. I find that a good thing, not a bad thing.

As we begin this debate, let Members keep a decent perspective on the true consequences of this amendment. It is important that we not overstate nor overpromise what the amendment will do. Let Members debate this amendment with all the seriousness that a constitutional amendment requires, to ensure that the amendment we propose to the States and the American people merits the honor of being included in our most fundamental covenant of self-rule.

So what, then, are the concerns that many Members, those so-called undecided voters, bring to this debate?

First and perhaps foremost, it seems to me we must examine whether the amendment is likely to shift the balance of power between the branches of Government to an extent never experienced or expected by our forefathers. It was the wise position of the drafters of the Constitution in 1787 that the Congress, being the most representative branch, the most democratic, and the most sensitive to—and ironically that is why we are needing this amendment. Everybody should not lose sight of that. We say that Congress is not responsive, and that we should be more responsive to people; and then we are told the reason we need this amendment is we are too responsive to the people. Whatever they come and ask for we give to them in a painless way. Kind of fascinating how we sort of turn these arguments to whatever benefit the moment allows.

The fact is we are the most representative branch. We do respond to the people, and that is how we were supposed to respond based on what our Founders intended. And we are the most democratic and most sensitive to the public needs.

Because of all that, the drafters of the Constitution spent a lot of time debating this little point on the second floor in Philadelphia, because they did not want the debate to take place on the first floor. They were afraid people would eavesdrop and hear what is going on. This was before "Government in the sunshine." The delegates to the Constitutional Convention sat in the second floor so people could not walk by and eavesdrop. What they were saying on the second floor is, "Look, if we are going to give the power to tax and spend, we better give it to the outfit that will most directly respond to the people. Taxes, we will give that to those guys in the House that get elected every 2 years. We do not want the Senators—who were not popularly elected in those days—to do that. They can only respond to a tax bill proposed by the House."

So there was a real solid reason why, in setting out the balance of power, taxing and spending was put in the Congress. James Madison, who is recognized as the father of the Constitution, called this power of the purse "the most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure."

That power of the purse has remained with the Congress for over 200 years. This amendment threatens to take away a good deal of that power and to share it with the President, a fundamental shift of authority that will irretrievably alter the balance of power established in the Constitution.

Senators might say, well, how, in fact, does this amendment threaten to shift the power to the President? Because, I am convinced, Presidents will seize on the language of this amendment to claim a constitutional power to impound; that is, to refuse to spend money that Congress has duly appropriated. This power to impound would give the President wide-ranging authority to undo or redo Congress' spending priorities without limits, or at least so a President would claim.

Now, you may say no President will do that, JOE, and as a Democrat I am happy that this guy downtown is of my party. I am sure he would not do that. But let me ask you, what do you think Nixon did? What do you think old Lyndon Johnson would have done? What do you think Franklin Roosevelt would have done with his power? Now, maybe we are not going to have any more Roosevelts—I hope that is not true—or Johnsons or Nixons, but we just may very well.

What does it mean for a President to wield this power? It means the President could decide to change the way the Congress had allocated funding in spending bills; for example, taking away money that ensures that small States get their fair share. Let me be parochial for a moment. I am a Senator from Delaware, one of the smallest States in the Union, the fifth smallest population in the Union.

When we pass bills here to make sure that all persons benefit, whether they live in New Hampshire or Delaware or Utah or Wyoming or Alaska or other small States, we sit and we make sure the formulas we write into the bills do not let all of the money go just on a per capita basis. We usually get together—and there are probably somewhere between 18 and 20 of us, that is, States who find themselves in that position. Well, if the President gets to the end of the line here, the budget is not in balance, we have not passed a balanced budget—I might add we will not know whether or not this will be in balance as we go along because it is based upon predicted revenues. So we spend based on predicted revenues. That does not account for emergencies. That does not count significant downturns in the economy, or a lot of other things that come into play.

But if, at the end of the line, we pass a budget that we thought was in balance but, in fact, was out of balance, that means the President, under this amendment, arguably, could say, "That is my job. I will redo this." I know what I would do if I were President and I wanted to balance the budget. I would pick off the smallest States and cut the moneys that were allocated for them. They are the least powerful in Congress. They cannot do much. They do not have that many Representatives. Over here, because we make up a minority, we might find ourselves in difficulty.

Now maybe a President would not do that. But he would have that power, under the amendment. The President could change detailed policy set by Congress; he could conclude on his own that Congress put, for example, too many military bases in South Carolina or Kansas or was spending too much on medical treatment in Utah or Mississippi.

Do we really want to give the President that kind of power? I think not.

Along with this power to spend, according to Walter Dellinger, a noted constitutional scholar and now the President's top constitutional adviser, this amendment could even be construed to give the President the power to levy taxes, to raise needed revenues. I think that is much more unlikely, quite frankly, although it is arguably possible.

Do we want to give the President that kind of power? I do not think we do.

In committee, I supported Senator KENNEDY in offering an amendment to make it absolutely clear that the balanced budget amendment is not intended to shift to the President a major piece of Congress' historical power to tax and spend.

Not a single one of my colleagues that I am aware of disagreed with the point of the amendment. Nobody disagreed with the point of the amendment. Some said not to worry, it cannot happen, or it probably will not happen, or it is unlikely to happen. But everyone acknowledged that if it happened, it would be a bad thing. And yet a majority, all the Republicans and a couple of Democrats, voted en bloc to defeat this amendment claiming it was not necessary, that after-the-fact legislation could take care of the problem, the so-called enabling legislation.

I sure would like to know that before we pass this. I would like to know whether or not a President can do that. Why do we not just make it clear that Congress has the power to resolve any discrepancy between spending and revenues that is left at the end of the year—the Congress, not the President.

Now, maybe that is what the Congress will do. Maybe the President will not over-reach. But I have never seen, as a student of history, any time where there has been a vacuum in power created that the administration, Democrat or Republican, has not stepped in to fill. And I have seen very few times when the Congress on its own volition has stepped up to the ball to fill a vacuum when filling the vacuum would require them to make hard decisions. And so I do not think it is unreasonable to suggest that future Presidents may seek this authority to impound.

It's not necessary to spell out in the amendment that the President should not have this power? Well, I say that a principle as important as preserving the balance of power should be stated as plainly and boldly as possible in the balanced budget amendment itself.

Now, as we debate this, I will be happy to hear anyone say that the President should have that power. I suspect everyone is going to say he should not and this amendment does not give it to him.

Well, if that is true, what is the big deal of including it in the amendment? It is not inartful. It can be artfully done. It does not ruin the symmetry of the amendment. It does not go to the heart of whether we have to balance the amendment. It merely says we are not going to shift the balance of power, no doubt about it.

Our Constitution, that durable and flexible document, has endured for over 200 years. The chief reason it has endured is because the self-correcting checks and balances that have kept one branch from dominating the other have been maintained. In the days to come, I will support, if not offer, efforts to modify this amendment to ensure that in addressing this important issue we do not risk undoing 200 years of history.

The second concern that I have is not a constitutional one. It is a very practical one but no less important for that fact. The balanced budget amendment makes no provision for a capital budget to pay for long-term capital improvements. This amendment will require the Federal Government to pay for capital improvements—roads, bridges, schools, aircraft carriers, all of which are designed to last for decades—on a pay-as-you-go basis.

Now, this is not the way States or local governments or our families or businesses, for that matter, treat these sorts of long-term items. No. All of these recognize that it is permissible, even prudent, to go into debt to pay for long-term items such as a house, a factory, or a road or an aircraft carrier. State and local governments that are required to balance their budgets every year are permitted by their balanced budget rules to set up capital budgets. They are permitted to borrow money to pay for long-term capital items even though they must balance the rest of their budget.

Now, we hear the phrase used all the time: "States do this; why can't we do it?" States do not do this. If you look at the numbers, the total accumulated debt of the States over a comparable period for the Federal Government over the last two decades, the States have increased debt more rapidly than the Federal Government—almost a 2-to-1 margin.

So before you get on the floor and pound your chest about how your State balances its budget, say how would your State balance this budget if it had the same exact amendment as this.

Now, some States may. Mine does not. Mine is a little tighter, quite frankly, but we are smaller and we are more manageable. Most States that have balanced budget amendments do not, do not, in fact, balance their budgets. They have a capital budget which allows them to go in debt. I believe the Federal Government should have the same ability to borrow to pay for capital items as State and local governments do and that we should amend the balanced budget amendment to assure that we give proper weight to our long-term needs.

I am not alone in this view. The Wall Street Journal editorial page, that bastion of conservative thought, has criticized the balanced budget amendment because it lacks such a capital budget. Here is what the Wall Street Journal had to say.

> To understand the economics, start here:

Referring to the balanced budget amendment.

> Start here. If all American households were required to balance their budgets every year, no one would ever buy a house.
>
> Of course, households don't think about their budgets that way; they figure 'balance' means meeting their mortgage payments. Similarly, State and local governments with a "balanced budget" requirement can still borrow money for capital improvements.

So I say to everyone here in the gallery as they walk out and say, "We balance our budget; why doesn't the Federal Government do it the way we do," well, unless you are a very wealthy person—even then it would not be good economics to do it this way—unless you are a very wealthy person and paid cash for your house and paid cash for your car, you do not balance your budget. You do not balance your budget like this amendment requires it to be balanced.

I want the Federal Government to have to balance their budget the way households have to balance their budgets, the way States have to balance their budgets. And that is with a capital budget. I have a capital budget—I have a mortgage on my house. I have a capital budget—well, I do not have a capital budget on my car, but most people, when they buy a new car, have a capital budget. I meet that by paying as everyone does and the States do, paying on it monthly, in my case, and the States yearly, the cost of that borrowing and the principal. We pay it down. We pay it off. But the Federal budget, under this amendment, would not allow that.

Now, Gov. Mike Leavitt of Utah, a prime supporter of enacting the balanced budget amendment, testified before the Judiciary Committee that his State has a capital budget provision and recommended that we look further into the question before enacting House Joint Resolution 1.

My own Governor, Gov. Tom Carper, former Congressman of 10 years here in Washington, the strongest supporter from my delegation for a balanced budget amendment, a Democrat, told our Constitutional Subcommittee the same thing last year.

But despite that good advice, this balanced budget amendment does not follow that almost universal practice of capital budgets because it fails to set up a separate capital budget for major physical improvements. It will surely mean less of those improvements, or we will make those improvements and we will further cut in other areas of the budget or raise taxes in other areas of the budget which will cause more great pain, when the more reasonable way to do it would be to do it the way the States and households do it. After all, if families could not borrow to pay for their houses, there would be many fewer homeowners. And if States could not borrow to build their roads, there would be many fewer roads.

Why enact a balanced budget amendment and fail to distinguish between projects that merit long-term financing and those that should be funded from year to year? Under this balanced budget amendment, the incentive will be to focus only on those spending priorities that have short-term payoffs, economically and politically. That is not good for rebuilding the infrastructure of this country, which we all say we have to do to compete internationally. Because that is where the political pressure will come.

If, in my State, they come to me and say why do you not vote to spend more money for the Corps of Engineers that will allow them to dredge the Delaware River and the Port of Wilmington, why do you not do that versus spending more money for drug treatment programs.

I know when I hear a mallet going down; I can tell it.

I yield to the President, obviously.

The PRESIDING OFFICER. Under the previous order the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15.

Mr. BIDEN. Mr. President, I ask unanimous consent, unless it is contrary to a standing rule, that I be able to take 10 more minutes to finish my statement, unless someone objects to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. We used to do that in the bad old days when the Democrats controlled.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Without a capital budget provision, I fear, this amendment could skew the way we spend money, and in a way that could hurt the long-term future investments this country needs. It does not have to be this way.

In committee I offered an amendment to provide for a capital budget. It was modeled on the capital budget provisions in the States, including my own State of Delaware.

My amendment established a capital budget for major public physical capital investments. It limited that budget to 10 percent of total outlays—about what the Federal Government has spent on such items in recent years. It required a three-fifths vote of both Houses to place any item within that capital budget.

My amendment was not designed to build a loophole into a balanced budget amendment. Under my amendment, it would not be easier to treat an item as a capital budget item as opposed to a current item. It would be harder. It would require a three-fifths vote. But it would be right.

My amendment failed in committee. Without a capital budget provision, I fear that, not right away but as the years go by, this amendment may skew the way the country invests for the future and we may be able to balance our budget in the end, but we will not spend our money as wisely as we should.

A third concern about this balanced budget amendment relates to the way this amendment treats a program that is arguably the most important and most depended-upon program in the Federal Government.

I am talking about Social Security. As we all know, the Social Security trust fund is designed to spread costs over many years of caring for working people after they retire. We pay in today, so 10 or 20 or 40 or 50 years from now we can live out our lives, knowing that we have that minimum Social Security payment.

The Social Security fund is not supposed to be in balance every year or even every 10 years. It is meant to be balanced over the decades. As this generation of working people pays its Social Security taxes the Social Security trust fund is gathering in a surplus of tens of billions of dollars. Because the Presiding Officer and myself and others are of a generation that is the baby boom generation, or just before that generation, we pay in tens of billions of dollars in excess of what is drawn down by present Social Security recipients—my mom and dad and my uncles and aunts. So there is a surplus. A surplus of $100 billion will be paid in each year, more than is taken out, around the year 2000—$100 billion surplus.

Right now $60 billion more is paid in this year by those of us paying our FICA tax than is paid out to Social Security recipients—$60 billion. My mom and dad think that money goes into an account. They think that is over there for Social Security. A lot of people in my generation who in 15 years will be eligible for Social Security think that money is being put in an account. Guess what, folks? We are spending it. We are spending it now.

But before the year 2014, that Social Security trust fund will have generated a great surplus. But after 2014, we will have substantial deficits. The reason for that is that the baby boom generation will be collecting Social Security and my sons and daughter will be paying into it. There are fewer of them than there are of us. So fewer people will be paying in and more people will be taking out. It sounds like I am stating what is obvious to everyone but it is not obvious to everyone, obviously. The fact of the matter is, after the year 2014 we will be in deficit in the Social Security System.

The balanced budget amendment makes no provision whatsoever for the unique characteristics of the Social Security trust fund. Instead, it treats Social Security revenues and outlays as ordinary Federal budget.

This means in the years that Social Security is generating hundreds of billions of dollars in surplus revenues it will be used to cover hundreds of billions of dollars worth of deficits that the rest of the Federal budget is creating.

After 2014, when the trust fund goes into deficit to the tune of tens or hundreds of billions of dollars a year, we in Congress will have to cut that much from the rest of the budget to make up for the deficit.

What does it mean? It means that for the next 20 years or so, revenues from the Social Security trust fund will make it look like we have balanced the budget when in fact we have not, and after that the huge outlays from the trust fund will force drastic reductions in the rest of Federal spending, or drastic reductions in Social Security. And that means the pain of cutting will be delayed by years from the effective date of this amendment, but it will be that much sharper when it comes.

So we should get Social Security out of this mix, make it clear that the balanced budget amendment does not deal with Social Security, it is not able to use the surpluses and not deal with the deficits. We should be more honest about it with people because Social Security is at stake, in my view.

For all the reasons I have stated I supported Senator FEINSTEIN's amendment in the Judiciary Committee to keep Social Security right where it is now: off budget. The Feinstein amendment recognizes Social Security is not designed to balance its budget every year but over the years, and it recognizes we cannot honestly balance the rest of our Federal budget if Social Security and its huge swings are included. It recognizes that Social Security is a unique institution that deserves unique protection.

The fourth concern I have is this amendment will shift power to the large States at the expense of small States. By imposing supermajority requirements of three-fifths on both Houses it permits a minority of two-fifths plus one to block an unbalanced budget, no matter how necessary for our fiscal and economic health it may be. This minority veto could be marshaled by representatives of just the five or six largest States in America. If the five or six largest States in America get together and agree on something that they need that the rest of the States do not want, they can prevent us from acting on a national emergency by all of them voting as a block—just six or even five of our 50 States.

The fifth and final concern is that nothing in this amendment forces Congress to begin the work of cutting the budget before the year 2002, the first year we require. What will happen when Congress tries to balance the budget all of a sudden in fiscal year 2002? I fear it will cause an economic disaster. This amendment ought to have some mechanism to guarantee our Government and our economy moves toward a balanced budget on a "glide path," a gradual descent in the deficit that will get us to a balanced budget without forcing a crash landing in the final year. But this amendment does not do that. It is possible it could be done by enabling legislation but I would sure like to see it.

In the days ahead I and my colleagues will be offering amendments to address these and other legitimate concerns. I hope these amendments receive the full debate they deserve. There are none in this body, I hope, who will argue that an amendment to the Constitution is not worthy to receive that full and open debate.

Under the watchful eyes of our forefathers and with the humility that this awesome task engenders, as the debate unfolds in the days to come I will listen to my colleagues, I will support amendments designed to improve this amendment, and I will urge my colleagues to do the same.

I hope at the end of the process I will be able to do what I intend on doing now, and that is to vote for a balanced budget amendment.

I thank the Chair for its indulgence and I yield the floor.

Mr. HATCH. Mr. President, I would like to respond to the comments of Senator BIDEN. Although Senator BIDEN has enunciated many reasons for and against the balanced budget amendment, I want to respond to an amendment he intends to proffer, one he made at the Judiciary Committee markup on Senate Joint Resolution 1.

This proposed exemption for so-called capital investments could help evade the purpose of the balanced budget amendment or make it substantially more difficult for future Congresses to make capital investments. I confess that I am not certain of the purpose of the amendment as it is drafted. It appears to be a provision at war with itself. The first sentence seems to encourage capital investments by taking it out of the balanced budget rule. But the last two sentences, seem to be designed to discourage capital investments.

I believe such an exemption raises real problems for five reasons.

First, this provision opens up a loophole in the balanced budget rule and unduly limits Congress' ability to make capital investments. There would be a powerful incentive for Congress and the President to help balance the budget by redefining more programs as capital investments. A gimmick capital budget exemption could actually endanger capital investments as fake investments crowd out real capital investment.

Furthermore, the 10-percent limit ties the hands of future Congresses which may choose among the competing programs to fund more capital investments than this limit would allow. With all the talk about the need for infrastructure investment from my friends on the other side of the aisle, I am surprised they would want to tie Congress' hands this way. A future Congress may justifiably decide to make greater investments in this area.

Moreover, I do not understand what the three-fifths vote requirement adds to the amendment other than to make it procedurally harder for Congress to make any capital investments, regardless of their effect on the deficit. If a given capital investment were to create a deficit and had support of three-fifths of the Members of each House, it could be passed under the balanced budget amendment as it stands without this amendment. If a capital investment was paid for and did not increase the deficit, I do not know why the proponents of this amendment would want to require a three-fifths vote to make that investment. For what possible purpose would we want to discourage future Congresses from enacting such investments?

The proponents must think that a large part of our problem is that we spend too much on "major public physical capital investments" as opposed to simple transfer payments or social programs. Apparently, whatever three-fifths of the membership of future Congresses think, the proponents of this amendment believe that in no case should the United States invest more than 10 percent of its budget in "major public physical capital investments." Otherwise, I see no reason for this amendment. It is surely a mistake to put such limits on future Congresses.

Second, the loophole problem is aggravated by the fact that there is no standard definition of a capital budget. For example, in President Clinton's proposed fiscal year 1995 budget, OMB lists four broad categories of programs that may or may not be considered capital expenditures—OMB, Analytical Perspectives, Proposed fiscal year 1995 Budget, p. 114. Even within those four broad categories there are questions about what programs should be included. The amendment's attempt to cure the definitional problem only raises new definitional problems. The definition given is circular. And just what does "major public physical capital investment" mean? Each term is subject to substantial debate. It is particularly inappropriate to place capital budgeting in the Constitution when there is no agreement on what constitutes a capital budget.

Third, the Constitution is not the place to set budget priorities. The balanced budget amendment seeks to create a process in which programs compete for a limited pool of resources. A constitutional amendment should be timeless and reflect a broad consensus, not make narrow policy decisions. This exemption creates in the founding document a new constitutional budget subdivision with a percentage cap and a procedural limitation on using it. We should not place technical language or insert statutory programs into the Constitution and undercut the simplicity and universality of the amendment.

Fourth, a capital budget exemption is unnecessary. Total Federal spending has generally been above 20 percent of GDP, and less than 4 percent of Federal outlays are for nondefense physical investment, one of the possible definitions of "capital investment". Given the relatively small and constant share that such capital expenditures have in a very large Federal budget, there is no need to remove capital expenditures from the general budget.

One example illustrates the lack of need for a capital budget. Although President Eisenhower initially proposed that the Federal Interstate Highway System be financed through borrowing, Congress decided to keep it on budget and finance it through a gas tax at the suggestion of Senator Albert Gore, Sr. We are unlikely to have a capital expenditure of this magnitude again. But if we do there is no reason to create an exemption for such investment or to limit the percent of the budget that goes for such investment.

Fifth, capital spending should compete in the budget like all other spending. The balanced budget amendment seeks to foster an atmosphere in which Congress prioritizes spending options. Senate Joint Resolution 1 does not prevent the creation of a separate operating and capital accounts, but any implementing legislation which creates such separate accounts must leave the total budget in balance, since implementing legislation cannot subvert the clear mandate of the amendment. And such accounting techniques should not subvert prioritizing function of the amendment. The proposed exemption allows the entire budget to be used for noncapital investment, like simple transfer payments, and then allows a 10-percent increase in Federal spending—and debt to fund it—for capital investments. The General Accounting Office saw the fallacy implicit in this exemption when it said, "The choice between spending for investment and spending for consumption should be seen as setting of priorities within an overall fiscal constraint, not as a reason for relaxing that constraint and permitting a larger deficit."

To the extent that the three-fifths vote requirement for capital investments replicates the general provisions of the balanced budget amendment, this amendment is simply pointless. To the extent it goes further, it is a meritless straitjacket on the competition between legitimate spending options in the overall budget process.

RECESS

The PRESIDING OFFICER. The Senate stands in recess until 2:14 p.m.

Thereupon, at 12:39, p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENS).

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. The pending business is House Joint Resolution 1, the balanced budget amendment.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, Mr. President.

Mr. President, in 1992, I campaigned for the Senate as a supporter of the balanced budget amendment. I was an original cosponsor of the amendment voted on in the last Congress, Senate Joint Resolution 41, and I am an original cosponsor of the amendment being considered today. Yet, despite my consistent, outspoken record on this issue, my backing of the balanced budget amendment surprises some people.

In fact, Mr. President, I would add that I went to mass on Sunday, and the social justice committee had:

> Senator Moseley-Braun is a possible "no." Please contact her to be against this amendment.

So I want to clarify the record, and I want early on to take this opportunity to tell those of you in this body and my constituents listening at home on C-SPAN why I so strongly believe it is imperative that Congress pass the balanced budget amendment and without delay.

I come from a working class family. My father was a Chicago police officer. My mother was a laboratory technician. We were not what you would call wealthy, or upper-middle class. We did not have a lot of material goods, and my parents couldn't afford to send us to fancy private schools. My parents had to keep track of every dollar to keep us fed, clothed, and housed. Yet, like hundreds of thousands of other children of working class families in this Nation, I was able to get ahead in life, to succeed, because the sacrifices my parents made provided me with the opportunity to do better.

I was able to get a first-rate education by attending quality public schools on the south side of Chicago. I got my first job when I was just 15 years old. To earn extra money for college, I worked as a clerk at the Chicago Post Office. I attended the University of Illinois at Chicago, and then the University of Chicago Law School, because student loans were available to help me pay the tuition. All of these opportunities—opportunities that would not have been available without local, State, and Federal Government assistance—gave me the tools I needed to achieve in life.

The fact that the public—through Government—helped broaden my opportunities is part of what led me to choose a career in public service. I ran for the Senate in 1992 for the same reason I ran for the State legislature in 1978—because I am fundamentally committed to ensuring that future generations have the same opportunities I enjoyed. Every child born in this country—whether black or white, whether rich or poor—should have the chance to achieve his or her dreams. Every person should have a chance to contribute to society, to the maximum extent their talent or ability will allow.

Government should play an active role in expanding people's opportunities. The Government should be able to invest in technology and infrastructure, in job creation and training, and in education, in order to raise the people's living standards. The Government should help unemployed Americans get back on their feet, it should help those who want to work to find jobs, it should ensure that high-quality, affordable health care is available to all Americans, and it should protect our environment. Government is not the enemy of society; it should be a partner, an instrument of the people's will, and a facilitator of our public interests. But if the Government does not get its fiscal house in order—if we don't act now to stop our runaway deficit spending—the Government will have little money left to provide for the public interest. Only the holders of the Treasury bonds will be assured of any Government assistance.

I am going to tell a story today that some in this body may have heard before. Back in 1991, when I was being urged by a number of people to run for the Senate, I sat down with my son, Matt, to discuss the issue. Matt is now 17. He was 15 at the time. As you know, Mr. President, running for office is a tremendous strain on a family; I did not want to make a decision that big without discussing it with Matt first. And, during the course of that conversation, he said something I will never forget. He said, "You know Mom, your generation is the first one that has left this world worse than you found it."

Now, as you can imagine, those words were like a knife to my heart. The thought that Matt might be right sent a chill down my spine and the notion that my generation would leave the world worse off than we found it gave me the push I needed to get involved in running for the Senate. And I am bound and determined to use my tenure in the Senate to prove Matthew wrong, to show him that his generation will have more opportunities and a better life than my generation. I want him to know that the American dream is alive and well—and that his future is a bright one. That is why I am fighting to see that the balanced budget amendment becomes part of the U.S. Constitution.

Mr. President, I was privileged to have served as a member of the President's Bipartisan Commission on Entitlement and Tax Reform—the so-called Kerrey-Danforth Commission. Some might say that serving on the Entitlements Commission was more of a curse, but I welcomed the challenge. Serving on the Commission allowed me to take a close look at our current budget trends, and at how those numbers will affect our ability to meet important priorities, like retirement security, and health care security, not just for current recipients, but for Matt's generation and beyond.

The final report of the Commission, issued last December, confirmed what most of us already know: Unless we get the deficit under control, we will be leaving our children—and our children's children—a legacy of debt that will make it impossible for them to achieve the American dream of living a better life than their parents.

I would like to take a moment to discuss those numbers. There have been and there will be a great many facts and figures talked about here in the debate on the balanced budget amendment. I know, frankly, that numbers have a tendency to make people's eyes glaze over. I want to discuss some of the numbers because they are so profoundly important to our future as a country and to the kinds of opportunities that will be available to future generations.

Most Americans, or I hope most, know that, thanks to the 1993 budget approved by this Congress, the budget submitted by President Clinton, Federal budget deficits are declining in the short term. The deficit is projected to remain under $200 billion through 1998. That would place it at about 2.5 percent of the economy—its lowest level since the 1970's. We can and should be proud of that, Mr. President. The 1993 budget deal represented a serious attempt to attack the deficit, and our economy has benefited as a result of it.

What Americans do not know is that after 1998, unless we change course, the deficit will begin rising again rapidly, reaching $400 billion by 2004. As early as 2012—and again when you say 2000, it sounds like a long way off, but we are only talking 5 years from now, to the turn of the century. In 2012, entitlement spending and interest on the national debt alone will consume all tax revenues collected by the Federal Government, leaving nothing at all—nothing—for defense spending, housing, Head Start, education, protection to the environment, transportation, and science research. Nothing.

What is driving this trend, Mr. President? Despite what people would like to believe, frankly, the catalyst behind our growing budget deficit is not $600 toilet seats or Air Force generals taking $200,000 plane rides. There is no line item in this budget labeled "fraud, waste, and abuse" that we can line out and get rid of; nor is the deficit growing due to the amount the Congress spends for the Corporation for Public Broadcasting or for food stamps or anything else that seems to consume the conversation on talk radio.

What we spend at home is actually lower now as a percentage of our economy than it was 25 years ago. If you examine a brief snapshot of the 1994 budget, this becomes clear. In 1994, the Federal budget allocated approximately $270 billion for defense spending, $335 billion for Social Security spending, $155 billion for Medicare, and $95 billion for Medicaid. All other entitlement programs combined total $185 billion, while interest on the national debt consumed $210 billion.

Discretionary domestic spending, which is often blamed again in popular conversation with leading the country to the brink of financial ruin, accounted for approximately $250 billion.

Mr. President, I do not mean to imply that the $250 billion we spent on discretionary items in 1994 is not a lot of money or that there is not room in that figure for further discipline and cutting. But we have to be honest with ourselves and with the American people. In light of the amount of money and percentage of the Federal budget we are spending on all of the programs I listed above, discretionary spending alone cannot bear the sole blame for our budget deficits. If we want to get ourselves out of the hole we have dug ourselves into, we cannot focus exclusively, or even primarily, on discretionary spending.

So where are the problems? What drives this budget deficit? Why is it so persistent? In a nutshell, there are two major problems: The rapidly rising costs of medical care, and the changing demographics of the American population are the most important forces driving the Federal budget.

Based on current trends, Federal health care expenses will triple as a percentage of the economy by 2030. Federal health care costs, which consist primarily of Medicare and Medicaid, grew at rates exceeding 10 percent for 5 years in a row. While they are currently growing at slightly lower rates due to changes in the private sector, those rates, frankly, are still unaffordable. Due to the rapid growth, the Medicare hospital insurance trust fund will go broke by 2001.

Clearly, this is a far more serious problem than just welfare reform, which makes up 1 percent of the Federal budget. AFDC and food stamps are not growing anywhere near the rate Medicare and Medicaid are. In fact, AFDC benefits, again, have declined by more than 40 percent in real terms since 1970. That is not to suggest that we do not need to reform our welfare system; we do and we will. But anybody who suggests that the budget can be balanced by reforming welfare is being less than honest with the American people.

The Chicago Tribune recently ran an editorial on the subject of health care, underscoring the need to control health care costs if we are to get serious about the balanced budget. I would like to quote briefly from that piece.

It stated:

> But if this Congress is serious about bringing the Federal budget into balance, something must be done to stem the still-rising cost of health care. Health reform isn't mentioned in the Contract With America, but unless some changes are made, several of the GOP's other goals will prove beyond reach.

Mr. President, I think the first goal will prove to be out of reach. If we do not control health care costs, we will not be able to achieve a balanced budget.

Rising health care costs are not the only problem we have to contend with. We must also confront the second leg of this dilemma, which is the "graying" of America, due both to longer life expectancy and the aging of the baby boomers.

When the Social Security system was established, the average life expectancy was 61 years old; now it is 76 years old. We cannot ignore this because the Social Security benefits are funded primarily by payroll taxes on current workers. As our population ages and as the baby boom generation retires, there will be fewer workers to support more retirees. While in 1990 there were almost five workers for each retiree, in 2030 there will be less than three. What this means is that if current trends remain unchanged, the Social Security trust fund will begin to pay out more than it takes in by the year 2012. By 2029, the fund will have exhausted all of its previously accumulated surpluses.

Mr. President, there is simply no way to get around the fact that our present spending trends are not sustainable in the long run. In 1963, mandatory spending, which is the combination of entitlement programs and interest on the national debt, comprised 29.6 percent of the Federal budget. By 1983, that number had almost doubled, to 56.3 percent.

Ten years later, in 1993, mandatory spending was 61.4 percent of the annual budget. Let me underscore that. Today, mandatory spending—entitlements plus interest on the national debt—comprise almost two-thirds of the entire Federal budget.

What about the future? If we do not act now, by the year 2003, which is only 8 years from now—and again, these numbers sound further out than they are—mandatory spending will comprise 72 percent of the Federal budget, 58.2 percent for entitlement programs and 13.8 percent for net interest on the debt. Obviously, if we are spending 72 percent of the budget on mandatory spending, there will not be much left over for defense, education, and infrastructure.

The budget deficit also has disastrous implications for our private savings. Countries that save at higher rates grow faster and have a more rapid increase in the standard of living than countries that save at lower rates. In the United States, as our budget deficits and national debt grow, our private savings decline, we limit our investments, our productivity, and our economic growth and, therefore, our job production.

Since the 1960's, private savings have dropped from more than 8 percent of the economy to around 5 percent of the economy. At the same time, Government deficits have risen from less than 1 percent of the economy to more than 3 percent of the economy. As a result, the supply of savings available for private investment—our net national savings—has dropped from more than 8 percent of the economy in the 1960's to less than 2 percent today. This is particularly harmful for us with regard to our international competitiveness in this new global economy.

In today's increasingly global economy, our major industrial competitors are saving and investing at a much greater rate than we are. Japan's national savings from 1983 to 1992 totaled approximately 18 percent of its gross domestic product, while the European Community's savings totaled around 8 percent. If we want to stay competitive in the global marketplace, we can and we must do better; again, another reason to support the balanced budget amendment.

Mr. President, earlier, I mentioned that AFDC benefits have declined since 1970. The significance of that fact should not be lost. We are spending ourselves into a deeper and deeper hole, and yet people who need help from Government are not better off as a result.

I live less than 2 miles from the Robert Taylor homes in Chicago, a public housing development on the south side of the city. I grew up in the shadow of that development.

Just last week, a study was released that showed that 9 of the top 10 poorest neighborhoods in the country were located in public housing in Chicago. And I know my senior Senator saw the study. It was shocking. Included in that number were three neighborhoods in the Robert Taylor Homes. That is not something to be proud of. In fact, it is disgraceful, and it is especially distressing to me, because I am third generation Chicagoan. I love the city. I know the people who live and work in those developments. I know they want the opportunity to get ahead and to have a chance to lead productive lives.

The study that I mentioned, which was based on per capita income information taken from the 1990 census, underscores why I so firmly believe that Congress must adopt this balanced budget amendment.

The people living in the Robert Taylor Homes and in the developments mentioned in that study are not better off than they were in 1969, which was the last time that this country had a balanced budget. In fact, they are worse off. They have become more isolated, and less connected to jobs and the American dream, less able to access and afford an education. They have fewer opportunities.

Perhaps if we had been able to take the $800 million we spend each day on interest, and directed it instead to improve the lives of those residents, this situation would not seem so hopeless. But, in order to halt this downward spiral, we have to get our budget problems under control. And that is another reason I support this balanced budget amendment.

Consider another set of facts. Just yesterday, the National Center for Children in Poverty released a study showing that a quarter, fully a quarter, of American children under the age of 6 were living in poverty in 1992. Even more shocking, nearly three out of five of those children had working parents. Despite the stereotypes you hear about on the nightly news, less than one-third of the children living in poverty have families that rely entirely on public assistance. The bulk of these children have parents who work. All of our spending has not done those children, or their parents—most of whom are working, scrimping and saving and trying to get ahead—has not done them much good. Without our massive deficits, if we did not have to devote such a substantial amount of our budget to interest on the national debt, the Government could help these people find better jobs. These are people who want to work; but, because we have gotten ourselves into such a hole with our lack of fiscal discipline, the Government cannot give them the hand that they deserve.

I have heard many opponents of the balanced budget amendment question the need to tackle the deficit immediately. America is not, they maintain, in the midst of a budgetary crisis. In the short term—the next 7 years—that is perhaps true. The country can probably continue on its current irresponsible path for a few years into the next century. But, after that, it will no longer be possible to ignore the basic demographic and health care cost trends driving the increases in Federal spending. We simply will not be able to continue on our current path, and expect the Federal Government to function as a partner of the people well into the next century. And, if we wait to act until crisis comes, any action we take will be that much more painful, and that much less effective.

Again, a quick glance at our current budget provides ample reason why we must act now, instead of waiting for the crisis to hit full blown. The entire Federal deficit for the current fiscal year—estimated at $176 billion—represents the interest owed on the huge national debt run up during the 1980's. This year, and next year, the budget would be balanced if not for the reckless supply-side economics that caused the deficit to balloon from its 1980 level of about $1 trillion to its current level of more than $4.7 trillion. If we had acted in 1980 to tackle the deficit, rather than adopting approaches that merely fed its rapid growth, the problems we face today—in terms of demographics, and the aging of the baby boomers—would seem much more manageable. In 1980, interest on the debt was $75 billion—that is a lot of money, Mr. President, but it is nowhere near the $950 billion we currently pay. How much better off we would be if, in 1980, Congress had possessed the courage to make the difficult choices, and balance the budget. Not passing the balanced budget amendment will not make our problems go away. Our ability to meet our priorities will be much greater if we enact the balanced budget amendment now, if we tackle the tough problems now, instead of waiting until the country is on the brink of financial ruin. If we need any convincing about the need to address the deficit now, in 1995, we should just look at the consequences of our failure to address it then, in 1980.

The Entitlements Commission concluded last December without issuing any specific recommendations to Congress, to the dismay of some. Nonetheless, I believe the Commission was a real success, for outlining in painstaking detail the truth about our budget future, and the consequences of not facing it honestly. I would also add that this report was adopted by a strong bipartisan vote of 30 to 1, which is quite remarkable, when you think of the wide variety of personalities and viewpoints that served on the Commission. What that bipartisan vote told me was that all of us, Democrat and Republican alike, know what the problems are, and know we need to act now to get them under control. If nothing else, the balanced budget amendment will help end the conspiracy of silence surrounding our Nation's fiscal problems, and ensure that we no longer have the ability to ignore the facts that are staring us in the face. Instead, it will guarantee that we face those facts, sooner rather than later.

Mr. President, given the level of public concern about our growing budget deficits, I was surprised that the Commission's final report did not receive more media attention than it did. I attribute that lack of interest to the difficulty of putting cold, hard, incomprehensive numbers into real, human terms. People hear what we are saying when we talk about the deficit being a certain percentage of the economy; that does not necessarily mean they know what the numbers actually mean.

To paraphrase Alan Greenspan, chairman of the Federal Reserve System, it is hard to get people—or the media—interested in a problem whose symptoms are hard to detect and whose full-blown effects seem to be years or decades away.

But the final report of the Kerrey-Danforth Commission should not be of interest solely to economists and policy wonks. These numbers have a real effect on us all. We need to communicate to ordinary Americans how the fiscal bottom line affects them; we have to put the sometimes incomprehensible into real, human terms.

The senior Senator from Illinois, my Senator, PAUL SIMON—to whom the country owes a great debt of gratitude for championing this issue—often refers to a study by the New York Federal Reserve Board, that looked at what the budget deficit cost America during a 10-year period from 1978 to 1988.

According to the study, during that 10-year period, our country lost 5 percentage points of growth due to the deficit. According to the Congressional Budget Office, each percentage point of growth translates into approximately 650,000 jobs. Let me repeat that—650,000 jobs. In other words, our country would have created an additional 3.75 million jobs during that period, if not for the Federal budget deficit.

Another way to make these numbers more real to ordinary Americans involves looking at what we spend in interest. Every dollar that the Federal Government spends on interest payments on the Federal debt squeezes out funds that could otherwise be used to increase the productivity of society. Currently, the Federal Government is spending $800 million every day for interest payments on the national debt.

Think about that—$800 million that could otherwise be used for Head Start, for housing programs, for our battle against crime and drugs, to create jobs, or to repair our crumbling infrastructure—every day.

In total, in 1994, we spent $203 billion to service the national debt—an amount equal to 14 percent of total Government outlays. We can not afford to waste this precious capital on financing the Government debt. We are, essentially, paying bond holders with money that could otherwise be used to help working people get ahead.

Many opponents of the balanced budget amendment argue that Government should be allowed to deficit-spend in order to continue investing in infrastructure, jobs, education, and the like. I agree that public investment is a necessary and proper Government function. But I disagree that deficit spending is the most effective way to accomplish that.

In 1966, when our deficit totaled $3.7 billion, 2.6 percent of our budget went toward funding long-term investment. Now, with our budget deficit about to hit $268 billion, our long-term investment has shrunk to 1.8 percent of the budget. The reason, I think, is obvious—more and more of our funds must be devoted to paying interest on the debt, leaving less and less for investment.

There are many other negative consequences, of course, of chronic Government borrowing. When households and businesses have to compete with the Federal Government to obtain loans, the increase in demand pushes interest rates up. Government takes scarce capital that would otherwise be available to the private sector for job creation, investment in infrastructure, or even savings. Deficits have a chilling effect on private initiative. To quote one of our Founding Fathers, Andrew Jackson:

> Once the budget is balanced and the debts paid off, our population will be relieved from a considerable portion of its present burdens, and will find * * * additional means for the display of individual enterprise.

We would all do well to heed his words today.

Mr. President, the opponents of H.J. Resolution 1 have a great many arguments to support their view that a balanced budget amendment is unwise. I do not doubt the sincerity of their opposition, for their ranks include a number of Senators with whom I usually find myself in agreement. I greatly respect their view; however, I simply cannot agree with them. I would like to take a minute to discuss why.

I know I have taken a couple of minutes already. I would like to finish. This is such an important issue. I know the Senator from Louisiana is waiting, but I would like to make a complete statement today.

First and foremost, opponents of House Joint Resolution 1 state that we should not be tinkering around with the Constitution. Well, I could not agree with them more. The years I spent studying law at the University of Chicago gave me a deep appreciation for the Constitution. I believe the U.S. Constitution to be the finest exposition of democratic principles ever written. I make that statement fully aware that, in its original form, the Constitution included neither African-Americans nor women in its vision of a democratic society. But it changed to better realize the promise of America. The beauty of the Constitution is that it can, through a deliberate, cumbersome, and sometimes painful process, be amended to reflect the changing realities, and meet new challenges faced by our Nation. This current problem—the problem of our growing fiscal disorder—is too important not to act on today. Who could be opposed to affirmatively stating in the Constitution that current generations must act responsibly, so that future generations will not be forced to bear the burden of their irresponsibility? What could be more important than the fiscal integrity of our Nation? As another of our Founding Fathers, Thomas Jefferson once said:

> We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.

Why is that proposition not important enough to be included in the Constitution?

Mr. President, it is argued that matters of fiscal policy should not be included in the Constitution. I believe that proposition frankly ignores the fact that the Constitution deals with fiscal policy in a variety of ways. I will mention just a few of them here: Article 1, section 7, provides that all bills for raising revenue shall originate in the House of Representatives; article 1, section 8 provides that Congress shall have the power to lay and collect taxes, duties, imposts, and excises, and to pay the debts of the United States; it further provides that Congress has the power to borrow money on credit, to coin money, and to fix the standard of weights and measures. Section 8 includes the power to punish those who produce counterfeit money, to appropriate funds for the support of the Armed Forces, and to enact uniform laws on the subject of bankruptcy.

Article 1, section 9 of the Constitution provides that no money shall be drawn from the Treasury but in consequence of appropriations made by law, and mandates that a regular statement and account of receipts and expenditures of all public money shall be published from time to time. Article 1, section 10, forbids the individual States from coining money. Article 6 provided that all debts contracted before the Constitution was adopted would be valid against the United States. Clearly, fiscal measures are part of the Constitutions's main text.

Fiscal issues are also mentioned in various amendments. The 16th amendment, of course, grants Congress the power to collect income taxes. The 14th amendment, in section 4, states that neither the United States nor the States may assume or pay any debt incurred in aid of insurrection or rebellion against the United States. There are other provisions I could mention, but these are sufficient to refute the contention of opponents of the balanced budget amendment, that monetary issues should not be dealt with in the Constitution.

Nor do I accept the argument that budget deficits are a temporary problem, and will not always need to be dealt with; we should not, opponents argue, write into the Constitution an amendment that will become irrelevant and outdated once we get our current situation under control. Nothing would make me happier than to believe that our current budgetary deficits are only temporary, and are not something that future generations will have to contend with. That, however, Mr. President, is not the case. We are here today precisely because we have not previously had the discipline to voluntarily achieve the goals of House Joint Resolution 1.

Opponents of House Joint Resolution 1 also argue that there are times when the Federal Government needs to run a budget deficit. This, of course, reflects a Keynesian notion of economic policy; that in times of economic downturn, the Federal Government must act to stimulate economic activity through deficit spending. To that argument, I would simply respond that House Joint Resolution 1 does not prevent the Government from spending its way out of a recession if it chooses to do so; it merely provides that three-fifths of the Congress must affirmatively vote to do so.

But more importantly, I would say to my colleagues that there is a great deal of difference between the Federal Government stimulating economic activity by spending during a recession, and our current situation. The Federal budget has not been balanced since 1969. During the past 25 years, we have enjoyed substantial periods of economic growth—our economy has not been in a recession, it has been growing, over most of the past 25 years. But we did not balance the budget in the good years either. Our current fiscal policy reflects more than recessionary spending; it is regular, habitual, undisciplined, deficit spending—and it must stop.

Last year I had the honor of reading George Washington's "farewell address to the nation" on the floor of the Senate. This is something that one freshman Member a year gets a chance to do. Really, a singular honor. In that address, Mr. Washington left us with some words of wisdom that, I believe, support the notion of a balanced budget amendment. I would like to quote those here today:

> As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering, also, that timely disbursements, to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasion of expense, by my vigorous exertions, in times of peace, to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear.

These words, which are ceremoniously repeated each year in the Senate, underscore what the balanced budget amendment stands for: that borrowing money to pay the Government's debts, and running a budget deficit, should not be impossible, but should be an extraordinary event, done only when an overwhelming percentage of the Congress thinks it wise. While running a budget deficit may be necessary at times, it is not good fiscal policy to do so on a consistent basis. The Congressional Budget Office, the General Accounting Office, and a multitude of distinguished economists have all warned that our continued deficit spending will result in lower productivity and deteriorating living standards. It should require more than a simple 51 votes to deficit spend. The three-fifth requirement reflects that reality.

This is not, I might add, a subversion of the principle of majority rule. I do not believe in unduly restricting the ability of Congress to function. I would not have supported this amendment if it had, for instance, provided that taxes could be raised only upon a three-fifth vote of both Houses. But the three-fifth requirement to run a budget deficit really preserves the constitutional principle of no taxation without representation. By running budget deficits, we are saddling future generations, people who have no vote today, with the burden of paying for our inability to get our fiscal house in order. As it now stands, every man, woman and child now owes at least $18,000 to pay off the Federal debt. Without action, that number will only grow. We are literally borrowing from our grandchildren to pay today's expenses. Permission to do so ought to, in my opinion, require consensus and a supermajority vote.

And it is not unprecedented. Again, there are a number of places in the Constitution that specifically provide for supermajority votes: article 1, section 3 provides for a two-third vote of Senators to convict in an impeachment proceeding; section 7 provides that a two-third vote of both Houses may override a Presidential veto; article 2, section 2, requires the Senate to approve treaties by a two-third vote; and, of course, two-third of both Houses of Congress must vote to approve a constitutional amendment—to name just a few.

Another argument against the balanced budget amendment is that Congress doesn't have to amend the Constitution to balance the budget; it merely needs to make the difficult choices needed to reach that goal. I agree. The opponents are correct on that score. But the simple fact of the matter is that, absent a constitutional amendment, Congress has not proved itself capable of making the tough choices necessary to get the Federal budget under control. In 1986, before I came to Congress, the Senate came within one vote of passing the balanced budget amendment. At the time, the Nation was $2 trillion in debt. Now, in 1995, that number is over $4.7 trillion. We had, and blew, our chance to resolve the issue when it was easier to resolve. We need to act now, before the crisis hits.

Likewise, the Gramm-Rudman-Hollings provision, in theory, was supposed to balance the budget by 1991, before I even reached the Senate. Obviously, that never quite happened. So I would assert that history adequately demonstrates the fallacy of the argument that Congress will balance the budget absent a constitutional amendment.

Yet another argument offered by balanced budget amendment opponents is that the amendment will be unenforceable. I believe that elevating the balanced budget requirement to constitutional status will, in and of itself, be enough to guarantee that the provision is upheld. Every single one of us in this body has taken an oath to uphold and defend the Constitution of the United States. The American people expect, as they have every right to, that the officials to whom they entrust the Constitution will not betray that public trust.

Nor do I believe that the amendment will unduly involve the Federal judiciary in matters of fiscal policy. House Joint Resolution 1 provides that "the Congress shall enforce and implement this article by appropriate legislation * * *." In other words, Congress is directed to enact legislation to make the amendment work. That can include, if necessary, action to limit the remedies a court could grant in a case brought under the balanced budget amendment.

In addition, courts have already developed a number of doctrines which will limit the type and number of lawsuits that may be brought under the act. First and foremost, all litigants must have standing in order to bring a claim. This generally requires potential plaintiffs to show they have suffered an injury in fact, that was caused by the alleged unlawful conduct, and that is redressable by the court. Courts have been extremely reluctant, with one or two notable exceptions, to confer standing to litigants based on their general status as taxpayers.

Mr. JOHNSTON. Will the Senator yield at that point?

Ms. MOSELEY-BRAUN. Yes.

Mr. JOHNSTON. Is not that language about the Congress acting to enforce the amendment by appropriate legislation identical to the language found in section 5 of the 14th amendment, and that has not prohibited the courts from issuing literally thousands upon thousands of orders under the 14th amendment, so why would it under this amendment?

Ms. MOSELEY-BRAUN. I thank the Senator from Louisiana. He is correct. The 14th amendment does have similar language, but I would point out also that in the first instance the distinction and the difference—I mean legislating or litigating now, but I would think, first, the issue of standing would matter. You have to show individual and direct harm to have standing in a court case brought under this amendment and certainly under the 14th amendment.

The case law has evolved differently with regard to Federal taxpayers' rights rather than someone complaining of a violation of their civil rights, for example.

In addition, the Federal courts have a longstanding practice of avoiding controversies that involve a political question. In determining what constitutes a political question, the courts will generally examine three factors: First, whether the issue in the case is one that is generally committed to other branches of government; second, the lack of judicially discoverable and manageable standards for evaluating the controversy; and third, the need for a single pronouncement on the issue. The fact that any plaintiff which brought suit under the balanced budget amendment would have to overcome these two hurdles—the doctrine of standing, which we discussed already with regard to the 14th amendment, and the political question doctrine—should be more than sufficient to limit the Federal court's involvement in matters of budgetary policy.

As a matter of legislative history perhaps, we should take up at some other time that it is very clear it is not our intention that the Federal courts be involved in budgetary policy matters upon the passing of this amendment.

I want to take one moment to discuss the right-to-know amendment, which will be offered by the distinguished minority leader, Senator DASCHLE. The Right to Know Act simply provides that Congress must give the States a list of how we propose to balance the budget before the States vote on ratification. Along with 41 of my Senate colleagues, I signed a letter to the majority leader, Senator DOLE, urging he act to ensure that the American people know what is in the Federal budget, and what it will take to bring the budget into balance—and even more importantly, to keep it in balance. It seems to me that this is nothing more than full disclosure. The Right to Know Act provides for the same thing that the entitlement commission accomplished with its interim report—a full accounting to the American people of where we are, where we need to go, and how we can get there.

There have been suggestions that adopting the Right to Know Act will kill the balanced budget amendment because the American public does not have the stomach for the tough choices we face. Frankly, I believe that argument does a real disservice to the American public. People want Congress to level with them; they are tired of the cynical manipulations, the smoke and mirrors, that have been used to obscure our fiscal disorder in the past. The people know that getting our fiscal house in order will not be easy, and certainly will not be painless, but the long term consequences of not acting are far worse than any short-term pain. So I support that initiative, and I will vote for its adoption when it is offered on the Senate floor.

However—and I would like to make it very clear—if the Right to Know Act fails to be adopted, that will not mitigate my support for the balanced budget amendment. Opponents of the balanced budget amendment have had plenty of time to propose their version of what should be cut, and by how much, in order to balance our books. The fact is, they have not. I do not fault them for that, Mr. President, and I agree with them that the States should have as much information as possible before they decide to ratify this amendment; but Congress cannot accept any excuse for further delay on this front. The time to act is now.

Mr. President, I have every confidence that the balanced budget amendment will soon be passed by the Senate. I hope that this debate, therefore, will serve as a "call to arms" for everyone who truly cares about the future of our country to come together and begin a dialog on the tough choices ahead.

As we begin this dialog, however, it is critically important that we leave all choices on the table—nothing can be off limits if we truly want to succeed. That includes examining our tax laws; we cannot succeed unless tax reform is part of the agenda. We need to simplify the Tax Code. We need to eliminate unfair and inefficient tax breaks that are known as tax expenditures. After all, tax expenditures result in treating taxpayers with the same income differently, depending on whether or not they qualify for the expenditure. They are every bit as much a spending program as those whose funds are directly distributed by the U.S. Treasury. Again to quote from George Washington's farewell address:

> * * * It is essential that you should practically bear in mind, that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant * * *

Fiscal honesty means we have a duty to make sure the American people can take a look at both sides of the Federal balance sheet, both the spending side and the revenue side. Building a consensus for the decisions necessary to balance the budget—and keep it balanced—means making sure the American people know what businesses and investors pays taxes and what does not, and why, just as much as it means knowing where their tax money is spent.

We cannot expect to succeed in our task if we begin by declaring individual programs or tax expenditures off limits. As we move forward, we have to keep our eyes on the prize. The issue is not saving each and every individual program, but instead defining what objectives are important to us as a nation—and how we can most effectively accomplish those objectives. What is important is not which programs job training funds come from. What is important is that people who need job training assistance are able to get it, and are therefore able to get or hold the kinds of jobs that can help turn the American dream into an American reality. Likewise, we should not be concerned with who will administer housing grants. What is important is the goal—ensuring that every American has access to decent, affordable housing—and seeing that the goal can be achieved in the most efficient, productive manner. We all know that not every program administered by the Federal Government actually works it is no secret. By keeping everything on the table, we can keep our promisses and keep what works, get rid of what does not, and therefore devote our scarce financial resources in a more effective, productive manner.

Finally, Mr. President, I would like to take head on the political implications of this debate, because it is an important political question for the Congress. I am not a signatory of the Contract With America. Indeed, I agree with Senator BYRD; the only contract with American that matters to me is the U.S. Constitution.

But I want to be clear that this issue is not a partisan one. It reflects philosophical differences that have little to do with party lines. The senior Senator from my State of Illinois, Senator SIMON, has been one of the chief advocates of the balanced budget amendment for years. Senator SIMON's liberal credentials are without question. He is, and has always been, a Democrat—he was at one time even a candidate for our Presidential nomination. So this is not a Republican versus Democrat debate.

Nor is this a battle of the conservatives against the liberals. I am proud to call myself a liberal, for the simple reason that I believe government has a positive and constructive role to play in promoting the public good. I do not believe government is the enemy of progress. I believe it can promote progress. In my lifetime, I have seen first hand the positive contributions a commitment to the American dream of equality and opportunity can make. I would not be here today but for the struggles of people of good will to make the American dream a reality. And it is precisely because I so value their struggles that I believe we must take the steps that a commitment to providing opportunity requires. We have a duty to use our decisionmaking power in a manner that preserves freedom and opportunity for all Americans, not only in this generation, but in generations to come.

Poor people and working people and those most in need of Government assistance are not helped by the deficits and out-of-control spending habits we cannot seem to shake. It is interesting as I listen to the debate that swirls around the issue of the balanced budget amendment and Social Security, the reason that debate is so intense is that current recipients of Social Security—and even those of us in the baby boom generation who will be in that system soon—too soon, in the not so distant future—have an absolute expectation that Social Security will provide for us in our retirement. The same can not be said for those in our younger generations. When you speak to people who are my son Matthew's age, they have absolutely no faith that Government will be there for them when they need it, that it will help them enjoy retirement security or affordable health care or a high standard of living.

And why should they, Mr. President? Since my son was born in 1977, we have never seen a balanced budget. Mat has no idea what it means to live under a Federal Government that spends within its means. His generation has heard politician after politician promise to balance the budget, yet has only seen the deficit skyrocket.

That cynicism grows deeper and deeper every day, despite pronouncements that a brighter day is just around the corner. The fact is, with current budget trends, a brighter day is not around the corner. What lies ahead, if we fail to act, is slower economic growth, greater debt, fewer options and higher taxes. Generation X's pessism will be affirmed if we do nothing.

The time has passed for us to realize that by failing to act, we are indeed making a choice—a choice that involves throwing away most of our options for dealing with our fiscal problems. The only way we will be able to turn current budget trends around is to face reality with the help of the balanced budget amendment.

Every generation of Americans has been able to address and resolve the challenges unique to their time. That is what makes this country great. Our current fiscal challenges are daunting, but I am convinced that—with passage of the balanced budget amendment—we can save our ability to invest in people, and we can protect our capacity for humane government. Getting our fiscal house in order will give us the freedom to invest in people. That is what this country is all about. That is what this debate is all about, and I urge my colleagues to support this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Louisiana.

Mr. HATCH. Will the Senator yield for just one moment?

Mr. SIMON. Mr. President, I believe my colleague has not yielded the floor. I think my colleague from Illinois still has the floor.

The PRESIDING OFFICER. The Senator from Louisiana was recognized.

Mr. JOHNSTON. Mr. President, I did not want to cut off the Senator from Illinois. I thought she had finished her speech. Did she?

Ms. MOSELEY-BRAUN. Senator SIMON wanted to ask me a question and he had risen to ask me a question.

Mr. JOHNSTON. Mr. President, I will yield for the purpose of Senator SIMON asking a question.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I thank my colleague. First, her eloquent statement illustrates why I am proud to have her as a colleague in the U.S. Senate.

I do not know if she is aware that Data Resources, Inc., one of the major econometric think tanks just a few days ago came out with a statement saying, and this is in line with her talking about jobs, that if we balance the budget by the year 2002, we will create 2.5 million more jobs in our country. And they also say here, by 2002, half the savings in our budget simulation come from lower interest costs. They project a 2.5-percent drop in interest rates. What that would do for our economy.

Then if I may also, just while I have the floor, because she mentioned this, and knowing the concern that my colleague has for people in the Robert Taylor Homes—it is some massive housing project, I thought she might be interested.

Congressman JOE KENNEDY of Massachusetts, one of the cosponsors in the House, said in a statement a few days ago on the floor of the House: People come up to him and say listen, JOE, you are a liberal Democrat. How can you possibly be for a balanced budget amendment? Is it not going to cut the very programs that much of your family and others have stood for for generations?

And then JOE KENNEDY replies:

> I say to them that those very programs that stand up for the working people, the poor and the senior citizens of this country, have suffered the worst cuts over the course of the last 15 or 20 years in this country as a result of budget deficits. Look at the housing budget, cut by 77 percent over the course of the last 15 years; look at those who have press conferences who say they want to protect fuel assistance for the poor. Look at what happened to the fuel assistance program—cut by 30 percent.

Then he goes on to a number of others and then this final line that Congressman JOE KENNEDY says:

> Do we see the bellies of our poorest children filled as a result of interest payments on the national debt?

I think that is a powerful way to respond there. I really appreciate it.

If my colleagues—I am not sure who I am getting yielded from——

Ms. MOSELEY-BRAUN. I have no further comment except to say I very much appreciate the Senator's leadership in this, and the patience of my colleagues. The statement took a little longer than I expected. I did want to make it because this is the beginning part of what is probably one of the most historic debates this Congress has seen in a very long time.

I feel honored to be a part of it. Again I thank the Senator for his leadership and I yield the floor.

Mr. SIMON. It was an excellent statement and if I could respond to the question my colleague from Louisiana asked earlier about implementation language, he mentioned the 14th amendment.

This amendment has two other things I think are of interest. No. 1, section 6 says, "Congress shall enforce—" and, No. 2, "The history of State governments."

Mr. President, 48 of the 50 States have some similar provision—not identical but somewhat similar.

There simply has not been a history of litigation in State courts. I was just looking at Colorado the other day. In the history of Colorado, there has not been a single court case on this.

I yield the floor.

Mr. JOHNSTON. Mr. President, I yield for a unanimous-consent request to the Senator from Utah.

Mr. HATCH. Can I modify that for just a bit so I can compliment the distinguished Senator from Illinois as well. I certainly want to compliment her for her strong, persuasive statement. We appreciate the leadership she has provided on this issue as well as others.

I miss her on the Judiciary Committee. I want everybody to know she played a tremendous role there. But I thank her.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, 3 weeks ago I rose on the floor of this Senate to announce I would not be running for reelection. Today I rise, with the luxury of not having to face another election to the U.S. Senate, to oppose this amendment in its present form.

I do so, first of all, because I believe this amendment violates the social contract. The social contract was a concept formed in the 18th century by French philosophers, principally Jean Jacques Rousseau, who came up with this concept which in turn inspired Thomas Jefferson and the people who wrote the Declaration of Independence and the Constitution. It was founded on the thought that there should be government by consent of the governed. A social contract where the people, understanding the issues, gave to their elected officials the right to make decisions on their behalf.

Why does this violate the social contract? Because we have here a pig in a poke in which the American public are asked, in effect, to trust us and we or the courts will later tell you what the program is. A balanced budget is not self-defining. A balanced budget can be balanced in many, many ways, some of which are good and some of which are not so good.

Alan Greenspan, the chairman of the Fed, was before the Budget Committee just last week. I asked him about various ways that the budget could be balanced. Some, he said, would be bad for the economy. Some would be good for the economy. And the fact of the matter is, we do not know how this budget would be balanced. It could be balanced through taxes, and I wonder how many of my colleagues on the other side of the aisle would sit still for a budget balanced solely through taxes? I would guess they would all oppose it. The American people would oppose it.

I wonder how many on my side of the aisle would like a budget balanced by cuts in Social Security and Medicare; in other words, senior citizens programs. I suspect not that many. One reason it violates the social contract is that people in our country do not understand the budget and how it is made up.

On Wednesday, November 16, the New York Times printed an article which in turn reported the results of an exit poll done by Harvard University and the Kaiser Family Foundation. In this poll, people were asked, "What is the biggest program in the Federal budget?" Twenty-seven percent of the respondents said foreign aid; 19 percent said welfare. In other words, almost half of the people said that two of the really smaller programs make up the biggest part of the Federal budget. The fact of the matter is foreign aid is less than 1 percent of the budget. AFDC—otherwise called welfare—is also only little more than 1 percent of the budget.

As this article goes on to say, quoting from the article, it says:

> * * * the Harvard polling expert who helped conduct the survey said that unless policymakers tried to educate people on the budget we are going to have a heck of a time having a national debate on the deficit.

Here we are. There has been very little done to educate the public on what we are really talking about. The public thinks, I believe—and this poll indicates—that all you have to do is cut welfare and foreign aid and maybe waste, fraud, and abuse, and you have the problem solved. You do not have to deal with taxes, you do not have to deal with Medicare, you do not have to deal with Medicaid—all of those things.

What would the American people do when faced with the facts? Many of us are trying very hard to get those facts out to the American people. I do not believe they are going to be as enthusiastic about this amendment once those facts are trotted out. Indeed, Representative ARMEY, the majority leader in the House, said, "We cannot tell the American people about how we are going to balance this budget. Their knees would buckle." Can you imagine, Mr. President, the cynicism of saying that if we have a social contract, if we have the facts known by the American people, they would be against this matter, and therefore we cannot tell them? It is like a candidate running for office who says, "Vote for me now, and I will tell you what my platform is later."

Is there anything more fundamental to the choices of America, to the future of America, than who pays for the balanced budget? Who pays? Mr. President, there are vast differences in who pays. Just in the last Congress this Senate went a long way toward reducing that deficit. In fact, both under the Bush and under the Clinton programs the budget deficit as a percent of the gross national product is coming down from 5 to 2.3 percent, almost half of the deficit as a percent of gross national product, which is the appropriate measure to use. The deficit has come down by that much. But what a controversial matter that was in the last Congress. In fact, not one single Republican voted for the Clinton program because it involved taxes. It is, in fact, Mr. President, a fundamental choice. And the American people ought to be involved in that fundamental choice.

How is it going to be done? How is it going to be balanced? Well, the Treasury Department was asked by the chairman of the National Governors Association to do a State-by-State breakdown making assumptions that the Contract With America would be passed and asked what the effect on each State would be.

I can tell you, Mr. President, for my State of Louisiana, it showed that we were more heavily impacted than any other State. They concluded that we would have $2.1 billion per year in lost funding for Medicaid, $129 million per year in lost highway trust funds, $66 million per year in lost welfare—AFDC, that is—$444 million per year in lost funding for education, job training, the environment, and housing and other areas, and that, "Louisiana would have to increase State taxes by 38.2 percent across the board to make up for the loss in grants."

That is what the Treasury Department concluded. They were not asked to make that judgment for my State of Louisiana but for all States. I invite all Senators to look at the State-by-State breakdown and the assumptions that were made. Some of my colleagues in the House from my State when faced with these figures said, "Oh, that is scare talk. That is scare talk. It is not to be." Mr. President, it involves assumptions, no doubt, and they may not be exactly accurate. I do not claim that they are exactly accurate. I do say that they are mathematically correct, that they assume that you are going to get to a balanced budget, and that you use today's figures about the economy.

I can tell you this, Mr. President. No one else has put out any other alternative. So if this is not correct, I say to my colleagues who criticize the Treasury study, tell us what your program is. That is why we are so anxious to find out what that program is.

I confidently predict when the word gets out there across America as to what this is going to mean, it is not only going to not be popular, but it is going to be wildly unpopular.

I well remember the catastrophic health care debate around here where, to solve a problem, the American Association of Retired Persons, AARP, proposed a program and we adopted it in this Senate, a highly subsidized program for senior citizens and catastrophic health care under which the richest American would have to pay a maximum of $600 a year. We passed it, I think, unanimously, or maybe there were one or two votes against it; not many. And within a year, because of the outcry across America, both Houses repealed it in record time. That was $600. Mr. President, when senior citizens see the size of Medicare cuts that are going to be required under this, they are going to rise up as one.

Social Security is not off the table here. Social Security is right there on the table. It is right there in the cross hairs. What everyone is asking by voting for the balanced budget amendment is to say, make us do it. We really want to cut Social Security and we want to cut Medicare. Make us do it so we can blame it on somebody else, the courts or whoever.

Mr. President, we are told here today that there is some language in this amendment that prevents the courts from enforcing this amendment.

I can not find that language. Mr. President, it permits the Congress to implement this amendment by appropriate legislation, which is the same language you have in the 14th amendment. I believe that same language is in the 15th amendment as well.

Congress, as far as I can recall, never used that under the 14th amendment. It is permissive and it does not make any requirement. But we are told that there are two bases on which the Court would not get into this. First is that it was a political question. Mr. President, I think the Court has long since abandoned that political question. You remember the one-man-one-vote decision. That was, for many, many years a political question in this country. The Supreme Court refused to take jurisdiction, and they finally did take jurisdiction and ruled for one-man-one-vote. I think the proclivity of the Supreme Court to avoid political questions has long since left, and I think properly so.

Second, we are told there would be no standing to sue under this. If that is the intent of Congress, it is very easy to deprive anyone from access to the Court. But that is not the intent here, Mr. President. It is very plain. It is a constitutional amendment. There is a Federal statute giving jurisdiction to courts to raise constitutional questions. And surely somebody has a right to raise a constitutional question. We have that under the 14th amendment. Why would you not have it under this? And if there is no access to the Court, who is to enforce? If what we are after is some requirement from some outside force to make us do what we would otherwise not do, if the Court cannot do it, then who can? Then where is the compulsion? Then what is the point?

We can do this right now, Mr. President. If this amendment does not mean that the courts have jurisdiction to enforce it, it does not mean anything more than the present law says, because the law now says you must have a balanced budget.

Mr. President, I believe that this also violates the principle of majority rule. By requiring 60 votes to have an unbalanced budget, you give enormous power to the minority. This is an old ploy, Mr. President. We have it in our State, where in order to raise taxes you must have, I believe, a two-thirds vote. And what happens when you have to have taxes? That one-third of holdouts have a shopping list which is always long, usually very expensive and, in the end, they finally get the votes because they have to have the revenues. But in the end, it amounts to bad policy. Not only does it violate the principle of majority rule, but it calls for making deals with the holdouts.

Mr. President, if we get into the shape where you have to do it, where you have to have the 60 votes and everybody recognizes it, you will be able to get it done, but probably at great cost to the taxpayer, both in money and in bad policy.

Mr. President, if, as I contend, the courts very plainly have jurisdiction here to order up a balanced budget, then how are they going to do it? The occupant of the chair is a lawyer of some distinction, and I know he has dealt with constitutional questions before. I believe what the Court would do is to order an income tax surcharge and say the Congress has *X* amount of time within which to come up with an alternative to balance the budget; otherwise, the surcharge will go into effect. Why do I believe that? Because the Court does not have access to the huge amount of staff it would take to determine the effect of budget cuts. It takes tremendous sophistication, computer models, and knowledge, to know what the spend-out rates of various cuts would be, how they impact upon the public in general, and how they impact upon the budget.

I do not believe the Court is going to get in there and say, well, we need to cut the National Park Service by 5 percent; we are going to exempt the IRS because we need those people; we are going to cut Medicare by *X* percent. One thing we found out about health care, this huge, growing part of the budget, is how complicated it is. The Court is not going to deal with those kinds of cuts. Do you think the Court is going to get in and say we need to cancel the remaining part of the B-2 bomber program, and we are going to allow the F-16 to go forward, and we are going to have one less division, and we are going to close this many bases? They are not going to do that, Mr. President. They do not know how to do that. If they took 2 years within which to make a decision, they could never come up with that judgment.

So what are they really going to do? If they conclude, as I believe they would, that you cannot get the 60 votes and that you have violated the balanced budget, the simple thing is an income tax surcharge. You do not have to know about the income tax program. You do not have to be an expert on that. You simply say a surcharge. All of the rules that are in effect right now, you let them go on, and you put a surcharge equal to the amount of that deficit. It may be a huge one; it may be a punishing kind of thing. But they would then lob the ball right back into the Congress.

I sincerely believe, Mr. President, that is what the Court would do. I have thought about this thing a lot. That is what I would do if I were on the Court, because there is no other alternative. If you say the Court is not going to get involved in it, again, Mr. President, what is the point? If the Court is not going to enforce it, then it is up to the Congress—well, it is up to the Congress right now. So what does this add? I say to those who would argue with me that the Court has no jurisdiction; why do you not put that in the amendment? I can give you the language for it off the top of my head within about 10 words: No court shall have jurisdiction to order the budget to be balanced.

That is all we have to say if that is what we mean. And if it is so fundamental, why do we not say it? Because that is not what it means? Of course, it means that the Court can enforce it. If we do not know the answer to that fundamental question, then I say this is the most ambiguous constitutional amendment, perhaps, we have ever had, and there has been a lot of ambiguity. This particular ambiguity would be very easy to clear up if in fact it is ambiguous, and I believe it is.

Mr. President, virtually everyone is for the balanced budget, but there are vast differences in how to do it, and there are also vast differences in the timing of when it is done.

All economists—a conservative economist, a liberal economist, and all the rest—will agree on one thing, and that is that you ought to take bigger bites out of the deficit when times are good and lesser bites out of the deficit when times are bad. In other words, as the Federal Reserve Board is meeting today and tomorrow, talking about raising interest rates, why are they talking about raising interest rates and why have they raised them over these last few months? Very simple. Because they believe the economy is overheating. They point out that unemployment rates are at not historic lows, but very low rates. They are worried that that low unemployment will spur inflation in wages and in commodity prices. So the rumor is that they are going to raise interest rates another half, maybe three-quarters of a point.

This would be a good time to take some big bites, therefore, out of the deficit. When you get into a recession, Mr. President, it is not the time to take big bites out of the deficit. And everybody, virtually all economists, agree on that. But this amendment puts you irrevocably, indelibly, inexorably on this glidepath—some would call it a crash path—to a balanced budget, without knowing how in the world we are going to do it.

And it may be, Mr. President, that you will have maybe 50 Senators who want to raise taxes, maybe 50 Senators who want to cut Medicare, maybe 40 Senators who want to cut Social Security. You may not be able to agree, and you lateral that ball right over to the Supreme Court, who will decide it for us in the way that I believe they would, which is with an income tax surcharge.

Mr. President, the Congress can, in fact, balance the budget right now or put us on the glidepath. We can do it under Gramm-Rudman and set forth a spending glidepath that is enforceable, that calls for sequestration if we violate it, that calls for 60-vote points of order if we violate that. That is really all we have to do. I mean, that is an elaborate procedure which, once agreed upon, is much more clear, much less ambiguous than a constitutional amendment would be, because you know exactly how it is to be enforced; to be enforced by sequestration, which exempts certain programs, and does not exempt other programs. And it is self-enforcing. The whole mechanism is enforcing.

Now, why would we not do that? Well, it may be, Mr. President, because, as Mr. ARMEY says, the public's knees would buckle if they knew the truth—the public's knees would buckle if they knew the truth. What an incredible statement for this Congress to make; that if the public knew how we were going to do this thing, they would not like it and they would not be for it.

What happened to that old axiom of government with the consent of the governed? Oh, we are told that the Congress has not done anything. Mr. President, where have my colleagues been these last 2 or 3 years, when we brought the deficit down from 5 percent to 2.3 percent of gross national product? Did we think we achieved that without any pain or any disagreement here?

Mr. President, we achieved a lot in terms of reducing that deficit. It can be done. It is hard to do, of course. But it can be done. And the American people were involved in that. Maybe they did not like the way it was done. I did not like the way it was done. I had a different idea about how it should be done. But the majority ruled and it was done, and it can be done now without this constitutional amendment

Mr. President, we all know that the deficit is coming down but that forecasts show that, in the future, the deficit is due to go up rapidly again because of the projected increases in medical programs, particularly Medicare and Medicaid.

That means that we in the Congress are going to have to take rather heroic steps in order just to stay even with the board; in other words, to keep the deficit from going up, much less balancing the budget, we are going to have to take rather heroic steps.

Now, how difficult will those steps be? I do not know, Mr. President. I suspect they will be rather difficult.

But I can tell you this: that those steps, combined with an automatic deficit reduction down to a zero constitutional amendment, which cannot be avoided except by supermajorities, at least if we go into a recession or slowdown, might make it virtually impossible for us to act. In other words, we do not know what we are in for in terms of the coping with this Medicare problem. We just do not know.

The difficulties we had in the last Congress in trying to figure out how to deal with the medical crisis in this country and how to project costs and how to project savings from certain steps and certain legislation were terribly difficult. No one could ever agree. Some said it was going to cost more; some said it was going to cost less.

But we are going to have to not only do that to conquer that question of turning around the increase in Medicare spending, but we are going to have to balance the budget at the same time, no matter what.

That is why, Mr. President, taking out the flexibility that this Congress ordinarily has to act by majority vote is a very, very bad idea. The timing is simply bad. The political timing is good.

You know, the American people have finally woke up to the balanced budget issue. They seemed to be unaware of it during the 1980's when the debt was going from a little over $900 billion to almost $4 trillion at the start of this administration. They seemed to be relatively unaware of it at that time. Now they have become aware, since it has come down from 5 percent of GNP down to 3.2 percent of GNP by the end of this year; now they are aware of it.

It does not mean that it is not still a problem. But it does mean to say that political polls, as to who is for and who is against a balanced budget, are ephemeral gauges that go up and down and do not take into account that the American people do not yet know how it is going to be done.

Mr. President, we ought to involve the American people in this biggest of all social contracts. We have heard this term "Contract With America." It was an ingenious political device. I stand in admiration of it. Some parts of it I support. But it was an ingenious political device which conjured up the idea that the Congress and the American public ought to have an agenda, that they ought to vote on that agenda by electing their representatives, vote for what they get and get what they vote for. And that was brilliant.

Mr. President, this is a bigger contract with America than that which is contained in the so-called Contract With America, because it involves the future of everyone. It is a question of who pays. It can be done by means testing and maybe that ought to be the way we ought to do it.

Maybe we ought to say that everybody who makes over *X* dollars has to pay twice as much for their Medicare. Maybe we ought to say if you make over $50,000 a year, you do not get Social Security, whatever the formula is. Means testing is clearly one of those ways to do it. It has been discussed a lot.

I wonder how many people out there in America, how many senior citizens, have thought about how much means testing has to be done. And remember catastrophic health care and the reaction to that. Or it could mean taxes. And we know how the American public feels about taxes. Or defense. You know, the American public says, "Gosh, we need a strong national defense." Or we could eliminate some of these programs.

But I suspect, Mr. President, that the American public is in for a rude awakening when they find out how little money you can get out of the welfare program. I think we ought to have welfare reform. But virtually everything that is talked about with welfare reform costs more money.

Orphanages? Mr. President, what do you think orphanages would cost? Right now, you know, the babies stay at home with mama and you give mama a check. But if you had to build the orphanage, acquire the property and build the orphanage, get the staff to operate the orphanage, and not only do that but take care 24 hours a day of these kids in loco parentis, as we say, the cost of that, Mr. President, would be—maybe it would not be as expensive as Boys Town; I understand Boys Town costs $70,000 or $80,000 a year. They have a lot of special counseling there. But if we have just the garden variety orphanage, it will cost a lot more than welfare does. Job training, I am for it. But anybody who thinks we can have job training and then have day care for the mothers—and we are going to be a lot cheaper on that than the present welfare program—has not taken out the calculator to figure this thing out. There is not a lot to be saved in welfare. We need to reform it, but there is not a lot to be saved. There is certainly not a lot to be saved in foreign aid.

I want to see my colleagues who are for cutting aid to some of our great friends out there—I am not—countries like Israel, which are so strong in promoting the American interests all throughout the Middle East. I am not for cutting that program. It is less than 1 percent of the budget.

Mr. President, in conclusion, and I apologize for speaking so long, but it is an important issue. This is an issue where we need a Contract With America. This is an issue where we need a social contract. We need a major debate where the American public is told about how this will be done, at least what is the approach; maybe not how every dollar over a period of 7 years is going to be cut in every single program, but how is it going to be done in approach. Is it going to be a means testing approach? If so, what is that going to mean to those senior citizens out there?

Is it going to be cuts in Medicare? For example, copayments? And how big would those copayments have to be? How much do we pay each time we go to a doctor? Should senior citizens not know that? Should they not know that, Mr. President? What will happen if they wake up—all the Senators have voted for the balanced budget amendment, and then I can see them. It will be just like in catastrophic health care. They will call up and say, "We did not know that that is what was meant. We did not know, Senator, that is what you had it mind." I remember those calls on catastrophic health care.

Now, I think the American public ought to be entitled to know what we are going to do, to know what the plan is and involve them in the debate. We do not have to rush into this thing. It is one of the most important debates we have ever had. Involve them in that debate. Tell them at least the broad outlines of what we will do, what will it cost Mr. or Mrs. or Ms. Senior Citizen. Do you know what I really believe? I really believe the senior citizens are right in the cross hairs. They are in the scope. They are in the sights. And get ready, senior, because you will have to pay for this thing. To a very large extent, it is our senior citizens who will pay for the balanced budget amendment.

Medicare is going to be No. 1. Mr. President, we made cuts in Medicare in the past. They have not really hurt. Right now the Government pays about 70 percent of the doctor's bill or the hospital bill on the average on Medicare. But those doctors and the hospitals had accepted that 70 percent. What do they do? They pass it on to the other people. "Cost-shifting" it is called. Passed on. Passed on to those who have insurance and to those who can pay. Everybody knows that that is so.

There are, however, limits to that cost shifting, I suspect, and I am told by experts that we are right at the limit on cost shifting. In other words, we start cutting Medicare just on these block cuts more than we have now, and we will have doctors who will refuse to treat, hospitals who will refuse to accept patients, and we are going to have to make the changes in Medicare. Copayments, increases in premiums, or rationing of medical care, or other means.

In fact, the Speaker of the House just yesterday said we need a fundamental reexamination of Medicare. What did he mean? What did he mean, Mr. President? We do not know. But I think Medicare is important enough to the American people that we should be told that fundamental thing before we go in and adopt a balanced budget amendment which may require that fundamental restructuring of Medicare in such a way that the seniors are going to have to pay for this balanced budget amendment.

We are not talking about small decreases in expenditures. We are talking about $1.5 trillion between now and the year 2002. We are talking about cuts so huge that it would require a fundamental restructuring in Medicare, probably a fundamental restructuring in Social Security if those things are on the table. What else is there? What else is there?

Mr. President, I oppose this balanced budget amendment, certainly in the form that it is now. It is a ticket to the Supreme Court with an order for an income tax surcharge. It is an invitation for the senior citizens of this country to pay for it with huge, massive cuts in Medicare, probably Social Security. My State of Louisiana—according to the Treasury Department, is going to be impacted more than anybody. They say it would require a tax increase of 38.2 percent across the board. How many people in my State, if this is true, would be for this 38.2-percent tax increase?

Maybe that is not so. Well, if they did not make the right assumptions, tell Members what the assumptions are. Tell Members what those assumptions are. Then, if I know how it will be done and we sort of have that debate out there with our people, I could well be for it, because everyone, including me, is certainly for the balanced budget in concept. But not this way. Not "vote for me now" and I will tell you what the platform is later. Not putting at risk the fundamental future of senior citizens in these fundamental programs that we have in this country. It is the wrong way to do it, Mr. President.

I hope as this debate proceeds we will get some of these answers. How are we going to do it? Does the court have jurisdiction? Does anybody have standing? Just what is the plan? That is what we need in order to have a contract with America and to have a social contract with the people of this country.

I yield the floor.

Mr. SIMON. Mr. President, I just want to take 5 minutes to respond briefly to my colleague from Louisiana, for whom I have great respect. As a matter of fact, I have cited Senator JOHNSTON as an example of why term limits are a mistake, even though he has decided that he is going to leave this body.

Just very briefly. On the question of the courts imposing taxes, there has only been one example of that in our history and that is the Jenkins case in Kansas City. That was because Congress was silent. On this, we say Congress shall implement, and we will spell that out. We will make clear this is not the jurisdiction of the courts.

Mr. JOHNSTON. Would the Senator yield at that point?

Mr. SIMON. Mr. President, I yield.

Mr. JOHNSTON. Under the 14th amendment, courts run prisons, courts run schools, courts have even required taxes. What was the name of the case where the courts required taxes to equalize taxes between school districts in a State? They do that all the time. Section 5 of the 14th amendment says that the Congress may implement this amendment by appropriate legislation. Same language as we have here. What is the difference?

Mr. SIMON. Mr. President, I think there are two differences. No. 1, section 6, first of all, spells out "Congress shall enforce." Congress shall enforce, not the courts shall enforce.

Second, when we talk about equity——

Mr. JOHNSTON. Does it say the courts may not enforce?

Mr. SIMON. No. We say Congress shall enforce and Congress shall implement. But we have not in terms of equity. In terms of taxation, the courts may get into a school case.

There is only one case where the courts have imposed taxes on people, as far as I know, in the history of our country and that is the Jenkins case. In the Jenkins case the law is silent. They moved into an area where there was no law. Here we are going to, I assume—and Senator HATCH and I certainly are in agreement on this, and I am sure Senator JOHNSTON would be—make clear, very explicitly, this is our jurisdiction. And in terms of enforcement, because that is the problem, then, when we say we cannot increase the debt limit without a 60-percent vote, that is very tough enforcement, as Attorney General Barr testified.

Mr. JOHNSTON. May I ask my dear friend. Section 6 says, Congress shall enforce and implement this by appropriate legislation. It does not say the courts lack jurisdiction to enforce the amendment. Every other amendment of the Constitution, my friend would agree, can be enforced by the courts, can they not?

Mr. SIMON. Yes. And we do not prohibit any kind of court involvement. But, the history of this in States that have these kind of provisions is that there have rarely been any court cases. That is the history of it.

That is the history of it. The Senator and I took one oath when we stood down there, as the Presiding Officer did just a few weeks ago, to uphold and defend the Constitution. I do not think we are going to take that lightly.

Mr. JOHNSTON. My friend would agree that the courts are not prohibited from enforcing this amendment, and that in every other amendment the Court has jurisdiction to enforce, and they do get involved in every other amendment, do they not?

Mr. SIMON. If the Senate should say the heck with the Constitution, we are not going to pay any attention to this—and I cannot conceive of our doing that—then it is possible in some way the courts will get involved. But it is interesting in that last time, if I may just finish here, we had one of our colleagues who attacked us on the same basis, and then very reluctantly—and I think I speak for Senator HATCH on this, too—we accepted the Danforth amendment which was more precise on this about the courts not being involved, and then the same Senator got up and said I have a constitutional amendment that is meaningless. If my colleague from Louisiana will assure me that he will vote for the amendment if he gets those words in there that he would like, I am willing to take a look at it.

Mr. JOHNSTON. Let me ask, because it is at least as fundamental a question as there is here, do we agree, if I may get involved with the distinguished floor manager—

Mr. SIMON. Sure. I yield time to my colleague from Utah also.

Mr. JOHNSTON. The courts would have jurisdiction to enforce the amendment?

Mr. HATCH. I do not think they do. As a matter of fact, I cannot see any way that the courts would find standing or justiciability, and I think they will invoke the political question doctrine, especially since we say Congress has the obligation and the right and power to enforce it.

Mr. JOHNSTON. Is that the clear intent of the authors, that the courts may not enforce it?

Mr. HATCH. Clear intent.

Mr. JOHNSTON. Why do you not say so? It is very easy, very sparing words.

Mr. HATCH. We do not because it is a true constitutional amendment and, frankly, there are those on the other side who I think will argue that the courts ought to have some control. We just want to avoid that particular argument.

Mr. JOHNSTON. Would not my friend agree——

Mr. HATCH. Some say no matter what you do the courts do not have control but they ought to. The majority say, well, we do not want the courts to have any control or have any interest in this and then we wind up, we wind up on both sides of the issue. Frankly, what we did is——

Mr. JOHNSTON. Would not my friend agree with me that this is at least ambiguous——

Mr. HATCH. I do not think it is. I do not think it is when you—

Mr. JOHNSTON. Political doctrine? The Senator remembers the one-man-one-vote case, Baker versus Carr?

Mr. HATCH. Sure.

Mr. JOHNSTON. For many, many years one-man-one-vote was considered by the Court to be a political question. And the Supreme Court in Baker versus Carr changed that judgment and said it is no longer political; we are going to order one-man-one-vote.

Now, what is there inherent in this that makes it a political question?

Mr. SIMON. If I may respond, on the one man-one-vote case, which grew out of the State of Tennessee, there was no explicit jurisdiction claimed solely by the legislative bodies. And here we are going to claim that we have the jurisdiction.

If I may respond just to a few other points that my friend from Louisiana made, he said—and a lot of my colleagues will disagree with what I have to say here, probably including my good friend from Utah. The Senator said, "This is a good time to take good bites out of the deficit"—I wrote down the Senator's words—talking about the Federal Reserve Board. But the reality is we are competing with each other trying to get a tax cut right now.

Mr. JOHNSTON. The Senator is not competing with me. I think that is terrible policy, and I know my President is for it and I know Contract With America is for it. But it is absolutely the wrong time to be doing that.

Mr. SIMON. I could not agree more with my friend from Louisiana, and if we had a constitutional amendment requiring a balanced budget, we would not be talking about it here. That is one of the realities.

Mr. JOHNSTON. In the Contract With America, it has both a tax cut and a constitutional amendment to balance the budget.

Mr. SIMON. If the Senator is expecting me to defend the Contract With America, I am not about to do that.

Mr. JOHNSTON. No, but the Senator said we would not be talking about it, and they are talking about it and they are in control.

Mr. SIMON. But my friend from Louisiana has just illustrated why we need the balanced budget amendment. It is absolutely ridiculous to be talking about a tax cut when we have these huge deficits. But we can do that because it is popular, and so we are going to go out and we will go back home and make speeches how we cut taxes—absolutely nutty to be doing that right now. And so I think the Senator has made the point.

When the Senator said we can do it on our own, that is the same speech we heard here in 1986 when it lost by one vote in the Senate. The total Federal debt then was $2 trillion. Now it is $4.7 trillion. And if we make the mistake of turning it down again, if we have a chance before we have economic chaos, it will be $9 trillion and we will have hurt the economy much, much more.

In terms of the Social Security trust fund, the Senator said the seniors are in the cross hairs—every group is being told. And those figures the Senator got from Treasury, they are about as inaccurate as any figures that I can imagine.

Mr. JOHNSTON. Where are they wrong? I hope they are wrong. Where are they wrong?

Mr. SIMON. They are wrong. And I think, I might add, in the course of this debate the Senator will have plenty of examples of why they are wrong, and I am going to be one who will spell it out.

Mr. JOHNSTON. Is it the mathematics or is it the assumptions?

Mr. SIMON. Yes. And I will spell that out. But let me just say the Senator mentioned seniors are in the cross hairs on Social Security. Bob Myers, the chief actuary for the Social Security system for 21 years, said it is absolutely essential for the Social Security trust fund to pass this. Without this, we are headed toward monetizing the debt. And as you look at the history of nations, I think that is very, very clear.

Then, finally, the Senator mentioned about responding on recessions. I would say there are two arguments here. One is used by Fred Bergsten, you probably remember, former Assistant Secretary of the Treasury, who says we are really strapped; we cannot respond to recessions as we should now. What we ought to do is have a 1- or 2-percent surplus and then give the President the authority to initiate programs immediately in areas where you have unemployment above X percent.

I think that is a very valid argument. But the National Bureau of Economic Research at Cambridge has issued a study by two University of California economists who come to this conclusion.

> Discretionary fiscal policy does not appear to have had an important role in generating recoveries. Fiscal responses to economic downturns have generally not occurred until real activity was approximately at its trough.

Mr. JOHNSTON. Is he one of those who disagreed that the New Deal helped bring us out of the Depression?

Mr. SIMON. All I know is the economists are from the University of California.

Mr. JOHNSTON. There are some people who believe in the flat Earth, too.

Mr. SIMON. I would add one other point, and I think most economists are in agreement on this point here that they make. At least I have had a lot of reading on that. But the other point is where we have extended unemployment compensation—and I have been looking at this—when we have had recessions, in every case but one, in 1982, we have had way more than the 60 votes that this constitutional amendment would require.

Anyway, I thank my colleague from Louisiana for his discussion. Obviously, we do slightly disagree on this constitutional amendment.

I yield the floor.

Mr. HATCH. If the Senator will yield?

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Utah.

Mr. HATCH. We in our report make it very clear. We say:

> The committee believes that S. J. Res. 1 strikes the right balance in terms of judicial review. By remaining silent about judicial review in the amendment itself, its authors have refused to establish congressional sanction for the Federal courts to involve themselves in fundamental macroeconomic and budgetary questions, while not undermining their equally fundamental obligation to "say what the law is . . ." The committee agrees with former Attorney General William P. Barr who stated that there is. . . .

And then he went on to make it clear the courts will not.

Mr. JOHNSTON. If I may ask, is the Senator saying the Supreme Court is going to follow this judicial history?

Mr. HATCH. Maybe Justice Scalia will not but the other Justices will. And I think even Justice Scalia will because he will consider the law as it exists. Because, you know, the courts can only enforce constitutional amendments—really only where there is "standing." That is——

Mr. JOHNSTON. Who decides whether there is standing?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Let me define it. I believe my colleague has the floor but I am trying to respond to him. That is the "case in controversy" requirement of Article 3, which requires litigants to show harm. No one can show harm under Section 6 of this amendment. Since Frothingham versus Mellon, that was in the 1920's, the Court held that in order to have standing, a litigant must show particularized harm in budget and tax structures.

The case that the Senator is referring to, the one man one vote case, is Reynolds versus Sims. In that case, in the one man one vote case, the Court believed that in that case, in that particular case, the litigant could show particularized harm so the Court did finally decide it on that basis.

Now, the difference between that and here, is that there the Court was working on a fundamental right to vote, a fundamental right to have your vote weighed, a fundamental right to have your vote count. And you go right down the line on the fundamental right to vote.

Mr. JOHNSTON. If the Senator will yield now——

Mr. HATCH. If I could just add one more sentence. I just want to get this all out in one or two or three paragraphs.

As an example of a consitutional situation where standing will not lie, litigants literally cannot sue or complain about the President's control over foreign policy. They just cannot. So I wanted to get that one point out.

But, yes, the Court will pay attention to this. Yes, the Court will pay attention to section 6 of this amendment. And, yes, it is almost—I do not see any way that you could show standing and show that kind of particularized harm that you could show in Reynolds versus Sims. It was not hard for the Court to make that transition and decide Reynolds versus Sims the way it did. Some may disagree with the decision. Some may say that, yes—as the Senator did—for a fairly long period of time they treated the whole issue as a political question. But there is a far greater difference between deciding a fundamental right like the right to vote and enforcing a constitutional amendment that makes it very clear that Congress has the power to enforce and to take care of the details of the amendment itself.

Now, what is important here, in my opinion, is that—I value my friend from Louisiana. He knows it. We have been friends for the whole time I have been here. I have respected the work that he has done in the Senate. I hate to see him leave. And I think the Senate will be not as good a place once he does leave.

But I hope the Senator will continue to discuss this with us, if not on the floor at least off the floor. Because I am interested in satisfying people around here. Our problem is, as everybody knows, that we have 535 Members here. If he and I could sit down and write this amendment it might be a little bit different. In fact, he did participate in helping to get us to this point on the amendment. If the Senator from Idaho and I sat down and wrote it, it might be a little bit different. The fact of the matter is, a bunch of us have sat down over a 12-year period and have written this and it is the best consensus amendment, best bipartisan amendment we can do that might possibly cause us to start being serious about some of the deficiencies of Government, which I think the distinguished Senator from Louisiana has outlined quite well.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, my friend has outlined the emerging state of the law on the question of standing to sue. The issue of standing to sue goes all across the law and provokes about as many decisions as any area of the law that I know about.

Suffice it to say it is emerging, dynamic, and changeable. And—as is the question of a political question.

In Reynolds versus Sims, and Baker versus Carr, formerly political questions, they changed on that issue. There they were enforcing the 14th amendment, which said nothing about voting rights and which traditionally had been left to the States. So this was a change.

This amendment specifically deals with a question of unbalanced budgets. My friend says no taxpayer is particularly harmed by this. You should have heard the eloquent speech—as maybe he did—of my colleague from Illinois, who talked about her child and future deficits. You would think, to hear that, it is the most fundamental issue for our progeny and our families that there is. And I believe the Court would find that standing to sue.

What I find to be objectionable, among other things, I say to my friend, is this is deliberately ambiguous. It is deliberately ambiguous because there are those Senators who say the Court has to have the final club in the closet otherwise this does not mean anything. And there are others who say we do not want to get the Court mixed up in this because we do not want the Court to order taxes. So we leave it deliberately vague, ambiguous, to be decided by some future Supreme Court.

I believe that is the height of irresponsibility. It is not a difficult task from the standpoint of statutory draftsmanship. We could literally draft it here within 5 minutes on the floor of the Senate. I would say "No court shall have jurisdiction to enforce this amendment."

That is simple, straightforward and unambiguous. If that is what we mean it ought to be said. It is not one of those difficult things to define like "outlays and expenditures and receipts." That is what I read from section 6 here, is that the Congress shall enforce and may—what does it say—may define outlays and receipts? What does it say? "Estimates of outlays and receipts," define those. That is because they are not self-defining.

But a jurisdiction of a court is fundamental and it is the Congress who needs to make that choice. Is it an enforceable amendment or not an enforceable amendment?

How can we be debating something as fundamental as a balanced budget amendment and not know whether the Court can enforce it or not? How could we do that? That boggles the mind. That is the question. Can they enforce and how can they enforce? That is the question. We do not answer it.

Mr. HATCH. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I believe, if my colleague looks at facts, he looks at the law, he looks at the Court, there is really no question that the courts cannot enforce this.

Will there be——

Mr. JOHNSTON addressed the Chair.

Mr. HATCH. Let me just finish, if I can. The Senator seems to be making an argument that there is a mere possibility. I suspect we have to agree, there may be a mere possibility argument here.

Mr. JOHNSTON. I think it is probable. I think it is clear.

Mr. HATCH. The standing and political question doctrines are longstanding doctrines——

Mr. JOHNSTON. Every other amendment is enforceable.

Mr. HATCH. Not really. They are unlikely to change. In the case of Reynolds versus Sims, most people believe the Court made the right decision there. I do not know of any constitutional scholar—there may be some—but I do not know of any major constitutional scholar who would think the Court made the right decision if it interferes with this, nor do I know anybody on the Court who feels that way.

Mr. JOHNSTON. Why do you not say it? I do not believe——

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I do not believe that judgment is clear at all. I think it is probable that the Court can enforce this—probable.

Reasonable minds can disagree. But why leave it deliberately vague, deliberately ambiguous?

Mr. HATCH. We do not think it is ambiguous.

Mr. JOHNSTON. I will tell you why it is left deliberately vague. Because there are some who are for it and some who are not for it and they want to leave it up in limbo.

Mr. President, this is a Constitution we are amending. Why can we not say what it means?

Mr. HATCH. Did the Senator address a question to me?

Mr. JOHNSTON. I will close with this because I have taken too long.

My point is that it is a Constitution we are amending. It can be clarified simply and clearly as to whether the Court can enforce. It is the most fundamental question, and we ought to decide here on the floor of the Senate.

Mr. HATCH. Mr. President, I am concerned about the Senator's feelings. I do not see a way in the world that the Court is going to find standing here, or even justiciability, let alone interpret the political question doctrine any other way than it has through all of the century, two centuries, of existence. To be honest, I just do not see how that is going to be.

So we are interested in continuing dialog, and I will be interested in chatting with my friend and seeing just what he feels on this even further. But to make a long story short, again this is a bipartisan consensus amendment.

Is it perfect? No. But it is as close to perfect as we can make it, and have a two-thirds majority in each body willing to vote for it.

The Bill of Rights does not. None of them provide for judicial review. They certainly do not do it explicitly. We will put it this way. Only where one shows standing can one litigate. In the first amendment cases, for instance, one cannot sue to protect the right of third parties. These are tough areas of the law. I think the Senator did well to raise this issue. It has been raised in every debate I have ever had on this. But I just do not see constitutional experts on his side of the question.

We will certainly discuss it with him and continue this dialog because we do want to get a balanced budget constitutional amendment passed, if we can.

Let me put into the RECORD at this point some answers to the arguments of the distinguished Senator from Louisiana on the standing, on the justiciability, and on the political question doctrine.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BALANCED BUDGET AMENDMENT JUDICIAL ENFORCEMENT ISSUES

Opponents argue that enforcement of the BBA will result in undue interference by the Federal Judiciary in the budget process.

Response. Opponents are incorrect. Certainly the better view is that enforcement suits would be dismissed on (1) standing, (2) justiciability, and (3) political question grounds.

1. Standing: The latest Supreme Court pronouncement on the standing doctrine is contained in *Lujan* v. *Defenders of Wildlife*, 112 S.Ct. 2130 (1992). There, the Court made clear that standing is a constitutionally mandated Article III prerequisite for commencing a federal action and has three elements: (1) the plaintiff must have suffered an "injury in fact" which is concrete, particularized, actual and imminent and not hypethetical, (2) there must be a casual connection between the injury and conduct complained of—*e.g.*, the injury must result from the actions of the complained of party and not a third party, and (3) it must be likely, as opposed to speculative, that the injury is "redressable" by a favorable court decision.

Turning to the three-part test, it is doubtful that a plaintiff could demonstrate the "injury in fact" prong because it is well settled that a mere interest in the constitutionality of a law or executive action is noncognizable.

Moreover, it is doubtful that a litigant could prove that the challenged law is the provision that "unbalanced the budget." In fact, such an allegation would be a "generalized grievance" which the Court has found noncognizable. *E.g.*, *Frothingham* v. *Mellon*, 262 U.S. 447 (1923).

As, to the third prong, "redressability", this prong subsumes justiciability and the political question doctrine, which I will discuss in a moment. Suffice it to say that as to this prong it is doubtful that a judicial remedy exists which would not violate the separation of powers doctrine.

The question of standing, of course, involves both taxpayers and members of Congress. With regard to Taxpayer Standing specifically, the Court, in *Flast* v. *Cohen*, 392 U.S. 83 (1968), announced a liberalized standing test for taxpayers. Under this "double nexus" test, taxpayer standing requires that the taxpayer-plaintiff (1) challenge the unconstitutionality of the law under the Taxing and Spending Clause of the Constitution, and (2) demonstrate that the challenged enactment exceeds specific limitations contained in the Constitution. Professor Tribe had testified that some taxpayers' suits to enforce the BBA would satisfy this test because the proposed Amendment would be a specific constitutional limitation on congressional taxing and spending power. There are two counters to this argument: (1) the Supreme Court has in application severely restricted the *Flast* doctrine; indeed, the Court seems to limit *Flast* to Establishment Clause situations. *See Valley Forge Christian College* v. *Americans United for Separation of Church & State*, 454 U.S. 464 (1982), and (2) the *Flast* test is not a substitute for the *Lujan* test; meeting the *Flast* test only establishes the "harmed in fact" first prong of *Lujan* and that the "redessability" prong cannot be met by taxpayer-plaintiffs. This conclusion is supported by the *Lujan* decision itself, whereby taxpayer standing cases are discussed in content of concrete harm.

The final possible route to standing in cases challenging the BBA, congressional standing, also seems to have little chance of success. It must be pointed out that the Supreme Court has never addressed the question of congressional standing and that the Circuit courts are divided on this issue. However, the D.C. Circuit recognizes congressional standing in the following limited circumstances: (1) the traditional standing tests of the Supreme Court are met, (2) there must be a deprivation within the "zone of interest" protected by the Constitution or a statute (generally, the right to vote on a given issue or the protection of the efficacy of a vote), and (3) substantial relief cannot be obtained from fellow legislators through the enactment, repeal or amendment of a statute ("equitable discretion" doctrine). *Reigle* v. *Federal Open Market Committee*, 656 F.2d 873 (D.C. Cir.), *cert. denied*, 454 U.S. 1082 (1981). Although there is an argument to be made that in certain limited circumstances (*e.g.*, where Congress ignores the three fifths vote requirement to raise the debt limitations) the voting rights of legislators are nullified and therefore there would be standing, the court would probably invoke the equitable discretion doctrine to dismiss the action. This "legislative exhaustion" requirement apparently does not take into account considerations of futility. In other circumstances challenging the enforcement of spending measures, Members of Congress would be subject to the same exacting standards as citizens.

Even if litigants could satisfy this standing requirement, courts would very likely dismiss their actions on the grounds that their claims were nonjusticiable political questions. The Court is *Baker* v. *Carr*, 369 U.S. 186 (1962), set out a lengthy test to determine when courts should dismiss an action on political question grounds. Since *Baker*, the Court has narrowed the political question doctrine to two elements: (1) whether there is a demonstrable commitment of the issue to a coordinate political department, and (2) whether there is a lack of judicially discoverable and manageable standards for resolving the issue ("justiciability"). *See, e.g.*, *Nixon* v. *United States*, 113 S.Ct. 732 (1993).

Identical to the "redressability" issue discussed above, analysis of the first prong reveals significant separation of powers concerns. Any significant relief (outside of a congressional standing suit for declaratory judgment) would require placing the budget process under judicial receivership (*e.g.*, injunctive relief setting a pro-rata budget cut or the nullification of any measure after outlays exceed receipts). This relief would, of course, interfere with congressional Article 1 powers. In other words, federal courts may not exercise Congress' spending and taxing authority, such authority being exclusively delegated to Congress by the Constitution.

Concerning the justiciabilty prong, the BBA does indeed contain "process" standards; however, it is doubtful that standing could be found to enforce such standards.

(Judicial Taxation) Some have also raised concern that the BBA would give the courts the power or authority to raise taxes. This concern, I believe, relies on a recent Supreme Court decision, *Missouri* v. *Jenkins*.

In *Missouri* v. *Jenkins*, 495 U.S. 33 (1990), the Court in essence approved of a lower court remedial remedy of ordering local, state or county political subdivisions to raise taxes to support a court ordered school desegregation order. Intentional segregation, in violation of the Fourteenth Amendment's Equal Protection Clause, had been found by the lower court in a prior case against the school district.

Would the balanced budget amendment allow a federal court to order Congress to raise taxes to reduce the budget? The answer is no. First, *Jenkins* is a Fourteenth Amendment case. Under fourteenth Amendment jurisprudence, federal courts may issue remedial relief against the States. The Fourteenth Amendment does not apply to the federal government.

Second, Congress cannot be a party-defendant. To order taxes to be raised, Congress must be a named defendant.

Presumably, suits to enforce the BBA would arise when an official or agency of the Executive Branch seeks to enforce or administer a statute whose funding is in question in light of the BBA. *See Reigle* v. *Federal Open Market Committee*, 656 F.2d at 879 n.6 ("When a plaintiff alleges injury by unconstitutional action taken pursuant to a statute, his proper defendants are those acting under the law * * * and not the legislators which enacted the statute", *citing Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 175–80 (1803)). That official, however, cannot be ordered to raise taxes, because he or she does not have the authority to do so.

Finally, under Section 6 of the BBA, the enforcement mechanism, Congress could limit the type of relief granted by federal courts to declaratory judgments and thereby limit court intrusiveness into the budget process. This authority arises out of Article III's delegation to Congress to define and limit the jurisdiction of lower federal courts.

Mr. HATCH. Mr. President, let me also just take a few minutes on something that I think deserves more of a response.

I would like to speak on an important issue in this debate. This is an issue which was already debated last week, and on which the Senate has already voted.

Last week, amendments were offered on an unrelated bill regarding exemption for Social Security on the balanced budget amendment. Last week, the Senate voted twice on two approaches to protecting Social Security, and the votes were clear. It is the considered judgment of the Senate that we will protect Social Security from benefit cuts and tax increases enacted to balance the budget in any legislation implementing the balanced budget amendment. This body has already voted on that. We have ruled on that.

This proposal, which was introduced by Senator KEMPTHORNE, was supported by an overwhelming vote of 83 to 16. An amendment introduced by Senator HARKIN, which suggested that we exempt Social Security from calculations for meeting the balanced budget requirement in the discussion itself, failed by a vote of 62 to 38. The Kempthorne approach, which suggested we protect Social Security from benefit cuts and/or tax increases in legislation implementing the balanced budget, is clearly the most appropriate way to protect Social Security and is overwhelmingly supported by this body. However, an amendment has once again been introduced, and probably another one of many more which seeks to exempt Social Security from the balanced budget amendment in the Constitution itself.

Many of those who wish to exempt Social Security make the rhetorical point: "We should not balance the budget on the backs of the elderly." Aside from the fact that this amendment takes the unprecedented step of referring to a statute in the Constitution itself or bringing a statute into the Constitution itself, the irony is that exempting Social Security from the balanced budget amendment would create an overwhelming incentive to do just exactly that. Let me be clear.

The effect of this exemption will be exactly the opposite of its intended objective. If that exemption is granted by this body, it would focus budget pressures on the Social Security trust fund that could destroy the viability of the Social Security Program. If balancing the budget will create tremendous pressure—and it will—all that pressure will flow through whatever escape hatch is opened in the balanced budget amendment. Whatever is exempted from the balanced budget rule will be that escape hatch. If Social Security is made the escape hatch by this exemption, the total force of pressure of balancing the budget will fall on Social Security.

For the life of me, I cannot imagine anyone trying to protect Social Security trying to do it this way. There will be overwhelming pressure to either redefine as many Government spending programs as possible as "Social Security," endangering its original entitlement benefit purpose, or to literally pull the funds out of the Social Security trust funds to balance the budget. In fact, there would be nothing to stop Congress from borrowing as much money as it wanted from the Social Security trust fund to finance any other Government programs Congress wants to finance.

How can anybody argue that we should exempt it out of the balanced budget amendment when 83 of us in this body voted to make sure that Social Security is protected in the implementing legislation? After all, that is why you have implementing legislation. That is why we have this section 6 in this amendment.

> Congress shall enforce and implement this article by appropriate legislation which may rely on estimates of outlays and receipts.

To deny that would be a denigration of the whole Senate, or at least those 83 who voted that we will take care of it in the implementing legislation.

It is a slap in the face to all of us, as though we did not mean it. An exemption from the balanced budget amendment says to Americans: Give us in Congress a loophole in the balanced budget requirement and we will figure out later how big that loophole will be. It says to Social Security recipients: Trust us in Congress not to use your Social Security through this loophole to fund other programs.

I do not know about you, but I do not trust Congress if there is a loophole through which they can drive any kind of social spending under the guise that they change the definition of Social Security.

I do not think our seniors would like it either, when they find out how bad it is. Does anyone believe that Congress can resist a chance to spend other people's money when it is given a blank check like this? That is why we have the debt problem we do now. If those amendments on Social Security, exempting Social Security, become attached in this amendment, that exemption would be a loophole you could drive any kind of spending truck you want to through. And it will not be long until the whole convoy of spending trucks and approaches will go right through that loophole. In other words, the balanced budget amendment would not be worth the paper it is written on. As politically attractive as that amendment may appear on the surface, it is misconceived and will serve to harm rather than help senior citizens.

The motivation for exemptions like this is to ensure that Social Security benefits will not be cut. This concern is misplaced for two reasons.

First, passage of the balanced budget amendment does not in any way mean that Social Security benefits will be reduced. It only requires Congress to choose among competing programs, and there are thousands of them in the Federal system right now that we wonderful Members of Congress created. And Social Security, everybody here knows, will compete very well.

It will be the No. 1 Super Bowl spending victor, and there is no use kidding about it; everybody knows that. An approach like the Kempthorne amendment in the Senate, overwhelmingly approved, is the best way to respond to this concern. It specifically would hold Social Security harmless. That is, Social Security would be protected from benefit cuts and tax increases, enacted for the purpose of balancing the budget.

Ironically, the proposed exemption from the balanced budget amendment does nothing to respond to this concern. Nothing in that amendment would protect Social Security recipients from either benefit cuts or tax increases. Those who say we are raiding the trust funds now to pay for the programs may be right, but exempting Social Security will only make that problem worse by making it the sole source of deficit spending. This will create a positive incentive to run a deficit in the Social Security trust fund, simply because you will be able to then, to offset revenue increases elsewhere in the budget.

Second, the biggest threat to Social Security is our growing debt and concomitant interest payments. Debt-related inflation hits especially hard on fixed incomes, and the Government's use of capital to fund debt slows productivity and income growth.

The way to protect Social Security is to support the balanced budget amendment and balance the budget so that the economy will grow. Senior citizens know this. They feel it. That is why a recent poll shows that an overwhelming 91.8 percent of seniors favor a balanced budget amendment. They want this country brought under control, too. They know that the viability of their Social Security depends on whether we in Congress can get this budget balanced. They know it is the best way to protect their children and grandchildren and the best way to ensure that runaway deficits do not lead to runaway inflation, which hurts those on fixed incomes the most. It is harder on them, and it is especially hard on them.

Being a supporter of both the balanced budget amendment and Social Security, I believe this exemption that is asked for by some of our colleagues on the other side faces major concerns. I believe that the Senate has already voted on a better way to protect Social Security which would protect Social Security from benefit cuts and tax increases to balance the budget. This is the best and most appropriate way to protect Social Security for our seniors and our generation.

One last thought and then I will yield the floor to my colleague from Nebraska. If you do not think we raid trust funds around here, just look at last year's so-called anticrime trust fund. I know a little bit about that. I was on this floor for days and weeks on that issue. I went over to the House to help them with their problems and help to cut $3 billion of pork barrel spending out of the trust fund that the House and conference committee had put in. We were successful.

When it went out of the Senate, our trust fund was $22 billion. It was a trust fund set up to be paid for out of the reduction of 250,000 Federal workers. The purpose of it was to fight crime. By the time it got to the House and by the time it got through the conference committee—and I was on that conference committee—it was ignored on 30 amendments, and they had loaded up that trust fund with all kinds of pork barrel spending to make themselves look good. A trust fund to fight crime became a trust fund to spend and buy pork. If you do not think that will happen to Social Security, just exempt it in this amendment from being part of the total budget. And if anybody in this country believes that these two bodies here are not going to protect Social Security in the implementing legislation, then they have to be nuts. They have got to not understand basic reality in politics.

Constitutional amendments ought to read like constitutional amendments. They should not be legislative vehicles to protect anybody, except the American taxpayers and people, which is what this amendment will do. It is one of the few chances we have in the history of the last 60 years of profligate spending to do something about it.

This is it, folks. If we do not pass this balanced budget amendment, because of gimmicks like trying to exempt Social Security which, in turn, means the trust fund will be attacked by everybody who wants to spend all the time, and you cannot stop it around here, there will be a loophole that will make the constitutional amendment worthless and meaningless, then we have to have rocks in our head.

So do not let anybody be deceived by these so-called valiant attempts to save Social Security. I guarantee you if we do not put a balanced budget amendment in place, Social Security is going to be in trouble just like everything else in the budget, because we will not be able to pay for it, because these people are not going to do the things that have to be done to make priority choices among competing programs until we have this balanced budget amendment, and this is it, folks.

This is 12 years of work; this is a bipartisan amendment. No Republican and no Democrat can claim total control or credit for this. All of us can. This is the chance to get there. If we miss this chance and miss this opportunity—and by no means do I think we are going to, because I think we will make it before the end—I shudder for the country and I shudder for our seniors, because they are going to be the people that are going to be hurt the most.

I yield to my dear colleague from Nebraska, and I appreciate his patience in letting me make these points.

Mr. EXON. Mr. President, my colleagues know that I am a long-time supporter of the balanced budget constitutional amendment.

We have tried numerous other remedies, but they have failed to restrain our buy-now-and-pay-later habits. We have only proved how clever we are in creating loopholes and dodging the spending limits. I believe that the balanced budget amendment is our only hope; it is our last hope to break the cycle of runaway Federal spending.

However, too many people deal with the balanced budget amendment in the abstract. They will not face up to the harsh reality that goes along with it. They are queasy about telling the American people about the sacrifices that will be involved. The real work begins after we pass the balanced budget amendment. Passage of the legislation is merely a prologue to the really tough decisions that we have to make. We will have to roll up our sleeves and begin in earnest to cut spending.

The problem, Mr. President, is this: We have a distorted picture of how much is available for us to cut. I will try in these remarks to let the sunlight of straight talk shine in, revealing fully and honestly our task. It was swept under the rug in the House. We must not allow that to happen in the Senate.

Mr. President, the spending pool looks much bigger and deeper than it really is. It would be prudent to test the waters before we dive in. It would be prudent for the people, their Governors, and their legislators, to know what is in the constitutional amendment. It is a far-reaching measure, and it is time we take off the blindfolds, open our eyes and take a look at it. We find ourselves in such difficult straits because so much spending is placed off-limits. The pool becomes smaller and smaller and shrinks and shrinks. And one program after another is drained into a protected reservoir, not to be cut.

I want to take a few minutes to walk my colleagues through this daunting task of balancing the budget by the year 2002, the first year when the balanced budget amendment could take effect.

Let us start with some reference points. The Congressional Budget Office estimates that the projected deficit for the year 2002 will be $322 billion. Under the CBO sample deficit reduction path, we would have to make $1.2 trillion in savings over 7 years. Setting aside possible debt savings, we would need to cut $259 billion in the last, the seventh, year.

Total spending for the year 2002 is estimated to be $2.3 trillion. At first look, you might say we can certainly find $259 billion in savings out of that.

The problem is that the size of the $2.3 trillion spending pool is very misleading. Much of it has already been spoken for.

For example, $344 billion is reserved for interest on the debt. We cannot do anything about that. We certainly cannot touch that money. It would cause financial chaos throughout the world. So after we take that out, we are down to $1.9 trillion in spending. To bring us into balance, we would need to make a 13-percent across-the-board cut in spending. That does not sound too bad. But what about Social Security?

The Social Security bill for the year 2002 runs to $481 billion. The Republican leadership in the House and Senate have stated that Social Security should not be used to balance the budget. That is a good argument, but, if we exclude Social Security and interest on the debt that I have just referenced, our spending pool from which to make cuts has shrunk to $1.4 trillion. To bring the budget into balance now would require an 18-percent across-the-board cut.

Now, we come to a very important matter called defense, a major component of discretionary spending. I have expressed my concerns about the defense budget and the cuts that have been made and the hits that national defense has taken over the years. I believe that we are courting serious danger to national security if we cut any deeper into that program.

But, for the sake of argument, let us use a ballpark estimate of the President's 1996 defense budget in the year 2002, about $275 billion. Now subtract that from our available spending pool and we are down to $1.2 trillion. That translates into a 22-percent across-the-board cut in everything else to achieve a balance.

I am also hearing a great deal about tax cuts. That has been discussed on the floor this afternoon. I, too, favor cuts when we can afford them. But right now, our priorities should be that deficit reduction must come first. How can we mention tax cuts and balanced budget amendment in the same breath? It strikes me as the height of irresponsibility.

But for a moment, let us assume that the tax cut in the House Contract With America is passed. In the year 2002, that represents $97.7 billion drain on the Treasury, further shrinking that pool that I have been making reference to.

The tax cut increases the spending cut required to reach balance from $259 to $357 billion. We are headed in the wrong direction, Mr. President.

What about the across-the-board spending cut needed to achieve a balanced budget? If we pass the tax cut, it climbs to an incredible 30 percent of all remaining spending.

I could carry this exercise even further. If veterans programs were taken off the table, the across-the-board cut would rise to 31 percent. Remove military retirement, it is up to 32 percent. Take off civilian retirement, it is 34 percent. Subtract Medicare, it is 50 percent. And so on, and so on, and so on.

Mr. President, these are the facts. These are facts that I daresay few Members, if any, in the House took a look at and probably not too many here in the Senate have taken the time to look at them either.

Of course, I do not believe that we will ever reach the point where we will have to cut 50 percent from all other programs. That is absurd. But it does show that if we follow this hands-off approach, a small number of discretionary programs are going to take a very large and perhaps an unfair share of the cuts.

And what sort of programs are these that would be left for the up to 50 percent cuts? Everything from the Federal Bureau of Investigation, to the Women, Infants and Children feeding program, to Head Start, to cancer research, to keeping open the Grand Canyon and Yellowstone National Parks, and all of the other programs in between.

Mr. President, the point here is that the American people have a right to know what it will take to balance the budget. We should lay out the policies and actions that will be necessary to reach that goal and not hide behind some curtain and say, "We'll tell you about it later." We should do it before we vote on this legislation.

Mr. President, let me emphasize even further how difficult this task which this Senator supports is going to be.

I am going to read a portion now, Mr. President, of a letter that was recently handed to me from the Communication Workers of America that I think is very instructive, not only for Nebraska, but the other States that are mentioned in the Wharton deliberations and reports, on what would happen to Nebraska if the balanced budget amendment to the Constitution would pass. The letter reads:

> DEAR SENATOR EXON: The Communication Workers of America (CWA) urges you to reject the federal balanced budget amendment, S.J. Res. 1, when this legislation comes before the Senate for debate and vote.
>
> Enactment of this proposal would wreak havoc on the economy of Nebraska, according to a study conducted by Wharton Econometric Forecasting Associates (WEFA).
>
> The WEFA study forecasts that enactment of a balanced budget amendment would cause a drop in personal income of $6,900,000,000 (six billion, nine hundred million dollars) among residents of Nebraska by the year 2003. This is a decrease of 12.9 percent from the 1994 level.
>
> Similarly disturbing, a balanced budget amendment would reduce employment in Nebraska by 29,300 jobs by 2003. This would increase Nebraska's unemployment rate by 2.6 percent.
>
> The service sector of Nebraska's economy would be especially hard hit, according to the WEFA study.
>
> On a national level, a balanced budget would bring about a loss of 6,400,000 jobs by 2003. Real Gross Domestic Product (GDP) would decline by 3.7 percent.
>
> In conclusion, the balanced budget amendment would lay waste Nebraska's economy and damage America's well-being.
>
> CWA requests that you vote against this misguided proposal. Attached is information documenting the negative effects that this legislation would precipitate.

Signed, Lou Gerber, Legislative Representative.

And attached to that is a copy from the Wharton School, "How a Federal Balanced Budget Would Affect Nebraska's Economy."

Behind that, after Nebraska's economy, there is a table that shows its similar effect on every other State in the Union.

I ask unanimous consent that this material be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I ask further that, at the conclusion of my remarks, a sheet entitled "Across the Board Spending Cuts Required to Achieve the Balanced Budget in 2002," which I referenced in my remarks, be printed in the RECORD, also.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. EXON. Mr. President, let me comment if I can. How in the world could a Senator from Nebraska, after reading this work by the Wharton group, support a balanced budget amendment?

Well, No. 1, I have not had a chance to study this in great detail. Obviously, the organization that prepared this is a well-established, well-known, well-respected forecasting firm. I remember using their material way back 20 years ago when I was Governor of Nebraska. So they are not a fly-by-night outfit. They have evidently done a great deal of study and work. I know not what assumptions, Mr. President, they made in preparing this material because, obviously, they had to make some.

It is safe to say that what the Wharton people are pointing out here, while I do not suspect it is going to have an adverse effect on Nebraska to the extent that they outline, is that the constitutional amendment to balance the budget will cause some pain, suffering, and hardship in Nebraska and every other State in the Union.

Another way of saying that, Mr. President, is we have to swallow some pretty sour-tasting medicine and hope that it can cure us from the spending spree that in the last 14 years has seen a series of multibillion-dollar annual deficits that are transferred at the end of the year over to the national debt.

In the last 14 years, the national debt of the United States has grown from under $1 trillion to the present level of $4.7 trillion, and it is going higher. Every person in the House and every person in the Senate knows that. We will have to raise the debt ceiling and borrow more money before the end of calendar 1995. Even if we balance the Federal budget by passage of the constitutional amendment to balance the Federal budget, it is obvious, Mr. President, that from now until the year 2002—when we intend to reach balance—our debt is going to continue to rise certainly somewhere near the $7 trillion figure, because every projection that we have indicates that we are going to have multibillions of dollars in deficit for the next several years.

I started out by saying, Mr. President, that I was for a balanced budget amendment. I am for a balanced budget amendment even with the sour medicine, even with the hurt that it is going to cause my State of Nebraska. I am for it so long as everyone shares and shares alike as reasonably as possible. Then I believe that the people of the State of Nebraska would say, if we are treated fairly and if we are not picked on, if we have to swallow this pill to straighten out the fiscal mess of the Federal Government, let Congress do it and get it over with. Let's quit passing it along each and every year, as we have been doing since Hector was a pup, charging it off to our children and our grandchildren.

Mr. President, let me say in conclusion that I think we must do this. I think we must swallow the medicine. I think we must make the hard choices. But I think we should emphasize the people's right to know. If the Wharton School of Econometric Forecasts are not right, then we should have other people make a study as to what is right for Nebraska—and Iowa and North Dakota and South Dakota and Kansas and Colorado and California and Maine and Florida and Washington State, and everybody in between.

I am rising, Mr. President, to try to set a record straight, to tell the truth, to emphasize once again that passing a constitutional amendment to balance the budget, as was done so bravely in the House of Representatives last week, is the easy part of the ball game. The nitty-gritty, the line play, is what counts. I simply say, Mr. President, this Senator is going to be pushing for a constitutional amendment to balance the budget, but at the same time I am going to be saying to my colleagues in the Senate on both sides of the aisle, we need to let the sunshine in. We need to take off the blindfolds. We need to tell the truth. Then and only then, do I think we would be able to marshal the support of the people of this country to make this work. Then and only then, Mr. President, can we expect the legislators of the 50 States to take a look at this with some knowledge and decide whether or not they want to ratify the amendment as three-fourths of them will have to do before this amendment becomes part of the Constitution.

Mr. President, I think we are on the right track. But I think the track should be bearing a train toward a balanced budget amendment that goes slow enough so that we can see the pitfalls on the side of the road. Mr. President, I urge support for a constitutional amendment to balance the budget with its pain and suffering and with its warts, so long as we tell the people the truth and let the sunshine in. I yield the floor.

EXHIBIT NO. 1

[From the Coalition for Budget Integrity, Feb. 1994]

HOW A FEDERAL BALANCED BUDGET AMENDMENT WOULD AFFECT NEBRASKA'S ECONOMY

BBA'S IMPACT ON NEBRASKA

10 consecutive years of reduced personal income.

7 consecutive years of overall job loss.

The Service Industry would be particularly hard hit, suffering job losses for 9 years.

The Finance and Banking Industry would also face 9 years of job losses.

8 years of higher than necessary unemployment rate.

STUDY SHOWS HOW A FEDERAL BALANCED BUDGET AMENDMENT WOULD HURT EACH STATE'S ECONOMY

The second part of a two-part study done by Wharton Econometrics Forecasting Associates (WEFA) details the impact of a federal balanced budget amendment on individual state economies. The first part of the study, which was released on Monday, February 14th, analyzed the effects of a balanced budget amendment on the national economy over the next ten years (1994–2003). It found that in 2003 the nation's economic output would drop sharply, millions of jobs would be destroyed, the unemployment rate would soar, and taxes would be the highest in postwar U.S. history. In addition, state and local governments would be hit hard, collecting $125.7 billion less in taxes in 2003 than they would without the amendment.

The second part of the study delineates even further how a federal balanced budget amendment would wreak havoc on each state's economy. As with the first part, the study assumes the federal budget would be balanced over a six year period ending in 2000 and would remain balanced thereafter. The balancing would be achieved by raising one dollar in taxes for every two dollars in spending cuts.

While the exact impact would vary from state to state, all states would suffer severe economic decline in 2003. Personal income would be, on average, 13.5% below what it otherwise is expected to be in 2003. For many states, that means a loss of between $20–$100 billion in personal income in that one year alone.

No state would be spared from serious job loss. On average, in 2003 the number of jobs would drop 135,000 per state below what WEFA otherwise predicts without a balanced budget amendment in place. For example, New York would lose 140,000 jobs, Tennessee would lose 168,000 jobs, Illinois would lose 190,000 jobs, Ohio would lose 232,000 jobs, Pennsylvania would lose 255,000 jobs, Florida would lose 521,000 jobs, Texas would lose 594,000 jobs, and California would see a loss of over 712,000 jobs in 2003.

The unemployment rate would rise in each state. In some states, it would climb by as much as eight percentage points or more above the rate WEFA forecasts without a balanced budget amendment.

The construction industry would be hurt badly. Housing starts would decline in all fifty states, in some states by forty thousand units or more in 2003 alone.

SUMMARY OF ECONOMIC EFFECTS IN 2003

State	Drop in personal income		Loss of jobs		Percent of unemployment rate would rise
	In billions	In percent	In thousands	In percent	
AL	−$15.4	−12.7	−88.3	−4.4	+4.2
AK	−6.4	−23.6	−93.5	−21.9	+6.4
AZ	−18.2	−14.6	−130.9	−7.0	+8.8
AR	−7.3	−10.3	−54.0	−4.6	+2.6
CA	−148.0	−12.2	−712.5	−4.8	+5.7
CO	−17.6	−13.6	−104.3	−5.4	+3.3
CT	−17.9	−11.7	−63.6	−3.7	+3.5
DE	−3.0	−11.3	−15.6	−3.9	+3.6
DC	−18.2	−55.1	−241.8	−28.5	+13.3
FL	−73.6	−14.0	−520.9	−7.1	+5.0
GA	−35.2	−15.4	−312.0	−8.3	+4.8
HI	−6.3	−13.9	−52.6	−8.1	+2.2
ID	−4.6	−13.3	−24.8	−4.4	+3.2
IL	−52.3	−11.4	−190.4	−3.1	+2.2
IN	−20.0	−10.7	−108.5	−3.6	+2.1
IA	−12.9	−14.5	−59.0	−4.1	+3.3
KS	−9.0	−10.4	−42.5	−3.3	+2.2
KY	−13.7	−11.6	−100.1	−5.4	+4.1
LA	−17.7	−12.7	−121.3	−5.8	+2.9
ME	−4.5	−10.3	−24.0	−3.9	+3.5
MD	−30.2	−14.5	−186.4	−7.8	+4.8
MA	−20.9	−8.6	−24.9	−0.8	+2.2
MI	−33.2	−10.1	−152.1	−3.3	+3.0
MN	−16.2	−9.7	−86.1	−3.3	+2.4
MS	−10.3	−13.7	−82.7	−6.5	+3.5
MO	−22.5	−12.4	−98.8	−3.6	+1.8
MT	−1.9	−8.2	−11.0	−2.9	+3.2
NE	−6.9	−12.9	−29.3	−3.4	+2.6
NV	−7.1	−13.0	−59.0	−6.4	+7.5
NH	−5.3	−12.3	−29.0	−5.4	+9.4
NJ	−43.6	−11.8	−178.3	−4.5	+4.5
NM	−8.0	−16.7	−80.9	−10.8	+3.0
NY	−64.2	−8.0	−140.7	−1.6	+2.2
NC	−32.4	−14.2	−277.0	−6.8	+3.3
ND	−2.2	−11.2	−4.1	−1.3	+1.5
OH	−43.4	−11.8	−231.8	−4.2	+2.4
OK	−12.0	−12.0	−46.9	−3.2	+3.3
OR	−21.2	−21.4	−196.9	−13.0	+7.7
PA	−56.6	−12.9	−254.6	−4.5	+3.9
RI	−3.7	−10.1	−15.5	−3.2	+5.8
SC	−15.3	−14.2	−162.3	−8.4	+4.5
SD	−2.4	−11.2	−13.5	−3.7	+1.6
TN	−21.8	−13.0	−168.1	−6.2	+5.5
TX	−93.6	−14.3	−593.9	−6.2	+3.2
UT	−7.8	−13.9	−63.0	−6.0	+2.0
VT	−1.2	−5.4	−3.9	−1.1	+0.5
VA	−34.5	−13.8	−242.9	−7.0	+3.4
WA	−28.5	−15.1	−208.8	−7.7	+4.5
WV	−4.3	−8.0	−22.1	−2.8	+2.6
WI	−18.8	−10.9	−111.7	−3.9	+2.1
WY	−2.0	−13.9	−18.4	−7.5	+2.9

EXHIBIT NO. 2

Across-the-board spending cuts required to achieve balance in 2002

[CBO estimates except where noted; dollars in billions].

CBO projected deficit for the year 2002	322
Savings required to achieve balance: (CBO 1/5/95 deficit reduction path):	
Policy savings (excluding tax cuts)	259
Interest savings	64
Total savings	323
Total spending for fiscal year 2002 (without offsetting receipts or deposit insurance)	2,298
Exclude net interest	−344
Spending w/o interest	1,954
Percent across-the-board cut	13
Exclude Social Security	−481
Spending w/o interest and Social Security	1,473
Percent across-the-board cut	18
Exclude defense (Preliminary estimate of President's FY1996 request)	−275
Spending w/o interest, Social Security and defense	1,198
Percent across-the-board cut	22
Assume $97.7 billion in tax cuts in 2002 (Treasury estimate) increasing total policy cuts required for balance to $357 billion	98
Percent across-the-board cut	30
Exclude Veterans programs (compensation, pensions and medical care)	−42
Spending w/o interest, Social Security, defense, and veterans' programs with tax cuts	1,156
Percent across-the-board cut	31
Exclude military retirement	−41
Spending w/o interest, Social Security, defense, veterans' programs, and military retirement with tax cuts	1,115
Percent across-the-board cut	32
Exclude civilian retirement	−51
Spending w/o interest, Social Security, defense, veterans' programs, and all federal retirement with tax cuts	1,065
Percent across-the-board cut	34
Exclude Medicare	−344
Spending w/o interest, Social Security, defense, veterans' programs, federal retirement and Medicare with tax cuts	720
Percent across-the-board cut	50

Mr. HATCH. Mr. President, I want to thank my colleague for the lucid and encouraging remarks. I appreciate his leadership in working toward balancing the budget and standing up so much on this issue. He is a prime cosponsor of this amendment. That means a lot to those Members who have been fighting so hard to get this constitutional amendment passed. So I want to just personally express my regard and comments.

Mr. EXON. I thank my friend and colleague from the great State of Utah.

Mr. HATCH. Mr. President I would like to respond to some of the remarks made earlier by our distinguished ranking member on the Judiciary Committee about capital budgets. The proposed exemption for so-called capital investments could help evade the purpose of the balanced budget amendment or make it substantially more difficult for future Congresses to make capital investments.

I have to confess that I am not certain of the purpose of the amendment as it is drafted, or at least as I anticipate it to be drafted. It appears to be a provision at war with itself. The first sentence seems to encourage capital investments by taking them out of the balanced budget rule. But the last two sentences seem to be designed to discourage capital investments.

Now, this provision opens up a loophole in the balanced budget rule and unduly limits Congress' ability to make capital investments. There would be a powerful incentive for Congress and the President to help balance the budget by redefining more programs as capital investments. A gimmick capital budget exemption could actually endanger capital investments as fake investments crowd out real capital investment.

Furthermore, the 10-percent limit ties the hands of future Congresses that may choose among the competing programs to fund more capital investments than this limits allows. With the talk of a need for infrastructure investment by my friends on our side, I am sure they would want to tie Congress' hands this way. A future Congress may justifiably decide to make greater investments in this area.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Washington.

Mr. GORTON. Mr. President, yesterday when I spoke on the subject of a balanced budget amendment, a vitally important subject which, without doubt, will occupy the next many days of debate in this U.S. Senate, I observed that Members' views on this subject fell into what seemed to be three categories.

One category, it seemed to me, consisted of those Senators on the liberal side of the political divide who were essentially uninterested in a balanced budget, who were defenders of the status quo, whose observation was that their priorities had, by and large, been met by Congress operating the way it does without the constraints of a constitutional amendment inhibiting unbalanced budgets, and that they would forthrightly defend the status quo as being far superior to a constitutional amendment on a balanced budget because such a budget was essentially undesirable in the United States.

The second category, which was really relatively small given our history, consisted of those Members who were genuinely interested in fiscal responsibility and in a balanced budget, but who felt it was wrong to lock constraints against an unbalanced budget into the Constitution of the United States. In that case, it was my opinion that the experience of the last 10 years, 20 years, 30 years, 40 years, showed to most the folly of such a pursuit; that neither statutes nor an abstract sense of fiscal responsibility ever seemed to motivate a sufficient majority in Congress at a sufficiently high degree of priority to be successful, and that that group carried a very heavy burden of proof as to how we could reach the goal of a balanced budget without changing the Constitution. And therefore this group of Senators would be relatively small.

And the third group, consisting of the majority of the Senate, who feel that a drastic remedy is in order, who feel indeed we are in something of a revolution, and that in order to satisfy the demands of the American people we should enshrine in the Constitution a provision which makes it much more difficult to act in a fiscally irresponsible manner, would of course put forward that point of view eloquently and well, I hope, and ultimately triumph.

Only 24 hours have gone by during the course of this debate since I made those observations, and I must confess, at least if I read or hear those who oppose this constitutional amendment correctly, I was wrong about the first two groups. To the best of my knowledge, no single person has come into this body—no Member has come into this body, no matter how liberal, no matter how much in favor of an activist and increasing Federal Government, to state in a forthright fashion that that Member does not believe that a balanced budget is a particularly good idea, or at least a high priority. All of those who object to this constitutional amendment have given lip service to the proposition that a balanced budget is desirable, whatever their record in the past in voting for or against those measures, those items which would lead us to that end.

So that first group, that status quo group—while I strongly suspect that it exists—seems, so far in this debate, unwilling to identify itself. We who believe a constitutional amendment to be necessary are challenged with the proposition that we cannot make such a request without coming up with a detailed roadmap as to how we are going to get there. In fact, it is demanded of us that we have binding legislation governing at least three future Congresses, stating precisely how we will get from this point to that without regard to changes in our economy, changes in our international situation, dangers in the world at least, or changes, for that matter, in the majority, in the direction of the Congress of the United States.

Personally, I think the demand is an absurd one. It is legally impossible for us to bind future Congresses by a statute. We will in fact come up with a budget this year which will include a very fine downpayment toward a balanced budget, but we must recognize that future Congresses can take us on a different course of action, even if this proposal becomes a part of our Constitution. Many of those who have spoken against the constitutional amendment, should they come back to power, may very well wish to increase taxes rather than decrease spending in reaching that goal.

But my point here this afternoon is just this. If in fact I was wrong in dividing the Members into three categories in the course of this debate and there are only two—those who believe the constitutional amendment on a balanced budget to be necessary and those who believe firmly and fervently that we ought to do it but ought to do it without a constitutional amendment—then is it not every bit the obligation of that second group to tell us exactly how they would reach a balanced budget day by day, year by year, item-by-item, as it is for us to favor the constitutional amendment to do so.

It seems to me self-evident, if those who say the status quo is fine, that we must discipline ourselves to reach a balanced budget, are to prevail, and if they demand of those who want a constitutional amendment a road map, let us see their road map, too. How do opponents who wish to operate under the same system—under which we have operated throughout our entire history, and most particularly during the course of the last decade without coming close to balancing the budget—how do they propose that we do so? What reductions in spending over a 7-year period do they propose? What new taxes during that period of time do they propose? What changes in entitlements do they propose? In spite of their demand for that kind of detailed blueprint on our side, a map, we have so far received nothing but silence—lip service, statements about discipline, statements about what we ought to do, but not the remotest hint as to how a Congress, which has never been able to reach that goal under the present regime or in the past, can and should do so in the future.

Mr. President, I do not expect this request of mine to be honored. I believe it to be every bit as valid—in fact, more valid than their demand of us—as if when a constitutional amendment passes everyone will be in the same boat, its proponents, its opponents, the President of the United States, as well as the Congress of the United States. We will operate under different rules and under different circumstances.

We will be dealing with real issues, with real cuts, with real proposals for tax increases. But those who say we do not want to change the regime, we do not want to make that requirement, please vote no on this constitutional amendment. They, it seems to me, have an even more compelling, a greater, a more imperative duty, to say, if we retain the status quo, here is how we reach the goal we all share. That they have not done, Mr. President. That I will warrant they will not do, and their failure to do so will show the falsity, the bankruptcy of the demand that those who propose a constitutional amendment come up with—that, besides a few more.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESPONSE TO THE MEXICAN FINANCIAL CRISIS

Mr. PELL. Mr. President, earlier today President Clinton announced that he was working to develop an alternative package for addressing the Mexican peso crisis. This comes as a welcome response to a situation that was worsening by the day, as financial markets reflected increasing pessimism that Congress would approve the loan guarantee package. It is unfortunate that we were unable to act more expeditiously to help stem the crisis, and I want to commend the President for recognizing that we would all suffer from further delay.

While the details of the new package have not yet been clarified, as currently proposed it would include a $20 billion share from the United States Exchange Stabilization Fund, $17.5 billion in credits from the IMF, and a $10 billion short-term lending facility from the Bank of International Settlements. These aggressive but prudent measures should serve to shore up the Mexican peso as well as investor confidence in the Mexican economy as a whole.

Mr. President, without immediate action on the part of the United States and the world community, the short-term debt crisis in Mexico threatens to escalate into a full-scale recession that would negatively impact on all of us. Perhaps lost in the debate over the details of the financing mechanism was the fact that the United States and Mexican economies are now closely intertwined, and what happens there cannot help but affect us. Mexico is our third largest trading partner; American jobs and exports rely on Mexico's financial stability and growing prosperity. Politically, neither our immigration problems nor our war on drug trafficking can be adequately addressed without Mexico's active cooperation. We have been fortunate that across our long southern border is a friendly and stable ally. It is in our own self-interest to help ensure that a short-term debt problem does not become a lasting source of economic, political and social turmoil across the hemisphere.

I look forward to supporting President Clinton and urge my colleagues to do likewise.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE MEXICAN FINANCIAL CRISIS

Mr. BENNETT. Mr. President, today the President of the United States announced his intention to use his executive authority to intervene in the matters relating to the Mexican financial crisis.

Like other Members of the Senate, I have followed this crisis with great interest over the last few weeks. As a member of the Banking Committee, I participated in this morning's hearings on this issue, which were interrupted by the announcement of the President's action. Perhaps because of my interest in economic matters and my background in business, I have paid close attention to this and found that it has managed to consume some of my time in areas that I might have preferred to spend talking about other things. But it has become a very important part of my life for the last few weeks, and I thought it appropriate that I make a comment at this time.

Mr. President, I have likened the crisis in Mexico to an analogy that I hope will help people understand the position that I have taken. Suppose, Mr. President, that your neighbor suddenly came pounding on your door with the news that his house was on fire. You go out, look at his house and, sure enough, there are flames and smoke coming out of the attic. And your neighbor says, "My house is on fire; the fire is in the attic; my children are down in the basement. If we do not get the fire put out, my children will die. You must help me. Lend me your garden hose." And you say to the neighbor, "Well, there is no question that your house is on fire and you need help, but I do not think the garden hose will reach. I do not think it has enough water pressure to get up to the attic. I think there must be another solution." "No, you do not understand," says the neighbor. "There are combustible materials on the top floor. When the fire gets down through the attic, they will catch fire and my children will die. Let me give you more information." You say, "I do not need any more information about the fire. The information I need has to do with the ability of the garden hose to reach the problem."

That, in my view, has been part of the difficulty with the debate we have had around here about this issue. People keep coming to us and telling us "the Mexican house is on fire." My response is that I know that, I accept that. I do not argue with you, A, that it is on fire and, B, we need to help. My concern is whether or not the proposed solutions will help. And if they will not, I urge us to look someplace else to try to find something that will.

So it is in that spirit that I have been carrying on conversations with people from the Federal Reserve and the United States Treasury and met with officials from Mexico on several occasions to try to be sure that we are coming up with some kind of fire extinguisher that will do the job.

The more I worked on this, the more concerned I became that maybe we would not be able to do that. Today, the President has taken that decision out of our hands—I think very wisely and competently. The President has recognized that further delay, which would be an automatic result of leaving the thing before the Congress, would result in serious and perhaps irreparable harm. The fire had now gotten down from the attic, if you will, into the top floor, and it was necessary for the President to act and act quickly. I had suggested to members of the administration that they start thinking of a solution that did not require congressional action. They were reluctant to do that for reasons that I can fully understand, saying a matter as serious as this is something that should be brought to the Congress, and we should have an opportunity to debate and examine it before it is put into play.

But events overtook that process and the President used the authority that was available to him under the exchange stabilization fund to move ahead. As I say, I urged officials at the Treasury to look at this possibility as much as a week or 10 days ago. As I say, they were reluctant because of their desire for congressional approval. Now they are in a circumstance where, in effect, all Congress can do is disapprove after the fact. I hope we will not do that. I hope we will recognize that the President did about the only thing he could do under the circumstances. I hope the program that he has put in place will work; that we will indeed "see our neighbor's fire extinguished," because this is a matter of great concern to all Americans, with the number of jobs that could be lost, the number of exports that could be affected. All of those statistics are on the public record.

There are a number of things that I think the Mexicans need to do. We have talked about them on this floor from time to time. I believe that this deal, as put in place by the President, is a better deal for the American taxpayer than the one that was first proposed, for several reasons. The first deal called for $40 billion, all of it charged to the American taxpayer.

This deal calls for, up front, $20 billion charged to the American taxpayer with the balance, another $27 billion, spread over a variety of agencies and countries. True, some of that which is spread over these other agencies might end up being American taxpayers' money, but at least, on the front end, the exposure to the American taxpayer is reduced.

Second, this deal produces burdensharing; that is, other countries are now going to be involved, whereas before it was strictly an American deal. Now we have gotten the attention of the other "householders" in the neighborhood, if you will, and they are bringing their "garden hoses" to the fire along with ours. I think that is a good thing, and that was not present in the first proposal the President made.

Third, this proposal involves the Federal Reserve System. The people at the Federal Reserve will be involved in enforcing the conditions that the Mexicans agree to. I think that is a good thing. It was not present in the previous deal. In the previous deal, any enforcement that took place would be under the direction of the Treasury and whatever allies they could gather from the IMF. I am not one who has a great deal of confidence in the ability of the IMF to solve this kind of a problem. I think it builds the confidence of the financial community to know that the people at the Federal Reserve System, whose principal activity in life is to defend the American economy and the American dollar, will be involved in overseeing the activities of the Mexicans. So inserting the Federal Reserve into the package improves the package for me considerably.

For these reasons then, Mr. President, I offer my congratulations to the President, and to the two leaders, Senator DOLE and Senator DASCHLE, for their willingness to give expressions of approval to the President for this action. He did not need those expressions of approval. Under the law, he could have proceeded without them. But it demonstrates the fact that the Congress is not unmindful of the "fire next door," that the two leaders, in a bipartisan fashion, have stepped forward to indicate their approval. The same thing is true in the House. Speaker GINGRICH and Leader GEPHARDT have both indicated their approval, as well.

So now all we can do is watch and wait. We have no assurance that this package will solve the Mexican problem. But at least there is now someone on the ground with a "fire hose" that presumably will be able to put out the fire. It is a hose that is more suited to the task than the garden hose that was originally asked for, and I add my voice to those that are being raised, saying to the President: You have my best wishes that this will work, and I will do whatever I can to cooperate with you and the administration to see that it does work.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. BENNETT. Mr. President, we are in the midst of a debate on the balanced budget amendment. At some point in this debate, I will have a lengthier and perhaps more comprehensive statement to make but, taking advantage of what the sportscasters call a break in the action, I thought I would make a few observations now about this particular matter.

I am a reluctant convert to the balanced budget amendment. As I have said from time to time around here, my educational background is as a political scientist. My whole career has been spent in business. But when I was in college, I studied the works of Jefferson, Madison, Hamilton, and Jay, and, yes, Karl Marx, Friedrich Hegel, and some of the other political philosophers. That has always been my avocation, even in the years that I was in business. I guess it was inevitable, given that particular bent on my part, that I would end up, when I could afford it, back in politics.

From a pure political science point of view, I can make a brilliant case against the balanced budget amendment. I can give you all of the reasons why a balanced budget amendment is not sound politics. Unfortunately, the real world sometimes intrudes upon the world of the political scientist and causes us to do things that are perhaps not as philosophically pure as we might like.

Let me give you an example. As I understand the Constitution and the theory and philosophy behind the Constitution, election of Senators by State legislatures is the ideal way this body should function. The Senate was created to represent States. What better way to make sure that the Senate represents States than to give the States full and complete control over the choice of their Senators. And the States did that in time-honored fashion through their own State legislatures.

That is the political science pure way that the Senate should operate. There is one problem with it. In the practical world, State legislatures that were divided by party—that is one party controlling one House and the other the other—would go for an entire Congress without being able to elect a Senator.

The Framers of the Constitution did not foresee the rise of the two-party system and there is nothing in the Constitution to accommodate it. There is nothing in the Constitution to deal with the challenges that come from it.

Also, people who were unscrupulous, who just decided they wanted to become Senators, many times could buy an entire State legislature, a bargain, if you will. And the corruption that surrounded the election of some Senators in the days when State legislatures chose Senators became so rampant that finally we had to go to another solution to the choice of Senators, which, while not pure to the philosophical doctrine of the Constitution, made eminent good sense. And so we passed the 17th amendment that called for direct election of the Senators.

I am not sure the caliber of the Senate got any better when we moved from the time when State legislatures chose Senators to the time when the voters did, but the various problems that I have described went away. And we have lived with the result of this very well since the time the 17th amendment was passed.

I think there is a parallel argument here with the balanced budget. I can give you, as I said at the outset, all kinds of reasons why the balanced budget amendment is not a good constitutional doctrine; all kinds of reasons why the Founders were wise to leave it out of the Constitution.

Unfortunately, we have practical pressures that have now overwhelmed us that say to us it is time for us to recognize that we need to adopt a balanced budget amendment. What are those practical pressures?

If I can go back to my political science background, I share with you the one thing that philosophers say is wrong with democracy as a form of government. Simply put, it is this: Once the people discover that they can vote themselves largess, the democracy will become financially unstable and it will fall. That was an article of faith among political scientists for centuries.

What is the oldest democracy in the history of humankind that has defied this principle? It is this one. We have lasted longer as a democracy than any other in the history of the planets.

And what is threatening our financial survival? It is the discovery of the people that they can, through their elected representatives, vote themselves largess—that is, get the Government to give them back more money than they give it—that is threatening our survival.

Now, we did not do that for over a century, maybe a century and a half, and then we began to discover that. And, having discovered that principle and gotten comfortable with it, we have started down the dangerous path that has historically undermined democratic governments all along.

So, in recognition of the fact that we have finally discovered that ancient truth and are acting on it, I say the time has come for us to adopt a balanced budget amendment.

I see the Senator from Arizona has arrived. As I say, I have a longer and more comprehensive statement on this issue that I will offer at some point. But I felt at this time that I should lay the groundwork with this little philosophical note before I get into the meat and potatoes of this real debate. I hope those who spend their time looking at history and philosophy will grant me a point or two on this one and recognize that I am addressing it in something other than the practical political hustings of the last campaign.

With that, Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President. First, I want to compliment the Senator from Utah. His reference to the famous historian Alexander Tytler, I think, is an apt way to characterize the dilemma that faces our Nation today, because it is true that certain segments of our society have determined that they can vote themselves largess from the public treasury. And it was at that point that this famous British historian and many others have concluded a democracy would not thereafter long last.

So the point that the Senator from Utah makes, I think, is critical to understanding the reasons for our support for a balanced budget amendment. I compliment him for that reference.

Mr. President, by the end of this fiscal year, Congress will have added another $309 billion to the national debt. It will amount to a total of over $4.9 trillion, nearly $19,000 for every man, woman, and child in this country.

Mr. President, $19,000 is more than the average Arizonan makes in a year. The $296.8 billion spent to service the debt last year amounted to over $1,100 per capita. That $1,100 is enough to pay the tuition of a young man or woman at Arizona State University for a year; enough for a healthy young person in a group plan to buy health insurance for an entire year.

Mr. President, Congress and the President are debt addicts. The addiction is destroying the Nation. Almost 50 cents of every $1 paid in individual income taxes is required just to pay the interest on the national debt. That is 50 cents of lost opportunity for every income tax dollar paid by hard-working Americans. The overspending makes us feel good today, but Congress is ruining the economic future of generations to come.

Congress has denied its addiction for too long. Many in this Chamber will continue to deny it, claiming that we can balance the budget without the discipline of a balanced budget amendment to the Constitution. That is just not going to happen. Just as it is difficult for drug and alcohol abusers to overcome their habit, it will not be easy for Congress to overcome its addiction. But we can either wait until the addiction destroys the country or we can take action now, suffer some pain, and get on the road to long-term recovery.

The first step to recovery is to admit the problem and seek treatment for it, treatment in the form of a balanced budget amendment to the Constitution. House Joint Resolution 1 will establish the framework and impose the discipline that is so urgently needed to force Congress to put its fiscal house in order. It is the best and the only chance to send a balanced budget amendment to the States for ratification in the immediate future.

Still, it is not the amendment I would have written, not the comprehensive treatment for the problem that I would have prescribed. House Joint Resolution 1 will force Congress to be more responsible in its budgeting practices. But there is more to responsible budgeting that just balancing the Nation's books. It also matters at what level Congress balances the books relative to the size of the Nation's economy.

For example, gross national product now exceeds $6 trillion. But no one would be happy if Federal outlays were $6 trillion, and Federal tax revenues were $6 trillion, even though the budget would be balanced at $6 trillion. It matters how much the Government spends in taxes as much as it matters whether we balance the budget. In that regard, House Joint Resolution 1 represents the intensive care treatment, the step needed to stop the hemorrhaging, to ensure recovery over the long term. However, it is a Federal spending limit that is needed.

The balanced budget spending limitation amendment, Senate Joint Resolution 3, which I introduced January 4, including a spending limit, requires a balanced budget and limits spending to 19 percent of the gross national product, which is roughly the level of revenue the Federal Government has collected over the last 40 years.

Mr. President, I will refer to this chart to my right a couple of times during my presentation. But the first thing that you can see by examining the chart is that revenues which are characterized in blue on the chart at this level here, almost uniformly from 1955, denoted on this chart to 1995 here, are at the 19 percent level of gross national product or relative to gross domestic product, 19.5 percent. We can see if we drew a line at 19.5 percent, that blue line is a very close approximation.

That is how much Americans are historically willing to pay into the Treasury. Through bad times and good economically, through Democrat Presidents and Republican Presidents, through times of tax increases and times of tax cuts, it does not matter. It stabilizes very quickly at about 19 percent of the gross national product. That is how much Americans are willing to pay in revenues.

When we say "willing to pay," what do we mean? Just quickly, by way of example, when the Federal Government increases tax rates, what do people do? Do they say, OK, we will simply pay more in taxes, or do they begin to adjust their behavior? Of course, we know the answer. They seek tax shelters. They do other things with their incomes so they do not have to pay as much in Federal income taxes. That is why, even though we increase income tax rates, revenue stabilizes at about that level of 19 percent.

What happens when we cut tax rates? Do revenues go down? No. We know that that stimulates the economy. It produces more gross national product. It produces more income, and even at a lower rate of income tax, more revenue is generated by virtue of that growing economy. It is a lot like the grocery store putting things on sale. They do not do it to lose money. They know the volume will make up for the reduction of prices; in fact, more than make up for it. That is why you see so many sales.

The bottom line is Americans are willing to pay 19 percent of the gross national product in income taxes. The way to balance the Federal budget is to limit spending to that level of revenues.

As we see the other line, the line that is represented in red, represents the spending as a percent of the gross domestic product on this chart. We can see that 20 or 30 years ago, it was roughly the equivalent of the revenues in the country, whereas in more recent years, the lines, two lines have begun to separate. Today, we have spending in the neighborhood of 22 percent or 23 percent of the gross domestic product, with revenues at 19 percent. That is the gap that needs to be closed with a balanced budget amendment.

Limit spending and there is no need to consider tax increases, obviously.

Congress would not be allowed to spend the additional revenue it raised, and knowing politicians as I do, they will not raise taxes just for the heck of it. Link Federal spending to economic growth as measured by the gross national product and an incentive is created for Congress to promote progrowth economic policies. The more the economy grows, the more Congress is allowed to spend, but always proportionate to the size of the economy.

A spending limitation has a further advantage. It reflects the fact that the economy has already imposed an effective limit on revenues relative to GNP. As I said before, despite tax increases and tax cuts, recessions and expansions, and fiscal policies pursued by Presidents of both political parties, revenues as a share of GNP have fluctuated only around a relatively narrow band, between 18 and 20 percent for the last generation. As I said, the primary reason for that is because the Tax Code changes people's behavior. That is why the debate about raising taxes is less important than the debate about limiting spending.

Lower tax rates stimulate the economy, resulting in more taxable income and transactions and more revenue to the Treasury. Higher tax rates discourage work production, savings, and investment, so there is ultimately less economic activity to tax.

Revenues amounted to about 19 percent of GNP when the top marginal income tax rate was in the 90 percent range in the 1950's. They amounted to just under 19 percent of GNP when the top marginal rate was in the 28 percent range in the 1980's. Revenues amounted to about 19 percent of GNP in the 1970's, during one of the longest postwar contractions and during the peacetime expansion of the 1980's. Since revenues remained relatively constant, 19 percent of GNP, the significance of our Nation's tax policy is how Congress taxes, not how much it can tax. The key is whether tax policy fosters economic growth and opportunity, measured in terms of GNP, or results in a smaller and weaker economy. In other words, 19 percent of a larger GNP represents more revenue to the Treasury than 19 percent of a smaller GNP.

The benefit of writing a spending limitation into the balanced budget amendment is that it would preclude futile attempts by Congress to balance the budget by raising taxes. Raising taxes will merely impede economic growth and harm the Nation's standard of living. A spending limitation provides Congress with the guidance at the outset that there is really only one way to balance the budget, and that is by cutting Government spending. While my preference is that a spending limit be included in the constitutional balanced budget amendment, I believe the issue can only be addressed, if need be, in subsequent implementing or enforcement legislation.

The quest for the perfect in this case should not be an excuse to defeat the very good. The stakes are too high in terms of the mountain of additional debt Congress is passing on to future generations to miss yet another opportunity to send a balanced budget amendment to the States for ratification. Of course, what the Senate has concluded to do is to take up the resolution which was adopted by the House of Representatives by 300 votes, rather than to bring forth our own version of a balanced budget amendment. The reason: To ensure that we can secure passage by both Houses of the same provision and, thus, pass it on to the States at the earliest possible stage.

So if there is insufficient support for inclusion of a spending limit in the amendment itself, I believe Congress should approve House Journal Resolution 1, which we took from the House of Representatives last week and then turn to consideration of the Federal spending limit as a means of implementing the balanced budget requirement.

Mr. President, the Senate has an historic opportunity to ensure that we begin to invest in the future of the country, not just continue to borrow from it. That will take courage, the courage to say no to special interests who benefit from the status quo. We should pass the balanced budget amendment. We should pass it in the form that it passed the House of Representatives. We should then send it on to the States for their ratification, and then we should make a couple of very important points to the States.

Point No. 1, we will not pass on the costs of a high-spending Congress to the States as our way of balancing the budget. We have a plan for achieving a balanced budget, and that plan, I hope, will be adherence to a legislatively adopted implementation guideline of spending limits. Those spending limits could be tied to the gross national product, as I proposed.

We can agree to come down half a percent per year and that will get us to the 19 percent we need to be at within the 6 or 7 years that it will take to adopt a balanced budget amendment. That is a rational, disciplined, proper way to achieve the balanced budget amendment.

Those who say that we should propose our plan before we adopt the discipline of a constitutional balanced budget amendment overlook the fact that we can impose an implementation plan without all of the specifics of every single budget. There is not a one of us here who knows how we are going to balance our own household budget 3 years from now, but we sure enough know we are committing ourselves to the fiscal discipline of doing it.

We also understand the way we have to do it is to conform our spending to our income, and that is what the Congress would be doing by immediately adopting an implementation plan to achieve a balanced budget through spending limitation.

So when our colleague from Utah, the chairman of the Judiciary Committee, Senator HATCH, proudly proclaims that the balanced budget amendment has passed the U.S. Senate, I think the very next thing we should do is to say, "And here is how we are going to do it so that you States who are considering whether to adopt it or not, to ratify it, will know we mean business back here in Congress, we don't mean to pass the costs on to you." That is the second part of the two-part commitment we made to the States. The first part we already adopted as legislation prohibiting unfunded mandates.

So with those kinds of commitments from the U.S. Congress, we can be assured that the States will adopt or ratify a balanced budget amendment to the Constitution and finally put this country on the road to fiscal discipline.

Mr. President, I thank you and certainly thank the chairman of the Judiciary Committee for the many years of hard work he has put into this very important endeavor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to compliment the distinguished Senator from Arizona. I cannot tell you what it means to me to have him on the Judiciary Committee and with his broad background in the House of Representatives as well as here on this amendment.

His suggestions are very valid, and the point that he has made, I think, overwhelms some of the arguments that have been made for tax increases in this body. No matter what we do, that line stays relatively the same, which means tax increases do not always produce more revenues. Sometimes they produce less revenues. We found, as in the case with capital gains, since 1960, every time capital gains rates went up, revenues to the Government went down; every time capital gains rates went down, revenues to the Government went up. There are $8 trillion in capital assets locked up out there because people do not want to pay 28-percent capital gains.

But his chart is a very important chart. The distinguished Senator makes a very interesting and good case. I wish that we were able to take some of his ideas and incorporate them in an amendment that could get the broad support that this amendment does have. But to his credit, even though he knows that if we used the 19 percent as a line in order to balance the budget, we would probably be better off if we did that. But he also knows that this amendment is the only one that we have that we can get a widespread consensus on. It is bipartisan. It is an amendment that involves

Democrats and Republicans and one that he is willing to help support.

So I personally just want to express to him how much I appreciate him, how much I appreciate his knowledge and his explanations to us of how his approach would work if we could put it through.

I have to say that I could easily support his approach. I think it is a very, very good one, and I want to thank the Senator for being such a stalwart on this issue.

Mr. KYL. Mr. President, may I say, I thank the Senator from Utah for his very kind remarks and look forward to continuing cooperating with him in passing this very important amendment.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL EDUCATION SPENDING

Mr. PELL. Mr. President, I am deeply concerned with the rumors and talk about town regarding cuts in Federal education spending. While the Federal contribution constitutes only about 6 cents of every $1 spent in education in our country, it is a very concentrated and highly important amount of money. At the postsecondary level, it makes up 75 percent of all the grants, loans, and campus-based aid that enable deserving students to pursue a college education. In elementary and secondary education, it comprises over 60 percent of all the funds that go to help disadvantaged students learn on a level with their peers. To my mind, we should not be looking at cuts in education but, instead, should be examining how we might increase and strengthen the Federal contribution.

One of the education cutbacks receiving greatest attention is the potential elimination of the in-school interest exemption for students who obtain Federal loans to help finance their college education. Elimination of this exemption would increase student indebtedness by 20 to 50 percent. It would only worsen an already unfortunate trend in which students and their families are having to borrow more and more money. It would be the wrong step in the wrong direction at the wrong time.

Mr. President, as I have stated on many occasions, few things in life are more important than the education of our children. They are the living legacy that we leave behind and their education determines the future of the American Nation.

As part of the possible proposed spending cuts, it has been suggested that the in-school interest subsidy feature of the Federal student loan program be eliminated. This term subsidy is somewhat of a misnomer. What the phrase actually refers to is the in-school interest exemption feature of the loan program. This is a critically important feature of the loan program that shows the Federal commitment of providing help to hard-pressed middle income families. Its elimination, however, is one of the possible funding cuts in education that could be made to help pay for the Contract With America supported by the majority party in the U.S. House of Representatives. Because of this, I thought it very important not only to let my colleagues know of my strong opposition to such a proposal but also to let them know the terrible impact it would have on students who must borrow in order to pay for their college education.

In a recent letter I received, a director of financial aid at an institution in California expressed great concern over this proposed cut. He noted that eliminating the interest exemption feature will compound the already high debt levels of students.

Under the proposed cut, student loan indebtedness will increase from around 17 to 30 percent for the average undergraduate and graduate student. Elimination of the interest exemption feature will also hinder the students' ability to compete and participate in the economic marketplace if they are forced to begin their careers with such increased debt. The end result could well be an economy where college graduates cannot purchase homes or other necessities that are the economic stimulus of our society.

These harsh consequences would especially affect students from middle-class families, those same students for whom the loan program was originally designed. The ability to obtain and repay a loan is a major issue confronting college students. Increasing the amount they will owe when they finish school will most certainly affect students' decisions whether or not to attend college in the first place or go on to graduate school after undergraduate study is completed. Without the in-school interest exemption, it is estimated that students who are enrolled for bachelors degrees could see their debt burden increase by $20,000 or more.

For example a student that attends a 4-year college and borrows the maximum amount would owe $17,125. If interest is charged while the student is in school, the student would owe an additional $3,407 or $20,532 upon entering repayment. This 20-percent increase in the amount to be repaid would increase the monthly payment from $205 per month to $246 per month. The additional cost over the life of the loan would be about $5,000.

This proposal is truly penny-wise and pound-foolish. Students who today pursue graduate study would have an enormous increase in what they owe. Those same students have the lowest default rate in the loan program. Increasing their debt burden, however, will certainly increase the risk of default.

The effects on graduate students are even more profound for a student who attends 4 years while earning a bachelor's degree and attends graduate school for an additional 2 years to earn a masters degree. Upon graduation, the student would owe $34,125. If the interest exemption is eliminated, the student would owe an additional $9,167 for a total of $43,292. This represents a 27-percent increase in educational indebtedness and would increase the monthly repayment amount from $409 to $520 per month.

Every day families are making decisions about sending their children to college. Certainly one of, if not the major obstacle they face is how to pay for college. The loan is their last resort. It provides the extra but necessary money they must have after exhausting their own resources and obtaining any grants for which their children might be eligible. Increasing the amount their children owe after graduation may well place the dream of a college education beyond their reach. That, to my mind, would be a tragedy of truly immense proportions. In fact, recent studies show that the people who are the most uneasy about borrowing funds are those with low incomes. But these are the same low income students who will turn away from taking the loan because of the monetary increase. Without the funds, an education becomes an unachievable dream.

The proposal to eliminate the in-school interest exemption also comes at a particularly bad time. The cost of a college education continues to escalate at all levels, but particularly in the public sector where a previously affordable education is in danger. State after State has trimmed support for its public institutions. The result: Students and their families have had to pay more through higher tuitions and other related costs.

The need to borrow to pay for a college education is already increasing at an alarming rate. According to a recent study by the American Council on Education, the volume in the Stafford Loan Program increased by 45 percent last year, and the average loan size grew by nearly 20 percent. The study also found that the increase in borrowing over the past year was far greater than any previous year's increase.

Unfortunately, borrowing is more necessary because we have failed to provide sufficient funding for our grant programs in general and the Pell Grant Program in particular. When we reauthorized the Higher Education Act 3 years ago, we sought to extend Pell grant aid to middle income families, but the sad fact is that funding has been inadequate to accomplish that objective. The consequence has been that more and more American families have been forced to borrow more and more money to pay for a college education. Elimination of the in-school interest exemption will only exacerbate an already worsening situation.

For example, at the University of Rhode Island in my home State, borrowing increased from $8.2 million in 1988–89 to over $26.7 million in 1994–95. For the current school year alone, cutting the in-school interest exemption would add another $2 million in debt burden. That is not the direction in which we should be moving.

Mr. President, I care deeply about the education of our children. If the in-school interest exemption is eliminated, we will be removing an essential and very helpful feature of the federal loan program. I urge my colleagues to talk with college officials in their respective States and to learn just how devastating elimination of the in-school interest provision would be not only to their schools but particularly to their students. I also urge my colleagues to join me in expressing early and strong opposition to such a proposal so that it might be removed from any and all lists of education cuts under consideration.

UNANIMOUS CONSENT ON INSPECTOR GENERAL

Mr. HATCH. Mr. President, as in executive session, I ask unanimous consent that nominations to the offices of inspector general, excepting the office of inspector general for the Central Intelligence Agency, be referred during the 104th Congress in each case to the committee having substantive jurisdiction over the department, agency, or entity, and if and when reported in each case, then to the Committee on Governmental Affairs for not to exceed 20 days.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–313. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 93–9; to the Committee on Appropriations.

EC–314. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94–02; to the Committee on Appropriations.

EC–315. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–316. A communication from the Deputy Director of the Defense Security Assistance Agency, transmitting, pursuant to law, the report of the status of loans and guarantees issued under the Arms Export Control Act; to the Committee on Foreign Relations.

EC–317. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report of the analysis and description of services under the Arms Export Control Act; to the Committee on Foreign Relations.

EC–318. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–319. A communication from the President of the United States, transmitting, pursuant to law, the report entitled "Procedures Established for Effective Coordination of Research and Development on Arms Control, Nonproliferation and Disarmament"; to the Committee on Foreign Relations.

EC–320. A communication from the Comptroller General of the United States, transmitting, pursuant to law, notice of the reports and testimony for December 1994; to the Committee on Governmental Affairs.

EC–321. A communication from the Director of the Office of Government Ethics, transmitting, a draft of proposed legislation entitled "Office of Government Ethics Authorization Act of 1995"; to the Committee on Governmental Affairs.

EC–322. A communication from the Acting Executive Secretary of the National Labor Relations Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC–323. A communication from the Director of Communications and Legislative Affairs, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC–324. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–302 adopted by the Council on July 5, 1994; to the Committee on Governmental Affairs.

EC–325. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–331 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–326. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–332 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–327. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–333 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–328. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–334 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–329. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–335 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–330. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–336 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–331. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–337 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–332. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–338 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–333. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–340 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–334. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–341 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–335. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–342 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–336. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–343 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–337. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–344 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–338. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–345 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–339. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–346 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC-340. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-347 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-28. A resolution adopted by the Criminal Justice Information Services Advisory Policy Board relative to unfunded Federal mandates; ordered to lie on the table.

POM-29. A concurrent resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"ASSEMBLY CONCURRENT RESOLUTION NO. 133

"Whereas, It is appropriate that California recognize the sacrifices of all the veterans who have given their lives for their country; and

"Whereas, It is also appropriate that California give recognition to those veterans who, as citizens, have distinguished themselves in their community; now, therefore, be it

"*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the portion of State Highway Route 101 that is within the city limits of the City of Salinas is hereby officially designated the Veterans' Memorial Highway; and be it further

"*Resolved,* That the Department of Transportation is directed to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation."

POM-30. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Kentucky; to the Committee on the Judiciary.

"SENATE RESOLUTION NO. 15

"Whereas, the right of free expression is part of the United States Constitution, but very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency, as well as orderliness and productive value of public debate; and

"Whereas, certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of expression and sacred values of others; and

"Whereas, there are symbols of our national soul, such as the Washington Monument, the United States Capitol Building, and memorials to our greatest heroes which are the property of every American and are therefore worthy of protection from desecration and dishonor; and

"Whereas, the American flag is a most honorable and worthy banner of a nation which is thankful for its strengths and committed to curing its faults, and remains to millions of immigrants the universal symbol of the American ideal; and

"Whereas, recent decisions by the United States Supreme Court no longer accord to the Stars and Stripes the reverence, respect, and dignity befitting the banner of that most noble experiment of a nation-state; and

"Whereas, it is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes a proper station under law and decency; now, therefore, be it

"*Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

"Section 1. That the Commonwealth of Kentucky respectfully petitions the Congress of the United States to propose an amendment to the United States Constitution, for ratification by the states, specifying that Congress and the states shall have the power to prohibit public physical desecration of the flag of the United States.

"Section 2. That the Clerk of the Senate is directed to send copies of this Resolution to the Clerk of the U.S. House of Representatives, the Secretary of the U.S. Senate, and the members of the Kentucky Congressional Delegation."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI (for himself and Mr. WELLSTONE):

S. 298. A bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. COCHRAN:

S. 299. A bill to amend the Federal Power Act to modify an exemption relating to the territory for the sale of electric power of certain electric transmission systems, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCONNELL (for himself and Mr. ABRAHAM):

S. 300. A bill to reform the civil justice system, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL:

S. 301. A bill to provide for the negotiation of bilateral prisoner transfer treaties with foreign countries and to provide for the training in the United States of border patrol and customs service personnel from foreign countries; to the Committee on Foreign Relations.

By Mrs. HUTCHISON:

S. 302. A bill to make a technical correction to section 11501(h)(2) of title 49, United States Code; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself, Mr. MCCAIN, Mr. BRADLEY, Mr. BROWN, Mr. COATS, Mr. KYL, and Mr. MCCONNELL):

S. 303. A bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SANTORUM (for himself, Mr. BRYAN, Mr. GORTON, and Ms. MOSELEY-BRAUN):

S. 304. A bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. ROBB):

S. 305. A bill to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN:

S. 306. A bill entitled the "Television Violence Reduction Through Parental Empowerment Act of 1995"; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY:

S. 307. A bill to require the Secretary of the Treasury to design and issue new counterfeit-resistant $100 currency; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMPSON (for himself, Mr. ROCKEFELLER, Mr. THURMOND, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. CRAIG, Mr. GRAHAM, and Mr. AKAKA):

S.J. Res. 26. A joint resolution designating April 9, 1995, and April 9, 1996, as "National Former Prisoner of War Recognition Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself and Mr. WELLSTONE):

S. 298. A bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes; to the Committee on Labor and Human Resources.

THE EQUITABLE HEALTH CARE FOR SEVERE MENTAL ILLNESS ACT OF 1995

Mr. DOMENICI. Mr. President, today I rise to introduce a bill I have introduced in the past, and which has always attracted the support and encouragement of a wide variety of my distinguished colleagues. This bill is called the Equitable Health Care for Severe Mental Illness Act of 1995. It was written because a situation exists in this country that I believe cannot continue, and this situation impacts upon some of the most vulnerable individuals in society. I am speaking of the those individuals who have been diagnosed as having a severe mental illness.

For so long, society shunned these individuals out of fear, ignorance, or misunderstanding, and the afflicted and their families suffered in silence. Because society didn't know what caused these illnesses, they could only assume that the strange and perplexing behavior was the result of some action; a punishment for some sin; or a weakness or frailty in character. In the past, those suffering from mental illness were locked up, tried as witches, or banished from society for being possessed by demons or evil spirits. As late as 1972 in this country, many States singled out the mentally ill, institutionalized them, and subjected them to systematic sterilization, often without their consent or knowledge. Ignorance of these illnesses bred contempt, and the sick were seen as criminals. Some just say, "why don't they just stop acting that way?"

Thankfully, today we know better. With our increasing understanding of the human body and the composition of the brain, we have come to learn a truth far different from the superstitions of the past. We have learned that there are physiological, chemical, and biological reasons for this behavior, and that these circumstances are far beyond an individual's control. We have also learned that these illnesses are treatable, and that with the right combinations of medicinal and behavioral therapy, these people can be helped, and can frequently lead a life as normal as yours or mine.

But mental illness continues to exact a heavy toll on many, many lives. Even though we know so much more about mental illness, it can still bring devastating consequences to those it touches; their families, their friends, and their loved ones bear this as well. These individuals and families not only deal with the societal prejudices and suspicions hanging on from the past, but they must also contend with a structural, systematic discrimination that most often bars them from getting the care they need and deserve. The advancement in our knowledge of these illnesses has not been accompanied by a change in the policies of most health care insurers. Consider the following facts for a moment:

MENTAL ILLNESS—A WIDESPREAD DISEASE

One person out of every five—more than 40 million adults—in this Nation will be afflicted by some type of mental illness.

Schizophrenia alone is 50 times more common than cystic fibrosis, 60 times more common than muscular dystrophy and will strike between 2 and 3 million Americans.

Among children and adolescents, nearly 7.5 million, or 12 percent, suffer from one or more mental disorders.

DISCRIMINATION IN HEALTH INSURANCE

Only 2 percent of Americans with private health care coverage have policies that adequately and fairly cover severe mental illnesses.

Health care reform plans designed to make health care more accessible and affordable would continue the discrimination prevalent in private health insurance today. Many plans: allow 365 days for inpatient physical care but only 45 days of inpatient psychiatric care; provide unlimited coverage of office visits for physical care but only 20 visits for psychiatric care; and provide up to $1 million in lifetime coverage for physical care but only $50,000 lifetime coverage for mental health care. These are discriminations that we cannot let continue, especially if we reform the health care programs, and more particularly if we reform the insurance programs of our Nation.

Furthermore, we find that only 10 percent of all insurance policies have coverage for partial hospitalization, despite proven success in producing good outcomes while controlling costs with persons with mental illness, and 60 percent of health maintenance organizations and preferred provider organizations completely exclude coverage of some treatments for severe mental illness.

Some will immediately say we cannot afford it or that inclusion of this treatment will cost too much. But let us take a look at the efficacy of treatment for these individuals, especially when compared with the success rates of treatments for other physical ailments. For a long time, many who are in this field—especially on the insurance side—have behaved as if you get far better results for angioplasty than you do for treatments for bipolar illness.

Let me give you some facts as to efficacy of treatment in the United States today. Treatment for bipolar disorders—that is, those disorders characterized by extreme lows and extreme highs—has an 80 percent success rate if you get treatment, both medicine and care. Schizophrenia, the most dread of mental illnesses, has a 60-percent success rate in the United States today if treated properly. Major depression has a 65 percent success rate.

Let me remind everybody that when we speak of schizophrenia or manic depression, frequently we think these are the dredges of society. I would like to remind everyone that some of the greatest men and women in all of history were manic depressives. Let me give you a few: Winston Churchill. Unquestionably, he would be diagnosed today as manic depressive because he had those extreme highs, when he said he never slept and he sat around and wrote history books, and all of a sudden the black hole, 3, 4 months in a state of depression. He was able to cope with it. Most human beings with that kind of illness cannot quite cope with it. They are not dredges or imbeciles, they are not the low intellectual people. In fact, quite to the contrary.

Compare this with commonly reimbursed treatments for cardiovascular diseases. Let us talk about that for a minute.

Angioplasty has a 41-percent success rate. Treatment for schizophrenia, the dread disease, has a 60-percent success rate. We can go on with many of the other ones. There is a 52-percent effective rate for atherectomy, one of the very important kind of treatments that everybody thinks we ought to be doing.

Furthermore, the National Institutes of Mental Health estimates that primary preventive care will add $6.5 billion annually to the overall cost of mental health care. This will be offset by an overall savings of about $8.7 billion to society. That is a $2.2 billion savings. The Federal Government alone spends approximately $14 billion each year for disability payments to these individuals—25 percent of all disability payments. Clearly, helping these individuals early on with medical treatment not only makes the distribution of health care services fair, but also saves the Government and society money over the long term.

So you can see why I feel it is a necessity that we do something to resolve this situation. Frankly, without some relief, the mentally ill will continue to be denied the treatment they need. The problems associated with nontreatment will continue to escalate and these individuals will continue to operate on the margins of society.

The Equitable Health Care for Severe Mental Illness bill I am introducing, along with Senator WELLSTONE today, seeks a very simple goal: To provide, in whatever health care reform package is eventually enacted, that the Congress and the President coverage for treatment of these individuals that is commensurate with individuals that are treated and cared for with other diseases. Let me repeat that. Equity just means you will treat mental illness under insurance policies and the like just like you are treating a heart condition, a kidney condition, or whatever physical condition that we have learned to cover. And we will use the same kind of terms of medical necessity which governs and bounds the kind of treatment that is forthcoming for those illnesses.

In 1990, Congress passed and President Bush signed the Americans With Disabilities Act, recognizing that there are individuals in society whose physical needs require special protection under the law. We determined that, because of conditions beyond their control, disabled Americans, many of them, their access to services and facilities had to be made available on an unrestricted, nondiscriminatory manner. We recognize that this constituted an infringement on their civil rights when treated otherwise. We did the right thing in trying to be helpful. I believe it is time we should view severe mental illness in this same light and do the right thing here, as well.

We must take steps to protect these citizens from unfair treatment and systematic discrimination. As I circulate this bill, which I now send to the desk, and ask that it be appropriately referred, and as I circulate it to fellow Senators, I hope they will seriously consider it. It is one of the severe and serious discriminations in this society that remains alive. Why do insurance companies not cover it in broader scope? Because one insurance company eliminated it and they were able to reduce their premiums. Then another company decided if they want lower premiums, they must reduce the mental health care coverage, and on and on it went until now the situation is as I have described.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL INSTITUTE OF MENTAL HEALTH REPORT ON MENTAL ILLNESS IN AMERICA—HIGHLIGHTS

Number of people suffering from mental illness: 2.8 percent of the nation's adult population. Approximately 5 million people.

Cost of equitable coverage for severe mental illness:

Will add only $6.5 billion in new health care costs.

Will be offset by $8.7 billion reduction in health care costs and costs to society.

Will yield an aggregate $2.2 billion savings for the nation.

How effective are treatments for severe mental disorders?

Panic Disorder: 80 percent success rate.

Bipolar Disorder: 80 percent success rate.

Major Depression: 65 percent success rate.

Schizophrenia: 60 percent success rate.

Obsessive Compulsive: 60 percent success rate.

How effective are treatments for commonly reimbursed cardiovascular disorders?

Angioplasty: 41 percent success rate.

Atherectomy: 52 percent success rate.

Costs to federal government? People with severe mental disorders account for 25 percent (or approximately $14 billion) of all federal disability payments (Social Security Insurance and Social Security Disability Insurance).

Mr. KENNEDY. Mr. President, I urge all of my colleagues to pay close attention to the interventions of the Senator from New Mexico. I think for all of us who care about health care know he has been tireless on the whole issue of mental health which is affecting families in this country. All of us are in his debt for all of the good work he does in this area. He has been and a tireless proponent of the mentally challenged, and we are grateful for his leadership.

Mr. WELLSTONE. Mr. President, I am pleased to join my colleague, Senator DOMENICI, to introduce legislation on an issue that I feel so strongly about—equitable health care coverage for mental illnesses.

Let me say first that it has been a real honor to work with Senator DOMENICI as cochair of the Senate Working Group on Mental Health and I look forward to building on the tremendous progress we made last year.

For far too long, mental health and substance abuse have been put in parentheses. We didn't want to talk about it and we didn't want to take it seriously. The stigma of mental illness and substance abuse has kept many in need from seeking help, and has prevented policymakers from providing it.

While we failed to enact comprehensive health care reform during the last Congress, we did make great strides in terms of increasing awareness and understanding of the importance of parity, flexibility, and a full range of comprehensive mental health benefits.

As cochair of the Senate Working Group on Mental Health I am proud of the work we did last year. But we must act this year on the issues that we were so successful at bringing to the forefront of the debate and at reaching bipartisan agreement on.

We have a tremendous body of new evidence proving that without a doubt mental health and substance abuse disorders are diagnosable and treatable in a cost-effective manner. In fact, we can now show that within a very short period of time it costs less to treat these disorders directly and appropriately than not to treat them at all. We can say this is true based on studies of every sector of our population: Insured and employed, uninsured and unemployed, people who now use the private system and those who now use the public system.

Mental illness and substance abuse have touched many of our families and friends. And for this reason and many others this is not a partisan issue. Americans do not see a distinction between mental and physical illnesses, and they do not want them treated differently. I am proud to cosponsor this legislation, which would make it the policy of the Federal Government to provide coverage for the treatment of severe mental illnesses that is commensurate with that provided for other major physical illnesses in any form of health care reform that is enacted by Congress and the President.

And, most of all, I look forward to continuing to work with Senator DOMENICI to end discrimination against this very vulnerable population and their families. After all, it's only old data and old ideas that keep us from covering mental health and substance abuse the same way we cover any other real illness, whether acute or chronic.

By Mr. MCCONNELL (for himself and Mr. ABRAHAM):

S. 300. A bill to reform the civil justice system, and for other purposes; to the Committee on the Judiciary.

THE LAWSUIT REFORM ACT OF 1995

Mr. MCCONNELL. Mr. President, our civil justice system is unable to adequately serve the people who need it. Our legal system, over the last 30 years, has become inefficient, costly and unpredictable. People who need a forum to resolve a dispute find less and less satisfaction in our courts; they face interminable delays, contentious proceedings, and decisions that too often seem neither fair nor just. We must bring needed change to the courts before Americans lose confidence in one of the crucial pillars of our democracy.

Today I am introducing the Lawsuit Reform Act of 1995, designed to start the process for reforming our litigation system. The bill is intended to reduce some of the rewards that now exist for bringing a lawsuit and to introduce some incentives to resolve cases without resort to litigation.

Let's face it, Americans are sue happy. The United States has become a litigation prone society, with far reaching consequences: Too many lawsuits and clogged courts hurt the U.S. in the international marketplace. And, the threat of lawsuits impedes innovation and invention.

That our Nation has become a society of people too willing to sue each other is also a symptom of moral decay. Too often, we try to blame someone else for our situation, and with a lawsuit, we try get that someone else to foot the bill. So, we have to get rid of the incentives for suing, and we have to ensure that those who do suffer losses get compensated fairly for those losses. The courts need to be available for those who have real disputes, and rationality, civility and fairness must be restored to our legal system.

The bill contains a number of provisions, some of which I have introduced in previous Congresses. Other provisions represent bold new directions for our legal system. For example, reform of attorney contingent fee arrangements—that is, limiting contingent fees to that portion of an award for which the attorney undertook risk and added value—will restore the balance to the lawyer-client relationship. It will remove the enormous financial stake trial lawyers now have in their clients cases, and it will significantly reduce the $13 to $15 billion paid in contingency fees. Incidentally, this provision has the endorsement of legal scholars from Judge Robert Bork to Normal Dorsen.

Another provision, early offer and recovery, will put more money in the hands of injured parties more quickly and effectively. In return for refraining from a lawsuit, an injured party would get all of his or her economic losses paid by the responsible parties. This mechanism has the potential to break the link between the litigation system and the overuse and abuse of the health care system. If an injured party gets a commitment to have all of his or her expenses paid, then there is no incentive to inflate expenses by making unnecessary trips to the doctor. And the 57 cents of every dollar spent in the litigation system as transaction costs associated with lawyers will be significantly decreased. Injured plaintiff will get much more than 43 cents of every dollar now spent on litigation.

The bill contains a loser-pays provision, restricted only to those who can afford to assume the risk of having to pay their opponent's legal fees. And, the bill includes needed limitations on punitive damages, reforms to the collateral source rule and an end to joint and several liability.

Mr. President, I am pleased to be joined in this effort by Senator ABRAHAM. Although he is new to the Senate, he has extensive experience on this issue. Our bill contains some bold initiatives for reform. These changes will make a real difference in the legal system.

I am including in the RECORD a summary of the bill, and I will return to the floor on a regular basis to highlight the problems with our legal system and the reforms needed. I look forward to the Senate tackling legal reform in this Congress.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF LAWSUIT REFORM ACT OF 1995

THE PROBLEM

Over the last 30 years, the American civil justice system has become inefficient, unpredictable and costly. Those who need the court system to resolve their disputes face interminable delay, much of which can be blamed on frivolous lawsuits clogging the courts or upon unreasonable litigation when a settlement could be achieved.

The threat of lawsuits impedes invention, innovation and the competitive position our nation has enjoyed in the world marketplace. No nation is as litigious as the United States.

It is imperative that we restore rationality, certainty, fairness and civility to our legal system. For too long, a group of trial lawyers have prevented efforts to bring reasonable change to the legal system. Many of those who practice in our nation's courts have a vested interest in maintaining the status quo. But just as decisions about war are too important to leave to the generals, legal reform is simply too important to leave to the lawyers.

The Lawsuit Reform Act of 1995 contains a variety of options for reforming the civil justice system.

ACCOUNTABILITY IN ATTORNEYS' FEES

The legal system can be arcane and foreign to all but those who make it their occupation. Consequently, clients must rely on lawyers not only to handle their legal needs but even to tell them what their legal needs are. As a result, lawyers, like other experts in similar situations, are by the nature of their work well positioned to take advantage of those who come to them for assistance.

Most lawyers do not misuse their position. Unfortunately, however, some do. Moreover, the organized bar, which has been set up to serve as the principal mechanism for regulating such abuses, has frequently—sometimes for good reason—had considerable difficulty in drawing the line between acceptable and unacceptable conduct.

One key area where these problems are apparent is in the standard practice of taking tort cases on a contingent fee basis. Contingent fees play an important role in allowing plaintiffs to bring suit if their cases are legitimate, their chances of recovery uncertain, and their resources limited. But they have no place even where a plaintiff has limited resources if the recovery is a virtual certainty. Many tort cases are of the latter type, and the lawyers who take them know it. Nevertheless, the lawyers still take them on a contingent fee basis and collect very large fees because the plaintiff does not know it.

This section is designed to put some balance in the lawyer-client relationship. First, it requires that attorneys disclose fee arrangements to the potential client and inform the client that the contingent fee is not mandatory but an option.

In addition, it limits the collection of a contingent fee by an attorney to that portion of the award which was achieved by the attorney's work and undertaking of risk. It uses the party's own behavior to determine which portion of the award that should be by setting out limits on the attorney's contingent fee when a settlement is offered: if the attorney is retained to advise the claimant on the settlement offer, the attorney will be precluded from charging a contingent fee; if the attorney's representation results in an increased offer, the attorney may charge an hourly or contingent fee, not to exceed 20% of the increase in the offer; if the attorney obtains the settlement offer, the contingent fee will be limited to 10% of the first $100,000 and 5% of any additional amount. If the case goes to trial, the attorney's contingent fee could only be based upon the amount of the award that exceeds the settlement offer. The effect is to limit the attorney contingent fee to that portion of the case to which the attorney adds value.

Another provision requires judges, under Federal Rule of Civil Procedure 11, to impose sanctions on attorneys who file frivolous pleadings. Rule 11 was weakened in 1992 to give judges the discretion to impose sanctions.

The final provision of this section introduces loser pays in tort cases where the plaintiff seeks damages for physical or mental injury, property damage or other economic loss.

In virtually every western nation except the U.S., the loser pays for the costs of litigation. Within our own legal system, we have dozens of fee shifting laws. But these have become "one way" shifting, allowing only prevailing plaintiffs to recover their attorneys' fees from losing defendants.

This provision restores some balance in the system by setting up a two way fee shifting that requires either losing party in a tort case to pay the other's attorney's fees.

The loser pays rule is limited to the amount of fees owed by the loser to its own attorney. And the loser pay rule will not apply to those individuals and small businesses which can least afford to pay. In addition, courts would retain discretion to refuse to award attorneys' fees or reduce the award if it would be in the interests of justice.

EARLY OFFER

A lawsuit can be avoided if the injured party gets fully compensated quickly. Moreover, a defendant may be willing to pay compensation but is prevented from doing so by the need to make an offer that will also pay the plaintiff's lawyer handsomely. This section creates sufficient incentives for a prompt compensatory settlement that should overcome this obstacle.

First, it sets up a mechanism allowing the potential plaintiff to notify the potential defendants of the injury and the compensation necessary. The potential defendant will then be allowed to make an early offer to pay all economic losses, including future economic losses; if it is accepted, the matter is resolved without a lawsuit. If the plaintiff elects to prove the elements of the case beyond a reasonable doubt, including that the defendant was grossly negligent or intentionally caused the injury, the plaintiff will not be foreclosed from bringing a lawsuit.

FAIR SHARE ASSESSMENT OF DAMAGES

Defendants' liability, in the American legal system, is often based upon the ability to pay and not on the degree of responsibility. The doctrine of "joint and several liability" permits a plaintiff to recover the entire damage award from any of the defendants sued. If one defendant is judgment-proof, but was 80% responsible, the plaintiff can still get the entire judgment paid by another defendant, even though that defendant was significantly less responsible.

This section reforms the doctrine of joint and several liability and permits recovery from a defendant only for damages attributable to the person's share of responsibility. It applies to tort cases where the plaintiff seeks damages for physical or mental injury, property damage or economic loss.

ELIMINATE DOUBLE RECOVERIES

A plaintiff can recover damages without regard to money the plaintiff may be receiving from other sources, such as disability insurance or a wage continuation program.

This section would put an end to these double recoveries by prohibiting the inclusion of these collateral sources from the proof of damages. And it prohibits subrogation claims by the entities providing these collateral source payments. This provision applies to tort cases where the plaintiff seeks damages for physical or mental injury, property damage or economic loss.

PUNITIVE DAMAGES AS PUNISHMENT, NOT WINDFALL

Those accused of a crime have constitutional protection; they are informed of the charges against them and know the punishment they face.

In many cases, civil defendants face punitive damage awards that bear no relationship to the concept of punishment and deterrence and are designed to further compensate the plaintiff and his or her attorney. A reasonable limit on punitive damages will serve the public policy objective of punishment and deterrence. The bill limits punitive damages in tort cases where the plaintiff seeks damages for physical or mental injury, property damage or economic loss, to the greater of $250,000 or three times compensatory damages.

ALTERNATIVE DISPUTE RESOLUTION

Encouragement of ADR should be a focus of any civil justice reform effort. However, ADR should not become another procedural hurdle for litigants.

This section creates voluntary binding ADR. It requires, in all federal question and diversity cases, parties be told by their attorneys of ADR options. If parties agree to ADR, then they are bound by its results.

ENSURING EXPERT WITNESSES HAVE EXPERTISE

Too often, parties in a lawsuit bring in a witness asserted to be an "expert" to offer an opinion which supports a particular theory of the case. The 1975 Federal Rules of Evidence—in allowing any expert testimony that might be "helpful" to the jury—depart from the traditional standard: that expert testimony should only be admitted if its basis has "gained general acceptance in the particular field." The result has been a slippery slope to junk science finding its way into courtrooms across the nation.

This section is designed to ensure the expert witness actually has some expertise in a recognized field, and it will require the disqualification of any expert witness whose compensation is linked to the outcome of the case.

PRIVATE RIGHTS OF ACTION

Too many judges have a tendency to imply a private right of action in a law where Congress does not explicitly create it. The result is excessive litigation and a power grab by the courts never intended by Congress.

This section creates a rule of construction that federal laws which do not expressly contain a private right of action should not be interpreted to imply one.

"OPT OUT" BY THE STATES

States will retain the right to opt out of any one or more of the provisions of this Act by affirmatively enacting legislation to opt out.

• Mr. ABRAHAM. Mr. President, it is my great pleasure to cosponsor the Lawsuit Reform Act of 1995.

Last fall's election was about change. And if ever there was an area in need of change, it is the current state of our legal system.

The current system doesn't work. It is arbitrary and imposes excessive costs and long delays. It must be reoriented to bring about the proper objectives of any legal system: swift justice and fair results.

Moreover, our litigation explosion is hurting U.S. competitiveness and stifling innovation with the high costs of lawsuits and damage awards in our courts. The costs are estimated to reach $300 billion annually—about 4.5 percent of the Nation's $6.7 trillion gross domestic product. These costs are passed on to consumers, making the legal system their enemy rather than their ally.

It is time for an overhaul of the system. The McConnell-Abraham Lawsuit Reform Act of 1995 signals the beginning of my efforts to help bring about that overhaul.

The McConnell-Abraham Lawsuit Reform Act is principally aimed at one aspect of the litigation problem. Our current system contains insufficient incentives to reward settlements, and insufficient penalties for litigating to the hilt disputes that should be able to be worked out.

One cause of this is that as litigation has been exploding, more and more lawyers have sought to maximize their fees at the expense of their clients' best interests. And while the legal profession has made attempts at self-regulation, it has been largely unsuccessful in stopping this trend.

The McConnell-Abraham Lawsuit Reform Act of 1995 takes an extremely innovative approach to this problem. It empowers clients in personal injury cases by creating incentives for potential plaintiffs and defendants to get together and settle meritorious cases. It also reduces lawyers' incentives to discourage settlements by barring them from charging contingent fees in cases where recovery is all but certain. And it creates penalties for frivolous litigation, ranging from mandatory sanctions for frivolous filings to a "loser pays" rule in certain classes of cases.

In short, the McConnell-Abraham Lawsuit Reform Act of 1995 will bring our legal system closer to accomplishing its central purposes: swift and certain redress for the meritorious claimant and penalties for abusive litigation. Therefore I am proud to join the distinguished Senator from Kentucky as an original cosponsor of this excellent piece of legislation.•

By Mr. KYL:

S. 301. A bill to provide for the negotiation of bilateral prisoner transfer treaties with foreign countries and to provide for the training in the United States of border patrol and customs service personnel from foreign countries; to the Committee on Foreign Relations.

THE CRIMINAL ALIEN TRANSFER AND BORDER ENFORCEMENT ACT OF 1995

Mr. KYL. Mr. President, today, I am introducing the Criminal Alien Transfer and Border Enforcement Act of 1995, legislation to make it easier to return criminal aliens back to their country of citizenship to serve out the remainder of their sentences. I was an original cosponsor of similar legislation introduced in the House last year by Representative STEVE HORN of California. Representative HORN reintroduced this legislation in the 104th Congress on January 18. His hard work in this area is very much appreciated.

The Criminal Alien Transfer and Border Enforcement Act advises the President to renegotiate bilateral prison transfer treaties with countries which have large numbers of alien criminals in U.S. prisons. The elimination of any requirement of prisoner consent would be a primary focus of the renegotiation. As an incentive to renegotiate their treaties, this bill would allow foreign governments that renegotiate and comply with a new treaty to send their law enforcement personnel to the Border Patrol and Customs Service academies where an integrated approach to drug interdiction and border management would be developed.

The tremendous financial burden that the Federal Government and States incur to imprison criminal aliens continues to grow. The Bureau of Prisons, for example, estimates that the incarceration of criminal aliens in U.S. and State prisons costs U.S. taxpayers approximately $1.2 billion a year. Criminal aliens make up about 24 percent of the total 91,000 Federal prison population. At a cost of $20,803 per Federal prisoner, taxpayers from Maine to California to Arizona are footing the bill to incarcerate these criminals. A national approach to returning these criminal aliens home and eliminating these costs must be developed.

On a State level, Arizona knows all too well about these costs. According to the Arizona Department of Corrections, the number of criminal aliens in Arizona State prisons has increased from 596 in 1984 to 2,066 as of December 31, 1994, a 250-percent increase. Criminal aliens comprise 10.4 percent of Arizona's inmate population; that compares to a State criminal alien inmate population of 4 percent nationally. Those 2,066 criminals cost Arizona taxpayers $16,020 each, or nearly $40 million in total last year.

The logical way to reduce these costs would be to work out an agreement where a country would accept the responsibility for taking its own citizens back and ensuring that the prison term is completed before the individual is released back into his or her own country. But, current bilateral prison transfer treaties allow criminal aliens to choose whether they will serve time in the United States or their country of citizenship. As a result, the criminal can circumvent any agreement worked out between two countries or a State and foreign government. This must change.

Our Nation's citizens are shocked when they hear that this is how our Nation's prison transfer treaties work. For example, in June of 1994 I had a constituent from Phoenix write me with some good suggestions about immigration reform. In the letter he said, "Can you enlighten me as to whether or not we have a law on the books which definitely requires the deportation of aliens who commit and are convicted of felonies? * * * [Someone] told me that once the alien is convicted of a felony, he is immediately deported to the country of origin with no appeals process and no bail."

My answer to him was that this is how it should work but, because of the way our bilateral prison transfer treaties are written, I reemphasize, criminal aliens choose whether or not they are deported to their own country to serve out their sentences.

Arizona has been particularly negatively impacted by this aspect of prison transfer treaties, specifically the United States-Mexico Prison Transfer Treaty. Gov. Fife Symington and Department of Corrections Director Sam Lewis have been working with Mexican authorities and the State Department to return some Mexican inmates to serve their sentences in Mexico. But, without the elimination of the prisoner consent provision of the outdated United States-Mexico Prison Transfer Treaty, the likelihood of their return is minimal. "Of those who we have determined to be eligible under the present [voluntary repatriation] criteria, 5 percent or less have demonstrated any willingness to return [to Mexico]," said DOC Director Lewis in a recent conversation.

Something is clearly wrong when States such as Arizona, which have ideas about how to reduce the burden of incarcerating illegal aliens, are kept from doing so because the criminal does not like the idea of serving time in the prison system of his or her country.

Mr. President, this problem is not going away. The INS estimates that as of October 1992, approximately 3.4 million illegal aliens were in this country and, according to INS, that number is growing by about 300,000 yearly. In the Tucson border sector of Arizona alone, illegal immigrant apprehensions for the month of January are up 80 percent over the same period last year.

I ask unanimous consent that a table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Arizona Department of Corrections—Estimates of Alien Inmate Population and Annual Per Capita Costs

Date	Aliens—estimated number	Annual per capita cost
12/31/94	2,066	16,020
6/30/94	1,968	16,020
6/30/93	1,791	15,773
6/30/92	1,602	15,979
6/30/91	1,422	16,457
6/30/90	1,289	16,143
6/30/89	1,153	16,174
6/30/88	1,040	15,717
6/30/87	957	16,321
6/30/86	774	15,497
6/30/85	684	13,882
6/30/84	596	NA

Mr. KYL. Mr. President, nearly 600 illegal immigrants are arrested every day in Nogales, AZ. These statistics will most likely set an all-time illegal immigrant apprehension arrest record for Arizona.

Ensuring that adequate resources are allocated to stop these aliens at the border is the most important step we can take toward halting illegal immigration in this country. Renegotiating prison transfer treaties is another important step and one that will free up Federal and State dollars to go toward effective border control.

We are a land of legal immigrants and we should be proud to be and say so. But, no American, foreign-born or U.S.-born, believes we should be a land of criminal and illegal immigrants. The Criminal Alien Transfer and Border Enforcement Act will provide a necessary step to ensuring that we do not become a nation of illegal and criminal aliens. Mr. President, I encourage my colleagues to join me in urging the President to renegotiate our Nation's bilateral prison transfer treaties and to cosponsor this bill.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Alien Transfer and Border Enforcement Act of 1995".

SEC. 2. PURPOSE.

The purpose of this Act is to relieve overcrowding in Federal and State prisons and costs borne by American taxpayers by providing for the transfer of aliens unlawfully in the United States who have been convicted of committing crimes in the United States to their native countries to be incarcerated for the duration of their sentences.

SEC. 3. FINDINGS.

The Congress makes the following findings:

(1) The cost of incarcerating an alien unlawfully in the United States in a Federal or State prison averages $20,803 per year.

(2) There are approximately 58,000 aliens convicted of crimes incarcerated in United States prisons, including 41,000 aliens in State prisons and 17,000 aliens in Federal prisons.

(3) Many of these aliens convicted of crimes are also unlawfully in the United States, but the Immigration and Naturalization Service does not have exact data on how many.

(4) The combined cost to Federal and State governments for the incarceration of such criminal aliens is approximately $1,200,000,000, including—

(A) for State governments, $760,000,000; and

(B) for the Federal Government, $440,000,000.

SEC. 4. PRISONER TRANSFER TREATIES.

Not later than 90 days after the date of enactment of this Act, the President should begin to negotiate and renegotiate bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirement of prisoner consent to such a transfer.

SEC. 5. CERTIFICATION.

The President shall certify whether each prisoner transfer treaty is effective in returning aliens unlawfully in the United States who are incarcerated in the United States to their country of citizenship.

SEC. 6. TRAINING OF BORDER PATROL AND CUSTOMS PERSONNEL FROM FOREIGN COUNTRIES.

Subject to a certification under section 5, the President shall direct the Border Patrol Academy and the Customs Service Academy to enroll for training certain foreign law enforcement personnel. The President shall make appointments of foreign law enforcement personnel to such academies to enhance the following United States law enforcement goals:

(1) Drug interdiction and other cross-border criminal activity.

(2) Preventing illegal immigration.

(3) Preventing the illegal entry of goods into the United States (including goods the sale of which is illegal in the United States, the entry of which would cause a quota to be exceeded, or goods which have not paid the appropriate duty or tariff).

By Mrs. HUTCHISON;

S. 302. A bill to make a technical correction to section 11501(h)(2) of title 49, United State Code; to the Committee on Commerce, Science, and Transportation.

NONCONSENT TOW LEGISLATION

• Mrs. HUTCHISON. Mr. President, last year, the 103d Congress preempted State regulation of intrastate trucking, which was a proper policy that had my full support. However, in its breadth, deregulation swept local government regulation of tow trucks into its net, leaving local governments uncertain about their rules governing the area of nonconsent tows.

Nonconsent tows occur at the scene of an accident where the owner is unable to give consent to towing, and when a car is towed from private property without the knowledge or consent of the owner. Local regulation of emergency nonconsent tows is aimed ostensibly at protecting the motoring public at the scene of an accident to prevent a swarm of tow truck operators. Local regulation of private property nonconsent tows are consumer protection rules which generally go to how much a nonconsent tow from private property will cost and where the car can be taken.

After the passage of trucking deregulation, Senator GORTON and I introduced legislation to roll back the preemption of deregulation over tow trucks and transporters of recyclable materials. The bill passed in the Senate but was changed in the House; the legislative clock ran out before identical versions could be passed in both houses.

Trucking deregulation went into effect on January 1 and local governments have moved to comply with deregulation of towing price, route and service; however, there is still a great deal of confusion throughout local jurisdictions around the country regarding the degree to which cities can regulate nonconsent tows. Some city councils, such as the city of Houston's, have chosen to impose a 120-day moratorium on changing their regulations until Congress has had a chance to act in this area and clarify local authority.

The legislation I introduce today provides that clarification. It states that tows made at the request of a law enforcement officer or without the prior consent of the owner are not subject to the terms of the intrastate trucking deregulation, retroactive to January 1, when deregulation took effect. This will permit cities to continue rate regulation for nonconsent tows, which protects consumers that have little or no negotiating power in nonconsent tow situations. It will also permit them to utilize a system of selection for emergency nonconsent tows, if they so choose.•

By Mr. LIEBERMAN (for himself, Mr. MCCAIN, Mr. BRADLEY, Mr. BROWN, Mr. COATS, Mr. KYL, and Mr. MCCONNELL):

S. 303. A bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE BIOMATERIALS ACCESS ASSURANCE ACT OF 1995

• Mr. LIEBERMAN. Mr. President, I am introducing today, together with Senator MCCAIN and others the Biomaterials Access Assurance Act of 1995. This bill directly addresses a major threat to many of the miracles of modern medicine. By taking this small step now, millions of Americans will no longer have to worry about the supply of life-saving medical devices.

Over the next few years, public health may be seriously jeopardized if makers of the life-saving medical devices that we take for granted today are no longer able to buy the raw materials and components necessary to produce their products. The reason is an all too common one nowadays—an out-of-control product liability system.

How could this happen? Last year, as chairman of the Subcommittee on Regulation and Government Information, I held a hearing to examine this problem. Witness after witness pointed out that the current legal system makes it too easy to bring lawsuits against raw materials suppliers and too expensive for those suppliers to defend themselves—even when they were not at fault and end up winning. Because of this, many suppliers have decided that the costs of defending these lawsuits are just too high to justify selling raw materials to the makers of implantable medical devices. In short, for those suppliers, it just isn't worth it.

How could this happen? A recent study by Aronoff Associates paints a clear, but dismal, picture. That study surveyed the markets for polyester yarn, resins such as DuPont's Teflon, and polyacetal resin such as DuPont's Delrin. The study showed that sales of these raw materials for use in manufacturing implantable medical devices was just a tiny percentage—0.006 percent—of the overall market—$606,000 out of total sales of over $11 billion.

In return for that extra $606,000 in total annual sales, however, that raw material supplier, like others, faced potentially huge liability related costs, even if they never lose a lawsuit. To take one example, a company named Vitek manufactured an estimated 26,000 jaw implants using about 5 cents worth of DuPont Teflon in each device. The device was developed, designed and marketed by Vitek, which was not related to DuPont. When those implants failed, Vitek declared bankruptcy, its founder fled to Switzerland and the patients sued DuPont. DuPont has won virtually all these cases—one of the last cases was dismissed earlier this month—but the cost has been staggering. The study estimated that DuPont alone has spent at least $8 million per year over 6 years to defend these suits.

To put this into perspective, DuPont's estimated legal expenses in these cases for just 1 year would buy over a 13-year supply of DuPont's Dacron polyester, Teflon and Delrin for all U.S. makers of implantable medical devices, not just makers of jaw implants.

Faced with this overwhelming liability, DuPont decided 2 years ago to stop selling its products to manufacturers of permanently implanted medical devices. DuPont has subsequently allowed manufacturers to purchase up to 3 more years worth of raw materials.

One supplier's decision alone might not be troublesome except that there is no reason to believe that the economics will be different for other suppliers around the world. One of the witnesses at the hearing testified that she has already contacted 15 alternate suppliers of polyester yarn worldwide. All were interested in selling her raw materials—except for use in products made and used in the United States. By itself, this is a powerful statement about the nature of our American product liability laws, and makes a powerful case for reform.

There's more at stake however, here than just protecting suppliers from liability. It's more than just making those raw materials available to the manufacturers of medical devices. What's at stake is the health of millions of Americans who depend on medical devices for their every day survival.

What's at stake is the health of children like Thomas Reilly from Houston, TX, who suffers from hydrocephalus, a condition in which fluid accumulates around the brain. A special shunt enables him to survive. But continued production of that shunt is in doubt because the raw materials' suppliers are concerned about the potential lawsuit costs. At our hearing last year, Thomas' father, Mark Reilly, pleaded for Congress to move forward quickly to assure that the supply of those shunts will continue.

What's at stake is the health of adults like Peggy Phillips of Falls Church, VA, whose heart had twice stopped beating because of fibrillation. Today, she lives an active, normal life because she has an implanted automatic defibrillator. Again, critical components of the defilbrillator may no longer be available because of potential product liability costs. Ms. Phillips urges Congress to move swiftly to enact legislation protecting raw materials and component part suppliers from product liability.

The scope of this problem affects young and old alike. Take a pacemaker. Pacemakers are installed in patients whose hearts no longer generate enough of an electrical pulse to get the heart to beat. To keep the heart beating, a pacemaker is connected to the heart with wires. These wires have silicone rubber insulation. Unfortunately, the suppliers of the rubber have begun to withdraw from the market. With this pacemaker, thousands of Americans can live productive and healthy lives for decades.

Take another example, a heart valve. Around the edge of a heart valve is a sleeve of polyester fabric. This fabric is what the surgeon sews through when he or she installs this valve. Without that sleeve, it would be difficult, if not impossible, to install the valve. Without that valve, patients die prematurely.

In short, this developing product liability crisis will have widespread and serious effects. We cannot simply allow the over 7 million people who own their health to medical devices to become casualties of an outmoded legal liability system. Because product liability litigation costs make the economics of supplying raw materials to the implantable medical device makers very unfavorable, it is imperative that we act now. We cannot rationally expect raw materials suppliers to continue to serve the medical device market out of the goodness of their hearts, notwithstanding the liability related costs. We need to reform our product liability laws, to give raw material suppliers some assurance that unless there is real evidence that they were responsible for putting a defective device on the market, they cannot be sued simply in the hope that their deep pockets will fund legal settlements.

I have long believed that liability reform could be both proconsumer and probusiness. I believe the testimony we heard on this subject last year proved this once again. When fear of liability suits and litigation costs drives valuable, lifesaving products off the market because their makers cannot get raw materials, consumers are the ones to suffer.

When companies divert money from developing new lifesaving products to replace old sources of raw materials supply, consumers are again the ones to suffer. When one company must spend millions just to defend itself in lawsuits over a product it did not even design or make—for which it simply provided a raw material worth 5 cents—it is the consumer that suffers the most. Our hearing dramatically illustrated that efforts to increase compensation for the injured can sometimes come at an unacceptably high cost.

Based on the testimony we heard, I, along with my distinguished colleague from Arizona, are committed to forging a solution to remedy this immediate threat to our national public health. Today, we are introducing the Biomaterials Access Assurance Act of 1995, which will establish clear national rules to govern suits against suppliers of raw materials and component parts for permanently implantable medical devices. Under this bill, a supplier of raw materials or component parts can only be sued if the materials they supplied do not meet contractual specifications, or can properly be classified as a manufacturer or seller of the whole product. They cannot, however, be sued for deficiencies in the design of the final device, the testing of that device, or for inadequate warnings with respect to that device.

I believe that enactment of this bill would help ensure that America's patients continue to have access to the best lifesaving medical devices in the world. We must act now, however. This piece of legislation is preventative medicine at its best and is just the cure the patients need.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biomaterials Access Assurance Act of 1995".

SEC. 2. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR.—With respect to an action brought on behalf or through a minor, such term includes the parent or guardian of the minor.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(8) QUALIFIED SPECIALIST.—With respect to an action, the term "qualified specialist" means a person who is qualified by knowledge, skill, experience, training, or education in the specialty area that is the subject of the action.

(9) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(10) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(11) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 4. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this Act, a biomaterials supplier may raise any defense set forth in section 5.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this Act is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 6.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this Act applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this Act; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this Act establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this Act and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 5. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section; or

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if the biomaterials supplier—

(1) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(A) the manufacture of the implant; and

(B) the entrance of the implant in the stream of commerce; and

(2) subsequently resold the implant.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii)(I) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j); and

(II) have received clearance from the Secretary,

if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 6. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this Act, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 5(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 5(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 5(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—The procedural requirements described in paragraphs (2) and (3) shall apply to any action by a claimant against a biomaterials supplier that is subject to this Act.

(2) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(A) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(B) an action against the manufacturer is barred by applicable law.

(3) AFFIDAVIT.—At the time the claimant brings an action against a biomaterials supplier the claimant shall be required to submit an affidavit that—

(A) declares that the claimant has consulted and reviewed the facts of the action with a qualified specialist, whose qualifications the claimant shall disclose;

(B) includes a written determination by a qualified specialist that the raw materials or component parts actually used in the manufacture of the implant of the claimant were raw materials or component parts described in section 5(d)(1), together with a statement of the basis for such a determination;

(C) includes a written determination by a qualified specialist that, after a review of the medical record and other relevant material, the raw material or component part supplied by the biomaterials supplier and actually used in the manufacture of the implant was a cause of the harm alleged by claimant, together with a statement of the basis for the determination; and

(D) states that, on the basis of review and consultation of the qualified specialist, the claimant (or the attorney of the claimant) has concluded that there is a reasonable and meritorious cause for the filing of the action against the biomaterials supplier.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 5(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 5(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (3) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 5 on the grounds that the defendant is not a manufacturer subject to such subsection 5(b) or seller subject to subsection 5(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 5(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 5(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 5(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists.

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 5(d) or the failure to establish the applicable elements of section 5(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 5(b) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this Act shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

SEC. 7. APPLICABILITY.

This Act shall apply to all civil actions covered under this Act that are commenced on or after the date of enactment of this Act, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this Act.•

By Mr. WARNER (for himself and Mr. ROBB):

S. 305. A bill to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

THE SHENANDOAH VALLEY NATIONAL BATTLEFIELDS PARTNERSHIP ACT OF 1995

• Mr. WARNER. Mr. President, I am pleased to introduce legislation, along with Senator ROBB, to establish a new national park in the Shenandoah Valley of Virginia.

This legislation mirrors my legislation from last year, S. 1033, which passed the Senate by unanimous consent.

While our purpose is conventional—the preservation of treasured historic resources, our approach is innovative—a cooperative relationship between the National Park Service and private landowners that combines a mix of Federal ownership through donation of lands and protection of private property rights.

This new park will preserve and commemorate the strategic significance of the Civil War battles in the valley which occurred from 1862 to 1864. The park will consist of 1,864 acres at 10 battlefields in the valley at McDowell, Cross Keys, Port Republic, Second Winchester, New Market, Fishers Hill, Toms Brook, Cedar Creek, Kernstown, and Opequon.

The Shenandoah Valley National Battlefields Partnership Act is the product of an indepth study by the National Park Service which was authorized by the Congress in 1990. The Park Service conducted field surveys of 15 battlefields in the valley and concluded in their analysis that "because of their size and unprotected status, the battlefields of the Shenandoah Valley were its most important, most neglected, and most threatened resource."

Mr. President, throughout my service in this body, I have been actively involved in the preservation of several Civil War battlefields in Virginia. One of my first legislative initiatives was to sponsor legislation in 1980 to expand the boundaries of the Manassas National Battlefield Park by 1,522 acres. While some battlefield preservation efforts in Virginia have been accomplished by a consensus of support from local governments, the preservation community and the Federal Government, other efforts have involved a great deal of acrimony.

I am pleased that the Senate will again give approval to my legislation which represents a significant investment of time and commitment by preservation groups, local governments, and many dedicated residents in the valley.

Each party interested in fostering the protection of the Shenandoah Valley battlefields has worked diligently since the Park Service study began in 1990 to craft a consensus proposal that recognizes the limits on the Federal Government's resources to acquire substantial acreage in the valley and balances the needs of property owners and local governments to provide for their economic future.

Mr. President, during the past 2 years that we have worked on gaining national recognition for the Shenandoah Valley battlefields, I have remained committed to this effort because of the steadfast support and leadership by the many local citizens, property owners, preservationists, and local officials in the valley. They have given generously of their personal time to organize local meetings, testify before Congress, and work with the Park Service to advance our proposal.

I am especially grateful to Will Greene, formerly with the Association for the Preservation of Civil War Sites; Jay Monahan and Garland Hudgings, with the Stonewall Brigade Foundation; and many civic leaders such as June Wilmot, with the Winchester-Frederick County Economic Development Commission; Betsy Helm, with Historic Winchester Foundation; Robert Watkins, with the Frederick County Planning Commission, and Barbara Moore, with the Society of Port Republic Preservationists.

Mr. President, these are but a few of the many persons who have assumed the tremendous responsibility over the years to ensure that these historic lands remain undisturbed for future generations. It is no exaggeration to say that this legislation would not be possible today without their firm resolve and passion to preserve these battlefields.

With the passage of this legislation, they will no longer be shouldering this effort alone, but will now have the Park Service as an important partner.

While authorizing limited acquisition of 10 battlefields in the valley, most of this land will be donated to the Park Service. The central feature of this provision is to foster and encourage an atmosphere of cooperation between the Federal Government, State and local governments, property owners, and preservation groups.

We have been fortunate that the valley's predominantly agricultural land uses have provided protection for these battlefields. Permanent preservation, however, is in serious jeopardy as the rural landscape of the valley declines. With the continued pace of growth in the northern valley and the loss of agricultural lands, now is the time for the Federal Government to become a full partner in the local and private efforts to ensure that these lands remain protected for all Americans to study and enjoy.

This bill embodies many of the preservation approaches examined in the "Study of Civil War Sites in the Shenandoah Valley of Virginia." I concur with the study's finding that "* * * no single alternative is best suited to these sites. A balance must be achieved between preservation, the Valley lifestyle, and economic development * * *".

In keeping with these recommendations, I believe this bill provides the right balance for preserving these battlefields. With limited Federal ownership, and a commission comprised of local representatives and historians to recommend further additions for Federal stewardship as well as cooperative arrangements with local governments and private landowners, we are achieving the desired goal. It recognizes the rights and responsibilities of local governments to utilize their planning authorities to protect these areas. It gives the Federal Government needed authorities to provide technical assistance on options to protect these battlefields, to provide for visitor interpretation and understanding, and most importantly, to accept lands by donation or purchase only from willing sellers.

As the study proposes a mix of public funding and technical assistance and acquisition of battlefield areas, our legislation embodies these recommendations to foster a partnership between the Federal Government, local governments, landowners and private organizations.

Each will share the responsibility and will prosper from the benefits that a national park designation brings to neighboring communities.

Now is the time for the Federal Government to come forward and participate in the protection of these threatened resources.

Mr. President, there is no question about the historic value of these properties. They have a high degree of integrity and continue to tell an important story of the military strategy employed during the battles of Thomas J. "Stonewall" Jackson's valley campaign of 1862 and the battles comprising Union General Philip Sheridan's burning of the Shenandoah Valley in 1864.

Approximately one-third of the recorded events of the Civil War occurred in Virginia. Dyer's "Compendium of the War of the Rebellion" records 297 incidents of armed conflict in the Shenandoah Valley during the Civil War: 6 battles, 18 engagements, 21 actions, and 252 skirmishes. The Shenandoah Valley was the richest agricultural region in Virginia, providing provisions to the Confederate forces. In addition, the Confederates used the Valley as a natural corridor for invading or threatening invasion of the North, while the Union forces realized the importance of denying the valley's use to the Confederacy.

Mr. President, surely, these events deserve a permanent place in history, just as Manassas, Gettysburg, and Antietam.

One of the most brilliant and most studied military campaigns in history is Stonewall Jackson's valley campaign of 1862. During that campaign, Jackson's army of 17,000 men defeated three northern armies with a combined strength of 33,000 men in a single month, winning five battles: McDowell, Front Royal, Winchester, Cross Keys, and Port Republic. Most importantly, Jackson's valley campaign created a strategic diversion to draw strength from the Federal's advance on Richmond. It was General Lee who unleashed Jackson in the valley because he understood the importance of creating a diversion to keep Union troops from moving toward Richmond.

Mr. President, I would like to share with my colleagues a brief excerpt from the study which so eloquently describes the passion that continues in the valley today:

> Few regions in the United States have experienced the horrors of systematic destruction, and the memories are still close to the surface for many longtime Valley residents. Family histories are filled with stories that relate to the hardship of that time. It took a generation to repair the savages of "The Burning" and another generation before life in the Valley returned to its pre-war condition. There can be found there today a fierce pride in ancestors who survived the war and who struggled to rebuild all that was lost.
>
> The history of the Civil War in the Shenandoah Valley bears witness to the devastation and waste of warfare, but more importantly, it underscores the irrepressible human will to survive, to rebuild, to carry on. The historic events and the human players of the Valley—heroic and tragic alike—have contributed significantly to the texture of our American cultural heritage.

Mr. President, I am confident that these battlefields will make a very positive contribution to the Park Service preservation of this tragic chapter in our American history. These lands are important to our understanding of the events that occurred from 1862 to 1864 when the momentum and tide of the Confederacy's struggle turned and the Union forces began to take hold. •

By Mr. DORGAN:

S. 306. A bill entitled the "Television Violence Reduction Through Parental Empowerment Act of 1995"; to the Committee on Commerce, Science, and Transportation.

TELEVISION LEGISLATION

• Mr. DORGAN. Mr. President, today I am introducing legislation that would empower parents to deal with violence on television. Specifically, the Television Violence Reductions Through Parental Empowerment Act would require that television sets include a technical devise parents could use to block out television programs that are, in their judgment, too violent for their children.

This legislation is identical to legislation Representative ED MARKEY introduced in the House the previous Congress. I introduced this legislation in the Senate last year as well. I am introducing this bill again because I believe that we ought to consider this approach, commonly known as the V-chip bill, in the current debate over how we should address the problem of violence on television. In my judgment, the V-chip idea is an important part of a legislative response to the problem of violence on television.

I understand that the Electronics Industry Association is moving forward on developing an industry standard that will incorporate the ability to block programs based on a rating for violence into new television sets. I endorse and applaud these efforts. This private sector initiative is a very positive development. However, it remains to be seen as to whether or not such efforts will accomplish the goal of empowering parents to control television programs coming into their homes. I intend to work with the industry in this effort and I want to encourage the future of their efforts. Nevertheless, until such a standard is in place and out common goals are accomplished, I still believe that it is necessary to keep this legislation on the table.

There was a great deal of debate in the 103d Congress about television violence. Unfortunately, that debate took place, to a large extent, in congressional committees and no legislation was advanced. I think the broadcast and cable industries, along with the EIA, have all made significant efforts to address public and congressional concern with TV violence. However, I still believe that some modest legislative approach need to be considered.

I encourage my colleagues to support this legislation and in general work with me to advance a solution to television violence that enables the public and parents in particular to send a direct message to the industry. Parents and the public, and not the Government nor the industry, should have the ultimate say in what should and should not be on television The V-chip bill is a means to give consumers another tool.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 306

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Television Violence Reduction Through Parental Empowerment Act of 1995".

SEC. 2 FINDINGS.

The Congress finds the following:

(1) To the fullest extent possible, parents should be empowered with the technology to choose to block the display on their televisions of programs they consider too violent for their children.

(2) Violence now touches the lives of American children more than adults. From 1982 through 1984, teenagers were the victims of 1,800,000 violent crimes, twice the annual rate of the adult population over age 20. According to the American Academy of Pediatrics, one of every 8 deaths among children age 10–14 years old in 1990 was caused by a shooting. Among teenagers and young adults, that figure rose to one of every four deaths.

(3) Children watch an extensive amount of television. It is estimated that a child watches approximately 22,000 hours of television before finishing high school, almost twice the amount of time spent in the classroom.

(4) The amount of violence on television has reached epidemic levels. The American Psychological Association estimates that the average child witnesses 8,000 murders and 100,000 acts of violence before finishing elementary school.

(5) Three Surgeon Generals, the National Institute of Mental health, the Centers for Disease Control, the American Medical Association, the American Academy of Pediatrics, and the American Psychological Association have concurred for nearly 20 years as to the deleterious effects of television violence on children.

(6) Despite periodic television industry efforts to reduce the amount of television violence, reductions in the level of televised violence have never been long lasting.

(7) Parents who are working are unable to constantly monitor the television viewing habits of their children. Advanced television technologies such as channel compression and digitization will allow the expansion of channel capacity to levels even more unmanageable for parents who want to protect their children from televised violence.

(8) The major broadcast networks and a large number of cable channels have agreed to place parental advisories on programs they consider to be too violent for children. These parental advisories are of limited use to parents if they are not watching television with their children.

(9) The technology currently exists to equip television sets at a nominal cost to permit parents to block the display of television programs they consider too violent for children. However, this technology will only be effective (A) if all television programmers send any adopted rating or warning system electronically with the program signal, and (B) parents are able to block the display not only of individual programs but to block out automatically and simultaneously all programs with such rating.

(10) Congress calls upon the broadcast networks, independent television stations, cable programmers, and satellite programmers to protect the parental right to guide the television viewing habits of children by sending any adopted rating or warning system electronically with the program signal.

SEC. 3. EQUIP TELEVISIONS TO BLOCK PROGRAMS.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(v) Require that (1) apparatus designed to receive television signals be equipped with circuitry designed to enable viewers to block the display of channels, programs, and time slots; and (2) such apparatus enable viewers to block display of all programs with a common rating. The requirements of this subsection shall apply when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size, measured diagonally.".

SEC. 4. SHIPPING OR IMPORTING.

(A) REGULATIONS.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new section:

"(c) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(v) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section. Such rules shall provide performance standards for such blocking technology. Such rules shall further require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and blocking specifications established by the Commission. As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers. This subsection shall not apply to carriers transporting such apparatus without trading it."

(b) CONFORMING AMENDMENT.—Section 330(d) of such Act, as redesignated by this Act, is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and section 303(s), 303(u), and 303(v)".

SEC. 5. EFFECTIVE DATE.

The amendments made by sections 3 and 4 of this Act shall take effect one year after enactment of this Act.

SEC. 6. RULES.

The Federal Communications Commission, shall promulgate rules to implement the amendments made by this Act within 180 days after the date of its enactment.•

By Mr. LEAHY:

S. 307. A bill to require the Secretary of the Treasury to design and issue new counterfeit-resistant $100 currency; to the Committee on Banking, Housing, and Urban Affairs.

THE COUNTERFEITING AND MONEY LAUNDERING DETERRENCE ACT OF 1995

Mr. LEAHY. Mr. President, I rise today to introduce the Counterfeiting and Money Laundering Deterrence Act of 1995.

Counterfeit money is the cheap way for terrorists to fund their activities around the world. The opening of the trial in New York of the accused terrorists, who allegedly threatened to blow up the United Nations, FBI Headquarters, and other sites, serves as a reminder that our Nation is not immune to such activities. This bill outlines steps we should take to combat both the counterfeiting of our currency and the laundering of the estimated $300 billion per year of ill-gotten profits from drugs, arms smuggling, and other crimes.

This legislation, which Senator KERRY and I also introduced in the last Congress, would accomplish two objectives: First, it would bring our $100 currency up to date and stop letting counterfeiters have a free meal ticket. Second, it would put the squeeze on drug trafficking organizations that have to launder vast sums of money to operate—making their costs of doing business significantly higher and hopefully turning piles of their money into worthless paper.

COUNTERFEITING DETERRENCE

The currency of this country faces a serious challenge from new technologies that enable counterfeiters to turn out excellent reproductions. According to the Secret Service, overseas counterfeiting of U.S. currency has increased dramatically. For example, from 1992 to 1993, counterfeit currency detected abroad increased 300 percent.

A number of analysts believe the threat to the U.S. currency is urgent. News reports say that intelligence experts in the United States and Israel are aware of a highly skilled group of counterfeiters operating out of Lebanon's Bekaa Valley. These counterfeiters, controlled by Syria and Iran, have turned out as much as $1 billion of extremely high-quality reproductions of the U.S. $100 bill.

We must be very concerned with what nations like Iran or Syria can do with $1 billion in bogus U.S. currency so convincing that it can be passed onto the international market. Would these poor countries use this money to purchase sophisticated weaponry that challenges the security of the region or of this country? Would they use this currency in an effort to destabilize U.S. currency? Would they use it to fund smaller scale but still serious terrorist activities throughout the world? No one knows.

The opening of the Russian Republics and the Eastern Bloc has also resulted in increased counterfeiting activity. Because the situation is changing in this part of the world so fast, it is difficult to determine the amount of counterfeiting that occurs there. According to the chief of the Russian Interior Ministry's Department of Economic Crimes, the amount of counterfeit U.S. currency confiscated by Russian authorities increased 10 times from 1992 to 1993. With organized crime increasingly taking hold in the Republics, counterfeiting has become a national cottage industry according to Moscow news reports. Because of mounting inflation of the ruble, foreign currency such as the U.S. $100 bill has a special place in that country's economic system, making it particularly attractive to counterfeiting.

What makes this situation all the more pressing is that the U.S. currency is among the most easy to counterfeit in the world. Although recently updated with a deterrent polyester strip, our bills do not use the watermarks or sophisticated dying and engraving techniques that other countries employ to make it difficult to reproduce their bills convincingly. Nor do we change the appearance of our currency from time-to-time to discourage counterfeiters as other countries do.

To address this threat, this legislation requires the Secretary of the Treasury to design a new $100 bill that incorporates some of the counterfeit-resistant features that other countries have adopted. The Treasury Department has already done substantial design work on a new $100 bill, and it is the intention of this legislation to permit the Secretary to draw on that work in meeting the requirements of the act.

MONEY LAUNDERING DETERRENCE

But aside from bringing our currency into modern times to address state-of-the-art counterfeiting technology, this legislation is designed to put a full court press on money laundering. We need to realize that the international drug industry is a multibillion-dollar, highly sophisticated enterprise. A single undercover operation in which Federal agents operated a fake bank to launder money recently netted $52 million in cash and assets. If we are really going to stop international drug trafficking and terrorist activities, we need to focus more on stopping the ease with which those organizations move their money internationally to finance their crimes.

My bill strikes two blows against money launderers. First, the bill requires all existing $100 denomination U.S. currency to be exchanged within a 6-month period. This would make drug traffickers who hoard vast amounts of hard currency hard-pressed to convert their existing cash into the new money. If they cannot convert the money within the specified time frame, their funds become worthless under the bill. Even if drug organizations could somehow convert their money within the exchange period, the likelihood of their being traced by currency transaction reporting increases substantially, as does the cost of laundering their ill-gotten gains. Of course, there is an exception for hardship cases in the bill where money has not been derived from unlawful activity.

Second, the bill establishes two new versions of the $100 bill: One for use at home and one for use abroad. The only business that relies on exporting large amounts of hard currency is drug trafficking. This provision would make money smuggled out of the United States worthless, turning the tables on drug traffickers who covertly move money from the streets of this country to foreign banks who launder it without reporting illicit transactions to the Treasury.

A U.S. citizen traveling abroad who wished to bring $100 currency with him would hardly be inconvenienced by this measure: A quick stop at a U.S. bank to convert their greenbacks into differently colored foreign-use bills would be all that is necessary—just like purchasing travelers' checks. The only ones inconvenienced would be drug traffickers who would hate to exchange their greenbacks for foreign-use currency at a U.S. bank because of currency transaction reporting requirements.

To the extent drug traffickers cannot exchange their $100 bills within the timeframe and they become worthless, this is a debt against the U.S. Treasury that can be written off to finance the costs of this legislation, and further, to pay off other obligations of the U.S. Treasury.

LET'S BEGIN A DISCUSSION ON THESE ISSUES

I know there will be opposition from some quarters to this proposal. The Federal Reserve likes the current situation and believes the good-old, easily copied $100 bill provides welcome stability to the international monetary system. The banks feel burdened by the currency transaction reporting requirements. Adding new counterfeit-resistant features to bills is not costless. The Drug Enforcement Administration supports the concept but some there would prefer to go further and establish domestic and foreign use versions of all our currency.

Let us begin a serious discussion and debate on the steps we should take to address high-technology counterfeiting and money laundering. If this proposal is not the best way to go, then let's work to fashion a measure that will take strong steps against these threats. I am not comfortable with the current situation: We face the threat of potentially billions of passable counterfeit U.S. dollars going into the hands of terrorists. We must do more to cripple the big business of drug trafficking. Continuing to put our collective heads in the sand will not suffice. I encourage my colleagues and the relevant agencies and others with expertise in these areas to consider and take the steps necessary to address these important issues.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE COUNTERFEITING AND MONEY LAUNDERING DETERRENCE ACT OF 1995

Section 1. The short title of the bill is the "Counterfeiting and Money Laundering Deterrence Act of 1995."

Section 2. Findings and Purposes. Congressional findings are summarized and the purposes of the bill to combat counterfeiting and money laundering are described.

Section 3. Counterfeit-Resistant $100 Denomination Currency.

The bill amends Title 31, United States Code, with new section 5123 to require the Secretary of the Treasury, in consultation with the Attorney General and the Administrator of the Drug Enforcement Administration, to design and designate new counterfeit-resistant $100 bills for domestic and foreign use within 6 months of enactment.

The new bills must have counterfeit-deterring features such as watermarks, multi-colored dyes, holograms, sophisticated engraving techniques etc.

The domestic use bills would be legal tender only in the U.S.; the foreign use bills would be legal tender abroad only. The two types of money could be exchanged at banks subject to U.S. currency transaction reporting requirements only. The domestic use bills have distinctly different coloring from the foreign use bills. This means money smuggled out of the country to be laundered at offshore banks that do not engage in currency transaction reporting would be worthless.

A 6-month currency exchange period would begin one year from the date of enactment. Old $100 bills must be exchanged for new domestic or foreign use $100 bills within this 6-month period, or they become worthless. The bill includes a process for extending the exchange period for hardship cases.

The currency exchange must occur at banks regulated by U.S. currency transaction reporting and anti-money laundering laws or at foreign banks that the Secretary of the Treasury finds by treaty or agreement abide by currency transaction reporting laws.

The Act would be financed by using credits obtained from extinguishing the Treasury's liability for $100 bills not exchanged within the exchange period. Additional credits so generated would be returned to the general fund.

Section 4. Notice of Currency Exchange Period. The Secretary must begin notifying foreign and domestic governments and financial institutions of the upcoming exchange period within 6 months of enactment.

By Mr. SIMPSON (for himself, Mr. ROCKEFELLER, Mr. THURMOND, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. CRAIG, Mr. GRAHAM, and Mr. AKAKA):

S.J. Res. 26. A joint resolution designating April 9, 1995, and April 9, 1996, as "National Former Prisoner of War Recognition Day"; to the Committee on the Judiciary.

THE NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

• Mr. SIMPSON. Mr. President, I am pleased to join with my good friend and predecessor as chairman of the Committee on Veterans Affairs, Senator ROCKEFELLER, in introducing a Joint resolution which would recognize the service and dedication of America's former prisoners of war [POW's]. The Joint resolution would designate April 9, 1995, and April 9, 1996, as "National Former Prisoner of War Recognition day." April 9 is the anniversary of the fall of Bataan in 1942. On that day more Americans became POW's than any other day in our history.

Every American who dons the uniform of our country makes a unique commitment of service and duty to our country and to our fellow citizens. Many factors, some as random as fate itself, determine how that commitment will be realized. For some, military service may be little more than an office job here in the United States. For others, military service can combine bitter privation with the agony of combat. Perhaps no American veterans have been called upon to honor their commitment to our country under circumstances more difficult than those endured by our former POW's.

Former prisoners of war have seen combat. By definition they were close enough to the enemy to be captured; frequently after being wounded, shot down, or sunk by enemy action. But for them, the war didn't end when they were taken by the enemy, it was just beginning. At the worst, their experience was one of malnutrition, torture, and nonexistent medical care, combined with the burden of watching comrades die as fellow slave laborers while working under conditions that would make the worst villain of a Dickens novel look like a philanthropist.

Even under the best possible conditions, the POW experience places American service members in the position of being dependent upon our nation's enemies for every scrap of food, every bandage, every human need. In such circumstances, the reward for treason, or even cooperation, is high. The penalty for resistance and loyalty is immediate, frequently painful and sometimes fatal. This resolution recognizes the sacrifice and loyalty of the POW's who maintained their commitment of service to our country. In so doing, it helps fulfill the duty we have to former POW's. A duty derived from the faithful discharge of their duty to us.

Mr. President, in this century 142,257 American servicemembers have become POW's. For over 17,000 of them, the experience was fatal. They died while in the hands of our enemies. Of the 125,202 who returned to our shores, only about 62,000 remain alive today.

This Joint resolution commemorates the service of former POW's who sustained their commitment to our country under circumstances that few of us can imagine, and none would willingly endure. I ask this body to honor the memory of those who have already died; I urge the Senate to express its gratitude to those still alive; and I call upon my colleagues to join with Senator ROCKEFELLER, members of the committee on Veterans' Affairs, and myself in sponsoring this Joint resolution.•

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. BREAUX, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 141

At the request of Mrs. KASSEBAUM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 141, a bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes.

S. 210

At the request of Mr. THOMAS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 210, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of emergency care and related services furnished by rural emergency access care hospitals.

S. 227

At the request of Mr. HATCH, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 227, a bill to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes.

S. 233

At the request of Mr. MCCAIN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 233, a bill to provide for the termination of reporting requirements of certain executive reports submitted to the Congress, and for other purposes.

S. 245

At the request of Mr. COHEN, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 245, a bill to provide for enhanced penalties for health care fraud, and for other purposes.

S. 262

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska [Mr. KERREY], the Senator from Utah [Mr. HATCH], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 262, a bill to amend the Internal Revenue Code of 1986 to increase and make permanent the deduction for health insurance costs of self-employed individuals.

SENATE JOINT RESOLUTION 17

At the request of Mr. KEMPTHORNE, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of Senate Joint Resolution 17, a joint resolution naming the CVN-76 aircraft carrier as the U.S.S. Ronald Reagan.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, January 31, 1995 at 9:30 a.m. in open session to consider the nomination of Eleanor J. Hill to be inspector general of the Department of Defense.

Immediately following, the Committee will meet in closed session to receive an intelligence briefing on the smuggling of nuclear material and the role of international crime organizations; and on the proliferation of cruise and ballistic missiles.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, January 31, 1995, to conduct a hearing to look into the Mexican peso crisis and the administration's proposed loan guarantee package to Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Tuesday, January 31, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on the importance of savings in our economy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, January 31, 1995, at 10:00 a.m. to hold a hearing on consideration of ratification of the START II Treaty (Treaty Doc. 103-1).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT AND THE DISTRICT OF COLUMBIA

Mr. HATCH. Mr. President, I would like to ask unanimous consent that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Government Affairs, be granted authority to meet during the session of the Senate on Tuesday, January 31, 1995, at 2 p.m., to hold a hearing on oversight of the FDIC and the RTC's use of D'Oench Duhme.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. HATCH. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on January 31, 1995, at 10:00 a.m. on Department of Commerce Science and Technology Programs Oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE DEATH PENALTY—A PIVOTAL ISSUE

• Mr. SIMON. Mr. President, the issue of capital punishment is going to rear its head again in this session of Congress, and, once again, we will probably do what is politically expedient but is wrong.

I will continue to vote against capital punishment.

Recently, William H. Rentschler of my State, a member of the executive committee of the National Council on Crime and Delinquency, had an op-ed piece in the Chicago Tribune on the question of capital punishment. It contains so much common sense that I ask to insert it into the RECORD at this point.

The article follows:

[From the Chicago Tribune, Nov. 29, 1994]

THE DEATH PENALTY—A PIVOTAL ISSUE

(By William H. Rentschler)

Autumn of 1994 was "the killing season."

The ancient art of state-sanctioned killing clearly was a dominant issue, largely ignored in most post-election analyses of the Nov. 8 balloting.

The death penalty probably was as decisive a factor in the Republican sweep as the call for less government intrusion, even though the two are philosophical opposites.

Virtually every major winner, in upsetting incumbents, promised, in effect, to kill more human beings for an ever wider assortment of crimes, and to kill them deader and quicker.

Today, an overwhelming percentage of Americans tell pollsters they favor capital punishment, which seems to have become nearly as popular as tax cuts, Sunday afternoon football and strawberry yogurt. Which, of course, is why candidates seized on the issue with such self-righteous, drum-beating fervor.

If indeed all those elected keep their promises to enforce the death penalty more vigorously and broadly, this nation, in the final years of the 20th Century, will be witness to the greatest killing spree on American soil since the Civil War.

Never mind that:

There is no valid evidence capital punishment deters homicides and other violent crimes. Quite the contrary, homicides typically increase in the proximity of where an execution is carried out.

In our society, where the criminal justice system is erratic and uncertain, we inevitably will continue to execute some innocents.

A grossly disproportionate percentage of those who die at the hands of the state or wait their fate on death row are poor, illiterate, African-American or Hispanic. The homicide rate is highest in those states where executions are most frequent. Texas is the prime example. The death penalty no longer exists in any Western nation except the United States.

The public is angry and uptight. People are terrified and intolerant of escalating crime. Many want to rid society permanently of the slavering brutes they perceive as perpetrators of violence. A sizable majority of citizens would give the state virtual carte blanche to exterminate these beasts.

But wait. The "slavering brute" image embraces only a fraction of those who murder, maim and commit hideous, heinous crimes. Chicago Police Commissioner Matt Rodriguez states that homicides are committed in great numbers by family members, including parents and children, friends, neighbors, and business associates, than by prowling, predatory strangers. And the increasing numbers of random murders by violent, out-of-control youths, especially gang members, occur mainly in their own urban neighborhoods, according to Rodriguez.

Slight, bespectacled Susan Smith, the small-town South Carolina mother who rolled her two tiny sons to a watery grave in the family car, hardly fits the bestial profile society embraces so readily. Yet her apparent crime was monstrous and unfathomable.

Many, I believe, wish somehow the murderer would have been the black male of her fictional alibi. Then the answer would have been neat and simple; it would have fed inherent prejudice. That the killer, by her own confession, turned out to be the pathetically confused and conscienceless young (white) mother, tortured by the demons of a failed marriage, mounting bills and doomed romance, is much more complicated and challenging to our emotions, attitudes and pat, built-in assumptions.

The death penalty is so widely accepted largely because it provides a measure of seeming certainty to a society greatly frustrated by its inability to solve its most vexatious problems. But it is a simplistic answer, akin to the primitive law of the jungle. It is evidence of a society unwilling and incapable of coming to grips rationally with hard challenges.

Capital punishment makes a mockery of such noble legal canons as equal justice under law and the bedrock right of all to simple fairness.

No matter how atrocious Smith's crime, precedent tells us she almost certainly will not be executed; yet the make-believe black man of her grotesque fairy tale surely would have been found guilty and put to death if her charade had been accepted.

Los Angeles prosecutor Gil Garcetti already has announced O.J. Simpson, a rich celebrity and one-time role model, will not be executed if convicted of two murders by a jury. Nor will any murderer of wealth, fame and community standing. This confirms an old Russian proverb: "No one is hanged who has money in his pocket."

The death penalty is reserved exclusively for society's little people, its powerless, its rabble, its dregs. This alone makes capital punishment wrong in a just society.

Since we really execute very few, since the death penalty will never be a prime factor in curbing violent crime, since the nation is faced with many other nagging concerns begging for solutions, it is hardly unreasonable to say that those candidates who collectively spent countless hours and millions of TV dollars trumpeting their passionate support for capital punishment were behaving irresponsibly and short-changing voters.●

ORDERS FOR WEDNESDAY, FEBRUARY 1, 1995

Mr. HATCH. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Wednesday, February 1, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for not more than 5 minutes, each with the exception of the following Senators: Senator GRAHAM, of Florida, 20 minutes; Senator HARKIN, 20 minutes; Senator BRADLEY, 15 minutes; Senator BENNETT, 15 minutes; Senator MURKOWSKI, 15 minutes; Senator DORGAN, 10 minutes; Senator GRAMS, 10 minutes.

I further ask that at 11:30 a.m. the Senate resume consideration of House Joint Resolution 1, the constitutional amendment calling for a balanced budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. HATCH. If there be no further business to come before the Senate, and no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 6:03 p.m., recessed until Wednesday, February 1, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 31, 1995:

THE JUDICIARY

JAMES L. DENNIS, OF LOUISIANA, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE CHARLES CLARK, RETIRED.

NATIONAL COUNCIL ON DISABILITY

RAE E. UNZICKER, OF NORTH DAKOTA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1997, VICE MARY ANN MOBLEY-COLLINS, TERM EXPIRED.

HUGHEY WALKER, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1996, VICE ELLIS B. BODRON, TERM EXPIRED.

ELA YAZZIE-KING, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL OF DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1996, VICE LINDA ALLISON, TERM EXPIRED.

HOUSE OF REPRESENTATIVES—*Tuesday, January 31, 1995*

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore [Mr. GILLMOR].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 31, 1995.

I hereby designate the Honorable PAUL E. GILLMOR to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 5 minutes.

CRISES IN OUR CARIBBEAN IMMIGRATION POLICY

Mr. GOSS. Mr. Speaker, our Caribbean immigration policy is a three-sided disaster. It is a disaster for Floridians, actually for all Americans, for Cubans, and for Haitians. When the Federal Government fails to control our borders or to enforce our immigration laws, the financial responsibility for that inevitably falls to the States. Florida in fact has borne the brunt of the combined impact of the last 2 years of ineffective Caribbean policymaking and inability to enforce laws designed to create a fair and orderly asylum process which we all want.

We are talking here about hundreds of millions of dollars of unfair costs. Floridians recently applauded Senator BOB GRAHAM for his amendments to the unfunded mandates bill in the other body requiring that the Federal Government must acknowledge the cost of its failed immigration policy. No more ducking and hiding on this.

The Clinton White House has been unable to address the problems in our failed national immigration program. Perhaps it is because they are unwilling, perhaps because they do not know how. They keep repeating pledges to fix what is broken, but it is not happening.

In fact, the administration is headed in exactly the wrong direction in one important area. By negotiating and striking deals with Fidel Castro, the Clinton team is playing into the hands of what we know to be a brutal dictator who stands at the core of one of the most serious immigration enigmas we have. The White House has given him exactly what he wants, a safety valve to drive out a minimum of 20,000 Cubans a year, most of them dissidents, all headed for America, and the legitimacy that comes from a high-level dialog with the United States that gives Castro some cover. Of course, he is also getting a diversion from the internal human rights violations that are going on in Castro Cuba, including the inhumane sinking of the tugboat March 13.

Then there is Haiti where the administration's performance has been especially troubling. In what I would call a ham-handed effort to bring the military regime to its knees there, the White House slapped a brutal embargo on the poorest people in the hemisphere and then trumpeted a policy that said, "If you can make it out to international waters, we'll pick you up and give you a safe haven."

Is it any wonder that desperate Haitians came by the tens of thousands? It was a self-manufactured crisis that is now a serious infection festering under a band-aid solution.

At the height of the combined Cuban and Haitian crises this past summer, more than 30,000 Cuban refugees and thousands of Haitian refugees sat in limbo in the heat, in tent camps in Panama and Guantanamo, patrolled and operated by United States soldiers at a very substantial cost to United States taxpayers.

In the past few months, the administration has been quietly paroling many refugees into the United States, more than we know, we do not have a number, more than 1,000 from the Panama camps alone. No matter how much passion Americans have for the plight of these refugees, and we do have compassion because of the miserable situations in their countries, they also know that this type of open-ended policy creates more problems than it solves. Why? Because the Federal dollars do not flow to the places where the refugees do, and when it comes time to settle these newcomers into the United States, there is no provision for them. It discourages individuals from using the orderly asylum process that is out there, which has worked well and served this country for years. And it encourages the truly desperate to take to the high seas in their rickety, overloaded boats, and sadly we have many examples of tragedy.

It is also a losing proposition for most of the refugees. The White House has just completed the process of returning Haitian refugees to their country, the last 4,000 dramatically against their will, literally kicking and screaming, being dragged off boats. These repatriations occurred despite the protests of the Haitian Government which asked for time to set up a system to reintegrate the refugees and avoid further destabilization of the tenuous calm that exists in Haiti today. Many of these disgruntled and frightened refugees are camped out now in Port-Au-Prince demanding employment from a government that has no means to provide employment.

Likewise the Cuban refugees are still smarting from the abrupt abrogation of the terms of the Cuban Adjustment Act.

All the while the policy is failing in every direction, the bills are mounting. Look for a defense supplemental as early as next week to provide billions of American tax dollars in funds to pay for these extra missions. And we must not forget that there are more than 6,000 American soldiers at risk on the ground in Haiti while there are still more in Panama right now donning riot gear and strapping on rifles in anticipation of rioting, arson, escape attempts, and suicides among the 7,500 Cubans being moved from Panama to Guantanamo now.

What does the administration plan to deal with its Caribbean crises? Where is the focus on national security in our own backyard? It appears from the weekend papers that the Clinton administration has decided that a replacement for Joycelyn Elders in the Surgeon General's Office takes a higher priority than the search for a new CIA director or for attention on our national security. I think that says something. I think maybe it is time we paid attention to the real problems that are affecting this country and leave some of the social thoughts to another day.

GETTING TOUGH ON CHILD SUPPORT ENFORCEMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I really appreciate this opportunity because today a group of bipartisan Congresswomen that have worked for so long and so hard on child support enforcement are once again offering and putting in the RECORD our bill on tough child support enforcement. We have been trying for many years to get this country to focus on this issue.

It seems to us that everybody wants to talk about the mother and how bad the mother is, but let us realize that these children came with two parents, and let us talk about both parents having responsibility. Where is it written that the Federal Government will pick up if one parent decides to skip out? That is exactly what has been happening.

Mr. Speaker, we know that when it comes to car payments, it is unbelievable but less than 3 percent of America's car payments go uncollected. They are going to dig us up and think we worshiped our cars. Yet when we look at child support enforcement payments, let me tell you, we know that that is a devastating record.

The lowest estimate is that $34 billion went uncollected last year. Now, that is a lot of money. The reason we feel so strongly about this is that we think, had we been doing strong child support enforcement, we would not have to be worried about welfare. That is welfare prevention. Let us be perfectly honest about that. Many women are on welfare because they are the only ones supporting that child.

Mr. Speaker, our bill goes at all sorts of things. It says the Federal Government should not allow passports to people who are behind in child support. It mandates that if you are behind in child support, it gets reported to the credit bureau so people know that. It also requires direct withholding by employers immediately, so it is automatic and that is the end of it. It also says that States should not allow licenses to people who are behind in child support orders.

It is amazing how many professional people, such as doctors, are not paying their child support. Why? And States have hesitated to really go collect it because they think they will just make somebody mad and they just pass the bill on to the Federal Government.

I really wish this child support enforcement had been in the Contract With America. I do not know why they did not put it in the Contract With America. To me it is one of the things that most Americans can agree on that it makes such sense. The Congresswoman have been working on this forever and ever and ever, and it is absolutely amazing how difficult it is to move this front and center and get a focus on it.

If we are going to talk about family responsibility and we are going to talk about what families should be doing for young children, then I think we have to say that we have to use the laws of this land to make sure people take parenting very seriously. Very seriously.

I am really pleased that this comprehensive child support bill will be going in. It will be going in today. I hope every American joins with the Congresswomen in saying this is what should be at the front of the session. This is what we should be doing in these first 100 days. In fact, we should have done it 100 years ago. And we ought to get this online. We ought to get the system up where all the States are participating and sharing information.

In this great information era, it is absolutely amazing that people can cross State lines and avoid being picked up. No one else would tolerate that. I think it is long overdue that the children of this country have to tolerate that. Basically, they have had to tolerate it because they cannot vote, they are not that important, and if they are not that important a priority to this Government, then we allow it not to be an important priority to parents.

Either we mean that parents have to be responsible or we do not mean it. I think any child would much prefer having a parent be responsible than having the taint of having to rely on welfare payments, but they may go to welfare payments rather than starve, obviously.

When we look at the average welfare recipient, they are not happy about being a welfare recipient. They would much prefer this. But have you ever figured out what it costs to get a lawyer, what it costs to track people across State lines, what it costs to enforce these orders? That is why they go uncollected, because the States have not wanted to bother to do it, the Federal Government has kind of winked at it, and they have picked up the safety net that everyone fell into.

I hope every American joins with us and says, "Let's get this out. Let's get this out." We came very close to getting it out last year. Everybody talks a good game but somehow we never get it to the out box. If we make a massive effort, this is one way that we start saying parents become responsible for the children they bring into this world rather than the taxpayers become the parents of last resort. That is not a pretty picture for anyone and it just keeps generating the problems that we have seen in the past.

I hope everyone joins us in cosponsoring the bill.

Later on this week, I and a bipartisan group of Congresswomen will renew our efforts to make sure that the responsibility of fathers is not forgotten in the current welfare debate. Last Congress, the Congresswomen decided it was time for us to speak with one voice on child support enforcement. We want to hold children harmless in the economics of divorce.

Thus, the Congresswomen will reintroduce the Child Support Amendments of 1995. This bill is an improved, revised version of the Child Support Responsibility Act of 1994 (H.R. 4570), which I introduced on behalf of the Congressional Caucus for Women's Issues last June.

That bill, and the one we will be introducing this week, builds upon the 1992 recommendations of the U.S. Commission on Interstate Child Support. Its goal is to reduce the estimated $34 billion that deadbeat parents, mostly fathers, owe in child support. This bill puts teeth into the child support enforcement system so that money can be recovered and paid to the children whose economic well-being depends on these payments.

Child support enforcement is a pressing issue in our Nation. A majority of Members readily agree that immediate action is needed to strengthen our present child support system. I believe that for many families, child support payments are in reality welfare prevention measures.

In spite of a decade of congressional efforts to improve the collection of child support, deadbeat parents still fail to pay $34 billion annually. Our child support system is quickly becoming a national disgrace. Each of us has heard from constituents who face dire consequences when a child support payment does not come. The primary victims of this system are the millions of children facing lives of poverty.

Further complicating the present collection system is the rising number of parents who relocate to another State after their separation or divorce. Currently, almost one-third of child support cases involve parents who have moved to another State. The bottom line is that American children are being shortchanged by parents who fail to pay the support their children need. Our bill is a comprehensive measure which sends a clear message to deadbeat parents—whereever you are, you will no longer be able to renege on the financial responsibilities owed to your child.

The Child Support Responsibility Act will tighten the child support enforcement program and close loopholes through which noncustodial parents are able to shirk their financial duty to their children.

The central component of the Child Support Responsibility Act of 1995 is the creation of a national databank that expands the Federal Parent Locator Service and establishes a Federal Child Support Registry. This new system will allow States to access the records in other State agencies and will allow for W–4 reporting of child support obligations so that we can get to the problem of parents who cross State lines to avoid paying child support. We do not want noncustodial parents playing economic hide-and-seek from their kids.

Last session, the House passed four provisions of the Child Support Responsibility Act. We passed a bill that would significantly strengthen the Federal Government's child support enforcement mechanisms and, for the first time, individuals would have been prohibited from receiving Federal benefits or become employed by the Federal Government if their child support obligations are 3 months in arrears and they refuse to enter into a payment plan for the arrearage.

We passed a bill that would restrict the passports of individuals with child support arrears exceeding $10,000. The Interstate Commission found that collecting child support payments internationally is extremely difficult. This provision would require noncustodial parents to pay up before they fly out.

We passed a bill that improved the collection of child support payments owed by military personnel.

And finally, we passed, and it became law, a bill that was incorporated into last year's bankruptcy reform law, that designated child-support payments as priority debts when an individual files for bankruptcy, making it more difficult to escape these obligations.

These provisions, except for the ones signed into law, are in the new bill we will be introducing. Highlights of the new bill include:

Establishes a Federal Child Support Registry for all child support orders issued or modified by any State court. The Federal registry is required to compare information on all W–4 forms with information in child support orders and notify State registries of child support obligations of employees.

Expands the Parent Locator Service to provide for a national network which allows the States to access the records in other State agencies and Federal sources to locate information directly from one computer to another.

Establishes State central registries for all child support orders issued or modified and the collection of obligations.

Requires reconciliation of child support obligations and payments on income tax returns.

Establishes a National Child Support Guidelines Commission to study the desirability of a national guideline for child support orders.

Enhances paternity establishment procedures—requires State agencies responsible for maintaining birth records to offer voluntary paternity establishment services; creates a national paternity acknowledgement affidavit for the use of voluntary acknowledgement of paternity; and establishes that a signed paternity acknowledgement affidavit is conclusively presumed to prove paternity by creating a legal finding that has the effect of a final judgement at law.

Mandates direct wage withholding of child support obligations by employers when child support orders are issued or modified by State courts.

Creates a uniform child support order to be used in all cases in which income is to be withheld for the payment of child support.

Requires States to adopt the Uniform Interstate Family Support Act [UIFSA].

Restricts professional, occupational, and business licenses of noncustodial parents who have failed to pay child support.

Retricts driver's licenses and vehicle registration of noncustodial parents who fail to appear in child support proceedings.

Requires reporting of delinquent child support payments to credit bureaus.

AGAINST THE MEXICAN BAILOUT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Kentucky [Mr. BUNNING] is recognized during morning business for 5 minutes.

Mr. BUNNING of Kentucky. Mr. Speaker, the President has proposed that the United States cosign a loan for Mexico to the tune of $40 billion. But is the Government of Mexico a good risk?

The Wall Street Journal pointed out in its editorial on January 23, the problem in Mexico is bad economic policy. The Mexican Government borrowed too much and now it is suffering because it cannot meet its payments.

That inability to pay has caused a crisis of confidence in the Mexican peso which plunged in value. This, of course, had led to a wave of handwringing by the usual handwringers here in Washington, most of whom were pushing us to support NAFTA just a short time ago.

Apparently, the Mexican Government has not yet learned that free financial markets do not reward over-consumption in the form of borrowing in excess of the country's ability to pay.

Unfortunately, Mr. Clinton and his economic advisers have not learned that lesson either.

We went down this sorry road in the early 1980's when we bailed out the big banks that were too big to fail but which had greedily overextended credit to Mexico and other developing countries.

The Clinton administration would have us believe that if we simply pony up the loan guarantee, the Mexican Government will reform its policy of borrowing short term to pay for current consumption.

It is quite a leap of faith that Mr. Clinton is asking us to make. And, the leap looks even longer when you know that the Mexican Government does not even acknowledge that it has made a mistake.

The Wall Street Journal, again in its January 23 3ditorial, quoted the Mexican Foreign Minister as saying that the markets should not be taken too seriously because they are nothing more than "15 guys in tennis shoes in their 20's."

That is hardly the type of attitude that inspires my confidence to guarantee an American bailout for Mexico.

It does not seem to this Kentuckian that the working people of the United States should be cosigning a note to save those who made bad investment decisions. The big banks that made those bad decisions and those pension funds that made those bad decisions should bear the losses for their poor judgement, not the taxpayers.

A loan from the Federal Government is great—if you can get it. I am certain that Orange County, CA, could use our help. I am sure that the local governments in eastern Kentucky could do with a little help too.

We need to concentrate on helping our fellow Americans first. If we want to guarantee loans, we do not need to look beyond the city limits of Washington because our National Capital is in financial trouble.

Before we obligate ourselves to a potential $40 billion bailout of Mexico, we must have collateral from them to secure the loan. If the collateral does not cover the full cost of the loan, we should not cosign.

My guess is that short of military intervention Mexico will be no more willing to surrender the collateral today than when they would not pay American investors after nationalizing the oil industry.

As William Seidman pointed out in his companion article to the Wall Street Journal editorial, "Insuring a debtor who has a real problem is not likely to be cost free."

We cannot control the policies of the Mexican Government now anymore than we could in the 1980's; and, those are the policies which must change to restore confidence in the peso.

The potential cost of the guarantee is $40 billion regardless of who is ultimately in charge of Mexico's Government. And, I, for one, do not think that it is wise for the United States to underwrite bad decisions by Mexico and big international banks.

We should step back and let Mexico settle its problems the old-fashioned, American way: Let the debtor and creditors settle the problem between themselves, without the United States taxpayers taking a $40 billion hit.

MORE OVERSIGHT OF IRS NEEDED

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Ohio [Mr. TRAFICANT] is recognized during morning business for 5 minutes.

Mr. TRAFICANT. Mr. Speaker, I agree 1,000 percent with the former speaker, the gentleman from eastern Kentucky [Mr. BUNNING] and share in that message. Where the gentleman from Kentucky [Mr. BUNNING] says that Congress cannot control the policy within Mexico, nor for that matter any other foreign government, I wholeheartedly agree.

But what bothers me today is Congress can control the policy of the United States of America and that is why we were in fact elected. We were not elected as a Member of the British Parliament or the Israeli Knesset or the Japanese Diet. We are in fact Members of Congress.

An issue I want to talk about today is a bill that I have sponsored, H.R. 390, that is a very straightforward bill that deals with the IRS, I believe an agency of our Federal Government that the U.S. Congress has not only failed to control but has allowed to proceed without oversight in establishing not only policy which is clearly within the province of the United States of America, but rules and regulations that in fact impound and impact upon that policy and everybody seems to just be silent. Nobody wants the IRS on your back.

I am not going to go into the whole litany of Watergate, but if there was a real downside to Watergate, it was not that snooping. That happens all the time. The Nixon people happened to get caught. What bothered me, though, is reading the White House transcripts on the targeting of enemies of the White House, where the President is quoted in White House transcripts as saying, "That Congressman is on my back and I've had it. You get the FBI and you get the IRS out there and you get this guy out of the way."

We know that that goes on. We believe that it is relatively small. Most IRS agents are regular Americans like we are and they try and do a good job.

But there is a fundamental problem here. In their zeal, there are some overzealous agents. There have been Americans that have been ripped off and Congress continues to be silent.

The Traficant bill is right to the point. In certain civil proceedings, the only agency of the Federal Government that can waive the Constitution and its Bill of Rights is the Internal Revenue Service, because in certain civil proceedings in courts of law, the burden of proof is on the taxpayer to prove they are not guilty and they are in fact innocent. That is unheard of. How did this thing evolve?

Just on a matter of fairness, if there were not cases that speak to this dilemma that we face, how could this have evolved, Congress?

□ 0950

Where are rules and regulations being promulgated behind closed doors by bureaucrats without congressional oversight able to basically change the basic tenet of our Constitution?

I want to give my colleagues one example, David and Millie Evans of Colorado. IRS said you owe us $40,000. We are going to lien your property unless you pay. David and Millie Evans said we do not believe we owe that money. About a month later the IRS called back and said we made a mistake; it is $100,000.

The Evanses got together at the IRS, they came to a settlement agreement, $22,000, and the Evanses wrote the check for $22,000. Another group in the IRS said we did not receive the check. It is a moot point. We want the $100,000.

The case went to court. They lost their business, their home was liened. They spent a ton of money on attorneys, and finally a court said the Evanses are in fact innocent.

The IRS appealed the case by saying the judge wrongfully instructed the jury. He told the jury that the burden of proof in this case was on the IRS to prove their case, but under this proceeding the burden of proof is not. The IRS said the burden of proof is on the Evanses and the case should be overturned and vacated, and it was.

The Traficant bill was not getting looked at too much because most Members want to say, "I can't believe the IRS has that power; come on now."

That was a court case. We have documented cases of suicide, we have documented cases of Americans that are simple told, "Prove it."

I think it is very simple, ladies and gentlemen, if the IRS has a case, and IRS has money coming, taxpayers of America want the Internal Revenue Service to collect that money. But I think we have created an agency that is a little bit out of control and too much for those people, including Red Skelton, who said we have a gestapo unit in Washington known as the Internal Revenue Service. I think Red Skelton an awful long time ago was trying to tell Congress about something that was building in our country.

Finally, Mr. Speaker, average Americans are frustrated with our Government. Many cannot articulate it, but one thing they know for sure, they know that the Internal Revenue Service has gone beyond the control of Congress. I hear many Members that say, "Look, Jim, I don't want to get involved in that case."

Well, your taxpayers are. Congress should be.

VOTING ON THE ISSUES AMERICANS DEMAND

The SPEAKER pro tempore (Mr. GILLMOR). Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Washington [Mrs. SMITH] is recognized during morning business for 2 minutes.

Mrs. SMITH of Washington. Mr. Speaker, this is an exciting time in America's history. The Congress has been moving quickly on the contract. It has been interesting, as just a regular person out in the world until this point, I have always had the perception that Congress talked and did not do.

We have watched this Congress step up and make major congressional reforms from its very first day. And just last week we did what voters have been asking for as long as I can remember any political debate. We passed a balanced budget amendment. And we required that Government operate in the Black for the first time by 2002.

We have to have a balanced budget. This was a major part of the commitment that we made to the people in the contract. Again, we took another step to keep our commitments, something that seemed to be again to me as an outsider looking in something Congress did not do in the past that was on Thursday.

On Friday we took a much-needed second step. I, along with other freshmen and leadership, announced plans to introduce a second constitutional amendment, one that would restrict Congress' ability to raise taxes. This is what the Barton amendment would have done if it had passed last week. Unfortunately, not enough lawmakers would vote for it.

Seven percent of the Republicans voted for it. It needed a supermajority vote, and only 16 percent of the Democrats would vote for it.

I want to tell my colleagues I do not think what the people want has changed just because we refused to do it last week. The American public wants a balanced budget amendment. They also want the peace of mind that Congress is not going to pass a balanced budget on the backs of the taxpayers, reaching into their back pocket again for all of the wonderful things that we think should be done for them.

They want us to make the tough fiscal decisions, clean house, get rid of inefficiencies, downsize, and yes, even the unspeakable, get rid of some of the agencies that are just bureaucracy.

For that, we are going to have this amendment up for a vote next April 15, and I think by then the American public can make sure that that happens, if constituents put pressure on their legislators.

THE REPUBLICAN LEADERSHIP AND NEWTSPEAK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. STARK] is recognized during morning business for 3 minutes.

Mr. STARK. Mr. Speaker, we obviously have entered the world of "Newtspeak." Unlike some of my colleagues, I do not have lapses in how to pronounce important messages.

But the Speaker of the House has decided to drag the Medicare system into the world of Newtspeak and is suggesting a program that would rethink Medicare from the ground up.

If I were going to cut $200 billion out of Medicare I would have to rethink it from the ground up too because I would have destroyed it, and that is exactly what the Speaker suggested in a speech over the weekend. He said that Medicare is the opposite of how America works. And I suspect that is true, if you are a Republican American.

America does not work by having Golden Rule Insurance Co., be 1 of the 10 largest donors to GOPAC and then have the whole structure of the American Congress in its first 100 days deciding to revise the Medicare system for the convenience of certain insurance companies.

I would like to bring the discussion of Medicare back to earth because it is the finest system in the United States. It has less than a 3-percent overhead.

And the Speaker, in his speech, suggested we ought to give American seniors more choice. There is no program in the United States that gives its beneficiaries more choice than Medicare. If you are Medicare beneficiary you can go to any physician or any hospital in the United States if you can walk, ride, hitchhike, or have the bus fare to get there.

And there are hundreds of managed care plans which are available to Medicare beneficiaries. As we speak today there are three or four dozen applications for new Medicare managed care programs to be opened to seniors. There is no insurance policy in the country that gives greater choice.

Why are we discussing at this point the idea of turning Medicare into a voucher program? I submit it is political payback time, and it is a way to finance 200 or 300 billion dollars' worth of the cuts.

The first hearing we had in the Committee on Ways and Means was a proposal on the first day of Congress to take $70 billion out of the Medicare Trust Fund. For what purpose? To finance tax cuts for the very 2 or 3 percent of the richest Americans in our country.

This is Newtspeak. This is not how America operates, giving money to the rich, and taking it out of the trust fund that supports a medical care delivery system for the most fragile, needy people in the United States.

Ladies and gentleman, Medicare is one of the wonders of our Government. Maybe many things do not work well and maybe many things are not efficient, but understand we have fewer than 4,500 bureaucrats serving 5 million people, and there is no insurance company in the country that comes close to that efficiency.

CHILD SUPPORT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from California [Ms. WOOLSEY] is recognized during morning business for 2 minutes.

Ms. WOOLSEY. Mr. Speaker, each year, over $5 billion in child support goes uncollected. This is a national disgrace that is punishing our children and bankrupting our welfare system.

Mr. Speaker, I know personally just how important child support is because, in 1968, I was a single, working mother who never received a penny in child support. In order to provide my children with the health care and child care they needed, even though I was employed, I was forced to go on welfare to supplement my wages. Today, millions of American families rely on welfare for exactly the same reason.

Mr. Speaker, currently, almost 1,500 State and local agencies are charged with collecting child support. Consequently, less than $1 for every $10 owed in interstate child support is collected.

A comprehensive welfare reform plan must recognize that the failure to collect child support is not a State-by-State problem, it is a national crisis demanding a national solution.

Mr. Speaker, let us make sure that families—families like mine—are not forced to go on welfare because they have not been given the child support they need and deserve.

We must insist that child support be front and center in the welfare reform debate.

IMPROVE CHILD SUPPORT ENFORCEMENT SYSTEM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Connecticut [Mrs. KENNELLY] is recognized during morning business for 2 minutes.

Mrs. KENNELLY. Mr. Speaker, the streets of America, as the Halls of Congress, have been filled with calls for young mothers to be more responsible, not to have children when they cannot take the responsibility for those children, to certainly cooperate and establish the paternity of the child's father. We hear this and we agree with this, but we really want to know, particularly in the contract, where are the demands for fathers to be responsible?

We must clearly say that both parents have an equal and unavoidable responsibility to provide for their children. The taxpayers want to provide for their own children, not for other people's children.

We have to insist that we have both parents responsible, because if we do not collect child support, we will have more people on Aid to Families with Dependent Children rather than less people.

Recently the chairman of the Ways and Means Subcommittee on Human Resources, the gentleman from Florida, Mr. CLAY SHAW, has come forth and said yes, we will take up the issue of child support enforcement. He was reacting to the strong suggestions by many people who have worked on this issue for years, particularly the Women's Caucus, to see that child support enforcement travels along with welfare reform and we look forward to seeing these provisions in print.

But we have to be very careful we do not just say do a block grant for child support enforcement. The very strength of child support enforcement these last few years is having a Federal approach. The way in which a young father or father can get away from the responsibilities to his children is merely to move, go across State lines and then it is almost impossible, unless you have a Federal directive to be able to get the individual to pay their support responsibilities to their children.

So I certainly hope child support enforcement travels along with welfare reform. I hope we can accomplish both, but to do this we must do it in the right way.

We have had a National Commission on Child Support Enforcement that has come forward with some marvelous suggestions about interstate tracking of where the father is working. So I would suggest to the gentleman from Florida [Mr. SHAW] that he look at the Commission's recommendation about interstate child support enforcement. There are wonderful suggestions there. Suggestions that will work and have been put into bill form.

The work has been done. Let us put it into law as we do child support enforcement along with welfare reform.

DEMOCRATIC PARTY'S EXCELLENT LEGISLATIVE HISTORY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Pennsylvania [Mr. FATTAH] is recognized during morning business for 5 minutes.

Mr. FATTAH. Mr. Speaker, today I continue my endeavor to refresh and remind my Democratic colleagues of the excellent legislative record we have created over the past 40 years.

Last week, I began this series of floor speeches with the 84th Congress. Ike was President and the Democrats had just taken control of the House of Representatives.

The 84th Congress raised the minimum wage, ratified the Southeast Atlantic Treaty Organization, established peace with Austria, and freed Germany from allied occupation. The Democrat Party did this and more.

Today, Mr. Speaker, Democrats are often chastised as the party of intrusive government and personal dependency. Today, I will cite examples from 85th Congress and provide historical evidence that counters these misconceptions.

Between 1957 and 1958, our country was rebounding from fighting World War Two and the war in Korea.

The United States was able to do this while engaged in the cold war with our Communist adversaries. Also during the 1950's, our Nation emerged as a world superpower and Congress joined the civil rights battle. The 85th Congress confidently and effectively addressed these pivotal national issues.

The threat from the Soviet Union was crystallized in 1957 when the U.S.S.R. launched the Sputnik satellite.

To address this menace from the sky, the Democratically controlled Congress established the National Aeronautic and Space Administration to direct the Nation's outer space program.

In 1958, Mr. Speaker, this Congress passed the National Defense Education Act. This act is probably the most important human investment program undertaken in our Nation's history.

Because without it, millions of Americans would not have been able to go to college.

In addition, this act improved the teaching of science, mathematics, and foreign languages to our children. It provided an educational foundation which enabled the United States to put the first man on the Moon in 1969.

However, the accomplishments of this Congress were not restricted to the heavens. The 85th Congress passed the landmark Civil Rights Act of 1957. This act created the Commission on Civil Rights and a new Civil Rights Division in the Department of Justice, laying the foundation of the Federal involvement in protecting civil liberties and individual civil rights.

Building on the 84th Congress' passage of the Interstate Superhighway Program, the 85th Congress, passed both the Federal Highway Act and the National Transportation Act. These two acts expanded road building programs and provided loans to the Nation's failing railroads.

Both of these actions created opportunities for American businesses to expand and compete both here and abroad.

The Democratic party has always believed in investment—investment in human capital and in physical and financial infrastructure.

Over these 40 years the Democratic Party has demonstrated a strong commitment to providing the necessary resources to educate children, to defend constitutional rights and to expand our national transportation systems.

The return on these investments are clear and indisputable. Investments made 40 years ago continue to yield results today.

As a party we should not be fearful of committing these necessary resources and redirecting our efforts into helping every citizen of this country.

As we enter the 21st century, this commitment to human investment will ensure that every American is equipped to reap the benefits of national prosperity.

Mr. Speaker, these are just a few examples from the 85th session of the U.S. Congress. Promoting our country, preserving our national interests and protecting individual rights have always been part of the Democratic Party's legacy. As a Member of the Democratic Party, I strongly urge my colleagues to regularly remind themselves of the fundamental commitments that make us Democrats.

We must allow these commitments to guide us in our actions. I urge my colleagues to examine the historical records, to see what our party has achieved and to allow this vision to carry us into the future.

CHILD SUPPORT NOW

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Massachusetts [Mr. NEAL] is recognized during morning business for 5 minutes.

Mr. NEAL of Massachusetts. Mr. Speaker, today is day 28 of the Contract With America. We have passed the quarter mark for the fist 100 days. Until day 27, we heard nothing about child support being included in the contract.

In the past, we heard child support is important and would possibly be addressed at a later date. Why was child support not an original provision of the Contract With America? How could we possibly delay acting on such an important issue?

I was under the belief the contract was to benefit all Americans. If we are going to benefit all Americans we really have to have provisions which help our children because they are our future. I have carefully reviewed the Personal Responsibility Act and there are no child support provisions.

As I have stated before, welfare reform cannot be successful without child support. Child support is the cornerstone of welfare reform. Strong child support enforcement provisions are necessary.

When I reviewed the Personal Responsibility Act, my initial reaction was the legislation punished women and did not require men to face up to their responsibilities. Without taking action on child support, we would require young mothers to be responsible while we give fathers a free ride. This is the wrong message to send.

We have to send a message to the American people that we are serious about welfare reform. A tough child support system requires both parents to live up to their responsibilities.

On day 27, we heard the Republicans will include child support enforcement provision in the Personal Responsibility Act. We had to wait until day 27. Where were the child support provisions? What message was being sent to the American people? Was the message, Fathers do not really need to be responsible?

How could we have welfare reform without child support enforcement provisions? Child support is welfare prevention. For every $1 spent on administrative expenses, $4 is collected in child support.

On day 27 we heard child support would be included in the Personal Responsibility Act. I am pleased the Republicans have finally recognized the importance of this issue. Today, 63 percent of absent parents contribute no child support. We can and need to do better than this.

The potential for child support collection is estimated at $48 billion per year. Only $14 billion is actually paid. This leaves an estimated collection gap of about $34 billion. This gap needs to be closed. It was not until day 27 that it was decided to address the issue of closing this $34 billion gap.

One in four children now live in single parent homes. Without better child support enforcement, too many of these children will not have the support they need and deserve. In 1992, 17.6 million children lived in single parent homes. We need to improve these statistics now.

My home State, Massachusetts, has been very successful with child support enforcement and would serve as a role model for the rest of the country. Massachusetts has increased its child support collection rate from 51 to 67 percent over a 3-year period. We must make an improvement on the Federal level.

On day 27 we heard child support enforcement was going to be included in the contract. It is day 28 and we do not know what type of child support provisions will be included.

A comprehensive child support strategy is necessary to help parents become less dependent on AFDC and stay in the work force. A comprehensive child support strategy needs stronger requirements for paternity establishment.

Out-of-wedlock births have increased at an outrageous rate. In 1991, approximately 30 percent of all children born were born to unwed mothers. These children need to be given a fighting chance. There is no such thing as an illegitimate baby.

It's day 28 of the contract. Let us work together to address the issue of child support enforcement. We need to work to establish awards in every case. We need to streamline the paternity process. We need full cooperation from the mother.

We need to ensure fair award levels. Awards are generally set too low. If awards were modified to current guidelines, an additional $7.3 billion, 22 percent of the gap, could be saved.

We need to establish a national commission to study State guidelines and the desirability of uniform national guidelines.

We need to collect the awards that are owed. We need States to have a central registry and centralized collection and disbursement capability.

It is day 28 of the contract. We need to send a message to the American people that we are serious about child support enforcement. Ignoring child support enforcement sends the wrong message. It says that the noncustodial parent who is one-half responsible for the birth of a child does not have any responsibility for supporting that child. We cannot send this message.

We need tough new penalties for those who refuse to pay such as wage withholding, suspension of drivers' and professional licenses, and property seizures.

It is day 28 of the contract. Child support is finally starting to receive the recognition it deserves. Let us not stop now. We have to work together to close the $34 billion gap.

□ 1010

MORGAN COUNTY, WV, NEEDS ASSISTANCE FROM CONGRESS

The SPEAKER pro tempore (Mr. GILLMOR). Under the Speaker's announced policy of January 4, 1995, the gentleman from West Virginia [Mr. WISE] is recognized during morning business for 3 minutes.

Mr. WISE. Mr. Speaker, I come before you today to ask this body to help make government make some common sense.

Let me announce something to you right here: Last week by order of the Morgan County Commission, and Morgan County is a rural county about 2 hours' drive from here, a beautiful county, and Berkeley Springs many of you know for its waters, by action of the Morgan County Commission, Federal overflights are now prohibited in Morgan County airspace. Everyone laughs and says, "How can Morgan County do that?"

You understand, of course, the Morgan County Commission understands it cannot deny airspace. Only the Federal Aviation Administration can do that. It is trying to send a message, and the message is this: "Why will not the U.S. Air Force, the Air National Guard, pay the $10,886.20 that it owes to the Morgan County Commission when the Morgan County Commission and the emergency responders in Morgan County responded to the Air Force's need?"

Basically the story is this. In 1992 we suffered a real tragedy in the eastern panhandle of our State, when one of the C–130's from the 167th Air Wing based in Martinsburg crashed in Morgan County. Six crewmen were killed.

The county and, or course, the entire eastern panhandle responded immediately with emergency response and all the cleanup that needed to be done afterward as well as reaching out to the families and to the 167th Air Wing. The air wing and the members of the 167th Air Wing are not at issue here. What is at issue is what some bureaucrats in Washington is telling the Morgan County Commission, that despite the effort, despite the spontaneity, despite the outreach, despite the considerable resources expended by the Morgan County Commission by the emergency providers in Morgan County, the Air Force will not now reimburse $10,886.20 for containment and cleanup of hazardous materials at that crash site.

This is not a county that can easily afford this kind of expenditure.

Now, what is the cost here, the 10,886.20? For the Air Force it is going to be less than the litigation to litigate this issue. For the Air Force, it is going to be less than the public relations debacle that they are going to suffer. For the Air Force, I suspect it is probably less than five rivets on a B–2 bomber.

The problem with the Morgan County Commission is that when they submitted this voucher, they did not add enough zeroes. That is my opinion. If they had put two more zeroes, made it $100,000, maybe made it $10 million, probably somebody would have paid it without a blink of an eye. That sounds reasonable. They did not pad it, did not add zeroes, did not add to it. They just asked to be reimbursed for what they expended.

I am asking this body to help send a message to the Air Force. We think you owe Morgan County $10,886.20. We think you ought to show the small and large communities across this country when they do respond you will be there to help them and to help reimburse them for their efforts. We think you ought to show Morgan County that, yes, they are entitled to this which they have waited 2 years for already and how many more years to go.

I ask this body's help in having the Air Force and the Air National Guard in Washington respond with some common sense.

I will keep you posted, Mr. Speaker, because I have a feeling this saga has not ended yet.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 11 a.m.

Accordingly (at 10 o'clock and 18 minutes a.m.) the House stood in recess until 11 a.m.

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. BARRETT of Nebraska] at 11 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious and loving God, You have created us in Your image and given to us the very breath of life, be with all people who call upon You for healing and strength and assurance. We know that the maladies of life confront people of every age but we believe too that there can be healing and recovery and that we can be renewed by the power of Your hand. May we be receptive to Your presence, O God, and open to Your good spirit that in all things we may know Your peace that passes all human understanding. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Minnesota [Mr. GUTKNECHT] come forward and lead the House in the Pledge of Allegiance.

Mr. GUTKNECHT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, our Contract With America states; on the first day of our Congress, a Republican House will: Force Congress to live under the same laws as everyone else; cut one-third of committee staff; and cut the congressional budget; we have done that.

It goes on to state that in the first 100 days, we will vote on the following items: A balanced budget amendment—we have done this; unfunded mandates legislation, under consideration now, line-item veto; a new crime bill to stop violent criminals; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for families to lift Government's burden from middle-income Americans; national security restoration to protect our freedoms; Senior Citizens' Equity Act to allow our seniors to work without Government penalty; Government regulation and unfunded mandate reforms; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature once again.

Mr. Speaker, this is our Contract With America.

THE PUNISHMENT IS NOT COMMENSURATE WITH THE CRIME

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON of Florida. Mr. Speaker, in the Rubaiyat of Omar Khayyam, by Edward FitzGerald, he wrote:

> The moving finger writes; and having writ,
> Moves on: Nor all your piety nor wit
> Shall lure it back to cancel half a line,
> Nor all your tears wash out a word of it.

Mr. Speaker, on this floor, the spoken word is just as indelible as the written word.

A Member may defame anyone he chooses—the President of the United

States, the Speaker of the House, the minorty leader—with total impunity. The offending party may have his words stricken and be prohibited from speaking for 24 hours. But the punishment is not commensurate with the crime, particularly when the words are perpetuated on C-Span and the nightly three major networks.

Mr. Speaker, I strongly recommend the majority party seriously consider amending its rules to have a more severe expedited penalty for the sake of civility and also for the sake of this body, particularly when abusive language can be repeated in lieu of an apology.

A LEGISLATIVE FOUR CORNERS

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, instead of coming out and going head to head on the issues, a lot of our Democratic colleagues have decided instead to take the air out of the ball and go into a sort of legislative four corners.

You remember the four corners, don't you, Mr. Speaker? It is a stall-and-delay tactic that inferior basketball teams would often employ against better teams. The idea being if the better team never had the ball they couldn't score. Of course, that was before college basketball instituted the time clock.

And that is what we are seeing on the other side of the aisle, as Democrats offer one frivolous amendment after another in an attempt to derail not only the unfunded mandates bill, but the entire Contract With America.

I am afraid I really do not understand the Democrats' tactics. Do they really think their legislative four corners will make the American people yearn for bigger government? Will it somehow make Americans wistful for higher taxes?

Mr. Speaker, to my friends on the other side I say come on, get in the game.

TRIBUTE TO THE CHAMPION SAN FRANCISCO 49ERS

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, picking up on the sports theme from our colleague from Arizona, Mr. Speaker, I rise with great pride to praise the San Francisco 49ers organization, to Eddie DeBartolo, Carmen Policy, and Coach Seifert.

Mr. Speaker, on Sunday California had a great day, it sent two great teams to the Super Bowl, where they were received magnificently by Miami. And, with all the admiration in the world for the San Diego Chargers, I say we are so proud of the San Francisco victory. It was a joy to see a litany of records broken one after another; five for five, five times at Super Bowl, five victories as six touchdowns by Steve Young, most post-season receptions by Jerry Rice, three touchdowns—you know the story—Ricky Watters. The list goes on and on. We are so proud.

The coach of the San Diego Chargers probably said it best when he said, "I think San Francisco is a great football team, maybe one of the best of all times. I don't know what we were—maybe we were awestruck." Awestruck for San Diego, awesome for San Francisco, all-time great team. I am very, very proud to join my colleagues. I see Congressman GEORGE MILLER and my other colleagues from the Bay Area to help salute the all-time great San Francisco 49ers.

REAL OSHA REFORM

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, the main goal of the Contract With America is to make Government smaller, less costly and less intrusive. And there is probably no better way to do this than to address the question of OSHA. When OSHA first issued its safety regulations in the 1970's one provision required workers on bridges to wear orange life vests. As Dr. Kip Viscusi commented in 1983, "The ineptness of OSHA's enforcement is epitomized by the fact that one company fined for violating this standard maintained that this requirement was unrelated to worker safety because the channel under the bridge had been diverted." There was no water. It was dry. Yet the company was fined because these workers did not have life vests on. But they needed a trampoline, not a life vest. Some idiot at OSHA decided they should fine the company anyway.

Listen to the concerns of America's employers and workers, and it is obvious OSHA has not improved since Dr. Viscusi wrote those words.

In this Congress I introduced a measure in order to do this. It is time for real OSHA reform now.

A LOAN TO MEXICO: BAILING OUT EVERYONE BUT OUR CONSTITUENTS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, let us see if I understand this: Orange County, CA filed bankruptcy, the District of Columbia is technically bankrupt, and the President and Congress at the highest levels are talking about bailing out Mexico.

And Wall Street agrees and the banks agree. Would you not? Forty billion dollars for Mexico takes the banks off the hook, it takes Mexico off the hook, it takes Wall Street off the hook, and it puts your constituents and mine right on the platter, right in the frying pan.

That is good old American policy: "Take care of everybody overseas and forget our own."

I say, Members, let us not forget when Mexico nationalized the oil industry and screwed American investors. Man, and they did not even say "I am sorry."

Think about it, Congress. If we have got $40 billion to bail out anybody, how about your city, my city, any city, U.S.A. How about good old America for a change.

IT'S TIME TO GIVE THE PRESIDENT THE LINE-ITEM VETO

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, the Chinese philosopher Lao Tsu said that, "the journey of a thousand leagues begins with a single step."

Last week this House took a giant step toward fiscal sanity by passing the balanced budget amendment.

Later this week, the House will begin debate on giving the President the line-item veto. This is, to be sure, a powerful tool in the hands of our Chief Executive. Some will argue the potential for abuse.

But, my colleagues, 43 Governors have similar authority.

□ 1110

The real value of the line-item veto rests in the knowledge that the Executive has the power and will use it if he sees wasteful spending. Rather than see the line-item veto as a weapon, perhaps we should see it as a tourniquet, a tourniquet that will help us stop the hemorrhaging of red ink. With the national debt ballooning at over $10,000 a second, it is time we attack this issue on every front. It is time to give the President the line-item veto.

WHAT A LIST

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, Terry and Mary Kohler: $715,457.

Richard Gilder, Jr.: $310,000.

Roger Milliken: $255,000.

These are but a few of the heavy hitters who have contributed to Speaker GINGRICH's personal political machine, GOPAC. Is it any wonder the Speaker wants to keep this list a secret?

The Los Angeles Times succeeded yesterday in doing what the Federal Election Commission is attempting to do in the courts, revealing the contributors to GOPAC and what their interests are in legislation before this Congress.

What does the contributor get for $715,000? Only an outside independent counsel can tell us for sure.

The lists of questions about the Speaker's financial dealings get longer and longer. I ask, "Isn't it time we get an answer?"

We need an outside counsel. We need one now.

REPUBLICANS ARE KEEPING THEIR PROMISES

(Mr. FOX of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, what a difference 3 weeks can make. Since January 4, the new Republican-led Congress, under the leadership of NEWT GINGRICH, has cut the number of committees and subcommittees, cut the number of committee staffs by one-third, limited the terms of committee chairmen, ended the dishonest practice of baseline budgeting, opened committee meetings to the public, banned the practice of ghost voting, and have voted to audit the books of this Chamber. But, Mr. Speaker, that was not enough. In addition to those reforms, we passed the Congressional Accountability Act which forces Congress to live under the same laws we make the rest of the country live under, and as an encore we passed the balanced budget amendment last week which will force this body to live within our means just like every American family must do every day.

Mr. Speaker, the bottom line here is that the Republicans, the people elected to take care of this Congress, are keeping our promises.

THE REPUBLICANS ARE NOT KEEPING THEIR PROMISES

(Mr. BARRETT of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Wisconsin. Mr. Speaker, they are not keeping their promises, and they are breaking the contract.

Prior to the election, Mr. Speaker, the Republicans said that they would support a true line-item veto which would give the President the authority to get rid of pork barrel projects and special tax breaks. In the bills before us now, Mr. Speaker, they want to give the President the power to take away the pork barrel spending, but they do not want to give the President the power to take away those special tax breaks.

I ask, "Why don't they want to do it?" Because the Republicans like those special tax breaks. They like to give those to their wealthy contributors. They came up with that idea through the leadership of their former leader, Mr. Michel, who said quite frankly, "If you're for special interests, then vote against my amendment. If you are for a more complex Tax Code, then vote against my amendment."

The Republicans today and tomorrow are going to vote against Mr. Michel's amendment because they like special tax breaks for the wealthy. Mr. Speaker, give me a break. Let us do what is right for the people of this country and give the President the power to take away both pork barrel spending and special tax breaks for big contributors.

ALL THE DEMOCRATS WANT TO DO IS CHANGE THE SUBJECT

(Mr. TATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TATE. Mr. Speaker, I am a little worried that my friends across the aisle just do not get it. While the Republican majority is working hard to revolutionize Congress, the Democrats keep trying to change the subject. It seems to be an epidemic across the aisle. We talk about the balanced budget. They change the subject. We talk about welfare reform. They change the subject. We talk about unfunded mandates. They throw up every blockade known to man. It is as if, gee, if they throw up enough roadblocks and change the subject enough, people might want big government again. I do not think so.

Mr. Speaker, it is time for the Democrats to begin to work for a change in Congress and simply quit changing the subject.

MISGUIDED POLICIES OF THE FEDERAL RESERVE ARE THREATENING NATIONAL SECURITY

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, at this very moment the President of the United States is announcing yet another plan to bail out the Government of Mexico. He says it is an issue of national security. The President is wrong.

Meanwhile on the other side of town, Mr. Speaker, a secret meeting of the Federal Reserve Board to consider a policy change that will affect the security of every American family is going on with little notice. They may propose the seventh increase in 1 year to fight imaginary inflation. This act could raise the deficit by $2.5 billion, drive up the costs of a hundred-thousand-dollar house by $1600 a year, close down home building, close small businesses, and it is designed to increase unemployment to 6 percent.

The misguided policies of the Federal Reserve are a real national security issue, and I would advise the President to drop the Mexican bailout and go after the no-growth policies of the Federal Reserve Board.

MEMBER OF CONGRESS ELECTED TO PRO FOOTBALL HALL OF FAME

(Mr. LAHOOD asked and was given permission to address the House for 1 minute.)

Mr. LAHOOD. Mr. Speaker and Members, I come here today to pay special honor to one of our Members, the gentleman from Oklahoma [Mr. LARGENT].

Over the weekend the gentleman from Oklahoma [Mr. LARGENT] was elected to the Pro Football Hall of Fame, and it is a particular honor for me as STEVE is a Member of the new freshman class, as I am.

In 14 years with the Seattle Sea Hawks, Mr. Speaker, the gentleman from Oklahoma [Mr. LARGENT] set six different career records and participated in seven pro bowls. On the gridiron he led the Nation in touchdown receptions in 1974 and 1975. In 1988, Mr. Speaker, the gentleman from Oklahoma [Mr. LARGENT] was honored as NFL Man of the Year for his accomplishments on the field and off.

Mr. Speaker, he brings great honor and distinction to this body, and in particular I am proud to say he is a Member of our class and a Member of the House of Representatives. I say to the gentleman, "Congratulations, STEVE LARGENT, for being elected to the Pro Football Hall of Fame, a great honor for you and a great honor for all of us."

WE NEED TO BALANCE THE TRADE DEFICIT

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, we should remind ourselves as we deliberate and pass policy:

Who do we help and who do we hurt?

How do we improve the quality of life?

This week we are considering legislation to curb unfunded mandates. Last week we passed the balanced budget amendment. How do we encourage and support economic development in our communities across the country?

Instead of fighting over whether the Federal Government or States are for admittedly needed programs and services, instead of making knees buckle under the weight of cuts necessary to balance the budget, we should be looking for ways to balance the trade deficit with many of our foreign partners.

According to economists, Mr. Speaker, last year the ever-widening trade deficit resulted in a reduction of nearly one full percentage point. In America we imported 27 percent of the goods we consumed. That is up from 20 percent in the last 5 years. Led by the Department of Commerce, U.S. Export-Import Bank, U.S. Trade & Development Agency, and the Small Business Administration, all are encouraging opportunities for our small businesses and our communities.

We should be about this, Mr. Speaker, instead of saying that we are taking away from growth and quality of life. We should be expanding jobs and economic development.

□ 1120

FISCAL RESPONSIBILITY SEEN AS CONTRACT WITH AMERICA MOVES AHEAD

(Mr. KINGSTON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, what a great week last week was. The House took a major and crucial step toward fiscal responsibility by passing the balanced budget amendment. If the Senate does the same, then fiscal restraint will be the law of the land.

But also important last week was the fact that the Republican Party delivered on a campaign promise. This is a lesson that all politicians need to learn in today's society. But a second thing that was very important about it was that it was done with a bipartisan vote. We had about 70 to 80 Democrats voting for this, and as we look at the other elements of the Contract With America that we will be considering this month, finalizing the unfunded mandates bill, passing the line item veto, criminal justice reform, review of our national security situation, and regulatory reform, let us hope that that same bipartisan spirit still prevails, because as the speaker before me said, we have a major trade deficit problem. We need to work on that.

Mr. Speaker, we need to work in a bipartisan fashion. We always do so much better when the Democrats and the Republicans work together.

INTRODUCTION OF LEGISLATION TO ELIMINATE THE CIVILIAN MARKSMANSHIP PROGRAM

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, the President called for a smaller, leaner, smarter government. I think we all agree. So today I am introducing a bill to eliminate the dumbest program in the entire Federal Government, the Civilian Marksmanship Program.

This piece of petrified pork was put in the budget in 1903 during the Spanish-American War, Mr. Speaker, to teach Americans how to shoot straight. Ninety years later high-tech weapons have replaced rifles. It is time to declare victory and delete this wasteful program.

While we are fighting very hard to get guns off the street, Mr. Speaker, this program hands out 40 million rounds of free ammunition, sells surplus guns, and conducts an annual shooting match. We have too much debt and too many needs to subsidize recreational shooting.

This program is nothing more than a special interest boondoggle. Any Member who has ever campaigned against special interest politics should be embarrassed to vote for it.

TIME FOR THE HOUSE TO STOP BICKERING AND LEGISLATE

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, how silly we must look to the people beyond the beltway. They sent us here to govern and to make changes, but what do we do? We bicker, we quarrel, we argue. And over what? The things that the American people really want? No. We argue over pointless points of order, we offer a multitude of meaningless amendments. We bicker over supposed insults to each other's honor and integrity in ways that make many people wonder whether we have either.

To the folks back home this place must seem more like the children's playground than the people's House.

Mr. Speaker, it is time for the minority to get over it and get on with the business of the people, because if we continue to make this august body look more like a playground than a legislature, the American people who have already lost their patience will also lose their hope. The time for play is over.

Let us get down to real work.

INTRODUCTION OF LEGISLATION TO ALLOW HOUSE MEMBERS TO RETURN SURPLUS FUNDS TO THE TREASURY

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, yesterday Speaker GINGRICH said that he wanted to start a new idea in the House of Representatives and call it "Correction Day." He said to the American Hospital Association that he wants to start 1 day a month where Congress can act on a list of "the dumbest things the Federal Government is doing and just abolish them."

I would give the Speaker a recommendation that starts right here in this body. I have introduced a bill, H.R. 26, that has 52 Democrats and Republicans as cosponsors on it which would say that when we as Members of Congress save money in our office accounts and return money to the U.S. Government, we can have that money go directly to the U.S. Treasury to reduce the deficit rather than back into a slush fund that is spent on other Members of Congress who exceed their mail accounts.

Mr. Speaker, let us look in a bipartisan way to pass H.R. 26 and continue our efforts as we started last week to balance this budget.

THE UNITED NATIONS TAKES OVER IN HAITI

(Mr. GOSS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I read in the paper this morning that the United Nations is going to take over the Haiti mission because things are stable and secure in that country now. Of course, they are still going to rely mainly on U.S. troops down there, but there will be new rules of engagement. We are only going to use weapons in self-defense.

But then we read on a little further, and our Ambassador to the United Nations, Ambassador Albright, says, "But if this U.N. force is pushed, it has the leaders, the mandate, the firepower, and the will to push back."

Now, I call that doublespeak. That is the kind of thing that confuses our troops, it confuses us, it confuses our allies, but it probably does not confuse our enemies.

It raises the specter of our troops under foreign command in another country, under U.N. command, under Boutros Boutros-Ghali, and it causes us problems because we do not know what their mission is.

Ambassador Albright also said that Aristide has wide popular support, and that is true. But she failed to say that apparently the United Nations is unaware that there is intense brutal opposition to Aristide as well. So all is not well, and we should keep our eyes on foreign policy in Haiti.

WHAT IS TRULY BEHIND THE $40 BILLION?

(Mr. CLEMENT asked and was given permission to address the House for 1 minute.)

Mr. CLEMENT. Mr. Speaker, what is truly behind the $40 billion in loan guarantees to Mexico? Some have called it a bailout for Mexico, but I might call it a bailout for the banks and wealthy financiers and investors in the Mexican markets.

Mr. Speaker, there is risk involved in every investment. These institutions and individuals knew full well what was in front of them. They made the investments; we did not. And now that the investments have soured some, it should not be the responsibility of the United States to make up their losses.

Now the President is going to act on his own. He is going to bypass Congress because he knows it is not going to pass the U.S. Congress.

We are not talking about peanuts. Forty billion dollars is a lot of money, and what happens if Mexico defaults on these loans? What assurances do we have that we are protected by their oil reserves or any other kind of collateral? Forty billion dollars—that could be used to control crime, offset the shortfall in defense, make our streets safer, immunize our children, and make job training and continuing education available for more Americans.

CHANGING BUSINESS AS USUAL—PUTTING AN END TO UNFUNDED MANDATES

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, we were elected to represent the people of our districts, and that means changing business as usual. Changing business as usual means no more unfunded mandates.

Every community in America is suffering at the hands of Congress. Currently, State and local governments must comply with 185 Federal mandates. According to the National Conference of State Legislatures, in 1993 alone more than 150 new mandates were introduced in Congress.

How can a community that spends approximately 13 percent of its revenue on these mandates afford to finance everyday priorities? Communities are being forced to postpone public safety programs and programs for children and senior citizens. They have reached their limit and have started fighting back. Some are even challenging Congress' authority to impose these mandates, and others are simply refusing to comply.

Mr. Speaker, let us join the fight and pass the unfunded mandate reform legislation for the good of our country.

A PLEA FOR REAL CHANGE, NOT FAKE CHANGES

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, 1 week ago the President had the courage to talk about real change—not the fake, pretend change that my friends on the other side of the aisle have been promoting.

The American people did not send us here for fake change, and the American people cannot be fooled. They sent us here because they want a Government that understands their problems and is working to make their lives better. They want a House of Representatives that is not afraid to improve the way it does business so that it can improve the way it does the people's business.

Real change means altering the way campaigns are financed, the way we deal with lobbyists, the ethics laws that govern us, and the free gifts and perks we are allowed to take.

Mr. Speaker, we have heard a lot of talk from the other side of the aisle about change but not a word about these changes, real changes. This institution can be judged by answering a simple question: Will we provide a government that is ruled by Americans with extraordinary influence of a government that is influenced by ordinary Americans? The answer so far is not very promising.

□ 1130

KEEPING THE PROMISE

(Mrs. WALDHOLTZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. WALDHOLTZ. Mr. Speaker, last week we brought to the floor and passed the balanced budget amendment. In doing so, we kept our promise with the American people throughout our Contract With America. We took that giant first step and passed what the American people have been demanding for years—for Congress to get its financial affairs in order.

I am proud to be a part of the bipartisan team that pulled together to pass the balanced budget amendment. And I look forward to continuing in this bipartisan fashion to pass the rest of the Republican's Contract With America.

This week we will be voting on the unfunded mandates bill. Through this bill, we are going to stop putting intolerable burdens on State and local governments and the private sector. I hope all my colleagues will join me in supporting this legislation and keeping the promise with the people.

RESTORING PUBLIC'S TRUST IN THE HOUSE

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I rise today to join my colleagues in strong support of House Resolution 40, which seeks to ban gifts to Members and staff from lobbyists and lobbying firms. This legislation will ban all meals, entertainment, travel, legal defense fund contributions, and other gifts. It also seeks to ban House Members from accepting any royalties for any published work.

In his State of the Union Address, President Clinton stated that we do not need a law for everything and challenged Members to take it upon themselves not to accept any gifts from lobbyists.

For my part, I have decided to take the President up on his challenge and will follow the lobbyist gift ban. I hope that my colleagues on both sides of the aisle will follow suit.

Let us begin anew, and work to restore the people's trust in this House. This legislation is a strong first step.

FEDERAL MANDATES PRICE TAG

(Mr. CREMEANS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CREMEANS. Mr. Speaker, last night was a very long night, and I have three words for my colleagues in the 104th Congress, and that is, Mr. Speaker: "Stop the insanity." Stop sending State and local governments insane Federal mandates with insane price tags. For over the last 9 years, Congress has imposed over 72 unfunded, burdensome mandates to the States. In the 16 years preceding that, only 19 of these oppressive mandates were passed.

Mr. Speaker, this is a disturbing trend. The Federal Government is increasing its demands on the States while actually sending them less money. In fact, the Federal aid to State governments has decreased by $27.2 billion in the last decade. For the past 40 years, Congress has forced States to pay for the Federal Government's mistakes.

Mr. Speaker, it is time to stop passing the buck. Let us stop the insanity.

DEMISE OF THE BAILOUT?

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, this morning we learned that the Clinton administration and Republican leadership here in Congress have abandoned their plan to seek congressional approval of $40 billion in loan guarantees to Mexico. Workers and taxpayers of America prevailed in our first round of debate over the proposed Mexican bailout. But President Clinton is scheduled to reveal an alternative plan when he addresses the Nation's Governors this afternoon.

We should watch carefully to ensure that he defends the American people against Wall Street speculators. At the same time, the Federal Reserve Open Market Committee is meeting right now and is likely to raise your interest rates. That is the seventh time over the past year. What this means to you is that if you bought a $60,000 home a year ago on a 30-year mortgage, your payments today will be about $100 higher than they were a year ago.

Now, why are interest rates rising when inflation has not gone up and your wages have not gone up? The reason is because the markets have discounted the cost of the $40 billion bailout, and more, that is related to NAFTA and Mexico.

Too much hot money from Wall Street was bet on a gamble in Mexico that we are all having to pay for now.

SUPPORT LINE-ITEM VETO

(Mr. BLUTE asked and was given permission to address the House for 1 minute.)

Mr. BLUTE. Mr. Speaker, last week Congress overwhelmingly passed the balanced budget amendment which began a 7-year journey toward a constitutional requirement of matching receipts with outlays. However, there will be potholes along the way in the form of congressional pork-barrel spending. That is why we need to give the President of the United States the line-item veto authority.

For too long the President has been faced with the Hobson's choice of signing an appropriation act along with all the pork, or shutting down vital Government services. H.R. 2, introduced by Chairman WILLIAM CLINGER and cosponsored by 160 of our colleagues, would make Congress more accountable for its spending by giving the President the ability to delete or reduce specific spending items.

When the President sends a package of rescissions to Congress, the light of public scrutiny will be on the Congress to either accept them or fight them. If Congress chooses to disapprove of the rescissions, it will be in the position of defending indefensible spending, and the voters will be listening. It is about accountability. I urge my colleagues to support H.R. 2, the Line-Item Veto Act.

BALANCED BUDGET AMENDMENT WON'T BALANCE THE BUDGET

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, last Thursday night this House passed a balanced budget amendment, and ever since then we have seen Members getting up here beating their chest and chanting about how wonderful that is. We had one Member on the other side, a colleague of mine, get up last Friday during these same 1-minute speeches and say we fixed the flaw in the Constitution. We took a giant step forward.

Yet the same day, his party in the Defense Appropriations Subcommittee marked up a defense supplemental that had $1.8 billion in new debt that is not offset. So we talk about balancing the budget, we even pass an amendment. It is a magic pill. It is supposed to work. But the next day we add almost $2 billion new debt, because we cannot really vote for it when it comes to the details.

We have talked for 2 years in here. We have heard the Republican side say cut spending first, cut spending first. Now they have got the chance to do it, and there are all kinds of excuses. They cannot vote to cut specific spending. They are like Wimpy in the Popeye cartoons. They will gladly pay us Tuesday for a hamburger today.

I say we have had enough borrow and spend, borrow and spend, borrow and spend, and the vote last Thursday night did not balance the budget.

ON THE MEXICAN LOAN GUARANTEES

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, last week I came here to the House floor to give a 1-minute on the concerns of my constituents regarding the proposed Mexican loan guarantees.

Mr. Speaker, only minutes later, a fax from a concerned citizen who saw me on the floor was waiting on my desk. This person does not live in my district. He is from all of the way across the Nation in Henderson, NV. But his words rang familiar to those of people in my district.

Mr. Speaker, the message was, "America is not made up of, nor successful as a nation because of elitists or CEOs. America is successful because of those willing to put their heart and soul as well as their backs into the very creation of America."

Mr. Speaker, he continued to admonish that, "Passing bills, arguing opinion, stating your support and even wishing does not get the wall painted, one must pick up a brush and take the risk of getting paint on their hands to get the job done."

Mr. Speaker, this message is not unlike what your constituents are telling you. Let us rise above the morass of petty partisanship that cripples this body and threatens to cripple this Nation, and move forward with positive legislation that impacts the lives of our people.

PERMITTING COMMITTEE CHAIRMEN TO SCHEDULE HEARINGS

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 43 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 43

Resolved, That, in rule XI of the Rules of the House of Representatives, clause 2(g)(3) is amended to read as follows:

"(3) The chairman of each committee of the House (except the Committee on Rules) shall make public announcement of the date, place, and subject matter of any committee hearing at least one week before the commencement of the hearing. If the chairman of the committee determines that there is good cause to begin the hearing sooner, the chairman shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of the House Information Systems."

□ 1140

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, I yield the customary 30 minutes to the ranking minority member, the gentleman from Massachusetts [Mr. MOAKLEY], for the purposes of debate only. All time yielded will be for the purpose of debate only.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 43 amends clause 2(g)(3) of House rule 11 to restore by rule what has been the standard operating procedure around here ever since I can remember, and that is to permit committee chairmen to schedule hearings.

Mr. Speaker, earlier this month a question arose as to the literal meaning of the rule which states that a committee, I repeat, a committee shall call hearings at least a week in advance unless the committee for good cause determines that such should be called sooner.

The Parliamentarian's office confirmed that the term "committee" means just that. The committee acting collectively.

As a result of the point of order raised against a particular hearing that was overruled by a committee chairman in the committee, the Committee on Rules had to recommend to the House a waiver of the rule in order to bring a measure to the floor of the House last week.

Had we not done so, a legitimate point of order could have been raised in the House against the consideration of that measure.

Mr. Speaker, because of this interpretation every committee of this House was naturally thrown into a state of uncertainty as to the fate of its hearing and its bills. Consequently, the Committee on Rules was asked to look into the matter and resolve it as soon as possible.

Last Monday I introduced House Resolution 43 to substitute the word "chairman" for the word "committee" in that rule, as the party responsible for calling hearings.

The Committee on Rules met and reported the resolution on Thursday by voice vote with no amendments offered.

At that time, I was led to believe that was not a controversial issue and that everyone agreed there was a need to legally restore what has been the standard operating procedure in this House for many, many years.

However, since not all the bases have been touched by the minority in order to be safe we reported an open rule, should any subsequent concerns or amendments surface.

Mr. Speaker, in my experience such a special rule has never been reported before on a simple rule change such as this which is already privileged for House floor consideration without requiring a special rule. It was not until after we reported that we received letters from some very respected ranking minority Members expressing concern about the ability of chairmen under the new rule to call hearings for good cause with less than a week's notice.

At the urging of the minority, our report does contain language that warns against so-called spur-of-the-moment hearings and advises committees to adopt rules requiring consultation and prior notice requirements for any hearings scheduled less than a week in advance.

We had also agreed with our committee minority to conduct a colloquy on the floor to emphasize our intent that this should not be used for surprise hearings, which is the concern of some.

However, this was not sufficient assurance for some of the ranking minority members on other committees, and I understand that, having recently been in the minority myself. Believe me, I understand that.

Consequently, last Friday we sat down and discussed this further with those raising those concerns, and I promised to take those concerns and recommendations up with our leadership on our side of the aisle. And we were able to reach an agreement with all concerned before the House adjourned last Friday.

As a result, I will offer an amendment developed in cooperation with those ranking minority Members who expressed their concerns to me and the gentleman from Massachusetts [Mr. MOAKLEY] last Friday.

The amendment requires that if a hearing is set with less than a week's notice, it must be for good cause and be agreed to either by the chairman and the ranking minority member or be approved by a majority vote of the committee, a quorum being present for the transaction of that business. I think this will allay concerns that were raised that we were somehow laying the groundwork for instantaneous surprise hearings without adequate notice or without consultation.

That was never the intention of this rules change. We simply want to restore, by proper legislative language, what has been the standard practice for decades in this House.

Mr. Speaker, before I yield to our distinguished ranking minority member, the gentleman from Massachusetts [Mr. MOAKLEY], let me simply conclude by observing that it is my intention, as the chairman of the Committee on Rules, to ensure that our House rules are adhered to here on the floor of this House and in committee. That includes protecting the rights and protecting the prerogatives guaranteed to the minority under the rules of this House.

Yes, this House operates by majority rule. But for that rule to be effective and accepted, it must be within the framework of protecting and respecting the rights of the minority. When I was named as chairman of the Committee on Rules by our Speaker, I promised to be firm and fair, and I intend to live up to that. I expressed my intentions to conduct our committee's work in as free and open a manner as possible and to report rules that would allow the House to operate in that same manner.

Mr. Speaker, this House runs best when we are operating in a bipartisan spirit of comity—recognizing our political differences—but hopefully being able to disagree without being disagreeable.

Mr. Speaker, both the majority and the minority are finding their way under this suddenly reversed role. It is not easy. We will both make some mistakes along the way and we will both antagonize the other, often without perhaps knowingly doing so.

I would simply urge that we make an extra effort to try to minimize our procedural differences so that we can properly direct our energies to engaging each other in a deliberative fashion on our policy differences. After all, that is really what we are here to do.

I think we can do so while recognizing that this House does have an obligation to do its work in a timely way without getting bogged down in partisan or procedural bickering.

Mr. Speaker, I hope by offering this compromise amendment to this resolution today that I would be setting some small example for both sides of the aisle to follow in a new spirit of comity. Let us get on with our work and let us get it done.

RULE REGARDING SCHEDULING OF COMMITTEE HEARINGS

Current Rule:

Rule XI, clause 2(g)(3):

[(3) Each committee of the House (except the Committee on Rules) shall make public announcement of the date, place and subject matter of any committee hearing at least one week before the commencement of the hearing. If the committee determines that there is good cause to begin the hearing sooner, it shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of the House Information Systems.]

* * * * *

Proposed Change in Rule by H. Res. 43 & Proposed Compromise (compromise in italic):

(3) The chairman of each committee of the House (except the Committee on Rules) shall make public announcement of the date, place, and subject matter of any committee hearing at least one week before the commencement of the hearing. [If the chairman of the committee determines that there is good cause to begin the hearing sooner, the chairman shall make the announcement at the earliest possible date.] *If the chairman of the committee, with the concurrence of the ranking minority member, determines there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being present for the transaction of business, the chairman shall make the announcement at the earliest possible date.* Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of the House Information Systems.

Explanation:

The existing rule requires that committees call hearings at least a week in advance unless the committees determine there is good cause to schedule them sooner.

H. Res. 43 as reported permits chairmen to call hearings at least a week in advance unless the chairmen determine there is good cause to hold them sooner.

The proposed compromise permits chairmen to call hearings a week in advance, and the chairman, with the concurrence of the ranking minority member, or by vote of the committee, to call them sooner for good cause.

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 10, 1995.

Hon. XAVIER BECERRA,
Hon. BARNEY FRANK,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVES BECERRA AND FRANK: In your letter of January 6, 1994 you mention that the Committee on the Judiciary, at its organizational meeting held on January 5, adopted the following committee rule IIIa:

"The Committee or any subcommittee shall make public announcement of the date, place and subject matter of any hearing to be conducted by it on any measure or matter at least one week before the commencement of that hearing, unless the committee or subcommittee before which such hearing is scheduled determines that there is good cause to begin such hearing at an earlier date, in which event it shall make public announcement at the earliest possible date."

As required by clause 2(a)(2) of Rule XI of the rules of the House, this committee rule is consistent with clause 2(g)(3) of Rule XI of the rules of the House. I would interpret this rule to require a committee or subcommittee determination, as the case may be, as to when hearings should commence, when that question is raised by a committee member in a timely manner. In my experience, committees and subcommittees have often deferred to their chairmen for the purpose of establishing hearing dates. Where the question is raised in a proper manner, however, I would conclude that the committee or subcommittee as a collegial body must ratify the call and scheduling of hearings. This is to be distinguished from the authority conferred in clause 2(c)(1) of Rule XI for chairmen of committees (and subcommittees) to call and convene additional meetings of their committees for the conduct of committee business.

Please let me know if I can be of further assistance.

Sincerely,
CHARLES W. JOHNSON.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York for yielding me half of his time. I also wish to thank the gentleman for sitting down with me and Mr. DINGELL, Mr. MINETA, and Mr. MILLER. He listened to our concerns and together we came up with an amendment that everyone can support.

Mr. SOLOMON has said all along that he simply wanted to amend the standing rule of the House to reflect current practice. The amendment now does that.

In effect, the chair of a committee can announce hearings so long as he or she gives 7 days notice.

To announce a hearing less than 7 days in advance, the committee chair must either get the agreement of the ranking minority member or get approval by a vote of the committee.

The amendment offered by Mr. SOLOMON gives other committee members some say on waiving 7-days notice. It does not grant the chair unilateral authority to announce hearings any sooner.

Let me clarify one point. Even though the ranking minority members argued for this change, it is not a minority rights issue.

House rules set a minimum notice requirement for hearings but not for any other business conducted by committees, not for markups, adoption of the rules, or the transaction of any other business.

The purpose of the notice requirement, Mr. Speaker, is to protect the public. The purpose, Mr. Speaker, is openness to let many voices be heard.

It is not to inform the minority but to inform the public so that they can be heard.

Mr. Speaker, in the minority views submitted with the report we outlined our concerns.

We expressed our hope that a bipartisan agreement could be worked out. I am thankful that agreement was reached.

Again, Mr. Speaker, I thank the gentleman from New York for his willingness to work this out and I urge my colleagues to support the amendment to the resolution

Mr. Speaker, I reserve the balance of my time.

□ 1150

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me conclude by thanking everyone who has cooperated in working out this compromise, and especially our ranking minority member, the gentleman from Massachusetts [Mr. MOAKLEY], for bringing us together. It is not easy being the person caught in the middle when you are being pressed from both sides to do what they say is right, but our distinguished ranking minority member has risen to the occasion as an honest broker and has served his committee and his party well.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 2, line 2, strike "If" and all that follows through the period on page 2, line 5 and insert the following: "If the chairman of the committee, with the concurrence of the ranking minority member, determines there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being present for the transaction of business, the chairman shall make the announcement at the earliest possible date.".

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The Chair recognizes the gentleman from New York [Mr. SOLOMON] in support of his amendment.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the amendment speaks for itself. It is an agreed-upon amendment. I do not know of any opposition to it. At the appropriate time, if there are no other speakers on the other side of the aisle, I would expect to move the previous question.

Mr. Speaker, I would ask the gentleman from Massachusetts if he has any requests for time.

Mr. MOAKLEY. Mr. Speaker, I have requests from the Members who were part of the compact we struck last Friday.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the ranking minority member, the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I thank the ranking member on the Committee on Rules for yielding this time to me.

Mr. Speaker, it is important that we take a moment to understand what this issue is about and why it matters.

Under existing House rules there is a requirement that 7-days notice be given before a public hearing in a committee. Other kinds of meetings of Members of Congress are held around here, but there is no specific advance notice requirement on those meetings. Only public hearings have an advance notice requirement.

Why is that?

Because the public needs the notice if they are going to have any real chance to testifying. It takes time to find out what a hearing is really about and to decide to testify; it takes time to prepare testimony; and it takes time to make arrangements to travel to Washington, DC, to testify and to make that trip. Members of Congress can go to meetings on short notice—we are here anyway. But if we are to give the American public any real chance to participate in the crafting of legislation, then we have to give them sufficient notice so that they can testify at committee hearings.

That is why the 7-day-notice requirement is in the House rules—to protect the public's ability to know what hearings are going to happen and to have a realistic chance of participating in those hearings.

Under existing rules and practice, that 7-days notice can only be waived by a majority vote of the committee, or by agreement of both sides of the committee. So there is an ability to waive the notice, but only on relatively noncontroversial matters.

What the resolution now before us was all about was making it very easy to waive the 7-day notice requirement. Under the resolution as reported—without any hearings—last week by the Rules Committee, any full Committee chairman could decide unilaterally to waive the 7-day-notice requirement. No chairman—not me and not anybody else—should have that kind of power to effectively exclude public input on the legislation we write here. The potential for abuse would have been too great—a chairman could arrange to have only witnesses favorable to his or her position, then announce the hearing at the last minute so others would be precluded from testifying.

Fortunately the chairman of the Rules Committee has agreed to an amendment to his resolution. That amendment would basically restate existing rules and practice, by providing for a 7-day notice to the public, and that notice could be waived either by a majority vote of the committee or by the agreement of both sides of the committee, as represented by the chairman and the ranking minority member.

This amendment takes us back to existing rules and practice and therefore preserves the 7-day-notice requirement and the ability of the public to have its views reflected in committee hearings. I commend the gentlemen from New York for agreeing to this amendment. Without it we would have made it much harder for the views of the public to be heard in this House and to be incorporated into the bills we write. That would have been a real loss to democracy and to the quality of the legislation we produce, because I think it is clear that greater public input about the real-world impacts of what we do here only makes our product better.

I wish to thank the ranking Democrat on the Rules Committee, Mr. MOAKLEY, and our ranking Democrat on the Energy Committee, Mr. DINGELL, as well as the ranking Democrat on the Natural Resources Committee, Mr. MILLER, for their assistance on this issue.

I therefore support the amendment.

Mr. MOAKLEY. Mr. Speaker, I ask the gentleman from New York [Mr. SOLOMON] may I use some of his time if I need it?

Mr. SOLOMON. I would just say to the gentleman, Mr. Speaker, I thought we had an agreement. We have a heavy schedule today. I did not believe we were going to use all the time on either side of the aisle.

Mr. MOAKLEY. Mr. Speaker, that is why we rushed through with those three open rules today, so we could have the extra time on the floor.

Mr. SOLOMON. Let us consider it as we go along, Mr. Speaker.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. DINGELL], one of the arbiters of this deal that we have reached.

Mr. DINGELL. Mr. Speaker, I want to commend the distinguished gentleman from Massachusetts [Mr. MOAKLEY], for his assistance and hard work on this particular matter, and also my good friend, the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules. He and I have had a great friendship over the years. Although we have had some splendid differences which we have argued out with great vigor, the affection and respect which I hold for him knows no bounds. He is a valuable Member of this body, and I thank him and salute him for having worked this matter out.

Mr. Speaker, this started out as potentially a very bad situation. The rules of the House have always functioned to provide notice, not only to the Members, the minority, but very frankly, to the people, because the business that is done here very intimately affects every American. The purpose of the notice requirement was to permit people to come forward, to be heard on matters of concern on the conduct of their Nation's business.

As it originally started out, the rules change would have virtually eliminated the requirement for adequate notice to the American people, to the Members of this body, and to the minority. Happily, through the wisdom of the gentleman from New York [Mr. SOLOMON] and the gentleman from Massachusetts [Mr. MOAKLEY], and because of the hard work that has occurred on the part of a number of Members and staff people, we have been able to resolve that difference so now notice is given, 7 days, but also that opportunity for waiving that under good, sensible practice has been accomplished.

I want to say, Mr. Speaker, that again, we owe a debt to the gentleman from New York for his cooperative and decent approach to the concerns we felt. It also is so that we can look now to a situation where his concerns with regard to the ability of the business of the majority being properly conducted can properly be met under this.

I think one lesson we can all learn from this is that by working together we can resolve the problems that exist between us on this side of the aisle and on that side of the aisle, and that we can come together to address the concerns we all feel. When we do that, we can say that we have solved not only the problems of one side but also the other; also, Mr. Speaker, to observe that the result is a good one, because here the requirements of notice remain.

They can be waived upon consultation with the minority. They also can be waived on a vote of the committee with a working quorum present, so this is a good resolution. It is one which I hope will be an example of how the body can and should work together in a fashion to resolve our concerns in a bipartisan spirit of comity and cooperation.

Having said that, Mr. Speaker, I again want to express my appreciation to the gentleman from New York and the gentleman from Massachusetts, my good friend, the gentleman from California [Mr. MINETA], who was a tower of strength on this, the gentleman from California [Mr. MILLER], and the other Members on both sides of the aisle who have worked together to resolve what could have been a nasty problem in a way which does serve the public interest, serves the interests of this institution, and sees to it, yet, that people who have a concern about legislation will have an opportunity to participate in the process by coming from places as far away as California and Alaska in time to participate and to have their views heard as the Congress works its will on important legislative questions.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Speaker, this is a rules change pending before the House today that was worked out and brought to the floor over a period of several days. Into this rules change was invested a good deal of effort by the Republicans and by the Democrats, but this is not a rules change that the public is concerned about.

When the House of Representatives adopted its rules for the 104th Congress, a rules change, which the public is concerned about and that had the overwhelming support of Democrats, was conspicuously absent. That is a rule to prohibit the taking of gifts by Members of Congress from paid lobbyists.

POINT OF ORDER

Mr. LINDER. Point of order, Mr. Speaker. Regular order.

The SPEAKER pro tempore. For what purpose does the gentleman from Georgia [Mr. LINDER] rise?

Mr. LINDER. Mr. Speaker, I would inquire if the gentleman from Texas [Mr. BRYANT] is speaking to the motion before the House.

The SPEAKER pro tempore. The Chair will state that debate must be confined to the pending resolution.

The gentleman from Texas [Mr. BRYANT] may proceed in order.

Mr. BRYANT of Texas. Mr. Speaker, the pending resolution ought to include language to say that Members of Congress cannot take free meals and free vacations and free golf trips from lobbyists that are paid to influence the proceedings before this House. That addition to this provision could have been brought forward. It ought to be brought forward.

Mr. SOLOMON. Mr. Speaker, regular order. The gentleman is not talking in regard to a germane amendment to the issue before us right now.

The SPEAKER pro tempore. The Chair would advise the gentleman that the debate must be confined to the subject at hand.

□ 1200

PARLIAMENTARY INQUIRY

Mr. BRYANT of Texas. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman will state it.

Mr. BRYANT of Texas. Mr. Speaker, if I advocate that this amendment ought to be defeated unless it includes the language that I have suggested with regard to prohibiting Members of Congress from taking freebies from lobbyists, would I then not be talking upon the amendment at hand?

The SPEAKER pro tempore. It is not relevant to discuss unrelated issues as a contingency on this resolution.

Mr. BRYANT of Texas. Mr. Speaker, I would congratulate the 4 days of diligence of the Republican Committee on Rules working with the Democrats over here in crafting an amendment to the rules and bringing it posthaste to the floor that the public is not very concerned about and at the same time stifling and prohibiting anyone from talking about whether or not Members of Congress should be taking freebies from the lobby.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I want to thank the gentleman from Massachusetts [Mr. MOAKLEY], the ranking member, for giving me some time to speak on this.

I would like to applaud the gentleman from New York [Mr. SOLOMAN], the chairman of the Committee on Rules, for making this compromise available to the entire House. The original language would have allowed only a chairman to make a decision to decrease the notice requirement and allow committees to meet to have hearings without sufficient notice not only to Members of the Congress but also to the public.

I applaud the chairman in making sure that this compromise was reached. This will avoid the circumstances that occurred in my committee, the Committee on the Judiciary, wherein the chairman on his own initiative decided to reduce the amount of time necessary to give notice to not only Members of Congress, as I said, but also to the entire public about a very important matter, the balanced budget bill that we took up this past week.

It was unfortunate that at that point, the committee actually violated its own rules and actually held hearings without providing sufficient notice to people that this would occur. Obviously, it makes it difficult for witnesses to be present and for people to prepare, so it is great to see that we are finally going to try to bring ourselves within the rules of this House.

I think it is unfortunate while we are amending these rules, however, that right now while this window is open, that we do not take advantage of doing what I think the gentleman from Texas is trying to express, trying to make sure that we also clear up the rules to make sure that no one in their House can take freebies from lobbyists or take gifts. This is the time to do so. I would think right now a strong amendment——

POINT OF ORDER

Mr. LINDER. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. LINDER. Mr. Speaker, the Chair has ruled on several occasions that talking on other matters and rules not included in this rule are out of order and the gentleman is insisting on doing so. The gentleman is out of order.

The SPEAKER pro tempore. The debate must be relevant to the subject at hand, as the Chair has ruled earlier.

PARLIAMENTARY INQUIRY

Mr. BECERRA. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BECERRA. If a Member takes the floor to speak on the rules of the House and we are in the process of amending the rules of the House, is it appropriate to discuss the issue of amending rules of the House?

The SPEAKER pro tempore. Only the rules changes being proposed. That is the only item relevant to the debate at this moment.

Mr. BECERRA. Let me then conclude my remarks by saying that I believe this particular rules change is compromise language where we will make sure that there is bipartisanship in the conduct of the committees and in structuring any notice that might be required for a committee, especially if we are going to curtail the amount of time that would be out there in terms of notice for the public. I think that is a wise move. I appreciate the new majority in this House has realized that it is essential. It goes a long way toward satisfying the rules that the majority first passed which required sufficient notice and deliberation by the entire body of the committee, not just the chairman. I think it goes a long way, but I do believe that we should have gone a little farther and dealt with the ban on lobbyists' gifts as well.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in support of the Solomon amendment. I think that the amendment is a victory for openness and for full participation by all Members in the legislative process. I think that it is one of the ways in which we try to gain the trust of the American people. I also believe that we cannot go just halfway on that reform. The American people are looking to us in fact to reform this House and to open it up to their views and to their opinions.

While this is a good rules change, I think that the public cares about some other rules changes, including the whole effort to enact a ban on all gifts to Members of the Congress and their staffs. I think we have to enact a ban into law to assure the American people that the days of perks and privileges are really over. We also need to ban Members from using frequent-flier miles for their personal use and that ought to be part of a rules change. Every single perk that we allow to continue serves only to undermine all the other reforms that we enact in this body.

Reform really is an all-or-nothing proposition. If we do not go all the way and ban gifts and other perks, our reform efforts will die the death of a thousand cuts.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment and on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on the resolution just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that House Resolution 47, the special rule for House Resolution 43, be laid on the table.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

UNFUNDED MANDATE REFORM ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 38 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5.

□ 1208

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5) to curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the cost of Federal mandates on the private sector, and for other purposes, with Mr. EMERSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, January 30, 1995, the amendments en bloc offered by the gentleman from Louisiana [Mr. FIELDS] had been disposed of and title I was open for amendment at any point.

Are there any amendments to title I?

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

I do so, Mr. Chairman, to sort of review where we are and where we hope to go, where we hope to be by the end of this day and the next couple of days. The good news is that we have over the last 6 days disposed of about 24 amendments and mercifully we have now completed action on section 4 of the bill.

I would say that I express my appreciation to Members on both sides of the aisle for the spirit in which the debate was conducted yesterday. I think we moved expeditiously through the amendments in a very orderly way and I was very indebted to the gentlewoman from Illinois [Mrs. COLLINS] for her support as we went through the process yesterday.

□ 1210

The bad news, however, is that we have about 130 or so amendments to go. All of the what I consider to be weakening amendments that were offered in terms of exemptions to the bill were defeated, not because the programs sought to be exempted by those amendments were not worthy and meritorious and had great value, because I think many of them did and do, but frankly because H.R. 5 poses absolutely no threat to the present administration, the present way those programs are being implemented, and really only asks us to be accountable to any additional mandates that may be imposed as a result of those provisions in the future.

So, I think those amendments have been defeated now, we have now moved on. Today we are going to take up title I to the bill, which is an attempt to look at what may be duplicative and redundant in the existing mandates. It is my hope that we can complete expeditiously title I to the bill. I think there are not too many areas in dispute in that, and I have discussed this with the gentlewoman from Illinois [Mrs. Collins] and I think she agrees we can move rather expeditiously through title I. And it is my hope we can do that, and it is my intent, Mr. Chairman, to complete title I and II before we rise tonight.

Let me stress it is not my intent to limit consideration of any and all amendments. This is an open rule, and we are respecting that. I think that every Member should have an opportunity to offer their amendment and have it considered.

Nor do I, Mr. Chairman, want to limit debate on the amendments that will be offered, and I will only seek to do so, and I hope I would not have to seek to do so, if it becomes clear that we are frankly beating amendments to death. I do not think that is going to happen. I really sense we are moving toward an orderly resolution of the remaining titles.

So, Mr. Chairman, I would just say that I look forward to the discussion of today. I think we do have some interesting issues in title II that deserve a full airing today. As I say, I hope we can move fairly rapidly through title I.

But, in closing, I would just say that there is a bipartisan, I think, majority of this House that is here and has been here for the last 7 days trying to do what President Clinton himself has requested. I would repeat what I read into the Record yesterday at this time when the President spoke to the National Governors.

> We are strongly supporting the move to get unfunded mandates legislation passed in the Congress and are encouraged by the work that was done in the United States Senate where, as I remember, the bill passed 86 to 10 last week. After a really open and honest discussion of all appropriate amendments, the legislation is now moving through the House—I think there are about 100 amendments pending—but I think they will move through it in a fairly expeditious way, just as the Senate did.

Mr. Chairman, I would encourage Members on both sides to comply with what the President has requested as we move into day 7.

AMENDMENT OFFERED BY MR. SCHIFF

Mr. SCHIFF. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Schiff:

Amend title I to read as follows:

TITLE I—REVIEW OF UNFUNDED FEDERAL MANDATES

SEC. 101. REPORT ON UNFUNDED FEDERAL MANDATES BY ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.

(a) In General.—The Advisory Commission shall in accordance with this section—

(1) investigate and review the role of unfunded Federal mandates in intergovernmental relations and their impact on State, local, tribal, and Federal Government objectives and responsibilities, and their impact on the competitive balance between States, local and tribal governments, and the private sector; and

(2) make recommendations to the President and the Congress regarding—

(A) allowing flexibility for State, local, and tribal governments in complying with specific unfunded Federal mandates for which terms of compliance are unnecessarily rigid or complex;

(B) reconciling any 2 or more unfunded Federal mandates which impose contradictory or inconsistent requirements;

(C) terminating unfunded Federal mandates which are duplicative, obsolete, or lacking in practical utility;

(D) suspending, on a temporary basis, unfunded Federal mandates which are not vital to public health and safety and which compound the fiscal difficulties of State, local, and tribal governments, including recommendations for triggering such suspension;

(E) consolidating or simplifying unfunded Federal mandates, or the planning or reporting requirements of such mandates, in order to reduce duplication and facilitate compliance by State, local, and tribal governments with those mandates;

(F) establishing common Federal definitions or standards to be used by State, local, and tribal governments in complying with unfunded Federal mandates that use different definitions or standards for the same terms or principles; and

(G) establishing procedures to ensure that, in cases in which a Federal private sector mandate applies to private sector entities which are competing directly or indirectly with States, local governments, or tribal governments for the purpose of providing substantially similar goods or services to the public, any relief from unfunded Federal mandates is applied in the same manner and to the same extent to the private sector entities as it is to the States, local governments, and tribal governments with which they compete.

Each recommendation under paragraph (2) shall, to the extent practicable, identify the specific unfunded Federal mandates to which the recommendation applies.

(b) Criteria.—

(1) In general.—The Advisory Commission shall establish criteria for making recommendations under subsection (a).

(2) Issuance of proposed criteria..—The Advisory Commission shall issue proposed criteria under this subsection not later than 60 days after the date of the enactment of this Act, and thereafter provide a period of 30 days for submission by the public of comments on the proposed criteria.

(3) Final criteria.—Not later than 45 days after the date of issuance of proposed criteria, the Advisory Commission shall—

(A) consider comments on the proposed criteria received under paragraph (2);

(B) adopt and incorporate in final criteria any recommendations submitted in those comments that the Advisory Commission determines will aid the Advisory Commission in carrying out its duties under this section; and

(C) issue final criteria under this subsection.

(c) Preliminary Report.—

(1) In general.—Not later than 9 months after the date of the enactment of this Act, the Advisory Commission shall—

(A) prepare and publish a preliminary report on its activities under this title, including preliminary recommendations pursuant to subsection (a);

(B) publish in the Federal Register a notice of availability of the preliminary report; and

(C) provide copies of the preliminary report to the public upon request.

(2) Public hearings.—The Advisory Commission shall hold public hearings on the preliminary recommendations contained in the preliminary report of the Advisory Commission under this subsection.

(d) Final Report.—Not later than 3 months after the date of the publication of the preliminary report under subsection (c), the Advisory Commission shall submit to the Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a final report on the findings, conclusions, and recommendations of the Advisory Commission under this section.

SEC. 102. SPECIAL AUTHORITIES OF ADVISORY COMMISSION.

(a) Experts and Consultants.—The Advisory Commission may procure temporary and intermittent services of experts or consultants under section 3109(b) of title 5, United States Code.

(b) Staff of Federal Agencies.—Upon request of the Executive Director of the Advisory Commission, the head of any Federal department of agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Advisory Commission to assist it in carrying out its duties under this title.

(c) Administrative Support Services.—Upon the request of the Advisory Commission, the Administrator of General Services shall provide to the Advisory Commission, on a reimbursable basis, the administrative support services necessary for the Advisory Commission to carry out its duties under this title.

(d) Contract Authority.—The Advisory Commission may, subject to appropriations, contract with and compensate Government and private agencies or persons for property and services used to carry out its duties under this title.

SEC. 103. DEFINITION.

In this title:

(1) Advisory commission.—The term "Advisory Commission" means the Advisory Commission on Intergovernmental Relations.

(2) Federal mandate.—The term "Federal mandate" means any provision in statute or regulation or any Federal court ruling that imposes an enforceable duty upon States, local governments, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

MODIFICATION TO AMENDMENT OFFERED BY MR. SCHIFF

Mr. SCHIFF. Mr. Chairman, I have a modification to that amendment at the desk, and I ask that the amendment and modification be considered together.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. SCHIFF:

In the proposed section 101(a), after paragraph (1) insert the following new paragraphs (and redesignate the subsequent paragraphs accordingly):

(2) investigate and review the role of unfunded State mandates imposed on local governments, the private sector, and individuals;

(3) investigate and review the role of unfunded local mandates imposed on the private sector and individuals;

In the last undesignated sentence at the end of the proposed subsection 101(a), strike out "paragraph (2)" and insert "paragraph (4)".

In the proposed subsection 101(b)(3)(A) strike out "paragraph (2)" and insert "paragraph (4)".

At the end of the proposed section 101, add the following new subsection:

(e) STATE MANDATE AND LOCAL MANDATE DEFINED.—As used in this title:

(1) STATE MANDATE.—The term "State mandate" means any provision in a State statute or regulation that imposes an enforceable duty on local governments, the private sector, or individuals, including a condition of State assistance or a duty arising from participation in a voluntary State program.

(2) LOCAL MANDATE.—The Term "local mandate" means any provision in a local ordinance or regulation that imposes an enforceable duty on the private sector or individuals, including a condition of local assistance or a duty arising from participation in a voluntary local program.

Mr. SCHIFF (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

The CHAIRMAN. The gentleman from New Mexico [Mr. SCHIFF] is recognized for 5 minutes.

Mr. SCHIFF. Mr. Chairman, first of all, I am pleased to say that the amendment that I am about to offer was put together on a bipartisan basis. I worked very closely with the gentleman from Ohio [Mr. PORTMAN] on our side, and with the gentleman from Virginia [Mr. MORAN], the gentleman from Connecticut [Mr. GEJDENSON], and the gentlewoman from Florida [Mrs. MEEK] on the Democrat side.

This amendment makes two changes that are related to each other with respect to title I. The main change is that it takes out the brand-new commission that would have been created under title I to study the unfunded mandate issue further, as called for under this bill, and instead substitutes an existing government agency, the Advisory Commission on Intergovernmental Relations, whose members are appointed by the Congress and by the President on a bipartisan and independent basis to do this task.

Related to that change is the second change. My amendment would remove the $1 million authorization that is now contained in the bill as originally written for this purpose, and does not provide any authorization of additional funds.

I want to add, Mr. Chairman, that the other body, in their bill which recently passed that body, made the first of these changes. They substituted the Advisory Commission on International Governmental Relations for the new commission. However, I want to point out to our body that in their bill they added new duties in the bill that are not anywhere part of the bill nor part of my amendment. And because they added new duties, they added an authorization for the purpose of accomplishing the new duties.

It would be my recommendation to the House that assuming our bill passes in conference, we take up their additions and their proposed authorization as a matter of conference between the two Houses.

However, my particular amendment does not contain new duties and does not contain any authorization. So the net effect of my amendment is to make a net reduction in the authorization by $1 million.

Mr. Chairman, I want to say that we have been advised by the Parliamentarian that because my amendment made so many changes it is in the nature of a substitute to title I, and therefore those other Members who may seek to amend title I may do so as amendments in the second degree to the amendment I am now offering. But I would like to explain that the modification which I offered, and which is now a part of my amendment, is the adoption of the language offered by the gentleman from Pennsylvania [Mr. FATTAH], which was a modification to title I which was offered out of order previously in consideration of this bill. If that modification is not accepted into my amendment, then it could essentially get lost if my amendment is adopted by the House in the nature of a substitute to title I. That is the sole purpose of the modification that I have offered: to protect the language offered by the gentleman from Pennsylvania [Mr. FATTAH] and make sure it is continued in the language I am offering, if my language is adopted.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the amendment offered by my colleague, the gentleman from New Mexico [Mr. SCHIFF] as well as the gentleman from Virginia [Mr. MORAN], the gentleman from Connecticut [Mr. GEJDENSON], and the gentleman from Ohio [Mr. PORTMAN]. We originally offered this amendment during our full committee markup in the House Committee on Government Reform and Oversight that is so ably served by our chairman and by our ranking member.

I felt then, as I do now, that it makes no sense to create and fund a new bureaucracy. I think we are on the right track here. A new commission on unfunded Federal mandates we do not need to study that this year. We already have an Advisory Committee on Intergovernmental Relations. It has conducted several studies which seem to have validity on the Federal mandates issue. It has the expertise.

I am very happy my colleague, the gentleman from New Mexico [Mr. SCHIFF], also removed the $1 million fiscal impact of such an endeavor, because wherever we can cut and save money the better it is, and this commission is already serving a similar purpose. They can do the job, and we need to let them do it.

I want my colleagues to support this amendment because it is one that has inculcated a bipartisan support and bipartisan input on that committee.

□ 1220

I have some concerns about H.R. 5, and I have supported and will support the amendments to strengthen and improve this bill, and I think that this amendment does. It saves money. It saves time. And it maximizes the efficiency which we already have, Mr. Chairman.

With that, I want to ask all of my colleagues to support the Schiff amendment.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Let me first of all commend the gentleman from New Mexico [Mr. SCHIFF], who is a member of the ACIR, for this amendment and also the gentlewoman from Florida [Mrs. MEEK], who has been a principal architect and author of this amendment. I think it is a good amendment. I think it recognizes, takes into account, that we have an existing commission which has done a great deal of work in this whole area over many, many years.

Initially my only concern with using ACIR as the commission to undertake this task was that the commission is very, very deliberate in what it does, and my concern was that it might take too long a period of time. We have already put this commission on a fairly short leash and said we really want to have a report back from the commission within a year's time as to what should be done or should not be done.

My only concern initially was ACIR might not be able to do what was required within the time that we gave them. I have since had conversations with Governor Winter, who is the head of the ACIR. He assured me the commission has taken that into account, will comply with our time restraints, will proceed with the work, so having been reassured in my own mind that the commission can in fact do that job we ask them to do in title II, I can now enthusiastically support the amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Schiff amendment to substitute the Advisory Commission on Intergovernmental Relations for the Unfunded Mandate Commission contained in H.R. 5.

This issue was first brought to the attention of the Government Reform Committee by Representative CARRIE MEEK during our committee markup of H.R. 5. Mrs. MEEK offered this very substitute, but withdrew it at the request of Chairman CLINGER.

If we must have another mandate report, at least we should not waste taxpayer money. The Unfunded Mandate Commission in H.R. 5 is pure Government waste. Why should we throw away $1 million in taxpayer money to set up another Government commission?

This amendment would substitute the language in last year's bill, and require the U.S. Advisory Commission on Intergovernmental Relations to do the mandate report.

The U.S. Advisory Commission is nonpartisan, and has done numerous reports on unfunded mandates. These reports serve as the background for much of the work that has already been done in this area.

It is irrational to set a new Commission, with new staff, to do work that can be done by an existing Commission, with the existing staff. The American people are sick and tired of Congress wasting millions of dollars on unnecessary commissions.

Let us stop doing business as usual around here. Let us put an end to Government waste. I urge support for this amendment. I fully support this, and I am very happy that both the minority and the majority side have been able to agree on this amendment.

This is a darn good amendment.

Mr. SCHIFF. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I want to thank the gentlewoman. Obviously we have had a number of differences on other parts of this bill. I just want to thank the distinguished ranking member from Illinois for working with our side, working with me and other Members, the gentlewoman from Florida [Mrs. MEEK], the gentleman from Connecticut [Mr. GEJDENSON], the gentleman from Virginia [Mr. MORAN], for working in a common interest where we can agree to make some progress on the bill. I want to express my appreciation.

Mrs. COLLINS of Illinois. I wanted to tell the vice-chair of the committee we certainly have enjoyed the opportunity of working with him and found he was certainly eager to enable us to work with him on this very important issue, and we are glad we had comity in this case.

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words.

I just rise to support the efforts of my colleagues, the gentleman from New Mexico [Mr. SCHIFF], my colleagues on the other side including the gentlewoman from Florida [Mrs. MEEK], to offer the strengthening amendment to the bill. I think it clarifies and strengthens what we are trying to do here. It should be noted there have been five major studies produced by ACIR in the last decade on this very issue of unfunded Federal mandates. I think theirs is certainly the professional organization in a position to do this job. It is made up of 26 members of all levels of government, local, State, and Federal.

I think the gentlewoman from Florida [Mrs. MEEK] is to be commended for raising this issue. I think in the end, as the vice chairman has noted, this will save the taxpayers money. We will end up with a better product.

I also will say I, too, have been in discussions with ACIR. I think they are properly motivated and properly focused on the timeframe that the chairman, the gentleman from Pennsylvania [Mr. CLINGER], has noted. So I have every confidence they are going to come through.

I would also say the Senate has approved a very similar amendment so that the Senate and the House bills will be, if not identical, very similar on this subject. ACIR is going to be given the responsibility and the authority to do this job.

Mr. MORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also rise in support of this amendment.

I would like to ask the gentleman from New Mexico the effect of deleting the specific $1 million portion of appropriations. Is that limiting or delimiting the ability of the Commission to function?

I was walking over here as you were explaining it, I suspect, but I know that you made reference to the additional responsibilities that this Commission would have to take on as a result of the Senate action.

Is it your intention to supply sufficient resources or to eliminate the resources that we would make available?

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I appreciate the gentleman yielding.

The intent of my amendment would remove at this time the authorization for new funds for this Commission which may now be the existing Advisory Commission on Intergovernmental Relations. That agency is already funded at approximately $1 million a year. Now, as the gentleman indicated and as I did refer to earlier, the Senate in their bill gave new duties. They adopted the Advisory Commission in place of a brandnew Commission. They then added new duties in the bill and provided an authorization, because they thought they had reached a point where some additional authorization was necessary even to an existing Commission.

My amendment does not offer extensive new duties and, therefore, I do not offer any additional authorization. I think if the House adopts my amendment and adopts this bill, that would be a matter of conference between our two Houses as to whether we wanted to have sufficient additional duties and some additional authorization.

Mr. MORAN. Reclaiming my time. I thank the gentleman for the explanation.

I am concerned that with such an important bill if we do not give the Commission that is delegated the responsibility of defining mandates and determining their impact, then all of this effort is for nought if we do not have sufficient resources to carry out this responsibility. So I have some concern with not providing sufficient funds.

I do not want underscore the importance of having the Advisory Commission on Intergovernmental Relations take on this responsibility. For those of you who are not familiar with it, it is chaired by the former Governor of Mississippi, Bill Winter; a very active member is the Republican mayor of Knoxville, TN, Victor Ashe, who is also president of the United States Conference of Mayors; a former senior staff person for the National League of Cities is executive director; Gov. Mike Leavitt is a very active member; the Democratic mayor of Philadelphia, Ed Rendell, is a very active member. It is totally bipartisan. In fact, it is fully committed to the principles espoused in the unfunded-mandates legislation we are currently considering. Over the last year, in fact, they have worked on defining a definition of mandates, the principles and processes involved in seeking relief for State and local governments, the guidelines for evaluating existing mandates and implementing mandate-relief legislation.

So they are the ideal body. They were created 30 years ago, and they have a history of being responsive to the issue that has caused us, the Congress, to devote the last 2 weeks to the concerns of State and local governments. So I am strongly in support of this amendment to the legislation.

I have some concern that within the legislation the Commission is required to come up with a criteria upon 60 days of enactment of this legislation. If we do not pass this amendment which designates ACIR, it is impossible to put a new Commission together in time to have the criteria, because the legislation actually designates the Commission to take operation within 60 days as well, so, in other words, the legislation empowers the Commission 2 months after enactment, but within 2 months after enactment, the Commission also has to have the report ready. So if we do not pass this amendment, we are going to have to revise some of the proposed legislation.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I just rise in support of the gentleman from New Mexico [Mr. SCHIFF] and the gentleman from Virginia [Mr. MORAN] and the gentlewoman from Florida [Mrs. MEEK] and all the other speakers. This makes a lot of sense, even for those who have some doubts about the general legislation. This is an obvious improvement. It saves money and takes an existing institution with some memory to get the job done.

□ 1230

Mr. MORAN. I thank the gentleman from Connecticut [Mr. GEJDENSON] for his comments.

Mr. FLANAGAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of Mr. SCHIFF's amendment to H.R. 5, the Unfunded Mandate Reform Act. I too believe H.R. 5 is an important first step in gaining control of big government spending and fulfilling the promises we made to the American people in keeping with the Contract With America. As it stands now, H.R. 5 sends an important message to the American people that the 104th Congress is serious about decreasing the financial burdens on States and localities.

Mr. Chairman, over the last 20 years, there has been a steady increase in the number of unfunded Federal mandates passed down by the Congress to our State and local governments. While the number of unfunded mandates increase, the compliance with these mandates become more difficult. According to a GAO estimate released last year, from 1992 to 1995, Chicagoans will spend $319 million to comply with unfunded Federal mandates. H.R. 5 puts a stop to this trend, and therefore, relieves the burdens on our State and local governments.

The people of Chicago carry the weight of unfunded Federal mandates such as the National Voter Registration Act, better known as the Motor-Voter Act and the 1991 Intermodal Surface Transportation Efficiency Act at the expense of our city's educational system, infrastructure, business community, and law enforcement. According to my colleague, Mr. DONALD MANZULLO, after an additional $15 million implementation cost, the Motor-Voter Act could cost our home State of Illinois another $2 million annually. The act will cost the Nation more than $100 million over 5 years according to the Americans for Tax Reform. These costs do not include the litigation cost adding up in States like California that have chosen to sue the Federal Government rather than comply with the unfunded mandate. That is why I have signed on as a cosponsor of Mr. MANZULLO's Motor-Voter Relief Act of 1995, which seeks to allow States to voluntarily adopt the motor-voter bill of 1993.

Unfunded Federal mandates place a burden on States, localities, and eventually, the taxpayers. There are many times when Federal mandates preempt State procedures which leads to ineffective policy and wasteful overhauls of systems that already work. Our State elected officials know what works best in their local area and we should trust them to make these decisions. One example that comes to mind is a measure which Congress previously considered that would prohibit the use of lead in piping anywhere in the transportation of public drinking water. Historically, all of the city of Chicago's public water lines contained lead soddar. These public water lines have not been all replaced, consequently, large sections essential to water trasport remain. In addition, many water lines serving private homes are composed of lead soddar. The city treats its water in order to assure FDA approval of our public drinking water. This is a perfect example of how our city reached a solution locally that ultimately satisfied the same FDA requirements that all cities are asked to abide by. If the city was forced to replace these public water lines that transported drinking water, it would be a financial disaster costing Chicagoans millions of dollars.

It is not only taxpayers who are bearing the burden. It is small business owners as well. Earlier this month the Washington Times reported on a regulation to force a Kansas City bank to install a Braille keypad, costing several thousand dollars, on its drive-through automatic teller.

In addition to being financially difficult on taxpayers and small business, unfunded Federal mandate's one-size-fits-all mentality is extremely disturbing.

Unfunded Federal mandates lead to wasteful spending. The Center for Study of American Business reported that in one community, the Endangered Species Act required paying a consultant $5,000 in taxpayers money to search for desert tortoises in dry desert washes. No tortoises were found but the city paid the consultant fees required by the Federal Government.

Mr. SCHIFF's amendment, in my opinion, is a perfecting amendment to an already top rate piece of legislation. It is designed to eliminate the proposed Commission on Unfunded Federal Mandates which, in my opinion, creates more bureaucracy. Why create more Government when an existing commission can be called upon to perform the required duties? Not only does this amendment eliminate the creation of a new arm of the Federal Government, it also eliminates the need to fund the proposed Commission to the tune of $1 million.

I strongly support H.R. 5 which limits future unfunded Federal mandates. Downscaling Government and stopping the irresponsible spending habits of past Congresses is what I, along with many of my colleagues, were sent here to do.

I compliment the gentleman from New Mexico on finding an avenue to do just that and I gladly support Mr. SCHIFF's amendment and H.R. 5 on behalf of the people of the Fifth District of Illinois.

Ms. LOFGREN. Mr. Chairman, I move to strike the requisite number of words, and I rise to engage in a brief colloquy with the gentleman from Pennsylvania [Mr. CLINGER].

As the gentleman knows, I was prepared to offer an amendment, amendment No. 89, that would ask the Commission to report back and investigate the extent to which States require local governments, without their consent, to perform duties imposed on State government by the unfunded Federal mandates, including any duty to pay a matching amount as a condition of Federal assistance.

In reviewing this matter, it has been suggested to me that this investigatory and review function is really already included within the scope of what will be reviewed and reported back to this Congress.

Mr. CLINGER. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the chairman of the committee.

Mr. CLINGER. I thank the gentlewoman for yielding to me.

Mr. Chairman, may I confirm to the gentlewoman that that is exactly the intention here, that that would be included in the review, that we want to make sure we are reviewing at all levels the impact, both of Federal on local, of State on local, all up and down the line. So it would be included within the language.

Ms. LOFGREN. So given that we would get a report back on that specific subject, I would like it to be known that I will not be offering amendment No. 89. I thank the gentleman.

Mr. CLINGER. I thank the gentlewoman.

PERFECTING AMENDMENT OFFERED BY MR. BURTON OF INDIANA TO THE AMENDMENT, AS MODIFIED, OFFERED BY MR. SCHIFF

Mr. BURTON of Indiana. Mr. Chairman, I offer a perfecting amendment to the amendment, as modified.

The Clerk read as follows:

Perfecting amendment offered by Mr. BURTON of Indiana to the amendment, as modified, offered by Mr. SCHIFF: In section 101(a)(4)(G), strike the period at the end of the paragraph and add the following ", and to ensure that unfunded Federal mandate relief does not increase private sector burdens.".

Mr. BURTON of Indiana. Mr. Chairman, I do not think this is a controversial amendment. I have cleared it with the majority and with the ranking minority member, the gentlewoman from Illinois [Mrs. COLLINS].

Exempting the public sector and their private sector competitors from unfunded Federal mandates could also burden private sector entities which are not competing with the public sector. They may bear a larger share of the burden of meeting the mandate if the mandate itself is unchanged.

For example, and this is a hypothetical example: City governments are exempted from a new clean air mandate for their vehicles. But the new clean air bill overall still requires pollutants to be reduced by 100 million tons. That is even though the cities will be exempt from it.

Therefore, since city-owned vehicles are exempt from the mandate, privately owned vehicles collectively must bear a larger share of the burden of accomplishing the 100 million tons of pollution reduction. Even though there is not competition, we would still have the public sector relief, which we support, inadvertently hurting the private sector.

So we just want the Commission to study this in the event that this might occur in the future.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I thank the gentleman for yielding.

Mr. Chairman, I support the gentleman's amendment to the amendment. It has been raised numerous times during debate on this bill about the possible effect of limiting unfunded mandates on public sector entities while not limiting them or not limiting them as much on private sector entities, the effect it might have when they are in competition with each other, such as in some cases power generation and other examples.

I want to say that although I think we have addressed that at different places, the gentleman's amendment to the amendment is well taken, to expressly ask the Commission to study that effect and report back to Congress so that Congress could consider it in terms of further legislation.

So I support the amendment of the gentleman from Indiana to the amendment.

Mr. BURTON of Indiana. I thank the gentleman, and I thank the chairman of the committee, the gentleman from Pennsylvania [Mr. CLINGER], and the gentlewoman from Illinois [Mrs. COLLINS] for her help as well.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Indiana [Mr. BURTON] to the amendment, as modified, offered by the gentleman from New Mexico [Mr. SCHIFF].

The perfecting amendment to the amendment, as modified, was agreed to.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak in support of the amendment and the efforts of the gentleman on this bill. Although there have been some differences on this side of the aisle on certain areas of exemptions and concerns that we have, I do plan to vote for this bill. I think it is a good bill. Its time is overdue.

Mr. Chairman, I was to have an amendment to this title which dealt with this Commission. This Commission, as we can see, is now a moot point, and naturally I will not have to offer that amendment.

But what my amendment would have done, if you will, in this Commission there would have been nine members appointed from individuals who possess extensive leadership and experience in and knowledge of State and local and tribal governments and intergovernmental relations, including State and local elected officials.

The Traficant amendment would simply say it would include officials representing the interests of working men and working women.

Now, I am not going to offer that. But when in fact the authorization comes up for the Advisory Commission on Intergovernmental Relations, I do want to support, to specify within that authorization those specific advocates for, that are keeping an eye out for, working men and working women.

□ 1240

But in title 2, when we move toward certain activities within the bill that look at the impact that this legislation, the effect it will have on the private sector, and productivity, growth, employment and jobs, I will have an amendment that specifies that it also consider and factor in workers benefits and pensions, and let me say this to the majority:

"Some of you are saying, 'Well, maybe that is covered.' There is a great need in this country to consider all of our legislation as it impacts benefits and health insurance which we are trying now to promulgate and plan to help those that are impacted upon by that and pensions, many of which are underfunded."

So, I am going to ask the majority to consider that in title 2. It is germane. I will not be offering my amendment in title 1, and I do support the gentleman's amendment.

I think one of the first things we could and should do is, if we are going to have this Federal mandates, maybe who do not need a lot of these commissions, so perhaps it is wise to throw some of these things out.

I commend the gentleman and ask for his support in that defining, delineating language to look at workers benefits and pensions in that title 2 scenario.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I want to say I will be glad to look at the gentleman's working. I have not seen it yet, but I just want to back up the gentleman's point about the composition of the Commission.

Of the 26 members of the Commission, Mr. Chairman, 20 are appointed by the President of the United States, and the existing law requires that three be private citizens without any connection to the Government.

So I think the concern the gentleman is addressing in terms of the composition I believe is already found in the existing Commission in the amendment I have offered, and I thank the gentleman for his support.

Mr. TRAFICANT. Mr. Chairman, I ask the gentleman to give me a hand; to give me a hand there in title 2. It is reasonable. Pensions and benefits of our workers should be considered in the impact of any legislation.

Mr. Chairman, I yield back the balance of my time.

REQUEST BY MR. BARTLETT OF MARYLAND TO OFFER AMENDMENT

Mr. BARTLETT of Maryland. Mr. Chairman, I offer an amendment numbered 27 of the amendment as modified, as amended.

The CHAIRMAN. The Clerk will designate the amendment.

First, let the Chair inquire, does the gentleman have an amendment to the Schiff amendment.

Mr. BARTLETT of Maryland. Mr. Chairman, I was asked to submit the amendment now. It is a perfecting amendment.

Mrs. COLLINS of Illinois. Reserving the right to object, Mr. Chairman, I do not think we have a copy of the amendment. We are looking for it now. We do not have a copy of it here.

What is going on here?

Mr. BARTLETT of Maryland. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from Maryland.

Mr. BARTLETT of Maryland. It is No. 27 in the RECORD.

Mrs. COLLINS of Illinois. All right.

Mr. Chairman, I will reserve a point of order.

The CHAIRMAN. The gentlewoman from Illinois [Mrs. COLLINS] reserves the point of order.

The Chairman will advise the gentleman from Maryland [Mr. BARTLETT] that his amendment, as drawn, is not compatible with the amendment offered by the gentleman from New Mexico [Mr. SCHIFF], but it could be easily modified to be compatible, and if the gentleman would withdraw it at the moment and work with the gentleman from New Mexico, perhaps his amendment would be in proper form.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GEKAS. Cannot the gentleman from Maryland, by unanimous consent, request that the amendment be completed now so that he could proceed with his amendment?

By unanimous consent could he ask that the language be conformed to the amendment offered by the gentleman from New Mexico [Mr. SCHIFF]?

The CHAIRMAN. He could ask unanimous consent to have the amendment drawn as a modification of the amendment offered by the gentleman from New Mexico [Mr. SCHIFF] as opposed to the language of the bill.

Mrs. COLLINS of Illinois. Reserving the right to object, Mr. Chairman, I am reserving the right to object because I would like to engage in a colloquy with the gentleman who wishes to offer the amendment.

Could the gentleman please just tell us what he is trying to do here? Maybe we can try to come to some kind of an agreement.

The CHAIRMAN. The Chair will treat as pending a unanimous-consent request to modify offered by the gentleman from Maryland and recognizes the gentlewoman from Illinois [Mrs. COLLINS] on a reservation of objection.

Mrs. COLLINS of Illinois. Mr. Chairman, I ask the gentleman from Maryland, will the gentleman tell me if he is planning just to engage in a colloquy or what he is planning to do at this point?

Mr. BARTLETT of Maryland. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from Maryland.

Mr. BARTLETT of Maryland. Yes. If I could move to strike the last word, I think we could dispense with it very easily.

The CHAIRMAN. The committee is proceeding under a reservation of objection by the gentlewoman from Illinois [Mrs. COLLINS]. If the gentleman from Maryland could simply respond to the gentlewoman from Illinois, that would probably take care of it.

Mrs. COLLINS of Illinois. That would take care of it.

Mr. BARTLETT of Maryland. All right.

Mr. Chairman, my amendment was really quite a simple one. It merely instructs the Commission to examine whether unbiased science is used when enforcing the State implementation plans such as other emissions testing under the Clean Air Act.

Mr. SCHIFF. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I want to first clear up the bit of confusion that started.

We were advised by the Parliamentarian that because we felt we had to make so many changes in the bill to add the Advisory Commission in place of the proposed new Commission that my amendment is offered in the nature of a substitute.

Mrs. COLLINS of Illinois. Yes.

Mr. SCHIFF. For that reason other amendments must be technically offered as amendments to my amendment, and I trust that all Members would, if they have not done so, ask unanimous consent just for that technical modification.

I do not speak for the gentleman from Maryland [Mr. BARTLETT], but it is my understanding that he and the chairman of the committee have agreed that following a colloquy, which would be responded with a reference to report language, the gentleman would offer to withdraw his amendment at that time.

May I ask the gentleman from Maryland if that is correct?

Mr. BARTLETT of Maryland. That is correct. The chairman indicated that he supports the intent of our amendment, that what we want to accomplish could be effectively accomplished with report language, and with his assurance that that report language will be developed, we are prepared to withdraw our offer of the amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I withdraw my reservation of objection.

Mr. BARTLETT of Maryland. Mr. Chairman, I withdraw my proffer of the amendment.

The CHAIRMAN. The gentlewoman from Illinois [Mrs. COLLINS] withdraws her reservation of objection, and the gentleman from Maryland [Mr. BARTLETT] has withdrawn his proffer of the amendment.

PERFECTING AMENDMENT OFFERED BY MR. RIGGS TO THE AMENDMENT OFFERED BY MR. SCHIFF, AS MODIFIED, AS AMENDED

Mr. RIGGS. Mr. Chairman, I offer a perfecting amendment to the amendment, as modified, as amended.

The CHAIRMAN. The Clerk will designate the perfecting amendment.

The text of the perfecting amendment to the amendment, as amended, as modified, is as follows:

Perfecting amendment offered by Mr. RIGGS to the amendment offered by Mr. SCHIFF, as modified, as amended: At the end of section 101 (Page 5, after line 14), add the following:

(e) PRIORITY TO MANDATES THAT ARE SUBJECT OF JUDICIAL PROCEEDINGS.—In carrying out this section, the Advisory Commission shall give the highest priority to immediately investigating, reviewing, and making recommendations regarding unfunded Federal mandates that are the subject of judicial proceedings between the United States and a State, local, or tribal government.

Mr. RIGGS. Mr. Chairman, title 1 of H.R. 5, the Unfunded Mandates Reform Act, provides for an establishment of a commission to review existing unfunded mandates, as we have been discussing over the last few minutes. The gentleman from New Mexico [Mr. SCHIFF] has offered a substitute, currently under consideration by the House, to title 1 designating the existing Advisory Commission on Intergovernmental Relations as the body to conduct this review.

I rise to offer a bipartisan perfecting amendment to the Schiff substitute for myself, the gentleman from Illinois [Mr. MANZULLO], and the gentleman from California [Mr. CONDIT], and I might add this amendment also has the unanimous support of my colleagues, the California Republican congressional delegation.

The Riggs-Manzullo amendment will direct the Commission to give the highest priority to immediately investigating, reviewing, and making recommendations regarding unfunded Federal mandates that are the subject of judicial proceedings between the United States and a State, local, or tribal government.

The Riggs-Manzullo amendment will not change underlying law, only direct that matters in litigation be given the Commission's first attention.

I urge my colleagues to support this important amendment.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I want to say that I support the Riggs amendment as cosponsored by other Members of the House. I think that to say that the Advisory Commission should give its priority in studying those issues which are in litigation makes a great deal of sense. I have always felt, and long before I had the privilege of serving in this body, that there is a great waste of taxpayers' money when government agencies or levels of government go to court against one another and the taxpayers are essentially paying for both sides of a lawsuit.

Now we all understand that is necessary, that a sovereign State has the right to make certain challenges to the Federal Government, and within the laws of those States, municipalities and counties may be able to challenge the State.

□ 1250

But it seems to me to the extent we can head this off or if they arise to the extent we can address them rapidly, that saves a great deal of money, of time, and of effort of government agencies that are litigating against each other.

Mr. Chairman, I want to conclude by saying that the gentleman's amendment is not any more specific. There is no way of saying whether litigation in the future might involve Democratic administrations at one level versus Republican administrations at another level. It does not matter. It is not relevant to the amendment, and it should not be relevant to the study of the Commission. Once there is litigation between levels of government, that should be sufficient to trigger the gentleman's priority, with which I agree.

So, Mr. Chairman, I support the amendment.

Mr. RIGGS. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I yield to the chairman of the California Legislative Task Force, the gentleman from California [Mr. Dreier].

Mr. DREIER. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, I rise simply to reiterate what was stated by my friend, the vice chairman of the California congressional delegation, that being that our delegation is strongly behind this. Clearly, the issue of litigation, as we look at this question of unfunded mandates, should be a priority. It has been demonstrated that there is major concern and controversy over a number of particular items.

It seems to me that as we look at those, ACIR should be in position to in fact place those items at the top of the priority list. The Riggs amendment is, I believe, a very wise and helpful perfection to the Schiff amendment. I strongly support it, and I know my California colleagues join in extending their support.

Mr. RIGGS. Mr. Chairman, I yield now to the gentleman from California [Mr. Condit].

Mr. CONDIT. Mr. Chairman, I rise in support of the amendment.

I think this is a good amendment. The fact that California and several other States are involved in lawsuits and the fact that litigation exists is an example of proof that the issue of unfunded mandates is an extreme problem for State and local governments. I think this is one of the ways for us to expedite the problems of litigation and legal problems by getting it before this Commission and hopefully getting it resolved.

Mr. Chairman, I think it is a good amendment, one that we should adopt, and I ask my colleagues to support it.

Mr. MANZULLO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand in support of this amendment that the gentleman form California [Mr. Riggs] and I crafted.

The issue here is very simple. Regardless of the views of Members of this Chamber on the issue of unfunded mandates, I am sure that they know full well that this bill is going to pass, and that everybody in this body would want to make sure that those matters have the first attention of the Commission during the study of those matters that are presently in the hands of the courts or may be in the hands of the courts later on.

The purpose of this amendment is to state that because litigation is existing, this means that the issue of studying unfunded mandates in those particular situations is paramount.

Therefore, Mr. Chairman, I rise to urge the Members of this body to vote in favor of the Riggs-Manzullo amendment.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from California [Mr. Riggs] to the amendment offered by the gentleman from New Mexico [Mr. Schiff], as modified, as amended.

The perfecting amendment to the amendment, as modified, as amended, was agreed to.

Mr. BENTSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not use very much time, but I wanted to discuss this with the gentleman from New Mexico.

On the amendment that was withdrawn by the gentleman from Maryland [Mr. Bartlett], I would just say that I support the gentleman in what he is trying to do. The auto emission testing is a major issue certainly in my State and in my home city of Houston.

While I support the goals of the Clean Air Act, we have found that the implementation of the program has not gone as planned, and it is something that has been a problem. There are not enough stations, and the lines are long. If the car fails the testing, the consumer must pay for repairs, as well as return for another test, and that is quite a bit to ask, particularly when they are asked to get other tests under State laws as well.

So, Mr. Chairman, I support the intent to have the ACIR look at this.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I appreciate the gentleman's yielding.

First of all, I appreciate the gentleman's concern over the auto emissions testing. In the city of Albuquerque which I represent, the city of Albuquerque has attained Federal clean air standards for the last 3 consecutive years. Nevertheless people within our municipal and local governments believe that they have to alter our current testing programs to be in compliance with the desires of the Environmental Protection Agency. I am not clear on why we have to make changes when in fact we are now in compliance with Federal clean air standards.

It was simply felt by the chairman of the committee and the gentleman from Maryland that certain issues laid down listing specifically—because we could list specific issues virtually without end—that that issue instead of being listed as part of the bill would be recommended in report language in conference between the House and the Senate, and that is the commitment the chairman of the committee had with the gentleman from Maryland.

Mr. BENTSEN. Mr. Chairman, I appreciate that, and I appreciate the intent of the committee to include that in report language.

Mr. PAYNE of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleagues, Representatives Schiff, Gejdenson, Moran, and Meek to delete the provision in H.R. 5 that establishes the Commission on Unfunded Federal Mandates and would instead require a similar review of unfunded mandates by the existing Advisory Commission on Intergovernmental Relations.

This bipartisan body was established to ensure coordination between the different levels of government. As a member of the Advisory Commission, I have been impressed with the ability of the 26-member bipartisan panel which includes Members of Congress, members of the executive branch, Governors, and other State, county, and local officials to develop consensus on issues important at every level of government.

Mr. Chairman, the Advisory Commission is currently in existence and equipped to carry out the mandate prescribed by H.R. 5. The Advisory Commission on Intergovernmental Relations is uniquely qualified to provide us with the expertise to give technical assistance on unfunded mandates. This agency has garnered an impressive body of research on this issue.

The Commission has already completed a comprehensive analysis of the impact of unfunded mandates at every level of government, especially at the localities where the impact of regulatory burden is focused and felt.

It does not make sense to expend limited resources to create a new bureaucracy, while we sit up here talking about dismantling a bloated one, when there is already an existing agency currently functioning in the proposed capacity.

Mr. Chairman, I urge my colleagues to support this very important measure, because in all the rhetoric of cutting unnecessary government machinery, we have lost sight of the fact that creating a duplicate agency works counter to that objective.

PERFECTING AMENDMENT OFFERED BY MR. MANZULLO TO THE AMENDMENT OFFERED BY MR. SCHIFF, AS MODIFIED, AS AMENDED

Mr. MANZULLO. Mr. Chairman, I offer a perfecting amendment to the amendment offered by the gentleman from New Mexico [Mr. SCHIFF]. I wish to enter into a colloquy with the gentleman, and then it will be my intention to withdraw the amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Perfecting amendment offered by Mr. MANZULLO to the amendment offered by Mr. SCHIFF, as modified, as amended: In section 102(a)—

(1) in paragraph (1), before the semicolon insert the following: ", including the role and impact of requirements under section 182(d)(1)(B) of the Clean Air Act (42 U.S.C. 7511a(d)(1)(B))"; and

(2) in paragraph (3), at the end add the following: "The Commission shall include in recommendations under paragraph (2) recommendations with respect to requirements under section 182(d)(1)(B) of the Clean Air Act (42 U.S.C. 7511a(d)(1)(B)).".

Mr. MANZULLO. Mr. Chairman, the amendment I offer brings to focus a terrible unfunded mandate that has come as a result of the 1990 amendments to the Clean Air Act. That states as follows: "In any area that has been nominated to be a severe or extreme ozone nonattainable area, States are required to file a State compliance plan."

Part of that plan states that any employer that has an excess of 100 employees has to file a plan that certifies that within a year or two employee trips will be reduced by 25 percent. This is known as forced car pooling.

The purpose of my amendment here would be to direct that the Commission give No. 1 priority to this unfunded mandate which is costing the States millions and millions of dollars.

The gentleman from New Mexico [Mr. SCHIFF] has cordially agreed to enter into a colloquy to show that on the employee commute option, which is part of the Clean Air Act, had we had the unfunded mandates law in effect in 1990, this would have been studied. I ask the gentleman, is that correct?

Mr. SCHIFF. Mr. Chairman, if the gentleman will yield, I believe that is correct.

□ 1300

Mr. MANZULLO. Mr. Chairman, it just goes to show the absolute necessity of passing this unfunded mandate law. Back in 1990 there would have been required a study to say what is the impact on forced car pooling on State agencies, local agencies, and on local businesses. The State of Illinois now faces tens of millions of dollars in this new unfunded mandate. It is a new age, it is a new federalism. It is a time to look at America through the eyes of those that are trying to conserve its resources. That is why I simply cannot impress upon this body the absolute necessity of passing this unfunded mandates bill.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I want to say the chairman of the committee, the gentleman from Pennsylvania [Mr. CLINGER], and the gentleman from Illinois [Mr. MANZULLO] have discussed this issue, and once again there are issues which we recommend be placed in the bill and other issues which by way of example are matters that the committee should stay.

I understand the chairman of the committee has made a commitment to the gentleman from Illinois that assuming we do get to conference with the other body, that the chairman commits to try to get into report language the issues the gentleman has raised.

Mr. MANZULLO. Mr. Chairman, I ask unanimous consent to withdraw my amendment numbered 17.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERFECTING AMENDMENT OFFERED BY MR. TRAFICANT TO THE AMENDMENT OFFERED BY MR. SCHIFF, AS MODIFIED, AS AMENDED

Mr. TRAFICANT. Mr. Chairman, I offer a perfecting amendment to the amendment, as modified, as amended.

The Clerk read as follows:

Perfecting amendment offered by Mr. TRAFICANT to the amendment offered by Mr. SCHIFF, as amended, as modified: Before the semicolon at the end of the proposed section 101(a)(1), insert "and consider views of and the impact on working men and women on those same matters".

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, the amendment says at the end of section 101(a)(1), before that semicolon, insert, which would be after the following: "Investigate and review the role of unfunded Federal mandates in intergovernmental relations and their impact on State, local, tribal, and Federal Government objectives and responsibilities and their impact on the competitive balance between State, local, and tribal governments and the private sector."

The Traficant amendment is very clear. It would clarify an intent of Congress and a concern of Congress by adding the following words: "And consider views of and the impact on working men and working women on those same matters."

That is the amendment in a nutshell. It would not have been germane for me to offer it to that Commission, but as a perfecting amendment to the gentleman from New Mexico's amendment, I believe it will clarify the intent of Congress more than anything else in legislative history.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, when this bill was drafted, I believe that it was the committee's intent to include the working people who work for State government, local government, tribal government, and the private sector as being considered under the study by the Commission. However, I certainly believe that this clarifies that issue for the future, should this bill be enacted into law. Therefore, I accept the amendment of the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's support. I think the legislative history shows the intent of Congress to be concerned with the views of the working men and women to be in our best interests.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment offered by the gentleman from New Mexico [Mr. SCHIFF], as modified, as amended.

The perfecting amendment to the amendment, as modified, as amended, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. SCHIFF], as modified, as amended.

The amendment, as modified, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

SEC. 201. REGULATORY PROCESS.

(a) IN GENERAL.—Each agency shall, to the extent permitted by subchapter II of chapter 5 of title 5, United States Code—

(1) assess the effects of Federal regulations on States, local governments, tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in legislation), including specifically the availability of resources to carry out any Federal mandates in those regulations; and

(2) seek to minimize those burdens that uniquely or significantly affect such governmental entities or the private sector, consistent with achieving statutory and regulatory objectives.

(b) STATE, LOCAL GOVERNMENT, AND TRIBAL GOVERNMENT INPUT.—Each agency shall develop an effective process to permit elected officials (or their designated representatives) of States, local governments, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates.

(c) AGENCY PLAN.—

(1) IN GENERAL.—Before establishing any regulatory requirements that might significantly or uniquely affect small governments, an agency shall have developed a plan under which the agency shall—

(A) provide notice of the contemplated requirements to potentially affected small governments, if any;

(B) enable officials of affected small governments to provide input pursuant to subsection (b); and

(C) inform, educate, and advise small governments on compliance with the requirements.

(2) EFFECTS ON PRIVATE SECTOR.—Before establishing any regulatory requirements, agencies shall prepare estimates, based on available data, of the effect of Federal private sector mandates on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services.

SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

(a) IN GENERAL.—Before promulgating any final rule that includes any Federal mandate that may result in the expenditure by States, local governments, or tribal governments, in the aggregate, or the private sector of at least $100,000,000 (adjusted annually for inflation) in any 1 year and before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any such rule, the agency shall prepare a written statement containing—

(1) estimates by the agency, including the underlying analysis, of the anticipated costs to States, local governments, tribal governments, and the private sector of complying with the Federal mandates, and of the extent to which such costs may be paid with funds provided by the Federal Government or otherwise paid through Federal financial assistance;

(2) estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of—

(A) the future costs of the Federal mandate; and

(B) any disproportionate budgetary effects of the Federal mandates upon any particular regions of the country or particular States, local governments, tribal governments, urban or rural or other types of communities, or particular segments of the private sector;

(3) a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal mandates (such as the enhancement of health and safety and the protection of the natural environment);

(4) the effect of Federal private sector mandates on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services;

(5) a description of the extent of the agency's prior consultation with elected representatives (or their designated representatives) of the affected States, local governments, and tribal governments, and designated representatives of the private sector;

(6) a summary of the comments and concerns that were presented by States, local governments, or tribal governments and the private sector either orally or in writing to the agency;

(7) a summary of the agency's evaluation of those comments and concerns; and

(8) the agency's position supporting the need to issue the regulation containing the Federal mandates (considering, among other things, the extent to which costs may or may not be paid with funds provided by the Federal Government).

(b) PROMULGATION.—In promulgating a general notice of proposed rulemaking or a final rule for which a statement under subsection (a) is required, the agency shall include in the promulgation a summary of the information contained in the statement.

(c) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.—Any agency may prepare any statement required by subsection (a) in conjunction with or as part of any other statement or analysis, if the statement or analysis satisfies the provisions of subsection (a).

SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.

The Director of the Office of Management and Budget shall—

(1) collect from agencies the statements prepared under section 202; and

(2) periodically forward copies of them to the Director of the Congressional Budget Office on a reasonably timely basis after promulgation of the general notice of proposed rulemaking or of the final rule for which the statement was prepared.

SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with Federal agencies, shall establish pilot programs in at least 2 agencies to test innovative and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small governments; and

(2) meet overall statutory goals and objectives.

(b) PROGRAM FOCUS.—The pilot programs shall focus on rules in effect or proposal rules, or on a combination thereof.

SEC. 205. ANNUAL REPORT TO CONGRESS REGARDING FEDERAL COURT RULINGS.

Not later than 4 months after the date of enactment of this Act, and no later than March 15 of each year thereafter, the Advisory Commission on Intergovernmental Relations shall submit to the Congress, including each of the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a report describing Federal court rulings in the preceding calendar year which imposed an enforceable duty on 1 or more States, local governments, or tribal governments.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment to subsection (c) of section 201.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN: In subsection (c) of section 201, strike paragraph (2), strike the heading for paragraph (1) and run its text to the dash following the heading for the subsection, and redesignate subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, this amendment has been worked out in consultation with the majority. Section 201(c)(2) requires an evaluation of private sector costs associated with major rules that appear to largely duplicate the evaluation required in section 202. Thus the amendment improves the bill by striking an apparently redundant provision. The amendment is also necessary because the language in section 201(c)(2) used vague terms like regulatory requirement that could have been interpreted to cover more than major rules. This amendment eliminates these potential ambiguities.

Mr. Chairman, I urge support of the amendment.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Ohio.

Mr. PORTMAN. I thank the gentleman from California. This is an important clarifying amendment. We have worked this out, and I want to congratulate the gentleman on clarifying an important aspect of the legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer my amendment numbered 140.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WAXMAN: Amend section 201(b) to—

(1) strike "AND TRIBAL GOVERNMENT" in the subsection heading and insert "TRIBAL GOVERNMENT, AND CONCERNED CITIZENS", and

(2) strike "and tribal governments" and insert "tribal governments, and concerned citizens".

Mr. WAXMAN. Mr. Chairman, H.R. 5 provides that Federal agencies must consult with State and local governments before proposing Federal regulations. This amendment that I am offering modifies this provision to require that Federal agencies also consult with concerned citizens at the same time. The amendment was adopted without dissent in the full Committee on Government Operations in the last Congress in October.

The amendment recognizes that concerned citizens should have the same rights to participate in the rulemaking process as State and local governments.

For example, if EPA is considering a new drinking water standard, the public that drinks the water should have just as much input into the standard as the public water suppliers who have to comply with that standard. I think this amendment makes a great deal of sense. It brings about a consultation with all those who are involved in the matter, and therefore would help those who are about to propose regulations to make the wisest regulations possible. I urge support for the amendment.

Mr. PORTMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have to rise in reluctant opposition to this amendment, having accepted the last amendment from the gentleman from California [Mr. WAXMAN], which I thought was a good clarifying amendment.

The chairman of the committee and other Members on this side who have been active in this process have looked carefully at this amendment. We are reluctantly opposing it. We certainly think input from private citizens to develop meaningful regulations makes a lot of sense, and that is exactly why there is a process currently in the legislation to allow citizens to participate, call a notice and comment period for the promulgation of regulations. every citizen has a right to submit comments and participate in this regulatory process.

Reluctantly, because we agree on the intent of the amendment but we think it is not necessary to further amend this title with regard to this second amendment from the genteleman from California [Mr. WAXMAN], we must rise in opposition to it.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I understand the point the gentleman is making, that you think all parties ought to be involved, but I wanted to point out that the comment period is after a proposal is already on the table. And this bill provides that State and local governments can come in in advance. If they are going to come in in advance, then private citizens ought to be able to come in in advance and be able to participate on equal terms.

What we are proposing to do is there ought to be equal terms for comments, whether it be by a local government or by other concerned citizens.

Mr. PORTMAN. Mr. Chairman, reclaiming my time for a moment, I think what we have done in this legislation is entirely consistent with the executive order and the current process. State and local governments are coregulators.

□ 1310

It is appropriate that they have the input that is provided in the title. Again, although I think the intent of the gentleman's amendment we all agree with, we think there currently is the ability for citizens to have the kind of input that the gentleman desires. Again, we must reluctantly oppose the amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a meritorious amendment.

This bill requires agencies issuing regulations to first develop a plan to solicit input from local governments. However, there is no similar requirement to solicit the input of private citizens who may also be affected by the regulation being contemplated.

Ironically, this bill, in title III, does require CBO to solicit and consider information or comments from designated representatives of the private sector in conducting studies under section 424(b)(3), page 37 at line 19.

So why not require of the agencies the same wide range of views that is required by CBO? During the debate in the committee last Congress, the gentleman from California [Mr. WAXMAN] raised similar concerns. And the gentleman from New Mexico [Mr. SCHIFF] made some excellent points that deserved to be heard by the new members of the committee, and there are 31 new members of the committee.

He stated that if there is an antipollution regulation that addresses a health hazard affecting anyone, that it makes sense to have input from those who might be affected. And he supported an amendment that is similar to this one.

Let me give my colleagues an example why this is so important. If EPA is contemplating proposing a new regulation, for example, affecting incinerators operated by State and local governments under H.R. 5, EPA must allow officials of those governments to have input before the regulation is even proposed. Yet neither the residents of these local low-income communities who are breathing in the pollution from these incinerators nor the operators of privately run incinerators would have that same opportunity.

This is a commonsense amendment, and I would certainly hope that my colleagues would support this amendment.

Mr. WAXMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentlewoman for yielding to me.

I just want to reiterate the point that was persuasive on both sides of the aisle in the last Congress. If a local government is running an incinerator and they want to come in in advance and have consultation with the regulators, that is unfair to the citizens who are not also being consulted in advance who are going to have to breathe in the pollution. The same would be true when Government is acting in a businesslike capacity almost like a private sector business, where they run a drinking water system or a sewage system.

I have no objection with the consultation with the regulators, but it seems to me that they should not have an unfair advantage to be consulted without other citizens having that same opportunity.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Again, I think what the gentleman is attempting to achieve here, we can certainly understand it and sympathize with it. In fact, I think one of the things we are trying to get at with this bill is to prod the Federal Government, which has been reluctant to seek the kind of input from State and local governments. But this bill is really going to the regulator. They are coregulators. These are the people we are attempting to involve in the process.

They have not been adequately involved in the process before. Private citizens should they have the same standing, should they have the same level, be allowed to input the system at the same level? I think not, because we are really asking here for the State and local governments to be a part of the process on regulations that directly affect them.

I think we should note that nothing in this legislation prevents anyone from making comments on proposed regulations. That clearly is not the intent of this legislation. I must also point out that all of the interest groups that have been involved in shaping this legislation, the so-called big 7, National Governors Association, League of Mayors, all of the rest of them oppose this amendment because they do not want to see a special kind of a review process carved out for private citizens.

So I must oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The amendment was rejected.

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment, my amendment No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN: Insert at the end of section 201 the following:

(d) LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.—An agency may not issue a rule that contains a Federal mandate if the rulemaking record for the rule indicates that there are 2 or more methods that could be used to accomplish the objective of the rule, unless—

(1) the Federal mandate is the least costly method, or has the least burdensome effect, for—

(A) States, local governments, and tribal governments, in the case of a rule containing a Federal intergovernmental mandate, and

(B) the private sector, in the case of a rule containing a Federal private sector mandate; or

(2) the agency publishes with the final rule an explanation of why the more costly or burdensome method of the Federal mandate was adopted.

Mr. MORAN. Mr. Chairman, most of my colleagues on the other side and on this side are aware that I introduced an unfunded mandates bill about 4 years ago. Most of the provisions that were in that bill are also included in this bill. But there are some very important provisions that are not. This amendment deals with one of those.

This amendment would require that when Federal agencies issue a notice of proposed rulemaking, receive comments back from the private sector and from State and local governments that would be affected by the new rule, that they choose the least costly alternative method of implementing the intent of the legislation. And if they do not choose that least costly alternative, then they must at least explain why they did not.

I think this is a terribly important provision to include in our unfunded mandates bill, Mr. Chairman. The amendment simply asks that the Federal agencies act rationally. It does not tie their hands. But the fact that they have not, in many cases, acted rationally is the core problem for many of the issues that have come to the floor over the last week and a half during this unfunded mandates debate.

One such issue is that of the emissions inspection requirement under the Clean Air Act. Now, when the Environmental Protection Agency issued its regulations, they got a lot of comments back. But they chose to impose a cookie cutter approach to implementation of the Clean Air Act. That is why so many Members, and it happened again this morning, have risen opposed to that Federal agency's regulations. There are far better ways of implementing the intent of the Clean Air Act, a concept that I agree with, I agree with the intent of the legislation. I very strongly disagree with the way in which the Environmental Protection Agency has chosen to implement that legislation.

For example, they have required in many States to have central testing facilities, facilities that did not exist before, facilities that are not equipped to make the repairs necessitated by the rejection of the emissions test. And so we have a ping pong effect where citizens not only have to wait in long lines but they have to go back to a repair station, get the repair done. They cannot know whether it is going to pass or not until they go back to the central testing facility, and then oftentimes they ping pong back and forth. And it takes up the entire day or several days. No wonder the American people are upset with the Federal Government. It does not make sense.

Why not have new automobiles be able to go to test and repair stations that already exist, but older automobiles could go to central testing? There are any number of other ways that we could choose to implement the intent of the legislation without violating any of the basic provisions and save a whole lot of money and a whole lot of aggravation.

Another example is in Alexandria, and this is one of the reasons why I offered the unfunded mandates legislation, the FAIR Act, 4 years ago.

EPA said that we had to separate our sewage from our storm water runoff. But they said we have to do it in a way that every other jurisdiction does it. For Alexandria, it meant digging up streets that were laid down 200 years ago, that were surveyed by George Washington, that are supporting very expensive historic structures. We would have had to dig under all those homes and streets to lay an additional storm water piping.

□ 1320

We had an alternative to have a retaining tank down in Old Town. Members have probably not noticed it because it is not even obvious. We could do it with very little money, accomplish the same purpose, with no threat to the health of our citizens, at a fraction of the cost, and yet it was unacceptable to EPA because they had one cookie cutter approach they wanted every jurisdiction to implement.

This is the case with many Federal agencies, so what this amendment would do, Mr. Chairman, is to say, "If you get better ideas from State and local governments on how to implement these regulations, or from the private sector, use that better thinking. Take advantage of it. Work with States and localities and businesses, and let us do the public's business in the most efficient and effective manner possible."

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am confused because I am going to accept the gentleman's amendment. I am delighted to be able to indicate strong support for the amendment. I think the gentleman has made a very good argument that what we are trying to do here is to find the most effective, the most efficient, the least expensive and least disruptive way to accomplish these things.

What the gentleman had done here is to clearly indicate that where there are two choices, we should clearly opt and encourage that the least expensive, least costly, and least disruptive be adopted, so I am pleased to accept the gentleman's amendment as a major contribution.

Let me just also commend the gentleman for his, as he said, 4- or 5-year effort in this regard as a principal player in this whole unfunded mandates debate. He has done a superb job. We have been grateful to work with him.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I would echo the gentleman's comments. I am very pleased to support the amendment. Let me say briefly, this amendment is consistent with language that is in the FAIR Act, which I believe is the foundation for the legislation, H.R. 5, before us today, and have said that on many occasions, as the gentleman knows.

It is also consistent with the Executive order, and we have had lots of discussions about the Presidential Executive order that is currently in place. All agencies are meant to abide by the requirements in this Executive order. It goes far further than title II of this act, which sets up the requirements for our Federal agencies in this legislation.

Mr. Chairman, let me give a couple of examples. H.R. 5 only applies to rules having an impact of $100 million or more annually. The Executive order currently in place by President Clinton applies not only to rules having an impact of $100 million or more, but in addition all rules affecting in a material way productivity, competition, jobs, environment, State and local governments, even if less than $100 million.

Therefore, I would just make the point clearly here that yes, the gentleman's amendment is a good one. The least burdensome manner in which the agencies can regulate is a good idea. It is a sound idea. It is part of FAIR. It is also part of the Executive order.

I would say, though, in addition, Mr. Chairman, that the Executive order in fact goes even further than the gentleman's amendment, and we will be accepting this amendment happily, but not picking up all of the requirements and additional burdens on the regulators that is in the Executive order, the Clinton Executive order of October 1993. I am happy to accept the amendment.

Mr. CONDIT. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. CONDIT. Mr. Chairman, I rise to support the amendment, and make mention of the efforts of the gentleman from Virginia [Mr. MORAN] on this issue. He has been a tremendous leader in the unfunded mandates issue. He is partly the reason we are here today. Had he not started this fight and engaged us in this debate some time ago, we would not, probably, be at this point.

To his amendment, the gentleman's amendment is a good amendment. I think it demonstrates good common sense for us to take the best option, and the gentleman from Virginia [Mr. MORAN], I think in his amendment characterizes what he has done in this whole issue, for us to move to a solid, commonsense solution. I commend the gentleman for that. I urge Members to support the amendment, and I congratulate and commend the gentleman for his effort in this entire issue.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, I thank my friends and colleagues for their support.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Virginia.

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the amendment offered by my friend and neighbor, the gentleman from Virginia [Mr. MORAN], on this. I just want to take the opportunity to say I think this puts some teeth into title II. As a former board chairman adjacent to the city of Alexandria, of which Mr. MORAN was the mayor, I applaud his leadership in this area.

Long before many people were talking about unfunded mandates, the gentleman from Virginia [Mr. MORAN] has been a leader in this cause. I think this amendment will strengthen this bill. I just want to applaud the gentleman once again for his efforts in this, and rise in support of it. I hope the amendment will be accepted.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. CLINGER], has expired.

(By unanimous consent, Mr. CLINGER was allowed to proceed for 1 additional minute.)

Mr. CLINGER. Mr. Chairman, I yield to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Chairman, I would also like to thank the sponsor of the amendment for bringing this issue up.

Mr. Chairman, let me just relate as quickly as I could the experience of Texas on the unfunded mandates issue with the Clean Air Act. We also support clean air, but there are options we can get to that, I think the Moran amendment points that out, that we have the option, both the State agencies, but also the EPA here in Washington has some options that they would pick the least burdensome, or, as we call it, the most user-friendly, to get to that point on clean air.

Mr. Chairman, I think with the controversy going on not only in Texas but in Illinois and lots of other States, I think this adds to this bill. I am glad that my colleague and also the chairman is accepting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MORAN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment, amendment No. 3.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN: At the end of title II insert the following:

SEC. 206. JUDICIAL REVIEW.

(A) REVIEW OF AGENCY ACTIONS SUBJECT TO REVIEW UNDER OTHER FEDERAL LAW.—If an agency action that is subject to section 201 or 202 is subject to judicial review under any other Federal law (other than chapter 7 of title 5, United States Code)—

(1) any court of the United States having jurisdiction to review the action under the other law shall have jurisdiction to review the action under sections 201 and 202; and

Mr. MORAN. Mr. Chairman, there is another part of this bill that I think could be strengthened. That deals with the issue of judicial review.

The bill before us is silent on judicial review, but that does not mean that judicial review does not apply. In fact, ironically, it opens up much of this legislation to procedural suits, procedural delays, excessive litigation.

My amendment, Mr. Chairman, would specify what is appropriate judicial review, and limit the ability to conduct unlimited litigation against provisions of law and regulation for which the unfunded mandates legislation might apply. Specifically, Mr. Chairman, it says that where we have agencies that are not currently subject to judicial review, that they would not become subject to judicial review under the Administrative Procedures Act solely for compliance with the procedural aspects of this legislation.

It also says, Mr. Chairman, that where there is a single court of jurisdiction, whether it be the Court of International Trade, the U.S. Circuit Court, whatever court is appropriate for that agency, that any other litigation must go through that court. In other words, lawyers cannot go to several courts, which would be principally for the purpose of delaying action.

Third, where there is an exhaustion of administrative remedies under the Administrative Procedures Act, in substantive legislation that exhaustion of administrative remedies would apply in this case as well, where legislation has been affected by the unfunded mandates legislation.

Fourth, if there are substantive agency actions that cannot be stayed; in other words, you cannot delay implementation of the regulations, get an injunction against issuance of regulations, then you cannot as a result of this legislation, either.

Mr. Chairman, there are four aspects that really do need to be addressed and refined. Mr. Chairman, I think it is terribly important that there be judicial remedies if Federal agencies and the executive branch do not comply with the intent of this legislation. On the other hand, we certainly do not want to open up a Pandora's box of opportunities to litigate for any period of time that a person who feels they are adversely affected by legislation or regulations might choose to.

I think without this clarifying amendment, this limited amendment, Mr. Chairman, we would do just that, because if we do not specify limits to judicial review, the Administrative Procedures Act applies to everything, and in fact would create substantial gridlock throughout the Federal Government.

Therefore, Mr. Chairman, I would ask the chairman of the committee and the sponsors of this bill to positively consider this amendment, and I think that its strengthens the legislation itself, the underlying legislation.

□ 1330

The only people who might not like it are in the legal community, but I do not think their interests are particularly well-served, either, by not addressing the issue of judicial review.

I could give any number of examples where this would apply and where in fact this must apply to implement this legislation in a rational way, but at this point I would respond to any comments by people that might have questions about the intent of this amendment.

Mr. CLINGER. Mr. Chairman, I move to strike the last word, just to very briefly say we have now had a chance to review this amendment on our side. In fact we have been in long discussions with the gentleman from Virginia [Mr. MORAN] over a long period of time on this. I think it represents a very, very good compromise between very divergent views on this question of judicial review. I think it is better than what we started out with, that it is clearly an improvement. I am delighted to accept the measure.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding, just briefly to rise in support also of the amendment. It is a very good amendment.

We have had on the floor here an interesting debate the last several days about the issue of judicial review. It came up in the context of the exemptions to the legislation, but it really went at some of the core issues of this act.

I think the gentleman from Virginia would agree that judicial review is very important in order to ensure that there are teeth in the provisions in title II, to ensure that the agencies actually carry out the provisions which again are less burdensome on the agencies than the current executive order requirements that President Clinton issued in October 1993.

I would say that this is an important clarification of the kind of judicial review that we had intended to have in this legislation. It is our view that this is not an issue that necessarily needed to be resolved by amendment, but if there is any misunderstanding or any clarification needed, I think it is important to do so. This specifically addresses concerns raised on the floor by the gentleman from Pennsylvania [Mr. KANJORSKI]. The gentleman from Pennsylvania [Mr. KANJORSKI] raised the issue that you could possibly have a stay on an injunction in the case of a regulation and it would keep the regulation from going forward. This language I think very clearly provides that such a stay would not be permitted, that there would not be that kind of injunctive relief provided under the judicial review that is provided under H.R. 5.

I thank the gentleman for clarifying that point and for addressing a legitimate concern which was raised on the floor.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Virginia.

Mr. MORAN. I thank the gentleman for yielding.

The chairman of this committee and principal sponsor of this legislation has played a very constructive role in both working out the amendments that strengthen the legislation and in fact in getting this bill to the floor which I think is terribly important. I certainly appreciate the comments that were made by the gentleman from Pennsylvania, the gentleman from Ohio, the gentleman from Virginia, and the gentleman from California.

I would like to say for the RECORD whereas I am getting recognized, I would like to recognize someone who was the original sponsor of the Fair Act and worked very hard on it. This particular judicial review issue was terribly important to the gentleman from Pennsylvania [Mr. GOODLING]. The gentleman from Pennsylvania [Mr. GOODLING] has played an instrumental role in the unfunded mandates legislation. As a former superintendent of schools, he understood the importance of not imposing mandates that in effect abrogated a locality's ability to carry out their own priorities with their own best judgment.

I want to recognize particularly the gentleman from Pennsylvania [Mr. GOODLING] and I thank my friends and colleagues on the other side.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had put in the RECORD an amendment on this very subject of judicial review which I will not offer at this time. I will support the Moran amendment because I think it is an improvement over the text that has been submitted to this Committee of the Whole. But I do not think it goes far enough.

I would hope that when we go into conference with the other body, the managers of this legislation will look with great care at the other body's stand on this very issue. In the other body, in their unfunded mandates legislation, there is an explicit provision saying that there should not be judicial review. I think that is appropriate, for the very simply reason that judicial review can tie up regulations for a very, very long time and leave a great deal of uncertainly about what the regulations will in fact be in the long term.

Section 202 of H.R. 5 provides that before promulgating a final regulation containing a Federal mandate, the agency would have to prepare a detailed statement analyzing a number of different factors, economic and other impacts of the regulation. The matters that must be analyzed include the anticipated costs to State and local governments; the estimates of future costs of Federal mandate; estimates of disproportionate budgetary effects upon particular regions of the country or particular States; estimates of disproportionate budgetary effects upon urban or rural or other types of communities; estimates of any disproportionate budgetary effects on the private sector; a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal mandate, including enhancement of health and safety and protection of the natural environment; the effect on national economy; the effect on productivity; the effect on economic growth; the effect on full employment; the effect on creation of jobs; and the effect of mandate on international competitiveness.

I do not disagree with all of these factors being analyzed, but if we allowed judicial review of the regulation pursuant to statute, pursuant to laws adopted by the Congress and signed by the President and the judicial review does not go against the regulation as to whether it is a wise one pursuant to the statute, but in case they did not look at the productivity factors as opposed to one economist's view vis-a-vis another economist's view on any of those items I have listed, it seems to me that it will not make a lot of sense to allow that kind of second-guessing by the courts of the regulations.

It seems to me to offer a lot of opportunity for agencies to be stymied in their objectives to carry out laws like the Clean Air Act, the Safe Drinking Water Act, laws that are put in place to protect the public.

Who will benefit from judicial review? One thing I can say with certainty, it will be all the lawyers that will be litigating this matter, because they will have the ability to drag this litigation on for a very long time.

The Moran amendment does go far enough to say that there cannot be an injunction on the implementation of the regulation, but it still permits the adjudication of that regulation based on whether the agency has done a sufficient analysis to the satisfaction of the court, which may then decide to get involved in the procedural matters of this review.

I do not think judicial review is necessary to enforce what we are asking the agencies to do before they adopt regulations. The judicial review is not necessary for enforcement. The review requirements can be enforced by the White House during OMB review. The requirement can also be enforced through congressional oversight.

Before EPA developed its proposal to regulate emissions from municipal incinerators, EPA consulted with the Conference of Mayors, the National League of Cities, and the National Association of Counties.

Before the Department of Education proposed a regulation relating to vocational training for disadvantaged students, the Department held public meetings with State and local education officials.

□ 1340

Before proposing rules affecting housing on tribal lands, HUD met with many tribal authorities. In fact to assure compliance with the Executive order, OMB has sent several regulations back to the agencies for failure to consult with all of the State and local governments that were appropriate.

For instance, EPA regulations controlling emissions from municipal landfills were sent back to EPA for this reason. Likewise regulations to improve water quality in the Great Lakes were sent back to EPA for that same reason.

The CHAIRMAN. The time of the gentleman from California [Mr. WAXMAN] has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. Mr. Chairman, in other words, we ought not to provide a judicial review as the way to enforce that the analysis be done. OMB has that role as they look at regulations coming from that agency and they have required the agencies to go back and review these things if they felt a satisfactory review did not take place.

In fact, the Director of OIRA, the Office of Information and Regulatory Affairs at OMB, Sally Katzen, has informed us that she is not aware of a single complaint with a State, local or tribal authority since the adoption of the Clinton Executive order, which has the same purpose as this legislation would in this regard.

So the point is the Executive order is working without judicial review. The idea of judicial review can be very troublesome for the regulations to be settled with certainty. There are industries that can be affected by that uncertainty, and the public interest has been certainly adversely affected by that uncertainty and the lengthy litigations to be followed.

It would be far better to see if there is a problem in reality before we have a judicial review provision that could have the consequence I fear.

So I stand in support of this amendment with the statement that I want to make very clear on the RECORD that I do not think it needs to go as far as we need to have us go on this very issue.

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first let me say in response to the comments from my colleague from California that I appreciate him bringing this issue to the floor, for bringing it to the attention of the sponsors of the legislation. I think we worked responsibly with the gentleman from Virginia [Mr. MORAN], with the gentleman from California, and others to try to address at least the major concerns that have been raised on the floor, and I think it was a healthy process.

I happen to believe in the end we have ended up with the right mix. We have judicial review, which I think is necessary to put teeth into agency requirements in title II.

Just to remind my colleagues again, these requirements are less burdensome on the agencies than those found in the Executive order which is currently in place.

I would also just very briefly talk to the issue of the standard which the courts will apply that the agency action must be arbitrary and capricious standard, which is very high. I quote from Judge Scalia with regard to the issue the gentleman raises:

> The scope of review under the "arbitrary and capricious" standard is narrow and a court is not to substitute its judgment for that of the agency. This is especially true when the agency is called upon to weigh the costs and benefits of alternative policies since such cost-benefit analyses epitomize the types of decisions that are most appropriately entrusted to the expertise of an agency.

I think that is very important, and I think I would agree with the gentleman from California, we do not want to needlessly tie things up in court. We want to defer to the agency expertise. The gentleman has raised a number of important concerns, and I believe given that standard which was just quoted, which is the common practice of the courts, that we would not be in such a position.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding on that point. I think it is a helpful one for us to have on the record and I do want to express to the gentleman and the chairman of the committee my appreciation for their willingness to explore this issue with me. I regret that we were not able to reach full agreement on it. I think we have come to a compromise, and perhaps we can continue to look at the issue as this legislation moves forward. But I do express the good spirit in which the gentleman engaged us in this issue to try to come up with what is the best public policy.

Mr. PORTMAN. Reclaiming my time, I thank the gentleman. Again, I think we have done this in a way where we end up with the kind of teeth in the legislation, H.R. 5, many of us on this side feel is necessary to make sure these requirements are carried out.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding. I want to say the gentleman from California [Mr. WAXMAN] has clearly stated his position that he does not believe judicial review should apply at all, and I understand the position and I respect the reasons he has given. However, I believe no judicial review ultimately means no enforcement.

However, the concerns that have been raised have been legitimate concerns. And I think the gentleman from Virginia [Mr. MORAN] in his amendment has tried to tighten this bill and tighten judicial review, so we hope to avoid even the prospect of some of the problems that might have arisen due to judicial review, as remote in my judgment as they may have been. I think the amendment strengthens the bill, and I support the amendment of the gentleman from Virginia.

I yield back to the gentleman from Ohio.

Mr. PORTMAN. I thank the gentleman from New Mexico.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly support the amendment of the gentleman from Virginia, because I, too, do not think it goes far enough. If this bill is subject to judicial review, we should rename it the Lawyers Relief Act of 1995.

Any new regulations issued pursuant to the bills covered by H.R. 5 could be tied up in court for years. The Senate provision, which is the same as the original contract, would preclude judicial reviews, and I urge my colleagues to look at the Senate provision very carefully. It carries out the language of the contract. It favors review but it does not favor lawyers and litigation.

New cottage industries on mandate law will suddenly spring up all over the country. Courses in mandate will be required to graduate from law school. The Civil Division at the Department of Justice will have to increase the number of lawyers it hires in order to keep up with the rising workload. Anyone remotely familiar with civil litigation knows that that agency regulations could easily be tied up in court for years. Delays, postponements, discovery, motions, and trials would make the swift implementation of agency regulations next to impossible. Meanwhile, the American people would be left out without vital health and safety protection.

How important are these regulations?

Well, I think one example will suffice. Just ask the parents of children who have died of E. coli bacteria about the need for new mandated requirements with State governments for meat inspection. The President and Vice President are continuing a historic effort to reinvent Government. Part of this effort involves streamlining and simplifying the Federal regulatory process.

It also involves making the Federal Government respond more quickly to the needs of the American people. Yet much of the progress that has been made already by the President will be undone if all of the Government actions are subject to judicial review.

The Federal Government will become entangled in an endless array of needless and confusing regulatory requirements in an effort to protect itself from being sued.

Those who support judicial review argue that it is needed to ensure that Federal agencies comply with the requirements of this act. But there are other more effective ways to guarantee compliance. One way is the congressional oversight process, and that is what our committee is: Government Reform and Oversight.

The Constitution confers on the Congress the responsibility to oversee the operations of the Federal Government. Congress has also been given a vast arsenal of weapons to oversee agencies' compliance with Federal law, including subpoena power and the power to command the appearance of witnesses to testify in public hearings, and the power to get access to most agency documents.

Second, we have the appropriations process, the power of the purse. An agency's failure to comply with Federal law can be met with a reduction in funding for that agency. I can think of no more powerful tool to enforce the requirements of this bill.

Many supporters of the no funding, no mandates provisions in this bill should also be concerned if it is undermined by judicial review.

Suppose during a fiscal year the Committee on Appropriations fails to fully fund a mandate, triggering the bill's requirement that the responsible agency reduce the responsibilities of State and local governments. Judicial review will prevent that reduction from going into effect. This will leave State and local governments with less money while performing the same duties for years, while the issue is resolved in court.

Tying up the executive branch with costly litigation is not an appropriate remedy for the problem of compliance. Compromising health and safety regulations because of legal gridlock is extremely dangerous.

And again, I am going to support the amendment by the gentleman from Virginia [Mr. MORAN], but I sure do not think it goes far enough.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the distinguished chairman, the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, just to clarify what may not have been clarified, and that is that as the chairman of the committee I do support the gentleman's amendment wholeheartedly.

Mr. MORAN. Mr. Chairman, if the gentleman will yield, I very much thank the gentleman for that clarification.

□ 1350

Mr. GOODLING. Mr. Chairman, there was a time in the history of this Congress when they believed that people back home would believe whatever we say and whatever we say we did rather than really tell them the way it is. Fortunately for this country that time is gone forever.

I can remember a gentleman that I came with to Congress, and I used to say to him, "I do not understand the philosophy you espouse here, because it seems to be totally opposite of your constituency." He said, "My constituents believe what I tell them." Well, as I said, fortunately that is gone. I mention that simply because I am glad an accommodation was worked out, because as the gentleman from Virginia said, I feel very strongly about judicial review. I feel very strongly because nothing is going to happen if that threat is not there.

When we presented the bill a couple years ago, I and others asked the CRS to comment on what it is we were doing in relationship to judicial review. We asked three specific things: How judicial review would apply to sections 201, 202, and 203; what impact this would have on the regulatory process, whether agencies would have to comply with the stipulations stated in sections 201, 202, 203, if section 201, page 15, lines 22 through 24, were removed.

I am convinced in their response that we are on the right track and we are on the right track when we sent out the Dear Colleague, and I would like to read just a portion of that Dear Colleague:

> As you may recall, President Jimmy Carter signed the Regulatory Flexibility Act into law September 19, 1980. The new law requires agencies to consider the special needs and concerns of small entities whenever they engage in rulemaking subject to the notice and comment requirements of the APA or other laws. Each time an agency was to propose a rule in the Federal Register, it was also supposed to publish a regulatory flexibility analysis. This RFA would describe the impact of a proposed rule on small entities, which includes small business, organizations, and governmental jurisdiction.

Well, to make a long story short, provided in this was also an indication that judicial review would not apply. The end result was, as history will show, that the agencies paid no attention whatsoever to the RFA. They just ignored it completely, and so it meant that the act had no teeth and, therefore, the act was totally worthless.

That was my fear with this legislation, that we would have this wonderful shell out there as if we were really doing something big, but they would not have the opportunity for judicial review. In return, the agencies would pay no attention whatsoever.

Now, you see, the history of judicial review would indicate to us that there is no standing only line out there where everybody is rushing in trying to get into the judicial review process. It is so difficult that very seldom is it ever used.

So, again, I am glad that we have come up with some accommodation. I hope we are strong enough, because I feel very strongly that without it this is a worthless, toothless piece of legislation.

Mr. EWING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment and the compromise that has been reached with this piece of legislation.

When I first ran for Congress, I realized in talking to my constituency that there is a real problem with excessive regulation, and there is a real problem, because the Federal Government was not listening to the little guy, to the small business, to the units of government that do not have large legal staffs or big budgets. When I came to this body then, I thought what can we do about it. I looked into it, and I found that we had the Regulatory Flexibility Act, and I read that act. I thought, "This should work. This should be a big help."

And then I said, "Why is it not working?" Well, I was told very quickly that it was not working because of the boilerplate language in that act that says that any agency can say the act does not apply to this rule and regulation and move right ahead as if no analysis was needed.

What was the response from those being regulated? It was there was no judicial review.

Ladies and gentlemen, judicial review is imperative unless we want to project on the American people another cruel hoax that we are doing something to help them overcome regulation and yet we are not.

So this is an excellent compromise. I think that it is excellent that we are going to do this and send it to conference, and we can discuss that with the Senate side and hopefully we will come up with judicial review that will protect the little guy, the small business, the small unit of government.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman has had prior recognition.

Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. WAXMAN. Mr. Chairman, I rose before to strike the last word, and I rise in support of the amendment now.

I do so to clarify for the RECORD that the General Accounting Office was asked to review what is called the Reg Flex Act to see whether the regulatory flexibility regulations are in fact being enforced by the executive branch, and they came back with a report which I would insert in the RECORD following my remarks that some agencies have in fact complied.

The Environmental Protection Agency, which is a target of much of the debate here today, they said had complied. Where there was noncompliance, the reasons were many, not, they pointed out, because there was a lack of judicial review, but because the Small Business Administration had not issued guidance, or the OMB had not established procedures to enforce the Regulatory Flexibility Act. They did not say that a judicial review was recommended or required in order for the Regulatory Act to work. I want to make that point clear.

Because I do not think judicial review is advisable as a part of enforcement of these proposals.

Mr. Chairman, the GAO report is included at this point in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, April 27, 1994.

Hon. JOHN J. LAFALCE,
Chairman, Committee on Small Business, House of Representatives.

Hon. JOHN GLENN,
Chairman, Committee on Governmental Affairs, U.S. Senate.

This letter is in response to your requests that we evaluate federal agencies' implementation of the Regulatory Flexibility Act of 1980 (RFA), codified in Title 5 of the U.S. Code.[1] Specifically, you asked that we (1) review the Small Business Administration's

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[1] 5 U.S.C. 601-612.

(SBA) annual reports on agency compliance with the RFA and generalize from the reports about which agencies were and were not implementing the RFA in an effective manner and (2) review SBA annual reports and related documents on the extent to which agencies have complied with the RFA requirement that they periodically examine their rules (section 610 of Title 5).

BACKGROUND

The RFA requires federal agencies to assess the effects on their proposed rules on small entities. According to the RFA, small entities include small businesses, small governmental jurisdictions, and small not-for-profit organizations. As a result of their assessments, agencies must either (1) perform a regulatory flexibility analysis describing the impact of the proposed rules on small entities or (2) certify that their rules will not have a "significant economic impact on a substantial number of small entities." The RFA does not define "significant economic impact" or "substantial number," but does require the regulatory flexibility analysis to indicate the objectives of the rule and the projected reporting, recordkeeping, and other compliance requirements. Agencies must also consider alternatives to the proposal that will accomplish the agencies' objectives while minimizing the impact on small entities. The RFA also requires agencies to publish a semiannual regulatory agenda that describes any prospective rule that is likely to have a significant effect on a substantial number of small entities.

Section 612 of Title 5 requires the SBA Chief Counsel for Advocacy to monitor and report at least annually on agency compliance with the RFA.[2] SBA's primary method of monitoring agencies' compliance is to review and comment on proposed regulations when they are published for notice and comment in the Federal Register during the federal rulemaking process. The Chief Counsels have issued 12 annual reports on RFA compliance since 1980.[3] The reports discuss some, but not all, federal agencies' RFA compliance.

RESULTS IN BRIEF

The SBA annual reports indicated agencies' compliance with the RFA has varied widely from one agency to another. Some agencies (e.g., the Environmental Protection Agency) were repeatedly characterized as satisfying the RFA's requirements, while other agencies (e.g., the Internal Revenue Service) were viewed by SBA as recalcitrant in complying with those requirements. Still other agencies' RFA compliance reportedly varied over time (e.g., the Federal Communications Commission) or varied by subagency (e.g., the U.S. Department of Agriculture). The same lack of uniform compliance is reflected in SBA documents regarding the section 610 requirement that agencies periodically examine their rules. Some agencies had developed plans for the review of their regulations and had acted on those plans, while other agencies had neither developed plans nor taken any action.

One reason for this lack of compliance with the RFA's requirements is that the RFA does not expressly authorize SBA to interpret key provisions in the statute. Also, the RFA does not require SBA to develop criteria for agencies to follow in reviewing their rules, and SBA has not issued any guidance to federal agencies defining key statutory provisions. Finally, the RFA does not authorize SBA or any other agency to compel rulemaking agencies to comply with the act's provisions. The Office of Management and Budget (OMB) said that it has helped to ensure RFA compliance during the rulemaking process whenever SBA has notified OMB of SBA's concerns regarding an agency's RFA compliance. However, OMB's ability to ensure RFA compliance has been limited because SBA does not normally notify OMB of SBA's RFA concerns when it comments on agencies' proposed rules. Also, OMB has no established procedures in its review process to determine whether agencies have complied with the RFA. Finally, OMB cannot review rules from independent regulatory agencies or agricultural marketing orders.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our review were to determine which agencies SBA's annual reports and other documents (1) frequently indicated were and were not implementing the RFA in an effective manner and (2) indicated were and were not complying with section 610 of Title 5. To accomplish these objectives, we reviewed the annual reports of the SBA Chief Counsel for Advocacy for 1981 through 1992; correspondence from SBA and various agencies regarding section 610 activities; and related hearing records, reports, and other RFA-related materials. We also obtained information on the RFA and the regulatory process from officials at both SBA and OMB. We did not make an independent determination of agencies' RFA compliance. Any characterizations of particular agencies in this report are directly attributable to SBA. We discussed the results of our work with the SBA Chief Counsel for Advocacy and officials, including the Deputy Administrator, from the Office of Information and Regulatory Affairs at OMB in March 1994 and incorporated their comments where appropriate. We conducted our review from September 1993 to February 1994 at the Washington, D.C., headquarters offices of SBA and OMB. The review was conducted in accordance with generally accepted government auditing standards.

SBA REPORTS INDICATE VARIABLE AGENCY COMPLIANCE WITH THE RFA

The SBA annual reports we reviewed did not evaluate all federal agencies' compliance with the RFA.[4] Only the Environmental Protection Agency's compliance record was specifically mentioned in all 12 reports. Five other agencies—the U.S. Department of Agriculture (certain subagencies), the U.S. Department of Labor, the Federal Communications Commission, the Internal Revenue Service, and the Securities and Exchange Commission—were mentioned in at least 8 of the 12 reports. At the other extreme, some agencies (e.g., the U.S. Departments of Education, Energy, Housing and Urban Development, Justice, State, and Veterans Affairs) were either not mentioned in any annual reports or were only rarely mentioned. The SBA Chief Counsel said that differences in the degree to which agencies were mentioned in the reports are primarily due to differences between the agencies in their levels of regulatory activity. For example, the State Department issues very few regulations that affect small entities.

The Chief Counsel said SBA normally becomes aware of the specifics of a proposed rule when it is published for notice and comment. If SBA believes the rulemaking agency has not adequately considered the effect of the proposed rule on small entities, the Chief Counsel said SBA will send the agency written comments. However, the Chief Counsel said that SBA does not usually send OMB a copy of their compliance concerns. OMB officials said that SBA officials have occasionally called them on the telephone regarding certain agencies' RFA compliance and, in those instances, OMB has taken SBA's views into consideration during its reviews and helped ensure RFA compliance. For example, they said that if SBA official told them that a rulemaking agency should have conducted an RFA analysis, OMB would ask the agency to show why an analysis was not done before permitting the proposed rule to be published in its final form.

CONCLUSIONS

Our review of SBA's annual reports and other documentation indicated that some agencies have not complied with the RFA as interpreted by the SBA Chief Counsel for Advocacy. We believe that the reasons for this apparent lack of compliance include the following: (1) the RFA does not expressly authorize SBA to interpret the act's key provisions, (2) the RFA does not require SBA to develop criteria for agencies to follow in reviewing their rules, (3) SBA has not issued any guidance to federal agencies defining key statutory provisions in the RFA, and (4) the RFA does not authorize SBA or any other entity to compel rulemaking agencies to comply with the act's provisions.

OMB can help ensure certain rulemaking agencies' compliance with the RFA by reviewing and commenting on those agencies' significant regulatory actions pursuant to its responsibilities under Executive Order 12866. OMB can return most regulatory actions to agencies for further consideration if it believes the actions are inconsistent with the RFA. However, OMB's authority to play an enforcement role is limited in several respects. OMB cannot review rules proposed by independent regulatory agencies and cannot return agricultural marketing orders to AMS. Also, OMB does not have established criteria or procedures to determine whether agencies have complied with the RFA. Finally, while SBA reportedly notifies rulemaking agencies in writing of its RFA concerns during the rulemaking notice and comment period, it does not normally provide OMB with a copy of those concerns and only occasionally telephones OMB about SBA's compliance concerns. Therefore, OMB's ability to ensure agencies' RFA compliance is diminished because it is often unaware of SBA's concerns regarding an agency's compliance.

MATTERS FOR CONSIDERATION OF CONGRESS

If Congress wishes to strengthen the implementation of the RFA, it should consider amending the act to (1) provide SBA with clearer authority and responsibility to interpret the RFA's provisions and (2) require SBA, in consultation with OMB, to develop criteria as to whether and how federal agencies should conduct RFA analyses. Congress could also consider focusing its RFA oversight on the independent regulatory agencies and agricultural marketing orders over which OMB's review and comment authority is limited.

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[2] There have been several Chief Counsels since the RFA was enacted, some of whom served as Acting Chief Counsels. In this report, the Acting Chief Counsels are referred to as "Chief Counsels."

[3] The first report for 1981 was provided on October 7, 1981, in testimony before the Subcommittee on Export Opportunities and Special Small business Problems of the House Committee on Small Business. Reports for 1989 and 1990 were not prepared until 1992. All reports were prepared the year after the subject year. The report for 1993 is scheduled to be published in mid-1994.

[4] All but the first report contained an appendix listing selected comments filed by the Office of Advocacy regarding agencies' proposed rules during the year. These listings did not, however, evaluate agencies' compliance with the RFA.

RECOMMENDATIONS

We recommend that the OMB Director, in consultation with SBA, establish procedures OMB can use to determine agencies' compliance with the RFA. These procedures should be incorporated into OMB's processes for reviewing regulations before they are published for notice and comment and before they are published in final. We also recommend that the SBA Administrator direct the SBA Chief Counsel for Advocacy to send OMB a copy of any written notification of RFA noncompliance the Chief Counsel sends to an agency.

AGENCY COMMENTS AND OUR EVALUATION

We provided a draft of this report to the SBA Chief Counsel for Advocacy and discussed the report with her on March 23, 1994. She suggested certain technical changes, which were incorporated into the final report. Overall, she said she agreed with the report's conclusions and recommendations. She said SBA welcomes clarification of its authority to interpret RFA provisions and will work with OMB to develop criteria and procedures for agency compliance with the act. The Chief Counsel also said that she will send OMB a copy of any written notifications of RFA noncompliance she sends to agencies during the rulemaking process.

We also provided a draft of the report to the Administrator of the Office of Information and Regulatory Affairs at OMB and discussed the report with her staff on March 3, 1994. The Deputy Administrator said OMB has no objection to any changes in the statute or in the rulemaking process that would strengthen its position in ensuring RFA compliance. He also said OMB would work with SBA to develop criteria and procedures for determining RFA compliance. Finally, he said that if the SBA Chief Counsel notifies OMB during the rulemaking process that an agency is not complying with the RFA, OMB would discuss the issue with the agency before concluding its review of any final regulations.

We are sending copies of this report to the SBA Administrator, the SBA Chief Counsel for Advocacy, the OMB Director, the Administrator of the Office of Information and Regulatory Affairs at OMB, interested congressional committees, and others who may have an interest in this matter. Copies will also be made available to others upon request.

The major contributors to this report are Charles I. Patton, Jr., Associate Director, Federal Management Issues, General Government Division; Curtis W. Copeland, Assistant Director, Federal Management Issues, General Government Division; and V. Bruce Goddard, Senior Attorney, Office of the General Counsel. If you have any questions or require any additional information, please call me on (202) 512-8676.

WILLIAM M. HUNT,
Director, Federal Management Issues.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MORAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MS. PRYCE

Ms. PRYCE. Mr. Chairman, I offer an amendment, No. 106 as printed in the CONGRESSIONAL RECORD.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. PRYCE: At the end of title II insert the following:

SEC. 206. ANNUAL STATEMENTS TO CONGRESS ON AGENCY COMPLIANCE WITH REQUIREMENTS OF TITLE.

Not later than one year after the effective date of title III and annually thereafter, the Director of the Office of Management and Budget shall submit to Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, written statements detailing the compliance with the requirements of sections 201 and 202 by each agency during the period reported on.

Ms. PRYCE. Mr. Chairman, the amendment that I am offering, along with my friend, the gentleman from California [Mr. CONDIT], is designed very simply to strengthen regulatory accountability and improve congressional oversight of executive branch agencies.

To insure that Federal agencies are not skirting the intent of this legislation, our amendment would require the Office of Management and Budget to provide Congress with annual written statements detailing each Federal agency's compliance with the requirements set forth in title II. Our proposal would allow the Committee on Government Reform and Oversight and its sister committee in the Senate to conduct greater oversight of Federal agencies.

The amendment is not meant as a substitute for judicial review, nor is it incompatible therewith.

Our amendment would merely give Congress a reliable status check on how well agencies are complying and whether any modifications are needed.

Without this amendment, I fear agencies may regard these requirements merely as obstacles to overcome, rather than a standard to be diligently applied.

This amendment provides real teeth go into title II of this legislation. Accountability should be part and parcel of the work that every Federal agency performs.

Too often, bureaucracies take on a life of their own, and in the process they lose sight of the original intent of the legislation.

We have all heard the horror stories about regulatory abuses by overzealous bureaucrats. This amendment would help ensure that State and local governments and the private sector are protected from future abuses.

State and local governments are valuable coregulators. They help carry out the purposes of many Federal laws, and their perspectives should be invited and heard.

This legislation and our amendment would force Federal agencies to recognize that mandates impose real costs on taxpayers and consumers alike. If for some reason agencies choose to ignore the requirements in title II and avoid coming to this realization, then they will have to justify their actions before this Congress.

□ 1400

Mr. Chairman, I would like to thank my friend from California for his strong support for this common sense, good government amendment. I urge its adoption.

Mr. DREIER. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I yield to the gentleman from California.

Mr. DREIER. I thank the gentlewoman for yielding to me.

Mr. Chairman, I would like to say that my Rules Committee colleague has done a superb job. The gentlewoman mentioned my friend from the other part of California who is a coauthor of this amendment, but I would like to associate myself with the words of the gentlewoman and state that accountability is key here, and enhancing the ability for reporting back to us from the agencies is I think a very important part of this whole goal of trying to reduce this extraordinary burden which is shifted from Washington onto the shoulders of State and local governments.

I would like to again say how proud I am of the fine work my friend from Columbus is doing on the Rules Committee and this amendment is clear evidence of that.

Mr. CLINGER. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I yield to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. I thank the gentlewoman for yielding.

Mr. Chairman, the gentlewoman's amendment is going to do much to shed light on how this whole bill is going to work. It is going to provide Congress with the administrative material to comply with H.R. 5. The information is going to be of interest to the President as well, since much of this is what is required by the President through his Executive order, and I believe this affords the Congress strong oversight. I think it is a very valuable addition to what we are trying to accomplish in H.R. 5. It does clarify what is required, and I am glad to support the gentlewoman.

Mr. PORTMAN. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I yield to the gentleman from Ohio.

Mr. PORTMAN. I thank the gentlewoman for yielding.

Mr. Chairman, I would like to comment on my colleague from Ohio's amendment. I would like to thank the Rules Committee for helping us to perfect the legislation. This is a good example of that. It provides a very important feedback loop back to the authorizing committees from the agencies that I think is really critical in order for the structure of H.R. 5 to work properly, and I congratulate the gentlewoman.

Mr. CONDIT. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I am happy to yield to the gentleman from California.

Mr. CONDIT. I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the amendment and say this is one of the good amendments that would force Congress to revisit this issue so it does not get away from us. It forces us to reevaluate the program, whether or not it is working, so we can take corrective actions if we need to do so.

I commend the gentlewoman for her thoughtfulness in bringing up this amendment, and I have enjoyed working with her on it.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I yield to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. I thank the gentlewoman for yielding.

Mr. Chairman, I have reviewed the amendment and support it.

As I said earlier, congressional oversight of agency compliance with title II is an important mechanism that should be used to make title II effective.

It is a less costly and more effective oversight tool than the courts.

I recognize it is not being offered as a substitute for judicial review, but I still support it as a useful amendment.

Mr. TRAFICANT. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I yield to the gentleman from Ohio.

Mr. TRAFICANT. I thank the gentlewoman for yielding.

Mr. Chairman, I think this is a very good perfecting amendment. It not only is common sense, it is good government. I think the gentlewoman brings that record to the Congress, and I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio [Ms. PRYCE].

The amendment was agreed to.

AMENDMENT, AS MODIFIED, OFFERED BY MR. ALLARD

Mr. ALLARD. Mr. Chairman, I offer an amendment, and I ask unanimous consent that it be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

Mrs. COLLINS of Illinois. Mr. Chairman, reserving the right to object, we would like to know the number of the amendment.

Mr. ALLARD. Mr. Chairman, if the gentlewoman will yield, it is No. 26.

The CHAIRMAN. It is the Chair's understanding that this is a new form of the amendment.

Mr. ALLARD. This is a modification of amendment No. 26. We cleared it with the Clerk, and it was determined that the best way for everybody to understand where we were at this point was just to move the amendment. But it is a modification of amendment No. 26.

The CHAIRMAN. The amendment, as modified, is required to be read.

Is there objection to dispensing with the reading of the amendment?

Mrs. COLLINS of Illinois. Mr. Chairman, I reserve a point of order until we find out what the modification is.

The CHAIRMAN. The point of order is reserved.

Mr. ALLARD. Mr. Chairman, I have no objection to reading the amendment. It is a very short amendment.

The CHAIRMAN. The gentleman from Colorado [Mr. ALLARD] withdraws his request, and the Clerk will report the amendment.

The Clerk read as follows:

Amendment, as modified, offered by Mr. ALLARD: In section 202(a) in the matter preceding paragraph (1), strike "prepare a written statement containing—" and insert "prepare a written statement identifying the provision of Federal law under which the rule is being promulgated and containing—".

Mr. ALLARD. Mr. Chairman, I rise in support of H.R. 5 and also the amendment, as modified. I want to note that according to my understanding, the amendment, as modified, is now acceptable to the sponsors of H.R. 5.

The Unfunded Mandates Reform Act of 1995 is a piece of legislation whose time has come. However, as currently written, H.R. 5 will not prohibit certain regulations that could impose an unfunded mandate on States and localities. That is why Mr. GRAHAM of South Carolina and I are offering this amendment to tighten H.R. 5.

Our amendment requires regulatory agencies to identify the statutes that give the agencies specific authority to issue a regulation that imposes a mandate on State and local government and the private sector. This helps to ensure that executive agencies cannot escape the scrutiny of H.R. 5 by issuing general regulations that impose an unfunded mandate.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the chairman of the committee.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I would rise in support of the amendment. President Clinton's Executive order contains a very similar kind of requirement that a regulatory plan must include a statement of the statutory basis by which the plan is being carried out, and I think this clarifies that the intent is we are not trying to do anything extralegally. We are trying to ensure that what does happen here is going to be done according to statute. I think it is a welcome addition to the bill.

I would urge my colleagues to support the Allard-Graham amendment.

Mr. GRAHAM. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the gentleman from South Carolina.

Mr. GRAHAM. I thank the gentleman for yielding.

Mr. Chairman, this amendment is the kind of amendment that embodies the idea of government, a very simple idea but an important idea. Almost every municipality or county government in my district is affected by an unfunded regulatory mandate. What we are trying to do now is for the regulatory agency to tell us where the authority exists to regulate, to begin with. A big problem in this country is that agencies get off and running with these statutes and we are trying to rein them in.

I come from a town of 2,000 people. Let me tell you what happened to a town of 2,000 in central South Carolina because of a regulatory mandate situation.

The water bill went up 80 percent, we spent $16,000 to test the water through a government mandate that could have been done for about $2,000 from a private firm. We had to pay $5 million to upgrade their water system, to test for contaminants not native to South Carolina.

It is about time we started doing something about it, and this is a good step.

Mr. BURR. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the gentleman from North Carolina.

Mr. BURR. I thank the gentleman for yielding.

Mr. Chairman, I rise today in strong support of the Allard-Graham amendment. I believe that this amendment will halt overzealous regulators that pass unfunded mandates to our local communities. This amendment strengthens H.R. 5, by forcing Federal regulators to be fiscally responsible as well. Under this amendment, regulators will be required to reference a specific law before passing unfunded mandates onto the State and local officials.

In my district, I had a county commission that was forced to raise taxes on its citizens, not from an unfunded Federal mandate, but from an unfunded regulatory agency mandate. In Caldwell County, the Environmental Protection Agency forced the commission to place a clay liner on its land fill. Protection was not at issue. Instead, the issue was why a clay liner? Why was it necessary to use a material not available in the area? Why not look for and use an equally reliable material to reduce the $6 million cost to this community? And most important, what law gave the EPA the right to mandate this community? The fact is, a lack of legislation allowed this to occur. By supporting the Allard-Graham amendment, you can put an end to this "taxation without representation".

Mr. Chairman, I urge strong support for this amendment.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the gentleman from Virginia.

Mr. MORAN. I thank the gentleman for yielding.

Mr. Chairman, I rise at this time only to withdraw the point of order reservation made by the gentlewoman from Illinois [Mrs. COLLINS].

The CHAIRMAN. The reservation of the point of order is withdrawn.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I appreciate the gentleman's amendment. It is a good amendment. It is the kind of clarification that we need. I would also like to thank the gentleman from South Carolina [Mr. GRAHAM] for working closely with the sponsors of the legislation and with the chairman of the committee to come up with a proposal that I think fits with the broader scheme of H.R. 5.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Colorado [Mr. ALLARD].

The amendment, as modified, was agreed to.

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AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OXLEY:

SECTION 205. CLARIFICATION OF MANDATE ISSUE AS TO GREAT LAKES WATER QUALITY GUIDANCE.

Section (c)(2)(C) of the Federal Water Pollution Control Act (33 U.S.C. Section 1268(c)(2) is amended by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, the requirement that the States adopt programs 'consistent with' the Great Lakes guidance shall mean that States are required to take the guidance into account in adopting their programs for waters within the Great Lakes System, but are in no event required to adopt programs that are identical or substantially identical to the provisions in the guidance."

Mr. CLINGER. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] reserves a point of order against the amendment.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I would like to bring to the attention of my colleagues another example of an unfunded mandate under the Clean Water Act which will cost my constituents millions of dollars. The issue is the proposed Great Lakes water quality rule from the U.S. EPA which is expected to be finalized in early March.

The Great Lakes Critical Programs Act requires EPA to issue guidance concerning certain water quality regulatory procedures, and then requires the Great Lakes States to adopt requirements that are consistent with that guidance. However, when EPA issued its proposed guidance, that document was actually a binding regulatory mandate instead of the guidance that the act requires. If fact, EPA clearly indicated that it wants all of the State programs, to be identical to the Federal rule.

EPA's intention to issue a binding regulation rather than guidance with respect to the Great Lakes is inconsistent with congressional intent. Also, by taking away any flexibility for a State to develop a program that is appropriate for its own situation, EPA would violate the basic federalism principles that are at the heart of the Clean Water Act. Again, the Federal Government would be imposing an unfunded mandate on the States.

This mandate will result in unfunded compliance costs in excess of $2 billion per year and potential loss of 33,000 jobs without producing meaningful toxic reductions.

Several cities in my district surveyed their own municipal water treatment operations and looked at the additional regulatory controls needed to control mercury under the proposed Great Lakes water quality rule. The survey, based upon mercury only, shows that it would cost Bucyrus, OH, population 14,000, $13.6 million to comply with the proposed rule. Mansfield, OH, population 50,000, would pay $29.1 million and Lima, OH, population 43,000, would pay $89 million.

In terms of household taxes, the town of Lima has estimated an increase of $207 in taxes to pay for the costs of the water treatment program. In later years, as the rule is fully implemented, the town of Lima estimates that the household tax will increase to $1,147 per home per year.

This is an incredible increase in local taxes for a federally mandated program from EPA. These costs are in addition to what Lima taxpayers already pay for safe drinking water controls and Clean Water Act controls on mercury. The Federal Government and EPA cannot expect towns like Lima to spend millions of additional dollars when the results will demonstrate little environmental improvement.

EPA has simply gone too far. The 1986 reauthorization of the Clean Water Act did not ask EPA to propose a rule on these pollutants to improve the Great Lakes Basin. In fact, the act simply called for the EPA to issue guidance to the States surrounding the Great Lakes.

The Great Lakes States want to fix the toxics problem, not just throw money at it. My amendment would require that the EPA issued guidance which could be used in a flexible manner as the States choose.

If we are to keep our promise we made with the people, we must not force the costs of the Great Lakes initiative on the cities and States. Including this initiative in the unfunded mandates reform would prevent if from being issued as a regulation. It is my hope that if we cannot resolve this matter today, Congress will move quickly to fix the Great Lakes water quality initiative. While well-intended, this proposal is an unproductive and expensive detour around the real environmental solutions.

Mr. CLINGER. Mr. Chairman, I am going to have to insist on my point of order because I think the amendment is not germane. I do appreciate the gentleman from Ohio [Mr. OXLEY] taking the time to raise this very important issue. I would like to assure the gentleman that I am aware of and sensitive to the impact that the Great Lakes water quality initiative is going to have on municipalities and industries all across the Great Lakes region.

My district does not border on the Great Lakes. My hometown of Warren is only an hour's drive from Erie, PA, and, according to a study conducted by the Great Lakes Quality Coalition, the EPA's new binding regulatory mandates could cost Erie, PA $119 million. Also the General Electric plant in Erie expects GLI's regulation to cost $50 million.

National Forge, a major employer in my district, manufactures crankshafts for approximately 900 engines built annually in G.E.'s Erie plant, and the G.E. plant accounts for nearly 20 percent of National Forge's business, and the ripple effect of these costly mandates could force layoffs, or worse, relocation of National Forge.

Another company affected by these new regulations that has significant presence in my district is International Paper. The cost of compliance to I.P.'s mill at Erie could reach $30 million.

Although the Pennsylvania Department of Environmental Resources states it would not impose the new regulations statewide, the Lock Haven mill in my district could be indirectly affected since the Erie mill supplies wood pulp to Lock Haven.

So, as the gentleman could see, I, too, have some concerns about EPA's new regulations and very much appreciate his bringing this to our attention and would like to work with the gentleman to address this very important issue, but must insist, I think, on my point of order in this regard.

Mr. GILMAN. Mr. Chairman, I commend the gentleman from Ohio [Mr. OXLEY], the author of the amendment to H.R. 5, for his efforts in bringing this issue to the floor.

I support this proposal which seeks to clarify the original legislative intent in the Federal Water Pollution Prevention and Control Act of 1990. The language in this act requires the

States to institute water quality programs consistent with the Environmental Protection Agency's Great Lakes guidance, but in no way requires the States to adopt regulations which identically comply with the specific elements of the Great Lakes guidance.

Accordingly, Mr. Chairman, it will be helpful to clarify the intent of this section of the Federal Water Pollution Prevention and Control Act.

Mr. OXLEY. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Mr. BONIOR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment that was just withdrawn by the gentleman from Ohio [Mr. OXLEY], and I take the time of the House to speak on this because it is such an important issue to those of us who reside on the Great Lakes.

The Great Lakes are the largest single body of fresh water in the world. They are an important environmental and economic resource for this Nation and for those of us who live on their borders.

In 1990, we passed the Great Lakes Critical Programs Act which included a measure to level the playing field of all States that border the Great Lakes. The Great Lakes Water Quality Initiative, or the GLI as it is known, requires Great Lakes State governments to develop and adopt uniform water quality standards, and it is imperative that the overall mission of the GLI not be undermined by the amendment that we were about to consider. This is a classic case where the Federal Government is needed to ensure that each State is playing by the same rules, that we have a level playing field, that one State does not disadvantage another State.

The GLI eliminates the competitive advantage a State might derive by setting relaxed pollution standards. Now different States share resources, and one has a different approach to managing the resources than another. Who mediates the dispute? Logic would suggest the Federal Government.

I do not always agree with my Governor, Gov. John Engler of Michigan, but in this case he understands the need to replace conflicting water pollution control rules that widely vary from State to State with a uniform comprehensive and enforceable set of standards, and in this instance I hope that others of his party will follow his lead in the future.

While I do not believe this amendment is germane, and it obviously is not because it was withdrawn by the gentleman from Ohio [Mr. OXLEY] at the suggestion of the gentleman from Pennsylvania [Mr. CLINGER], I would have opposed it anyway. Good responsible governing does not try to gut every Federal rule that has ever been made. It is about resolving issues that States cannot resolve on their own. This is one instance where the Federal Government should and must intervene, and I hope, when this debate unfolds in the future, that we will remember this issue and we will not give up on a program that works, is needed and will help mediate the problems between the various Great Lakes States.

Mr. Chairman, I submit for the RECORD an editorial from the Detroit Free Press: "Ban on Federal Mandates May Even Hurt Great Lakes."

[From the Detroit Free Press, Jan. 30, 1995]

BAN ON FEDERAL MANDATES MAY EVEN HURT GREAT LAKES

If you want an example of the mischief that can be done in the name of heedlessly doing away with unfunded mandates, consider an Ohio congressman's move to throw out the proposed Great Lakes water quality standards.

The Great Lakes Initiative [GLI] has been painfully hammered out by business, regulators, governors and the environmental community. The result didn't satisfy everybody, but its stunning virtue is that it would apply the same rules to all players: Steel mills in Illinois, auto plants in Ohio and sewage plants in Wisconsin would have the same water quality rules as their counterparts in Michigan.

That protects the Great Lakes, and also eliminates the competitive advantage a state might derive from winking at pollution. The principle is critical for Michigan, which has had tougher water quality standards than many of its neighbors. The GLI has the firm support of Gov. John Engler.

That protects the Great Lakes, and also eliminates the competitive advantage a stage might derive from winking at pollution. The principle is critical for Michigan, which has had tougher water quality standards than many of its neighbors. The GLI has the firm support of Gov. John Engler.

Enter Rep. Michael Oxley, R-Ohio, with an amendment to the unfunded mandates bill that would turn the GLI into advisory guidelines, rather than rules. That would get Ohio off the hook and gut Great Lakes protection. And bad as the Oxley proposal is, it is only one of scores of similar amendments the trash-the-rules gang is lining up to tack onto the measure.

Clean lakes? Safe drinking water? Worker safety? Consumer protection? Not if the mandate-bashers have anything to say about it. Rep. Oxley's amendment emasculating the GLI is bad enough. A rigid, unthinking prohibition of any form of federal mandate would be far worse.

□ 1420

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT: In section 202(a), after "productive jobs," insert "worker benefits and pensions,".

Mr. TRAFICANT. Mr. Chairman, this amendment has been banged around a little bit. It has had quite a bit of scrutiny and review, but I think it is imperative that the amendment be understood and that we understand the importance of the amendment as it relates to unfunded mandates, working people, and the health of our economy.

This bill requires Federal agencies to examine a number of factors before promulgating regulations, but under this section where my amendment is in fact targeted, agencies are required to examine the effect of a proposed rule on the economy, the effect on productivity, economic growth, full employment, creation of productive jobs, and the impact on international competitiveness.

The Traficant amendment adds the impact on workers' benefits and their pensions. Let me say this: Many pensions in this country are underfunded. When a pension plan is underfunded, the Congress of the United States bails those pension plans out through the Pension Benefit Guaranty Corporation.

As we know, workers are worried sick around the country about many of these underfunded pension plans.

The Traficant amendment is not designed to impose any regulatory process on the insurance industry nor pension plans, but what the Traficant amendment says is that when we consider and when that group considers the impact of these unfunded Federal mandates on these respective elements under section 202(a)(4), they also look at its impact on the long-term effect on those health insurance plans and those pension plans.

The Pension Plan Fund of America is the major source of investment money that impacts our stock markets, our bond markets, and the viability of our economic community, and I believe that in fact to leave that out, to be silent on that, or to not address it specifically would be a failing of this bill.

I am a strong supporter of the bill, and I believe that we cannot separate these important areas from the other elements that are addressed specifically in the bill.

So I would ask the Members to support the amendment and to keep that amendment in that part of the bill which addresses the fact that it must be reviewed and considered in any other capacity as those other areas so delineated. I think if we are going to ask the agencies to examine those other areas, we would be remiss if we did not focus on those two main areas that so affect our economy.

With that, Mr. Chairman, I yield to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of the amendment offered by my colleague, the gentleman from Ohio [Mr. TRAFICANT].

The gentleman from Ohio has been very active on this issue of making the bill a better bill. I think this amendment is a good amendment. I think he has tried to work it out with the majority and tried to do everything he can to make sure it fits in where it is supposed to fit. I commend the gentleman for his effort and his support on this issue. It has been greatly appreciated, and I ask the Members to support the amendment.

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman from California for his leadership on the bill.

Mr. Chairman, I now yield to the distinguished chairman of the subcommittee.

Mr. SCHIFF. Mr. Chairman, I want to say that as I understand the debate over the type of unfunded mandates we are talking about, I see them distant in the areas I can think of from the areas the gentleman is talking about.

However, the area of pension guarantees is so important that if there is any possibility that this legislation affects the areas the gentleman from Ohio is identifying, then I think it is important that we add his amendment to the bill as offered, and I accept the amendment and support it.

Mr. TRAFICANT. Mr. Chairman, I appreciate the support of the gentleman from New Mexico [Mr. SCHIFF].

Mr. Chairman, I yield to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman for yielding.

I certainly support the gentleman's amendment. It makes a lot of sense. It would add the words, "work benefits and pensions" after the words, "creation of productive jobs" as one aspect of private sector regulatory analysis.

Certainly regulations can affect productivity and jobs. They can create jobs or cost jobs. What is equally important is the impact upon the benefits and pensions of workers across the country. I find that the average worker is not just concerned about the security of his job or her job, but they are equally concerned about the security of benefits and the security of pensions which are increasingly being eroded.

The gentleman's amendment makes a lot of good sense. It focuses our attention and the agency's attention on this very important matter.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 2 additional minutes.)

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I thank my colleague, the gentleman from Ohio, for yielding, and I just want to thank the gentleman for educating us over the last several hours here on this very important issue. I thank the gentleman for his contribution to the debate.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's comments.

Before I complete my presentation, let me say this: It is not just the retirees and their pension plans I am concerned about. When those pension plans are impacted and that money dries up for investment in our economy, it impacts the active workers in our country as well.

Mr. Chairman, I appreciate the openness of the Members of the majority party in looking at this issue as broadly as they have. I appreciate their support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

Mr. FATTAH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to protect my right to offer an amendment, amendment No. 14.

I understand a similar amendment has already been considered today, and I was not on the floor at that time. But I do, nonetheless, want to raise the issue.

Mr. Chairman, on page 17 of this bill it provides that each agency shall develop an effective process to permit elected officials or their designated representatives of State, local, or tribal governments to provide meaningful and timely input in the development of regulatory proposals.

The amendment that I had considered offering today and, therefore, had printed in the RECORD, was an amendment that would also provide for private sector input and not just the input of elected officials. I thought the thrust of what I had been hearing here on the Hill was that we wanted to give the Government back to the people, and that perhaps we wanted to have input from individuals, private individuals, not just elected officials.

Having understood a previous amendment which was very similar to mine was not passed, I would be willing to not belabor the point if I could get a point of view as to why this type of amendment would not be found acceptable by the majority.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. FATTAH. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I appreciate the gentleman's yielding.

Very briefly, we did have a good discussion on this issue previously in response to the amendment offered by the gentleman from California [Mr. WAXMAN] which was not accepted.

I think there are two issues here. No. 1, there is a process by which through the existing Administrative Procedures Act, in a notice and comment period in the private sector, individuals would have an opportunity to be heard.

The second point is that we do in fact provide for a special place in a sense for State and local governments at the table, but that is because they are the coregulators of the very Federal regulations that are subject to this rulemaking.

So I think the response is, frankly, that there is already in the process the opportunity for people to be heard, and that is appropriate. We endorse that. But we did not need to carve out a special requirement for the agencies with respect to this. We did so for State and local governments, again in the sense that they are the coregulators and are directly affected by these regulations.

Mr. FATTAH. Mr. Chairman, I thank the gentleman for his explanation.

Mr. Chairman, in consideration of what has been offered as an explanation, I would reiterate that it would seem to me that it would be appropriate for us to provide in this section absolute guarantees of private sector input and private citizen input. However, so that we would not delay the process and in consideration of the vote on the previous amendment which was similar to mine, I at this point would withdraw my amendment.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield further?

Mr. FATTAH. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, let me say that I again thank the gentleman from Pennsylvania. We worked closely on some other amendments in the process, including amendments to title I, and I appreciate the gentleman's withdrawing his amendment at this time.

The CHAIRMAN. The Chair will state that the gentleman from Pennsylvania [Mr. FATTAH] simply declines to offer his amendment.

□ 1430

Mr. ROTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is an extremely important piece of legislation, and I must just take 1 minute to draw the body's attention to what this legislation is doing in the area, for example, of the Great Lakes.

Mr. Chairman, we've heard many examples of the burdens placed on the States by unfunded Federal mandates during this debate. The Great Lakes States, are facing a very serious problem that will affect cities, townships, and villages all around the lakes.

The EPA's proposed Great Lakes Water Quality Initiative [GLI] will impose substantial costs on local government and industry with little proven environmental benefit.

The EPA Science Advisory Board and the American Council on Science and Health, as well as a study commissioned by the Great lakes Governors, have all expressed doubts about the proposal's potential environmental effectiveness.

There is little doubt, however, that the proposal will do significant damage to the Great Lakes economy. The Governors' study estimates that it will cost more than $2 billion a year and destroy more than 33,000 jobs.

These large costs are not being imposed solely on industry. The most recent study estimates the costs will be even higher. For just 50 municipalities, this study estimates $1.7 billion in capital costs and $695 million in operating and maintenance costs. That means costs to the entire region could be well in excess of $5 billion.

The EPA currently intends to issue the proposal as a binding regulatory mandate that must be implemented the same way in every State and every community. There would be no flexibility, and consequently, no opportunity to reduce costs.

This is yet another example of an outrageous unfunded mandate imposed by an out-of-control bureaucracy. A mandate that may bankrupt an entire region with little or no proven environmental benefit.

We must return to some common sense in our governmental conduct. The proposal was originally intended as a guidance, not a mandate. We must give the States back the flexibility to adopt the GLI to local conditions and needs.

This amendment says clearly that the States should take the EPA guidance into account in adopting water quality programs. At the same time, however, State programs do not have to be identical to the EPA guidance.

Mr. Chairman, this amendment would provide a sensible remedy to an expensive and unfair situation.

Mr. SKAGGS. Mr. Chairman, I ask unanimous consent that we proceed out of order at this point. I think this amendment is the last one that was going to be offered in title II. We are working with the majority side to try to reach agreement on this language. Rather than try to proceed prematurely, I ask unanimous consent that we go into title III and reserve the right to come back.

Mr. SCHIFF. Mr. Chairman, reserving the right to object, we have no objection. The gentleman from Colorado and the chairman of the committee have been discussing this issue. In the possibility that they might reach agreement, it would be well warranted.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the rights of the gentleman from Colorado [Mr. SKAGGS] to offer an amendment to title II will be protected.

There was no objection.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—LEGISLATIVE ACCOUNTABILITY AND REFORM

SEC. 301. LEGISLATIVE MANDATE ACCOUNTABILITY AND REFORM.

Title IV of the Congressional Budget Act of 1974 is amended by—

(1) inserting before section 401 the following:

"Part A—General Provisions"; and

(2) adding at the end the following new part:

"Part B—Federal Mandates

"SEC. 421. DEFINITIONS.

"For purposes of this part:

"(1) AGENCY.—The term 'agency' has the meaning stated in section 551(1) of title 5, United States Code, but does not include independent regulatory agencies, as defined by section 3502(10) of title 44, United States Code.

"(2) DIRECTOR.—The term 'Director' means the Director of the Congressional Budget Office.

"(3) FEDERAL FINANCIAL ASSISTANCE.—The term 'Federal financial assistance' means the amount of budget authority for any Federal grant assistance or any Federal program providing loan guarantees or direct loans.

"(4) FEDERAL INTERGOVERNMENTAL MANDATE.—The term 'Federal intergovernmental mandate' means—

"(A) any provision in legislation, statute, or regulation that—

"(i) would impose an enforceable duty upon States, local governments, or tribal governments, except—

"(I) a condition of Federal assistance; or

"(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B); or

"(ii) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

"(B) any provision in legislation, statute, or regulation that relates to a then-existing Federal program under which $500,000,000 or more is provided annually to States, local governments, and tribal governments under entitlement authority, if—

"(i)(I) the provision would increase the stringency of conditions of assistance to States, local governments, or tribal governments under the program; or

"(II) would place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding to States, local governments, or tribal governments under the program; and

"(ii) the States, local governments, or tribal governments that participate in the Federal program lack authority under that program to amend their financial or programmatic responsibilities to continue providing required services that are affected by the legislation, statute, or regulation.

"(5) FEDERAL PRIVATE SECTOR MANDATE.—The term 'Federal private sector mandate' means any provision in legislation, statute, or regulation that—

"(A) would impose an enforceable duty on the private sector except—

"(i) a condition of Federal assistance; or

"(ii) a duty arising from participation in a voluntary Federal program; or

"(B) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that will be provided to the private sector for the purpose of ensuring compliance with such duty.

"(6) FEDERAL MANDATE.—The term 'Federal mandate' means a Federal intergovernmental mandate or a Federal private sector mandate, as defined in paragraphs (4) and (5).

"(7) FEDERAL MANDATE DIRECT COSTS.—

"(A) FEDERAL INTERGOVERNMENTAL DIRECT COSTS.—In the case of a Federal intergovernmental mandate, the term 'direct costs' means the aggregate estimated amounts that all States, local governments, and tribal governments would be required to spend or would be required to forego in revenues in order to comply with the Federal intergovernmental mandate, or in the case of a provision referred to in paragraph (4)(A)(ii), the amount of Federal financial assistance eliminated or reduced.

"(B) PRIVATE SECTOR DIRECT COSTS.—In the case of a Federal private sector mandate, the term 'direct costs' means the aggregate estimated amounts that the private sector would be required to spend in order to comply with a Federal private sector mandate.

"(C) EXECLUSION FROM DIRECT COSTS.—The term 'direct costs' does not include—

"(i) estimated amounts that the States, local governments, and tribal governments (in the case of a Federal intergovernmental mandate), or the private sector (in the case of a Federal private sector mandate), would spend—

"(I) to comply with or carry out all applicable Federal, State, local, and tribal laws and regulations in effect at the time of the adoption of a Federal mandate for the same activity as is affected by that Federal mandate; or

"(II) to comply with or carry out State, local government, and tribal governmental programs, or private-sector business or other activities in effect at the time of the adoption of a Federal mandate for the same activity as is affected by that mandate; or

"(ii) expenditures to the extent that they will be offset by any direct savings to be enjoyed by the States, local governments, and tribal governments, or by the private sector, as a result of—

"(I) their compliance with the Federal mandate; or

"(II) other changes in Federal law or regulation that are enacted or adopted in the same bill or joint resolution or proposed or final Federal regulation and that govern the same activity as is affected by the Federal mandate.

"(D) DETERMINATION OF COSTS.—Direct costs shall be determined based on the assumption that States, local governments, tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations. Reasonable steps to mitigate the costs shall not include increases in State, local, or tribal taxes or fees.

"(8) LOCAL GOVERNMENT.—The term 'local government' has the same meaning as in section 6501(6) of title 31, United States Code.

"(9) PRIVATE SECTOR.—The term 'private sector' means individuals, partnerships, associations, corporations, business trusts, or legal representatives, organized groups of individuals, and educational and other nonprofit institutions.

"(10) REGULATION.—The term 'regulation' or 'rule' has the meaning of 'rule' as defined in section 601(2) of title 5, United States Code.

"(11) STATE.—The term 'State' has the same meaning as in section 6501(9) of title 31, United States Code.

"SEC. 422. LIMITATION ON APPLICATION.

"This part shall not apply to any provision in a bill, joint resolution, motion, amendment, or conference report before Congress that—

"(1) enforces constitutional rights of individuals;

"(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, religion, gender, national origin, or handicapped or disability status;

"(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;

"(4) provides for emergency assistance or relief at the request of any State, local government, or tribal government or any official of such a government;

"(5) is necessary for the national security or the ratification or implementation of international treaty obligations;

"(6) the President designates as emergency legislation and that the Congress so designates in statute; or

"(7) pertains to Social Security.

"SEC. 423. DUTIES OF CONGRESSIONAL COMMITTEES.

"(a) SUBMISSION OF RULES TO THE DIRECTOR.—When a committee of authorization of the House of Representatives or the Senate orders a bill or joint resolution of a public character reported, the committee shall promptly provide the text of the bill or joint resolution to the Director and shall identify to the Director any Federal mandate contained in the bill or resolution.

"(b) COMMITTEE REPORT.—

"(1) INFORMATION REGARDING FEDERAL MANDATES.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of a public character that includes any Federal mandate, the report of the committee accompanying the bill or joint resolution shall contain the information required by paragraph (2) and, in the case of a Federal intergovernmental mandate, paragraph (3).

"(2) REPORTS ON FEDERAL MANDATES.—Each report referred to in paragraph (1) shall contain—

"(A) an identification and description of each Federal mandate in the bill or joint resolution, including the statement, if available, from the Director pursuant to section 424(a);

"(B) a qualitative assessment, and if practicable, a quantitative assessment of costs and benefits anticipated from the Federal mandate (including the effects on health and safety and protection of the natural environment); and

"(C) a statement of the degree to which the Federal mandate affects each of the public and private sectors and the extent to which Federal payment of public sector costs would affect the competitive balance between States, local governments, or tribal governments and the private sector.

"(3) INTERGOVERNMENTAL MANDATES.—If any of the Federal mandates in the bill or joint resolution are Federal intergovernmental mandates, the report referred to in paragraph (1) shall also contain—

"(A)(i) a statement of the amount, if any, of increase or decrease in authorization of appropriations under existing Federal financial assistance programs or for new Federal financial assistance, provided by the bill or joint resolution and unable for activities of States, local governments, or tribal governments subject to Federal intergovernmental mandates; and

"(ii) a statement of whether the committee intends that the Federal intergovernmental mandates be partly or entirely unfunded, and, if so, the reasons for that intention; and

"(B) a statement of any existing sources of Federal financial assistance in addition to those identified in subparagraph (A) that may assist States, local governments, and tribal governments in paying the direct costs of the Federal intergovernmental mandates.

"(4) INFORMATION REGARDING PREEMPTION.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of a public character, the committee report accompanying the bill or joint resolution shall contain, if relevant to the bill or joint resolution, an explicit statement on whether the bill or joint resolution, in whole or in part, is intended to preempt any State, local, or tribal law, and if so, an explanation of the reasons for such intention.

"(c) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

"(1) IN GENERAL.—Upon receiving a statement (including any supplemental statement) from the Director pursuant to section 424(a), a committee of the House of Representatives or the Senate shall publish the statement in the committee report accompanying the bill or joint resolution to which the statement relates if the statement is available to be included in the printed report.

"(2) OTHER PUBLICATION OR STATEMENT OF DIRECTOR.—If the statement is not published in the report, or if the bill or joint resolution to which the statement relates is expected to be considered by the House of Representatives or the Senate before the report is published, the committee shall cause the statement, or a summary thereof, to be published in the Congressional Record in advance of floor consideration of the bill or joint resolution.

"SEC. 424. DUTIES OF THE DIRECTOR.

"(a) STATEMENTS ON BILLS AND JOINT RESOLUTIONS OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLUTIONS.—

(1) FEDERAL INTERGOVERNMENTAL MANDATES IN REPORTED BILLS AND RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or the Senate, the Director shall prepare and submit to the committee a statement as follows:

(A) If the Director estimates that the direct cost of all Federal intergovernmental mandates in the bill or joint resolution will equal or exceed $50,000,000 (adjusted annually for inflation) in the fiscal year in which such a Federal intergovernmental mandate (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

(B) The estimate required by subparagraph (A) shall include estimates (and brief explanations of the basis of the estimates) of—

"(i) the total amount of direct cost of complying with the Federal intergovernmental mandates in the bill or joint resolution; and

"(ii) the amount, if any, of increase in authorization of appropriations or budget authority or entitlement authority under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by States, local governments, or tribal governments for activities subject to the Federal intergovernmental mandates.

"(2) FEDERAL PRIVATE SECTOR MANDATES IN REPORTED BILLS AND JOINT RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or the Senate, the Director shall prepare and submit to the committee a statement as follows:

"(A) If the Director estimates that the direct cost of all Federal private sector mandates in the bill or joint resolution will equal or exceed $100,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

"(B) The estimate required by subparagraph (A) shall include estimates (and brief explanations of the basis of the estimates) of—

"(i) the total amount of direct costs of complying with the Federal private sector mandates in the bill or joint resolution; and

"(ii) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution usable by the private sector for the activities subject to the Federal private sector mandates.

"(C) If the Director determines that it is not feasible to make a reasonable estimate that would be required under subparagraphs (A) and (B), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement.

"(3) LEGISLATION FALLING BELOW THE DIRECT COSTS THRESHOLDS.—If the Director estimates that the direct costs of a Federal mandate will not equal or exceed the threshold specified in paragraph (1)(A) or (2)(A), the Director shall so state and shall briefly explain the basis of the estimate.

"(4) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If the Director has prepared the statement pursuant to subsection (a) for a bill or joint resolution, and if that bill or joint resolution is reported or passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in an amended form, the committee of conference shall ensure, to the greatest extent practicable, that the Director shall prepare a supplemental statement for the bill or joint resolution in that amended form.

"(b) ASSISTANCE TO COMMITTEES AND STUDIES.—

"(1) IN GENERAL.—At the request of any committee of the House of Representatives or of the Senate, the Director shall, to the extent practicable, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

"(A) a significant budgetary impact on State, local, or tribal governments; or

"(B) a significant financial impact on the private sector.

"(2) CONTINUING STUDIES.—The Director shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

"(3) FEDERAL MANDATE STUDIES.—

"(A) At the request of any committee of the House of Representatives or the Senate, the Director shall, to the extent practicable, conduct a study of a legislative proposal containing a Federal mandate.

"(B) In conducting a study under subparagraph (A), the Director shall—

"(i) solict and consider information or comments from elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and such other persons as may provide helpful information or comments;

"(ii) consider establishing advisory panels of elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and other persons if the Director determines, in the Director's discretion, that such advisory panels would be helpful in performing the Director's responsibilities under this section; and

"(iii) include estimates, if and to the extent that the Director determines that accurate estimates are reasonably feasible, of—

"(I) the future direct cost of the Federal mandates concerned to the extent that they significantly differ from or extend beyond the 5-year period after the mandate is first effective; and

"(II) any disproportionate budgetary effects of the Federal mandates concerned upon particular industries or sectors of the economy, States, regions, and urban, or rural or other types of communities, as appropriate.

"(C) In conducting a study on private sector mandates under subparagraph (A), the Director shall provide estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

"(i) future costs of Federal private sector mandates to the extent that such mandates differ significantly from or extend beyond the 5-year period referred to in subparagraph (B)(iii)(I);

"(ii) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon any particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

"(iii) the effect of Federal private sector mandates in the bill or joint resolution on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services.

"(c) VIEWS OF COMMITTEES.—Any committee of the House of Representatives or the Senate which anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on the States, local governments, or tribal governments, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall provide its views and estimates on such proposal to the Committee on the Budget of its House.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Congressional Budget Office to carry out this part $4,500,000 for each of fiscal years 1996 through 2002.

"SEC. 425. POINT OF ORDER.

"(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider—

"(1) any bill or joint resolution that is reported by a committee unless the committee has published the statement of the Director pursuant to section 424(a) prior to such consideration, except that this paragraph shall not apply to any supplemental statement prepared by the Director under section 424(a)(4); or

"(2) any bill, joint resolution, amendment, motion, or conference report that contains a Federal intergovernmental mandate having direct costs that exceed the threshold specified in section 424(a)(1)(A), or that would cause the direct costs of any other Federal intergovernmental mandate to exceed the threshold specified in section 424(a)(1)(A), unless—

"(A) the bill, joint resolution, amendment, motion, or conference report provides new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that equals or exceeds the estimated direct costs of such mandate; or

"(B) the bill, joint resolution, amendment, motion, or conference report provides an increase in receipts or a decrease in new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate and an increase in new budget authority or new entitlement authority in the House of Representatives or an increase direct spending authority for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that equals or exceeds the estimated direct costs of such mandate; or

"(C) the bill, joint resolution, amendment, motion, or conference report—

"(i) provides that—

"(I) such mandate shall be effective for any fiscal year only if all direct costs of such mandate in the fiscal year are provided in appropriations Acts, and

"(II) in the case of such a mandate contained in the bill, joint resolution, amendment, motion, or conference report, the mandate is repealed effective on the first day of any fiscal year for which all direct costs of such mandate are not provided in appropriations Acts; or

"(ii) requires a Federal agency to reduce programmatic and financial responsibilities of State, local, and tribal governments for meeting the objectives of the mandate such that the estimated direct costs of the mandate to such governments do not exceed the amount of Federal funding provided to those governments to carry out the mandate in the form of appropriations or new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate, and establishes criteria and procedures for that reduction.

"(b) LIMITATION ON APPLICATION TO APPROPRIATIONS BILLS.—Subsection (a) shall not apply to a bill that is reported by the Committee on Appropriations or an amendment thereto.

"(c) DETERMINATION OF DIRECT COSTS BASED ON ESTIMATES BY BUDGET COMMITTEES.—For the purposes of this section, the amount of direct costs of a Federal mandate for a fiscal year shall be determined based on estimates made by the Committee on the Budget, in consultation with the Director, of the House of Representatives or the Senate, as the case may be.

"(d) DETERMINATION OF EXISTENCE OF FEDERAL MANDATE BY GOVERNMENT REFORM AND OVERSIGHT AND GOVERNMENTAL AFFAIRS COMMITTEES.—For the purposes of this section, the question of whether a bill, joint resolution, amendment, motion, or conference report contains a Federal intergovernmental mandate shall be determined after consideration of the recommendation, if available, of the Chairman of the Committee on Government Reform and Oversight of the House of Representatives or the Chairman of the Committee on Governmental Affairs of the Senate, as applicable.

"(e) LIMITATION ON APPLICATION OF SUBSECTION (a)(2).—Subsection (a)(2) shall not apply to any bill, joint resolution, amendment, or conference report that reauthorizes appropriations for carrying out, or that amends, any statute if enactment of the bill, joint resolution, amendment, or conference report—

"(1) would not result in a net increase in the aggregate amount of direct costs of federal intergovernmental mandates; and

"(2)(A) would not result in a net reduction or elimination of authorizations of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for use to comply with any Federal intergovernmental mandate; or

"(B) in the case of any net reduction or elimination of authorizations of appropriations for such Federal financial assistance that would result for such enactment, would reduce the duties imposed by the Federal intergovernmental mandate by a corresponding amount.

"SEC. 426. ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.

"It shall not be in order in the House of Representatives to consider a rule or order that waives the application of section 425(a): *Provided, however*, That pending a point of order under section 425(a) or under this section a Member may move to waive the point of order. Such a motion shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent but, if offered in the House, shall otherwise be decided without intervening motion except a motion that the House adjourn. The adoption of a motion to waive such a point of order against consideration of a bill or joint resolution shall be considered also to waive a like point of order against an amendment made in order as original text.".

SEC. 302. ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.

(a) MOTIONS TO STRIKE IN THE COMMITTEE OF THE WHOLE.—Cause 5 of rule XXIII of the Rules of the House of Representatives is amended by adding at the end of the following:

"(c) In the consideration of any measure for amendment in the Committee of the Whole containing any Federal mandate the direct costs of which exceed the threshold in section 424(a)(1)(A) of the Unfunded Mandate Reform Act of 1995, it shall always be in order, unless specifically waived by terms of a rule governing consideration of that measure, to move to strike such Federal mandate from the portion of the bill then open to amendment.".

(b) COMMITTEE ON RULES REPORTS ON WAIVED POINTS OF ORDER.—The Committee on Rules shall include in the report required by clause 1(d) of Rule XI (relating to its activities during the Congress) of the Rules of the House of Representatives a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and the subject matter of that measure.

SEC. 303. EXERCISE OF RULEMAKING POWERS.

The provisions of this title (except section 305) are enacted by Congress—

(1) as an exercise of the rulemaking powers of the House of Representatives and the Senate, and as such they shall be considered as part of the rules of the House of Representatives and the Senate, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the House of Representatives and the Senate to change such rules at anytime, in the same manner, and to the same extent as in the case of any other rule of the House of Representatives or the Senate, respectively.

SEC. 304. CONFORMING AMENDMENT TO TABLE OF CONTENTS.

Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting "PART A—GENERAL PROVISIONS" before the items relating to section 401 and by inserting after the items relating to section 407 the following:

"PART B—FEDERAL MANDATES

"Sec. 421. Definitions.
"Sec. 422. Limitation on application.
"Sec. 423. Duties of congressional committees.
"Sec. 424. Duties of the Director.
"Sec. 425. Point of order.
"Sec. 426. Enforcement in the House of Representatives.".

SEC. 305. TECHNICAL AMENDMENT.

(a) TECHNICAL AMENDMENT.—The State and Local Government Cost Estimate Act of 1981 (Public Law 97–108) is repealed.

(b) TECHNICAL AMENDMENT.—Section 403 of the Congressional Budget Act of 1974 is amended to read as follows:

"ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

SEC. 403. The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the fiscal years following such fiscal year, together with the basis for each estimate; and

"(2) a comparison of the estimate of costs described in paragraph (1) with any available estimate of costs made by such committee or by any Federal agency.

The estimate and comparison so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.".

SEC. 306. EFFECTIVE DATE.

This title shall take effect on October 1, 1995.

AMENDMENT OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Chairman, I offer my amendment numbered 51.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. COLLINS of Illinois: In section 306, strike "October 1, 1995" and insert "at the end of the 10-day period beginning on the date of the enactment of this Act".

Mrs. COLLINS of Illinois. Mr. Chairman, many Democrats will vote for this bill because they believe the open and full debate on the costs to the public and private sector is the essence of good public policy.

That is why it is imperative that if this bill is passed, the requirements of the bill be applied to legislation as soon as possible. We need to ensure a full and open debate on the true costs of the legislation that the Republican leadership will be bringing to this floor.

Unfortunately, H.R. 5 in its present form will not allow us to do that. The effective date in section 306 is not when we pass this bill, or even a week or a month after passage. No, for some unexplained reasons, this bill does not go into effect until October 1, 1995. That is more than 8 months away. My amendment would simply move up the effective date to 10 days after enactment.

We have heard how important this legislation is, how essential it is to pass it as soon as possible. How urgent is this bill?

So urgent that the primary committee of jurisdiction, the Committee on Government Reform and Oversight, was told that it did not have time for a hearing on the bill.

So urgent that it was marked up just 2 days after the bill was printed.

So urgent that the markup took place at the same time that the committee held its first organizational meeting.

So urgent that the majority requested permission to file the committee report early to get us to the floor today.

Why, if it is so urgent, does it not take effect for another 9 months? The chairman of the committee has stated that he wanted to give the Congressional Budget Office time to gear up for its new responsibilities. I would answer that CBO has had plenty of opportunity to gear up. It has known for 2 years that unfunded mandate legislation was coming.

In fact, in staff discussions with CBO, its staff does not believe it will take much additional resources to carry out its duties under this legislation.

Let me suggest a different reason for delaying enactment until October 1: By then, most of the Republican contract, including rescission bills, welfare reform, and other cost-cutting measures, will have come to the floor and been acted on.

Some of these bills, in cutting the Federal responsibility for certain programs, may very well have the effect of shifting those burdens to State and local governments.

For example, the welfare reform bills that we have heard about would provide less money to States while perhaps still requiring them to provide certain levels of assistance. That is an unfunded mandate under this bill. And we have no idea what impact the rescission bills may have on State and local governments.

We have heard that none of the legislation to be taken up between now and October will impose any costs on State and local governments. Therefore, there should be no opposition to this amendment. If there is hesitation to applying this bill over the coming months, then either this bill has great problems, or there are in fact unfunded mandates in the Republican agenda.

Let us not delay the effect of this bill. Regardless of your views on this bill, there is no reason to exempt our actions over the coming months on the Republican contract.

Mr. DREIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I know that the amendment is very well intentioned, but it seems to me that there is a sense that this October 1 effective date was somehow just drawn out of thin air, when in fact that clearly is not the case. The enactment date of October 1 was not determined by the Contract With America. In fact, it was determined based on consultations with the Congressional Budget Office to arrive at a reasonable time frame that would allow the Congressional Budget Office to obtain the staffing and expertise to conduct accurate cost estimates, which clearly is the major thrust of what we are trying to do with this legislation.

It seems to me that is a very responsible route for us to take. Nothing is trying to be put off at all.

□ 1440

I think that the attempt to proceed with this is less than responsible.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Cincinnati, OH.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding to me.

A couple of points in response to the gentlewoman's comments regarding the effective date. It should be made clear, Mr. Chairman, that in last year's legislation, which passed the Government Operations Committee by a vote of 35 to 4, the effective date was October 1, 1995. This was, of course, prior to the Contract With America, prior to the new Congress. And this was a piece of legislation which was very similar to the H.R. 5 now before us. Again, it was a strong bipartisan vote of 35 to 4. The reason October 1 was chosen is precisely what my friend from California has said, which is, it would take that long for the Congressional Budget Office to be prepared to do the extensive analysis which is required under this legislation.

I would say, in addition, that I have had direct personal conversations with CBO as recently as in the last 2 weeks with regard to this very issue. And they, in fact, would probably prefer the Senate version of the bill, which provides for an effective date of January 1, 1996. The House version, again, is October 1, 1995.

I would say finally that this is also very important so that our committees, authorizing committees here in the House and so that the Federal agencies can be prepared to actually respond to the new requirements in this legislation, which are so important to the accountability that is central to this act.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, the gentleman from Ohio [Mr. PORTMAN] mentioned that the bill that we had last year had an enactment date of October 1995. I just want to point out, this is not the bill we had last year. This is a totally different bill than the bill we had last year. This is a new bill, as the gentleman very well knows. It just seems to me we cannot compare those two at this point in time.

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, just one small comment, it is a different piece of legislation with regard to the CBO requirements. If anything, this bill has even more requirements for CBO, although the bill last year also had a CBO cost requirement, as the gentlewoman knows, and if anything, one would think the logic would be that we would push back the effective date beyond October 1, given the change in the legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, they also had a year's head up since we are in another year, and another Congress.

Mr. DREIER. Mr. Chairman, I think a very important point that needs to be made here is that the dollars that would be necessary for the Congressional Budget Office to successfully implement this will not be appropriated until the next fiscal year. We can authorize it, but those funds would not be available until following October 1, and that is the reason for this date. That is why I think that it is important for us to maintain that.

A great deal of thought went into it. It is for that reason that I am going to have to oppose the gentlewoman's amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, would the gentleman have any idea when he would expect CBO to be doing these estimates and getting information back to the Congress?

Mr. DREIER. This is obviously going to be taking place over the next several weeks and months following implementation of this legislation. And they are well aware of the fact that this October 1 date is obviously key for them and that sets an actual deadline.

Mrs. COLLINS of Illinois. Does the gentleman expect an unfunded mandate to come down the pike before then, before October 1?

Mr. DREIER. Surely. Before the first of October, surely, we are going to be looking at those. It is obvious that as we begin addressing this issue, it is going to be on the horizon, but this October 1 date was very important and, as I said, was not grasped out of thin air. It was something that clearly we did with careful negotiations with the Congressional Budget Office.

It is for that reason, Mr. Chairman, that I am going to have to oppose the gentlewoman's amendment.

Mrs. COLLINS of Illinois. Could the gentleman tell me when is the effective date of title II?

Mr. DREIER. The effective date on title II.

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, I would say in response to the gentlewoman's question with regard to title II, which is the regulatory requirements, that it is my understanding that they become effective upon enactment.

The CHAIRMAN. The time of the gentleman from California [Mr. DREIER] has expired.

(By unanimous consent, Mr. DREIER was allowed to proceed for 30 additional seconds.)

Mr. DREIER. Mr. Chairman, was the answer adequate?

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman will continue to yield, the gentleman said title II was effective upon enactment. So will we have to wait for that title until October 1, 1995, even though it is effective upon enactment?

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, it is my understanding that the regulatory section, which is title II, becomes effective upon enactment. In other words, the Federal agencies will be required to continue to do as they do now.

The CHAIRMAN. The time of the gentleman from California [Mr. DREIER] has again expired.

(On request of Mr. PORTMAN, and by unanimous consent, Mr. DREIER was allowed to proceed for 1 additional minute.)

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, the Federal agencies will be required to do as they are required now under the Executive order to carry out the cost-benefit analysis contained in title II.

Mrs. COLLINS of Illinois. Mr. Chairman, does the gentleman suppose they might be willing to delay any additional enactment until October 1, 1995, under title II, the Federal agencies?

Mr. PORTMAN. Mr. Chairman, the Federal agencies are currently required, under the Executive order, to go even beyond the cost-benefit analysis provided in title II. We now have it in statute, not just in the Executive order. But it is my understanding the agencies would continue to provide the cost-benefit analysis that was subject to the debate earlier today.

Mrs. COLLINS of Illinois. Mr. Chairman, the problem is, it is a new requirement because it is a new bill. I just wondered how it was going to all play out between now and October 1, 1995.

Mr. PORTMAN. It is my understanding that the Congressional Budget Office, because, they have no requirements within title II, will begin their analysis on October 1. By that time they will have adequate funding and adequate personnel to do the very major tasks which we are asking them to do in this legislation. Again, this is all consistent with the legislation we passed last year, H.R. 5128. The Senate bill has January 1, 1996, as a deadline.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. COLLINS of Illinois. Mr. Chairman, I demand a recorded vote.

The recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 250, not voting 3, as follows:

[Roll No. 73]

AYES—181

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)

Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Tucker
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—250

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—3

Bilbray
Gekas
Mfume

□ 1505

Mr. RICHARDSON changed his vote from "aye" to "no."

Messrs. BARRETT of Wisconsin, DOOLEY, DEAL of Georgia, BAESLER, TAUZIN, PARKER, and LAUGHLIN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 73, the amendment by Mrs. Collins of Illinois to change the effective date of the bill from October 1, 1995, to 10 days after the measure's enactment.

Had I been here I would have voted "yea."

PERSONAL EXPLANATION

Mr. GEKAS. Mr. Speaker, on Tuesday, January 31, 1995, I was unavoidably detained during rollcall No. 73, and thus my vote on the Collins amendment to H.R. 5, the Unfunded Mandate Reform Act, was not recorded. Had I been present, I would have voted "nay" on agreeing to the amendment.

AMENDMENT OFFERED BY MR. PORTMAN

Mr. PORTMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Portman: In section 301, in the proposed section 423(b)(2) of the Congressional Budget Act of 1974, amend subparagraph (C) to read as follows:

"(C) a statement of—

"(i) the degree to which the Federal mandate affects each of the public and private sectors, including a description of the actions, if any, taken by the committee to avoid any adverse impact on the private sector or on the competitive balance between the public sector and the private sector; and

"(ii) in the case of a Federal mandate that is a Federal intergovernmental mandate, the extent to which limiting or eliminating the Federal intergovernmental mandate or Federal payment of direct costs of the Federal intergovernmental mandate (if applicable) would affect the competitive balance between States, local governments, or tribal governments and the private sector.

Mr. PORTMAN. Mr. Chairman, my colleague and friend the gentleman from California [Mr. Condit] and I are offering this amendment in response to concerns we have heard from Members about the potential adverse impacts this legislation, H.R. 5, could have on the private sector and the competitive balance between the public and private sectors.

I should say at the outset it is not my view that H.R. 5 would have such a negative impact. In fact, it strikes me as rather odd that while certain Members of the other party are expressing concerns about the devastation that might befall the private sector, it is representatives of this very sector, the private sector, that have strongly supported H.R. 5 and have worked with us in drafting this bill and are strongly supportive of this clarifying amendment.

The list of business groups endorsing H.R. 5 is too lengthy to go through in its entirety, Mr. Chairman, but I will say for the record that we have support from the chamber of commerce, the NFIB, the Small Business Legislative Council and, yes, one of the largest private sector entities involved in this situation which would be BFI, Browning-Ferris. That is quite persuasive to me that the concerns being expressed by the opponents to H.R. 5 are being overdone.

These are groups that the opponents of H.R. 5 claim would be negatively affected by its enactment. Yet these groups want this legislation. They want it passed now.

As someone who is very proud of my record of support of the private sector, particularly small business, I can assure my colleagues that I would not be standing here today arguing for the passage of H.R. 5 if I believed it would harm this critically important sector of our economy. In fact, I believe just the opposite. Passage of H.R. 5 does not mean that Congress is denied the right to impose mandates on the public sector that are imposed on the private sector. Nor does it mean that we will fund mandates for the public sector that are not funded on the private sector, thereby setting up a competitive disadvantage. Instead it simply means we are going to have the cost information we need to make an informed decision.

Specifically on this point, H.R. 5 gives us for the first time, Mr. Chairman, a requirement that Congress must address the impact on the private sector. It must address this very issue of the competitive balance between the public and private sectors. The Portman-Condit amendment strengthens this requirement so that before legislation is brought to the House floor, we will be apprised of the degree to which Federal mandates in this bill could affect the competitive balance between the public and private sectors.

This amendment, Mr. Chairman, would require that the committee report accompanying the Federal mandate legislation spell out precisely what the effect on the public-private competitive balance would be if there were mandates on both the public and private sector that were scaled back, eliminated, or funded for the public sector.

By doing so, Mr. Chairman, we achieve the goal of accountability that is central to H.R. 5. These are the very ends that H.R. 5 seeks, accountability and informed debate. We owe nothing less to the American people than to have that. I believe this amendment clarifies and strengthens the accountability in this act. I urge my colleagues to support the amendment.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding.

Mr. Chairman, I would simply like to associate myself with his remarks and say that I believe that this amendment strikes the very important balance which we are seeking between the private and public sectors, so that in fact an analysis can be done that would determine if there were any negative effects that this measure were imposing on those on the private side.

I think it is a very good amendment, it clarifies the situation which was in question, and I hope my colleagues will support it.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I want to join in support of this amendment. I think it is a very constructive one. This analysis about the competitive situation between the public and the private side will be a very useful one. I think this is a helpful amendment and I urge support for it.

Mr. PORTMAN. I thank the gentleman for his support and appreciate it very much.

Mr. CONDIT. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. CONDIT. Mr. Chairman, I rise in support of the amendment and thank the gentleman from Ohio [Mr. PORTMAN] for his involvement and effort in this amendment and the bill.

☐ 1510

I think that this amendment is a good amendment in dealing with the private sector problem that we have, and we acknowledge that we have a private sector problem. We are doing everything that we can to try to deal with it in a fair fashion. We think this does it. We think this reporting requirement would allow us the opportunity to collect the information, and to then do something about it at a later time.

Let me also just remind my colleagues that in a few weeks we will also be discussing other issues that I believe deal with the private sector, that will help them in dealing with unfunded mandates, and that is risk assessment and cost analysis.

For those who get overly exercised about this not being totally what they want it to be or totally fair, I think we are going to have another bite at the apple down the road with risk assessment and cost benefit, which I think will be a great benefit to the private sector and to putting some balance in regulatory law in this place.

So, this is a good amendment. It may not be what everybody wants, but I think it is a good amendment, it makes the bill work, and I would encourage Members to support the amendment.

Mr. MORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with the gentleman from California [Mr. CONDIT] that this does not do everything we want and it is not totally fair. And I am glad he made that point.

I support this amendment. I think it is appropriate that each authorizing committee consider the impact of their legislation on both the public sector and the private sector and where it creates a disparity, a lack of competitiveness, that committee ought to address it.

But where this amendment does clarify the problem, it does not rectify the problem. I will have an amendment that I will offer shortly that would rectify the problem. But I appreciate my friends, the gentleman from Ohio [Mr. PORTMAN] and the gentleman from California [Mr. CONDIT], bringing up this issue, exposing it to public consideration and particularly within this body, because it is a very basic issue, and I think a significant flaw within this legislation.

But it is a flaw that we can easily, as I say, rectify with a subsequent amendment that I will offer to treat the public sector equally with the private sector.

The basic problem with this bill is that it enables State and local governments to avoid Federal mandates if they are not completely funded. But it does not give that same option to the private sector.

So all of these privatization efforts that we have made and that I think the other side is particularly supportive of, but they are getting a lot of support on the Democratic side as well, to let the public sector carry out in the most efficient way all of the privatization efforts, which are going to be compromised or in fact eliminated if we do not rectify this basic flaw in the legislation which says that it becomes optional for State and local governments to carry out Federal legislation, but it is not optional for the private sector. Even though we will know what the cost to the private sector is, we do not give them the option to avoid the impact of this legislation, and as a result, in most areas where the private sector attempts to compete with the public sector it will become uncompetitive because it will not have to comply with environmental or labor laws or any other piece of legislation that we will subsequently enact. It is basically unfair and I think it is totally inconsistent with the concept of this legislation.

So, while I support this amendment and I certainly support what the gentleman from Ohio [Mr. PORTMAN] and the gentleman from California [Mr. CONDIT] would like to accomplish with this amendment, it does not do the job.

I appreciate the fact that they have pointed out the problem, but I would hope that they would support my effort to rectify the problem.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I am looking forward to the debate on the upcoming amendment to which the gentleman referred.

I would say this amendment does in fact address the problem, it does in fact force Congress to deal with the issue of public-private competition. If Congress, under its point of order requirement, which would be the discretion of Congress by majority vote, chooses not to impose a mandate because of the private-public concern, then Congress has the ability to do that under H.R. 5. And by this amendment we are insuring that Congress has the information to carry out that very informed debate and to make this very important decision.

So I would say that this amendment in fact does solve the gentleman's concern, and I look forward to the debate on his amendment.

Mr. MORAN. I thank the gentleman. If I could reclaim my time just shortly to respond, yes, it will give us that information, and that information should be used for our decisionmaking.

The problem is the gentleman wants us to make a decision now which will preclude our ability to rectify the unfairness that committees are going to discover as a result of the gentleman's amendment. That is the basic problem. He wants to make the decision now before we have the information that is available.

But, we will continue this discussion when we entertain my amendment. I do support this particular amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. PORTMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HALL OF OHIO

Mr. HALL of Ohio. Mr. Chairman, I offer amendment number 15.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment number 15 offered by Mr. HALL of Ohio:

In section 301(2), in the matter proposed to be added as a new section 421(4)(B)(ii) to the Congressional Budget Act of 1974, insert "except with respect to any low-income program referred to in section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985,".

□ 1520

Mr. HALL of Ohio. Mr. Chairman, my amendment is very simple and straightforward. It protects very low-income programs, those that we exempted from sequestration under the Gramm-Rudman Act of 1985 as unfunded mandates. This is important, because there could be major changes coming down the road on low-income programs including food and poverty programs.

My amendment clarifies the definition of Federal intergovernmental mandates in section 421. What I am trying to do is clarify the intergovernmental mandates in section 421 to ensure that the poor will get an up-or-down vote on their programs just like everyone else. Programs that would be protected under this amendment are child nutrition, which would be school lunch, school breakfast, summer food service, child- and adult-care food programs, food stamps, Aid to Families with Dependent Children, Medicaid, and SSI.

Mr. Chairman, H.R. 5 is essentially a piece of legislation that changes the procedures for bills coming down the road, and we have not yet seen the bills and amendments it is intended to affect.

While I am sympathetic to the idea the Federal Government should provide adequate funds for mandates, I want to be sure that the poor are not left out. Whenever tough issues come up, it seems like we always look to the weakest constituency first, the poor, and these people really have no one fighting for them.

What I am saying is our Government does have a responsibility to provide basic things like food and shelter and health care for our own poverty-stricken. I am afraid if this amendment is not included, the poor will be left holding the bag.

There are many proposals in Congress to change poverty programs. The Contract With America proposes to eliminate Federal nutrition programs and substitute a single block-grant payment to the States. We will be confronted with a proposal very soon that would eliminate the entitlement status of food programs including food stamps, and it will reduce appropriations in the first year alone, I am told, to about $5 billion below the levels required to maintain current services.

Under the best-case scenario, the Contract With America will result in a reduction of funding in food assistance for the poor and hungry by over $30 billion by fiscal year 2000. While I oppose these kinds of changes, particularly when the Conference of Mayors tells us that the requests for emergency food and shelter are on the rise, we all know who will be the victims of these changes, millions of low-income families, children, and the elderly. My own State of Ohio is slated to lose about 20 percent of funding for food assistance in fiscal year 1996.

If the Federal Government places responsibility on the States to take care of low-income people with fewer resources, then that is an unfunded mandate, and while section 421 does have language to this effect, it also has language which would allow States the flexibility to lower services.

To many, the third paragraph of that section is very unclear, and that is the section that I am trying to get at. The amendment makes it clear, my amendment, that these entitlement programs would be unfunded mandates and subject to the point of order if they are reduced.

Many of my friends on both sides of the aisle have already voted to protect these very important programs. We have done this already, and we have done it time and time again. We did it under the Gramm-Rudman Act. Congress has spoken on this. We should do it again.

My amendment will make sure that the poor programs will get the same vote as other unfunded programs. Do not leave poverty and nutrition programs in doubt. Please, join me in supporting this amendment.

Mr. DREIER. Mr. Chairman, I reluctantly rise in opposition to the amendment.

I would say to my very good friend, colleague on the Committee on Rules, I am very sympathetic with the need to address the concerns of those who are less fortunate, those who are hungry, those who are desperately in need. In fact, we on this side of the aisle clearly feel that one of the pressing needs out there is for us to expand individual initiative and responsibility and self-reliance.

But having said that, we are well aware of the fact that there are people who do have to have some kind of assistance provided by government, but the concern that we have with this amendment here is that we are not providing the States with the kind of flexibility which is needed.

I happen to be one who believes strongly that States do feel a responsibility to address these issues, and there is a sense, I have inferred from this amendment, that if we choose to accept this amendment that we are somehow saying that the States do not have any kind of responsibility to effectively address the issues of hunger and homelessness and a wide range of other social needs that are out there. I happen to believe that they are positioned to, and feel a responsibility to, address those needs, and it is for that reason that I am compelled to oppose the very well-intentioned amendment by my friend.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Pennsylvania [Mr. CLINGER], chairman of the Committee on Government Reform and Oversight.

Mr. CLINGER. If the gentleman will yield, I would just also have to rise in reluctant opposition to the gentleman's amendment. I think he is right to be concerned about what some of the impacts could be. But I think he is also wrong in the assumption that giving flexibility to the States to implement these programs, carry out these programs, that they are not going to be concerned about the health, safety, and well-being of their children. So I think that we at the Federal Government, I think, too often take the assumption or have the assumption that the States and local governments cannot be trusted to do these things.

Hopefully they will be challenged to do them and to provide the kind of necessary measure of care. But they need the flexibility in order to do that.

Mr. DREIER. I thank the gentleman for his contribution.

We are in the position where some would like to say we are somehow abrogating our responsibility if we do not in fact micromanage these particular programs, and we happen to have a great deal of confidence in individuals and State and local governments to address these needs, and it is for that reason that we are opposing the amendment.

Mr. WAXMAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, what this amendment seeks to do is to have the Congress understand that if we are going to cut back on these programs for low-income people, the most vulnerable people in our society, that we are creating an unfunded mandate on local governments either to have to make up the difference in dollars or to cut some of these people adrift from food stamps or from supplemental security income or WIC. These are programs for very, very low-income people.

When we had the Gramm-Rudman bill before us, we specifically said that those programs would not be required to undergo the sequestrations that would be required to be placed on other Government programs, because we wanted to treat these with a special concern.

I think the amendment offered by the gentleman from Ohio is a good one. If we are going to cut these programs that affect the low income in our society, let us know about it, let us have a point of order, and let a specific vote be cast in order to accomplish that goal with the full information before us that we are hurting those who are most vulnerable in our society.

I urge support for the Hall amendment.

Mr. RUSH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in strong support of the amendment which our colleague from Ohio [Mr. HALL] has offered to H.R. 5, the Unfunded Mandate Reform Act.

Mr. HALL's amendment is designed to make certain that Congress specifically studies and deliberates any reductions in programs which make up our Nation's weakening social safety net.

Without attachment of this provision to H.R. 5, there is a distinct possibility that reductions in the basic Federal poverty programs—AFDC, child nutrition, food stamps, medicaid, and SSI—could be reduced without a specific vote on that reduction.

At a time when the majority has called for increased accountability and responsibility on the part of Congress, this should be an absolute no-brainer for this body.

Even during the Reagan budget-cutting frenzy of the mid-1980's, there was a specific exception to the Gramm-Rudman-Hollings budget deficit act for all of these programs.

They are the lifeblood of our Nation's poorest citizens, and therefore deserve the deliberate and conscious protection which this amendment would ensure.

This amendment would by no means assure that reductions will not occur in the funding allocations for these budget items.

However, it would guarantee that a separate floor vote and committee analysis be accomplished before such reductions could be enacted.

In a commonsense manner, this amendment would provide that reductions of this type be treated as unfunded mandates.

This is particularly appropriate, since States and local governments would undoubtedly have to make up for such reductions with their own funds.

Mr. Chairman, I implore my fellow Members on both sides of the aisle to support this extremely worthwhile amendment.

□ 1530

Mr. GOSS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise very reluctantly, as the distinguished gentleman from Ohio [Mr. HALL] knows, in opposition to his amendment. I want to go through a scenario that gives me some serious concern. It is difficult to precisely read Mr. HALL's amendment because there is no specific line number in the amendment.

It appears the amendment would foreclose the Federal Government's ability to ever cut or impose a cap on a number of low-income programs which are listed in section 255(h) of the Budget Act. In essence, any cut or cap would be by definition a Federal intergovernmental mandate even if the States have the authority to change their financial or programmatic responsibilities. This would trigger the point of order.

Now, to get specific and go to one of the programs listed in 255(h), Medicaid, the Hall amendment would define any cut or cap in the Medicaid Program as an unfunded mandate regardless of the fact that the States have the flexibility to change their programs.

To demonstrate that this is not good policy in the Medicaid Program, I would like to remind my colleagues about a sad chapter in the Medicaid Program involving provider-specific taxes and disproportionate share payments to hospitals. Because of a change in Medicaid law in 1990, provider-specific taxes help cause an annual growth in Federal Medicaid payments to the tune of $10 billion per year, that is annually, $10 billion per year, every year.

Now, to help close this loophole, legislation was passed in 1991; the provider-specific tax amendments of 1991 and in OBRA 1993 to place a cap on disproportionate share payments.

Now, my friend, the gentleman from Ohio [Mr. HALL] voted for both of these caps on the Medicaid Program. In both instances these caps were placing limits on an element of the Medicaid Program that was being abused; I think we agree.

In both instances the States had the flexibility to change their programs. If Mr. HALL's amendment was in effect, his votes would be defined as an unfunded intergovernmental mandate subject to points of order.

So it is for that very technical reason, even though I understand what the gentleman is trying to accomplish, that I have to again underscore that while this is well meaning it is not going to have a benign effect on what we are trying to do, in my view, and is going to remove flexibility.

The States have asked for that flexibility. To take that away from them, especially after what we just heard from the Governors, just does not make a lot of sense to me at this time.

Mr. FARR. Mr. Chairman, I rise in support of the Hall amendment.

There isn't a more vulnerable population out there than children, especially poor children. The food programs the country has instituted over the years have been put in place to protect this most at-risk group. It is unconscionable for this body to consider legislation that would deny food to the very mouths of babes.

Upward of 2.2 million children could be affected in the Food Stamp Program alone by this bill.

Another 1 million children could be affected by cuts to the WIC Program.

Even more would feel the impact of cuts to child nutrition, school lunch and breakfast and other hot meal programs that provide essential services to our youngest and most tenuous of constituents.

I urge my colleagues to support the Hall amendment and give American kids a fighting chance.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. HALL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HALL of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 144, noes 289, not voting 1, as follows:

[Roll No. 74]

AYES—144

Abercrombie
Ackerman
Barcia
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Danner
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Durbin
Emerson
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Mink
Moakley
Nadler
Neal
Oberstar
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Rangel
Reed
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Thompson
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Whitfield
Williams
Wolf
Woolsey
Wyden
Wynn
Yates

NOES—289

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis

Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wise
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Mfume

☐ 1553

Mr. STUPAK and Mr. SCHUMER changed their vote from "aye" to "no".

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 74, on the amendment offered by Mr. HALL of Ohio. Had I been here I would have voted "yea."

AMENDMENT OFFERED BY MR. PETERSON OF MINNESOTA

Mr. PETERSON of Minnesota. Mr. Chairman, I offer an amendment, the amendment numbered 165.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PETERSON of Minnesota: In section 301, in the proposed section 424(a)(2)(A) of the Congressional Budget Act of 1974, strike "$100,000,000" and insert "$50,000,000".

Mr. PETERSON of Minnesota. Mr. Chairman, this is a straightforward amendment offered by myself, the gentleman from Kansas [Mr. ROBERTS], the gentleman from Indiana [Mr. BURTON], the gentleman from Texas [Mr. PETE GEREN], the gentleman from Oregon [Mr. COOLEY], and others who worked on this and who had similar ideas.

It is a straightforward amendment that lowers the threshold on private sector mandates in which CBO is required to file a report from $100 million to $50 million.

Mr. Chairman, this will equalize the threshold at $50 million for both the public and the private sector. There were a number of amendments offered in this area. Some of them went lower, but we thought this made sense, to equalize the two.

One of the issues was whether the lowering of this threshold would possibly cost CBO additional money. But we have checked, and CBO said the money authorized in this bill is sufficient to comply with these provisions.

Mr. Chairman, in the 103d Congress, 226 of us, including myself, cosponsored the bill of the gentleman from California [Mr. CONDIT], which would impose a tougher standard, basically a "no money, no mandate" standard, which a lot of us would still like to see. But this is a good first start.

What we are doing here by lowering this threshold is making sure that we have the same standards in both the public and private sector, and also that we will include more mandates in this process.

Mr. McINTOSH. Mr. Chairman, will the gentleman yield?

Mr. PETERSON of Minnesota. I yield to the gentleman from Indiana, the chairman of the Subcommittee on Government Operations, on which I serve.

Mr. McINTOSH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for his efforts in fashioning a bipartisan approach to this and for his efforts in my Subcommittee on Regulatory Relief to do the same.

I think this is an important amendment because it would lower the threshold at which we would study the problem of regulations in the private sector. As I have said many times before, regulations are a hidden tax on the middle class in this country, and we have to do something to attack that problem. It is important that we do that well informed and with the studies that would be resulting from this legislation.

I strongly support this amendment, and want to thank my colleague from Minnesota for introducing it here today.

Mr. PETERSON of Minnesota. Mr. Chairman, I yield back the balance of my time.

Mr. ROBERTS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to thank the gentleman from Minnesota [Mr. PETERSON], in coauthoring this amendment with myself, the gentleman from Texas [Mr. PETE GEREN], the gentleman from Oregon [Mr. COOLEY], and many other members of the unfunded mandates caucus. This has the support of the unfunded mandates caucus.

It is bipartisan in nature. The gentleman has simply explained the amendment very well. What it does is to equalize the threshold and brings it down to $50 million in regards to the private sector.

It is my considered opinion that all mandates should fall under the careful scrutiny of the Congressional Budget Office. A mandate is a mandate. In fact, I think there are some of us that would support lowering the threshold to zero. This is really an effort by the gentleman from Minnesota, myself, and others, to make the threshold apply to rural and small-town America.

Obviously, if you exclude the smaller mandates, that is going to impose a greater burden on small communities. So the gentleman's amendment is certainly appropriate to that effort.

☐ 1600

There has been some concern about the fact whether or not the CBO can do this job. They can. We have been in contact with the CBO, and I think I should point out to Members that the CBO cost estimates have not always been in agreement with the cost estimates that are prepared by State and by local governments. So if you had a $100 million threshold, as opposed to $50, look what happened in regards to the Motor Voter Act. The cost of implementation as estimated by CBO was $28 million. It costs $26 million alone in regards to California.

It is a good amendment. I rise in support of it. I thank the gentleman from Minnesota.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, just briefly let me just say that this has bipartisan support. I obviously want to congratulate the gentleman from Minnesota for his hard work as well as my distinguished colleague who was gracious enough to yield to me.

We are moving in the right direction as far as these mandates are concerned. I think the people of this country, both public and private, are going to congratulate us for this effort.

I would just like to say, once again, to my colleague, congratulations on the amendment.

As has been stated, our amendment equalizes the threshold for requiring a CBO cost estimate of mandates on the public and private sector.

Under H.R. 5, if a mandate will have an annual impact of $50 million or more on State and local governments, then CBO must do a cost analysis of the mandate and find out how much it will actually cost. A point of order can be raised if the bill does not contain this information.

The threshold for the same cost estimate for the private sector is $100 million, and a point of order can also be raised here as well if this information is not included.

My amendment lowers the threshold for the CBO cost estimate for the private sector to $50 million. This helps to level the playing field.

In many cases, the mandate should then be reduced or killed, and if it is really necessary it should be paid for.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for his contribution. Let the record show the gentleman from Indiana [Mr. BURTON] was a coauthor of this amendment and worked very hard with us to bring it to the attention of the House at this moment.

Mr. DAVIS. Mr. Chairman, I move to strike the requisite number of words.

I just want to be very brief and compliment the authors of this amendment and say on behalf of the committee that we support this amendment.

Mr. MORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this will expand the scope of this legislation. It will bring in many more Federal activities. But since the private sector will only require that a cost estimate be done, it will not trigger the optional aspect of this legislation, as would be triggered for States and localities. I do not see that it is a problem. The reality is that for CBO to determine whether or not a piece of legislation is going to impose a mandate of $100 million or more, they have to do the analysis anyway. So in the process of doing the analysis, that will suffice for the $50 million threshold.

I do not think it is going to cause much more work on the part of the Congressional Budget Office. It is consistent with the intent of the legislation, and it would be welcomed by the private sector. So I support the amendment as well.

Mr. FATTAH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thought that the intent of the majority was that we would have no strengthening or weakening amendments to this bill. The other Chamber has acted on this matter, and this amendment would seemingly fly in the face of reaching some appropriate compromise on this matter, because it actually moves in the opposite direction.

So I would hope that even though it has been indicated that there is support, that there would be some consistency as we move through this process.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PETERSON].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment, the amendment designated number 173.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROEMER: In section 301, in the proposed section 422 of the Congressional Budget Act of 1974, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and after paragraph (7) add the following new paragraph:

"(8) pertains to the immunization of children against vaccine-preventable diseases.

Mr. ROEMER. Mr. Chairman, first of all, I would just like to say that the intention of this amendment, which would exempt children's immunizations from the legislation that we are considering here, given the special circumstances that we have a Federal program running right now for children's immunizations which we need to improve but we might need to eventually have go back to the States and localities, I am not sure that I will offer this. I may withdraw it, but I do want to talk about the importance of immunizations for children.

Let me say, I want to congratulate the Members that have been working so hard on this bill, the gentleman from Pennsylvania [Mr. CLINGER], the gentleman from Ohio [Mr. PORTMAN], the gentleman from California [Mr. CONDIT], the gentleman from Virginia [Mr. MORAN], and many others.

My amendment is in no way to be dilatory or to take away from the serious debate and the bipartisan nature by which we are working together to prohibit unfunded mandates where many of my constituents and Democratic and Republican mayors want us to act in this body in a bipartisan way.

I intend to vote for passage of this legislation. But I also want to make sure that there are not unintended consequences of this legislation. And with immunization rates in this country trailing badly other developed and industrialized countries, we need to make sure that we continue to put the very highest priority on immunizing our children. We are 20 and 25 percent behind the immunization rates of countries such as Japan and Germany.

We invest $1 in immunizing a child and we save $10 later on in our health care costs. There is absolutely no question that to put the very highest priority on these programs is in the very best interest of our children, our taxpayers, and our health care system. So I want to offer this amendment with the intention of working with the Republican majority and other interested parties here in Congress on seeing that we improve our immunization rate, seeing that we improve the Federal program that was started by President Clinton, seeing that we improve the State rate of participation, and seeing that at some point in the future we may need to critically analyze and critique this program that is currently running and possibly move it back to the States and the localities, which might run it in a better and more efficient fashion.

We have seen some of the regulations with this program throw some hurdles into the delivery of immunizations and inoculations for children, in that a regulation requires a doctor to keep a free vaccination in a separate quarter from a paid-for vaccination or inoculation. So I think that there are many improvements that we can do, and I want to just guarantee and have guarantees from the majority that we can improve this program, there will be priorities put on this program to immunize our children and that there are no hurdles put up under this bill.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. ROEMER. I yield to the gentleman from Ohio, who has worked so hard on this legislation.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding to me.

I would just say, as the gentleman is aware, there is nothing in H.R. 5 which would preclude the Congress from continuing to have an active role to play in immunization programs and to perfect, in fact, the local-State-Federal partnership on immunization. I think on the majority side we share the concern about the programs. We share the gentleman's view that these are salutary preventive programs that make a lot of sense, that they are very cost effective.

I would say, again, as we said many times over the last several days in response to the exemption argument, that this legislation will in no way preclude Congress carefully considering future mandates in this area.

However, reluctantly, we would have to oppose such an amendment simply because it again creates an exemption which is not necessary for this legislation.

I would ask the gentleman if he would be willing, given that understanding, that in fact these immunization programs would be coming to the floor, would be receiving debate on a more informed basis, I might add, that he might consider withdrawing his amendment.

Mr. ROEMER. Mr. Chairman, I will ask unanimous consent in the next minute, to withdraw the amendment and just make two further points, ancillary points to what the gentleman has just brought up.

I thank the gentleman for his willingness to work together on this.

The reason that I brought the amendment to the floor was, again, not to be dilatory but that immunizations have two distinct differences from some of the more generic amendments that have been offered by my colleagues on children's health.

One is that we have a Federal program in place.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. ROEMER] has expired.

(On request of Mr. PORTMAN, and by unanimous consent, Mr. ROEMER was allowed to proceed for 2 additional minutes.)

Mr. ROEMER. We have a program in place that we do not want to see hurt by this legislation. I think we may want to see improvements in it. And if we cannot implement those improvements, we may want to work more with the State and local governments to see this implemented.

Second, with the outbreak of a virus or something that could affect our children, the emergency provisions in this bill would allow us to act pretty expeditiously if we want to guarantee that quick action, not only for the impact on children but for our senior citizens, who might be more susceptible to infection.

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, in section 4, there is a specific exemption for emergency situations such as the one which the gentleman stated. I would think that that would be covered by that exemption.

Mr. ROEMER. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

□ 1610

AMENDMENT OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Chairman, I offer amendment No. 158.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SKAGGS: In paragraph (4) of section 202(a), insert before "the effect" the following: "estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of".

Mr. SKAGGS. Mr. Chairman, this amendment deals with what I suspect was really a drafting error, back in title II of the bill, having to do with the estimates that are required to be prepared by agencies pursuant to the new authorities in this legislation.

Interestingly, Mr. Chairman, in subsection A(2) of section 202, estimates made by agencies concerning future costs or disproportional budgetary effects are to be made "if and to the extent that the agency determines that accurate estimates are reasonably feasible."

However, over in paragraph 4 of that subsection, estimates concerning the effect on the national economy, including productivity, economic growth, full employment, creation of jobs, and international competitiveness have no such qualifying language about reasonable feasibility.

It seems to me those estimates are equally problematic for the agency to be able to conduct, Mr. Chairman. In discussing this with the floor manager of the bill, the gentleman from Pennsylvania [Mr. CLINGER], I think it is clear that we all recognize that in this proposed statute, as in any others, there is an implied qualification of reasonableness.

I just wanted to inquire of the floor manager currently on the floor, the gentleman from Virginia [Mr. DAVIS], if indeed that is his interpretation, that we are looking for reasonable estimates to be made by the agency under paragraph 4, just as under paragraph 2.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Virginia.

Mr. DAVIS. Mr. Chairman, I thank the gentleman from Colorado for yielding to me.

Mr. Chairman, I would concur with the gentleman's statement. There is a standard of reasonableness built into this bill in terms of the agencies being able to gather and make the reports.

Mr. SKAGGS. Therefore, we are not asking them to do anything that is impossible or impracticable, is that correct?

Mr. DAVIS. If the gentleman will yield further, that is correct.

Mr. SKAGGS. With that understanding, Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment of the gentleman from Colorado [Mr. SKAGGS] is withdrawn.

There was no objection.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT OFFERED BY MR. COOLEY

Mr. COOLEY. Mr. Chairman, I offer amendment No. 9.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. COOLEY:

Strike out subsection (e) of the proposed section 425 of the Congressional Budget Act of 1974.

Mr. COOLEY. Mr. Chairman, I rise today to offer an amendment that would strike the mandate grandfather provision of the Unfunded Mandate Reform Act.

Added during the Committee on Rules' consideration of this bill, this provision, found in section 425(E), protects all past mandates as long as they do not increase the mandate or decrease the resources allocated to fund it.

In other words, the Clean Water Act, Clean Air Act, Immigration Act, Safe Drinking Water Act, Endangered Species Act, Resource Conservation Recovery Act, and Superfund amendments are all protected from the bill as written.

As I have listened to this debate, Mr. Chairman, these past few days it has occurred to me that it has been a degradation of the debate on the value of this particular law. Someone wants to keep the bill from applying to seniors, another to children and yet women, yet another to laws affecting public health and safety.

Mr. Chairman, these are debates for another time. The question at hand today is "Will we make States pick up the tab for Congress' ideas?"

Mr. Chairman, I submit that there is not a single Member of this body who wants to jeopardize the health and safety of Americans, nor do we believe that there is a single Member who would want to lessen the standard of living for the children, mothers, or senior citizens. Disabled persons are not on anyone's hit list, either. We are here in Congress because we are concerned about these very problems.

In light of that, I cannot fathom why the opponents of this bill are so certain that the bill will be the undoing of all laws governing public health, safety, and the environment. Would striking the exemption for existing unfunded mandates mean that we instantly disregard the progress we have made? Absolutely not.

My amendment would simple ensure that unfunded mandates be on equal footing. There should be nothing sacred about these massive costs inflicted upon the States, nor should future mandates, if deemed critically important, be considered less necessary to public health and safety by virtue of their following this act. All mandates, whether funded or unfunded, should be considered on their merit.

We can signal our resolve to carefully consider all unfunded mandates that come up for reauthorization by cancelling the provision that protects them from a point of order.

Mr. Chairman, if we subject future unfunded mandates to a point of order, then we should do the same for those being reauthorized.

Before I close, I must unequivocally state that my amendment does not end all present unfunded mandates immediately. That is, my amendment does not make this legislation retroactive. The only thing that will change is a law requiring reauthorization for related appropriations to be subject to the point of order.

Clearly, if Congress supports the underlying legislation that faces reauthorization, it will dispose of the point of order. Everyone here knows that if the sentiment is here for the substance of the legislation, the point of order, which requires a simple majority, will be waived by a similar count.

My amendment simply makes us stop and consider the wisdom or folly of our predecessors. If we waive the point of order, then we will have deemed the content of the reauthorization necessary.

We have considered this bill for the purpose of casting light upon the burden that unfunded mandates have created for the States. If my amendment is adopted, these past mandates will be evaluated on the basis of the burden they impose and the benefits they bring to our States and communities. If past mandates do not pass the muster, then why have them and why protect them, as they are unfairly shielded in this bill as presently written?

My amendment merely signals our intention to consider all unfunded mandates equally. I would ask my colleagues to support this amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in strong opposition to this amendment. It will unabashedly seek to undo all Federal laws that protect the health, safety, and welfare of Americans by subjecting the laws to a point of order when they are reauthorized. We have repeatedly sought to exempt laws already on the books from the provisions of this bill, as long as reauthorizations did not impose additional unfunded mandates.

The chairman of the Committee on Government Reform and Oversight, as far as I know, has agreed. The chairman of the Committee on Rules has agreed, as far as I know, and in fact, inserted language specifically to clarify this point.

Now the gentleman throws out all statutes as they come up for reauthorization. The result would be a wholesale dismantling of dozens of laws. All of our environmental statutes would be repealed, because there is no way we could fully fund the costs. So would worker safety laws. Consumer protection standards would be gutted.

Are the American people really willing to risk their drinking water? I do not think so. Are they willing to trust States upstream to not dump their sewage in their rivers and our beaches? I do not think so. Do they want airport safety to be decided by some local accountant? I do not think so. Will they forego the safety of their children? I know they will not.

Mr. Chairman, we all know the answer to these questions. Vote "no" on this amendment. This is a crippling amendment, one we do not need. I would urge all my colleagues to strike it down and not vote for it.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in reluctant opposition to the amendment of the gentleman from Oregon [Mr. COOLEY]. I know what many on this side of the aisle and Members on the other side of the aisle feel is that this bill does not go far enough, that we really should be looking back and taking a look at all of the myriad mandates that we have imposed on State and local governments over the years.

Title I of this bill is a first effort to do that, to say yes, we need to review where we stand. We need to look at what is on the books. We need to assess what has been the impact, what is the cumulative impact.

I think there is no question that we can say 1 mandate is not too much, 2 is not too much, but 176 unfunded mandates clearly is too much, so I think the gentleman is certainly on the right track. He is looking at this thing and saying we have gone overboard and we should really be reviewing and eliminating those at this point.

However, Mr. Chairman, I would say that this language that is in the bill does represent a compromise that was effected, and which was actually fashioned in the Committee on Rules to address this very issue. Mr. Chairman, I think it is fair to say that this would be a killer amendment. It is a strengthening amendment, there is no question about that, but I think it strengthens the bill too much to survive. For that reason, I would have to oppose the amendment.

☐ 1620

Mr. GOSS. Mr. Chairman, I would like to further state that the Committee on Rules did respond in a very cooperative way to what we think was a very legitimate concern by the Committee on Government Reform and Oversight on how to work out a compromise that would work on this, and we did come up with an amendment which we called the Goss amendment which we thought resolved the issue pretty well.

I would like to point out that this is a subject that went through a briefing, a hearing, a markup, and not a little bit of debate, to say nothing at all of the fact that we had a rule discussion on it. So we have really given this a lot of analysis.

My concern about a killer amendment is very real. We have tried to weigh and balance, and we have got a protection built in. I say this sincerely, because I speak as a local government official who has come out of being a mayor and a county chairman. I have very strong, deep personal feelings about dealing with unfunded mandates whether they come from the Federal Government or the State capital, and that is, that we have got our Advisory Commission on Intergovernmental Relations, and we have been given, I think, very strong promises of commitment from the leadership that we are going to pay attention to what they say.

We are going to have a report, a study, monitoring, and I think we have hit middle ground here. Until we know a little better whether there is a problem or there is not, I think we ought to go as the committee has presented it.

I thank the distinguished gentleman for yielding. I regrettably say that I will be in opposition to the Cooley amendment.

Mr. CLINGER. Mr. Chairman, reclaiming my time, I would just say to the gentleman that I am sympathetic to the concerns that he has raised here. I think that what we have in this bill, however, is a first cut. As the gentleman has indicated, there are many on this side that would like to see us go much further. There are many on the other side who think we have gone way too far as it is, and this seems to strike a fairly reasonable balance. Again, I would have to oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. COOLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. COOLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 287, not voting 1, as follows:

[Roll No 75]

AYES—146

Allard
Bachus
Baker (CA)
Barr
Barrett (NE)
Bartlett
Bereuter
Bevill
Bilbray
Blute
Bonilla
Bono
Browder
Brownback
Bryant (TN)
Bunn
Burr
Camp
Chambliss
Chenoweth
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Doolittle
Duncan
Dunn
Edwards
Emerson
Ensign
Everett
Ewing
Flanagan
Forbes
Frank (MA)
Funderburk
Gallegly
Ganske
Geren
Gibbons
Gillmor
Goodlatte
Gordon
Graham
Green
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoke
Hostettler
Hunter
Istook

Johnson (SD)
Johnson, Sam
Jones
Kasich
Kim
LaHood
Largent
Latham
Laughlin
Lewis (KY)
Lightfoot
Lincoln
Linder
Longley
Lucas
Manzullo
Martinez
McCollum
McHugh
McInnis
McKeon
Metcalf
Minge
Montgomery
Nethercutt
Neumann
Ney
Norwood
Orton
Owens
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Pombo
Pryce
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tauzin
Thornberry
Tiahrt
Torkildsen
Vucanovich
Waldholtz
Wamp
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker

NOES—287

Abercrombie
Ackerman
Andrews
Archer
Armey
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (WI)
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Berman
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunning
Burton
Buyer
Callahan
Calvert
Canady
Cardin
Castle
Chabot
Chapman
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Crane
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Durbin
Ehlers
Ehrlich
Engel
English
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Foglietta
Foley
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gejdenson
Gekas
Gephardt
Gilchrest
Gilman
Gonzalez
Goodling
Goss
Greenwood
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Mascara
Matsui
McCarthy
McCrery
McDade
McDermott
McHale
McIntosh
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Mineta
Mink
Moakley
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spence
Spratt
Stark
Stokes
Studds
Stupak
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Walker
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
White
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Mfume

☐ 1648

Messrs. RUSH, OLVER, BONIOR, COYNE, ACKERMAN, RICHARDSON, DINGELL, and MARKEY, and Ms. BROWN of Florida changed their vote from "aye" to "no."

Messrs. HERGER, HASTINGS of Washington, HILLEARY, HANCOCK, JOHNSON of South Dakota, GALLEGLY, KIM, SMITH of Texas, ALLARD, EWING, and WAMP, Mrs. VUCANOVICH, Messrs. PACKARD, PAXON, and CAMP, Ms. PRYCE, Mr. BEVILL, Mr. McCOLLUM, Mrs. SEASTRAND, and Messrs. LAHOOD, LIGHTFOOT, NORWOOD, BARRETT of Nebraska, SAM JOHNSON of Texas, ISTOOK, TORKILDSEN, BLUTE, and BEREUTER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 75, on the amendment offered by Mr. COOLEY of Oregon.

Had I been here I would have voted "no."

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN: In the proposed section 424 of the Congressional Budget Act of 1974, redesignate subsection (d) as subsection (e) and insert after subsection (c) the following:

"(d) ESTIMATES.—If the Director determines that it is not feasible to make a reasonable estimate that would be required for a statement under subsection (a)(1) for a bill or joint resolution, the Director shall not make such a statement and shall inform the committees involved that such an estimate cannot be made and the reasons for that determination. The bill or joint resolution for which such statement was to be made shall be subject to a point of order under section 425(a)(1).

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1650

Mr. WAXMAN. Mr. Chairman, this amendment has been worked out with the majority. It is noncontroversial, a perfecting amendment to clarify what CBO is supposed to do if it is not able to estimate the impact on State or local governments. It provides in this situation that CBO may give the committee a statement that it is not feasible to estimate the cost. We have worked this out. I would urge support for the legislation.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I support the amendment offered by the gentleman from California. I think it is a good addition to the bill. What it is really saying is we do not want CBO to have to invent figures, make them up, to be forced into coming up with squishy numbers in this area, though yet the point of order would still lie. We have preserved the point of order.

We also say "Be straight up with us, tell us if you cannot do it. If you cannot to it, just tell us that."

Mr. Chairman, I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment, No. 144.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WAXMAN:

In the proposed section 421(4) of the Congressional Budget Act of 1974, add the following new sentence at the end of the section: "Clause (i)(I) of subparagraph (B) shall not apply to provisions that are designed to prevent fraud or abuse or to increase fiscal accountability of the program administered by the States, local governments, or tribal governments receiving assistance."

Mr. WAXMAN. Mr. Chairman, the bill before us provides that it would be considered an unfunded mandate if we increase the stringency in an entitlement program as a condition of assistance. Now, the way this is defined, I think it applies perhaps exclusively, but certainly to the Medicaid program.

What my amendment would provide is that if there is an increase in the stringency of conditions of assistance in Medicaid, this would not apply if the change in the requirements is to assure the fiscal integrity of the program to assure that expenditures are for the purposes that are legitimate under the program or to prevent fraud and abuse by people or providers receiving payment under the program.

This is a good Government amendment. If we are, let's say under the Medicaid Program, going to pay for health care services for poor people and we ask the States to be sure to police the program to be sure that there is no fraud or abuse being committed, if in that increased stringency requirement in order to protect the integrity of the program the States are required to do more than would otherwise be the case, we should consider that an unfunded mandate that would be prevented.

We have, as most of you know, a reverse suggestion of what we ordinarily think about in this unfunded mandate. We have a provision for extra payments by the Federal Government when the States provide assistance to disproportionate share institutions. These are usually hospitals that serve a disproportionate share of low-income people and we want to provide extra reimbursement to them.

But some of the States took advantage of this provision and they concocted schemes to rip off Federal dollars to which they were not entitled. They came in and requested that the Federal Government match money that they put up and then used the Federal dollars under Medicaid for things that had nothing to do with Medicaid. Medicaid was being used as a revenue-sharing program.

Let me just illustrate this by the fact that under this loophole States collected billions of dollars of Federal Medicaid spending. We went in the space of about 3 years from spending $300 million on disproportionate share payments to $11 billion. When we came back in 1993 in a bipartisan way and we said this is a loophole that cannot be tolerated, we plugged up that loophole. But if this mandates bill were in effect, that would be considered increased stringency of the program and the States could come back and say you cannot increase the stringency of the program as it relates to them, even though it plugged up a loophole by which they got Federal dollars from the Federal Government to which they were not entitled.

Those of us who want to protect the integrity of a program like Medicaid to make sure States police for fraud and abuse, make sure the States are protecting the integrity of the dollars being spent by the Federal Government, those things should not be considered unfunded mandates. We should not subject such a requirement and Federal changes in Federal law to a point of order. This amendment would accomplish that result. So I would urge an aye vote for this amendment.

It is not dissimilar, by the way, to the exceptions in this legislation that say that when we require compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government, that should not be considered an unfunded mandate under section 4 limitations on the limits of the legislation.

But I do not believe that that limitation on the application of what is considered unfunded mandate means where we say if it is to comply with accounting and auditing procedures, it would apply to something more to protect the fiscal integrity of the Medicaid Program.

Mr. Chairman, I ask support for this amendment.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment very briefly.

Mr. Chairman, I think this amendment is too broad for what the gentleman is seeking to accomplish. As he has already indicated, we do exempt auditing and accounting from the provisions of this bill to prevent waste, fraud, and abuse. The concern I have with it is that it really does broaden the scope of what we are trying to do. I think the purpose we should be focusing on, at least, is to try to enforce what exists. We do have controls existing that are not being enforced. I think we do a better job of getting the inspector generals to enforce what exists now without adding new restrictions and broadening language to the bill.

So I must oppose the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 275, not voting 6, as follows:

[Roll No. 76]

AYES—153

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hayes
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Torricelli
Towns
Tucker
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates.

NOES—275

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella

Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—6

Chapman
Everett
Hefner
Mfume
Petri
Torres

□ 1715

Messrs. HOLDEN, McHALE, and HILLIARD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 76, on the amendment offered by Mr. WAXMAN of California.

Had I been here I would have voted "yea."

AMENDMENTS OFFERED BY MR. HAYES

Mr. HAYES. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. HAYES:

In Section 301, in the proposed section 421 of the Congressional Budget Act of 1974, on page 29, line 11, after the period, insert the following: "(12) SIGNIFICANT EMPLOYMENT IMPACT.—The term 'significant employment impact' means an estimated net aggregate loss of 10,000 or more jobs."

In section 301, in the proposed section 424(b)(1)(B) of the Congressional Budget Act of 1974: on page 38, line 11, strike "or"; and on page 38, line 13, after "private sector", insert: "; or (C) significant employment impact on the private sector".

□ 1720

Mr. HAYES. Mr. Chairman, realizing the length to which this bill has proceeded, I will be as brief as I can.

The impact of these two amendments considered en bloc as they appear have impact on sections 421 and 421(b)(1)(b) of the Budget Act of 1974 as follows:

We talk so much about unfunded mandates in terms of money. The word "funding" itself would make us believe that we have got to look at each and every dollar sign.

The fact of the matter is that there are many instances in which the cost to human beings cannot be easily predilected in terms of money accounts.

In my home State of Louisiana, we lost more oilfield workers in the crash of the early 1980's than the entire automobile industry of America lost. So what the gentleman from Louisiana [Mr. BAKER], my colleague, and I have done, in a bill filed in the last Congress, the impact of which is to effect the amendments to this bill in this Congress, is simply add language saying that the significant employment impact on the private sector, under a definitional statement, a net aggregate loss of 10,000 or more jobs is as significant as any amount of money could possibly be.

For that reason, we are simply extending the application to the consideration of the impact of loss of jobs to the American worker.

Mr. BAKER of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Louisiana.

Mr. BAKER of Louisiana. Mr. Chairman, I would like first to commend the gentleman from Louisiana for his efforts in this matter and point out that there is one other aspect of this amendment I think most important.

The debate to date has been centered about the effect of unfunded mandates on local and State governments. The effect of this amendment with regard to employment stretches the effect of analysis to go now to the private sector, which I think is very important in all this rush to make sure we are not doing things that are unreasonable.

If we are going to cost American jobs, we should be mindful of the effect, and balance that against the supposed benefit of some new federally mandated rule or regulation.

So the scope and effect of this amendment, I think, is very important in that it assigns a dollar value to the regulations for local governments. But it also assigns a job employment effect for those in private enterprise.

I commend the gentleman for his hard work and cooperation on this matter and hope the House will look favorably on its adoption.

Mr. HAYES. Mr. Chairman, the gentleman from Louisiana [Mr. BAKER], and I, for the last 8 years, have been able to work under what is now called bipartisanship and what we considered a natural kinship for the betterment of the State of Louisiana. I am glad the rest of the Congress is on occasion catching up to the gentleman from Louisiana and I.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding to me. I am pleased to rise in support of the amendment. I think it makes a valuable addition to what we are trying to do here and merely authorizes the committees of Congress to seek information as to what it is going to mean to employment, what kind of impact it is going to have on employment.

It does not affect the point of order, but it does provide valuable information to the committees. I am pleased to support the gentleman's amendment.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank the gentleman for yielding to me.

I would simply like to join in and praise the bipartisan spirit of this amendment and say that I believe that it is right on target and to say to my friend from Louisiana that those of us in the 52-Member delegation from California are in fact learning from the marvelous example that the two gentlemen are setting.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Louisiana [Mr. HAYES].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. DREIER

Mr. DREIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DREIER: In section 301, in the proposed section 425 of the Congressional Budget Act of 1974, strike subsection (d) and redesignate subsection (e) as subsection (d).

In section 301, in the proposed section 426 of the Congressional Budget Act of 1974, strike: ": *Provided, however*," and all that follows through the close quotation marks.

In section 301, after such proposed section 426, add the following:

"SEC. 427. DISPOSITION OF POINTS OF ORDER.

"(a) IN GENERAL.—As disposition of points of order under section 425(a) or 426, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

"(b) DEBATE AND INTERVENING MOTIONS.—A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

"(c) EFFECT ON AMENDMENT IN ORDER AS ORIGINAL TEXT.—The disposition of the question of consideration under this section with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this section with respect to an amendment made in order as original text.".

Mr. DREIER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Chairman, during consideration of H.R. 5 in the Committee on Rules, an amendment to section 426 was adopted that creates a mechanism to allow any Member to make a motion to waive points of order against a mandate in any bill, joint resolution, amendment or conference report that does not include a CBO cost estimate or a means for paying for the mandate.

The language currently in section 426 is preferable to the language in H.R. 5 as introduced for several reasons.

First, it more directly achieves the goal of the authors of H.R. 5 to guarantee votes in the House specifically on unfunded mandates. Second, it does not place undue constraints on the legislative schedule by requiring our Committee on Rules to report two rules every time a decision is made to waive the application of section 425.

Third, it relieves some of the burden on the presiding officer when making a determination with respect to a point of order.

Since H.R. 5 was reported to the House, I have been working with the parliamentarian and a lot of other Members have been working with the parliamentarian on language to address two additional concerns raised by section 426. The language is contained in the amendment that I am now offering, Mr. Chairman.

First, the amendment further reduces the burden on the presiding officer to rule on points of order with respect to not only the existence of a mandate but whether the cost of the mandate exceeds the threshold of $50 million. This will be particularly troublesome in situations where a motion to waive such a point of order is not made.

Second, the amendment addresses a concern raised by a number of my colleagues on the other side of the aisle with respect to the role of the chairman of the Committee on Government Reform and Oversight in advising the Chair about the question of unfunded mandates. Under my amendment, that advice would no longer be necessary.

Essentially, Mr. Chairman, the amendment provides that whenever points of order are raised pursuant to section 425(a) or 426, the points of order shall be disposed of by a vote of the Committee of the Whole.

The question would be debatable for 20 minutes, 10 minutes by the Member initiating the point of order and 10 minutes by an opponent of the point of order.

This also addresses the concern that was raised by our distinguished ranking minority member, my friend, the gentleman from South Boston, MA [Mr. MOAKLEY], who argued that the 10 minutes of debate time contained in the existing section 426 was insufficient.

Mr. Chairman, this amendment is an honest attempt to address a number of the concerns raised by my colleagues on the other side of the aisle. It further clarifies the procedure under which points of order against unfunded mandates are to be enforced in the House.

The amendment should not be controversial, and I urge my colleagues to support it.

AMENDMENT OFFERED BY MR. MOAKLEY TO THE AMENDMENT OFFERED BY MR. DREIER

Mr. MOAKLEY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MOAKLEY to the amendment offered by Mr. DREIER:

In the proposed new SECTION 427, insert the following new subsection (a) (and redesignate the existing subsections accordingly):

"(a) In order to be cognizable by the Chair, a point of order under section 425(a) or 426 must specify the precise language on which it is premised."

Mr. DREIER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOAKLEY. Mr. Chairman, the Dreier amendment is a major improvement over the text of the bill. I would, however, make one suggestion.

As the gentleman from California [Mr. DREIER] explained to us, his amendment will change the point of order into a question of consideration. But I am worried that there will be no way to ensure that this process is not abused.

So as the amendment now stands, if a Member wanted to avoid a vote, the Member just could raise the unfunded mandates point of order. Once that point of order has been raised, the Chair will have no choice but to put the question of consideration.

There is no way to prevent a Member from making an unfunded mandates point of order, even when there is none.

My amendment makes the Member who is raising the point of order show exactly where the unfunded mandate exists and explain how that language constitutes a violation.

I believe that this amendment to the Dreier amendment will make a very big difference in preventing abuse of the unfunded mandate point of order.

If my amendment is accepted, a Member will not be able to raise a point of order against a measure unless he or she can show that one may exist.

Mr. Chairman, I have had a lot of constructive conversations with the gentleman from California. [Mr. DREIER]. I appreciate his willingness to work with us on this matter.

□ 1730

Mr. Chairman, I hope the gentleman from California [Mr. DREIER] will accept this amendment. Later if we find we have to make further modifications, perhaps we can take those up in conference.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I am glad to yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank the gentleman for yielding.

I have to say, Mr. Chairman, well wonders never cease. The Louisiana delegation has come together. The Committee on rules is coming together. We are working in a bipartisan way in the 104th Congress to deal with many of the challenges that lie ahead of us.

It seems to me that on this issue the burden of proof should in fact lie with the Member raising the point of order. This is a very effective way to address that concern. I strongly support the amendment offered by the gentleman from Massachusetts. [Mr. MOAKLEY] to the amendment I have offered. The gentleman from Pennsylvania [Mr. CLINGER] will be let off the hook with this amendment.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. Moakley. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, that is precisely what I wanted to say. In the legislation presently drafted, the task of determining what was or was not an unfunded mandate would have fallen on the shoulders of the chairman of the Committee on Government Reform and Oversight, and/or perhaps the ranking member of that committee, so I certainly appreciate the fact that this is now going to ensure that this matter will be decided by the House itself. That is the appropriate place for this decision to be made. I am pleased to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MOAKLEY] to the amendment offered by the gentleman from California [Mr. DREIER].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DREIER] as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MRS. MINK OF HAWAII

Mrs. MINK of Hawaii. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. MINK of Hawaii: In section 301, in the matter proposed as section 421(4)(A)(i)(II) of the Congressional Budget Act of 1974, strike "except as provided in subparagraph (B)".

In section 301, in the matter proposed as section 421(4) of the Congressional Budget Act of 1974, strike subparagraph (B).

In Section 301, in the matter proposed as section 422 of the Congressional Budget Act of 1974, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and insert at the end the following:

"(8) requires compliance with certain conditions necessary to receive grants or other money provided by the Federal Government in programs for which the States, local governments, or tribal governments voluntarily apply.

Mrs. MINK of Hawaii. Mr. Chairman, I rise to offer this amendment to express my opposition to this legislation because of the many questions caused by the ambiguous, overly broad language contained in this legislation which have not been resolved to my satisfaction.

Mr. Chairman, the debate on this bill has raised many areas of national concern which will be seriously jeopardized by the mandate that all standards and requirements be fully funded or risk the hazard of not being implemented or even repealed.

This debate is a lesson on the critical issues that we have tried to face as a Nation where the Congress has set forth the goals, and sought to make the case for national compliance in a shared responsibility with States and local communities.

This bill provides that unless the Federal Government pays for the cost of implementing these standards and goals on a local level, that these goals are of no force and effect.

The obvious effect of this bill is to reduce the reach of the Federal Government to help fight disease, curb pollution, prevent contamination of our environment, improve educational opportunities, raise the minimum wage, maintain safe places of work, prohibit child abuse, child exploitation, and provide for the poor, the elderly, and the infirm.

We in the minority believe very strongly that the Federal Government has the constitutional responsibility to provide for the general welfare of all citizens of this country and that, accordingly, it has the duty to establish by Federal law, Federal rules of conduct and safety, Federal standards, and Federal regulation that cut across State boundaries because they are safeguards and protections we are sworn to provide to all citizens of this country.

But the sweep of this legislation we are debating is to cut off the establishment of any new Federal responsibility or to expand an existing responsibility unless we are prepared to pay for it totally. the majority explicitly state that their goal is to transform the Federal Government and to reduce its function and authority in all programs, regardless of merit.

When the public realizes what this bill will do in reducing their protections in the areas of health, safety, and educational benefits, I feel confident that they will seek the abrogation of this contract which the majority seeks to impose on an unwilling Nation.

Mr. Chairman, I agree that certain mandates are unreasonable and ought to be revisited, but because you have a problem with your toe is no reason to cut off your foot and cripple yourself for the rest of your life.

My amendment makes clear that this bill does not affect any program which is voluntary. If the Federal Government sets out its goals, and invites the States and local entities to participate with the lure of funding, it is clearly voluntary and should not be covered by any bill which deals with mandates.

Yet this bill is unclear exactly where it draws the line as to what is voluntary and what is not.

My amendment seeks to make explicitly clear that no voluntary program entered into by the States and local communities can be converted into a mandate because it costs more than $500 million. If a program was voluntarily entered into by the States and local communities, the fact that it now costs the Federal Government to implement it does not convert it into a mandate.

Section 301 of H.R. 5 includes voluntary entitlements. Why? Strictly because it costs the Federal Government more than $500 million. Why should costs convert what is voluntary into a mandate? An entitlement is a mandate on the Federal Government.

It does not mandate participation on the part of the States. No State is required to participate in a voluntary entitlement program. It chooses to do so on its own, voluntarily, and when it chooses to participate, it agrees to the basic guidelines set forth in the law.

Mr. Chairman, AFDC is a classic example. The range of voluntary participation can be easily demonstrated by just looking at the range of benefit payments: $120 a month to a family of three in Mississippi, $624 a month to a family of three in California. There is no uniform benefit payment. AFDC is clearly and unequivocally a voluntary program, yet it is covered by this legislation as an unfunded mandate because it costs the Federal Government more than $500 million.

Mr. Chairman, this same argument applies to all the other voluntary entitlement programs. I urge this House to support my amendment and make clear that this bill does not cover voluntary programs whatsoever.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Hawaii [Mrs. MINK].

Mr. Chairman, we have, as we know, eliminated or exempted voluntary programs and those that would have conditions as part of a grant, but when we are talking about exempting out an entire Medicaid Program, which is one of the largest programs we have, I think it would be very remiss of us not to at least consider what the cost of that would be, and to at least have some accounting of what the cost would be. This, again, would be a massive exemption from the provisions of this bill. Again, it would not affect the bill, but it would clearly call into account what we are doing here and make it very difficult for us to go forward.

Mr. Chairman, I would oppose the gentlewoman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Hawaii [Mrs. MINK].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. MINK of Hawaii. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 121, noes 310, not voting 3, as follows:

[Roll No. 77]

AYES—121

Abercrombie
Ackerman
Barcia
Beilenson
Bentsen
Berman
Bishop
Bonior
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Dicks
Dingell
Dixon
Doggett
Doyle
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Furse
Gephardt
Gibbons
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Maloney
Manton
Martinez
Mascara
McCarthy
McDermott
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Rangel
Reynolds
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scott
Serrano
Stark
Stokes
Studds
Stupak
Thompson
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—310

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss

Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Manzullo
Markey
Martini
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—3

Becerra
Coburn
Crane

□ 1756

Mr. GEJDENSON, Ms. SLAUGHTER, and Mrs. LOWEY changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BEILENSON

Mr. BEILENSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BEILENSON: In the proposed section 421(a)(4)(ii) of the Congressional Budget Act of 1974 insert "or the amount of appropriations" after "appropriations".

In the heading for the proposed section 424(a) of the Congressional Budget Act of 1974, strike "OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLUTIONS".

In paragraphs (1) and (2) of the proposed section 424(a) of the Congressional Budget Act of 1974, strike "of authorization".

In the proposed section 425(b) of the Congressional Budget Act of 1974, insert "(2)" after "(a)".

Mr. BEILENSON. Mr. Chairman, the amendment I am offering would impose the same information requirements with respect to unfunded mandates on appropriations bills as H.R. 5 requires for authorizing legislation.

Even if we are not going to prohibit consideration of appropriations bills which contain unfunded mandates we should at least, Mr. Chairman, require that they be submitted to CBO for an estimate of the cost of any unfunded mandates they may contain. Otherwise we will be making appropriation bills a magnet for authorizers attempting to circumvent the requirements imposed on their own bills.

I personally have some reservations about the practicality of CBO-produced estimates of Federal mandates in legislation. It is a good idea in concept, but we are likely to see problems in its implementation, at least for a while. But if we are going to require such cost estimates for authorizing bills we ought to require them for appropriations bills as well.

It is easy to imagine a situation where members of authorizing committees, frustrated that they are unable to get a cost estimate from CBO on a timely basis, or are unwilling to do so because they know how the figures will turn out, go to the Committee on Appropriations and persuade a majority of members there to add the legislation to the appropriations bill.

□ 1800

It is also easy to imagine members of the Committee on Appropriations inserting legislation into their bills that the authorizing committees will not act on. It is easy to imagine these scenarios, because they have happened frequently in the past for other reasons. When an authorizing committee is unable to move a piece of legislation under its jurisdiction for whatever reason but wants to enact a programmatic change, the authorizing members often persuade the appropriators to include the legislative language in one of their bills.

Likewise, appropriations members who cannot get a legislative provision they want through an authorizing committee have been known to put it in an appropriations bill.

Subjecting authorizing bills but not appropriations bills to cost estimates for mandates would give Members an additional reason, potentially a very powerful one, to try to use the appropriations process to enact legislation.

The chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], has argued that using the appropriations process to circumvent the unfunded-mandate requirement will be difficult because the Committee on Rules will not waive clause 2 of rule XXI, the prohibition on legislation in an appropriations bill. However, there will be times that the Committee on Rules will be under enormous pressure to waive that rule, and if the Committee on Appropriations does not have a determination from the CBO as to whether there are unfunded mandates in the bill, the Committee on Rules will have no way of knowing whether waiving rule XXI will also result in sending an unfunded mandate to the floor.

Subsequently, if the House votes to waive rule XXI, the House could find itself voting on an unfunded mandate without knowing it is doing any such thing.

Furthermore, no matter how well we adhere to our prohibition in an appropriations bill here in the House, we have no control over what the Senate will do in this regard. We may well find that in conference on appropriations bills House Members will be under enormous pressure to accept legislative provisions containing unfunded mandates inserted by Members of the other body.

In sum, Mr. Chairman, if we fail to ask of appropriations bills what we are asking of authorizing bills under this proposed legislation in the way of information requirements, we will be tilting the balance of power among our committees away from authorizers and toward the appropriators, and we will have created a significant loophole in this legislation. We can avoid doing both to a great extent by adopting this amendment.

I urge support for it. I think it is an eminently reasonable amendment. I think it makes all the sense in the world, and I urge Members to support it and vote for it.

Mr. DREIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment essentially repeals the exemption in the bill for the appropriations bills, as my friend has said. Contrary to the argument that has just been provided, there really is no loophole. There clearly is no loophole.

Any unfunded mandate in an appropriations bill would constitute legislating in an appropriations bill and would, therefore, alone be subjected to a point of order. So it is open to a point of order that conceivably could be raised.

Even if the Committee on Rules reported a rule that waived this point of order, an amendment to strike the unfunded mandate would always be in order unless it were a completely closed rule. Those of us on this side who are in the majority now do not plan to continue this pattern we have seen in the past of closing down rules.

So it seems to me that this amendment really does not do anything to effectively address the issue we are trying to get at here. There is really no need to proceed with this, and I hope very much that we will be able to reject this duplicative amendment which is already addressed in the standard operating rules of the House of Representatives.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, why is this change so important? Well, the House is about to embark on some drastic cost-cutting measures including rescissions and elimination of programs through the regular appropriations process. Already the Committee on Appropriations is working on two rescissions bills that will soon be considered on this floor. We must make sure that we know whether these cuts will shift the cost burdens to State and local governments, and if they do, we must apply the procedures of H.R. 5 to those bills.

No proponents of this legislation have given a reason why appropriations bills are not covered by H.R. 5. Just as important are conference reports on appropriations bills that come back from the other body with all sorts of authorizing legislation attached.

If a conference on an appropriations bill contains an unfunded mandate, why should not H.R. 5 apply?

Now, Mr. Chairman, we all know that provisions can be attached to continuing resolutions and reconciliation bills. They should all be included in the scope of this legislation. But in order to accomplish this, we must first amend the definition of Federal intergovernmental mandate in section 421(4). That definition currently includes only bills that decrease authorization of appropriations and not appropriations bills themselves.

Therefore, CBO is not required to perform any cost analysis on appropriations bills even though those bills may drastically cut funds for State and local governments used to pay for Federal mandates.

The goal of full and open debate on the cost of legislation cannot be met if appropriations bills, including rescissions, are not included.

Now, the Republican leadership has been talking of consolidating many costly Federal assistance programs and, instead, providing block grants to States. This, they promise, will save money, because fewer dollars will be needed. I want to tell you that I am skeptical. I fear that, instead, these unfunded mandates will be passed on to the States. That is why we need to closely scrutinize each appropriations and rescission bill that comes to the floor and to apply the proceeds of H.R. 5 to stop any unfunded mandates.

I urge the adoption of this amendment.

Mr. MOAKLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Beilenson amendment.

As we have heard over the past few days, the unfunded-mandate legislation is a far-reaching effort to alter the way the Federal and State governments relate to each other on a wide range of regulatory matters. There is certainly room for improvement in this relationship.

The fact is, we used to do a better job of listening to each other and sharing responsibility for the standards we set. I think we should bring back a better balance to the system. But it seems to me that the legislation which we are considering here today contains a very large loophole. It does not extend the CBO information requirements to appropriations bills.

I am at a loss to understand why. This is a very significant part of our legislative process, and this was omitted from the legislation. When we raised the issue in the Committee on Rules, the only response from the authors of the bill is that they did not want to offend the members of the Committee on Appropriations.

Mr. Chairman, I believe that extending the reporting provisions to appropriations bills so that we have information on any unfunded mandates they may contain would close a glaring loophole and provide a very valuable addition to this bill.

Mr. Chairman, to be fair and to be comprehensive in our desire to address the legitimate financial concerns of the States and localities, we need to extend the provisions of H.R. 5 to appropriations legislation, and I urge my colleagues to support the Beilenson amendment.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I am happy to yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, I would simply like to say that as we look at the Committee on Rules' relationship to the appropriations process, for the past several years we have seen restrictions imposed on the appropriations bills and waivers granted and all, but before that, that really did not happen, and I believe very sincerely that in this 104th Congress we are going to be able to get back to the point where we are not imposing those kinds of constraints on consideration of appropriations bills.

Also, I have to add that when I had the privilege of serving with the gentleman from Indiana [Mr. HAMILTON], cochairing our Joint Committee on the Organization of Congress, I was just reminded, throughout that hearing process I said the greatest reform that we could possibly implement in this institution would be to simply comply with the standing rules of the House. That is all we are saying right now.

The amendment offered by the gentleman from California [Mr. BEILENSON] tragically is based on the assumption that we are going to be waiving the rules of the House again. We would like to think, it is not ironclad, but we would like to think in most cases we will, in fact, be able to look at that as a thing of the past.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I have several problems with the logic there. First of all, arguing that something should not be included because it is not necessary, if there is any ambiguity, it seems to me a weak argument. None of those arguing in opposition said it would do any harm. They said it is not necessary.

In other words, we are getting the argument from literary elegance, not from logic.

Let us not be redundant. Fortunately the rule against redundancy does not apply to our speeches, or we would be in better shape.

On the other hand, there is a reason to apply this here. Among other things, we are not the only institution in this capital that treats appropriations legislation. Yonder lies the Senate. They have no such rule.

We have sometimes been confronted, as the gentleman understands, with situations in which, in conference, we have had to agree to that. So to argue that we should not put something into a statute which is intended to last indefinitely, because we have a House rule provision that does the same thing, is no argument at all.

☐ 1810

If you are serious about the principle, then the fact it is in the House rule is a good idea, but hardly a sufficient protection. Putting it in the statute does no harm and arms us against a Senate where there is no such rule whatsoever.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. I thank the gentleman for yielding.

Mr. Chairman, as my colleague knows, over in the other body they regularly have opportunities with motions to strike. So clearly this issue can be addressed there.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Now, I am surprised because the gentleman has not said that all the time we spent on the unfunded mandates was a waste, because he is saying in effect we do not need an unfunded mandate bill, all we need is not to vote on unfunded mandates.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MOAKLEY] has expired.

(On request of Mr. FRANK of Massachusetts and by unanimous consent, Mr. MOAKLEY was allowed to proceed for 1 additional minute.)

Mr. MOAKLEY. I yield further to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding further.

Mr. Chairman, this is astonishing. What the gentleman is saying is we do not need any of this because if a motion comes up in a bill that has an unfunded mandate we defeat it. Has this been a charade? No, it has not been a charade. I mean, is the contract unnecessary? Is this superfluity? How can you argue that we do not need this whole bill and argue that we do not need this amendment because, after all, if it comes up we will vote it down. That stands the whole process on its head.

I am surprised that the gentleman thinks that the whole thing we are talking about is illogical. Given the logic of a need for an unfunded mandates bill, applying it to appropriations bills makes the most obvious sense. The gentleman from California [Mr. BEILENSON] is correct.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. I thank the gentleman.

Mr. Chairman, beyond the standing rules of the House, on which we have had a pattern of waivers over the past several years, and this measure, what else would be necessary to ensure that we do not proceed with imposition of an unfunded mandate? I am just saying at what point? We have concluded that the rules of the House are not enough. I happen to think they are.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MOAKLEY] has again expired.

(On request of Mr. FRANK of Massachusetts and by unanimous consent, Mr. MOAKLEY was allowed to proceed for an additional 30 seconds.)

Mr. MOAKLEY. I yield further to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman.

Mr. Chairman, the rules of the House are not enough, I would say to the gentleman very simply, when we are dealing with a matter which includes the U.S. Senate. That is not hard. The rules of the House do not bind the Senate, they do not impress the Senate, and if you are serious about this you do it by statute.

Mr. DREIER. The rules of the House are not enough, and people who were formerly in the majority have had a pattern of constantly waiving them.

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words.

Just briefly, Mr. Chairman, in response to the point of the gentleman from Massachusetts [Mr. FRANK], No. 1: In the Senate debate on this the Senate did agree to a Senate procedure which handles the appropriations issue. So Mr. FRANK will take comfort from that, I am sure.

It is in a sense a line item in the appropriations bill on the Senate side. So that point is not necessary.

Second, this legislation is in fact not only necessary, but as we have seen over the last week in debating it, there is a crisis out there in terms of us sending unfunded mandates to States and localities.

If we do not get at it at the authorizing committee level, we will be in a situation where in a balanced budget environment we are increasingly pushing our costs down to the local level. So the legislation is absolutely necessary.

Mr. DREIER's concerns are well-stated. Why have another point of order? We already have a point of order. Why have a duplication of a second point of order on appropriations bills? If you are legislating on an appropriations bill, there can be a point of order raised. That is all we are saying. We just do not need it. The language in the bill makes it very clear that at the authorizing committee level you have to consider the costs. Then on the floor of the House there is a point of order raised if the mandate is not funded. At the appropriations level there is always a point of order if you go beyond what the authorizing committee has done.

So in point of fact, by definition there is a point of order for both situations, and I think this legislation should not be duplicative. We should not go out of our way to go back and make rules that are not necessary.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BEILENSON].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title III?

AMENDMENT OFFERED BY MR. BEILENSON

Mr. BEILENSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BEILENSON: Amend section 425 of the Congressional Budget Act of 1974 to read as follows:

SEC. 425. POINT OF ORDER.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution that is reported by a committee unless the committee has published the statement of the Director pursuant to section 424(a) prior to such consideration, except that this paragraph shall not apply to any supplemental statement prepared by the Director under section 424(a)(4).

(b) LIMITATION ON APPLICATION TO APPROPRIATIONS BILLS.—Subsection (a) shall not apply to a bill that is reported by the Committee on Appropriations or an amendment thereto.

Strike the proposed section 426 of the Congressional Budget Act of 1974 and strike the reference to such section in the amendment made by section 304.

Mr. BEILENSON. Mr. Chairman, the amendment I am offering would eliminate the bill's prohibition on consideration of legislation containing an unfunded mandate on State and local governments.

This amendment goes to the heart of what makes this bill so troublesome and problematic: The prohibition it establishes against considering legislation that contains an unfunded mandate on State and local governments of more than $50 million annually. It is clear from the debate we have had thus far that we do not know enough about the likely impact of such a rule to institute it at this time.

We do not know how an unfunded mandate will be determined, how different types of Federal activities will be affected, and whether the Congressional Budget Office will be capable of assessing the costs of a proposal to State and local governments accurately and in a timely fashion. It seems unwise, to say the least, to prohibit consideration of a certain type of legislation when we really do not know what legislation we will be prohibiting.

Supporters of H.R. 5 have portrayed the proposed rule as a rather benign procedure that will not prevent Congress from enacting any legislation we want to enact. They have said that it is not a "no money, no mandates" rule; they have said that all it will do is help us make more informed decisions about legislation which would impose an unfunded mandate, and be more accountable for those decisions.

But that, in fact, is not the case. If this rule were as benign as some of its proponents claim, the sponsors would not have exempted legislation dealing with civil rights, or national security, or emergencies. They would not have exempted appropriations bills. They would not have agreed to amendments offered by Democratic Members to exempt Social Security and antidiscrimination measures for older Americans.

Their support for exemptions for certain types of legislation is a tacit admission that this new prohibition does in fact have the potential to be a serious obstacle—if not a complete barrier—to enactment of certain types of legislation.

If you consider what this new rule means, and how it will work, you cannot help but reach the conclusion that it will make it enormously difficult, if not impossible, to enact legislation imposing a requirement that could be determined to be an unfunded mandate. And that would effectively stop us from enacting legislation promoting clean air, clean water, public health, child safety, labor standards, and a whole host of other activities which the vast majority of Americans support.

Let us look at how the process will work:

If a bill containing an unfunded mandate, as determined by CBO, is reported from a committee, or if a Member wants to offer a floor amendment that contains an unfunded mandate, the legislation in question cannot be protected by a waiver included in the rule providing for the bill's consideration. This, by the way, is the only case where the Rules Committee will not be allowed to include a waiver of a point of order in a rule. No other rule of the House is treated this way.

Instead, any Member will be able to make a point of order against any legislation which he or she knows, or suspects, may contain an unfunded mandate. Following that, the Chair would put the question of consideration.

If this rule does not make it impossible to pass legislation containing an unfunded mandate, it certainly will make it almost impossible. Certainly committees will avoid reporting legislation which has been judged by CBO to contain an unfunded mandate—no matter how worthy the purpose may be—to avoid subjecting the bill to a vote which is almost certain to fail.

Thus, contrary to what many of this bill's supporters say, the practical effect is that it is a "no money, no mandate," bill.

In cases of amendments, we may not know if the legislation contains an unfunded mandate and, if so, how serious the violation is. Yet we will be required to vote on the question of consideration. That does not make any sense, and it puts Members in the very difficult situation of having to make a decision and cast a vote on the waiver without the information we would need to make that decision.

Proponents of the legislation say that this procedure will encourage Members to get cost estimates for their amendments ahead of time. But the fact is, it is going to be very difficult for CBO, even with the extra resources they will get under this bill, to assess the costs of mandates on the more than 87,000 State and local governments for committee bills. It will be next to impossible to assess those costs for individual Members' amendments. It will be completely impossible to assess them in the middle of floor debate. So, by adopting this new point of order, we will be setting ourselves up for some very difficult situations on the House floor, to put it mildly.

There are cases where it makes sense for us to prohibit consideration of certain types of legislation. One good example is our point of order against tax or entitlement legislation which would increase the deficit. That makes sense because it is an enforceable rule and because it is relatively easy for CBO to determine whether legislation will have that effect. But establishing a rule against consideration of legislation containing unfunded mandates is far more problematic.

For all of these reasons, it would be wise for us to drop the prohibition on consideration of legislation containing unfunded mandates at this time. We ought to give CBO some time to get some experience in defining unfunded mandates, and determining their costs before we use those determinations as a basis for banning the consideration of legislation, and setting up a process that could create some real procedural problems for the House.

□ 1820

If what we really want from this legislation, as has been stated repeatedly during this debate, is information and accountability with respect to our actions regarding legislation containing unfunded mandates, we can achieve that by requiring CBO to determine whether reported bills contain an unfunded mandate and requiring the committees to include that information in reports accompanying the reported bills. This amendment would maintain the prohibition on consideration of committee reported legislation if the committee fails to include a CBO analysis of the cost of the mandate.

So, Mr. Chairman, so long as we have that information available to us, it will become part of the debate. We will know that by voting for the measure we are acting to impose an unfunded mandate. We will be accountable for that vote, but we will not have stacked the deck against enactment of such legislation to the extent that the bill currently does. We will not have tied our hands with respect to responding to as yet unknown problems that may emerge in the future.

This amendment will enable us to achieve the fundamental purpose of this bill, knowing the cost of mandates we are imposing and thus making us accountable for our vote, as we shall be, without making it all but impossible to enact important environmental, health and safety legislation, and I urge our colleagues to support the amendment.

Mr. DREIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, unfortunately this amendment really does not allow us to address the issue of payment, and, first, it only establishes a point of order for failure to include a CBO analysis in the committee report. Under H.R. 5 a point of order also exists if the bill does not provide for a way to pay for the mandate. Actually getting the cost information is needed not only to provide information, but to determine how much is necessary to pay for the mandate.

It seems to me that this is completely unnecessary, and I am going to urge my colleagues to oppose the amendment.

Mr. MOAKLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by my good friend the gentleman from California [Mr. BEILENSON]. I believe that his amendment establishes a point of order which is far more appropriate than what is currently contained in this bill. Under this procedure, CBO would be required to provide detailed information on the potential cost that any unfunded mandate in proposed legislation would have on State and local governments as well as on private businesses. The point of order would not apply, however, to the consideration of legislation containing an unfunded mandate.

By including a point of order against consideration of mandate legislation we would effectively create a "no money, no mandate" bill. It would be next to impossible to get Members to cast an explicit vote to impose an unfunded mandate. I believe that it is valuable for Members to have the ability to make informed decisions on whether the particular Federal mandate's benefit outweighs the financial burden that might be incurred due to the legislation. However, it seems to me that we do not want to jeopardize the opportunity of the House to decide whether to consider a legislation proposal without an appropriate amount of deliberation and debate.

Under this procedure proposed by Mr. BEILENSON, legislation containing mandates important to our Nation would still be able to move forward for consideration by the Congress. The CBO information would provide members with an upfront assessment of the costs of the legislation being considered. Members could then decide by comparing the merits of the bill with the impact of the burden on non-Federal entities. I urge my colleagues to join me in support of this constructive amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BEILENSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 138, noes 291, not voting 5, as follows:

[Roll No. 78]

AYES—138

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Beilenson
Bentsen
Berman
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Bishop
Bonior
Borski
Boucher
Brown (CA)
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Brown (OH)
Bryant (TX)
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Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (RI)
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Kildee
Kleczka
LaFalce
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Lewis (GA)
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Lowey
Luther
Maloney
Manton
Markey
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Payne (NJ)
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Schroeder
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NOES—291

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
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Bonilla
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Brownback
Bryant (TN)
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Buyer
Callahan
Calvert
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Fields (TX)
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Forbes
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Fox
Franks (CT)
Franks (NJ)
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Goodlatte
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Hall (TX)
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Hostettler
Houghton
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Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kim
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Kingston
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Knollenberg
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Largent
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Lewis (CA)
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Livingston
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Longley
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McCarthy
McCollum
McCrery
McDade
McHale
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McInnis
McIntosh
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Menendez
Metcalf
Meyers
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Miller (FL)
Molinari
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Moorhead
Morella
Murtha
Myers
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Ney
Norwood
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Orton
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Packard
Pallone
Parker
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Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
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Radanovich
Rahall
Ramstad
Regula
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Ros-Lehtinen
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Smith (MI)
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Solomon
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Stenholm
Stockman
Stump
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Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Becerra
Crane
Frank (MA)
McDermott
Rose

□ 1842

Mr. LIVINGSTON changed his vote from "aye" to "no."

Mr. BEVILL changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title III?

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment, amendment No. 99.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN: In the proposed section 421(4) of the Congressional Budget Act of 1974, add after and below subparagraph (B) the following:

A mandate which would apply an enforceable mandate equally on State, local, or tribal governments and the private sector shall not, for purposes of section 425(a)(2), be considered a Federal intergovernmental mandate.

Mr. MORAN. Mr. Chairman, the purpose of this amendment is to treat the private sector in the same way that we treat the public sector. It is as simple as that. It only takes up one paragraph.

The basic problem it gets at is that this piece of legislation has a fundamental flaw. On the very first day of this session, we passed legislation that said that every law that applies to private citizens ought to apply to the Federal Government as well, particularly to the U.S. Congress. But now this piece of legislation would say that every law that applies to private citizens and private businesses will not necessarily apply to State and local governments and that, in fact, it intends to exempt State and local governments from complying with many of the safeguards and the standards that will continue to be imposed upon private citizens and private businesses.

The purpose of this amendment is to say that is not fair. We ought to treat the private sector in the same way that we treat the public sector.

Ironically, the point of order provision in this legislation will end virtually all of our privatization efforts. It has that potential, Mr. Chairman.

There is nothing wrong with the point of order that says that if we do not know the cost of legislation that is being imposed on State and local governments and private businesses, then that legislation ought to be subject to a point or order, because no longer ought we to pass the bill and then pass the buck to others to pay for it. But that point of order that requires a fiscal impact analysis makes sense, because it relies upon this Congress to exercise its judgment to determine whether or not the intent of the legislation is worth the imposition that it will impose on state and local governments and businesses.

That is necessary. The vast majority of the Members of this Congress last year cosponsored legislation that would do that.

This bill goes one step further. I think one step further that flaws the intent of the bill and will create unintended consequences that will haunt us for years to come, because it says that if there is not 100 percent funding for legislation, then there is no mandate.

In effect, if the appropriations committees pass an across-the-board cut, that will trigger the option for States and localities to determine whether or not they want to implement legislation.

Now, let me give Members some examples of the specific problem areas this will create. There are 16 million public employees. If, for example, we were to increase part B hospital insurance premium under Medicare, which may well have to be done to make that program solvent, we would not be able to fund it. We should not have to fund it. But it will make it optional for all 16 million public employees, all of the thousands of public entities that employ those employees, whether or not they want to come up with the premium.

I cannot imagine any of them voluntarily paying that premium, which means that the 100 million private employees will not only have to pay their share of that Medicare increase, they will also have to make up for the fact that 16 million public employees do not have to pay for it. That is the problem we are trying to get at.

We have 1,800 municipal power plants, almost 1,000 rural electric cooperatives who will be exempt from meeting new Clean Air Act requirements.

☐ 1850

The CHAIRMAN. The time of the gentleman from Virginia [Mr. MORAN] has expired.

(By unanimous consent, Mr. MORAN was allowed to proceed for 2 additional minutes.)

Mr. MORAN. Mr. Chairman, there are 226 investor-owned power companies. They will have to abide by every single new air quality standard, even though they generate 75 percent of the power in this country, whereas those municipal power plants will not have to. That is the unfair treatment we are creating.

Mr. Chairman, if we enact this legislation in its present form, we are going to take a step backward, backward to a situation that is really analogous with the Articles of Confederation. From about 1781 to 1787 we gave almost complete discretion to all the States. It did not work. There had to be national standards. This says there no longer have to be national standards.

Mr. Chairman, I appreciate the efforts that have been made by my friends on the other side to study this legislation, but the problem is that studying it, exposing it, even understanding it, does not rectify it. This amendment rectifies it.

Mr. Chairman, this amendment says that where we have Federal activities that are carried out by both the public and the private sector, we have to treat them equally; that in fact we cannot give an option to States and localities whether or not they want to comply with standards. It still requires that we know exactly what the cost of implementation is, but it leaves it to our judgment whether or not we want to pass that legislation.

Mr. Chairman, obviously it does not apply to any programs that are completely Federal programs, like Medicaid. SSI is a public program, the Women, Infants, and Children Program, any number of these entitlements. Those are all public programs. We are only talking about programs that apply to both the public and private sector.

Mr. Chairman, I think this is a terribly important amendment that this body needs to support and pass.

Mr. CLINGER. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, this might be deemed the mother of all exemptions, because there is a very real possibility here that many amendments can be deemed to have application to both public and private entities. This would in effect say that anyone that had equal application, both private and public, would be exempt from the provisions of this bill. That sweeps in many, many of the exemptions that have already been dealt with here tonight.

Mr. Chairman, this is, as I say, the mother of all exemptions. I think exempting this class of mandates would preclude Congress from having the Congressional Budget Office cost estimates for these requirements. Further, it would deny the ability of Congress to have a separate vote on whether or not to consider these amendments.

The gentleman talked about some of the things, horrendous things that could occur with this. We are just saying we need to consider these on a case-by-case basis; that we should take a look at it, and in fact there are serious competitive disadvantages built into it. I think that would determine the response we might well make.

However, to say that we are going to exempt them flat out, across the board, without that kind of case-by-case analysis, I think would be wrong.

Mr. Chairman, I would point out that H.R. 5 already requires committee reports to include a statement analyzing the degree to which the Federal mandate affects each of the public and private sectors, and the extent to which Federal payment of public sector cost would affect the competitive balance between States, local governments, or tribal governments, and the private sector. This is something that we have never had before. We have never had the ability or never had the requirement that this kind of analysis be done, as to how it affects the competitive balance between the governmental entities and the private sector.

Mr. Chairman, language was crafted in very careful consultation with the U.S. Chamber of Commerce, the National Federation of Independent Business, Browning-Ferris Industries, and other groups who may well be in a competitive situation with public sector entities. but they have all endorsed H.R. 5 as presently structured.

The point is that Congress, as a result of this legislation, is going to have more information as to the costs of private sector mandates, and I believe this is just the first in what are going to be a series of efforts in Congress we are going to make over the next few months to address the very pressing need for regulatory reform.

We cannot solve all of those issues in one fell swoop, but I do consider this amendment to be a weakening one. In fact, I consider this to be one that would be so sweeping in its potential application as to render the bill really useless.

Miss COLLINS of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank my friend, the gentlewoman from Michigan, for yielding to me.

Mr. Chairman, in response to the gentleman from Pennsylvania [Mr. CLINGER], let me say and emphasize this does not exempt every program that is carried out by both the public and the private sector whatsoever. All it says is that the opt-out provision would no longer be included in the legislation. There are any number of other provisions that apply.

We still have a bill that addresses unfunded mandates, a bill that every single State and local organization in the country that I am aware of supported, a bill that the Chamber of Commerce supported, that the Federation of Independent Businesses supported, the National Association of Manufacturers.

Mr. Chairman, we have written support from all of those organizations. In fact, I have a letter from Browning-Ferris objecting to this provision.

Mr. Chairman, my point was not that we should exempt any of this legislation. My point is that we are going too far in including the opt-out provision. The gentleman is aware of so many privatization efforts that are working so well.

In fact, we got a letter from the National School Transportation Association. They pointed out that in Connecticut 90 percent of the buses are operated by private companies. Any Federal law or regulation that applies to the operation of those bus companies would continue to be imposed on that private company, but would not on municipalities, and there is no question that all of these school districts are going to take back the operation of those buses, because it will eventually become uncompetitive.

Mr. Chairman, all we are trying to do is to say the private sector ought to be able to compete with the public sector in areas that are appropriate. If we do not pass this amendment, they cannot, because the public sector can opt out. The private sector does not have that option. Mr. Chairman, these standards would continue to be imposed upon them.

Mr. PORTMAN. Mr. Chairman, will the gentlewoman yield?

Miss COLLINS of Michigan. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, just to clarify, the gentleman keeps talking about the opt-out provision. What is the opt-out provision in H.R. 5?

Mr. MORAN. Mr. Chairman, if the gentlewoman will continue to yield, the opt-out provision is that if there is not complete funding for a program, a Federal activity that would be considered on the floor of the House, then States and localities have the option of not implementing.

Mr. PORTMAN. Mr. Chairman, if the gentlewoman will continue to yield, that is an incorrect representation of the bill. What the bill says is that there is a point of order to be raised if the mandate is not funded. Congress can always act by a majority vote to waive that point of order. It is not an opt-out provision for State and local government.

Mr. MORAN. Mr. Chairman, if the gentlewoman will yield further, the point is the gentleman is assuming that we will overturn the point of order. Every time we raise these issues, if the gentleman's answer is, we are going to overturn the point of order, what we are saying, let us not create that situation in the first place. It is a fundamental flaw.

Mr. PORTMAN. Mr. Chairman, if the gentlewoman will yield further, I would hope we would not override the point of order in every case. I would hope Congress would in an informed way be able to look at the issue of public-private. That was the purpose of an amendment offered earlier today by the gentleman from California [Mr. CONDIT] and myself.

The committees have the responsibility, the requirement under this bill to look at the very issue the gentleman is discussing. As the gentleman knows, they have three things they can do. They can either not fund the public mandate, they can either have the mandate apply equally to both parties, or they can not apply the mandate to the private sector, so there is an explicit provision in this legislation to get at the very issue that is addressed.

Miss COLLINS of Michigan. Reclaiming my time, Mr. Chairman, I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, I appreciate the point the gentleman from Ohio [Mr. PORTMAN] makes. The problem is that all he does is to require that we look at the situation after we have passed this legislation. That is the problem. We do not want to create a situation that we subsequently have to undo.

In the National League of Cities publication this week, it tells States and localities, it is obviously very pleased with this legislation, but it tells States and localities, and I want to make sure that the ranking Democratic member of the Committee on Appropriations is listening, it tells States and localities that in the future, any Federal program that is not an individual entitlement for full funding will become optional to States and localities. They will not have the requirement to carry it out.

Mr. PORTMAN. Mr. Chairman, will the gentlewoman yield?

Miss COLLINS of Michigan. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, does the gentleman believe that is an accurate representation of the legislation?

The CHAIRMAN. The time of the gentlewoman from Michigan [Miss COLLINS] has expired.

(At the request of Mr. PORTMAN and by unanimous consent, Miss COLLINS of Michigan was allowed to proceed for 1 additional minute.)

Mr. PORTMAN. Mr. Chairman, will the gentlewoman yield?

Miss COLLINS of Michigan. I yield to the gentleman from Ohio.

□ 1900

Mr. PORTMAN. Does the gentleman believe that is an accurate representation of the legislation?

Mr. MORAN. I would tell the gentleman from Ohio that the National League of Cities represents more than 16,000 local jurisdictions. This is their understanding of legislation that affects them more than any other group.

Mr. PORTMAN. Is the gentleman's understanding correct?

Mr. MORAN. That is what they are being told and they are citing conversations that they have had with the proponents of the bill. So that is their understanding.

Mr. PORTMAN. That representation is not accurate. As you know, the legislation is very clear, we have now talked about it for a week. It does provide a point of order if the new mandate is not funded. This bill is only prospective, as we know. The bill would not apply to any existing mandate, and it provides a point of order on the floor of the House absolutely. That is the whole idea. But the representation from the League of Cities or even your earlier characterization of the bill just are not what we have here before us today on H.R. 5.

Mr. MORAN. You are correct if you can assume that we will overturn points of order consistently when they are raised.

The CHAIRMAN. The time of the gentlewoman from Michigan [Miss COLLINS] has again expired.

(At the request of Mr. OBEY and by unanimous consent, Miss COLLINS of Michigan was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Miss COLLINS of Michigan. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to vote for this bill if the Moran substitute is adopted tomorrow, but frankly I am still concerned about the point the gentleman is trying to make, because I do not want to create the possibility of creating additional entitlements when we are supposedly telling the country we are in the business of shaving them back.

Would the gentleman walk through for the House again how in your view without your amendment and without the amendment you are going to be offering tomorrow as well, how this, in fact, does create an unintentional entitlement, if the Committee on Appropriations, for instance, were to cut back by passing an across-the-board cut?

Mr. MORAN. Mr. Chairman, if the gentlewoman will yield, I will be happy to do that. I thank the gentleman from Wisconsin for raising that issue.

The legislation says that if there is any reduction from the amount that is authorized to be appropriated for any Federal activity we pass on the floor, if there is any reduction, that triggers the option for States and localities whether or not they want to implement it.

There is another alternative. If in that legislation the authorizing committee specifies that the Federal agency, the executive branch, has the option of paring back the program, choosing what activities they want to conduct and which they do not, it gives that kind of prerogative to the executive branch to decide what part of an authorization they choose to implement and how they want to cut it back if there was such an across-the-board cut in the appropriations bill.

Mr. OBEY. Does the gentleman believe that under this procedure there would in fact be built into the process an incentive against cutting spending under those circumstances?

Mr. MORAN. I think it will preclude the Committee on Appropriations from exercising its discretion on domestic discretionary programs in the same way that it lacks discretion on entitlement programs today.

Mr. OBEY. I thank the gentleman.

Mr. McINTOSH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this issue came up in our committee meeting and at the time I indicated that I have a great deal of sympathy with the problem that was created here or the potential problem that the private sector enterprises would be put at a disadvantage if they were not put on the same playing field as the public sector. But I do think that this remedy to that problem is much too extreme and goes too far in gutting the basic provisions of this bill.

What I would propose and would like to do is work with my colleague, the gentleman from Virginia, on addressing this issue in H.R. 9 or other appropriate legislation to grant many of the same protections to the private sector that would be available to their public sector competitors, so we can move forward with unfunded mandate legislation that is real legislation and real reform and yet at the same time make sure that we do not put the private sector at a disadvantage.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. MCINTOSH. I yield to the gentleman from Virginia.

Mr. MORAN. I thank the gentleman, my colleague on the Committee on Government Reform and Oversight, for yielding.

Mr. Chairman, I noticed that the gentleman from Indiana [Mr. MCINTOSH] had a amendment that would have required that the private sector be fully funded just as the public sector would be fully funded. I notice that that was withdrawn because I suspect the leadership requested it and, of course, it would have exposed the box that the opponents of this bill have put themselves into.

There is no way that we can fully fund private sector mandates, but nevertheless we are treating them unequally from public sector. The public sector we control. The private sector we do not.

Mr. MCINTOSH. Mr. Chairman, reclaiming my time, let me address the question. I think that there are ways of doing this that does not require the Federal Government to lay funds forward but simply to extend the provision that says where there are no funds appropriated, there is no mandate to extend that provision to the private sector.

I am willing to discuss the other if the gentleman from Virginia would like to see it, but I think the context is not in this bill. It should be done in the context of regulatory reform for the private sector which I understand will be coming forward to this House in the coming month.

Mr. MORAN. If the gentleman will continue to yield, that is the other obvious alternative. No money, no mandates for all the private sector. Forget air traffic control, forget all of the regulations that apply, but that is an honest provision.

Mr. MCINTOSH. Mr. Chairman, I do not think we are going to get into any of that type of situation. What we will do is create a level of playing field for the private sector competitors of public sector providers of services and goods that are regulated. I would favor addressing that issue in a later bill.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, unfortunately, the issue of public and private sector competition under Government mandates has gotten awfully confused here. Let us look at the facts as they exist today. Today government at the local level and the Federal level does compete against private industry and vice versa in many areas.

When the Federal Government issues a mandate to local government to do something, the local government today is in competition in many cases with private sector companies who are under the same mandate to do the same thing. The local government funds that operation today. It funds it out of tax dollars raised locally.

The only change this unfunded mandate bill makes in that equation is it changes as to who raised the money to pay for the public sector operation. That is the only change. It does not change the equation of private sector or public sector competition at all. It simply says that in that equation when it comes time to raise the money to carry out the mandate, instead of raising the money locally with taxes raised at the local level, the money has to be raised on the Federal level, or else a point of order is raised against the mandate to begin with.

Now, if you really do not believe in the unfunded mandates concept of this bill, the gentleman from Virginia [Mr. MORAN] has offered you the perfect amendment to defeat it. This amendment would simply say that where you have a Federal mandate that does apply to both local government and to private sector businesses, which most of these mandates do, that the point of order does not lie against it. But you cannot in fact enforce the unfunded mandate provision of this bill against such a mandate.

If you ever wanted an exemption that exempted most Federal mandates out of this bill, we have just been offered it today.

Let me say again, the equation of competition private to public is not affected by this bill. If you believe that, you need to think just a second what is happening in the world today. The private sector competing against local government, local government having to carry out Federal mandates, raising the money locally because we force them to, and the change this bill will make, the only change is that instead of telling local government you have to do it this way and you have to raise the money locally to do it, under this bill a point of order would lie against such a rule.

Unless we exempted ourselves from that point of order or waived it, a point of order would lie against it so that we would have to come up with the money here in Washington to fund that public mandate on the public institution locally at home. That is the only difference.

I understand if you do not believe in that proposition. If you believe that Government ought to be able to mandate things on local governments and we ought not to have to come up with the money to fund them, if you believe that we ought to be able to tell a State and county and parish and city governments across America that you have got to do it our way and you have to raise the taxes to pay for it, if you really believe that, this is the perfect out amendment.

□ 1910

This amendment says a point of order will not lie against those kind of mandates in the future, and it also says, in effect, this unfunded mandate provision will not be enforceable against any mandate that affects both the local government and a private business in your district.

So if my colleagues really do not like this bill, if they do not believe in it, if they want to believe in mandates from Washington without the necessity of funding them, then vote for this amendment. If my colleagues believe in a strong unfunded mandates bill, they have got to defeat this amendment. It is the amendment that exempts most mandates from the bill. It is the one that destroys the whole idea of an unfunded mandates bill.

So, I urge Members, defeat this amendment and let us go on to pass a strong unfunded mandates bill.

When we get through, every time we have a mandate that affects public and private businesses from now on we will now consider do we in fact fund it from Washington or do we tell our comrades in arms, the local city councilmen, the Members who represent a district back home, a county or a parrish or a State government it is up to you to come up with the money, you just have got to do it our way? If Members want to keep doing business that way, vote for this amendment.

If they want to change business and make sure from now on when we mandate things on local governments back home we either provide the money or we do not mandate it, vote against this amendment. It is that simple.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, I thank the gentleman from Louisiana for yielding. I know my friend does not mean to be deliberately misleading, but I would ask my friend if he is aware that there is a provision in the bill that says that it is always in order to strike an unfunded mandate? And this amendment does not affect that.

Mr. TAUZIN. Reclaiming my time, let me assure the gentleman the League of Cities campaigned that the opt-out provision applied to the former bill introduced in the last Congress by my good friend, the gentleman from California [Mr. CONDIT], who led this effort. It does not apply to H.R. 5; that provision is not in the bill.

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say I rise to cosponsor this amendment because I firmly believe that what the gentleman is seeking to do is very important. And I do not believe that the cavalier attitude of casually disposing of all of these important amendments is in the best interests of what we are trying to do for this country.

Mr. Chairman, I believe that public employers should be model employers. As such, I believe they have a duty to provide their workers with the same protections that we otherwise require of private employers. They have a responsibility to ensure that the manner in which they operate shows the same respect for the health and safety of the general public that we require of private sector businesses.

I note from my colleagues on the other side that the adoption of this amendment will ensure that H.R. 5 does not confer undue and improper competitive advantages to public employers over private employers. That is the point that the gentleman from Virginia has made and very effectively made.

A public hospital should not be treated any differently with regard to Federal standards regulating the disposal of hazardous wastes than a private hospital. The city of St. Louis should be under the same requirement to pay at least minimum wages to its employees that we impose on private sector employees.

Mr. Chairman, the gentleman from Virginia is absolutely right. If we do not fully fund some of these programs that apply to both public and private, then a point of order can be raised to knock out the public sector involvement. And it probably will stand.

Mr. Chairman, an employee has the same responsibilities to provide a decent living for his or her family, regardless of whether the employee is employed in the public sector or the private sector. The fact that hazardous fumes emanate from a public incinerator instead of a private incinerator in no way diminishes the health hazards to the general public. There are basic protections that must and should be extended to all.

Where the Congress determines such a circumstance to exist, public employers and private employers should be treated equally.

Mr. Chairman, I urge support of the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank my friend from Massachusetts for yielding.

Mr. Chairman, it is important to respond to what the gentleman from Louisiana said. When I brought up the fact that it would always be in order to strike any unfunded Federal mandate, the last thing the gentleman said was that that provision was in the bill of the gentleman from California [Mr. CONDIT]. It is not in this bill.

Mr. TAUZIN. Mr. Chairman, would the gentleman yield for a second?

Mr. FRANK of Massachusetts. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I want to correct the RECORD. I did not say that the provision to have a point of order against the mandate is not in this bill; it is. What is not in this bill is the opt-out for local governments, which was contained in the Condit bill last year, which the League of Cities wrote to the gentleman and all of us about, and which the gentleman from Virginia quoted on the floor tonight. That provision is not in H.R. 5. It was in the Condit bill last year.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield again to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I think the gentleman from Louisiana missed the point. I was not referring to last year. I was referring to the point that the gentleman from Louisiana tried to make, that if we pass this amendment it will essentially gut the intent of this legislation.

That could not be further from the truth. And I would draw the attention of my colleagues to page 48, that says that

> With regard to the Unfunded Mandate Reform Act of 1995, it shall always be in order, unless specifically waived by terms of a rule governing consideration of a measure, to move to strike such unfunded Federal mandate from the portion of the bill that is open to amendment.

And this is not affected by our amendment.

The point is that with passage of this bill it will be in order for any Member of this House to strike an unfunded Federal mandate. That is what we want. All I am trying to get at is the disparity in the treatment of the public sector versus the private sector. I am not trying to eliminate any responsibility to address unfunded Federal mandates. And this bill would continue to do that.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman from Massachusetts for yielding.

Very briefly, there is a big difference between the motion to strike and the point of order. The point of order is precisely what gives us information on the public-private competition issue that we want to have to address this issue responsibly. So I would say in response to the gentleman's concern about what the gentleman from Louisiana said, that the motion to strike does not solve the problem. We need the point of order, we have to have the point of order.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield to the gentlemen from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I think we are ready to vote here. The point is if we do not pass this amendment, we are going to hear from our private sector businesses who will be treated unfairly, who will lost their opportunity to compete with the public sector in a constructive way, and we are going to wind up having to change this bill down the road when we realize the unintended consequences of this legislation.

So, I would urge my colleagues to treat the public and private sector alike, to approve this amendment, and then to pass a responsible version of the unfunded mandates legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MORAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MORAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 143, noes 285, not voting 6, as follows:

[Roll No. 79]

AYES—143

Abercrombie
Ackerman
Barcia
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Dingell
Dixon
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Skaggs
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Thompson
Thornton
Torres
Towns
Traficant
Tucker
Velazquez
Visclosky
Ward
Waters
Watt (NC)
Waxman
Whitfield
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—285

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Upton
Vento
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—6

Becerra
Crane
Gibbons
Martinez
Pelosi
Smith (NJ)

□ 1934

Ms. JACKSON-LEE changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. FAZIO of California. Mr. Chairman, I have always been sensitive to the local impact of Federal laws that are underfunded—that are not supported by adequate resources. They place State and local governments in an awkward, and often impossible, position—trying to ensure that the required protections are in place, without sufficient financial support.

For that reason, during the last Congress, I supported the efforts of my Democratic colleagues—Mr. CONDIT of California and Mr. MORAN of Virginia—to provide local governments with some relief from this financial hardship. And, at this time, I want to acknowledge both Mr. CONDIT and Mr. MORAN for meeting this challenge head-on during the 103d Congress, each by introducing legislation that would have provided some relief in response to the pleas for help that we received from local communities.

As Governor of Arkansas, President Clinton experienced, first hand, the difficulty and frustration of dealing with Federal laws that were insufficiently funded. That is why he has expressed support for unfunded mandate reform, just as many local officials in my district have. The cities of Winters, Red Bluff, and West Sacramento, along with Tehama, Colusa, and Solano Counties, are just some of the local jurisdictions that advised me of their support for Federal mandate relief. Some passed resolutions, and others incorporated mandate reform in their legislative platforms. Regardless of the vehicle, however, the message was consistent—local government is overly burdened by Federal programs that are not accompanied by the necessary resources to implement them. Although giving local communities more flexibility in managing these programs helps, we also need to weigh and control their cost.

I therefore support enactment of legislation that will help us make all-around better decisions—decisions that are solid, sound, informed, and responsible, and that do not overly burden the local communities charged with implementing them. But, the Federal Government also has a responsibility to ensure that both the public and private sectors follow basic policies and practices if the health, safety, environment, and human and civil rights of American citizens are to be protected. Without these standards—whether they are for education, or nursing homes, or clean air and water, or proper waste disposal within States and across State lines—American families are placed at great risk. And, although implementation can be costly, the social costs of not implementing them—of failing to protect the public—are immeasurable.

That is why I have several serious concerns about the bill that is now before us and why I support amendments that clarify its intent and enhance its effectiveness. As it is written, H.R. 5, the Unfunded Mandates Reform Act, could force us to abandon many of the most important Federal safety and environmental standards in existence today—standards that protect the American public and that the American people really want and support. To rush this legislation through without hearings and without improving it is a grave mistake.

Unamended, H.R. 5 is much too broad and much too vague. If it is enacted, will we continue to be able to protect our children? What about school safety regulations designed to safeguard against asbestos, radon, and lead paint? What about child support enforcement laws? Will the Federal Government be able to enact national standards that prevent child abuse and exploitation?

What about the American worker? Are minimum labor standards, such as minimum wage, child labor prohibitions, and occupational safety standards at risk?

What about Medicare and the social service programs that serve as a safety net for our senior citizens? What about Federal protections that extend to investors, financial markets, federally insured banks and credit unions and deposit insurance funds? What about regulating the generation, transportation, storage and disposal of toxic, hazardous, and radioactive substances? Without a Federal standard, can each State set its own guidelines for waste disposal, and be free to unload its waste on another? Will this bill threaten water safety regulations? Are those protections that we have worked so long and hard to put in place at risk of being erased? I support the concept of mandate reform, but I have serious problems with this process—the way in which we are forcing this bill through. Its long-term impact is too great and too far reaching to be sacrificed for a short-lived success.

I am voting in favor of final passage of H.R. 5 in support of the communities in my district that have consistently expressed their frustration and concern with underfunded mandates. However, I also want to go on record noting my concerns with mandates reform that moves too quickly and does not take into consideration its far-reaching impact. H.R. 5 must ensure that State and local governments get the help that they need in meeting the financial costs of complying with Federal regulations. But it must also reflect the fact that we must have Federal standards. There are certain protections that cannot be waived or eroded. We must therefore work together to develop legislation that balances our support of these critical protections with consideration for the State and local governments that bear the burden of their implementation.

Mr. CLINGER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BEREUTER) having assumed the chair, Mr. EMERSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5) to curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the costs of Federal mandates on the private sector, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. CRANE. Mr. Speaker, I asked for a leave of absence after 5:30 p.m. to conduct business in my district in Illinois. Because I was in the district I was unable to cast my vote on three amendments. Had I been present I would have cast my vote against the Mink amendment, rollcall No. 77; against the Beilenson amendment, rollcall No. 78; and against the Moran amendment, rollcall No. 79.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 101, TAOS PUEBLO INDIANS OF NEW MEXICO LAND TRANSFER

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–12) on the resolution (H. Res. 51) providing for the consideration of the bill (H.R. 101) to transfer a parcel of land to the Taos Pueblo Indians of New Mexico, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 400, THE ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION ACT OF 1995

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–13) on the resolution (H. Res. 52) providing for the consideration of the bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 440, LAND CONVEYANCE IN BUTTE COUNTY, CA

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–14) on the resolution (H. Res. 53) providing for the consideration of the bill (H.R. 440) to provide for the conveyance of lands to contain individuals in Butte County, CA, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEES TO SIT ON TOMORROW, WEDNESDAY, FEBRUARY 1, 1995, DURING 5-MINUTE RULE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: Agriculture; Economic and Educational Opportunities; Transportation and Infrastructure; Judiciary; Science; Resources; Commerce; and International Relations.

It is my understanding that the minority has been consulted and that there is no object to these requests.

The SPEAKER pro tempore (Mr. BEREUTER). Is there objection to the request of the gentleman from Texas?

Mr. WISE. Mr. Speaker, reserving the right to object and I will not object, the minority is not going to object but simply say to the Members of the majority, the distinguished majority leader, that this is certainly the appropriate way to go about this. I think we have had a very fruitful day today, we moved quickly through the bill. In each of the cases, the eight committees that the distinguished majority leader mentioned, there was full consultation with the minority. Everyone signed off on it. We think this is the way to operate. We look forward to operating in this way in the future.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GRIDLOCK

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute.)

Mrs. SEASTRAND. Mr. Speaker, when I was elected to this great body just 3 short months ago, I made a commitment to my constituents to fight diligently for the ideas that I believe in and to be just as unrelenting in my fight against those ideas that are not good for my district, my State, and our country.

But I must say that I find the behavior by some Members on the other side of the aisle a bit bizarre. They fight to stall legislation that they eventually vote to pass.

I have maintained that gridlock is not necessarily a bad situation. If you oppose something, try to defeat it with every weapon at your disposal. But when a group purposely stalls a bill simply for partisan gain, that is pretense without principle. Some of the antics on the other side of the aisle make you wonder who is devising their strategy.

We are working for real change. We kept our promises by passing the balanced budget amendment last week and are working this week to pass the unfunded mandates bill that will stop the Federal Government from not only passing the buck, but passing the bill to our States and localities.

Mr. Speaker, we should stop the delaying tactics. The American people want us to end the bickering and go on about the people's business.

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COMMUNICATION FROM THE HONORABLE RODNEY P. FRELINGHUYSEN, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. BREWSTER) laid before the House the following communication from the Honorable RODNEY P. FRELINGHUYSEN, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 30, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has received a subpoena for testimony and documents concerning constituent casework. The subpoena was issued by the Superior Court of New Jersey in Morris County.

After consultation with General Counsel, I will determine if compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,
RODNEY P. FRELINGHUYSEN,
Member of Congress.

SERIOUS QUESTIONS ABOUT AUTHORITY UNDER WHICH ACTION WAS TAKEN TO BAIL OUT THE MEXICAN PESO

(Mr. BARR asked and was given permission to address the House for 1 minute.)

Mr. BARR. Mr. Speaker, today we heard communications from the White House, which were communicated and reverberated around the world, that the President of the United States has made an end run around the Congress, and I think this raises some very troubling problems about the Mexican bailout process.

Just 1 short week ago, Mr. Speaker, we had the top administration officials appear before the Committee on Banking and Financial Services, on which I have the honor of serving, to tell this Congress that the only way, the only way that we could avoid a crisis in the international monetary market and avoid a collapse of the Mexican economy, is if this Congress acceded to the wishes of the administration and provided legislation that would in effect bail out the Mexican peso.

Less than 1 week later, Mr. Speaker, we find out that the administration has another plan, and I call on the administration to come clean with this Congress, to let us know exactly what is going on and to answer some very serious questions about the authority under which this action is taking place, why it was not foreseen and why this administration, through the testimony of the administration officials in the Committee on Banking and Financial Services, appeared to mislead this U.S. Congress and the American people.

BIPARTISANSHIP PREVAILS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute.)

Mr. KINGSTON. Mr. Speaker, last week, when we passed the balanced budget amendment, we took a good step not only toward fulfilling campaign promises, but also for working with each other as Democrats and Republicans because there are about 70 to 80 Democrats who voted on the balanced budget amendment and joined the Republican majority. I think that is a great bipartisan effort. The same thing has happened as we debate the unfunded mandates bill. Many Democrats are not going along with this obstructionism. They are coming over to the majority side and putting the business of the American people first.

During the month of February, Mr. Speaker, we are going to be debating the line-item veto, and the crime bill and regulatory reform. All these are very, very important to our constituents, Democrats, Republicans, big cities, small cities, rural, urban, and I hope that this bipartisan spirit prevails so that we can take care of the business that America demands and do what is best for our great country.

PRESIDENT SHOWS HIGH DEGREE OF LEADERSHIP BY HELPING MEXICO STABILIZE ITS ECONOMY THROUGH GUARANTEED LOANS

(Mr. TORRES asked and was given permission to address the House for 1 minute.)

Mr. TORRES. Mr. Speaker, I think that today's action by the President of the United States in taking his prerogative as a Chief Executive to order an Executive order guaranteeing the $47.5 billion guarantees to Mexico was a prudent move. I believe it sends out a strong signal to the international markets, to the international community, that he is showing a high degree of leadership. Since we in Congress were not able to meet his request, I believe that the President is taking his prerogatives as the Chief Executive to order those guaranteed loans which will go a long ways in seeing to it that the Mexican peso is stabilized, that the economy of Mexico can be stabilized, for not to do so would have a serious negative impact on American workers and on our relationships with that country, not to speak of the problems that it would cause as a domino effect in Brazil, and Argentina and other developing nations.

So, Mr. Speaker, I believe that today's move by President Clinton was an important one and indicates once again that he is willing to make tough decisions in a crisis time like this.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BREWSTER). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CIRCUMVENTING THE WILL OF CONGRESS

Mr. LIPINSKI. Mr. Speaker, today the Clinton administration abandoned its effort to pass a $40 billion loan guarantee to Mexico. The President came to the conclusion that his bailout proposal would have failed in Congress, and he was right.

So what does the administration turn around and do? Instead of really responding to the opposition of Congress, the administration decides to devise a new plan, a new plan which effectively circumvents the will of the Congress. While this new plan includes more international financial support, it also calls for dipping into our country's exchange equalization fund for as much as $20 billion to prop up the peso. This fund, which only holds $25 billion, I might add, is usually only used to help stabilize the U.S. dollar.

Mr. Speaker, this marks the fist time that the fund has ever been used to support any kind of currency other than the U.S. dollar.

Mr. Speaker, I must take exception. I must take exception to how this administration wants to put the Mexican peso before the American people. I must take exception to how this administration chooses to side step the authority of Congress in this matter.

Even with International Monetary Fund support, U.S. tax dollars are still at risk. By avoiding the authority of the U.S. Congress the administration does not have to answer to the elected Representatives of the American people on this rescue plan for Mexico.

How did we come to where we are today? Well Mr. Speaker, it all began with something called NAFTA. Over a year ago, the media hailed it as the right thing to do.

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Meanwhile, the Clinton administration cut deals with various Members in exchange for their vote in favor of the agreement. I and others, however, stood our ground and said "no" to NAFTA. We did so knowing full well the devastating effects such an agreement would have on the U.S. work force and our country's trade position.

Unfortunately, our warnings went unheeded, and today the administration wants to bail out Mexico.

The Clinton administration promised that 100,000 new jobs would be created in the first year of NAFTA. These jobs we have yet to see. Let us take a look at the statistics. Since NAFTA was enacted, United States net imports with Mexico fell more than half. Our trade deficit in electronics has doubled, and we have a $12 billion trade deficit in automobiles and parts. In fact, the overall automotive trade deficit with Mexico has only worsened under NAFTA.

The Department of Commerce estimated that $1 billion in exports supports approximately 20,000 jobs. This means our automotive trade deficit alone has cost our country 32,000 jobs. So how are U.S. workers expected to deal with this? NAFTA's trade adjustment assistance program certainly is not helping, because eligibility requirements are extremely strict and the actual benefits are limited. Many firms have actually consulted their employees and told them not to bother applying.

Labor and environmental side agreements negotiated under NAFTA have proven to be abused.

Now after a year of NAFTA, Mexico has experienced a financial crisis, and Americans, thousands of whom lost their jobs to Mexico, are being asked to foot the bill. Americans are being forced to prop up the peso through a government fund that was set up specifically to help the U.S. dollar.

To me, this is incredible.

Many questions have yet to be answered about the nature of the peso crisis. Reports that the administration knew long beforehand about the situation of the peso also cause the urgency of the situation to come into serious question. During debate on NAFTA, opponents pointed out that Mexico was highly overvaluing the peso and that provisions must be included in the agreement to stabilize the currency relationship. No such provisions were included in the agreement, and look where were are today.

We just passed a balanced budget amendment to the Constitution, and we are being asked to swallow this bailout, and we must ask, will U.S. and international loans really help anyone?

In the Washington Post, Jim Glassman argues that the bailout may only make Mexico's long-term economic problems worse. By being too lenient on the Mexican Government, we are encouraging misbehavior in the future.

Mr. Speaker, the Teamsters and United Electrical Workers unions filed unfair labor complaints against Honeywell and GE companies in Mexico—the National Administrative Office dismissed these cases with no penalties for the companies—a blatant disregard for workers' rights.

Likewise, the environment and public health have suffered a great deal. Are NAFTA supporters aware that a GM plant near the border in Mexico bumped a toxic chemical at 215,000 times the acceptable level? It is no wonder that children's cancer rates have increased dramatically by 230 percent in Brownsville TX—230 percent!

In July 1994, a 13-year-old boy from Texas died from a brain infection after swimming in the Rio Grande.

American health officials traced the infection back to the 24 million gallons of raw sewage from Mexico which is pumped into the river each day.

Mr. Speaker, NAFTA is literally poisoning our children and grandchildren.

William Seidman, former Chairman of the FDIC, who was in favor of NAFTA, opposed the administration's original loan guarantee package. Mr. Seidman said that it bore striking similarities to the S&L bailout of the 80's—and he should know. Mr. Speaker, under this new administration plan, taxpayers' dollars are still on the line.

Mr. Speaker, at best, efforts to prop up the peso are simply a political rescue for the new Mexican Government and a bailout for Wall Street. The Mexican and American middle class will see little direct benefit.

At the very least, the peso crisis gives us reason to step back and take a good long look at what's wrong with NAFTA.

In Mexico where the disparity between rich and poor is so great, we need to slow down, reevaluate the integrity of our trading partner and ask ourselves—who really is going to benefit from the loan guarantee.

We must recognize that the peso instability is not a quick fix situation—the loan package will not alter the underlying structural weaknesses of the Mexican economy. A year or so from now, Mexico may be back wanting more financial aid.

When will it end?

We just passed a balanced budget amendment to the Constitution and we're being asked to swallow this bailout?

And, we must ask, will U.S. and international loan efforts really help anyone? In the Washington Post, Jim Glassman argues that the bailout may only make Mexico's long-term economic problems worse. By being too lenient on the Mexican Government, we are encouraging misbehavior in the future.

Why not just let the Mexican market fix itself? This admittedly may cause investors to lose money, but they assumed this risk, they deserve little sympathy from American taxpayers.

A major issue in last November's election was the fear, the concern, and the insecurity that the American middle class has about their shrinking standard of living. Now, with NAFTA and this billion dollar bailout, we are not only shipping out middle class jobs, but putting an additional burden on the middle class to subsidize another country.

Since 1979, the United States has lost 16 percent of its manufacturing job base—that is 3.2 million jobs lost. The United States has lost these jobs to Mexico. Not to Mexican companies, but to over 1,600 American-owned plants, plants that employ low paid Mexican workers.

I have already heard from a large number of my constituents urging me to reject the peso bailout. These are the same people who knew that NAFTA was not good for this Country. These are also the same people who go to work everyday, live within their means, and are responsible for their own finances.

Mexico and Wall Street could learn a lot from my constituents.

I have cosponsored legislation to repeal NAFTA and legislation which says that no loan guarantee shall be provided which could result in any direct or indirect financial obligations on the part of the American taxpayer. I urge my colleagues to do the same. The American people deserve nothing less.

Mr. Speaker, how can we in good conscience rush to bailout Mexico when we have thousands of people here at home who desperately need our help—many of whom lost their jobs to Mexico?

I am very disappointed that Congress has been denied this say on this issue.

Mr. Speaker, instead of rescuing Mexico and Wall Street, we need to be helping our own citizens achieve a better way of life.

UNFUNDED FEDERAL MANDATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

(Mr. FOX of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, in November the American people clearly demonstrated their disgust with outlandish spending, skyrocketing taxes, and a lack of responsiveness from Congress.

The new Republican majority is working hard to eliminate many of the business-as-usual policies and practices of the past, including the onerous burden of unfunded mandates. The burden of unfunded Federal mandates has become an albatross for many State and local governments and impacts nearly every community at some level.

As a former Montgomery County commissioner in Pennsylvania and a former member of the Pennsylvania State House of Representatives, I have seen firsthand the devastating financial effects such unfunded programs have had on municipal, county, and State budgets.

If the Congress really believes in a program, then the Congress should pay for that program. We can no longer pass the buck on to others. The practice has to end here and now.

Honest reform and accountable government are not only what the public wants to see, they are the right things to do. The American people are sick of legislation which uses smoke and mirrors and accomplishes nothing. We need effective reform, which clearly marks the 104th Congress as different from the rest. Ending unfunded Federal mandates should be at the top of this list.

FDA'S EXPENSIVE NEW FACILITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, one of the most wasteful, inefficient agencies in the entire Federal Government is the Food and Drug Administration.

In their bureaucratic and arrogant way, they have held medicines and medical devices off the U.S. market, sometimes for years, to the detriment of the health of American citizens.

By their rules, regulations, and redtape, they have driven up the price of drugs and have helped the big drug giants by making it extremely difficult or almost impossible for small businesses to compete in the field.

Now, however, they want to do something which should outrage every taxpayer in the Nation.

At a time when we are supposed to be downsizing the Federal Government, the FDA wants to build a Taj Mahal complex of buildings in Maryland for a new headquarters.

Part of this project is to be in Montgomery County and part in Prince Georges County.

However, the important point is not the location. It is the cost.

The original cost estimate for these buildings was almost $1 billion.

However, because the FDA has become concerned about the appearance of this exorbitant and excessive spending at a time when most people want frugality in Government, they have lowered their estimated cost, all the way down to $875 million.

Even if this project comes in on budget, which I seriously doubt, it would still be at a cost of a whopping $257 a square foot.

State governments are building beautiful buildings for half this cost.

And is the FDA doing everything possible to hold down costs? Well, since the money is not coming out of their own pockets, they chose the most expensive site they looked at and some of the most expensive land in this Nation.

The original cost estimate for the Prince Georges facility was $290 a square foot.

The Montgomery County complex is to be several buildings interconnected, in a college campus-like setting, on a 530-acre tract of land—530 acres when they could build a beautiful headquarters on an acre or less.

The fact is, Mr. Speaker, the FDA should be greatly reformed. It should be greatly downsized. It should stay where it is now.

Perhaps the most phenomenal thing of all is the size of this project—3.4 million square feet—to house only 6,500 employees. This comes out to approximately 750 square feet per employee.

Most Members of Congress have approximately 1,000 square feet to house 9 or 10 employees, or about one-seventh of what the FDA wants.

Moreover, FDA's current offices and laboratories occupy 2.1 million square feet of office space.

The new FDA complex will be 3.4 million square feet in size. This is 1,300,000 square feet more than what they have now—a 60-percent increase—at a time when the Federal Government is supposed to be downsizing.

With a national debt of more than $4.7 trillion, we should not be spending almost $1 billion to build plush new quarters for FDA bureaucrats.

The bureaucrats want to live like kings while taxpayers foot the bill.

I am pleased that today, the Citizens for a Sound Economy came out strongly against this project.

I know we have a Government that is of, by, and for the bureaucrats instead of one that is of, by, and for the people, but, Mr. Speaker, this is one I hope we can win for the taxpayers.

□ 2000

THE PRIVATIZATION OF THE HUMANITIES ACT

The SPEAKER pro tempore (Mr. BEREUTER). Under a previous order of the House, the gentleman from Ohio [Mr. CHABOT] is recognized for 5 minutes.

Mr. CHABOT. Mr. Speaker, we've been told time and time again that spending has already been cut to the bone and that we can't cut anything without shredding the fabric of our society. Well, that's not true. All sorts of needless bureaucracies continue to waste all sorts of money and eat a hole in our wallets. Today, I'd like to call attention to one of the more egregious examples I've seen during my first month on the job.

I am referring to the tripe that I and all my colleagues received this past week from the National Endowment for the Humanities.

The NEH produced and sent around to us something called a conversation kit, more formally entitled a "National Conversation on American Pluralism and Identity."

Inside you'll find 20 or so high-gloss pamphlets, some of them 30 or 40 pages long, that contain readings of varying quality, simplistic questions, and the Government's edicts on how folks should talk to each other.

This is the brainchild of NEH Chairman Sheldon Hackney and his band of "culture bureaucrats," as George Will has labeled them. Its basic assumption is that we, as free-thinking Americans, need the Government to tell us how to engage in day-to-day conversations. The plan, as I understand it, is for NEH-types to go around the country circulating these packets and instructing us all how to talk with one another.

Besides assembling arcane questions such as "When do we act as public people and when as private people?" or the more abstract "Where do we belong?" the conversation kit suggests readings by militant feminists such as Patricia Williams and Charlotte Bunch, and provides a list of movies that, quote, "might make good conversation starters." I must thank Mr. Hackney for spending our tax dollars to tell us about a little known film called "Casablanca."

So the American public can see first hand some of Mr. Hackney's handiwork, I ask unanimous consent to include in the RECORD a small excerpt from the conversation kit.

Besides the kit's skewed content, every American should be outraged by the expense of printing these conversation kits. This particular program, I'm told, is going to cost us $1,700,000 just by itself. And remember, given our huge national debt, that's $1.7 million that we don't have and that we're charging to our children's accounts.

Mr. Speaker, the NEH again has thrust the Federal Government into another venture in which it does not belong. And once again, we see the Federal Government pushing its inane, self-righteous agenda on the American public.

These conversation kits may be politically correct, but they're fiscally foolish. They're also insulting to the intelligence of our citizens.

America's filled with sensible, kind, and intelligent people who know how to talk with one another. The last thing we need is a group of condescending academics squandering our tax dollars to tell us how to talk to each other. This is not the proper role of the Federal Government and we need to end, forever, this type of wasteful spending.

That's why I urge my colleagues to join me in cosponsoring Congressman JOE HEFLEY's bill, The Privatization of the Humanities Act. Let's tear down Sheldon Hackney's fiefdom. The critics and the naysayers believe we cannot balance the budget. Well, here's a golden opportunity to begin that process by trimming $177 million of fat from the Federal budget.

Mr. Speaker, I include for the RECORD the following information:

APPENDIX A

CHECKLIST FOR CONVERSATION PLANNING

People:

Do you need to contact organizations that can help you assemble a planning committee and find participants for the conversation?

Does your planning committee have the same racial, ethnic, and cultural diversity as the people you hope will participate?

Have you divided responsibilities among committee members?

Have you identified an effective discussion leader?

Have you appointed someone to take notes or tape-record each session?

Have you personally invited the participants or responded to them personally after they have expressed interests in joining the conversation?

Have you sent information and directions to participants several days before the first session?

Have you made reminder phone calls to participants one or two days before each session?

Content:

Have you decided how to focus your discussion? If there will be more than one session, have you identified all the topics? Or will participants choose the later topics at the first session?

Have you selected the materials—e.g., readings, videos, conversation starters, Scholars' Essays, news clips—for each session?

How will you use the materials? How will you distribute them?

Have you considered inviting an expert to provide background information for the discussion?

Format:

Have you chosen an appropriate conversation format (number, length, and frequency of sessions)?

Do you have an agenda, including time for opening remarks, introductions, and ground rules?

Is the discussion leader familiar with the reading materials and the makeup of the group?

MEXICAN BAILOUT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Today the administration, with the acquiescence of the top leaders in this Congress, announced a sweeping $47.5 billion bailout of the Government of Mexico and its Wall Street creditors by our taxpayers through the instrumentalities of the United States, including our U.S. Treasury, our Federal Reserve, the International Monetary Fund, into which the United States pumps money, and the Bank for International Settlements, on whose board sit the chairman of our Federal Reserve and the chairman of the New York Federal Reserve.

All of this was done without a vote of the Congress of the United States, the only federally elected officials representing the people of this country.

This newest proposal is a perpetuation of the worst kind of manipulative politics, both here in our country and in Mexico. And from a constitutional standpoint, it is absolutely precedent setting in the abuse of power by our own Federal Reserve, in collaboration with the U.S. Department of Treasury.

This new proposal is nothing short of a circumvention of the democratic process and a circumvention of the proper role of the elected leaders of the Congress of the United States.

The administration chose this path because they knew that they did not have the votes in this Congress, nor the support of the American public. In fact, over 80 percent of the American people oppose this bailout.

This new proposal is representative of what is wrong with politics in our country: not reflecting the will of the people.

Federal Reserve Chairman Greenspan, officials in the administration, and the top Republican leadership of this Congress have all exhibited this type of behavior during the present Mexican peso crisis and further through past trade policies which created this mess, an arrogance and abuse of power which knows no bounds.

It is well known that people tend to change once they come into the beltway in Washington.

In October 1979, Federal Reserve Chairman Greenspan told the Senate Banking Committee that a proposed $750 million loan, one-fortieth of what is being proposed here, for near-bankrupt Chrysler Corp. was a bad idea that flew in the face of the principles of free enterprise. This is the same man who by raising interest rates has increased your mortgage payments and increased your monthly credit card payments, eating into your wages over the last 20 years.

Chairman Greenspan and the Federal Reserve are trying desperately to cover their own tracks in this crisis. In fact, it was the Federal Reserve's own interest-rate policies of the past 3 years that helped set Mexico up for a fall.

Low United States rates in 1992 and 1993 led speculators to pump record levels of money into Mexico, some estimating over $70 billion, and other emerging markets, but then the Fed's interest rate increases of 1994, all six of them, led those same investors to pull their money back out and bring it home.

If Chairman Greenspan was so concerned about Mexico, he would certainly not have raised United States interest rates six times over the last year.

The latest increase in interest rates means that if you own a $60,000 home with a 30-year mortgage, your mortgage payments have gone up by an additional $100 a month. And as a result of the Fed's actions, your home will cost you about $1,200 more a year or about $36,000 over the life of your mortgage.

Chairman Greenspan is unelected, unaccountable, and evidently unaware of the people's lives in this country that his policies affect.

There is absolutely no reason that a proposal of this magnitude should not be considered by the Congress of the United States.

Under the Constitution, we have the absolute authority to coin money and to regulate the flow of money between nations. What was done here, very cleverly through the back door, was that an entity within the U.S. Treasury Department, the Currency Stabilization Fund, took deutschemarks and yen that they hold and they said to the Federal Reserve, we will borrow against those. And essentially a flow of funds came from the Federal Reserve to the U.S. Treasury against the terms of the Constitution of the United States, which require all appropriated dollars to be voted on by the Congress of the United States.

INVESTIGATION OF COMMERCE SECRETARY RON BROWN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Indiana, [Mr. BURTON] is recognized for 60 minutes as the majority leader's designee.

Mr. BURTON of Indiana. Mr. Speaker, let me first say that I just listened with great interest to my colleague from Ohio. I think she is right on the money.

I would like for my friends who are paying attention to this special order to know that this is a bipartisan concern about the circumvention of the will of the people and the will of the Congress. I think it is wrong.

□ 2010

Mr. Speaker, there were many of us that worked on the draft legislation for the loan guaranty program with Mexico. In the draft legislation we had many conditions spelled out to protect the American taxpayer and to put in some other things that were very important to our hemisphere.

I am the chairman of the Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Affairs. We put things in there that we thought would put the heat on Castro in Cuba and stop Mexico from giving aid, direct or indirect aid to Castro. We wanted to put $3 billion in hard assets in American banks to protect American taxpayers against a loss or a default. All those things are circumvented by this Executive order.

I think the gentlewoman is right on the money. The people of this country ought to be outraged, as well as their Representatives in the Congress. I congratulate the gentlewoman on her fine remarks.

Tonight I want to talk about another subject, however, because I think it is very, very important and it bears upon the credibility of this Government and this administration. The Secretary of Commerce, Mr. Ron Brown, who is the former chairman of the Democratic National Committee, is once again under fire by the media for possible improprieties that took place since he became the Secretary of Commerce. However, before I get into that, I want to talk a little bit about Ron Brown's background, because I think it is extremely important that my colleagues know what this gentleman has done over the past several years.

Mr. Speaker, back in the early 1990's, in 1991, Ron Brown was involved with an organization called the Chemfix Technologies Corp. The Commerce Secretary has a history of questionable business dealings. This is one of them. None of the charges have been adequately investigated by the FBI or this body regarding Chemfix or any of these other allegations I'm going to talk about tonight. We need to have answers to these questions.

In 1991, columnist Michael Kinsley wrote about Brown's conflicts of interest in the Washington Post. Kinsley's allegations were followed by a television report on "20/20."

While chairman of the Democratic National Committee, Brown was a partner in the law firm of Patton, Boggs, and Blow in Washington, DC. This firm represented BCCI here in the United States.

Brown was also a member of the board of directors of this company, Chemfix Technologies, a Louisiana-based company that helps cities dispose of sewage. Right when the Democratic National Convention was being decided, the committee was meeting to decide whether they were going to hold its 1992 convention in New York, that city gave Chemfix a $210 million contract to dispose of sewage from New York. This deal was made despite complaints from numerous other cities about Chemfix's poor operations, their past performance.

Right after the deal was struck, before the convention, Ron Brown purchased 5,000 shares of stock in this company. The "20/20" report on Chemfix stated that the city of New Haven was so dissatisfied with Chemfix's performance that it tried to get out of the deal. Chemfix refused, and Ron Brown made $100,000 on the stock options. Brown's firm, Patton, Boggs, and Blow, also made hundreds of thousands of dollars doing Chemfix's legal work. This all happened during Brown's tenure as chairman of the Democrat Party.

In responding to Kinsley's column, Brown stated that he had nothing to do with the fact that Chemfix was awarded the $210 million New York contract, and that the contract played no role in the selection of New York City as the site of the 1992 Democrat convention. Right. But as Kinsley wrote, "There is only one reason a Louisiana sewage company would want a Washington lawyer high in Democrat politics on its board, and it's not because of his knowledge of sewage." That is the first time, not the first time, but it is the first glaring example of some possible improprieties on the part of Mr. Brown.

Then, in 1993, a gentleman named Binh Ly from Florida came to see me to talk to me about a deal that was allegedly made between Mr. Brown and a man named Mr. Hao and the Government of Vietnam to normalize relations with that country, even though we had never had an accounting of the POW–MIA's that are still missing. Mr.

Ly said that the Government of Vietnam had promised to give Ron Brown a large sum of money, $700,000, as a down payment for his influence to normalize relations with that country.

Members will recall that this country had made a commitment under President after President after President since the Vietnam war that we would never normalize relations with Vietnam until we had a full accounting of all those POW's and MIA's. It still has not been done, and yet the normalization process has started because of Ron Brown's efforts.

In February of 1993 Binh Ly, this gentleman I'm talking about, was interviewed by the FBI. The FBI gave him a lie detector test, a 6-hour lie detector test, which he passed.

The FBI, after the lie detector test, gave him a briefcase equipped with a tape recorder and a beeper so he could tape conversations between him and Mr. Hao about Mr. Brown's activities. In April of 1993, the FBI mysteriously took the beeper and the briefcase back, claiming budget cuts, and discontinued the investigation.

I might add that Mr. Ly told me that he asked the FBI "Why are you taking the beeper back, because we are trying to get evidence on Mr. Brown," and the FBI man winked at him and said it was, it is because of budget cuts, and the inference was he was getting orders from the top to curtail the investigation into Mr. Brown.

A grand jury investigation was not begun until after an extensive article about Ron Brown's Vietnam contacts had been published in the U.S. News and World Report in the summer of 1993. After denying, Mr. Brown, Ron Brown, Secretary of Commerce, after denying that he had never met with Mr. Hao, Ron Brown admitted later that year in September, 1993, that he met with him not once, not twice, but three times, the third time being at the Department of Commerce, just like Binh Ly claimed.

In October of 1993, ABC News and other news organizations reported that the FBI had obtained two notes faxed from Mr. Hao to the Vietnamese Government stating that his first two meetings with Ron Brown had been a big success, further verifying Binh Ly's statements.

Also in October the New York Times reported that the FBI had uncovered evidence of wire transfers indicating that the Vietnamese Government was preparing to establish a special bank account in Singapore, backing up Binh Ly's statements that the Vietnamese Government was going to pay Ron Brown $700,000 through this bank in Singapore.

They had proven, the FBI had proven, that there was a bank in Singapore, that there were wire transfers, just as Ly said, and the amount was not disclosed, but we estimated, we believe it was the $700,000 that had been promised in the agreement.

In December of 1993 the Federal prosecutor conducting the investigation in Miami, the grand jury investigation, attempted to terminate the investigation without even calling Binh Ly to testify.

We contacted him and said that Binh Ly should testify because he was the principal witness, so the special prosecutor put Binh Ly before the grand jury only when he was ordered to do so by his superiors. This was clearly not a very aggressive prosecutor.

I might add, this prosecutor was not the local U.S. District Attorney in Miami, whom you would normally think would conduct the grand jury investigation. It was a special assistant to Janet Reno, the Attorney General, who was ordered to go down there and conduct the grand jury investigation.

They then said to me and other Members of Congress, they did not say Ron Brown was innocent. They said they did not have enough evidence, in their opinion, to indict him. Because they said they did not have enough evidence to indict him, then he was able to keep his job as Secretary of Commerce and everything went on as usual.

The fact of the matter is, this Congress has never had a complete report on that investigation by the Justice Department. Now that we have a majority in this Congress on the Republican side, we are trying to get a complete documented report from the Department of Justice on the entire investigation, starting with the FBI. We are going to continue to work on that until we get to the bottom of it.

Now we come to the latest allegations that have been in the paper this past week. These are pretty damning as well. These latest allegations are about a lady named Nolanda Hill and Ron Brown, and are very serious and demand a very thorough investigation.

In a nutshell here is what happened. A company owned by Nolanda Hill defaulted on a $40 million debt that the Federal Government inherited, the taxpayers inherited, from bankrupt savings and loans.

At the same time, that same company was paying $12,000 a month to another company that was co-owned by Nolanda Hill and Ron Brown, so while she was defaulting on a $40 million obligation to the taxpayers of this country, and the same company that was in bankruptcy, she was paying $12,000 a month to another company in the same office that was owned by her and Ron Brown.

The second company, First International Communications, was located in the very same office as the company that defaulted on the loans.

Now let us talk about First International Communications. In the 1980's Ron Brown and Nolanda Hill formed a partnership. They named it First International Communications. Nolanda Hill owned a second company named Corridor Broadcasting.

□ 2020

Corridor Broadcasting borrowed $26 million from two savings and loans in Texas and New Mexico to buy two television stations, one here in Washington, DC, WFTY, Channel 50, and the other in Needham, MA, WUNI, Channel 27. Corridor also borrowed an additional $23 million from another savings and loan.

Nolanda Hill's company, Corridor, eventually defaulted, as I said, on both of the loans, the savings and loans failed, and the $40 million in bad debt was inherited by the taxpayers, the Federal Government.

Interestingly enough, Corridor Broadcasting, Nolanda Hill's company, and First International Communications, the partnership between Nolanda Hill and Ron Brown, as I said, were in the same office. Ron Brown has stated repeatedly that he never invested any of his own money in First International. He also stated many times for the record that there were never any ties between Corridor Broadcasting and First International.

However, it was just revealed this month that First International's only substantial source of income was the $12,000 a month in interest payments coming from Corridor Broadcasting on a loan of $875,000.

Here you have Ron Brown saying there is no connection between the two companies, and yet there was a loan from one to the other and the defunct company that was in default to the taxpayers to the tune of $40 million was paying $12,000 a month in interest to the other company, while Ron Brown said there was no connection.

In other words, at the same time that Corridor Broadcasting could not afford to repay $40 million in debts that had been inherited by the taxpayers, it could still afford to pay $12,000 a month in interest to Nolanda Hill and Ron Brown.

Ron Brown's lawyer has recently stated that Ron Brown did not know that First International had made a loan to Corridor Broadcasting and was not directly involved in First International's operations.

Here are some questions that need to be answered:

If Ron Brown was one of the two partners in the firm, how could he be ignorant of the firm's sole source of income? It is beyond comprehension.

If Ron Brown did not invest any of his own money in First International, what was the purpose of including him in the partnership? Was it to use his influence, first as chairman of the Democrat Party and then as Secretary of Commerce?

Three. Where did the $875,000 come from that First International loaned to

Corridor Broadcasting? Nobody said where did that $875,000 come from? Where did it come from?

It has been alleged, as I said before, that the Government of Vietnam wanted to pay Ron Brown $700,000 for his influence to get the embargo on Vietnam lifted, and according to the FBI, there was an electronic transfer from the Government of Vietnam to this bank in Singapore, and here all of a sudden we have a mysterious $875,000 turning up that was invested into this corporation. And Ron Brown said he does not know anything about it.

If Corridor Broadcasting could not afford to repay the taxpayers of this country, the Resolution Trust Corporation, and the Federal Deposit Insurance Corporation, how could it afford to pay $12,000 a month in interest to Secretary Brown and Nolanda Hill?

Let us talk further about Ron Brown and this possible payoff that we were talking about. Ron Brown was nominated to be Secretary of Commerce in December 1992. He was confirmed by the Senate in January 1993. He owned a share of First International Communications throughout 1993, although he did not pay anything for it, but he owned a share in it. He did not pay anything for it.

Listen to this. He owns a share in it and did not pay anything for it, yet he received roughly $135,000 in payments from First International in 1993. That is a pretty good investment. It didn't cost you anything and you get $135,000. This was the year that Corridor Broadcasting's loans were finally written off by the Federal Government.

So while Corridor Broadcasting is going down the tubes, First International, which is getting $12,000 a month in interest payments, paid him another $135,000.

In December 1993, he sold his share of the company back to Nolanda Hill because of the bad publicity, and, get this, he did not pay anything to own part of the company, but he got between $250,000 and $500,000 for his one share of stock.

He got $135,000, then when he sells his share of stock back, he gets almost half a million dollars with no investment.

However, it has just been revealed that in 1994, Nolanda Hill spent an additional $190,000 paying off personal debts of Ron Brown. Their attorneys state that this was part of the transaction in which Secretary Brown liquidated his holdings in First International.

So we have got $135,000. We have got between $250,000 and $500,000. Now we have another $190,000. And all this with no investment.

It is unclear if this $190,000 was part of the payment listed on Secretary Brown's 1993 financial disclosure statement or if it was in addition to that amount.

Here are some questions:

If Secretary Brown did not invest any of his own money in First International and most of its ventures were total failures, how could his shares be worth almost a half million dollars? Everything was a failure. He put no money into it. How could it be worth a half a million dollars?

Did Nolanda Hill repurchase these shares at fair market value, or was this a gift to Secretary of Commerce Brown?

Three. What was the total amount Secretary Brown received from Nolanda Hill? Was the $190,000 Nolanda Hill used to pay Ron Brown's debts part of the money reported on Secretary Brown's financial disclosure report for 1993 or was it in addition to that amount?

Four. If Ron Brown did not invest any money in First International, then all the money he was paid when he divested himself should be considered a capital gain.

Question: Did Secretary Brown pay capital gains taxes on all these funds, including the $190,000 paid to him last year to pay his debts?

There is another corporation in this same office, a third one, called Know, Inc. Nolanda Hill owned a third company, Know, Inc. Oddly enough, Know, Inc. was in the same office as Corridor Broadcasting and First International.

In 1992, Nolanda Hill loaned Ron Brown $78,000 through this third corporation.

We have got $135,000, he got $190,000 and he got somewhere between $250,000 and $500,000. Through this third corporation he got $78,000 so he could pay off another debt. According to the Washington Post, Brown needed to repay a debt to the National Bank of Washington before his Senate confirmation hearings began.

Nolanda Hill—now, get this—she loaned him $78,000 to pay off his debts. And now Nolanda Hill later forgave the debt and did not require Ron Brown to pay it back.

So here he is now. He has got $135,000, $190,000, probably a half a million dollars, and now he has got $78,000 in a note that is forgiven. All with no investment.

Questions:

If Nolanda Hill could not afford to repay the taxpayers any of the $40 million she owed, where did she keep coming up with all this money for Ron Brown? Did Secretary Brown report this $78,000 as income on his financial disclosure statement? Did Secretary Brown report this $78,000 on his income taxes, and why did Nolanda Hill have so many different companies, if they were all located in the same office? Could it have been to shield herself from paying off legitimate debts that the taxpayers are now paying to the tune of $40 million?

The FDIC announced this week that they are launching an investigation of Nolanda Hill's defaulted loan. In addition, 14 Senators have written to Attorney General Reno to ask for a thorough investigation of this entire matter. A thorough investigation of this whole mess is absolutely necessary and an independent counsel is probably necessary. Congress in my opinion must also continue to investigate all of these nefarious activities or apparently nefarious activities of Ron Brown that have taken place for the last 5 or 6 years that have garnered him probably millions of dollars.

I would just like to say that we have tried for the past couple of years to get an independent counsel to investigate the allegations of the Vietnamese affair and we have done that without success.

We have brought to the attention of the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the Committee on Government Reform and Oversight, and I believe that the gentleman is already looking into this and hopefully we will have a very thorough investigation not only into these latest allegations against Ron Brown but also into these others.

I hope the FDIC and the Internal Revenue Service will take a very close look at his ethics reports as well as his income taxes, because if all of that stuff is on his income tax reports, he must have paid a heck of a lot of money in the last couple of years.

□ 2030

Mr. FOX of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to my colleague, the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding. I would ask the gentleman from Indiana, if the Speaker will permit, a few questions if I may in regard to his presentation.

First, does the law impute that the Commerce Secretary would be knowledgeable of the questionable transactions of his firm?

Mr. BURTON of Indiana. Does the law require that?

Mr. FOX of Pennsylvania. Would the law impute, in other words, based on the transactions the gentleman spoke of and the fact it was in his firm, would they automatically assume that the Secretary would have known?

Mr. BURTON of Indiana. I would think that any investigative attorney would question highly a partner in a firm with these kinds of resources.

Mr. FOX of Pennsylvania. Especially with the size of the amount.

Mr. BURTON of Indiana. Not knowing about the activities of one of the partners, so it is beyond comprehension to me that Mr. Brown would not know of these activities.

Mr. FOX of Pennsylvania. Would the gentleman further yield?

Mr. BURTON of Indiana. Sure, I am happy to yield to the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. Are members of the Cabinet required to file statements of financial disclosure?

Mr. BURTON of Indiana. Yes; they are.

Mr. FOX of Pennsylvania. Would the transactions that the gentleman listed or discussed here this evening be noted on the Secretary's financial disclosure form?

Mr. BURTON of Indiana. Yes; I believe all of these activities should be very thoroughly documented in his report, and that is one of the reasons why I believe that the Senators and those of us in the House are asking the FDIC, and other agencies of Government to take a close look at those, and his income tax returns, because we question whether or not this stuff has been reported.

Mr. FOX of Pennsylvania. Mr. Speaker, will the gentleman further yield?

Mr. BURTON of Indiana. I am happy to yield.

Mr. FOX of Pennsylvania. Based on the issue of credibility and questionable activities you have outlined, does this loss of confidence make it difficult for the Commerce Secretary to be fully effective, in your opinion?

Mr. BURTON of Indiana. Yes; and I think one of the things that we should do is we should write a letter to the President, and I believe we will probably have one drafted sometime tomorrow asking the President to have the Commerce Secretary step aside while this investigation is taking place so it will not cast any aspersions on the administration. You know, the administration has had a lot of problems in the past year with not only allegations but proven allegations being made public on a number of administration officials, Web Hubbell and Mr. Altman and others, and Mr. Nussbaum, and as a result those people having been forced to resign, and I think the administration would be well advised to ask Mr. Brown to step aside. They do not have to ask him to resign his post if they do not want to, but ask him to step aside so he does not conduct any of his official duties while this investigation is taking place.

Mr. FOX of Pennsylvania. Only the U.S. Senate has the right to confirm Presidential appointees and Cabinet members. What options does this House have to investigate a Cabinet member as far as you know?

Mr. BURTON of Indiana. The chairman of the Government Operations Committee or Government Oversight and Reform Committee has the right to hold hearings on suspected inappropriate activity on the part of a member of the executive branch; much like the Banking Committee held hearings on the Whitewater investigation last fall.

So, I think since the Resolution Trust is involved and a default of $40 million of taxpayers' money, then I think that possibly the Banking Committee, as well as Government Reform and Oversight Committee would have jurisdiction and we could both have hearings.

Mr. FOX of Pennsylvania. So it is your opinion then that the Banking Committee under JIM LEACH and Government Reform and Oversight Committee under Congressman CLINGER could in fact hold appropriate hearings to get the appropriate and honest and fair information regarding this matter so Congress would have and the American people would have a proper view of these circumstances, am I correct?

Mr. BURTON of Indiana. Yes, I think that should be done. And I also believe we should seriously consider urging that an independent counsel be appointed to thoroughly look into all of these activities I have alluded to. If we can get the Justice Department and FBI to give us a thorough accounting of what went on in the Vietnamese affair I talked about, I think that that probably would give Chairman CLINGER in this particular case reason to hold hearings on that subject alone. I really believe that.

But if that were not enough, then certainly these latest revelations would lead Chairman CLINGER to hold not only hearings here, but also to urge that we have an independent counsel investigate this.

Mr. FOX of Pennsylvania. If the gentleman will further yield, one final question. Inasmuch as the Federal Deposit Insurance Corporation is already conducting an investigation in a related portion of the matters you have raised before the House tonight, would the Commerce Secretary's involvement as part of the overall investigation be appropriate by FDIC, or do you believe it should be a committee of the House?

Mr. BURTON of Indiana. I think the FDIC is looking into this already, because it involves taxpayers' moneys and loans from the Federal Government. And so I think that the FDIC is going to look into this at the request I believe of Chairman CLINGER and others.

I also think there should be an audit of Mr. Brown's tax returns because of the tremendous amounts of money and loans that were given to him and were forgiven, to see if they were declared as income.

So I think there should be a number of agencies involved in this investigation: FDIC, the IRS, independent counsel, as well as the House and Senate Committees on Government Oversight.

Mr. FOX of Pennsylvania. If the gentleman will further yield, I would say I know the Members of the House appreciate your bringing these issues forward because the very foundation of our democracy is we are a nation of laws and not men.

And Congressman BURTON, I appreciate your bringing this forward tonight. I hope you will continue to advise the House of whatever matters come before you or Chairman CLINGER, so we are aware of what is happening and the American public has a chance to weigh in as well.

Mr. BURTON of Indiana. I thank the gentleman from Pennsylvania for his participation in this special order, and I agree with him that we should continue these special orders to illuminate issues of national concern.

One of the problems that we have in this country right now is there is not a great deal of confidence in government. I think the last election showed that very clearly. And when you have member after member of the administration quitting or being forced to resign under a cloud, it creates more doubts and concerns among the electorate and the people of this country. So I think what we have to do is reinstill confidence in them that the Government is honest, that the people that are running the Government in both the executive and legislative branches are honest, and if we find some wrongdoing, that needs to be brought out in the full light of day through hearings or investigations. And that is why we urged during the Vietnamese debacle there be hearings, but we were not in the majority at that time and could not get it done.

Now that we are in the majority, we should have full and fair hearings. I do not think it should be we are tying him up and tar and feathering him and carrying him off over into the sunset. I think they ought to be fair hearings with fair questions being asked and expecting fair answers from Mr. Brown and his associates.

But these things that are in the paper are going all across the country right now, and the people I am sure are shaking their heads and saying, "Oh my gosh, there is another corrupt government official." And we need to get to the bottom of it and get to the bottom of questions like this.

Mr. FOX of Pennsylvania. I hope the gentleman will get back to us through this forum of the special orders or within our Committee on Government Reform and Oversight because I know the gentleman from Pennsylvania [Mr. CLINGER] has a full plate with many of the Contract With America items, but I know he has made a priority your discussion with regard to restoring public confidence in public officials. We look forward to hearing further.

Mr. BURTON of Indiana. I thank the gentleman. Let me just say next week we will be taking a special order going into some other activities in the administration which I think will be of great interest to my colleagues.

With that, I yield back the balance of my time.

FINANCIAL STABILITY OF THE UNITED STATES GOVERNMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 60 minutes as the designee of the minority leader.

Mr. DEFAZIO. Mr. Speaker, this evening we would like to address two subjects having to do with the health of the economy of the United States, and the financial stability of our Government. And they go to the proposed or pending interest rate increase before the Federal Reserve Board, and the announcements today made by the administration regarding the Mexican bailout which apparently now will be done by administrative order.

I would like first to start, since it has not happened yet, perhaps we can prevent a disaster, start with the proposed interest rate increase by the Federal Reserve.

Six times in the last year, a record, the Federal Reserve Board has seen inflation somewhere over the horizon and raised interest rates.

□ 2040

Those six increases have hit hard at anybody in America who has to borrow money, families who want to borrow money to buy a house, individuals who want to borrow money to buy a car, people who want to start or continue with a small business, homebuilders and others. They have been hit time and time again by the Federal Reserve raising interest rates, this latest pending increase estimated to be one-half of a percent.

Now, just think about it, this is a group that will meet in secret. The Federal Reserve meets in secret. They are accountable to no one. Calls were recently placed down there by my staff regarding the Mexican peso bailout, and we were told there was no business of the Congressman what involvement the Federal Reserve might have with our tax dollars and reserve money that underlies our bank accounts. They will meet in secret, and they will consider a policy change that is likely to raise this year's deficit by $2.5 billion.

It is likely, according to the homebuilders, to drive a medium-priced home beyond the reach of 1 million families in America. That is after they have already driven up prices of mortgages by more than $200 a month on a $100,000 home in the last year. This single increase will drive up the mortgage on a $100,000 house by about $1,600.

Now, here we are squabbling over these proposals to reduce taxes by a pizza a week for every American family, and the Federal Reserve in secret with no accountability to the U.S. Congress or the elected representatives of the people is going to unilaterally impose a policy that will increase the deficit by $2.5 billion, will increase the price of a home for a modest family, a $100,000 home, by $1,600 per year with no public scrutiny, no hearings, and no accountability. It is absolutely outrageous.

Furthermore, they have adopted a policy now, they think that any rate of unemployment less than 6 percent is inflationary. God forbid that wages should go up a little bit in this country. They have not gone up for your average family in the last 20 years, and the Federal Reserve has a concerted policy to make sure that does not happen. They consider a wage increase for working Americans to be inflationary.

Yet we had a wire story today that said we had the least pressure on employment costs since those statistics have been kept. Yet again, the Federal Reserve is going to preemptively raise interest rates with a concerted policy to put tens of thousands more Americans out of work. Remember, it used to be 4 percent was considered full employment in this country. Now they say 6-percent unemployment is full employment. That is 3½ million Americans who are going to be deprived of their jobs by the Federal Reserve because the Federal Reserve sees inflation that does not exist.

Furthermore, Alan Greenspan, the Chairman of the Federal Reserve, appointed by the last Republican President, has said that we overstate inflation in this country. He testified just last week before the Banking Committee and said, "Well, you know, the CPI overstates inflation by 1 to 1½ percent." That means, according to Alan Greenspan's own numbers, inflation is at more than a 30-year low in this country. Yet they are going to go back to the well one more time. They are going to raise interest rates again. They are going to raise the price of houses again, refrigerators, anything you buy on time will be increased.

Why? Not because there is a real threat of inflation, but because it is being demanded by Wall Street.

Now, it is an interesting question who makes monetary policy in this country, who controls the currency of the United States. And are we running this Nation for a few select bankers on Wall Street, or are we running this Nation for the American taxpayers? That brings up the Mexico bailout.

The gentlewoman from Ohio [Ms. KAPTUR] found a very interesting quote in the Wall Street Journal, and I thought you might want to present that.

Ms. KAPTUR. If the gentleman will yield, I thank you for your tremendous work on focusing on the Federal Reserve and the important role they play in this country. They are unelected. They do not have to come up here. Most Americans do not know who the Board of Governors of the Federal Reserve are, and yet all of the money that the citizens put in their banks back home, those banks, if they should choose, and most of them do, then pay dues into the Federal Reserve System.

They are organized by districts around the United States. The closest one to me is in Cleveland, OH, since I live in the State of Ohio. Those banks belong to the Federal Reserve here in Washington.

It is my opinion not all Federal Reserve district banks have the same importance in the system, because it was not the banks that belonged to the Cleveland Federal Reserve that got into all the trouble 12 years ago or 13 years ago in making those loans to Mexico. It was largely money-center banks in New York City that caused all the trouble. Yet our member banks back home had to help cushion those blows. They were forced to charge higher interest rates to their customers.

They did not cause the damage in the system, and I think what we have here is the predominance of one set of money-center banks from Wall Street and their related brokerage houses doing business in very close communication, not open to the general public. Of course, I mean, they do not see this happening.

But yet they draw money in from the system, do things with it that causes problems, and they become very powerful in making economic decisions for this country.

The gentleman was asking me about an article in the Wall Street Journal today. You know, we have been trying to figure out why interest rates are going up in the United States when there is no inflation, when people's wages are not going up; in fact, people are taking benefit cuts all over this country. We have so many part-time workers and temporary workers and people who are being outsourced, downsized, restructured, redeployed. There are all kinds of names for this.

And you ask yourself why would interest rates be going up in the United States. Well, they are not really going up because of what is happening in this country, but the markets are reflecting, our market here, and the interest rates, are reflecting draws on the system because of decisions made by money-center banks and large corporations in other countries.

The closest one at the moment is Mexico. I believe interest rates are going up in this country because the market is taking it out on the American people, the banks that have a lot at risk and have made some bad decisions, and the brokerages that borrow from them have made some bad decisions. And now the American people are having to pay for it in their checking accounts, in the mortgage payments that they make, as the gentleman said, and what you mentioned in terms of the price of a $100,000 house.

I know I figured it out for a $60,000 house in Toledo, OH. The interest rates over last year will cost that family $100 more a month, $1,200 more a year.

I do not care how much tax-cutting we do this year in this Congress, we are not going to be able to offset the real dollars people are paying every day through the worst taxes of all, which are these higher interest rates people pay on their credit cards and cars and on their homes.

Some of the people that are causing the trouble were talked about today beginning on page A3 of the Wall Street Journal in an article called "Mexico's Currency Plunges Nearly 10 Percent," and it continues on page A8. We have been asking the Clinton administration for a list of who Mexico owes money to, who are the creditors that are supposed to be bailed out. Of course, they have not sent us an answer.

It is very interesting what it says in the top paragraph on page A8. It says that if the Congress and the taxpayers were to bail out Mexico, one beneficiary would be the firm that Treasury Secretary Robert Rubin used to run, Goldman, Sachs & Co., which ranked as the No. 1 underwriter of Mexican stocks and bonds in the United States and European markets for 1992 through 1994. In those 3 years, according to Security Data Co., Goldman underwrote over $5 billion worth in Mexican securities compared with $2 billion for the securities unit of J.P. Morgan & Co. Third was Bear, Stearns & Co. at $1.8 billion.

So I would guess that even though the administration and the Treasury Department have not provided us with the specific list of creditors that we are looking for, we can begin by reading between the lines here and see whose wallets are really on the line.

Mr. DEFAZIO. If I could interject at that point. There is an excellent quote which plays off that in the business section today of the Washington Post, page D1, where the vice-chairman of Goldman, Sachs, Robert Hormats, says the prestige of the President, the Fed Chairman, and the leadership of both Houses in Congress has been committed. If Congress were to kill the aid package, the feeling in the rest of the world would be that we are a nation in disarray, a country incapable of addressing a crisis. The psychological blow would be enormous.

I wonder if Mr. Hormats is really talking about the blow to the United States of America and the people whom I represent who have not been speculating in Mexico, or is he talking about the blow to Goldman, Sachs, who has done 5.2 billion dollars' worth of business in Mexico for the last 3 years.

If we are taking about that, I am really concerned what is being proposed now by the ex-director of Goldman, Sachs, the Secretary of the Treasury, is to bail out Mexico now through an Executive order, not through coming to the United States Congress.

□ 2050

They found the Congress exerted, in this case, uncommon good sense; they said "Wait a minute, we don't see the collateral or the national security interests. Why are we looking at this $40 billion bailout?"

I see the gentleman from California [Mr. HUNTER] has arrived.

Mr. Speaker, I yield to the gentleman from California.

Mr. HUNTER. I thank my friends for continuing to discuss this issue. I think there is an even greater issue now that I hope all of Congress will start looking at and the American people will look at, and that is the whole underpinning of this blind adherence to free trade that those in the executive branch and many of our colleagues and friends in Congress have adhered to over the last 10 years or so. If it is true, if these apocalyptic claims by the Goldman-Sachs representatives of the world are true, if you want to have a poor person Mazatlan send me a thousand dollars, if that is true that we really have tied the United States and the well-being of our people to the fortunes of a Third World nation which we cannot control, then there is a fundamental flaw in our free trade philosophy.

What that means is we have handcuffed ourselves pursuant to the deep breathers, the free trade advocates, to a drowning swimmer, somebody who cannot swim.

I am talking about Mexico and other Third World markets, so-called emerging markets that our investors have put billions of dollars into. That is not a fundamentally sound economic policy for the United States to follow.

So the people that helped engineer NAFTA I think have to answer a couple of questions. First, they have to prove that this is an apocalyptic situation—and I do not think it is—and I think Bill Siederman and other responsible conservatives, moderates, and liberals in the economic world have made good statements with respect to that. But if our free trade philosophy has handcuffed us to these nations that cannot swim, has put us in the deep water and said "Have a nice day," then that is fundamentally unsound and fundamentally flawed and we should rethink free trade for that reason.

I think the gentlewoman from Ohio [Ms. KAPTUR] the lady with the rose, who has always had such an articulate viewpoint on this very important issue and keeps coming and coming and coming on this issue on the House floor, trying to persuade our colleagues to take a seek look at this blind adherence to free trade. I think in the aftermath of NAFTA and this debacle a lot of Members are starting to disengage themselves from their idealistic philosophy and look at the real world.

I thank the gentleman from Oregon [Mr. DEFAZIO] also for his work because he has been here night after night working on this issue. I thank the gentleman for what he is doing.

Mr. DEFAZIO. I thank the gentleman.

Mr. Speaker, I see the gentleman from Vermont [Mr. SANDERS]. I say to the gentleman we are discussing both the Mexican bailout proposal and also more generally the policies of the secretive Federal Reserve Board that is obviously hand in glove involved with the bailout of Mexico.

Mr. Speaker, I yield to the gentleman from Vermont.

Mr. SANDERS. I thank the gentleman for yielding.

Let me congratulate the gentleman from Oregon and Ms. KAPTUR and Mr. HUNTER for their excellent work.

I find myself just a little bit nervous in agreeing with the gentleman from California [Mr. HUNTER] with whom on many issues we do not have much in common. But the point I just heard him make is an excellent point.

It frightens me to think that if the global economy means that the future of a decent standard of living of the American people rests on the prosperity of an authoritarian corrupt government in Mexico, then we are in very, very deep trouble. It also seems to me that in a time when this Congress and this President are having such a difficult job improving the standard of living of every ordinary American—today there was a piece in the paper which indicated there are about 6 million children in America under the age of 6 who are living in poverty. We have the highest rate of childhood poverty in the industrialized world. Forty million Americans have no health insurance. We are losing millions of decent manufacturing jobs to Third World countries.

We have enormous problems in this country, which this Congress, this President, President Clinton, and President Bush and others have been unable to solve. If we cannot resolve our own problems how in God's name are we going to be running the country of Mexico?

So I would simply suggest that we leave to our Mexican friends the difficult charge that they have to run and try to improve the lives of their people and that we should try to concentrate on our own needs here.

The other point that I would make is that I was at a Banking Committee hearing last week and at the meeting in pursuing the bailout for Mexico we had the Secretary of State, Warren Christopher, we had the head of the Federal Reserve, Mr. Greenspan, and we had the Secretary of Treasury, Mr. Rubin.

My, my, my, all of these heavy hitters working night and day trying to help us bail out Mexico, and yet I look at what happens to family farmers in Vermont working 80 hours a week losing their farms; 2 million people in America who are homeless; children who are hungry. Where are the heavy hitters who are standing up and saying we have an emergency right here in the United States of America. Our standard of living is in decline, let's pay attention to that need.

So I get a little bit resentful, a little bit resentful when all of this energy, all of this big money focuses on bailing out Mexico and yet the needs of the American people seem to be ignored.

Mr. DEFAZIO. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. I would like to add a point to that in terms of who are wiling to bail out and who are not willing to bail others out. One of the most advanced industries in our country is the airline industry. Every day we see newspaper articles in papers across this country about the fate of USAir. That is one of our major carriers, which serves my hometown and has served different parts of the Northeast.

There has been no surge as far as I have noted from those same three gentlemen mentioned by the gentleman from Vermont, who appeared before the Committee on Banking to try to help USAir work out of its situation or its handsome losses over the past several years, to keep thousands and thousands of people on their jobs.

I have not seen any phone calls or comments made by anybody over at Treasury. In fact, it is interesting if you look at the Chrysler situation several years ago before I got to the Congress, Alan Greenspan at that time was opposed to any Federal involvement in the Chrysler bailout.

Whether you agreed with the Chrysler bailout or you did not agree with the Chrysler bailout, they paid their money back with interest, as Lee Iacocca will remind us no matter where you meet him anywhere in the country; he was opposed. Yet he is for this, one of the chief sponsors of this effort to try to find a way, back doorway now of getting our taxpayers and our banking system to bail out Mexico. Yet when one of our own companies has been in trouble, now USAir needing a little bit of help, I have not seen the Secretary of the Treasury on the telephone or the Chairman of the Federal Reserve with the head of USAir.

So I would agree with the gentleman.

While I have the floor for a moment I just want to commend the gentleman from California [Mr. HUNTER] who has also been on this floor so many evenings trying to give some incredible speeches that reached far beyond the Beltway into the hearts and minds of the American people, trying to show the people a new road, not a road that closes off America but a road that is fair to American workers and builds democracy abroad.

That is what we should be about here. For those of us who have fought this long fight it is a great fight to be in because we know we are right. The American people are now listening. They know something is up.

I thank the gentleman from Oregon for having this special order this evening.

Mr. DEFAZIO. The interesting problem is that we have been somewhat successful. I think when we first started to speak out against the Mexican bailout it was pretty lonely. The Republican Speaker and the Republican majority leader in the Senate went down to the White House to meet with the President, Alan Greenspan, Secretary of the Treasury, Democrat President. We had a bipartisan agreement that it was in the national security interest of the United States to bail out Mexico and rush something through the Congress. But then a few of us started standing up and asking embarrassing questions about why this was necessary, why the haste, what was the collateral, what exactly was the national security interest. These are questions of cost that have never been answered, and in fact that is why they will not try to have to move that legislation through the House. They do not want answers to those questions, the list that the gentlewoman from Ohio provided about exactly who holds these securities that are at risk. They are trying to come in and tell us it is pension funds.

□ 2100

Well, we made some calls in my district, and I know other people have, and we have yet to find anybody managing a pension fund that will admit that they were speculating in junk bonds in Mexico, bonds that paid between 20 and 50 percent interest.

Now I do not think there are very many prudent pension managers around the Nation who are engaged in such speculation, but apparently Goldman Sachs was into Mexico very big time, $5.2 billion over 4 years, and who knows how many of their clients were at risk here, as opposed to Goldman Sachs itself as a firm, and how much liability they might have for having provided poor advice to their clients talking about the emerging markets of Mexico, but in our success it appears we are about to be short-circuited.

Where we could not get $40 billion out the front door, it appears that the President is going to attempt to take $40 billion out the back door, still working hand in glove with the Federal Reserve with secret amounts of money under terms not to be disclosed to the people's Representatives in the Congress, working through the International Stabilization Bank. How much of the money being channeled through the International Stabilization Bank is flowing out of our Federal Reserve, working through the International Monetary Fund? How much of the money coming through the International Monetary Fund is money being channeled by the Federal Reserve of the United States of America? I have not heard the outcry in Europe that we must stabilize Mexico in order to stabilize the world economy. I have not heard those cries, but we certainly heard the cries coming from the people running Goldman Sachs in Wall Street.

So, now it turns out that the President, even though he came to the Congress in a bipartisan way to propose this bailout, has decided, well, actually he did not need the authority anyway, that there is another way to structure this bailout using section 5302 or chapter 31, section 5302, of the U.S. Code stabilizing exchange rates and arrangements.

The gentleman from Vermont [Mr. SANDERS] is on the Committee on Banking and Financial Services, and I know the gentlewoman from Ohio [Ms. KAPTUR] is more versed than me, but the way I read this, Mr. Speaker, it allows us to engage in short-term swaps or exchanges of funds to defend the U.S. dollar, not 10-year loans to bail out a failing government in a collapsing economy.

I ask, "Would you want to address that for a moment?"

Ms. KAPTUR. I am glad the gentleman brought up that point. Before I address that, let me just say that through our efforts 80 percent of the American people oppose this effort to try to prop up the peso so that Mexico can pay its debts to Wall Street speculators. What is interesting is the Wall Street Journal today also said that 75 percent of the residents of Mexico City, the people of Mexico, were against the loan guarantee packages as well, so if the people of the United States are against it, and the people of Mexico are against it, who is it that is ramming this through?

And the gentleman asked about the Banking Committee. In my 8 years that I spent on the committee, Mr. Speaker, I never saw the Currency Stabilization Fund used for this purpose. It was always used in small amounts, never to the tune of $20 billion. We are trying to research back to see the largest such use of the fund. Maybe we found $2 billion back 10 years ago, but never to this extent, and never to defend the debts owned by another country. This is a very precedent-setting move that is occurring here.

In addition to that, there is an additional, around $17.5 billion, coming through the International Monetary Fund, and at the moment it is unclear to us whether that is $17.5 billion in new money because the U.S. contribution to the IMF has to be appropriated dollars through here. Are those old dollars? Are those new dollars? Where are those dollars coming from?

And then the third element of this is the International Bank for Settlements, which is $10 billion, and it is very interesting because the Bank for International Settlements has a board just like the Federal Reserve. It has 24 members on the board. The United States has never participated on that board before. We were not making payments. All of a sudden who ends up on the board of the 24 most recently? The Chairman of our Federal Reserve, Alan Greenspan, and the chairman of the New York Fed, Bill McDonough, all of a sudden. And Citibank, surprise, surprise, is all of a sudden making payments into the Bank for International Settlements.

Now if it would happen that the debtors could not pay their debts, the burden of the Bank for International Settlements falls to the member countries to pay back. So they have a lot of different names, but it is the same people in these different institutions, and it all comes back right here, to the taxpayers of the United States, and every single economist that came before our hearings that the gentleman from California [Mr. HUNTER], and the gentleman from Oregon [Mr. DEFAZIO] and the gentleman from Vermont [Mr. SANDERS] helped us organize about a week ago, every single person said this was a set of credits that had high risk. This was not something where there was certain repayment. They expected losses. So, we expect that there will be claims that will be made on the taxpayers of our country under this new scenario.

So, the gentleman is correct. I think what the President has done is just pushed the definition of what is in that section to the limits both in terms of his own authority and the amount of funds that will now be drawn down for the purpose of, not propping up the dollar, but propping up the debts that are owed to creditors by the Government of Mexico.

Mr. DeFAZIO. Mr. Speaker, I yield to the gentleman from Vermont for a moment.

Mr. SANDERS. Mr. Speaker, the gentlewoman from Ohio [Ms. KAPTUR] mentioned that she read in the Wall Street Journal, I gather, that not only are the vast majority of the American people in opposition to this bailout, but in Mexico City, for interesting reasons having to do with the sovereignty of the Mexican people, very strong opposition to this bailout as well. So, on one hand you have the American people in opposition. On the other hand we have the Mexican people in opposition.

But probably in the Wall Street Journal, if we went to the editorial page of the Wall Street Journal, let me guess. The Wall Street Journal is strongly in support of the bailout, which takes us back to the scenario that took place some 14 months ago when we debated this issue of NAFTA right here on the floor of the House.

And interestingly enough the proponents of this bailout are trotting out all of the same figures once again. We have all of our former Presidents who told us what a great deal NAFTA would be. They are out again. And all of the former Secretaries of the Treasury who told us what a great deal NAFTA would be, they are out again. And all of the major newspapers in America and all of the large corporations in America who told us that NAFTA would significantly improve the standard of living of Mexican workers, why they are out again telling us editorially what a good deal this bailout would be.

The truth of the matter is that, and I say this, and I know you have made this point before: We are not gleeful, we are not delighted to say that we were right about NAFTA and they were wrong. We are not gleeful. But we do think it would be helpful for some of these editorial writers and the Wall Street Journal, instead of saying, "Let us pump another $40 billion of loan guarantees into Mexico, and then maybe they may want to acknowledge that they were wrong and that maybe we want to rethink."

And I know that the gentleman from Oregon [Mr. DEFAZIO] has introduced a very important piece of legislation that I know we are on which says, "Let us break the NAFTA agreement, let us withdraw from the NAFTA agreement," but it really does bother me that, after misleading the American people, they are back 14 months later saying, oops, we made a little bit—they do not acknowledge that they made a mistake, but now they have proposed that we have—we put another $40 billion of loan guarantees.

Mr. DeFAZIO. Well, actually what they do is they say, "We never could have anticipated this."

Of course we talked about the fact the peso was overvalued, would be devalued. I mean they can go back and review the debate, and actually we told them, as did credible economists.

But the gentlewoman from Idaho [Mrs. CHENOWETH] I believe has a question she would like to direct to the gentlewoman from Ohio [Ms. KAPTUR] and I yield to her for that purpose.

Mrs. CHENOWETH. Mr. Speaker, I thank the gentleman very much, and, being a freshman in this distinguished body, I have watched with great admiration as the gentlewoman from Ohio has patiently explained to us and the American people much that we need to know, and I appreciate her very much, and I am learning from her, but I do want to ask either the gentlewoman from Ohio [Ms. KAPTUR] or the gentleman from my neighboring State, the gentleman from Oregon [Mr. DEFAZIO]. I have a question about the basic function and the statutory authority of the Bank of International Settlements. I was shocked to realize that they, too, were a part of this bailout.

□ 2110

It was my understanding that the Bank of International Settlements was set up to help with International disputes. Again, Mr. DEFAZIO pointed out there is no national security problem here or no great national interest here.

Where is the dispute? Can you help me out here? Can you help the American people out? So much is being skirted in terms of what our expectations should be in the way institutions function, as well as government. It seems that the institutions are functioning outside of government, and it is a frightening thing.

Ms. KAPTUR. First of all, I think the gentlewoman from Idaho, so early in her first term, for being down here in the well asking the right questions.

Sometimes we do not always win our issues, but we find if we give voice to the American people, even though sometimes we feel like we do not have a lot of power, with that voice comes greater understanding, and slowly you see a country change. I think that is what we are about.

I am not aware of what the dispute is. The Bank for International Settlements was a consortium of central bankers that was devised in order to try to deal with some of the currency differences and for central banks to band together for assistance if there were draws that went more to one country than another country. I, like the gentlewoman, am quizzical as to what the dispute would be in this case. And I am very concerned about what the U.S. financial obligation would be if bills come due you.

I also wanted to place on the record this evening, to the gentleman from Vermont, who has been so steadfast in participating in these special orders, to say you have talked about the Wall Street Journal, one of the most respected publications in our country. And read it everyday and many, many analytical articles are just superb.

But I think it is important for the record to indicate that the former president of Mexico, the most recent president of Mexico, Carlos Salinas, was appointed to the board of Dow Jones & Co., which owns the Wall Street Journal, and it does not surprise me, therefore, as I read the various headlines in the Wall Street Journal and some of the hype that has been put into trying to make it seem like if we do not do this there will be an apocalypse, "Mexico worries spread to emerging markets," the headlines, "Mexico's currency plunges 10 percent amid worries about U.S. rescue plan." The headlines, you worry. Headlines form policy. It is important to know who is in position to make opinions about this and influencing public opinion.

So if I might further respond to the gentlewoman from Idaho, my hope is that as we get more details on the package, over the next day we hope—we were not able to get the fineprint today—we will be able to answer your constituents and our own with more specificity as to the role of the Bank for International Settlements in this.

We know it is $10 billion. We do not know how that is being drawn down. We were not provided with any details today.

Mr. DEFAZIO. I thank the gentlewoman for answering questions as best we can at this time.

I think the gentlewoman from Idaho has raised an excellent question. The Bank for International Settlements, what is the United States' obligation to that bank at this point in time? How is it we came so recently to be represented on the board of directors by Alan Greenspan and the chairman of the New York Fed?

What commitments has the United States made of either funds that are being channeled through the Federal Reserve Board in secret, or more overt agreements or obligations of the Federal treasury? How much do we have at risk here?

I think these are excellent questions that need to be answered.

You know, there is this wisdom that somehow we have to allow the Federal Reserve to operate in secret because it is the only way to give them political independence. The Bundesbank in Germany is I think the most highly regarded central bank in the world, and they are required to conduct all their deliberations, negotiations, discussions and votes in public. But yet our Federal Reserve somehow is the only agency of the Federal Government, more powerful than the Congress and the President combined in terms of the economic future of this country today, in terms of whether or not we bail out Mexico or raise interest rates again to fight inflation that no one else sees except for Alan Greenspan and a few other inflation warriors at the Federal Reserve, they do all this in secrecy. They change the policies to say they think 4 percent unemployment is too low and they would rather have 6 percent, because otherwise wages might go up a little bit and working people might earn more in this country and that might start an inflationary trend. At the same time they are tying us to international agreements and institutions which are diminishing the role of U.S. labor.

So on the face of it their arguments are not even consistent. But they do not have to account to anyone. They do not have to answer questions if we call down there.

My staff called down today to ask about conflicts of interest by members of the Federal Reserve Board. Do any members of the Federal Reserve Board represent regional banks which are heavily invested in Mexico, and have they disclosed that fact, have they recused themselves from voting as they apportion funds to bail out Mexico? No, we are not allowed to know the answer to that question.

So what is this body we have created, that is so much beyond the public and the elected representatives of the people? Its role in this bailout is just extraordinary.

Mr. SANDERS. I think the points that the gentleman is making are absolutely correct. Ostensibly we live in a democracy, and ostensibly it is the President of the United States and the House and the Senate that represent the American people, and presumably are elected to do the best that we can to represent the interests of the American people, and presumably are elected to do the best that we can to represent the interests of the American people. And one of the aspects of this whole bailout which bothers me very, very much, is that all over this country the American people know what a lemon it is. They know that with the $290 billion deficit, and with people in this body talking about cuts in Medicare and Medicaid and nutrition programs for the elderly and for the children, that it is absolutely insane to be talking about putting $40 billion of American taxpayers' money at risk in this bailout.

It is not often in my view, as the only Independent in the Congress, that actually the Congress hears the needs of the American people. But guess what? On this particular instance, the Congress, the Republicans, the Democrats, the Independent, heard what the American people were concerned about and made it very clear that the U.S. Congress was not going to support the Mexican bailout.

So some of us last night, we were saying hey, every once in a while we actually win a victory. It looks like we are going to win this particular fight.

But lo and behold, guess what? So what if many of the vast majority of the American people do not want the bailout? So what if the vast majority of Congress does not want the bailout? I guess the Wall Street Journal, the major corporations and the major banks in America do want it. So, hey, if it is between the American people and the Congress on one hand, and the corporate world and the banks on the other hand, which way are we going to do?

So what the President does, which is really disturbing, I would have been disturbed if Congress had voted for the bailout. But I could have lived with it, just as I had to live with NAFTA. But the idea that the President circumvented the Democratic process, pulled out some ancient, arcane law which ostensibly gave him the authority, is very, very disturbing. And I frankly think those of us in Congress who are concerned about this issue have got to deal with that statute and make some changes to it.

Mr. DEFAZIO. Well, I appreciate the gentleman's comments there. I think it is certainly time to review this statute. It is obviously time to get some clarification from the administration on exactly what authority they believe they do have. Are there no limits? We are now pledging $20 billion to Mexico. Is there no limit? What if the $20 billion is not enough? Credible analysts came before our hearing, unlike the playacting hearing put on by the Committee on Banking and Financial Services, but a hearing where we invited people who had differing views from the administration and the bailout artists, and said "No. $40 billion will not be enough. Mexico is such a basket case, if you are going to tie the U.S. dollar to the Mexican peso, you better be prepared to defend the U.S. dollar against a run by the Japanese and the Germans and others, because they do not think this is a very smart thing to do." They said, "You can expect to be talking about $150 billion, not $40 billion dollars."

So this stabilization fund, will the President next week announce that well, the $20 billion was not enough, and now we are going to go for another $50 billion or $100 billion?

□ 2120

Where does this money come from? As you said, we have a $200 billion deficit, where does this money come from?

Mr. SANDERS. I think the gentleman and gentlewoman might agree that if we were talking about loan guarantees, it might be appropriate to talk about loan guarantees right here in the United States of America. Can you imagine how many decent paying jobs we could create right here at home rebuilding our economy, both the public sector and the private sector, if we had loan guarantees right here. But apparently, uplifting the poor people of America—I always get a kick, I get a kick out of hearing how good it would be for our economy if we can improve the standard of living of Mexican workers. I happen to be very strongly pro-Mexican and very concerned about the problems and the poverty that exists in Mexico, and we all want to uplift the Mexican people.

But how ironic that that same argument is not used here in the United States of America. Fourteen percent of our people live in poverty. Now maybe if we invested in a jobs program, maybe if we rebuilt our cities and towns and our infrastructure and provided decent jobs for our people and uplifted them, maybe they would also be able to purchase the goods and services that right now corporate America wants to sell to Mexico.

But apparently that is a very, very radical idea to suggest that we might want to uplift the poor people in America rather than the poor people in Mexico.

Mr. DEFAZIO. Did not the gentleman identify an article yesterday that said that because of the economic straits that our country is in that we are going to have to lower the loan guarantees made available to small businesses in this country?

Mr. SANDERS. The small businesses.

Mr. DEFAZIO. In my State the thriving growth of the last 20 years has come from small businesses. We have had a few big corporations move in, but generally we can identify most of the growth that is coming in. Now we will have to cut back on loan guarantees for small businesses in America while we, for example, extend $40 billion to Mexico.

Mr. SANDERS. The gentleman is quite right. That was in the Washington Post, I believe, yesterday. It dealt with the Small Business Administration, that is correct.

Mr. DEFAZIO. That is extraordinary. So somehow, I guess small businesses in the United States are not a good risk or we just cannot afford them, even if they are a good risk. And so we are going to have to cut back on that extension of credit. But a regime in Mexico, which has had three major financial crises, essentially two previous defaults in the last 12 years, which is an authoritarian regime which has lowered the standard of living of its own people by 25 percent in the last decade, which has, however, created 24 billionaires in a mere 7 years, is somehow a great credit risk. And there is nothing to worry about. But American businesses, well, I am sorry, we cannot afford to extend that kind of credit to American businesses. We are just going to have to cut that program back, and we are also going to cut our loans, rural electrification loans and other things.

We do have a budget crisis. I agree. It is time to get it under control. But how is it that suddenly, when we have to bail out the savings and loans, we can do it off budget; when we have to bail out Mexico, we can do it off budget. But if it goes to average American people and their concerns, their small businesses, their livelihoods, their education, we are broke.

This is a strange parallel to me.

Mr. SANDERS. The other irony, I think, perhaps the interesting irony in this whole affair is that I personally happen not to be a great believer in the free enterprise system for many reasons. I do respect people who take a risk and, having taken that risk, if they do well, they earn a whole lot of money. I think that is okay. But when you take a risk by definition, there is a chance that you may lose. I find it really outrageous that the people who invested in Mexico, especially after the NAFTA agreement, they invested a whole lot of money, and they expected a high rate of return. Well, things did not turn out the way they expected. That is unfortunate.

But in Vermont, small businesses are having very great difficulty, family farmers, workers, having very great difficulty. And yet they do not have the U.S. Government guaranteeing their investment. What a wonderful world it is for Wall Street investors. It is heads, I win; tails, you lose. Heads, I win and get a large rate of return from my investment in Mexico or tails, you guarantee my investment. Sorry, the American taxpayer.

So they make these investments. And then they come crawling into the Congress and say, gee, Congress, gee, Mr. President, we very, very wealthy people may have to lose some money. That is unacceptable. We are very wealthy. We are not supposed to lose any money. So you ordinary Americans, average taxpayers, workers who may have seen your jobs go to Mexico, we want you to bail us out.

And the leadership of the Republican party and the President and Mr. Greenspan say, well, that makes sense to us. Hey, that is a good idea. We will guarantee your investments.

Oh, that the average American small businessperson had that type of support behind him or her.

Mr. DEFAZIO. I think a lot of our colleagues are not aware of the fact that a lot of these short-term tesobonos that the Mexican Government cannot turn over are paying rates of interest between 21 and 50 percent. Now, I do not know, but if someone offered me a 21 percent rate of return on my modest savings, I might say, is there not a risk. That seems like an awful high rate of return.

If they said, no, Congressman, do not worry about it, there is no risk at all, I think maybe I would make a few phone calls. But the Wall Street people, the Goldman Sachs firm, which is into Mexico for $25.2 billion over the last 3 years, and others, said, oh, no, this is an emerging economy. There is no risk. This is just sort of like the United States except the people speak Spanish. There is no risk down there. Do not worry about the government. They just had an election.

Well, they had an election 6 years ago. The party that lost won, and they were the one we liked the most. And this last time the party that we liked the most, well, they won again. They may have fixed the election, but they always win, so there is no risk. They do not allow people to organize, labor unions. And if they do organize the labor unions, do not worry, we also control the judiciary because we do not have an independent judiciary in this country. And the judiciary will take care of those pesky people trying to drive up wages there in Mexico. So we will keep wages down there even lower than we can drive wages in the United States so your investment in Mexico is totally safe.

This is what is extraordinary to me, that we have allowed this thing to spin so far out of control, that we get sold such a bill of goods. Not you and I, since we voted against the NAFTA agreement, but so many of our colleagues. And now we are going to go to this extent to cover some very prestigious fannies around here and extend $40 billion of our taxpayers' money to bail them out. They could not get it through the Congress, to the credit of this institution. But now they are going to find another way to do it.

Mr. SANDERS. I think at this point maybe some Americans are wondering what they can do about this fiasco. I think the iron law of politics is that government will often try to get away with as much as they can until people stand up and say, sorry, you are not going to do that.

So I think I would speak for you and many Members of Congress who are saying to the American people, we have enough problems at home. We have a $200 billion deficit and a $4.6 trillion national debt. We do not think it makes a lot of sense within that context to be bailing out an authoritarian and unstable government and a very shaky economy in Mexico. I would very strongly urge the American people, write to the President, write to your Members of Congress and say, wait a second. We want you to stop this $40 billion bailout.

So I would hope that the American people would stand up and say, no, Mr. President, no Republican leadership, let us reinvest in America. Let us control our own deficit. I hope we do not take this lying down.

If people stand up and fight back, we can yet turn around this fiasco.

Mr. DEFAZIO. I thank the gentleman.

I think these are an extraordinary couple of days in the history of this republic. The House of Representatives and the Senate did stop the bailout of Mexico or at least indicated that they were not willing to go along readily. That was great. But now we have seen an end run around the Congress of the United States with the creative interpretation of a statute and another way to send $40 billion out the back door that Congress would not let go out the front door. Yet again the Federal Reserve is going to meet tomorrow to try and visit another catastrophe on the American people, to raise interest rates, to banish the threat of inflation that does not exist.

□ 2130

There is a 30-year low in terms of inflation statistics to drive up unemployment. That is the policy of the Federal Reserve.

Did this Congress authorize the Federal Reserve to drive up unemployment? Are those the underlying laws and statutes in the United States, and is that the authority which extended to the Federal Reserve: You are charged with driving up unemployment because we do not want to see wages go up, we don't want people to make a better standard of living?

That is not what I got elected to do. I believe there are some extraordinary questions here, and they all seem to come back to the same very small influential group, the Federal Reserve, a few people on Wall Street and some people in the administration, some of whom used to work on Wall Street very recently, earning up to $26 million a year advising their company to invest $5.2 billion in Mexico, and now want to bail out Mexico.

These are extraordinary times, and the people should be very attentive to what is going on here.

Mr. SANDERS. Mr. Speaker, I say to the gentleman from Oregon, [Mr. DEFAZIO], what especially distresses me, as the gentleman knows, in this last election only 38 percent of the American people bothered to vote. I think the reason for that is so many people are just shaking their heads and shaking their hands and they are saying, "Hey, I really have no power. I have no authority."

With this whole business, what this whole business indicates is that we can understand why people are giving up on the democratic process, because here we have, for once in a very long time, the Congress of the United States actually doing the right thing and saying no to the bailout, and yet we still cannot win.

So next time when we run for reelection and we go back home, people are going to say, "What difference does it make? You are trying to do a good job but they are going to go around you anyhow. You do not have enough power to represent ordinary people."

I think that is a very sad thing at a time when many of us, I know the three of us, are reaching out. We want working people and we want poor people and we want the elderly to get involved in the political process.

This action on the part of the President just discourages, I think, millions of people who say, "Hey, it does not make a difference. Wall Street has made a demand and the President has succumbed to it, and it does not matter what ordinary people think about it."

Mr. DEFAZIO. Mr. Speaker, I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I just want to say what a pleasure it has been to participate in this special order with both gentlemen this evening, and to also mention that part of the reason we doubt this rescue package is simply because people like myself believe that the markets are being manipulated by those who have a great deal of power.

In Mexico, for example, we know that both the Government of Mexico and our own Government knew that the peso was overvalued. We tried to get it dealt with in the NAFTA agreement itself. They tried to prop up and they did prop up the value of the peso right before the Mexican election in August, and right after the election the peso began to drop in value.

Then we had the GATT debate here in Congress, and right after GATT passed the peso went through the floor. So we know that that government manipulates the value of its money. Knowing that, we know we are now being manipulated; that much of what we see happening is being done to benefit the very same financial interests that created the overinflated peso during the 1993–1994 period. There is a lot of money on the line for many of these private interests.

My point with them is when, especially for those interests in the United States which made over a 66-percent return on their emerging market funds since 1990, you greeted those gains and profits with smiles and parties in New York and boat parties off the docks and all the things that happened with a 66-percent return, while interest rates for average American families were going up at the same time as you ate your profits, now is the time to eat your losses. The private market is a very harsh referee, but you have to accept the market, both in the ups and the downs, and not come running to the taxpayers of the United States for some type of private or public relief for private actions.

I just want to thank the gentleman for participating in this special order this evening, and to say what makes it worthwhile serving in the Congress of the United States. Though we don't always win, though we fight as hard as we know how, it is only bearable because of the people who send you here and because of the fine colleagues with whom you serve.

I would say to the gentleman from Oregon [Mr. DEFAZIO] and to the gentleman from Vermont [Mr. SANDERS] it is only worth serving because you are here, too. It has been a pleasure to be here with you.

Mr. DEFAZIO. Mr. Speaker, I thank the gentlewoman. I thank her for her leadership, and I can assure our colleagues that this is not the last they have heard from us on this issue, either on the Mexican bailout and the new attempts by the President to end run the Congress, or the Federal Reserve and their incessant increases in interest rates driving thousands of Americans out of work.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CRANE (at the request of Mr. ARMEY), for today, after 5:30 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TORRES) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.
Mr. MENENDEZ, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. BARR) to revise and extend their remarks and include extraneous material:)

Mr. DUNCAN, for 5 minutes, today.
Mr. BARR, for 5 minutes, today, and on February 1.
Mr. KOLBE, for 5 minutes, today.
Mr. CHABOT, for 5 minutes, today.
Mr. KINGSTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. TORRES) and to include extraneous matter:)

Mr. SKELTON in two instances.
Mr. STOKES in two instances.
Mr. KLECZKA.
Mr. HOLDEN.
Mr. LANTOS.
Mr. MFUME in four instances.
Mr. JACOBS.
Mr. UNDERWOOD.
Ms. PELOSI.
Mr. MONTGOMERY.
Mr. RICHARDSON.
Mr. STARK.
Mr. TRAFICANT.
Mr. FAZIO of California.
Mr. TORRES.

(The following Members (at the request of Mr. BARR) and to include extraneous matter:)

Mr. PACKARD.
Mr. WOLF.
Mrs. MORELLA.
Mr. FAWELL.
Mr. GEKAS.
Mr. GILMAN.
Mr. KOLBE.
Mr. KNOLLENBERG.
Mr. CRANE.
Mr. BATEMAN.

ADJOURNMENT

Ms. KAPTUR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 35 minutes p.m.), the House adjourned until Wednesday, February 1, 1995, at 11 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 51. Resolution providing for the consideration of the bill (H.R. 101) to transfer a parcel of land to the Taos Pueblo, Indians of New Mexico (Rept. 104–12). Referred to the House Calendar.

Mr. MCINNIS: Committee on Rules. House Resolution 52. Resolution providing for the consideration of the bill H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes (Rept. 104–13). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 53. Resolution providing for the consideration of the bill (H.R. 440) to provide for the conveyance of lands to certain individuals in Butte County (Rept. 104–14). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. NORTON:

H.R. 748. A bill to amend the Internal Revenue Code of 1986 to provide that individuals who are residents of the District of Columbia shall be exempt from Federal income taxation, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TORRES:

H.R. 749. A bill to provide that professional baseball teams, and leagues composed of such teams, shall be subject to the antitrust laws; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 750. A bill to amend the Occupational Safety and Health Act of 1970 to provide for uniform warnings on personal protective equipment for occupational use, and for other purposes; to the Committee on Economic and Educational Opportunities.

H.R. 751. A bill to amend section 207 of title 18, United States Code, to increase to 5 years the period during which former Members of Congress may not engage in certain lobbying activities; to the Committee on the Judiciary.

By Mr. COLLINS of Georgia (for himself, Ms. DUNN of Washington, Mrs. MYRICK, Mr. CLINGER, Mr. CARDIN, Mr. ENGLISH of Pennsylvania, Mr. PARKER, Mr. TALENT, Mr. LINDER, Mr. KINGSTON, Mr. BUNNING of Kentucky, Mr. SOLOMON, Mr. HASTERT, Mr. MINETA, Mr. SHUSTER, Mr. OBERSTAR, Mr. DUNCAN, Mr. FAWELL, Mr. QUINN, and Mr. RAMSTAD):

H.R. 752. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in tax on fuel used in commercial aviation which is scheduled to take effect on October 1, 1995; to the Committee on Ways and Means.

By Mr. GEKAS (for himself, Mr. PASTOR, Mr. COBURN, Mr. RAMSTAD, Mr. COX, and Mr. BILBRAY):

H.R. 753. A bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLDEN (for himself, Mr. BOUCHER, Mr. KANJORSKI, Mr. KLINK, Mr. MASCARA, Mr. MURTHA, Mr. RAHALL, and Mr. WISE):

H.R. 754. A bill to make improvements in the Black Lung Benefits Act; to the Committee on Economic and Educational Opportunities.

By Mr. HOLDEN (for himself, Mr. BARRETT of Wisconsin, Mr. BLUTE, Mr. CANADY, Mr. FRANK of Massachusetts, Mr. JACOBS, Mr. KLINK, Mr. LINDER, Mr. MANZULLO, Mr. MEEHAN, Mr. MILLER of Florida, Mr. POSHARD, Ms. SLAUGHTER, and Mr. ZIMMER):

H.R. 755. A bill to reduce the amount authorized for the official mail allowance for Members of the House of Representatives by 20 percent; to the Committee on House Oversight.

By Mr. HUNTER (for himself, Mr. MOORHEAD, Mr. YOUNG of Alaska, Mr. ROHRABACHER, Mr. MCCOLLUM, Mr. KIM, Mr. CUNNINGHAM, Mr. CALVERT, Mr. STUMP, Mr. BURTON of Indiana, Mr. BRYANT of Tennessee, Mr. GALLEGLY, Mr. GREENWOOD, Mr. COLLINS of Georgia, Mr. CANADY, Mr. GOODLATTE, Mr. MCKEON, Mr. BILBRAY, and Mr. SHAW):

H.R. 756. A bill to amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on National Security, Ways and Means, Banking and Financial Services, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JACOBS (for himself, Mr. MCCRERY, and Mr. MORAN):

H.R. 757. A bill to amend the Internal Revenue Code of 1986 to provide that the amount of an overpayment otherwise payable to any person shall be reduced by the amount of past-due, legally enforceable State tax obligations of such person; to the Committee on Ways and Means.

By Mr. JONES:

H.R. 758. A bill to require the Corps of Engineers to carry out the construction and operation of a jetty and sand transfer system, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. KNOLLENBERG (for himself, Mr. KOLBE, Mr. SMITH of Texas, and Mr. ISTOOK):

H.R. 759. A bill to improve the effectiveness of Federal welfare efforts and increase citizen participation in fighting poverty; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, Commerce, Economic and Educational Opportunities, Banking and Financial Services, the Judiciary, Resources, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCNULTY:

H.R. 760. A bill for the relief of Henry Johnson; to the Committee on National Security.

By Mr. NADLER (for himself, Mr. DELLUMS, Ms. VELAZQUEZ, Mr. OWENS, Mr. MILLER of California, Mr. ABERCROMBIE, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. TRAFICANT, Mr. PALLONE, Mr. ACKERMAN, Mr. DEUTSCH, Mrs. MALONEY, Mr. YATES, and Mr. ENGEL):

H.R. 761. A bill to establish the AIDS Cure Project; to the Committee on Commerce.

By Mr. TRAFICANT:

H.R. 762. A bill to reestablish the revenue sharing program of annual payments to States and units of general local government, to authorize appropriations for payments under the program, and to offset that authorization by reducing the authorization of appropriations for foreign aid; to the Committee on Government Reform and Oversight, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WOLF (for himself, Mr. GOODLATTE, Mr. TRAFICANT, Mr. MORAN, and Mr. GORDON):

H.R. 763. A bill to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia, and for other purposes; to the Committee on Resources.

By Mr. WYNN:

H.R. 764. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage; to the Committee on Economic and Educational Opportunities.

By Mr. MILLER of California (for himself, Mr. GEJDENSON, Ms. WATERS, Mr. HINCHEY, Ms. MCKINNEY, Ms. SLAUGHTER, Mr. GENE GREEN of Texas, Mr. OWENS, Mr. RANGEL, Mr. MCNULTY, Mr. SERRANO, Mr. FRANK of Massachusetts, Mr. STARK, Mr. GUTIERREZ, Ms. VÁLEZQUEZ, Mr. FLAKE, Mr. FARR, Mr. COLEMAN, Mr. HALL of Texas, Mr. BREWSTER, Mr. EDWARDS, Mr. OBEY, Mr. TAUZIN, Mr. DEFAZIO, Mr. TRAFICANT, Mr. WYDEN, Mr. ROEMER, Mr. FOGLIETTA, Mr. STUDDS, Mr. CONDIT, Mr. ABERCROMBIE, Mr. MCDERMOTT, Mr. DURBIN, Ms. ESHOO, and Mr. SPRATT):

H. Res. 54. Resolution expressing the sense of the House of Representatives that the Federal Open Market Committee and the Board of Governors of the Federal Reserve System should defer any further increase in the Federal funds rate and the discount rate until at least September 1995; to the Committee on Banking and Financial Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LINDER introduced a bill (H.R. 765) for the relief of Larry Errol Pieterse; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. FIELDS of Texas.

H.R. 26: Mr. MILLER of Florida, Mr. PASTOR, Mr. DEAL of Georgia, Mr. COX, Mr. BROWN of Ohio, Mr. LEVIN, Mr. MINGE, Mr. TUCKER, Mr. COLEMAN, Mr. PAYNE of Virginia, Mr. CONDIT, Mr. PORTMAN, Mr.

Laughlin, Mr. Stenholm, Mr. Volkmer, Mr. Quinn, Mr. Pombo, Mr. Callahan, Ms. Harman, Mr. Gilchrest, Mr. Browder, Mr. Coble, Mr. Traficant, Mr. Baesler, Mr. Baldacci, Mr. Olver, Mr. Costello, and Mrs. Thurman.

H.R. 28: Mr. Porter and Mr. Cunningham.

H.R. 47: Mr. Burr, Mr. Stump, Mr. Istook, Mr. Solomon, Mr. Foley, and Mr. Stearns.

H.R. 52: Mr. Kennedy of Rhode Island, Mr. Holden, Mr. Dooley, Mr. Frost, Mr. Royce, and Mr. Forbes.

H.R. 62: Mr. Weller, Mr. McHale, and Mr. Flanagan.

H.R. 65: Mr. Weller, Mr. Frank of Massachusetts, and Mr. Pastor.

H.R. 66: Mr. Frank of Massachusetts.

H.R. 70: Mr. Pete Geren of Texas.

H.R. 97: Mr. Evans and Mr. Gejdenson.

H.R. 103: Mr. Jacobs, Mrs. Thurman, and Mr. Hinchey.

H.R. 104: Mr. Riggs and Mr. Torkildsen.

H.R. 109: Mr. Miller of Florida, Mr. Riggs, Mr. Gonzalez, and Mr. Pastor.

H.R. 112: Mr. Wynn.

H.R. 120: Mr. Hilliard and Ms. Lofgren.

H.R. 125: Mr. Crapo, Mr. Funderburk, Mr. Gene Green of Texas, Mr. Norwood, Mr. Peterson of Minnesota, and Mr. Rose.

H.R. 139: Mr. McHale.

H.R. 142: Mr. Flanagan.

H.R. 208: Mr. Sam Johnson and Mr. Armey.

H.R. 216: Mr. Flanagan.

H.R. 260: Mr. Calvert.

H.R. 303: Mr. Weller and Mr. Frank of Massachusetts.

H.R. 325: Mr. Dornan and Mr. Frelinghuysen.

H.R. 359: Mr. Boucher, Mr. Wilson, Mr. Roberts, Mr. Wynn, and Mr. Bartlett of Maryland.

H.R. 363: Mr. Sabo, Mr. Martinez, Mr. Hinchey, Mr. Fattah, Mr. Gene Green of Texas, Mr. Hilliard, Mr. Miller of California, Mr. Gonzalez, Mr. Conyers, Mr. Owens, Mr. Payne of New Jersey, Mr. Dellums, Ms. Velazquez, Ms. Waters, Ms. Norton, Mr. Filner, Mr. Evans, Mr. Torres, Mr. Towns, Mr. Yates, Mr. Abercrombie, Mr. Lewis of Georgia, Mr. Bonior, and Ms. Pelosi.

H.R. 436: Mr. Armey, Mr. Souder, Mr. Costello, and Mr. Chapman.

H.R. 450: Mr. Bilbray, Mr. Latham, Mr. Hilleary, Mr. Archer, Mr. Frisa, Mr. Goodling, Mr. Graham, Mr. Tiahrt, Mr. Norwood, Mr. Ramstad, Mr. Gutknecht, Mr. Foley, Mr. Flanagan, and Mr. Taylor of North Carolina.

H.R. 463: Mr. Quillen.

H.R. 469: Mr. Riggs.

H.R. 483: Mr. Smith of New Jersey, Mr. Peterson of Minnesota, Mrs. Fowler, Mr. Deutsch, Mr. Dixon, Mr. Gallegly, Mr. Doyle, Mr. Zeliff, Mr. Dornan, Ms. Danner, Mr. Sabo, Mr. Andrews, Mr. Quillen, Mr. Goodlatte, Mr. Lightfoot, Mr. Cox, Mr. Boucher, Mr. Gillmor, Mr. Oxley, Mr. English of Pennsylvania, Mr. Schiff, Mr. Shaw, and Mr. Bartlett of Maryland.

H.R. 497: Mr. LaFalce, Mr. Davis, Ms. Norton, Mr. Upton, Mr. Livingston, Mr. Stearns, Mr. Pickett, Mr. Shays, and Mr. Roemer.

H.R. 502: Mr. Fields of Texas, Mr. Gilchrest, Mr. Radanovich, Mr. Traficant, Mr. Knollenberg, Mr. Shays, and Mr. Fox.

H.R. 512: Ms. Molinari.

H.R. 513: Mr. Calvert.

H.R. 522: Mrs. Morella.

H.R. 523: Mrs. Morella.

H.R. 526: Mr. Barrett of Nebraska.

H.R. 555: Mr. Foglietta.

H.R. 559: Mr. Rahall, Mr. Gonzalez, Mr. Filner, Mr. Wilson, Mr. Dellums, Mr. Smith of New Jersey, and Mr. Frost.

H.R. 582: Mr. Walsh.

H.R. 593: Mr. Porter.

H.R. 594: Ms. Pelosi and Mr. Klug.

H.R. 608: Mrs. Mink of Hawaii and Mr. Gutierrez.

H.R. 609: Ms. Eshoo, Ms. Jackson-Lee, Ms. Woolsey, and Mr. Olver.

H.R. 663: Ms. Pryce, Mr. Hunter, Mr. Shuster, Mr. Klug, and Mr. Talent.

H.R. 682: Mr. McCrery, Mr. Tanner, and Mr. Fox.

H.R. 696: Mr. Mfume.

H.R. 697: Mr. Cox, Mr. Metcalf, Mr. Hunter, Mr. Fox, Mr. McIntosh, Mr. Frost, Mr. DeLay, Mr. Manzullo, Mr. Schaefer, Mr. Deutsch, and Mr. Goss.

H.R. 739: Mr. Knollenberg, Mr. Hall of Texas, Mr. Funderburk, Mr. Hunter, Mr. Shays, Mr. Taylor of North Carolina, and Mr. Petri.

H.J. Res. 3: Mr. Fields of Texas.

H. Con. Res. 12: Mr. Hilliard, Ms. Eddie Bernice Johnson of Texas, Mr. Minge, and Ms. Collins of Michigan.

H. Res. 20: Mr. Barcia of Michigan, Mr. Barrett of Wisconsin, Mr. Deutsch, Mr. Gene Green of Texas, Mr. Meehan, Mr. Owens, Mr. Scott, and Ms. McKinney.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2

Offered By: Mr. Fattah

Amendment No. 2: At the end of section 2, add the following new subsection:

(d) Limitation on Application.—This Act shall not apply to any discretionary budget authority for the legislative branch of the Government.

H.R. 2

Offered By: Mr. Fattah

Amendment No. 3: Section 1 is amended by—

(1) inserting "; **FINDINGS**" in the section heading before the period;

(2) inserting "(a) Short Title.—" before "This"; and

(3) adding at the end the following new subsection:

(b) Findings.—The Congress finds that—

(1) in some States whose governors have "line item veto" authority similar to that given to the President by this Act the governor has used the authority to influence the votes of individual State legislators on issues other than the amount of spending by the State; and

(2) the ability of Congress to conduct effective oversight of the Executive branch and the ability of individual Members of Congress effectively to represent their constituents both require that the President be unable selectively to rescind the amount appropriated for individual parts of Congress (such as Members' staff, committees' staff, the General Accounting Office, the Congressional Budget Office, the Office of the Legislative Counsel of the House, the Office of the Parliamentarian of the House, the Congressional Research Service, the Office of Technology Assessment, and the Government Printing Office).

H.R. 2

Offered By: Mr. Kanjorski

Amendment No. 4: At the end, add the following new section:

SEC. 7. TERMINATION DATE.

This Act shall cease to be effective on January 1, 2000.

H.R. 2

Offered By: Mrs. Lowey

Amendment No. 5: The first sentence of section 5(d)(1) is amended by striking "without amendment" and inserting "without amendments except amendments to strike any rescission or rescissions of budget authority".

Section 5(d)(2) is amended by striking the eighth and ninth sentences and inserting the following:

No amendment to the bill is in order except amendments to strike any rescission or rescissions of budget authority. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion.

H.R. 2

Offered By: Ms. Slaughter

Amendment No. 6: Paragraph (3) of section 4 is amended to read as follows:

(3) The term "targeted tax benefit" means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers whether or not such provision is limited by its terms to a particular taxpayer or class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.

H.R. 2

Offered By: Mrs. Thurman

Amendment No. 7: Section 5(d)(2) is amended by striking the eighth and ninth sentences and inserting the following:

No amendment to the bill is in order, except any Member may move to strike any rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion.

H.R. 2

Offered By: Mr. Wise

Amendment No. 8: Strike all after the enacting clause and insert the following:

SECTION 1. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) In General.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"Sec. 1012. (a) Proposed Rescission of Budget Authority or Repeal of Targeted Tax Benefits.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit unless the President also proposes a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal; and

"(F) a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974, if proposed by the President.

"(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 2 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 2 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that speecial message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committeee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the proceeding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. This bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider to the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate or a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall get equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with the special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session; and

"(3) The term 'targeted tax benefit' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) Exercise of Rulemaking Powers.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) Conforming Amendments.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) Clerical Amendments.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

H.R. 2

Offered By: Mr. Wise

Amendment No. 9: Strike all after the enacting clause and insert the following:

SECTION 1. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) In General.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"Sec. 1012. (a) Proposed Rescission of Budget Authority or Repeal of Targeted Tax Benefits.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) Transmittal of Special Message.—

"(1) The President may transmit to congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal.

"(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 2 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 2 of that Act.

"(c) Procedures for Expedited Consideration.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals for decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session; and

"(3) The term 'targeted tax benefit' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended)

(A) in subsection (a) by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

EXTENTIONS OF REMARKS

A SALUTE TO THE NATIONAL BLACK NURSES ASSOCIATION: CELEBRATING 24 YEARS OF SERVICE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. STOKES. Mr. Speaker, in just a few days, on February 2, 1995, members of the National Black Nurses Association will gather in Washington, DC, for the fifth annual Black Nurses Health Day on Capitol Hill. Thousands of nurses from around the country will travel to our Nation's Capitol Hill for this day-long event focusing on health care and other issues impacting the nursing community.

The National Black Nurses Association is the Nation's largest African-American health organization, representing more than 130,000 nurses in the United States and throughout the world. The organization is under the direction of Dr. Linda Burns Bolton, who serves as president. I rise today to offer a special salute to the National Black Nurses Association.

Mr. Speaker, the history of African-Americans in nursing can be traced to Sojourner Truth, a former slave, who ministered to wounded black veterans of the Civil War in 1864. History also records that a few years later, in 1870, Susan Smith McKinney Steward became the first black woman to receive a medical degree. Steward received her degree from the New York Medical College for Women, and was valedictorian of her class.

I take pride in the fact that the National Black Nurses Association has its founding in my congressional district in 1971. Over the past 24 years, the organization has been a strong advocate for the health care needs of the poor, the disenfranchised, the elderly, and our Nation's youth. The National Black Nurses Association has also played a key role in fighting to secure increased funding for research and development, public health service, health profession education, and health care technology developments.

Mr. Speaker, the National Black Nurses Association Health Day on Capitol Hill was established in 1989 to give recognition to the outstanding services that African-American nurses contribute to the health care system in America. The event is celebrated annually during Black History Month. I am proud that during Health Day, my colleagues in the Congressional Black Caucus, the Hispanic Caucus, and other Members of Congress will join us for this important event.

Mr. Speaker, I applaud Dr. Linda Burns Bolton for her leadership of the National Black Nurses Association. I am proud to host the organization's Annual Health Day, and look forward to greeting Dr. Bolton and the members of the National Black Nurses Association. As we celebrate Black Nurses Day, let us remember that we owe each of these individuals a debt of gratitude for their commitment and dedication to service.

ACCOMPLISHMENTS OF B-2 STEALTH BOMBER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. SKELTON. Mr. Speaker, on December 22, 1994 an article appeared in the Windsor Review, a newspaper in the Fourth Congressional District of the State of Missouri. The article, entitled "B–2 Has Phenomenal First Year At Whiteman Air Force Base," examines the first year accomplishments of the B–2 stealth bomber. I enter the article into the CONGRESSIONAL RECORD:

The 509th Bomb Wing has flown 114 of 120 planned sorties, with an astounding reliability rate of 95 percent, since the Air Force's first B-2 stealth bomber winged its way from its birthplace in Palmdale, California, to its new home near Dec. 17 last year. That equals more than 380 flying hours for all four aircraft.

The 509th got off to a phenomenal start by flying the "Spirit of Missouri" on its first training mission just five days short of its arrival at Whiteman.

Since that time, the "Spirit of Missouri" has been joined by the "Spirit of California", "Spirit of Texas", and "Spirit of Washington" as the 509th progresses toward becoming the first fully operational B-2 wing in the Air Force.

The wing initially trained two instructor pilots at Whiteman, and four more instructor pilots in the first class have recently completed their checkrides. The second and third class have begun training. By the end of 1994, the 509th will be able to point with pride to eight instructor pilots who have completed basic qualification.

"I'm extremely pleased with the Whiteman team and excited about the future of the B-2" said Brigadier General Ronald C. Marcotte, 509th Bomb Wing Commander. "Our goal is to make the B-2 and Whiteman AFB the crown jewel of national defense. I think we're well on our way.

In September, the 509th completed its first operation delivery of munitions at the Air Force's Utah Teat and Training Range. The "Spirit of California" delivered two inert Mark-84 2,000-pound bombs against targets located at Barker Strong Point on the Utah range.

"We were on target and on time" said Colonel William M. Fraser III, 509th Operations Group commander. "It was the culmination of many months of training for the entire 509th team. We exercised our mission planning program as well as our weapons load and aircraft preparation."

Six weapons load crews have been trained and certified in the past year.

While the "Spirit of California" demonstrated the B-2's munitions delivery capability, the "Spirit of Missouri" began its first phase inspection. A phase inspection is a scheduled inspection that looks at the entire airplane for any signs of damage, usually in the form of corrosion, cracks, or unexpected wear and tear. The B-2 has more than 1,200 items that must be inspected. The whole process takes about 44 working days.

"Our plan is to use this phase as a benchmark for future phases," said Colonel Henry L. Taylor, 509th Logistics Group commander. "We want to improve the process so we can reduce the time needed for phase inspections and return the planes to the 393d Bomb Squadron as quickly as we can safely do it."

As Whiteman team members work to make the B-2 the cornerstone of national defense, they are also deactivating 113 Minuteman II missiles in accordance with the START treaty, and welcomed the 442nd Reserve Wing and its fleet of 22 A-10's from Richards-Gebaur AFB, Mo. The conversions required $120 million in construction projects.

"Without the support of our community partners and taxpayers, especially those who live and work around Whiteman we could not have achieved the accomplishments of the past year," Marcotte said. "We've worked, not only at building solid relationships with our civilian friends and neighbors. Everyone has been tremendously supportive and we're off to a great start."

The future of the B-2 and Whiteman looks bright. "The B-2 is the cornerstone of America's global power of tomorrow. It's a critical component that will enable us to meet the enormous challenges to world peace in the 21st century," Marcotte said. "And as our 509th motto says: Follow Us."

WILLIAM KOWALKOWSKI NAMED PERSON OF THE YEAR BY THE MILWAUKEE COUNCIL OF SOUTHSIDE ADVANCEMENT ASSOCIATIONS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. KLECZKA. Mr. Speaker, I rise today to congratulate my friend, Mr. William Kowalkowski, on being named Person of the Year by Milwaukee's Council of Southside Advancement Associations.

Milwaukee's south side has long been a place where people can count on the help and friendship of their neighbors. It is people like William Kowalkowski who have helped to keep this special quality alive in our community.

Mr. Kowalkowski, through his many years of community service, has rightfully earned the respect and admiration of those around him. His outstanding work with charitable organizations such as the St. Joseph's Foundation and Polish Relief for Poland has benefitted the less fortunate, and those who were displaced by the upheaval of war. His involvement in numerous civic and cultural organizations such

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

as the Pulaski Council, the Southside Businessmens Club, and the Polish-American Congress to name just a few, has helped to preserve the rich cultural heritage which make Milwaukee such a wonderful place to live.

The list of honors which Mr. Kowalkowski has received is impressive to say the least. Bill has been honored over the years, by numerous State and local organizations such as the Wisconsin Fraternal Congress, the Pulaski Council, and the Southside Businessmens Club. In addition, his outstanding efforts on behalf of Polish-Americans and the people of Poland have earned him recognition by the Government of Poland. In 1975, the Polish Government in exile presented Mr. Kowalkowski with the Gold Cross of Merit. Last year, Kowalkowski received the prestigious Knight's Cross of Merit for Service to the Polish Republic.

In addition to his professional and civic achievements, Mr. Kowalkowski and his wife Felicia have raised a family of whom they can be proud. It is very fitting that the Council of Southside Advancement Association, an organization dedicated to the principle of community service, has honored William Kowalkowski as the Person of the Year.

Congratulations, Bill, this is an honor that is well deserved!

HOLDEN REINTRODUCES FRANKING LEGISLATION

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. HOLDEN. Mr. Speaker, I am pleased to reintroduce in the 104th Congress legislation to reduce the amount of money Members are able to spend on franked mailings.

Mr. Speaker, the American people are demanding that Congress show leadership in reducing some of its expenses. I constantly speak to constituents who tell me they want to see spending cuts by the Federal Government. For that reason, today I am introducing a bill that cuts each Member's franking allowance by 20 percent as a way to show such willingness on our part. This legislation illustrates the commitment of Members of Congress for cutting legislative branch spending.

My bill is simple: the factor used to determine each Member's franking allotment will be reduced from a factor of 3 to a factor of 2.4, a 20 percent reduction. This bill will not eliminate the flexibility in the Legislative Appropriations Act which accommodates each Member's particular costs of mailing—geography, population density, etc.

If we are calling on Americans to sacrifice then Congress, too, must lead by example. A 20 percent cut will not impinge on any Member's ability to communicate with his constituents in a responsible manner. Nor will it stop a Member from using his franking budget in whatever manner he or she deems appropriate.

Mr. Speaker, Congress must cut back and tighten their belts, just as we will be asking the American people to make sacrifices as we cut and eliminate Federal programs. I want Congress to lead by example, and I think this bill puts us squarely on that road.

STOP THE REGULATORY MACHINE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. PACKARD. Mr. Speaker, the new Republican Congress is working hard and moving forward with the people's business. Last week, we restored fiscal responsibility by passing the balanced budget amendment. This week we will pass legislation to limit Government intrusion. We promise to work for a Federal Government that protects your rights, not one that infringers upon them with burdensome unfunded mandates.

The Federal regulatory machine continues to churn out a dizzying array of mandates which threaten to turn the American dream into a bureaucratic nightmare. Passage of H.R. 5, the unfunded mandates bill, will help to curb Washington's regulatory appetite.

No longer will liberal lawmakers be free to hide the costs of their regulatory appetite by handing the check over to State and local officials. Congress will have to take a good look at what they put on the regulatory table.

Reforming unfunded mandates will restore congressional accountability and instill fiscal discipline. If the Federal Government cannot pay for it, then neither will State and local governments. The Republican agenda works for the people, not for the Federal bureaucracy machine.

A TRIBUTE TO JEAN GILLIGAN

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mrs. MORELLA. Mr. Speaker, I would like to bring to the attention of the House the retirement of a remarkable woman, Jean W. Gilligan, who has now retired after 45 years service as a congressional staffer.

Jean came to Capitol Hill from South Dakota in 1949 and began her career as secretary to Representative Gardner Withrow of Wisconsin. She then became the administrative assistant to Representative Vernon Thompson of Wisconsin from 1961 to 1974. Jean then served on the Committee on Post Office and Civil Service from 1975 to 1994 under four ranking Republican Members: Representatives Edward Derwinski of Illinois, GENE TAYLOR of Mississippi, BENJAMIN GILMAN of New York, and JOHN MYERS of Indiana.

Last night Mr. Speaker, the Congressional Staff Club [CSC] honored Jean Gilligan at its annual membership party where she was lauded by friends, colleagues, and CSC members. Jean was the primary force in developing the club into a vital entity for staff members. She served as second vice president of the club in 1965, first vice president in 1966 and president in 1967 and 1993. She was one of the founders of the mixed ten pin bowling league and served as its secretary, vice president and president. The Congressional Staff Club honored Jean by awarding her a life membership in 1977.

There is no doubt that Jean will be greatly missed on Capitol Hill by hundreds of staff members who consider her a colleague par excellence, a friend and a mentor. I, too, will miss you, Jean.

Mr. Speaker, I congratulate Jean on her dedicated service and wish her a long, healthy, and active retirement.

INTRODUCTION OF H.R. 743, THE TEAMWORK FOR EMPLOYEES AND MANAGERS ACT

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. FAWELL. Mr. Speaker, yesterday I was pleased to join with my colleague from Wisconsin, Mr. GUNDERSON, in introducing H.R. 743, the Teamwork for Employees and Managers Act, or Team Act, legislation which will go a long way toward improving the competitiveness of U.S. companies.

In 1935, Congress enacted the National Labor Relations Act [NLRA], which is rightly considered the cornerstone of our country's national labor policy. At the heart of its many provisions, the NLRA protects the rights of workers to organize and to bargain collectively with their employers. It also includes a number of like-minded protections for employers.

However, we cannot ignore the fact that economic conditions have changed dramatically during the last 60 years, and the American workplace has undergone a similarly dramatic transformation. American business is no longer faced with the type of labor-management strife that permeated virtually every aspect of industrial America during 1930's. Instead, we are witness to growing trend in which American workers and managers are abandoning the confrontational tactics of their past and, together, are seeking better ways of doing business.

American business today sees its foreign competitors gaining a competitive advantage, due in large part of their utilization of greater labor-management cooperation. Unfortunately, it is provisions of the National Labor Relations Act—and, how those provisions are being interpreted by the courts and the National Labor Relations Board [NLRB]—which are part of the reason American businesses find themselves at this a competitive disadvantage.

Perhaps the best known example of the legal impediments confronting companies that wish to utilize employee participation programs is the NLRB's December 1992 decision involving Electromation, Inc. The Board found that the small, nonunion electronics manufacturer violated the NLRA when it established employer-employee committees to address various workplace issues, including the company's no-smoking, attendance, and pay-progression policies.

Why have managers and workers in America's industries been having trouble setting up manager-worker teams to increase production, quality, and efficiency at the place of employment?

The basic reason is that section 8(a)(2) of the National Labor Relations Act [NLRA] says that it is an unfair labor practice for an employer to, in effect, create a sham, or company union, I.E., "to dominate the formation or administration of any labor organization or contribute financial or other support to it." Section 2(5) defines a labor union so broadly it includes all groups "in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning * * * conditions of work." Since employee involvement groups usually deal with conditions of work, the National Labor Relations Board [NLRB] has rather consistently ruled that employee groups working in cooperation with their employer, are labor organizations which are dominated and supported by the employer. Hence the employer is deemed guilty of unfair labor practices for having, in effect, created a sham or company—illegal—union.

We are talking about voluntary employer-employee agreements encouraging employee involvement in the conduct of a business in today's fast evolving information-centered economies and societies. Thus, we are talking about something very subjective—cooperation—a working togetherness of employers and employees in work teams. As taught by W. Edward Deming and others, the dynamic work team concept moves as much brain work as possible to front-line employees. It involves employees intellectually in the business operation and commits them to making the process function more effectively while constantly seeking their input into methods of improving it.

It seems to me that it isn't really possible or desirable for any law to stop employers and employees from voluntarily cooperating and sharing responsibilities. Congress surely never intended to proscribe place of employment cooperation between employees and employers as to their various conditions of work.

Yet, according to the NLRB—in Electromation—that apparently is precisely what Congress did 60 years ago when they passed section 8(A)(2) of the NLRA—designed to stop the formation of company unions.

This seems illogical to me. Employers obviously should not be creating sham or company unions and the law ought to simply so state. On the other hand, Congress should be doing all it can to motivate employers to have highly involved and motivated workforces as encouraged for instance by the coveted Malcolm Baldridge Quality Awards. And we should be able to make it clear that cooperation between employers and employees should not be equated with creating company or sham unions. The NLRB ought to be able to recognize an overall intent by an employer and/or employees to create a sham union without stopping employers and employees from discussing matters of mutual interest, including issues of quality, productivity, and efficiency which does not have, claim, or seek authority to negotiate or enter into or amend collective bargaining agreements between the employer and any labor organization.

The time has come for Congress to consider what changes must be made to the NLRA so that it may accurately reflect the nature of today's workplace and the challenges that confront American business; and to consider what change must be made so that companies can confidently follow the example of the management-worker teams who spoke here today.

As chairman of the Subcommittee on Employer-Employee Relations, I am committed to that task. As such, I intend to convene the subcommittee at the earliest possible date in order to hear testimony on the Team Act, and to expedite its consideration. I urge my colleagues to join the effort to improve workplace cooperation and, in turn, U.S. competitiveness by cosponsoring H.R. 743, the Teamwork for Employees and Managers Act.

SHENANDOAH VALLEY NATIONAL BATTLEFIELDS PARTNERSHIP ACT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. WOLF. Mr. Speaker, today I reintroducing legislation to preserve the Civil War sites in the Shenandoah Valley of Virginia. The Shenandoah Valley National Battlefields Partnership Act, which enjoyed wide bipartisan support in the 103d Congress, provides us with an excellent opportunity to preserve an integral piece of American history.

In response to a congressional directive—Public Law 101–628—the National Park Service [NPS] undertook the task of studying the Civil War sites in the Shenandoah Valley. The NPS identified significant Civil War sites and determined their condition, established their relative importance, assessed short- and long-term threats to their integrity, and provided general alternatives for their preservation.

The Park Service discovered that 15 of the 326 documented armed conflicts in the valley between 1861 and 1865 were of particularly high significance. Because many portions of the valley retain a high degree of historic, rural, and scenic integrity, the NPS concluded that they should be preserved. The two major valley campaigns—the Thomas J. "Stonewall" Jackson Valley campaign of 1862 and the decisive Philip Sheridan campaign of 1864—are the major Civil War battlefields not yet preserved. This Congress has an historic opportunity to capitalize on the overwhelming momentum of support for this legislation.

Unfortunately, the NPS did not recommend a specific preservation strategy. Therefore, some local valley residents accepted a challenge by Park Service staff to devise a plan to preserve these historic lands. Their efforts were remarkable. Their dedication and perseverance unflappable. This was truly a grass roots effort.

Local residents began to meet and discuss how these hallowed lands could be preserved for future generations to learn from and enjoy. They are eager to share the stories of the valley—not just battle maneuvers and formations, but the stories of people dislocated by a brutal war. They want to share the story of how the city of Winchester, VA, changed hands between North and South at least 73 times, and how that turmoil affected local residents.

After countless meetings and telephone conversations, in which the National Park Service was consulted, a consensus began to form around a partnership concept where Federal, State, and local governments, private landowners and preservation groups could work together to preserve these lands. After a draft bill was ready, we held discussion meetings in the Shenandoah Valley on the proposed legislation. These meetings provided an opportunity for thorough review and comment by valley residents and officials on this legislation. These meetings, attended by local government officials, landowners, business people, and preservationists, served as a vehicle to refine, modify, and improve the legislation with the input and advice of citizens from throughout the Shenandoah Valley.

What I found during those public meetings was unprecedented unanimous support for this legislation. I served at the Department of the Interior in the seventies under Secretary Morton, and I can't recall ever gaining such widespread support for a park bill. The legislation before this subcommittee has been endorsed by every local government where core battlefield properties are located. Moreover, we have a broad, bipartisan coalition of interests united to preserve these treasures of history. The list that follows my statement, compiled over a year and a half ago, comprises those persons and entities who endorsed this partnership approach to preservation. There have been many others since this list was put together.

This House should know that the work of valley residents did not end with the drafting and introduction of this legislation. There has been great activity in the past year. The Frederick County Board of Supervisors and Winchester City Council have appointed a battlefield task force whose responsibility it is to prepare a strategic plan for the protection and use of the battlefield sites. They have developed an interim action plan which designates the most critical and significant sites and recommends immediate actions to be taken. Frederick County and the city of Winchester have also successfully convinced a trustee of a battlefield property at Kernstown to postpone a planned auction. Moreover, they have purchased a $500,000 2-year option to buy the land. Not only have the local governments dedicated time and personnel to planning the preservation of the battlefields, they have committed scarce resources to protect these lands. This is an overwhelming demonstration of their commitment to the successful implementation of a preservation plan.

Local governments alone can't preserve these valuable resources; they need a partnership with the Federal Government to preserve these lands. Even the most well intentioned friends of battlefield preservation will find it difficult to keep the threats of residential construction, commercial development, highway construction, and industrial development at bay. Interstates 66 and 81 bring increasing pressure on this rural landscape and threaten to consume more battlefield land. As the NPS study indicates, some critical properties have already been lost.

Since the Civil War, most of the Shenandoah Valley has remained in the same type of agricultural use, but, as the Park Service has reported, increasing development threatens key battlefield sites. This legislation would protect many of these through designation as a unit of the National Park System, while encouraging partnerships with local governments and private landowners to protect the natural cultural and historical resources on adjacent lands within the historic core areas of the key battlefield sites. Partnership is the key ingredient in this bill. It was borne of cooperation and will succeed by bringing all interested parties into the planning, development, and implementation of this novel preservation scheme.

This legislation capitalizes on the cooperation and hard work which have created a sturdy foundation upon which to build this park. Much of the groundwork has been laid by residents of the valley and specialists knowledgeable about land use planning, environmental impact studies, and so forth. By passing this legislation, this body will capitalize on the experience, dedication, and knowledge base that exists in the valley for preparing a plan for park management, visitor facilities, educational programs, and historical markers and exhibits throughout the Shenandoah Valley. The NPS should work hand-in-glove with the local community.

The second important component of the legislation is that it provides incentives for local governments to preserve historic land by including battlefield protection in regional planning. As the Park Service study observed, local governments are under increasing pressure to allow residential construction, commercial development, highway construction, and industrial development. Grants and technical assistance provide the necessary incentives that local governments need to ward off development pressures.

The third key ingredient which I would like to stress is the grants to private battlefield landowners. Because of the tight fiscal constraints of Federal discretionary spending, we can't expect the National Park Service to purchase thousands and thousands of acres of land. This is much too expensive. We can, however provide incentives to local landowners to assist in the preservation of historic lands. In exchange for these economic incentives, private landowners could provide the Park Service needed scenic or preservation easements or could contractually agree to maintain open-space lands with historic viewsheds. This will ensure that a comprehensive overall interpretation of the resource is attained.

Based on suggestions made by many residents of the valley, I added a provision in this legislation which continues to allow living history demonstrations and battlefield reenactments on the battlefields. Living history demonstrations help educate visitors about what life was like during the battle. Also groups like the Cedar Creek Battlefield Foundation use reenactments to help raise money for continued preservation and interpretation of the battlefields.

The time is upon us for Federal action to preserve the historic Civil War battlefields of the Shenandoah Valley, in partnership with State and local governments, local landowners, and preservation groups. This innovative concept will be the least costly and disruptive strategy to protect the lands forever.

Mr. Speaker, I would be remiss if I did not recognize the tremendous contributions of citizens from the valley and every county government which has supported this legislation. I can't possibly thank everyone in the valley and across the country who has supported this effort, but would like to let them know that this House and I are grateful for their diligent work. The following is a list of some of the supporters of this legislation.

SHENANDOAH VALLEY PROPOSAL ENDORSEMENTS—BY COUNTY

FREDERICK

The Glass-Glen Burnie Foundation, landowner/individual.

Town of Middletown, government.

Town of Stephens City, government.

Winchester-Frederick Chamber of Commerce, business.

Winchester-Frederick County Econ. Dev. Comm., business.

SHENANDOAH

Association for the Preservation of Civil War Sites, landowner/individual.

C.M. "Mike" Hunt, landowner/individual.

Sarah P. Faulconer, landowner/individual.

James H. Faulconer, landowner/individual.

Garland C. Hudgins, landowner/individual.

Breckenridge Chapter, Daughters of the Confederacy, historic group.

Town of New Market, government.

Clifton M. Truesdale, individual.

The Strasburg Guards, Sons of Confederate Veterans, historic group.

Town of Woodstock, government.

David E. Smith, landowner/individual.

William Craun, landowner/individual.

William F. Bausserman, landowner/individual.

William J. Bausserman, landowner/individual.

Harold Walter, landowner/individual.

Keith Rocco, landowner/individual.

J.W. Troxell, landowner/individual.

Ralph Stickley, landowner/individual.

Tom's Brook Farm,/Rodney A. Bankson, CDR, USN–Ret., landowner/individual.

10th Virginia Volunteer Infantry, historic group.

Cross Keys Antiques/John B. Woodyard, landowner/individual.

Friends of the North Fork of the Shenandoah River, civic group.

Hupp's Hill Battlefield Park and Study Center, historic group/business.

New Market Area Chamber of Commerce, business.

New Market Battlefield Historical Park, historic group.

Patricia K Marie, landowner/individual.

Reformation Lutheran Church, civic group.

Robert D. Plu, landowner/individual.

Shenandoah Caverns, business.

Shenandoah Valley Civil War Roundtable, historic group.

Shenandoah Valley Quality Inn/Lois Moomaw, Gen. Man, business.

Strasburg Rotary Club, civic group.

Town of Mount Jackson, government.

Town of Tom's Brook, government.

VMI Museum Programs, historic group.

Women's Memorial Society, civic group.

Woodstock Museum, historic group.

ROCKINGHAM

Arthur J. Hamilton, landowner/individual.

Association for the Preservation of Civil War Sites, landowner/individual.

Barbara Paulson, landowner/individual.

Cherry Grove Farm/George K. Harnsberger, landowner/individual.

F & M Bank-Massanutten, business.

Graham C. Lilly/Professor of Law UVA, landowner/individual.

Harrisonburg-Rockingham Historic Society, historic group.

Harry L. Chandler, landowner/individual.

Lawrence D. Bowers/Wilson & Bowers, landowner/individual.

Martha B. Caldwell/Professor of Art History JMU, landowner/individual.

Mr. & Mrs. Brownie A. Cummins, landowner/individual.

Mr. & Mrs. Thomas F. Tutwiler, landowner/individual.

Peter Svenson, landowner/individual.

The Inn at Keezletown Road Bed & Breakfast, business.

The Society of Port Republic Preservationists, historic group.

The Town of Dayton, Virginia, government.

James J. Geary, Former Dir. New Market Battle., landowner/individual.

Ronald E. Carrier, President, James Madison Univ., educational.

Barbara Moore, landowner/individual.

Daniel M. Downey, Ph.D, landowner/individual.

Tom's Brook Farm/Rodney A. Bankson, CDR, USN-Ret., landowner/individual.

W. Allen & Phoebe Sherwood, landowner/individual.

W. C. Bedall, Jr., landowner/individual.

Wilmer Diehl Family, landowner/individual.

HIGHLAND

Association for the Preservation of Civil War Sites, landowner/individual.

The Board of Supervisors for Highland County, government.

The Recorder, business/press.

Virginia's Western Highlands Travel Council, business.

WINCHESTER

City of Winchester, government.

Elizabeth G. Helm/Former Mayor, government.

Downtown Development Board, government.

The Common Council of the City of Winchester, government.

AUGUSTA

Winston Wine, landowner/individual.

PAGE

Luray Caverns Corporation, business.

PORT REPUBLIC

Mark & Susan Hardy, landowner/individual.

REGIONAL

The Civil War Trust, historic group.

ALEXANDRIA

Brian C. Pohanka, landowner.

VALLEY WIDE

Shenandoah Valley Travel Association, business.

TRIBUTE TO DARLENE GREENWELL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. SKELTON. Mr. Speaker, today I wish to honor a great Missourian, Darlene Greenwell for years of dedication and hard work as circuit clerk for the Bates County Circuit Court. Darlene Greenwell of Adrian, MO, recently retired after a lifetime of unrelenting work to foster the effectual supervision of justice in her community.

Darlene Greenwell was not only committed to her work, but has given many years to volunteer work within her community. She has served as president and a member of the Bates County Democrat Women's Club and Beta Sigma Phi, a member of the Adrian Christian Church, the American Legion Auxiliary, and NARFE.

I urge my colleagues to join me in commending Darlene Greenwell for her many years of leadership and service to her community. I bid best wishes for a happy and prosperous retirement.

CONGRATULATES THE GUAM GIRL SCOUTS ON THEIR 60TH BIRTHDAY

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. UNDERWOOD. Mr. Speaker, two troops came to Guam in March 1935 and marched right into the halls of George Washington High School. These were the girls in green, from kindergarten to their senior year of high school, and they became a chartered council of the Girl Scouts of America in 1937. The Guam Girl Scouts now consists of more than 750 active members, and in March 1995 we celebrate their 60th Anniversary on Guahan.

Many districts across the country are blessed with their units of this fine organization. The Guam Girl Scouts in my home district have become assets in every one of our villages and military installations.

The goals of the Girl Scouts program are expressed in four programs, all of which promote higher quality of life on the island. The programs are: Developing Self-Potential, Relating to Others, Developing Values, and Contributing to Society.

The girls work in the community and earn badges by completing activities centered around an interest. The five "Worlds of Interest" in Girl Scouting are the World of Well Being, the World of Out-of-Doors, the World of People, the World of Arts, and the World of Today and Tomorrow.

This year, Guam's Girl Scouts spearheaded the Kobe relief project to aid Japan's earthquake victims. More than 400 volunteer hours were devoted to sorting, counting, packaging, and labeling more than 30,000 items donated from Girl Scouts and Guam's residents.

Guam Girl Scouts also conducted a food drive for Catholic Social Services, participated in the Sugarplum project and collected clothes for Goodwill of Guam, all projects completed in the past year.

Yes, we on Guam are lucky. Our Children can receive an informal education through the Guam Girl Scouts. The girls who join enjoy many fine programs which enhance and extend their abilities and strengths. Our future leaders are getting the best kind of training through services to the community.

COMMEMORATING THE LUNAR NEW YEAR 4693

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Ms. PELOSI. Mr. Speaker, I rise today to bring to the attention of the Congress that throughout this great Nation, our Chinese, Korean, and Vietnamese-American communities will celebrate the new lunar New Year.

Today, January 31, 1995, marks the year 4693, the Year of the Boar in the Chinese astrological calendar. During this festive season, Korean families will eat their traditional mandukook and duk, the Vietnamese their banh chung and banh tet, and the Chinese their dumplings and precious mooncakes. Families will reunite at homes and at large banquets, and observe traditional rituals which stretch back centuries in these ancient cultures.

Mr. Speaker, San Francisco is a city built by immigrants who have come to our shores. Each has enriched and invigorated our Nation through their hard work, their family values, and through the cultures and traditions they bring to the American experience. Today, in San Francisco, and other communities throughout the Nation, we should honor the Chinese, Korean, and Vietnamese-American communities, and wish them a happy new year.

A TRIBUTE TO FOUR HEROS

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. BATEMAN. Mr. Speaker, I rise today in recognition of four U.S. Army chaplains, 1st Lts. George L. Fox, Clark V. Poling, John P. Washington, and Alexander D. Goode, each one of different faith, who worked together and gave their lives in an effort to save others in a selfless act of heroism.

Fifty-two years ago, on February 3, 1943, the SS *Dorchester,* an Army transport vessel, was in the North Atlantic en route from St. John's NF, to Narsarsuak, Greenland, transporting 904 passengers, in addition to some cargo. At approximately 3:55 a.m., the *Dorchester* was torpedoed without warning.

The torpedo hit the ship just aft of amidships, near the engine room. The explosion was muffled and there was very little noise, but the concussion was severe. The ship took on water at such a fast rate that in a matter of just 25 minutes, it was lost.

In that short time, it was the bravery of Lieutenants Fox, Poling, Washington and Goode, the four chaplains aboard the *Dorchester,* that saved the lives of many. According to many survivors, the chaplains, with complete disregard for their own safety, quieted the panic of men frozen by fear at the ship's rail, forcing them into boats and lifejackets. They handed out life belts from a box, and when those were gone, they gave their own to enlisted men. Additionally, they helped construct makeshift rafts out of timbers, cork, and other materials at hand. The only concern of these brave men was to do everything they could to save the lives of the others on the transport. Chaplain Goode even gave his gloves to another man, despite the bitter cold, knowing that having those gloves might help him survive. The recipient of the gloves did indeed survive, and credited his survival to the selflessness of Chaplain Goode.

When these four brave men had done everything humanly possible to help those on board, and when the end was imminent, Lieutenants Poling and Fox, both Protestants, and Washington, a Roman Catholic, and Goode, who was Jewish, joined hands and prayed together as the ship went down.

Because of their bravery, these four heroic men were posthumously awarded the Purple Heart and the Distinguished Service Cross. Additionally, in 1960, this body awarded Fox, Poling, Washington, and Goode the Congressional Medal for Heroism. This medal was specifically created to honor these men, and they are the only four to have received it.

The SS *Dorchester* was built at Newport News Shipbuilding & Dry Dock Co., and was originally a passenger liner when delivered in 1926. With the commencement of the United States involvement in World War II, the owners chartered it to the Army Transport Service to transport personnel and cargo. In Newport News today, the memory of the four chaplains is kept alive by the efforts of the Four Chaplains Memorial Committee, and with the marble and bronze monument that was erected in their memory in 1989 at the War Memorial Museum grounds. Let us keep alive their bravery their actions embodied, by remembering their heroism today.

RENEW AMERICA WINNERS OF THE NATIONAL AWARDS FOR ENVIRONMENTAL SUSTAINABILITY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. RICHARDSON. Mr. Speaker, today, three organizations from my home State of New Mexico will be recognized for their accomplishments in effective, responsible environmental projects. Lighthawk of Santa Fe, the Southwest Network for Environmental and Economic Justice of Albuquerque and the Global Rivers Environmental Education Network of Las Cruces will all be recognized by Renew America as winners of the National Award for Environmental Sustainability.

I am especially proud of the fact that New Mexico, which has one of the smallest populations of any State in the Nation, is home to three Renew America award winners. That figure is more than any other State in the Nation, with the exception of California with seven winners, and a far larger population base than New Mexico.

Lighthawk, which is known as the Environmental Air Force, is based in Santa Fe, NM, in my district, but their impact has been felt throughout the Nation and the world. Since its creation in 1979, Lighthawk and its group of pilots have flown more than 2 million miles to far-flung locations throughout the Western Hemisphere to educate the public, empower local environmental groups, and respond to environmental crises. Lighthawk flies activists, legislators, and the media over and into endangered lands, allowing individuals to learn first-hand of environmental problems and situations. I have flown with Lighthawk in the past, and I am especially pleased that they have received such significant recognition.

Project Del Rio, in cooperation with the University of Michigan's Global Rivers Environmental Education Network conducts a program that brings students and educators together from over 100 schools located along the Rio Grande both in the United States and Mexico. Using equipment, background, motivation, and resources provided by Project Del Rio, students learn to interpret scientific information, public opinion statistics, and economic data. Since its founding in 1990, many of the programs' participants have gone on to use the experience they gained while with Project Del Rio to win internships in other, similar fields.

The Southwest Network for Environmental and Economic Justice, based in Albuquerque, NM, works to address issues that impact people of color and to strengthen community organizations and encourage them to influence local, State, regional, and national policies regarding the environment. The network has been considered essential in restoring long overdue justice in the areas of unsafe working conditions, natural resource exploitation, and political disempowerment. In addition to this award the Southwest Network has been involved in many successful media campaigns, which have opened up communication channels between environmental activists, the Department of Energy, and the Environmental Protection Agency. Lastly Mr. Chairman, the Southwest Network has been instrumental in promoting the examination at the Federal level of the broad range of environmental justice issues.

Mr. Speaker, these New Mexico-based organizations truly are wonderful examples of the dedication of citizens across the country to environmental protection and education activities. I would like to salute my constituents' organizations and the other Renew America Winners for their accomplishments and contributions. They deserve our thanks and our appreciation.

INTRODUCTION OF THE COMMON SENSE WELFARE ACT OF 1995

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. KNOLLENBERG. Mr. Speaker, I rise today, along with my colleague Mr. KOLBE, to introduce the Common Sense Welfare Reform Act of 1995. We believe this legislation could revolutionize the way we deliver social services to the Nation's poor.

Over the course of the last 60 years, government, whether it be Federal, State, or local, has assumed almost complete responsibility over caring for the Nation's poor. Like it or not, our welfare delivery system has essentially become a government monopoly. And it exhibits all of the worst symptoms: It is woefully expensive; it is overly bureaucratic; it is preoccupied with process; and it is client-ignorant. Every year, it gobbles more of our tax dollars without any incentive to cut costs or streamline itself.

The American welfare monopoly has also undercut the efforts of private organizations. It has made it nearly impossible for charities to place conditions on their aid, when prospective recipients can walk down to the local welfare office and pick up a government check, no strings attached.

It has almost singlehandedly created what the Wall Street Journal's John Fund calls the I-gave-at-the-office syndrome. In fact, the portion of charitable giving in this country devoted to alleviating poverty has declined by a shocking one-third since 1960.

So the question remains: How should we reform the welfare delivery system? Our bill, like many others, would consolidate dozens of overlapping, inefficient Federal programs and put that money into a State block grant. However, it also provides for a choice-in-welfare tax credit that would give individual citizens a voice in how this country fights poverty. Under our plan, every taxpaying American would be free to direct up to 10 percent of their Federal income taxes to a charitable organization in their community that is engaged in antipoverty efforts. Each time a taxpayer claimed this credit, the Federal Government would make a corresponding reduction in their State's block grant—thereby making it revenue neutral.

The Federal Government already has a regulatory framework for overseeing nonprofit organizations, minimizing the need for additional bureaucracy. However, State governments often have a more active oversight program, so we would require that participating charities obtain State tax-exempt status as well.

In addition, to ensure that tax credit contributions are reaching the people they're intended to serve, it would be necessary to establish guidelines for participating charitable organizations. For instance, charities would be prohibited from using the proceeds to engage in lobbying or litigation activities. We would also require that at least 70 percent of a participating charity's expenses be allocated directly to the poor. And charities would be required to expand tax credit-generated contributions within 1 year of receipt.

To maintain the separation of church and state, religious organizations must have a subsidiary devoted to social welfare to be eligible. Organizations that have a religious component, but are primarily focused on social welfare—i.e., Salvation Army—would be eligible as well.

Finally, to guard against possible fraud, taxpayers themselves would not be allowed to donate tax credit-funded contributions to charities in which they have a financial interest.

Our funding mechanism is a revolving account within the Treasury Department that would hold the vast majority of the money the Federal Government intends to spend on poverty in the next fiscal year. Once Congress appropriated the money for this account, a small portion would be set aside to cover the cost of the tax credit, and the rest would be given to the States in block grant form. After April 15, any funds left in the tax credit set-aside would be given to States as a bonus.

It is important to note that the tax credit/block grant funding mechanism will be separated at the State level. For instance, Michigan's total Federal grant would be determined by how many of its citizens gave to instate, qualified charitable organizations. This is to ensure that the effects of competition are always tangible.

There are a few other provisions worth noting.

First, we phase in the tax credit over a 5-year period to ensure that the transition to a public/private partnership is a gradual one. Second, while we place dollar caps on the credit, any contribution above that level would be tax deductible as it is now. Similarly, contributions to other nonprofits would also retain their present deductibility.

In closing, we believe that if our bill was enacted, we could at once reduce Federal spending and micromanagement, create competition among aid providers, reinvigorate a charitable sector whose tremendous capacity has been subverted by government intrusion, and finally begin to attack poverty in a truly meaningful and effective way.

COMMON SENSE WELFARE REFORM ACT

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. KOLBE. Mr. Speaker, I rise today with my colleague, Congressman KNOLLENBERG, to introduce the Common Sense Welfare Reform Act. We believe it is not only possible, but sensible, to turn the administration of the welfare system over to the State capitals and the city halls. Block granting social programs to the States is a first step in reform of the welfare system. This flexibility is critical to allowing States to test assistance programs best suited to their needs. Common sense tells us that a successful program in rural Arizona may not necessarily work in Detroit, MI.

We believe, however, that the debate should be taken a step further—and that is why we are introducing the Common Sense Welfare Reform Act. If States can better administer welfare programs, shouldn't it follow that citizens know best which programs work in their communities and which are the most cost-effective? That's what our legislation is about—a partnership of State and local entities with individual taxpayers.

The common sense welfare reform bill will give the people that pay the bills and provide the services in the community a role in how poverty relief efforts are structured. The Common Sense Welfare Reform Act consolidates over 60 overlapping, inefficient programs run by the Federal Government and gives the money directly to the States in block grant form. That's a direction in which the House is moving and is a necessary precondition to making our welfare privatization proposal work.

Our proposal allows taxpayers to contribute up to 10 percent—not to exceed $2,500—of their Federal income taxes to qualified private charities in their State in return for a dollar-for-dollar tax credit. This tax credit is paid for by corresponding reductions in the block grant to the State in which the taxpayer lives.

The Common Sense Welfare Reform Act serves two purposes by empowering taxpayers to participate in the funding decisions for poverty-relief services. First, we give taxpayers a voice in how services are delivered in their communities. We have faith in the ability of individuals who are in the communities to know what is working well. The Federal Government—or State governments, for that matter—should not have a monopoly on where welfare dollars are allocated. Critics of block grants contend that many States do not have a good track record in administering social programs. Our proposal, however, diffuses the concentration of authority over spending on poverty-relief efforts by leveling the playing field on which private and public charities compete. The Common Sense Welfare Reform Act allows taxpayers to determine where their poverty-relief dollars are spent the most effectively.

Second, we reward private charities for doing what they have traditionally done best, and that is to provide prompt, temporary assistance. Private charities view assistance as a tool by which to change behavior—it is not a right nor a way of life. Because of this philosophy, both in theory and in practice, it is inconceivable that a family would subsist for generations on the local soup kitchen, food bank or shelter. Private charities stress personal responsibility and provide hands-on management for recipients. The humanizing aspect of private charities is missing from the impersonal public welfare bureaucracy which requires nothing from the recipient except eligibility for aid.

Americans need to become personally involved in reforming the welfare system. If I may be so immodest, I would suggest that Congressman KNOLLENBERG and I have a bold and innovative approach in the Common Sense Welfare Reform Act to allow Americans to do just that. We hope the momentum in the welfare debate will take our deliberations a step further. Let's allow taxpayers a role in providing assistance, while giving private charities the opportunity to compete for welfare dollars in a true, competitive atmosphere, instead of making their funding a function of who has the best grant writer or the best connections in Washington—or Lansing or Tallahassee.

THE DEATH OF JAMES P. GRANT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. GILMAN. Mr. Speaker, the world lost a great humanitarian this past weekend with the death of my dear friend, Jim Grant.

For the past 15 years, Jim served with distinction and compassion as the Executive Director of UNICEF. He was a man who loved all of the world's children and a man who made a significant difference. Jim Grant epitomized the dedicated international public servant, but no one ever called him a bureaucrat. Rather, he was a visionary leader who used all the tools available to promote worthy causes.

Jim Grant was a field-oriented person. No project was too remote to escape Jim's interest. Traveling with Jim in Africa meant spending a lot of time in off-road vehicles to see how well health programs were reaching remote villages.

Jim Grant was a promoter in the best sense of the word. Whether he was promoting expanded immunization programs, oral rehydration, or breastfeeding, or whether he was enlisting another celebrity as a UNICEF goodwill ambassador, Jim Grant always used his flair for publicity for good causes.

Jim Grant had the capacity to influence world leaders to focus on the topic he cared most about—the state of the world's children. Perhaps his most satisfying accomplishment was the 1990 World Summit for Children and one of his greatest disappointments was that he did not see his own Government ratify the Convention on the Rights of the Child during his lifetime.

Probably no tribute to Jim Grant's life is more appropriate than to lay out the following statistics: During his tenure as Executive Director of UNICEF, immunization levels in the developing world have risen from about 20 percent in 1980 to almost 80 percent today. During that same period, the number of polio victims has fallen from 500,000 a year to fewer than 100,000.

Jim Grant was an American hero and a world treasure. His presence will be greatly missed, but his work and the good works of UNICEF will remain a legacy of his persistence and humanity.

BUDGET BALANCING VIA CONFLICT CONTAINMENT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. JACOBS. Mr. Speaker, Professor Janos Horvath is one of Indiana's most distinguished citizens. His Ph.D. in economics was earned at Columbia University. He now teaches courses in advanced macroeconomics, principles of economics, international business and business ethics.

He is known and rightly known as a brilliant theoretician.

Before his immigration to the United States, he was a leader in the Hungarian independence movements in 1956. Earlier he was imprisoned by the Nazi Gestapo. He was elected to the Hungarian Parliament in 1945.

The following is an example of the imaginative writing of Dr. Horvath.

BUDGET BALANCING VIA CONFLICT CONTAINMENT

(By Janos Horvath)

There exists a workable option for Congress in 1995 to balance the budget by 2001. It is not to push through some of the plans as they stand. The numbers do not add up. Not only conventional economists hold doubts, but conservatives such as Herbert Stein and William Niskanen who advised Presidents Nixon and Reagan are also skeptical.

The road I propose toward budget balancing has three guide posts. They say: (1) hold expenditures constant in inflation adjusted real terms, (2) hold tax rates constant, (3) allow tax revenues to increase from the growing tax base which is the Gross Domestic Product. In essence, halt the deficits that beget debt accumulation, crowding out of investments, confiscatory taxes, debilitating inflation, debt repudiation, and erosion of the social fabric.

Here are the salient figures. Expressed in current dollars the 1994 level of government spending, $1,485 billion, will amount to $1,844 billion in year 2001. The higher number reflects inflation—the two amounts are of equal purchasing power. During the same interval from 1994 to 2001, tax revenues rise from $1,249 billion to $1,859 billion. The increase results from 2.5% economic growth plus 3.2% inflation. But if the growth rate becomes 3.0%, a sound estimation, then the deficit reduces to zero in six years.

To implement the proposal, I offer a "conflict containment" model. The GOP Contract With America being the seminal document, it would be naive to assume away stress in the bipartisan arena. Occasionally Republicans in the House and in the Senate may differ. Even though certain groups might lack the majority to reach their declared goals, they could block others from reaching their goals. Here conflict minimizing means maximizing the potentials for compromise: the mother milk of legislation.

On the revenue side, the tax mechanism shows the perspectives: (1) Tax revenues will increase, (2) without increasing tax burden, (3) with constant tax rate, (4) because the tax base grows with the growing economy. A family making $100,000 taxable income with 20% tax rate does pay $20,000 tax. As taxable income grows to $110,000 the tax payment rises to $22,000. The $2,000 tax increase comes from income growth. The tax burden has not risen.

The expenditure side is more tangled. The key is to hold the sum total of governmental spendings constant. This means no cut and no rise in the bottom line amount. Undoubtedly such a tall order prompts challenges. On one side is the fiscal restraint movement who wants to prune. On the other side are cynics who accept that entitlements rise and by curbing them the society would crumble. In the middle are solution seekers recalling that the USA has survived and prospered with less government spending and even financed and won the cold war. To intone an aphorism: "whatever exists is possible."

Successful budget balancing being a viable pursuit, it is less agonizing to mutually consent to continue spending allocations the way they are rather than to battle over every detail. Therein lies the rational for the maxim: "no-tax-cut-no-tax-raise-no-spending-cut-no-spending-raise." Suspicions of inequity and the pangs of envy get mollified. Nobody's ox gets gored.

The no-cut-no-raise maxim is a self-discipline apparatus for Congress. While the bottom line is untouchable, there is ample room, actually duty, for efficient and compassionate reallocations between and among existing provisions. On the outlay side are two major items: increases in Social Security and health care. On the saving side are: government streamlining, welfare reform, peace dividend, privatization, etc. Further savings result if bureaucrats were rewarded for cost cutting innovations and if the deceptive practices were discontinued which label reduction in projected increases as spending cut.

Attempts at creative solutions have been tried before. In March, 1994, Rep. Gerald B. Solomon (R–N.Y.) proposed more than 500 specific spending cuts totaling more than $700 billion, balancing the budget within five years. His bill did not raise taxes, did not cut Social Security, and even increased defense spending by $60 billion. Among the spending cuts were: eliminating the Interstate Commerce Commission and the Travel and Tourism Administration, restructuring the Interior Department, downsizing the Bureau of Reclamation, privatizing the Government Printing Office, the Government National Mortgage Association, and the Air Traffic Controllers.

A coherent farm policy review is the work of Senator Richard Lugar (R–Ind). Now chairman of the Senate Agriculture Committee, he is determined to substantially reduce the agricultural programs that cost about $60 billion a year. Nothing escapes scrutiny: bloated bureaucracy, food stamps, subsidies to producers of corn, wheat, cotton, rice, sugar, tobacco. Lugar's two year review has already led to closing of 1,070 underused field offices nationwide.

As the 1995 legislative agenda evolves, the "Lugar Initiative" and the "Solomon Bill" are emulated. Recently President Clinton has joined the thrifty moderates proposing expenditure cuts. Among the targets are: inventory liquidation (petroleum, metals) could recover around $100 billion and the privatization of assets (power plants, grazing lands, mineral rights) about $200 billion. Pruning outdated programs and cutting deadwood are on everybody's agenda. However, while bipartisan bargaining promises results, there are ideological and operational aspirations which becloud the horizon.

There is gathering a momentum of conflicts as Congress debates the GOP Contract With America. It is labeled "fairy-tale economics * * * not * * * specific," by Senator Tom Daschle (D–S.D.) and Rep. Richard Gephardt (D–Mo), leading Democrats. House Majority Leader Dick Armey (R–Texas) wants "discipline which comes from the balanced budget amendment * * * [so] once members of Congress know exactly, chapter and verse, the pain that the government must live with in order to get a balanced budget, their knees will buckle." Such early signs divine that the budget debate brings fervent struggles. When the political stratagem—patriotic devotion, party discipline, arm twisting, log rolling, and deal making—does succeed to enact a hard fought budget, the battles might inflict grievous injuries that handicap subsequent legislation.

Hence the need for conflict containment. Less conflicts allow more time for creative work. The crux of the matter is how to shape the budget to everbody's heart's desire. It is beyond the realm of possibilities to pursue four rival goals simultaneously: to cut tax, to raise tax, to cut expenditure, to raise expenditure. Even if the arithmetics worked, still distrust about burden sharing would deadlock the process. It would be like opening a Pandora's box.

Successful conflict containment is logical human behavior. Legislators, representing various constituencies, will be less unwilling to support reform (1) if the cure is believable, and (2) if burden sharing makes no exception. This is the venerable idea of fairness. People who resent special deals may embrace fair deals. Thus people make sacrifices when moved by patriotic, religious, emergency, or community appeals. Nowadays the threat of a national bankruptcy arouse people.

In conclusion, budget balancing via conflict containment is an operational blueprint ready to use. It saves time, reduces pain, and guarantees cure. Congress, authorized by the Constitution, has all the power to do the job. Efforts to pass a constitutional amendment to balance the budget could be directed to balancing the budget. Anyway, after the symbolic process of constitutional amendment the reallocations in spendings still must come. Congress may choose a symbol before, even though it is a detour. In a dry spell some gardeners do a rain dance before fetching buckets to carry water from the pond.

Finally, let's peek into the future. After following the conflict containment framework through six or seven years, the trend lines of government spending and tax revenue will converge. Thus, 2001 becomes the year of bliss when the deficits reduce to zero and surpluses begin to accumulate. Then we shall have options. How much of the budget surplus should be directed where: tax cut, human capital, competitiveness, social insurance, governmental debt. First, of course, we ought to get there. For which the prospects exist.

C. WAYNE HAWKINS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. MONTGOMERY. Mr. Speaker, today a very good friend of veterans, Mr. C. Wayne Hawkins, retired from the Department of Veterans Affairs after 37 years of dedicated Federal service. I had planned to attend a reception in his honor yesterday; however, votes in the House prevented me from doing so. I regret I could not join his many friends and colleagues to thank him for his outstanding service to our Nation's veterans. I came to know Wayne through his many appearances before our committee. He established a reputation among our members as both an outstanding administrator and a straight shooter whose commitment to the veteran and the VA system were unshakeable.

Wayne Hawkins' distinguished career as a health care administrator, educator, and veterans' advocate is evidenced by the positive impact he has had on the provision of compassionate, quality health care both within the Department of Veterans Affairs and the health care community.

Prior to his retirement, Wayne was the Deputy Under Secretary for Health for Administration and Operations, the highest position ever held by a nonclinician within the Veterans Health Administration [VHA], the health care arm of the Department of Veterans Affairs. In this position, Wayne served as the chief operating officer for one of the largest corporate health care systems in the country which plays an integral part in educating physicians, nurses, dentists, and allied health care practitioners; providing quality medical care to our Nation's veterans; conducting medical research, and serving as medical backup to the Department of Defense during a time of war or national disaster. He was responsible for the operational management of 171 medical centers, 353 outpatient clinics, 128 nursing homes, and 37 domiciliaries, which employ more than 200,000 personnel with a $16.7 billion annual budget.

Mr. Speaker, Wayne was born in Rogersville, TN, on August 21, 1935. He received a B.S. degree from East Tennessee State University in 1957 and an M.S. in health care administration from the University of Minnesota in 1971. He completed graduate work in health systems management at Harvard University, and is a graduate of the U.S. Army Command and General Staff College.

Wayne began his VA career in 1957 as a rehabilitation therapist at the Mountain Home VA Medical Center in Johnson City, TN. During his VA career, Mr. Hawkins also served as a personnel manager and later as an associate director at VA facilities in Asheville, NC, Biloxi, MS, Atlanta, GA, Waco, TX, Spokane, WA, Portland, OR, Nashville, TN, and Dallas, TX. Prior to his January 1991 appointment as the Deputy Under Secretary for Health for Administration and Operations in Washington, DC, Wayne served as Director of the VA Medical Center in Dallas, TX for 15 years.

Wayne has an equally distinguished military career, retiring after 33 years in the Active and Army Reserve with the rank of colonel. He served as the chief of staff of the 807th Medical Brigade in Seagoville, TX, from 1979 to 1985, then as executive officer of the 94th General Hospital in Mesquite, TX, until his retirement in 1987.

Mr. Speaker, Wayne Hawkins' contributions extend beyond his role as a Federal health care executive. He served in major leadership roles in the Texas Hospital Association and the American Hospital Association, as president of VA's chapter of the Senior Executive Association, and holds faculty and preceptorship appointments at a number of prestigious universities. He is a member of the American College of Health Care Executives and was inducted as a fellow in 1991.

Wayne has received many awards during his career, including the Department of Veterans Affairs' Distinguished Career Award, the Presidential Rank Award for Distinguished Executive and the Presidential Rank Award for Meritorious Executive, the Ray E. Brown Award for Outstanding Accomplishment in Health Care Management, and the Outstanding Federal Services Health Administrator Award from the Association of Military Surgeons of the United States, and the Army's Legion of Merit and Exceptional Leadership Award. Other honors include induction as an honorary member of the Sigma Theta Tau International Honor Society of Nursing, and honorary lifetime member of the American Academy of Medical Administrators.

It would be difficult for me to list all of Wayne's many accomplishments during his 37-year career with the VA, but I would like to highlight just a few. He chaired the Chief Medical Director's Advisory Committee on Construction over a 10-year period which led to the reorganization of the construction program to VHA. This reorganization decentralized the decisionmaking process to local directors and provided an opportunity to explore different methods of design. He was a leader in developing the model for satellite outpatient clinics in VA, and served as the project manager for the construction and activation of one of the first satellite clinics in Chattanooga, TN, in 1974.

Over a 15-year period he developed the Dallas VA Medical Center into one of VA's flagship hospitals, taking a leadership role in patient care, education, and research. He has always been a strong advocate for including employees, veteran service organizations, and the community in the decisionmaking process. He was an early advocate for the homeless veterans program and established the first comprehensive treatment center for chronic mentally ill veterans at the Dallas VA Medical Center. He was instrumental in restructuring the role of canteen service as a major contributor in meeting the customer's needs and opened the VA's first food court in the early 1980's.

During his tenure in VA Central Office, Wayne was recognized as a strong advocate for the decentralization and empowerment of medical center directors. Throughout his career, Wayne Hawkins has consistently held the respect of his superiors, his peers, and subordinates due to his integrity, honesty, and decisiveness. He has frequently been credited with his visionary capability and his ability to manage many complex issues at any one time. However, his No. 1 priority never changed—doing what was right for America's veterans.

The VA health care system has certainly undergone many far-reaching changes over the course of Wayne's long, distinguished career. Over those years, the demands on, and expectations of, VA medical facilities have mushroomed. Although VA has successfully met many of those challenges, I believe many of those successes are in no small measure a tribute to the kind of leadership and example set by Wayne Hawkins.

Upon his retirement, Wayne can take pride in the knowledge that he is among a distinguished few who will be remembered as individuals whose careers as VA clinicians, administrators, and key advisers to top leadership have left a lasting imprint—both on the VA system and on the many veterans who depend on it.

Mr. Speaker, Wayne Hawkins exemplifies the very best in public service—responsibility and accountability to self, fellow employees, those he serves, and the community. His vision and requisite knowledge to project future trends, zeal for excellence, and determination to see initiatives through to their successful conclusion are some of the qualities which have ensured his continued success for almost four decades. The honors and awards that the VA, veterans service organizations, and the health care community have bestowed upon him are testament to both the depth of his service commitment and the impact of his efforts.

Although Wayne is retiring from Government service, he is not leaving the health care community. We wish him the very best in his new career and know that he will continue to be an advocate for veterans and a friend to the VA.

REVENUE SHARING REESTABLISHMENT ACT OF 1995

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. TRAFICANT. Mr. Speaker, today I introduced the Revenue Sharing Reestablishment Act of 1995. The bill, which will keep $5 billion in taxpayer money here at home, can help alleviate the budget constraints of our State and local governments. I urge my colleagues to cosponsor this important measure.

Mr. Speaker, many of my colleagues will remember the General Revenue Sharing Program created by the State and Local Fiscal Assistance Act of 1972. The program was relatively simple: State and local governments received automatic payments from the Federal Government based on a formula. The money could be spent at the discretion of the governments and the payments were guaranteed for as long as Congress authorized them.

As Congress works to lessen the overwhelming burdens it places on State and local governments, the Revenue Sharing Reestablishment Act of 1995 provides a channel through which Congress can directly assist these struggling entities. Under my legislation, $5 billion will be made available annually for direct payment to State and local governments. Unlike the previous Revenue Sharing Program, however, the program will not add to the enormous Federal budget deficit. Instead, the program will be paid for entirely with cuts in foreign aid.

The U.S. Government has been authorized by Congress to spend $14.8 billion in foreign aid during fiscal year 1995. Over 30 percent of the money is earmarked for two countries—Israel, which will receive $3 billion, and Egypt, which will receive $2.1 billion. There is no question, Mr. Speaker, that there are pressing needs throughout the world. We all know that famine, disease, and suppression transcend all borders.

We also know, Mr. Speaker, that America is experiencing horrors of its own: 14.3 million children live in poverty, 2.5 million Americans are addicted to crack, our infant mortality rate ranks 24th in the world, behind Singapore and Hong Kong, and, since 1960, violent crime has risen 500 percent and teen suicides have more than tripled.

We are desperate, Mr. Speaker, and diverting a third of our foreign aid budget to American governments will allow these entities to address the most pressing needs and the most destructive forces in their communities. Where are our priorities?

As the former Secretary of the Treasury John B. Connally stated in testimony before the House Ways and Means Committee in 1971:

> General revenue sharing seeks to redress some basic imbalances in our Federal system of government—imbalances between needs and resources, between power and responsibilities, between conception and execution.

Let's redress these imbalances, Mr. Speaker. And let's pay for it with money we already have. I urge my colleagues to keep our taxpayer's money not only in America, but in their State or community. I urge colleagues to cosponsor the Revenue Sharing Reestablishment Act of 1995.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Revenue Sharing Reestablishment Act of 1995".

SEC. 2. REESTABLISHMENT OF REVENUE SHARING PROGRAM.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of the Treasury shall make payments to States and units of general local government in accordance with the provisions of chapter 67 of title 31, United States Code (formerly known as the "Revenue Sharing Act"), as in effect on April 6, 1986 (in this section referred to as "chapter 67").

(b) ENTITLEMENT PERIOD DEFINED.—Notwithstanding section 6701(a)(1) of chapter 67, for purposes of this section the term "entitlement period" (as used in chapter 67) means each fiscal year after fiscal year 1995.

(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 6703(b) (1) and (2) of chapter 67, there are authorized to be appropriated to the Secretary of the Treasury to carry out this section $5,000,000,000. For purposes of this section, amounts appropriated under this subsection shall be treated as amounts in the Trust Fund (as that term is used in chapter 67).

SEC. 3. REDUCTION OF AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR FOREIGN AID.

The amount authorized to be appropriated for aid to foreign governments for fiscal years after fiscal year 1995 is reduced by $5,000,000,000.

GERMAN PARLIAMENT DENOUNCES SITUATION IN CHECHNYA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. LANTOS. Mr. Speaker, I would like to share with my colleagues a very important document brought to my attention by my very good friend, Dr. Zbigniew Brzezinski. Below is the text of a resolution unanimously passed by the Bundestag in Germany on January 20, 1995, regarding the Russian debacle in Chechnya. I commend the German Parliament for its principled stand and I urge my colleagues to carefully consider it as a model for our own policy.

The article follows:

GERMAN PARLIAMENT RESOLUTION ON CHECHNYA, JANUARY 20, 1995

Begin informal translation:

The German Bundestag is deeply concerned and dismayed at the dangerous development of the situation in Chechnya. It does not contest the right of the Russian federation to preserve its territorial integrity within the legal framework provided for by the Russian constitution and in observance of international law and human rights, as well as OSCE principles and other rules with which it (the Russian Federation) had agreed to comply under a binding obligation. The Russian actions in Chechnya constitute, however, a grave violation of the principles of the OSCE, the provisions of the 1992/1994 Vienna Document on confidence and security building measures, and of the U.N. Human Rights Conventions. The acts of violence, the disregard of human rights, and the indiscriminate and unrestrained use of military force are unacceptable. The military actions in Chechnya shake the confidence in the democratization process of the Russian Federation.

The German Bundestag deplores the appalling loss of human lives, the sacrifice and the suffering of the civilian population caused by the armed conflict in Chechnya.

The German Bundestag supports all efforts to call on Russia emphatically to continue the intensive dialogue started within the OSCE and to use all possibilities of the OSCE to solve the crisis.

The German Bundestag calls on the Russian Government and the Chechen fighters to stop the fighting immediately and unconditionally, to end the bloodshed and to seek a political solution of the conflict which takes into account the legitimate interests of Russia as well as those of the Chechen population.

Only such a solution can exclude dangers for the reform process, democratization and the stability of the whole region; only a democratic Russia will be able to remain a close partner of Germany, the EU and NATO.

The German Bundestag reaffirms its support for the Russian democrats who champion human rights and the rule of law.

Germany wants to remain Russia's partner and friend.

End informal translation.

Adopted unanimously by the Bundestag on January 20, 1995.

LEGISLATION TO REPEAL ANTITRUST EXEMPTION REGARDING MAJOR LEAGUE BASEBALL

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. TORRES. Mr. Speaker, today I am introducing legislation to repeal the antitrust exemption under which Major League Baseball has operated since 1922.

I am doing this for two reasons. For the short term, I believe repealing the antitrust exemption will accelerate the end of the baseball shutdown, which threatens the livelihoods of thousands of Americans and the economies of cities and towns across the country.

For the long term, I believe repealing the antitrust exemption will restore fairness to the fragile relationship of labor and management in professional baseball. And in doing that we will help preserve the institution of baseball and protect the livelihoods of Americans for generations to come.

Although my own background has deep roots in the labor movement, I do not mean to take sides in the current struggle between the players and management. All I want to do is restore fairness to the negotiating process and allow the courts to help accelerate the negotiations where necessary.

As long as professional baseball enjoys its exemption from the antitrust statutes, management can impose its own salary structure free from constraints of the courts or the open market. I have no doubt that removing the antitrust exemption would drastically alter the escalating rate of ticket prices which are currently set by an unfettered cartel of 28 team owners.

Removing the antitrust exemption would put professional baseball in the real world of corporate America where it belongs. If we allow the free market to determine the cost of doing business in professional baseball, the owners will discover they can discipline their business practices and the players will discover their real value on the open market.

We must recognize once and for all that professional baseball is a business, a big business. And if we can bring baseball's fiscal house in order, I have no doubt we can bring back fans to ballparks across the country and restore the game of baseball, not the business of baseball, and America's national pastime.

$20,571.48 A YEAR FOR AN INDIVIDUAL HEALTH INSURANCE POLICY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. STARK. Mr. Speaker, I have just received a letter from a 59-year-old self-employed realtor in California—a man who has no serious medical conditions. Several years ago, he was divorced and used COBRA to keep his wife's Prudential group rate policy of $275.96 per month. At the end of his COBRA health continuation period, he asked Prudential to convert to an individual policy. As the gentleman wrote me, that's when Prudential "dropped a piece of the Rock" on him. The monthly cost of a $100 deductible policy was $1,714.29—or $20,571 a year. For a $1,000 deductible, the monthly premium was $1,030—or $12,360 per year.

To help stop these outrageous overcharges, I urge the Congress to simply extend the COBRA health continuation time periods indefinitely. Once you are in a group policy, you should be able to stay in at the group rate plus an appropriate administrative fee.

PERSONAL EXPLANATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. CRANE. Mr. Speaker, after receiving assurances that we would not be voting on final passage of the Unfunded Mandate Reform Act tonight, I am keeping a commitment I made many months ago to travel back to Illinois to speak before the Barrington Chamber of Commerce. I regret that I may miss a number of votes relating to amendments to this legislation. However, regrettably, it has become clear from the proceedings of recent days that many of the amendments being offered by my colleagues on the other side of the aisle may be dilatory in nature, and are designed to simply slow down the process. In any event, my engagement in the district is important to my constituents, and I will make clear in the RECORD how I would have cast my vote on any recorded votes I may have missed.

SENATE—*Wednesday, February 1, 1995*

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

I exhort therefore, that, first of all, supplications, prayers, intercessions, and giving of thanks, be made for all men; For kings, and for all that are in authority; that we may lead a quiet and peaceable life in all godliness and honesty. For this is good and acceptable in the sight of God our Saviour * * *.—1 Timothy 2:1-3.

Eternal God, Lord of history, Ruler of the nations, with grateful hearts we anticipate the annual national prayer breakfast to be held tomorrow morning. We pray that You will govern every detail of that significant event. As this microcosm of the world gathers—from every State in the Union and from more than 150 nations—make Your presence felt, and guide each participant.

We pray for a special blessing upon President and Mrs. Clinton, Vice President and Mrs. Gore, and all those from the executive, legislative, and judicial branches of Government who are present, that they may be specially blessed and strengthened. We pray for Thy blessing upon the heads of state from a number of nations who will be present.

Grant, mighty God, that this will not be just an event soon forgotten, but that it shall become a tidal wave of prayer for the Nation and the world.

In the name of the Lord of Lords and the King of Kings. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, the time for the two leaders has been reserved. There will be a period for morning business until 11:30 a.m. with Senators to speak for not to exceed 5 minutes each with the exception of the following Senators: Senator GRAHAM for 20 minutes, Senator HARKIN for 15 minutes, Senator BRADLEY for 15 minutes, Senator BENNETT for 15 minutes, Senator MURKOWSKI for 15 minutes, Senator DORGAN for 10 minutes, and Senator GRAMS of Minnesota, 10 minutes.

At 11:30 the Senate will resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

Mr. President, since there is no Senator seeking recognition at this particular moment, I do observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

Mr. LOTT. Mr. President, I understand, by an understanding that has been reached, Senator HATFIELD will share in the time Senator GRAHAM of Florida has been designated, and Senator HATFIELD is here and ready to proceed.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, the Senator from Florida is recognized to speak for up to 20 minutes.

Mr. GRAHAM. Mr. President, it will be my intention to yield a portion of my time to my colleague and cosponsor of the legislation we will be introducing today, Senator HATFIELD.

(The remarks of Mr. GRAHAM and Mr. HATFIELD pertaining to the introduction of S. 308 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, the Senator from Iowa is recognized to speak for up to 20 minutes.

FEDERAL RESERVE WILL RAISE INTEREST RATES AGAIN

Mr. HARKIN. Mr. President, it is widely rumored that the Federal Reserve will raise interest rates today for the seventh time in the past year. Hard-working Americans all across this country can only hope that the Fed will give a second thought to an unnecessary and destructive action. The Federal Reserve is an independent and powerful fourth branch of Government—a branch of Government, I might add, that is unelected and essentially unchecked by reasonable examination.

While I disagree with Alan Greenspan's policies, I must give him credit for a superb ability to manipulate the press and many others, including many Members of Congress. Somehow, Mr. Greenspan has created an aura of naturalism, a feeling that his actions are somehow preset by immutable economic realities, some form of the invisible hand operating there that causes us to do things that we cannot change. In fact, his position is based on a conservative ideology that favors the long-term interest of bondholders and bankers but shows little sympathy for hard-working, middle-income families.

In fact, his policies are specifically intended to force a significant number of breadwinners out of work and into the unemployment lines. In fact, I read in the paper the other day that Mr. Greenspan, in testimony, was saying that unemployment rates were coming down and they were approaching a 5.4-percent rate of unemployment, and he thought that was getting too low, that unemployment ought to be higher than that. That is his feeling. That is where he is coming from.

Thus, the Federal Reserve's policies are designed to keep millions of Americans out of work, in spite of the fact that the law which governs them specifically provides that the Federal Reserve is to balance the goal of maximizing production and employment with the goal of keeping prices stable and moderating long-term interest rates.

Mr. President, as I said earlier, the Federal Reserve has already raised interest rates six times over the past year. As a result, the prime rate increased from 6 to 8.5 percent, a 41-percent jump in interest rates in just 1 year. These actions by the Fed amount to a bill to the American taxpayers for $107 billion over 5 years—$713 per taxpayer. Why this bill? It is a bill to pay the resulting higher interest costs to service the Federal debt.

The Federal Reserve's repeated interest rate hikes have also had an important negative effect on Americans. They have cost nearly every business in the country large sums in higher interest rates.

In addition, the average buyer of a new house will pay an extra $158 per month on a fixed rate mortgage—that is nearly $1,900 a year, more than enough to prevent many Americans from attaining a key component of the American dream, owning your own home. Millions of other American families are being forced to pay more on their adjustable rate home mortgages, more on their bank loans, and more for interest rates on their cars and on their credit card balances.

Even more significantly, the six, and now probably seven, increases in interest rates will and are, in fact, designed to, eliminate jobs. Federal Reserve officials do not use those terms, although Mr. Greenspan came close to it in testimony the other day. But that is clearly their intent. Their intent is to keep unemployment high. They want to artificially slow the economy down and reduce the number of available jobs. In many cases, that will mean that people will be fired.

In other cases, that will mean that a job will not be there for someone looking for work. It will mean that families with breadwinners actively looking for work will not have their basic needs met. The financial strain on those families will cost both economic and psychological damage.

It also means an increase in the welfare roles. Some of us have been working hard to fix our broken welfare system. It is failing both the taxpayers and those who rely on it. But a key to welfare reform that works is the availability of good jobs. I think all of us agree that we want to move people from welfare to work and to self-sufficiency; that is, all but perhaps those on the Federal Reserve Board. Their recent penchant for raising interest rates in order to keep the unemployment rate up will make ending welfare as we know it impossible.

Why would the Federal Reserve want to do that? Well, there is an economic concept called nonaccelerating inflation rate of unemployment. This concept says that when unemployment falls below a certain level, it becomes harder to find employees, then it is easier to demand higher wages and wages will rise. Some economists think that the natural rate of unemployment in the United States—the point where lower unemployment will cause inflation—is about 6 percent. This, obviously, is what Mr. Greenspan believes.

The Fed's principal justification for its six increases in interest rates has been their fear of rising inflation. Well, let us take a look at that.

Last year, the Consumer Price Index, the CPI, went up a meager 2.7 percent, exactly the same rate of inflation as in 1993. If you take out the more volatile food and fuel costs, the rate increased by just 2.6 percent, the lowest rate of inflation since 1965. And, on top of that, Mr. Greenspan believes that the CPI was actually overstating inflation, as he says, by anywhere from 0.5 to 1.5 percent.

Mr. Greenspan has been talking a lot about this lately. He said it in testimony before a congressional committee.

Well, if he were right about the CPI being overstated by that much—and I have my doubts about that—then Mr. Greenspan has pushed a huge burden on our economy when even he believes that inflation has been under 2 percent a year over the last 3 years.

So Mr. Greenspan cannot have it both ways. He cannot say, on the one hand, we have to raise interest rates because inflation is threatening and, on the other hand, come before a committee of Congress and say that inflation has been overstated and it is really not as high as it has been; it really has been lower than that. He cannot have it both ways.

And yet, we now have interest rates going up for the seventh time in 1 year. Again, an ideology that says we have to reward the long-term bondholders but forget about our Main Street businesses; forget about our farmers; forget about our homeowners and young people wanting to buy a house; forget about people buying a car on time; people paying off college students loans. All of this goes up, not to mention, again, the fact that these rate increases have stuck the American taxpayer with an additional $107 billion tab to pay increased interest costs on the national debt.

For Alan Greenspan to push these further destructive increases in interest rates on the American people, while saying that inflation has been running at less than 2 percent, to me is the height of hypocrisy. Mr. Greenspan, as I said, cannot have it both ways.

I also note that the Fed Chairman recently indicated in testimony before the Finance Committee last week that he thinks there is likely to be a slowdown in the economy in the coming months. But he said that, "I see it as crucial that we extend the recent trend of low and hopefully declining inflation in the years ahead."

Well, Mr. President, we need balance between the need to fight inflation and the need to keep our economy moving. The law, as I read it, requires a balance. But, right now, there is no balance. There is an imbalance.

All of the Fed's weight is now toward the single goal of cutting any possibility of rising inflation in the future. That is wrong, and I believe it is very likely going to send our economy into a recession.

Robert Eisner, a respected professor at Northwestern University, made an excellent analogy, comparing the economy with a patient with clogged arteries. "The patient would have a longer and better life by exercising and expanding the capacity of his heart and circulation system," Eisner said. "But what Dr. Greenspan has done, I think unwisely, is simply to put the patient to bed."

Well, Mr. Greenspan talks about the dangers of large deficits on the economy. And I agree with him on that point. We do need to keep our deficits coming down. But his push to higher interest rates is adding to the deficit—hugely. Higher Federal interest payments will add $107 billion to the Federal deficit over the next 5 years. This totally wipes out more than 20 percent of the deficit reduction achieved by our economic recovery package of 1993.

It is almost as if Mr. Greenspan does not want to see the efforts that we took here to reduce the deficit succeed. He is wiping out all of those gains that we have made to reduce the deficit.

There is considerable reason to believe the idea that inflation will automatically rise because the unemployment rate has fallen below 6 percent is wrong. Things have changed. Wages are more closely tied to productivity increases. And, there is a greater ability to move manufacturing overseas if the price of producing many items in the United States rises.

There have also been large changes in the retail sector. The large increase in discount stores is putting greater downward price pressures on the entire system. There is a growing willingness of consumers to use non-brand-name products, also creating a real difficulty of manufacturers and retailers to raise prices.

Some people also see a new culture developing in many manufacturing areas which places considerable pressure on suppliers to avoid cost increases and to develop new, lower cost methods of producing goods. To some extent, gains in computer designs are providing methods to accomplish that goal. Productivity seems to be covering a significant share of the wage increases that are occurring.

I would also note, Mr. President, that wage and salary costs have only increased by about 3 percent in 1994. A significant part of that is covered, as I said, by increases in productivity. So, wage costs were—considering productivity—less than the inflation rate in 1994. I want to repeat that because it is very important to note this. Wage costs were, when we consider the increase in productivity, less than the inflation rate in 1994.

So, Mr. President, economic theories that may have proven true in the 1950's or 1960's or 1970's may not be useful today. I believe that Mr. Greenspan is living in the past. Companies that have recently hired large numbers of employees do not seem to need to pay higher wages. Lands' End hired 2,200 people for the Christmas season, Sears hired 40,000 Christmas workers, but they saw no increase in wage levels. MCI, which hires 10,000 to 15,000 people a year, also has not been pushed to raise wages.

So where, I ask, is this inflation that the Fed has been expecting and warning about? Mr. Greenspan says if we do not act now, it will come. The Fed says it takes a long time for the pain of their interest rate increases to work their way through the economy to cause the economy to slow down; that is, to interpret that, to cause enough people to be laid off and fired for enough unemployed people to stay that way. I may agree with that. It may take from 6 to 18 months for that to happen.

Is it logical, I ask, to rush forward with a seventh increase in interest rates when we have not even seen the impact of the earlier increases? Since the Fed Chairman believes inflation has been running at less than 2 percent, I believe we could take a very small risk of a slight increase in inflation in order to limit the likelihood that the economy will take a serious plunge into recession and far higher unemployment. I would think it would be far more prudent to wait to increase interest rates any more.

In fact, Mr. President, I believe that from the actions taken by the Fed with this recent increase in interest rates, we may be seeing in the next year a severe downturn in the economy in 1996. We might think of the height of interest rates as a mountain, and as the speed of the rate increases, remains high, and the height grows, the cliff on the other side, the deep valley into which the economy may fall, will become more painful.

I think it is past time for the Federal Reserve to pull back its bulldozer. Let the economy work through the interest rates already put in place. Then, after that has happened, we can consider further action. That is the way to get a soft landing for the economy that we all want, rather than having it tossed off a cliff. I believe that is exactly what may happen next year.

There have already been a few signs of a slowdown in the economy. Total construction fell by 7.7 percent in December, the largest decline of the year. Construction is very sensitive to interest rates. Housing fell by 8 percent; again, very sensitive to interest rates. Personnel income rose nicely in December, by 0.7 percent, but consumer spending went up by only 0.2 percent.

This morning, the leading economic indicators showed a slim 0.1 percent gain. These are signs that economic growth is near its peak. This is not the time to further burden the economy with higher interest rates. The Federal Reserve and the Open Market Committee should be balanced in its views and actions. It should not be led by ideological zeal on one single factor, inflation, and, I might say, the veiled threat of inflation. There should also be a concern for the well-being of manufacturers and farmers and main street businesses and American families and homeowners and car buyers.

So, Mr. President, I strongly urge the Federal Reserve to hold the line on interest rates, limit the damage they have already done to our economy, and give us some good news today and say they are not raising interest rates a seventh time.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wyoming is recognized for 5 minutes.

BALANCED BUDGET AMENDMENT

Mr. THOMAS. Mr. President, I come to the floor to talk about the subject that is before the Senate this week, and I suppose next week and possibly the week after, the balanced budget amendment. I think we will have extended debate, probably longer than we need, some of which will be to talk about options, some of which will be to talk in real debate about differences in view, but much of it will simply be designed, I think, to delay action on what I think to be a very important issue. So, it will be difficult to focus on new information.

It seems to me there is a very basic question that has to be asked first, before all the detail is entered into and that is, is it morally and fiscally responsible to spend more than we take in? I think that is the question that most Americans ask of their Government: Can we continue to spend more than we take in? Is it morally wrong to spend more than we take in, to transfer that debt to someone in the future? I think Americans ask, is it fiscally responsible to continue to spend more than we take in? The answer, obviously, "is no," it is not morally responsible, it is not fiscally responsible. So, that is the basic question. And most everyone would answer that the same.

Then we get into a great debate about how we do it. I support a balanced budget amendment. I believe very strongly that it needs to be done. I believe very strongly that it has worked in the States. What are the arguments against it? We hear them time and time again. One of them is it is not needed. The evidence is it is needed. This Congress has not balanced the budget. It has not balanced the budget in 26 years and only balanced it five times in 50 years.

So the evidence is that, sure, we can balance the budget. The fact is that Congress does not. The fact is, it is a little easier to say we like the programs; if we can put it on the credit card, we will do it. If we have to pay for it, it is a different matter. Then it is a matter of setting up priorities. Then it is a matter of a cost-benefit ratio, and we hear, "Here is what it costs. Here is the value." The decision may be different than saying "Here is the value. We do not have to pay for it now."

Some say it is not needed. I suggest that the evidence would indicate that it is. Some say we already have the tools; we can do it this year. Certainly, that is true. Again, the evidence shows that that has not happened. It is very difficult. I am persuaded that there needs to be a constitutional discipline to balance the budget on a continuing basis.

Some say it is too strict, it is too confining. It does not need to be. There are arrangements that in case of emergencies—some say in case of war—it can be changed, of course. It can be changed by a vote or supermajority vote or written into the amendment that it is changed under certain circumstances.

Again, I say to Members that almost all of the States in this country have balanced budget amendments. In my State of Wyoming it is in the constitution, and it is not troublesome for that reason. We heard an extended argument earlier this week on how courts and judges would be deciding. The evidence does not show that in the area where we have had a balanced budget amendment in the States. The courts do not do the budgeting. That is, I think, not a good reason for not moving forward.

Mr. President, the balanced budget amendment is one of the several procedural changes that seem to me to be imperative. Several of the changes were clearly in the mind of voters in November, changes that will have a long-term impact, not just on this year's decisions in the Congress, but an impact on the way Congress behaves over time. That is the more important question.

We keep expecting different results and continue to use the same process. There is really little reason to expect that results will be different if we continue to do the same thing. We need a forced discipline. We need an external constraint. I think that is true of most political bodies, frankly. Politicians love to be able to provide programs. Politicians love to be able to solve problems. Politicians sort of get to where they like to have problems to resolve for their constituents. A man with a hammer thinks every problem is a nail.

We need some constraint, some constitutional discipline. The Federal debt is nearly $5 trillion, over $18,000 for every person in this country. We spend $800-plus million per day in the gross interest payments.

So we have a moral imperative to balance the budget for people in Wyoming and people in every other State. Families have to balance, businesses have to balance, States, by and large, have to balance, and the Federal Government should have to balance as well and not pass off the debt on its children and grandchildren.

Opponents say, "We already have the tools." The evidence shows that we do not. The Federal Government has spent more than it has taken in for 55 of the last 63 years. Not a good record—not a good record—and not a good basis for saying we do not need to do anything.

So, Mr. President, I am sure we will hear about draconian cuts. The fact is that what we have to do is slow the growth. We have been increasing spending at 5 percent. Say we increase it only at 2 percent.

So I hope as we go forward, we can continue to make some points about the balanced budget, but the bottom line is, should we do it and, if so, what has to take place to require that the balanced budget be used in the Congress and be used for Federal spending.

Thank you, Mr. President. I yield back the remainder of my time.

The PRESIDING OFFICER. Under a previous order, the Senator from Utah [Mr. BENNETT] is recognized to speak for up to 15 minutes.

Mr. BENNETT. I thank the Chair.

(The remarks of Mr. BENNETT, Mr. BUMPERS, and Mr. JOHNSTON pertaining to the introduction of S. 309 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, it is my understanding that I am to be recognized in morning business.

The PRESIDING OFFICER. Yes. Under a previous order, the Senator from Alaska is recognized to speak for up to 15 minutes.

MEXICAN PESO CRISIS

Mr. MURKOWSKI. Mr. President, oftentimes it is not appropriate to be critical of a proposal unless you have a better solution. But I rise today to speak on the action of the administration which was announced yesterday regarding Mexico. In the opinion of the Senator from Alaska, the administration simply did an end-run around Congress and the American people when it unveiled its latest financing package for bailing out foreign investors in Mexico.

There is no question the President has the legal authority under the exchange stabilization fund to provide the $20 billion in loans and loan guarantees to the Mexican Government. However, I am concerned that this establishes a dangerous precedent and represents a use of power by the administration that was, in my opinion, unwarranted. It should be noted that the potential of unilaterally using the emergency stabilization fund was not conveyed to many of the Members who were involved in working with the administration on the potential alternatives associated with this financial crisis.

In any event, it has been less than 6 weeks since the Mexican Government reversed its longstanding policy of maintaining a pegged value for the Mexican peso and devalued the peso by nearly 13 percent. This devaluation plunged the Mexican stock and currency markets into a panic and a crisis that resulted in the peso dropping by more than 30 percent in a matter of just a few days.

It was at that point that the Clinton administration came forward and offered, first, a $6 billion credit line to Mexico in an effort to stabilize the currency. By January 3, Treasury saw fit to extend this line of credit to $9 billion and there were some other governments that came in, and commercial banks, for another $9 billion. So there was approximately $18 billion available for stablizing the peso at that time. I include the $6 billion I previously mentioned.

When I made an inquiry to the administration about this taxpayer-financed $9 billion credit line, I was assured that the American taxpayer would not be at risk because the credit line was fully collateralized by Mexico.

Since January 3 we have seen the peso crisis not abate. It only got worse. The peso dropped 45 percent in barely 1 month. This led the administration to raise the specter of as much as a $40 billion credit line to stabilize the peso. And by yesterday, the size of the bailout had grown another 25 percent to nearly $50 billion, with at least $20 billion coming from U.S. participation.

The specifics of that participation, as indicated in a newspaper article, suggests that commercial banks will be in for $3 billion; Canada, $1 billion; Latin American countries, $1 billion; the Bank for International Settlements, $10 billion; the International Monetary Fund, $17.8 billion; and, as I have indicated, the United States Treasury, some $20 billion.

Why are we putting so much taxpayer money at risk? Who are we defending and who are we bailing out with this taxpayer-financed line of credit? And how did Mexico fall into the crisis?

Mr. President I would note that most of this debt is represented by bearer bonds. That means whoever holds them basically owns them. It is like owning a $100 bill. You can walk in and turn it into two 50's or five 20's. The significance of that is it is very difficult to identify who specifically holds those debt instruments.

What we have learned in the last month, however, is that this crisis has not just happened overnight. It has been building for a year or more. It was clearly foreseen by the United States and Mexican Governments. In fact, the New York Times recently reported that United States Treasury officials warned the Mexican Government as early as last summer the country's foreign debt had become dangerously high and that the peso was being maintained at an artificially high level.

But, for strictly internal political reasons, the Mexican Government chose to compound the crisis by continuing to print billions of pesos. As far as I know they were printing them yesterday. They may still be printing them today. Compounding the Mexican Government's mismanagement of its finances and its insatiable desire to maintain a strong peso and excessive foreign imports, the Government allowed its foreign currency reserves to drop from $29 billion in February to less than $7 billion in December.

Now Mexico faces the daunting prospect of having to deal with foreign debt redemptions that are listed at approximately $80 billion this year, $39 billion of which is in the public sector. The significance of that is that is debt that is falling due this year, not all at once this year, but it will have to be met or refinanced this year. It is very likely, when the guarantees are in force, the holders of these notes, these bearer notes, are going to immediately want to convert their pesos into dollars and increase rather than decrease the capital flight out of Mexico.

If you and I held bearer notes in this crisis, what would be the inducement to hang on if the guarantees were there and we knew we could be paid? A fiduciary responsibility would suggest the holder of those notes would run in, cash them in, and take his or her principal and leave the country. The only consideration that might keep them there is the attractiveness of the high interest rates. That rate may be in excess of 20 percent, which would certainly be an inducement.

But then the question is, Who are we bailing out? And the administration has yet to address specifically who holds that debt. They say the mutual funds hold the debt. The mutual funds are sophisticated investors. If they make an investment mistake, should the taxpayer have the responsibility of bailing them out anymore than any other individual who makes a financial investment and looks for a return on that investment, and tries to measure the risk against the inducement which is the interest that he is generating on that investment?

If the risk is too great or the investment goes sour, obviously the alternative is you lose your principal. But that is not what is happening here and that is why I am critical of this proposal.

I think there is a growing danger that the Mexican Government will have to return to Washington before this year is out seeking another $10,

$15, or perhaps $20 billion in taxpayer funds for a second bailout. We were told by the assistant to the President of Mexico that the total debt of Mexico was about $180 billion, that the current debt was something in the area of close to $80 billion, and now we are talking about approximately a $50 billion guaranteed fund.

It is interesting to note that yesterday, Mr. Bill Seidman, former head of the FDIC and the RTC, in testimony before the Senate Banking Committee, indicated that the best way to resolve the Mexican financial crisis was to have the Mexican Government sit down with its creditors and renegotiate the terms of the loans that are coming due this year. He adamantly opposed a taxpayer bailout of speculators in Mexican debt. I believe Bill Seidman is absolutely right. Much of that Mexican debt carries rates of interest of 25 to 40 percent.

Where can you get that today in the United States? You are not going to get it in your savings account or your mutual fund. There is associated risk with the attractiveness of the investment and the potential return. Why should the American taxpayer dollars be used to pay off this debt of 100 cents on the dollar plus interest when we do not know who those holders are, other than the gray area of people who bought bearer notes or mutual funds, who made these risky investments simply to attain a higher interest rate? If they can get the Federal Government to guarantee what we have done, they will be very, very happy with such high interest rates.

Investors knew precisely what types of investments they were making. They were speculating. They were almost junk bond type of investments. And for American taxpayer funds to be used to guarantee this investment is unconscionable in my opinion.

Mr. Seidman's suggestion is that the debtors and the creditors sit down, the creditors being the holders, the debtors obviously being the Mexican Government, to work something out. How does that work? It is done all the time. I was a commercial banker for 25 years. If there is no blood in the turnip, if your borrower cannot pay, you sit down, you try to work something out, and you reschedule the debt, and take 40, 50, 60, or 70 cents on the dollar. You work something out. You just do not let everything collapse. We have not given this process a chance to work. I think we should.

Mr. President, yesterday the administration stated that the United States will impose strict conditions on the assistance it provides with a goal of ensuring that this package imposes no costs on the U.S. taxpayer. As of today, I am not aware that any of my colleagues know precisely what those conditions are. I have been involved in the meetings. I would expect the administration will make those conditions known, and I would encourage that they make them known before a single American dollar is used to provide guarantees to the Government of Mexico.

A factsheet released yesterday by the Treasury Department implies that these loans will be collateralized with the proceeds from Mexican oil exports. Mr. President, 2 weeks ago, I asked the Treasury to specifically identify how much of Pemex's revenue the Mexican Government has pledged, and how that revenue will be handled by United States financial authorities; how much of it is pledged, because obviously you can only attach what is not pledged but still assignable. I believe that it is imperative that for every dollar in loans and loan guarantees, the Mexican Government has to come up with some way to make a deposit of an equal amount of foreign hard currency in a Federal Reserve bank account in the United States from their oil export revenues.

I think the American taxpayer must be assured that so long as there are outstanding United States Government guarantees of Mexican debt, that an amount equal to the debt is maintained under the control of our Government. Otherwise, we risk the real possibility that the current Mexican Government or succeeding Governments could renounce the collateral agreement with the United States and leave the American taxpayer holding the bag. What are we going to do after these notes are called, so to speak, if the guarantees have to be delivered? We do not have another monetary stabilization fund to go to.

The response I received when I made an inquiry from the Treasury Department regarding collateralization of this debt was completely unsatisfactory to me. It does not appear to me that the new agreement will be any different, although I hope it will be. Under the previous draft agreement, the Mexican Government is required to turn over the proceeds from its oil exports only—get this, Mr. President—turn over the proceeds from its oil exports only in the event that the Mexican Government defaults on these bonds and only after such a default occurs. In other words, the Mexican Government would not establish an escrow account in the United States that can be immediately attached by the United States Government in the event of default. Another way of saying it is that there will be no collateral provided by the Mexican Government to offset the risk of default.

Mr. President, if we look at the structure of this, where we can only call, if you will, on this process after the Government is in default, I assure you that the practicality of that is basically unworkable. It is simply naive to believe that if Mexico, after receiving some $50 billion in loan guarantees from the United States Government and the IMF, faces a default on these bonds in the future, that it will have the political will and capacity to turn its oil revenues over to the United States Government. At that time, if the Government defaults, it is everyone for himself. The demands internally in Mexico will dictate that there will never be realistically a fund set up for the oil revenues, if indeed default occurs.

It does not take much imagination to know that, if in the future, Mexico faces default on United States Government-backed bonds, the entire Mexican economy will surely be in political, social, and economic chaos that will only be exacerbated by being forced to turn over its oil receipts to its neighbor in the north.

Let us be realistic. What caused this problem is too much debt. We have other nations that are friendly to us that have too much debt. Canada from the north would be the first to admit that.

What I fear is that, if such an economic crisis were to occur in the future in Mexico, the United States, having already put its $20 billion at risk, basically, would simply have to extend further credit lines to Mexico in order to stave off the political crisis that will be evident in that country. In other words, if we start down the line of extending $20 billion to Mexico, we are laying the foundation for future bailouts that I think will put even more American taxpayer money at risk.

Mr. President, before we extend $20 billion of credit to Mexico, we must have ironclad guarantees of internal economic reforms in Mexico, and I would like to see 100 percent collateralization of the loan.

Finally, Mr. President, it struck me during the entire negotiations that the best way to have handled this would have been to propose a guarantee on a percentage, if you will, of the current term debt that Mexico is exposed to. Let us assume that we were to guarantee $40 billion of the $50 billion and require that the holders of the debt stay in on the balance, that other $10 billion. In other words, we would have been first out with a guarantee; the holders would have been last out. The explanation given as to why that was unworkable is we did not know who the holders of the debt were. I do not totally accept that. I think, had we waited, we could have forced the holders of that debt to come forward and make a proposal that they would stay in for a portion of their participation in return for the U.S. Government guarantee.

So that was my suggestion, which was recognized but rejected under the explanation that it was impossible to know who the holders of the debt were and, therefore, they could not proceed with that kind of an arrangement.

So time will tell, Mr. President, just what the risk to the U.S. taxpayer is. But this Senator is very concerned about the agreement that was made, and I felt an obligation to present my views to my colleagues.

I yield the floor.

The PRESIDING OFFICER (Mr. BENNETT). Under the previous order, the Senator from North Dakota [Mr. DORGAN] is recognized to speak for up to 10 minutes.

RECOGNITION OF THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, there is almost nothing in Government worse than to have people do significant work and get almost no credit for it. So today, as the Federal Reserve Board once again closets itself in its concrete temple, locks its door, goes in the secret room, and makes decisions about interest rates that every single American will pay, I figured maybe we ought to give credit to those who are going to do the work and cast the votes. I do not know what is going to be announced in the next couple of hours, but I am told by almost everybody who thinks they know that the Federal Reserve Board will increase interest rates for the seventh time in less than a year; for the seventh time in less than a year they will increase people's mortgage rates.

I met a fellow the other day who said, "I am paying $115 more now for my home mortgage now because of the Fed." In the past year, the Federal Reserve has increased people's interest rates on credit cards and has increased the Federal Government's deficit by $125 billion over 5 years just to pay the interest on the debt.

So they take action that has a significant impact on this country. I want to tell the American people who they are. Lord, it seems to me if you are doing work this important, you at least need to get credit for it. Let me tell the American people who is going to do this today. This is the Federal Reserve Board on this chart, the top line of pictures. These people are all appointed by the President and confirmed by the Senate. So they go through the Senate for confirmation. But they are joined in that room—which the public is kept out of, by the way—by presidents of the Federal Reserve banks in the country, the regional Federal banks.

These people are not appointed by the President. They are not confirmed by the Senate. But they are going to go into the room on a rotating basis. There will be five of them in that room today who will actually cast votes on monetary policy and interest rates. They are not appointed by anybody, not confirmed by anybody. They owe their jobs to the regional Federal Reserve bank boards of directors, the majority of whom are their local bankers. These folks will go into the room representing the local bankers' interests. They will take action to increase interest rates for this country.

The four, today, who will vote—it is a rotating vote—are Mr. McDonough from New York, Kathy Minehan from Boston, Michael Moskow from Chicago, Tom Melzer from St. Louis, and Tom Hoenig from Kansas City. They will, with the Board of Governors, cast votes.

Let me, without being disrespectful, say this—and I emphasize that I am not being disrespectful. I do not have any idea what is in their heads down at the Federal Reserve Board. I would like to have those heads examined to find out what facts are rattling around in those heads that persuade these people that there is a new wave of inflation somewhere on the horizon. What persuades them to put the brakes on the American economy? Who has appointed them to become human brake pads to decide to slow down the American economy? And whose divine notion is it that unemployment in America should never fall below 5 percent, and economic growth should apparently never go above 2½, 3 percent. Where on Earth did these notions come from?

If this country faced credible inflation problems, I would not be here at all criticizing the Federal Reserve Board. We have had four successive years of decreasing inflation. There is no—I emphasize no—credible evidence that we have a new wave of inflation on the horizon. Yet, today, and again, if the pundits are correct, the Federal Reserve Board will take one more step that most surely will put the brakes on the economic progress we have seen and probably move this country toward a recession.

This is not a newfound concern of mine. The Federal Reserve Board operates by itself, in secret, and no, I am not saying let us put politics in monetary policy. I am not saying give to it the Senator from Utah to handle or the Senator from North Dakota or my colleagues in the Senate or the House. But here is a copy of the Constitution. The copy of the Constitution begins with these three words: "We the people"—not we the bankers, the central bankers or we the Federal Reserve, but "We the people." A question this important, that affects economic growth in this country and the pocketbook of every single American, and especially coming at a time when all of the credible evidence would seem to me to imply that the Fed's policies are wrong, leads me again to ask the question: Why does this continue? By whose authority does this continue?

I hope one day soon that we will discover a Federal Reserve Board that understands that you have two twin economic goals in America. Yes, two: price stability, absolutely, which has been a goal in this country for decades. Price stability and full employment. Price stability and economic growth are the twin economic goals in this country, only one of which this board cares much about. And even at that, when it cares about price stability, it fights the wrong fight at the wrong time.

I have young children who look for dragons under their bed at night because they hear noises and they wonder where does it come from, where does it lurk? Then they read books like Tony the Dragon. When you look at all of the credible evidence, where are the dragons this board looks for? What fights does the Fed wage, that it wins because it has no opponent?

I hope one of these days the American people will get better news from that Federal agency, that dinosaur that still operates in secret when the watchword of American democracy is "openness." Maybe one day there will be enough of us here who care and enough of us here who think alike to believe that reform—yes, reform—ought to touch this institution as well.

A CALL FOR REFORM

Mr. DORGAN. Mr. President, let me turn to one other quick item. I am going to speak about this at greater length later. But I want to touch on it today, because I have watched with amazement in recent days reformers, people who say let us tip everything upside down and shake it, let us change it, let us reform it.

Among that call for reform, joined by many Governors in our country, is a plea by those folks that what we ought to do is decide the Federal Government cannot do anything right, and State governments do everything right, and we ought to have a massive transfer of money, a substantial transfer of resources between the States and the Federal Government, moving, of course, from the Federal Government to the States.

I am willing to concede that the Federal Government has too much waste; it is too bureaucratic, too big. The Clinton administration has taken action to downsize it. One hundred thousand people who used to work for the Federal Government are not working for the Federal Government anymore. At the end of 2 more years, it will be 250,000 people; 250,000 jobs will have been eliminated. That is downsizing in a real way.

I reject the notion somehow that is being thrown around by the reformers, especially by Governors, who come out with press conferences and television lights and put on a big brassy show and say, "Here are 250 programs you ought to abolish. Throw all the funding for these programs into a block grant and send us a check." These are the very same Governors who are back home busting their buttons, boasting about all the tax cuts back home. They have the gall and brass to come to Washington and say all the things you have done and all that money—send us the money and with no directions. Put it in something called a block grant, and we will take care of it.

Is there no priority for child nutrition in this country? Is that not important? They are asking us to put funding for things like WIC, and other programs dealing with children, in a block grant and send it back to the Governors. We're supposed to let the Governors work with local business interests on economic development grants. If the Governor wants to use the money to help a company from another State build a manufacturing plant in his State, that is, we are told, just fine. Let us let them make those decisions there, because we do not have a national priority on the subject or the issue of child nutrition.

Well, the fact is we do have a priority. We have established a priority over a long period of time. And I am one who does not believe that we ought to decide that get rid of those priorities that have been priorities for a long, long time. We should not just load them up into one big block to send to Governors and say, "We will make you a deal. We will raise the taxes and then we will send money to you and you figure out how you might want to spend it, while all the while you are boasting back home you are cutting State taxes."

You want the real conservative answer, Governors, the real answer, then raise the money yourself and spend it yourself.

There is no better way to create fiscal irresponsibility than for one level of Government to raise the money and another level of Government to spend the money.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DORGAN. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. We need to talk through this at some length, Mr. President. Because I wonder whether I am the only one that thinks that it is a little strange to have people rush into town to say, on the one hand, that the Federal Government cannot do anything right, and on the other that they would like to continue to have our money. People are telling us to just send the money to the States and let them spend it.

The whole principle of the unfunded mandates bill, which we just passed here on the Senate floor, was that those who raise the money should decide how to spend the money. Governors and mayors were complaining mightily that we in Washington violate this principle.

Even as we dealt with the unfunded mandates bill, it was interesting to me that in many jurisdictions they were busy hooking their hose to the Federal tank, siphoning money out of here with bogus plans, such as the provider tax under Medicaid and others.

Well, reform works both ways. Responsibility works both ways. And I hope one of these days we can have a thoughtful discussion about who does what better, which things are important, which must be saved, which must take priority. I think there is room for all of us to have a thoughtful discussion about this, and I intend to say more about it in the days ahead.

Mr. President, with that, I yield the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey, under the previous order, is recognized to speak for up to 15 minutes.

THE MEXICO CRISIS IN CONTEXT

Mr. BRADLEY. Mr. President, anyone attuned to the news over the past 6 weeks has been subjected to a daily barrage of articles and statements on Mexico's economic crisis. We read of devaluations, floats, and market slides. We hear of lines of credit, loan guarantees, IMF programs, and conditionality. We follow the daily barometers of President Clinton, Secretary Rubin, Majority Leader DOLE, and Congressman LEACH.

What we have not been getting, however, is an adequate sense of the social and political context for Mexico's troubles. But Mexico is not just an economist's case history. Mexico is a country, with people and history. Unless we understand how the current financial crunch grew out of and, in turn, affects Mexico's political and social dynamics, we will not be capable of developing a response that works for Mexico or in the Congress for us.

The financial dimensions of the Mexico problem are well understood. Like many developing countries—such as the United States in the 19th and early 20th centuries—Mexico imports foreign capital to finance growth. However, because of its relatively low domestic savings rate, Mexico's appetite for foreign capital is exceptionally high. In a sense, Mexico is similar to the United States in the 1980's, financing investment from the savings of foreigners. In 1994, for example, Mexico imported a net $28 billion in foreign capital, 8 percent of its GDP.

Less than half of that $28 billion was invested in productive assets, such as plant and machinery. The rest was volatile portfolio investment, known with justification as hot money. What made this money even hotter was the fact that much was invested in short-term debt that matures in bunches. As a result, the Mexican Government must find the resources to redeem or rollover around $52 billion in debt in 1995.

Mexico, like any other country, can attract capital from abroad only as long as investors remain confident that the return compensates for the perceived risk. This requires investor confidence in Mexico's economic, political, and social stability. It also requires relatively high interest rates, declining inflation, and a stable currency—in other words, relatively high return for relatively low risk.

The Salinas government in the late 80's cut their internal budget deficit by the equivalent of three Gramm-Rudmans. Inflation plummeted, privatization exploded. Protectionist barriers and government subsidies came tumbling down. Mexico pursued a strong peso policy both as an end in itself and as a symbol of the new Mexico. This led the Salinas government to resist the economic forces that threatened to push the peso down and, in the short run, it was successful.

Just over a year ago, the North American Free-Trade Agreement came into force and gave a huge boost to investor confidence in Mexico. However, on the very day NAFTA took effect—January 1, 1994—the Zapatista revolt began in Mexico's Chiapas State. That revolt was an attack on democratic forces from the left. Thus began a year in which social and political, as well as economic, events undermined investor confidence in Mexico. As the year unfolded, we witnessed the assassination of the ruling party Presidential candidate, and the assassination of the ruling party secretary-general amid allegations of involvement by party dinosaurs. These were attacks on democratic forces in Mexico from the right.

At the same time, the peso came under increasing economic pressure as the PRI-dominated Government turned on the fiscal and monetary taps for the elections to win the first really contested election in Mexico's history.

There was another joker in the pack, one the Mexican Government could not control. That was the Federal Reserve's decision to raise United States interest rates. The higher yields made American securities more attractive relative to Mexican securities. Because a high percentage of the capital flowing into Mexico came not from banks, as in the 1970's and 1980's, but from mutual funds and pension funds, the impact of higher American rates was magnified.

According to a study by Guillermo Calvo, professor of economics at the University of Maryland, much of the mutual fund money that flowed into Mexico came more as a response to lower interest rates in the United States than as a result of a profound understanding of Mexican economic fundamentals. When interest rates rose in the United States during 1994, this money was ready to bolt out of Mexico.

So, when the Zapatistas moved again last December, jittery foreign investors began converting their money into dollars and taking it out of the country. Mexico's foreign reserves melted away. The Government botched the resulting peso devaluation. The markets smelled fear, and the rout was on.

Governments and international financial institutions, viewing the problem as a liquidity crunch, have prescribed standard fiscal and monetary responses, which are designed to reduce domestic consumption and make exports more competitive by lowering real wages. In other words, the economists are prescribing recession to reduce the demand for foreign capital.

That is why the economists oppose political conditionality so strongly. For inserting a requirement that Mexico's wages rise in line with productivity or that Mexico try to repeg the peso at 3.5 to the dollar destroys the economic underpinning for eventual recovery.

However, the economic cure ignores Mexico's political and social context. It ignores both the pacto which lay at the heart of the Mexican model, and the new social pact upon which President Zedillo based his legitimacy.

Ernesto Zedillo was elected head of state of a country exhausted by a decade of economic reform—three Gramm-Rudmans in a matter of 4 or 5 years—and hungry for justice. He took over a population unwilling to continue to sacrifice for the benefit of others.

Zedillo promised the Mexican masses a share in the prosperity bought with their sacrifice. He promised more open politics and an overhauled justice system. He promised a secondary education to the 45 million Mexicans under age 19. In short, unlike Boris Yeltsin in Russia, he promised his people a vision.

However, Zedillo's vision threatened old-line entrenched interests in Mexico. It threatened an end to the old PRI-government gravy train. Since Zedillo does not head an old-style Leninist party, he lacks the brute party power of his predecessors to override opposition and implement his vision. In fact, he is presiding at the time when a regime is in greatest danger, the time when it tries to reform.

The only way to square the circle is economic growth, not just the 5 percent necessary to create a million jobs a year, but enough to spread the benefits to the masses and at the same time buy off the party dinosaurs, who would like nothing more than to regain their subsidies and deny the people a real voice. This growth was the instrument promised by NAFTA. It is the instrument which the crisis has taken out of Zedillo's hands. Having lost the instrument, Zedillo will be hard pressed to restore the vision.

We see the erosion already. Chiapas is active. The opposition PRD party has taken new life. As have the PRI dinosaurs. For example, when President Zedillo concluded a pact with three opposition parties that would have removed the PRI Governors of Chiapas and Tabasco States, who won disputed elections, the Governor of Tabasco brought his supporters into the streets. When President Zedillo was scheduled to announce the new social compact, the industrialists and labor leaders balked, forcing him to cancel a nationwide TV address and reveal the extent of his obligation.

This, then, is the context for the loan guarantee debate. How can the Mexican Government negotiate the fine line between financial meltdown and social-political meltdown? Let me suggest a few guidelines.

First, the United States needed to act quickly to shore up Mexico's financial system. The President has acted because the Congress delayed. If Mexico's financial system collapses, there is no hope of generating the needed growth, now or in the future. The President's support package is not to bail out Wall Street, or even individual American investors, but to give Mexico the chance to grow into social and political stability and become an even better market for American exports that create American jobs.

If Mexico's financial system collapsed because the Americans reneged on a promise—if having announced the $40 billion loan guarantees, the administration was unable to deliver anything—we would have put at risk a decade of changing Mexican attitudes toward the United States. We would have confirmed Mexico's traditional anti-Americanism that is now latent, but still lurks just beneath the surface.

Now we have a support package, we have a support package. But that package only buys time. It is up to the Mexican Government to put that time to work to generate popular support for the continued sacrifices necessary to overcome this financial setback.

So the second step must be for the Mexican Government to return decisionmaking on Mexico's economy to Mexico City. The Mexican Government must develop, announce, and implement itself a plan to pull Mexico through the crisis and prevent this problem from happening again.

That plan must not simply prescribe recession as the cure for Mexico's current account ills. It must hold out a way to grow and reduce the risk of hot money at the same time. Otherwise, Mexico is consigned to a continuing cycle of recession and currency crisis—social crisis and economic crisis.

To grow without generating a crisis, Mexico must finance more of its growth itself. That means the Mexican Government plan must increase Mexico's savings rate. The Asian dragons, for example, enjoy sources of domestically generated capital resulting from savings rates twice as high as Mexico's.

The Government plan must also encourage foreign direct investment over portfolio investment. Investment in productive assets both implies an understanding of the underlying fundamentals that reduces volatility and is more difficult to pull out with a panicked phone call.

There are many ways to do this, as countries as diverse as Chile, Indonesia, and Thailand have shown. Capital controls, however, are not an option. The means to shift the balance in favor of foreign direct investment must increase the integration of the Mexican economy, not its isolation.

It should be clear that this plan cannot be dictated by Washington. No Mexican Government can allow Washington to load up support with a wish-list of conditions and still generate the popular support required to carry it out. If we need a support package to make the economic plan work, we need a clean package to let the economic plan work.

Third, and finally, the Mexican Government must broaden its legitimacy among the Mexican people. Only democracy or dictatorship will see Mexico through the sacrifices President Zedillo will be asking of his people. Mexicans who are asked to sacrifice for the good of the system will also want a say in that system. Zedillo made an important statement with his four-party pact to open up the political system, but may be backing away in the face of resistance from the dinosaurs. That simply cannot happen.

There are those who say that we can contain the fallout if Mexico goes belly up, that, despite dire predictions of systemic risk, this is a problem, not an emerging market problem. Mexico's crisis results from the market's misjudging of the balance between risk and reward in Mexico's financial markets, this argument goes. An investment that was profitable in, for example, the Philippines 2 months ago should still be profitable.

I ask unanimous consent for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Unfortunately, our vulnerability is deeper than this. Many emerging markets have gotten out of control and are due for a readjustment. Investors have been blinded by high returns in many developing countries.

Thus far, outside of Mexico, investors are merely chastened, not panicked. We can expect to see a sounder evaluation of the risk-reward trade off that will play out over time. But, if Mexico melts down, we could well see the bubble burst in a global withdrawal from emerging markets. We and our OECD partners are not equipped to handle a worldwide panic that would produce a collapse in the fastest growing export market we now have and, prospectively, the biggest source of continued worldwide growth.

So it is not only investors and developing countries who should view Mexico as a wake up call. We in the OECD and the international financial institutions must begin now to put in place the institutional arrangements to handle the next Mexico. The United States simply cannot be the permanent ad hoc lender of last resort.

The current Mexico faces a long road as it pursues democratization and economic reform. During the NAFTA debate, we heard why Mexico's success is important to us in the United States. We need a stable, democratic and prosperous neighbor to our south for reasons of our own stability, democracy, and prosperity.

Nothing that has happened since December 20 has changed that calculation. We cannot turn our backs on Mexico, and Mexico cannot lose faith with itself.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. GRAMS].

BALANCED BUDGET AMENDMENT

Mr. GRAMS. Mr. President, I rise today in support of a balanced budget amendment to the Constitution.

Last November, the American people sent a message loud and clear to Washington. I know first-hand, having heard this message in cafes and town hall meetings all across the State of Minnesota.

It is a simple message, with all the wisdom and common sense of the people who sent it. And yet, it is a message that Congress has failed to heed until this year.

It is time to change the way Congress taxes and spends the people's money.

This message is the same, whether I hear from parents worried about the economic future of their children, workers who fear the impact of the deficit on their jobs, or families who manage each year to balance their own books.

Cut spending, balance the Federal budget, and start getting this country out of debt. Mr. President, the balanced budget amendment is the first step on the long journey toward restoring fiscal sanity to Washington.

Mr. President, the statistics are clear: Our Nation currently faces a \$4½ trillion debt. That means every child born in America is immediately saddled with nearly \$20,000 in debt. And at the rate we are going, these numbers increase every year, taking with them the future of our children.

If America were a business, it would have been forced into bankruptcy years ago, with each Member of Congress liable for breach of duty. In previous centuries, there was a place for those who made a habit of spending more than they brought in: it was called debtor's prison. Today, it is called Congress.

Now, some in this body would argue that there is no need for a balanced budget amendment to the Constitution. And they might have a case if we were talking about anyone else but Congress. After all, there are laws all over the books to prevent the accumulation of unmanageable debt.

But what happens when those who break the laws are those who make the laws? Simple. They ignore them.

Only the Constitution and the moral authority it represents will force Congress to do what it is supposed to do, what we were elected to do.

And only by passing a balanced budget amendment can we hope to show the American people that we will do our job and carry out the mandate they delivered last November.

Minnesotans have joined me in calling for a balanced budget amendment. It is not a new concept in our State. In fact, the first balanced budget amendment to the Constitution was sponsored in the 1930's by—not surprisingly—a Minnesotan, Congressman Harold Knutson. But like so many balanced budget amendments after it, it was left to die in committee.

Well today, more than 50 years later, we have the opportunity to complete Representative Knutson's work. And his idea that was good in the 1930's is still good today, and it ought to become part of the Constitution.

In following the balanced budget amendment, however, we must be careful that our efforts to balance the budget come through cuts in spending and not tax increases. Taxpayers did not cause the budget deficit, Congress did, and it would be unfair, unjust and unwise to cover up the irresponsible behavior of Congress by punishing taxpayers, through new taxes or higher taxes.

For that reason, I introduced my own version of the balanced budget amendment which requires that any legislation to increase taxes be approved by a three-fifths supermajority vote. It is based on the idea—unheard of in Washington—that it should be more difficult to tax away the people's hard-earned dollars then to spend them.

By requiring a supermajority vote, my legislation would protect taxpayers and put the burden on Congress to come up with the cuts.

While I prefer this version of the balanced budget amendment, I do not believe the perfect should be the enemy of the good. We can have a constitutional limitation on tax increases, and I plan to work with the chairman of the Senate Judiciary Committee to pass one.

But that can come at a later date. The House has scheduled a vote on such an amendment for April 15 of next year. I will urge the Senate to follow suit.

Believe me, we will pass a taxpayer protection clause to the Constitution. But let us pass the balanced budget amendment first.

And to those who might try to derail the balanced budget amendment, through killer amendments or parliamentary tactics, I ask you to think twice. I ask you to think about the impact that continued deficit spending will have on our economy, on the people's faith in their Government, and most importantly, on our children. Because it's their future we're mortgaging away with every new governmental program, with every additional dollar of debt we rack up.

When I decided to run for Congress, I did so because I was frustrated with the way our Government was being run.

Growing up on a dairy farm in Minnesota—where we did not have a lot of money, where we worked hard and cleaned our plates—taught me a lot of lessons about life. Most importantly, it taught me the fundamental principle that you should not spend what you do not have.

What kind of lessons are we teaching our children when Congress spends this country \$4½ trillion in debt and what will their future be like when they are forced to pay off our bills?

I do not want my kids or grandkids to grow up wondering why we left them holding the bag.

We have to do something now. And the balanced budget amendment is the first step.

For those reasons, I urge my colleagues to pass the balanced budget amendment without delay. Because every second we push this vote off is another dollar we take away from our kids. And our kids deserve better, our country deserves better.

Thank you, Mr. President. I yield the floor.

RAISE THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, many of us in the Senate on both sides of the aisle support an increase in the minimum wage, and it is clear that the vast majority of the American people support an increase, too.

Last month, the Los Angeles Times conducted a poll of citizens across the country. As the results demonstrate, raising the minimum wage has extraordinarily high support across the entire spectrum of income groups, political party, and every other category, with the possible exception of the House Republican leadership.

Mr. President, I believe that the Los Angeles Times poll will be of interest to all of us in Congress, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the poll was ordered to be printed in the RECORD, as follows:

As you may know, the federal minimum wage is currently \$4.25 an hour. Do you favor increasing the minimum wage, or decreasing it, or keeping it the same? ("Eliminate" was a volunteered response).

THE LOS ANGELES TIMES POLL—NATIONAL SURVEY: JANUARY 19–22, 1995

	Increase	Keep the same	Decrease	Eliminate	Don't know
Total sample	72	24	1	1	2
Gender:					
Male	67	28	1	1	3
Female	76	21	1	–	2
Age:					
18–29 years old	76	19	1	–	4
30–44 years old	74	23	–	1	2
45–64 years old	69	27	1	1	2
65 year and older	69	28	1	1	1
Ethnicity/Race:					
White	67	29	1	1	2
Black	92	5	–	–	3
Income:					
Less than $20,000	80	15	1	1	3
$20,000–$39,999	76	21	–	–	3
$40,000–$59,999	69	26	1	1	3
$60,000 and more	60	38	–	1	1
Education:					
High school or less	79	18	1	–	2
Some college	67	28	1	1	3
College graduate	59	36	1	2	2
Religious background:					
Protestant	72	24	–	1	3
Catholic	72	26	1	–	1
Party affiliation:					
Democrat	85	13	–	–	2
Independent	67	28	2	1	2
Republican	62	35	1	1	1
Political ideology:					
Liberal	82	16	–	–	2
Moderate	77	21	–	–	2
Conservative	63	33	1	1	2
Voter registration:					
Registered to vote	69	27	1	1	2
Not registered to vote	80	16	1	–	3
92 Presidential vote:					
Clinton	79	18	–	–	3
Bush	57	39	–	2	2
Perot	64	32	2	–	2
Location of home:					
City	76	21	1	1	1
Suburb	67	29	–	1	3
Small town	72	24	1	–	3
Rural	72	25	–	1	2
National region:					
East	76	21	1	1	1
Midwest	67	28	1	1	3
South	74	21	–	1	4
West	71	27	1	–	1
Union membership:					
Union member	82	16	–	–	2
Nonunion member	69	26	1	1	3
Union household	80	17	–	–	3
Nonunion household	69	27	1	1	2
Gender and party affiliation:					
Democratic men	82	17	–	–	1
Independent men	60	35	2	1	2
Republican men	60	36	1	2	1
Democratic women	87	10	–	–	3
Independent women	75	21	2	–	2
Republican women	64	35	–	–	1
Gender and age:					
Men 18–44 years old	72	23	–	1	4
Men 45 years and older	61	35	1	2	1
Women 18–44 years old	77	20	1	–	2
Women 45 years and older	76	21	1	–	2
Party and ideology:					
Liberal Democrats	85	13	–	–	2
Other Democrats	84	13	–	–	3
Conservative Republicans	55	41	1	2	1
Other Republicans	73	26	–	–	1
Working people and gender:					
Working men	66	28	1	2	3
Nonworking men	71	27	1	–	1
Working women	77	22	–	–	1
Nonworking women	76	19	1	–	4
Class and gender:					
Male upper class	53	45	–	1	1
Female upper class	66	33	–	–	1
Male middle class	66	30	1	2	1
Female middle class	77	20	1	–	2
Male working class	72	21	–	1	6
Female working class	81	16	1	–	2
Gender and race:					
White male	63	32	1	2	2
White female	71	26	1	–	2

(–) Indicates less than .5 percent.

HOW THE POLL WAS CONDUCTED

The Times Poll interviewed 1,353 adults nationwide, by telephone, Jan. 19 through 22. Telephone numbers were chosen from a list of all exchanges in the nation. Random-digit dialing techniques were used so that listed and non-listed numbers could be contacted. Interviewing was conducted in English and Spanish. The sample was weighted slightly to conform with census figures for sex, race, age and education. The margin of sampling error for the total sample is plus or minus 3 percentage points. For certain other subgroups the error margin may be somewhat higher. Poll results can also be affected by other factors such as question wording and the order in which questions are presented.

DR. DAVID ELTON TRUEBLOOD

Mr. LUGAR. Mr. President, this past Saturday, January 28, in Richmond, IN, 150 persons from around the world gathered at Earlham College's Stout Meetinghouse for a memorial service in honor of one of the 20th century America's most prominent religious leaders, Dr. David Elton Trueblood. Dr. Trueblood, professor-at-large emeritus at Earlham, died on December 20, 1994 at Lansdale, PA. He was 94 years of age.

Dr. Trueblood was no stranger to the Senate. He first served as the guest chaplain of the Senate in August 1972. I was pleased to serve as the cosponsor, along with his former Earlham student, our late colleague Senator John East of North Carolina, for Dr. Trueblood's second visit with us as guest chaplain on the National Day of Prayer, May 3, 1984. In addition, Mr. President, Dr. Trueblood was a close and valued personal friend of longstanding to our colleague, Senator MARK HATFIELD. The two men first met as Stanford University in 1946, when Dr. Trueblood was serving as the chaplain of that great institution and Senator HATFIELD was a young graduate student there.

Although he was born on a small farm near Indianola, IA, in 1900, Elton Trueblood had deep Indiana roots. His Quaker ancestors left North Carolina, where they had settled in 1682, and moved to Washington County, IN, in 1815. The Truebloods were part of the great migration of antislavery Quakers from the slaveholding States of the South to the increasingly abolitionist States of the North in the decades before the Civil War.

By the time that Dr. Trueblood joined Earlham's faculty as professor of philosophy in 1946, he had already established a distinguished academic career and a growing national reputation as a religious writer and speaker. After graduating from Iowa's William Penn College, he had earned the graduate degree of bachelor of systematic theology from Harvard University in 1926. He was awarded his doctor of philosophy degree from the Johns Hopkins University in 1934.

It was during Dr. Trueblood's studies at Johns Hopkins University that his career in the academic and religious worlds began to intersect with the Nation's political life. While completing his doctorate at Johns Hopkins, Dr. Trueblood served as the clerk of the Baltimore yearly meeting of the Religious Society of Friends. Already in demand as a preacher, Dr. Trueblood was invited to deliver the sermon at a Quaker meeting in Washington, DC. In the congregation that day was the first Quaker to become President of the United States, Herbert Hoover. That first encounter led to a long friendship between the two men which culminated in Dr. Trueblood's delivery of the eulogy at President Hoover's funeral some 35 years later.

After completing his doctoral studies at Johns Hopkins, Dr. Trueblood accepted teaching assignments at Guilford College, in North Carolina, and then at Haverford College, in Pennsylvania. After a temporary assignment as the acting chaplain of Harvard, Dr. Trueblood became the chaplain of Stanford University in 1936. He held a dual faculty appointment at Stanford as professor of philosophy.

The friendship between Herbert Hoover and Elton Trueblood blossomed when Dr. Trueblood arrived at the Stanford campus, to which President Hoover had moved after he left the White House in 1933. When President Hoover died in 1964, the Hoover family called Dr. Trueblood back from a round-the-world cruise to conduct the memorial services for the former President in West Branch, IA. After flying back to the United States from Saigon, Dr. Trueblood delivered a stirring eulogy to the 31st President before the 75,000 persons gathered for the funeral services on a hillside overlooking the Hoover Library.

When, in 1946, Dr. Trueblood received his offer to come to Earlham in Indiana, he faced a difficult decision. He enjoyed the prestige of a tenured full professorship at one of the Nation's leading universities. He was, as I noted, also Stanford's chaplain and the close friend and neighbor of former President Hoover. Yet Dr. Trueblood yearned for a smaller educational institution, for a return to his Quaker roots, and for greater freedom to pursue his writing and public speaking. And so, Mr. President, Dr. Trueblood accepted Earlham's offer, a decision about which he wrote in an article entitle "Why I Chose a Small College" for Reader's Digest.

After his arrival at Earlham in 1946, Dr. Trueblood's career as a religious writer and speaker earned him growing national following. Several years later, he was invited to speak in Washington, DC, before a church congregation that included President Dwight Eisenhower. President Eisenhower later invited Dr. Trueblood to the Oval Office at the White House. Ultimately, President Eisenhower asked Dr. Trueblood to join his administration as the Director of Religious Information for the U.S. Information Agency.

During the Eisenhower administration, Elton Trueblood developed a friendship with the young man who would be the second Quaker to become President of the United States. The young man was Vice President Richard Nixon. Dr. Trueblood and Vice President Nixon stayed in regular contact after Dr. Trueblood returned to Earlham and throughout Mr. Nixon's post-Vice-Presidential years in California and New York.

After Mr. Nixon took office as President in 1969, he honored Dr. Trueblood by inviting him to speak at the Sunday religious services held regularly in the White House. When the 1972 Republican National Convention nominated him for a second term as President, Mr. Nixon turned to Elton Trueblood to give the invocation.

As a man of character and faith, Dr. Trueblood believed deeply in loyalty to his friends. Throughout the ordeal of the Watergate scandal, Dr. Trueblood offered his friend, President Nixon, religious solace and advice in private. When, in August 1974, Mr. Nixon reached his decision to resign, the President called Dr. Trueblood at Earlham to tell him about the action that he finally had concluded that he must take.

The author of three dozen books, Dr. Trueblood was a world renowned writer. Perhaps the book for which he is best known was published the same year in which President Nixon resigned. Bringing his deep appreciation for the nexus between the spiritual life and the world of politics to its most creative fruition, Dr. Trueblood published "Abraham Lincoln: Theologian of American Anguish."

Critically acclaimed, Dr. Trueblood's study of President Lincoln's religious life became a great inspiration to numerous political leaders. President Gerald Ford kept a copy in his Oval Office. First Lady Nancy Reagan spoke of being deeply moved by Dr. Trueblood's Lincoln book when she found it in the White House Library. I am proud to say, Mr. President, that Elton Trueblood's "Abraham Lincoln" graces my own bookshelf as well.

After an extraordinary career, Dr. Trueblood ended 42 years of service to Earlham College and the Nation when he retired to Pennsylvania in 1988. Today, Mr. President, Elton Trueblood is back home again in Indiana. Following Saturday's memorial service at Earlham, his ashes were interred in the outer wall of his beloved Teague Library on the Earlham campus.

Mr. President, another of Dr. Trueblood's former Earlham College students, Steven R. Valentine, served as a Deputy Assistant Attorney General in the Reagan and Bush administrations and is now the general counsel to our colleague, Senator ROBERT SMITH of New Hampshire. Mr. Valentine traveled to Richmond, IN for the memorial services on January 28. He remembers Dr. Trueblood "as not only a man of extraordinary intellect, but as a person with a great heart. Elton Trueblood has a beautiful eternal soul," Mr. Valentine says, "and as I think of him now, I recall his words of Shakespeare:"

> [A]nd, when he shall die,
> Take him and cut him out in little stars,
> And he will make the face of heaven so fine
> That all the world will be in love with night,
> And pay no worship to the garish sun.

Mr. President, before he died, Elton Trueblood chose, as the convenor of his Quaker memorial service, another distinguished Indiana educator, Dr. Landrum Bolling, whom Dr. Trueblood brought to Earlham to teach political science, became the president of Earlham College in 1958. He left Earlham in 1973 to become the president of Lilly Endowment in Indianapolis, IN, and later served as the chairman of the Council on Foundations.

In connection with his service as the convenor of Dr. Trueblood's memorial service, Dr. Bolling wrote a short biographical sketch of Elton Trueblood, which was printed and distributed to all in attendance. Mr. President, I ask unanimous consent to print that biographical summary in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

DAVID ELTON TRUEBLOOD—DECEMBER 12, 1900–DECEMBER 20, 1994

(By Landrum R. Bolling)

Dr. David Elton Trueblood, author, educator, philosopher, and theologian, endowed with special gifts and holder of many honors, bestowed unnumbered blessings upon a numerious family and countless friends. He leaves to all of us who knew him and to multitudes who never met him a rich legacy of spiritual insights, intellectual and ethical challenges, and a vision of what communities of committed men and women, faithful to God's guidance, may yet do to build a better world.

A lifelong member of the Society of Friends, Elton Trueblood's teaching, speaking and writing influenced directly the lives of many people in many faith communities around the world. At Haverford, Guilford, Harvard, Stanford, Mount Holyoke, and Earlham he inspired thousands of students over half a century of spirited classroom teaching. His thirty-three books, clearly and simply written, captivated mass audiences rarely reached by words from academic pens.

Elton's English Quaker ancestors settled on the coast of North Carolina in 1682 at the site of the present town of Elizabeth City. In 1815 a large group of Carolina Quakers, including the Truebloods, emigrated to Washington County, Indiana. In 1869 his grandfather and other members of the family moved on to Warren County, Iowa. There, on a small farm near Indianola, Elton was born on December 12, 1900, the son of Samuel and Effie Trueblood.

Molded by the close-knit Quaker community, hard work on the family farm, encouragement from proud and supportive parents and excellent teachers, Elton Trueblood developed bookish interests and a strong student record. At William Penn College, Oskaloosa, Iowa, he won high standing as scholar, debater, and football player. After preliminary studies at Brown University and Hartford Theological Seminary, he earned the graduate degree of Bachelor of Systematic Theology at Harvard in 1926. He received his Ph.D. degree in philosophy from The John Hopkins University in 1934.

His first teaching assignments were at two Friends institutions: Guilford in North Carolina and Haverford in Pennsylvania. In 1936, largely as the result of his handling of a summer appointment as acting Chaplain of Harvard, he was invited to become Chaplain of Stanford. Thus, he was given a public platform and a visibility that drew him increasingly into a national ministry. Former President Herbert Hoover and his wife Lou Henry Hoover were close neighbors and friends and often attended the Quaker Meeting for Worship held monthly in the Trueblood home. (That friendship led to Elton's conducting the funeral services for both of the Hoovers, presiding over Mr. Hoover's public burial before a crowd of 75,000 on a hillside overlooking the Hoover presidential library and museum or West Branch, Iowa.)

In 1945 Elton Trueblood felt a strong calling to extend his public ministry through writing and speaking—and at the same time to serve a small Quaker liberal arts institution. Thus, he was prompted to leave his tenured full professorship at Stanford to join the faculty of Earlham College in Richmond, Indiana, as professor of philosophy. There he quickly became a major asset in the rebuilding of the College after the impoverishing years of World War II: helping in the recruiting of both faculty and students, the shaping of new educational policies, the raising of funds, and the promoting of broader public appreciation of Earlham—and of hundreds of other church-related and independent colleges. In a much-reprinted Reader's Digest article, "Why I Chose a Small College," he extolled these institutions as superior places for undergraduate education, where teaching was emphasized and where close faculty-student relations could be naturally fostered.

Although the teaching of undergraduates, in courses in both philosophy and religion, remained at the center of his academic life at Earlham, his interest and influence were crucial in the implementation of the risky and controversial decision by the Earlham Board to establish the graduate programs of an Earlham School of Religion. Questions about the possibility of a Quaker seminary had been debated for almost a century, but the idea had always been discouraged as "not feasible" and rejected by some Friends as "thoroughly un-Quakerly." Meanwhile, Quaker churches of the pastoral tradition seemed increasingly to draw their ministers from the ranks of the clergy trained in other denominations, or with little formal education in religion, while the less numerous unprogrammed (or "silent") Quaker Meetings and their related outreach agencies tended to draw their leadership from among Friends and non-Friends with no theological training. Elton Trueblood was one of the few "leading Quakers" who believed that this enterprise could and should be undertaken. Happily, he lived to see the Earlham School of Religion thriving and serving all branches of the Society of Friends.

Although he served on many committees of the Society of Friends and was widely recognized as one of the most eminent Quakers of the Twentieth Century, Elton Trueblood was very much at home in a variety of other religious communities, was a strong advocate of ecumenical activities, and was considered by many Quakers and non-Quakers as not quite fitting the popular stereotype of the "liberal activist" Quaker. His generally strong pro-Republican political views, his friendship with such prominent Republicans as Hoover, Nixon, and Eisenhower, and his strong anti-communism caused discomfort to some of the more strongly social-activist segments of Friends. He did not like the popular stereotyping of people as "conservative" and "liberal," as he considered these terms simplistic and divisive. He believed the Society of Friends, though a small denomination, was big enough for widely divergent points of view.

He liked to say that the most important word in the language is "and." On many matters of controversy, he would insist, "we have to say both-and, not either-or." By word and action he demonstrated what some saw as contradictory beliefs and habits: liberal and conservative, traditional and innovative, compassionate and tough-minded, generous and demanding. He was the affirmation of these combinations as being human, realistic, and honest.

From his abolitionist Quaker heritage and his own sense of moral and religious imperatives, he drew strength for vigorous opposition to racial discrimination. He was an early friend and supporter of Dr. Martin Luther King, Jr. At crucial points in the civil rights struggle he appealed directly to Presidents Eisenhower and Nixon to hold to strong stands for public policies to eliminate all forms of racial discrimination and to advance equality in human rights.

On another central Quaker testimony, pacifism, he was forthright about the importance and complexity of the issue as faced by those holding political power. He struggled openly over the personal dilemma of how an individual or a state can effectively confront challenges of violence and tyranny. He wrote and spoke eloquently against war, for international reconciliation, and in support of the rights of conscience for objectors to military service, and for those who chose military service. If a government does not successfully practice peaceful relations with its neighbors, then it will face a choice of evils in times of crisis. Thus, reluctantly, he concluded during World War II that military resistance to Hitler aggression was necessary.

Avoiding simplistic admonitions for a "back to the church" or "back to the bible" movement, he called for the reinvigorating of religious faith as the essential force necessary to sustain the ethical, moral, and social principles on which a humane and livable society must be built. He warned against what he called "churchianity" and "vague religiosity," but he also cautioned against the overly optimistic expectations of secular social-reformism or of a too-easy social gospel.

His emphasis in his books and lectures on the importance of family life was not theoretical but a reflection of his role as husband and father. He and Pauline Goodenow, who met while they were students at William Penn College, were married in 1924. They had three sons and one daughter: Martin, born in 1925; Arnold, born in 1930; Samuel in 1936; and Elizabeth in 1941. They knew him, throughout his life, as a loving and devoted father who found ways to be available to them in spite of his heavy work responsibilities and frequent speaking trips. He consciously determined that his children should not pay a heavy price for his public career.

Tragedy struck the family in the fall of 1954 when it was discovered that Pauline was suffering from an inoperable brain tumor. The family was in the process of moving to Washington, D.C. where Elton was beginning an assignment with the U.S. Information Agency. Pauline had been a strong support an inspiration, providing needed critisicm of his writings and encouraging him to fulfill his opportunities for national ministry—and managing a busy household in spite of years of chronic illness. Pauline died in early 1955.

Virginia Hodgin, a widow with two children, became Elton's secretary at Earlham in 1950 and moved to Washington to continue her work with him at the USIA. In September, 1956 Elton and Virginia were married at the Washington National Cathedral, with both families in attendance. Virginia proved to be a valuable partner as well as devoted wife. With her help, he wrote and published 17 books in the next 18 years, ending with his autobiography, *While It Is Day*, in 1974. Virginia died in 1984.

As a writer, Elton Trueblood developed a style that emphasized clarity, conciseness, and simplicity. Among his literary mentors, of whom he spoke with the greatest sense of admiration and debt, he always listed Blaise Pascal, Dr. Samuel Johnson, Abraham Lincoln, and C.S. Lewis. He was grateful for their skill in treating serious subjects with ample use of aphorisms, anecdotes, and humor. He also liked to paraphrase Mark Twain on how to get started with your writing by saying you simply had "to glue your trousers to your chair and pick up your pen without waiting for inspiration."

To many who knew him, Elton was an almost awesome figure because of his self-discipline. To his editors at Harper and Row, he was a delight to work with, always turning in clean copy that required little editing, was delivered on or before his promised deadline, and was sure to appeal to a diverse and numerous audience. During his most productive years, he rigorously divided his day into periods of meditation, exercise, writing, and family life. Most of his books he wrote in a small cabin at the family summer home in the Pocono Mountains of Pennsylvania during the summer break in the academic year. He would contract to deliver his manuscript in early September, and begin writing on the Monday after the Fourth of July. He wrote between eight in the morning and noon, Monday through Friday, in longhand on a yellow pad. He never got personally involved with typewriters or computers!

Although his earlier books were of the longer academic type, he came to feel that any book with a serious public message, with any hope of impact on its readers, should be limited to 130 pages. He generally followed his own prescription.

Likewise, in his public speaking, he believed in being brief and to the point. His sermons and popular lectures were rarely more than twenty minutes, thirty at the outside. In classroom lectures he filled the required fifty minutes, often without a note, and ended exactly at the bell. His popularity as a public speaker was such that he could easily have devoted all his working time to the well-paying lecture circuit. Instead, he limited his speaking engagements to those audiences he wanted to reach or help, saving most of his time and energies for teaching and his family. He spoke without fee for those who could not afford to pay, but charged a standard amount for those who could.

Although he led a very busy and highly productive life, countless individuals from all walks of the life remember Elton Trueblood with deep gratitude for time he spent in private conversation with them, hearing their problems, their hopes and their dreams—and giving advice. He had extraordinary gifts in encouraging others to believe in their potential and to develop the discipline to use their gifts fully. He was a living example of the good advice he gave to others.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like New Year's Resolutions—everybody talks about making them but rarely do very much about them.

The New Year arrived a little over a month ago, but the Senate is bogged down about passing a balanced budget amendment to the U.S. Constitution. The Senate had better get cracking—the clock is ticking and the debt is mushrooming. As of the close of business yesterday, Tuesday, January 31, the Federal debt stood—down to the penny—at exactly $4,815,826,745,802.15 or $18,280 per person calculated on a per capita basis. This debt, don't forget, was run up by the Congress of the United States.

Mr. President, most citizens cannot conceive of a billion of anything, let alone a trillion. Yesterday, President Clinton authorized a $20 billion in loan guarantees to Mexico. This figure was so disturbing to the American taxpayers—80 percent of them—that I felt compelled to discuss them during Foreign Relations Committee hearings. Now, multiply that $20 billion by 240—this equals the total debt of our Federal Government.

Which sort of puts it in perspective, does it not, that Congress has run up this incredible Federal debt totaling 4,803 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stood this morning at 4 trillion, 803 billion, 795 million, 968 thousand, 326 dollars and 50 cents. It'll be even greater at closing time today.

PRESIDENT ARISTIDE'S PROGRESS IN HAITI

Mr. DODD. Mr. President, on October 15, 1994, I was privileged to join Secretary of State Warren Christopher and other United States officials and congressional leaders in accompanying President Aristide on his return to Haiti after more than 3 years in forced exile. Before departing for Port-au-Prince, President Aristide pledged that upon his return, his government would work for peace and reconciliation among all sectors of Haitian society.

I believe that President Clinton has done a remarkable job in fashioning a policy that has led to the restoration of the duly elected President of Haiti. Special commendation must go to the men and women in the United States Armed Forces who have been deployed in Haiti to ensure a stable and peaceful climate within which the newly restored civilian government may begin the difficult task of rebuilding Haiti. Without the presence of these committed men and women, the dreams and aspirations of the Haitian people to live in a democracy would stand no hope of fulfillment.

More than 100 days have now passed since that historic day last October.

President Aristide has kept his commitment to work for peace and reconciliation among all Haitians. I believe that he has made significant progress in the areas of governance, security, economic reconstruction, and meeting the basic needs of the Haitian people. Obviously much remains to be done.

The Embassy of Haiti has prepared a detailed report on the measures taken by the Haitian Government during the first 100 days of the restoration of democracy. I ask unanimous consent that report be printed in the RECORD at the conclusion of my remarks.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

HAITI SINCE THE RESTORATION OF DEMOCRACY: ONE HUNDRED DAYS OF PROGRESS

"The Government and people of Haiti take pride in the achievements of the last one hundred days. However, our struggle is far from over and so we continue to strive within every geographic area, and within every ministry, to make secure the foundations of a lasting, stable democracy.

"We are grateful for the U.S.-led multinational effort in support of Haitian democracy, and not only welcome the opportunities for cooperation and partnership with the world's democracies that the past four months have made possible, but are committed to expand and build upon them."—President Jean Bertrand Aristide

INTRODUCTION

President Jean Bertrand Aristide's return to Haiti on October 15, 1994 was the culmination of an historic international effort to end a brutal military dictatorship that had:

(i) ousted Haiti's first democratically elected President three years earlier;

(ii) executed summarily 5,000 civilians;

(iii) dislocated 350,000 Haitians, forcing them into hiding within their own country;

(iv) caused some 48,000 Haitians to take to the high seas in an attempt to escape the imprisonment, torture, rapes, and murder that Haiti's coup regime was meting out to members of Haiti's pro-democracy community;

(v) created a massive Haitian refugee crisis for the United States and other countries of the region;

(vi) accelerated the economic and environmental degradation of Haiti, reversing the progress achieved during Haiti's first democratic administration in 1991;

(vii) increased drug-related criminal activity within the United States by permitting Haiti to be used as a drug transshipment point for illegal narcotics destined to the United States from South America; and

(viii) threatened to undermine, by way of example, the viability of other fledgling democracies throughout the hemisphere;

In the first 100 days since President Aristide has been reinstated as his country's democratically elected President, the Government and people of Haiti have moved with single-minded determination to assure Haiti a firm foothold in the world community of democratic, free-market nations.

Perhaps most impressive, as noted by U.S. officials, leading members of Haiti's business community, and the international press, has been President Aristide's ability to bridge Haiti's profound social tensions by reaching out to all Haitians, in a spirit of reconciliation and non-violence, to create a new Haiti.

President Aristide has demonstrated himself to be a skilled, committed democrat, working with respect for constitutional limits and mandates of Haiti's Presidency and other governmental institutions, and has built a coalition government that promotes and encourages open dialogue with all sectors of Haitian society.

Listed below are some of the achievements of the 100-day old "second" Aristide administration. To place the efforts and successes of Haiti's constitutional government in proper context, however, it is important to note that upon their return, President Aristide and other members of Haiti's democratically elected government were not only faced with a country whose social and economic development had been thoroughly undermined by the coup regime, but with government ministries and a National Palace that had been pillaged and gutted of equipment, furniture, wiring and supplies (down to paper and pencils) by the departing de facto "government", in order to thrust the returning government into a totally inhospitable, unmanageable administrative environment.

IMPACT OF THE RESTORATION OF DEMOCRACY

Refugees

Haitian refugees have stopped fleeing Haiti due to the constitutional government's respect for human rights;

As a result, "the Haitian refugee crisis" no longer preoccupies the American public, the American media, and U.S. policy-makers;

Some 16,000 Haitian refugees being held at the U.S. Naval Base at Guantanamo, Cuba, who:

(i) had refused to return to Haiti while it was under military dictatorship, and

(ii) were seeking refugee status within the United States or other regional countries,

have returned to Haiti voluntarily;

As was the case after Haiti's first democratic elections in 1990, Haitian teachers, health/legal/other professionals who had long been legal residents in Canada, the United States, France and elsewhere, have begun returning to Haiti to make their contributions to the rebuilding of their country;

Democratic reform and governance

The UN/OAS Human Rights Observer Mission, expelled by the military dictatorship in 1994, has returned to Haiti;

The Government of Haiti is working with the United Nations, the Organization of American States, and bilateral donors to develop mechanisms and systems to facilitate broad-based awareness of the importance of adhering to internationally accepted human rights standards in the building of a new Haiti;

Repeated, impassioned, and sustained calls for reconciliation by President Aristide have been accepted by his followers. Haitians, upon identifying those who brutalized them during military dictatorship, turn these individuals over to members of the Multinational Force—and in some cases, even to the foreign press—rather than taking "justice" into their own hands;

The strength and lasting power of his message was most recently demonstrated on January 12, when Haitian civilians in Gonaives chased, apprehended, and then turned over to the multinational force a former Haitian military officer attempting to escape after an attack on U.S. servicemen that left one U.S. soldier dead and another wounded;

The Haitian Government's emphasis on consultation, inclusion and reconciliation has been demonstrated repeatedly, as in:

(a) President Aristide's exhaustive and cordial consultations with at least 16 political parties—almost immediately upon his return—to establish dialogue on issues of concern and to stress the importance to the nation of parliamentary elections taking place at the earliest possible opportunity, and

(b) the extensive discussions he entered into across Haiti's leadership spectrum prior to selecting Smarck Michel, a prominent 51-year old Haitian businessman, as Prime Minister;

Prime Minister Smarck Michel's unanimous confirmation by Haiti's multiparty parliament, and the subsequent installation of Mr. Michel's ministerial cabinet on November 6, 1994 formalized the establishment of the official, legal framework within which democratic, constitutional governance in Haiti can go forward. (See Attachment A for a complete list of all Government Ministers);

Immediately upon his return, President Aristide began stressing to the Haitian people and Parliament the importance of the upcoming parliamentary elections. In order to expedite this, a Provisional Electoral Council (representing the three branches of government) has been established, an electoral law has been submitted to Parliament, and a mid-April election date targeted.

Within a month of his return, President Aristide invited 400 Haitian business leaders to the National Palace, among them individuals who had opposed his return and supported the coup. He included several of these in his official delegation to the Summit of the Americas and named them to the Presidential Commission on Business Modernization and Economic Growth.

At the end of 1994, Time assessed President Aristide's reconciliation efforts thus: "(Aristide) is a man whom experience has imbued with wisdom, a new found respect for dialogue and a deft skill for the politics of pragmatism."

Economic revitalization

In keeping with his commitment to modernize the Haitian business sector, promote economic development, and reinforce the government's interest in expanding economic and business links with the rest of the region, in general, and the United States, in particular, President Aristide, in December 1994, established a high-level Commission on Economic Growth and Modernization, headed by prominent Haitian businessman and President of the Haitian Industrial Association, Jean Edouard Baker.

The Commission, comprised of 25 Haitians representing a broad cross-section of Haiti's business leadership as well as those Cabinet ministers responsible for economic reconstruction, was represented by a 6-person delegation to Washington in mid-January for talks with the Administration and the Congress. These talks focussed on the policies and programs implemented by the Government of Haiti to stabilize the economy and facilitate the workings of a free-market system.

This delegation also stressed to U.S. policy-makers that there is now a historic opportunity for Haiti to be permanently transformed—provided the international community maintains its security and human rights observer presence, and keeps its commitment to provide technical and financial support;

In response to the free-market policies of the government, some 35 plants in the assembly export sector which ceased production during the political and economic crisis of the past three years have reopened;

The macro-economic plan presented by the Aristide government to the international community prior to the 1991 coup won multilateral economic pledges in excess of $500 million. However, the three year military dictatorship caused multilateral donors to withhold this much-needed injection of capital from the Haitian economy. The re-submission of its macroeconomic plan by the "second" Aristide administration has again won the support of multilateral community, and Haiti expects pledges in excess of $1 billion over the next 5 years;

The resumption of multilateral economic support to Haiti was contingent upon the country's arrears, (resulting from the coup regime's refusal to make payments on Haiti's international debt), being cleared. Thanks to the joint efforts of the international community and the Government of Haiti, these arrears were cleared in December 1994, thereby removing one of the impediments to the timely flow of the support pledged by the international community;

There are well-established channels of communication and a strong spirit of cooperation between the Government of Haiti and the Haitian business community, born of the realization on both sides that (i) business, (ii) labor, and (iii) democratic, stable government are *all* crucial, indispensable, and interdependent components of any modern state;

President Aristide has announced a package of special incentives to attract foreign investment to Haiti. These include a reduction in telephone, electricity and customs fees; a dramatic reduction in tariffs on most imported items, except sensitive agricultural commodities; and tax incentives for businesses that return to Haiti by July 1, 1995;

At the end of January, Haiti will formally announce to the international financial community its plan for economic development and its projected assistance needs. The plan embraces solid fiscal discipline, open investment and trade policies including a reduction in tariffs, elimination of non-tariff barriers, the modernization of commercial and investment codes, and the streamlining of import/export procedures;

The Aristide government is also implementing economic policies geared at sustaining economic growth, reducing the public sector deficit, streamlining and professionalizing the civil service, and eliminating currency exchange and interest rate controls;

In order to maximize competition and facilitate the efficient functioning of the Haitian economy, the Government of Haiti has retained the services of the International Financial Corporation to review the condition of state-owned enterprises, and is in the final stages of establishing a tripartite commission on labor-management relations. This commission will facilitate greater communication and cooperation between labor, management and government to the overall benefit of the Haitian economy and the Haitian people;

In December 1994, the Governments of the United States and Haiti signed an agreement aimed at revitalizing the Haitian economy via improvements in telecommunications, energy and transportation;

The Haitian Ministry of Finance and the U.S. Department of Commerce agree to establish a joint Business Development Council;

Haiti's ports have re-opened.

Military, police, and judicial reform

A law was submitted by the Aristide administration to Haiti's parliament to create a civilian-controlled police force separate from the military, as mandated by Haiti's constitution. Haiti's police and military had long been indistinguishable from each other and the source of much repression in Haiti. The law was debated and ratified by the Parliament, and the creation of the new police force under the jurisdiction of the Ministry of Justice is now underway;

One thousand former refuges at the U.S. Naval Base at Guantanamo have been recruited as members of the interim police force, as have 3,000 former members of the Haitian military who were screened for human rights abuses;

The Haitian army, originally estimated at 7,000, has been demobilized and will be reconstituted at a level of 1,500, with the salaries of the demobilized soldiers going to the Ministries of Health, Public Works and Agriculture. In addition, these soldiers are being encouraged by the government to apply for positions within these ministries, in order to begin new, constructive careers. A commission, headed by Minister of Defense Wilthan Lherisson, has been charged with establishing—in conjunction with U.S. advisers—a plan for the army's reorganization. (The downsizing of the Haitian army to 1,500 was an important component of the Haitian government's marcro-economic plan which won the support of multilateral donors in Paris last August).

The new Police Academy is scheduled to open within the next few weeks and trainees, recruited from Haiti's nine (regional) departments, will be selected from a pool of 25,000 applicants. A commission under the authority of the Ministry of Justice has been created to develop the organizational structure and regulations for the new National Police Force.

Haiti's notorious "section chiefs", long identified by human rights observers and the people of Haiti as key instruments of rural repression in Haiti, were aggressively supported by the military dictatorship. They have now been outlawed and the constitutional government is, instead, establishing in the rural areas local, legitimate justices of the peace.

Demilitarization of Port-au-Prince

Haiti's Army Headquarters, traditionally situated next to the Presidential palace, is now the site of Haiti's Ministry of Women's Affairs.

The Port-au-Prince police station is now controlled by the interim police force, under the jurisdiction of the ministry of justice.

Accounting for human rights abuses during military dictatorship

An independent Truth Commission has been established by Presidential decree in an attempt to acknowledge, investigate, and provide a full accounting of the brutality that characterized Haiti's 1991–1994 military dictatorship. This is part of an effort to put an end to Haiti's history of impunity and allow for the establishment of the rule of law in the pursuit of political, economic, and social stability;

The Government of Haiti has retained the services of Haitian lawyers to pursue claims arising from the most notorious cases of human rights abuses during the coup period.

Public works

The Government of Haiti, in conjunction with international donors, has created 5 thousand road repair jobs, thereby upgrading areas of Haiti's physical infrastructure that were seriously neglected during the three-year military dictatorship;

Haiti's main airport in Port-au-Prince is being renovated to accommodate the increased traffic that (i) has resulted from the restoration of democracy, and (ii) is expected from Haiti's pursuit of expanded economic and other links with the region in general and the United States in particular;

Social infrastructure

Education, neglected by the coup regime, is once again being stressed by the constitutional government as a crucial component of Haiti's political, economic, and social stability. With the restoration of democracy came the re-opening of schools, the establishment of a State Secretariat for Literacy, and the distribution of $3 million in school supplies;

The government, with the assistance of international agencies, initiated in November 1994 a massive vaccination campaign. To date some 520,000 children have been vaccinated and the government plans to have 3 million children similarly protected by summer 1995;

President Aristide has pledged to open at least one new school and one new clinic in each of Haiti's 500 districts by the end of his term in February 1996;

A Ministry for the Environment has been created to address the serious ecological challenges facing the people of Haiti.

REMAINING CHALLENGES

The return of constitutional government to Haiti on October 15, 1994 celebrated a commonality of purpose among the world's democracies. It also raised serious questions regarding the climate of impunity which aspiring despots in the region had begun to assume they could take for granted. For this the people of Haiti are most grateful. However, in the midst of its efforts to secure the achievements summarized in this paper, Haiti's newly reinstated constitutional government has had to face a number of challenges.

No sooner had constitutional government been restored to Haiti than Hurricane Gordon hit, causing over 1,000 deaths and extensive damage to infrastructure. Indeed, the United Nations Development Program reports that 1.5 million Haitians were hurt and/or lost property. Thanks to the presence of the Multinational Force in general and U.S. troops in particular, however, the Government and people had a ready source of logistical and material support which helped alleviate the impact of the crisis.

Less benign in its origins but just as deadly in its impact, however, was the placement—one month after the return of constitutional government—of an explosive device at a power generator upon which most of Port-au-Prince depends for electricity. This development has sorely taxed the Haitian government as it attempts to stabilize the country, encourage domestic investment, and attract foreign investment. However, the determination of the government and the people of Haiti to build a stable and secure nation, acts such as this notwithstanding, remains unshakable.

Regarding the partnership between the government of Haiti and the international community, it is clear that the presence of the Multinational Force has been a dramatic demonstration of the commitment of the world community to democracy in Haiti, and this has enabled the Government of Haiti to move forward with many of the policies and programs outlined in this report. It is the hope of the Government of Haiti, however, that the international community will soon be able to make available the economic support so generously pledged prior to the return of constitutional government in October 1994, since it has long been stressed by both the donor community and the constitutional Government of Haiti that this support is an indispensable counterpart to the essential and fully appreciated multilateral military presence now in Haiti.

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To the extent that the bottlenecks and administrative delays that have slowed the actual provision of economic support (as opposed to pledges) can be corrected, then Haiti's entry into the world community of stable democratic nations would be greatly expedited *and* the positive impact of the multilateral *military* presence would be permanently secured.

Haitians from all classes will attest to the unifying influence of President Aristide, who has encouraged patience and perseverance in the face of the significant difference between the economic support that was long ago promised, (as a complement to the multinational troop presence), and what has, to date, been forthcoming.

Nonetheless, the Government continues to pursue as top priorities:

The holding of free and fair parliamentary elections at the earliest possible date;

The strengthening of the institutions of democracy and the promotion of respect for the rule of law;

Expanding links between U.S. and Haitian businesses, building upon:

(i) Haiti's geographic proximity to the United States,

(ii) The long history of U.S./Haiti business relations,

(iii) The heightened degree of cooperation and collaboration between the peoples of both nations afforded by the U.S.-led effort to restore democracy,

(iv) The energy that has long characterized Haiti's private sector leadership and the dependability of Haiti's labor force, and

In keeping with President Aristide's emphasis on the importance of national reconciliation to Haiti's future, the Government of Haiti remains committed to disarmament.

Jean Edouard Baker, President of the Industrial Association of Haiti, during a recent visit to Washington stressed to U.S. policy makers that there is now a historic opportunity for Haiti to be permanently transformed—"provided the international community maintains its security and human rights observer presence as originally negotiated, and keeps its commitment to provide financial and technical support during this crucial transition period."

The Government of Haiti shares this assessment and will continue to work with its friends in the international community to ensure that this historic moment yields its full potential.

ATTACHMENT A

CABINET OF PRIME MINISTER SMARCK MICHEL

Foreign Affairs & Culture: Mrs. Claudette Werleigh.
Defense: Gen. Wilthan Lherisson.
Interior: Mr. Rene Prosper.
Finances & Economic Affairs: Mrs. Marie-Michele Rey.
Justice: Jean Joseph Exume, Esq.
Commerce & Industry: Mr. Maurice LaFortune.
Planning & External Cooperation: Mr. Jean-Marie Cherestal.
Health & Population: Mr. Jean Moliere.
Agriculture, Natural Resources & Rural Development: Mr. Francois Severin.
Public Administration & Government Personnel: Mr. Anthony Barbier.
Public Works, Transportation, & Communications: Mr. Georges Anglade.
Information: Mr. Henri Claude Menard.
Culture: Mr. Jean-Claude Bajeux.
National Education: Mr. Emmanuel Buteau.
Social Affairs: Mr. Enold Joseph.
Women Affairs & Women's Rights: Mrs. Lise-Marie Dejean.
Expatriated Haitian Nationals: Mr. Fritz Casseus.
Environment: Mr. Anthony Verdier.

SECRETARY OF EDUCATION DICK RILEY'S STATE OF EDUCATION ADDRESS

Mr. KENNEDY. Mr. President, earlier today, Secretary of Education Dick Riley delivered his State of Education Address. Speaking at Thomas Jefferson Middle School in Arlington, VA, he outlined the new and promising direction that education reform is now taking, a process that is already well underway under the leadership of the Clinton administration.

Secretary Riley pointed out that today, just 8 months after the "Goals 2000 Educate America Act" was signed into law, 44 States are designing, from the bottom up, a better education system for the next century.

To succeed as a nation, we must create a society in which all children have a chance to succeed. Education provides that chance. Few other investments of taxpayer dollars yield such immense benefits for the Nation and its people.

There is no quick or easy answer to deal with the many challenges involved in improving our schools and colleges. Steady progress will take time and hard work and the involvement of millions of citizens throughout the country. Federal leadership is essential if we are to keep moving forward, and President Clinton and Secretary Riley are providing it. It is preposterous to suggest that we can do more by abolishing or downgrading the Department of Education and cutting the budget for education. As Secretary Riley states, the American people do not want Congress to cut Federal aid to education that helps Americans become more self-reliant.

I commend Secretary Riley and President Clinton for their vision and leadership on education, and for giving it the high priority it deserves. We are making wise investments toward meeting our national education goals, and we must stay the course, not make a U-turn.

Mr. President, I believe that Secretary Riley's address will be of interest to all of us in the Senate, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TURNING THE CORNER: FROM A NATION AT RISK TO A NATION WITH A FUTURE

(By Richard W. Riley)

INTRODUCTION

To the students who just sang to us from their hearts—to Sidney and David and Ann and Zelmie—how very proud we are of all of you and your classmates. You are the future of our country; you give us hope and strength.

I am grateful to Terrel Bell for his very kind introduction. American education owes a debt of gratitude to Terrel Bell for his foresight and leadership. We are on a new course toward excellence and high standards in American education in large part because of Terrel Bell's good deeds a dozen years ago.

Today, I am honored to make my second annual State of American Education Address here at Thomas Jefferson Middle School in Arlington, Virginia * * * to tell you that we are no longer a nation at risk, but a nation on the move * * * a nation turning the corner, raising its standards and reaching for excellence for the 21st century.

It is so appropriate that we should come together at a school named in honor of Thomas Jefferson—the president who wrote to John Adams that he could "not live without books," and the founder of a great American institution of higher learning, the University of Virginia.

Were he alive today, I have no doubt that Jefferson, ever the scientist and inventor, would be, at this very moment, in the computer lab uplinking to the Internet's World Wide Web.

But Jefferson would have to be quick because the classrooms and computers here at Thomas Jefferson are always in use. This school is a community bursting with energy and learning, day and night. Thomas Jefferson is a school that reflects many of the new dynamics shaping the future of American education.

We are, for example, in the midst of another baby boom. In the next ten years, an additional 7.1 million children are going to get up in the morning and go to school. Another 7.1 million children.

And at the same time that we are helping these brand new students become part of America's strength, we must raise standards and teach Americans of all ages some very new and demanding skills.

Now, every child still must learn the basics. I am a great believer in the fundamentals. You simply can't get ahead if you cannot read, write and figure out how much change the checkout clerk should give you. But in this day and age, using computers and recognizing the discipline of the arts and the power of science all have to be seen as new fundamentals for all our children.

This is a critical time for American education * * * a turning point.

TURNING THE CORNER; A NATION ON THE MOVE

So what, then, is the state of American education today given these and other new dynamics? I believe that we are, at long last, turning the corner * * * moving from being a nation at risk to a nation with a hopeful future. We are starting to win the battle for excellence and good citizenship in American education.

Why am I becoming optimistic? Student performance in reading, science and math is on the rise, and we have made up much of the ground we lost in the 1970s. The number of high school students taking the core academic courses is increasing, up 27 percentage points since 1983, and still rising. Many more students, particularly minority students, are participating in the advanced placement process.

The dropout rate has declined in the last decade, and young people are getting the message that graduation from high school is only the stepping-stone to more learning. There is a new seriousness and appreciation for the value of education. The percentage of students attending college is higher than any other developed country. Community colleges are filling up as never before. And our great institutions of higher learning still produce world-class graduates.

Now, we still have many problems. Overall achievement is still too low. The dropout rate for our Hispanic youth is too high; the gap in performance of African-American, Hispanic, and poor children is still too large; violence in some schools remains a destructive force; too many college freshmen are still in remedial classes; and I am increasingly concerned about a growing trend to de-emphasize the value of our nation's wonderful system of higher education.

But all across America there is great energy and commitment to the progress of education. In Colorado, Governor Roy Romer has taken the lead in calling for high standards and comprehensive reform. In Massachusetts, Governor Weld is using Goals 2000 money to support the creation of charter schools.

In Minnesota, thousands of parents are signing compacts to improve their children's learning. And the Parents-as-Teachers (PAT) program in Missouri continues to add value to education by having parents help other parents.

In Columbus, Ohio, Project Discovery is leading a statewide effort to improve math and science instruction. In Illinois, a new technology initiative now links public schools to scientists at Northwestern University.

Good work is being done in many states to design tougher standards for our young people and establish real accountability. And, two weeks ago, 81 middle school teachers received the first national certificates for meeting the most rigorous of standards.

Kentucky, a state that has done so much in school reform, is now reporting dramatic improvement in mathematics, reading, science, and social studies based on their new, challenging academic standards.

We are starting to see a difference. Above all, we are starting to overcome the greatest barrier to the future of American education: the tyranny of low expectations.

And the intensity of activity at the state and local levels is being matched by the strong bipartisan commitment of Congress and President Clinton to put excellence back into American education.

Passage of the Goals 2000: Educate America Act; the creation of a new School-to-Work Opportunity Act; our new direct lending program; our new substantial investment in technology; the refocusing of our research arm; the Safe Schools Act, the creation of AmeriCorps; and the expansion of Headstart are all part of the national effort to move American education forward.

THE UNIQUENESS OF GOALS 2000

So I am pleased to report to you today that just eight months after the President signed Goals 2000 into law, 44 states are now moving forward in designing—from the bottom up—an education system for the 21st century.

Goals 2000 is the driving force behind the ongoing effort across this country to raise standards, to get technology into the classroom, and to make sure that we set high expectations for every young person, every teacher and every parent.

I want to emphasize that Goals 2000 is the very model of how we can help the states and local schools without smothering them with regulations. Our Department of Education has decided to have no regulations governing this $400 million program—no regulations—and the state applications form is just four pages long. But accountability is there—by testing to high state standards. About 98 percent of all the funding in Goals 2000 goes directly to the states and in its second year, 90 percent of all funding will flow directly to local school districts.

I want to take a moment to speak directly to the critics of this most important piece of legislation. I am not an advocate of a "national exam"; nor am I an advocate of federal intrusion into state and local decision making. I did not come to Washington to save the job of a bureaucrat or to defend old ways of doing business.

I am a strong supporter of applying ample doses of American ingenuity and creativity to our educational system. We need to encourage ideas such as charter schools and public school choice; be flexible and recognize that students learn in many different ways; and carefully think through how we use time in the school day.

But we must always have accountability in public education—for the sake of both the children and the American taxpayer. Accountability is so important. That is one important reason why I do not support the "silver bullet" solution of using public tax dollars for private school vouchers.

Above all, we need to avoid the trap that has so often befallen American education: the inability to maintain a sustained drive for excellence. Too often we get distracted by the fad of the moment. What we need now, more than ever, is some old-fashioned American tenacity to stay on course.

And, I will tell you this—if we roll back the Goals 2000: Educate America Act * * * if we get off course now * * * just when we are turning the corner and giving states and communities the help they request in the form they need it, well then, where will we be? One place we will be is out of step with the American people.

The American people believe in education, and they believe it should be made a national priority. They know that education is an act of building—the building of people, the building of our nation, and the building of our future.

Every poll that I have read drives home this essential point: the American people want to invest in education that works. The results of the November election do not tell me that the American people want to go backwards. There is nothing that tells me that they want cuts in student aid for college, nor that they want Congress to cut education that helps the American people become more self-reliant.

I pledge my full cooperation to the new Congress. We will make an honest review of what federal education programs are working and which ones have seen their time come and now must go.

But the need to reduce the federal budget deficit must be balanced against our need to invest in America's future. The reduction of the deficit and investing in education are two of the most important and essential ways we can secure this nation's prosperity. In this new Information Age, education must be seen as a national priority.

THE NEW EXCELLENCE: SIX WINNING AMERICANS

Nothing so exemplifies the progress this nation has made in the last decade than the six special guests who are here today. In 1994, these six students—all from public schools—represented this country as the American team at the 35th International Mathematical Olympiad.

These young Americans did something quite extraordinary. They defeated the very good teams of 69 other nations—and they won with perfect scores. Their victory is surely a personal achievement—and a victory for their teachers, parents, coaches and for all Americans.

But it is also a reflection of the serious work that has been done in the last decade to achieve a new standard of excellence in American education. The first professional group to produce new academic standards were America's math teachers. My Department and other federal agencies have kept a sharp focus on advancing math and science education, and it is beginning to pay off.

So it is my great pleasure to present to you the six winning members of the American math team and their coach, Doctor Walter Mientka of the University of Nebraska.

INCREASING AND PROTECTING ACCESS TO HIGHER EDUCATION

These young Americans clearly represent our very best. Most of them are already in college, and I have no doubt that each of them will achieve and succeed in life. But they are not alone in wanting to advance themselves. Millions of young Americans know the score already: to get ahead in America, you need to have a first-class education.

This is why we really do need to reinvent the American high school—to create new, concrete links to the world of work and careers—and why access to higher education has got to remain a national priority.

We intend to maintain and increase our commitment to the Pell Grant program because it is an essential statement of our commitment to higher education.

And, we are very proud of our Department's efforts to create and maintain a new direct lending program for college students. This is a program for the 90s. Recently, an American University student told me that she had received her direct loan in 24 hours and at a lower cost * * * and that last year under the old system, it had taken three weeks.

College presidents are placing a high value on this program because they know that it is working. This program will save the taxpayers $4.3 billion and save students $2 billion by 1998.

I encourage the Congress not to "cap" a program that is making college more affordable and accessible—and saving taxpayers money. Every college should have the choice to provide the benefits of this program to their students.

MIDDLE CLASS BILL OF RIGHTS

But we need to do more. For the first time in generations, parents are truly worried that they will not be able to pass on the American Dream to their children. And they are not alone. High school and college students know that they have but two choices: they can work longer hours for less pay, or they can get a meaningful education.

Our economy has added almost 6 million new jobs in the last two years, and many of these require new thinking skills. The economy of the future will be—and already is for millions of Americans—an economy based on what you know and on the skills you have. And we need everybody to build America's future.

This is why education is the very centerpiece of the President's proposed Middle Class Bill of Rights. The President's proposals to allow a tax deduction for college tuition, to expand IRA withdrawals for education, to create a $2,600 skills grant that empowers working Americans and a $500 child tax credit—are all part of the same effort to make sure every American has a chance to be part of the American Dream.

I urge all the parents who are thinking ahead about your children's future, to sit down at the kitchen table, talk this proposal through and understand its details. And when you do, you'll understand that President Clinton's proposal is a good one.

MAINTAINING EXCELLENCE IN HIGHER EDUCATION

Now, a word of caution. I am concerned that in the rush to cut budgets, we can do unintentional but very real damage to the jewel of the American educational system—our system of higher education.

Increasingly, state leaders seem to see higher education as a budget item to be cut rather than as a long-term investment in the future. The federal government, which for much of the 1980s increased its funding for basic research, will be hard pressed to maintain this capacity. And, all of us in Washington—in both the executive and legislative branches—have come close to over-regulating over the years.

Nothing defines these new pressures more than the current budget-cutting proposal in the Congress to eliminate the "in-school interest subsidy." Now, that's a complicated way of saying that if you lose your subsidized student loan—and there are 4.4 million of you who would—you are going to have to pay about 20 percent more on your student loan—as much as $5,000 more over the life of the loan if you borrow the maximum that is allowable. That's a lot of money.

This is the wrong way to go. We're not going to build up the middle class by charging students who are trying to get into or stay in the middle class $2 billion extra a year in interest. If this proposal goes through, it will be the largest reduction of financial aid to working American families in the history of this country.

VIOLENCE, DRUGS AND THE DISCONNECTION OF OUR YOUTH

As we seek to turn the corner, we need to recognize that many young people remain disconnected—growing up on their own—often alone—and in some cases—truly alienated. Last year at this time, I spoke about my very real concern that this disconnection is becoming so pervasive that we were losing touch with one another.

Nothing defines this disconnection better than the increasing violence by our children, and the increasing violence toward our children. I try hard to understand the causes, but this I know for sure: the American people have had enough.

Now, the great majority of America's schools are safe and drug-free. But we cannot ignore the reality of our times. Guns are being brought to schools as tests of manhood. Drugs are being used with greater frequency and at earlier ages. And a $7 movie ticket is all to often a ticket to see a killer use a gun.

Strong families and schools with high expectations remain our first lines of defense against the spiritual numbness of violence. When 82 percent of all the people in this nation's prisons and jails are high school dropouts, surely, that fact alone should tell us something about the importance of high-quality and safe schools in every neighborhood.

It is not hopeless. The Robert E. Lee High School in Houston, Texas, and the Joseph Timilty School in Roxbury, Massachusetts, are two schools that have turned themselves around. These schools have set high academic standards; they have attacked the culture of violence head-on; and they have involved parents and the community to get results.

So we must keep our focus on ending the violence. We passed the Safe and Drug-Free Schools Act last year. And if you bring a gun to school, don't expect much sympathy—because you are not playing by the rules.

But we need to do more. This is why Attorney General Janet Reno and Doctor Lee Brown, our nation's Drug Czar, will join me in the coming months in visiting different communities to encourage and work with people to end the violence.

And our message to Hollywood is clear and simple: help us raise our children right by ending this fixation that entertainment must always contain violence. By the time young people reach age 18, they have watched 25,000 murders on television alone. Stop glamorizing assassins and killers. I urge you to see this issue through the eyes of parents instead of scriptwriters . . . through the eyes of teachers instead of advertisers.

Sit down with community leaders, principals, PTA presidents, and the doctors in the trauma units who are struggling so hard to protect the children and mend their communities, and use your power to reach children in a helpful and supportive way.

Our young people are searching for clearly marked pathways to adult hood that are appropriate for the '90s. In some troubled neighborhoods, gangs have almost replaced the family in laying out a new path to adulthood. And what a terrible path it is—an act of violence, a first arrest, expulsion from school, a place in juvenile hall, time spent in prison and sometimes death, and all before they are 20 years of age.

A SOCIAL COMPACT FOR PUBLIC EDUCATION

This is why I continue to place great importance on supporting the American family. Last year on this occasion, I announced a new effort to encourage parent involvement in the education of our children. As I said at that time, "thirty years of research tells us that parent expectations and parental involvement" is the starting point for improving American education. Parents matter.

Today, I can report to you that more than 100 organizations, including the national PTA, the U.S. Catholic Education Association, the National Alliance for Business, and the Boys' and Girls' Club of America, are actively participating in our Family Involvement Partnership for Learning. There is great energy in this effort.

I am pleased by the support we are receiving from the American business community. And I am deeply encouraged by the religious leaders of many faiths who came together last December to release a "Statement of Common Purpose" articulating their common desire to find new ways to support family involvement in their children education.

I believe there is an enormous desire on the part of the American people to have new rules of public engagement when it comes to relating to each other. A young student might willfully disobey a teacher or cheat on an exam and think nothing of it; an ambitious politician can distort the truth or defame the character of another and be rewarded with more media exposure.

Listen, in contrast, to these words from a pledge that young people take every day at school in Independence, Missouri:

"I am the one and only person who has the power to decide what I will be and do. I will accept the consequences for my decisions. I am in charge of my learning and behavior. I will respect the rights of others and will be a credit to myself, my family, my school, and my community."

I believe this is what the American people want for their children. And I agree with them.

So what does this mean for those of us who are part of the public dialogue about the future of American education? We need to get beyond the idea that everything in America is part of a political game. We are not educating our children as Republicans, Democrats or Independents, but as Americans, and as the future of our great country.

We need to lower our voices, to listen to one another and surely to listen to our parents and teachers. there is a difference between constructive criticism and the articulation of deeply held convictions—and the tendency by some to define just about everything in public education as useless and at the extreme, even "corrupt."

TURNING THE CORNER: LOOKING TOWARD THE FUTURE

As we look to the future, let us also recognize that we live in a time of great learning and technological achievement. New discoveries by the Hubble telescope are leading astronomers to rethink the very age of the Universe, even as we marvel at the recent unearthing of 20,000-year-old prehistoric paintings in caves in Southern France.

Scholars are deciphering the Dead Sea Scrolls and the technology of virtual reality is helping to teach disabled children how to drive wheelchairs. Machines the size of molecules are being created by dedicated scientists to heal the sick, and scientists are announcing that they have isolated the DNA of dinosaurs. It is all rather extraordinary.

Dr. Pat Graham, the former Education Dean at Harvard, wrote in her book, "In this nation, we have never had a 'golden age of learning.' We have had a golden age for some," she said, "but not one for the nation."

If ever there was a time for this great nation of ours to have a "golden age of learning" for all of our people, now is the time to have it—to create a new ethic of learning—a new standard of excellence.

Now all this is going to take some decisionmaking, and here, I want to end by telling you a story about a funeral I attended when I was governor of South Carolina.

The deceased was an elderly lady named Katie Beasley. Katie Beasely was a sharecropper, the mother of six or seven children, who spent her entire life just getting by. At her funeral, an old friend stood up and said that he had spent a good long while trying to think through what made Katie Beasley so special—how it was that she had so little and yet all of her children got an education, got good jobs and were community leaders themselves.

And he had decided, after a great deal of thought, that what made her special was that she was a decisionmaker. This is what he said: "Katie decided that an education for her children was important, and she was determined to see that they were all educated. She never looked back,"

We are at a time for decisionmaking in this country. If we believe, as Katie Beasley believed, that education is a serious matter, and that all of our children must be educated, we too can be successful. It is a matter of having the human spirit to believe in ourselves as a people—and to make the decision to move forward. Everything is in place to educate America—and I think we will with your help.

TRIBUTE TO AUGUSTA WOLFE

Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to Augusta Wolfe who will celebrate her 100th birthday on March 2. Augusta has been a resident of California for 62 years and when she and her friends and family gather to celebrate, I want her to know she has been honored by the U.S. Senate.

Raised in New York City until age 17, Augusta had three sisters and five brothers. Her mother died when Augusta was only 13 and she assumed much of the responsibility and care of her younger siblings. Her father remarried and she acquired one half-sister.

Her older brothers moved to Winnipeg, Canada. At age 17, Augusta joined them, then sent for the three younger brothers and one sister. While in Winnipeg, Augusta worked in her brother's store.

At age 19, she met and married her brother's friend, Nathan Wolfe, and had two children. Two years later the family moved to Salt Lake City, UT, where they lived for 14 years. During this time, Augusta helped Nat found and operate a very successful retail business, Wolfe's Dept. Store. Mr. Chairman, In 1933, because Nat's health was failing, they moved to Beverly Hills and later to Palm Springs.

After Nat's death in 1952, Augusta returned to New York City for a brief period and then to Santa Barbara. She devoted much of her energy to creative art, primarily the making of mosaics. Later, she moved to Laguna Hills, CA, where she continued her interest in art and began writing poetry, which she continues to do until this date. Her work has been recognized by the National Library of Poetry and some of it has been published in their publication "Tears of Fire."

Today she is active and in relatively good health. Her keen intellect and memory are unimpaired. She lost her daughter in 1979. In addition to her son, Bernard, a California lawyer, she has many devoted friends and relatives who will attend her 100th birthday celebration on March 4, 1995.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired. Morning business is now closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the joint resolution.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, we are now on our third day on the balanced budget constitutional amendment. I think the debate has been interesting. There have been a lot of points made on both sides of the floor, and I can see there are people anguishing over which way to go on this amendment.

I suggest that the American people are about fed up with the profligacy of Congress. They see us just spending this country right into bankruptcy. They see no real curtailment. They have seen a series of legislative approaches that were supposed to solve this problem, all of which bite the dust the minute 51 percent of the Senate and the House vote otherwise.

It is clear that for all the good intentions that we have had through the Harry Byrd amendment, the Gramm-Rudman-Hollings legislation, and the current approach toward budgeting, nothing has worked because there is no mechanism in the Constitution that requires us to make priority choices among competing programs.

It is really difficult because I see all over Capitol Hill today people from all over the country, from every State, arguing for their own special interest. That is the way the system should work, because the people ought to have a right to come see their elected representatives and argue for their own special interests.

But some mechanism must be supplied to enable us to say to some of them: "Your interest is worthy, but we don't have the money." And it is not as worthy as a whole raft of other interests that we have to take care of, among which would be Social Security, Medicaid, Medicare, veterans pensions, and the whole variety of entitlement programs that we think are so worthy that they automatically escalate every year, regardless of what we in Congress do.

I think anybody sitting here ought to stop and think why this balanced budget amendment is a wise and good thing. And the number one reason I would say that it is is because it would force us to have to look at all programs, it would force us to be able to choose and make priority choices among programs on order of merit. It would not force us to go to a balanced budget, but it certainly gears us toward going to a balanced budget and provides different incentives that will lead us to a balanced budget.

I have had a number of senior citizens come to me in my home State of Utah and as I have traveled all over the country, and they say: "Senator HATCH, we hope you'll protect Social Security." And they always start that way and they know that I will. And I assure them that virtually every Member of Congress will. But invariably, these seniors will say:

"But we know that in order for us to have protection of our ability to live, we have to consider our youth of today, we have to consider our budget problems, we have to consider what is right for America, we have to consider how we live within our means in our country or what we get will not be worth very much, and we will not be able to live on Social Security no matter how much it is.

"So, Senator, please as you try to protect Social Security, also give us protection against the Federal Government spending us into bankruptcy, spending beyond our means to pay for things we cannot afford."

Senior citizens are not dumb. They know what is going on. Most of them have lived through this life, most of them have had to pay their bills all their lives. Most of them understand what it is like, and most of them are worried that sooner or later there is going to come a reckoning unless we get our fiscal house in order.

On the other side of that coin, I have had a lot of young people come to me, young college students, young people who are starting to think about what their futures are.

Invariably, they say, "Will our future be as good as yours was when you were in college, Senator HATCH?" And for the first time in the history of this country a lot of parents are starting to become depressed because they realize we can no longer say that their children will have as much opportunity to progress and have better lives than they had, like our parents were able to say to us.

These young people are not stupid. They know, taking Social Security, when it came into existence back in the forties, that there were about 46 workers for every person on Social Security. They are not stupid. They know that is now down to just a little more than three workers for every person on Social Security, and that our senior citizens are living longer and growing in number. They know that we are going to that ratio reduced to probably two persons working for everybody on Social Security.

Yet, what kind of a nation would we be if we did not take care of those who have worked so hard to build the Nation and who now cannot work, who are senior and who need to be cared for and helped, and who deserve to be helped because of their paying into the system all their lives?

It does not escape these young people that their future is going to be very limited because the cost of Social Security, of course, with COLA's, keeps going up, and the work base keeps going down. They also know that complicating it all is a profligate Federal Government, a profligate Congress. Year after year, Congress after Congress, has no real incentives to get spending under control.

I know Members of this body who are liberal, with whom I have served for the whole 19 years I have been here, who in that whole 19 years have never asked the question: Where are the revenues going to come from to pay for these programs? They never once, never once have considered that an important question. They continue to ignore that unless we have a balanced budget amendment, which would help us to put our fiscal house in order, help to solidify the value of the dollar, and help the future of our children and our young men and women, we are going to have to face our fiscal irresponsibility.

I know some here who have never once said, "Where are we going to get the funds?" Would it not be better to support this amendment, rather than their favorite program, which is not as important, rather than to go into bankruptcy or to go toward a system where we ultimately monetize the debt, where the dollar becomes worthless, where inflation gallops, and where our senior citizens really are left high and dry, as well as our youth and their future?

This last election was about these issues. I may not have articulated them very well, but I have tried to show that our senior citizens are not stupid. They understand that we have to, sooner or later, live within our means or their Social Security and their retirements will not be worth very much.

Our young people are not dumb either. They know there is a diminishing work force and the whole burden of taking care of our senior citizens is going to be on their shoulders, and they want to do it. But will they want to in the year 2014 and 2020 if we do not get spending under control, and we keep loading them up with all kinds of other loads like we do?

Why, the committee I used to chair, the Labor and Human Resources Committee, has over 2,000 Federal programs, some of them very duplicative. There are 154 job training programs that this wonderful series of Congresses has enacted over the years to show that they are really empathetic and considerate of those who need job training. Many of those programs are duplicative, many of them overlap. We ought to have one major program for job training, and it ought to work.

What about welfare? It has been estimated by some that by the time the billions and billions of dollars in welfare are laundered through the Federal bureaucracy, those on welfare only get about 28 cents out of every dollar. We eat it all up right here in Washington, DC.

Is it not time to face this? This is what this last election was all about. It was 85 percent of the American people saying: We have had it up to here with Congress. We think it is time for Congress to start living within its means, and we are for a balanced budget amendment that will help Congress to live within its means.

We are not asking for drastic measures here. We are saying that the budget must be balanced over a period of 7 years, to the year 2002, which everybody here knows could be done if we had the will to do it.

It is nothing inordinate or difficult to do if we have some incentives to do it. But until we do, I guarantee you that those who never ask where the moneys are going to come from to pay for these excessive pieces of legislation, and they are in both parties, are going to continue to spend just the way they have always spent. I think they are more in one party than in the other, but nevertheless there are some in both parties.

Mr. President, the greatest economic threat this country faces is out-of-control Federal spending. The single most useful thing this Congress can do is to enact a constitutional requirement that Federal spending not exceed Federal revenues each year, starting in the year 2002. The only exceptions would be when a declaration of war is in effect—we all understand that—when the United States is engaged in military conflict causing an imminent threat to national security, or in those instances where three-fifths of the whole number of each House of Congress votes for a specific deficit but will have to vote, which is going to be a very important aspect of this amendment.

Interest on the national debt is currently about $300 billion a year, amounting to approximately 20 percent of the total Federal budget. These deficits directly affect every American.

For example, every dollar we must spend on interest payments on the national debt is one less dollar available to tax relief for hardworking citizens in Utah, Illinois, New York, California, and all across this country.

As another example, continuous large Federal deficits force the Federal Government to borrow huge sums of money, keeping interest rates high and driving them even higher. Hard-working Americans looking to finance their first home or to buy a more suitable home face higher mortgage rates. As a result, fewer homes are sold. Home builders and their suppliers lose business and have to reduce their work forces. Businesses associated with the housing industry, from realtors to title researchers, are all similarly affected. These are not abstract matters we are talking about.

Opponents of the amendment ask about the consequences of its passage. We are addressing those questions. I do not see how anybody could not understand that you cannot just continue to spend more than you take in. But these same opponents wish to ignore the consequences of failing to pass the amendment. The American people spoke in this last election, but the people here in the Senate, some of them, have not heard them yet. I think they need to speak more in each of these States.

What are some of the other ways huge Federal deficits affect our constituents? The cost of consumer credit goes up. That includes the cost of everything from automobiles, washing machines, televisions, to even much smaller goods paid for with credit. Hard-working Americans work more but can afford less. And the slowdown in consumer spending will result in work force reductions in those consumer industries. We just cannot go on like this.

The unwritten rule in this country until just a few decades ago was for the Federal budget to be balanced except in wartime. That was the unwritten rule. We abided by it for a century and a half. For much of our history, the legislative process reflected the norm of a balanced budget. But as the role and size of the Federal Government expanded, Congress became unable to control spending. New spending programs have been added over the years, many of them starting small but always growing larger, and even larger.

Today, the problem is this: Every single spending program, no matter how small, has a divine set of beneficiaries. The beneficiaries of each spending program are able to make their voices heard whenever they sense a chance that their program may be cut or eliminated. Even Federal programs of a few hundred million dollars can generate intense lobbying by the program beneficiary. This occurs for dozens upon dozens, even hundreds of Federal programs.

Taxpayers are rarely heard about in the spending on any given single program. They do not realize this is all going on. The cost to an individual taxpayer of even large Federal programs is diffused among the large number of all taxpayers. As a result, the interest of the taxpayer in cutting or eliminating a particular program is rarely heard as loudly or as often as that of the program's beneficiaries. The taxpayers are at an enormous disadvantage, the way things are presently set up, without this mechanism in the Constitution.

This spending bias is the reason we need a structural change in how Congress does business, a change we must make to our fundamental charter in order for it to be effective. Only a constitutional balanced budget provision will impose fiscal discipline on Congress. Only a balanced budget amendment to the Constitution will force spending programs to compete against each other and hold down overall Federal spending.

The other body for the first time in history has acted in a bipartisan manner. Our efforts here in the Senate, those who support this amendment, are bipartisan.

I particularly appreciate the great leadership of our distinguished colleague from Illinois and his willingness to stand up on this issue, his articulation of why it is so important. I look forward to listening to him this morning as soon as I have completed these few remarks I have. We are working in a bipartisan way, and there are others. Senator HEFLIN, Senator DeConcini has worked very hard, Senator BRYAN, a whole raft of Democrats have worked very hard on this amendment. We have many over here, from Senator THURMOND to Senator CRAIG, right on down the line to every one of our new Senators on this side.

I think the Senate dare not act on the basis of politics as usual. We just cannot do that this time. I do not think we dare just favor the status quo, just continue spending with no mechanism to stop it, no mechanism to deter it, no mechanism to encourage us to do what is right. I urge my colleagues to vote for this change, the kind of sea change America voted for in this last election.

I hope all our American citizens out there are listening to this debate because they need to get with their Senators. They need to get with their Senators and make sure they are going to support this balanced budget amendment. Nothing short of a public outcry, a public effort—phone calls, letters, meeting them in their offices, getting them at home, letting them know how you feel—is going to make the difference here. We think that is what has made the difference thus far. That is why we are here. That is why the House of Representatives has voted, for the first time in history, 300 to 132 for this amendment. That is why we brought up the House resolution which is identical, except for one comma, to our resolution that Senator SIMON and I have brought to this body.

I hope we will all vote for the kind of change the American people are calling for. I hope we will give our young people a future like we had. I hope we will give our senior citizens the protections they have earned and that they need. Let us quit demagoging this issue of Social Security and realize if we exempt Social Security we will open up such a loophole that they will change the definition of Social Security, and the Social Security trust funds will be raided day in and day out by these big spenders in Congress because it will be the only way they can continue business as usual, the status quo, the spending practices that have just about wrecked this country.

Mr. President, I really look forward to hearing my dear colleague from Illinois, who has been a great leader in this battle. So I yield the floor.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Illinois.

Mr. SIMON. Mr. President, while I have been engaged in some dialog on the floor on the balanced budget amendment, I have not spoken. I want to take this opportunity just to spell out clearly why we need this change in the Constitution.

I thank Senator HATCH for his leadership, and also others on the other side, Senator CRAIG, who has been a real Rock of Gibraltar on this. Also Senator THURMOND through the years has been providing leadership.

On our side I want to pay tribute to a former Senator, Dennis DeConcini, who was very helpful, Senator HEFLIN, Senator BRYAN, Senator GRAHAM, Senator ROBB, Senator KOHL—I could mention others. I am grateful to them all.

Leading the opposition is our colleague, Senator ROBERT BYRD. I want to make clear that, while he and I differ strongly on this issue, there is no lack of respect on my part for Senator BYRD. He is one of the most valuable Members of this Senate today, one of the most valuable Members in the history of the Senate. I agree with him on this, that this is an issue beyond politics. What we have to look to is the future of our country. Forget the polls, forget party affiliation, forget everything else. How can we best serve the country? I believe strongly we can best serve the country by passing this constitutional amendment.

What is our problem? We have both an economic problem and a political problem. The economic problem, first of all, is very clear as you look at the history of nations. If we do not get a hold of this—and if everyone forgets everything else I say just remember this—the history of nations is you pile up debt and if there is no restraint then you do what the economists call monetize the debt. You start the printing presses rolling and you go from there. And that is where we are headed. As you look into the next century and you see the percentage of deficit versus GDP, that is unquestionably where we are headed. We can take a gamble that we can be the first nation in history not to follow that path, but it is a huge gamble on the future of our country.

Listen to Adam Smith in his "Wealth of Nations," published in 1776, the year of our Declaration of Independence. He writes:

> When national debts have once been accumulated to a certain degree, there is scarce, I believe, a single instance of their having been fairly and completely paid. The liberation of the public revenue * * * has always been brought about by a bankruptcy * * *. The raising of the denomination of the coin has been the most usual expedient by which a real public bankruptcy has been disguised * * *. The creditors of the public are really defrauded. Almost all States * * * ancient as well as modern, when reduced to this necessity have * * * played this very juggling trick * * *. The Romans at the end of the First Punic War reduced [the value of] the coin by which they computed the value of all other coins * * *. The [Roman] Republic was in this manner enabled to pay the great debts which it had contracted with the sixth part of what it really owed.

In other words, your dollar, if I may use a current analogy, $1 became worth one-sixth of what it was worth. What does that do to the Social Security trust fund? It just devastates it. What does it do to family savings? Devastates them. What does it do to the economy of the country? Devastates it. What does it do politically? It causes chaos. We do not know where we are headed on this.

For those who say that just is not going to happen, do not take my word for it. Take a look at what the OMB put forward last year as part of the budget. This table is taken directly from there: "Lifetime Net Tax Rates Under Alternative Policies."

I was born in 1928, so you go down here to this line—to 1930—and you see that before we passed the August 1993 budget reconciliation bill, I would have spent in my lifetime 30.5 percent on taxes. It is not changed much by the reconciliation bill, 30.6 percent; with health care reform I would spend 30.9 percent, or a lifetime of roughly 30.9 percent with or without health care reform.

But then look down here, to the line for "future generations." The grandchildren of ROBERT BENNETT and JOHN ASHCROFT and PAUL SIMON and the people who work here: future generations.

What does it say about the budget reconciliation—spending 93.7 percent of lifetime earnings in taxes? After budget reconciliation, 82 percent of lifetime earnings, with health care reform, would have gone to 66 percent, or without health care reform, because it did not pass, 75 percent. That is just not going to happen. No one is going to spend 75 percent of their lifetime earnings in taxation. What you do is you start the printing presses rolling.

One of the great fights early in our history was taxation without representation. Talk about future generations and taxation without representation—what we are doing is living on a huge credit card saying send the bill to our children and grandchildren, send the bill to the pages who are here, and send the bill to my three grandchildren, the oldest of whom turned 5 just the other day.

Thomas Jefferson was the first person to advocate a balanced budget amendment to the Constitution. He was not here in the United States when the Constitution was written. He came back. And, when he came back, he said, "If I could add one amendment to the Constitution it would be to prohibit the Federal Government from borrowing money." He had an absolute prohibition. We have some flexibility.

We say with 60 percent growth you can have a deficit. But the history of nations is clear. There is a book written by a man named Michael Veseth, published by Oxford University Press, entitled "Mountains of Debt." It goes into the history of modern city states, and starting in the early 15th century. He comments on Florence and other city nations at that point. He says:

> The fiscal imperatives caused by huge debt drain away the capital that might have

> helped Florence adjust to the new world economy and growth in the future. By 1494, the future pattern of the Florentine economy was set, and Florence's years of economic power and influence were over.

Again, we can take a chance that we are not going to follow the path of Florence, of all the other nations since but we are taking a huge chance.

This is what is happening in terms of our expenditures in inflation-adjusted percentages. What has happened between fiscal year 1980 to fiscal year 1994 is that education—we all make speeches how important education is to our future, and the Presiding Officer and I were talking about that in committee the other day—education is down 13 percent; transportation is down 2 percent; get over here to defense, a lot of people think that is the biggest growth item, 18 percent growth; entitlements have grown 50 percent largely because of growth in numbers and because of health care reform; get over here to gross interest, it has grown 120 percent.

I do not care whether you are a conservative, liberal, Democrat, or Republican. The expanding increase in percentage of our tax dollar on interest just is not rational. We simply have to do better. What is happening to our country in terms of economic independence? If the Simon family gets too deeply into debt, you start losing your independence. The same is true for a nation. Right now we know, because we require public disclosure, that 17 percent of our debt, or a little better than $800 billion, is held by other countries, and people in other countries.

In addition, many countries do not permit their citizens to hold foreign bonds. So there are some countries where the citizens use some other person as a front, and, in fact, hold U.S. bonds. So it is in excess of $800 billion. There was a time when people said about the deficit, "We owe it to ourselves." That is no longer true.

I can remember when I was in the House and I opposed an arms sale to Saudi Arabia. I can remember a Treasury Department official coming into my office saying, "Please do not vote against this arms sale to Saudi Arabia because among other things Saudi Arabia holds a lot of our bonds." That is what is happening.

Let me give you a bit of history that a lot of people have not paid attention to. In 1956—my colleague from Utah is old enough to remember 1956 along with me—President Nasser of Egypt grabbed the Suez Canal, and just before the 1956 election when President Eisenhower was running for reelection, the British, the French, and Israelis ran through and seized the Suez Canal. They believed I think because they were our good friends and allies, and because it was just before the election, that the United States would not do anything. We did not send a soldier anywhere. Because the British were deeply in debt, we threatened to dump the pound sterling. And, without firing a shot, they withdrew. You lose your independence when you get too deeply into debt.

Let me use a more practical illustration. Let us say Senator JOHN ASHCROFT was not a Member of the U.S. Senate but the president of the First National Bank in Carbondale, IL, and I went to him, and I said "Mr. President, I would like to borrow more money than I take in this year. Will you lend me some money?" And he would do it for 1 year, and maybe 2 years, and maybe 3 years. But at some point a prudent banker is going to say I had better put my money somewhere else.

We have gone to the international bankers for 26 years in a row saying we want to borrow some money because we want to spend more than we take in. And at some point prudent international bankers are going to start saying no. We do not know when that point is going to be reached.

Lester Thurow, one of the Nation's great economists, says at some point international bankers are going to say no to us. He said the question is not if they are going to say no. The question is when they are going to say no.

Alan Greenspan testifying the other day said:

> In today's more open and integrated international capital markets, it is easier to finance investment abroad. But this does not mean that we should view the pattern of U.S. external deficits as sustainable in the long run. Looking back at the history of the past century or more, the record would suggest that nations ultimately must rely on their domestic savings to support domestic investment.

The New York Federal Reserve Bank did a study from 1978 to 1988 of what the deficit has, of what our lack of savings primarily caused by the deficit has cost us. They came to the conclusion that in that 10-year period we lost 5 percent growth in GDP, in our gross domestic product; 1 percent, according to the Congressional Budget Office, is 600,000 jobs.

That means a loss of 3 million jobs. The General Accounting Office, in June 1992, issued a very significant report, in which it said if we do not get ahold of things, we are going to have a gradual decline in our quality of life and our standard of living. If, by the year 2001—that was the year at which they put it, and this year we are talking about 2002 for balancing but it basically holds—if by the year 2001 we balance the budget, then by 2020 the average American will have a real growth in quality of life and income of 36 percent. Those are huge numbers.

If we do not adopt this balanced budget amendment, we are headed toward continual decline. We did, to the credit of President Clinton and, I think, to the majority in this body and the other body, pass a budget reconciliation bill in August 1993 that has helped. Our colleague Senator Robert KERREY described it as a modest improvement.

I am going to switch charts here. It shows clearly that we have reduced the deficit here, but it is also clear we are headed way, way up, far beyond anything we have known in terms of deficits. Let me quote just a few sentences from the GAO, and these sentences are taken from different parts of the report. But, I am not, I believe, taking anything out of context and distorting what they say.

> Early action to reduce the deficit pays huge dividends in lower interest costs. Must come from program cuts or revenue increases. The more rapidly interest costs can be brought down, the less sacrifice is required.

They also say,

> To prevent stagnation in the living standards for future workers, if deficits are not reduced, the Government will have no fiscal flexibility to increase its investment in better infrastructure, technology and skills. Large and continued deficits are likely to seriously inhibit the growth of the economy under current and present foreseeable economic conditions. Inaction is not a sustainable policy.

They predict "a deteriorating American economy, if we do not get ahold of it. Action that is stronger and taken sooner yields greater long-range benefits."

They include a study of Japan, Australia, Germany, and the United Kingdom. They all had deficits, along with the United States, in 1981. All but Australia's was significantly greater than the United States deficit. By 1989, Japan, Australia, and Germany had surpluses. Great Britain had a deficit about 2 percent of ours, while ours had grown substantially.

Eliminating the budget deficit and, if possible, achieving a budget surplus should be among the Nation's highest priorities. Because of the accumulating burden of interest and the mounting public debt, it is important to move rapidly.

Take the report we got a few days ago from Data Resources, Inc., one of the two most prestigious econometric forecasters in the Nation. I will quote a little bit:

> A balanced budget would be a major boost to the long-term growth of the U.S. economy.
>
> Over a 5-year period—

We are talking really about a 7-year period now.

> this can be done with few problems. Today, when the Fed is trying to slow the economy anyway, would be a good time to start. Balancing the cuts would require real interest rates to drop to their lowest levels since the 1970's.

They predict a drop of 2.5 percent in the interest rates if we move on this. The Wharton School, the other prestigious group, predicts a drop of 4 percent. I do not know who is right, but even if it is half those figures, that is tremendous.

Mr. BENNETT. Will the Senator yield for a comment?

Mr. SIMON. I am pleased to yield to my colleague from Utah.

Mr. BENNETT. Mr. President, I have taken to writing out a simple equation for my colleagues on this side, and I would be delighted to have the Senator adopt this on the other side. I take a piece of paper and I write simply "1 percent equals $48 billion." People say, "What does that mean?" I say, "When you have a national debt of $4.8 trillion, 1 percent of $4.8 trillion is $48 billion. If we lower the cost of funding that $4.8 trillion debt by 1 percentage point in interest rates, we save $48 billion every year."

The Senator has just told us, Mr. President, that the balanced budget amendment could lower the interest rates by anywhere from 2 to 4 percent. We are talking, if the Senator's information is correct, anywhere from $100 to $200 billion a year in savings on the interest rate alone. I think it should be stressed that the Senator has touched a point here that often gets overlooked. We talk about spending cuts, we talk about tax increases. Do you know how painful it will be in this body if we say we have to increase taxes $200 billion a year to balance the budget? Or that we have to cut spending $200 billion a year to balance the budget? If we can get somewhere between $100 to $200 billion a year in savings simply on the interest rate alone, we will have done more than a good day's work.

I thank the Senator for raising that issue of the impact of interest rates on the Federal economy.

Mr. SIMON. I thank my colleague. Just to buttress what he has said, Data Resources, Inc., said this, and I will read the full paragraph:

> The positive elements of balancing the budget become clear in the longer run. The elimination of the deficit would relieve strain on financial markets, allowing lower interest rates and bond yields. The lower interest rates and reduced borrowing would cut interest costs for the federal government; in fact, by 2002 half the savings [that we are talking about we need] in our budget simulations come from lower interest costs.

And in addition, you would have, according to their projections, 2½ million more people working. You are going to have more housing starts, more industrial investment, and everything else.

Alan Greenspan, again, testifying the other day, said:

> But the influence of a fiscal imbalance of the federal government on capital formation is broader than inflation. The federal deficit drains off a large share of a regrettably small pool of domestic private saving, thus contributing further to the elevation of real rates of interest in this economy.

It is very clear. I have to acknowledge that Dr. Reischauer has testified against the balanced budget amendment. But in his testimony of June 17 of last year, I will quote a few things:

> * * * we and other economists can see clearly that national saving is too low, no matter how it is measured, and that federal deficits contribute significantly to low saving. It is equally clear to us that reducing federal deficits offers the most reliable way to remove the threat that low national saving poses to the growth of living standards.
>
> * * * history has shown repeatedly that sustained growth in living standards is achieved most reliably through national saving.

And then they have a chart on what is happening in national savings, our savings rate. From 1960 to 1969 we average an 8-percent savings rate; from 1970 to 1979, 7.1 percent; from 1980 to 1989, 3.8 percent, and going down. No other industrial country has anything like that in the way of savings rates that bad.

> The main cause of the decline in the national savings rate is rampant Federal deficits after the 1970's * * * federal deficits could be responsible for between one-half and two-thirds of the decline in the national savings rate, depending on how they are measured, with a reduction of private saving accounting for the rest of the decline.

And so it goes on. Here is one other quote in here I wanted to give you:

> * * * deficits will soon rise again and keep national saving too low to prevent further slowdown in the growth of living standards.

I will show you one other chart. This is what happened in the deficit over the years. We are down here, and you will see 2 years in a row where it is being reduced, and it comes back up here a little bit, and then it goes down off the chart. It is going to go beyond the floor. We are not going to put that one on the chart. That is what is happening in our country.

Some of us had the chance to work with Roger Porter when he worked in the White House. He is now a professor of government at Harvard.

He says:

> The second reason for passing the balanced-budget amendment is moral. Persistent public borrowing, largely for the purpose of current consumption, is analogous to one generation throwing a party and saddling the next generation with the bill. We view such behavior on the part of individuals with disdain and contempt. One is hard-pressed to find moral justification for such behavior, whether individual or collective.

Roger Porter is correct.

I heard about the Louisiana Purchase, that we cannot pass this because we could not have had the Louisiana Purchase. First of all, it is interesting that in Jefferson's first term, he cut the Federal debt in half.

But the Louisiana Purchase was signed May 13, 1803, in Paris—and, frankly, they did not have any authorization to do anything like that—and 2 months later, in July, we learned about it here in Washington, DC. It was for $15 million at 5 percent.

Do you know what the main complaint of Secretary of the Treasury Albert Gallatin was at that point? He complained because the bonds were such that they could not start paying them back for 15 years. That was the big complaint.

We say, you can have a deficit if you have a 60-percent vote. What was the vote in the Senate and in the House on the Louisiana Purchase? There were two votes in the Senate, 24 to 7 and 26 to 6, far more than the 60 percent. In the House, it was 90 to 25, far more than the 60 percent.

There is simply no justification for saying we could not have done something like the Louisiana Purchase.

And then, my friends—and I feel strongly about this—we are having a squeeze on social programs. This fiscal year, we will spend $339 billion on interest; next year, $372 billion.

I might add—and I give credit to my colleague, Senator FRITZ HOLLINGS, for teaching me this—in only one area do we subtract the earnings of the Government. Administrations like to come up with net interest. It does not look so bad. The real figure is gross interest.

It is like the Department of Justice subtracting all the money collected from their total bill, or the IRS doing that. That is just not the way we do it.

But what does $339 billion mean? It means that this year we are spending 11 times as much on interest as education. Oh, we make great speeches about education, but we are not funding it like we should. In fiscal year 1949, we spent 9 percent of the Federal budget on education. This year, we will spend 2 percent of the Federal budget on education. Interest is squeezing out our response.

I heard Senator BENNETT JOHNSTON yesterday say that in an exit poll, when people were asked what the Federal Government spends money on, 27 percent thought the big item was foreign economic assistance. We will spend this year 22 times as much on interest as on foreign economic assistance. We will spend almost twice as much on interest as on all the poverty programs combined.

Listen to what my House colleague, Congressman JOE KENNEDY, who is one of the cosponsors of this legislation, said in the House. This is on January 25.

> Mr. Chairman, I rise today in strong support of the balanced budget amendment. I have been for the balanced budget amendment for the last several years, because I do not believe that we can find the will to make the necessary cuts to save the future generations of this country without the support of the American people through a balanced budget.

And then, he says, people come up to him and say:

> Listen, JOE, you are a liberal Democrat, how can you possibly be for a balanced budget amendment? It is going to cut the very programs that much of your family and others have stood for generations.

And here is Congressman KENNEDY's response:

> I say to them that those very programs that stand up for the working people and the poor and the senior citizens of this country have suffered the worst cuts over the course of the last 15 or 20 years in this country as a result of budget deficits.
>
> Look at the housing budget. Cut by 77 percent over the course of the last 15 years. Look at those who have press conferences that say they want to protect fuel assistance for the poor. Look at what has happened to the fuel assistance program. Cut by 30 percent.

And then he goes to some other things. This is his final line, and I hope we remember it:

> Do we see the bellies of our poorest children filled as a result of interest payments on the national debt?

Let me repeat that:

> Do we see the bellies of our poorest children filled as a result of interest payments on the national debt?

Well, the answer is obvious. Oh, we are talking about welfare reform, and I am not optimistic we are going to get genuine welfare reform. I hope I am wrong. But it is interesting, welfare payments from 1970 to 1993, when you take in the inflation factor, have been reduced about 40 percent. That is because of the squeeze of interest.

Or take a look at New York City. New York City went bankrupt, or for all practical purposes bankrupt. They had to cut programs for poor people by as much as 47 percent. But New York City had the advantage of having an umbrella called the United States of America and we rescued New York City.

There is no umbrella big enough to rescue the United States of America. If we go down the tube, the programs for poor people and the programs that we need in education and other things are just going to be devastated.

It is also interesting that in New York City, they still have a mayor and city council, but for any significant expenditure they make, do you know who has to approve it? They have a little group of bankers and bond holders that has to approve anything like that. New York City has, to a great extent, lost its independence.

We may be able to put something together if and when the time arrives that we have difficulties, but it is going to be at the cost of losing a great deal of our independence.

Back maybe 2 years or so ago, I had an illustration of why it is important not only for the poor in our country but for the poor in other countries.

The IMF had asked for a $12 billion guarantee from the United States. I received an invitation to have breakfast with the Director of the International Monetary Fund. I thought, well, he is reaching down pretty far on the Foreign Relations Committee to talk to someone, because I am about halfway down there.

I went over and he did not want to talk about the guarantee. He wanted to talk about what we are doing fiscally. He said—and I do not know if he was speaking in a slight exaggeration or not, but Alan Greenspan tells me he was not—"If you had a choice of getting hold of your deficit or cutting out the entire foreign aid program"—and I certainly do not favor that—"If you had a choice, if you want to help the poor people in the world, get rid of your deficit. What you are doing is borrowing and sending up the costs of borrowing for the poor nations of the world."

In terms of social programs, it is very clear what we are doing. When we talk about spending $339 billion this year, we are talking about a massive redistribution of wealth. Who pays the $339 billion? By and large, Americans of limited means. Who collects the $339 billion? By and large, those who are more fortunate, who hold the T-bills, and increasingly those beyond our borders.

We hear a lot about the trade deficit. This is very interesting. I asked the Congressional Research Service, what does a budget deficit have to do with the trade deficit? They came in, 37 to 55 percent of the trade deficit is caused by our budget deficit. What it does is escalates the value of the dollar. It makes it more profitable for industries to put their investment in other countries, and makes it more costly for them to put their investments here.

It is very interesting that as our deficit has gone up and our interest payments have gone up, we have been losing relative to other countries. As late as 1986, the average American working in a manufacturing location was being paid more money than in any other country. Now there are 13 nations on the face of the Earth where the average manufacturing wage is greater than ours. That is, in large part, because of the budget deficit.

We have a political problem, too. I hear the speeches on the floor, "We can do it without a balanced budget amendment. All it takes is political will." We heard those same speeches in 1986 when this failed by one vote to pass the U.S. Senate. In 1986, the deficit was $2 trillion. Now, 9 years later, that deficit is $4.7 trillion. And we hear the same speeches. If we should show the poor judgment not to pass this, then 5 years from now, 10 years from now, we will hear the same speeches.

What would have happened to our country if, in 1986, that had passed? We would have millions more people working; we would have lower interest rates; we would have more housing in our country; we would have more revenue for the Federal Government; we would have a higher standard of living for our people; and we would have a lower trade deficit. If we pass this, we will move in that direction.

Then the argument is made, and I have heard it several times already, but what if there is a recession? Listening to what the National Bureau of Economic Research in Cambridge had to say, in a report made by two professors in the department of economics at the University of California:

> Discretionary fiscal policy does not appear to have had an important role in generating recoveries. Fiscal responses to economic downturns have generally not occurred until real activity was approximately at its trough.

Or listen to an article written by Bruce Bartlett in the Public Interest, and I ask unanimous consent that this full article be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Public Interest, summer 1993]

HOW NOT TO STIMULATE THE ECONOMY

(By Bruce Bartlett)

Shortly after taking office, President Clinton began pushing for a stimulus program to end the country's recession. But according to the National Bureau of Economic Research, the recession was already over. It began in July 1990 and ended in March 1991. Since that time the U.S. economy has expanded continuously. By the end of 1992, in fact, the economy was growing at an annual rate of 4.7 percent—almost twice the postwar average.

Fortunately, Congress was less persuaded of the need for stimulus than Clinton. His proposal was withdrawn. But months later the administration was still pushing for a scaled-down stimulus bill, even as the unemployment rate continued to decline.

Probably the best defense of Clinton's action is that he was simply doing what our last ten presidents all did. All these presidents, regardless of party or ideology, ultimately endorsed public works programs to combat recessions that were already over.

This article will review the results of this curious phenomenon. Without exception, stimulus programs have failed to moderate the recessions at which they were aimed, and have often sowed the seeds of the next recession. These programs have not been simply worthless, but harmful. It would have been better to do nothing.

KEYNESIAN ECONOMICS

The idea of using public works to jumpstart the economy is not a new one. Since at least the late nineteenth century, governments have attempted to use public works in a countercyclical manner. But until John Maynard Keynes, governments felt constrained by the need to keep their budgets in balance. Since recessions invariably shrink tax revenues, few governments could afford to increase spending on public works as a countercyclical measure. Keynes, by preaching the efficacy of deficit spending, relieved governments of this constraint.

Keynes also freed governments of the need to fund public works projects that were useful. In The General Theory, he wrote that pyramid-building, earthquakes, and even wars "may serve to increase wealth." He suggested that people be paid to dig holes in the ground, and even proposed burying bank notes in mine shafts to encourage the digging.

Although it is widely believed that the public works projects of the New Deal played a major role in ending—or at least mitigating—the Great Depression, such programs actually played a very limited role. It was

World War II and monetary policy, not the New Deal, that ended the Depression. Unfortunately, policymakers have convinced themselves otherwise. And so, whenever another slowdown has occurred, they have turned to the same programs they believe ended the Great Depression.

This over-reliance on fiscal policy has given the U.S. massive deficits and debt, which requires even greater payments for interest. Large deficits also crowd out private borrowers, raising interest rates, and reducing investment, growth, and productivity. Finally, deficits put pressure on the Federal Reserve to increase the money supply, which leads to inflation.

For an illustration of these points, let us take a brief look at the postwar economic experience.

THE TRUMAN AND EISENHOWER ADMINISTRATIONS

The first recession of the postwar era began in November 1948. Initially the Truman administration was oblivious, as were most private economists. In mid-December, for example, Treasury Secretary John Snyder said the economy "is at present in a basically sound condition, and shows encouraging signs of stability in the vicinity of the present high levels." A survey of private economists found similar optimism: 59 percent expected business to expand; only 41 percent expected a decline. And this was after the recession had already begun!

It was not until eight months later that President Truman asked Congress to pass an antirecession program. Congress did eventually pass the Advance Planning for Public Works Act, and it took effect in October 1949—the very month the recession ended.

The first of three recessions under President Eisenhower began in July 1953, shortly after he took office. There is no evidence Eisenhower was even aware a recession had begun. Later, when signs of a slowdown became unmistakable, Eisenhower supported a small increase in highway spending. But no significant action was taken to counteract the recession, which ended three months later.

Eisenhower confronted a second recession in August 1957. Again, there is no evidence he saw it coming. In July, Treasury Secretary George Humphrey told the Senate Finance Committee, "I don't see any significant recession or depression in the offing."

Although the Eisenhower administration did not put forward any antirecession legislation, it did acquiesce in congressional efforts. Congress passed and Eisenhower signed bills to increase grants to states for highway construction, and to increase federal spending on rivers and harbors. The highway bill became law in April 1958, and the rivers and harbors bill was signed in July. The recession had ended in April.

THE KENNEDY ADMINISTRATION

The third recession under Eisenhower began in April 1960, and it contributed to the election of John F. Kennedy. Upon taking office in January 1961, Kennedy moved quickly to enact antirecession legislation. A key element of his program was the Area Redevelopment Act (ARA), which sent federal aid to areas with high unemployment. It was signed into law on May 1, although the recession had ended in February.

An early assessment of the ARA by Sar Levitan, a professor of economics at George Washington University, found that 40 percent of its funds went simply to reimburse other government agencies. Moreover, almost any project undertaken in a depressed area was eligible for ARA funding, even if it would have been undertaken anyway. Thus while 7,100 miles of ARA-funded roads were built in depressed areas, Levitan notes, the Federal Highway Administration "could not point to a single mile of road which was constructed as a result of priorities accorded to depressed areas."

In 1962, Congress passed more antirecession legislation—the Accelerated Public Works (APW) program, Subsequent analysis shows that the peak employment created by this program did not come until June 1964—thirty-nine months after the end of the recession. Spending was so drawn-out that expenditures were still being made nine years later.

A follow-up report by the General Accounting Office (GAO) found that the number of jobs created by the ARA and the APW had been overstated by 128 percent. Another GAO study found the overstatement to be 94 percent. The GAO also found that only 55 percent of the jobs created by the APW went to workers living in the areas where the projects were located, and that most of the jobs went to contractors' regular employees rather than unemployed local persons. Partially as a result of such criticism, Congress abolished the Area Redevelopment Administration (which administered the ARA and APW) in 1965.

THE NIXON AND FORD ADMINISTRATIONS

The country's next recession began in December 1969 and ended in November 1970. Antirecession legislation, however, was not enacted until August 1971. That legislation—the Public Works Acceleration Act—funded public works in designated areas of high unemployment. It was predicted by the Economic Development Administration that the program would create 62,000 man-months of employment in the first two years, with 75 percent of the jobs going to the previously unemployed. A Commerce Department study, however, found that only 39,000 man-months of employment were created, and that only 22 percent of the jobs went to the unemployed. The average job lasted just four weeks.

The next recession was the worst of the postwar era. It began in November 1973, following the OPEC oil embargo. Yet antirecession legislation, in the form of a tax rebate, was not enacted until March 1975, the month the recession ended. THe $22.8 billion legislation gave taxpayers a 10 percent rebate on their 1974 tax payments (with a maximum rebate of $200). The bill also extended unemployment benefits, increased the investment tax credit from 7 to 10 percent, and made various other tax changes. All this was intended to pump up demand by putting dollars into people's pockets. Subsequent analysis, however, shows that most of the money was initially saved, not spent. The bill had no significant stimulative effect.

During the following year, Congress determined that the lingering effects of the recession justified further antirecessionary action. Over the veto of President Ford, Congress established the Antirecession Fiscal Assistance Program (ARFA), and the Local Public Works Program (LPW). The LPW increased funding for public works by $2 billion. The ARFA program increased revenue-sharing by $1.25 billion.

As late as 1977, in fact, Congress was still enacting legislation to deal with the aftermath of the 1973–75 recession. The Local Public Works Capital Development and Investment Act of 1976 added another $4 billion to the LPW program. The ARFA program was also extended for another year and its funding increased by another $1.75 billion.

Subsequent analysis shows that these program were failures. A Treasury Department study of the ARFA program found that because the funds were not disbursed until well after the end of the recession, they failed to provide assistance when it was most needed and probably contributed to inflationary pressures during the economic expansion. The study also found that, rather than spend federal money immediately, state and local governments tended to save it. Thus state and local government budget surpluses increased, mitigating the stimulative effect of the federal programs. Another study, by the GAO, found that ARFA grants often went to areas unaffected by the recession, and concluded that the program was not particularly effective as a countercyclical tool.

The LPW program was also ineffective. Although the recession ended in March 1975, 20 percent of the program's funds were spent in 1977, 61 percent in 1978, 18 percent in 1979, and 1 percent in 1980. In a study commissioned by the Commerce Department, Chase Econometrics estimated that the cost per direct job created was $95,000.

Chase and the Commerce Department found other problems. Between 25 and 30 percent of LPW funds paid for projects that would have been funded by state and local governments anyway, and another 9 percent of LPW funds crowded out private expenditures that would otherwise have occurred. In addition, only 12 percent of workers on LPW projects were previously unemployed, and half of those had been unemployed less than five weeks. The average job lasted just 2.6 months. Finally, due to the Davis-Bacon Act, workers on LPW projects were paid more than before—for the same work.

The LPW program has also been severely criticized by University of Michigan economist Edward Gramlich. He argues that because the program had no allocation formula, required no matching funds, and funded only projects that could be started within 90 days, it virtually guaranteed that the only projects funded would be those that would have been built anyway. He has also noted that since the Commerce Department received some $22 billion worth of project applications for just $2 billion in federal funds, the LPW program apparently postponed $22 billion worth of construction spending, thus reducing GNP by $30 billion. Instead of stimulating the economy, the LPW program was actually contractionary.

THE CARTER AND REAGAN ADMINISTRATION

Despite the many problems of the LPW program, one of the Jimmy Carter's first acts upon taking office was to push for its expansion. The Congressional Budget Office argued that an expansion would have no impact on the economy for at least a year, but Carter proceeded anyway. He signed the expansion legislation on May 13, twenty-six months after the end of the recession.

Another recession developed in 1980, as a result of Carter's ill-considered imposition of credit controls. Although the recession was over by mid-year—after the lifting of controls—Carter continued to press for money for antirecessionary public works. It was then revealed that some $100 billion was already available from previous programs—fifty times more than Carter was asking for. According to analyst Pat Choate, these funds were held up by a combination of incompetence at the state and local level, and federal regulations that made it difficult to get money released.

Even the Reagan administration, despite its general aversion to such policies, adopted two antirecessionary programs. They were designed to attack a recession that began in July 1981 and ended in November 1982. The first of the programs was the Surface Transportation Assistance Act of 1982, which raised the gasoline tax by five cents a gallon, and increased spending for highways and mass transit by $33.5 billion over five years.

With some exceptions, the provisions of the act that created jobs did not go into effect until after the tax increases to pay for them. Thus, in the short run, the legislation was contractionary rather than stimulative.

TABLE 1.—SURFACE TRANSPORTATION ACT RECEIPTS AND OUTLAYS

[In billions of dollars]

Fiscal year	Receipts	Outlays
1983	1.7	0.6
1984	3.8	2.9
1985	3.9	5.6
1986	3.9	7.3

There is also evidence that the act led state and local governments to pull back on their own public works spending in anticipation of new federal funds. Furthermore, many state and local governments "piggybacked" gasoline tax increases on the federal increase. Between 1982 and 1984, twenty-nine states increased their gasoline taxes. The result was a large increase in state and local government budget surpluses, which offset much of the stimulative impact of the federal spending.

President Reagan predicted the transportation bill would create 320,000 jobs, but subsequent analysis shows otherwise. In the year following passage of the legislation, employment in highway construction actually grew at a lower rate than did total employment (although wages for highway construction workers did rise sharply.)

Interestingly, at the very time that President Reagan was pressing hard for passage of the transportation bill as a jobs program, his Office of Management and Budget produced a study which showed that increases in federal aid for public works actually reduce overall public works spending, because state and local governments respond by cutting back their own spending. Of course, this and other studies had little effect. Both Congress and the administration were under irresistible political pressure to appear to be doing something about the recession, even though it had ended four months earlier.

The ink was barely dry on the transportation bill, in fact, when Congress pressed ahead with another antirecession bill, the Emergency Jobs Act of 1983. This act was little more than a grab-bag of pork-barrel projects, most of which just happened to be in the congressional districts of Appropriations Committee members.

A GAO study of the act in 1986 noted that it was not passed until twenty-one months after the beginning of the recession. A year and a half after passage, only one-third of the bill's funds had been spent; two and a half years after passage, half of the funds still had not been spent.

Job creation peaked in June 1984, but the number of jobs created at that point totalled just 1 percent of the private jobs created since passage of the bill.

THE BUSH AND CLINTON ADMINISTRATIONS

Like its predecessors, the Bush administration adopted an antirecession program after a recession. The $151 billion Intermodal Surface Transportation Efficiency Act was signed by the president in November 1991—eight months after recession's end. Congressional supporters of the bill estimated it would create 2 million jobs. The Bush administration, "eager to embrace the bill as a job creator on the eve of an election year," according to Congressional Quarterly, doubled the estimate to 4 million. More than a year later, however, transportation planners told the New York Times that "the law has neither stimulated the economy nor created many jobs." One of the major reasons was the slow pace of construction, which has been attributed to an increase in federal standards for air quality, access for the disabled, and public participation. In the end, the bill did nothing to alleviate the recession or to aid Bush's reelection hopes.

As noted earlier, the Clinton administration quickly came forward with a $16 billion stimulus program, despite data showing the economy to be strengthening. Although the program was promoted as an insurance policy to keep the economy going, the evidence indicates that few, if any, jobs would have been created in the short run. Instead, the main effect of the legislation would have been simply to fund traditional Democratic programs. As Newsweek observed:

"Administration officials concede privately that much of the money will go into highway and transportation projects that won't actually get underway until 1994 or 1995. A good chunk of the rest will raise spending on programs Clinton proposes to expand permanently, like Head Start and infant nutrition. By boosting outlays right away instead of waiting until the next fiscal year starts in October, Clinton can label those initiatives 'stimulative.'"

A Republican analysis of the cost per job of the Clinton stimulus program found that the average cost was over $89,000, with the cost of some jobs reaching into the millions.

DOING HARM

In 1980, Sen. Lloyd Bentsen, now secretary of the Treasury, held a hearing before the Joint Economic Committee on the effectiveness of countercyclical public works programs. At that hearing, President Carter's Office of Management and Budget presented a study that reviewed the postwar experience with such programs. Its conclusions:

Public works programs cannot be triggered and targeted in a sufficiently timely manner to compensate for cyclical fluctuations in unemployment and economic activity.

Even if it were possible to properly time a countercyclical program, the time it takes to construct public works would lead to a significant overlap of job generation and economic stimulus with periods of economic recovery.

Public works programs have had minimal impact on the unemployed. This is partly because the programs are not labor-intensive, and partly because many of the jobs created require skills the unemployed do not have.

The duration of employment for individual workers is too short to provide meaningful economic relief, to maintain skills and work habits, or to provide on-the-job training.

Public works are extremely costly. The cost of generating a construction job for one year ranges from $70,000 to $198,000.

Later Bentsen issued a unanimous report from the Joint Economic Committee which concluded that by the time a recession is recognized, it is too late to be treated. Efforts to do so are destabilizing. The committee recommended avoiding short-term countercyclical actions, and instead focusing on factors that contribute to long-run growth. This was good advice then, and good advice now.

Even Lord Keynes, the father of countercyclical policy, eventually recognized its limitations. Toward the end of his life he wrote:

"Organized public works . . . may be the right cure for a chronic tendency to a deficiency of effective demand. But they are not capable of sufficiently rapid organization (and above all cannot be reversed or undone at a later date), to be the most serviceable instrument for the prevention of the trade cycle."

The U.S. economic experience provides ample confirmation.

TABLE 2.—DATES OF RECESSIONS AND ANTI-RECESSION LEGISLATION

Beginning	End	Antirecession legislation
November 1948	October 1949	October 1949[1]
August 1957	April 1958	April-July 1958[2]
April 1960	February 1961	May, 1961[3] September 1962[4]
December 1969	November 1970	August 1971[5]
November 1973	March 1975	March 1975[6] July 1976[7] May 1977[8]
July 1981	November 1982	January-March 1983[9]
July 1990	November 1991	November 1991[10] April 1993[11]

[1] Advance Planning for Public Works Act, P.L. 81–352 (October 13, 1949).

[2] Federal Aid Highway Act of 1958, P.L. 85–381 (April 16, 1958); River and Harbor Act of 1958, Flood Control Act of 1958, and Water Supply Act of 1958, P.L. 85–100 (July 3, 1958).

[3] Area Redevelopment Act, P.L. 87–27 (May 1, 1961).

[4] Public Works Acceleration Act, P.L. 87–658 (September 14, 1962).

[5] Public Works and Economic Development Act Amendments, P.L. 92–65 (August 5, 1971).

[6] Tax Reduction Act of 1975, P.L. 94–12 (March 29, 1975).

[7] Public Works Employment Act of 1976, P.L. 94–369 (July 22, 1976).

[8] Local Public Works Capital Development and Investment Act of 1976, P.L. 95–28 (May 13, 1977).

[9] Surface Transportation Assistance Act of 1982, P.L. 97–424 (January 6, 1983); Emergency Jobs Appropriations Act of 1983, P.L. 98–8 (March 24, 1983).

[10] Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102–240 (November 27, 1991).

[11] Emergency Supplemental Appropriations Act of 1993.

Mr. SIMON. Mr. Bartlett writes:

Without exception, stimulus programs have failed to moderate the recessions at which they were aimed, and have often sowed the seeds of the next recession. These programs have not been simply worthless, but harmful. It would have been better to do nothing.

Then he writes:

President Carter's Office of Management and Budget presented a study that reviewed the postwar experience with such programs.

And they reached the same conclusion. Then, listen to this:

Later, [Senator Lloyd] Bentsen issued a unanimous report from the Joint Economic Committee which concluded that by the time a recession is recognized, it is too late to be treated. Efforts to do so are destabilizing. The committee recommended avoiding short-term countercyclical actions, and instead focusing on factors that contribute to long-run growth.

"This was good advice then," the author writes, "and good advice now."

Even Lord Keynes, the father of countercyclical policy, eventually recognized its limitations. Toward the end of his life, he wrote:

"Organized public works . . . may be the right cure for a chronic tendency to a deficiency of effective demand. But they are not capable of sufficiently rapid organization (and above all cannot be reversed or undone at a later date), to be the most serviceable instrument for the prevention of the trade cycle."

"The U.S. economic experience provides ample confirmation," the author of the article says.

Fred Bergsten, who serves as Assistant Secretary of the Treasury and one of our Nation's really fine economists, recommends that we build in a small surplus. He is suggesting a 2-percent surplus, and then authorizing the President to move quickly with programs when we have unemployment above a certain level in any area, whether it is Missouri or Illinois or Michigan or Ohio, or wherever it might be.

Alan Greenspan has said much the same thing. Interest reduction is a far greater stimulus than any kind of stimulus that we might provide. But we have extended unemployment compensation and people say, well, we could not even do that.

We will take a look at the record. The only time I can find where we have not had 60 votes for that was in 1982. But let me start with 1991. Passed extension of unemployment compensation; passed the Senate 91–2, far more than the 60 percent required. Later that year, by voice vote, another voice vote. In 1992, 94–2; 1992, another voice vote; later in 1992, 93–3. In 1993, 66–33; also, in 1993, 76–20.

Clearly, we can get the 60 votes to do that.

I also ask unanimous consent to have printed in the RECORD, Mr. President, an article from Investors Business Daily.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Investors Business Daily, Jan. 25, 1995]

A BALANCED BUDGET MYTH BARED: ECONOMY CYCLES UNLIKELY TO WORSEN UNDER PLAN

(By John Merline)

A balanced budget amendment will either restore fiscal sanity to a town drunk on deficit spending or lead the country toward economic ruin.

Those, at least, are the stark terms typically used by supporters and opponents of a constitutional amendment outlawing deficit spending.

And, while passage of a balanced budget amendment is almost a sure thing this year, debates over its merits remain fierce—with critics from all sides of the political spectrum lobbing grenades at it.

Democrats don't like the rigidity it imposes while conservatives fear it may bias Congress towards tax increases.

One of the principal criticisms of the amendment is that it would short-circuit the federal government's ability to fight recessions, either with "automatic stabilizers" or with stimulus spending like temporary tax cuts or spending hikes. Yet there is little evidence to support this view.

"When purchasing power falls in the private sector, the budget restores some of that loss, thereby cushioning the slide," said White House budget director Alice Rivlin in testimony before the Senate Judiciary Committee earlier this month.

"Unemployment compensation, foodstamps and other programs fill the gap in family budgets—and in overall economy activity—until conditions improve," she said, defending the budgetary "automatic stabilizers."

In addition, because of the progressive income tax code, tax liability falls faster than incomes drop in a recession, slowing the decline in after-tax incomes.

The result, however, is typically an increase in the deficit.

Mandatory balanced budgets would, she argued, force lawmakers either to raise taxes or cut spending in a recession to counteract increased deficits.

"Fiscal policy would exaggerate rather than mitigate swings in the economy," she said. "Recessions would tend to be deeper and longer."

Other economists agree with Rivlin.

Edward Regan, a fellow at the Jerome Levy Economics Institute in New York, argued that the amendment would "restrict government efforts to encourage private sector activity during economic slowdowns."

The assumption, of course, is that these automatic stabilizers actually work as advertised, an assumption not all economists share.

"If anything, I think the government has made economic cycles worse," said James Bennett, an economist at George Mason University.

Bennett, along with 253 other economists, signed a letter supporting a balanced budget amendment introduced last year by Sen. Paul Simon, D-Ill.

Ohio University economist Richard Vedder agrees. "If you look at the unemployment record, to use that one statistic, it was more favorable in the years before we began automatic stabilizers than in the years since," he said.

Much of the countercyclical programs were implemented in the wake of the Great Depression.

Unemployment data show that in the first three decades of this century the average jobless rate was roughly 4.5%.

PROLONGING SLUMPS

In the four decades since World War II, the rate averaged 5.7%. And, from 1970 to 1990, it averaged 6.7%.

In addition, some of the stabilizers may actually keep people out of the work force for longer periods of time, possibly prolonging economic slumps.

A 1990 Congressional Budget Office study found that two-thirds of workers found jobs within three months after their unemployment benefits ran out—suggesting that many could have found work sooner had they not been paid for staying home.

Other data suggest that, at most, federal fiscal policy has had only a small stabilizing effect on the economy, despite the sharp increase in the economic role played by government.

A study by economist Christina Romer of the University of California at Berkeley found that economic cycles between 1869 and 1918 were only modestly more severe than those following World War II.

Romer corrected what she said were serious flaws in data used to suggest that the pre-war economy saw far larger swings in economic cycles.

The finding runs contrary to conventional wisdom—which posits that government fiscal programs enacted after the Great Depression have greatly reduced the magnitude of boom and bust cycles.

"I think there are plenty of arguments against the balanced budget amendment," said Christina Romer in an interview. "I would not put much emphasis on taking away the government's ability of having countercyclical * * *.

Finally, some economists note that the stabilizers Rivlin points to don't have to be a function of government.

Private unemployment, farm or other insurance could provide needed cash during economic downturns, they say, replacing the government programs as the provider of these funds.

While the effectiveness of automatic stabilizers is doubted by some, straightout antirecessionary stimulus spending has few outright backers—for one simple reason.

Every major stimulus package since 1949 was passed after the recession was already over.

These packages typically consisted of temporary tax cuts or spending hikes designed to boost economic demand and artificially stimulate growth.

The problem has been that, by the time Congress recognizes the economy is in a slump and approves a package, it's too late.

TOO LITTLE, TOO LATE?

Clinton's failed stimulus package, for example, was proposed nearly two years after the 1990–91 recession ended, and half of the money wouldn't have been spent until 1994 and 1995.

A study of the 50-year history of stimulus packages by Bruce Bartlett, a senior fellow at the Arlington, Va.-based Alexis de Tocqueville Institution, concluded that "without exception, stimulus programs have failed to moder- * * * would have little bearing on the government's ability to pursue these policies during recessions.

First, the amendment allows Congress to pass an unbalanced budget, as long as it can muster 60% of the votes.

And, lawmakers could avoid that by simply running a budget surplus during growth years.

"The best technique is to aim for a modest budget surplus, of about 2% of GDP, over the course of the business cycle," Fred Bergsten, director of the Institute for International Economics, told the Judiciary Committee.

"This would permit the traditional 'automatic stabilizers,' and perhaps even some temporary tax cuts and spending increases, to provide a significant stimulus to the economy," he said. Interestingly, Rivlin herself made similar arguments in her book, "Revving the American Dream," which was published shortly before she joined the Clinton administration.

In that book Rivlin said that the federal government should run annual budget surpluses—increasing national savings and, in turn, economic growth.

At the same time, Rivlin said the federal government could strengthen federal "social insurance" programs designed to mitigate economic swings.

To accomplish this, she proposed shifting whole blocks of federal programs down to the states, including education, welfare, job training, and so * * *.

Mr. SIMON. This is the lead story. The headline says: "A Balanced Budget Myth Bared," in which the article talks about the fact that, in fact, we just do not act promptly enough to move in a recession, so to stop the balanced budget on that basis just does not make any sense. The article quotes James Bennett, an economist at George Mason University:

> If anything, I think the government has made economic cycles worse.

I hear this: What about floods, earthquakes? We have an emergency in Michigan or Missouri, or someplace, and we have had them in Missouri and Illinois recently in our floods.

First of all, I will say that I favor creating a special emergency fund. We should not create a deficit every time. We ought to create an emergency fund of $5 or $10 billion every year, where we can tap into that for emergencies that will occur almost every year.

Take a look at the votes on these things. They say, well, we will be prevented from helping in natural calamities. Starting in 1991, I have not been able to find a single time when, in an emergency, we declined helping people. Now, there have been times when, years later or sometime later, we come back and they want help and they have been declined. In March 1991, 92 to 8; March 1991, 98 to 1. May 1991, voice vote. November 1999, 75 to 17. September 1992, 84 to 10. April 1992, 84 to 16. May 1992, 61 to 36. August 1992, voice vote. June 1993, voice vote. August 1993, 86 to 14. February 1994, 85 to 10. These are all more than 60 percent.

Then the argument is made, well, we will have the courts in this massively. What is the reality? Well, section 6 of this article says.

> The Congress shall enforce and implement this article by appropriate legislation which may rely on estimates of outlay and receipts.

The only example you have of a Federal court acting is in the case of the State of Missouri, the Jenkins case, and there it was the Federal court acting, in terms of a State situation, under the 14th amendment, but we had no legislation and so you have a very, very different situation.

Second, we can say who has standing. I think we ought to say it takes 10 Senators or 30 House Members or 3 Governors to go before the courts. So we limit who can go before the courts.

And then, finally, the reality is we have a very good enforcement mechanism: You cannot increase the debt ceiling without a 60-percent vote. I think the likelihood that we are going to go before the courts is very, very slim, and the experience of the States is—and 48 of the 50 States have some kind of provision—the experience of the States is that it is rare for any kind of litigation. I remember when this came up—and Senator ABRAHAM will recall this—Senator HANK BROWN said in the history of the State of Colorado, which has such a provision in its constitution, there has been no litigation. This idea that we are going to be massively in the courts is just not true.

Then some say, "Well, you are going to give the President impoundment authority and the President is going to increase taxes." If I thought there was any possibility of that happening, I would favor an amendment. I had my staff research this very carefully. And I want to pay tribute to Aaron Rapport of my staff who has really done a superb job, but my staff has researched this and it is very clear, there is no impoundment authority. Anyone who looks at the legislative record will know that, and we will make it clear through implementing legislation.

Then I hear people say, "It is going to hurt my program, it is going to hurt my State, we are getting these letters from the Department of Defense and all the other departments." If you total up what everyone says is going to hurt and what is going to be taken out, we will have a huge surplus in this Nation.

Obviously, these figures are largely phony, and if the President of the United States had made a different decision, we would be getting all these letters from people saying what a great thing this is and this is going to be the salvation of our program.

I think you have to ask all these agencies and the States what is going to happen if we do not alter the present path. And the answer is, interest is going to continue to squeeze out our ability to respond to States, interest rates are going to continue to go up, and eventually we will monetize the debt.

Then I hear about Social Security, and we are going to have an amendment on that on the floor. I suggest we listen to Bob Myers, chief actuary for Social Security for 21 years, in which he says the only protection that we need that is desperately needed is a balanced budget amendment so we do not monetize the debt. That is the only way to protect senior citizens.

Groups like the AARP, and others who are saying that we should not pass this are looking short term. They are not looking long term. We have to protect Social Security, and it is true it is running a surplus now, and I would love to balance the budget without that surplus, but starting in the year 2012 or 2013, it starts going in the red. We have an obligation to face this problem.

President Gerald Ford said:

> Unless we, as a Nation, face up to the facts of fiscal reality and responsibility and the sacrifices required to restore it, the economic time bomb we are sitting on will do us in as surely as any sudden enemy assault. We cannot go on living beyond our means by borrowing from future generations or being bailed out by foreign investors.

He is absolutely right. We have, and some will argue we have shown in 1993 we can do something. We did and to the praise of President Clinton we did do something. But you had an unusual confluence of things. You had a brand-new President in his honeymoon period, you had a Congress of both Houses that was in his party, and you had a President who had the courage to do something. What happened? Interest rates came down, even with the small gesture that we made at that point.

Listen to the lead witness against the balanced budget amendment 2 years ago before the House Budget Committee, Professor Laurence Tribe, of Harvard. I want to make clear he still opposes a balanced budget amendment: Listen to what he said:.

> Despite the misgivings I expressed on this score a decade ago, I no longer think that a balanced budget amendment is at a conceptual level an ill-suited kind of provision to include in the Constitution. The Jeffersonian notion that today's populace should not be able to burden future generations with excessive debt does seem to be the kind of fundamental value that is worthy of enshrinement in the Constitution. In a sense, it represents structural protection for the rights of our children and grandchildren.

People say, "Well, let's just do it with statutory action." I voted for Gramm-Rudman, but as soon as it started to squeeze too much, we changed the law. It is just too easy. For people who say, "Well, we're not going to pay attention to the Constitution"—JOHN ASHCROFT when you took that oath of office right over there, you took only one oath, to uphold and defend the Constitution. I cannot imagine any Senator, no matter how extreme, standing up and saying, "Let's ignore the Constitution." That just is not going to happen. We are going to pay attention to it.

The language that we have devised, that we have cleared with a great many people, is constitutional in nature, and those who say we are violating the spirit of the Constitution by requiring more than a majority vote ignore the fact that eight times in the Constitution it requires more than a majority vote to prevent governmental abuse. Have we had governmental abuse in this area? I do not think anyone can say anything to the contrary.

I also hear, "Oh, this is just a gimmick." I was in a press conference with OLYMPIA SNOWE, our new colleague in the Senate, when she was in the House, and a reporter said, "Isn't this just a gimmick?" And she responded, unfortunately with too much accuracy, "If it was just a gimmick, Congress would have passed it a long time ago." And I am afraid there is some truth to that.

If it were just a gimmick, my friend—and he is my friend—Senator ROBERT BYRD, would not be working so hard against this. The reality is, this has teeth. That debt increase means something.

People say, "Well, we have to show how we are going to do it. If they are talking in broad principles, I am all for, once this passes, spelling it out.

Let me give you one option, and that is we follow the present limits we set forth in our agreement through 1998 and then a combination of the Bush program for reducing the deficit and the Clinton program, something somewhat similar, neither of which did any great harm to anyone, that will do it by the year 2002.

I say to my colleagues who oppose this, who make these great speeches, "We can do it without a balanced budget amendment," they insist we spell out what we are going to do, and I am for spelling it out in broad terms. But I think there is a responsibility on the part of those who say we can do it without a balanced budget amendment to spell it out.

We save at least, by the most conservative estimate, about $140 billion in interest and some people say as much as $600 or $700 billion in interest. But there is that substantial savings. There is not that savings on the other side.

Finally, Mr. President, let me just give you one illustration why we need this. Two or 3 years ago, I introduced a bill for long-term care, a problem that is going to escalate in this country. I had with it a half-percent increase in Social Security to pay for it. Two of my colleagues in the Senate, one of whom is still in the Senate, came to me and said, "We really like your bill for long-term care. If you will just drop the taxes to pay for it, we would like to cosponsor the bill."

My friends, that is our problem. Nothing is there to restrain us from doing that. Now, my colleague from Michigan and my colleague from Missouri may differ with me on whether or not we ought to have the program. That ought to be a legitimate area of debate. There should not be a debate that if we have the program, we have to be willing to pay for it, and if we are unwilling to pay for it, we cannot have the program. That is what it is all about. We need pay-as-you-go Government.

I hope this body will take a look not just at all the pressure groups that are coming at us right now, but take a look at future generations, take a look at those pages, take a look at your children and your grandchildren and ask: How do we best protect them?

Deficit reduction is a tax cut for future generations.

Do I make a little sacrifice myself so that my three grandchildren can live better? That is the real question. I do not have a hard time answering that. Are we going to have to make some unpopular decisions if we pass this? You bet. If it was easy, we would have done this a long time ago. That is why we need a constitutional amendment.

So I hope my colleagues will do the right thing—not politically but for future generations. The right thing clearly I think is adopting this balanced budget amendment.

Mr. President, I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank the Chair.

I rise today in strong support of the balanced budget amendment to the Constitution, and I would like to preface my remarks by extending a compliment to the Senator from Illinois for his extensive work over many years on this issue. Thanks to his leadership, we are already moving in the House and here in the Senate toward adoption of this after many years of debate.

In my judgment, the amendment would change the way Congress makes budgetary decisions by severely limiting the option to borrow money. Currently, when faced with demands for more spending, the Congress makes the easy choice to borrow money. Under the balanced budget amendment, Congress would be forced to make the tough choices, to either raise taxes or reduce spending elsewhere, unless it mustered the necessary supermajorities required to deficit spend.

With last week's historic vote in the House of Representatives to approve the balanced budget amendment by a bipartisan margin of 300 to 132, the American people sent a clear and powerful message to the Senate: It is time to restore fiscal control of the Federal budget and prevent politicians from increasing Government spending.

In my view, the balanced budget amendment to the Constitution embodies the spirit of the electorate that voted for a Republican Congress for the first time in 40 years last November, and I believe that we in the Senate must not let them down.

When I was out on the campaign trail in Michigan in this most recent campaign, I encountered people all over the State. It did not matter where they lived. From Detroit to the Upper Peninsula, from Grand Rapids to Saginaw, north to south, and east to west, they all said the same types of things about the way Congress does business. They were totally perplexed and incapable of understanding why the Congress of the United States could not operate the way they did in their families or the way businesses did in trying to meet a bottom line of staying in the black.

I was constantly asked, "Why is that the case? Can you make a difference?" The one thing that was a clear note of consistent opinion across the spectrum was that the best and surest way to get the Federal Government under control was by adoption of a balanced budget amendment. The attitude in my State was not one of asking us to come up with a fancier bookkeeping way of handling Federal spending. They did not want me to come down here and say, "Well, we will have a balanced budget amendment, but we will leave exceptions for this or that program; we will put something off budget and make you feel better about the bottom line."

They said, "Why can't you go down and do what we have to do every day in our lives here in Michigan?" And that is what I came here to do.

Now, I have heard some people say in the course of the debate in the Judiciary Committee and already in the Chamber that this is not the way people behave. The families of the people of Michigan do not operate really in the black. They buy a house, and when they buy a house they have a debt. And if you put that debt into consideration, at the end of the year they still have that debt. They just make payments on the debt. And to them balancing the family budget really means that the amount of income they have is equal to the payments they make for the goods and services and the debts they encounter.

My response to those people, as I responded in the campaign was, "But wait a minute. There is a very simple distinction here. Those people are spending their own money and we are spending the taxpayers' money."

If people choose in their own lives to buy a house, I do not think that is the Federal Government's business. But if the Federal Government and those of us entrusted with the responsibility of spending over $1.5 trillion a year do not keep the public's interests in mind, I think we have made a huge mistake. And so in this campaign I got a clear message. It was a message that I should come here, that I should fight as hard as possible to put this country on a course to bring about a balanced budget as fast as possible and that the surest way to do it was with a balanced budget amendment. And so today I wish to speak about why that is so critical.

I believe that requiring a balanced Federal budget should no longer be a question for serious debate. For the past 25 years, the Congress has demonstrated its inability to manage effectively the Nation's purse strings. The national debt now stands in excess of $4.7 trillion. The Federal Government currently owes more than $13,000 for every man, woman, and child in America.

One of the major reasons for this explosion in Government spending and debt is that we have abandoned the implicit balanced budget requirements established by the Nation's Founding Fathers. Indeed, the Founding Fathers recognized that persistent Government deficits and the unfettered growth of Government had consequences for the long-term stability of our democracy and threatened our individual freedoms. The reason the Founding Fathers did not include a balanced budget requirement in the Constitution is because they felt it would be superfluous. Balancing the budget and reducing the outstanding debt were considered the highest priorities of Government. I think Thomas Jefferson summarized it best when he said that:

> The public debt is the greatest of dangers to be feared by a republican Government.

Because of this implicit balanced budget requirement, Government spending remained low, rarely exceeding 10 percent of our national income, for the first 150 years of this Republic. But starting in the mid 1930's, the rise of Keynesian economics gave politicians an economic rationale to increase Government spending. As a result, fiscal discipline was abandoned. Today, Federal spending as a share of our national income stands at 22 percent. Deficit spending has now become the fiscal norm. The purpose of the balanced budget amendment is to restore fiscal discipline upon the Congress by placing the balanced budget obligation in the supreme law of the land. Absent such an amendment, the Congress has proven itself incapable of making difficult spending decisions, given its free and easy access to deficit spending.

The amendment would contribute to a balanced budget by transforming the critical questions asked by Members of Congress who confront spending interests. Instead of asking merely, "Is this a desirable spending measure or program?" they will instead have to ask, "Is this spending measure so desirable that we should either reduce spending for some other spending measure or raise taxes on the people to pay for it?"

The psychology of the budget process will also be transformed. No longer will spending interests be competing against the taxpayer for a portion of an unlimited budget. Rather, they will be competing against each other for a portion of a limited budget. No one doubts that Governors of States with balanced budget requirements will propose balanced budgets because they are obligated to do so. When the Congress is also obligated to do the same, I believe they, too, will propose balanced budgets. The details will inevitably be fought out in the budget process, where they should be. Without a balanced budget amendment, this Nation could be looking at Federal deficits in the trillions of dollars within 15 years.

All the opponents of the amendment want to talk about is the cost of reducing spending programs for special interests. But what about the economic costs of running high deficits and high levels of Government spending and taxation on the general public? The weight of economic evidence from around the world strongly suggests that as the size of government increases as a share of national income, the rate of economic growth and job creation declines. I was sent here by people who think it is time to put the welfare of the general public ahead of the special interests.

The proposed amendment does not read into the Constitution a mandate for any particular economic policy outcomes. It only restores the historical relationship between levels of public spending and available public resources. National solvency is not, nor should it be, a partisan political principle. It should be a fundamental principle of our Government.

Mr. President, I would like to spend a few moments on the question of judicial enforcement of the balanced budget amendment. There are many provisions of the Constitution that are effective in achieving their purposes, yet which do not require judicial enforcement. For example, the Senate does not introduce revenue bills despite the Court's refusal to involve itself in such political questions. The moral power of the Constitution itself serves as an enforcement mechanism.

The balanced budget amendment is largely self-enforcing and self-monitoring. Congress and the President are to establish procedures for compliance. Congress and the President are to monitor the actions of each other, and actions by the Congress and the President will be subject to even more effective monitoring by the public.

I would argue that the balanced budget amendment is already working, despite the fact that the Congress has not yet passed it. Indeed, the mere prospect of the congressional approval of the amendment has already forced congressional leaders to seriously consider a 7-year plan to reduce the growth rate of Government spending and balance the budget. Does anyone truly believe that this debate would be occurring in the absence of the debate over the balanced budget amendment?

Once the amendment is actually approved by both Houses of Congress, we will be under enormous political pressure to produce a balanced budget plan which achieves balance by the year 2002.

As the debate over the balanced budget amendment proceeds in the Senate, I will address in more detail why we should not exempt any special areas of the budget from the balanced budget requirements. In essence these efforts are, in my judgment, nothing more than escape valves designed to alleviate the pressure on lawmakers to spend in different areas of priority than would otherwise take place. These exemptions violate the whole point of having a balanced budget amendment.

The Nation believes we already have enough tax revenue to balance the budget. In fact, the Congressional Budget Office projects that tax revenue collected by the Government will naturally increase from the $1.36 trillion in 1995 to $1.88 trillion in the year 2002. I know the people in Michigan, and I think most people across this country would agree, that $1.88 trillion is more than enough to run the Federal Government.

Finally, I am a strong supporter of the proposed supermajority requirements to limit tax increases. I think the inclusion of the tax limitation language would help avert the bias in our current system toward higher taxes. Although I am concerned about a balanced budget amendment that does not simultaneously place an explicit limit on taxes, I believe this can be accomplished through other means, not the least among them the wrath of an overtaxed electorate. Further, I believe that to truly limit the tax burden on the American people we must explicitly limit the total size of Government. It is for this reason I strongly support either legislation or a constitutional amendment to limit to a fixed percentage of our national income, except in times of emergency, the spending level of Government. Limiting total spending limits total taxes.

In my State of Michigan we have a similar government spending limitation in our State constitution called the Headlee amendment. Under that amendment, the size of State government is limited by holding State tax revenue to the same fraction of personal income that it was when the amendment passed in 1978. A blue ribbon commission appointed by Gov. John Engler to study the Headlee amendment recently concluded that it had been effective in limiting the growth of our State government.

This spending limitation proposal offered by Senator JON KYL does essentially the same thing as the Headlee amendment. It requires that the Federal Government only grow in size relative to the size of the national income. I think such a spending limitation concept ought to be a key ingredient as we proceed to the subsequent implementing legislation to balance the budget.

In conclusion, before we begin the necessary task of limiting the growth rate of Government spending, we ought to be able to assure the American people that any consequent pain will not be for naught, that cuts in spending will finally translate into reduction in the Federal deficit. A balanced budget amendment to the Constitution would restore a necessary, basic, and broad governing principle for our country; namely, that Government should spend no more than it takes in.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise today to oppose the proposed balanced budget amendment to the U.S. Constitution. I also rise as a person who I hope can be described as one of the strongest advocates of actually balancing the Federal budget. I believe the American people really want a balanced budget more than they want a balanced budget amendment. Although this may seem strange to a lot of people—and it is going to be very important to make this point both here and across America as we have this debate—I think passing the balanced budget amendment will make it less likely rather than more likely we will actually achieve a balanced budget in the next few years.

A number of respected authorities have raised a variety of significant points of concern with regard to the amendment itself. Some say the problems related to the role of the courts and the power it might confer on unelected judges to set our national budget policy is a reason not to vote for this.

Some talk of the damage the proposal could do to Social Security unless some changes are made to the current draft. I think that is a very, very important issue.

Others say there will be unintended changes to the Presidential impoundment authority. That is something we have to look at.

And still others say that unnecessary and possibly dislocating restrictions on our ability to establish capital or investment budgets will be a problem, producing the very surprising result that the Federal Government could end up being the only government anywhere that we know of that does not have a distinction between a capital and operating budget.

These are all very serious concerns and there are other ones as well that are being discussed and will be discussed in the coming weeks as we consider the balanced budget amendment.

My principal objection to the proposed balanced budget amendment is that it will most likely damage our efforts to reduce and eliminate the Federal deficit. I believe strongly in eliminating the Federal deficit. Along with health care reform, that was the issue on which I focused my campaign for the U.S. Senate, and it is the issue on which I focused the greatest amount of my time during the 2 years I have been here. But there is evidence that suggests strongly that this proposed constitutional amendment will only undercut the work I have had a chance to do, the work that others have done to bring down the deficit and clean up the mess that was created throughout the 1980's.

First, consider the basic argument of those who support the proposed amendment. The essence of the arguments made by supporters of the amendment is the assertion that a constitutional amendment is absolutely necessary in order to spur lawmakers into making the tough decisions they are otherwise unwilling to make. The amendment's supporters maintain that once the constitutional requirement is in place, lawmakers will suddenly make the tough decisions because they will be able to say this to their angry constituents: I am sorry I cut your program, but the Constitution made me do it.

I find it hard to believe that kind of conversation is going to really occur, but that is in effect what is being suggested, that Members of Congress will suddenly do what they must do and should have done a long time ago because they will be able to say, "My hands are tied. I am going to have to hurt you by cutting this program."

The notion that lawmakers require the Constitution of the United States to provide political cover is the defining rationale for the supporters of this proposed amendment. After all, if a constitutional refuge were not required, then the need for this amendment would vanish.

This assessment of our political process, I believe, ignores a basic political reality, that those who require political cover in order to make tough decisions under our current rules may end up being the very same people who will find a way not to make the tough decisions even if the balanced budget amendment is passed by this Senate and even if it does become a part of our Constitution.

As the distinguished economist Herbert Stein noted in his testimony before the Judiciary Committee:

> Objection to a balanced budget amendment is not an objection to balancing the budget. It is, instead, objection to using an appeal to a traditional symbol as a smokescreen behind which to hide unwillingness to face our real problems.

The only way we can balance the Federal budget is by enacting specific legislation that spells out a series of individual spending cuts that add up to sufficient cuts to eliminate that deficit. But the proposed constitutional amendment does not contain one single spending cut. The sponsors of it do not have to put their name on the line for any cut in order to go about their States and say: I fought to balance the budget.

I am not sure the people of the country realize this. I think what they are saying is: Balance the budget. I think many folks think the balanced budget amendment will also include the identification and, in fact, requirement of a series of cuts to achieve that. But there is nowhere in the balanced budget amendment where any of the courage that is required to identify specific cuts is demonstrated. It is just the reverse. It is just the reverse. In fact, in many ways, it is the easiest vote in the world.

Mr. President, this raises a second point. Many of the supporters of the proposed constitutional amendment are unwilling to outline those spending cuts they would pursue in order to balance the budget. The majority leader of the other House, RICHARD ARMEY, a strong proponent of the constitutional amendment, has been quoted as saying that if Members of Congress knew what it took to comply with the proposal "their knees would buckle."

That is a candid statement, but a very disturbing one. Majority Leader ARMEY is also reported as saying that:

> Putting together a detailed list beforehand would make passing the balanced budget amendment virtually impossible.

Mr. President, this second point is a natural outflow of the underlying political view held by the amendment's supporters. That view I think is based on cynical assumptions about the American public and our democratic process. It implies that, if the people realized what it would take to balance the budget, they would just refuse to support such action.

Let us consider for a minute what this reasoning suggests. I think it assumes a very low opinion of the American people, the electorate. Supporters suggest that, rather than deal honestly with the people, we should evade, delay and dissemble. Mr. President, in my view that perception of the American people is a good example of the politics as usual that got us into this mess in the first place, and which I believe voters have been rejecting, not just on November 8 of last year but for the past several years where we have had two monumental elections.

Mr. President, I mentioned that I ran on the issue of deficit reduction in 1992, and, as a matter of fact, so did all of my three opponents in that race. I strongly believe that one of the reasons for my victory was that I spoke specifically with the voters about the deficit issue. While others supported the balanced budget amendment, they generally refused to specify how they would reduce the deficit. I opposed the balanced budget amendment but presented a specific 82-point plan—that has grown since—that pointed to exactly all the different ways we could cut the Federal budget which would add up to the elimination of the Federal deficit over 5 years.

Mr. President, despite the statements that nothing has been done here in the last couple of years, and that this institution is incapable of cutting spending without a balanced budget amendment, I can tell you that during the past couple of years many of those specific cuts that I had identified—and that many others had identified—were included in the President's deficit reduction package in 1993, passed, and became law. Why did the balanced budget amendment advocates refuse to even take seriously the progress that has been made in reducing the deficit during the past 2 years? Well, maybe it is not good politics. But it is unfair to the American people to continue to tell them that nothing has been done, that no effort has been made, that no progress has been made, and that no tough votes have been taken, because they have.

I regret that no Member of what is now the majority party chose to participate in either the other House or this House in trying to help us make those specific cuts. But that does not take away from the fact that those cuts were made. Why are we not out here telling the folks across America that, for example, we significantly cut hundreds of millions of dollars out of overseas broadcasting, Radio Free Europe and Radio Liberty? Why are not we telling the American people that we finally had the guts to get rid of the superconducting super collider, and the wool and mohair subsidy? My constituents say, "These agriculture programs are eating us alive." The truth is we eliminated a program like that. It was not always fun for me with several thousand wool farmers in Wisconsin. But that was done here in this body in the last 2 years, and we are not telling the American people something that they need to hear.

This week I was informed that one of the cuts that we achieved, one of the changes we made, is actually working out better than the CBO estimated. I believe the estimates were that the FCC spectrum auction would achieve $7 billion. I hear now it may end up being $10 billion that we are now able, through a more sensible proposal, to use and to help reduce the Federal deficit. That story is not being told out here because, if that story were being told out here, the advocates of the balanced budget amendment would have an awful hard time saying what they always say; that is, there is no way to reduce the deficit and balance the budget without a balanced budget amendment.

I find it amazing that this is glossed over. And I believe that it is our obligation, as we go through this debate of the balanced budget amendment, to say that during the past 2 years—although certainly I would not describe it as the Camelot of deficit reduction—it was a very good start, and it helped our economy. And it reduced the deficit significantly. Now it just a question of finishing the job, and we have the power to do that today. And that is what we should be focusing on, not a balanced budget amendment that simply gives political cover.

So, Mr. President, I think it is interesting to realize that the ratification of the proposed constitutional amendment itself may be threatened by the failure of its supporters to be specific and direct to the American people about how it is going to be achieved. More importantly, even if the proposed amendment is ratified, the cause of fiscal prudence and deficit reduction could be severely jeopardized if we do not have the broad-based support of the Nation and of the people of this country. In the end without that support, without the support of the American people, an unpopular plan would be overturned, and we would be left with the balanced budget amendment that only serves to degrade and undermine the authority of our laws, and even worse the authority of our Constitution.

Mr. President, it should be reiterated that a majority of those supporters of the proposed amendment who were here in 1993 opposed the President's deficit reduction package. That package included many difficult provisions, including significant cuts to very popular programs. But this is precisely the kind of specific reduction package that will have to pass in this body, if we are ever going to really have a balanced budget, not a balanced budget amendment.

(Mr. COATS assumed the chair.)

Of course, if we are going to have what the American people really want, which is a balanced budget, I think one certainly can favor reducing the deficit but oppose a specific plan. But, Mr. President, many of the supporters of the proposed balanced budget amendment oppose any specific plan. In their best of all worlds, you do not propose a plan and identify the cuts, but you say that you supported the balanced budget amendment and you have done your job. You can go home and start focusing on other issues.

On another matter, some supporters of the proposed constitutional amendment promised to offer a specific plan of action but they promised to do it only after the joint resolution is adopted by both Houses of Congress after it is sent out to the States but before it is ratified by the States. But, if we apply those folks' own test, this would doom the proposed constitutional change because what it means is, even though it may have passed the House and the Senate and it is sent out to the States, the plan would be revealed before ratification. The specifics would come out, those same specifics that would make our knees buckle and that would make it impossible to pass the proposed amendment in Congress presumably would be so terrible and so upsetting to the States that they would not pass the balanced budget amendment.

Perhaps the supporters of the constitutional change would just keep the specifics secret throughout the whole ratification process. Taking this argument to its logical conclusion—the argument that we should not lay out the plan as we passed this amendment—the reasoning of the supporters of the proposed constitutional amendment dictate that a specific plan apparently could not be offered until after the States had ratified the amendment.

In fact, under this argument, no plan could be offered until the first year the article was to take effect which, of course, is fiscal year 2002 at the very earliest, for not until the constitutional mandate is in force would the needed political cover be in place to protect those lawmakers that amendment supporters maintain are too hesitant to act without that protection.

Is this what the balanced budget amendment supporters want? Is that what they are saying? We are going to keep a tight lip in 1995, 1996, 1997, 1998, 1999, 2000, and 2001, and then suddenly in the year 2002 we are going to magically present this plan that will eliminate the Federal deficit, at which point, I assure you if we do this, will dwarf the deficit that we have now? Political cover will have made sure that this institution did not have to act during that time period, and it will not act. It will simply stand back and wait for the States to decide whether to pass this amendment.

This reasoning produces the absurd result that Congress would be paralyzed to act to reduce the deficit until the first balanced budget is required, which again is fiscal year 2002 at the earliest.

Mr. President, we know any delay in acting to eliminate the deficit only makes future action that much more difficult and politically distasteful. Waiting clearly makes it harder. In the world depicted by the amendments supporters, delay could be fatal for efforts to balance the budget as legislators would be confronted with an increasingly more difficult task and increasingly more difficult choices.

Thus, Mr. President, even using the reasoning of the balanced budget amendment supporters, adoption of the amendment would make it more difficult to actually balance the budget. I think that kind of delay is a tremendous disservice to our economy, and especially to our children and our grandchildren. As a result of this action by the Congress, the States will end up with a bigger debt and a bigger deficit. The specific plan to reduce the deficit must be passed before a constitutional amendment is sent to the States for ratification.

A budget plan is not only a safeguard against later inaction, it ensures that Congress deals with the American people honestly. I know I have not been the only Member of the Senate to propose a specific plan. I believe my colleague on the other side, the Senator from Colorado [Mr. BROWN], has put together a similar kind of specific plan to eliminate the Federal deficit. I was delighted to work with him during the past 2 years on a bipartisan basis, and with Senator KERREY of Nebraska, to craft that kind of a proposal. We signed onto it and we signed onto the specifics. No, we did not succeed in the vote on the floor, but we worked together to identify the cuts. That kind of approach is the only way we are going to reduce the deficits, not by letting Members of the Senate off the hook by providing them with the political cover of adopting a constitutional amendment that does not say one single thing about what should be cut and when and who should get hurt.

Professor Stein, in his testimony before the Judiciary Committee, commented on this very point. He testified:

> I believe it is basically improper and unfair to propose a balanced-budget amendment without revealing how the balance would, or might, be achieved—by what combination of expenditure cuts and tax increases. I do not think the American people should be asked to commit themselves to a constitutional limit on their future decisions without knowing what would be involved.

Mr. President, a specific plan of deficit reduction is the only way the budget will be balanced.

Passing a specific plan before the proposed amendment is sent to the States helps preclude delay and evasion. Without it, Congress could adopt the proposed amendment, declare victory, and do absolutely nothing. It is a great formula for politicians who have to run for reelection. They can sit back and say: Let the States do it; it is not my problem. I voted for the balanced budget amendment. It is up to the States now to worry about the Federal deficit.

That is what might be called a free pass. In fact, I think it is the equivalent of a politician winning the lottery. To not even have to talk about what cuts, to be able to say for the next 7 years it is up to the States to ratify the constitutional amendment, is like the political jackpot, because you do not have to say where the cuts should come from. That is what is going on here. It is punting to the States. It is leaving it up to the elected State legislatures instead of the people sent here, who took an oath to solve the Nation's problems themselves. That is what this balanced budget amendment is about.

Mr. President, equally as important, before the voters and local governments and State legislatures are asked to ratify the amendment, I think they are entitled to know what the supporters of the balanced budget amendment mean to do, before they modify the Constitution of the United States to endorse that action. I believe the Constitution is our great national contract. Before the people are asked to support a change in that contract, they are entitled to read the fine print.

Mr. President, there is at least one other issue that should raise serious doubts in the minds of Members. That is this clamor for a middle-class tax cut or an across-the-board tax cut by many of the same people who are saying they are dedicated to a balanced budget amendment and to the balanced budget. I think it is obvious to almost any American that this makes no fiscal sense. To give a big tax cut now, either to the middle class or across the board, and to maintain you can have a balanced budget amendment in the coming years is flim-flam, voodoo mathematics. The American people do not believe that we can have a tax cut and balance the budget.

I will have more to say on this subject later in the debate.

For now, I only want Members to note this obvious inconsistency and to consider that the two apparently contradictory positions really share one thing in common: They both flow from the politics of the free lunch.

In closing, let me add a brief personal note about one of the principal sponsors of the amendment, the senior Senator from Illinois [Mr. SIMON]. Unlike many who support the proposed amendment, he has consistently fought for deficit reduction and has taken tough stands in that effort, including voting for the President's deficit reduction bill. That vote, obviously, was essential, as was the vote of every Senator who voted for it, including, of course, the Vice President of the United States.

Senator SIMON has joined with a number of us who are questioning the wisdom of the tax cut bidding war that has started. So I want to say, out of great respect for the Senator from Illinois, that the supporters of the proposed amendment could have no greater champion than Senator SIMON. Though he and I differ on this issue, I regret very much his decision not to seek reelection.

I yield the floor.

THE TAXPAYERS DESERVE A BALANCED BUDGET AMENDMENT

Mr. ASHCROFT. Mr. President, when our ancestors were on the verge of a revolt against the British Government, Edmund Burke rose in the House of Commons to urge his fellow Members of the House of Parliament to refrain from using force to impose taxes on those in the United States, which were then Britain's American Colonies. Burke had the courage and the wisdom to speak for conciliation. He foresaw what no one else did—that if England persisted in taxing this country, it would lose its empire and would fight a long war for a bad cause. Burke told the Members of Parliament that in attacking America through taxation, they were really attacking their own British liberties.

As we discuss the balanced budget amendment, we usually talk about the impact of runaway spending on our economy and on our future. Those are our fundamental considerations. But we also must not lose sight of considerations that are far more fundamental and profound. Protracted deficit spending empowers the central Government with the means to undermine our basic liberties.

We hear it said in this Chamber, and by the media, that the American people are selfish because they want the benefits of Government without the cost of taxes. We forget that the power to impose taxes is a standing threat to freedom.

Mr. President, the acknowledgment that we can only control Government by controlling its capacity to take our money is as old as the idea of democracy. Money was—and is—the source of the Government's basic power. The tale of history bears testament to this truth. The Magna Carta prescribed that the King could not impose taxes except through the consent of the Great Council. Charles I was executed because he tried to govern without seeking the consent of Parliament in spending public money. Let us not forget that the American Revolution itself was rooted in the relationship between taxation and representation.

Congress today does not have to vote to raise more revenue in order to spend more money. Instead, our legislature takes the debtor's path: Spend and beg; spend and plead; spend and borrow. Our current system lets the Government spend on credit and sign the taxpayers' name on the dotted line. When the credit card bill comes due, it is the American people who are confronted with the dilemma. They can either send more money to Washington to pay the bill or default on the debt incurred in their name.

When the American people express the belief that Government is out of control—as they did in this past November's election—they, indeed, are correct. For too long, this body has assembled to satisfy the appetites of narrow interests at the public's expense. The American people are fed up with a Congress that spends the yet unearned wages of the next generation.

Mr. President, deficit spending is not only a threat to our prosperity and our children's future, it is the method by which Washington's imperial elite has circumvented the public, the law, and the Constitution. Deficit spending allows beltway barons to run this country without regard for the people. Whether it is pork projects or political payoffs, the Washington elite know how to play the game.

That must end. A balanced budget amendment will compel the Members of this body to raise taxes if they want to spend more money. What better way to restrain spending than that? A balanced budget amendment will make it clear to all that the special interest is rewarded when the citizen is penalized and that we should refrain from penalizing citizens to reward special interests.

What will a balanced budget amendment mean? It will mean accountability to the Constitution and restraint on our spending—in short, it will mean integrity in Government. It will rightly return the power of the purse to the people.

Two centuries ago, in a nation across the sea, Edmund Burke reminded his fellow Members of Parliament of a fundamental principle. Burke said:

> * * * the people must in effect themselves * * * possess the power of granting their own money, or no shadow of liberty [can] subsist.

Mr. President, if we truly wish to preserve the liberties first inscribed into the Magna Carta and then brought to these shores—and preserved through the blood of revolutions on two continents—it is imperative that we return to the people the power of the purse.

We must take the American Express card away from the Congress and eliminate the expense account of the beltway barons. We must make the Members of this body accountable to the taxpayers—not to the lobbyists. We can do this if we have the will.

The balanced budget amendment is not a quick fix. But it is real reform and it will be felt. I know—from my service as Governor of one of the States—that 49 States, in effect, require a balanced budget. It is not a gimmick. We balance the budget.

I balanced budgets 8 years in a row while I was Governor. As a matter of fact, we put into place a cash operating reserve fund of several hundred millions of dollars. We established a rainy day fund—such as the emergency fund that the senior Senator from Illinois has suggested we have for the Federal Government—because we knew there would be episodes of fiscal crisis and financial difficulty in the future that we would need to meet. And we knew, since we were required by our constitution to have a balanced budget, that we would need to prepare for it in advance.

So, Mr. President, let me say it again for emphasis. A balanced budget requirement is not a gimmick. It is not a quick fix either, but it is real reform. It will reestablish the responsibilities observed in this country for decades—prior to the last two or three—that we would have balanced budgets except in time of war.

A balanced budget is a political reform that will be felt first and foremost by the imperial elite who have long run this town. It will be felt by a brood of beltway barons—both elected and unelected—who are robbing the next generation of their inheritance. And, most importantly, it will be felt by the American people who will have succeeded in restoring their right to self-governance.

There are those in this body, Mr. President, who suggest to us that we somehow have to forecast the next 7 years of priorities in spending for the United States of America in order to give allegiance to a balanced budget amendment. Nothing could be further from the truth as far as I am concerned.

I know of no State which tries to lock itself into a 7-year budget which would deny subsequent legislatures the opportunity to adjust to priorities, to respond to circumstances, and to create budgets which meet the real needs of the individuals in the jurisdiction at the time.

When President Kennedy came before the United States of America—and before the House and Senate—and suggested that we as a nation, adopt and embrace an aspiration to put a person on the Moon as an expression of our ability to expand our technological and scientific awareness, he did not have every answer for every way in which everything would happen, but he expressed it as an aspiration—an aspiration toward greatness.

The desire to climb a mountain does not always contain in it all the plans and processes and procedures, but you commit yourself to the objective and you launch your endeavor and you work your way toward the objective. And it is essential that we do that at this time.

The suggestion that our aspirations regarding Federal spending can be accomplished without a balanced budget amendment to the Constitution calls history a liar. For decades and decades, the United States of America has conceded the necessity—but never developed the discipline—to get this job done. It is time now that we make this commitment to a noble objective, to protect the birthright of a generation of Americans yet to come, to protect the opportunity for productivity and competitiveness for the next generation. It is time that we made this commitment for ourselves—and for those who follow us.

Mr. President, I am grateful to have had this opportunity to address this body on these issues. I note that Senator HEFLIN desires to speak, so I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise again to express my support for a constitutional amendment requiring the Federal Government to achieve and maintain a balanced budget. The time has finally come to pass this legislation and send it to the States for ratification. This amendment is not a gimmick, nor is it chicanery; it is good common sense.

We have seen in the House, on January 26, overwhelming, bipartisan support and passage of a balanced budget amendment. The vote in the House 300 to 132, 12 more than the two-thirds majority required for passage of a constitutional amendment, proves that the time for action is now. This momentum, shown by the House, is one which I believe will only grow as the Senate and eventually the State legislatures debate and vote to pass this vital amendment to our Constitution.

I commend the Members of both parties in the House, who formed an alliance to produce the vote, which was a culmination of over 10 years of House deliberation and debate. I applaud all for their determination to see this legislation succeed, as well as the many House Democrats who have worked unceasingly toward this victory.

And, as the waves of this tide roll into the Senate we should be aware of where the original swell began, the American people.

Since I first came to the Senate in 1979, every Congress I have introduced legislation proposing a constitutional amendment to balance the Federal budget, and I have dedicated myself to many years of work with my colleagues to adopt a resolution which would authorize the submission to the States for ratification of a constitutional amendment to require a balanced budget.

For much of our Nation's history, a balanced Federal budget was the status quo and part of our unwritten constitution. For our first 100 years, this country carried a surplus budget, but in recent years this Nation's spending has gone out of control. Indeed, the fiscal irresponsibility demonstrated over the years has convinced me that constitutional discipline is the only way we can achieve the goal of reducing deficits.

As you know, in 1982, the Senate did pass, by more than the required two-thirds vote, a constitutional amendment calling for a balanced budget. There were 69 votes in favor of it and that time. It was sent to the House of Representatives, where, in the House Judiciary Committee it was bottled up. The chairman would not allow it to come up for a committee vote, in order that it might be reported to the floor of the House of Representatives.

In order to bring the measure up for a vote in the House of Representatives, it was necessary to file a discharge petition. This is a petition that has to be signed by more than a majority of the whole number of the House of Representatives, and then it is brought up and voted on without amendment. The Senate-passed amendment failed to obtain the necessary two-thirds vote that was required in the House of Representatives at that time.

In the 99th Congress, after extensive debate, passage of a balanced budget amendment by the Senate failed by one vote—but got 66 votes. During the 101st Congress, I supported a measure which passed the Judiciary Committee, but it was never considered by the full Senate. In the 102d Congress, the Judiciary Committee favorably reported a balanced budget bill, but since an amendment failed to pass the House of Representatives by the necessary two-thirds vote, this killed the possibility of favorable action by the Senate.

In the 103d Congress, the Senate narrowly defeated an amendment, which I cosponsored, by a vote of 63 to 47—4 votes short of the 67 votes needed for passage.

All the while, there has been considerable debate, various articles have been written in numerous publications, and editorials have appeared in countless newspapers. Many speeches have been made on the floor of the Senate, and I have made numerous speeches advocating the adoption of a constitutional amendment requiring a balanced budget.

Mr. President, I hope the time has come to finally adopt this long-overdue amendment and begin to move toward our goal of a balanced Federal budget.

Section 1 of the amendment requires a three-fifths vote of each House of Congress before the Federal Government can engage in deficit spending. A

60-percent vote in the Senate is a very difficult one to obtain. This requirement should establish the norm that spending will not exceed receipts in any fiscal year. If the Government is going to spend money, it should have the money on hand to pay its bills.

Section 2 of the amendment requires a three-fifths vote by both Houses of Congress to raise the national debt. In addition to the three-fifths vote, Congress must provide by law for an increase in public debt. As I understand it, this means presentment to the President, where the President has the right to veto or sign. If the President chose to veto the bill, it would be returned to Congress for action to possibly override the veto. It is also important to note that section 1, regarding the specific excess of outlays over receipts, contains this same requirement that Congress act by law.

Section 2 is important because it functions as an enforcement mechanism for the balanced budget amendment. While section 1 states outright that "Total outlays * * * shall not exceed total receipts" without the three-fifths authorization by Congress. Therefore, section 2 will require a three-fifths vote to increase the national debt. This provision will increase the pressure to comply with the directive of this proposed constitutional amendment.

In my judgment, section 2 puts teeth into the constitutional amendment. We have had many statutory enactments that say we are going to have a balanced budget. We have a procedure under this constitutional amendment that makes it more difficult to engage in deficit spending. This is a procedure by which, if there is an excess of outlays over receipts—and that means deficit spending during a fiscal year—we must approve that specific amount by a three-fifths vote of the whole membership of both Houses. That in and of itself is fine, but it is largely directory. It does not have an enforcement procedure. An enforcement procedure is provided by section 2 of the amendment, which is the public debt provision.

The public debt provision makes it more difficult for Congress to vote a deficit. It means that if we vote a deficit and fail to increase the public debt, then Government will come to a halt. If we do not increase the public debt, eventually, we run on a balanced budget.

Therefore, section 2 has the intention of making it more difficult. So I say it is not for the purpose of making it harder to pay our debts, it is to make it harder to go into deficit spending and to give an enforcement procedure—a process, a mechanism that is so important because it is not just words that we could pass by and ignore.

Other than just being directory, the amendment, by way of section 2, has some teeth and that is what is so important if we are going to do away with deficit spending and operate so that we do not spend any more money than the amount coming into the Government. That is what we are trying to achieve here.

Section 3 provides for the submission by the President of a balanced budget to Congress. This section reflects the belief that sound fiscal planning should be a shared governmental responsibility by the President as well as the Congress.

Section 4 of the amendment requires a majority vote of the whole number of each House of Congress any time Congress votes to increase revenues. This holds public officials responsible, and puts elected officials on record for any tax increase which may be necessary to support Federal spending.

Section 5 of the amendment permits a waiver of the provision for any fiscal year in which a declaration of war is in effect. This section also contains a provision long-supported by myself—that of allowing a waiver in cases of less than an outright declaration of war—where the United States is engaged in military conflict which causes an imminent and serious threat to national security, and is so declared by a joint resolution, which becomes law. Under this scenario, a majority of the whole number of each House of Congress may waive the requirements of a balanced budget amendment.

I firmly believe that Congress should have the option to waive the requirement for a balanced budget in cases of less than an outright declaration of war. Looking back over the history of our Nation, we find that we have had only five declared wars: The War of 1812, the Mexican War, the Spanish-American War, the First World War, and the Second World War.

The most recent encounters of the United States in armed conflict with enemies have been, of course, undeclared wars. We fought the gulf war without a declaration of war. In addition, we fought both the Vietnam and Korean actions without declarations of war.

This country can be faced with military emergencies which threaten our national security, without a formal declaration of war being in effect. Circumstances may arise in which Congress may need to spend significant amounts on national defense without a declaration of war. Congress and the President must be given the necessary flexibility to respond rapidly when a military emergency arises.

In the future, there could be a war like the Vietnam war—which went on for 11 years. Without a waiver for situations regarding less than an outright declaration of war, each year you would have to waive the constitutional amendment pertaining to a balanced budget by a three-fifths vote. We might look back and we would see that the vote to withdraw the troops from Vietnam carried by only eight votes. The difference between a majority and a three-fifths vote is a difference between 51 and 60, which is 9 votes.

As I previously stated, the United States has engaged in only five declared wars, yet the United States has engaged in hostilities abroad which required no less commitment of human lives or American resources than declared wars. In fact, our Nation has been involved in approximately 200 instances in which the United States has used military forces abroad in situations of conflict. Not all of these would move Congress to seek a waiver of the requirement of a balanced budget, but Congress should have the constitutional flexibility to provide for our Nation's security.

Twice since the end of the Second World War, first in Korea and then in Indochina, this Nation has been heavily engaged in armed conflicts abroad. In other instances, American troops have been sent to foreign countries in times of crisis—Lebanon in 1958, and the Dominican Republic in 1965. Other critical situations, including the confrontation in the Formosa Straits in 1955, and the Cuban Missile Crisis in 1962, have been met by use of American military forces.

I think it is wise to look at some of the other instances in which we have had undeclared war and to see how serious they were. During 1914 to 1917, a time of revolution in Mexico, there were at least two major armed actions by United States forces in Mexico. The hostilities included the capture of Vera Cruz and Pershing's subsequent expedition into northern Mexico.

In 1918, Marines landed at Vladivostok in June and July to protect the American consulate. The United States landed 7,000 troops which remained until January 29, as part of an allied occupation force. In September 1918, American troops joined the allied intervention force at Archangel and suffered some 500 casualties.

In 1927, fighting at Shanghai caused American naval forces and Marine forces to be increased. In March 1927, a naval guard was stationed at the American consulate at Nanking after national forces captured the city. A United States and British warship fired on Chinese soldiers to protect the escape of Americans and other foreigners. By the end of 1927, the United States had 44 naval vessels in Chinese waters, and 5,670 men ashore.

When a pro-Nasser coup took place in Iraq in January 1958, the President of Lebanon sent an urgent plea for assistance to President Eisenhower, saying Lebanon was threatened by both internal rebellion and indirect aggression. President Eisenhower responded by sending 5,000 marines to Beirut to protect American lives and help the Lebanese maintain their independence. This force was gradually increased to 14,000 soldiers and marines who occupied strategic positions throughout the country.

The most recent military involvement of the United States in an undeclared war is, of course, the Persian Gulf war. Although the actual gulf war lasted just over a month, this country had a peak strength of 541,000 troops. In addition, the Department of Defense estimates the cost of operation Desert Storm at $47 billion.

We should recall the circumstances which occurred on January 12, 1991, when the Senate, agreeing with the House, voted by a slim margin of 52-47 to approve the use of force to stop Iraqi aggression against the State of Kuwait. This slim margin illustrates how difficult it would be without such a provision, to achieve the needed 60 votes to take a budget into deficit posture in order to finance the gulf war. Thus, circumstances may arise in which Congress may need to spend significant amounts on national defense without a declaration of war. Congress and the President must be given the necessary flexibility to respond rapidly when a military emergency arises.

Section 6 of the amendment permits Congress to rely on estimates of outlays and receipts in the implementation and enforcement of the amendment by appropriate legislation.

Section 7 of the amendment provides that total receipts shall include all receipts of the United States except those derived from borrowing. In addition, total outlays shall include all outlays of the United States except those for repayment of debt principal. This section is intended to better define the relevant amounts that must be balanced.

Mr. President, the future of our Nation's economy is not a partisan issue, which was proven with the recent vote of the House. Furthermore, the problem of deficit spending cannot be blamed on one branch of Government or one political party. Similarly, just as everyone must share part of the blame for our economic ills, everyone must be united in acting to attack the growing problem of deficit spending. I recognize that a balanced budget amendment will not cure our economic problems overnight, but it will act to change the course of our future and lead to responsible fiscal management by our national Government.

Mr. President, I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I thank the Chair. I will not be long.

I come here this afternoon to speak in favor of the balanced budget amendment. This is not a surprise to my colleagues. I have been in support of a balanced budget amendment now for quite some time. I wish to add my voice to the voices in support of those who have up to this point indicated their support for the balanced budget amendment.

I would like to give one or two arguments that I believe are very important as we consider this very important amendment to our Constitution.

There is no question that we should not amend our Constitution very often and unless the reason is very, very important. We have only had 27 amendments to our Constitution over our history, so when we consider an amendment to our Constitution we clearly have to consider whether or not that amendment is of great importance. If it is not, we should not amend the Constitution.

In this case, we have to ask ourselves whether or not financial responsibility, however it is defined, is a very important measurement and indicator of how our country is functioning at the Federal level and whether those who are entrusted with the responsibility of presiding over the Federal Government have a responsibility to be financially responsible.

I think the answer is clearly yes. I do not think any of us, whether we favor or oppose the balanced budget amendment, would argue that we have a responsibility to exercise control and good judgment over our Nation's finances.

In my opinion, one need not look very far back in our history to conclude that enough time has gone by during which time we have not exercised financial responsibility to argue very strongly of the need for the balanced budget amendment.

Let us not forget that from 1789 to 1978, we had accumulated a total of less than $1 trillion of debt. In all the years, almost 200 years of history, our country had accumulated less than $1 trillion of debt.

In the 16 or 17 years since then, we have gone from less than $1 trillion to almost $5 trillion. I do not think anybody in the Senate would argue that the past 16 or 17 years is an indicator of financial responsibility; that there is no need to pass a balanced budget amendment because the Congress and the administrative branch of Government have been acting in a responsible way.

I do not think that argument can be made. In fact, any economist who would look at our present level of debt, which is about two-thirds to 70 percent of our gross national product, would argue that this is a very unhealthy and dangerous level of debt for our country to be in. So in terms of our history over the past 15 years, 17 years, there is no indication that we are prepared to exercise financial responsibility absent something more than what we have on the books now, which is basically nothing, by way of constraint.

I do not think any of us would argue that we are not in the process now of leaving to our children an enormous debt which will cloud their lives, make their lives less happy, make them less able to take care of their needs and their generation. We are head over heels in the process of adding to the debt and providing to our children that kind of a yoke around their neck. We should not do it. We are not able to stop ourselves. And so I think that argues for the need for a balanced budget amendment.

Oh, yes, there are those who say, "Well, look at what we have done over the past several years." I voted for the budget that is now in the process of reducing our debt. But we all know it is a quick fix or a short fix. We all know that what we voted for is not going to bring down our deficit to a proper level, not even going to bring us within hailing distance of a balanced budget in the foreseeable future and that, indeed, after these 3 years of reducing the Federal deficit, our deficit is going to start to increase in the outyears.

There is nobody suggesting we are prepared to make the hard decisions that will be required to bring what will be an increasing deficit into balance without something more than what we have on the books now, which is basically nothing, by way of restraint.

So I think it is clear that we have demonstrated we need more on the books, more restraint, more legal mechanisms, and, if you will, a constitutional amendment for a balanced budget.

Now, there are those who say, "But this amendment is draconian. This amendment is something that will tie our hands. This amendment that we are considering right now, although it does lay on the books in the Constitution a requirement to balance the budget"—and that is a good idea in concept—"we do not like."

That is fine. Let us come down here now and try to change that amendment. Let us come down here now and try to improve that amendment.

There are those who say we have to get Social Security out of that constitutional amendment consideration. I agree. And I support that. So let us see if we can argue it through and get to an elimination of Social Security as part of this constitutional amendment to balance the budget.

There are those who say we need some provision for capital outlays every year, that States that have balanced budget requirements in their constitutions have a provision for capital outlays. So, fine, let us work to get that in this constitutional amendment.

There are those who say that we should not be required to balance our budget every year, that that would not be a smart economic move. Fine. Let us see if we cannot get, instead of the 60-vote requirement, which does exist in this constitutional amendment, which would allow us to unbalance the budget in any year for any reason if we can muster a 60-percent vote in either House of the Congress—to those who say that is draconian, let us try to amend that to 55 percent, 51 percent of the vote.

If you do not believe in that, if you do not believe in coming down here to try to amend this amendment to the Constitution so that it more nearly conforms to what your ideas of what the balanced budget should look like, if you do not want to even argue that, then I would conclude that you do not want a balanced budget; that you do not believe in balanced budgets; that you do not believe we have a responsibility in normal years to balance our books.

If you do not believe that, then you ought to come down and say, well, that is the way I would argue it and this is the way, and maybe you can convince us and the American public that you are right.

I do not think it is fair to say, "I believe in balancing our books but I do not believe in a balanced budget amendment, regardless of what it looks like."

That to me is a specious argument, and I think it deserves to be pointed out. I think those people who believe that we should not have an amendment to balance this country's books should come down and really say why. If the fact is they do not like this amendment, I would like to see how they would tailor an amendment they could accept to the concept that we have a responsibility to balance the books of this country, if not every 1 year, every 3 years.

Bring that to the floor of the Senate and let us argue that. But do not say, "I believe in a balanced budget, but I do not believe in a balanced budget amendment." To me that is a very difficult argument to make.

So I come down here to lend my support to those who believe we need to have an amendment to see that we exercise financial responsibility in the Congress. I look forward to this debate. I know it will be vigorous. It is very important. Undoubtedly, it will take more than just a few days, and it should take more than just a few days. I am looking forward to having that discussion with my colleagues.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Maine.

Ms. SNOWE. Mr. President, I rise in strong support of the legislation before us: a balanced budget amendment to the Constitution of the United States.

Mr. President, this year marks an important anniversary in our national history: the 50th anniversary of the end of World War II. But as we celebrate the victory of one struggle, this year we also mark the anniversary of a loss in another battle—one whose fiscal implications are almost as prophetic as the battles of 50 years ago.

But this anniversary is one that Congress has in fact marked each year since 1969—26 years of continually running budget deficits.

This is one of the longest losing streaks in Congressional history. It is a fiscal losing streak that every American citizen has had to pay for over the past generation.

But let us be sure of one thing—this debate is not about yesterday. It is not really even about today—1995. But it is most assuredly about America's future; it is about our children's future. As one American said when he was asked about his concern for our tomorrow, "Of course I am concerned about the future. It is where we will spend the rest of our lives."

Yet, tragically, we are squandering our future in spiralling debt—mortgaging our children's future down a vacuum of debt as we selfishly avoid the challenge of balancing our Federal budget.

Now we have another remarkable opportunity—an historic opportunity—to pass this amendment to the Constitution. I would like to commend our leader, Senator BOB DOLE, for bringing this legislation to the floor at such an early date.

I would also like to especially thank the sponsors of this bill—the Senator from Utah [Mr. HATCH], for providing exceptional leadership on this issue, and the Senator from Illinois [Mr. SIMON] for providing bipartisan support for this measure—as well as the Senator from Idaho [Mr. CRAIG] for his ongoing efforts on this critical amendment.

An early debate in this session of Congress is gratifying for many of us who have been working for more than a dozen years for a balanced budget amendment. We have already seen our efforts produce positive results—just recently, a requisite two-thirds majority in the other Chamber passed a resolution calling for a balanced budget amendment to the Constitution. The decision our colleagues made on that vote to pass this legislation for the first time, Mr. President, presents us with a renewed opportunity to act—and pass—this amendment in this Chamber, getting the requisite two-thirds majority.

We in Congress are at a precipice—a crossroads—in our relationship with the American people. We can either rise to the occasion and meet their expectations, or, we can merely do nothing and uphold the economic status quo.

Congress' focus on this measure comes after the American people cast resounding votes for change in November. By pulling the lever for action and progress, they also issued a call for an end to the economics-as-usual, an end to recurring deficits. An end to trillion-dollar debts and an end to fiscal irresponsibility and reckless spending.

In this debate, we have another opportunity to show the American people that, yes, we did listen to them, and we do get it.

And, perhaps most importantly, they voted to make Congress accountable for its actions. Thus far in this session we have taken great strides toward that responsibility. We passed legislation on congressional accountability, mandating Congress to abide by the same laws that we have passed onto the American people. And we passed legislation that will curb unfunded Federal mandates on State and local governments, which is presently being debated in the House of Representatives.

Now, we have the historic opportunity to send another message of accountability to the people by passing the balanced budget amendment. We will demonstrate our commitment to the American people. We will balance our budget, and put our Nation's fiscal house in order—permanently.

I am confident that this is the right thing to do: Every American family must balance their budget; they are not at liberty—as the Federal Government has been—to simply run annual household deficits. They play by the rules. They live by the rules. And Congress should not be living by any other standards.

For too long, we have spent without regard to our income, and in the process, we have squandered our children's future. How can we support the fiscal status-quo of increasing national debts and bequeath misery on the next generation of Americans?

We can begin a new regimen this year by facing up to our responsibilities. This is what accountability is all about. We must set our priorities within our income. We must stop borrowing against our children's future.

Without question, these will be difficult decisions, but we are not alone in facing these decisions. Nearly every State, every small business, every family, and every citizen faces similar choices each year in keeping spending under control.

I have seen firsthand the tough choices that must be made. For the past 8 years, my husband served as Governor of Maine. Like the Governors of 48 other States, he was required to balance our State's budget, irregardless of economic conditions or the State's financial status.

This means that Congress will have to make tough choices. But, with discipline these decisions are as possible as they are necessary. And lest anyone think that the States do not consider a balanced budget worthy of being a part of the U.S. Constitution, 49 States already require a balanced budget.

If accountability and discipline work at the State level, we can and should make it work at the Federal level. Congress should be able to confront the economic realities and challenges that 49 States—and every American—face as well. They have made the difficult choices even with declining revenues and a declining economy.

When we speak of interest payments, deficits, and the debt—we throw around numbers in the millions, billions and trillions. We paint a big picture that sometimes obscures the direct impact this issue has on each and every American family. We must now focus on exactly what these numbers mean in terms of people's daily lives.

There is little doubt that deficits and debt place a crippling burden on hardworking families in my home State of Maine and across our great land. An analysis compiled by the Concord Coalition, for example, suggests that the deficit takes an alarming toll in national productivity. In real terms for American families, increased productivity would mean an average American family income of $50,000 annually, instead of the current $35,000 a year. Lost income of $15,000 and untold costs, Mr. President: our constituents do not deserve this injustice.

How many children, I wonder, go without a proper education because of that missing $15,000?

How many couples or single parents forego proper, safe child care because of these numbers? How many Americans make difficult choices on health care coverage because they do not have these funds to provide coverage to their spouses or children?

Is this what has become of the American Dream when, by ignoring the deficit, we deny American families the opportunity to prosper financially, or survive economically?

But even more devastating for our workers looking for stable jobs with a good wage, the Federal deficit has had an alarming impact on our Nation's economic growth and job creation. The New York Federal Reserve Bank attributes a reduction in savings to the deficit, and says that in the 10 years from 1979 to 1989, this reduced growth in the gross national product and in personal income by 5 percent. This has a devastating effect on jobs in our Nation: 3.75 million jobs in 10 years—650,000 for every percentage point in the GNP—lost because of the deficit, according to a study by the Congressional Budget Office.

That is an astounding cost for our inaction that rests on the shoulders of every American worker.

Unfortunately, the statistics and examples of the burden our debt and deficit inflicts on each American continues to be staggering: Since 1980, our national debt has grown from $1 trillion to $4.7 trillion. This is expected to grow to $6.3 trillion by 1999—a 453-percent rate of growth since 1980. During the same timeframe, the annual interest we pay on our growing national debt has ballooned out of control, rising from $117 billion in 1982 to almost $300 billion in 1994 to $373 billion in 1999, or a 219-percent growth rate between 1982 and 1999. These numbers mean that in the next 5 years, the burden of this debt for every man, woman, and child in the United States will rise from $17,938 to $22,909—growing by about $5,000 in just 5 years. Just in 1½ years that per capita debt had increased by $1,300.

As the distinguished Senator from New Mexico [Mr. DOMENICI] has emphasized, our national debt represents the most unfair tax ever imposed. The Office of Management and Budget has already estimated that if we continue our current spending spree, future generations will be forced to suffer a tax rate of 82 percent in order to pay our bills. Those same generations have no say, no voice, and no vote.

But the prices of our inaction do not just come on an annual basis. Every day, we add $819 million of daily interest to the national debt.

One would think that, in the face of this track record that Congress would have mustered the courage long ago to meet the challenge of a balanced Federal budget, stopping short of an amendment. That is a major debate here as to whether or not we should have a constitutional amendment or a statutory approach.

It is interesting to note in the last 15 years in the Congress we have had seven opportunities to consider a constitutional amendment to balance the budget. Time and time again we heard from critics of such constitutional approach that we can do it, we do not need a constitutional amendment. All we need is to have the will and the courage and the discipline to make those choices. We have learned otherwise from that approach.

Mr. INHOFE. Will the Senator yield?

Ms. SNOWE. I will be happy to yield.

Mr. INHOFE. I thank the Senator from Maine for yielding, but I could not help thinking, when she was talking about what was going to happen to future generations, about people who keep coming up with this idea, saying, "Where are you going to cut?" And they try to single out all the programs to show that the individual who is trying to do this somehow lacks compassion. Yet, as the Senator pointed out, future generations, if we do not do something today and stay on the track where we are today, are going to have to pay for everything we are doing today.

If it gets down to a discussion of compassion, then why would we not be in a position to say that, if you really want to be compassionate, let us bite the bullet today? Let us do it.

I think the CBO and others have come up with the figures projecting out where we would be in the next 10 to 20 years if we do not make a change. If we do not pass something like this immediately, it gets down to a very personal basis. I have two grandchildren, ages 20 months and 21 months. It works out, if we do not do something and we continue on this trend that we have right now, that during their lifetimes they are going to have to pay 75 percent of their lifetime income just to service the debt.

So I guess I would ask the Senator from Maine if this is not really the most compassionate route to take, to go ahead, bite the bullet now and be responsible now?

Ms. SNOWE. Absolutely. I think the Senator makes an excellent point about that because clearly what we are doing is just deferring to future generations for payment of the bills. There is no doubt about it. I think the Senator from Oklahoma recognizes, having served in the House of Representatives over the years, as well, that it is institutionally incapable of making those decisions.

Ironically, the only time we had a lower deficit was back when we had the Gramm-Rudman-Hollings legislation. That was because that was a tool to force the Congress to meet certain targets. But I know that many times in which I have been engaged in deficit reduction efforts as a member of the House Budget Committee in the last Congress, and previously back in the mid-1980's, I offered specific budget cuts on the floor in conjunction with some of my colleagues so that we could reach a balanced budget statutorily. And on each and every occasion, we had people objecting to every cut. There was a reason. For one, we could not cut any program.

So there are always those who have to make some tough choices. But I think the American people can do it fairly and prudently, and to prioritize and decide. What can we afford or can the American people afford? I think the American people have lost confidence in this institution, in the fact that their hard-earned taxpayer dollars are being spent wisely, because we have never been forced to make any choices here other than to spend and spend and tax and tax.

As the Senator from Oklahoma will recall, in the last Congress, we provided specific line-item reductions in numerous programs that we offered as Republicans in the House Budget Committee, and with the support of the Senator and all other Republicans on the floor. Those specific line-item cuts were ignored. We ultimately got the largest tax increase in the history of this country. Ironically, the CBO just indicated that we will get lower-than-anticipated revenues from those tax increases.

Mr. INHOFE. If the Senator will yield further, she has hit upon something that is very significant; that is, we cannot do it any other way. We served together for 8 years in the House of Representatives, and she was there before that. And I am sure what was going on before. But we tried again and again to do it from a statutory perspective, and it did not work.

I am a little embarrassed to say that it was one of the Members of the House from the State of Oklahoma that challenged in the courts the Gramm-Rudman approach to balancing the budget, which was an excellent approach. It was ingenious. However, apparently it did cause the administration to infringe upon legislative powers and there was some constitutional problem with it.

But those same people who took that to court and were able to strike it down so that we did not have to comply with the targets are the ones who say we do not want a balanced budget amendment in the Constitution because that is our job to do it. I say yes. I agree in this case with those who object to it. It is our job to do it. But we have clearly demonstrated for 40 years that we are incapable of resisting the insatiable appetite to spend the money that we generate from future generations.

Ms. SNOWE. Mr. President, I say to the Senator that 25 years ago was the last time we had a balanced budget. The Senator from Oklahoma will probably agree that we are hearing today, "We will produce a 7-year budget to achieve the balanced budget amendment." We know it is a give-and-take process. But more than that, I say the burden of proof is on those opponents of the balanced budget amendment because the statutory approach has failed. They have had an opportunity, let us say, over the last 15 years, when they objected to a balanced budget amendment, to come up with a statutory approach. We have had statutory remedies, all of which have failed.

So now we are at the point of deciding the future of this country. Do we enact a constitutional amendment? There are those who will probably fundamentally disagree with having a balanced budget whatsoever. They disagree in principle. I happen not to. I think it is most important that we do it for the country, as the Senator does. But I think it is ignoring the choices that we are required to make. I think that this is the only way in which we are going to make those tough decisions on what exactly is affordable and acceptable to the American people.

Mr. INHOFE. Mr. President, if the Senator will yield further, I think it is a significant point to make that if it is not going to be done their way, it is not going to be done at all. I do not know of one person who goes out and campaigns for office and says: Elect me, because I want to increase your deficit. I honestly do not think they really want to increase the deficits. But there is the temptation to get these programs today, saying, "Well, there is nothing wrong with it. We are borrowing from ourselves." They do not stop to think and realize sometimes what they are doing to the future generations.

I would also ask the Senator if she might stop and think about how long we have been looking at this. There was a very outstanding Senator from Nebraska by the name of Carl Curtis, many years ago. In 1970, I was in the State senate in the State of Oklahoma. At that time, just to remind you how far we have come, I can remember that the National Taxpayers Union had an advertisement that they showed on television. They said: Do you really want to know how bad the debt in this country is? Mr. President, they said: If you want to know how bad the debt is, if you took $100 bills and stacked the $100 bills on top of each other, by the time it reached the height of the Empire State Building—that was a tall building in those days—it would be the amount of our debt, which is $400 billion. Now, look where it is today.

Back in 1972, this Senator from Nebraska, Carl Curtis, had a brilliant idea. He was the author of the Senate budget balancing amendment at that time. So he called me up one day. I was a State senator. He said, "INHOFE, if you would just try something new here. Let us break down the resistance in the U.S. Senate and in Congress, because these people up here live in their ivory towers, and they don't have a sense of what is going on at home." He said, "Why don't you present a budget balancing amendment out in the State of Oklahoma?" I said, "Well, that is an ingenious idea." His thought was that if he could get 38 States to do that, it would indicate there was grassroots support for a balanced budget amendment.

Keep in mind this is 1972. So in 1972, I introduced and got passed in the State of Oklahoma a ratifying resolution. And I remember that there was a guy named Anthony Kerrigan, a syndicated columnist, who wrote an article entitled "A Voice in the Wilderness." Way out in Oklahoma, there is a State senator that is going to figure out a way to balance the budget. Here it is now, a couple of decades later, and we still have not done it. But we found in that short period of time that there is such a ground swell for support, when you get closer to the people, that we are willing to do it. And we had commitments from 38 States in 1972 to ratify such a resolution.

Ms. SNOWE. Mr. President, I say to the Senator, look where we are today in terms of the level of debt since that period of time. The Senator mentioned that he was a State senator. I, too, was a State senator in the State of Maine. We had to balance our budgets. We have had to balance our budgets in some very difficult economic times regardless of the downturn in the economy, which certainly has been the case in New England and in the State of Maine, where we have had the most difficult downturn since the Depression. They have had to balance the budget. They made tough choices.

I know in the debate on the floor in the House of Representatives, the Senator will recall in the last Congress and back in 1992, Members of the House said, "How can we possibly and accurately estimate revenue projections? How can we estimate inflation rates or interest rates or unemployment rates?"

That is going to be a very difficult and taxing responsibility. That is what every State has to do in the country, and every local government, every business, and each family does, in the final analysis. They have to make those projections and they have to correct those projections. So they have made those choices. They do not live in fiscal fantasyland like we have here in Congress. I think the American people have recognized that, and that is why they are demanding this most important and fundamental change.

Mr. INHOFE. If the Senator will yield further, going back to our years as State senators—and probably the same thing was true in Maine as in Oklahoma—people yell and scream about it. They do not like it. There are members in the house and senate in Oklahoma who, every year, try to figure out ways to either inflate projections of income and revenues or minimize expenditures to circumvent this thing; yet, in the final analysis, they know that we have a type of sequestration that sets in. If they do not do it, they are going to have to bite the political bullet of all those people who have their programs cut by 1 or 2 percent, whatever it takes. And it works.

People in this body quite often talk about the States that have a balanced budget amendment. Look at the cities. I was mayor of the city of Tulsa—a major city—for three terms. In our charter, we had the same thing. There are always people on the city commission who want to circumvent that and somehow want to spend more money than comes in, but they have not been able to do it. For all those individuals who say this is different, the Federal Government should not be like States or should not be like the cities and the other subdivisions, they have yet to come up with any logical justification for that statement. If it works at the State level in almost all of the States and it works in almost every city charter, it would work in the Federal Government.

Ms. SNOWE. I think the Senator makes outstanding points, and I think we agree. What is more fundamental than providing fiscal order, especially for the future of this country, in making those kinds of choices, albeit difficult, but ones that are compelling and ones that need to be made? I thank the Senator for the points he has made.

In conclusion, Mr. President, might I just say, in terms of what we can expect for future deficits, it is disturbing to note the trend. The Congressional Budget Office, in fact, testified before the Senate Budget Committee recently and indicated that according to their recalculations, the deficit will increase by $25 billion over the next 5 years. So we can expect more debt over the next 5 years than we originally anticipated because of interest rates and, in fact, lower than anticipated revenue from the income tax increases and other tax increases of 1993. Between now and 2002 we will add a cumulative total of nearly $2 trillion to the existing debt if we make no changes in fiscal policy.

One further point. The CBO, in their testimony, indicated that, obviously, one of the positive benefits of a balanced budget would be to increase productivity because of less debt, but also, most importantly, increase the amount of personal savings in this country. And if you look at the testimony that was provided by Mr. Greenspan, that is clearly essential for the future, because the personal saving rate, in his words, has been running at its lowest level in nearly half a century. He said,

> If we were a high-saving nation, we might be in a position to better tolerate the Federal fiscal imbalance. But, as you can see in the chart, the Federal deficit has generally been absorbing half or more of the available domestic saving since the early 1980's.
>
> Looking back at the history of the past century or more, the record would suggest that nations ultimately must rely on their domestic savings to support domestic investment.

He went on to say,

> The challenge for the United States over the coming decade is clear. We must sustain higher levels of investment if we are to achieve a healthy increase in productivity and be strong and successful competitors in the international marketplace. To support that investment, we shall need to raise the level of domestic saving. Absent a rise in private saving, it will be necessary to eliminate the structural deficit in the Federal budget.

So that is what it is all about—making choices, increasing the standard of living, not only for the present but for future generations, by improving productivity, job creation, and finally, I should say, improving the way in which we approach our budgetary process.

There was some testimony presented to the Budget Committee by Mr. Fosler, President of the National Academy of Administrators, saying we should have performance-based budgeting. This is an idea whose time has come, is long overdue, and in fact was proposed at the beginning of this century. I hope we will take these creative and innovative approaches as we begin the historic debate on a constitutional amendment to balance the budget.

Let me close with words of hope for a brighter future for our entire Nation. As Winston Churchill said in the days of World War II: "This is not the end. This is not even the beginning of the end. But it is, perhaps, the end of the beginning."

I hope that will be the case, because if you say "no" to a constitutional amendment to balance the budget, you are saying "yes" to the economic status quo, "yes" to the continued levels of deficits of $200 to $300 billion. I assure you, that is not an answer the American people want to hear, and it is one they do not deserve to hear.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California [Mrs. FEINSTEIN] is recognized.

Mrs. FEINSTEIN. Mr. President, I voted for the Constitutional balanced budget amendment last year. I also voted for the Reid amendment to exempt Social Security last year. I want to state for the RECORD that I want to vote for a balanced budget amendment.

There are two reasons I want to vote for a balanced budget amendment. The first is my own life experience. The year I was born, 61 years ago, the entire Federal debt amounted to just $25 billion. When my daughter was born, the entire Federal debt amounted to about $225 billion. And 2 years ago, when my granddaughter, Eileen, was born, the entire Federal debt was 150 times greater than when I was born; it was nearly $4 trillion. My life experience shows me that, with business as usual, the Congress is not going to be able to balance a budget that, in 61 years, has gone from $25 billion to $4 trillion in debt.

So, in a nutshell, I want to support a strong balanced budget amendment. But I want to support the right balanced budget amendment.

In my first 2 years as U.S. Senator, I have had the opportunity to observe the standard operating procedure of the Senate—the budget, authorization, and appropriations processes—and I have become convinced that a balanced budget amendment is in order.

The American people are sitting on a debt time bomb. It jeopardizes the economic security of my daughter, my granddaughter, and even generations to come, because if it continues to be business as usual, the Nation's path is one toward bankruptcy and that, quite frankly, is not acceptable.

I have listened to a lot of arguments about why we should not require a balanced budget amendment to the Constitution. In theory, certain of these have a great deal of merit. But historical and present day practices often demonstrate the wide variation between theory and practice when it comes to dealing with the Federal budget.

In theory, the Government might run deficits in times of recession to stimulate the economy, or in war simply to pay its bills, and surpluses in times of prosperity because revenue increases and unemployment decreases. In fact, though, that has not happened.

In the last 35 years, the Federal Government has balanced its budget exactly twice—once in 1960, a surplus of $300 million, and again in 1969, a surplus of $3.2 billion.

In the last quarter of a century, the Federal Government has run up this $4 trillion in debt without once balancing the budget. And during this time, the Nation has experienced war and peace and economic booms and recessions. Yet, never was this Government able to balance the Federal budget, let alone run a surplus.

As mayor of San Francisco, I balanced nine budgets, and I know it is tough to do so. I support this amendment, and I support a line-item veto, because I know that failing to balance the budget is a choice that this Nation can no longer afford, for the reasons so stated.

FEDERAL SPENDING

Let us talk for a moment about two charts. These two charts are Federal outlay charts, and are very instructive. Mr. President, in 1969 military spending consumed 45 percent of our Federal outlays. In 1994, about 19 percent of our Federal outlays were military. So military spending has gone from almost one-half to just slightly under a quarter.

In 1969, entitlements—Medicare, Medicaid, Social Security, and AFDC—consumed about 27 percent of Federal outlays.

In 1994, they consumed almost 50 percent of Federal outlays. There is the rub. In 1969, interest on our debt consumed slightly less than 7 percent. In 1994, interest on the debt had doubled to nearly 14 percent of total outlays.

What is left? Non-defense discretionary spending—education, health, environment, Commerce, Interior, all those departments—in 1969 consumed 21 percent of Federal outlays. In 1994, 18 percent; actually down. Non-defense discretionary spending has gone down, military spending has gone down dramatically.

What has gone up? Interest on the debt and entitlements. There is the answer I believe to the "right to know." That is the road that lies before us. If we really want to make the budget balanced, those are the hard choices: What to do about interest on the debt—which today net interest consumes 40 percent of every person's tax dollar—and how do we control entitlements, Medicare, Medicaid, Social Security, and so on?

INTEREST ON THE DEBT

The Federal Government now spends $226 billion just on interest on its nearly $5 trillion debt. Our interest payments alone are $59 billion greater than the projected deficit of $176 billion for the year 1995. This means that if we did not have to service the debt, there would be no deficit this year. If we did not have to service our debt, there would be no deficit. As a matter of fact, there would be a small budget surplus. That is the irony of the problem that we have.

So if current policy continues, the CBO estimates that net interest payments will reach $387 billion by the year 2004, or roughly 58 percent of the amount that is expected to be spent on all discretionary programs, $669 billion will go by the year 2004 just to pay for interest on the debt. That is not for Commerce. That is not for Interior. That is not for an education program. That is not for a health program. That will not purchase a tank or an aircraft carrier or a battleship. It will be just to service the debt.

Today, every dollar in personal income taxes collected west of the Mississippi is used to pay for nothing more than interest. And that is the sad story, because the interest on the debt is growing and we need to stop it.

So what has 35 years of accumulated deficits meant on our committee? According to a study by the New York Federal Reserve Board, the low national savings rate, now under 3 percent—and it is the lowest of any major industrialized power—is mostly attributable to large Federal deficits. And it has resulted in a net loss of 5 percent of national income during the 1980's. That impacts interest rates, it impacts jobs, it impacts the ability to buy a home, a car, to afford an education. It impacts the job base. It impacts everything we do every day in our life.

And as it gets worse, I think what the Senator from Maine was saying is it impacts our children's destinies and our grandchildren's destinies as well.

So for all of these reasons—and I want my chairman on the Judiciary Committee to understand this—I want to vote for a balanced budget amendment because I do not believe we can make the hard choices without it.

SOCIAL SECURITY AMENDMENT

Now, I do not think Congress should push through just any amendment, no matter what. It has to be an amendment which balances the budget wisely and honestly.

And that is the rub for me. This is where we come to Social Security. Let me be frank. I do not want to speak in detail now because we will go into this later.

I consider the greatest flaw in the amendment that we have before us is the fact that it places moneys placed in reserve through the FICA tax to pay for retirements in the future on budget. I believe that is not an honest way to balance the budget.

This amendment puts Social Security on budget. It reverses congressional action and it undermines the integrity of the Social Security system.

Now between its creation in 1935 and 1969, Social Security was always off budget. Then in an attempt to cover the cost of the Vietnam war and to mask the growing deficit, Social Security was put on budget by Congress. This was a misuse of the Social Security trust fund.

In 1990, 2 years before I came to this place, the Congress saw that and they put an end to it. They declared as follows:

> Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purpose of:
>
> (1) the budget of the United States Government as submitted by the President,
>
> (2) the congressional budget, or
>
> (3) the Balanced Budget and Emergency Deficit Control Act of 1985.

In this body, that vote was 98 to 2. So clearly, Members said we must not use Social Security revenues held in trust for retirement to balance the budget. And, boom, the right thing was done and it was taken off budget.

What this amendment does is put Social Security back on budget again.

It would overturn both the historical treatment of Social Security and Congress' recent decision to affirm the off-budget status of Social Security. Worse, it would allow the misuse of Social Security funds to continue.

The important point is, Congress has already debated this. They have taken it off budget. It is not a loophole. This amendment is not meant to be an escape hatch.

I know that there is a bill at the desk called S. 290. I reviewed it. That bill is flawed because it deals with benefits. It does not deal with the moneys that are taken from the FICA tax paid by employees and employers and held in trust for retirees.

Now, even without this balanced budget amendment, just for one short moment let us look at what happens with Social Security now off budget.

Here we are today in 1995. Social Security is generating surpluses.

As a matter of fact, Social Security will generate these surpluses, up to the year 2002. In 1995, $69 billion; 1996, $142 billion. It climbs and it climbs. In 1999, it is $394 billion. It goes up to $705 billion of surpluses from the FICA tax held in trust to pay retirements for the baby boomer generation that is now, alas, beginning to retire.

What happens? What happens is this: There is $3 trillion by the year 2015 in Social Security surpluses. Then they plunge. They go down to the year 2030, $700 billion negative. Negative. Now, here is the rub with this amendment. It takes all of these revenues and it puts them on budget. So these revenues are used to balance the budget.

The way to avoid $705 billion in 2002 when this becomes relevant is to create a surplus of $705 billion. Nobody here believes we will be able to create a surplus of $705 billion to protect Social Security.

So what is the answer? The answer is, in an honest amendment, take it off budget. Do not allow those revenues to be used.

Now, I would like to have printed in the RECORD a letter I received today from Martha McSteen, the president of the National Committee to Preserve Social Security and Medicare. She says:

> I am writing with regard to S. 290, introduced recently by Senators Kempthorne, Dole, Thompson and Inhofe. The fact that the sponsors of S. 290 believe that it is necessary to take action to protect Social Security under a balanced budget amendment is, in my view, proof that it is imperative that the Senate adopt your amendment to exclude Social Security from the balanced budget amendment.

The pending balanced budget amendment reverses the 1990 law removing Social Security from a consolidated budget and put Social Security back on budget as part of the Constitution. This represents a serious problem for Social Security which cannot be addressed by S. 290 or any statutory measure. Sponsors of S. 290 cannot bind future Congresses to their legislation or, for that matter, ensure that this Congress will not modify or overturn this legislation while Social Security would remain on budget as part of the Constitution.

I also note that while S. 290 attempts to prohibit Congress from increasing Social Security revenues or reducing benefits to balance the budget, it will allow Congress to continue using the surplus in the Social Security trust fund to conceal the deficit. This only confirms our understanding that the proponents of the balanced budget amendment intend to continue this budgetary charade, thereby avoiding balancing the budget well into the next century.

I ask unanimous consent that the letter in its entirety be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, February 1, 1995.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: I am writing with regard to S. 290, introduced recently by Senators Kempthorne, Dole, Thompson and Inhofe. The fact that the sponsors of S. 290 believe that it is necessary to take action to protect Social Security under a balanced budget amendment is, in my view, proof that it is imperative that the Senate adopt your amendment to exclude Social Security from the balanced budget amendment.

The pending balanced budget amendment reverses the 1990 law removing Social Security from a consolidated budget and puts Social Security back on budget as part of the Constitution. This presents serious problems for Social Security which cannot be addressed by S. 290 or any statutory measure. The sponsors of S. 290 cannot bind future Congresses to their legislation, or for that matter ensure that this Congress will not modify or overturn this legislation while Social Security would remain on budget as part of the Constitution. I also note that while S. 290 attempts to prohibit Congress from increasing Social Security revenues or reducing benefits to balance the budget, it will allow Congress to continue using the surplus in the Social Security trust funds to conceal the deficit. This only confirms our understanding that the proponents of the balanced budget amendment intend to continue this budgetary charade thereby avoiding balancing the budget until well into the next century.

The nearly six million members and supporters of the National Committee to Preserve Social Security and Medicare strongly oppose this practice of using the surplus generated by the Social Security payroll tax to fund deficit reduction or mask the true size of the general fund deficit.

Let's not forget that the continued borrowing from the Social Security trust funds will only create huge debts for the next generation which will be forced to redeem the bonds through massive tax increases.

The only way for proponents of the balanced budget amendment to live up to the many promises not to harm or undermine Social Security is to explicitly exclude it from the text of S.J. Res. 1.

Sincerely,

MARTHA A. MCSTEEN,
President.

Mrs. FEINSTEIN. Mr. President, I earnestly implore my committee chairman, the key is simply to exclude the revenues from balancing the budget in an amendment to this amendment, and that would be presented next week. I believe it is the only way to have an honest amendment. I also believe that it makes sense.

There are 40 million people today on Social Security. By the time this amendment is ratified and the first balanced budget is prepared, there will be 50 million Americans on Social Security.

Young people working today can expect that the money will not be there to pay for their retirement, and yet they are paying FICA taxes. That is not right. They should not have to pay if the money is not going to be there. If the money is used to balance the budget, it just brings the crunch to Social Security that much sooner. I do not think that that should be a byproduct of a balanced budget amendment. More fundamentally, I believe it is a flaw that will cause its nonratification by enough States to make it the law of the land.

The bottom line is if we are going to have monetary policy in the Constitution, it is fitting, just as there are technicalities in other amendments on double jeopardy and that kind of thing, that there be an amendment which simply exempts the revenues from the trust funds that hold the FICA taxes.

As I said yesterday, absent that amendment, I cannot vote for a balanced budget amendment. With that amendment, I can vote for a balanced budget amendment.

Mr. HATCH. Will the Senator yield?

Mrs. FEINSTEIN. Mr. President, I yield.

Mr. HATCH. Mr. President, I personally understand what the distinguished Senator from California is saying and trying to do.

Keep in mind that although that curve goes up and down, in the year 2030, it starts going into a deficit. If the balanced budget amendment is in play, it will not be allowed to go into the deficit. It is one way we can protect Social Security.

Under the Senator's approach, it would go into the deficit. The only way to protect it is to increase taxes. Now, under the Senator's approach, there is no limitation on increasing taxes on Social Security. They can just go up every year. There is no way to stop it. With a balanced budget amendment, when that heads into deficit, we have to balance that account.

Now, I might also mention that the distinguished Senator knows that every penny of surplus of Social Security is being used to buy Government instruments now. Every nickel of that so-called surplus is being used to buy Government instruments; in other words, pieces of paper that say the U.S. Government owes the Social Security fund so much money. By the year 2030, it goes into deep deficit. The Senator is absolutely right on that. The balanced budget amendment forbids it from doing that because we cannot allow it to go into deficit.

The fact of the matter is that during this whole time, while that curve goes up and then down, all of that money is gone anyway, because they have purchased Government bonds, which if we do not get spending under control and if we do not get this economy under control, which only a balanced budget amendment can do, none of that surplus is going to be there when we need it, anyway. That is why we have to have a balanced budget amendment.

Now, I have listened to my dear friend and colleague from California. She said she wants to support a balanced budget amendment. I do, too. If I had the sole authority to write this amendment, it would undoubtedly be different. I did not have that luxury. Neither does my friend from California. As much as the Senator is sincere in trying to protect Social Security this way, she is not protecting it. If I had the sole authority, I would write it differently. I think the Senator from California would, also.

Let me just end this one thought. We have worked on this for 12 years—Democrats, Republicans, liberals, conservatives, moderates, people from all over the country. This is it. This is the best we can do. It is good. It is not perfect; nobody claims that it is. But it is as near perfect as we can get it, with the many varying viewpoints and differences that divide Members on both sides of this Capitol Hill and in both parties. So this is it.

If we do not pass this balanced budget amendment, then all the sincerity in the world that the distinguished Senator from California has in trying to protect the Social Security trust fund—and I am with her on that, and I will do everything in my power to help her throughout her whole Senate career to get there—everything she is arguing for will go down the drain for sure.

Because interest rates are going to go higher, the debt is going to get bigger, our children's future is going to be mortgaged away, and we are all going to wind up without the funds anyway because there will not be any way the Government can pay the instruments of debt that it is signing everyday on Social Security.

So I urge my colleague to really think this through because it is going to take both sides of the floor to really save Social Security from what really is a voracious Federal Government, a powerseeking monster that does not seem to care what the future is all about.

If we do not take this and seize this one opportunity to put through this bipartisan consensus amendment, which both Democrats and Republicans have worked on, and we let this go, I guarantee you—I guarantee you—that if we ever put through another one, it will be a lot tougher and a lot worse than this one, in the eyes of most people from the more liberal persuasion.

That is, if we get one at all, and if we do not get a balanced budget amendment at all, there will be no fiscal mechanism to force us to make priority choices among competing programs. I am willing to continue this dialog with my friend because I value her viewpoint, I value her, the distinguished Senator from California.

I know the sincerity that she has on this, and I know what she is trying to do. I am there with the Senator, but we will never get there without a mechanism called a balanced budget amendment in the Constitution. We all know it. I do not think anybody doubts it.

The fact of the matter is, this is it. There is nothing we can do to make it any better and keep the very close votes that we have to have to pass it. I might add, the distinguished Senator from California is a critical vote in this matter. We value that vote. Even though the Reid amendment went down last time, the distinguished Senator from California voted with us because it was the best we could do.

I have to say, as a Senator from Utah and as somebody who has worked on this for years who really, really, really has given everything he has to try and get this done, that I wish it could be otherwise. I wish we could solve every problem there is, but there is no way we can do it in this context, there is no way we can do it in this Congress. But we can move ahead by solving a lot of the problems and, I think, in the process protect Social Security better than it is protected today because we will be protecting the economy which, after all, is what Social Security depends upon.

If we reach a point where the debt has to be monetized, where we use cheap and worthless dollars to pay off the debt to get it off our backs, and inflation shoots up dramatically, which it will, 250-percent-plus range and we become like most of the Third World countries that are presently going through those problems, where is Social Security going to be at that time? Where are our seniors going to be? Where are the young people going to be? Where is the future?

The greatest country in the world is going to go down because we do not have the fortitude and the strength of mind and presence of mind and the guts to do the only thing that we can do right now. Look, there are people on my side who feel like killing because they are not getting a three-fifths vote requisite to increase taxes. They are just beside themselves. We saw 252 of them over in the House just beside themselves. I told them at the beginning of this Congress there is no way they can get more than 260 votes over there. We certainly do not have the votes here unless somebody tries to manipulate others, who do not want the amendment anyway, into voting that way.

(Mr. THOMPSON assumed the Chair.)

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. HATCH. Yes.

Mr. GRAMM. Mr. President, the Senator does not control the floor.

Mr. HATCH. The Senator from California controls the floor. I am trying to make this one point: I know what the Senator is trying to do. I appreciate it. I want to help her, and I will help her all the time that I am here in the Senate because I do not want to see the Social Security trust fund compromised in any way. I believe everybody on this side will help her. But if her point of view becomes—well, it will not become because there is no way we will have a balanced budget amendment if she insists that this has to be there and enough people do that we do not have the votes, there is no way we can have a balanced budget amendment.

But if her point of view becomes the law, then come the year 2028, 2029, 2030, we are going to be in a tremendous deficit, that is if we make it that far. In the interim time, of course, our debts are going to mount up, our interest rates will go off the charts, our economy is going to go bust and all those debt instruments that are supposed to pay this surplus to help people on Social Security are going to default, or else—we would never let them default—they would be paid by cheap dollars, by dollars that are worthless and people on Social Security will not be able to buy the food, clothing, the shelter that they need under those circumstances.

So the best thing we can do right now, if we are really concerned about it, is pass a balanced budget amendment, get this mechanism in place, make us make priority choices among competing programs, have us live within our means, and keep this trust fund strong and keep Social Security strong well into the next century and beyond the year 2030.

I wanted to make those points. I am willing to work with the Senator from California. I am willing to line up with her and try and help solve these problems. It is just there is so much we can do on this balanced budget amendment. This is it. It depends on the good faith of all of us here whether we are going to pass it or whether we are not going to pass it. I believe we will in the end, but it is going to take an awful lot of effort by all of us, and I suspect it is going to be a long, hard debate.

I hope the distinguished Senator from California will keep an open mind and work with us on it, and I promise I will try to help her in her goals and her desires to make sure this trust fund is protected for everybody in our society.

Mrs. FEINSTEIN. I thank the Senator.

Mr. JOHNSTON. Will the Senator from California yield for a question?

Mrs. FEINSTEIN. Yes.

Mr. JOHNSTON. Mr. President, we had a discussion yesterday on the floor about the authority of the courts with respect to a balanced budget amendment, whether they would have authority to enforce that, and the distinguished Senator, Senator HATCH, responded to that in part. I will have more to say about that later.

Mr. President, my question today has to do with the authority of the President with respect to the balanced budget amendment. I wonder if the Senator from California can tell me when the President, on Inauguration Day, raises his hand and swears to uphold the Constitution of the United States, which at that time, let us assume, includes this amendment, my question is, what authority or what duty does the President have under this amendment to balance the budget if the Congress, in fact, has not balanced that budget?

Mrs. FEINSTEIN. I cannot answer that with specificity, but it would seem to me that if Congress fails to balance the budget that the President would have some authority, and whether this automatically confers a line-item veto or whether we do it separately, it would seem to me that the President should be a player and a dominant player in being able to assure that the budget is balanced.

Mr. JOHNSTON. If the Senator assumes that this amendment gives to the President that line-item veto, I assume that the Senator also assumes that that power is without limitation; that is to say, if the President has the authority under this amendment to balance the budget if Congress has failed to do so, then the President can take whatever part of the budget he wants and impound it without limitation. He can impound Star Wars, he can impound Social Security, he can impound railroad retirement, or any part to any degree of the Federal budget. Would the Senator agree with me on that?

Mrs. FEINSTEIN. Not necessarily, I say to the distinguished Senator from Louisiana.

If I might refer this to the chairman of the Judiciary Committee, I think it would be most interesting to have his response to this question.

Mr. HATCH. I am sorry; I was not listening.

Mr. JOHNSTON. Yes. The question I had, Mr. President, was to what extent does the President of the United States have a duty or authority under the Constitution, which he is sworn to uphold, to balance this budget if the Congress has failed to do so?

Mr. HATCH. Well, every President has a duty to do his best or her best, to try to bring our fiscal house into order. But for the last 26 years no President has been able to really submit a balanced budget to the Congress. They may have once or twice.

Mr. JOHNSTON. What I really have in mind is what is the limit of the President's impoundment authority under this amendment?

Mr. HATCH. He has no authority at this point.

Mr. JOHNSTON. Under this amendment, if this amendment passes?

Mr. HATCH. That is right. Do you mean under the balanced budget amendment?

Mr. JOHNSTON. If this constitutional amendment passes and becomes the law of the land and the President takes the oath to uphold this Constitution——

Mr. HATCH. There would be no impoundment authority under this balanced budget amendment. Under Senate Joint Resolution 1, or House Joint Resolution 1, there is nothing in either amendment, either the House or the Senate version—and they are both identical except for one comma——

Mr. DODD. Will the Senator yield?

Mr. GRAMM. I ask for the regular order.

Mr. HATCH. Under either version, there is no right to impound. It is not the intention of this amendment to grant the President any impoundment authority.

The PRESIDING OFFICER. The regular order is that the Senator from California has the floor.

Mr. HATCH. As I understand it——

The PRESIDING OFFICER. And may only yield for a question.

Mr. HATCH. As I understand it, she wanted me to answer these questions.

Mrs. FEINSTEIN. That is right.

The PRESIDING OFFICER. That would take unanimous consent.

Does the Senator yield?

Mrs. FEINSTEIN. Yes, I yield.

Mr. JOHNSTON. Mr. President, I would like to pose the question.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Then let whoever wishes answer it. I think it is a very serious question. And I do not think it is answered by the terms of the amendment or by the legislative history here. After all, we have a Budget Control and Impoundment Act, but this is the Constitution we are expounding. I think it is at least arguable, if not persuasive, that this constitutional amendment would overrule that Budget Control and Impoundment Act and would return us to the days of President Nixon where he felt that he had the inherent power to impound. Indeed, he might feel as if he had the inherent duty to impound. I think we better find the answer to that and, if it is not clear under the amendment, make it clear.

I might say to my friend from California that I propose later on to make it clear what the authority of the courts is by an amendment which I am working on, and I would like to also make it clear what the power of the President is. These are fundamental constitutional questions with overriding importance to the country, and before we pass a constitutional amendment we need to know whether it is enforceable and, if so, by whom.

So I hope the Senator will work with us and will withhold some judgment. Assuming she can get her Social Security issue successfully solved, I hope she will also understand the gravity of the question of enforceability and the absolute necessity to clear up what is an overhanging ambiguity in this amendment. It is an ambiguity so great that it is almost impossible to fly through that fog, and I hope she will work with us in trying to get that cleared up.

Mr. HATCH. Will the Senator yield?

Mrs. FEINSTEIN. I thank the Senator. I do yield.

Mr. GRAMM. Mr. President, I must raise a point of order. Under the rules of the Senate, you cannot yield for comments. You cannot yield through the person who holds the floor for someone else to ask questions. We have people who are waiting to speak. We have an order under which they speak. And I think if people want to speak, they should wait, be recognized, make their point, raise these profound questions about what happens if we do not do what the American people want us to do. The debate here is about how we do what the American people want us to do.

The PRESIDING OFFICER. The Chair is going to enforce the rules of the debate. The Senator may only yield for a question.

Mr. HATCH. May I ask a question——

The PRESIDING OFFICER. The Senator from California.

Mr. HATCH. Of the Senator from California. Then I will bring this to a close.

Mrs. FEINSTEIN. Absolutely.

Mr. HATCH. The question I have is would the Senator like me at this point to answer the question of the Senator from Louisiana?

Mrs. FEINSTEIN. That would be helpful.

Mr. HATCH. Mr. President, I wish to respond to the impoundment argument that Senator JOHNSTON has just raised. In each of the years the balanced budget amendment has been debated, I have noticed that one specious argument is presented as a scare tactic by the opponents of the amendment. This year the vampire rising from the grave is Presidential impoundment. Supposedly, a President, doing his best Charles I of England impersonation, when faced with the possibility of budgetary shortfalls after ratification of the balanced budget amendment, will somehow have the constitutional authority—nay duty—to arbitrarily cut social spending programs or even raise taxes. Well, Charles Stuart literally lost his head when he claimed as a prerogative the powers of the Commons. So too, a President may not claim authority delegated by the Constitution to the people's Representatives. The law is our Cromwell that will prevent impoundment.

I want to emphasize that there is nothing in Senate Joint Resolution 1 that allows for impoundment. It is not the intent of the amendment to grant the President any impoundment authority under Senate Joint Resolution 1. In fact, there is a ripeness problem to any attempted impoundment: indeed up to the end of the fiscal year the President has nothing to impound because Congress in the amendment has the power to ameliorate any budget shortfalls or ratify or specify the amount of deficit spending that may occur in that fiscal year.

Moreover, under section 6 of the amendment, Congress must—and I emphasize "must"—mandate exactly what type of enforcement mechanism it wants, whether it be sequestration, rescission, or the establishment of a contingency fund. The President, as Chief Executive, is duty bound to enforce a particular requisite congressional scheme to the exclusion of impoundment. That the President must enforce a mandatory congressional budgetary measure has been the established law since the 19th century case of *Kendall* v. *United States ex rel. Stokes*, 37 U.S. (12 Pet.) 542 (1838). In Kendall, Congress had passed a private act ordering the Postmaster General to pay Kendall for services rendered. The Supreme Court rejected the argument that Kendall could not sue in mandamus because the Postmaster General was subject only to the orders of the President and not to the directives of Congress. The Court held that the President must enforce any mandated—as opposed to discretionary—congressional spending measure pursuant to his duty to faithfully execute the law pursuant to Article II, section 3 of the Constitution. The Kendall case was given new vitality in the 1970's, when lower Federal courts, as a matter of statutory construction, rejected attempts by President Nixon to impound funds where Congress did not give the President discretion to withhold funding. E.g., *State Highway Commission* v. *Volpe*, 479 F.2d 1099 (8th Cir. 1973).

The position that section 6 implementing legislation would preclude Presidential impoundment was seconded by Attorney General Barr at the recent Judiciary Committee hearing on the balanced budget amendment. Testifying that the impoundment issue was in reality incomprehensible, General Barr concluded that "the whip hand is in Congress' hand, so to speak; under section 6 [the] Congress can provide the enforcement mechanism that the courts will defer to and that the President will be bound by."

What we have here then, is an argument based on a mere possibility. Under the mere possibility scenario of an impoundment we would have to include any possibility, however remote, in the amendment. The amendment would look like an insurance policy. Why place something in the Constitution that in all probability could never happen, especially if Congress could preclude impoundment by legislation?

Mrs. FEINSTEIN. I thank the Chair. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I am going to get to the issue of Social Security toward the end of my speech, but I think it is very interesting that the focal point of the debate here is what would happen if we did not do what the American people want us to do, after we have amended the Constitution to require that we do it. It seems to me that the focal point of debate ought to be how do we do what the American people have demanded in overwhelming numbers that we do. That is, how do we balance the Federal budget?

Mr. President, there are a lot of issues about which I wish to talk. I certainly want to speak about Social Security because one of the things that I believe many people watching this debate do not know is that because of a profound election result on November 8, if every Democratic Member of the Senate were to vote the way that Senator did when we voted on the balanced budget amendment to the Constitution the last time, we will adopt it—the House has already adopted it—it will go to the States; it will be ratified; and it will become the law of the land.

So it is of some profound importance when Senators who voted for this very amendment in the last Congress now raise a multitude of objections against the very amendment that they voted for in the last Congress when there was no chance of it being adopted, when we were not shooting with real bullets, because now we are in fact shooting with real bullets and we have the opportunity to change the Constitution and to change the history of the United States of America.

Mr. President, I wish to begin by pointing out that, while I am sure there are a lot of people who believe this debate on the balanced budget amendment to the Constitution is driven by the tax and spend history of our country in the last 40 years, a history of runaway Government spending, of the explosion in growth of the Federal Government, of an explosion in the tax burden, in reality we are engaged today in an old debate and not a new debate.

In fact, no less of an authority than Thomas Jefferson, when he first saw the Constitution, raised his concern about the absence of a provision which in essence is the provision that we are debating today. If some of you will remember, Thomas Jefferson was the Minister to France when the Constitution was written, and he is one of our Founding Fathers who did not attend the Constitutional Convention.

When Jefferson had an opportunity to read the Constitution and to understand its provisions, he talked in a letter about one change that he would like to make. Some of us are familiar with this quote, but many engaged in the debate are not, and I wish to read it. Here is what Jefferson wrote:

> I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of its Constitution. I mean an additional article taking from the government the power of borrowing.

So, Mr. President, there is no doubt that we are here today debating a balanced budget amendment to the Constitution because of the utter failure of the Congress and the President, Democratic Presidents and Republican Presidents, primarily Democratic Congresses, but both to get the job done. But this is not a new debate. Thomas Jefferson recognized at the beginning of the Republic that it was desirable to put into the Constitution a limit on the ability of government to borrow money, and in a sense we are correcting a problem in the Constitution that Jefferson recognized from the beginning.

While I am on the subject of Jefferson, it is important to note that we see each day, I believe, in the numbers that we look at on the deficit, a debate which Jefferson engaged in with John Adams. Jefferson and Adams were political enemies during their careers, but once they had retired they became close friends. They engaged in correspondence. And part of that correspondence has become famous as the Jefferson-Adams debate.

It is more than I will outline, but the essence of the debate was as follows. Adams, ever the pessimist, argued that people would discover that they could use Government to redistribute wealth and that once they made the discovery that Government power could be used to redistribute wealth, Adams argued that it would reward indolence, that it would impose a burden on productive behavior, and that democracy would fail.

Jefferson, ever the optimist, argued that people would make the discovery—they would discover that Government, through taxing and spending, could be manipulated by special interests and that it could be used to take the fruits of the labor from the laborer and give it to people who were not equally productive or who were more powerful politically. But Jefferson argued that the American people would always be so committed to broad-based opportunity that they would recognize that what the Government could take from someone else today and give to them, they could take from them and give to someone else tomorrow, and Americans would therefore reject Government as an instrument for redistributing wealth.

In a very real sense, today we are immersed in the Jefferson-Adams debate. While I believe that Jefferson is right, the debate as it is now structured is biased in favor of the Adams argument. Let me give a practical example.

I guess my first experience in budgetary politics was after I was elected to Congress in 1978 as a Democrat. In 1979 and 1980 the country got into trouble. We had 13.5 percent inflation, we had 21.5 percent interest rates under President Carter, and President Carter in 1980 withdrew his budget, in an extraordinary action, and he sent to the Congress, as best I can remember, about a $6 billion savings package. Most of the package was phony. Some of it supposedly saved money by spending money sooner rather than counting it in the future year. We have all seen that happen and some have practiced it. He also moved some spending to a future year. But there was $1 billion of real savings that he proposed by denying Government retirees a twice a year cost-of-living increase.

That saved $1 billion by giving Government retirees a once a year cost-of-living increase instead of a twice a year cost-of-living increase. At the time, 98 percent of all private retirees had no cost-of-living increase, but my purpose is not to debate the merits.

When we voted on the Carter budget revision, over 250 Members of Congress voted with the President to try to save the $1 billion. I was one of them. And then, when a conservative Republican, as it turned out, offered an amendment to force us to vote straight up or down on the twice a year cost-of-living increase rather than voting on the general concept of dealing with the deficit, as I recall there were about 50 brave souls in the House who stayed with the once a year cost-of-living increase and I was one of them. I was up for reelection at the time. I was running against a candidate who, at least initially, appeared to be a potential challenge. So I was doing a poll. It is a very small poll but it made a very big impression on me and I wanted to share it with my colleagues and with the people who are interested in this debate.

I asked in that poll: "How many people knew that we had a vote on the twice a year cost-of-living increase for Federal employees and how many people did not know?" Interestingly enough, not one person that I polled in my district who was not a Federal employee or a Federal retiree even knew the vote had occurred. But every Government employee and every Federal retiree that we polled knew it. In addition, on the second question, "Knowing it, how did it affect your support in the upcoming election?", every person who knew it planned to vote against me because of the vote. There is nothing wrong with that. The essence of democracy is accountability.

But here is my point. The reason the system is biased in favor of spending is because we vote on individual issues and every time we vote on spending money we have special interest groups—and we are all part of them—looking over our left shoulder, sending letters back home telling people whether we care about the old, the poor, the sick, the retired, the bicycle riders—and the list goes on and on.

Nobody is looking over our right shoulder telling people back home whether we care about the people who do the work and pay the taxes and pull the wagon in America, or whether we care about our children and their future.

I remember in 1979 we were going through a fairly boring period in Congress. As a young freshman Member I tried to keep up with real votes we cast. Not votes on big bills that cost billions of dollars where the vote would be 380 to 20, but actual amendments. In my little casual empiricism I made a discovery. The discovery basically was this. The average little amendment add-on we were voting on cost about $70 million. The average beneficiary, as best I could estimate, got about $1,000 to $1,500 apiece. And since there were 100 million taxpayers the average taxpayer was paying about 70 cents. You did not need a Ph.D. in economics to understand that a few people are willing to do more to get $1,500 than a lot of people are willing to do to prevent spending 70 cents.

My conclusion was that only if we change the way we spend money do we have any chance of gaining control of spending, because what tends to happen—and our colleague in the Chair is a new Member here, but as he will discover—what tends to happen is the only people who ever know how you vote on spending issues are the people who wanted the money and they remember most when they do not get it. It is like in a religious sense saying if you do good that when you get to the Golden Gate and Saint Peter opens the books that there is not going to be anything written down; no record of it. You are asking people to be responsible simply because that being responsible is the right thing to do.

The problem is, the Lord did not make many zealots. And that is why we have consistently, vote after vote, year after year, been losing the battle on Government spending. And as a result the Government has become bigger and bigger and bigger, more and more distant, more and more hostile, more and more burdensome. And that is why we are here debating this issue today.

In trying to deal with this problem we passed what was called the Gramm-Rudman law. On the day it passed, I stood up and said in that debate that the bill was the engagement but the balanced budget amendment to the Constitution was the marriage; that the problem with the Gramm-Rudman law was that it was a law, and what Congress could make, Congress could unmake.

I did not realize, when I was saying that in 1985, that exactly that was going to end up happening. What happened under the law is that we were able, in the 4½ years it was in place, to lower the deficit burden on the economy by about 42 percent. We were able to limit the growth of Government spending to 1.4 percent a year while the economy grew by 3.1 percent a year and the Government actually got smaller relative to the economy for the first time in the postwar period of the country.

But what happened is when the hill got steep from the recession and S&L bailout, then Congress bailed out on the Gramm-Rudman law, gave the new President the power to suspend it, and the first official act of Bill Clinton was to suspend the Gramm-Rudman law.

What is the problem we are looking at in terms of the deficit? I have some charts. Let me just basically go through them. We are engaged in an intensive debate here on what happens if we balance the budget but with relatively little attention paid to what happens if we do not. This chart is basically the question of when are we going to do it? But all of this red shows going back to 1969. The one time in the last 34 years, since 1961, that we have actually had a tiny little surplus was in 1969. From that point on, every year, we have run a Federal deficit. And right here is where we are headed if we do not adopt a balanced budget amendment to the Constitution and if we continue business as usual.

This next chart is a projection from the Congressional Budget Office. If you look at the last 34 years, this is what it looks like. Starting in 1961, we ran a deficit. We ran a deficit every year to 1969. That year we had a tiny little surplus, which is a lot of money for anybody but Ross Perot; $3.2 billion. But in the big scheme of things, it is a fairly small surplus. But every year thereafter, since 1970, we have run a cumulative deficit which has raised the debt by $3.4 trillion.

Given current projections, nobody can honestly anticipate, short of a balanced budget amendment to the Constitution, that we will balance the budget anytime in the next 15 years. I ask my colleagues, is it possible for a country, year after year after year for half a century, to spend more money than it takes in and to pile up these debts so that the interest on the debt in the year 2005 will be greater than the total level of Government spending in 1975?

If we do not pass a balanced budget amendment to the Constitution, given the bills that are already the law of the land, given the spending that we are already committed to, by the year 2005, 10 years from now, we are going to be spending $334 billion a year simply paying interest on all of this debt. That is more money than we spent on Social Security, defense, discretionary spending, and every other single program of the Government in 1975. In fact, there are a number of Members of this body who were Members of the Senate in 1975. We are not talking about that long ago.

What happens if we do not balance the budget has to do with real people and real families. People talk about the difficulty of balancing the budget and the supposed excruciating pain that is presumed to result from what we are going to have to do, but I hear relatively little discussion about the excruciating pain that is going to occur if we do not do something about the deficit. Let me talk about that very briefly.

In 1950, the average family in America with two children sent $1 out of every $50 it earned to Washington, DC. Today, that average family is sending $1 out of every $4 it earns to Washington, DC. And if we do not pass a single new law in the next 20 years, if we just pay for the laws that are already on the books, if we just pay for the Government that we have already thrust upon the American people, that average family is going to be sending $1 out of every $3 it earns to Washington, DC. That is the cost of doing nothing.

The General Accounting Office has estimated that, if we pass a balanced budget amendment and we enforce it, the impact of balancing the budget will mean that our children can expect their family income to be 36 percent higher than if we do not eliminate a situation where government is borrowing 50 cents out of every $1 available meaning that 50 cents out of every $1 saved in America does not go to build a new home, a new farm, a new factory, to generate new economic growth; it instead all goes to pay for Government deficit spending.

The last time that we had a sustained period of a balanced budget so that the Government was not borrowing 50 cents out of every $1, mortgage rates were 3.5 percent. In fact, in the history of this country, whenever we have had any kind of prolonged period where the Government was living within its means, long-term interest rates have been down around 3 percent. The average home in America would have a mortgage payment of $500 a month less today if we had the fruits of a balanced budget.

So when we are talking about all of the excruciating pain that is held out, about what it would mean if the Government had to do what families and businesses have to do every year, I think it is important to ask ourselves what is going to happen if we do not do it.

A couple of other points: I just mentioned that over the next 10 years, the interest payment on the debt, at the rate at which we are piling up new debt, is going to rise by $134 billion. We are going to be paying an additional $134 billion a year in 10 years on interest payments because we are not balancing the Federal budget.

Do you know what we could do with $134 billion a year? The Senator from California got up and talked about Social Security. With $134 billion a year put into the Social Security trust fund, we could guarantee that we could finance the retirement of the baby boomers. With $134 billion a year, which we are going to be squandering on interest while we debate whether the world will come to an end if we have to live within our means, if we took that $134 billion a year and used it to cut taxes, we could double the personal exemption and have a flat tax rate of 17 percent.

We are talking about a tremendous ability to let working families benefit from their own creativity, from their own hard work. But what is going to happen if we do not do it? What is going to happen if we do not do it is that $134 billion is not going to go to Social Security. That $134 billion a year is not going to be returned to families to invest in the American dream. That $134 billion is going to be squandered the way the $200 billion a year we are spending this year is being squandered in paying interest on a debt that we have run up because this Congress and others like it have refused to say "no" to any organized special interest groups.

How would we balance the budget? This is a much discussed issue. We have heard some of our colleagues on the other side of the aisle make an argument that runs basically as follows: We have not balanced the budget since 1969. We are out of practice. We do not know how we would do it. How could we commit to do something when we cannot tell you exactly how we are going to do it?

I am going to talk about how to do it for a moment. But let me submit that is not the way people operate in the real world. In the real world, we commit to do things all the time even though we cannot tell you going in exactly how we are going to get the job done.

If, in the real world, you had to be able to say exactly how you were going to achieve something down to the finest detail, before you committed to a good and worthy goal, no one would ever commit to one.

If you had to know how you were going to pass all those courses when you went off to the university, nobody would ever go off to college. If you had to outline exactly how you were going to make your business work in good times and bad, nobody would ever start a business. If you had to figure out how you were going to make a marriage successful before you got into it, how you were going to deal with the 1,001 problems that you know are going to come up, nobody would ever get married.

After my wife-to-be turned me down for the second time and I got down on one knee in San Antonio and said, "If you will marry me, I will spend the rest of my life trying to make you happy," my wife did not look down at me and say, "Well, how are you going to do it?" She looked at me and tried to gauge how much I was committed to it, and 25 years later I am still working on it. So forgive me if I feel a little bit cynical toward my colleagues who say, "How can we commit to balancing the budget if we cannot sit down and write out in the greatest detail how we are going to do it," knowing that if anybody wrote out the detail, then they would stand here and say the world is coming to an end if we have to do these things.

I hope when people hear this debate, they will always remember these numbers—and nobody disputes these numbers. The White House, the Congressional Budget Office, nobody disputes these numbers. What I have here on this chart is a projection of Federal Government spending, which is the line in red, and then Federal Government revenue, which is blue. One thing that is clear, if you look at this chart, is that both of them have been growing. Both of them have been growing very rapidly. The problem is that the spending has been growing more rapidly. What has happened is that, since 1969, spending has been growing by an average of 8.7 percent a year. In fact, spending by the Federal Government has been growing 2½ times as fast as spending by the American family has been growing. I think that is a real index of our problem.

Revenues have been rising, but they have not been rising as fast as spending has been rising. So if you look here, in 1995, where that red ends and the yellow begins, that is where we are.

The Office of Management and Budget and the Congressional Budget Office project that over the next 7 years, the economy is going to grow—not as fast as it is growing now, but at a fairly modest rate compared to the kind of growth we had in the 1950's and 1960's.

If we could limit the growth of Government spending to no more than 3 percent a year, where we are spending only 3 percent more next year than we spent this year, we would balance the budget by the year 2002, which is what we are calling for in this balanced budget amendment to the Constitution.

Here is my point. I know that there are many people who say we cannot balance the budget, that it means hard choices, and that we have a Congress that in 40 years has not said no to any organized group with a letterhead. Obviously, it is a self-fulfilling prophecy. But I think if you go to main street America and you say to the people, "Would you want the Government to balance the budget, to eliminate the kind of debt burden and taxes that we are looking at in the future if we do not do it, if it requires that the total growth of Federal spending be limited to no more than 3 percent a year for 7 years?" my guess is that 95 percent of the people in this country would say "yes." The other 5 percent are the people who understand this well enough to know that they are getting the 7 percent a year spending increase, and that they do not want it balanced; even if it mortgages the future of the country, it is worth it to them to get this extra spending.

I am not saying this is easy. I have worked on the budget as long and as hard as any person who has served in the Senate in the period of time I have been here. Limiting the growth of Government spending to 3 percent means you have to reform welfare, which we need to do anyway; it means you have to reform Medicaid; it means you have to reform Medicare.

When the average insurance policy in the private sector did not go up in price last year, and Medicare went up by 10.5 percent, and the Government is paying for it and our senior citizens are paying for it, we ought to go back and look at it and we ought to be reforming it. It also means you have to go through discretionary spending, because there are some parts of it that are going to grow, and that should grow, and you have to set priorities and cut spending elsewhere.

The point is, how many families in Illinois last year, or in Tennessee, or Texas, had to deal with budgets that were tougher than limiting their growth in spending to 3 percent? On almost every street, on almost every block in the Nation, there were families that had to make tough decisions last year. They did not like it, but they did it. They had to say "no," not to strangers but to people they love. They did not want to do it, but they did it. How many businesses in America have had to restructure their business in the last 10 or 20 years, compared to which living within a 3 percent growth rate would look like child's play? Literally hundreds of thousands of them. What is the difference? Families and businesses live in the real world, and the Federal Government does not. The balanced budget amendment to the Constitution is an effort to bring it into the real world.

I now want to address the Social Security issue. First of all, there are profound questions that have to be answered if you are suddenly deciding that you want to not count the second-largest Federal revenue flow and the second-largest outlay flow as transactions of the Federal Government.

We heard the distinguished Senator from California talk about protecting Social Security. But the reality is that taking Social Security out of the budget in no way protects Social Security. In fact, when we ran into trouble with Social Security in 1982, what did we do? What we did is we started shifting money from trust funds; we started shifting money from among the various trust funds, and we took money out of general revenue and we saved Social Security, and we went back—finally, when we were shamed into it, when our parents were about not to get a check—on a bipartisan basis and we made the changes we needed to make. Had we had this provision in place, we would not have been able to do that.

But there is a more profound question. If you balance the budget and you did not count Social Security's revenues or the expenditures, you would be, today, running a surplus of about $80 billion. Do we want the Federal Government to run a surplus of $80 billion?

We have done that, by the way. From 1867 to 1879, the Federal Government, as a policy, took in more than it spent. And what happened is, it imposed a deflationary pressure on the economy, prices fell, on average, 1 percent a year, and we resumed our gold payment at $20.67 an ounce, which is what it had been in 1860. That was the objective of the Government, but it achieved it by pushing prices and wages right through the floor. Is that a policy we want to undertake? My view is that if we do, it is something we need to make a fundamental decision about. The reality is that we have always lived up to our commitment under Social Security. We have always kept the promise on Social Security without any constitutional requirement. But we have not balanced the budget in a quarter of a century and with no realistic prospect of doing so any time in the next decade, we clearly have an urgent need for a constitutional requirement to do so.

I also have to admit that I am somewhat amazed at this sudden desire of our Democratic colleagues to protect Social Security, because I remember that last year when we had the Social Security tax increase go into effect, one of our own colleagues—I believe Senator MCCAIN—offered an amendment that said that the Social Security tax increase had to be dedicated to the trust fund, and his amendment was defeated on a partisan vote.

In fact, if you look at your new IRS 1040 income tax form, which every American is about to get in the mail, you are going to find that on page 7 it has a new section. The new section says "Social Security Benefits." And it says, "If your income, including one-half of your Social Security benefits, is over $34,000 a year," and then it goes on and says you have to pay taxes on it.

This Senate in the last Congress voted to dedicate those taxes not to the Social Security trust fund but to spend on social programs, which was the policy of the Clinton administration. Now we have the same people saying, "Well, I voted for the balanced budget amendment in the last Congress, but now I do not know that I can vote for it because of Social Security."

My point is this: The way to protect Social Security is to deal with this deficit. If we do not deal with this deficit, if we let it continue to mount, we are not going to be able to fulfill our promises anywhere.

If people are for protecting Social Security—which I am absolutely dedicated to and I believe that every Member of this Congress understands that it is a commitment that has been made. The Contract With America makes it clear that Social Security is not going to be tampered with as part of the deficit. There is a 60-vote point of order in the Senate for doing anything that lowers the solvency of the Social Security system. So we have a built-in protection.

It is clear, when you look at the fact that, if every Democrat who voted for this amendment in the past votes for it again, and based on the election of 11 new Republicans, the balanced budget amendment is going to pass and subsequently become the law of the land. When we start having people say, "Well, look, I am for this and I voted for it in the past, but before I vote for it again, you have to fix this, you have to fix that," it raises the specter that now because we are shooting with real bullets, and are actually on the verge of achieving something, we are starting to see the possibility that this whole thing could come apart. And I hope it does not.

I think we have reached the moment of truth. I think we have to decide whether or not we want to force the Government to live on a budget like everybody else.

I know that there are some of my colleagues who say, "Well, what could a President do if you did not fulfill the Constitution?" Well, I hope a President, who had put his hand on the Bible and sworn to uphold, protect, and defend the Constitution, would live up to the commitment.

But I think we are asking the wrong questions. We are asking the wrong questions about what the President will do and what the courts will do. The question we should be asking is: What are we going to do?

Everybody understands the current system is broken. Everybody understands the current system is not working. Everybody understands that if we stay on the road that we are on today, in 20 years we are not going to be living in the same country that we grew up in. We are going to lose the unique opportunity that has been part of America—the opportunity for someone to grow up in Tennessee—I say to my distinguished colleague in the chair and, from very humble beginnings, have an opportunity to go to college, to go to law school, to be successful, to become a Senator; the opportunity for people all over the country to do extraordinary things. That is what is on the line here. That is what this vote is about.

A final point—and I have spoken a long time, but I wanted to be sure I addressed all these issues. This is not a new amendment that we are talking about. The Senator from Illinois and many people on our side and many people on his side have worked on this amendment for many years. I have been working directly or indirectly on this amendment for 15 or 16 years. I have sat in on numerous meetings with Congressman STENHOLM, who is a Democrat, with Senator SIMON, who is a Democrat, and we have worked out an amendment that we can agree on.

I would love to have a three-fifths vote requirement to raise taxes. I think the country would be better off if we had it. I want to deal with the deficit not by raising taxes but by cutting spending. But I am willing to fight it out. And I can tell you right now, if we impose a balanced budget amendment to the Constitution and if I am here or if I am involved in Government debate, I will not support raising taxes. I want to deal with this problem by controlling spending. I am sure there are others who feel differently.

But the point is, I cannot get 67 votes for the three-fifths tax protection requirement. There are always things that we could do that would be improvements. But, as Benjamin Franklin said so long ago when the original Constitution was written, you come down to a point where you have to make a decision.

If we want to alter American history, this is the amendment to alter it with. We have the votes to pass it. The House has already acted. The Nation is now looking to us to see if we have the will and the courage.

And I know you could come up with 1,001 excuses for changing your vote. But I believe the American people will understand that this is a test about who is serious about forcing the Federal Government to live within its means, who is interested in changing politics as usual in Washington, DC.

I am hopeful, prayerfully hopeful, that those on the other side who are now talking about changing their vote at the critical moment when we have the votes to pass the balanced budget amendment to the Constitution will engage in some prayerful deliberation and realize that, if they do that, we are going to lose a golden opportunity. We have no guarantee that the opportunity is going to come back and America's future is going to be permanently altered one way or another by what we do here. I hope people will look at this opportunity and not squander it.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Connecticut.

Mr. DODD. I thank the Chair.

Madam President, I rise this afternoon to address the issue of the balanced budget constitutional amendment.

Madam President, my intention will be, over the coming days, to address this issue from several different perspectives. I am very much opposed to dealing with our serious fiscal problems using this approach.

It has been pointed out in public survey after public survey that there is deep concern about the fiscal policies of the country and the direction in which we are headed. People are worried about whether or not we are going to be able to reduce significantly the size of the national debt and our deficits. I do not think there is any debate about that at all.

Madam President, I arrived here in January of 1981. The deficit in that year was about $35 billion, and the national debt was under $1 trillion. That debt had been accumulated over almost 200 years, through a Civil War and two World Wars, the Great Depression, and several smaller depressions.

I was, I believe, the second Member of my side of the aisle to support the Gramm-Rudman-Hollings deficit reduction measure at that time. I thought that was an honest and strong effort statutorily to get our arms around what was then a very small problem by comparison today. Regrettably, that solution did not work, primarily, in my view, because an awful lot of exceptions were created to it.

Gramm-Rudman-Hollings was to apply to, initially, the entire budget. And then, because of the way this institution has run for 200 years and, I suspect, will for as many more years as we are here we began creating exclusion after exclusion. One constituency group after another with major causes came before us and started to peel away the effects of Gramm-Rudman-Hollings so we were incapable of dealing with the budget deficit.

I then offered a pay-as-you-go budget—I was in the minority in those days, as I am today. My proposal would have required that every increase in every aspect of the Federal budget had to be paid for it. I got 22 votes for that idea. Had my pay-as-you-go proposal been adopted we could have achieved a balanced budget by 1987. We did not, of course.

I strongly urge my colleagues, if they have some time—and I guess they will in the next couple of weeks as we debate this issue—to read David Stockman's book where he described the economic policy decisions of the early 1980's.

I present that, Madam President, as background. I have always supported strong deficit reduction measures, but I believe that a balanced budget amendment will not achieve those goals. Adopting a constitutional amendment is the easy part of this. Clearly the amendment is popular before you start talking about the cuts it would require. The amendment would change the organic law of our country to deal with a contemporary fiscal problem. It would incorporate an economic theory as to how we ought to address our current deficit problem.

I have deep, deep, reservations about it based, first and foremost, on my concern that we ought not allow the organic law of the country to become a place where we deal with contemporary, perplexing problems that we face. I think there is a distinction between the organic law of a nation and a set of statutes and ordinances that allow us to come to terms with those questions.

I am also concerned, Madam President, with the view that somehow by amending the Constitution of the United States a bolt of lightning will strike the Congress and we will depart from our historic pattern of finding the easy way out of problems.

I noticed a moment ago the Senator from Texas was talking about a budget proposal here a year or two ago that included a tax implication dealing with Social Security, and Democrats were terrible people over here because we did that. There will be an amendment, I gather, offered that will take Social Security recipients and exclude their benefits from the constitutional amendment to balance the budget.

I suppose it would not do me any good to offer an amendment that to exclude 6-year-olds, as well. I could make a pretty good case that being a child in America today, based on age and circumstances, is very difficult. I am not trying to minimize the problems that all our seniors face. I simply cannot imagine anyone wanting to write into the Constitution an exclusion for people based on age to avoid the serious fiscal problems we face. Yet, that is an example of what some have proposed we do to the Constitution.

I have strong reservations about the constitutional amendment, and other ideas that would preclude us from facing all the difficult choices that we will be forced to confront.

Madam President, just briefly this afternoon, I would like to focus on one particular concern I have about this amendment. It relates to this issue of what I would call the gimmickry associated with the constitutional amendment. My concern, Madam President, is that if we pass a constitutional amendment, Congress will use every imaginable gimmick, sleight of hand, and tool of evasion to get around the requirements of a constitutional amendment to balance the budget.

If this happens, in my view, we will first of all have done nothing to get our fiscal house in order. And we will have done a great deal of harm in undermining public faith in the U.S. Constitution by increasing the public cynicism that exists about our Government generally, and more specifically about the institution of Congress.

My argument, Madam President, is not that Congress is somehow inherently dishonest or genetically programmed to cheat, but I do think if we showed some political courage and some bold leadership, we could honestly deal with our fiscal problems without resorting to gimmickry. In fact, what we are saying, in many ways, is that by writing a balanced budget requirement into the organic law of the Nation we will be precluded from coming up with other ideas to get around and circumvent our responsibilities. In some ways I wish that were true. But having served here for a few years, I am profoundly convinced that it will be untrue.

The courage and the leadership, in my view, must come first. We will not create them by changing some words, even in the Constitution. If we simply change the law without mustering the will to do the right thing, then we will come up with ways, in my view, to get around the law.

I think all Members know, Madam President, and experience should have taught us, who bears the greatest cost of this gimmickry. That is working Americans. When rosy scenarios lose their luster and the magic asterisks lose their magic, and the train wreck inevitably comes economically, it is always working Americans who are left to pick up the pieces and pay the price.

Perhaps the boldest budget gimmick of all time was the so-called supply-side economic approach I mentioned earlier. I arrived here in 1981 in the minority. President Reagan pointed to something called the Laffer curve and told all of us we could balance the budget, while at the same time cutting taxes and increasing spending. It was an Alice-in-Wonderland view of economics where up was down and down was up, and tax cuts always increase revenue. President Reagan's first budget submission in 1981 projected a balanced budget by 1984 and a $28.2 billion surplus by 1986. The budget confidently stated:

> The new policy of tax rate reduction is expected to expand the economy's productive base, lower unemployment, and reduce budget outlays. As a result, the decline in tax rates is likely to generate both strong economic improvement and impressive gains in receipts, paving the way for a balanced budget.

That was 1981. Well, that sure sounded very optimistic and nice but unfortunately, it does not bear much similarity to what actually happened. Let me tell Members what actually happened. In 1984, the year the supply-siders projected a balanced budget, we had a $185 billion deficit. The deficit went from $35 billion in 1981, to $185 billion by 1984, 3 years later. By 1986, the year the Laffer curve was supposed to produce a $28 billion surplus, we were $221 billion in the red. That was 5 years after our national deficit was $35 billion. Madam President, it got worse and worse and worse.

During those years, the national debt quadrupled. Today, every American—man, woman, and child—owes almost $13,500 on publicly held debt. In inflation-adjusted terms, that is 2.5 times more than what they owed in 1980. That is the legacy.

Madam President, I do not fault President Reagan for trying. It was an idea. There were many people, Democrats included, who thought it would work. I had my suspicions. I was one of 11 Members here who voted against it. But the point is here, when it did not work, we could change it. We could change it, and we did. We paid a price. What we were doing is fooling with the appropriations of the country, the Tax Code of the country, the statutory law of the country. We made a mistake, an awful one, and it has cost us dearly, but it was a statutory mistake. A mistake in appropriations, a mistake in the Tax Code, is mistake that could be corrected with much greater ease than if these policies had been written into the Constitution.

Imagine, however, in 1981, if we had incorporated in the Constitution of the United States an economic approach and then faced what David Stockman properly has pointed out, by good-intentioned and well-intentioned people, similar demands for greater spending. A situation where the Secretary of Defense said, "Wait a minute, not me. I understand you want to cut here, but we have serious problems. We have a stronger Soviet Union," and those here or not here made a strong case and prevailed. And a situation where others came and said, "Wait a minute; not Medicare, not Social Security." People said, "Not me."

Does anyone really believe here we will not face similar kinds of challenges? And the difference is that it will not be that easy to change now because it is written into the organic law of the country, an economic idea, a theory? Again, I do not fault, necessarily, President Reagan for having tried an idea. I think we need to do that, but not to write them into the Constitution.

In fact, to his credit, to President Reagan's credit, there was a lot of pressure on him to push for a constitutional amendment to balance the budget. As most people know, maybe to the disappointment of some, it was not really pushed. I suspect, President Reagan had serious doubts and concerns about changing the Constitution of the United States to incorporate economic ideas from people whom he trusted and liked and believed in, but had his doubts about whether or not we ought to incorporate their ideas into the most fundamental document that outlines the principles and the values of our Nation.

So, for those reasons, Madam President, I have serious reservations. I am willing to try some of the ideas that people have suggested. My colleague from Texas said maybe we just ought to cut across the board 3 percent.

I have my real suspicions about that approach, but it is an idea. And if we have 51 votes here and there is a majority in the House, it might be tried. If it did not work, it could be changed. I hope we will not want to incorporate that idea into the Constitution of the United States. It is economic theory. This is not a science. This is speculation.

I am reminded of Harry Truman's wonderful old line that he wished he could find a one-armed economist, someone who talked straight to him, instead of saying, on the one hand, one idea and, on the other, something else. Economics is full of theories. No one can say with absolute certainty anything. If that was not the case, we would have many more millionaires in the country. Economists talk about the projections of the market and others trust it will work out that way.

The point is, working Americans end up paying an awful bill when we substitute theories, gimmicks and cosmetic changes in law for good old courage and political will. At the end of the day, no matter how many times you change the Constitution, we are going to have to confront it. American workers will have to pay when we dodge and weave to get around the balanced budget amendment.

Our Federal budget is a highly complex document, and we necessarily rely on projections to forecast spending and taxes. To preserve the integrity of the budget process, I think we should strive to keep politics as much as possible out of those projections and economic calculations.

I will point out again that the potential for political abuse is huge, in my view. Last year, Stanley Collender, the director of Federal budget policy for Price Waterhouse, illustrated how effective altering such projections could be. Collender estimated a 1 percentage point drop in unemployment projections would reduce projected deficits by $37 billion the first year and $57 billion the next. To paraphrase and modify the words of our late colleague, Everett Dirksen, of Illinois, a percentage point here and a percentage point there and pretty soon you are talking about, of course, real money.

There is already some disturbing evidence that the authors of gimmickry are abroad, surviving and doing well in the land. The distinguished Speaker of the House of Representatives, and some others, have said they want to change the Consumer Price Index, which measures inflation, as a way of trying to cut spending and increase revenues. These advocates of the so-called "contract" know that their promises simply do not add up. They cannot cut taxes, increase defense spending and balance the budget without draconian spending cuts, cuts they so far have been unable to spell out.

So we already see people resorting to some of the gimmicks I worry about if this constitutional amendment is adopted to get the job done. One of the first was to try and cook the books with changes in the technical calculation of the CPI.

I think there is a legitimate debate in the country as to whether or not the inflation figure is too high or too low. A lot of very sound economists debate that point. That is a legitimate discussion, and, in fact, if it has been too high, it can be brought down, then it seems to me we ought to examine that thoroughly and do so. But any changes must be based on sound economic reasons, not political ones.

The distinguished Speaker, as my colleagues no doubt have heard, threatened to cut off the funding of the Bureau of Labor Statistics, not exactly what you would call a partisan agency or organization in town, within 30 days if they did not get it right with regard to inflation. I admit, there is a legitimate debate about inflation, but I do not think it serves anyone's interest to be threatening the budget of an independent agency on whom all of us rely to get some indication of what the Consumer Price Index ought to be. That is what I worry about.

When people say, "What do you mean by gimmicks," that is what I worry about. I worry about people beginning to fool with the numbers to make it all come out right and yet, at the end of the day it is otherwise and, of course, we are faced with terrible, terrible problems. So I worry about the gimmicks being used.

Senator DORGAN, Senator HARKIN and I offered a sense-of-the-Senate amendment in this body that simply stated that the CPI changes ought not to be politicized and economists ought to look at this and give us their sound judgment. The amendment was rejected, unfortunately. But I hope that my colleagues will discourage anyone threatening the budgets of agencies because we do not like the numbers we see.

Another effort recently to monkey with the books goes by the name of dynamic scoring. Dynamic scoring would provide cover for Members of Congress whose economic plans for the country simply do not add up. They draw up a budget that balances on paper but bounces in the real world. This dynamic scoring idea is to try and put the most favorable light on tax cuts.

I think it is important that we have accurate projections of what changes a tax cut may create. I recall opposing the tax cut on luxury automobiles and boats a few years ago. Those who offered that proposal projected there would be great revenue gains. It turned out quite the opposite. In fact, those provisions helped to destroy the boating industry in my part of the country. But they had rosy projections about revenues we were going to gain.

Again, I think it is important that as Members of Congress, before we vote, we ought to have some idea about what the projections are apt to be in these areas. But do I think we ought to incorporate it as part of the budget process? Should we not, in fact, be more conservative as we look at these matters, hope they turn out better, hope that they will, in fact, produce the revenues?

I never had anybody come to my office and say, "You know, Senator, I would like you to support this tax cut and, by the way, let me tell you something, it is really going to cost the taxpayers some money."

Everyone who ever has come to my office in 14 years here with a tax-cut proposal in mind has promised me—promised me—that this was going to produce revenues. In some cases they have. In many cases they have. But, not in all.

So when we are looking at how to score tax cuts, I would think it is in our collective best interests here to look at it with the most conservative point of view in mind. If it does a lot better, we are all winners, but if we project it is going to produce some fantastic results and it does not, then you have run right back into the problem I am talking about.

So, again, I think we have to be very, very careful as we look at these gimmicks. Hence, I come back to the point of why I am concerned about incorporating in the Constitution of the United States conclusions, demands that we will then be determined in our own way to try and reach through efforts that will be less than candid or up front with the American people.

Going beyond such narrow projections in an attempt to measure the impact of tax changes on the overall economy is very difficult. If we are going to get into the game, we can just as easily measure dynamic effects in education, I suppose, or job training.

I know there are those here who make the case that if we invest in education that we will get returns to the country. In health care, you can make a strong case, I suppose, that if we put all the money needed to eradicate some of the major diseases in the country, that would be a real net gainer for us in terms of the budget.

I do not know anybody who would want to accept the notion that if we invest x amount of the taxpayers' money to cure a particular disease, that we ought to score that as a great savings to the American public. The same thinking ought to be applied when we talk about tax cuts. As much as we may hope that they will produce the desired results, if that becomes a part of the budget process, then I think we do ourselves a great disservice.

The argument is often used that balanced budget requirements have successfully imposed fiscal discipline on our State governments. But the evidence on this is unclear as well. Gov. Lowell Weicker, a former Member of this body, testified in 1992 that Connecticut's $1 billion deficit came to pass in our State despite a balanced budget law that had been on the books for 53 years. The Constitution said balance the budget and yet we had, because of dreadful economic conditions, a $1 billion deficit in our State. All of the language in the Constitution did not change the economic realities.

Many States, of course, use creative budgeting now to comply with their constitutional requirements. Clever tools include: Delaying payments to suppliers. That happens all throughout the country.

Accelerating tax collections. How many times have we heard that used?

Shifting programs off budget. That is a great gimmick we use. Well, we will not count it as part of the budget. That is off budget. Somehow, miraculously, it does not end up in our accounting. Even though we are in the red, it has been pushed to a new category so it does not fit into the budgetary requirements.

The gimmick of choice for Governor Whitman of New Jersey has been delaying State contributions to employee pension plans—it is legal and it certainly saves money in the short term. But at some point a future Governor, a future legislature is going to have to belly up and pay those costs, and the taxpayers are going to have to pay. So you get a rosy picture in the short term but the reality is you are faced with those expenditures down the road.

Governor Whitman and others have also taken a lesson from the Federal playbook by shifting costs to more local units of government. In New Jersey there is going to be a State income tax cut of some $290, close to $300. Simultaneously, property taxes are going up in New Jersey about $1,000, a little more than that—roughly $1,000.

Now, it is great news that State income taxes are getting reduced, but if, simultaneously, property taxes are going up almost four times that amount, a taxpayer is a net loser. They may see headlines that read, "State income taxes cut." You shift the costs to the towns; the property taxes go up; and you the taxpayers are net losers.

I do not think people are fooled by that in this country. Once again, we will have engaged in the kind of gimmickry people so detest and makes them so angry. We will have failed to confront head on the problems of getting our fiscal house in order.

So, Madam President, if we pass this constitutional amendment, I fear we are going to borrow some of the clever tactics that have been used at the State level. If we mimic their balanced budget requirements, we may also mimic their tricks of getting around them. The balanced budget amendment is, of course, the grand gimmick that would spawn 100 lesser ones, I fear.

The amendment itself is a statement that we do not have the will to make the tough choices. If we did, we would not be confronting ourselves with changing the organic law of the country—if we did face up and do it.

Let me point out here that for the first time now in almost 4 decades we have had 3 consecutive years of deficit reduction. The last President to submit a balanced budget was Jimmy Carter, and the last Congress and President to achieve a balanced budget was Lyndon Johnson in 1969.

Now, if we can get back on track and keep reducing our deficits, create incentives for growth and for people to work, make the kind of intelligent investments that reduce long-term costs—then I think we can continue down that path and achieve the desired results.

I would suggest to my colleagues and those who are listening that merely writing something into the Constitution, making it sort of a New Year's wish list, does not get the job done. Why not add, as I have said before, the eradication of ignorance, poverty, disease; all of these are desirable goals.

If we are going to turn the Constitution into nothing more than a wish list, then we devalue the very document that we have relied on for 200 years. It has only been amended 27 times in 11,000 efforts, by the way—11,000 amendments to the Constitution since 1789. We have gone through a Civil War, a Great Depression, two World Wars. We did not find it necessary when we confronted every contemporary crisis to resort to the Constitution as a way of solving the problem. We faced up to them and made the tough choices. Our predecessors did the job when confronted with crises that were far more serious than this one, as bad as it is.

So I would urge my colleagues—and I know there are those who are weighing the benefits and the liabilities of approaching our fiscal problems by amending the Constitution of the United States—people do want to see us get our fiscal house in order, but I think they would like us to do it the old-fashioned way. That is, to make the cuts and to encourage the kind of growth that can get the job done, not to wait 7 years and leave it to some future Congresses to grapple with.

Madam President, I urge my colleagues to think hard and long before they go this route. My view is the States will very quickly ratify this constitutional amendment, if it is adopted here. It is very appealing. They will assume that someone at a later time will have to deal with the problem.

The Constitution requires that we vote on the matter, that we do so here. I do not think it is proper or appropriate for us to just hope someone else might protect us and protect the document when we have the opportunity to do it as Members of the Senate.

So I urge rejection of the amendment and hope that we would get about the business of doing the hard work of reducing the cost of Government, to shrink the size of Government, to make the proper investments and to get people back to work. Those are the kinds of things that I think will get us on a better fiscal path than what we have been on for far too long.

Madam President, I yield the floor.

Mr. HATCH. Madam President, we have had an interesting day here today. We have had a lot of interesting speakers. I particularly want to pay tribute to Senator SIMON and his very extensive and good remarks that he made this morning. A lot of people feel he is a very unlikely person to be leading the fight on the balanced budget amendment, but I feel he is exactly the type of person who should do it because he understands the importance of our national spending decisions and he understands the importance of our taxing decisions and he understands the importance of fairness.

There have been a number of other excellent remarks here today. I would like to pay tribute to each and every person who has spoken today, including persons on the other side. They have raised issues that have been raised before and that we think we have answered before and that we intend to answer throughout this debate.

On the other hand, this has been an orderly and very sophisticated debate thus far. One thing I really want to make clear. That is, regardless of whatever arguments are brought against this amendment, this is the amendment. This is the best we can do. This has been worked out among Republicans and Democrats of good faith. It is the only hope I see for putting a mechanism into the Constitution or into the daily functioning of Congress—a mechanism that we cannot avoid—that might get us to make priority choices among competing programs. It is the only amendment that the House of Representatives has ever seen fit to pass by the requisite two-thirds vote, plus 10. It was a big victory over there. It was something that never happened before. And it took Democrats and Republicans to do it. Almost every Republican voted for it, and we had 72 courageous Democrats who stood up against the majority in their party and voted for it. And only 132 people were against it.

Now, we have an opportunity to do something in the Senate that is absolutely historic. The Senate up to now has been the only body that has passed a balanced budget constitutional amendment by the requisite two-thirds vote until that House vote.

Now, some people have had the temerity to say that the only reason the Senate passed the balanced budget amendment by 69 votes back in 1982 and the only reason we had 63 votes last year was because some in this body voted for it knowing it would not pass the House.

I do not believe that. I believe that people who voted for this voted for it for the right reasons. They voted for it because they knew it was the best we could do. They voted for it because they knew it was a bipartisan consensus amendment, and they voted for it because they knew it would work and they knew it would force Members of Congress to stand up and do what is right for a change.

Now we are down to bait-cutting time. It may take us another 2 or 3 or 4 weeks. I do not care how long it takes. I want this amendment to pass, and I am going to do everything within my power, physical and otherwise, to get this amendment passed. I hope everybody out there in this country will start working with their Senators, help them to realize this is it. This is our best chance to save this country.

I hate to put it that dramatically, but that is what it comes down to, because if we do not do this, those who are concerned about Social Security are really going to have a reason to be concerned because we cannot continue to be the profligate spenders we are and run the huge deficits we do and have the interest rates go up the way they will and lose the jobs we are going to lose and have the interest against the national debt continue to exponentially go higher and higher without hurting Social Security, without hurting Medicaid, without hurting Medicare, without hurting welfare, without hurting veterans' pensions, without hurting everybody's pensions, and without reducing the value of our dollar to the point where all of us are going to have a rough time.

If the United States starts to slide in this way, what about the rest of the world? There will be a worldwide recession or depression like never before. That is going to happen unless we bite the bullet and do what we have to do here.

There is good reason why you cannot amend the Constitution easily or readily. There have only been 27 amendments to the Constitution and most, if not all, of them have been hard fought. But never in history has there been a more important amendment than this one at this particular time. This is the chance for us to do something that could save the country. And it will not happen—and I say this to every citizen of this country—it is not going to happen unless you get mad and you let the Senators in this body know that you want them to adopt this amendment. They need to vote for this and we need 67 votes to do it.

The Founding Fathers made it very tough to amend the Constitution. That is as it should be. This amendment has been through 12 years of very tough treatment, very hard fighting, and very serious intellectual consideration. It is the best we can do.

Everybody here would like to add something or take something away. But sooner or later we have to come down to the conclusion this is the best we can do. We have always looked at anybody's ideas, and we will continue to see if there is some way we could find that will help to satisfy the distinguished Senator from California, Senator FEINSTEIN, and others. But I have to tell my colleagues the more I think about it, the less inclined I am to make a change like that because of the loophole it would be, and because it will not solve the problem for Social Security anyway. The best thing we can do for Social Security is pass a balanced budget amendment that will keep our country strong. It will make us live within our means. It will make us treat budgetary matters in a fiscally responsible manner. That is the best thing we could do for Social Security, because no matter how much you pay people, if the money is worthless, it is not going to buy food or anything else.

There are people today who suffer because of their poor economic situation who rely on Social Security. But they are relatively few, and we have to work on them and try to resolve their problems within our budgetary process. But there are millions who are getting by on Social Security and consider it their life's blood. They are not going to be able to if we do not put this constitutional amendment into the Constitution and force the Congress to live within its means.

How can anybody doubt that the way we spend, the way we increase deficits, the way our interest against the national debt is exponentially rising, that that will affect everybody in this country at some time in the future unless we are forced to get serious about it?

We talk about being serious. We have tried every statutory budget mechanism we possibly can and none of them have worked over time. All of them have failed. This amendment will force us to succeed. It would force us to get serious. It would force us to do the things that have to be done. And that would protect Social Security in the long run.

I do not want to just look at things in the short run. I want to look at them in the long run, and this amendment will help us in the long run. If we put an amendment in that refers to a statute in the Constitution, and try to define in the Constitution what that statute means, I guarantee it will be a loophole through which you can fit any kind of spending program you want. All you have to do is call it "Social Security," call it "the trust fund," or call it whatever fits the language of the statutory reference in the constitutional amendment and that is it, it is over.

I know people are sincere and they are trying to do what is right here. But the place to deal with these issues is in implementing legislation. That is why we have implementing legislation. That is why section 6 says that the Congress has the power to implement this amendment. Through the implementing legislation we can resolve some of these problems and we can resolve them in a way that still forces us to make priority choices among competing programs, and Social Security will always fare well in competition with other spending programs in our budget. I do not think anybody doubts that.

So let us not get into an issue that really is a phony issue. Let us keep constitutional amendments the way they should be. Everybody knows the game here. Everybody knows this amendment is written in a constitutional form. Everybody knows what it is intended to do.

There will always be those who try to play games to get around a constitutional provision they dislike, but if we stand strong and we vote for this and we get it through, I guarantee it will work and it will go a long way toward resolving the problems of this country—which are not being resolved at the current time.

I know the distinguished Senator from Nevada wants to speak, so I yield the floor at this point.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

Mr. REID. Madam President, probably the most famous bank robber of all time was a man by the name of Willie Sutton. After Willie Sutton got out of prison, after having spent many, many years there, he was asked why he robbed banks.

He said, "Because that's where the money is."

Madam President, Social Security is where the money is and that is why we must protect Social Security recipients, whether they be my granddaughters or whether they be me or the millions of people around this country who today depend on Social Security.

The reason we must exempt Social Security from the balanced budget amendment is that is where the money is. This year the surplus in the Social Security fund will be some $70 billion. Shortly after the turn of the century the surplus in the Social Security fund will be $800 billion. I say "will be." It will be if we protect those moneys. If we do not, if we do not set aside those moneys from the balanced budget amendment, when people go to draw their Social Security, when my granddaughters go to draw their Social Security, or my children, there will be no money left. Because that is where the money is and that is how the budget will be balanced.

There is no place else to get the money in those large sums. I offered a year ago on this floor an amendment to the balanced budget amendment that was then on the floor. In that amendment I included capital budgeting; I included as part of the amendment that, if in fact we were in a recession for a period of 3 years, we could waive the balanced budget amendment. Madam President, I have thought about this for the past year and I have come to the conclusion that what I need to do is focus on Social Security. Capital budgeting is important; 3 years of recession are important; but those are to one side. I now am focusing only on Social Security.

As my friend, the senior Senator from Utah, knows, I am going to offer this same amendment again. I am going to offer this amendment with the support of Senators CONRAD, DORGAN, FEINSTEIN, FORD, HEFLIN, HARKIN, GRAHAM of Florida, BAUCUS, and BOXER, and I am sure there will be others. I am doing this because there has been a lot of talk during these past few months about a Contract With America.

I think some of the things that have been focused during these past few months in the Contract With America are important. I have supported the two issues that have come through this body already. But I want to talk today for a few minutes, in preparation for the debate that will take place probably next week when we offer the balanced budget amendment, about the first contract, the real contract of this century with the American people.

That contract was initiated in 1935 during the throes of the Great Depression when Members of this body and Members of the other body together with President Roosevelt got together and said we think we need to make a Social Security contract with the people of America, and they did.

What was that contract all about? It said if you, the employee, pay into a fund along with your employers, during your golden years you can draw retirement, not welfare. You can draw retirement that you have earned, you have paid into this fund. That in fact is what the contract is all about.

Madam President, what we have done is we have taken these moneys that are collected from the employees of America and the employers of America and put them into a trust fund. That word of art "trust fund" means something. It means that you have a very important fiduciary relationship. We, the people, who control this trust fund, have a fiduciary relationship with the people who will draw money from that trust fund, a relationship that we must do what we can to protect the integrity of that trust fund.

I practiced law before coming to the Congress. I had a trust fund set up for my clients, a client trust fund. That money that I collected on behalf of my clients I could not make my car payments with, I could not buy myself a suit, I could not pay the law firm rent or the rent at home with any moneys out of that trust fund. If I in fact did that, I would be subject to disciplinary action by the State bar association and possibly by the criminal prosecutors in the State of Nevada. I could go to jail for violating the trust that I had in protecting my clients' money.

The term "trust fund" that I used as a practicing attorney is not the same connotation as trust fund for Social Security. It is identical. We have an obligation to protect that trust fund.

My friend from Utah, the senior Senator, is someone that I have great respect for. But on his statements regarding Social Security, he and I disagree. I recognize, as I think we all should and certainly the people within the sound of my voice should appreciate the fact, that Social Security does not contribute one penny to the Federal deficit. Social Security, as I have already explained briefly here, is running in excess, a surplus. It does not contribute to the deficit. In fact, it has been used to erase the deficit in years past. We worked very hard to have the Social Security trust funds not be part of the general revenues of this country. We set up a separate fund for Social Security. We set up a separate agency. Social Security does not contribute to the deficit.

We have heard statements, rightfully so, that the American public supports the balanced budget amendment. They do. Eighty percent of the people in Texas, Utah—I see my friend from Ohio coming onto the floor—and Nevada. It is about the same all over. About 80 percent of the people support the balanced budget amendment. But when those same people are asked, "Do you want to balance the budget by taking Social Security surplus?" the answer is 70 percent "no." Only 10 percent of the original people who say they want a balanced budget amendment supported it if you say you are going to use Social Security. That is the original Contract With America of the century. That is the program that people want protected. They know Social Security is not welfare. This part of the Social Security fund that we are conducting deals with old age benefits. It does not deal with Medicare. It deals with the old age portion of that fund.

There have been statements made on this floor that the amendment creates a large loophole. I respectfully submit that if we could argue this case to a jury of our peers, we would win because it does not create a loophole. Anything that changes the long-term actuarial plan of Social Security is subject to a 60-vote point of order before this body. If someone wanted to place education or aid to families with dependent children into Social Security, it would not work. You would have to get 60 votes. If you use that reasoning, Madam President, you can look at the amendment as it is written. The amendment as it is written—the one that is before this body now—has exceptions. Congress may waive the provisions of this article, says section 5, for a number of reasons. One reason is it can be waived is if there is a military conflict in which an imminent and serious military threat to national security is declared. Does that mean that, if this were in effect, taking the troops into Haiti would mean that we could waive the balanced budget amendment? It does not say to what extent it can be waived. It does not say it can be waived for the actual cost of the imminent danger or whether it could be waived to the tune of billions of dollars more.

So let us stick with the facts. I do not think that this body would do that. I do not think that we would say that the event taking place in Haiti, or Rwanda, would be such that we could waive the balanced budget amendment that was in effect to the tune of billions of dollars. Having Social Security exempted from the balanced budget amendment does not—I repeat, does not—create a loophole. This is one of those figleafs that is being waived around this body so often on this amendment.

A point of order, of course, means that the truth would be brought to bear on any form of legislative shenanigans. That is why the 60-vote point of order is in effect. My amendment is intended to safeguard an easily identifiable and narrowly defined program.

There have been those in this body who have said, "We will take care of this in implementing legislation." Let me explain to my colleagues and to the American public what this means. This means that there are people who recognize the danger of going where Willie Sutton said you need to go if you need money; that is, where it is. And that is why he went to the bank. The only place we can go is Social Security. But there are those who tell me that we are going to take care of this with implementing legislation. How? "Well, we are going to pass a law when the balanced budget amendment passes that says we cannot touch Social Security." Boy, we should not fall for that one. I know that the senior groups in this country will not fall for that. The AARP and others are not going to fall for that because they know that a law which we could pass this morning—it is now 5 o'clock approximately in Washington, DC—this morning in Washington, DC, we could pass a law, and we could pass another law to take the place of that one at 5 o'clock this afternoon. We could pass a law and pass another one to take the place of it that same day. Implementing legislation will not protect Social Security. We could pass implementing legislation this year and repeal it next year. It simply is no way to protect Social Security.

Implementing legislation is another one of the figleafs that is so transparent that you should not wear it because it will not work. If you oppose raising the Social Security trust fund, you should support the simple amendment that I am going to offer with my colleagues which expressly prevents any looting of the Social Security trust fund.

I was on this floor a year or so ago with Senator MOYNIHAN, the senior Senator from New York. We were talking about the unfairness of collecting Social Security taxes, withholding taxes, when the moneys were not going to Social Security; they were going to help relieve the deficit.

During the colloquy between the Senator from New York and the Senator from Nevada, we talked about the Social Security trust fund, and we talked about maybe it really was not a trust fund; maybe it had become a slush fund. Well, it has not become a slush fund yet. But if we allow the balanced budget amendment to pass and do not protect Social Security, it will no longer be a trust fund, it will be a slush fund.

Again, I remind everyone here that people who are trying to balance the budget will go to where the money is; that is, Social Security. Remember, we are not talking about surpluses of a few thousand a year, a few million a year, a few billion a year; we are talking about surpluses that, after the turn of the century, will be in the trillions of dollars. Why do we need that much money in the trust fund? Because there is going to come a period of time when the outflow from the trust fund will be far in excess of what is coming into it. We need those surpluses.

We have been told that placing a statute in the Constitution is unprecedented. Well, Madam President, it is unprecedented. My friend, the senior Senator from Connecticut, said it the way it is. We have had 11,000 attempts to amend the Constitution of the United States. We have succeeded less than 30 times. This is the first time that we have tried to do an amendment to the Constitution fixing fiscal policy. So if we are talking about fiscal policy, should we not be concerned about one of the largest fiscal elements of our society, namely Social Security? Of course, the answer is yes. And we need to place it not in a statute; it would be part of the constitutional amendment. It would lose its statutory life and become part of the Constitution of the United States.

We also certainly should not allow talk about future generations being protected if we lump Social Security into the balanced budget amendment—that is, that Social Security will be easy picking, prime pickings to balance the budget. That will not protect future generations. Quite the contrary.

This debate is not about senior citizens versus children; this debate is about children who will become senior citizens and need their Social Security benefits. This is not an amendment that protects old people in America today. This is an amendment that protects all people in America today, because Social Security benefits are for the young and for the old because, if we are lucky, we all get old.

In effect, safeguarding Social Security in this trust fund means that Government will not be able to continue to borrow from this trust fund. Ending this robbing Peter-to-pay-Paul practice will allow us to maintain the trust fund for future generations of Americans.

Madam President, we have also heard last week on this floor that the Seniors Coalition supports passing the balanced budget amendment and does not support my amendment. When I first heard of this organization, I was running for office. I was very concerned that a senior organization, after my work on the Aging Committee and doing a lot of things over the years for senior citizens, would not be helping me. Why would they oppose me? Well, what I have come to realize, Madam President, is that the Seniors Coalition has a history of employing exaggerations and falsehoods—which is a nice word for lies—because they want to make money from senior citizens by scaring them.

According to a 1993 article in the National Journal—the founders of this particular group have sent letters out against most Democratic candidates running for public office on the Federal level. The National Journal said that the founders of this particular group have been under investigation for fraud by the FBI, two U.S. attorneys, New York State's attorney general, and the Postal Inspector. In 1980, Richard Viguerie, father of the direct mailing system for the Republican Party, or certainly one of the founding fathers of that organization, and a man by the name of Dan Alexander, started the taxpayers education lobby to raise money through appeals of school prayer and other conservative policies. In 1986, Dan Alexander was indicted for extorting kickbacks from school construction projects and he served 4 years in prison for doing this.

In 1989, the Seniors Coalition was formed by his wife, a woman by the name of Fay Alexander, with help from Mr. Viguerie. In 1992, the coalition claimed to become independent of the taxpayers education lobby, though there remained a contract that paid Mrs. Alexander $20,000 a month, money seniors sent this organization, and paid her husband about $3,000 a month for consulting fees. Remember, this is the man that is in jail. In 1992, the board consisted of Fay Alexander and a business associate. For its first 3 years in operation, the coalition's president was Susan Alexander, the couple's teenage daughter. Mr. Alexander told the New York Times—and I am sure this is an understatement—that he hired his daughter because it was hard to find outsiders of any stature to serve on the board in view of his record. The coalition now has outside directors.

I will not go into a lot more detail. But I do not think it would be a good idea to cite the Seniors Coalition, and we should not base any vote in this body on what they do or do not do. I may talk a lot more about them later if we hear a lot more about the Seniors Coalition, because I have a lot more to say in that regard.

Let me say, Madam President, that the balanced budget amendment is something that should pass—if Social Security is protected. If Social Security is not protected, everyone should be very, very cautious and afraid in this body. But the fear generated from here should be for the people in America, those 70 percent of Americans who say you should not balance the budget on the backs of Social Security recipients, because if we do not exempt Social Security, as Willie Sutton has said, "We will go where the money is," and we will balance the budget, which will be fairly easy to do if you use Social Security. That is what will happen, and that is too bad.

I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. DEWINE] is recognized.

Mr. DEWINE. Madam President, I rise today as a person who has spent the better part of the last 4 years traveling my great State and listening to the concerns of the people of Ohio. One thing I have found is that people are more skeptical than they have ever been before. I have really heard it everywhere I went. Today, people measure politicians not by the promises that they have made, but rather by the promises that they have kept. Empty promises simply no longer work. The people of this country want concrete action, not just promises.

Madam President, in 1992, people voted for change. But then there was not enough change, and so people did not see the concrete results. And then in 1994, they voted for change again. I ran in 1992. I ran in 1994, and I can tell you that people are fed up with promises. They want change and they want action. For the American people, nothing symbolizes Congress' inability to change, to back up words with action, more than Congress' unwillingness to balance the Federal budget.

Despite all the talk, year after year, Congress continues to run deficit after deficit. And if it is true that nothing symbolizes people's perception of Congress' inability to change more than our failure to balance the budget, I think it is also true that nothing will do more to restore people's faith in Congress, in the Government, in the country, than by passing a constitutional amendment that will mandate and compel a balanced budget.

The balanced budget amendment to the Constitution does represent fundamental change. This, Madam President, is the change the American people demanded, demanded in 1992 and again in 1994.

Over the last couple of days, we have had a somewhat academic debate about the balanced budget amendment. And I expect this debate will go on for a few more days, a few more weeks. The opponents of the balanced budget amendment tell us that we do not really need a constitutional amendment to balance the budget. They say all we really need is the political will.

Well, Madam President, I suppose that is right. I suppose that is technically true. But is there really anyone in this Chamber, is there really any Americans who believe that Congress, without a balanced budget amendment, will balance the budget? Nobody I talk to believes that.

Let us do a reality check. Let us look at the past.

Madam President, we have not had a balanced budget since 1969—1969, the year I graduated from high school. We have had a deficit in 5 of the last 63 years. When we had a Republican President, we had a deficit. When we had a Democrat President, we had a deficit. When we had a Democrat Senate, we had a deficit. When we had a Republican Senate, we also had a deficit.

The reason the American people, 80 percent of them in a recent poll, support the balanced budget amendment is that they simply do not believe Congress will ever balance the budget any other way. And I must say, Madam President, the past would indicate the American people are absolutely correct. For 25 straight years we have not balanced the budget; 25 budgets in a row.

Madam President, what are the chances, without a balanced budget amendment, without the discipline that this will impose on this body, on the House, on the Congress, on the Government, what are the chances in the 26th year or 27th year or 28th year, 30th year, 35th year, we will not continue to do what Congress has done for the last quarter of a century and that is not balance the budget?

Madam President, a lot of people say that Americans are cynical today. I am not sure that is really true. But Americans have watched Congress try to balance the budget in each of the last 25 years and Congress has failed every time.

What the American people are saying is pretty simple. "Let's try something else. Let's try something else and see if that works."

Madam President, I do not call that cynicism. I call it realism.

You know, I do not think any of us who support the balanced budget amendment are really happy that we have to do this. It is a last resort. But really it is our only realistic hope. And I believe that we have to do it.

(Mr. THOMAS assumed the chair.)

Mr. DEWINE. Mr. President, the opponents like to talk about how the balanced budget amendment is a threat to our children; that it would devastate the investments we need to make in our children's future. Let us look at this and let us look at this argument because it is a very serious argument.

Mr. President, the word "cynical" might be the most appropriate way to characterize that particular argument. To run up a colossal mountain of debt, $4 trillion and rising, a debt that threatens to leave our children's generation bankrupt is bad enough. But to use these very same children as an excuse for not biting the bullet on the budget deficit is just plain wrong.

Again, Mr. President, let us face the facts. If we do not pass the balanced budget amendment, we simply will not have the money for investment in our children.

We are already paying over $235 billion a year in interest on the debt. As my colleague, the Senator from Illinois, pointed out earlier today, that is eight times what we today invest in education. It is 50 times what we invest in job training. It is 145 times what we pay for early childhood immunizations.

Every year we add to this mountain of debt and every year we are committing more of tomorrow's resource to pay for Congress' failures of today.

What does the future look like for children if we do not balance the budget? Well, let me tell you. This, Mr. President, is what it would mean to continue with business as usual.

If we continue with business as usual, next year the Federal budget deficit is set to start growing again. By the year 2003, just 8 years from now, spending on entitlements and interest alone, entitlements and interest alone, will exceed 70 percent of the whole Federal budget. If you take out defense, it leaves you just 15 percent of the budget for all the discretionary spending and domestic needs—15 percent out of entire budget.

That means less than 15 percent for education—and these are cumulative for everything—less than 15 percent for education, for job training, for the Women, Infants, and Children Program, the WIC Program, for Head Start, for drug treatment, for employment training, for the environment, for housing, for all the other programs that help the American people here at home—just 15 percent of the budget for all these programs, all these programs, Mr. President, combined.

And by the year 2012, just 9 years later, we will be looking back on that 15 percent as the absolute golden age of investment in our domestic needs because by that time, by the year 2012, just 17 years from today, there will be nothing left in the budget for these social needs—zero; no money for children—unless we change the direction we are going in. Every last red cent in the Federal budget will go to entitlements and interest payments. And 2012 is a year that has significance for my wife and I and for many other people, I am sure, because just a year before that, our grandson Albert, we hope, will graduate from high school; our daughter Anna will be in her first year of college—2012.

This is the human cost of Albert and Anna, all our children and our grandchildren, will have to pay because of Congress' unwillingness to change.

Mr. President, to hide these facts and then to hide behind these very children who will be hurt the most if we do not act is worse than absurd. I find it unconscionable.

The American people no longer, Mr. President, care what we say. They are tired of excuses, evasions, rhetoric. They do not care if some of us say we can balance the budget. What they care about is what we do. They are not listening to what we say. They are watching what we are about to do.

To say, Mr. President, that they are not happy with what Congress has done in recent years would certainly be a severe understatement. In the name of our future, in the name of our children, they are demanding change.

Mr. President, I will vote to create the change. I will vote in favor of the balanced budget amendment. It is a vote for less government, instead of more government. It is a vote for responsible government, instead of a runaway spending machine.

It is, Mr. President, the last hope of the American people for fiscal sanity and long-term solvency. This is the greatest gift we as Members of Congress can give to the next generation of Americans.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I have been interested and I want to personally thank the distinguished Senator from Ohio for the excellent remarks he has made today. He has brought this whole matter into focus when he talks about the effects on his children and his grandchildren. I feel exactly the same. Elaine and I have 6 children, and our 15th grandchild is on the way. We have 14 now, but the 15th will be here in a couple of months, and who knows when there might be some others. We are not sure.

The fact of the matter is we are very concerned about them. I am concerned about all the children, and grandchildren. The Senator from Ohio makes a good point. There will not be child care moneys if we do not get things under control. There will not be job training moneys. Forget about Job Corps. What about welfare? What money we have will not be worth anything. What about Social Security, if money becomes devalued through inflation and, therefore, worthless? How are people going to live? How are people going to live? There are people today in this affluent society who barely get by. Can you imagine what it will be like for the unlucky ones of the future? Such things should not happen. We ought to do something about it. But I will say, it will be everybody who will have trouble getting by if we keep going the way we are going.

I am not just using scare tactics. It is true. Everybody knows it. People feel it. This is the first time in the history of this country where parents are fearful that their children will not have lives as good as they did, will not have opportunities as good as they have. The first time in history where parents feel that their children will not have the great opportunities for growth and advancement that they had. The reason that is so is because Congress does not have the fiscal mechanism in place to force Congress to do what is right.

I want to thank the distinguished Senator from Ohio for his excellent remarks, and the other Senators today, especially our Senators who are here for the first time. They are here because of this issue, in part. People out there know this country is in trouble. They are here because people wanted them to vote for the balanced budget amendment. They are here because they make the difference.

Each Senator here makes a difference, including those who voted for the balanced budget amendment before. But these new Senators make up the difference from last year. We lost by four votes last time. Four votes. We had seven people who were here who voted with us last time who are now no longer here. That is 11 votes. We have picked up 11 new Senators, all of whom are on the Republican side and are going to vote for this balanced budget amendment. All of them were elected on the basis that they would vote for this balanced budget amendment. All of them are part of this revolution in our society, not a Republican revolution, but a revolution of people who are sick and tired of the way things are, of the status quo, who want a balanced budget constitutional amendment, for the express purpose of saving this country. Well, we have such an amendment here. It is not perfect. But nothing around here ever is. It is as perfect as it can be, as developed by both parties.

Now, let me just say a few words in response to the comments of my colleague from Nevada. And I do respect Senator REID from Nevada. He is a very dear friend and colleague. I have a great deal of feeling and affection for him. He said the Social Security trust fund will be raided if the balanced budget amendment is passed. That could not be more wrong. It just could not be more wrong. It will be raided if we devalue the dollar and make the dollars that are paid out in Social Security benefits worthless. And that is where we are headed if we do not have a balanced budget amendment.

The Social Security trust fund is not where the money is. This so-called surplus the distinguished Senator from California was showing us earlier with that big loop in the chart that she had, that money is not in a trust fund. Why this year's $70 billion surplus will be used to buy Treasury bonds. There is no stash of cash waiting to be raided. It is already going to be taken out of that trust fund. And there is going to be a nice little Treasury bond piece of paper saying "guaranteed by the Government of the United States of America." And we will take that $70 billion trust fund surplus and we are going to spend it on general budget items and spending programs.

That money is gone. There is no question about it. There is no trust fund full of money. There is a trust fund of paper promises that will be valuable only if we pass the balanced budget amendment and get this country's spending profligacy under control. But that big pile of paper will be valueless if we do not.

The only way we will get spending under control is to pass this balanced budget amendment. There are some who think even if we do this we might not get there. I was looking at James Q. Wilson's article yesterday in the Wall Street Journal. He is one of America's leading political scientists. He is one who was never for the balanced budget amendment, but boy he is now. He said, in essence, "I do not like it, but it is the only hope we have." I commend his reasons for now supporting the balanced budget amendment to my colleagues, and ask that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 30, 1995]

A BAD IDEA WHOSE TIME HAS COME

(By James Q. Wilson)

For yours I have been skeptical of a balanced budget amendment to the Constitution for all of the reasons that most of my colleagues in political science and many member of Congress so clearly express. Now I am a reluctant convert, not because I think the arguments against it wrong but because I think them beside the point.

There is no economic case for always having a budget that is balanced or in surplus. One doesn't have to be a Keynesian to know the occasional desirability of stimulating the economy by spending more than one takes in or the necessity of going into debt to make capital improvements. There are even a few economists who claim that, if we do our accounts properly, the budget is already balanced.

The problem with the economic objections to balancing the budget is that they fail to take into account the changed character of the American people and their representatives. From the time of George Washington to the time of Dwight Eisenhower, budgets were almost never in deficit except in wartime. But in those days the public expected rather little from Washington. They did not expect a federal solution to every problem—drugs, crime, education, medical care, and the environment. Their representatives generally believed that deficit spending was wrong, not simply imprudent, and to vote for it was to risk not only electoral retaliation but public censure.

It is astonishing that this culture—one of limited federal responsibilities and stringent fiscal prudence—should have survived for so long. Politics offers citizens this deal: Vote yourself big benefits now and let your grandchildren (or better yet, somebody else's grandchildren) pay for them. If you let the government borrow the money, you can get something for nothing. Yet for more than a century and a half, we turned down that deal. As a result, the annual deficit amounted, as late as 1955, to only 6% of federal outlays. Thirty-five years later, it was 18%.

James Buchanan, the Nobel laureate in economics, concluded from his study of our fiscal history that something akin to a Victorian ethos had restrained our spending. Now that ethos is gone, and with looming deficits in Social Security and Medicare, matters can only get worse.

There are serious political objections to the amendment as well. Won't Congress somehow cook the books so as to comply with the letter of the amendment but not with its purpose? Or if it doesn't cook the books, what is to prevent Congress from simply appropriating in excess of revenues, no matter what it had earlier resolved to do? For years Congress found ways to circumvent or ignore the Gramm-Rudman balanced-budget resolution.

And if Congress evades the amendment in any of these ways, how will it be enforced? Will a taxpayer sue the secretary of the Treasury for writing checks based on deficit appropriations? It is not obvious he or she would have standing in the courts. And even if a court heard the case, what would it do? Send U.S. marshals to arrest the Budget Committees? Issue an injunction to shut down government?

Many members of Congress have made these points publicly and many more make them privately. But notice what they are saying: You cannot trust us to do what you, the public, wants. Your amendment will not give us any backbone. We will evade and cheat. Therefore, do not enact such an amendment so that we can ignore your will with complete impunity.

And even those members of Congress who say they will comply with it are unwilling to divulge what cuts they would make or what taxes they would raise in order to comply. Critics love to play the Social Security trump card: "You won't discuss Social Security or other entitlements, and yet you say you favor a balanced budget. Shame!"

Now we are at the heard of the matter, face to face with the reason why the balanced budget amendment is a bad idea whose time has come. Congressmen are elected by voters who want lower taxes, no deficit, and continued (or even more) spending. Almost every poll since the 1960s shows the same pattern.

The public has inconsistent preferences; the public wants something for nothing. Of course members of Congress will conceal their preferences, pretend that the public need make no hard choices, and take Social Security and Medicare off the table. To do otherwise is to court electoral disaster. Some leaders will try to finesse the issue by saying to the public that it can have lower taxes, no deficit, and more spending if only Washington would eliminate "waste, fraud, and abuse." It was never true, and I doubt many people still believe it.

Voters are the problem. The balanced budget amendment is aimed at them, not at politicians. When it is in place, the electoral logic changes. Now challengers can run against incumbents by saying, not simply that they didn't cut spending or didn't fund a popular program, but that they violated the Constitution. The enforcement of this amendment will be political, not legal. It will be an imperfect enforcement, but it will probably make a difference.

For one thing, it will put Social Security (and Medicare and everything else) back on the table. Congressmen will have to go to the public and say something like this: "What do you want, I cannot deliver. I wish I could. But you have to make some choices so that I can make some. What do you want most—lower taxes, more spending, or no deficit? I can't kid you anymore because the Constitution—and my opponent—won't let me."

I am not sure what the public will say. But whatever it is, it will be an improvement over its current free-lunch mentality.

Mr. HATCH. Mr. President, the Social Security trust fund will continue to invest any surplus in Treasury bills from here on in. We will have that mound of paper that will be worth something only if America is viable, but it will be worth nothing if we keep going the way we are going. And we will have sold Social Security recipients down the river. We can avert such problems only if we adopt and comply with the balanced budget amendment.

I cannot, for the life of me, understand why people are so upset on the other side of this floor about the consensus balanced budget amendment. They know that if we do not do something to put a fiscal mechanism in place which will cause us to make priority choices among competing programs and get spending under control, that those trust fund Treasury bonds are not going to be worth the paper they are written on.

In the year 2015 the trust fund will start to draw down this so-called surplus by redeeming those Treasury bills. The only way to protect those funds is through a balanced budget amendment. If we did not pass this amendment we will not balance the budget. If we did not balance the budget, the Federal Government will have a tough, if not totally impossible job redeeming those bonds.

In fact, if we do not pass this amendment and balance the budget, it is highly likely that the Federal debt will be monetized. Now, this will only reduce the value of the Treasury bonds held by the trust fund, but by monetizing the debt it means that we print more money, inflate the economy, reduce the value of our money, which might go down to zero, and we pay off the debt with worthless money, lose our credit standing in the world community in the process, and trigger a worldwide depression.

Now, that is where we are headed. Make no bones about it. The only way to protect the Social Security trust fund and the Treasury bonds it buys, is to pass this amendment and balance the budget.

Now, Senator REID says we must exempt Social Security because what is where the money is. That just is not true. That is where the Treasury bonds are. There is no money there. There are only IOU's which will be valueless if we do not get spending under control.

How do we protect Social Security? We who support this amendment know how, through good economics, and through a balanced budget amendment. It is the best protection we could give them. The Social Security trust fund is not where the money is. There is no money there. There are only IOU's there.

We have already used the money to pay for other bills of the Federal Government and other spending items. The reason why we need a balanced budget amendment and why it should apply to Social Security is to ensure that the money is there to pay the IOU's to our seniors when those IOU's come due, and that those dollars they receive, when they get them, are worth something. Without a balanced budget amendment, there is some question whether we could repay our debt to our seniors, or whether the dollars will be worth anything at all. And Mr. President, the trust fund itself will run a deficit in the future. And if it is allowed to run a deficit through an exemption in the balanced budget amendment there will be no incentive to balance the trust fund. But if the balanced budget amendment applies to Social Security, the Constitution will require Congress to have the money to pay our retirees. Real money. Not IOU's.

Not paper promises. Not a mountain of mere good intentions.

Well, I think it is very important that we understand these issues. If in the zeal to protect Social Security, such a proposed exemption defeats the balanced budget amendment, these folks in their zeal have will have actually killed Social Security, sooner or later.

Mr. President, the Senator from Nevada and I disagree on the merits of this issue, on the best way to protect Social Security, seniors, and our country's future. Let me reiterate that I believe the only way to assure that our Government is able to meet its obligation to future retirees is through the balanced budget amendment. It will help us ensure that we will have dollars that have worth, and that we have a nation and economy and a government that is worth passing on to our future generations.

That is what we are fighting for here. That is why I am spending this time and have for the last 18 years—now on the 19th year—spending my time trying to see if we can bring both sides together in a way that benefits this country, if not save the country.

This amendment is the best we can do, and it is as perfect as we can make it. It has bipartisan support. I really applaud those Democrats who are willing to stand up for it. There are not very many of them, but we hope that there are enough to pass this balanced budget amendment. We only need 15 to 17 of them out of the 47 that are here. I do not think that is too much to ask. And, frankly, there are courageous Democrats who are standing with us on the floor each day, like Senator SIMON, Senator HEFLIN, and others who are willing to pay the price to get this job done.

I just want to personally pay tribute to them and tell them how much I personally appreciate it. I really appreciate those 72 Democrats over in the House who had the guts to stand up against the majority in their party, had the guts to stand up and do what is right for this country.

Mr. President, I just want to make it very clear to everyone listening that if the American people do not get involved in this, if they do not realize that this is really bait-cutting time, if you folks out there do not start calling your Senators and letting them know how badly you feel about this and they had better support the balanced budget amendment, we may very well—we may very well—not get this job done.

Right now I believe that we have the votes to get it done. I believe that Senators, when they are really faced with the realities of what is really happening, and what will happen if we do not adopt this amendment at this time—this one rare time in history—after the House for the first time passed the balanced budget amendment, if we do not get it done, it is going to be a disaster for this country. I think they will vote for this amendment. We are all counting on it. But they will not do it if the American people do not let them know they want this done.

This is the time. We can no longer afford to spend beyond our means. We can no longer afford to not face the music. We can no longer afford not to enact implementing legislation pursuant to a balanced budget amendment that gets us on a glidepath to a balanced budget in the year 2002, and we can no longer afford the phony arguments against this.

For those who say, "Well, you ought to outline every cut you are going to make," that is the most phony argument of all. It is ridiculous. It was said earlier that it is like trying to tell the weather each year 7 years from now.

The fact of the matter is, during all the years of Democratic control of both bodies, they have never been able to come up in these last 26 years with a balanced budget. Not once. And they know and we know that it is going to take all 535 Members of Congress working together on implementing the balanced budget amendment, over a period of a year or more, to come up with a glidepath that will get us to the result of a balanced budget in the year 2002.

They also know that we will never get there if we do not pass the amendment which will force us to work together to get there.

That is in spite of the sincerity of many people in both bodies who want to get there and are always talking about getting there and saying we ought to do it. But many of those who say that are the biggest spenders in Congress. We all say it, but many of those who are saying it and saying we do not need a balanced budget amendment—saying that we ought to just have the guts to do it—are those who are some of the biggest spenders in Congress, who never want a balanced budget amendment because they do not want their spending habits curtailed, because that is what they believe has reelected them time after time.

Unfortunately, in some ways, that is true. But now that time is gone. We have to do what is right for America and get spending under control.

Mr. President, we have had a good debate today, and I believe that we will keep plodding ahead until we get to the point where we all have to vote and we all have to show where we are going to be on this matter. I can live with whatever the outcome is. I have been through this so long that I can live with whatever it is. But it will be a tragic thing if we do not pass a balanced budget amendment. I believe we will if the American people will get involved.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

Mr. HATCH. Mr. President, it is my understanding this has been cleared with the Democratic leader.

I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 37, National Women and Girls in Sports Day; that the Senate then proceed to its immediate consideration, and that the resolution be considered and agreed to; that the preamble be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

So the resolution was agreed to.

The preamble was agreed to.

The resolution (Senate Resolution 37) and its preamble are as follows:

S. RES. 37

Whereas women's athletics are one of the most effective avenues available for women of the United States to develop self-discipline, initiative, confidence, and leadership skills;

Whereas sports and fitness activities contribute to emotional and physical well-being;

Whereas women need strong bodies as well as strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions as coaches, officials, and administrators has declined drastically since the passage of title IX of the Education Amendments of 1972;

Whereas there is a need to restore women to leadership positions in athletics to ensure a fair representation of the abilities of women and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the contributions of an athlete at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and who exhibited the true meaning of fairness, determination, and team play;

Whereas parents feel that sports are equally important for boys and girls and that sports and fitness activities provide important benefits to girls who participate;

Whereas early motor-skill training and enjoyable experiences of physical activity strongly influence life-long habits of physical fitness;

Whereas the performances of female athletes in the Olympic Games are a source of inspiration and pride to the United States;

Whereas the athletic opportunities for male students at the collegiate and high school levels remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by these projects is imperative to the health and performance of future women athletes: Now, therefore, be it

Resolved, That—

(1) February 2, 1995, and February 1, 1996, are each designated as "National Women and Girls in Sports Day"; and

(2) the President is authorized and requested to issue a proclamation calling on local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe those days with appropriate ceremonies and activities.

MEASURES REFERRED

The following concurrent resolution, previously received from the House of Representatives for concurrence, was read and referred as indicated:

H. Con. Res. 17. Concurrent resolution relating to the treatment of Social Security under any constitutional amendment requiring a balanced budget; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself and Mr. HATFIELD):

S. 308. A bill to increase access to, control the costs associated with, and improve the quality of health care in States through health insurance reform, State innovation, public health, medical research, and reduction of fraud and abuse, and for other purposes; to the Committee on Finance.

By Mr. BENNETT (for himself, Mr. BUMPERS, and Mr. JOHNSTON):

S. 309. A bill to reform the concession policies of the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WARNER (for himself and Mr. ROBB):

S. 310. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself, Mr. CAMPBELL, and Mr. THOMAS):

S. 311. A bill to elevate the position of Director of Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes; to the Committee on Indian Affairs.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 312. A bill to provide for an Assistant Administrator for Indian Lands in the Environmental Protection Agency, and for other purposes; to the Committee on Indian Affairs.

By Mr. EXON:

S. 313. A bill for the relief of Luis A. Gonzalez and Virginia Aguilla Gonzalez; to the Committee on the Judiciary.

By Mr. EXON (for himself and Mr. GORTON):

S. 314. A bill to protect the public from the misuse of the telecommunications network and telecommunications devices and facilities; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS:

S. 315. A bill to protect the First Amendment rights of employees of the Federal Government; to the Committee on Governmental Affairs.

S. 316. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with knowledge that such abortion is being performed solely because of the gender of the fetus, and for other purposes; to the Committee on the Judiciary.

S. 317. A bill to stop the waste of taxpayer funds on activities by Government agencies to encourage its employees or officials to accept homosexuality as a legitimate or normal lifestyle; to the Committee on Governmental Affairs.

S. 318. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; to the Committee on Labor and Human Resources.

S. 319. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutionally-protected prayer in schools; to the Committee on Labor and Human Resources.

S. 320. A bill to protect the lives of unborn human beings, and for other purposes; to the Committee on Governmental Affairs.

S. 321. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. KASSEBAUM (for herself and Mr. DOLE):

S. 322. A bill to amend the International Air Transportation Competition Act of 1979; to the Committee on Commerce, Science, and Transportation.

By Mrs. KASSEBAUM:

S. 323. A bill to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER (for himself, Mr. COCHRAN, Mr. THOMAS, and Mr. SIMPSON):

S. 324. A bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. THOMAS:

S. 325. A bill to make certain technical corrections in laws relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

By Mr. HATFIELD (for himself, Mr. DORGAN, Mr. FEINGOLD, Mr. BUMPERS, and Mr. HARKIN):

S. 326. A bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Registrar of Conventional Arms; to the Committee on Foreign Relations.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. EXON, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. JOHNSTON, and Mr. KERREY):

S. 327. A bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home; to the Committee on Finance.

By Mr. SANTORUM:

S. 328. A bill to amend the Clean Air Act to provide for an optional provision for the reduction of work-related vehicle trips and miles travelled in ozone nonattainment areas designated as severe, and for other purposes; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 329. A bill to direct the Secretary of the Interior to submit a plan to Congress to achieve full and fair payment for Bureau of Reclamation water used for agricultural purposes, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD:

S. 330. A bill to amend the Agricultural Act of 1949 to require producers of an agricultural commodity for which an acreage limitation program is in effect to pay certain costs as a condition of agricultural loans, purchases, and payment, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KOHL:

S. 331. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, and Mr. LEVIN):

S. Res. 75. A resolution to designate October, 1996, as "Roosevelt History Month," and for other purposes; to the Committee on the Judiciary.

By Mr. HELMS:

S. Res. 76. A resolution to amend Senate Resolution 338 (which establishes the Select Committee on Ethics) to change the membership of the select committee from members of the Senate to private citizens; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself and Mr. HATFIELD):

S. 308. A bill to increase access to, control the costs associated with, and improve the quality of health care in States through health insurance reform, State innovation, public health, medical research, and reduction of fraud and abuse, and for other purposes; to the Committee on Finance.

THE HEALTH PARTNERSHIP ACT

Mr. GRAHAM. Mr. President, many people count the death of health care reform as being in 1994, when the Congress failed to adopt the proposals that had been adopted as submitted by the President, by various factions within the Congress itself, by some groups that were external to the Congress. I personally think that is the wrong date for the death of health care reform in America. I believe the appropriate date for health care reform's demise occurred 20 years earlier, in 1974.

Prior to 1974 we in fact had a very vibrant, innovative, creative set of health care reform initiatives. They all had one principal characteristic, they were emerging from the States. We had a decentralized federalized system of health care innovation.

The State of the Presiding Officer was one of those States involved in those early efforts of health care reform, as was my State and the State of Oregon, the State of our colleague, Senator HATFIELD. Maybe the best known example of those innovations that occurred prior to 1974 was the State of Hawaii.

The State of Hawaii set some objectives in terms of increasing the percentage of its population covered, to reduce the cost of health care, and to focus attention on the prevention of illness rather than crisis intervention. Hawaii, as an example, has achieved almost all the objectives that were established two decades ago.

But in 1974 the Congress began to restrict the capacity of States to serve as the laboratories for health care innovation through restrictions on the ability of States to secure waivers from Federal laws such as Medicaid, the health care program for indigent Americans, and the restrictions on the States' ability to innovate as it related to persons who secured their insurance through a place of employment, the so-called ERISA restraints. States, for 20 years, have largely been restricted from their role of serving as centers of innovation, of field-based experience on what would actually work in terms of improving the health of Americans.

The legislation we are going to introduce today seeks to reverse that 20-year period of sterility. As Supreme Court Justice Louis Brandeis once said,

> It is one of the happy incidents of the Federal system that a single, courageous State may, if its citizens choose, serve as a laboratory and try novel social and economic experiments without risk to the rest of the country.

We propose to restore that opportunity of States to serve as that novel laboratory to try things to see if they work; if they do, to enlarge them; if they do not, to discard them—but not put the entire Nation at risk as we experiment with new approaches to achieve the objective of better health for all Americans.

There are some principles behind the bill that Senator HATFIELD and I will introduce, and those principles include the concept of incrementalism. Incrementalism is not just a synonym for drift and indecision that you move willy-nilly from one step to the other. Incrementalism infers that you have a clear set of goals, destinations, and then you understand the steps that are required to get from where you are to that destination.

While these goals can be defined with greater specificity—and they shall be—the basic goals that we seek to attain with this legislation are:

First, to increase the access of Americans to health care services;

Second, to contain the level of increase of the cost of health care services;

Three, to reduce the incidence of illness and disease by a greater investment in those things that we know will tend to maintain a state of good health.

A second principle of our proposal is decentralization. One of the common elements of all of the health care legislation considered in 1994, no matter how much they differed in specifics, is that they all shared one thing in common; that is, they assume that the solution to health care was a centralized solution. There was an assumption that health care can be dealt with by one-suit-fits-all approach.

Senator HATFIELD and I believe that is fundamentally flawed—that in a Nation that is as large and diverse as the United States of America the attempt to have a central health care system for all of our almost 260 million citizens is an inherent prescription for failure. The differences just between let us say a State such as Wyoming, which has large land area and relatively few people who have a principal problem, is how to provide not the financing but just the actual access to health care professionals in such a diffused population compared for instance to a highly urbanized State such as New Jersey where the issues are fundamentally different. To attempt to have such a health care approach to such extreme circumstances is in our opinion not a logical beginning point for health care reform.

Finally, we believe in the concept of partnership, that States and local communities and individual citizens will bring a great deal to the table. They are the ones who are most directly affected by gaps in our current health care system. They are the ones who are most likely to have precise reality-based prescriptions to fill those gaps and current concerns with our system.

We believe that the sense of arrogance that has sometimes pervaded Federal-State relations—in which we assumed that we knew what the solution was and it was only for others to accept our infinite wisdom—those days are over, and we need to have a respectful relationship.

Let me, Mr. President, just briefly review the principal titles of our legislation. I will submit the legislation for introduction as well as a section-by-section analysis of the proposal. But the bill contains a title which relates to insurance reform.

In this area, we are building on a very successful recent experience which related to problems including out outright fraud that existed in the sale of so-called Medigap insurance policies. These are the policies that extend the normal reach of Medicare. The way in which the Congress chose to go about dealing with the problem of Medigap insurance was to ask the State insurance commission to work together to develop a standard set of principles to govern those types of insurance policies. Each State must then be required to adopt the basic principles that have been developed by these State officials. Each State deserves the right to go beyond what the standard set of principles were.

We are proposing a similar policy as it relates to health insurance. We are going to call on the 50 insurance commissioners of America to develop the programs on portability, on preexisting conditions, on the other gaps in health insurance coverage that have caused such anxiety and loss of insurance coverage to American families.

The second title is State innovation. It has two basic approaches. One, we are going to seek relief for States from some of the shackles that have been imposed upon them for 20 years so that they will have the ability to innovate. We want to make it easier for States for instance to get waivers from a risk, easier for States to get waivers from Medicaid, easier for States to shape their own approach to what they believe will best meet the needs of their people. We are going to go beyond this in that we are going to provide grants, grants over the next 5 years totaling $50 billion to States which apply and which can demonstrate that they have a plan that will move toward the three objectives of increased coverage, cost control, and provision. We believe this will give a positive encouragement to the States to accelerate a process of innovation that has been asleep for 20 years.

Third, in the area of public health we are proposing for a significant increase in the Federal role in public health. The Federal Government used to be the primary level of government in public health. It is a partnership with the States. Our partnership has been faltering. States have been taking up a larger and larger share. With the States' financial constraints, one of the problems is we are going to see frays in our public health system. Tuberculosis, for instance, which is a disease that we thought had been eradicated, has made a resurgence and a significant part of the reason for that resurgence is laid to the fact that we have gaps in our public health service that have allowed that to occur.

We also are proposing, in the next title, increases in assistance to medical research. Again the States will have a major role since many of the most significant health care training and research institutions are hospitals and medical centers which are associated with State government. We also are proposing increased funding for the National Institutes of Health. We believe that Americans want to have investments that will increase our knowledge, and therefore ability to arrest adverse health care conditions.

Finally, we come to what may be the bitter pill of that; that is, how we pay for it. We are proposing a $1 per unit increase in the tax on tobacco products as a means of financing these initiatives in State innovation, public health, in medical and health research. We believe this is appropriate in terms of the contribution that reduction in the use of these products will have on the health of America. It also will raise approximately $68 billion over the next 5 years which will be necessary in order to finance the various initiatives that we have outlined.

Finally, we have a provision that relates to fraud and abuse. I want to particularly commend Senator COHEN of Maine whose ideas are heavily involved in this particular title. He has done outstanding work in the area of Medicare fraud and abuse, and has helped to bring to the Nation's attention the shocking level of abuse in terms of inappropriate services, services not rendered, overbilled services which are estimated to be costing us $1 out of every $10 in our Medicare expenditures. But fraud and abuse is not limited to Medicare. It also occurs in other governmental programs such as CHAMPUS, which is the program for the Department of Defense. It occurs in Medicaid with the State-Federal partnership program, and it occurs in many private insurance programs. We believe that the frontal assault on fraud and abuse is an important element of this health care reform effort.

I close, Mr. President, by quoting a fellow Floridian, columnist and editorial writer of the St. Petersburg Times, Martin Dyckman, who stated that this approach that we are suggesting to health care reform is.

> * * * of course, is how most of this country's important social reform including public schools, child labor laws, anti-sweatshop legislation, wage-hour laws and workers' compensation, came into flower. They originated not in Congress but with the States. It is the genius of federalism.

We seek to unleash that genius to the benefit of all of the American people. As we will learn more about what policies actually contribute to increased coverage, containment of cost and the prevention of illness, we will improve the lives of individual citizens within their States. And with that experience, we will have the opportunity to make better policies across America that will improve the lives of all of our citizens.

Mr. President, during the long, arduous and extended debate over health care last session of Congress, Senator HATFIELD and I were concerned that Congress had become fixed on thinking about health care reform from a single, centralized, one-size-fits-all, national model. In the bipartisan rush to attempt to solve the Nation's problems and federalize health care, Congress overlooked what may be the best opportunity we have—State-led reform.

In fact, that has been the case for over two decades. In the early 1970's, many States were working on initiatives to develop health care infrastructure or were, as in the cases of Hawaii, Maine, and California, undertaking progressive reform proposals to expand coverage. Hawaii passed its Prepaid Health Care Act in 1974 and has been the only State to receive necessary implementation waivers from Congress. As a result, Hawaii has managed to cover 96 percent of its citizens and has costs below the national average.

Unfortunately, most other State reform initiatives have been stalled by the overriding national health reform efforts of President Nixon and Congress in 1974, the growing federalization of Medicaid policy throughout the period and the passage of the Employee Retirement Income Security Act or ERISA in 1974.

These three efforts to nationalize health care have worked together to stall or limit State health reform efforts over the past two decades. In fact, ironically, due to the very fact that very little experimentation or innovation occurred in the States over the last two decades, virtually all of the national health reform proposals—whether it was managed competition, single payer, employer or individual mandates, pay or play, vouchers, the expansion of Medicare or market reform—had as their centerpiece a variety of untested reform theories in American society. In short, past efforts to limit state flexibility paradoxically helped thwart Congress' reform efforts last year.

As a result, on September 22, 1994, Senator HATFIELD and I introduced legislation that would attempt to attain the goals of health reform—expanded coverage and access, cost containment and improved quality—with State innovation as an underlying theme. After working to improve the legislation over the recess, we are reintroducing the Health Partnership Act today. We introduce this legislation as a working document and encourage any and all comments to help further refine the proposal.

First, the legislation recognizes that, in a nation as diverse as ours, one solution or means cannot be formulated for the wide range of health programs and needs in our country. For example, Florida, Pennsylvania, Iowa, Rhode Island, and West Virginia have 50 percent more elderly per capita than do Alaska, Utah, Colorado, and Georgia. Addressing the long term care needs and specific health care problems associated with aging would clearly be a greater point of emphasis in the former States than in the latter.

As former Governors and as Senators from States that have enacted substantial health reform plans, Senator HATFIELD and I believe the States have demonstrated some tremendous creativity and ability to implement innovative health care initiatives often in the face of stiff resistance from the Federal Government.

As Supreme Court Justice Louis Brandies said in 1932,

> It is one of the happy incidents of the Federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.

To summarize the Health Partnership Act, the bill establishes increased coverage, cost containment, improved quality and decentralization as its overriding goals. Our proposal would achieve this through Federal-State partnerships in five areas: insurance reform, state innovation, public health, medical and health research, and fraud and abuse.

INSURANCE REFORM

The first title deals with insurance reform. Through recommendations from our Nation's State insurance commissioners, our bill would address the longstanding problems of portability, preexisting conditions, solvency standards, community rating, and other needed insurance market reforms.

The State insurance commissioners would establish a set of national minimum insurance standards that would be approved by the Secretary of Health and Human Services. This is modeled after the Baucus amendment to the Omnibus Budget Reconciliation Act of 1990 that related to the development of the largely successful Medicare supplemental insurance standards or Medigap. In our bill, States that wish to do beyond the minimum standards established by NAIC could proceed with more progressive reforms.

STATE INNOVATION

Title II is concerned State and local innovation. Both States and localities would be allowed to submit health reform projects that—if they meet the health reform goals of expanding coverage, cost containment and improving quality—would enable them to receive broad flexibility in the Medicaid Program, Public Health Service programs, the maternal child health block grant and the social services block grant.

To further improve the Federal-State partnership, our legislation would grant these waivers and greatly expanded flexibility through the vast reduction of process requirements and regulation. Instead, the Federal Government and States would jointly develop performance and accountability measures that specifically relate to the State's project. For example, if a State were to submit a children's health initiative as a health reform project, performance measures might include infant mortality, immunization rates or unnecessary pediatric hospitalization rates.

Eligible States would also have available $50 billion in grants to enact their reforms over a 5-year period.

The bill also gives states greater flexibility by clarifying the impact of the ERISA preemption. While ERISA was intended to recognize the desire by multi-State corporations to have uniformity in their employee benefit programs, it has gone beyond what is required for that purpose. The result has been the preemption of an increasing number of State laws.

For example, it does not make sense to preclude States from having access to data, from establishing quality standards for HMO's and from raising revenue through providers to fund uncompensated care pools. In effect, States are prevented by ERISA from enacting some reforms that would reduce the numbers of uninsured, contain costs and ensuring, or enhancing quality. Our intention in the bill is to find a balance between the legitimate and proper interests on business and labor in ERISA and that of States.

Consequently, the bill provides for the establishment of an ERISA Review Commission to study the issues affected by ERISA and to make recommendations on points of compromise between States, business, and labor.

PUBLIC HEALTH

Title III promotes prevention, public health, cost effective treatment, and improved overall health through four distinct approaches: First, strengthening the partnership with and capacity of local and state public health departments to carry out core public health functions; second, expanding access to preventive and primary care services for vulnerable and medically underserved communities; third, supporting applied research on prevention and effective public health interventions, and fourth, addressing public health work force needs and access problems.

At a time when tuberculosis, AIDS and other public health problems such as E. coli increasingly threaten the public's health, as investment in our Nation's public health infrastructure as necessary and overdue.

Dr. C. Everett Koop and other members of the Health Project Consortium published an article in the New England Journal of Medicine in 1983 noting that 70 percent of all illness is preventable and that there are about 1 million deaths annually that are preventable. That amounts to in excess of $600 billion annually in costs. However, our Nation now invests less than 1 percent of our total health care costs on health care. The waste of both lives and money must be addressed.

As a result, our legislation would increase the investment in public health by $9 billion over 5 years.

MEDICAL AND HEALTH RESEARCH

Title IV emphasizes medical and health research. Our initiative recognizes the importance of medical and health research and would provide $6 billion over a 5-year period in increased funding for that function. This builds on the excellent track record of medical research in our Nation's State-supported research and medical centers. In addition, if finding the cure for diseases such as AIDS, Alzheimer's, and cancer is to be achieved, such an investment is critical.

FRAUD AND ABUSE

Title V is a section tackles the issue of fraud and abuse. Senator BILL COHEN, who has studied this issue at length and contributed to this section, recently said,

> As much as $100 billion is lost each year to fraud and abuse, driving up the cost of health care in America for million of patients and families—as well as for the American taxpayer. Losses over the last 5 years are almost four times the total costs to date of the entire savings and loan crisis.

One of the provisions establishes closer coordination of fraud investigation among the Federal, State, and private sector. This would positively impact State and local governments as providers, payers, and employers.

COST

The bill's costs over a 5-year period would be $65 billion which Senator HATFIELD and I propose to be financed with a $1 tax on tobacco products. This funding source, while providing funds for our proposal, would also discourage smoking and improve the overall health of Americans.

WHY STATE-LED REFORM?

Why federalism or state-led reform? First and most obvious, the Federal Government failed and will continue to fail to truly address the agreed upon goals of this nation in health care.

Second, the combination of Federal failure, hinderance of State flexibility through Medicaid regulations and ERISA, and anticipate budget cuts to Medicare and Medicaid this year would result in what I would call triple-negative health reform. We should break that downward spiral at the second point and grant State and local governments increased flexibility to improve our Nation's health care. The contrast would be further Federal inaction and arbitrary budget cuts, neither prescriptions for improved health.

Third, the diversity in our Nation dictates federalism. As St. Petersburg columnist Martin Dyckman said in a column endorsing our approach,

> This, of course, is now most of this country's important social reform including public schools, child labor laws, anti-sweatshop legislation, wage-hour laws and workers' compensation, came into flower. They originated not in Congress but with the States. It is the genius of federalism.

Fourth, States have historically led in reform—Hawaii, Minnesota, Florida, New York, Maryland, Oregon, and Washington and others come to mind. States have led in reform because they can respond quicker to the rapid changing dynamics of health care. They are also more efficient. One look at the Medicare fraud problem in south Florida would shy anybody away from having Washington, DC, too involved in reform.

Fifth, doing nothing is unacceptable. State and local governments continue to bear the brunt and serve as much of our Nation's safety net. As last year's Advisory Committee on Intergovernmental Relations report entitled "Local Government Responsibilities in Health care" noted, "Local governments spend an estimated $85 billion per year on health care services—about one of every eight dollars spent by local governments."

Failing to recognize this important contribution and failure to address it will only increase this heavy burden. Uninsured rates will only continue to increase, costs will continue to explode while problems such as infant mortality, where the United States ranks 21st in the world, are not going away.

Finally, waiting for uniformity is a pipedream. As many of you know only too well. Medicaid regulation and ERISA have effectively preempted the ability of State and local government from enacting anything other than incremental reform for 20 years due to what everyone thought was impending national health care reform. Since that time, States have largely been held back from enacting reforms while Presidents Nixon, Ford, Carter, Reagan, Bush, and Clinton have all failed to enact comprehensive national health reform.

Therefore, the purpose of our bill is to free the States to be innovative to addressing their specific health care needs and problem while providing States the resources to encourage and accelerate the process. Mr. President, I believe the time for State-led reform is now.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Partnership Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—HEALTH INSURANCE REFORM

Sec. 1001. Establishment of standards.
Sec. 1002. Expansion and revision of medicare select policies.
Sec. 1003. Effective dates.

TITLE II—STATE INNOVATION

Subtitle A—State Waiver Authority

Sec. 2001. State health reform projects.

Subtitle B—State Laws

PART A—EXISTING WAIVERS AND HAWAII PREPAID HEALTH CARE ACT

Sec. 2101. Continuance of existing Federal law waivers.
Sec. 2102. Preemption of Hawaii Prepaid Health Care Act.

PART B—ERISA REVIEW

Sec. 2110. Specific exemption from ERISA preemption.
Sec. 2111. Discretionary exemptions from ERISA preemptions.
Sec. 2112. Procedures for adopting discretionary exemptions.
Sec. 2113. Operation of the Commission.

TITLE III—PUBLIC HEALTH AND RURAL AND UNDERSERVED ACCESS IMPROVEMENT

Sec. 3001. Short title.

Sec. 3002. Establishment of new title XXVII regarding public health programs.

TITLE IV—MEDICAL AND HEALTH RESEARCH

Sec. 4001. Short title.
Sec. 4002. Findings.
Sec. 4003. National Fund for Health Research.

TITLE V—FRAUD AND ABUSE

Sec. 5001. Short title.

Subtitle A—All-Payer Fraud and Abuse Control Program

Sec. 5101. All-payer fraud and abuse control program.
Sec. 5102. Application of certain Federal health anti-fraud and abuse sanctions to fraud and abuse against any health plan.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

Sec. 5201. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 5202. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
Sec. 5203. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 5204. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 5205. Intermediate sanctions for medicare health maintenance organizations.
Sec. 5206. Effective date.

Subtitle C—Civil Monetary Penalties

Sec. 5301. Civil monetary penalties.

Subtitle D—Payments for State Health Care Fraud Control Units

Sec. 5401. Establishment of State fraud units.
Sec. 5402. Requirements for State fraud units.
Sec. 5403. Scope and purpose.
Sec. 5404. Payments to States.

TITLE VI—REVENUE PROVISIONS

Sec. 6000. Amendment of 1986 Code.

Subtitle A—Financing Provisions

PART I—INCREASE IN TAX ON TOBACCO PRODUCTS

Sec. 6001. Increase in excise taxes on tobacco products.
Sec. 6002. Modifications of certain tobacco tax provisions.
Sec. 6003. Imposition of excise tax on manufacture or importation of roll-your-own tobacco.

Subtitle B—Health Care Reform Trust Fund

Sec. 6101. Establishment of Health Care Reform Trust Fund.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Americans support universal coverage. The people of this country agree that all Americans should be guaranteed access to affordable, high-quality health care.

(2) Although there is common agreement on the goal of universal coverage, there are many different ways to achieve this goal. The States can play an important role in achieving universal coverage for our population, demonstrating additional health reforms that may be needed on a national level to enhance access to affordable, high-quality health care. A number of States have already initiated health care reform that takes into account their special economic, demographic, and financial conditions. These State models combine unique reform innovations with the various strengths of their existing State health care systems, including market competition, employer pools and association plans, technology review and public health outreach projects. The States can also serve as testing grounds to identify effective alternatives for making the transition to universal coverage, while maintaining the strengths of the current health care system.

(3) Maintaining the high quality of health care Americans expect and controlling costs are also important goals of health care reform. As payers of health care, the States have a strong incentive to ensure that such States purchase high-quality, cost-effective services for the residents of such States. The States can develop and test alternative payment and delivery systems to ensure that these goals are achieved.

(4) In light of the success of various State-initiated reforms and in the absence of comprehensive Federal health reform, there are many health-related issues that should be addressed at the State level. As with social security and child labor protections, States can lead the way in testing ideas for national application or application in other States.

(5) The States should have the flexibility to test alternative health reforms with the objectives of increasing access to care, controlling health care costs, and maintaining or improving the quality of health care.

SEC. 3. DEFINITIONS.

Unless specifically provided otherwise, as used in this Act:

(1) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(2) PERFORMANCE MEASURES.—The term "performance measures" means measurable indicators that are used to assess progress towards achieving the broad goals of increasing access to care, controlling health care costs, and maintaining or improving the quality of health care.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, the Northern Mariana Islands, and American Samoa.

TITLE I—HEALTH INSURANCE REFORM

SEC. 1001. ESTABLISHMENT OF STANDARDS.

(a) IN GENERAL.—The Secretary shall request that the NAIC develop, not later than 6 months after the date of enactment of this Act, standards for health insurance plans with respect to—

(1) the renewability of coverage under such plans;

(2) the portability of coverage under such plans, including—

(A) limitations on the use of pre-existing conditions;

(B) the concept of an "amnesty period" during which limitations on pre-existing conditions would be suspended; and

(C) the advisability of open enrollment periods;

(3) guaranteed issue with respect to all health insurance coverage products;

(4) the establishment of an adjusted community rating system with adjustment factors limited to age (with no more than a 2:1 variation in premiums based on age) and geography;

(5) solvency standards for health insurance plans regulations under Federal and State law, including the development of risk-based capital standards for health plans, solvency standards for health plans, self-funded employer-sponsored health plans, and multi-employer welfare arrangements and association plans;

(6) stop-loss standards for self-funded health insurance plans and multi-employer welfare arrangements and association plans;

(7) the identification of minimum employer size for self-funding and the interrelationship between self-funding and the community-rated pool of enrollees; and

(8) any other areas determined appropriate by the Secretary, including enforcement of standards under this section.

(b) REVIEW.—Not later than 60 days after receipt of the standards developed by the NAIC under subsection (a), the Secretary shall complete a review of such standards. If the Secretary, based on such review, approves such standards, such standards shall apply with respect to all health insurance plans offered or operating in a State on and after the date specified in subsection (d) herein.

(c) FAILURE TO DEVELOP STANDARDS OR FAILURE TO APPROVE.—If the NAIC fails to develop standards within the 6-month period referred to in subsection (a), or the Secretary fails to approve any standards developed under such subsection, the Secretary shall develop, not later than 15 months after the date of enactment of this Act, standards applicable to health insurance plans, including standards related to the matter described in paragraphs (1) through (8) of subsection (a) ("Federal standards") and such standards shall apply with respect to all health insurance plans offered or operating in a State on and after the date specified in subsection (d) herein.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the effective date specified in this subsection for a State is the date the State adopts the standards developed under this section or 1 year after the date the NAIC or the Secretary first adopts such standards, whichever is earlier.

(2) EXCEPTION.—In the case of a State which the Secretary, in consultation with the NAIC, identifies as—

(A) requiring State legislation (other than legislation appropriating funds) in order for health insurance policies to meet the standards developed under this section, but

(B) having a legislature which is not scheduled to meet in 1996 in a legislative session in which such legislation may be considered,

the date specified in this subsection is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(e) WORKING GROUP.—In promulgating standards under this section, the NAIC or Secretary shall consult with a working group composed or representatives of issuers of health insurance policies, consumer groups, health insurance beneficiaries, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

(f) EFFECT ON STATE LAW.—Nothing in this section shall be construed to preempt any

State law to the extent that such State law implements more progressive reforms than those implemented under the standards developed under this section, as determined by the Secretary.

SEC. 1002. EXPANSION AND REVISION OF MEDICARE SELECT POLICIES.

(a) Permitting Medicare Select Policies in All States.—

(1) In general.—Subsection (c) of section 4358 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1320c-3 note) is hereby repealed.

(2) Conforming amendment.—Section 4358 of such Act (42 U.S.C. 1320c-3 note) is amended by redesignating subsection (d) as subsection (c).

(b) Requirements of Medicare Select Policies.—Section 1882(t)(1) of the Social Security Act (42 U.S.C. 1395ss(t)(1)) is amended to read as follows:

"(1)(A) If a medicare supplemental policy meets the 1991 NAIC Model Regulation or 1991 Federal Regulation and otherwise complies with the requirements of this section except that—

"(i) the benefits under such policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), and

"(ii) in the case of a policy described in subparagraph (C)(i)—

"(I) the benefits under such policy are not one of the groups or packages of benefits described in subsection (p)(2)(A),

"(II) except for nominal copayments imposed for services covered under part B of this title, such benefits include at least the core group of basic benefits described in subsection (p)(2)(B), and

"(III) an enrollee's liability under such policy for physician's services covered under part B of this title is limited to the nominal copayments described in subclause (II),

the policy shall nevertheless be treated as meeting those standards if the policy meets the requirements of subparagraph (B).

"(B) A policy meets the requirements of this subparagraph if—

"(i) full benefits are provided for items and services furnished through a network of entities which have entered into contracts or agreements with the issuer of the policy;

"(ii) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network;

"(iii) the network offers sufficient access;

"(iv) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network;

"(v)(I) the issuer of the policy provides to each enrollee at the time of enrollment an explanation of the matters described in subparagraph (D), and

"(II) each enrollee prior to enrollment acknowledges receipt of the explanation provided under subclause (I); and

"(vi) the issuer of the policy makes available to individuals, in addition to the policy described in this subsection, any policy (otherwise offered by the issuer to individuals in the State) that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation and other requirements of this section without regard to this subsection.

"(C)(i) A policy described in this subparagraph—

"(I) is offered by an eligible organization (as defined in section 1876(b)),

"(II) is not a policy or plan providing benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, and

"(III) provides benefits which, when combined with benefits which are available under this title, are substantially similar to benefits under policies offered to individuals who are not entitled to benefits under this title.

"(ii) In making a determination under subclause (III) of clause (i) as to whether certain benefits are substantially similar, there shall not be taken into account, except in the case of preventive services, benefits provided under policies offered to individuals who are not entitled to benefits under this title which are in addition to the benefits covered by this title and which are benefits an entity must provide in order to meet the definition of an eligible organization under section 1876(b)(1).

"(D) The matters described in this subparagraph, with respect to a policy, are as follows:

"(i) The restrictions on payment under the policy for services furnished other than by or through the network.

"(ii) Out of area coverage under the policy.

"(iii) The policy's coverage of emergency services and urgently needed care.

"(iv) The availability of a policy through the entity that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation without regard to this subsection and the premium charged for such policy.".

(c) Renewability of Medicare Select Policies.—Section 1882(q)(1) of the Social Security Act (42 U.S.C. 1395ss(q)(1)) is amended—

(1) by striking "(1) Each" and inserting "(1)(A) Except as provided in subparagraph (B), each";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (ii), in the case of a policy that meets the requirements of subsection (t), an issuer may cancel or nonrenew such policy with respect to an individual who leaves the service area of such policy.

"(ii) If an individual described in clause (i) moves to a geographic area where the issuer described in clause (i), or where an affiliate of such issuer, is issuing medicare supplemental policies, such individual must be permitted to enroll in any medicare supplemental policy offered by such issuer or affiliate that provides benefits comparable to or less than the benefits provided in the policy being canceled or nonrenewed. An individual whose coverage is canceled or nonrenewed under this subparagraph shall, as part of the notice of termination or nonrenewal, be notified of the right to enroll in other medicare supplemental policies offered by the issuer or its affiliates.

"(iii) For purposes of this subparagraph, the term 'affiliate' shall have the meaning given such term by the 1991 NAIC Model Regulation.".

(d) Civil Money Penalty.—Section 1882(t)(2) of the Social Security Act (42 U.S.C. 1395ss(t)(2)) is amended—

(1) by striking "(2)" and inserting "(2)(A)";

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(3) in clause (iv), as so redesignated—

(A) by striking "paragraph (1)(E)(i)" and inserting "paragraph (1)(B)(v)(I), and

(B) by striking "paragraph (1)(E)(ii)" and inserting "paragraph (1)(B)(v)(II)";

(4) by striking "the previous sentence" and inserting "this subparagraph"; and

(5) by adding at the end the following new subparagraph:

"(B) If the Secretary determines that an issuer of a policy approved under paragraph (1) has made a misrepresentation to the Secretary or has provided the Secretary with false information regarding such policy, the issuer is subject to a civil money penalty in an amount not to exceed $100,000 for each such determination. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

SEC. 1003. EFFECTIVE DATES.

(a) NAIC Standards.—If, within 6 months after the date of the enactment of this Act, the NAIC makes changes in the 1991 NAIC Model Regulation (as defined in section 1882(p)(1)(A) of the Social Security Act) to incorporate the additional requirements imposed by the amendments made by section 1002, section 1882(g)(2)(A) of such Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subsection (c), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed under this subsection (such changed Regulation referred to in this section as the "1995 NAIC Model Regulation").

(b) Secretary Standards.—If the NAIC does not make changes in the 1991 NAIC Model Regulation (as so defined) within the 6-month period specified in subsection (a), the Secretary of Health and Human Services (in this subsection as the "Secretary") shall promulgate a regulation and section 1882(g)(2)(A) of the Social Security Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subsection (c), as if the reference to the Model Regulation adopted in June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed by the Secretary under this subsection (such changed Regulation referred to in this section as the "1995 Federal Regulation").

(c) Date Specified.—

(1) In general.—Subject to paragraph (2), the date specified in this subsection for a State is the earlier of—

(A) the date the State adopts the 1995 NAIC Model Regulation or the 1995 Federal Regulation; or

(B) 1 year after the date the NAIC or the Secretary first adopts such regulations.

(2) Additional legislative action required.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(A) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the 1995 NAIC Model Regulation or the 1995 Federal Regulation, but

(B) having a legislature which is not scheduled to meet in 1995 in a legislative session in which such legislation may be considered,

the date specified in this subsection is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1995. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE II—STATE INNOVATION

Subtitle A—State Waiver Authority

SEC. 2001. STATE HEALTH REFORM PROJECTS.

(a) OBJECTIVES.—The objectives of the waiver programs approved under this section shall include, but not be limited to—

(1) achieving the goals of increased health coverage and access;

(2) containing the annual rate of growth in public and private health care expenditures;

(3) ensuring that patients receive high-quality, appropriate health care; and

(4) testing alternative reforms, such as building on the private health insurance system or creating new systems, to achieve the objectives of this Act.

(b) STATE HEALTH REFORM APPLICATIONS.—

(1) IN GENERAL.—A State, in consultation with local governments involved in the provision of health care, may apply for—

(A) an alternative State health program waiver under paragraph (2); or

(B) a limited State health care waiver under paragraph (3).

(2) ALTERNATIVE STATE HEALTH PROGRAM WAIVERS.—

(A) IN GENERAL.—In accordance with this paragraph, each State desiring to implement an alternative State health program may submit an application for waiver to the Secretary for approval.

(B) WAIVER REQUIREMENTS SPECIFIED.—A State that desires to receive a program waiver under this paragraph shall prepare and submit to the Secretary, as part of the application, a State health care plan that shall—

(i) provide and describe the manner in which the State will ensure that individuals residing within the State have expanded access to health care coverage;

(ii) describe the number and percentage of current uninsured individuals who will achieve coverage under the alternative State health program;

(iii) describe the benefits package that will be provided to all classes of beneficiaries under the alternative State health program;

(iv) identify Federal, State, or local programs that currently provide health care services in the State and describe how such programs could be incorporated into or coordinated with the alternative State health program, to the extent practicable;

(v) provide that the State will develop and implement health care cost containment procedures;

(vi) describe the public and private sector financing to be provided for the alternative State health program;

(vii) estimate the amount of Federal, State, and local expenditures, as well as, the costs to business and individuals under the alternative State health program;

(viii) describe how the State plan will ensure the financial solvency of the alternative State health program;

(ix) describe any changes in eligibility for public subsidies;

(x) provide assurances that Federal expenditures under the alternative State health program shall not exceed the Federal expenditures, other than expenditures made available under this Act, which would otherwise be made in the aggregate for the entire program period;

(xi) provide quality control assurances, agreements, and performance measures as required by the Secretary;

(xii) provide for the development and implementation of a State health care delivery system that provides increased access to care in areas of the State where there is an inadequate supply of health care providers;

(xiii) identify all Federal law waivers required to implement the alternative State health program, including such waivers necessary to achieve the access, cost containment, and quality goals of this Act and the alternative State health program; and

(xiv) provide that the State will prepare and submit the Secretary such reports as the Secretary may require to carry out program evaluations.

(C) PROJECT WAIVERS.—

(i) CRITERIA FOR SELECTION.—In selecting from among the applications for alternative State health program waivers, the Secretary shall be satisfied that each approved State alternative State health program—

(I) will not have a negative effect on quality of care;

(II) increase coverage of or access for the State's population; and

(III) will—

(aa) provide quality of care and premium comparisons directly to employers and individuals in an easy-to-use format,

(bb) contract with an external peer review organization to monitor the quality of health care plans, and

(cc) establish a mechanism within the State's grievance process that allows members of a health plan to disenroll at any time if it can be shown that such members were provided erroneous information that biased their health plan selection.

(ii) WAIVER APPROVAL.—The Secretary shall approve applications submitted by States that meet the access, cost containment, and quality goals established in this Act and shall waive to the extent necessary to conduct each alternative State health program any of the requirements of this Act, including, but not limited to, eligibility requirements; alternative data collection systems and sampling designs that focus on measuring health status, patient treatment outcomes, and patient satisfaction with health plans, rather than on the collection of 100 percent of patient encounters; and benefit designs; and any provisions of Federal law contained in the following:

(I) Titles V, XIX, and XX of the Social Security Act.

(II) Title XVIII of the Social Security Act, to the extent such a waiver is granted only for the operation of an all-payor system or a long-term care system.

(III) The Public Health Service Act.

(IV) Any other Federal law authorizing a Federal health care program that the Secretary identifies as providing health care services to qualified recipients.

(3) LIMITED STATE HEALTH CARE WAIVERS.—Each State which does not receive or apply for an approved application under paragraph (2) may apply for a limited State health care waiver. The Secretary shall award limited State health care waivers to ensure State demonstrations of health reforms that could address, but are not limited to addressing, the following issues that are likely to provide guidance for the development of additional national health reforms:

(A) Integration of acute and long-term care systems, including delivery and financing systems.

(B) Establishment of methodologies that limit expenditures or establish global budgets, including rate setting and provider reimbursements.

(C) Implementation of a quality management and improvement system.

(D) Strategies to improve the proper speciality and geographic distribution of the health care work force.

(E) Initiatives to improve the population's health status.

(F) Development of uniform health data sets that emphasize the measurement of patient satisfaction, treatment outcomes, and health status.

(G) Methods for coordinating or integrating State-funded programs that provide services for low-income individuals, including programs authorized by this Act.

(H) Programs to improve public health.

(I) Reforms intended to reduce health care fraud and abuse.

(J) Reforms to reduce the incidence of defensive medicine and practitioner liability costs associated with medical malpractice.

(K) Development of a uniform billing system.

(c) ADDITIONAL RULES REGARDING APPLICATIONS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall, if requested, provide technical assistance to States to assist such States in developing waiver applications under this section.

(2) INITIAL REVIEW.—The Secretary shall complete an initial review of each State application for a waiver under paragraph (2) or (3) of subsection (b) within 40 days of the receipt of such application, analyze the scope of the proposal, and determine whether additional information is needed from the State. The Secretary shall issue a preliminary opinion concerning the likelihood that the application will be approved within such 40-day period and shall advise the State within such period of the need to submit additional information.

(3) FINAL DECISION.—The Secretary shall, within 90 days of the later of—

(A) the receipt of a State application for a waiver under paragraph (2) or (3) of subsection (b), or

(B) the date on which the Secretary receives additional information requested from a State under paragraph (1),

issue a final decision concerning such application.

(4) WAIVER PERIOD.—A State waiver may be approved for a period of 5 years and may be extended for subsequent 5-year periods upon approval by the Secretary, except that a shorter period may be requested by a State and granted by the Secretary.

(d) QUALIFICATION FOR FEDERAL FUNDS.—For purposes of this Act, a State with an approved alternative health care system under subsection (b)(2) shall be considered a participating State and shall maintain such status if such State meets the requirements established by the Secretary in the waiver approval and in this section.

(e) EVALUATION, MONITORING, AND COMPLIANCE.—

(1) STATE HEALTH REFORM ADVISORY COMMISSION.—

(A) IN GENERAL.—Within 90 days after the date of the enactment of this Act, the Secretary shall establish, an appoint the members of, a 17-member State Health Reform Advisory Commission (hereafter in this subsection referred to as the "Commission") that shall—

(i) be comprised of members representing relevant participants in State programs, including representatives of State government, employers, consumers, providers, and insurers;

(ii) be responsible for monitoring the status and progress achieved under waivers granted under this section;

(iii) report to the public concerning progress made by States with respect to the performance measures and goals established under this Act and the State project application procedures, by region and State jurisdiction;

(iv) promote information exchange between States and the Federal Government; and

(v) be responsible for making recommendations to the Secretary and the Congress, using equivalency or minimum standards, for minimizing the negative effect of State waivers on national employer groups, provider organizations, and insurers because of differing State requirements under the waivers.

(B) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(C) CHAIRPERSON, MEETINGS.—

(i) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(ii) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(iii) MEETINGS.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting. The Commission shall meet at the call of the Chairperson.

(D) POWERS OF THE COMMISSION.—

(i) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subsection.

(ii) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subsection. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(iii) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(iv) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(E) PERSONNEL MATTERS.—

(i) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(ii) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(iii) STAFF.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(iv) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(v) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(F) FUNDING.—For the purpose of carrying out this subsection, there are authorized to be appropriated from the Fund established under section 9551 of the Internal Revenue Code of 1986, $1,000,000 for each of the fiscal years 1996 through 2000.

(2) ANNUAL REPORTS BY STATES.—Each State that has received a waiver approval shall submit to the Secretary an annual report based on the period representing the respective State's fiscal year, detailing compliance with the requirements established by the Secretary in the waiver approval and in this section.

(3) CORRECTIVE ACTION PLANS.—If a State is not in compliance, the Secretary shall develop, in conjunction with all the approved States, a corrective action plan.

(4) TERMINATION.—For good cause, the Secretary may revoke any waiver of Federal law granted under this section, and if necessary, may terminate any alternative State health program. Such decisions shall be subject to a petition for reconsideration and appeal pursuant to regulations established by the Secretary.

(5) EVALUATIONS BY SECRETARY.—The Secretary shall prepare and submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Commerce and the Committee on Ways and Means of the House of Representatives annual reports that shall contain—

(A) a description of the effects of the reforms undertaken in States receiving waiver approvals under this section;

(B) an evaluation of the effectiveness of such reforms in—

(i) expanding health care coverage for State residents;

(ii) providing health care to State residents with special needs;

(iii) reducing or containing health care costs in the States; and

(iv) improving the quality of health care provided in the States; and

(C) recommendations regarding the advisability of increasing Federal financial assistance for State alternative State health program initiatives, including the amount and source of such assistance.

(f) STATE COMMISSIONS.—The Secretary shall encourage States to establish a State commission to gather, review and report to the public concerning the progress the State is making in meeting the project goals of improved access, cost containment and quality and established performance measures.

(g) FUNDING.—

(1) IN GENERAL.—The Secretary may provide a grant to a State that has an application for a waiver approved under subsection (b)(2) to enable such State to carry out an alternative State health program in the State.

(2) AMOUNT OF GRANT.—The amount of a grant provided to a State under paragraph (1) shall be determined pursuant to an allocation formula established by the Secretary.

(3) PERFORMANCE-BASED FUNDING ALLOCATION AND PRIORITIZATION.—In awarding grants under paragraph (1), the Secretary shall—

(A) give priority to those State projects that the Secretary determines have the greatest opportunity to succeed in providing expanded health insurance coverage and access without penalizing those States that have been successful in expanding coverage and access through reform efforts in prior years;

(B) give priority to those State projects that the Secretary determines have the greatest opportunity to succeed in providing expanded health insurance coverage and in providing children, youth, and vulnerable populations with access to health care items and services; and

(C) attempt to link allocations to the State to the meeting of the goals and performance measures relating to health care coverage and access, health care costs, health care outcomes and vulnerable populations established under this Act through the State project application process.

(4) MAINTENANCE OF EFFORT.—A State, in utilizing the proceeds of a grant received under paragraph (1), shall maintain the expenditures of the State for health care coverage purposes at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received. The requirement of this paragraph shall not apply in the case of a State that desires to alter health care coverage funding levels within the scope of the State's alternative health program.

(5) REPORT.—At the end of the 5-year period beginning on the date on which the Secretary awards the first grant under paragraph (1), the State Health Reform Advisory Board established under subsection (e)(1) shall prepare and submit to the appropriate committees of Congress, a report on the progress made by States receiving grants under paragraph (1) in meeting the goals of expanded access, cost containment and quality through performance measures established during the 5-year period of the grant. Such report shall contain the recommendation of the Board concerning any future action that Congress should take concerning health care reform, including whether or not to extend the program established under this subsection.

(h) LOCAL GOVERNMENT APPLICATIONS.—

(1) IN GENERAL.—Where a State fails to submit an application under this section, a unit of local government of such State, or a consortium of such units of local governments, may submit an application directly to the Secretary for programs or projects under subsection (b). Such an application shall be subject to the requirements of this section.

(2) OTHER APPLICATIONS.—Subject to such additional guidelines as the Secretary may prescribe, a unit of local government may submit an application under this section, whether or not the State submits such an application, if such unit of local government can demonstrate unique demographic needs or a significant population size that warrants a substate waiver under subsection (b).

(i) AVAILABILITY OF FUNDS.—With respect to each of the calendar years 1996 through

2000, $10,000,000,000 shall be available for a calendar year to carry out this section from the Health Care Reform Trust Fund established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986. Amounts made available in a calendar year under this paragraph and not expended may be used in subsequent calendar years to carry out this section.

(j) CRIMINAL PENALTIES FOR ACTS INVOLVING MEDICARE OR STATE HEALTH CARE PROGRAMS.—

Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a-7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F)(i) any premium payment made to a health insurer or health maintenance organization by a State agency in connection with a demonstration project operated under the State medicaid program pursuant to section 1115 or the Health Partnership Act of 1995 with respect to individuals participating in such project; or

"(ii) any payment made by a health insurer or a health maintenance organization to a sales representative or a licensed insurance agent for the purpose of servicing, marketing, or enrolling individuals participating in such demonstration project in a health plan offered by such an insurer or organization.".

Subtitle B—State Laws

PART A—EXISTING WAIVERS AND HAWAII PREPAID HEALTH CARE ACT

SEC. 2101. CONTINUANCE OF EXISTING FEDERAL LAW WAIVERS.

Nothing in this Act shall preempt any feature of a State health care system operating under a waiver granted before the date of the enactment of this Act under titles XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 1396 et seq.) or under an exemption from preemption under section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)).

SEC. 2102. PREEMPTION OF HAWAII PREPAID HEALTH CARE ACT.

Section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)) is amended to read as follows:

"(5)(A) Except as provided in subparagraphs (B) and (C), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. Chapter 393, as amended) or any insurance law of the State.

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any State tax law relating to employee benefits plans.

"(C) If the Secretary of Labor notifies the Governor of the State of Hawaii that as the result of an amendment to the Hawaii Prepaid Health Care Act enacted after the date of the enactment of this paragraph—

"(i) the proportion of the population with health care coverage under such Act is less than such proportion on such date, or

"(ii) the level of benefit coverage provided under such Act is less than the actuarial equivalent of such level of coverage on such date,

subparagraph (A) shall not apply with respect to the application of such amendment to such Act after the date of such notification.".

PART B—ERISA REVIEW

SEC. 2110. SPECIFIC EXEMPTION FROM ERISA PREEMPTION.

(a) IN GENERAL.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by adding at the end the following new paragraph:

"(9) Upon application by a State, subsection (a) shall not apply to any State program that—

"(A) requires participation in an uncompensated care pool, including a program which imposes a tax on health care providers to fund an uncompensated care pool; or

"(B) provides for the imposition of a tax on health care providers as permitted under section 1903(w) of the Social Security Act."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed on and after the date of the enactment of this Act.

SEC. 2111. DISCRETIONARY EXEMPTIONS FROM ERISA PREEMPTIONS.

(a) IN GENERAL.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)), as amended by section 2110, is amended by adding at the end the following new paragraph:

"(10) Upon application by a State, subsection (a) shall not apply to any State program which the Secretary finds to be a State program implementing an exemption from subsection (a) established under section 2116 of the Health Partnership Act of 1995."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications filed on and after the date of the enactment of this Act.

SEC. 2112. PROCEDURES FOR ADOPTING DISCRETIONARY EXEMPTIONS.

(a) COMMISSION RECOMMENDATIONS.—The ERISA Review Commission shall—

(1) within 6 months after its establishment, make recommendations to the Secretary of Labor with respect to the issues described in subsection (c), and

(2) within 18 months after its establishment, make recommendations to the Secretary of Labor with respect to the issues described in subsection (d).

(b) ACTION BY SECRETARY OF LABOR.—

(1) IN GENERAL.—The Secretary of Labor shall, within 6 months of the receipt of any recommendation under subsection (a), implement the recommendation with or without modification or notify the Commission that the Secretary does not intend to implement the recommendation.

(2) NOTIFICATION.—The Secretary of Labor shall notify the appropriate committees of Congress of its decisions under this subsection.

(3) IMPLEMENTATION.—If the Secretary of Labor decides to implement any recommendation of the Commission, such recommendation shall take effect on—

(A) the 60th day after notification to the Congress under paragraph (2), or

(B) such later date as the Secretary of Labor determines appropriate.

(4) FAILURE TO IMPLEMENT.—If the Secretary of Labor under paragraph (1) elects not to implement the recommendations, the Secretary shall include in the notification to Congress under paragraph (2) the recommendations of the Commission.

(c) INITIAL ISSUES TO BE ACTED UPON.—The issues described in this subsection are as follows:

(1) UNIFORM DATA COLLECTION.—The establishment of uniform data collection with respect to use, cost, and quality information and to require common claims processing.

(2) MINIMUM BENEFITS.—The authority of the States to establish interim minimum benefits packages until the implementation of any recommendation under subsection (d)(4), including an exemption for self-insured plans which provide benefits which are actuarially equivalent to the minimum benefits package.

(3) MINIMUM SIZE.—The application of the preemption rules only to self-insured employers which have more than a minimum number of employees.

(4) MANAGED CARE.—The authority of the States to regulate the quality of managed care plans which contract with self-insured plans.

(5) STATE HEALTH CARE FINANCING PROGRAMS.—The establishment of State programs which—

(i) provide for the imposition of a broad-based, nondiscriminatory premium tax, or a broad-based, nondiscriminatory tax on health services, the proceeds of which are used to increase health insurance coverage of State residents or to pay for the uncompensated care of such residents, or

(ii) provide for the imposition of a tax on employers to provide for health care coverage of their employees, but only if the program allows a credit to employers for health care coverage provided by the employers to their employees.

(6) RATE SETTING.—A requirement that the State participate in a hospital reimbursement system or other system which sets rates for health care providers in the State.

(d) OTHER ISSUES.—The issues described in this subsection are as follows:

(1) MANDATES.—The authority of States to require employers to pay for or offer health benefits.

(2) REMEDIES.—The authority of the Federal Government of the States to provide remedies and consumer protections to beneficiaries of self-insured plans.

(3) PURCHASING COOPERATIVES.—The authority of the States to require self-insured plans to participate in purchasing cooperatives and risk adjustment systems.

(4) UNIFORM BENEFITS.—The development of a national uniform benefits plan applicable to all health plans, including self-insured plans.

(5) UNRESOLVED ISSUES.—Those issues unresolved under subsection (c).

SEC. 2113. OPERATION OF THE COMMISSION.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The ERISA Review Commission shall be composed of 17 members. Members shall be appointed not later than 90 days after the date of the enactment of this Act.

(2) CHAIRPERSON.—The President shall designate 1 individual described in paragraph (1) who shall serve as Chairperson of the Commission.

(b) COMPOSITION.—The membership of the Commission shall include—

(1) 9 individuals appointed by the President, 3 of whom shall be Federal officials representing the Departments of Labor, Health and Human Services, and the Treasury, 2 of whom shall represent business, 2 of whom shall represent labor, and 2 of whom shall represent State and local governments,

(2) 4 appointed by the Majority Leader of the Senate, in consultation with the Minority Leader, 2 of whom shall represent business and 2 of whom shall represent State and local governments, and

(3) 4 appointed by the Majority Leader of the House of Representatives, in consultation with the Minority Leader, 2 of whom shall represent business and 2 of whom shall represent State and local governments.

(c) TERMS.—The terms of members of the Commission shall be for the life of the Commission.

(d) VACANCIES.—

(1) IN GENERAL.—A vacancy in the Commission shall be filled in the same manner as the original appointment.

(2) NO IMPAIRMENT OF FUNCTION.—A vacancy in the membership of the Commission does not impair the authority of the remaining members to exercise all of the powers of the Commission.

(3) ACTING CHAIRPERSON.—The Commission may designate a member to act as Chairperson during any period in which there is no Chairperson designated by the President.

(e) MEETINGS; QUORUM.—

(1) MEETINGS.—The Chairperson shall preside at meetings of the Commission, and in the absence of the Chairperson, the Commission shall elect a member to act as Chairperson pro tempore.

(2) QUORUM.—Nine members of the Commission shall constitute a quorum thereof.

(f) ADMINISTRATIVE PROVISIONS.—

(1) PAY AND TRAVEL EXPENSES.—

(A) PAY.—Each member shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(2) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint an Executive Director.

(B) PAY.—The Executive Director shall be paid at a rate equivalent to a rate for the Senior Executive Service.

(3) STAFF.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Executive Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(B) PAY.—The Executive Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for level GS–15 of the General Schedule.

(C) DETAILED PERSONNEL.—Upon request of the Executive Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(4) OTHER AUTHORITY.—

(A) CONTRACT SERVICES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(B) LEASES AND PROPERTY.—The Commission may lease space and acquire personal property to the extent funds are available.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Fund established under section 9551 of the Internal Revenue Code of 1986, $1,000,000 for the operation of the Commission.

(h) EXPIRATION.—The Commission shall terminate 2 years after the date on which all of its members are appointed.

TITLE III—PUBLIC HEALTH AND RURAL AND UNDERSERVED ACCESS IMPROVEMENT

SEC. 3001. SHORT TITLE.

This title may be cited as the "Public Health and Rural and Underserved Access Improvement Act of 1995".

SEC. 3002. ESTABLISHMENT OF NEW TITLE XXVII REGARDING PUBLIC HEALTH PROGRAMS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following title:

"TITLE XXVII—PUBLIC HEALTH PROGRAMS IMPROVEMENT

"Subtitle A—Core Functions of Public Health Programs

"PART 1—FORMULA GRANTS TO STATES

"SEC. 2711. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

"For the purpose of carrying out this subtitle, there are authorized to be appropriated from the Health Care Reform Trust Fund established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986 (hereafter referred to in this title as the "Fund"), $200,000,000 for fiscal year 1996, $350,000,000 for fiscal year 1997, $500,000,000 for fiscal year 1998, $650,000,000 for fiscal year 1999, and $700,000,000 for fiscal year 2000.

"SEC. 2712. FORMULA GRANTS TO STATES FOR CORE HEALTH FUNCTIONS.

"(a) IN GENERAL.—In the case of each State that submits to the Secretary an application in accordance with section 2715 for a fiscal year, the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall make a grant to the State for carrying out the activities described in subsection (c). The award shall consist of the allotment determined under section 2716 for the State.

"(b) GENERAL PURPOSE.—The purpose of this subtitle is to provide for improvements in the health status of the public through carrying out the activities described in subsection (b) toward attaining the Healthy People 2000 Objectives (as defined in section 2799). A funding agreement for a grant under subsection (a) is that—

"(1) the grant will be expended for such activities; and

"(2) the activities will be carried out by the State in collaboration with local public health departments, health education and training centers, neighborhood health centers, and other community health providers.

"(c) CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS.—Subject to the purpose described in subsection (b), the activities referred to in subsection (a) are the following:

"(1) Data collection, and analytical activities, related to population-based status and outcomes monitoring, including the following:

"(A) The regular collection and analysis of public health data (including the 10 leading causes of death and their costs to society).

"(B) Vital statistics.

"(C) Personal health services data.

"(D) The supply and distribution of health professionals.

"(2) Activities to reduce environmental risk and to assure the safety of housing, schools, workplaces, day-care centers, food and water, including the following activities:

"(A) Monitoring the overall public health status and safety of communities.

"(B) Assessing exposure to high lead levels and other environmental contaminants; and activities for abatement of toxicant hazards, including lead-related hazards.

"(C) Monitoring the quality of community water supplies used for consumption or for recreational purposes.

"(D) Monitoring sewage and solid waste disposal, radiation exposure, radon exposure, and noise levels.

"(E) Monitoring indoor and ambient air quality and related risks to vulnerable populations.

"(F) Assuring recreation, worker, and school safety.

"(G) Enforcing public health safety and sanitary codes.

"(H) Monitoring community access to appropriate health services.

"(I) Other activities relating to promoting and protecting the public health of communities.

"(3) Investigation, control, and public-awareness activities regarding adverse health conditions (such as emergency treatment preparedness, community efforts to reduce violence, outbreaks of communicable diseases within communities, chronic disease and dysfunction exposure-related conditions, toxic environmental pollutants, occupational and recreational hazards, motor vehicle accidents, and other threats to the health status of individuals).

"(4) Public information and education programs to reduce risks to health (such as use of tobacco;, alcohol and other drugs; unintentional injury from accidents, including motor vehicle accidents; sexual activities that increase the risk to HIV transmission and sexually transmitted diseases; poor diet; physical inactivity; stress-related illness; mental health problems; genetic disorders; and low childhood immunization levels).

"(5) Provision of public health laboratory services to complement private clinical laboratory services and that screen for diseases and conditions (such as metabolic diseases in newborns, provide assessments of blood lead levels and other environmental toxicants, diagnose and contact tracing of sexually transmitted diseases, tuberculosis and other diseases requiring partner notification, test for infectious and food-borne diseases, and monitor the safety of water and food supplies).

"(6) Training and education of new and existing health professionals in the field of public health, with special emphasis on epidemiology, biostatistics, health education, public health administration, public health nursing and dentistry, environmental and occupational health sciences, public health nutrition, social and behavioral health sciences, operations research, and laboratory technology.

"(7) Leadership, policy development and administration activities, including assessing needs and the supply and distribution of health professionals; the setting of public health standards; the development of community public health policies; and the development of community public health coalitions.

"(d) RESTRICTIONS ON USE OF GRANT.—

"(1) IN GENERAL.—A funding agreement for a grant under subsection (a) for a State is that the grant will not be expended—

"(A) to provide inpatient services;

"(B) to make cash payments to intended recipients of health services;

"(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(E) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—A funding agreement for a grant under subsection (a) is that the State involved will not expend more than 20 percent of the grant for administrative expenses with respect to the grant.

"(e) MAINTENANCE OF EFFORT.—A funding agreement for a grant under subsection (a) is that the State involved will maintain expenditures of non-Federal amounts for core health functions at a level that is not less than the level of such expenditures maintained by the State for the fiscal year preceding the first fiscal year for which the State receives such a grant.

"SEC. 2713. NUMBER OF FUNCTIONS; PLANNING.

"(a) NUMBER OF FUNCTIONS.—Subject to subsection (b), a funding agreement for a grant under section 2712 is that the State involved will carry out each of the activities described in subsection (c) of such section.

"(b) PLANNING.—In making grants under section 2712, the Secretary shall for each State designate a period during which the State is to engage in planning to meet the responsibilities of the State under subsection (a). The period so designated may not exceed 18 months. With respect to such period for a State, a funding agreement for a grant under section 2712 for any fiscal year containing any portion of the period is that, during the period, the State will expend the grant only for such planning.

"SEC. 2714. SUBMISSION OF INFORMATION; REPORTS.

"(a) SUBMISSION OF INFORMATION.—The Secretary may make a grant under section 2712 only if the State involved submits to the Secretary the following information:

"(1) A description of the relationship between community health providers, public and private health plans, and the public health system of the State.

"(2) A description of existing deficiencies in the public health system at the State level and the local level, using standards under the Healthy People 2000 Objectives.

"(3) A description of public health priorities identified at the State level and local levels, including the 10 leading causes of death and their respective direct and indirect costs to the State and the Federal Government.

"(4) Measurable outcomes and process objectives (using criteria under the Healthy People 2000 Objectives) which indicate improvements in health status as a result of the activities carried out under section 2712(c).

"(5) Information regarding each such activity, which—

"(A) identifies the amount of State and local funding expended on each such activity for the fiscal year preceding the fiscal year for which the grant is sought; and

"(B) provides a detailed description of how additional Federal funding will improve each such activity by both the State and local public health agencies.

"(6) A description of activities under section 2712(c) to be carried out at the local level, and a specification for each such activity of—

"(A) the communities in which the activity will be carried out and any collaborating agencies; and

"(B) the amount of the grant to be expended for the activity in each community so specified.

"(7) A description of how such activities have been coordinated with activities supported under title V of the Social Security Act (relating to maternal and child health).

"(b) REPORTS.—A funding agreement for a grant under section 2712 is that the States involved will, not later than the date specified by the Secretary, submit to the Secretary a report describing—

"(1) the purposes for which the grant was expended;

"(2) the health status of the population of the State, as measured by criteria under the Healthy People 2000 Objectives; and

"(3) the progress achieved and obstacles encountered in using uniform data sets under such Objectives.

"SEC. 2715. APPLICATION FOR GRANT.

"The Secretary may make a grant under section 2712 only if an application for the grant is submitted to the Secretary, the application contains each agreement described in this part, the application contains the information required in section 2712(c), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 2716. DETERMINATION OF AMOUNT OF ALLOTMENT.

"For purposes of section 2712, the allotment under this section for a State for a fiscal year shall be determined through a formula established by the Secretary on the basis of the population, economic indicators, and health status of each State. Such allotment shall be the product of—

"(1) a percentage determined under the formula; and

"(2) the amount appropriated under section 2711 for the fiscal year, less any amounts reserved under section 2717.

"SEC. 2717. ALLOCATIONS FOR CERTAIN ACTIVITIES.

"Of the amounts made available under section 2711 for a fiscal year for carrying out this part, the Secretary may reserve not more than 15 percent for carrying out the following activities:

"(1) Technical assistance with respect to planning, development, and operation of activities under section 2712(b), including provision of biostatistical and epidemiological expertise, provision of laboratory expertise, and the development of uniform data sets under the Health People 2000 Objectives.

"(2) Development and operation of a national information network among State and local health agencies for utilizing such uniform data sets.

"(3) Program monitoring and evaluation of activities carried out under section 2712(b).

"(4) Development of a unified electronic reporting mechanism to improve the efficiency of administrative management requirements regarding the provision of Federal grants to State public health agencies.

"PART 2—COMPREHENSIVE EVALUATION OF DISEASE PREVENTION AND HEALTH PROMOTION PROGRAMS

"SEC. 2718. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

"For the purpose of carrying out this part, there are authorized to be appropriated from the Fund, $100,000,000 for fiscal year 1996, and $150,000,000 for each of the fiscal years 1997 through 2000.

"SEC. 2719. EVALUATION OF PROGRAMS.

"(a) GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, eligible entities for the purpose of enabling such entities to carry out evaluations of the type described in subsection (c). The Secretary shall carry out this section acting through the Director of the Centers for Disease Control and Prevention, subject to subsection (g).

"(b) REQUIREMENTS.—

"(1) ELIGIBLE ENTITIES.—To be eligible to receive an award of a grant, cooperative agreement, or contract under subsection (a), an entity must—

"(A) be a public, nonprofit, or private entity or a university;

"(B) prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require, including a plan for the conduct of the evaluation under the grant;

"(C) provide assurances that any information collected while conducting evaluations under this section will be maintained in a confidential manner with respect to the identities of the individuals from which such information is obtained; and

"(D) meet any other requirements that the Secretary determines to be appropriate.

"(2) TYPES OF ENTITIES.—In making awards under subsection (a), the Secretary shall consider applications from entities proposing to conduct evaluations using community programs, managed care programs, State and county health departments, public education campaigns, school programs, and other appropriate programs. The Secretary shall ensure that not less than 25 percent of the amounts appropriated under section 2718 for a fiscal year are used for making such awards to entities that will use the amounts to conduct evaluations in the workplace.

"(c) USE OF FUNDS.—

"(1) EVALUATIONS.—An award under subsection (a) shall be used to—

"(A) conduct evaluations to determine the extent to which clinical preventive services, health promotion and unintentional injury prevention activities, and interpersonal and community violence prevention activities, achieve short-term and long-term health care cost reductions and health status improvement with respect to the Healthy People 2000 Objectives; and

"(B) evaluate other areas determined appropriate by the Secretary.

"(2) INCLUSION OF CERTAIN POPULATION GROUPS.—In carrying out this section, the Secretary shall ensure that data concerning women, children, minorities, older individuals with different income levels, retirees, and individuals from diverse geographical backgrounds, are obtained.

"(3) MINIMUM SERVICES.—The evaluations that the Secretary may provide for under this section include (but are not limited to) evaluations of programs that provide one or more of the following services:

"(A) Blood pressure screening and control (to detect and control hypertension and coronary health disease).

"(B) Early cancer screening.

"(C) Blood cholesterol screening and control.

"(D) Smoking cessation programs.

"(E) Substance abuse programs.

"(F) Dietary and nutrition counseling, including nutrition.

"(G) Physical fitness counseling.

"(H) Stress management.

"(I) Diabetes education and screening.

"(J) Intraocular pressure screening.

"(K) Monitoring of prescription drug use.

"(L) Violence and injury prevention programs.

"(M) Health education.

"(N) Immunization rates.

"(4) ENVIRONMENTAL DATA.—Evaluations conducted under this section may consider the health effects and cost-effectiveness of certain environmental programs, including fluoridation programs, traffic safety programs, pollution control programs, accident prevention programs, and antismoking programs.

“(5) PUBLIC POLICIES.—Evaluations conducted under this section may consider the effects of prevention-oriented social and economic policies on improvement of health status and their long-term cost effectiveness.

“(6) USE OF EXISTING DATA.—In conducting evaluations under this section, entities shall use existing data and health promotion and screening programs where practicable.

“(7) COOPERATION.—In providing for an evaluation under this section, the Secretary shall encourage the recipient of the award and public and private entities with relevant expertise (including State and local agencies) to collaborate for purposes of conducting the evaluation.

“(d) SITES.—Recipients of awards under subsection (a) shall select evaluation sites under the award that present the greatest potential for new and relevant knowledge. Such recipients, in selecting such sites, shall ensure that—

“(1) the sites provide evidence of pilot testing, process evaluation, formative evaluation, availability assessment strategies and results;

“(2) the sites provide evidence of a clear definition of the program and protocols for the implementation of the evaluation; and

“(3) the sites provide evidence of valid, appropriate and feasible assessment methods and tools and a willingness to use common data items and instruments across such sites.

“(e) REPORTING REQUIREMENTS.—Not later than 1 year after an entity first receives an award under subsection (a), and not less than once during each 1-year period thereafter for which such an award is made to the entity, the entity shall prepare and submit to the Secretary a report containing a description of the activities under this section conducted during the period for which the report is prepared, and the findings derived as a result of such activities.

“(f) TERM OF EVALUATIONS.—Evaluations conducted under this section shall be for a period of not less than 3 years and may continue as necessary to permit the grantee to adequately measure the full benefit of the evaluations.

“(g) DISSEMINATION AND GUIDELINES.—

“(1) CONSULTATION.—The Secretary shall carry out this subsection acting through the Director of the Centers for Disease Control and Prevention and the Administrator for Health Care Policy and Research.

“(2) GUIDELINES.—The Secretary shall, where feasible and practical, develop and issue practice guidelines that are based on the results of evaluations conducted under this section. The practice guidelines shall be developed by the Secretary utilizing expert practitioners to assist in the development and implementation of these guidelines.

“(3) DATA.—

“(A) IN GENERAL.—The Secretary shall collect, store, analyze, and make available data related to the formulation of the guidelines that is provided to the Centers for Disease Control and Prevention by entities conducting evaluations under this section.

“(B) USE OF DATA.—The Secretary shall—

“(i) identify activities that prevent disease, illness, injury and disability, and promote good health practices; ascertain their cost-effectiveness; and identify their potential to overall health status with respect to Healthy People 2000 Objectives;

“(ii) disseminate practice guidelines to State and county health departments, State insurance departments, insurance companies, employers, professional medical organizations, and others determined appropriate by the Secretary; and

“(iii) provide information with respect to recidivism rates of participation in the evaluations.

“(4) DISSEMINATION.—The Secretary may disseminate information collected from evaluations under this section.

“(h) LIMITATION.—Amounts appropriated for carrying out this section shall not be utilized to provide services.

“Subtitle B—Opportunities for Education and Training in Public Health

“PART 1—SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS REGARDING SERVICE IN PUBLIC HEALTH POSITIONS

“SEC. 2721. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

“For the purpose of carrying out this part, there are authorized to be appropriated from the Fund, $50,000,000 for each of the fiscal years 1996 through 2000.

“SEC. 2722. SCHOLARSHIP PROGRAM.

“(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the Centers for Disease Control and Prevention, shall carry out a program under which the Secretary awards scholarships to individuals described in subsection (b) for the purpose of assisting the individuals with the costs of attending public and nonprofit private schools of public health (or other public or nonprofit private institutions providing graduate or specialized training in public health).

“(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any individual meeting the following conditions:

“(1) The individual is enrolled (or accepted for enrollment) at a school or other institution referred to in subsection (a) as a full-time or part-time student in a program providing training in a health profession in a field of public health (including the fields of epidemiology, biostatistics, environmental health, health administration and planning, behavioral sciences, maternal and child health, occupational safety, public health nursing, nutrition, and toxicology).

“(2) The individual enters into the contract required pursuant to subsection (d) as a condition of receiving the scholarship (relating to an agreement to provide services in approved public health positions, as defined in section 2724).

“(c) ELIGIBLE SCHOOLS.—For fiscal year 1996 and subsequent fiscal years, the Secretary may make an award of a scholarship under subsection (a) only if the Secretary determines that—

“(1) the school or other institution with respect to which the award is to be provided has coordinated the activities of the school or institution with relevant activities of the Health Resources and Services Administration and the Centers for Disease Control and Prevention; and

“(2) not fewer than 60 percent of the graduates of the school or institution are in public health positions determined by the Secretary to be consistent with the needs of the United States regarding such professionals.

“(d) APPLICABILITY OF CERTAIN PROVISIONS.—Except as inconsistent with this section or section 2724, the provisions of subpart III of part D of title III (relating to the Scholarship and Loan Repayment Programs of the National Health Service Corps) apply to an award of a scholarship under subsection (a) to the same extent and in the same manner as such provisions apply to an award of a scholarship under section 338A.

“SEC. 2723. LOAN REPAYMENT PROGRAM.

“(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the Centers for Disease Control and Prevention, shall carry out a program under which the Federal Government enters into agreements to repay all or part of the educational loans of individuals meeting the following conditions:

“(1) The individual involved is a graduate of a school or other institution described in section 2722(a).

“(2) The individual meets the applicable legal requirements to provide services as a public health professional (including a professional in any of the fields specified in section 2722(b)(1)).

“(3) The individual enters into the contract required pursuant to subsection (b) as a condition of the Federal Government repaying such loans (relating to an agreement to provide services in approved public health positions, as defined in section 2724).

“(b) APPLICABILITY OF CERTAIN PROVISIONS.—Except as inconsistent with this section or section 2724, the provisions of subpart III of part D of title III (relating to the Scholarship and Loan Repayment Programs of the National Health Service Corps) apply to an agreement regarding repayment under subsection (a) to the same extent and in the same manner as such provisions apply to an agreement regarding repayment under section 338B.

“(c) AMOUNT OF REPAYMENTS.—For each year for which an individual contracts to serve in an approved public health position pursuant to subsection (b), the Secretary may repay not more than $20,000 of the principal and interest of the educational loans of the individual.

“SEC. 2724. APPROVED PUBLIC HEALTH POSITIONS.

“(a) POSITION REGARDING POPULATIONS WITH SIGNIFICANT NEED FOR SERVICES.—

“(1) IN GENERAL.—With respect to the programs under this part, the obligated service of a program participant pursuant to sections 2722(d) and 2723(b) shall be provided through an assignment, to an entity described in subsection (b), for a position in which the participant provides services as a public health professional to a population determined by the Secretary to have a significant unmet need for the services of such a professional.

“(2) PERIOD OF SERVICE.—For purposes of sections 2722(d) and 2723(d), the period of obligated service is the following, as applicable to the program participant involved:

“(A) In the case of scholarships under section 2722 for full-time students, the greater of—

“(i) 1 year for each year for which such a scholarship is provided; or

“(ii) 2 years.

“(B) In the case of scholarships under section 2722 for part-time students, a period determined by the Secretary on the basis of the number of hours of education or training received under the scholarship, considering the percentage constituted by the ratio of such number to the number of hours for a full-time student in the program involved.

“(C) In the case of the loan repayments under section 2723, such period as the Secretary and the participant may agree, except that the period may not be less than 2 years.

"(b) Approval of Entities for Assignment of Program Participants.—The entities referred to in subsection (a) are public and nonprofit private entities approved by the Secretary as meeting such requirements for the assignment of a program participant as the Secretary may establish. The entities that the Secretary may so approve include State and local departments of health, public hospitals, community and neighborhood health clinics, migrant health clinics, community-based health-related organizations, certified regional poison control centers, purchasing cooperatives regarding health insurance, and any other public or nonprofit private entity.

"(c) Definitions.—For purposes of this part:

"(1) The term 'approved public health position', with respect to a program participant, means a position to which the participant is assigned pursuant to subsection (a).

"(2) The term 'program participant' means an individual who enters into a contract pursuant to section 2722(b)(2) or 2723(a)(3).

"SEC. 2725. ALLOCATION OF FUNDS; SPECIAL CONSIDERATIONS.

"(a) Allocations Regarding New Participants in Scholarship Program.—Of the amounts appropriated under section 2721 for a fiscal year, the Secretary shall obligate not less than 30 percent for the purpose of providing awards for scholarships under section 2722 to individuals who have not previously received such scholarships.

"(b) Special Consideration for Certain Individuals.—In making awards of scholarships under section 2722 and making repayments under section 2723, the Secretary shall give special consideration to individuals who are in the armed forces of the United States or who are veterans of the armed forces.

"PART 2—EDUCATIONAL INSTITUTIONS REGARDING PUBLIC HEALTH

"SEC. 2731. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

"For the purpose of carrying out this part from the Fund, there are authorized to be appropriated from the Fund, $100,000,000 for each of the fiscal years 1996 through 2000.

"SEC. 2732. GRANTS FOR EXPANDING CAPACITY OF INSTITUTIONS.

"(a) In General.—The Secretary may make grants to institutions described in subsection (b) for the purpose of expanding the educational capacities of the institutions through recruiting and retaining faculty, curriculum development, and coordinating the activities of the institutions regarding education, training, and field placements.

"(b) Relevant Institutions.—The institutions referred to in subsection (a) are public and nonprofit private—

"(1) schools of public health;

"(2) departments of community and preventive medicine that—

"(A) are within schools of medicine and schools of osteopathic medicine; and

"(B) have established formal arrangements with schools of public health in order to award joint degrees in public health and another health profession; and

"(3) schools of nursing or dentistry that have established formal arrangements with schools of public health in order to carry out educational programs in public health at the schools of nursing or dentistry, respectively.

"(c) Requirements Regarding Curriculum Development.—A funding agreement for a grant under subsection (a) for an institution is that, to the extent determined to be appropriate by the Secretary, the curriculum of institution will include the following:

"(1) Subject to subsection (d)(1), part-time nondegree programs for public health professionals who need further training in fields of public health.

"(2) With respect to the program of community health advisors established in part 5 of subtitle E, a program to train individuals to serve as supervisors under such part (including training and evaluating the community health advisors), which program is carried out in collaboration with local public health departments and health education and training centers.

"(d) Additional Requirements.—Funding agreements for a grant under subsection (a) for an institution are as follows:

"(1) In developing the curriculum under the grant, the institution will consult with the health departments in the State involved, and will follow the relevant priorities of such departments.

"(2) The institution will, as appropriate in the determination of the Secretary, coordinate the activities of the institution under the grant with relevant activities of the Health Resources and Services Administration and the Centers for Disease Control and Prevention.

"SEC. 2733. COORDINATION OF GRANT ACTIVITIES WITH NATIONAL PRIORITIES.

"The Secretary shall—

"(1) determine the needs of the United States regarding the education and geographic distribution of public health professionals;

"(2) determine priorities among such needs; and

"(3) in making grants under section 2732, ensure that the curricula developed under such section, and the expertise of the faculty recruited and retained under such section, are consistent with such priorities.

"SEC. 2734. CERTAIN REQUIREMENTS FOR GRANTS.

"For fiscal year 1997 and subsequent fiscal years, the Secretary may make a grant under section 2732 only if the institution involved is in compliance with the following:

"(1) The institution has coordinated the activities of the school or institution with relevant activities of the Health Resources and Services Administration and the Centers for Disease Control and Prevention.

"(2) A significant number of the faculty of the institution has served as practitioners in public health.

"(3) The institution has consulted with public health departments and public hospital systems in the State involved in order to develop a curriculum that reflects the needs and priorities of the State regarding the public health.

"(4) The institution has coordinated the activities of the institution with the activities of the health departments and of community groups.

"(5) The institution carries out a program for part-time students to receive training in fields of public health.

"(6) Not less than 60 percent of the graduates of the school or institution are in public health positions determined by the Secretary to be consistent with the needs of the United States regarding such professionals.

"PART 3—EXPANSION OF COMPETENCY IN PUBLIC HEALTH

"SEC. 2736. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

"For the purpose of carrying out this section, there is authorized to be appropriated from the Fund, $60,000,000 for each of the fiscal years 1996 through 2000.

"SEC. 2737. GRANTS TO STATES.

"(a) States Lacking Adequate Training Programs.—

"(1) In general.—The Secretary may make grants to States in which there is one or no program of training in a field of public health but in which there are 1 or more schools of medicine, osteopathic medicine, nursing, dentistry, social work, pharmacy, or health administration. A funding agreement for such a grant is that the purpose of the grant is for the State involved to assist 1 or more of such schools in developing and integrating public health curricula for the schools.

"(2) Special considerations in making grants.—In making grants under paragraph (1), the Secretary shall give special consideration to States that agree to consult with 1 or more schools of public health in carrying out the purpose described in such subsection.

"(b) States with Nonaccredited Schools.—The Secretary may make grants to States in which there are 1 or more nonaccredited schools of public health. A funding agreement for such a grant is that the purpose of the grant is for the State involved to assist 1 or more of such schools in improving the schools.

"(c) Amount of Grant; Limitation Regarding Individual Educational Entities.—

"(1) Amount.—The amount of a grant under this section to a State may not exceed $6,000,000.

"(2) Limitation.—A funding agreement for a grant under this section for a State is that, with respect to the school involved, the State will not provide more than 2 years of assistance to the school from grants under this section.

"PART 4—AREA HEALTH EDUCATION CENTERS

"SEC. 2738. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

"(a) Additional Funding.—For the purpose of carrying out programs under section 746, there are authorized to be appropriated from the Fund, $35,000,000 for each of the fiscal years 1996 through 2000.

"(b) Relation to Other Funds.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

"PART 5—HEALTH EDUCATION TRAINING CENTER

"SEC. 2739. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

"(a) Additional Funding.—For the purpose of carrying out Health Education Training Center programs, there are authorized to be appropriated from the Fund, $20,000,000 for each of the fiscal years 1996 through 2000.

"(b) Relation to Other Funds.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

"Subtitle C—Regional Poison Control Centers

"SEC. 2741. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

"For the purpose of carrying out this subtitle, there is authorized to be appropriated from the Fund, $50,000,000 for each of the fiscal years 1996 through 2000.

"SEC. 2742. GRANTS FOR REGIONAL CENTERS.

"(a) In General.—The Secretary may make grants to public and nonprofit private entities for centers to carry out activities regarding—

"(1) the prevention and treatment of poisoning; and

"(2) such other activities regarding the control of poisons as the Secretary determines to be appropriate.

"(b) Regional Considerations.—In making grants under subsection (a), the Secretary shall determine the need in each of the principal geographic regions of the United States for a center under such subsection, and shall make the grants according to priorities established by the Secretary on the basis of the extent of such need in each of the regions. In carrying out the preceding sentence, the Secretary shall ensure that no two centers receive grants for the same geographic service area.

"(c) Matching Funds.—

"(1) In general.—With respect to the costs of an entity in providing for centers under subsection (a), the Secretary may make a grant under such subsection only if the State in which the center is to operate, or other public entities in the State, agree to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount determined by the Secretary.

"(2) Determination of amount contributed.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"SEC. 2743. REQUIREMENTS REGARDING CERTIFICATION.

"(a) In General.—Subject to subsection (b), the Secretary may make a grant under section 2742 only if the center involved has been certified by a professional organization in the field of poison control, and the Secretary has approved the organization as having in effect standards for certification that reasonably provide for the protection of the public health with respect to poisoning. In carrying out the preceding sentence, the Secretary shall consider the standards established by the American Association of Poison Control Centers.

"(b) Temporary Waiver.—The Secretary may waive the requirement of subsection (a) for a center for a period not exceeding 1 year.

"SEC. 2744. GENERAL PROVISIONS.

"(a) Duration of Grant.—The period during which payments are made under a grant under section 2742 may not exceed 3 years. The provision of such payments is subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. The preceding sentence may not be construed as establishing a limitation on the number of such grants that may be made to an entity.

"(b) Study Regarding Need for Centers.—

"(1) In general.—The Secretary shall conduct a study of each of the centers for which a grant under section 2742 has been provided. The purpose of the study shall be to determine the effectiveness of the centers in carrying out the activities described in such section and the extent to which the activities have been carried out in a cost-effective manner.

"(2) Alternatives to centers.—In carrying out the study under paragraph (1), the Secretary shall determine the extent to which the activities described in section 2742 can be effectively carried out through means other than centers under such section. The alternative means considered by the Secretary under the preceding sentence shall include the alternative of requiring public and private health plans to carry out such activities.

"(3) Date certain for completion.—Not later than November 1, 1996, the Secretary shall submit to the Congress a report describing the findings made in the study under paragraph (1).

"(4) Notice to centers.—Not later than February 1, 1997, the Secretary shall notify each grantee under section 2742 whether the Secretary considers the continued operation of the center involved to be necessary in meeting the needs of the geographic region involved for the activities described in such section.

"Subtitle D—School-Related Health Services

"SEC. 2746. AUTHORIZATION OF APPROPRIATIONS FROM FUND.

"(a) Funding for School-Related Health Services.—For the purpose of carrying out this subtitle, there are authorized to be appropriated from the Fund, $100,000,000 for fiscal year 1996, $200,000,000 for fiscal year 1997, $300,000,000 for fiscal year 1998, $400,000,000 for fiscal year 1999, and $500,000,000 for fiscal year 2000.

"(b) Funding for Planning and Development Grants.—Of amounts made available under this section, not to exceed $10,000,000 for each of fiscal years 1996 and 1997 may be utilized to carry out section 2749.

"SEC. 2747. ELIGIBILITY FOR GRANTS.

"(a) In General.—

"(1) Planning and development grants.—Entities eligible to apply for and receive grants under section 2749 are—

"(A) State health agencies that apply on behalf of local community partnerships; or

"(B) local community partnerships in States in which health agencies have not successfully applied.

"(2) Operational grants.—Entities eligible to apply for and receive grants under section 2750 are—

"(A) a qualified State as designated under subsection (c) that apply on behalf of local community partnerships; or

"(B) local community partnerships in States that are not designated under subparagraph (A).

"(b) Local Community Partnerships.—

"(1) In general.—A local community partnership under subsection (a)(1)(B) and (a)(2)(B) is an entity that, at a minimum includes—

"(A) a local health care provider, which may be a local public health department, with experience in delivering services to children and youth or medically underserved populations;

"(B) local educational agency on behalf of one or more public schools; and

"(C) one community based organization located in the community to be served that has a history of providing services to at-risk children and youth.

"(2) Rural communities.—In rural communities, local partnerships should seek to include, to the fullest extent practicable, providers and community based organizations with experience in serving the target population.

"(3) Parent and community participation.—An applicant described in subsection (a) shall, to the maximum extent feasible, involve broad-based community participation (including parents of the youth to be served).

"(c) Qualified State.—A qualified State under subsection (a)(2)(A) is a State that, at a minimum—

"(1) demonstrates an organizational commitment (including a strategic plan) to providing a broad range of health, health education and support services to at-risk youth; and

"(2) has a memorandum of understanding or cooperative agreement jointly entered into by the State agencies responsible for health and education regarding the planned delivery of health and support services in school-based or school-linked centers.

"SEC. 2748. PREFERENCES.

"In making grants under sections 2749 and 2750, the Secretary shall give priority to applicants whose-communities to be served show the most substantial level of need for health services among children and youth.

"SEC. 2749. PLANNING AND DEVELOPMENT GRANTS.

"(a) In General.—The Secretary may make grants during fiscal years 1996 and 1997 to entities eligible under section 2747 to develop school-based or school-linked health service sites.

"(b) Use of Funds.—Amounts provided under a grant under this section may be used for the following:

"(1) Planning for the provision of school health services, including—

"(A) an assessment of the need for health services among youth in the communities to be served;

"(B) the health services to be provided and how new services will be integrated with existing services;

"(C) assessing and planning for the modernization and expansion of existing facilities and equipment to accommodate such services; and

"(D) an affiliation with relevant health plans.

"(2) Recruitment and training of staff for the administration and delivery of school health services.

"(3) The establishment of local community partnerships as described in section 2747(b).

"(4) In the case of States, the development of memorandums of understanding or cooperative agreements for the coordinated delivery of health and support services through school health service sites.

"(5) Other activities necessary to assume operational status.

"(c) Application for Grants.—To be eligible to receive a grant under this section an entity described in section 2747(a) shall submit an application in a form and manner prescribed by the Secretary.

"(d) Number of Grants.—Not more than one planning grant may be made to a single applicant. A planning grant may not exceed 2 years in duration.

"(e) Amount Available for Development Grant.—The Secretary may award not to exceed—

"(1) $150,000 to entities under section 2747(a)(1)(A) and to localities planning for a citywide or countywide school health services delivery system; and

"(2) $50,000 to entities under section 2747(a)(1)(B).

"SEC. 2759. GRANTS FOR OPERATION OF SCHOOL HEALTH SERVICES.

"(a) In General.—The Secretary may make grants to eligible entities described in section 2747(a)(2) that submit applications consistent with the requirements of this section, to pay the cost of operating school-based or school-linked health service sites.

"(b) Use of Grant.—Amounts provided under a grant under this section may be used for the following—

"(1) health services, including diagnosis and treatment of simple illnesses and minor injuries;

"(2) preventive health services, including health screenings follow-up health care, mental health, and preventive health education;

"(3) enabling services and other necessary support services;

"(4) training, recruitment, and compensation of health professionals and other staff necessary for the administration and delivery of school health services; and

"(5) referral services, including the linkage of individuals to health plans, and community-based health and social service providers.

"(c) APPLICATION FOR GRANT.—To be eligible to receive a grant under this section an entity described in section 2747(a)(2) shall submit an application in a form and manner prescribed by the Secretary. In order to receive a grant under this section, an applicant must include in the application the following information—

"(1) a description of the services to be furnished by the applicant;

"(2) the amounts and sources of funding that the applicant will expend, including estimates of the amount of payments the applicant will receive from health plans and other sources;

"(3) a description of local community partnerships, including parent and community participation;

"(4) a description of the linkages with other health and social service providers; and

"(5) such other information as the Secretary determines to be appropriate.

"(d) ASSURANCES.—In order to receive a grant under this section, an applicant must meet the following conditions—

"(1) school health service sites will, directly or indirectly, provide a broad range of health services, in accordance with the determinations of the local community partnership, that may include—

"(A) diagnosis and treatment of simple illnesses and minor injuries;

"(B) preventive health services, including health screenings and follow-up health care, mental health and preventive health education;

"(C) enabling services; and

"(D) referrals (including referrals regarding mental health and substance abuse) with follow-up to ensure that needed services are received;

"(2) the applicant provides services recommended by the health provider, in consultation with the local community partnership, and with the approval of the local education agency;

"(3) the applicant provides the services under this subsection to adolescents, and other school age children and their families as deemed appropriate by the local partnership;

"(4) the applicant maintains agreements with community-based health care providers with a history of providing services to such populations for the provision of health care services not otherwise provided directly or during the hours when school health services are unavailable;

"(5) the applicant establishes an affiliation with relevant health plans and will establish reimbursement procedures and will make every reasonable effort to collect appropriate reimbursement for services provided;

"(6) the applicant agrees to supplement and not supplant the level of State or local funds under the direct control of the applying State or participating local education or health authority expended for school health services as defined by this Act;

"(7) services funded under this Act will be coordinated with existing school health services provided at a participating school; and

"(8) for applicants in rural areas, the assurances required under paragraph (4) shall be fulfilled to the maximum extent possible.

"(e) STATE LAWS.—Notwithstanding any other provision in this subtitle, no school based health clinic may provide services, to any minor, when to do so is a violation of State laws or regulations pertaining to informed consent for medical services to minors.

"(f) LIMITATION ON ADMINISTRATIVE FUNDS.—In the case of a State applying on behalf of local educational partnerships, the applicant may retain not more than 5 percent of grants awarded under this subpart for administrative costs.

"(g) DURATION OF GRANT.—A grant under this section shall be for a period determined appropriate by the Secretary.

"(h) AMOUNT OF GRANT.—The annual amount of a grant awarded under this section shall not be more than $200,000 per school-based or school-linked health service site.

"(i) FEDERAL SHARE.—

"(1) IN GENERAL.—Subject to paragraph (3), a grant for services awarded under this section may not exceed—

"(A) 90 percent of the non-reimbursed cost of the activities to be funded under the program for the first 2 fiscal years for which the program receives assistance under this section; and

"(B) 75 percent of the non-reimbursed cost of such activities for subsequent years for which the program receives assistance under this section.

The remainder of such costs shall be made available as provided in paragraph (2).

"(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share required by paragraph (1) may be in cash or in-kind, fairly evaluated, including facilities, equipment, personnel, or services, but may not include amounts provided by the Federal Government. In-kind contributions may include space within school facilities, school personnel, program use of school transportation systems, outposted health personnel, and extension of health provider medical liability insurance.

"(3) WAIVER.—The Secretary may waive the requirements of paragraph (1) for any year in accordance with criteria established by regulation. Such criteria shall include a documented need for the services provided under this section and an inability of the grantee to meet the requirements of paragraph (1) despite a good faith effort.

"(j) TRAINING AND TECHNICAL ASSISTANCE.—Entities that receive assistance under this section may use not to exceed 10 percent of the amount of such assistance to provide staff training and to secure necessary technical assistance. To the maximum extent feasible, technical assistance should be sought through local community-based entities. The limitation contained in this subsection shall apply to individuals employed to assist in obtaining funds under this subtitle. Staff training should include the training of teachers and other school personnel necessary to ensure appropriate referral and utilization of services, and appropriate linkages between class-room activities and services offered.

"(k) REPORT AND MONITORING.—The Secretary will submit to the Committee on Labor and Human Resources in the Senate and the Committee on Commerce in the House of Representatives a biennial report on the activities funded under this Act, consistent with the ongoing monitoring activities of the Department. Such reports are intended to advise the relevant Committees of the availability and utilization of services, and other relevant information about program activities.

"Subtitle E—Expansion of Rural and Underserved Areas Access to Health Services

"PART 1—COMMUNITY AND MIGRANT HEALTH CENTERS

"SEC. 2756. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

"(a) IN GENERAL.—For the purpose of carrying out this part, there is authorized to be appropriated from the Fund, $100,000,000 for each of the fiscal years 1996 through 2000.

"(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) for the purpose described in such subsection are in addition to any other authorizations of appropriations that are available for such purpose.

"SEC. 2757. GRANTS TO COMMUNITY AND MIGRANT HEALTH CENTERS.

"(a) IN GENERAL.—The Secretary shall make grants in accordance with this section to migrant health centers and community health centers.

"(b) USE OF FUNDS.—

"(1) DEVELOPMENT, OPERATION, AND OTHER PURPOSES REGARDING CENTERS.—Subject to paragraph (2), grants under subsection (a) to migrant health centers and community health centers may be made only in accordance with the conditions upon which grants are made under sections 329 and 330, respectively.

"(2) REQUIRED FINANCIAL RESERVES.—The Secretary may authorize migrant health centers and community health centers to expend a grant under subsection (a) to establish and maintain financial reserves required for purposes of health plans.

"(c) DEFINITIONS.—For purposes of this subtitle, the terms 'migrant health center' and 'community health center' have the meanings given such terms in sections 329(a)(1) and 330(a), respectively.

"PART 2—NATIONAL HEALTH SERVICE CORPS

"SEC. 2781. AUTHORIZATIONS OF APPROPRIATIONS FROM FUND.

"(a) ADDITIONAL FUNDING; GENERAL CORPS PROGRAM; ALLOCATIONS REGARDING NURSES.—For the purpose of carrying out subpart II of part D of title III, and for the purpose of carrying out subsection (c), there are authorized to be appropriated from the Fund, $100,000,000 for each of the fiscal years 1996 through 2000.

"(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

"(c) ALLOCATION FOR PARTICIPATION OF NURSES IN SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.—Of the amounts appropriated under subsection (a), the Secretary shall reserve such amounts as may be necessary to ensure that, of the aggregate number of individuals who are participants in the Scholarship Program under section 338A, or in the Loan Repayment Program under section 338B, the total number who are being educated as nurses or are serving as nurses, respectively, is increased to 30 percent.

"(d) AVAILABILITY OF FUNDS.—An appropriation under this section for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under subsection (a) for another fiscal year; but no funds may be made available from any appropriation under this section for obligation under sections 331 through 335, section 336A, and section 337 before the fiscal year involved.

"PART 3—SATELLITE CLINICS REGARDING PRIMARY HEALTH CARE

"SEC. 2783. AUTHORIZATION OF APPROPRIATIONS FROM FUND.

"For the purpose of carrying out this part, there is authorized to be appropriated from the Fund, $50,000,000 for each of the fiscal years 1996 through 2000.

"SEC. 2783A. GRANTS TO STATES FOR DEVELOPMENT AND OPERATION OF SATELLITE CLINICS.

"(a) IN GENERAL.—With respect to outpatient health centers that are providers of comprehensive health services, the Secretary may make grants to States for the purpose of assisting such centers in developing or operating facilities that—

"(1) provide clinical preventive services, treatment of minor illnesses and injuries, family planning services, and referrals for health services, mental health services, and health-related social services; and

"(2) are located at a distance from the center sufficient to increase the extent to which individuals in the geographic area involved have access to the services specified in paragraph (1).

"(b) CERTAIN REQUIREMENTS.—The Secretary may make a grant under subsection (a) only if the State agrees that the health facility for which the grant is made, once in operation, will meet the following conditions:

"(1) The clinical preventive services provided by the facility will include routine preventive services, including family planning services, for pregnant and postpartum women and for children, including health screenings and immunizations.

"(2) The principal providers of health services at the facility, and the principal managers of the facility, will be nurse practitioners, physician assistants, or nurse clinicians, subject to applicable law.

"(3) The outpatient health center operating the facility will serve as a referral center for physician services and will provide for the ongoing monitoring of the activities of the facility.

"(c) MATCHING FUNDS.—The Secretary may make a grant under subsection (a) only if the State involved agrees to make non-Federal contributions toward the costs of developing and operating the health facilities involved.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(e) LIMITATION ON AMOUNT OF ASSISTANCE PER FACILITY.—With respect to a health facility for which one or more grants under subsection (a) are made, the Secretary may not provide more than an aggregate $250,000 for the development and operation of the facility.

"PART 4—COMMUNITY HEALTH ADVISORS

"SEC. 2784. AUTHORIZATION OF APPROPRIATIONS FROM FUND.

"For the purpose of carrying out this part, there is authorized to be appropriated from the Fund, $100,000,000 for each of the fiscal years 1996 through 2000.

"SEC. 2785. FORMULA GRANTS REGARDING COMMUNITY HEALTH ADVISOR PROGRAMS.

"(a) FORMULA GRANTS.—

"(1) IN GENERAL.—In the case of each State (or entity designated by a State under subsection (b)) that submits to the Secretary an application in accordance with section 2788 for a fiscal year, the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the heads of the agencies specified in paragraph (2), shall make an award of financial assistance to the State or entity for the development and operation of community health advisor programs under section 2786(b). The award shall consist of the allotment determined under section 2789 with respect to the State, subject to section 2794.

"(2) COORDINATION WITH OTHER AGENCIES.—The agencies referred to in paragraph (1) regarding coordination are the Health Resources and Services Administration, the National Institutes of Health, the Substance Abuse and Mental Health Services Administration, and the Health Education and Training Center.

"(b) DESIGNATED ENTITIES.—With respect to the State involved, an entity other than the State may receive an award under subsection (a) only if the entity—

"(1) is a public or nonprofit private academic organization (or other public or nonprofit private entity); and

"(2) has been designated by the State to carry out the purpose described in such subsection in the State and to receive amounts under such subsection in lieu of the State.

"(c) ROLE OF STATE AGENCY FOR PUBLIC HEALTH.—A funding agreement for an award under subsection (a) is that—

"(1) if the applicant is a State, the award will be administered by the State agency with the principal responsibility for carrying out public health programs; and

"(2) if the applicant is an entity designated under subsection (b), the award will be administered in consultation with such State agency.

"(d) STATEWIDE RESPONSIBILITIES; LIMITATION ON EXPENDITURES.—

"(1) STATEWIDE RESPONSIBILITIES.—A funding agreement for an award under subsection (a) is that the applicant involved will—

"(A) operate a clearinghouse to maintain and disseminate information on community health advisor programs (and similar programs) in the State, including information on developing and operating such programs, on training individuals to participate in the programs, and on evaluation of the programs;

"(B) collaborate with schools of public health to provide to community health advisor programs in the State technical assistance in training and supervising community health advisors under section 2787(g)(1); and

"(C) coordinate the activities carried out in the State under the award, including coordination between the various community health advisor programs and coordination between such programs and related activities of the State and of other public or private entities.

"(2) LIMITATION.—A funding agreement for an award under subsection (a) is that the applicant involved will not expend more than 15 percent of the award in the aggregate for carrying out paragraph (1) and for the expenses of administering the award with respect to the State involved, including the process of receiving payments from the Secretary under the award, allocating the payments among the entities that are to develop and operate the community health advisor programs involved, and monitoring compliance with the funding agreements made under this subtitle by the applicant.

"SEC. 2786. REQUIREMENTS REGARDING COMMUNITY HEALTH ADVISOR PROGRAMS.

"(a) PURPOSE OF AWARD; HEALTHY PEOPLE 2000 OBJECTIVES.—

"(1) IN GENERAL.—Subject to paragraph (2), a funding agreement for an award under section 2785 for an applicant is that the purpose of the award is, through community health advisor programs under subsection (b), to assist the State involved in attaining the Healthy People 2000 Objectives.

"(2) AUTHORITY REGARDING SELECTION OF PRIORITY OBJECTIVES.—With respect to compliance with the agreement made under paragraph (1), an applicant receiving an award under section 2785 may, from among the various Healthy People 2000 Objectives, select one or more Objectives to be given priority in the operation of a community health advisor program of the applicant, subject to the applicant selecting such priorities in consultation with the entity that is to carry out the program and the local health department involved.

"(b) REQUIREMENTS FOR PROGRAMS.—

"(1) IN GENERAL.—A funding agreement for an award under section 2785 for an applicant is that, in expending the award, the purpose described in subsection (a)(1) will be carried out in accordance with the following:

"(A) For each community for which the purpose is to be carried out, the applicant will establish a program in accordance with this subsection.

"(B) The program will be carried out in a community only if the applicant has, under section 2787(a), identified the community as having a significant need for the program.

"(C) The program will be operated by a public or nonprofit private entity with experience in providing health or health-related social services to individuals who are underserved with respect to such services.

"(D) The services of the program, as specified in paragraph (2), will be provided principally by community health advisors (as defined in subsection (d)).

"(2) AUTHORIZED PROGRAM SERVICES.—For purposes of paragraph (1)(D), the services specified in this paragraph for a program are as follows:

"(A) The program will collaborate with health care providers and related entities in order to facilitate the provision of health services and health-related social services (including collaborating with local health departments, community health centers, public hospital systems, migrant health centers, rural health clinics, hospitals, physicians and nurses, providers of health education, pre-school facilities for children, elementary and secondary schools, and providers of social services).

"(B) The program will provide public education on health promotion and on the prevention of diseases, illnesses, injuries, and disabilities, and will facilitate the appropriate use of available health services and health-related social services.

"(C) The program will provide health-related counseling.

"(D) The program will provide referrals for available health services and health-related social services.

"(E) For the purpose of increasing the capacity of individuals to utilize health services and health-related social services under Federal, State, and local programs, the following conditions will be met:

"(i) The program will assist individuals in establishing eligibility under the programs and in receiving the services or other benefits of the programs.

"(ii) The program will provide such other services as the Secretary determines to be appropriate, which services may include (but are not limited to) transportation and translation services.

"(F) The program will provide outreach services to inform the community of the availability of the services of the program.

"(c) Priority for Medically Underserved Communities.—A funding agreement for an award under section 2785 is that the applicant involved will give priority to developing and operating community health advisor programs for medically underserved communities.

"(d) Definition of Community Health Advisor.—For purposes of this part, the term 'community health advisor' means an individual—

"(1) who has demonstrated the capacity to carry out one or more of the authorized program services;

"(2) who, for not less than 1 year, has been a resident of the community in which the community health advisor program involved is to be operated; and

"(3) is a member of a socioeconomic group to be served by the program.

"SEC. 2787. ADDITIONAL AGREEMENTS.

"(a) Identification of Community Needs.—A funding agreement for an award under section 2785 is that the applicant involved will—

"(1) identify the needs of the community involved for the authorized program services, including the identifying the resources of the community that are available for carrying out the program;

"(2) in identifying such needs, consult with members of the community, with individuals and programs that provide health services in the community, and with individuals and programs that provide health-related social services in the community; and

"(3) consider such needs in carrying out a community health advisor program for the community.

"(b) Matching Funds.—

"(1) In general.—With respect to the cost of carrying out a community health advisor program, a funding agreement for an award under section 2785 is that the applicant involved will make available (directly or through donations from public or private entities) non-Federal contributions toward such cost in an amount that is not less than 25 percent of such cost.

"(2) Determination of amount contributed.—

"(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) With respect to the State in which the community health advisor program involved is to be carried out, amounts provided by the State in compliance with subsection (c) shall be included in determining the amount of non-Federal contributions under paragraph (1).

"(c) Maintenance of Effort.—With respect to the purposes for which an award under section 2785 is authorized in this subtitle to be expended, the Secretary may make such an award only if the State involved agrees to maintain expenditures of non-Federal amounts for such purposes at a level that is not less than the level of such expenditures maintained by the State for the fiscal year preceding the first fiscal year for which such an award is made with respect to the State.

"(d) Cultural Context of Services.—A funding agreement for an award under section 2785 for an applicant is that the services of the community health advisor program involved will be provided in the language and cultural context most appropriate for the individuals served by the program, and that for such purpose the community health advisors of the program will include an appropriate number of advisors who are fluent in both English and not less than one of the other relevant languages.

"(e) Number of Programs Per Award; Programs for Urban and Rural Areas.—A funding agreement for an award under section 2785 for an applicant is that the number of community health advisor programs operated in the State with the award will be determined by the Secretary, except that (subject to section 2786(b)(1)(B)) such a program will be carried out in not less than one urban area of the State, and in not less than one rural area of the State.

"(f) Ongoing Supervision of Advisors.—A funding agreement for an award under section 2785 is that the applicant involved will ensure that each community health advisor program operated with the award provides for the ongoing supervision of the community health advisors of the program, and that the individuals serving as supervisors in the program will include 1 or more public health nurses with field experience and managerial experience.

"(g) Certain Expenditures.—

"(1) Training; continuing education.—Funding agreements for an award under section 2785 include the following:

"(A) The applicant involved will ensure that, for each community health advisor program operated with the award, a program is carried out to train community health advisors to provide the authorized program services, including practical experiences in providing services for health promotion and disease prevention.

"(B) The program of training will provide for the continuing education of the community health advisors.

"(C) Not more than 15 percent of the award will be expended for the program of training.

"(2) Compensation.—With respect to compliance with the agreements made under this subtitle, the purposes for which an award under section 2785 may be expended include providing compensation for the services of community health advisors.

"(h) Reports to Secretary; Assessment of Effectiveness.—Funding agreements for an award under section 2785 for an applicant include the following:

"(1) The applicant will ensure that, for each fiscal year for which a community health advisor program receives amounts from the award, the program will prepare a report describing the activities of the program for such year, including—

"(A) a specification of the number of individuals served by the program;

"(B) a specification of the entities with which the program has collaborated in carrying out the purpose described in section 2786(a)(1); and

"(C) an assessment of the extent of the effectiveness of the program in carrying out such purpose.

"(2) Such reports will include such additional information regarding the applicant and the programs as the Secretary may require.

"(3) The applicant will prepare the reports as a single document and will submit the document to the Secretary not later than February 1 of the fiscal year following the fiscal year for which the reports were prepared.

"SEC. 2788. APPLICATION FOR ASSISTANCE; STATE PLAN.

"For purposes of section 2785, an application is in accordance with this section if—

"(1) the application is submitted not later than the date specified by the Secretary;

"(2) the application contains each funding agreement described in this subtitle;

"(3) the application contains a State plan describing the purposes for which the award is to be expended in the State, including a description of the manner in which the applicant will comply with each such funding agreement; and

"(4) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subtitle.

"SEC. 2789. DETERMINATION OF AMOUNT OF ALLOTMENT.

"(a) In General.—For purposes of section 2785, the allotment under this section with respect to a State for a fiscal year is the sum of the respective amounts determined for the State under subsection (b) and subsection (c).

"(b) Amount Relating to Population.—For purposes of subsection (a), the amount determined under this subsection is the product of—

"(1) an amount equal to 50 percent of the amount appropriated under section 2784 for the fiscal year and available for awards under section 2785; and

"(2) the percentage constituted by the ratio of—

"(A) the number of individuals residing in the State involved; to

"(B) the sum of the respective amounts determined for each State under subparagraph (A).

"(c) Amount Relating to Poverty Level.—For purposes of subsection (a), the amount determined under this subsection is the product of—

"(1) the amount determined under subsection (b)(1); and

"(2) the percentage constituted by the ratio of—

"(A) the number of individuals residing in the State whose income is at or below an amount equal to 200 percent of the official poverty line; to

"(B) the sum of the respective amounts determined for each State under subparagraph (A).

"SEC. 2790. QUALITY ASSURANCE; COST-EFFECTIVENESS.

"The Secretary shall establish guidelines for assuring the quality of community health advisor programs (including quality in the training of community health advisors) and for assuring the cost-effectiveness of the programs. A funding agreement for an award under section 2785 is that the applicant involved will carry out such programs in accordance with the guidelines.

"SEC. 2791. EVALUATIONS; TECHNICAL ASSISTANCE.

"(a) Evaluations.—The Secretary shall conduct evaluations of community health advisor programs and disseminate information developed as result of the evaluations to the States. In conducting such evaluations, the Secretary shall determine whether the programs are in compliance with the guidelines established under section 2790.

"(b) Technical Assistance.—The Secretary may provide technical assistance to recipients of awards under section 2785 with respect to the planning, development, and operation of community health advisor programs.

"(c) Grants and Contracts.—The Secretary may carry out this section directly or through grants, cooperative agreements, or contracts.

"(d) Limitation on Expenditures.—Of the amounts appropriated under section 2784 for a fiscal year, the Secretary may reserve not more than 10 percent for carrying out this section.

"SEC. 2792. RULE OF CONSTRUCTION REGARDING PROGRAMS OF INDIAN HEALTH SERVICE.

"This subtitle may not be construed as requiring the Secretary to modify or terminate the program carried out by the Director of the Indian Health Service and designated by such Director as the Community Health Representative Program. The Secretary shall ensure that support for such Program is not supplanted by awards under section 2785. In communities in which both such Program and a community health advisor program are being carried out, the Secretary shall ensure that the community health advisor program works in cooperation with, and as a complement to, the Community Health Representative Program.

"SEC. 2793. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'authorized program services', with respect to a community health advisor program, means the services specified in section 2786(b)(2).

"(2) The term 'community health advisor' has the meaning given such term in section 2786(d).

"(3) The term 'community health advisor program' means a program carried out under section 2786(b).

"(4) The term 'financial assistance', with respect to an award under section 2785, means a grant, cooperative agreement, or a contract.

"(5) The term 'funding agreement' means an agreement required as a condition of receiving an award under section 2785.

"(6) The term 'official poverty line' means the official poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981, which poverty line is applicable the size of the family involved.

"(7) The term 'State involved', with respect to an applicant for an award under section 2785, means the State in which the applicant is to carry out a community health advisor program.

"SEC. 2794. EFFECT OF INSUFFICIENT APPROPRIATIONS FOR MINIMUM ALLOTMENTS.

"(a) In General.—If the amounts made available under section 2784 for a fiscal year are insufficient for providing each State (or entity designated by the State pursuant to section 2785, as the case may be) with an award under section 2785 in an amount equal to or greater than the amount specified in section 2789(a)(2), the Secretary shall, from such amounts as are made available under subsection (a), make such awards on a discretionary basis.

"(b) Rule of Construction.—For purposes of subsection (a), awards under section 2785 are made on a discretionary basis if the Secretary determines which States (or entities designated by States pursuant to such section, as the case may be) are to receive such awards, subject to meeting the requirements of this subtitle for such an award, and the Secretary determines the amount of such awards.

"Subtitle F—General Provisions

"SEC. 2798. REQUIREMENT REGARDING ACCREDITATION OF SCHOOLS, DEPARTMENTS, AND PROGRAMS.

"Except as indicated otherwise in this title:

"(1) A reference in this title to a school of public health, a school of nursing, or any other entity providing education or training in a health profession (whether a school, department, program, or other entity) is a reference to the entity as defined under section 799 or 853.

"(2) If an entity is not defined in either of such sections, the reference in this title to the entity has the meaning provided by the Secretary, except that the Secretary shall require for purposes of this title that the entity be accredited for the provision of the education or training involved.

"SEC. 2799. RELATION TO OTHER FUNDS.

"Notwithstanding any other provision of law, the authorizations of appropriations established in this title are in addition to any other authorizations of appropriations that are available for the purposes described with respect to such appropriations in this title.

"SEC. 2799A. DEFINITIONS.

"(a) In General.—For purposes of this title:

"(1) The term 'Healthy People 2000 Objectives' means the objectives established by the Secretary toward the goals of increasing the span of healthy life, reducing health disparities among various populations, and providing access to preventive services, which objectives apply to the health status of the population of the United States for the year 2000.

"(2) The term 'medically underserved community' means—

"(A) a community that has a substantial number of individuals who are members of a medically underserved population, as defined in section 330; or

"(B) a community a significant portion of which is a health professional shortage area designated under section 332.".

TITLE IV—MEDICAL AND HEALTH RESEARCH

SEC. 4001. SHORT TITLE.

This title may be cited as the "Medical and Health Research Act of 1995".

SEC. 4002. FINDINGS.

The Congress finds the following:

(1) Nearly 4 of 5 peer reviewed research projects deemed worthy of funding by the National Institutes of Health are not funded.

(2) Less than 2 percent of the nearly one trillion dollars our Nation spends on health care is devoted to health research, while the defense industry spends 15 percent of its budget on research.

(3) Public opinion surveys have shown that Americans want more Federal resources put into health research and support by having a portion of their health insurance premiums set aside for this purpose.

(4) Ample evidence exists to demonstrate that health research has improved the quality of health care in the United States. Advances such as the development of vaccines, the cure of many childhood cancers, drugs that effectively treat a host of diseases and disorders, a process to protect our Nation's blood supply from the HIV virus, progress against cardiovasculor disease including heart attack and stroke, and new strategies for the early detection and treatment of diseases such as colon, breast, and prostate cancer clearly demonstrates the benefits of health research.

(5) Among the most effective methods to control health care costs are prevention and cure of disease and disability, thus, health research which holds the promise of cure and prevention of disease and disability is a critical component of any comprehensive health care reform plan.

(6) The state of our Nation's research facilities at the National Institutes of Health and at universities is deteriorating significantly. Renovation and repair of these facilities are badly needed to maintain and improve the quality of research.

(7) Because the Omnibus Budget Reconciliation Act of 1993 freezes discretionary spending for the next 5 years, the Nation's investment in health research through the National Institutes of Health is likely to decline in real terms unless corrective legislative action is taken.

(8) A health research fund is needed to maintain our Nation's commitment to health research and to increase the percentage of approved projects which receive funding at the National Institutes of Health to at least 33 percent.

SEC. 4003. NATIONAL FUND FOR HEALTH RESEARCH.

(a) Establishment.—There is established in the Treasury of the United States an account, to be known as the "National Fund for Health Research" (hereafter referred to in this section as the "Fund"), consisting of such amounts as are transferred to the Fund under subsection (b) and any interest earned on investment of amounts in the Fund.

(b) Transfers to Fund.—

(1) In general.—With respect to each of the 5 full calendar years beginning after the date of enactment of this Act, the Secretary of the Treasury shall transfer to the Fund an amount equal to the applicable amount under paragraph (2).

(2) Applicable amount.—The applicable amount under this paragraph is—

(A) with respect to amounts in the Health Care Reform Trust Fund established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986, $1,200,000,000 for each calendar year described in paragraph (1); and

(B) with respect to amounts received in the Treasury under section 6097 of the Internal Revenue Code of 1986, 100 percent of the amounts received under such section in each calendar year described in paragraph (1).

(3) Designation of overpayments and contributions.—

(A) In general.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR THE NATIONAL FUND FOR HEALTH RESEARCH

"Sec. 6097. Amounts for the National Fund for Health Research.

"SEC. 6097. AMOUNTS FOR THE NATIONAL FUND FOR HEALTH RESEARCH.

"(a) In General.—Every individual (other than a nonresident alien) may designate that—

"(1) a portion (not less than $1) of any overpayment of the tax imposed by chapter 1 for the taxable year, and

"(2) a cash contribution (not less than $1),

be paid over to the National Fund for Health Research established under section 4003 of the Health Partnership Act of 1995. In the case of a joint return of a husband and wife, each spouse may designate one-half of any such overpayment of tax (not less than $2).

"(b) Manner and Time of Designation.—Any designation under subsection (a) may be made with respect to any taxable year only at the time of filing the original return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made either on the 1st page of the return or on the page bearing the taxpayer's signature.

"(c) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this section, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last day prescribed for filing the return of tax imposed by chapter 1 (determined with regard to extensions) or, if later, the date the return is filed.

"(d) DESIGNATED AMOUNTS NOT DEDUCTIBLE.—No amount designated pursuant to subsection (a) shall be allowed as a deduction under section 170 or any other section for any taxable year.

"(e) TERMINATION.—This section shall not apply to taxable years beginning in a calendar year after a determination by the Secretary that the sum of all designations under subsection (a) for taxable years beginning in the second and third calendar years preceding the calendar year is less than $5,000,000.".

(B) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 61 of such Code is amended by adding at the end the following new item:

"Part IX. Designation of overpayments and contributions for the National Fund for Health Research.".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1995.

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall pay annually, within 30 days after the President signs an appropriations Act for the Departments of Labor, Health and Human Services, and Education and related agencies, or by the end of the first quarter of the fiscal year, to the Secretary of Health and Human Services on behalf of the National Institutes of Health, an amount equal to the amount in the National Fund for Health Research at the time of such payment, to enable the Secretary to carry out the purpose of section 404F of the Public Health Service Act, less any administrative expenses which may be paid under paragraph (3).

(2) PURPOSES FOR EXPENDITURES FROM FUND.—Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following new section:

"SEC. 404F. EXPENDITURES FROM THE NATIONAL FUND FOR HEALTH RESEARCH.

"(a) IN GENERAL.—From amounts received for any fiscal year from the National Fund for Health Research, the Secretary of Health and Human Services shall distribute—

"(1) 2 percent of such amounts during any fiscal year to the Office of the Director of the National Institutes of Health to be allocated at the Director's discretion for the following activities:

"(A) for carrying out the responsibilities of the Office of the Director, National Institutes of Health, including the Office of Research on Women's Health and the Office of Research on Minority Health, the Office of the Alternative Medicine and the Office of Rare Diseases Research; and

"(B) for construction and acquisition of equipment for or facilities of or used by the National Institutes of Health;

"(2) 2 percent of such amounts for transfer to the National Center for Research Resources to carry out section 1502 of the National Institutes of Health Revitalization Act of 1993 concerning Biomedical and Behavioral Research Facilities;

"(3) 1 percent of such amounts during any fiscal year for carrying out section 301 and part D of title IV with respect to health information communications; and

"(4) the remainder of such amounts during any fiscal year to member institutes of the National Institutes of Health and centers in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and center for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and centers of the National Institutes of Health for the fiscal year.

"(b) PLANS OF ALLOCATION.—The amounts transferred under subsection (a) shall be allocated by the Director of NIH or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors.".

(3) ADMINISTRATIVE EXPENSES.—Amounts in the National Fund for Health Research shall be available to pay the administrative expenses of the Department of the Treasury directly allocable to—

(A) modifying the individual income tax return forms to carry out section 6097 of the Internal Revenue Code of 1986;

(B) carrying out this section with respect to such Fund; and

(C) processing amounts received under this section and transferring such amounts to such Fund.

(4) TRIGGER AND RELEASE OF FUND MONIES.—No expenditures shall be made pursuant to section 4003(c) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

(d) BUDGET ENFORCEMENT.—Amounts contained in the National Fund for Health Research shall be excluded from, and shall not be taken into account for purposes of, any budget enforcement procedures under the Congressional Budget Act of 1974 or the Balanced Budget Emergency Deficit Control Act of 1985.

TITLE V—FRAUD AND ABUSE

SEC. 5001. SHORT TITLE.

This Act may be cited as the "Health Fraud and Abuse Reduction Act of 1995".

Subtitle A—All-Payer Fraud and Abuse Control Program

SEC. 5101. ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 1996, the Secretary of Health and Human Services (in this subtitle referred to as the "Secretary"), acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States, and

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act and other statutes applicable to health care fraud and abuse.

(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

(3) REGULATIONS.—

(A) IN GENERAL.—The Secretary and the Attorney General shall by regulation establish standards to carry out the program under paragraph (1).

(B) INFORMATION STANDARDS.—

(i) IN GENERAL.—Such standards shall include standards relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

(ii) CONFIDENTIALITY.—Such standards shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

(C) DISCLOSURE OF OWNERSHIP INFORMATION.—

(i) IN GENERAL.—Such standards shall include standards relating to the disclosure of ownership information described in clause (ii) by any entity providing health care services and items.

(ii) OWNERSHIP INFORMATION DESCRIBED.—The ownership information described in this clause includes—

(I) a description of such items and services provided by such entity;

(II) the names and unique physician identification numbers of all physicians with a financial relationship (as defined in section 1877(a)(2) of the Social Security Act) with such entity;

(III) the names of all other individuals with such an ownership or investment interest in such entity; and

(IV) any other ownership and related information required to be disclosed by such entity under section 1124 or section 1124A of the Social Security Act, except that the Secretary shall establish procedures under which the information required to be submitted under this subclause will be reduced with respect to health care provider entities that the Secretary determines will be unduly burdened if such entities are required to comply fully with this subclause.

(4) AUTHORIZATION OF APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.—In addition to any other amounts authorized to be appropriated to the Secretary, the Attorney General, the Director of the Federal Bureau of Investigation, and the Inspectors General of the Departments of Defense, Labor, and Veterans Affairs and of the Office of Personnel Management, for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated additional amounts, from the Health Care Fraud and Abuse Account described in subsection (b) of this section, as may be necessary to enable the Secretary, the Attorney General, and such Inspectors General to conduct investigations and audits of allegations of health care fraud and abuse and otherwise carry out the program established under paragraph (1) in a fiscal year.

(5) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of

Health and Human Services is authorized to exercise the authority described in paragraphs (4) and (5) of section 6 of the Inspector General Act of 1978 (relating to subpoenas and administration of oaths) with respect to the activities under the all-payer fraud and abuse control program established under this subsection to the same extent as such Inspector General may exercise such authorities to perform the functions assigned by such Act.

(6) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this title shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978.

(7) HEALTH PLAN DEFINED.—For the purposes of this subsection, the term "health plan" shall have the meaning given such term in section 1128(i) of the Social Security Act.

(b) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is hereby established an account to be known as the "Health Care Fraud and Abuse Control Account" (in this section referred to as the "Anti-Fraud Account"). The Anti-Fraud Account shall consist of—

(i) such gifts and bequests as may be made as provided in subparagraph (B);

(ii) such amounts as may be deposited in the Anti-Fraud Account as provided in subsection (a)(4), sections 5441(b) and 5442(b), and title XI of the Social Security Act; and

(iii) such amounts as are transferred to the Anti-Fraud Account under subparagraph (C).

(B) AUTHORIZATION TO ACCEPT GIFTS.—The Anti-Fraud Account is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Anti-Fraud Account, for the benefit of the Anti-Fraud Account or any activity financed through the Anti-Fraud Account.

(C) TRANSFER OF AMOUNTS.—

(i) IN GENERAL.—The Secretary of the Treasury shall transfer to the Anti-Fraud Account an amount equal to the sum of the following:

(I) Criminal fines imposed in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

(II) Administrative penalties and assessments imposed under titles XI, XVIII, and XIX of the Social Security Act (except as otherwise provided by law).

(III) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(IV) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution).

(2) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available to carry out the health care fraud and abuse control program established under subsection (a) (including the administration of the program), and may be used to cover costs incurred in operating the program, including costs (including equipment, salaries and benefits, and travel and training) of—

(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

(ii) investigations;

(iii) financial and performance audits of health care programs and operations;

(iv) inspections and other evaluations; and

(v) provider and consumer education regarding compliance with the provisions of this subtitle.

(B) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Anti-Fraud Account to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(3) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed by the Anti-Fraud Account in each fiscal year.

(4) USE OF FUNDS BY INSPECTOR GENERAL.—

(A) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General is authorized to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payer, or otherwise.

(B) CREDITING.—Funds received by the Inspector General or the Inspectors General of the Departments of Defense, Labor, and Veterans Affairs and of the Office of Personnel Management, as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of their deposit.

SEC. 5102. APPLICATION OF CERTAIN FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST ANY HEALTH PLAN.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended as follows:

(A) In the heading, by adding at the end the following: "OR HEALTH PLANS".

(B) In subsection (a)(1)—

(i) by striking "title XVIII or" and inserting "title XVIII,", and

(ii) by adding at the end the following: "or a health plan (as defined in section 1128(i)),".

(C) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health plan".

(D) In the second sentence of subsection (a)—

(i) by inserting after "title XIX" the following: "or a health plan", and

(ii) by inserting after "the State" the following: "or the plan".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

"(f) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) HEALTH PLAN DEFINED.—Section 1128 of the Social Security Act (42 U.S.C. 1320a–7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health plan' means a plan that provides health benefits, whether directly, through insurance, or otherwise, and includes a policy of health insurance, a contract of a service benefit organization, or a membership agreement with a health maintenance organization or other prepaid health plan, and also includes an employee welfare benefit plan or a multiple employer welfare plan (as such terms are defined in section 3 of the Employee Retirement Income Security Act of 1974).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 5201. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud Prevention Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(1) of such Act (42 U.S.C. 1320a–7(b)(1)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud Prevention Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) of such Act (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 5202. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 5203. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) of the Social Security Act (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

"(B) against which a civil monetary penalty has been assessed under section 1128A; or

"(C) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 5204. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) of such Act (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 5205. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting the following: "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) of such Act (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) of such Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—

(1) REQUIREMENT FOR WRITTEN AGREEMENT.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(2) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1996, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under section 1876 of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1876(i)(7)(A) of such Act.

(3) REPORT BY GAO.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of such Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(B) REPORT TO CONGRESS.—Not later than July 1, 1998, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under subparagraph (A).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 5206. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect January 1, 1996.

Subtitle C—Civil Monetary Penalties

SEC. 5301. CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended as follows:

(1) In subsection (a)(1), by inserting "or of any health plan (as defined in section 1128(i))," after "subsection (i)(1)),".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraphs:

"(3) With respect to amounts recovered arising out of a claim under a health plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Care Fraud Prevention Act of 1995 (as estimated by the Secretary) shall be deposited into the Health Care Fraud and Abuse Control Account established under section 101(b) of such Act.".

(3) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health plan" after "or XX".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting the following: "claimed, including any person who repeatedly presents or causes to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person repeatedly knows or should know is not medically necessary; or".

(e) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(f) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) of the Social Security Act (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting the following: "up to $10,000 for each instance".

(g) PROCEDURAL PROVISIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).".

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

(i) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) REMUNERATION DEFINED.—Section 1128A(i) of such Act (42 U.S.C. 1320a-7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations.".

Subtitle D—Payments for State Health Care Fraud Control Units

SEC. 5401. ESTABLISHMENT OF STATE FRAUD UNITS.

(a) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL UNIT.—The Governor of each State shall, consistent with State law, establish and maintain in accordance with subsection (b) a State agency to act as a Health Care Fraud and Abuse Control Unit for purposes of this subtitle.

(b) DEFINITION.—In this section, a "State Fraud Unit" means a Health Care Fraud and Abuse Control Unit designated under subsection (a) that the Secretary certifies meets the requirements of this subtitle.

SEC. 5402. REQUIREMENTS FOR STATE FRAUD UNITS.

(a) IN GENERAL.—The State Fraud Unit must—

(1) be a single identifiable entity of the State government;

(2) be separate and distinct from any State agency with principal responsibility for the administration of any Federally-funded or mandated health care program;

(3) meet the other requirements of this section.

(b) SPECIFIC REQUIREMENTS DESCRIBED.—The State Fraud Unit shall—

(1) be a Unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

(2) if it is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, (A) assure its referral of suspected criminal violations to the appropriate authority or authorities in the State for prosecution, and (B) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

(3) have a formal working relationship with the office of the State Attorney General or the appropriate authority or authorities for prosecution and have formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the Fraud Unit and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to any Federally-funded or mandated health care programs.

(c) STAFFING REQUIREMENTS.—The State Fraud Unit shall—

(1) employ attorneys, auditors, investigators and other necessary personnel; and

(2) be organized in such a manner and provide sufficient resources as is necessary to promote the effective and efficient conduct of State Fraud Unit activities.

(d) COOPERATIVE AGREEMENTS; MEMORANDA OF UNDERSTANDING.—The State Fraud Unit shall have cooperative agreements with—

(1) Federally-funded or mandated health care programs;

(2) similar Fraud Units in other States, as exemplified through membership and participation in the National Association of Medicaid Fraud Control Units or its successor; and

(3) the Secretary.

(e) REPORTS.—The State Fraud Unit shall submit to the Secretary an application and an annual report containing such information as the Secretary determines to be necessary to determine whether the State Fraud Unit meets the requirements of this section.

(f) FUNDING SOURCE; PARTICIPATION IN ALL-PAYER PROGRAM.—In addition to those sums expended by a State under section 5404(a) for purposes of determining the amount of the Secretary's payments, a State Fraud Unit may receive funding for its activities from other sources, the identity of which shall be reported to the Secretary in its application or annual report. The State Fraud Unit shall participate in the all-payer fraud and abuse control program established under section 5101.

SEC. 5403. SCOPE AND PURPOSE.

The State Fraud Unit shall carry out the following activities:

(1) The State Fraud Unit shall conduct a statewide program for the investigation and prosecution (or referring for prosecution) of

violations of all applicable state laws regarding any and all aspects of fraud in connection with any aspect of the administration and provision of health care services and activities of providers of such services under any Federally-funded or mandated health care programs;

(2) The State Fraud Unit shall have procedures for reviewing complaints of the abuse or neglect of patients of facilities (including patients in residential facilities and home health care programs) that receive payments under any Federally-funded or mandated health care programs, and, where appropriate, to investigate and prosecute such complaints under the criminal laws of the State or for referring the complaints to other State agencies for action.

(3) The State Fraud Unit shall provide for the collection, or referral for collection to the appropriate agency, of overpayments that are made under any Federally-funded or mandated health care program and that are discovered by the State Fraud Unit in carrying out its activities.

SEC. 5404. PAYMENTS TO STATES.

(a) MATCHING PAYMENTS TO STATES.—Subject to subsection (c), for each year for which a State has a State Fraud Unit approved under section 5402(b) in operation the Secretary shall provide for a payment to the State for each quarter in a fiscal year in an amount equal to the applicable percentage of the sums expended during the quarter by the State Fraud Unit.

(b) APPLICABLE PERCENTAGE DEFINED.—

(1) IN GENERAL.—In subsection (a), the "applicable percentage" with respect to a State for a fiscal year is—

(A) 90 percent, for quarters occurring during the first 3 years for which the State Fraud Unit is in operation; or

(B) 75 percent, for any other quarters.

(2) TREATMENT OF STATES WITH MEDICAID FRAUD CONTROL UNITS.—In the case of a State with a State medicaid fraud control in operation prior to or as of the date of the enactment of this Act, in determining the number of years for which the State Fraud Unit under this subtitle has been in operation, there shall be included the number of years for which such State medicaid fraud control unit was in operation.

(c) LIMIT ON PAYMENT.—Notwithstanding subsection (a), the total amount of payments made to a State under this section for a fiscal year may not exceed the amounts as authorized pursuant to section 1903(b)(3) of the Social Security Act.

TITLE VI—REVENUE PROVISIONS

SEC. 6000. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Financing Provisions

PART I—INCREASE IN TAX ON TOBACCO PRODUCTS

SEC. 6001. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (1) and inserting "$62 per thousand", and

(2) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (2) and inserting "$130.20 per thousand".

(b) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)" in paragraph (1) and inserting "$51.13 per thousand", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to 66 percent of the price for which sold but not more than $155 per thousand."

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "3.88 cents".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "7.76 cents".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" in paragraph (1) and inserting "$13.69", and

(2) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" in paragraph (2) and inserting "$5.45".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "$17.35".

(g) APPLICATION OF TAX INCREASE TO PUERTO RICO.—Section 5701 is amended by adding at the end the following new subsection:

"(h) APPLICATION TO TAXES TO PUERTO RICO.—Notwithstanding subsections (b) and (c) of section 7653 and any other provision of law—

"(1) IN GENERAL.—On tobacco products and cigarette papers and tubes, manufactured or imported into the Commonwealth of Puerto Rico, there is hereby imposed a tax at the rate equal to the excess of—

"(A) the rate of tax applicable under this section to like articles manufactured in the United States, over

"(B) the rate referred to in subparagraph (A) as in effect on the day before the date of the enactment of the Health Partnership Act of 1995.

"(2) SHIPMENTS TO PUERTO RICO FROM THE UNITED STATES.—Only the rates of tax in effect on the day before the date of the enactment of this subsection shall be taken into account in determining the amount of any exemption from, or credit or drawback of, any tax imposed by this section on any article shipped to the Commonwealth of Puerto Rico from the United States.

"(3) SHIPMENTS FROM PUERTO RICO TO THE UNITED STATES.—The rates of tax taken into account under section 7652(a) with respect to tobacco products and cigarette papers and tubes coming into the United States from the Commonwealth of Puerto Rico shall be the rates of tax in effect on the day before the date of the enactment of the Health Partnership Act of 1995.

"(4) DISPOSITION OF REVENUES.—The provisions of section 7652(a)(3) shall not apply to any tax imposed by reason of this subsection."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after December 31, 1995.

(i) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products and cigarette papers and tubes manufactured in or imported into the United States or the Commonwealth of Puerto Rico which are removed before any tax-increase date, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 or 7652 of such Code on such article.

(2) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the $500 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on each tax-increase date for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 3 months after the tax-increase date.

(5) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on any tax-increase date shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(6) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section, as amended by this Act.

(B) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(C) TAX-INCREASE DATE.—The term "tax-increase date" means January 1, 1996, and July 1, 1997.

(7) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

SEC. 6002. MODIFICATIONS OF CERTAIN TOBACCO TAX PROVISIONS.

(a) Exemption for Exported Tobacco Products and Cigarette Papers and Tubes To Apply Only to Articles Marked for Export.—

(1) Subsection (b) of section 5704 is amended by adding at the end the following new sentence: "Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe."

(2) Section 5761 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) Sale of Tobacco Products and Cigarette Papers and Tubes for Export.—Except as provided in subsections (b) and (d) of section 5704—

"(1) every person who sells, relands, or receives within the jurisdiction of the United States any tobacco products or cigarette papers or tubes which have been labeled or shipped for exportation under this chapter,

"(2) every person who sells or receives such relanded tobacco products or cigarette papers or tubes, and

"(3) every person who aids or abets in such selling, relanding, or receiving,

shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty equal to the greater of $1,000 or 5 times the amount of the tax imposed by this chapter. All tobacco products and cigarette papers and tubes relanded within the jurisdiction of the United States, and all vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States.".

(3) Subsection (a) of section 5761 is amended by striking "subsection (b)" and inserting "subsection (b) or (c)".

(4) Subsection (d) of section 5761, as redesignated by paragraph (2), is amended by striking "The penalty imposed by subsection (b)" and inserting "The penalties imposed by subsections (b) and (c)".

(5)(A) Subpart F of chapter 52 is amended by adding at the end the following new section:

"SEC. 5754. RESTRICTION ON IMPORTATION OF PREVIOUSLY EXPORTED TOBACCO PRODUCTS.

"(a) In General.—Tobacco products and cigarette papers and tubes previously exported from the United States may be imported or brought into the United States only as provided in section 5704(d). For purposes of this section, section 5704(d), section 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

"(b) Cross Reference.—

"For penalty for the sale of tobacco products and cigarette papers and tubes in the United States which are labeled for export, see section 5761(c).".

(B) The table of sections for subpart F of chapter 52 is amended by adding at the end the following new item:

"Sec. 5754. Restriction on importation of previously exported tobacco products.".

(b) Importers Required To Be Qualified.—

(1) Sections 5712, 5713(a), 5721, 5722, 5762(a)(1), and 5763 (b) and (c) are each amended by inserting "or importer" after "manufacturer".

(2) The heading of subsection (b) of section 5763 is amended by inserting "Qualified Importers," after "Manufacturers,".

(3) The heading for subchapter B of chapter 52 is amended by inserting "**and Importers**" after "**Manufacturers**".

(4) The item relating to subchapter B in the table of subchapters for chapter 52 is amended by inserting "and importers" after "manufacturers".

(c) Repeal of Tax-Exempt Sales to Employees of Cigarette Manufacturers.—

(1) Subsection (a) of section 5704 is amended—

(A) by striking "Employee Use or" in the heading, and

(B) by striking "for use or consumption by employees or" in the text.

(2) Subsection (e) of section 5723 is amended by striking "for use or consumption by their employees, or for experimental purposes" and inserting "for experimental purposes".

(d) Repeal of Tax-Exempt Sales to United States.—Subsection (b) of section 5704 is amended by striking "and manufacturers may similarly remove such articles for use of the United States;".

(e) Books of 25 or Fewer Cigarette Papers Subject to Tax.—Subsection (c) of section 5701 is amended by striking "On each book or set of cigarette papers containing more than 25 papers," and inserting "On cigarette papers,".

(f) Storage of Tobacco Products.—Subsection (k) of section 5702 is amended by inserting "under section 5704" after "internal revenue bond".

(g) Authority To Prescribe Minimum Manufacturing Activity Requirements.—Section 5712 is amended by striking "or" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe, or".

(h) Special Rules Relating to Puerto Rico and the Virgin Islands.—Section 7652 is amended by adding at the end the following new subsection:

"(h) Limitation on Cover Over of Tax on Tobacco Products.—For purposes of this section, with respect to taxes imposed under section 5701 or this section on any tobacco product or cigarette paper or tube, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the rate of tax under section 5701 in effect on the article on the day before the date of the enactment of the Health Partnership Act of 1995.".

(i) Effective Date.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after December 31, 1995.

SEC. 6003. IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.

(a) In General.—Section 5701 (relating to rate of tax), as amended by section 701, is amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting after subsection (f) the following new subsection:

"(g) Roll-Your-Own Tobacco.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $17.35 per pound (and a proportionate tax at the like rate on all fractional parts of a pound).".

(b) Roll-Your-Own Tobacco.—Section 5702 (relating to definitions) is amended by adding at the end the following new subsection:

"(p) Roll-Your-Own Tobacco.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.".

(c) Technical Amendments.—

(1) Subsection (c) of section 5702 is amended by striking "and pipe tobacco" and inserting "pipe tobacco, and roll-your-own tobacco".

(2) Subsection (d) of section 5702 is amended—

(A) in the material preceding paragraph (1), by striking "or pipe tobacco" and inserting "pipe tobacco, or roll-your-own tobacco", and

(B) by striking paragraph (1) and inserting the following new paragraph:

"(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and".

(3) The chapter heading for chapter 52 is amended to read as follows:

"CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES".

(4) The table of chapters for subtitle E is amended by striking the item relating to chapter 52 and inserting the following new item:

"Chapter 52. Tobacco products and cigarette papers and tubes.".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to roll-your-own tobacco removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after December 31, 1995.

(2) Transitional rule.—Any person who—

(A) on the date of the enactment of this Act is engaged in business as a manufacturer of roll-your-own tobacco or as an importer of tobacco products or cigarette papers and tubes, and

(B) before January 1, 1995, submits an application under subchapter B of chapter 52 of such Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

Subtitle B—Health Care Reform Trust Fund

SEC. 6101. ESTABLISHMENT OF HEALTH CARE REFORM TRUST FUND.

(a) In General.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding at the end the following new part:

"PART II—HEALTH CARE TRUST FUNDS

"Sec. 9551. Health Care Reform Trust Fund

"SEC. 9551. HEALTH CARE REFORM TRUST FUND.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'Health Care Reform Trust Fund', consisting of such amounts as may be appropriated or credited to the Health Care Reform Trust Fund as provided in this section.

"(b) Transfers to the Trust Fund.—There are hereby appropriated to the Health

Care Reform Trust Fund amounts received in the Treasury under section 5701 (relating to taxes on tobacco products) to the extent attributable to the increases in such taxes as the result of the enactment of subtitle A of title VI of the Health Partnership Act of 1995.

"(c) EXPENDITURES.—Amounts in the Health Care Reform Trust Fund are appropriated as provided for in sections 2001 and 4003 of the Health Partnership Act of 1995, and title XXVII of the Public Health Service Act, and to the extent any such amount is not expended during any fiscal year, such amount shall be available for such purpose for subsequent fiscal years.

"(d) OTHER RULES.—

"(1) INSUFFICIENT FUNDS.—If, for any fiscal year, the sum of the amounts required to be allocated under subsection (c) exceeds the amounts received in the Health Care Reform Trust Fund, then each of such amounts required to be so allocated shall be reduced to an amount which bears the same ratio to such amount as the amounts received in the trust fund bear to the amounts required to be so allocated (without regard to this paragraph).

"(2) ALLOCATION OF EXCESS FUNDS AND INTEREST.—Amounts received in the Health Care Reform Trust Fund in excess of the amounts required to be allocated under subsection (c), for any fiscal year shall be allocated ratably on the basis of the amounts allocated for the fiscal year (without regard to this paragraph).".

(b) CONFORMING AMENDMENT.—Subchapter A of chapter 98 is amended by inserting after the subchapter heading the following new items:

"Part I. General trust funds.

"Part II. Health care trust fund.

"PART I—GENERAL TRUST FUNDS".

GRAHAM-HATFIELD HEALTH PARTNERSHIP ACT

Purpose: To proceed with health care reform that increases access, controls costs and improves the quality of health care in states through state innovation, public health, medical research, insurance reform and control of fraud and abuse.

States are making significant progress to reform their health care delivery systems. In light of the inability of Congress to enact comprehensive reform, this bill would provide the states with the flexibility to continue their reform efforts. It would also provide limited federal funding to assist states in this effort.

The bill includes the following provisions:

TITLE I—HEALTH INSURANCE REFORM

Establishment of National Minimum Standards.—Congress would direct the National Association of Insurance Commissioners (NAIC) to develop national minimum standards with respect to renewability, portability, guaranteed issue, community rating, solvency and stop-loss. The Secretary of Health and Human Services (HHS) would review the standards developed by NAIC. Upon approval, these national minimum standards would be established for the states, but they would be given authority to enact and implement more progressive reforms than those specified. This is modeled after the Baucus Amendment to OBRA-90 relating to the development of Medicare Supplemental Insurance Standards or Medigap.

Medicare Select.—The 1990 Medigap legislation created 10 standard Medicare supplemental benefit packages that could be offered nationwide. Managed care networks could offer these benefits to Medicare beneficiaries in 15 states. This program, Medicare Select, provides supplemental coverage to hundreds of thousands of Medicare beneficiaries, but the program will expire on June 30, 1995. This provision would reauthorize the program and extend it to all 50 states.

TITLE II—STATE INNOVATION

State Innovative Health Reform Projects.—States interested in enacting health reform proposals that achieve the goals of increased health coverage and access, control costs and maintain or improve the quality of health care could submit their projects to the Secretary for Medicaid, Maternal Child Health Block Grant, Social Services Block Grant and Public Health Service Act waivers and approval. An approved state innovative project that can demonstrate the ability to meet the goals of health reform would receive grant monies from the federal government to encourage and help states funds the projects. $50 billion will be made available to states over a five-year period.

Limited State Health Care Waivers.—States would also be allowed to pursue more limited state health care waivers that are likely to increase administrative efficiencies or provide guidance for the development of improved health delivery systems. The waiver application for both the comprehensive and limited waiver projects would be placed on an expedited approval process.

Evaluation, Monitoring and Compliance.—The Secretary and an established State Health Reform Advisory Board would be responsible for monitoring the waiver projects. Waiver projects could be terminated by the Secretary for good cause and states would not be allowed to supplant state funding with grants received under this program.

Lessons from the States/Report to Congress.—At the end of the five-year period, the Board would report to Congress on the progress made by states with respect to expanding health insurance coverage and cost containment. The Board would also make recommendations to Congress concerning any further action Congress should take concerning health care reform from the information and experiences drawn from the states.

Existing State Laws.—States that have existing Medicaid and Medicare waivers are continued and not preempted by this Act. Hawaii would be granted a continued exemption from ERISA preemption.

ERISA Review.—To allow states to move forward with meaningful comprehensive health care reform while fully recognizing the needs of employers in administering self-funded plans across state lines, an ERISA Review Commission is established to find common ground, clarify what is permissible under ERISA and ensure the interests of self-insured plans are addressed. The Commission will be composed of representatives from state and local government, business, labor and the federal government.

TITLE III—PUBLIC HEALTH, RURAL AND UNDERSERVED ACCESS IMPROVEMENT

Core Functions of Public Health.—Core functions are those activities and programs that emphasize population-based health measures such as the investigation and control of threats to the health of communities such as communicable diseases (tuberculosis, HIV, measles, influenza), environmental hazards (air pollution, radon, radiation, waste and sewage disposal), toxic pollutants (lead-based paint, contaminated drinking water) and emerging patterns of acute and chronic disease and injury (food borne poisoning, cancer, heart disease).

Other Programs.—Funding is also made available for comprehensive evaluation of disease prevention and health promotion programs, Schools of Public Health, Area Health Education Centers, Health Education Training Centers, Regional Poison Control Centers, school-related health services, Community and Migrant Health Centers, the National Health Service Corps, satellite primary car clinics and community health advisors.

Funding.—This title is allocated $9 billion over a five-year period.

TITLE IV—MEDICAL RESEARCH

National Institute of Health (NIH) Funding.—$6 billion would be allocated over a five-year period under this title to expand our national commitment to health research. Monies are allocated to the NIH Institutes and Centers on the same basis as annual appropriations. Five percent of the monies will be directed to extramural construction and renovation of research facilities, the National Library of Medicine and the Office of the Director.

TITLE V—FRAUD AND ABUSE

Federal-State-Private Sector Coordination.—This title tracks much of the language from Senator Bill Cohen's "Health Care Fraud Prevention Act of 1995". An improved federal-state-private sector collaboration to combat fraud and abuse would be established. Moreover, certain existing criminal and civil penalties would be expanded to eliminate waste in the health care system.

TITLE VI—FINANCING PROVISIONS

Tobacco Tax.—The bill will be financed through a $1 tax on tobacco products. This tax is expected to raise $65 billion over five years.

NOT INCLUDED—MEDICAID AND MEDICARE CUTS

There are no Medicaid and Medicare cuts included in the Graham-Hatfield proposal.

THE HEALTH PARTNERSHIP ACT

Mr. HATFIELD. Mr. President, on the first day of the 104th Congress, I introduced a package of five bills—my legislative priorities for the coming session. At that time, I stated that one of my main priorities during the 104th Congress will be to look for ways to redefine Federal programs to enhance the efforts toward reform already underway in the States. The three bills I introduced on that first day are designed to decrease the burden of Federal compliance and oversight measures in key policy areas. In exchange for loosening the Federal regulatory straitjacket, we will transform accountability from paperwork requirements to performance-based results. I call this the flexibility factor in Government and it entails finding a path through every Federal agency where innovation at the State and local levels is nurtured and rewarded.

It is in that context today that I join my good friend and colleague from Florida, Mr. GRAHAM, in introducing the Health Partnership Act of 1995. This bill is very similar to the legislation we introduced at the end of the 103d Congress when it became apparent that efforts to pass comprehensive reform would fail. Rather than federalizing health care, this bill would encourage the States to innovate and help build the best approaches to addressing our health care problems—a return to the true essence of federalism.

To date, six States have enacted comprehensive health care reform proposals—Hawaii, Massachusetts, Oregon, Minnesota, Florida, and Washington. In addition, 44 States have enacted small group insurance reform; 44 have enacted data collection systems, and 41 have Medicaid managed care experiments underway.

Although many reforms are underway, States have often had to struggle with the Federal Government to move forward with their reform plans. Securing the necessary waivers from the Federal Government has become an increasingly burdensome process. For example, it took nearly 3 years and two administrations for Oregon to obtain the Medicaid waivers it needed to implement its Medicaid expansion. This expansion has provided health care for nearly 100,000 additional Oregonians since its implementation in February 1994. And although there have been problems that came with implementation, the overwhelming majority of Oregonians continue to support the Oregon health plan.

Mr. President, I am fortunate to come from a State which is willing to look at new and innovative approaches to reform in the public and private sectors. Recently, Oregon was granted a welfare waiver to implement their Jobs Plus Program. Oregon has also recently signed a memorandum of understanding with the administration to move forward with the Oregon Option, a partnership designed to deliver Government services in a better and more efficient manner. We are also hopeful that our State will be designed an "ed-flex partnership State" by Secretary Riley as soon as the Goals 2000 process is in place. This designation will allow our State to waive Federal law in certain areas in which the State has already demonstrated a commitment to change. Frankly, it seems like I am spending much of my time these days pursuing waivers of Federal law for my State—nearly all of the innovation that has come forth from my State in recent years has required a Federal waiver for implementation. Oregon is willing to persevere—but not all States are.

Due to the arduous process a State must go through to obtain Federal waivers to enact comprehensive health care reform, many States have held off in attempting comprehensive reform. In addition, one of the biggest barriers to State reform is the Employee Retirement Income Security Act [ERISA]. This Federal law is one of the broadest Federal laws on the books, and it has effectively prevented States from enacting reform that achieves universal coverage. ERISA waivers can only be granted by the Congress and have been few and far between—only Hawaii has one and it was granted 20 years ago.

The issue of ERISA reform is a sensitive one. On one hand, States feel that ERISA preemption is a major roadblock to their reform efforts. States argue that ERISA prevents them from reaching a significant percentage of the insurance market in order to fully implement reform proposals that increase access to health care and control costs. On the other hand, business, especially employers with businesses in many different States, argue that they need uniformity in the administration of their employee health benefit plans. They argue that their ability to manage their health care costs and assure that all employees are getting equal benefits will be undermined by State health care reform if the ERISA preemption is lifted.

Both sides raise compelling arguments, but where does that leave us? In the absence of comprehensive national reform, the status quo is not acceptable. Thus, in the bill we are introducing today, we have included a mechanism which will hopefully lead to a fair and equitable resolution of this problem. In order to allow States to move forward with meaningful comprehensive health care reform, while fully recognizing the needs of employers in administering self-funded plans across State lines, an ERISA Review Commission is established to find common ground, clarify what is permissible under ERISA and ensure the interest of self-insured plans are addressed. This limited duration Commission will be charged with making recommendations on ERISA reform to the Secretary of Labor, and will be composed of representatives from State and local government, business, labor, and the Federal Government.

We consider this piece of our bill as work in progress. We firmly believe that the dialog between the two sides must begin. And we look forward to finding ways to improve and expand upon the proposal we put forward in today's legislation.

I have long advocated that we look to the States to help develop the database we need to determine the appropriate Federal role in health care reform. In my opinion, this is the essence of the federalism on which our country was founded. With no consensus on comprehensive reform in Congress, we should turn to the States to lay the foundation for reform. All of the ideas that we debated last session—from insurance reform to universal coverage to malpractice reform—are being tested in our States. We should then distill the information and data obtained from these innovations and use it to reach consensus on national reform.

The bill that we are reintroducing today does that. It says to the States, we believe in you. Put together a plan to expand access to health care, control costs, to improve quality and health outcomes in your State and we will give you the waivers you need to implement your innovative ideas. We believe this should be a partnership and so we will even provide you with some Federal funds to help you achieve your goals. Then at the end of 5 years, we will evaluate what you have done. Has it been successful? Have you met your goals? How can we use this information to put together a plan that works for the rest of the Nation?

And if a State wants to develop a more limited plan, the bill will allow that State to apply for a limited project waiver. This will encourage more of the limited reforms that are already proceeding so successfully in many States, on a much more rapid basis.

In addition, the bill includes provisions to improve public health services and access to health care in rural and underserved areas. This will spur the development of our health care delivery infrastructure and will lead to better health outcomes.

This bill also includes a proposal I have long-championed with Senator HARKIN of Iowa—the National Fund for Health Research. While I intend to introduce this piece of the bill as freestanding legislation later in the year, I feel it is important to have at least one option on the table for increasing our commitment to medical research. Therefore, a minimum of $6 billion will be provided over 5 years to supplement the annual appropriations to the National Institutes of Health.

Medical research is the sole hope we can provide to millions of Americans who will face disease and disability either in their own lives or in their families. We can care for them in our hospitals and clinics but we cannot alleviate their pain or end their suffering without cures and preventative treatments. Cures are the direct result of our investment in medical research.

Mr. President, our Nation spends about $1 trillion each year on health care, but only 2 to 3 percent on medical research. I submit to the proponents of cost containment, that the cornerstone of cost containment is the cures and improved treatments arising from medical research.

I want to cite two examples of the tremendous strides taken in medical research that have totally reversed the prognostic indications for certain diseases. In 1960, we had a U.S. Senator, Richard L. Neuberger, die of testicular cancer. At that point in time, this diagnosis carried a death sentence. Today, because of the advances in medical research, 95 percent of testicular cancer is curable. That is but one example of the strides we have made in the eradication of disease. Research in other fields such as heart and lung disease, stroke, and juvenile leukemia have increased the quality of life and lifespans of many afflicted individuals.

The other day, I was amused by the current commercials on treatments for upset stomachs and more specifically, peptic ulcers. A research study at the Michigan Research Center concluded that petic ulcers are not caused by stress or diet, but by simple bacteria. The causative bacteria is treatable with common antibiotics and, therefore, ulcers are curable. That one singular research project was responsible for altering our treatment of a common ailment, and alleviating the constant pain of its sufferers.

Additionally, I want to emphasize that medical research has a broad base of public support. One recent poll indicated that 77 percent of the American people supported a health care premium increase of $1 per week, if it were earmarked for medical research. Another 75 percent of the American people said they would accept a $1 increase per week on their income tax bill, if it were earmarked for medical research.

The American public realizes that there is a direct link between medical research and improved health care, cost containment, and discovery of disease cures. I cannot emphasize enough the necessity of undergirding the National Institutes of Health with better funding mechanisms than what exists in the annual appropriations process.

Finally, we have added a title to our bill to address the enormous problem of fraud and abuse in our health care system. The focus of this title is on Federal, State, and private sector coordination to combat fraud and abuse. Much of the language in the title tracks the legislation recently introduced by the Senator from Maine [Mr. COHEN] in the Health Care Fraud Prevention Act of 1995.

Beginning the process to reforming our health care system does not come without cost.

Currently, we are witnessing increasing doubts about the dependability of funding for our medical research initiatives. With the squeeze on discretionary nonmilitary funding, we are going to have even greater pressure put upon our ability to find innovative financial support.

Thus, our proposal will be fully funded by a $1 tax on tobacco products. The Congressional Budget Office has indicated that a $1 increase will result in $65 billion in revenues. As a long-time advocate of increased tobacco taxes, I believe this is an appropriate revenue source not only because of the revenue that is gained through the tax, but more importantly, because of the health benefits that result from such a tax. This tax will save lives and will have a great effect on the number of teens who smoke. As my colleagues know, the number of teenage smokers is rising significantly despite our efforts to educate teens about the health dangers of tobacco use. We must redouble our efforts to halt this increase in young smokers.

Mr. President, I strongly believe that the approach we are putting forward today is a positive first step toward the foundation of national reform. There will be those who argue that a State approach will lead to a fragmented health care system. I disagree. We will likely not achieve comprehensive national health care reform this year. Let us not make the mistake of missing an opportunity to gather data from the States that will help us in the years ahead. Ours should be a partnership with the States to facilitate the development of health care reform—we should invite them into the process as our partners, not fight their innovative efforts.

By Mr. BENNETT (for himself, Mr. BUMPERS, and Mr. JOHNSTON):

S. 309. A bill to reform the concession policies of the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

THE CONCESSION POLICY REFORM ACT OF 1995

Mr. BENNETT. Mr. President, I rise today to offer a piece of legislation which will be known, I hope, when it becomes law as the National Park Service Concessions Policy Reform Act of 1995.

This particular act is cosponsored by two of my friends on the Senate Energy and Natural Resources Committee, the former chairman of that committee, Chairman BENNETT JOHNSTON and Mr. BUMPERS, DALE BUMPERS, from Arkansas, who was the chairman of the subcommittee that handled this legislation in the previous Congress.

Mr. BUMPERS has been pursuing reform in the Park Service concession policy for, I think, his entire career in the Senate. I was delighted to join with him last year and bring about the passage of this bill in the committee and the Senate. It was reported out by the committee by a vote of 16 to 4, a majority of Republicans and a majority of Democrats both supporting it. And it was passed on this floor a year and a half ago by a vote of 90 to 9, demonstrating tremendous bipartisan support for this.

Unfortunately, our friends in the House did not act with the same dispatch that we did and, as a consequence, it got hung up there, tragically, for enough months to mean that when the conference report came before this body, it ultimately got caught in the trap of the yearend logjam, traffic jam and, as a result, the conference report was not adopted.

So it is necessary for us to introduce it again this year. I think this year we will see it move rapidly through both the Senate and the House and become law.

The bill that I am introducing is very similar to the one that passed this body 90 to 9 last year, and the arguments in favor of it are the same as they were on that occasion. Very specifically, Mr. President, our national parks, like everything else in life, are changing. That is, the number of visitors to the national parks is going up. As a consequence, the need for services is changing.

If I can refer to a national park in my own home State—and we in Utah are proud of the fact that we have as many national parks as any other State in the Union, it is a particularly gorgeous place in Utah—Zion National Park in the last 10 years has seen the number of visitors go from 1.4 million in 1983 to 2.9 million in 1993, doubling in a 10-year period. Obviously, in that kind of a circumstance, the sort of concession policy that you had 10 years ago needs to be examined in the light of this increase.

There, of course, are other reasons why this needs to be examined. The Park Service is itself running out of money. It is one of the tragedies that we have the crown jewels of the National Park System being starved for resources just as more and more Americans want to take advantage of the beauty of these parks. As a consequence, one of the places people are looking for money is to the royalty payments to come from the concessionaires.

Oh, say some, well, that means the Government is trying to beat up on the concessionaires, the Government is trying to punish the concessionaires for being successful. I do not think so. What we are trying to do in this legislation is open up the concessions for competitive bidding and let the marketplace determine what these concessions are worth.

I come from the business community. I have listened to the concessionaires as fellow business people when they come and say to me, Senator, you can't change the rules. Well, the rules change all the time as markets change. I knew that when I was in business. I reminded them of that in their business circumstance.

But the most important reason we need to change this is because we do need the power of competition to help set the rates. We do need the opportunity for new blood and new ideas to come in, even if the concessionaire does not change. I say to those who are saying, We're going to lose what we have now under the new policy you are proposing, Senator, we're going to lose the concession that we have, I say,

No you are not. If, indeed, you are as capable as you say you are, and I believe you are, if you have the expertise of 10, 15, 20 years experience as you say you have, you will be able to compete. But the mere fact that you will be forced to compete with an outside bidder will, indeed, make you sharper even if you are, indeed, the ones who hang on to the concession as it currently exists.

So, Mr. President, we are dealing with a piece of legislation here that really is relatively noncontroversial, given the vote that it had in the last Congress; something that I think is long overdue, given the changes that are occurring in the national parks; something that is sound financial policy, given the fact that the parks do not have the kind of money that I think they should have. It is good public policy.

I was pleased to be associated with it in the previous Congress, and I am happy to have the opportunity to offer it again in this Congress.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Utah has 8 minutes remaining.

Mr. BENNETT. Mr. President, now that the Senator from Arkansas has joined us in the Chamber, I do not intend to use the remainder of my time. I would like to comment now that he is here on his leadership on this issue.

I came to the Senate knowing nothing about it. I sat in the committee listening to the hearings where the issue was outlined and decided that the Senator from Arkansas was correct, that something needed to be done. I conferred with my then ranking member on the committee, the Senator from Wyoming, Mr. Wallop, who suggested that with my business background it might be appropriate that I get involved in this.

I must, for the accuracy of the RECORD, point out that Senator Wallop was not convinced and was one of the four in the committee and one of the nine in the Chamber who decided they could not support this particular approach. But I was very grateful to him for his overall support of my involvement and to the Senator from Arkansas for his leadership and tenacity on this issue. He was very instrumental in giving me the background and the education and the understanding of these issues. Had he not been willing to act as my tutor and mentor in this circumstance I undoubtedly would not have come to the point that I have here today.

So as I yield back the remainder of my time and end my statement, I do so with a comment of gratitude to the senior Senator from Arkansas for his leadership and his tutelage on this issue.

I also must add to that my gratitude to the senior Republicans on the energy committee who also helped me understand this issue and who supported this in committee: Senator HATFIELD, Senator DOMENICI, Senator NICKLES, and others who supported us in committee on the Republican side. As I said in my earlier comment, the bill was supported by a majority of both Republicans and Democrats, even though there were both Republicans and Democrats in committee who decided they could not support it.

So, Mr. President, I am delighted to turn the floor over to the senior Senator from Arkansas [Mr. BUMPERS] and thank him for his patience in helping this more junior Senator understand the nature of this issue and the importance of it. I am delighted to have him as an original cosponsor on this bill.

Mr. BUMPERS. Mr. President, I am pleased today to join Senator BENNETT in sponsoring the National Park Service Concession Policy Reform Act of 1995.

I first started trying to reform park concession policies in 1979. Over the past 16 years, we have held numerous legislative and oversight hearings, but until last year, had been unable to move the bill beyond the hearing stage. During last year's hearing, Senator BENNETT offered to work with me to find a compromise, and in large part because of his efforts, we reported a bill with bipartisan support from the Energy and Natural Resources Committee. That bill, S. 208, was overwhelmingly supported by the Senate, passing by a vote of 90 to 9. The bill enjoyed equally strong support in the House of Representatives, passing with relatively minor changes by a vote of 386 to 30. Despite such strong support in both Houses, the bill died last Congress because two Senators refused to allow the final compromise version to be brought up on the Senate floor during the final days of the 103d Congress.

The bill that Senator BENNETT and I are introducing this year is essentially the same as last year's Senate-passed bill. This bill will make much-needed changes in the current system and ensure that the American public receives a fair return for allowing private entities the privilege of doing business in units of the National Park System. As I have said many times, the Concessions Policy Act of 1965, the law under which the National Park Service authorizes concessions to provide visitor services inside units of the National Park System, is outdated and anticompetitive, and should be repealed.

Private visitor service facilities have been operating in our national parks for nearly 100 years. Prior to 1965, the National Park Service provided for in-park visitor services by administrative action under very general provisions in the 1916 National Park Service Organic Act. In 1965, Congress enacted the Concession Policy Act, making the National Park Service the only Federal land-managing agency with a specific concessions statute.

Current concession operations in parks vary in size from small, family-owned businesses providing services such as canoe rentals and guiding services, to major hotel and restaurant facilities operated by large corporations. Although the number fluctuates because of seasonal changes, there are currently about 650 concessioners operating inside units of the National Park System.

Concession permits are issued for most smaller or seasonal operations, while concession contracts are used for larger, more long-term operations. Total gross revenues generated by concessioners currently amount to more than $657 million annually. Significantly, about 50 concessioners—less than 8 percent—account for over 80 percent of these revenues.

Concession policy and the need for significant reform have been topics of intense interest for many years. In addition to the hearings we have conducted, this issue has been the subject of numerous studies, reports, and analyses prepared by the Congress, the General Accounting Office, the Department of the Interior's inspector general, the National Park Service, and a variety of private research organizations. All of these studies have identified problems with the current law which need to be addressed.

FRANCHISE FEES

One of the problems with the current system concerns franchise fees, the fees paid by concessions to the United States for the privilege of operating a business inside a national park. These fees are too low and should be increased. This is especially true for the larger concessioners who are operating under long-term concessions contracts entered into many years ago. At present, the U.S. Treasury receives approximately $18 million in franchise and related fees from concessioners who do in excess of $657 million worth of business in our national parks. In addition, another $7.8 million is retained within parks in special accounts. Combined, these franchise fees and special accounts average only 4 percent of the total gross revenues earned by concessioners. This low rate of return results in a giveaway of some of our Nation's most valuable resources.

I am pleased to note that some of the most recent contracts have provided for a better rate of return. For example, the new contract to provide visitor services at Yosemite National Park increased the rate of return to the Government from three-quarters of 1 percent to almost 20 percent. However, this change was the result of a very unique set of circumstances which permitted several companies to compete for the new contract; in general, the Concession Policy Act of 1965 continues to prevent serious competition for the awarding of any new contract. In addition, there is no assurance that a future administration would not reverse course and return to the abysmally low returns of the past.

Rather than arbitrarily establishing a minimum franchise fee in the legislation, my bill will ensure that these fees be set at more realistic levels by encouraging and facilitating increased competition for concession contracts.

In addition, under existing law, franchise fees are deposited as miscellaneous receipts in the U.S. Treasury. Since these funds do not directly benefit the parks or the people who use them, there is little incentive for the Park Service to aggressively pursue increased fees, or for concessioners to pay them. The Concession Policy Reform Act of 1995 would deposit these receipts into a special account in the Treasury to be used to benefit park operations, resource management maintenance, visitor services, et cetera. The bill also directs the Park Service, where practicable, to establish a park improvement fund in lieu of collecting all or a portion of the franchise fees.

While I believe it is important to try and ensure that the Federal Government achieves a higher return from these contracts, the operation of facilities in national parks should not be determined simply on the basis of the highest bid. This legislation explicitly states that consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park areas. In addition, the bill grants the Secretary the authority to reject any bid, regardless of the amount of franchise fee offered, if the Secretary determines that the bidder is not qualified, is likely to provide unsatisfactory service, or is not responsive to the objectives of protecting and preserving the park area. So that there is absolutely no doubt about the priority of concessions operations within national parks, the bill explicitly directs the Secretary to evaluate franchise fee proposals only from among those companies that the Secretary determines will be responsive to protecting and preserving park resources.

PREFERENTIAL RIGHT OF RENEWAL

Perhaps the most significant impediment to competition concerns the statutory preferential right to contract renewal which, as currently interpreted by the Park Service, gives an existing satisfactory concessioner the right to meet the terms of a better offer submitted by a competitor and to retain the contract if the existing concessioner's offer is substantially equal. In my view, in most cases, this is anticompetitive and should not be granted as a matter of law. While such a preference may have been warranted years ago to encourage certain developments in parks and ensure the continuity of concession operations, it can also limit both the Park Service's influence in dealing with concessioners and the ability of most Americans to compete for concession contracts. In many instances, the right to provide visitor services inside National Parks is a very desirable and very valuable privilege which can attract a host of extremely competent and qualified prospective concessioners. The Park Service ought to be able to choose from these qualified applicants without being constrained by a preferential right. This legislation will eliminate the preferential right of renewal in future concessions contracts, with the limited exception of outfitter and guide operations who currently operate in a largely competitive environment, and small contracts with gross annual revenues of $500,000 or less, which I will discuss in detail shortly.

NOTICE OF OPPORTUNITY TO BID ON NEW CONTRACTS

It is apparent that the Park Service does not adequately publicize new concession contracts or contract renewal opportunities, nor does it always provide interested parties with the specific financial and other submission requirements needed to submit competitive proposals. The Concession Policy Reform Act would establish a detailed competitive bidding procedure for the awarding of all concessions contracts. This process would require that advance notice of all concessions contracts be published, that specific minimum bid requirements be established and made public, and that the details of the previous contract for the park area and other important information be made available to prospective concessioners.

POSSESSORY INTEREST

The other most significant obstacle to competition for concession contracts involves a provision in the current law which allows the granting of a possessory interest to a concessioner. When a concessioner makes an improvement on land inside a National Park, that concessioner is entitled, with the approval of the Secretary, to a possessory interest in that improvement, which consists of all incidents of ownership except legal title. The method of valuation for this property interest as set forth the 1965 act is sound value. Sound value is defined as current reconstruction cost, less depreciation, not to exceed fair market value. This effectively gives concessioners a right of compensation for the appreciated value of their improvements. This current practice of routinely granting sound value can result in concessioners being entitled to millions of dollars in possessory interest, which can effectively make it impossible for the National Park Service to terminate a contract or award it to a new concessioner. This practice is not financially warranted in all circumstances, serves as a barrier to new and qualified concessioners, and limits the Park Service's flexibility in managing concessions facilities.

The Concession Policy Reform Act of 1995 will continue to recognize a current concessioner's possessory interest, if there is one. With respect to new concessions contracts, however, the bill provides that if a concessioner's contract is terminated, the concessioner shall be entitled to the actual cost of building or acquiring the structure, less depreciation. Last Congress, the legislation was modified to provide for the depreciation of the structure over its useful life, up to the depreciation period used for Federal income tax purposes, which is currently 39 years. As modified, I believe the bill allows for a more reasonable depreciation schedule, while at the same time, permitting a concessioner to be compensated for its nondepreciated interest in the structure, thus protecting the concessioner's investment.

In addition to these major changes, the legislation would adopt a number of other recommendations identified by the General Accounting Office, the Inspector General, and the Department's Concessions Task Force.

Over the past few years, the bill has been modified several times to incorporate many constructive suggestions and proposals. These changes include eliminating what some perceived to be excessive reporting and regulatory requirements, clarifying the criteria by which a contract is to be awarded, narrowing the uses for revenues generated from franchise fees, and other clarifying and conforming changes.

This year's bill retains the provision in last year's Senate passed bill to recognize a preferential right of renewal for outfitters, guides, and river runners, as well as for small operations with gross annual revenues of under $500,000. While I believe such a right is anticompetitive in general, I believe a limited exception is warranted in these cases. Unlike most concessioners, river runners and other companies providing outfitter and guide services operate in a competitive environment within a park, with several companies providing the same or similar services. In addition, guide and outfitter operations do not have a possessory interest in park structures, unlike many other concessioners. The legislation directs the Secretary to grant a preferential right of renewal for these outfitters, but only if the operator does not have a possessory interest in a structure, and only if the company has been evaluated as operating satisfactorily during the previous contract. I think this approach recognizes the needs of this class of concessioners, but is consistent with the overall thrust of this legislation.

The bill also provides a preferential right of renewal for small operations with gross annual revenues of less than $500,000. This encompasses almost 80 percent of all concession operations. I have always maintained that concession reform should not be a means to force small operations, especially family operations, who have in many instances provided service to a particular park for decades. At the same time, the bill ensures that the contracts with gross annual revenues exceeding $500,000, which account for over 90 percent of all concession revenues, are awarded based on a competitive basis.

I would also like to repeat an observation that I have made continuously during the past several years, one that I am sure Senator BENNETT would agree with. The purpose of this bill is not to eliminate concession operations from our national parks. I do not subscribe to the theory all visitor facilities in national parks are inappropriate. Many of the facilities and services provided by concessioners are entirely appropriate and benefit the park visitors. I only want to ensure that when concession contracts are awarded, the American people receive a fair return, and that there is an opportunity for competition for these desirable business opportunities.

Mr. President, this bill represents responsible reform of national park concession policy. As demonstrated last Congress, this issue has strong bipartisan support in both Houses of Congress. In addition, concession reform has been a high priority within the Department of the Interior. I urge my colleagues to continue their strong support for this much-needed reform, and I look forward to its swift enactment this year.

In summary, Mr. President, I again wish to pay tribute to my distinguished colleague and very good friend, the Senator from Utah, ROBERT BENNETT. I have to confess that after working 16 years to reform the concessions policy of this country in the national parks, I had annually hit a stone wall until BOB BENNETT came to the Senate.

I am not only grateful to him and to his values and his integrity, political, and every other way, but also because of his background in business and the recognition, once he delved into the issue, that this was a policy which was long, long ago outdated and needed dramatically to be reformed.

Let me further say that even my own efforts on this through the years have not been, as some concessionaires thought, punitive in nature. It is just one of those things that has been going on for 50 to 100 years in this country and nobody ever did anything about it.

Once I realized how badly it needed reform, I went to work on it. As I say, it was not until 1993 and 1994, after Senator BENNETT came and sat on the Energy Committee with me where the original jurisdiction on this issue lay—and I never will forget the morning that he made what I thought was one of the most sensible presentations in the committee I ever heard, and that was we believe in competition. We pride ourselves on being a capitalistic nation. We believe in free enterprise, and that entails competition. And there was, Mr. President, virtually no competition in this field.

In 1993, the concessions of this country took in $657 million, and the U.S. Treasury derived the princely sum of $18 million. The one contract that we have let under something similar to this bill was let in Yosemite, and this Yosemite contract pays up to 20 percent.

Now, we want to keep the rentals as low as we can because the lower they are, the lower the prices are and that is good for the American people who visit the park. But we also want the U.S. Government, which owns the parks and is responsible for them, to get a decent return based on competition.

So, Mr. President, I wish to say this is a very happy day for me. We passed this bill out of our committee last year, and one Senator killed the bill in the last 2 weeks of the session. As a matter of fact, that same Senator killed about 35 to 40 bills out of the National Parks Subcommittee of the Energy Committee and now we have to have hearings on those bills all over again this year at a staggering cost to the taxpayers, report the bills, go through the House, go through conference, go through everything we went through before in order to pass the bills again.

One other thing I would like to point out is that one of the things that occurred to me, which made this concessions policy absolutely necessary, was the policy of allowing concessionaires in the parks to build hotels and other structures and, of course, depreciate those things on their tax books but at the end of the lease, if they lost the lease, be entitled to what was called sound value, which was effectively market value.

If you had the concession at Yosemite and you decided to put $5 million into a hotel, at the end of your lease, say 15 years later, you are entitled to the market value of the hotel if you lost the lease, and that might be $20 million. The fair market value of the hotel might actually be more than it was when you paid for it, yet you had been able to depreciate that hotel on your tax books for tax purposes for 15 years. It gets a little more complicated than that, but I just want to say that was the thing that first caught my attention on these leases. The other was the extremely low rental that the Federal Government was getting.

What the Government will get in years to come is not going to balance the budget. It is not a large amount. But it does deal with what Congress ought to be alert to all the time, and that is the elemental principle of fairness.

Mr. JOHNSTON. Mr. President, today I am joining with Senator BENNETT and Senator BUMPERS in sponsoring the National Park Service Concession Policy Reform Act of 1995. The legislation that we are introducing today is very similar to a bill which passed both the Senate and House last year by overwhelming margins but failed to clear the Senate in the final days of the 103d Congress.

This legislation, which is supported by the Department of the Interior as well as a number of other conservation and park user groups, would correct the many deficiencies of the 1965 act which currently governs concession operations inside units of the National Park System. It would end the granting of a preferential right of renewal to an incumbent concessioner; it would end the granting of a preferential right of renewal to an incumbent concessioner; it would reformulate the method by which possessory interest is valued; it would establish a competitive bidding procedure to ensure competition and that the Government receives fair value for the privilege of doing business in our national parks; and it would provide that franchise fees and other revenues collected from concessioners are available for use in the parks rather than simply returned to the Federal Treasury.

In this regard, I am pleased that the bill we are introducing today includes language which I offered as an amendment during the committee's deliberations last year which would authorize the Secretary to establish park improvement funds in the individual park units where franchise fees could be deposited by the concessioner and used at the direction of the Secretary of the Interior for badly needed projects in the parks. This practice is currently followed in several parks, most notably the recent Yosemite contract, and has proven very successful.

I look forward to working with Senators BENNETT, BUMPERS, and others who were supportive of our efforts last year, and hope we can enact this measure early in this Congress.

By Mr. WARNER (for himself and Mr. ROBB):

S. 310. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

THE SHENANDOAH NATIONAL PARK TRANSFER ACT OF 1995

Mr. WARNER. Mr. President, I rise today to once again introduce legislation for myself and Senator ROBB which would authorize the Secretary of Interior to transfer without reimbursement all right, title, and interest in certain lands in Shenandoah National Park to the Commonwealth of Virginia, town of Front Royal, and Warren County School Board.

In order to recognize the need for this legislation one must first understand the history of the creation of the Shenandoah National Park.

In 1923, Stephen Mather, Director of the National Park Service, persuaded Secretary of Interior Hubert Work to appoint a five-member committee to investigate the possibility of establishing a national park in the southern Appalachians. At that time there were no parks in the country east of the Mississippi River. In 1924, the committee was formed to find a site for such a park. Thus began a difficult 11-year effort to establish a park in the southern Appalachians.

On February 21, 1925, President Coolidge signed into law legislation which had been introduced by Senator Swanson of Virginia and Senator McKellar of Tennessee which called for the creation of a national park in the southern Appalachians and the Great Smokey Mountains.

In 1926, Congress authorized the park to be acquired by donation, without the expenditure of any Federal funds. This act did not officially create the parks but set forth the conditions of their establishment although in indefinite terms. The Secretary of Interior and the committee were given the difficult task of raising the necessary funds for land acquisition. Therefore, while there was strong support for the creation of the park, its realization remained highly conditional since no Federal funds would be made available to purchase the park lands.

Although private donations were being made, then-Governor Harry F. Byrd, realized the need to pursue other financing means if sufficient funds to acquire the acreage were to be obtained. In January 1928, Governor Byrd asked the general assembly for a $1 million appropriation to make possible the purchase of park lands. A few days later, the State legislature agreed and appropriated the funds. This $1 million appropriation, coupled with the $1.25 million raised from private sources, enabled Virgina to purchase the necessary acreage to establish the park.

With the financial means in hand, the Virginia General Assembly passed in 1928 the National Park Act which authorized the State Commission on Conservation and Development to acquire land for transfer to the Federal Government to establish the Shenandoah National Park. In that same year, Senator Swanson and Representative Temple—both of Virginia—introduced legislation in both Houses of Congress "to establish a minimum area for the Shenandoah National Park, for administration, protection, and general development * * *" This legislation passed both Houses of Congress and was signed into law by President Coolidge on February 16, 1928.

Due largely to the appropriation by the Commonwealth of Virginia and what historians called Virginia's "heroic land acquisition efforts," the necessary acreage was acquired and the land titles were given to the Federal Government. On December 26, 1935, the Shenandoah National Park was officially established.

The Commonwealth's generous donation of lands to the Federal Government for the creation of this great park has now placed the Commonwealth in an unfortunate situation in which the State can no longer maintain the roads within the park. My legislation addresses this situation.

The transfer of land from the Commonwealth to the Federal Government specifically voided all rights of way for road purposes except for U.S. Highway 211 and 33. According to the deeds, the Commonwealth transferred ownership of all other roads and road rights of way on those lands to the Federal Government. Absolutely no reservations were retained by the Commonwealth for such roads.

Since 1935, the National Park Service at Shenandoah National Park has allowed the Commonwealth to maintain existing secondary roads on the fringes of the Park that it wished to maintain through documents called special use permits. The Department of Interior Solicitor General has reviewed the applicable statutes in 16 United States Code and has determined that continuation of these special use permits is not appropriate. Special use permits may be used only to grant a temporary use of lands in national parks. The Solicitor has ruled that the established roads are not a temporary use and require complete ownership and control of the lands by the user. These permits expired over 3 years ago and the Department of the Interior will not reissue them. VDOT has been maintaining the roads without the permits, although there is no guarantee this maintenance can continue. Furthermore, the NPS does not have the necessary equipment to maintain these roads at Shenandoah National Park and, therefore, future maintenance of these roads is in serious question.

Federal law does not allow the National Park Service to convey park land for secondary road purposes. The only legal means to grant the Commonwealth road rights of way is an equal value land exchange authorized under the Land and Water Conservation Fund Act.

Mr. President, facing this dilemma, the Virginia Department of Transportation has acquired land for this purpose, thereby placing the Commonwealth in the position of buying private land to give to the Federal Government to reacquire the right of way of land that the Commonwealth gave away when the park was established.

Due to the unique circumstances of the park's creation, this equal value land exchange requirement is strongly opposed by the local communities and elected officials. I, too, strongly join in this opposition. The Department's position has led to the Virginia General Assembly's passage of a resolution prohibiting the Virginia Department of Transportation from exchanging land for the road segments in the park.

Mr. President, I have introduced legislation to resolve this controversy. My bill would allow the Secretary of Interior to transfer to the Commonwealth, the town of Front Royal, and the Warren County School Board—without reimbursement—all right, title, and interest in and to the roads within the park specified in the legislation.

Due to the Commonwealth's generous donation of lands to the Federal Government for the creation of the park, the Commonwealth should not be required to give the Federal Government additional land in exchange for maintaining and improving roads within the Park.

Mr. President, I ask unanimous consent that the full text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER TO THE COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior may convey, without consideration or reimbursement, all rights, title, and interest of the United States in and to the roads specified in subsection (c) to the Commonwealth of Virginia, town of Front Royal or Warren County School Board.

(b) CONDITIONS OF CONVEYANCE.—

(1) EXISTING ROADS.—A conveyance pursuant to subsection (a) shall be limited to the roads described in subsection (c) as the roads exist on the date of enactment of this Act.

(2) REVERSION.—A conveyance pursuant to subsection (a) shall be made on the condition that if at any time any road conveyed pursuant to subsection (a) is no longer used as a public roadway, all rights, title, and interest in the road shall revert to the United States.

(c) ROADS.—The roads referred to in subsection (a) are those portions of roads within the boundaries of Shenandoah National Park being 50 feet wide measured 25 feet on each side of the existing center line that, as of the date of enactment of this Act, constitute portions of—

(1) Madison County Route 600;
(2) Rockingham County Route 624;
(3) Rockingham County Route 625;
(4) Rockingham County Route 626;
(5) Warren County Route 604;
(6) Page County Route 759;
(7) Page County Route 759;
(8) Page County 682;
(9) Page County Route 662;
(10) Augusta County Route 611;
(11) Augusta County Route 619;
(12) Albermarle County Route 614;
(13) Augusta County Route 661;
(14) Rockingham County Route 663;
(15) Rockingham County Route 659;
(16) Page County Route 669;
(17) Rockingham County Route 661;
(18) Criser Road, (to town of Front Royal); and
(19) Government-owned parcel connecting Criser Road, (to Warren County School Board).

By Mr. McCAIN (for himself, Mr. CAMPBELL, and Mr. THOMAS):

S. 311. A bill to elevate the position of Director of Indian Health Service to

Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes; to the Committee on Indian Affairs.

INDIAN HEALTH SERVICE LEGISLATION

• Mr. MCCAIN Mr. President, today I am introducing legislation to redesignate the position of the Director of the Indian Health Service [IHS] to that of an Assistant Secretary for Indian Health within the Department of Health and Human Services. I am pleased that Senator BEN NIGHTHORSE CAMPBELL and Senator CRAIG THOMAS have joined me as original cosponsors of this important legislation. Last Congress, I introduced a similar measure which was overwhelmingly passed by the Senate. Unfortunately, the bill was not considered by the House prior to adjournment.

The Indian Health Service is an agency under the Public Health Service within the Department of Health and Human Services. Under the current structure the Indian Health Service Director's authority to set health policy for American Indians is extremely limited. For example, the Indian Health Service Director must report directly to the Assistant Secretary for Health, and yet the Director is responsible for administering the entire branch of the Indian Health Service health care delivery system.

The Indian Health Service consists of 143 service units composed of over 500 direct health care delivery facilities, including 49 hospitals, 176 health centers, 8 school centers, and 277 health stations and satellite clinics and Alaska village clinics. It provides services ranging from facility construction to pediatrics, and serves approximately 1.3 million American Indians and Alaska Native individuals each year. The IHS serves the most impoverished population in the United States. American Indian and Alaska Native populations are afflicted by diabetes at a rate that overwhelmingly exceeds other national populations. American Indian and Alaska Native populations continue to suffer from mortality rates that exceed all other segments of our population for tuberculosis, alcoholism, accidents, homicide, pneumonia, influenza, and suicides. American Indians have also experienced a tremendous increase in the number of individuals contracting HIV and AIDS. Yet, today American Indians and Alaska Natives are among the least served and the most forgotten when it comes to improving America's health care delivery systems.

There are several critical reasons which lead me to believe that this legislation is necessary. First, designating the IHS Director as an Assistant Secretary of Indian Health would provide the various branches and programs of the IHS with better advocacy within the Department and better representation during the budget process. The IHS Director currently relies on the Assistant Secretary for Health to advocate for these programs.

Last Congress, the Principal Deputy to the Assistant Secretary for Health at the Department of Health and Human Services testified before the Senate Committee on Indian Affairs that a priority within the Department was to listen to the health care delivery concerns of Indian country. Obviously, this message was never received. At the same time that the Department was listening to Indian country, the funding request to meet Indian health care needs was dramatically cut at every level of the administration by the Public Health Service, the Department of Health and Human Services, and the Office of Management and Budget. As a result of this process, the President's budget for the IHS for fiscal year 1995 called for a $247 million reduction and the elimination of nearly 2,000 staff positions. Once all of the budget gimmicks were eliminated, such as the incredible assumption that the IHS would be able to increase third-party collections by 463 percent, the IHS budget cuts surpassed $300 million. At the same time, the Department was listening to the calls of Indian country for resources to meet the growing health problems in Indian country.

I am convinced that neither the Public Health Service, the Secretary for Health and Human Services, nor the Office of Management and Budget have an adequate understanding of the day-to-day health care needs of American Indians. Therefore, I believe that the IHS is in dire need of a senior policy person who is both knowledgeable about the programs administered by the IHS and can strongly advocate for the health care needs of Indians and Alaska Natives.

Second, an Assistant Secretary for Indian Health would eliminate unnecessary bureaucracy that plagues the Indian Health Service system and permit timely decisions to be made regarding important Indian health care issues. For example, an Assistant Secretary for Indian Health would have the authority and ability to communicate directly with the other operating divisions within the HHS. Requesting the expertise and assistance of other HHS departments on problems of alcohol and substance abuse, HIV/AIDS, and child abuse for American Indians and Alaska Natives would be easier and have more far-reaching results. Currently, the IHS Director must forward such requests for assistance through the Assistant Secretary for Health.

Third, an Assistant Secretary for Indian Health would have the ability to call on private sector organizations that have not traditionally focused on Indian health care needs and concerns, but who have the expertise and resources that can enhance IHS' ability to deliver the highest quality of health care, by providing technical assistance to Indian tribes who choose to operate their own health care programs.

Finally, I would like to clarify a couple of points relating to section 2 of the bill. Section 2 of the bill provides for the organizational independence of the Indian Health Service within the Department of Health and Human Services. This section is necessary because the IHS is currently an agency of the Public Health Service which is headed by the Assistant Secretary for Health. Creating an Assistant Secretary for Indian Health will require relocating the IHS to the same organizational level as the Public Health Service.

Section 2 also clarifies that this bill is not intended to diminish the ability of the IHS to utilize the service of the U.S. Public Health Service Commissioned Corps. While I certainly hope that the HHS would not prohibit the IHS from being served by the Commissioned Corps personnel in the delivery of health care to the Indian people, in light of the prevoius budget and staff reductions recommended by the Clinton administration I am compelled to insert bill language to make clear the intent of the Congress on this particular matter.

Mr. President, the Senate passage of this legislation last Congress indicates that this legislation is long overdue. Redesignating the Director as an Assistant Secretary for Indian Health would not only reaffirm the special relationship that exists between Indian tribes and the Federal Government, it would send a powerful message to Indian country. At a time when the Nation focuses on health care reform, it is critical that the health care needs of the American Indian are taken into consideration. For those in the administration and the Congress who would make a plea for a national health care system, passing this legislation would serve as an example of a commitment to improving this Nation's first health care system for Americans, the Indian Health Service.

Mr. President, I ask unanimous consent that the full text of the bill and section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH.

(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Office of the Assistant Secretary for Indian Health.

(b) ASSISTANT SECRETARY OF INDIAN HEALTH.—In addition to the functions performed on the date of enactment of this Act by the Director of the Indian Health Service, the Assistant Secretary for Indian Health shall perform such functions as the Secretary of Health and Human Services may designate.

(c) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Director of the Indian Health Service shall be deemed to refer to the Assistant Secretary for Indian Health.

(d) RATE OF PAY.—(1) Section 5315 of title 5, United States Code, is amended by striking the following:

"Assistant Secretaries of Health and Human Services (6).";

and inserting the following:

"Assistant Secretaries of Health and Human Services (7).".

(2) Section 5316 of such title is amended by striking the following:

"Director, Indian Health Service, Department of Health and Human Services.".

(e) CONFORMING AMENDMENTS.—(1) Section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1661) is amended—

(A) in the second sentence of subsection (a), by striking "a Director," and inserting "the Assistant Secretary for Indian Health,";

(B) in the fourth sentence of subsection (a), by striking "the Director" and inserting "the Assistant Secretary for Indian Health";

(C) by striking the fifth sentence of subsection (a); and

(D) by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health".

(2) The following provisions are each amended by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health":

(A) Section 816(c)(1) of the Indian Health Care Improvement Act (25 U.S.C. 1680f(c)(1)).

(B) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 761b(a)(1)).

(C) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377 (b) and (e)).

(D) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b-2(d)(1)).

SEC. 2. ORGANIZATION OF INDIAN HEALTH SERVICE WITHIN DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) ORGANIZATION.—Section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1661), as amended by section 1(e)(1), is further amended—

(1) by striking "within the Public Health Service of the Department of Health and Human Services" each place it appears and inserting "within the Department of Health and Human Services"; and

(2) in the third sentence of subsection (a), by striking "report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services" and inserting "report to the Secretary".

(b) CONFORMING AMENDMENT.—The section heading of such section is amended to read as follows:

"ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF DEPARTMENT OF HEALTH AND HUMAN SERVICES".

(c) UTILIZATION OF PUBLIC HEALTH SERVICE PERSONNEL.—Nothing in this section may be interpreted as terminating or otherwise modifying any authority providing for the utilization by the Indian Health Service of officers or employees of the Public Health Service for the purposes of carrying out the responsibilities of the Indian Health Service. Any officers or employees so utilized shall be treated as officers or employees detailed to an executive department under section 214(a) of the Public Health Service (42 U.S.C. 215(a)).

SECTION-BY-SECTION ANALYSIS

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH

Subsection (a) establishes the Office of the Assistant Secretary for Indian Health within the Department of Health and Human Services.

Subsection (b) provides that the Assistant Secretary for Indian Health shall perform such functions as the Secretary of Health and Human Services may designate in addition to the functions performed by the Director of the Indian Health Service (IHS) on the date of the enactment of this Act.

Subsection (c) provides that references to the IHS Director in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document shall be deemed to refer to the Assistant Secretary for Indian Health.

Subsection (d) amends Title 5 section 5315 of the U.S.C. by striking "Assistant Secretaries of Health and Human Services (6)" and inserting "Assistant Secretaries of Health and Human Services (7)". Subsection (d) further amends section 5316 of title 5 by striking "Director, Indian Health Service, Department of Health and Human Services".

Subsection (e) provides for conforming amendments in the Indian Health Care Improvement Act. Subsection (e) further amends the Indian Health Care Improvement Act, the Rehabilitation Act of 1973, the Federal Water Pollution Control Act, and the Native American Programs Act of 1974 by striking "Director of the Indian Health Service" and inserting in lieu thereof "the Assistant Secretary for Indian Health".

SECTION 2. ORGANIZATION OF INDIAN HEALTH SERVICE WITHIN DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subsection (a) amends section 601 of the Indian Health Care Improvement Act by striking "within the Public Health Service of the Department of Health and Human Services" each place it appears and inserting "within the Department of Health and Human Services, and striking "report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services" and inserting "report to the Secretary".

Subsection (b) amends the heading of section 601 of the Indian Health Care Improvement Act.

Subsection (c) provides that nothing in this section may be interpreted as terminating or otherwise modifying any authority providing for the IHS to use Public Health Service officers or employees to carrying out the purpose and responsibilities of the IHS.

Subseciton (c) further states that any officers or employees used by the IHS shall be treated as officers or employees detailed to an executive department under section 214(a) of the Public Health Service.•

By Mr. McCAIN (for himself and Mr. INOUYE):

S. 312. A bill to provide for an Assistant Administrator for Indian Lands in the Environmental Protection Agency, and for other purposes; to the Committee on Indian Affairs.

THE ASSISTANT ADMINISTRATOR FOR INDIAN LANDS ACT FOR 1995

• Mr. McCAIN. Mr. President, today I am introducing a bill to provide for an Assistant Administrator for Indian Lands in the Environmental Protection Agency [EPA]. I want to thank my friend, the distinguished Senator from Hawaii and the vice chairman of the Committee on Indian Affairs, Senator INOUYE, for joining with me as an original cosponsor of this bill.

The bill we are introducing today would establish the position of Assistant Administrator for Indian Lands at EPA. The President would appoint this individual, subject to confirmation by the Senate. The Assistant Administrator for Indian Lands would be responsible for coordinating and implementing Federal environmental laws and all EPA activities with respect to Indian lands, including the 1984 Indian policy.

This bill is similar in concept to an amendment which I offered in the last Congress to provide for an Assistant Secretary for Indian Lands in the proposed Department of the Environment. That amendment won the overwhelming bipartisan support of the Senate with 79 Senators voting in favor of it. As we all know, no final action was taken by the House of Representatives on the issue of Cabinet status for EPA. Many Indian tribal governments supported the Senate's action in the 103d Congress, and I fully expect that there will be strong support for the bill we are introducing today.

I want to take a moment to express my gratitude to Administrator Browner for the actions she has taken in the past year to establish a Tribal Operations Committee and an American Indian Environmental Office within EPA which is under the leadership of a highly qualified native American, Mr. Terry Williams. Each of these actions reflects a sincere commitment on the part of the Administrator to try to ensure that EPA addresses environmental protection on Indian lands.

While I support the actions which have been taken by Administrator Browner, I believe that much more needs to be done. Issues involving Indian land must be addressed at the highest policy levels of EPA on a consistent basis. This will only occur when the Indian tribes are assured a seat at the policy table. The bill we are introducing today will provide that assurance.

Indian lands comprise nearly 5 percent of all of the lands in the United States. This is an area equal to the size of New England and the States of Maryland, Delaware, and New Jersey combined. The Navajo Nation alone is equal to the size of the State of West Virginia.

Mr. President, the environmental problems on Indian lands in the United States are serious, widespread, and complex:

There are at least 600 solid waste landfills on Indian lands that do not meet Federal standards. Many of these sites are potentially hazardous.

Federal officials have testified before the Committee on Indian Affairs that of 108 sanitary landfills constructed by the Federal Government on Indian lands, no more than 2 are in compliance with EPA regulations.

The Pine Ridge Reservation in South Dakota has contaminated drinking water from uranium mining and numerous unsanitary landfills.

Landfills located on the Devil's Lake Sioux Reservation in North Dakota and the Oneida Reservation in Wisconsin have been described as being laced with arsenic, mercury, and other illegally dumped chemicals.

The Navajo Reservation in New Mexico, Arizona, and Utah has an estimated 1,000 sites polluted by old uranium mines or uranium waste. Navajo officials have testified that there are as many as 1,200 open solid waste dumps on the reservation, some of which were built and used by Federal agencies.

Mercury pollution on Seminole land in Florida threatens fishing and the gathering of food.

The worst spill of low-level radioactive waste in American history occurred 13 years ago at a uranium mine on the Navajo Reservation in New Mexico.

I want to remind my colleagues that these environmental maladies are afflicting the very poorest communities in the United States. Unemployment in Indian country averages 50 percent and on some reservations exceeds 90 percent. More than 15 percent of Indian homes lack basic sanitation facilities—rate eight times worse than the rest of the United States. On the Navajo Reservation alone, more than 11,000 homes lack running water and sewage disposal.

These disturbing facts have a definite cost in human lives. According to the Indian Health Service, over half of the infant deaths in Navajo country in 1989 occurred in homes without running water.

In monetary terms, the funds that are needed to address environmental problems on reservations are enormous, and far beyond the scarce resources of most Indian tribes. The Indian Health Service has estimated that the unmet needs of tribes for health related water systems, sewage treatment, and solid waste disposal are at least $700 million.

A 1989 EPA report found that since 1972, $48 billion in Federal funds had been awarded to the States to construct wastewater treatment facilities, but only $25 million had been made available to the Indian tribes by the States. The same EPA report estimated that the tribes will need at least $470 million to comply with the wastewater treatment provisions of the Clean Water Act.

Since 1986, the Congress has acted to ensure that Indian tribes are eligible for treatment as States under the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, and Superfund. We have enacted the Indian Environmental Regulatory Enhancement Act and the Indian Environmental General Assistance Act to authorize funding to assist Indian tribes in the development of environmental regulatory capacity. Funding from EPA to the tribes has steadily increased since the announcement in 1984 of EPA's Indian policy. All of these steps were important, but the record clearly demonstrates that much more must be done.

The bill we are introducing today constitutes another important step in the process of ensuring that Indian lands receive the full measure of environmental protection afforded to other areas of the United States. I urge my colleagues to support this bill.

I ask unanimous consent that the bill and a summary of it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASSISTANT ADMINISTRATOR FOR INDIAN LANDS.

(a) IN GENERAL.—

(1) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint within the Environmental Protection Agency an Assistant Administrator for Indian Lands.

(2) COMPENSATION.—The Assistant Administrator for Indian Lands appointed under this subsection shall be compensated at a rate provided for in level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) DUTIES.—The Assistant Administrator for Indian Lands appointed under this section shall—

(1) coordinate the activities of the Environmental Protection Agency with respect to Indian lands and federally recognized Indian tribes; and

(2) implement the stated policy of the Environmental Protection Agency commonly referred to as the "1984 Indian Policy".

(c) CONFORMING AMENDMENT.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Administrator for Indian Lands, Environmental Protection Agency.".

SECTION-BY-SECTION SUMMARY

Section 1. Subsection (a) of this section provides that the President shall appoint an Assistant Administrator for Indian Lands in the Environmental Protection Agency (EPA). The appointee is subject to Senate confirmation and will be compensated as a level V Executive branch employee.

Subsection (b) provides that the Assistant Administrator for Indian Lands will coordinate all of the activities of EPA with respect to Indian lands and federally recognized Indian tribes, including the implementation of the 1984 Indian Policy.

Subsection (c) is a conforming amendment to section 5316 of title 5 of the United States Code.

• Mr. INOUYE. Mr. President, I am pleased to join Chairman JOHN MCCAIN of the Committee on Indian Affairs in introducing legislation which would provide for the creation of an assistant administrator for Indian Lands within the Environmental Protection Agency.

Mr. President, in 1984, the Environmental Protection Agency [EPA] adopted an Indian policy. In the ensuing 10 years, major environmental statutes have been amended to recognize the importance of tribal governments in the administration of environmental regulatory activities on Indian lands. Its record of action makes clear that the Environmental Protection Agency is committed to achieving the goals of its Indian policy.

Mr. President, I would like to take this opportunity to commend the head of the Environmental Protection Agency, Administrator Carol M. Browner, for initiating efforts to improve communications with Indian tribal governments through the recent establishment of the new Indian Environmental Office in EPA.

However, although we have accomplished a great deal working together, it is also clear that our work is not complete.

This legislation will be a key to the continued successful implementation on the Environmental Protection Agency's Indian policy by ensuring that the Agency develops a national infrastructure to protect and ensure equitable treatment for Indian tribal governments comparable to the treatment afforded the programs that are administered by the several States.

Mr. President, one of the obstacles to effective implementation of EPA's Indian policy has been the lack of involvement, including line authority, in decisionmaking processes. The solution is to authorize critical positions in the chain of command. The process of reviewing Agency actions for their consistency with EPA's Indian policy must be institutionalized; it must become second nature to all levels of the Environmental Protection Agency organizational structure.

Mr. President, I believe that the creation of an assistant administrator for Indian lands would be an effective means of addressing this problem.

The assistant administrator would have responsibility for ensuring that the decisions and actions of the central or regional offices are consistent with EPA's Indian policy in areas ranging from major policy and legislative initiatives to the most basic programming decisions.

This legislation will continue to move the Environmental Protection Agency in a direction that will enhance environmental quality on reservation lands and help build strong tribal governmental capacity for the management of the environment in Indian country.

Mr. President, I urge my colleagues to give their careful consideration to this legislation.•

By Mr. EXON (for himself and Mr. GORTON):

S. 314. A bill to protect the public from the misuse of the telecommunications network and telecommunications devices and facilities; to the Committee on Commerce, Science, and Transportation.

THE COMMUNICATIONS DECENCY ACT

• Mr. EXON. Mr. President, I am pleased to introduce legislation to expand the decency provisions of the Communications Act of 1934 to clearly cover the new technologies which are increasingly part of the American way of life.

As a strong supporter of telecommunications reform, I am anxious to pass legislation which will free the private sector to create the information superhighway. This exciting technology will put unprecedented information power into the hands of every citizen. The opportunities for education, culture, and entertainment are limitless.

Sadly, there is a dark side to the bright flicker of the computer screen. The explosion of technology also threatens an explosion of misuse. The legislation I introduce today, known as the Communications Decency Act, establishes legal protections against that misuse.

It modernizes the current law against telecommunications misuse in the digital age.

This legislation will extend and strengthen the protections which exist against harassing, obscene, and indecent phone calls to cover all such uses of all telecommunications devices and increase the penalties for misuse of the public switched network.

This much-needed legislation increases the penalties for obscene cable and radio broadcasts. The bill also insures that adult pay-per-view programs are fully scrambled, so that homes which do not subscribe to such services are not invaded by unwanted audio or video. The legislation also prohibits the use of toll free 800 numbers from being used as a ruse to charge callers or telephone numbers for adult and other pay-per-call services.

In addition, the legislation modernizes the protections against unauthorized eavesdropping on conversations, electronic or digital communications.

In addition, this legislation includes provisions Senator GORTON and I crafted last year to give cable operators the power to refuse to transmit any public access or leased access program or portion of such program which includes obscenity, indecency, or nudity.

Mr. President, the information superhighway should not become a red light district. This legislation will keep that from happening and extend the standards of decency which have protected telephone users to new telecommunications devices.

Once passed, our children and families will be better protected from those who would electronically cruise the digital world to engage children in inappropriate communications and introductions. The Decency Act will also clearly protect citizens from electronic stalking and protect the sanctuary of the home from uninvited indecencies.

Mr. President, to illustrate the need for this legislation, I ask unanimous consent that a Washington Post article be included in the RECORD. The article warns parents about the dangers of pedophiles who use computers to lure children. It is a sad day in America when this type of warning is necessary.

Mr. President, I urge all my colleagues to carefully study this important legislation. It was approved last year by the Senate Commerce Committee as a part of the Communications Act of 1994.•

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 2, 1994]

MOLESTING CHILDREN BY COMPUTER

(By Sandy Rovner)

Those amazing computer games, bulletin boards and E-mail services that bedazzle children and bewilder many parents may not be as benign as they appear.

Some of them, in fact, may be prowled by real-life villains every bit as evil as those in the fantasy games the youngsters play online.

"You can become very close to people very quickly when you're on-line," says Dan Fisher, a Palm Bay, Fla., police investigator and a member of the Law Enforcement Electronic Technology Assistance Committee, part of a new effort to make police as familiar with the computer world of virtual reality as these savvy criminals. Law enforcement officials say that children, often not realizing the danger, sometimes give out their names, addresses and phone numbers to people they meet over the computer network. This makes them vulnerable targets for a number of illegal activities, including sexual abuse, officials say.

For people who have computers with modems that allow them to call outside the home and connect up with networks, there are a number of online services, such as Prodigy, America on Line and Compuserve, that offer a wide variety of options to users. Included in these services are forums called bulletin boards that allow users to talk electronically with other users by posting public notes. These boards are divided into special interests, such as arts, television, lifestyles, seniors, health or teens. These permit individuals to contact other computer users privately by sending electronic mail, known as E-mail, through the Internet, the vast network of computer connections throughout the world.

Although there are laws banning transmission of child porn by computer, the FBI does not monitor bulletin boards, and, in a special statement issued recently on computer bulletin boards, it notes that it does not keep statistics on the problem. Law enforcement efforts are complicated by the fact that E-mail transmissions are "regarded as having the same privacy rights of surface mail," the FBI statement noted.

Frank Clark, a computer crime specialist in Fresno, Calif., who helps teach other police departments about electronic crimes, said there are about 25,000 private boards on the Internet in the country. Yet, "we found that virtually no one was working those kinds of crimes at all," he said.

He travels throughout the United States and Canada giving courses to law enforcement agencies on computer crimes. He cites one episode at a meeting last month in Ottowa at which he had a group of investigators sign on to a major computer service with false identifications and pretend to be children. "Then I had them post a couple of innocuous messages on teens' boards," he says. "The next day we had solicitations for nude pictures, phone sex and offers to meet in person for sex."

Myrna Blinn, an Idaho grandmother, has worked with child abuse groups for years and is among a number of volunteers who warn teenagers via computer bulletin boards not to give away too much personal information to overly friendly electronic mail pals.

She said she received an anguished E-mail letter from a 14-year-old girl who had been corresponding on-line with someone she thought was a teenage boy. She had given him her phone number, but the boy turned out to be a 51-year-old man and he began barraging her with indecent phone calls. She was afraid to tell her family. Blinn and two of her friends confronted the man electronically and turned over information about him to police officials, who are investigating the case. They have arranged for the girl to get counseling.

Clark believes the tide is beginning to turn as parents and law enforcement officials are recognizing the possibility of problems. Computer services are also beginning to monitor their bulletin boards and helping police stop any unlawful activities, he said.

Despite increasing concerns, parents are often stymied in their efforts to monitor their kids because "the children are more computer-literate than the parents," Clark says. To counter that, Clark and his colleagues have developed a brochure they distribute at schools, churches and community meetings. It recommends:

If possible, keep the computer in a common area of the home. If a modem is being used, monitor times and numbers dialed.

Know the warning signs of "computer addiction" to make sure children aren't becoming obsessed with the computer service. One clue is the storage of computer files ending in GIF, JPG, BMP, TIF, PCX, DL and GL. "These," the brochure notes, "are video or graphic image files and parents should know what they illustrate."

The brochure also offers "Tips for Safe Computing" for teens and parents.

Never give out personal information, especially full names, addresses or financial information, to anyone you meet on computer bulletin boards.

Never respond to anyone who leaves you "obnoxious, sexual or menacing E-mail."

Never set up face-to-face meetings with anyone you meet on a bulletin board.

The brochure also urges parents to notify police of "all attempts by adults to set up meetings with your children. This is by far the most dangerous situation for children."

By Mrs. KASSEBAUM (for herself and Mr. DOLE):

S. 322. A bill to amend the International Air Transportation Competition Act of 1979; to the Committee on Commerce, Science, and Transportation.

THE WRIGHT AMENDMENT REPEAL ACT OF 1995

Mrs. KASSEBAUM. Mr. President, the distinguished Republican leader, Senator DOLE, joins with me today in offering this bill to address an injustice that has developed out of current law. The bill would repeal a restriction in the International Air Transportation Competition Act of 1979 pertaining to air carrier service at Dallas' Love Field. There is now broad recognition of the anticompetitive situation that has developed because of this section of law, and it is our intent to resolve the unfairness of this situation.

The restriction which this bill seeks to repeal was originally passed to protect the then-relatively new Dallas-Fort Worth International Airport [DFW] and ensure that commercial air carriers moved from Love Field to the new airport. Today, DFW is the third busiest airport in the country. The gates at DFW are full, and planes wait in long lines for takeoff. It is clear that DFW has reached a point where it no longer needs to be protected from competition.

Under current law, commercial air carriers are prohibited from providing service between Dallas' Love Field and points located outside of Texas or its four surrounding States. This effectively limits travel into and out of this airfield to destinations only in Texas, Louisiana, Oklahoma, Arkansas, and New Mexico. Flights originating from any other State must fly into the Dallas-Fort Worth airport in order to have access to the highly traveled Dallas area. This limitation on flights into Love Field is arbitrary and, in many cases, forces passengers to pay artificial and unreasonably high air fares. Moreover, the restriction causes unnecessary delay and inconvenience for passengers attempting to fly into or out of Love Field from cities outside Texas and its four contiguous States.

The criteria the current law uses to restrict flights into Love Field—that a flight must originate in Texas or one of its contiguous States—are not based on any standard appropriate for the airline industry. It is not based on the number of miles flown. It is not based on the size of the city served. It is not based on the amount of noise generated by an aircraft. Instead, it is based on State boundaries that were in place long before the Wright brothers began flying airplanes.

Today, planes are allowed to fly directly from Love Field to El Paso which is 576 miles from Dallas. Yet, direct flights are prohibited between Love Field and many cities which are much closer to Dallas, such as St. Louis, Kansas City, Memphis, Birmingham, and Wichita. This makes no sense.

Mr. President, a great deal has been written recently about unwanted and unnecessary Government rules and regulations. People are frustrated by Government rules that are out of touch with reality, that lack common sense. I think the Wright amendment is a prime example of why so many people have lost confidence in their Government.

In addition to being a law based on policial concerns rather than practical realities, the Wright amendment has distorted the free market. For a number of Americans, the restrictions on Love Field have forced them to pay more to travel to Dallas than their neighbors. Again, this is regardless of the flight distance or the size of the city served by the flight. The reason for this absurd situation is that the one airline which serves Love Field is the low-cost carrier for the market, Southwest Airlines. In those cases where Southwest is allowed to compete with the major airlines for direct flights to Dallas, the cost of a ticket to Dallas is dramatically cheaper than when restrictions prevent Southwest from offering competitive flights.

Another effect of the Love Field restrictions is that they work a terrible inconvenience for those travelers located outside of Texas and the contiguous States who choose to take a nondirect flight to Dallas on Southwest Airlines. Passengers in this situation are not allowed to buy a round-trip ticket to Dallas on a flight which has a stop-over in a city that meets the Love Field restrictions. Instead, these passengers must buy two round-trip tickets. One round-trip ticket to a city in Texas or one of the contiguous States and another from that city to Dallas. This requires the travelers not only to change planes in the connecting city but to collect their baggage and recheck it to Dallas. The unnecessary inconvenience of having to collect and recheck baggage can be especially difficult for the elderly, the disabled, or those traveling with small children.

To allow this situation to continue would be to condone anticompetitive law and to encourage discrimination against many for the benefit of a few. I believe it is essential to encourage competition within the transportation community in order to protect the interests of the traveling public. The case with Love Field is no different than that of all the other small airfields across the country, none of which is restricted based on their location. Love Field has been subject to this unique statute for more than 15 years, and it is time to close this loophole.

Mr. DOLE. Mr. President, today I join my distinguished colleague from Kansas, Senator KASSEBAUM, to introduce legislation to repeal the so-called Wright amendment. Senator KASSEBAUM and I have been working to repeal this anti-competitive regulation which restricts commercial airline flights to and from Dallas Love Field. Make no doubt about it, the time to act is now.

Last year's U.S. Supreme Court decision which let the Wright amendment stand makes the legislation we are introducing all the more important. I stated at the time the decision was issued that I would continue to work to ground the Wright amendment and protect air travelers from getting gouged and now the only relief for the traveling public is through this legislation we are offering today.

The Wright amendment was originally introduced to protect the fledgling Dallas-Forth Worth [DWF] International airport. This airport is now one of the busiest airports in the Nation. Dallas is the top destination for passengers flying from Wichita, and there is no reason they should not have the option of flying into Love Field or Dallas-Forth Worth airports. This regulation not only places restrictions on passengers from Kansas, but from 44 States across the Nation. In my view, the DWF airport no longer needs protection, and it is time to lift the restrictions on Love Field.

The restrictions placed on flights from Love Field 15 years ago deny affordable air transportation to citizens of my State and States throughout a vast portion of our country which do not fall into the limitations of the Wright amendment. The restrictions make it impossible to fly directly into Love Field except for those flights originating within Texas and States neighboring Texas. Not only is it impossible to take a direct flight, but if you are flying into Love Field, a passenger is required to purchase separate tickets, reclaim baggage, and change planes in these neighboring States. Let's assume this passenger is traveling from Wichita. At Oklahoma City, the passenger, having used the first ticket must change aircraft. And not just that, the passenger must take physical possession of all checked baggage, haul the baggage back to the ticket counter and recheck the baggage for the flight into Love Field.

A 1992 U.S. Department of Transportation study reported that these restrictions cost air travelers $183 million a year in higher air fares. That's why Kansans have been demanding the repeal of the so-called Wright amendment—they're tired of higher air fares, reduced travel options, and a distinct second-class status for Kansas air travelers.

Not only are Kansans inconvenienced, but Texans as well. I have a letter from a Texan who has to fly to the connecting airport in another State to assist her mother in a wheelchair who must "change planes, meet her there, transfer her luggage, and recheck her onto another flight." I would like to enter her letter of concern in the RECORD.

The Wright amendment is a burden for Kansas consumers and a barrier to economic development. It's high time we grounded the Wright amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 29, 1994.

Re: Wright amendment—its repeal.

Hon. ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I agree with you 100 percent—the Wright Amendment restricting the use of Love Field in Dallas, Texas, is wrong, wrong, wrong!

I believe the amendment needs to be challenged in terms of the Americans Disability Act. It is my understanding that the purpose of this act is to give better access to public places to people with a disability. I feel this right is being severely restricted by the Wright Amendment. It is almost impossible for a person with a walker, wheelchair, crutches, etc. to disembark from a Southwest flight, get to baggage claim, pick up their luggage, and get rechecked at another gate, without considerable inconvenience, pain, and discomfort. Have you ever tried to carry luggage and manipulate a wheelchair, crutches, or the like? This is certainly not granting better access.

My mother is 82 years old and was faced with that very problem. She is in a wheelchair and was unable to accomplish all of the above. The fares were prohibitive for her to fly with another airline. I had to fly to the airport where she had to change planes, meet her there, transfer her luggage, and recheck her onto another flight. It seems to me that the Wright Amendment unfairly discriminates against the elderly and people with a handicap.

I think on these grounds the Wright Amendment should be challenged and eliminated. I would be more than happy to work with you or any other group that is interested in pursuing this course of action. Repeal of the Wright Amendment is becoming a mission in my life.

Sincerely,

PAULETTE B. COOPER.

DALLAS, TX.

P.S. I noticed recently that Continental Airline is being given access to several gates at Love Field. Will the Wright Amendment affect them in the same ways that it affects Southwest Airlines? If not, why not?

By Mrs. KASSEBAUM.

S. 323. A bill to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes; to the Committee on Labor and Human Resources.

THE NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL REPEAL ACT OF 1995

• Mrs. KASSEBAUM. Mr. President, I introduce legislation to eliminate the National Education Standards and Improvement Council [NESIC]. NESIC was created by the Goals 2000: Education America Act signed into law last year for the purpose of reviewing and certifying voluntary national education standards.

The recent controversy over proposed standards in the field of history underscore the difficulties with any Federal involvement in the standard-setting process. No matter how much one might emphasize the voluntary nature of any standards, the perception remains that the Federal Government is prescribing a uniform curriculum for our Nation's students.

Writing recently about the history standards, University of Chicago history professor Hanna Holborn Gray observed:

> The trouble with the "national standards" is not that they are far-out, or radically revisionist, or aimed at brainwashing the impressionable young. * * * No, the real trouble with the national standards, is that they exist at all—or exist under that title and under quasi-official auspices and with some kind of "certification" in the offing.

As one who believes strongly that the strength of our education system lies in its local base and community commitment, I do not believe it is appropriate to expand Federal involvement into areas traditionally handled by States and localities. For this reason, I was troubled when we first started down the path of providing Federal funding for the development of national standards—an action which predated the enactment of the Goals 2000 legislation.

One reason I opposed the Goals 2000 legislation is that it took Federal activities in this area yet another step further by including an authorization for a national council—NESIC—to review and certify the national standards. The existence of such a council only serves to sow further confusion regarding whether the standards are truly voluntary.

As has been repeatedly emphasized in various congressional debates on this subject, there is no Federal law which requires that these standards be adopted or used by any State or school district. Although standards in various subject areas have been developed with the support of Federal funds, they have been designed by professionals in the field, not by Federal employees as some may think. However, there is still great confusion and serious concern by the public about the nature of the Government's involvement in this whole endeavor.

I believe it is time to clear up some of this public confusion and concern. My bill will help do that by getting the Federal Government out of the loop in an area which I believe is best handled by States and localities. Most of our States are already developing standards with the input of their own teachers and parents. Those States clearly do not need to have a Federal seal of approval to validate their efforts.

I urge my colleagues to join me in this effort. Mr. President, I ask unanimous consent that the text of my bill and a summary of its provisions be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF THE NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.

(a) AMENDMENT.—Part B of title II of the Goals 2000: Educate America Act (20 U.S.C. 5841 et seq.) is amended to read as follows:

"PART B—NATIONAL STANDARDS

"SEC. 211. PROHIBITION OF FEDERAL FUNDING FOR THE DEVELOPMENT OF NATIONAL STANDARDS.

"No Federal agency shall expend Federal funds for the development or dissemination of model or national content standards, national student performance standards, or national opportunity-to-learn standards.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on January 1, 1995.

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GOALS 2000: EDUCATE AMERICA ACT.—

(1) The table of contents for the Goals 2000: Educate America Act is amended, in the items relating to title II, by striking the items relating to part B of such title and inserting the following:

"PART B—NATIONAL STANDARDS

"Sec. 211. Prohibition of Federal funding for the development of national standards.".

(2) Section 3(a)(7) of such Act (20 U.S.C. 5802(a)(7)) is amended by striking "voluntary national content standards or".

(3) Section 201 of such Act (20 U.S.C. 5821) is amended—

(A) in paragraph (1), by inserting "and" after the semicolon;

(B) in paragraph (2), by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(4) Section 203(a) of such Act (20 U.S.C. 5823(a)) is amended—

(A) by striking paragraphs (3) and (4); and

(B) by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.

(5) Section 204(a) of such Act (20 U.S.C. 5824(a)) is amended—

(A) by striking all beginning with "(a) HEARINGS.—" through "shall, for" and inserting "(a) HEARINGS.—The Goals Panel shall, for"; and

(B) by striking paragraph (2).

(6) Section 241 of such Act (20 U.S.C. 5871) is amended—

(A) in subsection (a), by striking "(a) NATIONAL EDUCATION GOALS PANEL.—"; and

(B) by striking subsections (b) through (d).

(7) Section 304(a)(2) of such Act (20 U.S.C. 5884(a)(2)) is amended—

(A) in subparagraph (A), by adding "and" after the semicolon;

(B) in subparagraph (B), by striking "; and" and inserting a period; and

(C) by striking subparagraph (C).

(8) Section 308(b)(2)(A) of such Act (20 U.S.C. 5888(b)(2)(A)) is amended by striking "including" and all that follows through "of title II;" and inserting "including through consortia of States;".

(9) Section 312(b) (20 U.S.C. 5892(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(10) Section 314(a)(6) of such Act (20 U.S.C. 5894(a)(6)) is amended by striking ", if—" and all that follows through "populations".

(11) Section 315 of such Act (20 U.S.C. 5895) is amended—

(A) in subsection (b)—

(i) by striking paragraph (2);

(ii) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(iii) in paragraph (1)(A), by striking "paragraph (4) of this subsection" and inserting "paragraph (3)";

(iv) in subparagraph (B) of paragraph (2) (as redesignated by clause (ii)), by striking "and the voluntary national content" and all that follows through "differences";

(v) in subparagraph (B) of paragraph (3) (as redesignated by clause (ii)), by striking "paragraph (5)," and inserting "paragraph (4),"; and

(vi) in paragraph (4) (as redesignated by clause (ii)), by striking "paragraph (4)" each place it appears and inserting "paragraph (3)";

(B) in the matter preceding subparagraph (A) of subsection (c)(2), by striking "subsection (b)(4)" and inserting "subsection (b)(3)"; and

(C) in subsection (f), by striking "subsection (b)(4)" each place it appears and inserting "subsection (b)(3)".

(12) Section 316 of such Act (20 U.S.C. 5896) is repealed.

(13) Section 503 of such Act (20 U.S.C. 5933) is amended—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking "28" and inserting "27";

(II) by striking subparagraph (D); and

(III) by redesignating subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively;

(ii) in paragraphs (2), (3), and (5), by striking "subparagraphs (E), (F), and (G)" each place it appears and inserting "subparagraphs (D), (E), and (F)";

(iii) in paragraph (2), by striking "subparagraph (G)" and inserting "subparagraph (F)";

(iv) in paragraph (4), by striking "(C), and (D)" and inserting "and (C)"; and

(v) in the matter preceding subparagraph (A) of paragraph (5), by striking "subparagraph (E), (F), or (G)" and inserting "subparagraph (D), (E), or (F)"; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking "subparagraph (E)" and inserting "subparagraph (D)"; and

(ii) in paragraph (2), by striking "subparagraphs (E), (F), and (G)" and inserting "subparagraphs (D), (E), and (F)".

(14) Section 504 of such Act (20 U.S.C. 5934) is amended—

(A) by striking subsection (f); and

(B) by redesignating subsection (g) as subsection (f).

(b) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) Section 2102(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6622(c) is amended—

(A) in paragraph (6), by striking "including information on voluntary national content standards and voluntary national student performance standards"; and

(B) in paragraph (7)—

(i) by striking "voluntary national content standards,"; and

(ii) by striking ", voluntary national student performance standards".

(2) Section 2402(3)(A) of such Act (20 U.S.C. 6702(3)(A)) is amended by striking ", challenging State student performance" and all that follows through the semicolon and inserting "or challenging State student performance standards;".

(3) Section 3151(b)(5)(H) of such Act (20 U.S.C. 6871(b)(5)(H)) is amended by striking "the voluntary national content standards, the voluntary national student performance standards and".

(4) Section 3206(b)(12) of such Act (20 U.S.C. 6896(b)(12) is amended—

(A) in subparagraph (H), by inserting "and" after the semicolon;

(B) by striking subparagraph (I); and

(C) by redesignating subparagraph (J) as subparagraph (I).

(5) Section 7136 of such Act (20 U.S.C. 7456) is amended by striking "and which are consistent with voluntary national content standards and challenging State content standards".

(6) Section 10963(b)(5)(B) of such Act (20 U.S.C. 8283(b)(5)(B)) is amended by striking "or to bring teachers up to national voluntary standards".

(7) Section 14701(b)(1)(B)(v) of such Act (20 U.S.C. 8941(b)(1)(B)(v)) is amended by striking "the National Education Goals Panel," and all that follows through "assessments)" and inserting "and the National Education Goals Panel".

(c) GENERAL EDUCATION PROVISIONS ACT.—Section 428 of the General Education Provisions Act (20 U.S.C. 1228b), as amended by section 237 of the Improving America's Schools Act of 1994 (Public Law 103-382) is amended by striking "the National Education Standards and Improvement Council,".

(d) EDUCATION AMENDMENTS OF 1978.—

(1) Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001), as amended by section 381 of the Improving America's Schools Act of 1994 (Public Law 103-382) is amended—

(A) by striking subsection (b);

(B) by redesignating subsections (c) through (l) as subsections (b) through (k), respectively;

(C) in subsection (b) (as redesignated by subparagraph (B))—

(i) in paragraph (1), by striking "and the findings of the studies and surveys described in subsection (b)"; and

(ii) in paragraph (2), by striking "subsection (f)" and inserting "subsection (e)";

(D) in subsection (c) (as redesignated by subparagraph (B)), by striking "subsection (c)" and inserting "subsection (b)";

(E) in subsection (d) (as redesignated by subparagraph (B)), by striking "subsection (c) and (d)" and inserting "subsections (b) and (c)";

(F) in paragraph (1) of subsection (e) (as redesignated by subparagraph (B)), by striking "subsections (c) and (d)" each place it appears and inserting "subsections (b) and (c)"; and

(G) in subsection (f) (as redesignated by subparagraph (B)), by striking "subsections (e) and (f)" and inserting "subsections (d) and (e)".

(2) Section 1122(d)(1) of such Act (25 U.S.C. 2002(d)(1)) is amended—

(A) by striking "section 1121(c)" and inserting "section 1121(b)"; and

(B) by striking "section 1121(e)" and inserting "section 1121(d)".

(3) Section 1130 of such Act (25 U.S.C. 2010) is amended—

(A) in subparagraph (B) of subsection (a)(4), by striking "section 1121(h)" and inserting "section 1121(g)"; and

(B) in the matter preceding subparagraph (A) of subsection (f)(1), by striking "section 1121(k)" and inserting "section 1121(j)".

(4) Section 1137(a)(3) of such Act (25 U.S.C. 2017(a)(3)) is amended by striking "sections 1121(g)" and inserting "sections 1121(f)".

SUMMARY OF S. 323

The bill:

(1) Eliminates all of Part B of Title II of the Goals 2000: Educate America Act, which includes the authority for the establishment of the National Education Standards and Improvement Council (NESIC).

(2) Eliminates the National Education Goals Panel's federal authority to approve or endorse voluntary national standards.

(3) Prohibits the federal government from funding the development of model or national content, student performance, or opportunity-to-learn standards.

(4) Contains numerous conforming amendments to the Goals 2000: Educate America Act, the Elementary and Secondary Education Act of 1965, and the Education Amendments of 1978.●

By Mr. WARNER (for himself, Mr. COCHRAN, Mr. THOMAS, and Mr. SIMPSON):

S. 324. A bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes; to the Committee on Labor and Human Resources.

THE VOLUNTEER FIREFIGHTER AND RESCUE SQUAD WORKER ACT

● Mr. WARNER. Mr. President, I rise today to introduce legislation to amend the Fair Labor Standards Act of 1938. This is a companion measure to legislation, H.R. 94, introduced in the House of Representatives by Virginia Congressman HERB BATEMAN.

My bill may be referred to as the Volunteer Firefighter and Rescue Squad Worker Act of 1994.

The purpose of the Volunteer Firefighter and Rescue Squad Worker Act is to amend the Fair Labor Standards Act of 1938 to exclude from the definition of "employee" firefighters and rescue squad workers who perform volunteer services. In addition, it will prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and will allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services.

The need for this legislation stems from a 1993 U.S. Department of Labor ruling which found that a career firefighter cannot serve as a volunteer firefighter within the same county as they are employed. This ruling is commonly referred to as the Montgomery County, Maryland decision.

The Department of Labor's interpretation of the Fair Labor Standards Act in the Montgomery decision has promoted a great deal of concern from volunteer fire and rescue groups across the Nation, including Virginia. The decision was made to prevent counties—employers—from coercing career firefighters to work overtime without overtime compensation.

While protection from coercion is a worthy and necessary element of the Fair Labor Standards Act, the administrative decision offers a presumption of guilt on the part of law-abiding counties. In addition, it precludes men and women who wish to volunteer their services within their own community from doing so, if they reside in the same community as they are employed. Finally, it represents yet another unfunded Federal mandate and an intrusion on the rights of citizens to decide for themselves what services local government should provide.

Historically, volunteer fire and rescue services have played an important role in our communities. These men and women are private citizens who selflessly answer the call to duty, day and night, to protect the lives and property of others.

In many parts of Virginia today, indeed in many parts of the Nation still, the difference between life and death in the "golden hour" is the initial emergency medical services provided by volunteer rescue workers. Many localities are a good 45 minutes to an hour away from the nearest hospital and the aid administered by volunteers is critical to the survival of victims.

The volunteer fire departments and rescue squads provide fire and emergency medical services [EMS] for 82 percent of all fire and EMS services in Virginia. Of the 602 fire departments in the Commonwealth of Virginia, 67 are combined career and volunteer departments and 535 are strictly volunteer departments. These statistics only begin to tell about the important role that the 20,000 volunteer firefighters in Virginia play in our daily lives.

Mr. President, the intent of my legislation is quite simply to help to preserve the spirit of volunteerism in our communities and to assist our volunteer fire and rescue workers in their mission to provide vital lifesaving and property protection services.

Many of our valiant career firefighters come from the ranks of the volunteers and received their initial training from those departments. In turn, many career firefighters have volunteered their service and expertise to the volunteer departments. I believe that my legislation will help to preserve this unique relationship.

For the benefit of my colleagues, I would briefly like to outline what my legislation would do.

Section 1 simply cites the legislation as the Volunteer Firefighter and Rescue Squad Worker Act.

Section 2 would exempt career firefighters and rescue squad workers who volunteer their off-duty services at locations—fire companies—where they are not employed during the course of normal duty hours from the Fair Labor Standards overtime provisions.

Section 3 would allow career firefighters and rescue squad workers to waive their claim to overtime compensation.

Section four would prohibit employers from directly or indirectly requiring firefighters or rescue squad workers to volunteer their services during any period in which they would otherwise be entitled to receive overtime compensation.

Mr. President, I urge my fellow Senators, particularly members of the Congressional Fire Caucus, to join me in support of this important measure.●

By Mr. THOMAS:

S. 325. A bill to make certain technical corrections in laws relating to native Americans, and for other purposes; to the Committee on Indian Affairs.

INDIAN STATUTE AMENDMENTS

Mr. THOMAS. Mr. President, I rise today as a member of the Committee on Indian Affairs—and a former ranking member of the House Subcommittee on Native American Affairs—to introduce legislation to make certain technical amendments to laws relating to native Americans.

Congress typically considers legislation like this once or twice a year. It affords us the opportunity to address a series of technical corrections or minor amendments to Indian bills in one fell swoop, without having to introduce several separate bills.

Sections 1 and 2 deal with two bills that were passed last year which extended Federal recognition to three Indian groups in Michigan: the Pokagon Band of Potawatomi, and the Little Traverse Bay Bands of Odawa Indians, and the Little River Band of Ottawa Indians. The bills, passed in September, failed to include a usual provision requiring the newly recognized groups to submit membership rolls to the Bureau of Indian Affairs. These rolls are important because they allow the BIA to know exactly who is a member of the band and thus entitled to Federal benefits available to members of recognized tribes.

To correct this oversight, in October—as part of another technical corrections bill—we amended both the September bills to include the membership roll requirements. Unfortunately, in the crush of legislation of the final days of the session, the two amendments were transposed. The Pokagon bill, which deals with only one band, was amended in the plural; concomitantly, the Odawa/Ottawa bill, which deals with several bands, had an amendment worded in the singular. This bill would simply retranspose the October amendments.

Section 3 of the bill repeals the Trading With the Indians Act. Enacted in the early 1800's, the act prohibits Federal employees from trading with Indians. At the time, the act was seen as a way to protect the unsophisticated tribes from unscrupulous War Department employees who might have used their positions over the tribes to enter into business deals with them on terms less than advantageous to the Indians.

Today, though, the act has become both an anachronism and a nuisance. Not only are the tribes no longer in need of the paternalistic protections the act affords; but it makes criminal such simple everyday acts as the sale of a used car by the wife of a BIA employee to an Indian neighbor. Both the Department of Justice and the Department of the Interior agree that the act is unnecessary, and should be repealed. My good friends Senators McCAIN and KYL worked diligently on this issue in the last Congress, but time constraints prevented its passage by both Houses before adjournment sine die.

Mr. President, I look forward to working closely with my chairman, Senator McCAIN, in securing swift passage of this legislation.

By Mr. HATFIELD (for himself, Mr. DORGAN, Mr. FEINGOLD, Mr. BUMPERS, and Mr. HARKIN):

S. 326. A bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the U.N. Registrar of Conventional Arms; to the Committee on Foreign Relations.

CODE OF CONDUCT ON ARMS TRANSFERS

● Mr. HATFIELD. Mr. President, a little more than a year ago I was approached by citizens who share my concern about conventional weapons transfers. They told me of an international effort to curb the arms trade by limiting transfers only to nations which adhere to principles of human rights, democracy, and peace. This initiative, called the Code of Conduct, appeared to be a common-sense approach to decisions regarding weapons transfers and I agreed to introduce it as legislation in the Senate.

Last year on this day Congresswoman CYNTHIA McKINNEY and I held a press conference to announce our intent to push the Code of Conduct through Congress. Both of us have spent a great deal of time over these past months promoting the bill and contributing to the public's education about the glut of conventional weapons. It is with great pleasure that I reintroduce this bill today and that I am again joined by Representative McKINNEY, who is introducing its companion in the House of Representatives.

The legislation alters U.S. arms transfer policy by significantly increasing the conditions upon which a nation may receive U.S.-built weapons. By stating as a basic requirement that U.S. arms should not go to nations which have poor human rights records, are undemocratic or are engaged in illegal acts of war, our policy allows arms transfers only to nations which are unlikely to emerge as security threats to their neighbors or to the United States themselves.

I have spoken to groups around the country about this bill and the response has been very strong. Americans agree that no arms should go to dictators. Many citizens are beginning to question why millions of their tax dollars are going to subsidize weapons manufacturers who seek to export fighter jets, tanks, and other armaments. And many individuals have shared with me their concern that we will have repeats of Panama, Somalia, Iraq, and Haiti, where United States troops faced weapons either paid for or provided by our own Government.

Despite the fact that the safety of our troops has been threatened by arms exports, the administration seems intent upon broadening the justification for arms sales approval to also include considerations of U.S. economic interests. In other words, the administration wants to allow jobs to dictate whether or not lethal weaponry should go to nations, many of which have poor human rights records and are not democratic.

The escalating global arsenal must be reduced and nonproliferation must start with the United States. I believe that the only hope for fundamental change in policy is Congress and I will ask the Senate to vote on the Code of Conduct this year because I believe it is time for Congress to assume a greater responsibility for our arms export policies. I hope that my colleagues will take time to review this proposal, join me as a cosponsor and support this bill when it comes to the floor.●

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. EXON, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. JOHNSTON, and Mr. KERREY):

S. 327. A bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home; to the Committee on Finance.

HOME OFFICE DEDUCTION ACT

Mr. HATCH. Mr. President, today I am proud to introduce the Home Office Deduction Act of 1995. I am joined today by my friends and colleagues, Senators BAUCUS, EXON, LIEBERMAN, GRASSLEY, JOHNSTON, and Senator KERREY of Nebraska. This bill will clarify the definition of what a "principal place of business" is for purposes of section 280A of the Internal Revenue Code, which allows a deduction for an office in the home. An identical bill has been introduced by Representative BILL ARCHER in the House as part of H.R. 9.

Last year, we introduced similar legislation that had 15 bipartisan cosponsors in the Senate. Also, the companion bill in the House, introduced last year by Representative Peter Hoagland, had the bipartisan support of 88 cosponsors.

This bill is designed to reverse the 1993 Supreme Court decision in Commissioner versus Soliman. When this decision was handed down, it effectively closed the door to legitimate home-office deductions for hundreds of thousands of taxpayers. Moreover, the decision unfairly penalizes many small businesses simply because they operate from a home rather than from a store front, office building, or industrial park.

Mr. President, until the Soliman decision, small business owners and professionals who dedicate a space in their homes to use for business activities were generally allowed to deduct the expenses of the home office if they met the following conditions: First, the space in the home was used solely and exclusively on a regular basis as an office; and second, the deduction claimed was not greater than the income earned by the business. Through the Soliman case, the Supreme Court has narrowed significantly the availability of this deduction by requiring that the home office be the principal business location of the taxpayer. This requirement that the home office be the principal business location has proven to be impossible to meet for many taxpayers with legitimate home-office expenses.

For example, under the Soliman decision, a self-employed plumber who generates business income by performing services in the homes of his customers would be denied a deduction for a home office. This is because, under the rules, his home office is not considered his principal place of business because the business income is generated in the homes of the customers and not in his home office. This is the case even though the home office is where he receives telephone messages, keeps his business records, plans his advertising, stores his tools and supplies, and fills out Federal tax forms. In fact, having a full-time employee in the office who keeps the books and sets up appointments would still not result in a home-office deduction for the plumber. This is preposterous, Mr. President, and we need to correct it. My bill would rectify this result by allowing the home office to qualify as the principal place of business if the essential administrative or management activities of the business are performed there.

The truly ironic effect of the Supreme Court's decision is that a taxpayer who rents office space outside the home is allowed a full deduction, but one who tries to economize by working at home is penalized. This makes no sense to me.

The Home Office Deduction Act of 1995 is designed to restore the deduction for home-office expenses to pre-Soliman law. Rather than requiring taxpayers to meet the new criteria set out by the Court, the bill allows a home office to meet the definition of a "principal place of business" if it is the location where the essential administrative or management activities are conducted on a regular and systematic basis by the taxpayer. To avoid possible abuses, the bill requires that the taxpayer have no other location for the performance of these essential administrative or management activities.

Mr. President, today's job market is rapidly changing. New technologies have been developed and continually improved that allow instant communication around the once expansive globe. There is even talk of virtual offices, which are equipped only with a telephone and a hookup for a portable computer. These mobile communications have revolutionized the definition of the traditional office. No longer is there a need to establish a business downtown. Employees are telecommunicating by facsimile, modem, and telephone. Today, both a husband and wife could work without leaving their home and the attention of their children. In this new age, redefining the deduction for home-office expenses is vital. Our tax policy should not discriminate against home businesses simply because a taxpayer makes the choice, often based on economic or family considerations, to operate out of the home.

In most cases, startup businesses are very short on cash. Yet, for many, ultimate success depends on the ability to hold out for just a few more months. In these situations, even a relatively small tax deduction for the expenses of the home office can make a critical difference. It is important to note that some of America's fastest growing and most dynamic companies originated in the spare bedroom or the garage of the founder. Our tax policies should support those who dare to take risks. Many of tomorrow's jobs will come from entrepreneurs who are struggling to survive in a home-based business.

Mr. President, the home-office deduction is targeted at these small business men and women, entrepreneurs, and independent contractors who have no other place besides the home to perform the essential administrative or management activities of the business. The Soliman decision drastically reduced the effectiveness and fairness of this deduction and must be reversed.

This legislation can also have an important effect on rural areas, such as in my home State of Utah. Many small business owners and professionals in rural areas must spend a great deal of time on the road, meeting clients, customers, or patients. It is likely that many of my rural constituents will be unable to meet the requirements for the home-office deduction under the Soliman decision. Mr. President, we must help these taxpayers, not hurt them, in their efforts to contribute to the economy and support their families.

The Home Office Deduction Act of 1995 not only has strong bipartisan support in the Congress, but also has the support of the following organizations: The American Institute of Certified Public Accountants, the National Federation of Independent Businesses, the Family Research Council, the Small Business Legislative Council, the National Association of the Self-Employed, the National Association of the Remodeling Industry, the National Association of Small Business Investment Cos., the Direct Selling Association, the Promotional Products Association International, the Illinois Women's Economic Development Summit, the Alliance of Independent Store Owners and Professionals, the American Veterinary Medical Association, the Bureau of Wholesale Sales Representatives, the National Association of Home Builders, the International Home Furnishings Representatives Association, the National Association of Women Business Owners, Communicating for Agriculture, and the National Society of Public Accountants.

I urge my colleagues in the Senate to join us as a cosponsor of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Home Office Deduction Act of 1995".

SEC. 2. CLARIFICATION OF DEFINITION OF PRINCIPAL PLACE OF BUSINESS.

Subsection (f) of section 280A of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) PRINCIPAL PLACE OF BUSINESS.—For purposes of subsection (c), a home office shall in any case qualify as the principal place of business if—

"(A) the office is the location where the taxpayer's essential administrative or management activities are conducted on a regular and systematic (and not incidental) basis by the taxpayer, and

"(B) the office is necessary because the taxpayer has no other location for the performance of the essential administrative or management activities of the business."

SEC. 3. TREATMENT OF STORAGE OF PRODUCT SAMPLES.

Paragraph (2) of section 280A(c) of the Internal Revenue Code of 1986 is amended by striking "inventory" and inserting "inventory or product samples".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1991.

• Mr. LIERBERMAN. Mr. President, I am delighted to join in the introduction of this important bill to restore the home-office deduction. As an original cosponsor of this bill in the last Congress, I hope that we will succeed in passing this bill in the 104th Congress.

After being turned down by two tax courts, the IRS succeeded in narrowing the definition of the home-office deduction by taking their case to the Supreme Court. In essence, the early 1993 decision narrowed the home-office deduction test to businesses where income is generated in the home and to businesses where customers come to the home.

These new tests are flawed. They disallow the deduction for a whole host of legitimate home businesses. Take plumbers or house painters. Both plumbers and painters may run virtually all aspects of their businesses from the home but in the end they must travel to the customer. A plumber simply cannot insist that a bathtub be brought to the office. There is a clear and compelling reason for a house painter to make house calls.

Mr. President, this issue is of particular importance to my home State of Connecticut where laid-off workers are using severance packages to start businesses out of their homes, where underemployed workers are making ends meet through part-time home businesses. There are people I think of as forced entrepreneurs. They are people who have struck out on their own in such numbers that they appear to be showing up in labor statistics in my region of the country. To quote an October 1993 report by the New England Economic Project:

> Households have been reporting more buoyant employment conditions than establishments have. The number of New Englanders now indicating they are working is 2 percent higher than a year earlier. This upturn appears to reflect a rise in self-employment and the emergence of small young businesses that are not yet tabulated in the establishment survey. In other words, people may be adjusting to shrinking job opportunities at the region's traditional employers by becoming entrepreneurs.

Mr. President, these rules take us in the wrong direction. They ignore the trend toward home-based businesses by those who have lost traditional office jobs, they ignore those who are working second jobs to make ends meet, and they ignore those parents who choose to stay at home with the children while still earning a much-needed income.

In the past, there have undoubtedly been abuses of this deduction. I believe there has been cause to tighten these rules. But the solution to these abuses has clearly not been found. To exclude whole sectors of legitimate home-office businesses is hardly the answer to the problem of abuse of this deduction. I should also point out that in this economy, the last thing we should be doing is hurting legitimate businesses.

I encourage my colleagues to join me as a sponsor of this legislation.•

By Mr. FEINGOLD:

S. 330. A bill to amend the Agricultural Act of 1949 to require producers of an agricultural commodity for which an acreage limitation program is in effect to pay certain costs as a condition of agricultural loans, purchases, and payment, and for other purposes.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 329. A bill to direct the Secretary of the Interior to submit a plan to Congress to achieve full and fair payment for Bureau of Reclamation water used for agricultural purposes, and for other purposes; to the Committee on Energy and Natural Resources.

WATER SUBSIDY LEGISLATION

• Mr. FEINGOLD. Mr. President, yesterday all Senate offices received a copy of a new report entitled "Green Scissors," written by Friends of the Earth and the National Taxpayers Union and supported by 23 other environmental and consumer groups. The premise of the report is that there are a number of subsidies and projects, totalling $33 billion in all, that could be cut to both reduce the deficit and benefit the environment. This report coalesces what I and many others in the Senate have long known, we must be diligent in eliminating practices that can no longer be justified in light of our enormous annual deficit and national debt.

I am pleased today to reintroduce two related pieces of legislation that I introduced in the 103d Congress aimed at reducing water subsidies that cost the Federal taxpayers millions of dollars each year. This legislation was profiled in the "Green Scissors" report, and the high cost of these subsidies was highlighted in yesterday's Washington Post, New York Times, and USA Today. These are part of a series of subsidy reducing measures that I will propose in the 104th Congress. The first bill, amends the Agricultural Act of 1949 to require agricultural producers that grow a crop for which an acreage limitation program is in effect to pay the full cost of water provided by the Federal Government. The second bill requires the Secretary of the Interior to submit a plan to Congress to continue these savings by highlighting ways to eliminate water subsidies for agricultural producers growing crops that do not fall under the commodity program.

Mr. President, the first bill eliminates multiple subsidies codified in our Federal law which provides dual payments to agricultural producers—one as a direct payment to limit production of certain surplus crops and the other as a discount, undercharging for federally subsidized water to produce these crops. Its premise is simple. If an agricultural producer is receiving Federal payments under a Federal acreage limitation program—payments designed to discourage production of a particular crop—that producer is not eligible to receive below-cost water from the Federal Government to produce the crop which the Federal Government is paying the producer not to grow. In other words, the Federal taxpayers should not be asked on the one hand to provide payments to discourage production of a crop while at the same time paying for the delivery of below-cost water for that same crop.

It has been estimated that the cost of providing below-cost water to agriculture producers in the acreage limitation program costs the Federal Government between $66 and $830 million each year. The Department of Agriculture pays farmers approximately $500 million not to grow these same crops. Mr. President, these double payments cannot continue. Elimination of western water subsidies, and a wide range of reclamation subsidies, should be pursued as legitimate deficit reduction opportunities. It is clear that the conflicting policies of the Federal Government in this area are examples of Federal waste and abuse.

The second bill, Mr. President, creates an institutional obligation to review agricultural water subsidy practices, and provides Congress with important information necessary to proceeding along a path of reducing burdens on the Federal budget. I am proud to be joined by my colleague from Wisconsin, Senator KOHL, introducing this measure. The Bureau of Reclamation will be required to develop a plan for charging accurate water prices no later than September 1995 and to report that plan to Congress. At that time I will ask my colleagues to think aggressively about new legislative changes that may be needed to bring market prices to irrigation water provided by the Federal Government.

In conclusion, Mr. President, I am pleased that these bills will be among the first of major efforts by this Senate to seek opportunities to reduce the deficit by reforming subsidy practices. I will continue to remain committed to that goal. I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WATER RECLAMATION PROJECTS.

(a) IN GENERAL.—The Secretary of the Interior shall develop a plan for charging the recipient of water from a water reclamation project conducted by the Bureau of Reclamation the full and fair value of water received that is used for agricultural purposes.

(b) REPORT.—Not later than September 1, 1995, the Secretary of the Interior shall transmit the plan developed under subsection (a) to Congress.

S. 330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Irrigation and Deficit Reduction Act of 1995".

SEC. 2. PAYMENT OF CERTAIN COSTS UNDER ACREAGE LIMITATION PROGRAMS.

Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended by adding at the end the following new section:

"SEC. 116. PAYMENT OF CERTAIN COSTS UNDER ACREAGE LIMITATION PROGRAMS.

"(a) IN GENERAL.—If an acreage limitation program is announced for a crop of a commodity under this title, as a condition of eligibility for loans, purchases, and payments for the crop under this title, the producers on a farm shall pay to the Secretary of the Interior an amount that is equal to the full cost incurred by the Federal Government of the delivery to the farm of water that is used in the production of the crop, as determined by the Secretary of the Interior.

"(b) APPLICATION.—

"(1) IN GENERAL.—Subsection (a) shall not apply to the delivery of water pursuant to a contract that is entered into before January 1, 1996, under any provision of Federal reclamation law.

"(2) RENEWAL OR AMENDMENT.—If a contract described in paragraph (1) is renewed or amended on or after January 1, 1996, subsection (a) shall apply to the delivery of water beginning on the date of renewal or amendment.".•

By Mr. KOHL:

S. 331. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

FAMILY FARM RETIREMENT EQUITY ACT

• Mr. KOHL. Mr. President, I rise today to introduce the Family Farm Retirement Equity Act of 1995, a bill to help improve the security of our Nation's retired farmers.

As we begin the 104th Congress, we can anticipate legislative action dealing with the tax treatment of retirement savings. President Clinton has laid out his proposals for changes in tax rules on savings, and the Republicans have made their proposed changes to the individual retirement account rules, as well; 1995 will also be the year that Congress reauthorizes the farm bill. This heightened attention to both retirement taxation issues and farm income issues affords this Congress the perfect opportunity to address an issue of great importance to rural America: farmer retirement.

Farming is a highly capital-intensive business. To the extent that the average farmer reaps any profits from his or her farming operation, much of that income is directly reinvested into the farm. Rarely are there opportunities for farmers to put money aside in individual retirement accounts. Instead, farmers tend to rely on the sale of their accumulated capital assets, such as real estate, livestock, and machinery, in order to provide the income to sustain them during retirement. All too often, farmers are finding that the lump-sum payments of capital gains taxes levied on those assets leave little for retirement. It is with that problem in mind that I am introducing the Family Farm Retirement Equity Act.

This legislation would provide retiring farmers the opportunity to rollover the proceeds from the sale of their farms into a tax-deferred retirement account. Instead of paying a large lump-sum capital gains tax at the point of sale, the income from the sale of a farm would be taxed only as it is withdrawn from the retirement account. Such a change in method of taxation would help prevent the financial distress that many farmers now face upon retirement.

Another concern that I have about rural America is the diminishing interest of our younger rural citizens in continuing in farming. Because this legislation will facilitate the transition of our older farmers into a successful retirement, the Family Farm Retirement Equity Act will also pave the way for a more graceful transition of our younger farmers toward farm ownership. While low prices and low profits in farming will continue to take their toll on our younger farmers, I believe that this will be one tool we can use to make farming more viable for the next generation.

This proposal is supported by farmers throughout the country, and I am proud to introduce this legislation.

I ask unanimous consent that the full text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.

(a) SHORT TITLE.—This Act may be cited as the "Family Farm Retirement Equity Act of 1995".

(b) REFERENCE TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

"(1) IN GENERAL.—Any individual who—

"(A) makes a contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).".

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) of the Internal Revenue Code of 1986 (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.".

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) of such Code is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 of such Code is amended by inserting "**ASSET ROLLOVER ACCOUNTS**," after "**CONTRACTS**".

(C) The table of sections for chapter 43 of such Code is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) of the Internal Revenue Code of 1986 (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) of such Code is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Subparagraph (A) of section 6693(b)(1) of such Code is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(B) Section 6693(b)(2) of such Code is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.●

ADDITIONAL COSPONSORS

S. 14

At the request of Mr. EXON, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 14, a bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed cancellations of budget items.

S. 45

At the request of Mr. FEINGOLD, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 45, a bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 73

At the request of Mr. INOUYE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 73, a bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary stores and post and base exchanges.

S. 228

At the request of Mr. BRYAN, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 228, a bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress and congressional employees for retirement purposes.

S. 230

At the request of Mr. DOLE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 230, a bill to prohibit U.S. assistance to countries that prohibit or restrict the transport or delivery of U.S. humanitarian assistance.

S. 233

At the request of Mr. MCCAIN, the name of the Senator from Oklahoma

[Mr. INHOFE] was added as a cosponsor of S. 233, a bill to provide for the termination of reporting requirements of certain executive reports submitted to the Congress, and for other purposes.

S. 240

At the request of Mr. DOMENICI, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

S. 245

At the request of Mr. COHEN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 245, a bill to provide for enhanced penalties for health care fraud, and for other purposes.

S. 270

At the request of Mr. SMITH, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 270, a bill to provide special procedures for the removal of alien terrorists.

S. 287

At the request of Mrs. HUTCHISON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 296

At the request of Mr. KENNEDY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 296, a bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes.

SENATE JOINT RESOLUTION 16

At the request of Mr. BROWN, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of Senate Joint Resolution 16, a joint resolution proposing an amendment to the Constitution of the United States to grant the President line-item veto authority.

SENATE JOINT RESOLUTION 17

At the request of Mr. KEMPTHORNE, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of Senate Joint Resolution 17, a joint resolution naming the CVN-76 aircraft carrier as the U.S.S. *Ronald Reagan*.

SENATE JOINT RESOLUTION 19

At the request of Mr. BROWN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Joint Resolution 19, a joint resolution proposing an amendment to the Constitution of the United States relative to limiting congressional terms.

SENATE JOINT RESOLUTION 25

At the request of Mr. KENNEDY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 25, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

SENATE RESOLUTION 37

At the request of Mr. DORGAN, his name was added as a cosponsor of Senate Resolution 37, a resolution designating February 2, 1995, and February 1, 1996, as "National Women and Girls in Sports Day."

SENATE RESOLUTION 75—TO DESIGNATE OCTOBER 1996 AS "ROOSEVELT HISTORY MONTH"

Mr. MOYNIHAN (for himself, Mr. D'AMATO, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 75

Whereas January 30, 1995, is the 113th anniversary of the birth of President Franklin Delano Roosevelt in Hyde Park, New York;

Whereas almost a half-century after the death of President Roosevelt, his legacy remains central to the public life of the Nation;

Whereas before becoming President of the United States, Franklin Delano Roosevelt served in the New York State Senate and later was appointed Assistant Secretary of the Navy, and in 1928 became Governor of New York;

Whereas as President of the United States between 1933 and 1945, Franklin Delano Roosevelt guided the Nation through 2 of the greatest crises of the twentieth century, the Great Depression and the Second World War, and in so doing, changed the course of American politics;

Whereas a memorial in stone in the District of Columbia will soon be dedicated to his memory, as authorized by Congress in 1955; and

Whereas a month commemorating the history of Franklin Delano Roosevelt would complement the dedication of the memorial: Now, therefore, be it

Resolved, That October, 1996, should be designated "Roosevelt History Month". The President is requested to issue a proclamation calling on the people of the United States to observe the month with appropriate ceremonies and activities.

Mr. MOYNIHAN. Mr. President, I rise to submit a resolution designating October 1996 as "Roosevelt History Month," to coincide with the dedication of the new Franklin Delano Roosevelt Memorial now being built in the District of Columbia. A national history month celebrating the achievements of Franklin and Eleanor Roosevelt is an appropriate and necessary complement to the new memorial.

Franklin Delano Roosevelt was born on January 30, 1882, in Hyde Park, NY, and entered politics in 1910 with his election to the New York State Senate. Later, he was appointed Assistant Secretary of the Navy and then sought and lost a bid for a seat in the U.S. Senate. Despite a debilitating attack of polio, he went on to become Governor of New York in 1928, establishing New York's first program of unemployment relief.

As President of the United States from 1933 to 1945, Franklin Delano Roosevelt guided this Nation through two of the gravest crises of the 20th century, the Great Depression and the Second World War. In so doing, he defined our national stature and secured his place as one of the greatest American Presidents of the 20th century.

It is therefore fitting that our country honor his efforts, and those of his wife, with a celebration of Roosevelt History Month. Citizens and organizations across the Nation may observe the month with appropriate ceremonies and activities to learn about a President and a generation who gave much to the Nation. Soon, a new granite memorial will be dedicated to President Roosevelt. I rise today and urge my colleagues to join me in dedicating a month to his legacy, a memorial of thought and history to complement the one of stone.

SENATE RESOLUTION 76—RELATIVE TO THE SELECT COMMITTEE ON ETHICS

Mr. HELMS submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 76

Resolved, That (a) subsection (a) of the first section of Senate Resolution 338, agreed to July 23, 1964 (88th Congress, 2d session), is amended to read as follows: "(a)(1) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to in this resolution as the 'Select Committee') consisting of 6 members all of whom shall be private citizens. Three members of the Select Committee shall be selected by the Majority Leader and 3 shall be selected by the Minority Leader. Each member of the Select Committee shall serve 6 years except that the Majority Leader and the Minority Leader when making their initial appointments shall each designate 1 member to serve only 2 years and 1 member to serve only 4 years. At least 2 members of the Select Committee shall be retired Federal judges, and at least 2 members of the Select Committee shall be former members of the Senate. Members of the Select Committee may be reappointed.

"(2) The Select Committee shall select a chairman and a vice chairman from among its members.

"(3) Members of the Select Committee shall serve without compensation but shall be entitled to travel and per diem expenses in accordance with the rules and regulations of the Senate.".

(b) Subsection (e) of the first section of Senate Resolution 338 (as referred to in subsection (a)) is repealed.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, February 1, 1995, at 9:30 a.m., in SR–332, to mark up S. 178, the Commodity Futures Trading Commission Reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, February 1, 1995, at 10 a.m. for an organizational meeting and markup on S. 244, the Paperwork Reduction Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. HATCH. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold an organizational meeting for the 104th Congress. The meeting will be held on February 1, 1995, at 10 a.m., in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution, Federalism, and Property Rights, of the Committee on the Judiciary, be authorized to hold a business meeting during the session of the Senate on Wednesday, February 1, 1995, to consider Senate Joint Resolution 19 and Senate Joint Resolution 21.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO IONE DUKE

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to an outstanding Kentuckian. Ms. Ione Duke of Morgantown, KY, gives fully and wholeheartedly of herself to her church and community. She deserves to be recognized for her many contributions as she turns 90 years young.

Ms. Duke joined the Methodist Episcopal Church in 1915. For the past 79 years Ms. Duke has devoted much of her time to religious service throughout western Kentucky. Among her accomplishments are serving as the first president of the Local Missionary Society and Organization, her appointment by the Bowling Green district as the Rural Woman of Kentucky, and presiding as the church choir director and pianist from her youth until 1980.

Ms. Duke's musical talent allowed her to pursue a career in teaching public school music and directing high school choir in several schools throughout Butler County. Ms. Duke has also directed countywide cantatas that encompassed a group of singers from all denominations.

Ms. Duke has been actively involved in many civic organizations. She is a member of the Historical Society of both Butler and Ohio Counties. She was involved in the Women's Civic League. She has contributed her energy and talents to many other organizations and projects in which she volunteered tirelessly.

Mr. President, Ms. Duke's church and community should be very pleased to have such an outstanding member. Her community owes her a debt of gratitude and I feel that she deserves much recognition for her accomplishments and contributions. It is impossible to list everything Ms. Duke has done to make western Kentucky a better place, but she is truly an outstanding person and I extend to her my congratulations on her many accomplishments.•

SOCIAL SECURITY AMENDMENTS

• Mr. ROCKEFELLER. Mr. President, I believe that many senior citizens will be confused by the floor debates and amendments on Social Security offered last week during debates on the unfunded mandates legislation, and in the future in regard to the balanced budget amendment. Such confusion is understandable. Both sides tend to claim to be protecting Social Security.

Last week, I voted for Senator HARKIN's amendment to the S. 1, the Unfunded Mandate Reform Act of 1995, instead of Senator KEMPTHORNE's amendment, because I believed that the language of the Harkin amendment was much stronger language to protect Social Security trust funds if a constitutional amendment to balance the budget is adopted.

Personally, I oppose a balanced budget amendment, and I hope that over the course, of time people will understand how such an amendment will affect programs that are vital to the citizens in their States and that such a balanced budget amendment will not be added to the Constitution.

But because the fate of a constitutional amendment to balance the budget remains unclear, the Harkin amendment is a very important symbol of the intention of the Senate not to jeopardize or play games with Social Security or use the Social Security trust fund in calculations to balance the budget.

I voted last week for Senator HARKIN's amendment which says that Social Security should be exempt in any calculations required by a balanced budget. I did it to protect the Social Security trust funds and to reassure senior citizens who rely on Social Security benefits. My record in fighting to protect Social Security and senior citizens is clear.•

HITTERS HALL OF FAME

• Mr. MACK. Mr. President, last year I had the privilege of speaking before the Senate on the occasion of the dedication of the Ted Williams Retrospective Museum and Library. I rise to speak today because on February 8 and 9 the Ted Williams Museum is opening the Hitters Hall of Fame and an 85-seat theater. Ted has specifically chosen the 20 greatest hitters of baseball to be inducted in the inaugural class. Each subsequent year, two more hitting greats will be inducted into the Hitters Hall of Fame. The inaugural class of inductees includes:

Babe Ruth, New York Yankees.
Lou Gehrig, New York Yankees.
Jimmie Foxx, Boston Red Sox.
Rogers Hornsby, Saint Louis Cardinals.
Joe DiMaggio, New York Yankees.
Ty Cobb, Detroit Tigers.
Stan Musial, Saint Louis Cardinals.
Joe Jackson, Chicago White Sox.
Hank Aaron, Milwaukee-Atlanta Braves.
Willie Mays, New York Giants.
Hank Greenberg, Detroit Tigers.
Mickey Mantle, New York Yankees.
Tris Speaker, Cleveland Indians.
Al Simmons, Philadelphia Athletics.
Johnny Mize, New York Giants.
Mel Ott, New York Giants.
Harry Heilmann, Detroit Tigers.
Frank Robinson, Baltimore Orioles.
Mike Schmidt, Philadelphia Phillies.
Ralph Kiner, Pittsburgh Pirates.

In addition to the annual induction of two new members, the Hitters Hall of Fame will recognize four active players, two from the National League and two from the American League, for their hitting prowess. This year the Hall would like to recognize Tony Gwynn, San Diego Padres, Jeff Bagwell, Houston Astros, from the National League; and Frank Thomas, Chicago White Sox, and Ken Griffey, Jr., Seattle Mariners, of the American League.

As you know, Mr. President, my family has a long history of association with major league baseball. It is a great honor for me to be able recognize these heroes of America's national pastime, and I am proud that their memories will live on in the Ted Williams Museum in Hernando, FL.•

EVERETT McKINLEY DIRKSEN: PRAGMATIC CONSERVATIVE

• Mr. SIMON. Mr. President, Everett McKinley Dirksen of Pekin, IL, who served this body so well as the Republican leader of the U.S. Senate, was one of the most capable political figures of his time and of the modern era.

Historians generally acknowledge, for instance, that without Everett Dirksen's backing, such landmark legislation as the 1964 Civil Rights Act almost certainly would not have passed.

Thomas McArdle, offers an insightful profile of Everett Dirksen in a recent article published by Investor's Business Daily.

Mr. President, I call the attention of my colleagues to this article and ask that it be printed in the RECORD.

The article follows:

SEN. EVERETT DIRKSEN: HE EPITOMIZED THE NOTION OF "PRAGMATIC CONSERVATISM"

(By Thomas McArdle)

Today, the country's most influential Republican leader, Speaker of the House Newt Gingrich, R-Ga., proclaims that he will cooperate with President Clinton, but is unwilling to compromise.

What a contrast to the late Senate Republican Leader Everett McKinley Dirksen, who was fond of replying to detractors who accused him of not standing for very much, "If there were no compromise, there might not have been a Constitution of the United States."

Dirksen is remembered as a honeytoned orator who could endear himself even to a hostile audience. His baggyclothes and unkept hair were legendary, but it was a rumpled, folksy image he deliberately cultivated.

Moreover, he was far from being just the colorful, lovable clown political cartoonists loved to peg him as. He may have been the senator who delivered an annual speech in praise of the marigold, but there was substance underneath of idiosyncracies.

Dirksen was both in 1896 in Pekin, Ill., part of Rep. Abraham Lincoln's congressional district in the 1840s. As a boy, Dirksen knew some old-timers in the town who actually knew Lincoln personally. His sentimentality towards Lincoln would pervade his speeches and statements all of Dirksen's career.

His parents were immigrants from Ostfriesland in northern Germany. His father, like many of his fellow German-immigrant and native-born neighbors in Pekin, had an unquestioning loyalty to the Republican Party unheard of today. Dirksen's middle name came from then-Ohio Governor William McKinley, soon to become the next Republican president. His twin brother was named after the sitting GOP speaker of the House and his older brother after the last Republic president, Benjamin Harrison.

When he was five, Dirksen's father suffered a debilitating stroke and the young sons were forced to work hard on the family's small farm. Rising before dawn each workday was a habit Dirksen would maintain all his life.

He displayed extraordinary political acumen early on, gaining his first term in the House of Representatives by beating a multimillionaire, five-term GOP incumbent in the party primary. He then handily defeated the Democratic challenger—in 1932, the year voters were so mad at Republicans for the Great Depression that Franklin Roosevelt won the presidency in a landslide and a national realignment in favor of the Democratic Party began. Dirksen won the district by almost as great a margin as Roosevelt.

Republican leaders were wary of him even this early. He had run a campaign aimed at garnering the votes of those who would be supporting FDR, and even praised Democratic candidates for other offices.

It was a pragmatism that would characterize Dirksen throughout his career. On his death in 1969, conservative columnist William F. Buckley, Jr., then much more a firebrand than today, would assess the senator in an otherwise glowing obituary as "so much the pragmatist that you couldn't really count on him in a pinch."

The Chicago Sun-Times once estimated that in his 17 years in the House of Representatives, Dirksen changed his mind 62 times on foreign policy, 31 times on military affairs, and 70 times on agriculture issues. Then, in the Senate he outdid that record.

His most famous about-faces were on the nuclear test-ban treaty and the Civil Rights Act. In the summer of 1963 he opposed the enactment of federal guarantees of the right of blacks to use any hotel, restaurant or other public accommodation on property rights grounds, the core of the proposal by President Kennedy, though he supported its other provisions.

The next year, with Johnson having replaced the assassinated JFK, some savvy maneuvering by Democrats for Republican support in the House forced Dirksen in the Senate to soften. He ended up becoming instrumental in passage of the Civil Rights Act, using his party to provide the margin of victory.

Sen. Richard Russell, D-Ga., "says the Attorney General (Bobby Kennedy) has nailed my skin to the barn door to dry," Dirksen told a reporter in typical Dirksenesque language. "Well, nobody has hung up my conscience and my sense of history to dry. Pardon me for the sermon."

Dirksen also immediately opposed upon hearing about it the administration's treaty with the Soviet Union to ban nuclear tests in the atmosphere. But by September Dirksen realized that public support for the treaty was very strong. He ended up turning 180 degrees, supporting the test ban entirely, but only after he persuaded Kennedy to write a letter assuring that the U.S. nuclear weapons program would not be slowed down.

"They called him the Wizard of Ooze," recalled former National Review Publisher William A. Rusher, author of "The Rise of the Right," a chronicle of conservatism's struggle to power in the GOP. But Dirksen's smoothness never seemed to leave him alienated from conservatives the way many of today's Republican "pragmatists" are. Much of that undoubtedly stemmed from his support of isolationist Sen. Robert Taft's R-Ohio, failed run for the party presidential nomination in 1952 and Dirksen's opposition to the Senate's censuring of Sen. Joseph McCarthy, R-Wis., in 1954 (though he severed relations with McCarthy very soon after that).

"Certainly, speaking as a conservative, I regarded Everett Dirksen as a friend and I think he would be delighted to see all that's happened," Rusher added.

Lee Edwards, president of the Center for International Relations and author of a soon-to-be-released biography of Barry Goldwater, noted that Dirksen had a strong role early on the Goldwater's rise to power.

On a trip to speak to the Arizona GOP, Dirksen personally took Goldwater aside and advised him to run for the U.S. Senate when the Arizonan was only a city councilman.

"Goldwater has admitted on more than one occasion that it did make a difference in his decision to run," according to Edwards.

His heavy smoking and drinking eventually caught up with Dirksen and he died of complications from lung cancer surgery in 1969. One of the three Senate office buildings across the street from the U.S. Capitol bears his name, the two others named after Democratic senators. He lay in state under the dome of the Capitol on the same black catafalque as Lincoln, then only the third senator so honored.•

TRIBUTE TO KATHERINE M. LIDDLE

• Mr. McCONNELL. Mr. President, I want to pay tribute to Katherine M. Liddle who died in Reston, VA, on December 1, 1994. Mrs. Liddle was a long-time resident of Pineville, KY, and will be remembered and missed by many.

Mrs. Liddle was born in Oaks, KY. She was a graduate of Pineville High School and Union College in Barbourville, KY. Mrs. Liddle began teaching within the county system in a one-room school with six grades. In 1973 she began teaching the sixth grade at the Pineville Independent School where she finished her teaching career 20 years later.

Mrs. Liddle was the wife of the late James J. Liddle. She had one son, Jack, who now resides in Reston, VA. She was a long-time member of the First Baptist Church in Pineville, KY.

Mr. President, I ask that my colleagues join me in sending the Chamber's sincere condolences to the family of Katherine M. Liddle. I am confident that her strength of character will remain a standard of excellence for generations to come.•

HUMAN RIGHTS REPORT ON TIBET

• Mr. MOYNIHAN. Mr. President, today the Department of State has taken an important step toward recognizing the reality of the status of Tibet. The annual "Country Reports on Human Rights Practices" was released today and for the first time there is a separate section on Tibet.

For years there has been a fundamental difference in the way Congress and the executive branch have viewed Tibet. While the executive branch has attempted to obscure the fact that at one time we did support Tibet, Congress has stated its determination that Tibet is an occupied country. By separating the Tibet section from the China section on the human rights report, there is finally an acknowledgement that the administration recognizes Tibet as distinct from China.

This new Tibet section fulfills one aspect of a provision which I introduced and was later signed into law as part of the State Department authorization act for fiscal year 1994–95. While I do not agree with certain portions of the report on Tibet, it is not without merit, and its authors deserve respect as able diplomats.

This will send a clear signal to those in Beijing as well as those in Dharmsala, India where the Dalai Lama lives in exile, that the United States recognizes the special situation the Tibetans face. Those in Dharmsala have long known Congress supports them; now they can more clearly gauge the sentiments of the administration. This has been confusing. As the eminent journalist A.M. Rosenthal, who visited the Tibetans in exile in 1988, wrote:

> People in Dharmsala are understandably hazy about the intricacies of American government. They cannot quite get it straight

how the Congress can be so warm to Tibet and the State Department and the White House make it clear that they intend to disregard Congress and continue the sellout of Tibet.

Perhaps this marks a new chapter in United States foreign policy in which support for the people of Tibet will no longer be hazy.•

LAWSUIT REFORM ACT

• Mr. MCCONNELL. Mr. President, I ask that the text of S. 300 be printed in the RECORD.

The bill follows:

S. 300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lawsuit Reform Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Authority.
Sec. 5. Equity in legal fees.
Sec. 6. Early offer and recovery mechanisms.
Sec. 7. Reform of joint and several liability.
Sec. 8. Single recovery.
Sec. 9. Limitation on punitive damages.
Sec. 10. Alternative dispute resolution.
Sec. 11. Reliability of expert evidence.
Sec. 12. Express authorization for private right of action.
Sec. 13. Applicability.
Sec. 14. Severability.
Sec. 15. Effective date.

SEC. 3. FINDINGS.

The Congress finds that—

(1) the United States civil justice system is inefficient, unpredictable, costly, and impedes competitiveness in the world marketplace for business and employees;

(2) the defects in the civil justice system have a direct and undesirable effect on interstate commerce by decreasing the availability of goods and services in commerce;

(3) reform efforts should respect the role of the States in the development of civil justice rules, but recognize the national Government's role in removing barriers to interstate commerce;

(4) the spiralling cost of litigation has continued unabated for the past 30 years; and

(5) there is a need to restore rationality, certainty, and fairness to the legal system, to promote honesty and integrity within the legal profession, and to encourage alternative means to the contentious litigation system in resolving disputes.

SEC. 4. AUTHORITY.

This Act is enacted pursuant to Congress' powers under Article I, section 8, clauses 3, 9, and 18, of the United States Constitution.

SEC. 5. EQUITY IN LEGAL FEES.

(a) DISCLOSURE OF ATTORNEY'S FEES INFORMATION.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) the term "attorney" means any natural person, professional law association, corporation, or partnership authorized under applicable State law to practice law;

(B) the term "attorney's services" means the professional advice or counseling of or representation by an attorney, but such term shall not include other assistance incurred, directly or indirectly, in connection with an attorney's services, such as administrative or secretarial assistance, overhead, travel expenses, witness fees, or preparation by a person other than the attorney of any study, analysis, report, or test;

(C) the term "claimant" means any natural person who files a civil action arising under any Federal law or in any diversity action in Federal court and—

(i) if such a claim is filed on behalf of the claimant's estate, the term shall include the claimant's personal representative; or

(ii) if such a claim is brought on behalf of a minor or incompetent, the term shall include the claimant's parent, guardian, or personal representative;

(D) the term "contingent fee" means the cost or price of an attorney's services determined by applying a specified percentage, which may be a firm fixed percentage, a graduated or sliding percentage, or any combination thereof, to the amount of the settlement or judgment obtained;

(E) the term "hourly fee" means the cost or price per hour of an attorney's services;

(F) the term "initial meeting" means the first conference or discussion between the claimant and the attorney, whether by telephone or in person, concerning the details, facts, or basis of the claim;

(G) the term "natural person" means any individual, and does not include an artificial organization or legal entity, such as a firm, corporation, association, company, partnership, society, joint venture, or governmental body; and

(H) the term "retain" means the act of a claimant in engaging an attorney's services, whether by express or implied agreement, by seeking and obtaining the attorney's services.

(2) DECISION ON COMPENSATION.—A claimant who retains an attorney may elect whether to compensate the attorney's services in connection with the claim on an hourly basis or a contingent fee basis.

(3) DISCLOSURE AT INITIAL MEETING.—An attorney retained by a claimant shall, at the initial meeting, disclose to the claimant the claimant's right to elect the method of compensating the attorney's services and the claimant's right to receive a written statement of the information described under paragraph (5).

(4) RIGHT OF ATTORNEY.—If, within 30 days after receiving the information described under paragraph (5), a claimant has failed to elect the method of compensating the attorney's services, the attorney may select the method of compensation and shall notify the claimant of the selection.

(5) INFORMATION AFTER INITIAL MEETING.—Within 30 days after the initial meeting, an attorney retained by a claimant shall provide a written statement to the claimant containing—

(A) the estimated number of hours of the attorney's services that will be spent—

(i) settling or attempting to settle the claim or action; and

(ii) handling the claim through trial;

(B) the attorney's hourly fee for services in the claim or action and any conditions, limitations, restrictions, or other qualifications on the fee the attorney determines are appropriate; and

(C) the attorney's contingent fee for services in the claim or action and any conditions, limitations, restrictions, or other qualifications on the fee the attorney determines are appropriate.

(6) INFORMATION AFTER SETTLEMENT.—An attorney retained by a claimant shall, within a reasonable time not later than 30 days after the date on which the claim or action is finally settled or adjudicated, provide a written statement to the claimant containing—

(A) the actual number of hours of the attorney's services in connection with the claim;

(B) the total amount of the hourly fees or total contingent fee for the attorney's services in connection with the claim; and

(C) the actual fee per hour of the attorney's services in connection with the claim, determined by dividing the total amount of the hourly fees or the total contingent fee by the actual number of hours of attorney's services.

(7) FAILURE TO DISCLOSE.—A claimant to whom an attorney fails to disclose information required by this section may withhold 10 percent of the fee and file a civil action for damages in the court in which the claim or action was filed or could have been filed.

(8) OTHER REMEDIES.—This section shall supplement and not supplant any other available remedies or penalties.

(b) LIMITATION ON ATTORNEY CONTINGENT FEES.—

(1) DEFINITIONS.—For purposes of this subsection, the term—

(A) "allegedly liable party" means a person, partnership, corporation, and the insurers thereof, or any other individual or entity alleged by the claimant to be liable for at least some portion of the damages alleged by the claimant;

(B) "claimant" means an individual who, in his or her own right, or vicariously, is seeking compensation for tortious physical or mental injury, property damage, or economic loss;

(C) "contingent fee" means the fee negotiated in a contingent fee agreement which is only payable from the proceeds of any recovery on behalf of a claimant;

(D) "contingent fee agreement" means a fee agreement between an attorney and a claimant wherein the attorney agrees to bear the risk of no or inadequate compensation in exchange for a proportionate share of part of or all of any recovery by settlement or verdict obtained for the claimant;

(E) "contingent fee attorney" means an attorney who agrees to represent a claimant in exchange for a contingent fee;

(F) "fixed fee" means an agreement between an attorney and a claimant whereby the attorney agrees to perform a specific legal task in exchange for a specific sum to be paid by a claimant;

(G) "hourly rate fee"—

(i) means the fee generated by an agreement or otherwise by operation of law between an attorney and a claimant stating that the claimant pay the attorney a fee determined by multiplying the hourly rate negotiated, or otherwise set by law, between the attorney and the claimant, by the number of hours that the attorney has worked on behalf of the claimant in furtherance of the claimant's interest; and

(ii) may also be a contingent fee to the extent it is only payable from the proceeds of any recovery on behalf of the claimant;

(H) "pre-retention offer" means an offer to settle a claim for compensation for damages arising out of a civil action made to a claimant not represented by an attorney at the time of the offer;

(I) "post-retention offer" means an offer in response to a demand for compensation made within the time constraints, and conforming to the provisions of this subsection, to settle a claim for damages arising out of a civil action made to a claimant who is represented by a contingent fee attorney;

(J) "response" means a written communication by a claimant or an allegedly responsible party or the attorney for either, deposited into the United States Mail and sent by certified mail; and

(K) "settlement offer" means a written offer of settlement stated in a response filed within the time limits described in this subsection.

(2) APPLICABILITY.—(A) This subsection shall apply with respect to any civil action filed against any person in any Federal or State court based upon any cause of action (including, but not limited to negligence, strict or product liability, breach of implied warranty or professional malpractice) in which damages are sought for tortious physical or mental injury, property damage, or economic loss, except a civil action arising under a Federal law that authorizes an award of attorney fees to a prevailing party.

(B)(i) Nothing in this section shall apply to any agreement between a claimant and an attorney to—

(I) retain the attorney on an hourly rate fee or fixed fee basis solely to evaluate a pre-retention offer; and

(II) retain the attorney to collect overdue amounts from an accepted pre-retention or post-retention settlement offer.

(ii) This subsection shall not apply to contingent fee agreements in civil actions where neither a pre-retention nor a post-retention offer of settlement is made.

(3) WRITTEN HOURLY RATE FEE AGREEMENT.—With respect to a civil action, if a contingent fee attorney has not entered into a written agreement with a claimant at the time of retention setting forth the attorney's hourly rate, then a reasonable hourly rate shall be payable, subject to the limitations described in this section.

(4) NATURE OF DEMAND FOR COMPENSATION.—(A) With respect to a civil action, at any time after retention, a contingent fee attorney shall, on behalf of the claimant, send a demand for compensation by certified mail to an allegedly responsible party.

(B) The demand for compensation under subparagraph (A) shall contain the material facts relevant to the civil action involved and a description of the evidence determined by the contingent fee attorney to be discoverable by the alleged liable party during the course of litigation, including—

(i) the name, address, age, marital status and occupation of the claimant or of the injured or deceased party if the claimant is operating in a representative capacity;

(ii) a brief description of how the damages arose;

(iii) the names and, if known, the addresses, telephone numbers, and occupations of all known witnesses;

(iv) copies of photographs in the claimant's possession which relate to the claim for damages;

(v) the basis for claiming that the party to whom the claim is addressed is at least partially liable for causing the injury;

(vi) if the claim for damages is based upon a physical or mental injury—

(I) a description of the nature of the injury, the names and addresses of all physicians, other health care providers, and hospitals, clinics, or other medical service entities that provided medical care to the claimant or injured party including the date and nature of the service; and

(II) medical records relating to the injury and those involving a prior injury or preexisting medical condition which an allegedly liable party would be able to introduce into evidence in a trial or, in lieu thereof, providing executed releases allowing the allegedly responsible party to obtain such records directly from the claimant's physicians, health care providers and entities that provided medical care; and

(vii) with respect to demand for a compensation that includes an amount for medical expenses, wages lost or other special damages suffered as a consequence of the injury, relevant documentation thereof, including records of earnings if a claimant is self-employed and employer records of earnings if a claimant is employed.

(C) A claimant's attorney shall provide copies of each demand for compensation under this paragraph to the claimant and to each allegedly liable party at the time of the dispatch of the demand for compensation. Where reproduction costs would be significant relative to the size of the settlement offer, the claimant's attorney, may, in the alternative, offer other forms of access to the materials, convenient and at reasonable cost to allegedly responsible party's attorney.

(D) A contingent fee attorney who fails to file a demand for compensation under this paragraph shall not be entitled to any fee greater than 10 percent of any settlement or judgment received by the claimant client after reasonable expenses have been deducted.

(5) TIME LIMIT FOR RESPONSE SETTING FORTH SETTLEMENT OFFER.—(A) An allegedly liable party shall have 60 days from the date of the receipt of a demand for compensation under paragraph (4) to issue a response stating a settlement offer.

(B) If within 30 days after the date of the receipt of a demand for compensation under paragraph (4), an allegedly liable party notifies the attorney of the claimant that such party seeks to have a medical examination of the claimant, and the claimant is not made available for such examination within 10 days after the date of the receipt of such a request, the 60-day period described under subparagraph (A) shall be extended by one day for each day that such request is not honored after the expiration of such 10-day period. Any such extension shall also include a further period of 10 days from the date of the completion of the medical examination.

(C) A response under this paragraph shall be open for acceptance for a minimum of 30 days from the date of the receipt of such response by the attorney of the claimant and shall state whether such response expires in 30 days or remains open for acceptance for a longer period or until notice of withdrawal is given.

(D) A settlement offer in a response under this subsection may be increased during the 60-day period described under subparagraph (A) by issuing an additional response.

(E) If an additional response has been sent under this paragraph, the time for acceptance shall be 10 days from the date of the receipt of such additional response by the attorney of the claimant or 30 days from the date of the receipt of the initial response, whichever is later, unless the additional response specifies a longer period of time for acceptance as described under subparagraph (C).

(6) MATERIAL TO ACCOMPANY SETTLEMENT OFFER.—An allegedly responsible party and the attorney of such party shall include in any response stating a settlement offer under paragraph (5) copies of materials in their possession concerning the claim upon which the allegedly liable party relied in making a settlement offer, except for material which such party believes in good faith would not be discoverable by the claimant during the course of litigation. Where reproduction costs would be significant relative to the size of the settlement offer, the allegedly responsible party, may, in the alternative, offer other forms of access to the materials, convenient and at reasonable cost to claimant's attorney.

(7) EFFECT OF PRE-DEMAND SETTLEMENT OFFER.—A settlement offer under this subsection to a claimant represented by a contingent fee attorney made prior to the receipt of a demand for compensation, which is open for acceptance for 60 days or more from the time of its receipt and which conforms to the requirements of paragraph (6), shall be considered a post-retention offer and shall have the same effect under this subsection as if it were a response to a demand for compensation.

(8) PRE-RETENTION OFFER.—(A) An attorney retained after a claimant has received a pre-retention offer under this subsection may not enter into an agreement with the claimant to receive a contingent fee based upon or payable from the proceeds of the pre-retention offer which remains in effect.

(B) An attorney entering a fee agreement that would effectively result in a claimant's paying a percentage of a pre-retention offer to the attorney for prosecuting the claim shall be considered to have charged an unreasonable and excessive fee. With respect to an attorney where a pre-retention offer has been provided—

(i) the attorney may contract with a claimant to receive an hourly rate fee or fixed fee for advising the claimant regarding the pre-retention offer; or

(ii) the attorney may contract with a claimant to receive a contingent fee applicable to any amount received by a claimant, by settlement or judgment, above the amount of the pre-retention offer.

(9) POST-RETENTION OFFER WHERE A PRE-RETENTION OFFER HAS BEEN MADE.—A claimant in receipt of a pre-retention offer under this subsection which such claimant has not accepted and who later receives a post-retention offer which is accepted, is not obligated to pay the retained attorney a fee greater than the hourly rate fee calculated on the basis of the number of hours the attorney has worked on behalf of claimant in furtherance of the claimant's claim, but not exceeding 20 percent of the excess of the post-retention offer less the pre-retention offer.

(10) POST-RETENTION OFFER WHERE NO PRE-RETENTION OFFER HAS BEEN MADE.—A claimant not in receipt of a pre-retention offer under this subsection who has received a post-retention offer which is accepted, is not obligated to pay the retained attorney a fee greater than the hourly rate fee calculated on the basis of the number of hours the attorney has worked on behalf of claimant in furtherance of claimant's claim, but not exceeding 10 percent of the first $100,000, plus 5 percent of any amount above $100,000, of the accepted post-retention offer after reasonable expenses have been deducted.

(11) CALCULATION OF ATTORNEY FEE WHEN THERE IS A SUBSEQUENT RESOLUTION OF THE CLAIM.—If an allegedly liable party's post-retention settlement offer under this subsection is rejected, but a later settlement offer is accepted, or there is a judgment in favor of claimant, the claimant, irrespective of any pre-retention offer, is not obligated to pay the retained attorney a fee greater the sum of—

(A) the amount of the fee that would have been calculated under paragraph (10) had the post-retention offer been accepted but only as applied to the subsequent settlement offer or judgment up to the amount of the post-retention offer; and

(B) the product of multiplying the contingent fee percentage negotiated between the contingent fee attorney and claimant and the amount by which the subsequent settlement or judgment exceeds the post-retention offer, after reasonable expenses have been deducted.

(12) PROVISION OF CLOSING STATEMENT.—Upon receipt of any settlement or judgment under this subsection, and prior to disbursement thereof, a contingent fee attorney shall provide the claimant with a written statement detailing how the proceeds are to be distributed, including the amount of the expenses paid out or to be paid out of the proceeds, the amount of the fee, how the fee amount is calculated, and the amount due the claimant.

(13) EFFECT ON CONTRAVENING AGREEMENTS.—(A) A contingent fee attorney who enters into a fee agreement with a claimant which violates the provisions of this subsection is deemed to have charged an unreasonable and excessive fee.

(B) A claimant who has entered into an agreement with a contingent fee attorney which violates the provisions of this subsection is entitled to recover from the attorney any reasonable fees and costs incurred to establish such agreement violated the provisions of this subsection.

(C) The failure by the claimant's attorney, or the attorney for an alleged responsible party, to comply with the provisions of this subsection may be considered grounds for disciplinary proceedings and sanctions as determined appropriate by the licensing or regulatory agency or court of the State in which the claim arose.

(c) AMENDMENT TO THE FEDERAL RULES OF CIVIL PROCEDURE.—Rule 11(c) of the Federal Rules of Civil Procedure is amended—

(1) in the matter preceding paragraph (1) by striking out "may" and inserting in lieu thereof "shall";

(2) in subdivision (1)(A) in the third sentence by striking out "may" and inserting in lieu thereof "shall"; and

(3) in paragraph (2)—

(A) by amending the first sentence to read as follows: "A sanction imposed for a violation of this rule shall be sufficient to deter repetition of such conduct or comparable conduct by others similarly situated and to compensate the parties that were injured by such conduct."; and

(B) in the second sentence by striking ", if imposed on motion and warranted for effective deterrence,".

(d) PREVAILING PARTY COSTS AND ATTORNEYS' FEES.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in any civil action filed against any person in any Federal or State court, based on any cause of action (including, but not limited to negligence, strict or product liability, breach of implied warranty or professional malpractice) in which damages are sought for tortious physical or mental injury, property damage, or economic loss the court may award each prevailing party costs and reasonable attorneys' fees.

(2) AMOUNT OF AWARD.—An award of costs and reasonable attorneys' fees under paragraph (1) may not exceed—

(A) the actual cost incurred by the nonprevailing party or the attorneys' fee payable for services in connection with such civil action; or

(B) if no such cost was incurred by the nonprevailing party due to a contingency fee agreement, an amount equal to the reasonable costs that would have been incurred by the nonprevailing party for a noncontingent attorneys' fee payable for services in connection with such civil action.

(3) LIMITATION.—

(A) Notwithstanding paragraph (1) or (2), the court shall not award an attorney's fee in any case in which the nonprevailing party—

(i) had a taxable income of less than $75,000 in the calendar year preceding the calendar year in which the civil action was filed, if the nonprevailing party is an individual; or

(ii) had an average taxable income of less than $50,000 for the 3 calendar years preceding the calendar year in which the civil action was filed, if the nonprevailing party is not an individual.

(B) The court shall retain discretion to refuse to award or may reduce the amount awarded as an attorney's fee under paragraph (1) to the extent the court finds would be in the interests of justice.

SEC. 6. EARLY OFFER AND RECOVERY MECHANISMS.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1659. Early offer and recovery mechanisms

"(a) For purposes of this section:

"(1) The term 'allegedly liable defendant' means a person, partnership, or corporation alleged by the claimant to be responsible for at least some portion of an injury alleged by a claimant.

"(2) The term 'allowable expense' means reasonable expenses incurred for products, services, and accommodations reasonably needed for medical care, training, and other remedial treatment and care of an injured individual.

"(3) The term 'claimant' means an individual who, in his or her own right, or vicariously, is seeking compensation for tortious physical or mental injury, property damage or economic loss.

"(4) The term 'collateral benefits' means all benefits and advantages received or entitled to be received (regardless of the right of recoupment of any other entity, through subrogation, trust agreement, lien, or otherwise) by an injured individual or other entity as reimbursement of loss because of personal injury, payable or required to be paid—

"(A) in accordance with the laws of any State or the Federal Government (other than through a claim for breach of an obligation or duty);

"(B) under the terms of any health or accident insurance, wage or salary continuation plan, or disability income insurance; or

"(C) in discharge of familial obligations or support.

"(5) The term 'economic loss' means—

"(A) pecuniary loss and monetary expenses incurred by or on behalf of an injured individual as a result of tortious physical or mental injury, property damage, or economic loss, including allowable expenses, work loss, and replacement services loss, whether caused by pain and suffering or physical impairment, but not including noneconomic loss; minus

"(B) collateral benefits.

"(6) The term 'entity' includes an individual or person.

"(7) The term 'intentional misconduct' means conduct, whether by act or omission, which intentionally causes, or attempts to cause, by the one who acts or fails to act, injury or with knowledge that injury is substantially certain to follow. A person does not intentionally cause, or attempt to cause, injury if such party's act or failure to act is for the purpose of averting bodily harm to such party or another.

"(8) The term 'replacement services loss' means reasonable expenses incurred in obtaining ordinary and necessary services from others, not members of the injured individual's household or family, in lieu of those the injured individual would have performed for the benefit of the household or family, but does not include benefits received by the injured individual.

"(9) The term 'serious injury' means bodily injury which results in dismemberment, significant and permanent loss of an important bodily function, or significant and permanent scarring or disfigurement.

"(10) The term 'wanton conduct' means conduct that the allegedly responsible party must have realized was excessively dangerous, done heedlessly and recklessly, and with a conscious disregard to the consequences or the rights and safety of the claimant.

"(11) The term 'work loss' means loss of income from work the injured individual would have performed if the individual had not been injured, reduced by any income from substitute work actually performed by the individual or by income the individual would have earned in available appropriate substitute work that the individual was capable of performing but unreasonably failed to undertake.

"(b)(1) In any civil action or claim against any person, filed in any Federal or State court, based on any cause of action to recover damages or compensation for tortious physical or mental injury, property damage, or economic loss, any allegedly liable defendant shall have the option to offer, not later than 120 days after an injury or after the initiation of the liability claim, to compensate a claimant for reasonable economic loss, including future economic loss, less amounts available from collateral sources, and including reasonable hourly attorneys' fees for the claimant. A claimant who agrees in writing to such offer shall be foreclosed from bringing or continuing a civil action against any allegedly liable defendant and any other individuals or entities included under subsection (c). The claimant may extend the time for receiving the offer.

"(2) Nothing in this section shall preclude a State from enacting a requirement that compensation benefits offered under paragraph (1) shall include a minimum dollar amount in response to a claim for serious injury.

"(c) An offer under subsection (b) may include other allegedly liable defendants, individuals, or entities that were involved in the events which give rise to the civil action, regardless of the theory of liability on which the claim is based, with their consent.

"(d) Future economic damages shall be payable to an individual under this section as such damages occur.

"(e) If, after an offer is made under subsection (b), the participants in the offer dispute their relative contributions to the payments to be made to the individual, such disputes shall be resolved through binding arbitration in accordance with applicable rules and procedures established by the Attorney General of the United States.

"(f)(1) In no event shall a civil action be foreclosed under subsection (b) against any allegedly liable party if the injured individual elects to prove, beyond a reasonable doubt, that the allegedly liable party caused the injury by intentional or wanton misconduct.

"(2) This subsection shall not apply with respect to a personal injury unless the injured individual provides the allegedly liable party making an offer with a notice of such an election not later than 90 days after the date the offer of compensation benefits was made.

"(g) Nothing in this section shall be construed to effect any applicable statute of limitations of any State or of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1659. Early offer and recovery mechanisms.".

SEC. 7. REFORM OF JOINT AND SEVERAL LIABILITY.

(a) DEFINITION.—As used in this section, the term "concerted action" or "acting in concert" means the participation in joint conduct by 2 or more persons who agreed to jointly participate in such conduct with actual knowledge of the wrongfulness of the conduct.

(b) IN GENERAL.—(1) Except as provided under subsection (c), joint and several liability may not be applied to any civil action or claim against any person, filed in any Federal or State court, based on any cause of action to recover damages or compensation for tortious physical or mental injury, property damage, or economic loss.

(2) A person found liable for damages in any such action—

(A) may be found liable, if at all, only for damages directly attributable to the person's pro rata share of fault or responsibility; and

(B) may not be found liable for damages attributable to the pro rata share of fault or responsibility of any other person (without regard to whether that person is a party to the action), including any person filing the action.

(c) LIMITATION.—This section shall not apply to persons acting in concert where the concerted action proximately caused the injury for which one or more persons are found liable for damages.

SEC. 8. SINGLE RECOVERY.

(a) INADMISSIBLE EVIDENCE.—In any civil action or claim against any person, filed in any Federal or State court, based on any cause of action to recover damages or compensation for tortious physical or mental injury, property damage, or economic loss, the court shall not allow the admission into evidence of proof of economic losses that have been or will be paid by—

(1) Federal, State, or other governmental disability, unemployment, or sickness programs;

(2) Federal, State, or other governmental or private health insurance programs;

(3) private or public disability insurance programs;

(4) employer wage continuation programs;

(5) any other program or compensation system, if the payment is intended to compensate the claimant for the same injury or disability which is the subject of the claim; or

(6) persons other than family members of the claimant.

(b) ADMISSIBLE EVIDENCE.—Only evidence of economic loss that has not or will not be paid by the sources described under subsection (a) shall be admissible in an action or claim covered by this section.

(c) ELIMINATION OF SUBROGATION.—An entity that is the source of the payments for losses that are inadmissible under subsection (a)—

(1) shall not recover any amount against the claimant;

(2) shall not be subrogated to the rights of the claimant against the defendant; and

(3) shall not have a lien against the claimant's judgment, on account of its payment to the claimant for economic loss.

(d) PRETRIAL DETERMINATION.—The determination of whether a claimant seeking damages or compensation has received, will receive, or is entitled to receive, payment from any one or more sources described under subsection (a) (1) through (6) shall be made by the court in pretrial proceedings.

SEC. 9. LIMITATION ON PUNITIVE DAMAGES.

(a) IN GENERAL.—Except as provided under section 1977A of the Revised Statutes (42 U.S.C. 1981a), the amount of punitive damages that may be awarded in any civil action or claim filed in any Federal or State court, based on any cause of action to recover damages or compensation for tortious physical or mental injury, property damage, or economic loss shall not exceed the greater of—

(1) 3 times the amount awarded to the claimant for the economic injury on which such claim is based; or

(2) $250,000.

(b) APPLICATION BY COURT.—This section shall be applied by the court and shall not be disclosed to the jury.

SEC. 10. ALTERNATIVE DISPUTE RESOLUTION.

(a) GENERAL POLICY.—The policy of the United States is to encourage the creation and use of alternative dispute resolution techniques, and to promote the expeditious resolution of such actions, because the traditional litigation process is not always suited to the timely, efficient, and inexpensive resolution of civil actions.

(b) NOTICE OF AVAILABILITY OF ALTERNATIVE DISPUTE RESOLUTION.—In any civil action or claim arising under any Federal law or in any diversity action in Federal court, each attorney who has made an appearance in the case and who represents one or more of the parties to the action shall, with respect to each party separately represented, advise the party of the existence and availability of alternative dispute resolution options, including extra judicial proceedings such as minitrials, third-party mediation, court supervised arbitration, and summary jury trial proceedings.

(c) CERTIFICATION OF NOTICE.—Each attorney described under subsection (b) shall, simultaneous with the filing of a complaint or a responsive pleading, file a certification to the court that the attorney has provided the notice required under subsection (b) to the client or clients of such attorney. The attorney shall state in the certification whether such client will agree to one or more of the alternative dispute resolution techniques.

(d) AGREEMENT TO PROCEED WITH ALTERNATIVE DISPUTE RESOLUTION.—If all parties to an action agree to proceed with one or more alternative dispute resolution proceedings, the court shall issue an appropriate order governing the conduct of such proceedings. The issuance of an order governing the proceedings shall constitute a waiver, by each party subject to the order, of the right to proceed further in court.

SEC. 11. RELIABILITY OF EXPERT EVIDENCE.

Rule 702 of the Federal Rules of Evidence is amended—

(1) by striking out "If" and inserting in lieu thereof "(a) IN GENERAL.—Subject to subsection (b), if"; and

(2) by adding at the end thereof the following:

"(b) ADEQUATE BASIS FOR OPINION.—Testimony in the form of an opinion by a witness that is based on scientific knowledge shall be inadmissible in evidence unless the court determines that such opinion is—

"(1) based on scientifically valid reasoning; and

"(2) sufficiently reliable so that the probative value of such evidence outweighs the dangers specified under rule 403.

(c) EXPERT OPINIONS ON NOVEL SCIENTIFIC PRINCIPLES OR DISCOVERIES.—Where testimony in the form of an opinion by a witness is sought to be used to establish a novel scientific principle or discovery, it shall be admissible only if the principle or discovery, or its scientific underpinning, is sufficiently established to have gained general acceptance in the field in which it belongs.

"(d) DISQUALIFICATION.—Testimony by a witness who is qualified as an expert under subsection (a) is inadmissible in evidence if such witness is entitled to receive any compensation directly or indirectly contingent on the legal disposition of any claim with respect to which such testimony is offered.".

SEC. 12. EXPRESS AUTHORIZATION FOR PRIVATE RIGHT OF ACTION.

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1368. Private right of action

"No district court shall have jurisdiction over any civil action filed by a party based on a private right of action, unless such private right of action is expressly authorized in the statute on which such action is based.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1368. Private right of action.".

(c) STATE COURTS.—No Federal statute shall be construed to give rise to a private right of action in a State court, unless such private right of action is expressly authorized in the statute on which such action is based.

SEC. 13. APPLICABILITY.

(a) PREEMPTION.—This Act shall preempt and supersede other Federal or State laws only to the extent any such law is inconsistent with this Act. This Act shall not preempt any Federal or State law that provides for defenses in addition to those contained in this Act, places greater limitations on the amount of attorney's fees that can be collected, or additional disclosure requirements upon attorneys, or otherwise imposes restrictions on economic, noneconomic, or punitive damages. Any issue arising under this Act that is not governed by the provisions of this Act shall be governed by applicable Federal or State law.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign or of a citizen of a foreign nation on the ground of inconvenient forum.

(c) STATE ELECTION REGARDING APPLICABILITY.—A provision of this Act shall not apply to a State if such State enacts a statute—

(1) citing the authority of this subsection; and

(2) declaring the election of such State that such provision shall not apply to the State.

SEC. 14. SEVERABILITY.

If any provision of this Act or the application of any such provision to any person or circumstance is held invalid, the remainder of this Act and the application of any provision to any other person or circumstance shall not be affected thereby.

SEC. 15. EFFECTIVE DATE.

This Act shall take effect and apply to claims or actions filed on and after the date occurring 30 days after the date of enactment of this Act.●

ORDERS FOR THURSDAY, FEBRUARY 2, 1995

Mr. HATCH. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Thursday, February 2, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak for not more than 5 minutes each, with the following Senators to speak for up to the designated times: Senator MURKOWSKI, 20 minutes; Senator CONRAD, 15 minutes; Senator DORGAN, 10 minutes; Senator CAMPBELL, 10 minutes.

I further ask unanimous consent that at 10:30 a.m. the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. HATCH. If there is no further business to come before the Senate and no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 5:31 p.m., recessed until Thursday, February 2, 1995, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, February 1, 1995*

The House met at 11 a.m.

PRAYER

The Reverend Wade A. Watts, Jerusalem Baptist Church, McAlester, OK, offered the following prayer:

Our Father in Heaven, we pray this morning for peace, freedom, justice, and equality for all throughout the entire world. We pray for these Congressmen. We pray that You would let them down in the deep secrets of Thy knowledge that they may render the right decision.

Give them the faith of Abraham, the wisdom of King Solomon, the courage of the Apostle Paul, and if it be so that strength shall fail them, we pray, Heavenly Father, that You will stand by.

If enemies shall increase and Satan's shots shall be multiplied, stay with them.

If temptation grows stronger and friends grow faint and weary, do not leave them alone. Throw that ever protecting arm of love around them and see that no hurt, harm, or danger come to them.

This is Your humble servant's feeble prayer. In Jesus' name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Oklahoma [Mr. BREWSTER] will lead the House in the Pledge of Allegiance.

Mr. BREWSTER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOME TO THE REVEREND WADE WATTS

(Mr. BREWSTER asked and was given permission to address the House for 1 minute.)

Mr. BREWSTER. Mr. Speaker, I rise today to introduce Rev. Wade Watts of the McAlester, OK, Jerusalem Baptist Church.

Reverend Watts, who just gave today's opening prayer, is one of the most respected and well-known ministers in southeastern Oklahoma.

He has been the pastor of the Jerusalem Baptist Church for 22 years. He served on President Johnson's Advisory Commission on Civil Rights for 4 years, as well as the Oklahoma crime commission for 4 years.

Reverend Watts has also served 16 years as State president of the NAACP.

The reverend is also one of the few people in my district who can claim the privilege of knowing and working with the Reverend Martin Luther King, Jr., with whom he marched in Selma, AL.

Reverend Watts has experienced trouble and turmoil. In the early seventies the Ku Klux Klan burned down his church. The reverend's spirit was not defeated. Over the next several years Reverend Watts was successful in saving the State's imperial wizard from the hatred and anger of his group and converted him to Christianity.

I would also like to take this opportunity to recognize Reverend Watts' hometown State senator who accompanied him to Washington. Senator Gene Stipe of McAlester, who is with us today, is the longest serving member of the State legislature in Oklahoma history.

It is my honor, Mr. Speaker, to host and introduce Reverend Watts to the House of Representatives as today's Chaplain.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. UPTON). The Chair will announce that he will entertain 15 1-minutes from both sides today.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, our Contract With America states the following: On the first day of Congress, a Republican House will require Congress to live under the same laws as everyone else, cut one-third of committee staff, cut the congressional budget. We have done that.

It goes on to state that in the first 100 days we will vote on the following items: A balanced budget amendment; we have done this and passed it; unfunded mandates legislation, line-item veto, a new crime bill to stop violent criminals, welfare reform to encourage work, not dependence, family reinforcement to crack down on deadbeat dads to protect our children, tax cuts for families to lift Government's burden from middle-class, middle-income Americans, national security restoration to restore our freedoms, Senior Citizens' Equity Act to allow our seniors to work without Government penalty, Government regulation and unfunded mandate reforms, commonsense legal reforms to end frivolous lawsuits, and congressional term limits to make Congress a citizen legislation.

This is our Contract With America.

LEAVE INTEREST RATES ALONE

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, the American people are sending a very simple message today: "Don't do it, Mr. Greenspan, don't raise interest rates. Every time you raise interest rates, working middle-class families get hurt."

Six times in the past 2 years interest rates have gone up. Those increases alone have added $24,000 to the price of a 30-year, $50,000 mortgage, $24,000 added to the cost of a home.

If we raise taxes that much, the American people would be in revolt. If we raise interest rates again, it would be like throwing a bucket of ice water on the U.S. economy, and its working families will be left out in the cold.

So do not do it, Mr. Greenspan. Leave interest rates alone.

WE ARE PART OF A GLOBAL ECONOMY

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, President Clinton made a courageous move in bypassing the Congress on the Mexican peso issue. He had no choice.

Mexico was going down the tubes, and the votes in Congress for this unpopular initiative were just not there. He acted with proper authority, and in the end he made the right decision.

A stable Mexico is critical to American interests, and let us hope we do not have to revisit this Mexico issue again.

What are the lessons of this episode? Bipartisanship on the Mexican issue did not have its finest hour. In the end

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

it looked like the package was being peddled in a bazaar.

We must do better on these critical national-security issues.

Second, we must remember that we are all part of a global economy, and that turmoil in a country, especially a friend like Mexico, affects us all.

WHY SHOULD MAIN STREET BAIL OUT WALL STREET?

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, this morning the Secretary of State and the Secretary of the Treasury canceled scheduled appearances before the International Relations Committee. This administration has a serious credibility problem. It has ignored the American people and done a deliberate end-run around the Congress. I do not care what obscure law the President cites for his authority. There is outrage in my district, and I suspect throughout the State of North Carolina.

We have rescued the Mexican economy several times since 1976. Each time we have done so, the Mexican Government has refused to reform itself.

Bailing out investors stuck with bad pesos is not the job of the taxpayer. Why should Main Street bail out Wall Street? What sort of message is sent when holders of high-yield securities are bailed out by the taxpayers?

When Mr. Rubin was chairman of Goldman, Sachs, his firm did not socialize domestic profits it earned when it was speculating. The same system that rewarded his old firm should work to penalize his former colleagues who gambled and lost.

I ask this administration to tell Main Street, Dunn, NC, it has to pay for Wall Street's mistakes and a corrupt regime in Mexico.

□ 1110

EFFECTS OF INTEREST RATE INCREASES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in America the sun shines in from the PTA to the Halls of Congress. The American people have a front row seat.

But when it comes to the Federal Reserve Board, the American people cannot even buy a seat in the peanut gallery. Unbelievable; at this very moment the Fed behind closed doors is deciding whether or not to raise our interest rates. And the Fed says "Look, our business is too important for the American people to understand and what the American people don't know won't hurt them."

Unbelievable.

Mr. Speaker, while Congress cannot go to the bathroom without a camera team, the Federal Reserve Board conducts their business and Congress waits for Alan Greenspan to come out of some closed door with either thumbs up or thumbs down.

Mr. Speaker, I say it is very simple: Alan Greenspan is giving America the finger and Congress does not even know why.

STATE AND LOCAL GOVERNMENTS NEED RELIEF FROM UNFUNDED MANDATES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, the Environmental Protection Agency is just one of the many Federal agencies that are stiffing local and State governments with bills they do not pay for.

For instance the EPA wants the city of Dallas, TX, to totally redesign its 4,500 mile long sewer system. This redesign would cost $3 billion. This figure equals roughly three times their yearly budget.

This is one of the many examples of an unfunded mandate. There are probably thousands more just like it.

Mr. Speaker, unfunded mandates must be reformed because they impose a crowding-out effect on State and local governments. Instead of funding the basics like fire and rescue, hospitals, highways, and law enforcement, local and State governments are forced to fund excessive, and sometimes exotic, Federal regulations. We must act now to curb these excesses and return to the Federal Government the principles of fiscal responsibility.

HYDROXYUREA IMPROVES QUALITY OF LIFE FOR SICKLE CELL SUFFERERS

(Mr. HASTINGS of Florida asked and was given permission to address the House for 1 minute.)

Mr. HASTINGS of Florida. Mr. Speaker, I join with my chorus of colleagues who come here advocating against an increase in interest rates in this country.

But more importantly, I come today, to inform the House of a new scientific breakthrough that could mean relief for thousands of Americans. It was announced the day before yesterday that researchers at Johns Hopkins have found that the drug hydroxyurea can alleviate some of the painful symptoms associated with sickle cell anemia, such as incapacitating pain in the abdomen, joints, and back.

Sickle cell anemia affects people whose ancestors come from Africa, the Middle East, the Mediterranean basin, and India. Sickle cell affects 1 in 12 African-Americans. African-American males suffering from this disease live an average of 42 years and African-American women live an average of 46 years.

Although hydroxyurea, according to scientists, is not a cure for this deadly disease, it is an effective agent for improving the quality of life for those who suffer from sickle cell. I urge the FDA to quickly approve the use of hydroxyurea.

THE 10TH AMENDMENT SHUFFLE

(Mr. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRISTENSEN. Mr. Speaker, over the last 40 years, the Congress has perfected a new dance—the 10th amendment shuffle.

The music for this dance starts playing when the Congress runs out of Federal tax dollars to spend, but still has several key projects on their wish list.

Rather than sitting out a dance, Congress has instead sidestepped the 10th amendment and forces States and localities to pay for its projects and dance to its tune.

A classic shuffle is the motor-voter bill, an unfunded mandate estimated to cost States some $58 million.

Mr. Speaker, it will cost my State, Nebraska, over $700,000 to recruit more people to get registered on the voting files in a State which already has one of the highest voter registration rates in the Nation. It is time to pull Congress' dance cards and put an end to Federal unfunded mandates. H.R. 5 will do this. I urge my colleagues to support this and make sure we no longer have to live under the unfunded mandates that the Congress continues to send.

FALLOUT FROM INCREASED INTEREST RATES

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, a new Federal policy brokered in secret, adopted without a single hearing, a single open public meeting and no vote.

A policy that will:

Increase this year's deficit by $2.5 billion?

Increase the cost of a mortgage on a $100,000 house by more than $500 a year—that makes a mockery of the puny income tax cuts we are talking about here.

Drive up the cost of everything bought on credit—from automobiles to winter clothes for the kids.

This is a policy specifically intended to drive up the rate of unemployment toward a target of 6 percent—that means 3½ million more Americans out of work than under the old target of 4 percent.

Is this a new abuse heaped upon the American people by an insulated and arrogant Congress? No, this policy will be foisted on the American public by the secretive, arrogant, and insulated Federal Reserve Board, a small group of powerful bankers and economists who believe their control over our money supply is to be used to serve their friends and masters from Wall Street, not Main Street America.

Mr. Speaker, it is time to stop Alan Greenspan and his cronies before they kill the economy again.

HIGHWAY TRUST FUND AND AVIATION TRUST FUND

(Mr. SHUSTER asked and was given permission to address the House for 1 minute.)

Mr. SHUSTER. Mr. Speaker, we Republicans quite properly emphasize our Contract With America. But our original Contract With America was signed in 1956, when President Eisenhower and the Congress created the Interstate Highway System and created the highway trust fund. This was a contract between the American traveling public and the Federal Government. The gas tax went into the highway trust fund solely to build highways. Later the airline ticket tax went into the aviation trust fund to help build airports.

But, Mr. Speaker, we have broken that contract. We shamelessly used the money dedicated for highway construction to hide the true size of the Federal Government deficit, which is dishonest and unethical. Three times in the past Republicans in this House voted overwhelmingly to remove these trust funds from the general trust fund budget, but we did not have a majority.

Now is the time to renew our 39-year-old Contract With America. Now is the time to take the transportation trust funds out of the general fund budget. This is a truth-in-budgeting issue. And truth, after all, is what contracts are all about.

FORTY YEARS

(Mr. STUPAK asked and was given permission to address the House for 1 minute.)

Mr. STUPAK. Mr. Speaker, during the past few weeks we have heard our colleagues on the other side of the aisle talk about dismantling many of the programs that Democrats formed during our 40-year service as the majority party.

I know some of my friends on this side do not want to hear this, but during the past 40 years, when Democrats controlled the House, programs were enacted that helped millions of people. A few examples on this long list include: the GI bill, Medicare, Medicaid, civil rights legislation, improved minimum wage standards so people can work and get off welfare, and student financial aid. When the other side discusses, with some disdain, about the Democrats' 40-year rule, remember, some great things did happen.

Today, on February 1, 1995, I would like to highlight a special day commemorating something that happened 40 years ago today: My wife, Laurie Olsen, was born. Today is Laurie's 40th birthday, and as she and I, along with her parents, Ken and Elaine Olsen, our sons, and many of our friends celebrate her first birthday under a Republican controlled Congress, let us not forget many of the important programs enacted during Laurie's first 40 years that have helped the American people.

Mr. Speaker, happy 40th birthday, Laurie.

CONSUMER PRODUCTS SAFETY COMMISSION: MOST SNOW BOARDING INJURIES RESULT FROM FALLING

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, those of us from the ski country, U.S.A. can rest a little easier right now because the U.S. Government is on the job. The U.S. Consumer Products Safety Commission has just released a report which concludes that most snow boarding accidents result from falling.

Wow. That is deep, Mr. Speaker. You put someone on a board, strap his feet to a board, put him on a slippery slope and let him go down the hill at 55 to 60 miles an hour and they might get hurt—but only if they fall.

This Christmas, Anna in my office tore up both knees skiing, and we have no idea how it happened or what caused it. Absolutely no idea.

Well, I am going to go back to her and I am going to tell her, "Anna, we figured it out, the Government helped. You hurt your knees because you fell."

Mr. Speaker, Americans are tired of Federal nursemaids wasting their money and insulting their intelligence. If I may quote my friend, Mr. TRAFICANT, "Unbelievable."

□ 1120

THE FOREIGN AID PACKAGE THAT WOULD NOT DIE

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, the administration announced yesterday that, because Congress was not acting quickly enough to throw good money after bad down that black hole that is the Mexican economy, it has used unprecedented Executive authority to extend billions of our taxpayers' money to bail out the Mexican peso and the Wall Street speculators who invested there without a vote of Congress. The last time Mexico devalued its currency was in 1988, just around the time of the Presidential election. Before that, Mexico devalued in 1982, again just around the time of the Presidential election, and now they did it again just after the Presidential election of 1994.

I say to my colleagues, "Some would like you to think that using Treasury's power to prop up the peso was a temporary fix, but they are wrong. This is not a currency problem. It is a problem of continuing mismanagement at the highest levels inside an emerging undemocratic country. The false security of Mexican oil is an illusion, too. That's already been pledged to past debts. If you're outraged like I am, come to room 2247 this afternoon, Members of Congress. Let's get the administration on the right track for a change."

WHAT ABOUT THE ELECTIONS?

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, U.S. military occupation of Haiti continues, but mandate of the Haitian Parliament will end. The time line for new parliamentary elections has already slipped from last December to perhaps sometime in May. I ask, "But how can you build a democracy without a parliament, without a legislative branch, especially in Haiti, especially with President Aristide?" Unfortunately, Mr. Speaker, in 1991 he fell prey to the drive to consolidate power that has historically characterized Haitian politics, and he has failed to learn a very basic lesson of democracy, and that is that shared power makes for better governments, and it is vital for true democracy. Lack of progress on the elections in Haiti means President Aristide will be ruling Haiti without checks or balances.

Mr. Speaker, the time for free and fair elections in Haiti is now. We must bring our troops home today. Bring on Haitian elections now, and save both democracy in Haiti and American taxpayers' dollars.

CHANGE

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute.)

Mr. GUTIERREZ. Mr. Speaker, we have heard my friends on the other side of the aisle talk a lot about change. That is good. This institution needs some change. But in the past 3 weeks, Mr. Speaker, the American people have found out what type of change many of my colleagues were really talking about. We have discovered that new criteria exists for being able to speak the truth on the floor of the House. We found out when the subject is questionable dealings by powerful Members of the House leadership, speaking the truth on the floor of the people's House is often prohibited. But that is not the only change, Mr. Speaker.

We passed a Congressional Accountability Act that is far worse than what was passed by this House just last year because it did not eliminate a ban on gifts from lobbyists and allows Members to continue to use their frequent flyer miles for personal use. There are other changes, too. We are no longer talking about lobbying reform or campaign finance reform, the real critical changes that will truly make a difference in the way we conduct the people's business.

Yes, many of my friends marched into this institution waving a banner that said, "reform and change," but all we see today is the white flag.

END UNFUNDED MANDATES: STOP THE FEDERAL GOVERNMENT'S MEDDLING

(Mrs. MYRICK asked and was given permission to address the House for 1 minute.)

Mrs. MYRICK. Mr. Speaker, as mayor of the booming city of Charlotte, NC, I experienced, firsthand, the absurdity of unfunded mandates.

We were forced to curtail services that our constituents had already paid taxes to support, in order to avoid being taxed twice for the same things.

American taxpayers are paying over 50 percent of every dollar they earn in taxes.

They view unfunded Federal mandates as Government inefficiency and double taxation.

We must pass H.R. 5—if for no other reason than because the American taxpayers demand it.

CHINA'S NEWT?

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute.)

Mrs. SCHROEDER. Mr. Speaker, today in China they are celebrating the first day of the lunar new year, the Year of the Pig, and we now find out from the New Yorker magazine that a big multinational pig is trying to feed over there the same way that pig has been trying to feed on the U.S. Congress. I guess the question is: Is Beijing becoming more like Washington, or Washington becoming more like Beijing?

But what we learn today is Deng Xiaoping's daughter, Deng Maomao, also has a book contract with Mr. Murdoch. Mr. Murdoch seems to be wanting to try to get his TV station into China and has pulled all of the BBC news because it has much too much about human rights, which just really, really makes him upset, and has furthermore now cut this wonderful deal with Deng's daughter, who is supposed to be the closest to him, but of course there could not be any hanky-panky there.

So, if anyone now asks what is the similarity between our Speaker, Deng Xiaoping's daughter and Mrs. Thatcher, we now know. They all have Rupert Murdoch book deals.

WHY LIBERAL DEMOCRATS OPPOSE THE CONTRACT WITH AMERICA

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, from the home office back in Scottsdale, AZ, the top 10 reasons liberal Democrats oppose our Contract With America:

No. 10: Ideas? We don't need your stinking ideas.

No. 9: Book envy.

No. 8: Would you Republicans shut up? We are watching the O.J. trial.

No. 7: Al Gore, what a guy!

No. 6: 'Tis better to have taxed and lost than never to have taxed at all.

No. 5: Never make a promise you might have to keep.

No. 4: Would rather follow the P.T. Barnum maxim, "Never give the taxpayer an even break."

No. 3: Profits? What are profits? Are they evil?

No. 2: Hey, what happened? We thought the status quo was pretty good.

And the No. 1 reason Democrats oppose our Contract With America:

Republicans, with our contract, are trying to change this Congress. Democrats would rather change the subject.

OPEN UP GOPAC'S BOOKS

(Mr. BROWN of California asked and was given permission to address the House for 1 minute.)

Mr. BROWN of California. Mr. Speaker, if numbers such as $715,000, $324,000 or even $172,000 had shown up on my last FEC report, the Republican National Committee would demand an immediate investigation, and the Federal Election Commission would have already levied steep fines against me. In fact, my Republican colleagues likely would be calling for an ethics investigation and an independent counsel. I would like to assure my colleagues that dollar amounts of that magnitude did not show up on my FEC report. But I will tell my colleagues where they did show up: GOPAC.

According to the Los Angeles Times on January 30, 1995, GOPAC has received more than $2.8 million from just 10 contributors, but we will not see these dollar amounts on GOPAC's FEC reports. They refuse to disclose the information.

Mr. Speaker, in an era when the new Republican majority talks about an open Congress and opening up the political process, it seems to me it should live by its own words and open up GOPAC's books.

INTRODUCTION OF BREAST CANCER AND PROSTATE CANCER DETECTION BILLS

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute.)

Mrs. VUCANOVICH. Mr. Speaker, what do 46,000 women and 240 men have in common this year? No, not an interest in the O.J. Simpson trial. These people are all expected to die from breast cancer in 1995. I have again introduced legislation to help lower income women by requiring State Medicaid plans to provide coverage of screening mammography.

I have also introduced legislation to provide annual mammography coverage for Medicare beneficiaries aged 65 and older. Current law permits coverage only every other year for this age group.

Coverage of early detection techniques should be provided for men as well. In 1995, an estimated 40,400 prostate cancer deaths are expected. That is why I have introduced bills to provide for Medicaid coverage and Medicare coverage, respectively, for prostate cancer screening tests—1995 is neither the year of the woman, nor the year of the man. It is the year when our citizens get what they asked for—that is, peace of mind and good health. I urge all of my colleagues to cosponsor these lifesaving bills.

□ 1130

FED'S THREATENED INTEREST RATE HIKE SEEN AS UNJUSTIFIED

(Mr. VENTO asked and was given permission to address the House for 1 minute.)

Mr. VENTO. Mr. Speaker, today the Federal Reserve Board is meeting, and the speculation is that they are going to raise interest rates to tighten monetary policy by raising the discount rate gain. They have raised the discount rate six times in the last year. This will be the seventh increase, which has resulted already in over a 2½ percent, 250 basis point increase in the spread in terms of interest rates paid for by American consumers.

Of course, the fact is that the record indicates that this is simply not justified or necessary. Workers today are receiving very little increase in terms of compensation or wages, and the fact is that by not taking a raise, they are now going to in essence be faced with increased costs because of interest rates.

Car sales are down; home sales are down. Many of the indices in the American economy indicate that inflation is under control and the economy is not overheating, but the Fed is losing the capacity to deal with the responsibility of monetary policy by raising rates and by tightening monetary policy when it is not necessary.

Mr. Speaker, I hope the Federal Reserve Board today is listening behind their closed doors as they make this decision. We need them to play an independent and an objective role, not to overmanipulate and steal defeat from the jaws of victory when we have an economy in which Americans are working.

STATES URGED TO JOIN THE HOUSE IN PASSING UNFUNDED MANDATES LEGISLATION

(Mr. EHLERS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. EHLERS. Mr. Speaker, this morning we expect to pass a bill dealing with unfunded mandates, and I will be voting for that bill. I do want to make it clear that I do have some reservations in environmental areas, but those can be addressed as we go along.

The main purpose of my comments today is to point out that we are only part of the problem, and I challenge the States of these great United States to follow our example and pass unfunded mandates bills within their own legislative bodies.

In the State of Michigan we required a constitutional amendment initiated by the citizens of the State to address this problem. Since I have worked at the county commission level, the State legislative level, and the Federal level, I can assure the Members that everyone tries to pass mandates down to the body below them and require them to pay the costs.

My challenge to the States is to follow Michigan's example—adopt a constitutional amendment as we did in Michigan and prohibit passing unfunded mandates down to cites, counties, townships, and other forms of government.

Mr. Speaker, I urge all the States to join us in this effort as we pass our unfunded mandates bill today.

INTEREST RATE HIKE COULD KILL JOBS, SLOW ECONOMY GROWTH

(Ms. DELAURO asked and was given permission to address the House for 1 minute.)

Ms. DELAURO. Mr. Speaker, the Federal Reserve Board is meeting to consider yet another hike in interest rates. Democrats are united in opposing this increase, because we believe it will have a detrimental impact on working middle class families across the country.

In 1994 the Fed raised interest rates six times. Those rate hikes were designed to slow economic growth and head off inflation. But another increase now could slow the economy right into a recession just as the economic recovery is reaching working families.

In my home State of Connecticut, where job growth continues to lag behind the rest of the country, another rise in interest rates could kill jobs and keep the economy recovery from ever reaching hardworking families.

Mr. Speaker, it is true that our economy is not at full health. But prescribing another interest rate hike as a cure is like prescribing brain surgery for a headache. It is unnecessary, and it could kill the patient.

MOVING ON

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, today we will finish our debate on unfunded mandates. We are going to give our States and our local governments what they have asked for. Congress will stop mandating Federal programs it cannot pay for. Now it is time to move on.

Next on our agenda is the line item veto. This will provide another tool to cut spending and reduce the size of the Federal Government. Who knows, the power of the line-item veto might even stop a practice that has been around many years in Congress—porkbarrel projects.

Mr. Speaker, Republicans are committed to moving our Contract With America forward until it is completed. We have heard the people's mandate, and we will keep our promise to bring to the floor issues that produce real change. We are moving on to a future of a smaller, less costly, and more efficient government.

Mr. Speaker, I urge my Democrat colleagues to join with us to move forward with the people's demand for change.

THE TRUTH IS LOOSE

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Georgia. Mr. Speaker, the Los Angeles Times succeeded in doing something this week that Speaker GINGRICH has refused to do for years—release the names of the contributors to his political machine, GOPAC.

The partial listing published by the Times shows that one couple gave GOPAC more than $715,000 while other contributors made more than $300,000 available apiece. But who and how many more contributors are there? There are many questions that remain unanswered.

That is why the chorus of respected voices calling for an outside counsel is getting louder and louder.

The New York Times, Roll Call, the respected public advocacy group, Public Citizen, former Special Counsel Richard Phelan, and Al Hunt of the conservative Wall Street Journal all agree: Only an outside counsel can put this matter to rest.

AMERICAN PEOPLE DEMAND CHANGE—LESS GOVERNMENT, LESS TAXES, LESS REGULATION

(Mr. TATE asked and was given permission to address the House for 1 minute.)

Mr. TATE. Mr. Speaker, to my Democrat friends across the aisle, I say, methinks thou doth protest too much.

I have heard for weeks personal attacks on our Republican leaders and delay tactics. I ask, is it because you have nothing else to say?

I know that losing power must be difficult to deal with. But the message last November was not more fighting, more finger pointing, and more personal attacks. It was less government, less taxes, and less regulations. We have defied the odds by passing a balanced budget amendment, and we will pass an unfunded mandates bill.

Mr. Speaker, the American people have said they want a change. The Democrats have tried their patience long enough.

FEDERAL RESERVE BOARD URGED TO FOREGO INTEREST RATE INCREASE

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute.)

Mr. GEJDENSON. Mr. Speaker, the Fed Chairman tells us that senior citizens are benefiting by an overstatement of inflation in this country. The Fed Chairman told us there is a crisis in Mexico. It seems to me the Fed Chairman and his policy helped create the crisis in Mexico, and if he is correct about the fact that inflation is overstated in the indicators, then he ought not raise taxes and he ought not raise interest rates.

In my State and in my district in Connecticut, many people still want jobs that do not have them. A Fed policy that is based on creating more unemployed is an outrage in a country that is talking about putting people to work. You cannot sit there and tell us that you want welfare people to go to work and then raise interest rates so working people lose their jobs. If there ought to be jobs that are lost, they ought to be at the Fed. We ought to keep inflation not higher but lower so that more Americans go to work, so we can have a stronger economy and continue to reduce this deficit.

Mr. Speaker, the Fed policy goes against everything we have done to increase employment and cut the deficit. I say to the Chairman, "Don't raise interest rates anymore."

A DISPLAY OF COMITY IN THE REPUBLICAN CONFERENCE

(Mr. KINGSTON asked and was given permission to address the House for 1 minute.)

Mr. KINGSTON. Mr. Speaker, this morning Speaker GINGRICH invited Vice President GORE to meet with the Republican Conference on the subject of reinventing the Government. He stood right here at this lectern on the Republican side and talked for nearly an hour about making Government customer-friendly and constituent-responsive. He talked about the old order and the new order. He talked about listening to employees and bringing them in on the decisionmaking. He talked about cutting redtape, reducing the bureaucracy, and changing the procurement process.

We on the Republican side found that we have much in common with the Vice President. We share much of his goal and his vision.

I congratulate Speaker GINGRICH on inviting the Vice President to engage in a bipartisan dialog. I hope that Members on both sides of the aisle can follow this example set by Speaker GINGRICH and the Vice President. I hope that the sniping ends. It is always easy to build yourself up at the expense of the institution, but I hope that we do what the Vice President and Speaker GINGRICH did today. We have much in common. We have much to accomplish, and we can do it together.

□ 1140

RAISING INTEREST RATES MAKES NO SENSE

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, yesterday the President, with support of Republican leadership, proposed committing $20 billion to Mexico to prop up the peso. Today the Federal Reserve, behind closed doors, will decide whether or not to raise interest rates yet again.

Mr. Greenspan has lobbied Congress relentlessly in recent days on behalf of the Mexican bailout. But by raising interest rates again, Mr. Greenspan will contribute to a further weakening of the Mexican peso. By raising interest rates again, more importantly, Mr. Greenspan will make it harder for American families to pay for houses, to pay for cars, to pay for student loans. And by raising interest rates again Mr. Greenspan threatens to choke off the recovery. Higher rates will also make it harder to pay off the $20 billion the President and Republican leadership wants to send to Mexico.

Excuse me, Mr. Speaker, raising interest rates simply makes no sense.

OPPOSE MEXICAN BAILOUT

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, the American taxpayer and the people of Mexico have had a heavy load added to their backpack yesterday. The American taxpayers and others for the sixth time have bailed out Mexico now in the last 12 years. Remember the Baker plan and the Brady plan? They were supposed to have ended the Mexican debt crisis back in 1990.

This is a serious problem, and one of the reasons is this: In Mexico they are paying as high as 20 percent, 25 percent, as high as 51 percent on these bonds. How can these poor people possibly come out from under this heavy burden?

I hope that the people here in Congress will speak out and oppose this outrageous direct transfer of wealth from the pockets of the American taxpayers to the pockets not of the people of Mexico, but to the Mexican elite. They have more billionaires in Mexico per capita than any country in the world. They are taking their money out, putting it into our country, and we are taking the taxpayers' money and putting it into Mexico.

It does not make sense. This is a very bad deal for us. No wonder the American people are again singing the old ballad "16 Tons," "Another day older, and deeper in debt." I feel sorry for the American taxpayer and the poor people of Mexico.

NO GOVERNMENT BAILOUT FOR BAD INVESTMENTS IN MEXICO

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, I rise in strong opposition to the $40 billion bailout of Mexico and in very strong opposition to President Clinton's effort to circumvent the congressional process. At a time when this country has a $200 billion deficit and when Members of Congress are proposing cutbacks in Social Security, Medicare, Medicaid, veterans programs, and nutritional programs for hungry children, it is absurd to put $40 billion of American taxpayers' money at risk in an unstable Mexican economy and an unstable Mexican political system.

If large banks and Wall Street investment houses want to purchase Mexican bonds at high interest rates, they have every right in the world to do so. But these big money interests do not have the right to be bailed out by Government when their investments turn sour.

UNFUNDED MANDATE REFORM ACT OF 1995

The SPEAKER pro tempore (Mr. UPTON). Pursuant to House Resolution 38 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5.

□ 1144

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5, to curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the cost of Federal mandates on the private sector, and for other purposes, with Mr. EMERSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, January 31, 1995, the amendment offered by the gentleman from Virginia [Mr. MORAN] had been disposed of, and title III was open for amendment at any point.

Are there further amendments to title III?

PARLIAMENTARY INQUIRY

Mrs. COLLINS of Illinois. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state it.

Mrs. COLLINS of Illinois. Mr. Chairman, we have four Members who wanted to offer their amendments. They are not here. I wonder if it is possible to reserve 5 or 10 minutes of their time?

The CHAIRMAN. The gentlewoman may move to strike the last word, and she would be recognized for 5 minutes, or any Member may move to strike the last word.

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, pursuant to the rule, I offer an amendment, amendment numbered 95.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA: In section 301, at the end of the proposed section 421(4) of the Congressional Budget Act of 1974, add the following:

Such term shall not be construed to include a provision in legislation, statute, or regulation that preempts a State, local, or tribal government from enacting or enforcing a law, regulating, or other provision having the force of law related to economic regulation, including limitations on revenues to such governments.

Mr. MINETA. Mr. Chairman, in general the bill before us is an attempt to limit the intrusiveness of the Federal Government into the business of State and local governments and private businesses. Many of us disagree with how the bill goes about meeting those objectives, but we do not disagree with the objectives themselves.

In the area of transportation, economic regulation in particular, I have been among the most consistent advocates of the economic deregulation of transportation. The gentleman from Pennsylvania is very familiar with my efforts as a deregulator, because he has been an important part of those efforts, and so have many Members on his side of the aisle.

In the past 15 years, we have largely deregulated the airlines, pipelines, trucking, and railroads. We have dramatically reduced the intrusiveness of government into the marketplace. And in every instance we have concluded that what we wanted to achieve was deregulation, not a substitute of State regulation for Federal regulation.

Deregulation means get government out of the issue. It does not mean close the Civil Aeronautics Board only to substitute 50 State Civil Aeronautics Boards.

In every one of these deregulation efforts, we have not only told the Federal Government to get out of economic regulation, we have told the States not to get into it. And that is the only way we can increase reliance on the marketplace.

This unfunded mandates bill would inadvertently apply to efforts to deregulate industries. H.R. 5 not only makes it more difficult to tell States what they have to do, it also makes it more difficult to tell States what they cannot do, including that they cannot regulate industries that we have just deregulated.

Mr. Chairman, this is not what the Members of this House intend for this bill to do. It is not what the Senate bill does. This is an unintended consequence that we ought to correct, and my amendment does that.

Let me give a specific example. Last August we brought to the floor legislation which very substantially deregulated the economic regulation of the trucking industry. Many of you thought of it as the Fed Ex bill, or the UPS bill, but it was in fact very broad deregulation legislation affecting most of the trucking industry. That bill would have been considered an unfunded mandate under H.R. 5 because it told the States they could not regulate those industries.

□ 1150

None of us considered that an unfunded mandate, but H.R. 5 does. That bill would have been required to have extensive analyses set out in H.R. 5, which quite probably would have meant we would not have had time to enact it in the closing weeks of the last Congress.

The same kinds of problems arise with regard to deregulation of pipelines, of railroads, and of other industries we are looking at for future deregulation.

These problems arise with respect to any clarifying bills we may need to do in the future, to preserve the deregulation of industries that we have already deregulated. This is not what the Members of this House intend for this bill to do.

I know that the track record so far on the Democratic amendments to this bill is not good. But I appeal to the manager of the bill that my amendment supports one of the underlying objectives of the bill, less government regulation.

Mr. Chairman, I urge the adoption of my amendment.

Mr. Chairman, I yield to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I thank the gentleman from California [Mr. MINETA], the ranking Democratic member on the Committee on Transportation and Infrastructure.

I am a former chairman of the Tennessee Public Service Commission, so I have seen how regulation works and it can work very efficiently and effectively. I also have seen examples where it has not worked, where it has cost consumers billions of dollars.

I might say about our legislation, that the gentleman from California [Mr. MINETA] and the gentleman from Pennsylvania [Mr. CLINGER] and the vast majority of the Members of the House of Representatives and the Senate all supported this last year, that it was to deregulate the trucking industry. But I do think what the gentleman from California [Mr. MINETA] has said is correct. This is an unintended consequence that we ought to correct.

I realize that the gentleman from Pennsylvania [Mr. CLINGER] and others have stated that they do not support amendments, but I hope they will make an exception to the rule.

The CHAIRMAN. The time of the gentleman from California [Mr. MINETA] has expired.

(By unanimous consent, Mr. MINETA was allowed to proceed for 1 additional minute.)

Mr. CLEMENT. I would hope that the gentleman from California [Mr. CONDIT] and the gentleman from Pennsylvania [Mr. CLINGER] and all of those of us that support H.R. 5—and I strongly support H.R. 5—I will vote for final passage, a lot of Democrats, lot of Republicans will join hands in a very bipartisan manner. I do not like unfunded mandates.

But this is not the intention of this particular amendment. Do not strangle us. Do not put us in a straitjacket. We very well are going to be looking at some other deregulation down the road. We have not finished that task. Surely we have had much that we can be proud of over the last 15 years, such as deregulation of airlines, pipelines, trucking, and railroads.

This is the beginning for the Committee on Transportation and Infrastructure. In order to ensure that businesses and industry have an opportunity to compete without all these rules and regulations, let us adopt the Mineta amendment and let us be bipartisan about it.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in reluctant opposition to the amendment of my friend from California, a mentor on the Committee on Public Works and Transportation. I know and appreciate and am sensitive to his concerns.

But I rise in opposition to the amendment because the amendment really broadly exempts Federal preemption of State law from the definition of mandates. This includes any Federal limitation on revenues that a State or local government can otherwise lawfully collect.

Mr. Chairman, I believe this amendment was drafted primarily in response to concerns raised by the railroad industry. The railroads' particularly concern is an inclusion in the bill of mandates that require States or local governments to forgo revenues might adversely affect a provision of law enacted in 1976 that prohibits States and local governments from discriminating against railroads in taxation.

The most important point to be made is the same point that has been made over and over again during the debate on this bill, and that is that this bill does not affect existing mandates.

The point of order this the bill creates applies only to bills brought to the House floor after October 1, 1995, which is the effective date of the legislation.

The real question, Mr. Chairman, is whether a similar preemption of State law in future bills that limits the ability of a State to collect an otherwise lawful tax should be subject to the procedures established by H.R. 5.

The State tax officials make a compelling case that Federal laws that restrict States and local governments from employing tax practices which would otherwise be legal under the U.S. Constitution have exactly the same impact as an expenditure mandate.

So I believe that the same procedure should be applied to these preemption provisions. If Congress believes and decides that the national interest requires placing restrictions on States' ability to raise lawful taxes, then it is not unreasonable to require a majority vote to waive that point of order.

So I must oppose the gentleman's amendment.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman as I have indicated, the Senate bill relative to their legislation on unfunded mandates does not contain this unintended consequence of making it more difficult to deregulate.

I would like to ask my very fine colleague from Pennsylvania, if I can get a commitment from the gentleman from Pennsylvania that he will revisit this issue in conference and attempt to keep this bill from making it harder to deregulate.

Mr. CLINGER. Mr. Chairman, let me assure the gentleman that that, as the gentleman says, that is a conferential issue. It is one that I will certainly be willing to revisit and to work with the gentleman. As I say, at this point I am not convinced that it is necessary but will be happy to revisit the matter in conference.

Mr. MINETA. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SANDERS: Insert the following new paragraphs at the end of the proposed section 424(a) of the Congressional Budget Act of 1974:

"(5) CONSIDERATION OF COST SAVINGS FROM FEDERAL MANDATES.—For each bill or joint resolution of a public character reported by any committee that establishes, modifies, or repeals a Federal mandate, the Director shall prepare and submit to the committee a statement describing the cost savings that would accrue to the private and public sectors from such Federal mandate, including long and short term health care and environmental cost savings. Such statements shall include a quantitative assessment of such cost savings to the extent practicable.

"(6) CONSIDERATION OF BENEFITS OF FEDERAL MANDATES.—For each bill or joint resolution of a public character reported by any committee that establishes, modifies, or repeals a Federal mandate, the Director shall prepare and submit to the committee a statement describing the benefits of such Federal mandate, including benefits to human health, welfare, the environment, and the economy. Such statement shall include a quantitative assessment of such benefits to the extent practicable.

Mr. SANDERS. Mr. Chairman, I offer this amendment along with my colleagues, the gentleman from California [Mr. WAXMAN], the gentleman from Minnesota [Mr. VENTO], and the gentleman from California [Mr. FARR].

This amendment simply provides for full and unbiased information. It provides that the CBO include an estimate of long- and short-term health care and environmental cost savings and other benefits of unfunded mandates.

The bottom line is the Unfunded Mandates Reform Act threatens to dismantle many laws that protect the public health and the environment. This is because State and local governments need to heed these laws just like the private sector.

When we consider the merits of mandates like the Safe Drinking Water Act, OSHA, and bills regulating the disposal of medical waste, we should be aware of the costs imposed on local governments. That is absolutely appropriate. But we should also be equally aware of the cost savings, the cost savings expected from these mandates.

The true cost of a bill is the direct cost imposed minus the cost savings. This amendment ensures that the CBO estimate the true cost.

If this amendment is adopted, we will be less likely to discard preventative legislation that is cost effective in the long run.

Prevention is much cheaper than a cure. But prevention has a short-term direct cost. If this amendment is not adopted, we will only be informed of that short-term direct cost and will not be told about the expected cost savings.

Cost savings is not a small part of the equation. H.R. 5 threatens astronomical health care costs at a time when we want to save money. Today one in three of us will get cancer and, frankly, one in four of us will die of it. Over 60 different occupations are at a documented risk of cancer, including farmers, petrochemical workers, asbestos workers, plastics manufacturers, and radiation workers.

Under H.R. 5 it will be much harder to respond to this expensive and debilitating health care crisis and easier for shortsighted private industries to ignore it. We need access to real costs, including the long-term medical costs that will result if we fail to respond.

□ 1200

Lung cancer is the No. 1 cancer killer in America, yet H.R. 5 will hamstring us from imposing indoor air laws limiting tobacco smoke in workplaces and public places. The cost of imposing no-smoking areas is minuscule—minuscule in comparison to the cost of treating lung cancer. This amendment would clearly show the cost difference.

H.R. 5 also threatens, in my view, unacceptable environmental contamination and extremely expensive cleanup costs. Superfund sites littering the Nation are left festering because they are so expensive to clean up. It would have been more cost effective to prevent that contamination in the first place. We cannot foresee all future environmental problems. That is one reason we cannot say that current laws do an adequate job protecting us, but the CBO estimate of environmental cost savings will help us identify those cost-effective bills.

Fortunately, the Unfunded Mandates Reform Act does not apply to "emergency legislation," but how will we know when there is a health care or an environmental emergency? The best way is to adopt this amendment which would indicate when the savings strongly outweigh the short-term direct costs and a crisis is at hand.

This amendment also requires a CBO analysis of the benefits of the legislation. As I mentioned earlier, H.R. 5 could very well destroy our environmental and public safety laws. These laws not only save money, but they prevent needless deaths, pain, suffering and environmental degradation. These benefits should not be ignored.

This amendment provides for a CBO estimate of the benefits to human health, welfare, the environment, and the economy. Costs should not be viewed in a vacuum. Intelligent decisions require a cost-benefit analysis. If CBO provides information on costs, which is absolutely appropriate, and benefits, we would have access to a consistent and an unbiased cost-benefit analysis.

The CHAIRMAN. The time of the gentleman from Vermont [Mr. SANDERS] has expired.

(By unanimous consent, Mr. SANDERS was allowed to proceed for 2 additional minutes.)

Mr. SANDERS. Mr. Chairman, I fully support the current provisions that require a CBO estimate of the costs to State and local governments of unfunded mandates. That is very important. That is very important. But these estimates alone misrepresent the true cost of legislation and ignore its benefits. This amendment corrects that fatal flaw. This amendment helps us fulfill the laudable purposes spelled out in the Unfunded Mandates Reform Act.

Its purposes include, and I quote from the bill, "to end the imposition, in the absence of full consideration by Congress, of Federal mandates," and "to assist Congress in its consideration of the proposed legislation * * * by establishing a mechanism to bring such information to the attention of the Senate and House * * * and to promote informed and deliberate decisions by Congress."

If Members support these purposes, I urge Members to support this amendment.

The CBO will not always be able to provide a quantitative cost-benefit analysis. This amendment recognizes this limitation and only requires quantitative analyses when practicable, but when it is practicable, we need to be aware of all essential pieces of information. Uninformed decisions do not lead to cost-effective decisions. Let us save money and pass intelligent legislation that is not shortsighted.

I urge the Members to vote for this amendment, and vote for full and unbiased information.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the gentleman's amendment, very briefly, just to state that I think that the role that the gentleman would have the CBO assume is not a role that they are clearly designed to do. Their role is to find out the cost of what things are and not really make policy decisions.

What the amendment would do is require CBO to become really a policy adviser or a policy evaluator. Requiring it to do cost-benefit analysis I think would really put it very close to policy advocacy.

I think the other thing that needs to be said about this is that the committee itself is charged in our bill with doing a cost-benefit analysis of the mandates.

I think finally it can be said that clearly the advocates for a particular mandate and the need to pass it through are certainly going to be pointing out the benefits of that. So I do not think we are losing sight of the benefit.

What we have had is we have only considered the benefits in the past. Now we are going to be required to consider the costs, and I think there is an equilibrium that did not exist before.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. I would simply like to echo his statement about the congressional budget.

I am opposed to this amendment because it seems to me that we are looking at an additional $4½ million for the Congressional Budget Office, simply to address the question of cost, and this amendment goes beyond that, and I believe goes beyond even the purview of the Congressional Budget Office in dealing with issues like unfunded mandates.

It is for that reason I join with the distinguished chairman of the Government Reform and Oversight Committee in insisting that this amendment be defeated.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, just briefly, I think the gentleman from Vermont [Mr. SANDERS] makes a very sound point as to cost effectiveness, and the benefits of preventive care is one example. It is a consideration Congress ought to take into account on the floor and even in committee.

What CBO told us that they can do and they are required to do under this legislation, if we look at title III, a net savings analysis. In other words, they will look at quantifiable costs and benefits, but CBO, as my colleague stated, simply cannot do the more subjective analysis. Committees can do that. In fact they are required under this legislation to look at both the costs and benefits and that will then come to the floor.

The gentleman makes a good point, that the point of this legislation is to have an accountability and to have informed, deliberate debate on the floor of the House. The benefits will be analyzed by the committee. That information will be in the committee report, and the report will be part of the debate on the floor.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I have no argument with my friend that it is important for us to know the costs of the legislation we are proposing, no argument about that. But I think my friends would also not deny that some legislation is cost effective. If one could make the case that by promoting *x* policy that cost us $1 million we save $10 million in increased health care costs, I am sure all three of the gentlemen would be in agreement that was a good piece of legislation.

Mr. CLINGER. I would agree with the gentleman.

Let me reclaim my time to say we just do not think that is an appropriate place to have that done. We think it is much more appropriate in the committees which consist of elected Members to make those kinds of policy decisions, because it really is a policy decision. So our only objection is the appropriate place is not the Congressional Budget Office, which, let us face it, are number crunchers.

Ms. FURSE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of this amendment because I think it is absolutely appropriate that we research and identify the impacts of all congressional legislation. But H.R. 5, as it is drafted, would only give us half the picture. We need the whole picture to make well-reasoned decisions.

I would like to add, I am a small business owner and I cannot imagine any business doing a cost-benefit analysis that only looked at the cost and not at the benefits.

I would like to speak about a very tragic situation that we are currently experiencing in the Pacific Northwest, that is the demise of our legendary salmon runs. At one time 16 million fish returned to the Columbia River to spawn each year, and now they are only numbered in the thousands, and several species have been listed under the Endangered Species Act. And when we analyze recovery methods in order to bring back this great run, we need to clean up our polluted rivers, modify the hydroelectric system, we have to look at the whole cost of implementing these initiatives. But we also have to say what are the economic benefits that happen to the Northwest if we bring back our salmon.

There are some figures that I think are quite indicative of the problems if we do not look at both sides.

As recently as 1988, commercial and recreational salmon fisheries produced 62,000 jobs in my area, and they contributed over $1.25 billion annually to the economy. Much of that bounty was returned and will be returned to the region if we can recover our salmon runs. So surely this information is an integral part of the debate over whether and how much to increase salmon recovery efforts.

□ 1210

In my belief, it is only through a fair comparison between the costs and the benefits that we can assess the merits of new legislative mandates, and so I urge my colleagues to support this very reasonable and very businesslike amendment to the bill that is before us.

I urge support of the Sanders amendment.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment as a cosponsor. I support the amendment offered by the gentleman from Vermont [Mr. SANDERS].

I had a similar amendment in the RECORD, and I would hope that we would have the debate on this amendment. I think, considering all the talk about cost-benefit analysis in this bill, it is certainly fitting to request CBO do a cost-benefit analysis on Federal mandates that takes into account the long- and short-term savings and benefits of those future actions—the cost benefits as well as the costs to State and the National Government.

The fact of the matter is H.R. 5's provisions regarding CBO's cost estimates and future legislation concentrates only on the direct costs of bills without regard to the cost savings or benefits. Oftentimes the impact of the most significant legislation will not be realized for many years to come.

It would be flawed public policy to reject these proposals based upon short-term cost accounting without taking into consideration long-term benefits or savings.

As for an argument that this amendment places an unreasonable burden on CBO, I would submit the unreasonable at least significant burden already exists in the bill and that this amendment merely brings fairness and balance and integrity to the CBO role. Certainly the requirements in the proposed legislation are difficult for CBO to fulfill, the current requirements. But to analyze such in a vacuum is not responsible. If the CBO is going to be charged with the duty to crunch the numbers for Federal mandates, then it logically follows they should be looking at the whole picture, both debit and credit sides of the spreadsheet, not just the debit.

This amendment calls for the CBO to quantitatively assess the savings from Federal mandate that generate health care and environmental costs of abatement, for example. These are legitimate savings. If a policy eliminates contamination of a city's drinking water supply that has physically harmed thousands of residents that constitutes a cost savings, then it must be taken into account. A system, for instance, that eliminates the microsporidium in Milwaukee's city water supply, Mr. Chairman, is one such example.

The amendment calls for the CBO to quantitatively assess benefits for Federal mandates to human health, welfare, the environment, and the economy. These, of course, are legitimate benefits. If a rail safety policy staves off a train accident that results in a spill of a highly hazardous industrial chemical into a waterway, that constitutes a real benefit, and must be taken into account.

The point is CBO should include cost savings and benefits in their cost estimates of the Federal mandates. This should not be left to the committee, since it is CBO's count that carries the weight in this bill. That is the intention. That is why there are going to be points of order raised on this floor and apparently addressed.

There must be integrity in the CBO's cost estimates, and this amendment provides such integrity.

The fact is, Mr. Chairman, through this debate we have heard about that this is only information. But what is becoming apparent today as we focus in on this, it is limited information, and I understand CBO information on the Federal Government side of the ledger; we have had that historically. We have not had points of order necessarily on the CBO estimate or scoring information or had special votes to deal with the information. But we have had that CBO information before the House, and benefit from such data.

This process in the proposed measure is untried and untested, what they are setting up now, and what is advanced in this legislation. There is not a model now to understand exactly how it will function.

What we have today, of course, are the figures that come out of the States which I would suggest are not accurate and generally, I think, carry more of an ideological concern about what the Federal Government may require with regards to motor-voter or other types of activities.

The fact is having objection information will be helpful. But I think it ought to be, as I said, not considered in a vacuum. It ought to consider both the benefits and the costs of that program or of not carrying forth such activity. We ought to know the costs of not doing it, if it is possible.

I understand this is a difficult responsibility being placed on CBO, Mr. Chairman, but it is no more difficult than some of the other aspects that are represented in this bill.

I think if we were to go forward without this, obviously, it will disadvantage those that may be trying to solve these broad problems which have, after all, been visited upon the Federal Government, left on our national doorstep, because throughout the 200 years of our Federal system many States, either through compacts or other exercises of powers, did not address those particular responsibilities.

This new federalism today, Mr. Chairman, I think is a curious way to resolve problems. But at the very least, if all we want is information here, I do not understand why the benefit value should be rejected out of hand as apparently it is by some of the advocates of this bill today.

Mr. Chairman, I urge support for the Sanders amendment.

Mr. DAVIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment, the same supporters are the ones who voted to gut every other provision of this bill in terms of the type of legislative discretion we would have, who it applies to, who is exempted, and if we adopt this today, it will do the same thing.

The problem has been all along we have been full of benefits, as these bills come to the floor of the Congress of the United States, finding all the great benefits that are going to result if we pass this bill.

What we have failed to look at are what are the costs going to be. What are the costs going to be to the people who ultimately pay these? Because none of these items are for free. Instead of Congress funding them, we are sending them down to the localities.

This amendment changes the role of CBO from looking at the costs, of starting to weigh benefits. That is our job as Members. It will already be contained in the committee reports.

I think the bottom line is that the American people are tired of the trickle-down taxes that have resulted from our actions here as we look at the benefits which are presented, very ably, by authors of the different mandates, and they are contained very fully in the committee reports. But the costs are not contained, resulting in trickle-down taxes.

They are tired of cost-shifting from these mandates from the Federal income tax to local property taxes. They are tired of seeing local governments, which I have been involved with for 15 years before coming to this body, having to cut aid to schools, having to cut aid to, or having to close community centers, having to lay off police officers to fund mandates that emanate from here.

It is the costs we are concerned about. The benefits are readily contained already in committee reports. That is what has been driving this car from the inception.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, in all honesty, I really sincerely believe this should not be a political debate for this reason: Any sensible business person invests in the future. He or she purchases, say, new machinery, new technology. If the only part of the equation that one looked at was the million dollars one invested in new technology without looking at the cost savings that are coming down the road, that would be a very poor business person. I do not think we disagree on that.

Mr. DAVIS. We do not. CBO's role versus what is our role.

Mr. SANDERS. That is right. What you have proposed which makes sense is you want an objective analysis of the costs involved in a mandate. Fair enough. I agree with you. It seems to me what we want is an objective, nonpolitical analysis as best as they could do which certainly will not be perfect in terms of the benefits, as well.

So that they could come forward, not in a political way, not on a 16 to 13 committee vote; they say, "Look, if you invest $10 million, you are going to save $100 million in health care costs." Then you analyze that objectively as opposed to the partisanship which so often exists in committees.

Mr. DAVIS. I understand the gentleman's point. I think we need to get a handle on what the benefits are. I just do not think the CBO is the direction to go. As I looked at the committee reports on bills reported through, the benefits have been outlined fully. The benefits is what have been driving legislation emanating from Congress for the last 50 years, and the costs have really been hidden.

There is a balance here, but I think they are going to be clearly underscored in the reports, and we have that ability, the authors of these bills, as they move through in the authorizing committee, to lay out what the benefits are. It is not CBO's job. That is why I oppose the amendment. I think it defeats what we are trying to do.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Minnesota.

Mr. VENTO. I have supported any number of exemptions to this bill, but I want to make it clear I have no objection to the information that is being asked for in this mandated bill. I do object to the unusual procedure that would be implemented on this floor in terms of implementing the legislation.

I think in this case we could say the same thing. You say that information is already available through the committee process. Then if it is already available, why not incorporate it into the CBO?

It is not the intention here to undermine or undercut the legislation, simply to provide the perspective on a balanced basis of having both sides of the benefits that can be achieved and are achieved which there would be little argument about. If it is not possible to quantify that, then they would not be able to do that.

In fact, I suggest the gentleman's legislation under rules and regulations provisions, pages 16 through 22, has the same sort of language in it in terms of qualitative and quantitative analysis if it is possible.

Mr. DAVIS. I thank the gentleman. I think we just disagree about the best way to get to that.

I think the committee reports are going to amplify what the benefits are as they traditionally have done. That will be available to the Congress before they vote on it.

What this bill does for the first time is it brings accountability as to who is going to pay for it. That is why it is important. I think this amendment really defeats that purpose.

□ 1220

Mr. FARR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment as coauthor.

Mr. Chairman, I want to commend my colleagues, the gentleman from Vermont [Mr. SANDERS], the gentleman from California [Mr. WAXMAN], and the gentleman from Minnesota [Mr. VENTO], on their efforts toward bringing some balance to this bill.

I think that the authors of the bill ought to consider very carefully that this bill needs to be balanced out.

Mr. Chairman, in recent days this body has dealt with such heady issues as amendments to our U.S. Constitution.

Many of our colleagues lately have taken to reading the Federalist Papers.

In that vein, I would like to remind everyone of something the Preamble to the Constitution says, which is to "promote the general welfare" of the United States.

This bill does not promote the general welfare of the United States because it creates a system under which laws, designed to promote the general welfare, can be circumvented.

Mr. Chairman, every equation has two parts. The part before the equal sign and the part after it. If the purpose of this bill is to agree that we must measure the cost of legislation to the State and local governments—the part before the equal sign, then should we not also agree that we must measure the benefits of legislation to the people as well—the part after the equal sign?

This bill is weighted only on one side; the cost side. But in many cases, the benefits outweigh the costs. Unfortunately, the bill does not provide for that estimate to be made a part of the equation.

Under H.R. 5, city and State governments would be exempt from basic rules that now protect the health and well-being of hundreds of millions of Americans. For example:

City and county water utilities would be exempt from rules to disinfect their water.

When workers remove lead or asbestos from government buildings, they would be exempt from rules that they must follow careful procedures to limit toxic dust.

City-run garbage dumps would be exempt from requirements to use liners as necessary to limit water contamination and city garbage incinerators would be exempt from requirements to install equipment to limit toxic air pollution.

Unless we insist on measuring the benefits of a policy and not just the cost, many health, safety, and environmental protections will be lost to us.

Let me make the argument another way. This bill could mean the unraveling of the Clean Water Act. Despite the progress we have made since passage of the Clean Water Act, there were still over 2,600 beach closings in 1992 due to pollution and over 4,000 fish advisories or bans are in place around the country today. Under H.R. 5, instead of reducing beach closings or fish advisories, we will see more closed beaches and more fish advisories. We will be moving backward. Is that what we want?

Despite the progress we have made since passage of the Clean Air Act, over 70 million Americans still live in cities that violate air quality standards designed to protect human health. Under H.R. 5 those 70 million Americans may never get a breath of fresh air, ever. Is that what we want?

Despite the progress we have made since passage of the Safe Drinking Water Act, over 28 million Americans drank tapwater that violated health-based standards in 1991–92. Do you want to risk your family's or your neighbor's health because of this bill?

The benefit of policies enacted by this Congress must be weighed against the cost. It is only fair. It is part of the equation.

I ask everyone to support this amendment.

Let us not leave here just knowing the cost of everything and the value of nothing.

Mr. VENTO. Mr. Chairman, will the gentleman yield to me?

Mr. FARR. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the gentleman's statement. The fact is that the suggestion was made that this bill is going to stop some of the unfunded mandates that are going on, that the bill somehow will reduce the cost to local governments. I would suggest to the Members on the floor and the committee that wrote this bill that this bill has nothing to do with stopping unfunded mandates. In other words, the presumption is if the costs are laid out before the Members, that we did not know what we were doing, and therefore we would reject the legislation out of hand. I would suggest under the bill that may be possible. It may be any time there is costs associated with anything that the Members will not consider it, along with some of the other concerns. But the issue here is to try to safeguard, putting in place the balance of what the benefits are in an objective way. If you have ever read committee reports lately you would find out that they are not always completely objective, at least with the minority and majority opinions. So they advance a heck of an argument or a position.

The fact is I have no concern about getting the information, the objective information. In fact, we know what we are doing.

The CHAIRMAN. The time of the gentleman from California [Mr. FARR] has expired.

(On request of Mr. VENTO and by unanimous consent, Mr. FARR was allowed to proceed for 1 additional minute.)

Mr. FARR. I yield further to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for continuing to yield.

Mr. Chairman, the implication is that the Congress somehow does not know what they are doing in terms of when we pass there and advancing certain benefits to the people we represent. The reason the national government or the Federal Government has taken on the role it has in past years is not because of some plot that exists or strategy in the halls of some political party. It is because the American public has sought and advanced those particular goals and policies.

So the information as far as I am concerned, its disclosure would be admirable. I would think this further disclosure of information with regard to benefits is absolutely essential to make fairer judgments. I would hope that the other side, whether it is in this amendment or in the decisions we make, would in fact consider them and safeguard that as a very important aspect of our role.

Mr. FARR. Mr. Chairman, I think at a time when we are putting emphasis on cost-benefits it is ironic that this bill puts all the emphasis on cost and none on the benefits.

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words.

Let me outline briefly what is in the legislation with regard to the balance that the gentleman from Minnesota [Mr. VENTO] referred to. It is simply unfair to say that the benefits are not to be considered; in fact, they are required to be considered.

To repeat, section 423 requires the committees to perform a cost-benefit analysis. Section 421(7)(c) requires CBO again to calculate not only the cost but also the net savings. Any cost analysis, including cost analysis of the threshold, has to be net savings to the local government. Section 202 says agencies must perform a cost-benefit analysis.

I would also say that all the examples listed by my colleague, the gentleman from California [Mr. FARR], are those under existing mandates and none of those are covered by this bill.

Mr. SANDERS. Mr. Chairman, I ask unanimous consent to speak for 2 additional minutes.

The CHAIRMAN. The gentleman from Vermont [Mr. SANDERS] has previously spoken. His request requires unanimous consent.

Is there objection to the request of the gentleman from Vermont?

There was no objection.

The CHAIRMAN. The gentleman from Vermont [Mr. SANDERS] is recognized for 2 minutes.

Mr. SANDERS. Mr. Chairman, let me conclude by just saying this: The truth is there is not a heck of a lot of difference of opinion on this issue.

The strength of the bill that is coming before us is it says, provide information, information, objective information to the Members of Congress so they can assess the benefits of a particular piece of legislation. If we spend a billion dollars and we get minimal results, it is a bad piece of legislation. If we spend $1 billion and we save $5 billion, you would not disagree with me that it is a good piece of legislation.

All that this amendment does is to try to make objective that process. If I present to you a bill and I say trust me this is going to save huge amounts of money, you are probably not going to trust me, you will think that I just want to get the amendment through for a dozen different reasons.

But if I say, "Hey, the objective CBO people who have done the costs associated with it have also done the benefits associated with it," I hope and expect that you would look at it and you would say, "You know what, it is a good investment for a billion dollars."

So what this does is it takes away the partisanship, it takes away the politics, and asks for an objective analysis so that all of us could make a good cost-benefit analysis. I would very much hope that my friends would support this legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont [Mr. SANDERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 152, noes 254, not voting 28, as follows:

[Roll No. 80]

AYES—152

Abercrombie
Ackerman
Andrews
Barrett (WI)
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Cardin
Clay
Clayton
Clement
Clyburn
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hilliard
Hinchey
Holden
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
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Nadler
Neal
Oberstar
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Poshard
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Studds
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Taylor (MS)
Thompson
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Torres
Torricelli
Towns
Traficant
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Visclosky
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Waters
Watt (NC)
Waxman
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Wyden
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Allard
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Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
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Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bono
Browder
Brownback
Bryant (TN)
Bunning
Burr
Burton
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Callahan
Calvert
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Chambliss
Chenoweth
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Collins (GA)
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Cubin
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Danner
Davis
de la Garza
Deal
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Dickey
Dooley
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Ehlers
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English
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Ganske
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Gillmor
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Goodlatte
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Hancock
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Harman
Hastert
Hastings (WA)
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Hayworth
Hefley
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Johnson, Sam
Jones
Kaptur
Kasich
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Kingston
Kleczka
Klug
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Kolbe
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Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—28

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Bevill
Bliley
Chapman
Coleman
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Gunderson
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Istook
Mfume
Mollohan
Obey
Ortiz
Sabo
Sisisky
Stockman
Stokes
Talent
Tucker
Watts (OK)
Wilson
Wise
Yates

□ 1249

The Clerk announced the following pair:

On this vote:

Mr. Fazio for, with Mr. Watts of Oklahoma against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. COLEMAN. Mr. Speaker, I was unavoidably detained by official business outside of the Chamber, and was therefore unable to vote during rollcall No. 80. Had I been present I would have voted "aye."

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 80, the amendment offered by Mr. SANDERS of Vermont.

Had I been here I would have voted "yea."

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment printed in the RECORD as amendment No. 25.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. VOLKMER: Amend Section 301 of H.R. 5 as reported as follows:

Page 23, line 25 strike "except—" and insert in lieu thereof "or"; and

Page 24 strike lines 1 through 6.

Mr. VOLKMER. Mr. Chairman, my amendment addresses the definition stage of the bill with regard to Federal intergovernmental mandates. Under that definition, a mandate is any provision in legislation, statute, or regulation that would impose an enforceable duty upon States, local governments, or tribal governments, except—and this is a very large exception—the exception is a condition of Federal assistance or a duty arising from participation in a voluntary Federal program except as provided in subparagraph B, where you have such things as AFDC and other entitlement programs that are not within the exception.

Now, what does that mean? That means basically, Mr. Chairman, that whenever we have a bill coming down, whether it is a Federal highway bill, I can put any mandate on that bill that this Congress or anybody else would like to put on it, and it does not have to do with Federal highways, it just means a condition of your getting your Federal highway funds that you are going to have to abide by if you want your Federal highway funds.

If we set up a grant program and the States necessarily are going to have to utilize that money in order to perform a certain function of government, and then we could put any type of mandate on that.

Now, that is going to be happening, for those of you that may be listening, that is going to be happening in a couple of weeks. You are going to have that type of mandate.

We had it last year in the crime bill. In the crime bill there is a provision for prison construction. In that provision, you have a requirement that you have a truth-in-sentencing provision in your State before you are eligible for one-half of those funds.

Now, how does that work? That means that if your State does not have a truth-in-sentencing provision law, then you do not get any of the money.

It also means that if you enact a truth-in-sentencing law, which I agree with as far as the States having that right to do it, I believe the States should have the right to have a truth-in-sentencing law, if they wish to do so, and if I was a State legislator I would push for it, and we in Missouri already have one, and I would like to talk about that in a few minutes, but I would like to talk about those States that do not have one.

If they enact one, what does that mean? That means their convicted felons, violent criminals, are going to have to spend at least 85 percent of their term, whatever they are given, in prison before they are released on parole, probation, or any other thing.

That means your State is going to have to expend a whole bunch of money for prisoners, and that is not even taken into account. We do not take that into account at all.

Later on when we get to the crime package, that is going to happen.

What happened to the State of Missouri? Like I said, we have what we thought was a truth-in-sentencing law, and we applied for funds under this provision. Our problem is we now consider a dangerous felon sufficient to serve 85 percent of their sentence. We do not say a violent criminal. We said a dangerous felon. And that is characterized by criminal intent and irreparable harm.

What has happened under this definition we had last year in the crime bill and we are going to have in the new crime bill, we now are required to immediately build 5,633 additional beds in order to qualify for the funds that are coming from the taxpayers. Remember that, 5,633.

But guess what, folks? How much money are we going to get? We are only going to get enough money for 1,859 beds.

You talk about an unfunded mandate, it is either that or not build prisons. I thought we were up here to help States build prisons. We are actually going backward, folks. We are not going to be building them. The States are not going to be building them under this type of provision.

We do not just let the States, instead of even putting these conditions on grants, let the States use that money that comes from the taxpayers. That is where it comes from; it does not grow on trees; it does not come from the sky. It comes from taxpayers. And those are the same taxpayers that are sending money up here to send to State governments to send to local governments. And I believe those people should be able to determine if they are qualified, if they have a need for a correctional facility, and if we have the money to give to them, and it seems we do, why do we put these conditions that work just the opposite of what you want to do? Because that has happened in my State, to the chairman's State. Instead of giving us money for those 5,633 additional beds, we get money only for 1,859 beds.

Mr. Chairman, there are certain things as a person who stands here today that believes in States' rights that I have found in the past to be very onerous, what we have done even on the highway bills.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, I believe the States should have a right to determine whether or not certain offenses, like DWI's, should be prosecuted and given certain penalties. I believe that the States should have the right to determine whether or not persons should ride down the highway with a motorcycle helmet or not. I believe States should have the right to determine whether or not you have seatbelt laws and all these other things.

But in the Congress, the Congress in the past has done all those things, plus others. And under this bill, you will continue to see it done. You are going to continue to see it done.

Mr. Chairman, I think we should really seriously consider if we want to continue to do that, if we want to continue to mandate policy decisions; it will not cost a lot of money, some of them will, but some of them do not, policy decisions, should the States have the decisionmaking power, or should we require it from here?

That is the reason I offer this, just to point out to the Members that sometimes those so-called mandates that are not under our definition mandates become as onerous as the mandates that are in this bill and that have to go through a process before they can be considered.

Mr. Chairman, that is the purpose of the amendment. I will announce to the House that I brought it up just for the purpose of discussion. I believe it is a matter that needs to be discussed here.

I do not plan to go ahead and ask for a vote on the amendment. When the discussion is completed, I will ask unanimous consent to withdraw the amendment. But I do believe we need to have a discussion.

□ 1300

Mr. SCHIFF. Mr. Chairman, I move to strike the last word.

First of all, I want to compliment the gentleman from Missouri for offering this issue for discussion in the format to which it has been offered. I think this is an important issue, both generally and specific, with respect to prisons. I have to say, first, that as a general principle, if the amendment were to proceed, and I understood the gentleman has offered it really as a vehicle for discussing this issue, I would not support it, because I believe that the exemption we have provided for Federal grants from this bill is appropriate.

I think Congress ought to retain the right, regardless of which political philosophy or which political party might happen from time to time to be the majority, to have the power to say, we are setting aside a certain amount of money in grants. And if the State wants this grant money, the State may have to apply certain policies that we are trying to accomplish.

Now, whether individual policies are appropriate or not appropriate may be a secondary but important subject.

I am merely indicating, Mr. Chairman, that I think Congress has the right to say, with respect to grants, we have taken the political responsibility to raise this money and, therefore, we believe certain policy aims should be achieved by those States that wish to apply for it. States are not required to apply for it. And this is on any particular, any particular subject.

Now, the gentleman has more particularly focused on the coming crime bills that will shortly reach the House floor, I believe. And particularly to one bill which provides a further grant, I do not say "grant," I say "further grant," because there is already a provision in the existing crime bill that passed last year which has commonly been called truth in sentencing. That is a grant that would be used by States that would impose a minimum time served of 85 percent of a prison term by convicted felons. In terms of the bill actually proposed, not all felons but second convicted violent felons.

Now, the gentleman from Missouri raises a very good point about should Congress in the specific area of law enforcement, should Congress block grant money to States and local governments and say, here, you choose what you think best will serve your citizens in terms of law enforcement and crime prevention. Or, should Congress put certain requirements as it does in grants that are not in law enforcement?

Well, this is a very, very important issue that the gentleman from Missouri has raised, because the bill that passed in 1994, the crime bill, contains a myriad of requirements after every grant, whether it is for law enforcement officers or whether it is for prisons or whether it is for what are called the prevention programs, there are page after page after page of requirements for States and local governments to comply with in order to apply for these grants.

And the great bulk of these requirements would be eliminated in the bill that is proposed, that is in the Committee on the Judiciary right now.

The current bill that is pending would take the proposed funding for police, for law enforcement and for prevention programs essentially into a block grant that would give the States the choice, you choose how to best serve your citizens. I think this is important.

I think that once we recognize, as we should, that State and local governments is primarily responsible for fighting crime, particularly violent crime, that we should remove all these pages of restrictions that we put on these grants last year.

I would say that, speaking for myself, and the majority of Members either in the Committee on the Judiciary or on this floor may or may not agree, I think the one exception that we are proposing in the area of prison grants, and that is prison grants for States that adopt truth in sentencing, which I am sorry to say my own State of New Mexico is nowhere near, our State gives up to 50 percent off sentences for good time credit to murderers, but to encourage that policy, I think makes sense, because that is a more expensive policy.

Those States which adopt truth in sentencing, that is serving 85 percent of sentences, given the convicted criminals, either to a portion of convicted criminals or to all convicted criminals, are required to pay an extra expense, certainly an incarceration cost for that policy.

We think it makes sense to try to help those States that are pursuing that policy.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I just want to point out that I agree with the State of Missouri that has the truth in sentencing provision, except it does not meet exactly the Federal language that the gentleman used in the statute last year.

The CHAIRMAN. The time of the gentleman from New Mexico [Mr. SCHIFF] has expired.

(On request of Mr. VOLKMER, and by unanimous consent, Mr. SCHIFF was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, if the gentleman will continue to yield, as a result, I have given you exactly what has happened. We, in Missouri, are building prisons from State funds, et cetera. In fact the Governor's budget that was just introduced in the legislature within the last couple weeks provides for an additional $27 million in our own funds to build more correctional facilities, which we know we are going to need.

It costs money to put people in penitentiaries. I think we have to recognize that.

Now, whenever we write this, surely in the future, if we have to, maybe we can work together and come up with some language, surely when we do it. If the State of New Mexico, in their wisdom, would pass a law that they thought met the requirement for 85 percent service in sentencing for violent criminals, surely if they passed it but because there is a little discrepancy in the wording that they do not get the full benefit that you actually mandated, they tell us from the Department of Justice that in order to get the money we have to build penitentiaries big enough for 5,633 beds. But they are only going to give us money for 1,859 beds.

Now, wait a minute. There is something wrong here. Even if we talk about matching funds, that is only about 25 percent. What is going on?

Mr. SCHIFF. Reclaiming my time, Mr. Chairman, I would say that it is our purpose in a grant program to assist States. I do not think we are necessarily agreeing to take over all costs of a given project. I think even, I believe the highway construction program even is a 90/10 percent division between the Federal Government and State governments. So I think that we are still following the same path.

If we assist the State of Missouri in approaching truth in sentencing——

Mr. VOLKMER. Would it not be better to say that we are going to require you, if you want this money, you are going to have to build 5,633 beds, and we will give you the money for around 4,000? Would that not be more in line with it than us giving you a little bit?

The CHAIRMAN. The time of the gentleman from New Mexico [Mr. SCHIFF] has again expired.

(By unanimous consent, Mr. SCHIFF was allowed to proceed for 2 additional minutes.)

Mr. SCHIFF. Well, I would like to say that that is a matter then of funding. It is a matter of authorization. And I believe in truth in sentencing. I do not believe that every person convicted of a crime needs to be necessarily sentenced to prison. But I think those who are sent to prison should serve basically the sentence imposed by the judge, not only for the integrity of the criminal justice system but for public safety.

So I believe in the program. I would be willing to work with the gentleman in finding as much authorization and funding to support that, if we pass the bill.

Mr. VOLKMER. Mr. Chairman, if the gentleman will continue to yield, my last question, What is really the gentleman's intent? Do we want to build more prisons out there so that we can put these crooks away and keep them there where they should be, or do we want to make the States put an 85 percent truth-in-sentencing law? Which one?

Mr. SCHIFF. I think ultimately the proponents of the crime bill would like to see both.

Mr. VOLKMER. I do not think the way it is worded and the way it is working that you are going to do both. That is my problem.

Mr. SCHIFF. I think in working with those States that have the philosophy of truth in sentencing, I think we can work toward that goal.

Mr. VOLKMER. In closing, I would like to say in Missouri's instance, for treating all the States that already have an 85 percent this way, it is not a very good feeling. You are making us come up with about 75 percent of the money.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, let me just make a quick point at the risk of stopping this debate on the crime bill, which may solve all of our crime bill problems, let me get back to the amendment for a moment and say I think it is an extremely helpful amendment. I congratulate the gentleman for offering it. I think it focuses us on the very issue that this legislation is trying to address but goes even broader. And that is the question of conditional assistance from the Federal Government and voluntary programs.

The CHAIRMAN. The time of the gentleman from New Mexico [Mr. SCHIFF] has again expired.

(On request of Mr. PORTMAN, and by unanimous consent, Mr. SCHIFF was allowed to proceed for 2 additional minutes.)

Mr. PORTMAN. I, for one, would be very pleased to work with the gentleman, I know the majority side would, on trying to make sense out of some of these Federal requirements. There needs to be more flexibility. That is the point of the whole debate. The gentleman's amendment would go even further than the legislation does, of course. But I commend the gentleman for raising the issue.

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 1310

The CHAIRMAN. Are there any further amendments to title III?

Are there any other amendments to the bill?

AMENDMENT OFFERED BY MR. DOGGETT

Mr. DOGGETT. Mr. Chairman, I offer an amendment, amendment No. 76.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DOGGETT: At the end, add the following new title:

TITLE IV—SUNSET

SEC. 401. TERMINATION DATE.

This Act shall cease to be in effect on January 3, 2000.

Mr. DOGGETT. Mr. Chairman, I come from America's Sun Belt, with a strong belief in sunshine for our Government and a commitment to sunset for new Government initiatives, including even the most well-intentioned and appealing reforms, such as that provided us today by the distinguished authors of H.R. 5, a measure that I personally support.

Too often this Congress has embarked on ventures that were undoubtedly very well motivated by the very best of intentions, and they sounded great when they were presented in this Hall, but somewhere between the beltway and the back roads of America, somewhere between what was happening in this great building and the bureaucracies that implemented that legislation, a great new statutory scheme, beginning as a bright, beamy, sunshiny idea, left many people in America with simply a bad burn.

In Texas, when we get too much government sun, we have got a solution. I am not talking about an extra application of Coppertone. Rather, Mr. Chairman, we force periodic review of new government initiatives through a systematic sunset process. Government statutes simply should not have a claim to immortality.

In Texas, we believe that a periodic top-to-bottom reconsideration of new laws, agencies, and programs is healthy, it is good for the programs, it is good for those administering the programs, but most importantly, it is good for the people that have to pay the bill, the taxpayers.

We have found that through a periodic review process, the Texas Sunset Act, which I was the author of in the Texas State Senate, that we have been able to accomplish over 200 sunset reviews. We have repealed statutes, we have consolidated and abolished agencies, and the Texas Treasury is about $500 million the better off for it, which is a good bit of money, even in this town.

If a new proposal like the one that is advanced here today is so sound and so beneficial, and it has no harmful side effects, as its supporters have very forcefully advised us to be the case, then this measure can certainly stand in deep benefit from periodic review.

Therefore, this amendment, Mr. Chairman, places a 5-year life on this reform. By adopting the amendment today, we can guarantee ourselves a built-in opportunity to fix any unforeseen consequences of this major new reform.

Mr. Chairman, in listening to what my State and local officials have had to say very convincingly in support of H.R. 5, I am struck by how often they suggest that we would not have this unfunded mandate problem in the first place if the statutes approved in this Congress had had some limitation on their life.

If Congress had had a firm sunset process for new Government initiatives, we would not need an unfunded mandate bill, because we would have been able to review those initiatives and do something about them.

Therefore, what I try to accomplish through this amendment, Mr. Chairman, is to see that we do not repeat that same old mistake with today's reform proposal. Let us provide for its sunset today, right now, so we will be forced to come back to this Congress, reconsider the road we have taken, thinking that we are taking the right road, but perhaps seeing some diversion down the road as it is implemented, and see that we achieve all that the supporters have told us we can achieve, and avoid the evils that have been advanced by various detractors through the last several days of debate.

Mr. Chairman, the bill that we are debating is a complicated measure. It could dramatically alter how the Federal Government operates. I hope in some regards it does change the way the Federal Government operates, and for the better, but it also has the potential for some unanticipated harm.

Many Members have raised what seem to me to be legitimate questions about it. By adopting this sunset amendment, we can make sure that we really get what we are being promised in the course of this debate. Let us adopt the amendment, review the reforms, make sure they actually fulfill the author's promises, like this Congress should have done in the first place with unfunded mandates.

Mr. Chairman, I urge adoption of the amendment.

Mr. DREIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we are doing some very simple and basic things with this legislation. We so often have gotten away from the intent here. We are increasing the level of accountability in this House.

We are not saying that an unfunded mandate cannot be imposed on State and local governments. Many of us here feel very strongly that that should not happen, but what this legislation does is, it simply says that if we are going to do it, we are going to have an up-or-down vote.

If that procedure fails, if that procedure fails, I do not believe we should wait until the year 2000, I do not believe we should wait until 1997, I do not believe we should wait beyond the first failure that comes from accountability to sunset this thing. I think we should actually bring it to an end then.

That is why I would argue that as we look at this issue, Mr. Chairman, we are in fact dealing with the concerns that conceivably could be raised with this amendment by making sure that Members of this House actually go on record facing these tough decisions, which heretofore have been slipped into legislation, making us less than accountable.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I am happy to yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Chairman, I think it is a fine argument. However, is it not essentially the same argument of anyone who has ever advanced a new initiative on this floor, when someone has suggested, let us review it? You say if something proves wrong, maybe we can review it in the future, but there is no mechanism within the gentleman's statute to ensure there is compelled review unless we have a sunset process.

I am for the gentleman's bill. I am probably for a number of these other bills. However, if we are putting this in on measures we are for as well as those we are against, we will compel review and refocusing of this Congress on the statutes it is passing, rather than just having more and more regulations.

Mr. DREIER. Reclaiming my time, Mr. Chairman, what I would say in response to that is very simply that every single piece of legislation that goes through the authorization process and comes down here will be faced with that kind of review, because we will be looking at those potential unfunded mandates. Points of order will be raised. We will be having debate on them right here on the House floor, so that review process to which my friend refers will go on regularly with this legislation.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I am happy to yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding.

I just want to point out that the gentleman from Texas [Mr. DOGGETT], who offers this amendment, said several times if we had sunset provisions we might not have an unfunded mandate problem now.

It is my understanding that the kind of sunset provisions that the gentleman from Texas [Mr. DOGGETT] talks about, and of which he is supportive, and which I am informed have worked for new programs and new initiatives set up to expand governmental power, here this is a motion, a bill, rather, that will reduce governmental power. I think in this particular case, a sunset provision is not appropriate.

Mr. DREIER. Mr. Chairman, I urge a "no" vote on this amendment.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as the debate concludes, it is becoming painfully clear that this House is responding not to the needs of the country, but to the needs of doing a bunch of things in 100 days.

I was a small boy when the Democrats dealt with the 100 days of the New Deal. Those were important times. The country was going broke. A third of our population was out of work. Better than a third of the country was ill-housed, ill-clothed, and ill-fed, according to the President. Homes and farms were being foreclosed. Businesses were going down the drain. The suicide rate was up. They responded in 100 days.

However, there is nothing like that challenging the country at this time. What we are doing is rushing to pass an assortment of legislation ill-considered here, worse considered in committee. This legislation has never had hearings in the committee of jurisdiction.

We are responding to a demand which is viewed on that side of the aisle as being very important. However, we are not considering the basic responsibility that we as Members of this body have, and that is to legislate well.

□ 1320

It would be my hope that when the 100 days that we are dealing with now is recalled, it will be a time like the 100 days of the New Deal when people remembered it as a time of greatness, when the Congress responded well to a desperate challenge and to great concerns on the part of the people; not, not I say, as a period during which the Congress, in a prodigious rush, without the slightest attention to the details and the concerns that the people have, or the need to legislate well, would be properly addressed.

We witnessed not only this legislation brought to the floor without hearings, but we have watched attempts to change the rules of the House, so that the chairman of the committee can announce that hearings are going to be held on a particular piece of legislation, in 5 minutes, and be there or forfeit your chance to participate.

In our committee we were about to have hearings on a piece of legislation to address a major concern of my colleague, again on that side of the aisle, and we were going to deal with the problem of tort reform. But we are not going to hear from the Securities and Exchange Commission on the impact on investors, and indeed the proposal was going to absolve people who act with arrogant recklessness from any liability for suits under the securities laws. How is that to be justified? Or the widow who has lost a husband could not be the named complainant in a lawsuit to protest a wrong which was done to her. I think that is unwise.

We are now considering legislation to have risk assessment on a whole broad array of statutes not identified in the bill, and each of these statutes is different. No concern is being given to the impact of this one-size-fits-all piece of legislation, a bill which would treat food and drug orders, with regard to removal of things like blood contaminated with AIDS from the system of commerce in this country, the same as it would treat regulations relative to first-class mail.

I think that is an unwise course of action, and it is one that this Congress, in its responsibility to its people, and indeed in its responsibilities to itself, should avoid.

I just want my colleagues to know at the end of 100 days we are still going to be here, the country is still going to be here, the business of the Congress is still going to be before us. People are going to judge us by what we do and how well we do it, not whether we rush through to get a piece of legislation to this floor to pass it, to send it to the President's desk. That is not the test.

The test is are we legislating wisely and well? The laws we pass address the well-being of 270 million American people. They deal with their financial security, they deal with their health, they deal with the safety of their environment, they deal with things like nuclear safety, and food and drugs which will affect this generation and future generations. And they are going to impact, believe it or not, often times adversely upon the industry of this country, which thinks it is going to be benefited by some of these regulations.

Bad regulations are also bad for industry, but regulations which cannot be brought forward to address the legitimate concerns of industry are going to be banned or barred or mutilated by the process in which we are now engaged.

I would tell my colleagues that the process upon which we are engaged now is one which may look good at the end of 100 days, it may not look too good at election time next year, but it is going to look a lot worse when the cold light of history shines upon the efforts of this 100 days, when it is found that we proceeded carelessly when we passed legislation, when we did not consider the concerns and needs and future of the people.

Mr. KANJORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we just heard a very broad view of probably some of the problems that some of us see as excesses which could occur in consideration of the program for 100 days or the process of moving that legislation through without hearings and without detailed study and analysis.

We that have had an opportunity to serve in Congress more than one term, and I know I have colleagues on both the majority side and on our side, favor an opportunity to exercise what has been less than diligently exercised over the course of years, and that is the oversight review of the Congress.

None of us pretend to be the ultimate lawgivers, none of us pretend to have the expertise to know all of the unintended consequences of this legislation or other legislation.

We are in a march, in a move now over these next 100 days to make some startling changes.

The gentleman from California mentioned we can come back and change this bill if it does not work, we can come back and change other bills that my colleague from Texas and I and other Members of the majority intend to ask to be considered at the end of every bill, the provision to sunset.

I think the Congress can always come back and review and repass bills, but those of us who have been here for a number of terms know we never get around to it. The passage of a bill by its very nature constructs an interest group, a special interest group that becomes the promulgators of that bill and the continuers of that bill because they have a special interest in that bill.

We are fortunate enough to recognize the gift that we have before us today and start this process, and that is look at every piece of constructive legislation we put forth, say that if it is good legislation and it does not need anything a future Congress will have the intelligence to reenact and reauthorize that legislation.

On the other hand, if after a period of time there are inadequacies in the legislation, a future Congress will have the ability to amend and change, to make up for those inadequacies; or if, on the other hand, there is abuse or the legislation appears not to have solved the problem it was tended to solve it will automatically go to a timely death.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. Certainly, I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Chairman, first I want to thank the gentleman for his leadership on this issue, because I know the gentleman worked hard on this in the committee, and for letting me as a brandnew member here on what is my first amendment participate with the gentleman on this.

Having only heard the presentation of amendments and other Government initiatives over C-SPAN myself prior to coming here, is not this call for more Government oversight on programs something that our colleagues on the other side of the aisle have demanded again and again and again when there were new initiatives?

Mr. KANJORSKI. The gentleman from Texas is absolutely correct. I have sat here for 10 years and I have talked with my friends on the other side. Sometimes the C-SPAN audience does not realize that indeed we are friends, but all of us talked over this legislation and we all know that there are pieces of legislation that we are embarrassed about that do not adequately accomplish what they were intended to accomplish, but the Congress never gets an opportunity to oversight or review and return to that legislation.

What will happen with the gentleman's amendment and my amendment here and the ones we intend to attach to future pieces of legislation, it will require the Congress to come back and face the reality of their legislation, to decide that they have to oversight it, to have hearings on it, or to reauthorize it or let it die.

Mr. DOGGETT. And if we just pick and choose, picking and applying sunset on Democratic initiatives or applying it on initiatives that we like and not to those that we do not like we will never get the process in place of having forced periodic review and real oversight, will we?

Mr. KANJORSKI. Absolutely not. Let me give an example, and I know the gentleman from Texas feels strongly on the wetlands legislation. I know a lot of my friends on the other side and I have seen inadequacies in the legislation, not in the intent but in the application of the legislation as it affects small business people, farmers, residents of our community, all, we have heard those woes. If the Congress got involved in studying those issues, if we took advantage of the modern era of electronics and could hold hearings in Washington, but have people around this country that are directly affected, not the interest groups, not the associations, not the lobbyists, but real, live people that are affected by this legislation, their few stories could set the pace for this Congress to understand the underlying logic to redress, come back and examine legislation.

Finally, I would say to the gentleman from Texas and my friends on the other side, do not fear sunset, do not fear sunset, do not fear bringing this to a forced review. America is an evolving nation. Over 200 years we grew from 3 million people to 260 million, from 13 States to 50 States. We have to take the time to review legislation that was even good at the time it was enacted but now may be obsolete.

I urge my colleagues on both sides of the aisle to take this as a nonpartisan amendment, and support the principle that we can take 5 years, 2½ Congresses and give that next Congress, the 107th Congress in its second session the opportunity to review what we do here to today.

□ 1330

Mr. SCHIFF. Mr. Chairman, I will not use my entire 5 minutes.

Mr. Chairman, two points: First of all, again, with respect to the amendment offered by the gentleman from Texas, I think sunset provisions make eminent sense where there is the creation of a new spending program by a level of government to review it to see if that spending program merits support in the future instead of becoming an entitlement program.

However, I think it does not fit a procedure by which we will be limiting the passing of certain bills. I think the two just do not fit together.

I would like to speak more generally on the last several comments I have heard and what the gist of them seems to me to be, Mr. Chairman, is that we are moving too fast, and we do not know all of the ramifications of bills we are considering.

You know, back on the first day of the 104th Congress, the first day, we made a number of changes in how this institution runs. Just one was to eliminate proxy voting where Members were absent from committees, but their votes were still cast just as if they were there, and just as if they had listened to the debate on amendments by committee chairmen who, with the use of those proxies, ruled the roost. You could ask for all the votes you wanted in committee, and you knew that if the Chair of that committee did not agree with you, no matter how the votes went, as a practical matter, on the floor of that committee you were going to lose the vote on the proxy vote, the use of the absent members' votes. That was a reform everyone knew was overdue.

We did not need to start from scratch as if we had never heard of proxy voting. We did not need to have hearings about it. I believe that particular reform passed unanimously or almost unanimously on the first day.

I think that is the situation we have today with unfunded mandates. This is not an unheard of problem. In fact, the Advisory Commission on Intergovernmental Relations, which we put in the bill as the monitoring agency on this issue, has for years brought this issue to the attention of Congress, all without any action by the previous Congresses.

The only difference here is that the 104th Congress, I believe, will take action with respect to this very serious problem.

Mr. CONDIT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to make a general comment. I heard a few minutes ago one of the Members make reference to this is as a 100-day agenda, and what we are doing here today is doing what is not necessarily good for the country in the long term, but we are pushing a 100-day agenda. I want to make it perfectly clear, and excuse me for taking issue with you on that statement, but this is not a 100-day agenda that we are working on today.

This is an issue that we have been coming to grips with for years. We have introduced unfunded mandate legislation years ago, not exactly the same legislation, but we have introduced a number of bills years ago, had hearings, formed caucuses. This is an agenda about unfunded mandates. This is not a Republican issue. This is not a Democratic issue. This is an issue about the American people, and we need to respond to it in that way, not that it is a 100-day issue.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. CONDIT. I yield to the gentleman from Ohio.

Mr. PORTMAN. The gentleman and I were both on the committee last year, the Committee on Government Operations, when legislation substantially similar to this legislation was passed by a vote of 35 to 4 after 3 hearings in my subcommittee and hearings at the full-committee level. This is not a new issue.

Mr. CONDIT. Reclaiming my time, that is only the point I want to make. I am not speaking to the issue of the amendment.

I just simply want to say that some of us believe this is good for the country. We believe it is good for local government, for State government, for us to be forced to take accountability for our actions here, and we are not throwing in with anybody's agenda for 100 days. We are doing what we think is right, those of us who support the unfunded mandate legislation.

I want to make that perfectly clear to my side of the aisle. We are not throwing in with anybody's 100-day agenda. We are doing what is right, what we feel is right. It is consistent with what we have been doing not just the last couple of weeks but for the last few years.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DOGGETT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DOGGETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 145, noes 283, not voting 6, as follows:

[Roll No. 81]

AYES—145

Abercrombie
Ackerman
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoekstra
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Neal
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thurman
Torricelli
Towns
Tucker
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—283

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoke
Holden
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nadler
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Ramstad
Regula
Reynolds
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—6

Becerra
Chapman
Cooley
Houghton
Leach
Radanovich

☐ 1352

Mr. HOLDEN and Mr. GORDON changed their vote from "aye" to "no."

Mr. VENTO changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. MORAN:

AMENDMENT NO. 21

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fiscal Accountability and Intergovernmental Reform Act" ("FAIR Act").

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares:

(1) Federal legislation and regulatory requirements impose burdens on State and local resources to implement federally mandated programs without fully evaluating the costs to State and local governments associated with compliance with those requirements and often times without provisions of adequate federal financial assistance. These Federal legislative and regulatory initiatives—

(A) force State and local governments to utilize scarce public resources to comply with Federal mandates;

(B) prevent these resources from being available to meet local needs; and

(C) detract from the ability of State and local governments to establish local priorities for use of local public resources.

(2) Federal legislation and regulatory programs result in inefficient utilization of economic resources, thereby reducing the pool of resources available—

(A) to enhance productivity, and increase the quantity and quality of goods and services produced by the American economy; and

(B) to enhance international competitiveness.

(3) In implementing Congressional policy, Federal agencies should, consistent with the

requirements of Federal law, seek to implement statutory requirements, to the maximum extent feasible, in a manner which minimizes—

(A) the inefficient allocation of economic resources;

(B) the burden such requirements impose on use of local public resources by State and local governments; and

(C) the adverse economic effects of such regulations on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods and services.

(b) Purposes.—The purposes of this act are:

(1) To assist Congress in consideration of proposed legislation establishing or revising Federal programs so as to assure that, to the maximum extent practicable, legislation enacted by Congress will—

(A) minimize the burden of such legislation on expenditure of scarce local public resources by State and local governments;

(B) minimize inefficient allocation of economic resources; and

(C) reduce the adverse effect of such legislation—

(i) on the ability of State and local governmental entities to use local public resources to meet local needs and to establish local priorities for local public resources, and

(ii) on allocation of economic resources, productivity, economic growth, full employment, creation of productive jobs, and international competitiveness.

(2) To require Federal agencies to exercise discretionary authority and to implement statutory requirements in a manner which is consistent with fulfillment of each agency's mission and with the requirements of other laws, minimizes the impact regulations and other major Federal actions affecting the economy have on—

(A) the ability of State and local governmental entities to use local public resources to meet local needs; and

(B) the allocation of economic resources, productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods and services.

TITLE I—LEGISLATIVE REFORM

SEC. 101. REPORTS ON LEGISLATION.

(a) Report Required.—(1) Except as provided in paragraph (2), whenever a committee of either House reports a bill or resolution of a public character to its House which mandates unfunded requirements upon State or local governments or the private sector, the report accompanying that bill or resolution shall contain an analysis, prepared after consultation with the Director of the Congressional Budget Office, detailing the effect of the new requirements on—

(A) State and local government expenditures necessary to comply with Federal mandates:

(B) private businesses, including the economic resources required annually to comply with the legislation and implementing regulations; and

(C) economic growth and competitiveness.

(2) Exception.—The requirements of paragraph (1) shall not apply to any bill or resolution with respect to which the Director of the Congressional Budget Office certifies in writing to the Chairman of the Committee reporting the legislation that the estimated costs to State and local governments and the private sector of implementation of such legislation during the first three years will not exceed $50,000,000 in the aggregate and during the first five years will not exceed $100,000,000 in the aggregate. For this purpose, a year shall be a period of three hundred and sixty five consecutive days.

(b) Duties and Functions of Congressional Budget Office.—The Director of the Congressional Budget Office shall prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or of the Senate, an economic analysis of the effects of such bill or resolution, satisfying the requirements of subsection (a). The analysis prepared by the Director of the Congressional Budget Office shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.

(c) Legislation Subject to Point of Order.—Any bill or resolution shall be subject to a point of order against consideration of the bill by the House of Representatives or the Senate (as the case may be) if such bill or resolution is reported for consideration by the House of Representatives or the Senate unaccompanied by the analysis required by this section.

SEC. 102. EXERCISE OF RULEMAKING POWERS.

The provisions of this title are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SEC. 103. EFFECTIVE DATE.

This title shall apply to any bill or resolution ordered reported by any committee of the House of Representatives or of the Senate after the date of enactment of this Act.

TITLE II—FEDERAL INTERGOVERNMENTAL RELATIONS

SEC. 201. GENERAL REQUIREMENTS.

The Congress authorizes and directs that, to the fullest extent practicable:

(1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the purposes of this Act;

(2) all agencies of the Federal Government shall, consistent with attainment of the requirements of Federal law, minimize—

(A) the burden which rules and other major Federal actions affecting the economy impose on State and local governments,

(B) the effect of rules and other major Federal actions affecting the economy on allocation of private economic resources, and

(C) the adverse effects of rules and other major Federal actions affecting the economy on productivity, economic growth, full employment, creation of productive, and international competitiveness of American goods and services; and

(3) in promulgating new rules, reviewing existing rules, developing legislative proposals, or initiating any other major Federal action identifies two or more alternatives which will satisfy the agency's statutory obligations, the agency shall—

(A) select the alternative which, on balance—

(i) imposes the least burden on expenditure of local public resources by State and local governments, and

(ii) has the least adverse effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods or services; or

(B) provide a written statement—

(i) that the agency's failure to select such alternative is precluded by the requirements of Federal law; or

(ii) that the agency's failure to select such alternative is consistent with the purposes of this Act.

SEC. 202. INTERGOVERNMENTAL AND ECONOMIC IMPACT ASSESSMENT.

(a) Requirement.—Whenever an agency publishes a general notice of proposed rulemaking for any proposed rule, and before initiating any other major Federal action affecting the economy, the agency shall prepare and make available for public comment an Intergovernmental and Economic Impact Assessment. Such Assessment shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule or prior to implementing such other major agency action affecting the economy.

(b) Content.—Each Intergovernmental and Economic Impact Assessment required under this section shall contain—

(1) a description of the reasons why action by the agency is being considered;

(2) a succinct statement of the objective of, and legal basis for, the proposed rule or other action; and

(3) a description and an estimate of the effect the proposed rule or other major Federal action will have on—

(A) expenditure of State or local public resources by State and local governments,

(B) allocation of economic resources, and

(C) productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods and services.

(c) Alternatives Considered.—Each Intergovernmental and Economic Impact Assessment shall also contain a detailed description of any significant alternatives to the proposed rule or other major Federal action which would accomplish applicable statutory objectives while reducing—

(1) the need for expenditure of State or local public resources by State and local governments; and

(2) the potential adverse effects of such proposed rule or other major Federal action on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods and services.

SEC. 203. INTERGOVERNMENTAL AND ECONOMIC IMPACT STATEMENT.

(a) Requirement.—Whe an agency promulgates a final rule or implements any other major Federal action affecting the economy, the agency shall prepare an Intergovernmental and Economic Impact Statement. Each Intergovernmental and Economic Impact Statement shall contain—

(1) a succinct statement of the need for, and the objectives of, such rule or other major Federal action;

(2) a summary of the issues raised by the public comments in response to the publication by the agency of the Economic Impact Assessment, a summary of the agency's evaluation of such issues, and a statement of any changes made in the proposed rule or other proposed action as a result of such comments;

(3) a description of each of the significant alternatives to the rule or other major Federal action affecting the economy, considered by the agency, which, consistent with fulfillment of agency statutory obligations, would—

(A) lessen the need for expenditure of State or local public resources by State and local governments; or

(B) reduce the potential adverse effects of such proposed rule or other major Federal action on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods and services,

along with a statement of the reasons why each such alternatives was rejected by the agency; and

(4) an estimate of the effect the rule or other major Federal action will have on—

(A) expenditure of State or local public resources by State and local governments; and

(B) productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods and services.

(b) AVAILABILITY.—The agency shall make copies of each Intergovernmental and Economic Impact Statement available to members of the public and shall publish in the Federal Register at the time of publication of any final rule or at the time of implementing any other major Federal action affecting the economy, a statement describing how the public may obtain copies of such Statement.

SEC. 204. EFFECT ON OTHER LAWS.

The requirements of this title shall not alter in any manner the substantive standards otherwise applicable to the implementation by an agency of statutory requirements or to the exercise by an agency of authority delegated by law.

SEC. 205. EFFECTIVE DATE AND EXEMPTION.

This title shall apply to any rule proposed, any final rule promulgated, and any other major Federal action affecting the economy implemented by any agency after the date of the enactment of this Act. This title shall not apply to any agency which is not an agency within the meaning of section 551(1) of title 5, United States Code.

Mr. MORAN. Mr. Chairman, this is the last amendment that we will offer to this bill. It is in the nature of a substitute.

Mr. Chairman, the vast majority of Members of this body recognize that it is imperative that we address the issue of unfunded mandates upon State and local governments and the private sector.

Speaking as a Democrat, I wish we had done this when we were in the majority. We should have, and in many ways we should be ashamed that we did not.

Mr. Chairman, I respect the proponents of this legislation. I agree with their intent. I think it is time that we profoundly alter the way we do business in Washington, that we accept accountability for our actions.

If we are going to pass legislation, we have to be able to prove in a compelling fashion that the cost of that legislation is less than the benefits that it will provide, and we have to respect that State and local governments have achieved a level of competence, and in fact have had that level of competence for decades now that may not have been there in the 1950's, and the 1960's, and early 1970's when we assumed so much control at the Federal level. We undermined their efforts. We undermined their ability to determine their own priorities, what was best for the demography and the geography, for the needs of their own jurisdictions.

This legislation is one of many that will in fact empower those State and local officials. It is the right thing to do. But I want this legislation to be enduring, to effect this profound change. My concern is that, if we are not careful, the remedy that we write might be worse than the malady that we cure.

For example, Mr. Chairman, this legislation will create new entitlement programs for virtually every domestic discretionary program that we enact on this floor. Now we could overturn them with a point of order, but the point is those that we approve, consistent with the intent of this legislation, must be fully funded. Entitlement programs are the principal reason we have the problem we have now, because they have crowded out Federal assistance to States and localities. That assistance is considered domestic discretionary assistance. That is now down to less than 20 percent of the budget. It is now really only about 12 percent, if we include everything.

That is the problem. States and localities do not have the money that they need to carry out their responsibilities, and we are going to create more entitlements with this legislation.

It will also create unequal treatment between the public and the private sector.

□ 1400

It will be very difficult to pass legislation that creates national standards or that in fact addresses constructively the deficit problems that we have.

For example, and I mentioned this last night, we probably need to raise the part B premium on Medicare. The way this legislation is worded, the 16 million public employees throughout the country that work for States and localities and all the various commissions, they could be exempt from having to increase their premium. Those employees in the private sector, the 100 million employees who work for private businesses, could not possibly be exempt. So not only would they pay their share, but they would have to make up for the fact that 16 million public employees did not have to pay their share. I do not think that is what we wanted to do.

In fact, there are reasons for national standards, and we can go back through history, all the way back to the Articles of Confederation when we gave complete latitude to States, and it did not work. We created a patchwork quilt of governance, and we had to repeal that.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. MORAN] has expired.

(By unanimous consent, Mr. MORAN was allowed to proceed for 3 additional minutes.)

Mr. MORAN. I am very much concerned that as we encourage the private sector to compete with the public sector so we can ensure that we carry out our programs in the most efficient manner, that we can let the market work its natural process so that the public sector is not costing two and three times as much as it could be done for in the private sector for many activities, whether it be waste disposal, public utilities, or any number of other things, janitorial services, secretarial services.

All those activities are being privatized. States and localities ought to be able to privatize them, and private companies ought to be able to compete. They would not be able to compete under this legislation because we will have Federal standards applying completely to the private sector and States and localities would be exempt.

I am offering a substitute amendment which was introduced 3 years ago. As of last year we had 248 cosponsors. We stopped getting cosponsors at that point because it was clear that the vast majority of Members agreed. In fact, we had the support of the National League of Cities, the U.S. Conference of Mayors, the National Governors' Association, all of the State organizations, the National Conference of State Legislators, a long list of them. They all supported this.

They do not now, because the current legislation goes a step further. It creates an entitlement for every State and local grant, and it gives preferential treatment to the public sector over the private sector. Naturally, they do not support it. They want to get as much as they can.

I would suggest that this legislation, this substitute amendment, is the kind of moderate but profound change that will be enduring, that will not require that we fix it in 2 or 3 years. We know it does not go too far, but it does in the right direction. It will require that a point of order be raised on any legislation for which we have not obtained a complete fiscal impact analysis, not only of the public sector activities, but of what impact it has on the private sector.

It also enables any Member of this body to strike an unfunded Federal mandate from the legislation being proposed.

It has a judicial review section; it applies to the executive branch. It will require that the executive branch, when it issues regulations, to solicit from those groups affected what is the most efficient way of complying with the intent of the legislation. Take the ideas that are out there in States and localities and private businesses, incorporate those into your regulations, and let us conduct business in the most efficient, effective, and responsible manner.

Mr. Chairman, I would urge the support of my colleagues.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would join my colleagues on both sides from applauding the gentleman from Virginia for the long hours and much dedication and hard work that he has devoted to mandate relief and to the FAIR Act.

It is unfortunate, as the gentleman has already indicated, in the last Congress the then-majority party did not choose to consider his bill or in fact any mandate relief bill, which we were all hopeful might have been accomplished, even though I think the FAIR bill had an enormous number of cosponsors and so forth.

However, this is a new day and a new opportunity to consider a bill which I think goes beyond what the FAIR bill does. I think it blends the benefits of the informational requirements, which are vital in the FAIR bill, with the added feature of accountability, which is, I think, the lack in this bill, is the factor accountability.

Also, I have to say the other failure that I personally find disturbing is there is no commission to accomplish the sorts of things that I hope to accomplish through the review of the ACIR.

While the gentleman and I agree on the need for mandate relief, and I think that is a very strongly held belief that we must give relief to State and local governments and the private sector, I must oppose this amendment because I do not believe FAIR is the best we can do.

Mr. LEVIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the substitute of the distinguished gentleman from Virginia [Mr. Moran].

Clearly, we have to be much more sensitive to the costs that are imposed on the State and local governments as well as the private sector. I support very much the legislation in this amendment to rein in unnecessary Federal mandates. That is why I cosponsored it last year. I received almost 250 cosponsors.

Now we have before us the proposal to go beyond the Moran substitute and to adopt the contract proposal.

Might I say a word mostly to those who are for the Moran substitute but who are thinking of voting for the contract provision. I recognize very much that it is not easy to vote simply for the Moran substitute and then against the final proposal if the Moran substitute fails, as it is likely to do. But I want to speak from personal experience, if I might.

As I said, it is not easy when you favor reining in mandates to oppose the contract provision. But let me suggest what would happen. Because of its presumptions, because it so stacks the deck, because of the technical roadblocks that are set up, I think that a lot or some legislation that is in the national interest will probably never see the light of day.

Thirty years ago, when I was in the State legislature, I worked on special education legislation. I did so because I was initiated into the problem by somebody who worked with me on my campaign and had simply one request: That if I were elected, I would work on special education. In those days, half of the handicapped children in Michigan did not have a single hour of special education opportunity.

Well, an event occurred. We got moving on a bipartisan basis in Michigan 30 years ago, and we passed a major special education reform. There was a lot of resistance to its from general education, believe me. Most of the superintendents looked at it, I think, very provincially. But we passed it.

But what we could not enact was any form of mandatory special education within the State. And that meant still hundreds of students and in other States tens of thousands of students with a handicap who had no educational opportunity at all.

Some years later, the Federal Government passed the mandatory special education law. What it said was there was a national interest in all of the handicapped children in this country, wherever they lived, having a special education opportunity.

□ 1410

And there was some funding, but also what was created was a local-State-national partnership, when it came to handicapped children. If there had not been that shared effort, that partnership effort, in my judgment today tens of thousands of handicapped children today would be without an educational opportunity.

I am not for blind unfunded mandates. I am in favor of this substitute because I think it would slow us down and make us look, that it would not handcuff us when national leadership was necessary. The technical roadblocks are immense, the necessity to look at tens of thousands of units to see their impact when it comes, for example, to special education, tens of thousands and essentially the major advantage, the presumptions that are given to those who want to avoid national action.

What probably makes it worse is that this heightens the expectations of local units that they are going to have a free ride, that if there is a national interest, there cannot be a partnership of local-State-national entities. That is probably the worst impact of this.

So in a word, I very much favor the Moran substitute. I favor major reform.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. Levin] has expired.

(By unanimous consent, Mr. Levin was allowed to proceed for 1 additional minute.)

Mr. LEVIN. I favor major reform. I think there has to be a major change. But I think this is an extreme change. What was true of special ed I think would have been true and would be true today in terms of clean air, in terms of clean water. I am not sure the Americans With Disabilities Act would have ever passed.

So let us be sensible. Let us have some kind of balance here.

I am for a highly reformed federalism, but not for the end of it. And I think that this bill, without this substitute, is a step backward several hundred years instead of forward to a new era where there is a true partnership.

So I just urge my colleagues, though the vote may be difficult, to vote their conscience and, indeed, vote their local interests, acknowledge at times there is a need for a merger, a melding of national, State, and local interests.

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first in response to my colleague from Michigan, very thoughtful comments on the issue of unfunded mandates, I know he is sincere about his interest in addressing the issue. I would say that the conclusion he draws is a very different one than many of us do. That is to say, we believe that having cost information, having a debate on the floor as to the funding issue and then having a vote up or down will not necessarily result in important issues like special education being passed, when appropriate.

The difference between the Moran bill and H.R. 5 before us is that it provides for that debate on the floor and it provides for that accountability, the vote up or down.

The cost concerns that the gentleman from Michigan [Mr. Levin] raised would be the same concerns in the Moran bill as an example. The cost-benefit analysis is in both pieces of legislation. I have to oppose the Moran amendment simply because it does not go far enough. And in doing so, I will once again commend the gentleman from Virginia and the gentleman from Pennsylvania [Mr. Goodling] for all the work they have put into this.

As I have said earlier in this debate, it is the foundation of this bill, the cost part is extremely important. But I would also say that there is a crucial part missing. At the very least, if we think something is important enough to mandate from Congress, from the Federal level, we ought to be challenged as to paying for that mandate. That is all this bill says. And under the Moran substitute, we have the cost information, but Congress does not have to face, confront that very crucial issue as to whether when we mandate, if it is important enough to mandate, is it not important enough for us to fund it. that is what this legislation gets to.

I would say that we have heard plenty of examples in these past 2 weeks of the horrors out there in terms of what the Federal Government is currently doing. It is nothing short of an abuse of power from Washington. When we have these kinds of examples out there, when we have good evidence of such a crisis, we ought to act.

I can just say, in summary, that cost information alone is not strong enough medicine for what clearly ails us.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank the gentleman for yielding to me.

I, too, would like to join reluctantly opposing this amendment.

We spent a great deal of time working with the Parliamentarian and in a bipartisan way struck an agreement with the former chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY]. And that amendment deals with this entire issue of points of order, and I believe that the accountability that comes about with H.R. 5 is very adequately addressed.

We looked at this point-of-order question in a clearly bipartisan way, and it is my hope that the House will recognize that time and effort was spent doing just that and will, in fact, reject this substitute, which clearly repeals that bipartisan agreement.

Mr. PETE GEREN of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, rise in reluctant opposition to the Moran amendment. But I want to take a moment to just note that the reason we are here today is because there has been a bipartisan effort under way for the last 3 or 4 years. And the gentleman from Virginia [Mr. MORAN] has been one of the real leaders in that effort.

He did so much to build the foundation for the bill that we consider today. I supported his bill last year. I support the bill under consideration today, because it does carry it one step further, a very important step further, in my opinion, to make sure that we embed in our law the principle that if it is important enough to pass it, it is important enough to pay for it. But we would not be here today, we would not have this bill ready, as it is, for consideration on the floor if it had not been for the leadership that the gentleman from Virginia [Mr. MORAN] has shown on this issue.

He has drawn on his experience in city government. He brought a wealth of understanding of this issue to the U.S. Congress. And he has contributed so much to the development of this legislation, to educating the Congress on the principles that underlie this legislation.

I want to thank the gentleman from Virginia [Mr. MORAN] for what he has done. Again, it is with great reluctance that I oppose this amendment, which by itself would have been a big step forward. In the last Congress it would have been as much as we could have gotten done.

The bill we have in front of us now does carry it to the next step. I support the bill in front of us for that reason.

Mr. Chairman, I yield to the gentleman from California [Mr. CONDIT], another person who has been such a leader in this bipartisan effort, worked with the gentleman from Virginia [Mr. MORAN], worked with the gentleman from Ohio [Mr. PORTMAN], the gentleman from Kansas [Mr. ROBERTS], in bringing this legislation to the floor.

Mr. CONDIT. Mr. Chairman, I too, rise, reluctantly opposed to the substitute amendment by the gentleman from Virginia [Mr. MORAN].

I want to tell my colleagues that the gentleman from Virginia [Mr. MORAN] is an example of a long-term effort, that he has not agreed to any 100-day agenda. He has been involved in this issue for a long period of time.

The gentleman from Texas [Mr. PETE GEREN] is absolutely correct. We would not be at this stage today had it not been for the efforts of the gentleman from Virginia [Mr. MORAN]. He has been a fighter for putting a stop to unfunded mandates, for us to deal with this in a responsible way.

We both got involved in this issue. He took a little different path than some of the rest of us, but I commend him and congratulate him for his effort and think that he is a reason that we are going to be, I believe, successful on the floor today on passage of this bill. I support H.R. 5. I think it is the right way to go.

With all due respect to the gentleman from Virginia [Mr. MORAN] I ask my colleagues not to support the substitute amendment. Let us move H.R. 5. It is, I think, a big step for us in putting a stop to unfunded mandates.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I join many of my colleagues in the legislation which I believe is the most bipartisan of the two major bills before us, and that is the Moran legislation. I commend it to my colleagues as the real genuine bipartisan article.

I say that only because of the number of cosponsors on both sides. It is true that H.R. 5 has at least a tinge of bipartisanship to it. But if one looks at the cosponsorship that the Moran bill had, one finds that more than half the Members of the House had cosponsored the bipartisan effort of the gentleman from Virginia [Mr. MORAN], a Democrat, and the gentleman from Pennsylvania [Mr. GOODLING], a Republican.

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About half of the Members of the Republican side had cosponsored the piece of legislation offered by the gentleman from Virginia [Mr. MORAN]. I believe it is more thoughtful, and I believe it is not captive to the baby and the bath water syndrome which I think drives H.R. 5.

Mr. Chairman, I want to say a word about the whole purpose here. I am, of course, speaking for myself in giving my own opinion. I do not believe the effort in H.R. 5 is as benign as it is upheld to be. Some say the sole purpose of it is to reduce the number of Federal requirements, or eliminate the number of Federal requirements that are there, unless there is money to back those requirements, and that is the sole purpose of it.

I believe that the architects of this H.R. 5, this particular unfunded mandate bill, have a much larger purpose. There is, I believe, this legislation joined with others, some of which is in the Contract With America, which, taken together, amount to a grand strategy, a strategy which I believe is aimed at removing the public from the opportunity to utilize their National Government for the purpose of embracing and enhancing those matters which are in the national interest.

Let me go back to the 1970's. David Stockman, who served, as Members will recall, as Budget Director under former President Ronald Reagan, confessed after leaving that position that the purpose of their economic plan was not what it was thought to be, and that was just to cut the budget. He said, "We had a grander strategy than that in mind. We were attempting to empty the Federal Treasury," and they were successful at doing exactly that in the 1980's.

Mr. Chairman, let us look at what happened beginning at about that time with regard to Federal mandates. Go back to the 1970's. One of the strictest, most voluminous mandates ever passed by the Congress of the United States was passed in the 1970's, the Clean Water Act.

My colleagues will recall that great rivers in America were catching on fire, spontaneous combustion, and the American people looked around and said, "Maybe the rivers are not quite clean enough in this country. Because rivers run through us, this cleaning of rivers will take a national strategy," so they correctly looked to the Congress of the United States to pass legislation to clean up America's major waterways. We passed major legislation to do that. It was a mandate, a rock-ribbed, ironclad mandate to clean up America's rivers.

However, we did something else back in the seventies. We passed the money to help the States and the communities, and yes, industry, to follow the mandates of that law. In fact, the amount of money passed amounted to the greatest public works program in the history of the United States, second only to the Interstate Highway System.

Now go to the time following the Reagan administration.

The CHAIRMAN. The time of the gentleman from Montana [Mr. WILLIAMS] has expired.

(By unanimous consent, Mr. WILLIAMS was allowed to proceed for 2 additional minutes).

Mr. WILLIAMS. Mr. Chairman, following the beginning of what I think is this grand strategy to prevent the public from working their will through the national Congress, in the 1980's the Congress passed another water mandate. This one was the Safe Drinking Water Act, every bit as much of a mandate as was the earlier Clean Water Act.

Regulation after regulation, as with the Clean Water Act, followed the Safe Drinking Water Act. It was a mandate, ironclad, copper-riveted, placed on the localities and the States and the industry, but there was one difference. It was now in the 1980's, and the new grand strategy to make the Federal Government infantile was in place.

The Congress of the United States, because of the emptying of the Treasury, did not pass a penny in the initial goal, not a penny to help the localities carry out the Safe Drinking Water Act. That damaged my State of Montana and my communities out there in a terrible way.

I would ask the Members, have they heard complaints about the Safe Drinking Water Act? Absolutely, because this Congress did not have the will to pay for it. The Treasury had been drained.

Did Members hear complaints about the Clean Water Act? No. Why? Because the Congress had the will to spend the money to help the communities in the 1970's, as it did in the sixties and the fifties and the forties, but things changed pretty dramatically in those early eighties. The effort was drain the Treasury. The effort was to not pay for the mandates.

Now the effort is "Let us not have the mandates at all," so the strategy is coming full circle. I ask my colleagues to say no to it, and yes to the Moran amendment.

Mr. ENGEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the substitute of the gentleman from Virginia [Mr. MORAN]. Having served in the New York State Assembly for 12 years, I am opposed to unfunded mandates. However, I think that what we need to do in this Congress is not be blind, not pass laws which blanketly prohibit Congress from exercising the flexibility that it may need to exercise from time to time.

The substitute offered by the gentleman from Virginia [Mr. MORAN] simply says that Congress can consider legislation containing unfunded mandates. It does not mean Congress has to consider it. It does not mean that Congress will consider it. However, frankly, it means that Congress in the future can consider it.

What are we afraid of? Each of us comes here to represent our constituents, about 600,000 people. It seems to me that under the system we have in this country, the majority ought to rule. Prohibitions, blanket prohibitions that we try to shackle on future Congresses it seems to me are very, very dangerous precedents.

Yes, we must have mandates and we must be very careful that we fund these mandates. However, some future Congresses may look at this in another light. At a time when we are talking here of passing a balanced budget amendment, and at a time we are talking here coupling with it unfunded mandates, a complete prohibition on any kind of mandates, unless they are totally funded, the gentleman from Montana [Mr. WILLIAMS] is quite right. What we are really seeing here is a total prohibition on any kind of mandates from the Federal Government, because frankly, there will not be any money to do the kinds of things that some people know need to be done.

When we combine the two, it really brings us paralysis in terms of saying that the Federal Government needs to have a uniform policy throughout the country.

I do not think it is so terrible to have clean air and clean water and other things. My State of New York has a problem with acid rain. We cannot handle the problem ourselves. We need, frankly, a universal taking care of this problem. If there is a problem in Ohio and it affects New York, we cannot do it ourselves, so we need the Federal Government to intervene.

What really frightens me, Mr. Chairman, is that under the guise of unfunded mandates and under the guise of a balanced budget and under the guise of all these things we are rushing toward, we are going to give our children a dirtier environment, dirtier air, dirtier water. All the kinds of things that the Federal Government has done for so many years the Federal Government will not be able to do.

In the abstract, Mr. Chairman, of course we need to say that if we are going to mandate something, things ought to be paid for. However, let us not tie the hands of future Congresses to give them the flexibility to pass the programs that they see fit without being tied up in a straitjacket.

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I want to commend the gentleman from Virginia. This is something that he has pushed for a long, long time. It adheres to the principle the fact that we ought to not have unfunded mandates, but it allows the future Congresses to have the flexibility that they need. One person—one vote.

If a future Congress wants to mandate something, they can. If they do not want to, they do not have to.

What are we afraid of? Let us have the flexibility.

The Moran amendment, as far as I am concerned, is the best of both worlds, and that is why I believe we ought to pass it.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, just briefly, I think the gentleman has made a strong statement in support of H.R. 5.

I would ask him if he is aware under H.R. 5 of the fact that in fact by majority vote Congress can at any time waive the point of order and go ahead and impose a mandate, go ahead and provide the costs or not mandate at all. Those options are all there.

Mr. ENGEL. The options may be there, but the threshold is much more difficult than what the gentleman from Virginia [Mr. MORAN] is proposing. That is why I think what he is saying is to give us maximum flexibility. Frankly, I do not understand why we are not all rallying around the Moran proposal.

Mr. PORTMAN. If the gentleman will yield further, I would just say again I think you made a strong statement in support of H.R. 5. The abstract concept that you said you supported, which is no-money/no-mandate, is in fact even stronger than H.R. 5. I would say all we are asking for is the cost information that is in the Moran bill, but then in addition to that, to have a debate on the floor on the funding issue and force Congress to be accountable to that issue.

Mr. ENGEL. Can I ask the gentleman why then he does not embrace the Moran bill, because I think what the gentleman from Virginia [Mr. MORAN] is doing is frankly giving you everything that you feel needs to be done.

Mr. PORTMAN. Let me be clear again. What the gentleman from Virginia [Mr. MORAN] does is the foundation for this legislation which is to provide the cost information, but we need to go further than the cost information and address the very issue which you addressed in the abstract, which is the question of funding. And that is what this legislation does.

Mr. ENGEL. But, I think what this legislation also does is, if something is not fully funded, it makes it very, very hard to do. Frankly, I am not afraid of unfunded mandates.

I am afraid that the ruse of unfunded mandates is going to be used to prevent Federal action on clean water, clean air, the environment, and all the things that I know we need. And that is why I think the gentleman's proposal makes infinite sense.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is indeed an honor and privilege to speak at this juncture of the debate with the Moran substitute before us at this hour. This is really the conclusion of years and years of work for people who were in the Congress before me and people who served with me in the past 2 years, and I want to just take a moment in this historic debate and its conclusion and thank a few people.

I want to thank the gentleman from Pennsylvania [Mr. CLINGER], the chairman. He has shown incredible leadership on this issue, not just today but over the years, in working in the past 2 years in the minority. Also the gentleman from Ohio [Mr. PORTMAN] who joined us in the last Congress and he took up the mantle of unfunded mandates and carried it through, and carried it through some tough times. My compliments to them.

Also the gentleman from New York [Mr. TOWNS], who formerly chaired our subcommittee. I served on that subcommittee. He helped us fight the battle to get unfunded mandates and the question before the Congress and before the country. To these gentleman and colleagues, I want to say thank you so much.

Also to the gentleman from California [Mr. CONDIT]. He and I worked on this issue, and this has indeed been a bipartisan issue. The gentleman from California [Mr. CONDIT] offered a measure much tougher than anything we see before us today. It was no-money-/no-mandate proposal.

And the gentleman from Louisiana, Mr. TAUZIN and the gentleman from Texas, Mr. PETE GEREN. We were called the unholy trinity, because we believed in moving forward with some action on unfunded mandates and property rights and risk assessment, issues that have long been swept under the rug and left behind the carpet.

The gentleman from New York [Mr. TOWNS], the gentleman from Pennsylvania [Mr. CLINGER], myself, and the gentleman from Ohio [Mr. PORTMAN], we all participated in hearings. This is not a new issue. It is an issue that people were not listening to or paying attention to the debate.

We conducted field hearings. I will never forget the field hearings in the district of the gentleman from Pennsylvania [Mr. CLINGER] where local officials came and said, "We can't take it anymore. It is cheaper for us to deliver bottled water than to comply with the regulations and mandates coming out of Washington. We have to make some common sense out of this mess."

We held field hearings in my district and we heard of local tax caps and State requirements for balanced budgets. Unfortunately here we passed on these matters to local governments. They said they couldn't take it anymore, but no one was listening.

Last year, ladies and gentleman, we pleaded and we begged and we asked for the opportunity to bring this legislation forward, and our words were not heard. We did not have the opportunity to bring this issue forward, and here we are today at the last hour and the last minute.

Mr. Chairman, this bill is not the final answer to unfunded mandates. It does not cure the problem, but it does set a standard. It does set some sense of responsibility and accountability for the process.

At this particular historic juncture, I wish to thank the gentleman from Virginia [Mr. MORAN]. I cannot support his substitute. Mr. MORAN has made some great contributions to this effort, not just today but over the history of this particular legislation.

I want to also thank our staff who have worked hard on both sides of the aisle and contributed to this effort and also this historic occasion.

With that, ladies and gentleman, again at this historic juncture, I oppose the Moran substitute. I have the biggest smile on my face of anyone in this Congress to see this long neglected legislation move forward in the next hour, and I compliment everyone who has been involved in its success.

Mr. MFUME. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this has been a long and oftentimes wrenching debate that has occurred on this bill over the last couple of weeks and Members on both sides of the aisle clearly feel very strongly about it one way or another.

Let me preface my remarks by congratulating the gentleman from Pennsylvania [Mr. CLINGER], the chairman, for the manner in which he has managed this bill and the manner in which he has managed the debate, particularly on his side of the aisle, and I know I speak for Members on this side of the aisle when I say he has been thoughtful, deliberative and fair in that process and that has not gone unnoticed.

In the last Congress, the gentleman from Connecticut [Mr. SHAYS] and I and perhaps many others in addition to CHRIS SHAYS talked about this notion of unfunded mandates. People had varying ideas and approaches as to how it might be done. The fact that we are here today, I think, underlines the importance of this legislation to a lot of people.

But as has been said over and over and over again, many people want to make sure that we do this the right way, so that we do not have to revisit it and that we do it the right way so that we in fact do not do more harm than good.

Having said that, I stand in support of the Moran substitute. It is a clear and reasoned approach. It has less of a broad-brush application to it. It will slow us down and make us think as it should, and it allows for the uncertainty of the future.

The only thing certain, someone said, about the future is that it is, in fact, uncertain.

Many of us over the course of the last 2 weeks have tried to take advantage of the process in a constructive manner, to change, to modify and to make better the original bill. We have tried to exempt Medicare, we have tried to exempt certain children's programs. We tried to exempt programs for the disabled. We have asked for CBO estimates to make sure that financially the moneys and the fiscal impact were in fact correct.

We have attempted to make sure, if we could at least, that clean water and clean water standards in this country would not be affected, as well as a number of health issues.

Those of you who have watched the debate and those of you who have participated in the debate know that very little has changed in that regard and we have a bill somewhat different than the bill that was first before this body, but we have a bill that we still can improve on if in fact we adopt the Moran substitute.

I say that because I have heard from persons who want this in its current pure and clinical fashion, that the bill does allow for future Congresses to allow for mandates. Well, it does, if in fact the mandate is 100 percent fully funded.

We have already begun the process in this Congress of reducing the amount of money available for mandates, unfunded or otherwise. We are on the verge of a major debate on the merits of the balanced budget amendment, and there are proposals in at least six different committees of this body to reduce taxes.

□ 1440

When we couple those three things together, clearly, ladies and gentlemen, it is going to be very difficult at any point in the future to get a 100 percent fully funded mandate. It takes away when the ability of this Congress, in this Member's opinion, to be as effective as we must.

So the Moran substitute does not prevent unfunded mandates from being considered. To the contrary of what some have suggested, it allows for that and it allows for us to move forward without the 100 percent trigger that is involved. It simply says that future Congresses, if they so choose, may in fact consider at some later date passing an unfunded mandate, whereby you have a partnership with the Federal Government, the State government and local governments to take care of an issue and/or a problem that besets the citizens of this country.

In my opinion, that allows for more flexibility, it certainly creates a greater air of sensibility and it allows for the notion of partnerships if at some point in time by a majority vote in this body they so choose to do so.

So I would ask Members on both sides of the aisle as we near the vote and the conclusion on this bill to consider again the Moran substitute which I think is the right and proper approach for us to take.

Mr. TOWNS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me begin by thanking the gentleman from Virginia [Mr. MORAN] for the outstanding job he has done in bringing us to this point, because if it had not been for him last year in terms of his talking about the importance of unfunded mandates, I do not really feel we would be here now. So, I would like to say to him he really kept the issue alive.

I would also like to say to the other side that this bill really is more the bill that we dealt with last year, the bill that the gentleman from Florida talked about, the hearings that we had all over this country, and basically what people were saying to us is that something has to be done, and I think this bill really addresses their concerns.

I know that others want to go even further, but I think that to go further is a mistake. I think we have been down that road before. I remember the catastrophic health care bill that we kept wanting to go further, and go further, and go further, and we went, and then all of a sudden we had to come back to undo what was done.

So, I can see that we are making the same mistake again.

So the gentleman from Virginia [Mr. MORAN] offers us an opportunity to do something different. First of all to address the problem in a very logical and sensible kind of way, not the draconian bill that is being proposed on the other side of the aisle, H.R. 5. I think we need to recognize that, and deal with it.

What we are saying, is people out there are saying we want to know how much it is going to cost and we need to know how much it is going to cost. To me that is a very practical way to deal with the problem and that to me is a solution to the problem. We heard it as we had hearings in Pennsylvania, as we had hearings in Florida, as we had hearings here in Washington, DC; people were saying to us that was their concern.

But what we are doing is taking it a step further and I think we are going to find that there are procedural barriers that are going to make it impossible for us to do the kind of thing we need to do.

I have heard the term bipartisan support. I think bipartisan support is good and I think we should have it whenever possible, and I think that this bill that the gentleman from Virginia [Mr. MORAN] is putting forth is truly the bipartisan bill. That is the Moran-Goodling bill of last time around. I think that is the bipartisan approach.

So, I would encourage my friends on both sides of the aisle to take a look at this legislation, because this really deals with the problem, it makes it possible for us to be able to legislate in a very timely fashion and do the kinds of things that need to be done. It eliminates the dumping that goes on from one State to another.

When I look in terms of what is happening in my own area in terms of incineration, how one area can create problems for another area and we cannot do anything about it because of the fact that we would have to come back and be able to examine it before we move forward, this legislation eliminates that kind of bottleneck, it makes it possible if one area is dumping on another area that we address that and deal with it right away.

So I think this makes a lot of sense if we really want to deal with the problem as we have heard it out there, as it comes from people throughout the area.

On this particular legislation, H.R. 5, let me set the record straight because I have heard about all kinds of hearings and all of that. Even if there were hearings they were held though in secrecy, because I do not know anything about them, and I have talked to Members who have been here even longer than I have been here and they do not know anything about it, I do not know anything about it, so it seems to me the hearings they are talking about did not take place; and being they did not take place, we did not talk to Governors of various States to find out their views and feelings, we did not talk to city council members to find out their views and feelings, we did not talk to county executives and we did not talk to legislators around the country to see in terms of their views and feelings about this legislation.

All of a sudden here we are rushing to push it through because of the fact we must do it before dark.

I would just like to say it is too important to move forward in that fashion. I would hope this would be an opportunity to correct the mistake that has been made. Support the Moran bill, because at least this is something on which we have had communication with people out there, we have talked to them about it. So I think this is an opportunity to stop us from making a major mistake by going further with H.R. 5, but coming back and supporting the Moran substitute which I think deals with the issue that is at hand.

So I would like to yield back the balance of my time and encourage all of my friends and supporters to make certain that they support the Moran substitute. That is really the legislation that should be moved forward.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I really apologize to the Members for prolonging this debate which I think has been getting better the longer it goes along, and I want to add my compliments to those already expressed by the managers on both sides.

I have a feeling, I have not participated in this debate because I do not have any particular expertise in this area, but I have a feeling that on both sides we may be committing some sins that we perhaps do not realize.

Unfunded mandates is a problem. A problem has arisen from the fact that the Federal Government has become increasingly unable to fund programs, no matter how good they were, and has gradually shifted that burden to the State and local governments, and they are increasingly unable to bear that burden also.

Most of the programs in an era of less limited funding probably would be accepted as legitimate expenditures by some level of government, and now no level of government has the capability to fund them.

Now what is the reason for this? Obviously one of them is we have been living on our credit cards far too long and we have run up this tremendous interest which will deprive us of what may be another $100 billion, $200 billion, or $300 billion of income at the Federal level that could have been used to fund these programs at the same time the States are increasingly strapped and overburdened by taxes and have put limits on what they can spend. California led the way with proposition 13 which capped property taxes, for example, reducing us from being the perhaps high-level spender of any of the States for education down amongst the lower, and we are regretting that at the present time.

Let us not deceive ourselves by thinking that this program is going to solve the problem of inadequate funding for the kinds of things that Government ought to do. We will need some more profound solution to that problem. A balanced budget, reduced interest costs is of course one of the things we need to do.

How soon are we going to do that? Nobody expects any major impact from a balanced budget amendment in less than 8 to 10 years, in all probability.

What we need to focus on are those areas of public service which we have allowed to grow unrestrained.

☐ 1450

Health costs, for example, the most rapidly growing part of the budget: We need to do something to bring that under control and off the backs of the Federal taxpayers in general, a more workable national insurance program of some kind, so that individuals can have access to insurance but could basically be responsible for the level of health care that they wanted to pay for themselves, and it would not be a formula sort of thing that keeps growing.

We need to do something about the welfare program, and it does not mean just cutting off welfare. It means creating a system in which we have opportunity and jobs for that vast class of people who are now deprived of the opportunity to participate in the economy. That will help us.

The unfunded-mandates bill will not solve these kinds of problems. They may give us a chance for some political cover while we begin to seriously deal with these problems, and this is what I would urge upon us as we proceed down the road here.

I think the Republicans in this case, through their contract, have touched the chord of a large part of the American people, not necessarily all, but a large part, and they, charged up with this mandate to do something about this, are moving ahead and obviously they do not want us on this side trying to perfect the great program that they have. And I can understand this.

But I would urge upon them, after they have tasted success with their program, and they are going to have successes, and many Democrats are going to support them including me on occasion, I think then we should begin to look seriously at these underlying problems of our society and develop some programs that will begin to address those in some very realistic fashion and help us then to really create the new society, the new culture, the new civilization, however we want to describe it that we should be doing to assert our position as the world's leading nation in terms of bringing opportunity, freedom, and democracy to the whole world.

I thank you for listening to me.

Mr. MORAN. Mr. Chairman, I ask unanimous consent to address the Committee for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. MORAN. Mr. Chairman I just want to cast a few roses here, although let me start with a thorn and get this out of the way. The one thing that has been disappointing about this debate is the information that was handed to the Members on the vote last night that may have influenced some, says that, "The Moran amendment effectively exempts 90 percent of the laws Congress passes from the informational requirements of H.R. 5." That is not accurate.

I think my colleagues on the other side would agree that it does not exempt Congress from 90 percent of the legislation and the informational requirements.

I was disappointed that that is the sheet all the Members received on their way in to vote. It is true that it would delete the no money, no mandate provision, but I would hope that that not be the piece that is handed out for this vote or the subsequent vote, because it is misleading.

Now, having gotten over that, let me thank the chairman of the committee, and the gentleman from Ohio [Mr. PORTMAN], the gentleman from Virginia [Mr. DAVIS], the Members on my side who were strongly supportive of the version that is an alternative to the substitute we are about to vote on.

This has been a very constructive debate. I think that we are making history in the next two votes that we will take. I know we are going in the right direction. We have a disagreement in whether or not we are going too far in the underlying Republican version. But I do appreciate the attention that has been given this issue.

I particularly appreciate the constructive manner in which the sponsors of this bill have worked with us on the minority side, and I would hope that it would set a precedent for subsequent bills that come to this floor.

Now, let me just say one further word about the gentleman sitting in the chair throughout this entire debate. The gentleman from Missouri [Mr. EMERSON] has conducted this debate in such a fine and fair manner that he really deserves some recognition, I would hope maybe even a little applause. He has been absolutely indefatigable and exceptionally fair, and I thank him, and I know I speak for all of the Members on this side of the aisle in doing so, and I would certainly expect on the other side of the aisle.

I thank all of those who have participated in this debate for a very constructive dialog.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Virginia [Mr. MORAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MORAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 152, noes 278, not voting 4, as follows:

[Roll No 82]

AYES—152

Abercrombie
Ackerman
Barrett (WI)
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McDermott
McKinney
Meehan
Meek
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—278

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood

Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Martini
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

Becerra
Hunter
Kaptur
Scarborough

□ 1514

The Clerk announced the following pair:

On this vote:

Ms. Kaptur for, with Mr. Scarborough against.

Mr. DEUTSCH and Mr. KENNEDY of Massachusetts changed their vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, before I begin on my remarks, I want to say right here and now, "During the course of the consideration of this bill, you, Mr. Chairman, have heard many of us on this side of the aisle raise the subject of procedural abuses in committee, as well as time limits on floor debates, which concerned us greatly. However I want to say something positive as well. I want to certainly commend the Chairman of the Committee of the Whole, the gentleman from Missouri [Mr. EMERSON] for his fairness and patience in presiding over this debate."

Let me also commend the chairman of our Committee on Government Reform and Oversight, the gentleman from Pennsylvania [Mr. CLINGER], for his hard work on this bill. He has certainly had his hands full recently, and, despite our very early shaky start, I have really enjoyed working with him and look forward to working with him in the future.

Now, Mr. Chairman, let me begin by saying that this bill is fatally flawed.

H.R. 5 places Congress in a straitjacket, and provides cover for those who want to roll back the progress we have made in this country to protect the health and safety of our citizens.

Viewed in isolation it may seem reasonable to many, but that is the wrong way to view it. This bill must be seen as a dot matrix, which when the lines are all connected, reveals a mean-spirited effort to abardon those who are most in need.

Over the past several days, we have taken the time to look at just what this so-called unfunded mandates bill does. As I said earlier in the debate, we needed to get beyond the term "unfunded mandates" and into the real world of what types of laws the Republican majority in this body apparently want to make difficult to pass. Well it became clear when we began the amending process that they firmly embraced the Senate Republican Task Force list of 10 worst Federal laws as a guide.

Many of us on this side of the aisle offered amendments to safeguard environmental laws that protect the public health and safety. We made every possible effort to protect the provisions of the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act, because these laws are supported by all Americans. They were passed, because the people wanted them. They protect us all from the pollution of our neighbors.

Similarly, we offered amendments to preserve laws protecting our most vulnerable citizens—those with disabilities and our children. Again the proponents of this legislation exhibited their disparate views by exempting from the unfunded mandate definition bills that relate to the implementation of international treaties, but not those which provide a better way of life for the disabled; by "requiring compliance with accounting and auditing procedures relating to grants and other money provided by the Federal Government," but ignoring savings inherent in disease prevention, that result from childhood immunization laws.

It was totally inconceivable to me that amendments we Democrats offered to ensure that we as a nation could proceed with establishing a database to track, first, deadbeat dads and, second, child molesters would be opposed by advocates of this legislation. I thought they would surely agree to such amendments. What harm would it do if we went on record in favor of that program and future programs to protect our children? None whatsoever; but, once again, the bill's supporters soundly defeated these child protection amendments.

What was their rationale for so doing? Well it was simply that if the Federal Government did not provide the funds, the State, local, or territorial governments did not have to keep a list of names of deadbeat dads and/or known child abusers or repeat child molesters.

We Democrats offered amendments that would have exempted from the definition of unfunded mandates laws designed to, first, protect child labor laws, second, protect the worker in the factory and, third, increase the minimum wage. Surely these were not the laws that even the Governors and mayors want to gut; but again the proponents acted in lockstep to defeat these amendments.

I have found it extremely interesting that in their zeal to please their Governors, county commissioners, and mayors, the authors have very carefully circumscribed restrictions on the quality of life our citizens have a right to expect to enjoy in the future. We hold ourselves out to be a compassionate nation; one that cares about its citizens, about its overall quality of life, about the underdog, about the least of us. Yet every single amendment offered to prevent new barriers from being raised against these very Americans was defeated by bloc voting.

Some on the other side of the aisle have suggested that the numerous amendments have been a stalling tactic; that the votes have been dilatory. Let me assure the Members that the issue was accountability. The voters in their districts will now know exactly what their Members have voted to protect, and what they have voted to not protect.

Perhaps the problems with this bill began when its authors chose to draft it in secret, and then refused to hold public hearings. Those hearings might have allowed ordinary Americans better known as the public, to discuss which laws they like and which ones they do not. The authors would have heard the voices of mothers concerned for and about their children, of senior citizens who fear that Medicare and Medicaid will not cover an illness, of workers wanting a safe workplace and a decent, living wage, a father who cared about safe drinking water for his family. Instead, we will never know who was in the room drafting those bills, but we know who was not there, whose voices were not allowed to be there.

As I have read this bill over the past several weeks, I can find almost no consideration given to the benefits from our laws—the benefits that I assume caused Congress to pass them. Every people program is subjected to rigorous cost estimates, but there are no estimates about the protections, the safety, and the improvements to the quality of life and to our economy these laws have brought to all Americans. Perhaps that, too, is because we were never allowed to hear the voices of the people.

Throughout debate, the proponents of this bill, have said, "Don't worry. All it will take is a simple majority vote to pass those kinds of laws in the future by waiving a point of order. I doubt that this will be the case.

The subjects of the amendments we Democrats have offered are the exact laws that the Republican majority would like to kill. We know this to be true because the Senate Republican Regulatory Relief Task Force released a list of its so-called 10 worst Federal laws which include the Clean Air Act, the Superfund toxic waste cleanup law, wetlands law, the clean water law, food safety laws, the Safe Drinking Water Act, and Occupational Safety and Health Act. This bill, H.R. 5, the Unfunded Mandates Reform Act of 1995, is a first start at killing these laws.

In a matter of days we will begin debating a regulatory moratorium bill that takes aim at regulations under these laws. Then we will see laws to make agencies go through so many hoops and procedures that they can never take an action to protect the public health or safety. If all else fails, new laws will empower corporations to keep the Government tied up in court forever. This bill is the first step.

No, this bill, H.R. 5, is not really about unfunded mandates. It is about destroying laws that protect the average citizen. It is about raising barriers and debilitating the disenfranchised.

As we debate the remaining elements of the Republican contract, let us begin to face what is really going on. Taken as a whole, the contract is a program developed in secret with major corporations to gut the major protections for the average American. Today they will be called unfunded mandates; tomorrow they will be called regulatory burdens. At least the Republican Senate Task Force was honest about their goals. I believe the American people deserve to know the truth.

□ 1520

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, very briefly, I would like to express my gratitude and appreciation to a number of people who have been involved in this now 7- or 8-day-long debate, which I think has been a very open, a very constructive debate, really the first debate that we have had on the new federalism.

I think what we are seeing is the beginning of a constructive dialog about what the relations of the various levels of government are going to be.

We do not pretend this is a perfect solution to what may be the new paradigm. But what we do suggest is the debate is necessary. We really have to get to the point where we are beginning to analyze which governments need to do what and which governments can do them best.

But in the process of the debate, I have got to recognize, first of all, as has already been indicated, you have done a superb job in chairing the committee during this sometimes contentious but, I think, always helpful and educational discussion we have had.

Second, I thank the gentleman from Ohio [Mr. PORTMAN], who is a prime author of this legislation, who has worked tirelessly to bring it to the point we are at now. And the gentleman from Virginia [Mr. DAVIS], who has been so effective as a very, very junior freshman Member and has hit the floor running and done a superb job. The gentleman from California, [Mr. CONDIT], the other sponsor, who has been a leader in this effort for many, many years before it really was an issue that was on anybody's radar screen. The gentleman from Virginia [Mr. MORAN], who has made some very constructive additions to this bill, some of which were not accepted. Also, the gentleman from New York [Mr. TOWNS], who worked on this matter in the past Congress. And the gentleman from Pennsylvania [Mr. GOODLING]. There are so many that I really am afraid I am going to overlook someone. They have all been outstanding.

□ 1530

There are three people that I want to specifically recognize. They are staff members who often are not heralded in these halls but who, in this case, I can vouch from personal experience deserve most of the credit for the fact that this bill has gotten to where we are today. This is Kristine Simmons, who is on my staff and the Committee on Government Reform and Oversight, and John Bridgeland, who is with the gentleman from Ohio [Mr. PORTMAN], and Steve Jones, who is with the gentleman from California [Mr. CONDIT].

They have done an absolutely superb job and worked incredible hours to work on this legislation. So my thanks to all of them for all the work that they have done.

Mr. Chairman, if you listen closely today you can hear State and local governments around the Nation breathing a sigh of relief. Today we are at last ready to vote on final passage of H.R. 5, a vote I think which is going to bring at least the beginning of an historic change in the way the Federal Government does business with its State and local counterparts. This bill will restore State and local governments to their true places as partners in our federal system.

Mr. Chairman, I express, again, my appreciation to the gentlewoman from Illinois [Mrs. COLLINS], the ranking minority member. It has been a pleasure to work with her on this matter. To all who participated in this really initial, most substantive and most important debate, I think I would reference the gentleman from California. This is an important debate. We are involved in very important issues here. This is history in the making. We do have differences, but I think the debate is what counts.

The resolution, I hope, will be passage of this bill.

If you listen closely, you can hear State and local governments around the Nation breathing a sigh of relief today. We at last are ready to vote on final passage of H.R. 5, a vote which will bring historic change in the way the Federal Government does business with its State and local counterparts. The Unfunded Mandate Reform Act will restore State and local governments to their true places as partners in our federal system.

Debate on this bill was rigorous and I want to congratulate many of my colleagues, on both sides of the aisle, for casting tough votes in the interest of stopping this mandate madness. Attempts to weaken this bill were rejected consistently and soundly, reflecting a majority opinion that imposing unfunded mandates without knowledge or funding is wrong and it must end.

I also would like to thank my colleagues who are not in support of the Unfunded Mandate Reform Act, for their contribution to the fair and open debate we have had during the 7 days of debate on this bill. It has been a spirited exchange, but a healthy one and I thank my colleagues.

As we prepare to vote on final passage, I ask each Member to consider the adverse impact the cost of mandates has had on your constituents. Ask yourself if it is fair to raise their local property taxes and to cut community services so the local government can afford programs we think are important. Ask yourself if your priorities are only important if a State or local government pays to carry them out.

This vote is about information and accountability. It is about changing Washington ways for the better. It is an affirmative statement that we will stop ourselves before we mandate again.

Please vote "yes" on final passage of H.R. 5.

Mr. BROWDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be brief. I rise in support of H.R. 5, the Unfunded Mandates Reform Act of 1995, of which I have been a strong supporter.

Since coming to Congress, I have had the opportunity to make decisions on a variety of good idea that Congress felt would help improve the lives of its citizens and help make Government work better. Of those ideas, the Motor Voter Act was a Federal mandate costing the State of Alabama $500,000 a year without the funding to comply with it.

The Safe Drinking Water Act, another bill with good intentions, requires local officials to test the water supply for 25 substances without regard to the region or the types of substances used there.

As a result, Alabama water systems had to test their water supply for pesticides used to protect pineapple crops.

Mr. Chairman, I look forward to the day when, before the Federal Government issues an expensive regulation, we will stop, look, and listen to how this will affect local officials.

I rise in support of H.R. 5, another good idea from Congress, but this one long, long overdue.

Mr. DAVIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this is a great day for State and local governments. It is a great day for taxpayers and a great day for a new accountability in Congress.

With this passage, we are going to take a giant step in returning local decisionmaking to local and State governments, to returning property taxes to local governments instead of being hijacked by Congress for programs that we in this body feel are more important than what the localities decide.

If we believe in a program in this Congress, we should believe in it enough to fund it, not pound our chest and pass the bill and then go ahead and pass the buck on to State and local governments and their taxpayers. When a government that sets the priorities does not find the money within its budget to fund those priorities, we get a completely different set of priorities than if a government that sets the priorities has to find the funds within their own organization and their own budgets.

What has happened over the past few years is a proliferation of unfunded mandates going down to State and local governments, layer after layer of unfunded mandates and a significant shifting of costs from a progressive income tax to regressive property taxes and sales taxes.

Another consequence is that although there are many fine programs mandated and imposed on local governments, many other fine programs that local governments intend end up having to close shelters, lay off police officers, cut day-care centers. And they have to achieve these to pay for the mandates that we fail to fund.

The numerous attempts to exclude and exempt certain areas from this bill, Medicare, Medicaid, health laws, programs for children, environmental laws, labor laws and the like, would have, taken together, gutted this bill, what we are trying to do here.

Besides, this bill still gives us the option of sending those mandates to the States but we will have the costs in front of us before we make those decisions and find out what kind of bill we are sending down to the State and local governments.

Mr. Chairman, I believe that their inclusion, if we had included those exemptions in this bill, it would have resulted in more imposition of costs on local governments and the end result, as one who has been in local government for 15 years, would be forcing our States and our cities and our counties to continue to close community centers, cut back on public safety, cut education, abandon health care centers, because we in Congress, by unfunded mandates, have redirected their local budgets in a way we felt was better, not often realizing that we forced the local governments to cut good programs so they could fund our programs.

I would also add, Mr. Chairman, there was no rush in passing this bill, even the other body, the most deliberative body in this country, managed to pass this 86 to 10 in a shorter period of time than it took us.

I just want to end by saying this has strong bipartisan support. I wanted to thank the gentleman from Pennsylvania [Mr. CLINGER] for shepherding this bill through committee and on the floor, my cosponsors, the gentleman from California [Mr. CONDIT], who has been working on this before I ever came to this body, the gentleman from Ohio [Mr. PORTMAN], who was instrumental in getting this included in the contract, the staffs and other Members, the gentleman from Virginia [Mr. MORAN], the gentleman from New York [Mr. TOWNS], and others who have been working on this for many years, and you, Mr. Chairman, for presiding over these proceedings.

This is a great day for State and local governments. I think we have taken a giant first step today, and I urge final passage.

Mr. LAUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I simply want to refute the idea that this is simply a Republican contract issue. I want to pay tribute to the gentleman from California [Mr. CONDIT], who introduced an unfunded mandate bill in the last Congress and as a Democrat had the leadership to form the Unfunded Mandate Caucus in which many Democrats were members.

Also I want to read a short two sentences from a mayor in my district, a Democrat, who sent me this letter, dated October 27, 1993. In that letter the mayor of San Marcos, Mayor Kathy Morris toward the bottom of the first page said, "We want to make it clear that we usually have no quarrel with the intentions of laws enacted by Congress, such as assuring a healthy environment and enabling people with disabilities to participate fully in our society."

What concerns us is that the costs and tasks of these good intentions are all too often left for us to pay for and carry out. Adding to our frustration is the fact that these programs enacted by distant lawmakers in Washington can lay claim to our tax funds ahead of the needs and priorities of the people who elected us to address those needs." End of quote from the letter from Kathy Morris.

This simply states why this bill is needed and desired by the American people, and I urge its support.

□ 1540

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today is a historic day. It is a historic day. It is a historic piece of legislation, historic because it does redefine the relationship between the Federal Government and the State and local governments; historic because for the first time it ensures that Congress will have a separate and informed debate on the question of costs of mandates; and historic because it shows Congress' willingness to put the brakes on the mandate madness.

We had over 30 hours debate, Mr. Chairman, on one preliminary section of H.R. 5, and I have to admit that I joined many of my colleagues in wondering whether we would ever get through this legislation. I was concerned that what was truly a bipartisan issue outside this beltway had become a partisan issue, sadly partisan within this Chamber, but I have to say over the last 24 hours Congress has worked in a very constructive, bipartisan way on this legislation.

As an example, yesterday I believe we accepted nine amendments from the other side. I think they all improved and perfected this legislation. Mr. Chairman, I would thank the gentlewoman from Illinois [Mrs. COLLINS] and other Members on the minority side for working constructively with us throughout this whole process.

Mr. Chairman, I think what we have done now is that we have set the tone, perhaps, for dealing with other legislation that this Congress will consider over the next year. Although some have cast it as such, H.R. 5 was never about the merits or demerits of individual mandates. It is about having the cost information, it is about having an informed debate on the floor of the House, and yet, yes, it is about accountability, having a vote up-or-down on whether to impose a mandate without providing the money.

Mr. Chairman, let me just sum up by acknowledging a few of the many people that got us to where we are today. The first person I am going to mention I think will speak next. I consider him the spiritual leader on the unfunded mandate front, the gentleman from California [Mr. CONDIT].

He was the lone voice crying out in the wilderness over the last several years. He was talking about unfunded mandate reform when most people did not understand it or appreciate it. It has now come to the fore, and he is to be congratulated.

Senator DIRK KEMPTHORNE on the Senate side is the person who has aggressively pushed this bill on the Senate side, and he is responsible really for the 86 to 10 vote, a very strong vote last week on essentially the same bill. He showed an extraordinary amount of bicameralism in working with the chairman, the gentleman from Pennsylvania [Mr. CLINGER], myself, and others to put together a tough bill.

Mr. Chairman, I would also like, of course, to commend the gentleman from Pennsylvania [Mr. CLINGER], the chairman. He has shown an impressive amount of grace under pressure. I would concur with the comments of the gentlewoman from Illinois [Mrs. COLLINS] and others as to the way he has conducted this debate.

Mr. Chairman, I would like to commend the freshman sponsor of this legislation, the gentleman from Virginia [Mr. DAVIS]. He has recently lived under the crippling effect of unfunded mandates, and I think he has shared his stories with us convincingly.

The gentleman from New York [Mr. TOWNS], I have to acknowledge Chairman TOWNS from last year's Congress. His subcommittee was the subcommittee that had hearings on this issue. The gentleman from New York [Mr. TOWNS], in the face of a lot of opposition from people who did not want mandate relief last year, had not only hearings but a markup on important legislation very similar to this legislation. We would not be here, I do not think, today if ED TOWNS had not done that.

Mr. Chairman, a subcommittee last year of the gentleman from New York [Mr. TOWNS], also included two leaders on our side of this issue, the gentleman from New Mexico [Mr. SCHIFF], who is here in the Chamber, and the gentleman from Florida [Mr. MICA] who were very important to getting us to this point.

The Committee on Rules was very helpful in this process. We took a good bill to the Committee on Rules. It became a better bill, thanks to the work of the chairman, the gentleman from New York [Mr. SOLOMON], the gentleman from California [Mr. DREIER], the ranking member, the gentleman from Massachusetts [Mr. MOAKLEY], and others who perfected and refined this legislation. They are to be thanked.

Governor Voinovich of Ohio has led this issue for the National Governors and for other elected officials over the years. He is unrelenting, he is focused, and again, I think it is crucial to thank him, because we probably would not be here without that pressure.

Finally, let me thank our State and local partners, every township trustee, every mayor, every Governor, every local, State elected official. They are the ones who have really advocated this. They are the reason we are here. Their Big Seven representatives here in Washington have been responsible for helping us craft this legislation over time.

All I can say, Mr. Chairman, is that we have acted today on their behalf, on behalf of the local and State elected officials, and on behalf of all our citizens, to craft a new partnership to enable us to better this country in a true partnership.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I am happy to yield to my friend, the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, briefly, on behalf of the Committee on Rules, I would say that sharing jurisdiction on this legislation, we would like to extend our congratulations first to the gentleman from Missouri [Mr. EMERSON] and then to the chairman, the gentleman from Pennsylvania [Mr. CLINGER] and all who have played a role.

There is one particular item which really has not been discussed in a major way on this debate. That is the fact that as unfunded mandates are imposed on the State and local governments, many of the priorities which those local governments have established cannot be met because of the burden that they have been shouldering to pay for these mandates.

The city of Los Angeles has had an extraordinarily onerous responsibility which has jeopardized their desire to provide resources for police and fire and other public safety areas. It seems to me that cannot be forgotten.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. PORTMAN] has expired.

(At the request of Mr. DREIER and by unanimous consent, Mr. PORTMAN was allowed to proceed for 1 additional minute.)

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like for all colleagues to return with me now as we return to the not so thrilling days of yesteryear, when out of the past came the thundering hoofbeats of one horse and one gentleman astride that horse; that is, the unfunded mandates horse. He was the Lone Ranger, and that is the gentleman from California [Mr. CONDIT].

He formed a group that was a lonely posse. There were several of us that were riding shotgun with him. We told him to be careful, just like Miss Kitty always tells me when I leave Dodge City, "Pat, be careful," but he was not careful. He forged ahead and he was aggressive. He told the Big Seven it was not really good enough. He did not get a lot of encouragement.

Mr. Chairman, I quite frankly did not think we could get this job done, but the gentleman from California [Mr. CONDIT] really persevered, so I want to pay him a great deal of tribute. I am allegedly the co-chairman of the Unfunded Mandates Caucus, but he was the foreman, and he did all the work, so I thank the gentleman from California [Mr. CONDIT].

Mr. LEWIS of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know what we are about to do may be the political thing to do. It may be the popular thing to do. Many of us as Members of this body may be putting our fingers to the air to see which way the wind is blowing, and blowing in that direction.

However, let me say for this Member, Mr. Chairman, for this Member from Georgia, mandates are not necessarily bad, funded or unfunded. Mandates are as old as the Constitution, the Declaration of Independence, the Bill of Rights, even the scripture. Thank God.

When God gave Moses the Ten Commandments, he did not say, "Moses, take it, if it costs something or whether it is free." He said, "These are the Ten Commandments. Don't take it whether you feel like it, maybe. These are the Ten Commandments."

Let me remind some of my brothers from this side of the aisle and the other side, in another period in our history it took the Federal Government, the national government, to tell our country what to do, to do what was right.

People in Alabama, in Mississippi, in Georgia, 11 Southern States of the old Confederacy, were denied the right to vote 30 years ago, and it took the National Government to make it possible for all these people to register to vote, to become participants in the democratic process. That was a mandate, so what is wrong with mandates?

Mr. Chairman, I urge Members to vote against this bill. It may not be the popular thing to do, but it is the right thing to do.

Mr. GENE GREEN of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am proud to serve on the committee this year with the gentleman from Pennsylvania [Mr. CLINGER], the chairman, and our ranking member, the gentlewoman from Illinois [Mrs. COLLINS].

Mr. Chairman, let me tell the Members why it took so long to be on the floor. I know it was not our Chairman's responsibility, because he was given his marching orders to send this bill out. The reason we had to spend 2 weeks on this bill was because we did not get to have a public hearing in committee.

Members have heard that for this whole 2 weeks, any time any of the Members from the minority side were up here. Maybe we are learning that if we are going to take this kind of time on the floor, maybe it would be better if our committees actually spent time in hearing from interested citizens and people who are impacted by it.

Mr. Chairman, I am going to vote for the bill because I do not think the bill is that bad in its form. I just think because we took 2 weeks, though, the American people and each Member of this House needed to know what we were doing. We did.

We know that this bill will require us to have some type of cost estimates, and we will have to have a separate vote on a point of order if it is raised on over $100 million. That is not so terrible.

What we need to recognize, though, is what may come afterwards, because again, we are a Nation not of 50 individual States, and territories, in addition, we are one United States. We need to recognize that, that there are rules that all of us, whether we live in Texas, whether we live in New York or Hawaii, that we have to live under.

Mr. Chairman, we were deliberative on this. That is why we had so many amendments on this. We wanted to make sure people understood that the Clean Water Act, with all its problems, and the Clean Air Act, and I want to amend it, too, and do some things with it, with all its problems, it was still a compromise bill that was passed in 1990 and signed by President Bush.

Now it has caused problems we need to deal with, but it was still passed with bipartisan support because it was addressing a problem of clean air or clean water. Mr. Chairman, it has raised costs for our constituents, but like I said in the earlier debate, when I go to New York and visit the gentleman from New York [Mr. TOWNS], I would like to make sure that the water I turn on, I can drink, coming from Houston. I would like to make sure our Houston water is good enough for him to drink.

That is why, Mr. Chairman, the reason we took so long on this, and because we did, is because of the partisanshipness, not of the issue but because of the procedure.

□ 1550

I hope we have learned our lesson, that we need to spend the time in the committee and take that kind of time so we do not have to take 2 weeks or 435 Members. That is why we have committees.

Again I want to thank the gentleman from Pennsylvania [Mr. CLINGER], because he is a fair chairman, our ranking member is fair, but I think all our committees in the House can learn from the problem we experienced in this bill.

Mr. CONDIT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be brief. Every individual that needs to be thanked has been thanked.

All the people who have participated in this from the gentleman from Pennsylvania [Mr. CLINGER], to the gentleman from New York [Mr. TOWNS], to the gentleman from Ohio [Mr. PORTMAN], to the gentleman from Virginia [Mr. DAVIS], to the gentleman from Virginia [Mr. MORAN], everybody has been thanked and properly so. They have all participated in this issue and they have been the reason we are here today. I personally want to thank them very much. I want to thank my colleagues on the Republican side for allowing me to participate in the development of this legislation. I appreciate that very much.

I do want to say, and I want to underline, that this is a bipartisan issue. No place in the country is this a partisan issue. You need to just be reminded for just a brief moment, the last couple of days of debate when the issues came up on the amendments, there were 60 to 70 Democrats who voted to keep this bill strong, to keep H.R. 5 in its current form. It is a bipartisan solution that we have come up with here today, and I think that we are to congratulate ourselves for working together in a bipartisan way.

I also want to acknowledge the unfunded mandate caucus. Those people hung together for the last couple of years, and they were a bunch of renegades on this issue. They hung together, they pushed and they fought to make sure that we got to where we are today and I want to thank them for that.

Mr. Chairman, this is simply about accountability. This is about us being accountable. This is about whether or not we will take responsibility for the legislation that we pass. That is all we are asking for today. We are not asking for anything extraordinary or radical. Just if you are willing to pass a piece of legislation, you take the accountability for it. That is fair. Most of the people throughout this country think that is fair. This is good for the country. This is good for local government. This is good for State government. I encourage all the Members here today to think about this carefully. Let us continue that trend of finding a bipartisan solution and vote "aye" for H.R. 5 today.

Mr. TORKILDSEN. Mr. Chairman, I rise today as a cosponsor and strong supporter of H.R. 5, the Unfunded Mandate Reform Act and applaud the efforts of all involved. This bill is similar to legislation I and other Members sponsored at the outset of the 103d Congress.

If an idea is good enough to mandate, then it should be good enough to pay for. For too long Congress has passed mandates, but not the bucks to State and local governments. Usually these unfunded mandates would come at the expense of local education and public safety programs.

In my home State of Massachusetts, many residents will soon face water and sewer rates in excess of $2,000 annually to pay for federally imposed unfunded mandates. We are not arguing with the need, on occasion, to mandate certain requirements. All we are asking is that they be paid for.

While everyone wants clean water, clean air, and other benefits, we must pursue these goals sensibly and in a way we can pay for.

While H.R. 5 will not rescind past mandates, but it will address future mandates. Just as the balanced budget amendment will force Congress to stop saddling future generations with debt, this act will force Congress to stop saddling State and local governments with de facto tax increases and local service cuts.

I strongly urge all my colleagues to support H.R. 5 and stop the destruction caused by unfunded mandates.

Mrs. MALONEY. Mr. Chairman, I rise to state my reluctant opposition to H.R. 5, the Unfunded Mandates Relief Act. I am reluctant to oppose H.R. 5 because I think that its basic purpose is sound and important. Almost everyone in this body agrees that something must be done about the increasing burdens that the Federal Government places upon the States and local governments.

Let there be no mistake—I support unfunded mandates reform legislation. I proudly voted for a well-crafted, bipartisan bill in the last Congress, and I voted for the substitute to H.R. 5 offered by Representative MORAN today. Those efforts were designed to allow Congress to make informed decisions about the burdens the Federal Government places on the States. They required the House to be fully informed about those costs before passing legislation.

It is unfortunate therefore that H.R. 5 has so many serious problems, starting with the abuse of the legislative process which brought this bill to the floor. It is ironic that this was the first bill to be reported out of the newly renamed Government Reform and Oversight Committee, for it did not receive 1 minute of hearings in that committee—a bad omen for the new era of openness called for by the Contract With America. The partisan power play which brought this bill to the floor is all the more disturbing given the fundamental ways in which it will affect the intrinsic nature of American government. A bill of this importance deserved better.

As it is written, H.R. 5 is an invitation to paralysis designed to prevent us from requiring the States to do anything unless we fully pay for it. Proponents of this bill argue that it allows us to impose mandates if, by a majority vote, we choose to do so. However, the same proponents would, I think, agree that this bill establishes the principle that the Federal Government should not impose mandates on the States unless it is prepared to pay every dime of the costs of the new requirements. That is not a proposition that I can agree with.

Many amendments were offered to this bill which would have added to the list of exemptions from this legislation. I offered one which would have exempted legislation to protect the health of children. I voted for others which would have exempted banking regulations, environmental legislation and bills to protect work-safety standards. Other amendments designed to protect private enterprise and to require an analysis of the benefits of specific bills as well as their costs, were offered and rejected.

Mr. Chairman, my concern is that the bill before us, however, well-intentioned, will roll back the progress that the Federal Government has made in protecting the most fundamental rights of the American people. These include the right to breathe clean air, the right to drink pure water, the right to eat healthy food, and the right to work in a safe workplace.

Those are all national problems which require national solutions and national standards. Interstate problems are one example of this need. Air and water pollution know no boundaries. The smoke from incinerations blows easily from Ohio to New York. Sewage flows just a easily down the Mississippi from Missouri to Louisiana.

The Federal Government must also set standards of decency and compassion. It must stand against efforts by the States to cut off food stamps to needy children or reduce standards in nursing homes. Welfare reform is something everyone agrees needs to be done, but as a Federal legislator I would fight attempts by the States to abolish it. By imposing the point of order contained in this bill, H.R. 5 is a mandate for gridlock on these and other national priorities. Gridlock that the American people have rejected time and time again.

Mr. Speaker, I applaud the goals of this bill. But it is abundantly clear that H.R. 5 was hastily written—and badly written at that—and that it was forced out of committee and onto the floor with an authoritarian heavy hand more interested in partisan politics than good policy.

A reform bill should push forward, not set us back. By building on the bipartisan efforts of the last Congress, I believe that a good bill could have been presented to the Congress, one that helped, rather than potentially harmed, the people we were sent here to represent. It is unfortunate we did not have the opportunity to vote for that bill.

Mr. FRANKS of New Jersey. Mr. Chairman, today, I rise in strong support of H.R. 5, the Unfunded Mandate Reform Act of 1995. As a cosponsor of this legislation this Congress and last Congress, I commend Chairman CLINGER of the Government Reform and Oversight Committee for his leadership in bringing this bill to the floor in an expeditious manner. I also want to commend the distinguished gentleman from California [Mr. CONDIT], and my good friend from Ohio [Mr. PORTMAN], for their leadership and hard work on this issue.

Mr. Chairman, I support this legislation because it will slow the torrent of unfunded mandates Congress has passed onto State and local governments, causing local property taxes to rise. While any relief from unfunded mandates are welcome, I want to remind my colleagues that the protection from unfunded mandates contained in this bill are not ironclad. This bill does include a point of order against any new mandates over $50 million. However, since this relief is statutory, a future Congress can circumvent this legislation by simple majority. Therefore, today Congress is not closing the door to keep new unfunded mandates. Instead, today Congress is merely slowing, not stopping, the passage of new mandates.

Mr. Chairman, the only sure way to stop unfunded mandates is through a constitutional amendment. For this reason, I have reintroduced legislation (H.J. Res. 27) that would give State and local governments a constitutional guarantee against new, unfunded, Federal mandates. Without constitutional protection from unfunded mandates, I fear Congress will transfer programs to State and local governments in order to meet its obligation under the balanced budget amendment, instead of raising taxes or taking the preferable route of cutting spending.

Mr. Chairman, H.R. 5 is a necessary first step to protect local taxpayers. While I encourage my colleagues to vote for this important legislation, I urge my colleagues to finish the job by supporting House Joint Resolution 27, a joint resolution that would stop unfunded Federal mandates constitutionally.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 5, the Unfunded Mandate Reform Act of 1995. While I am keenly aware of the fact that many of our State and local governments face formidable financial constraints—not unlike those of our Federal Government—I am also extremely conscious of my duty as a Member of Congress to act in the best interest of the people I represent and the American public. We cannot and should not, in an attempt to decrease financial burdens placed on State and local governments, shirk our responsibility to act in the best interest of the American people. This flawed and hurried legislation will not only fail to resolve the financial difficulties of State and local governments, but will endanger the American public.

The bill before us today, the Unfunded Mandate Reform Act of 1995, will not only attempt to undo many of the important accomplishments of the U.S. Congress, but also seeks to undermine many of our most important efforts to improve the quality of life for all Americans.

The stated purpose of the Unfunded Mandates Reform Act is to limit Congress' ability to impose Federal mandates on State and local government. While I agree that Congress should be aware of the nature and extent of costs that may be imposed on State and local government, this proposed measure goes well beyond this legitimate objective of balancing the responsibilities placed on these governments. In fact, this bill is specifically designed to inhibit the will of the people by creating artificial obstacles to congressional support for programs the current majority has long sought to weaken if not totally eliminate, including laws that protect the environment, enhance voter participation, strengthen crime control, and heighten worker and citizen safety.

Mr. Chairman, this legislation is unprecedented in its scope. Few areas of Federal legislation will be unaffected by this measure, yet, with very little opportunity for open hearing, and with limited debate, this act has been placed before us. A measure of this kind requires detailed analysis of the impact it may have on the American people, but no such review has or will take place. In the current rush to force this bill to the floor of this House, the will of the American people will certainly be compromised.

H.R. 5 will have a devastating impact on the environment. As a Representative of the urban district of Cleveland, OH, I have first-hand witnessed the severity of the environmental problems this Nation and its inner cities now face. The quality of most urban air and water in this country is in dire need of immediate attention.

Mr. Chairman, without so-called unfunded mandates such as the Clean Water Act, the Clean Air Act, and the Endangered Species Act—all acts that represent significant steps towards remedying the effects of environmental devastation and injustice—the American people and all future generations will be harmed forever.

This bill will also significantly compromise citizen and worker safety. Last year, over 10,000 American workers died in the workplace. Another 70,000 were permanently disabled, and more than 100,000 contracted fatal occupational illnesses. H.R. 5 will greatly inhibit our ability to protect the American population from unsafe products, dangerous working conditions, and avoidable disasters. I cannot in good conscience endanger American workers by supporting this bill.

Furthermore, Mr. Chairman, this legislation will not only have a dramatic and disastrous impact on future legislation, it will also affect existing legislation. Bills that reauthorize existing laws, by enhancing standards, or by enhancing the scope of the original legislation, which results in an increase in costs for State and local government, will all be inhibited by unfunded mandates. Important measures placed in jeopardy by this proposed legislation include the Brady bill that mandates a waiting period prior to the purchase of a firearm; the Family Medical Leave Act that permits parents to take care of their sick children; and the National Voter Registration Act that would greatly enhance voter participation.

Perhaps the most negative impact of this proposed legislation will be on future legislation that may be considered by Congress. Any proposed legislation that is designed to protect workers and citizens from unnecessary injury, protect the environment, or end poverty, will be subject to exclusion under this bill.

Mr. Chairman, adding to the cynical approach employed by this legislation, I am sad to report that this law has been engineered to take effect on October 1 of this year, to ensure that the Republican Contract With America and the attempted rescissions of fiscal year 1995 appropriations, would not be subject to its requirements. This transparent effort to exempt Republican legislation is clearly unjust and further hinders the will of the American people.

Mr. Chairman, it is my belief that H.R. 5 and the circumstances under which it is presented in this House attempt to mislead the American people to believe that cookie cutter, simplistic solutions will cure what ails this Nation. Nothing could be further from the truth. As our Nation faces an epidemic of pollution, discrimination, and poverty, the solution to these problems will not be found in quick fixes like the Unfunded Mandate Reform Act. The American people elected us to act in their best interest, not compromise their welfare because Government refuses to have the courage to meet its obligations. I urge my colleagues to vote against this bill.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. UPTON) having assumed the chair, Mr. EMERSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5) to curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the cost of Federal mandates on the private sector, and for other purposes, pursuant to House Resolution 38, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Mrs. COLLINS of Illinois. Yes, in its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. COLLINS of Illinois moves to recommit the bill to the Committee on Government Reform and Oversight.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CLINGER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 360, noes 74, not voting 1, as follows:

[Roll No. 83]

AYES—360

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Manton
Manzullo
Markey
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—74

Abercrombie
Beilenson
Bonior
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Clayton
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Dingell
Engel
Evans
Farr
Fattah
Filner
Foglietta
Gejdenson
Gibbons
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Jefferson
Johnston
Kennedy (RI)
LaFalce
Levin
Lewis (GA)
Maloney
Martinez
Matsui
McDermott
McKinney
Meek
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Nadler
Oberstar
Owens
Pastor
Payne (NJ)
Pelosi
Rangel
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Thompson
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Williams
Woolsey
Yates

NOT VOTING—1

Becerra

☐ 1618

The SPEAKER pro tempore (during the voting). The Chair wants to announce that the reason we have gone beyond 17 minutes, as several Members have inquired about, is that the computer has broken down, and the staff is finishing making sure the vote is accurate. So on behalf of the computer, the Chair apologizes.

☐ 1621

Mrs. CLAYTON changed her vote from "aye" to "no."

Mr. RICHARDSON, Ms. RIVERS, and Mr. BALLENGER changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. CLINGER,. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1) to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unfunded Mandate Reform Act of 1995".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to strengthen the partnership between the Federal Government and State, local, and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate Federal funding, in a manner that may displace other essential State, local, and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting State, local, and tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate and the House of Representatives before the Senate and the House of Representatives vote on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance;

(5) to require that Congress consider whether to provide funding to assist State, local, and tribal governments in complying with Federal mandates, to require analyses of the impact of private sector mandates, and through the dissemination of that information provide informed and deliberate decisions by Congress and Federal agencies and retain competitive balance between the public and private sectors;

(6) to establish a point-of-order vote on the consideration in the Senate and House of Representatives of legislation containing significant Federal mandates; and

(7) to assist Federal agencies in their consideration of proposed regulations affecting State, local, and tribal governments, by—

(A) requiring that Federal agencies develop a process to enable the elected and other officials of State, local, and tribal governments to provide input when Federal agencies are developing regulations; and

(B) requiring that Federal agencies prepare and consider better estimates of the budgetary impact of regulations containing Federal mandates upon State, local, and tribal governments before adopting such regulations, and ensuring that small governments are given special consideration in that process.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the terms defined under section 408(h) of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 101 of this Act) shall have the meanings as so defined; and

(2) the term "Director" means the Director of the Congressional Budget Office.

SEC. 4. EXCLUSIONS.

This Act shall not apply to any provision in a bill, joint resolution, amendment, motion, or conference report before Congress and any provision in a proposed or final Federal regulation that—

(1) enforces constitutional rights of individuals;

(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability;

(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the United States Government;

(4) provides for emergency assistance or relief at the request of any State, local, or tribal government or any official of a State, local, or tribal government;

(5) is necessary for the national security or the ratification or implementation of international treaty obligations; or

(6) the President designates as emergency legislation and that the Congress so designates in statute.

SEC. 5. AGENCY ASSISTANCE.

Each agency shall provide to the Director such information and assistance as the Director may reasonably request to assist the Director in carrying out this Act.

TITLE I—LEGISLATIVE ACCOUNTABILITY AND REFORM

SEC. 101. LEGISLATIVE MANDATE ACCOUNTABILITY AND REFORM .

(a) IN GENERAL.—Title IV of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new section:

"SEC. 408. LEGISLATIVE MANDATE ACCOUNTABILITY AND REFORM .

"(a) DUTIES OF CONGRESSIONAL COMMITTEES.—

"(1) IN GENERAL.—When a committee of authorization of the Senate or the House of Representatives reports a bill or joint resolution of public character that includes any Federal mandate, the report of the committee accompanying the bill or joint resolution shall contain the information required by paragraphs (3) and (4).

"(2) SUBMISSION OF BILLS TO THE DIRECTOR.—When a committee of authorization of the Senate or the House of Representatives orders reported a bill or joint resolution of a public character, the committee shall promptly provide the bill or joint resolution to the Director of the Congressional Budget Office and shall identify to the Director any Federal mandates contained in the bill or resolution.

"(3) REPORTS ON FEDERAL MANDATES.—Each report described under paragraph (1) shall contain—

"(A) an identification and description of any Federal mandates in the bill or joint resolution, including the direct costs to State, local, and tribal governments, and to the private sector, required to comply with the Federal mandates;

"(B) a qualitative, and if practicable, a quantitative assessment of costs and benefits anticipated from the Federal mandates (including the effects on health and safety and the protection of the natural environment); and

"(C) a statement of the degree to which a Federal mandate affects both the public and private sectors and the extent to which Federal payment of public sector costs or the modification or termination of the Federal mandate as provided under subsection (c)(1)(B) would affect the competitive balance between State, local, or tribal governments and privately owned businesses including a description of the actions, if any, taken by the committee to avoid any adverse impact on the private sector or the competitive balance between the public sector and the private sector.

"(4) INTERGOVERNMENTAL MANDATES.—If any of the Federal mandates in the bill or joint resolution are Federal intergovernmental mandates, the report required under paragraph (1) shall also contain—

"(A)(i) a statement of the amount, if any, of increase or decrease in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable for activities of State, local, or tribal governments subject to the Federal intergovernmental mandates;

"(ii) a statement of whether the committee intends that the Federal intergovernmental mandates be partly or entirely unfunded, and if so, the reasons for that intention; and

"(iii) if funded in whole or in part, a statement of whether and how the committee has created a mechanism to allocate the funding in a manner that is reasonably consistent with the expected direct costs among and between the respective levels of State, local, and tribal government; and

"(B) any existing sources of Federal assistance in addition to those identified in subparagraph (A) that may assist State, local, and tribal governments in meeting the direct costs of the Federal intergovernmental mandates.

"(5) PREEMPTION CLARIFICATION AND INFORMATION.—When a committee of authorization of the Senate or the House of Representatives reports a bill or joint resolution of public character, the committee report accompanying the bill or joint resolution shall contain, if relevant to the bill or joint resolution, an explicit statement on the extent to which the bill or joint resolution preempts any State, local, or tribal law, and, if so, an explanation of the reasons for such preemption.

"(6) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

"(A) Upon receiving a statement (including any supplemental statement) from the Director under subsection (b), a committee of the Senate or the House of Representatives shall publish the statement in the committee report accompanying the bill or joint resolution to which the statement relates if the statement is available at the time the report is printed.

"(B) If the statement is not published in the report, or if the bill or joint resolution to which the statement relates is expected to be considered by the Senate or the House of Representatives before the report is published, the committee shall cause the statement, or a summary thereof, to be published in the Congressional Record in advance of floor consideration of the bill or joint resolution.

“(b) Duties of the Director; Statements on Bills and Joint Resolutions Other Than Appropriations Bills and Joint Resolutions.—

“(1) Federal intergovernmental mandates in reported bills and resolutions.—For each bill or joint resolution of a public character reported by any committee of authorization of the Senate or the House of Representatives, the Director of the Congressional Budget Office shall prepare and submit to the committee a statement as follows:

“(A) If the Director estimates that the direct cost of all Federal intergovernmental mandates in the bill or joint resolution will equal or exceed $50,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal intergovernmental mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

“(B) The estimate required under subparagraph (A) shall include estimates (and brief explanations of the basis of the estimates) of—

“(i) the total amount of direct cost of complying with the Federal intergovernmental mandates in the bill or joint resolution, but no more than 10 years beyond the effective date of the mandate; and

“(ii) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by State, local, or tribal governments for activities subject to the Federal intergovernmental mandates.

“(C) If the Director determines that it is not feasible to make a reasonable estimate that would be required under subparagraphs (A) and (B), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement. If such determination is made by the Director, a point of order shall lie only under subsection (c)(1)(A) and as if the requirement of subsection (c)(1)(A) had not been met.

“(2) Federal private sector mandates in reported bills and joint resolutions.—For each bill or joint resolution of a public character reported by any committee of authorization of the Senate or the House of Representatives, the Director of the Congressional Budget Office shall prepare and submit to the committee a statement as follows:

“(A) If the Director estimates that the direct cost of all Federal private sector mandates in the bill or joint resolution will equal or exceed $200,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

“(B) Estimates required under this paragraph shall include estimates (and a brief explanation of the basis of the estimates) of—

“(i) the total amount of direct costs of complying with the Federal private sector mandates in the bill or joint resolution, but no more than 10 years beyond the effective date of the mandate; and

“(ii) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution usable by the private sector for the activities subject to the Federal private sector mandates.

“(C) If the Director determines that it is not feasible to make a reasonable estimate that would be required under subparagraphs (A) and (B), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement.

“(3) Legislation falling below the direct costs thresholds.—If the Director estimates that the direct costs of a Federal mandate will not equal or exceed the thresholds specified in paragraphs (1) and (2), the Director shall so state and shall briefly explain the basis of the estimate.

“(4) Amended bills and joint resolutions; conference reports.—If a bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains a Federal mandate not previously considered by either House or which contains an increase in the direct cost of a previously considered Federal mandate, then the committee of conference shall ensure, to the greatest extent practicable, that the Director shall prepare a statement as provided in this paragraph or a supplemental statement for the bill or joint resolution in that amended form.

“(c) Legislation Subject to Point of Order in the Senate.—

“(1) In general.—It shall not be in order in the Senate to consider—

“(A) any bill or joint resolution that is reported by a committee unless the committee has published a statement of the Director on the direct costs of Federal mandates in accordance with subsection (a)(6) before such consideration; and

“(B) any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal intergovernmental mandates by an amount that causes the thresholds specified in subsection (b)(1)(A) to be exceeded, unless—

“(i) the bill, joint resolution, amendment, motion, or conference report provides direct spending authority for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that is equal to the direct costs of such mandate;

“(ii) the bill, joint resolution, amendment, motion, or conference report provides an increase in receipts and an increase in direct spending authority for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount equal to the direct costs of such mandate; or

“(iii) the bill, joint resolution, amendment, motion, or conference report includes an authorization for appropriations in an amount equal to the direct costs of such mandate, and—

“(I) identifies a specific dollar amount of the direct costs of the mandate for each year or other period up to 10 years during which the mandate shall be in effect under the bill, joint resolution, amendment, motion or conference report, and such estimate is consistent with the estimate determined under paragraph (5) for each fiscal year; and

“(II) identifies any appropriation bill that is expected to provide for Federal funding of the direct cost referred to under subclause (III);

“(III)(aa) provides that if for any fiscal year the responsible Federal agency determines that there are insufficient appropriations to provide for the estimated direct costs of the mandate, the Federal agency shall (not later than 30 days after the beginning of the fiscal year) notify the appropriate authorizing committees of Congress of the determination and submit either—

“(1) a statement that the agency has determined, based on a re-estimate of the direct costs of a mandate, after consultation with State, local, and tribal governments, that the amount appropriated is sufficient to pay for the direct costs of the mandate; or

“(2) legislative recommendations for either implementing a less costly mandate or making the mandate ineffective for the fiscal year;

“(bb) provides expedited procedures for the consideration of the statement or legislative recommendations referred to in item (aa) by Congress not later than 30 days after the statement or recommendations are submitted to Congress; and

“(cc) provides that the mandate shall—

“(1) in the case of a statement referred to in item (aa)(1), cease to be effective 60 days after the statement is submitted unless Congress has approved the agency's determination by joint resolution during the 60-day period;

“(2) cease to be effective 60 days after the date the legislative recommendations of the responsible Federal agency are submitted to Congress under item (aa)(2) unless Congress provides otherwise by law; or

“(3) in the case of a mandate that has not yet taken effect, continue not to be effective unless Congress provides otherwise by law.

“(2) Rule of construction.—The provisions of paragraph (1)(B)(III) shall not be construed to prohibit or otherwise restrict a State, local, or tribal government from voluntarily electing to remain subject to the original Federal intergovernmental mandate, complying with the programmatic or financial responsibilities of the original Federal intergovernmental mandate and providing the funding necessary consistent with the costs of Federal agency assistance, monitoring, and enforcement.

“(3) Committee on appropriations.—(A) Paragraph (1)—

“(i) shall not apply to any bill or resolution reported by the Committee on Appropriations of the Senate or the House of Representatives; but

“(ii) shall apply to—

“(I) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any bill or resolution reported by such Committee;

“(II) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any amendment offered to a bill or resolution reported by such Committee;

“(III) any legislative provision increasing direct costs of a Federal intergovernmental mandate in a conference report accompanying a bill or resolution reported by such Committee; and

“(IV) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any amendments in disagreement between the two Houses to any bill or resolution reported by such Committee.

"(B) Upon a point of order being made by any Senator against any provision listed in subparagraph (A)(ii), and the point of order being sustained by the Chair, such specific provision shall be deemed stricken from the bill, resolution, amendment, amendment in disagreement, or conference report and may not be offered as an amendment from the floor.

"(4) DETERMINATIONS OF APPLICABILITY TO PENDING LEGISLATION.—For purposes of this subsection, in the Senate, the presiding officer of the Senate shall consult with the Committee on Governmental Affairs, to the extent practicable, on questions concerning the applicability of this section to a pending bill, joint resolution, amendment, motion, or conference report.

"(5) DETERMINATIONS OF FEDERAL MANDATE LEVELS.—For purposes of this subsection, in the Senate, the levels of Federal mandates for a fiscal year shall be determined based on the estimates made by the Committee on the Budget.

"(d) ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.—It shall not be in order in the House of Representatives to consider a rule or order that waives the application of subsection (c) to a bill or joint resolution reported by a committee of authorization.

"(e) REQUESTS FROM SENATORS.—At the written request of a Senator, the Director shall, to the extent practicable, prepare an estimate of the direct costs of a Federal intergovernmental mandate contained in a bill, joint resolution, amendment, or motion of such Senator.

"(f) CLARIFICATION OF APPLICATION.—(1) This section applies to any bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out any statute, or that otherwise amends any statute, only if enactment of the bill, joint resolution, amendment, motion, or conference report—

"(A) would result in a net reduction in or elimination of authorization of appropriations for Federal financial assistance that would be provided to State, local, or tribal governments for use for the purpose of complying with any Federal intergovernmental mandate, or to the private sector for use to comply with any Federal private sector mandate, and would not eliminate or reduce duties established by the Federal mandate by a corresponding amount; or

"(B) would result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates or Federal private sector mandates otherwise than as described in subparagraph (A).

"(2)(A) For purposes of this section, the direct cost of the Federal mandates in a bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out a statute, or that otherwise amends any statute, means the net increase, resulting from enactment of the bill, joint resolution, amendment, motion, or conference report, in the amount described under subparagraph (B)(i) over the amount described under subparagraph (B)(ii).

"(B) The amounts referred to under subparagraph (A) are—

"(i) the aggregate amount of direct costs of Federal mandates that would result under the statute if the bill, joint resolution, amendment, motion, or conference report is enacted; and

"(ii) the aggregate amount of direct costs of Federal mandates that would result under the statute if the bill, joint resolution, amendment, motion, or conference report were not enacted.

"(C) For purposes of this paragraph, in the case of legislation to extend authorization of appropriations, the authorization level that would be provided by the extension shall be compared to the auhorization level for the last year in which authorization of appropriations is already provided.

"(g) EXCLUSIONS.—This section shall not apply to any provision in a bill, joint resolution, amendment, motion, or conference report before Congress that—

"(1) enforces constitutional rights of individuals;

"(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability;

"(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the United States Government;

"(4) provides for emergency assistance or relief at the request of any State, local, or tribal government or any official of a State, local, or tribal government;

"(5) is necessary for the national security or the ratification or implementation of international treaty obligations; or

"(6) the President designates as emergency legislation and that the Congress so designates in statute.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'Federal intergovernmental mandate' means—

"(A) any provision in legislation, statute, or regulation that—

"(i) would impose an enforceable duty upon State, local, or tribal governments, except—

"(I) a condition of Federal assistance; or

"(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B)); or

"(ii) would reduce or eliminate the amount of authorization of appropriations for—

"(I) Federal financial assistance that would be provided to State, local, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

"(II) the control of borders by the Federal Government; or reimbursement to State, local, or tribal governments for the net cost associated with illegal, deportable, and excludable aliens, including court-mandated expenses related to emergency health care, education or criminal justice; when such a reduction or elimination would result in increased net costs to State, local, or tribal governments in providing education or emergency health care to, or incarceration of, illegal aliens; except that this subclause shall not be in effect with respect to a State, local, or tribal government, to the extent that such government has not fully cooperated in the efforts of the Federal Government to locate, apprehend, and deport illegal aliens;

"(B) any provision in legislation, statute, or regulation that relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority, if the provision—

"(i)(I) would increase the stringency of conditions of assistance to State, local, or tribal governments under the program; or

"(II) would place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding to State, local, or tribal governments under the program; and

"(ii) the State, local, or tribal governments that participate in the Federal program lack authority under that program to amend their financial or programmatic responsibilities to continue providing required services that are affected by the legislation, statute, or regulation.

"(2) The term 'Federal private sector mandate' means any provision in legislation, statute, or regulation that—

"(A) would impose an enforceable duty upon the private sector except—

"(i) a condition of Federal assistance; or

"(ii) a duty arising from participation in a voluntary Federal program; or

"(B) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that will be provided to the private sector for the purposes of ensuring compliance with such duty.

"(3) The term 'Federal mandate' means a Federal intergovernmental mandate or a Federal private sector mandate, as defined in paragraphs (1) and (2).

"(4) The terms 'Federal mandate direct costs' and 'direct costs'—

"(A)(i) in the case of a Federal intergovernmental mandate, mean the aggregate estimated amounts that all State, local, and tribal governments would be required to spend in order to comply with the Federal intergovernmental mandate; or

"(ii) in the case of a provision referred to in paragraph (1)(A)(ii), mean the amount of Federal financial assistance eliminated or reduced;

"(B) in the case of a Federal private sector mandate, mean the aggregate estimated amounts that the private sector will be required to spend in order to comply with the Federal private sector mandate;

"(C) shall not include—

"(i) estimated amounts that the State, local, and tribal governments (in the case of a Federal intergovernmental mandate) or the private sector (in the case of a Federal private sector mandate) would spend—

"(I) to comply with or carry out all applicable Federal, State, local, and tribal laws and regulations in effect at the time of the adoption of the Federal mandate for the same activity as is affected by that Federal mandate; or

"(II) to comply with or carry out State, local, and tribal governmental programs, or private-sector business or other activities in effect at the time of the adoption of the Federal mandate for the same activity as is affected by that mandate; or

"(ii) expenditures to the extent that such expenditures will be offset by any direct savings to the State, local, and tribal governments, or by the private sector, as a result of—

"(I) compliance with the Federal mandate; or

"(II) other changes in Federal law or regulation that are enacted or adopted in the same bill or joint resolution or proposed or final Federal regulation and that govern the same activity as is affected by the Federal mandate; and

"(D) shall be determined on the assumption that State, local, and tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations. Reasonable steps to mitigate the costs shall not include increases in State, local, or tribal taxes or fees.

"(5) The term 'amount', with respect to an authorization of appropriations for Federal financial assistance, means the amount of budget authority for any Federal grant assistance program or any Federal program providing loan guarantees or direct loans.

"(6) The term 'private sector' means all persons or entities in the United States, including individuals, partnerships, associations, corporations, and educational and nonprofit institutions, but shall not include State, local, or tribal governments.

"(7) The term 'local government' has the same meaning as in section 6501(6) of title 31, United States Code.

"(8) The term 'tribal government' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians.

"(9) The term 'small government' means any small governmental jurisdictions defined in section 601(5) of title 5, United States Code, and any tribal government.

"(10) The term 'State' has the same meaning as in section 6501(9) of title 31, United State Code.

"(11) The term 'agency' has the meaning as defined in section 551(1) of title 5, United States Code, but does not include independent regulatory agencies, as defined in section 3502(10) of title 44, United States Code, or the Office of the Comptroller of the Currency or the Office of Thrift Supervision.

"(12) The term 'regulation' or 'rule' has the meaning of 'rule' as defined in section 601(2) of title 5, United States Code.

"(13) The term 'direct savings', when used with respect to the result of compliance with the Federal mandate—

"(A) in the case of a Federal intergovernmental mandate, means the aggregate estimated reduction in costs to any State, local, or tribal government as a result of compliance with the Federal intergovernmental mandate; and

"(B) in the case of a Federal private sector mandate, means the aggregate estimated reduction in costs to the private sector as a result of compliance with the Federal private sector mandate.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 407 the following new item:

"Sec. 408. Legislative mandate accountability and reform.".

SEC. 102. ASSISTANCE TO COMMITTEES AND STUDIES.

The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 202—

(A) in subsection (c)—

(i) by redesignating paragraph (2) as paragraph (3); and

(ii) by inserting after paragraph (1) the following new paragraph:

"(2) At the request of any committee of the Senate or the House of Representatives, the Office shall, to the extent practicable, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

"(A) a significant budgetary impact on State, local, or tribal governments; or

"(B) a significant financial impact on the private sector.";

(B) by amending subsection (h) to read as follows:

"(h) STUDIES.—

"(1) CONTINUING STUDIES.—The Director of the Congressional Budget Office shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

"(2) FEDERAL MANDATE STUDIES.—

"(A) At the request of any Chairman or ranking member of the minority of a Committee of the Senate or the House of Representatives, the Director shall, to the extent practicable, conduct a study of a Federal mandate legislative proposal.

"(B) In conducting a study on intergovernmental mandates under subparagraph (A), the Director shall—

"(i) solicit and consider information or comments from elected officials (including their designated representatives) of State, local, or tribal governments as may provide helpful information or comments;

"(ii) consider establishing advisory panels of elected officials or their designated representatives, of State, local, or tribal governments if the Director determines that such advisory panels would be helpful in performing responsibilities of the Director under this section; and

"(iii) if, and to the extent that the Director determines that accurate estimates are reasonably feasible, include estimates of—

"(I) the future direct cost of the Federal mandate to the extent that such costs significantly differ from or extend beyond the 5-year period after the mandate is first effective; and

"(II) any disproportionate budgetary effects of Federal mandates upon particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities, as appropriate.

"(C) In conducting a study on private sector mandates under subparagraph (A), the Director shall provide estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

"(i) future costs of Federal private sector mandates to the extent that such mandates differ significantly from or extend beyond the 5-year time period referred to in subparagraph (B)(iii)(I);

"(ii) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon any particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

"(iii) the effect of Federal private sector mandates in the bill or joint resolution on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services."; and

(2) in section 301(d) by adding at the end thereof the following new sentence: "Any Committee of the House of Representatives or the Senate that anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on any State, local, or tribal government, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall include its views and estimates on that proposal to the Committee on the Budget of the applicable House.".

SEC. 103. COST OF REGULATIONS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that Federal agencies should review and evaluate planned regulations to ensure that the cost estimates provided by the Congressional Budget Office will be carefully considered as regulations are promulgated.

(b) STATEMENT OF COST.—At the written request of any Senator, the Director shall, to the extent practicable, prepare—

(1) an estimate of the costs of regulations implementing an Act containing a Federal mandate covered by section 408 of the Congressional Budget and Impoundment Control Act of 1974, as added by section 101(a) of this Act; and

(2) a comparison of the costs of such regulations with the cost estimate provided for such Act by the Congressional Budget Office.

(c) COOPERATION OF OFFICE OF MANAGEMENT AND BUDGET.—At the request of the Director of the Congressional Budget Office, the Director of the Office of Management and Budget shall provide data and cost estimates for regulations implementing an Act containing a Federal mandate covered by section 408 of the Congressional Budget and Impoundment Control Act of 1974, as added by section 101(a) of this Act.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Congressional Budget Office $4,500,000 for each of the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 to carry out the provisions of this Act.

SEC. 105. EXERCISE OF RULEMAKING POWERS.

The provisions of section 101 are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

SEC. 106. REPEAL OF CERTAIN ANALYSIS BY CONGRESSIONAL BUDGET OFFICE.

Section 403 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) in paragraph (3) by striking "paragraphs (1) and (2)" and inserting "paragraph (1)"; and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(2) by striking "(a)"; and

(3) by striking subsections (b) and (c).

SEC. 107. CONSIDERATION FOR FEDERAL FUNDING.

Nothing in this Act shall preclude a State, local, or tribal government that already complies with all or part of the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report from consideration for Federal funding for the cost of the mandate, including the costs the State, local, or tribal government is currently paying and any additional costs necessary to meet the mandate.

SEC. 108. IMPACT ON LOCAL GOVERNMENTS.

(a) FINDINGS.—The Senate finds that—

(1) the Congress should be concerned about shifting costs from Federal to State and local authorities and should be equally concerned about the growing tendency of States to shift costs to local governments;

(2) cost shifting from States to local governments has, in many instances, forced local governments to raise property taxes or curtail sometimes essential services; and

(3) increases in local property taxes and cuts in essential services threaten the ability of many citizens to attain and maintain the American dream of owning a home in a safe, secure community.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Federal Government should not shift certain costs to the State, and States should end the practice of shifting costs to local governments, which forces many local governments to increase property taxes;

(2) States should end the imposition, in the absence of full consideration by their legislatures, of State issued mandates on local governments without adequate State funding, in a manner that may displace other essential government priorities; and

(3) one primary objective of this Act and other efforts to change the relationship among Federal, State, and local governments should be to reduce taxes and spending at all levels and to end the practice of shifting costs from one level of government to another with little or no benefit to taxpayers.

SEC. 109. EFFECTIVE DATE.

This title shall take effect on January 1, 1996 or on the date 90 days after appropriations are made available as authorized under section 104, whichever is earlier and shall apply to legislation considered on and after such date.

TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

SEC. 201. REGULATORY PROCESS.

(a) IN GENERAL.—Each agency shall, to the extent permitted in law—

(1) assess the effects of Federal regulations on State, local, and tribal governments (other than to the extent that such regulations incorporate requirements specifically set forth in legislation), and the private sector, including specifically the availability of resources to carry out any Federal intergovernmental mandates in those regulations; and

(2) seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving statutory and regulatory objectives.

(b) STATE, LOCAL, AND TRIBAL GOVERNMENT INPUT.—Each agency shall, to the extent permitted in law, develop an effective process to permit elected officials (or their designated representatives) of State, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates. Such a process shall be consistent with all applicable laws.

(c) AGENCY PLAN.—

(1) EFFECTS ON STATE, LOCAL, AND TRIBAL GOVERNMENTS.—Before establishing any regulatory requirements that might significantly or uniquely affect small governments, agencies shall have developed a plan under which the agency shall—

(A) provide notice of the contemplated requirements to potentially affected small governments, if any;

(B) enable officials of affected small governments to provide input under subsection (b); and

(C) inform, educate, and advise small governments on compliance with the requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to each agency to carry out the provisions of this section, and for no other purpose, such sums as are necessary.

SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

(a) IN GENERAL.—Before promulgating any final rule that includes any Federal intergovernmental mandate that may result in the expenditure by State, local, or tribal governments, and the private sector, in the aggregate, of $100,000,000 or more (adjusted annually for inflation by the Consumer Price Index) in any 1 year, and before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any such rule, the agency shall prepare a written statement containing—

(1) estimates by the agency, including the underlying analysis, of the anticipated costs to State, local, and tribal governments and the private sector of complying with the Federal intergovernmental mandate, and of the extent to which such costs may be paid with funds provided by the Federal Government or otherwise paid through Federal financial assistance;

(2) estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of—

(A) the future costs of the Federal intergovernmental mandate; and

(B) any disproportionate budgetary effects of the Federal intergovernmental mandate upon any particular regions of the Nation or particular State, local, or tribal governments, urban or rural or other types of communities;

(3) a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal intergovernmental mandate (such as the enhancement of health and safety and the protection of the natural environment);

(4) the effect of the Federal private sector mandate on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services; and

(5)(A) a description of the extent of the agency's prior consultation with elected representatives (or their designated representatives) of the affected State, local, and tribal governments;

(B) a summary of the comments and concerns that were presented by State, local, or tribal governments either orally or in writing to the agency;

(C) a summary of the agency's evaluation of those comments and concerns; and

(D) the agency's position supporting the need to issue the regulation containing the Federal intergovernmental mandates (considering, among other things, the extent to which costs may or may not be paid with funds provided by the Federal Government).

(b) AGENCY STATEMENT; PRIVATE SECTOR MANDATES.—Notwithstanding any other provision of this Act, an agency statement prepared pursuant to subsection (a) shall also be prepared for a Federal private sector mandate that may result in the expenditure by State, local, tribal governments, or the private sector, in the aggregate, of $100,000,000 or more (adjusted annually for inflation by the Consumer Price Index) in any 1 year.

(c) PROMULGATION.—In promulgating a general notice of proposed rulemaking or a final rule for which a statement under subsection (a) is required, the agency shall include in the promulgation a summary of the information contained in the statement.

(d) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.—Any agency may prepare any statement required under subsection (a) in conjunction with or as a part of any other statement or analysis, provided that the statement or analysis satisfies the provisions of subsection (a).

SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.

The Director of the Office of Management and Budget shall—

(1) collect from agencies the statements prepared under section 202; and

(2) periodically forward copies of such statements to the Director of the Congressional Budget Office on a reasonably timely basis after promulgation of the general notice of proposed rulemaking or of the final rule for which the statement was prepared.

SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with Federal agencies, shall establish pilot programs in at least 2 agencies to test innovative, and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small governments; and

(2) meet overall statutory goals and objectives.

(b) PROGRAM FOCUS.—The pilot programs shall focus on rules in effect or proposed rules, or a combination thereof.

SEC. 205. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 60 days after the date of enactment.

TITLE III—REVIEW OF UNFUNDED FEDERAL MANDATES

SEC. 301. BASELINE STUDY OF COSTS AND BENEFITS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Advisory Commission on Intergovernmental Relations (hereafter in this title referred to as the "Advisory Commission"), in consultation with the Director, shall begin a study to examine the measurement and definition issues involved in calculating the total costs and benefits to State, local, and tribal governments of compliance with Federal law.

(b) CONSIDERATIONS.—The study required by this section shall consider—

(1) the feasibility of measuring indirect costs and benefits as well as direct costs and benefits of the Federal, State, local, and tribal relationship; and

(2) how to measure both the direct and indirect benefits of Federal financial assistance and tax benefits to State, local, and tribal governments.

SEC. 302. REPORT ON UNFUNDED FEDERAL MANDATES BY ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.

(a) IN GENERAL.—The Advisory Commission on Intergovernmental Relations shall in accordance with this section—

(1) investigate and review the role of unfunded Federal mandates in intergovernmental relations and their impact on State, local, tribal, and Federal government objectives and responsibilities;

(2) make recommendations to the President and the Congress regarding—

(A) allowing flexibility for State, local, and tribal governments in complying with specific unfunded Federal mandates for which terms of compliance are unnecessarily rigid or complex;

(B) reconciling any 2 or more unfunded Federal mandates which impose contradictory or inconsistent requirements;

(C) terminating unfunded Federal mandates which are duplicative, obsolete, or lacking in practical utility;

(D) suspending, on a temporary basis, unfunded Federal mandates which are not vital to public health and safety and which compound the fiscal difficulties of State, local, and tribal governments, including recommendations for triggering such suspension;

(E) consolidating or simplifying unfunded Federal mandates, or the planning or reporting requirements of such mandates, in order to reduce duplication and facilitate compliance by State, local, and tribal governments with those mandates; and

(F) establishing common Federal definitions or standards to be used by State, local, and tribal governments in complying with unfunded Federal mandates that use different definitions or standards for the same terms or principles; and

(3) identify in each recommendation made under paragraph (2), to the extent practicable, the specific unfunded Federal mandates to which the recommendation applies.

(b) TREATMENT OF REQUIREMENTS FOR METRIC SYSTEMS OF MEASUREMENT.—

(1) TREATMENT.—For purposes of subsection (a) (1) and (2), the Commission shall consider requirements for metric systems of measurement to be Federal mandates.

(2) DEFINITION.—In this subsection, the term "requirements for metric systems of measurement" means requirements of the departments, agencies, and other entities of the Federal Government that State, local, and tribal governments utilize metric systems of measurement.

(c) CRITERIA.—

(1) IN GENERAL.—The Commission shall establish criteria for making recommendations under subsection (a).

(2) ISSUANCE OF PROPOSED CRITERIA.—The Commission shall issue proposed criteria under this subsection not later than 60 days after the date of the enactment of this Act, and thereafter provide a period of 30 days for submission by the public of comments on the proposed criteria.

(3) FINAL CRITERIA.—Not later than 45 days after the date of issuance of proposed criteria, the Commission shall—

(A) consider comments on the proposed criteria received under paragraph (2);

(B) adopt and incorporate in final criteria any recommendations submitted in those comments that the Commission determines will aid the Commission in carrying out its duties under this section; and

(C) issue final criteria under this subsection.

(d) PRELIMINARY REPORT.—

(1) IN GENERAL.—Not later than 9 months after the date of the enactment of this Act, the Commission shall—

(A) prepare and publish a preliminary report on its activities under this title, including preliminary recommendations pursuant to subsection (a);

(B) publish in the Federal Register a notice of availability of the preliminary report; and

(C) provide copies of the preliminary report to the public upon request.

(2) PUBLIC HEARINGS.—The Commission shall hold public hearings on the preliminary recommendations contained in the preliminary report of the Commission under this subsection.

(e) FINAL REPORT.—Not later than 3 months after the date of the publication of the preliminary report under subsection (c), the Commission shall submit to the Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a final report on the findings, conclusions, and recommendations of the Commission under this section.

SEC. 303. SPECIAL AUTHORITIES OF ADVISORY COMMISSION.

(a) EXPERTS AND CONSULTANTS.—For purposes of carrying out this title, the Advisory Commission may procure temporary and intermittent services of experts or consultants under section 3109(b) of title 5, United States Code.

(b) DETAIL OF STAFF OF FEDERAL AGENCIES.—Upon request of the Executive Director of the Advisory Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Advisory Commission to assist it in carrying out this title.

(c) CONTRACT AUTHORITY.—The Advisory Commission may, subject to appropriations, contract with and compensate government and private persons (including agencies) for property and services used to carry out its duties under this title.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Advisory Commission to carry out section 301 and section 302, $1,250,000 for each of fiscal years 1995 and 1996.

TITLE IV—JUDICIAL REVIEW

SEC. 401. JUDICIAL REVIEW.

(a) IN GENERAL.—Any statement or report prepared under this Act, and any compliance or noncompliance with the provisions of this Act, and any determination concerning the applicability of the provisions of this Act shall not be subject to judicial review.

(b) RULE OF CONSTRUCTION.—No provision of this Act or amendment made by this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any person in any administrative or judicial action. No ruling or determination made under the provisions of this Act or amendments made by this Act shall be considered by any court in determining the intent of Congress or for any other purpose.

MOTION OFFERED BY MR. CLINGER

Mr. CLINGER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CLINGER moves to strike all after the enacting clause of S. 1 and insert the text of H.R. 5 as passed, as follows:

(The engrossed provisions of H.R. 5 were not available to be printed at time of publication.)

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania [Mr. CLINGER].

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the cost of Federal mandates on the private sector, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 5, was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF S. 1, UNFUNDED MANDATE REFORM ACT OF 1995

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that in the engrossment of the Senate bill (S. 1) the Clerk be authorized to make technical corrections in spelling, punctuation, section numbering, and cross-referencing and the insertion of appropriate headings.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1, UNFUNDED MANDATE REFORM ACT OF 1995

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that the House insist on its House amendments to S. 1 and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none, and appoints the following conferees: Messrs. CLINGER, DREIER, PORTMAN, DAVIS, and CONDIT, Mrs. COLLINS of Illinois, Mr. TOWNS, and Mr. MOAKLEY.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2, THE LINE-ITEM VETO ACT

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–15) on the resolution (H. Res. 55) providing for the consideration of the bill (H.R. 2) to give the President item veto authority over appropriations acts and targeted tax benefits in revenue acts, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 440, LAND CONVEYANCE IN BUTTE COUNTY, CA

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 53 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 53

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 440) to provide for the conveyance of lands to certain individuals in Butte County, California. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. Each section shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the

House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 53 is an open rule providing for the consideration of H.R. 440, legislation to resolve title disputes between Plumas National Forest and landowners in Butte County, CA.

This rule provides for 1 hour of general debate divided equally between the chairman and ranking minority member of the Resources Committee, after which any Member will have the opportunity to offer an amendment to the bill under the 5-minute rule. Finally, the rule provides one motion to recommit.

Mr. Speaker, House Resolution 53 allows for the consideration of H.R. 440, legislation designed to resolve longstanding boundary issues along the Plumas National Forest. Due to inaccurate boundary surveys, a number of landowners have about 30 acres of land in dispute. This bill will permit the Secretary of Agriculture to convey all right, title, and interest of the United States regarding the affected land back to the owners.

The gentleman from California [Mr. HERGER] has crafted a piece of legislation that will effectively clear up the title disputes between the Plumas National Forest and the landowners. His legislation was approved without amendment in the Committee on Resources, and I expect that it will easily pass the House as well.

I am pleased this bill will be considered under an open rule. In the 103d Congress, those of us in the minority had ample opportunity to express our distress about the number of months that passed between bills with open rules. As we complete 2 weeks of discussion on H.R. 5 under an open rule, I am now pleased to continue the practice of full deliberation in this Chamber by calling up another open rule today.

Let me respond to those who have argued that this legislation could have simply been considered under suspension of the rules. The suspension of the rules is an effective tool, but it is a legislative shortcut which requires the House to suspend its customary procedures and does not allow for amendments to be offered on the House floor.

Until the 94th Congress, motions to suspend were only in order on the first and third Monday of each month. As we all know, subsequent changes now allow motions to suspend on every single Monday and Tuesday. I worry that the abuse of this process gives the impression that the legislation in question has not undergone complete and open deliberation in the House.

While I admit that the suspension of the rules is an effective procedure to expedite legislation, I believe that the process of open rules and open debate will better restore the faith of the American people in this House. Therefore, the new majority of this House will remain steadfast in its efforts to transform the way Congress carries out its business and make every effort to engender open debate for all Members on the House floor.

Mr. Speaker, H.R. 440 was favorably reported out of the Committee on Resources by voice vote, as was the rule by the Rules Committee. I urge my colleagues to support this rule, and continue the spirit of openness and internal reform that has returned free and deliberative debate to its traditional role in this Chamber.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from Georgia for yielding the customary 30 minutes of debate time to me.

Mr. Speaker, my colleague, Mr. LINDER, has outlined very well the terms of the resolution. This is an open rule. I support the rule and urge my colleagues to do the same. Unfortunately, except for the unfunded mandates legislation the major pieces of legislation that have been considered on the House floor this year have had restricted rules. We would encourage the majority party to be as conscientious about providing open rules for the important pieces of legislation that we will have before us, I am sure, especially over the next couple of months.

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In any event, Mr. Speaker, should there be any concerns at all about H.R. 440, which provides for the conveyance of about 30 acres of land in Butte County, CA, the rule does give ample opportunity for those concerns to be addressed. The bill is identical to a bill we passed last year by a voice vote under suspension of the rules.

Finally, Mr. Speaker, if I may, I would like to take this opportunity to commend the new chairman of the Committee on Resources, the gentleman from Alaska [Mr. YOUNG], and the new chairman of the Subcommittee on National Parks, the gentleman from Utah [Mr. HANSEN], for building on the good work of the last Congress in bringing this, and several other public lands bills, to the floor as expeditiously as possible.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, we, too, have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 400, THE ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION ACT OF 1995

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 52 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 52

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. Each section shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. (Mr. UPTON). The gentleman from Colorado [Mr. McINNIS] is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 52 is a very simple resolution. It is an open rule providing for 1 hour of general debate. After general debate, the bill shall be considered for amendment under the 5-minute rule. The rule provides one motion to recommit.

The open rule demonstrates that the new majority intends to honor its commitment to have a more fair and open legislative process, providing the House with an opportunity to review the bills, debate them, and yes, if necessary, to amend them.

The legislation is noncontroversial. It was reported out of the Committee on Resources by a vote of 40 to 0 and is identical to H.R. 4746, which passed in the House during the 103d Congress by voice vote. It settles a longstanding dispute between the local residents of Anaktuvuk Pass and the Park Service over the use of all terrain vehicles [ATV] for access to subsistence resources. the Park Service contended that the ATV's injured the landscape. Both sides of this issue have reached an agreement on the lands which may be used for ATV access, and H.R. 400 will merely ratify the agreement the parties have reached. Without congressional approval, the agreement will become null and void.

Mr. Speaker, I urge my colleagues to support the rule, and the underlying legislation. I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend my colleagues on the other side of the aisle for bringing this bill to the floor under an open rule. I am a fan of open rules because I think the American people deserve full and fair debate on issues of importance, and issues on which there are areas of disagreement. I plan to support this rule on the floor.

However, I feel compelled to point out that at yesterday's Rules Committee hearing there appeared to be no opposition to this bill. A bill identical to this one was included in last year's omnibus public lands bill—H.R. 4746—which passed the House by voice vote on October 3, 1994. The current bill under consideration—H.R. 400—was favorably ordered reported from the Committee on Resources by a unanimous rollcall of 40 to 0 on January 18, 1995. There were also no witnesses in opposition to this bill before the Rules Committee. It would seem to me, therefore, that this bill could have been moved through the process in an expeditious way by simply suspending the rules or perhaps by asking unanimous consent.

Mr. Speaker, even though this bill is a noncontroversial one, it is nevertheless an important one for Alaska Native landowners and the people of Alaska. The bill provides for the exchange of lands within the Gates of the Arctic Park and Preserve. It also settles a longstanding and difficult dispute between the National Park Service and Alaska Native landowners over the use of all-terrain vehicles [ATV's] by the local residents of Anaktuvuk Pass.

As I indicated, we do have an open rule on this bill which I hope my colleagues will join me in supporting.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, what concerned me a little bit is listening to the debate on the previous rule, and I have not heard the debate on this mixup when I just walked in, but I was a little bit concerned, and some of us who may have that concern, it may not amount to anything for the future. But I just want to say that my concern is that these bills, which are noncontroversial, and like, as has been said, have been utilized on the Suspension Calendar, or even by unanimous consent, because there is no controversy; but to use a rule procedure in an open rule procedure leaves some of us to concern ourselves about the future, that since there was a statement made by the chairman of the Committee on Rules early on in this session that when we got rid of this 2-year cycle, when we looked back over the 2 years, that we would find that 70 percent of the bills were under an open rule.

Now what concerned me is that we are going to see little-bitty bills that are not of any controversial nature at all under open rules, and we can have a whole bunch of those, and then we see a very controversial bill come along that does not have an open rule, and then when we look at the average out and a percentage, the percentage is what the chairman said.

Now I am not saying that that is going to happen. I am just saying that is a concern of mine as the utilization of the rule process rather than using unanimous consent or rather than using suspensions, and only time will tell.

I do not plan to do anything today. I just want to alert the other side to my concern, and I see the chairman of the Committee on Rules is on his feet, and I would be glad to listen to him talk here, listen because that is the only concern I have. I am not here to offer any amendments or do anything like that, just to express the concern that I and, I think, several of our minority Members have as to what is going to happen in the future if we go along in this 2-year cycle.

Mr. McINNIS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Colorado [Mr. McINNIS] for yielding this time to me, and I could just say to my good friend from Missouri, as my colleagues know, he says, "Now I'm not saying this," and, "I'm not saying that," but it is the inference out there, and the gentleman knows that really does bother me.

But as my colleagues know, there are three reasons why these bills were scheduled, and I would just like to take a minute to tell the gentleman.

First our leadership, the Republican leadership, the gentleman from Georgia [Mr. GINGRICH], our Speaker, has committed to fewer suspensions since the process does prohibit amendments, and we all know that, and we have to keep in mind that there are, as my colleague knows, half of us here today that are new Members in the last 2 years, half of us, and those Members, if they want to offer amendments, we want to try to open up this process. We want to be as open and as fair and accountable as we possibly can.

□ 1640

We want to be open. We want to offer open rules whenever we can.

Second, to ensure that the suspension process is not abused, the leadership has erected more procedural requirements before a chairman can even request that a bill be considered under suspension, and that is very important.

Third, there are some measures which may be even non-controversial enough to consider by unanimous consent, not even on the suspension calendar. We have one of those. One of them was naming a building after one of the most respective Members of this body, Bob Lagomarsino. That ought to be brought up under unanimous consent, just to show we all agree. So we did not put out a rule on that. So we are being selective.

Last, we just went through a process on the unfunded mandate bill. There were 171 amendments offered in that bill. There were some stalling tactics involved, some dilatory tactics, which the gentleman knows, striking the enactment clause, moving to rise, things like that. But the House came back to its senses, there was good comity, and, because of that, we now will have a rule of the floor tomorrow morning on one of the most important issues coming before this body, the line-item veto, and it is being brought here under a completely open rule. So, Members, whether you are Republican or Democrat, conservative or liberal, you are going to be able to work your will on the floor of this House, which is very important to some Members, especially the more liberal Members perhaps, because they have concerns about it.

So let us not try to shoot down the sincerity on our part in offering these open amendments. We are going to do that as often as we possibly can. I just had to say that, Mr. Speaker.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to add a point. I appreciate the concern of the gentleman from Missouri. I must add since 1989, 10 natural resources bills have been killed on suspension. This is my first opportunity to get up here and present a rule like this, and I appreciate the fact that the chairman of the Committee on Rules has allocated an open rule. One, it offers protection and certainly the elements of being offered that the chairman of the committee has talked about. But it is also an opportunity for those of us who like these open rules to get an opportunity to participate in this process, to participate.

So while I appreciate the gentleman's concern, I wanted to make those points.

Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. Volkmer].

Mr. VOLKMER. Mr. Speaker, I do not mind that, if that is the way it is going to go, not only on these types of bills, but also the controversial bills. It is not this bill and not the next bill. If you want to do open rules, I could care less, because I know there is not going to be any amendment. I am more concerned about with regard to an open rule, the gentleman says line-item veto, we are going to have all kinds of crime bills, I would like to see open rules on those. I can add some amendments to those. I would like to see open rules on those. I can add some amendments to those. I would like to see those open rules. To me an open rule on those bills is a lot more important than an open rule on these bills. The bill of the gentleman from California [Mr. Herger], nobody wants to touch that. It has been worked on, he has done a good job, and I think it should be passed. And I do not care if you put it under unanimous consent, or suspension, or an open rule, he is going to get his bill passed today. So I am not concerned about those. I am only concerned about the future.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly appreciate those comments, but I should say in closing that I have complete confidence in the chairman of the Committee on Rules and his decision on how the rules should be open.

Mr. Speaker, I urge my colleagues to support the rule.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McINNIS. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 101, TAOS PUEBLO INDIANS OF NEW MEXICO LAND TRANSFER

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 51 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 51

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 101) to transfer a parcel of land to the Taos Pueblo Indians of New Mexico. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. Each section shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

MODIFICATION OF HOUSE RESOLUTION 51 OFFERED BY MRS. WALDHOLTZ

Mrs. WALDHOLTZ. Mr. Speaker, I ask unanimous consent that the resolution be modified by the amendment I have placed at the desk. This amendment accords the customary treatment to the committee amendment in the nature of a substitute which was intended but inadvertently omitted from the resolution from the committee.

The Clerk read as follows:

Modification of House Resolution 51 offered by Mrs. Waldholtz:

On page 2, beginning on line 5, strike "Each section shall be considered as read." and insert the following: "It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Resources now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read.".

On page 2, line 9, insert before the last sentence of the resolution the following new sentence: "Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute.".

On page 2, line 12, insert before the period at the end of the last sentence of the resolution the following: "with or without instructions".

The SPEAKER. Is there objection to the request of the gentlewoman from Utah?

Mr. FROST. Mr. Speaker, reserving the right to object, it is not my intention to object, but I would ask the gentlewoman from Utah as to what occurred in this instance. Why is the majority coming forward at this point and asking that the rule be amended?

Mrs. WALDHOLTZ. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentlewoman from Utah.

Mrs. WALDHOLTZ. Mr. Speaker, this is to correct a technical error. The language the Clerk just read as the body of this amendment was intended to be included. It was not, by inadvertence. We understand there is no objection from the minority. We want to reflect how the committee wanted this to be considered.

Mr. FROST. Mr. Speaker, further reserving the right to object, do I gather this was something that occurred within the Committee on Rules? It was not something that occurred within the committee that originated the bill, but in the production of the rule inside the Committee on Rules?

Mrs. WALDHOLTZ. That is correct.

Mr. FROST. And it was by inadvertence on the part of the staff. We understand there has been some changeover in the staff and some of these things will happen as we all get up to speed.

Mrs. WALDHOLTZ. This was done solely by inadvertence. Our attempt is to reflect accurately the actions of the committee as we consider how this rule should be considered.

Mr. FROST. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Utah?

There was no objection.

The text of House Resolution 51, as modified, is as follows:

H. Res. 51

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 101) to transfer a parcel of land to the Taos Pueblo Indians of New Mexico. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Resources now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. Waldholtz] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. Frost], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 51 is the rule providing for the consideration of H.R. 101, a bill to transfer a parcel of land to the Taos Pueblo Indians of New Mexico.

This is an open rule. It provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill will be considered for amendment under the 5-minute rule. Finally, the rule provides for one motion to recommit.

This rule provides, once again, for fair, open debate.

There has been some concern among some House Members as to why these bills are not simply brought up under suspension of the rules. As the chairman of the Committee on Rules, Mr. SOLOMON, has pointed out, our leadership is committed to bring fewer bills under suspension of the rules since that procedure does not allow for amendments.

Reflecting our commitment to an open, fair process, our leadership has made it more procedurally difficult for a committee chairman to request that a bill be considered under suspension. It's simply easier for them to ask for an open rule.

The chairman of the Resources Committee asked for an open rule on this bill. We agree with that request.

Some of our colleagues may claim that this rule is simply a ploy by the majority to increase the number of open rules, but that is simply not the case.

The Members of this House, and more important, the American people, deserve full and open debate on important legislation such as this.

This bill resolves a long-standing dispute over lands that are used for religious purposes by the Taos Pueblo Tribe.

Mr. Speaker, H.R. 101 transfers approximately 764 acres of Forest Service land within the Wheeler Peak Wilderness in New Mexico to the Department of Interior to be held in trust for the Taos Pueblo Indians as part of the Pueblo de Taos Reservation.

☐ 1650

It returns to the tribe land known as the Bottleneck Tract, which contains the Path of Life Trail, considered sacred to the tribe. And the tribe has agreed to continue to manage this land as wilderness.

Maybe this bill may not seem important to those living in other parts of the country, but it is important to people living in my part of the country, the Western United States, and it is particularly important to the Taos Pueblo Tribe and the people of New Mexico. But it is also important, Mr. Speaker, to every American. Because this bill will remove barriers imposed by the Federal Government to the free exercise of religion by a religious minority.

The principles embodied in this bill deserve the respect of this House to openly debate and consider this legislation.

Action under suspension of the rules requires the cooperation of all Members in order to responsibly and timely pass the legislation. Unfortunately, that cooperation has so far not been a particular hallmark of the 104th Congress, and the best way to protect this important legislation, while keeping our commitment to an open and fair process, is to bring this legislation to the floor under an open rule.

I urge my colleagues to adopt this rule and to support the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 51 is indeed an open rule providing for the consideration of H.R. 101, a bill to transfer a parcel of land to the Taos Pueblo Indians in New Mexico. However, Mr. Speaker, I would like to reiterate some questions raised during the consideration of the previous two rules today.

Given the fact that there is absolutely no controversy surrounding this legislation and the fact that it was reported from the Committee on Resources by voice vote, I do have to ask why H.R. 101 is not being considered on the suspension calendar or under unanimous consent.

Mr. Speaker, yesterday at the meeting of the Committee on Rules, our distinguished chairman stated that it is the policy of the Republican conference to limit the number of bills brought to the House on the suspension calendar, as was mentioned earlier today. The reason, he said, was simply because the consideration of bills on suspension prohibits the offering of amendments.

However, I must point out for the new Members of the House that ordinarily bills considered under suspension have been those that have been thoroughly vetted through the committee process. In past Congresses, it has been common practice to thoroughly examine and deliberate issues in committee and, in so doing, it has been found that often all disputed issues can be resolved, thus eliminating the need for lengthy debate and numerous amendments by the full House.

Mr. Speaker, the chairman of the Committee on Resources told the Committee on Rules yesterday that there is a large backlog of bills pending before his committee. Mr. Speaker, I share his desire to move these bills and would urge him and the Committee on Rules to consider using the suspension calendar to move noncontroversial legislation in the future. And I would observe also that, if I understand the procedures here today, that in fact any germane amendment will be in order when this bill comes up, that this is in fact an open rule, and that any germane amendment can be brought before the House.

Mr. Speaker, I yield back the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank the gentlewoman from Utah for yielding time to me. It is a distinct honor to come to the Congress with the gentlewoman and other like-minded reformers of this institution.

Mr. Speaker, I rise in strong support of this resolution, and I see my good friend from New Mexico, who authored this piece, because quite correctly of the concern of his constituents. And certainly while there are some matters of contention within the Committee on Resources, this is not one of them. I think it is exemplary that the gentleman from New Mexico brings forth this legislation, and I certainly rise to champion his cause and those of his constituents and look forward to some reciprocation down the line with other bills of regional interest that we may share.

I also look forward to full and open discussion in this House, in this people's House, on matters where perhaps we do not see eye to eye, for that is the purpose of this institution, to debate the questions of the day. And when we have common agreement, we should champion those moments as well. This is one such occasion, and I appreciate the opportunity to stand in strong support of this piece of legislation.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Let me close simply by saying that it has been often expressed by members of this committee and it is our deeply held belief that wherever possible we need to have open rules to allow for free, honest debate of important issues that come before this body. The rule for this particular piece of legislation is no different. It provides for open debate. And I believe, Mr. Speaker, that that is what the people of our country expect from this House, to provide for the opportunity for a free exchange of ideas while still moving the business of the people forward. I think this rule will do just that, and I urge its adoption.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION ACT OF 1995

The SPEAKER pro tempore (Mr. UPTON). Pursuant to House Resolution 52 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 400.

□ 1656

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes, with Mr. HASTERT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Alaska [Mr. YOUNG] will be recognized for 30 minutes, and the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 400, a bill to provide for a land exchange within Gates of the Arctic Park and Preserve. This noncontroversial legislation was reported January 18 by the Resources Committee by a vote of 40 to 0.

H.R. 400 was introduced January 4 and passed the committee, as I said, at our first full committee markup January 18. This bill is identical to H.R. 4746, which passed the House during the 103d Congress—it represents a true compromise. And I thank the former chairman, Mr. MILLER, and Mr. VENTO for their cooperation on this legislation.

The land exchange creates a deficit of 17,168 acres of wilderness in Gates of the Arctic Park. Therefore, the committee recommends the creation of 17,168 acres of wilderness outside the park, thus a no-net-loss-no-net-gain of wilderness.

This is a good bill. It settles a longstanding dispute between the local residents of Anaktuvuk Pass and the Park Service over the use of all-terrain vehicles [ATV's] for access to subsistence resources. Local residents use ATV's on parklands during the summer months. The Park Service contends that the ATV's harm the landscape. Both sides have reached agreement on the lands which may be used for ATV access and H.R. 400 ratifies that agreement.

I urge passage of this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Chairman, H.R. 400 is identical to legislation considered by the Committee on Resources and passed by the House on a voice vote in the last Congress. It is noncontroversial legislation and deserves support. It is based on a proposal submitted by the administration in June 1994, and it was subsequently modified to reflect an agreement worked out between the gentleman from Alaska [Mr. YOUNG], the gentleman from California [Mr. MILLER], and the gentleman from Minnesota [Mr. VENTO].

While that agreement is different from the administration's proposal for wilderness designation of BLM-managed lands in the Nigu River area, it is similar in that it would assure that the bill will not result in a net reduction of wilderness in the National Park System and would leave the remainder of this area in its current wilderness study status.

In addition, the boundaries provided in the bill by that agreement would emphasize protection of riparian areas along the Nigu River.

H.R. 400 would ratify an agreement among the National Park Service on behalf of the United States to Alaska native corporations and the municipal government of Anaktuvuk Pass, AK. Under the agreement, the United States would transfer to the native corporations certain Federal lands that are now managed as part of the gates of the Arctic National Park.

In exchange the native corporations and the municipal government would transfer to the United States certain lands and interests located within and adjacent to the national park.

The park lands involved in the exchange are also designated as wilderness. So legislation is required if they are to be transferred. Ratification of the agreement and removal of the national park lands from wilderness designation is accompanied by the designation as wilderness of other lands, including both lands from the gates of the Arctic National Park and BLM public lands in the Nigu River area that would be added to the adjacent Noatak National preserve.

□ 1700

This bill would settle a longstanding access issue in Alaska. That access question concerns ATV use of the area, a matter of considerable concern because of the impacts on park resources and values.

Mr. Speaker, the bill and the accompanying agreement, though, do not spell out the specific conditions and limitations of such ATV use. Instead, we are going to be relying on the parties to specify them in the conveyance documents, hopefully in a manner that solves conflicts between ATV use and park resources and values.

Likewise, there is some concern that no formal appraisals have or will be done on the lands and interests being conveyed. We are relying on the Interior Department's determination that the exchanges are in the public interest.

Mr. Chairman, while the bill reflects the congressional agreement that was previously worked out, I believe it should be noted that the administration favors the agreement as it was worked out originally between the Park Service, the Alaska Native corporations, and the local municipal government.

Again, Mr. Chairman, let me state that we support the bill, and commend the gentleman for his leadership on this issue.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise in support of this legislation, but I want to raise a couple of points with respect to the proposed land exchange. The EIS in this land exchange admits that no appraisals were prepared. Instead, a statement of value was prepared to assess the relative values of the interests proposed in the exchange. Since no appraisals were done, we have to rely on the assurances of the involved party that this is a good exchange, and we have no specific criteria on which to judge it.

Mr. Chairman, I raise this point of order not about this legislation, because this legislation has gone through the committee and was the subject of a lot of deliberations last year, and in fact then should have been passed last year. I raise this point of view on this matter to say that I think that having now passed the balanced budget amendment, that we must be more conscientious, both in the committee and on the floor of the House, in dealing with exchanges and with transfers and gifts of public property.

What we used to consider as a regular order around here may no longer be able to be the regular order, since we must now make sure that the taxpayers and the Government get all the moneys that they can in terms of the transfers of these properties with respect to asking for their market value, so those references can be used to help balance the budget. I will be raising this issue in the committee on other legislation that is scheduled to come before this House, and will raise it in the House in the event that we are not successful in the committee.

Mr. Chairman, I think that this exchange, and although this is the remnant of a previous exchange, this exchange points out some of the serious potential problems that can arise from exchanges in general. Those problems are especially acute to Alaska, since both ANESCA and ANILCA allow an equal exchange upon the finding of the Secretary that the exchanges are in the public interest.

Again, Mr. Chairman, this is the way we believe the Government business should have been done in the past, but it raises concerns about whether or not we can continue to do that in the future, given the constraints we are going to have around here in trying to meet our obligations under the balanced budget amendment.

Mr. Chairman, in the grandfather of this exchange, the previous exchange which we are cleaning up after in this legislation, they found it was in fact not in the Government interest, according to GAO, and GAO recommended that the Congress direct the Secretary to develop and issue written procedures on land exchanges. At a minimum, procedures should require preparations of EIS's and EA's when appropriate, full public review, and a process for determining whether an exchange is in fact in the public interest, and not just a simple statement by the Secretary of the Interior that it is in fact in the public interest. Establishment of disclosure and fair market value on lands and interests should be exchanged. Land exchanges are not a panacea for solving all the problems. Very often they are very complex agreements that require careful review and analysis.

The Committee on Resources has dealt with many land exchanges over the years which have involved considerable work by the committee, and also have had to be rewritten, those exchanges, or modified to assure they were in fact in the public interest.

Instead of dealing with land exchanges on an ad hoc basis, we should have written and qualitative criteria to assess the public value of such exchanges.

I raise the point again not with respect to this legislation, but in terms of the future considerations of these matters before the committee.

Mr. Chairman, I have raised these in the past from time to time, but I think we have to be much more diligent in that effort now, given the fiscal constraints we are going to have in the budgetary considerations of exchanges and transfers and gifts of public assets and resources, whether it is to private parties or to other units of government within the United States.

Mr. Chairman, I thank the gentleman for yielding to me.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I can understand the statements of the gentleman from California, but I would hope that they should have been directed at legislation down the road, because we have to remember that Anaktuvuk Pass is a small, small village that was put inside of a park, with certain understandings that they could do certain things, and then told by the Park Service they could not do those things.

This is a village that is high in the mountains above the Arctic Circle, with living conditions there which a lot of people do not recognize. What we tried to do in this exchange was work out between these people and the parks themselves to have a true exchange. If we went through the process of EIS statements and appraisal value, this would never have happened. This is the way that we have worked individually with a unique situation.

As I mentioned, Mr. Chairman, this bill passed the last time. There is no money in this bill. In fact, if we really want an appraisal, I think Anaktuvuk Pass got shortchanged. I hope the gentleman refers to this later on down the road.

Mr. Chairman, this is a good piece of legislation.

It should be passed and it should become law today. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. RICHARDSON. Mr. Chairman, let me conclude by saying I support this bill. It is a good piece of legislation.

The CHAIRMAN. All time for general debate has expired. Pursuant to the rule, the bill shall be considered under the 5-minute rule by section, and each section shall be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anaktuvuk Pass Land Exchange and Wilderness Redesignation Act of 1995".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access to pursue caribou and other subsistence resources.

(3) In a 1983 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate Section 3. The text of Section 3 is as follows:

SEC. 3. RATIFICATION OF AGREEMENT.

(a) RATIFICATION.—

(1) IN GENERAL.—The terms, conditions, procedures, covenants, reservations and other provisions set forth in the document entitled "Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America" (hereinafter referred to in this Act as "the Agreement"), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this Act, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(2) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(b) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled "Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

Mr. YOUNG of Alaska. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD, and open to amendment at any point.

Is there objection to the request of the gentleman from Alaska?

There was no objection.

The CHAIRMAN. The Clerk will designate the remainder of the bill.

The text of the remainder of the bill is as follows:

SEC. 4. NATIONAL PARK SYSTEM WILDERNESS.

(a) GATES OF THE ARCTIC WILDERNESS.—

(1) REDESIGNATION.—Section 701(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness,

thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(2) MAP.—The lands redesignated by paragraph (1) are depicted on a map entitled "Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(b) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by—

(1) striking "approximately six million four hundred and sixty thousand acres" and inserting in lieu thereof "approximately 6,477,168 acres"; and

(2) inserting "and the map entitled 'Noatak National Preserve and Noatak Wilderness Addition' dated September 1994" after "July 1980".

(c) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking "approximately five million eight hundred thousand acres" and inserting in lieu thereof "approximately 5,817,168 acres".

SEC. 5. CONFORMANCE WITH OTHER LAW.

(a) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

(b) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this Act or the Agreement, nothing in this Act or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

The CHAIRMAN. Are there any amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. UPTON) having assumed the chair, Mr. HASTERT, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes, pursuant to House Resolution 52, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The CHAIRMAN. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that they ayes appeared to have it.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This vote will be a 15-minute vote.

the vote was taken by electronic device, and there were—yeas 427, nays 0, answered "present" 1, not voting 6, as follows:

[Roll No. 84]

YEAS—427

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Coburn

NOT VOTING—6

Bartlett
Becerra
Clay
Hall (OH)
Murtha
Stark

☐ 1728

Mr. ENGLISH of Pennsylvania changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 400, the bill just passed.

The SPEAKER pro tempore (Mr. UPTON). Is there objection to the request of the gentleman from Alaska?

There was no objection.

☐ 1730

LAND CONVEYANCE IN BUTTE COUNTY, CA

The SPEAKER pro tempore (Mr. UPTON). Pursuant to House Resolution 53 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 440.

☐ 1730

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 440) to provide for the conveyance of lands to certain individuals in Butte County, CA, with Mr. HASTERT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes, and the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. HANSEN asked and was given permission to revise and extend his remarks.)

Mr. HANSEN. Mr. Chairman, H.R. 440 is essential in order to resolve serious hardships for land and homeowners in Butte County, CA, brought about by the mistaken actions of the Federal Government. The problem began in 1961, when a Forest Service survey on the Plumas National Forest did not locate the original survey corner established in 1869. Because the surveyor could not locate the marker, he erroneously established a new corner, which private landowners have subsequently used to establish future boundaries which also are erroneous. Ultimately, 16 landowners have been adversely effected. While this legislation is noncontroversial, it is extremely important to the landowners who have experienced a great amount of hardship and anxiety over this unfortunate situation.

H.R. 440 was drafted with the assistance of the Forest Service and Bureau of Land Management. The bill is designed to resolve boundary and land title issues between Federal and private lands. Surveys completed in 1992 have revealed that land for years thought to be privately owned was actually contained within the boundaries of the Plumas National Forest, and therefore owned by the Federal Government. These landowners have a substantial vested interest in this land which they purchased and believed to be their own.

This situation has resulted in the clouding of the title of approximately 30 acres of land for 16 individual landowners. H.R. 440 would rectify this matter by authorizing and directing the Secretary of Agriculture to convey all right, title and interest in the land in question to the claimants.

The proposed bill is specific in describing the affected property, the claimants who are entitled to relief, and the process to be followed in granting such relief. Also, the bill describes the process by which the boundary adjustments will be accomplished.

I believe that the approach taken by H.R. 440 is the only equitable solution to this matter. This legislation has no significant budget impact since the only cost involved to the Government will be the administration of the land conveyance. I know of no opposition to this legislation at the local or Federal level.

Again, Mr. Chairman, this legislation is very important to the landowners involved. These individuals have experienced significant and protracted hardship because of this problem. The sooner Congress takes action to remedy the situation, the sooner these people can get on with their lives. I thank my good friend, Mr. HERGER, for his diligence and I urge my colleagues to support H.R. 440.

Mr. Chairman, I reserve the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Chairman, H.R. 440 is identical to legislation considered by the Resources Committee and passed by the House on a voice vote in the last Congress. The measure that would resolve title problems for 16 private landowners in Butte County, CA. These title problems, which involve about 30 acres of land, arose because of an incorrect boundary survey done by a private contractor for the Forest Service in the early 1960's. The bill would remove the clouds from the private land titles by providing for the conveyance of the involved lands to these private landowners without cost.

For the private landowners, H.R. 440 is a generous resolution of their title problems. Under the bill, the Federal Government will not only convey the land without cost, it will also pick up the tab for preparing the deeds and doing all surveys and markings.

Yes, there was an incorrect survey and yes, these private landowners had thought the lands in question were theirs. The fact is they are not. They are and always have been national forest lands. If this was a title problem between private parties, I seriously doubt that one party would say that the other parties could have the affected lands free and clear and not only that, but the first party would pay all the costs associated with the conveyances. That just doesn't happen in the private sector.

I bring these facts to the House's attention not out of any malice toward the bill but because so often on the floor we hear about property rights and takings. When it comes though to the Federal Government's property, as in this bill, we are asked to forget about that and be a benevolent landowner.

I sympathize with the affected private landowners. That is why I supported the bill in committee. I do hope that the next time we start debating property rights and takings, that Members will remember its not just a one-way street.

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. HERGER]. the author of this legislation.

Mr. HERGER. Mr. Chairman, I want to thank Chairman YOUNG, Subcommittee Chairman HANSEN, and members of the Resources Committee and Parks, Forests and Lands Subcommittee for bringing H.R. 440 to the House floor.

H.R. 440 is a noncontroversial bill that passed this House on the suspension calendar at the end of the 103d Congress. Due to insufficient time, the bill did not pass the Senate. The purpose of the bill is to clear the title of 16 parcels of land, totalling approximately 30 acres, in the Stephens Ridge area of Butte County, CA. Its passage would help resolve a pressing problem in my district.

In 1961 the Forest Service sanctioned a survey establishing the boundaries of the parcels in question.

In 1992 a BLM resurvey demonstrated that an error had been made in the 1961 survey, thereby placing a cloud on the title of the parcels.

By clearing title to these parcels, H.R. 440 provides much needed relief to the landowners, mostly senior citizens, who are affected by the BLM resurvey.

Mr. Chairman, these landowners purchased property in good faith reliance on the 1961 Forest Service survey. Now, some 30 years later, they have been told that they no longer hold clear title to their land. This technical correction of the problem is a fair solution for all concerned.

Mr. Chairman, the House of Representatives swiftly adopted this legislation during the last term. I invite my colleagues to expeditiously approve this bill again today.

Mr. RICHARDSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HANSEN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill shall be considered as read under the 5-minute rule by section, and each section shall be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) certain landowners in Butte County, California who own property adjacent to the Plumas National Forest have been adversely affected by certain erroneous surveys;

(2) these landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that they believed were accurate; and

(3) the 1992 Bureau of Land Management dependent resurvey of the Plumas National Forest will correctly establish accurate boundaries between such forest and private lands.

(b) PURPOSE.—It is the purpose of this Act to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

Mr. HANSEN. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any time.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

The text of the remainder of the bill is as follows:

SEC. 2. DEFINITIONS.

For the purpose of this Act—

(1) the term "affected lands" means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 East, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident;

(2) the term "claimant" means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forest lands described in subsection (a), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys; and

(3) the term "Secretary" means the Secretary of Agriculture.

SEC. 3. CONVEYANCE OF LANDS.

Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in section 2(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in section 4.

SEC. 4. TERMS AND CONDITIONS OF CONVEYANCE.

(a) NOTIFICATION.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, writing of their claim to affected lands. Such claim shall be accomplished by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(b) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this Act, the Secretary shall issue a quitclaim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(c) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this Act no later than 30 days after the date such deed is issued.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out the purposes of this Act.

The CHAIRMAN. Are there amendments to the bill? If there are none, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. UPTON) having assumed the chair, Mr. HASTERT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 440) to provide for the conveyance of lands to certain individuals in Butte County, CA, he reported the bill back to the House.

☐ 1740

The SPEAKER pro tempore (Mr. UPTON). Under the rule, the previous question is ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

TAOS PUEBLO INDIANS OF NEW MEXICO LAND TRANSFER

The SPEAKER pro tempore. Pursuant to House Resolution 51 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 101.

☐ 1741

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 101) to transfer a parcel of land to the Taos Pueblo Indians of New Mexico, with Mr. HASTERT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes, and the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 101, sponsored by Mr. RICHARDSON, which would transfer approximately 764 acres of the Wheeler Peak Wilderness, located in the Carson National Forest to the Secretary of the Interior to be held in trust for the Pueblo de Taos in New Mexico. This noncontroversial legislation would settle a long standing issue over these religiously sacred lands between the Pueblo de Taos and the administration.

H.R. 101 insures that these lands will continue to be managed as part of the Blue Lake Wilderness but the Pueblo will be able to control access in order to insure privacy during certain religious ceremonies. This area is sacred to the Pueblo and a sacred trail known as the Trail of Life crosses this area.

H.R. 101 was reported favorably by the Committee on Resources on January 18, 1995, by unanimous voice vote. This same measure passed the House during the 103d Congress but failed final passage in the waning hours of business. I commend the ranking member, Mr. RICHARDSON, for his hard work on this measure and I urge the Members of the House to support his effort.

Mr. Chairman, I reserve the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Chairman, today is an important day for the Taos Pueblo people. Today, the House will again consider legislation to transfer a sacred tract of wilderness land back to the Taos Pueblo.

The so-called bottleneck tract of the Wheeler Peak Wilderness will be transferred by this bill to management by the Taos Pueblo as the final, missing part of the Blue Lake Wilderness.

In an age when Federal policies affecting the first Americans are becoming more and more controversial, H.R. 101 is a simple, noncontroversial solution to an age-old problem on which I hope we can all agree.

My legislation will return the last remaining land tract in the Blue Lake Wilderness to its rightful owners, the Taos Pueblo Indians.

In 1970, when President Nixon signed the original Blue Lake Wilderness authorizing legislation, the "bottleneck" tract was excluded.

At that time, the acreage was needed to create the adjacent Wheeler Peak Wilderness which would have fallen below the minimum acreage requirement necessary for wilderness creation.

Now, 25 years later, this tract is no longer needed to qualify the Wheeler Peak Wilderness for designation. Now, we have the opportunity to close the last chapter in a decades-long quest by the Taos Pueblo to gain the return of one of their most sacred sites.

The bottleneck tract has been used for hundreds of years by the Taos Pueblo people as a sacred religious area for ceremonies, pilgrimages and other private observances.

Unfortunately, as the area has not been included in the Blue Lake Wilderness, the Pueblo has been powerless to prevent public intrusions in the area during their sacred rituals.

With the transfer of the land to management as wilderness by the Pueblo, the bottleneck lands would be used for traditional purposes only, such as religious ceremonies, hunting, fishing, and as a source of water, forage for domestic livestock, wood, timber and other natural resources.

H.R. 101, which is similar to legislation which passed the House in the last Congress, is supported by the bipartisan New Mexico congressional delegation and a broad coalition of local and national environmental groups.

Identical legislation has been introduced in the Senate by Senators PETE DOMENICI, JEFF BINGAMAN, and BOB DOLE.

Mr. Chairman, it is time to bring final justice to the Taos Pueblo by returning this land to their management.

It is time to close one more sad chapter in the long history of U.S. Government relations with native American peoples.

It is time to pass H.R. 101 and enact it into law.

I call upon all of my colleagues to join me in supporting this important step forward for native American sovereignty.

Mr. RICHARDSON. Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I have no requests for time, and I yield back the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I have no requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND TRANSFER.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 31, 1933 (48 Stat. 108) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Lands transferred to the Pueblo of Taos—proposed" and dated September 1994, comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) RESOLUTION OF OUTSTANDING CLAIMS.—The Congress finds and declares that, as a result of the enactment of the Act, the Taos Pueblo has no unresolved equitable or legal claims against the United States on the lands to be held in trust and to become part of the Pueblo de Taos Reservation under this section.

The CHAIRMAN. Are there amendments to the bill?

Hearing none, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. UPTON) having assumed the chair, Mr. HASTERT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 101) to transfer a parcel of land to the Taos Pueblo Indians of New Mexico, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members who wish to do so may have 5 legislative days to revise and extend their remarks on H.R. 101.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

PERMISSION FOR CERTAIN COMMITTEES TO SIT TOMORROW, THURSDAY, FEBRUARY 2, 1995 DURING 5-MINUTE RULE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Economic and Educational Opportunities; Transportation and Infrastructure; Judiciary; Resources; Commerce; and International Relations.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

□ 1750

Mr. RICHARDSON. Reserving the right to object, Mr. Speaker, the gentleman is correct. The minority has been consulted, and we have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. UPTON). Is there objection to the request of the gentleman from Utah?

There was no objection.

ROBERT J. LAGOMARSINO VISITORS CENTER

Mr. GALLEGLY. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the joint resolution (H.J. Res. 50) to designate the visitors center at the Channel Islands National Park, CA, as the "Robert J. Lagomarsino Visitors Center."

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. RICHARDSON. Mr. Speaker, reserving the right to object, I yield to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Speaker, I thank the gentleman from New Mexico [Mr. RICHARDSON] for yielding.

Mr. Speaker, I rise on behalf of House Joint Resolution 50, which will rename the visitor center at the Channel Islands National Park in California after my good friend and former colleague, Bob Lagomarsino.

When I was first elected to Congress in 1986, it was my privilege to represent the district just adjacent to Bob's. My experience in politics was limited to the Simi Valley City Council at that time, and Bob gave graciously of his time and counsel as I learned the ropes here in Washington.

Those who served with him will remember Bob as an insightful legislator and one of our hardest working Members. Although he has retired to his home in California, Bob continues to produce a quarterly newsletter and many of his friends and former colleagues continue to benefit from his valued advice.

During his long and distinguished career in public service—as a councilman, a mayor, State senator, and Congressman—Bob Lagomarsino paid particular attention to preserving our natural resources. In his role as ranking Republican on the National Parks Subcommittee, he provided leadership that was guided by a strong ethic of stewardship.

In his 19 years in Congress, Bob Lagomarsino stood for a lot of things, but probably no single issue was closer to his heart than the protection of the string of islands located just to the west of his district—the Channel Islands.

Bob earned the title, "Father of the Channel Islands National Park," by persuading his colleagues to designate the islands as a national park in 1980.

In light of this achievement, and his long record of service to his constituents and in this very Chamber, I feel it is appropriate that we honor him by giving this facility its rightful name—"The Robert J. Lagomarsino Visitor Center."

As a nearly lifelong resident of Ventura County, I am in a unique position to appreciate the wisdom of Bob's desire to preserve the islands and create this park.

The isolation of these islands and their unique geography have created an incredibly diverse natural environment. More than 800 species of plants and animals—including dozens of species of marine mammals—are found in the park, making this national treasure one of our most important ecosystems.

Without Bob Lagomarsino's leadership, it is doubtful that the Channel Islands would be a national park today.

This is a noncontroversial bill, which the Congressional Budget Office has found will have no budgetary impact. On January 18, it was reported by the House Committee on Resources by a voice vote.

Some of you may remember that in the 103d Congress, full Committee Chairman GEORGE MILLER and Parks Subcommittee Chairman BRUCE VENTO supported this proposal and agreed to move it forward. Although the legislation was passed by the House, it did not make it through the other body before the end of the year.

I would like to thank the gentleman from Alaska [Mr. YOUNG] and the gentleman from Utah [Mr. HANSEN] for acting so promptly this year to move this legislation through the House Committee on Resources. I urge my colleagues to give this bill unanimous support in recognition of Bob's outstanding record of environmental conservation.

I would like to note that my colleague form California, Mrs. FEINSTEIN, has introduced a similar bill in the other body and I look forward to quick passage there.

Hopefully, our moving the bill forward early in the 104th Congress will allow this legislation to be enacted quickly and give Bob the recognition he deserves.

Mr. RICHARDSON. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Alaska [Mr. YOUNG], the distinguished chairman of the Committee on Resources.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman from New Mexico [Mr. RICHARDSON] for yielding, and this one is for Bob. They have one for the Gipper, but this one is for Bob.

Bob Lagomarsino, as the gentleman just mentioned, led this effort to establish the Channel Islands. I cannot think of a better tribute to a person who worked so hard, and so I wanted to thank those Members who lead this charge with him, and I want to thank them for working to bring this legislation to the floor.

Mr. RICHARDSON. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman from New Mexico [Mr. RICHARDSON] for yielding, and I want to credit the gentleman from California [Mr. GALLEGLY] and others that have advanced this important recognition of a former colleague and, I might say, one that not only that we do hold in high esteem and great affection, but someone that has made contributions to the natural resources and to the National Park System of this Nation.

Of course most dear, I am sure, to Congressman Lagomarsino has been the designation of the Channel Islands, the wonderful resource that they represent to the people of this Nation. There are other spots in his area: The Sespe River, the Condor Wilderness, which he worked so diligently on, and many other things that passed even as he left, such as the in-lieu bill that passed in the last session, while he was not here. It was carried through, and basically I think from Alaska lands to many other issues Congressman Lagomarsino worked with many Members in a bipartisan basis, with Phil Burton, with my predecessor, John Seiberling, and myself, and through it all I think there was a common value, a common concern, in terms of leaving a legacy for the American people.

I want to thank Bob Lagomarsino. I want to obviously rise in support of this and ask my colleagues to support it. He earned it, and I certainly am pleased that this is up on the floor today, and I thank my colleague, the gentleman from New Mexico [Mr. RICHARDSON] for yielding.

Mr. RICHARDSON. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I certainly do thank the gentleman, and I just want to rise and say how much I remember and deeply respect Bob Lagomarsino.

As my colleagues know, I served on the Committee on Foreign Affairs with Bob for many, many years all during the 1980's, and if there is any one Member of this Congress that is more responsible for helping Ronald Reagan put an end to the deadly atheistic spread of international communism throughout this world, it was Bob Lagomarsino. But one other thing we should make note of, and that is the fact for many years Bob Lagomarsino served on the task force and later as the chairman of that task force for Vietnam veterans missing in action in Southeast Asia, and Bob, more than anything else, traveled to Vietnam with me and others and did more to try to bring home the remains to try to resolve this terrible problem than anyone I know. So, we really respect the gentleman bringing this bill before us.

Mr. RICHARDSON. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

(Mr. FALEOMAVAEGA asked and was given permission to revise and extend his remarks).

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong support of Joint Resolution 50, to designate the visitors center at the Channel Islands National Park in California as the "Robert J. Lagomarsino Visitors Center."

Mr. Speaker, I have known former Congressman Robert Lagomarsino for nearly 20 years and have tremendous respect for the gentleman. I first met him when I was on the staff of the late Congressman Phil Burton of California in the 1970's. Congressman Burton and Congressman Lagomarsino taught me from the start how important and valuable a bipartisan approach to our resolving the Nation's problems here in Washington. These two gentleman have done much in Congress to help the U.S. territories. Together they helped bring in U.S. insular areas from neocolonialism to greater measurement of self-governance. Most of these territorial governments have made impressive progress toward financial self-sufficiency.

Another important principle the late Congressman Burton taught me was that the most important thing a Member of Congress has in this House is his word. When you make a commitment, you'd better keep it, or you won't be given the same amount of trust again. Congressman Lagomarsino was a true practitioner of this guiding principle and I knew I could always count on his support once he made a commitment.

Mr. Speaker, about 1 year after I was first elected to this House, a hurricane with 160-mile-per-hour winds struck my congressional district causing extensive damage. The only transportation between the outer islands and the main island of my district consisted of single-engine, passenger airplanes. These planes were unable to transport construction materials which were needed in the outer islands to rebuild after the hurricane.

Senator DANIEL INOUYE from the State of Hawaii was kind enough to provide $750,000 in that year's defense appropriation bill to refurbish a vessel obtained from another Federal agency. When the bill returned to the House, the money for this vessel was under partisan attack and I wasn't sure whether the funding would survive. The President did not support the bill. The Secretary of the Interior did not support, and even our own governor did not support the measure.

As part of his duties on the Subcommittee on Insular Affairs, Congressman Lagomarsino had been to American Samoa and knew, first-hand, how important surface transportation was to these outer islands. Much to my surprise, Congressman Lagomarsino came to the floor, broke the partisan attack, and spoke in support of funding for the vessel. I still believe that without his support, and the assistance of former Congressman John Rhodes of Arizona, my district would have lost that important funding. I have never forgotten the crucial support Congressman Lagomarsino provided that day, and I never will.

Mr. Speaker, another issue I worked on with Congressman Lagomarsino concerned stoppage of the rapacious practice of drift net fishing in the South Pacific. I spent my first 4 years in this House serving on the Foreign Affairs Committee with Bob Lagomarsino, and his statesmanlike service on that committee deserves special commendation.

Drift nets are commonly referred to as the walls of death. They are must that—invisible fishing nets up to 30-miles long, stretching the distance from Washington to Baltimore, that indiscriminately kill everything in the sea that is unfortunate enough to swim into its path. Some fishing companies prefer to use this method of fishing because it is very efficient.

The problem, Mr. Speaker, is that the nets ensnare any and all fish, dolphins, porpoises, and even whales which cannot pass through the small mesh. For air-breathing mammals, such as dolphins and whales, it is slow death by drowning.

To make this form of fishing even worse, many of the fish, and all of the mammals, were not considered desirable by the owners of the nets and their carcasses were simply cast overboard as trash. The worst part, Mr. Speaker, is when these drift nets are lost on the open seas by fishermen, not an uncommon occurrence, continue to drift the ocean for months, killing untold amounts of sealife.

Despite pressure from certain segments of the international community and the domestic fishing industry, Congressman Lagomarsino supported my legislation to ban this practice from the South Pacific, and led the bipartisan charge from his side of the Foreign Affairs Committee. We were successful in that endeavor and I cannot thank Bob Lagomarsino enough for is leadership.

Mr. Speaker, although I am not from California, I know Congressman Lagomarsino has played a key role in protecting the environmental interests of that great State, the United States of America, and the global community. Congressman Lagomarsino's efforts have directly contributed to the creation of the Channel Islands National Park, and I can think of nothing more fitting than naming the visitor's center at this national park in honor of this great American.

Mr. Speaker, in all candor and with sincerity, and on behalf of the people of American Samoa, I want to thank Chairman DON YOUNG, Chairman JIM HANSEN, our ranking Democratic members GEORGE MILLER and BILL RICHARDSON for their support of this legislation, and especially the chief sponsor of the bill, the distinguished chairman of the House Subcommittee on Native Americans and Insular Affairs, Congressman ELTON GALLEGLY of California.

Mr. Speaker, I urge my colleagues to support this legislation.

□ 1800

Mr. RICHARDSON. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I certainly appreciate my colleague, the gentleman from New Mexico [Mr. RICHARDSON] allowing me a little time to rise with the many friends of Bob Lagomarsino and just express a few thoughts about the fantastic years of service I have experienced with Bob as well as his bride, Norma Lagomarsino. It was my privilege to work with Bob when he was a member of the State senate. The first time one ever met Bob in public affairs, it was hard not to realize he is a guy who recognized that public affairs is not driven by pure partisanship in most issues. He realized that working together we can solve all kinds of problems, and he came to Washington with that commitment. It does not surprise me to see this ovewhelming kind of groundswell of bipartisan recognition of his great service here.

Bob Lagomarsino was a Californian first and foremost. He focused on California issues through his public service. His leadership in the environmental community is well known by all those who pay attention to the problems and challenges that we face there.

He was also, however, a great leader in the field of foreign affairs. Bob is a man who recognized that America should be united when we leave our waterfront, and his leadership and voice, recognizing the importance of bipartisanship in that field, was most important.

Bob Lagomarsino is exactly the kind of American we need in the Halls of Congress. It is my privilege to rise among his former colleagues today to express my well wishes to him and Norma as they go forward in continuing public service.

I thank my colleague, the gentleman from California, ELTON GALLEGLY, for this effort and am pleased to join him in support of this legislation.

Mr. RICHARDSON. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. I thank the gentleman from New Mexico.

Mr. Speaker, I am indeed happy to join my colleagues in this very well deserved tribute to our former colleague, Bob Lagomarsino. As has been mentioned before, not only in the Committee on Interior, working with insular territories, and in the Committee on Foreign Affairs, that is the area that I worked very closely with him in our relationship with Mexico and many of the countries in Latin America, and his contribution was indeed a major contribution to the betterment of this country and our relations with them.

He was a man of various and sundry areas of knowledge and expertise, and I think that this visitors center will really reflect what he has done, not only in the area of conservation of resources, but certainly in foreign affairs, and I am very happy to join my colleagues in this very well-deserved tribute to our former colleague.

Mr. RICHARDSON. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from California [Mrs. SEASTRAND], who now occupies Mr. Lagomarsino's seat.

Mrs. SEASTRAND. Mr. Speaker, I have the distinct privilege to support House Joint Resolution 50 concerning the Robert J. Lagomarsino Visitors Center while my district is the home of several dedicated public servants, including former President of the United States, Ronald Reagan, I also have the honor of representing much of the same area of another distinguished public servant, former Congressman Robert J. Lagomarsino. Bob Lagomarsino served the central coast, the State of California, and our Nation with distinction.

In Washington, Bob fought for serious congressional reforms. As a student of foreign affairs, he knew the importance of America's place on the world stage. However, he also understood the importance of the district he represented and its valuable resources. As a result, he successfully urged support for the Channel Islands National Park in Ventura County, CA.

To understand the importance of this effort, one has to appreciate the central coast of California and our history. It was just a quarter century ago, when the pristine, uncontaminated shores of Santa Barbara were spoiled with an oil slick, caused by an underwater oil well in the ocean, that covered our beaches and polluted our waters.

As a result of Bob Largomarsino's work, we can now view the central coast from the deep woods in the Los Padres National Forest to the mountain ranges that run down to our stunning coast with a sense of relief that the beauty surrounding the cliffs of the Santa Barbara coast with its sandy beaches, can no longer be harmed.

Mr. Speaker, I rise today in wholehearted support of the Robert J. Lagomarsino Visitors' Center designation and urge my colleagues to join me.

Mr. RICHARDSON. Mr. Speaker, further reserving the right to object, let me just conclude, since everything has been said about Bob Lagomarsino, I had the pleasure of serving with him also. He was a man of class, decency, an environmentalist, statesman with his role in foreign policy, a man of great integrity.

We miss him in this body, and this could be no better tribute.

Mr. Speaker, I want to once again commend my colleague, the gentleman from California [Mr. GALLEGLY], who I know probably had the strongest friendship of anyone with Mr. Lagomarsino.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. I want to join all of my colleagues who joined today in recognizing Bob Lagomarsino.

Particularly I want to thank you, BILL. If we felt about so many more issues in this body on a bipartisan way the way we feel about Bob, we could get a lot more done around here.

I thank you very kindly for yielding, and urge the support of all of our Members on this issue.

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of House Joint Resolution 50, to designate the visitors center at the Channel Islands National Park after our former colleague, Robert J. Lagomarsino. An an original cosponsor of the resolution, and a cosponsor of similar legislation in the 103d Congress, I commend my colleague from California, Mr. GALLEGLY, for his efforts.

This is a fitting way to honor Bob Lagomarsino. During his nine terms in the House, Bob worked tirelessly for the preservation of California's natural resources. Perhaps the centerpiece of this mission was his successful effort to establish the Channel Islands National Park in 1980. Bob Lagomarsino is a Republican in the finest tradition of Teddy Roosevelt, recognizing the importance of preserving our environment and working to include unique areas in the National Park System. Bob had a major influence on landmark environmental legislation including the Alaska Wilderness Act, the Strip Mine Control Act, and the Land and Water Conservation Act.

On a personal level, I miss Bob's presence in the House. He was a thoughtful, productive, and diligent representative for the people of his district and the State of California. Bob Lagomarsino was one of those nuts-and-bolts legislators who would take up the less publicized but still important causes. His efforts on working to improve the status of the territories, for example, got him little attention in the media or from his constituents. But, typically for Bob, he devoted countless hours to this issue. He worked in a bipartisan manner, never compromising his principles, but never grandstanding either.

We also remember Bob Lagomarsino's years of dedicated service in the foreign policy arena. Bob took a passionate interest in fighting the spread of communism and played a key role in making the Reagan doctrine a reality. His efforts in Central America, for example, put America on the side of freedom. At a time when it wasn't fashionable to talk about spreading democracy and liberty around the world, Bob Lagomarsino never shrunk from his belief in this country and what it represents.

Bob Lagomarsino's efforts to protect the Channel Islands before his service in the House of Representatives. While serving in the California Senate, Bob Lagomarsino introduced and passed legislation to make the Channel Islands off limits to oil drilling. When he arrived in Washington in 1974, he introduced legislation to establish the Channel Islands National Park. After years of effort, Congress passed Bob Lagomarsino's bill in 1980.

Even after the establishment of the national park, Bob's commitment to protecting the Channel Islands and the fragile California coast continued. He worked for a number of years to secure funding for the park. He expended great effort to convince major oil companies to end shipments of oil through the channel. He worked with the International Maritime Organization to have the Channel Islands designated as an "area to be avoided" by international shippers. He persuaded President Bush to withdraw leases for offshore oil in the channel. He authored an amendment to bring offshore oil operations under State and Federal clean air standards.

Mr. Speaker, the United States has benefitted greatly from the public service of Bob Lagomarsino. It is most appropriate that we honor that service with this resolution. Were it not for Bob's persistence and dedication, there would be no Channel Islands National Park. I think it is fitting and proper that Americans visiting this treasured part of California appreciate something of the man who made this park possible.

Again, I salute ELTON GALLEGLY for his work over the last few years on this legislation. I urge its adoption by the House.

Mr. UNDERWOOD. Mr. Chairman, I rise in support of the legislation brought forth by Chairman GALLEGLY to designate the visitor's center at the Channel Islands National park after a distinguished former member of this body, Mr. Robert J. Lagomarsino. I congratulate the chairman for recognizing Mr. Lagomarsino's many accomplishments.

Mr. Lagomarsino has been honored numerous times by various citizen groups, environmental organizations, and most importantly his constituents. his successes as a Member of Congress were eclipsed by his championing the protection of the Channel Islands, but also include many other valuable achievements for his constituency and the country. As ranking member of what was then the International and Insular Affairs Subcommittee, Mr. Lagomarsino was a friend to the territories and is still an advocate for our respective agendas.

I believe Mr. Lagomarsino's tireless work for his district, the territories, and for the Channel Islands National Park to be indicative of his desire to legislate responsibility and fairly for all people as well as for the environment. I think this legislation is a fitting tribute to the man whom Chairman GALLEGLY has called the father of the Channel Islands National Park.

Mr. RICHARDSON. Mr. Speaker, I withdraw the reservation of objection, and urge passage of the joint resolution.

□ 1810

The SPEAKER pro tempore (Mr. UPTON). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 50

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The visitors center at the Channel Islands National Park, California, is designated as the "Robert J. Lagomarsino Visitors Center".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the visitors center referred to in section 1 is deemed to be a reference to the "Robert J. Lagomarsino Visitors Center".

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike all after the resolving clause and insert:

SECTION 1. DESIGNATION.

The visitor center at the Channel Islands National Park, California, is designated as the "Robert J. Lagomarsino Visitor Center".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the visitor center referred to in section 1 is deemed to be a reference to the "Robert J. Lagomarsino Visitor Center".

Mr. GALLEGLY (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the joint resolution was amended so as to read: "Joint resolution to designate the visitor center at the Channel Islands National Park, California, as the "Robert J. Lagomarsino Visitor Center.".

A motion to reconsider was laid on the table.

THINK HARD ABOUT MFN FOR CHINA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, today's New York Times points out that the State Department released its 1995 report on human rights, and human rights has fallen behind in China.

We ought to be careful when we consider MFN later on this year, because there is slave labor in China making goods. In fact, I will bet there are members of Congress that are wearing clothing made by slave labor in China.

There is organ sales; for $30,000 you can get a slave labor person shot, and they will donate their kidney for you.

There is persecution of Christians whereby they are going in house churches. It goes on and on.

Lastly, members concerned about the economy, the trade imbalance with China is now $30 billion. When Tiananmen Square came, it was $6 billion, and now it is $30 billion.

I strongly urge every Member to get today's New York Times and read it, especially before we vote on MFN, because we should never give MFN to a nation that is persecuting its own people and destroying the Christian Church and plundering Tibet.

Mr. Speaker, yesterday, the State Department released its 1995 Report on Human Rights which said what human rights observers have been saying for the past 7 months, that the human rights situation in China has deteriorated since President Clinton renewed China's most-favored-nation status last May.

The report, as quoted in today's New York Times says,

> In 1994, there continued to be widespread and well-documented human rights abuses in China, in violation of internationally accepted norms, stemming both from the authorities' intolerance of dissent and the inadequacy of legal safeguards for freedom of speech, association and religion.

Even Assistant Secretary of State for East Asian and Pacific Affairs Winston Lord was forced to admit the same thing several weeks ago in light of all the harsh realities.

The Times article summarizes the report as follows:

> The report criticizes the Chinese Government for detention of perhaps thousands of "prisoners of conscience;" an inadequate accounting of those who are missing or detained after the 1989 pro-democracy demonstrations; and crackdown of journalists; the routine arrest of dissidents during foreign visits and requiring prisoners to work in labor camps.

The report notes that forced abortion and sterilization occurs, and accuses the Chinese Government of forcing prisoners to donate their organs for transplants. It also acknowledges the horrendous repression of dissent occurring in Tibet the tiny Himalayan country occupied by the Chinese for over three decades.

That is not all that has deteriorated. In 1989, the year of the Tiananmen Square tragedy, the United States trade deficit with China was $6 billion; now the trade deficit has exploded to $30 billion. That's a 500-percent increase. And what is worse is that American workers are forced to compete with products manufactured with slave labor.

On all fronts, our engagement policy with China is not working. It is not improving human rights and it is not improving the trade deficit. This year I hope the Congress will think long and hard about changing it.

NUTRITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, today the Committee on Economic and Educational Opportunities held a hearing on the Contract With America, which deals with our nutrition programs. And a representative of the American School Food Service Association testified that if the Personal Responsibility Act were enacted as currently written, 40,000 out of the 93,000 school districts in the United States would stop serving school meals. That is breakfast and lunches for early—for children who get to school earlier. This, as we recall, was a bill that passed in 1946, in recognizing that children needed to have a lunch program and a breakfast program to make them ready for school.

During World War II we found a lot of our children were not up to the nutrition standards that we needed. So that is why 1946, this program started. The reasoning behind the dramatic elimination of those school meals programs is cost. And yet we are literally cutting off our nose to spite our face.

During this hearing today, "the local perspective," five of the six witnesses presented were community nutrition providers. A recent study by the U.S. Department of Agriculture estimated that this bill, if we pass it, would cost the state of Texas $15.1 billion in 1996 alone, representing a 30-percent cut in funding. Of all the States in the Nation, the State of Texas would be the one that would be cut the most. And the reason is, and I have an objective summary of that report that shows that that 1.1 billion would be cut because the State of Texas utilizes more food stamps than most other States. And yet in California, that would benefit to the tune of about $600 million under this proposal, $650 million to be exact, would benefit because they have a higher payment. They actually have less food stamp participation and yet they pay $593 per month on the average in food stamp households in AFDC, whereas in the State of Texas we only pay $174. So we are actually hurting the poorest of the poor by taking away that billion dollars from the poor in the State of Texas.

The formula punishes those States which depend on food stamps the most.

This not only covers nutrition sites in our schools, the breakfast program, and the lunch program. But it covers the senior program Meals on Wheels. In Harris County, we received $1.5 million in 1994. This roughly represented over a million hot meals for seniors. If we pass this bill, the cuts by the Personal Responsibility Act would mean 300,000 a year or 800 meals a day in Harris County alone would not be served.

Lowering the number of Meals on Wheels could add to the health cost of these seniors. By taking away the meals from the seniors, we would push them to more likely seek assistance in elderly care centers and thereby possibly even raising our hospital costs so more seniors would be taking advantage of Medicare.

These senior citizen centers provide more than just a hot meal at lunch. They provide also companionship. I have as many as 35 in my own district that I visit, when we can get home on Fridays and Mondays, although this first hundred days we have not had much opportunity to do that, but staff who visit these centers make sure. In our district office we offer Social Security assistance and Medicare assistance and other assistance. But those seniors who go to those centers oftentimes have no one at home and that is the only hot meal that day.

Yet if we pass this proposal in the Contract With America or Contract on American, then we are going to cut these senior citizens from these hot meals, not just in Harris County or the State of Texas but throughout the country.

Another proposal that would be cut would be the Women, Infants and Children. Again using my frame of reference, in Houston and Harris County, the city of Houston is the one that actually funds it or provides it with the funding from the Federal Government. This amount of funding would represent in Harris County, Texas $13 million cut to the local grocers in Houston who benefit from the Women, Infants and Children Program.

The WIC Program, as we call it, is not an entitlement program. The program participants not only have financial needs but also nutritional needs. This helps with early childhood development. Those children, before they become eligible for public school, we can make sure of the nutrition that they need in their early years until they do get to public school.

Health costs could increase for these children from Medicaid and also provide it for our hospital districts, for example, our public hospital systems.

In a 1969 White House Conference on Food, Nutrition and Health, President Nixon said of the Federal responsibility for nutrition programs, "a child ill-fed is dull in curiosity, lower in stamina and distracted from learning."

We do not need to make these cuts in our programs.

□ 1820

THE AMERICAN PEOPLE DESERVE TO BE HEARD IN DECISIONS ON THE MEXICAN BAILOUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. WAMP] is recognized for 5 minutes.

Mr. WAMP. Mr. Speaker, I come today as a freshman Member of this body with a burden on my heart to speak to the American people about this crisis in Mexico. I think it points out that we have a crisis in Washington, because some people are still not listening to the American electorate. I think the people out here deserve to know some of what we are privy to know here in Washington, DC, relative to the Mexican bailout and the actions, in the last few hours, of the administration.

Today I was briefed at the Republican policy meeting by our Treasury Secretary, Robert Rubin. While I have a tremendous amount of admiration and respect for Mr. Rubin, I realize that he is in a very difficult situation because he was thrown into, as our new Treasury Secretary, this unfortunate situation in Mexico.

Mr. Speaker, many people in our conference, in the Republican Conference, believed for the last 2 weeks as the administration came to us, Mr. Greenspan, Mr. Rubin, and made their case for why we needed to consider a $40 billion bailout of Mexico's peso, we believed that Congress was the only way that they could come and tap into the resources necessary to try to achieve their objectives.

We did not believe, from the questions that we asked at the meetings which we attended, that the Stabilization Fund was even possible to tap into. We continued to believe that as the administration continued to work with our leadership for the last 2 weeks, and proposals were brought before us, that they had to come through Congress where the money is appropriated in this country to get even a little part of money, let alone 40 billion dollars' worth of money. The Stabilization Fund was off limits.

Today I asked Mr. Rubin, "Mr. Rubin, exactly when and why was the Stabilization Fund decision made to tap into this fund and to use an Executive order from the President to take this $20 billion?" He gave me three answers. I think the American people need to hear them.

First of all, he said he recognized that it was preferable to come to Congress for this money. I think it is preferable. That is an understatement. It is preferable to come to Congress for a $40 billion loan package to anybody, any time.

Second, he said "Until the International Monetary Fund, the IMF, raised their commitment from $7-some-odd billion to $17.5 billion, using this fund was not an option because collectively it did not get to 40 billion dollars' worth of guarantees," which is what they needed in order to meet the problems in Mexico.

Third, Mr. Speaker, and most importantly, he said the crisis got out of hand. On Monday the crisis got out of hand and it required quick and decisive action. I tip my hat to him. Clearly this is quick and decisive action.

However, Mr. Speaker, let me make some points representing this freshman class that was just elected to the 104th Congress.

Many questions are left unanswered. Today, still no answers to these questions: How long is the term on this debt? Three years? Five years? How long?

Exactly how is it going to be repaid? Are these direct payments or are these loans? Again, today they could not give us a definitive answer.

What are the conditions that Mexico must meet in order to receive this financial commitment? Still left unanswered, yet through this Executive order, $20 billion is pulled from the Stabilization Fund.

Mr. Speaker, I have not been in Congress very long, but I was in the real estate business for a long time before I got to Congress. I can tell Members that if our Government was in the banking business—and I don't think we ought to be—if we were, we would have required a pro forma, a first mortgage, good credit history, on and on and on, none of which we got.

Mr. Speaker, this is a bad deal for the American people. I come to the floor today outraged for the American people that, first, they have overlooked the citizens of this country, who spoke loud and clear on November 8 that they are tired of the Government running off anywhere without them, that this is their House of Representatives, this is their Congress, this is their Government, this is their country.

Second, Mr. Speaker, the Congress has been circumvented in a major way, with billions and billions of dollars. I am a populist conservative freshman. I represent, I believe, the majority wishes of the Third District of Tennessee, and in fact, I believe this freshman class represents the heart of the American electorate. We are upset about this.

You know one reason they circumvented Congress? They knew they could not get this through this Congress because they ran into a wall called the freshman class of the 104th Congress, which I believe stood 80 or 90 percent against even talking about a multibillion-dollar bailout to Mexico.

Mr. Speaker, who is to say this is not going to happen again? We know that it is. It is high time, Mr. Speaker, that the American people have a voice in Washington, DC, on either end of Pennsylvania Avenue. It is time we listened to you. I am here to carry the torch for the American people.

THE PRESIDENT'S ACTION WITH REGARD TO THE MEXICAN ECONOMIC SITUATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. COLEMAN] is recognized for 5 minutes.

Mr. COLEMAN. Mr. Speaker, I rise to commend President Clinton's action today to help stabilize the Mexican economy by Executive order.

With the President pledging $20 billion in U.S. loan guarantees from the U.S. Exchange Stabilization Fund, a Democrat once again averts another major foreign policy crisis with no Republican help. This new plan which includes contributions from the International

Monetary Fund and other international organizations will stem the plunge of the peso which dropped to its all-time-low in value to close at 6.3 to the dollar yesterday.

As a strong supporter of NAFTA and the Mexican stabilization package, I am very gratified to see today's action because small businesses and retailers in my district and across the Southwest will benefit from a sound Mexican economy. In Texas, about 262,400 workers are employed producing products ultimately destined for Mexico.

Our national security interests were also at stake. If the Mexican situation was not resolved, there were estimates that undocumented immigration could have risen by more than 30 percent—or an additional one-half million economic refugees to our country this year. International observers were also monitoring our response to the Mexican crisis with great interest. The United States credibility was at stake.

What today's action also shows is that the leadership vacuum has been filled in this new year. The President stepped up to the plate and delivered on the question of what is good for our country. The Republican majority running the Congress has failed in its first major leadership test.

Remember NAFTA? Even though a majority of Democrats and the Democratic leadership opposed it last Congress, our party brought it up for a vote. I said back then and I will say now that you either lead, follow, or get out of the way. The Republicans, with their newfound power, seem to be dithering between following or getting out of the way. They certainly are not leading.

Just a few days ago, the esteemed Speaker said that he would not bring the Mexican stabilization package to a vote because of lack of support from Democrats. My question to him is: Since when does the opposition party have to deliver the requisite number of votes for a passage on a measure?

Does not the majority party have the prerogative to lead?

Many of the President's most outspoken critics seemed to be putting their Presidential ambitions before the good of the Nation. Yet how can we explain their change of heart with regards to Mexico? After all, were not these same Presidential aspirants supporters of NAFTA 2 years ago?

Many Republicans said after the President's State of the Union Address to let them act on what was best for the country. Well, the President has acted on an important national interest matter. And to the Republicans I say: Either lead, follow, or get out of the way.

CALLING FOR INCLUSION OF NATIONAL CHILD SUPPORT ENFORCEMENT IN WELFARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MARTINEZ] is recognized for 5 minutes.

Mr. MARTINEZ. Mr. Speaker, I rise today to call for the inclusion of a national child support enforcement program in any welfare reform proposal considered by this body.

Raising a family is no easy task. I don't think anyone here today would say differently. Parenting requires time, patience, sacrifice, love, and of course, money. And according to 1992 statistics, over 8½ million women are raising families alone.

Considering all that being a parent requires, it should come as no surprise that many of these women require assistance—assistance from friends, family, and from the Federal Government. For instance, of those 8½ million women currently raising families alone, over 3 million collect welfare. They collect welfare in order to provide their children with the food, shelter, clothing, and medical care they need to survive.

It's no secret that welfare costs the Federal Government a lot of money. As a matter of fact, it costs nearly $86 billion every year. It's also no secret that the Federal Government is looking for ways to decrease that amount.

Let's discuss the Personal Responsibility Act, the welfare reform proposal included in the Republican Contract With America. The proposal calls for all Americans to take charge of their lives and assume responsibility for themselves. Specifically, it calls for young mothers to give up their children and go to work. It calls for children to live away from their homes and their families. The bottom line is it calls for both mothers and children to get off welfare.

While this idea seems well and good, a particular and critical segment of the population is consistently absent from the picture and from the Personal Responsibility Act—the fathers. Where is it mentioned in the Personal Responsibility Act that fathers must provide for their children? Where does it say fathers need to go to work and contribute to their children's financial needs? Indeed, I see no reference to fathers in this proposal at all.

Did 8½ million women impregnate themselves? As far as I am aware, the last time a woman found herself with child without any help from the opposite sex was in the year 4 B.C.

So, if we agree that women cannot get pregnant alone, why should we insist that they alone take responsibility for the children that result. Why should the fathers be let off scot-free? The truth of the matter is, they shouldn't. And for several decades the Federal Government has helped ensure that fathers take responsibility for their children.

The child support enforcement program, established in 1975, helps millions of mothers every year identify, and collect child support from the fathers of their children. In 1993, the child support enforcement program collected $8.9 billion in child support from delinquent fathers through income withholding, income tax refund interception, property liens, and security bonds. That's $8.9 billion that didn't come from the Federal budget. And that's only the beginning.

Because tracking and collection across State lines is so difficult, $34 billion in potential child support is not collected each year. If we could establish a national program to work with State and local agencies to track and collect child support from delinquent fathers we could further take the responsibility off the Federal Government and put it where it belongs—on the parents—both parents.

Look, no government or government agency, be it Federal, State, or local can ensure that both parents provide their children with love and emotional support. No government can insist that both parents spend time with their children. However, the government, Federal, State, and local, can, by working together, ensure that both parents at the very least, fulfill their financial obligations to their children.

If we really want all Americans to take responsibility for themselves lets make sure we are talking about all Americans. Make fathers accountable. Make child support enforcement part of welfare reform.

CONCERNS REGARDING THE MEXICAN BAILOUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. MENENDEZ] is recognized for 5 minutes.

Mr. MENENDEZ. Mr. Speaker, I got elected for the 13th district of New Jersey to voice on behalf of my citizens their concerns, and certainly it is on their behalf that I have taken to the well today to speak on them.

I want to state very clearly and very loudly for the record that I stand staunchly opposed to the unilateral action by the executive, in collaboration with the leadership of the House, to grant the Mexican Government an unprecedented bailout package worth billions of dollars. Not a single congressional voice nor a single American voter will be heard by virtue of the process that has taken place on this banker and speculator bailout bill.

Mr. Speaker, I think it is a travesty for justice. I know that some in the House were involved in negotiations, but overwhelmingly many were not, many who also represent hundreds of thousands of taxpayers in their congressional districts.

For those of us who did not support NAFTA, we spoke up about our concerns at that time, that Mexico was a developing economy, not a developed economy. We spoke up about our concerns about the value of the peso, and that in fact it was way beyond where it should be in terms of its exchange rate.

Sure enough, Mr. Speaker, after NAFTA and after the presidential elections in Mexico, we find that many of these things are coming true. So without creating the appropriate safeguards during the NAFTA debate and subsequently in its enactment, it is my belief that we created a speculative environment in which middle class investors, the mom-and-pop investors so vital to Wall Street brokers, were led to believe that investing some of their hard-earned life savings in mutual funds, in pension funds, investing in emerging Mexico was a safe bet, but billions of dollars later, we know it is not. In one week alone U.S. investors took over $12 billion out of the Mexican market.

I question, one of the things I would have liked to have seen is how much money the middle class families across the country lose in the context of the investments in a speculative market that we helped create by virtue of how we portrayed the Mexican market.

Today, Mr. Speaker, in the Committee on International Relations testimony was heard on this issue. I would like to read from one of the witnesses, John Sweeney of the Heritage Foundation, not an institution that I normally quote, but which is of great interest to me, particularly in the context that they were supporters of NAFTA and free market ideas.

He said: "This new plan is an improvised hodgepodge that will not solve the structural causes of the Mexican crisis. This new bailout plan is bad policy, and it is bad politics."

We were told, Mr. Speaker, that in fact the original $40 billion loan guaranty was meant to overwhelm Mexico's problem.

□ 1830

Yet we see that this new package has now risen to between $47 billion and $50 billion. So I am concerned if $40 billion was meant to overwhelm Mexico's problem, why did we have to go to $47 billion or nearly $50 billion?

This witness went on to say, "The Mexican crisis needs a stronger free market cure than Mexico's ruling political, corporate and labor elites are willing to accept." He went on to criticize this action.

I think his last comment that I would like to make, he said, "Bailing out Mexico will tell governments in emerging markets that bad policies based on short-term political imperatives would be forgiven, and it would send private investors the message that bad investment decisions will be bailed out at U.S. taxpayer expense."

I think that that is the wrong message to send.

It is interesting to see in today's New York Times in the business section how now investors are looking at all emerging markets and their investments in those emerging markets and beginning to question those investments. Maybe they will come back to good old T-bills and blue chip stocks here in the United States.

I think it is important in this debate to continue to raise the questions of what type of speculative environments are we creating to put middle-class taxpayers at risk, and in doing so I would hope that we would continue to speak about this issue on the House floor.

TIME TO COME CLEAN ON BAILOUT OF MEXICO

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentleman from Georgia [Mr. BARR] is recognized for 5 minutes.

Mr. BARR. Mr. Speaker, over the last 24-hour period, we have heard a litany of reasons in support of what the Clinton administration has done in its efforts to prop up the Mexican peso.

We have heard, for example, that the United States economy will suffer irreparable harm if the Mexican economy remains as weak as it is.

We have heard that illegal immigration will explode if the United States does not prop up the Mexican peso.

We have heard intimations that Mexico and other Latin countries will be unable to help continue to control certain undesirable activities such as drug trafficking and money laundering from and through Latin America.

We have heard that delayed action is worse than no action.

We have heard that other Central American countries will soon follow Mexico unless we act in behalf of Mexico.

We have heard that an untold number of jobs here in this country will be lost and money will be lost here in this country, including from perhaps some very important pension funds, if the United States does not act and prop up the Mexican peso.

If in fact, Mr. Speaker, the consequences that would befall the world economy and the United States economy were as dire as the administration is now saying they are, one might very legitimately ask, as I do, where were they when the groundwork was being laid for this crisis through either action or inaction on the part of the Mexican Government?

Where were they when we had before the U.S. Congress Committee on Banking and Financial Services just 1 short week ago asking the 3 top officials from this administration, Secretary Christopher, Secretary Rubin, and Chairman Greenspan to justify to us specifically and explicitly why at that time the administration was telling us that unless congressional action occurred, all of these dire consequences would befall.

We asked, for example, when these gentlemen were before the Banking Committee on which I have the honor of serving, what guarantees do we have? How will we know and how can we assure the American people that Mexico will not default on the loan guarantees that this administration was asking us in Congress to provide to them through legislation?

The only thing that these witnesses could tell us was, and I remember one witness explicitly stating this, we have a team of the finest lawyers in Government and we are sure that they will draft up a document that provides us those guarantees.

Well, Mr. Speaker, that does not leave me satisfied and that does not leave my constituents satisfied. They continue to ask some very important questions that are deeply troubling to me and to my constituents in the 7th District of Georgia.

What happens with that $20 billion, and many other billions of dollars that are now going to directly prop up a foreign currency? If and when, as many of us expect, the Mexican Government fails to take the steps, the hard steps that are necessary to ensure its continued viability and to ensure the rebounding of the peso, what will in fact happen to those moneys?

What will in fact happen, Mr. Speaker, for example, if in some other part of the world with regard to some other currency, the U.S. dollar, which is the currency that I care about and that the American people care about, runs into problems and we go to the Stabilization Fund and we find that the cupboard is bare? What then do we tell our constituents?

What do we tell our constituents down the road, Mr. Speaker, when the next country comes to us and says,

> Yes, we know you are having to ask your citizens to tighten their belts. We know you in America are having to make tough decisions to cut back governments and cut back guarantees in your own country. But you helped out Mexico. Now you must help us out.

These are things, Mr. Speaker, that I think the American people are legitimately asking of this administration which has yet to deliver to us in the Congress an executive order that sets out in black and white where it thinks it has the legal statutory authority to do what it did.

The questions, Mr. Speaker, far outnumber the answers that have been forthcoming. I think it is past due time for this administration to come forward, to come clean and to provide us the background information to let us know why did we get to this situation, what is truly happening, and why this action is necessary.

Mr. Speaker, I thank you for the time to address this very important problem for the people of this country.

LINE-ITEM VETO AND REMAINING CONTRACT WITH AMERICA ITEMS DESERVE BIPARTISAN SUPPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, today is a very special day, I believe, in the House of Representatives because here today we passed for the first time H.R. 5, which, in fact, will give us unfunded mandate relief. For too long our State, local and county governments have been forced to pay for the programs that Congress has foisted upon them without any input from the State, local, or county governments. As a result of our actions today, counties and local governments will no longer be obligated to pay for programs we passed here in Congress. From now on, if we in Congress wish to pass a bill, we will have to pay for it at this time.

I was very happy to see, Mr. Speaker, this was a bipartisan effort. I suspect and hope that, along with the American people, that the other items in the Contract With America will have similar bipartisan support.

In reflecting on our recent weeks here in Washington in this 104th Congress, we have already seen a balanced budget amendment adopted, which will help get our fiscal House in order and help us reduce our deficit. We have also seen, as I said, the unfunded mandates bill being passed, and now the third part of the program, the line-item veto, is legislation we are about to embark upon, starting with discussions and debates tomorrow morning.

I am proud to be an original cosponsor of this important piece of reform legislation. In the past, Mr. Speaker, the President had no authority to remove specific items of pork-barrel legislation and now it will be possible for the President to remove waste without rejecting the entire budget package.

A line-item veto will also restore the proper balance between the President and the Congress. In the mid-1970's the Congress upset the balance when it changed the budget process and consciously undermined any President's ability to constrain the growth of Federal spending. Ever since these changes in the process occurred, Congress has been able to simply ignore the President's rescission requests.

The Republican-proposed line-item veto will force Congress to debate and vote upon the President's proposals. This will give the same kind of line-item veto most of our Nation's Governors have to remove wasteful spending which does appear in budgets.

Clearly a line-item veto alone will not solve the deficit problem overnight, but it will move us toward the fiscal responsibility this 104th Congress deserves and wants on behalf of the American people. It would enable the President to slash the pork that is in the budget, would help us to maintain the ability of Congress to disagree with the President, but the Congress would also restore spending cuts by the President if it thought the package of rescissions were inappropriate.

□ 1840

I believe that the line-item veto, when combined with the balanced budget amendment and now the unfunded mandates reform will go a long way in making sure that this Congress completes its Contract With America and helps us to economic recovery as every American wants.

WELFARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I support welfare reform. Reform, however, does not mean change for the sake of change. Reform means change for the sake of improvement. As we move to reform the welfare system, let us make sure that we make a better system, not just a different system. Some of our programs are working and working well. Nutrition programs have proven their worth.

This morning, the House Committee on Agriculture held its first hearing of the 104th Congress. The subject of the hearing was the Food Stamp Program. During the hearing, we heard of instances of fraud and abuse. The information received at the hearing may tempt some to call for the elimination of the Food Stamp Program. Such calls, however, would not take the good that the program does into account. The good far outweighs any problems that the program may experience.

The Food Stamp Program was instituted to confront hunger in America. Over 27 million people in the United States are served by the program—more than half of them, 51 percent—are children. Seven percent are elderly. In the State of North Carolina alone, over 627,000 people receive food stamp benefits—and—over half of that total, 323,552—are children.

In 1993, North Carolina received $512 million in food stamp funding. In my district, 74,370 hungry people benefit. However, with the cuts that have been proposed in nutrition programs, it is estimated that North Carolina will lose nearly 20 percent of its food stamp funding. That loss will mean the loss or reduction in benefits for almost 44,000 North Carolinians. Additionally, it is estimated that should the Food Stamp Program be converted to block grants, approximately 3,122 jobs will be lost in North Carolina alone—this means about $33.9 million in lost wages. This is just in my home State of North Carolina. Mr. Speaker, that is but one legacy of the balanced budget amendment and the contract on America. The people have a right to know. Unless we act to prevent it, there will be drastic cuts in funds for school meals and WIC as well.

This Nation is great, not because of its military might, although it is important to be strong militarily. We are great, not because of our success in diplomacy, although it is important to move effectively in the world arena. What makes us a great nation however, is the compassion we show for those who live in the shadows of life—the young, the old, the poor, and the disabled.

When history and the voters judge us, in the end, we will not be judged by how much we mindlessly cut. We will be judged by how much we truly cared. The school meals program gives to our young people the nutrition they need, the strength that is required, to make it through the school day. Last year we fed free and reduced price breakfast to more than 5 million children nationwide. The money we spent for that program, nationwide, is now threatened.

In North Carolina, 180,000 children were fed breakfast, free or at a reduced price last year. Those children may go hungry at school next year. That could be one of the legacies of the balanced budget amendment and the contract on America. The people have a right to know, and I intend to tell them. Similarly, the National School Lunch Program which served 13½ million children last year, will likely serve far fewer next year.

In North Carolina, money from the national program was spent to serve free or reduced priced lunches to some 379,000 children. The people have a right to know that those funds may be lost. The special supplemental program for women, infants, and children [WIC] is threatened. Important Federal funds were spent last year for 6 million WIC participants. Nearly $74 million of those funds were spent in North Carolina, servicing 169,000 WIC participants from my State.

After school programs, summer programs, violence prevention programs all may be slashed for years to come under the balanced budget amendment mandate and the contract on America. The people have not been told about these cuts, and they have a right to know. We face the creation of thousands, perhaps millions, of new orphans because we are threatening to cut the cord of life from those parents, struggling to make ends meet, and their children, innocent in every respect.

Mr. Speaker, I support welfare reform and I include the remainder of my speech in the RECORD at this point, as follows:

Yes, I support welfare reform. But, in the words of Susan B. Anthony, "Cautious, careful people, always casting about to preserve social standing, can never bring about reform." These are not times to be cautious and careful about government.

Yes, we need a smaller, more effective government. But, we also need a bold and visionary government—a government that changes with the times, but remains fundamentally unchanged—an instrument for the many, not just for the few.

PESO BAILOUT

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I also want to talk about the bailout, the new Clinton unilateral, nonparticipation by the legislative branch bailout. And I was just speaking with my friend the gentlewoman from Ohio, MARCY KAPTUR, who has really been a leader in trade and leader on this issue, about what is happening to our country and what is happening to American workers. And I hope that there is a silver lining to the cloud of this bailout issue which hovers over Americans right now, which the President is attempting to dismiss with this use of the Exchange Stabilization Fund, if he is to bail out Mexico without requiring Congress to vote up or down.

The silver lining that I am looking for is a realization in this body, in the House of Representatives, of the fact that our blind adherence to free trade, that is leveling all borders, all tariffs between us and the rest of the world, regardless of the circumstances, regardless of whether or not they let us into their borders, regardless of the displacement of American workers, relying on the blind adherence on the Republican side and the Democrat side in some cases.

Let us talk a little bit about the peso bailout and some of the conservative Republicans who recently have testified in our forums.

Bill Seidman is a conservative Republican renowned economic leader, former chairman of the FSLIC, a guy who knows bailouts, and he made a couple of good points in his speech to our forum when he said, "Do not bail out Mexico."

First, he does believe in the free market and he could not understand why people who believe in a free market and who believed in NAFTA would now believe that somehow the politics and the economics of subsidies to Mexico now make sense.

He pointed out that Mexico has gone through in the last 10 or 20 years a number of devaluations, and they have not had these disastrous apocalyptic effects that all of the deep breathers tell us are going to happen now if we do not bail out Mexico with a $40-billion-plus package. Here is Bill Seidman, a renowned conservative economic expert relied on by this Nation in very difficult times saying we do not have to do it, let the market adjust it. He made a great statement. He said this issue should be resolved between Mexico and her creditors, let us resolve this between creditor and debtor.

□ 1850

Let us stay out of this as the United States of America. In listening to witness after witness on the Democrat side and the Republican side across the political spectrum coming up and testifying against the bailout, it occurred to me that this has revealed another aspect of national policy that should be looked at very closely.

If this is free trade, this is the result of free trade where a tiny nation economically like Mexico, which has approximately the economy the size of New Jersey's, can be in a position to pull the United States down because it has a downturn. Have our policymakers who have outlined a free-trade policy for the United States supposedly with a deep intellectual base really been right when the effect of their policy is to handcuff the United States to Third World nations in deep water that do not know how to swim? That is what we have done.

If we have lost our independence and if we now are committed to bail out every nation which becomes inextricably linked with our economic wellbeing through our trade policies, is that smart?

Regardless of whether or not you like the trend lines on the exports and the imports, is it right for us to give up our independence and link ourselves with these nations? Does that mean we are now going to link ourselves with Argentina, we are so linked that we now have to bail them out if they have a problem, or any of the other dozens and dozens of Third World nations which now will call on the United States to help bail them out because we have a substantial trade relationship?

Now, let me just conclude by giving one "I told you so" and "Let's look at this thing in the future," to all of my colleagues, my good friends, who supported NAFTA. The claim by the pro-NAFTA advocates on this floor was that Mexican workers were going to achieve a larger standard of living, go above that $1,900 per capita per year income, and they were going to get up there to the point where they were making enough money to buy large amounts of American consumer goods and increase our exports. This devaluation has decreased the capability to buy by about 30 percent. This proves that NAFTA was wrong.

OIL AS COLLATERAL

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I want to compliment the previous speaker, the gentleman from California [Mr. HUNTER], who has been so much a part of our efforts to really open up international trade and explain the consequences to people in this country and abroad.

I rise tonight with a rather heavy heart because of the action of the Clinton administration. Our Government is not a monarchy. We are a nation of laws and of balance of powers between this legislative branch, which is the first branch that the Constitution mentions, and the action, in my opinion, by the Clinton administration in extending over $47 billion worth of credit from the taxpayers of this country is outside the constitutional boundaries of the executive branch.

Now, Wall Street today and their irresponsible money men are cheering, because they essentially have been bailed out along with their 24 billionaire friends in Mexico with this gift package from the taxpayers of the United States of America with no vote by Members of this Congress. Wall Street investors have every reason to be happy. They got their money back from you, the taxpayers, but the American people should know that they are at risk, because this deal is backed up by worthless paper certificates of oil serving as collateral.

Now, why do I say this? Does not oil have value? Under normal circumstances, it would. But the Mexican Government has long used its oil over and over, the same oil again, as collateral for debts they already owe.

Did you know that Mexico has already pledged its oil in the European bond market, the Euro-bond market, for upwards of $10 billion? The fact is Mexican oil no longer has any value for use as collateral on new debt, because it is pledged to old debt, and Mexico owes anywhere between, on the public debt it owes between $160 billion and $200 billion.

It would be almost better for Mexico to pledge jumping beans rather than to repledge their oil again.

In the RECORD tonight I have taken out of Moody's Manual a list of where Mexico's monopoly-owned, state-owned oil company, Pemex, has already pledged the assets of their oil company.

Suffice it to say, all the administration accomplished by conditioning new loans, these $47 billion worth of loans from our taxpayers, on Mexican oil was to put our taxpayers at the end of a very long line of creditors to that oil. Even adding up all the assets and production of Pemex, Mexico does not have enough oil revenue to cover the $47.5 billion worth of new loans.

In fact, the Houston Chronicle reports that Mexico will become a net oil importer by the turn of the century, because it is essentially producing half of the oil it produced a decade ago because of problems inside that oil company.

Now, add to that what Mexico's own officials have said. The Mexican Secretary of the Treasury said, "Our oil resources are not going to be used for guarantees." Well, if they are not, what is backing up the risk to the taxpayers of this country?

And Mexico's Energy Minister was quoted recently, and a direct quote again, "Our oil will not be mortgaged nor will it form any part of any loan guarantee."

Now, maybe the United States Ambassador to Mexico cannot read Spanish, but it is all there in the Mexican newspapers to be read by anyone.

Basically, my friends, by dodging Congress, our people have been sold a bill of goods that have no value by the administration in collaboration with the Government of Mexico. Now our administration is scrambling to make this back-door deal look as legitimate as possible, but the fact remains the so-called collateral that Mexico is putting up for the $47.5 billion in loans is worthless and, in fact, experts have estimated the entire worth of Pemex at somewhere perhaps, if we are lucky, about $24 billion.

So ask yourself when you read the fine print and they say they are going to book sales of oil on the Federal Reserve of New York's books, who is cooking the books? We are not getting barrels of oil. We are getting pledges of collateral that has already been overpledged.

And if you really want to get cynical, and I will end with this statement, is it not interesting that this is not the first time this has happened? But in fact it happened right after the Presidential election of 1988, during that period when they were trying to prop up the value of the Mexican peso. It happened in 1982, and now they devalued the peso right after the Mexican election in 1994.

Let the record speak for itself.

COST EFFECTIVENESS IN WELFARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from California [Ms. WOOLSEY] is recognized for 60 minutes as the designee of the minority leader.

Ms. WOOLSEY. Mr. Speaker, over $5 billion in child support goes uncollected every year. This is a national disgrace that is punishing our children and bankrupting our welfare system.

Tonight I am pleased to be joined by many of my Democratic colleagues to call attention to this tragedy and to call on the 104th Congress to make child support collection a top priority as we work to reform the welfare system. Democrats have long recognized that holding both parents responsible for their children is the most cost-effective way to reduce the welfare rolls.

Why then, we ask, is there no mention of child support in the Republican's welfare reform bill? Why then did it take so much prodding to get the Republican leadership to even schedule a hearing on child support collection? Do they not know that getting family child support is one of the best ways to get them off welfare?

Mr. Speaker, I have known for over 25 years just how important child support is in preventing the need for welfare, because in 1968 I was a single working mother with three small children, ages 1, 3, and 5. Although I had a court order, I never received a penny in child support. In order to provide my children with the health care and child care they needed, I was forced to go on welfare to supplement my wages.

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Today, Mr. Speaker, millions of families are forced to go on welfare for the same reason. In fact, 91 percent of first-time welfare recipients cite lack of financial support from a parent as the main reason they are on welfare.

Currently, The Federal Government pays over $1 billion a year to help almost 1,500 State and local agencies collect child support. This piecemeal approach results in failing State collection rates, some as low as 9 percent. Even more alarming is the fact that once a parent who owes support crosses State lines, as approximately one-third of them do, it becomes all but impossible to enforce collection.

Consequently, Mr. Speaker, less than $1 for every $10 owed in interstate child support is collected. When it comes to fixing our child support system, however, the Republican leadership seems content on sticking with the status quo, which means the taxpayers get stuck once again with a billion dollar bill for a system that barely works.

Democrats know that our families can no longer afford business as usual. We know that the failure to collect child support is not a State-by-State problem; it is a national crisis demanding a national solution.

It is time to revolutionize child support; it is time to revolutionize child support payment collection in order to make sure all of our children receive the support they need and deserve. That means strengthening paternity establishment laws, that means tough new penalties for parents who refuse to pay support, that means establishing a national registry of child support orders so we can track parents across State lines, and that means taking a serious look at proposals to increase interstate collection, including legislation to federalize the child support system.

Mr. Speaker, I welcome the Republican leadership's late arrival to the child support reform debate. Child support collection after all should not be an issue along party lines. Democrats, however, do not want minor changes to the system or tinkering around the edges; we want fundamental changes.

Mr. Speaker, in the United States if we had had a child support system in place like the ones Democrats have proposed, I might not have needed to go on welfare in the first place. Now we have the opportunity to make sure all families in situations like mine are not forced to go on welfare because they do not receive the support they need and deserve.

Mr. Speaker, I yield to gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. I thank the gentle woman from California and certainly appreciate her efforts tonight in bringing a very important issue, important not only to Congress but to the debate that has been taking place in our State legislatures, has been taking place in all of the legislatures across this country. I can assure you that my district offices who generally deal with these issues on an everyday basis, this is one of the No. 1 issues we deal with in trying to help single parents find or restore back child enforcement or child support payments because of the concern that they have for their children.

If you allow me, I would like to take some time and read a statement that I have talking about what I see as some of the issues with some background and what I think we might be able to do, some things we might be able to do to help.

Mr. Speaker, the Child Support Enforcement Program as it exists today appears to be dysfunctional. Caseloads are impossibly high and Federal requirements for providing services to interested parties may be conflicting, counterproductive, and unrealistic. Portions of the program may even present the intended recipients with economic disincentives to cooperate. Meanwhile, birth and family separation statistics indicate a growing number of potential clients.

The statistics are staggering. One in four American families with children today are headed by women. In these single-parent families, the future of these children are directly linked to that of their mothers. Low standards of living are often the result of the high expense of raising children, lower salaries typically earned by women, and insufficient or nonexistent child support payments. Poor enforcement of child support orders greatly worsens the plight of these vulnerable children.

Even though there are efforts to strengthen child support enforcement, the current system has failed to ensure that children receive financial support from both parents. Repeated reports have shown that the potential for child support is approximately $48 billion per year. However, only $14 billion is actually paid.

For these reasons, a critical part of reforming the welfare system is improving this country's child support enforcement system. Improvements in the child support system will ensure that children can count on support from both parents and that the cost of public benefits can be reduced while working mothers' real income is raised.

A tough stance must be taken on nonpayment of child support. There are at least four areas that must be addressed. First, efforts to enhance noncustodial parent location and identification must be strengthened. Second, the process by which child support orders are established must be improved. Third, efforts to establish hospital-based paternity must be enforced. And fourth, child support enforcement must be made real by the passage of punitive measures for deadbeat parents.

Noncustodial parent location and identification would be enhanced by having States maintain registries of child support orders. Moreover, the functions of the parent locator in the Department of Health and Human Services should be expanded. The interstate locator should be designated to link State-to-State child support order registers into an automated central system.

Hospital-based paternity should be established by ensuring that States have simple civil consent procedures for paternity establishment available at hospitals at the time of birth.

Moreover, benefits should be made contingent on paternity establishment. At this time, there is no reciprocal obligation for welfare recipients to help the Government locate the absent parent. The burden of certain parent locator information should be shifted to the applicant of welfare benefits. Of course, certain situations are unique and need to be taken into account, as when the parent cannot be found or if the mother fears harm to herself or her child.

These measures are not meant to be punitive but just responsible. Parents who willfully and fully comply with paternity establishment requirements should not be denied benefits. Nor should they be denied benefits if the State has not met its responsibilities and obligations in assisting with paternity establishment.

Finally, uncompromising punitive measures for deadbeat dads should be fully enforced. This should be done by withholding income from deadbeat dads for child support orders. We must establish procedures so that liens can be imposed against insurance settlements, gambling and lottery winnings, and other awards. Noncompliant fathers, who are delinquent in their support payments, should be required to enter a work program in which they work to pay off benefits meant to support their children.

Mr. Speaker, studies have proven it is not the inability to pay, but rather the refusal to pay that has plunged children into the depths of poverty. Most noncustodial parents are able-bodied and can contribute to the financial support of their children. Simply put, they do not pay because they know they can get away without paying. I offer my ideas as a tough yet fair approach in dealing with a problem that is keeping billions of dollars from children in our country.

I say again to the gentlewoman from California [Ms. WOOLSEY] that we appreciate her bringing this to our attention, and I think all the ideas that will be discussed will open up a debate that is necessary.

Ms. WOOLSEY. I thank the gentlewoman for her contribution, and I yield to the gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY. I thank the gentlewoman for yielding to me.

Mr. Speaker, I rise as a member of the Welfare Reform Task Force to discuss the serious problem of child support enforcement in this country and to note the absence of meaningful child support enforcement provisions in the Personal Responsibility Act.

Mr. Speaker, every child has two parents. Raising a child is the obligation of both these parents. Unfortunately, in my own State of Missouri many parents are not meeting their financial obligations. According to Missouri's Division of Child Support Enforcement, $963 million is owed by noncustodial parents to over 500,000 children.

Because of these shocking figures, last year our State enacted reform legislation that stiffened compliance procedures for child support payments. I was proud to be a part the effort in Missouri to see these much-needed reforms enacted. It is my hope that many of these programs, such as the Parents Fair Share Program and the Savings Connection Program can be duplicated at the Federal level.

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What is important to remember is that the failure of parents to make child support payments places children at risk. When child support payments are irregular or missed, the incidence of child poverty increases significantly. According to the Association for Children for Enforcement of Support, 50 percent of all white children growing up in a single parent household who do not receive support live at or below the poverty line, and 70 percent of all African-American children growing up in a single parent family live at or below poverty level.

For these reasons, Mr. Speaker, we at the Federal level have to take stronger action to ensure that parents meet their financial obligations to their children. While I am encouraged that the Family Reinforcement Act adds some provisions to strengthen child support orders, I do believe that stronger provisions need to be added during consideration of the bill. In fact, I believe attention should be given to the provisions in the bill introduced by the gentlewoman from Connecticut [Mrs. KENNELLY], which I am cosponsoring, which would deny Federal benefits to individuals owing child support and withhold business and drivers licenses from individuals owing child support. In addition, I will offer consideration of the State reform provisions enacted in Missouri and other States.

Mr. Speaker, this is not a partisan issue. I believe there is broad agreement that more needs to be done to ensure that child support payments are made. While we cannot force parents to spend time with their children, we certainly can place strict enforcement requirements on those mothers and fathers who abandon their children and fail to meet their financial obligations.

Mr. Speaker, I intend to work hard with the gentlewoman from California [Ms. WOOLSEY] and others to achieve bipartisan support to enact strong child support enforcement legislation this session.

Ms. WOOLSEY. Mr. Speaker, I yield to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I thank the gentlewoman from California [Ms. Woolsey] for organizing this special order and for her hard work on the welfare reform task force of the Democratic Party and the Child Enforcement Act along with the gentlewoman from Connecticut [Mrs. KENNELLY].

Mr. Speaker, everyone knows that raising a child is the responsibility of both parents, so it is a national disgrace that we collect only 18 percent of all child support cases. Everyone knows that establishing paternity will increase accountability. So it is unacceptable that we identify only 18 percent of the AFDC children without a legal father. Everyone knows that increasing child support collection is very doable, so it is simply wrong that we collect only $14 billion out of a potential $48 billion every year. That is a $34 billion gap that could be collected and be part of the Federal Treasury.

Mr. Speaker, enforcing comprehensive child support should be high priority of Congress. We can and should expand the penalties for child support delinquency. We can and should simplify the procedures for establishing paternity. We can and should set up a national registry of child support orders. We can and should institute more performance-based incentives.

However, Mr. Speaker, I have looked, and I cannot find these provisions in the Contract With America.

Mr. Speaker, any welfare reform should also have reforms for child support enforcement. Improving the current child support systems is not only cost effective, but it will also enable many families to avoid welfare. Penalties such as denying professional, recreational, and drivers licenses to a delinquent deadbeat parent will cut down on teenage pregnancies and help increase enforcement. Penalties such as enforcing liens on real property and reporting delinquency to credit bureaus will send a strong message about responsibility. When these penalties are adequately enforced, a deadbeat parent will think twice about avoiding payments.

Those who are hurt most by deadbeat dads are our children. They are our most vulnerable citizens. They cannot vote, cannot speak for themselves, cannot spend millions of dollars lobbying Congress, yet one in every five children is poor. Even worse, one out of every two children in female-headed households are poor. These children need child support payments to literally put food into their mouths, yet time after time these same children receive little or no support from their deadbeat parent. This financial abandonment creates untold hardships for our children and for the American public.

Child poverty has been linked to higher education and medical costs and to increased crime rates. According to the Children's Defense Fund, child poverty costs this Nation between $36 billion and $177 billion in reduced future worker productivity and employment. The deadbeat parent who has not paid their child support has not only neglected their legal responsibility to their child, but has also neglected their responsibility to their country.

We all know that the present child support system is in shambles. For many single parent families child support payments are irregular, late, missed, and often not paid at all. Those who do receive payments find them wholly inadequate. The average child support payment for a poor woman is only $5 per day. That is not even enough for a family meal at McDonald's. No wonder so many children are living in poverty.

Every day single parents struggle to provide needed food, clothing, shelter, and health care. Why should children be punished for the sins of their deadbeat parent? Why should the American public foot the bill for the irresponsible parent?

Already 17.6 million children live in single-parent homes. As more and more children live in single-parent homes, the need for stronger child support enforcement will only get worse.

Child support programs more than pay for themselves. For every $1 spent, $4 more are collected.

Child support instills responsibility. Child support prevents welfare. Child support raises children from poverty. Mr. Speaker, what are we waiting for? Let us address this issue now. Our country and our children deserve nothing less, and again I ask you to include this in the welfare reform package.

Ms. WOOLSEY. Mr. Speaker, I yield to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I thank the gentlewoman from California [Ms. WOOLSEY] for her hard work and leadership on welfare reform and child support enforcement in particular.

Mr. Speaker, we all recognize that a child deserves the emotional support of both parents. Today, with close to 6 million children living in poverty, it is clear that children are in desperate need of financial support from both parents. The discussion on children in single-parent families has been primarily focused on welfare reform, specifically Aid to Families with Dependent Children. However, the issue of child support enforcement has curiously been absent in most of the discussion on family preservation and family support.

It has been reported that there is over $34 billion in uncollected child support payments. In fact, child support orders are established in only about half of children—for half of children who should receive them. And even for those who have support orders, only half receive the full payment. According to the Children's Defense Fund,

> The vast majority of children served by state child support enforcement agencies not only do not have full collections made on their behalf, but fail to have any collection made at all.

An estimated $7.4 billion of uncollected child support should go to poor children. In many, many cases, it is the lack of child support that forces families to go on to welfare to begin with.

Consider this, Mr. Speaker: With a child support payment and even a minimum wage job coupled with earned income tax credit and food stamps, that together could put a family on to the path of self-sufficiency. If we address the support services such as child care, health care, and transportation through welfare reform, the family can be self-sufficient. This has all the components of a plan that accomplishes the goal of lifting families out of poverty: work and responsibility.

In my State of Virginia, Mr. Speaker, we have implemented a strategy to aggressively go after noncustodial parents who choose to ignore their financial responsibility to their children. We have created a system to increase paternity establishment including providing in-hospital paternity acknowledgment, and we have decided that establishment of support orders will be a priority. Virginia is now considered a national model for this system of paternity establishment, and we have collected over $230 million in child support, including $40 million which was collected on behalf of children in AFDC families.

Much of the uncollected support involved out-of-State parents, so the need for national cooperation is obvious.

For some families, the receipt of a steady support payment is enough to lift children out of poverty or prevent them from needing AFDC benefits. A new initiative called A Child Support Assurance System accomplishes this task. Child support assurance guarantees a fixed amount of child support for each child as long as a child support order is in place.

Whatever the noncustodial parents pay goes toward that guarantee, so if the parent pays all of what is owed, there is only a little administrative expense. If only part is paid, the cost of the guarantee is probably less than AFDC would have been anyway.

Child support assurance removes the work disincentives that we so often hear about from welfare recipients. In a child support assurance system, the family receives the entire guarantee and does not have to worry about a reduction in their take home pay if they work. For example with a $250 guarantee, if you stay at home you receive $250. But if you work part time, make $300 a month you still get the entire $250 plus your earnings. If you work full time, you still get the entire $250 and get to keep your earnings. In fact, when you add in the earned income tax credit and the monthly child support assurance payment, work will always pay. Child support assurance demonstrations report that recipients are able to increase their work hours by 25 percent and increase their earnings by 25 percent. Without the child support assurance, many families will probably turn to welfare as a means of support.

Clearly, programs designed to lift children out of poverty must acknowledge that both parents have an obligation to support their children. Child support systems formalize this arrangement—when we aggressively pursue the noncustodial parent. A system of child support assurance not only recognizes the importance of this arrangement, but makes it easier for families to find their own way on the path to self-sufficiency.

As we consider welfare reform, Mr. Speaker, in conclusion, we must consider child support enforcement and innovations such as child support assurance. We can lift more families out of poverty and fulfill our goal of encouraging work and responsibility.

Ms. WOOLSEY. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. NEAL], with whom I cochair the Democratic welfare task force.

Mr. NEAL. Mr. Speaker, today is day 29 of the Contract With America. We have passed the quarter mark for the first 100 days. Until day 27, we heard nothing about child support being included in the contract.

Why was child support not included in the contract? How could such an important issue be ignored? I have carefully reviewed the Personal Responsibility Act and it includes no child support provisions.

On day 27, we heard that the Republicans will include child support enforcement provisions in the Personal Responsibility Act. We had to wait until day 27. Where were the child support provisions?

It is day 29 of the Contract With America. It is time for us to start talking about the details of child support enforcement. This will send the American people the message that we are serious about welfare reform. A tough child support system requires both parents to live up to their responsibilities.

How could we have welfare reform without child support enforcement provision? Child support is welfare prevention. For every $1 spent on administrative expenses, $4 is collected in child support. Paying child support is also the ultimate measure of personal responsibility.

The potential for child support collection is estimated at $48 billion per year. Only $14 billion is actually paid. This leaves an estimated collection gap of about $34 billion. This gap needs to be closed. Yet it was not until day 27 that the Republicans decided to address the issue of closing this $34 billion gap.

One in four children now lives in single parent homes. Without better child support enforcement, too many of these children will not have the support they need and deserve. In 1992, 17.6 million children lived in single parent homes. We need to improve these statistics now.

My home State of Massachusetts has been very successful with child support enforcement and would serve as a role model for the rest of the country. Massachusetts has increased its child support collection rate from 51 to 67 percent over a 3-year period. But Massachusetts is only one State, we must make an improvement on the Federal level.

Child support is one area in which State flexibility is not needed. States should be uniform on this issue. We should be able to collect child support awards across State lines.

Successful child support enforcement includes streamlining the paternity-establishment process. We should give States performance-based incentives for improving paternity-establishment rates.

Out-of-wedlock births have increased at an outrageous rate. In 1991, approximately 30 percent of all children born were born to unwed mothers. These children need to be given a fighting chance. Remember, there is no such thing as an illegitimate baby.

We need to collect awards that we owed. We need States to establish a central registry and centralized collection and disbursement capability.

We need to establish a national commission to study State guidelines and the desirability of uniform national guidelines.

We need to ensure fair award levels. Awards are generally set too low. If awards were modified to current guidelines, an additional $7.3 billion—22 percent of the gap—could be saved.

It is day 29 of the contract. Child support is finally starting to receive the recognition it deserves. Let's not stop now. We have to work together to close this $34 billion gap. Paying your child support is the ultimate measure of personal responsibility.

Ms. WOOLSEY. Mr. Speaker, I yield to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I will just take 2 minutes to associate myself with the remarks that have been made before.

We are all in favor of welfare reform. We are all in favor of reforming any aspect of Government that certainly will save money and improve efficiency. There is no program in Government anywhere that could not benefit from reform, including the CIA and the aircraft procurement program that is going to purchase the F-22, spending billions of dollars. There are numerous programs that ought to be reformed, and welfare is certainly no exception.

The problem is, we do not want to have reform be merely a persecution of poor children and poor women. The fact that the majority party has chosen to trivialize child support enforcement and not deal with it up to now is shocking. I hope it will no longer be a partisan issue, that they will really get on board, and child support enforcement will become a major part of this reform process.

Let us have welfare reform, but let us do it thoroughly. Let us deal with the provision of jobs and job training for welfare mothers. Let us deal with the child support enforcement. Billions of dollars are at stake here. We have heard the citing of the kind of money that can be recovered, and there are simple steps that can be taken. The question is why have we waited so long. Why have all these decades gone by, and we have not gone out to collect the kind of money that should be collected from absent parents.

Let us get on board now and have thorough and complete welfare reform.

Ms. WOOLSEY. Mr. Speaker, I yield to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. I thank the gentlewoman for yielding.

Mr. Speaker, when parents evade their responsibilities, children suffer—and the taxpayers often get left with the bill.

To protect both children and taxpayers from the consequences of parental irresponsibility, we need to improve our child support enforcement system. We need to send a clear and unmistakable message: Both parents must provide for their children.

So today, I rise in strong support of bipartisan legislation introduced today by the Congressional Women's Caucus—legislation that will improve almost every aspect of our current child support enforcement system.

The Child Support Responsibility Act would extend much-needed help to custodial parents who, despite time-consuming, often expensive efforts, are still not able to enforce their child support orders across State lines.

Interstate cases account for about one-third of all child support awards. Because of differences in State law regarding enforcement, jurisdiction, and service of process, such cases are often among the most difficult. In fact, the General Accounting Office has reported, that 34 percent of mothers in interstate cases reported that they had never received a support payment in 1989. The figure for mothers in intrastate cases is just 19 percent.

Beyond that, the Office of Child Support Enforcement reports that interstate cases represent nearly one-third of IV-D child support cases with collections, but yield only 8 percent of collected support.

Mr. Speaker, we can do better. We can act on the recommendations of the U.S. Commission on Child Support Enforcement, take a comprehensive approach to solving these problems, and pass the Child Support Responsibility Act.

This bill would establish a central registry in each State of all child support orders issued in the State. It would make uniform the law governing the interaction among States in child support matters. It would set up a national registry of child support orders to assist States in locating absent parents and enforcing orders. And it would expand the penalties for delinquency.

Mr. Speaker, I know there are some who would rather not talk about this matter. They say you don't understand, I have reasons for not paying. But I would say to my colleagues, consider the plight undergone by the custodial parent and by the children when these child support payments are not made—and when there seems to be nowhere to turn.

Let me close with one last point.

All of us have heard the calls through the Halls of Congress for young mothers to be more responsible in regard to welfare reform. I completely agree. Shouldn't we also demand, equally loudly and clearly, that fathers be responsible.

Separation happens. Divorce happens. It's a fact of life. But the responsibility assumed by having a child continues. It is not temporary; it is permanent; it should not be easy to evade; and the children should not be left to bear the consequences.

There is a $34 billion child support enforcement gap. If we don't work harder to collect that money, millions of children will go without the support they deserve. In many cases, the taxpayers will have to pick up the bill for an absentee parent.

Let's put that responsibility back where it belongs. Let's ensure that parents—both custodial and noncustodial—live up to their responsibilities. And let's make sure our children get the support they need and deserve.

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Ms. WOOLSEY. Mr. Speaker, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, somewhere in a school in Houston sits a child by the name of Mary. A teacher writes on the blackboard the word h-o-p-e. Ask Mary what does that word mean. Mary looks and looks again and the teacher points to the word h-o-p-e.

And Mary says to the teacher, "nothing, ma'am, nothing for me."

I say, Mr. Speaker, we should give young Mary hope, hope of survival, hope of being able to survive with a single parent, hope of being able to make it and to be successful. I think, Mr. Speaker, we can begin to give Mary hope by reforming our welfare system as one of the biggest challenges before Congress today. But I really think that we can reform the welfare system by doing comprehensive reform. And that includes child support enforcement.

Mr. Speaker, reforming our welfare system is one of the biggest challenges before the Congress today. I am here this evening to emphasize the point that real welfare reform is comprehensive reform—and this includes child support enforcement.

Unpaid child support hurts families across the Nation every day. Today, 63 percent of absent parents contribute no child support. Shockingly, it is estimated that the potential for child support collections is approximately $48 billion a year. However, only $14 billion is actually paid, leaving a collection gap of $34 billion.

Mr. Speaker, there are many obvious steps that this Congress can take to bring in some of this uncollected child support. First, we can begin by providing adequate funding for the National Child Support Enforcement Collection Agency so that they can enhance coordination for collections across State lines and improve Federal tracking of delinquent orders.

In addition, a comprehensive child support strategy is necessary to help custodial parents escape welfare and stay in the work force. A comprehensive child support strategy needs stronger requirements for paternity establishment. We need tough new penalties for those who refuse to pay, such as: wage withholding, suspension of drivers' and professional licenses, and property seizures.

Congress should also require all States to adopt the Uniform Interstate Family Support Act. My State of Texas was the second State to adopt UIFSA. The crux of UIFSA is "one order—one State" and it gives States the ability to serve wage withholding orders directly on an employer in another State.

States currently receive 66 percent Federal financial participation matching funds plus incentives for AFDC and some non-AFDC collections. This funding scheme hurts States like Texas because we have a low AFDC grant. We would like to see a higher Federal participation and more incentives in the form of increased funding for meeting certain performance goals. Bottom line—the program is currently underfunded both at the State and Federal level and cannot keep up with the growing caseload. Texas currently uses the States share of AFDC that we recover from absent parents as the State portion of the Federal funding scheme. Since the average welfare grant in Texas is $174 and in California it is $400, Texas recovers less and has less to use to pull down Federal dollars and therefore is less able to help families move off of welfare.

Mr. Speaker, child support is one of the real engines of welfare reform, as it requires parents to take financial responsibility for their children. As this Congress tackles the problem of welfare reform and works to move our families toward self-sufficiency and independence, let us be certain to include child support as an important component of this endeavor.

As this Congress tackles the problem of welfare reform and works to move families toward self-sufficiency and independence, let us again give little Mary hope. Let us be certain to include the child as an important component of this endeavor. Let us remember that child enforcement must be part of welfare reform.

Ms. WOOLSEY. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Mr. Speaker, I congratulate my colleague, the gentlewoman from California [Ms. WOOLSEY], for this opportunity to speak on such an important issue and compliment her in putting this together.

I want to refer to the experience that I had before I was elected to the Congress 2 years ago. I was the first assistant district attorney in Middlesex County, which is the largest county in Massachusetts. And in that position, I had an opportunity to look at the child support enforcement in Massachusetts and a person from the State revenue department came into my office and asked me to make that a priority within the district attorney's office. There had been a new statute that had been passed in Massachusetts for tougher, stricter enforcement, but a case had never been tried, a criminal case under that statute.

And I looked at the case of a person from Lowell, MA, someone by the name of Edward Orlando, who had gotten a divorce from his wife. And he had moved out and he moved to New York City where he set up an apartment with his girlfriend. And they lived on 52d street. And at the same time they lived in that very expensive section of New York City, he had a place in the Caribbean as well. The only problem is, Mr. Orlando left 11 children back in Massachusetts, 6 of whom were still living at home in Lowell.

Audrey Orlando faced some very difficult choices. She did not receive a single child support payment for over a year. By the time several years had gone by, Edward Orlando owed his wife $47,000 in back child support. The bank was foreclosing on the mortgage of that home on Billings Street in Lowell. Audrey Orlando was unable to collect the money, facing foreclosure because of a system that was broken down and could not work.

□ 1940

People who are not paying child support are able to go to other States and use the statutes against each other, pit one State against another, so the child enforcement officials are unable to collect that money.

I took that case in the DA's office and told Mrs. Orlando I would make it a priority. I was able to use the long-arm statute to reach out and find this defendant in New York. We brought him back to Massachusetts, but not before he was detained at Rikers Island for about a month as we set up to bring him back to Massachusetts.

This defendant was stunned that any prosecutor from anywhere would bring him back or hold him and detain him at Rikers Island, like a common criminal, $47,000 in back support. We brought him back to Massachusetts, where he stood trial.

I decided to make this case a priority. I personally prosecuted the case. The evidence was overwhelming. Although on paper Mr. Orlando, did not have any money, we found that his lifestyle was such that the evidence was overwhelming that he in fact was not meeting his legal and moral obligation.

After we finished the conclusion of the evidence and the conclusion of the final arguments, Mr. Orlando got up and pleaded guilty. He was sent to jail for 3 months, 3 months sentence, and was ordered to pay the child support.

Guess what happened after the 3 months? Mr. Orlando skipped out and still has not paid the child support. I still have in my office the case of Mrs. Orlando, trying to avoid being foreclosed on her home.

She is like thousands of other women across America who are stereotyped in some ways about being a welfare mother, because for a period of time she had to go on welfare. She works two jobs, 7 days a week, to try to keep those foreclosing on her home from kicking her and her family out of her home.

This case illustrates the problem that we have. We need a Federal system. If a person is convicted of a speeding ticket in one community or one State and goes to another State, we have a computer system to catch that person. It is unconscionable that we do not have a way to force people to pay child support.

There is a legal and moral responsibility here. Child support is not the residue of a bad marriage, it is an obligation that is legal and moral.

I might add, Mr. Speaker, in closing, 90 percent, by the way, of the money, of the $38 billion that is owed in this country in child support, are men who owe women. I can't help but believe that a court system all across America dominated by male judges and male personnel, and a Congress, frankly, that is dominated by males, I can't help but think if 90 percent of the money owed were women who owed men, the system would have found a way to find a way to collect this money.

I thank the gentlewoman for yielding, and I hope that together this year we can finally set up a Federal system to make people meet their moral and legal obligation.

Ms. WOOLSEY. I yield to the gentleman from South Carolina [JIM CLYBURN].

Mr. CLYBURN. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, I rise this evening to address the important issue of child support enforcement. There can be no denying that there is a problem. It is estimated that each year over $34 billion of child support goes uncollected. My own State of South Carolina has a collection rate of just 24 percent of court-ordered child support payments. But there is more to the problem than an inability to collect payments.

For the many children whose paternity has not been established there can be no child support order. And in the relatively few cases where there is a court order, child support payments are rarely adjusted for inflation, and the amount averages less than $3,000 a year.

Each year only $14 billion of the estimated $48 billion owed in child support is collected. The $34 billion left uncollected is the difference between financial independence and living in poverty or on welfare for many single parent families.

In 1990, women headed 86 percent of the single parent families in this country, and single parent families headed by women are seven times as likely to live in poverty. Of the single parent families headed by women in 1990, almost 36 percent received some sort of governmental assistance.

The statistics make it clear. Ensuring the full collection of reasonable child support payments is one of the most effective means to prevent many of our Nation's children from living in poverty. Child support payments could enable many single parent families to leave welfare or prevent them from entering the system in the first place.

Yet, there is absolutely no mention of child support enforcement in the welfare reform bill included by the Republicans in their so called Contract With America. The Republicans claim that their bill will end dependency on welfare, eliminate out of wedlock births, and eradicate teenage pregnancy. They boast their bill will do all this, yet it leaves untapped the $34 billion of uncollected child support each year.

According to the Republican bill H.R. 4, children born to unwed mothers under the age of 18, or 21 if the State so desires, will be permanently ineligible for welfare benefits. According to H.R. 4, benefits will also be denied to children whose paternity has not been established or who were conceived by or born to mothers while they were receiving welfare.

Yet, while the Republican bill includes numerous provisions to exclude certain mothers and their children from receiving benefits, there are no provisions to crack down on deadbeat dads. The Republicans choose to focus on the failings of teenage mothers trying to raise their children on their own while making no attempt to punish fathers for abandoning their children. Mr. Speaker, it takes two.

What kind of family values would our Government promote if it were to deny aid to children born to unwed teenage mothers while allowing a father to shirk his obligations as proposed by the Republicans? What kind of mixed message would we send to our teenagers that a teenage mother will be forced to live in poverty without any assistance as she struggles to raise her child while the father bears none of the burden?

It is high time that we reformed child support enforcement in this country. Fathers must be identified, reasonable child support orders must be established, and child support payments must be collected.

Ms. WOOLSEY. I yield to the gentleman from Tennessee, Mr. HAROLD FORD, who is the ranking member of the Subcommittee on Human Resources of the Committee on Ways and Means.

Mr. FORD. Mr. Speaker, I rise and thank the gentlewoman from California [Ms. WOOLSEY] for requesting these special orders tonight on child support enforcement, and commend her for her leadership here in the Congress, and also for cochairing the task force on Welfare Reform.

Mr. Speaker, I was disturbed to read the other day what the Associated Press article is showing from the National Center for Children in Poverty. Six million children under the age of 6 were found to live in poverty in 1992.

I certainly would like to say to my colleagues, those of us who serve on the Subcommittee on Human Resources of the Committee on Ways and Means, the Personal Responsibility Act that excluded child support enforcement, we applaud and commend the chairman, CLAY SHAW, for now saying that he will include child support enforcement. But women in this Congress, both Democrats and Republicans alike, are making sure that we respond to this component of the welfare reform package.

Emphasis should be placed on reducing poverty by keeping families together, enforcing child support obligations, as well as promoting self-sufficiency, assisting with day care and transportation, and providing education, training, and work incentives that are needed.

Ignoring child support enforcement sends the wrong message in America. It says that a noncustodial parent who is one-half responsible for the birth of a child does not have any responsibility for that child at all. That is wrong, and hopefully we in the Committee on Ways and Means, and my colleagues in this House, will make sure that we join with the Governors of this Nation and say that a strong child support enforcement component of the welfare reform package will in fact be a part of this bill that we will bring to the Congress, hopefully in the first 100 days.

Ms. WOOLSEY. I yield to the gentleman from New York [Mr. NADLER].

□ 1950

CHILD SUPPORT ENFORCEMENT

Mr. NADLER. Mr. Speaker, I want to thank my colleague Representative LYNN WOOLSEY for organizing this special order to bring attention to the urgency and severity of the crisis of the noncollection of child support.

Mr. Speaker, before I came to this House I had considerable experience in this area. I am proud to have been the author during my 16 years in the New York State Assembly of 22 State laws that strengthened child support enforcement methods and of being a prime sponsor of the Child Support Standards Act which established guidelines for setting support awards. We enacted laws providing for interception of State income tax refunds, of stock dividend payments, and interest payments owed to defaulting parents. We mandated withholding child support automatically from the obligated payer's salary as soon as the support order was issued. We mandated child support defaults being included in all credit reports. We authorized the State to use every conceivable method to collect support owed on behalf of the custodial parents.

Still we failed. We increased collection rates substantially, but they were still woefully inadequate. Why?

Mostly for two reasons. First, establishing paternity was still very difficult. Second, because when obligated parents went to another State, as 30 percent do nationally, all our collection methods went out the window, and we had to resort to the very weak interstate enforcement system.

Clearly we need a national enforcement system that will strengthen the paternity establishment system and will put in place a uniform national child support collection system.

The Internal Revenue Service should be given the job of collecting child support and should be mandated to use all the force and powers it uses to collect taxes to collect child support.

Let the Federal Government set uniform minimum child support standards. Let the Federal Government pay every custodial parent a basic child support benefit and then reimburse itself by collecting the money owed from the obligated parents. In this way we would put the obligation on the Government, not on the custodial parent, to chase after the noncustodial parent to collect the funds to reimburse itself. And the child, the children, would have assured support.

One thing should be made clear. This is not primarily a problem of the poor. Although mothers and children are often rendered poor by noncollection of support due, we are more often than not talking about middle class or even wealthy families.

Make no mistake. Without seriously addressing the collection of child support, there can be no real welfare reform.

That is why it is so shocking that the so-called Personal Responsibility Act barely deals with child support and seeks instead to punish poor mothers. Welfare reform must begin with child support enforcement measures. That would save the taxpayers money, make the lives of children and custodial parents much easier and teach the lesson that fathers too have responsibilities. Then we can reform the welfare system to deal with the much smaller problem that would then remain.

Mr. Speaker, I call on this Congress to take on the challenge of making child support orders real and enforced and so to improve the lives of millions of our children.

Again, I thank Congresswoman WOOLSEY for organizing this special order.

Ms. WOOLSEY. Mr. Speaker, I yield to the gentleman from Puerto Rico [Mr. ROMERO-BARCELÓ].

Mr. ROMERO-BARCELO. Mr. Speaker, today I join our colleagues in defense of our children.

For obvious reasons, children are in a defenseless position; they have little if any means by which to improve their standard of living. Since they do not vote, they have no political leverage. Therefore, government has a responsibility to watch over the well-being of children.

How can children have a bright future when they grow up in the darkness, lacking fulfillment of the basic needs so important in human development? How do we expect to have a better future for our Nation if we ignore the needs of our children today? Child support and its enforcement should be a top priority of welfare reform.

Almost everyone today would agree that the welfare system must be revamped and that meaningful reform is in order. Differences in opinion, however, arise on the methods and fine print necessary to achieve real changes that will help those in need to break the cycle of poverty or those who need a second change.

According to the information provided by the National Center for Children in Poverty, more than a quarter of American children under age 6 were living in poverty in 1992, though nearly three in five poor children had working parents. These figures represent a total of 25 percent of the population in that age group.

As the Representative of 3.7 million U.S. citizens in Puerto Rico which has some of the highest poverty statistics in the country, I know the urgency of a comprehensive child support strategy.

The Child Support Program records show that over $34 billion in accumulated unpaid support was due to over 16 million children in the United States at the end of 1989. The collection rate was 19 percent of the total amount due in child support cases. Unfortunately, the system fails to ensure that children receive adequate support from both parents. For most children born out of wedlock, a child support order is never awarded. Also, of all the child support orders, the full amount of child support is collected in only about one out of every two cases.

Single parent families struggle every day to provide needed food, clothing, shelter, and health care for their children. When child support payments are irregular, missed, or not paid at all, the incidence of child poverty drastically increases.

Fifty percent of all white children growing up in single parent households who do not receive child support live at or below the poverty level;

Sixty percent of all Hispanic children growing up in single parent households live at or below poverty levels;

Seventy percent of all African-American children growing up in single parent families live at or below the poverty level. Surely these figures demonstrate that decisive action is needed.

There are many things we can do to improve and enhance the current child support system. For example, we can require uniform procedures for dealing with interstate cases, which are currently the most difficult to pursue. We can improve tracking of delinquent parents through national reporting of child support orders and by establishing a Federal registry of child support orders.

Moreover, we need tough new penalties for those who refuse to pay, such as authorizing withholding part of wages and allow suspension of professional, occupational, and even drivers' licenses as a means of forcing the delinquent parent to comply with support payment orders.

If we do not take action on child support now, we will be requiring young mothers to be responsible, while we give fathers an exemption. The Personal Responsibility Act, H.R. 4, cuts young, single mothers from welfare, but it does nothing to improve child support enforcement.

By ignoring child support enforcement we are sending the wrong message. It says that the noncustodial parent who is 50 percent responsible for the child does not have any real responsibility to support his child. If more noncustodial parents are made to pay child support, welfare will not be necessary for many families.

Sensitivity has always been a characteristic of the American experience. In good times and bad, we have been a caring nation that values responsibilities to continue this tradition and make sure that children in America are protected.

Mr. HOYER. Mr. Speaker, America is experiencing a serious problem: Too many working and able-bodied parents are not taking responsibility for their children. The time has come to declare war on our current welfare system so that we can properly address the situation.

In every war, battles must be fought and won. One of the biggest battles we must fight is improving and reforming this Nation's child support enforcement problem.

The reasons for engaging in this battle are clear: 63 percent of the absent parents in this country do not pay child support. Approximately $35 billion is lost each year in uncollected child support payments. And in my own State of Maryland, absent parents defaulted on more than $325 million in court-ordered child support in 1993. Most importantly, we all must remember—the children suffer when child support is not paid.

As a nation and as a society we cannot afford a social safety net without expecting obligations and demanding responsibilities. For any type of welfare reform to be successful, individuals must accept the responsibility of working and providing for their families. In 1990, absent parents paid only $14 billion in child support. But if child support reflecting current ability to pay were established and enforced, single parents and their children would have received almost $48 billion. This translates into more money for food, shelter, clothing, and child care and a reduction in the Federal burden. We must send a clear signal that both parents who bring children into this world must take responsibility for supporting them.

That is why we need a tough, smart child support program which requires both mothers and fathers to live up to their responsibilities. We must target those individuals who believe they don't have to take care of their kids because their neighbors—hard-working, tax paying, responsible citizens—will. The buck must start and stop with the parents.

The children of this country need the billions in outstanding and uncollected child support. Payment of child support could save this country billions of dollars if we could move people off welfare and keep others from joining the rolls. The financial burden of supporting the children must once and for all shift from the government to the parents. If we can do this, we will be well on our way to winning our first battle in the war on welfare.

Any comprehensive welfare proposal must include child support enforcement. Yet, the Republican Contract With America does not. Are the Republicans saying to the nonpaying parents that they do not have to support their kids? If they are here to promote personal responsibility and do the people's business, this critical area should have been included in the Personal Responsibility Act.

At the urging of Democrats, I am pleased Chairman SHAW has agreed to include this child support enforcement within the Personal Responsibility Act.

Ms. WOOLSEY. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. MARKEY].

The SPEAKER pro tempore. (Mr. HASTINGS of Washington). The time of the gentlewoman has expired.

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to extend my time by 3 minutes.

The SPEAKER pro tempore. That request cannot be extended in fairness to others that have had the 60-minute.

Under the rules, a single Member cannot control more than an hour. However, if another Member would like to yield time, that would be appropriate.

COST EFFECTIVENESS IN WELFARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MARKEY] is recognized for 2 minutes.

Mr. MARKEY. I thank the Speaker very much, and I thank the Republican leadership who are at this point graciously allowing me to speak out of order.

Mr. Speaker, at this juncture, at the conclusion of the special order, we are invoking Mo Udall's old saying that everything has been said but not everybody has said it.

As we conclude this, I would just like to point out that one out of five children in the United States is poor. Poor. Fifteen million children live in single-parent homes, that is, where there is only one parent, and those children are five times as likely to be poor as children who live in families that have two parents.

□ 2000

That is a staggeringly large number, millions and millions of children who are in this condition.

Thirty-seven percent of the women who control these households get support from the men who father the children, but over 60 percent of these women get no help from the fathers.

Let me give some statistics. Nationwide each year $34 billion goes uncollected in child support from fathers, $34 billion. Contrast that with the total amount of money that every taxpayer in America is asked to contribute to help out these mothers. It is $23 billion.

So for all of the AFDC mothers and children in America, the total amount of money which is paid is $23 billion.

The fathers owe $34 billion. Taxpayers have every right to be outraged. Why should they dip into their pockets to pay for what fathers across this country should be responsible for kicking in every day? I don't think the average taxpayer would mind paying if they felt mothers and fathers actually needed it.

I hope we continue to discuss this subject in the future.

GENERAL LEAVE

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentlewoman from California?

There was no objection.

PROGRESS ON THE CONTRACT WITH AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Ohio [Mr. HOKE] is recognized for 60 minutes as the designee of the majority leader.

Mr. HOKE. Mr. Speaker, I am looking forward to this special order that I have asked some of my colleagues to participate in, the gentleman from Ohio [Mr. PORTMAN], the gentleman from North Carolina [Mr. JONES], the gentleman from Georgia [Mr. KINGSTON], and what we want to do this evening is review some of the things we have already done in this Congress, review some of the things that have happened immediately preceding and some of the things that we expect to be doing.

I want to point out first of all that today we took a very important step on the road to recovering the confidence of the American people that began with the election last November. That is because what we did today is we passed a bill that will examine unfunded mandates to the States, and the gentleman from Ohio [Mr. PORTMAN] is going to discuss that in detail a little bit later. But we have been following this road map that was laid out in the Contract With America for getting more done, more quickly than even we could have imagined, and best of all this is the work that the people of America want us to do.

Let me give a fact on that, because a poll was released this past Monday by the Washington Post and ABC News which contains extremely good news for this House and good news for the American people. In only 3 months public confidence in Congress has actually doubled. That is the largest increase of its kind since the 20-year history of the poll that has been taken.

The majority of Americans now say that Congress can deal with the big issues facing our country, and we are dealing with the big issues just like we promised. Anyway, why has this happened? Why is there this rising confidence in what the American people can expect from Congress, and why is this cynicism starting to drop away?

Mr. KINGSTON. If the gentleman will yield. Just to repeat those numbers again, Congress went from about a 20-to-40-something-percent approval rating because for the first time in recent memory Congress is following through on campaign promises.

Mr. HOKE. Elected Members are actually keeping the promises that they made to the people, and the impact that that has on confidence in our institution is really immeasurable. But it is wonderful to see in this kind of polling result that actually people are able to express that yes, they have more confidence in the U.S. Congress' ability to solve the problems, the major problems that are facing our country.

Look at what we have done; and why is it we have done this? And in less than 30 days we have cut the fat out of Congress, we have reduced staff and committees and we have passed reforms that will make it the most open and fair public legislative assembly in the entire world.

Mr. JONES. Mr. Speaker, if the gentleman will yield, if I might add to that, what we did was we campaigned on the word "trust." We said to the voters, for many years you have not been able to put your trust in the Congress. We are giving you a written agenda, a contract, and we intend to stand by this contract.

To the gentleman from Ohio I would say I am pleased that when I go back to my State of North Carolina I am stopped in the grocery stores, I am stopped on the street, people that I really do not even remember their names because it has been so long since I have seen them telling me, "Keep on working, keep the focus. We are proud of what you are doing in Washington, DC. You are rebuilding the trust level that has been lost for so many years."

Mr. HOKE. I think one of the most remarkable things about this Contract With America is that it has created a road map for us that even we did not realize it was going to be so important to us in terms of keeping us focused on exactly what the American people wanted, what they expected and what we promised to deliver to them. And that is exactly how it has worked for us.

Mr. KINGSTON. If the gentleman will yield, I got a letter recently, and I assume I was one of 435 Members of Congress who got such a letter. It was not a constituent, it came from Ohio, or some other exotic spot that we had to study about in seventh grade geography, but it had the letters DWUSUWGTD. It says to a Member of Congress: I want you to put it on your desk and look at it every day. On the back of the letter it stands for: Do what you said you were going to do. And my staff sees the sign every day, and I think that is in somewhat of a nutshell what the Contract With America is about. That is why it was in writing, that is why we signed it, and that is why we keep referring back to it.

Mr. HOKE. Let us tick off exactly what we have done so far. Cut the fat out of Congress, reduced committee staff by a third, cut the budget of Congress. We have made Congress subject to the same laws that everybody else in this country is subject to, and we passed last Thursday, I am extremely proud to say, a balanced budget amendment to the Constitution of the United States. And today, thanks to the very able stewardship of Congressmen CLINGER, DAVIS, and PORTMAN we passed the unfunded mandates bill ending the Government practice of spending States' money to finance our own mandates to them.

Mr. PORTMAN. If the gentleman will yield, we had an exciting day today. It was truly a landmark piece of legislation. It was a historic day for the House, the first time we have ever, ever, as a Congress done anything to stop these unfunded Federal mandates.

And it was bipartisan. The gentleman mentioned a few of the major sponsors of the bill. Another one is GARY CONDIT of California, a Democrat.

Mr. HOKE. Who gave an extraordinary speech on this floor a couple of days ago to rousing bipartisan applause.

Mr. PORTMAN. We had a vote today of 306 to 74 on this legislation. We worked on it for 2 weeks on the floor of the House, over 30 hours of debate. That means we got about 130 Democrats to support the bill today. This is despite again a lot of disagreement on the other side. We had health debate and we worked hard on this bill. None of this stuff is easy to do. You have to roll up your sleeves and really work at it.

But we got to the point of final passage after accepting a lot of amendments and perfecting the bill where a large bipartisans group of the Members of this House decided yes, it is time to step up to the plate and start being accountable for what we do for the States and localities.

Mr. HOKE. Maybe that is one of the reasons why in this same poll the majority of the American people say that "Republicans are breaking down legislative gridlock." As you can see, this clearly was a bipartisan effort.

What was the vote count again?

Mr. PORTMAN. The vote was 360 to 74. And I have to be honest, the first few days one wonders whether we were getting back into gridlock because we committed to have an open rule on this. This meant any Member of Congress could come to the floor of this House and file an amendment, and we had 174 of them filed, and then have a debate on that amendment, with no time limitation because everyone can speak for 5 minutes, and that can be expanded.

So it was a challenge and I have to tell you we spent 3 or 4 days on a very small part of the legislation that was even preliminary to the real meat of the bill, and I was concerned that we were getting into a mode that might be viewed as filibuster or too much dilatory tactics. But finally, after staying to midnight one night we broke through that and got into serious discussion of some of the outstanding issues.

Again if you roll up your sleeves and work at it you come up with a bill that makes sense. This bill is in the Contract With America, but on the House floor we improved it. It is even a better bill than it was.

Mr. HOKE. I thought the comity at the end of debate today and especially the kind words for the chairman by the gentlewoman from California, they were both well taken and they went an awfully long way toward building an even better spirit of working, although we were not working together in that case, but clearly working on something that was of importance to your constituents in a way that reflected well on this body as opposed to reflecting poorly.

□ 2010

I think the American people want to see us get the job done. The gentlewoman you are talking about did not vote for the bill. She did not agree with the premise of the bill. But as you say, in the end, in a spirit of comity, she talked about how the chairman had been fair, how we had an open process on the floor. That is what the American people want to see. They want to see an honest debate on the issues. If we have differences, they want to see us air those differences. But they want to get on with the business of managing this country.

Mr. HOKE. Could I ask you a question? I think there is a lot of misunderstanding about this bill. I think people think and there is a general understanding in the public somehow we will no longer be able to legislate anything that would cost the States money. Is that what the bill does?

Mr. PORTMAN. No. That is not what the bill does. The whole premise of the bill is if something is important enough for us to mandate at the Federal level, to tell the States and localities you have got to do it our way, we ought to be able to step up to the plate and provide funding for it. This bill says there has to be, for the first time ever, first time ever, we have never had this in Congress before, a cost analysis of what the legislation is going to cost.

How many times have you come up to the House floor and never had any idea what the cost is to State and local government of something you are going to vote on? Frankly, we have not had that information. That forces us to get that information.

Mr. KINGSTON. I heard a statistic this morning I thought that was interesting. There are 39,000 municipalities in this great country of ours. Eighty percent of them are populations below 10,000, and 48 percent have populations below 1,000. We sit up here in our inside-the-beltway ivory tower mandating all these ridiculous programs on them. They do not have the money to pay for them. They do not have the personnel. Inevitably they have to turn around and raise the taxes on all the constituents back home.

Mr. PORTMAN. They have two choices at the local level, and it is pretty obvious, if you think about it. One is to raise taxes at the local level, and that tends to be property taxes. Talk about regressive taxes. And the second is to cut services, the very services our constituents are saying they want more of, fire, police protection, personal security. That is what they do. These are the communities the gentleman is talking about that are going to have to go with one or two fewer police officers during a particular timeframe. That is not what we want to be doing to the people we represent and who are also represented by State and local officials who are having to live under these mandates increasingly.

Mr. HOKE. So you are saying it is going to require a cost analysis? Does anything else happen then?

Mr. PORTMAN. It requires a cost analysis so we will know what we are voting on. Then on the floor of the House, any Member of this House can stand up and raise what is called a point of order, which means it can stop the whole process if a new mandate is not funded. So you know what the cost is, and if some committee sends a bill to this floor that is not funded, in other words, it has a new requirement that is not funded, then any one of us or any other Member can stand up and say, "Point of order; this legislation needs to stop," and it stops right there, and you have a debate on the floor of the House about the unfunded mandate in that legislation.

Let us take an example, the motor-voter bill, the first bill that I had the privilege to consider here in the Congress when I walked in my first day. I had to vote up or down on motor voter. I kind of looked at it. Everybody wants to have more voter registration. But I did not think it made sense, because Ohio, as the gentleman from Ohio knows, has a good voter registration program. It is run at the State level, as all programs were until we passed this national bill. I was told by some members of the Governor's office here in Washington this was going to cost the State of Ohio several million dollars a year. Nobody was sure, because there was not a good cost estimate. There was no Federal money to pay for it.

I voted against the bill on that basis. Now we are finding out many of these States, including California, are suing the Federal Government for precisely that reason. It is costing them a lot of money for voter registration.

Mr. HOKE. What is Ohio estimating it is going to cost them just to run the Motor-Voter Act?

Mr. PORTMAN. Twenty-nine million dollars is what the Governor is saying annually.

Mr. KINGSTON. It is $3 million in Georgia. It is interesting the party in power in Georgia was even against it, the same party as the White House and those who were pushing it here, so it is really not a partisan issue.

Mr. PORTMAN. It is not. That is an excellent point. Let me just for a moment, we talked about, you know, it takes a lot of hard work to get to this point. You have got to have a bipartisan group here in Congress to support and get behind it. This is not a partisan issue outside of this room really, and outside the Beltway.

One of the concerns I had with the debate on the House floor over the first few days is it appeared to be sadly a partisan debate. If you go out into the real world, if you talk to township trustees, you talk to county commissioners, mayors of these small towns the gentleman talks about, it is not a partisan issue; whether you are a Democrat, Republican, or independent, you are getting sick and tired of the Federal Government having a one-size-fits-all Federal requirement coming down on you with no money to pay for it.

Mr. HOKE. You know, I listened to the debate today. It sounded to me like some of the things coming from the other side that this bill, this unfunded-mandates bill, would repeal all of the legislation we passed, you know, since 1789. Is that the case?

Mr. PORTMAN. No. It is not. What this bill does is it looks prospectively. It looks to the future.

Mr. HOKE. So it has nothing to do with anything we passed in the past?

Mr. PORTMAN. No. It does not affect the Clean Air Act. It does not affect the Clean Water Act. Now, if those bills come up for reauthorization or there are new mandates attached to them, absolutely, it applies to that. The whole idea is we have got a critically, critically ill patient on our hands. There is a crisis out there. The first thing we do in an emergency room is stop the hemorrhaging, and that is what we are doing here, we are trying to stop the practice, to get Washington to get serious about this, and for the first time ever today we passed a bill to force Washington to do that. It was a historic day. It was part of our contract. It is us keeping our promise. It involved a lot of hard work. We have got to work with the Senate to come up with a compromise between the House and the Senate version, and we will be able to do that as we work with the Senate on this bill.

Mr. HOKE. If I can interrupt and ask you a question, because I agree with the gentleman that it is absolutely a critically important first step.

As you said, what you can raise with this is a point of order that stops all of the business on the floor with respect to a new mandate on the State, and debate then takes place as to whether or not that mandate should, well, as to how much it costs. We have to have a cost analysis of it, and then, at that point, does that mean that bill will no longer obtain or what happens?

Mr. PORTMAN. No. It does not. What happens then, if Congress chooses, Congress may, by a majority vote, waive that point of order. But it forces us to face the issue.

Mr. HOKE. Creates accountability?

Mr. PORTMAN. Exactly. You know, it is again, an up-or-down vote on this House floor because of our rules has historically been very difficult. Motor voter, again, a good example, there was never a debate on this floor as to whether there was an unfunded mandate. There was never any cost information to have an informed debate, and then there was no up-or-down vote on whether to impose the unfunded mandate.

What this bill does again for the first time is it says let us be accountable. If we are going to do this, let us step up to the plate and do it in the full view of the American people, the press, and so on.

That is why the Governors, the other State and local officials, mayors, county commissioners, and so on, supported this bill and worked with us to draft a bill that makes sense for them, and why even today they were here congratulating us on passing this bill. It was the No. 1 item for the National Conference of Mayors, No. 1 item for the National Governors' Association, and so on.

Mr. HOKE. Are there more Democrats or Republicans in the National Conference of Mayors?

Mr. PORTMAN. It has typically been the case that there are more Democrats. It is not a partisan issue again. We happen to have more Republic Governors than Democrats right now, but I can tell you that some of the Democrat Governors have been leading advocates on this issue to get Congress to get its requirements under control, and it is part of a much bigger picture, I have got to say to the gentleman from Ohio, and that is the whole issue of federalism: What is the role of the Federal Government?

We are finally getting to the point in this Congress where we are beginning to debate that issue in a serious way. It is going to come up with welfare reform, it is going to come up with health care reform if we get into that again later in the year: What should the role be of the Federal Government? Should we be dictating everything here from Washington, or should we be giving the States and localities more flexibility, more say in how they go about solving the problems of this great country?

Mr. KINGSTON. We are at this point 2 out of 10 on the contract?

Mr. HOKE. Actually, no. We are about 3 out of 10. We have congressional accountability, we have knocked down unfunded mandates, and we passed the balanced budget amendment.

Mr. KINGSTON. Does that bring us to crime on our discussion?

Mr. HOKE. Yes. I want to thank the gentleman from Ohio for spending the time. If I could ask the gentleman from Ohio one more question, because the gentleman has had and has been instrumental in pushing this unfunded-mandates bill through. If this is the first critical step, do you have anything to share with us as to what the next step is in this process?

Mr. PORTMAN. Well, I do. The next step in the process is there will be a year-long study of all existing mandates which would include the Clean Air Act, the Clean Water Act, and so on. There will be a report to the Congress a year from now, assuming this legislation is signed by the President and goes into law, and that report will go through all the existing mandates in a comprehensive way, and in a logical way, because you want to look at all the different pieces, and it will make recommendations that are very specific as to what we as a Congress should do legislatively to change existing statutes and existing mandates.

This is one reason again these State and local officials supported this legislation so strongly, because it gives us the ability to figure out what makes sense to be mandated from Washington and what does not.

Mr. HOKE. Find out how much it costs, not to eliminate it, not to repeal it, but to find out what it really costs, because certainly there are some programs that cost much more than they are worth, but we will never know that if we do not have a bona fide critical analysis of it.

Mr. PORTMAN. Absolutely.

Mr. HOKE. I thank you very much for spending your time with us.

It is a good way to segue into another area of extreme importance in the Contract With America that we are going to be getting to, and that has to do with crime and welfare as well. Maybe the gentleman from Georgia [Mr. KINGSTON] would like to talk a little bit about where we are going with this.

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Mr. KINGSTON. It is interesting you put crime and welfare right on top of each other because there is no question they are very related. The situation that we are in as a society is, we are not free if we cannot walk down the streets of America without having to look over our shoulder, without having the security guards, without discussing whether or not you can carry a gun to protect yourself. We are not free as long as there is the criminal, slime element on our streets.

The Clinton program basically was a Hug-a-Thug program. Their idea of getting tough on the criminal was having him foul out in midnight basketball. Our criminals need arraignment, not entertainment. They need to be in the big institution or pay restitution. I mean, that is just the bottom line. We need to have the truth in sentencing law that says "All right, if you are sentenced for 10 years you are not going to serve 3½ years, which is the 35 percent normal sentence; you are going to serve the full 10 years," or at least 9 years or 8 years. But currently it is just the revolving door, we bring them in, they have basketball, they have libraries, they have TV's. You cannot even make them work. Then we say: Why isn't it working? Why aren't our streets safe? We should say that we are going to put you in jail and you are going to stay there, and we will make you work while you are there.

Mr. HOKE. May I ask the gentleman a question? Could the gentleman run down again a couple of those things once more, those that rhyme, particularly?

Mr. KINGSTON. Well, you will have to buy the record.

Mr. HOKE. No hugs for thugs?

Mr. KINGSTON. No hugs for thugs. They need to be in an institution, which we call the big house back home, or pay restitution. I do not know what they call it on Ohio, but you need to have people in jail. They have broken the law. We have decided in society that certain people need to be insulated from others and they need to be in jail. They need to be in an institution or they need to be out on the streets paying restitution, if they have stolen money they need to pay back to the victims.

You know, we always forget the victims.

I had a constituent call me. The woman was at home bathing her 3-year-old and some slime kicked down the door and raped her, and the son-of-a-gun was caught—fortunately not because of that, but because of another crime, and incidentally he had raped three or four people—he was getting out of jail 5 years later. Now, how would you like to be that husband, that sister, that brother, knowing that creep was back out on the streets in your hometown? It is not right. That is what we have got to change. That is what the Contract with America tries to do.

Mr. JONES. I would like to add to the gentleman from Georgia's response to the gentleman from Ohio's inquiry.

During our campaign, the polling we did before we entered the race for Congress and during the race for Congress showed that crime and punishment was always among the top issues with the people. They believed that the Clinton crime package, if you will, that you made reference to, was too soft, that it did not do what needed to be done to protect the citizens.

Quite frankly, I think that is why our Contract with America, when we get on this issue, you will see the response from the American people will be just as strong today as it was when they elected the Republican majority. Because they want to see, they want to be protected; they have felt for so long, as the gentleman said, they have a locked-in mentality while those who should be locked in are out on the streets.

So I just wanted to add to the gentleman's comments that this part of our contract is extremely important. That is why we have been given this opportunity, because the majority of the past, which is now the minority party, did not do the job to protect the citizens of this country.

Mr. HOKE. Well, does the gentleman think that it has to do with the pendulum swing? If the pendulum has swung so far over to favoring criminals, favoring thugs, favoring those people that are abusing our society, that are abusing other people, and are simply antisocial that we have to move it back to the center? Is that not what is happening?

Mr. JONES. If I may just touch on what happened. It just so happened that yesterday the Governor of North Carolina, Jim Hunt, a Democrat, had a luncheon for all the Members of the Congress here in Washington, DC. He had sent us a letter 2 days before about a person in North Carolina who spent 13 years on death row. The individual had kidnapped three cheerleaders at a small college in North Carolina, three girls, put them in the trunk, took one out, raped her, and then killed her. He spent 13 years on death row through all these endless appeals.

That is why people are sick and tired of it. The Governor of North Carolina in his letter to us and also at the luncheon yesterday said that we need to end these endless appeals.

I think in our contract we are talking about a 2-year limit.

Mr. HOKE. Let me give both of the gentlemen some good news. I happen to have the honor of sitting on the Judiciary Committee, where today we marked up and passed out and reported out the reform of habeas corpus, which is the Latin phrase referring to the endless rounds of appeals that can go to the State court, to the Federal court, back to the State court, to the Federal court. We have limited and compressed that timeframe dramatically now so that you will not be able to go into endless round of appeals.

Mr. KINGSTON. Well, that is part of the process. The gentleman has alluded to it. That is the frustration that common, decent Americans have with the penal system when people are not serving their full sentence, who get endless appeals, they get to tie up courts. It really, in this country, has become a matter where they can tie them up forever and get away with whatever crime they committed.

You know there is another aspect of our crime reform bill that I think is very important: 22 percent of the prisoners in the Federal penitentiaries are illegal aliens, who are not American citizens, 22 percent. Again, they are getting all the amenities that you or I would only be able to get if we went to a good hotel room. Yet we cannot even deport them.

This changes that. We want to deport them. I believe that any kind of fooling with the trade bill, foreign aid bill, immigration; I would say "Look, you folks are welcome to our country legally any time you want." They come here illegally, then they are going home on a one-way ticket and "Don't send them back, we are going to bill you the costs back," through negotiation.

I think it is time that we start tightening up; we cannot afford to pay the bill for 22 percent of the non-Americans——

Mr. HOKE. It also goes a step further with respect to legal aliens. That is people in this country legally, but who commit violent felonies, criminals, they get convicted and do time. That then becomes an issue upon which they can be deported upon having done their time in jail. And this is a change in the law—if they are sentenced regardless of whether or not they actually do the time, if they are sentenced for 5 years or more for a felony, they can be deported for that and they also lose the privilege of ever becoming an American citizen.

These are important things because citizenship in this country is a privilege, and we should not be extending it to violent felons.

Another thing I wanted to ask the gentleman about with respect to the crime bill and the changes we are going to make: I believe there are three things that are absolutely necessary. I call them the three C's. For the criminal justice system to work as a deterrent, you have to catch, convict, and confine. And you have to do all of that in a compressed period of time. When you do that, then somebody who is contemplating criminal activity knows that when they commit a crime they are going to be caught and when they are convicted they are actually going to do time.

They are going to have to go to the big house, as the gentleman said. When that all happens in a compressed time period, then you will find the justice system works as a deterrent to stop people from committing crimes, because they know they are going to go to jail. We have done things in this contract that specifically go each area there.

First of all, we increased the number of police on the streets as a result of it. This is in a block grant way directly to the communities.

Mr. KINGSTON. And let the municipalities under this bill spend the money as they see fit. They may not need policemen, but they may need police cars. So this gives them that type of flexibility.

Mr. HOKE. The gentleman is exactly right.

Mr. KINGSTON. It is not the big brother telling them what to do.

Mr. HOKE. Exactly right, the gentleman is absolutely right.

Now, No. 2 is that with respect to conviction we have given the courts the ability to use evidence that may have previously been not allowed because of the exclusionary rule.

Mr. KINGSTON. So as I understand that, if you find the gun but for some reason the investigating officer did not have the warrant perfected, maybe some little technical wording problem, you cannot use the gun as evidence, which is ridiculous. This says if it is a good faith mistake you still can use this as evidence, the gun, hatchet, or whatever it is.

Mr. HOKE. That is exactly right. It is the good faith exclusion. What it says is that we are going to discipline the police officer, teach that person how to do it right. But if it was done in good faith and it did not impair the criminal's rights, then we are going to allow that evidence to be admitted. That is an important thing because that swings the pendulum back to punish criminals and to be on the side of victims.

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Mr. JONES. May I ask the gentleman from Ohio a question?

During your debate on this bill, during the campaign, I heard numerous times people say, "I'm so tired of reading in the paper where a person incarcerated, serving time for a crime, is given the opportunity to file suit over some usually frivolous type issue, and we, the taxpayers, are paying for this."

Mr. HOKE. You mean prisoners who are——

Mr. JONES. Absolutely, those that are incarcerated.

Mr. HOKE. That is exactly right.

Well, we dealt with that today in the Committee on the Judiciary, as a matter of fact, specifically, and in fact there is an element of the bar that makes a full-time living in contacting prisoners and then using shotgun approach lawsuits to file for all kinds of ridiculous and frivolous things like, for example, the food is not good enough, we want better food, we want different kinds of silverware, we want towels that are not so scratchy. I am not making these things up, and the reason they do this is because the bar, the attorneys, can actually be reimbursed their fees, all of them, by the Federal Government when they bring these lawsuits, civil lawsuits, on behalf of prisoners.

What we have done is we have said that you can bring the lawsuits. We are not impairing a prisoner's right to bring lawsuits. But you can only be paid if you win, and you can only be paid on the part that you do win on.

Now it is a little bit technical; I understand that, but typically what happens is an attorney will file a lawsuit with 50, 60, 70 different complaints and hope that he or she is going to hit on one of them, and then they get paid for the entire lawsuit, all of the time that they supposedly put in. This changes that dramatically.

Mr. KINGSTON. That is another aspect. You mentioned it just briefly with your action in the Judiciary Committee today.

I am sick and tired, as I know my colleagues are, because of the police officers actually being treated like criminals by the lawyers when they get in these courtrooms. The police officers are the men and women who are out there on the line risking their lives, and remember they are not arresting people for the second or third time. They are arresting people under the current system for the eighth, ninth, or tenth time, and I ask, "How would you like to be a plainclothesman working the street in a dangerous neighborhood not knowing if the last guy you sent up the river is going to be bumping into you at the convenience store?" But that is the situation we are in now.

As my colleagues know, there is another aspect, and I know we need to move on to welfare reform. I wanted to mention this bill also authorizes $10 billion for new prison construction, and I would say, just like Tom Bodett, "We're going to leave the light on for them."

Mr. HOKE. Well, it is catch, convict, and confine. Catch extra police. Convict habeas corpus, or exclusionary rule reform. Confine $10 billion in prisons. And with that, a requirement that a prisoner must do 85 percent of his sentence time.

Mr. KINGSTON. As my colleagues know now, one of the root causes of the crime problem, the explosion of crime particularly in the inner city, is the breakdown of the family. The previous speaker mentioned that there were 15 million children being raised in single parent homes. Actually there is 15 million being raised in homes generally without fathers.

Now of the children on AFDC or basically on welfare, 92 percent live in a home where they do not have fathers, and that is homes really where small children are being raised by teenagers. We are talking 17-year-old mamas raising kids and often on top of going to high school, and sometimes a 17-year-old is raising two children. There was a study that said one of the biggest corelationships between crime in the neighborhood is an education. It is not poverty. It is just having fathers at home, and one of the key elements of the Contract With America's reform plan is to reunite that family saying that if you are under 18 years old, you have got to identify the father, and I will mention that a little bit more later, but also you got to stay at home with your own parent in order to get that welfare check, and I think that will help strengthen the family unit which has been broken down really because of Government policy.

Mr. HOKE. Well, I could not agree more, and I look forward to a very spirited debate on this because, as the gentleman knows, there is a great deal of feeling, certainly among my constituents, that we are a big part of the problem, having created this problem, that we have created financial incentives, or if "incentive" is too strong a word, at least we create the financial viability of the single parent family in this country, and there was no financial viability under the Great Society, until we abused a program that was devised for widows to be able to have—be able to provide for their own children in a widowed situation. We have taken that, and it has grown into this extraordinary bureaucracy that has brought much, much grief and much, and little happiness to our country.

Mr. KINGSTON. Here we are, 30 years later, $3 trillion later, and here is a definition of a trillion: "If you spent a hundred thousand dollars a minute 24 hours a day, it would take 19 years to get to one trillion."

We have spent $3 trillion starting with the Great Society under Lyndon Government-Can-Solve-Anything Johnson, and during that period of time the poverty level in 1965 was 14 percent. Today it is 14 percent.

So, Mr. Speaker, we have accomplished absolutely nothing except for the absolute destruction of inner city families.

Mr. HOKE. Well, as my colleague knows, the thing the people want, they never want to agree there are any correlations here, that they are causal things going on, but the fact is today two-thirds of all minority births are illegitimate. Twenty-five percent of all nonminority births are illegitimate.

Those are shocking, shocking numbers when you consider that——

Mr. KINGSTON. The national combined average is 30.1 percent.

Mr. HOKE. Thirty point one percent, and when you consider that in 1960 we were at less than a third of that.

Mr. KINGSTON. Twenty-nine out of 1,000 15- to 17-year-old girls will have a child illegitimately, and when we talk about that 30 percent level, we are not talking 30-year-old Murphy Browns who have a career, and income coming in. We are talking 18-year-olds. We are talking 14-year-olds who cannot care for themselves, much less the awesome burden of being a parent.

Mr. JONES. If I can just add briefly to this?

What we have had is a system; the Speaker has spoken of this so many times. We have had a system that has perpetuated this type of behavior. We have had a system that has through payments encouraged people to have children out of wedlock, and, as the Speaker has said so many times, we want to help people get off welfare. We want to help people become productive citizens. Welfare should not be a hammock.

Welfare should be a springboard.

Mr. HOKE. I heard PHIL GRAMM say it very well the other day. He said, "The problem with welfare is it's no longer a safety net. It's become a hammock."

The gentleman is absolutely right.

Mr. KINGSTON. The other thing about this, and there is a work requirement, too, but before we leave this single parent thing, what our society has said, what our Government welfare program has said, is, "You're a young girl, 17 or 18 years old, and you get pregnant. That's your baby, you're responsibility, and you're responsible to raise the baby, the child. You're on the hook for the next 21 years."

Now for the 17-year-old boy who is the father, "Don't worry about it."

Mr. HOKE. No accountability, no responsibility, no requirement that paternity be established. Are we changing that in the contract?

Mr. KINGSTON. We are changing it. You have to establish paternity. What we are saying to these alley-cat dads is, "Come on home. We are fixing to get serious. We are going to domesticate the alley cat."

That is what we need to do.

Mr. HOKE. And we have got some very strong, across-state-line laws that we are looking at to go after deadbeat dads as well.

Mr. KINGSTON. Absolutely, and there is a barrage of other laws that will go after deadbeat dads if the Republican Contract With America welfare plan gets passed because there are other laws that are contingent on this that will further make life hard on deadbeat dads and could include revoking drivers licenses and so forth. We are going to get the money from the dad, and we are going to bring him back in the formula.

Mr. HOKE. As my colleague knows, as I thought about welfare in the United States generally over the past couple of years, it strikes me that what we say to a young woman, a 16-, 17-, 18-year-old woman, is, "Look, we're going to make a deal with you. If you want to have a child, you can do that, and we are going to help you out with that child. We are going to help you with housing, we are going to help you with food, we are going to help you with day care if you want that, we are going to help you even with job training, and we're going to give you money as well so that you can provide for that child."

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There are two conditions for this good deal we are going to give you. OK? No. 1 is you have to promise us that you will not get married. That is No. 1. Just promise you will not get married. No. 2, you have to promise us you are not going to get a job. Do not get a job, and in the meantime we will provide you also with health care in addition to all those things. But as long as you fulfill those two promises, then we are going to take care of you. You just cannot get married and cannot get a job.

Now, what is it we are saying to people? We are saying if they are in a single-parent family, they have much less of a chance of giving that child an even break in terms of being raised. Statistics do not lie on this. It is absolutely crystal clear in terms of outcomes that kids coming out of single-parent families have a tougher time, graduating, finishing school in time, not needing psychological counseling, et cetera, et cetera, et cetera, et cetera.

What is the other thing that we are doing? We are robbing that person of the fundamental dignity of having a job, of having work, of having self-reliance. It is a bad deal.

Mr. KINGSTON. What is also good about this program is there is a work requirement that they do try to get involved in some sort of work training, and dads again must participate in it. There is also another part of it which I would say is internal, and that is combining so many of these government bureaucracies, which simply duplicate what the other one is doing. What they want to do is not make people independent, but keep them dependent. They create a clientele. So they are all fighting for it. But if you suggest why do not we combine it and cut out some of the bureaucrats' jobs so we can get more food to the child in the classroom that is hungry so they can learn math better or science better and so forth, so they can break the cycle, then you have this resistance from the bureaucrats. But the contract goes after these programs and combines them.

Mr. HOKE. One of the things I am looking forward to with respect to our welfare reform is block granting this money to the States. There must be a State in this Union that will have the courage to actually eliminate welfare and require that its citizens reach out to help those people that need that help, require its citizens to go out and one-on-one adopt, be a part of, become completely bonded and a part of the needs of its community.

It seems to me that that will take tremendous courage on the part of a State. But when we do that, we will see a very real, a very different attitude, and a complete change in the way that that State deals with the problem of indigency, the problem of illegitimacy. And that will be the beginning of the restoration of a much more sane commonsense approach to dealing with these problems in a way that is deeply compassionate, that truly connects people with people, and that does not alienate us from each other as neighbors in our communities, and does not alienate us from our institutions as well.

Mr. JONES. If I can just add one situation that happened months and months ago before I even became a candidate for Congress, in my business I was calling on a manufacturing firm, and I will never forget the story the gentleman was telling me about a lady that lived in the housing project in this small county and small town. And one of the best workers that he had, every time he give her a raise, her rent went up. So she got to a point that she came back to him and said, "Why work? I am working harder, but I can't achieve because the government continues to raise my rent."

There has got to be some way to work out a system so that an individual that is trying to do better for themselves through work is somehow given an opportunity, for example, using this as an example, hold the rent down for a couple of years, and make that individual put money in a savings account and let that be monitored by local agencies.

But any time somebody tries to do better for themselves, many times through this archaic system that we have, they are being penalized. There are many people that want to get off welfare, but the system keeps holding them down. And that is what we are talking about in this contract. That is what you have been talking. We can change it, and we are going to change it.

Mr. KINGSTON. Gentleman, I need to leave you, and I know you are going to go on and talk about term limits and so many of the other good elements of the contract. I appreciate your time and the leadership both of you all have shown on these issues. Let us do it again sometime.

Mr. HOKE. I thank the gentleman from Georgia for participating and for being a part of this.

I want to just close with the idea of this block granting with one final thought, and that is that I think that what we will find out is there is a tremendous amount of creativity in the States. There will be States that will try all kinds of different solutions to the welfare problem, and they will come up with many, many different programs and ways of dealing with it, and some States that may, as I have suggested, even eliminate certain programs, certain welfare programs, to others that will try a very different approach. And that is what we need.

We do not need a one-size-fits-all type of approach. We need to unleash the creativity, allow that creativity to erupt and to try different things that will truly work. We do not know what will work, we do not know what will not work, but we do know what is not working. By giving the States that kind of flexibility, we are going to get a heck of a lot more of an idea of a better direction to go in to solve that particular problem that is so very, very difficult.

I wonder if I could ask, Mr. JONES, if you could talk to me a little bit about the work that you have been involved in with term limits and where you expect that to go and how that fits into our Contract With America?

Mr. JONES. I thank the gentleman for this opportunity. It has been a great experience for a freshman. I have been here 4 weeks, and this has been an exciting day in many ways, passing an unfunded mandate, and a balanced budget amendment last week, and participating with you tonight and with the other two gentlemen.

In the area of reform, there is probably not anything more important than giving the people of America the opportunity to vote on term limits. Quite frankly, I was in the general assembly in North Carolina for 10 years. I have worked hard in the area of campaign finance reform, ethics, rewriting the lobbying laws for the lobbyists in the State of North Carolina, and I have got some background, so to speak, in this area. And I started years ago talking about the need for term limits.

If I can just for a moment cite a story. My father served in the U.S. Congress for 26 years. About 3 years ago, 4 years ago, I was talking to him in our hometown of Farmville, and I was telling him how I believe very strongly in term limits. Again, he served 26 years. And he said, "I did not do a very good job of raising you, if you feel that good about term limits."

Mr. HOKE. If I could ask you, was your father a Democrat or a Republican?

Mr. JONES. My father was a Democrat.

Mr. HOKE. Are you a Democrat or a Republican?

Mr. JONES. I am a Republican.

Mr. HOKE. So not only are you not a Democrat like your father, but you are also telling him you want to have terms limits. Were you a Democrat in the North Carolina House?

Mr. JONES. Right. I was. I developed the reputation of being the foremost advocate of reform in the North Carolina General Assembly, which I am very proud that I earned that reputation.

But I will tell you this, since you asked me about my father. He did know, and we talked about it before he became ill and he eventually died, that I would be changing my party affiliation. He stated he supported that decision and would state that publicly, but obviously he did not live long enough.

I listened to the people, and in our contract we listened to the people. Every issue we have talked about tonight, every issue, came from the fact that when we developed this contract, we listened to the people of America. These 10 bills in this contract are what the people of America want to see pass in the U.S. House of Representatives, and hopefully the U.S. Senate.

But I will tell you in the area of term limits, this is one of the utmost issues that the American people, every poll that I have seen, a minimum of 65 percent of the people in America say they want term limits, and quite frankly, as high as 75 percent say they want term limits.

We look at Tom Foley, the former Speaker of the House, and his people in his State wanted term limits. And he took his people to court, and I am glad he did, because we have a fine representative from Washington there.

But my point is so many States already, 22 I believe on their own, have passed term limits. The people of America want this Congress to give them the privilege to act on term limits. We know and you know that we need 290 votes on this House floor. Right now the best that we can figure that we have is 228. So if there are any citizens throughout America watching this tonight, I hope they will call their Congress person if they feel strongly that they, the people, would like to have the vote on term limits.

□ 2050

Quite frankly, we have three bills, two that have been filed, one is three terms, that is 2 years times three, 6 years, a 6-year term. The other is a 12-year term. That has been introduced, I believe, by the gentleman from Florida, [Mr. MCCOLLUM]. He believes that it should parallel with the Senate, that would have two terms, 6 years each, 12 years. Then I believe that the gentlewoman from Florida, [Mrs. FOWLER] will be offering an amendment on the floor that will speak to 8 years, four terms, four times two.

So we are going to have a choice. I just hope that we will give the people of the United States the same choice that we have here on the floor. And I hope, again, we think we have 228 people that have signed on or signed the pledge on the Republican side and the Democratic side. I hope we can get the 290 and get some form of term limits to the people.

Mr. HOKE. As a strong proponent and supporter and agitator for term limits for a long time, I think you are right on the money when you suggest that people ought to call their Representatives and lobby and make known their feelings about this issue. Because I am absolutely convinced that term limits, the combination of term limits, which will truly reform this institution, as well as the balanced budget amendment, which will reform the way that we spend money, that those two things form the cornerstones of making our Government completely and truly representative once more, of the American people.

Mr. JONES. Absolutely. If I could add this, because I think it is of interest, according to Stephen Moore of the Cato Institute, if term limits had been in effect in recent years, the balanced budget amendment would have passed in 1990. The Clinton and Bush tax increases would have failed. The Penny-Kasich spending cuts would have passed and the congressional pay raise of 1989 and 1992 would have been defeated. What happens is that we have a system that continues to perpetuate itself, perpetuate itself because it is based on seniority. And we both know that obviously an incumbent has an advantage, particularly when it comes to raising money. And I, quite frankly, think that if we give the people the opportunity to vote on term limits, we will have a better system that will be the system that the people of America want.

Obviously, if we give them the opportunity to vote and they do not pass in enough States to change the Constitution, then obviously the people have had the chance to speak on this issue. I think that is what the people want.

Mr. HOKE. I think you are absolutely right. I would actually urge people not to lose sight on this, especially people who generally are very happy with what is happening with the Contract With America, who feel really good about the direction that the Congress is going in. Some of those people who have moved this polling that says that Republicans are breaking down legislative gridlock and that the Republicans are bringing integrity and honor and confidence back to this institution, for Heaven's sake, it strikes me, do not get fooled into thinking that, therefore, we should not have term limits. It is essential to the viability of this institution and to the vitality of it going on.

I will tell you, I have got another bill that I have been very excited about with respect to term limits that actually changes the length of the term from 2 years to 4 years and then limits it to three 4-year terms. I believe strongly, as I have for a long time, that the 2-year term, while clearly was introduced for specific reasons by our Founding Fathers, is outmoded in the 20th century and that, unfortunately, what it means is that we are only working 50 percent of the time, because essentially we are legislating for a year and then become more and more distracted with campaigns in the second year.

And that distraction is not just because the legislator wants it to be and is motivated to do that, but, in fact, that is when the sniping begins and when all of the negative stuff starts with respect to somebody trying to take your seat, and it really becomes a tremendous distraction.

Mr. JONES. May I ask when the gentleman filed the bill? I just heard about it today, and I thought it was a very exciting idea.

Mr. HOKE. The other thing is, if you look at the other legislatures around the world, the shortest one is 4 years in Western Europe. I think New Zealand might have 3 years, but most are 4- and 5-year terms. I think I like the idea of the symmetry with the Senate, and I think that it is very important toward moving toward becoming a citizen legislature.

Mr. JONES. If I might add to this, because I think the people that might be watching tonight need to know that probably the term limit issue will be debated in the committees probably in March, sometime in March. And they really, as you said yourself, people need to really let their elected Congress person know exactly how they feel on this issue.

Mr. HOKE. And in Ohio where we passed a law that would limit Members of Congress to four 2-year terms that I supported and I campaigned for and I voted for, I will have the opportunity to vote on the amendment of the gentlewoman From Florida [Mrs. FOWLER] with the four 2-year terms.

I think that you are right on the money when you say that people ought to really work hard on this, because it is critical to the citizen legislature that we all envision.

I would say one other thing, and that is that we often, we hear the phrase that power corrupts. And there is no question about it. Power does corrupt. But what I would suggest to you is that power corrupts relatively slowly and that the problem that we had with the fact that one party was in control for 40 years did not come about, we did not have a problem in the first 10 years or the first even 15 years necessarily, but the arrogance and the occupation that became endemic to this institution really began in the 1980's and continued through. And it seems to me that we cannot get lulled into thinking that anybody has—that there is some sort of a corner that one party has on purity or righteousness. The problem is when one party is in control for far too long.

Now, do not misunderstand me. There are philosophical differences that are very, very fundamental and basic to the way that the Democrats view the world and the way that Republicans do. And I think it is fair to say that Democrats have a great deal of confidence in the Government's ability to fix things, and Republicans have little confidence in that and a great deal of confidence in the ability of individuals and families and private institutions to fix things.

But I think it is also fair to say that I, for one, do not believe for a minute that any group that has power for 40 years straight is going to stay lily white. And I think that that is a problem that we have to address.

Was there anything you wanted to add to that?

Mr. JONES. Just one other point. Did we, in our reform package as it related to the rules, did we put a number of terms that a person could as chairman? I think it is important to remind the people that we have done this, 6 years, and also the Speaker, four terms, 8 years; is that correct?

Mr. HOKE. That is correct, yes. We have done that. We have limited the terms of committee chairs and of the Speaker, and we did that because we could do that in our own rules package. We actually did that in terms of ranking Members in 1992 at, frankly, the insistence of my class, which I feel very proud of.

Mr. JONES. Congratulations to your class.

Mr. HOKE. I really thank the gentleman from North Carolina, and I thank the gentlemen from Ohio and from Georgia for participating.

It has been a pleasure doing this with you. I think it has been very helpful to me to have your input. I really appreciate it. So I just want to say that.

I want to close by saying this, let us review the bidding on what we have done and where we are at with this Contract. On the first day of Congress—I want to review the bidding with respect to the notion that somehow this is the Republican Contract With America, because the truth is that this is not. This is an American Contract, and every single thing that we have done on this floor has gotten bipartisan support.

Let us review, on the very first day of the Congress, every single vote to reform the rules of the House received Democrat support, sometimes by as many as 203 Democrats, practically their entire caucus.

□ 2100

When we passed the congressional accountability law, a total of 171 Democrats supported our bill, 171 out of about 200 Democrats supported the bill. When we passed the Balanced Budget Amendment, 72 Democrats broke with their leadership to do the right thing. When we passed the unfunded mandates bill, another 130 Democrats sided with Republicans to give the American people what they wanted.

Given the degree of bipartisan support that our Contract has received, the American people may well wonder why it has taken so many years to get these badly needed reforms passed, and the answer is very simple. For years the way too liberal, way too powerful, way out of touch leadership of this Congress, of the Democrat Party, throttled these bills and kept them from the floor, from even being considered.

In their power and in their arrogance, the Democrat leaders not only ignored the wishes of their own party, but more importantly, they forgot about the needs of the American people. We have not, and we are not going to. This is a Contract With America, it is a Contract For America, and it has finally given America the Government that it wants and it needs.

Mr. Speaker, this Contract is right on target. This Contract is right on track.

RULES OF PROCEDURE FOR THE COMMITTEE ON SCIENCE FOR THE 104TH CONGRESS

(Mr. WALKER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WALKER. Mr. Speaker, in accordance with Rule XI 2.(a) of the Rules of the House of Representatives, I am hereby submitting the Rules of the Committee on Science for the 104th Congress.

GENERAL

1. The Rules of the House of Representatives, as applicable, shall govern the committee and its subcommittees, except that a motion to recess from day to day and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in the committee and its subcommittees. The rules of the Committee, as applicable, shall be the rules of its subcommittees.

COMMITTEE MEETINGS

TIME AND PLACE

2. Unless dispensed with by the Chairman, the meetings of the committee shall be held on the 2nd and 4th Wednesday of each month the House is in session at 10:00 a.m. and at such other times and in such places as the Chairman may designate.

3. The Chairman of the committee may convene as necessary additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business.

4. The committee shall make public announcement of the date, time, place and subject matter of any of its hearings at least one week before the commencement of the hearing. If the Chairman with the concurrence of the Ranking Minority Member, determines there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being

present for the transaction of business, the Chairman shall make the announcement at the earliest possible date. Any announcement made under this Rule shall be promptly published in the Daily Digest, and promptly entered into the scheduling service of the House Information Systems.

5. The committee may not sit, without special leave, while the House is reading a measure for amendment under the five minute rule.

VICE CHAIRMAN TO PRESIDE IN ABSENCE OF CHAIRMAN

6. The Member of the majority party of the committee or subcommittee thereof designated by the Chairman of the Full Committee shall be Vice Chairman of the committee or subcommittee as the case may be, and shall preside at any meeting during the temporary absence of the Chairman. If the Chairman and Vice Chairman of the committee or subcommittee are not present at any meeting of the committee, or subcommittee, the Ranking Member of the majority party on the committee who is present shall preside.

ORDER OF BUSINESS

7. The order of business and procedure of the committee and the subjects of inquiries or investigations will be decided by the Chairman, subject always to an appeal to the committee.

MEMBERSHIP

8. A majority of the majority Members of the committee shall determine an appropriate ratio of majority to minority Members of each subcommittee and shall authorize the Chairman to negotiate that ratio with the minority party; Provided, however, that party representation on each subcommittee (including any ex-officio Members) shall be no less favorable to the majority party than the ratio for the Full Committee. Provided, further, that recommendations of conferees to the Speaker shall provide a ratio of majority party Members to minority party Members which shall be no less favorable to the majority party than the ratio for the Full Committee.

SPECIAL MEETINGS

9. Rule XI 2(c) of the Rules of the House of Representatives is hereby incorporated by reference (Special Meetings).

COMMITTEE PROCEDURES

QUORUM

10. (a) One-third of the Members of the committee shall constitute a quorum for all purposes except as provided in paragraphs (b) and (c) of this Rule.

(b) A majority of the Members of the committee shall constitute a quorum in order to: (1) report or table any legislation, measure, or matter; (2) close committee meetings or hearings pursuant to Rules 18 and 19; and (3) authorize the issuance of subpoenas pursuant to Rule 32.

(c) Two Members of the committee shall constitute a quorum for taking testimony and receiving evidence, which, unless waived by the Chairman of the Full Committee after consultation with the Ranking Minority Member of the Full Committee, shall include at least one Member from each of the majority and minority parties.

PROXIES

11. No Member may authorize a vote by proxy with respect to any measure or matter before the committee.

WITNESSES

12. The committee shall, insofar as is practicable, require each witness who is to appear before it to file twenty-four (24) hours in advance with the committee (in advance of his or her appearance) a written statement of the proposed testimony and to limit the oral presentation to a five-minute summary of his or her statement, provided that additional time may be granted by the Chairman when appropriate.

13. Whenever any hearing is conducted by the committee on any measure or matter, the minority Members of the committee shall be entitled, upon request to the Chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

INVESTIGATIVE HEARING PROCEDURES

14. Rule XI 2(k) of the Rules of the House of Representatives is hereby incorporated by reference (rights of witnesses under subpoena).

SUBJECT MATTER

15. Bills and other substantive matters may be taken up for consideration only when called by the Chairman of the committee or by a majority vote of a quorum of the committee, except those matters which are the subject of special-call meetings outlined in Rule 9.

16. No private bill will be reported by the committee if there are two or more dissenting votes. Private bills so rejected by the committee will not be reconsidered during the same Congress unless new evidence sufficient to justify a new hearing has been presented to the committee.

17. (a) It shall not be in order for the committee to consider any new or original measure or matter unless written notice of the date, place and subject matter of consideration and to the extent practicable, a written copy of the measure or matter to be considered, has been available in the office of each Member of the committee for at least 48 hours in advance of consideration, excluding Saturdays, Sundays and legal holidays.

(b) Notwithstanding paragraph (a) of this Rule, consideration of any legislative measure or matter by the committee shall be in order by vote of two-thirds of the Members present, provided that a majority of the committee is present.

OPEN MEETINGS

18. Each meeting for the transaction of business, including the markup of legislation, of the committee shall be open to the public, including to radio, television, and still photography coverage, except when the committee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House. No person other than members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This Rule does not apply to open committee hearings which are provided for by Rule 19 contained herein.

19. Each hearing conducted by the committee shall be open to the public including to radio, television, and still photography coverage except when the committee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, and Rule 9, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony:

(1) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate Rule XI 2(k)(5) of the Rules of the House of Representatives; or

(2) may vote to close the hearing, as provided in Rule XI 2(k)(5) of the Rules of the House of Representatives.

No Member may be excluded from nonparticipatory attendance at any hearing of any committee or subcommittee, unless the House of Representatives shall by majority vote authorize a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this Rule for closing hearings to the public: *Provided, however*, That the committee or subcommittee may by the same procedure vote to close one subsequent day of the hearing.

(3) Whenever a hearing or meeting conducted by the committee is open to the public, these proceedings shall be open to coverage by television, radio, and still photography, except as provided in Rule XI 3(f)(2) of the House of Representatives. The Chairman shall not be able to limit the number of television, or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations in which case pool coverage shall be authorized).

REQUESTS FOR ROLLCALL VOTES AT FULL COMMITTEE

20. A rollcall vote of the Members may be had at the request of three or more Members or, in the apparent absence of a quorum, by any one Member.

AUTOMATIC ROLLCALL VOTE FOR AMENDMENTS WHICH AFFECT THE USE OF FEDERAL RESOURCES

21. (a) A rollcall vote shall be automatic on any amendment which specifies the use of federal resources in addition to, or more explicitly (inclusively or exclusively) than that specified in the underlying text of the measure being considered.

(b) No legislative report filed by the committee on any measure or matter reported by the committee shall contain language which has the effect of specifying the use of federal resources more explicitly (inclusively or exclusively) than that specified in the measure or matter as ordered reported, unless such language has been approved by the committee during a meeting or otherwise in writing by a majority of the Members.

COMMITTEE RECORDS

22. (a) The committee shall keep a complete record of all committee action which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the

name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of those Members present but not voting.

(b) The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule XXXVI of the Rules of the House of Representatives. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the Rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any Member of the committee.

PUBLICATION OF COMMITTEE HEARINGS AND MARKUPS

23. The transcripts of those hearings conducted by the committee which are decided to be printed shall be published in verbatim form, with the material requested for the record inserted at that place requested, or at the end of the record, as appropriate. Any requests by those Members, staff or witnesses to correct any errors other than errors in transcription, or disputed errors in transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted. Prior to approval by the Chairman of hearings conducted jointly with another congressional committee, a memorandum of understanding shall be prepared which incorporates an agreement for the publication of the verbatim transcript. Transcripts of markups shall be recorded and published in the same manner as hearings before the committee and shall be included as part of the legislative report unless waived by the Chairman.

OPENING STATEMENTS; 5-MINUTE RULE

24. Insofar as is practicable, the Chairman, after consultation with the Ranking Minority Member, shall limit the total time of opening statements by Members to no more than 10 minutes, the time to be divided equally among Members present desiring to make an opening statement. The time any one Member may address the committee on any bill, motion or other matter under consideration by the committee or the time allowed for the questioning of a witness at hearings before the committee will be limited to five minutes, and then only when the Member has been recognized by the Chairman, except that this time limit may be waived by the Chairman or acting Chairman. The rule of germaneness will be enforced by the Chairman.

REQUESTS FOR WRITTEN MOTIONS

25. Any legislative or non-procedural motion made at a regular or special meeting of the committee and which is entertained by the Chairman shall be presented in writing upon the demand of any Member present and a copy made available to each Member present.

SUBCOMMITTEES

STRUCTURE AND JURISDICTION

26. The committee shall have the following standing subcommittees with the jurisdiction indicated.

(1) SUBCOMMITTEE ON BASIC RESEARCH.—Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to science policy including: Office of Science and Technology Policy; all scientific research, and scientific and engineering resources (including human resources), math, science and engineering education; intergovernmental mechanisms for research, development, and demonstration and cross-cutting programs; international scientific cooperation; National Science Foundation; university research policy, including infrastructure, overhead and partnerships; science scholarships; government-owned, contractor-operated non-military laboratories; computer, communications and information science; earthquake and fire research programs; research and development relating to health, biomedical, and nutritional programs; to the extent appropriate, agricultural, geological, biological and life sciences research; and the Office of Technology Assessment.

(2) SUBCOMMITTEE ON ENERGY AND ENVIRONMENT.—Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to energy and environmental research, development, and demonstration including: Department of Energy research, development, and demonstration programs; federally owned and operated non-military energy laboratories; energy supply research and development activities; nuclear and other advanced energy technologies; general science and research activities; uranium supply, enrichment, and waste management activities as appropriate; fossil energy research and development; clean coal technology; energy conservation research and development; science and risk assessment activities of the Federal Government; Environmental Protection Agency research and development programs; and National Oceanic and Atmospheric Administration, including all activities related to weather, weather services, climate, and the atmosphere, and marine fisheries, and oceanic research.

(3) SUBCOMMITTEE ON SPACE AND AERONAUTICS.—Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to astronautical and aeronautical research and development including: national space policy, including access to space; sub-orbital access and applications; National Aeronautics and Space Administration and its contractor and government-operated laboratories; space commercialization including the commercial space activities relating to the Department of Transportation and the Department of Commerce; exploration and use of outer space; international space cooperation; National Space Council; space applications, space communications and related matters; and earth remote sensing policy.

(4) SUBCOMMITTEE ON TECHNOLOGY.—Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to competitiveness including: standards and standardization of measurement; the National Institute of Standards and Technology; the National Technical Information Service; competitiveness, including small business competitiveness; tax, antitrust, regulatory and other legal and governmental policies as they relate to technological development and commercialization; technology transfer; patent and intellectual property policy; international technology trade; research, development, and demonstration activities of the Department of Transportation; civil aviation research, development, and demonstration; research, development, and demonstration programs of the Federal Aviation Administration; surface and water transportation research, development, and demonstration programs; materials research, development, and demonstration and policy; and biotechnology policy.

REFERRAL OF LEGISLATION

27. The Chairman shall refer all legislation and other matters referred to the committee to the subcommittee or subcommittees of appropriate jurisdiction within two weeks unless, the Chairman deems consideration is to be by the Full Committee. Subcommittee chairmen may make requests for referral of specific matters to their subcommittee within the two week period if they believe subcommittee jurisdictions so warrant.

EX OFFICIO MEMBERS

28. The Chairman and Ranking Minority Member shall serve as ex officio Members of all subcommittees and shall have the right to vote and be counted as part of the quorum and ratios on all matters before the subcommittee.

PROCEDURES

29. Unless waived by the Chairman, no subcommittee shall meet for markup or approval when any other subcommittee of the committee or the Full Committee is meeting to consider any measure or matter for markup or approval.

30. Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the committee on all matters referred to it. Each subcommittee shall conduct legislative, investigative, and general oversight, inquires for the future and forecasting, and budget impact studies on matters within their respective jurisdictions. Subcommittee chairmen shall set meeting dates after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of committee and subcommittee meetings or hearings wherever possible.

31. Any Member of the committee may have the privilege of sitting with any subcommittee during its hearings or deliberations and may participate in such hearings or deliberations, but no such Member who is not a Member of the subcommittee shall vote on any matter before such subcommittee, except as provided in Rule 28.

32. During any subcommittee proceeding for markup or approval, a rollcall vote may be had at the request of one or more Members of that subcommittee.

POWER TO SIT AND ACT; SUBPOENA POWER

33. The committee and each of its subcommittees may exercise the powers provided under Rule XI 2(m) of the Rules of the House of Representatives, which is hereby incorporated by reference (power to sit and act; subpoena power).

NATIONAL SECURITY INFORMATION

34. All national security information bearing a classification of secret or higher which has been received by the committee or a subcommittee shall be deemed to have been received in Executive Session and shall be given appropriate safekeeping. The Chairman of the Full Committee may establish such regulations and procedures as in his judgment are necessary to safeguard classified information under the control of the committee. Such procedures, shall, however, ensure access to this information by any Member of the committee, or any other Member of the House of Representatives who has requested the opportunity to review such material.

SENSITIVE OR CONFIDENTIAL INFORMATION RECEIVED PURSUANT TO SUBPOENA

35. Unless otherwise determined by the committee or subcommittee, certain information received by the committee or subcommittee pursuant to a subpoena not made part of the record at an open hearing shall be deemed to have been received in Executive Session when the Chairman of the Full Committee, in his judgment, deems that in view

of all the circumstances, such as the sensitivity of the information or the confidential nature of the information, such action is appropriate.

REPORTS

SUBSTANCE OF LEGISLATIVE REPORTS

36. The report of the committee on a measure which has been approved by the committee shall include the following, to be provided by the committee:

(1) the oversight findings and recommendations required pursuant to Rule X 2(b)(1) of the Rules of the House of Representatives, separately set out and identified [Rule XI 2(l)(3)(A)];

(2) the statement required by section 308(a) of the Congressional Budget Act of 1974, separately set out and identified, if the measure provides new budget authority or new or increased tax expenditures as specified in [Rule XI 2(l)(3)(B)];

(3) a detailed, analytical statement as to whether that enactment of such bill or joint resolution into law may have an inflationary impact on the national economy [Rule XI 2(l)(4)];

(4) with respect to each rollcall vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those Members voting for and against, shall be included in the committee report on the measure or matter;

(5) the estimate and comparison prepared by the committee under Rule XIII 7(a) of the Rules of the House of Representatives, unless the estimate and comparison prepared by the Director of the Congressional Budget Office prepared under subparagraph 2 of this Rule 34 has been timely submitted prior to the filing of the report and included in the report [Rule XIII 7(d)];

(6) in the case of a bill or joint resolution which repeals or amends any statute or part thereof, the text of the statute or part thereof which is proposed to be repealed, and a comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended [Rule XIII 3]; and

(7) a transcript of the markup of the measure or matter unless waived under Rule 22.

37. (a) The report of the committee on a measure which has been approved by the committee shall further include the following, to be provided by sources other than the committee:

(1) the estimate and comparison prepared by the Director of the Congressional Budget Office required under section 403 of the Congressional Budget Act of 1974, separately set out and identified, whenever the Director (if timely, and submitted prior to the filing of the report) has submitted such estimate and comparison of the committee [Rule XI 2(l)(3)(C)];

(2) a summary of the oversight findings and recommendations made by the Committee on Government Reform and Oversight under Rule X 2(b)(2) of the Rules of the House of Representatives, separately set out and identified [Rule XI 2(l)(3)(D)].

(b) Notwithstanding paragraph (a) of this Rule, if the committee has not received prior to the filing of the report the material required under paragraph (a) of this Rule, then it shall include a statement to that effect in the report on the measure.

MINORITY AND ADDITIONAL VIEWS

38. If, at the time of approval of any measure or matter by the committee, any Member of the committee gives notice of intention to file supplemental, minority, or additional views, that Member shall be entitled to not less than 3 calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that Member, with the clerk of the committee. All such views so filed by one or more Members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which shall include all supplemental, minority, or additional views, which have been submitted by the time of the filing of the report, and shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under paragraph (a) of Rule 35) are included as part of the report. However, this rule does not preclude (1) the immediate filing or printing of a committee report unless timely requested for the opportunity to file supplemental, minority, or additional views has been made as provided by this Rule or (2) the filing by the committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.

39. The Chairman of the committee or subcommittee, as appropriate, shall advise Members of the day and hour when the time for submitting views relative to any given report elapses. No supplemental, minority, or additional views shall be accepted for inclusion in the report if submitted after the announced time has elapsed unless the Chairman of the committee or subcommittee, as appropriate, decides to extend the time for submission of views beyond 3 days, in which case he shall communicate such fact to Members, including the revised day and hour for submissions to be received, without delay.

CONSIDERATION OF SUBCOMMITTEE REPORTS

40. Reports and recommendations of a subcommittee shall not be considered by the Full Committee until after the intervention of 48 hours, excluding Saturdays, Sundays and legal holidays, from the time the report is submitted and printed hearings thereon shall be made available, if feasible, to the Members, except that this rule may be waived at the discretion of the Chairman.

TIMING AND FILING OF COMMITTEE REPORTS

41. It shall be the duty of the Chairman to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken the necessary steps to bring the matter to a vote.

42. The report of the committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by the majority of the Members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the Chairman of the committee notice of the filing of that request.

43. (a) Any document published by the committee as a House Report, other than a report of the committee on a measure which has been approved by the committee, shall be approved by the committee at a meeting, and Members shall have the same opportunity to submit views as provided for in Rule 38.

(b) Subject to paragraphs (c) and (d), the Chairman may approve the publication of any document as a committee print which in his discretion he determines to be useful for the information of the committee.

(c) Any document to be published as a committee print which purports to express the views, findings, conclusions, or recommendations of the committee or any of its subcommittees must be approved by the Full Committee or its subcommittees, as applicable, in a meeting or otherwise in writing by a majority of the Members, and such Members shall have the right to submit supplemental, minority, or additional views for inclusion in the print within at least 48 hours after such approval.

(d) Any document to be published as a committee print other than a document described in paragraph (c) of this Rule: (1) shall include on its cover the following statement: "This document has been printed for informational purposes only and does not represent either findings or recommendations adopted by this Committee;" and (2) shall not be published following the sine die adjournment of a Congress, unless approved by the Chairman of the Full Committee after consultation with the Ranking Minority Member of the Full Committee.

NOTIFICATION TO APPROPRIATIONS COMMITTEE

44. No later than May 15 of each year, the Chairman shall report to the Chairman of the Committee on Appropriations any departments, agencies, or programs under the jurisdiction of the Committee on Science for which no authorization exists for the next fiscal year. The Chairman shall further report to the Chairman of the Committee on Appropriations when authorizations are subsequently enacted prior to enactment of the relevant annual appropriations bill.

OVERSIGHT

45. Not later than February 15 of the first session of a Congress, the Committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Oversight and the Committee on Government Reform and Oversight, in accordance with the provisions of clause 2(d) of Rule X of the House of Representatives.

46. The Chairman of the committee, or of any subcommittee, shall not undertake any investigation in the name of the committee without formal approval by the Chairman of the committee after consultation with the Ranking Minority Member of the Full Committee.

LEGISLATIVE AND OVERSIGHT JURISDICTION OF THE COMMITTEE ON SCIENCE

"RULE X. ESTABLISHMENT AND JURISDICTION OF STANDING COMMITTEES

"The Committees and Their Jurisdiction.

"1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned to it by this clause and clauses 2, 3, and 4; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accordance with and subject to clause 5) be referred to such committees, as follows:

* * * * *

"(N) COMMITTEE ON SCIENCE

"(1) All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.

"(2) Astronautical research and development, including resources, personnel, equipment, and facilities.

"(3) Civil aviation research and development.

"(4) Environmental research and development.

"(5) Marine research.

"(6) Measures relating to the commercial application of energy technology.

"(7) National Institute of Standards and Technology, standardization of weights and measures and the metric system.

"(8) National Aeronautics and Space Administration.

"(9) National Space Council.

"(10) National Science Foundation.

"(11) National Weather Service.

"(12) Outer space, including exploration and control thereof.

"(13) Science Scholarships.

"(14) Scientific research, development, and demonstration, and projects therefor.

"In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(f) with respect to all nonmilitary research and development."

SPECIAL OVERSIGHT FUNCTIONS

3. (f) The Committee on Science shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving nonmilitary research and development.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BARTLETT of Maryland (at the request of Mr. ARMEY) for today after 5 p.m., on account of attending a family funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GALLEGLY) to revise and extend their remarks and include extraneous material:)

Mr. FOX of Pennsylvania, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

Mr. MARTINI, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

Mr. WAMP, for 5 minutes, today.

(The following Members (at the request of Mr. GENE GREEN of Texas) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.

Mr. MENENDEZ, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. NADLER, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. COLEMAN, for 5 minutes, today.

Mr. MARTINEZ, for 5 minutes, today.

Mrs. THURMAN, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MARKEY, for 2 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GENE GREEN of Texas) and to include extraneous matter:)

Mr. SKELTON in two instances.

Mr. HAMILTON in two instances.

Mrs. KENNELLY.

Mr. ROEMER.

Mrs. MALONEY.

Ms. MCCARTHY.

Mr. WARD.

Mr. MOAKLEY.

Mr. WAXMAN.

Mr. COLEMAN.

Mrs. MEEK of Florida.

Mr. MFUME.

Mr. DOYLE.

Ms. VELÁZQUEZ.

(The following Members (at the request of Mr. BRYANT of Tennessee) and to include extraneous matter:

Mr. BURTON of Indiana in two instances.

Mr. GILMAN in two instances.

Mr. SOLOMON.

Mr. WOLF.

Mr. RADANOVICH.

Mr. COMBEST.

Mr. CLINGER.

Mr. PACKARD.

Mr. DAVIS.

Mr. SMITH of New Jersey.

Mr. FRANKS of New Jersey.

Mr. FORBES.

Mr. CRANE.

Mr. KINGSTON.

(The following Members (at the request of Mr. HOKE) and to include extraneous matter:)

Mr. LEWIS of Georgia.

Mr. CAMP.

ADJOURNMENT

Mr. HOKE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 1 minute p.m.), the House adjourned until tomorrow, Thursday, February 2, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

246. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report of those foreign military sales customers with approved cash flow financing in excess of $100 million as of October 1, 1994, pursuant to 22 U.S.C. 2765(a); to the Committee on International Relations.

247. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-348, "Charitable Gift of Life Insurance Proceeds Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

248. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-349, "Business Regulatory Reform Commission Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

249. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-350, "District Employee Benefits Free Clinic Extension Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

250. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-351, "District of Columbia Retirement Board Judicial Appointment Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

251. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-352, "Lie Detector Tests for Pre-Employment Investigations Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

252. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-353, "District of Columbia Board of Education Sale, Renovation, Lease-back, and Repurchase of Franklin School Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

253. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-354, "Child Support Enforcement Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

254. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-355, "National Museum of Women in the Arts Equitable Real Property Tax Relief Act of 1994,"pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

255. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-356, "Shiloh Baptist Church Equitable Real Property Tax Relief Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

256. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-357, "Southwest Community House Association, Inc., Equitable Real Property Tax Relief Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

257. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-358, "District of Columbia Board of Education Fees for Select Adult, Community, and Continuing Education Courses Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

258. A letter from the Chairman, Council of the District of Columbia, transmitting a

copy of D.C. Act 10-359, "Greater Mount Zion Baptist Church Equitable Real Property Tax Relief Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

259. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-360, "Paternity Establishment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

260. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-361, "Budget Spending Reduction Temporary Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

261. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-365, "Councilmembers' Salary Freeze Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

262. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-367, "Parks Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

263. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-368, "Parental Responsibility Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

264. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-369, "Court-Appointed Special Advocate Program Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

265. A letter from the Comptroller General of the United States, transmitting a copy of his report for fiscal year 1994 on each instance a Federal agency did not fully implement recommendations made by the GAO in connection with a bid protest decided during the fiscal year, pursuant to 31 U.S.C. 3554(e)(2); to the Committee on Government Reform and Oversight.

266. A letter from the Comptroller General of the United States, General Accounting Office, transmitting the list of all reports issued or released in December 1994, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

267. A letter from the Administrator, Bonneville Power Administration, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1994, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

268. A letter from the Chairman, U.S. International Trade Commission, transmitting the 80th quarterly report on trade between the United States and China, the successor states to the former Soviet Union, and other title IV countries during July-September 1994, pursuant to 19 U.S.C. 2440; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GOSS: Committee on Rules. House Resolution 55. Resolution providing for the consideration of the bill (H.R. 2) to give the President item veto authority over appropriation acts and targeted tax benefits in revenue acts (Rept. 104-15). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CALLAHAN (for himself, Mr. EVERETT, and Mr. STUMP):

H.R. 766. A bill to amend the Congressional Budget Act of 1974 to provide for a 2-year—biennial—budgeting cycle, and for other purposes; to the Committee on the Budget, and in addition to the Committees on Government Reform and Oversight, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CLINGER (for himself and Mr. WISE):

H.R. 767. A bill to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget, distinguish between Federal funds and trust funds, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CLYBURN:

H.R. 768. A bill to create a liveable wage by the year 2000; to the Committee on Economic and Educational Opportunities.

By Mr. GILLMOR (for himself, Mr. SOLOMON, Mr. CANADY, Mr. ROHRABACHER, Mr. QUINN, Mr. BEREUTER, Mr. BILIRAKIS, Mr. LIVINGSTON, Mr. BACHUS, Ms. PRYCE, Mr. MCHUGH, Ms. DANNER, Mr. MANZULLO, Mr. SCHAEFER, Mr. EMERSON, Mr. LIPINSKI, Mr. HASTERT, Mr. CALVERT, Mr. DOOLITTLE, Mr. BLUTE, Mr. KING, Mr. KNOLLENBERG, Mr. SENSENBRENNER, Mr. WALSH, Mr. DEUTSCH, Mr. PACKARD, Mr. ZIMMER, Mrs. VUCANOVICH, and Mr. HANCOCK):

H.R. 769. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Ways and Means.

By Mr. HERGER (for himself and Mr. RIGGS):

H.R. 770. A bill to declare a State of Emergency on Federal lands within the State of California for the immediate reduction in forest fuels for the prevention of catastrophic wildfire; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOYER (for himself, Mr. WELDON of Pennsylvania, and Mr. BOEHLERT):

H.R. 771. A bill to save lives, prevent injuries, and protect property through improved State and local fire safety education; to the Committee on Science.

By Ms. MCKINNEY (for herself, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BARRETT of Wisconsin, Mr. BERMAN, Mr. BISHOP, Ms. BROWN of Florida, Mr. CLAY, Mrs. CLAYTON, Mr. CLYBURN, Mr. COLEMAN, Ms. COLLINS of Michigan, Mrs. COLLINS of Illinois, Mr. CONDIT, Mr. CONYERS, Mr. DEFAZIO, Mr. DELLUMS, Mr. DURBIN, Mr. ENGEL, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR, Mr. FATTAH, Mr. FIELDS of Louisiana, Mr. FILNER, Mr. FLAKE, Mr. FOGLIETTA, Mr. FORD, Ms. FURSE, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HEFNER, Mr. HINCHEY, Mr. HILLIARD, Ms. JACKSON-LEE, Mr. JOHNSTON of Florida, Mr. KENNEDY of Massachusetts, Mr. LEACH, Mr. LEWIS of Georgia, Mrs. MALONEY, Mr. MARKEY, Mr. MCDERMOTT, Mrs. MEEK of Florida, Mr. MILLER of California, Mr. MINGE, Mrs. MINK of Hawaii, Mrs. MORELLA, Mr. NADLER, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. PASTOR, Mr. PALLONE, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PETERSON of Minnesota, Mr. RANGEL, Mr. REED, Ms. RIVERS, Mr. RUSH, Mr. SANDERS, Mr. SAWYER, Mrs. SCHROEDER, Mr. SCOTT, Mr. SERRANO, Ms. SLAUGHTER, Mr. STARK, Mr. THOMPSON, Mr. TORRES, Mr. TUCKER, Mr. UNDERWOOD, Ms. VELAZQUEZ, Mr. VENTO, Ms. WATERS, Mr. WATT of North Carolina, Mr. WILLIAMS, Ms. WOOLSEY, Mr. WYDEN, and Mr. WYNN):

H.R. 772. A bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms; to the Committee on International Relations.

By Mrs. MEYERS of Kansas (for herself, Mr. PORTMAN, Mr. SCHIFF, Mr. MCHUGH, Mr. ROHRABACHER, Ms. MOLINARI, Ms. DANNER, Mr. ACKERMAN, Ms. ESHOO, Mr. OLVER, Mr. VISCLOSKY, Mr. MANTON, Mr. JOHNSTON of Florida, Mr. WELDON of Pennsylvania, Mr. ZIMMER, Mr. SAWYER, Mr. YATES, Mr. BRYANT of Texas, Mr. VENTO, Mr. BARRETT of Wisconsin, Mrs. KELLY, Mr. DINGELL, Mr. BROWN of Ohio, and Mr. PORTER):

H.R. 773. A bill to reform the concession policies of the National Park Service, and for other purposes; to the Committee on Resources.

By Mrs. MEYERS of Kansas (for herself, Mr. ROBERTS, Mr. TIAHRT, Mr. BROWNBACK, Mr. ROHRABACHER, Mr. VISCLOSKY, Ms. MCCARTHY, Mr. SKELTON, Mr. HANCOCK, Mr. KNOLLENBERG, Mrs. SEASTRAND, Mr. LONGLEY, Mr. JACOBS, Mr. PETRI, and Ms. DANNER):

H.R. 774. A bill to amend the International Air Transportation Competition Act of 1979; to the Committee on Transportation and Infrastructure.

By Mr. MORAN:

H.R. 775. A bill to abolish the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. TORKILDSEN:

H.R. 776. A bill to protect the reproductive rights of women, and for other purposes; to the Committee on the Judiciary.

By Mrs. VUCANOVICH:

H.R. 777. A bill to amend title XIX of the Social Security Act to require State Medicaid plans to provide coverage of screening mammography; to the Committee on Commerce.

By Mrs. VUCANOVICH (for herself and Mr. Ensign):

H.R. 778. A bill to amend title XVIII of the Social Security Act to provide for coverage of an annual screening mammography under part B of the Medicare program for women age 65 or older; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. VUCANOVICH:

H.R. 779. A bill to amend title XVIII of the Social Security Act to provide for coverage of prostate cancer screening tests under part B of the Medicare program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 780. A bill to amend title XIX of the Social Security Act to provide for coverage of prostate cancer screening tests under the Medicaid program; to the Committee on Commerce.

By Mr. WELDON of Pennsylvania (for himself and Mr. Andrews):

H.R. 781. A bill to allow State and local governments to design their own programs for moving welfare recipients from dependency to economic self-sufficiency, and to allow low-income individuals to use personal savings as a foundation for achieving independence; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, Economic and Educational Opportunities, Banking and Financial Services, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WOLF:

H.R. 782. A bill to amend title 18 of the United States Code to allow members of employee associations to represent their views before the U.S. Government; to the Committee on the Judiciary.

By Mr. CAMP (for himself, Mr. Payne of Virginia, Mr. Thomas, Mr. Bunning of Kentucky, Mr. Houghton, Mr. Herger, Mr. McCrery, Mr. Hancock, Mr. English of Pennsylvania, Mr. Brewster, Mr. Bliley, Mr. Knollenberg, Mrs. Meyers of Kansas, Mr. Dooley, Mr. Barcia, Mr. Conyers, Mr. Gordon, Mr. Dickey, Mr. Wilson, Mr. Baesler, Mr. Hutchinson, Mr. Barrett of Nebraska, Mr. Canady, Mr. Hansen, Mr. Ehlers, Mr. Parker, Ms. Danner, Mr. Combest, Mr. Minge, Mr. Klug, Mr. Chrysler, Mr. Sisisky, Mr. Edwards, Mr. Hamilton, and Mr. Wolf):

H.R. 783. A bill to amend the Internal Revenue Code of 1986 to prevent the reclassification of certain dues paid to tax-exempt agricultural or horticultural organizations; to the Committee on Ways and Means.

By Mr. COX of California (for himself, Mr. Andrews, Mr. Armey, Mr. Baker of Louisiana, Mr. Bilbray, Mr. Burton of Indiana, Mr. Canady, Mr. Chrysler, Mr. Cramer, Mr. Doolittle, Mr. Dornan, Mr. Dreier, Mr. Herger, Mr. Hutchinson, Mr. King, Mr. Manzullo, Mr. Moorhead, Mr. Parker, Mr. Rohrabacher, Mr. Sensenbrenner, and Mr. Solomon):

H.R. 784. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut (for herself, Mrs. Roukema, Mrs. Kennelly, Mrs. Morella, Ms. Lowey, Mrs. Schroeder, Ms. Norton, Ms. Rivers, Mrs. Meek of Florida, Ms. Harman, Ms. Dunn of Washington, Mr. Greenwood, Ms. Pelosi, Ms. Kaptur, Ms. Eddie Bernice Johnson of Texas, Ms. DeLauro, Ms. Pryce, Ms. Molinari, Mrs. Clayton, and Ms. Woolsey):

H.R. 785. A bill to improve and strengthen the child support collection system; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, National Security, Government Reform and Oversight, International Relations, Economic and Educational Opportunities, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEWIS of Georgia (for himself, Mr. Clay, Mr. Stokes, Mr. Frazer, Mr. Reynolds, Mr. Frost, Mr. Tucker, Mr. Traficant, Mrs. Collins of Illinois, Mr. Fattah, Mr. Brown of California, Mr. Olver, Mr. Hinchey, Mr. Clyburn, Ms. Eddie Bernice Johnson of Texas, Mr. Barrett of Wisconsin, Mr. Filner, Mr. Underwood, Mr. Torres, Mr. Hilliard, Mrs. Meek of Florida, Mr. Engel, Mrs. Mink of Hawaii, Mr. Pete Geren of Texas, Mr. Tejeda, Mr. Towns, Mr. Rangel, Ms. McKinney, Mrs. Clayton, Mr. Watt of North Carolina, Mr. Thompson, Ms. Rivers, Mr. Bonior, Mr. Owens, Mr. Dellums, Mr. Fields of Louisiana, Mr. Jefferson, Mr. Rush, Ms. Norton, Mr. Wynn, Mr. Hastings of Florida, Mr. Scott, Mr. Flake, Ms. Jackson-Lee, Mr. Dixon, Mr. Bishop, Ms. Brown of Florida, Mr. Conyers, Mr. Ford, Mr. Mfume, Mr. Payne of New Jersey, Ms. Waters, and Mr. Watts of Oklahoma):

H.R. 786. A bill to authorize the establishment of the National African-American Museum within the Smithsonian Institution; to the Committee on House Oversight, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McNULTY:

H.R. 787. A bill to prohibit discrimination by the States on the basis of nonresidency in the licensing of dental health care professionals, and for other purposes; to the Committee on Commerce.

By Mr. ROYCE (for himself, Mr. Watts of Oklahoma, Mr. Emerson, Mr. Saxton, Mr. Stearns, Mr. Christensen, Mrs. Smith of Washington, Ms. Dunn of Washington, Mr. Solomon, Mr. Gallegly, Mr. Roth, Mr. Sensenbrenner, Mr. Miller of Florida, Mr. Burton, Mr. Heineman, Mr. Bachus, Mr. Rogers, Mr. Tiahrt, Mr. Longley, Mr. Doolittle, Mr. Knollenberg, Mr. Fields of Texas, Mr. Thornberry, Mr. Myers of Indiana, Mr. Calvert, Mr. Bunn of Oregon, Mr. Hunter, Mr. Hastings of Washington, Mr. Gekas, Mr. Lewis of Kentucky, Mr. Canady, Mr. Fox, Mr. Burr, Mr. McHugh, Mr. Bryant of Tennessee, Mr. Jones, Mr. Weller, Mr. Weldon of Pennsylvania, and Mr. Dornan):

H.R. 788. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to prohibit the consideration of retroactive tax increases; to the Committee on Rules.

By Mr. SENSENBRENNER:

H.R. 789. A bill to amend title 17, United States Code, with respect to the licensing of music, and for other purposes; to the Committee on the Judiciary.

By Mr. TAUZIN (for himself, Mr. Fields of Texas, Mr. Bachus, Mr. Baker of Louisiana, Mr. Ballenger, Mr. Barcia, Mr. Barrett of Nebraska, Mr. Bonilla, Mr. Bono, Mr. Brewster, Mr. Bunning of Kentucky, Mr. Callahan, Mr. Calvert, Mr. Coble, Mr. Coburn, Mr. Combest, Mr. Condit, Mr. Cox, Mr. Cunningham, Ms. Danner, Mr. Dickey, Mr. Dooley, Mr. Doolittle, Mr. Dornan, Ms. Dunn of Washington, Mr. Edwards, Mr. Emerson, Mr. Gekas, Mr. Pete Geren of Texas, Mr. Gillmor, Mr. Goodlatte, Mr. Hall of Texas, Mr. Hancock, Mr. Hastert, Mr. Hastings of Washington, Mr. Hayes, Mr. Hefley, Mr. Herger, Mr. Hoekstra, Mr. Hoke, Mr. Holden, Mr. Houghton, Mr. Hunter, Mr. Hutchinson, Mr. Inglis of South Carolina, Mr. Istook, Mr. Sam Johnson, Mr. King, Mr. Knollenberg, Mrs. Lincoln, Mr. Laughlin, Mr. Lewis of California, Mr. Lewis of Kentucky, Mr. Lightfoot, Mr. Livingston, Mr. McCollum, Mr. McCrery, Mr. McHugh, Mr. McKeon, Mr. Miller of Florida, Mr. Montgomery, Mr. Moorhead, Mr. Ortiz, Mr. Oxley, Mr. Packard, Mr. Parker, Mr. Paxon, Mr. Pickett, Mr. Pombo, Mr. Roberts, Mr. Rohrabacher, Mr. Royce, Mr. Sensenbrenner, Mr. Skeen, Mr. Skelton, Mr. Solomon, Mr. Souder, Mr. Stenholm, Mr. Stump, Mr. Talent, Mr. Taylor of North Carolina, and Mr. Wilson):

H.R. 790. A bill to require certain Federal agencies to protect the rights of private property owners; to the Committee on the Judiciary, and in addition to the Committees on Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SLAUGHTER:

H. Con. Res. 21. Concurrent resolution expressing the sense of the Congress concerning the trafficking of Burmese women and girls into Thailand for the purposes of forced prostitution; to the Committee on International Relations.

By Mr. WELDON of Pennsylvania:

H. Res. 56. Resolution to amend the Rules of the House of Representatives to require the Committee on Ways and Means to include in committee reports the identity, sponsor, and revenue cost of single-taxpayer relief provisions contained in reported bills; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 6: Mr. FIELDS of Texas.

H.R. 9: Mrs. SEASTRAND, Mr. ROBERTS, Mr. POMBO, Mr. CRANE, and Mr. FIELDS of Texas.

H.R. 11: Mr. BROWNBACK, Mr. MCKEON, and Mr. FIELDS of Texas.

H.R. 22: Mr. KING.

H.R. 23: Mr. ENGLISH of Pennsylvania, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HILLIARD, Mr. HASTINGS of Florida, and Ms. LOWEY.

H.R. 24: Mr. GILLMOR.

H.R. 28: Mr. SOLOMON.

H.R. 76: Mr. SERRANO, Mr. DOOLEY, and Mr. SANDERS.

H.R. 101: Mr. SCHIFF and Mr. SKEEN.

H.R. 104: Mrs. KELLY, Ms. DUNN of Washington, and Mr. GENE GREEN of Texas.

H.R. 127: Mr. TORRICELLI, Mr. MCHALE, Mrs. LINCOLN, Ms. MCKINNEY, Mr. JACOBS, and Mr. CRAPO.

H.R. 130: Mr. COX.

H.R. 209: Mr. ARMEY, Mr. NEUMANN, and Mr. HOSTETTLER.

H.R. 214: Mr. SAM JOHNSON and Mr. FLANAGAN.

H.R. 218: Mr. HUTCHINSON.

H.R. 244: Mr. WELDON of Pennsylvania, Mr. OLVER, Mr. FROST, Mr. EVANS, Mr. MINGE, Mr. NADLER, Mr. SHAYS, Mr. BROWN of California, and Mr. NEY.

H.R. 325: Mr. WELDON of Florida and Mr. RIGGS.

H.R. 353: Mr. SHAYS and Mr. TORRICELLI.

H.R. 359: Mr. HOBSON, Mr. LEACH, and Ms. WATERS.

H.R. 370: Mr. FLANAGAN, Mr. WELDON of Florida, and Mr. INGLIS of South Carolina.

H.R. 390: Mr. CANADY, Mr. MCDADE, Mr. HOEKSTRA, Mr. HUTCHINSON, Ms. DELAURO, Mr. TORKILDSEN, Mr. STARK, Mr. TALENT, Mr. SPRATT, Mr. PETRI, Mr. GEPHARDT, Mr. KILDEE, Mr. NEY, Mr. FOLEY, Mr. NEAL of Massachusetts, Mr. BONILLA, Mr. BEREUTER, Ms. FURSE, Mr. ALLARD, Mr. SAXTON, Ms. PRYCE, Ms. NORTON, and Mr. KOLBE.

H.R. 427: Mr. SAM JOHNSON and Mr. BUNN of Oregon.

H.R. 445: Ms. MCCARTHY, Mr. UNDERWOOD, Mr. KILDEE, Ms. MCKINNEY, Mr. THORNTON, Ms. DANNER, Mr. TORRES, Mr. LAFALCE, and Mrs. MALONEY.

H.R. 470: Mr. KING, Mr. WELDON of Pennsylvania, Mr. ACKERMAN, and Mrs. MALONEY.

H.R. 485: Mr. DORNAN.

H.R. 525: Mr. ROYCE, Mr. DOOLITTLE, Mr. PACKARD, and Mr. CHRYSLER.

H.R. 564: Mr. BORSKI.

H.R. 574: Mr. BRYANT of Texas.

H.R. 588: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 592: Mr. GENE GREEN of Texas and Mr. HUNTER.

H.R. 660: Mrs. THURMAN.

H.R. 663: Mr. WAMP, Mr. LOBIONDO, and Mr. EMERSON.

H.R. 681: Mr. PALLONE and Mrs. LINCOLN.

H.R. 692: Mr. HAMILTON, Mr. SOLOMON, Mr. BEREUTER, Mr. ENGLISH of Pennsylvania, Mr. PETE GEREN of Texas, and Mr. BOUCHER.

H.R. 696: Mr. TALENT, Mr. FOX, Mr. ROYCE, Mr. METCALF, Mr. SAXTON, and Mr. DORNAN.

H.J. Res. 3: Mr. MCCRERY.

H.J. Res. 48: Mr. BUNN of Oregon, Mrs. VUCANOVICH, and Mr. MCHUGH.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2

OFFERED BY: MR. CLINGER

AMENDMENT NO. 10: In section 2(a), strike "discretionary budget authority" and insert "the dollar amount of any discretionary budget authority specified in an appropriation Act or an accompanying committee report or joint explanatory statement accompanying a conference report on that Act".

H.R. 2

OFFERED BY: MR. DEAL OF GEORGIA

AMENDMENT NO. 11: At the end, add the following new section:

SEC. 7. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this Act violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

H.R. 2

OFFERED BY: MR. EDWARDS

AMENDMENT NO. 12: At the end of section 2, insert the following:

(d) EXCEPTION.—The President may not include in a special message a rescission of an amount of less than $50,000,000 that was appropriated for a program, project, or activity within the national defense budget function (function 050).

H.R. 2

OFFERED BY: MR. KASICH

AMENDMENT NO. 13: In section 2(a), after "discretionary budget authority" insert "or veto all or part of any provision of law increasing direct spending authority".

In section 2(a)(2), after "such budget authority" insert "or an Act providing such direct spending authority, or".

In section 2(c), strike "and" and insert ", for each Act making direct spending,".

In section 4(1), after "targeted tax benefits" insert "and vetoes of all or part of any provision of law increasing direct spending authority".

In section 4(1)(B), strike "and" at the end of subdivision (i) and at the end add the following:

(iii) in the case of a special message regarding vetoes of all or part of any provision of law increasing direct spending authority, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of direct spending authority of the President as submitted by the President in a special message on ", the blank space being filled in with the appropriate date and the public law to which the message relates; and

At the end of section 4, add the following new paragraph:

(5) The term "direct spending authority" has the meaning given the term "direct spending" by section 205(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985 except that it does not include Social Security.

In paragraph (1) of section 6, insert "and veto of a provision of law increasing direct spending" after "tax benefit" the first place it appears.

In paragraph (1) of section 6, insert "or veto of a provision of law increasing direct spending" after "tax benefit" the second place it appears.

In paragraph (2) of section 6, insert "and vetoes of a provision of law increasing direct spending" after "tax benefit".

In paragraph (3) of section 6, insert "or vetoes of a provision of law increasing direct spending" after "tax benefit".

Strike "rescission/receipts" each place it appears and insert "rescission/direct spending/receipts".

H.R. 2

OFFERED BY: MRS. LOWEY

AMENDMENT NO. 14: The first sentence of section 5(d)(1) is amended by striking "without amendment" and inserting "without amendments except amendments to strike any rescission or rescissions of budget authority".

Section 5(d)(2) is amended by striking the eighth and ninth sentences and inserting the following:

No amendment to the bill is in order except amendments to strike any rescission or rescissions of budget authority. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion.

In section 3(a)(1), strike "all of".

H.R. 2

OFFERED BY: MR. OBEY

AMENDMENT NO. 15: At the end of section 2, add the following new subsection:

(d) SPECIAL RULE FOR FY 1995 Appropriation Measures.—Notwithstanding subsection (a)(2), in the case of any unobligated discretionary budget authority provided by any appropriation Act for fiscal year 1995, the President may rescind all or part of that discretionary budget authority under the terms of this Act if the President notifies the Congress of such rescission by a special message not later than ten calendar days (not including Sundays) after the date of enactment of this Act.

H.R. 2

OFFERED BY: MR. OBEY

AMENDMENT NO. 16: Section 2(a)(2) is amended by inserting "(or in the case of any appropriation Act for fiscal year 1995, 200 calendar days (not including Sundays))" after "appropriation Act".

H.R. 2

OFFERED BY: MR. ORTON

AMENDMENT NO. 17: At the end of section 4, add the following new paragraph:

(5) The term "discretionary budget authority" includes authority to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriations Acts.

Paragraph (4) of section 4 is amended by adding at the end the following new sentence: "The term also includes any Act that provides the authority described in paragraph (5).".

H.R. 2

OFFERED BY: MS. PELOSI

AMENDMENT NO. 18: Section 2 is amended by adding at the end the following new subsection:

(d) LIMITATION.—No special message submitted by the President under this section may change any prohibition or limitation of discretionary budget authority set forth in any appropriation Act.

H.R. 2

OFFERED BY: MS. SLAUGHTER

AMENDMENT NO. 19: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

SEC. 2. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority or veto any targeted tax benefit within any revenue bill which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than twenty calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriation act or a joint resolution making continuing appropriations providing such budget authority or a revenue bill containing a targeted tax benefit.

The President shall submit a separate rescission message for each appropriation bill and for each revenue bill under this paragraph.

SEC. 3. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Any amount of budget authority rescinded under this Act as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under this Act as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under this Act and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "rescission/receipts disapproval bill" means a bill or joint resolution which—

(A) only disapproves a rescission of budget authority, in whole, rescinded, or

(B) only disapproves a veto of any provision of law that would decrease receipts,

in a special message transmitted by the President under this Act.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision which has the practical effect of providing a benefit in the form of a differential treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.

SEC. 5. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in this Act or vetoes any provision of law as provided in this Act, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to this Act;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all factions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under this Act shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under this Act shall be printed in the first issue of the Federal Register published after such transmittal.

(c) REFERRAL OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—Any rescission/receipts disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

(d) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this Act.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(e) POINTS OF ORDER.—

(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under this Act.

(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

H.R. 2

OFFERED BY: MR. SPRATT

AMENDMENT NO. 20: In section 2(a), insert "or tax incentive" after "tax benefit" the first place it appears.

At the end of Section 4, insert the following new paragraph:

(5) The term "tax incentive" means any deduction, credit, preference, or exemption from gross income, or any deferral of tax liability, causing tax revenues to be forgone as inducement for taxpayers to pursue or forbear from certain actions or activities.

H.R. 2

OFFERED BY: MR. STENHOLM

AMENDMENT NO. 21: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

TITLE I—LINE ITEM VETO

SEC. 101. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority or veto any targeted tax benefit which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than ten calendar days (not including Sundays) after the date of enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

(b) DEFICIT REDUCTION.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) SEPARATE MESSAGES.—The President shall submit a separate special message for each appropriation Act and for each revenue or reconciliation Act under this paragraph.

(d) SPECIAL RULE.—For any rescission of budget authority, the President may either submit a special message under this section or under section 1012 of the Impoundment Control Act of 1974. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 1012 of that Act.

SEC. 102. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Any amount of budget authority rescinded under section 101 as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under section 101 as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under section 101 and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 103. DEFINITIONS.

As used in this title:

(1) The term "rescission/receipts disapproval bill" means a bill or joint resolution which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this Act and—

(A) which does not have a preamble;

(B)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on ________", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on ________", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: "A bill disapproving the recommendations submitted by the President on ________", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term "appropriation Act" means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 104. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in section 101 or vetoes any provision of law as provided in 101, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to section 101;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under section 101 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under section 101 shall be printed in the first issue of the Federal Register published after such transmittal.

(c) INTRODUCTION OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 101.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. After general debate the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on

the bill to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this title.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this title.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under section 101.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 105. REPORTS OF THE GENERAL ACCOUNTING OFFICE.

Beginning on January 6, 1996, and at one-year intervals thereafter, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(6) A summary of the information provided by paragraphs (2), (3) and (5) for each of the ten fiscal years ending before the fiscal year during this calendar year.

SEC. 106. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this title violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

TITLE II—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS

SEC. 201. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit unless the President also proposes a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal; and

"(F) a reduction in the appropriate discretionary spending limit set forth in section

601(a)(2) of the Congressional Budget Act of 1974, if proposed by the President.

(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 101 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 101 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session;

"(3) the term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities; and

"(4) the term 'beneficiary' means any taxpayer or any corporation, partnership, institution, organization, item of property, State, or civil subdivision within one or more States. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

H.R. 2

OFFERED BY: MR. STENHOLM

AMENDMENT NO. 22: After section 1, add the following new center heading:

TITLE I—LINE ITEM VETO

Redesignate sections 2 through 6 as sections 101 through 105, respectively, and redesignate all cross-references accordingly.

At the end of section 101 (as redesignated), add the following new subsection:

(d) SPECIAL RULE.—For any rescission of budget authority, the President may either submit a special message under this section or under section 1012 of the Impoundment Control Act of 1974. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 1012 of that Act.

In sections 101 through 104, strike "this Act" each place it appears and insert "this title".

At the end, add the following:

SEC. 106. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this title violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

TITLE II—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS

SEC. 201. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit unless the President also proposes a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal; and

"(F) a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974, if proposed by the President.

"(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 101 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 101 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session; and

"(3) The term 'targeted tax benefit' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

"(4) The term 'beneficiary' means any taxpayer or any corporation, partnership, institution, organization, item of property, State, or civil subdivision within one or more States. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

H.R. 2

OFFERED BY: MR. STENHOLM

AMENDMENT NO. 23: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

TITLE I—LINE ITEM VETO

SEC. 101. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority or veto any targeted tax benefit which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than ten calendar days (not including Sundays) after the date of enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

(b) DEFICIT REDUCTION.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) SEPARATE MESSAGES.—The President shall submit a separate special message for each appropriation Act and for each revenue or reconciliation Act under this paragraph.

(d) SPECIAL RULE.—For any rescission of budget authority, the President may either submit a special message under this section or under section 1012 of the Impoundment Control Act of 1974. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 1012 of that Act.

SEC. 102. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Any amount of budget authority rescinded under section 101 as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under section 101 as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under section 101 and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 103. DEFINITIONS.

As used in this title:

(1) The term "rescission/receipts disapproval bill" means a bill or joint resolution which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this Act and—

(A) which does not have a preamble;

(B)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on _______", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on _______", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: "A bill disapproving the recommendations submitted by the President on _______", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term "appropriation Act" means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 104. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in section 101 or vetoes any provision of law as provided in 101, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to section 101;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under section 101 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under section 101 shall be printed in the first issue of the Federal Register published after such transmittal.

(c) INTRODUCTION OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 101.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. After general debate the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this title.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this title.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the

mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under section 101.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 105. REPORTS OF THE GENERAL ACCOUNTING OFFICE.

Beginning on January 6, 1996, and at one-year intervals thereafter, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(6) A summary of the information provided by paragraphs (2), (3) and (5) for each of the ten fiscal years ending before the fiscal year during this calendar year.

TITLE II—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS

SEC. 201. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit unless the President also proposes a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal; and

"(F) a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974, if proposed by the President.

(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 101 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 101 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session;

"(3) the term 'targeted tax benefit' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities; and

"(4) the term 'beneficiary' means any taxpayer or any corporation, partnership, institution, organization, item of property, State, or civil subdivision within one or more States. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

H.R. 2

OFFERED BY: MR. STENHOLM

AMENDMENT NO. 24: After section 1, add the following new center heading:

TITLE I—LINE ITEM VETO

Redesignate sections 2 through 6 as sections 101 through 105, respectively, and redesignate all cross-references accordingly.

At the end of section 101 (as redesignated), add the following new subsection:

(d) SPECIAL RULE.—For any rescission of budget authority, the President may either submit a special message under this section or under section 1012 of the Impoundment Control Act of 1974. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 1012 of that Act.

In sections 101 through 104, strike "this Act" each place it appears and insert "this title".

At the end, add the following:

TITLE II—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS

SEC. 201. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission.

Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit unless the President also proposes a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal; and

"(F) a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974, if proposed by the President.

(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 101 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 101 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session; and

"(3) The term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

"(4) The term 'beneficiary' means any taxpayer or any corporation, partnership, institution, organization, item of property, State, or civil subdivision within one or more States. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) Exercise of Rulemaking Powers.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) Conforming Amendments.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) Clerical Amendments.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

H.R. 2

Offered By Mr. Stenholm

Amendment No. 25: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

TITLE I—LINE ITEM VETO

SEC. 101. LINE ITEM VETO AUTHORITY.

(a) In General.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority or veto any targeted tax benefit which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than ten calendar days (not including Sundays) after the date of enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

(b) Deficit Reduction.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) Separate Messages.—The President shall submit a separate special message for each appropriation Act and for each revenue or reconciliation Act under this paragraph.

(d) Special Rule.—For any rescission of budget authority, the President may either submit a special message under this section or under section 1012 of the Impoundment Control Act of 1974. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 1012 of that Act.

SEC. 102. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Any amount of budget authority rescinded under section 101 as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under section 101 as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under section 101 and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 103. DEFINITIONS.

As used in this title:

(1) The term "rescission/receipts disapproval bill" means a bill or joint resolution which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this Act and—

(A) which does not have a preamble;

(B)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on ______", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on ______", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: "A bill disapproving the recommendations submitted by the President on ______", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term "appropriation Act" means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 104. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) Presidential Special Message.—Whenever the President rescinds any budget authority as provided in section 101 or vetoes any provision of law as provided in 101, the

President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to section 101;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under section 101 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under section 101 shall be printed in the first issue of the Federal Register published after such transmittal.

(c) INTRODUCTION OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 101.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. After general debate the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this title.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this title.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under section 101.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 105. REPORTS OF THE GENERAL ACCOUNTING OFFICE.

Beginning on January 6, 1996, and at one-year intervals thereafter, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(6) A summary of the information provided by paragraphs (2), (3) and (5) for each of the ten fiscal years ending before the fiscal year during this calendar year.

SEC. 106. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this title violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

TITLE II—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS

SEC. 201. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal.

(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 101 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 101 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term legislative day means, with respect to either House of Congress, any day of session;

"(3) the term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities; and

"(4) the term 'beneficiary' means any taxpayer or any corporation, partnership, institution, organization, item of property, State, or civil subdivision within one or more States. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

H.R. 2

OFFERED BY: MR. STENHOLM

AMENDMENT NO. 26:

After section 1, add the following new center heading:

TITLE I—LINE ITEM VETO

Redesignate sections 2 through 6 as sections 101 through 105, respectively, and redesignate all cross-references accordingly.

At the end of section 101 (as redesignated), add the following new subsection:

(d) SPECIAL RULE.—For any rescission of budget authority, the President may either submit a special message under this section or under section 1012 of the Impoundment Control Act of 1974. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 1012 of that Act.

In sections 101 through 104, strike "this Act" each place it appears and insert "this title".

At the end, add the following:

SEC. 106. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this title violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

TITLE II—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS

SEC. 201. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal.

(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 101 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 101 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session; and

"(3) the term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

"(4) the term 'beneficiary' means any taxpayer or any corporation, partnership, institution, organization, item of property, State, or civil subdivision within one or more States. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) Clerical Amendments.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

H.R. 2

Offered By: Mr. Stenholm

Amendment No. 27: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

TITLE I—LINE ITEM VETO

SEC. 101. LINE ITEM VETO AUTHORITY.

(a) In General.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority or veto any targeted tax benefit which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than ten calendar days (not including Sundays) after the date of enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

(b) Deficit Reduction.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) Separate Messages.—The President shall submit a separate special message for each appropriation Act and for each revenue or reconciliation Act under this paragraph.

(d) Special Rule.—For any rescission of budget authority, the President may either submit a special message under this section or under section 1012 of the Impoundment Control Act of 1974. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 1012 of that Act.

SEC. 102. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Any amount of budget authority rescinded under section 101 as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under section 101 as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under section 101 and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 103. DEFINITIONS.

As used in this title:

(1) The term "rescission/receipts disapproval bill" means a bill or joint resolution which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this Act and—

(A) which does not have a preamble;

(B)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on ________", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on ________", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: "A bill disapproving the recommendations submitted by the President on ________", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term "appropriation Act" means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 104. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) Presidential Special Message.—Whenever the President rescinds any budget authority as provided in section 101 or vetoes any provision of law as provided in 101, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to section 101;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) Transmission of Messages to House and Senate.—

(1) Each special message transmitted under section 101 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under section 101 shall be printed in the first issue of the Federal Register published after such transmittal.

(c) Introduction of Rescission/Receipts Disapproval Bills.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 101.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. After general debate the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this title.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this title.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under section 101.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 105. REPORTS OF THE GENERAL ACCOUNTING OFFICE.

Beginning on January 6, 1996, and at one-year intervals thereafter, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(6) A summary of the information provided by paragraphs (2), (3) and (5) for each of the ten fiscal years ending before the fiscal year during this calendar year.

TITLE II—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS

SEC. 201. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal;

(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 101 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 101 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session;

"(3) the term 'targeted tax benefit' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities; and

"(4) the term 'beneficiary' means any taxpayer or any corporation, partnership, institution, organization, item of property, State, or civil subdivision within one or more States. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

H.R. 2

OFFERED BY: MR. STENHOLM

AMENDMENT NO. 28: After section 1, add the following new center heading:

TITLE I—LINE ITEM VETO

Redesignate sections 2 through 6 as sections 101 through 105, respectively, and redesignate all cross-references accordingly.

At the end of section 101 (as redesignated), add the following new subsection:

(d) SPECIAL RULE.—For any rescission of budget authority, the President may either submit a special message under this section or under section 1012 of the Impoundment Control Act of 1974. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 1012 of that Act.

In sections 101 through 104, strike "this Act" each place it appears and insert "this title".

At the end, add the following:

TITLE II—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS

SEC. 201. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal.

(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 101 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 101 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session; and

"(3) The term 'targeted tax benefit' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

"(4) The term 'beneficiary' means any taxpayer or any corporation, partnership, institution, organization, item of property, State, or civil subdivision within one or more States. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

H.R. 2

OFFERED BY: MS. WATERS

AMENDMENT NO. 29: The first sentence of paragraph (3) of section 4 is amended by inserting "or which the President determines would yield at least 50 percent of its benefit to the top 10 percent of income earners" before the period.

H.R. 2

OFFERED BY: MS. WATERS

AMENDMENT NO. 30: The first sentence of paragraph (3) of section 4 is amended by inserting "or which the President determines would yield at least 20 percent of its benefit to the top 1 percent of income earners" before the period.

H.R. 2

OFFERED BY: MR. WISE

AMENDMENT NO. 31: Strike all after the enacting clause and insert the following:

SECTION 1. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit unless the President also proposes a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided; and

"(F) a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974, if proposed by the President.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session; and

"(3) The term 'targeted tax benefit' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

H.R. 2

OFFERED BY: MR. ZIMMER

AMENDMENT No. 32: Section 5(d)(2) is amended by striking the eighth and ninth sentences and inserting the following:

No amendment to the bill is in order except amendments to strike any rescission or rescissions of budget authority. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion.

EXTENSIONS OF REMARKS

RECOGNITION OF ALBANIA AT THE HOLOCAUST MEMORIAL MUSEUM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. GILMAN. Mr. Speaker, this is a deserving, befitting occasion for Albania and the friends of Albania everywhere. Today we have rectified an unintentional omission of Albania from the scroll of the "Righteous Among Nations" here at the Holocaust Memorial Museum. This omission resulted from the fact that for more than 50 years Albania had been sealed behind a wall that was erected by one of the most repressive governments in this century. Its citizens were forbidden from any contact with the rest of the world, and its history was a forbidden topic of discussion among the Albanian population. One of the most noble chapters in that history is the contributions that the people of Albania made in shielding its Jewish population, as well as many Jews who fled to Albania, from the ravages of the Holocaust.

The evidence of this considerable contribution came to light when my good friends and colleagues, former Congressman Joseph DioGuardi, and Congressman Tom Lantos visited Albania shortly after the fall of the Communist dictatorship there in 1990. They discovered there was hard evidence that during the dark days of the Second World War in this mostly Moslem country, people of conscience risked their lives to protect their fellow men, women, and children from the monstrously inhumane period we now call the Holocaust.

Former Congressman Joe DioGuardi brought back this rudimentary evidence and commenced the painstaking task of identifying the names of individuals and linking them to the heroic actions which we recognize today. Joe's research was then turned over to the experts in this country and to those associated with Yad Vashem, the Holocaust Memorial in Jerusalem, who after some period of time were able to verify the names of the Albanians which are now unveiled on the wall of the Righteous Gentiles—names which now are engraved in stone so that history will not once again be able to overlook them.

I salute Joe DioGuardi and Tom Lantos for their excellent work in helping to add to our collective consciousness of the fact that out of even the most horrible evil, good can surface. In Albania, as in everywhere else in Europe that was subjected to the boot of the Nazis, people resisted, and attempted, at risk to their lives and those of their families, to protect the innocent people who were slated for extermination simply by virtue of their adherence to the Jewish faith.

To our Albanian friends joining us today, it is hoped the examples of your forebears whose names are now inscribed in this memorial will serve as an inspiration as we again face new conflicts fueled by ethnic hatred in the Balkans. May you preserve and keep alive their dedication, their spirit of toleration, and reverence for life.

TRIBUTE TO EDWARD HIDALGO

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. SKELTON. Mr. Speaker, today I wish to pay tribute to a former Secretary of the Navy, Edward Hidalgo, who recently passed away. Hidalgo, who served the Navy as the Secretary from 1979 to 1981 was also a lawyer in Washington who specialized in international corporate law.

Hidalgo, born in Mexico City, came to the United States in 1918 and grew up in New York. He graduated magna cum laude from Holy Cross College in 1933 and in 1936 he graduated from Columbia University Law School. He received another law degree in civil law from the University of Mexico Law School. He practiced law in New York before his service in the Navy.

He began his service in the Navy in 1942, during World War II, during which time he was assigned to the State Department where he was a legal advisor in 1942 and 1943. He was later assigned to the Pacific as an air combat intelligence officer aboard the carrier *Enterprise*. Hidalgo received the Bronze Star for his service.

Following World War II, in 1945, he worked on the Eberstadt Committee on the Unification of the Armed Services. He was special assistant to Navy Secretary James Forrestal in 1945 and 1946. After which he continued to practice international law in Mexico and then Paris.

Hidalgo became the Assistant Secretary of the Navy for Manpower, Reserve Affairs, and Logistics in 1977. In October 1979, he became the Secretary of the Navy.

Edward Hidalgo not only faithfully served this country throughout his lifetime, but lived his life to the fullest in all that he partook. I urge my colleagues to join me in sending sympathy to the members of his family that he leaves. Survivors include his wife, Belinda, four children, and six grandchildren.

INTEREST RATES SHOULD NOT BE RAISED

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. MOAKLEY. Mr. Speaker, I rise today to urge Alan Greenspan and the Federal Reserve to not raise interest rates again for the seventh time in a year. For months we have seen good numbers in unemployment and the gross national product, yet our working people have not seen this prosperity. This recovery is a slow one, and many have not felt its positive effects on their lives. While we all struggle to find an answer to these puzzling economic times, one thing seems clear: Another interest rate hike by the Fed is not the answer.

True, many traditional indicators are up. However, there are many warning signs that the economy is slowing down. Commercial real estate, retail sales, and single-family home construction is lagging behind, as is the recovery of our working people.

These are difficult times. People in my district are working longer hours for less pay, in jobs that they are often over-qualified for. Many don't even know if the job they have today will be there for them tomorrow. In many companies, the trend is to hire workers for temporary positions, those that do not provide health care and other benefits. This kind of instability and uneasiness does not make my constituents feel like the economy is strong—they wonder when the recovery will help them.

It is true that the Fed needs to guard against inflation—but these times do not warrant another change. Inflation indicators show no signs of a drastic change upward. Therefore, the Fed has no need to make drastic moves in raising rates. Since our economic recovery has begun, the Fed has kept monetary policy tight, in order to keep growth slow. Now, it is time for the Fed to allow the recovery to reach those that need a boost the most—the working people of America.

LINE-ITEM VETO

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. PACKARD. Mr. Speaker, my Republican colleagues and I came prepared to cure Congress of its spending addiction. We offered up our prescription in our Contract With America. Now we are busy carrying out the treatment.

Last week, we passed the balanced budget amendment, and this week we are ready to administer the next part of the cure—the line-item veto. Our President will have at his disposal the same legislative scalpel that 43 of our Nation's Governors use to cut wasteful spending out of their budgets.

Mr. Speaker, I would like to take this opportunity to recognize former President Ronald Reagan as the "Godfather" of the Federal line-item veto. It would be a great honor to cure this Nation of its spending illness and pass on the legacy of the Reagan budgetary remedy—the Federal line-item veto. This is the fiscal treatment the American people have been waiting for.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, the American taxpayer works hard for every dollar they earn and have to send to Washington. The least we can do is make sure that we work together to spend those dollars wisely.

RIVERHEAD PUBLIC SERVANT

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. FORBES. Mr. Speaker, an invaluable public servant is retiring after years of exemplary service as the town supervisor of Riverhead. Since 1979, Joe Janoski has been well respected by many people throughout the State, county, and town governments for his knowledge and experience in local government. In addition to this service, Joe serves as a member of many community organizations including: Knights of Columbus; Lifetime Member of the Polish Town Civic Association; and the Boy Scouts of America.

He is known and respected for his presence at all community functions. He is recognized for his outstanding service and dedication to the community by numerous community organizations including the Riverhead Tri-Club—Rotary, Kiwanis, Lions—and was awarded Man of the Year by the Riverhead Chamber of Commerce.

His greatest accomplishments are the rebirth of balanced economic growth of the town and the professionalization of Riverhead government. He led the way for townwide extension of public water, upgrading and improvement of the town's sewer district facilities, establishment of a scavenger waste facility, establishment of a juvenile aide bureau, and many other milestone projects.

We all wish Joe the best in his well-deserved retirement and owe him a big thank you.

THE STATE OF THE UNION ADDRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, February 1, 1995, into the CONGRESSIONAL RECORD.

THE STATE OF THE UNION ADDRESS

There was a lot of pressure on President Clinton going into his State of the Union Address, with many calling it one of the most critical speeches of his presidency. Americans want him to cooperate with Congress, but also to show he has backbone and can stand up for his principles. The changes voters called for in November have clearly put him on the defensive and have left him struggling to find his agenda for the next two years. The President spoke about where he wants to take our country and how he intends to work with the new Congress to accomplish his goals for the nation. He had mixed success.

Overview: President Clinton said the country is stronger than it was two years ago, but he is concerned that not all Americans shared in the gains. He insisted that government should work better for average Americans.

His overall emphasis was that we should work together for the common good. He is clearly worried that the "common bonds of community" have become "badly frayed"—citizens are working together less and shouting at each other more. He stressed the shared responsibilities of government and citizens. In contrast to his speech in 1994, he articulated no new major federal programs. His speech was short on demands for action, but long on appeals for responsibility and comity.

He endorsed some traditional programs—school lunch, Head Start, clean air and water—and called for an increased minimum wage and a national campaign against teenage pregnancy. He considerably scaled back his goals for health care reform. He sounded conservative themes when he advocated downsizing government, cutting regulations, reforming welfare, cutting taxes, and strengthening defense. He attacked lobbyists, and called on Congress to pass lobbying and campaign finance reform. He spoke only briefly about foreign affairs, urging Congress to pass the Mexican loan guarantees, the START II Treaty, and new legislation to strengthen our hand against terrorists.

Apparently the American people still listen to President Clinton. Polls indicate that some 80% of viewers approved of the direction he laid out for the country in his speech.

Drawbacks: The speech was too long—eighty-one minutes. This president clearly likes to talk; as usual, he spoke easily and forcefully. He spoke with humor, extended a conciliatory hand, and acknowledged his own mistakes.

But I left the speech feeling that in some ways an opportunity was lost. He had a chance to explain his core principles to the American people in simple terms. Yet the speech was clearly too long and too diffuse, and did not convey forcefully his convictions and his agenda. It covered some three dozen different programs and subjects, making it hard for listeners to pick out a few central themes.

Major Points: Politically his speech was right down the middle—a very centrist speech. He avoided the extremes of the right and the left, favoring a smaller, less costly government but still acknowledging a role for government.

The President stressed putting away partisan differences and pettiness and working toward the common good. These comments were well received by the American people, but the partisan nature of Members' applause throughout the speech instead might suggest a difficult year ahead.

"Opportunity" and "responsibility" were words often repeated, and he talked at length about a "new covenant" between government and the American people: Government will help them obtain the tools they need to improve their lives, while in return asking them to take responsibility for themselves and their communities. This means, for example, asking welfare recipients to work when possible and college students to perform community service in return for student loans.

He said that the federal government can be downsized. He noted the 100,000 federal jobs he has already cut and pointed out how changes already in the works will result in the smallest federal workforce next year since the days of President Kennedy. At the same time, he said that government still has an important role to play. He does not view government as the enemy, but as a partner. It should not do things for us that we can do ourselves, but we should use government to do those things we can only do together.

The President said Congress should not go too far and roll back the progress made on cutting the deficit, reforming education, fighting crime, or improving public health and the environment. He said the new Congress should not respond to voter anger by taking it out on the most vulnerable in society—particularly the elderly and young children. As the President put it, we want lean government not a mean government.

The President stressed the need to prepare the American people for the demands of the new global economy. He mentioned vigilance on the deficit, reducing barriers to American exports, and his Middle Class Bill of Rights to help middle class families raise and educate their children, train for higher paying jobs, buy a first home, and save for retirement. He put a heavy emphasis on education as a key investment in our country's future.

The President was precise and forthright on some issues, like welfare reform and tax cuts, and oblique on others, like a balanced budget amendment, unfunded federal mandates, and deregulation. At times he displayed forceful leadership, and at other times he did not dispel the doubts about his position and his leadership.

What's Next: In the weeks ahead, the President must sharpen his vision for America. And then he needs to follow through. That will be the real test. Many Americans comment on a wide gap between the Clinton promises and the Clinton performance, and they question how long the President's positions will stand. He needs a strong follow through and a sharply focused agenda to build on the favorable reactions to his speech.

EYE BANK ASSOCIATION OF AMERICA—MARCH 1995 NATIONAL EYE DONOR MONTH PROCLAMATION

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. COMBEST. Mr. Speaker, across the country, transplantation surgeries are saving and enhancing many lives. Eye, organ, and tissue donation and transplantation have benefited thousands of people nationwide. Today, I am asking that we take a moment to focus on eye donation and on the importance of preserving and restoring sight through the miracle of corneal transplantation. The benefits of sight restoring transplant surgery extend beyond the individuals who received the transplants; they also extend to the recipients' families, communities, and businesses. In recent years, the efforts of Congress, educators, and the media have had an enormous positive impact on the success of eye donor programs.

Every year thousands of corneal transplants are performed across the country, restoring precious sight to young and old. In 1993, over 90,000 eyes were donated to eye banks across the United States. From those eyes, over 40,000 corneas were used in transplantation procedures. The remaining eyes were used for research, training, and other surgical procedures. While the figures for 1994 are still being tallied, even greater totals are projected.

Anyone can be an eye donor. Neither cataracts, poor eyesight, nor age prohibit one from being a donor. However, it is important for individuals who want to be donors to inform family members of their wishes.

Since 1961, when the Eye Bank Association of America [EBAA] was founded, EBAA member eye banks have made possible one-half million corneal transplants, with a success rate of over 90 percent. The EBAA is the Nation's oldest national transplant association. The EBAA is dedicated to the restoration of sight through the promotion and advancement of eye banking. It has led the transplantation field with the establishment of medical standards for the procurement and distribution of eyes and comprehensive training and certification programs for eye banking personnel. These standards have been used as models for other transplantation organizations. There are over 110 member eye banks operating in over 150 locations in 43 States, the District of Columbia, Puerto Rico, Canada, Saudi Arabia, England, and Australia.

Despite the extraordinary efforts of eye banks, there are still many people who wait in darkness for corneal transplant surgeries due to a lack of donated tissue. At any time in the United States, about 6,000 people are on waiting lists for corneal transplants. Public education is the best way to increase donation, as it enables people to talk to their loved ones and learn of their wishes before times of crisis and grief.

We, in Congress, can lead the effort to educate the public about the need for eye donation and encourage more Americans to become donors. We have joined the Eye Bank Association of America every year since 1983, and do so again by proclaiming March 1995 as National Eye Donor Month. In so doing, we call on all Americans to support us in promoting the worthy endeavor of enhancing the lives of fellow citizens through the restoration of sight.

25TH ANNIVERSARY OF RIDGEWOOD-BUSHWICK SENIOR CITIZENS CENTER

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Ms. VELÁZQUEZ. Mr. Speaker, I want to take this moment to offer my congratulations to the Ridgewood-Bushwick Senior Citizens Center [RBSCC] on its 25th anniversary celebration.

Through the leadership of its founder and first director, Assemblyman Vito Lopez, and the support of its staff, the elderly community of Bushwick has a center that is dedicated and committed to them and their families. Like the arches that support our city's bridges, the RBSCC is the arch for the Bushwick senior community. It bonds the older generation with the younger one. It is a place where our pioneers interchange ideas and provide solutions. It provides nutritional, recreational, and support services to over 600 seniors. When the daily struggles of life become overwhelming, the center is a safe haven.

Its continuous success is greatly due to the endless commitment and dedication of its staff and volunteers. Their hard work exemplifies that they, like Assemblyman Vito Lopez, share a common vision for a growing community.

Mr. Speaker, I ask my colleagues in the U.S. House of Representatives to join me in congratulating Assemblyman Vito Lopez for realizing his vision, the staff and volunteers for their undying labor, and the seniors for giving us insight and strength. Congratulations.

TRIBUTE TO GOSHEN COLLEGE

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. ROEMER. Mr. Speaker, I rise today to recognize and pay tribute to the significant achievement of an institution in my district, a college of distinction that has been educating young people for 100 years: Goshen College in Goshen, IN.

Goshen College was originally founded in 1894 as the Elkhart Institute. In 1903 this institution evolved into Goshen College and adopted the motto "Culture for Service." Throughout the college's long history, it has maintained a partners-in-education relationship with the Mennonite Church which has supported the college as it developed and helped shape its direction. True to the spirit of its motto, the college has focused a great deal of energy to developing multicultural awareness. In 1968 the college added a study service trimester to its general education requirement. This unique program gives students the opportunity to live in a foreign country while studying language and culture and completing a service project. Goshen College has pioneered multicultural education and has become a model for other foreign study programs at colleges throughout the United States.

The fact that Goshen College has been educating and molding young adults for 100 years speaks to the dedication of the people who have been a part of that tradition. Mr. Speaker, I commend Dr. Victor Stoltzfus, president of Goshen College, and the many fine faculty, staff, and students who have given their hearts and energies to the college over the years. I am proud and honored to recognize this milestone in this illustrious history, and I know that Goshen College will continue to thrive in its second century.

INTRODUCTION OF THE FEDERAL BUDGET STRUCTURE ACT OF 1995

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. CLINGER. Mr. Speaker, today I introduced the Federal Budget Structure Act of 1995. I am joined by my good friend and colleague, Representative BOB WISE, one of Congress' most forceful advocates of capital budgeting. While maintaining a unified budget, this legislation seeks to identify, define, and present separate operating and capital components of the Federal budget, and to distinguish between Federal funds and trust funds.

I want to emphasize that this legislation retains the unified budget. It does not attempt to reduce the appearance of the Federal budget deficit through smoke and mirrors by taking capital expenditures off-budget. It seeks to provide what the existing budget presentation does not—adequate information on the revenues, expenditures, surplus/deficit amounts, and financing requirements for capital activities of the Federal Government. It also attempts to provide a distinction between Federal funds and trust funds, and between capital and operating activities in a manner which does not hinder identifying the resources needed to meet the Government's capital infrastructure needs.

As a concept, capital budgeting is very simple. It is nothing more than a planning device relied upon by business leaders and many State and local officials to help prioritize spending for the future. A capital budget, properly implemented, would improve the budget as a reporting, control, accounting, priority-setting, and fiscal policy tool. A capital budget assumes that capital is a limited resource, and for planning purposes, there is a need to develop the best possible strategy to insure that future demands can be met.

The benefits of a capital budget are many. A capital budget:

Focuses attention to a greater degree on the deteriorating physical infrastructure of the Nation and allows us to make more rational investment decisions;

Promotes intergenerational equity by burdening future generations with debt service only for activities that provide future tangible benefits;

Provides more equitable budget treatment of capital activities by avoiding the current front-end loading of the full costs in the first year; and

Shows that borrowing to finance capital investments is accompanied by an increase in the Nation's assets.

A capital budget that remains part of the unified budget may also help us better define "What is a balanced budget?" As we move in the direction of a balanced budget, we need to more fully explore whether it makes sense for the Federal Government to balance its annual budget under current bookkeeping practices.

I am always frustrated by the process by which we make our budget decisions and the lack of information at our disposal. Cuts are displayed either agency by agency, function by function, or program by program but generally there is no distinction about the substance of the cuts, whether they're reductions in investment spending such as new highways, or cuts in operational expenses of an agency.

When the House is fashioning budget resolution, as we're doing now, there is a similar lack of information about the nature of our spending proposals; that is, to what degree are we investing in assets, consumables, operating expenses, and human enterprise programs. The current budget process makes no distinction.

Capital budgeting can help all of us do a better job planning for future spending in a more informed manner. It is not a gimmick and does not attempt to gloss over one Federal activity at the expense of another. It simply seeks to identify two very fundamental and distinct economic activities—spending on assets, and spending on operations.

I encourage all Members to cosponsor and support this worthwhile legislation.

TRIBUTE TO MORTON A. SCHRAG

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. WAXMAN. Mr. Speaker, I ask you and our colleagues to join me in congratulating Morton A. Schrag on the occasion of his retirement as director of the Westside Jewish Community Center in Los Angeles.

As a long-time member of the Westside Center, and as the congressional representative of a substantial number of its members, beneficiaries, and staff, I have profound gratitude for all Mort Schrag has done for the center and our entire community.

During the nearly two decades that Mr. Schrag served as the center's director, the constituency it served underwent radical changes. A previously Anglo area realized a sharp increase in the number of African-American families. In addition, a Jewish community consisting primarily of Jews who emigrated from Europe decades ago or were born in this country experienced an enormous influx of newly arrived refugees primarily from the former Soviet Union and Iran.

An individual less brilliant, creative, and dedicated than Mort Schrag would have been overwhelmed by the challenge of so many radical changes occurring over such a short period of time. Mort Schrag welcomed these challenges and used them to vastly expand the range of the Westside Jewish Community Center's programs.

Under Mort Schrag's leadership, the decades old educational and recreational programs were sustained and expanded. Intensive new programs were instituted to help immigrants acquire English language skills, master the culture of their new land and, in countless cases, achieve the coveted status of American citizen.

Two of Mort Schrag's innovations attracted national attention and emulation. He established a Senior Adult Day Care Center that addressed the special social, cultural, and interpersonal needs of individuals whose advancing age led to their social isolation and limited their ability to continue activities in which they were previously involved.

Mr. Schrag also established a Community College of Jewish Studies that brought Westside Center together with five area synagogues. This was a bold move and represented a dramatic collaboration of two traditions—the once secular centers movement and the traditional synagogue institutions—that had previously cooperated only at a minimal level.

Mr. Speaker, I ask you and our colleagues to extend to Morton Schrag every wish for good health and success in all future endeavors, and for continued vigorous community involvement.

TRIBUTE TO PROCTOR CARTER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. SKELTON. Mr. Speaker today I wish to pay tribute to a great Missourian, Proctor Carter, who recently passed away. Born on April 10, 1907, this former World War II Army veteran, served the State of Missouri as the director of State division of welfare for 27 years, the longest tenure served by any welfare director in the United States.

Educated at the University of Missouri, Carter received a bachelor's degree in journalism, and a master's degree in art. He worked for 1 year at United Press International in Dallas, TX. After that he was assistant to the administrator for the Missouri Relief Commission, and an assistant administrator of the State Social Security Commission. In 1946 he became the director of the State division of welfare. After his retirement, Carter was a consultant to the Missouri Senate, informing on welfare legislation and appropriations. Carter was also an active member of the Academy of Missouri Squires, Veterans of Foreign Wars, American Legion, and the American Public Welfare Association.

I urge my colleagues to join me in sending sympathy to his two sons, Robert Joe Carter and John Wallace Carter. A wonderful friend and community leader, Proctor Carter will be missed by all who knew him.

BLACK HISTORY MONTH

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mrs. KENNELLY. Mr. Speaker, I rise to celebrate and honor the proud history of African-Americans during national Black History Month.

African-Americans have made invaluable contributions to the economic, cultural, scientific, and social fabric of our society. By celebrating February in this manner, our country can continue to learn about and draw upon the strength that this history of struggle, endurance, and achievement lends to us all.

This year we will pay tribute to the year 1895, and its importance to three prominent African-American leaders: W.E.B. DuBois, Frederick Douglass, and Booker T. Washington. In 1895, W.E.B. DuBois, a distinguished scholar, became the first African-American to receive a Ph.D. In that same year, we lost the Father of the Civil Rights Movement, as Frederick Douglass passed away. And Booker T. Washington, noted college president and statesman, gave his famous Atlanta speech. It was a significant period in the annals of African-American history.

As I reflect on the themes of accomplishment and selfless work, I am quickly drawn to my district and a gentleman who embodied the ideals of these great men, until his passing last December at the age of 96. The Rev. Robert Moody was a pastor, activist, educator, humanitarian, and friend to all who knew him.

For over 50 years, he championed the causes of equal rights and education as pastor of Shiloh Baptist Church. He mentored countless young people and emphasized the importance of education to young people. He broke Hartford's color barrier and became its first African-American member of the board of education. He uplifted his congregation and turned a once debt-ridden church into a thriving house of worship.

The Reverend Moody, like others we honor this month, was a rare and wonderful individual who, through words and action, helped make a difference to countless people throughout the State of Connecticut and the Nation.

Mr. Speaker, there are countless men and women who, like the Reverend Moody, improve the lives of many people on a daily basis. They may not be as famous as W.E.B. DuBois, or Frederick Douglass, or Booker T. Washington, but they are heroes in the same tradition. I honor the memory of the Reverend Moody, and the many others like him. And I also salute the future leaders who will challenge this Nation to reach its great potential.

DOROTHY QUINN OF NASSAU HONORED FOR OUTSTANDING SERVICE TO GOP

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. SOLOMON. Mr. Speaker, those of us here in Washington who were pleased with the results of last November's elections tend to forget that the spadework for the Republican tidal wave of victories was done, not here in Washington, but in the precincts, towns, and villages across the country.

Countless volunteers in our 22d Congressional District did a lot of that spadework over the years at the grassroots levels. I have personal reasons for being grateful, because these volunteers have repeatedly helped return me to Congress with more votes than anyone else in the whole New York delegation. They were equally instrumental last year in the election of George Pataki as Governor. I'd like to single out one of those outstanding volunteers today.

Dorothy Quinn of Nassau has been doing yeoman's work for the Republican Party since the Eisenhower years. Her first involvement in local politics was stuffing envelopes, but this experienced inspired her and several others to form a Nassau Women's Republican Club. In 1957 she was elected the club's first president, an office she has held more than once.

Under her leadership the club grew in leaps and bounds. That leadership was recognized in her being chosen vice chairman of the Rensselaer County Republican Committee, and in her serving on the New York State Committee.

Also under her leadership, the Nassau Women's Republican Club was an active player in State and national party affairs, including trips to Washington and the State Capital in Albany. Dorothy Quinn herself participated in State and national conventions.

Mr. Speaker, where would we be without dedicated individuals like Dorothy Quinn? Our political system, wisely crafted by our Founding Fathers, is the envy of the world precisely because it takes advantage of such talents and energies.

She will be honored at a dinner February 14. Mr. Speaker, let us rise to pay our own tribute to an outstanding lady I am proud to call my friend, Dorothy Quinn, of Nassau, NY.

IN MEMORY OF HON. BRADFORD MORSE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. GILMAN. Mr. Speaker, it is my sad duty, in the midst of our busy schedules, to remind our colleagues of the passing of one of our former colleagues, a man whose service to this institution, our country, and to the cause of world peace, is one of the great political legacies of our time.

I refer to the Honorable Bradford Morse of Massachusetts, who served admirably in this Chamber from the time of his first election 1960, until he resigned in May 1972 to become Under Secretary General of the United Nations.

As a colleague in this body, Bradford Morse served with great distinction. His understanding of and concern for the conduct of American foreign policy, especially during the Vietnam war, demonstrated Brad's extensive abilities.

Brad left the House at President Nixon's request to assume the position of Under Secretary General of the United Nations which had been made vacant by the death of Nobel Peace Prize laureate, Ralph Bunche. As Under Secretary General—the senior American in the United Nations—Brad was concerned with political and General Assembly affairs, humanitarian affairs, and human rights.

Those fortunate enough to have served with him in the House will recall his willingness to contribute all his time and his energies to any task he was asked to undertake, and to work with others in a spirit of cooperation that transcended party lines. One of the sayings for which he is remembered is "Let's get on with the job," and when Bradford Morse said that you knew he would be the first to get on the job. He was the kind of man who knew not only the details of complex international policies, but the first names and family histories of security guards in the Congress at the United Nations.

His work in the international arena earned him the respect, the gratitude, and the love of all who worked with him. He became Administrator of the United Nations Development Program, from 1976 to 1986, and Director of the International Emergency Operation for Africa, from 1984 to 1986. It has been said of Brad that millions of Africans are alive today because of his selfless dedication and hard work, but not one of them knows his name.

It has further been said of him that he was always ready with a firm handshake, a welcoming smile, and a genuine effort to forge a consensus whenever conflict arose. That seems to me to capture the essence of this great public servant.

It is the nature of our calling to see colleagues come and go, in a blur of elections and in a whirl of events, one after the other. But some of those colleagues leave an indelible mark on this institution because of their character, their talents, their warmth, and their love of humanity. Bradford Morse was among this small, select group. He got on with the job, did his very best, and brought out the best in others. His service to our country, as a Congressman and as a statesman, is one of which his family, his home State of Massachusetts, and all his many friends should be proud.

Mr. Speaker, Bradford Morse left this body prior to my first election, so I never personally enjoyed the honor of serving with him as a colleague. However, I came to know him well throughout the 1970's and 1980's, when he was known nationally and internationally as one of the most knowledgeable individuals in the field of international development and relations. He was universally revered for his expertise and his professionalism.

Mr. Speaker, I urge all of our colleagues to join with us in extending our condolences to Brad's family and in paying tribute to an outstanding public servant, one of those officials who make us all proud to be in public life.

Permit me also to avail myself of this opportunity to invite our colleagues to join at the graveside memorial services to be held at Arlington National Cemetery on Monday, February 6, 1995, at 3 p.m.

POSTHUMOUS TRIBUTE TO JAMES LERON CHERRY

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mrs. MEEK of Florida. Mr. Speaker, it is a distinct honor to pay tribute to one of Miami's unsung heroes, James Leron Cherry. His untimely demise on January 16, 1995, leaves a great void in our community.

Born in Moultri, GA, Mr. Cherry overcame the abject poverty into which he was born. He worked even at an early age helping his father do odd jobs to put food on the family's table and clothes on his siblings. But he also developed an insatiable thirst for education, along with the acumen for learning the intricacies of carpentry and woodwork. At his country's calling, he enlisted in the U.S. Army and was assigned to the European theater during World War II. After the war and through his resilience and gritty determination, he obtained his college education from my alma mater, Florida A&M University, graduating with both bachelor's and master's degrees.

Married to the late Representative Gwen Cherry, my dear friend and predecessor in the Florida Legislatures, Mr. Cherry fully lived up to his calling as an educator. He was employed by the Dade Country Public Schools in Miami where his high standards for learning and achievement won him the accolades of his beloved community. Promoted as coordinator of adult education at Miami Northwestern High School in the early 1960's, his successes in educating many a wayward inner-city youth become legendary. He gained the confidence of countless parents who saw him as the educator par excellence, entrusting him with the future of their children and confident that they would learn from him the tenets of scholarship and the pursuit of academic excellence under the rigors of a no-nonsense discipline.

His approach to educating the inner-city young boys and girls who came under his tutelage emphasized personal responsibility. In times of crises crowding his students' learning, his forthright guidance and counsel was one based on faith in God and faith in one's ability to survive the vicissitudes of life.

Our community was deeply touched and comforted by his undaunted leadership, kindly compassion, and personal warmth. He preached and lived by the adage that the quest for personal integrity, academic excellence, and professional achievement is not beyond the reach of those who are willing to dare the impossible. This is the legacy that James Leron Cherry bequeathed to us. I am greatly privileged to have known this noble human being.

LEGISLATION AMENDING TITLE 18 OF THE UNITED STATES CODE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. WOLF. Mr. Speaker, for as long as I can remember Federal employees who are members of employee organizations, like credit unions, child care centers, health and fitness organizations, recreation associations, and professional associations, have been able to represent the views of the employee organization to the employing department or agency. I think all would agree that active employee participation in matters of employment should be encouraged.

Until now, Federal employees' ability to represent to their superiors the interests of their employee organization has peacefully coexisted with §205 of title 18, United States Code, which prohibits a Government employee, except in the performance of official duties, from acting as agent or attorney for anyone before any agency or court of the United States in connection with a covered matter. A covered matter is described at 18 U.S.C. §205(h) as including "any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter." Until now, issues affecting employees as employees, such as pay and benefits issues, have not been viewed as covered matters.

The Department of Justice [DoJ] has recently issued legal opinions and guidelines stating that managers or supervisors who are Federal employees and who represent the interests of their peers or associations before senior management officials are guilty of a violation of 18 U.S.C. §205 and could be prosecuted as felons and subject to imprisonment and fines. Technically, according to DoJ, an employee who asks to use office space on behalf of an employee organization may have violated the law and could be subject to criminal prosecution.

Mr. Speaker, 18 U.S.C. §205 was enacted in 1962 and there has not been a problem until DoJ issued its opinion. Now, if a Federal employee wishes to discuss child care on behalf of her employee organization, she is in technical violation of the law. This situation is outrageous and must be corrected. I have contacted the Attorney General about this issue and am awaiting a response. In the meantime, I am introducing legislation which reverses the Department of Justice's interpretation of the law to allow a Federal employee to represent an employee association or the interests of its members to the executive branch or any agency of the Government.

This small technical change will protect the rights that Federal employees have enjoyed for years until the Department of Justice removed them through its interpretation of the law. This legislation is a good-government measure, is good for Federal employees, and maintains the integrity and purpose of §205. Mr. Speaker, I urge Members to cosponsor this legislation and urge the House to make this technical change to the law as soon as possible.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPRESENTATION OF VIEWS.

Section 205 of title 18, United States Code, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

"(h) Nothing in this section shall prevent an officer or employee of the Government, if not inconsistent with the faithful performance of such officer's or employee's duties, from representing an employee association before, or the interest of the members of the association to, the Executive Branch or any agency of the Government. For purposes of this subsection, an employee association is an association or component of an association, a majority of whose members are officers or employees of the Government."

IN HONOR OF VIVIAN T. HOPE

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. KINGSTON. Mr. Speaker, today I would like to take the opportunity to congratulate Mrs. Vivian T. Hope on 50 years of service to the Glynn County School System.

Born and raised in Brunswick, GA, Mrs. Hope recieved her bachelor of arts degree from Albany State in Albany, GA and received a master of education degrees from Armstrong State College, Savannah State College, and Georgia Southern University. She also holds an educational specialist degree from Nova University in Florida.

Vivian Hope began her career in Glynn County in 1965 teaching fifth grade at Burroughs Elementary School. In 1967, she became one of the first African-American instructors to teach at Goodyear Elementary School. She later continued her career at Risley Sixth Grade Center and Glynn County Middle School, where she served as a team leader and chairperson of the social studies department. Vivian has received numerous honors. While at Glynn County Middle School, she was selected the 1981 Teacher of the Year. In 1988–1990 she participated in various Georgia Educational Leadership Conferences; in 1992, she was selected to participate in the State of Georgia Governor's School Leadership Institute. Most recently, Vivian served on the Southern Association Visiting Team for Bibb County, located in the 2nd district of Georgia.

Mr. Speaker, throughout Mrs. Hope's career, she has been a role model to both students and aspiring young teachers. When asked, If you had it to do all over again, would you? Her response, "Of course, with any job you have your good days and your bad, but for me, I wouldn't change a thing."

Too often, we forget to acknowledge those who spend 6 to 8 hours a day educating our children. Today, I salute Vivian Hope for spending 30 years with our children.

In conclusion, I also want to add that one of her best students is her own daughter, Theresa Hooper. Many of us know Theresa, and have had the pleasure of working with her on various State and national issues. She originally worked on the Senate Appropriations Committee, but in 1992, we on the House side had the good fortune of having her work with us. She is bright, intelligent and a true professional.

With people like Theresa serving as a sample of her mother's fine work, we can be sure that Mrs. Hope's legacy will live on for many years.

The world is clearly better for her outstanding contributions to America. Congratulations Mrs. Hope.

HONORING DELLA LAMB COMMUNITY SERVICES OF KANSAS CITY, MO

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Ms. McCARTHY. Mr. Speaker, I rise today to honor Della Lamb Community Services, which will have its annual awards banquet on Sunday, February 5, 1995.

Della Lamb has stood as a beacon of hope in Kansas City for almost 100 years, providing a wide range of services to our central city. These services include day care, youth programs and summer camp, adult education, including GED and basic skills instruction, and special programs for senior adults, including much-needed transportation services.

The services provided by Della Lamb touch hundreds of Kansas Citians every month. I commend the staff, volunteers, and supporters of Della Lamb for the wonderful contributions they make to our community.

In addition, I would like to pay special tribute to the executive director of Della Lamb, William C. "Duke" Akers, who has served Della Lamb for 20 years.

During the tenure of Mr. Akers, Della Lamb has grown from a one-location neighborhood house to an eight-location charitable endeavor with an annual budget of $3.5 million. The growth of services coordinated by Mr. Akers and the Della Lamb family have an impact on people every day. I commend Mr. Akers for 20 years of service to Della Lamb and I thank him for the valuable contributions he makes to our community.

MR. HSU'S MEETING

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. BURTON of Indiana. Mr. Speaker, in every advanced society, regulation of the airways and the electronic media is both a necessity and a recognized duty of government. In the United States, we have long believed that the airways belong to the public. Therefore, the United States licenses frequency assignments in each market. Section 301 of the Communications Act of 1934 clearly states that no one may operate a radio, television, or other wireless transmission facility without a license from the Federal Communications Commission. This law was enacted to prevent several parties from attempting to use the same frequency and, in the process, destroying their ability to reliably broadcast. It also ensures that the public is compensated for one of its greatest assets and ensures that persons granted use of this resource do not abuse their privilege.

Mr. Speaker, other developed nations have followed the lead of the United States by enacting laws like our Communications Act. In 1993, the Republic of China on Taiwan enacted comprehensive legislation to permit the licensing of new radio stations and the establishment of cable television stations. Under this law, many former operators of underground radio stations, which had been operating illegally for many years, were permitted to apply for new licenses. To date, 17 of the 20 former operators of these underground stations have received licenses after their applications were reviewed by a nonpartisan professional licensing board. These licenses were granted without regard to the operators' political affiliations. In fact, three licenses were awarded to operators who are openly opposed to the current party in power.

Mr. Speaker, the Government of the Republic of China has been extremely generous in its licensing policies. In the United States, anyone found to be illegally operating a commercial radio station rarely gets a chance to obtain a commercial radio station after being found in violation of the law. Despite this generous policy, several operators of illegal radio stations in Taiwan have refused to apply for licenses and have continued to operate illegally, thereby jamming the frequencies lawfully allocated to licensed operators.

Mr. Speaker, one such illegal radio operator is Mr. Hsu Rongchi. This week, Mr. Hsu has requested and, in fact, has been granted, a meeting with a select few Members of the U.S. Congress to discuss the issue of licensing radio stations in the Republic of China. It is my expectation that Mr. Hsu will argue that the Republic of China on Taiwan has prevented him from exercising his right to free speech by shutting down his illegal radio operation.

Mr. Speaker, I fully respect Mr. Hsu's right to meet with Members of the U.S. Congress. I also respect the right of Members of Congress to solicit the opinion of foreign citizens on foreign policy related matters. At the same time, I am deeply concerned about how this meeting may be portrayed in the American and foreign media. In my 12 years in Congress, I have witnessed on numerous occasions foreign nationals who have deliberately misrepresented their interaction with Members of Congress in order to achieve their own political objectives.

Mr. Speaker, I feel it is important to emphasize that Mr. Hsu has not been granted a hearing by the House Committee of International Relations or the Subcommittee on Asia and the Pacific. I sit on this full committee and this subcommittee. In the House of Representatives, they have exclusive jurisdiction to hold hearings on issues impacting United States-Republic of China relations. While Mr. Hsu and others may be billing this February 2, meeting with Members of Congress as a hearing, it is actually a meeting with a few Members of Congress. Furthermore, the fact that a few Members of Congress have conceded to meet with Mr. Hsu should not be portrayed as any affirmation by the U.S. Congress of Mr. Hsu's viewpoint, or for that matter, that the U.S. Congress views this issue of great importance. In fact, I believe that the majority of my colleagues would disagree with Mr. Hsu's opinions regarding the fairness with which the Republic of China on Taiwan licenses radio stations.

Mr. Speaker, I am hopeful that my remarks will have clarified for all those interested parties what is and is not taking place this week in the U.S. Congress regarding the radio licensing issue.

HELSINKI COMMISSION HEARING ON DEVELOPMENTS IN BOSNIA AND HERZEGOVINA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. SMITH of New Jersey. Mr. Speaker, yesterday the Helsinki Commission, which I chair, convened its third hearing to hear from Dr. Haris Silajdzic, the Prime Minister of Bosnia and Herzegovina. In 1992 and 1993, Dr. Silajdzic testified in his previous position as Foreign Minister, describing the horrors taking place in his country and, knowing they could have been prevented, urgently asking for help. The hearing reviewed the tragic situation that still exists in Bosnia and Herzegovina, as well as the continued relevance of policy options that should have been taken by the international community long ago. Having to do that was frustrating to me, and I cannot begin to imagine how it must frustrate the Prime Minister.

We must not, though, accept the unacceptable. That is exactly what the Serb militants want us to do. It is clear that the people of Bosnia, despite their endurance of a third winter of war, are not prepared to abandon the defense of their homes, their families, their country. Indeed, Bosnia and Herzegovina seems motivated to defend international principles, even if they must do so almost completely alone.

In contrast, much to my dismay, the international community has been beaten back by the Serb militants in what has become a game of bluff. The Serb militants clearly escalate the violence, because they know we are unwilling to escalate in response. Our threats against them lack any credibility. Officials directing United Nations and NATO efforts have failed not only to stop vicious Serb aggression, but also to enforce their own Security Council resolutions. Instead, they have resorted to mutual recriminations, twisted explanations, and even blaming the victims for their fate.

Last summer, the so-called Contact Group—comprising the United States, Russia, the United Kingdom, France, and Germany—offered the Bosnian Government and the Serb militants a plan on a take-it-or-leave-it basis, with a deadline for an unconditional answer and warnings of repercussions for any side rejecting it. Sarajevo accepted it, in time and without condition. The militants effectively rejected it. As sanctions were then eased on Serbia in response, the deadline for Bosnian Serb acceptance was extended indefinitely. Earlier this month, U.S. officials presented this plan as simply a starting point for negotiations, and met with the Bosnian Serb leaders in their stronghold, Pale. To my dismay, the Secretary of State concluded that the "Bosnian crisis is about Bosnia, but the NATO alliance is far more enduring, far more important than the Bosnian crisis." I was amazed and appalled.

Let's keep in mind, Mr. Speaker, that the Secretary's comment refers to what is, in fact, a well-documented genocide, and these diplomatic gestures were made toward those who orchestrated it. Through all the complexities of the Balkans that we must consider, one generic fact remains—you reward the aggressor, and you get more aggression. It is as simple as that.

The Helsinki Commission, through the leadership of the previous cochairs of the Helsinki Commission, noted that calls for a negotiated settlement, however correct, are meaningless if accompanied by an artificial neutrality and not by severe repercussions for those who operate outside acceptable parameters and seek what they want through the use of force. Collective partnerships, however desirable, will erode if partners allow one of their own to be carved into ethnic pieces.

Enunciating international principles, however promising, is empty if countries abandon them for historical affinities and big-power politics. Commemorations of the end of World War II a half century ago, however appropriate, ring somewhat hollow when genocidal acts that stir memories of the Holocaust are allowed to occur. The world's commitment to human rights, however boldly expressed, is questioned when our collective consciences are unaffected by the horrors that continue to be reported from Bosnia and Herzegovina today.

At the hearing, Prime Minister Silajdzic expressed his gratitude to the U.S. Congress for its strong and consistent support for Bosnia and Herzegovina through this terrible period. He noted that, 50 years after Auschwitz, concentration camps again appeared in Europe, this time in Bosnia, and this time the images are brought into our homes directly, especially through television. Rather than responding on the basis of principle, justice, and order, however, he described realpolitik and pragmatism as the order of the day. When a forceful response is eliminated, he concluded, the Bosnian Serb militants and their supporters in Belgrade are the only ones who benefit.

Given the current dynamics, the Prime Minister presented a reasonable course of action, specifically that the Contact Group meet at the ministerial level and set a deadline for a definite and final answer from the Serb militants. If the Serbs accept the plan in time, changes to the map could be made within 30 days, as long as these changes maintain the 51/49 percentage formula and are adopted by consensus. Negotiations on constitutional arrangements, international guarantees and other items would follow.

If, on the other hand, the Serbs reject the plan, the response adopted last July by the Contact Group foreign ministers should be reaffirmed, specifically the tightening of sanctions, the expansion and better protection of designated safe havens, including the use of air strikes, and lifting the arms embargo on Bosnia and Herzegovina. On the latter, he added that recognition of the right to self-defense is the minimum that must be granted to the victims of this aggression.

I told the Prime Minister that the Helsinki Commission is dedicated not necessarily to the defense of his country, but to the promotion of principles adopted in Helsinki almost 20 years ago. In reality, however, these two different goals have come to mean the same thing. In this new Congress, the Commission will remain true to that goal and I, therefore, support his suggestions. I hope, Mr. Speaker, that the Congress will debate the current policy options.

As we do consider policy options, I would like to repeat a remark made at the hearing by fellow Helsinki Commissioner, Mr. STENY HOYER. He argued that one of the reasons we have allowed aggression and genocide to proceed in Bosnia is that some have convinced themselves that the conflict there is a civil war—an internal ethnic conflict—the inevitable result of age-old hatreds. To correct the picture, Mr. HOYER quoted from a recent book, "Bosnia, a Short History," by Noel Malcolm, the introduction to which states:

> Paradoxically, the most important reason for studying Bosnia's history is that it enables one to see that the history of Bosnia itself does not explain the origins of this war. Of course, the war could not have happened if Bosnia had not been the peculiar thing that it was, which made it the object of special ambitions and interests. But those ambitions were directed at Bosnia from outside Bosnia's borders. The biggest obstacle to all understanding of the conflict is the assumption that what has happened in that country is the product—natural, spontaneous, and at

the same time necessary—of forces lying within Bosnia's own internal history. That is the myth which was carefully propagated by those who caused the conflict, who wanted the world to believe that what they and their gunmen were doing was done not by them, but by impersonal and inevitable historical forces beyond anyone's control. * * * And the world believed them."

Why the world believed them, I do not know. Perhaps naive assumptions about what was happening as Yugoslavia disintegrated; perhaps a cynical realpolitik that cares little about human suffering. Regardless, we cannot allow the resulting disaster to continue.

THE TAX FAIRNESS FOR AGRICULTURE ACT OF 1995

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. CAMP. Mr. Speaker, I rise today with my colleague, Mr. PAYNE of Virginia, to introduce H.R. 783, the Tax Fairness for Agriculture Act of 1995, which clarifies the proper application of present tax law to membership payments to tax-exempt agricultural and horticultural organizations.

Agricultural and horticultural organizations are dedicated to the improvement of agriculture and agricultural conditions, products, and efficiency and have been exempt from the Federal income tax since its inception. These organizations are typically composed of first, farmer/rancher members and second, non-farmer/rancher or associate members. Generally speaking, both classes of members pay the same amounts and enjoy most of the same rights and privileges of membership. Both classes of members pay the same amounts and enjoy most of the same rights and privileges of membership. Both classes of members are also typically entitled to purchase various goods and services, including insurance. The existence of associate members and the availability of various benefits to all members have been common practice among agricultural and horticultural associations for many decades.

Last year, the Internal Revenue Service [IRS] issued technical advice memorandum [TAM] 9416002 in connection with an audit of a State Farm Bureau. The TAM reversed longstanding IRS practice by asserting that the associate members of such organizations were not bona fide and their membership payments were taxable access payments to purchase insurance. Relying principally on the fact that associate members of the Farm Bureau had limited voting and office-holding rights, the IRS concluded that Farm Bureau's facts were indistinguishable from two 1991 court decisions involving unions in which associate members received absolutely no benefits other than access to an insurance program.

Mr. Speaker, the TAM conflicts with the longstanding recognized practice of agricultural and horticultural organizations and contradicts past IRS guidance and practice. At least two prior IRS rulings, technical advice memorandums 8302010 and 8302009, under materially the same facts now at issue, hold that associate membership payments of agricultural organizations are not taxable. These TAMs correctly conclude that membership payments were not taxable because, despite certain differences, the associate members received largely the same rights and benefits as "regular" members, whose membership payments are clearly not taxable. The availability of insurance to all members, associates included, was judged insufficient to taint the membership payments generally.

Mr. Speaker, although the TAM literally applies only to one State Farm Bureau, it is now being applied to other agricultural organizations around the country. If the TAM is allowed to stand and is extended to other entities, most county and State agricultural organizations could face potentially huge deficiencies for what has until now been unchallenged and appropriate conduct. These deficiencies and the costs of contesting them could jeopardize the continued economic viability of many agricultural organizations and, thus, the important exempt purposes they serve.

The legislation we introduce today, would effectively restore the historical position taken by the IRS, that the membership payments of associate members of agricultural and horticultural organizations are not taxable. The legislation has two components. First, agricultural organizations that reasonably relied on the prior authorities and practice I discussed before would be shielded from unwarranted and potentially devastating audits. For this purpose, it is recognized that the treatment of associate member payments as tax exempt has been the longstanding recognized practice of agricultural and horticultural organizations and reliance on that practice was reasonable. Also, the legislation would establish a prospective safe harbor for annual payments by members of agricultural organizations of $100 or less. Thus, regardless of whether an organization charged some of its members more than $100 or less were not bona fide members and, therefore, that their membership payments were taxable. This will preclude wasteful and costly disputes in cases involving relatively nominal membership payments.

WE NEED AN AFRICAN-AMERICAN MUSEUM ON THE MALL

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. LEWIS of Georgia. Mr. Speaker, I am once again introducing a bill to establish an African-American museum as part of the Smithsonian and to be located on the Mall in Washington, DC. I do this on the first day of black history month to highlight the need for and the importance of such a museum.

The story of black people in America has yet to be told. As a result, the understanding of American history remains incomplete.

African-American history is an integral part of our country, yet the richness and variety of that history is little-known and little-understood.

Too few people know that Benjamin Banneker, an outstanding mathematician, along with Pierre L'Enfant, designed this city. Some of our Nation's greatest cowboys were black, including Bill Pickett and Deadwood Dick.

How many people know that Dr. Daniel Hale William was a pioneering heart surgeon in the last century? And that Ernest Everest Just, Percy Julian, and George Washington Carver were all outstanding scientists?

One of the greatest periods in America's cultural history was the Harlem renaissance. Writers, artists, poets, and photographers like Langston Hughes, James Van Der Zee, Countee Cullen, and Aaron Douglas were all part of the renaissance.

More recently, the civil rights movement changed the face of this country and inspired movements toward democracy and justice all over the world.

There is much, much more—and it must be told to all Americans. Until we understand the African-American story in its fullness and complexity, we cannot understand ourselves as a nation. We must know who we are and what we have done in order to truly consider where we must go from this day forward.

I am pleased and delighted that many of my colleagues have cosponsored this bill. I urge all my colleagues to support this worthwhile and important legislation.

HONORING MARGIE LEE

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1995

Mr. DAVIS. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to a woman who is a resident of the Eleventh District of Virginia, Margie Lee. Margie is retiring from the Social Security Administration after 37 years and 8 months of dedicated service. She has held many positions in her 37 years at the SSA, including acting area director for the Washington, DC, metropolitan area, district manager of the Alexandria, VA, Social Security District, assistant district manager in Alexandria, VA, and Wheaton, MD, District, and various other positions in the Washington, DC, and the Chicago area.

Her most recent assignment was as special projects coordinator out of the Chief Judges Office, Office of Hearings and Appeals, SSA. In recognition of her work Margie's awards include the Ewell T. Bartlett Memorial Award, 1990 for Humanitarian Service and the Commissioners Citation, the highest award given at SSA after serving as the Federal coordinator of the Combined Federal Campaign.

Margie has been a long-time resident of Reston and been very active in her community. She is a Charter member of the Reston chapter of the Links, Inc.; past president of Reston chapter, and serves on area and local committees. She is also a member of Jack and Jill, St. Augustine Catholic Church. Member of Alpha Kappa Alpha Sorority.

Mr. Speaker, I know my colleagues join me in honoring Margie Lee for her hard work, dedication, and many years of service at the Social Security Administration.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 2, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 3

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for January.
2359 Rayburn Building

FEBRUARY 7

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine what tax policy reforms will help strengthen agriculture and agribusiness.
SR-332

Armed Services
To hold hearings on United States national security strategy.
SR-325

Budget
To hold hearings on the President's economic plan.
SD-608

Governmental Affairs
To hold hearings to examine regulatory reform issues.
SD-342

FEBRUARY 8

9:30 a.m.
Budget
To hold hearings on the President's fiscal year 1996 budget for the Federal Government.
SD-608

Governmental Affairs
To continue hearings to examine regulatory reform issues.
SD-342

10:00 a.m.
Judiciary
To hold hearings on pending nominations.
SD-226

2:00 p.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

FEBRUARY 9

10:00 a.m.
Indian Affairs
To hold oversight hearings to review challenges facing Indian youth.
SR-485

FEBRUARY 10

9:00 a.m.
Judiciary
To hold hearings on the national drug control strategy.
SD-226

10:00 a.m.
Small Business
To hold hearings on the future of the Small Business Administration.
SR-428A

FEBRUARY 14

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine how to reduce excessive government regulation of agriculture and agribusiness.
SR-332

Indian Affairs
To hold hearings on proposed legislation authorizing funds for fiscal year 1996 for Indian programs.
SR-485

FEBRUARY 15

2:00 p.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine the court imposed major league baseball antitrust exemption.
SD-226

FEBRUARY 16

9:30 a.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1996 for Indian programs.
SR-485

10:00 a.m.
Labor and Human Resources
Children and Families Subcommittee
To hold hearings to examine the effectiveness of the Federal child care and development block grant program.
SD-430

FEBRUARY 23

2:00 p.m.
Indian Affairs
To hold oversight hearings to examine the structure and funding of the Bureau of Indian Affairs.
SR-485

MARCH 2

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Transportation.
SD-192

MARCH 9

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Transportation Safety Board.
SD-192

MARCH 16

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Highway Administration, Department of Transportation.
SD-192

MARCH 23

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Railroad Administration, Department of Transportation, and the National Passenger Railroad Corporation (Amtrak).
SD-192

MARCH 30

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Aviation Administration, Department of Transportation.
SD-192

APRIL 27

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Transit Administration, Department of Transportation.
SD-192

MAY 4

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Coast Guard, Department of Transportation.
SD-192

SENATE—*Thursday, February 2, 1995*

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

If my people, which are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land.—II Chronicles 7:14.

God of Abraham, Isaac, and Israel, God of our fathers, we are grateful for this Old Testament promise giving us the formula for the healing of a nation. In the light of this promise, thank Thee for the National Prayer Breakfast this morning which brought together leadership from every State and more than 150 nations in recognition of the indispensability of prayer.

Grant us to see, O God, that the way to national health—socially, culturally, and economically—is the way of prayer. Give us, who profess to be Your people, the grace to humble ourselves, to pray, to seek Your face, and to turn from the secularism which obliterates all sense of God and faith and spiritual reality.

Governor of the nations, lead us in the way that will bring healing to our land.

We pray in the name of the Lord of History. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

RESERVATION OF LEADER TIME

Mr. LOTT. Mr. President, this morning the time for the two leaders has been reserved.

SCHEDULE

Mr. LOTT. There will now be a period for the transaction of routine morning business until the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each with the following Senators permitted to speak for the designated times: Senator MURKOWSKI for 20 minutes, Senator CONRAD for 15 minutes, Senator DORGAN for 10 minutes, and Senator CAMPBELL for 10 minutes.

At 10:30 a.m. the Senate will resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

Mr. President, I seek recognition at this time in my own right, and I ask unanimous consent that my remarks be printed in the RECORD after those of Senator MURKOWSKI and Senator JOHNSTON, with regard to the Department of Energy Risk Management Act of 1995.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

The Senator from Mississippi is recognized.

Mr. LOTT. I thank the Chair.

(The remarks of Mr. LOTT pertaining to the introduction of S. 333 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MURKOWSKI addressed the Chair.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes.

Under the previous order, the Senator from Alaska is recognized to speak for up to 20 minutes.

Mr. MURKOWSKI. Mr. President, I wish the Chair a good day.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 333 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota [Mr. CONRAD] is recognized for up to 15 minutes.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 332 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.)

Mr. CONRAD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota [Mr. DORGAN] is recognized to speak for up to 10 minutes.

FEDERAL RESERVE BOARD ACTION

Mr. DORGAN. Mr. President, yesterday I came to the floor before the Federal Reserve Board had finalized action, worried about whether they would once again make another very large mistake with respect to increasing interest rates and further injuring the American economy.

Of course, we know from news yesterday that the Fed raised short-term interest rates again. Seven times in a year the Federal Reserve Board has met in secret and then told the American people they have decided that for the country's own good, interest rates must once again go up.

I was looking again at the Constitution, and the Constitution under article I, section 8, says: "The Congress shall have the power to coin money, regulate the value thereof," et cetera, et cetera. The interesting thing about the Federal Reserve Board, it is a creature created by the Congress in the early 1900's with a national promise that this will not become a strong central bank. Of course, it has become a strong central bank, accountable to no one.

I said yesterday that they apparently view themselves as a set of human brake pedals, whose mission in life is to slow down the American economy. Well, unfortunately they will succeed beyond their wildest dreams. I think they risk throwing this economy into another recession.

More importantly, their actions mean that virtually every American will pay more credit card interest; those millions of families out there with adjustable rate mortgages will find that their home payments are going to go up. I had a fellow tell me recently, "I am paying $115 a month more now than a year ago because my adjustable rate mortgage was adjusted." And I said that resulted not from some democratic action, not some concerted action in Congress where there was a big debate and a discussion about what should be done; that happened because of a group of central bankers. They went into a room, shut the door, and made a decision outside of the view of the public citizens to increase interest rates.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

It will impact virtually every American. But more importantly, in my judgment, it risks throwing this country back into a recession.

I just do not understand why the current Federal Reserve Board apparently feels unemployment should never go below 5 percent and economic growth somehow should never be more than 2.5 or 3 percent. Where on Earth did they get these notions? What schools out there could possibly teach this kind of nonsense?

There is not much we can do about what the Fed did yesterday, but shortly I intend to reintroduce the Federal Reserve reform legislation that I have sponsored previously. I would introduce this even if rates were going down, so it is not just that they are going up that causes me to come and describe to my colleagues what I think we should do. But I am very concerned that rates are going up at a time when they should not be going up, when there is no credible evidence of inflation—none. Inflation is down 4 straight years. Last year, 2.7 percent.

Mr. Greenspan, with whom I disagree substantially, says, "We think it overstates inflation by up to 1.5 percent." If that is the case—I do not agree with that. But using his own numbers and his own logic, maybe inflation is only 1.2 percent. If that is really the case, then what on Earth are they doing raising interest rates seven times? How can one conclude that inflation is somehow on the cusp of being out of control if it is 1.2 percent? Again, I do not know just what kind of air they are breathing that can cause this kind of internal chaos and this kind of unusual thinking.

We cannot do much about yesterday, but we sure can do something about tomorrow in terms of how decisions are made about monetary policy. Should decisions be made by a bunch of politicians? No, I do not think so. There are not enough cigars in the world to pass around to give politicians the opportunity to close the door and make their own decisions about money. I do not agree with that. That is not my suggestion. But should monetary policy be conducted outside of the view of the American public in some closed room by a bunch of central bankers who serve their constituency, not ours? The answer is no. It is the wrong thing. We should change it. Congress created the Federal Reserve about 80 years ago. We should change it.

How would we change it? I recognize the minute we talk about changing anything here Wall Street has an apoplectic seizure. But most anything gives Wall Street seizures. Let us talk about what ought to be done and let Wall Street worry about its future.

What ought to be done? Well, first of all, we ought to pass a Federal Reserve reform bill that says the following: Nobody ought to vote on monetary policy in this country in any room, locked or unlocked, unless they are accountable to the American people. And the fact is those who voted in the Open Market Committee on interest rates yesterday and who are the regional Fed bank presidents are neither appointed by the President of the United States, nor are they confirmed by the Congress. They are unaccountable to anyone except their boards of directors, the majority of which are private bankers. None of them should ever cast a vote on the Federal Reserve Board Open Market Committee. No regional Fed bank president ought to have a vote on that committee. That is No. 1.

No. 2, I think there ought to be immediate disclosure. There has been, incidentally, in recent months, immediate disclosure of actions by the Fed. When they take action in secret, it ought to be disclosed immediately. I have read stories about people using voice stress analyzers on speech by the Fed Chairman after a meeting was held and they made a decision in secret but are not set to announce it until later. So somebody is using voice stress analyzers on the voice of the Chairman to figure out what has happened in the room. That is how bizarre the secrecy at the Fed has become. It has persuaded people to try to penetrate the secrecy.

So, make a decision and announce it immediately. Let the small investor know as much as the big investors think they know.

Third, I think that the Federal Reserve Board budget ought to be published in regular order and in regular form in the budget of the United States, and I think it ought to be subject to performance audits. The Federal Reserve Board ought to be like other Federal agencies and accountable.

Fourth, I believe the Federal Reserve Board ought to meet on a formal basis with the executive branch of Government, especially the Treasury Secretary, who is involved in fiscal policy. If we have monetary policy on the left hand and fiscal policy on the right hand, the two ought to talk a little bit to figure out which direction they are going.

We have had circumstances in the past where they looked like they were riding a bicycle built for two, with fiscal policy on the front end trying to chug uphill and monetary on the back end trying to keep the brakes on. And they get somewhere near the cusp of the hill, and they are talking to each other and one says, "We are exerting a lot of pressure to get away," and the other says, "We are putting the brakes on."

What sense does that make? There ought to be some coordinated policy in this country, or at least some understanding of what one is doing relative to the other.

Those are the things that I think need to be done to make changes in the Federal Reserve Board. Very modest changes. This is not taking the Fed and flipping it upside down and shaking the daylights out of it. It is not doing that. Would I like to do that? Maybe. But am I proposing that? No, I am proposing very modest steps.

Even these steps, interestingly enough, are largely too much for most Members of Congress, because they say, "Oh, Lord we don't want to get involved in that. We don't want to talk about the Fed. It is some mysterious priesthood of action and language down there which we don't understand. Let's not interfere with it. Those who want to talk about this basically want to put politics right in the middle of the Federal Reserve Board System."

Nonsense. Total baloney. We ought to do this. We ought to at least give the American people some notion that monetary policy constructed in this country is of, by and for all the people, not just the constituency of the big money center banks that is represented so well and so consistently by current policies of the Federal Reserve Board.

I hope I do not come to the floor again in the months ahead to be critical of the Federal Reserve Board. My preference would be to praise the Federal Reserve Board for doing the right thing. But they are doing the wrong thing. It is time for us to say when the Federal Reserve Board is on the wrong course doing something that is going to injure this country. When the Fed feels its role is to be a human brake pedal to slow the country down and risk throwing it into a recession, it is time for some of us to stand up and say this makes no sense for our country.

I come from a State that is a heavy user of credit—agriculture. The family farmer plants in the spring and does not get a crop until fall. They need to use credit to tide them over during the year.

Do you know what sort of behavior this does to a family farmer? It is an enormous hit for a family farmer or rancher. This substantially increases their costs. Farmers in North Dakota will pay, on average, thousands of dollars more in interest payment because of the Fed's actions this past year. Did they have any opportunity to participate in these decisions? Any voice at all? No. The interest of the family farmer or rancher out there is subordinated to the interest of the money center banks. I guarantee you, the interest of the money center banks is present, front and center in that room when these decisions are made.

But I also guarantee you that there is not anybody in that room talking about my Uncle Joe, about people who produce things, about the farmers out there who are planting and hoping, about the ranchers who are working in subzero weather trying to make sure their cows are all right and then come to the bank at the end of the year and decide they have substantially increased costs. It has nothing to do with their cows, but it has to do with some folks down there behind a closed door at the Federal Reserve Board.

This ought to change. I would not be here if I thought the Federal Reserve Board was on the right track and doing the right things for our country. I feel so strongly they are not. I think the Fed is moving in a direction counterproductive to this country's interest.

That is what persuades me to talk and to, once again, want to introduce this legislation. Let me in 1 final minute read something from the Washington Post today. After yesterday's action by the Federal Reserve Board, it is not, I suppose, surprising for anyone to see a quote:

> Many Wall Street analysts, however, praise the course of Fed policy.

I tell you what, that probably is not very surprising to most Americans. Many Wall Street analysts praise the Fed policy. Of course they praise the Fed policy. Who do you think the Feds are doing this for? It is not Main Street, it is not the family farmer, not the rancher, not the working person out there.

So I guess when previous Fed Reserve folks said to Members of Congress at a hearing, "We are serving our constituency"—that is what they said arrogantly—we know who their constituency is. But it is different than our constituency, and that is the dilemma.

I hope one of these days there is a reconciliation in this country about who monetary policy is created and fashioned for and in whose interest it now serves.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE CLINTON PLAN TO ASSIST MEXICO

Mr. DODD. Mr. President, on Tuesday, January 31, President Clinton announced that he could no longer wait for the Congress to act on the Mexican loan guarantee legislation that he had proposed to assist Mexico with the serious economic crisis it confronts. Instead, he has decided to act now to stem the tide of negative expectations that threatens to overwhelm Mexican exchange and financial markets. Utilizing existing executive authority, the President has indicated that the United States will make available a $20 billion swap arrangement through the Exchange Stabilization Fund.

The President, to his credit, has also enlisted the substantial involvement of the international community in this latest initiative. The International Monetary Fund will provide an unprecedented level of assistance—$17.5 billion, and the European Community through the Bank for International Settlements will make $10 billion available to this effort. Taken together, this package should be more than sufficient to deal with the adverse market psychology that had developed over the inability of Congress to act on the guarantee proposal.

I believe that the President's decision is the right one in light of the potential threat that the current instability poses, not only for Mexico, but for our economy as well. It is important to remember that Mexico has been an important player in the United States economic picture. Mexico has been our third largest trading partner. The United States has represented two-thirds of Mexico's worldwide trading activities. Up until now, Mexico has been an important and growing market for United States exports—we sold nearly $50 billion of our products there in 1994. Some 770,000 American jobs depend on our trade with Mexico. U.S. investors also have a stake in the current situation. Not just large New York bankers and Wall Street investment brokers—but thousands of other Americans through their involvement in pension and mutual funds.

Even my State of Connecticut, thousands of miles from Mexico's border, stands to reap the benefits of a vibrant Mexican economy, or alternatively suffer the pain of a collapsed one. In 1993 nearly 7,000 Connecticut workers were employed in producing products destined for sale in Mexico at a value of $365 million. My State is by no means unique on this score. California, Texas, Arizona, New Mexico all have an enormous stake in Mexico's economic health.

That Mexico has a serious problem is not in question. Its financial and currency markets have been in a frenzy over the last several weeks. The peso has lost more than 50 percent in value. Yesterday, the peso reached a historic low at 6.3 pesos to the dollar. The Mexican stock market has been rocked as well. The Zedillo government has been unable to refinance most of its debts coming due thus far this year—obligations that will reach $80 billion by year's end. Unless this crisis of confidence is reversed and markets stabilized, the Mexican economy will slide into serious recession and its financial system will all but collapse.

Clearly, the Mexican Government must take steps to help itself. And it has done so. On January 3, President Zedillo announced an emergency economic program designed to stabilize the economy—allow the peso to float, reduce Government expenditures, accelerate Mexico's privatization program for state enterprises, conclude a wage-price accord with business and labor in order to contain inflation, and open the Mexican financial sector to foreign investment. Despite these efforts, the crisis of confidence continued.

I for one am firmly convinced that President Clinton has made the right decision in proposing that the United States intervene in order to restore confidence in Mexico's economy. It makes good economic sense. It makes good foreign policy sense. The American people stand everything to gain from a stable and prosperous Mexico. And, much to lose from one that is in disorder and poor.

If we sit back and do nothing, millions of Mexicans will lose their jobs. This will produce social and political tensions. It will also put additional pressure on our borders as Mexicans seek alternative sources of employment in the United States, further heightening tensions over immigration between the United States and Mexico.

To those who point to NAFTA as an explanation for the current economic crisis facing Mexico, I would say that they could not be more wrong. If anything, it is because of NAFTA that there is a clear framework for resolving the current economic problems confronting Mexico. Many Americans currently doing business in Mexico have indicated that they intend to stay the course, to remain engaged, to ride out the current fiscal storm. Why? Because they believe that the Mexican economy is fundamentally strong. A principle reason they hold that view is because NAFTA has ensured the continuity of fundamental market reforms that has made it possible for Americans to sell products and do business there. Were it not for NAFTA, the crisis in Mexico would be far deeper and far more protracted.

I commend Majority Leader BOB DOLE and Speaker NEWT GINGRICH for their willingness to act in a bipartisan fashion to assist the President in moving the original guarantee proposal through the Congress. Regrettably they were unable to garner the necessary bipartisan support required to pass the legislation in a timely fashion. I think that the President was right in the judgment that the Mexican economy could not withstand the battering of another several weeks of uncertainty over whether the United States assistance would be forthcoming.

Mr. President, we engage in vigorous debate in this body day in and day out. Debate is clearly an integral part of the legislative process. However, from time to time, an issue comes before the Congress that is so important and so sensitive that it mandates that partisan politics be set aside and that we come together in support of the President. I believe that the situation in Mexico is just such an issue.

Mexico and the United States have had a long and enduring friendship. We share a 2,000-mile common border. We share a common commitment to democracy, liberty, and human freedom. We are partners in a global economy that has inextricably linked our fates. For all of these reasons, United States' interests are served by helping Mexico at its moment of need. I call upon all my colleagues to get behind the President in support of this effort—it is in the interest of all Americans that this initiative succeed.

NATIONAL SERVICE

Mr. SARBANES. Mr. President, I was proud to cast my vote for the National and Community Service Trust Act of 1993 when the conference report came before the Senate for final approval last September. This was important legislation intended to marshal the Nation's best resources—its citizens—to confront the many pressing problems facing communities across the country. The National Service Act, signed into law on September 21, 1993, has helped renew the ethic of civic responsibility and the spirit of community service throughout the United States while also providing critical assistance in meeting vital human, educational, environmental, and public safety needs.

In light of this, I am troubled by recent statements by the House Republican leadership expressing opposition to national service, describing it as gimmickry and coerced voluntarism. I would urge those who put forward these views to look carefully at the new national service program's centerpiece, AmeriCorps, a national network of local youth service corps. Unlike previous volunteer-based programs, AmeriCorps is not one large Federal program, but a network of locally developed and locally managed service corps which will give thousands of young people the kind of opportunity earlier generations had to serve their country and improve their own lives as well as those of their neighbors.

I am proud that my own State of Maryland has been a leader in the area of national service. The tremendous number of volunteer organizations across the State deserve credit for the enormous difference that volunteers have made and continue to make in Maryland each and every day. Maryland has very deservedly been the recipient of a number of first round AmeriCorps grants. I was privileged to be with the President during the official kickoff of the AmeriCorps Program at Aberdeen Proving Ground last September, the first campus selected under the National Service Act as a cite for the National Civilian Community Corps [NCCC]. Using a converted barracks, the NCCC campus at Aberdeen houses 250 young adults who work in 10-member teams on projects throughout Maryland, the Northeast, and the Mid-Atlantic. The program emphasizes conservation of natural resources, public safety, and the educational and human needs of children and older Americans.

I was also privileged to meet earlier with members of Community Year in Montgomery County, Civic Works in Baltimore, and the Maryland Conservation Corps to discuss their critical efforts to rehabilitate housing for low-income families. More recently, my wife was able to visit an AmeriCorps site at Frostburg State University in western Maryland. The local program, named Appalachian Service Through Action and Resources or A STAR, provides many types of assistance in areas involving social service and the environment. Participants perform duties as varied as coordinating environmental projects at Deep Creek Lake, developing Victory Gardens in Garrett County, working with local Head Start programs in recruiting volunteers, providing independent living assistance enlarging area food pantries, and establishing youth literacy programs.

Mr. President, it is my view that national service, and those who participate in it represent the best of our Nation. AmeriCorps and other programs under the National Service Act of 1993 carry forward an idea rooted in the best traditions and values of America—the tradition of serving others, the value of taking personal responsibility for ourselves and our communities, and the belief that to whom much is given, much is expected. Through programs like AmeriCorps we are providing our Nation's young people with both an opportunity and an obligation. It asks them to put something back into the community while also providing them an opportunity to develop skills which will serve them well throughout their lives.

As I have indicated through examples in my own State, the national service program is working. Nationwide, there are other examples—the executive director of the National Association of Police Organizations has called AmeriCorps a huge boost in the arm for law enforcement; officials of the Federal Emergency Management Agency say that participants in AmeriCorps have helped thousands of disaster victims pick up the pieces of their lives; Habitat for Humanity says they could not do their job without such individuals.

In my view, Mr. President, those who have answered the call to service by participating in AmeriCorps and other national service opportunities are taking part in the oldest and best of America's traditions—a spirit of service. I would ask those who have criticized legislation which has furthered national service to look again at the important efforts underway which serve to produce stronger families and stronger communities, and to join me in commending those who are taking part in this important renewal of service to our Nation.

THE RETIREMENT OF RICHARD COLLINS

Mr. INOUYE. Mr. President, on January 31, Richard Collins of the staff of the Senate Appropriations Committee retired. Mr. Collins has served the committee and the Senate for the past 20 years. It has been my pleasure to have worked closely with Richard throughout that period. Richard served as the clerk and staff director of the two subcommittees I had the fortune to chair in the 1980's and 1990's, Foreign Operations and Defense.

In each of these positions Richard has served me and the Senate professionally and faithfully. I will miss his knowledge and counsel in the days and years ahead. I can take some solace knowing that Richard plans to remain in the Washington, DC, area. And, I know we shall call upon him often to provide the type of guidance that we have counted upon for the past 20 years.

Last Thursday night, the friends of Richard Collins gathered to wish him a farewell and happy retirement. On that occasion, Richard spoke eloquently about his career in the Senate, his many and varied experiences, and what it meant to him to be a staff member for this body. He spoke of his affection and reverence for the institution, the relationship between Members and their staff and the importance of staff in the operation of the Senate. I know that many of my colleagues were in attendance that evening and had the good fortune to hear this gentleman's farewell remarks, but I believe the words and thoughts should be shared with all my colleagues. Therefore, today I have risen to place Mr. Collins' address in the RECORD.

Mr. President, there are some 5,000 congressional staff members serving the House and Senate. They are bright, hard working, and virtuous. Richard Collins has been one of the finest for many years. The Senate will miss him.

I ask unanimous consent that the text of Richard Collins' address be included in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

FAREWELL MY FRIENDS

My friends, I am pleased and honored that all of you have come here to share in this celebration, this farewell. As you may well understand, in the twilight of my career in the Senate, I am tempted to delay the end of the day, to speak at length and to try to reach each of you with a shared memory, a common experience, a touch of friendship.

I will not do that now; it does not seem necessary. The memories will linger, and try to as we might, our experiences can never be relived as fully as we would wish (but we have had them); and, in any event, you know, already, that you are my friends. I will take but a brief moment, then, to burnish those memories and to express my deep appreciation to you and to those with whom and for whom I have worked.

First, I will say that I yield to no one in my love and respect for the institution that I have tried to serve for the past two decades. In my time here I have learned that the Senate—the Congress—is, indeed, a reflection of the American people. Now and then there may be a whiff of scandal, of human frailty, but I think of greater importance and of more lasting significance is the courage and heroism of those who rise every day and strive to do what is right for America and her people. I, and you, each of you, have been privileged to be a part of that. For this, we should be eternally grateful.

This is no easy task, this coping with daily life. Chekhov said, "Any idiot can face a crisis—it's this day-to-day living that wears you out." He may have had something there.

It's true, as I have contemplated my retirement and the onset of a new career, I have asked myself, do you have the energy and resolve to start again?

Ubetcha!

I find myself remembering the advice of the American philosopher and baseball player, Leroy Robert Paige. Among the sayings of the great "Satchel" Paige perhaps the best known is, "Don't look back. Something might be gaining on you." My favorite, however, is his dismissal of those who put too much weight of the chronology of age. He said, "How old would you be, if your didn't know how old that you was?"

I am not worn out nor weary; I know that I will age, but I am not going to grow old. I look forward to new challenges and I will seek new ways to serve. I intend to set sail again.

I am deeply, profoundly, honored to have known and worked with Senator Inouye, Senator Hatfield, Senator Stevens, and Senator Byrd—all my chairmen, all my leaders, all my mentors, and friends.

There are many others, some of whom are still in the Senate and some of whom are gone. I remember them all. John Stennis, Lawton Chiles, Jake Garn, Tom Eagleton, Malcolm Wallop—so many more who are no longer in the Senate. Barbara Mikulski, Chris Dodd, Joe Lieberman, Don Nickles, Pete Dominici, Judge Heflin, and many others who still serve.

I have so many special memories—few have listened to the hopes of Peace Corps volunteers in the distant reaches of Africa as they spoke of bringing water for the first time to humble villages; few have met and wept for the children in refugee camps on the Cambodian border; few have stood with Senators Inouye and Stevens and Nunn and Warner in the desert of Saudi Arabia and listened to the proud declarations of our soldiers who accepted and fulfilled America's responsibility in the world—few have been shot down in a helicopter over Central America with Bennett Johnston and lived to hear him tell the tale—both harrowing experiences, I assure you.

I have done these things. I have seen much. I have spent the night in palaces and in truck stops. I have slept under the sea and on the desert. I have been with kings and vagabonds.

In my career, I traveled widely and learned a great deal—how precious our democracy is, how much we are linked with the world, how freedom and justice and human rights are indivisible. John Donne was right when he wrote, "No man is an island * * * any man's death diminishes me, because I am involved in mankind." I believe my experiences, my travel to foreign lands and in strange cultures, seasoned my academic learning and enabled me to bring prudent judgment to my work in the Senate. I believe the same is true for Senators. Foreign travel, exposure to other cultures and other governments should not be ridiculed; it ought to be required of those who would seek to make America's way in the world.

Over the years, I learned from the humility and courage of others. I remember the resolve of Robert Byrd when he quoted, not Shakespeare, not a history of the English people, but William Ernest Henley's poem "Invictus."

In the fell clutch of circumstance
  I have not winced nor cried aloud.
Under the bludgeoning of chance
  My head is bloody, but unbowed.

Chairman Byrd read that poem on the floor the day after the Democrats lost control of the Senate in 1980. He inspired us to carry on.

I remember the grace and charity of Chairman Hatfield, when he called all of the appropriations staff together after that election and thanked us—winners and losers—for the work we had done and would still do. We felt like soldiers at Gettysburg listening to Lincoln as he praised the sacrifices of men on both sides of that terrible battle.

Throughout these 20 years and more, throughout it all, my liege, foremost among those I have sought to serve, has been Dan Inouye of Hawaii. He is a man of great courage and integrity; a man who has suffered much, achieved much, and has heard both the thunder of applause and the whisper of unfair and unjust accusation—and he is a man who has always risen to renew his service to his country, to the Senate, and to the people of Hawaii.

Some of you know of my recent match with prostate cancer—it's OK now, all is well. But, let me say that the example of Dan Inouye, this man of strength and courage was the compass by which I guided my behavior as I went through that difficult passage. No honor has ever meant as much to me as hearing him call me friend.

Well now, Senator Inouye once told me about the zori mochi. He said, in ancient Japan, when the Emperor went out for an evening, among his retinue was one man who sounded a gong to alert others that the Emperor was coming. Another carried a latern to light the way. The lowliest of all was the zori mochi whose responsibility—when the Emperior removed his sandals to enter a household—was to clutch them to his breast to keep them warm for the Emperor's return. His sole object in life was the comfort of the Emperor. The story was not lost on me.

Another man, from whom I also learned a great deal, expressed this concept a little more directly. Bill Jordan once told me, "Collins I brought you here to hold the ladder steady while I climb to success; if I ever catch you with your foot on the bottom rung * * *" Well, I don't think he meant it that strongly, but as someone once remarked, the difference between Bill and Richard is that sometimes when he's kidding, Richard's kidding.

Many, many others have taught me along the way:

Senator Stevens: "There is no education in the second kick of a mule."

Senator Chiles: (Explaining why, during a late night session, he supported a favored colleague on what I regarded as a dumb amendment) "Richard, sometimes you have to bet on the jockeys and not the horses."

And then there is another wise man, who shall remain anonymous, who once told me: "It is easier to get forgiveness, than it is to get permission." (Libby and Julia, you can forget that.)

I carried these expressions and others with me throughout my Senate career as though they were amulets in a medicine bag to be pulled out as needed and rubbed for luck or to ward off evil. I've used them with many of you, sometimes—often—not giving credit to those who originated them.

Now, I have spoken about the legendary zori mochi and about service to Senators and the Senate and believe me I do trust in and have followed that ethic. My colleagues and I adhere to the ethic that service to Senators and to the Senate is our purpose in being here. We are proud to be on the staff of the United States Senate.

Pat Leahy is fond of saying that Senators are merely a constitutional impediment to the full authority of staff. I know he's kidding. I am certain he would agree that staff are important. I think they are essential to the operation of the Senate.

It happens that some people attribute all success, all good works to Senators alone. I do not fully agree. Perhaps the best way to explain my view is to recall a story my grandfather—a swamp Yankee farmer from Connecticut—once told me. His name was Everett Thompson. One day he was out in one of his fields, tilling the soil. The rock walls which surrounded the land which had been cleared of trees and stone gave testimony to the hard work he had put into the farm. On this day, a circuit preacher came riding up, saw my grandfather and said, "Why Mister Thompson, this is a wonderful farm which the Lord and you have made." My grandfather took out his large red farmer's handkerchief, wiped his brow, and said, "Maybe so, but you should have seen it when the Lord had it by himself."

I do think staff is important. I think the sacrifices which we ask of the young who come to work here places a great responsibility on us, Senators and senior staff alike, to ensure that their dedication to the principles of democracy and representative government is nourished and strengthened. There will be partisan battles, to be sure. But we must also remind them, by our example and by our counsel, of the greatness of this institution.

That greatness, I fear, is sometimes lost in the thickets of procedure. Reconciliation has in recent years come to denote that onerous process by which the faulty spending estimates of the budget committees are matched to the faulty revenue estimates of the CBO. To me, another kind of reconciliation has always been the wonder of this place. How to effect peaceful social change? How to reconcile the views of a Paul Wellstone with those of a John McCain, giving each a fair hearing and then moving to decide what is best for democracy, best for America. That is the Senate I revere.

It is of surpassing importance that the Senate recruit, reward, and recognize its staff. We must have the best; we must pay them competitive wages; we must acknowledge their contribution to the legislative process.

All of this talk about limited terms—if they are enacted, power will flow to the staff as the source of memory and knowledge; if staff is cut too far; special interest groups will become the source of information and power. We can and should reduce staff; but we must be careful; they have become a key part of the process.

I am not too worried about all of this. Staff has been a part of Government for thousands of years. I know, because just the other day I read in the Bible, "And Joseph leaned on his staff, and he died."

My friends, I have gone on too long. I could have spared you all of this by reading a few lines of poetry. I have found poetry—the distillation of human emotion and experience—to be a great source of comfort, insight, and inspiration over the years. The poem which best sums up who I am—at this stage in my life—is Tennyson's "Ulysses." I will leave you with a few fragments from this great work.

Much have I seen and known; cities of men
And manners, climates, councils, governments * * *

I am a part of all that I have met;
Yet all experience is an arch wherethrough
Gleems that untravelled world, whose margin fades
For ever and for ever when I move.

How dull it is to pause, to make an end,
To rust unburnished, not to shine in use!

Some work of noble note, may yet be done

Tis not too late to seek a newer world

Though much is taken, much abides; and though
We are not now that strength which in old days
Moved earth and heaven; that which we are, we are;
One equal temper of heroic hearts,
Made weak by time and fate, but strong in will
To strive, to seek, to find, and not to yield.

Thank you my friends. Thank you for your friendship, your counsel, your encouragement. Thank you for your work, which made mine worthy.

THE RETIREMENT OF PHILIP A. HOLMAN, DIRECTOR OF THE DIVISION OF POLICY AND ANALYSIS IN THE OFFICE OF REFUGEE RESETTLEMENT

Mr. SIMPSON. Mr. President, I rise today to recognize a most distinguished public servant who is retiring this month after nearly 33 years of Federal service. Phil Holman, the Director of the Division of Policy and Analysis in the Office of Refugee Resettlement is a man that I and my fine staff on the Immigration Subcommittee have worked with for many years.

Phil Holman joined the Cuban Refugees Program in 1962, shortly after it was established by President Kennedy. He spent virtually his entire Federal career in the refugee resettlement program: from the early 1960's Cuban refugee flow beginnings to the 1975 Indochinese Refugee Assistance Program to the current domestic program established under the Refugee Act of 1980. Phil Holman's career has certainly come full circle as we struggle today with the current Cuban migration crisis.

Millions of refugees admitted to the United States in the past 33 years have had their new lives touched in some way by Phil Holman's work. His decades of service are deeply appreciated, and I would urge my colleagues to join me in expressing our gratitude for a fine job well done.

FATHER WILLIAM CUNNINGHAM AND FOCUS: HOPE

Mr. ABRAHAM. Mr. President, recently the Committee on Labor and Human Resources, on which I serve, held 3 days of hearings on reforming the Federal Government's system of job training programs.

Over the course of the hearings, the committee heard testimony from a wide array of interested parties: Clients of training programs; experts from academia and think tanks; businessmen, organized labor, and the General Accounting Office. Wisconsin Gov. Tommy Thompson appeared and testified about the laboratory the various States provide, where some of the most innovative reform ideas are already at work. In addition, Secretary of Labor Robert Reich and OMB Director Alice Rivlin presented the administration's perspective on what shape reform of the system should take.

However, this Senator thought the most interesting testimony came from the last panel to appear on the hearing's final day. Chairman KASSEBAUM wished to supplement the testimony of the usual array of witnesses with perhaps less conventional viewpoints. She selected individuals from around the country who have personally been involved in starting and administering innovative, community-based training and education programs. One of the individuals she invited to participate was Father Bill Cunningham, the executive director of the Focus: Hope Program in Detroit, MI.

Focus: Hope and Father Cunningham are certainly not strangers to the Labor Committee. Just last September, Father Cunningham appeared before the Labor Committee to testify about the Focus: Hope Program and its work in educating and training people. It is a testament to his dedication and success that Father Cunningham would be invited to testify by both Democrats and Republicans when each had control of the Labor Committee.

Mr. President, Focus: Hope is often described as unorthodox in its methodology. It is certainly unorthodox in one respect: Unlike the vast majority of Federal job training programs, Focus: Hope actually works. It produces real and lasting results; of course, that might seem unorthodox in this town, which sometimes appears immune to outrage over wasted tax dollars and obsolete or ineffectual social programs.

Let me offer a glimpse of the mindset which makes "Focus: Hope so unique and—I believe—so successful. An article appearing in the March 1994 issue of "Ward's Auto World" noted that father Cunningham saw Focus: Hope's mission this way:

> Focus: Hope remains at its core a civil rights organization, but [Father Cunningham] cites [their] machinist training effort as simply a new approach. Father Cunningham says of 200 machine shops that hired graduates from the [Focus: Hope] machinists institute, all except two were hiring their first African-American or woman. We could have been suing them, he shrugs.

Mr. President, while some groups are obsessed with talking about expanding opportunities, Father Cunningham's approach is a breath of fresh air. He believes the best method for truly empowering people is to educate them, teach them a marketable skill, develop in them responsibility, motivation, and maturity—not simply to file a lawsuit on their behalf.

For the benefit of any of my colleagues who are not familiar with father Cunningham's work, let me offer a few quotes from his testimony:

> I would emphasize advanced job skills representing new technologies, future technologies. In that vein, I would require that defense and commerce play a larger role in establishing national skills priorities * * * We must understand and balance the difference between providing jobs for the people—and everybody's hearts ought to be in that—and keep attention on providing capable and skilled persons for job demands. That is an entirely different picture.
>
> The industry was changing so rapidly that the machinist of 1981 was completely inadequate for the machine tools of 1988, the computer and numerically controlled machines. * * * In 1993, the state of the art is already catapulting so rapidly in technology that—well, I will just give you one figure. A lathe in 1981 with 3,000 RPM is replaced by Ingersol, by a machining center, with 60,000 RPM.
>
> The universities are still dealing with the engineering code of 1970. So what we are doing is very expensively putting all these kids through college, getting them engineering degrees, and then when they go to work for Ford Motor Co., they have to spend another 6 years training them.

Finally, let me highlight one observation that was agreed to by everyone on Father Cunningham's panel. Chairman KASSEBAUM inquired about the efficacy of requiring people to obtain employment first before receiving a voucher for further job training. It was noted that often the most effective training and education programs are those in which people both work and go to school either for education or to learn a particular skill. On that point, Father Cunningham offered his insight based on his work at Focus: Hope:

> I am in total agreement with my colleagues up here. The masters program we have in engineering at Focus: Hope requires a 40-hour workweek, and that is not work-study. It is not work-study * * *. The work they do and the skills they are developing dictate the knowledge they need to draw down. And if the university cannot provide that knowledge, the university is irrelevant. So the knowledge drawdown assimilates knowledge at, as I said earlier, geometric proportions. So the young people there are learning four and five and six times faster than the normal engineering candidate at a major university, simply because they are seeing the relevance of what they are learning in terms of the demands of the workplace.

Mr. President, judging by the testimony provided to the committee during the 3 days of the hearing, Focus: Hope is precisely the type of program we should be attempting to replicate around the country. However, the lesson is not that the Government should dictate that all recipients of Federal dollars exactly mirror Focus: Hope in concept and design, but that the Government seek out programs with a proven track record of success and a proven base of support in their community or region.

This Senator believes the best method for accomplishing this is to get the money into the hands of State and local officials who have a better idea as to which programs are working and where our limited resources are best utilized, that certainly has been the experience in my State of Michigan, where our citizens have had tremendous success under the leadership of Gov. John Engler, in forging a statewide partnership to enact real reform in such areas as job training and welfare.

Once again, let me congratulate Father Cunningham on his appearance before the Senate's Labor and Human Resources Committee and commend him for his fine work at Focus: Hope. It is individuals like Father Cunningham and organizations like Focus: Hope which have made this country great and stand to make a positive difference in our future. We would be wise to offer them our assistance and follow their example.

Mr. President, I yield the floor.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. We'd better get busy correcting this because Congress has failed miserably to do it for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,810,859,576,867.71 as of the close of business Wednesday, February 1. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $18,262.11.

THE CLINTON BAILOUT OF MEXICO

Mr. HELMS. Mr. President, our offices in Washington and North Carolina have been inundated with calls protesting President Clinton's decision to bypass Congress and, more importantly, Mr. Clinton's willingness to ignore the emphatic will of the American people. In any event, that is what Mr. Clinton has done with his unilateral $20 billion bailout of Mexico.

I have opposed this scheme from the very beginning because it will do nothing to remedy Mexico's internal problem and it is unfair to American taxpayers. Last week, I presided over in-depth hearings by the Foreign Relations Committee. Witness after witness warned the President not to violate the will of the American people in this matter.

Mr. President, if this were as important as the President would have us believe, then Congress should debate the bailout and vote on it, up or down, for or against. Before the taxpayers' money is put at risk, however, the people being forced to foot the bill should have a say. The $20 billion in question is an enormous amount of money. It is more than the annual budget of the State of North Carolina; it is larger than the annual budgets of 16 of the 18 States represented on the Foreign Relations Committee.

I am not convinced that refusal to bail out Mexico would be the disaster that the administration has described. Many topflight economists say the same. The Mexican people are already suffering, a condition that will improve only with solid political and economic reform, not as the result of a bailout.

Mr. President, on several occasions between 1980 and 1994, Mexico used dollars drawn from a special line of credit at the United States Treasury. The United States has also aided Mexico with bridge loans, bank credits, currency swaps, and guarantees, all to shore up confidence in Mexico. Assistance from Uncle Sam usually has come right around election time in Mexico. Credit lines from the United States and other countries, amounting to as much as $12 billion, were negotiated twice in the past 15 months alone.

With the exception of last week's hearings narrowly focused on the peso crisis, the Senate has not held hearings on the situation in Mexico since 1986. Since the President is obviously willing to risk saddling the taxpayers with $20 billion of debt, I believe Congress has a fundamental obligation to examine carefully the political and economic situation in Mexico and the administration's policy toward Mexico.

Mr. President, the Mexican Government has a credibility gap, and for obvious reasons. Just one example: There are some 2,000 United States claimants protesting Mexico's refusal to pay about $19 billion owed under a little-known 1941 treaty—the Treaty on Final Settlement of Certain Claims—which provided for settlement of longstanding disputed property claims. The United States fully met its obligations by 1948, but Mexico broke its promise. The Mexicans signed the treaty on the dotted line knowing full well that it was never intended that Mexico would compensate these Americans. To this day, not a dime nor a peso has ever been paid to an American claimant.

Mexico doesn't hesitate to break its promises to the United States, much less to violate United States policies. For example: Mexico is giving aid and comfort to Fidel Castro by investing in Cuba's economy, notwithstanding the United States trade embargo. According to Cuba Report, published by the Miami Herald, the Mexicans are financing Cuba's telephone company to the tune of $1.5 billion, And, by the way, the Cuban phone company is a confiscated United States business. Also, a Mexican-Cuba joint venture will invest $100 million in a Cuban oil refinery. The dominant member of this venture will be Pemex, the Mexican's Government-owned oil company.

The Mexican Foreign Minister was quoted by the January 27 Financial Times as saying that:

> The typical U.S. politician is not necessarily someone who is very conscious of international subjects. Even supposing they know where Mexico is * * * they lack information about what happens in Mexico.

Mr. President, this is the same fellow who came to Washington with an outstretched hand pleading for cash.

Mexico's international debt stands at $180 billion. According to the United States Treasury Department's own estimate, the Mexican debt coming due in 1995 alone—both public and private sector debt—is more than $80 billion. What Mexico sorely needs is to get at the root causes of its problems so that it will cease to require emergency intervention by the United States taxpayers.

Mr. President, Mexican President Zedillo has a tough road to travel: He must solve the short-term economic crisis; provide for a long-term economic stability; end a civil uprising; address corruption; stop drug trafficking, and initiate political reforms. Properly addressing these issues is what's needed to shore up investor confidence.

Mexico would be better off letting the markets set the value of the peso and Mexican stocks and bonds. The U.S. Government has no business bailing out private or public investors who lose money on highly speculative investments.

In testimony last week before the Foreign Relations Committee, experts recommended that Mexico eliminate its wage and price controls; reform its banking industry; increase the pace of privatization and further open their oil company and other State-controlled entities to foreign investment, and then tighten its fiscal and monetary policies.

A bailout of Mexico is bad policy. It may provide some illusory short term relief, but it fails to address the root causes of Mexico's woes. We've been told that the imposition of any conditions, such as: First, drug trafficking controls; second, extradition of Mexican citizens involved in United States crimes, and third, resolution of all outstanding claims against Mexico by United States citizens—these conditions are too politically sensitive for the Mexicans. It might hurt somebody's feelings. But, I for one, wonder why the Mexicans seek United States financial aid with one hand, while they sustain Fidel Castro's brutal dictatorship with the other.

It boils down to this, Mr. President: When an American taxpayer gets a loan from his local bank to buy a house, the property is security for the loan, as Uncle Sam doesn't cosign the note. Yet, that is exactly what Mr. Clinton is proposing, namely that the United States sign the $20 billion note.

In my judgment, the United States and the Mexican Governments are perpetuating an unhealthy situation in which Mexico has grown dependent on us to fix its financial problems. It's bad for Mexico and it's unfair to the American taxpayers. This is the seventh time since 1982 that the United States taxpayers have bailed-out Mexicans and have rewarded wealthy bankers who have made bad loans.

The American taxpayers should not be placed at risk in bailing-out Wall Street bankers and speculators, particularly since the Federal Government has already run up a 4 trillion, 800 billion dollar debt which our grandchildren and their grandchildren will have to pay.

Mr. President, on January 18, I sent the administration 35 questions about the proposed bailout. I ask unanimous consent that the responses, which I received 8 days later, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS

Question 1. Is the Secretary of the Treasury prepared to recommend to the President that he explain, in writing, to the U.S. Congress the urgency and necessity of authorizing $40 billion in loan guarantees to Mexico? If so, has such a recommendation been made or when can it be expected?

Answer. The President addressed the urgency and necessity of obtaining legislation authorizing a loan guarantee facility in his January 18 remarks at the Treasury Department and in the State of the Union. And he wrote to the bipartisan leadership on January 19.

Question 2. What specific conditions will the United States require of the Government of Mexico in order to ensure that we are repaid?

Answer. Mexico will pay substantial fees upfront to more than cover scoring costs.

Mexico will provide backing in the form of proceeds from oil exports in the event it can't meet its obligations.

Mexico will be required to agree to strong economic conditions and comply with them during the period that the guarantees are made available.

These conditions will focus on the monetary and fiscal policies necessary to restore growth and thereby generate resources to repay its obligations.

We will prepare and transmit to Congress reports at least quarterly on Mexico's compliance with the conditions as set out in the legislation and elaborated in consultations with Mexican officials.

Question 3. What specific economic structural adjustments will the United States require of Mexico?

Answer. Mexico has implemented a number of structural changes in its economy over the past decade, notably the liberalization of trade restrictions, the privatization of state-owned enterprises, the establishment of an independent central bank, and the restoration of some balance to public finances. Mexico has announced its intention to undertake further structural changes, including further privatization steps. Progress in making these reforms will be taken into account in extending the guarantees.

Question 4. Will each and every condition be made public? If not, will Members of Congress be able to obtain information on those conditions.

Answer. The legislation will itself stipulate many conditions. Conditions established in the agreement negotiated between the U.S. government and Mexico prior to the issue of guarantees will be provided to Congress if appropriate on a confidential basis.

We also intend to prepare and transmit to Congress reports at least quarterly on Mexico's compliance with the conditions as set out in the legislation and elaborated in consultations with Mexican officials.

Question 5. How was the $40 billion figure arrived at as the appropriate amount to deal with the current situation?

Answer. A substantial amount of Mexican debt will mature over the next 12 to 18 months. This includes public and private external debt as well as the dollar-indexed Tesobonos. We believe that $40 billion provides a reasonable safety net to be used to refinance maturing debt that is not being rolled over. The amount of $40 billion will convince the market that Mexico will have more than adequate resources to meet what we view as a short-term liquidity problem.

Question 6. Will the $40 billion in guarantees cover both principal and interest?

Answer. Under the guarantee arrangement with Mexico, the coverage will be up to 100% of principal and interest.

There are a number of U.S. Government guarantee programs which provide full coverage of principal and interest. These include the Israeli guarantees administered by USAID.

We will be charging the Mexicans substantial fees for this full guarantee coverage. These fees will more than cover the budget costs of the program, effectively reduce the exposure of the United States Government, and encourage the Mexicans to limit the use and coverage of the guarantees.

Question 7. What does the Treasury calculate to be the total risk to the United States should the Government of Mexico default?

Answer. We think the risks to U.S. taxpayers are small even if Mexico defaults.

Mexico will pay substantial fees upfront to more than cover scoring costs.

Mexico will provide backing in the form of proceeds from oil exports in the event it can't meet its obligations.

Mexico will be required to agree to substantial economic conditions and comply with them during the period that the guarantees are made available.

These conditions will be designed to ensure that these proceeds of the guarantee are used prudently.

Question 8. Will an authorization of $40 billion do the job of stabilizing the situation? Is this the last time the Administration will need to come back to Congress for loan guarantees for Mexico?

Answer. We believe $40 billion will be sufficient to restore stability, and in fact, we think it is highly unlikely that Mexico would use the entire $40 billion of guarantee authority.

Mexico has a liquidity problem that can be overcome in a relatively short period of time. We anticipate that Mexico will be able to return to private capital markets and borrow in its own name within a relatively short period of time.

With these guarantees and an appropriate economic program, we do not anticipate a need to return to Congress to request additional guarantee authority.

Question 9. In Administration briefings to Congress on the peso crisis, U.S. officials have stated that economic policies and decisions made by former Mexican President Salinas are directly responsible for the current crisis. Given this, does the Administration continue to support President Salinas to head the World Trade Organization?

Answer. The United States supports the candidacy of former President Salinas to head the World Trade Organization. As President of Mexico, Salinas led his country through a successful process of economic reform and trade liberalization. He also represents a bridge between the developing world and the industrialized nations.

The issue of whether the Mexican government should have devalued or not is a highly technical issue where economists disagree. The decision not to devalue does not disqualify former President Salinas. We continue to believe he is the best candidate for the job and is well-qualified to take on the challenges facing the global trading system.

Question 10. Please describe in detail all fees that will be incurred by the Government of Mexico in order to secure the guarantee. What will be the amount charged for each fee category? How is the fee amount determined?

Answer. The fee will have three components: commitment fees, basic fees, and supplemental fees.

The commitment fee will be set as a % of total guaranteed authority.

The basic fee will be set to correspond to the U.S. budget scoring cost as determined by OMB and CBO under the current scoring system. It will be paid when each guarantee is issued.

The supplemental fee will be set by the Secretary of the Treasury to ensure that Mexico return to private capital markets as soon as possible.

These fees will more than offset any estimated budget costs to the United States Government.

Question 11. Will the Government of Mexico be able to borrow against the loan guarantees in order to pay the fees mandated in any stabilization program?

Answer. Yes.

Question 12. What amount of collateral does the Treasury Department believe is sufficient to protect against the risk should the loan guarantees be used by the Government of Mexico? How was the amount of the collateral determined?

Answer. Treasury and Mexico will establish the oil proceeds facility to provide protection for the total potential U.S. exposure under the guarantee program—dollar for dollar.

Question 16. What steps has President Zedillo taken to alleviate the crisis since the situation began in December?

Answer. The initial action taken by President Zedillo was to renegotiate the PACTO, a tripartite (government, business, and labor) agreement that sets economic objectives, including wage increases, inflation and economic growth.

The Mexican Government also announced plans to reduce the growth of credit issued by the development banks and to accelerate the privatization program.

The Mexican Government then requested the U.S. and Canada to activate the swaps agreed to under the North American Framework Agreement of April 26, 1995.

As the market reaction indicated a lack of confidence in the Mexican economic program this program was strengthened. On January 2, President Zedillo announced additional measures aimed at restoring better economic balance. These include plans to reduce government budget expenditures, to privatize still more government-owned facilities. And to conduct a more stringent monetary policy.

At this time, the establishment of a $18 billion facility was announced. This included $9 billion from the United States split equally between the Treasury and the Federal Reserve, and $1.5 billion from the Bank of Canada, $5 billion from a consortium of central banks organized under the auspices of the Bank for International Settlements, and $3 billion from a group of private banks.

The Mexican Government also announced its intention to negotiate a Stand-by agreement with the International Monetary Fund. Negotiations are ongoing regarding the stabilization measures that Mexico will put in place under this agreement.

Question 17. What steps did the United States Government take in December to stabilize the peso?

Answer. The United States activated its $6 billion swap facility and then temporarily increased it to $9 billion. We did not intervene in the foreign exchange market, nor were there any drawings on our swap facility during December.

In early January, the Mexican government announced that it had made initial drawings from the Treasury and Federal Reserve swap facilities.

Question 18. What is the Treasury Department's position as to requiring, as part of a stabilization package, a commitment by the Government of Mexico to create a currency board or some other mechanism that will guarantee the independence of the monetary authority?

Answer. The most important thing for Mexico to do in the short-term is to put in place tight, effective controls on credit and money. There are lots of ways to do this, and we are looking at the alternatives with the Mexican authorities and the IMF.

Currency boards have worked well in certain circumstances, such as in Hong Kong. But they are controversial, and they cannot substitute for the need to put in place a credible and effective economic program. In addition, they require a substantial cushion of reserves, which Mexico now lacks.

Question 19. What is the current amount (in dollars) of both official and commercial debt that Mexico owes the United States or U.S. institutions?

Answer. As of September 1994, reported U.S. private and public debt claims on Mexico total $44 billion. These include: claims on Mexico of U.S. based banks of $21 billion, short-term claims held by U.S. non-banks of $4 billion, U.S. holdings of Mexican bonds of $18 billion, and U.S. official agencies' credits of $1 billion. (These figures do not include U.S. holdings of stocks or U.S. direct investment, which are substantial.)

Question 20. What is the current amount (in dollars) of Mexico's international reserves?

Answer. As of January 6, the Banco de Mexico's international reserves were $5,546 million.

Question 21. What is the amount, in dollars, of Mexico's "short-term obligations" that are now coming due?

Answer. Mexico faces maturity obligations in 1995 totalling approximately $81 billion. This sum includes both the external debt of the public and private sector, as well as public domestic debt obligations—Tesbonos—that are linked to the peso value of the dollar.

Much of this debt will be rolled over in the normal course of business. However, Mexico has been having a particularly difficult time rolling over maturity Tesobonos. In addition, some Mexican banks have had difficulty rolling over maturing debt.

Question 22. What is the amount (in dollars) of gold that Mexico either holds or has access to?

Answer. As of end-June, 1994, the gold holdings of the Bank of Mexico were 425,000 Fine Troy Ounces. At $380 per ounce, the value would be $161.5 million.

Question 23. What is the estimate of flight capital from New Mexico over the past twelve months?

Answer. Flight capital is inherently difficult to measure. The general consensus of economic experts on Mexico is that Mexico's balance of payment problem resulted more from the drying up of foreign portfolio investment than capital flight. According to the Federal Reserve, which uses World Bank standard methodology, capital flight may have totaled $8–$10 billion in 1994.

Question 24. What steps will the United States insist upon to end flight capital?

Answer. The only enduring way is to restore confidence of domestic and foreign investors in the economic policies and exchange rate of Mexico. The measures that Mexico takes to stabilize its economy—stringent monetary policies and attractive real interest rates, are aimed at restoring confidence.

Question 25. What specific assurances can the Treasury Department give to the Congress that no loan guarantees provided by the United States will be used to subsidize or otherwise underwrite Mexican commercial transactions that negatively impact on U.S. national interests, including Mexican debt-for-equity swaps with Cuba?

Answer. The Government of Mexico has indicated that it is prepared to make specific assurances that these loan guarantees would not be used to subsidize or otherwise underwrite the types of transactions with Cuba raised in the above question.

Question 26. As the situation presently confronting Mexico is also faced by other developing countries, is the Administration prepared to propose similar stabilization plans should other nations find themselves facing a situation similar to that confronting Mexico?

Answer. Mexico is unique in terms of its strategic importance to the U.S. The U.S. and Mexico share a 2,000 mile border, rapidly growing trade and economic ties, and growing prosperity. And, the crisis in Mexico presents a unique risk of contagion to other emerging markets.

We will be exploring ways that international financial institutions are prepared and can respond to similar situations in the future.

Question 27. What other countries or international institutions will be involved in providing financial support to Mexico in response to the crisis? What specific steps are being taken by the U.S. government to secure international cooperation?

Answer. Canada is already providing about $1.5 billion Canadian dollars (approx. U.S. $1 billion) in swap credits. The central banks from other industrialized countries, under the auspices of the Bank of International Settlements, are arranging about $5 billion for Mexico.

The International Monetary Fund is arranging a sizable credit in support of a program with Mexico. Mexico is proceeding to negotiate with the World Bank and the Inter-American Development Bank additional loans, which will provide Mexico with a considerable amount of foreign exchange this year.

We are now in the process of encouraging other countries to join the effort.

Question 28. Has the Administration considered requiring the Government of Mexico to make progress in solving and bringing to justice those responsible for the recent assassinations of prominent Mexican political candidates and officials as a condition for authorizing loan guarantees?

Answer. In his inaugural address, President Zedillo said that the Mexican people were not satisfied with the results of the Government's inquiries into the killings of presidential candidate Colosio, political party leader Ruiz Massieu or Catholic Cardinal Posadas. He pledged that justice will be served.

Zedillo instructed his Attorney General, a member of the conservative opposition PAN party, to intensify efforts to resolve these crimes. The Attorney General, in turn, appointed a special prosecutor to investigate these cases. The special prosecutor has already held public news conferences to discuss the status of his inquiries.

In these circumstances, we consider that conditioning authorization of loan guarantees on specific progress would be inappropriate.

Question 29. How much does the Treasury Department estimate U.S. companies/businesses have lost in Mexico since the current situation began?

Answer. We have no reliable estimate on losses.

We have a substantial stake in Mexico, which has already been adversely affected by the financial crisis.

There is $40 billion of exports at risk, which support 700,000 jobs.

The U.S. has $53.1 billion in foreign direct investment.

U.S. investors hold $36.5 billion in Mexican bonds and equities.

Question 31. Will Mexican economic reform efforts and austerity programs lead to a tighter monetary policy, higher inflation, and high unemployment in Mexico? Has the Treasury Department made projections as to the inflation and unemployment rates in Mexico for 1995 and 1996?

Answer. The Mexican authorities have announced plans for tightening marcoeconomic policy in 1995, and are in the process of working with the IMF on a macroeconomics stabilization program. These policy steps include a monetary policy stance that will be considerably tighter in 1995 than it was last year.

Inflation in Mexico—which was in single digits in 1994—is expected to be considerably higher this year, reflecting increases in prices of imports following the recent sharp depreciation value in the peso. The tightening of policy, as well as the international support program, is intended to keep a price-wage spiral from getting underway and ultimately return Mexico to a lower inflationary path.

The financial problems in Mexico can be expected to lead to recession and higher unemployment in Mexico in the next year. The Mexican authorities have taken steps to contain as much as possible the wage pressures that are likely to be felt in the aftermath of the peso depreciation. To the extent that these efforts are successful, employment losses will be reduced. The international support program, by averting a protracted crisis and a potential collapse in Mexican economic activity, should help minimize the rise in unemployment associated with the necessary Mexican adjustment.

Treasury has not made projections for Mexican inflation and unemployment for 1995 and 1996.

Question 32. Would higher inflation and higher interest rates make it more difficult for Mexico to repay any loans backed by U.S. loan guarantees? Would such economic conditions increase the likelihood of default by Mexico?

Answer. Yes, higher inflation if sustained and especially if accelerating, would impede the efficiency of the Mexican economy and make it less attractive to foreign investors. Both outcomes would undermine the peso and make it more difficult for Mexico to service its external debt, including that backed by U.S. loan guarantees.

The international support program is aimed at ensuring that Mexican reforms continue in a stable macroeconomics setting. The program will allow the Mexicans to make the necessary adjustments with a lower inflation rate than otherwise would be the case and in a political environment that would not jeopardize their reforms. Restoration of a stable economic and political environment will reduce the likelihood of default by Mexico.

Question 33. As the Mexican economy contracts, what is the Treasury Department's estimate as to the reduction in U.S. exports to Mexico? And what will be the impact on U.S. employment?

Answer. We have no precise number because the answer depends on many factors which are unknown.

One that is particularly important is the length of any decline because the growth gap compounds over time.

That is why restoring stability to the Mexican situation is so important.

The U.S. exported over $40 billion in 1993 (estimated to reach $50 billion in 1994.) representing 700,000 jobs.

Question 34. What is the Treasury Department's position on requiring an economic stability assessment (e.g., inflation, unemployment, current account balance ratios, ect.) for any nation with which we are considering opening negotiations on a trade agreement?

Answer. There would be no problem in compiling data. Such information is widely available and would be easy to collect in the context of considering trade agreements.

However, there is no common denominator for movements in these indicators or the relation to benefits that the U.S. derives from engaging in trade.

Our trading partners are diverse—in terms of economic development, structure, and performance.

Question 35. What is the Treasury Department's assessment as to whether there is a banking crisis looming in Mexico, as some analysts have projected?

Answer. The banking system in Mexico has been adversely affected by financial developments in Mexico in a number of ways. Credit lines to Mexican banks have come under pressure, making funding more difficult. The capital ratios for Mexican banks are likely to have declined, since as a result of the devaluation, the peso value of dollar-denominated assets has risen, while the banks' capital remains unchanged in peso terms. Finally, to the extent that recent developments have increased the financial difficulties of some Mexican firms, banks are likely to suffer from increased loan losses.

However, foreign banks will be given greater opportunities to invest in the Mexican banking system, which should help strengthen the banking system both in capital and management.

If the U.S. loan guarantee proposal for Mexico is approved, it should help mitigate the risks to the Mexican banking system.

BACKING FOR THE U.S. GUARANTEES

The United States guarantees will be backed in two ways by Mexico.

First, the Mexican commitments to the United States will be backed by the full faith and credit of the Mexican Government. This is a legal commitment by the Mexican Government to repay the securities issued under U.S. guarantees. The United States will only issue the guarantees on the condition that the Mexicans adopt a strict economic and financial program to help ensure that the Mexican economy has the resources to meet these obligations. In addition, the Mexican commitment to repay will be backed by Mexico's revenues from oil exports. (Mexico exports about $6.5 billion of oil each year.) The United States would have access to these revenues in the event of non-payment by the Mexican Government. The revenues would flow to the United States Government through a four step process based on irrevocable instructions:

1. Before a guarantee is given, Mexico's oil company, PEMEX, will instruct its foreign customers to deposit the payments for their oil purchases in a PEMEX account in a commercial bank in the United States. Such payments will begin on the first day when Mexico could be in default on its payment obligations on its guaranteed securities.

2. If Mexico fails to make an interest or a principal payment on its guaranteed securities, the oil proceeds will be automatically transferred from the PEMEX account in the U.S. commercial bank to a Mexican government account at the same bank.

3. These proceeds will be automatically transferred again to a Mexican government account at the Federal Reserve Bank of New York (FRBNY).

4. The FRBNY will then have access to these funds and can use them to reimburse the United States for any amounts it had paid out on its guarantee, plus interest. In other words, the funds would be transferred to the United States to compensate for any payments made by the U.S. under the guarantee.

This mechanism has been put in place several times before by Mexico and Treasury for loans extended to Mexico. However, it has never been activated because Mexico has always paid off its loan obligations to the United States government.

EXISTING PEMEX COMMITMENTS

Question. Has any PEMEX oil already been "pledged" to anyone else?

Answer. Mexico earns about $6.5 billion from oil exports each year.

PEMEX crude oil exports are subject to three existing financing arrangements with non-Mexican banks. Under these arrangements, in a worst case scenario, PEMEX would be obligated to pay roughly ten percent of one year's proceeds of Mexican oil exports.

PEMEX has also entered into an oil proceeds facility with the United States and Canada to back up the drawings under the swap lines established by the North American Framework Agreement.

This facility is currently backing up the $1 billion that Mexico has drawn this month.

FORMER OIL FACILITY ARRANGEMENTS

Question. Has this oil facility arrangement been put in place before?

Answer. Yes, on five occasions since 1982.

However, oil proceeds have never been transferred because Mexico has always paid off its loan obligations on time.

CONSTITUTIONAL OBLIGATIONS

Question. Are there any Mexican constitutional restrictions on control and ownership of PEMEX that could undermine this arrangement?

Answer. No. There are constitutional restrictions on the foreign ownership and control of PEMEX, but they do not affect the ability of PEMEX to commit its resources to the United States Government under this facility.

This mechanism has been put in place on five prior occasions, and Mexican government attorneys have always issued legal opinions stating that the mechanism is fully consistent with Mexican law.

POSSIBLE PEMEX EVASION

Question. Is there any way that PEMEX could get around its obligations to the United States government in the event of a non-payment by the Mexican government under a guaranteed security?

Answer. We are making this facility as air tight as possible.

Mexico has agreed that PEMEX will issue irrevocable instructions to all of its existing foreign customers to have dollar payments routed to a commercial bank in the United States. Under these instructions, these payments would automatically flow to the New York Federal Reserve Bank in the event of a default.

This provides excellent protection because the funds will be in the United States.

If PEMEX wants to sell oil currently sold to a U.S. company to an alternative foreign customer, PEMEX would have to secure our agreement in advance.

If Mexico failed to make payments on the guaranteed securities, and PEMEX were to violate its obligations, Mexico would lose all access to the international financial community and face serious adverse consequences in its relationship with the United States.

FULL BACKING?

Question. Does the oil facility provide us full dollar backing for our maximum exposure?

Answer. Yes. The facility provides full dollar backing for our maximum exposure.

MEXICAN OIL RESERVES

Question. How much oil does PEMEX have?

Answer. Estimates of Mexican oil reserves range from 25 to 50 billion barrels.

Assuming that 50 percent of Mexico's oil is exported at $10 a barrel, PEMEX's total potential export oil revenues could range from $12 to $250 billion.

In 1994, PEMEX earned approximately $6.5 billion from crude oil exports and $1 billion from oil product exports.

U.S. LEGAL PROTECTIONS

Question. What legal protections does the United States have in the oil proceeds facility?

Answer. The United States has strong legal protection through the recognized banker's right of "set off" against Mexican oil proceeds in the New York Federal Reserve Bank (FRBNY).

This means that the FRBNY has access to the Mexican oil proceeds and can use them to reimburse the United States for any amounts it had paid out on its guarantee, plus interest.

DEATH OF RICHARD L. ROUDEBUSH

Mr. COATS. Mr. President, the world lost a great public servant and well-known Hoosier last weekend with the death of the Honorable Richard L. Roudebush.

He was born on a farm in Noblesville, IN, 77 years ago. In 1941, he graduated from Butler University in Indianapolis with a degree in business administration. Soon after, he enlisted on the Army just 1 month before the Japanese attack on Pearl Harbor and was shipped out to Egypt in September 1942, where he joined with British Forces during five major battles in North Africa. While participating in the invasion of Italy, his landing craft was hit and was sunk by the enemy, but he survived and continued the fight with the 15th Air Force.

Richard Roudebush's distinguished career of serving United States does not end with his role in World War II. He demonstrated his leadership among his war veteran peers with being actively involved in the Indiana Department of Veterans of Foreign Wars and eventually being elected as national commander in chief of the national VFW.

A friend of Mr. Roudebush's remarked that he was so discouraged at the way Hoosier Congressmen were handling things in Washington, that he decided to run for Congress himself. He did, and in fact, he was elected to the House of Representatives five times, and from three different districts. Through his own efforts, he quickly rose from the ranks to become the assistant minority whip and ranking member of his party on the Committee on Science and Astronautics where he was best known for his instrumental efforts in helping to get America's space program successfully off the ground.

No challenge was ever too great for Richard Roudebush. This was most apparent in the contest for the Senate seat of then-Senator Vance Hartke. Mr. Roudebush did not win the race, but it was the closest Senate election race in Indiana history. Out of 2 million votes cast only 4,000 votes kept him from victory.

His deep affection and commitment to his fellow veterans led him on a continued mission, especially after his congressional days, to help make better the lives of his fellow comrades. After working in the Veterans Administration for 3 years as the No. 3 man, President Gerald Ford nominated Mr. Roudebush as Veterans Administrator in 1974. His dedication to veterans continued later in life as he served on veteran advisory boards and was honored with life membership to most veteran-related organizations.

Richard Roudebush fought for United States and served his country in the public sector as representative of the people. He was a Hoosier hero who exemplified the very best in public service. His vision, knowledge, and zeal for excellence, and determination to see initiatives through to their successful conclusion are some of his qualities that have endured in the Veterans Administration and the Congress. His honors and awards are a treatment to the depth of his service dedication and the impact of his efforts. His presence will be greatly missed, but his work on behalf of veterans and the residents of Indiana will remain a great legacy of which all Americans can be proud.

RECOGNIZING THE 200TH BIRTHDAY OF THE U.S. NAVY SUPPLY CORPS

Mr. THURMOND. Mr. President, I rise today to recognize the more than 5,000 men and women of the U.S. Navy Supply Corps, active and reserve, who on February 23, 1995, will celebrate the 200th birthday of their distinguished service to our Nation and Navy. The naval officers who proudly wear the Supply Corps oak leaf are the business managers of the Navy and are responsible for the logistics support of operating forces in the fleet and naval shore installations worldwide.

The Supply Corps has come a long way since its birth in 1795, when Teach Francis of Philadelphia took the helm as the first Purveyor of Public Supplies. The original charter of the Supply Corps was to support the six wooden frigates of a young American Navy. The Supply Corps has distinguished itself throughout its long history by ensuring that the United States has been ready to defend American freedom and interests in every conflict since the War of 1812. Its responsibilities have grown tremendously and have kept pace with the challenge of providing logistics support to a modern and highly technological Navy, which has grown in size and complexity. Today, the Navy Supply Corps employs the latest technologies and management skills to supply our Navy at the lowest possible cost and with the greatest efficiency.

Having progressed from supplying wooden frigates with cannon balls to supplying AEGIS destroys with Tomahawk cruise missiles, the U.S. Navy Supply Corps continues to carry out its vital mission to keep our Navy well equipped and ready to respond at a moment's notice. I ask my colleagues to join me in congratulating the officers of the U.S. Navy Supply Corps on its 200th birthday.

RETIREMENT OF DONALD E. GESSAMAN

Mr. GLENN. Mr. President, I rise today to make a few comments concerning the retirement of Mr. Donald E. Gessaman of Dayton, OH.

Upon Mr. Gessaman's retirement, the Federal Government will lose one of its most effective public servants. Mr. Gessaman served as the Deputy Associate Director for National Security in the Office of Management and Budget. I would like to take this opportunity to commend Mr. Gessaman on 32 years of outstanding service to his country. He is known for exceptional intelligence, common sense, and good humor. Mr. President, his counsel and wisdom will be sorely missed.

Mr. Gessaman began his career in 1963 as an analyst for the Air Force space program. In 1966, he moved to Washington to become a management intern in the Office of the Secretary of Defense. The following year, he began his work at OMB and has remained there since, rising through the ranks and becoming a member of the Senior Executive Service. In 1990, he assumed his present position as Deputy Associate Director for National Security.

Mr. Gessaman dedicated his career to ensuring that the taxpayers' investment in our Nation's Armed Forces is well spent. The importance of national security issues and the spending constraints imposed by the deficit have made this a daunting task. Yet, time and time again, Mr. Gessaman has shown that judgment, analysis, and a thorough understanding of defense programs can serve both our national security and our economic security.

Mr. Gessaman's professionalism, his thorough analyses, and his commitment to the highest standards throughout his career have inspired his colleagues. I want to join those colleagues and his many friends in thanking Mr. Gessaman and wishing him all the best for the future.

TRIBUTE TO M.R. SENI PRAMOJ

Mr. BAUCUS. Mr. President, I rise to offer congratulations and best wishes to M.R. Seni Pramoj, one of America's great friends, and one of Asia's most accomplished democratic leaders, as his 90th birthday approaches.

And as we prepare to commemorate the 50th anniversary of the end of the Second World War, I would like to remind the Senate of Seni's great service as Thai Ambassador to the United States when the war began.

Seni Pramoj began his career in the 1930's, as one of Thailand's first legal scholars. During that decade, he helped to draft many of Thailand's modern laws, including the law abolishing the unequal treaties Thailand was forced to sign during the colonial era. He lectured to a generation of students at Thammasat School of Law, and before the end of the decade was made a judge on Thailand's Supreme Court.

These accomplishments gained him national recognition far beyond the legal field. And in 1940, at the young age of 35, Seni found himself appointed Ambassador to the United States.

A year and a half later, on the day of the surprise attack on Pearl Harbor, the Japanese Army entered Thailand. A powerful faction within the Thai Government, favoring collaboration, ordered the Thai military not to resist. And later in December, now in full control, they signed a military alliance with Japan.

Their next step was to order Seni by cable to deliver a formal Declaration of War to the U.S. Government. As a patriot and a man of conscience, Seni did not hesitate to do his duty as he saw it. As he recounts the story, he went to the State Department the day after receiving this cable, and told then-Secretary of State Cordell Hull:

> Sir, I regret to say that I have been instructed by my government to declare war on the United States. But I refuse to do it because there is no reason, and I have already cut myself loose from Bangkok. I cannot bring myself to declare war on the United States.

Seni placed the Declaration of War in a safe at the Embassy on Kalorama Road, where it remained for the rest of the war. He refused further to leave the Embassy when the ruling faction in Bangkok ordered him to do so. And instead, he devoted himself to the Allied cause, writing every Thai student in the United States to announce his decision to form a resistance force called the Seri Thai or Free Thai movement.

Virtually all of the 110 Thai students in the United States at the time joined the Seri Thai. Seventy of them trained under the OSS as guerrilla fighters. Others served as technical experts. Some carried out broadcasts in the Thai language. Still others helped American military authorities to identify sites of great cultural and historical value to Thailand, in order to preserve them from Allied bombing raids toward the end of the war.

The Seri Thai movement was equally successful inside Thailand. Inspired by Seni's wartime broadcasts, and trained by his student recruits, it ultimately armed about 50,000 Thai partisans. And following the Japanese surrender, Seri Thai formed the first postwar government, with Seni himself as Prime Minister.

Seni's career since then has been just as distinguished. He was a founder of the Prachatipat or Democrat Party—now Thailand's oldest political party, and ably led by Prime Minister Chuan. He has been, as well, a highly successful lawyer and musician; and Prime Minister once again in the 1970's.

Altogether, it is no exaggeration to say that for the past 60 years, Seni has been at the center of Thai law and politics. And his sincere commitment to democracy, moderation, and the rule of law has helped Thailand become the prosperous democracy so many people around the world admire today.

In a letter to President Franklin Pierce, written in 1856 and reprinted in the book "A King of Siam Speaks," which Seni and his brother Kukrit Pramoj edited some years ago, King Rama IV expressed the hope that the United States and Thailand would forever regard one another with "friendship and affection," and support one another in times of difficulty. And nearly 150 years later, few have done more to make the King's hope a reality than Seni Pramoj.

All American friends of Thailand join in wishing M.R. Seni Pramoj best wishes as his 90th birthday approaches. And we thank him for a service to both our countries which we will not forget.

IN HONOR OF FRANK E. RODGERS, RETIRING MAYOR OF HARRISON, NJ

Mr. BRADLEY. Mr. President, on December 31, 1994, a very special man, Frank E. Rodgers, served his last day as mayor of Harrison. After 48 years of public service, Mayor Rodgers is being honored for his life-time commitment to the citizens of Harrison, NJ.

Mayor Frank Rodgers won his first term as mayor of Harrison after the war in 1946 and began the distinguished career that would make him the longest-serving mayor in the history of the United States. Epitomizing the old adage that all politics is local, Mayor Rodgers campaigned door-to-door all 24 times he sought reelection and maintained an open-door policy at town hall.

In addition to his time as mayor, Frank Rodgers held a variety of elected and appointed jobs in government, including 6 years from 1977 to 1983 as a State Senator and 10 years as a town councilman. Frank's service in the Army during World War II did not interfere with his commitment to public service; he was reelected as a councilman while in basic training at Fort Dix and managed town affairs through calls and letters to his wife and family while working as a military intelligence officer on assignment along the east coast.

Diligence, dedication, and a true commitment to his constituency were the hallmarks of Frank Rodger's career. In his retirement letter to the residents of Harrison, Frank wrote, "I believe our years together hint at a mutual respect and caring that goes far beyond the requirements of governing." Frank Rodgers possessed both the insight to know what it means to govern and the willingness to devote himself wholeheartedly to the task. While his retirement will be a great loss to those who have worked with him and for those he has served, he has left an exemplary legacy of excellence in public service.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The bill clerk read as follows:

> A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the bill.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the Senate is now considering an amendment to the U.S. Constitution. This is not a usual matter and ought not be treated as such. Changing the U.S. Constitution is a very solemn responsibility, and those who wrote the Constitution made changing it very difficult, by design.

I have in my hand a copy of the Constitution. This is a little booklet put out by the bicentennial group that worked on a program to educate the American people about the Constitution. The Constitution begins, as all Americans know, "We the people of the United States." "We the people."

I was privileged to go to a celebration in Philadelphia about 8 years ago or so. It was the 200th birthday of the signing of the Constitution. The birthday, the 200th anniversary, was held in the very same room in Philadelphia, called "The Assembly Room," in Constitution Hall, the same room where the Constitution was written in the first place 200 years previous, when 55 white, largely overweight, men sat in a very hot Philadelphia room in the summer and wrote a constitution.

We know that because we know who they were. Two-hundred years later fifty-five people, men and women of all races went back into that room to recreate in celebration the writing of that Constitution. I was one who was picked to be among the 55. And to go into that room on the 200th anniversary of the date of the writing of this

Constitution was pretty special. George Washington's chair is still at the front of the room, the chair he sat in when he was presiding, and Franklin sat over there.

It was very remarkable to be in this room where they wrote this Constitution. Even more remarkable was that it was written over 200 years ago by patriots, by people who cared deeply for this country, but also by a homogenous group of people, only white men who came from various parts of the colonies to join in that room and write this document.

We have come a long way. Two-hundred years later it was a diverse group of men and women of all races who celebrated. I sat there kind of getting some goose bumps about the history of it all. I thought: as a little boy I grew up studying about George Washington and now I am in the room where he helped write this document. It reminded me of what a solemn responsibility it is for us to understand this document and what it means for this country.

We have had all kinds of proposals to change it. I think there have been over 2,000 proposals made over the years to change the U.S. Constitution. Every time somebody gets a notion they want to change it, just change it. Some scruffy little guy in Texas says change the Constitution to prohibit something. One of these days somebody is going to burn the Bible. They say change the Constitution to prohibit something. There are all kinds of ideas on how to change the Constitution. Yet, this living document has served this country for 200 years creating the oldest, most successful representative democracy ever on this Earth. So we are here today to talk about a proposal to change it.

If I might give just one quick story about the understanding of history here, some years ago Claude Pepper, the oldest Member of Congress, was standing out in front of the Cannon House Office Building with young JIMMY HAYES, who was in Congress as a freshman. He was standing next to Claude. Claude I think was 87, the oldest Member at that time. And they were standing talking on the sidewalk when a group of Boy Scouts with their leader breathlessly came running down and looking for directions. They stopped next to old Claude and young JIMMY and they had no idea who they were. They said, "Can you tell us where the Jefferson Monument is?" Old Claude Pepper said, "You go right across the Capitol Plaza to that building with the flag on it, and take a right and go one block, and you will find it." Jimmy looked at Claude with a kind of certain strange look. Claude was aged 87. After they left, JIMMY said, "I think you have given them bad directions. I know where the Jefferson Memorial is. The Jefferson Memorial is a mile away, by the river."

Well, Jefferson was not around when they wrote the Constitution. He was in Europe. But he contributed mostly through writings and through the force of his thought and various ways to the writing of the Bill of Rights, the most important of which, of course, was free speech. And Claude said, "Since they asked to see a monument to Jefferson, there is a demonstration on the subject of abortion going on over in front of the Dirksen Building. I feel there is no better place to see a monument to Jefferson and free speech than in front of the Dirksen Senate Office Building today."

I imagine that the Boy Scout leader did not think of it this way, but he was looking at a monument to Jefferson contained in this Constitution.

There are plenty of monuments in this Constitution that represent timeless truths that have served this country, and will for a long, long time. The question is, should a change be made in this document? Should we change the Constitution in order to respond to the budget deficit? Should we require a balanced budget?

I have spoken on the floor on many occasions on this subject. I have said before—and let me repeat again—that a balanced budget itself is not necessarily the most important goal. Does anyone in America believe that it would be imprudent for us to spend $400 billion more than we have this year and create a deficit of massive proportions if by doing so we could with one stroke eliminate cancer? Does anybody believe we should not do that? Of course not. The question is though whether the budget should be balanced. The question is: What are you doing as a result of these deficits? What is causing them?

What is the result of the deficits? The fact is the deficits that we now have in this country are operating budget deficits. They are not investments in the future. They are operating budget deficits because our fiscal policy has rolled out of control. The question should not be, in my judgment, whether we have an obligation to deal with them. The question is, how?

I came to Congress a number of years ago not thinking we should change the Constitution in this area. Some years ago I changed my mind. We started in 1981 when President Reagan proposed to us a fiscal policy strategy that he said would result in a balanced budget. We had somewhere around a $60 billion to $80 billion Federal deficit at that point. He said, if we simply cut taxes and double defense spending, we will have a balanced budget by 1984. Well, Congress cut taxes and doubled defense spending, and we all know what happened to the deficit.

This line has gone way out of control. These are deficits that are serious, and these are deficits that have accumulated to make a $4.8 trillion debt for this country. That threatens this country's future.

So the question is not whether. The question is what we do about it? The top of this line on this chart is about deficits, and shows something that I think is important. A couple of years ago we had on the floor of this Senate a proposal to deal with the deficits. It was a tough proposal and hard to vote for. It raised some taxes—and nobody wants to pay for increased taxes—and it cut some spending, a lot of folks did not agree with cutting spending in these areas. Yet, our deficit cut actually increased after we passed the bill. We thought it would cut $500 billion, that it would cut the Federal deficit by $500 billion in 5 years. We now know it was over $600 billion. So we have gotten some additional advantage.

My point is that we did something significant in law on the floor of this Senate. You see what happened to the Federal deficit since that point. I am proud to say I voted for that. People come up to me and say, "How dare you, you voted for that?" I think the political vote would have been, "No, count me out. I am not part of the solution. I am not going to make the tough vote." I did not say, "Count me out." I voted yes because I want this deficit to come down.

I might say there was not one single vote in this Chamber to help us from the other side of the aisle; not one. Not one Republican voted for this. I am not going to question their motives. They feel very strongly philosophically about some things. When it comes time for heavy lifting, it is very important that everybody be lifting. And we on this side of the aisle did it. I am proud we did it.

The problem is this line does not keep going down.

(Mr. DEWINE assumed the chair.)

Mr. DORGAN. Mr. President, we did this and it was important to do, but all of us know that because of health care costs and other things, this line starts going back up. So this is not enough. The question is: What do we do now to solve this problem in the future?

The Senator from Utah brings to the floor, with many of his colleagues, a proposal to change the U.S. Constitution. I respect him for that. I voted for a change in the U.S. Constitution to require a balanced budget last year. I likely will vote for one again, although there are some changes in this proposal that I do not like.

I want to talk today about a couple of changes we want to make to this proposal and why. As I do that, I want to say that somebody on the other side of the aisle was quoted, I guess yesterday, as saying that those who say the American people have a right to know how we propose to balance the budget are joking. He said that the Senators who make this argument simply do not want to balance the budget.

Wrong. I want to balance the budget. I have voted for a constitutional amendment in the past, and I likely will again. But the question, in my judgment, is not whether we balance the budget; the question is: How?

I think the Senator from Utah and the other original cosponsors of this particular constitutional amendment will agree with me that if it passes 90 seconds from this moment, not one single penny of the Federal deficit will be reduced—not one. This will simply represent a bunch of words that go into the document called the Constitution. And the requirement, then, will be that changes in taxing and spending will have to occur in the magnitude of somewhere around $1.5 trillion in 7 years to accomplish a balanced budget by the year 2002.

I happen to think there is a special responsibility at this moment. The special responsibility is for this reason: The majority party, having won last November, proposes a contract for this country. In the contract, they say two things. They say they want to decrease taxes, which means cut the Government's revenue, No. 1; No. 2, they want to increase defense spending. If you decide you want to cut the Government's revenue and increase one of the largest areas of Government spending, it seems to me it is logical to ask, if we change the Constitution to require a balanced budget, how do we do it? How do we get to that point, if you say we should cut revenue and increase one of the largest areas of spending?

For that reason, many of us—some who are opposed to the balanced budget amendment, others who support it—do support an amendment called the right-to-know amendment. Once again, the questions for the American people are: What are we going to do, and how are we going to do it? The proposal to change the Constitution answers the question "what?" What are we going to do? But the question of how we are going to do it, we are told, is an improper question; leave it for later.

Well, my colleagues, that is business as usual. If ever I have heard business as usual, that is business as usual. I have heard that in 1981, 1982, 1983, 1984, and 1985. Business as usual is: Trust me; I promise you; we will tell you later. No, we do not have the details, but they are there; believe us, trust us; we promise you.

Well, look, how many times do you accept a promise? The American people, it seems to me, have every right to understand the answer to two questions: What are we going to do, and how are we going to do it? The American people have a right to know, from those who say, "I want a balanced budget by 2002," and "I want increased defense spending," and "I want revenue cuts," they have a right to know how we are going to get there.

If I said to the Presiding Officer that I want you to ride with me today and we are going to go to New York City, the Presiding Officer might want to get to New York City; he might have a desire to visit. He might say that sounds like a good trip, and he would like to go. He would probably ask, "How are we going to get there? Are we going to take the train; are we going to walk; are we going to take a motor scooter; are we going to go through Atlanta or maybe through Los Angeles to get from Washington, DC, to New York?" He would have every right to want to know how we were going to do it.

That is the purpose of the right-to-know amendment. Its purpose is not to derail the balanced budget amendment. I happen to think we ought to pass the constitutional amendment. I voted that way in the past, as I said, and I probably will this time. The purpose of the right-to-know amendment is to say this must be more than an empty promise. We must, this time, develop a national awareness of what the heavy lifting means to all of us. We need to get the Nation behind us to do it.

Mr. ARMEY, on the House side, said, "Well, we cannot tell the American people what is required here; it would make their legs buckle." I think that is far too little faith in the American people, honestly. We have to do this together. This country belongs to them, not us. This is their country, their democracy. This book, this Constitution, means it is theirs. They have the powers, not us. We have a responsibility to them at this point to tell them what we are going to do and how are we going to do it.

There are plenty of areas of the Federal Government that can be cut and will be cut under any scenario, whether this amendment passes or not. I led a project on Government waste when I was in the House of Representatives and then here in the Senate. I can cite chapter and verse about wasteful spending. I mentioned before the 1.2 million bottles of nasal spray on inventory at the Department of Defense. There are a lot of plugged noses you are going to be able to treat for two or three or four decades. That is the sort of bizarre kind of thing that is in the defense inventory. It makes no sense at all. There is too much waste.

The fact is that it is not the waste—while we should eliminate that—that drives these numbers. All of us know what drives this. This country is growing older. More people are eligible for Medicare and for Social Security. What is happening is that entitlement programs are ratcheting up costs. But there are no votes on those programs in Congress. Those are entitlement programs whose appropriations are virtually automatic. We have to respond to that.

Some of us are also going to offer an amendment on Social Security, and we are going to disagree on that. The Social Security system has not caused one penny of the Federal deficit. This year, we will collect $69 billion more in Social Security than we spend out. That is not an accident. We are doing that by design. We need to save that money for when the baby boomers retire. But if it is not saved, if it is used as an offset to other spending in order to balance the budget, we will have broken the trust and the promise between people who work and people who are retired.

We must, it seems to me, say that we are not going to balance the budget by raiding the Social Security trust funds. For those who say let us not pass that amendment, not give that assurance, I say do not give me five reasons; just give me one reason. There is only one reason you would not want to give that assurance to seniors, and that is because you want to use that money. To use that money is, in my judgment, breaking a promise. The money is collected for only one purpose. It comes out of the paychecks; it is called the FICA tax, and it goes into Social Security, the trust fund, and it is promised that it will be saved for only one purpose, and that is Social Security.

How on Earth can anybody justify saying, well, we do not want to set that aside because maybe we will want to use it sometime? For what? It can only be used for Social Security. Those are two amendments that we are going to have to deal with. And just because we offer them, others on this floor should not argue that we do not support a constitutional amendment to balance the budget.

There is a right way and a wrong way to do things. The wrong way is to provide empty promises and assurances that we are not going to keep. The right way is to tell people you have a right to know; you should know this, and here is the plan. We are going to increase defense, according to some, and cut revenue and, therefore, here is how we are going to deal with other spending.

That is important. It is important for the American people to know.

I want to mention one other thing as I am talking about this. I am, frankly, a little tired of people in this country in politics and especially people in the House and Senate who keep repeating the notion somehow that Government is unworthy.

Government is the way we do things together. It is the way we created our schools to educate our kids. It is Government. It is the way we built our police forces to keep our communities safe. It is Government. It is the way we inspect meat so when you buy some meat someplace you have some assurance that it is not contaminated. It is the way we regulate our skies so when you are flying up there in a jet airplane you are not going to hit another jet airplane. Government is something we do together. We ought to be proud of it, for gosh sakes.

You must have Government in the affairs of people in a nation like this, and we ought to have the best possible Government we can for the American people.

There is a sense in this country these days of a kind of anarchist mentality. This philosophy suggests somehow, that our Government is just something that just spends all this money and wastes all this money, and is totally unworthy, and that what we ought to do is just get rid of it.

But, you know, the fact is this country has changed a lot in recent years. The rich have gotten much, much richer, the poor have gotten poorer, and there are more of them, more vulnerable people in this country. We have to start thinking together, all of us, to try to figure out how to respond to some of these problems, how do we deal with some of the vulnerabilities in our country. This is how we spend our money. And all of us know where our money goes.

This pie chart shows where Federal spending goes. Defense, 18 percent of the spending; Social Security, 22 percent; health care, Medicaid and Medicare, 17 percent. And, of course, that is going up every year, because more people are getting older, we have more poor people, and health care costs increase every year. We have to do something about health care costs because if we do not we cannot deal with the budget deficit.

Interest on the debt is 15 percent of the budget. We cannot negotiate that. We have had to pay for that. And if Greenspan gets his way, we will pay a lot more for it.

So Medicaid, Medicare are going up. Interest is going up. Social Security, more people growing older and on disability. In fact, in the Social Security trust fund, we have a surplus for just that reason.

Defense? My Republican friends say we need more defense, so that is going to go up.

So where do you get the rest of it? International—some people say foreign aid, of course, is the biggest area of public spending. It is not. We spend 1.4 percent of the budget for international programs.

So you have other mandatory spending. For domestic discretionary spending, 16.5. Now the 16.5 percent of discretionary spending, that is the kind of spending that we send out to deal with kids' nutrition, all sorts of issues that help people out there who need help.

I know it is easy to talk about these things in the abstract. But now every day you can go out and find what really matters and you can determine how this affects real people. You can go to a food pantry and who walks in and try to figure out what this means in their lives.

You say, "Well, let's cut off funding that does not make any sense." Nutrition programs? That makes no sense. "The WIC Program; you know, Head Start, we can do without it."

Yes, I suppose the country can do without it but it will also be a country that is less worthy. It is a country that is not investing in its health and in its children, trying to make life better for children.

You know I remember being at a town meeting in eastern North Dakota one day. An old fellow came up to me by the name of Thor, a guy who had flown combat airplanes in the Second World War. Thor came up to me and said, "I want to show you my mouth. I got sores all around my mouth," a guy in his seventies. He said, "I need teeth." This was an old veteran. He said, "I have no money. I have nothing." And he said, "I need teeth. I have no teeth. I went to the VA and I got a set of teeth from them and they don't fit. And so when I use them, it creates sores all around my mouth. So I can't use them and I want to show you these sores around my mouth."

And I am thinking to myself—this was at a town meeting—he walked all the way up to the front, had his mouth open showing me how badly he needs his new set of teeth.

Is it not pretty remarkable, in a country as wonderful as this, that old Thor, who went off to fight for his country and flew in combat and is now in his seventies and for one reason or another ends up with nothing, that Thor has to go to a meeting and stand up to beg to try to get a set of teeth.

That is what we are talking about here. We are talking about things that improve the lives of people.

Senator BURNS from Montana is on the floor. I was in community near the Montana line recently, touring a hospital where they showed me this space where the carpenters were knocking out two-by-fours. They were going to put in big, breathtaking new things. I think it is was an MRI; you know, the technology to look through human flesh to see what is there, a diagnostic tool. Breathtaking technology.

Then about 100 feet down in this hospital wing, they had me hold a little baby, tiny little baby, that had been born some while before, born premature, as a matter of fact. The mother had come to the hospital to have a third child, unmarried. She checked in on a Saturday. Her blood alcohol content was .25 when she delivered the baby. They checked this baby's blood and this baby was born with a blood alcohol content of .21, a little premature baby born dead drunk, and the mother did not even want to see the baby, wanted nothing to do with it. The baby will probably be fetal alcohol syndrome damaged, they do not know.

But think of the consequence of these things, day after day in our country. And we have to be concerned about how we respond to them and how we deal with them. We cannot ignore them. These things tear this country up from the inside.

I am not making a case for massive new programs for spending, because I do not think this is a case where you have kind of a vending machine, where you put in a quarter and get out a national program. But some things we do in this country are very, very important.

Head Start. Boy, you know, we should understand that is a good investment. The WIC Program, we know that is a wonderful investment to invest in kids and low-income pregnant women.

I could tell you a hundred stories, as could all of my colleagues, about the value of some of these things we do that make life worthwhile and make life helpful to people who need help.

I should tell you that Thor has new teeth. Thor got new teeth. Well, it was from a dentist. I talked to a friend of mine, personal friend of mine, and he got Thor some new teeth. But should a veteran have to beg for new teeth? No, I do not think so.

The point is there are programs now to help that young baby. Young Tamara Demeris, who I have talked about on the floor before, a 2-year-old, hair pulled out, nose broken, arm broken, because she was put in a foster home and nobody checked to see whether the people were drunkards. So this little girl was abused.

The fact is, there are things we can do about that. And we have done some things about that. When they come to our attention, we invest and we do some things to try to help people.

But all of these things relate to the decisions we are going to make about what are we going to do. People have a right to know. What are we going to invest in? Are we going to invest in star wars, or are we going to invest in Head Start for our kids? The people have a right to know that.

And to those who say this is joke, I say you are wrong. You know better than that. This is not a joke. This is very serious business. We are talking about changing the Constitution and we are talking about imposing requirements that will make massive changes in the way the Federal Government spends money. And count me in, because I want to force those changes. I have two children and I do not want to give them a $10 trillion debt when they get out of school. So count me in.

I just say this: We have a responsibility, all of us, to tell the people what we are going to do and how we are going to do it. To those who say, "Let's not tell them what we are going to do," I say that is business as usual, the same old tired promises I heard for 15 years. To those of us who say, "Let's together tell them how we are going to do it," we say the people have a right to know. And when we offer our amendment on the right to know, we say to you, "Join us, accept the responsibility; accept the challenge of closing the loop to give the American people the opportunity to know exactly what we are going to do, to whom and how."

The American people can take it. The American people deserve it. And to do less, in my judgment, is the same old tired unfinished business of Congress that says, "Here's our political answer. Now trust us. Details later." That is not the way we ought to do business.

I hope that, as we in the coming 2 or 3 weeks move down this road to try to consider in a serious way not only what we are going to do but how we are going to do it, those of us, Democrats and Republicans, who believe the current situation in this country is a crisis, the current deficits threaten this country's future. The current Federal debt and the prospect of burgeoning future debt are challenges we cannot ignore. The question cannot any longer—for anybody on the floor of this Senate—be whether we do something about it. The question is, what?

To those who oppose a constitutional amendment, I say I voted for it in the past and will likely vote for it again. I say to Members, as well, on the other side of the aisle, Members have a responsibility to join in the second step of this journey. The second step, just like a Montana dance, joins the first step. It is change the Constitution to require a balanced budget. And as we do it, tell the American people how we will accomplish it because if we fail to do the latter, we know the former is nothing more than a bunch of words in a document like this.

So, Mr. President, we will have a lengthy debate and an aggressive debate on this subject. The debate will not be, I think, as the Senator from Utah occasionally would suggest, on whether a constitutional amendment is worthy. This Senator has said before, he thinks it is. I say now I think it is. But I say to the Senator from Utah and his colleagues and my friend from Montana, we have an obligation to do more than this.

I will join Members on this. We have an obligation to do more. We have an obligation to give the people the right to know, as we pass this, what does it mean; what does it mean to their future, and what does it mean to their lives, and how will we respond to it as a national commitment in this country.

Mr. President, with that, I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I appreciate the words of my friend from North Dakota.

As he held up the Constitution, I want to go back to an article that was printed in, I think, the Richmond Times, some time ago, and this last Sunday in the Washington Times. It was taken from the life and times of Davy Crockett, whenever he represented Tennessee and the House of Representatives, and he had to cast a vote to help people when their houses had burned down in Georgetown.

We hold up that Constitution, remember, as a double-bit ax. There is nothing in that Constitution that says we have the right to take my money and give it to somebody else, free, gratis.

So, when we talk about a balanced budget amendment, be very clear that this is not the first time this was a concern of people and leaders in this country. The first constitutional amendment to balance the budget was in 1936. And there was a time, I think, this country pretty well held its discipline on spending, until we really learned as a Government to borrow money, that we could borrow money against future collections, and those are taxes.

I have heard the same old argument, saying, "How are you going to do it?" Well, I would say I am going to have to approach this just as I approached running a farm or a ranch. You do not do the same thing every year or nail yourself into a situation that if time and circumstance changes, a person cannot. They do that.

I worked in county government where we balanced the budget. The debate started among the commissioners on what is going to get funded or how much it is going to get funded; and what, maybe, if we do not have the funds, should be cut out. It serves a purpose, but maybe is not as high on the priority list as we would like to see it.

That is what a balanced budget amendment does. It creates the arena for debate. It forces us, as debaters or policy setters, to make those hard choices between doing this or that, and reexamining the mission of government.

The Senator from North Dakota is exactly right. What is the purpose of government? Why do free people establish a government, especially in a free society? No. 1, public safety; he is right. That is an obligation of the total society, public safety. Now, public safety could be food safety, it could be in hygiene; but mostly it is in our fire departments, our police departments, our immediate-response people.

The next obligation, we could say, probably is transportation, because we have to keep the roads and the bridges so that the area of commerce can be carried out. In this great land of ours, we have changed everything around to where it is a global economy and global communication as to where our roads and bridges are satellites, fiber optics, new communications. Those are areas that will be debated here on this floor, as new policy is going to be formed that can keep up with the new technologies that are out there.

What some folks would call investment, other folks would call spending. If we want to define them, I guess they are about the same. Then I guess when we get down to the definition, we come down again to the bottom line, and that is priorities.

Now, with a debt of $4.7 trillion, for too long now after we learned to borrow against future collections, we started to move that national debt up. As I said, the first balance-the-budget amendment was in 1936. In 1934, and that is under the Roosevelt administration, someone had the idea that this thing could get out of hand and was concerned about it. We were in the depth of the Depression. We were trying to help so many people who had been hit by this devastating time; not only the Depression, but drought. And I could write a book on that.

I do not remember those days in 1936, because I was born in 1935. I guess I was a result of the drought; I surely was not a result of the Depression. The last thing you wanted in 1935 was kids, living on 160 acres of two rocks and one dirt.

But the debt that started out, we lost our way a little bit and our discipline. So that debt continues, because we continue to deficit spend. We should get two things straight right here. There is a difference between deficit spending and debt. Deficits cause debt. We deficit spend; we create debt. So no matter that that line goes down, we are still deficit spending. It is still of concern to people who have some kind of sense of responsibility, of fiscal responsibility.

Ever since I came here 6 years ago, that has been a concern, because our concern should be for our children and grandchildren, and the bill they will have to pay later on because we are mortgaging their future.

I was not a Member of Congress when the Gramm-Rudman-Hollings Act was passed, but it was one of the many efforts to control Government spending. While well intentioned, this law fell short of eliminating the deficit. In other words, we as a body of policymakers never really committed ourselves to that law to make sure it worked.

Even with a balanced budget amendment, I am not really sure that we have that discipline today, but I think it will make Members get in the debate and talk about priorities. It is true that we do have laws in place to balance a budget. We did not have the will to really take it serious, to really look at programs, and to take some of the fraud out of it.

My good friend from North Dakota was talking about the man who flew the missions that could not get a set of teeth. And we have people that take advantage of the veterans programs that never got anything, to really have the privilege of using those programs.

The balanced budget amendment would change all of this rhetoric by instilling the necessary fear needed to make the tough decisions and take the hard steps. What are we talking about, even in food stamps; $1 billion a year, $3 billion a year in savings, if we could take the fraud out of it?

Now, that has nothing to do with a balanced budget amendment, but I can remember when talking to the former Secretary of Agriculture in the Bush administration, Ed Madigan and, of course, Ed is no longer with us. We started with a smart card and we saw where we could take some of the fraud out of it. Do you know what stopped the expansion of that idea? The bureaucracy did, because it cost some jobs in Government. Does that not seem strange? We had an opportunity to do that. This will force us to do something about that, whether we want to or not. It will force Members to do it.

So as we go down this trail, trying to come up with a mechanism to instill fiscal responsibility in ourselves, this is, I think, a commonsense approach. And yet there are people that want to make it very complicated.

I came up in 1990 with an idea called the 4-percent solution.

We wanted to deal with the deficit. At that time, if you wanted to reform something to really make it work, the 4-percent solution merely said this: Do away with baseline budgeting, but budget and spend based on previous years' expenditures and only let Government grow 4 percent a year. Based on previous years' expenditures, not previous years' budgets, and not an automatic built-in 6 percent as happens in baseline budgeting.

And you know what, next year we would have been looking at a whole lot different deal had we done that. We had a few cosponsors on that. It is a very simple thing. Maybe it was too simple. Nobody wanted to really get into it. But basically it just said, "Government, only grow 4 percent. If you don't want to spend the 4 percent over here, you can spend it over here. You can move it around. But the total growth, bottom line, 4 percent."

It would have given Congress the flexibility to increase funding at realistic levels for many programs while reducing others and phasing out some that have not worked since World War II and they are still around here.

It did not pass, and now the problem is even worse where even the 4-percent idea will not work. It will not get us to where we want to go.

I think also we have to look at a way to see how this budget or balanced budget will be scored by the CBO and whoever is doing the bottom-line figuring.

There was a joint budget hearing a couple of weeks ago that would do exactly that. I am pleased that that hearing looked at the dynamic modeling and am encouraged that it gave it the attention it deserves. The current revenue method calculates outlays from the Treasury, no matter what the cost-benefit ratio. I believe dynamic review estimating would be a good way to put Government spending priorities in order.

What we are saying is, the policies we set here, tax policies, whatever, change people and the way they do business. It just changes human behavior.

The dynamic modeling of a program would be scored on its merits. Instead of only looking at the amount of money the program costs in outlays to the Treasury, it also would take into account how much money is raised for the Treasury.

I have heard this argument on capital gains. Capital gains is a voluntary tax. How many ranches and how many businesses are we looking at today that are not being sold or even offered to be put on the market because of capital gains? They find other ways of transferring that property, some way to do it. It is a voluntary tax. You do not have to pay the tax because you do not have to sell. So what happens? It does not go up for sale and their commercial activity is lost.

So we have to look for a way, a program which creates jobs, opens up employment opportunities, boosts the economy and raises money for the Treasury. It is commercial activity that does that. Of course, I was not trained in economics. I pretty much have street economics. It is pretty simple: This is accounts receivable over here; this is accounts payable over here. Nothing happens in accounts payable until something happens in accounts receivable. That is the way it is. That is a pretty simple way to go through life. Nonetheless, that is the way we have to score and take a look.

Montanans, like all other people around America, sent a loud and clear message last November 8. There are still some people who are trying to interpret that message, and there will be different interpretations of it as long as there are writers of editorials, as long as there are coffee klatches, as long as there are service clubs. Wherever you hear public discourse, there will be an array of messages that was heard November 8.

But I think I heard the message. I heard the message that says we have to change some things before we really get the job done. Three reforms have to happen: Spending reform, budget reform and regulatory reform; and also something that puts some steel or backbone, as far as picking those winners and losers in spending and the way this Government spends money—priorities. It makes you get on the field and debate the priorities of which direction we are to be going.

An ABC-Washington Post poll taken early in January showed that 80 percent of those polled said they support a constitutional amendment to require a balanced budget.

When looking at budget priorities the Federal Government seems like a good place to start. The Federal Government consumes 23 percent of GDP. The current growth rate of Government spending is 2 percent per year faster than the economy. It's time to get a tight rein on the power and size of the Federal Government. The economist, Milton Friedman, put it best when he said, "There is nothing so permanent as a temporary government program."

The Federal Government has encroached on State's rights and spending has gone up to keep pace. Its overambitious agenda steals individual rights even as it indebted the people. Congress and the Federal Government have to get their hands out of their pockets.

It's time to redistribute the power to the States. Shrink the Federal Government and given the money straight to the States. Cut out the middle man—the paper pusher in Washington, DC.

By giving the States block grants they can use the money as they see fit, tailoring it to their specific needs. Every State is different and has different needs. One size does not fit all and the Federal Government should not be trying to force one program to fit every State. What works in California, doesn't always make sense for Montana and West Virginia.

Once again, opponents of the amendment are using scare tactics to defeat this measure. They threaten that important programs will be cut or even eliminated, that it will endanger our economic recovery. There has to be plenty of places to make responsible cuts in a $1.6 trillion budget. And by balancing the budget, Congress can ensure our continued economic strength and future power.

House Joint Resolution 1 allows Congress plenty of time to get the fiscal house in order. Under this amendment, Congress would have until the year 2002 to balance the budget. That's 7 years.

Over the course of 7 years, spending can be reduced gradually. The budget does not have to be balanced overnight. Seven years is a long enough lead time to do the job, and do it fairly.

The President will be required to offer his budget that is balanced based on good faith, but Congress will be forced to stick within its budget.

Balancing the budget is going to take some hard decisions, some politically distasteful choices. But the reward will be a balanced budget and a more prosperous America. It's time to stop impoverishing the next generation of Americans. Pass the balanced budget amendment and put some discipline in the budget process.

I feel very strongly—very strongly—if we do nothing else in this 104th Congress and we pass this balanced budget amendment, I think we have sent a strong message to the American people: We hear you. We care.

But they also hear another message; that they, too, in their neighborhoods also have some responsibility of participation to make sure it works and to help us. That is the message back to the voters: Help us. Help us set those priorities on maintaining this Government and also this great, great free society in which we live.

Thank you, Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I want to reemphasize that this is one of the most important debates that has ever taken place in the U.S. Senate. The subject matter indeed goes to the very heart of the hope of the Framers of the Constitution for the constitutional system—a system that would protect individual freedom and restrain the size and power of the Federal Government. In the latter half of this century, however, the intention of the Framers has been betrayed by Congress' inability to control its own spending habits. I want to explain how passage of the balanced budget amendment will further the intent of the Framers of the Constitution. I also want to demonstrate that Federal balanced budgets—up to very recently in our history—was a customary norm. We must return to that norm if we ever hope to assure the economic well-being and vibrancy of these United States.

THE BALANCED BUDGET AMENDMENT AND THE CONSTITUTION

Mr. President, let me first say what the modern day crisis is: Our Nation is faced with a worsening problem of rising national debt and deficits and the increased Government us of capital that would otherwise be available to the private sector to create jobs to invest in our future. Increased amounts of capital are being wasted on merely financing the debt through spiraling interest costs. This problem presents risks to our long-term economic growth and endangers the well-being of our elderly, our working people, and especially our children and grandchildren. The debt burden is a mortgage on their future.

Mr. President, the time has come for a solution strong enough that it cannot be evaded for short-term gain. We need a constitutional requirement to balance our budget, Mr. President, House Joint Resolution 1, the consensus balanced budget amendment is that solution. It is reasonable, enforceable, and necessary to force us to get our fiscal house in order. But it not only furthers the economic welfare of our Republic; it fosters the Constitution's purpose of protecting liberty through the framework of limited Government.

James Madison, in explaining the theory undergirding the Government he helped create, had this to say about governments and human nature:

> Government [is] the greatest of all reflections on human nature. If men were angles, no government would be necessary. If angels were to govern men, neither external or internal controls on government would be necessary. In framing a government that is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is no doubt the primary control on government; but experience has taught mankind the necessity of auxiliary precautions. [Federalist No. 51.]

Mr. President, we are here to debate such an auxiliary precaution, House Joint Resolution 1, proposing an amendment to the Constitution of the United States to require a balanced budget, because our recent history has shown us that Congress is not under control.

The balanced budget amendment helps restore two important elements in the constitutional structure: Limited government and an accountable deliberative legislative assembly, both of which are vital to a free and vibrant constitutional democracy.

A deliberative assembly, the essence of whose authority is, in Alexander Hamilton's words, "to enact laws, or in other words to prescribe rules for the regulation of society" for the common good, was considered by the Framers of the Constitution the most important branch of Government because it reflected the will of the people. Yet, as the maker of laws, it was also considered the most powerful and the one that needed to be guarded against the most.

Recognizing that "[in] republican Government the legislative authority, necessarily, predominates" and to prevent "elective despotism," James Madison, the Father of the Constitution, recommended that the Philadelphia Convention adopt devices in the Constitution that would safeguard liberty. These include: Bicameralism, separation of powers, and checks and balances, a qualified executive veto, limiting congressional authority through enumerating its powers, and, of course, the election of legislators to assure accountability to the people.

However, in the late 20th century, these constitutional processes, what Madison termed "auxiliary precautions," have failed to limit the voracious appetite of Congress to legislate into every area of private concern, to invade the traditional bailiwick of the States, and, consequently, to spend and spend to fund these measures until the Federal Government has become functionally insolvent and the economy placed in jeopardy.

Congress has been mutated from a legislative assembly deliberating the common interest into the playground of the special interest.

The balanced budget amendment, Mr. President, will go a long way toward ameliorating this problem. It will create an additional constitutional process—an auxiliary precaution—that will bring back legislative accountability to the constitutional system. The balanced budget amendment process accomplishes this by making Federal deficit spending significantly more difficult. Significantly, it advances liberty by making it more difficult for the Government to fund overzealous legislation and regulation that invades the private lives of citizens.

THE HISTORICAL NORM OF FEDERAL BALANCED BUDGETS

Mr. President, I would like to read two quotations:

First, "The public debt is the greatest of dangers to be feared by a republican Government."

Second, "Once the budget is balanced and the debts paid off, our population will be relieved from a considerable portion of its present burdens and will find * * * additional means for the display of individual enterprise."

These quotations are not recent statements by current proponents of the proposed amendment. The first statement was made by Thomas Jefferson and the second by Andrew Jackson.

These two quotations illustrate an important truth: No concept is more a part of traditional American fiscal policy than that of the balanced budget. In fact, Jefferson himself wished the Constitution had included a prohibition on Government borrowing—an early version of a balanced budget amendment, if you will—because he thought that one generation should not be able to obligate the next generation.

Throughout most of the Nation's history, the requirement of budget balancing under normal economic circumstances was considered part of an unwritten customary national policy.

Influenced by individuals such as Adam Smith, David Hume, and David Ricardo, the drafters of the Constitution and their immediate successors at the helm of the new Government strongly feared the effects of public debt. The taxing and borrowing provisions of the new Constitution reflected a need of the new Republic to establish credit and governmental notes and negotiable instruments that would spur commerce.

Yet, the Founders and early American Presidents were in virtual unanimous agreement on the dangers of excessive public debt. Consequently, for approximately 150 years of our history—from 1789 to 1932—balanced budgets or surplus budgets were the norm.

While budget procedures had little of their present organization, the concept of a balanced budget was accepted widely as the hallmark of fiscal responsibility. Those deficits that did occur—during wartime or during the most severe recessions—normally were offset by subsequent surpluses.

Between 1932 and 1960, the rigid rule of annual balanced budgets gave way to a fiscal policy in which balanced budgets remained an overall objective, but in which deficit spending was also viewed as a tool occasionally useful to affect appropriate economic results. Nonemergency deficit spending was legitimized in 1936 with the publication of John Maynard Keynes' "General Theory." Great weight was placed upon the ability of the Federal Government to manage the economy through fiscal policy; that is, through spending and taxation.

However, a real turning point in the history of U.S. fiscal policies occurred during the 1960's. Even the Keynesian objective of balancing surplus years with deficit years succumbed to the idea of regular, annual uncompensated-for deficits. In other words, our deficits, which were historically cyclical, reflecting boom and bust, war and peace, became structural and permanent.

During the 1960's, we were paying for the Vietnam war at the same time as the war on poverty. The Great Society had noble goals and great intentions. But, the Great Society, on top of the war, was financed through debt and helped to develop our proclivity for deficit financing our national aspirations.

During the past three decades, the Federal Government has run deficits in all but a single year. The deficits have come during good times, and they have come during bad times. They have come from Presidents who have pledged themselves to balanced budgets, and they have come from Presidents whose fiscal priorities were elsewhere. They have come from Presidents of both parties.

Even more alarmingly, the magnitude of these deficits has increased enormously. During the 1960's, deficits averaged $6 billion per year. In the 1970's, deficits averaged $36 billion per year. In the 1980's, deficits averaged $156 billion per year. And, in the 1990's so far, deficits have averaged $259 billion per year.

The total national debt now stands at over $4.8 trillion. While it took us over 200 years to acquire our first trillion dollars of debt, we have recently been adding another trillion dollars to our debt about every 5 years and will continue to do so under current projections at a slightly faster rate as we approach the end of the decade.

Deficits and the national debt have grown, in large measure, because Government spending has grown. As total Government spending has increased, so has Government's relative share of the economy. In 1929, Federal expenditures of $3 billion represented just 3 percent of GNP. By 1950, the Federal share had risen to 16 percent of GDP or about $43 billion. For fiscal year 1993, Federal Government spending of over $1.4 trillion commanded nearly 23 percent of GDP.

To illustrate this growth in another way, the first $100 billion budget in the history of the Nation occurred as recently as fiscal year 1962, more than 179 years after the founding of the Republic. The first $200 billion budget, however, followed only 9 years later in fiscal year 1971. The first $300 billion budget occurred 4 years later in fiscal year 1975; the first $400 billion budget 2 years later in fiscal year 1977; the first $500 billion budget in fiscal year 1979; the first $600 billion budget in fiscal year 1981; the first $700 billion budget in fiscal year 1982; the first $800 billion budget in fiscal year 1983; the first $900 billion budget in fiscal year 1985; and the first $1 trillion budget in fiscal year 1987. The budget for fiscal year 1995 was over $1.5 trillion.

Under current projections, Government spending will continue to rise, using capital that would be put to better use by the private sector to create jobs. To starve the primary engines of economic growth of needed capital is to risk our long-term economic security.

Mr. President, it is absolutely clear that to restore the constitutional concept of limited Government and its protection of liberty—as well as to restore fiscal and economic sanity—we must pass this balanced budget amendment.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we have been focused in the last 6 months on the O.J. Simpson trial, and one of the first mistakes made in that case by one of the defense lawyers was when the defense lawyer allowed O.J. Simpson to give a long statement to law enforcement. It led to that attorney being fired by O.J. Simpson because O.J. Simpson, could have given testimony incriminating himself.

Those of us who have practiced criminal law recognize that people have a constitutional right to not incriminate themselves. The fifth amendment provides for this right. I am sure we have all seen movies where people stand and say, "I refuse to testify for fear that I will incriminate myself."

The reason I mention that today, Mr. President, is the majority of people pushing the balanced budget amendment are unwilling to tell the American public what they have a right to know: How the budget will be balanced. They, in effect, are taking the fifth amendment because they do not want to incriminate themselves. They do not want to tell Social Security recipients, and others, that they are going to use the Social Security trust funds to balance the budget.

I believe that this right-to-know amendment that will be offered by the minority leader tomorrow is an important amendment. It is an important amendment because I believe that we have an obligation to tell the truth to whomever asks us for the details. And that is the question that is being asked in the form of the Democratic leader's amendment: How are you going to arrive at the numbers in 2002 to balance the budget?

I think it is important that we recognize that the American people care about this. Eighty percent of the American public believes that there should be a balanced budget amendment. I believe that. But you ask that same number of people whether you should balance the budget using Social Security trust funds, and over 85 percent of the people say it should not be done that way.

So, in effect, the numbers do not support a balanced budget amendment if you are going to use Social Security.

The reason I have been such an advocate of the right to know is because I am the one who last year offered an amendment to protect Social Security. I am going to offer that same amendment. I am going to be joined by a significant number of my colleagues to exclude Social Security from the balanced budget amendment. That in fact should be done.

I believe it is important the American public know how we are going to balance the budget. Why? My friend, the majority leader in the other body, Representative ARMEY from Texas, has stated that we cannot have the right-to-know amendment passed, for if we did, the knees of all Members of Congress—in both the House and the Senate—would buckle and they would not vote for the amendment. Why? Because the American public then would know, in his words, too much. So I believe the American public has a right to know.

Maybe what we should do is change the name of this balanced budget amendment to the trust me amendment. Just trust me. Everything will be just fine. Do not worry about it. We do not need to tell you how we are going to do it. Just trust me. We will call it the trust me amendment.

I believe, Mr. President, that the Democratic leader's demand for greater details is the right way to go. It is insulting to the American public, the people of the State of Nevada, to suggest that we cannot tell the American people how we will balance the budget because, if they knew, they would not support the passage of this amendment. So let us call this the trust me amendment rather than the balanced budget amendment. The American people, you see, Mr. President, should not be treated like sick children: Take the medicine; it will taste fine; it will make you feel better. Trust me.

No, I do not think we can treat the American people like sick children: Just open up and swallow the medicine; it is good for you. They have a right to know and we have an obligation to tell them. We cannot, I repeat, take the fifth amendment and say we do not have to tell you for fear you will hold it against us.

Amending the Constitution is serious business that carries with it far-reaching ramifications. Like a patient about to undergo serious surgery, the American people ought to be told of all the options and all the possible ramifications.

Mr. President, when I first started practicing law many years ago, a doctor did not have a profound obligation in law to tell the patient what might happen to them when they undertook a procedure. They really did not have to sit down the night before the operation and indicate to them: You are going to be just fine, but you should know that in 10 percent of these surgeries this dire result takes place.

No, that was not the rule. But it is now. The case law has made it so that physicians now have an obligation to tell a patient what are the ramifications from the procedure they are about to undertake. The patient has a right to know. The American public, being the patient in this instance, has a right to know what is going to happen, and that is why we are asking that there be a glidepath as to how the balanced budget is going to be reached.

All we are asking—it does not seem too much—is an honest, up-front accounting of how we will be able to balance that budget.

Let us assume that today or tomorrow we passed an amendment to the Constitution that outlawed all violent crimes. It sounds good: We are going to outlaw all violent crimes. But unless we set out a detailed plan as to how this amendment would be enforced and the crimes to necessarily be included, it would not be worth the paper on which it is written.

That is what the balanced budget amendment or the trust-me amendment is all about. We are going to do the right thing, and balancing the budget sounds like the right thing to do.

It kind of reminds me of about 15 years ago at Caesar's Palace in Las Vegas. They were going to have an event. The event was that Evel Knievel was going to jump across the fountains at Caesar's Palace. None of us thought he could do it. He said, "Trust me; I can do it." I can drive my motorcycle and make this giant leap of faith and I will be just fine.

Thousands of people went to Caesar's Palace that day to watch this man perform this act that no one thought he could do. Millions of people watched it on television. And sure enough, he could not do it. He revved up that motorcycle in his red, white, and blue jumpsuit and off he went. The motorcycle turned in the air, and he was splattered all over the pavement at Caesar's Palace. He still has wounds and he still limps as a result of that event.

Well, that is just like this trust me amendment. There can be no way, in this Senator's opinion, that you can balance the budget by 2002 unless you take Social Security trust fund moneys. Logic tells me that is the case. And as I said yesterday on this floor, Willie Sutton, the famous bank robber, after he got out of prison was interviewed. He was asked: Why do you rob banks? Willie Sutton said, "Because that's where the money is."

Well, with the Social Security trust fund, that is where the money is. We are going to have surpluses of billions and billions of dollars by the year 2002 or 2003. It will be about $800 billion. It will go up higher than that, into the trillions, before the downside starts.

I see seated in the Chamber today my friend from Wyoming, the senior Senator from Wyoming. He and I serve together on the entitlement commission. Social Security has problems if we do not bother it, but if we take those Social Security trust fund moneys and use them to retire the debt, we have big problems real quick.

Also, one of the first things I learned in law school is that if you are going to have a contract, you should put it in writing. We have heard a lot on this Senate floor, and especially in the other body, about a Contract With America. We all realize that the real contract with America was negotiated in 1935 when Social Security was passed. That is the real contract with America. And I believe that the trust-me amendment should be an amendment that is a real, true, balanced budget amendment and Social Security should be excluded from it. And to do that we have to put it in writing. We can no longer say to the Social Security recipients—and that is not only old people in this country. It is my children and my grandchildren. I want them to be able to have the ability to receive Social Security. So we want this Social Security exclusion to be put in writing, not some kind of a resolution that does not mean anything.

I have heard that there is going to be a resolution offered that will get overwhelming support in this body. The resolution will say, "We will not touch Social Security, cross my heart." But the American public should understand that resolution does not mean anything legally. I say we must put it in writing in the amendment itself in order to have a real binding, meaningful balanced budget amendment.

So those who may offer a resolution declaring Social Security not applicable under the balanced budget amendment should understand that it will pass overwhelmingly but it means nothing. I respectfully suggest that we need to make sure and understand that such a resolution is only a figleaf to make people's consciences seem a little bit better. Unless it is in the balanced budget amendment—that is, the exclusion for Social Security—Social Security will be the tool used because it is "where the money is," as Willie Sutton said.

On this floor yesterday—I had a dialog with my friend from Utah, the senior Senator from Utah, who has for a considerable period of time managed this bill. Referring to the RECORD of yesterday, I read a statement from my good friend the senior Senator from Utah, where he said:

> Now, that is where we are headed. Make no bones about it. The only way to protect the Social Security trust fund and the Treasury bonds it buys, is to pass this amendment and balance the budget.
>
> Now, Senator REID says we must exempt Social Security because what is—[it says "what" but it means "that"]—that is where the money is. That just is not true. That is where the Treasury bonds are. There is no money there. There are only IOU's which will be valueless if we do not get spending under control.
>
> How do we protect Social Security? We who support this amendment know how. Through good economics, and through a balanced budget amendment. It is the best protection we could give them. The Social Security trust fund is not where the money is. There is no money there. There are only IOU's there.

He goes on to say:

> We have already used the money to pay for other bills of the Federal Government and other spending items.

That is my whole case. That is my whole case. We do not want to do that anymore. This year there will be an excess, a surplus of $70 billion and they will continue to grow. We want to maintain those moneys. We do not want to do what my friend from Utah recognizes has been done.

So I am for the right-to-know amendment. I believe that amendment suggests we should have an exclusion for Social Security. If we do not, we are going to have a cruel hoax perpetrated on the people of this country.

My friend from Utah further is quoted in today's Washington Post as saying, "The right to know is a joke by those who don't want to vote for the amendment anyway." Mr. President, I support the balanced budget amendment and have for many years. But I also support the American public's right to know how we will get the budget in balance. I suggest the only joke we are hearing around here is voices saying, "trust us." The sad fact, however, is that this joke is at the expense of the American people.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I ask the Chair notify me when I have consumed 14 minutes.

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. BREAUX. Mr. President, this is probably one of the most important issues we are going to be asked to debate in this Congress, or maybe several Congresses. I suggest if the Senate today was debating whether Members of the Senate should be allowed to have lunch with a lobbyist, the press gallery would probably be overflowing. They would be listening to every word we say on whether we should have lunch with lobbyists when we come to Washington. But here we are, talking about amending the Constitution of the United States, a decision that can affect every single individual American today—the press gallery looks like a hurricane has just blown through it.

This is an incredibly important decision we are embarking on, taking on in a relatively short period of time—to amend the Constitution of the United States. The balanced budget amendment, it is like apple pie and motherhood and the San Francisco Forty-Niners, everybody loves it in concept. But the devil is really in the details of what we are talking about, and I suggest the details are well hidden. Details about what this means are still in the dark and I suggest that is not the way the U.S. Senate and Congress of the United States should legislate. I think we have an obligation to be honest and frank with the American people, and tell them what we are getting ready to do to them and to the respective 50 States of the United States.

I will start off by saying I support the balanced budget amendment. I have supported it in the past. I have voted for it in the past. I think it is incredibly important that the Federal Government do what most of the States do, although they differ and do it in a very different fashion with the type of budgets they have to keep in balance. They have a capital budget and an operating budget. If the Federal Government had a capital budget and an operating budget, it would be a lot easier for us to balance the budget. We do not have that luxury like most of the States have. We have only one budget and everything is put in. So an effort to balance the budget by the year 2002 is a noble idea, one I support, but one that is not going to be very easy.

My point is everybody is for this in concept but nobody knows the details. So many, in fact, are concerned about what the details really mean and how we are really going to go about doing it that the Republican leader in the House of Representatives, when they asked him what about spelling out the details of how you are going to do this so the people can see it, suggested that we really cannot talk about the details because if we do it nobody will vote for it.

Is that not a heck of a statement to make in the Congress of the United States? That the details are so difficult, and what we are asking the American people to face having happen to them is so difficult to face we cannot tell them about it because, guess what, if we tell them about it we may not be able to do it.

What kind of principles does that stand for? What does that say? We have to pass this in the dark because if we open it up nobody will vote for it? Are we telling the 50 State legislatures if we tell you exactly what this means you will never pass it so we are not going to tell you what it means, we are just going to give you a title and the title says we are going to balance the Federal budget by the year 2002?

If it is good enough to do it is good enough to do in the daylight. Why do we have to do it in the dark? What is wrong with telling them what a balanced budget by the year 2002 really means?

We have to understand in Washington that this balanced budget amendment is not something we are doing here by ourselves. We cannot balance the budget in Washington, amend the Constitution in Washington with a balanced budget amendment, without a partnership arrangement with the States. They have to ratify the amendment that we send to them; 38 States have to analyze it, take a look at it, and say: Our legislators say this is good policy; we will vote to put a balanced budget amendment in the U.S. Constitution.

So they have to be involved. It is a partnership between the Federal Government and the various States in amending the Constitution of the United States. Therefore I suggest the States need to know exactly what this is going to mean— not in Washington, but what it means in the various State capitals around the United States. And I suggest it is not enough for us to say, "trust us," here in Washington—a very novel idea at best. Trust us to do what is right. Trust us to pass this in a way that you are going to be very happy with, trust us to do the right thing that is not going to abnormally affect your States and your citizens. Trust us to make it in a way that you will like. But do not, do not ask us to tell you what it is all about, because you know if we tell you what it really involves you may not vote for it and, boy, would that not be terrible? So please trust us.

President Ronald Reagan used to have a great line when he was talking about the Soviet Empire and all the meetings they had. All the meetings were going fairly well and Reagan would get up in the press conference and say, "trust but verify."

It was a great line. It made sense. We wanted to make sure that, yes, we trusted the Soviets to do what was right because that is what they told us, but he also said yes, but let us verify. Let us make sure the trust is more than a promise to do it right, that we actually see in writing what they are going to do. Trust but verify.

The right-to-know amendment that we are suggesting to be added to this balanced budget amendment is really that: Trust but verify. Tell the States what it is going to mean when that balanced budget amendment hits the capital steps in the various State capitals. What does it mean?

I spoke to the National Governors' Conference the other day and I asked the Governors, I said, Governors: What are you going to say to the President of your senate or the speaker of your house when this amendment hits the steps of your capital and you submit it for them to ratify and those gentlemen or ladies come up and say: Governor, what does it mean for us to vote yes to ratify this amendment? What does it mean to my State of Louisiana? Does it mean we are going to have programs cut and if so which ones are we going to have to cut or eliminate or change? Governor, does it mean we are going to have to increase taxes on the State level if the Federal Government quits giving us these moneys for these programs?

Under the current suggestion of our Republican colleagues, do you know what the answers would be of the Governor? "I don't know. They didn't tell me. They just said we are going to balance the budget. I don't know how we are going to do that. They never told me that. I'm sure they are going to do it right. Trust them."

I suggest any State legislature that is comfortable with the concept of trusting Washington to do something that makes them feel good and solves their problems without giving them an unnecessary burden has not been in State office very long. Trust but verify.

I looked at the Department of the Treasury. These are folks who crunch numbers, that wear the green eyeshades, and they really work on numbers all the time. They are not political appointees. These are economists who have probably been through several administrations.

Gov. Howard Dean of Vermont, the past president of the National Governors Association, has done a tremendous job in this area. He was concerned, just as I am, and he wrote the Treasury Department. He said, "Can you tell me, making various assumptions, what a balanced budget amendment would mean to the various States?" That is a partnership idea. Remember? It is not just us doing it. The States want to know how it is affecting them. Governor Dean wrote to the Treasury Department and said, "Give me a projection as to what it means to the various 50 States if the Congress passes a balanced budget amendment which requires a balanced budget by the year 2002."

He got an answer from the Treasury Department. He mentioned all 50 States. I am particularly interested in one State, the State of Louisiana, that I represent. They said this—this is really important information—about the impact of the balanced budget amendment and the Contract With America on the State of Louisiana. They said that for all calculations if a balanced budget is achieved by the year 2002 through across-the-board spending cuts that exclude defense and Social Security—that is probably a fairly reasonable assumption. Our colleagues on this side are talking about increasing defense spending. I think in some areas we need to increase. I would agree with them in some areas. We just had our colleague from Nevada saying do not cut Social Security. Does anybody believe that this Congress or the next Congress or any Congress is going to slash Social Security in order to balance the budget? I doubt it. So I think this assumption is fairly significant, and probably pretty reasonable.

Here is what it said about my State. A balanced budget amendment would reduce annual Federal grants in Louisiana State government by $2 billion. There is $1.5 billion per year in lost funding for Medicaid. My State has a $750 million shortfall in Medicaid this year without the balanced budget requirement being in effect. It would mean $94 million per year in lost highway trust funds. What is going to happen to the roads of Louisiana? Are they going to crumble and fill up with water? There will be $48 million per year in lost funding for welfare programs, AFDC for our children; $324 million per year in lost funding for education, for job training, and the environment, housing, and other areas. Talk about the devil is in the details. This is really devil in the details.

Then it said Louisiana would have to increase State taxes by 27.8 percent across the board to make up for the loss in grants. A 27-percent tax hike? I think not. Louisiana is not going to raise taxes 27 percent. They are not going to raise them 2 percent. The conditions in the State do not allow it. It is not good fiscal policy.

Some of my particular colleagues said that is just the Treasury Department's assumptions, and that is not correct, and you cannot depend on that. Fine. Tell them what they can depend on. If it is not these assumptions that are going to go into play, let us know what these assumptions are. Tell us by showing the States what we are going to have to do to get to that point in the year 2002 when the budget is in balance so that when that State legislature, when the President of the Senate, the Speaker of the House, goes to the other legislators and asks them, "Bob, Susan, Bill, I need your vote on this," they will say, "Well, you know, if it is going to mean we have to raise taxes 27 percent, I do not think that is a great idea. I am not going to vote for that," because they will have the right to say the Federal Government is getting ready to stick it to the States, getting ready to stick it to them in the dark because we are not telling them what it is all about.

I would suggest very simply, if these numbers that the Treasury Department have presented here are not accurate, then, fine. But we in the Congress have an obligation to give them accurate figures as to how we are going to reach that goal of a balanced budget in the year 2002.

Here is the resolution that the Governors have adopted, the Democratic Governors. Everybody was all for it. They thought they were going to make us do something that was uncomfortable. Now they are figuring out how it directly affects them. They are saying, "Wait a minute." The Democratic Governors said:

> We support a federally balanced budget amendment. The Democratic Governors believe the citizens of this country also deserve the right to know the implications of a federally balanced budget amendment. Congress must detail its plans to balance the budget before sending the resolution to the States for ratification.

I think that is at least the minimum that we can do here at the Federal level as we debate this particular resolution. I suggest that it is important for us to let the States know what we are talking about doing to them.

Final point: Some of my colleagues on this side have said, "Well, we cannot do that. We do not know what it is going to be like 7 years from now." I mean we do not know the economic conditions. We cannot project out 7 years. Last year and the year before last we passed the budget reconciliation bill. We did exactly what we are talking about doing today for 5 years. Would my colleague, since they cannot go 7 years, at least tell the States what they can expect for 5 years? We do that all the time. Every bill we bring up has a 5-year glidepath. How much are we going to lose in taxes? How much are we going to raise? What kind of programs are going to have to be cut to meet certain goals?

Let me ask my colleagues who say we cannot do it for 7, would you go 5? Would you consider we do a budget resolution for 5 years and spell it out for 5 years as part of this balanced budget amendment? At least the State of Louisiana would know what it is going to be like for 5 years. I will go 5 years if we cannot go 7. Do not tell them we cannot go 5 because we do that all the time. When we passed the budget reconciliation years ago, we cut the deficit by one-half trillion dollars. Not one Republican colleague stepped up to the plate to support that because it was tough.

I would simply suggest that it is not that we cannot do it, but rather that we will not do it. It is easy to pass a balanced budget amendment in general terms, but this Congress, I would suggest, does not have the courage or the wherewithal or the strength to tell the States what it really means to them. How is it going to affect them? A budget resolution accompanying this balanced budget amendment would let the States know what we are really getting ready to do to them. Shifting the burden of taxation is really easy. It is real easy. I will tell you. If I was a State, I would want this Congress and any Congress to accompany that balanced budget amendment with a budget resolution that spells out exactly what it is going to mean. Without that, we do not have a partnership. Without that, they do not have the information to make the right decision. I want to give it to them. I think that they ought to look at it and decide whether that is what they want to ratify. But do not ask them to do it in the dark.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I want to speak on behalf of Senate Joint Resolution 1, the resolution to provide for the ratification of the balanced budget amendment.

I want to commend Senator HATCH for his extraordinary work and patience in regard to this measure. And also Senator SIMON, Senator HEFLIN, Senator THURMOND, and back through the years, Senator DECONCINI. So many of us have worked for so long on this measure. There are really no other questions to ask about this measure. We have asked them all. We have heard every hypothetical, every argument, every horror story. Everything that could possibly be laid out would fill the Chamber to the seals on the ceiling.

Recently, the President, working with the then Democratic majority in both Chambers of Congress, passed the latest in a series of deficit reduction plans. We have heard reference to that. We did the Omnibus Budget Reconciliation Act of 1993, or OBRA, and it was supposed to shave $500 billion off of the Federal deficit over the next 5 years. This, of course, was $500 billion in "deficit reduction," as defined in the exceedingly perverse language employed only here in Washington. Mind you, this meant not that deficits would be $500 billion lower, or that the total debt would be "reduced"; it meant that rising deficits would cumulatively amount to $500 billion less than some esoteric, abstract figure which only Washington policymakers seem to understand, and it is quaintly called "the baseline."

The "baseline," of course, is everchanging. Lord only knows how the baseline is properly figured, but its chief function seems to be as a device of consolation for the poor, beleaguered American taxpayer. Debt continues to compound and annual deficits are projected still to skyrocket. But, take heart, ye of the faithful, unwashed taxpayers, there was an even worse scenario out there for you called "the baseline." Thank heavens we have all done better than that, and the public is then assured that all is well.

Mr. President, all is not well, and all will not be well until this situation is brought under control with finality. The 1993 budget was only the latest in a long series of similarly hyped budget procedures. Both parties and all Presidents have been so good at it. 1990 was the last one before that, and I voted for that one. We have been passing deficit reduction acts around here for as long as I can recall, and the numbers are always off. They never match; they are never right. Five years later, there was always some dramatic thing that skewed the numbers.

Time and again, they have failed to resolve this situation once and for all. Why is that? One reason and one reason only: Each one of them has failed to deal with the fundamental problem of the entitlement spending explosion. The 1993 Budget Act most certainly failed to do that. President Clinton proposed only modest reforms in Medicare, and he had to face down a revolt from his own liberal wing and remove even those slight changes in order to pass his Budget Act and leave that spending to grow on, unabated, unrestricted. All the while, Congress was debating a huge new entitlement in the form of the Health Security Act.

What is the latest verdict on the 1993 Budget Act? Where are we heading now that we have passed this landmark legislation? The CBO has just reexamined the entire Federal budget outlook, and here is what they find: In fiscal year 1994, the annual deficit amounted to $202 billion. In fiscal year 1995, they project that figure will shrink to $176 billion, and there is joy in the streets with regard to that figure—at least more joy on the other side of the aisle than here, because that does not mean we now will owe less money as a Nation; it is $176 billion more in debt that future taxpayers will have to pay off, but it would represent slightly less than we added in fiscal year 1994.

Where do we go from here? In fiscal year 1996, the CBO tells us the annual deficit will again be back up to $207 billion—more than either of the 1995 or 1994 figures—and it keeps going up after that. We all know it and we talk about the figures on the floor. It will go up to $253 billion in fiscal year 1999, and we all know it.

Not only do hundreds of billions in debts stand to be added to posterity's burden every year, but we stand to add to that debt still more quickly—not at some distant, far-flung date, but next year, 1996, according to CBO, is when annual deficits begin to skyrocket again.

Mr. President, the 1993 Budget Act affected no fiscal years earlier than 1994. This is progress? Skyrocketing annual deficits are still projected for as far as the eye can see beginning next year. I can personally tell you that the long-term picture is much, much worse than that.

I had the "honor"—and I put that in quotation marks—to participate in the collective suicide mission that was known as the President's Bipartisan Entitlement Commission, or the Kerrey-Danforth commission, named after its tireless chairman and vice chairman. If you want to know what will happen to this country in the next century, in the next 25 years, the next 50 years, get a copy of our report. There were more than several Senators on the bipartisan commission, a wonderful group of people, Democrats and Republicans alike. Get a copy of the report that was released last Friday. It lays it all out in vivid, full-color graphs. The Senators involved on the entitlements commission were Senators KERREY, DANFORTH, MOYNIHAN, SASSER, MOSELEY-BRAUN, REID, BUMPERS, DOMENICI, GREGG, COCHRAN, WALLOP, and myself. We all were involved. See our work product. See that 30 of the 32 of us agreed that in the year 2012, even with no new spending initiatives and with no increase in taxes, there will be only sufficient funds to pay for Social Security, Medicare, Medicaid, Federal retirement, the other entitlement programs, and interest on the national debt; and there will be nothing—nothing—for defense, transportation, education, WIC, WIN, Head Start, NEA, NEH, or any other discretionary program of the Federal Government. Zap. Nothing. We all know that, too. At least 30 of 32 of us who sat for nearly a year know that. I would think our colleagues would want to listen to what we presented.

But I favor the balanced budget amendment because I just simply think it is "shock therapy." There is no other purpose for it. It is to force us to confront the real components of the Government's spending problem. The opponents of the balanced budget amendment say it is not needed, that all is needed is for Congress to "screw up" its collective courage to pass legislation curbing rising deficits. That is an appropriate, I think, two-word description of what we have been doing with regard to the budget for years.

I know all too well what happens when you try to do that. You get exactly the sort of hysterical propaganda that is currently being hauled out in bales by the metric ton in opposition to the balanced budget amendment.

Phrases ring through the Chamber: "Tell us how you are going to take food away from starving seniors and hungry children," they say. Spell it out to us. When you try to explain that you are only talking about more modest increases in Government spending, you are lost and they are lost. And then they unleash on you.

We have not proposed a "cut" of anything in Social Security. We have not proposed a "cut" of anything in Medicare, or a "cut" in Medicaid. We are just trying to slow the growth. Apparently, it is still not being heard. So if Medicare is going up 9 percent, we say let us let it go up only 6 percent, and it is described to the American people as a "cut." It is a sad day for the use of the English language and a true distortion of what is being said.

A 6-percent increase is not a cut. And it is sad to watch that continual description over the media and in this Chamber about cuts when all you are trying to do, and we all are trying to do, is limit the increase in growth. Not a cut in a carload.

In short, Federal budget policy debates are eternally paralyzed around this place because the real issues are obscured in a haze of misleading anecdotes, rhetoric, and carefully crafted statistics. Just try to come down to the floor, as I say, and suggest that this year we are going to let Medicare go up only 8 or 6 percent instead of the 10 or 9 percent projected. Broadsides will be fired all across the country saying that you are planning brutal cuts in Medicare. How could you—choke, gasp, sob—do such things?

Why should you make such a heartless proposal anyway? Why not just cut foreign aid, or raise taxes on the rich, or get rid of the tse-tse fly study? That is a marvelous thing, if we could just get rid of the tse-tse fly study. It is only 100,000 bucks. Or get rid of the highway demonstration projects. Try that one, at least in the House. They used to try it. That is like pulling teeth with no anesthetic. Or, of course, if we get rid of the restoration of Lawrence Welk's house, that would do it. If we could only end that sort of thing. Or congressional pay raises and we should look at that, indeed.

And we never did one of those here in all my time here while in the dark. The last one which was reported to the American public by the media was that we voted in the middle of the night for a pay raise. I think it was about 9:45 in the evening and everybody was here and everybody voted "yes" or "no." I do not think that is too much of a secret endeavor. And anybody can go look and see how anybody voted. We do not do it that way.

Well, maybe get rid of the franking privilege. That's it. That would solve all our problems. Or just simply abolish waste, fraud, and abuse. Oh, if we all did that, there would be no problem.

Well, so long as Congress is not forced to actually balance its books, it will be possible to survive politically—and there is the key, ladies and gentleman—while pandering to every public misconception there is about the structure of the Federal budget.

I have served our party as assistant leader for some 10 years. And I commend my successor. He is doing a splendid job. I am proud of him, my friend, Senator TRENT LOTT.

And, as an aside here, let me tell you why I am going to vote for term limits, so that you may hear. Of course, I was not for it when I was running for my third term, but that is another story! But I can tell you, I will vote for that and I will tell you why.

I cannot tell you how often—about once a month—in my duties I would say, "We need your vote. It is a very critical vote for the Nation's best interest. We need it." And they would say, "I know it is a critically important vote and we do need it, but I cannot vote for it because if I do I will be history. I will be gone. I will not get reelected." And I would say, "So this is your sole reason for not voting for this amendment or this bill, is that you will not get reelected?" And they would say, "You got it."

And so I say, nothing would be better than the term limits legislation, because once it kicked in, one-third of this body would be voting right. One third of these Senators would vote right. And then, in the duties of the leadership, all you would have to do is go find 18 other people out of that pool of about 40 who always cast the tough votes. There are a group of about 40 in here, Democrat and Republican alike, who often cast the tough votes, consistent tough votes. Do term limits, then you would have a third of them doing it right. They would be unshackled and you then go dig up 18 more and you have your 51 to pass an issue. It would change this body immensely.

So I certainly look forward to the day when the Congress actually has to balance the books as would be required by the Constitution of the United States and as required in constitutions of other States. And I said before and say again, it would be "shock therapy." And I would relish it.

Because everyone who has been making a lifetime career of running against foreign aid or for increased taxes on the rich or always prattling about class warfare and why cannot we just do what we were hired on to do—let us check them out in the old hypocrisy index. The index hurt a lot of them in the last cycle. It scored up how much they talked about cutting and how they actually voted, especially and solely on spending. We all do it. I do it. We all do it. Look at our votes. One man's junk is another man's treasure; some pet project, some massive public works. We all do it. Every single one of us do it.

And so, if we would do those things, we would see those people exposed in one fell swoop. They will then be bound to the Constitution with hoops of steel to balance the books, and when they come out with a proposal to eliminate the 1 percent of the budget that goes to foreign aid—1 percent—that just will not get the job done, and they will be forced to come back and try again.

Or they will say, let us raise those taxes on "the rich," and they will get about a half inch closer to solving the problem that way and once more they will have to try again.

I have a certain perverse strain in my nature. When people at a town meeting say, "Why don't you just nail the rich and we could seal this hole and make progress?"

I say, "No, no. Let's not increase their taxes. Let's take everything they've got. Why mess around? Let's take every stock certificate, every ranch, every yacht, every piece of property. Let's take it all. Let's take every debenture. Let's take all the big family money in America, all the Wal-Marts, all of this, all of that."

Guess what? It would be about $800 billion and that would run the country for 6 months—$800 billion would run the United States for about 6 months. That is in taking it all. That is in taking the Fortune 500, the Forbes list, the whole works. Take it all, $750 billion or $800 billion, and yet the budget this year is $1.506 trillion. Not a very good idea then, but it sounds so good.

Certainly, just as there are today, there will be those who will win elections by uttering such platitudes, and in today's process, they can still go back to the electorate the next time around and say, "Well, we failed to balance the budget because the Congress didn't adopt my wisdom. We aren't taxing the rich enough, we did not cut foreign aid." And there are still some to cut out there. I saw it myself. "There is $15 billion out there, folks," and they all get glandular reactions from that. But $15 billion will not get you there because the budget is $1.506 trillion. And who is the wiser in that process?

But with this amendment, this courageous amendment, the American public will become educated in a real hurry about where and how the Government spends its money, and I am greatly looking forward to the anguish connected to it all. No wonder it is opposed by every special interest group whose job it is to drain the Federal Treasury. Their executive directors are paid to horrify the membership to get them all worked up, to be sure that they earn their salary, to be sure the letters come cranking in, without regard to the burden placed on future taxpayers.

Do you really think that the AARP—the American Association of Retired Persons—really wants the people of the United States, or even their membership, to really find out that you cannot enact their $1.3 trillion—get this figure, $1.3 trillion—agenda and balance the books at the same time?

Hear me. This is a report from the National Taxpayers Union Foundation of April 28, 1993. The next time you go to a town meeting and the AARP is out there—and let us remember who they are—there are 33 million of them who pay 8 bucks dues and they are bound together by a common love of airline discounts, and automobile discounts and pharmacy discounts.

Do their members know what their agenda is, ladies and gentlemen? Their agenda is this: Long-term health care for everyone in the United States, regardless of their net worth or their income. Ring that one up. Universal long-term health care, regardless of wealth. That is $60 billion over 10 years. Second, expand Medicaid to cover all below poverty, $35.7 billion over 10 years. Catastrophic care, $15.8 billion. Medicare to cover "near elderly"—I suppose those are people that fall into the 45-year-old category, because that is only 5 years below the admission date of your "elderly" age to get into the AARP; members only have to be 50, so I suppose "near elderly" is defined as one 45 years old—that is $10 billion. Expanded Medicaid long-term care, $7.3 billion. Changes in Social Security benefit formulas, $19.1 billion. Expansions in earned income credit, $15.2 billion. Expansions of SSI, $7.7 billion. Housing assistance for all who qualify, $34.6 billion.

So the next time Members are getting in a little scrap from the old AARP, and they are out there with signs and posters, ask them if they have any grandchildren, first. That will get a rise out of them. Then ask them how we are supposed to pay $1.3 trillion for the next 10 years to take care of their agenda they tell their Members about in their magazine that looks like a clone of the Smithsonian magazine. Ask them.

I imagine my mail will pick up when I return to my chamber. There will probably be a little bit of light anecdotal material like, "You rotten—." I do not know what it will be, but it will be heavy, and it will come from AARP members who do not know one thing about their membership asking this Treasury to cough up 1.3 trillion bucks in the next 10 years for people, regardless of their net worth or income.

Some of it is not "affluence tested." We ought to affluence test it all. I want to be very clear. I am not talking about people who are poor. I am not talking about seniors who have no proper nutrition. I am not talking about Meals on Wheels. I am not talking about Green Thumb. I am talking about people who, to some, the cost of living index and the cost of living allowance is the cost of "living it up."

One of the saddest things—the saddest thing—that I saw in the entitlements commission was where a young man came and testified with a young people's advocacy group. Boy, young people better start paying attention here. These young people came and testified, one young man with sadness, said that he visited his grandfather in Florida, and he loved his grandfather dearly. And the COLA, cost-of-living-allowance—to his grandfather, who was a lovely man and had done well in life, was whether he would be able to upgrade his country club membership. Ladies and gentlemen, that is not what a COLA is for. A cost-of-living-allowance is something to take care of someone who is truly needing that.

We are going to have to start affluence testing the COLA's. We are not talking about cutting a single cent from a Social Security benefit. Hear that one. I do not want to hear any more of that babble. Nobody here except one group, which I believe is a remarkable group, including our former friends from the Senate, Paul Tsongas and Warren Rudman, have suggested affluence testing of the benefits. I have not subscribed to that. But we are certainly going to subscribe to affluence testing of the COLA's or we will not make it, because they range between $7 billion to $22 billion a year, depending on the Consumer Price Index, the CPI. Unless we breathe reality into that index, we will not make it, either. It is distorted. It needs correction. It still has a commodity designation in it called typewriters. It is not even current.

Well, I could go on, and Members are thinking, "He is going to." But I will say this. This is a tremendous challenge. The House has taken up the burden. They secured 300 votes. We in the Senate should pay careful attention.

Let me conclude with what should be obvious to all Members, if not so already, is that the struggle is between those who are seeking to keep this amendment in a form that can pass this Congress, and those who will find every single indirect means to bring it crashing down.

I applaud the distinguished Senator from West Virginia [Mr. BYRD], the very able, venerable conscience of the Senate, for his forthrightness and courage in opposing the balanced budget amendment. Subterfuges are not for him. Deception and chicanery are not his tools. He is right out front. He openly declares his opposition to this amendment, honestly lays himself out to the judgment of his constituents, makes his argument, and states his reasons for opposition as his means of fighting hard against the passage of the amendment.

But it is my view that the greatest danger comes from those who will be tripped up in supporting, with all good intention, any number of amendments that will be offered as a means of peeling away the two-thirds majority support that the amendment must have. Members will see those. And the House protected itself against those carve-outs.

Make no mistake: We will kill the balanced budget amendment if we pass any modification that will leave us with a resolution where we cannot secure the necessary two-thirds in both the Senate and the House and we must not do that.

Let me put it quite bluntly: A vote to exempt Social Security from the balanced budget amendment is a vote to kill the balanced budget amendment; a vote to include a tax limitation is a vote to kill the balanced budget amendment. I am not talking about motives here. I am speaking of the serious practical effects. That is what will happen if these modifications pass. A vote to create a capital budget is a vote to kill the balanced budget amendment. Those issues have been tested, fought over already in the House, and in the Senate for years in the Judiciary Committee. We want to send the balanced budget amendment to the States for ratification. We need to keep it in a form we know to have the requisite support. Every supporter of the balanced budget amendment needs to clearly understand this, as there is little margin for error at this stage of the game.

To those who assert that the balanced budget amendment would impose a terribly unfair burden on individual States as the Federal Government pares down its spending, I make two points in response, in final response. First, we just completed action on the unfunded mandates legislation. This is the best ever protection of its kind for State budgets. Second, it seems to me that the States are in the best position to decide that, after all, and this must be ratified by the States; three-fourths of them have to decide that they want this. They are far better custodians of their own interests than we could ever be.

So, Mr. President, I look forward to vigorous and healthy debate. I think we have begun this on this issue of central importance to our country. I have great enthusiasm for this one, albeit a bit of a personal stake. I personally assumed the ill-advised and totally politically incorrect responsibility of charting out just how I would get this country's fiscal house in order during the coming decades. It is enclosed with the Entitlements Commission report. Members may ask me for a copy, and I shall send it to Members in a brown, unmarked envelope so Members need not know that we are really proposing some dramatic things. No one will know Members received it. And there is nothing I would enjoy more than some added company in the suicide mission, however involuntarily compelled. I seek your assistance if this earnest effort.

I thank my colleague, and I yield the floor.

Mr. LOTT. Mr. President, I thank the Senator for the recognition. I do not plan to take a long time in my remarks here on our constitutional amendment for a balanced budget. I want to thank the distinguished Senator from Illinois [Ms. MOSELEY-BRAUN] for her cooperation in allowing me to go forward. I want also to commend her for her very fine statement on the balanced budget on Tuesday.

Mr. President, the election of 1994 was more than the usual biennial contest for seats in the Congress. It was, in effect, a national referendum. The American people made a historic choice between more government and less government. They chose the latter—less government. Their message to us could not have been more clear. They want fundamental changes in the way the Congress conducts business. And the most important change they want is in the way we spend their money.

Every Member of Congress knows that the public wants a balanced budget amendment to the Constitution. Poll after poll shows that. The only question is whether we will give them what they want.

I think we will. I am convinced that no matter how ferocious the opposition, the time has finally come when the Congress will submit a balanced budget amendment to the States.

I do not say that as boast or bravado because the drive for a balanced budget amendment is not something for which we can take credit. I do not think any of us in Washington can.

If there has ever been a grassroots crusade, this is it. If ever the American people were determined to take the future back into their hands, I think it is now. That is the reason the House has already passed the joint resolution for a balanced budget amendment to the Constitution, the one we are debating now, by an overwhelming vote of 300 to 133. That was a bipartisan vote, or rather, it was nonpartisan. After a lot of debate, after rejecting some tough amendments, and after resisting pressure from all the usual special interest groups, 300 Congressmen voted for this balanced budget amendment.

I hope the amendment will have the same broad support in the Senate. Even if, in the past, most of the votes have come from this side of the aisle, it is obvious that there is support for it on the other side as well. There is support for a balanced budget amendment from Republicans and Democrats, from conservatives, moderates, and liberals. And we should come together, after full debate, vote on this issue and pass it.

The reason for the amendment's broad support, both in the Congress and most importantly among the public, is that it is no longer just a fiscal issue, no longer an accounting question. More than anything else, it has become a moral issue with the American people. It has become a question of what we are doing to our children and our grandchildren—leaving them a monstrous national debt of some $4 trillion, a debt that will eventually crush the life out of their economy and the spirit out of their enterprise.

There will be those who will say, "Well, how did we get here? Why didn't you fix this problem in the eighties? Why didn't we do more in the seventies?" We can debate that and we can point back, but I am reluctant to do that. A lot of us in this Chamber have to take some of the blame. I think we all do, especially those of us who have been here more than a couple of years.

So I am not trying to say the blame should go back to President Carter or President Reagan or President Bush or a Democrat Congress, or to the Appropriations Committee in the House or the Senate. That is past. Let us talk about how we can go forward and get control of the insatiable appetite that we have developed over the last 40 years to spend and spend and spend. It is really that simple.

We cannot fix the deficit this year or in 2 years or in 3 years. But we have to begin sometime, someplace. Now is the time, and this is the place. We can get the budget on a glidepath toward balance over a period of years.

The number of years it takes is not as important as the fact that we get started.

Thomas Jefferson summed up the matter two centuries ago. This is not one of his more familiar quotes, but I think it is important that Thomas Jefferson, in retrospect, thought it was a mistake not to include a balanced budget requirement in the Constitution. This is what he wrote:

> The question of whether one generation has the right to bind another by the deficit it imposes is a question of such fundamental importance as to place it among the fundamental principles of the government. We should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves.

Those are powerful words from Mr. Jefferson. And when I said, a minute ago, that the deficit is more than an accounting problem or a fiscal problem, I was echoing Jefferson's observation that we are morally bound to pay, ourselves, the debts that we incur and not dump them off on our children. That is what is involved here.

Jefferson's advice has fallen on deaf ears in Congress, at least for the last several decades. Even when the Republican economic program of the early 1980's launched the longest peacetime economic expansion in our country's history, with a tremendous increase in revenues for the Federal Government, the Congress—and perhaps the executive branch as well—managed to spend all that new money and still go deeper into debt.

For the last 2 years, some people have been trying to revise history by making the decade of the eighties a bad time. But in fact, the eighties were prosperous. A tremendous explosion of additional revenue came into the Treasury. And with it, we should have been able to control the deficit. But we did not do so because we kept spending even more. Every time we got more revenue, we would spend more money.

We all go home to our States, counties, and cities and they say, "Can you help us with the water system?" "Can you help us with another highway project?" "Can you help us with more funds for this good program or that good program?"

We all say, "Gee, you're right." We want to do that. So we come back up here and want to give them everything they want. But in fairness, it should also be our responsibility to balance the books. We have forgotten that part.

It is not as if we have not had enough revenue. We have had ever-increasing revenue every year. But in search of even more revenues, Congress raised taxes in 1982, in 1984, in 1987, in 1989, in 1990, and most recently in 1993 with a whopping $241 billion hike. Through it all, spending outran those revenue increases.

I voted for some of those tax increases because I thought, if the people want all these expenditures, then we have to pay for them. So I voted for the tax increases in 1982 and 1984 and, I recall, reluctantly in 1987. But then I said, "Wait a minute, I'm not doing this anymore. Every time I vote that way, it doesn't help reduce the deficit. We just spend even more." So I did not vote for a tax increase in 1990 when George Bush was President, and I did not vote for it in 1993 when Bill Clinton was President. I decided that more revenue would not help to control spending or reduce the deficit. We would just spend it.

Time and again Congress promised to reform, lamely requiring a balanced budget at sometime in the future. We had Gramm-Rudman. I voted for that. I thought it would work. What did we do? We started off saying, "Look, we can't have it apply to this program or that program," and after a while, 21 programs were exempt. I was in the gang of 17 in the eighties when we tried to get control of spending. We had the Fort Belvoir exercise in budget control. That didn't work either.

So time and time again we in Congress have tried to do it ourselves, to find a procedure to make it happen. It did not work. Those votes we had did not do any good. The debt continued to increase to the point that interest payments alone are costing us $230 billion in the current fiscal year.

It would be nice to think, Mr. President, that everyone on Capitol Hill has learned their lesson and that things will be different from here on. That is what Lucy tells Charlie Brown every time she pulls away the football and he lands flat on his back. Sooner or later, even Charlie Brown may run out of trust. The American people certainly have, and they said so last November. We fooled them too many times. That was the real meaning of the 1994 elections.

In simplest of terms, the public took back the football. Now they are demanding a permanent structural change in official Washington. They will not be content with superficial adjustments. Who can blame them? The Congress has not balanced the budget in a quarter of a century—since 1969. And without the discipline of the balanced budget amendment, I do not see any prospect of our doing it any time soon.

In recent years, poll after poll showed the public's poor regard for the Congress. And yet, just recently our positive polling numbers doubled, from the 20's to the 40's. What has happened in the last 2 or 3 months that caused the approval rating of the Congress to go up?

I found out this past weekend when I went home. I went to Hernando, MS, to Grenada, Carroll County, and Cleveland. You know why people are pleased with us now? Because they think we are beginning to do some of the things they want us to do.

Now, they are still dubious. They want to see action, not just words. But they like better what they see us talking about. They like the fact that we are doing more things in a bipartisan way, and that maybe we can work with the President. That's progress.

In recent years this institution, in my opinion, has been viewed as the pickpocket at the parade. When we do business, the cheering stops. We have to change that image.

This balanced budget amendment is our best means to set things aright. It will do more than restore fiscal sanity to the Congress. It will go a long way toward restoring the trust of the American people in their institutions of Government. That task is probably even more urgent than balancing the budget, although I think that is an important part of regaining that trust.

I realize that amending the Constitution is not a casual exercise. I struggled with that. It is a last resort, sometimes a desperate resort, when all else has failed. That is the case with the amendment before us.

Many of us in Congress, both in the House and Senate, have worked over the years to stop, or at least slow down the spiral of debt. We do not have much to show for our work. In the same way, the American people have tried by protest and petition, by their voices and their votes, to discipline the appetite of the Federal establishment, to restrain its growth and limit its intrusion into their lives.

Those ways have not worked. So now we have no recourse. If the Congress would be fiscally restrained no other way, by either honor or common sense, then let it forever be bound by a constitutional amendment.

If we want the people to trust us, we have to trust the people. We have to trust their judgment about this amendment. Remember, they will make the final decisions as to whether it becomes a part of the Constitution. Our vote here will only give the States the opportunity to vote. The State legislatures, on behalf of the people, decide whether the language we have before us actually goes into the Constitution.

Sometimes they surprise us. If we get carried away, the States do not ratify the amendments we send them. Recall that after the equal rights amendment passed the Congress, and even after Congress gave it a legally dubious extension of time to seek ratification, it did not get the approval of three-quarters of the States.

The last constitutional amendment Congress approved, giving the District of Columbia the same voting representation in Congress as the States, failed miserably. Only a handful of States ratified it.

So if we do not deal with this amendment in the right way, the States will simply not approve it. They will not rubberstamp the balanced budget amendment or any other constitutional amendment we send them.

There are those who are going to say, "Show me how you are going to balance the budget. You say you are for a balanced budget amendment. Show me your cards." I think we could turn that around and say, "Show me how you are going to do it if we do not pass a balanced budget amendment." We have been going through that exercise for years. We cannot bind future Congresses. Budget projections are so unreliable, we can barely depend on them for a year or two, much less through the decade ahead. So much always depends on things we cannot know at the present. We cannot say with great detail what money will be required for defense or welfare or disaster relief in the future. We just have to get started. But there has to be a hammer, and this constitutional amendment for a balanced budget is the hammer.

That is all the more reason to keep the language of this amendment clean. It is not a mere law, which we could come back to in a month and amend. If ratified, it will be a part of the most remarkable political document in history: the Constitution of the United States.

That political treasure should not be made to read like a section of the Code of Federal Regulations, citing chapter and verse of various programs. Attempts along those lines are rightly suspect when they come from those who, for years or for decades, played key roles in running up the staggering deficits we now face.

The Federal deficit is like a fire consuming our national prosperity. And now the barnburners want to tell everybody else how to put out the flames and where to aim the hoses.

Their advice has a hollow ring. It seems designed to insulate the Federal spending machine, not any particular program. No one should be surprised at that. The special interests that have, for so long, dominated the Government's budget do not want to leave their places at the public trough. So they are fighting this amendment with every diversion, every red herring they can devise.

Those liberal lobbies had their chance to appeal to the American people last fall, but the voters resoundingly rejected their case. That is why we are now considering this amendment: Because the Federal gravy train stops here.

I realize that, to some of my colleagues, the balanced budget amendment must seem like a repudiation of their entire career, negating their lifetime in public office. So be it. We are guaranteed a favorable place in history only when we write it ourselves. This time around, others are doing the drafting.

Some may find comfort in the past, when it was political summertime, and the spending was easy. But those days are over. The American people are looking to the future, and they are determined to shape it their way, this time around.

The balanced budget amendment is one instrument for doing that. It should not be delayed, or stalled, or stonewalled. But if it is, we can take the time, days or weeks, with the Nation watching and listening.

After all, it took us decades to get this far. And with all due respect to my colleagues who oppose the balanced budget amendment, I say, in the words of the old song, "we ain't gonna let nobody turn us round."

I feel sure I will be back in the Chamber before we finish on this amendment to speak again. But we have a great opportunity here. The amendment is the responsible thing to do. There may be efforts to distract us, and there are of course legitimate concerns as well, but let us keep our eyes on the ball. If you are for the balanced budget amendment, you should vote for the balanced budget amendment, rather than finding excuses to oppose. There will not be any place to hide this time. The American people will know who is for it and who is against it when we take the vote in a few days.

Mr. President, in view of the fact there are others on the floor waiting to speak, I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I thank the Chair.

(The remarks of Mr. JOHNSTON pertaining to the introduction of S. 333 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. KYL). The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. I thank the Chair. I thank the Senator from Mississippi for his graciousness. I guess because we are on the same side on this particular issue it makes it a little easier, and it is a delight to have a chance to work in a bipartisan fashion on behalf of the balanced budget amendment.

THE CONDITION OF AMERICA'S SCHOOLS

Ms. MOSELEY-BRAUN. Mr. President, I rise today to present the results of a very important study that has been conducted by the General Accounting Office on the condition of America's schools and to highlight the merits of the Education Infrastructure Act.

Mr. President, this report by the GAO, entitled "School Facilities—Condition of America's Schools," was issued yesterday, and I ask unanimous consent that the entire report by the GAO be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From the U.S. General Accounting Office]

SCHOOL FACILITIES—CONDITION OF AMERICA'S SCHOOLS

February 1, 1995.

Hon. Carol Moseley-Braun,
Hon. Edward M. Kennedy,
Hon. Claiborne Pell,
Hon. Paul Simon,
Hon. Paul Wellstone,
U.S. Senate.

The nation has invested hundreds of billions of dollars in school infrastructure to create an environment where children can be properly educated and prepared for the future. Almost exclusively a state and local responsibility, this infrastructure requires maintenance and capital investment. However, public concern is growing that while laws require children to attend school, some school buildings may be unsafe or even harmful to children's health. Recently, for example, a federal judge would not allow the schools in our nation's capital to open on time until thousands of life-threatening fire code violations were corrected. Similarly, noncompliance with asbestos requirements kept over 1000 New York City schools closed for the first 11 days of the 1993 school year. Although such situations may be well-publicized, little information exists documenting the extent to which the nation's schools may lack the appropriate facilities to educate their students.

Widely quoted studies[1] conducted in recent years report that school facilities are in poor condition. While these studies documented some problems and provided much anecdotal information, they had different methodological problems limiting their usefulness. Further, the Department of Education has not assessed the condition of the nation's school facilities since 1965. Accordingly, you requested that we conduct a study that could be used as a basis for determining the condition of the nation's school facilities.

In response to your request and subsequent discussions with your office, this report presents national information on (1) the amount of funding that the nation's public elementary and secondary schools report needing to improve inadequate facilities and (2) the overall physical condition and prevalence of schools that need major repairs. Another report is forthcoming shortly that will report the location of and other demographic analyses for schools that need major repairs. These reports are the first in a series responding to your request.[2]

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[1] Footnotes at end of article.

RESULTS IN BRIEF

Based on estimates by school officials in a national sample of schools, we project that the nation's schools need about $112 billion[3] to repair or upgrade America's multibillion[4] dollar investment in facilities to good overall condition.[5] Of this, $11 billion (10 percent) is needed over the next 3 years to comply with federal mandates that require schools to make all programs accessible to all students and to remove or correct hazardous substances such as asbestos, lead in water or paint, materials in underground storage tanks (UST), radon, or meet other requirements.

About two-thirds of America's schools reported that all buildings were in at least overall adequate condition, at most needing only some preventive maintenance or corrective repair. However, about 14 million students attend the remaining one-third of schools that reported needing extensive repair or replacement of one or more buildings.[6] These schools are distributed nationwide. Also, problems with major building features, such as plumbing, are widespread even among those schools reported in at least adequate condition. Almost 60 percent of America's schools reported at least one major building feature in disrepair, needing to be extensively repaired, overhauled, or replaced. Most of these schools had multiple problems. In addition, about half reported at least one unsatisfactory environmental condition in their schools, such as poor ventilation, heating or lighting problems, or poor physical security. Most of these schools also had multiple unsatisfactory environmental conditions. Some district officials we spoke to told us that a major factor in the declining physical condition of the nation's schools has been decisions by school districts to defer vital maintenance and repair expenditures from year to year due to lack of funds.

BACKGROUND

Elementary and secondary education, the nation's largest public enterprise, is conducted in over 80,000 schools in about 15,000 districts. America's public schools serve over 42 million students. About 70 percent of schools serve 27 million elementary students; 24 percent serve 13.8 million secondary students; and 6 percent serve 1.2 million students in combined elementary and secondary and other schools.

America's traditional one-room school houses have been replaced by larger facilities that may have more than one building. Comprising classroom, administrative, and other areas like gymnasiums and auditoriums, a school may have an original building, any number of permanent additions to that building, and a variety of temporary buildings—each constructed at different times. Buildings that have been well maintained and renovated at periodic intervals have a useful life equivalent to a new building.

A number of state courts as well as the Congress have recognized that a high-quality learning environment is essential to educating the nation's children. Crucial to establishing that learning environment is that children attend school in decent facilities. "Decent facilities" was specifically defined by one court as those that are "* * * structurally safe, contain fire safety measures, sufficient exits, an adequate and safe water supply, an adequate sewage disposal system, sufficient and sanitary toilet facilities and plumbing fixtures, adequate storage, adequate light, be in good repair and attractively painted as well as contain acoustics for noise control. * * *"[7] More recently, the Congress passed the Education Infrastructure Act of 1984,[8] in which it stated that "improving the quality of public elementary and secondary schools will help our Nation meet the National Education Goals."[9] Despite these efforts, studies and media reports on school facilities since 1965 indicate that many public elementary and secondary schools are in substandard condition and need major repairs due to leaking roofs, plumbing problems, inadequate heating systems, or other system failures.

Although localities generally finance construction and repair, with states playing a variety of roles,[10] federal programs have monies to help localities offset the impact of federal activities, such as Impact Aid,[11] improving accessibility for the disabled, and managing hazardous materials. However, these programs do not totally offset all costs. For example, prior GAO work found that federal assistance provided for asbestos management under the Asbestos School Hazard Abatement Act of 1984 did not meet the needs of all affected schools. From 1988 through 1991, the Environmental Protection Agency (EPA) received 1,746 qualified applications totaling $599 million but only awarded $157 million to 586 school districts it considered to have the worst asbestos problems. EPA was aware of the shortfall in federal assistance but believed that state and local governments should bear these costs.[12]

Because of the perception that federal programs—as well as current state and local financing mechanisms—did not begin to address the serious facilities needs of many of America's schools, the Congress passed the Education Infrastructure Act of 1994. The Congress then appropriated $100 million for grants to schools for repair, renovation, alteration, or construction.

SCOPE AND METHODOLOGY

To determine the amount of funding needed to improve inadequate facilities and the overall physical condition and prevalence of schools that need major repairs, we surveyed a national sample of schools and augmented the survey with visits to selected school districts. We used various experts to advise us on the design and analysis of this project. (See app. III for a list of advisers.)

We sent the survey to a nationally representative stratified random sample of about 10,000 schools in over 5,000 school districts. The sample was designed for the Department of Education's 1994 Schools and Staffing Survey (SASS), which is sponsored by the National Center for Educational Statistics.

We asked about (1) the physical condition of buildings and major building features, such as roofs; framing, floors, and foundations; exterior walls and interior finishes; plumbing; heating, ventilation, and air conditioning (HVAC); and electric power; (2) the status of environmental conditions, such as lighting, heating, and ventilation; (3) the amount districts and schools had spent in the last 3 years or plan to spend in the next 3 years due to federal mandates that require managing or correcting hazardous materials problems and providing access to all programs for all students; and (4) an estimate of the total cost of needed repairs, renovations, and modernizations to put all buildings in good overall condition. (See app. IV for a copy of the questionnaire.)

We directed the survey to those officials who are most knowledgeable about facilities—such as facilities directors and other central office administrators of the districts that housed our sampled school buildings. Our analyses are based on responses from 78 percent of the schools sampled. Analyses of non-respondent characteristics showed them to be similar to respondents. Findings from the survey have been statistically adjusted (weighted) to produce nationally representative estimates. All of the data are self-reported, and we did not independently verify their accuracy. See the forthcoming report on location and demographic analyses of schools in need of major repair for a detailed description of our data collection methods and analysis techniques, confidence intervals and the like.

In addition, we visited 41 schools in 10 selected school districts varying in location, size, and minority composition. During these visits, we observed facility conditions and interviewed district and local school officials to obtain information on facilities assessment, maintenance programs, resources, and barriers encountered in reaching facility goals. (See app. I for profiles on the districts visited.)

We conducted this study from April 1994 to December 1994 in accordance with generally accepted government auditing standards.

PRINCIPAL FINDINGS

Schools Report Needing Billions to Improve Facilities

On the basis of our survey results, we estimate that the nation's schools need $112 billion to complete all repairs, renovations, and modernizations required to restore facilities to good overall condition and to comply with federal mandates. (See fig. 1.) This amount includes $65 billion—about $2.8 million per school—needed by one-third of schools for which one or more entire building needs major repairs or replacement. Another 40 percent of schools (those in adequate or better condition) reported needing $36 billion—$1.2 million per school—to repair or replace one or more building features,[13] such as the plumbing or roof or to make other corrective repairs.

[Figure 1 not reproduced in the RECORD.]

Almost two-thirds of the schools reported needing $11 billion—an average of $.2 million per school—to comply with Federal mandates over the next 3 years. Of this amount, about $6 billion (55 percent) is needed by schools to make programs accessible to all students while about $5 billion (45 percent) is needed to correct or remove hazardous substances such as asbestos, lead in water or paint, materials contained in USTs, radon, or meet other requirements.

This $11 billion is in addition to the $3.8 billion reported spent by three-quarters of all schools in the last 3 years to comply with Federal mandates. Of the money schools reported that they spent to comply with Federal mandates, $2.3 billion (60 percent) went to correct or remove hazardous substances—primarily asbestos—while $1.5 billion (40 percent) to make all programs accessible to all students.

[Figure 2 not reproduced in the RECORD.]

District officials we spoke with reported that they must also comply with many State and local mandates. For example, one urban district reported how Federal, State, and local regulations govern many of the same areas such as hazardous materials management and some aspects of indoor air quality. In addition, officials cited numerous State health and sanitation codes, State safety inspections for building features, as well as city zoning ordinances, local building codes, and historic preservation regulations. By 1992, the enormity of the requirements as well as decades of capital needs underfunding have resulted in only the 2 newest of their 123 schools complying with all current codes.

The district further described how these regulations and the accompanying cost could apply to the installation of air conditioning. For example, air conditioning could be installed in a building for $500,000. However, this may also require an additional $100,000 in fire alarm/smoke detection and emergency lighting systems as well as $250,000 in architectural modifications for code compliance. Additionally, the location of outside chillers may be regulated by zoning and historic preservation ordinances.

In our visits to selected districts, officials from major urban areas reported needing billions to put their schools into good overall condition. (See table 1.)

TABLE 1.—MAJOR URBAN SCHOOL DISTRICTS REPORT NEEDING BILLIONS TO BRING SCHOOLS INTO GOOD OVERALL CONDITION

[Dollars in billions]

Urban school district	Amount needed
New York City	$7.8
Chicago	2.9
Washington, DC	0.5
New Orleans	0.5

Two-Thirds of Schools Adequate but Millions of Students Must Attend Other One-Third

School officials reported that two-thirds of the Nation's schools are in adequate (or better) condition, at most needing only some preventive maintenance or corrective repair. However, about 14 million students must attend the remaining one-third (25,000 schools), in which at least one building is in need of extensive repair or replacement. Even more students, 28 million, attend schools nationwide that need one or more building feature extensively repaired, overhauled, or replaced or that contain an environmentally unsatisfactory condition,[14] such as poor ventilation. (See tables 2 and 3.) These schools are distributed nationwide.

TABLE 2.—MILLIONS OF STUDENTS ATTEND SCHOOLS WITH LESS-THAN-ADEQUATE PHYSICAL CONDITIONS

Building feature	Number of schools	Estimate of students affected
Roofs	21,100	11,916,000
Framing, floors, foundations	13,900	7,247,000
Exterior walls, finishes, windows, doors	20,500	11,524,000
Interior finishes, trims	18,600	10,408,000
Plumbing	23,100	12,254,000
Heating, ventilation, air conditioning	28,100	15,456,000
Electrical power	20,500	11,033,000
Electrical lighting	19,500	10,837,000
Life safety codes	14,500	7,630,000

Note. See appendix IV for survey question.

Ranges for building or building feature condition were excellent, good, adequate, fair, poor, or replace. A building or building feature was considered in less-than-adequate condition if fair, poor, or replace was indicated.

TABLE 3.—MILLIONS OF STUDENTS ATTEND SCHOOLS WITH UNSATISFACTORY ENVIRONMENTAL CONDITIONS

Environmental condition	Number of schools	Number of students affected
Lighting	12,200	6,682,000
Heating	15,000	7,888,000
Ventilation	21,100	11,559,000
Indoor air quality	15,000	8,353,000
Acoustics for noise control	21,900	11,044,000
Physical security	18,900	10,638,000

Note. See appendix IV for survey question.

Physical Condition

Specifically, about one-third of both elementary and secondary schools reported at least one entire building—original, addition, or temporary—in need of extensive repairs or replacement. About 60 percent (including some schools in adequate condition) reported that at least one building feature needed extensive repair, overhauling, or replacement; and three-quarters of those schools needed multiple features repaired. Features most frequently reported in need of such repairs were HVAC; plumbing; roofs; exterior walls, finishes, windows, and doors; electrical power; electrical lighting; and interior finishes and trims. (See fig. 4 and pictures in app. II.) Further, while 41 percent of all schools reported unsatisfactory energy efficiency, 73 percent of those schools with exterior walls, windows, and doors and 64 percent of those with roofs in need of major repair reported unsatisfactory energy efficiency. These unrepaired features not only reduce energy efficiency but may also have an adverse environmental effect on students.

As one Chicago elementary school principal told us, "Heat escapes through holes in the roof; the windows leak (the ones that are not boarded up) and let in cold air in the winter so that children must wear coats to class."

In New Orleans, the damage from Formosan termites has deteriorated the structure of many schools. In one elementary school, they even ate the books on the library shelves as well as the shelves themselves. (See app. II.) This, in combination with a leaking roof and rusted window wall, caused so much damage that a large portion of the 30-year-old school has been condemned. The whole school is projected to be closed in 1 year.

At a Montgomery County, Alabama, elementary school, a ceiling weakened by leaking water collapsed 40 minutes after the children left for the day.

Water damage from an old (original) boiler steam heating system at a 60-year-old junior high school in Washington, D.C., has caused such wall deterioration that an entire wing has been condemned and locked off from use. Steam damage is also causing lead-based wall paint to peel.

Raw sewage backs up on the front lawn of a Montgomery County, Alabama, junior high due to defective plumbing.

A New York City high school built around the turn of the century has served as a stable, fire house, factory, and office building. The school is overcrowded with 580 students, far exceeding the building's 400 student capacity. The building has little ventilation (no vents or blowers), despite many inside classrooms, and the windows cannot be opened, which makes the school unbearably hot in the summer. In the winter, heating depends on a fireman's stoking the coal furnace by hand.

In Ramona, California, where overcrowding is considered a problem, one elementary school is comprised entirely of portable buildings. It had neither a cafeteria nor auditorium and used a single relocatable room as a library, computer lab, music room, and art room.

Last year, during a windstorm in Raymond, Washington, the original windows of an elementary school built in 1925 were blown out, leaving shards of glass stuck in the floor. The children happened to be at the other end of the room. This wooden school is considered a fire hazard, and although hallways and staircases can act as chimneys for smoke and fire, there is only one external exit on the second floor.

In rural Grandview, Washington, overcrowded facilities are a problem. At one middle school, the original building was meant to house 450 students. Two additions and three portables have been added to accommodate 700 students. The school has seven staggered lunch periods. The portables have no lockers nor bathrooms and are cold in the winter and hot in the spring/summer.

In a high school in Chicago, the classroom floors are in terrible condition. Not only are floors buckling, so much tile is loose that students cannot walk in all parts of the school. The stairs are in poor condition and have been cited for safety violations. An outside door has been chained for 3 years to prevent students from falling on broken outside steps. Peeling paint has been cited as a fire hazard. Heating problems result in some rooms having no heat while other rooms are too warm. Leaks in the science lab caused by plumbing problems prevent the classes from doing experiments. Guards patrol the outside doors, and all students and visitors must walk through metal detectors before entering the school.

During our school visits, we found wide disparities between schools in the best or even average condition and schools in the worst condition, and these schools were sometimes in the same district.

Environmental Conditions

About 50 percent of the schools reported at least one unsatisfactory environmental condition; while 33 percent reported multiple unsatisfactory conditions. Of those, half reported four to six unsatisfactory conditions. Those conditions most frequently reported to be unsatisfactory were acoustics for noise control, ventilation, and physical security. (See fig. 5.) Additionally, three-quarters of schools responding had already spent funds during the last 3 years on requirements to remove or correct hazardous substances such as asbestos (57 percent), lead in water or paint (25 percent), materials in USTs such as fuel oil (17 percent), radon (18 percent), or other requirements (9 percent). Still two-thirds must spend funds in the next 3 years to comply with these same requirements—asbestos (45 percent), lead (18 percent), UST (12 percent), radon (12 percent), or other requirements (8 percent).

We saw numerous examples of unsatisfactory environmental conditions during our school visits:

In the Pomona, California, school district, the student body has increased 37 percent over the last 10 years. Some schools must have five staggered lunch periods to accommodate all students. As a result of overcrowding, in one elementary school, students are housed in temporary buildings installed in 1948 that are unattractive, termite ridden, dark, and underequipped with electrical outlets. The temporary buildings get very hot as well as very cold at times because of poor insulation.

A Raymond, Washington, high school—a three-story structure with walls of unreinforced concrete with roof and floor not adequately secured to the walls that may not withstand earthquakes—contains steam pipes that are not only extremely noisy but provide too little or too much heat from room to room.

In Richmond, Virginia, schools in the district close early in September and May because the heat combined with poor ventilation and no air conditioning creates health problems for students and teachers, especially those with asthma.

A Chicago elementary school, built in 1893 and not painted for many years, had walls and ceilings with chipping and peeling lead-based paint, contains asbestos and has several boarded-up windows. Some rooms have inadequate lighting due to antiquated lighting fixtures that are no longer manufactured, so bulbs could not be replaced when burned out. One section of the school has been condemned due to structural problems. However, the auditorium and gym in this area are still used. The school was scheduled for closure in 1972 but remained open due to community opposition to the closure with promises of renovation by the district.

Insufficient Funds Contribute to Declining Physical Conditions

District officials we spoke to attributed the declining physical condition of America's schools primarily to insufficient funds, resulting in decisions to defer maintenance and repair[15] expenditures from year to year. This has a domino effect. Deferred maintenance speeds up the deterioration of buildings, and costs escalate accordingly, further eroding the nation's multibillion dollar investment in school facilities. For example, in many schools we visited, unrepaired leaking roofs caused wall and floor damage that now must also be repaired. New York school officials told us that, while a typical roof repair is $600, a full roof replacement costs $300,000, and painting and plastering 10 rooms on a top floor that has been damaged by water infiltration costs $67,500 plus $4,500 to replace damaged floor tiles. In other words, for every $1 not invested, the system falls another $620 behind. In addition, unrepaired roofs cause energy costs to increase as heat escapes through holes, further depleting already limited funds. Further, due to lack of routine maintenance in the Chicago district, many schools have not been painted since they were painted 20 years ago with lead-based paint.

In an elementary school in New York City, repair problems had not been addressed since the school was built 20 years ago. Problems that could have been addressed relatively inexpensively years ago have now caused major problems such as sewage leaking into the first grade classrooms, a leaking roof that is structurally unsound, and crumbling walls.

Similarly, in Chicago, we visited an elementary school whose roof, the principal told us, had needed replacement for 20 years. Because it had only been superficially patched, rather than replaced, the persistent water damage had caused floors to buckle and plaster on the walls and ceilings to crumble. It had also flooded parts of the electric wiring system. One teacher in this school would not turn on her lights during rainstorms for fear of electrical shock; in another classroom the public address system had been rendered unusable. Buckets had to be placed on the top floor of the school to catch the rain.

Some district officials we spoke with reported that they had difficulty raising money for needed repairs and renovation due to an anti-tax sentiment among voters resulting in the failure of bond issues as well as passage of property tax limitations. About one in three districts reported that they have had an average of two bond issues fail in the past 10 years. Further, school officials told us that often bond proceeds are far less than needed for repairs. For example, in Pomona, California, a $62.5 million bond issue was submitted to the voters after a survey indicated that the $200 million needed for repairs would be rejected. At the time of our survey, 6 percent of districts had a bond issue before the electorate. However, as one survey respondent commented, "the current public attitudes about the economy and education are generally so negative that passing a bond referendum is a fantasy." Other states have reduced school funding by passing property tax limitations. One survey respondent reported, "The state's contribution to local schools has dropped by 40 percent over the last few years * * *." According to another survey respondent, "This is a 1913 building which many of the taxpaying citizens feel was good enough for them * * * it is looked at as a monument in the community. Unless some form of outside funding is arranged, the citizens may never volunteer to replace this building since it will require raising their taxes."

Further, districts reported a lack of control over some spending priorities as they must fund a large portion of federal mandates for managing or correcting hazardous materials as well as making all programs accessible to all students. A recurring theme in comments from survey respondents was that "Unfunded federal and state mandates are one of the prime causes of lack of funds for replacing worn-out heating and cooling equipment, roofs, etc. * * *" Another survey respondent stated, "The ADA requirements were a major reason we had to replace two older schools. These costs, when added to other costs for renovations and modifications, resulted in overall costs for repairs, which exceeded the costs for new facilities." On the other hand, Chicago school officials told us that due to limited funds and the cost of installing one elevator being $150,000, very few schools are able to provide program access to all students.

In looking at the uses of bond proceeds in the districts, the average amount of the most recently passed bond issue was $7 million. While about 3 percent was provided for federal mandates, 54 percent was provided for school construction and 38 percent for repairing, renovating, and modernizing schools. The remaining 5 percent was spent for purchases of computers and telecommunications equipment.

Districts also said that they must sometimes divert funds initially planned for facilities maintenance and repair to purchase additional facilities due to overcrowding. This has resulted from both demographic and mandated changes. For example, additional funds were required for construction and purchase of portables due to large immigrant influxes as well as population shifts in districts or climbing enrollment due to overall population increases. Further, some mandated school programs, such as special education, require additional space for low pupil-teacher ratios.

One survey respondent described the competing demands on limited funds as follows: "Our school facilities are not energy efficient or wired for modern technology. Our floor tile is worn out and the furniture is in poor shape. Our taxpayers don't want to put any more in schools. Our teachers want better pay. Our students and parents want more programs and technology. HELP!!!"

Building Age—By Itself—Is Not Significant

While some studies cite building age as a major factor contributing to deteriorating conditions, older buildings often have a more sound infrastructure than newer buildings. Buildings built in the early years of this century—or before—frequently were built for a life span of 50 to 100 years while more modern buildings, particularly those built after 1970, were designed to have a life span of only 20 to 30 years. A study of English school facilities found that the schools built during the 1960s and 1970s were built quickly and cheaply and have caused continuing maintenance problems.[16] As one survey respondent commented, "the buildings in this district are approximately 20 years old, but the exterior siding was inferior from the beginning * * * it has deteriorated and ruptured extensively. * * *" A principal in Chicago stated about her 1970s building, "our most pressing problem is that the school is crumbling down around us * * *. From the beginning, this building has had serious roof problems. Water leaks throughout the building from the roof and from the walls. Pools of water collect in the floors of the classrooms. One wall has buckled and is held in place with a steel stake. The windows leak and let cold air in * * *." According to some school officials, the misperception about the age factor has been reinforced because older buildings are sometimes not maintained but allowed to deteriorate until replaced.

Three schools we visited in Chicago presented a good example of the difficulty of using age to define condition. All three were built between 1926 and 1930 and had the same design and basic structure. Today, their condition could not be more different. One school had been allowed to deteriorate (had received no renovation since the 1970s) until it reached a point where local school officials classified it as among those schools in the worst physical condition. The second school had received some recent renovation because of community complaints about its condition and was classified as a typical school for the school district. The third school had been well maintained throughout the years, and now school officials classified it as a school in the best physical condition. (See pictures contrasting the three schools in fig. 6.)

[Figure 6 not reproduced in Record.]

CONCLUSIONS

Two-thirds of America's schools report that they are in adequate (or better) overall condition. Still, many of these schools need to repair or replace one or more building feature, manage or correct hazardous materials, or make all programs accessible to all students. Other schools have more serious problems. About 14 million students are required to attend the remaining one-third of schools that have one or more entire buildings in less-than-adequate condition, needing extensive repair or replacement. These schools are distributed nationwide.

Our survey results indicate that to complete all repairs, renovations, or modernizations needed to put school buildings into good overall condition and comply with federal mandates would require a projected investment of $112 billion. Continuing to delay maintenance and repairs will defer some of these costs but will also lead to the need for greater expenditures as conditions deteriorate, further eroding the nation's multibillion dollar investment in school infrastructure. In addition, if maintenance continues to be deferred, a large proportion of schools that are in only adequate condition and need preventive maintenance or corrective repair will soon deteriorate to less-than-adequate condition.

As one survey respondent observed, "It is very difficult to get local communities to accept this burden (facilities construction/renovation). Our district, one of the wealthiest in the state, barely passed a bare bones budget to renovate. It must be a national crisis."

AGENCY COMMENTS

We spoke with Department of Education officials at the National Center for Educational Statistics who reviewed a draft of this report and found the report well done and generally approved of the approach. In addition, staff from the Office of the Undersecretary provided us with technical comments that we incorporated into our report. They did not comment, however, on our methodology, reserving judgment for the detailed technical appendix in our forthcoming report.

Copies of this report are also being sent to appropriate House and Senate committees and all members, the Secretary of Education, and other interested parties.

If you have any questions about this report, please contact Eleanor L. Johnson, Assistant Director, who may be reached at (202) 512-7209. A list of major contributors to this report can be found in appendix VII.

Sincerely yours,

LINDA G. MORRA,
Director, Education and Employment Issues.

APPENDIX I

DISTRICT PROFILES

We visited 41 schools in 10 selected school districts that varied by location, size, and ethnic composition. During these visits, we observed facility conditions and interviewed district and local school officials to get information on facilities assessment, maintenance programs, resources, and barriers encountered in reaching facilities goals. We asked officials to show us examples of "best," "typical," and "worst" schools and verified the reliability of these designations with others. In some small districts, we visited all schools.

CHICAGO, ILLINOIS

Overview

TABLE I.1.—CHICAGO, ILLINOIS

Enrollment	400,000.
Number of schools	553.
Racial composition	56 percent black. 30 percent Hispanic. 14 percent other.
Students on free or reduced lunch	67 percent.
Type	Urban.
Minimum estimated to make all repairs[17].	2.9 billion.

Chicago is a large urban district whose school officials rated their school facilities, overall, as in fair to poor condition. Widespread disparities exist, however, between schools in the best and worst condition. About 15 percent of the schools were built before 1900, and over half are more than 50 years old. Slightly more than 25 percent were built during the fifties and sixties to handle the baby boom, and 20 percent were built during the last 25 years. However, a number of the newer structures are temporary buildings or "demountables" (large sections of prefabricated frames put together on a cement slab). These buildings now show major structural damage, and the seams of the buildings are splitting apart. Permanent buildings also have structural damage. For example, we visited two schools that had chained exit doors to prevent students from either being hit by debris from a cracking exterior brick wall—in a "typical" Chicago school—or falling on collapsing front steps—in a "worst" school.

Schools in the worst condition need new exterior building envelopes (roofs, tuck pointing, windows, and doors), have asbestos or lead-based paint, suffer ceiling and floor problems from leaky roofs, and need to replace outdated electrical and plumbing systems. Schools in the best condition tend to be newer, need few or no repairs, have a more flexible space design, contain electrical systems capable of housing new technology, have air conditioning, and offer brightly colored walls and low ceilings. However, condition does not depend on age alone; three schools we visited typifying best, worst, and typical were all over 60 years old.

Officials report that their biggest facility issues are deferred maintenance and overcrowding. They say that a shortage of funds, caused by a lack of taxpayer support, hinders the district from either upgrading or maintaining its facilities. About 30 to 40 percent of needed repairs have been deferred from year to year for decades with priority given to repairs that ensure student safety. Additionally, some federal mandates—particularly lead and asbestos removal abatement programs—have caused major expenditures as most schools built between 1920 and 1979 contain asbestos, and all schools were painted with lead paint before 1980.

Overcrowding began in the seventies with a great increase in the Hispanic population. However, in some instances, individual schools may be overcrowded, while neighboring schools remain underenrolled. One official told us that this is due in part to the problems caused by gang "turf" and the threat of extreme violence or even death to individuals who wander into "enemy" territory. School officials are reluctant to reassign students if the receiving schools are in territory controlled by a different gang than that of the overcrowded school the children presently attend.

Facilities Financing

Officials estimate that they need $2.9 billion to put schools in good overall condition. While the primary source of school funding is local property taxes, smaller amounts of state and federal funds are also used. Although the 1994 school facilities budget is $270 million (10 percent of the total education budget), only about $50 million is used for maintenance and repair. To obtain funds for building and renovating, the district relies on bonds, we were told, as politicians hesitate to ask anti-tax voters for even a minimal increase in taxes.

GRANDVIEW, WASHINGTON

Overview

TABLE I.2.—GRANDVIEW, WASHINGTON

Enrollment	2,800.
Number of schools	5.
Racial composition	67 percent Hispanic. 32 percent white. 1 percent other.
Students on free or reduced lunch	65 percent.
Type	Small town, rural.
Minimum estimated to make all repairs.	$24.5 million.

This small agricultural town in rural Washington has five schools. While the high school, built in 1978, is in excellent condition, the other four schools, built between 1936 and 1957, need to be totally renovated or replaced over the next 10–20 years. In addition, a student population increasing annually at about 4 percent since 1986 has resulted in overcrowding. Although Grandview's middle school was built to house 475 students, current enrollment stands at about 700. One elementary school designed for 375 students now has 464. Another crowded elementary school converted the gymnasium into two classrooms. The district currently has 14 portable classrooms in use and anticipates needing 4 more in the next 3 years.

Facilities Financing

Grandview schools have an annual budget of $13.5 million, about 2 percent of which goes for maintenance. They receive funding from local tax levies and from the state and general apportionment of about $4,000 per student. They are also eligible for state equalization funding contingent on passing their levy. New construction and renovation are funded by bond issues and state funding assistance contingent on passing the bond issue. An $11 million bond issue to build a new middle school to alleviate crowding failed in February 1994 and again in the fall of 1994.

Funding problems include public resistance to raising taxes and decreased state assistance due to a reduction in the timber sales on the public lands that support school construction funding.

MONTGOMERY COUNTY, ALABAMA

Overview

TABLE I.3.—MONTGOMERY COUNTY, ALABAMA

Enrollment	35,000.
Number of schools	54.
Racial composition	45 percent black. 55 percent white.
Students on free or reduced lunch	58 percent.
Type	Urban.
Minimum estimated to make all repairs.	$150 million.

Many of Montgomery County school facilities are old but are generally in fair condition. However, approximately 10 percent of the schools need to be replaced. In the last 20 years, about 8 schools were built. The oldest building is a portion of an elementary school built in 1904.

Schools built during the early 1900's are not air conditioned and need new roofs. At one elementary school we visited, a ceiling recently collapsed just 40 minutes after the children left for the day. Some schools have had students in "temporary" buildings for years. In addition, many repairs and renovations are needed to maintain schools, accommodate overcrowding and comply with federal mandates.

Overcrowding problems have resulted in the use of 284 portable buildings to house students. In the 1980's, Montgomery County's student population increased, creating the need for new elementary populations at some schools through voluntary student movement, through a minority to majority transfer process. This process allowed minority students to attend any school in the county with a more than 50-percent majority of white students. Primarily, we were told, minority students chose to attend schools on the east side of town because the school facilities were better equipped and nicer. To provide adequate instructional space for the influx of children at the east side schools, portable rooms were added.

Facilities Financing

Lack of money prohibits the district from making needed facilities repairs. The operations and maintenance budget has dropped 10 percent in the past 3 to 4 years. The current facilities budget is $1 million of a $6 million total education budget. The district has no capital improvement budget. On June 28, 1994, voters defeated a local tax referendum for bond money the county had planned to use to remove all portable buildings, make all needed repairs and renovations and build new schools located so that children from the west side of town would not have to travel so far for better school accommodations.

NEW ORLEANS, LOUISIANA

Overview

TABLE I.4.—NEW ORLEANS, LOUISIANA

Enrollment	85,000.
Number of schools	124.
Racial composition	90 percent black. 10 percent other.
Students on free or reduced lunch	85 percent.
Type	Urban.
Minimum estimated to make all repairs	$500 million.

New Orleans' public schools are rotting away. Suffering from years of neglect due to lack of funds for repair and maintenance, New Orleans students attend schools suffering from hundreds of millions of dollars' worth of uncorrected water and termite damage. Fire code violations are so numerous that school officials told us, "We don't count them—we weigh them."

Most of the buildings have no air conditioning, though the average morning relative humidity in New Orleans is 87 percent. One high school recently had an electrical fire that started in the 80-year-old timbers in the roof. No one was hurt but the students were sent to other buildings for the rest of the year. An elementary school, built in 1964, was condemned and closed in 1994 due to water and termite damage.

Facilities Financing

New Orleans uses local property taxes and federal asbestos loans to upgrade its buildings. The district has submitted five bond issues to the voters in the last 20 years, for a total of $175 million, but only two of the bond issues have passed. The school facilities annual budget in 1994 is $6 million or 2 percent of the total education budget. This has decreased in the past 10 years from $9 million (4 percent of the education budget).

NEW YORK, NEW YORK

Overview

TABLE I.5.—NEW YORK, NEW YORK

Enrollment	700,000.
Number of schools	1,229.
Racial composition	38 percent black. 36 percent Hispanic. 19 percent white. 7 percent Asian.
Students on free or reduced lunch	64 percent.
Type	Urban.
Minimum estimated to make all repairs	$7.8 billion.

New York has extremely diverse school facilities—while conditions are generally bad, some schools are models for 21st century learning. The "best" school we saw—a $151 million state-of-the-art science high school—was only blocks away from an example of the "worst"—another high school in a 100-year-old building that had served as a stable, fire house, factory, and office building. This high school's elevators do not work, its interior classrooms have no windows, it has little ventilation and no air conditioning, and its heating depends on a fireman's stoking the coal furnace by hand.

Overcrowding and generally poor condition of the school buildings—many over 100-years-old and in need of major renovation and repair—are New York's main facilities problems. Since the fiscal crisis in the 1970s, maintenance and repair of the city's school buildings have been largely neglected. Twenty years of neglect compound problems that could have been corrected much more cheaply had they been corrected earlier. As the city seeks the funds for repairing leaking roofs, plumbing problems that cause sewage to seep into elementary school classrooms, and ceilings that have caved in, its school enrollment is dramatically increasing. After losing more than 10 percent of its population in the sixties, a vast migration of non-English speaking residents in the last 3 years has resulted in overcrowding in 50 percent of New York's schools. One school is operating at over 250 percent of capacity. Because classrooms are unavailable while under repair, in some cases improvements are postponed.

Facilities Financing

The New York City schools' maintenance, repair, and capital improvement budget is approved annually by the city council. While the state provides some loan forgiveness, the city is largely responsible for all of the costs.

Each school is allocated a maintenance and repair budget based solely on square footage. As a result, schools—even new schools—frequently cannot repair problems as they arise, which often leads to costly repairs in the future. In 1988, the estimated cost of upgrading, modernizing, and expanding the school system by the year 2000 was over $17 billion. The total capital backlog at that time was over $5 billion. The capital plan for fiscal year 1990 through fiscal year 1994 was funded at $4.3 billion: barely 20 percent of the amount requested.

POMONA, CALIFORNIA

Overview

TABLE I.6.—POMONA, CALIFORNIA

Enrollment	29,000.
Number of schools	35.
Racial composition	67 percent Hispanic. 13 percent black. 12 percent white. 8 percent Asian-Pacific.
Students on free or reduced lunch	70 percent.
Type	Suburban.
Minimum estimated to make all repairs	$200 million.

Although district officials generally describe their school facilities overall as "adequate to fair," some individual schools are excellent while others have severe problems. The oldest school was built in 1932. The worst schools were built in the mid-1950s to early 1960s and face many repair problems—poor plumbing, ventilation, lighting, leaking roofs, and crumbling walls. In contrast, one new school that opened last fall is state-of-the art. Only three schools have been built in the last 20 years.

Like many school districts in California, Pomona's biggest facilities issue is overcrowding. Because the student body has increased 37 percent in the last 10 years, the district relies on what school officials call "God-awful" portables—bungalows that are ugly, not air conditioned, termite-ridden, dark, and have too few electrical outlets. The portables generally provide sufficient classroom space but leave schools suffering from a severe lack of common-use areas and space for student movement. For example, some schools have to schedule five lunch periods to handle overcrowded campuses.

Facilities Financing

In 1991 the district passed a $62.5 million bond measure—significantly short of the $200 million it says it needs to put its schools in good overall condition. Officials attribute their facilities' financial problems to state cutbacks, the passage of Proposition 13 in 1979, which greatly reduced local tax revenues, and unfunded federal mandates that drain the district's budget. As a result, the district must function without enough facilities staff and continue to defer maintenance and repair while using temporary "band-aid" measures. However, the passage of Pomona's 1991 bond measure and two 1992 state bond measures increased the district's capital improvement budget to $14 million or about 16 percent of the district's $85 million education budget. Pomona's maintenance and repair budget is usually about 2 percent of the education budget.

RAMONA, CALIFORNIA

Overview

TABLE I.7.—RAMONA, CALIFORNIA

Enrollment	6,500.
Number of schools	9.
Racial composition	78 percent white. 18 percent Hispanic. 4 percent other.
Students on free or reduced lunch	35 percent.
Type	Small town, rural.
Minimum estimated to make all repairs	$4 million.

Ramona is a small but growing rural community in central San Diego County. Four of its nine schools are more than 25 years old; its oldest was built over 50 years ago. Although Ramona's oldest schools tend to be well constructed, they suffer from seriously deteriorating wiring and plumbing and inadequate or nonexistent heating, ventilation, air conditioning, and communications systems. The school district also suffers from the lack of an adequate, stable funding source that would allow it to modernize and expand its facilities. Consequently, most of Ramona's schools are underbuilt and must rely on portables for overcrowding. One elementary school we visited was comprised of only portables, with no cafeteria nor auditorium. One portable served as a library, computer lab, music room, and art room. In contrast, two new schools were built in the last 5 years that are bright, have flexible space and are wired for the latest technology. The portables are difficult to maintain, and repair costs are higher in the long run than if real additions had been built in the first place. The most common repair needs in Ramona's schools are roofs, signal systems (alarms, bells, and intercoms), and paving.

Facilities Financing

Officials attribute its facilities' funding problems to the community's inability to pass a bond issue—two attempts in the past 8 years have failed—their small rural district's competitive disadvantage in applying for state funds, and the state's emphasis on building new schools rather than retrofitting.

The district's facilities budget varies each year but comprises (1) a new building program that uses matching state funds, (2) a routine maintenance budget that is about 2 percent of the district's $30 million education budget ($600,000), and (3) a deferred maintenance budget that is 0.5 percent of the education budget ($150,000) and is supposed to be matched by the state but rarely is in full.

RAYMOND, WASHINGTON

Overview

TABLE I.8.—RAYMOND, WASHINGTON

Enrollment	760.
Number of schools	3.
Racial composition	69 percent white. 21 percent Asian. 5 percent Hispanic. 5 percent Native American.
Students on free or reduced lunch	50 percent.
Type	Small town, rural.

TABLE I.8.—RAYMOND, WASHINGTON—Continued

Minimum estimated to make all repairs	$14 million.

Raymond is a western Washington town that has not recovered from the timber industry downturn of the early 1980s. The town and student populations have declined, and the demographics have changed dramatically. All three Raymond schools are old and two may be unsafe. The high school was built in 1925. It is a three-story structure of unreinforced concrete that may not safely withstand the possible earthquakes in the area. In addition, the building's systems are old and inadequate. Steam pipes are noisy and provide too little or too much heat from room to room. One 1924 elementary school is built of wood—a potential fire hazard—and will be closed in 2 years. A third school was built during the 1950s and will received a major remodeling and new addition next year.

Facilities Financing

Raymond recently passed its first bond issue since the 1950s to fund the remodeling of and addition for an elementary school. A bond issue proposed in 1990 to build a new facility for grades kindergarten to 12 failed. The public does not want to spend money on school maintenance and construction, and the tax base is too low to raise adequate funding. According to the school superintendent, the Columbia Tower (a Seattle skyscraper) has a higher assessed value than the entire district of Raymond. The district's budget is $4 million, which is made up of local levies and state funding. Over the next 2 years, they will ask for a levy increase of $75,000, specifically for needed repairs.

RICHMOND, VIRGINIA

Overview

TABLE I.9.—RICHMOND, VIRGINIA

Enrollment	28,000
Number of schools	58.
Racial composition	88 percent black.
	12 percent other.
Students on free or reduced lunch	68 percent
Type	Urban.
Minimum estimated to make all repairs.	$100 million.

Renovation presents the biggest facility issue for the Richmond schools. Their 58 buildings are visually appealing yet old-fashioned compared with 21st century learning standards. Many, if not most, of the district's renovation needs are due to the buildings' age: The average building was built around the time of World War II. Ninety percent of the buildings lack central air conditioning; many schools close early in September and May/June because the heat and poor ventilation creates breathing problems for the children.

In the past 20 years, 20 schools have been closed; only 2 new schools have opened.

Facilities Financing

Richmond is a poor city: the average family income is $17,700. The facilities director says he usually asks for $18 million but only gets $3 million and about 3 percent of the education budget for maintenance. He says city planners and voters view the buildings as architectural landmarks and think of them in terms of 1950s standards of learning. Also, the money he would have used for renovations has been spent on meeting "federal codes."

The district has tried twice to get the state to match funds for deferred maintenance but was rejected each time. New construction gets funded through bond issues.

WASHINGTON, DC

Overview

TABLE I.10.—WASHINGTON, DC

Enrollment	85,000.
Number of schools	164.
Racial composition	95 percent black.
	5 percent other.
Students on free or reduced lunch	62 percent.
Type	Urban.
Minimum estimated to make all repairs.	$460 million.

With a capacity of 140,000 students, many of Washington's school facilities are old and underused. Only 22 schools of 164—mainly elementary—have been built in the last 20 years. According to the district's facilities manager, the average age of Washington's schools is 50 years. While structurally sound, these older buildings house old—sometimes original—systems, such as the heating and air conditioning or electrical systems, which have major repair problems.

Washington schools have many urgent repair needs, according to the district facilities manager. Old boiler systems have steam leakages causing such infrastructure erosion that whole school wings have been condemned and cordoned off; leaky roofs are causing ceilings to crumble on teachers' and students' desks; fire doors are warped and stick. In addition, the district was under court order to fix the most serious of an estimated $90 million worth of fire code violations by the start of the 1994-95 school year. These violations included locked or blocked exit doors, defective or missing fire doors, broken alarms, malfunctioning boilers, and unsafe electrical systems. Many of the schools also lack air conditioning and are so poorly insulated that children must wear coats to keep warm in winter weather.

Facilities Financing

From the school district's total operating and capital budget of about $552 million in fiscal year 1994, about $100 million (18 percent) was allocated to school maintenance and capital improvement. Of this, approximately $25 million (including salaries) goes to the district's facilities office, with the balance given directly to the schools for their on-site maintenance and operations. The building maintenance budget has declined from about 18 percent to 14 percent of the total school budget in the past 10 years.

Funds for school maintenance and repair and capital improvements come from the District of Columbia's general budget, over which the Congress has authority. Until 1985, the District's capital improvement program was financed only through money borrowed from the U.S. Treasury. After 1985, the District was given authority to sell general obligation bonds in the capital markets. From 1985 through 1994, the schools received $314 million to finance capital improvements: $232 million through general obligation bond issuances, $59 million borrowed from the U.S. Treasury, and $23 million from District tax revenue.

[Appendix II not reproduced in the RECORD.]

APPENDIX III

PROJECT ADVISERS

The following individuals advised this report either by (a) serving on our expert panel on January 31, 1994; (b) helping with the development of our questionnaire; or (c) reviewing a draft report.

Allen C. Abend,[a,b,c] Chief, School Facilities Branch, Maryland State Department of Education.

Phillip T. Chen,[b] Construction Technician, Division of Construction, Department of Facilities Management, Board of Education of Montgomery County (Maryland).

Greg Coleman,[a,b] Capital Asset Management Administrator, Office of Infrastructure Support Services, U.S. Department of Energy.

Laurel Cornish,[a] Director of Facilities, U.S. Department of Education, Impact Aid, School Facilities Branch.

(Mr.) Vivian A. D'Souza,[b] Acting Director, Division of Maintenance, Department of Facilities Management, Board of Education of Montgomery County (Maryland).

Kenneth J. Ducote,[b,c] Director, Department of Facility Planning, New Orleans Public Schools.

Robert Feild,[a] Director, Committee on Architecture for Education, American Institute of Architects.

William Fowler,[a,b,c] Education Statistician, U.S. Department of Education, National Center for Education Statistics.

Lawrence Friedman,[b,c] Associate Director, Regional Policy Information Center, North Central Regional Educational Laboratory.

Thomas E. Glass,[b] Professor, Department of Leadership and Educational Policy Studies, Northern Illinois University.

Terence C. Golden,[a] Chairman, Bailey Realty.

Thomas Grooms,[a] Program Manager, Federal Design Office, National Endowment for the Arts.

Shirley J. Hansen,[a] President, Hansen Associates.

Alton C. Halavin,[b] Assistant Superintendent for Facilities Services, Fairfax County Public Schools, Fairfax County, Virginia.

Bruce Hunter,[b] Executive Director, American Association of School Administrators.

Eddie L. King,[b] Auditor, Inspector General, Department of Education.

Andrew Lemer,[a] President Matrix Group, Inc.

William H. McAfee III,[b] Facilities Manager, Division of Facilities Management, District of Columbia Public Schools.

Roger Scott,[b,c] Program Director, Southwest Regional Laboratory.

Richard L. Siegel,[a] (Former) Director of Facilities Services, Smithsonian Institution.

Lisa J. Walker,[a] Executive Director, Education Writers Association.

Tony J. Wall,[b,c] Executive Director/CEO, The Council of Educational Facilities Planners International.

William M. Wilder,[b] Director, Department of Facilities Management, Board of Education of Montgomery County (Maryland).

APPENDIX IV

GAO QUESTIONNAIRE FOR LOCAL EDUCATION AGENCIES

DEAR SURVEY RESPONDENT: The U.S. General Accounting Office (GAO) has been asked by the United States Congress to obtain information about school facilities, such as physical condition and capacity. While several limited studies have been done recently, no comprehensive national study of school facilities has been done in 30 years.

The Congress needs this information to shape the details of federal policy, such as funding for the School Infrastructure Act of 1994. All responses are confidential. We will report your data only in statistical summaries so that individuals cannot be identified.

This questionnaire should be answered by district level personnel who are very familiar with the school facilities in this district. You may wish to consult with other district level personnel or with school level personnel, such as principals, in answering some questions.

We are conducting this study with only a sample of randomly selected schools, so the data on your school(s) is very important because it represents many other schools. Please respond even if the schools selected are new. If you have questions about the survey, please call Ms. Ella Cleveland (202) 512–7066 or Ms. Edna Saltzman (313) 256–8109.

Mail your completed questionnaire in the enclosed envelope within 2 weeks to: Ms. Ella Cleveland, U.S. General Accounting Office, NGB, Suite 650, 441 G St., NW, Washington, DC 20548.

Thank you for your cooperation in this very important effort.

Sincerely yours,

LINDA G. MORRA,
Director, Education and Employment.

SECTION I.—DISTRICT INFORMATION

1. What would probably be the total cost of all repairs/renovations/modernizations required to put all of this district's schools in good overall condition? Give your best estimate. If all of this district's schools are already in good (or better) overall condition, enter zero.

Overall condition includes both physical condition and the ability of the schools to meet the functional requirements of instructional programs. Good condition means that only routine maintenance or minor repair is required.

$____.00

2. On which of the sources listed below is this estimate based? Circle ALL that apply.

Does not apply—all schools already in good (or better) overall condition 0

Sources

Facilities inspection(s)/assessment(s) performed within the last three years by licensed professionals 1

Repair/renovation/modernization work already being performed and/or contracted for 2

Capital improvement/facilities master plan or schedule 3

My best professional judgment 4

Opinions of other district administrators 5

Other (specify: ____) 6

3. During the last 3 years, how much money has been spent in this district on the federal mandates listed below? Include money spent in 1993–1994. If exact amounts are not readily available, give your best estimate. Enter zero if none. Circle "1" if spending was not needed.

Federal mandates	Spending not needed	Amount spent
Accessibility for student with disabilities	1	$____.00
Managing/correcting:		
Asbestos	1	$____.00
Lead in water/paint	1	$____.00
Underground storage tanks (USTs)	1	$____.00
Radon	1	$____.00
Other (specify: ____)	1	$____.00

4. How much money will probably need to be spent in this district during the next 3 years on these federal mandates? If exact amounts are not readily available, give your best estimate. If spending will not be needed, circle "1." If unknown, circle "2."

Federal mandates	Spending will not be needed	Amount unknown	Probably needed
Accessibility for students with disabilities	1	2	$____.00
Managing/correcting:			
Asbestos	1	2	$____.00
Lead in water/paint	1	2	$____.00
Underground storage tanks (USTs)	1	2	$____.00
Radon	1	2	$____.00
Other (specify: ____	1	2	$____.00

5. Are these spending needs for federal mandates included in your answer to question 1? Circle one for each mandate listed.

Federal mandates	Does not apply—not needed/unknown	Yes—included	No—not included
Accessibility for students with disabilities	1	2	3
Managing/correcting:			
Asbestos	1	2	3
Lead in water/paint	1	2	3
Underground storage tanks (USTs)	1	2	3
Radon	1	2	3
Other (specify: ____	1	2	3

6. In what year was a bond issue most recently passed for this district? Enter the last two digits of the year.

19____.

7. What was the total amount of this most recently passed bond issue?

$____.00

8. How much money did this most recently passed bond issue provide for the items listed below? Enter zero if none.

Items	*Amount Provided*
Construction of new schools	$____.00
Repair/renovation/modernization of existing schools	$____.00
Asbestos removal	$____.00
Removal of Underground Storage Tank (USTs)	$____.00
Removal of other environmental conditions	$____.00
Purchase of computers	$____.00
Purchase of telecommunications equipment	$____.00
Access for students with disabilities	$____.00

9. During the last 10 years, how many bond issues have failed to pass?

____ bond issues failed to pass

10. Do you currently have a bond issue before the electorate? Circle one.

Yes........1
No........2

SECTION II.—SCHOOL INFORMATION

This section asks about the first school shown on the Instruction Sheet enclosed with this survey.

1. Name of school: Please enter the name of the first school shown on the Instruction Sheet.

School's survey identification number: Please enter the survey identification number of the first school shown on the instruction sheet.

2. If any of the following statements are true for this school, please circle the number of the appropriate answer. Circle all that apply.

This school teaches only postsecondary (beyond grade 12) or adult education students 1

This school is no longer in operation 2

This school is a private school, not a public school 3

This institution or organization is not a school 4

3. Which of the following grades did this school offer around the first of October, 1993: Circle all that apply.

Grade 1 1
Grade 2 2
Grade 3 3
Grade 4 4
Grade 5 5
Grade 6 6
Grade 7 7
Grade 8 8
Grade 9 9
Grade 10 10
Grade 11 11
Grade 12 12
Pre-kindergarten 13
Ungraded (including upgraded special education students) 15

Stop! If you marked any of the above statements go to the next school information section.

4. What was the total number of Full Time Equivalent (FTE) students enrolled in this school around the first of October 1993?

____
total FTE students

5. Does this school house any of its students in instructional facilities located off of its site, such as rented space in another school, church, etc.? Circle one.

Yes...1
No...2----> go to question 8

6. How many of this school's Full Time Equivalent (FTE) students are housed in off-site instructional facilities?

____FTE students housed off-site

7. How many total square feet of off-site instructional facilities does this school have? If exact measurements are not readily available, give your best estimate.

____total square feet off-site

8. How many original buildings, attached and/or detached permanent additions to the original buildings, and temporary buildings does this school have on-site? If this school does not have any permanent additions or any temporary buildings on-site, enter zero for these categories.

On-Site Buildings—Number
Original buildings—____
Attached and/or detached permanent additions to original buildings—____
Temporary buildings—____

9. How many total square feet do the original buildings, the attached and/or detached permanent additions, and the temporary buildings have? If exact measurements are not readily available, give your best estimate. If this school does not have any permanent additions or any temporary buildings on-site, enter zero for these categories.

On-Site Buildings—Total Square Feet
Original buildings—____
Attached and/or detached permanent additions to original buildings—____
Temporary buildings—____

10. What is the overall condition of the original buildings, the attached and/or detached permanent additions, and the temporary buildings? Refer to the rating scale shown below, and circle one for each category of building. If this school does not have any permanent additions or any temporary buildings onsite, circle "0."

Overall condition includes both physical condition and the ability of the buildings to meet the functional requirements of instructional programs.

Rating Scale

Excellent: new or easily restorable to "like new" condition; only minimal routine maintenance required.

Good: only routine maintenance or minor repair required.

Adequate: some preventive maintenance and/or corrective repair required.

Fair: fails to meet code and functional requirement in some cases; failure(s) are inconvenient; extensive corrective maintenance and repair required.

Poor: consistent substandard performance; failure(s) and disruptive and costly; fails most code and functional requirements; requires constant attention, renovation, or replacement. Major corrective repair or overhaul required.

Replace: Non-operational or significantly substantial performance. Replacement required.

On-site buildings	School does not have	Excellent	Good	Adequate	Fair	Poor	Replace
Original buildings ...	N/A	1	2	3	4	5	6
Attached and/or detached permanent additions to original buildings	0	1	2	3	4	5	6
Temporary buildings	0	1	2	3	4	5	6

11. What would probably be the total cost of all repairs/renovations/modernizations required to put this school's on-site buildings in good overall condition? Give your best estimate. If this school's on-site buildings are already in good (or better) overall condition, enter zero.

$______.00

12. On which of the sources listed below is this estimate based? Circle ALL that apply.

Does not apply—already in good (or better) overall condition 0

Sources

Facilities inspection(s)/assessments(s) performed within the last three years by licensed professionals 1
Repair/renovation/modernization work already being performed and/or contracted for 2
Capital improvement/facilities master plan or schedule 3
My best professional judgment 4
Opinions of other district administrators 5
Other (specify: ______) 6

13. During the last 3 years, how much money has been spent on the federal mandates listed below for this school's on-site buildings? Include money spent in 1993–1994. If exact amounts are not readily available, give your best estimate. Enter zero if none. Circle "1" if spending was not needed.

Federal mandates—spending not needed

	Amount spent
Accessibility for students with disabilities—1	$______.00
Managing/correcting:	
Asbestos—1	$______.00
Lead in water/paint—1	$______.00
Underground storage tanks (USTs)—1	$______.00
Radon—1	$______.00
Other (specify: ____)—1	$______.00

14. How much money will probably need to be spent during the next 3 years on these federal mandates for this school's on-site buildings? If exact amounts are not readily available, give your best estimate. If spending will not be needed, circle "1." If unknown, circle "2."

Federal mandates	Spending will not be needed	Unknown	Amount probably needed
Accessibility for students with disabilities	1	2	$______.00
Managing/correcting:			
Asbestos	1	2	$______.00
Lead in water/paint	1	2	$______.00
Underground storage tanks (USTs)	1	2	$______.00
Radon	1	2	$______.00
Other (specify: ______)	1	2	$______.00

15. Are these spending needs for federal mandates included in your answer to question 11? Circle one for each mandate listed.

Federal mandates	Does not apply—Not needed/unknown	Yes—Included	No—Not included
Accessibility for students with disabilities	1	2	3
Managing/correcting:			
Asbestos	1	2	3
Lead in water/paint	1	2	3
Underground storage tanks (USTs) ...	1	2	3
Radon	1	2	3
Other (specify: ______)			

16. Overall, what is the physical condition of each of the building features listed below for this school's on-site buildings? Refer to the rating scale shown below, and circle one for each building feature listed.

Rating Scale

Excellent: new or easily restorable to "like new" condition; only minimal routine maintenance required.

Good: only routine maintenance or minor repair required.

Adequate: some preventive maintenance and/or corrective repair required.

Fair: fails to meet code or functional requirement in some cases; failure(s) are inconvenient; extensive corrective maintenance and repair required.

Poor: consistent substandard performance; failure(s) are disruptive and costly; fails most code and functional requirements; requires constant attention, renovation, or replacement. Major corrective repair or overhaul required.

Replace: Non-operational or significantly substandard performance. Replacement required.

Building feature	Excellent	Good	Adequate	Fair	Poor	Replace
Roofs	1	2	3	4	5	6
Framing, floors, foundations	1	2	3	4	5	6
Exterior walls finishes, windows, doors	1	2	3	4	5	6
Interior finishes, trims	1	2	3	4	5	6
Plumbing	1	2	3	4	5	6
Heating, ventilation, air conditioning	1	2	3	4	5	6
Electrical power	1	2	3	4	5	6
Electrical lighting	1	2	3	4	5	6
Life safety codes	1	2	3	4	5	6

17. Do this school's on-site buildings have sufficient capability in each of the communications technology elements listed below to meet the functional requirements of modern educational technology? Circle one for each element listed.

Technology elements	Very sufficient	Moderately sufficient	Somewhat sufficient	Not sufficient
Computers for instructional use	1	2	3	4
Computer printers for instructional use ...	1	2	3	4
Computer networks for instructional use	1	2	3	4
Modems	1	2	3	4
Telephone lines for modems	1	2	3	4
Telephones in instructional areas	1	2	3	4
Television sets	1	2	3	4
Laser disk players/VCRS	1	2	3	4
Conduits/raceways for computer/computer network cables	1	2	3	4
Fiber optic cable	1	2	3	4
Electrical wiring for computers/communications technology	1	2	3	4
Electrical power for computers/communications technology	1	2	3	4

18. How many computers for instructional use does this school have? Include computers at both on-site buildings and off-site instructional facilities.

_____ computers for instructional use

19. How well do this school's on-site buildings meet the functional requirement of the activities listed below? Circle one for each activity listed.

Activity	Very well	Moderately well	Somewhat well	Not well at all
Small group instruction	1	2	3	4
Large group (50 or more students) instruction	1	2	3	4
Storage of alternative student assessment materials	1	2	3	4
Display of alternative student assessment materials	1	2	3	4
Parent support activities, such as tutoring, planning, making materials, etc.	1	2	3	4
Social/Health Care Services	1	2	3	4
Teachers' planning	1	2	3	4
Private areas for student counseling and testing	1	2	3	4
Laboratory science	1	2	3	4
Library/Media Center	1	2	3	4
Day care	1	2	3	4
Before/after school care	1	2	3	4

20. How satisfactory or unsatisfactory is each of the following environmental factors in this school's on-site buildings? Circle one for each factor listed.

Environmental factor	Very satisfactory	Satisfactory	Unsatisfactory	Very unsatisfactory
Lighting	1	2	3	4
Heating	1	2	3	4
Ventilation	1	2	3	4
Indoor air quality	1	2	3	4
Acoustics for noise control	1	2	3	4
Flexibility of instructional space (e.g., expandability, convertability, adaptability)	1	2	3	4
Energy efficiency	1	2	3	4
Physical security of buildings ..	1	2	3	4

21. Does this school have air conditioning in classrooms, administrative offices, and/or other areas? Circle ALL that apply.

Yes, in classrooms 1
Yes, In administrative offices 2
Yes, in other areas 3
No, no air conditioning in this school at all 4 (go to question 23)

22. How satisfactory or unsatisfactory is the air conditioning in classrooms, administrative offices, and/or other areas? Circle one for each category listed.

	Very satisfactory	Satisfactory	Unsatisfactory	Very unsatisfactory
Air conditioning in:				
Classrooms	1	2	3	4
Administrative offices	1	2	3	4
Other areas	1	2	3	4

23. Does this school participate in the National School Lunch Program? Circle one.

Yes 1
No 2

24. Regardless of whether this school participates in the National School Lunch Program, around the first of October, 1993, were any students in this school eligible for the program? Circle one.

Yes 1
No .... 2 (go to question 27)
Don't know .... 3 (go to question 27)

25. Around the first of October, 1993, how many applicants in this school were approved for the National School Lunch Program? Enter zero if none.

_____ applicants approved

26. Around the first of October, 1993, how many students in this school received free or reduced lunches through the National School Lunch Program? Enter zero if none.

_______ recipients

27. How many students in this school were absent on the most recent school day? If none were absent, please enter zero.

_______ students absent

28. What type of school is this? Circle one.

Regular elementary or secondary 1

Elementary or secondary with special program emphasis—for example, science/math school, performing arts high school, talented/gifted school, foreign language immersion school, etc.	2
Special education—primarily serves students with disabilities	3
Vocational/technical—primarily serves students being trained for occupations	4
Alternative—offers a curriculum designed to provide alternative or nontraditional education; does not specifically fall into the categories of regular, special education, or vocational school	5

29. Does this school offer a magnet program? Circle one.

Yes	1
No	2

If this is the last school listed on your instruction sheet, please go directly to the last page of this questionnaire.

COMMENTS

Do you have any comments you would like to make about school facilities? Circle one.

Yes 1—Please use the space below.
No 2

APPENDIX V

DATA POINTS FOR REPORT FIGURES

Tables in this appendix provide data for the figures in the report.

TABLE V.1.—DATA FOR FIGURE 1: SCHOOL OFFICIALS REPORT BILLIONS NEEDED FOR REPAIRS AND TO COMPLY WITH FEDERAL MANDATES IN THE NEXT 3 YEARS

Amount needed to	All schools
Make all repairs required to put schools in good overall condition	$101,200,000,000
Provide accessibility for disabled students	5,183,407,780
Manage/correct asbestos	2,395,445,006
Manage/correct lead in water and paint	386,647,141
Manage/correct underground storage tanks	303,004,301
Manage/correct radon	31,521,318
Manage/correct other requirements	2,380,065,108

TABLE V.2.—DATA FOR FIGURE 2: AMOUNT SCHOOLS REPORTED SPENDING OVER THE LAST 3 YEARS AND NEED IN THE NEXT 3 YEARS TO FULFILL FEDERAL MANDATES

Federal mandate	Reported spent in the last 3 years	Reported needed in the next 3 years
Accessibility for students with disabilities	$1,519,755,380	$5,183,407,780
Manage/correct asbestos	1,728,277,353	2,395,445,006
Manage/correct other requirements	200,885,750	2,380,065,108
Manage/correct lead in water/paints	46,241,652	386,647,141
Manage/correct underground storage tanks	302,014,949	303,004,301
Manage/correct radon	13,854,263	31,521,318

TABLE V.3.—DATA FOR FIGURE 3: PERCENT OF BUILDINGS REPORTED IN LESS-THAN-ADEQUATE OVERALL CONDITION

Type of building	Percentage of less-than-adequate buildings
Temporary buildings	27.9
Original buildings	26.2
Attached and/or detached permanent additions to original buildings	17.9

TABLE V.4.—DATA FOR FIGURE 4: BUILDING REPAIRS REPORTED NEEDED IN AMERICA'S SCHOOLS

Type of building	Percentage of schools reporting less-than-adequate building features
HVAC	36.4
Plumbing	29.8
Roofs	27.3
Exterior walls, finishes, windows, doors	26.6
Electrical power	26.4
Electrical lighting	25.4
Interior finishes, trims	24.1
Life safety codes	19.0
Framing, floors, foundations	17.9

TABLE V.5.—DATA FOR FIGURE 5: PERCENTAGE OF SCHOOLS REPORTING UNSATISFACTORY OR VERY UNSATISFACTORY ENVIRONMENTAL FACTORS

Type of environmental condition	Percentage of schools reporting less-than-adequate environmental conditions
Acoustics for noise control	28.1
Ventilation	27.1
Physical security of buildings	24.2
Indoor air quality	19.2
Heating	18.9
Lighting	15.6

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FOOTNOTES

[1] Education Writers Association, "Wolves at the Schoolhouse Door: An Investigation of the Condition of Public School Buildings" (Washington, D.C.: 1989); American Association of School Administrators, "Schoolhouse in the Red: A Guidebook for Cutting Our Losses" (Arlington, VA.: 1992).

[2] Subsequent reports will address (1) the capability of schools to meet education reform goals and the needs of 21st century education, (2) state role in school facilities, and (3) the relationship of facility conditions to select school and staffing data.

[3] Sampling error is ± 6.61 percent.

[4] No complete national data has been compiled for current replacement value of school buildings. Researchers have used the $422 billion estimate made by the Education Writers Association in "Wolves at the Schoolhouse Door."

[5] "Good" condition means that only routine maintenance or minor repair is required. "Overall" condition includes both physical condition and the ability of the schools to meet the functional requirements of instructional programs.

[6] Any one school may have more than one building.

[7] *Pauley* v. *Kelly*, No. 75–C1268 (Kanawha County Cir. Ct., W. Va., May 1982).

[8] The Education Infrastructure Act of 1994 was introduced by Senator Carol Moseley-Braun and was passed as part of Improving America's Schools Act (P.L. 103–382, Oct. 20, 1994).

[9] The National Education Goals are set forth in Goals 2000: Educate America Act (P.L. 103–227, March 31, 1994). The goals concern (1) school readiness; (2) school completion; (3) student achievement and citizenship; (4) teacher education and professional development; (5) math and science achievement; (6) adult literacy and lifelong learning; (7) safe, disciplined, and alcohol- and drug-free schools; and (8) parental participation.

[10] "School Construction Specification and Financing, National Survey Data 1994," MGT of America, Inc., prepared for Hawaii's State Department of Education (Tallahassee, Fla.: 1994). See also our forthcoming report on state role in school facilities.

[11] The Impact Aid program is administered by the Department of Education and provided $12 million in fiscal year 1994 for constructing and renovating schools in districts that educate "federally connected" children, such as those whose parents live and/or work on military installations and Indian reservations.

[12] "Toxic Substances: Information on Costs and Financial Aid to Schools to Control Asbestos" (GAO/RCED–92–57FS, Jan. 15, 1992).

[13] Building features include roofs; framing, floors, and foundations; exterior walls, finishes, windows, and doors; interior finishes and trims; plumbing, heating, ventilation, air conditioning; electrical power; electrical lighting; and life safety codes.

[14] Environmental factors include lighting, heating, ventilation, indoor air quality, acoustics for noise control, energy efficiency, and physical security of buildings. Although flexibility of instructional space is included as an environmental factor in our questionnaire (see app. IV), we are not addressing those issues in this report. They will be addressed in a forthcoming report.

[15] We are referring to maintenance as the upkeep of property and equipment while repair is work to restore damaged or worn-out property to a normal operating condition.

[16] "Repair and Maintenance of School Buildings" (National Audit Office, Report by the Controller and Auditor General, London, England, Ordered by the House of Commons to be printed July 25, 1991).

[17] We asked district officials what would probably be the total cost of all repairs and renovations required to put all of the district's schools in good overall condition.

Ms. MOSELEY-BRAUN. Mr. President, I wish to thank the GAO staff for their exhaustive work in an area that Senator HARKIN and I have recognized as a critical issue of readiness for educational excellence in this country. And that is what I call the dirty little secret of the condition of America's schools.

The GAO report makes it clear what the American people already know: our schools are deteriorating and we need to fix them. Infrastructure investment is just another way of saying the obvious; that we need to reverse the decades-long habit of trying to ignore the decay while we struggle to eke out money for programs. We have delayed maintenance for too long in too many schools and now the results of that neglect are unmistakable. The chickens, literally, have come home to roost.

Some 14 million children, Mr. President, attend schools that are reported needing extensive repair or replacement. These schools are distributed nationwide. Recent research has concluded that facilities in poor condition may contribute to students' poor performance. It is inherently unfair to hold youngsters to nationwide standards for achievement if they do not have an equal opportunity to learn. It is frightening that major repair and renovation needs exist in fully a third of the 80,000 schools in our country and that over 60 percent of that number reported at least one major feature in disrepair, needing extensive overhaul if not replacement. Most schools reported multiple problems of this nature.

These are not just cosmetic concerns. And I would like my staff to put up some pictures.

This is a series of pictures showing classroom conditions. You will notice that this science lab looks like it has been the victim of a failed science experiment. But can you imagine our youngsters trying to study the sciences and be competitive in this world economy trying to learn in facilities like that.

Here is one with peeling lead-based paint; burned out lights; unrepaired fire damage. Here is one: Water damage caused buckling floors and missing tiles; more water damage; termites eating out the school library shelves. Here is a basement in a school in Chicago. Here is one of peeling lead-based paint and burned out lights, which is not replaceable. But the irony of it, Mr. President, is the little sign here on the blackboard that says "academic success." It is hard to think that someone can achieve academic success in a setting like this.

These are not just cosmetic concerns. When we speak of major repair needs, we are referring to conditions that are unsafe or even harmful to children's health. The GAO report estimates that the Nation's schools need $112 billion to repair and upgrade America's investment in school facilities to bring them to good overall condition. Just to comply with the Federal mandates to remove asbestos, or lead paint, or radon and pesticides and hazardous materials is estimated to require $11 billion. We are courting disaster if we fail to recognize that these capital needs relate directly to the health and safety of our children in the environment second in importance only to the home.

For example, some 7 million children attended schools with life safety code violations, some 11 million in schools with electrical problems, 15 million in schools with heating and air quality problems, and 12 million with plumbing problems; 11.9 million children attend schools with leaky roofs, and 7 million with hazardous floors. We have allowed the deterioration to continue to a point that the courts are beginning to step in, as was done here in the Nation's Capital and in New York, to require that life-threatening conditions be rectified. Sometimes, as in a recent student strike in Chicago, the children take matters in their own hands.

The Education Infrastructure Act is a small, first step toward putting Federal support where the needs are. It is included in Goals 2000, and was appropriated last year at the $100 million level. I hope we will have the support of the President to keep this money in the budget, and to increase the appropriation this year. Time is not on our side, deferred investment will just make it more, not less expensive to correct. I hope to have the support required to give this initiative the priority it deserves.

I first became aware of the problems facing our Nation's education infrastructure while serving in the Illinois House of Representatives. Throughout my 2½ terms in office, I visited school districts across the State and witnessed the deteriorating condition of public school facilities in both urban and rural districts alike.

Yet, it was not until I began working on education legislation in the U.S. Senate, that I learned that the Federal Government had not collected data on the condition of our Nation's public school facilities since 1965.

Knowing that my efforts to improve our Nation's education infrastructure would be limited by insufficient data, I sent a letter to the General Accounting Office last year, which was cosigned by Senators KENNEDY, PELL, SIMON, and WELLSTONE, requesting a comprehensive, nationwide study on the condition of our Nation's public school facilities.

In responding to my request, the General Accounting Office surveyed a random sample of our Nation's 15,000 school districts and 80,000 public schools from April to December 1994. GAO staff members also visited 41 schools in 10 school districts across the country to supplement their quantitative data with personal observations.

Based on responses from 7.8 percent of the schools sampled, GAO concluded that our Nation's public schools need $112 billion to restore their facilities to good overall condition—including $6 billion to make programs accessible to all students and $5 billion to correct or remove hazardous substances.

More specifically, GAO found that out of the 42 million public school students in the United States: 14 million or 33 percent of all students attend schools that need to extensively repair or replace one or more buildings; 59 percent attend schools that need to repair or replace one or more building features; and 52 percent attend schools that have at least one unsatisfactory environmental condition.

As I said, we are not speaking of cosmetic concerns. We are referring to conditions that are unsafe or even harmful to the safety and well being of our children.

According to the GAO report, this situation is one that is pervasive, it is widespread, and runs the gamut in terms of conditions. I would like my staff to take this set of pictures down and put up the one regarding plumbing conditions and the like.

Mr. President, I am going to digress for a moment while my staff displays the next set of pictures. I have a teenage son. If anything, the youngsters know this. This is not a surprise to any of the pages sitting here. They know of some school in the community from which they come that has this kind of problem. It is a widespread problem. It is a nationwide problem. It is an urban as well as rural problem. These pictures are from urban school districts specifically.

Here is a toilet used to redirect sewage from a broken pipe in the wall here in Washington, DC—our Nation's Capital. This is the kind of infrastructure disrepair that youngsters must try to learn in on a daily basis. Can you imagine the activities in the classroom right next-door to this bathroom?

This next picture is of a home economics sink—small wonder you could not do very well in home economics, if that is the kind of conditions in which you have to work.

Mr. President, in addition to these plumbing concerns, I would also like you to take an opportunity to look at some of the external problems. Young people do not cause the fascia to crack or the structural damage. Here is one of a front door which is a life and safety violation. The front door is chained so the students cannot be injured by the holes in the crumbling front steps of this particular school.

This picture shows structural damage which I can see in the brickwork, in the fascia. Again, a function of the failure to invest in repairs and maintenance over time. This picture is of a 30-year-old portable classroom in New Orleans that was built to last for 10 years. It was designed to be temporary. A portable classroom that was designed to be temporary. It is still there and that is the condition in which it is in—coming apart at the seams. This picture shows a demountable classroom held in place by a steel plate and the wall, of course, is crumbling under the windows.

Mr. President, 7 million students attend schools with life safety code violations; 11 million attend schools with electrical problems; 15 million attend schools with heating, ventilation, and air-conditioning problems; 12 million attend schools with plumbing problems; and 11.9 million students attend schools with leaky roofs.

Mr. President, in preparing their report, GAO staff members traveled across the country to examine public school facilities in America's urban communities and found that: In New York City, A $151 million state-of-the-art science high school is only blocks away from another high school housed in a 100-year-old building which has served as a stable, fire house, factory, and office building; this school's elevators do not work, its interior classrooms have no windows, it's ventilation system needs major repairs, and its heating depends on a fireman's stoking the coal furnace by hand. In Chicago, a leaking roof at one elementary school caused floors to buckle and plaster on the walls and ceilings to crumble; since the leaking roof also flooded parts of the electric wiring system, one teacher would not turn on her lights during rainstorms for fear of electric shock—or fire. In Washington, DC, water damage from an old steam-heating system at a 60-year-old junior high school has caused so much wall deterioration that an entire wing has been condemned; steam damage is also causing lead-based wall paint to peel. And, in New Orleans, most of the school buildings have no air-conditioning although the average morning relative humidity in New Orleans is 87 percent; Formosan termites have also deteriorated the structure of many schools; in one elementary school, ants ate books on shelves as well as the shelves themselves.

GAO staff members also visited public school facilities in America's rural communities and found similar problems.

In Raymond, WA, one elementary school is made of wood, a potential fire hazard, and the 70-year-old high school is made of unreinforced concrete that probably can not withstand earthquakes.

In Ramona, CA, one elementary school is comprised solely of portable classrooms with no cafeteria or auditorium; one portable room serves as a library, computer lab, music room, and art room. and, in Grandview, WA, the middle school, which was built to house 475 students, currently enrolls 700, while the elementary school designed for 375, now enrolls 464 students.

At this point I would also like to raise the issue of school overcrowding, because, this issue also causes facilities to become inadequate. So you have damage as we see here in these pictures exacerbated by just the numbers of children that are crowding into inadequate facilities.

Mr. President, the American system of public education has historically given local school boards primary responsibility for maintaining our Nation's education infrastructure.

For a long time, local school boards were able to meet that responsibility. However, the ability of local school boards to continue to meet that responsibility has steadily declined, in large part because of escalating costs in the operating budget.

To build schools, local school boards rely on local property taxes. And, as we all know, school boards in every State in the country are finding it increasingly difficult to support their instructional programs, much less their school facilities, with local property taxes.

Local property taxes are an inadequate source of funding for public education because they make the quality of public education dependent on the local property wealth.

Two districts in Illinois illustrate the gross disparities created by our current school financing system.

In 1990, the owner of a $100,000 home in a prosperous community paid $2,103 in local property taxes. This community spent an average of $10,085 per child in its public schools. On the other hand, the owner of a $100,000 home in a low- and moderate-income community paid $4,139 in local property taxes, almost twice as much, but was only able to spend $3,483 per child in its public schools—less than one-third of the money the more prosperous community was spending, and for a host of reasons that goes to local schools.

In their responses to the GAO survey, school officials reported that they have difficulty raising money for needed repairs and renovation, in large part, because of the demands of their operating budgets as well as an antitax sentiment among voters resulting in the failure of bond issues.

In other words the local property tax is an inadequate, inelastic base for funding schools generally, but it has the particularly Draconian effect with regard to infrastructure and facilities because the school districts do not want to have to go back to the taxpayers in order to meet these kinds of repairs.

In fact, 33 percent of school districts reported that they have had an average of two bond issues fail in the past 10 years and that bond proceeds are often much less than needed for repairs. For example, GAO found that: In Montgomery, AL, voters defeated a local tax referendum to remove all portable buildings and build new schools on June 28, 1994; and, in Pomona, CA, a $62.5 million bond issue was submitted to the voters after a survey indicated that the $200 million needed for repairs would be rejected by the voters.

In short, one survey respondent commented that:

> The current puolic attitudes about the economy and education are generally so negative that passing a bond referendum is a fantasy.

Mr. President, the Federal Government, as well as most States, continue to force local school districts to rely increasingly on local property taxes for public education, in general, and for school repair and construction projects, in particular.

In Illinois, for example, the local share of public education funding increased from 48 percent during the 1980–81 school year to 58 percent during the 1992–93 school year, while the State share fell from 43 to 34 percent during this same period.

So what we see is a continuing shifting of the burden to the local property taxpayer, and the local property taxpayer is not able to go any further to meet this need.

At the same time, State support for the repair, renovation, alteration, and construction of public school facilities has fallen even more dramatically in Illinois—one of 23 State that provides little or no funding for school facilities projects.

Although the Illinois General Assembly created the Capital Assistance Program in the early 1970's to help local school districts finance school repair and construction projects, support for this program has diminished rapidly.

During fiscal years 1985 through 1990, the State of Illinois appropriated only $18 million for local school repair and construction projects, and then only on an individual direct-grant basis.

I point out also that the last time this issue even was reviewed at a State level in our State was in 1987 when the Illinois Board of Education thought our rural districts alone needed over $500 million to restore their facilities to good overall conditions. The GAO report found that Chicago public schools need $2.9 billion.

Mr. President, the Federal Government must accept a share of the blame for failing to provide our Nation's children with school environments which are conducive to learning.

In just the last decade alone, the Federal Government's share of public education funding has dropped from 9.8 to 6.1 percent.

That could make a lot of difference when it comes to providing an environment in which young people can learn.

The Federal Government has historically addressed the problems facing our Nation's public schools by passing important legislation including: Section 504 of the Rehabilitation Act of 1973; the Asbestos Hazard Emergency Response Act of 1986; and the Americans with Disabilities Act of 1990. While these laws have laudable goals, they have the effect of passing on even greater costs to already overburdened school districts.

The GAO report states clearly that these mandates alone, account for $11 billion of the $112 billion needed to fix our schools.

Last year, Congress passed the Goals 2000: Educate America Act which President Clinton signed into law on March 31, 1994. I supported this legislation because it promises to create a coherent, national framework for education reform founded on the national education goals.

Since one essential building block of reform is better school facilities, I am pleased that Goals 2000 includes an amendment I introduced that directs the national education standards and improvement council to develop voluntary national opportunity-to-learn standards which address the condition of school facilities.

Nonetheless, I firmly believe that it is inherently unfair to expect our children to meet national performance standards if they do not have an equal opportunity to learn.

That is why I introduced the Education Infrastructure Act last April. This legislation, which was included in the reauthorization of the Elementary and Secondary Education Act [ESEA], is specifically designed to help local school districts ensure the health and safety of students through the repair, renovation, alteration, and construction of school facilities.

With the help of my distinguished colleague from Iowa [Mr. HARKIN], I was able to include $100 million in the

1995 Department of Education budget for the education infrastructure program. While this appropriation level represents a drop in the bucket in terms of our Nation's education infrastructure needs, it is significant, nonetheless, because it is the first drop.

The Education Infrastructure Act requires the Secretary of Education to award funds to school districts with at least 15 percent child poverty rates and urgent repair and renovation needs.

This legislation further targets program funds by requiring the Secretary to award funds among eligible school districts on the basis of:

The number or percentages of children in poverty;

The extent to which they lack the fiscal capacity to undertake the project without Federal assistance;

The threat the physical condition of the plant poses to the safety and well-being of students; and

The age of the facility to be replaced.

Mr. President, the Education Infrastructure Act does not infringe upon local control over public education in any way. Rather, it seeks to supplement, augment, and assist local efforts to support education in the least intrusive way possible by helping local school boards support the repair, renovation, alteration, and construction of our Nation's public elementary and secondary school facilities.

Mr. President, the Education Infrastructure Act will help our children learn by providing an environment conducive to learning. In her research at Georgetown University, Maureen Edwards found that students in poor school facilities can be expected to fall 5.5 percentage points below those in schools in fair condition and 11 percentage points below those in schools in excellent condition.

For all of these reasons, the Education Infrastructure Act was enthusiastically endorsed by the National PTA, the National Education Association, the National School Boards Association, the American Association of School Administrators, the Council of Great City Schools, the National Committee for Adequate School Housing, the City University of New York, the AFL–CIO Building and Trades Commission, the Military Impacted Schools Association, the American Library Association, the American Federation of Teachers, the National Association of Federal Education Program Administrators, ASPIRA, the Council of Education Facilities Planners International, and the American Federation of School Administrators.

Mr. President, I have taken the time today to highlight the results of the GAO report as well as the merits of the Education Infrastructure Act because Republican Members of Congress are currently preparing legislation that would rescind the $100 million appropriated for the Education Infrastructure Act in 1995.

Needless to say, I am vehemently opposed to any proposal that would force Congress to take this giant leap backward. In my view, it would be unconscionable for Congress to withdraw funding for the Education Infrastructure Act—especially now given the results of the GAO report.

Mr. President, I would like to conclude my remarks by urging my colleagues to read the "Condition of America's Schools" report for themselves and to join me in working to secure funding for the Education Infrastructure Act in 1995 and 1996.

Rather, I believe that President Clinton should include at least $200 million for the Education Infrastructure Program in his fiscal year 1996 budget request and that Congress should meet this request.

By providing this needed and long overdue support, we will begin to address our failure to adequately engage Federal resources in behalf of preparing our children for competition in this global economy and securing the future of our Democratic institutions. This is not in our children's interest; this is in our national interest.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. SHELBY. Mr. President, we are involved here in a truly historic debate. The proposed balanced budget amendment will decide the fate of America for years to come. Our decision will dictate whether our children and grandchildren will live free and prosper from the fruits of their labor or, on the other hand, live in a Third World economy subservient to the economic leaders of other industrialized nations in the world.

Debtors are never free to choose. They are never free to choose. They are only subject to the dominion of their creditors. We all know this.

Interest payments on the national debt now are expected to be $310 billion this year. Interest payments on the national debt are expected to be $310 billion. Think of it. That comes out to be about $4,600 per family, or 52 percent of all individual income taxes collected in America this year. The national debt itself is over $4.75 trillion, going on $5 trillion. Gross domestic product is only about $6.5 trillion.

Combined, these numbers produce a debt-to-GDP ratio of 73 percent. As the debt continues to grow, so inevitably does the tax burden on the American people. Granted, Mr. President, we have gotten away with debt in the past, but the time to pay the bill is rapidly approaching. The global markets are beginning to experience a capital crunch. European economies are expanding and picking up steam. Southeast Asian markets are booming. Japan is calling on its reserves to rebuild infrastructure after the earthquake.

In short, Mr. President, demand for capital is simply growing faster than can be supplied and, as a result, investors are being more selective about which markets they place their money in, as they should be.

A very clear and primary concern of financial markets is a nation's poor economic policies and its debt structure. I submit here today that the lack of budget discipline we display here in the United States is not highly regarded among any investor in the world. Our current account stood at $104 billion in 1993. This means we either sold $104 billion in assets to foreign entities, borrowed $104 billion from foreign entities, or a combination of the two.

Although a current account deficit in and of itself is not a bad thing, the accumulation of persistent current account deficits, over time, leads to a great big external debt. These deficits identify a systematic shortfall of savings below investment, due to an expansion of consumption relative to income. The implication is that we borrow to finance current consumption expenditures that have no effect on economic growth or future income in this country. In other words, the Government is borrowing abroad to finance an excess of expenditures over income. We are living beyond our means.

Projections of higher current account deficits run well into the foreseeable future. The former Chairman of the Federal Reserve Board, Paul Volcker, for whom we all have great respect, has warned of the current account deficit addiction, as he calls it.

He said:

> * * * we simply cannot afford to become addicted to drawing on increasing amounts of foreign savings to help finance our internal economy. Part of our domestic industry—that part dependent on exports, or competing with imports—would be sacrificed. The stability of the dollar and of our domestic financial markets would become hostage to events abroad. If recovery is to proceed elsewhere, as we want, other countries will increasingly need their own savings. Although we do not know when, the process eventually would break down.

Those are not my words. They are the words of Dr. Volcker. We cannot, Mr. President, continue to finance our debt through a balance of payments deficit unless we want to find ourselves in the same type of crisis as Mexico, or perhaps Canada.

Mexico, as we all know, is in dire financial straits. The cause of Mexico's problems is based on large budget and current account deficits. Mexico tried to finance consumption by running a current account deficit at nearly 8 percent of the gross domestic product, living well beyond their means. Financial markets realized the risk of holding Mexican currency and proceeded in a widespread selloff of the peso. Mexico was virtually helpless in its ability to manage monetary policy due to what? Their structural debt problem.

Now, Mr. President, private investors will not even prop up the peso without a guarantee from the United States or something similar to that, the President announced.

If you look to our north, another neighbor is financially destitute. Canada's long-suffering dollar is at a 9-year low. Canada has the second highest ratio of debt-to-gross domestic product of any industrialized country, and 35 percent of all Federal revenues in Canada go to service the debt. In addition, Canada ran a $30 billion balance of payments deficit in this past year. Canada is in serious trouble. Some Third World countries have a better handle on their debt than our neighbor to the north.

The fiscal order of Canada is forcing real budget decisions and real budget cuts. No fiddling around the edges, Canada is on the verge of becoming a Third World country if they do not take immediate and radical steps to address their debt problem.

Mexico and Canada, for us, provide valuable, tangible lessons of what happens if a country does not address its debt. Some will agree but then point out that a balanced budget amendment is not the means to achieve fiscal restraint. We have heard it before. They say, "All we need is the will to balance the budget." That is a common refrain. Unfortunately, Mr. President, the collective will is not present in this body.

In a 1932 radio speech, President Franklin Delano Roosevelt said, "Any government, like any family, can for a year spend a little more than it earns. But you and I know that a continuance of that habit means the poorhouse."

Well, President Roosevelt knew what he was talking about. Our continued habit has produced deficits in 33 out of the last 34 years in this country. Can you imagine? In 33 of the last 34 years we have run a deficit. Presently, there is no end in sight. I believe every Senator has the will to balance the budget. What they will not agree on is the way to get there. The nature of this institution instills incentives to vote for additional expenditures and deficit financing.

No one likes to take the heat for cutting specific programs. Indeed, many Senators do not vote to cut programs for that very reason. That is why we need a balanced budget amendment—to instill the individual will for action on the collective body. Planning strategic cuts over a period of 7 years will be much less painful than waiting until the debt collector is standing at our door.

Currently, 48 States possess one sort of a balanced budget requirement or another. For them, these restrictions provide a source of discipline throughout the budget process. It is an extremely aristocratic notion to believe we are better than the States and do not need such forced discipline to help us balance the budget, because we all know better. Congress has proven we cannot balance the budget on our own, and we will not.

Canada and Mexico are wake-up calls. I do not want the United States to be like Britain in the 1970's or New Zealand in the 1980's. Both had to call in the International Monetary Fund to stabilize its falling currency. We had a scare last year and unless we pass this amendment, we may very well experience far worse in the future.

Government deficits reduce national savings. As a result, the economy accumulates less domestic capital and fewer foreign assets. The lack of Government investment means that borrowing is not being used to finance increased productivity and therefore will not provide a foundation for future repayment of the debt. Federal Government surpluses are pertinent to the repayment of the public debt. Some will say we can raise taxes. I, for one, will not support an increase in taxes. It has been proven time and time again, higher taxes do not eliminate the deficit. Instead, experience suggests Congress will spend all tax revenues plus the highest deficit markets will accept.

The accumulation of debt will cause our children and grandchildren to have lower standards of living, because they will inherit a smaller capital stock and because they will have to pay more interest to foreign investors. This reduction in future living standards reflects the true burden of Government debt.

To vote against this amendment is to disregard the obligation we have to protect and serve not only this country but the children that we bequeath this burden to.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise in support of the passage of the balanced budget amendment. I could not think of a single issue—not one—that is more central nor more tied to what the American people were saying in these past elections than the balanced budget amendment.

It is interesting to me that in the President's speech on the state of the Union, he said something to the effect that the American people were not singing to us, they were shouting at us. On that point, the President is absolutely correct. They were shouting at Washington and they were demanding change in the way we govern ourselves. Eighty to eighty-five percent of the American people have indicated support of the passage of an amendment to the Constitution to balance the budget.

The President said he heard the shouting, but apparently he has not because if you heard what they were saying, you would be in front of the train trying to bring the change that they are asking for here to Washington and he would be leading the charge for passage of the balanced budget amendment.

The President is going to be submitting his budget next week and we will see what kind of glidepath or pattern he sets toward approaching a balanced budget by the year 2002.

I want to repeat, Mr. President, in the last election, there was no greater centerpiece than the issue of passage of a balanced budget amendment. None. That election had a profound effect on this administration, which is obvious. It has found itself in deliberation. It is talking about reinventing, the President rereading the speeches of 1992, trying to understand where a disconnect occurred. I would suggest that the administration need not go no further than to read what America is saying about the passage of a balanced budget amendment.

Very often those who speak in opposition to the passage of the amendment will cite various sectors of our society and suggest harm will come to them if we exercise the discipline of balancing our budget. I would suggest the complete reverse.

Mr. President, if we do not take charge of our financial health, the various constituencies—children, the poor, the aged, whatever—of our Nation will be the first victims of a Nation so financially unhealthy that it cannot take care of its critical needs. It is exactly those constituencies.

There is an article in my home paper, the Atlanta Constitution, that suggests that a balanced budget amendment could only be achieved on the backs of children. How absurd.

The balanced budget amendment is exactly for children, for the future, for guaranteeing a country that has sufficient financial strength to defend itself, financial strength to care for itself. Have we ever known a family, Mr. President, or a business or a community that was able to function if it was financially unhealthy? I mean, are bankrupt companies able to do what they are supposed to do? Absolutely not. If a family has charged too much on a credit card, what happens? They are in trouble. It often leads to even breakup of the family. A country without having secured financial health cannot care for itself.

Mr. President, we are engaged in a defining moment in the history of this Nation and specifically on the issue of a balanced budget amendment. This is a clarification of exactly where we stand. Are we for changing the way we govern ourselves in this country in Washington or are we for leaving everything just the way it is?

Mr. President, America has already made up her mind. She has said just as loudly as she can—the President is correct, shouting at us—"change."

One of the reasons I think the President had difficulty in the last midterm election was that they thought that was what he was going to do, fight for change, and they came to know that he would not. And he has defined the next 2 years of his administration by saying that he will not support a balanced budget amendment.

Mr. President, as I said, this is a defining moment. You either stand with the country that called for change, we change the manner in which we govern our finance, or you reject the elections, you reject what the American people have called for and you become a defender of Washington just the way it is. It is just that clear. Are you for change or do you want it to stay the way it is?

America is calling for change. This is the chance to answer the call.

Mr. President, I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise in strong support of cutting wasteful spending and closing tax loopholes. I also rise in opposition to this balanced budget amendment to our Constitution. I rise in strong support of fiscal discipline, but in opposition to a fiscal straitjacket that could cripple our economy and possibly even cause a depression.

I rise in strong support of balancing our operating budget, but in opposition to using the Social Security trust fund to do it.

I rise in support of a pay-as-you-go approach to the Government's operating expenses, but in opposition to an amendment that ignores the fundamental principles of capital budgeting under which virtually all businesses and States operate.

And I rise in strong support of holding Congress accountable for deficit spending, but in opposition to giving unelected judges the power to raise taxes and to cut Social Security benefits.

Mr. President, I know that very deep public concerns have led to the consideration of this amendment. The American people have made it quite clear that they want to do more to cut wasteful spending, and I agree. We have made some progress, but there is still far too much waste from top-heavy Government bureaucracies to farm subsidies, the B-2 bomber, star wars, the space station, and a variety of special interest tax loopholes. We should do better.

Americans have every right to be angry about the deficits and the waste that contributes to it. Unfortunately, the balanced budget amendment is not a magic bullet that is going to kill the deficit. I only wish it were. We must be frank with the American people. This amendment will not cut a dime of spending or close a single tax loophole.

As many of my colleagues have urged on this floor, it is critical that before this amendment is approved, its proponents should tell the American people how this is going to get the job done. Unfortunately, so far, we have seen very little inclination to do so.

Proponents do not want to tell the people that taxes for ordinary Americans could skyrocket. They do not want to tell the people that Social Security benefits could be slashed. They do not want to tell the people about lost Medicare services or fewer FBI agents or fewer border guards, or weakening of immigration enforcement.

Mr. President, are these kinds of drastic consequences really likely? Let us just take a look at the numbers. Proponents of this amendment claim that they can balance the budget while increasing military spending and cutting taxes for the very wealthy.

But according to an analysis by the staff of the Budget Committee, to accomplish that and meet the Government's existing commitments to retirees and Medicare, you would have to cut everything else literally 50-percent. Think about that for a moment, Mr. President: A 50-percent cut in law enforcement, a 50-percent cut in education, a 50-percent cut in immigration enforcement, a 50-percent cut in job training.

The people in my State of New Jersey would pay a very high price for this amendment, especially if it is adopted in conjunction with other items in the so-called Contract With America.

According to a study by the Department of Treasury, New Jersey would lose almost $1 billion annually for programs like education, job training, environmental protection, and housing. We would lose another $200 million for highways. And to make up for these and other cuts, State taxes would have to increase by 17.5 percent across the board, 17.5 percent.

Our Governor has been working very hard to reduce the tax burden on the citizens within our State. Her target is 30 percent. And with this change, we could be looking at a 17.5 percent increase in taxes.

The balanced budget amendment also could wreak havoc on our State's economy. There is a study by a well-respected organization, the Wharton econometrics group, or WEFA, as they are known, which analyzed how the amendment would affect the economy in the year 2003.

According to WEFA, the amendment would mean that more than 178,000 people would lose their jobs and the unemployment rate would increase by almost 5 percent and personal incomes would decline by about 12 percent.

Again, Mr. President, these are figures from a well-respected, nonpartisan research organization and they should at least give us serious pause.

I wonder if the American people have any idea that we are talking about these kinds of drastic steps. I doubt it. And one reason is that amendment proponents have kept the public in the dark. They refuse to say what will be necessary if this amendment passes.

Why? Because the public would turn it down and it would remove this kind of hide-and-seek cover that is being used to present this deception, to suggest that the way we are going to solve our problems is by some formula change to our Constitution which has as its structure the separation of powers and the responsibility for each one of those divisions of Government.

No, Mr. President, what we are trying to do is escape by this the responsibility that each of us took when we took our oath under the Constitution to protect our public and the Constitution of the United States. What we are doing is we are seeing a duck-for-cover tactic that I do not think, in the final analysis is, A, going to work and, B, going to answer the problems.

Unfortunately, by the time the public learns what this amendment will really do, it may be too late. That, in fact, is the admitted strategy of its proponents, and it is outrageous and abhorrent as a way to debate an amendment to the Constitution of the United States.

We should be honest not only about the cuts and tax increases that are likely to result from this amendment, but also about the way the amendment would hamstring critical efforts to stimulate the economy during serious recessions.

When the economy suffers a cyclical downturn, tax revenues go down, and spending for unemployment benefits and other items go up. So the deficit increases. Under this amendment, Congress would then have to make up the difference with measures that will stifle the economy even further.

That is not good economic policy, and it will have extremely serious consequences for ordinary Americans. It will mean lost jobs and lost wages and, quite possibly, could send us into another Great Depression before we would know what hit us. Having lived through the Depression as a child, I can tell you, that is something to avoid like the plague.

Let me discuss another aspect of this amendment that will take us backward. The amendment proposes to balance the budget by raiding the Social Security trust fund. Social Security represents a sacred trust between the Government and our citizens. Often, it is the mainstay of retirees. We have made a commitment, virtually a contract, with the men and women who have been paying into that trust fund. And so it is critical that we keep it off budget.

If Congress spends too much on welfare or the military or farm programs, or if we give too many tax breaks to the wealthy, why should Social Security beneficiaries have to suffer as a result? They earned their benefits. They paid into that fund, and it is wrong to make them pay for Congress' overspending.

Just as it is wrong to include Social Security in the budget, it is also wrong to commingle the capital and operating budgets.

Mr. President, how many times have we heard the same line: "If ordinary Americans can balance their family budgets, if State governments can balance their budgets, and if businesses can balance their budgets, why can't the Federal Government?"

It is a good question. The real answer is that families, States, and businesses balance their operating budgets most of the time.

But they also borrow for long-term investments. Families borrow to buy a house. They borrow to buy a car. States borrow for capital projects that will benefit future generations. Every day, individuals borrow to invest in their future by taking student loans. Every day, if they did not, most would have no future, especially in today's increasingly technological age. That is why they do not balance all receipts and expenditures. They balance only their operating budgets.

By contrast, Mr. President, this amendment lumps the capital and operating budgets together and makes no distinction between investments and operational expenses. This ignores the basic standards of budgeting under which virtually every business in America operates. As a former CEO of a major public corporation, Mr. President, I can attest to that. Commingling the capital and operating budgets threatens to rob us of investments that are critical to our Nation's future.

Mr. President, investments are necessary in our Nation's roads, in our bridges, in our airports, in our air traffic control systems, investments in the information superhighway, and the technology of tomorrow. To ignore these kinds of investments is to ignore our own future.

We hear it said many times that if we do not have the balanced budget amendment, we are delegating to our children and future generations huge obligations to repay debt, interest, and principal. Mr. President, as all know, if you do not make investments in tomorrow, that really deprives our children and our grandchildren of opportunities to learn, to earn, to work, to develop. That is when the real penalty to our children and grandchildren is going to come into place. And we can do something about it. We can reduce our spending, and we can proceed to a closer balance of our budgets.

We have seen in the last few years, with the President's leadership, we have been able to substantially cut our annual deficit, somewhere around a half-trillion dollars over the 3-year period as contemplated.

This amendment also violates a fundamental principle upon which our Nation was founded, and that is the principle of no taxation without representation. The balanced budget amendment is intended to encourage the Congress and the President to agree on measures to eliminate the deficit, but what happens if the two branches disagree? What happens if notwithstanding the amendment the budget is still not in balance? The answer most likely at least as presently designed is that the courts eventually would step in to implement the constitutional requirement. That could mean not only cuts in Social Security, Medicare, and other Federal benefits but substantial tax increases.

Some proponents of a balanced budget amendment may say that that is not their intent, but the courts will not be able to rely on such claims. First, there is real disagreement among amendment proponents, and some insist the courts must enforce the amendment. More importantly, there is nothing in the amendment itself that seeks to preclude the courts from enforcing the amendment's provisions. This contrasts starkly with other versions of a balanced budget amendment. And so the obvious question for the courts will be if the amendment is not intended to preclude judicial enforcement, why does it not include an explicit statement to that effect?

Mr. President, the court's power to interpret and enforce the Constitution has been well established since the famed case of Marbury versus Madison. That long established power is not likely to be relinquished. So, Mr. President, the threat of judicial taxation under a balanced budget amendment is not hypothetical; it is very real. And that is not just my opinion. Legal experts of all political stripes agree.

For example, Harvard law professor, Laurence Tribe, has testified that "Judicial enforcement of the proposed balanced budget amendment would necessarily plunge judges into the heart of the taxing, spending, and budgetary process."

Similarly, the conservative former Supreme Court nominee, Robert Bork, who also opposes the balanced budget amendment, has warned that the amendment could lead to tax increases mandated by unelected, lifetime-tenured judges. In his words,

> The judiciary would have effectively assumed a considerable degree of control over the fiscal affairs of the United States. That outcome cannot be desired by anyone, including the courts.

Mr. President, over 200 years ago, this country was born after citizens were burdened with stiff tax increases imposed by distant elite rulers who did not represent the people and who were unaccountable to them. The rallying cry of our oppressed forefathers was clear and compelling, and that same rallying cry applies to this amendment—no taxation without representation. I say it again: No taxation without representation. It is permanently embedded in the earliest of our schoolchildren. They know about that episode in American history. They know the impact that had in the creation of this wonderful democracy of ours.

Mr. President, it is bad enough that ordinary Americans are now paying an unfair portion of the tax burden, but that burden may get a lot heavier when judges inherit the task of balancing the budget. After all, the judiciary is the branch of Government that by design is most insulated from the public. In fact, judges are supposed to ignore public opinion.

Mr. President, if we think the American people are angry today, just wait. Wait until they get hit with a huge tax increase by a district court judge who they have never heard of, never voted for, and they will never be able to vote out of office. The reaction will make the famous Boston insurrection look really like a tea party.

I know that some amendment proponents are convinced that the courts will not intervene to enforce this amendment. Some have pointed to the doctrines of standing or justiciability and conveniently assume that these old doctrines would apply to a newly adopted constitutional amendment. But supporters of the amendment cannot have it both ways. If this amendment really will force Congress to reduce the deficit, who is going to force us if not the courts?

After all, Congress has already passed laws to force itself to balance the budget, but without an effective enforcement mechanism we simply sidestepped our own law. And now amendment proponents assure us that the same evasion will not be possible under a constitutional amendment. But just as prohibition did not stop drinking because it was unenforceable, a balanced budget will not stop spending if courts are impotent to enforce it.

I find it absolutely astounding to hear amendment proponents argue that the courts would never enforce this amendment. We are talking about an amendment to the Constitution of the United States, not a sense-of-the-Congress resolution. Can the proponents really believe that the balanced budget amendment is nothing more than a meaningless scrap of paper that cannot be enforced? Could they really be that cynical? I do not think so, Mr. President. And I do not think the courts will either. As Laurence Tribe and Robert Bork concluded, the courts will not presume that this is a meaningless and utterly unenforceable scrap of paper. To the contrary. And that is why the threat of judicial taxation is so real.

Mr. President, there is no need to rely on the judiciary to reduce the deficit. Congress could do it. We could start now if we had the political will. In fact, we have already made significant progress which I have talked about earlier.

Consider what happened over the past 15 years. In 1981, the deficit was $79 billion, but then President Reagan's huge military buildup, combined with tax cuts for the wealthiest Americans, led to massive borrowing on an unprecedented scale. By 1992, Republican policies had increased the deficit from $79 billion to $290 billion. Since President Clinton began to reverse those policies, however, there has been a dramatic improvement. The deficit this year will be about 40 percent smaller than in President Bush's last year. For the first time in a decade we will have reduced the deficit for 3 consecutive years. The number of Federal employees is the lowest since the Kennedy administration. And though much remains to be done, we have shown that it does not take a constitutional amendment to reduce the deficit in a meaningful way.

The irony, Mr. President, is that passing the balanced budget amendment actually will make it far less likely that Congress will balance the budget any time soon. This amendment does not require a balanced budget until the year 2002. Meanwhile, Members who vote for the amendment will be able to point to their vote as evidence of their supposed commitment to fiscal discipline. I called it a coverup, and I use the same term now. What do you want from me? I voted for a balanced budget. Yes; I did not do my share by cutting expenses properly or balancing revenues with expenses, but I did vote after all for a balanced budget amendment. It is hide and seek. Hide the mission and seek the culprit.

Meanwhile, Members who will have voted for the amendment can draw a degree of satisfaction, not for the job done but for escaping responsibility. If you can say that you voted for a balanced budget, why bother to antagonize constituents by cutting their benefit programs or raising taxes? There is far less incentive to make those hard choices.

Mr. President, we should not play games with the American people. We do not want to shift, or should not shift, the burden of our responsibilities to the judiciary. Let us not put off the hard decisions for another 7 years. Let us take personal responsibility for the problem and make those tough choices now.

In conclusion, Mr. President, I strongly support cutting wasteful spending and reducing our deficit. I want to work with my colleagues to actually cut the spending and close tax loopholes. This balanced budget proposal does not help reach that goal. Its proponents refuse to spell out what steps they would actually take to reduce spending. Whose benefits will be cut and whose taxes will go up? But one thing we do know for sure. The impact on our Nation could be disastrous. It could hamstring our ability to respond to economic and other emergencies, undermine our entire Social Security system, rob us of investments for our future, and allow unelected and unaccountable judges to impose huge tax increases on ordinary Americans.

Mr. President, this amendment could go down as one of the most tragic mistakes ever made by this Nation. I hope that my colleagues will face up to the reality of the situation. As has been said before, you can run but you cannot hide. That is what happens if we pass this amendment without detailing how it is that we are going to balance their budget and how it is that we are going to deal with the responsibility and maintain it where it belongs, in the House and in the Senate.

I urge my colleagues in the strongest possible terms to reject it.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank my distinguished colleague, Mr. LAUTENBERG, for his excellent statement. He has very eloquently stated the clear and present dangers with which this amendment is fraught.

Mr. President, I thank the Chair for momentarily indulging me.

I have listened to the claims of the proponents of the constitutional amendment for several days now. I compliment them on their dedication to their cause as they see it. I respect their viewpoints. I respect their sincerity. I realize that not everyone will agree with my viewpoint.

I commend the distinguished Senator from Illinois [Mr. SIMON] for his steadfast adherence to the belief that the way to get our deficits under control and lower the interest on the debt and reduce the debt is to adopt a constitutional amendment on the balanced budget. I respect his viewpoint. I differ with it. But we can differ as friends and we do differ as friends.

I also speak with respect to the distinguished Senator from Utah, [Mr. HATCH] the chairman of the Senate Committee on the Judiciary who, likewise, is a very formidable and principled supporter of the proposal.

I think they are wrong. They think I am wrong. But it is the people out there that we hope to try to persuade as to which viewpoint is the right one under the circumstances that obtain.

So, I have listened to the claims of the proponents of the constitutional amendment for several days now. As I listen, it seems to me that the proponents are selling this amendment very much as the oldtime peddlers sold tonic and liniments, kidney pills and snake oil. To hear the proponents tell it, this amendment will cure everything that is wrong with America today. Just take a good swig of this magic tonic, Mr. and Mrs. America, and your problems will disappear. Your head will stop aching, your arthritis will clear up, your fingernails will grow long and strong, your taste buds will tingle, your hearing will become more acute, you can throw away that old hearing aid, your eyesight will sharpen—you can just pitch those glasses out in the garbage can, your dandruff will cease if you have any hair, and if you do not have hair, it will grow hair, and your teeth will whiten, and your marriage will probably improve. Well, never mind what is in the bottle, Mr. and Mrs. America. Truth in labeling does not apply here. Truth in advertising has no place in this debate. Just swallow this magic elixir and all will be well.

The American people are usually good consumers. They are smart consumers. They read the labels on the grocery store shelf to get the fat content of the food they purchase. They read the labels on the cans of food that they buy. I know that I do. I want to find out how much fat there is in the contents, how much sodium, how much cholesterol, and how much by way of proteins and carbohydrates, and so on. They look under the hood of cars that they buy. They kick the tires. They squeeze the cantaloupes and the cabbage heads and the other vegetables that they buy. They read the fine print. And by law that fine print has to be placed on those labels.

But, I do not believe that the U.S. Senate is helping the people to exercise their prowess as good consumers with the debate so far on this floor.

We are not discussing national priorities. We are not spelling out the contents of this snake oil amendment. We are not talking about what should or should not be on the chopping block for cuts. We are not debating the impact such an amendment might have on the economy. We are not talking about the hard choices that will have to be made by somebody if we enact this amendment.

The proponents have steadfastly refused to lay out a plan to get to balance. Take it on faith, America. It will be good for the Nation. I ask the American people this question. How will you know if this amendment will be good for the Nation, if you do not know what cuts will be made, how much each State, how much each county, how much each municipality across this land will have to absorb as a result of the cuts, how much your State taxes will rise as a result of Federal cuts, what will happen to Federal aid to education, what will happen to Medicare, what might happen to our ability to compete with other countries in the global marketplace, what the amendment might mean in terms of clean water, clean air, veteran's pensions, the national defense? In short, what is good for the Nation cannot be determined without these critical details. To claim otherwise is simply untrue. The American people are entitled to more than a wink and a nod and an empty promise. We cannot treat the American people like children. If they want us to balance the budget, we must honestly try to do it, but we must also honestly tell them what it will take and that it will mean radical changes in their personal lives. We owe the people that. To do less is to betray their faith in sending us here.

It is puzzling to me that after the results of this election, when the people said that they were tired of Washington politicians telling them what to do, we come right out of the box with this proposed major, major, major change in our organic law and with the proponents claiming that the people do not need details. In other words, once again, we in Washington know what is good for you, Mr. and Mrs. America.

This balanced budget amendment is good for you. You do not need to know the details. Take the tonic. Swallow the snake oil. Do not read the label. There is no label to read. Take our word for it.

Well, if the American people let us get away with that dodge, then they have done themselves a giant disservice.

If they swallow this quack medicine without being sure that it will not be toxic to the system, they surely may regret the results.

If the Governors and the mayors and the State legislators do not demand to know just exactly what we have in mind when we talk about balancing this budget in 7 years, then how can they have an informed debate if and when the matter rests squarely on their doorsteps? How will they explain to their own constituents what the amendment means?

If I were a Governor contemplating the enactment of this amendment, I would be very, very nervous about any promises that I had made to lower taxes. I know that I have heard some of the Governors throughout the land boast about how much they have cut taxes in the States. They want the Senate to adopt this balanced budget amendment, and they talk about how much they, the Governors, have cut taxes in their States. I heard the Governor from New Jersey speak about how many taxes she had cut and how much more in taxes she proposes to cut. Well, I have news for you, Governor, if this amendment is adopted, you will not be cutting taxes, you will be raising taxes—and remember that.

With the magnitude of cuts that will have to be made to get a balanced budget by 2002, the States are going to have to pick up an awful lot of slack. Essential services will have to continue. Unemployment, dirty air, dirty water, hazardous waste, hungry children, natural disasters—all of these problems will still be with us. A balanced budget amendment will not change any of those things. Not one. State and local officials should know what we here in the Congress propose to do before they are asked to buy this pig in a giant poke. We do not even know if there is a pig in that poke. We cannot even get a squeal out of that pig. If State and local officials do not trust the Federal Government to make decisions involving the States, how in the world can they sit on their hands and trust us with the mother of all decisions? That is what we are talking about. How in the world do we dare to ask the people and the Governors and the mayors and the State legislators to make this giant leap of faith?

What will the people do if they do not like the plan that emerges? What if we adopt this amendment without laying out the plan? Well, it will be too late then. The contract with evasion will have been signed, sealed, and delivered, right to your doorstep. Once the amendment is in the Constitution, the politicians do not have to listen to the people's voices on the matter anymore. The politicians can cut and run. They can say we have to cut Medicare, whether you like it or not, because the Constitution has this new amendment in it and it says we have to; we have to do that. The politicians can say to the States, you have to pay for these services now with hikes in your own taxes. You told us to balance the budget in 7 years, so we have to cut money to the States. Or the politicians can commit the ultimate act of evasion and say we cannot do this, Mr. and Mrs. America. We told you that we could, but it is too harsh and we will not do it. The President will have to do it. He will have to impound funds, or the courts will have to order us to balance the budget, and they will also have to tell us which taxes to raise and which programs to cut.

What then will we have done to our country? What then will we have done to the Constitution, as written by the Framers 208 years ago? It has been in effect now for 206 years. What then will we have done to representative democracy?

We must not treat the people as children. We must tell them the truth, even though it is inconvenient for us politicians to do so. What kind of Senators are we if we simply pass this amendment without ourselves knowing what it means? We say that the American people ought to know what it means. We, as their representatives in this great assembly, have a right to know what it means and have a duty to ask what it means before we vote. What kind of representation are we giving to our people if we do not demand to know the details of this proposal before we vote on it? We as Senators cannot say, "Let this cup pass from me," vote on the amendment and then let us tell the people what is in it. We cannot say, "Let this cup pass from me." We cannot say that we shall wash our hands of it. We have a duty to those constituents who send us to this forum of the States to know what we are doing, what we are buying onto, and what we are about to perpetrate on the people, before we cast our votes. I say we will not be giving the people very worthy representation unless we insist on it. I say we ought to feel like backing up to the pay window if we cannot do better. The American people pay us very well. We ought to be willing to do what they pay us to do, which is to make intelligent, well-informed decisions in their behalf and in their best interests. We cannot do the job they sent us here to do if we are simply going to be stonewalled by the proponents and prevented from knowing what we are about to do to our country.

Talleyrand, who was Napoleon's foreign minister, and who dominated politics in Europe for 40 years, said, "There is more wisdom in public opinion than is to be found in Napoleon, Voltaire, or all the ministers of state, present and to come." And that is true. But there is wisdom in public opinion only if the public is informed, if the public is duly and well informed about the subject on which a judgment is to be made. Woodrow Wilson said that the informing function is as important as is the legislative function of a legislative body. Inform the people who send us here.

At this point in time, this amendment is nothing more than a slogan. It has no teeth at this point in time. Its impact is unknown. It is nothing more than an empty promise. Many of the Members who will vote on it will not even be here when it has to be fulfilled. It is, in that sense, a fraud. It is a fantasy created for children, and the American people are not all children. It is an illusion without substance. It is cotton candy for the public mind. It is Tinkerbell on wings of gossamer. Disneyland has really come to Washington after all. But the American people are not children and Senators are not elected to simply pacify the American people with fairy tales.

Let us demand to know the proponents' plan to achieve a balanced budget by 2002 before we ask the States to decide and before we graft this pneumatic excrescence, this wart filled with wind onto our time-tested Constitution.

Mr. President, if this amendment is adopted, it will likely mean massive cuts in Federal spending over the next 7 years.

As the chart to my left states, the Congressional Budget Office estimates that a balanced budget amendment would require a cut of $1.2 trillion in Federal spending by the year 2002. To make matters worse, the so-called Contract With America; which I did not sign onto, Mr. President. I carry my contract right here over my heart. Alexander the Great idolized "The Iliad" and he kept a copy under his pillow at night. I keep a copy of my contract with America—right here, here it is—over my heart, the Constitution of the United States of America. It is a contract that was signed 208 years ago, not something that just blew up out of the wind before last year's election.

To make matters worse, the so-called Contract With America calls for tax cuts—tax cuts; what a folly—tax cuts along with balancing the budget. This would require a cut of $1.5 trillion in Federal spending by the year 2002.

How much is $1 trillion? Count it at the rate of $1 per second—32,000 years.

Now, you may ask, what will get whacked? What will get whacked? What will get whacked?

CBO tells us that if we were to cut all Federal spending across-the-board, except interest on the debt, it would require a 13-percent cut in all programs in the year 2002 alone. That means cutting defense, Social Security, Medicare, Medicaid, veterans' pensions, veterans' compensation, veterans' medical care, prison construction and operations, environmental cleanup, civilian and military pensions, housing, education, all student loan programs, infrastructure investments on transportation projects, water projects, locks and dams, the FBI, national parks, food stamps, WIC, and the list goes on and on—all will have to be cut 13 percent across-the-board. But, there are a number of Senators who want to take Social Security off of the deficit-cutting table. If we do that, everything else will have to be cut 18 percent.

The so-called Contract With America—which I did not sign. This is my contract with America, the Constitution of the United States. I have sworn 13 times to support and defend that Constitution over the last 48 years—13 times.

But it calls for increases, not cuts, in defense spending. If we exempt interest, if we exempt Social Security, if we exempt defense, then everything else will have to be cut 22 percent. And the so-called Contract With America calls for tax cuts which, if they are enacted, will increase the across-the-board cut to 30 percent—30 percent.

This next chart to my left shows the Federal budget for fiscal year 1995. That is all we have to go on as of now. The President will send us up his proposed budget next week. In the upper left-hand corner, we see that total spending for 1995 equals $1,531 billion; in other words, $1.531 trillion. Of that amount, 22 percent, or $334 billion, will be spent on Social Security; 18 percent, or $270 billion, will be spent this fiscal year on defense; net interest on the national debt will take up $235 billion, or 15 percent of the whole budget; Medicare will take up 11 percent, or $176 billion; State and local grants will take up $231 billion, or 15 percent of the total; and all other Federal spending in fiscal year 1995 will equal $286 billion, or 19 percent of the Federal budget.

What is it that could be cut from this and future budgets if this constitutional amendment requiring a balanced budget is put in place? Well, as I have said, there is strong interest in exempting Social Security—they want to exempt Social Security—so let us take that slice out of the pie. Then, the so called Contract With America says we cannot cut defense, so let us take that slice out of the pie. Then, as we all know, we cannot cut the interest on the debt—we all agree on that—so out comes that piece of the pie. So, lo and behold, what do we have left? All that we have left to cut are: Medicare, State and local grants, and the rest of the Federal Government, all of which total less than half of the Federal budget. We have, therefore, exempted 55 percent of the budget from cuts—Social Security at 22 percent, plus defense at 18 percent, plus net interest at 15 percent—and the $1.5 trillion in budget cuts would have to come from this remaining 45 percent of the budget.

That is all there is. There "ain't" any more.

Now, let us look at what this means when we have to take the cuts all from this remaining 45 percent of the budget. Let us take a look at what this means.

How do the States get stuck? How do the States get stuck?

This chart to my left sets out the Federal spending that will be subject to cuts, if one excludes Social Security, defense, and net interest. For fiscal year 1995, the total spending that would be subject to cuts is $693 billion.

This pie represents Federal spending subject to cuts, once defense is taken off, once Social Security is taken off, if it is, and once interest is taken off the table, which it has not been taken off the table. All three of these categories of Federal spending shown on this pie chart will have to be cut across-the-board by 30 percent—by 30 percent—in the year 2002 if we exempt Social Security, defense, and net interest from any cuts and if we enact the tax cuts being called for in the so-called Contract With America. This includes unemployment benefits, veterans' benefits, education programs, the FBI and the Justice Department, including prison construction and operations, the judiciary and the courts, infrastructure, health programs, safety programs, health and safety programs for our food and water, aviation safety—including air traffic control—civilian and military retirement, all agriculture programs—all of them—national parks—national parks, I say that to the West in particular—highways, transit, environmental cleanup, NASA, research and development, the NIH, and on and on and on. If we want to exclude any of the spending shown on the pie chart, then everything else will have to suffer an even larger cut than 30 percent. If we exclude Medicare, for example, then the cut that would be required for everything else would rise from 30 percent to a cut of 46 percent. Can you imagine the devastation this would cause throughout the Nation?

Now, let us examine the effects that this level of cuts would have on the States. This is the forum of the States. Let us examine the effects that the cuts would have on the States.

Which States get the sharpest stick by the knife? Which States get the sharpest stick by the knife? And that is some knife, I want to tell you, and they will know when they are stuck with that knife. They are going to bleed.

This chart sets out the total Federal dollars that will go to the top 20 States. I have set aside that chart for the moment. But nevertheless, it would set out the total Federal dollars that would go to the top 20 States in 1995 for 149 grant programs.

The top prize goes to the State of New York, which will receive $22,261,068,000 in Federal grants. That is the total amount of dollars in Federal grants that the State of New York will receive this year. That is 10.8 percent of the total grants for all States.

Second prize goes to California. That State will receive this year $21,661,615,000, or 10.5 percent of the total Federal grants to States for 1995.

Third prize goes to Texas, $12,292,605,000, or 5.9 percent of the total. And these top three are followed by Pennsylvania, $8,232,634,000, or 4 percent; Florida, No. 5, $8,067,751,000, or 3.9 percent.

Ohio is No. 6, with $7,837,289,000, or 3.8 percent. Illinois is next, $6,858,553,000, or 3.3 percent of the total. Michigan, $6,745,979,000, or 3.3 percent; New Jersey, $5,523,542,000, or 2.7 percent; Massachusetts with $5,400,302,000, or 2.6 percent; Louisiana, $5,300,141,000, or 2.6 percent; North Carolina, $4,741,842,000, or 2.3 percent; Georgia, $4,638,039,000, or 2.2 percent; Indiana, $3,945,534,000, or 1.9 percent; Tennessee, $3,889,558,000, or 1.9 percent; Washington, $3,517,731,000, or 1.7 percent; Wisconsin, $3,407,554,000, or 1.6 percent; Missouri, $3,381,960,000, or 1.6 percent; Minnesota, $3,010,222,000, or 1.5 percent; Kentucky, $3,004,724,000, or 1.5 percent.

These are the top 20 States in terms of receiving Federal grants in this fiscal year. I hope that these 20 States—and all other States—recognize that these grants are going to be cut dramatically in the coming years if the balanced budget amendment goes into effect, and those cuts will affect people. Those cuts will affect people in every State throughout the land.

Mr. President, I ask unanimous consent that the table to which I have just referred be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FEDERAL DOLLARS TO THE STATES—FISCAL YEAR 1995 FUNDING FOR 149 GRANT PROGRAMS

State	Amount	Percent of total
New York	$22,261,068,000	10.8
California	21,661,615,000	10.5
Texas	12,292,605,000	5.9
Pennsylvania	8,232,634,000	4.0
Florida	8,067,751,000	3.9
Ohio	7,837,289,000	3.8
Illinois	6,858,553,000	3.3
Michigan	6,745,979,000	3.3
New Jersey	5,523,542,000	2.7
Massachusetts	5,400,302,000	2.6
Louisiana	5,300,141,000	2.6
North Carolina	4,741,842,000	2.3
Georgia	4,638,039,000	2.2
Indiana	3,945,534,000	1.9
Tennessee	3,889,558,000	1.9
Washington	3,517,731,000	1.7
Wisconsin	3,407,554,000	1.6
Missouri	3,381,960,000	1.6
Minnesota	3,010,222,000	1.5
Kentucky	3.004,724,000	1.5

Source: OMB, Budget Information for States—Fiscal Year 1995.

Mr. BYRD. Mr. President, now let us explore what these Federal grants to the States consist of. What do the States use this money for? What do the cuts mean to you, Mr. and Mrs. America, and your children? What do the cuts mean to you and your children?

This next chart sets out what these grants to State and local governments consist of in fiscal year 1995, "Grants to State and Local Governments in Fiscal Year 1995." The largest amount goes to the States for Medicaid—$102 billion, or 44 percent of the total. Then, going counterclockwise on the chart, we see that transportation grants to the States equal $24 billion, or 10 percent of the total. Next, we have income security programs which total $54 billion in grants to the States for such things as AFDC, Section 8 and other housing, school breakfast and lunch programs, and WIC. Then we come to grants for education, training, employment, and social services, which total $35 billion in fiscal year 1995. Finally, there is the category designated "all other," which equals $16 billion, or 7 percent of the total. This category includes grants to the States for community development, health, water infrastructure, disaster assistance, justice assistance, including law enforcement programs such as "cops on the beat", and the Federal payment to the District of Columbia.

A large part of all of these programs will obviously have to be picked up by the State and local governments if the balanced budget amendment goes into effect. What will that mean to the budgets of the various States?

I say to the State senators out there—and I once was one—I say to the members of the House of Delegates in West Virginia and the lower houses in other States—and I was once one of those members—what will that mean to your budgets, the budgets of the various States? Will Governors and State legislators have to increase State taxes in order to continue to provide adequate services for these programs that we have been talking about here? According to the Treasury Department they surely—surely—will.

They will have to increase State taxes in order to continue to provide adequate services for these programs.

The chart to my left was prepared based on information provided by the U.S. Treasury Department to the National Governors Association. It is the Treasury Department's opinion that State taxes would have to be raised by the percentages shown on this chart if States are to fully replace the reductions in Federal grants that will occur if the balanced budget amendment goes into effect under the terms I have previously stated.

State legislators in Alabama would have to increase their State taxes by 16.4 percent; Alaska, 9.8 percent; Arizona, 10.4 percent; Arkansas, 16.5 percent; California, 9.2 percent; Colorado, 11.8 percent; Connecticut, 11.2 percent; Delaware, 7.2 percent; District of Columbia, Lord knows how much, but the Treasury Department says 20.4 percent; Florida, 10.2 percent; Georgia, 12 percent; Hawaii, 6.8 percent; Idaho, 9.9 percent; Illinois, 11.6 percent; Indiana, 13.8 percent; Iowa, 10.9 percent; Kansas, 13 percent; Kentucky, 14.5 percent; Louisiana, 27.8 percent; Maine, 17.5 percent; Maryland, 9.9 percent; Massachusetts, 12.6 percent; Michigan, 13.2 percent; Minnesota, 9.4 percent; Mississippi, 20.8 percent; Missouri, 15.5 percent; Montana, 19.8 percent—up go your taxes; Nebraska, 13.3 percent; Nevada, 6.2 percent; New Hampshire, 17.6 percent; New Jersey, 12.7 percent; New Mexico, 12.9 percent; New York, 17.4 percent; North Carolina, the State in which I was born and whose motto is "to be rather than to seem, 11.1 percent; North Dakota, 19.7 percent; Ohio, 14.4 percent; Oklahoma, 12.4 percent; Oregon, 12.2 percent; Pennsylvania, 12.7 percent; Rhode Island, 21.4 percent; South Carolina, 14.3 percent; South Dakota, 24.7 percent; Tennessee, 19.5 percent; Texas, 14 percent; Utah, 11.4 percent; Vermont, 17.4 percent; Virginia, 8.2 percent; Washington, 8.4 percent; West Virginia, 20.6 percent; Wisconsin, 10.3 percent; and Wyoming, 18.7 percent.

Mr. President, I ask unanimous consent that the table to which I referred showing these tax increases be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TAX INCREASES TO OFFSET SPENDING CUTS

State	Required State tax increase (percent)
Alabama	16.4
Alaska	9.8
Arizona	10.4
Arkansas	16.5
California	9.2
Colorado	11.8
Connecticut	11.2
Delaware	7.2
District of Columbia	20.4
Florida	10.2
Georgia	12.0
Hawaii	6.8
Idaho	9.9
Illinois	11.6
Indiana	13.8
Iowa	10.9
Kansas	13.0
Kentucky	14.5
Louisiana	27.8
Maine	17.5
Maryland	9.9
Massachusetts	12.6
Michigan	13.2
Minnesota	9.4
Mississippi	20.8
Missouri	15.5
Montana	19.8
Nebraska	13.3
Nevada	6.2
New Hampshire	17.6
New Jersey	12.7
New Mexico	12.9
New York	17.4
North Carolina	11.1
North Dakota	19.7
Ohio	14.4
Oklahoma	12.4
Oregon	12.2
Pennsylvania	12.7
Rhode Island	21.4
South Carolina	14.3
South Dakota	24.7
Tennessee	19.5
Texas	14.0
Utah	11.4
Vermont	17.4
Virginia	8.2
Washington	8.4
West Virginia	20.6
Wisconsin	10.3
Wyoming	18.7

Source: Department of the Treasury, Jan. 12, 1995.

Mr. BYRD. Mr. President, I hope that my remarks today will have helped to shed light on the devastation which will take place if we do not muster up the courage to say no to the balanced budget amendment now before the Senate. It does not make any difference, Mr. President, if you have a vocabulary of 10,000 words, make it 20,000, make it 30,000. If you cannot say no, then all of that vast vocabulary will not amount to a great deal. We have been elected by the people to come here and to work hard to develop and enact legislation that is in their best interest—not in ours as politicians, not what will get us votes in the next election or the next one or the next one, but in the best interest of the people. Surely we can screw up our courage to the sticking place to stay the course and continue to cut the Federal deficit in responsible doses. We cannot afford to risk the economic security of this Nation by passing this unseen pig in a very large poke.

I remind the Governors, Mr. President, that the devastation to the States, as shown through these charts, is going to happen irrespective of the recently passed, highly touted unfunded mandates legislation. Congress will brush that aside. It only takes a majority vote. That is not binding on the next Congress, not even binding on this one, if Congress chooses to brush it aside. That bill is not going to protect one single State from the costs and responsibility of dealing with their problem absent Federal dollars. If State officials are leaning on the weak reed, the flimsy reed of the unfunded mandates bill, they are badly mistaken. It will be as a straw in a hurricane; as a leaky boat in a tidal wave.

I say to the American people, no one—no one, no one—is going to escape the wrath of the balanced budget mandate.

We cannot run to the mountains and pray that the rocks will fall upon us, put us out of our misery. No one can come to this floor and, in all honesty, tell the people of America that they will escape real pain under the amendment.

Finally, I remind my colleagues that the American people have a right to know what is going to happen to them as a result of the balanced budget amendment, if it is riveted in the Constitution.

A new poll, in fact, underscores the people's demand to know what will happen to them at this time shows overwhelming public support for the "right to know."

This poll, released just this morning, Mr. and Mrs. America, my colleagues on the right and on the left, this poll released just this morning by the American Association of Retired Persons and conducted by the Wirthlin Group, shows that support for the "right to know" cuts across party lines: 68 percent of the Republicans, 77 percent of the Democrats, and 83 percent of the independents want to know what will be cut. And they want to know what will be cut before Congress passes a constitutional amendment to balance the budget. Not afterwards. Before.

In addition, 85 percent agree that Social Security should be exempted from the amendment. But under House Joint Resolution 1, Social Security is not exempt. It is on the chopping block no matter what anyone says.

If this amendment is passed, what will Senators say to their constituents? How will Senators explain the fact that, despite the public's desire to know beforehand what cuts will be made, Senators took it upon themselves to substitute their wills, our wills for the will of the people out there. Talk about arrogance. That is the height of arrogance.

So I implore my colleagues to heed the wisdom of the people. Let us tell the American public what is involved here. Tell them and tell them now. That is what the people in the poll want to know. Let us not continue this vow of silence. Let us not close out the sunshine. Let us not pull the shutters on the windows and shut out the scrutiny of the public.

Mr. President, Shakespeare, in "Timon of Athens", said it best:

> The devil knew not what he did when he made man politic; he crossed himself by't: and I cannot think but, in the end, the villainies of man will set him clear.

Chief Justice Marshall in McCulloch versus Maryland said:

> We must never forget, that it is a Constitution we are expounding.

Mr. President, if I might add my own modest footnote, we must not forget that it is a Constitution that we are amending.

Mr. President, I am prepared to yield the floor unless a Senator wishes to ask me a question.

I yield the floor.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Utah.

Mr. HATCH. Mr. President, there are very few people in this body who have more respect, in fact I do not think there is anybody who has more respect for the distinguished Senator from West Virginia than I have. I learned early in my Senate career that he is very, very formidable. And he is, I think, one of the people who is the most dedicated to this body and to what the Senate means in the United States of America.

I might mention that I believe that he is as dedicated to the Constitution as anybody I know. And I also believe that he is, without question, without peer with regard to Senate rules and procedure. I have had personal experience of being on the wrong side of the distinguished Senator from West Virginia and I admire him and care a great deal for him. I do not know when I have heard a more interesting set of remarks than he has just given to the Senate this day. I think we should all pay heed to what he has said. I think his comments are important.

But I also think the Senator is wrong. If I did not believe that I would not be out here fighting for a balanced budget amendment. He knows that. And he knows that I believe this very deeply, as he believes his position. And I respect him for his commitment to his position.

He has taken a goodly amount of time, but not enough, perhaps, to explain his position. I think it is critical that the American people see the two sides of this subject and I do not know of anyone in the body who could have articulated his side any better.

I think a lot of this great Senator and, when histories of the Senate are written to include his time here, certainly he will be shown to have played a pivotal and very important role in the history of this institution.

But let me just see if I can respond to some of the things my friend and colleague has said. First of all, the American people are not stupid. They know that this Federal Government is a money eating machine. They know that billions, hundreds of billions of dollars are eaten up right here in Washington, without much care for the American taxpayers.

They also know that we have built the most gargantuan bureaucracy in the history of the world. Keep in mind, our Founding Fathers wanted to have a central Government that was limited, not all-embracing; where the people in the States do not just look to the Federal Government to solve all their problems, but where they solve them for themselves for the most part. The Federal Government as originally intended was to be a limited Government to take care of our national security interests, to do the few commerce things that should be done by the Federal Government: To watch over the public welfare.

I think our Founding Fathers would be absolutely devastated if they saw the state of the Federal Government today. If they saw the domination of the States by the Federal Government that we have going on today, if they saw the way the Federal Government soaks up the public's money today, if they knew—as some argue very eloquently, maybe not as eloquently as my friend from West Virginia—that of all the public welfare money that we spend through the Federal Government, this wonderful stuff we do for the States—when it comes to welfare only about 28 percent of every dollar gets ultimately to the people who need it.

We in the Federal Government act like we know more about what people need than they do, so we study things, we build bureaucracies, we hire sociologists and Ph.D.'s and other specialists and experts and we use up the people's money here like it is going out of style while the people who need it—the people we are supposedly helping—get 28 percent of it. That is what is wrong with a bloated Federal Government. That is what the Founding Fathers were trying to guard against. Avoiding this was the work of Madison and Jefferson and Washington.

I might have a number of others who are maybe not quite as well known, but certainly well known by my friend from West Virginia, who is a great scholar of history, and especially the history of this country. We know the Federal Government right now means a lot to the States because they cannot make a move without its consent.

We also know that if we pass a balanced budget amendment, every dollar will become more valuable. If we pass a balanced budget amendment that stops this continual drop into the abyss of deficit spending, which we have been doing now for 60 years, certainly 26 of the last years in unbalanced budgets, and in recent years because of Great Society programs, these reasonable—reasonable is not the word—this overwhelming desire by everybody to do everything good for everybody in our society.

We now have deficits that, after the turn of the century, are going to be over $300 billion a year, and the interest against the national debt has now become the second highest item in the Federal budget. And it is going up exponentially with compound interest. We all understand compound interest, do we not? The interest just starts to multiply like you cannot believe. If we do not get control over the spending of this all-eating, voracious, money-grubbing Federal Government, if we do not bring it to heel, then all of these gifts and grants to the States that the distinguished Senator has so eloquently spoken about are not going to be worth anything anyway, assuming that we can afford to make any more of them. They are going to look to us and say, "You people did it to us. You did not have the guts to balance the budget." Let me just say this about my friend from West Virginia. He has the guts. I believe in him with regard to his comments that he would balance the budget. He would find ways to do it. I think he would do everything in his power to. I believe that. I have faith that he would do that.

But when he was majority leader, he was not able to do that, not because he did not try. He could not. People in both parties spent us right down the drain. He tried as President pro tempore, certainly one of the most dignified and knowledgeable people in this body, if not the most dignified and knowledgeable. He could not do it then, and neither could I. Neither could the Senator from Illinois. Neither could a lot of us who want to get this tremendously expensive Federal Government under control.

We have reached a point really of no return, that if we do not do what is right now, all this money, these hundreds of billions, trillions of dollars that the distinguished Senator from West Virginia is talking about that go to the States over the years are not going to be worth anything. Then what happens to those who need health care? What happens to women and children who need women's, infants', and children's programs? What happens to food stamps? Will we be able to pay for them? If so, are they going to be worth anything? We know a lot of them are being picked up by the Mafia in exchange for drugs and booze, and then they make a lot of money cashing in those food stamps at a tremendous cost to the American taxpayer.

Let me tell you something. I enjoyed the comments of the distinguished Senator about magic potions and elixirs and snake oil. I know a lot about those things because I have been watching the Congress for these last 18 years as I have sat here. You talk about snake oil. You talk about magic potions and elixirs. You can find them here every day in budgetary matters because Congress is not willing to do anything about deficits and spending.

I have heard people time after time say this, and they are courageous in standing up here and saying we have to do it; we have to get control of this thing, and we have to balance the budget, and it stops here with us. The problem is for all of my 19 years, it has never stopped once. It is not going to, either, without a mechanism in the Constitution that encourages us to do it.

By the way, this balanced budget amendment does not cut all of these things out. It does not say that we have to balance the budget. We do not have to balance the budget under this amendment if we do not want to. The only difference is instead of playing games here on the floor of the U.S. Senate and in the House with voice votes and a lot of ways of hiding so the American people do not know who is voting to spend all of this money, we have to vote if we do not want to balance the budget. If we are going to have a deficit, we are going to have to give a three-fifths vote to do it. I am not saying that is insurmountable. I have seen debt ceilings lift where we did not need a three-fifths vote, not many. But from this point on, I have to say it will be money in the bank for the American people because they will know who did it to them from this point on, if this amendment is adopted and ratified.

By the way, if we want the President's solution for deficit reduction, which is to increase taxes like he did last year, with the largest tax increase in history, which some have praised here on the floor during this debate, by gosh, we can do that. All we have to have to do that is a constitutional majority here on the floor of the Senate and on the floor of the House.

What does that mean? If we have 51 Senators here, we have a quorum. We could vote on anything, by and large, or should I say most anything, by a majority vote. We could have 26 votes for and 25 against and, by gosh, it passes. With a constitutional majority, you cannot do that. It is not a mere majority of those voting. It is a majority of the whole number of both Houses. You have to have 51 votes in the Senate, 218 in the House.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. HATCH. Sure.

Mr. BUMPERS. I did not utter one word yesterday on the balanced budget amendment. But I want to serve notice that I am going to.

Mr. HATCH. Does the Senator want to do that now? I will be happy to conclude this. I do want to make a few more points.

Mr. BUMPERS. I really apologize for interrupting the Senator. I do want to say I am not so concerned about the requirement of a constitutional 60 percent, three-fifths vote in the Senate to balance the budget. That will almost certainly happen.

I had my staff do a study of all the appropriations bills for fiscal year 1995. Last year, the average vote for all of the 13 appropriations bills was 84.5 votes in the Senate. So I expect it is not going to be too difficult to get 60 votes to override the amendment. But my concern is not that. My concern is the potential damage that can be done by 41 obstreperous ideologues who care more about their ideology than they do the future of the country.

Let us assume we are in a recession headed for a depression, and every economist in the country tells us the only way in the world you can head off massive unemployment and massive social and cultural disaster is for the Government to create job-producing projects. And 41 Senators, far fewer than a majority, can say, "We don't care what the economists said. We are for a balanced budget. And we are not going to stand for allowing 60 Senators to unbalance this budget." So the country goes right into the tank.

That is my real concern. I am interested in the reaction of the Senator.

Mr. HATCH. That is a good question, and I think one deserving of an answer.

First of all, you will never get all the economists to say the Government has to help us solve the employment problem or that make-work jobs are going to get us there.

Mr. BUMPERS. Again, just so we make this point, I am one of the people in this body, along with the distinguished Senator from West Virginia, who remembers well the Depression. I was just a child. We were very poor. There was no snob value in it. Everybody in town was poor. But I can remember.

The reason I still believe in Government is that the Government did some good things and created jobs at the same time. They helped us pave our streets where we choked to death on dust and mud. We lived a block from Main Street, and you could not get there when it rained. I can remember when we got an indoor john for the first time. We were rich. Before that we had a "two-holer" out back. Most people just had a "one-holer." We got running water, clean water. People quit having typhoid fever and the farmers got low-interest loans. As a matter of fact, the Government built houses for them.

I could go on about rural electrification, which saved my father's business. He was a small hardware merchant. As a result of rural electrification he was able to sell refrigerators, radios, ranges, all of those things.

So I think Government does some things well. And we could face a time like the Depression again if we have 41 obstreperous Senators saying, "No; that does not fit with my philosophy."

The distinguished Presiding Officer comes from a State where we built TVA power, and the people of Tennessee enjoy very low rates as a result of TVA power. I promise you, he does not think Government is all bad, either.

All I am saying is, if those things happen—and they most certainly will at some point—what happens? I do not believe in Government by minority rule. That is what we will have.

Mr. HATCH. Neither do I.

Mr. SIMON addressed the Chair.

Mr. BYRD. Mr. President, may I ask the Senator to yield? He mentioned my name.

Mr. HATCH. Let me yield first to the distinguished Senator from Illinois, and then I will be happy to yield.

Mr. SIMON. Yes. I would like to respond to my friend from Arkansas. First of all, I believe that Government can do very good things. I believe it more than my friend from Utah does. I am for a WPA program right now. I put in the RECORD yesterday an article by a distinguished economist, as well as a couple of other things by other economists, saying that the evidence now is that because of the heavy debt we have, we simply are not responding.

You can remember when the President of the United States, when he first came in, asked us for $15 billion for a jobs program, but because of the deficit, we could not do it. Fred Bertston, a former Assistant Secretary of the Treasury, whom you know, has said, if you had asked him 10 years ago would he be for a constitutional amendment requiring a balanced budget, he would have said absolutely not. He says, "Now I think it is essential." The only way he says you are going to have a response to recessions that is adequate is to build up about a 2-percent surplus, give the President the authority to respond with certain specific programs when unemployment goes above a certain level in various States.

I would say, finally, to my friend from Arkansas, where we have responded is in the extension of unemployment compensation. I went back over several decades when we have extended unemployment compensation. I could find only one time—in 1982—when we did not have more than 60 votes to respond to that. So the reality is that we are frozen by this huge deficit from responding adequately now. We can build in a system where we can respond much more adequately to recessions than we now do.

Mr. HATCH. If I could add something to that. I agree with the distinguished Senator from Illinois. I am not fighting with the Senator from Arkansas. There is no question, the Government can play a role. Where you have valid social programs, I do not think you would have a rough time getting a three-fifths vote.

We are talking about a bigger picture than that. The force of this amendment is that you have to vote, you have to vote. You are going to have to have a three-fifths vote to increase the deficit as a whole. You are going to have to make priority choices among competing programs. I remember the Depression, too. I was born and we lost our home right after I was born. We also did not have indoor facilities for many of the early years of my life. It has been said of me that I never pass a bathroom. Having to walk 100 yards in the mud was no fun for me, and I did that all too often.

But the fact of the matter is that we are talking about a much bigger picture here than any single program. We do not even have to balance the budget under this amendment, but it does point us in the right direction, it does give incentives, and it makes us vote on whether we are going to have deficit spending or whether we are going to increase taxes or whether we are going to do both. I am not saying we cannot do both. I think under strenuous times, such as war, severe depression, or recession, we are going to get the votes.

I also believe if there were obstreperous minorities of 41, they are going to find a rough time at the ballot box if that is what happens. It is the same with those who always want to spend regardless of whether we have the money. They can do it if they get control of the Congress and if they have a constitutional majority vote to raise taxes, but they are going to pay a price at the polls.

Those are just some of the values of this amendment. I said I would yield to my dear friend and colleague from West Virginia. I did not mean to say so much before I yielded.

I yield to the Senator from West Virginia.

Mr. BYRD. I thank the Senator. He always treats me with the utmost courtesy.

Mr. HATCH. Deservedly so.

Mr. BYRD. I heard the Senator say, I believe, that this amendment does not require that the budget needs to be balanced.

Mr. HATCH. It is not required.

Mr. BYRD. This amendment is being sold to the American people as a way to balance the budget. Is that not a bit misleading?

Mr. HATCH. Not at all, because if we required you to balance the budget every year, that would fly in the face of the right to do something when we have exigent and difficult times.

The fact of the matter is, what this amendment always represented itself to be, and what it always will be, is an amendment that says, hey, Members of Congress, the game is over. You are going to have to vote if you want to increase the deficit. You are going to have to vote if you want to increase taxes. Both votes are more significant than a majority vote. And you are going to have to have a three-fifths vote. If you want to increase the deficit, you are going to have to have a constitutional majority to increase taxes.

My personal belief is that it will be much easier to get that three-fifths vote to increase the deficit than to get a constitutional majority to increase taxes. I have no doubt in my mind about that. But both of them point us in the right direction by saying, look, we have to work on making priority choices. We just cannot fund everything anymore, and anybody with any modicum of sense knows that. We cannot fund everything anymore. We have to make priority choices and keep the best programs we can, and we might have to wait for a few years to get some of these less important programs.

Mr. BYRD. I thank the Senator. My friend, the Senator from Utah, is now telling the Senate and the American people that this amendment does not require a balanced budget.

Mr. HATCH. That is right.

Mr. BYRD. That is precisely what this amendment is being sold as. The American people are being told—and I have heard it said by many of the proponents on the floor this week already—that this is the way to balance the budget. "We have to have something to force us to balance the budget."

The distinguished Senator from Utah is saying that this amendment does not require a balanced budget. I think we ought to tell the American people that.

Mr. HATCH. I have.

Mr. BYRD. I read this in the first section: "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year."

I know there are some loopholes whereby we might vote by three-fifths of a majority of each House, about which I will express myself at another time. But this amendment, we are now being told, does not require a balanced budget.

Let me ask the Senator this: He also said in his statement that we—meaning the Congress—are unwilling to do anything about it—meaning these massive deficits; we are unwilling to take the courageous action that is needed to bring them under control. We are unwilling to do it.

Mr. President, I remind my friend that we in the Congress were willing in 1990, under the agreement that was achieved at the so-called budget summit, where the representatives of the Bush administration sat, and the leadership on both sides of the aisle in this body and the leadership on both sides of the aisle in the other body were present. We agreed on a package that would reduce the deficits over a period of 5 years by something like $482 billion. And then in 1993, working with President Clinton, the Democratic Congress enacted legislation that, over a period of 5 years, reduces the budget deficit by $432 billion. I know it really cuts, because we froze domestic discretionary spending, and because of that package, we are presently operating under a freeze. So we really cut discretionary spending, which includes both defense and domestic.

Mr. President, I say to my friend that when the time came to vote on that package, where was the courage? The Congress, under Democratic control in both Houses, demonstrated the courage to do something about it. We enacted that package, cutting $432 billion over a period of 5 years. We enacted that package, but without the help of a single vote from my friend's side of the aisle. Not one Republican Senator from these 50 States, not one Republican House Member from these 50 States, screwed up the courage to vote for that package, which cuts deficits, over a period of 5 years, by $432 billion.

And so, it was the Democrats in the Senate and in the House who demonstrated a willingness—I refer to the Senator's statement, when he said we are unwilling to do anything about it—it was the Democratic Senators and Democratic House Members under Democratic leadership and working with a Democratic President who demonstrated a willingness to cast a hard vote and to make some hard choices in the 1993 reconciliation bill.

So let it not be said that Congress does not have the courage to do it. I say why do we not do it again? Why do we not do it, I say to my friend? Why do we not do it again?

If the proponents of this amendment have—pardon me for imposing on the time; I will just say this and I will sit down—but if the proponents of this amendment have two-thirds of the vote to adopt this constitutional amendment in the House, and two-thirds of the vote in the Senate to adopt this constitutional amendment, meaning they have 290 votes in the House and 67 votes in the Senate, if they have the votes to adopt this constitutional amendment, why do they not get on with passing bills now? It only takes a majority of each body to pass bills, not two-thirds. Why do we not get on with it now? Why wait 7 years?

Mr. HATCH. Mr. President, I think that is a legitimate question. But keep in mind, both the 1990 bill and the 1993 bill were tax increase bills. And there is only so many times you can increase taxes on the American people.

What this amendment does is—yes, it does not require a balanced budget—it just says that it should be the rule and we have to work to get there. And if we do not want to get there, we are going to have to vote not to and the American people will know who did it to them. That is the difference. It will take a supermajority vote of three-fifths, if you want to increase spending beyond our revenues, and a constitutional majority, no less than 51 in the Senate and no less than 218 in the House, if you want to increase taxes.

And I have to tell you, one of the reasons we believe this has to happen is because for the last 26 years we have not reached a balanced budget with all the tax increases we have had.

I remember back in 1982, when we increased taxes under Reagan, on the assumption that for every dollar in increased taxes we get $2 in deficit reduction. We increased taxes and we spent $1.32 more for every dollar, and now we are spending almost $1.90 more for every dollar we increased in taxes.

Now I know the distinguished Senator from West Virginia, if he had his way would be able to do this, to balance the budget, and I would help him; at least I would try. I might not want to increase taxes to do it, but I would help him balance the budget.

But, I have to say, he is singular in getting it done. Now, I respect him. And I have no qualms about saying I think he would do that if he could. If he was a dictator or even a Talleyrand, he might get it done. But he is one of 100, in fact, one of 535. And it has not been done. And it is not going to be done, not without some mechanism in the Constitution to give us the incentives to do it.

Now, does this amendment guarantee we are going to go to a balanced budget? I think over time it does, because I think the American people are going to know who is doing it to them because we will be standing up and voting, rather than playing games around here.

Does the Senator have a question?

Mr. SIMON. Mr. President, I would simply like to respond briefly to my friend from West Virginia—and he is my friend and I have great respect for him.

Mr. HATCH. Mine, too.

Mr. SIMON. In what he has had to say.

Let me, in response to his last question to my colleague from Utah, say my colleague from Utah and I do not agree on how we ought to balance the budget. We have some strong philosophical differences, as Senator BYRD knows. We do agree, however, that we have to do it, and we need the discipline of a constitutional amendment to force us to do it.

I would differ also with respect to my friend when he talks about the heavy tax burden. I am not suggesting that we are going to solve this primarily through taxes. I do not think that is the case. I would add, of the 24 major industrial nations we are 24th in the percentage of our income that goes for taxation. We do not have a value-added tax. Most of the countries in Western Europe have that. We have the lowest tax on a gallon of gasoline of any country outside of Saudi Arabia; the lowest taxes on a package of cigarettes, and you could go on and mention other things. But, having said that, there is no question we are going to primarily do this through restraining growth in spending.

And the Senator is right, I say to Senator BYRD, when he says we are going to have to make hard choices.

But it is very interesting—and we were just given at the Democratic caucus today a poll by the Wirthlin group on the balanced budget amendment—79 percent of the people favor a balanced budget amendment and 53 percent of them believe they are going to have to sacrifice in order to achieve it. They are willing to, the American public is willing to.

I take the choice of sacrificing a little bit so my three grandchildren can have a better future. And I do not have a difficult time making that choice at all, and I do not think the American people do.

Mr. President, I see my colleague on his feet, and I am pleased to yield to my distinguished colleague.

Mr. HATCH. I believe I still have the floor.

Mr. SIMON. I am sorry. I thought my colleague had yielded the floor.

Mr. HATCH. No, I am still retaining my right to the floor, but I am happy to yield to my friend.

Mr. BYRD. I am trying to remember precisely how the Senator said it when he spoke of his children and grandchildren.

Mr. SIMON. Mr. President, I said what I am required to do, if we pass this, is to sacrifice a little bit myself so they can have a better future.

The GAO says if we continue down the present path we are going to have a gradual declining standard of living. But if we, by the end of the century or 2001 in their original study, now it will be postponed to 2002, have a balanced budget by the year 2020, the average American will have, in inflation adjusted terms, an increase in the standard of living of 36 percent. That is a huge increase for those three grandchildren.

Mr. BYRD. Will the Senator yield?

Mr. HATCH. I am happy to yield.

Mr. BYRD. I ask unanimous consent that I may engage in this colloquy, with the Senator from Utah retaining his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the distinguished Senator from Illinois has made a startling revelation. And I love him. I think he is Mr. Fair and Square around here, and I believe he is Mr. Fair and Square. He always has a smiling face and a shining countenance and that upbeat spirit about him that is so infectious. And I am going to miss him.

Mr. SIMON. I can see how you got elected in West Virginia, Senator BYRD.

Mr. BYRD. Well, that goes back a long way, I say to the Senator.

I believe he said that, "If this amendment is adopted, then I would be willing to sacrifice so that my children and grandchildren can have a better future."

Is he also saying that if this amendment is not adopted, he is unwilling to sacrifice for his children and grandchildren?

I say, Mr. President, we need to sacrifice for our children and grandchildren, whether or not this amendment is adopted. And we do not need an additional bit of print in the Constitution to fortify us with the courage and the discipline and the will to take a strong stand now in order to sacrifice for our country or our children and our grandchildren.

Mr. President, if I do not have the courage now to take a strong stand, if I am unwilling now to take a strong stand on behalf of my children and grandchildren and their children, there is no amount of ink that can put into that Constitution that will give me any more backbone, any more spine, any more courage, any more strength of will than I already have. It just cannot be done. I say that with all due respect to my friend.

He may wish to comment on my remarks.

I ask that the Senator from Utah yield for that purpose.

Mr. HATCH. I am happy to yield for that purpose.

Mr. SIMON. I am willing to sacrifice right now, and I know the Senator from West Virginia and the Senator from Utah are, too. Unfortunately, we have 26 years in a row of history that, as a body, we have rarely been willing to do it.

Oh, in 1993, you and I voted for what Senator BOB KERREY called a modest step toward reducing the deficit. I was pleased to do that.

Mr. BYRD. Modest enough. It did not get a single vote on the other side of the aisle in either House.

Mr. SIMON. The Senator is correct. Economists are virtually unanimous in saying that that was a good thing. It is to the credit of President Clinton that we did that.

I think history clearly shows we need outside discipline. We can even say it is a little more print in the paper of the Constitution. But as I said yesterday—and I think our Senator from Tennessee was presiding then, too—I said all of us went right over there and we took but one oath, to defend the Constitution. That has meaning for Senators. And I think that is true for any Senator. I think we are going to live by that.

Mr. BYRD. Mr. President, before the Senator adds those points, and if the Senator from Utah is willing to yield, the distinguished Senator referred to the oath. I have taken the oath 13 times in 48 years: In the West Virginia House of Delegates, the West Virginia Senate, the United States House of Representatives and in the United States Senate. I know what it means.

Mr. President, we should be willing to bite the bullet now. We have not been 26 years in the building of this colossal—these deficits to the extent that they are triple-digit billion dollar deficits. For 182 years we ran up something like $1 trillion debt.

Then when Mr. Reagan came into office—he was in office 8 years, Mr. Bush 4 years—we more than tripled that debt. And as my grandson used to say, "You know what," I helped Mr. Reagan to triple that debt. Because I voted for his tax cut in 1981. And I have regretted it. I voted for his massive military buildup. I urged upon him that he could not balance the budget, mount such a massive defense buildup, and cut taxes in 3 successive years, 5 percent the first year, 10 percent the next year and 10 percent the third year. I urged upon him that he wait until after the first year or after the second year.

And as the minority leader at that time, I offered an amendment on this floor to require that we not have 3 years of successive tax cuts all in one bill; that, instead, we have 2 years and then wait and see what was happening to the economy, the deficits and so on, before we institute another, the third tax cut. But President Reagan would not listen. I voted with Mr. Reagan. I supported him on that tax cut because many West Virginians told me to give him a chance. I supported him on the defense buildup.

As to those triple-digit billion-dollar deficits, we never had one before Mr. Reagan was in office. Never did we have one triple-digit billion-dollar deficit. Never. They all started under his administration. I know a lot of people blame Congress for the deficits, but I will show sometime during the next few days that going back 45 years the total accumulated appropriations over the period of 45 years under the various Presidents, the accumulated appropriations are less than the accumulated budget requests submitted by those Presidents to the Congresses during that period of time. The figures will not lie. Liars can figure, but figures will not lie. The laws of mathematics do not change, whether it is the old math or the new math.

I say to my friend, this talk about needing something in the Constitution to force Members to discipline Members, to force Members to take the positions to make the tough votes and the tough choices. Something to force us. What are we, children? Mr. President, we will dodge that bullet when it comes because under this amendment, do you know who will enforce this balanced budget amendment? Congress will, according to this amendment language. Congress. Congress will enforce it. The same Congress which lacks the discipline now, to use the Senator's words, in essence.

I was thinking of Darwin and his theory of the survival of the fittest. I do not think that the men and women who come to this body in 2002, 2003, or 2004 will have had sufficient additional time to benefit from Darwin's theory anymore than we, with our ancestors stretching back over thousands upon thousands of years, have already benefited. Discipline cannot be put into the bloodstream of man by a needle. He cannot be inoculated with faith and discipline and courage, backbone and spine. It has to be inside him to begin with. I say that with the greatest respect for my friend, the happy warrior, the happy warrior, from the great State of Illinois.

Mr. HATCH. Mr. President, if I could take back my time.

Mr. SIMON. Mr. President, the Senator from Utah has the floor and when he is through I want to get the floor just to respond very briefly.

Mr. HATCH. Without losing the right to the floor, take that time to do so.

Mr. SIMON. Mr. President, let me say that there is no absolute guarantee that this will work. I think what we can virtually guarantee is if we do not pass this, we are continuing down the same slippery slope and we are not going to get things done.

In 1981 I was in the House. I was not in the Senate. But in the House we ended up with a bidding war between President Reagan and the Democrats on a tax cut. I voted against both the Reagan tax cut and the Democratic tax cut because the numbers just did not add up. We were saying by 1984 we will have a balanced budget. Third grade arithmetic told you that was not true.

Just a few other quick comments. One is the details of where we are heading. Concord Coalition put together a package. By the time this debate is over we will have a rough idea. One way to do it, for example, is to live within the limits that we have established right now through 1998, and then make some policy decisions that would combine the total of the Bush package, I think it was 1991, and the Clinton package, 1993. Not that onerous. People are being told, "This is going to hit every group." Senior citizens are being told it will come out of your Social Security.

I had a man this morning, a hospital executive, tell me, We have been told $500 billion of this is going to come out of hospitals. Every group is being told that. It just is not true.

Second, I say to my friend, who is, I think—and I am not one to exaggerate on the floor of the Senate, even though we all have a propensity to do that occasionally—I think it is correct to say that there has been no Senator in the history of the Senate who has been as much of a historian as ROBERT BYRD. His sweeping knowledge of history is impressive. I have written a few books in the field of history, but I do not pretend to have his knowledge of history.

The only historian who would even come close would be Albert Beveridge who served Indiana around the turn of the century who did a three volume biography of Abraham Lincoln. But he had nowhere near the comprehensive knowledge of Senator BYRD.

But it was interesting to me this great historian did not get into the economic history of nations, and that economic history is very clear. As nations pile up debt, they keep on piling up debt, and what do they do eventually? They monetize the debt. They start the printing presses rolling. That is the history of nations, and we cannot avoid that.

Now, my friend from West Virginia had all what is going to happen to the various States. What is going to happen in those States if we do not pass the balanced budget amendment?

Mr. BYRD. Will the Senator yield, with the indulgence of the Senator from Utah? Why do we not do it now? We need two-thirds vote in each body to adopt this amendment. Why do we not just use a majority now to take whatever actions are necessary to continue to bring that budget into balance? It only takes a majority. Why wait 7 years? Darwin's theory of natural selection will not make me any more courageous in 7 years or 9 years or 90 years. I have only the courage that God gave me and the courage and the will and the determination and the faith that were inculcated into me by the people who raised me and by the genes that my father and mother and their ancestors gave me. That Constitution will not give me any more courage. Let us do it now. Why not now? Why not start now?

Mr. SIMON. I say to my friend from West Virginia, if we had 51 ROBERT BYRDs in the U.S. Senate, we could do that. We do not. That is the simple reality.

Mr. BYRD. No, no, I say to the Senator, you are flattering me now. We have lots of men and women in this Senate who have the courage to do it now. It is not just the ROBERT BYRDs. We have enough men and women in the Senate to do it now. Let us be honest with those people out there who are watching through that electronic eye. We have just heard our friend on the other side of the aisle say this constitutional amendment does not require a balanced budget. Let us start now.

Mr. HATCH. If I could——

Mr. SIMON. I do have some other points, but I will make them on some other occasion and I return the floor to my colleague from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BYRD. Mr. President, I thank both Senators.

Mr. HATCH. Mr. President, I thank both sides. I think it has been an interesting colloquy between my two colleagues. I agree with the distinguished Senator, why do we not do it now? This is why we are going to get it done because we are going to put a mechanism in the Constitution to help us to do it, and that is what this requires.

Let me also say this—President Reagan, of course, cannot defend himself at this particular point—but I do not think anybody should fail to note that when John F. Kennedy was President of the United States back in 1962, the military budget was 49 percent of the total Federal budget. The highest it ever got under Reagan, as I recall, was 26 or 27 percent of the total Federal budget, about half of what John F. Kennedy was willing to spend and the Congress was willing to spend for the military at that time. Forty-nine percent.

How is it that when Reagan helped to increase military spending that brought down the Iron Curtain and ended the cold war with only 26 percent of the budget, that it was he who caused this grand spending boom when we used to spend 49 percent because the national security interests of this country were the single most important interests of the Federal Government?

I will tell you why. Because John F. Kennedy cut taxes 10 percent and the economy boomed, because more people were making more money, paying more taxes, more businesses were created, more jobs were created, more people were working. John F. Kennedy cut taxes, spent 49 percent of the Federal budget on the military, and we had a very low deficit at that time.

He was succeeded by Lyndon Johnson who decided he was going to take care of everybody, and he came up with what was called the Great Society programs, and from those programs we have a proliferation of Federal Government control over all of our lives and a proliferation of spending where now 70 percent of this Federal budget is entitlement spending. That means it goes up and up and up automatically and nobody stops them.

In defense of President Reagan, and I do not mean to get too much into this because I think people who really understand economics and understand the history realize that he was not the one who created these huge deficits. Certainly tax cuts sometimes wrongfully given can, over the short term, cause us to have less money in the budget. But over the long term, they generally produce more jobs, more businesses, more people employed, more people working, more people paying into the system, more revenues to the Federal Government.

By the way, the Reagan tax cuts created 9 years of economic expansion, the longest peacetime economic expansion in the history of the country, and it was the tax cut that did it. But what was not said is that in order to get his tax cut in 1982 and his tax cut of marginal tax rates in 1986, he had to agree to all kinds of entitlement expenditures.

Today, entitlements are 70 percent of the budget. They were not that during the time of President Kennedy; 50 percent of the budget was for the military, and that is not an entitlement program. It is important, and the distinguished Senator from West Virginia made it clear that it was important.

Constitutionally, it is Congress which must balance the budget. Even if President Reagan pushed some of the ideas enacted at that time and people on the other side of the aisle love to blame him for it, it was Congress that passed these bills, according to the Constitution it is Congress that controls the purse strings. Congress cannot avoid that responsibility. It was Congress that kept increasing spending. It was Congress that came up with more and more Federal programs.

Look, I used to be chairman of the Labor Committee. My ranking member was none other than Senator KENNEDY. When I became chairman of that committee, it was the most liberal committee in the Congress. There were between 2,000 and 3,000 Federal programs created by that committee that are currently in existence. Imagine that. And that is just one committee in Congress.

Constitutionally, it is our responsibility, not the President's, although I think he or she has a responsibility, too, to balance the budget.

Reagan's tax cuts raised revenues during those years—raised $1 trillion during the Reagan administration—$1 trillion in additional tax revenues. Under Reagan, 20 million new jobs were created. But Congress spent $1.4 trillion during that same time.

Had we stuck with the tax cuts and not had Congress dictate the increased spending side of those tax bills, we would not have nearly the problems we have today, although we still would have problems because of the entitlement programs.

This body is gutless when it comes to doing anything about entitlement programs, and with good cause, because unless you have Presidential leadership and congressional consensus to do something about them, then in the next election, accusations will be made that those who talked about doing something about entitlement programs are trying to do away with them.

So it is going to take Presidential leadership and congressional leadership. And what we do with the balanced budget amendment is we get a mechanism in place that encourages and creates the incentives for balancing the budget rather than spending more and more and forces Congress make priority choices among competing programs in order to do so.

We have runaway spending in this country. I appreciate the distinguished Senator from West Virginia saying why he thinks we should not do it now. I believe he probably would act to balance the budget. But he is one of a very few in the whole Congress who, if he would, would actually do it without a balanced budget amendment. But if as he argues we can do it now, and we do not need the increased pressure of a constitutional mandate, then why have we failed up until now? Then why have we not balanced the budget for the last 26 years? Why have we not?

My friend from West Virginia has been one of the leaders in the Senate. He was both majority and minority leader. He had tremendous power during that time and still does without being the leader of the Senate. During those years, I know he worked hard to try to do it and he could not with his own side of the floor. And I have to say it is not just Democrats that have caused this; Republicans have, too, because the incentives are not there in the Constitution right now. Jefferson saw the problem. But he never thought that we would reach the state of morass that we are in today where nobody is willing to fight to resolve budgetary problems—or I should not say nobody. I should say where the majority are unwilling to do what is in the best interests of this country.

We have a destructive welfare system. Everybody says we have to do something about it. Maybe we will this year. On the other hand, should we not have to make priority choices there as well?

We have an antisavings Tax Code. It discourages savings. Maybe we will come up with a Tax Code that will work, where people do not feel nearly as badly about paying their taxes as they do today with the oppressive antisaving Tax Code that we have.

We have a Washington bureaucracy that is out of control, partly built because we have so many of these programs, not all of which are needed but all of which are well intentioned, I will acknowledge that, but not all of which are needed and certainly not all of which rise to the same dignity as the important programs do. But they exist and get funding because we do not have to make priority choices among competing programs.

People in this last election said the old ways are not working. The old ways are not working. This country is not working the way it should. And for the first time in 40 years, they allowed the Republicans the privilege of being in control of the House of Representatives, and they gave us the privilege once again to be at least the majority in the Senate.

Now, we have no illusions about having complete control here. If you look at ideology, a majority in the Senate are liberal, at least 51 of the Senators are what you would call primarily liberal, who do not want to cut anything; who do not want to do anything to balance the budget, at least in the sense of spending cuts. They will increase taxes. They will do that until the American people scream, and they are screaming now.

(Mrs. HUTCHISON assumed the chair.)

Mr. HATCH. In the House of Representatives, it may be about the same. So nobody has any illusions that just because the Republicans have taken control, we can do whatever we want to do. We cannot. As a matter of fact, the American people did not mean this to be a mere Republican revolution. They said, look, we are willing to try anything to get spending under control. And the polls do show that they believe Republicans will do a better job of getting spending under control.

I believe one of the reasons why they believe that is a vast majority of Republicans in both bodies, almost every Republican in the House, almost every Republican in the Senate, is willing to vote for this balanced budget amendment and they knew it would be one of the first things we would bring up.

But having said that, there were 72 courageous Democrats in the House of Representatives who voted for this amendment who are probably more moderate to liberal than most Republicans who voted to pass the balanced budget tax limitation constitutional amendment.

That amendment is what we are debating right now. For the first time in the history of the country, the House of Representatives has voted to put into the Constitution a fiscal mechanism that will help us to reach a balanced budget. And I have to say we need about 15 to 17 courageous Democrats in the Senate or it will not pass by a two-thirds vote. All we need is, let us say, 17. That means 30 of them can vote against it, if they want to, and we can still pass it.

The fact is that is what we need. We just need a few Democrats to stand up here, like a few stood up in the House. They were the minority of the Democrats in the House. Let me tell you, those who do stand up are going to be heroes to me because there is tremendous pressure on them to keep the old order, where we can keep spending and reelecting ourselves, where we can tax and spend and reelect.

So whoever votes with us from the Democratic side of the aisle is going to be a hero to me, I have to tell you. And there are some real heroes, not the least of whom is the distinguished Senator from Illinois. We do differ ideologically. He is liberal; I am conservative. But he also acknowledges that something has to be done. I praise him for it, and I admire him for it because it is not easy when so few on his side are willing to do anything about this.

If this goes down to defeat, I do not think the American people are ever going to get over it because for the first time in history, the House of Representatives has voted for a balanced budget amendment. What a historic vote that was. Would it not be awful if the Senate, which was the first body to ever vote for a balanced budget tax limitation amendment, the one we brought to the floor in 1982, when I was chairman of the Constitution Subcommittee, would it not be awful if the Senate voted it down because we cannot find 17 Democrats to vote with us? Would it not be awful? Would not people on the other side of the floor feel terrible about that? I think they would at the polls, because I do not think the American people are going to forget it.

This is the most important constitutional issue, it seems to me, aside from the Religious Freedom Restoration Act, that we passed a few years ago overwhelmingly, on which this body is going to vote in the lifetime of the Members of this body. There are other extremely important constitutional issues that may rise to this dignity, but this is the most important of all of them because we are talking about the future of the country now. And when I see anybody coming to the floor and saying look at all these programs we are going to lose if we pass the balanced budget amendment, I see an argument for more of the same—more of the same of the last 26 years. If we will not do anything we will face it in the future. Sometime we will have to get this under control.

I know there is sincerity among some who make those arguments, but history does not back it up. History does not back it up and our experience does not back it up. I have heard talk about our children's future. Let me tell you, nobody is more concerned about our children's future than those of us who have a lot of children and grandchildren. Elaine and I have 6 children, and we will have our 15th grandchild here in another month or two. I have to tell you, we love each and every one of them, and I am worried that their future is going fast. We are not giving them the future we had because we are spending their legacy away, and we are not willing to do anything about it.

And yet we keep getting these same old tired arguments against doing anything. My gosh, why do we not do it now? I have heard those same arguments ever since I have been here. And I have no doubt of the sincerity of the distinguished Senator from West Virginia. But it is amazing to me, if you make the correlation of those who say, "Let us do it now, we do not need a balanced budget amendment," why it is almost everybody who is going to vote against it who says we do not need a constitutional directive to balance the budget. And most of them have been here as long as I have, or at least a pretty lengthy time in the Senate, and never once have we balanced the budget.

I think the American people have our number. The American dream is fading for our children. We have to make the right decisions now to keep it alive for them. We cannot keep accepting these same old arguments for going on as we have in the past. How can it be said that every State is going to have to increase its taxes because we pass a balanced budget constitutional amendment—as if the States do not each have the ability to respond to a new fiscal environment in their own way. No, Congress is going to have to make priority choices among competing programs for the first time in the time I have served here, 19 years. They are going to have to make the tough choices or they are going to have to stand up and vote not to. If they do, I think they are going to be thrown out of office in the next election, which is what should happen to those of us who do not do what is right. That is the ultimate and real enforcement, and it will work.

We have to cut the waste. We have to cut the fat, and there is plenty. Anybody who denies or doubts that we have waste and fat in this budget just has not looked. They have not looked at the budget. They have not looked at what the Federal Government has done.

Do not tell me we have to continue to pour everything through this bureaucracy when we get only 28 percent back out. Why do we not keep that money at home and get 100 percent for the people, the poor, the sick and elderly, and those who have difficulties in our society? Why launder it through the Federal Government? We are not the all-seeing eye, nor are we always right in our remedies. The Founding Fathers believed the Government closest to the people is better able to deal with such problems. It is a true belief, because people lose touch within this beltway.

The same old order cannot continue. We have to do what is right for this society. This balanced budget amendment will give us the incentives to do so. And I agree with the Senator from Illinois, we take an oath to uphold that Constitution. I think most all of us take that oath very seriously. If this becomes a part of the Constitution, and I believe it will, then I believe we will take it seriously and I believe we will make great inroads over the next 7 years to do what is right for this country.

It may be the only way to save this country from going into a total depression sometime in the future when our money becomes worthless, and when Social Security becomes worthless, and when our children's programs become worthless, and when all of these other programs we have been talking about become worthless as we continued to spend this country blind. If our Government or economy is destroyed by our current profligacy, we will not have any—any—of the programs we have been talking about, and which the opponents of the balanced budget amendment say will be cut if we balance the budget.

As you know, I say to my friend here today, I admire my friend from West Virginia. I admire the way he feels. I admire the way he gives extraordinary time to the Senate and why he is willing to stand out here and take the guff of Senators. He is willing to stand out here and fight for what he believes in.

He is a quintessential Senator. I believe that. But he is wrong. He is wrong to think we can continue to go the way we are going and still solve the problems of this country. As sincere as people are, we can be sincerely wrong.

Even Paul held the coats of the people who killed Stephen, the first Christian martyr, thinking he was right. He was sincerely wrong and he had to admit it later when he was blinded on the way to Damascus.

And the voice said: "Saul, Saul, why persecutest thou me?" And he just stopped. And the minute Paul knew with whom he was talking he said, "Lord, what wilt thou have me to do?" And from that minute on he admitted he was wrong and went to do the job.

We in Congress have to admit we have been wrong, spending this country into bankruptcy and this balanced budget amendment is one of the first steps we should take to right that wrong.

The unfunded mandates legislation is one of the other steps to our redemption. We have to quit loading up the State and local governments with ridiculous unfunded mandates that take away their rights of self-determination and so often actually do not even work. I think the unfunded mandates legislation we recently approved will work. Although I agree with the distinguished Senator from West Virginia, it only takes 51 percent, a majority vote to change it. But I think we are going to be loath to change it now that we have put it in place.

I see the distinguished Senator from Tennessee is here. I know he wants to speak to this matter. There is a lot more I would like to say but I will let it go at this. I just hope everybody in this body recognizes what an important, significant, and historic vote this is going to be. I hope we vote down any and all attempts to change it because this is the amendment. This is our last, best chance. This is the chance to put some fiscal discipline that works into the Constitution, that will help us to do the job that we have not done before because we have not had a constitutional mandate to do it. It is a bipartisan, Democrat and Republican consensus amendment, the best we can do. It is not perfect but it is the most perfect thing we can do and I hope everybody realizes it. Most important, I hope our folks out there throughout this country realize that they have a role to play constitutionally. That role is to write and call and get with your Senators and get them to vote for this. We all know who needs to vote for it.

With that I yield the floor for now and will speak more later.

HOUSE JOINT RESOLUTION 1, THE BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. INOUYE. Madam President, as my constituents know, I do not give speeches on every issue addressed by the U.S. Senate. However, I felt that on a matter as significant to the American people as an amendment to United States Constitution, I had to share my thoughts. In no way is my speech delivered to stall these proceedings. I wish to address the Senate because I am genuinely distressed about several serious deficiencies in the balanced budget amendment measure now before the U.S. Senate, not the least of which is the fact that the American public, ourselves included, does not have a full and fair understanding of how this balanced budget amendment will truly impact our lives.

While the proponents tell us that they will balance the budget, while cutting taxes, increasing defense spending and protecting Social Security, we are also told that to meet all these goals, the Congress will have to cut spending by $1.5 trillion before the year 2002. In addition, estimates by the Congressional Budget Office indicate that if Social Security and defense spending are not cut, all other programs must be cut across the board by 30 percent. I believe the people of America should be told in advance where these cuts will occur.

The new leadership of the U.S. Senate is determined to pass this measure almost as expeditiously as the House of Representatives. With only 2 days of consideration on the House floor on House Joint Resolution 1, debate was, at best, limited. On a matter of this significance, the least we can do is not only fully acquaint ourselves with the matter before us and its effects, but also provide the same information to the citizens of this Nation so they may know its impact on their lives. This should not be part of a contest to see who can pass a bill faster.

The proponents of this measure seem to wish to move with undue haste, without responsibility for the consequences of their actions, only to let the American people and the States unknowingly deal with the unpleasant realities at a later date. Our constituents have a right to know and understand the real impact of this balanced budget amendment.

The concept of a balanced budget amendment to the Constitution is nothing new to this body. In 1980, the Senate Judiciary Committee rejected the proposed constitutional amendment by a vote of 9 to 8. In 1982, the U.S. Senate actually passed a balanced budget amendment. That measure, Senate Joint Resolution 58, would have only allowed deficit spending or an increase in the Nation's debt ceiling upon a three-fifths vote of the Congress. Though passed by the Senate, Senate Joint Resolution 58 died in the House of Representatives.

Many of us in the U.S. Senate consider the balanced budget amendment before us with deep concern because underlying the measure is an implication or suggestion that we who are elected by our people are incapable of doing our work. I believe even a cursory study and analysis of the past 2 years will clearly assure the citizens of our Nation that we are capable of and are, in fact, doing our job.

Our work together with the Clinton administration has produced significant accomplishments over the last 2 years that no one can dispute. Over 5.6 million new jobs have been created. The unemployment rate has dropped from 7.3 percent in 1992 to 5.4 percent as of December 1994, the lowest rate in over 4 years. Inflation has dropped to 2.7 percent, the lowest since 1986. Under the Omnibus Budget Reconciliation Act passed by the Congress in 1993, the Federal deficit has been reduced by $87 billion between 1992 and 1994. This is the first time the deficit has dropped 2 years in a row in over 20 years, and it is the largest 2-year drop in history. The deficit is projected to fall another $27 billion in 1995. Many of us, together with eminent economists, are convinced that the path we have laid will further decrease our deficit and improve our economy.

The United States Constitution is a document of permanency. If sets forth the basic principles, ideals and philosophy of this country and our society. It is not a document which should be tinkered with lightly. The Constitution of this great Nation was signed on September 17, 1787. Delaware was the first State to ratify the document on October 7, 1787. Other States ratified the Constitution during the course of 1788, and the Constitution took effect on September 13, 1788. There are currently 26 amendments to the Constitution. Since the 1st Congress in 1789, 10,736 Constitutional amendments have been proposed in the Congress. We have been rightfully very reluctant to pass Constitutional amendments.

Measures of this magnitude and import must be approached with great care and consideration. It took the U.S. Congress somewhere on the order of 30 years to pass Medicare legislation. Medicare was first debated in Congress in the 1930's with the social reforms of the New Deal. Medicare was not considered seriously again until the mid 1950's. In 1960 Senator John F. Kennedy featured Medicare in his Presidential campaign. However, Medicare was not enacted by the Congress until 1965. Congressional debate to end the Vietnam conflict began in the early 1960's, but the Congress did not set a date certain for the end of the war until 1973—the same year the War Powers Act was passed. The Family and Medical Leave Act was first introduced in the 99th Congress, vetoed by President Bush in both the 101st and 102d Congresses, and finally signed into law by President Clinton in the opening days of the 103d Congress. The Supreme Court's decision in Brown versus Board of Education of Topeka, ordering the racial desegregation of our Nation's schools, was rendered on May 31, 1955. However, not until the Civil Rights Act of 1964 did the Congress give the Attorney General the power to initiate civil actions to achieve desegregation. The Civil Rights Act of 1964 was debated in the Senate for 83 days.

Each of these measures was fully debated in both Houses of the Congress, and they were not even amendments to the Constitution of the United States. I submit that a proposed constitutional amendment demands a significantly higher level of scrutiny and debate wherein the American people are fully informed of all of the amendment's implications.

Every household in our Nation tries its best to balance its individual family budget. However, in contemporary times this task is much more difficult than that faced by my grandparents. Now we have an innovation known as the credit care that allows us to buy now and pay later. As of November 1994, our citizens' revolving loan debt was $334.4 billion.

Living with debt is part of the economy of every country. Such debt is generally categorized into the types of accounts: operating expenses and capital improvements. It is good fiscal policy for a country to work to keep operating expenses current. Similarly, the American family should try to stay current in its everyday expenses. On the other hand, very few Americans would be inclined to purchase a home with cash. That home is acquired with credit in the form of a mortgage loan. This is not so different from a government obtaining financing to fund capital improvements. Presently, the total amount of our Nation's home mortgage debt is $3.3 trillion. The supporters of this balanced budget amendment proposes to consider both operating expenses and capital improvements as one account, lumped together as debt. Economists will tell you that this is not sound fiscal policy.

It is a relatively simple matter when balancing the family budget to be fully cognizant of what must be cut and what operational costs are essential and cannot be curtailed. Unlike this household budget balancing, the balanced budget amendment currently before the Senate intentionally and almost deliberately does not inform the American public of what is going to be done to achieve the goal of a balanced Federal budget. The American people have a right to know this information.

Merely telling our constituents that we will increase defense spending, lower taxes, not touch Social Security, and hope that the economy is going to improve is simply not sufficient. In July of 1981, similar words were uttered by President Ronald Reagan, and the Congress adopted "Reaganomics," also known as supply side economics. When this process began in July 1981, the Federal budget deficit amounted to $79 billion. When Ronald Reagan left office in 1988, the Federal deficit had increased to $155 billion. Under the Republican administration's budget policies, the upward trend continued through George Bush's administration with the deficit topping out at $290 billion in 1992. Proponents of this balanced budget amendment refuse to acknowledge that the problems we address today began in July 1981.

I believe that the American people have the right to know exactly how the Congress plans to put this balanced budget amendment to work. For example, health care costs currently amount to 14 percent of Federal spending. Every study indicates that by 1988, this figure will increase dramatically such that 24 percent of Federal spending will be on health care. One-half of that amount will be spent on Medicare alone. I would think that the people of this country would like to know now whether the balanced budget amendment will result in cuts to Medicare. Will Medicaid funding face reductions, and will research programs for the treatment of breast cancer, AIDS, heart disease, and mental illness be reduced or eliminated? How will highway funds, Aid to Families With Dependent Children, job training and veterans' benefits, and other grants to States be impacted? Further, if States felt that these programs were essential, I would think that our constituents would want to know just how much it would cost them as State taxpayers to continue these programs.

I am also deeply concerned about the provision in House Joint Resolution 1 which provides that the balanced budget requirement may be waived if there is a declaration of war, or the United States is engaged in military conflict which threatens the national security of our country.

Would the United States' humanitarian mission in Somalia come within this provision? What about United States peacekeeping efforts in Bosnia? What about Haiti, Desert Storm, Vietnam and Korea? Some would argue that the Korean war was a police action, not the result of a declaration of war, therefore, not a war.

Further, how will we deal with the financial impact of natural disasters over which we have no control—Hurricanes Andrew, Iniki and Omar, floods in the Midwest and California, and the earthquakes in California, to name a few.

The American people deserve to know the answers to these questions.

At the request of the National Governors' Association, the U.S. Department of the Treasury recently prepared a report on the likely effects on the States of a balanced budget amendment alone, as well as accompanied by the tax reductions proposed by the Republican Contract With America. As proposed by the proponents of the balanced budget amendment, the Treasury Department assumed that there would be no cuts to defense or Social Security, not tax increases, and that deficit reduction would be achieved by the year 2002.

According to the Treasury Department, even if phased in gradually between now and the year 2002, deficit reduction cuts will be severe in 2002. A balanced budget amendment will require reducing Federal grants to States, for programs such as Medicaid and highway funds, by a total of $71.3 billion in fiscal year 2002. Other Federal programs that directly benefit State residents, such as Medicare and housing assistance, would have to be cut by $176.5 billion in fiscal year 2002. However, these figures grow significantly if Republican-sponsored tax reductions in the Contract With America are taken into account. Cuts totalling $97.8 billion in grants and $242 billion in other programs that directly benefit State residents would be required in fiscal year 2002 under a balanced budget amendment combined with the proposed Contract With America tax reductions.

For the benefit of my constituents, I would like to highlight the impact on the State of Hawaii based upon an analysis prepared by the Treasury Department. I ask unanimous consent that a copy of the Treasury Department's analysis on the impact of the balanced budget amendment and Contract with America tax reductions be included in the CONGRESSIONAL RECORD following my remarks.

(See exhibit 1.)

Mr. INOUYE. As the Treasury Department's analysis indicates, a balanced budget amendment alone would reduce annual Federal grants to Hawaii for Medicaid, highways, Aid to Families with Dependent Children, education, job training, environmental protection, housing and other programs by $328 million. Combined with the proposed tax cuts in the Contract With America, this figure rises to $450 million in lost Federal grants annually. Hawaii would also lose another $1 billion annually in other Federal spending for Medicare, housing assistance, student loans, veterans' benefits and other programs. The Treasury Department's analysis further shows that Hawaii State taxes would have to be increased by over 9 percent to make up for lost Federal funding and to continue these programs.

The American public and our constituents have a right to know about the impact of the proposal before us on their lives. Without a provision setting forth the nature and amounts of budget cuts, the balanced budget amendment measure before us would be grossly unfair to our States and our taxpayers.

Why are the Republicans who are the authors of this balanced budget amendment afraid to let the people know? Don't they trust their fellow Americans? The logical and appropriate way to make decisions is to know all the facts. Our constituents—the American taxpayers—and our State legislatures should be entrusted with and have the benefit of the facts before this balanced budget amendment is considered for ratification.

The Senate is unique because it is where ideas and concerns can be freely and fully expressed. I hope that every Member of this body will express themselves freely. I hope that all of us will participate openly in this debate.

As this joint resolution stands today, I will most certainly oppose it and do everything in my power to defeat it.

EXHIBIT 1

THE IMPACT OF A BALANCED BUDGET AMENDMENT AND THE CONTRACT WITH AMERICA ON THE STATE OF HAWAII[1]

I. A Balanced Budget Amendment would reduce annual Federal grants to the Hawaii state government by $328 million:

$117 million per year in lost funding for Medicaid.

$62 million per year in lost highway trust fund grants.

$24 million per year in lost funding for welfare (AFDC).

$125 million per year in lost funding for education, job training, the environment, housing, and other areas.

Hawaii would have to increase state taxes by 6.8 percent across-the-board to make up for the loss in grants.

II. A Balanced Budget Amendment combined with the "Contract with America" tax cuts would require even deeper spending cuts, thereby reducing annual Federal grants to the Hawaii state government by $450 million:

$161 million per year in lost funding for Medicaid.

$85 million per year in lost highway trust fund grants.

$32 million per year in lost funding for welfare (AFDC).

$172 million per year in lost funding for education, job training, the environment, housing, and other areas.

Hawaii would have to increase state taxes by 9.3 percent across-the-board to make up for the loss in grants.

III. A Balanced Budget Amendment and the "Contract with America" tax cuts would reduce other annual Federal spending in Hawaii by $1.0 billion:

$296 million per year in Medicare benefits.

$716 million per year in other spending including housing assistance, student loans, veterans' benefits, and grants to local governments.

TABLE 1.—SPENDING REDUCTIONS UNDER BALANCED BUDGET AMENDMENT, FISCAL YEAR 2002

[In millions of dollars]

State	Cuts in grants to State governments					Required State tax increase (in percent)	Cuts in other Federal spending		
	Total	Medicaid	Highway	AFDC	Other		Total	Medicare	Other
Alabama	1,162	641	98	32	391	16.4	3,058	1,157	1,900
Alaska	306	89	71	19	127	9.8	576	44	532
Arizona	919	519	78	68	254	10.4	2,397	949	1,447
Arkansas	723	416	65	16	225	16.5	1,567	766	800
California	7,708	3,944	442	960	2,362	9.2	20,321	9,101	11,220
Colorado	755	387	79	36	253	11.8	2,764	721	2,044
Connecticut	1,008	587	105	63	253	11.2	1,843	1,089	755
Delaware	158	70	18	9	61	7.2	383	176	207
District of Columbia	697	183	17	24	473	20.4	4,937	313	4,624
Florida	2,656	1,520	202	170	764	10.2	9,782	5,336	4,446
Georgia	1,608	938	131	101	438	12.0	2,780	1,392	2,398
Hawaii	328	117	62	24	125	6.8	737	216	522
Idaho	254	118	33	8	95	9.9	855	218	637
Illinois	2,576	1,354	174	155	892	11.6	7,532	4,092	3,441
Indiana	1,490	956	123	54	357	13.8	2,531	1,497	1,034
Iowa	630	328	69	35	197	10.9	1,919	897	1,022
Kansas	622	355	52	29	186	13.0	1,730	819	911
Kentucky	1,157	690	69	56	341	14.5	2,111	952	1,159
Louisiana	1,966	1,500	94	48	324	27.8	2,361	1,066	1,296
Maine	452	279	28	24	121	17.5	717	385	331
Maryland	1,125	581	83	65	398	9.9	6,253	1,377	4,876
Massachusetts	1,915	1,073	248	135	459	12.6	4,683	2,449	2,234
Michigan	2,477	1,355	140	229	753	13.2	4,988	3,333	1,655

Source: U.S. Department of the Treasury, January 12, 1995.

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[1] For all calculations, a balanced budget is achieved by FY 2002 through across-the-board spending cuts that exclude defense and social security.

TABLE 1.—SPENDING REDUCTIONS UNDER BALANCED BUDGET AMENDMENT, FISCAL YEAR 2002—Continued

[In millions of dollars]

State	Cuts in grants to State governments					Required State tax increase (in percent)	Cuts in other Federal spending		
	Total	Medicaid	Highway	AFDC	Other		Total	Medicare	Other
Minnesota	1,177	679	102	83	314	9.4	2,547	1,123	1,424
Mississippi	864	496	61	24	282	20.8	1,672	713	959
Missouri	1,316	747	109	62	398	15.5	3,942	1,781	2,161
Montana	277	123	52	12	89	19.8	744	218	526
Nebraska	388	192	44	23	129	13.3	1,213	482	732
Nevada	227	116	32	11	68	6.2	1,005	258	747
New Hampshire	212	112	31	11	58	17.6	563	270	293
New Jersey	2,476	1,500	141	129	705	12.7	4,653	2,894	1,759
New Mexico	524	233	70	28	193	12.9	2,117	321	1,796
New York	8,181	5,442	274	535	1,930	17.4	11,058	6,876	4,182
North Carolina	1,697	1,025	136	95	441	11.1	3,217	1,432	1,785
North Dakota	229	105	35	8	81	19.7	563	231	332
Ohio	2,826	1,718	170	212	727	14.4	6,007	3,442	2,565
Oklahoma	770	424	51	51	244	12.4	2,110	934	1,117
Oregon	706	342	54	47	263	12.2	1,976	833	1,143
Pennsylvania	3,057	1,767	211	178	901	12.7	8,555	5,120	3,435
Rhode Island	430	255	42	23	109	21.4	619	347	272
South Carolina	1,033	644	68	31	260	14.3	2,217	682	1,536
South Dakota	231	103	39	6	82	24.7	577	205	372
Tennessee	1,537	989	78	60	411	19.5	3,845	1,349	2,496
Texas	4,167	2,520	340	147	1,159	14.0	10,758	4,280	6,479
Utah	422	190	49	22	160	11.4	1,078	235	842
Vermont	207	89	37	13	68	17.4	301	150	151
Virginia	1,005	490	72	49	393	8.2	6,073	1,374	4,699
Washington	1,318	730	117	126	346	8.4	3,569	1,107	2,463
West Virginia	765	488	45	32	199	20.6	1,209	600	608
Wisconsin	1,250	694	111	96	349	10.3	2,480	1,503	977
Wyoming	218	55	38	8	118	18.7	286	96	191
Total, State	70,172	40,271	5,093	4,480	20,328	12.6	172,792	77,199	95,593
Undistributed and territories	1,127	43	83	28	973	NA	3,700	276	3,424
Total, United States	71,300	40,314	5,176	4,506	21,301	NA	176,492	77,476	99,017

Source: U.S. Department of the Treasury, January 12, 1995.

TABLE 2.—SPENDING REDUCTIONS UNDER CONTRACT WITH AMERICA, FISCAL YEAR 2002

[In millions of dollars]

State	Cuts in grants to State governments					Required State tax increase	Cuts in other Federal spending		
	Total	Medicaid	Highway	AFDC	Other		Total	Medicare	Other
Alabama	1,594	879	135	44	536	22.5	4,195	1,688	2,608
Alaska	420	123	98	28	174	13.5	790	60	730
Arizona	1,261	712	108	93	348	14.2	3,288	1,302	1,986
Arkansas	992	571	90	23	309	22.7	2,150	1,052	1,098
California	10,576	5,412	607	1,317	3,241	12.8	27,880	12,486	15,394
Colorado	1,036	531	108	49	347	16.2	3,793	989	2,804
Connecticut	1,383	805	145	86	348	15.4	2,528	1,494	1,035
Delaware	217	97	25	12	83	9.8	526	241	284
District of Columbia	956	252	23	32	650	27.9	6,774	429	6,345
Florida	3,644	2,086	277	233	1,048	14.0	13,421	7,321	6,100
Georgia	2,206	1,286	180	138	601	16.5	5,200	1,910	3,290
Hawaii	450	161	85	32	172	9.3	1,012	296	716
Idaho	349	162	46	11	131	13.6	1,173	299	874
Illinois	3,534	1,858	239	213	1,224	15.9	10,334	5,614	4,721
Indiana	2,044	1,312	168	74	490	18.9	3,473	2,054	1,419
Iowa	864	451	95	48	270	15.0	2,633	1,231	1,402
Kansas	853	487	71	40	255	17.8	2,374	1,124	1,249
Kentucky	1,587	947	95	77	468	19.8	2,896	1,306	1,590
Louisiana	2,697	2,059	129	66	444	38.2	3,240	1,462	1,778
Maine	621	383	38	33	166	24.0	983	529	454
Maryland	1,543	798	113	89	543	13.5	8,579	1,889	6,690
Massachusetts	2,627	1,472	340	185	630	17.3	6,425	3,360	3,065
Michigan	3,398	1,859	192	314	1,034	18.1	6,844	4,572	2,271
Minnesota	1,615	931	139	113	431	13.0	3,494	1,541	1,954
Mississippi	1,185	681	84	33	387	28.5	2,294	978	1,316
Missouri	1,806	1,025	149	85	547	21.2	5,408	2,444	2,965
Montana	380	189	71	17	123	27.1	1,021	298	722
Nebraska	533	264	60	31	177	18.3	1,665	661	1,004
Nevada	312	159	44	15	94	8.6	1,379	354	1,025
New Hampshire	291	154	43	16	79	24.1	773	370	403
New Jersey	3,397	2,059	194	177	968	17.5	6,364	3,971	2,413
New Mexico	719	320	96	38	265	17.6	2,904	440	2,464
New York	11,226	7,466	376	734	2,649	23.8	15,172	9,435	5,738
North Carolina	2,329	1,406	187	130	605	15.2	4,414	1,965	2,449
North Dakota	314	144	48	10	111	27.0	773	317	455
Ohio	3,878	2,358	233	290	997	19.8	8,242	4,722	3,520
Oklahoma	1,056	582	70	69	335	17.0	2,896	1,281	1,615
Oregon	969	469	75	65	361	16.6	2,711	1,143	1,568
Pennsylvania	4,194	2,424	290	244	1,237	17.4	11,738	7,025	4,713
Rhode Island	590	350	68	32	150	29.3	849	476	373
South Carolina	1,378	883	94	42	357	19.6	3,042	935	2,106
South Dakota	316	142	53	9	113	33.8	792	281	511
Tennessee	2,109	1,357	107	82	563	26.7	5,275	1,850	3,425
Texas	5,717	3,457	466	202	1,591	19.2	14,761	5,872	8,889
Utah	579	261	68	31	220	15.6	1,479	323	1,156
Vermont	284	122	51	18	93	23.9	413	206	207
Virginia	1,379	673	99	68	539	11.2	8,332	1,885	6,447
Washington	1,809	1,001	161	172	474	11.5	4,897	1,518	3,379
West Virginia	1,049	670	62	44	273	28.3	1,658	824	835
Wisconsin	1,716	952	153	132	479	14.2	3,402	2,062	1,340
Wyoming	300	75	52	10	162	25.7	393	131	262
Total, State	96,278	55,253	6,988	6,147	27,891	17.3	237,075	105,919	131,155
Undistrict and territory	1,547	69	114	38	1,335	NA	5,077	378	4,698
Total, United States	97,825	55,312	7,102	6,185	29,226	NA	242,151	106,298	135,854

Source: U.S. Department of the Treasury, January 12, 1995.

Mr. THOMPSON. Madam President, first of all I compliment the Senator from Utah for his leadership in this regard. It has been a great pleasure for me over these last few days, and just recently as I presided, to listen to him articulate the problem, articulate the history leading to the problem, articulate the solution that is needed. I think, as usual, he hits the nail on the head.

It was a great honor for me to sit here and listen to the debate that has gone on this afternoon with the Senator from Illinois, proving that this is indeed a bipartisan effort. We are all concerned about it. The Senator from West Virginia, who is indeed an institution within an institution, who swore me in less than 60 days ago, and whom I respect greatly and whose views I respect greatly—this is what to me the U.S. Senate ought to be about. Senators on the floor of the Senate, debating the great issues that affect this country. I wish more of our colleagues could have been here. I hope they are watching in their offices on television, to listen to these great Senators debate this great issue.

Because I agree with the Senator from Utah that this is, if not "the," certainly one of the most important votes and decisions that will be made by the Senators in this body during their careers. I think we have to focus, from time to time during this debate, on exactly what we are about. I think it is nothing less than deciding whether or not we are going to take the necessary steps to protect the next generation from lower pay, from a lower standard of living, and ultimate bankruptcy of this country, or whether or not we are going to bow to those who keep demanding we do not have to cut back, insisting we do not, on current consumption, and are willing to let the next generation make the tough choices instead of ourselves.

As I listened to the debate and listened to the comments of those who oppose this amendment, I hear that there are questions concerning what is the role of the Court? What is the role of the President going to be? Who is going to be cut? We debate whether or not it was this President's fault or that President's fault. We debate whether or not it is the institution of the Presidency or the institution of the Congress—whose fault is it? Where does the blame lie? How are we going to resolve the difference between those who advocate lower taxes and those who advocate lower spending? How is all that going to be worked out?

Madam President, I think that is the debate that has been going on in this body, I suppose, for 200 years. That is the old debate. Unfortunately we still keep getting the old result, and that is a $5 trillion debt that we are approaching in this country, spending ourselves into oblivion and bankrupting the next generation.

Everybody is for a balanced budget. I have not heard anyone speak yet who was not for the concept of a balanced budget. I have not heard anyone speak yet who has not fought the good fight over the years to balance the budget and to show fiscal restraint and to show fiscal responsibility. I am not sure where the opposition really is. Everybody I have heard is for a balanced budget and has fought for it all these years. There must be some people lurking around here that we have not heard from yet because certainly we have not made any progress on it in the last two decades.

That is the debate of the past. Whose fault is it, why are we here, are we going to raise taxes, are we going to cut spending, what combination of all of that—that is what we have been debating in the past and that is what we will have to debate in the future. But times are different.

Madam President, I listened to the Senator from West Virginia talk about his career of 48 years in politics. It is a distinguished career in politics. I can never hope to achieve what he has learned in the time that he has been in government, both in the State of West Virginia and in the U.S. Congress and the U.S. Senate. I have much of a contrast with that.

I have been in politics for about a little less than 60 days, so I have great disadvantage in terms of his background and his knowledge. But I also come with one advantage, because I feel just having spent so much time with the people of my State that I can relate to a certain extent what is on their mind and what they feel about certain things.

I suspect it is not limited to the State of Tennessee. I think nothing less than a revolution is going on in this country and it is time this body picked up on it.

We have 6-year terms here. We are not supposed to bend with every wind that blows, and that is good. But I think those who have not been out there among the people, talked to them, listened to them, and had to be judged by them recently are not fully aware that just within the last few years people's thinking has changed in this country. I think people today in the United States of America have decided that our generation is not going to be the generation that sees the United States of America go from the greatest country in the world to a second-rate power. I think that the people of this country have decided just recently that they are not going to stand for the proposition that ours is the last generation that can expect to do as well or better than their parents' generation, which is what a lot of people are saying now.

I believe people feel a cynicism toward their Government, an alienation from their Government, a dissatisfaction with the U.S. Congress. That has never been before in this country. Perhaps some of it is unjustified. I submit to you that much of it is very much justified.

As we debate these issues, and as we try to decide whose fault it was, and this bill that was passed, who voted for it, how many people on this side of the aisle and all of that, as we debate that, as we see the debt increase, as we see the deficit increase, as we are taxing those unborn out there who do not have votes, as we see all of that, we see a public opinion poll occasionally that shows that people in this country have a lower regard for the U.S. Congress than almost any institution in America. Seventy percent of the people in a recent poll indicated that they believe the U.S. Congress is more interested in perpetuating itself and the individual Members in office than it is in doing the right thing. People are seeing that and they are demanding a change. They are demanding that we turn away from this old debate, who shot John, whose fault it is, how we are going to work out the details, and make one fundamental commitment to ourselves and to the future generations. And that is that we are going to change the way we do business in this country, and we are not going to hand over a second-rate power to this next generation, which is surely what we are doing as sure as I am standing here today.

Why do they feel that way? Why do they feel that way? Are people whipping them into a frenzy? Are some clever politicians convincing them of things that are not really true? Are they overly impressed with attack ads on TV? What is the reason for that?

I think it is more fundamental for that. I think the people out in the country and having to work for a living are the leading indicators. I think they are picking up on something, and they have something they understand much more so than a lot of people around here understand. They see and understand that we have gone from a country with one of the highest savings rate in the industrialized world to actually the lowest savings rate. We must have savings for investment.

They see that we now have one of the lowest investment rates of any of the industrialized countries. They understand that you have to have investment to have growth. But with one of the lowest investment rates, our growth rate is slowing down. People talk about recent years, recent months. We are so short-term oriented in this country. We cannot see the forest for the trees.

The fact of the matter is we have had a good growth rate recently. But when you compare it with other points in our history when we have come out of recessions, we are growing at a much slower rate coming out of a recession than ever before. The indicators are all over the place. They see the astronomical amount of money that we are having to borrow from foreign investors and our dependency on foreign investors. They pick up the paper and see what is going on with our neighbors south of the border and the trouble that they got into when the foreign investors decided that all of a sudden maybe it was not such a good deal after all.

Many economists predict a credit crunch in this world in the not-too-distant future. In 1993, we sent $41 billion in interest payments overseas. People talk about foreign aid. That is the largest foreign aid program we have in this country. That is larger than all the foreign aid programs put together plus the operation of our embassies; $41 billion we have sent out in interest payments because of the size of our debt.

The reason for that? The debt keeps climbing, $4.8 trillion. The deficit is hovering around before long $300 billion, some say $400 billion before long. Although we have made a little progress in the last few years, one could argue, and everyone acknowledges, that in 1998 and thereafter it is going to go off the charts. Everybody knows that. We have seen charts in this body that show us going along. And along about that time, it is almost straight up.

But we act like we have all this time and that the problem is not on us. But yet, instead of facing up to it, instead of realizing that, yes, we will have to put a straitjacket on ourselves because we have not been behaving the way we have to, we get scare tactics, we get charts about who is going to be hurt, and widows and children are going to be left in the street, and Social Security is going to be in danger, and all of these other things.

We are urged to look to the short term. "Don't worry about down the road. Let that situation take care of itself," while all the time we turn from the world's biggest creditor to the world's biggest debtor. We turn from a country that sometimes borrowed overseas for investment purposes to a country that now is borrowing larger and larger sums for purposes of consumption. All the time, while we are going from a country that has always had rates of investment and productivity that led the world to one that is among the lowest in the world now; from a country that used to invest in its children to a country that now is living off of its children and grandchildren and children yet to be born.

So the American people see that. The American dream is darkening for many people. You hear young people. You ask them whether or not they expect to do as well or better than their parents. For the first time in the history of this country their answer is no. They understand that family income has been stagnant for 20 years in this country. What a lot of people do not understand is that for younger households income has actually fallen since 1973. For people who are starting families, working hard for a living, they understand that the middle class is actually shrinking.

We are falling into a second-rate power before our very eyes. They understand that. They see all of that. They also see what will happen if we do not make some incremental adjustments now. That is what it is all about. Nobody is talking about slashing programs and making massive cuts. For the most part, the conversation you hear is about economists having to make some incremental differences, having to do with slowing down the rate of increase, those sorts of things.

Yet the U.S. Congress, as of yet, has not even been willing to do that. We hear about all the dire consequences to all these programs, and individuals will have to cut back, and States will have to cut back. There will be some things that actually we might have to give up. And we will have to give up the political power that goes along with it, with the ability to dole out these things and buy the votes that we are used to buying in this country with the pork that we are used to doling out. Those times have to change.

Those times have to change. The deficit in this country, and the interest we are paying on the deficit, as the Senator from Utah pointed out, is the second highest expenditure in this Nation. This year it may pass defense; it may become the greatest expenditure we have in the entire budget. It is sapping our savings which, in turn, is lowering our investment which, in turn, is affecting our growth. If we are going to continue down that road, growth is going to slow, we will go into recession, the economy will become more stagnant, foreigners will own more and more of our productive capacities—we pay them more and more—there will be lower paying jobs, a lower standard of living, and fewer younger people supporting a growing elderly population.

When we talk about these dire consequences and about the path that this Nation is on, we are experiencing the good news today, because the demographics are working in our favor. We have a very large working population—the baby boomers. We have more two-income earner families than ever before. But in about 2010, those demographics are going to change. As the baby boomers start to retire, we are going to have fewer and fewer people supporting more and more people in this country. That is right around the corner.

If we do not start making some incremental adjustments now, we are going to have a situation in this country where these young working people are going to be paying 70 percent of their income in taxes. They are going to be driven right through the floor in terms of their living conditions and in terms of their wages, and taxes are going to go through the roof. If you read anything any person who has written recently on the subject—any person who is now out of Government—and we hear talk about the Concord coalition, a bipartisan group, and about Mr. Peterson, a former Secretary of the Treasury, who wrote a recent book about it. These are not debatable issues, I do not think. It is clear that that is going to be the situation. What is that young working group of people on whom we, hopefully, all will be depending—and if we are alive, we will be—going to do?

I predict that they are not going to sit still for that. They are not going to sit still for 70 percent in taxes. They are not going to sit idly by while they see all these dire things happening. The chances are, I think, if we do nothing now and we let that happen, these very programs that the opponents of the balanced budget amendment want to protect so greatly are going to be slashed, thrown on the floor, stomped, decimated, and we will go further than anyone would ever dream of going today in terms of cutting and doing away with the programs that all of us claim to want to protect today.

Some people talk in terms of generational warfare. It will be the young folks against the old folks. Is that what we are headed toward? Are we not better than that, when we have the solution before us? Or at least an opportunity to put ourselves into a position to do something about it, because obviously we cannot under current circumstances.

The Entitlement Commission people ask why do we not do something about it. The Entitlement Commission came out with a report last August, a bipartisan group, including Senator KERREY from Nebraska, Senator DANFORTH from Missouri, two very thoughtful Members of this body, and they issued some rather startling reports. The one I remember is that in the year 2012, I guess, or thereabouts, we are going to run out of money, that a handful of programs and the interest on the debt in this country are going to take all of our tax revenues. We will not have money for national defense, infrastructure, schools, education, or anything else in this country. That is in 2012.

What has been the result? We hear that all we need is the will to do the right thing and everyone purports to have it. Everyone says that they are in support of a balanced budget, the implication being if we will just put this amendment aside that they are fighting so hard, this time maybe we can do something about it.

I was doing a little reading on the history of that. We have not been lacking in lip service. The Balanced Budget Act of 1921 required the President to recommend a balanced budget. The

Revenue Act of 1964 said it was the sense of the Congress that the budget had to be balanced, and soon. The Revenue Act of 1978 stated that it was a matter of national policy to balance the budget of this Nation. The Humphrey-Hawkins Act of 1978 prioritized a Federal balanced budget. The Byrd amendment—Senator Harry Byrd of Virginia—in 1978, was an amendment passed that basically said that in fiscal year 1981 outlays cannot exceed receipts. That was the law passed. What happened in 1981? We had a $79 billion deficit. My research has not taken me back far enough to find out what happened to that. Apparently, it was ignored and I think after a while it got embarrassing, so they took it off the books. But we had a law that basically said the budget had to be balanced, for a little while anyway.

The Budget Act of 1974 is the foundation for the budgeting process today, and it requires annual budget resolutions. People said, "We have it right this time. People will be afraid to vote for these large deficits when they have to come up with budget resolutions." The next year the deficit ballooned and, with few exceptions, it has ballooned ever since.

Gramm-Rudman-Hollings, in 1985, mandated annual reductions in deficits, and it actually had an enforcement mechanism—sequestration. That lasted a little while until the shoe got a little tight and everybody apparently decided to take the shoe off. They revised the targets. They revised them again, and ultimately they became irrelevant.

The 1990 budget deal, which I heard talked about a minute ago, is used as an example of our ability to come to terms with this deficit problem. From what I read at the time, this great bipartisan compromise, of course, involved increasing taxes, as it usually does, and the deficit increased. That was the budget deal that was supposed to get the job done. It had no affect as far as decreasing the deficit was concerned. Just the opposite. In 1993 came the latest budget deal. They are praising the President for that deal, which as I read is the largest tax increase in the history of the country, with major cuts in the military and promised cuts for the future, which we may or may not get.

Putting that aside for a minute, because even before the administration's own estimates, with all the wonderful things we are doing, it adds over $1 trillion to the debt over the next 5 years. So this is being touted as a solution. This is being touted as an example of how good we can do. It adds $1 trillion to the debt over the next 5 years.

Why is it so difficult? Well, it is because we factionalize in this country so much. Everybody has their own special interest and everybody has people they have hired to come up here and descend on us. That is, of course, a large part of what all this detailing is about and, of course, everybody wants some kind of detail. There are more proposals to balance the budget floating around this town than you can count. CBO, I noticed, had a proposal they wrote to the chairman of the Judiciary Committee with ideas on how to balance the budget. The Concord coalition has one. Mr. Peterson came out with one in his book.

What, really, I think, is desired by some folks is the ability to put something on the table so special interests can come in and put the pressure on to defeat the balanced budget amendment. So you have all the individuals who have been used to the gravy train, the pork barrel, and they do not want to give it up. The folks that are affected most are the kids at home, the little grandkids, and generations yet to be born, and in that kind of a battle, who do you think is going to win? Who has won in the past? It is going to be tough enough with a balanced budget amendment.

Other nations have not really done much better than we have. Is there any hope to think that we can easily turn this thing around without drastic remedies, if you want to call it that? I think it is very modest. I wish it was tough.

I agree with some of the opponents to this amendment that, you know, there will be efforts to try to get around it and in it, through it, under it, and all of that. But I think it really has a chance; it really has an opportunity. And it might be our last clear chance to do something really meaningful for the next generation. But how tough it is, how tough it is to turn around.

The Senator from Utah is leading this fight for us to turn this gigantic force that is working against us, this gigantic force that is working for more and more spending; putting off until tomorrow; let us consume today; let us not worry about it; get the votes today; hand out the pork today.

Read Kennedy's "Rise and Fall of the Great Powers," and Kevin Phillips recently came out with a book, "The Arrogant Capital." I do not know how in the world he came up with a name like that but that was the title of his book, "The Arrogant Capital."

They talk in these books about the history of the Nation and how the Spanish declined in the 16th century and how the Dutch went to great heights and declined in the 17th century and how the British went to great heights and declined in the 19th century. And they really sort of asked the question: Do we feel as though we in this country are immune to the laws of nature and the laws of gravity? They were unable to roll back the strong trends that were in their countries, pushing them to greater deficits, greater debts, higher taxes, slowing economy, a declining manufacturing industry, all the things that we are beginning to see in this country. So the battle is not an easy one.

You know, as we talk among ourselves, and we hear it regardless of what the people want, people talk about majority rule and all. Look at any poll, answer your phone calls, read your mail. I do not think there is any question but the American people have decided: Enough is enough. We have to do things differently. We voted for a change. We have been wanting change for some time. Maybe we thought we were trying to get it 2 years ago in the last Presidential election.

A fellow from Texas that hardly anybody knew went from nowhere and just within a few short months he got into a position where, some people said, under a slightly different set of circumstances, he could have gotten the nomination and been President, from nowhere, because he was talking about changing the way we do business in this country.

All that is going on out there. And yet we need a two-thirds vote in this body.

And I understand there are even some people who voted for the balanced budget amendment last time who are now saying that they may vote against it this time. Last time, they were pretty sure it would not pass and maybe this time they are afraid that it might pass. So it is going to be difficult.

I, again, commend the Senator from Utah, who is leading this fight and articulates this case so well. I think it is the most important vote we will have in a long, long time as far as this U.S. Senate is concerned.

I only urge those within the sound of my voice to remain focused on what this is about. The patient—and maybe we are the patient—has been acting a little crazy over the last several years, and we have not been doing the right thing, and the thing we know that we are going to have to do to get better. It sure would be good to cure the patient. But we have been taking treatment and medicine for a long time, and it is not doing us any good.

Maybe the time has come that we are going to have to impose a straitjacket on ourselves. It is not perfect. But until we show some inclination, absent getting hit over the head with a 2 by 4, to do the obvious and right thing that we ultimately have to do to protect this next generation, this is the way to go. We will worry about the details in terms of the implementing legislation, and we can have the debates that we have already started here today.

But I think it is vitally important that we get about the business of passing this amendment and make a statement that we are not so selfish that we are going to sit idly by and debate these issues forever, using the moneys and the assets and the resources in the very country that is the birthright of the next generation; but we are going to take a step forward, say no to the vested interests, say no to those who want to continue to consume not just what they are consuming now but more and more and more, and say to everyone that we are all going to have to make some incremental change.

Is there any more basic commitment that a human being has than the one that he has to his children? If we had our child standing next to us here, there is nothing that we would not do. And yet, we are so dispersed in our attention and we are so diverted in so many different ways, we have not been able to focus on what we are doing. This debate will focus on what we are doing.

I commend the Senator from Utah and other colleagues in this great fight.

Thank you very much.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I ask unanimous consent that the distinguished Senator from New York be given the floor after I make very brief remarks about the great remarks of my colleague from Tennessee.

The PRESIDING OFFICER. The Chair wishes to make two announcements and then will recognize the Senator from New York, following the remarks of the Senator from Utah.

Mr. HATCH. Madam President, I want to compliment the distinguished Senator from Tennessee for his very, very welcome and important remarks on this issue.

I think this new group of Senators is as good a group as I have ever seen come into the U.S. Senate. We feel particularly privileged to have four of them on the Judiciary Committee, not the least of whom is the distinguished Senator from Tennessee.

In his own down-home Tennessean sort of way, he has laid out why we have to pass this balanced budget amendment. I personally just want to express my appreciation and my high regard for him. I believe that the distinguished Senator from Tennessee is going to make a whale of a difference here in the Senate, and already is making a whale of a difference on the Judiciary Committee, as I am sure he is on other committees. So I personally thank him for his kind remarks.

If people have been noticing, these new Senators have been coming here and speaking on this amendment because they got the message. They know that is one of the reasons they are here. I personally appreciate their efforts in this matter.

I yield the floor to my colleague.

APPOINTMENTS BY THE CHAIRMAN OF THE FINANCE COMMITTEE

The PRESIDING OFFICER. The Chair announces on behalf of the chairman of the Finance Committee, pursuant to section 8002 of title 26, United States Code, a substitution in the membership of the Joint Committee on Taxation. The Senator from Kansas [Mr. DOLE] has resigned from the joint committee and will be replaced by the Senator from Utah [Mr. HATCH] for the duration of the 104th Congress only. Therefore, the membership of the Joint Committee on Taxation for the 104th Congress is as follows: the Senator from Oregon [Mr. PACKWOOD]; the Senator from Utah [Mr. HATCH]; the Senator from Delaware [Mr. ROTH]; the Senator from New York [Mr. MOYNIHAN]; and the Senator from Montana [Mr. BAUCUS].

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to section 1024, title 15, United States Code, announces the following majority appointments to the Joint Economic Committee: the Senator from Florida [Mr. MACK], chairman; the Senator from Delaware [Mr. ROTH]; the Senator from Idaho [Mr. CRAIG]; the Senator from Utah [Mr. BENNETT]; the Senator from Pennsylvania [Mr. SANTORUM]; and the Senator from Minnesota [Mr. GRAMS].

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. D'AMATO. Thank you, Madam President.

Madam President, I wish to associate myself with the remarks of our new colleague, the distinguished Senator from Tennessee. I think he has spelled out very cogently why the American people voted for change. They are tired of Big Brother Government saying, "We know what's best for you. We're going to give it to you, whether you like it or not. We have programs that are good for you, whether you can pay for them or not."

The people want a balanced budget amendment, and they are right. This is no time to start playing politics as usual. This is an important issue.

I will tell you how important it is. If we continue to do business as we have in the past, we will become just like our neighbor to the south.

Who will we go to for the bailouts? Who? What are we talking about? We are not talking about cutting spending. Oh, no, we are talking about decreasing the rate of spending. We are still going to spend trillions—something like $13 trillion in the next 7 years. We are talking about maybe cutting that down to $12 trillion. If we can do that, we have a balanced budget.

What do we have here? The opposition, the Democrats, are simply and purely stalling. They are looking for a way for escape clauses. Let me tell Members, there are many of our colleagues who voted on the other side for the balanced budget amendment. What are they doing now? Why, they are scampering for the hills. The Senator from Tennessee was absolutely right. They voted for the balanced budget amendment to protect their political hide in years gone by so they could go back and say to their people, "Oh, I voted for the balanced budget amendment." They knew we could not get two-thirds.

And here we are. Here we are, poised to do something that the American people overwhelmingly want. And what are they doing? Ducking, shimmying, telling us, "How can you get there? Spell it out over the next 7 years." They cannot tell us what they are going to do next month, let alone 7 years down the line.

What are the interest rates going to be 7 years down the line? Keep spending this way, it will be 20-plus percent, we will not have any economy. The Senator is right. Know what Social Security will be worth? Know what inflation will take place? Incredible. What are we going to do then? It is about time we did the business of the people. Stop the pussyfooting.

The American people know what they want. Those Members who were sent here to do the business of the people should keep our feet to the fire. I know it will be tough. But doing the right thing sometimes does require some courage. The fact is that we should stick with the principles that the American people are demanding. They want Members to balance the budget. They want Members to cut spending, cut taxes. It is right for America. We can do it.

I have to tell Senators I am not going to look the other way. I will be very candid. If our colleagues begin this business of attempting to find these escape clauses, we will call it to the attention of the American people. We have an obligation to keep their feet to the fire, to do the business of the people.

Mr. President, in that connection, I have to say I think that the President of the United States looked for a way to get around the voice of the people. The voice of the people is the Congress. And in proposing his new agreement to help our neighbors to the south, he circumvented the Congress. Now, I hope that that plan works. But I have grave, grave doubts. I have grave doubts that we will have the ability to see to it that those loan guarantees are not just withered away, and that we do not see the American taxpayers picking up $20 billion-plus.

I can name places I see loan guarantees and we know they will get paid back, and they do help. Maybe Orange County. I remember loan guarantees for New York. Much more difficult terms then those we have made available to our brethren in the south—Mexico. Guarantees. That means we are paid out over a period of 4 years. Not within an 18-month period of time.

I did not know if the IMF and the World Bank will do the kind of job or whether they are in a position to see that Mexico makes the kind of reforms necessary, or whether they will just continue to print paper.

I wonder, is it the business of this country to see to it that those who invested were getting 20- and 30-percent returns in Mexico, that we will hold them harmless and they will get every single dollar and get back 20 percent? Is that the business of this country? If you make an investment and there is a high risk and you get 20-percent return, people say you are a genius. But if it goes sour and you go down, do we really expect Uncle Sam, the American taxpayers, Uncle Sam to bail you out and say, "We hold you harmless."

What kind of economic stabilization program is that? I wonder why it is that we did not say to the Mexican Government, as those noteholders come due, "We will help you in renegotiating the payments and the terms." Why should people get dollar for dollar, plus 20 percent? I did not know you did that in restructuring. Certainly that is not what the capital system is about.

I have to tell Members, I think that all the doom and gloom predictions and the fact that there would be huge immigration, masses coming across the border, well, that is our Government's responsibility to see that we stop that kind of thing.

You do not threaten the American people every time there is a crisis and say, "My gosh, unless we do this, put up $20 billion, $40 billion we will have a massive migration to this country." Is that what we are coming to? Just raise that specter of fear? And we all succumb?

I hope this plan works. I have grave doubts. I predict if we look at the history, we saw economic devaluations every time there was an election. I would suggest this administration knew of this crisis, and knew of it quite some time ago. Maybe back last November. And they hid it from the American people. They did not step in and insist that conditions be met at that point in time. Now they come and say the sky is falling in. Well, that is OK but I do not think it is right that the American taxpayer has to step in.

Mr. President, I will tell you as the Senator charged with the responsibility of seeing to it that we are not wasteful, as it relates to taxpayer dollars, and being on the Banking Committee we will hold hearings and carefully monitor the execution of this agreement or the implementation, to see to it that we do the best we can to see that there are real economic reforms, and we are not taking hardworking taxpayers' money and just shoveling it down there. Then in 3 or 4 years from now throw up our hands and say, "Oh my gosh, we did the best we could do. Maybe to protect our investment we have to invest another $20, $30, or $40 million."

Look at the record and that is what it demonstrates. In 1982 the banks were holding most of the paper and took a pretty terrific loss. It seems to me that 12 years later, the only difference is, the American people may be poised that they can get a bigger hit. That is unfortunate. Thank you.

Mr. HATCH. Mr. President, I thank the distinguished Senator from New York. I appreciate his remarks, especially those on the balanced budget amendment. He certainly makes a difference in this body, and will make a difference once we pass that amendment.

Mr. President, let me assure the American people that the balanced budget amendment is neither snake oil nor a tonic. It is a necessary first step to a healthier economic lifestyle. It is as sensible as anyone who has been a binge deciding, finally, to go on a diet. This amendment puts a bloated, overgrown Federal Government, and out of control Federal bureaucrats, on a diet. Now, as our colleague from Idaho, who is certainly helping me on this amendment and is one of the leaders on this amendment, Senator CRAIG has said, if someone decides to go on diet to lose 100 pounds over 2 years, we do not ask that person to name every meal he or she intends to eat over those 2 years. To ask for a budget over the next 7 years is equally a diversion.

Indeed, just imagine if some of our colleagues had been sitting in the Constitutional Convention of 1787, in Philadelphia. Just imagine when the following clause in article I, section 9 came before the Convention: "No money shall be drawn from the treasury, but in Consequence of Appropriations made by law * * *." Oh no, these colleagues would have said, tell us how much the appropriations will be over the next 7 years or we cannot adopt this provision and this Constitution. What about the clause in article I, section 8, giving Congress the power to regulate foreign and interstate commerce? Oh no, some of our colleagues would have said in Philadelphia in 1787, if they felt the same as some of our colleagues here, we cannot give Congress the power to regulate commerce until we know the foreign tariffs and interstate regulations Congress will enact over the next 7 years. If the spirit of these colleagues of ours had prevailed then, perhaps goods from New Jersey would still be taxed by New York.

This is the Constitution we are addressing here, not a budget document.

What is important here is this: What is going to happen to our country if we do not enact this balanced budget amendment?

These monster deficits force the Federal Government to engage in massive borrowing. Interest rates are kept high and are driven higher. Home buyers face higher mortgage rates, making it more difficult for hardworking Americans to get their piece of the American dream. Home builders cannot build homes, workers do not have jobs, revenues are not paid to the Federal Government. The greater the difficulty in buying a home, the greater the problems in the home building industry. Employment will drop in that industry and in related businesses from realtors to title searchers.

The cost of buying consumer goods goes up as a result of these monster deficits and the Government borrowing it compels. Let us just take the automobile industry as another example. As the cost of credit goes up, automobile sales naturally are adversely affected. Also, workers get laid off. Auto sales and service workers at your local auto dealer get laid off. The industries which supply the automobile manufacturers all have to lay off people. Every consumer industry is adversely affected when the cost of credit goes up.

What about the impact of monster deficits on small business? Listen to a part of a statement submitted to the Judiciary Committee by the National Federation of Independent Business, which strongly supports this amendment, I might add:

> As deficits increase, the cost of capital increases. Large deficits absorb a significant portion of the available capital. As a result, private enterprises are crowded out of the pool of available credit for financing. Unfortunately, this crowding out is not borne evenly across businesses of all sizes. It is more probable that small businesses bear the brunt of this financial displacement since they have fewer financing alternatives available to them relative to larger firms. When small businesses cannot obtain capital to improve facilities, purchase equipment, and expand their operations, fewer jobs are created and less revenue is sent to the Treasury.

What a statement by the National Federation of Independent Businesses.

Opponents of this amendment ask us about tax increases. If we do not pass this amendment and put the Federal Government on a fiscal diet, taxes are clearly going to go up to pay the ever-increasing interest on the ever-growing national debt. I do not know any American who really wants that to happen, to just throw more money down the drain on the national debt's interest. Golly, when are we going to get it under control?

Here is what the National Taxpayers Union says:

> A child born today faces a huge bill by the time he or she is old enough to vote at age 18. Paying interest on the national debt accumulated just in this child's first 18 years of life will cost that child's family over $103,000 in extra taxes on average over his or her lifetime.

This assumes an annual deficit of $285 billion for this child's first 18 years and the National Taxpayers Union notes that the Congressional Budget Office projects that the deficit will average $285 billion over the next 11 years. So our children and our grandchildren will pay and pay and pay unless we pass this amendment.

The American people want change. The amendment is part of that change. We cannot keep going the same old way around here. The old order, it seems to me, has to give on this issue. And if we do not get the votes on this issue, then we have to rise up and get rid of the old order. It is just that simple. Not because we dislike them or not because they are not nice people or not because we do not like our own Senators when they are at home; we have to get rid of them, we have to get people here who mean business on this.

If we do not pass this balanced budget amendment this time, we may never have a chance to do it again. It may be too late. But if we do pass it, then everybody here knows the game is over, they know the States are going to ratify this amendment, and they know that we are going to have to get to work over the next 7 years to get that trend line down to a balanced budget. It is that simple.

The distinguished Senator from West Virginia has told us how much a balanced budget will hurt the States and the American people and public. I do not think any of us here have claimed it will be easy to balance the budget or that there will be no pain involved. We are not painting nirvana here. We are saying there is going to be pain, but pain with gain ultimately.

For the first time in 19 years—really, the first time in recent history—Congress will be forced to make priority choices among competing programs, and they will have to choose those that are the most important programs, those that do the most good, and maybe let those that are marginal and some that are not as good go, just as you do when you do your budget, just as the States do when they do theirs. We all know it is going to be difficult to cut back on spending. As the Federal Government goes on a diet, the States and our American citizens are smart enough to know that they are going to have to tighten their belts, as well. It is about time. It is about time that we all just come to that conclusion because that is where we are, and there is no other way around it.

This diet involves more than just cutting our spending practices. It means a lifestyle change from the spending binges of the past. It means changing the old order. It means changing the old ways. It means moving into the 21st century with new ways. These new Senators are making a difference. I notice one of them sits in the chair right now, from Pennsylvania. He got elected in part because he was willing to stand up on this issue, and he is going to get reelected again because he is voting for it. Those who do not are going to be the ones who have the troubles.

We must all evaluate our current programs and spending levels to determine their effectiveness. This includes our State programs, as well. If we did not launder all the money through the Federal Government, there would be a lot more money for the States, only it would not be laundered and there would not be just 28 percent come to the States out of the laundering. They would have 100 percent, and they would not have to increase taxes to get there.

The numbers given to us by my colleague from West Virginia regarding the grants given to States assume that each and every program will be continued in its current form. I doubt that this is going to be true. I do not see how anybody cannot doubt that is going to be true. We are not going to keep all these same programs in their current form. We are going to have to change some of them. We are going to have to delete some of them. They are going to be the lesser programs, the ones that do not count as much as others. Some States may be happy to end some of these programs we force on them. But each of the States will respond in its own way to meet the priorities of its own citizens.

As the ability of Congress to overspend disappears, we will be forced to evaluate where the money is going. This means that we should put the money into the most effective programs and stop funding the wasteful programs that just are not working.

We will have to examine our priorities and adjust our spending accordingly. We have seen many proposals to balance the budget without cutting Social Security, Medicare, or other vital programs. While I do not know of one that is the ultimate solution, they do show us that with a lot of cooperation and work, we can find a roadmap to balance the budget.

One example, for instance, would hold the growth of Federal Government spending, currently at 5.4 percent per year and going up, to 3.1 percent a year. This would balance the budget by the year 2002. If we exclude Social Security and constrain the spending growth to just 2 percent, the budget would still be balanced—and that is excluding Social Security.

This is without eliminating a single program. There are ways of doing it. We just do not have the will to do it nor the need to do it because we do not have the constitutional requirement or mandate to do it. If we put this in the Constitution, I do not know of a Senator in this body who would not change his or her legislating style, who would not change his or her attitude about spending, who would not try to live up to the mandate of the Constitution. We swear to do so, and I believe everyone here will.

I realize that it is not as simple as I just explained with regard to the 2-percent increase in the budget each of the next 7 years—we can reach a balanced budget without really cutting the programs—but we will have to examine the spending patterns of the Federal Government. We will have to eliminate some well-intentioned programs that are not working or not working well, and reform other programs that are not working as well as they could.

The important point, however, is that we can get there, but we will not get there unless we put this mechanism into the Constitution.

It is not painless, and we will all feel the pinch with the reduced spending that will be necessary to balance the budget. But if we do not balance the budget, it will cause each and every American taxpayer even more pain. If we continue to increase the debt, inflation will skyrocket and the dollars used by every American citizen will be worth less, especially when we will be forced to monetize the debt. This will hurt even more than tightening our belts and making the spending cuts necessary to balance the budget. If we do balance the budget now, we will all share the benefit. It will not be too much for any single individual. We will all have to share.

More importantly, however, we will all feel the benefits of lower inflation, a more valuable dollar, and the security of knowing that except in times of war or other hostilities, or in times of severe depression, we will maintain a balanced budget, which is what the Founding Fathers really wanted, and what they really assumed would be the rule under the Constitution.

This amendment will help us to do a better job. This will do away with this old attitude that if we just tax and spend, we can get elected. The system will change to where we can get elected if we live within our means, conserve the Federal Government's money, the people's money, if you will, work with the States, and quit intruding into everybody's life every day as the Federal bureaucracy does now.

This country is in trouble. We are fighting with all we have to try to solve the problems of this country, and this particular amendment can do it. In all honesty, our spending in this country is at runaway proportions. We are destroying our country. We are destroying the future of our young people. For the first time in history—I repeat it one more time—our kids do not have the promise of a better future that we had. And I really, really resent that.

This is the greatest country in the world. I suppose we could survive anything because of the resilience of the American people. But we could survive better if we do what is right. This country, if it is righteous and it does what is right and it lives within its means and if Congress has the incentive to live within its means, will always be the greatest country in the world. But if we do not do right and we keep spending like we are spending and we keep interest against the national debt rising like it is rising, compounding every year, this country will slip; it will fall; this whole hemisphere will be affected; the whole world will be affected; and our dollar will fall in value to the point where those who are on fixed incomes, including our seniors on Social Security, will be the most hurt.

This is important to our country's future. This is the single most important vote that we will be casting when we vote up or down on this amendment. I am quoting Senator KENNEDY and Senator BIDEN when I say that. But I agree with them. This is the most important vote most of us will ever make. In order to get there we have to vote down all the killer amendments that will make it more difficult to pass it again in the House—and that is the purpose of them—and will make it more difficult to pass it here. We are going to have to stand up and vote.

Now, I believe that we will have 67 Senators who believe enough in this country to vote for a balanced budget amendment. The only chance we have is this bipartisan consensus, Democrat-Republican amendment, and acknowledge that it was no small achievement for the House of Representatives to pass this through for the first time in history. We have done it before in the Senate, but we have also failed before. This time we do not intend to fail. If we win, it is going to be because the American people got involved. So I hope everybody out there listening to this really inundates this Senate with the demand that we pass the balanced budget amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, the Senate appears to be drawing fairly close to the end of a week in which Members have spoken in relatively general terms about the desirability or lack of desirability of a constitutional amendment to nudge this Nation along the road toward a balanced budget. Soon we will be dealing with specific amendments to this proposed constitutional amendment and I wish to speak for just a moment both in general terms and in specific terms.

In general terms, we face the proposition that divides this body, I believe at this point, simply into two camps. Earlier this week, I had thought there were three different and distinct attitudes, but I have heard only two. There are those who, like myself, believe that the country is in a serious crisis, that the status quo is unsatisfactory, and that the situation, the set of rules under which we have operated—not just for years but for generations—will not and cannot serve to lead this country along the road to fiscal sanity and a balanced budget and that, therefore, drastic action in the form of a constitutional amendment is necessary. I believe that expresses the views of a significant majority of the Members of this body—I hope of two-thirds of the Members of this body.

Those who oppose this constitutional amendment, however, have either brought up rather narrow technical objections to it or have stated almost without exception their devotion to the idea of a balanced budget but their views that to change the Constitution in order to encourage it is a bad idea. I believe they are wrong. I believe those who feel that we should have a balanced budget but that we can reach that goal without a profound change in the system under which both the Congress and the President of the United States operate have a tremendously difficult burden of proof. Because, of course, the rules that they want to continue in effect have been the rules during the entire time in which this multitrillion-dollar debt has been built up.

How is it that they feel that suddenly, without any change in the system under which we operate, we will nevertheless reach a goal which has eluded us for such an extended period of time? That, it seems to me, should be the central focus of this debate by the one group which stands for the status quo, mostly on the liberal side of the spectrum, which nevertheless gives lip service to a balanced budget, but which has given us not the slightest hint as to the road to be traveled in order to reach that end.

If I understand it correctly, beginning tomorrow or certainly sometime during the course of the next week, we will be faced, by adding to the Constitution of the United States detailed provisions pursuant to which those who feel the change in the Constitution is necessary will be required to outline, in absolute, binding detail in the laws of the United States, precisely the road by which we will reach that goal by the year 2002, ignoring the fact that there will be three new elections for Congress between now and that year in which different Members will be elected, during which time crises in our international affairs may or may not arise, crises in our own domestic and economic affairs may or may not arise, with new Members with new knowledge who may wish an entirely different course of action than any we could possibly outline here.

Nevertheless, those who believe in the status quo will be asking us to bind ourselves to a precise, legally binding, detailed blueprint of the way in which this goal will be reached.

Mr. President, it is my position that it is they, not we, who should provide us with that detailed blueprint.

We believe that dramatic change is necessary. We look at the history of the last decade or decades, and say the system is broke. We wish to fix it. The way in which we wish to fix it is to strongly, in the Constitution of the United States, encourage a balanced budget by requiring a significant supermajority which can unbalance one, which is still to be possible under emergency circumstances when a bipartisan majority feels that it would be necessary. We do not have, and we should not have, a detailed blueprint about how to reach that goal because, if this proposal becomes a part of the Constitution, all will be a part of the solution, those who favor it and those who oppose it, including the President and future Presidents of the United States. The entire challenge will seem quite different to us and to the Nation at that point. And we will learn. I think we will learn that it may be a little bit easier than we had thought because the commitment to do so in and of itself will, I think, lower interest rates, for example, here in the United States.

It will be my position, and I think the position of many others here, that the group of Members of this body and the people in this country who believe the status quo is good enough, who do not want change, who do not believe change is necessary, but who nevertheless, as they have almost without exception, given lip service to a balanced budget, it is they who are under the duty of telling us exactly how they will reach that goal without a change in the Constitution, without a change in the rules in which we operate in this Senate.

Mark my words, Mr. President. Next week, as we begin to cast votes on these various amendments to the amendment, one fact should remain before all of the American people. We are either for or against this change. We are either for or against a new way of doing business. We are either for or against the status quo. And those who try to hide or obfuscate that issue through changes, through technical objections, through demands for detailed blueprints, essentially are saying the status quo is just fine.

Those who hold to the goal of this proposed constitutional amendment in this form, the form in which it passed the House of Representatives, are truly those who are devoted to a new and different way of doing business, a way of doing business in which we no longer spend whatever we like and pass the bill on to our children and grandchildren.

That is the issue we began to debate this week. It will be the issue in every vote we take until finally, as I hope we will, we pass this joint resolution and send it to the people of the 50 States for their ratification.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I thank the Presiding Officer for his courtesy.

Mr. President, as I struggle to get over my disbelief that we are back at this, I rise once again to express my views of a constitutional balanced budget amendment.

The basic reasons I oppose this amendment are the same ones that led me to vote against it on the two previous occasions—since I joined the Senate—that it has been before this body.

Congress does not need the U.S. Constitution to perform its responsibility for the Federal budget. We were elected to make the decisions about where to spend the hard-earned tax dollars of Americans, and where not to spend those dollars. We were elected to make the decisions required to adapt to the country's needs and to keep us militarily and economically strong. We do not need to add another page to the Constitution to do our job.

And some of us have worked very hard in the recent years to, in fact, do the job of digging out from the exploding deficits of the 1980's, reducing the deficit, and changing the priorities of the Federal budget in order to cut waste and increase investment in America's future. I have cast many votes in the recent years for actual cuts, for detailed changes in policy, and for specific budget plans—all the time, watching many colleagues vote the other way because somehow those specific ideas just weren't quite palatable or perfect enough for him.

It is no accident that the Federal deficit will drop this year for the third year in a row, for the first time in 50 years. The deficit finally started to shrink because instead of waiting to get the Constitution to tell us to cut spending and require some fiscal discipline, we did it ourselves.

I want to see the Federal budget balanced, too. But I refuse to strap the Federal budget into a speeding train, having no idea who and what in my State of West Virginia that train will crush. I got elected to help steer that train, to help set its speed, and to adjust its route—so we can change course when we need to deal with less than minor matters like recessions, natural disasters, military crises, and other dire needs or situations.

As a former Governor of West Virginia, I am shocked every time I hear proponents of the constitutional amendment say "this is just doing what States have to do." That is completely and utterly wrong, and it is insulting and misleading to the American people. Every Governor and every State government has tools, outside of its operating budgets, to borrow and to invest. Through bonds and other methods, States can build and repair roads, improve schools, and lay the ground for the needs of their people. Under this constitutional amendment for a Federal balanced budget, that would not be possible. This proposal is nothing less than a straitjacket that just might suffocate the prosperity and economic growth that determines whether there are jobs and opportunity for Americans.

This is where economics is not just about textbooks or abstract theories. To eliminate the Government's ability to stimulate the economy or to intercede in a crisis is to create a recipe for disaster. Whether economic growth were strong or weak would be ignored in the name of a balanced budget. Recessions would be more frequent, longer, and tougher to pull out of. Large spending cuts or tax hikes would be required in times of slow growth, just when the opposite is called for because cutting Government spending or raising taxes slows the economy even more. Passing a balanced budget amendment would exaggerate rather than mitigate America's shifting economic fortunes.

This year, I feel even more strongly that the constitutional balanced budget amendment is a bad idea whose time has not come. That is because there is another script that many of this amendment's proponents are working from this year. It is called a plan to generate tax cuts that are expected to cost between $400 and $700 billion over the same 7 years that this amendment would require a balanced budget. These are tax cuts that go far beyond relief for hard-working Americans and the middle class. You will find it in something called the contract for America, and it is a script that wants to stage the revival of tax cuts for the wealthy and corporations—this time with the hope it will not pull the rug out from the rest of Americans like it did before.

Well, Broadway should stick to bringing back old scripts, not Capitol Hill. In representing West Virginia, I don't want to see any revivals of past nightmares.

When I was Governor, and watched Congress promise to balance the budget while cutting taxes, I saw what happened in living color. Our plants that shut down and threw working families of West Virginia into foreclosures and bankruptcies. Our kids who dropped out of college because tuition money had to go to their families' mortgage payments and medical expenses. Our senior citizens who kept thermostats at 58 degrees because they could not afford heating oil.

So when I say I want to see the hidden details of this balanced budget amendment, it is not for political reasons or academic curiosity. It is because of the contract I have with West Virginia. It is because now I am here, not in the State House, to cast my vote and say show us just how you are going to get this done.

For those who want to put the Federal budget on this speeding train, where's your map? Who gets thrown off the train, and who gets to stay on? Will it be the programs and services that feed children, care for veterans, pay our rural hospitals, and keep our water clean and safe? Will the highways now being finished in my State—while other States got theirs paid for before us—end up being roads to nowhere because the money will run out? Will our seniors find out that Medicare cannot keep its promise just when they need health care?

West Virginia has the right-to-know what the script will be this time. If it is to be a reprise of the 1980s, we are not buying tickets. We saw the unemployment rates or some of our counties soar over 50 percent. We lost $1.7 billion in aid—the largest per-capita in the Nation—almost $1,000 per person. We watched our plants close, we watched our hospitals shut services, we watched our schools work with fewer resources, and we were forced into a recession that the State is only now starting to pull out of. So West Virginia will not be trampled again.

I understand the lure, the appeal, the aroma of a constitutional amendment to balance the budget. Write into the most sacred document of this Nation, one of the most venerable documents in the world, that we, the Congress, will require that expenditures made by the Federal Government do not exceed its revenues.

But this is the classic case of putting the cart before the horse. In the real world, this promise means coming up with a total of $1 trillion in actual budget cuts over 7 years—years that are going to fly by very quickly. If those tax cuts for a lot of non-middle-class Americans get thrown onto the equation, we are talking about $1.4 trillion in spending cuts. Then, if Social

Security is excluded, defense is given special protection, and there are few other untouchables, what exactly does $1.4 trillion in budget cuts mean to the people of West Virginia—and to the people of the other States?

Just when West Virginia is getting up from the beating we took over a decade ago, we face this. Just as our industries and workers are standing up to the challenges of the new economy, determined to make it, we face this.

This amendment, with those added tax cuts, threatens to pull $2.7 billion away from West Virginia. That means much less for education, job training, housing, health care, student loans, veterans services, you name it. That means less to feed schoolchildren, support our police, invest in our university research.

Even some proponents of the balanced budget amendment are realizing that, this time—as a new car called $400-billion-plus of tax cuts is hitched onto the speeding train—this time, we all better know what the route consists of.

For example, it is not possible to achieve $1.4 trillion in cuts without squeezing unprecedented amounts of money out of Medicare, Medicaid, and veterans health care and benefits. It is just not possible. The Senate Budget Committee staff have even acknowledged that $644 billion will have to come somehow from the so-called entitlement programs—except for Social Security—over the next 7 years to hurl the budget into balance. Maybe the nightmares will not happen. Maybe seniors will not find benefits cut off. Maybe the veterans hospitals can stay open. Maybe we will not just give up on immunizing poor children. But maybe not. We could be sending people over cliffs with this train.

Again, that's why I add my voice to the right-to-know idea. The proponents of this amendment have an obligation to think through what course they will take. Will it be a collision course for our economy, finally growing again, facing intense competition from other nations while working families can't seem to get their incomes up? Or maybe there's a map I haven't seen yet—one that accelerates the deficit reduction that I also want, but keeps the country and my State on an even course.

Mr. President, the tools for deficit reduction are already in hand. Cutting wasteful and frivolous spending, creating a climate for productivity with accessible credit and sound trade policies, and keeping workers on the job. That's just common-sense deficit reduction.

I will not change that stand until those who support this amendment can detail all the spending cuts and tax increases necessary to reach the promised land. Show my people the plan. Show Americans the specifics, so we can also debate how they will affect our economy. Show this Nation's hard-pressed families how they will send their kids to college when student loans disappear. Show American industry and workers how we will keep up with our competitors when we just give up on research that plants the seeds for the next wave of technology. Show Governors, State legislators, mayors how the greatest unfunded mandate of all time—this balanced budget amendment—will help them pick up the pieces. What happens when States and communities do not get the funds to fight crime, train teachers, promote their exports, or repair their bridges?

We watched some of this show already, and it was a huge flop. In the 1980's, we watched arbitrage kings and junk-bond peddlers make fortunes while factories padlocked their gates and cast workers into the cold. We saw a nation divided into winners and losers as budget efforts took from those who could give least and asked little, if anything, from those who had the most. The middle-class worked harder just to keep up, the poor got poorer with less chance to get ahead, and the rich rode first class as they profited.

In the recent years, and I do not just mean the past 2 years under a Democratic President, I thought Congress was figuring out that it was time to take a different approach. No more games, no more empty promises. If we deserve to be here, we have to make real choices and honest decisions. When enough of us started doing that, then and only then did the Federal deficit start to shrink. The job is far from done, and it is not getting any easier. But by working out a balance between what must be done to invest in our people and use their hard-earned tax dollars more wisely, we have a course that I see as far less reckless and dangerous than strapping this amendment onto the U.S. Constitution.

The balanced budget amendment is a quick-fix for a problem that has grown because of quick-fixes. West Virginia does not deserve any repeats of a cruel and unfair past. So spell it all out for us—every spending cut and every tax—and show us where the money to balance the budget this quickly, with constraints that not a single State government is under, will come from. Until you can, do not ask West Virginia to sign on. We know the old saying, "Fool me once, shame on you. Fool me twice, shame on me." And we will not get fooled again.

I thank the Chair and I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, in the last few minutes here before we pack up and call it a day, I wanted to respond to some of the comments that the Senator from West Virginia just made while I was presiding. He made some comments that were familiar in tone, that I had been hearing throughout the day and throughout the week by so many Members who have risen in opposition to the balanced budget amendment.

I keep hearing this familiar refrain, "I am for a balanced budget—but." "I really believe in a balanced budget—however." "We need to get to a balanced budget but this constitutional amendment just is not the way to do it." "You need to tell us how you are going to get there. But I want to get there, too, but I do not need to tell you but you need to tell us, because you are for a balanced budget amendment." Or, you are for a balanced budget amendment but you are not for this amendment, because this amendment says that we are going to have a balanced budget by the year 2002.

Then when are you for a balanced budget amendment? If not in the year 2002, are you for a budget balanced budget in 2003? 2004? 2005? Pick a number. Tell us when you think we should have a balanced budget, and then you tell us how you will get us there. But do not stand and say that you are for a balanced budget in the abstract, but it would be too painful and too hurtful to your State or to the individuals that you know who will suffer under this, to get there. You are either for a balanced budget and for the commitment to get there, or you are just talking. And we have been doing a lot of talking here in the Senate and the House for a lot of years about how we are going to get to a balanced budget.

Now, the Senator from West Virginia said that he took pride in the vote he cast 2 years ago, 1993, that put us on course. We are on course, he said. We are on course. I do not know if he has seen some of the deficit projections by the Congressional Budget Office. We are not on course to a balanced budget. We are not even close to being on course to a balanced budget. This budget is going to hang around where it is right now for the next couple of years, and then just goes way up again around the turn of the century, doubling from where it is today. We are not on course for a balanced budget.

We must do something just to keep the deficits where they are now. We will have to pull back Government, or, as some would propose, increase taxes, just to hold where we are as far as annual deficits. So we are not on course. We are way off course.

Now, I come from southwestern Pennsylvania, which is the border of West Virginia. I actually lived the first 7 years of my life in West Virginia. I am very familiar with West Virginia. And I am very familiar with the pain that a lot of the people in West Virginia and southwestern Pennsylvania and around the Pittsburgh area where I am from, suffered during the early 1980's. And I represented a congressional district before I came here where in the late 1970's there were over 110,000 steelworkers working in my district. When I was sworn into office in the early 1990's, there were less than 15,000 steelworkers remaining.

Now, I know what economic devastation is, but I can tell Senators, the people in that district, the people in West Virginia, are not concerned about the next Government program we will create to put them back to work or to train them. What they want are good, private sector jobs. And that is what responsible fiscal policy will get this country. Sound fiscal policy will stabilize this economy and create jobs into the future.

I look forward to the opportunity to respond further to the Senator from West Virginia and others on that side of the aisle. I see it is time to wrap things up, so I will yield the floor.

Mr. HATCH. Mr. President, I want to compliment the distinguished Senator from Pennsylvania. I cannot say what it means to me to see these new Senators on the floor coming down here and standing for the balanced budget amendment. All 11 of them do. It is an amazing transition, an amazing change. As somebody who has been fighting for this for the last 18, 19 years, I have to say, these folks, like the distinguished Senator from Pennsylvania, are making a difference. And they will make a difference, coupled with heroic Democrats who are willing to fight side by side with us because—whether liberal or conservative—they feel that it is now the time to make this change. We have to do it.

So I want to compliment the distinguished Senator from Pennsylvania. I have great respect for him. He deserves it. He is a great addition to this U.S. Senate. I hope he will keep fighting side by side us on this and other matters.

MESSAGES FROM THE HOUSE

At 3:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 101. An act to transfer a parcel of land to the Taos Pueblo Indians of New Mexico.

H.R. 400. An act to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes.

H.R. 440. An act to provide for the conveyance of lands to certain individuals in Butte County, California.

H.J. Res. 50. Joint resolution to designate the visitors center at the Channel Islands National Park, California, as the "Robert J. Lagomarsino Visitors Center."

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent and referred as indicated:

H.R. 101. An act to transfer a parcel of land to the Taos Pueblo Indians of New Mexico; to the Committee on Energy and Natural Resources.

H.R. 400. An act to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 440. An act to provide for the conveyance of lands to certain individuals in Butte County, California; to the Committee on Energy and Natural Resources.

H.J. Res. 50. Joint resolution to designate the visitors center at the Channel Islands National Park, California, as the "Robert J. Lagomarsino Visitors Center"; to the Committee on Energy and Natural Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

Eleanor Hill, Virginia, to be Inspector General, Department of Defense.

The following-named officer to be placed in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Ira C. Owens, [redacted], U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Paul E. Menoher, Jr., [redacted], U.S. Army.

The following-named brigadier generals of the U.S. Marine Corps for promotion to the permanent grade of major general, under the provisions of section 624 of title 10, United States Code:

To be major general

Brig. Gen. Leslie M. Palm, [redacted].
Brig. Gen. Michael J. Williams, [redacted].
Brig. Gen. Lawrence H. Livingston, [redacted]
Brig. Gen. Martin R. Steele, [redacted].
Brig. Gen. Frederick McCorkle, [redacted].
Brig. Gen. Michael D. Ryan, [redacted].
Brig. Gen. Patrick G. Howard, [redacted].
Brig. Gen. Wayne E. Rollings, [redacted].

The following-named officer for reappointment to the grade of Vice Admiral while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. William C. Bowes, [redacted], U.S. Navy.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code 601(a):

To be lieutenant general

Maj. Gen. John N. Abrams, [redacted], U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Guy A.J. LaBoa, [redacted] U.S. Army.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. THURMOND. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the RECORDS of January 6 and 10, 1995 and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of January 6 and 10, 1995 at the end of the Senate proceedings.)

*Lt. Gen. Ira C. Owens, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 92).

*Maj. Gen. Paul E. Menoher, Jr., USA to be lieutenant general (Reference No. 93).

*In the Marine Corps there are 8 promotions to the grade of major general (list begins with Leslie M. Palm) (Reference No. 94).

*Vice Adm. William C. Bowes, USN for reappointment to the grade of vice admiral (Reference No. 96).

**In the Air Force there are 5 promotions to the grade of lieutenant colonel and below (list begins with Rex E. Carpenter) (Reference No. 100).

**In the Air Force Reserve there are 3 appointments to the grade of lieutenant colonel (list begins with William H. Bobbitt) (Reference No. 101).

**In the Air Force Reserve there are 19 promotions to the grade of lieutenant colonel (list begins with Travis D. Balch) (Reference No. 102).

**In the Air Force Reserve there are 32 promotions to the grade of lieutenant colonel (list begins with David S. Angle) (Reference No. 103).

**In the Army there are 2 promotions to the grade of colonel (list begins with Stephen M. Bahr) (Reference No. 104).

**In the Army there are 15 promotions to the grade of colonel (list begins with John E. Baker) (Reference No. 105).

**In the Army there is 1 appointment as permanent professor at the U.S. Military Academy (Colonel Kip P. Nygren) (Reference No. 106).

**In the Army Reserve there are 14 promotions to the grade of colonel and below (list begins with David A. Gutowski) (Reference No. 107).

**In the Army Reserve there are 9 appointments to the grade of colonel and below (list begins with Eduardo C. Cuison) (Reference No. 108).

**In the Army Reserve there are 34 promotions to the grade of colonel and below (list begins with James E. Akers) (Reference No. 109).

**In the Army Reserve there are 33 promotions to the grade of colonel and below (list begins with Charles M. Coleman) (Reference No. 110).

**In the Army Reserve there are 41 promotions to the grade of colonel and below (list begins with Frank D. Chaffee) (Reference No. 111).

**In the Army Reserve there are 23 promotions to the grade of colonel and below (list begins with Richard E. Cooley II) (Reference No. 112).

**In the Army Reserve there are 49 promotions to the grade of colonel and below (list begins with Michael P. Breithaupt) (Reference No. 113).

**In the Army there is 1 promotion to the grade of lieutenant colonel (David E. Bell) (Reference No. 114).

**In the Army there is 1 promotion to the grade of lieutenant colonel (Leopoldo A. Rivas) (Reference No. 115).

**In the Army there are 35 appointments to the grade of major (list begins with John C. Aupke) (Reference No. 116).

**In the Army there is 1 promotion to the grade of major (Darryl A. Wilkerson) (Reference No. 117).

**In the Marine Corps there is 1 promotion to the grade of colonel (Thomas E. Sheets) (Reference No. 118).

**In the Navy and Naval Reserve there are 28 appointments to the grade of commander and below (list begins with Michael J. Esper) (Reference No. 120).

**In the Navy and Naval Reserve there are 42 appointments to the grade of commander and below (list begins with Claudio Biltoc) (Reference No. 121).

**In the Army there are 168 appointments to the grade of colonel and below (list begins with Richard Monnard) (Reference No. 122).

**In the Air Force there are 2,168 promotions to the grade of lieutenant colonel (list begins with George M. Abernathy) (Reference No. 123).

**In the Air Force there are 2,776 to the grade of major (list begins with Milton C. Abbott) (Reference No. 124).

**In the Air Force there are 2,523 appointments to the grade of captain (list begins with Donald R. Adams, Jr.) (Reference No. 125).

**In the Army there are 80 promotions to the grade of colonel (list begins with John F. Armstrong) (Reference No. 126).

**In the Army Reserves there are 600 promotions to the grade of colonel (list begins with Glendon L. Acre) (Reference No. 127).

**In the Marine Corps Reserve there are 85 promotions to the grade of lieutenant colonel (list begins with Karen J. Anthony) (Reference No. 128).

**In the Navy there are 809 appointments to the grade of captain and below (list begins with Joseph A. Surette) (Reference No. 129).

*Maj. Gen. John N. Abrams, USA to be lieutenant general (Reference No. 145).

*Maj. Gen. Guy A.J. LaBoa, USA to be lieutenant general (Reference No. 147).

**In the Air Force there are 32 appointments to the grade of colonel and below (list begins with Lydia D. David) (Reference No. 148).

**In the Army there are 4 promotions to the grade of major (list begins with Ajay Verma) (Reference No. 149).

**In the Army there are 44 promotions to the grade of lieutenant colonel (list begins with Rose J. Anderson) (Reference No. 150).

**In the Army there are 66 appointments to the grade of captain (list begins with Michael T. Adams) (Reference No. 151).

**In the Air Force there are 1,002 appointments to the grade of second lieutenant (list begins with David W. Abba) (Reference No. 152).

Total: 10,759.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CONRAD:

S. 332. A bill to provide means of limiting the exposure of children to violent programming on television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (for himself, Mr. JOHNSTON, and Mr. LOTT):

S. 333. A bill to direct the Secretary of Energy to institute certain procedures in the performance of risk assessments in connection with environmental restoration activities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCONNELL (for himself and Mr. BIDEN):

S. 334. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes; to the Committee on the Judiciary.

By Mr. LOTT:

S. 335. A bill for the relief of Joe W. Floyd; to the Committee on Armed Services.

S. 336. A bill for the relief of John T. Monk; to the Committee on Veterans' Affairs.

By Mr. D'AMATO:

S. 337. A bill to enhance competition in the financial services sector, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DASCHLE (for himself, Mr. ROCKEFELLER, Mr. AKAKA, Mr. KERREY, Mr. DORGAN, and Mr. CAMPBELL):

S. 338. A bill to amend title 38, United States Code, to extend the period of eligibility for inpatient care for veterans exposed to toxic substances, radiation, or environmental hazards, to extend the period of eligibility for outpatient care for veterans exposed to such substances or hazards during service in the Persian Gulf, and to expand the eligibility of veterans exposed to toxic substances or radiation for outpatient care; to the Committee on Veterans' Affairs.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 339. A bill to ensure the provision of appropriate compensation for the real property and mining claims taken by the United States as a result of the establishment of the White Sands Missile Range, New Mexico; to the Committee on Armed Services.

By Mr. BROWN:

S. 340. A bill to direct the Secretary of the Interior to conduct a study concerning equity regarding entrance, tourism, and recreational fees for the use of Federal lands and facilities, and for other purposes; to the Committee on Energy and Natural Resources.

S. 341. A bill to extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978, and for other purposes; to the Committee on Energy and Natural Resources.

S. 342. A bill to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for himself, Mr. NICKLES, Mr. BOND, Mrs. HUTCHISON, Mr. MURKOWSKI, Mr. LOTT, Mr. COCHRAN, Mr. HATCH, Mr. DOMENICI, Mrs. KASSEBAUM, Mr. COATS, Mr. ABRAHAM, Mr. INHOFE, Mr. SMITH, Mr. SANTORUM, Mr. THOMPSON, Mr. WARNER, and Mr. KYL):

S. 343. A bill to reform the regulatory process, and for other purposes; to the Committee on the Judiciary.

By Mr. SHELBY (for himself and Mr. HEFLIN):

S. 344. A bill to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WARNER (for himself and Mr. ROBB):

S. 345. A bill to authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection, and administration of Colonial National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. INOUYE):

S. 346. A bill to establish in the Department of the Interior the Office of Indian Women and Families, and for other purposes; to the Committee on Indian Affairs.

By Ms. SNOWE (for herself and Mr. BROWN):

S. 347. A bill to amend the Immigration and Nationality Act to make membership in a terrorist organization a basis of exclusion from the United States; to the Committee on the Judiciary.

By Mr. NICKLES (for himself, Mr. DOLE, Mr. BOND, Mrs. HUTCHISON, Mr. MCCONNELL, and Mr. LOTT):

S. 348. A bill to provide for a review by the Congress of rules promulgated by agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MCCAIN (for himself and Mr. KYL):

S. 349. A bill to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program; to the Committee on Indian Affairs.

By Mr. BOND:

S. 350. A bill to amend chapter 6 of title 5, United States Code, to modify the judiciary review of regulatory flexibility analyses, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD:

S. 332. A bill to provide means of limiting the exposure of children to violent programming on television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE CHILDREN'S MEDIA PROTECTION ACT OF 1995

Mr. CONRAD. Mr. President, today I rise to introduce the Children's Media Protection Act of 1995.

Mr. President, last Tuesday, the President in his State of the Union Address, asked Americans to take responsibility for their lives, to keep families together, and to keep communities from falling apart. As part of that challenge, the President expressed his continuing concern over media violence and challenged the media industry by saying,

> You do have a responsibility to assess the impact of your work and to understand the damage that comes from the incessant, repetitive, mindless violence and irresponsible conduct that permeates our media.

Mr. President, I agree, and so do the experts. Let me quote the Guggenheim Foundation from the study of "Violence in Society." They said, "The scientific debate is over. A recent summary of 200 studies published through 1990 offers convincing evidence that the observation of violence as seen in standard, every day television entertainment, does affect the aggressive behavior of the viewer."

Mr. President, while the scientific debate is over, the public policy debate continues into its fifth decade.

Let me just turn to a chart which shows that violence in our society is far above that of any other industrialized nation. This chart is titled "Crime Across the Globe, Murders Per 100,000 in 1990." The United States, 9.4; Canada, 5.5; Denmark, 5.2; France, 4.6; Australia, 4.5; Germany, 4.2; Belgium, 2.8, and on it goes down to Japan at 1.2.

Mr. President, we have a problem in this country. No one is suggesting that violence in the media is the sole cause; certainly, it is not. But to deny that it plays a part is to deny what all of us instinctively understand. We learn by watching what others do, and many children in our society are spending 6 hours a day watching television. What do they see? One thing they see is endless acts of mindless, gratuitous violence. Mr. President, it has an affect and it is a bad affect. It teaches children that one way to deal with problems is to engage in acts of violence. And in many cases it teaches them that there are no consequences, there is no pain. People are blown away and it does not make a difference.

We know better. We know it does make a difference, and we know this is not what we should be teaching our children. Because of a lack of action on this issue, I formed the Citizens Task Force on TV Violence, comprised of 28 national organizations representing medical professions, parents, educators, law enforcement, and churches. We formed that group in June 1993.

In December of that year, the Attorney General, Janet Reno, asked us for a set of recommendations. We submitted seven recommendations to the Attorney General. Those recommendations called for the adoption of a tough entertainment-media violence code, support for technology that would permit parents to more effectively monitor children's viewing of television. We recommended strengthening the Children's Television Act of 1990, scheduling hearings by the FCC on television violence, convening a White House Conference on Violence, curbing viewing of violent television programming in prisons, and the continuation of television industry discussions as authorized under the Television Program Improvement Act of 1990.

Shortly after these recommendations were submitted, the American Medical Association's house of delegates called for the adoption of a television violence code. They had a rating system for films, video, and audio entertainment. Following the outcry last year over the violent content of television and cable programming, the major TV networks and cable initiated voluntary assessments of violent content in their program. These assessments began with the 1994–95 television viewing season. Additionally, the major television networks agreed to display viewer warnings on some television programming containing violent content. They deserve credit for these steps.

There is progress on other fronts, as well. Even the leaders of the entertainment industry have come to believe that violence in the media is a problem. In a survey of entertainment industry leaders in U.S. News & World Report on May 9, 1994, nearly 9 out of 10 media entertainment industry leaders said that violence in entertainment contributes to the level of violence plaguing the Nation.

Mr. President, even though there has been a recognition, even though there has been a public discussion about media violence and the contribution it makes to violence in our society, nothing is happening. The media mayhem continues.

I cite the alarming report of the Center for Media and Public Affairs that was done in August of last year. The center, working with the Guggenheim Foundation, reported that television is considerably more violent in 1994 than it was 2 years previous.

Mr. President, I direct your attention to the chart that we have prepared that shows what has happened to the daily violence on television, a comparison between 1992 and 1994. This shows the incidents of violence per hour that are going out over the media.

Networks in 1992 had 25 violent acts per hour on average. In 1994, that had increased to 43 acts of violence per hour. Cable was even more egregious. Cable had 55 acts of violence per hour in 1992. That escalated to 75 acts of violence per hour on average in 1994. Only Public Broadcasting had modest levels of violence and was stable in the acts of violence portrayed between the years of 1992 and 1994.

Mr. President, although there has been a lot of talk about doing something about violence in the media, there has been precious little action.

I believe the American people do not want their children and families exposed to the extraordinary violence that is occurring in the entertainment media on a daily basis.

Now, we here in the Senate do not watch a lot of television because we wind up being here most of our time or in our States going from town to town. And so opportunities for watching television are somewhat limited. I would just ask my colleagues to turn on the television, watch what is happening, and ask yourselves: Can it possibly be the case that we can have children watching 6 hours of television a day and seeing endless repetitive mindless acts of violence and it has no effect on them? It cannot be. It has to be having an effect on them. And virtually every study that has been done says it is having an effect on them.

Mr. President, I recognize that the violence in our society is not just because of media violence. Certainly, that is not the case. There are many contributors. But the time has come for us to reduce the violence in the entertainment media. The trend to glamorize violence must stop.

I am pleased by the voluntary efforts the media has undertaken. But let us face it. The job is not getting done. I do not believe that voluntary initiatives are sufficient to reduce media violence. For that reason, I am introducing legislation today that incorporates the principal recommendations of the Citizens Task Force. The legislation includes means to empower parents to help them make choices. It provides for new television sets being required to contain a V-chip that would permit parents to block television programming with violent content. The cost of the V-chip is now down to about $5 per television set—$5—to give the parents an ability, to empower parents to help make choices for their children. That makes sense.

Second, the legislation contains a violent programming rating provision. This provision requires the FCC to prescribe, in consultation with the broadcasters and cable operators, private interest groups and concerned citizens rules for rating the level of violence in television programming. These ratings would apply to the V-chip technology.

Third, the legislation contains a children's safe harbor provision which requires the FCC to initiate a rule that prohibits commercial television, cable operators, and public telecommunications entities from broadcasting television programs that contain gratuitous violence between the hours of 6 a.m. and 10 p.m. at night.

Mr. President, if there is one thing we have heard all across this country it is that there ought to be a safe harbor, there ought to be a period within which kids are watching television that parents can have some assurance they are not being exposed to this mindless gratuitous violence.

Finally, the bill contains the Children's TV Act compliance provision which requires the FCC, when granting or renewing TV licenses, to assure the applicant is in compliance with the Children's Television Act of 1990.

These provisions are consistent with the FCC's current examination of television violence in children's television programs and the implementation of the Children's Television Act of 1990.

Mr. President I have supported voluntary efforts in the past and I continue to support and commend these efforts. But it is absolutely clear—absolutely clear—that those efforts are not sufficient to achieve the result that I think the vast majority of Americans would like to see achieved.

The President challenged us last Tuesday to understand the impact that this constant stream of mindless violence is having on our families and children. I applaud the President, and I hope he will continue to draw public attention to the corrosive effect that violence in the entertainment media is having on our families and on our children.

Mr. President, I welcome cosponsors to my legislation. I urge my colleagues to carefully examine the issue of media violence as it relates to violence in our society.

I ask unanimous consent that the text of my bill, the recommendations submitted to Attorney General Janet Reno by the Citizens Task Force on TV Violence, the names of the national organizations in the task force that endorse the recommendations, and the press release announcing the action by the American Medical Association's house of delegates, its article, entitled "A Kinder, Gentler Hollywood," in the May 1994 issue of the U.S. News & World Report, the findings of the study by the Center for Media and Public Affairs, along with the press release announcing the study, and the report of the study of the findings of 200 studies of violence, along with the endorsements of task force members that supported this initiative, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

(See exhibit 1.)

Mr. CONRAD. Mr. President, I want to specifically draw the attention of my colleagues to the letter of support for this legislation from the American Medical Association—I was pleased to have the president of the American Medical Association at the press conference this morning announcing this legislation—the support from the National Association of Secondary School Principals; the support of the National Coalition on Television Violence; the support of school principals who recognize that the epidemic of violence on the streets of America is spilling over into the schools of America and their belief that media violence is contributing to that violence; the support from the National Association for the Education of Young Children; the strong statement of support from the National PTA; the support of The Future Wave, which is made up of producers and writers themselves who recognize that television violence, media violence, is contributing to violence in our society; and the support of the National Alliance for Nonviolent Programming. All of these groups have specifically endorsed, now, the legislation that I am introducing today.

[EXHIBIT 1]

S. 332

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Media Protection Act of 1995".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) On average, a child in the United States is exposed to 27 hours of television each week, and some children are exposed to as much as 11 hours of television each day.

(2) The average American child watches 8,000 murders and 100,000 acts of other violence on television by the time the child completes elementary school.

(3) By the age of 18 years, the average American teenager has watched 200,000 acts of violence on television, including 40,000 murders.

(4) The Times Mirror Center reports that a recent poll of Americans indicates that 72 percent of the American people believe that there is too much violence on television, and, according to a survey by *U.S. News and World Report* dated May 1994, 91 percent of American voters believe that mayhem in the media contributes to violence in real life.

(5) On several occasions since 1975, *The Journal of the American Medical Association* has alerted the medical community to the adverse effects of televised violence on child development, including an increase in the level of aggressive behavior and violent behavior among children who view it.

(6) The National Commission on Children recommended in 1991 that producers of television programs exercise greater restraint in the content of programming for children.

(7) A report of the Harry Frank Guggenheim Foundation, dated May 1993, indicates that there is an irrefutable connection between the amount of violence depicted in the television programs watched by children and increased aggressive behavior among children.

(8) It is in the National interest that parents be empowered with the technology to block the viewing of television programs whose content is overly violent or objectionable for other reasons.

(9) Technology currently exists to permit the manufacture of television receivers that are capable of permitting parents to block television programs having violent or otherwise objectionable content.

SEC. 3. ESTABLISHMENT OF TELEVISION VIOLENCE RATING CODE.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end the following:

"(v) Prescribe, in consultation with television broadcasters, cable operators, appropriate public interest groups, and interested individuals from the private sector, rules for rating the level of violence in television programming, including rules for the transmission by television broadcast systems and cable systems of signals containing specifications for blocking violent programming.".

SEC. 4. REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303), as amended by section 3, is further amended by adding at the end the following:

"(w) Require, in the case of apparatus designed to receive television signals that are manufactured in the United States or imported for use in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus—

"(1) be equipped with circuitry designed to enable viewers to block the display of channels, programs, and time slots; and

"(2) enable viewers to block display of all programs with a common rating.".

SEC. 5. SHIPPING OR IMPORTING OF TELEVISIONS THAT BLOCK PROGRAMS.

(a) REGULATIONS.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

"(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(w) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

"(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading it.

"(3) The rules prescribed by the Commission under this subsection shall provide performance standards for blocking technology. Such rules shall require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and blocking specifications established by the Commission.

"(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers.".

(b) CONFORMING AMENDMENT.—Section 330(d) of such Act, as redesignated by subsection (a)(1), is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and sections 303(s), 303(u), and 303(w)".

SEC. 6. ELIMINATION OF VIOLENT PROGRAMMING ON TELEVISION DURING CERTAIN HOURS.

Title I of the Children's Television Act of 1990 (47 U.S.C. 303a et seq.) is amended by adding at the end the following:

"PROHIBITION ON VIOLENT PROGRAMMING

"SEC. 105. (a) The Commission shall, within 30 days of the date of the enactment of this Act, initiate a rule-making proceeding to prescribe a prohibition on the broadcast on commercial television and by public telecommunications entities, including the broadcast by cable operators, from the hours of 6 a.m. to 10 p.m., inclusive, of programming that contains gratuitous violence.

"(b) As used in this section:

"(1) The term 'cable operator' has the meaning given such term in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

"(2) The term 'programming' includes advertisements but does not include bona fide newscasts, bona fide news interviews, bona fide news documentaries, and on-the-spot coverage of bona fide news events.

"(3) The term 'public telecommunications entity' has the meaning given such term in section 397(12) of the Communications Act of 1934 (47 U.S.C. 397(12)).".

SEC. 7. BROADCAST ON TELEVISION AND CABLE OF EDUCATIONAL AND INFORMATIONAL PROGRAMMING FOR CHILDREN.

(a) BROADCAST TELEVISION.—Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following:

"(k) EDUCATIONAL AND INFORMATION PROGRAMMING FOR CHILDREN.—In granting an application for a license for a television broadcasting station (including an application for renewal of such a license), the Commission shall impose such conditions upon the applicant as the Commission requires in order to ensure that the applicant complies under the license with the standards for children's television programming established under section 102 of the Children's Television Act of 1990 (47 U.S.C. 303a) and otherwise serves the educational and informational needs of children through its overall programming.".

(b) CABLE SERVICE.—Part III of title VI of the Communications Act of 1934 (47 U.S.C. 541 et seq.) is amended by adding at the end the following:

"EDUCATIONAL AND INFORMATION PROGRAMMING FOR CHILDREN

"SEC. 629. A franchise, including the renewal of a franchise, may not be awarded under this part unless the cable operator to be awarded the franchise agrees to comply with the standards for children's television programming established under section 102 of the Children's Television Act of 1990 (47 U.S.C. 303a) and to otherwise serve the educational and informational needs of children in the provision of cable service under the franchise.".

CITIZENS TASK FORCE ON TV VIOLENCE

Americans For Responsible Television, Post Office Box 627, Bloomfield Hills, Michigan 48303.

American Psychological Association, 750 First Street, NE, Washington, D.C. 20002.

National Association For The Education of Young Children, 1509 16th Street, NW, Washington, D.C. 20036.

Future Wave, 105 Camino Teresa, Santa Fe, New Mexico 87501.

National Sheriffs Association, 1450 Duke Street, Alexandria, Virginia 22314.

American Medical Association, 1101 Vermont Avenue, NW, Washington, D.C. 20005.

American Medical Association Alliance, Inc., 515 North State Street, Chicago, Illinois 60610.

International Association of Chiefs of Police, 1110 North Glebe Road, Suite 200, Arlington, Virginia 22201.

National Association of Elementary School Principals, 1615 Duke Street, Alexandria, Virginia 22314.

National School Boards Association, 1680 Duke Street, Alexandria, Virginia 22314.

American Psychiatric Association, 1400 K Street, NW, Washington, D.C. 20005.

National Council of Churches, 475 Riverside Drive, Suite 852, New York, New York 10015.

National PTA, 2000 L Street, NW, Suite 600, Washington, D.C. 20036.

Parent Action, 2 North Charles Street, Baltimore, Maryland 21201.

National Foundation To Improve Television, 60 State Street, Suite 3400, Boston, Massachusetts 02109.

National Association of Secondary School Principals, 1904 Association Drive, Reston, Virginia 22091.

American Academy of Child and Adolescent Psychiatry, 3615 Wisconsin Avenue, NW, Washington, D.C. 20016.

National Coalition on Television Violence, 33290 West Fourteen Mile Road, Suite 489, West Bloomfield, Michigan 48322.

American Academy of Pediatrics, 1331 Pennsylvania Avenue, NW, Washington, D.C. 20004.

National Association For Family & Community Education, P.O. Box 6, 127 North Pepperell Road, Hollis, New Hampshire 03049-0006.

National Child Care Association, 1029 Railroad Street, Conyers, Georgia 30207.

National Association of Social Workers, 750 First Street, NE, Washington, D.C. 20002.

Alliance Against Violence In Entertainment For Children, 17 Greenwood Street, Marlboro, Massachusetts 01752.

American Nurses Association/American Academy of Nursing, 600 Maryland Avenue, SW, Suite 100, Washington, D.C. 20024.

American Association of School Administrators, 1801 North Moore Street, Rosslyn, Virginia 22209.

National Council For Children's TV And Media, 32900 Heatherbrook, Farmington Hills, Michigan 48331-2908.

National Alliance for Non-violent Programming, 1846 Banking Street, Greensboro, North Carolina 27408.

National Association of School Psychologists, 8455 Colesville Road, Suite 1000, Silver Spring, Maryland 20910.

[From the Center for Media and Public Affairs, Washington, DC, Aug. 8, 1994]

TV VIOLENCE—1992 VERSUS 1994

Television violence increased by 41% over the last two years, according to a new study by the Center for Media and Public Affairs. The study counted 2,605 violent scenes in a single day across 10 broadcast and cable channels in 1994, up from 1,846 violent scenes in 1992. But violence shown in toy commercials dropped by 85% from 1992 to 1994.

These results come from a unique study of "a day-in-the-life of television." Researchers tabulated all scenes of violence during 18 continuous hours of programming on each of 10 broadcast and cable channels during the first Thursday in April of both 1992 and 1994. The researchers monitored the following channels from 6 a.m. to midnight: the ABC, CBS, NBC, and FOX broadcast networks, PBS, and Paramount-owned independent station WDCA; and cable channels HBO, MTV, WTBS, and USA.

MAJOR FINDINGS

The number of violent scenes increased from 1,846 in 1992 to 2,605 in 1994, a rise of 41%. The average hourly rate increased from 10 to almost 15 scenes of violence per channel.

Life threatening violence (such as assaults with deadly weapons) increased even more rapidly than overall violence, rising 67% from 751 to 1,252 scenes. Incidents involving gun play rose 45%, from 362 to 526.

The greatest sources of violence on television is not any one type of programming, but the "promos" for upcoming shows and movies—695 violent scenes, up 69% from 1992.

Unlike TV programs and promos, violence in toy commercials dropped sharply. In about the same amount of children's programming, toy ads showed only 28 violent scenes in 1994, down from 188 in 1992—a drop of 85%.

Because the study covers a single day, the results cannot necessarily be generalized across the entire television season. But the increase in violence is too pervasive to attribute it to any unusual aspect of this particular day's programming. Violence was up on the broadcast and cable channels alike in fiction and non-fiction formats, adult and children's fare, and in promos as well as programs.

[From the Harry Frank Guggenheim Foundation, New York, NY, May 3, 1993]

H.F. GUGGENHEIM FOUNDATION URGES VIGILANCE AGAINST MEDIA VIOLENCE

CALLS FOR MONITORING OF TV NETWORKS' COMPLIANCE WITH GUIDELINES TO LIMIT VIOLENT CONTENT OF PROGRAMS

NEW YORK.—The nation's only private foundation devoted exclusively to the study of violence and aggression called today for new vigilance against violence in television programs and motion pictures. In issuing a report entitled "The Problem of Media Violence and Children's Behavior," the Harry Frank Guggenheim Foundation urged parents, children's advocates, Congress, and the entertainment industry itself to monitor the industry's compliance with new self-imposed guidelines designed to limit violent content in television programs.

"A substantial body of scientific research now documents the damaging effects of exposure to violent media content. Many leading scientists are convinced that media violence promotes real violence," said foundation president James M. Hester. "The entertainment industry plays an important role in the epidemic of youth violence sweeping the nation. Parents, children's advocacy groups, and Congress should hold the networks to their promise to curb violence on television."

The foundation called on the entertainment industry to adhere to a 15-point set of standards issued by the three major television networks in December 1992. ABC, CBS, and NBC developed the guidelines in response to a law passed by Congress that protected the networks from prosecution on antitrust grounds if they coordinated efforts to regulate the amount of violence in their programming. The exemption expires at the end of this year.

"The public is anxious about the problem of media violence, but they don't know what's being done to address it," Hester said. "This report supplies up-to-date information, including an important statement by Professor Leonard Eron of the University of Michigan. We hope it will encourage vigilance in monitoring how well the TV networks live up to their own guidelines. They have made a social contract with the public, and they should be held accountable to it."

The foundation report also points out that the motion-picture industry and cable television networks have yet to issue similar standards limiting violence.

"The initiative of the television networks is a step in the right direction, but the remainder of the industry has yet to respond to the warnings of scientists and the protests of concerned citizens," Hester said. "Media violence obviously remains a very serious national problem."

The Harry Frank Guggenheim Foundation supports research in a broad range of disciplines in order to illuminate the causes and consequences of human violence. The foundation's goal is to reduce violence and improve relations among people by increasing society's understanding of violence and aggression.

THE NATIONAL ALLIANCE FOR
NON-VIOLENT PROGRAMMING,
Greensboro, NC, February 1, 1995.

To: Senator Kent Conrad, Hart Senate Office Building.

From: Whitney Vanderwerff, Executive Director, The National Alliance for Non-violent Programming.

Thank you very much for your endeavors with regards to the incidence and effects of media violence.

The National Alliance for Non-violent Programming, a network of national and international women's organizations created to address the issue of media violence noncensorially, endorses the intent of two of the provisions of the Children's Media Protection Act of 1995, to be introduced by Senator Kent Conrad in the United States Senate on February 2, 1995:

Implementation of blocking technologies can empower parents and caregivers to analyze violent content and the ratings thereof and to take action to reduce the incidence and effects of media violence.

Television broadcasting stations applying for licenses and license renewals should comply fully with the standards of the Children's Television Act of 1990.

Senator Conrad's bill must be implemented in conjunction with community education and involvement. These provisions of the bill can educate and involve citizens at the grassroots, and therefore the National Alliance for Non-violent Programming lends its endorsement of the intent of these two provisions. Thank you.

WORKING FOR ALTERNATIVES TO
VIOLENCE IN ENTERTAINMENT,
Santa Fe, NM, January 30, 1995.

Senator KENT CONRAD,
Hart Senate Office Building, Washington, DC.

Attn: Robert Foust, Task Force On TV Violence

DEAR SENATOR CONRAD: We were pleased to read your new bill, and to join in your press release with the following statement.

As writers and producers, we realize that this bill is not Congress censoring us. This is Congress doing our market research for us. We join with other forward thinking people in the Hollywood creative community in welcoming this challenge to generate more creative product, freed from marketplace demands for violence.

Future WAVE is an organization of writers and producers *W*orking for *A*lternatives to *V*iolence through *E*ntertainment. With Board members such as Edward James Olmos, Martin Sheen, Dennis Weaver, and with producer Robert Watts (*Indiana Jones* movies, *Alive*, etc.) we are working within the Hollywood creative community to answer MPA Chairman Jack Valenti's call: "How can we in the film/TV industry * * * be so creatively resourceful that we are able to attract and excite audiences and at the same time try to pacify those scenes which lay claim to gratuitous violence?"

We are pleased to see that Congress is going beyond giving a standing ovation to reducing TV violence and actually beginning to do something about it—without censorship.

We believe it is very important that the rules for rating the level of violence not be simply a bean count of violent acts. For under such standards a movie like *Gandhi* or a drama on the life of Martin Luther King might be listed as very violent. [Similarly, each of the films in the attached RAVE award proposal contain acts of violence but have a powerful nonviolent message].

What parents need is the power to control programming which glamorizes or trivializes violence. We need more shows which depict nonviolent heroes facing down violence with more creative means than counter-violence.

Sincerely,

ARTHUR KANEGIS,
President.

[From the National PTA, Feb. 2, 1995]

NATIONAL PTA SUPPORTS PASSAGE OF THE CHILDREN'S MEDIA PROTECTION ACT OF 1995

(By Catherine A. Belter, National PTA Vice-President for Legislative Activity)

WASHINGTON, DC.—The National PTA joins the many other education, civic, health, child development and child advocacy organizations to speak in favor of the passage of the Children's Media Protection Act of 1995. I am here today as one of a procession of many National PTA representatives who as far back as the 1970's have petitioned Congress and the regulatory agencies about the need to provide more quality television programming for children and youth.

I am also here today, not as a legal expert, medical practitioner or law enforcement officer, but as a parent and a long standing child advocate who shares with other parents and citizens the frustration of years of attempting to influence children's television programming while not wishing to cross the fine lines of our First Amendment freedoms.

The National PTA has testified in the past that this kind of TV violence legislation would be a last resort if voluntary self-regulation and the TV Violence Act produced little results. We know that Senator Conrad and many in the Congress have taken the same stance. In my comments before the FCC last June, I reported an abysmally low compliance rate of the broadcasters with the Children's Television Act, and an almost total failure by the industry to take advantage of the anti-trust exemption provided by the Children's Television Violence Act to produce industry-wide standards and guidelines in an effort to reduce violent TV programming.

At the same time that the industry is ignoring the Children's Television Act, many parents do make an effort to monitor their children's television viewing. The National PTA certainly recognizes that responsibility for children's viewing also falls on the shoulders of the adult family members. To that end, the National PTA has recently launched the Family and Community Critical Viewing Project in association with the National Cable Television Association (NCTA) and Cable in the Classroom. This cooperative effort is designed to provide parents and teachers throughout the country with information and skills to help families make better choices in the television programs they watch, and to improve the way they watch these programs. The workshops are based on a model created in association with the Harvard media expert Dr. Renee Hobbs. The National PTA is offering media literacy workshops to PTAs around the country. In addition, the National PTA has also been in the forefront in supporting such non-commercial and educational programs as Arts and Entertainment, Cable in the Classroom, Discovery and CNN Classroom News.

But for some children TV acts as the remote babysitter and as a surrogate parent, and these children may not be fortunate enough to have parents who closely monitor their TV watching. With television in 96 percent of all American households, this medium does affect the attitudes, the informal education and the behavior of our children. The networks and many other cable producers have resisted voluntary self-regulation to improve programs for children and have not gotten the message that parents are concerned and want a reduction in violent television and an increase in quality, educational and entertaining family programs.

According to a 1993 UCLA study by its Department of Communications, TV stations provided an average of 3.4 hours per week (less than one-half hour per day) of regularly scheduled standard length programming for children. That figure is little more than what was broadcast for children in the late 70's. In addition, an assessment by one of our local units, the South Florida Preschool PTA, revealed that less than 1 percent of the broadcast hours on the four local network stations were devoted to educational and informational children's programming. Yet, in a 1990 study, the Annenberg School of Communication found that non-educational programming targeted at children increased. Programming such as the current fare of Saturday morning cartoons, X-Men, the Simpsons and Beavis and Butthead is far from educational and contains some form of violence.

The statistics related to a child's exposure to TV violence are indeed alarming. For instance, a November 1991 study by the Annenberg School of Communication showed that the average number of violent acts in one hour of children's television broadcasting was more than 30. This is even more than on prime-time TV which had only 4 acts of violence per hour. A 1993 American Psychological Association study showed that the typical child will watch 8,000 murders and more than 100,000 acts of violence before finishing elementary school. By the age of 18, the same teenager will have witnessed 200,000 acts of violence, including 40,000 murders.

After 20 years of asking the broadcasters and the industry to respond to parents and children through self-regulation and reduce violence, we believe that it is time for the next step: the passage of the Children's Media Protection Act of 1995 which contains many of the provisions advocated by the National PTA in testimony before the Senate Commerce Committee on October 28, 1993. The bill provides a multi-faceted and comprehensive approach to curbing television violence including the following:

1. The requirement that television sets are equipped so that parents have the opportunity to block programming with violent content;

2. In the future, the opportunity for parents to block any television program that they find objectionable for any reason:

3. The development of violence rating standards which reflect the input of a broad based group of citizens, including parents;

4. Creation of a "safe harbor" during the course of each day that prohibits programming containing gratuitous violence during the times that children are most likely to watch television. This is a provision that Attorney General Janet Reno has opined as constitutional;

5. Assurance that the FCC will carry out its responsibilities pursuant to the Children's Television Act. Parents want safe

schools and safe communities. In fact, working toward violence-free schools and communities is a major program priority for the national PTA. The National PTA certainly recognizes that there are a number of causes related to violence in our society besides violent TV programming. However, the fact still remains that television is more violent than ever before and offers fewer opportunities for education and family viewing. The television industry must assume its share of the responsibility for the violent behavior of children. The Children's Media Protection Act is a health issue, an educational issue and a family values issue. Reduction of TV violence is one of the issues that received a strong bipartisan reaction from both U.S. Senators and U.S. Representatives during President Clinton's State of the Union Address. The National PTA applauds Senator Kent Conrad for introducing this legislation, and requests the immediate passage of this legislation.

[From the NAEYC News, Washington, DC, Feb. 6, 1995]

Children's Media Protection Act: A Responsible Step to Support Families and Decrease Children's Exposure to Media Violence

The National Association for the Education of Young Children (NAEYC) strongly supports Senator Kent Conrad's introduction of the Children's Media Protection Act of 1995. This measure takes several critical steps to reduce children's exposure to media violence and its negative impact on children's development and aggressive behavior. The measure also empowers parents to take advantage of technology that gives them greater control over the television programming available to their children.

Of all of the sources and manifestations of violence in children's lives, media violence is perhaps the most easily corrected. This legislation takes steps—long overdue—to decrease the amount and severity of violent acts observed by children through television and to give parents additional control in selecting the programs available to their children.

NAEYC believes that each component of the legislation is equally important. The requirement that television sets be equipped with technology that allows parents to block objectionable programming, along with the violence rating code, will provide valuable tools that allow parents greater power in controlling the nature of television programs to which their children are exposed. The children's hour provision to prohibit gratuitous violence on commercial and public television between the hours of 6:00 a.m. and 10:00 p.m. also takes an important step in decreasing children's viewing of media violence. Finally, stronger enforcement of the Children's Television Act should promote additional choices of television viewing appropriate to children's development and interests.

The National Association for the Education of Young Children (NAEYC) is the nation's oldest and largest organization of early childhood professionals and others working to improve the quality of early childhood education services available to young children, birth through age 8, and their families. Based in Washington, D.C., NAEYC has a membership exceeding 90,000 and a network of more than 450 local, state, and regional affiliated early childhood organizations.

School Principals Support Children's Media Protection Act of 1995

ALEXANDRIA, VA., February 2, 1995—The National Association of Elementary School Principals pledged full support for the Children's Media Protection Act of 1995 introduced today by North Dakota's Senator Kent Conrad.

"The effect of television on children is of great concern to school principals," said Samuel G. Sava, NAESP's executive director. "The family room television is a more persuasive and pervasive educator than all the teachers in America's classrooms. There's no question that the overdose of media violence American children receive is linked to their increasingly violent behavior," he said. "But more troubling for parents and educators is the fact that the violence children see, hear, and are entertained by makes them insensitive to real violence."

NAESP, which represents 26,000 elementary and middle school principals nationwide, has long been on record in support of strengthening and enforcing guidelines for the Children's Television Act that would improve programming for children and give parents peace of mind. NAESP has repeatedly asked the FCC and Congress to employ a clearer definition of educational programming and require that stations air at least one hour of 30-minute educational shows every day between 7:00 a.m., and 10:00 p.m., when children are watching.

NAESP further urges Congress to protect children from media violence by:

Developing a violence code, which gives rules for rating the level of violence in television programming;

Allowing violent programs to air only between 10:00 and 6:00 a.m.; and

Requiring manufacturers to install devices on TVs that can be used to block programming.

"Educators want families to have better control over their children's TV viewing. We need a family-friendly media industry that is responsible to its youngest audience," Sava said.

Attached is NAESP's "Report to Parents," produced in the fall of 1993, which its members reproduce to send home to the families to their students.

Established in 1921, the National Association of Elementary School Principals serves 26,000 elementary and middle school principals in the United States, Canada, and overseas.

[From the NCTV-News, Washington, DC, Feb. 2, 1995]

NCTV Supports Sen. Conrad's Children's Television Bill

WASHINGTON DC.—The National Coalition on Television Violence (NCTV) supports of Senator Kent Conrad's bill to control the amount of television violence witnessed by children. The Children's Media Protection Act of 1995, introduced by Sen. Conrad (D. ND.) provides a combination of real tools that parents can use to effectively supervise their children's viewing habits and enforcement mechanisms to hold broadcasters accountable for their compliance (or lack of compliance) to existing rules.

The industry has consistently used a defensive strategy of tossing the problem back into the laps of parents by claiming a conflict with First Amendment Rights and criticizing parental responsibility. Parents have long been frustrated by their inability to cope with the overwhelming, ever present nature of television.

This bill requires broadcasters to provide the public with the information they need to identify objectionable programming, along with the technological tools they need to effectively block it from coming into their homes.

The provisions of the bill state that:

A rating system will be developed to identify programming detrimental to children;

Computer technology (which is currently available) that can be used to selectively screen out unwanted programming will be required to be built into new televisions sets; and

Broadcaster's license renewal will be contingent on their compliance with the provisions set forth in the Children's Television Act of 1990.

Implementation of the Children Television Act of 1990 provides for "truth in packaging" for television programs and a "safe harbor" of television air time free from gratuitous violence. As any parent knows, even when exercising extreme vigilance over children's viewing, a child appropriate program is often subject to the insertion of promotional messages for just the sort of programs or movies that the parent is trying to avoid. These one minute (or less) interruptions also frequently use the most violent clips from the programs as their promotional message!

More than 40 years of research has demonstrated the negative effects of television on children, particularly the links between media violence and aggressive behavior. NCTV commends Sen. Conrad for his willingness to counter the trend of "feel good legislation with no teeth" to propose legislation that calls for true accountability from the broadcast media in a genuine move to improve the lives of America's children.

NASSP, THE NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS,
Reston, VA, February 2, 1995.

Hon. KENT CONRAD,
U.S. Senate, Washington, DC.

DEAR SENATOR CONRAD: The National Association of Secondary School Principals (NASSP) and its 42,000 members commend you for your efforts to protect our children and youth from exposure to violence in television and the media. We join you in seeking passage of the Children's Media Protection Act of 1995.

Our nation is experiencing an unrivaled period of juvenile violent crime perpetrated by youths from all races, social classes, and lifestyles. Without question, the entertainment industry plays a role in fostering this anti-social behavior by promoting instant gratification, glorifying casual sex, and encouraging the use of profanity, nudity, violence, killing, and racial and sexual stereotyping.

A national effort to monitor and ultimately decrease violence in television and the entertainment media is vitally important to the well-being and subsequent development of youngsters. Therefore, NASSP joins you in recommending that:

Manufacturers, both domestic and foreign, install technology on all television sets to permit parents to block television programming with violent or objectionable program content;

The Federal Communication Commission (FCC), in consultation with television broadcasters, cable operators, private interest groups, and concerned citizens, prescribe rules for rating the level of violence in television programming;

The FCC grant and renew television operating licenses only after ensuring the applicant is in compliance with the standards for children's programming established under the Children's Television Act of 1990; and

Programming containing gratuitous violence be prohibited between the hours of 6 a.m. to 10 p.m.

NASSP strongly urges Congress to halt the increasingly senseless portrayals of violence in the entertainment media by supporting this crucial movement.

Sincerely,

DR. TIMOTHY J. DYER,
Executive Director.

VIOLENCE IN THE MEDIA AND ENTERTAINMENT INDUSTRY

Whereas, in 1979, the National Association of Secondary School Principals urged the broadcasting and motion picture industries to work with educators and parents in moving toward a significant reduction of violent acts in television film programming;

Whereas, the nation is experiencing an unrivaled period of juvenile violent crime perpetrated by youths from all races, social classes, and lifestyles;

Whereas, the average American child views 8,000 murders and 100,000 acts of violence on TV before finishing elementary school, and by the age of 18, that same teenager will have witnessed 200,000 acts of violence on TV, including 40,000 murders; and,

Whereas, the entertainment industry (movies, records, music videos, radio, and television) plays an important role in fostering anti-social behavior by promoting instant gratification, glorifying casual sex, encouraging the use of profanity, nudity, violence, killing, and racial and sexual stereotyping; be it therefore known, that the National Association of Secondary School Principals:

Appreciates the efforts of the U.S. Attorney General to focus on the problem of increasing violence in the media;

Stands in opposition to violence and insensitive behavior and dialogue in the entertainment industry;

Commends television broadcasters who have begun self-regulation by labeling each program it deems potentially offensive with the following warning: DUE TO VIOLENT CONTENT, PARENTAL DISCRETION IS ADVISED, and producers of music videos and records who use similar labeling systems;

Encourages parents to responsibly monitor and control the viewing and listening habits of their children with popular media products (records, videos, TV programs, etc.);

Calls upon advertisers to take responsible steps to screen the programs they support on the basis of their violent and profane content;

Supports federal legislation designed to decrease and monitor TV violence; and

Calls upon the Federal Communications Commission to initiate hearings on violence in the media, and to consider as part of those hearings the establishment of guidelines for broadcasters to follow during prime time and children's viewing hours; furthermore, the FCC should use its licensing powers to ensure broadcasters' compliance with guidelines on violence and establish a strict procedure to levy fines against those licensees who fail to comply.

Adopted by the Membership of the National Association of Secondary School Principals, February 1994.

[From the American Medical Association, Washington, DC, Feb. 2, 1995]

AMA SUPPORTS THE CHILDREN'S MEDIA PROTECTION ACT OF 1995

(By Robert E. McAfee, MD, President, AMA)

"As President of the American Medical Association, and on behalf of our 300,000 physician and medical student members, and the members of our Alliance, I am pleased to support the Children's Media Protection Act of 1995, which Senator Kent Conrad will introduce today.

"Violence is a major medical and public health epidemic in America. Each year, an estimated 50,000 deaths are attributable to violence in the form of homicide and suicide. The United States ranks first among industrialized nations in silent death rates.

"We are a people living in fear. Which of us has not been haunted by dark thoughts we try to ignore: Will my 9-year-old be safe today in her classroom? Could my father be the victim of a drive-by shooting as he walks the dog? Will I be the next car-jacking victim? My sister a victim of domestic violence? No one can disagree: violence in America is out of control.

"Certainly, the root causes of violence are varied and debatable. But over the past two decades, a growing body of scientific evidence has documented the relationship between the mass media and violent behavior. Report after report brings us to the same conclusion: programming shown by the mass media contributes significantly to the aggressive behavior and to the aggression-related attitudes of children, adolescents, and adults.

"It is estimated that by the time children leave elementary school, they have viewed 8,000 killings and more than 100,000 other violent acts. Children learn behavior by example. They have an instinctive desire to imitate actions they observe, without always possessing the intellect or maturity to determine if the actions are appropriate. This principle certainly applies to TV violence. Children's exposure to violence in the mass media can have lifelong consequences.

"We must take strong action now to curb TV violence if we are to have any chance of halting the violent behavior our children learn through watching television. If we fail to do so, it is a virtual certainty the situation will continue to worsen. The time for action is now."

CITIZENS TASK FORCE ON TV VIOLENCE RECOMMENDATIONS FOR ATTORNEY GENERAL JANET RENO

Adoption of Entertainment Media Violence Code;

Parental Involvement;

FCC Hearings;

Children's Television Act;

Viewing Violent Television Programming in Prisons;

White House Conference on Violence; and

Continuation of Television Industry Discussions.

UNITED STATES SENATE,
Washington, DC, December 15, 1993.

Hon. JANET RENO,
Attorney General of the United States, Department of Justice, Washington, DC.

DEAR MADAM ATTORNEY GENERAL: Pursuant to your discussions on November 22, 1993 with members of the Citizens Task Force on TV Violence, I am very pleased to enclose specific recommendations that members of the coalition believe you and other members of the Interagency Working Group on Violence should carefully examine as you consider the Federal response to the horrible violence in society, including violence in the entertainment media.

These recommendations are endorsed by the following organizations, all members of the Citizens Task Force on TV Violence—

National Association of Elementary School Principals.

National Association of Secondary School Principals.

American Medical Association.

American Medical Association Alliance.

National Child Care Association.

Parent Action.

American Academy of Child and Adolescent Psychiatry.

National Foundation To Improve Television.

National School Boards Association.

National Association For Family and Community Education.

American Psychiatric Association.

Americans For Responsible Television.

National Association For The Education Of Young Children.

National Association of Social Workers.

Future Wave.

National Council of Churches.

Alliance Against Violence in Entertainment For Children.

National Coalition On Television Violence.

National Council for Children's TV and Media.

National Parent Teacher Association (PTA).

Letters and more detailed comments in support of the recommendations from Future Wave, the National Sheriffs Association, the National PTA, the International Association of Chiefs of Police, and the Center For Media Education are also attached for your consideration.

We are most grateful for your support on this issue.

Sincerely,

KENT CONRAD,
U.S. Senator.

RECOMMENDATIONS FOR ATTORNEY GENERAL JANET RENO/INTERAGENCY WORKING GROUP ON VIOLENCE FROM CITIZENS TASK FORCE ON TV VIOLENCE

1. ADOPTION OF ENTERTAINMENT MEDIA VIOLENCE CODE

We support the adoption of a Code, similar to the Code recently announced by the Canadian Radio and Telecommunications Commission and the Canadian Association of Broadcasters, understanding that such a Code would be best developed through a collaborative effort between Government and the television, cable and motion picture industries.

We suggest the formation of an Action Task Group, comprised of Government, television, cable, motion picture industry and public interest representatives, and television advertisers to develop the Code.

Certain features of the Code would be a matter of the broadcasters, cable programmers and motion picture industry representatives exercising voluntary judgements to program in the public interest, such as a general agreement not to program gratuitous violence and to exercise severe restraints on violence with respect to children's programming.

However, we feel that the Code should contain a "safe-harbor" rule to the effect that gratuitous dramatized violence, including violent commercials for movies or upcoming shows, would not be programmed on broadcast or cable television between the hours of 6:00 a.m. and 10:00 p.m., and that such a rule would be fully enforceable by the Federal Communications Commission (FCC) as a regulation that is narrowly drawn to further a compelling state interest, i.e., the protection of children under the age of 12. Compliance with such a rule would be a factor taken into account when the FCC considers renewal of licenses in the case of broadcast TV, and would be enforced by fines in the case of cable TV.

Finally, in the event that the television industry refuses to cooperate in the development of such a Code, then we believe that the FCC (in collaboration with Congress) should design and implement appropriate regulations that will withstand judicial scrutiny to protect children under the age of 12 from the demonstrated harm of TV violence.

2. PARENTAL INVOLVEMENT

We support steps which would work to empower parents to more effectively monitor and control what their young children view on television. These recommendations include—

Mechanical/electronic devices installed in television sets or cable boxes that would enable parents to block out television programming (cable or broadcast) that contains "V" rating. We believe such a device would be more effective than present lockout devices (devices that can lock out a particular channel or program) which presupposes parental participation in the selection of programming, which is not the case in so many of our nation's homes.

Viewer warnings. Audio and visual warnings of programming containing gratuitous dramatized violence between 6:00 a.m. and 10 p.m. would be telecast before the program and at each commercial break until 10:00 p.m. Superimposed warnings would be displayed continuously during programming containing gratuitous violence.

Violence Rating System. We support the development (by The Action Task Group referred to above) and implementation of a rating system that would classify programs on the basis of their violent content and that such ratings be made available to parents through TV guides, listings, etc. We suggest that such ratings would, in the first instance, be assigned by the programmers themselves, and that only in the event of a breach of their good faith responsibility to assign proper ratings, would the FCC become involved.

3. FCC HEARINGS

We support and urge that the FCC hold hearings on the issue of television violence, most particularly on proposed voluntary and regulatory solutions to some, in several forums around the country. From these hearings the FCC would hone a definition of "television violence" as well as gather the necessary data to support the Code and the basis of any regulations that become part of the Code.

4. CHILDREN'S TELEVISION ACT

We support and urge that the FCC continue with the initiative to strengthen and enforce the FCC's rules promulgated in implementing the Children's Television Act, in order that beneficial programming for children be increased to provide a real alternative to television violence. We also urge that such programming include materials to educate and inform children about the effects of violence and media violence in particular. In addition, we recommend public service announcements to educate viewers about the effects of violence generally, and media violence in particular.

5. VIEWING VIOLENT TELEVISION PROGRAMMING IN PRISONS

We suggest that one step that could be taken immediately on the issue of television violence and its adverse effect on our society would be to end the availability of violent TV programs in prisons.

6. WHITE HOUSE CONFERENCE ON VIOLENCE

We strongly support the initiative of convening a White House Conference on Violence that would focus on the causes of our epidemic of violence, including media violence. At the session on media violence, there would be included, in addition to the representatives of the television, cable and motion picture industries, the approximately 100 major advertisers on television. We believe that a well-designed initiative of consciousness-raising specifically aimed at these advertisers would be effective in reducing gratuitous violence on television.

7. CONTINUATION OF TELEVISION INDUSTRY DISCUSSION

Since many of the above recommendations and initiatives require the joint cooperation and collaboration of the TV industry, we support the extension of the current antitrust exemption as provided under the Television Program Improvement Act—Public Law 101-650, to permit the continuation of television industry discussions.

By Mr. MURKOWSKI (for himself, Mr. JOHNSTON, and Mr. LOTT):

S. 333. A bill to direct the Secretary of Energy to institute certain procedures in the performance of risk assessments in connection with environmental restoration activities, and for other purposes; to the Committee on Energy and Natural Resources.

THE DEPARTMENT OF ENERGY RISK MANAGEMENT ACT OF 1995

Mr. MURKOWSKI. Mr. President, let me acknowledge my colleague, Senator LOTT, who has spoken on the necessity of the legislation which we are introducing today, the Department of Energy Risk Management Act of 1995.

I am very pleased to rise today to introduce the Department of Energy Risk Management Act of 1995 for myself, Senator JOHNSTON, and Senator LOTT. Congress needs to require agencies to use sound science, risk assessment, and cost-benefit analysis in the regulatory decision-making process.

So often, as you know, Mr. President, decisions are made on the basis of emotion. The group that speaks the loudest, has the most numbers, or makes the most outlandish statements influences the decision, instead of decisions being made on sound science. If we cannot depend on scientists who spend a portion of their lives becoming experts on a particular subject, we certainly cannot depend on the short span of attention that we have as politicians as we attempt to evaluate the merits of some very difficult and sophisticated subjects.

One of the difficulties, of course, is to get the scientific community to step forward and put their reputation on the line behind, if you will, their recommendations. So often, we find a situation where the scientists say, "Well, if I had another appropriation, I could study that a little bit more and probably give you a little more definitive answer." Decisions have to be made every day. You and I, Mr. President, have to vote up and down. We cannot vote maybe. We have to make some decisions. With the regulatory process that has run amuck in this country today these decisions are not being made competently and are not being made on the basis of the best information available. We cannot seem to get the scientific community to bear the responsibility for their advice to those of us who have to vote yes or no.

What are we really talking about? This is not a complicated concept. This is risk analysis, cost benefit, and every time you pick up a can of soup or you go buy some crackers it tells you if you have fat soup, skinny soup, or crackers with sodium in them. But with risk assessment and cost-benefit analysis in the application of a permit by the Environmental Protection Agency and various other agencies, you do not know what the cost is. You do not know what the benefit is. You do not know what the risk is.

So this legislation would simply mandate that the public have awareness when the administrative agencies come down with their evaluation of the permitting process as to what the risk is and what the cost is. It is perfectly reasonable. Yet there is a tremendous concern out there among America's environmental community that somehow this will dismantle our environmental laws. What an outlandish generalization.

So I think, Mr. President, we need to require the agencies to use sound science, risk assessment, and cost-benefit analysis in the regulatory decisionmaking process. This legislation applies to environmental restoration activities conducted by the Department of Energy [DOE]. Although the scope of this bill applies to DOE cleanups, we hope to have the risk assessment and cost-benefit analysis debate cover all agencies' activities. We are coordinating our legislative effort with other legislative efforts.

In the last Congress Senator JOHNSTON offered an amendment to the EPA Cabinet level bill in the spring of 1993. At the same time the Johnston amendment was adopted, I offered an amendment requiring cost-benefit analysis that was agreed to by the Senate. I have continued to look for ways to improve and refine our regulatory decisionmaking process. Senator LOTT also introduced legislation last Congress that is incorporated into our bill. Since the last Congress, the momentum for risk assessment/cost-benefit analysis has only intensified and the November elections have brought about renewed interest in advancing risk assessment/cost-benefit analysis legislation.

I hope the agencies out there got the message of what the last election suggested, that the process was out of balance, and it needed correcting.

On January 17, I hosted, along with Senator LOTT, Representative CRAPO, and Representative KAREN THURMOND, the first meeting of a bipartisan, bicameral Regulatory Reform Caucus now made up of 35 Representatives and some 12 Senators. The caucus wants a proactive strategy to require agencies to use sound science, risk assessment, and cost-benefit analysis in the regulatory decisionmaking process.

At that meeting we heard from two excellent speakers. John Stossel of ABC News spoke persuasively about how the public's perception of environmental and health risks affects our overregulation of those risks. Mr. Stossel showed a chart that broke down how much given risks shorten the average life. It is interesting to note that we spend billions of dollars regulating toxic waste sites and there are lots of news stories about places, like Love Canal. But, even based on the most extreme estimates provided by environmental organizations toxic wastes are calculated to shorten the average life by just 4 days. Other risks shorten the average life span by years, yet we do not regulate them.

Dr. John Graham, Director of the Harvard Center for Risk Analysis, gave an objective view of how government overregulates our lives and businesses. I was particularly impressed with Dr. Graham's point that over 80 percent of Americans favor better risk analysis in environmental policy. And, as Dr. Graham has indicated, risk and cost-benefit analysis is the key to sound environmental policy of the future. In fact, I think it is fair to say that incorporation of sound science, detailed and well communicated assessments, cost-benefit analysis, and the prioritizing of our limited resources is the environmental policy of the future. It is a commonsense policy that is here to stay.

American businesses spend more than $150 billion annually just to comply with environmental laws—costs that increasingly strain U.S. competitiveness. Risk-based regulations rely on worst-case scenarios and ignore the best science, producing elaborate, expensive regulation of unimportant problems.

Imagine, Mr. President, if we relied on a worst-case scenario. We would not walk outside. We would not be in this building. Worst case means the worst possible case, whether it be flood, earthquake, you name it.

So risk-based scenarios really are scenarios that ignore best science contrary to the real world. As a result, the Federal Government is forcing the expenditure of billions of dollars by local government and industry on these excessively hypothetical and exaggerated perceptions of risks.

The intent of the policy of incorporating risk assessment and cost-benefit analysis into the decisionmaking process is to ensure better, more cost-effective regulations and decisions over the long term. Again, it is the smart way to make sure we get the most value for our limited Government resources, especially in a time where the American public is unequivocally demanding a smaller Federal bureaucracy and less Government control of their lives.

A couple of examples, Mr. President, to liven up the morning. I am told that a Kansas City bank was ordered by Federal regulators to put a braille keypad on drive-through ATM, automatic teller machines.

A little food for thought. The U.S. Department of Agriculture, in another case, required California farmers to dispose of millions of pounds of otherwise good peaches and nectarines simply because they were smaller than Federal standards permitted. Fruit that could have been given away to the needy had to be left to rot.

In Boise, ID, a plumbing contractor was penalized by OSHA because proper safety precautions were not taken by the employees, who successfully rescued a suffocating construction worker from a collapsed trench. The $7,785 fine was rescinded due to public outrage. Can you imagine that?

A self-employed truck mechanic in Morrisville, PA, was fined $2,200 and sentenced to 3 years in jail for hauling away 7,000 old tires and rusting cars and placing clean fill on his own occasionally wet property without a Federal permit, because it was classified as a "wetlands." The EPA argued the property was wetlands because of a stream—dry for most of the year—was partially trapped by the discarded junk and created several pools of water.

I could go on and on with those horror stories, Mr. President, but I know you are familiar with them as well.

Finally, the legislation Senator LOTT, Senator JOHNSTON, and I have put together on risk assessment/cost-benefit would accomplish several important goals.

First, the legislation establishes clear principles to be followed by the Department of Energy. It does not set up a new bureaucracy, but it requires specifics when it performs risk assessments, and they include the consideration and discussion of data that may or may not specifically point to a health risk; precise guidelines for the use of assumptions to bridge some of the data gaps; and most importantly, assessments that are objective and unbiased.

Second, the bill establishes principles for risk characterization that will allow for better understanding and communication, so the public can read what the risk is, like they can read the risk if they want fat soup or skinny crackers, because it is on there. DOE must issue a final regulation implementing the risk assessment and risk characterization principles. DOE must develop a plan to review and revise early risk assessments, which shall include a process by which members of the public may petition the DOE for review of particular risk assessments.

In addition to establishing a risk assessment procedural framework, the bill would also require the Department to apply the results of those assessments in significant ways that will ensure safer, more efficient and more cost-effective cleanup. Any plan, assessment, or record of decision to conduct an environmental restoration activity must go through a cost-benefit analysis. The Secretary is going to have to certify that the analysis is based upon the best reasonable information; the analysis is objective and unbiased; the environmental restoration activity significantly reduces the targeted risk; no alternative environmental restoration activity is more cost-effective; and the environmental restoration activity is likely to reduce benefits that justify its cost. The Department must prioritize resources to address the most serious and most cost-effective risks first.

We intend to expand the scope of this legislation to apply to regulations and all agencies, to provide for an independent and external peer review process.

I do not want to complicate this with a lot of words. We are simply asking for a process that the public can understand and it is almost like truth-in-lending, which has never been applicable to the regulatory process. That is what we propose in this legislation.

I ask unanimous consent at this time to have printed in the RECORD some of the risk comparisons that help to illustrate the importance of having comparative risks available to the public, and an article entitled "Unloading Excess Regulations," by Murray Weidenbaum, which appeared in the Journal of Commerce on January 27, 1995.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHY WE HAVE TO CHOOSE WHICH RISKS ARE WORTH REDUCING

Activity	Cost per death averted
THIRD WORLD COUNTRIES	
Diphtheria immunization (Gambia)	$87
Malaria prevention (Africa)	440
Measles immunization (Ivory Coast)	850
Improved health care	1,930
Improved water sanitation	4,030
Dietary supplements	5,300
UNITED STATES, NON-ENVIRONMENTAL	
Improved traffic signs	31,000
Cervical cancer screening	50,000
Improved lighting	80,000
Upgrade guard rails	101,000
Mobile intensive care units	120,000
Breakaway sign supports	125,000
Lung cancer screening	140,000
Breast cancer screening	160,000
UNITED STATES, ENVIRONMENTAL REGULATIONS	
Asbestos ban	110,700,000
Benzene NESHAP (revised waste operations)	168,200,000
1,2 dichloropropane drinking water standard	653,000,000
Hazardous waste land disposal ban (1st 3rd)	4,190,400,000
Municipal landfill standards (1988 proposed)	19,107,000,000
Formaldehyde occupational exposure limit #2	86,201,800,000
Atrazine/alachlor drinking water standard	92,069,700,000

WHY WE HAVE TO CHOOSE WHICH RISKS ARE WORTH REDUCING—Continued

Activity	Cost per death averted
Hazardous waste listing for wood-preserving chemicals	5,700,000,000,000

Sources: Bernard L. Cohen, "Perspectives on the Cost Effectiveness of Life Saving," in Jay H. Lehr, Rational Readings on Environmental Concerns, pp. 462–465. (Author acknowledges that many of these numbers are only estimates and depend on other factors) John F. Morrall III, "A Review of the Record," Regulation 10 (2) (1986), p. 30. Updated by Morrall, et al. (1990) and printed in U.S. Chemical Industry Statistical Handbook 1992, p. 141.

RANKING POSSIBLE CANCER HAZARDS

Low levels of exposure to man-made chemicals means the risk they pose is very small compared to that of nationally occurring chemicals. The figures below assume that experiments on laboratory animals are reliable indicators of human carcinogenic hazards.

Source and daily exposure	Risk factor
Wine (one glass)	4,700.0
Beer (12 ounces)	2,800.0
Cola (one)	2,700.0
Bread (two slices)	400.0
Mushroom (one, raw)	100.0
Basil (1 gram of dried leaf)	100.0
Shrimp (100 grams)	90.0
Brown mustard (5 grams)	70.0
Saccharin (in 12 oz of diet soda)	60.0
Peanut butter (one sandwich)	30.0
Cooked bacon (100 grams)	9.0
Tap water (one liter)	1.0
Additives and pesticides in other food	0.5
Additives and pesticides in bread and grain products	0.4
Coffee (one cup)	0.3

Source: Human Exposure Rodent Potency (HERP) index, multiplied by 1000, based on Bruce Ames et al., "Ranking Possible Carcinogenic Hazards," Science 236 (April 17, 1987), page 271. See article for explanation of methodology and interpretation of results.

ODDS OF DYING FROM VARIOUS CAUSES

[Risk per 1 million population, U.S.]

Causes	Risk per million
Real risk of death this year caused by:	
Being murdered in Washington, DC (residents)	760.0
Chronically abusing alcohol	600.0
Being in a car accident	200.0
Being in a home accident	110.0
Being murdered	92.0
Giving birth to a child (women)	66.0
Being electrocuted	3.0
Being struck by lightning	1.6
Drowning in a bathtub	1.5
Hypothetical risk of death from cancer caused by:	
Drinking one can of light beer per day for one year	20.0
Eating one peanut butter sandwich per day for one year	10.0
Living next door to a nuclear power plant for 70 years (NCI)	10.0
Lifetime exposure to pesticide residues (EPA)	3.0
Lifetime exposure to pesticide residues (Doll and Peto)	<1.0
Lifetime exposure to landfill emissions (EPA)	<1.0
Lifetime exposure to emissions from incinerators (EPA)	<1.0

Sources: John and Sean Paling, Up to Your Armpits in Alligators? (Gainesville, FL: The Environmental institute) 1993; Statistical Abstract of the United States, 1992, Table 123; National Cancer Institute, "Highlights of NCI's Carcinogenesis Studies," Cancer Facts, June 23, 1993, p. 7; Sir Richard Doll an Richard Peto, Journal of the National Cancer institute 66 (6) (June 1981); Jennifer Chilton and Kenneth Chilton, "A Critique of Risk Modeling and Risk Assessment of Municipal Landfills Based on U.S. EPA Techniques," Waste management & Research 10 (1992), pp. 505–516.

[From the Journal of Commerce, Jan. 27, 1995]

UNLOADING EXCESS REGULATIONS

(By Murray Weidenbaum)

ST. LOUIS.—The time is ripe for a new round of reform in government regulation of business.

The limited reductions of transportation regulation carried out in the late 1970s and early 1980s are ancient history, and the 1990s to date have been dominated by a new round of expensive and burdensome regulation of the private sector.

The Occupational Safety and Health Administration is moving forward with one of the most ambitious regulatory agendas in its history, including an indoor-air-quality proposal the agency estimates would cost $8 billion a year.

The Antitrust Division of the Justice Department is hiring 25 new lawyers, after adding 34 attorneys and 60 paralegals since mid-1992.

All this pales in comparison with the escalation of environmental and workplace regulation taking place in the United States.

It costs about $150 billion a year to meet the directives of the Environmental Protection Agency. And the impact on the economy of employment regulation, such as civil rights enforcement and affirmative action requirements, is estimated at up to $200 billion a year.

What really hurts is that many of the costs associated with regulatory programs are extremely frivolous from the viewpoint of achieving any serious public policy objective.

Here are just a few examples of the many absurd requirements imposed on U.S. businesses:

A Kansas City bank was ordered by regulators to put a Braille keypad on a drive-through ATM, or automatic teller machine.

The U.S. Department of Agriculture required California farmers to dispose of millions of pounds of otherwise good peaches and nectarines simply because they were smaller than federal standards permitted. Fruit that could have been sold or given away to the needy had to be left to rot.

In Boise, Idaho, a plumbing company was penalized by OSHA because "proper" safety precautions were not taken by the employees who successfully rescued a suffocating construction worker from a collapsed trench. The $7,875 fine was eventually rescinded due to public outrage.

A self-employed truck mechanic in Morrisville, Pa., was fined $202,000 and sentenced to three years in jail for hauling away 7,000 old tires and rusting car pans and placing clean fill on his own, occasionally wet, property without a federal permit. The EPA argued the property was a wetland because a stream—dry for most of the year—was partly trapped by the discarded junk and created several pools of water.

To respond to the critics, over the years many efforts have been made to improve the process of government regulation. However, virtually all the changes have focused on executive branch rule-making.

But truly reforming government regulation means far more than just improving the way regulatory agencies carry out the tasks assigned to them by Congress. In order to reduce the very large and often avoidable economic burdens imposed by regulation, policymakers need to focus on the birth stage of the rulemaking process.

The crucial action occurs, for example, when the legislature enacts an 800-page Clean Air Act with unrealistic timetables and an almost endless array of requirements. No amount of executive branch analysis performed afterward can adequately deal with the problem.

It is up to Congress itself to weigh carefully the results of benefit-cost analysis before it enacts a regulatory statute and also to ascertain that, if a new law is required, its provisions are as cost-effective as feasible.

Congress also should examine the cumulative effects of government regulation on the performance of the economic system. But rather than tackling piecemeal the hundreds of regulatory statutes on the books, Congress should write several new laws that will reform regulation across the board.

Five key changes would be especially helpful.

Congress should require benefit-cost analysis in each key stage of the regulatory process, from writing the laws to issuing regulations and reviewing the operation of programs.

When a law requires citizens or organizations to obtain a permit, agencies should be forced to act in a timely fashion. If an agency cannot process an application by the dead-line, the permit should be granted automatically.

Congress should emphasize objectives sought rather than precise methods to be used for each regulatory program.

Detailed laws that place "legislative handcuffs" on agencies hamper more cost-effective solutions. However, legislators should avoid writing laws so vague that they know in advance the courts will have to wrestle with the details.

The federal government should use risk assessment to set priorities for achieving greater protection of health, safety and the environment in the most cost-effective manner.

All risks are not equally serious. Government should focus on the most serious hazards. Sound science and comparative risk analysis should be drawn upon during the legislative drafting process.

Congress should promote regulatory justice Legislators and regulators should avoid imposing costs on innocent parties. Where regulation substantially reduces property rights, compensation should be paid.

Now is an especially good time for Congress to embark on significant reform of government regulation. Such action would respond to widespread dissatisfaction with the high cost and limited benefits of many governmental activities.

Mr. MURKOWSKI. I urge my colleagues to consider the merits of this legislation. I assure you that the public supports it almost unanimously, because the system is simply out of balance. We need to address correctly the forms, cost benefits and risk analyses, which is one way to do it.

Mr. JOHNSTON. Mr. President, I am pleased to cosponsor, along with Chairman MURKOWSKI and Senator LOTT, the Department of Energy Risk Management Act of 1995.

This bill builds upon work that I began in April of 1993, when I offered an amendment to the EPA Cabinet bill that would have required risk assessment and cost/benefit analysis with respect to EPA regulations. That amendment passed the Senate by a vote of 95–3. However, it did not become law because of the opposition of environmental advocacy groups and several House committee and subcommittee chairmen.

I then spent nearly a year working with those who had concerns about the amendment. The result was a revised amendment, supported by Senators BAUCUS and MOYNIHAN, that met every legitimate concern. In May of last year, I offered the revised amendment to the safe drinking water bill, and it passed by a vote of 90–8.

That simple amendment would have required EPA to do a risk assessment and cost-benefit analysis when preparing regulations that have an impact on the economy of $100 million or more. As part of the process, the amendment provided that the Administrator must certify that the best reasonably obtainable science was used, that the regulation would actually reduce the risk addressed, that the regulation was the most cost-effective alternative, and that the benefits of the regulation justified the costs. It changed no environmental laws, and created no new causes of action. It was simply a truth-in-regulating provision.

Unfortunately, environmental advocacy groups and certain members of the house continued to oppose the revised provision, and refused to pass the safe drinking water bill with my amendment. As a result, the safe drinking water bill died along with the amendment. This, in my opinion, was one of the sorriest chapters of the 103d Congress.

The Republicans then picked up the risk assessment and cost-benefit issue and included it in their Contract with America. As a result, it has become a high Republican priority, and is due to be acted upon during the first 100 days of this Congress.

Although I am very pleased by the attention that the risk issue is now receiving, and fully agree that legislation should be enacted promptly, I urge my Republican colleagues to not get carried away. If we do this right, we will inject much-needed discipline into the process of setting environmental priorities. But if we go too far, we will bring the regulatory process to a grinding halt, a result that is not in the best interest of the public or the regulated industries.

The bill we are introducing today is narrowly drawn to apply only to the cleanup activities of the Department of Energy, such as those at Hanford, WA, and Rocky Flats, CO. We drafted the bill in this manner because the cleanup of DOE weapons sites is one of the toughest issues facing the Energy and Natural Resources Committee, and Chairman MURKOWSKI and I want to focus the Energy Committee's attention on the need for risk assessment and cost-benefit analysis in prioritizing that cleanup effort.

We feel that the cleanup problem at Department of Energy facilities is a perfect example of our inability to set rational priorities when it comes to environmental protection. Currently, we are spending $6 billion a year of our constituents' money and accomplishing virtually nothing in terms of actual cleanup. If we can set risk-based priorities for the cleanup of those facilities, and then implement those priorities in a cost-effective fashion, that would be a major accomplishment.

This is not to say that Chairman MURKOWSKI, Senator LOTT, and I feel that risk assessment and cost-benefit analysis should be applied only to the cleanup of Department of Energy facilities. Chairman MURKOWSKI and Senator LOTT will soon introduce an amendment to the bill, which will follow the bill to the Energy Committee. The amendment will apply the requirements of the bill to all Federal agencies, including EPA. The bill and the amendment will then be the subject of hearings in our committee.

Although I agree with the thrust of the amendment, I chose not to be a cosponsor for two reasons. First, I want to reserve judgment on whether risk assessment and cost-benefit analysis should be required of all Federal agencies. I am confident that they should apply to EPA and the Department of Energy, but I think we need to carefully examine the issue of applying those principles to all other Federal agencies.

Second, and perhaps more important, I am concerned about the judicial review provision that Chairman MURKOWSKI and Senator LOTT are expected to include in their amendment. That provision states, in part, that,

> Any decision, regulatory analysis, risk assessment, hazard identification, risk characterization, or certification provided for under this act is subject to judicial review in the same manner and at the same time as the underlying final action to which it pertains. * * *

My concern is that this provision may lead to a substantial increase in litigation. As my colleagues may recall, the judicial review provision that I included in last year's amendment was quite narrow, and I remain convinced that more litigation hurts rather than helps our efforts to set rational environmental priorities. Therefore, Chairman MURKOWSKI, Senator LOTT, and I agreed that we would not include a judicial review provision in our bill, and that I would not cosponsor the amendment containing their judicial review provision. Instead, we will continue to study this crucial issue, with the expectation that we can resolve it before reporting a bill.

I also want to briefly explain why the bill has no dollar threshold. Last year, my amendment applied only to EPA regulations that have an effect on the economy of $100 million a year or more. The bill we are introducing today, however, does not contain a dollar threshold because the cleanup activities of DOE are so easily divided into small increments. In other words, there was concern that even a relatively low threshold could be evaded by dividing a cleanup plan into units that fit under the dollar threshold The issue of the appropriate threshold, both as to DOE cleanups and as to regulations issued by other agencies, is one that will need careful examination when we hold hearings on this legislation.

Mr. President, it often takes more than one Congress to enact important legislation, and this matter has proven to be no exception. In a recent article entitled "Congress Discovers Risk Analysis," Terry Davies of Resources for the Future begins by stating that:

> The 103d Congress, which concluded in November 1994 in a blaze of partisan bickering, will be forgotten for many reasons by those interested in environmental policy. With the exception of creating a new national park in the California desert, Congress failed to take action on a long list of environmental issue. However, the 103d Congress will be memorable on at least one environmental count: it was the Congress that discovered risk analysis.

Now that we have discovered risk assessment, I urge that it is the task of the 104th Congress to legislate on the subject with all deliberate speed. Given that we spend almost $150 billion a year on environmental protection, we cannot afford to delay in setting priorities based on the extent of risk posed to the public and the environment.

I ask unanimous consent that Mr. Davies' article be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Resources for the Future, Winter 1995]

CONGRESS DISCOVERS RISK ANALYSIS

(By Terry Davies)

The 103d Congress, which concluded in November 1994 in a blaze of partisan bickering, will be forgotten for many reasons by those interested in environmental policy. With the exception of creating a new national park in the California desert, Congress failed to take action on a long list of environmental issues. However, the 103d Congress will be memorable on at least one environmental count: it was the Congress that discovered risk analysis.

Congress has regulated risk for decades. For example, the national ambient air quality standards called for in the Clean Air Act of 1970 are required to protect against health risks to sensitive populations. The Toxic Substances Control Act, enacted in 1976, was probably the first law to explicitly use "unreasonable risk" as the criterion for government to take regulatory action. But Congress has never concerned itself with how risks were calculated or with comparing different risks. Risk as a general concept was of concern but, with a few notable exceptions, risk analysis was not. In 1993–1994, this situation changed dramatically.

Below I review some of the efforts in the 103d Congress to deal with risk analysis; I then identify the major factors underlying lawmakers' interest in such analysis. I also outline what risk legislation can (and cannot) accomplish and distinguish among the uses of risk assessment, two issues about which Congress seems to be confused.

LEGISLATIVE RISK PROPOSALS

More than a dozen bills dealing with risk analysis were introduced in the 103d Congress. Notable among these were bills introduced by Senator Daniel Patrick Moynihan (D–New York) and Representative Herbert C. Klein (D–New Jersey). Even more notable was an amendment to S.R. 171, a bill proposed by Senator John Glenn (D–Ohio) to make the U.S. Environmental Protection Agency (EPA) a cabinet department.

Senator Bennett Johnston (D–Louisiana) introduced the amendment, which would have required that EPA conduct a risk analysis for each of its regulations and compare the risk reduction to be achieved by the regulation with the cost of the legislation and with other types of risks. The Senate overwhelmingly passed it by a 95-3 vote, but later the content of the Johnston amendment was modified several times. (The original version required risk analysis of all final regulations; later versions made the requirement applicable only to major regulations and to proposed rather than final regulations.)

Legislators proposed adding this amendment to almost every pending environmental bill. The lack of action on environmental legislation during the 103d Congress was due, to a great extent, to an inability to reach an acceptable compromise on the amendments's language. Junior members of the House surprised the leadership by defeating the rule under which the EPA cabinet bill would go to the House floor for a vote, in part because the rule would have precluded consideration of the Johnston amendment.

The basic requirements of the Johnston amendment were similar to the cost-benefit requirements already called for by a Clinton administration executive order (E.O. 12866). The Johnston amendment's one novel requirement was that the risks to be regulated be compared with other risks—a challenging requirement but not one that would bring to a halt all environmental regulatory efforts.

Senator Moynihan's bill (S.R. 110), the "Environmental Risk Reduction Act of 1993," would have required the EPA administrator to establish a Committee on Relative Risks to "identify and rank the greatest environmental risks to human health, welfare, and ecological resources," as well as a Committee on Environmental Benefits to provide expert advice on estimating the quantitative benefits of reducing risks. In addition, the bill would have required EPA to develop "guidelines to ensure consistency and technical quality in risk assessments." Finally, the bill would have required EPA to establish a research program on environmental risk assessment and to create an Interagency Panel on Risk Assessment and Reduction to coordinate federal efforts.

Moynihan's bill, which was aimed at improving the quality and visibility of risk assessment, emphasized comparative risk analysis of the problems addressed by different EPA programs, rather than risk analysis of the problems addressed by individual regulations. A bill introduced by Representative Klein contained some of the same provisions as the Moynihan bill but focused on improving the quality of risk assessments done to support individual regulations. Klein's bill (H.R. 4306) would have established a Risk Assessment Program within EPA to develop, review, and update risk assessment guidelines. Other elements of the Klein bill included research and training in risk assessment and a pilot project on comparative risk analysis.

The Klein bill originally was supported by the Clinton administration. Environmentalists, who have generally opposed any efforts to promote risk analysis, stated that they would not oppose the bill. However, the House Committee on Science, Space, and Technology made a series of changes in the bill that caused both the administration and the environmentalists to oppose its passage.

The offending changes were put forward by congressional members and staff who believe that EPA risk assessments are generally biased in favor of regulation and exaggerate the degree of risk. The changes would have done two things. First, they would have made both risk assessment guidelines and EPA's risk assessments potentially subject to judicial review. In withdrawing support for the bill, EPA stated that the changes could make risk assessment "more a construct of the courts than of sound science." Second, the changes would have directed EPA to use "the most plausible" and "unbiased" assumptions to calculate "central estimates of risk" and to employ the "best information." Although these changes sound innocuous, they could have changed EPA's risk assessment methodology in fundamental ways, especially when combined with the threat of litigation.

In the closing days of the session, Congress enacted a U.S. Department of Agriculture reorganization bill with a version of the Johnston amendment attached to it. However, the amendment applies only to environmental and health regulations promulgated by the Department of Agriculture. No other risk legislation passed, but the issues raised in the debate over the Klein bill will be high on the agenda of the 104th Congress, many of whose Republican members have promised reform of federal regulations as part of the "Contract with America." The reasons for interest in risk have become, if anything, more pressing, and the Republicans have generally been more supportive of risk legislation than the Democrats.

FACTORS UNDERLYING CONGRESS'S INTEREST IN RISK

Why the sudden passion for risk analysis and comparative risk assessment? Several interrelated factors account for Congress's newfound interest.

The first factor is a shift in the public's view of environmental problems. Whether because of the increasing costs of environmental remedies, the rightward shift of the nation's politics, growing cynicism toward all groups and institutions, or other reasons, many people no longer believe that all environmental problems are urgently pressing. The notion of priorities—of some problems being more important than others—has entered the environmental debate.

The second factor is the squeeze being put on some state and local governments by unfunded environmental mandates. These governments have seized upon comparative risk assessment as a potent weapon for fighting expensive and often unwanted federal requirements. In many cases, states and localities believe they can show that they are being required to expend funds on problems that either pose smaller risks than those arising from other problems on which the money could be spent or that pose trivial or nonexistent risks. This "grass roots" dimension of the push for comparative risk analysis is politically of great significance.

In Congress, risk analysis also has been linked with the issue of takings, uncompensated restrictions on private land use. Environmentalists have dubbed risk analysis, unfunded mandates, and takings as "the unholy trinity," although risk and takings do not have the direct, substantive connection that risk and unfunded mandates often do. The three have become linked because each potentially could slow or halt federal environmental regulation.

A third factor contributing to the interest in comparative risk is the shortage of public funds at all governmental levels. The shortage emphasizes the need to set priorities and to make hard choices. Not coincidentally, the congressional committees responsible for appropriating money to EPA have been strong supporters of applying comparative risk analysis to different EPA programs (as opposed to different proposed regulations). For these committees, risk analysis holds the promise of providing a rationale and a defense for difficult budgetary choices. At the same time, the results of risk analysis are sufficiently broad and uncertain that the committees do not have to worry about losing control over budgetary decisions.

WHAT RISK LEGISLATION CAN ACCOMPLISH

No other congressional issue is marked more by confusion and misinformation than the current debate over risk assessment. One reason is that legislators seem confused (perhaps in some cases deliberately) about what risk assessment legislation can accomplish.

Members of Congress have an understandable tendency to blame EPA for problems that local constituents have with pollution-control requirements. Since risk assessment supposedly guides EPA decisions, they believe that changing the way risk assessment is done can alleviate the problem of unwanted or unreasonable requirements imposed on local governments and corporations. However, for Congress, in many cases both Shakespeare and the comic strip character Pogo are apt. The fault is not in the stars—Congress has met the enemy and it is them.

The unfunded mandates that have caused the most problems for local governments are those related to drinking water. Communities complain that EPA is requiring them to monitor for chemicals that pose no risk and that the agency is demanding expensive capital investments to deal with nonexistent threats. But most of these difficulties arise from the 1986 amendments to the Safe Drinking Water Act—amendments that *required* EPA to set standards for forty water contaminants within two years of the act's passage and to keep issuing standards for additional contaminants at an equally rapid pace. Congress directed that the standards be set "as close to the maximum contaminant level goal as is feasible." In turn, the maximum contaminant goal is to be set "at the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety."

To put it bluntly, Congress should not pass laws that require absolute protection for the public and then complain when EPA promulgates standards that provide such protection. It should not pass laws that require EPA to move rapidly to promulgate numerous regulations and then complain when the agency moves rapidly to promulgate numerous regulations. Implementing the law should not be considered a political crime.

Another "confusion" in Congress is that risk drives all environmental decisions. In fact, many environmental regulatory requirements are statutorily determined by technology and thus relatively unaffected by risk findings. For example, the initial standards for controlling hazardous air pollutants under the clean Air Act amendments of 1990 are to be based on the best technologies employed by each type of polluting facility, not on risk. Similarly, many of the regulatory requirements under the Clean Water Act are based on "best available technology," a determination of which is unrelated to risk. EPA actions under these provisions will not be influenced by any changes in risk assessment methods.

USES OF RISK ASSESSMENT

A more general source of confusion in the current debate over risk assessment arises from a failure to distinguish among different uses of risk assessment. At least four different policy uses of risk assessment exist.

Each involves different methodologies and raises different problems.

The most common use of risk assessment in policymaking is in regulatory decisionmaking. For all significant regulations, E.O. 12866 requires the agency proposing the regulation to conduct a cost-benefit analysis. From the perspective of EPA and the other health and safety regulatory agencies, the benefit side of the cost-benefit equation generally is the amount of risk reduced by the regulation as calculated by some type of risk assessment. Within EPA, risk assessment is often used to gauge where to set a standard (although, as noted above, statutory requirements frequently preclude risk considerations), because it is the only way to determine how much (if any) danger a given substance, product, or activity poses.

A second use of risk assessment occurs in Congress' statutory definition of "acceptable risk." Probably the best example of this use is the Clean Air Act, which requires the EPA administrator to promulgate more stringent standards for emissions of hazardous pollutants when the technology-based standards for the emissions "do not reduce life-time excess cancer risks to the individual most exposed * * * to less than one in one million.

These bright line provisions have been based on quantitative assessment of cancer risk, but cancer may not be the risk that is of most concern. Ecological threats, birth defects, liver damage, hormonal or immune deficiencies, or any of a thousand other problems may be the reason for regulating risk. Because the cancer risk may be irrelevant, gearing the risk standard to cancer may set the standard too high or too low. Risk assessment takes many different forms. Quantitative cancer risk assessment is only one of them and often not the most appropriate one to use.

Another problem is that the bright line, acceptable risk approach assumes a precision that most risk assessments cannot achieve. Risk assessment is still a relatively crude science and depending on which methodological assumptions are used, its results may vary a hundredfold or more. Thus, placing great legal weight on one point estimate of risk is an open invitation to shade the assumptions in a certain direction in order to achieve the desired outcome.

A third use of risk assessment is priority setting for individual risks or regulations, which involves comparing one specific risk to another. Such comparisons can be useful in putting any particular risk into perspective; but two caveats, neither of which has received much attention in Congress, are important to note. The first concerns the crudeness of risk estimates. If the uncertainty range around any point estimate of risk is several orders of magnitude, it frequently will be impossible to establish clearly that one risk is greater than another. The second caveat relates to the many dimensions of risk other than the amount of damage to health and the environment. These dimensions include whether the risk is undertaken voluntarily, whether the victims can be identified, and whether the nature of the risk is catastrophic—that is, whether great damage occurs at one time, as in a plane crash, or whether less damage occurs and is spread over time, as in car accidents. These dimensions of risk are important politically, psychologically, and even ethically. They need to be taken into account when comparing risks.

The fourth use of risk assessment is priority setting for government programs and budgets. This use was pioneered by EPA in 1987 when it published its report *Unfinished Business*. Senator Moynihan has introduced legislation requiring this type of priority setting to be instituted within EPA. Both the House and Senate appropriations committees for EPA have expressed interest in this approach in the belief that it might provide a "scientific" way of making (or justifying) difficult budget choices.

Comparisons of risks regulated by different programs are a useful way to consider priorities, and they hold long-term promise of bringing greater rationality to government budgeting and goal setting. However, we do not have (and may never have) good methods for comparing different types of risks. Comparing health risks with ecological risks, for example, is clearly a value-laden process. Moreover, acting on the results of broad risk comparisons is almost always impeded by individual statutory mandates. Each environmental program has its statutory support, which is designed (in part) to give each program high priority and prevent its being compared to other programs.

THE ROAD AHEAD

Risk assessment can be a powerful tool for improving environmental policy and decisionmaking. Like all powerful tools, however, it can be abused and employed for nefarious purposes.

Most of the risk legislation that has been proposed would have little short-term effect on environmental policy. However, I believe some of the proposals could do major harm to the quality of the science behind regulatory initiatives by making risk guidelines judicially enforceable. Doing so would transform risk analysis from a scientific undertaking to a legal one, would preclude the exercise of scientific judgment on how to conduct risk assessments of individual chemicals, and would be a major obstacle to incorporating scientific advances into risk assessment. In addition, some proposals would make risk assessment information useless to decisionmakers by dictating which risk assessment methodologies are used. Some of these proposals can be interpreted to mean that risk assessments should determine risk to the average person rather than to the most vulnerable people.

However, the discovery of risk analysis by the 103d Congress means that the new Republican Congress has an opportunity to forge legislation that will improve the long-term quality of regulatory decisions and environmental policy. If the varied interests with a stake in environmental policy can reduce the ideological and partisan coloration that has characterized the risk debate so far, and if they can accept both the uses and limitations of risk assessment, the risk debate could lead to a new era of more effective, efficient, and equitable environmental programs.

Mr. LOTT. Mr. President, I rise today to announce that with my colleagues, Senators MURKOWSKI and JOHNSTON, we are introducing the Department of Energy Risk Management Act of 1995.

I believe that most Americans would be shocked and dismayed to discover that Federal agencies every day release and enforce rules that have not been validated with solid, sound, scientific data.

It does not make sense, but unfortunately it is true.

That is why legislation is needed to mandate a commonsense approach.

We have crafted a bill which simply demands that the Department of Energy act in a scientifically responsible manner.

This year's legislation builds on the bill I introduced in the last Congress and the two successful amendments offered by Senator JOHNSTON of Louisiana.

Senator JOHNSTON's amendments were overwhelmingly adopted, and this clearly illustrates the congressional frustration and bipartisan support for stopping Federal agencies which avoid sound science and fiscal responsibility in rulemaking.

Senator MURKOWSKI, as the new chairman of the Energy and Natural Resources Committee, has played a critical role in focusing this legislation. And his committee is an appropriate forum to examine the issue and its consequences.

This year similar legislation was introduced in the House of Representatives and is already receiving scrutiny through hearings.

There is also comparable and more comprehensive legislation being drafted by Senator DOLE, the majority leader.

There are also bills introduced by Senators BAUCUS, MOYNIHAN, and ROTH which touch on the same subject.

Clearly, there is a groundswell of legislative activity to stop Federal agency abuse in the name of science which, more often than not, turns out to be false, questionable, or even misleading.

This deceptive and dishonest regulatory zeal reminds me of the title of an ABC news program by John Stossel—"Are We Scaring Ourselves to Death."

This program made its point in a compelling manner—Federal rulemaking is seriously flawed.

Our legislation will not add to the confusion. It will not stall scientific advances, and it will not prescribe how to conduct scientific research.

On the contrary, in a nutshell, it will just force transparency and accountability in the rulemaking process and nothing more.

No Federal agency should be afraid of honestly displaying to the American people they are protecting the science, logic, assumptions, and inferences used to establish the rules and standards it imposes.

This is not irresponsible and not burdensome.

Our legislation does permit Americans to: First, challenge existing risk assessments; second, insist on an independent peer review of the risk and its corresponding rule; and third, request the ultimate American right of a trial when there is an honest disagreement.

The existing regulatory system is upside down. Agencies which have a vested interest in promulgating rules cannot be challenged in any public forum on the very foundation and basis for its rules.

Our legislation is not questioning the necessity for the rule or rulemaking.

We are just talking about the underlying risk assessments.

Our legislation merely levels the playing field between the benevolent protector and the protected American public. I cannot imagine why this is so threatening, unless there are many rules that cannot pass the red-face test as my coauthor and friend, Senator JOHNSTON, is fond of saying.

Tell me what is so threatening by the words "scientifically objective and unbiased."

Maybe the status quo can be characterized, as I believe, as cavalier and arbitrary.

I see peer review as a useful certification function which ends the Federal Government's stifling monopoly over risk assessment methodology and practices. By extending power to scientists from academia, who have no vested interest in the agency, makes good Mississippi sense. Who feels safe when the fox watches the hen house? And that is what is happening now.

All we want to do is restore the public confidence in the rulemaking process and the risk assessment methods.

And, I am confident that this is the same goal of each Senator who is involved in examining this issue.

It serves no useful purpose for regulators to hide their value judgments behind complicated mathematical probabilities which just do not make sense. In the end the American citizen is unable to either comprehend or distinguish the authentic risk.

Our legislation will not bog down the process as opponents will assert. But, like many of the risks subjected to rules, this too is a false argument because only major rules will be subjected to this process.

Our legislation will not gut existing environmental laws as opponents will also claim. Wrong. There is a specific section in the bill which expressly states that no existing statutes will be removed. Although there are a lot that I would like to see removed as we go forward, that is not what this bill does.

Why would opponents advance such shrill and untrue assertions? Perhaps there are regulations which will fail the Johnston red-face test or serve as another illustration for John Stossel to humiliate an agency.

Public policy should not be maintained just to avoid agency embarrassment.

This only perpetuates the harm done to Americans who have lost economic opportunities through misplaced priorities for unfounded risks.

And, even more serious, public dollars have been wasted chasing an agenda rather than valid risks. This has exposed Americans to real risks which could have been corrected long ago.

Risk based decisionmaking is obvious, especially since our Government, and the private sector, spends billions through the regulatory process to protect the environment and human health.

Our country needs a way to choose regulatory priorities, just like families prioritize its spending. This can be done with the cost/benefit provision in this legislation without greater exposure to risks.

Asserting an unfounded risk is not a substitute for informed and thoughtful consideration by accountable officials who work with the public to make balanced decisions.

The Murkowski-Johnston bill gives you accountability and public access.

I am proud of the bipartisan and collaborative effort this legislation represents.

It is a solid commitment to sound rulemaking which will not jeopardize our environment or the health of our citizens.

Our legislation will remove misinformation and public confusion.

I believe the Department of Energy Risk Management Act deserves your serious consideration and support.

So I urge my colleagues to look at this legislation. It has been carefully crafted over a number of months. It is long overdue in my opinion.

I would like to say now that I certainly commend the distinguished Senator from Alaska for the good work he has done. He has already had some preliminary hearings on this. I hope we can move this legislation early in this session.

By Mr. MCCONNELL (for himself and Mr. BIDEN):

S. 334. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a law enforcement officers' bill of rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes; to the Committee on the Judiciary.

THE LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS ACT OF 1995

• Mr. MCCONNELL. Mr. President, I am pleased to introduce a bill to establish a law enforcement officer's bill of rights. In every city and town, we rely on law enforcement officers to protect our safety. They put their lives on the line for us every single day.

And, often their jobs can be very difficult. The Constitution requires they conduct themselves appropriately, and they are subject to the laws and regulations set out by Congress as well as State and local regulatory bodies. They have to make snap decisions in high pressure situations. If they make the wrong decision, they can be subject to a lawsuit—for violation of the civil rights of a citizen.

While citizens have protection when a law enforcement officer engages in improper conduct, the police officer is often left without any legal rights when subject to disciplinary action. This bill aims to correct that unfairness.

The bill guarantees basic due process rights to law enforcement officers who are subject to investigation or interrogation for noncriminal disciplinary matters. And, let me emphasize that these rights do not apply in an emergency situation where the police officer is suspected of committing a crime or where that officer would be a threat to the safety or property of others. The bill reserves in the chief of police or other local officials the right to immediately suspend an officer who is suspected of committing a serious offense.

But, where there is no criminal conduct and no emergency situation, a police officer should have a right to be informed of his or her misconduct, to answer the charges, and to be represented by a lawyer or other appropriate person. These are basic due process rights that should be guaranteed to those on whom we rely to protect our safety.

Mr. President, there are some 475,000 State and local law enforcement officers who put their lives on the line for the rest of us. Let us give them their basic and fundamental rights.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Law Enforcement Officers' Bill of Rights Act of 1995".

SEC. 2. RIGHTS OF LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end the following new section:

"RIGHTS OF LAW ENFORCEMENT OFFICERS

"SEC. 819. (a) DEFINITIONS.—In this section—

" 'disciplinary action' means the suspension, demotion, reduction in pay or other employment benefit, dismissal, transfer, or similar action taken against a law enforcement officer as punishment for misconduct.

" 'disciplinary hearing' means an administrative hearing initiated by a law enforcement agency against a law enforcement officer, based on probable cause to believe that the officer has violated or is violating a rule, regulation, or procedure related to service as an officer and is subject to disciplinary action.

" 'emergency suspension' means temporary action imposed by the head of the law enforcement agency when that official determines that there is probable cause to believe that a law enforcement officer—

"(A) has committed a felony; or

"(B) poses an immediate threat to the safety of the officer or others or the property of others.

" 'investigation'—

"(A) means the action of a law enforcement agency, acting alone or in cooperation with another agency, or a division or unit within an agency, or the action of an individual law enforcement officer, taken with regard to another enforcement officer, if such action is based on reasonable suspicion that the law enforcement officer has violated, is violating, or will in the future violate a statute or ordinance, or administrative rule, regulation, or procedure relating to service as a law enforcement officer; and

"(B) includes—

"(i) asking questions of other law enforcement officers or nonlaw enforcement officers;

"(ii) conducting observations;

"(iii) evaluating reports, records, or other documents; and

"(iv) examining physical evidence.

" 'law enforcement agency' means a State or local public agency charged by law with the duty to prevent or investigate crimes or apprehend or hold in custody persons charged with or convicted of crimes.

" 'law enforcement officer' and 'officer'—

"(A) mean a member of a law enforcement agency serving in a law enforcement position, which is usually indicated by formal training (regardless of whether the officer has completed or been assigned to such training) and usually accompanied by the power to make arrests; and

"(B) include—

"(i) a member who serves full time, whether probationary or nonprobationary, commissioned or noncommissioned, career or noncareer, tenured or nontenured, and merit or nonmerit; and

"(ii) the chief law enforcement officer of a law enforcement agency.

" 'summary punishment' means punishment imposed for a minor violation of a law enforcement agency's rules and regulations that does not result in suspension, demotion, reduction in pay or other employment benefit, dismissal, or transfer.

"(b) APPLICATION OF SECTION.—

"(1) IN GENERAL.—This section sets forth rights that shall be afforded a law enforcement officer who is the subject of an investigation.

"(2) NONAPPLICABILITY.—This section does not apply in the case of—

"(A) a criminal investigation of a law enforcement officer's conduct; or

"(B) a nondisciplinary action taken in good faith on the basis of a law enforcement officer's employment related performance.

"(c) POLITICAL ACTIVITY.—Except when on duty or acting in an official capacity, no law enforcement officer shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in such activity.

"(d) RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION.—When a law enforcement officer is under investigation that could lead to disciplinary action, the following minimum standards shall apply:

"(1) NOTICE OF INVESTIGATION.—A law enforcement officer shall be notified of the investigation prior to being interviewed. Notice shall include the general nature and scope of the investigation and all departmental violations for which reasonable suspicion exists. No investigation based on a complaint from outside the law enforcement agency may commence unless the complainant provides a signed detailed statement. An investigation based on a complaint from outside the agency shall commence within 15 days after receipt of the complaint by the agency.

"(2) NOTICE OF PROPOSED FINDINGS AND RECOMMENDATION.—At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

"(e) RIGHTS OF LAW ENFORCEMENT OFFICERS PRIOR TO AND DURING QUESTIONING.—When a law enforcement officer is subjected to questioning that could lead to disciplinary action, the following minimum standards shall apply:

"(1) REASONABLE HOURS.—Questioning of a law enforcement officer shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

"(2) PLACE OF QUESTIONING.—Questioning of the law enforcement officer shall take place at the offices of the persons who are conducting the investigation or the place where the law enforcement officer reports for duty, unless the officer consents in writing to being questioned elsewhere.

"(3) IDENTIFICATION OF QUESTIONER.—The law enforcement officer under investigation shall be informed, at the commencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

"(4) SINGLE QUESTIONER.—During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

"(5) NOTICE OF NATURE OF INVESTIGATION.—The law enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any questioning.

"(6) REASONABLE TIME PERIOD.—Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the law enforcement officer.

"(7) NO THREATS OR PROMISES.—Threats against, harassment of, or promise of reward shall not be made in connection with an investigation to induce the answering of any question. No statement given by the officer may be used in a subsequent criminal proceeding unless the officer has received a written grant of use and derivative use immunity or transactional immunity.

"(8) RECORDATION.—All questioning of any law enforcement officer in connection with the investigation shall be recorded in full, in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

"(9) COUNSEL.—The law enforcement officer under investigation shall be entitled to counsel (or any other one person of the officer's choice) at any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

"(f) DISCIPLINARY HEARING.—

"(1) NOTICE OF OPPORTUNITY FOR HEARING.—Except in a case of summary punishment or emergency suspension described in subsection (h), if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the law enforcement officer is entitled to a hearing on the issues by a hearing officer or board prior to the imposition of any disciplinary action.

"(2) REQUIREMENT OF DETERMINATION OF VIOLATION.—No disciplinary action may be taken unless a hearing officer or board determines, pursuant to a fairly conducted disciplinary hearing, that the law enforcement officer violated a statute, ordinance, or published administrative rule, regulation, or procedure.

"(3) TIME LIMIT.—No disciplinary charges may be brought against a law enforcement officer unless filed within 90 days after the commencement of an investigation, except for good cause shown.

"(4) NOTICE OF FILING OF CHARGES.—The law enforcement agency shall provide written, actual notification to the law enforcement officer, not later than 30 days after the filing of disciplinary charges, of the following:

"(A) The date, time, and location of the disciplinary hearing, which shall take place not sooner than 30 days and not later than 60 days after notification to the law enforcement officer under investigation unless waived in writing by the officer.

"(B) The name and mailing address of the hearing officer.

"(C) The name, rank, and command of the prosecutor, if a law enforcement officer, or the name, position, and mailing address of the prosecutor, if not a law enforcement officer.

"(5) REPRESENTATION.—During a disciplinary hearing an officer shall be entitled to be represented by counsel or nonattorney representative.

"(6) HEARING BOARD AND PROCEDURE.—(A) A State shall determine the composition of a disciplinary hearing board and the procedures for a disciplinary hearing.

"(B) A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include at least 1 law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

"(7) ACCESS TO EVIDENCE.—A law enforcement officer who is brought before a disciplinary hearing board shall be provided access to all transcripts, records, written statements, written reports, analyses, and electronically recorded information pertinent to the case that—

"(A) contain exculpatory information;

"(B) are intended to support any disciplinary action; or

"(C) are to be introduced in the disciplinary hearing.

"(8) IDENTIFICATION OF WITNESSES.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall notify the law enforcement officer, or his attorney if he is represented by counsel, not later than 15 days prior to the hearing, of the name and addresses of all witnesses for the law enforcement agency.

"(9) COPY OF INVESTIGATIVE FILE.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall provide to the law enforcement officer, at the law enforcement officer's request, not later than 15 days prior to the hearing, a copy of the investigative file, including all exculpatory and inculpatory information but excluding confidential sources.

"(10) EXAMINATION OF PHYSICAL EVIDENCE.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall notify the law enforcement officer, at the officer's request, not later than 15 days prior to the hearing, of all physical, nondocumentary evidence, and provide reasonable date, time, place, and manner for the officer to examine such evidence at least 10 days prior to the hearing.

"(11) SUMMONSES.—The hearing board shall have the power to issue summonses to compel testimony of witnesses and production of documentary evidence. If confronted with a failure to comply with a summons, the hearing officer or board may petition a court to issue an order, with failure to comply being subject to contempt of court.

"(12) CLOSED HEARING.—A disciplinary hearing shall be closed to the public unless the law enforcement officer who is the subject of the hearing requests, in writing, that the hearing be open to specified individuals or the general public.

"(13) RECORDATION.—All aspects of a disciplinary hearing, including prehearing motions, shall be recorded by audio tape, video tape, or transcription.

"(14) SEQUESTRATION OF WITNESSES.—Either side in a disciplinary hearing may move for and be entitled to sequestration of witnesses.

"(15) TESTIMONY UNDER OATH.—The hearing officer or board shall administer an oath or affirmation to each witness, who shall testify subject to the applicable laws of perjury.

"(16) VERDICT ON EACH CHARGE.—At the conclusion of all the evidence, and after oral argument from both sides, the hearing officer or board shall deliberate and render a verdict on each charge.

"(17) BURDEN OF PERSUASION.—The prosecutor's burden of persuasion shall be by clear and convincing evidence as to each charge involving false representation, fraud, dishonesty, deceit, or criminal behavior and by a preponderance of the evidence as to all other charges.

"(18) FINDING OF NOT GUILTY.—If the law enforcement officer is found not guilty of the disciplinary violations, the matter is concluded and no disciplinary action may be taken.

"(19) FINDING OF GUILTY.—If the law enforcement officer is found guilty, the hearing officer or board shall make a written recommendation of a penalty. The sentencing authority may not impose greater than the penalty recommended by the hearing officer or board.

"(20) APPEAL.—A law enforcement officer may appeal from a final decision of a law enforcement agency to a court to the extent available in any other administrative proceeding, in accordance with the applicable State law.

"(g) WAIVER OF RIGHTS.—A law enforcement officer may waive any of the rights guaranteed by this section subsequent to the time that the officer has been notified that the officer is under investigation. Such a waiver shall be in writing and signed by the officer.

"(h) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—

"(1) IN GENERAL.—This section does not preclude a State from providing for summary punishment or emergency suspension.

"(2) HEALTH BENEFITS.—An emergency suspension shall not affect or infringe on the health benefits of a law enforcement officer or the officer's dependents.

"(i) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the officer's rights under this section.

"(j) OTHER REMEDIES NOT IMPAIRED.—Nothing in this section shall be construed to impair any other legal right or remedy that a law enforcement officer may have as a result of a constitution, statute, ordinance, regulation, collective bargaining agreement or other sources of rights.

"(k) DECLARATORY OR INJUNCTIVE RELIEF.—A law enforcement officer who is being denied any right afforded by this section may petition a State court for declaratory or injunctive relief to prohibit the law enforcement agency from violating such right.

"(l) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into the file of any law enforcement officer, or possess or maintain control over any adverse material in any form within the law enforcement agency, unless the officer has had an opportunity to review and comment in writing on the adverse material.

"(m) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, sources of income, debts, personal or domestic expenditures (including those of any member of the officer's household), unless—

"(1) the information is necessary to the investigation of a violation of any Federal, State or local law, rule, or regulation with respect to the performance of official duties; and

"(2) such disclosure is required by Federal, State, or local law.

"(n) STATES' RIGHTS.—This section does not preempt State laws in effect on the date of enactment of this Act that confer rights that equal or exceed the rights and coverage afforded by this section. This section shall not be a bar to the enactment of a police officer's bill of rights, or similar legislation, by any State. A State law which confers fewer rights or provides less protection than this section shall be preempted by this section.

"(o) MUTUALLY AGREED UPON COLLECTIVE BARGAINING AGREEMENTS.—This section does not preempt existing mutually agreed upon collective bargaining agreements in effect on the date of enactment of this Act that are substantially similar to the rights and coverage afforded under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. preceding 3701) is amended by inserting after the item relating to section 818 the following new item:

"Sec. 819. Rights of law enforcement officers.".•

• Mr. BIDEN. Mr. President, today I and Senator MCCONNELL are introducing the Law Enforcement Officers' Bill of Rights Act of 1995, a bill aimed at protecting the rights of law enforcement officers on the front line of this Nation's fight against violent crime and drug trafficking.

Police work is an incredibly difficult job, demanding split-second decisions that have life-or-death consequences. My colleagues may be surprised to find that despite the critical role that front-line law enforcement officers play to enforce the Constitution's rights and guarantees, and the related need to guarantee the highest standards of police conduct, internal disciplinary procedures in law enforcement agencies continue to vary widely across the nation.

The often ad hoc procedures that many departments use to guide internal investigations frequently allows police executives to take arbitrary and unfair actions against innocent police officers, while allowing culpable officers to avoid any punishment at all.

The law enforcement officers' bill of rights is designed to replace the ad hoc nature of many internal police investigations by encouraging States to provide minimum procedural standards to guide such investigations. The standards and protections offered by this bill are modeled on the Standards for Law Enforcement Agencies developed by the National Commission on Accreditation for Law Enforcement.

As the preface to the Commission's standards on internal affairs notes:

> 'The internal affairs function is important for the maintenance of professional conduct in a law enforcement agency. The integrity of the agency depends on the personal integrity and discipline of each employee. To a large degree, the public image of the agency is determined by the quality of the internal affairs function in responding to allegations of misconduct by the agency or its employees.

The specific standards and rights guaranteed by the law enforcement officers bill of rights introduced today include:

> The right to engage or not engage in political activities independent of an officer's official capacity;
>
> The right to be informed by a written statement of the charges brought against an officer;
>
> The right to be free from undue coercion or harassment during an investigation; and
>
> The right to counsel during an investigation.

The provisions of this bill will take effect at the end of the second full legislative term of each State. After such time, a law enforcement officer whose rights have been abridged may sue in State court for pecuniary and other damages, including full reinstatement.

Although the bill provides certain procedural rights, it gives States considerable discretion in implementing these safeguards, including the flexibility to provide for summary punishment and emergency suspensions of law enforcement officers.

It is also important to note what the bill does not do. The bill explicitly provides that the standards and protections governing internal investigations shall not apply to investigations of criminal misconduct by law enforcement officers. As a result, criminal investigations of law enforcement officers would not be affected by this bill.

Moreover, the protections in this bill do not apply to minor violations of departmental rules or regulations, not to actions taken on the basis of an officers' employment-related performance.

I would also like to acknowledge the hard work of several of the Nation's leading law enforcement organizations on this important bill. the real leaders behind this effort—and they have been the leaders since the police officers' bill of rights won passage in the Senate in 1991—are the Fraternal Order of Police, the National Association of Police Organizations, and the International Brotherhood of Police Officers. No one should be confused about where the force behind the law enforcement officers bill of rights lies—it lies with these organizations.

Finally, let me say to the entire law enforcement community—you enjoy one of the most amicable and productive relationships between the rank and file and management. Many have observed that the reason for these relations is the fact that today's chief was yesterday's patrol officer—just as today's patrol officer will be tomorrow's sheriff. That is why I look forward to working with all members of the law enforcement community to pass legislation protecting the rights of all law enforcement officers.

Mr. President, I have heard many Members of the Senate reflect on the commitment of those brave individuals who risk their lives as front-line law enforcement officers. Mr. President, the bill we introduce today gives every Member of the Senate the chance to provide at least some of the protections these police heroes deserve.•

By Mr. D'AMATO:

S. 337. A bill to enhance competition in the financial services sector, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE DEPOSITORY INSTITUTION AFFILIATION ACT OF 1995

• Mr. D'AMATO. Mr. President, I today introduce the Depository Institution Affiliation Act of 1995 to modernize the antiquated laws governing the financial services industry. I am pleased that Representative RICHARD BAKER, chairman of the House Banking Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises, will today introduce similar legislation. This comprehensive legislation seeks:

To promote competition among bank and nonbank providers of financial services;

To encourage innovation in the design and delivery of financial services and products to individuals, large and small businesses, nonprofit institutions, and municipalities;

To ensure the adequate regulation of financial intermediaries in order to protect depositors and investors;

To preserve the safety and soundness of the banking system and the overall financial system; and

To protect the Nation's taxpayers by requiring that nonbanking activities are conducted in separately capitalized and functionally regulated affiliates.

Mr. President, now is the time to ready the Nation's financial services industry for the 21st century. Congress has allowed regulation of the financial services industry, a goliath with 5 million employees and $16 trillion in assets, to fall far behind market forces. Since the late 1970's, market forces have fueled massive changes in the financial services industry. But the United States still relies on a regulatory system, born in the wake of the Great Depression, which stifles competition among providers of financial services. Without comprehensive reform, the Nation risks losing its leadership in the global market for financial services to Europe and Japan.

Mr. President, this bill is virtually identical to legislation that I have previously sponsored or cosponsored. I first introduced this bill in 1987 as S. 1905, and I reintroduced it in 1989 as S. 530. The actual text of the 1995 bill, and its significant principles and provisions, are identical to the earlier versions. The 1995 version, however, contains technical and conforming changes to reflect the enactment of banking laws since its original introduction, such as the Financial Institutions Reform and Recovery and Enforcement Act of 1989, Public Law 101–73, the Federal Deposit Insurance Corporation Improvement Act of 1991, Public Law 102–242, and the interstate banking and community development bills of the last Congress.

Mr. President, I remain committed to comprehensive, fair, and innovative financial services reform. Congress must assert its authority and meet its responsibility to increase the availability of innovative financial products and services for consumers, businesses and Government at the lowest possible cost.

Mr. President, let me summarize the key provisions of the Depository Institution Affiliation Act [DIAA]. I will submit a more detailed section-by-section explanation of the bill at the end of my remarks.

In general, the DIAA retains and reinforces the basic principles reflected in the present framework for regulation of federally insured banks and thrifts, while permitting banks and nonbanks to affiliate in a holding company framework. The DIAA thus preserves all the safety-and-soundness and conflict-of-interest protections of the present system, while providing legal flexibility for a company to meet the financial needs of consumers, businesses and others by removing limitations on affiliations.

Mr. President, the DIAA would establish a new charter alternative for all companies interested in entering or diversifying in the financial services field—a financial services holding company [FSHC]. The bill would permit the merging of banking and commerce under carefully regulated circumstances by allowing a FSHC to own both a depository institutions and companies engaged in both financial and nonfinancial activities.

Mr. President, by authorizing an alternative regulatory framework, the legislation would essentially exempt a FSHC's subsidiaries and affiliates from those sections of the Glass-Steagall and Bank Holding Company Acts that restrict mixing commercial banking with other financial—securities, investment banking, and so forth—and nonfinancial activities—retailing, technology, manufacturing. A FSHC would be able to diversify into any activity through affiliates of the holding company with such affiliates subject to enhanced regulation.

Mr. President, the regulation of the bank and nonbank affiliates of financial services holding companies would be along functional lines. The insured-bank affiliate would be regulated by Federal and State bank regulators, the securities affiliate by the Securities and Exchange Commission, and so on. Thus, for each affiliate, existing regulatory expertise will be applied to protect consumers, investors and taxpayers. Functional regulation will also assure that competition in discrete products and services is fair by eliminating current loopholes and regulatory gaps.

Mr. President, I want to underscore that the DIAA would not require existing firms to alter their regulatory structure. By permitting financial services providers to become FSHC's, such providers will have the options to phase gradually into, or expand within, the financial services industry.

Mr. President, our country still relies on a system of financial regulation that was established in the aftermath of the economic collapse of the 1930's and the Great Depression. By restricting competition among the various sectors of the financial services industry, the Glass-Steagall Act of 1933, the Federal securities law of that era, and the Bank Holding Company Act of 1956 sought to enhance the safety of financial instruments and intermediaries.

Mr. President, the past 20 years have seen a growing competition among providers of financial services. Banks seek more freedom to sell securities, mutual funds and insurance. Nonbank lenders, such as brokerage and insurance firms, offer commercial loans and other financing arrangements to business. And, finance companies and their commercial owners now play an increased role in the Nation's financial system. Many financial intermediaries provide functionally equivalent products and services.

Mr. President, the United States must adopt a regulatory regime that recognizes market realities and assesses and controls risk. Our present patchwork of financial laws protects particular industries, restrains competition, prevents diversification that would limit risks, restricts potential sources of capital, and undermines the efficient delivery of services and the competitive position of our financial institutions in world markets.

Mr. President, the Banking Committee and other committees of Congress have already held exhaustive hearings on the issues raised by the DIAA and reviewed bookshelves full of studies and blueprints for financial reform. Rather than enact comprehensive reform, Congress has thus far ceded the playing field to piecemeal deregulation by bank regulators and the courts. We must now end this debate and enact a legal framework that prepares our financial institutions for the new century and the challenges of a rapidly changing global economy.

Mr. President, the DIAA represents a good starting point and a sound approach to modernizing our financial structure. I recognize that this bill can be improved from the 1987 version, and I am specifically requesting constructive and helpful comments to improve and to refine the major principles underlying the bill.

Mr. President, congressional studies, Federal regulators, and industry leaders have supported comprehensive reform of the Nation's financial system. The Treasury Department's study, "Modernizing the Financial System: Recommendations for Safer, More Competitive Banks" (1991), essentially endorsed the legislation I am introducing today. In the recently enacted Riegle-Neal Interstate Banking and Efficiency Act of 1994 Congress directed Treasury to conduct another study of the Nation's financial services system. In a letter sent to Secretary Rubin today, I have strongly urged the Treasury Department to endorse and to reaffirm the basic conclusions of its 1991 study and to make further recommendations to promote competitiveness and efficiency, and to protect the taxpayer.

Mr. President, given the broad support for comprehensive reform, why has Congress not overhauled the antiquated laws governing financial services? Why has Congress, by default, permitted the bank regulatory agencies and the courts to rewrite, in an ad hoc fashion, these laws?

Mr. President, the answer is clear. Congress, Federal regulators, and the affected industries have lacked the vision to support the comprehensive reform reflected in this bill. We have debated bank deregulation and expanded bank powers. This polarizing debate has pitted the banks against securities firms, big banks against small banks, and banks against insurance agents and real estate brokers.

Mr. President, history must not repeat itself. Today, as the Fed, the FDIC and the Comptroller of the Currency consider modifying their rules to permit banks, nonbank affiliates of holding companies and operating subsidiaries of national banks to engage in a de novo or additional securities and insurance activities, I have a sense of deja vu. In 1987, the Competitive Equality Banking Act was passed to preserve Congress' ability to conduct a comprehensive review of banking and financial laws, and to make decisions on the need for financial restructuring legislation. Congress imposed a statutory moratorium on the authority of bank regulators to approve certain securities, insurance and real estate activities, 100-86. This moratorium ended on March 1, 1988.

Mr. President, the Banking Committee closely monitors activities and rulemaking of Federal bank regulators. With all the talk around Washington of regulatory moratoriums, I strongly urge bank regulators to support our efforts to rewrite the laws they administer rather than to stretch current laws beyond their statutory terms or the intent of Congress.

Mr. President, our outdated regulatory regime has hurt the global competitiveness of U.S. financial institutions. Over the past 20 years, in part because financial markets in Japan and Europe are less regulated than in the United States, the number of American banks among the top 25 in the world has dropped from eight to none. In an era of increased globalization and free trade, as illustrated by NAFTA and GATT, we must not shackle U.S. financial institutions with a statutory framework that responds to the policy concerns of the 1930's.

Mr. President, the 104th Congress must address and resolve the important questions relating to the health and future of the banking industry in the broader context of a financial system that is increasingly composed of nonbank financial service providers. We must focus on the needs of our economy for credit and growth in the future and the next century. We must focus on financial stability, safety and soundness, fair competition, and functional regulation of all financial service providers—whether they are banks, investment banks, insurance companies, finance companies or even telecommunications or computer companies.

Mr. President, we must live up to the challenge. In recent years, Congress has responded quickly and effectively to correct deficiencies or excesses in the financial system. In the face of problems created by stock market breaks, depleted deposit insurance funds, or credit crunches, we have addressed serious financial crises. In the process, Congress has prudently learned that statutory provisions adopted in the 1930's can aggravate and actually create problems for depository institutions and other financial providers in the 1980's and 1990's—for example, interest rate controls, restrictions on interstate banking, portfolio concentrations, and statutory impediments to diversification. Congress has eliminated or modified many of these provisions of law in the past decade for banks and thrifts. The homogenization of financial service and globalization of markets has also necessitated the close coordination by discrete regulators, nationally and internationally, through informal mechanisms, such as the Treasury Department's Working Group and the so-called Basle Committee. In recent years, in FIRREA and FIDICA, Congress has also employed market-oriented substitutes for direct government regulation, such as industry developed codes of conduct, capital strength, internal controls, management information systems and management experience.

Mr. President, Congress must modernize the restrictions on affiliations found in the Glass-Steagall and Bank Holding Company Acts. I introduce this bill today, and make these extensive remarks, to underscore the critical national importance of modernizing our financial system. Last year, Congress was finally able to eliminate barriers to interstate banking, to facilitate the securitization of small business loans, and to prune outdated and burdensome regulatory requirements. Those bills were the result of a successful collaboration among the administration, Federal and State regulators, and providers and consumers of financial services. I seek to sustain this process and pass comprehensive financial services reform during this Congress.

Mr. President, history demonstrates that financial services reform that is not comprehensive will not be enacted. I have previously opposed piecemeal reform because such reform is not procompetitive, is inconsistent with the objective of "competitive equality" articulated by Congress in 1987 and the Treasury's 1991 study, and will not advance the long-term interests of the banking industry or the United States.

Mr. President, the DIAA will make the financial system as a whole safer and more stable. Rather than debate the important but narrow issue of the future of the banking franchise and the role of banks in the economy and attempt to gerrymander markets through piecemeal legislation to protect any single component, Congress must enact comprehensive legislation. Only comprehensive legislation will produce beneficial changes for all financial intermediaries by:

Permitting financial intermediaries—commercial banks, investment banks, thrifts, et cetera—to attract capital by eliminating existing restrictions on ownership by and affiliations among depository and nondepository firms;

Facilitating diversification and assuring fair competition by creating a new category of financial service holding companies authorized to engage in any financial activity through separately regulated subsidiaries;

Insulating insured subsidiaries from the more risky business activities of other affiliates as well as the parent holding company;

Enhancing substantially the quality and effectiveness of regulation through functional regulation;

Improving coordination and supervision of the overall financial system by permitting more effective analysis and monitoring of aggregate stability and vulnerability to severe disruptions and breakdown; and

Removing unnecessary barriers to competition between providers of financial service in the United States in order to maintain the preeminence of the U.S. capital markets and U.S. financial intermediaries and to respond to growing competition from foreign companies.

Mr. President, this legislation, as introduced, is not intended to force major changes in the insurance industry. Nevertheless, it will affect issues important to the insurance agents, insurance companies, and financial institutions engaged in insurance activities. The exact impact of the legislation on the relationship between banking and insurance will continue to be examined—especially the issues raised by traditional State regulation of the business of insurance.

Immediately following the bill's introduction, the Banking Committee will begin to examine issues relating to bank involvement in insurance activities. In the end, I expect the bill to balance appropriately fair competition, functional regulation and respect for the traditional leadership of the States in insurance regulation. As the committee proceeds to hearings and further consideration of the bill, I intend to make changes and adjustments in order to ensure fairness, safety and soundness, consumer protection, and effective and efficient regulation, particularly as it relates to insurance and other financial products.

Mr. President, I introduce the Depository Institution Affiliation Act as a prelude to a vigorous debate about the future of our financial system. I strongly believe that this Congress can achieve the passage of a comprehensive financial services reform bill. By working together, the Congress and the administration can overcome the complaints of vested interests and reform our antiquated financial services laws. We should not miss this opportunity for constructive bipartisanship.

Mr. President, I ask unanimous consent that more detailed section-by-section summary of the bill and a copy of my letter to Secretary Rubin be reprinted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPOSITORY INSTITUTION AFFILIATION ACT—SECTION-BY-SECTION ANALYSIS

Section 1: Short Title and table of contents.

Section 1 provides that this Act be cited as the "Depository Institution Affiliation Act".

Section 2: Findings and Purpose.

The purpose of this Act is to promote the safety and soundness of the nation's financial system, to increase the availability of financial products and services to consumers, businesses, charitable institutions and government in an efficient and cost effective manner. In addition, this Act aims to promote a legal structure governing providers of financial services that permits open and fair competition and affords all financial services companies equal opportunity to serve the full range of credit and financial needs in the marketplace. This Act also aims to ensure that domestic financial institutions and companies are able to compete effectively in international financial markets. Finally, this Act aims to regulate financial activities and companies along functional lines without regard to ownership, control, or affiliation.

TITLE I—CREATION AND CONTROL OF FINANCIAL SERVICES HOLDING COMPANIES

Section 101. This section creates a new type of financial company, a Financial Services Holding Company, and sets out the terms and conditions under which such a company can be established and must be operated.

Subsection (a) Definitions. This subsection defines terms used in this section.

Paragraph (a)(1) Financial Services Holding Company (FSHC)—defines a FSHC to be any company that files a notice with the National Financial Services Committee (see Title II of this Act) that it intends to comply with the provisions of this section, and controls an insured depository institution, or, either (i) has, within the preceding 12 months filed a notice under subsection (b) of this section to establish or acquire control of a federally insured depository institution or a company owning such a federally insured depository institution, or (ii) controls a company which, within the preceding 12 months, has filed an application for federal deposit insurance, provided that such notice or application has not been disapproved by the appropriate Federal banking agency or withdrawn. Any bank holding company which elects to become a FSHC will lose its status as a bank holding company immediately upon filing the notice of its election to become a FSHC. Similarly, a savings and loan holding company that elects to become a FSHC will lose that status upon filing the notice of its election to become a FSHC.

Paragraph (a)(2) Bank Holding Company—gives the term "bank holding company" the meaning given to it in section 2(a) of the Bank Holding Company Act of 1956, as amended.

Paragraph (a)(3) Savings and Loan Holding Company—gives the term "savings and loan holding company" the meaning given to it in section 10(a) of the Home Owners' Loan Act.

Paragraph (a)(4) Affiliate—defines for this section, except paragraph (5) of subsection (f), the term "affiliate" of a company as any company which controls, is controlled by, or is under common control with such a company.

Paragraph (a)(5) Appropriate Federal Banking Agency (AFBA)—gives the term "appropriate Federal banking agency" the meaning given to it in section 3 of the Federal Deposit Insurance Act.

Paragraph (a)(6) Depository Institution and Insured Depository Institution—gives the term "depository institution" and "insured depository institution" the meaning given to them in section 3 of the Federal Deposit Insurance Act.

Paragraph (a)(7) State—gives the term "State" the meaning given to it in section 3 of the Federal Deposit Insurance Act.

Paragraph (a)(8) Company—defines the term "company" to mean any corporation, partnership, business trust, association or similar organization. However, corporations that are majority owned by the United States or any State are excluded from the definition of company.

Paragraph (a)(9) Control—defines control by one company over another. For purposes of this section, the term "control" means the power, directly or indirectly, to direct the management or policies of a company, or to vote 25% or more of any class of voting securities of a company.

There are three exceptions from the definition of control: These pertain to ownership of voting securities acquired or held:

1. as agent, trustee or in some other fiduciary capacity;

2. as underwriter for such a period of time as will permit the sale of these securities on a reasonable basis; or in connection with or incidental to market making, dealing, trading, brokerage or other securities-related activities, provided that such shares are not acquired with a view toward acquiring, exercising or transferring control of the management or policies of the company;

3. for the purpose of securing or collection of a prior debt until two years after the date of the acquisition; and

In addition, no company formed for the sole purpose of proxy solicitation shall be deemed to be in control of another company by virtue of its acquisition of the voting rights of the other company's securities.

Paragraph (a)(10) Adequately Capitalized—the term 'adequately capitalized' with respect to an insured depository institution has the meaning given to it in section 38(b)(1) of the Federal Deposit Insurance Act.

Paragraph (a)(11) Well Capitalized—the term 'well capitalized' with respect to an insured depository institution has the meaning given to it in section 38(b)(1) of the Federal Deposit Insurance Act.

Paragraph (a)(12) Minimum Required Capital—defines the term 'minimum required capital' with respect to an insured depository institution as the amount of capital that is required to be adequately capitalized.

Paragraph (a)(13) Domestic Branch—gives the term 'domestic branch' the same meaning as in section 3(o) of the Federal Deposit Insurance Act.

Subsection (b): Changes in Control of Insured Depository Institutions. This subsection provides that any FSHC wishing to acquire control of an insured depository institution or company owning such insured depository institution must comply with the requirements of the Change in Bank Control Act. Failure to comply with these requirements will subject the relevant FSHC to the penalties and procedures provided in subsections (i) through (m) of this section, in addition to otherwise applicable penalties.

Subsection (c): Affiliate Transactions. This subsection empowers each AFBA to impose restrictions on affiliate transactions to prohibit unsafe or unsound practices. These regulations would be in addition to the restrictions on interaffiliate transactions provided for under sections 23A or 23B of the Federal Reserve Act. This subsection gives each AFBA some flexibility to promulgate and adapt rules and regulations in response to changing market conditions so that the AFBA has at all times the capability to prevent insured depository institutions under its supervision that are controlled by FSHCs from engaging in transactions that would compromise the safety and soundness of such insured depository institutions or that would jeopardize the deposit insurance funds.

Moreover, other provisions of this Act assure that the AFBA will have the capability to enforce these regulations vigorously (subsection (i) of this section) and that any violations of these regulations will be more severely punished than violations of regulations applicable to insured depository institutions that are not controlled by FSHCs (subsections (i), (j), (k) and (l) of this section).

Paragraph (c)(2) Regulatory Activity—provides that any rules adopted under subparagraph (c)(1)(A) shall be issued in accordance with normal rulemaking procedures and shall afford interested parties the opportunity to comment in writing and orally on any proposed rule.

Paragraph (c)(3) Application to Prior Approved Transactions—grandfathers inter-affiliate transactions specifically approved by a AFBA prior to the enactment of this Act.

Paragraph (c)(4) Federal Reserve Act Treatment—makes it clear that sections 23A and 23B of the Federal Reserve Act will apply to every insured depository institution controlled by a financial services holding company.

Paragraphs (c) (5) and (6) Limitations and Exception—prohibits any insured depository institution controlled by a FSHC from extending credit to or purchasing the assets of a securities affiliate and providing other types of financial support to that FSHC's securities affiliate except for daylight overdrafts that relate to U.S. Government securities transactions if the daylight overdrafts are fully collateralized by U.S. Government securities as to principal and interest.

Paragraph (c)(7) Limitation on Certain Marketability Activities—prohibits insured depository institutions controlled by a FSHC from providing any type of guarantee for the purpose of enhancing the marketability of a securities issue underwritten or distributed by a securities affiliate of that FSHC.

Paragraph (c)(8) Activities During Securities Distribution—prohibits insured depository institutions controlled by a FSHC from extending credit secured by or for the purposes of purchasing any security during an underwriting period or for 30 days thereafter where a securities affiliate or such institution participates as an underwriter or member of a selling group.

Paragraph (c)(9) Extensions of Credit for Payment of Dividends—prohibits insured depository institutions controlled by a FSHC from extending credit to an issuer of securities underwritten by a securities affiliate for the purpose of paying the principal of those securities or interest for dividends on those securities.

Paragraph (c)(10) Securities Affiliate Defined—defines 'securities affiliate' for the purposes of paragraphs (c)(5) through (c)(9) as a company that engages in underwriting, distributing or dealing in securities, except insurance products.

Subsection (d): Capitalization. This subsection regulates the capitalization of insured depository institutions that are controlled by a FSHC.

Paragraph (d)(1) In General—requires that insured depository institutions controlled by a FSHC be well capitalized.

Paragraph (d)(2) Actions by Federal Regulators—Provides that if the AFBA finds that an insured depository institution subsidiary of a FSHC is not well capitalized, the FSHC shall have thirty days to reach an agreement without the AFBA concerning how and according to what schedule the insured depository institution will bring its minimum capital back into conformance with requirements. During that time the insured depository institution shall operate under the close supervision of the AFBA.

In the event that the FSHC does not reach an agreement within thirty days with the AFBA on how and according to what schedule the capital of the insured depository institution will be replenished, the FSHC will be required to divest the insured depository institution in an orderly manner within a period of six months, or such additional period of time as the AFBA may determine is reasonably required in order to effect such divestiture.

Paragraph (d)(3) Capital of Holding Company—Prohibits a AFBA from imposing any capital requirement on a FSHC.

Subsection (e): Interstate Acquisitions and Activities of Insured Depository Institutions. This subsection subjects interstate acquisitions of an insured depository institution by a FSHC to the same restrictions as those applicable to bank holding companies under section 3(d) of the Bank Holding Company Act of 1956, as amended, and it subjects interstate acquisitions of savings associations by a FSHC to the same restrictions as those applicable to savings and loan holding companies. It also treats a FSHC as a BHC for purposes of Section 18(r) of the Federal Deposit Insurance Act regarding affiliate depository institution agency activities.

Subsection (f): Differential Treatment Prohibition; Laws Inconsistent with this Act. This subsection does two things. First, it prohibits adversely differential treatment of FSHCs and their affiliates, including their insured depository institution affiliates, except as this Act specifically provides. Second, this subsection ensures that state and federal initiatives do not undermine achievement of the purposes of this Act. Whether couched as affiliation, licensing or agency restrictions or as constraints on access to state courts, such laws effectively perpetuate market barriers and deny consumers the opportunity to choose between different financial products and services.

Paragraph (f)(1) this paragraph specifically prohibits states from enacting laws that discriminate against FSHCs or against their affiliates, including their insured depository institution affiliates. This paragraph also prohibits, notwithstanding any other federal law, federal and state regulatory agencies from discriminating by rule, regulation, order or any other means against FSHCs or against their affiliates, including their insured depository institution affiliates, except as this Act specifically provides. This is intended to assure that the primary purpose of this Act—the enhancement of competition in the depository institution sector—will be fulfilled.

Paragraph (f)(2) Application of State Laws—this subsection recognizes that certain State affiliation and licensing laws restrain legitimate competition in interstate commerce, deny consumers freedom of choice in selecting an insured depository institution and threaten the long-term safety and soundness of insured depository institutions by limiting their access to capital.

Accordingly, with the exception of certain laws related to insurance and real estate brokerage which are treated in Subsection (g), this paragraph preempts any provision of federal or state law, rule, regulation or order that is expressly or impliedly inconsistent with the provisions of this section. The preempted statutes include state banking, savings and loan, securities, finance company, retail or other laws which restrict the affiliation of insured depository institutions or their owners, agents, principals, brokers, directors, officers, employees or other representatives with other firms. Similarly, laws prohibiting cross marketing of products and services are preempted insofar as such cross marketing activities are conducted by FSHCs, their affiliates, or by any agent, principal, broker, director, officer, employee or other representative. By contrast, nondiscriminatory state approval, examination, supervisory, regulatory, reporting, licensing, and similar requirements are not affected.

Paragraph (f)(3) Laws Affecting Court Actions—removes a common uncertainty under state licensing and qualification to do business statutes, which leaves an out-of-state insured depository institution's access to another state's courts unresolved. Under this provision, so long as such an insured depository institution limits its activities to those which do not constitute the establishment or operation of a "domestic branch" of an insured depository institution in that other state, it can qualify to maintain or defend in that state's court any action which could be maintained or defended by a company which is not an insured depository institution and is not located in that state, subject to the same filing, fee and other conditions as may be imposed on such a company. This paragraph is not intended to grant states any power that they do not currently have to regulate the activities of out-of-state insured depository institutions.

Paragraph (f)(4) Other Restrictions—makes clear that a state, except subject to the provisions of this Act, may not impede or prevent any insured depository institution affiliated with a FSHC or any FSHC or affiliate thereof from marketing products and services in that state by utilizing and compensating its agents, solicitors, brokers, employees and other persons located in that state and representing such a insured depository institution, company, or affiliate. However, to the extent such persons are performing loan origination, deposit solicitation or other activities in which an insured depository institution may engage, those activities cannot constitute the establishment or operation of a "domestic branch" at any location other than the main or branch offices of the depository institution.

Paragraph (f)(5) Definitions—contains a special definition of "affiliate" and "control" for purposes of paragraph (2) through (4) this subsection only. Control is deemed to occur where a person or entity owns or has the power to vote 10% of the voting securities of another entity or where a person or entity directly or indirectly determines the management or policies of another entity or person. Unlike the definition of affiliate set forth in paragraph (4) of subsection (a), this definition encompasses not only corporate affiliations but affiliations between corporations and individuals.

Subsection (g): Securities, Insurance and Real Estate Activities of Insured Depository Institutions. In order to facilitate functional regulation of the activities of FSHCs this section prohibits insured depository institutions controlled by FSHCs from conducting certain securities, insurance and real estate activities currently permissible for some insured depository institutions.

Subparagraph (g)(1)(A) Securities Activities—provides that no insured depository institution controlled by a FSHC shall directly engage in dealing in or underwriting securities, or purchasing or selling securities as agent, except to the extent such activities are performed with regard to obligations of the United States or are the type of activities that could be performed by a national bank's trust department.

Subparagraph (g)(1)(B) Insurance Activities—provides that no insured depository institution controlled by a FSHC shall directly engage in insurance underwriting.

Subparagraph (g)(1)(C) Real Estate Activities—provides that no insured depository institution controlled by a FSHC shall directly engage in real estate investment or development except insofar as these activities are incidental to the insured depository institution's investment in or operation of its own premises, result from foreclosure on collateral securing a loan, or are the type of activities that could be performed by a national bank's trust department.

Paragraph (g)(2) Construction—clarifies that nothing in this subsection shall be construed to prohibit or impede a FSHC or any of its affiliates (other than an insured depository institution) from engaging in any of the activities set forth in paragraph (1) or to prohibit an employee of an insured depository institution that is an affiliate of a FSHC from offering or marketing products or services of an affiliate of such an insured depository institution as set forth in paragraph (1).

Paragraph (g)(3) De Novo Securities and Real Estate Activities—except for activities permitted under Section 4(c)(8) of the Bank Holding Company Act no FSHC can engage in insurance or real estate activities de novo. Rather, they would have to purchase either an insurance agency or real estate brokerage business which had been in business for at least two years prior to passage of the Act.

Paragraph (g)(4) Existing Contracts—provides that nothing in this subsection will require the breach of a contract entered into prior to enactment of this Act.

Subsection (h): Tying and Insider Lender Provisions. This section subjects FSHCs to the tying provisions of section 106 of the Bank Holding Company Act Amendments of 1970 and to the insider lending prohibitions of section 22(h) of the Federal Reserve Act. These sections prohibit tying between products and services offered by insured depository institutions and products and services offered by the FSHC itself or by any of its other affiliates. Note, however, that these tying provisions do not apply to products and services that do not involve an insured depository institution. The insider lending provisions severely limit loans by an insured depository institution to officers and directors of the insured depository institution. For purposes of both provisions, the AFBA will exercise the rulemaking authority vested in the Federal Reserve with regard to these limitations.

Subsection (i): Examination and Enforcement. This subsection provides that the AFBA shall use its examination and supervision authority to enforce the provisions of this section, including any rules and regulations promulgated under subsection (c). In particular, it is intended that each AFBA should structure its examination process so as to uncover possible violations of the provisions of this section and that the agency should not hesitate to make full use of its cease-and-desist powers or to impose as warranted the special penalties discussed below, if it believes that an insured depository institution under its supervision that is controlled by a FSHC is in violation of any of the provisions of this section.

This subsection also grants the AFBA authority to examine any other affiliate of the FSHC as well as the FSHC itself in order to ensure compliance with the limitations of this section or other provisions of law made applicable by this section such as sections 23A and 23B of the Federal Reserve Act.

In addition, this subsection grants each AFBA the right to apply to the appropriate district court of the United States for a temporary or permanent injunction or a restraining order to enjoin any person or company from violation of the provisions of this section or any regulation prescribed under this section. The AFBA may seek such an injunction or restraining order whenever it considers that an insured depository institution under its supervision or any FSHC controlling such an insured depository institution is violating, has violated or is about to violate any provision of this section or any regulation prescribed under this section. In seeking such an injunction or restraining order the AFBA may also request such equitable relief as may be necessary to prevent the violation in question. This relief may include a requirement that the FSHC divest itself of control of the insured depository institution, if this is the only way in which the violation can be prevented.

This injunctive power will enable the AFBA to move speedily to stop practices that it believes endanger the safety and soundness of an insured depository institution under its supervision that is controlled by a FSHC. If necessary to protect the depositors and safeguard the deposit insurance funds, the AFBA may request that the injunction proceedings be held in camera, so as not to provoke a run on the insured depository institution.

Subsection (j): Divestiture. This subsection states that an AFBA may require a FSHC to divest itself of an insured depository institution, if the agency finds that the insured depository institution is engaging in a continuing course of action involving the FSHC or any of its affiliates that would endanger the safety and soundness of that insured depository institution. Although the FSHC would have the right to a hearing and to judicial review and have one year in which to divest the insured depository institution, it should be emphasized that the insured depository institution would operate under the close supervision of the AFBA from the date of the initial order until the date the divestiture is completed. This is intended to safeguard the insured depository institution in question, its depositors and the deposit insurance funds.

Subsection (k): Criminal Penalties. This subsection provides for criminal penalties for knowing and willful violations of the provisions of this section, even if these violations do not result in an initial or final order requiring divestiture of the insured depository institution. For companies found to be in violation of the provisions of this section the maximum penalty shall be the greater of (a) $250,000 per day for each day that the violation continues or (b) one percent of the minimum required capital of the insured depository institution per day for each day that the violation continues, up to a maximum of 10% of the minimum capital of the insured depository institution—a fine that could amount to tens of millions of dollars for a large insured depository institution. Such a fine is designed to be large enough to deter even larger insured depository institutions from violating the provisions of this section.

For individuals found to be in violation of the provisions of this section the penalty shall be a fine and/or a prison term. The maximum fine shall be the greater of (a) $250,000 or (b) twice the individual's annual rate of total compensation at the time the violation occurred. The maximum prison sentence shall be one year. In addition, individuals violating the provisions of this section will also be subject to the penalties provided for in Section 1005 of Title 18 for false entries in any book, report or statement to the extent that the violation included such false entries.

A FSHC and its affiliates shall also be subject to the Criminal penalties provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990 to the same extent as a registered bank holding company, savings and loan holding company or any affiliate of such companies.

Subsection (l): Civil Enforcement, Cease-and-Desist Orders, Civil Money Penalties. This subsection provides for civil enforcement, cease-and-desist orders and civil money penalties consistent with subsections (b) and (s) and subsection (u) of Section 8 of the Federal Deposit Insurance Act for FSHCs that violates the provisions of this section in the same manner as they apply to an insured depository institution.

Subsection (m): Civil money Penalties. This subsection grants the AFBA the power to impose and collect civil money penalties after providing the company or person accused of such violation notice and the opportunity to object in writing to its finding.

Subsection (n): Judicial Review. This subsection provides for judicial review of decisions reached by an AFBA under the provisions of this section. This right to review includes a right of judicial review of statutes, rules, regulations, orders and other actions that would discriminate against FSHCs or affiliates controlled by such companies.

Section 102: Amendment to the Bank Holding Company Act of 1956. This section contains a conforming amendment to the definition of the term "bank" in the Bank Holding Company Act to ensure that a FSHC owning an insured depository institution will be regulated under this Act rather than the Bank Holding Company Act.

Section 103: Amendments to the Federal Reserve Act. This section clarifies the application of Section 23A of the Federal Reserve Act to certain loans and extensions of credit to persons who are not affiliated with a member bank. Section 23A contains a provision that was intended to prevent the use of "straw man" intermediaries to evade section 23A's limitations on loans and extensions of credit to affiliates. Contrary to its original purpose, the provision may also be literally read to restrict a bona fide loan or extension of credit to a third party who happens to use the proceeds to purchase goods or services from an affiliate of the insured depository institution; such a loan could occur, for example, if a customer happens to use a credit card issued by an insured depository institution to buy an item sold by the insured depository institution's affiliates. This section clarifies that such loans and extensions of credit are not covered by section 23A as long as (i) the insured depository institution approves them in accordance with substantially the same standards and procedures and on substantially the same terms that it applies to similar loans or extensions of credit that do not involve the payment of the proceeds to an affiliate, and (ii) the loans or extensions of credit are not made for the purpose of evading any requirement of section 23A.

Section 104: Amendments to the Banking Act of 1933.

Subsection (a) Section 20—amends section 20 of the Glass-Steagall Act so that it does not apply to member banks that are controlled by FSHCs.

Subsection (b) Section 32—amends section 32 of the Glass-Steagall Act so that it does not apply to officers, directors and employees of affiliates of a single financial services holding company.

Section 105: Amendment to the Federal Deposit Insurance Act. This section amends the Change in Bank Control Act to provide that an acquisition of a FSHC controlling an insured depository institution may only be accomplished after complying with that Act's procedures. It also modifies the definition of "control" to conform it to the definition in section 101(a)(9) of this Act.

Section 106: Amendment to the Securities Exchange Act of 1934. This section amends the Securities Exchange Act of 1934 to provide for the registration and regulation of Broker Dealers affiliated with a FSHC.

Section 107: Amendment to the Home Owners' Loan Act. This section amends section 11 of the Home Owners' Loan Act in order to apply Section 101(c)(1)(B) of this section to savings associations.

Section 108: Amendment to the Community Reinvestment Act. This section amends the Community Reinvestment Act to make it applicable to acquisitions of insured depository institutions by FSHCs.

Section 106: Amendment to the Securities Exchange Act of 1934. This section amends the Securities Exchange Act of 1934 to provide for the registration and regulation of Broker Dealers.

Section 107: Amendment to the Home Owners' Loan Act. This section amends section 11 of the Home Owners' Loan Act in order to apply Section 101(c)(1)(B) of this section to savings associations.

Section 108: Amendment to the Community Reinvestment Act. This section amends the Community Reinvestment Act to make it applicable to acquisitions of insured depository institutions by FSHCs.

TITLE II—SUPERVISORY IMPROVEMENTS

Section 201: National Financial Services Committee. This section establishes a standing committee, the National Financial Services Oversight Committee (Committee), in order to provide a forum in which federal and state regulators can reach a consensus regarding how the regulation of insured depository institutions should evolve in response to changing market conditions. In addition, the Committee also provides a mechanism through which various federal regulatory agencies could coordinate their responses to a financial crisis, if such a crisis were to occur. The Committee comprises all federal agencies responsible for regulating financial institutions or financial activities, and it is structured to allow state regulators to participate in its deliberations.

The Committee consists of the Chairman of the Secretary of the Treasury, who is also the Chairman of the Committee, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the FDIC, the Director of the Office of Thrift Supervision, the Comptroller of the Currency, the Secretary of Commerce, the Attorney General, the Chairman of the SEC, and the Chairman of the CFTC.

The Committee is directed to report to Congress within one year of enactment of this Act on proposed legislative or regulatory actions that will improve the examination process to permit better oversight of all insured depository institutions. It is also directed to establish uniform principles and standards for examinations.

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, February 2, 1995.

Hon. ROBERT RUBIN,
Secretary, Department of Treasury, Washington, DC.

DEAR MR. SECRETARY: The Treasury Department is conducting a study of the financial services system required by the Interstate Banking and Branching Efficiency Act of 1994 (P.L. 103-328). The Department must submit recommendations to Congress for "changes in statutes, regulations, and policies to improve the operation of the financial service system" by the end of 1995.

I introduced today the "Depository Institution Affiliation Act of 1995" ("DIAA") and urge you to consider it carefully as the Treasury Department conducts its study. The bill and a summary of its major provisions are enclosed.

The DIAA would allow any company—financial or commercial—to become a financial services holding company and be affiliated with an insured depository institution. A company that opts into the alternative regulatory format could engage in an expanded range of activities with and through its depository institution and other affiliates. Non-depository financial and/or commercial activities would be conducted through separately capitalized subsidiaries and regulated along functional lines. This separation of the non-depository institution properly insulates the depository institution from self-dealing and other inappropriate practices and serves to protect the deposit insurance system.

The legislation is a rational legislative response to the need for comprehensive financial services reform. Moreover, the Treasury Department's 1991 study, *Modernizing the Financial System: Recommendations for Safer More Competitive Banks*, essentially endorsed the principles contained in the DIAA.

In formulating Treasury's proposal for financial services restructuring, I urge you to consider and support the DIAA and the creation of financial services holding companies.

Sincerely,

ALFONSE M. D'AMATO,
Chairman.•

By Mr. DASCHLE (for himself, Mr. ROCKEFELLER, Mr. AKAKA, Mr. KERREY, Mr. DORGAN, and Mr. CAMPBELL):

S. 338. A bill to amend title 38, United States Code, to extend the period of eligibility for inpatient care for veterans exposed to toxic substances, radiation, or environmental hazards, to extend the period of eligibility for outpatient care for veterans exposed to such substances or hazards during service in the Persian Gulf, and to expand the eligibility of veterans exposed to toxic substances or radiation for outpatient care; to the Committee on Veterans' Affairs.

THE VETERANS' OUTPATIENT CARE ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing legislation that will provide much needed medical care to veterans exposed to agent orange or ionizing radiation, as well as to veterans exposed to toxic substances or environmental hazards during the Persian Gulf war. I am joined in this effort by Senators ROCKEFELLER, AKAKA, KERREY, DORGAN, and CAMPBELL.

Most Americans have heard about the mysterious illnesses afflicting thousands of gulf war veterans. Even though it has been almost 4 years since most of our troops returned home, we are still unable to pinpoint the cause or causes of these illnesses.

Are these illnesses service-connected? I believe so, though we will not be able to answer that question fully until further scientific research is done. Indeed, it is possible that scientists may never be able to discover the true cause(s) of these illnesses.

Does that mean gulf war veterans should wait for medical care until we know for sure that their ailments are service-connected? Certainly not. These men and women put their lives on the line for this Nation, and they deserve quality care from the Department of Veterans Affairs.

Likewise, we must not forget that other veterans continue to suffer from illnesses potentially caused by toxic exposures during their military service. Specifically, I am referring to veterans exposed to the defoliant agent orange during the Vietnam war and to veterans exposed to ionizing radiation either as a result of participation in the military's nuclear testing program or during the occupation of Hiroshima and Nagaski during World War II.

Title 38 of the United States Code currently authorizes the Department of Veterans Affairs to provide hospital and nursing home care to veterans suffering from agent orange, radiation or gulf war exposures. For veterans of the gulf war, outpatient services are also available.

However, this authority is scheduled to expire this year. Without prompt action by Congress, these veterans will become ineligible to receive care at VA facilities for all conditions potentially related to these exposures.

My bill will ensure that these veterans are eligible for VA medical care through December 31, 2003. Although some may argue for a shorter extension, I believe the period must be long enough to ensure that these veterans get the care they deserve.

Let me elaborate. In the 97th Congress, we granted VA the authority to provide care to veterans exposed to agent orange or ionizing radiation. Since that time, Congress has approved short extensions of this authority on four different occasions. For veterans, this has meant great uncertainty about whether they will receive much-needed health care. A longer extension will help alleviate this uncertainty.

Moreover, scientists cannot provide us with quick answers as to why gulf war veterans are sick. And in the meantime, these men and women will continue to suffer. They need to know that a grateful nation will help them through this difficult time.

I should stress that this authority to provide care only applies to medical conditions that are related or may be related to agent orange, ionizing radiation, or gulf war exposures. It does not extend to conditions for which VA doctors have affirmatively identified other causes.

My bill does go one step further than a simple extension of current law. It also ensures that veterans exposed to agent orange and ionizing radiation are eligible for the same range of medical services currently available to gulf war veterans. Specifically, the bill authorizes the VA to provide outpatient care for these veterans—care that could very well save money in the long run by avoiding the need for more costly inpatient care.

Veterans who are ill because of toxic exposures during military service are as deserving of VA medical care as their comrades injured by bullets or landmines. I hope that my colleagues will join me in preserving their access to such care.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF PERIOD OF ELIGIBILITY FOR INPATIENT CARE.

(a) CARE FOR EXPOSURE TO TOXIC SUBSTANCES AND IONIZING RADIATION.—Section 1710(e)(3) of title 38, United States Code, is amended by striking out "June 30, 1995," and inserting in lieu thereof "December 31, 2003,".

(b) CARE FOR EXPOSURE DURING PERSIAN GULF SERVICE.—Such section is further amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 2003".

SEC. 2. EXTENSION AND EXPANSION OF ELIGIBILITY FOR OUTPATIENT CARE.

(a) EXTENSION OF ELIGIBILITY FOR EXPOSURE DURING PERSIAN GULF SERVICE.—Paragraph (1)(D) of section 1712(a) of title 38, United States Code, is amended by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 2003,".

(b) EXPANSION OF ELIGIBILITY TO COVER TOXIC SUBSTANCES AND IONIZING RADIATION.—Such section is further amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of subparagraph (C);

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(E) during the period before December 31, 2003, for any disability in the case of a veteran who served on active duty in the Republic of Vietnam during the Vietnam era and who the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used in connection with military purposes during such era, notwithstanding that there is insufficient medical evidence to conclude that the disability may be associated with such exposure; and

"(F) during the period before December 31, 2003, for any disability in the case of a veteran who the Secretary finds was exposed while serving on active duty to ionizing radiation from the detonation of a nuclear device in connection with such veteran's participation in the test of such a device or with the American occupation of Hiroshima and Nagasaki, Japan, during the period beginning on September 11, 1945, and ending on July 1, 1946, notwithstanding that there is insufficient medical evidence to conclude that the disability may be associated with such exposure."; and

(2) in paragraph (7)—

(A) by striking out "under paragraph (1)(D)" and inserting in lieu thereof "under subparagraph (D), (E), or (F) of paragraph (1) of this subsection"; and

(B) by striking out "in that paragraph" and inserting in lieu thereof "in the applicable subparagraph".

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 339. A bill to ensure the provision of appropriate compensation for the real and mining claims taken by the United States as a result of the establishment of the White Sands Missile Range, New Mexico; to the Committee on Armed Services.

THE WHITE SANDS FAIR COMPENSATION ACT OF 1995

• Mr. DOMENICI. Mr. President, on behalf of Senator BINGAMAN and myself, I am offering legislation that will compensate a very special group of Americans: a group of patriots who heard the call to arms in 1941, answered that call, and entered into a good faith effort with our Government. Unfortunately, it was a good faith effort that turned sour. This bill, the White Sands Fair Compensation Act of 1995, is offered in an effort to right some wrong that began over 50 years ago.

On September 1, 1939, a chain of events began to unfold that would affect Americans from coast to coast. I am speaking, of course, of the outbreak of World War II. Americans made concessions to support the war effort and they willingly made extreme sacrifices—sacrifices of time, loved ones, and—for some—their homes and their way of life.

In 1942, President Roosevelt signed an executive order that would temporarily withdraw all public lands and acquire all surrounding private lands in an area of New Mexico that had great potential as a testing area for the army. The land was abundant, sparsely populated, and in the middle of nowhere. For the sake of national security and for the benefit of the Nation, ranchers and miners in this area entered into a temporary agreement to leave their homes and their livelihood. The White Sands Missile Range [WSMR] had gained its first foothold in the State of New Mexico. The ranchers and miners had taken their first step out of their former lives.

At the end of World War II, the Government determined the Nation's security was still at risk and the use of the WSMR area was necessary. Nevertheless, the army relented to allow WSMR ranchers to return to their homes on a shared use basis. Until 1950, the ranchers and the military attempted to work together in sharing the WSMR area. Sharing simply did not work. In 1952, the Government began to formally withdraw all the public lands with the understanding that at some time in the future the lands were to revert back to the Department of the Interior for public use. During this time, the WSMR ranchers were still allowed the use of their private lands, but they could no longer use the surrounding Federal lands that had been integral components of their land holdings. For many, this was the difference between raising cattle and sheep as pets or as food. Furthermore, the military maintained evacuation contracts with the ranchers, directing the ranchers to vacate their private lands during weapons testing.

All these factors added up to financial disaster for the ranchers who, in 1942, believed they were contributing to the war effort. WSMR ranchers couldn't ranch, nor could they sell their land. The WSMR ranches had changed in 10 years from thriving companies producing food and fiber, to crippled businesses waiting to be unloaded on the first prospective buyer.

That prospective buyer came 20 years later. The Government offered to buy the lands from the WSMR ranchers. Those ranchers who agreed received a devalued price for their homes; those who disagreed had their lands condemned and received the same low price.

Mr. President, I would like to put this issue into some historical context. The Congress during the years of Jefferson and Hamilton, was embroiled in a debate surrounding the country's Federal lands and a troublesome national debt. The debt prompted leaders to consider clearing the Nation's debt through the sale of its Federal lands to bring in much needed revenue as well as to encourage the expansion of the western territories. After much deliberation and many successive Congresses, several measures were signed into law that would entice Americans to move west and homestead the land.

Between 1895 and 1920, many of the ranchers began to settle in what would become WSMR. Each rancher paid the Government for the land. These lands had water, grass, and good soil. The Federal Government retained the title to those lands they could not sell. Holding that land, however, did not generate revenue. Therefore, the Government believed it important to enter into a new agreement with the ranchers. This new agreement encouraged the settlers to invest money, time, and effort into the less fertile Federal lands in exchange for increasing the settler holdings. Another good faith agreement was entered into between the ranchers and the Government.

Through the years this agreement resulted into a valuable arrangement for both the ranchers and the Government. The ranchers use the expanded holdings as collateral, and the Internal Revenue Service taxes these holdings as net worth. The WSMR ranchers' land, both privately and publicly held, had value. The ranchers had invested substantially in both.

Senator BINGAMAN and I are introducing a bill today which will compensate these individuals for their investments. The Whites Sands Fair Compensation Act of 1995 establishes a Commission in the Department of Defense to provide compensation to the individuals who lost their ranches or mining claims to the Government. This Commission will evaluate the history surrounding this issue, evaluate claims submitted by owners who relinquished their property, and will terminate its work after completing action on all claims filed under this act. I ask that a copy of my bill be included in the RECORD at the conclusion of my remarks.

In closing, Mr. President, I would like to urge this Congress to work quickly on this measure. Many WSMR ranchers and miners have died, and many more are elderly. My colleagues in the House of Representatives, Congressman JOE SKEEN, Congressman STEVE SCHIFF, and Congressman BILL RICHARDSON will introduce a companion measure. It is my hope that this Congress will acknowledge what this special group of Americans contributed to winning a war fought so very long ago.●

By Mr. DOLE (for himself, Mr. NICKLES, Mr. BOND, Mrs. HUTCHISON, Mr. MURKOWSKI, Mr. LOTT, Mr. COCHRAN, Mr. HATCH, Mr. DOMENICI, Mrs. KASSEBAUM, Mr. COATS, Mr. ABRAHAM, Mr. INHOFE, Mr. SMITH, Mr. SANTORUM, Mr. THOMPSON, Mr. WARNER, and Mr. KYL):

S. 343. A bill to reform the regulatory process, and for other purposes; to the Committee on the Judiciary.

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

Mr. DOLE. Mr. President, I rise to introduce legislation that begins the process of getting the regulatory state under control. This legislation represents a comprehensive effort to inject common sense into a Federal regulatory process that is often too costly, too arcane, and too inflexible.

Last November, the American people sent us a message: Rein in big Government. Stop wasting taxpayers' moneys. Stop passing the buck to State and local governments. Stop micromanaging our lives through burdensome and costly regulations.

We are responding to that message. Our agenda reduces Government—in size and scope—and increases individual freedom. Our agenda will restore the true balance between Government and individual reflected in the 10th amendment, which leaves all powers not given to the Federal Government to the States or to the people.

Our agenda is a package of reforms—and make no mistake about it, we need them all. The first set of reforms focus on making Congress accountable and responsible—cutting spending; stopping unfunded mandates; balancing the budget; and a line-item veto. But, as important, we need to make the agencies that have come to regulate almost every aspect of our lives just as accountable and responsible—we need regulatory reform.

Mr. President, the true scope of regulations in America is staggering: OMB estimates that the private sector spends more than 6.6 billion hours in 1 year complying with regulations; and the costs of regulation on our economy are conservatively estimated at $500 billion.

And it is not merely a matter of too many regulations or whether they make sense. They are often inflexible and unfair. It is very difficult for one person or one business to take on the Government—even if they are right. Sometimes they must, just to survive, and the costs of enforcement are often a dead weight loss to society in terms of lost productivity and innovation.

I know of one small business in Paola, KS, that spent 5 years in a lawsuit with OSHA and finally settled for $6,000. This company typically spends between $7,500 and $10,000 annually for legal and management costs just dealing with OSHA. The regulatory state is out of control.

Mr. President, this legislation will accomplish six major objectives:

First, responsibility. Major regulations—those with $50 million impact on the economy—will go through an analysis that ensures that the benefits outweigh the costs;

Second, sound science. Risk assessments will be based on realistic data and sound science and will be part of the agency decisionmaking process;

Third, accountability. We will put a stop to the practice of expanding Federal power and jurisdiction beyond what a statute provides. We will insist that the public be informed of the true costs and benefits of regulation, and that those affected by regulations be able to enforce these requirements in a court of law;

Fourth, congressional oversight. We ensure Congress' overall responsibility by providing for a 45-day period in which Congress may review major regulations before they take effect;

Fifth, remedying past mistakes. There are undoubtedly many regulations that impose costs that wildly exceed the benefits. We allow for review of existing regulations in order to weed out past mistakes; and

Sixth, small business relief. The costs of regulations often fall disproportionately on those least able to cope—small businesses. We reform the Regulatory Flexibility Act that is already law, by allowing small businesses the ability to enforce its provisions in court.

Mr. President, there are a lot of good ideas out there about regulatory reform. We want to hear them. But we will insist that fundamental reform be enacted this year. The American people deserve nothing less.

I ask unanimous consent that the legislation I introduce today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Regulatory Reform Act of 1995".

SEC. 2. ANALYSIS OF AGENCY PROPOSALS.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"§ 621. Definitions

"For purposes of this subchapter and subchapter III of this chapter—

"(1) the term 'agency' has the same meaning as in section 551(1) of this title;

"(2) the term 'person' has the same meaning as in section 551(2) of this title;

"(3) the term 'rule' has the same meaning as in section 551(4) of this title;

"(4)(A) the term 'major rule' means—

"(i) a rule or a group of closely related rules that the agency proposing the rule or the President reasonably determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased direct and indirect costs, or has a significant impact on a sector of the economy; or

"(ii) a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, or by the President on the ground that the rule is likely to result in—

"(I) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions; or

"(II) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets;

"(B) the term 'major rule' does not include—

"(i) a rule that involves the internal revenue laws of the United States; or

"(ii) a rule that authorizes the introduction into commerce, or recognizes the marketable status, of a product;

"(5) the term 'benefit' means the reasonably identifiable significant benefits, including social and economic benefits, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule;

"(6) the term 'cost' means the reasonably identifiable significant costs and adverse effects, including social and economic costs, reduced consumer choice, substitution effects, and impeded technological advancement, that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule; and

"(7) the term 'market-based mechanism' means a regulatory program that—

"(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

"(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

"(C) permits regulated persons to respond automatically to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates.

"§ 622. Rulemaking cost-benefit analysis

"(a)(1) Prior to publishing notice of a proposed rulemaking for any rule (or, in the case of a notice of a proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(4)(A)(i) and, if it is not, whether it should be designated a major rule under section 621(4)(A)(ii). For the purpose of any such determination or designation, a group of closely related rules shall be considered as one rule.

"(2) Each notice of proposed rulemaking shall include a succinct statement and explanation of the agency's determination under paragraph (1).

"(b)(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(4)(A)(i) and has not designated the rule a major rule within the meaning of section 621(4)(A)(ii), the President may, as appropriate, determine that the rule is a major rule or designate the rule a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 60 days after such date of enactment).

"(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

"(c)(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking record a draft cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

"(B)(i) When the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file a draft cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

"(ii) Following the issuance of a draft cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment pursuant to section 553 of this title in the same manner as if the draft cost-benefit analysis had been issued with the notice of proposed rulemaking.

"(2) Each draft cost-benefit analysis shall contain—

"(A) an analysis of the benefit of the proposed rule, and an explanation of how the agency anticipates each benefit will be achieved by the proposed rule;

"(B) an analysis of the costs of the proposed rule, and an explanation of how the agency anticipates each such cost will result from the proposed rule;

"(C) an identification (including an analysis of the costs and benefits) of reasonable alternatives for achieving the identified benefits of the proposed rule, including alternatives that—

"(i) require no Government action;

"(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

"(iii) employ performance or other market-based standards that permit the greatest flexibility in achieving the identified benefits of the proposed rule and that comply with the requirements of subparagraph (D);

"(D) an assessment of the feasibility of establishing a regulatory program that operates through the application of market-based mechanisms;

"(E) in any case in which the proposed rule is based on one or more scientific evaluations or information or is subject to the risk assessment requirements of subchapter III, a description of actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluations or scientific information in accordance with the risk assessment requirements of subchapter III;

"(F) an assessment of the aggregate effect of the rule on small businesses with fewer than 100 employees, including an assessment of the net employment effect of the rule; and

"(G) an analysis of whether the identified benefits of the proposed rule are likely to exceed the identified costs of the proposed rule, and an analysis of whether the proposed rule will provide greater net benefits to society than any of the alternatives to the proposed rule, including alternatives identified in accordance with subparagraph (C).

"(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking record a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

"(2) Each final cost-benefit analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking, including the market-based mechanisms identified pursuant to subsection (c)(2)(D); and

"(B) an analysis, based upon the rulemaking record considered as a whole, of—

"(i) whether the benefits of the rule outweigh the costs of the rule; and

"(ii) whether the rule will provide greater net benefits to society than any of the alternatives described in the rulemaking, including the market-based incentives identified pursuant to subsection (c)(2)(D).

"(e)(1)(A) The description of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate unit of measurement, using comparable assumptions, including time periods, and shall specify the ranges of predictions and shall explain the margins of error involved in the quantification methods and in the estimates used. An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible.

"(B) Where practicable, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry by industry basis.

"(2)(A) In evaluating and comparing costs and benefits and in evaluating the risk assessment information developed pursuant to subchapter III, the agency shall not rely on cost, benefit, or risk assessment information that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rulemaking to assess the accuracy, reliability, and uncertainty factors applicable to such information.

"(B) The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs shall be clearly articulated in accordance with this section.

"§ 623. Decisional criteria

"(a) No final rule subject to this subchapter shall be promulgated unless the agency finds that—

"(1) the potential benefits to society from the rule outweigh the potential costs of the rule to society, as determined by the analysis required by section 622(d)(2)(B); and

"(2) the rule will provide greater net benefits to society than any of the reasonable alternatives identified pursuant to section 622(c)(2)(C), including the market-based mechanisms identified pursuant to section 622(c)(2)(D).

"(b) The requirements of this section shall supplement the decisional criteria for rulemaking otherwise applicable under the statute granting the rulemaking authority, except when such statute contains explicit textual language prohibiting the consideration of the criteria set forth in this section. Where the agency finds that consideration of the criteria set forth in this section is prohibited by explicit statutory language, the agency shall transmit its finding to Congress, along with the final cost-benefit analysis required by section 622(d)(2)(B).

"§ 624. Judicial review

"(a) Compliance or noncompliance by an agency with the provisions of this subchapter shall be subject to judicial review in accordance with this section.

"(b)(1) Each of the following shall be subject to judicial review:

"(A) A determination by an agency or by the President that a rule is or is not a major rule within the meaning of section 621(4).

"(B) A designation by an agency or by the President of a rule as a major rule.

"(C) A decision by an agency or by the President not to designate a rule a major rule.

"(2) A determination by an agency or by the President that a rule is not a major rule within the meaning of section 621(4), or the decision by an agency or by the President not to designate a rule a major rule, shall be set aside by a reviewing court only upon a showing of clear and convincing evidence that the determination or decision not to designate is erroneous in light of the information available to the agency at the time the determination or decision not to designate was made.

"(3) An action to review a determination that a rule is not a major rule or to review a decision not to designate shall be filed not later than 30 days after the date of publication of such determination or failure to designate.

"(c) If a court of the United States finds that a rule should have been reviewed pursuant to this subchapter, such rule shall have no force or effect until such time as the requirements of this subchapter are met.

"(d) Each court with jurisdiction to review final agency action under the statute granting the agency authority to conduct the rulemaking shall have jurisdiction to review findings by any agency under this subchapter and shall set aside agency action that fails to satisfy the decisional criteria of section 623. The court shall apply the same standards of judicial review that apply to the review of agency findings under the statute granting the agency authority to conduct the rulemaking.

"§ 625. Petition for cost-benefit analysis

"(a)(1) Any person subject to a major rule may petition the relevant agency or the President to perform a cost-benefit analysis under this subchapter for the major rule, including a major rule in effect on the date of enactment of this subchapter for which a cost-benefit analysis pursuant to such subchapter has not been performed, regardless of whether a cost-benefit analysis was previously performed to meet requirements imposed before the date of enactment of this subchapter.

"(2) The petition shall identify with reasonable specificity the major rule to be reviewed.

"(3) The agency or the President shall grant the petition if the petition shows that there is a reasonable likelihood that the costs of the major rule outweigh the benefits, or that reasonable questions exist as to whether the rule provides greater net benefits to society than any reasonable alternative to the rule that may be more clearly resolved through examination pursuant to this subchapter and subchapter III.

"(4) A decision to grant or deny a petition under this subsection shall be made not later than 180 days after submittal. A decision to deny a petition shall be subject to judicial review immediately upon denial as final agency action under the statute granting the agency authority to conduct the rulemaking.

"(b) For each major rule for which a petition has been granted under subsection (a), the agency shall conduct a cost-benefit analysis in accordance with this subchapter, and shall determine whether the rule satisfies the decisional criteria set forth in section 623. If the rule does not satisfy the decisional criteria, then the agency shall take immediate action to either revoke or amend the rule to conform the rule to the requirements of this subchapter and the decisional criteria under section 623.

"(c) For purposes of this section, the term 'major rule' means any major rule or portion thereof.

"(d)(1) Any person may petition the relevant agency to withdraw, as contrary to this subchapter, any agency guidance or general statement of policy that would be a major rule if the guidance or general statement of policy had been adopted as a rule.

"(2) The petition shall identify with reasonable specificity why the guidance or general statement of policy would be major if adopted as a rule.

"(3) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that the guidance or general statement of policy would be major if adopted as a rule.

"(4) A decision to grant or deny a petition under this subsection shall be made not later than 180 days after the petition is submitted. If the agency fails to act by such date, the petition shall be deemed to have been granted. A decision to deny a petition shall be subject to judicial review immediately upon denial as final agency action under the statute under which the agency has issued the guidance or general statement of policy.

"(e) For each petition granted under subsection (d), the agency shall be prohibited from enforcing against any person the regulatory standards or criteria contained in such guidance or policy unless included in a rule proposed and promulgated in accordance with this subchapter.

"§ 626. Effective date of final regulations

"(a)(1) Beginning on the date of enactment of this section, all deadlines in statutes that require agencies to propose or promulgate any rule subject to this subchapter are suspended until such time as the requirements of this subchapter are satisfied.

"(2) Beginning on the date of enactment of this section, the jurisdiction of any court of the United States to enforce any deadline that would require an agency to propose or promulgate a rule subject to subchapter II of chapter 5 of title 5, United States Code (as added by this section), is suspended until such time as the requirements of this subchapter are satisfied.

"(3) In any case in which the failure to promulgate a rule by a deadline would create an obligation to regulate through individual adjudications, the obligation to conduct individual adjudications shall be suspended to allow the requirements of this subchapter to be satisfied.

"(b)(1) Before a major rule takes effect as a final rule, the agency promulgating such rule shall submit to the Congress a copy of such rule and a report containing a concise general statement relating to the rule, including a complete copy of the cost-benefit analysis, and the proposed effective date of the rule.

"(2) A major rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

"(A) the later of the date occurring 45 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register;

"(B) if the Congress passes a joint resolution of disapproval described under subsection (h) relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (h) is enacted).

"(c) A rule shall not take effect as a final rule if the Congress passes a joint resolution of disapproval described under subsection (h).

"(d)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this section may take effect if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws; or

"(C) necessary for national security.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (h) or the effect of a joint resolution of disapproval under this section.

"(4) This subsection and an Executive order issued by the President under this subsection shall not be subject to judicial review by a court of the United States.

"(e)(1) Subsection (h) shall apply to any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

"(2) For purposes of subsection (h), a rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

"(3) During the period between the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

"(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (h) shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under subsection (h), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"(h)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the report referred to in subsection (b) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the _____ relating to _____, and such rule shall have no force or effect. (The blank spaces being appropriately filled in.)'.

"(2)(A) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution shall not be reported before the eighth day after its submission or publication date.

"(B) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

"(i) the Congress receives the report submitted under subsection (b)(1); or

"(ii) the rule is published in the Federal Register.

"(3) If the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) at the end of 20 calendar days after its submission or publication date, such committee may be discharged by the Majority

Leader of the Senate or the Majority Leader of the House of Representatives, as the case may be, from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

"(4)(A) When the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) shall be waived. The motion shall be highly privileged in the House of Representatives and shall be privileged in the Senate and shall not be debatable. The motion shall not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall be in order and shall not be debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution shall not be in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

"(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

"(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

"(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

"(A) The resolution of the other House shall not be referred to a committee.

"(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

"(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.

"(6) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 627. Unauthorized rulemakings

"(a) Notwithstanding any other provision of law, beginning on July 1, 1995, any rule that expands Federal power or jurisdiction beyond the level of regulatory action needed to satisfy statutory requirements shall be prohibited.

"(b) Nothing in this section shall be construed to prevent any agency from promulgating a rule that repeals, narrows, or streamlines a rule, regulation, or administrative process, or from issuing or promulgating a rule providing for tax relief or clarification or reducing regulatory burdens.

"§ 628. Standard for review of agency interpretations of an enabling statute

"(a) In reviewing a final agency action under section 706 of this title, or under a statute that provides for review of a final agency action, the reviewing court shall affirm the agency's interpretation of the statute granting authority to promulgate the rule if, applying traditional principles of statutory construction, the reviewing court finds that the interpretation is clearly the interpretation of the statute intended by Congress.

"(b) If the reviewing court, applying traditional principles of statutory construction, finds that an interpretation other than the interpretation applied by the agency is clearly the interpretation of the statute intended by Congress, the reviewing court shall find that the agency's interpretation is erroneous and contrary to law.

"(c)(1) If the reviewing court, applying established principles of statutory construction, finds that the statute gives the agency discretion to choose from among a range of permissible statutory constructions, the reviewing court shall affirm the agency's interpretation where the record on review establishes that—

"(A) the agency has correctly identified the range of permissible statutory constructions;

"(B) the interpretation chosen is one that is within that range; and

"(C) the agency has engaged in reasoned decisionmaking in determining that the interpretation, rather than other permissible constructions of the statute, is the one that maximizes net benefits to society.

"(2) If an agency's interpretation of a statute cannot be affirmed under paragraph (1), the reviewing court shall find that the agency's interpretation is arbitrary and capricious.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"§ 651. Procedures

"The President shall—

"(1) establish procedures for agency compliance with subchapters II and III; and

"(2) monitor, review, and ensure agency implementation of such procedures.

"§ 652. Promulgation and adoption

"(a) Procedures established pursuant to section 651 shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

"(b)(1) If procedures established pursuant to section 651 include review of preliminary or final regulatory analyses to ensure that they comply with subchapters II and III, the time for any such review of a preliminary regulatory analysis shall not exceed 30 days following the receipt of the analysis by the President or by an officer to whom the authority granted under section 651 has been delegated pursuant to section 653.

"(2) The time for review of a final regulatory analysis shall not exceed 30 days following the receipt of the analysis by the President or such officer.

"(3)(A) The times for each such review may be extended for good cause by the President or such officer for an additional 30 days.

"(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

"§ 653. Delegation of authority

"(a) The President may delegate the authority granted by this subchapter to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

"(b)(1) Notice of any delegation, or any revocation or modification thereof, shall be published in the Federal Register.

"(2) Any notice with respect to a delegation to the Vice President shall contain a statement by the Vice President that the Vice President will make every reasonable effort to respond to congressional inquiries concerning the exercise of the authority delegated under this section.

"§ 654. Applicability

"The authority granted under this subchapter shall not apply to rules issued by the Nuclear Regulatory Commission.

"§ 655. Judicial review

"The exercise of the authority granted under this subchapter by the President or by an officer to whom such authority has been delegated under section 653 shall not be subject to judicial review in any manner under this chapter.".

(b) JUDICIAL REVIEW OF REGULATORY FLEXIBILITY ANALYSIS.—

(1) AMENDMENT.—Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) Except as provided in paragraph (2), not later than 1 year after the effective date of a final rule with respect to which an agency—

"(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

"(B) prepared final regulatory flexibility analysis pursuant to section 604,

an affected small entity may petition for the judicial review of such certification or analysis in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review such certification or analysis.

"(2)(A) Except as provided in subparagraph (B), in the case of a provision of law that requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), such lesser period shall apply to a petition for the judicial review under this subsection.

"(B) In a case in which an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed not later than—

"(i) 1 year; or

"(ii) in a case in which a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), the number of days specified in such provision of law,

after the date the analysis is made available to the public.

"(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

"(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

"(5)(A) In a case in which an agency certifies that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(B) In a case in which the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604.

"(6) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

"(A) to prepare the analysis required by section 604; or

"(B) to take corrective action consistent with section 604 of this title,

the court may stay the rule or grant such other relief as it deems appropriate.

"(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

"(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after the date of enactment of this Act.

(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Part I of title 5, United States Code, is amended by striking out the chapter heading and table of sections for chapter 6 and inserting in lieu thereof the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—REGULATORY ANALYSIS

"Sec.
"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unnecessary analyses.
"606. Effect on other law.
"607. Preparation of analyses.
"608. Procedure for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"621. Definitions.
"622. Rulemaking cost-benefit analysis.
"623. Decisional criteria.
"624. Judicial review.
"625. Petition for cost-benefit analysis.
"626. Effective date of final regulations.
"627. Unauthorized rulemakings.
"628. Standard for review of agency interpretations of an enabling statute.

"SUBCHAPTER III—RISK ASSESSMENTS

"631. Definitions.
"632. Applicability.
"633. Rule of construction.
"634. Requirement to prepare risk assessments.
"635. Principles for risk assessment.
"636. Principles for risk characterization and communication.
"637. Regulations; plan for assessing new information.
"638. Decisional criteria.
"639. Regulatory priorities.
"640. Establishment of program.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"651. Procedures.
"652. Promulgation and adoption.
"653. Delegation of authority.
"654. Applicability.
"655. Judicial review.".

(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

"SUBCHAPTER I—REGULATORY ANALYSIS".

By Mr. DOMENICI (for himself and Mr. INOUYE):

S. 346. A bill to establish in the Department of the Interior the Office of Indian Women and Families, and for other purposes; to the Committee on Indian Affairs.

THE OFFICE OF WOMEN AND FAMILIES IN THE BUREAU OF INDIAN AFFAIRS ACT OF 1995

• Mr. DOMENICI. Mr. President, today I am pleased to be joined by the vice chairman of the Senate Committee on Indian Affairs, Senator DANIEL K. INOUYE, in introducing a bill to create the Office of Women and Families in the Bureau of Indian Affairs [BIA], U.S. Department of Interior. I am grateful for Senator INOUYE's support of this legislation. We hope to improve Federal Government attention and services for Indian women and their families, with a special emphasis on the economic well-being of Indian women and families including employment and business opportunities. This new office will be responsible for addressing the special needs of Indian women and families within the cultural context of each tribe or village. Existing and new Federal policies for the benefit of Indian people will be better focused on Indian women who are too often ignored by policy makers and agency programs.

I am also pleased to report that this legislation has now been endorsed by the Eight Northern Indian Pueblos of New Mexico and the Judiciary Committee of the Navajo Nation Council.

The Office of Women and Families in the BIA will be responsible for integrating the needed policy and program changes in the BIA programs and coordinating with other Federal agencies and tribal governments to improve the living conditions of Indian women and their families.

I would like to quote from a letter I received in support of this concept from Dr. Carolyn M. Elgin, president of the Southwestern Indian Polytechnic Institute and Federal Women's Program Manager for the BIA's Albuquerque area. Dr. Elgin says,

> Throughout the National Indian Community, the diverse and specialized needs of Indian women and Indian families need to be comprehensively addressed (congressional attention, budget appropriations, program development and policy consideration within the Bureau). Again, I applaud your sensitivity and fully support your legislative efforts on behalf of Indian women and families.

Mr. President, the Federal Government spends over hundreds of millions of dollars per year for Indian programs in several key departments including Interior, Health and Human Services, Labor, Education, Housing and Urban Development, Transportation, Commerce, and other agencies like the Small Business Administration.

While the BIA is the theoretical center of our country's efforts to improve the daily lives of 2,000,000 American Indians—about half of whom reside on federally recognized Indian reservations, many other Federal departments or agencies have some involvement with Indians. There is, however, very little coordination among these Federal agencies who serve the same target population.

While this bill will establish the new office in the BIA, its thrust will include all major programs affecting Indian women and families. Before I explain more about these programs, I would like to focus on the need to pay special attention to Indian women and families.

In brief, Indians are the poorest of the poor. Elsie Zion of the Women Studies Program at the University of New Mexico describes it this way: "Indian women are the poorest of the poorest group. While American women come up against a 'glass ceiling,' Indian women have problems getting off the floor." In this case, she means that too many Indian women have a "hard time getting jobs outside the fields of cleaning, cooking, or clerking."

Regarding Indian family members, some of the highest youth suicide rates in America occur on Indian reservations. I know this is true for the Jicarilla Apache Tribe and the Navajo Nation. Many Pueblo Indians also have disproportionately high suicide rates. Substance abuse is a severe problem among young Indians.

By examining program and policy failures, it is our hope that new methods can be tried to inspire, educate, and employ more young Indian people. We want to keep them away from the dangers of drugs, alcohol, and other self-destructive behaviors. An Office of Women and Families can certainly go far in helping to identify weaknesses in the fabric of Federal programs intended to improve the quality of life on Indian reservations.

The Office of Women and Families is not simply another BIA program. It is built in, permanent policy mechanism to shape programs and enhance the potential for direct benefits to Indian women and families within existing and new programs of the BIA and the Federal Government as a whole.

This new policy program should focus on Federal Government policies relating to such concerns as job opportunities for Indian women and Indian youth suicide. The Office could also focus on such related employment issues as trade between Indian reservations and Japan or Europe. The idea is to identify those problem areas that require new policy attention, better programmatic effort, or enhanced coordination with other Federal programs like the Minority Business Development Administration of the Department of Commerce and small business development programs of the Small Business Administration.

We are also very concerned that basic BIA programs be better targeted to reach Indian women. Indian women-owned businesses, for example, can be encouraged more often through start-up grants and guaranteed loans. BIA social service, drug and alcohol abuse prevention, and child protection programs can be enhanced and improved.

INVISIBLE WOMEN

Due mainly to their strong cultural traditions, it is often difficult to determine the impact of these Federal efforts on the living standards of Indian women and their families. Indian women remain an enigma to most of us. In Santa Fe, NM, we can see the famous scenes of Indian women at the Palace of the Governor selling their famous pots and jewelry. At Pueblo feast days and public dances we are impressed by their elaborate dress and serene dancing styles. These women clearly have a strong presence and influence in the daily lives of New Mexico Pueblo, Navajo, and Apache tribes of New Mexico.

Yet, there remains the fact that we have a difficult time identifying many of the indicators of social well-being for Indian women precisely because the contributions of Indian women remain undervalued and overlooked in the policies and programs of the Bureau of Indian Affairs and other Federal agencies with programs designed to help all Indian people.

As the National Advisory Council on Women's Educational Program once observed:

> To date there has been no specific Federal recognition of the special educational and training needs of Indian women and girls. As a result, Indian women are often relegated to position which do not reflect their capacity and potential contribution not only to tribal governments but to the general society.

Elsie Zion of the Women Studies Program at the University of New Mexico, who I quoted above, has searched for statistics to back her observations. Indians, she concludes, "fall at the very bottom of indicators of status and well-being."

Elsie is skeptical that the "Great White Father"—in the form of the BIA—will actually help Indian women. That is one reason this office is designed to reach out into the reservations themselves to encourage female participation in the forming and implementation of BIA policy and programs.

Wherever key Federal policies exist that directly impact on the social conditions of Indian women, the BIA Office of Women and Families can have a policy impact, and hence a direct impact on the lives of Indian women and families who could be or should be participating.

INDIAN CHILDREN AND YOUTH IN DISTRESS

The Indian Child Welfare Act (P.L. 95–608) and the Indian Child Protection Act (P.L. 101–630) are two good recent examples of congressional attempts to improve conditions for young Indians. The Child Welfare Act creates a grant system to tribes for child and family service programs to prevent the breakup of Indian families and provide for the protection of Indian children. The Child Protection Act is designed to protect Indian children from family violence or abuse by bureau or tribal contract employees. Background checks, a reporting system, and other child protective services are mandated by the act.

The Director and the Policy Task Force of the proposed Office of Women and Families could help refine the reporting systems to assure solid measurement of progress made to minimize abuse or violence to Indian children and youth. If the proposed system is found to be adequate, the results will certainly help in the annual reports to the Congress on the well-being of Indian families as measured by the increased safety factors required by these acts.

Other problems of young Indians can also be identified and reported. Substance abuse, alcoholism, school drop-out rates or teenage pregnancy are examples of additional indicators to be monitored by the new Office of Women and Families. Summer youth employment and vocational education potential are examples of other Department of Labor and BIA programs available to young Indians to enhance their potential and minimize problems like substance abuse and school dropouts.

BACKGROUND ON FEDERAL PROGRAMS FOR AMERICAN INDIANS

Mr. President, the Federal Government has wide-ranging policies and programs intended to improve the living conditions on some 250 Indian reservations and about 300 Native Alaskan villages. These programs include education, health care, business development, housing, job training, tribal government, transportation, law enforcement, and social services. Several Federal departments and agencies are primarily involved in the delivery of services to Native Americans—Interior, Health and Human Services, Housing and Urban Development, Labor, and Education.

The two major providers of services to Native Americans are the Indian Health Service of the Public Health Service in the Department of Health and Human Services [HHS] and the Bureau of Indian Affairs [BIA] in the Department of Interior. The IHS had a budget of $2.0 billion in fiscal year 1993; the BIA's budget was $1.5 billion for the same fiscal year.

Public housing for Indians in the HUD budget was about $257 million in fiscal year 1993; Labor committed $84.6 million for job training and summer jobs; HUD's Community Development Program for Indians totaled $65.4 million; and construction of Indian reservation roads was about $190 million.

Clearly, there are many Federal Government programs that have direct impact on the daily lives of about 1.959 million Indian people in America—up from 1.42 million in 1980. About half of them live on Indian reservations.

There is also no doubt that Indians lag seriously behind other ethnic groups in several key areas. Overall, they have lower household incomes, higher unemployment and less schooling than the rest of the United States.

Indian birth rates—28.8 per 1,000 population—are almost twice that of the country as a whole—15.9 per 1,000. Prenatal care accompanying live births are lower than the United States as a whole—56.5 percent to 74.2 percent. More Indians die from accidents, alcoholism, diabetes, homicide, and tuberculosis than others in the country as a whole.

Fortunately, the Congress passed and the President signed a bill, the Indian Health Care Improvements Act of 1992, to improve the health programs and policies of the Indian Health Service [IHS], Public Health Service, U.S. Department of Health and Human Services. This act includes my amendment establishing an Office of Indian Women's Health in the IHS.

This new IHS office will certainly enhance and focus the good efforts of the IHS to identify and collect data about the health status of American Indian Women. While there is clearly room for improvement, the IHS is at least aware of the gaps in health care between Indian women and American women as a whole.

Obviously, Mr. President, the policies and programs of the U.S. Government have a greater impact on American Indians than most people realize. Hundreds of treaties and a large body of law define our special government-to-government relationship with Indian tribes. Their special trust status with our Government also plays á critical role in defining the responsibility of the U.S. Government to American Indians and Alaska Natives.

EDUCATION AND EMPLOYMENT

Educational attainment is a key indicator of well-being in America. For American Indian women there is a large lag in high school graduates compared to the population in general. The high school graduation rate for Indian females is about 65.3 percent compared to 74.8 percent for all American women. For college graduates the gap widens considerably. Only 8.6 percent of Indian women graduate from college compared to 17.6 percent for all American women.

Unfortunately employment statistics are hard to get for Indians, and the figures vary greatly. The BIA has often affirmed unemployment rates of 30 percent to 60 percent on many reservations. New Mexico Pueblos often have unemployment rates in the 40 percent to 50 percent range. This data is not readily available by sex. As a key indicator of general well-being, I hope the Office of Women and Families will be able to influence the collection of data regarding employment and unemployment among Indian women and teenagers.

From the 1990 Census we have some encouraging data about Indian-owned businesses in New Mexico. The latest information from the 1990 Census reflects 1987 data. These data show that almost 800 Indian men and almost 500 Indian women own their own businesses. I would like to see this new office encourage more direct assistance to Indian women who are eligible for many BIA and Small Business Administration programs.

OFFICE OF INDIAN WOMEN AND CHILDREN

It seems to me, Mr. President, that the Indian women of this country are in a particularly valuable position to offer good advice to our Government about ways to conduct policies and programs that are intended to improve conditions that affect these women and their families. This new office clearly fits within the electorate's demand that our Government carry out its responsibilities with greater efficiency and with clearer purposes.

No one has yet called our national Indian policies a success. It is time to expand our efforts to reach out, in culturally appropriate ways, to solicit their thoughts about improving Federal programs so that a real difference is made in daily reservation life.

In similar ways, young Indians can be included in designing and improving current programs to increase their effectiveness. The American Indian family is a vital structure to strengthen and preserve and we seek to enhance our national policies for their well-being.

Initially, a temporary policy task force would be established to develop a policy paper to articulate a clear set of goals, objectives, management strategies, and monitoring systems for the improvement of key quality of life indicators for Indian women and families like the ones I have mentioned. There are, of course, many other areas of concern to be identified by the new Office and its related policy task force.

Once articulated, these indicators could tell us about the degree to which Indian women and their families are participating in economic development and benefiting from new job opportunities on Indian reservations. Policymakers and program managers would have better data on educational achievement and needs of Indian children and youth. Health statistics—from the Office of Women's Health at the Indian Health Service—could, for example, tell us how serious alcoholism is among Indian women and what program improvements are needed to enhance treatment.

A Director of the Office of Women and Families would be responsible for integrating the needed changes in the BIA programs and coordinating with other Federal agencies to meet the policy goals and objectives established by the policy task force.

This new office and its related policy mechanisms will have the flexibility to look into such areas as education, health, employment, economic development, housing, social, and other services of the BIA and other relevant Federal programs serving Indian women and families. By focusing on Indian women and families, the work of the BIA and other relevant Federal programs will be enhanced by their participation in the design and improvement of ongoing programs for Indian beneficiaries.

As we prepare to strengthen our democracy and our economy for the 21st century, we must not overlook any potential for a greater America. There is a growing awareness of the need to pay close attention to the inter-relationships between our national strength and the well-being of all women. Key factors are health, education, employment, housing, child care, business potential, and culture.

There is no doubt that Indian women have long been essential to the well-being of Indian people and their families. As we strive to attain new levels of education, health, business involvement, employment, and housing quality for American Indians, we clearly need the ongoing participation and direct involvement of Indian women.

I believe the strong family ties and responsibilities of Indian women can be enhanced by more attention to specific policies and programs now designed generally for American Indians without any special regard for the differing cultural roles and responsibilities of Indian women.

I ask unanimous consent that the Office of Indian Women and Families Act of 1995, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Indian Women and Families Act of 1995".

SEC. 2. FINDINGS.

Congress finds that:

(1) The primary responsibilities of the Bureau of Indian Affairs are to encourage and assist Indian people to manage their own affairs under the trust relationship between Indians and the Federal Government, and to facilitate, with maximum involvement of Indian people, full development of their human and natural resource potential.

(2) The Bureau of Indian Affairs coordinates its activities with Indian tribal governments, Federal agencies and departments, and other organizations and groups who share similar interests and programs related to Indians.

(3) Bureau of Indian Affairs policies, programs and projects impact directly and significantly on the lives of America's Indian people.

(4) The unique roles and responsibilities of Indian women contribute culturally, socially, and economically to the well-being of Indian people, but these contributions are often not fully realized and are undervalued and overlooked within the policies, program, and projects of the Bureau of Indian Affairs.

(5) Indian children have special educational and social service needs to prepare them for traditional tribal responsibilities and nontribal social and employment opportunities.

(6) The particular responsibilities, contributions, and needs of Indian women and families can and should be taken into account to improve Bureau of Indian Affairs policy formulation and program operations for the direct benefit of Indian women and families and Indian people as a whole.

(7) Bureau of Indian Affairs policies, programs and projects, including its coordination and liaison with other Federal, State,

and local entities, can be more responsive and enhanced when Indian women and families are considered an integral element of the process as well as contributors to the success of these policies, programs, and projects.

(8) There is a need for an Office of Indian Women and Families in the Bureau of Indian Affairs for the purpose of encouraging and promoting the participation and integration of Indian women and families into Bureau of Indian Affairs policies, programs, projects, and activities, thereby improving the effectiveness of its mandate and the status and lives of Indian women and families.

SEC. 3. PURPOSES.

The purposes of this Act are:

(1) To identify and integrate the issues related to Indian women and families into all Bureau of Indian Affairs policies, programs, projects, and activities. There will be a special emphasis on the economic well-being of Indian women and families including employment and business opportunities.

(2) To establish an office to serve as a focal point for all Federal Government policy issues affecting Indian women and families for purposes of both economic and social development.

(3) To collect data related to the specific roles, concerns, and needs of Indian women, and Indian families, and use such data to support policy, program, and project implementation throughout all offices of the Bureau of Indian Affairs and other Federal agencies, and to monitor the impacts of these policies, programs and projects.

(4) To enhance the economic and social participation of Indian women and families in all levels of planning, decisionmaking, and policy development within the Bureau of Indian Affairs, its area offices, and tribal governments and reservations.

(5) To conduct research and collect relevant studies relating to special needs of Indian women and families.

(6) To develop pilot programs and projects to strengthen activities of the Bureau of Indian Affairs involving Indian women and families, and serve as models for future endeavors and planning.

(7) To ensure a liaison with other Federal departments and agencies, State and local governments, tribally controlled community colleges, other academic institutions, any public or private organizations, and tribal governments that serve Indian peoples.

(8) To ensure training endeavors for Bureau of Indian Affairs offices and agencies at the national, area, and local levels to ensure Bureau personnel and any other beneficiaries of Bureau and other governmental programs understand the purposes and policies of the office established by this Act.

(9) To develop policy-level programs, with the assistance of the Assistant Secretary and other senior-level personnel of the Bureau of Indian Affairs, to ensure that systems, directives, management strategies and other related methodologies are implemented to meet the purposes of this Act.

(10) To strengthen the role of Indian women and families by developing and ensuring culturally appropriate policies and programs.

(11) To encourage other actions that serve to more fully integrate Indian women and families as participants in and agents for change in the Federal policy and program activities of the Bureau of Indian Affairs.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "Indian woman" means a woman who is a member of an Indian tribe.

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

SEC. 5. ESTABLISHMENT OF OFFICE OF INDIAN WOMEN AND INDIAN FAMILIES.

(A) ESTABLISHMENT.—There is established in the Department of the Interior the "Office of Indian Women and Families" (hereinafter referred to as the "Office").

(b) DIRECTOR.—The Office shall be under the management of a director (hereinafter referred to as the "Director"), who shall be appointed by the Assistant Secretary of Indian Affairs. The Director shall report directly to the Assistant Secretary of Indian Affairs.

(c) COMPENSATION.—The Director shall be compensated at the rate prescribed for level IV of the Executive Schedule under section 5313 of title 5, United States Code.

(d) TENURE.—The Director shall serve at the discretion of the Assistant Secretary of Indian Affairs.

(e) VACANCY.—A vacancy in the position of Director shall be filled in the same manner as the original appointment was made.

(f) DUTIES.—The Director shall administer the Office and carry out the purposes and functions of this Act. The Director shall take such action as may be necessary in order to integrate Indian women and family issues into the Bureau of Indian Affairs policies, programs, projects and activities.

SEC. 6. FUNCTIONS OF OFFICE.

It shall be the function of the Office to develop a Policy Paper for Indian women and families to articulate the objectives of the Office, to serve as a guideline for systematically integrating Indian women and families issues into the Bureau of Indian Affairs policies, programs, projects, and activities, and to establish and detail indicators and benchmarks for measuring the success of the Office.

SEC. 7. POLICY TASK FORCE.

(a) ESTABLISHMENT OF A POLICY TASK FORCE.—The Director, in consultation with the Assistant Secretary of Indian Affairs, shall establish a temporary policy task force on Indian women and families.

(b) MEMBERSHIP.—Members of the task force shall be appointed by the Director. The task force shall include representatives from Federal agencies and departments, relevant Indian organizations, State agencies and organizations, Indian tribal governments, institutions of higher education, and nongovernmental and private sector organizations and institutions.

(c) FUNCTIONS.—The policy task force shall:

(1) Ensure that the Policy Paper for Indian women and families prepared by the Bureau of Indian Affairs articulates a set of goals, objectives, management strategies, and monitoring systems for the improvement of all Federal programs, including programs of the Bureau of Indian Affairs, designed to improve the quality of life of Indian women and families.

(2) Recommend a permanent policy mechanism to be established in the Bureau of Indian Affairs for the continuous monitoring and refinement of policy and programs designed to improve the quality of life of Indian women and families.

(3) Recommend a permanent policy mechanism to be established in the Bureau of Indian Affairs for the purpose of collecting and disseminating to Congress and the public information and other data relevant to the progress of the policy and programs designed to improve the quality of life of Indian women and families.

(d) TERMINATION.—The task force shall terminate upon the expiration of 14 months following the date of the enactment of this Act.

SEC. 8. ASSISTANT SECRETARY OF INDIAN AFFAIRS.

The Assistant Secretary of Indian Affairs shall:

(1) Ensure that the Office receives adequate resources to carry out the purposes of this Act.

(2) Ensure that senior-level staff members and other employees of the Bureau of Indian Affairs are participants in and responsible for assisting in carrying out the purposes of this Act relating to the improvement of policies and programs of the Bureau of Indian Affairs.

SEC. 9. REPORTING.

The Secretary of the Interior, acting through the Bureau of Indian Affairs, shall, on or before March 15 of each of the 2 calendar years next following the calendar year in which this Act is enacted, and biennially thereafter, report to Congress on the progress of achieving the purposes of this Act. Such report shall include, but not be limited to, information relative to the current status of progress of the Bureau of Indian Affairs' policy on Indian women and Indian families in fulfilling its objectives, programs and projects, including how well the Bureau of Indian Affairs has operationally integrated the issue of Indian women and families into its overall policies, programs, projects and activities. Such report shall include a review of data gathered to assess and improve the quality of life of Indian women and families, including specific recommendations to improve the education, health, employment, economic, housing, social, and other services within the Bureau of Indian Affairs relating to Indian women and families.

SEC. 10. AUTHORIZATIONS.

Commencing with fiscal year 1994, and each fiscal year thereafter, there are authorized to be appropriated for carrying out the provisions of this Act, $2,000,000.•

By Ms. SNOWE (for herself and Mr. BROWN):

S. 347. A bill to amend the Immigration and Nationality Act to make membership in a terrorist organization a basis of exclusion from the United States; to the Committee on the Judiciary.

THE TERRORIST EXCLUSION ACT OF 1995

• Ms. SNOWE. Mr. President, today I am reintroducing legislation I originally drafted and introduced in the last Congress as a Member of the other body. This legislation would deny U.S. visas to known members of terrorist organizations.

Under current law, a visa can be denied to a known member of a terrorist organization only if the United States has compelling evidence that the individual was personally involved in a past terrorist act or if it is known that the person is coming to the United States to conduct such an act. Current law requires extraordinary steps to override the presumption that mere membership in a terrorist group is not grounds for denying a visa. High-level determination is required by the Secretary of State that permitting entry of the individual will be damaging to American foreign policy interests. My legislation will reverse that presumption. Under this bill, a known member of a group that conducts acts of terrorism will be excluded from the United States unless the Secretary of State determines on an individual basis that granting the visa would advance U.S. foreign policy interests.

I discovered this dangerous loophole in our immigration laws last Congress during my investigation of the State Department failures that allowed the radical Egyptian cleric, Sheikh Omar Abdel Rahman, to travel to and reside in the United States since 1990. Sheikh Rahman is the spiritual leader of Egypt's terrorist organization, the Islamic Group. His followers have been convicted for the 1993 bombing of the World Trade Center in New York, and the Sheikh himself is now on trial for his alleged role in planning and approving a second wave of terrorist acts in the New York City area.

Last year, I also found out through the investigation of the senior Senator from Colorado [Mr. Brown] that the State Department has in the past used this legal loophole to grant a visa to Tunisia's Sheikh Rashid el-Ghanoushi, the convicted leader of the Islamic fundamentalist terrorist organization Ennadha. At this very moment, the State Department is still considering a visa request by Sheikh Ghanoushi. A letter I received from the State Department on this matter confirmed that they interpret current law to require them to issue a visa to Ghanoushi—an acknowledged member of a terrorist organization—unless they can prove that he personally was involved in a terrorist act. Apparently his conviction in Tunisia for his part in an assassination plot against Tunisia's pro-Western President Ben Ali is not enough. Nor is the fact that he fled his country after his underground Islamic fundamentalist terrorist group launched violent attacks against the Government. Nor, apparently, do his virulently anti-Western and anti-Israeli statements have any relevance to the visa decisions, as far as the State Department is concerned.

Mr. President, after the recent rash of terrorist bombings in Israel, Argentina, Panama, and Britain, many countries are waking up to their vulnerability to terrorists. As reported in the July 28, 1994 Christian Science Monitor, the British Parliament is considering enacting legislation similar to this bill. Furthermore, this fall, the Anti-Defamation League—an organization whose very purpose is to protect the civil and religious liberties of all Americans—also included my bill in their proposed legislative package on terrorism.

It is well known that many foreign terrorist organizations depend on money raised in the United States for a major portion of their funding. There are also disturbing indications that many of these organizations are working to develop networks of members and supporters in our own country. Last week, the administration took the useful step of freezing the U.S. assets of certain terrorist organizations working against the peace process in the Middle East. But this action needs to be strengthened by also slamming the door on members of terrorist organizations who continue to travel freely to and within our country unfettered by our visa laws.

Mr. President, I am confident that in the Senate this matter will receive the kind of fair treatment here that it deserves. I also note and welcome recent statements by the administration claiming that it too is now taking the terrorism issue seriously. After finding no need for my legislation last Congress, on January 20, 1995, the Secretary of State gave a speech at Harvard University in which he announced that the administration was going to strengthen its efforts against international terrorism. He specifically stated, "we will toughen standards for obtaining visas for international criminals to gain entry to this country." I hope this means that the administration is finally willing to support legislation needed to accomplish this goal.

The urgency of passing the Terrorist Exclusion Act comes from the sad truth that every day American lives continue to be put at risk out of deference to some imagined first amendment rights of foreign terrorists. This is an extreme misinterpretation of our cherished Bill of Rights, which the founders of our great Nation intended to protect the liberties of all Americans. In my reading of the U.S. Constitution I see much about the protection of the safety and welfare of Americans, but nothing about protecting the rights of foreign terrorists to travel freely to the United States whenever they choose.

Mr. President, I hope that this issue will be addressed swiftly by the 104th Congress. I hope that we do not put off its consideration yet again, only to have the issue suddenly reappear in reaction to what might have been an avoidable loss of American lives.●

By Mr. NICKLES (for himself, Mr. Dole, Mr. Bond, Mrs. Hutchison, Mr. McConnell, and Mr. Lott):

S. 348. A bill to provide for a review by the Congress of rules promulgated by agencies, and for other purposes; to the Committee on Governmental Affairs.

THE REGULATORY OVERSIGHT ACT

● Mr. NICKLES. Mr. President, I am introducing legislation to provide for a 45-day layover of Federal regulations to permit Congress to review and, potentially, reject regulations before they become final.

The Regulatory Oversight Act will improve the opportunity for Congress to ensure Federal agencies are properly carrying out congressional intent. All too often agencies issue regulations which go beyond the sense of reason.

This act provides a 45-day period following publication of a final rule before that rule may become effective. This 45-day period will provide Congress with an opportunity to review the rule and enact, if it so chooses, a joint resolution of disapproval on a fast-track basis.

Significant final rules, which the act defines as final rules that increase compliance costs on State, local, and tribal governments and the private sector of at least $100 million in any year may not take effect until at least 45 days after the rule is published. This is the same threshold in the unfunded mandates bill. Under current law, most rules already are delayed by 30 days pending the filing of an appeal. The delay of 45 days is provided in this act to avoid economic uncertainties and harm from these very large and burdensome rules during the congressional review period.

Final regulations addressing threats to imminent health or safety, or other emergencies, criminal law enforcement, or matters of national security, could be exempted by Executive order from the postponement of the effective date provided in the bill. However, a joint resolution of disapproval would still be eligible for fast-track consideration.

Although a joint resolution may be introduced by any Member of Congress, the fast-track process for floor consideration of the joint resolution of disapproval is only available under two conditions: First, if the authorizing committee reports out the resolution; or second, if the majority leader of either House of Congress discharges the committee. The joint resolution, if passed by both Houses, would be subject to a Presidential veto and, in turn, a possible veto override.

In reality, perhaps only a few regulations will be rejected by this process. But by providing a mechanism to hold Federal agencies accountable before it is too late, the Regulatory Oversight Act makes an important contribution to the critical regulatory reform effort.

At this time I would like to ask unanimous consent that a detailed summary and the text of the Regulatory Oversight Act to be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL REVIEW OF RULES.

(a) SHORT TITLE.—This Act may be cited as the "Regulatory Oversight Act of 1995".

(b) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by inserting after section 553 the following new section:

"§ 553a. Congressional review of rules

"(a) For purposes of this section the term 'significant rule' means any rule that may have an annual effect on the economy of $100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

"(b)(1) Before a rule takes effect as a final rule, the agency promulgating such rule shall submit to the Congress a report containing—

"(A) a copy of the rule;

"(B) a concise general statement relating to the rule;

"(C) the proposed effective date of the rule; and

"(D) a complete copy of the cost benefit analysis of the rule, if any.

"(2) A significant rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

"(A) the later of the date occurring 45 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register;

"(B) if the Congress passes a joint resolution of disapproval described under subsection (h) relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (h) is enacted).

"(3) Except for a significant rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

"(c) A rule shall not take effect as a final rule, if the Congress passes a joint resolution of disapproval described under subsection (h).

"(d)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this section may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws; or

"(C) necessary for national security.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (h) or the effect of a joint resolution of disapproval under this section.

"(4) This subsection and an Executive order issued by the President under this subsection shall not be subject to judicial review by a court of the United States.

"(e)(1) The provisions of subsection (h) shall apply to any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

"(2) For purposes of subsection (h), a rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

"(3) During the period beginning on the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

"(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (h) shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under subsection (h), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"(h)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the report referred to in subsection (b) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect. (The blank spaces being appropriately filled in.)'.

"(2)(A) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

"(B) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

"(i) the Congress receives the report submitted under subsection (b)(1); or

"(ii) the rule is published in the Federal Register.

"(3) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under paragraph (2)(B), such committee may be discharged by the Majority Leader of the Senate or the Majority Leader of the House of Representatives, as the case may be, from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

"(4)(A) When the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

"(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

"(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

"(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

"(A) The resolution of the other House shall not be referred to a committee.

"(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

"(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.

"(6) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 553 the following:

"553a. Congressional review of rules.".

(d) EFFECTIVE DATE.—This Act shall take effect on the date of the enactment of this Act and shall apply to any significant rule that takes effect as a final rule on or after such effective date.

THE REGULATORY OVERSIGHT ACT OF 1995

A bill to amend the Administrative Procedures Act to provide for a 45-day period during which the Congress may enact a joint resolution of disapproval under a "fact track" procedure.

Provides a 45-day period after publication of any final rule by a federal agency, during which the Congress has an opportunity to review the rule and, if it chooses, enact a joint resolution of disapproval on a fast-track basis. The joint resolution of disapproval would declare that the rule has no force or effect.

The joint resolution of disapproval may be vetoed by the President, and Congress has the opportunity to override the veto.

Upon issuing a final rule, a federal agency must send to Congress a report containing a copy of the rule and the complete cost/benefit analysis, if any, prepared for the rule. The 45-day period for congressional review would begin on the date the Congress receives the agency's report on the rule, or on the date the final rule is published in the *Federal Register*, whichever, is later. Any Senator or Representative may introduce a resolution of disapproval, which will be referred to the committees of jurisdiction.

Congress will have 45 days to review final rules and consider a resolution of disapproval, under the expedited procedures established in this Act. All final rules that are published less than 60 days before a Congress adjourns sine die, or that are published during sine die adjournment, shall be eligible for review and "fast track" disapproval procedures for 45 days beginning on the date the new Congress convenes.

If the committee of jurisdiction has not reported the resolution of disapproval within 20 calendar days from the date the rule is published in the *Federal Register*, the Majority Leader of the Senate and the Majority Leader of the House of Representatives, respectively, may discharge the committee(s) and place the resolution of disapproval directly on the Calendar.

Once the resolution of disapproval is placed on the Calendar by the appropriate committee or by the Majority Leader, any senator may make a motion to proceed to the resolution. The motion to proceed is privileged and is not debatable. Once the Senate has voted to proceed to the resolution of disapproval, debate on the resolution of disapproval is limited to ten hours, equally divided, with no motions (other than motion to further limit debate) or amendments in order. If the resolution passes one body, it is eligible for immediate consideration on the Floor of the other body.

"Significant" final rules, which the Act defines as final rules that have an economic effect on State, local, and tribal governments and the private sector of at least $100 million in any year, may not take effect until at least 45 days after the rule is published. However, "significant" final regulations addressing imminent threats to health and safety, or other emergencies, criminal law enforcement, or matters of national security, may be exempted by Executive Order from the 45-day minimum delay in the effective date. The decision by the President to exempt any significant final rule from the delay is not subject to judicial review. Under current law, most rules already are delayed by 30 days pending the filing of an appeal. The delay of 45 days is provided in this Act to avoid economic uncertainties and harm from these very large and burdensome rules during the congressional review period.

The effective date of the "significant" final rule would not go into effect after the 45-day period if the resolution of disapproval has passed both Houses within that time. If the joint resolution of disapproval is vetoed, the effective date of the final rule will continue to be postponed until 30 legislative days have passed after the veto, or the date on which either House fails to override the veto, whichever is earlier.

Generally, judicially-ordered deadlines would still apply to the dates agencies must issue the final rule, but would not apply to the 45-day postponement of the effective date for "significant" rules.•

By Mr. MCCAIN (for himself and Mr. KYL):

S. 349. A bill to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program; to the Committee on Indian Affairs.

THE NAVAJO-HOPI RELOCATION HOUSING PROGRAM REAUTHORIZATION ACT

• Mr. MCCAIN. Mr. President, today I am introducing a bill to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program. I am pleased that Senator KYL has joined me on this bill as an original cosponsor.

I believe that most of my colleagues have at least some familiarity with the tragic land disputes which have divided the Navajo and Hopi Tribes for more than a century. In 1974 the Congress acted to try to bring about a resolution of those disputes through a partition of the disputed lands and the relocation of the members of each tribe from the lands partitioned to the other tribe. This has proven to be a difficult and contentious process and the original Settlement Act has been amended twice to try to resolve problems which arose in its implementation.

Since the enactment of the Settlement Act, 4,432 Navajo and Hopi families have applied for relocation benefits. Of those, 3,255 have been certified eligible and 11,177 have been denied benefits. Of those who were denied benefits, 223 are engaged in active appeals. A total of 2,434 families had been relocated as of the end of 1994 and 544 eligible families were awaiting their benefits.

Most of the 544 families still awaiting benefits long ago complied with the law and voluntarily left their homes which are located on lands partitioned to the other tribe. Unfortunately, the pace of the relocation housing program has been such that on average fewer than 200 eligible families are served in each calendar year.

The bill we are introducing today will provide 2 more years of authority for appropriations for the relocation housing program. It is my understanding that Office of Navajo and Hopi Indian Relocation is in the process of preparing a report for the appropriations committees which will provide information on the amount of funding necessary to complete the relocation program and an estimate of the time this will take. I look forward to reviewing that report. I also look forward to the hearing on this bill because it will provide an opportunity for the Committee on Indian Affairs to evaluate the relocation housing program to ensure that it is being operated as fairly and efficiently as possible.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD.

S. 349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF APPROPRIATIONS FOR THE NAVAJO-HOPI RELOCATION HOUSING PROGRAM.

Section 25(a)(8) of Public Law 93-531 (25 U.S.C. 640d-24(a)(8)) is amended by striking "1989," and all that follows through "and 1995." and inserting "1995, 1996, and 1997.".•

By Mr. BOND:

S. 350. A bill to amend chapter 6 of title 5, United States Code, to modify the judicial review of regulatory flexibility analyses, and for other purposes; to the Committee on the Judiciary.

REGULATORY FLEXIBILITY AMENDMENTS ACT

• Mr. BOND. Mr. President, today I am introducing the Regulatory Flexibility Amendments Act of 1995. The Regulatory Flexibility Act is of paramount importance to the 21 million U.S. small businesses. Small businesses employ 54 percent of the U.S. work force, account for 44 percent of all sales, and generate 39 percent of our gross domestic product.

Government regulations place extraordinary burdens on small businesses, and the result is to hinder their ability to compete at home and in the global marketplace. However, the Regulatory Flexibility Act, Reg Flex Act, if properly implemented and appropriately strengthened, can help ease the regulatory burdens on small businesses. I am very pleased the small business community endorses my bill. Furthermore, President Clinton has expressed his strong support for judicial review to permit small businesses to challenge Federal agencies under the Reg Flex Act.

THE REGULATORY FLEXIBILITY ACT

The Reg Flex Act is based on two premises. First, Federal departments and agencies often do not recognize the impact of rules on small businesses. Second, small businesses are disproportionately affected by Federal regulations compared to their larger counterparts.

The Reg Flex Act was enacted to reduce, where appropriate, the impact of Federal regulations on small business. The Reg Flex Act requires Federal agencies to assess the impact of their proposals on small businesses. Agencies have two options under the statute—performing a regulatory flexibility analysis or issuing a certification.

An agency certifies a rule if it determines the rule will not have a significant economic impact on a substantial number of small businesses. The certification must be announced in the—

Federal Register and must be accompanied by "a succinct statement explaining the reasons for such certification." Boilerplate statements that the rule will not have such an effect are inadequate under the Reg Flex Act.

An agency assessment that reveals the rule will have a significant economic impact on a substantial number of small businesses requires the agency to prepare a regulatory flexibility analysis. The analysis must contain: a description of the reasons why the action is being considered; a succinct statement of the objectives of and legal basis for the action; a description and estimate of the number of small businesses affected by the agency action; a detailed description of the reporting, recordkeeping, and other compliance requirements with special attention to the affected small businesses; and any duplicative Federal regulations.

Additionally, the analysis must describe and examine significant alternatives to the proposed rule which can accomplish the objectives of the agency, but which minimize the economic impact on small businesses. Significant alternatives may include but are not limited to: First establishment of differing compliance or reporting requirements that take into account the resources available to small businesses; second, the use of performance rather than design standards; and third, exemptions of small businesses from all or part of the rule. When an agency promulgates a final rule under section 553 of the Reg Flex Act, it must explain why it did not adopt other alternatives to minimize the effects on small businesses which were presented to the agency during the rulemaking process.

WHY AMEND THE REG FLEX ACT?

Unfortunately, too many Federal regulators fail to exercise their responsibilities under the Reg Flex Act. When government agencies fail to comply with the act, they impose significant and burdensome requirements on small businesses and thereby threaten their viability. All too often, these agencies view the act as nothing more than another procedural impediment to the adoption of a particular rule. As a result, agencies issue boilerplate certifications without performing the underlying assessment of impacts on small businesses required by the Reg Flex Act. As long as Federal departments and agencies continue to act in this manner, small businesses will be the big losers.

MEANS TO STRENGTHEN AGENCY COMPLIANCE WITH THE REG FLEX ACT

My Regulatory Flexibility Act Amendment has one critical element: repeal the prohibition against judicial review.

The Reg Flex Act requires Federal departments and agencies to consider the impact of their actions on small businesses. However, in 1980, the authors of the act were concerned a litigation explosion might result under this law. The rationale being that businesses would attempt to delay the implementation of regulations through court action. To prevent this problem, the sponsors included a provision excluding separate judicial challenges to agency compliance with the Reg Flex Act.

Today, we realize it is highly unlikely there would be a flood of litigation if judicial review is permitted under the Reg Flex Act. The fact is, most small businesses do not have the financial resources to bring frivolous, unfounded lawsuits. However, my bill will insure that small business have the opportunity to challenge regulators who attempt to avoid the Reg Flex Act. As a consequence, my colleagues should not be fooled by the "red herring" of a threat of litigation explosion.

The ability of agencies to ignore their responsibilities under the Reg Flex Act is enhanced by the conspicuous absence of judicial review under the act. Without judicial review, compliance rests upon each agency's voluntary commitment to utilize the Reg Flex Act in its quest for rational rulemaking mandated by the Administrative Procedure Act [APA].

Small businesses do not need voluntary commitments, they need concrete action. The primary means to accomplish mandatory compliance will be to authorize small businesses hurt by an agency's failure to comply with the Reg Flex Act to challenge that agency in federal court. That is what my bill does.

CONCLUSION

Mr. President, the Regulatory Flexibility Amendments Act of 1995 will help curtail excessive regulation by Government bureaucrats. Furthermore, it will add teeth to the Reg Flex Act and give small businesses a legal means for countering continued violations of the act. The Reg Flex Act, if properly implemented and appropriately strengthened, can help ease the regulatory burdens on small businesses. Regulatory relief will create greater opportunities for small businesses, more jobs for American workers, and will expand the U.S. economy.

I urge my colleagues to support this reform of the Reg Flex Act.●

ADDITIONAL COSPONSORS

S. 47

At the request of Mr. SARBANES, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 47, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 50

At the request of Mr. LOTT, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 50, a bill to repeal the increase in tax on social security benefits.

S. 205

At the request of Mrs. BOXER, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 205, a bill to amend title 37, United States Code, to revise and expand the prohibition on accrual of pay and allowances by members of the Armed Forces who are confined pending dishonorable discharge.

S. 219

At the request of Mr. NICKLES, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 219, a bill to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes.

S. 233

At the request of Mr. MCCAIN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 233, a bill to provide for the termination of reporting requirements of certain executive reports submitted to the Congress, and for other purposes.

S. 241

At the request of Mr. D'AMATO, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 241, a bill to increase the penalties for sexual exploitation of children, and for other purposes.

S. 256

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 326

At the request of Mr. HATFIELD, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 326, a bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

AMENDMENTS SUBMITTED

THE COMPREHENSIVE REGULATORY REFORM ACT OF 1995

DOLE (AND OTHERS) AMENDMENT NO. 229

(Ordered referred to the Committee on the Judiciary.)

Mr. DOLE (for himself, Mr. NICKLES, Mr. BOND, Mrs. HUTCHISON, Mr. MURKOWSKI, Mr. LOTT, Mr. COCHRAN, Mr. HATCH, Mr. DOMENICI, Mrs. KASSEBAUM, Mr. COATS, Mr. ABRAHAM, Mr. INHOFE, Mr. SMITH, Mr. SANTORUM, Mr. THOMPSON, Mr. WARNER, Mr. KYL) submitted an amendment intended to be proposed by them to the bill (S. 343) to reform the regulatory process, and for other purposes; as follows:

At the appropriate place add the following:

"SUBCHAPTER III—RISK ASSESSMENTS

"§ 631. Definitions

"For purposes of this subchapter:

"(1) The term 'best estimate' means an estimate that, to the extent feasible and scientifically appropriate, is based on one or more of the following:

"(A) Central estimates of risk using the most plausible assumptions.

"(B) An approach that combines multiple estimates based on different scenarios and weighs the probability of each scenario.

"(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the agency concerned.

"(2) The term 'emergency' means a clearly imminent and substantial endangerment to public health, safety, or natural resources.

"(3) The term 'hazard identification' means identification of a substance, activity, or condition as potentially posing a risk to human health or safety or natural resources based on empirical data, measurements, testing, or scientifically acceptable methods showing that it has caused significant adverse effects at some levels of dose or exposure not necessarily relevant to level of dose or exposure that are normally expected to occur.

"(4) The term 'negative data' means data indicating that under certain conditions a given substance or activity did not induce an adverse effect.

"(5) The term 'plausible' means realistic and scientifically probable.

"(6) The term 'risk assessment' means—

"(A) the process of identifying hazards, and quantifying (to the extent practicable) or describing the degree of toxicity, exposure, or other risk the hazards pose for exposed individuals, populations, or resources; and

"(B) the document containing the explanation of how the assessment process has been applied to an individual substance, activity, or condition.

"(7) The term 'risk characterization'—

"(A) means the element of a risk assessment that involves presentation of the degree of risk to individuals and populations expected to be protected, as presented in any regulatory proposal or decision, report to Congress, or other document that is made available to the public; and

"(B) includes discussions of uncertainties, conflicting data, estimates, extrapolations, inferences, and opinions.

"(8) The term 'substitution risk' means a potential increased risk to human health, safety, or the environment from a regulatory option designed to decrease other risks.

"§ 632. Applicability

"(a) Except as provided in subsection (b), this subchapter shall apply to all risk assessments and risk characterizations prepared by, or on behalf of, or prepared by others and adopted by, any agency in connection with health, safety, and risk to natural resources.

"(b)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

"(A) a situation that the head of the agency considers to be an emergency;

"(B) a rule that authorizes the introduction into commerce, or recognizes the marketable status of a product; or

"(C) a screening analysis.

"(2)(A) An analysis shall not be treated as screening analysis for the purposes of paragraph (1)(B) if the result of the analysis is used—

"(i) as the basis for imposing a restriction on a substance or activity; or

"(ii) to characterize a positive finding of risks from a substance or activity in any agency document or other communication made available to the public, the media, or Congress.

"(B) Among the analyses that may be treated as a screening analyses for the purposes of paragraph (1)(B) are product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices and existing chemicals under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(3) This subchapter shall not apply to any food, drug, or other product label or to any risk characterization appearing on any such label.

"§ 633. Rule of construction

"Nothing in this subchapter shall be construed to—

"(1) preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability; or

"(2) require the disclosure of any trade secret or other confidential information.

"§ 634. Requirement to prepare risk assessments

"(a) Except as provided in section 632, the head of each agency shall prepare for each major rule relating to human health, safety, or natural resources that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for cost-benefit analysis pursuant to section 625 or petition for review pursuant to section 637—

"(1) a risk assessment in accordance with this subchapter;

"(2) for each such proposed or final rule, an assessment, quantified to the extent feasible, of incremental risk reduction or other benefits associated with each significant regulatory alternative to the rule or proposed rule; and

"(3) for each such proposed or final rule, quantified to the extent feasible, a comparison of any human health, safety, or natural resource risks addressed by the regulatory alternatives to other relevant risks chosen by the head of the agency, including at least 3 other risks regulated by the agency and to at least 3 other risks with which the public is familiar.

"(b) A risk assessment prepared pursuant to this subchapter shall be a component of and used to develop the cost-benefit analysis required by subchapter II, and shall be made part of the administrative record for judicial review of any final agency action.

"§ 635. Principles for risk assessment

"(a)(1) The head of each agency shall apply the principles set forth in subsection (b) when preparing any risk assessment, whether or not required by section 634, to ensure that the risk assessment and all of its components—

"(A) distinguish scientific findings and best estimates of risk from other considerations;

"(B) are, to the maximum extent practicable scientifically objective, unbiased and inclusive of all relevant data; and

"(C) rely, to the extent available and practicable, on scientific findings.

"(2) Discussions or explanations required under this section need not be repeated in each risk assessment document as long as there is a reference to the relevant discussion or explanation in another agency document.

"(b) The principles to be applied when preparing risk assessments are as follows:

"(1)(A) When assessing human health risks, a risk assessment shall be based on the most reliable laboratory, epidemiological, and exposure assessment data that finds, or fails to find, a correlation between a health risk and a potential toxin or activity. Other relevant data may be summarized.

"(B) When conflicts among such data appear to exist, or when animal data are used as a basis to assess human health, the assessment shall include discussion of possible reconciliation of conflicting information, and, as appropriate, differences in study designs, comparative physiology, routes of exposure, bioavailability, pharmacokinetics, and any other relevant factor, including the availability of raw data for review. Greatest emphasis shall be placed on data that indicates a biological basis of the resulting harm in humans. Animal data shall be reviewed with regard to relevancy to humans.

"(2) When a risk assessment involves selection of any significant assumption, inference, or model, the agency shall—

"(A) describe the plausible and alternative assumptions, inferences, or models;

"(B) explain the basis for any choices among such assumptions, inferences, or models;

"(C) identify any policy or value judgments involved in choosing from among such alternative assumptions, inferences, or models;

"(D) fully describe any model used in the risk assessment and make explicit the assumptions incorporated in the model; and

"(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

"(3) A risk assessment shall be prepared at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition.

"§ 636. Principles for risk characterization and communication

"In characterizing risk in any risk assessment document, regulatory proposal or decision, report to Congress, or other document that is made available to the public, each agency characterizing the risk shall comply with each of the following:

"(1)(A) The head of the agency shall describe the populations or natural resources that are the subject of the risk characterization.

"(B) If a numerical estimate of risk is provided, the head of the agency, to the extent feasible and scientifically appropriate—

"(i) shall provide—

"(I) the best estimate or estimates for the specific populations or natural resources which are the subject of the characterization (based on the information available to the department, agency, or instrumentality) or, in lieu of a single best estimate, an array of multiple estimates (showing the distribution of estimates and the best estimate) based on assumptions, inferences, or models which are equally plausible, given current scientific understanding;

"(II) a statement of the reasonable range of scientific uncertainties; and

"(III) to the extent practicable and appropriate, descriptions of the distribution and probability of risk estimates to reflect differences in exposure variability in populations and uncertainties;

"(ii) in addition to a best estimate or estimates, may present plausible upper-bound or conservative estimates, but only in conjunction with equally plausible lower-bound estimates; and

"(iii) shall ensure that, where a safety factor, as distinguished from inherent quantitative or qualitative uncertainties, is used, such factor shall be similar in degree to safety factors used to ensure safety in human activities.

"(2) The head of the agency shall explain the exposure scenarios used in any risk assessment, and, to the extent feasible, provide a statement of the size of the corresponding population or natural resource at risk and the likelihood of such exposure scenarios.

"(3)(A) To the extent feasible, the head of the agency shall provide a statement that places the nature and magnitude of individual and population risks to human health in context.

"(B) A statement under subparagraph (A) shall—

"(i) include appropriate comparisons with estimates of risks that are familiar to and routinely encountered by the general public as well as other risks; and

"(ii) identify relevant distinctions among categories of risk and limitations to comparisons.

"(4) When an agency provides a risk assessment or risk characterization for a proposed or final regulatory action, such assessment or characterization shall include a statement of any significant substitution risks to human health identified by the agency or contained in information provided to the agency by a commenter.

"(5) If—

"(A) an agency provides a public comment period with respect to a risk assessment or regulation;

"(B) a commenter provides a risk assessment, and a summary of results of such risk assessment; and

"(C) such risk assessment is reasonably consistent with the principles and the guidance provided under this subtitle,

the agency shall present such summary in connection with the presentation of the agency's risk assessment or the regulation.

"§ 637. Regulations; plan for assessing new information

"(a)(1) Not later than 1 year after the date of enactment of this subchapter, the President shall issue a final regulation that has been subject to notice and comment under section 553 of this title for agencies to implement the risk assessment and characterization principles set forth in sections 635 and 636 and shall provide a format for summarizing risk assessment results.

"(2) The regulation under paragraph (1) shall be sufficiently specific to ensure that risk assessments are conducted consistently by the various agencies.

"(b)(1) Review of the risk assessment for any major rule shall be conducted by the head of the agency on the written petition of a person showing a reasonable likelihood that—

"(A) the risk assessment is inconsistent with the principles set forth in section 635 and 636;

"(B) the risk assessment produces substantially different results;

"(C) the risk assessment is inconsistent with a rule issued under subsection (a); or

"(D) the risk assessment does not take into account material significant new scientific data or scientific understanding.

"(2) Not later than 90 days after receiving a petition under paragraph (1), the head of the agency shall respond to the petition by agreeing or declining to review the risk assessment referred to in the petition, and shall state the basis for the decision.

"(3) If the head of the agency agrees to review the petition, the agency shall complete its review within 180 days, unless the Director of the Office of Management and Budget agrees in writing with an agency determination that an extension is necessary in view of limitations on agency resources.

"(4) Denial of a petition by the agency head shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

"(5) A risk assessment completed pursuant to a petition may be the basis for initiating a regulatory review pursuant to section 625.

"(c) The regulations under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

"(d) At least every 4 years, the President shall review, and when appropriate, revise the regulations published under this section.

"§ 638. Decisional criteria

"For each major rule subject to this subchapter, the head of the agency, subject to review by the President, shall make a determination that—

"(1) the risk assessment under section 634 is based on a scientific and unbiased evaluation, reflecting realistic exposure scenarios, of the risk addressed by the major rule and is supported by the best available scientific data, as determined by a peer review panel in accordance with section 640; and

"(2) there is no alternative that is allowed by the statute under which the major rule is promulgated that would provide greater net benefits or that would achieve an equivalent reduction in risk in a more cost-effective and flexible manner.

"§ 639. Regulatory priorities

"(a) In exercising authority under any laws protecting human health and safety or the environment, the head of an agency shall prioritize the use of the resources available under such laws to address the risks to human health, safety, and natural resources that—

"(1) the agency determines are the most serious; and

"(2) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources to be expended.

"(b) In identifying the sources of the most serious risks under subsection (a), the head of the agency shall consider, at a minimum—

"(1) the plausible likelihood and severity of the effect; and

"(2) the plausible number and groups of individuals potentially affected.

"(c) The head of the agency shall incorporate the priorities identified in subsection (a) into the budget, strategic planning, and research activities of the agency by, in the agency's annual budget request to Congress—

"(1) identifying which risks the agency has determined are the most serious and can be addressed in a cost-effective manner under subsection (a), and the basis for that determination;

"(2) explicitly identifying how the agency's requested funds will be used to address those risks;

"(3) identifying any statutory, regulatory, or administrative obstacles to allocating agency resources in accordance with the priorities established under subsection (a); and

"(4) explicitly considering the requirements of subsection (a) when preparing the agency's regulatory agenda or other strategic plan, and providing an explanation of how the agenda or plan reflects those requirements and the comparative risk analysis when publishing any such agenda or strategic plan.

"(d) In March of each year, the head of each agency shall submit to Congress specific recommendations for repealing or modifying laws that would better enable the agency to prioritize its activities to address the risks to human health, safety, and the environment that are the most serious and can be addressed in a cost-effective manner consistent with the requirements of subsection (a).

"§ 640. Establishment of program

"(a) The President shall develop a systematic program for the peer review of work products covered by subsection (c), which program shall be used uniformly across the agencies.

"(b) The program under subsection (a)—

"(1) shall provide for the creation of peer review panels consisting of independent and external experts who are broadly representative and balanced to the extent feasible;

"(2) shall not exclude peer reviewers merely because they represent entities that may have a potential interest in the outcome, if that interest is fully disclosed;

"(3) shall exclude, to the maximum extent practicable, any peer reviewer who has been involved in any previous analysis of the tests and evidence presented for certification by the peer review panel; and

"(4) shall provide for a timely completed peer review, meeting agency deadlines, which contains a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments.

"(c) The peer review and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

"(d) The proceedings of peer review panels under this section shall be subject to the applicable provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, I would like to announce that the Senate Committee on Governmental Affairs will hold a series of hearings on regulatory reform. The first hearing, on Tuesday, February 7, will provide a forum for various Senators to speak on the regulatory moratorium and regulatory reform proposals. The second hearing, on

Wednesday, February 8, will provide a forum for various witnesses to discuss the problem of irrational regulations and the problems of the rising costs of regulation, the cumulative regulatory burden, and systematic problems with the regulatory process. Subsequent hearings will cover the principles for reforming the regulatory process, including cost/benefit analysis, risk analysis, market incentives, periodic review of existing regulations, regulatory accounting, property rights, administrative process costs, and centralized review of regulations.

The hearings will be held in SD–342, from 9:30 a.m. to 12:30 p.m.

For further information, please call Paul Noe at (202) 224–4751.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the President's 1996 proposed budget.

The committee will hear testimony from the Department of Energy and the Federal Energy Regulatory Commission on Thursday, February 9, 1995.

The hearing will begin at 9:30 a.m., and will take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Betty Nevitt or Jim Beirne at (202) 224–0765.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, February 2, 1995, in open session, to receive testimony on the foundations of U.S. national strategy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Thursday, February 2, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on whether U.S. personal savings can be increased by targeted incentives.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 2, 1995, at 2 p.m. to hold a nomination hearing for Dr. Martin S. Indyk, of the District of Columbia, to be Ambassador to Israel.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SIMPSON. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Thursday, February 2, at 9:30 a.m. for a hearing on the subject: Reinventing Government II: Information Management Systems in the Federal Government.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts, and Humanities be authorized to meet for a hearing on Education's Impact on Economic Competitiveness, during the session of the Senate on Thursday, February 2, 1995 at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMERCIAL AVIATION FUEL TAX EXEMPTION

• Mr. SANTORUM. Mr. President, I am pleased to introduce a bill with Senator GORTON, Senator BRYAN, and others to repeal the commercial aviation fuel tax, and I am proud that this is the first piece of legislation I am introducing as a U.S. Senator. As I traveled throughout all of Pennsylvania's 67 counties this past year, it was clear that the threat to jobs and industry from this upcoming tax required immediate attention. In keeping with my promise to Pennsylvanians, I am confident that this will remove an obstacle to the recovery of an industry critical to Pennsylvania's economy.

This tax, which will take effect on October 1, 1995, will force the troubled airline industry to assume another massive financial burden. The Omnibus Budget Reconciliation Act of 1993 imposed a new 4.3 cents per gallon tax on commercial aviation fuel. At the time, the airline industry was experiencing deep financial difficulties, so the act granted a 2-year waiver on the imposition of this tax. Clearly, the industry has yet to recover, and a tax costing $527 million annually will have a devastating effect on service providers, airline manufacturers, and other related employers. More layoffs, increased ticket prices, and greater deterioration of consumer confidence in our Nation's airlines is not the goal of a responsible Congress.

Historically, the airline industry has been assessed excise and cargo taxes in lieu of a fuel tax. These alternate taxes amount to $5.4 billion annually. In addition, since 1990, the industry has lost $12.8 billion, nearly 120,000 employees have lost their jobs, and tens of thousands of airline manufacturing employees have been laid off. For a troubled industry which pays more than its fair share of taxes, I believe it is our responsibility to repeal this excessive and potentially destructive tax.

Last Autumn, 59 Senators and 4 future Senators, myself included, wrote to President Clinton seeking relief from this tax. This Congress, I am proud to report a groundswell of support amongst Republicans and Democrats in both the Senate and the House of Representatives. I hope this support continues unabated as we proceed to final passage of a repeal which is needed and in the best interests of our Nation's airline laborers, service employees, and the industry as a whole.•

• Mr. GORTON. Mr. President, I am pleased to join with Senator SANTORUM, Senator BRYAN, and others in introducing a bill to repeal the fuel tax on commercial aviation. The effect of this bill will be simply to disallow the 4.3 cents per gallon fuel tax from going into effect on October 1, 1995. Two years ago, Congress correctly recognized that the airlines had undergone tremendous financial difficulties and that imposing another new tax upon this beleaguered industry made no sense—this remains true today.

The airline industry has lost approximately $12 billion in the last 4 years. The industry is aggressively trying to turn this picture around and is just now beginning to show some signs of success. In the last several years, the industry has had to resort to massive layoffs, wage and benefit concessions, route reductions, and substantial cuts in capital spending. Six of the largest airlines have canceled or deferred orders for 647 aircraft totaling $38 billion. Tens of thousands of airline and aircraft manufacturing employees have lost their jobs. Boeing's employment alone has dropped by 43,000 in the last 5 years due to a substantial decline in both the commercial and the defense business. Three major air carriers—United, Northwest, and TWA—have transferred substantial amounts of ownership to company employees in exchange for wage and benefit concessions.

In order to meet stage 3 aircraft noise requirements, it is estimated that the industry will spend $7 to $8 billion a year during the remainder of this decade. The industry cannot afford to add an additional $527 million a year in new taxes—this on top of the many taxes it is already paying. Most people, I believe, would be shocked to learn that the industry pays over $5.4 billion annually in excise taxes and fees, the equivalent to a 45.82 cents per gallon fuel tax.

Last year I was proud to serve on the National Airline Commission. In our report, we discussed the proposed fuel tax and other burdensome taxes placed upon the industry. It was our collective conclusion that, "there are several tax provisions that impede the ability of the industry to return to financial health. We believe those provisions violate reasonable principles of common sense and good public policy." I hope the Congress will join with us in rejecting burdensome new taxes on this important industry and will support the enactment of this legislation.•

PUERTO RICO'S COLONIAL DILEMMA

• Mr. SIMON. Mr. President, representing Puerto Rico in the House of Representatives is CARLOS ROMERO-BARCELÓ, the former Governor of the Commonwealth of Puerto Rico.

I have worked with him through the years and have come to have great respect for him.

One of his passions is that Puerto Rican citizens not be second-class citizens but have all the rights that the rest of us, as Americans, have.

I share that passion with him.

The blatant inconsistency of the way we treat people in Puerto Rico should be on the consciences of those of us who serve in the House and the Senate.

Recently, Representative ROMERO-BARCELÓ sent a "Dear Colleague" to the Members of the House and enclosed an item of his that was published in the Washington Times about Puerto Rico.

I ask to insert that at the end of these remarks and urge my colleagues in the Senate and the House to listen to his powerful message.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 24, 1995.

Re Puerto Rico's colonial dilemma.

DEAR COLLEAGUE: On December 15, 1994, I wrote a column—a copy is provided on the reverse side—published in the Washington Times in which I discussed Puerto Rico's colonial dilemma and the unequal treatment of U.S. citizens in Puerto Rico.

For the past 97 years, Puerto Rico has been and still is a territory, or a colony, of the United States. The Island is home to 3.7 million American citizens who are disenfranchised and deprived of participating in the democratic process of the Nation. This disenfranchisement has been justified by a policy, created and maintained by Congress, which frees residents of Puerto Rico from paying Federal personal and corporate income taxes. Puerto Rico's residents do, however, pay most all other Federal taxes and user fees. In addition, this exemption from Federal income taxes has justified the exclusion of the island's residents in critical Federal programs such as Supplement Security Income [SSI].

Moreover, through section 936 of the Internal Revenue Code, the Federal Government has exempted subsidiaries of multi-national corporations in Puerto Rico from Federal corporate taxes. Section 936 has resulted in a socio-economic policy for Puerto Rico that is exactly opposite of the socio-economic policy of the rest of the Nation. While wealthy corporations in Puerto Rico are given billions of dollars in annual tax credits, the poor, the disabled, the elderly, and children at risk are denied the same safety net and economic opportunities that their follow citizens receive in the 50 States and the District of Columbia.

Like the District, Puerto Rico has no voting representation in Congress, yet its residents are also denied the right to vote in the Presidential elections. This is significant because the President is our top elected official and the one who makes daily policy decisions that affect all citizens, including those in Puerto Rico.

We preach the virtues of democracy throughout the world. Nevertheless, the United States still maintains the largest colony in the world—Puerto Rico—home to 3.7 million disenfranchised American citizens that are excluded from the democratic process of their Nation.

American citizens in Puerto Rico should not be denied full participation in our great democratic experience. Residents of the island should share in equality with their fellow citizens in the 50 States, not only in the rights and benefits protected by the U.S. Constitution but in the responsibilities and duties as well.

I urge you to read my column which sheds more light on Puerto Rico's colonial dilemma and the unequal and unfair treatment which our people receive as a result of the existing colonial relationship.

Sincerely,

CARLOS ROMERO-BARCELÓ.

[From the Washington Times, Dec. 15, 1994]

THE CASE FOR PUERTO RICO'S VOTING RIGHTS

(By Carlos Romero-Barceló)

Regarding your Dec. 6 editorial "Taxation, representation and the District": As Puerto Rico's only elected representative to Congress, I am, keenly aware of the limitations faced by the five delegates in the House of Representatives.

Since the early 1970s we have been able to vote in the House committees on which we serve. This important authority was secured by the Puerto Rican delegate of the time, Jorge Luis Cordova-Diaz. In 1993, Delegate Eleanor Holmes Norton did indeed actively seek and obtain the right to vote in the Committee of the Whole for herself and the other four delegates. Although this was merely symbolic, we nevertheless welcomed the opportunity for added participation in House proceedings.

With respect to the distinction you make between the District's representative and the other delegates on the basis of federal taxation in our respective districts, I differ with your analysis, at least in the case of Puerto Rico.

First, Puerto Rico, a U.S. territory since 1898, is home to 3.7 million American citizens, who are disenfranchised and deprived of participating in the democratic process of their nation. Federal personal income taxes are not levied on residents of the island, not because we don't want to pay them, but because Congress has maintained this policy since income taxes were first imputed in order to justify our disenfranchisement. Nevertheless, most other federal taxes and user fees are indeed applicable in Puerto Rico (e.g., Social Security taxes, unemployment taxes, Medicare taxes, customs duties, certain excise taxes and even income taxes on income derived outside of Puerto Rico). In fact, the U.S. Treasury collected from Puerto Rico $2.5 billion during 1993 (source Advanced Draft, IRS Commissioner's Report, 1993).

The congressional policy of not extending federal income taxes to the island has also been used as an excuse for not granting equal treatment in federal programs to U.S. citizens in Puerto Rico. For example, the Supplemental Security Income (SSI) program is not applicable to otherwise eligible U.S. citizens in Puerto Rico. Other critical programs such as Chapter I education funds, Medicaid, Aid to Families with Dependent Children and the Nutritional Assistance program are severely capped. Medicaid is capped at approximately 10 percent of what we would get if we were treated on an equal basis.

Moreover, Congress and successive administrations have put in effect a tax and economic policy that has a "reverse Robin Hood effect." The federal government, for instance, has opted to exempt subsidiaries of U.S. corporations in Puerto Rico from federal corporate taxes through Section 936 of the Internal Revenue Code. The 936 tax credit has cost U.S. taxpayers $50 billion in the past two decades. According to the latest estimates from the Joint Committee on Taxation, Section 936 will cost the federal government $19.7 billion in the next five years. Congress has maintained, through Section 936, a tax policy that results in a socioeconomic policy for Puerto Rico that is exactly the opposite of the socioeconomic policy for the nation. While wealthy multinational corporations are given billions of dollars in annual tax credits (corporate welfare), hundreds of thousands of poor families the disabled, the elderly, and children are denied the same safety net and financial and economic support that their fellow citizens receive in the 50 states and the District of Columbia.

The public and the national media have the false impression that citizens in Puerto Rico do not pay any income taxes. Nothing could be further from the truth. People in Puerto Rico have indeed a very high local tax burden. Personal income taxes in Puerto Rico are generally higher than anywhere else in the United States, including jurisdictions where people pay local/state and federal income taxes.

Thus, it is the middle class, the working poor, the indigent, the elderly and the children who suffer the detrimental consequences of a federal taxation policy that makes no sense in Puerto Rico, we do not set the rules; Congress does. I must reiterate that just as in the case of the District, Congress has absolute power over the affairs of Puerto Rico. And just like the District, we have our version of "home rule," inappropriately referred to as "commonwealth." Make no mistake about it, Puerto Rico was and continues to be, de facto and de jure, a territory or colony of the United States.

Second, although residents of the District, like their counterparts in Puerto Rico, have no voting representation in Congress, at least they are able to vote in presidential elections. This is significant because the president is our top elected official and the one who makes the daily policy decisions that affect all citizens, including the ones in Puerto Rico. All U.S. citizens, including those abroad, are able to vote for the president, except those who make Puerto Rico and the other territories their home. People in Puerto Rico have no input in the election of the nation's commander in chief, notwithstanding the fact that they are subject to all federal laws and policies.

Thousands of U.S. citizens in Puerto Rico have paid the ultimate price and have died defending our shared democratic values. In our armed forces, more Puerto Ricans have died in armed conflicts during this century than citizens of any other state (on a per capita basis).

As mayor and governor, I have denounced federal tax policy toward Puerto Rico that benefits most those who are wealthy and penalizes the poor, the elderly, the children and the working class. I urge federal policymakers to take steps to extend full and equal economic benefits and responsibilities to Puerto Rico. Puerto Ricans and all U.S. taxpayers will benefit from uniform and sensible application of our fiscal laws and our socioeconomic policies.

Finally, I have always maintained that we want to share in equality with our fellow citizens in the 50 states, not only in the rights and benefits but in the responsibilities and duties as well. At least in the District of Columbia citizens are partially enfranchised with political power. Not so the 3.7 million U.S. citizens of Puerto Rico. Political power is the ultimate form of liberation.

It is ironic indeed that the virtues of democracy are being highlighted during the Summit of the Americans while our nation denies 3.7 million citizens the right to participate in the democratic process. During the 1990s, the U.N. decade of decolonization, the United States must face the implications and repercussions of maintaining a colonial relationship with its territories.•

REMARKS OF OSBORN ELLIOTT

• Mr. MOYNIHAN. Mr. President, on January 12 the chairman of the Citizens Committee for New York City, Osborn Elliott, gave a thought-provoking speech on the role of journalism in public life. Mr. Elliott is the former dean of the Columbia University School of Journalism, and his remarks, which were made at the Key West Literary Seminar, deserve the attention of the Senate. Accordingly, I ask that the speech be included in the RECORD.

TIME FOR THE PRESS TO GET INVOLVED

(John Hersey Memorial Lecture by Osborn Elliott)

I'd like to tell you this evening about a love affair that is on the rocks.

The romance began a long time ago. It started as a schoolboy's infatuation, went roiling lustily through the pubescent years, and ultimately flowered into a deep and sustaining passion. There were ups and downs along the way, just as there are in any relationship. But the bonds grew stronger as the decades passed.

Now the affair is on the rocks, and I'm going to tell you why.

My romance with journalism began sixty years ago, when I was a little boy. On my way home from school one day, I stopped in at Mr. Rappaport's stationery store at 62nd Street and Third Avenue, to buy a Christmas card. In the back of his shop Mr. Rappaport kept an ancient press surrounded by wooden cases of type. He invited me to watch as he plucked letters from a font, handset his type, then put the great, hissing, clanking press into motion. Somehow, amid the aromatic chaos of printer's ink and noise, pristine sheets of stationery came flying out of that old machine.

To be young at Mr. Rappaport's was very heaven. It was the beginning of the affair.

Before you could say Arthur Ochs Sulzberger, I had acquired a toy typewriter, and was banging out my own newspaper, The Weekly Eagle, shamelessly plagiarizing Lindbergh kidnaping stories from the New York Daily News. I made three carbon copies of my paper so that circulation (at a nickel a copy) could extend beyond my parents to my brother and the woman who took care of me when my mother and father were at work. The weekly Eagle lasted three weeks, and its circulation never exceeded a total of four (unaudited).

After that came the thrill of working on my school magazine, and savoring that magical moment when copies would arrive from the printer, tightly wrapped in brown paper bundles. I would rip open the neat packages and wonder at how my henscratches had been miraculously converted into beautiful columns of type, marching down the page.

Later, in the Navy, it fell my lot to edit my ship's paper and to deliver the nightly news over the public-address system. And it was while I was still in the Navy, in the winter of 1945, that I had my first brush with big-time journalism. I was home on leave from Admiral Halsey's fleet in the Pacific and my parents had invited Charles Merz, editorial page editor of The New York Times, to dinner one night. Before we went in to eat, Charlie Merz picked up the phone and called the Times.

"Anything new from Halsey?" he inquired as I listened, goggle-eyed. Later that evening, Merz took us on a tour of the Times, through the newsroom and down to the typesetting room where the gangly linotype machines hissed and clanked, much like Mr. Rappaport's press. Then to the composing room, where pages were laid out and the type was locked up. And finally, to the pressroom, where everyone seemed to be nervously eyeing a large clock on the wall. As the sweep secondhand made its way around the face of the clock, Charlie Merz stepped up to the press. At 11 p.m. on the dot he raised his arm and he flicked an impressive red switch labeled START.

Slowly, the huge press began to turn, then faster and faster and soon the place was roaring rhythmically as bundles of the next day's Times came thumping onto the loading dock below.

From that moment on, I was hooked—and for the better part of half a century my romance with journalism paid huge rewards. Struggling to learn the basics as a young business reporter, I came to realize that even the most esoteric topic can be of interest once you get to know something about it—even the workings of the non-ferrous metals market, my very first beat for the New York Journal of Commerce.

Journalism gave me the most amazing access to people and events. I had interviews with half a dozen presidents, audiences with two Popes and the emperor of Japan. I traveled through Africa, Europe, Asia and Russia—and spent the most interesting week in my life living, and learning, in the black ghettos of America.

I was nattered at by Nasser, charmed by Giscard, irritated by Indira, jollied up by JFK, lambasted by LBJ and nit-picked by Nixon. I fell in love (unrequited) with the likes of Sills, Bacall and Ullman. I called Leonard "Lenny," Lauren "Betty," Henry "Henry" and Teddy "Ted."

Who wouldn't be seduced by all that? My romance flourished.

But for all the fun and games, there was seriousness of purpose that underlay most of the journalism that was practiced in those years—a belief that what we journalists did was important, that journalism could play a constructive role in exposing, confronting and thus helping to solve the great problems of the day.

Sometimes our work was agonizing, as when we wrestled week in and week out with the contradictions of Vietnam, trying to reconcile the conflicting reports we were getting from Washington and from the field. Sometimes our work was exhilarating, as when we produced a special issue of Newsweek on Black America, complete with recommendations on how the nation might begin to ease its racial dilemma. And sometimes our work was ineffably sad, as when we deployed our forces to cover the assassination of first one Kennedy and then another, and the killing of Martin Luther King.

I tell you all this not because my experience was unique, but because it was so typical. As great issues unfolded, we journalists did our best to understand and explain them to our readers, listeners and viewers. We did not much question the motives of public figures—except when there was a clear attempt to mislead, as in the Watergate disaster. We did not dwell obsessively on process, preferring instead to deal in substance. We did not poke through the garbage of people in the public eye.

I think we played a central role, and a positive one, in helping a democratic system thrash its way through trauma after trauma and toward something approaching consensus.

Thus did my romance with journalism ripen and mature.

It's hard to pinpoint exactly when the relationship began to crumble, but crumble it did. It's even harder to explain why so many factors were at work.

For one thing, I changed careers and moved into public service as a deputy mayor of New York City, and for the first time I had a view of journalism from the other side of the editor's desk. While I personally was treated well by the press, I found my old trade to be quixotic, unfocused, inaccurate and too often the prisoner of preconceptions. The assumption, for example, that anyone working for city government was, ipso facto, an incompetent drone—while I was learning that great numbers of city workers were actually dedicated and hard-working folk.

I also became aware of a failure of will within my old trade.

Strangely enough, no sooner had the power of journalism reached its zenith than editors began to back off from the fray. Having helped to topple one president—Nixon—and having derided another—Ford—and having snickered at a third—Carter—as he succumbed to a killer rabbit and other forces of evil, journalists found themselves uncomfortably close to the center of things and more and more being blamed when the business of the Nation seemed to be going wrong. So when yet another president—Reagan—took office with popularity ratings in the high seventies and eighties, some kind of unspoken decision was made to lay off.

I think journalism has a lot to account for as a result of this failure of will. By allowing a kind of social Darwinism—a.k.a. Reaganism—to go mostly unchallenged on the one hand, and by failing on the other hand to adequately expose the inane contradictions of supply-side theories, a.k.a. Reaganomics, I believe journalism deserves some of the blame for ills that now afflict us. I think journalism is also in part responsible for a default of the national spirit that recently has allowed a meanness to spread through the land.

What caused journalism to abdicate its responsibility in the eighties? Was it a function of exhaustion? Of fear? Of simple distraction? Probably a measure of each.

After the turmoil of the Sixties, the strains of Vietnam, the shock of assassinations, the tensions of the Cold War and the treacheries of Watergate, who wouldn't be tired?

And as readership began to shrink, and advertising dollars disappeared, who wouldn't be afraid to challenge the most popular President in memory?

Certainly there were distractions aplenty, as well. A kind of Gresham's law—or was it Murdoch's?—saw bad journalism chasing out the good in the scramble for ratings and readership. On the morning news, a new breed of elbow-in-the-ribs performers took over the airwaves. In the afternoon and evening, the Rush Limbaughs and Bob Grants and other big mouths of the far right took over talk radio.

Meanwhile, in America's videocracy the talk shows stooped to conquer the ratings as Maury and Montel and Sally Jessie and Phil and Geraldo engaged in mortal combat over who could produce the most shock or schlock. Last Sunday night, "CNN Presents" devoted an hour to deploring what is called "The Media Circus" and its obsession with the O.J. Simpson trial in particular. At the end of the hour, Judy Woodruff announced the topic for next Sunday's "CNN Presents." You guessed it, O.J. Simpson.

Meanwhile, other Sabbath fare is offered weekly by Morton and Sam and Eleanor and others of God's little wiseacres as they yell their opinions at one another. The jeering jabberers of journalism, my most unfavorite vice president might have called them.

All these trivial pursuits left their tracks on mainstream journalism, as well. Newspapers and magazines began to gibletize their contents, in imitation of U.S.A. Today. There were weeks when the assorted short subjects that fill the opening sections of Time magazine ran on so endlessly that few stayed around for the feature. And more and more the pressure grew to produce stories with an attitude, an edge, a spin, a barb. After all, by the time a piece appeared in print, hadn't everyone already seen it on television?

So zap it up, guys!

A small but telling case in point appeared not long ago on the front page of the New York Times, a story about President Clinton's visit to Oxford. The president, reported the Times, "returned today for a sentimental journey to the university where he didn't inhale, didn't get drafted, and didn't get a degree."

Zap!

Having withdrawn from the field in the eighties, it appeared that journalists were returning to the fray in the nineties—with a vengeance, and with a chip on the shoulder. In the cynical new journalism that resulted, it seemed there was an unkind cut for almost anyone in public office, and little sense that any public policy was much worth pursuing. A recent New Yorker piece by Adam Gopnik used these terms, among others, to describe the new curled-lip school of journalism: malicious, self-righteous, mean, shameless, sanctimonious, belligerent, aggressive, disingenuous, nasty.

We're not all that way, thank goodness. In her eloquent farewell column in the Times, Anna Quindlen said that twenty years in the news business had left her not more cynical but more idealistic—and anyone who knows Anna knows that to be the case. Hear these final words she wrote: "Those who shun the prevailing winds of cynicism and anomie can truly fly."

Someone has said that, "One of the best ways of understanding journalism is having it done to you." Well, I've had it done to me a bit, and the only thing worse than having it done to you is not having it done to you.

In the process of organizing the "Save Our Cities" March on Washington in 1992, I spent months trying to whomp up media interest in the event. As I described how mayors in cities from coast to coast were organizing for the march, reporters and editors would look at me as if I was out of my mind. One day Mayor David Dinkins held a press conference on the steps of City Hall calling on New Yorkers to go to Washington and protest against the urban policies of their national government—Republican White House and Democratic congress alike.

To make sure he would get coverage, the mayor specified that this call to action would be his only press event that day. Hundreds of people showed up—leaders from labor, business, government, the churches, the neighborhoods of New York. Now, I would have thought that the very fact that the mayor was calling on New Yorkers to march against their national government might quality as news. But not a line appeared in any newspaper, and not a second on the air.

In the event, 250,000 people joined that march on Washington—apparently too good to be true. The New York Times printed an absurdly low-ball crowd estimate of 30,000 provided by a highly biased source—the National Park Service, a branch of the very government against which those quarter of million people were protesting! By accepting that low crowd estimate the Times almost forced itself to put a negative spin on the story.

In this age of journalism with a sneer, not only are events too often covered in this negative way. Many good stories get no attention at all. As chairman of the Citizens Committee for New York City, I see it all the time.

I think of a conference of 1,500 school kids who spent a whole Saturday discussing how to improve New York City's schools. Hardly a line of coverage.

I think of the 1,000 neighborhood leaders who gathered on another Saturday, a beautiful spring day, to swap advice on how to fight crime and drugs and make their neighborhoods safer and more beautiful. Not a line in print, not a second on the air.

I think of a town meeting that gathered 300 leaders from every segment of New York, to discuss the city's problems. Not a peep from the press.

As an officer of Columbia University for the last fifteen years, I think of the recent inauguration of a new president of Barnard College, a stirring event attended by scores of academic leaders from around the country and abroad.

Total silence from the news media.

It seems to me that journalism, my old love, just may have become part of the problem.

Journalists like to say that if you are being attacked from all sides you must be doing something right. It has also been suggested that if you are being attacked from all sides it's possible that you are doing everything wrong.

I hasten to add that this is not the case at all. For even in this age of cynicism and trivialization some excellent journalism is being done. We still see moving pieces, particularly in our newspapers, about homelessness and violence and teenage crime, all well reported and thoughtfully analytical.

A notable case in point was the New York Times's recent pieces on teenage violence, which ended with a thorough exploration of possible solutions. But the editor in me cries out: how can anyone be expected to keep track of a series that began last May and ran sporadically to December? Beats me.

It's in the area of problem-solving that I think journalism ought to start changing its ways. Too often, even worthy series concerning social problems leave out the final part—the part that offers up solutions. Says Davis Merritt, editor of the Wichita Eagle: "If we continue to insist that engaging actively in the search for solutions isn't part of our job, we will soon, in fact, have no job."

Merritt and his newspaper are at the forefront of an experimental movement that aims to engage citizens in public affairs. The Wichita Eagle and its editor have concluded that people are disenchanted with their institutions, and frustrated that their voices are not being heard. With public life apparently not working very well, Merritt and his Wichita colleagues have decided that the press now has the positive duty to "intervene in public life in the interest of strengthening civic culture."

How to do it?

In the case of The Wichita Eagle, the editors redesigned their political coverage in the last election to establish which issues were of real concern to citizens, and then forced the candidates to address those concerns—rather than just reporting on the tactical maneuvers of candidates or the machinations of political insiders. In 1992, the Eagle also launched its "People Project: Solving It Ourselves"—an effort to engage both readers and the paper itself in identifying community problems and exploring ways to solve them.

Every single day, for ten weeks in a row, The Eagle opened up its pages to a consideration of problems that were important to the community—with emphasis on seeking solutions from the citizenry. The response was electric. One measurable result was that in the fall of 1992 volunteerism in Wichita's schools increased by 32 percent.

Similar exercises in "public journalism" have been undertaken by papers in dozens of cities around the country—from Charlotte, North Carolina, to Dayton, Ohio to Bremerton, Washington. Here are a few examples:

The Detroit Free Press published a major series on violence done to children. It then launched its "Children First" campaign, which focused on this problem and also managed to raise half a million dollars to benefit local kids. The Detroit Free Press continues with ongoing coverage assisted by a panel of young people.

The Charlotte Observer determined that violence and discipline were the public's chief concerns about local public schools and developed a five-week series on those topics.

The Akron Beacon-Journal won a Pulitzer Prize for its five-part project, "A Question of Race." The newspaper convened focus groups; it analyzed the continuing social and economic disparities between blacks and whites; it invited local organizations to establish projects addressing race relations; it hired experts to coordinate the resulting plans. In the end, 22,000 Akronites responded to a newspaper coupon that invited them to join the fight against racism.

You will observe that such media capitals as New York, Washington, Philadelphia and Los Angeles are notable by their absence in this little sampling of public journalism in its experimental stages.

The reason is simple. Getting involved in things, as public journalism demands, is anathema to many journalists who grew up—as I did—in the belief that journalism and its practitioners must operate as a breed apart. In the words of Professor Jay Rosen of New York University, a godfather of the concept of public journalism: "Traditionally journalists worry about getting the separations right: the separations between themselves and the political community; between news and editorial; between facts and values; between information and their beliefs." Professor Rosen then makes this radical point: "The challenge . . . is how to get the connections right, because the connections are what's faltering."

To many journalists, this concept of connecting, and getting involved, is an act of heresy—so wedded are they to the idea of detachment and uninvolvement and even an unconcern about the consequences of what they write or report. This chilly remove is what Fred Friendly calls the Werner von Braun theory of journalistic responsibility: "I just shoot the rockets up into the air; where they come down is not my concern."

Many journalists insist that detachment gives them credibility—but the sad fact is that they enjoy very little credibility as it is, ranking way down there is public trust with the used-car salesmen. A recent Times-Mirror poll found that 71 per cent of the American people think that journalism, instead of helping solve the nation's problems, gets in the way of finding solutions.

Time, I think, for us journalists to change our ways—not by becoming advocates of particular policies but by helping the public gain confidence in its own ability to reach consensus and solve problems. It's time for journalism to abandon cynicism, to uncurl its lip and to become a fair-minded participant and catalyst in America's decision-making process. It's time for journalism to help public life work better.

Here's one way.

When municipal elections take place next Fall, a project called City Vote will simultaneously hold presidential primaries in fifteen or twenty cities. The object is to force the candidates to address urban issues at the very beginning of the presidential campaign. It's an ideal opportunity for journalists in Boston, Houston, Spokane, Minneapolis, St. Paul, Baltimore and other participating cities to facilitate the discussion, and to force candidates to address the issues that matter to the voters. A fine opportunity for publishers and editors to sponsor public forums, to open their pages to debate to nudge the public dialogue along.

The kind of involvement I am thinking about has to do with exploration and inspiration. It calls to mind a favorite prose poem. As I recite this little piece by Christopher Logue, think of it as a conversation between the new journalist and his public. It's an exchange that suggests how, by getting involved ourselves, we might begin to inspire others to get involved. It also suggests how my long romance with journalism might ultimately be restored.

Come to the edge.
It is too high . . .
Come to the edge!
We will fall . . .
COME TO THE EDGE!!!
. . . and they came
. . . and he pushed
. . . and they flew.●

ORDERS FOR TOMORROW

Mr. HATCH. Mr. President I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m., on Friday, February 3, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak for not more than 5 minutes each, with the following Senators permitted to speak for up to the designated times: Senator BOND for 10 minutes, and Senator HUTCHISON for 10 minutes.

I further ask consent that at the hour of 10 a.m., the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. HATCH. Mr. President, if there is no other business to come before the Senate, and no other Senator is seeking recognition, I now ask consent that the Senate now stand in recess under the previous order.

There being no objection, the Senate, at 6:08 p.m., recessed until tomorrow, Friday, February 3, 1995, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, February 2, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. DREIER].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 2, 1995.

I hereby designate the Honorable DAVID DREIER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May the gifts of prayer, O gracious God, be with us and each person; may the petitions of our hearts find satisfaction in our lives; may the longings and yearnings of our very being find fulfillment in that peace that You alone can give; and may the hopes and dreams we place before You, O God, allow us to experience reconciliation and grace with You and with our own destinies. Bless us, O God, this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina [Mr. SANFORD] come forward and lead the House in the Pledge of Allegiance.

Mr. SANFORD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, our Contract With America states the following: On the first day of Congress, a Republican House will:

Force Congress to live under the same laws as everyone else; cut committee staffs by one-third; and cut the congressional budget.

We have done that.

It goes on to state that in the first 100 days, we will vote on the following items: A balanced budget amendment—we have done this; unfunded mandates legislation—we have done this; line-item veto; a new crime bill to stop violent criminals; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for families to lift Government's burden from middle-income Americans; national security restoration to protect our freedoms; Senior Citizens' Equity Act to allow our seniors to work without Government penalty; Government regulation and unfunded mandate reforms; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature.

This is our Contract With America.

COUPLE LINE-ITEM VETO WITH ELIMINATION OF TAX GIVEAWAYS

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, today we will begin an important bill that once again my friends on the other side of the aisle have almost gotten right. Giving the President the line-item veto authority is important but again the bill we are debating today omits an element critical to making this legislation true and effective. They are more than willing to allow the President to eliminate spending, but they seem to be more than a little nervous about allowing the President to eliminate unfair tax giveaways. I want our President to stand against wasteful spending. But he should also be able to stand up against unfair tax breaks for the wealthy and the privileged.

If the President can eliminate spending with the stroke of a pen, let us give him the authority to eliminate tax giveaways that cheat working people, drain our treasury, and pile up our debt with that very same pen.

If my colleagues are serious about this reform, let us make it a serious reform that addresses our serious problems, not a pretend reform hiding a huge tax loophole for the powerful and the privileged.

REPUBLICANS ARE DELIVERING

(Mr. FOX of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, I thought you might be interested in some voting statistics from the first month of the 104th Congress. In the month of January, we had 79 rollcall votes. Compare that to last January, when we only had 2 rollcall votes, and in January 1992 when we only had 11 rollcall votes.

What do these statistics mean? They show that the Republican majority is serious about getting down to work and passing our Contract With America. We are committed to working hard to keep our promise with the American people. Congressional accountability, balanced budget amendment, unfunded mandates reform—all done. Next up is line-item veto, crime bill, welfare reform, national defense bill, middle-class tax cuts, term limits. We won't stop until we're through.

If the people want to know if the Republicans are delivering, just look at what we have accomplished in 1 month.

RAISING INTEREST RATES PUTS RECOVERY AT RISK

(Mr. HINCHEY asked and was given permission to address the House for 1 minute.)

Mr. HINCHEY. Mr. Speaker, yesterday, for the seventh time in the last 12 months, the Federal Reserve—meeting in a closed-door session—raised the interest rates and gambled on the economic future of the middle-class American.

Over the past year, the Federal Reserve has acted out of fear of a phantom inflation that does not exist.

The constituents of my district, and the working families of this Nation, are struggling to be a part of the economic recovery.

Inflation is at a 30-year low, but working Americans will now suffer under an interest rate double that of the same time last year.

Over the past year, there has been no significant increase in salaries or buying power, but now the Fed is depriving middle-class taxpayers of the buying power necessary to participate in the economic recovery.

The Fed's rate increase is going to hit working Americans when they pay their mortgage, it is going to hit working Americans when they pay their credit card bills, and it is going to hit working Americans when they need to buy cars.

Today, I call on the Federal Reserve Board to end this ongoing crusade against a phantom inflation—tilting at windmills that do not exist.

The fact remains that the economy is not overheating and millions upon millions of Americans are still out of work. The Federal Reserve was wrong to raise rates and has put economic recovery at risk for working American families.

YET ANOTHER VICTORY

(Mr. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRISTENSEN. Mr. Speaker, yesterday ushered in just one more victory for the American people. We passed the unfunded mandates reform legislation by an overwhelming bipartisan vote of 360 to 74. Once again, we have kept our promise with the people through our Republican Contract With America. Again, we fulfilled our promise with the State and local governments to lift the financial burden imposed on them by the Washington bureaucrats.

We will continue to deliver change today as we begin debate on the line-item veto. This bill is yet another mechanism to reduce the size, scope, and cost of the Government. And more importantly, this bill is yet another step toward the completion of the Contract With America.

We are working hard. We are keeping our promise. We are changing Government.

FED'S ACTION DISSERVICE TO WORKING AMERICANS

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, the Federal Reserve Board yesterday did a terrible disservice to working Americans when for the seventh time in a year it raised interest rates.

American homeowners will now get $15 billion of additional mortgage costs charged against them because of this increase. Half of the homeowners in America will get an envelope shortly from their lending institution telling them that their monthly mortgage rate has gone up because of these actions by the Federal Reserve. Those people shopping for a car this weekend will find the cost of financing that automobile has gone up because of the Federal Reserve. Carpenters, plumbers, electricians, and others who work in the homebuilding industry and the construction industry will find it harder to find work throughout the year because the cost of homebuilding has gone up, the cost of construction has gone up, and the cost of small business expansion has gone up because of these actions taken in secret by the Federal Reserve.

American workers deserve better and the Federal Reserve ought to recognize that the wages of American workers are under pressure from workers around the world, and they ought to understand that inflation is different today than it was yesterday.

□ 1010

DOING THE PEOPLE'S BUSINESS

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, under Republican leadership, the House is working hard to change the way we do the people's business.

Yesterday, we passed an unfunded mandate reform bill, which will make it harder for the Federal Government to tell the American people what to do without paying for it.

Today, we take up the line-item veto, which will make it more difficult for Congress to pass wasteful pork-barrel spending projects.

Mr. Speaker, in the last election, the American people said they wanted change.

They said they wanted a more efficient and smaller Government that cost less, spent less, and did fewer stupid things.

We have heard that message, and in a bipartisan fashion, we are working hard to make those changes.

I urge my colleagues on the other side of the aisle: Let's not bicker and nitpick. Let's not unnecessarily slow down the process for purely partisan reasons. Instead, let's give the American people the kind of Government they really want. Let us work together to complete the Contract With America.

INTRODUCTION OF LEGISLATION TO AUDIT OPERATIONS OF THE FEDERAL RESERVE SYSTEM

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I rise to inform my colleagues of legislation that I am introducing to audit the operations of the Federal Reserve System, including the Reserve Board, the Advisory Council, the Open Market Committee, and the Reserve banks.

Mr. Speaker, yesterday, the Federal Reserve again raised short-term interest rates. In a 2-day meeting behind closed doors the Federal Open Market Committee raised the rate by a half point. For the seventh time in a year the Fed has seen fit to slow our growing economy and raise interest rates to the highest point since 1991. To paraphrase Senator Dirksen, a half point here, three-quarters of a point there, and pretty soon we are talking about real interest.

Immediately after the Fed's announcement, major banks across the country raised their prime lending rate to 9 percent, forming an even bigger roadblock for those wanting to buy into the American dream of home ownership.

Mr. Speaker, I would like to know, as I am sure many of my colleagues would like to know, what crystal ball the all-knowing Federal Reserve Board uses so they can keep inflation contained when most economists believe that inflation is under control. That is why we need an audit, and that is why I have introduced this legislation. I ask my colleagues to join with me by cosponsoring this legislation so that we too can look behind those closed doors.

TERM LIMITS

(Mr. SANFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANFORD. Mr. Speaker, I rise before you and the rest of this body to ask for term limits in general, and to ask specifically that this body push for the English-Dornan-Sanford amendment particularly.

If we look at term limits, they are building blocks toward getting a citizen-filled legislature that this country so desperately needs. One of the reasons I think we need them so desperately is because, as I take this $20 bill out, I ask what is it each of us works for. Each of us works to put bread on the table.

If we view politics as our career, if we view politics as a way to put bread on the table, we often are making decisions that are the opposite of what the American public would like us to.

So I ask again that we push for term limits in a general way and the English-Dornan-Sanford amendment, which is a three-term cap for Members in the House.

REPUBLICAN EFFORTS TO HIDE TRUE IMPACT OF CONTRACT TAX POLICIES

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, each day at the beginning of the session one of my Republican colleagues gets up with great piety and reads about the Republican contract. I know they are very proud of it, but they do not tell us the whole story.

The Republican Contract on America is a budget buster. Yesterday our Joint Tax Committee came up with an estimate of what it will cost the Treasury for the Republican tax cut package: a little less than $200 billion in the first 2 years, but in the following 5 years, over $700 billion more. For what? For tax cuts for the wealthiest of Americans.

The Republican contract does not stand up for American families, it stands up for the monied interests, the fat cats. At a time when we should put the fat cats in America on a diet, the Republican contract puts them on the gravy train.

REMEMBERING THE WORDS OF A GREAT PRESIDENT

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, just over 14 years ago, Ronald Reagan was sworn in as President on the West Front of this building.

His remarks that day were brief, but exceptionally stirring and profound. I recall one paragraph that is as timely now as on that inauguration day. The words speak to the motives and goals of the Contract With America and are superior to my own.

He said:

> You can see heroes every day going in and out of factory gates. Others, a handful in number, produce enough food to feed all of us and then the world beyond. You meet heroes across a counter—and they are on both sides of that counter. There are entrepreneurs with faith in themselves and faith in an idea who create new jobs, new wealth and opportunity. They are individuals and families whose taxes support the Government and whose voluntary gifts support church, charity, culture, art, and education. Their patriotism is quiet but deep. Their values sustain our national life.

Mr. Speaker, Ronald Reagan will be 84 on Monday, and on that day this House is going to give him a birthday gift, something he has wanted for a long time: the line-item veto.

THE SECRET BEHIND THE REPUBLICAN STRATEGY

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. speaker, one of those embarassing genies popped out of the bottle last night when NBC–TV revealed the secret behind the Republican leadership strategies when the playbook was opened to public scrutiny, and the strategy described might be a little scary to Americans looking for true change.

Apparently, according to the Republican leadership strategy, it is all in the wording. You do not like what you are doing, call it something else. Americans believe, according to this playbook, that the GOP is mean and uncaring. That will not do, so how do you handle it? Do not talk honestly about the programs you are going to cut that actually serve people, instead talk about slashing bureaucrats.

If your aim is to cut the capital gains tax for the wealthy, do not say wealthy, talk about helping the middle class.

And as the playbook says, the media is watching what comes first.

The cynicism suggested in the revelation of this confidential memo will leave a sour taste in the mouths of most Americans and it should. It is time for the GOP to stop sugar coating their actions with rhetoric and bumper stickers and honestly explain to the American people what their aims are.

INTEREST RATES

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the effects of interest rate increases take time to show up in the economy. It was only 2 months ago that the Fed increased rates three-quarters of 1 percent and only 5 months since it raised rates by a half percent.

The Fed raised interest rates another half percent yesterday. It was the seventh increase since the beginning of 1994. The economy grew well in the fourth quarter of last year, but we are beginning to see signs of a slowdown.

Mr. Speaker, the Federal Reserve looks at the big picture, the nationwide, the worldwide picture, but ignores the little picture, our districts and our cities. Home builders will build fewer houses, realtors will sell fewer houses, car dealers will sell fewer new and used cars, and our constituents will be able to buy fewer of those cars.

This latest increase adds another economic burden to the people in my district in Houston as well as it does across the country. It means higher borrowing costs for consumers, higher costs for capital for small business and medium-sized businesses, and as the realtors have said, it puts the price of a down payment on a home out of the reach of many Americans.

It's time we started looking at the little picture.

PERSONAL RESPONSIBILITY ACT

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, soon we will debate the Personal Responsibility Act in the Republican contract. But let us be honest. It sounds more like the female punishment act. It spells out exact responsibilities and punishments for women on AFDC. But it lets fathers off the hook without even a mention. Many women and their children are on welfare only because the fathers do not support their children.

In my State in the last 6 months, 4,000 mothers escaped welfare because Massachusetts makes fathers support their children. We need to make child support enforcement part of welfare reform. Both mothers and fathers must be responsible for the support of children.

INTEREST RATES

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, as we learned yesterday, the Federal Reserve has raised short-term interest rates for the seventh time in 1 year. I feel that this move was a drastic error in fiscal management.

While this move may aid the wealthiest investors on Wall Street, it will place an undue burden on the average American, forcing many to postpone plans of purchasing a new car or a new home. This sharp decrease in spending, which will inevitably result from the increase, could drive the economy into a recession.

Today's Washington Post, reported: "Higher rates are beginning to affect one of the strongest parts of the economy during 1994, the making and selling of new cars and light trucks." The automotive aspect of our Nation's economy is critical and I do not think that it is prudent fiscal policy to place this market in jeopardy.

Mr. Speaker, the average American family was dealt a hard blow yesterday and I only hope that Mr. Greenspan knows something that I do not know.

STOP PLAYING GOD IN THE MARKETPLACE

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, good morning, I rise today to object to people playing God in the marketplace.

It is amazing to me that some of the economists who claim to be such free traders and such believers in the free marketplace would intervene in our economy a record seven times in the past year. They have consistently increased interest rates to the detriment of the American consumer.

Now, while I understand that some restraint and some interest rate increases are in fact necessary, it seems to me the Fed ought to at least wait and see the effect of this last interest rate increase.

I can tell you about the effect of their current rate increase: Variable rate mortgages will increase. The consumer will be harmed. Credit card balances will increase. The consumer will be harmed. Car purchases will become more expensive. The most thriving part of the American economy will be jeopardized.

Mr. Speaker, there are other considerations. We are down here talking about people ought to go to work. Well, the effect of the raise in the interest rates is that there will be less jobs for those on welfare and those we want to encourage to work.

We also say people ought to save more. There will be less saving because of the higher interest rates.

I wish people would stop playing God in the marketplace.

CHILD SUPPORT ENFORCEMENT

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, today it gives me pleasure to rise and voice my opinion on child support enforcement as it relates to the welfare reform.

Child support should be a centerpiece of any welfare reform measure which tends to assist welfare recipients in breaking the chain of poverty and entering into the work force.

In many instances child support could be preventive welfare support. If more noncustodial parents paid child support, some families could avoid welfare dependence altogether.

A comprehensive child support provision is essential to resolving the welfare crisis in this country.

Today almost 63 percent of absent parents contribute no child support to their children's welfare. All children have two parents. Therefore, we must require that both parents live up to their responsibilities and obligations. Ignoring child support enforcement would send the wrong message.

We would require young mothers to be responsible, while giving fathers a free ride; 1 in 4 children presently live in single-parent homes without strong child support enforcement. Many of these children will not have the support they need and deserve. We must do everything possible to rectify this terrible problem.

THE FEDERAL RESERVE DID IT AGAIN

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, well, they did it yesterday. The Federal Reserve secretly met to raise interest rates, and in so doing raised the cost of living for every American family.

Connecticut, my home State, has just emerged from the recession, and working people were just beginning to feel more confident again. But the Federal Reserve dashed those hopeful feelings, and they stole that sense of confidence from the people that I represent. The promise of an improving economy and all that means for working families in this Nation has been dashed by the Federal Reserve's action.

I meet with my constituents every Saturday morning at supermarkets all over my district, and on many occasions they have asked me to stand in their shoes, to understand their pain, feel their hurt.

Well, today I pass that advice on to Alan Greenspan and the Federal Reserve. Come out of the secret meetings, leave the hallowed boardrooms of Wall Street and visit the living rooms of West Haven and Hamden, CT. Take the challenge my constituents have given me. Walk in their shoes before you do this again.

LINE ITEM VETO ACT

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 55 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 55

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2) to give the President item veto authority over appropriation Acts and targeted tax benefits in revenue Acts. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed two hours, with one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform and Oversight and one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Rules. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committee on Government Reform and Oversight and the Committee on Rules, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. Points of order against the amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my respected friend and colleague, the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this historic 104th Congress has been in session for less than 1 calendar month, a period that in Congresses past saw little legislative progress; lots of talk maybe, but very little action unless you count travel. But with the brisk winds of change at our backs and the unmistakable call for fiscal discipline still ringing in our ears from the American people we work for, we are on our way toward fullfilling our Contract With America and were moving a lot faster than the other major event in this country, the O.J. Simpson trial. We have already passed an historic balanced budget amendment and landmark legislation to curb unfunded Federal mandates.

Today we draw the third side of this powerful triangle of reforms to restore fiscal sanity to this institution and to our Government. The line-item veto proposed in H.R. 2 is a real line-item veto, with the type of teeth many of us know are necessary to bring about greater fiscal discipline. It puts the emphasis on saving. It makes it harder to spend taxpayers' money. It increases accountability and it forces the White House and the Congress to work together on controlling the Federal budget.

□ 1030

It is fitting that we consider the line-item veto under a wide open rule and this is a wide open rule. This is a serious discussion about reining in Federal spending, restoring accountability to the congressional budget process, and balancing the powers of the executive and legislative branches of Government. This topic deserves the full benefit of the deliberative democratic process our Founding Fathers envisioned for this House. I am proud to offer my colleagues this wide open rule, one that allows any Member to be heard on issues of concern. I would also like to point out, Mr. Speaker, that we have not only created an open rule, an open rule-plus, but we have several days of time for this issue to be debated on the floor, on the Calendar, and brought to some kind of a resolution. We have, I think, compared to past attempts to discuss this issue, gone way over the edge in terms of scheduling latitude. We have 3 legislative days in front of us compared to really hours only in the past when we debated this issue. And I point out that in those legislative days we also have a weekend which is available for work if necessary.

At this point I understand we have 31 amendments out there which have been filed under the option of prefiling, and no doubt we will be hearing other amendments under the 5-minute rule because we do have one very important issue on policy and a whole lot of other issues on precedents.

This rule makes in order as base text for the purpose of amendment a substitute that reflects the combined, bipartisan work of the Committee on Government Reform and Oversight, Chairman CLINGER and the gentlewoman from Illinois, Mrs. COLLINS, and the fine work that they have been doing, and the Committee on Rules.

I was pleased to hear the ranking member of the Government Reform Committee, Mrs. COLLINS, express her appreciation to Chairman CLINGER for the fair treatment the minority received in his committee. I hope the minority members of the Rules Committee felt they too had a fair chance to be heard. The spirit of bipartisanship we have seen on this legislation—even as some clearly do disagree on how far a line-item veto should go—has been particularly refreshing and gives me great hope. In the course of the committee process, we consulted frequently with the Parliamentarian's Office for guidance about matters of germaneness, scope, and jurisdiction and given the technical nature of some provisions, even the experts were not always in agreement on some of the processes here. For that reason, this rule does include a precautionary waiver for clause 7 of rule XVI, which prohibits nongermane amendments. While this Member and our new committee leadership are generally hesitant to waive standing rules, because of the conflicting advice from the Parliamentarian's Office during the committee process, important language was included in H.R. 2 to give the President the option to propose that savings from his line-item veto be applied toward deficit reduction.

While this language may technically have been nongermane to the bill as written, I would think most Americans—and certainly most Members I hope—see the goal of cutting the deficit as highly germane to the subject of line-item veto. If we are going to take this step to give the President the authority to cut or reduce spending—or targeted tax benefits—we should also provide the option that the money be saved rather than spent elsewhere. The rule provides 2 hours of general debate, and then opens the bill to amendment under the 5-minute rule. We have included in this rule the encouragement for Members to have their amendments preprinted in the RECORD. This is not a requirement—but it is something all Members might want to consider doing. Even the distinguished Member from West Virginia [Mr. WISE], who has had much experience in this House, I am told found the need for a technical correction to an amendment he wishes to offer through this voluntary preprinting process. So it is beneficial it simply gives Members and the Parliamentary experts alike a chance to review the language, understand the implications, and run the traps on the technical pitfalls. In my view, this type of rule should be called an open-plus rule, because it offers Members a mechanism to better prepare themselves for the floor and the debate. This is a bonus to deliberative democracy, it is not a hindrance. I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from California [Mr. BEILENSON] is recognized for 30 minutes.

Mr. BEILENSON. Mr. Speaker, before I speak on the rule, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY].

(By unanimous consent, Mr. MONTGOMERY was allowed to proceed out of order.)

VA ACTIVATES HELP LINE FOR PERSIAN GULF VETERANS

Mr. MONTGOMERY. Mr. Speaker, I am pleased to announce that today the Department of Veterans Affairs is activating a toll free help line for the Persian Gulf veterans who are concerned about their health. The number is 1–800–PGW–VETS.

Mr. Speaker, this help line will be staffed from 7:30 in the morning until 8:30 at night. We also expect any day now the final regulations to be published which will guide the VA in paying compensation to Persian Gulf veterans with chronic disabilities due to "We cannot diagnose what the problem is."

So the veterans of the Persian Gulf who have problems with their health, there is now a toll free number and certainly they should call it.

This assistance is in addition to the priority health care VA already provides to Persian Gulf veterans and the comprehensive research that is being conducted to find the causes of these undiagnosed illnesses.

I take great pride in being the author of the legislation we passed last year, which President Clinton signed last November. We must do all we can to help our Persian Gulf veterans and all veterans who are sick or disabled.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida [Mr. GOSS] for yielding to me.

Mr. Speaker, although we have very serious concerns about the bill this rule makes in order, we do support the rule itself. It is an open rule, as the gentleman from Florida has well put it, so all Members will have the opportunity to offer any amendment which is in order under the standing rules of the House.

Mr. Speaker, because the rule provides for 2 hours of general debate, there will be ample time to discuss the ramifications of this legislation.

H.R. 2 is a very important piece of legislation, and we appreciate the fact that this rule will give the House the chance to fully air the problems many of us have with it, and to debate alternative versions and modifications.

However, I do want to restate for the membership the concerns that the gentleman from Massachusetts [Mr. MOAKLEY], and other Members and I raised about the preprinting provision in the rule at the Rules Committee meeting yesterday.

This provision allows the Chairman of the Committee of the Whole to give priority in recognition for the offering of amendments to Members who have had those amendments printed in the CONGRESSIONAL RECORD before today. Its purpose and a good one is to encourage Members to give notice of their intent to offer an amendment, without actually requiring them to do so.

A similar provision was included in the rule for H.R. 5, the Unfunded Mandate Reform Act. What we found during consideration of that bill is that the Chair tended to recognize the majority floor leader and manager over Members with preprinted amendments—and that is certainly within the Chair's discretion, but it caused some confusion among the membership.

In addition, Members offering amendments were not sure if they should proceed with amendments which were not preprinted if there were still other amendments pending which had been preprinted. And, there was some uncertainty about whether Members would be recognized at all if they had not had their amendments preprinted.

The priority recognition provision, I think, adds unnecessary confusion and complication to the amending process. It is not always going to be feasible to have an open rule, but if we are going to have what we call an open rule, we would much prefer having an old-fashioned, unfettered open rule.

I might add that we also hope that there is no effort at any point during consideration of H.R. 2 to limit debate time on any of the amendments Members wish to offer.

I know that that is the intention of our friends in the majority, but we express that hope nonetheless.

Mr. Chairman, I would like to take just a few moments to highlight the concerns that many of us have about the bill that this rule would make in order.

While we all agree that reducing Federal budget deficits is one of the most important tasks facing the Nation, and that Congress and the President should have the necessary tools to accomplish that task, many of us do not believe that H.R. 2, as reported from the Rules Committee and the Government Reform and Oversight Committee, deserves the support of the House.

Under H.R. 2, the President's proposed rescissions or targeted tax benefit repeals would automatically take effect unless the Congress specifically passes a resolution disapproving those proposals. Even if Congress overturned the President's action the President could then veto the disapproval which, in turn, would have to be overridden by two-thirds of both Houses of Congress.

Thus, the President would be empowered to cancel any spending or tax benefits with the support of only a minority of the Members of either House. A one-third plus one minority working with the President would thus control spending.

This procedure would result in a dramatic—and possibly unconstitutional—shift in responsibility and power from the legislative branch to the executive branch. This broad shift of power could easily lead to abuses. The President could target the rescissions against particular legislators, or against particular regions of the country, or against the judicial branch e.g. This power could be used to force the Congress to pay for a pet Presidential project, or to agree to a policy that is completely unrelated to budgetary matters.

Furthermore, we would be transferring this immense amount of power to the President with little reason to believe that it would have much of an effect on the Federal budget deficit.

This new line-item veto would be used primarily for discretionary spending—spending which is appropriated annually.

□ 1040

However, discretionary spending, as Members well know, which accounts for just over one-third of the Federal budget, is already the most tightly controlled type of spending. Discretionary spending is reviewed and approved each year, and is subject to strict spending caps. In fact, programs funded in this manner normally must go through two processes in Congress: authorization and appropriation.

Discretionary spending has been declining both as a percentage of the total Federal budget, and as a percentage of GDP, for the last several years. Additional controls on this area of the budget will not accomplish much, if anything, in the way of deficit reduction.

In fact, our efforts to institute additional mechanisms to control appropriated spending have distracted us from dealing with the area of the budget which has been growing at a rapid rate, and is far more in need of additional control than, of course, is entitlement programs. Programs comprising this type of spending do not require annual—or even periodic—approval, and are not subject to spending caps.

Providing new rescission authority for discretionary spending, but not for entitlements or other types of non-appropriated spending, will further distort the budget process so far as control of different types of spending is concerned. If our goal is truly to establish more safeguards against increases in spending, we ought to be looking at ways to establish more controls for the 63 or 64 percent of our spending that is not subject to the annual appropriations process.

In addition, discretionary spending is an area of the budget where Presidents have wanted more spending than Congress has approved. According to the Office of Management and Budget, from fiscal year 1982 to fiscal year 1993, Congress has appropriated $59 billion less than the Presidents during those 10 or 11 years. In addition, over the last 20 years, Congress has rescinded $20 billion more than the Presidents have requested in rescissions.

If those patterns continue, and the President is given greater leverage in the appropriations process. It is likely that he will or she will use the rescission process—the new line-item veto authority—as a threat to secure appropriations for programs that the President wants enacted, rather than to reduce total spending.

Mr. Speaker, the other type of spending H.R. 2 covers is targeted tax benefits. However, the bill's narrow definition of "targeted tax benefit" ensures that little will be achieved in the way of deficit reduction by that provision. The vast majority of tax breaks—worth hundreds of billions of dollars—would remain immune from the President's power to repeal. However, we can rectify that matter by expanding the definition of targeted tax benefit by adopting the amendment that will be offered by the gentlewoman from New York [Ms. SLAUGHTER] and the gentleman from Wisconsin [Mr. BARRETT]:

Most importantly, during consideration of this bill, we will have the opportunity to choose a different form of rescission—one that will be a very effective mechanism for making further reductions in spending, without providing for a dangerous and unwise transfer of power to the executive branch. That is the expedited rescission proposal that will be offered by Messrs. WISE, STENHOLM, and SPRATT.

The Wise-Stenholm-Spratt proposal would permit the President to propose to rescind all or part of any discretionary spending, or to repeal any targeted tax provision, passed by Congress. The critical difference between this proposal and H.R. 2 is that a rescission or repeal could only be enacted by approval of both Houses of Congress. Thus it maintains Congress' constitutionally mandated power of the purse, and avoids transferring an unwarranted amount of power to the President. At the appropriate time, I strongly urge Members to support this alternative to H.R. 2 as reported.

Mr. Speaker, once again, I want to express my support for this open rule, and urge my colleagues to support it.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, the previous speaker, who I have great respect for, a good friend, has inferred that this line item veto only affects one-third of the Federal budget; in other words, discretionary spending. He is right, one-third of the Federal budget, and how much is that? It is not just $500,000. It is not just $5 million. It is $500 billion; that is one-third of the Federal budget. Where I come from, as my colleagues know, that is a heck of a lot money.

The gentleman from California [Mr. BEILENSON] is somewhat critical of a preprinting suggestion, and yet a very prominent Democrat from his side of the aisle filed an amendment so that he would have priority in offering his amendment. Lo and behold, the Parliamentarian found a flaw in that amendment, and it is a very significant amendment which should be debated on the floor, but because of preprinting he was able to correct the flaw and prefile another amendment. So it benefited him, a Democrat from the gentleman's side of the aisle, and that is the reason we did this.

Now let me just get back to the bill for a minute. As my colleagues know, Mr. Speaker, this is just one of the proudest days of my life since this is the first time this House has ever considered a reported bill on the line item veto. Oh, we have had plenty of votes before on this proposal, but always as an amendment to another approach, a watered-down version which always was opposed by the majority leadership. In other words, in the past the leadership on the Democrat side has always put forth a bill which was a watered-down version, and that meant that those of us that believe in a real line item veto then had to fight to offer an amendment to strengthen it. And I say, "That puts you at a tremendous disadvantage."

This time we do not have that problem. Now the real line item veto is on the table, and it is up to those in opposition, the big spenders, to try to water it down. But we are not going to let that happen.

I am proud to say that this bill has been properly reported by two committees of this House, one of which I have the privilege of chairing. Moreover, it has the full support of the majority leadership. In fact, this is one of the major promises made in our Contract With America which was authored by our current majority leadership, the Speaker and the majority leader. And I am sure the American people are pleased to see that we are keeping our promises in that contract, especially on this line item veto bill which has always enjoyed the support of 70 percent of the American people, 70 percent.

I am also pleased that we were able to bring this to this floor under a completely open rule allowing all Members, be they Democrats or Republicans, be they liberals or conservatives; they are going to have the opportunity to participate and work their will on the floor of this House, and that is the way it should be.

This bill does enjoy bipartisan support in this Congress and by the administration. One of the leaders on the Democrat side of the aisle, the gentleman from Mississippi [Mr. PARKER], has fought long and hard to have a real line item veto enacted into law.

We have already seen the deliberative process at work in the two committees of jurisdiction. Amendments have been offered and adopted to strengthen and improve this bill, and I am sure that will continue to happen on this floor. That is what deliberative democracy is all about.

Mr. Speaker, a few years ago, when we first started pushing for the legislative line item veto, there were a few doubting Democrats who said,

> Solomon, it's easy for you to support the line item veto when your party controls the White House, but we bet you you won't be so gung ho for it if we have a Democrat President.

Well, here we are. We get a Democratic President, and here is SOLOMON up here fighting for the same line item veto for that Democrat President. I think this is something that a chief executive in government, regardless of political party, should have, just as 43 Governors of States have it, one of them being Governor Tommy Thompson of Wisconsin who has done a tremendous job of putting that State's fiscal house in order. In New York State we now have a Republican Governor, and he is now going to have that opportunity which was never exercised by a former Governor named Mario Cuomo, who left a $4 billion deficit in that State. But, Mr. Speaker, more than just saying that, I proved it by offering this true line item veto twice in the last two Congresses under Mr. Clinton's presidency. I only wish Mr. Clinton had supported me then as he is doing here today. We only lost that vote by a few votes both of those times; seven votes the last time, and it is going to be different this year.

I remember my hero, Ronald Reagan, pushing for the line-item veto for 8 straight years and getting absolutely nowhere. Back in 1986, in an address to the Nation President Reagan said, and I quote:

> No other single piece of legislation would so quickly and effectively put order back into our budget process. All that it would mean is that the President could selectively sign or veto individual spending items so that he wouldn't have to take the fat along with the meat.

□ 1050

No, the line-item veto is not a meat ax, as some would have us believe. Instead, it is a precision knife for doing just what President Reagan said it would do—separate the fat from the meat.

That is why the American people support this overwhelmingly, because they are fed up with pork-barrel spending by this Congress.

Mr. Speaker, I am not under any delusion that this is some kind of a panacea for deficit reduction. It is not. But it can make a significant difference in our spending habits and our deficit situation. And gosh knows, we need it. I think one of the greatest benefits will be the deterrent effect by discouraging us from slipping pork into our appropriation bills in the first place.

I understand the concerns of those who feel the line-item veto shifts too much authority to the President, and that it might somehow be abused or used for partisan or political purposes. I just happen to disagree with both of those arguments. I guess I have enough confidence in any President, regardless of political party, to use this new tool selectively and judiciously. No President in his right mind would want to create a major confrontation with the entire Congress by grossly abusing this authority. Even if a President were tempted to overstep the bounds of propriety, he would surely realize Congress would find ways to retaliate. And we know we can do that. It would be a no-win situation for any President.

In conclusion, Mr. Speaker, I urge the Members to support this completely open rule for the line-item veto that it makes in order. We have an historic opportunity this week to really do something for the American people. If we pass this and it becomes a statute, a law, coupled with the balanced budget amendment, we are going to turn around this sea of red ink which is literally ruining this country. For your children and my grandchildren alike, we have got to do something about it.

Mr. Speaker, I ask the Members to please support this rule.

Mr. BEILENSON. Mr. Speaker, we have always known that our friend, the gentleman from New York [Mr. SOLOMON], was a man of principle and integrity. He has proved it again by supporting this bill to give a Democratic President this kind of power.

For purposes of debate only, Mr. Speaker, I yield 3 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I thank my colleague, the gentleman from California [Mr. BEILENSON], for yielding this time to me.

Mr. Speaker, like my colleagues on both sides of the aisle, I rise in support of this wide open rule on the line-item veto.

I want the Speaker to note that this rule for the line-item veto is wide open today. And I bet it will be wide open tomorrow. But on Monday, it is anybody's guess. The distinguished chairman of the Rules Committee has said that the rule will stay open unless he decides to close it. That is what worries me.

A bill that is open 2 days and closed on the third is not an open rule. A rule that does not allow Members of Congress to make amendments to a bill is closed.

Mr. Speaker, in addition to being wide open, today's rule on the line-item veto contains an interesting condition that we have seen once before. It suggests—but does not require—preprinted amendments in the CONGRESSIONAL RECORD.

Mr. Speaker, I have been a Member of this House for only one term and this is my third year, but I can tell you right now we do not need a rule to tell Members they can print amendments in the RECORD. The rules of the House take care of that for us. We only need a rule if they must print amendments in the RECORD.

I have been told this is for convenience sake but it is unnecessary.

And, in addition to being unnecessary, the preprint-if-you-want condition is confusing.

During debate on the unfunded mandates bill, which also had a preprint-if-you-want condition, the Chair recognized the majority floor manager before it recognized Members who had their amendments preprinted.

So, if preprinting does not get you recognized any earlier, and if this is truly a wide open rule, I would like to suggest to the Republicans that we dispense with this condition and do an open rule the way they used to define them.

But, even if we do not, a strange open rule is better than no open rule, and I support the open rule.

Mr. SOLOMON. Mr. Speaker, will my friend, the gentlewoman from North Carolina, yield?

Mrs. CLAYTON. Yes, I am glad to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just say this to the gentlewoman: She said that the chairman of the Rules Committee, that being me, has said he will close down this rule. That is not true.

The gentlewoman should understand that on an open rule, only by a majority action of the House could we close down this rule, and I think that is the fair way to go about it. That is why we in the Rules Committee put out an open rule, and now, if there are dilatory tactics or stalling tactics—and I do not think there will be; I have looked at the amendments, and I have a lot of faith in the other side of the aisle that they are going to be sincere about it—but should that happen and should it be necessary to close down the debate, it would take an action by this House, not by me saying so, but by a majority of the Members of the House. I just wanted to point that out to the gentlewoman.

Mrs. CLAYTON. Mr. Speaker, there is a slight difference, but with the gentleman's leadership, I gather. Is that what the gentleman is saying?

Mr. GOSS. Mr. Speaker, may I inquire as to how much time remains on either side?

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Florida [Mr. GOSS] has 17 minutes remaining, and the gentleman from California [Mr. BEILENSON] has 19 minutes remaining.

The Chair recognizes the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I yield 2 minutes to our colleague, the distinguished gentlewoman from Ohio [Ms. PRYCE], a valued member of the Committee on Rules.

Ms. PRYCE. Mr. Speaker, I thank the gentleman from Florida [Mr. GOSS].

Mr. Speaker, another important plank in the Republican Contract With America, the line-item veto, comes to the floor of the House today under a wide open rule, allowing any Member of this body to offer a germane amendment.

This is the third contract item to hit the floor since the 104th Congress began just 4 weeks ago, following on the heels of the balanced budget amendment and the Unfunded Mandate Reform Act.

As in the case of the mandate relief bill, this open rule gives priority recognition to Members who have published their amendments in the CONGRESSIONAL RECORD. I would emphasize that this is not a preprinting requirement. As has been mentioned already, printing of amendments in the RECORD is purely optional. Members who do not preprint amendments will not be prohibited from offering their proposals, but many of us who serve on the Rules Committee encourage Members to exercise this option in the future, not only to receive priority recognition but, more importantly, to inform our colleagues in advance of amendments that are likely to be offered so that we can reduce time-consuming discussion on overlapping amendments and have more meaningful informed debate. With all due respect to my friend, the gentlewoman from North Carolina, this makes an overall better legislative process.

Supporting this rule, Mr. Speaker, will mean full debate on bipartisan legislation specifically designed to help restore fiscal discipline to the budget process.

H.R. 2 will help Congress and the executive branch identify and remove unnecessary and wasteful spending without unduly tying the hands of either branch of Government. Of all the issues raised during the most recent elections, I believe the American people were most concerned about Federal spending and the need to avoid saddling future generations of Americans with an increasingly large debt burden.

Last week we passed a constitutional balanced budget amendment to respond to those concerns. Today under this open process we will consider adding yet another weapon in the fight against wasteful government spending.

Public opinion strongly supports the line-item veto. Forty-three of the Nation's Governors hold the line-item veto, and just last week President Clinton stood in this very Chamber and asked the Congress to give him that authority.

Mr. Speaker, I urge my colleagues to support this rule.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the distinguished gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I support this open rule for H.R. 2, but I oppose the bill. At the outset I would like to address a point raised at our committee markup. The statement was made that the line-item veto is a bipartisan issue. That is true. The President, like his Republican predecessors, supports it. Republican and Democratic Members supported it in various forms.

Even so, I do not believe we should decide this issue on the basis of which party is in control of the Congress or the White House. I have consistently opposed this proposal regardless of which party controlled the White House.

The approximately 600,000 constituents of the Seventh District of Illinois, which I represent, expect their elected Representative to do the job to which I was elected. The power of the purse is granted to the Congress, not the President.

Currently, the President can veto legislation, but the Congress can override. This legislation turns the Constitution on its head. It effectively lets the President write the legislation. Under the procedures of this bill, a Presidential rescission is effective, unless Congress passes a resolution to override. That resolution is subject to a veto, which requires two-thirds of Congress to override. Thus, just one-third plus one of the Congress would have the power to uphold a rescission. This allows spending decisions by the minority. For this reason, I have strong doubts of the bill's constitutionality.

What is particularly troublesome is that if we guess wrong, and regret this ceding of power to the President, it will probably be impossible to ever reverse our decision. A Presidential veto would be certain.

On this point, I would note that in testimony before the Senate Judiciary Committee last week, Assistant Attorney General Walter Dellenger challenged the constitutionality of H.R. 2. Let me read briefly from his statement in which he refers to the authority H.R. 2 gives the President over targeted tax benefits.

> It does so by purporting to authorize the President to "veto" targeted tax benefits after they become law, thus resulting in their repeal * * * The use of the term "veto" and "repeal" is constitutionally problematic. Article I, clause 7 of the Constitution provides that the President only can exercise his "veto" power before a provision becomes law. As for the word "repeal", it suggest that the President is being given authorization to change existing law on his own. This arguably would violate the plain textual provisions of Article I, clause 7 of the Constitution, governing the manner in which federal laws are to be made and altered.

We have an alternative to this bill that will be offered as a substitute by Congressman WISE, Congressman SPRATT, and Congressman STENHOLM. The substitute would require Congress to vote on a Presidential rescission request.

The Wise-Spratt-Stenholm substitute is on far sounder constitutional grounds than the provisions of H.R. 2. The substitute does not tamper with the constitutional authority of Congress to tax and appropriate revenues. If Congress does not approve the President's rescission, the rescission would not take effect.

I strongly urge Members to support this amendment. It makes it possible for Congress to carry out its responsibilities under the Constitution.

□ 1100

Mr. GOSS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CAMP].

(By unanimous consent, Mr. CAMP was allowed to proceed out of order.)

U.S. TERM LIMITS ORGANIZATION RUNNING NEGATIVE ATTACK ADS

Mr. CAMP. Mr. Speaker, I stand here disgusted. Since being elected to Congress I have supported term limits. When this body votes on term limit legislation in the weeks ahead, I will be a vocal proponent of any legislation that limits terms. My record is clear, consistent, and unwavering.

Today, at the threshold of finally passing term limit legislation, a certain organization called U.S. Term Limits, perhaps because they now face obscurity if this body passes term limits, has chosen to run negative and misleading television attack ads against me and other term limit supporters.

This organization, which has been subject to allegations of fraudulent petition gathering, is not aiming their guns at opponents of term limits, but instead waging a war against their supporters.

Mr. Speaker, it pains me to realize that this organization, which has been parading as supporting term limits, is nothing but a guardian of the status quo and committed to business as usual. They have stated publicly they will oppose 12-year term limit legislation that comes to the House floor for final passage. I guess their jobs are more important than their goal.

Ms. PRYCE. Mr. Speaker will the gentleman yield?

Mr. CAMP. I yield to the gentlewoman from Ohio.

Ms. PRYCE. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Michigan and congratulate him on his strong statement.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished vice chairman of the Committee on Rules, the gentleman from greater San Dimas, CA [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I thank my friend from Sanibel for yielding me this time so generously, the distinguished chairman of the Legislative Process Subcommittee.

Mr. Speaker, needless to say, like all of us I rise in support of this very, very open rule.

I heard from the other side a Member state that we needed to have an old-fashioned, unfettered rule. Well, the fact of the matter is, Mr. Speaker, nothing could be more unfettered than providing the option for Members to in fact put their ideas in the CONGRESSIONAL RECORD, and then allow possibly second-degree amendments to come forward, as we did yesterday with the Dreier-Moakley compromise when we were dealing with the unfunded mandates legislation.

This clearly is the kind of example of a rule that will allow Members to participate and involve themselves in the process, even before we come to the floor with legislation.

I believe that this can also be an example for a bipartisan spirit, which is going to be very important for us in the Committee on Rules to proceed with. It is a new day. As the gentleman from Florida [Mr. GOSS] said, we are just at the end of the first month of the 104th Congress, and we have had some tremendous legislative accomplishments. And I believe that moving ahead with item-veto authority for the President of the United States is another very clear and strong example of that. Doing it under a wide-open amendment process is a very good thing, not only for this institution, but for the country.

Many people have been saying to me over the past several days, as there was a high level of frustration during the open amendment process on the unfunded mandates legislation, that we should simply ram through our proposals, as though no one cares whether or not it is done under an open amendment process.

I will acknowledge the work that goes on up on the third floor does not often go recognized, but I believe we can in fact proceed with an open process for debate on a wide range of legislation, and this is just one example of that.

Mr. BEILENSON. Mr. Speaker, we have no further requests for time at this time, and I reserve the balance of our time.

Mr. GOSS. Mr. Speaker, it is my pleasure to yield 2½ minutes to the distinguished gentlewoman from Utah [Mrs. WALDHOLTZ], a new member of the committee.

Mrs. WALDHOLTZ. Mr. Speaker, as a cosponsor of H.R. 2, I rise in strong support of this open rule and of this legislation.

The line-item veto is a proven success. The Governors of 43 States have some form of line-item veto authority, including Mike Leavitt in my home State of Utah.

This Nation needs the same kind of benefits that Utahans enjoy. We need to stop the kind of spending that benefits the favored few at the expense of the average taxpayer. For more than two decades, Americans have strongly supported a line-item veto. It is time that we listen to the people and enact this legislation.

Now, this is not a partisan issue. I think it is important to note that at a time when we have a Democrat in the White House, it is a Republican-controlled Congress that will finally give the President a line-item veto.

This issue transcends party lines simply because it is not a party issue. It is a people issue. For too long Congress has failed to bring spending under control and in doing so it has failed the American people. Time and again Congress manages to circumvent the few budgetary restraints it sets for itself, and the people are fed up. They are tired of picking up the tab for unjustified spending.

Some have said this alters the balance of power between the executive and the legislative branches. But this line-item veto does not allow the President to substitute his spending priorities for Congress. The President cannot spend more money, and he cannot use the funds he cuts to fund other programs he would like to spend the money on. He can only help us save taxpayers' money.

As we struggle to balance the budget and work to control excessive spending of the last few decades, it is crucial that we have every fiscal tool at our disposal, and the line-item veto is one of those tools.

Let me take a moment to commend my colleague, the gentleman from Florida [Mr. GOSS] for the work he did in committee on this bill. As originally drafted, H.R. 2 did not contain a mechanism with an established time frame to ensure that a disapproval bill could actually make it to the House floor for a vote. This concern was raised by both sides of the aisle, and the gentleman successfully drafted language that addresses this concern.

Congress has repeatedly shown itself unwilling and unable to control spending, pork-barrel spending. The line-item veto is a step in the right direction, to eliminate unnecessary and wasteful government spending.

Mr. Speaker, I urge my colleagues to support this rule and the line-item veto.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I wish to commend the gentleman from California and also the gentleman from New York and the other gentleman from the Committee on Rules for giving us an open rule on this very important piece of legislation.

As one who has supported a line-item veto for many years, I am not a Johnny-come-lately, and many of us are not, we who have worked on this legislation. But some of us who have been students of history, and love our Constitution and believe in a balance of power between the executive branch, the legislative branch, and the judicial branch, do not feel that we should give to the executive branch an inordinate amount of power as far as spending priorities are concerned, and that is basically what the base bill by the Republican Party does.

It gives to whoever is in that executive branch—and I have a Democratic President at this time, and I strongly object to giving our President, whether he be Democrat or Republican, that power—that power over the purse that I think distorts what our Founding Fathers did in our Constitution.

☐ 1110

Our Founding Fathers gave us a procedure, gave us the way to keep the balance of power between the three branches of Government. This line-item veto, as proposed in the base bill, would give the President of the United States, one person, one-third of the House or one-third of the Senate plus one, one of each, either one, the power, the power over the purse strings in setting priorities of this Congress.

All I ask anybody to do is to go back a few years to the 1980's. We have heard on this floor before, in 1 minutes and others, talk about the Reagan years and how great the Reagan years and how this revolution was started in the Reagan years.

I want every one of my colleagues to go back and look at the Reagan budgets submitted by that President and the spending priorities in those budgets. I would not have very many people anymore in my district in rural Missouri. I would not have towns that now have running water, now have sewer systems. I would not have a lot of children who have got an education at the University of Missouri or Kirksville or in Marysville or any of these other places because, if we look at those budgets, we would have found that that President's spending priorities, those spending priorities of that President were to eliminate or drastically cut many of the programs that were beneficial.

They are not pork. But he could have very easily have zeroed them out, after we appropriated them, because we decided in the Congress, no, we are not going to do that. We are not going to relegate many of our youngsters to a high school education and that is all. We are not going to tell the American public that they do not need good clean water to drink, that they can continue to do like their forefathers do and haul it in because they do not need running water; they do not need a water tower and a water system, they do not need that. We cannot spend our money for that.

Those were the priorities, if Members will look at that budget, they will find those priorities.

That is what scared some of us to death, when they started talking about giving that President that one President, any President, and one-third of the House or one-third of the Senate plus one the power over the purse.

For that reason, I strongly object and will oppose and will strongly vote against the proposal for the line-item veto on that side.

However, on the other side, I will strongly support, strongly support the Wise-Stenholm-Spratt provision that says a majority, a majority decides along with the President.

I believe in majority rule. I believe this country was based and had been based on 200 years on majority rule. And, therefore, I appreciate the Committee on Rules permitting us to offer the Spratt-Stenholm-Wise provision that I think would continue the balance of power between the executive and the legislative and the judicial branches.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Colorado [Mr. McINNIS], also a member of the Committee on Rules. We are glad to have the gentleman aboard.

Mr. McINNIS. Mr. Speaker, I also express appreciation to the gentleman from Florida for allowing me to speak this morning for a couple of minutes.

First of all, this is exciting. This is very refreshing. We have got a rule now that is going to allow us to discuss for 3 days the line-item veto. Last year I can remember what we got allowed to us by the other side, a total of 3 hours. We get 3 days now. That is the difference. That is the beauty of this rule. So I commend the chairman of the Committee on Rules, and I commend the committee on both sides of the aisle for allowing this kind of rule so that we can have the discussions that are necessary.

Second of all, let us talk about the merits of the line-item veto. Take a look at the defense budget. No President in the history of this country has been allowed, because of the defense necessary for this country, to veto the defense budget. So what happens, that is the obvious place to put in pork, to tuck it away. The Congressional Research Service estimates that $50 billion worth of nondefense-related appropriations have been stuffed into the defense budget because no President would dare veto that appropriation. Now with the line-item veto, that game is over, folks.

Let us give it to the President, whether the President is Democrat or Republican, let us stop the games. Let us get into budget management.

Finally, in regards to the comment that this is not a balance of power when we allow the President to have a line-item veto, as the Republican bill does. Of course, it is a balance of power. The veto is a basic part of our Constitution. It is a basic part of the procedure. And there is a balance in there in that it can be overridden with two thirds. It is not different than any other veto.

I strongly support the Republican version. Again, I commend the chairman of the Committee on Rules for allowing us 3 days of debate on the line-item veto. No more "three hours and you're out."

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I oppose the line-item veto. Very simple, the presidency has become so powerful that the President can bail out Mexico and Congress does not even question it. From what I understand, the congressional leaders on both sides of the aisle nodded their heads and said, go ahead, Mr. President, under some sort of executive authority that you may have, go ahead and enact a program that 80 percent of the American people oppose and could not pass through the Congress.

Now, I am not knocking President Clinton. I am talking about the presidency and the separation of powers, legitimate separation of powers.

I have seen over the years the Congress of the United States, their authority usurped by Presidents who are making decisions, clearly within the constitutional province of the people to a duly elected Congress, and the Congress has not challenged it.

I believe on the eve here, in the wake of this Mexican bailout, that the Congress of the United States should go to court and attempt to enjoin this White House from proceeding and get a determination in the courts as to whether or not the people rule in America or the White House becomes the autocratic ruler around here.

And I would not be the one making this statement. That should be coming from the Speaker and the leaders of the Congress who passively turned their backs.

Now, I want to talk business about line-item veto. I want my colleagues to imagine this little political science scenario: 1993 budget of President Clinton, I was one of the 40-plus Democrats to oppose that budget. I disagreed with the raising of taxes with no accompanying move to mitigate our trade problems and our bankruptcy. And I stood strong in meetings at the White House, and the President and I had a very good exchange in the cabinet room about it.

When it came to the floor, I spoke out against that budget. I did not know that I would be the only Democrat who would have spoken out. I guess Democrats bit their tongue. And while some of them may laugh about this, while Democrats bit their tongue, Republicans are the majority.

I want Members to imagine a meeting with the line-item veto authority in the cabinet room. The President says to the Vice President, "AL, I see where TRAFICANT got an expansion for x-ray equipment for that veterans outpatient clinic."

"Yes sir, Mr. President. Look, I am not going to take his side, but his constituents have to drive to Cleveland for an x-ray."

"AL, I see where there's five bridges in that highway bill."

"Mr. President, those bridges are condemned that community has so many problems."

"AL, I see where there is some expansion at that air base and there are cuts all around America."

"Mr. President, that's cost-effective. They have the greatest airport in the country, and they have no passengers because of the near proximity of Cleveland and Pittsburgh."

□ 1120

"AL, let me ask you something. Maybe it's time that we get a reckoning here, AL. Maybe it's time we get TRAFICANT's attention. TRAFICANT wants that bridge. You tell him next year we'll talk a little better on that tax vote.

"His people need those veteran outpatient services, I can understand it, but you tell TRAFICANT, we'll talk about them next year after that vote on Mexico.

"And then you let TRAFICANT go through the Congress where he's going to protect everybody else's bridges and try and override that, AL."

I am not saying the President is going to do that, but you, Congress, will empower the President to have a meeting just like that in the dark rooms of the White House.

I am opposed to transferring any more of the people's power to the presidency. Nothing to do with Bill Clinton. You are not transferring power, Congress. You are transferring the power of the people. In American the people are supposed to govern. Where did we change that?

We have evolved to a situation where the agencies of the government pass regulations that waive the Constitution. Look at the IRS. Now it has gotten to the point where a President realizing he cannot pass a piece of legislation that he supports, namely a bill out of Mexico, sidesteps the Congress and in fact says, "For the betterment of America, I'm going to go beyond the authority of the people's Congress and enact this."

The Republican majority wants to empower the President to be able to reach into the people's budget and strike out issues called line item to stop pork.

In closing, let me say this. One of George Bush's last budgets, he asked for a balanced budget amendment to the Constitution and a line-item veto, and I am not putting President Bush down, but while he asked for a line-item veto to stop pork and he asked for a balanced budget amendment—that evidently does not work in D.C., I might add—George Bush asked for a record amount of new spending without revenue, $322 billion.

George Bush is not here any longer. I do not want to give Franklin Delano Roosevelt, if I were in those days, Harry Truman, John Kennedy, Richard Nixon, Gerald Ford, George Bush, Ronald Reagan, Jimmy Carter, Bill Clinton or whomever any more power. They execute the laws of the people.

They administer the government of the people and, damn it, we run it. Act like it.

I oppose this line-item veto and ask our party on this side to force the Republican majority to transfer the power to the American people.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from the Commonwealth of Massachusetts [Mr. BLUTE], who is a major sponsor and has done yeoman's work on this legislation.

Mr. BLUTE. Mr. Speaker, I rise today to support this open rule which will provide for extended debate in this House on the line-item veto, longer than it has ever been debated before.

In the 102d Congress, the total time the House devoted to debate was 40 minutes. In the 103d Congress, the House only debated for 4½ hours in the first session and only 3 hours and 10 minutes in the second session for such an important issue.

I commend the gentleman from New York [Mr. SOLOMON], the chairman and the entire Committee on Rules for giving us a rule which not only gives the House extended debate but also allows the consideration of all amendments by Members of this body.

I hope that the Members vote in favor of this open rule so that we can get on with this debate on the real line-item veto. I urge Members to support the Clinger bill.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, I also support the rule and will be supporting line-item veto authority for the President. I come from Wisconsin. It has been in our Constitution for years. Even though the current Governor is now abusing that power, I think it is one which Governors should have and Presidents should have. But I am a little concerned over this rule.

I am told it is an open rule, but it is an open rule if, and the "if" is, if we do not finish by Monday night and wrap this and give it as a birthday present to President Reagan, then we are going to close it. I am saying that is kind of phony symbolism. I do not know. We could be done before Monday or early Monday on this proposition, but what I am told and what the rumor mill around here is that it is open but we cannot go past Monday night because then we go past President Reagan's birthday.

I am saying if in fact that is how we are going to legislate with that type of phony symbolism, then what bill do we pass on President Ford's wedding anniversary? Have you selected that yet? And if amendments are pending, do we have to stop talking?

How about President Nixon's confirmation date? I am assuming there is some legislation that has been pegged to hit on that date and not an hour later.

I will support the rule but I will be very, very interested to watch the majority on Monday once we start getting into the evening hours and at that point watch them close this process up, because this has to be wrapped and sent to California—for President Reagan's birthday?

That is the same type of symbolism we had last night with these three rules, on three noncontroversial bills. So the Committee on Rules, to up their batting average, put out three open rules on three bills which needed no rule, they put the taxpayers through the expense of not only drafting but printing up the rules.

I checked back here where the rules are left for the Members' edification and was told that they were thrown away. I wish I was here on the floor last night to grab that garbage bag so I could bring it here and say, "This is the phony symbolism, American taxpayers, that we're going through."

We have to pass legislation on Presidents' birthdays, we have to do rules which are not necessary to up the majority's batting average, and what happens? It is wasted because they are thrown in the garbage.

Mr. GOSS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from New York [Mr. SOLOMON], the chairman of the committee.

Mr. SOLOMON. I will try not to use the whole minute and a half.

Mr. Speaker, let me just say to the gentleman from Wisconsin, he ought to be careful about using terms like "phony symbolism." I think people on both sides are sincere in this body.

Let me just say this. This is not just a birthday present for Ronald Reagan. It is a birthday present for the American people. They want this and they want it badly.

Second, we have got a contract to abide by. We have had as little as 40 minutes debate on this subject in the past. Last year, just 3 hours and 10 minutes. This time it is going to be 3 days. I do not think we should be criticized for that. I think that is being more than open and fair.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. NETHERCUTT].

Mr. NETHERCUTT. Mr. Speaker, I thank the gentleman from Florida for yielding me the time.

Mr. Speaker, I rise today in strong support of the rule to accompany H.R. 2, the Line-Item Veto Act.

Today, we take up the third plank of the Contract With America, having passed overwhelmingly the balanced budget amendment and a bill to curb Federal unfunded mandates. The American people elected a Republican Congress last November so that we could bring to open debate the many pieces of legislation that have wide popular support, such as the provisions of the Contract With America. The people are eager to move quickly on this legislation and I hope that we will not have numerous, dilatory amendments offered on this bill.

For too long, a spendthrift Congress has squandered, without restraint, the tax dollars of the American people on wasteful programs. Congress has shown an institutional inability to control its runaway spending habits. Therefore, the time has come to make the President a full partner in the quest for rationality and sensibility in the budget process.

History will record that the passage of the line-item veto will be the most significant achievement of these historic 100 days. It is a tribute to the leadership of this House that we will, today, take up this legislation under an open rule and I commend the Speaker, Chairman SOLOMON and Chairman CLINGER for the work they have done to bring this bill to the floor. In preceding Congresses, this bill would have never seen the light of day and certainly not under a rule allowing everyone on both sides of the aisle with an interest in the bill to offer an amendment.

In the past, Congress has sent the President bloated, omnibus legislation filled with questionable spending items that would be impossible to justify on their own. We need to give the President the authority to delete these items to act as a check in the classical constitutional system of checks and balances on the past tendency of Congress to bankrupt our future.

The people of the Fifth District of Washington are in strong support of this cost-cutting measure and I strongly urge my colleagues to unanimously support this rule and this legislation.

□ 1130

Mr. GOSS. Mr. Speaker, I am privileged to yield 2 minutes to the distinguished gentleman from Georgia [Mr. LINDER], a member of the Committee on Rules and the Subcommittee on Legislation. We are proud to have him.

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to begin by expressing my support for House Resolution 55, an open rule which allows for thorough consideration of H.R. 2, the Line-Item Veto Act. I am a cosponsor of H.R. 2 and I strongly support this fiscally responsible piece of legislation, but I am pleased that all Members will have the opportunity to debate a significant number of alternatives on the House floor in coming days.

While I agree that, by itself, the line-item veto does not provide a silver bullet to end all wasteful Federal spending. I am confident that, with a cooperative congressional-Presidential effort to cut spending, we will be able to remove much of the wasteful spending that so offends the American people.

I want to congratulate the gentleman from Florida [Mr. GOSS] for his hard work in crafting the language that establishes the expedited procedures which set forth a specific timetable for congressional action in responding to a President's line-item veto message.

Mr. Speaker, H.R. 2 was favorably reported from both Government Reform and Oversight and the Rules Committee, and this open rule received unanimous support by the Rules Committee members. The rule allows any Member the opportunity to perfect the line-item veto, and I urge my colleagues to adopt the rule.

Mr. BEILENSON. Mr. Speaker, if I do not have a chance to reclaim any of my time, let me again urge my colleagues to vote for this open rule.

Mr. Speaker, for purposes of debate only, I yield 1 minute to the distinguished gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time. I simply rise to commend the Committee on Rules for passing out an open rule and urge support of the rule.

I think this is really the test of an open rule, and that is when we have tough issues. We saw an open rule under unfunded mandates. Yes, there were many amendments, but there were many issues drawn and Members got a chance to express themselves and cross-examine Members on both sides of the aisle. I hope we do that again as on unfunded mandates, and I want to compliment the Committee on Rules for preserving this debate. Next to our voting card our constituents give us, the right of free debate and the ability to cross-examine one another on issues is one of the most important privileges we have in this House.

We should not get too caught up in the 100 days. Otherwise, the 100 days could end up looking like George Bush's golf game. He played really fast, but it was not really a good game.

I hope we can preserve open rules so we have free and open debate that is subject to cross-examination on the basic ideas about the direction of this Government. Again I want to thank the Committee on Rules on preserving an open rule on this measure.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida [Mr. DIAZ-BALART], a distinguished member of the Committee on Rules.

Mr. DIAZ-BALART. Mr. Speaker, I am very pleased that the last two distinguished colleagues from the other side of the aisle who spoke thanked the majority on the Committee on Rules for issuing an open rule, especially after there had been so much confusion brought forth previously with regard to, and with much imagination, I might add, imagination with regard to the fact, for example, yesterday a number of bills were brought to the floor with open rules; in other words, with the ability of any Member to present any amendment that any Member wishes to, and yet, with a lot of imagination, objection was made to that. It was said, "Well, you should not do that. You should waive the rules," and put it on something called the suspension calendar or something.

And there was imagination used today on this floor, with good faith I am sure, that this open rule was maybe not an open rule, it was something else because we want to give notice to colleagues here on the floor by urging, by encouraging Members who are going to present an amendment to notify Members beforehand by publishing them beforehand that they plan to introduce an amendment, not requiring, but giving incentive, giving encouragement to Members to provide our colleagues with notification.

So again I am glad that the two last distinguished Members thanked the majority, Chairman SOLOMON and the majority of the Committee on Rules for permitting—and this is important, this is procedural, but it is important—any Member of this Congress to bring forth any amendment with regard to this very important measure, which is the line-item veto.

It is something that was almost extraordinarily, extraordinarily I would say, but not unheard of, but extraordinarily unique in previous Congresses. This time the Members representing their constituents can bring forth any amendments, even on as important a measure as this, any amendments that they wish.

This is serious business that we are doing today. There is no doubt. I am one of those who is of the belief that our constitutional Presidency in the United States is not only a strong Presidency, it could be categorized as an imperial Presidency. We have a Presidency where the President can send troops to die in any foreign country, can even pledge billions and billions of dollars from the U.S. Treasury, with the full faith and credit of the American people, to foreign countries unilaterally. So talking about a strong Presidency, it is a strong Presidency.

Nevertheless, Mr. Speaker, we need every—albeit in this case small weapon, the line-item veto for the task at hand—every weapon available for the task at hand during the next 5 to 7 years, and that is to balance the Federal budget. It is not going to be easy. It is going to be extraordinarily difficult, in fact. But this is one very necessary, I believe, weapon, and it has been seen in State after State of our Union that it is useful to the chief executives, and I am sure it will be useful to the Chief Executive of either party, of both parties in the United States in helping us balance the budget, which is necessary for future generations to maintain our strength economically into our posterity.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). All time has expired.

Mr. GOSS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 55 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2.

□ 1139

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2) to give the President line-item veto authority over appropriation acts and targeted tax benefits in revenue acts, with Mr. BOEHNER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 30 minutes, the gentlewoman from Illinois [Mrs. COLLINS] will be recognized for 30 minutes, the gentleman from Florida [Mr. GOSS] will be recognized for 30 minutes, and the gentleman from California [Mr. BEILENSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I yield myself 2½ minutes.

At the outset, may I wish everybody a Happy Groundhog Day. As the Congressman who represents Punxsutawney Phil, he did not see his shadow, so winter is going to be over shortly, and I think that is a good omen as we bring H.R. 2, the line-item veto to the floor. I think it is a harbinger of that which is a historic piece of legislation which when we enact it, as we will, will complete the second installment on the Republican Contract With America. Together with the balanced budget amendment and entitlement reforms, this bill provides much needed reform of Congress' bloated tax-and-spending habits.

H.R. 2 gives the President line-item veto authority over discretionary appropriations and targeted tax benefits. The bill allows the President to reduce or eliminate any discretionary spending specified in an appropriations bill or accompanying report, and to veto any tax benefit which he determines would benefit 100 or fewer taxpayers.

Under H.R. 2, the President will have 10 days after signing an appropriation or revenue act to submit to Congress a special message identifying his rescission or veto proposals. A separate rescission or veto message will be required for each act and each message must be considered en bloc.

Upon receipt of the President's message, Congress will have 20 days for both Houses to pass a resolution of disapproval in order to prevent the cuts. If either House fails to pass the disapproval resolution, then the rescissions will take effect. If, on the other hand, both Houses vote to release the appropriation or enact the tax benefit by passing resolutions of disapproval, the disapproval resolution would be presented to the President for signature or veto. A Presidential veto would return the bill to Congress, which would have 5 days to override by a two-thirds vote of each House.

This process is fundamentally different from that in existing law which favors spending by permitting either House of Congress to force the release of moneys through inaction. Currently, unless both Houses pass bills to approve the rescission proposal, the money must be spent. Under H.R. 2, however, the cuts would stand unless both Houses vote to disapprove the rescissions and force the release of money.

While current law tilts the table toward Congress and spending, under H.R. 2, the table would be tipped toward the President and saving. This is a major reform of the Federal spending process, and one favored by the overwhelming majority of the American people according to CNN, USA Today, and Gallup polls.

Because this legislation offers an important step toward deficit reduction and a balanced Federal budget, one which will help to eliminate our current $4.7 trillion debt and continuing $200 billion plus yearly deficits, I urge adoption of the bill which President Clinton has requested—the strongest possible line-item veto. I urge the adoption of H.R. 2.

□ 1140

I might say the President himself, President Clinton, has requested that we send him the strongest possible enhanced rescission bill that we can present him.

So I would urge adoption of H.R. 2.

Mr. Chairman, I reserve the balance of my time.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am opposed to H.R. 2, the Line Item Veto Act. I think it gives any President whether Democrat or Republican far too much power over congressional spending decisions, and I do not believe it would have any significant impact on Federal spending.

We have heard a lot in recent weeks about what the voters were telling their Representatives in the last election. What I heard loud and clear was a cry for greater responsibility on the part of each Member of Congress.

Our first responsibility as Members of Congress is to be truthful and thorough in making the laws of the land. Unfortunately, H.R. 2 is not truthful about its provisions.

Even though this bill is called the Line Item Veto Act, it is not a normal line-item veto bill. Instead, it would give the President the most extreme power to cancel programs and projects. Chairman CLINGER himself has characterized the bill as the strongest possible grant of Presidential power.

Some have said that it mirrors the line-item veto authority that 43 Governors enjoy; but this bill is considerably different.

One need only read the committee report to know that. On page 11, it says, and I quote "H.R. 2 differs fundamentally from the kind of item-veto authority granted to Governors in 43 States." Yet I am willing to bet we will continue to hear dozens of speakers talk about the item-veto power of 43 Governors. They probably did not read this bill.

H.R. 2 would produce such an extreme shift of authority from Congress to the President that it is likely to be unconstitutional. Unfortunately, this bill is also another example of how haste makes waste.

Proponents of the bill did not understand the broad sweeping powers they were granting the President until it was raised at the markup. Now they are trying to rewrite the bill to more clearly define what a line item of spending authority is.

Everyone should also be concerned that a President could easily abuse the extraordinary power H.R. 2 would give him. As reported, the bill lets a President define, in any way he chooses, a line of spending authority that he vetoes. This bill does not restrict a President—whether he or she is a Democrat or a Republican—to simply eliminating or reducing spending in the form that Congress passes it, either in an appropriations bill or report accompanying the bill.

The original draft report of the Committee on Government Reform and Oversight stated, and I quote:

> We decided on enhanced rescission for several reasons. It permits Congress to continue appropriating with lump sums. Moreover, after a President signs an appropriations bill, he may go as deep as he likes within an appropriations account to propose specific rescissions.

Dr. Robert Reischauer, Director of the Congressional Budget Office, testified before our committee that extreme proposals like H.R. 2, give the President "greater potential power than a constitutionally approved item veto."

Dr. Reischauer went on to say that the authority in this bill would actually allow the President to "define a line item as any portion of an appropriation enacted into law." In effect, any President whether Democrat or Republican could reach inside a line item in order to cut a particular project.

For example, H.R. 2 could allow any President be he Democrat or Republican to threaten the independence of Federal judges he does not like, by using the line-item veto to cut funds for the operation of particular courts. Any President could also cut funding for important water, road or other projects in States or regions of the country that did not support him in an election. Similarly, any President could cut funds out of the legislative appropriations bill for a particular committee of the Congress, if he wanted to retaliate for its activities.

Even if a President did not abuse this power, this legislation could not possibly have much impact on the Federal debt. Under H.R. 2, a President would not be able to use the line-item veto on the biggest items in the Federal budget—interest on the debt and mandatory spending—which account for about 65-percent of all Federal spending.

Instead, the Line Item Veto Act would apply to only about 35-percent of Federal spending that is subject to appropriations, and this spending has actually been declining in recent years.

It is an absolute fallacy, therefore, to suggest that the lack of Presidential line-item veto authority has contributed significantly to the Federal debt, which has grown from just over $900 billion in 1980 to a projected $4.9 trillion this year. Instead, reckless, irresponsible spending produced this debt.

At the President's insistence in 1981, Congress passed a gigantic tax cut that cost the Federal Government nearly $270 billion in lost revenues by 1988. During that same period and, again, at the President's request, defense spending more than doubled, even though we had no way to pay for it.

As a result, 28 percent of all income tax receipts now go to pay just for the interest on the new debt which the Federal Government incurred between 1981 and 1993. To put this in some perspective, only about 5 percent of income tax receipts go to pay for the cost of providing welfare to needy Americans.

It is also untrue that Presidents have been more aggressive than Congress in trying to curb Federal spending. Over the last 20 years in which Presidents have had authority to rescind appropriations, all Presidents have proposed a grand total of $72 billion in rescissions. During that same time, the Congress has approved rescissions that total $92 billion—that is, $20 billion more than Presidents have requested.

In addition, Presidential budget requests have actually been greater than what Congress has appropriated in all but 5 of the last 15 fiscal years.

Together with Congresswoman THURMAN and Chairman CLINGER, I proposed an amendment that gives Congress the right to fully consider a Presidential rescission proposal. That amendment is contained in the bill we are now considering. It guarantees that a Member of Congress would, at least, have the right to call up a President's rescission for a vote on the floor.

But, this is not enough. The Constitution gives the Congress, not the President, responsibility for deciding how to spend Federal revenues. Should we invest more in defense and less in health and nutrition programs for children and the elderly? Should we give tax cuts or increase spending on education?

These are tough decisions that each and every Member of Congress is sent to Washington to make. We cannot expect the President to do our work for us.

Mr. Chairman, these first few days of the Congress seem to be devoted more to gimmicks and buzzwords, and less to honesty with the American people. Rules for unfunded mandates, line-item veto, and balanced amendments do little to tell the American people how the deficit will be reduced.

The new majority, who now controls the Congress, owes the people an honest appraisal of how they intend to balance the budget. Honesty and responsibility is what the people are demanding, and that is what they deserve.

□ 1150

Mr. Chairman, I reserve the balance of my time.

Mr. GOSS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. I thank the gentleman from Florida for yielding this time to me.

Mr. Chairman, I requested permission to submit extraneous material for the RECORD, that material being the National Taxpayers Union's 1993 rating of the big spenders in Congress. And I would ask the Chairman and others to pay attention to who is for this line-item veto and who is opposed to it. You will find out that all the big spenders are opposed to it, and those who voted for fiscal restraint are for it.

The document referred to is as follows:

NATIONAL TAXPAYERS UNION—1993 TAXPAYERS' FRIENDS

Arizona: Sen. John McCain.

California: Rep. Christopher Cox, Rep. Randy Cunningham, Rep. John T. Doolittle, Rep. David Dreier, Rep. Wally Herger, Rep. Duncan Hunter, Rep. Howard P. McKeon, Rep. Carlos J. Moorhead, Rep. Richard W. Pombo, Rep. Dana Rohrabacher, Rep. Ed Royce.

Colorado: Sen. Hank Brown, Rep. Wayne Allard.

Delaware: Sen. William V. Roth, Jr.

Florida: Sen. Connie Mack, Rep. Tom Lewis, Rep. John L. Mica, Rep. Dan Miller.

Georgia: Sen. Paul Coverdell, Rep. Mac Collins, Rep. John Linder.

Idaho: Sen. Larry E. Craig, Sen. Dirk Kempthorne.

Illinois: Rep. Philip M. Crane, Rep. Thomas W. Ewing, Rep. Harris W. Fawell, Rep. Donald Manzullo.

Indiana: Sen. Daniel R. Coats, Sen. Richard G. Lugar.

Iowa: Sen. Charles E. Grassley, Rep. Jim Nussle.

Kansas: Sen. Bob Dole.

Kentucky: Rep. Jim Bunning.

Maine: Sen. William S. Cohen.

Michigan: Rep. Peter Hoekstra, Rep. Joe Knollenberg, Rep. Nick Smith.

Minnesota: Rep. Rod Grams, Rep. Jim Ramstad.

Montana: Sen. Conrad Burns.

New Hampshire: Sen. Judd Gregg, Sen. Robert C. Smith, Rep. Bill Zeliff.

New Jersey: Rep. Bob Franks, Rep. Dick Zimmer.

New York: Rep. Gerald B.H. Solomon, Rep. Bill Paxon.

North Carolina: Sen. Lauch Faircloth, Sen. Jesse Helms, Rep. Cass Ballenger, Rep. Howard Coble.

Ohio: Rep. John A. Boehner, Rep. Rob Portman.

Oklahoma: Sen. Don Nickles, Rep. James M. Inhofe, Rep. Ernest Jim Istook.

Pennsylvania: Rep. George W. Gekas, Rep. Bud Shuster, Rep. Robert S. Walker.

South Carolina: Rep. Bob Inglis.

South Dakota: Sen. Larry Pressler.

Tennessee: Rep. John L. Duncan.

Texas: Sen. Phil Gramm, Rep. Bill Archer, Rep. Dick Armey, Rep. Joe L. Barton, Rep. Tom DeLay, Rep. Jack Fields, Rep. Sam Johnson.

Virgina: Sen. John W. Warner.

Wisconsin: Rep. Tom Petri, Rep. F. James Sensenbrenner.

Wyoming: Sen. Alan K. Simpson, Sen. Malcolm Wallop.

NATIONAL TAXPAYERS UNION BIG SPENDERS OF 1993

Alabama: Rep. Tom Bevil, Rep. Robert E. Cramer, Rep. Earl F. Hilliard.

Arizona: Rep. Karan English, Rep. Ed Pastor.

Arkansas: Sen. Dale Bumpers, Sen. David Pryor, Rep. Ray Thornton.

California: Sen. Barbara Boxer, Sen. Dianne Feinstein, Rep. Xavier Becerra, Rep. Howard L. Berman, Rep. George E. Brown, Rep. Ronald V. Dellums, Rep. Julian C. Dixon, Rep. Don Edwards, Rep. Anne G. Eshoo, Rep. Sam Farr, Rep. Vic Fazio, Rep. Bob Filner, Rep. Dan Hamburg, Rep. Jane Harman, Rep. Tom Lantos, Rep. Mathew G. Martinez, Rep. Robert T. Matsui, Rep. George Miller, Rep. Norman Y. Mineta, Rep. Nancy Pelosi, Rep. Lucille Raybal-Allard, Rep. Pete Stark, Rep. Esteban E. Torres, Rep. Walter R. Tucker, Rep. Maxine Waters, Rep. Henry A. Waxman, Rep. Lynn Woolsey.

Colorado: Sen. Ben Nighthorse Campbell, Rep. David E. Skaggs.

Connecticut: Sen. Christopher J. Dodd, Rep. Rosa DeLauro, Rep. Sam Gejdenson, Rep. Barbara B. Kennelly.

Delaware: Sen. Joseph R. Biden, Jr.

Florida: Sen. Bob Graham, Rep. Jim Bacchus, Rep. Corrine Brown, Rep. Peter Deutsch, Rep. Sam M. Gibbons, Rep. Alcee L. Hastings, Rep. Harry A. Johnston, Rep. Carrie P. Meek, Rep. Pete Peterson, Rep. Karen L. Thurman.

Georgia: Rep. Sanford D. Bishop, Rep. George Darden, Rep. John Lewis, Rep. Cynthia A. McKinney.

Hawaii: Sen. Daniel K. Akaka, Sen. Daniel K. Inouye, Rep. Neil Abercrombie, Rep. Patsy T. Mink.

Illinois: Sen. Carol Moseley-Braun, Sen. Paul Simon, Rep. Cardiss Collins, Rep. Richard J. Durbin, Rep. Lane Evans, Rep. Luis V. Gutierrez, Rep. Mel Reynolds, Rep. Dan Rostenkowski, Rep. Bobby L. Rush, Rep. George E. Sangmeister, Rep. Sidney R. Yates.

Indiana: Rep. Frank McCloskey, Rep. Peter J. Visclosky.

Iowa: Sen. Tom Harkin, Rep. Neal Smith.

Kansas: Rep. Dan Glickman.

Kentucky: Sen. Wendell H. Ford, Rep. Romano L. Mazzoli.

Louisiana: Sen. John B. Breaux, Sen. J. Bennett Johnston, Rep. Cleo Fields, Rep. William J. Jefferson.

Maine: Sen. George J. Mitchell, Rep. Thomas H. Andrew.

Maryland: Sen. Barbara A. Mikulski, Sen. Paul S. Sarbanes, Rep. Benjamin L. Cardin, Rep. Steny H. Hoyer, Rep. Kweisi Mfume, Rep. Albert R. Wynn.

Massachusetts: Sen. Edward M. Kennedy, Sen. John Kerry, Rep. Barney Frank, Rep.

Joseph P. Kennedy, Rep. Edward J. Markey, Rep. Joe Moakley, Rep. Richard E. Neal, Rep. John W. Olver, Rep. Gerry E. Studds.

Michigan: Sen. Carl Levin, Sen. Donald W. Riegle, Jr., Rep. David E. Bonior, Rep. Bob Carr, Rep. Barbara-Rose Collins, Rep. John Conyers, Rep. John D. Dingell, Rep. William D. Ford, Rep. Dale E. Kildee, Rep. Sander M. Levin.

Minnesota: Sen. Paul Wellstone, Rep. James L. Oberstar, Rep. Martin Olav Sabo, Rep. Bruce F. Vento.

Mississippi: Rep. G.V. Montgomery, Rep. Bennie Thompson, Rep. Jamie L. Whitten.

Missouri: Rep. William L. Clay, Rep. Richard A. Gephardt, Rep. Ike Skelton, Rep. Harold L. Volkmer, Rep. Alan Wheat.

Montana: Sen. Max Baucus, Rep. Pat Williams.

Nevada: Sen. Harry Reid, Rep. James Bilbray.

New Jersey: Rep. Robert Menendez, Rep. Donald M. Payne, Rep. Robert G. Torricelli.

New Mexico: Rep. Bill Richardson.

New York: Sen. Daniel Patrick Moynihan, Rep. Gary L. Ackerman, Rep. Eliot L. Engel, Rep. Floyd H. Flake, Rep. Maurice D. Hinchey, Rep. George J. Hochbrueckner, Rep. Nita M. Lowey, Rep. Thomas J. Manton, Rep. Michael R. McNulty, Rep. Jerrold Nadler, Rep. Major R. Owens, Rep. Charles B. Rangel, Rep. Charles E. Schumer, Rep. Jose E. Serrano, Rep. Louise M. Slaughter, Rep. Edolphus Towns, Rep. Nydia M. Velázquez.

North Carolina: Rep. Eva Clayton, Rep. W.G. Hefner, Rep. Stephen L. Neal, Rep. David Price, Rep. Charlie Rose, Rep. Melvin Watt.

Ohio: Sen. John Glenn, Sen. Howard M. Metzenbaum, Rep. Douglas Applegate, Rep. Sherrod Brown, Rep. Tony P. Hall, Rep. Tom Sawyer, Rep. Louis Stokes, Rep. Ted Strickland.

Oklahoma: Rep. Mike Synar.

Oregon: Rep. Elizabeth Furse, Rep. Mike Kopetski, Rep. Ron Wyden.

Pennsylvania: Sen. Harris Wofford, Rep. Lucien E. Blackwell, Rep. Robert A. Borski, Rep. William J. Coyne, Rep. Thomas M. Foglietta, Rep. Paul E. Kanjorski, Rep. John P. Murtha.

Rhode Island: Sen. Claiborne Pell, Rep. Jack Reed.

South Carolina: Sen. Ernest F. Hollings, Rep. James E. Clyburn, Rep. Butler Derrick, Rep. John M. Spratt.

South Dakota: Sen. Tom Daschle.

Tennessee: Sen. Harlan Mathews, Sen. Jim Sasser, Rep. Harold E. Ford.

Texas: Rep. Jack Brooks, Rep. John Bryant, Rep. Jim Chapman, Rep. Ronald D. Coleman, Rep. E de la Garza, Rep. Martin Frost, Rep. Henry B. Gonzalez, Rep. Gene Green, Rep. Eddie Bernice Johnson, Rep. Solomon P. Ortiz, Rep. J.J. Pickle, Rep. Frank Tejeda, Rep. Craig Washington, Rep. Charles Wilson.

Vermont: Sen. Patrick J. Leahy, Rep. Bernard Sanders.

Virginia: Rep. Rick Boucher, Rep. Leslie L. Byrne, Rep. James P. Moran, Rep. Robert C. Scott.

Washington: Sen. Patty Murray, Rep. Norm Dicks, Rep. Mike Kreidler, Rep. Jim McDermott, Rep. Al Swift, Rep. Jolene Unsoeld.

West Virginia: Sen. Robert C. Byrd, Sen. John D. Rockefeller IV, Rep. Alan B. Mollohan, Rep. Nick J. Rahall, Rep. Bob Wise.

Wisconsin: Rep. Gerald D. Kleczka, Rep. David R. Obey.

HISTORY OF NATIONAL TAXPAYERS UNION TAXPAYERS' FRIEND'S AWARDS

Member	Total awards won	Year														
		1993	1992	1991	1990	1989	1988	1987	1986	1985	1984	1983	1982	1981	1980	1979
Allard	2	TF		TF	E											
Archer	15	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF
Armey	9	TF	TF	TF	TF	TF	TF	TF	TF	TF	E					
Ballenger	4	TF	TF	TF	TF				E							
Barton	8	TF	TF	TF	TF	TF		TF	TF	TF	E					
Boehner	2	TF		TF	E											
Bunning	4	TF		TF	TF	TF			E							
Coble	7	TF	TF	TF	TF	TF		TF		TF	E					
Collins, M	1	TF	E													
Cox, C (CA)	4	TF	TF	TF	TF		E									
Crane	15	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF
Cunningham	1	TF														
DeLay	9	TF	TF	TF	TF	TF	TF	TF	TF	TF	E					
Doolittle	3	TF	TF	TF	E											
Dreier	13	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	E	
Duncan	5	TF	TF	TF	TF	TF	E*									
Ewing	2	TF	TF	E*												
Fawell	7	TF	TF	TF	TF		TF	TF	TF	E						
Fields	12	TF	TF	TF	TF	TF		TF	TF	TF	TF	TF	TF	TF	E	
Franks, B (NJ)	1	TF	E													
Gekas	3	TF			TF	TF							E			
Grams	1	TF	E													
Herger	6	TF	TF	TF	TF	TF		TF	E							
Hoekstra	1	TF	E													
Hunter	3	TF		TF				TF							E	
Inglis	1	TF	E													
Inhofe	3	TF		TF				TF	E							
Istook	1	TF	E													
Johnson, S (TX)	3	TF	TF	TF	E 91											
Knollenberg	1	TF	E													
Lewis, T (FL)	1	TF											E			
Linder	1	TF	E													
Manzullo	1	TF	E													
McKeon	1	TF	E													
Mica	1	TF	E													
Miller, D (FL)	1	TF	E													
Moorhead	15	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF
Nussle	3	TF	TF	TF	E											
Paxon	1	TF					E									
Petri	9	TF	TF	TF	TF	TF		TF	TF	TF				TF		
Pombo	1	TF	E													
Portman	1	TF	E													
Ramstad	2	TF	TF		E											
Rohrabacher	5	TF	TF	TF	TF	TF	E									
Royce	1	TF	E													
Sensenbrenner	15	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF
Shuster	6	TF	TF		TF							TF			TF	TF
Smith, N (MI)	1	TF	E													
Solomon	13	TF	TF	TF	TF	TF		TF		TF	TF	TF	TF	TF	TF	TF
Walker	14	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF	TF		TF
Zeliff	3	TF	TF	TF	E											
Zimmer	3	TF	TF	TF	E											

TF=Taxpayers' Friend; E=Year Elected.

Mr. Chairman, this Nation is at war. As we debate this bill today, the Federal debt hovers above $4.6 trillion. The annual deficit is projected to top $200 billion every year this century, and Government spending is adding $10,000 to the debt every second that we stand here. Just during these 2 hours of general debate alone we will add $72 million to the national debt. This is unconscionable.

Reducing the deficit and the debt are not partisan issues, they are the American people's issues which must be attacked on two fronts. The first is on the hard choices making the sacrifices and the spending cuts necessary to bring our Nation's accounts into balance. Many in this body claim that the deficit has been reduced, Congress has acted responsibly they say in keeping the deficit lower than it was projected to be.

I would urge my colleagues to read the writing on the wall—the deficit still exists and it is growing larger everyday. It is growing by $200 billion each year during this decade, as I said before.

Mr. Chairman, the Congress must begin and never stop its war on the deficit until it no longer exists. All past efforts, both Republican and Democrat, have failed. They have failed to eradicate the sea of red ink which is ruining this country.

The truth is our budget process is broken and it must be fixed. And this system can be fixed by the second front in our war on the deficit.

Real procedural reforms will effectively allow and force these tough choices to be made. The line-item veto as proposed in H.R. 2 is just such a procedural reform. Coupled with a balanced budget constitutional amendment—which this House had the foresight of passing last week—procedural restraints on run-away spending will be put in place.

Let me assure you that I, in no way, believe that an effective line-item veto will in and of itself balance the budget, it will not. However, I do believe that it will have a deterrent effect on spending, by discouraging us from slipping pork into our appropriation bills in the first place.

Pork like $20 million for golf videos and pony trekking in Ireland? How about $58 million to some millionaire up in New York, where I come from, to bail out his baseball investments? And $34 million for screwworm research in Mexico last year?

Well, do you not think that $34 million could be better used to reduce our deficit last year if the President possessed the line-item veto? Mr. Chairman, as long as this type of wasteful spending is allowed to permeate our appropriations bills the budget system will never work. Mr. Chairman, over the last 94 years this Congress has only balanced 28 percent of its budgets, none in the past 25 years alone. And the Federal deficit has soared.

Mr. Chairman, what this line-item veto does, and this is what everybody ought to listen to, is reverse existing law that allows Congress to reject a President's request to cut pork barrel spending without even taking a vote. That is what the law is now. Without even taking a vote, we can reject the President's request to cut spending.

In other words, Congress can block the spending cuts by doing nothing. This line-item veto reverses that procedure by saying that the cuts go through unless Congress votes to disapprove the spending cuts. Do you not think that is going to make a difference, ladies and gentlemen?

I urge the House to vote for this bill in its strongest form, with no weakening amendments, and there are 31 of them out there. President Clinton has asked Congress to send him the toughest item veto bill we can, and this is the toughest veto bill we can if we do not allow weakening amendments to go through.

Members, you know what the American people want, they want you to vote for this line-item veto. Do them and yourself a favor by doing it.

Mr. GOSS. Mr. Chairman, I reserve the balance of my time.

Mr. BEILENSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. I thank the gentleman from California [Mr. BEILENSON] for yielding this time to me.

Mr. Chairman, I listened with great pleasure to the gentleman from New York [Mr. SOLOMON] and his explanation of the legislation we are about to pass here that may be such an assistance to balancing the budget. I wish it were just so simple, and I wish that there had not been a weakness on the part of not only the Congress but the President for these last 14, 15 years to reconcile where America should be. But the worst thing about this debate is we are dealing with the balance of power that the Founding Fathers warned about when they structured the Constitution of the United States. And before we change that balance of power it seems to me even though we may not win, I suspect there are 230 votes at least in this House that will pass this bill, but before we do that I would hope this debate brings out the proposition of what it will do to America and the American constitutional form of government and the intentions of the Founding Fathers as they say down in Philadelphia, in my home State, and evolved how a democratic citizenry could make the proper judgments through their representative officials to spending money, the taxpayers money.

Article I of the American Constitution does not say that the President of the United States shall establish such expenditures as he deems necessary and shall carry out those expenditures without any further action. As a matter of fact, Article I says the power to expend money, the taxpayers money of the American people, shall reside in the House of Representatives, the house that represents the people.

The President represents the Nation as a whole. We as individuals represent our individual constituents. And we come together as a body by majority consent to expend the taxpayers money. Yes, it is a give and it is a take, it is a moderation. Sometimes it is abused, but let us look at the historical significance of that abuse.

In the last 20 years Presidents of the United States have sent rescissions to Congress of no more than $70 billion. That is about $3½ billion a year out of a $1,500 billion budget. Hardly significant. But the Congress responded by cutting $20 billion more, or $4.5 billion a year on average, a full 25 percent more per year than any President requested.

Does that speak well for the Congress or for the President? Quite frankly, I do not think it speaks well or poorly about either. Because when you are talking about $3 or $4 billion in a $1,500 billion budget it is hardly a traceable item, and it is a very fine distinction as to whether or not the peoples' will in one region, area or State of the country have some ability to get relief through the Congress that the President does not necessarily see in the national interest or toward his political agenda.

We are putting through a change in the balance of power here so that we take the appropriation process out of the House of Representatives and, to a large extent, we transport it down to 1600 Pennsylvania Avenue and we put it on the desk of the President. Now if I had all the faith and courage in the world to believe we would always have a responsible President, a stable President and a President that had no political agenda or ideological agenda, I would say if we wanted to change the constitution that way, there are ways of doing it. But not necessarily being as optimistic as most Members of the House who will approve this bill are, I can foresee the day that what the President decides is a priority of expenditures for the American people may not be consistent with their Representatives' actions or intent.

□ 1200

Let us look at some examples:

Say California has an earthquake; say New York City has a major fire or destruction. What is the sympathy in the Congress of the United States to allocate amounts of money for California or New York and, if we do it, may have to expend above and beyond the balance of the budget? But a President who looks at those two States and sees no political ramifications if he disavows that expenditure, could just as easily strike that expenditure from the budget, and we would have no recourse unless it were brought back to this House and passed by a majority of the House. And then we say, "Well, that's not unreasonable," and I agree.

Mr. Chairman, that would not be bad, but the gentleman from New York [Mr. SOLOMON] indicated that was the remedy, that the majority of the House of Representatives could overrule the President at will. That is not true, Mr. Chairman, because the President has the opportunity to veto that measure, and to override that veto it requires two-thirds of the House of Representatives and two-thirds of the Senate, a majority that is overwhelming and seldom had, and, quite frankly, if we had that ability today, we would not be talking about a piece of legislation for the line-item veto. We would be talking about a constitutional amendment to the Constitution.

Now what are the promises here and what are the threats? The threats, I think, are major. They are a shift of power. I say to my colleagues, "Now quite frankly, when you look at what's happened in this Congress in the past few days and in Washington for the last few weeks, you begin to realize that my friends on the majority party are saying there is such a mandate swelling from the people that we significantly want to change the structure of our government." I am not sure in my district, where 67 percent of the citizens voted for me, they sent that kind of a mandate, that they want a shift of power that is so significant away from the House of Representatives and the Congress to the Presidency.

But, my colleagues, just a sidelight here. I say to the gentlemen on the majority side, "This power you are giving the President today? the President exercised extraordinary power yesterday in solving the Mexican bailout, and I've watched some of the leadership on the majority side and a lot of the new freshman Members start to question his constitutional authority and statutory right to do it, and I agree with them. That's a question that should be tested. But if we follow down this line that the President should allocate and appropriate funds at whim and will without statutory authority or with statutory authority that cannot be withdrawn, the Mexican bailout is just the beginning of arbitrary power and reckless power exercised by a President if you happen to sit on this side of Pennsylvania Avenue."

Now, as my colleagues know, we have a remedy. We have several remedies.

One, the Congress can come into power and pass one resolution, but the President shall set such taxing rates, as necessary, to accumulate the sufficient revenues of the United States so that he may cover the expenditures made in any appropriate appropriations he deems necessary for the carrying out of the powers of the U.S. Government, and, if we pass that by unanimous consent, and the President signs it, hey, we can go home probably on January 5. It is all over. We do not have to do an awful lot more. A major part of the process of the Congress of the United States is the allocation of expenditures of money, and the receipt of revenues and the rates of how we set that to try to be fair, equitable, in proportion among our people. But if we really want a corporate efficiency where the CEO calls the shots, I ask, "Why don't we just take the First Article of the Constitution and say, 'Henceforth anything exercised in this by the Congress can be exercised by the President? We stand by it' and make it impossible to reverse." I know we do not want to do that.

There is another remedy. I say to my colleagues, "Gentlemen, if you really want to change the Constitution to provide for the balanced budget amendment which does an accounting process, a fiscal responsibility process, a process in the most sacred document, if you want to hand off to the Chief Executive the authority to appropriate, if you want to stop the authority of the National Government to have national standards and to require at some times and under proper conditions that States have to conform, municipalities have to conform, if you really want the executive and the legislative branches of this Government to operate in tandem, what you really want is a constitutional convention to change the Constitution of the United States and establish a parliament."

We are quite distinct from parliamentary forms of government around the world because our framing fathers, I think with exceptional wisdom, recognizing the ability of people who exercised sovereign power to abuse that power sometimes; so, they sever that power into the three branches of government, making us equal and distinct, but counterbalancing one another so that ultimately the will of the people, without revolution, can be heard and make the proper corrections.

Now I agree with my friends in the majority that we have had excessive, sometimes wasteful, sometimes abusive, expenditures. To deny that proposition I think would be to face facts and to deny the existence of those basic facts, but the question is: what kind of a repair should we make and how delicate that repair should be. Quite frankly this provision would allow one-third of this Congress to continue down the road and support the President at any execution of his—rescission of appropriations at will, and we could not reverse it, so that 67 percent of the elected Representatives of the people could not carry out the people's work, but one-third of the elected Representatives, in conjunction with the President, could accomplish that.

Mr. SOLOMON. Mr. Chairman, would the gentleman yield?

Mr. KANJORSKI. I will in just one moment.

Now the other proposition is that—

As a matter of fact, Mr. Chairman, I yield to the gentleman from New York [Mr. SOLOMON] because I am moving on to another subject.

Mr. SOLOMON, Mr. Chairman, I just want to say this the gentlemen from Pennsylvania [Mr. KANJORSKI] is so well respected in this body. But I just want to say to him:

"One of the reasons we are going with a statute, as opposed to a constitutional amendment, is because a law that could be rescinded if it doesn't work. Let's give it chance, and try it, and let's see if it works."

Mr. KANJORSKI. Mr. Chairman, I say to the gentleman, "Mr. SOLOMON, that was a question I couldn't even exact out of my sight."

One of the reasons I am taking the time today is I sat on the committee that drafted this. We discussed it, I thought about it at great length, and I am satisfied that we can exercise and delegate to the President substantially more authority, but the weakness that we have is we can never reclaim that authority once delegated.

Now I am not going to pass on the constitutionality of the delegation authority. That is for the Supreme Court to do. There is no question in my mind we can pass this statute, make this delegation of authority, but our problem, gentleman, is how do we get it back if it has been abused, and that is the point I am pleased my good friend from New York asked the question on.

We on our side have found the answer to that, and it is very prevalent in many States of the Union, and that is a sunset provision. I offered it in committee. I offered it with the gentleman from Texas [Mr. DOGGETT] on the unfunded mandate provision yesterday, and I am going to offer it sometime this afternoon in conjunction with him on this bill.

If we really want to see whether an Executive would violate our trust in our delegation of authority, we have to do something substantial; I agree with that. This bill does that. It is somewhat extraordinary, somewhat much larger than I would recommend we do, but I can understand my friends on the majority doing it.

But the one way that we can condition the responsiveness and the responsibility of the President to act appropriately with this tremendous delegation of authority is that, if he knows that if he abuses this trust we will put in him, then within 5 years the bill will cease to exist, and the authority given to him will cease to exist.

Now we are going to introduce that bill, and I think that is an insurance mechanism with no other repeal of the law because remember to repeal the law it is going to require two-thirds vote of the House of Representatives and the U.S. Senate because, I say to my colleague, "You can bet your life a President is going to vote this power once you give it to him." So we cannot ever reform or repeal this legislation unless two-thirds of the House of Representatives and two-thirds of the Senate agree, and we have not had those majorities existing that think in concert or in activity in this body since my historical memory goes back. I do not recall any time, any party, entertained in both Houses of Congress a clear two-thirds voting majority that they could change this legislation.

☐ 1210

So the will of the people can never be implemented again unless we have the acquiescence of the President to sign and not exercise this right of veto.

What I am suggesting here is this: We have some minor adjustments. We have appropriation earmarks that bother us all. We have sometimes irresponsible appropriations and authority granted when those of us who rely on our colleagues are sometimes misunderstanding or given misinformation as to what the actual appropriation bills stand for, and there is not one of us who has not gone home and been embarrassed.

I remember a colleague from one of the southern States who put in an appropriation for a school in France in the late hours of the morning, and I got back to my district and somebody said, "How could you vote to give $20 million to a school in France that would have been illegal if you had given that money in the United States?" And quite frankly, I not only would not have voted for it, but I had to do it in one solid package in the entire appropriation. But then, too, I had to admit I did not know it was in there, in a 1100-page appropriation bill, until after the fact. And sometimes we are not even sure when it gets into the bill, whether it is before the vote or after the vote, because the bill generally does not get assembled at 11 o'clock at night when the conference reports are worked out.

We have all had those experiences, but to cure those limited experiences, to cure the study of the worm that the gentleman from New York [Mr. SOLOMON] talked about for $34 million does not justify a delegation of authority to the President that cannot be reclaimed in the future except with a two-thirds majority of the Senate. That is unconscionable.

We have the opportunity to pass a responsible, strong piece of legislation. I say that although in my basic nature I am against any action that would destabilize the balance of the three branches of government—and I think this will—I will support this bill and put faith in this President and in the next President for 3 years, but if there is an abuse, we know full well that we are going to have that cease and have to take action again to delegate that authority away from that President whoever he may be 5 years from now. I think that is a reasonable proposition

I urge my colleagues to stop marching across the bridge in such formation that they are going to bring the bridge and the Constitution down, that they are going to bring the system down. I would urge the 230 Members of the majority to think about the amendment that will be offered this afternoon on the sunset. It does not weaken their provision; it does not weaken the authority of the President. The only thing it does, it buys a 5-year policy, that if a future President or this President abuses that authority, the Congress would have to take no further action his authority for so acting would cease to exist 5 years from the passage of this bill. Is that so unreasonable?

And let me remind the Members again that there are strong feelings in the House on both sides. Did the President of the United States have the constitutional or statutory authority to act by executive order to appropriate more Federal tax money to guarantee the loans of Mexico, exceeding the total Foreign Affairs appropriation each year of this Congress? I think that is a question to be answered.

I do congratulate the President for taking extraordinary executive action, but that does not excuse him if he did it without statutory authority or constitutional authority. Luckily, in our system we will get to try that issue at some future date without affecting his ability to carry on foreign affairs or to reverse the action he has taken. But when we get down to every appropriation of every department, every agency, and every bureau, every program of the U.S. Government, I am not sure that we want to delegate that type of authority.

Quite frankly, in States that I have seen, some Governors have used this authority to force members of the legislature to come to their conviction or activity or to punish them by deciding to spend no funds in particular areas by the exercise of their line-item veto.

I urge my colleagues on the Republican side and my colleagues on the Democratic side, because this is really a bipartisan effort, to come to grips with our deficit and our debt and the inability sometimes of this Congress to act appropriately. So what I am suggesting, Mr. Chairman, is that the Members on the minority side have a vote for as stringent or as hard a bill as I think we could imagine they can get by statute, delegating extraordinary powers to the President of the United States. The only insurance policy I am asking for is, let us limit that delegation of authority to 5 years, and if there is abuse, we may not be able to change that law because we may not be able to override a veto by a two-thirds vote of the House and a two-thirds vote of the Senate, but at least we can know that that abuse and that arbitrary action of that Chief Executive, whoever he may be, can only occur while the statute will have full force and effect, and that it will be sunsetted by a provision in that statute.

I urge my colleagues to support that amendment when it is offered, and further, I urge my colleagues to have a good debate on this question. I think it is important. I think the American people do want to see responsible government. I think we have had an opportunity here in the last days of the unfunded mandate debate, and I want to compliment my friends on the Republican side. I saw an ability to start moderating things by taking the fact that we did have some ideas on this side that did help perfect and improve the legislation.

I think the people of the United States, including, quite frankly, people in my district in Pennsylvania that I have talked to, want this center aisle to disappear. They want us to get off the idea that what is good for the Republicans is bad for the Democrats and what is good for the Democrats is bad for the Republicans. They want us to ask the question, "What is good for America?"

I think what is good for America is to put the tools together to help get control of our fiscal situation in the United States, but, on the other hand, they do not want us to so unbalance the fine-tuned balance between the three branches of the American Government under the Constitution that we might work havoc on the very system we were sent here to defend.

Mr. CLINGER. Mr. Chairman, I am now pleased to yield 2 minutes to the gentleman from Massachusetts [Mr. BLUTE], a prime cosponsor and author of this important legislation.

Mr. BLUTE. Mr. Chairman, the time has come to pass a real line-item veto for the President. Proposals for a line-item veto have been kicking around Capitol Hill for decades.

Two years ago, the line-item veto lost by only 21 votes, last year by only 13 votes.

This year, we have an opportunity to finally do what we should have done long ago. And I believe that we will win. Because Congress, along with people from all over America, has come to realize that in order to get our budget under control we need to give the President this fiscal tool.

The line-item veto is an important step in the direction of positive change and fiscal sanity. We must do it, and we must do it now.

Make no mistake about it, the real line-item veto is the only way to go. Do not be fooled by calls to pass a watered down version as the 103d Congress did—it did not work and it will not work now.

Expedited rescission is not the line-item veto. The only real line-item veto bill on this floor today is H.R. 2.

The Clinger bill is the only one which forces the House to override the President's veto by a two-thirds vote. And thus, it is the only way to prevent this House from spending taxpayer dollars on pork projects inserted into bills in the dark of night or during conference—times when Members know that a majority of this body will never have the opportunity to take a separate vote to strike questionable projects.

Mr. Chairman, let us face it, sometimes we in Congress cannot help ourselves. We want to help our districts with earmarks and the like, and we think that it is no big deal in such a large Federal budget.

But it is a big deal, especially when you multiply those $500,000 or $1.45 million expenditures by 435 House Members and 100 Senators.

Senator Dirksen was right when he said, "a billion here, a billion there, and pretty soon you're talking about real money."

Unfortunately, when we now speak of our national debt, we are talking trillions, not billions. Even Senator Dirksen would have been shocked at this sorry fiscal situation.

We know that the line-item veto works in the States, the laboratories of democracy. It has been field tested with highly successful results and it is time to apply it to the national model.

And let us not get sidetracked with arguments about tilting the balance of power—the fiscal balances of our great Nation have tilted toward debt and deficit too long.

Mr. Chairman, let us pass the line-item veto bill.

☐ 1220

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 4 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Chairman, I serve on the Committee on Government Reform. I have heard the arguments for and against the line-item veto. I have read numerous reports and analyses. I have heard from my constituents and from my colleagues, both pro and con, and noted arguments ranging from James Madison's intent 200 years ago to concerns about balancing the budget.

The question that keeps coming up in my mind is what is the rationale for the line-item veto? Why is the House so anxious to alter the constitutional balance of power between the legislative and executive branches? Why? Why are we so anxious to bolster the power of the President and to bolster the power of a minority of the House at the expense of our constitutional power?

It is a very scary initiative, Mr. Chairman, the initiative that you will find in the line-item veto bill.

I think that this line-item veto bill is a constitutional equivalent of the huckster's snake-oil cure of years gone by. The claims are inflated, they are exaggerated, the content is questionable, the results are unknown and unpredictable. No one has tested the impact, either fiscal or otherwise, of a line-item veto power being given to our President.

I shudder to think of some of the Presidents we have had in history having the enormous power which we will give him through the line-item veto.

Some people seem to think we need it. The claim is that this bill will reduce Government spending. It seems to me that at the very best, Mr. Chairman, this bill has only the potential to reduce Government spending. The potential rests right here, Mr. Chairman, here in the Congress, with or without this amendment. That is why we were elected. Each of us has 600,000 constituents. They elected us to make the decisions we are trying to give to the President.

Mr. HOKE. Mr. Chairman, will the gentlewoman yield?

Mrs. MEEK of Florida. I yield to the gentleman from Ohio.

Mr. HOKE. I appreciate the gentlewoman yielding.

I would answer the question as to why we have to do this now. It is because we are $5 trillion in debt, and we spend and spend and spend and spend, and the pendulum has to swing back.

You say there are no models, but I would suggest to you that this has been used repeatedly. We have got 43 States that have some form of a line-item veto, and there have not been problems in those States. It has just given the Governor additional power.

Mrs. MEEK of Florida. Mr. Chairman, I must reclaim my time. I would like to say I come from a State that had the line-item veto. We have had Governors abuse that power. There is the potential there.

To me, if there is just that small potential of abusing that power, I feel that we should keep that separation of power.

Mr. Chairman, did not this body, with great fanfare and expectation pass the Gramm-Rudman bill in 1985 to get control? That did not work. We passed the second Gramm-Rudman-Hollings bill, that did not work. We passed the Budget Enforcement Act in 1990 to do the same thing, to control the skyrocketing Federal deficit. Here we are today still hoping.

We have enough procedural things behind us, Mr. Chairman, to stop spending. It is up to us as the Congress to do this, and not to give the President these enormous powers. Why are we going to cede our legislative powers to the executive branch?

Why empower a tiny minority, just one-third of the House, to control the aspects of Government policy, large and small? We must be sure that we keep the powers that the Constitution gave to us.

I came to this House after 129 years of not being able to get here, to participate in the governance of this Government, not to give up the legislative branch powers to the executive branch.

Mr. GOSS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the blizzard of numbers and figures that define our annual budget deficits and the accruing national debt sort of tends to numb us. It is a sort of my-eyes-are-glazing-over type of situation. We talk about the billions, the trillions, the several hundred billion dollar annual deficits we face, the $4.5 trillion in rising debt we are passing along to our children. These aggregate numbers can often seem very far away and unreal, especially when you are standing in a wonderful place like this.

But when we bring those numbers down to the individual level of our daily lives, when we realize that our debt translates into approximately $18,000 of liability for every man, woman, and child right now, today, in our country, that is a tremendous burden to carry.

I heard testimony yesterday in the Committee on Rules that, well, it is not really that bad, because we have all these national treasures out there that we can use as assets to offset that debt. I do not know whether there is a distinction there about cash flow or not, but I have not heard any serious proposals to sell Yosemite or the Grand Teton Park or any of those places, so I would suggest those may be assets, but they are not liquid assets, and that $18,000 of liability is real. And it is real at tax time, because we are paying a huge, huge interest on an incredibly enormous national debt. It is a problem there with real weight that Americans have felt increasingly over the years.

The time has come. I think the need to change the process has been expressed, and the outrage against politicians, frankly, who have not taken corrective action. And we are the people. We are those politicians.

That is why an overwhelming majority of Americans support a balanced budget amendment and a line-item veto. And they are fiscal tools, we admit that. They are not magic remedies. They are fiscal tools that will help bring the Federal budget process under control.

Today we begin the task of implementing a line-item veto. It is a milestone clearly in the mission of budget reform. It is not the only one. For all the rhetoric in the past years, this House has never demonstrated its commitment to a real line-item veto, one which actually makes it harder to spend money than it is to save it.

We have always tilted it the other way. We have made it easier to spend than to save. Today the policy issue is if you want to save it, go with the tougher version, the version that is in H.R. 2. If you want to spend it, go with the amendments that are going to try and gut it and make it easier to spend it. That is the policy issue.

Some can say it is an issue over 72 votes. Some can say it is an issue over whether or not there is a shift in Government power. What it is, is an issue over whether we are going to spend or whether we are going to save.

We have voted on measures in the past that have been labeled "line-item veto." They are not real line-item veto. We have never passed a bill that shifts the burden, that requires Congress to say "no" to a President's spending cuts and force Congress then to come up with a two-thirds majority to make that "no" stick and spend the money that the President wants to cut.

These are tough measures, I admit it. They are the tough measures the President asked for. But our budget problems are tough problems, and they are the ones that the people we work for, the American people, have brought to our attention, most recently in November.

We have a system where it is just too easy for low priority or wasteful programs to make their way into massive spending bills and onto the President's desk where they do slide into law because he has got to sign the whole bill. No one would argue that a line-item veto on its own will make our budget problems disappear. No one is claiming that. But clearly our fiscal crisis goes much deeper than the abuses we have seen of the appropriations process and discretionary spending.

I am amused today to see that we are going to have an amendment that suddenly we are going to open the door and all the skeletons are going to fall out and we are going to find out somehow or another there somewhere have been abuses. Imagine that. I am delighted for that opportunity to review those abuses, because once we review them, maybe we can stop them.

Still, H.R. 2 marks the beginning of a monumental effort to change the way Congress does business and restore public confidence in its ability to manage the Nation's finances. This is one piece of the puzzle, and it is a necessary step on the road toward better management which we are asked to achieve here as part of our public trust.

H.R. 2 says to Congress that if a President wants to line out certain spending, the Congress cannot hide anymore. Unlike current law, which allows Congress to ignore a President's spending cuts and get away with spending the money, under H.R. 2 the Congress is going to have to come out into the sunshine and make its case. The harsh glare of accountability, coming up with that extra level of support to insist on spending what the President opposes. Remember, insist on spending when the President says don't spend it. That is the issue.

During the course of this debate we will hear principled arguments from people who strongly believe that the line-item veto gives too much authority to the President. It is an interesting argument; it is an important argument, but it is not the main issue.

We will hear that we should set up an approval process instead, so that a simple majority of Congress can block a President's spending cuts. I understand that argument and respect its proponents for their commitment to preserving the institutional power of Congress. But I believe, and I truly believe this, that the American people have asked us to deliver the toughest possible line-item veto, one that makes it harder to spend their hard-earned tax dollars and easier to save the money.

☐ 1230

That is what we pledged to do in the Contract With America, and that is what H.R. 2 delivers to the floor.

Mr. Chairman, I reserve the balance of my time.

Mr. BEILENSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank the gentleman for yielding time to me.

This, again, is a bill that responds to the American people. The American people think that one of the answers to the problems in American is to give the President extraordinary control over the Congress. Well, it is going to pass. But I would like to remind my colleagues of some of the potential pitfalls of it and also to emphasize some areas that drastically need improvement.

One of the flaws in this bill is that there is a little-known provision that says that the President can only line-item veto tax provisions that affect 100 or fewer taxpayers. I would submit to my colleagues that the real abuse of the taxpayers' money is not on the expenditure side, it is on the tax side, because on the expenditure side, we have to go through the scrutiny of appropriations committees. Invariable every questionable item gets debated on the floor of the House of Representatives, exposed to the public, that is the way it ought to be, and for the last several years has been defeated. But not so with tax provisions. Those we can sneak in. We sneak into a tax bill thousands of pages, and all it takes is a little line. Hundreds of billions of dollars of taxpayers' money is lost because we do not scrutinize what is in this Tax Code in terms of special privileges and because of the very nature of the tax process.

Every single tax bill is a Christmas tree, a giant Christmas tree that contains thousands of provisions that make it impossible for us, any individual Member of Congress, even the chairman of the Committee on Ways and Means, I would suggest, to know what is in that entire tax bill.

Let me tell my colleagues, if I were to be a lobbyist, I would want to be a tax lobbyist. That is where the money is. That is where they can make the changes that really benefit their client in a big way and sneak it in, and it is there forever.

This bill keeps those special privileges in the law. This bill says that if any special provision benefits 100 or fewer people, then the President cannot do anything about it. Well, those are exactly the tax provisions that he ought to be able to veto, because those are the special privileges, the tax preferences, for example, that may benefit 101 billionaires, 101 oil drillers, 101 chemical or pharmaceutical companies. And do not for a minute believe that the tax lobbyists do not know exactly what they were doing when they put that provision in this line-item veto, just as they knew what they were doing when they put it in every tax bill.

So if we are going to pass it, let us do it right.

Now, the gentleman from South Carolina [Mr. SPRATT] and I have an amendment to correct this. I would hope that every Member, there are a few Members in this hall, but I would trust there are more Members watching this, they may call their Member and Members that are seeing this, please, when the gentleman from South Carolina [Mr. SPRATT] speaks, listen to him carefully. He has a compelling argument for why this provision has to be included in this line-item veto, if it is going to be a bill that reflects any real integrity of this body.

The second concern is even a more fundamental concern. For the last several years, any taxpayer that wanted to lash out at the Congress, many of us would grab the lash first and say, "No, wait, let me do it. I will lash myself and all my colleagues, too, and I can do it so it hurts even more than it would hurt us if you do it, because I know where it will really hurt."

We have been bashing ourselves. And now, in keeping with that effort, what we are going to do is to give over the power of the purse, we are going to give it to the President.

Now, some years that is going to be fine, if we are in the same party as the President in the White House. Other years we are going to realize it never should have been done. But in the long run, the American people are going to realize that this Congress will have seriously tipped the balance of powers that our forefathers insisted upon, understood how important it was. They put it into our Constitution, and we are essentially going to take it out.

So I would hope we would think long and hard before we give such extraordinary power to the President to punish individual Members of the Congress, to punish the Congress as a body, but most importantly, to be free of the balance of powers that has made this the greatest democracy on Earth.

Now, there is a specific additional issue with regard to separation of powers, and that is one that goes back through American history to understand.

There was a day when a President of the United States could take the budget from the judicial branch of government, put it together, change it and submit it to the Congress. And, of course, when something can be abused, invariably at some point it will be.

Well, it was a Democratic President, and that Democratic President, when he could not pack the court and when the court did not agree with his New Deal legislation, he decided he was going to take away the court's money for bailiffs, to take away the court's travel money, to punish it, the court, in every way possible. And he did that.

And so a law was passed in 1939 to say the executive branch cannot change the operating expenses of the judiciary branch. It has to be left to the legislative branch to do that because the legislative branch does not have the same conflict of interest.

Now, today, when the Justice Department is the principal litigant before the Supreme Court, when there is the greatest potential for conflict of interest, we are going to go one step further. Not only are we going to repeal the intent of that 1939 law that has still been on the books for good reason, we are going to say, after the Congress has acted on the appropriation for the judiciary branch of government, the President can go in and repeal, can veto, can do anything he wants or she wants, some day, to any operational function of the judiciary branch.

And not only can he do it on a line item, as the chairman of the committees mentioned earlier, he can reach right down into any aspect of any line-item appropriation and specifically pull money out, can specifically punish a particular circuit court that needs to expand or judge that needs more clerks, can do any number of ways to punish the judiciary branch of government. Talk about breaking the concept of separation of powers.

☐ 1240

Talk abut making this country's democracy vulnerable to people who would like to abuse it, that is what we are opening ourselves up to.

Mr. Chairman, I have an amendment that will be coming up very shortly that would not allow the President to do that. It is not that we do not trust the President, but we trust our Founding Fathers more. We trust the U.S. Constitution more than what we will do today or this year or during this first hundred days. We trust the Constitution, our Founding Fathers, to know what is right and to know that the separation of powers is intrinsic to the operation of this government.

We have some very serious problems with this bill. I respect the people who put it together, but I know we are going to have a constructive debate on those provisions. I thank the gentleman from California [Mr. BEILENSON] for yielding me this time.

The CHAIRMAN. The time of the gentleman from California [Mr. BEILENSON] has expired.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from New Jersey [Mr. LOBIONDO], a member of the committee.

Mr. LOBIONDO. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding time to me.

Mr. Chairman, this month we have taken the historic steps toward requiring government to live within its own means by passing the balanced budget amendment. Today we have before us another tool to cut spending, the line-item veto.

Many of us recognize that we live in tough times. Tough times require bold initiatives and bold leadership. H.R. 2 is a bold initiative that demonstrates bold leadership.

I do not believe we can any longer hold the taxpayers hostage by including wasteful and at times silly spending in important legislation. Right now we put the President in the position of signing a good bill that has wasteful spending in it, or vetoing the wasteful spending, or vetoing a good bill to get the wasteful spending out of it. It is not a good situation.

Mr. Chairman, H.R. 2 will change this. It does not give the President the authority to rewrite the budget or to spend money on something else, but it does allow the President to cut out pork barrel spending for one reason and one reason only, to reduce the deficit. That is what we want to get at.

In my home State of New Jersey, like 42 other States across the Nation, we have a line-item veto for our Governor. It works in New Jersey, and it can work in the U.S. Congress.

Line-item veto is another tool for deficit reduction. We all agree that we need to reduce the deficit.

We have been working in a bipartisan nature to provide positive and meaningful change to the American people. Let us continue that bipartisan effort. Let us vote for deficit reduction by voting for H.R. 2.

Mr. CLINGER. As a point of inquiry, Mr. Chairman, may I inquire how much time is remaining for all participants in this debate?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 23½ minutes; the gentlewoman from Michigan [Miss COLLINS] has 18 minutes remaining; and the gentleman from Florida [Mr. GOSS] has 19 minutes remaining.

Miss COLLINS of Michigan. Mr. Chairman, I yield 3½ minutes to the honorable gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, we may differ on whether the line-item veto will reduce Federal spending. For example, Pennsylvania has a line-item veto. Its total debt has tripled since 1982, growing from $6.2 billion in 1982 to $16.5 billion in 1994. For all of the States, total debt has doubled in just 8 years, growing from $186 billion in 1984 to $372 billion in 1992.

At a hearing last month on this bill, Mr. Chairman, the director of the Congressional Budget Office testified: "Evidence from the States suggest that the item veto has not been used to hold down State spending or deficits, but rather has been used to State Governors to pursue their own priorities."

Mr. Chairman, I had the honor of serving in the Pennsylvania Legislature prior to being elected to the Congress. The experience from Pennsylvania demonstrates how the executive branch can use this power.

In the 1983–84 fiscal year, the Pennsylvania Legislature initially refused to adopt the budget submitted by the Governor, including his proposals to increase taxes. The Governor responded by cutting from the State Senate 62 percent of the Senate's budget, including Senators' salaries and expenses, and by completely eliminating salary and mileage expenses for Members of the State House.

This episode has affected all subsequent negotiations between the legislature and the Governor, not just on budget and taxes but on nonspending bills.

While the President may know the most efficient way to run the executive branch, he does not know the most efficient way to run the Congress. Indeed, a future President may want to make Congress less effective in its oversight of the executive branch.

The appropriations bill for the Congress provides funds so that the Congress can hire staff, such as the General Accounting Office and the Congressional Budget Office, to do its job, even though frequently their jobs involve presenting conclusions that the President dislikes. This function is different from what the report of the Committee on Government Reform and Oversight says it is seeking to eliminate in H.R. 2, which is called "log roll, pork barrel projects."

The appropriations bill for Congress is also more detailed than the appropriations bills for the executive branch agencies. The committee's report says "We do not itemize appropriation bills and see no reason to do so. For the most part, Congress provides large lump sum accounts for agencies," but the appropriations bills for the legislative branch are very detailed.

Mr. FATTAH. Mr. Chairman, under the bill, the President says we can reduce funds appropriated for a particular House committee, perhaps in response to an oversight investigation by that committee.

In conclusion, Mr. Speaker, if we pass this bill and give up control of the details of our own budget to the President and a minority of the Senate, it is unlikely we will ever be able to reclaim it.

Mr. Chairman, I include, for the RECORD, a table showing the increase in debt for each State between 1984 and 1992.

The material referred to follows:

STATE GOVERNMENT DEBT OUTSTANDING AT END OF FISCAL YEAR

[Thousands of dollars]

	1984	1992
United States	186,378,896	371,800,683

STATE GOVERNMENT DEBT OUTSTANDING AT END OF FISCAL YEAR—Continued

[Thousands of dollars]

	1984	1992
Alabama	2,896,714	4,128,724
Alaska	6,529,672	4,941,602
Arizona	607,720	2,648,942
Arkansas	703,344	1,942,189
California	13,553,823	37,823,709
Colorado	1,256,257	2,977,116
Connecticut	5,489,783	11,956,902
Delaware	1,909,003	3,541,000
Florida	3,909,566	12,295,486
Georgia	1,842,122	4,470,781
Hawaii	2,512,093	4,656,763
Idaho	574,359	1,292,022
Illinois	8,636,544	18,741,830
Indiana	1,563,271	5,171,670
Iowa	651,311	1,863,947
Kansas	356,136	485,787
Kentucky	3,384,183	5,518,526
Louisiana	6,517,978	9,994,068
Maine	1,195,410	2,637,052
Maryland	4,761,182	8,334,061
Massachusetts	8,885,155	24,008,036
Michigan	5,222,480	10,356,583
Minneosta	3,388,868	4,143,203
Mississippi	1,025,222	1,626,737
Missouri	2,631,236	6,301,143
Montana	696,071	1,887,877
Nebraska	606,254	1,764,223
Nevada	864,520	1,934,144
New Hampshire	1,734,333	4,313,471
New Jersey	11,644,014	19,736,201
New Mexico	1,150,884	1,605,048
New York	29,390,713	65,888,432
North Carolina	1,885,929	3,819,102
North Dakota	444,756	1,027,156
Ohio	6,664,321	12,193,154
Oklahoma	3,041,744	3,658,022
Oregon	8,544,694	4,296,060
Pennsylvania	6,637,824	12,962,120
Rhode Island	2,291,705	5,150,733
South Carolina	3,241,814	4,864,627
South Dakota	917,562	1,060,222
Tennessee	1,735,309	2,906,396
Texas	4,009,048	8,001,175
Utah	1,200,096	2,153,233
Vermont	809,901	1,542,671
Virginia	2,901,912	7,402,641
Washington	3,098,219	7,191,966
West Virginia	1,633,392	2,594,324
Wisconsin	3,552,127	7,296,851
Wyoming	716,320	894,768

Mr. SOLOMON. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. DUNCAN], who is a lifelong resident of Knoxville, TN. He succeeded his father here, who was one of the most respected men in this House. He has been a fighter, since the first day he came to this body, for a line item veto, and he is finally getting his chance.

Mr. DUNCAN. Mr. Chairman, I rise in strong support of this line item veto legislation.

Mr. Chairman, I first want to thank my good friend, the gentleman from New York [Mr. SOLOMON], with whom I have worked so closely on this issue in the past, for yielding me this time.

Mr. Chairman, when we pass this legislation a little later, I think there is no one in this House who will deserve more credit for it than the gentleman from New York, GERRY SOLOMON. I congratulate him for his work on this very important piece of legislation.

Mr. Chairman, on the first day of every Congress since I was elected in 1988, I have introduced a line item veto bill that is almost identical to the one that we are considering now, H.R. 2. While past Congresses have been unwilling to pass a line item veto with real teeth in it, and in fact we passed one that the Wall Street Journal in 1993 called a voodoo line item veto bill, I am pleased that today we are on the verge of approving a line item veto bill that will truly be effective in reducing pork barrel spending.

Mr. Speaker, this is not a partisan issue. Forty-three of our Nation's Governors, both Democrat and Republican, already have the line item veto and are using it to cut spending in their States and balance their budgets. It is time for Congress to give this same tool to the President, so that he can eliminate the most outrageous examples of wasteful and unnecessary spending without vetoing entire appropriation bills.

The General Accounting Office estimated in 1992 that more than $70 billion of pork barrel spending could have been cut between 1984 and 1989 if Presidents Reagan and Bush had had a line item veto. The Cato Institute estimates that $5 to $10 billion a year could be saved with the line item veto.

Just last week in his State of the Union address, President Clinton highlighted some of the most absurd examples of pork barrel spending approved by the 103d Congress, and said "If you give me the line item veto, I will remove some of that unnecessary spending."

Mr. Chairman, I wish we did not need such things as a balanced budget amendment and a line item veto to bring our Federal spending under control. Unfortunately, however, Mr. Chairman, Congress has proven time and again that it does not have the will to cut spending on its own. That is why legislation such as H.R. 2 is so very necessary today. If the Congress does not really want to cut spending, it will have to say so and say so publicly.

Mr. Chairman, with a national debt of over $4.7 trillion, we simply cannot afford to withhold this important tool from the President any longer. Former Senator Paul Tsongas, writing in the Christian Science Monitor a few months ago, said that if present trends continue, the young people of today will face average lifetime tax rates of an incredible 82 percent. We must do something about this to give a good economic future to our children and grandchildren.

This will not solve our problems by itself, but it will be a big step in the right direction. I urge passage of this very important legislation.

□ 1250

Mr. BLUTE. Mr. Chairman, I yield 2 minutes to a distinguished former Governor, the gentleman from Delaware [Mr. CASTLE], who is a great leader in the line item veto fight and is the only Member of this Congress who has actually wielded a line item veto.

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me the time.

I also, by the way, congratulate the Committee on Rules and all those who discussed this, because I think this is an important piece of legislation, a little more complex than some people realize, and I think the amendment process will allow that discussion to take place. I think we are going to have a good time with that and perhaps learn a lot about it.

I also think that the statutory line-item veto is a good step. I believe in the double-step process. I believe that a President should understand if he or she vetoes something, it is going to come back over here and if indeed it is overridden by a majority, a veto would have to happen again, and it would be a two-thirds vote at that point. I think that is going to make people sit up and take notice.

The history of the line-item veto in the United States of America is long and is very important. It was first proposed by President Grant in 1873 and by more than a dozen Presidents since. Ronald Reagan said as Governor, "I found this item veto is a powerful tool against wasteful or extravagant spending." It was introduced in this body in 1876 and there have been 200 resolutions since that particular period of time.

It has a significant history. I did exercise the line-item veto as Governor of the State of Delaware. President Clinton did it as Governor of the State of Arkansas. We know that 43 Governors have this. I do not know of a single State that is trying to rescind it. I do not know of a single legislature or Governor who is really fighting it.

What it really means, in truth, is that you sit down and work out your budget together and you bring the executive branch into the process. After all, the executive, or the President in this case, presents a budget, the President lives by the budget, and the President is the one that has to carry it out with their various agencies.

I think the President should be involved in setting that budget process and also, if there are the pork-barrel projects that we hear about, I believe the President of the United States should be the one named as an involved party and having been a party to that. That is what happens in this particular instance.

This will in my judgment address unnecessary expenditures. But it will not balance our budget. It is not going to do that. I do not think we should overemphasize that.

I finally do not think that this is an extreme shift of activity as we have heard from time to time. It is really not much of a power tilt. In fact, I think the President may underutilize it rather than overutilize it.

I would encourage all of us to support the line-item veto legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 5½ minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. I thank the gentlewoman for yielding me the time.

Mr. Chairman, the bill before us passes up a practical solution, expedited rescission, which this House has voted for on 3 separate occasions, a solution that is clearly constitutional, and takes up instead a novel solution that is constitutionally in question.

I know that the Congressional Research Service has sifted through all the case law on delegation of powers and come to the conclusion that this bill is probably constitutional. But as Judge Bork put it in an article he wrote some time ago about the line-item veto, "A solution that nobody has thought of for 200 years has the burden of persuasion, especially in constitutional matters."

Those who claim that we can give the President line item veto authority bear the burden of explaining to us how we can amend the Constitution by statute. They have to explain to us in all fairness, I think, why it is that no President has ever noticed that he had this authority implicit in the Constitution for over 200 years.

Let us start with George Washington. He presided over the Constitutional Convention. When he was asked what were his powers under the presentment clause, he answered succinctly.

"From the nature of the Constitution," said Washington, "I must approve all parts of a bill or reject it in toto."

William Howard Taft was both President and Chief Justice. He once wrote, "The President has no power to veto parts of the bill under the Constitution and allow the rest to become law. He must accept it or reject it in its entirety."

Where Judge Bork and William Howard Taft have refused to tread, the authors of this bill rush in. In effect, they say, "Even if the Constitution doesn't give the President this power, Congress can confer on the President by statute powers that the President doesn't have under the Constitution."

The bill does not use the words, but the device it employs to confer the item veto power upon the President is delegation. In essence, this bill delegates to the President the power to cancel out items in a bill in lieu of vetoing the bill in its entirety.

So this bill takes giant strides. It shifts enormous power to the President by delegation and it is so broad, so unique, so unprecedented that I think it fairly begs the question, "Is it constitutional?"

Fifty years ago, the Supreme Court said, "Sweeping delegations of legislative power are unconstitutional."

I know that a lot of water has flowed over the dam since the Schecter decision came down, and that Schecter has mostly been honored in the breach, as our courts have increasingly upheld delegations of power that have become broader and broader with time.

But 7 years ago in Bowsher versus Synar, a case dealing with the budget authority of the Congress, dealing specifically with sequestration, which was much like a veto, the Court issued a caveat for us to beware of. It said,

> The ultimate judgment regarding the constitutionality of a delegation must not be made on the basis of the scope alone but on the basis of its scope plus the specificity of the standards that govern its exercise. When the scope increases to immense proportions, the standards must be correspondingly more precise.

This is the caveat sent to us by Bowsher versus Synar, the caveat we should heed here. The broader the scope, the stricter the standards.

There is no question about the scope of this bill. It is immense, it is broad, it is as big as the powers of 13 different appropriation bills that we pass every year, all discretionary spending.

In effect what we are saying here is the President can choose to do whatever he pleases with 13 different appropriation bills adopted into law each year by the Congress.

What standards, what guidelines control what the President can do? What tells him where the purpose of Congress lies?

First of all, this bill says that when the President cuts out spending, or rescinds, the rescission must reduce the deficit or the national debt and limit discretionary spending.

But, ladies and gentlemen, that is tautological. By definition, anything that cuts spending will reduce the deficit. So this is not a standard.

Next the bill says the rescission must not impair essential governmental functions or harm the national interest. What does that mean?

The standard is so subjective that the President can fill it any way he wishes. It is so vague that it is meaningless.

I know that in decisions from J.W. Hampton to Mistretta dealing with the sentencing guidelines, courts have allowed Congress to hand over enormous power to the executive branch, the broadest sorts of power, the broadest kinds of discretion, but it is to carry out policies that we spell out and enunciate.

The difference between all those cases and this bill is that this bill delegates to the President the power not to carry out but to cancel out legislative policies, not just to execute the will of Congress but to, when the President wishes to, eradicate the will of Congress.

If we want to add a line item veto to the President's powers, then I think the right way to do it is to amend the Constitution. Until we have amended the Constitution, the best way to give the President the equivalent of a line item veto is by enhancing and expediting his authority to rescind. We will offer in the course of this debate amendments to do just that.

Mr. GOSS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I rise in strong support of H.R. 2, the Line Item Veto Act. It is an important tool in the battle to reduce the spending that will be given to the President through the line item veto authority.

I particularly appreciate the time yielded to me today by the distinguished gentleman from Florida, because it is an opportunity to speak on what has been for me a long-time commitment to my constituents, a contractual arrangement, you might say.

For more than 10 years now, I have been saying in response to my constituents' concerns that I think there are two fundamental changes that must be made to deal with our continual deficit problem: One is the balanced budget amendment and the other is the line item veto for the President.

☐ 1300

So, since 1985 I have been cosponsoring legislation which would grant the President the line-item veto. It has been frequently mentioned that 43 Governors have this tool at their hand, and it has been well used in those States. In fact, in my home State we have an extraordinarily powerful version of it. We can actually have our Governor mark down expenditure items, not only mark them out.

It will enable us through the President's authority to strike a pen to the pork barrel projects that too often find their way into appropriations bills. This power given to our Governors in 43 States has been a successful tool in discouraging unnecessary expenditures at the State level. I think the President can be well vested with this power as well.

I urge my colleagues to support this legislation. It is one of the fundamental, institutional changes we can and must make. Obviously, with only one balanced budget in the last 20 years, we not only need a balanced budget amendment, we need this kind of institutional change as well.

Mr. BLUTE. Mr. Chairman, it gives me great pleasure to yield 2 minutes to the gentleman from Washington [Mr. TATE], a new member of the Committee on Government Reform and Oversight.

Mr. TATE. Mr. Chairman, this legislation is of monumental importance to our country. As a cosponsor, as many other freshmen are, we are keeping our commitment to the Contract With America.

The line-item veto means cutting spending, shrinking government and that was the message last November.

The line-item veto provides a powerful tool for Congress to control spending to eliminate pork barrel legislation, and it is part of our Weight Watchers diet for Congress.

The line item veto comes on the heels of the balanced budget amendment, another way to reduce the deficit, another way to get Government out of our wallets.

The time to act is now. Congress must get its house in order, because the American people are tired of more of their money going for wasteful government programs and they are weary of the excuses by Congress for the spending. It is out of control.

We have heard many times the national debt is over $4½ trillion, $18,000 for every man, woman, and child. My daughter, Madeleine, who was born 6 months ago, was saddled with this huge debt for the future. The debt not only jeopardizes future economics and future earnings, but it jeopardizes the future of our grandchildren and our great grandchildren.

We can no longer allow this reckless spending without an avenue to remove it. Just last year we spent money to study insect noise and to study lobsters. Sounds like a lot of pork to me.

The line-item veto provides a powerful check on congressional pork. Forty-three States have the line-item veto to balance the budget, to cut the fat. The U.S. Congress should follow this movement.

Congress has proved incapable of making the tough decisions. The public has asked us to pass this bill and we should, if not for ourselves, then let us pass this for the American families we are here to represent.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentlewoman from Michigan [Miss COLLINS].

Miss COLLINS of Michigan. Mr. Chairman, I thank the honorable gentlewoman from Illinois for yielding me this time.

Mr. Chairman, I rise in strong opposition to the line-item veto bill. I opposed it when the White House was Republican; I oppose it now; and—for the sake of Congress—I would encourage my colleagues to do likewise.

Mr. Chairman, I for one, believe in the Congress; and while we have had our problems of late, I cannot support legislating ourselves into irrelevance. We are not children, and we do not need a Republican or Democratic "daddy" standing over us and telling us that we do not need items x, y, or z because "father knows best."

Imagine, if you will, the incredible leverage which the President will have over each and every Member of this body. Heaven help any colleague who crosses a vindictive President with this power. The Member will see his subcommittee's work vanish with the stroke of a pen; and simple, routine items could require their own "supermajority." Are we prepared for that? Remember, my colleagues, Presidents can be either friendly or hostile. Your friend now could be your nemesis in a few years.

I ask my colleagues, can we not stop this collective hari-kari once and for all? We have run this country for over 200 years, and our system is the envy of governments around the world. Now, again, I will be the first to acknowledge our problems, but this solution is far too severe. And it is far too permanent. I will not cut off my foot to get out of the bear trap. Absolutely not.

Mr. Chairman, why on Earth would this U.S. House of Representatives willingly vote away its power?

We negotiate in our respective committees for programs which will benefit our constituents. We win the battle in committee. We win the battle in appropriations. We win in floor debate. Then a President, with one stroke of a mighty pen, can render all of our hard work void and useless. A President can hold your district programs hostage to votes he wants for other bills. He can be very punitive to teach Members a lesson.

Why? Why emasculate the Congress?

Why? Turn our responsibilities over to the executive branch?

Why? Give up our power to legislate and appropriate?

I ask, why—why—why?

Mr. GOSS. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Mississippi [Mr. PARKER].

Mr. BLUTE. Mr. Chairman, we also yield 1½ minutes to the distinguished gentleman from Mississippi [Mr. PARKER].

The CHAIRMAN. The gentleman from Mississippi is recognized for 5 minutes.

Mr. PARKER. Mr. Chairman, the minority whip recently issued a statement in which he brands H.R. 2 as a Republican proposal under which Congress would cede to the executive branch one of its most important responsibilities—the power of the purse.

Well first of all, here is one Democrat who supports this Republican proposal. I am an original sponsor of the legislation before us. In fact, I have supported the concept of a line-item veto from my first day in Congress. Here is one Democrat who is not prepared to just toss aside his party's claim on a good idea.

Second, have not we done a fine job in carrying out our most important responsibility? Congress has not responsibly exercised the power of the purse for years. We have been downright irresponsible with this power.

Opponents of a line-item veto claim this is a balance of power issue. I agree. There currently exists vast imbalance in the power to exercise fiscal responsibility. This is an effort to remedy that problem.

A 1992 GAO report indicated that the line-item veto will work. I refer you to page 5 of the Rules Committee Report on H.R. 2:

> If Presidential line item veto/line item reduction authority had been applied to all items to which objections were raised in the Statements of Administration Policy during fiscal years 1984 through 1989, spending could have been reduced by amounts ranging from $7 billion in 1985 to $17 billion in 1987, *for a 6-year total of about $70 billion*. This would have reduced federal deficits and borrowing by 6.7 percent, from the $1059 billion that actually occurred during that period to $989 billion. (Emphasis added.)

That is good enough for me.

What we are talking about here is the creation of an additional deficit reduction tool. If a carpenter set out to build a house without a hammer, he would not be able to accomplish much toward the construction project. If you were the President of the United States, you would also want the tools needed to carry out your duties for that office. In an effort to provide a balanced budget or to eliminate wasteful programs and expenditures, the line-item veto is a vital tool for the President of either political party.

While the enhanced recission alternative is also a new tool, it is not as strong as the line-item veto. The line-item veto will require a two-thirds vote to reverse a Presidential reduction in spending while enhanced recission will require a simple majority. That is essentially the only difference between these two proposals.

So the choice before you is quite simple. You are either serious about reducing spending and want to make it as difficult as possible to avoid doing so, or you want to protect this body's spendthrift power.

This is really not a balance of power issue. This is an expansion of power issue. I support expanding the power of the President and/or the Congress to engage in the practice of fiscally reponsible government.

More than 85 percent of the Nation's Governors have the line-item veto where it has been used as a valuable tool in helping those Governors keep their State's budgets in balance.

The time for a line-item veto has arrived. If we are going to have a balanced budget, the President needs the tools necessary to produce such a budget. I urge you to support H.R. 2 as introduced and take a giant step toward fiscal responsibility.

□ 1310

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Chairman, I speak today in support of the Line-Item Veto Act, and I support the premise behind the call for the line-item veto, that the Congress has included many questionable items in appropriations over the years, and steps need to be taken to remedy the problem.

Today the notion that Congress can control itself is doubted by the public, and that is why this is a popular idea. In the public's mind Congress defines itself with the little things we do as well as the big things we do. It is my sense that the line-item veto may help put an end to the funding of some of the outdated, unneeded programs or projects that we put into appropriations bills.

This will not end, and it is not the panacea. The line-item veto does not end Congress' responsibility for self-restraint. As my colleagues noted in our committee hearings, Presidents, recent Presidents particularly, are not known for submitting balanced budgets, and we should not expect this or any other President to save us from ourselves.

We should consider another point, that maybe we are overselling the benefits of this bill. The item-veto could cut millions of dollars and help Congress set better priorities on programs, for example, by eliminating nondefense items in the defense budget, but public support of this measure stems in large part from the size of the deficit. Many are under the impression the item-veto will have a noticeable fiscal impact. But what effect will it really have on the deficit?

The item-veto has been used, as we heard earlier, by 43 Governors. And I served 20 years as a legislator and with many Governors, and they enjoyed that authority, and I had the honor and privilege of having projects and bills vetoed by both Democrat and Republican Governors in Texas.

The item-veto most often is used to get the attention of those of us in the legislature and not necessarily as a budget-reducing item. I would hope it would be used for that, not only by our President if this passes, but also by Governors.

I support the measure because I believe it is progress. However, the line-item veto will not control nondiscretionary spending, the big-ticket items like health care costs or interest on the national debt.

I believe that the point needs to be made clear to the public, let us not oversell the benefits of the line-item veto, but we still need to pass it.

Mr. GOSS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Huntington Beach, CA [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, the President's veto power is granted by the Constitution, and we have heard today the question: Why, why, why change this power now or try to have some impact on how this power is being used in this body?

Well, I will be very happy to explain it. Something has gone totally haywire, and spending is totally out of control and has been for decades.

One of the reasons this system is not working is because there has been a fundamental change, a diminution of the President's veto power. Past legislation, especially spending bills, that went through this body were specific and usually very, very understandable. Today we find massive continuing resolutions and appropriations bills that are hundreds, if not thousands, of pages long that span the issues, that span our whole imagination, and they are very difficult to understand. This is how our process has evolved, and what has happened is the President's veto power in this evolution has been devolved along with this.

In short, the President's veto power has been neutralized by the evolution of how we do our business, and the reason why our spending situation is out of control is this constitutional authority given by our Founding Fathers is really no longer in effect.

That was never made more clear to me than when I worked at the White House for the President of the United States. I remember when President Reagan stood right here and in a State of the Union Message had a huge continuing resolution. Do you remember that? And he threw it down on this table before us and said, "Something is wrong when we have to consider all of this, all or nothing." The President is faced with all or nothing.

What kind of veto power does he have left?

Well, a little story I would like to share with you: I was in the Oval Office with President Reagan the day after his presentation of the State of the Union Message, that time when he actually threw down that continuing resolution showing, demonstrably showing, that his veto power, meaning all or nothing, you know, was irrelevant now, and I notice that his finger was bandaged. President Reagan's finger had a bandage on it. I said, "Mr. President, what happened to your finger?" He said, "Well, DANA, when I was up in front of the Congress last night and I threw that bill down, my finger did not get out from under it and it smashed my finger."

Now, most people did not understand that he was in pain during the delivery of the rest of the State of the Union Message.

There is something wrong when the legislation that we have is so big that it is smashing the President's finger, much less his veto power. I think we should restore the President's finger and restore the veto power to the President of the United States to protect us against unnecessary spending, and that means supporting H.R. 2, the real line-item veto.

Mr. BLUTE. Mr. Chairman, I yield 2 minutes to the gentleman from Cleveland, OH [Mr. HOKE], a distinguished member of the Committee on the Budget.

Mr. HOKE. Mr. Chairman, I thank the gentleman from yielding me this time.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Mississippi [Mr. PARKER], who spoke quite eloquently in favor of this enhanced-rescission bill.

I would like to particularly point out that the gentleman from Mississippi [Mr. PARKER] is a very conservative Democrat, and I would like to further point out that the gentleman from Mississippi [Mr. PARKER] and many other Democrats have voted in favor of every single bill that has been passed by this Congress so far as part of the Contract With America.

I think it is important, Mr. Chairman, that we remind ourselves that this is a very bipartisan effort that is going forward. Democrats voted on every part of the rules package. They voted in favor of the balanced budget amendment. Without them we never would have passed it. They voted in favor yesterday of unfunded mandates, nearly half the Democrat Caucus, and on and on, and I think, no, I am sorry, more than half, substantially more than half of the Democrat Caucus, and I think it is important, Mr. Chairman, for the American people to remember that we are not in the business of doing the Republican Party's agenda or the Democratic Party's agenda, but that we are working for America here, and we are working in a bipartisan spirit and a bipartisan manner that many in the press would like the public not to be aware of.

□ 1320

You know, we have been saying that last November the American people spoke and they declared the days of wasteful spending by the Federal Government should stop. Today we are on the threshold of fulfilling another part of our contract, the line-item veto. I think it is probably a little bit myopic and maybe a little bit of bragging to suggest we are really the authors of this. The fact is this is an idea whose time has finally come, brought about, initially made by Ronald Reagan. It started in the early 1980's and finally after an extraordinarily long gestation period we are going to see this bear fruit. Mr. Chairman, great ideas are worth waiting for.

Mr. Chairman, President Reagan is going to be 84 years old on Monday. I cannot think of a better birthday present that we could give him.

Far too long now Congress has insulted the taxpayers of this country by first taking their money, and it should not.

Mr. GOSS. Mr. Chairman, I reserve the balance of my time.

Mr. BLUTE. Mr. Chairman, I yield 2 minutes to the gentleman from Buffalo, NY [Mr. QUINN], a distinguished member of the Joint Economic Committee and a leader in the effort to give the President a line-item veto.

Mr. QUINN. I thank the gentleman for yielding this time to me, and I appreciate his comments.

Mr. Chairman, it is an honor for me to be here today and join so many of our colleagues in enthusiastically supporting H.R. 2.

Twice during the 103d Congress, since I have been a Member here in the Congress, we have had a chance to vote on the line-item veto, and twice we fell short of those votes. In the 104th Congress now I think we have a real opportunity to give the President of the United States the line-item veto.

Mr. Chairman, the line-item veto will rise or fall on its own merits. But I think we have an opportunity here to go above and beyond that. We hear words like "power" and "punishment." I think one of the problems we are into right now is that we have an opportunity here, unlike other legislation, where H.R. 2 says that the President's rescissions will take effect immediately unless the Congress rejects them. If the Congress rejects them within 20 days, they go back to the President and they will be vetoed again, if he indeed wants that to happen. Then it comes back to the House for a two-thirds majority. One of the by-products of H.R. 2 will be some discussion, communication, interaction between the House and the Senate and the President of the United States. I think that is healthy for this Government.

Mr. Chairman, at the same time we have some naysayers, who are opponents and say we are giving the President too much power. We are back to the power and punishment words. They say that he will punish Members for things they have done or have not done during the course of their term here.

I think the track record that we have in city halls across the country, in State legislatures, in the Governors' chairs—we heard a former sitting Governor right here as our Member, the gentleman from Delaware [Mr. CASTLE], say that that is not the case, that the Presidents of this United States will use that power accordingly.

Then we hear whether or not the President will be accountable, whether or not he punishes other Members or uses that power in the wrong way. Let us remember Presidents are also accountable to the same constituents that we are accountable to.

Mr. Chairman, it is a pleasure for me to strongly support H.R. 2, and I ask my colleagues to do the same.

Mr. BLUTE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. COX], the distinguished chairman of the Republican Policy Committee and a former White House counsel who worked extensively on budget issues during the Reagan years.

Mr. COX of California. I thank my colleague for that gracious introduction and for yielding to me.

Mr. Chairman, H.R. 2, the Line Item Veto Act, is something the American people have wanted for a long time. It is a fitting tribute to their tireless efforts, as well as to the tireless efforts of one man who has been mentioned here several times in the course of this debate, Ronald Reagan.

Next Monday, February 6, Ronald Reagan will celebrate his 84th birthday. It is absolutely fitting that we will vote on final passage of H.R. 2 on Ronald Reagan's birthday.

A decade ago Ronald Reagan said about the line-item veto, "No other single piece of legislation would so quickly and effectively put order back into our budget process." That is as true today as it was 10 years ago.

It will restore what the Founders saw as the strongest deterrent to wasteful spending by Congress, an energetic executive with the power to force a thoughtful and thorough debate on individual items of spending.

H.R. 2 will reverse some of the damage that was done by the 1974 Budget Impoundment and Control Act, passed by a liberal Congress at the height of its powers as a slap at President Nixon, then at the depths of his disfavor with the Congress.

It radically shifted the respective powers of the legislative and executive branches and emasculated the President's impoundment authority, substituting weak powers of deferral and rescission which this Congress has ever since 1974 chosen to override.

Since 1974, this Congress has chosen to ignore almost every rescission request proposed by every Republican and Democratic President. In the 2 years that I worked in the White House, President Reagan issued over 400 rescission requests, they totaled over $18 billion. Do you know how many the Congress voted on? Not a single one.

Mr. Chairman, James Madison once wrote that unless kept in check, Congress would be everywhere extending the sphere of its activity and drawing all power into its impetuous vortex. James Madison was right. Congress' spending appetite needs to be controlled.

H.R. 2 is a solid step on the way to doing just that.

Mr. BLUTE. Mr. Chairman, it gives me great pleasure to yield 2 minutes to a renowned deficit hawk, the gentleman from New Hampshire [Mr. ZELIFF], chairman of the Subcommittee on National Defense, International Affairs and Judiciary, and the author of the A-to-Z spending reduction.

Mr. ZELIFF. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 2, to give the President the line-item veto. Last November we promised the taxpayers of America that we would manage their funds with greater care and discipline.

We promised no more business as usual. We promised to prioritize Federal spending just as families and businesses do.

The line-item veto, along with the balanced budget amendment and the unfunded mandates legislation just passed, will go a long way toward forcing this Government to prioritize.

There is no better example of the need for a line-item veto than the California earthquake emergency appropriation passed last year.

It was amazing how much damage was actually done by that earthquake, since the $8.6 billion emergency funding bill went way beyond California and included money for States from Hawaii to Maine. It included: $10 million dollars for a post office in New York City; $1.5 million dollars to build a maritime museum in South Carolina; $1.3 million dollars for Hawaiian sugarcane funding; and $1.4 million dollars to fight potato fungus in Maine.

If the President had a line-item veto, he could have taken these unnecessary spending programs right out of the legislation without affecting the necessary funds for the horrible damage in California.

We see opposition to the line-item veto because it is a threat to this type of pork-barrel politics. It is a threat to the old spending habits of past Congresses. But times have changed for the better, and pork-barrel politics must end.

The bottom line is that America now faces a $4.6 trillion debt. We pay over $200 billion in interest payments alone.

A line-item veto takes the power away from the wheelers and dealers and gives it back to the President and this Congress.

A line-item veto forces accountability on the part of the Congress and the President, and stops the blame game that now routinely occurs.

I urge my colleagues to support this legislation and take yet another step toward ensuring our Nation's future through accountability and fiscal responsibility.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. I thank the gentlewoman for yielding.

Mr. Chairman, I am pleased to come to the floor today to debate proposals to strengthen the ability of Presidents to identify and eliminate low-priority budget items. The Members of the House will have the opportunity to consider a variety of approaches to this issue, including an amendment which I will be offering with JOHN SPRATT.

I know that my friends on the other side of the aisle have waited a long time to pass a pure line-item veto bill. I do want to point out that even the amendment before us today is not a line-item veto constitutional amendment, which I believe is what most Americans are thinking of when they speak about "the strongest possible line-item veto."

Nonetheless, I have no doubt that supporters will pass the pure statutory line-item veto when the Committee of the Whole rises after debating the various amendments that will be brought to the floor during the next several days. There also has never been any doubt about my position on this so-called pure line-item veto; I have opposed it.

For those who believe that any President—Democrat or Republican—should have minority rule over Congress, should be able to get just one-third-plus-one of the Congress to agree with him on the most targeted of funding items, those people should vote for the pure line-item veto. I respect their right to have that opinion, but I strongly disagree with it.

What some call modified line-item veto, or what I prefer to call expedited rescission procedure, is the approach that I always have found far preferable. Under this scenario, a President still would be given the opportunity to propose cuts to individual spending or tax items. Within 10 legislative days after the President sent such a rescission package to Congress, a vote on that package would be taken on the House floor. That bill could not be amended, except that 50 House Members could request a separate vote on an individual item which had been proposed for rescission. If a majority of Members voted to retain funding for that individual item, it would be struck from the rescission bill. If the remainder of the rescissions were approved by a simple majority of the House, the bill then would be sent to the Senate for consideration under the same expedited procedure.

This latter approach encourages deficit reduction and maintains the balance of power established by the Constitution, thus excusing it from the grave constitutional concerns created by the language of the base bill.

I also want to be careful not to claim individual or partisan credit for this approach. Expedited rescission legislation embodies an idea which many Members, both Democrats and Republicans, have fought hard for over the years. Dan Quayle first introduced expedited rescission legislation in 1985. Tom Carper and DICK ARMEY did yeomen's work in promoting this legislation. On the Democratic side, TIM JOHNSON, Dan Glickman, Tim Penny, and L.F. PAYNE spent years as particularly effective advocates of this legislation. Numerous Republicans, including Lynn Martin, Bill Frenzel, GERALD SOLOMON, HARRIS FAWELL, and others made meaningful contributions to expedited rescission legislation as it has developed. And of course, the language which we voted on last year was the Stenholm-Penny-Kasich amendment. The deficit reduction prowess of my two cohorts in that effort is almost legendary, and deservedly so.

Thanks to the efforts of these and other Members, the House overwhelming passed expedited rescission legislation in each of the past 3 years.

I do not in any way intend to imply that all of these Members have supported expedited rescissions to the exclusion of or even in preference to a pure line-item veto. Although this proposal was described a few years by GERALD SOLOMON as "a tremendous compromise * * * that this House can support overwhelmingly on both sides of the aisle," my friend from New York has always made it clear that he prefers the one-third-plus-one approach.

What I am saying is that, in an overwhelmingly bipartisan way, Members have stated through their words and their votes, that the expedited rescission procedure is a very good one.

Let me say that again. Members have stated through their words and their votes that the expedited rescission procedure is a very good one. That is important to emphasize because of the way which votes will be taken in the next few days.

My colleague from West Virginia, Mr. WISE, will be offering precisely my amendment which was approved by a vote of 342 to 69 last July. If I were to have my way, that is the amendment that would prevail in the end.

But I can count votes as well as anybody, and I understand that a majority of this body now wishes to pass language along the lines of the Contract With America when it comes to line-item veto. Therefore, I will subsequently offer an amendment which is not a substitute, but rather is an add-on amendment to H.R. 2. In this way, my friends on the other side of the aisle can have the best of both worlds. They can maintain their language, but they can also support language along the lines they have approved for each of the last 3 years.

Where we are in agreement is in the belief that we must bring greater accountability to the appropriations process and the tax benefits process so that individual items may be considered on their individual merits. The current rescission process does not make the President or Congress accountable. Congress can ignore the President's rescissions, and the President can blame Congress for ignoring his rescissions. I believe that it is appropriate to strengthen the President's ability to force votes on individual budgetary items.

To my friends on the left who feel that we don't need to take any of these actions, I would like to make one further point. The current discharge process for forcing a floor vote on the President's rescissions is cumbersome and has never been used. The President is required to spend the money if Congress has not enacted the rescissions within 45 days. In other words, Congress can reject the spending cuts proposed by the President through inaction.

According to data compiled by the General Accounting Office, Congress has approved barely one-third of the individual rescissions submitted by Presidents of both parties since 1974. Congress has ignored about $50 billion in rescissions submitted by Presidents under the existing process without any vote at all on the merits of the rescissions.

During the vote on the Stenholm-Kasich amendment last July, my Democratic colleagues on the Appropriations Committee correctly pointed out that Congress had passed more than $60 billion in rescissions of its own since 1974. That notwithstanding, I do not believe that the fact that Congress had approved more spending cuts than the President had submitted is a justification for not voting on the President's rescission proposals.

The public is fed up with the finger-pointing in which each side argues that the problem is really the other side's fault. Constituents do not consider doing better than the other side to be a substitute for actually dealing with a problem. When we are faced with deficits in the $200 billion range, we cannot afford to ignore any proposals to cut spending.

Forcing votes on individual items in tax and spending bills will have a very real cleansing effect on the legislative process and will take a step toward reducing the public cynicism about the political process. It provides the President with a real tool to ferret out questionable spending items while preserving the power of Congressional majorities to control spending decisions.

When we rise from the Committee of the Whole into the Whole House, I will be submitting for the RECORD a number of items which will be valuable to Members evaluating this issue as well as to scholars who might be studying it. Included in this material are legal opinions from the American Law Division of the Congressional Research Service and answers to the most commonly asked questions about this issue.

I urge my colleagues to strengthen the process by voting for the Stenholm-Spratt amendment and then voting yes on final passage.

Mr. GOSS. Mr. Chairman, I am very happy to yield 1½ minutes to the distinguished gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Chairman, none of us has the illusion that the line-item veto will be a cure-all for our Nation's fiscal woes. It can, however, be an important tool to help the Federal Government get its chronic deficits—like this year's $176 billion deficit—under control.

The line-item veto will give the President the power to excise wasteful pet projects and eliminate tax provisions that only benefit special interests.

And it can work. In the 43 States where Governors currently enjoy this power, it has been a success.

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In California, Mr. Chairman, former Governor Deukmejian used the line-item veto to trim $1.2 billion from his State's budget. In Wisconsin Governor Thompson has used the same authority to eliminate some $143 million in wasteful spending. A 1992 GAO study estimated that a Presidential line-item veto could have saved $70.7 billion in pork-barrel spending between fiscal years 1984 and 1989.

Let us act before we lose another precious tax dollar to wasteful spending.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Chairman, last session I had the pleasure of joining the gentleman from New York [Mr. SOLOMON] and virtually every other Republican to support a true line-item veto, and a number of Democrats decided it made sense for the President to have the authority to get rid of pork-barrel spending and especially tax giveaways, both of which are important arrows in the quiver against our rising deficits. But I am upset today, Mr. Chairman, because the emperor has no clothes. The bill that we have before us only does half the job. Although it gives the President the authority to get rid of pork-barrel spending, it does not give him adequate authority to get rid of the tax loopholes.

Newsweek magazine put it best:

> The fine print of the bill now moving through the House reveals though the Republicans are tough on spending, they are

> lax on special interest tax giveaways. The bill allows the President to target tax benefits, but then defines that phrase to include only a tiny number of small loopholes. The vast majority of tax breaks, worth hundreds of millions of dollars, would remain immune from the President's veto. Any lobbyist looking for goodies from the Federal Government could work through the tax code instead of the spending bills.

Mr. Chairman, that is exactly what is going to happen if we pass this bill. Any tax lawyer in this city, any lobbyists worth their salt, are going to say, "Let's not spend our time on the appropriations bills. Let's find a time bomb that we can place in a revenue bill. Let's have a tax loophole created in a revenue bill."

Now what has happened? Last year every Republican voted to give the President of the United States the authority to get rid of these tax loopholes. In the Contract With America, Mr. Chairman, virtually every Republican signed language that gave the President of the United States the authority to get rid of these tax loopholes. But now the rubber meets the road, and the bill is before us today, and the new leadership does not want to give the President of the United States adequate ability to get rid of tax loopholes.

Mr. Chairman, last year I bolted from my party in good faith because I felt that the Republicans were onto something here. I thought they were sincere in wanting to get rid of both pork-barrel spending and tax loopholes. But now in the 104th Congress, when they are in control, it appears obvious to me that, yes, they want to get rid of this pork barrel spending because there is no growth in pork-barrel spending. It is not a growth industry in this town. But they do not want to give up their ability to slip tax loopholes into revenue bills.

The previous speaker talked about bipartisan cooperation in this House. Since every Republican voted in favor of the language that would give the President the authority to get rid of tax loopholes last year, and virtually every Republican signed the contract, that would give the President that authority. I would ask that my friends on the Republican side of the aisle keep to their word and not break that Contract With America on this issue. Give the President the authority to get rid of tax loopholes.

Mr. BLUTE. Mr. Chairman, I yield myself 2½ minutes to respond to the gentleman from Wisconsin [Mr. BARRETT].

Mr. Chairman, in the Committee on Government Reform and Oversight we adopted an amendment sponsored by the Democrats that would expand the number of individuals, businesses or individuals, who are receiving tax benefits to 100, to allow the President to veto a much broader number of tax benefits. But at the same time we felt it was important not to give the President too much power. That is a concern. I think anything we do that shifts power to the President, we narrowed that to a very defined area to get after the most egregious efforts to reward certain interests in the Tax Code. To expand that further, in an unlimited way, would give the President far too much power and would allow the President to veto things that we do not want the President to be able to veto, such as a middle-class tax cut, for example, if we were to pass something like that.

Mr. BARRETT of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. BLUTE. I yield to the gentleman from Wisconsin.

Mr. BARRETT of Wisconsin. Mr. Chairman, I have a lot of respect for the gentleman from Massachusetts, as he knows. My understanding is that this language, for example, would not give the President of the United States the authority to veto out one of the tax provisions that we have, for example, that would give a special tax credit for drug companies doing business in Puerto Rico. This tax benefit gives 24 companies $2.6 billion in tax credits.

I ask the gentleman, don't you think that the President of the United States should have that ability to get rid of that type of tax loophole?

Mr. BLUTE. Mr. Chairman, if I get the question from my good friend correctly, he mentioned 26 companies?

Mr. BARRETT of Wisconsin. That is correct. There are 26 companies that get $2.6 billion. There are 338 companies that benefit overall, but 26 of those companies get the lion's share, $2.6 billion.

Mr. BLUTE. Well, if it related to specifically 26 companies, then the President would be able to veto that particular benefit. If it goes beyond 100, then he would not.

Mr. BARRETT of Wisconsin. And this provision does go beyond 100. It goes to 338 companies, but again the lion's share goes to that 26 companies.

Mr. BLUTE. I would simply respond that we wanted to narrow the scope of this capability of the President's, to limit it and to target it at the most egregious examples of tax pork. I think we have done that. We adopted a Democrat amendment.

Mr. BLUTE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the Commonwealth of Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I rise today in strong support of H.R. 2—the Presidential line-item veto.

Last week this Chamber passed a constitutional amendment to require a balanced budget in 7 years. The line-item veto is perhaps the best single tool to help us achieve this goal. I would hope that every Member who voted for the balanced budget amendment would support the line-item veto as the next logical step toward eliminating the deficit and balancing the budget.

Today, 43 Governors possess the power of the line-item veto. Many times just having this power does a great deal to discourage legislative add-ons and wasteful spending.

This issue is not a question of partisan politics or political gamesmanship. We Republicans are giving this power to the President, currently a Democrat. This is one of the best tools available to cut wasteful spending.

Some have argued that the line-item veto grants too much power to the Executive and that it represents a dangerous move toward centralization of our Federal Government, which the framers of the Constitution opposed. We must remember that the line-item veto is a way to reduce the size of Government. The line-item veto is simply a modern adaptation of the original Presidential veto which can be overridden by a two-thirds vote of the Congress.

If we are serious in our desire to downsize Government; if we are serious in our desire to see a balanced Federal budget; if we are serious in our desire to be fiscally responsible, then the time has come to stand up and be counted on this proposal.

Mr. Chairman, what is good for 43 of 50 Governors is certainly good enough for the President of these United States. I urge my colleagues on both sides of the aisle to support H.R. 2, and give the President the ultimate weapon needed to reduce the deficit—the line-item veto.

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Mr. GOSS. Mr. Chairman, may I inquire how much time is left on each side?

The CHAIRMAN. The gentleman from Florida [Mr. GOSS] has 6 minutes remaining, the gentleman from Massachusetts [Mr. BLUTE] has 5½ minutes remaining, and the time of the gentlewoman from Illinois [Mrs. COLLINS] has expired.

Mr. GOSS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will close with a few brief comments.

We have had in this general debate process a preview of some of the proposed amendments that we may be talking about, and they really underscore what the debate is. We have got a debate on a major policy issue of whether we want a real line-item veto with a two-thirds vote required to overturn the President's decision, or whether we want to stick to the simple majority rule of approval that we have had here under various titles and labels over the years, which is not really a line-item veto.

It is a very good debate, and it is one that has already started, and I hope it ends up with the toughest version, but

I respect very much those proponents of the other way.

My view on the other way is it clearly has not worked; otherwise we would not be looking at couple-hundred-billion-dollar deficits every year, we would not be looking at a $4.5 trillion national debt, which is growing and predicted to grow over $6 trillion despite our current President's best efforts.

It seems to me is we have to say, "We surrender. It does not work. We need a better system, better machinery, and better tools." And that is what this process is about.

There is a concern that this is somehow going to get out of control. We have built in, as a result of the deliberative process through the committees, some oversight monitoring with GAO. It is a good provision. We have gone into streamlining the time for review by the various bodies, the executive and the legislative bodies, so that we move this thing more quickly and do not interfere with the normal flow of Government business, but we have check and balance points that come more quickly.

We created a new process to guarantee every Member of this institution the right to get an objection to what the President does to the floor of the House for not one vote, not two votes, but in some cases three votes, depending on which procedure is used.

We have picked the toughest way to go, because this is the toughest problem we have in our country right now. There has been some talk about if we do this we will never be able to change it. Well, I hope we are not going to be able to change it, because it is the medicine this country needs. I do not want to change it.

But I would point out I think most people will understand these types of measures in fact can be checked or withdrawn by actions taken on independent appropriations bills only must pass legislation that exempts certain provisions that would override some of the concerns I have expressed here today. I hope that does not happen, because I think that would be weakening, but there is always a back door, it seems, in Washington.

I think there is a real benefit to bringing the President into the loop. It is not just the benefit of accountability and making the President, if he catches a bit of mischief coming out of Congress, being complicit in it. He has the opportunity and responsibility to erase it. And this gives the American voters one more shot at accountability when the November elections come. Of course, it is the November elections that really are the core of democracy.

But beyond that, that extra accountability for the President, we have something that I think is very beneficial that has been alluded to by several of our speakers, and that is the interaction between the legislative and the executive branches in the process of developing the budget for our country as we go through the year.

I think that is a process that clearly is going to yield a better product than we have had so far, less surprises, both happy and unhappy, more predictable results, more efficient use of tax dollars, more on-time targeting of the way we spend our money. And I think we all come out ahead if we do this.

We do not present this legislation lightly. This has been well thought out. It has been through the mill, through the cooperative committee process, and I am very pleased to be associated with this legislation and look forward to the opportunities for amendments.

Mr. Chairman, I yield back the balance of my time.

Mr. BLUTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, now is the time to give the President of the United States the line-item veto authority. This issue has been kicking around up here on Capitol Hill for decades, and has been discussed and chewed over, committees have heard testimony, and still we have not done what needs to be done and give the President this needed tool.

We already have an example of it working in our system of government. It has been field-tested in the 43 States that now have a line-item veto for their Governors. We have heard testimony in the committees from liberals and conservatives, from Republicans and Democrats, that the line-item veto works as a tool to keep the budget in line. There can be no doubt about that, and it is time that the President had a similar tool.

Beyond that, Mr. Chairman, I think it needs to be pointed out that in the last Presidential campaign, both the Republican candidate, the Democratic candidate, and the independent candidate all supported giving the President a line-item veto authority. It was as close to a consensus issue as there was in that campaign. The American people support it by the polls. I believe it is time we did what the American people want and give the President this very important tool.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. NEUMANN], one of the original sponsors of the line-item veto bill.

Mr. NEUMANN. Mr. Chairman, I believe this particular bill is important for a whole variety of reasons. First off, I will tell you when I campaigned last fall, I was concerned as to whether or not we would be able to actually keep the promises in the contract. This is important, because it is another one of those steps to keep the promises we made last fall during the campaigns.

More important than that, our Nation right now today is $3.8 trillion in debt. If every man, woman, and child in the whole country were to take out their checkbook and just pay off their share of the national debt, they would need to pay $18,500. For my family of 5, the Federal Government has borrowed $92,500. Just think about this. Over the last 15 years, this Government has borrowed $92,500 on behalf of my family of five. To just pay the interest on the national debt, my family must write out checks or pay taxes, if you like, of over $6,000 a year. The people in my district back in southeastern Wisconsin have average incomes of $32,000 a year, and yet they must write out checks just to pay the interest on the national debt of over $6,000 a year.

I strongly support this line-item veto and was one of the original sponsors, because I think it is one of two pieces of legislation that will stop this situation.

In Wisconsin, Governor Tommy Thompson has successfully used the line-item veto to hold down spending, to balance budgets without raising taxes on the Wisconsin people, and I believe we should be using those Wisconsin ideas here in Washington, DC.

The other reason I strongly support the line-item veto is because it is a bipartisan effort and it is very encouraging to me to come out here, being outside the world of politics, and be involved in a bill that has bipartisan support, where both sides of the aisle are working together to get it through. It is very, very important if we are going to reduce the Federal spending that we get this piece of legislation through.

I do not think this is the end-all. I think there are many, many more steps that are necessary to actually balance the Federal budget. But this is certainly a very important first step as we move forward on completing the items in the contract that we have pledged to the people last fall.

Mr. EMERSON. Mr. Chairman, I rise today in strong support of the line-item veto legislation. As a longtime author of a constitutional amendment to give the President line-item veto power I am pleased to take part in this important debate today.

As long as Congress continued to send the President jam-packed all-encompassing spending bills, the President often had to choose between signing unnecessary spending into law on one hand and shutting down the Federal Government on the other. Or, signing a bill that was 70 percent necessary, 30 percent unnecessary. A General Accounting Office [GAO] report estimated that if the President had line-item veto authority from 1984 through 1989, the savings would have ranged anywhere from $7 to $17 billion per year.

With the national debt skyrocketing toward $5 trillion and 1995 interest payments on the national debt totaling $339 billion, runaway spending must be stopped. The Federal deficit alone stands at $176 billion this year. To balance the Federal budget, every man, woman, and child in the United States would have to pay an additional $700 in taxes this year. A

Presidential line-item veto is the first step toward fiscal responsibility that will save taxpayers billions of dollars. This, coupled with the recently passed balanced budget amendment are important fiscal tools necessary to get our house in order. I urge support of this important legislation.

Mr. CUNNINGHAM. Mr. Chairman, I rise in strong support of H.R. 2, the Line-Item Veto Act. As an original cosponsor of this bill, I believe it is long overdue.

In fact, this is a historic occasion. This is the first time that freestanding line-item veto legislation has been allowed to come to the floor of the House. For years, the Democratic Congress refused to allow an honest vote on line-item veto legislation, despite the request of Presidents Reagan, Bush, and Clinton. Finally, under Republicans leadership, Congress will move to take this necessary and important action.

For years, Americans have been outraged by the provisions snuck into much larger bills by individual Members of Congress. With appropriations bills routinely running into the hundreds of billions of dollars, many Members of Congress grew quite adept in adding their pet provisions. Because the President's current veto authority is limited to an up-or-down decision on a bill, Presidents have been forced to sign bills containing Members' pet projects.

Here are few examples: In the fiscal year 1994 Agriculture appropriations bill, Congress added $221,000 for blueberry research at the University of Maine and $140,000 for swine research at the University of Minnesota. The Commerce/Justice/State bill contained $683,000 for fish laboratory repair in South Carolina and $400,000 to deal with the algal bloom crisis in Maui. The Energy and Water bill contained $50 million for one road project in West Virginia and $4 million for a program at Florida A&M University. The Treasury/Postal bill included $120 million for a courthouse in Phoenix and $96 million for a courthouse in Oregon. All of these items were cited by the Citizens Against Government Waste because they were either only requested by one Chamber of Congress, not specifically authorized, not competitively awarded, greatly increased in funding over the prior year, mainly of local interest, or not requested by the President.

Current rescission authority under the 1974 Impoundment Control Act hasn't worked. Last year, Congress made several sputtering attempts to enhance rescission authority. Given the extreme reluctance of Congress to take up actual rescissions, one wonders if the zeal for enhanced rescission in the past wasn't more directed toward keeping the line-item veto off the agenda than to truly improving the system.

H.R. 2 gives the President a permanent legislative line-item veto. With this authority, the President may strike or reduce any discretionary budget authority or eliminate any targeted tax provision in any bill. The President must prepare a separate rescissions list for each bill and submit his proposal to Congress within 10 days after signing the original bill.

The key to why line-item veto authority is better than enhanced rescission is in what comes next. Under line-item veto, the President's proposed rescissions are approved unless Congress passes a disapproval bill within 20 days after receiving them. Enhanced rescission legislation, on the other hand, disapproves the recommendations unless Congress acts. With line-item veto, the upper hand goes to the cutting side, where with enhanced rescission, the advantage goes to the spending side.

H.R. 2 sets out clear procedures for dealing with a line-item veto. The list sent by the President is unamendable. There are expedited procedures to bring a line-item list to the floor of the House and limits on debate time in the Senate.

The line-item veto will not solve our budget crisis. It will, however, do something equally important—help to restore the confidence of the American people in their government. It is time to give the President the same authority that 43 of the 50 Governors have. It is time for Congress to enact the line-item veto.

Mr. FAWELL. Mr. Chairman, for years I have supported a straightforward way to help solve Congress' lack of spending restraint: the line-item veto. Today, the House begins consideration of H.R. 2, a bill introduced as part of the Republican Contract With America, which would provide the President with a permanent legislative line-item veto. Line-Item veto authority would permit a President to strike specific, wasteful spending projects from appropriations bills as soon as they reach his desk. The funding for any rescinded items would be canceled unless both the House and Senate could muster a vote of two-thirds to override the line-item veto.

In the past, the rescission procedure has proven to be too cumbersome. The burden has always been on the President to obtain congressional approval during a fixed period of time; Congress need do nothing to defeat a President's proposal. H.R. 2 would reverse this burden: Presidential proposals would become law unless Congress takes action to stop them.

With the line-item veto, Presidents can weed out wasteful pork-barrel spending or tax benefits that are tucked away in otherwise good bills. While some argue that line-item veto authority will have little effect on bringing the Federal budget under control, I submit that if we can't cut wasteful spending we will have little chance to make the tough decisions needed to balance the budget.

Author Brian Kelly, in his excellent book "Adventures in Porkland," described how pork-barrel projects—while not amounting in themselves enough to balance the budget—are the "grease" that lubricates the entire spending machine in Congress. He estimates that pork greases more than $100 billion annually. Members of Congress are often afraid to take on any spending programs for fear that a project funded in their district might be jeopardized. Thus, a few million dollars spent in Congressman X's district might keep him or her from cutting billions of dollars in other programs that they otherwise would oppose. This is where the line-item veto could really make a difference—it could change the culture of spending in Congress for good.

There are numerous examples of how the line-item veto would have remedied wasteful legislation. One of the best examples is the 1994 emergency spending bill intended for California's earthquake victims. In reviewing that bill, I discovered the following items, among others: $10 million for planning and development of a train station and commercial center in New York; $1 million for Hawaiian sugar cane mills; and, $1.5 million to dry dock and repair the Savannah, the world's first nuclear powered commercial ship, among others. Because the majority did not allow amendments to strike this pork from the bill, the President was faced with signing the bill in its entirety, with all of the pork included, or with vetoing the entire bill leaving California's earthquake victims without assistance.

Mr. Chairman, this floor debate on H.R. 2 this week follows on the heels of House passage of a balanced budget constitutional amendment. I urge my colleagues to support this long-overdue reform. A line-item veto will not, by itself, balance the Federal budget. It will, however, be another effective weapon in the fight to reduce the Federal deficit.

Mr. BLUTE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired. Pursuant to the rule, the amendment in the nature of a substitute as printed in House Report 104–15 is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute made in order by House Resolution 55 as an original bill for the purpose of amendment under the 5-minute rule is as follows:

H.R. 2

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

SEC. 2. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority or veto any targeted tax benefit which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than ten calendar days (not including Sundays) after the date of enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

(b) DEFICIT REDUCTION.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) SEPARATE MESSAGES.—The President shall submit a separate special message for each appropriation Act and for each revenue or reconciliation Act under this section.

SEC. 3. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Any amount of budget authority rescinded under this Act as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under this Act as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under this Act and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "rescission/receipts disapproval bill" means a bill or joint resolution which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this Act and—

(A) which does not have a preamble;

(B)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on ________", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on ________", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: "A bill disapproving the recommendations submitted by the President on ________", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term "appropriation Act" means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 5. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in this Act or vetoes any provision of law as provided in this Act, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to this Act;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under this Act shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under this Act shall be printed in the first issue of the Federal Register published after such transmittal.

(c) INTRODUCTION OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 2.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. After general debate the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this Act.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this Act.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a

motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under this Act.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 6. REPORTS OF THE GENERAL ACCOUNTING OFFICE.

Beginning on January 6, 1996, and at one-year intervals thereafter, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(6) A summary of the information provided by paragraphs (2), (3) and (5) for each of the ten fiscal years ending before the fiscal year during this calendar year.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD.

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Those amendments shall be considered as read.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. BLUTE

Mr. BLUTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BLUTE:
In section 2(c), strike "paragraph" and insert "section."

Mr. BLUTE. Mr. Chairman, this is a technical amendment called to our attention this morning by the Office of Legislative Counsel. It is due to a drafting error in that office.

It simply makes clear that the special message being referred to is the one described in section 2 as opposed to a nonexistent paragraph.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. BLUTE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CLINGER

Mr. CLINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLINGER: In section 2(a), strike "discretionary budget authority" and insert "the dollar amount of any discretionary budget authority specified in an appropriation Act or conference report or joint explanatory statement accompanying a conference report on the Act,".

Mr. CLINGER. Mr. Chairman, the statutory line-item veto proposed in H.R. 2 is broader and stronger, as we have heard in general debate, than a constitutional amendment. It fulfills the President's request that we give him the strongest possible bill, which is what we are attempting to do.

Unlike a constitutional amendment, which simply permits the President to line out spending items from appropriations acts, H.R. 2 permits the President to reduce or eliminate spending from bills and accompanying bill reports.

In addition, H.R. 2 permits the President to veto targeted tax benefits for 100 or fewer.

The purpose of my amendment is to clarify an area of potential misunderstanding in H.R. 2. Our bill is intended to permit the President to eliminate or rescind congressional earmarks for wasteful spending.

We all know that these earmarks can occasionally be found in bills but are more often hidden in report language to accompany those bills.

I think probably all of us have been sort of victimized by finding things that we were not aware of at the time. My amendment simply clarifies the understanding of our committee, I think, that the President may look to both bills and accompanying reports or manager statements in specifying rescissions proposals. In addition, my amendment makes clear that the President may not look to OMB or agency justifications or other types of documents to rescind funds for programs not specified by Congress.

Mr. Chairman, this amendment will relieve the concerns expressed, I think, legitimately expressed by some, that the President might, for example, retaliate against a particular judicial circuit, and that, I know, has been raised by the gentleman from Pennsylvania [Mr. KANJORSKI], by going beyond bill or report language to zero out funding for that circuit. As was discussed in my committee, that was not the intent and never was the intent of H.R. 2. This amendment simply spells out in statutory language that understanding.

In addition, my amendment addressed the concerns of some Members that the President might attempt to strike statutory language he finds objectionable in an appropriations bill.

While I have been assured by both legislative counsel and CRS that H.R. 2 does not permit such action, my amendment reaffirms that limitation by specifying that the President may only rescind dollar amounts, not bill language.

I think this confusion arises from the fact that in some States the Governor does have the power to actually effect statutory language. It was never our intent to give the President that additional authority, which would really enable him to effect policy and change or undercut congressional actions by changing statutory language.

This will just merely make it very, very clear that all we are talking about is dollar amounts.

I would urge the amendment's adoption.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so for the purpose of asking the gentleman from Pennsylvania a question regarding his amendment. I know that the language of the amendment is identical to language already in the committee report that purports to describe the bill as reported.

On page 12 of the committee report on H.R. 2, it is stated, and I quote,

> we decided on enhanced rescission for several reasons. It permits Congress to continue appropriating with lump sums. After a President signs an appropriations bill, he may propose for reduction or elimination any dollar amount specifically identified in a bill or committee report or joint explanatory statement accompanying a conference report on that act.

Should we conclude then that the description of the President's line-item veto authority which I read refers to the language in the gentleman from Pennsylvania, Mr. CLINGER's amendment rather than the language of the bill as reported?

Mr. CLINGER. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, the purpose of the amendment, I am sorry, I did not her the entire statement, but the purpose, I want to reemphasize, is to make it very clear that it was our intent that the President not be able to look beyond statutory or report language. That is the absolute limit as to what he is able to look at or impact. There had been some suggestions that this was kind of an open sesame, that we were going to allow the President sort of to roam through all kinds of extraneous documents and extraneous material to affect the report. We are going to make it very clear that this is a severely limited power and that it is limited to appropriations bills, statutory bills, and committee reports.

Mrs. COLLINS of Illinois. Let me ask then what might be an accurate description of the bill as reported? I understand that the original draft of the committee report, which was distributed to each member in our markup, was actually written by the Congressional Research Service of the Library of Congress and the CRS experts on these matters described the authority this bill gave the President quite differently than the way it is described in the version of the report which I read.

Let me quote from the original draft report which the Congressional Research Service prepared. It said, "moreover, after a President signs an appropriations bill, he may go as deep as he likes within an appropriations account to propose specific rescissions."

Clearly, this describes the President as having unlimited authority to reach within a particular appropriation passed by the Congress and to cut spending for specific projects and programs such as administrative expenses for a Federal court that may have rules against a President on an important matter.

The question then is does the gentleman agree with the CRS assessment that the President's line-item veto authority under H.R. 2, as reported, is in fact unlimited, that a President may go as deep as he likes within an appropriations account to cut specific projects?

Mr. CLINGER. Mr. Chairman, if the gentlewoman will continue to yield, he may within the appropriations bill. The purpose of this is to say that he cannot go outside of these specifically enumerated sources to do that. It would allow, yes, deepening. CRS was cooperating with us in that language.

Mrs. COLLINS of Illinois. If the language in H.R. 2 concerning the President's line-item veto authority did not change, the question is, why was this section of the report changed from the original CRS draft in which the President is identified as having unlimited authority to the version in the filed report which identifies limitations on the President's authority. There seems to be considerable confusion on the part of the proponents as to just how broad the President's authority in this bill actually is.

The description of the President's authority in the filed committee report is clearly not accurate. I believe this is a good example of why the majority should not be racing through the legislative process to bring complicated matters like the line-item veto act to the floor of the House. We should first make sure we fully understand what these proposals do.

The gentleman's amendment also makes dollar amounts in committee reports subject to the Presidential rescission. Why does the amendment refer to committee reports? Is it intended to give the President a basis for describing the budgetary authority he is rescinding? Is it not the result that the President is being constrained by Congress through something short of public law, and is that not an action that would run counter to the Supreme Court's decision in INS versus Chadha? It appears that this would be using the committee report to alter, and I quote, "the legal rights, duties and relations of persons outside the legislative branch."

What then is the practical effect of this amendment and does not the amendment merely provide the appearance of definiteness and specificity?

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Mr. CLINGER. If the gentlewoman will yield, the amendment's point, I think, is to try to make clear the limitations that we are imposing with this amendment.

I think that the gentlewoman is right, there has been some confusion about this. We have been trying to say, Look, we are trying to limit this to dollar amounts, and we are limiting to dollar amounts in committee reports as well.

The suggestion that somehow we are going to be affecting policy decisions made in committee reports or changing the emphasis is just not right. The whole point of this is to make it very clear that this is a limited authority we are giving, that we are not allowing a broad-ranging, free-wheeling President to go around changing all kinds of things, so it is a limited thing.

Obviously, the gentlewoman does not think that it is specific enough, but I think from my vantage point it does make it much clearer what we are trying to accomplish.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER].

The amendment was agreed to.

AMENDMENT OFFERED BY MS. PELOSI

Ms. PELOSI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. PELOSI: Section 2 is amended by adding at the end the following new subsection:

(d) LIMITATION.—No special message submitted by the President under this section may change any prohibition or limitation of discretionary budget authority set forth in any appropriation Act.

Ms. PELOSI. Mr. Chairman, I offer an amendment which states that no special message submitted by the President under this section may change any prohibition or limitation of discretionary budget authority set forth in any appropriation act.

That is what the amendment says.

Mr. Chairman, I propose this amendment as one who rises in opposition to the line-item veto legislation. I oppose the legislation strenuously because I think that it does damage to the balance of power and separations of power set forth by our forefathers in the Constitution.

In fact, I believe that in order for us to truly have a line-item veto as is contained in this legislation, that it should require a constitutional amendment and change in our Constitution, so disruptive do I believe it to be of the balance of power.

Others have referenced in the previous amendment, in fact, and then I know my colleague, the gentleman from Virginia [Mr. MORAN], will have one addressing the judiciary, but it would enable a President to even be able to affect not only the actions of Congress, but also affect the activities of the judicial branch, the third branch of Government, so it is from that perspective, the perspective that says that our forefathers did not want the executive branch to have this much authority.

Indeed, the Presidency of the United States is a very strong position, but our forefathers did not want a king. Hence, they wrote a Constitution which gave the executive branch powers which were appropriate to a system where we had a balance of power, and not a monarchy.

Again, I say, Mr. Chairman, it is from that perspective that I offer this amendment, not in support of the legislation that is on the floor, but in clarification and mitigation of the powers that this legislation gives to the President of the United States.

Mr. Chairman, frequently in legislating appropriation bills Congress retains power to prohibit spending through clauses such as "no such funds appropriated under the act may be used for," and then the list,; for example, years ago that was how funds were withheld from funding the Vietnam war; or to limit spending through such provisions as "no more than *x* number of dollars shall be used for," and then you fill in the blank for what that limitation may be.

So the purposes of the amendment, Mr. Chairman, is to clarify that under this legislation the President does not have the authority to use the line item veto to strike congressional prohibitions or limitations on spending in any appropriations bill.

While I believe this language is consistent with what was reported from the Committee on Government Reform and Oversight, I believe that this amendment is necessary to make it very clear that this is the congressional intent.

With that, Mr. Chairman, I would like to engage the chairman of the committee, the gentleman from Pennsylvania, [Mr. CLINGER], in a colloquy.

Mr. CLINGER. Mr. Chairman, will the gentlewoman yield to me?

Ms. PELOSI. I am pleased to yield to the gentleman from Pennsylvania, the chairman of the Committee.

Mr. CLINGER. Mr. Chairman, I support the gentlewoman's amendment. I think it makes a valuable addition to the bill. It makes it very crystal clear that this authority that we are giving to the President is very limited in what he can do. It is limited to dollar amounts. I think it is a very constructive and helpful amendment.

Ms. PELOSI. Reclaiming my time, Mr.Chairman, that would say, then, that the understanding of this legislation of the chairman of the committee, with the passage of this amendment, is that the President does not have the power to remove prohibitions or limitations on funds?

Mr. CLINGER. If the gentlewoman will continue to yield, that is right, has no power to change authorizing language in any respect whatsoever. I think that is the intent of the gentlewoman's amendment. That is what it does.

Ms. PELOSI. I thank the gentleman.

Mr. SOLOMON. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I am pleased to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I thank the gentlewoman. I certainly concur with the chairman of the committee, the gentleman from Pennsylvania [Mr. CLINGER].

Mr. Chairman, I wanted to tell the gentlewoman she was making great progress on this issue until she mentioned Vietnam. We will let that go by and just say that we prefer that if we accept her amendment, that she be in favor of the bill. However, nevertheless it is redundant, but it does speak to the clear intent of the bill, and we would certainly have no objection to it, either.

Ms. PELOSI. I thank the gentleman. Mr. Chairman, I think this is an example of where, as the gentleman is a supporter of the bill and I am an opponent of the bill, that I am seeking to mitigate the impact of the legislation, and I am pleased that it is acceptable to the majority side.

I thank the gentleman from New York [Mr. SOLOMON] and the chairman of the committee, the gentleman from Pennsylvania [Mr. CLINGER], for their support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Ms. PELOSI].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN: At the end of section 2, add the following new subsection:

(d) LIMITATION ON APPLICATION.—This Act shall not apply to any discretionary budget authority for the judicial branch of the Government.

Mr. MORAN. Mr. Chairman, the purpose of this amendment is simple. It exempts the judicial branch from the provisions of this bill. It is not meant to gut the intent of this bill in any way, and certainly is not any kind of dilatory tactic. In fact, I trust that there are as many constitutional scholars on the Republican side of the aisle as the Democratic side of the aisle, so I would assume this would be a bipartisan amendment.

Imagine, Mr. Chairman, this scenario: a new President comes to office, promising an activist agenda. In his first 100 days he offers sweeping new initiatives that create new Government programs, impose new regulations on different sectors of the economy, and greatly revolutionizes the current system of Government, but this President's new ideas run up against a very resistant judiciary.

The Supreme Court does not agree with what he wants to do, so one provision after another of this New Deal of legislation is overturned and declared unconstitutional. The President becomes frustrated, and tries to bend the will of the courts. The courts resist, and become even more intransigent. The President tries to pack the court with people that agree with him, but he is unsuccessful.

What does he do? He punishes the courts, but in a number of very subtle ways. He cuts their funds for bailiffs, he cuts their travel funds so they cannot travel anyplace, he refuses the request for new judgeships, he cripples the court.

Does this sound farfetched? Well, it happened. It happened under President Franklin Delano Roosevelt. Mr. Chairman, this scenario could happen again if this legislation is passed without this amendment.

Mr. Chairman, one of the most important foundations of our system of Government is the separation of powers. It is advanced and guaranteed by the independence of our judicial branch, and the independence of our judiciary is secured by its independent budgeting authority.

This was not always the case. Before 1939, Mr. Chairman, courts were administered through the Justice Department, within the executive branch. They had to submit their budgets through the President, and this placed the power and authority over the fiscal affairs that were necessary for the conduct of those courts in the hands of the chief litigant before those very same courts.

Congress recognized the inherent conflict of interest that dependence of the judicial branch upon the executive branch could cause.

☐ 1410

And so it created the Administrative Office of the U.S. Courts, to ensure that the courts were removed from that undue influence.

Today the President does not have the authority to modify the judiciary branch's budget requests. He has to submit them to the Congress unchanged. That is a law. Congress then has the full authority to appropriate funds for the judicial branch. But under no circumstances can the President punish the court because he disagrees with its judgment.

This law would repeal that law, because it returns us to the situation before 1939 and once again gives the chief litigant before the U.S. courts the authority to reduce or to eliminate specific appropriations for those courts.

As the gentleman just explained, he can reach in, inside the line item appropriation that funds the Supreme Court or any other court of appeals, and he can pick out individual activities that would not represent a blip on the budget. They are less than 0.01 percent. But those kinds of activities are dependent upon those thousands of dollars, taking them away could cripple the ability of our courts to conduct the business of this Government, because the law says he can veto all or any part of a line item of an appropriations bill.

That is exactly what some President in the future, will do with this line-item veto authority, and I would remind our colleagues, we are not just passing legislation for 100 days or one term of Congress but in fact for the rest of American history. This is profoundly important.

The CHAIRMAN pro tempore [Mr. HOBSON]. The time of the gentleman from Virginia [Mr. MORAN] has expired.

(By unanimous consent, Mr. MORAN was allowed to proceed for 3 additional minutes.)

Mr. MORAN. Mr. Chairman, I want to emphasize that this amendment has nothing to do with busting the budget, it represents less than .1 percent of the budget, but has everything to do with busting the principle of separation of powers.

The gentlewoman from the District of Columbia [Ms. NORTON], just joined us. I want to mention a point she made in committee, because it is terribly important for us to focus on this. Sometimes when we can focus on specific situations, we understand the principle involved.

The gentlewoman from the District of Columbia [Ms. NORTON] reminded us of how President Eisenhower contacted Chief Justice Earl Warren during consideration of Brown versus Board of Education and told the Chief Justice he did not think the country was ready to desegregate our public schools. But the Chief Justice was able to ignore the President and do what I think was right, what I think the American people know was right, because he did not have to go to the President the next January hat in hand and ask for the money to conduct the Court or for whatever additional bailiffs or clerks were necessary, because he had independence from the President of the United States, from the executive branch.

The goals of this legislation are noble. We must reduce Federal spending and protect the taxpayer from unauthorized and unjustifiable pork spending. But the judiciary is not and never has been part of the problem. Not one dime in the judiciary account is spent for Members' projects or for pork. In the process of accomplishing something else, let us not destroy the independence and the autonomy of our judicial system to cure a disease that simply does not exist.

I implore my colleagues, please pass this amendment. Maintain the separation of powers and show the respect of our Founding Fathers in the Constitution that has endured for the last 200 years.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me say that this issue is an important issue. It is an important one that was considered at great length during deliberations on this matter in the committee. The amendment was offered by the gentleman from Virginia and was defeated 29 to 17 on a bipartisan basis.

I must say that I really respect the gentleman from Virginia a great deal and I know of his interest and concern in this matter. I appreciate his concern for the judicial branch. I certainly share his interest in ensuring that our Federal court system obtains the resources it needs to remain strong. That is the gut issue here.

I am not convinced, however, that an exemption from the item veto is required in order to maintain that strength.

Our Founding Fathers were very deliberate when they established our tripartite system of Government, and I do not believe they accidentally stumbled onto a system where Congress appropriates funds subject to Presidential approval and veto. They devised that system intentionally, made no exception to the general appropriations presentation-veto process for the judiciary. They treated all branches the same, just like any other program, branch or agency, including Congress and the executive branch where there are equal opportunities to engage in the sort of mischievous conduct that the gentleman from Virginia foresees in this instance if we do not exempt the judiciary.

The judiciary was required to seek and justify the funds it needs before both Congress and the President. That process has not been substantially changed in over 200 years. The judiciary is not currently exempt from either the traditional veto or the existing empowerment process.

This would represent a change from existing procedures. Under the empowerment process, the judiciary is not exempted. For Congress to provide what I consider to be a really sweeping and unique exemption without careful consideration would in my judgment be imprudent.

Even though the House and the Committee on Government Reform and Oversight in particular have considered the Federal empowerment process numerous times over the past 20 years and have held dozens of hearings on the issue, I must tell the Committee that our entire consideration of the judicial exemption issue, in addition to the debate we had on the gentleman's amendment, was rally a 15-minute presentation at a single hearing that we held by one Federal court judge about 2 weeks ago.

I might also state that we have reviewed all of the 43 States that have a line-item veto to see if in fact there is an exemption provided for the sort of thing that the gentleman from Virginia seeks to do at the national level, and there is no such exemption on any of the States that have the line-item veto.

Because I do not believe that it is wise for the House to provide an exemption which fundamentally alters the treatment of the judiciary vis-a-vis the other branches and every other Federal account without careful consideration, I must oppose the gentleman's amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words and to support the Moran amendment that exempts appropriations for the judiciary.

Mr. Chairman, this amendment points out very clearly that this bill has implications for our whole system of Government that go far beyond cutting the Federal deficit.

The independence of the Federal judiciary is a cornerstone of our democracy and it is directly threatened by the power H.R. 2 gives the President.

Do we really want the President to have the extraordinary power this bill would give him to cut funds for the administrative expenses of courts whose decisions he might not like?

Some would say the Congress already appropriates funds for the judicial branch, so why not give the President this role?

However, there is an important difference. The legislative branch is not a party to many cases before the Federal judges. However, about 50 percent, half, of all cases before the Federal courts involved the executive branch as a litigant. Clearly the executive branch has plenty of reason to want to influence Federal judges.

Unfortunately, this bill gives the President the ability to exercise that influence in a very deliberate and a very direct way.

I would ask my colleagues to just stop a moment and think back to past Presidents who have had major issues before the courts. As has already been mentioned by the gentleman from Virginia, President Franklin Roosevelt went to great lengths to defend the New Deal programs against challenges before the courts.

□ 1420

President Nixon fought bitterly to prevent the release of the Watergate tapes.

It was also President Nixon's refusal to spend funds Congress appropriated, I would remind my colleagues, that caused Congress to enact the Impoundment Control Act.

Can anyone here say that a strong and determined President would not use the line-item veto authority in H.R. 2 to influence judicial rulings? Of course not. It is far too great a risk for this Congress to be taking in the name of deficit reduction.

I would remind my colleagues that it was concern about Presidential pressure on the judiciary by President Franklin D. Roosevelt again that led to the enactment of the Budget and Accounting Act. We talk about accountability. The Budget and Accounting Act, under this law, the judiciary submits its budget requests to the President, and the President is required to transmit them on to the Congress without change.

If we do not adopt the gentleman from Virginia's amendment, we will have effectively nullified the Budget and Accounting Act. Even though the President would not be able to change the judiciary's budget before it is submitted to Congress, he could use his authority in H.R. 2 to line-item veto the judiciary budget after it is enacted by Congress.

Does this make any sense? I do not believe the American public will think their interests have been well-served when they find out this bill compromises the independence of the Federal court system.

To millions and millions of Americans—minority citizens, women, the poor—the Federal courts have been their strongest, and at times their only defender. In many cases, the issues before the courts have not been popular, and judges have had to make difficult decisions.

I, for one, do not want to make it more difficult for the courts to uphold and protect the civil and constitutional rights of our citizens.

Whether you are for the line-item veto, or not, I firmly believe that it is in all of our interest not to tamper with the independence of our Federal courts. I urge each and every one of my colleagues to vote for this amendment. It makes good sense to do so, it is constitutional to do so, and it is the right thing to do.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Pennsylvania [Mr. CLINGER] has made for Members all of the good arguments against this amendment. So we will try not to repeat those.

But as far as the salaries of judges are concerned, article III, section 1 of the Constitution, and you have a copy of it over there, prohibits this body from fooling around with their salaries.

As far as courthouses are concerned, they do not even come under the judiciary budget.

I used to be on the Public Works and Transportation Committee with my friend from Pennsylvania, Mr. CLINGER, over here. Courthouses come under the Treasury and Post Office appropriation, not under the judiciary budget.

But the thing that really gets under my skin is when I hear my good friend, the gentleman from Virginia [Mr. MORAN], stand up and he says this item only counts for one-tenth of 1 percent of the budget. How many times have I heard that?

You know, last March I introduced a balanced budget on behalf of about 50 Republicans and Democrats. It cut everything almost across the board, some more than others because it was program specific. But I got calls from all over this country saying, "You know, this program only takes one-tenth of 1 percent." Well, one-tenth of 1 percent of the budget adds up to a lot of money. We just finished putting people like me in that bind.

My friend, the gentleman from Massachusetts, JOE MOAKLEY, who was chairman of the Committee on Rules, had so much staff running around that they were coming out of his ears, and we cut his staff back in this Congress by a whole third. Do my colleagues know what? It is functioning very, very well. I got about half of what he had, and we are still doing the job.

But we set the example for the rest of the Federal bureaucracy. Now we are going out and we are going to shrink the rest of the Federal bureaucracy, hopefully by a third or more.

And that is true of the judiciary as well. They have got a lot of employees over there. But if we are going to shrink the Congress, and if we are going to shrink the Federal Government, and General Motors and G.E. and IBM and everybody else are going to downsize, I think the judiciary could be downsized a little bit too, if a President saw fit to do so. That is all. It is very clear.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to the gentleman from Virginia.

Mr. MORAN. I thank the gentleman for yielding.

First of all, I never mentioned the actual salaries of judges and we know that that is not affected. But certainly the salaries of the clerks, the administrative personnel, any travel money, bailiff money. Now there are incidental expenses, and I think it is an important point to make that this is not really relevant to the budget issues before us.

I would ask the gentleman, has he ever heard of any pork on any issue within the judiciary appropriations? I was on the appropriations subcommittee that provided the money. It is a small amount; it does not increase much each year.

The courthouses which have been controversial, come under the General Services Administration. That is not under this budget, we are talking about that. We are talking about just incidental expenses to conduct the operations of the Supreme Court and the U.S. Circuit Court. Their caseload has gone way up, there is a long delay. We are trying to expedite the process of the criminal justice system in this country and here we are going to make an issue out of this relatively small amount, all in the guise of line-item veto.

Mr. SOLOMON. Let me just reclaim my time by saying last year the judiciary request was for $3.1 billion, a lot of money. This Congress did not give them $3.1 billion, I think we gave them $2.8 or $2.9 billion, because we did not feel they needed it.

We are the keeper of the purse strings.

Mr. MORAN. That is five one-hundredths of 1 percent of the budget.

Mr. SOLOMON. Now a billion here, a billion there, we are talking about a lot of money.

The gentleman's amendment is not the only amendment pending. There are 31 of them out there. A number of them have exemptions in them. There is another one coming up to exempt the legislative branch. Should the legislative branch be exempted? No; the answer is no. And we should not exempt anybody. Let us put them all in the pot and I think any President, Democrat or Republican, is going to be fair. It is his responsibility to run this Government. Ours ought not to be micromanaging, but legislating and passing laws. Let the President run the country.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment which I am cosponsoring today with my friends, the gentleman from Virginia [Mr. MORAN] and the gentlewoman from the District of Columbia [Ms. NORTON].

Mr. Chairman, at the outset I want to assure my colleagues that this amendment is not some frivolous attempt to cripple this bill.

It is not our purpose to argue with or pull a fast one on those who feel that the line-item veto is needed to control spending.

The budget of the judicial branch is a minuscule part of the Federal budget. This is not about balancing the budget or cutting pork.

Our amendment is even more important: safeguarding the judicial branch from the possibility of intimidation, the possibility of pressure from the President.

For 200 years, the Federal courts have been the guarantor of individual rights and the dispenser of both justice and mercy in our legal system.

More than any other institution of our Government, the courts made possible—despite enormous opposing power—the full rights of citizenship for millions of African-Americans and other minorities.

The judicial branch of Government also deals with some of the most controversial and emotional issues in our society—issues that are also among the most difficult for us to deal with.

As my colleagues have pointed out, our history is replete with Chief Executives using whatever tools at their disposal to pressure or intimidate the judiciary and thereby exercise improper influence over its decisions.

The Nation's founders did not trust, nor should we trust, the President's good sense, or his sense of duty or honor, to protect the judiciary from undue influence and to insure its independence.

Mr. Chairman, we are all politicians here. All of us know the practical uses of political power in all of its subtleties. We use our power to send messages, to change policy, to influence decisions, and to get results.

Maybe not today, maybe not 10 years from now, but someday in our future—as has been the case in our past—some President will be locked in battle with the courts.

I say to my colleagues, if you believe that every President of the United States will always "do the right thing"—that the President of the United States will always use his power responsibly, then you should vote against us.

But if you mistrust too much power in the hands of the Executive—as did this Nation's founders; if you believe in our system of checks and balances; if you believe in a free and independent judiciary; if you believe that Congress has the responsibility and the obligation—as we all swore on this floor 4 weeks ago, when we took the oath of office—"to preserve, protect and defend the Constitution of the United States," then you should vote for our amendment.

□ 1430

Mr. BLUTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think those of us in the majority have a great deal of respect and admiration for the gentleman from Virginia. He is an able member of the Government Reform and Oversight Committee and adds a lot to the debate on that committee and did on this particular issue which was dealt with extensively in the committee.

We join him in believing in an independent judiciary. We do think that that is a cornerstone of our democracy. But we also believe that his amendment puts the judiciary on a higher plane than the other branches of Government, and in so doing tilts the balance of power toward one branch.

The Founders clearly wanted a system of checks and balances where each branch would be able to counteract the excesses of the other branches, and they particularly wanted that to happen when two branches got together on something, as the gentleman's amendment is putting forward.

The Founders dealt with this particular issue and decided that only salaries—only salaries would be cordoned off and protected in the Constitution, but that everything else would be in play in terms of our system of checks and balances. They did that, I think, in a narrow way for a very good reason, that the judiciary is not above scrutiny, is not above the checks and balances that we seek in our system of Government.

This bill does not change the Budget and Accounting Act. The judicial budgets would still flow through the executive to the legislature unchanged, but after the legislature intervened and dealt with the judicial budgets, then it is proper that the President would be able to exercise his ability to act as a check and a balance on that budget, and that is what the existing situation is, and that is what the line-item veto would allow the executive to do.

We heard great testimony from the State governments and the Governors who have a line-item veto, and in most cases, if not in all cases, the Governors are not precluded from using their line-item veto with regard to judicial expenditures, and that is as it should be. Governor Weld of Massachusetts described a situation that often happens, not only in Massachusetts but in many States in which legislative appropriators get together with the judiciary to form a kind of deal in which levels of budgets are set and, indeed, numbers of court officers are set, and at what court they will be stationed and even to the extent of who will hold those court officer jobs, and more often than not those jobs ultimately end up being held by the political cronies of the legislative appropriators.

I believe that the executive, the Governor, should have the right to discipline that process, to act as a counterbalance when the legislature and the judiciary get together on something like that.

And so it is proper that they would be able to veto, use a line-item veto, to say, "Hey, folks, wait a minute, that is not proper. It is not good for the taxpayers, the deal that you struck on court officers and the level of your budget, and the Governor is going to veto that." That is a proper check and a proper balance.

I would ask, how is the relationship between the Legislature and the judiciary somehow above these checks and balances? They deserve to be scrutinized as forcefully and as vigorously as any other branch.

And finally, with regard to the fact that the Executive is a litigant before the Federal courts, which is true, but it is also true that the courts can interpret legislative laws and, indeed, from time to time strike down congressional action as unconstitutional. So it is not a complete separation with regard to that.

I think the amendment offered by the gentleman from Virginia is a mistake. I think we should reject it. I think we should pass a strong line-item veto bill for the President of the United States.

Ms. NORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we spent a lot of time in committee. I do not think that it was expected that we would spend as much time, but the debate was, indeed, revealing, and many Members simply had not spent a lot of time thinking about the judiciary and the role it plays or might play generally.

For this amendment, for example, there were Members who thought that in effect what you could do is to strike a line from the judiciary budget, and the debate clarified that you could get down to the lowest level of expenditure, because you could strike a partial expenditure as well.

What was fascinating about the debate was that there was not always a deep appreciation for the uniqueness of the judicial branch. Many Members think of the judicial branch—and you have heard some of the debate this evening—as just like the rest of us, just one of the rest of us. That is what I want to speak to.

Indeed, I rise to speak for the branch that cannot speak for itself, and in that respect it is particularly different from the two other branches. I do not rise to speak as a lawyer partial to the judicial branch. On the contrary, I was one of the leaders in committee in the 103d Congress to cut 10 percent from courthouses, but we were cutting from the GSA budget, not the Article III budget, the Article III court budget.

This House, of course, can cut from that budget in open debate for the world to hear and see, and you would have to be able to do that because the Framers understood they would have to leave the purse power for all branches here. When we found that there were luxurious courthouses that were heavily influenced by the judges themselves, we took the judges out of what the judges should not be in, the courthouse-building business.

But we do not ever want to give even the appearance of getting into judges' business, and what I have heard here does not show a true appreciation for both fact and appearances from the Congress, a branch for whom appearances do not mean nearly what they must mean for the courts.

Of course, we have a precedent of actual interference with the judiciary through the budgetary process, and I do not speak, of course, of the F.D.R. packing of the Court, because perhaps that kind of overt activity is most easily checked. It is the chipping away at the budget that is far easier to cover up or pass off as budget-cutting, especially when you need a two-thirds vote to override a veto.

Retaliation to the courts does not have to be very large to be very effective or to put in play a branch that should never be in play with us and where we should only have something to say about how much money they spend and just leave it as it be, and particularly leave them far away from the executive.

□ 1440

The courts are a sitting target for the Executive because it is the Executive that is the prime litigator before the courts, and they have a massive opportunity to tick the Executive off precisely because the Executive is always there before them. The Congress was so concerned about what in fact exists in actual precedent that the Budget and Accounting Act says that the Executive has to submit the budget of the Judiciary as is. We are told that nothing here would change this. Nothing would change that, of course; instead of a crack on the front end we open a crack on the back end. If you mean the Budget and Accounting Act, and you act like you mean it, then you don't give up a whole lot when you leave the judiciary independent; you do give up a whole lot when you say we are going to treat the Executive the way we treat everybody else, no different from anybody else.

Go back to Civics 101: You do not have to go to law school to appreciate that the courts are different, and we have to concede that they are different. There are reasons for safeguards here.

You have to ask yourselves, "Yes this will be another check." But I ask you is that check on the courts worth it? Is it worth giving the appearance that the Congress would like to get to a part of their independence, allow the Executive to get to a part of their independence, as indeed he could do.

The Executive and the Congress are not independent branches; we are meant to be responsive branches. In that way we are very different from the judiciary. We, the Congress, and the Executive are much more alike than the judiciary is like either of us. They deal with cases and controversies, especially cases and controversies involving the Executive. We do not. We must keep them out of the fray.

The CHAIRMAN pro tempore (Mr. HOBSON). The time of the gentlewoman from the District of Columbia has expired.

(By unanimous consent Ms. NORTON was allowed to proceed for 2 additional minutes.)

Ms. NORTON. I thank the Chairman.

We must keep them out of the fray, we must keep them from appearing even to be in the fray. There is such a strict sense of ethics in the profession that the judiciary may only come to Congress and testify on limited matters, even when those matters involve themselves. We must engage in conflict avoidance when it comes to the judiciary. We must show restraint when it comes to the judiciary.

It was no part of the intent of the sponsors of this bill to alter the balance of power between the Executive and the judiciary. The intent clearly was to alter the power balance between the Executive and the Congress.

We do not seek to alter this balance here. We do not need to alter this balance here. It has never been much of a temptation. Yet we are creating the impression we would like to open up that temptation.

The judiciary cannot speak for itself today. There is a good reason for that. That reason is to completely depoliticize the judiciary. Ironically, their silence, their mandated silence is part of their independence.

So I rise to speak for an independent judiciary. Our bill loses nothing by insisting that the judiciary remain impregnable as a matter of fact and as a matter of appearances.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I missed some of the debate, but if I heard correctly, the gentleman from Virginia [Mr. MORAN] says the President cannot alter the budget of the judiciary submitted to him by that branch. I do not think the gentleman from Virginia would argue that somehow the Congress is bound not to alter the request that we get from the judiciary in the appropriations bill. That just would not make sense. Of course, as I believe the chairman of Committee on Rules pointed out, the judicial branch last year actually got a little less from us than they wanted, than they submitted.

The point I am trying to make is I do not think we should treat the branches of government differently and put one above and out and off the reservation because of some concern that someday we might have intimidation or some other thing.

That is all part of the give and take of the process. We are trying to open up the process, open it up to the sunshine, saying this is an orderly way to submit a budget, everybody will honor the budget. Then it goes through a process. Then when we add the powers we have to do the business of governance in our Nation and clarify what should be done and should not be done, that is the process. If we find we are spending more than we are taking in, then we have the opportunity for some rescission.

It is at that point that we work together with the executive and say, together, how do we deal with this prioritizing where we want to spend our money. I think that is the point we are trying to make. I think the point you all are trying to make is that we are somehow going to have to set the judiciary off the reservation; it would be out of the process because they are somehow sacrosanct. I just do not think that is an accurate description of the way it is supposed to work. I think we are all supposed to equally participate. If there is belt tightening, it is everywhere. If we accomplish all budgets that are appropriate, then we will do that.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I am happy to yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, I thank the gentleman for giving me the opportunity to clarify.

There is a 1939 law that prohibits the executive branch from altering the budget request of the judiciary.

Now, it is up to the legislative branch to pare back, to make sure that it is an appropriate request. We have done that every year. Last year I think we cut it—I think the gentleman mentioned $3.1 down to $2.8 million. They took their share of the cut along with everyone else. We do not have a conflict of interest with the judiciary. We do not litigate half of the cases before the Supreme Court. That is why that 1939 law was put in.

So I have to correct what the gentleman suggested. The President, the executive branch does not have the right to alter the judiciary appropriation, which is a budget request at that point. This law would give the President the ability to change our appropriation level, which does not have to be what was requested. The Appropriations Committee has full latitude to appropriate whatever we want. But we have no conflict of interest with the judiciary. This law says that after we make our decisions then the President can change those decisions and, for what would not be certainly budgetary reasons but would be political reasons, can change the budget of the judiciary branch; a very small amount of money.

Mr. GOSS. Reclaiming my time, I would say there are no guarantees in any legislation that we are proposing that I am aware of that is going to provide all of the protections from politicalness. I do not believe anybody has come up with that legislation. I think the gentleman has a point on his side of it and we have ours, I think.

Mr. BLUTE. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Massachusetts.

Mr. BLUTE. I thank the gentleman from Massachusetts.

Mr. Chairman, this bill does not affect the Budget and Accounting Act. The budget would still flow through the executive untouched. But once the legislative branch was involved then, rightly so, the executive branch should be involved also in our system of collection and balances.

If there are tremendous changes made by the legislative, it seems to me the executive should be involved also.

Again, with regard to this idea that somehow the legislature has nothing to do with the courts, there are no conflicts there, there are. The courts ultimately interpret our laws and from time to time strike them down as unconstitutional. That is a pretty intimate relationship.

Mr. MORAN. Mr. Chairman, will the gentleman from Florida [Mr. GOSS] further yield?

Mr. GOSS. I yield to the gentleman from Virginia.

Mr. MORAN. I thank the gentleman for continuing to yield.

Mr. Chairman, I have to remind the gentleman that the legislative branch is not a litigant before the Court. That is a problem. The Justice Department, the executive branch litigates half of the cases that come before the Court. That is where the conflict of interest exists. We do not have a conflict of interest here except in very minor areas.

Ms. SLAUGHTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish I had the eloquence and the power to try to reach out to the Members of this House today and give some idea of the depth of harm we are doing. But I know that the die is cast on this bill and that my words would just go into the RECORD and be forever lost.

The Delegate from the District of Columbia was right, we had a lengthy debate on this issue in the committee, and I think frankly it is one of the best that I have ever heard.

I suppose those of us who stand up on the floor from day to day and try to talk about the Constitution, the separation of powers, must sound quaint and even old fashioned because I know that the new day has dawned and the thing they are going to do is to keep their word with the contract.

☐ 1450

The question that keeps plaguing me is: What possible reason does anyone have to believe that a President of the United States is going to be infallible, benign, upright, and totally altruistic? As a matter of fact, when someone said awhile ago we did not want to raise the judiciary above the other branches, what we are doing is raising the executive above all other branches, and, as someone said again this morning, that we are giving the ultimate weapon to the executive. When our Founding Fathers decided the best way to keep politics out of government was to have three equal branches of Government, they knew what they were doing. If we do not believe in checks and balances anymore, then let us go headlong into this business of simply giving to someone at 1600 Pennsylvania Avenue the right to decide whatever is going to happen in the Congress of the United States.

I have talked to some of the Members whose States have line-item vetoes, and in many cases it amounts to little more than an opportunity for blackmail. One Member told me in his State every member puts in everything in the world in the bills that anybody asks them to knowing they will get about a third of it, and they say, "The Governor killed it," and the Governor can also say, "If you want that water project in your district, son, you better support me for reelection."

There is no protection from that and no reason for us to believe that what we are handing over today, would not be a weapon that could be used in a political way. The only protection we have is what we have now, and this is a strong three-part Government that we are quickly dismantling.

I do want to make a plea for the amendment offered by the gentleman from Virginia [Mr. MORAN] that the courts are different. We are not talking about the bricks and mortar. It is not the buildings that we are so concerned about, and Lord knows we are going to keep costs down, and we have done that; that is our job here. We are talking about their freedom to make the best judicial decision they can make unfettered by pressure.

Why in the world would we go back to the days that many of us lived through in the Watergate era when a President of the United States did everything he could to influence the courts? But thank God for the Constitution of the United States that he was unable to do it.

Surely, as we rush to dismantle the Constitution and the government that has been the envy of the world and that has stood us in such good stead for over 200 years, we can at least make some sense out of what we are doing today, and, if we think, and many Members in this House think, that they do not have the brains, or the will, or the backbone, or the gumption, or the honesty, or even the decency to do the right thing, and they have got to let the President do it for them, at least let us do what has been suggested before. Let us speak for the branch that cannot speak for itself. Let us not destroy the judiciary of the United States which has made sure over the years that we have maintained who we are and maintained what we are.

Mr. SHAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I love the fact that we have for the first time in many, many years an open debate on what truly is a very important piece of legislation, and I know there are some Members who think it may take too long, but I have learned a lot from my colleagues on the other side, and I also have thought a lot about this issue, as they have, and want to weigh in.

I hear talk about an independent judiciary, and I want to say without any hesitation that I want the same independence, that I want the same independence that I see in the judiciary. I want to see that maintained, and I take some exception to an argument that says that somehow this amendment will give them the independence that they would not have if this amendment were not to pass.

This amendment is wrong because it flies in the face of separation of powers. We in this amendment would give to the legislature a power that it does not deserve. We would give the power for the legislature to have the same kind of manipulation that is seen in the President because the President maybe has been a Republican President for so long that they tend to think that way and think that all virtue is in the legislative branch. It is not. That is why our Founding Fathers made sure there were three separate branches with three separate powers.

I want the judicial branch to be the judicial branch. I want the legislature to be able to bring forward appropriations. I want the President to utilize the power to veto when he thinks there is excess. I do not want to create an island unto itself within the judicial branch, so I stand firmly in support of an independent judiciary.

What I think happens if this amendment were to pass is, when the judges come or their people come and sit down in that room with the legislative branch, there is a cozy possibility of a relationship, and somehow the argument that 50 percent of the litigation is the executive branch, implying that the executive branch, as the lawyer for the legislative branch, is totally in agreement with everything it brings before the court, it is enforcing our law, my law, the law of the legislative branch passed into and signed by the President. But maybe it was a previous President. Maybe it was not the President who is now President. He may not even agree with the legislation that he is having to defend because he is required to as the executive branch person.

When I hear questions to the gentleman from Massachusetts [Mr. BLUTE] and to others implying that somehow the President is the litigant, he is the attorney representing the client. We are the client. But somehow it is all right for the client and the judiciary to be in bed together in the sense of making their budget without the oversight of the executive branch. I think the executive branch should weigh in.

And when I look back at the Federalist Papers, that is what our Founding Fathers thought as well. Madison in Paper 47 said he proclaimed that accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of one, a few, of many, and whether hereditary, self-appointed or elective, may justly be pronounced the very definition of tyranny.

I say to my colleagues, you think, as you argue this, that you are protecting the judicial branch in our government. I think you are hurting it. I think that we want separation. I believe with all my heart and soul, whether you agree with me or not, that I want the separate power. I don't want the executive branch being a judiciary branch. I don't want the judiciary branch being a legislative or executive branch. I want to keep them separate, and by keeping them separate we have a check and a balance.

So, I calmly, I calmly, object to the kind of comment that says that maybe we do not understand what is happening. I think we do, and I think my colleagues do as well. I just think that we come from it from a different perspective.

I believe that our Founding Fathers were right. I say to my colleagues, I believe our Founding Fathers didn't want two to team up against one. I don't think they wanted to leave one branch out so it couldn't weigh in, and I think, when you have three, you guarantee there will be fairness and that one won't become dominant, and just as some of my colleagues, who rightfully know that the judicial branch, in particular as it relates to civil rights issues, has been your champion, just as it has been, there may be some day when it isn't your champion. It may be that the executive branch is your champion, and it may be the judicial branch——

The CHAIRMAN pro tempore (Mr. HOBSON). The time of the gentleman from Connecticut [Mr. SHAYS] has expired.

(By unanimous consent, Mr. SHAYS was allowed to proceed for 2 additional minutes.)

Mr. SHAYS. It may be that the executive branch is your champion and my champion on this issue and that the judicial branch isn't. It could be a different court. It could be filled with different people.

In response to the question, do I think all virtue is in the executive branch: of course not. In response to the question, do I think all virtue is in the judicial branch: of course not. In response to the question, do I think all virtue is in this place: no, I think it is not, and that is why I want that balance, and that is why I want those powers separate, and I will fight as hard as I can to somehow cut out one branch from the process that it was given to us by the Founding Fathers.

I know we are all sincere here, and at the end I could be wrong, but I feel this as passionately as my colleagues do on the other side.

□ 1500

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from Virginia [Mr. MORAN] and against the line-item veto.

Mr. Chairman, when the 20th century concludes, there will be but two nations who end this period of history with the same form of government with which the century began. All others have fallen victim to revolution or tyranny, internal or external. Only the United States and Britain remain. And if there is a common thread through their forms of government that may account for their survival, it is the concept of limited executive power and the separation of the powers of government.

Our Founding Fathers believed that the principal threat to American liberty would never be a foreign foe, no invader or tyrant. It would be within us, if anyone succeeded in concentrating executive powers. So, based on their own experiences with the British monarchy, they sought to divide the executive powers of this country to assure that there was no concentration. They recognized, as we have experienced, that it would often be inefficient, sometimes wasteful, always slow, and, as indeed history has proven, it would be very frustrating, but that indeed nothing else could assure the continuation of liberty.

Under this system we have seen the appointment of Presidential powers; taxation powers to the Congress, appropriation powers; declaration of war to the Congress; Commander in Chief to the President. But the balance has worked.

Now some would have us believe that one man, a President, would better serve this country by having the power to rewrite or eliminate entire appropriations. Their argument rests first on the notion that there is no other alternative to reducing spending. This ignores the fact that in our constitutional scheme, there is already a right to reduce spending through rescission. Indeed, in the last 20 years Presidents have proposed 72 billion dollars' worth of rescissions, and this Congress has approved 92 billion dollars' worth of rescissions.

Second, their argument rests on the fact that they believe we are duplicating a constitutional arrangement that is already successfully implemented in the States. But a President, with his vast powers of war and peace, control of our liberties and our economies, is not simply a larger Governor. He has powers of a vastly different proportion.

But even if the argument were accepted, the power of rescission to both reduce and eliminate appropriations is denied 40 Governors, specifically denied them, for the very reasons we cite here today.

So we do not duplicate the experience of the States, we greatly exceed it.

Third, even if these arguments are not accepted, there is no evidence that these powers being given to each executive would in fact have a meaningful impact on expenditures.

Indeed, the Public Administration Review has studied 45 States that have a line-item veto, and concluded:

> It is easier to portray the line-item veto as an instrument of executive increasing power, rather than an instrument for fiscal efficiency. The line item veto probably has had a minimal effect on making state government more fiscally restrained.

Fourth, the entire proposal is based on the assumption that somehow Presidents have a monopoly on good judgment, that somehow they would be fiscally more responsible.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. TORRICELLI] has expired.

(By unanimous consent, Mr. TORRICELLI was allowed to proceed for 2 additional minutes.)

Mr. TORRICELLI. Mr. Chairman, the experience of this Congress in our own time has been exactly the opposite. Our national debt has increased by fourfold not because of a Congress, but because of the very executive power that you are using today to control spending. It was, after all, during the Reagan and Bush administrations where they proposed spending in excess of the spending proposed by budgets within this Congress against restraint attempted in this Congress that this deficit was created.

But indeed, Mr. Chairman, none of these arguments compare with the concern for our constitutional government. Our country has been blessed with leaders like George Bush, Bill Clinton, Gerry Ford, and Jimmy Carter, who, even if they possessed executive power, would not have abused it. But who here can be certain that will be true for all time? Who would serve on a Watergate Committee if Richard Nixon had this power over your district? How would the Vietnam war have been different if Lyndon Johnson had had the power to control your districts if you voted against appropriations? And what of Harding and Teapot Dome, or Franklin Delano Roosevelt, as the gentleman from Virginia has suggested, over the courts? How would American history have been different?

I know that our country is troubled, and I know that we have problems. But this constitutional arrangement has withstood civil wars, international conflict, and a depression, and served this country well. Certainly no problem before us today is so great that it would require us to change this balance of powers, as our fathers before us refused to do in times of much greater national peril.

The proper power of this country with regard to appropriations belongs in the People's House. If that power is not handled well, the people have a remedy with elections. It is best not taken away from the people themselves.

Mr. CASTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to take probably less than 5 minutes to bring forth a couple of points that have been made here. One is, I do not think there is anybody in this Chamber who is any less protective than anybody else of the 435 of us of the three separate branches of government. I think it is something we have all learned and we all recognize. I have never heard anyone in this Chamber at any time before I got here or since I have been here who has in any way attacked that particular premise, and my judgment is that this legislation, the line-item veto legislation, does not really attack that particular premise.

I believe that the three branches of government continue to be protected. If we were really concerned about the involvement of the President with respect to the Federal judiciary, I would think we would have legislation before us to take away the right of the President to appoint the members of the Federal judiciary, who I might add are paid very well, they are paid for life, and they have lifetime appointments. So I do not think they feel very threatened by what this Congress may do in this particular legislation.

Obviously, as has been explained here, I think the gentleman from Virginia [Mr. MORAN] explained it, the money we are dealing with here is really funding of some of the clerical and other functions of the judiciary. It is clearly an issue of concern to them, but I do not think in any way could this Congress or the President of the United States either overturn or influence the judiciary with changes in that particular area.

But I have looked back, and it has been said on this floor before and it should be repeated, that as far as I know, none of the line-item vetoes in any of our 43 States pertains to an exception for the judiciary. It just does not exist. I do not know of any exceptions for any parts of those governments.

Generally when a line-item veto has been granted, when it has been sought in the history of this Congress, it has been sought for the entire spending programs that may be in a budget, and nobody has been exempted before, no part of the budget has been exempted before.

I should also point out that under this particular legislative line-item veto, that Congress can override a presidential veto. Yes, you have to go through a majority vote and a two-thirds vote, but indeed it can happen.

□ 1510

I would suggest by that that if a President would do what some Members have insinuated that a President might do or possibly could do, they would do this at high political risk. There is not a single Member who is opposed to that who would not rise to it and say that the President had no right to line-item veto that particular item. We feel that was wrong and we feel that President should pay for it. I think politically they would pay for it.

I would also point out that in the framework of the work that is done by the Budget Committees and within this Congress and by the President, we have always set the budget of the judiciary. It is something that has always been up to the other two branches of Government. It is not set by the judiciary. I think we need to remember that as we continue to debate this argument.

Also, if we start here with the judiciary, and admittedly we are talking about a branch of Government so it seems to have a greater ring of importance to it, but the bottom line is, if we start there, are we going to start to exempt other areas of importance. How about a President who does not like defense? Are we going to start to deal with that, or EPA or something of that nature?

I think for all of these reasons that the argument is actually, while it is important and the earnestness of those who are making it is absolutely sincere and real, and I believe that, my view is that this particular argument, while it is not de minimis, is of much less importance in terms of the ability to influence the judiciary than has been made here today.

For all these reasons, I oppose this particular amendment. And I assert that the line-item veto should continue as it is, unfettered by any exemptions to it so the President and the Congress can work together to have better budgetary processes in this country.

Mr. SPRATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. I might add I knew nothing of the purpose or the need for such an amendment until I attended the hearing which our committee held on this particular bill. I think it bears emphasizing that this amendment was not originated in our committee. It was requested by the judiciary conference and a representative of the judiciary came and asked for it specifically.

Basically I think it is worth stressing that if we adopt this amendment, we lose very little in terms of strengthening, bolstering, building up the budget process, which is the purpose of this bill, but we gain a great deal in terms of protecting our political processes.

What are the purposes of this bill after all, H.R. 2?

No. 1, it is to cut spending, cut spending and reduce the deficit. Frankly, I think it is vastly oversold. I doubt that it will really have more than a footnote's impact on the deficit reduction when the history of the rest of this decade is written, if it is indeed passed.

I think the more important purpose of it is to restore public confidence in the appropriations process in this Government, particularly in this Congress. The people want to know that the budget has been scrubbed. They want to know that we have culled out and the President has the power himself independently to cull out and clean up the budget and get rid of anything that is unwarranted or wasteful. It gives the public some additional authority, a little more confidence in this institution, which is sorely wanting.

But we can adopt this amendment and should adopt it and not detract one wit from either one of those purposes because the amount of money we are talking about here is miniscule. This will leave, even if we adopt the amendment, the entire discretionary budget, $545 billion on the President's veto pad. He can still wield his veto pen as to all of the expenditures in defense and everywhere else in the budget.

Indeed, if the proponents of this bill, H.R. 2, are concerned about this amendment because it is a tiny exception, it is a small loophole, they really should focus on two amendments that we are going to offer later in this process. One is to expand the coverage of the President's veto so it extends the contract authority implemented in public works bills. That is worth considering. It has vastly more significance than this particular amendment here. Or they should look at the Tax Code and the amendment we will offer that deals with tax expenditures which is spending by another name implemented through the Tax Code.

Those two amendments would vastly expand the reach of the President's veto power and undergird the purpose of this bill a lot more than this minor amendment which we are talking about here, minor in terms of detracting from the budget process.

So we have an alternative, if we want to make this bill more effective. We can pass this bill, as the gentlewoman from the District of Columbia said, and lose nothing, really. But we gain a great deal in terms of our independence. We do not detract in the least from the line-item veto power, but we do defend a concept that has lasted for 200 years, a concept that we cherish in this country, that is judicial independence, the independence of our judicial branch.

Mr. Chairman, I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I certainly thank my friend, the gentleman from South Carolina. In fact, there is less need to stand up, after listening to my colleagues make the arguments so eloquently, more eloquently than I have been able to, but I would certainly underscore the point that we are not talking about anything that is particularly relevant to balancing the budget here, we are talking about approximately one one-hundredths of 1 percent of the budget.

So it is not an issue of money and there has never been an issue with regard to the judiciary branch appropriation. We cut it each year, the legislative branch does. And it amounts to a little bit of money.

But even if we eliminate it entirely, all the functions of the judiciary branch, it is not going to create a blip on the Federal deficit. But I think it would do profound damage to the structure of this Government.

And my friend from Connecticut, who has left, said that we might have a different opinion if there was a different party in the White House, if it was a friend versus someone we oppose politically. I would remind my friend from Connecticut and anyone else who was persuaded by that argument that in 1939, when the law was passed that we are really addressing, it was an overwhelmingly Democratic Congress. They had to show a tremendous amount of political courage to say: Wait a minute, there is something wrong here. There is something wrong. The President is abusing the fundamental principle of separation of powers.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from Virginia [Mr. MORAN] which would exempt spending for the judicial branch from the scope of the line-item veto legislation.

In the debate on another amendment, I rose in opposition to this legislation, the line-item veto legislation, because I believe it gives too much power to the executive branch. And the tradeoff, in turn, to reduce deficit spending is not enough to justify that exchange.

But whether we agree or disagree on what form the line-item veto should take, whether it is two-thirds to override a President's veto or whether we agree or disagree on whether there should be enhanced rescission with a simple majority to get a particular project back into the appropriations bill, I think we should remove all doubt in everyone's mind that we all do agree that the separation of power is important to us, that we are true to the commitment of our Founding Fathers of separation of power.

I think this is a sad day when we are abdicating to the executive branch what our Founding Fathers did not give them.

My only hope and encouragement I received is from the leadership of the gentleman from Virginia [Mr. MORAN]. I think it is completely appropriate that he is presenting this amendment, that he has worked so hard on it, and it is in the spirit of our Founding Fathers from Virginia that he carries on their legacy.

Mr. Chairman, I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank my very good friend from California so much, particularly for her very kind words.

There is no question that whereas the Founding Fathers, many of whom came from Virginia, will remain in our memory, I am not going to remain in anybody's memory after I am out of this House. And in fact, the people that stood in this very body and that cast the vote in 1939 to establish a law protecting the separation of powers are lost from memory. We do not remember their faces or their names or even their words.

□ 1520

However, their action was remembered because they did the right thing. They showed a whole heck of a lot of political courage in standing up to an extremely popular and almost domineering President.

Members can be sure that there was a lot of pressure on them to do the easy thing, to let it go, but they would not, because they understood that the structure of our Government was threatened, so they said, "No, Mr. President, you cannot do that. We have got to make the judicial branch independent," because we have three branches of Government.

When we are in conflict, we need that third branch of Government to render an independent judgment. That is what the American people ought to be able to depend upon. Every American voter ought to have the security that the structure of our Government, which has endured for 200 years, which has been a model for the whole rest of the world, will continue in its enduring form.

Mr. Chairman, I do not want to get too melodramatic here on this vote. I do not want to overstate the case. However, I think it would be difficult, really, to overstate this case, because in the process of trying to respond to what the polls tell us and to what the public sentiment seems to be, to cut the budget, to give the President extraordinary powers, to eliminate pork and so on, we are going to do real damage to the fundamental underpinnings of our democracy.

Mr. Chairman, I would urge my colleagues to act as that Congress in 1939 acted, to show the kind of political courage that they showed, to do the right thing as they did, to sustain our separation of powers, and to maintain the independence of the judicial branch of Government.

Mr. Chairman, the issue cannot be overstated. I thank all of my friends and colleagues who have stated the argument so much better than I. Mr. Chairman, I would urge this body to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MORAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MORAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 119, noes 309, not voting 6, as follows:

[Roll No. 85]

AYES—119

Abercrombie
Ackerman
Barrett (WI)
Beilenson
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Danner
de la Garza
Dellums
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kennedy (RI)
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Mineta
Mink
Mollohan
Moran
Obey
Olver
Owens
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Tucker
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates

NOES—309

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Martini
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon

Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torres
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—6

Becerra
Collins (GA)
Harman
Miller (CA)
Moakley
Nadler

□ 1540

The Clerk announced the following pair on this vote:

Mr. Moakley for, with Mr. Collins of Georgia against.

Mr. BRYANT of Texas and Mr. KANJORSKI changed their vote from "aye" to "no."

Mr. WYNN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. HARMAN. Mr. Speaker, during Rollcall Vote No. 85 on H.R. 2 I was unavoidably detained. Had I been present I would have voted "no".

Mr. WELDON of Florida. Mr. Chairman, I move to strike the last word.

Today, I rise to fulfill my promises to the people of Florida's 15th District.

We have a debt of nearly $5 trillion.

Our Government has run a deficit in 33 of the last 34 years

Today each newborn's share of the national debt is about $17,000, and will reach over $28,000 by the time this child reaches the 1st grade.

We will spend $310 billion to pay the interest on our debt this year. The interest alone is about $4,600 per year for a family of three, such as my own family.

We must stop burdening our children.

Like the balanced budget amendment, the line-item veto is long overdue.

In combination, these two bills will go a long way in limiting expenditures and helping cut waste out of the budget.

Past attempts at line-item veto legislation have failed to produce cuts, primarily because these bills left the final authority for cutting the funding with those who appropriated it in the first place.

We have all heard the examples of waste that numerous private and government studies have pointed out.

This line-item veto has teeth and gives the President permanent authority to cut out wasteful spending.

For the first time, the weight is in favor of cuts, not against them.

Along with the balanced budget amendment, this will help us bring fiscal responsibility to our Government.

Every expenditure will be forced to stand on its own merit.

Democratic Congresses rejected giving a Republican President the line-item veto, they even rejected giving a Democrat President a true line-item veto.

Today the Republican Congress gives a Democrat President and every future President line-item veto authority.

This is the clearest demonstration of just how serious the new Republican Congress is to ensuring a bright future for our children.

We recognize that our children's future is on the line.

Republicans continue keeping our promises to the American people.

AMENDMENT OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. SLAUGHTER: Paragraph (3) of section 4 is amended to read as follows:

(3) The term "targeted tax benefit" means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers whether or not such provisions is limited by its terms to a particular taxpayer or class of taxpayers. Such terms does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.

Ms. SLAUGHTER. Mr. Chairman, I offer this amendment in cooperation with my colleagues, the gentleman from Wisconsin [Mr. BARRETT]. This language has attracted strong bipartisan support in the past and we hope that it will continue today.

Mr. Chairman, the title of H.R. 2 says the bill's purpose is, "to give the President item veto authority over appropriations and targeted tax benefits in revenue Acts," but if we examine the statement more deeply we discover it is only half true. The legislation does extend the President's authority over appropriations quite dramatically.

The second half of the stated goal is not fulfilled. The definition of a targeted tax benefit in H.R. 2 is extremely narrow and arbitrary, and as a rule the President is unable to rescind special tax loopholes that are hidden in revenue bills.

I have concerns about the potential I see in H.R. 2 to upset the careful balance of power established by the authors of the Constitution.

I also have doubts about the implicit assumption that the President is necessarily tougher on the deficit than Congress. In the last 20 years Congress has approved $92 billion in rescissions, $20 billion more in cuts than the President has requested in the course of those two decades.

But if the majority party in committed to shifting this power to the executive branch, then I would at least urge that we put everything on the table, both appropriations and tax loopholes.

As introduced, H.R. 2 only allowed the President to use the veto on tax provisions that benefited five or fewer taxpayers. By voice vote, the committee increased this threshold to 100 people or companies.

But whether the number is 5 or 100, however, it does not go far enough. The legislation still protects tax breaks which pander to special interests and add billions of dollars to our budget deficit.

□ 1550

We have all seen the lobbyists lingering in "Gucci Gulch," the famous corridor outside the Ways and Means hearing room. Their sole purpose is to secure sweetheart deals for their wealthy clients. The Slaughter-Barrett amendment recognizes that any Washington tax attorney worth his salary could get around the "100 or fewer taxpayers" provision. As spending caps get tighter, inserting special tax breaks will be the only way Members can take home the bacon. Every forward-looking lobbyist knows that tax breaks are the future of pork.

Simply stated, our amendment ensures that the President can rescind any tax benefit which gives special treatment to a group of taxpayers.

I cannot claim, Mr. Chairman, to be the first office holder to spot this disparity, nor the first to support a broader definition of tax benefits as the solution. In fact, the Slaughter-Barrett amendment has a long and distinguished pedigree in conservative circles. Republicans have offered the exact same language not once, not twice, but three times. We hope that Republicans and Democrats alike will again support it.

Our definition of "targeted tax benefit" was first offered on the floor of the House by former minority leader Bob Michel in April 1993, when he offered a friendly amendment to the Solomon-Castle substitute to H.R. 1578. This amendment passed by a vote of 257 to 157, on an extremely broad bipartisan basis.

I would like to emphasize again that our language is exactly the same as Mr. Michel's, word for word.

This year, our precise definition is found again in S. 14, the line-item veto bill introduced by Senate Budget Committee Chairman PETE DOMENICI, word for word.

More significant, Republicans continued to think that this broad definition of "tax benefit" was a good idea, because they included it in the Contract

With America. In the best-selling version of the contract that you can find in bookstores today, right on top of page 33, our distinguished Speaker and majority leader explain that a targeted tax benefit is "a provision that provides special treatment to a particular taxpayer or limited class of taxpayers." That language is found here in our amendment, but not in the bill.

When the Republican Conference released the legislative language for the contract, the line-item veto bill again included language identical to the Slaughter-Barrett amendment—word for word. But when the bill was introduced, this broad definition was gone—replaced by the "five or fewer taxpayers" wording.

Our amendment also has the support of the Concord Coalition, certainly a leader in efforts to reduce the deficit. In a letter to me written yesterday, the coalition's executive director wrote:

> Many tax provisions function as back-door entitlements and confer substantial economic benefits to upper income individuals and special interests. If Congress passes legislation that creates new tax entitlements or expands existing ones, the President should have the opportunity to veto them.

The CHAIRMAN pro tempore (Mr. HOBSON). The time of the gentlewoman from New York [Ms. SLAUGHTER] has expired.

(By unanimous consent, Ms. SLAUGHTER was allowed to proceed for 1 additional minute.)

Ms. SLAUGHTER. Mr. Chairman, the line-item veto aims to extract pork from legislation passed by Congress. This amendment recognizes that tax pork is every bit as insidious as spending pork.

So I urge my colleagues to practice some truth in advertising. When the reading clerk stood up on the House floor earlier to designate this bill, he said:

> A bill to give the President item veto authority over appropriation acts and targeted tax benefits in revenue acts.

We do not want a half-truth right in the title of this bill. If our goal is truly to continue the progress we've made in cutting our budget deficit, then we must scrutinize both spending and taxes. If they are serious about cutting the pork, then both sides of the aisle will vote for this amendment.

Mr. BLUTE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the distinguished gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON of Pennsylvania. Mr. Chairman, I thank my distinguished colleague for yielding.

Mr. Chairman, I wanted to respond to my good friend, the gentlewoman from New York.

I was the original author of the Targeted Tax Relief Disclosure Act for the last five sessions of Congress. I reintroduced it yesterday. I have introduced that legislation in every session of Congress since I have been here, starting in 1987. In fact, Mr. Chairman, I introduced that legislation as a result of a series in the Philadelphia Inquirer about the 1986 tax reform act written by Bartlett and Steel.

That legislation had up to $30 billion of targeted rifle-shot tax provisions stuck in that bill. As a result of that, I introduced my legislation which I have again reintroduced in this session that does not eliminate rifle-shot provisions.

What it says is we must identify ourselves up front, who is going to benefit up front, how much the transition rule or tax break is going to cost the American people.

I find it somewhat ironic that we are debating this on the floor today, because the previous chairman of the Committee on Ways and Means stopped talking to me when I introduced the legislation. As a matter of fact, for the past four sessions I could not even get that amendment ruled in order on the House floor.

I went to the Committee on Rules on every tax bill that came before this body, and the chairman of the Committee on Rules on the majority side and the chairman of the Committee on Ways and Means would not let me offer my amendment, and here we are saying that our side does not want to go far enough.

Well, Mr. Chairman, I find that somewhat ironic, because I have been pushing this issue for the last 9 years.

Now, I am not satisfied. I think we should have a total prohibition in Ways and Means of giving these anonymous transition rules, not that sometimes they are not deserved, but a Member should identify himself or herself and be willing to make the case on this floor or in committee publicly when they want to give those breaks out.

So I think we ought to go further, but to say somehow we have a double standard is just not true.

Ms. SLAUGHTER. Mr. Chairman, will the gentleman yield?

Mr. BLUTE. Mr. Chairman, I yield to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. The gentleman from Pennsylvania [Mr. WELDON] is one of my dearest friends. I am sure he is absolutely accurate. The Committee on Rules probably did not accept his amendment but it has been voted for on the floor.

It may have been they gave Mr. Michel precedence over your request 2 years ago. It was Mr. Michel who made the amendment on the floor.

Mr. WELDON of Pennsylvania. If the gentleman will yield further, it was Mr. Michel. For the past five sessions it has been my bill called the Targeted Tax Relief Disclosure Act which has had bipartisan support which I have argued on every tax bill coming up before the Committee on Ways and Means and eventually on this floor that has been ruled out of order.

Mr. BARRETT of Wisconsin. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I feel betrayed. I feel betrayed standing before my colleagues in the House of Representatives, because last session I went out on a limb, and I did what I thought was right for the American people.

The language that we have before us today is the identical language that was presented to this House by the Republican floor leader last year, Mr. Michel.

I and a number of my Democratic colleagues bolted from our party to support this, because we thought, mistakenly it appears, that he was sincere and that the Republicans were sincere about having a line-item veto be a true weapon in the fight against our deficit.

Let me tell you what Mr. Michel said at that time about the exact same words we have before the House today. Mr. Michel said:

> Quite frankly, if you are for special interests, then vote against my amendment. If you are for a more complex Tax Code, then vote against my amendment. If you believe the President should not be held hostage to special interests, then I say vote for my amendment today. It will make a better piece of legislation.

The cock crowed once.

But that is not the end of the story. During the campaign I spoke out against the Contract With America, but I made it clear that I was in favor of one component of the contract, the component that gave the President the line-item veto, and prior to the election, the Republicans put forth the Fiscal Responsibility Act, and they said that the House Republicans will introduce the following bill. The language in this bill is identical to the amendment we have before us today.

□ 1600

Mr. Chairman, the cock crowed a second time.

Following the election, I went out and bought this handy Contract With America. It is available in your local bookstore for $10.

I went into this book and again for the third time the Republicans said that they supported giving the President the authority to get rid of tax loopholes. They went further than that. They said, and I quote from the contract, "If we break this contract, throw us out." Ladies and gentlemen, they are going to break the contract today, because now is the time when we are going to make the decision as to whether or not the President can get rid of tax loopholes.

This is a do-or-die moment, and this is where the Republicans who unanimously last year said "Let's give the President the authority to do this" are going to back off on their word. When they introduced this language last session, I thought "You know, they are actually sincere about this, they are actually sincere about giving the President the authority to get rid of loopholes." But now today we are going to get a chance to vote on it on the House floor, and I do not think they are going to vote for it today.

What is going on here? Why cannot the Republicans get rid of this power? If you were to draw a caricature of a Republican, you would think he was interested in tax loopholes for the rich.

I would argue, I will personally set up a loopholes anonymous club in this House of Representatives for those Members of the majority party who are willing to say "We are also against loopholes," because anybody in this House of Representatives who is serious about the deficit wants to get rid of two things. They want to get rid of pork-barrel spending, and they also want to get rid of tax loopholes for the rich.

So let us not draw this arbitrary number of 100 because if you are going to draw the number of 100 for the tax loopholes, then draw 100 for the tax appropriation. I do not think you should be drawing a number for either. I do not think appropriation bills or revenue bills in this House of Representatives should have either pork-barrel spending or a tax loophole for the rich or tax loopholes for special interests.

But to do that is going to take courage. I have talked to a lot of my new colleagues who are very gleeful because they are here, and they tell me that we are in the midst of a revolution, in the midst of a revolution that is going to change America.

What have we done in the first couple of weeks? We passed the Congressional Accountability Act. A very good bill. Of course, there is no personal liability to it. If someone violates it, the Government pays.

We passed the balanced budget amendment, which does not take effect for at least 7 years. This is the first bill that we have before us today that is going to affect the Members of this House of Representatives today or tomorrow or when this bill passes.

So what happens? The Republicans blink, they do not want to give up that precious power to slip special tax loopholes into revenue bills.

Again, I beg my Members, my fellow Members; last year probably 40 Democrats bolted across this aisle and said "Mr. Michel and the Republicans were right." We defied our party leadership and said let us do what is right for the American people. This is the first opportunity this session where I think the Members of the Republican side should say to their leadership "Leadership, you are wrong. We think it is wrong to be the party of loopholes."

The CHAIRMAN pro tempore (Mr. HOBSON). The time of the gentleman from Wisconsin [Mr. BARRETT] has expired.

(By unanimous consent, Mr. BARRETT of Wisconsin was allowed to proceed for 2 additional minutes.)

Mr. BARRETT of Wisconsin. Mr. Chairman, this is the first opportunity where I think the Members of the Republican Party should go to their leadership and say "Mr. Speaker, we do not want to be known as the party that cares only about special tax loopholes. We want to be the party that cares about middle America. Let's do the right thing. Let's give the President the authority to get rid of pork-barrel spending, and let's give the President the authority to get rid of the tax loopholes for the wealthy."

Mr. Chairman, we can do it today. We should do it today. I ask you to do it today.

Mr. WELDON of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise because I have to respond to some of the comments I have heard on the floor. It is absolutely amazing to me; this is my ninth year in Congress. I was not planning on speaking on this bill, but to hear my colleagues on the other side saying they have been steadfast in their support to eliminate targeted tax breaks, that is mind-boggling to me, because in the 8 years that I have been here the minority party now was the majority party that controlled the Committee on Ways and Means and the Committee on Rules.

Mr. Chairman, every one of the sessions that I have been here I went before the Committee on Rules and went to the chairman of the Committee on Ways and Means, and I said, "Please accept my Targeted Tax Relief Disclosure Act," which does not eliminate them, but it says publicly identify yourself. I did that because the year before I came to this body the majority party passed the 1986 Tax Reform Act.

Mr. Chairman, the Philadelphia Enquirer, in analyzing that act in a five-part series, which I distributed to every Member of this body as well as the other body, identified up to $40 billion of rifleshot provisions stuck in that bill, primarily anonymously, by Members of the majority party, which I thought was ridiculous. There was a paragraph in the 1986 Tax Reform Act that went something like this: Any citizen residing in Tarrant County, TX, owing a tax liability of x amount and being born between such and such a year and such and such a year is hereby forgiven that tax liability. I thought that was outrageous.

There was also a provision in that bill that gave special tax treatment to an individual to finance two ships in Japan that are currently hauling Japanese cars to our American shores. As a matter of fact, I was ready to hold a press conference at the Port of Baltimore to identify this ship and say: "Who is the Member of Congress that stuck this special tax treatment in the bill?" Because the Committee on Ways and Means chairman would not let us have access to the records to tell us who put that provision in that bill.

Mr. Chairman, these things have been going on since I have been here for 9 years, and the current minority party did nothing—nothing—to take any one of those provisions out nor to support my effort in the Rules Committee or on the floor of this House, in the Ways and Means Committee, or when I testified before the bipartisan Commission to Reform the Congress, where I said, "Please accept my targeted tax relief disclosure."

By the way, Mr. Chairman, that provision was accepted by the bipartisan Commission which my friend and colleague was cochair of. But as it worked its way to the floor last fall, the Speaker and the leadership pulled that provision out.

Now, we hear that our party really does not care about targeted tax relief. I am not a member of the Committee on Ways and Means, I am not a tax lawyer, and I am not an expert on tax policies. I have been told the reason why they will not accept what was the Michel legislative language last year was because it was unworkable and, in fact, it could be a killer. Now, if it can be workable, I will accept it. I am not a tax lawyer. I will leave it up to the Ways and Means Committee staff and counsel. But to have our colleagues on the other side stand up and say somehow that the majority party does not care about this issue or that somehow we are for giving tax breaks to wealthy citizens and corporations is absolute hogwash—absolute hogwash.

Mr. BARRETT of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Pennsylvania. I am happy to yield to the gentleman from Wisconsin.

Mr. BARRETT of Wisconsin. Mr. Chairman, the gentleman could not have made the point better for me. He talks about what happened in the past. I did not vote with Mr. Rostenkowski in the past. A number of us did not vote with him because we disagreed with him. But that was yesterday, and yesterday is gone.

This is a new day in Congress, and now the gentleman is in the leadership, the gentleman is in the majority, and three times the Republican Party publicly stated that they were for getting rid of these tax loopholes. This is the do or die moment. Are you or are you not ready to get rid of your tax loopholes?

Mr. WELDON of Pennsylvania. Reclaiming my time, I will say to my colleague and my friend and distinguished gentleman, I am very happy that we have legislation in this particular piece of legislation which gives the President authority that your party would not give him, despite the fact that he is of your party, which we are going to give him. I am happy we have something here. But I will pledge to the gentleman that I will work with him as long as counsel on the Ways and Means Committee says we can do it to bring this legislation or have it even broadened to eliminate all provisions that would give special tax breaks.

I will work as a Member who is not on the Ways and Means Committee to accomplish that. What I object to is Members of the other side all of a sudden seeing a spirit coming down from the skies that they have been pushing this issue for years. That is the absolute most disgusting thing I have heard on this House floor.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania [Mr. WELDON] has expired.

(By unanimous consent, Mr. WELDON was allowed to proceed for 1 additional minute.)

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. I thank the gentleman for yielding.

Mr. Chairman, the thing I am so amazed about now is that the gentleman from Pennsylvania is so fired up when we have this amendment here, and I am hoping that his side of the aisle is going to vote for it and we are going to vote for it and the gentleman is finally going to get his wish after 9 long years. It seems to me the gentleman should be happy about that.

Mr. WELDON of Pennsylvania. I am happy that the gentlewoman has brought the issue up. What I am saying is in my opinion it is superficial. I saw no effort over the past 9 years to move this legislation. Now that we have taken the lead, the other side of the aisle wants to come in and try to make it look as though we are not going far enough. I promise to the gentlewoman that I will work with her to toughen up this particular provision.

Mr. KANJORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I did not intend to engage in this debate either, but it is very interesting that my colleague from Pennsylvania says we are confessed sinners. We are confessed sinners. I agree with his proposition and would have supported it if it had been part of the bill in previous years.

□ 1610

We do know that one of the most disgraceful things in the Congress of the United States is these special loopholes for wealthy people and wealthy corporations in America. I say to my colleagues: "Here is the opportunity, if you trust the President, to carry out the stoppage of special loophole provisions. We can give him that authority."

Now let me suggest that we are about—and I know the majority side with the minority have been working on welfare reform—this is an issue of corporate welfare, of rich persons welfare. As my colleagues know, we can identify a lot of things in this country that the average citizen can learn to hate, but it is a type of corporate welfare with special tax provisions with the very wealthy corporations and individuals of this country that really cause a great portion of the deficit that we are all into the burden of today.

Now my colleagues know we can argue it started out in committee, and I happen to sit on the committee. We wanted to stop a tax loophole for five persons; how ridiculous, for five persons. We finally raised a little devil on that. Some of us wanted to make it without limitation because we really believe, and I fundamentally believe, that the Tax Code of America is only to be practiced if it is fair and equitable to all taxpayers of America equally. This idea that wealthy corporations or wealthy Americans can come and hire the Gucci lobbyists that the majority party campaigned against just last November, and they lined up at the Committee on Ways and Means, and they bring in their high-powered, multimillion-dollar lawyers, and they win these special phrases, these special clauses, or, as the gentleman from Pennsylvania [Mr. WELDON] indicated, the gentleman who is born in some particular county between the years such and such and such and such that only applies to one known living human being on Earth, and they forgive the tax responsibility of this Government, is insane, it is dishonest, it is intellectually dishonest, and it will bring down this Government.

Now, if we are serious, if we are serious about the line-item veto, we ought to stop earmarking for special provisions. We are going to vote for that. We ought to also, on the other side of the ledger, give the President of the United States the authority to strike out special tax provisions for very few people who are smart enough to work the inside Beltway of Washington, DC. Some of us have been here 10 years, and have fought against it for 10 years, and have lost.

If, in fact, this is a new Congress with a new breath of fresh air, and if they are going to live by their contract that they signed in September 1994, this is the true test.

I joined my friend on the committee, the gentleman from Wisconsin [Mr. BARRETT], when he said this is the real test of whether or not the majority party is going to do away with special provisions and special loopholes. This is the time when they are going to decide that corporate reform is as important to do away with corporate welfare as it is to do away with misuse and abuse in public welfare in this country, and it is unfair for us to strike up here and sound like we are suddenly reborn from sinners and that we become pure, but when it goes to the wealthy side of America, we refuse to stop the loopholes and the special taxation favors.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I was anxious, and I wish that the gentleman from Pennsylvania [Mr. WELDON] who started this discourse, would have stayed here because I wanted to commend the gentleman because he is accurate, and we are not without sin on this side. He is true; what he has said is true. In the past there have been examples in those tax bills where there have been special benefits for, like the gentleman from Pennsylvania said, the wealthy or special corporations, for special individuals, et cetera. That has been there. Many of us on this side of the aisle did not like that either. We think it is wrong.

And this is not the first time though that we, as Democrats, have attempted to do something about it. The gentleman from Pennsylvania is wrong. We have. We passed the bill, the line-item veto, with just a majority provision last year with a large amount of both Democrat and Republican support. It did no go anywhere in the Senate; like a lot of other things, got stopped by a little filibuster over there, or whatever. It got stopped by both Democrats and——

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. KANJORSKI] has expired.

(By unanimous consent, Mr. KANJORSKI was allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. But in there there was a provision for the President having this basically same identical authority. That was a Democratic bill, but basically a bipartisan bill. But it was sponsored by, primarily, the gentleman from Texas [Mr. STENHOLM] and we passed that.

So, we have done things. I say to my colleagues, don't tell us we haven't done things. Some of us have been able to do that, and we feel just as strongly as some of your Members because some of us feel that that is not fair.

Mr. Chairman, as the gentleman says, it is not fair that certain people can use their money to get lobbyists down here to be able to get special treatment in the Tax Code, and therefore we need to stop it, and I agree with the gentleman, but we think right now that the language in this amendment does go better than the language in the bill. I say to my colleagues, the language that you have in the bill, if you got 101 or 105, you got to make sure you get 105 people there. Then the

President can't line-item it. I think that you need to look at that and saying only those are tax benefits.

Before I yield back, and I will get the gentleman from Pennsylvania [Mr. KANJORSKI] additional time, but I just want to make one other observation. I will go back a little further than the 1986 tax bill. I will go back to one in 1981, and, if my colleagues want to talk about some special benefits, I can tell them about some special benefits in 1981 to certain people.

There is a corporation known as General Electric. In the 1981 tax bill, which is known as a Reagan tax bill, General Electric, as a result of that tax bill, not only did not have to pay any taxes on all of their income in 1991 fiscal year, but guess what, folks? They were, because of special provisions in that bill for General Electric under the Reagan tax bill, were able to go back for 2 proceeding years and get all the money back that they had paid in.

And I say to my colleagues, "They got more back, folks, than you will earn in a lifetime—you will earn, not pay tax, but you will earn in a lifetime."

That was the Reagan tax bill.

Mr. KANJORSKI. Reclaiming my time, Mr. Chairman, so that this debate is very clear, in committee the markup started out with only five. It was the minority side of the committee that asked the question, "Why only five? Why should there be limits?" So apparently between markup and rules, Mr. Chairman, it was raised to a hundred.

I would like the majority to defend why we should allow protection for special tax loopholes for 101 and 102. What is the magic number there? Why?

Mr. FOX of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, line item veto is an idea whose time has arrived to give the President the right to cut out wasteful spending here in Congress.

Mr. Chairman, the grave concern for my colleagues on the other side of the aisle has been that we are giving the President too much power. The current proposed amendment seeks to give the President the veto for an entire middle class tax cut, if he so desires. The way the bill is currently drafted, the President can veto narrow, special tax benefits for favored friends of powerful Members of Congress, which is good. However the current amendment gives the President far too much power and expands the scope of the veto well beyond that which was intended by the line item veto. Well, H.R. 2 permits veto of special benefits for special friends. The current amendment would open the entire Tax Code to individual line item vetoes. This amendment is too powerful, too expansive and dangerous and should be defeated.

□ 1620

Mr. BLUTE. Mr. Chairman, will the gentleman yield?

Mr. FOX of Pennsylvania. I yield to the gentleman from Massachusetts.

Mr. BLUTE. Mr. Chairman, I appreciate what the gentlewoman from New York and my good friend the gentleman from Wisconsin are trying to do in support of their intent. Unfortunately, I don't believe the amendment fixes the problem H.R. 2 is trying to solve.

The language included in the contract version of the line item veto was intended to accomplish what H.R. 2 does now. The provision's purpose was to permit the President to item veto special tax breaks for special friends of powerful Members of Congress.

Unfortunately, the contract language was unartfully crafted. By stating a targeted tax benefit is one that applies to "a particular taxpayer or limited class of taxpayers," the contract language inadvertently opened the entire Tax Code to possible item veto much in fact, every single item in the IRS code must by its very nature apply to some "limited tax class of taxpayers."

Because the intent of the contract language was to permit the veto of rifle shots or special deals for special friends, our committee worked with the Committee on Ways and Means and the Joint Committee on Taxation to more precisely define the term "targeted tax benefit."

Following discussions in committee where members concluded that the language of H.R. 2 which limited the category to five or fewer taxpayers was too restrictive, we accepted a bipartisan amendment to change the definition to include 100 or fewer taxpayers, again seeking to get at rifle shots or special deals.

I can tell you the Committee on Ways and Means people are not happy, believing that we have once again broadened the category well beyond fixing the problem. Nevertheless, we support the language reported by our committee and included in the base text as sufficiently broad to fix the problem of special deals, while narrow enough to prevent the President from vetoing such general purpose provisions as the middle class tax cut or child care tax credit.

This is a responsible, well-crafted, middle-of-the-road approach which should be supported, and I urge Members to support the base tax and defeat this amendment.

Mrs. MALONEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to respond to my colleague that this would not apply to the middle-class income tax. It specifically states in the Contract With America, "Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general conditions such as income, number of dependents or marital status."

Mr. Chairman, I rise very strongly in support of the amendment offered by my distinguished colleagues from the great States of New York and Wisconsin. The line item veto bill addresses the deficit by giving the President the power to cut pork-barrel projects out of appropriations bills. It gives the President broad authority to line item veto any spending, regardless of the amount, from the entire spending to only one dollar of spending.

Yet the authors on the other side of the aisle of this legislation have left the job half done. It gives the President very narrow authority to line item veto tax provisions, only those which benefit 100 or fewer people.

Mr. Chairman, if we are going to be tough on spending, should we not likewise be tough on a tax giveaways? In the committee, and I was a member of the committee, in the original text of H.R. 2, we addressed the problem of targeted tax benefits only in the most limited way. It allowed the President to rescind these sweetheart tax deals, but defined them as provisions which benefited five or fewer people. The Democrats on the committee worked with some of the Republicans and managed to raise the limit to 100 in the markup. But the fundamental problem remains. The artificial numerical number can easily be fudged. Any smart lawyer will easily write tax loopholes to avoid the President's veto. It will simply benefit 101 or 102 people. Then the President will not be able to strike it out.

As we have heard, the Republican Party has long been the champion of a much broader definition, right up to the point that they gained the majority. Now we see a sudden switch. The Republicans' Contract With America, signed by practically every Member on the other side of the aisle, contained the very same language being offered in this amendment today.

Make no mistake, this is a critical vote. Many would view this amendment as the first step on the slippery slope of selling out to special interests. If you are for special interests, then vote against this amendment. I challenge my Republican colleagues to support the amendment and to keep the promises they have made to the American people.

Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. GUTIERREZ], who has worked on this issue.

Mr. GUTIERREZ. Mr. Chairman, I thank the gentlewoman for yielding, because I want to make one point very clear: This Democrat in the last Congress of the United States voted for the strongest line item veto that was proposed, including this provision. So do not try to argue as though no one on this side of the aisle was supporting the strong kind of line item veto.

As a matter of fact, I suggest to the freshmen and the sophomore who I am in the same class, he defy your leadership. True, it was a little difficult in my cloakroom, but they still fed me, they still gave me water to drink, and, as you can see, I am still here.

So stand up for what you believe in and do the right thing and vote your conscience. You know what is right. Do it. Others have done it, and we are still here, alive and well, and, thank, God, healthy.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to this debate very attentively. It has been very intense, and I think we have gotten most of the points out. It has motivated me to go back to the RECORD, however, and try to find out who said what when and what was expected and that was not, because I have great respect for the efforts of the gentlewoman from New York who has offered this amendment.

My problem with it is that it seemed very broad, and it seemed, in my view, a little bit unworkable in that it is overbroad. I have some feeling, as we have heard from some of the debate, that the question of over-broadness may very well be a judicial question someday with this legislation.

I went back to the amendment, and if I read the amendment correctly that has been offered, we talk about what the term targeted tax benefit actually means, trying to put a description on something that Mr. Michel himself did describe in his words before this body, and I will get to those words.

But when we get into the definition of the amendment, and I am reading from this, it says, "Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions." That is very broad, but it has been further qualified, "such as income, number of dependents, or marital status."

Well, that leaves a very serious ambiguity about other demographic questions such as gender, race, age, sexual preference. These are all points that I think now become an ambiguity. I know that the gentlewoman does not wish to give us an ambiguous piece of legislation.

I did go back and look into the exact language that Mr. Michel used on April 29, 1993, in the RECORD, and he said, using his words in paraphrase, "You will hear that it is uncertain what I mean by the term 'targeted tax benefits' by those who oppose this."

I think that is exactly what we have got here. Those who are basically opposed to trying to get at closing these loopholes are basically trying to put words in Mr. Michel's mouth here about what he meant.

If you read the RECORD, it is rather clear that Mr. Michel went through what I am calling special interest tax breaks, all the things we are trying to get at here.

When you get to the bottom of what he said, he said, "I will confer. I will sit down with the chairman of the Committee on Ways and Means," who was his good friend, who is unfortunately no longer here, as Mr. Michel is not, "and we will work out the details of this."

We did work out the details. We did it with slightly different people in different areas. We went through the Committee on Ways and Means, the Joint Tax Committee, and now the Committee on Government Reform, and we have done this in the Government in sunshine, openly, and come to a conclusion of what the best definition is that will work, that will withstand the judicial overview and any other test that can be made of it, and I think we have come up with a better solution than the gentlewoman from New York has.

□ 1630

Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Chairman, I thank the gentleman from Florida for yielding to me.

I think one point that is glaring here is that throughout this debate on the line-item veto authority, the minority, during the general debate, during the debate on the amendments, made a strong case that they felt that this bill ceded too much power to the executive, that it tilted the balance of powers in a way that was not a good thing for our democracy.

And in this amendment, there is a reverse argument that we need to expand the President's power broadly, as this amendment would do.

This bill is attempting to narrow the scope of the President's power. We do not believe he should be all powerful, and we agree with the minority on that. But we do think he should have the power in this narrow sense.

So I would just say that there seems to be two different arguments coming from minority on this bill.

Mr. GOSS. Reclaiming my time, Mr. Chairman, I yield to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Chairman, the gentleman from Florida [Mr. GOSS] is certainly one of the most thoughtful Members of this House and a good friend of mine.

I should say to him that I did not do a lot of research on this. I took the words directly out of the Contract With America, I assumed that after Mr. Michel had done his consultation with Mr. Rostenkowski and come up with what is language is that what——

Mr. GOSS. Mr. Chairman, unfortunately, I did not hear everything.

Ms. SLAUGHTER. Mr. Chairman, my microphone was not on. As I heard the gentleman's remarks, that after Mr. Michel spoke on the floor on the amendment, he decided it was too broad and conferred with Mr. Rostenkowski to come up with what was determined to be the proper language, which is what we have now.

Mr. GOSS. Unfortunately, as the gentlewoman knows, that never transpired into final fruition. So what happened is, we have put it back into a process to complete the concern that Mr. Michel had about what does this really mean. And we have done that process of completing what it means.

Mr. GUTIERREZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am pleased to rise in support of this essential amendment. We have heard a lot of rhetoric today about the importance of eliminating wasteful spending from our budget. And I agree with much of that rhetoric. Far too often taxpayers have been forced to carry the burden in this Nation for our inability to stand up for them and to say no to pet projects of lobbyists and pork barrel projects of special interest groups.

However, today supporters of this bill, despite all of the rhetoric about protecting the taxpayers and promoting fiscal responsibility, have engaged in a sneaky end run around the American people.

This bill does help the President go after pork, some pork. But this bill, without the amendment offered by the gentlewoman from New York [Ms. SLAUGHTER] and the gentleman from Wisconsin [Mr. BARRETT], also goes on record as saying, you know what, some pork is OK. We might be able to go on a little diet, but we are not kicking the habit completely.

Yes, wasteful spending is a problem that is diverting money from the real needs of America. But just as importantly, just as importantly, so are those targeted tax giveaways designed to give a break to your favorite lobbyist, powerful interest group or a privileged group of people. These free rides cost the Treasury just like wasteful spending does.

Every time we pass a tax credit, a refund or a break that benefits a particular group or special interest at the expense of America, we are creating more pork. Without the Slaughter-Barrett amendment, we are saying that with one swipe of the pen, the President can eliminate any spending, any spending he so chooses. What if the President decides he wants to eliminate tax benefits for foreign corporations or giveaways to foreign investors?

More importantly, what if the President decides that a capital gains tax cut that overwhelmingly benefits only the richest 5 percent of America deserves the swipe of his veto pen? What if our President decides that we absolutely cannot afford to drain our Treasury of billions, yes, my colleagues, billions of dollars for a tax cut for the wealthiest Americans at a time when we are trying to save and cut every dollar that we possibly can?

What if our President decides he wants to side, for a change, with working men and women and say no to a tax giveaway, to a narrowly directed group of people?

Well, this bill says he cannot do it. You cannot do it, Mr. President, because we are not interested in that kind of pork. Your veto pen is dry if you want to use it to stop tax giveaways.

That, my colleagues, is a fatal flaw in this bill. But the remedy is simple. There is a cure. The remedy is this amendment.

If we are truly on the side of the American people and against wasteful spending today, then let us go all the way. Let us kick the habit. Let us not protect the special interests, the lobbyists, the favor seekers in these halls who want to leave here today with their tax breaks intact.

My colleagues, I did not know until today that this Contract With America could be amended. I knew there were a lot of amendments to the Constitution in this contract, but I did not know this could be amended. But today we have heard that is was unartfully crafted, not my words, the gentleman from Massachusetts stated that it was unartfully crafted.

Well, I am going to read it again with a good lawyer by my side.

Another gentleman on the other side said, well, we have finally come up, these are not my words, with the best definition to date. It is written, it is printed, but today we came up with the best definition. Maybe we will have to add an appendage for definitions to this so we can all know what it really means.

And lastly, it is certainly good to raise the flag of bipartisanship when it is on the balanced budget amendment, applaud for the bipartisanship; when it is on unfunded mandate, applaud for the bipartisanship; and when Democrats stand up to say, let us do the right thing together and it is good, but I am with you.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. GUTIERREZ] has expired.

(By unanimous consent, Mr. GUTIERREZ was allowed to proceed for 2 additional minutes.)

Mr. GUTIERREZ. I tell the gentleman from Massachusetts, he and I know each other. He knows I have been for a line-item veto. My record is clear. There are many of us on this side, the gentleman from Wisconsin [Mr. BARRETT], many of us. So do not chastise us. Do not ridicule us by saying that somehow we are hypocritical and Johnny-come-latelies on this when we have stood up and now that the gentleman is in the majority, it is bipartisan, too, when I am with him, just like it was bipartisan when other Members of my party joined the gentleman in the past 2 weeks.

Mr. BLUTE. Mr. Chairman, will the gentleman yield?

Mr. GUTIERREZ. I yield to the gentleman from Massachusetts.

Mr. BLUTE. Mr. Chairman, I have a great deal of respect for the gentleman from Illinois. I think his courage is pretty obvious to everyone in this Chamber. I would just simply point out that the amendment in the committee that set the limit of 100 was offered by Members of the minority party and adopted and voted for by Members of the majority party in a bipartisan way. So I agree it should not be a partisan issue.

And in the committee, the committee adopted a Democratic amendment.

Mr. GUTIERREZ. Reclaiming my time, Mr. Chairman, I would just simply suggest one thing. We all know what happens in the committee. We all know how Members get on these committees.

But here we are, in the Committee of the Whole. We can correct and rectify any problem. Because we know they make mistakes in that committee. They get too cozy with each other in that committee. They spend so many years together. It is get along, come along.

This is the Committee of the Whole right here. Let us do the right thing right here. The gentleman and I can do it. I ask the Republicans to join us. They are in the majority. Let us do what we have got to do and let us eliminate these tax breaks.

□ 1640

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Illinois [Mr. GUTIERREZ], my good friend, we have chatted many, many times. I also know he has had great courage in the past. I know by his own leadership he was chastised for coming out in support of what he really believed, and I respect the gentleman for that.

However, I would like to reiterate this is a Democratic amendment, the amendment of the gentleman from South Carolina [Mr. SPRATT], an amendment in the committee. I do not know what the gentleman meant about how we get appointed on those committees. I asked for my specific committees, and I am sure that my friend, the gentleman from Illinois, asked for his committee, as I did.

The only thing that I would say, we are being chastised for coming up with a line-item veto when the minority party had power for 40 years, and refused to come up with a line-item veto. It is like I wanted to buy a Ford all these years, and now I am buying Chevys and Fords and I am getting chastised for it. It is just not logical.

The line-item veto is very important, whether it is a Republican President or a Democratic President. The pork that we need to take a cut at is all the pork. I agree with the gentleman on that.

However, we are trying to do something in the contract that we feel is very, very important. That is to give the President of the United States what many of the Governors have. That is a line-item veto.

I think that this case of 100 play level, especially since it was adopted in the committee, I am quite serious, I have not looked at it. I am not even sure what it is. However, I also know if it was adopted in the committee, it must have had pretty good bipartisan support to make it. I will take a look at it seriously before we come up on it.

Mr. BARRETT of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Wisconsin.

Mr. BARRETT of Wisconsin. Mr. Chairman, I serve on the committee, so I am certainly familiar with what happened on the committee. This amendment that raised it from 5 to 100 was not the first amendment that was offered on this issue.

The first amendment offered on this issue was offered by the gentleman from South Carolina, Mr. SPRATT. That was defeated. It was a wider amendment than the one we have before us today. That was defeated with every Republican voting against it and one Democrat voting against it. The rest of the Democrats voted in favor of it.

Obviously at that point, Mr. Chairman, having failed to get the wider and the version closer to the Contract With America, there still was a belief, I think, at that time by both parties that 5 was just ridiculously low, and it went from 5 to 100. That was not controversial.

However, the major debate, Mr. Chairman, actually occurred around the amendment, the first amendment from the gentleman from South Carolina, Mr. SPRATT. I understand the gentleman from South Carolina will probably be introducing that amendment tomorrow, as well.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, and I thank the gentleman for the clarification, but again, I would repeat, he has had the majority for 40 years and they have not come up with a single line item veto. We are trying to do that today, but yet they are still trying to chastise us, or maybe to look at it better, maybe they are trying to improve it. I compliment the gentleman for that.

However, it is very, very important that we get it. It is bipartisan. I ask for the support of the line item veto.

Mr. GUTIERREZ. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I am happy to yield to the gentleman from Illinois.

Mr. GUTIERREZ. Mr. Chairman, I thank the gentleman for yielding.

I just want to suggest that, No. 1, we are all friends on the committees. We are close to one another on the committees and we do a lot of work there.

Mr. CUNNINGHAM. Most of the time.

Mr. GUTIERREZ. Mr. Chairman, that is simply my point. I do not want anybody to make any other inference of that point, and I apologize if anyone took it any differently, No. 1. No. 2 is, the gentleman is lucky if he gets the complete assignments he wished.

I bought a book called "Adventures in Pork Land," sent it out to the 75 winners of the primary, of the general election in November 1992, sent it out to them. Really, they all got it. I said, "Read this book, because I think it is something good for us to get to when we organize as a freshman class in 1992."

How do I get on the Committee on Banking, Finance and Urban Affairs? Great committee, but I got there because there were four slots they could not fill. They could not deny me that committee slot.

Mr. CUNNINGHAM. Reclaiming my time, they begged us to take them, too, right after the S&L, and no one would take them.

Mr. GUTIERREZ. Mr. Chairman, if the gentleman will continue to yield, I have not quite gotten the committee assignments I have asked for, but I have been able to work well here with the gentleman from California [Mr. CUNNINGHAM] with my Democratic colleagues, and look forward to working with all of them.

However, I just suggest that there are some of us, a few of us, maybe, that were for the line-item veto, the strongest line-item veto. To simply suggest that now, with a stroke of the pen, that we were all against it, just is not quite fair to us and our position.

I thank the gentleman for yielding.

Mr. ORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also rise in strong support of the Slaughter-Barrett amendment. Since my first election in Congress, I have been a very strong proponent and supporter of giving the President enhanced rescission authority or a line-item veto. As a self-acknowledged deficit hawk, I believe we have to address all legislation, which includes a large number of special interest provisions, which can increase the deficit.

There are essentially three ways in which we spend money and increase the deficit. They are through direct spending of appropriations money, appropriated spending; they are through contract authority, spending on contract, not appropriated; and they are through special tax incentives, or called tax expenditures. I favor including all three of those in a line-item veto bill, and tomorrow I will be proposing an amendment to include contract authority as well as tax expenditures.

Mr. Chairman, it has been said many times on this side of the aisle, "I'm not a tax attorney and I don't know," or "I'm not a tax attorney and I can't tell you this." I am a tax attorney. I spent 12 years with the Internal Revenue Service, 11 years in private tax practice, and I can tell the Members that the wording of this amendment is no less enforceable or operational than the wording in H.R. 2.

I have very severe questions about and problems with the wording in H.R. 2. As currently defined, it would limit the provisions to those which benefit 100 or fewer beneficiaries.

Two main problems: First of all, it is not clear to me how in the real world the President or we in Congress specifically determine which specific provisions are in fact going to affect 100 or 101 or 99 specific individuals.

To outline this, I think that it is clear to me that this is far too narrow, being the second problem I have, to demonstrate. Let me just cite from the committee's report on H.R. 2, page 8, dealing with enhanced rescission authority.

To start from the committee report, it says "The special tax benefits Congress added," and they are talking about the 1992 Revenue Act, citing that as an example where Congress, in an attempt to do one thing, which was create enterprise zones, Congress added on many different tax benefits: "The special tax benefits Congress added covered such interests as special exemptions for certain rural mail carriers, special rules for Federal Express pilots, deductions for operators of licensed cotton warehouses, exemptions for some small firearms manufacturers, and exemptions for certain ferry operators."

That is from the majority's committee report. I would ask the Members of the majority, which of these provisions affect more than 100 and which affect fewer than 100? I would suggest to them that it is impossible under the language in H.R. 2, Mr. Chairman, to accomplish the very purpose and intent which the committee report suggests they are including this language to accomplish.

More importantly, Mr. Chairman, I think that we ought to take a look back at the line-item veto provisions we have already passed in the last session, and to suggest we had the control for 40 years and we have never passed a line-item veto, not true.

We passed a line-item veto bill in the last session of this House. We passed it with bipartisan support. In fact, the language that is proposed in this amendment is not only the identical language which Mr. Michel proposed, and which several of my friends sitting here in the floor and who have been here, the gentleman from Texas [Mr. ARMEY], the gentleman from New York [Mr. BOEHLERT], the gentleman from California [Mr. CUNNINGHAM], the gentleman from Texas [Mr. DELAY], the gentleman from Georgia [Mr. GINGRICH], the gentleman from Florida [Mr. GOSS], the gentleman from Ohio [Mr. HOBSON], the gentleman from New York [Mr. SOLOMON], all of whom voted in support of this specific language, not only in the Michel substitute back in April 1993, but also voted for this bill, which we passed with this language in the last session of Congress, now to suggest somehow that is unworkable language, that it is too broad, that it has language which we cannot put back into the bill, simply is something, I don't understand that argument. I am baffled by it.

Mr. JACOBS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentlewoman from New York earlier today raised the question about what made anybody think that the politician who ends up on the top of the heap in the White House acquires some rectitude or some goodness that is denied to the rest of the participants in the government.

I do not know the answer to that question, because I have served with seven Presidents and I have not seen one yet who underwent that miraculous transformation.

□ 1650

Give this some exercise: How about the term "presidential pork"? Let me give one example of that.

In the election year of 1992, we had a person in the White House with whom I served in this House and whom I like very much, but he was in a pretty tight spot. He went down to Florida and announced that an obsolete Air Force base would be rebuilt and reestablished. He did not need the line-item veto to do that. He went out to St. Louis and said an airplane that clearly was unneeded for our national defense would be put into production, anyway, if he were reelected. He did not need the line-item veto for that.

Our founders gave to the President one-sixth of the legislative power, and there were no PAC contributions to those Members of that Constitutional Convention. There was no distortion of their point of view. There was no need to contort their wisdom. They thought it through very carefully how much authority would be given to each branch of the government.

But if you are going to enact this surrender of authority in the Congress and you only do it halfway, you are making a sad, sad mistake.

I serve on the Committee on Ways and Means and a few years ago we had an amendment. It was in the usual hieroglyphics of legislative language and hardly anybody knew what it meant. My mother always said, "Never sign anything you can't read or didn't read" so I voted against it.

The next morning, Washington Post headlines, "Ways and Means Committee Votes Multimillion-Dollar Gift to Certain Group." That certain group was the Gallo Wine Co.

On my way down to work the next day, I stopped by the supermarket and I bought a jug of that foul stuff—oh, it's wonderful stuff—I bought a jug of the Gallo wine and a sheaf of paper cups, and I went up to each member of the committee when they assembled, put the cup down, poured a little bit for each one that voted for it and each time I said, "Ernest and Julio said thank you."

Anybody who does not pay his fair tax is stealing from those who do. It is difficult for six people to carry a piano, but it is especially difficult if two of the biggest ones are riding on it.

I have just this advice: Those of you who have been told to go to the rear and march, let me tell you that when I entered Congress, I was told to go to the rear and march because I ran with Lyndon Johnson the first time I ran, and we all ran against the Vietnam war. We were going to get out of the Vietnam war. I kept my promise, the President reversed his position and somehow or another with all the PR they had, I was the traitor to my party and I was the traitor to my country.

Be a traitor to your party if you have to; be a traitor to your party to keep your promise to your constituents. You will sleep better tonight.

Mr. FATTAH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe that even though it may not appear it is the case, that this is indeed a defining moment for the new majority here in this House. The Contract With America is on the best sellers' list. People are reading it all across the land. The words, as inartful as they have been deemed to be, are fairly clear. That is, that it has been asserted and promised and contracted with that there would be a line-item veto that would allow the President of the United States the opportunity to correct the Tax Code and to do away with special provisions that allow the rich and powerful in this country to get away with not paying their fair share.

Now we have arrived at the moment of decision and we hear this notion about the problem with this language. David Brinkley, whom many of us watch on Sunday morning, once said, "I was told that campaigning time is promising time and after that is alibi time."

We have a majority who has read the contract every morning on the floor, at least some of their leadership carry it around in their vest pocket, and that they are determined under all circumstances to implement this contract.

However, when it comes to the point of addressing what is the most outrageous example of improper action by this House, that they are unwilling to step up to the plate and live up to their commitments.

When it comes to taking away a few dollars from a promising kid who is trying to go to college, they are all willing to stand up for that or to attack the few measly dollars that are provided to a single parent on welfare, or to go after affordable housing programs or to attack mass transit funding, they are all eager to march in a straight line towards that goal.

But now when in face of the multinational corporations and billionaires in our country who have somehow ripped off the American taxpayer by their lobbyists making room in the tax code to benefit them, they are unwilling to turn over to the President an opportunity to veto these types of unfortunate loopholes.

Let me just conclude by saying that what we have now is a loophole in the contract. Loose language that has now been added to H.R. 2 makes the entire commitment that has been made by the new majority to be called into question.

I would just suggest, not to the majority because I know they will not change their position, but to the American people, that they look very, very carefully at the votes on this amendment and that they understand that the contract that was promoted as a Contract With America really was a contract that the hands were shook on later on that night in a roomful of lobbyists who were fund raisers at a fund raiser that was a part of that campaign.

Mr. ROEMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there have been a lot of pundits that have been talking already about what the 1994 November elections meant. And some people have been saying that they were an endorsement of the contract and some people have been saying that Democrats did not turn out to vote.

I think an interpretation of the 1994 elections were about what we have been doing for the last couple of days. They are about common sense and bipartisanship. They are about common sense: Many of us on both sides of this aisle working together to pass a balanced budget amendment, to prohibit unfunded mandates, to make Congress live under the same laws that it wants other people to live under. We have done that together in a bipartisan way.

Now we have got an amendment before this body that is asking some of your on the Republican side to work in a commonsense bipartisan way with us. We are asking you not to get away from your party and tell them they are wrong. We are telling you that this is language that you voted for, not on one previous occasion but on two previous occasions. Not just to get at pork-barrel spending but to get at special tax breaks when we are going to take provisions and try to balance the budget.

Let me remind some of my colleagues about some of these specific votes. Mr. Michel offered an amendment on April 28, 1993. It passed 257 to 157. Eighty-seven Democrats, 87 of us voted with you to pass that amendment by Mr. Michel. I think every single one of you on this floor probably voted in favor of it.

On July 14, 1994, there was another bill, the Stenholm-Penny-Kasich bill that passed 298 to 121. One hundred twenty-eight Democrats again voted with the Republicans to pass that. Again, many of you Republicans voted for that provision.

I would hope that you see it in your interests to abide by what those elections were about: Common sense and bipartisanship.

The American people get incensed when they hear 6 words: Pork-barrel spending, and we are going to take care of pork-barrel spending with this line-item veto. But they get equally incensed when they hear special tax breaks.

□ 1700

Now we have the opportunity to do something about that, and we have acted in a bipartisan way to do something about that in the past. Let us work together as we have been working together for the last 3 weeks and pass this bipartisan, commonsense amendment.

Mr. ABERCROMBIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I spoke at a previous time on this question of the line-item veto. I think those of my colleagues who know me here in the Congress, and certainly those who have known me over my legislative career, know that while I may hold strong opinions I do not believe I have ever lectured any other Member of a legislative body in which I served on whether my ideas were superior or my views were superior. But I want to say, and I feel I must say at this juncture with respect to the line-item veto that as a legislator I find it unconscionable.

The entire history of freedom and the march of freedom and democracy has been the commons against the king. We can go back to the time of the Magna Carta and the establishment of the idea of the common people being able to exert their will against the king. Or go back to the loss of what freedoms were defined as freedoms throughout antiquity to the time of the Roman Empire when the Roman Senate ceded its power to the Emperor, after the assassination of Caesar and the ascension of Octavian and Augusta, and even he wanted to give it back to the Senate and back to the people. Oh no, it was turned over to the king, and that is what this is about.

No matter who is the Executive in our contemporary world, it is the legislative against the executive power. If we turn over our responsibilities to the executive, we are undermining the basis of freedom

Nothing so ill becomes any legislative body as to turn over its authority and its obligations and its duties to the executive. The executive has submitted budgets, whether it is under Republicans or Democrats, and this Congress, Republican and Democrat and Independent, has always come in with a budget under that which has been presented.

It is not a question, then, of whether or not we are going to exercise self-discipline. If we do not our constituents can remove us. But we are setting up a situation in which the executive will play one legislator off against another.

We are setting up a situation in which the small States will have to compete against the large States. We are setting up a situation in which we are saying we as legislators are incapable of acting other than in a political fashion, but if we turn over this authority to the executive, the executive somehow will act in an objective, analytical fashion and not in a political fashion.

My friends, I cannot emphasize enough that we are about to embark on something which to me violates the most fundamental tenet which I hold as an elected official. There is only one thing worse in politics than being wrong, and that is being right.

History and sometimes people forgive us being wrong, but we are very seldom forgiven for being right. And I am telling Members today, if we give the line-item veto to this or any other President, we are undermining democracy, we are taking everything that we hold dear in terms of freedom and turning it upside down and saying to the world and everyone in it, all of our voters, we do not believe in democracy, we do not believe in the legislative process, we do not believe in the legacy that has been handed down to us by literally the death of millions in order to provide for us the opportunity to legislate.

If we have any argument about what we do, we have given in our Constitution the power of the President to veto entire pieces of legislation and we must come up with two-thirds of our voting Members in order to overturn that veto. That is incredible power that the President has. And now we want to say that on any given item, in any given piece of legislation where there is an appropriations implication, that the President is to be able to line-item veto that.

This is not a State. We failed earlier to differentiate between capital budgets and operating budgets. I know how scoring goes in my Committee on Armed Services, how we include housing for our military to be included as an item of expenditures in the first year no matter how many years that housing is occupied. I can give example after example where this kind of line-item veto will undermine democracy in the particular and in general.

I pray that we will not be in the situation in which we find ourselves having to say oh, if we had only done the right thing. The right thing to do is to be against the line-item veto and to stand up for freedom and democracy.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York [Ms. SLAUGHTER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARRETT of Wisconsin. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 196, noes 231, not voting 7, as follows:

[Roll No. 86]

AYES—196

Abercrombie
Ackerman
Allard
Andrews
Baesler
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Chapman
Clay
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lantos
Laughlin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Whitfield
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—231

Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)

Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Becerra
Collins (GA)
Dixon
Harman
Manton
Moakley
Waxman

□ 1722

The Clerk announced the following pair:

On this vote:

Mr. Manton for, with Mr. Collins of Georgia against.

Mr. LARGENT changed his vote from "aye" to "no."

Messrs. HEFNER, PASTOR, and KENNEDY of Massachusetts changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. HARMAN. Mr. Speaker, during rollcall vote No. 86 on H.R. 2 I was unavoidably detained. Had I been present I would have voted "aye."

PARLIAMENTARY INQUIRY

Mr. WISE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WISE. Mr. Chairman, since the previous question which was just voted down was an item in the contract, does this constitute a breach of the contract?

The CHAIRMAN. The Chair would state that is not a parliamentary inquiry.

AMENDMENT OFFERED BY MRS. THURMAN

Mrs. THURMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. THURMAN: Section 5(d)(2) is amended by striking the eighth and ninth sentences and inserting the following: No amendment to the bill is in order, except any Member may move to strike the disapproval of any rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion.

Mrs. THURMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. RIGGS). Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Mrs. THURMAN. Mr. Chairman, so everyone will know, this amendment is nearly identical to my amendment No. 7, but at the request of legislative counsel the words "disapproval of" have been inserted prior to the words "any rescission" to clarify the amendment.

Mr. Chairman, I would like to take this opportunity to thank the many Members in this body who have helped along the way to see this amendment to the floor today. I know the gentleman from New Jersey [Mr. ZIMMER] and the gentlewoman from New York [Mrs. LOWEY] are involved with this. I would like to make a few comments about it.

Mr. Chairman, as I have listened, proponents of this legislation have claimed that this legislation grants the President line item authority that 43 of our Governors enjoy. The fact is, only 10 Governors have the kind of broad powers outlined in H.R. 2. My amendment to the Line Item Veto Act seeks to prevent the possible misuse of authority.

The amendment will give the Members of this body the opportunity to carefully consider a President's proposed rescissions and then, supported by 50 Members, vote to remove individual rescissions from a disapproval resolution. As H.R. 2 is currently drafted, there is no mechanism in place for Members to strike individual rescissions from a disapproval resolution. The resolution is only subject to an up or down vote.

It is important that my amendment be adopted. If a President has a package of numerous cuts that are indeed wasteful spending, but decides, for political reasons, to veto an item important to a number of Members, then it is conceivable that the entire disapproval resolution could be approved because of that one important project the President decided to veto, thus leaving items that everyone agrees are wasteful intact.

Members should be given the opportunity to make their case to the entire House as to why individual rescissions should be saved and, in the process, ensure that those wasteful items are indeed canceled.

Under this amendment, the process for striking individual rescissions is as follows: If a Member can convince 49 other colleagues to join in objecting to an individual item in a disapproval resolution, then those Members will be able to debate why an individual line item should be saved. The entire House would still have to vote on that individual rescission and then vote on the whole disapproval bill.

A similar provision was included in the Stenholm-Penny-Kasich substitute to the expedited rescissions bill we considered last July. In addition, the procedure is based on existing provisions in the Impoundment Control Act, wherein, if a requisite number of Members stood to be counted, a motion to strike a rescission would be debatable for 5 minutes.

I believe that my amendment also preserves one of the key concepts of this legislation—accountability. Any Member who wishes to save an item the President has vetoed will have to make a strong argument to preserve the rescission and then convince a majority of the House to agree. Members would have to go on the record and defend saving the proposed rescission and thus be accountable to their constituents.

□ 1730

In addition, I would say to Members that by adding this provision we can maintain our constitutional duty as a part of the legislative branch for appropriating and raising money while still allowing the President the tool to veto appropriations. We can also protect ourselves from the actions of a President who might use the tool to exact retribution against a Member who did not act in a manner that the President desired.

I would urge my colleagues to adopt this amendment and give an even greater degree of accountability to this legislation, and I would also just like to take this time, Mr. Chairman, to also thank the gentleman from Pennsylvania [Mr. CLINGER] for his leadership, and commitment and support to this amendment, and I appreciate it.

Mr. ZIMMER. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from Florida [Mrs. THURMAN].

Mr. Chairman, I want to commend the gentlewoman from Florida [Mrs. THURMAN] for proposing this amendment. I am delighted to have played a part in its formulation.

The basic purpose of this amendment is to give Congress an additional opportunity to cut a particular item of pork that may have found its way into an appropriation bill. The President, under current law, is forced, when he is confronted with an omnibus appropriation bill, to sign the bill or to veto the bill in its entirety. He has no choice but to take it or leave it as a whole. This is the choice that the Congress would be faced with under the legislation before us without this amendment.

When we are faced with an omnibus disapproval bill, which would restore spending as provided by H.R. 2, we want to make sure that there is no pork stowed away in the omnibus bill that does not bear the scrutiny of an up-or-down vote on its own merits. This amendment would simply allow 50 Members to force a vote on that particular spending program so that we are not stuck with a take it or leave it, all or nothing situation, as the President is today.

I believe that the result of this will be an enhanced opportunity to get rid of pork-barrel items which find their way into legislation all too frequently.

This is a pro-taxpayer, anti-pork vote, and I urge my colleagues to support this amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment offered by the gentlewoman from Florida [Mrs. THURMAN].

Mr. Chairman, proponents of H.R. 2 argue that current veto authority forces a President to take all or none of the spending in an appropriations bill. To deal with specific spending to which he objects, we are told the President needs more flexible powers such as the line-item veto would give him.

For those same reasons, I believe we should all support the gentlewoman's amendment. Without this amendment, Congress will be forced to accept all or none of the rescissions the President proposes for a particular appropriations bill.

H.R. 2 requires the President to submit one special message containing his rescissions for each of the appropriations bills Congress passes. Members of Congress can only introduce a resolution to disapprove all of the rescissions in each special message submitted by the President. Why should Congress have to reject all of a President's rescissions just because it may disagree with a few of them?

The gentlewoman's amendment would give Members some of the flexibility this bill would give the President.

Under current law, Congress has the flexibility to package rescissions in any way it chooses. Over the last 20 years, Congress has used this authority to enact rescission packages that have reduced Federal spending by more than $92 billion. During this same period, all Presidents, Republicans and Democrats, have proposed rescissions that total only $72 billion, that is $20 billion less than Congress has approved.

If flexible powers are considered important to deficit reduction, I think we want Congress, which has the better track record on rescissions, to have the same kind of flexible powers this bill would give the President.

I urge my colleagues to support the gentlewoman's amendment.

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words in support of the amendment offered by the gentlewoman from Florida [Mrs. THURMAN].

Mr. Chairman, as my colleagues well know, the legislation before us permits the President to send back to the Congress a package of rescissions which will go into effect if we do not pass legislation to reinstate them, but, under H.R. 2, when the rescissions are sent to us, we have one choice and one choice only, take it or leave it. For a number of reasons I think that is ill advised, and this amendment is designed to enable us to look at each proposed rescission item individually and act on its merits.

First, the stated purpose of this legislation is to rid spending bills of unnecessary and wasteful items. That is a goal we all share. But under H.R. 2, with its all-or-nothing approach, it is conceivable that the Congress would find ourselves in the position of voting to reject a rescission package because it includes one or a few items that was strongly felt are important to maintain. In doing so we would have no choice but to protect projects that a majority of us might agree with the President should be cut. The end result: more spending, not less spending.

Let me give my colleagues an example:

The President might decide that we have appropriated funds that he thinks unnecessary for the State revolving loan fund which helps finance sewer treatment plants' upgrades, but a majority might disagree with his judgment. That would be in the VA-HUD appropriations bill. That same bill might include another item that the President feels is pork, and a majority of this House might agree on that. Under the committee bill, without this amendment to save those sewerage treatment funds, we would have to also save that project which we otherwise would be willing to kill. That does not help reduce the deficit.

Second, all of us know that this legislation does directly impact the balance of powers between the three branches of our Government that was carefully developed by the Founding Fathers. In doing so I think we have a responsibility to consider how far we want to go in shifting the balance, and in this instance I firmly believe that this legislation, as currently drafted, goes too far. In effect the bill, in giving the President the power to pick and choose among individual items in appropriations and revenue measures, has denied the Congress the final authority to do the same thing.

Third, advocates of the line-item veto have said time and time again that they are only attempting to give the President of the United States the same line-item veto authority which Governors of various States enjoy. If indeed our goal is to narrow the authority of the various governors, then we should duplicate at the Federal level the authority that most of them in their legislature have.

In my home State of New York, for example, and dozens of others where Governors have line-item veto authority, the legislatures have retained the power to selectively approve or reject from among the line items. Let me share with my colleagues a list of States where the line-item veto protects the role of legislators to examine these items:

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Iowa, Kansas, Louisiana, Maryland, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, South Dakota, Tennessee, Texas, Utah, Virginia, and Wisconsin.

In only four, Michigan, Mississippi, Montana, and Pennsylvania, do legislatures face the all-or-nothing situation that this legislation would impose on us, and in the case of Wisconsin, Mr. Chairman, the State constitution would allow item by item consideration, but the legislature has decided in its own rules to respond to line items en bloc. With regard to the balance of the States, our review of constitutional provisions shows that at least in their constitutions their legislators are not restricted to the all-or-nothing option.

☐ 1740

Mr. Chairman, I offer this amendment with the gentlewoman from Florida in an effort to improve on this legislation, not to destroy it. When it comes to altering the balance of power under which our Government has functioned for over 200 years, caution should be our guiding principle.

Mr. Chairman, I urge the adoption of this amendment. Ideally I would have preferred that this amendment not include the 50 Member threshold before an item can be voted on separately, but I am pleased to join the gentlewoman from Florida in this compromise. It is an important and valuable step in the right direction, and I urge support of this amendment.

Mr. KLECZKA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I read H.R. 2, I discovered two serious flaws or two problems that I personally had with it. One was addressed in the previous amendment, and that is limiting the corporations or the individuals who are getting a tax break to only 100. I think that is not advisable public policy. However, the floor has spoken and that did not get adopted, or the deletion did not get adopted.

When I first saw the section indicating that we could not pull out various line item vetoed items and vote on them separately, I thought that was a very serious mistake. So when the gentlewoman introduced her amendment, I called and said I would like to support it and would come to the floor and speak in favor of it. However, in speaking to the chairman of the committee, he indicated he did not like that approach and would be supporting the amendment of the gentlewoman from Florida [Mrs. THURMAN].

I think the compromise gets at the problem, although I think the better way would be to eliminate the necessity for 49 or 50 Members. However, since that is not going to be the will of the House, I think at least by having the 50 Member requirement when there are items in 1 veto message, and let's say there are 10 items, and there is one which I think almost everybody in the House would agree to, we could have the ability to pull that one out, knowing full well we do not need 10 votes because the other 9 will not survive.

The gentlewoman from New York indicated that Wisconsin had a policy on this. As a former State legislator in Wisconsin, that is exactly how we did it. When the Governor sent back line item vetoed items in the budget bill, we would select the ones, with the minority, which would necessitate a vote. The bulk of them were voted en bloc, and the sufficient two-third was not garnered.

So that is the correct procedure, it is one which worked there, it is one which would work here, but that is not going to be the way it is going to go. So let us try the 50 Members signing to request a separate vote and see if that provision works.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do so to commend the gentlewoman for her amendment. There have been points made here today that we were going to be ceding too much power to the President, and that we should in some way limit that. I think what this amendment does is make the case that were the President is deemed to have done an egregious thing in the exercise of the line-item veto, something that was punitive or an improper use, shall we say, of the line-item veto, and that was apparent to 50 or more Members, that that would rise to the level where we should be able to pull that back and say no, he has gone too far.

Our concern with the gentlewoman from New York's amendment is allowing one Member to do that it seemed to us was going to open up perhaps a Pandora's box, where a lot of Members would have various things they would like to see pulled out of that, and we have a cherry picking.

I really think where we are talking about the kind of egregious thing the President might engage in, the gentlewoman's amendment allowing 50 Members to indicate that is strong, and I am pleased to accept the gentlewoman's amendment.

Mrs. LOWEY. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentlewoman from New York.

Mrs. LOWEY. Mr. Chairman, I thank the gentleman for accepting the amendment. I would have been willing to live with the responsibility to take a vote on each of the amendments, but since it is very obvious it would not have been accepted, I am very happy to support this amendment.

Mr. GOSS. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, I think there is one further point: We worked very hard to try in the committee process to work out a formula that would expedite the procedure to allow any Member to get something to the floor that was of great concern to them. We were concerned at first that this might not fit into the procedures that we worked out. This actually could improve it. I think it is untested. We shall see. But I am very happy from our perspective, from a legislative process point of view, to accept the amendment as well.

Mr. ABERCROMBIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose this amendment in the strongest possible terms.

I do not know how many are going to listen, I do not know how many heard before about the line-item veto. But how can you say you are for the line item veto to turn over the authority, the explicit, direct authority and obligation that we have in swearing to uphold and defend the Constitution, defend our prerogatives and obligations as a legislative body, a line-item veto, you say, and then when the President comes back with all of those line items taken out which you have just voted to give to him, say, "But what if we don't like it? What if there are some items we don't want?"

So this is a fewer items bill you are about to pass if you have this in, not a line item. Fewer items. You want to pass a legislative line-item veto bill.

One of the Members from the other side, who I believe is chairing it for the Republican Party, says, "What if the President does something egregious? Then it comes back to us, and we get to pick 50 Members to go against everybody else and get the rest of us to go along with me on this."

If you think deals have been cut in the Committee on Appropriations, I now see the Committee on Appropriations as the enemy of us all.

Please, I have been in a legislative body too long. I understand how politics works. I am proud to be a part of that tradition. I am not going to quiver and be some craven cur down there, saying, "Well, if the President sends us back something that we volunteered on this floor to give him, then if we find some items, we can get 49 other people to stand up with us, we will take it back."

How can you have the gall to stand up and parade yourselves in front of the American people, talking about, "We do not have the discipline to do anything for ourselves, we are going to have the President do it for us; however, if there are some items that are taken out that we want and we can get 49 of our buddies to go along with us, then we are going to see if we can't get the other 218 that we need to go along, and we will be able to get ours"?

I warned that the small States were going to be at risk here. You know that the big States and the big-power, special interests you talk about, private interests—I do not care whether you are talking about the space station, I do not care whether you are talking about a particular item, a dam or a river, whatever it is you want to deal with the public works—this is going to open the whole thing back up again.

The hypocrisy of this whole line item veto is made manifest by this amendment.

I am waiting to see whether this is voted through or not, because if it is, let the record state here clearly that this means we have a legislative line item veto bill in which the deal-making and the logrolling will be something like you have never witnessed in the 200-plus years of this Republic.

This is going to be the granddaddy, the mother of all pork-barrel bills, when this comes out if you folks pass this, and it is going to be on the record.

And in honor of this final decline and fall of the Constitution of the United States and the House of Representatives in particular, Mr. Chairman, I ask unanimous consent to be able to enter into the RECORD the disquisition made in the Senate in 1993 by the Honorable ROBERT BYRD on the line-item veto.

Mr. GOSS. Mr. Chairman, reserving the right to object, is it parliamentary correct to enter into the RECORD a document?

The CHAIRMAN pro tempore (Mr. RIGGS). That request cannot be made in the Committee of the Whole.

Mr. GOSS. Mr. Chairman, I withdraw my reservation of objection.

Mr. ABERCROMBIE. Mr. Chairman, I will do that at the proper time.

I commend them to you, in conclusion, before you engage on this reckless course for which you will have to answer, read the record as entered by Senator BYRD in 1993. I am sure his office will be happy to present you with some copies. I will be happy to do the same.

We can go over the entire history of the line-item veto as practiced in other times, directly attributable to the decline and fall not just of this Nation, which is what this will be, the decline and fall of this body as a honorable body engaged in legislative practice that it should be engaged in.

□ 1750

Let us stand up for the Constitution that we swore to uphold and defend. Do not pass this amendment and bring shame on ourselves at the very time when we say we are already willing to give up what we should be hanging onto, clinging to with dear legislative life.

This amendment bespeaks the disquietude that is in this body with respect to the line-item veto. It shows that we do not really mean it. If this amendment passes, this is not a line-item veto bill. It is a legislative line-item veto bill, and we will rue the day we passed it.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope my colleagues heard the remarks of the gentleman from Hawaii, because he is talking good sense. I do not intend to elaborate on what it was that he said about this amendment. But, rather, I want to remind my colleagues about who we are, why we are here and what we are.

I would never support a line-item veto for a Republican President. But I would never support a line-item veto for a Democratic President either.

We have been engaged in a headlong rush over the last 3 weeks or so now to pass the contract on America. This is a remarkable device, because essentially it says a lot of things. It says that when we passed legislation to clean up the environment or deal with the problems of the health of our people or to take care of the young or the unfortunate or the poor, we really did not mean it. And where we mandated the States to do something, we really did not mean that either because, after all, now they are complaining. We only give the States $750 billion a year, and the local units of government get a large part of that. And were we to take that back, we could balance the budget very comfortably.

But I want to talk a little bit of history to my colleagues, because history is important.

As George Santayana observed, "He who does not learn from history is doomed to repeat it." That means if you do not listen to what happened in the past and you do not learn from it, you are going to make the same mistakes. And you are probably going to pay the same price.

My old Daddy used to tell me, Son, there are two kinds of people: there are those who learn from experience and those who learn from the experience of others.

It started at one point in history back around about 1500, when the British parliament and the British people were involved in an intense controversy with the king who said that he ruled by divine right, not by the gift of the people. And that began a battle which culminated with the works of Oliver Cromwell, the great commentator, the man who pulled down the British monarchy. Why? Over the budget. Over the purse, over the power of the people to have control of their budget and their moneys. That is why.

And just a few years later, about 200 years later, a little more, the United States was formed, the colonies. Why? For exactly the same reason, over taxation without representation. We can spend our careers here denigrating and criticizing this institution, and I would say those who do this deserve to be denigrated, because this is a great institution. I would urge my colleagues to stand up, not only for what they believe right, but to stand up for the constitution, for the powers of the people.

I do not believe any President ought to have the line-item veto power. I think that what it constitutes is a wonderful power that he can use to swing every one of us by the ear or the nose. And he can cut deals that are as every bit or more corrupt than those which my colleagues complain about.

This is a public body. It is a public institution. We try to do our business in the public with openness, with respect for our constituents. Are bad things done here? Of course, this is a human institution. As my colleagues may remember from history, the good Lord got one bad apostle out of 12. But by and large the Members here are keenly aware of their duties and their responsibilities.

Now, I know my new colleagues came in here running against the institution. Well, perhaps after they have served here for a while, particularly the Members on the majority side of the aisle, they will recognize that there is something more at stake here than they might like to admit at this time, the Constitution. We take an oath at the beginning of every session to support and defend the Constitution of United States.

The Constitution was founded on a couple of very important principles, one man, one vote, and that the power of the purse resides in the people.

We carry that delegated responsibility. This body has over the years I have served here been so sensitive that in the old days they would not let the Senate start a piece of legislation which would appropriate money.

It is important that we know why this power is here. It is important why we know we must defend it. There is a constant tension between the executive and the legislative. A weak legislative encourages the encroachment of the executive.

Again, I do not care whether it is a Republican or Democrat in the White House. It is not in the interest of the country, nor is it in the interest of this legislative body to afford the line-item veto power to the President of United States. Let him consider the legislation we send him. Let him veto it.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(On request of Mrs. COLLINS of Illinois, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, if it is in the public interest that we should have the power of the purse, we should also have the responsibility for it. And we should bear both. If we come to a decision that something is a good project and the President does not like it, let him veto it. Let him send a veto message up here and let us deal with it as the Founding Fathers intended.

This question of the line-item veto is like a lot of other things, a matter which was discussed in the convention in Philadelphia. They looked to see how the purse should be managed and by whom, and they came to the conclusion that it, first of all, should be in the Congress and, second of all, that the primary power for that should be in the House of Representatives.

Again, I have heard a lot of Members talk about how corrupt this institution is. There seems to be a great deal of that sort coming from the majority side of the aisle. That is not a majority view in the country, and it should not be a majority view in the country. And it should not be a majority view here.

If there is something wrong, let us clean it up. But let us not throw away the constitutional powers of United States, the Congress of United States, the people of United States. Let us not give them to a President or anybody else unless we are convinced that that is the proper carrying out of our constitutional responsibilities. I assure you, it is not.

The Constitution is to be protected by all of us. We take an oath on that point. And we should understand that the protection of the power of the purse and the protection of the prerogatives of the House of Representatives are an essential and important part of that oath.

I would urge my colleagues to reject the amendment, and I would urge my colleagues to reject also this outrageous piece of legislation which does nothing other than to denigrate the House, the Congress, and to confer power upon the President of United States, which was the subject of a long struggle between the people and the sovereign and a part of a long struggle on the part of the people of United States.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has again expired.

(On request of Mrs. COLLINS of Illinois, and by unanimous consent, Mr. DINGELL was allowed to proceed for 4 additional minutes.)

Mr. DINGELL. This was not a struggle which was won easily. In England it cost the head of one king and the throne of another. And it caused a revolution which caused thousands of British subjects to die. It caused a war between the United States and Great Britain, a war which we all revere, which is an essential part of our history, which reminds us of how Americans died at Valley Forge and elsewhere.

□ 1800

Why? Because they wanted independence, because they wanted self-government, because they wanted representative government, and because they wanted the ability to control their own destiny and their own purse. Members can criticize the way we spend the money, but remember, we are all answerable to the people. Every 2 years we go home and we talk to them about the budget.

Mr. Chairman, I have heard my colleagues on the Republican side of the aisle talk about the budget and how irresponsible Congress is. Again, as George Santayana says, "He who does not learn from history is doomed to repeat it."

Let me remind Members that during the 12 years of Republican Presidency, between 1980 and the commencement of President Clinton's administration, the Congress of the United States cut President Reagan's budget every year except one. Every year except one, the President's budget was cut up here.

The complaint that we heard from Mr. Reagan and then from Mr. Bush was an interesting complaint. They complained that we were taking money from defense and educating kids. They complained that we were taking money from defense and other boondoggles.

Mr. Chairman, they complained that we were taking money from some things like foreign aid and military expenditures and putting it into health, or the needs of senior citizens, or research into health, or into protecting the environment, or into doing things that were going to make this country better.

Mr. Chairman, I would tell my colleagues, when I go to Europe and talk to the Europeans, or when they come here to me, they say:

> We do not understand you in the Congress, and we do not understand your country. When we spend money to educate a child or to build a college or university, or to build a road, or to improve the country, or to build some kind of a navigation project or something of that kind, or when we spend money on research for health or for the betterment of people, or to take care of our senior citizens, or to enable our country to better compete, we regard that as an investment.

In this country, according to what I have been hearing here lately, this is pork. This is subject to a line-item veto. It is criticized.

Well, it is not. We are really the conservators of the well-being of this country. It is our responsibility to see to it that we invest in the future. We are not just spending the treasure that belongs to the youngsters who are going to come. We are making investments on their behalf in their education, in the infrastructure of their country. We are building them roads and highways. We are doing other things that are making this a better and richer place in which they will live.

Mr. Chairman, I would ask my colleagues here to recognize both the constitutional responsibility of Members of this institution, but also to understand what it is that we are doing here, and to try and look at it in a little more expansive way. Do not look at the small end of the telescope, look through the end that is going to reveal to you what the future is, and what our goals and our purposes are.

The saddest thing about this first 30 days of this Congress has been the small-mindedness and the small vision that I have seen on the part of my colleagues, reluctance to do the things that are necessary to make this a better country, to build, to take care of our young, to make a better environment, and to do other things, and a concentration on minute matters of small importance. Reject the amendment and reject the bill.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Florida [Mrs. THURMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. SKELTON: At the end of section 2, insert the following:
>
> (d) EXCEPTION.—The President may not include in a special message any rescission of more than $50,000,000 of discretionary budget authority for any program, project, or activity within the major functional category for national defense (050).

Mr. SKELTON. Mr. Chairman, I ask unanimous consent to momentarily withdraw the amendment, subject to its being offered in a few moments.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

Mr. TAUZIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, while we have a break in the offering of amendments, I wanted to rise in support of the idea, first of all, and the bill providing for a line-item veto for the President of the United States to reduce the deficits that are produced by the Congress of the United States now and into the future.

Mr. Chairman, my good friend, the gentleman from Michigan [Mr. DINGELL], and I have a disagreement on this point, as Members can readily understand from the speech he just gave and what I am about to say. I deeply respect him and the incredible service he has rendered this country in all the years that he has served in this Congress and led the Committee on Energy and Commerce, on which I serve.

Our disagreement stems from the fact that while I believe, too, that there have been mighty struggles between sovereigns and those with whom they have contested over the years over the issues of who, indeed, has the power to make the laws and the mandates that affect the common welfare, but I believe that a revolution was fought in this country over a very simple proposition called taxation without representation.

If there is a form of taxation without representation that is insidious in this land today, it is the kind of taxation without representation that we now permit for the future generations of children who will be born in this country.

When we decide to spend their money and therefore raise their taxes in the future, for whatever purposes we deem important, because we do not have the money to spend ourselves in our time, we are taxing them and they are not represented in this Chamber today, except among those who are willing to speak for the unborn yet. That taxation without representation is indeed institutionalized in the concept of a deficit.

Every time this body, every time a President signs a budget, signs appropriation bills, rather, that appropriate more money than we have to spend each year, we are in fact taxing future generations who are not represented in this body today, and who deserve better treatment than to be born into this country with a huge debt on their shoulders for taxes that we have imposed upon them without their consent and without their representation.

What does a line-item veto have to do with that concept? The line-item veto as it is employed in all of the States where it is employed, and my State is one which has a line-item veto, is used to enforce the principle of a balanced budget. The line-item veto is exercised by Governors across this land to strike from the budget appropriations that exceed the revenue of that particular State.

States like mine with a requirement to balance the budget and a line-item veto have a pretty good enforcement mechanism in place, because the legislature is admonished if the legislature dares to appropriate more money than the people have presented to it that year for expenditures, then the legislature is subject to having the Governor of that State strike from that budget whatsoever he or she may choose to strike in order to bring that deficit down and balance the budget.

The line-item veto becomes an enforcing mechanism to enforce the balanced budget. In short, if the legislature of Louisiana and the legislature of the some 43 States which have a line-item veto authority, if they are smart enough and wise enough and prudent and responsible enough not to tax future generations without representation, not to create a deficit in their accounts each year, not to build the mountains of debt we have built here in America through this congressional appropriation process, then the Governor of that State does not line item anything.

☐ 1810

The legislature protects itself against the line-item veto by balancing its budget each year. And if ever this Congress in the history of our country needed something to enforce the will power of this body to keep its books in balance, it is now and the line-item veto is just that tool.

If the line-item veto is passed in this Congress and the President of the United States, be he Democrat or Republican, has the capacity to line item out of the budget expenditures we create in deficit accounts, we are going to be much more careful about not sending him a deficit budget. We are going to do our level best to balance that budget. We are going to do our best to reach the goal of the balance budget amendment we just passed, Mr. STENHOLM, and sent over to the Senate that will require us to reach a balanced budget by the year 2002.

A little later on in this debate, I hope to offer an amendment to even perfect this theory a little further.

The CHAIRMAN pro tempore (Mr. RIGGS). The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 3 additional minutes.)

Mr. TAUZIN. You and I know something that the American public knows and that has been admitted in the balanced budget debate and admitted by Presidents who have served us now and have preceded us. That is, if we tried today to produce a balanced budget in this fiscal year, it would be practically impossible to do because we have committed ourselves to so much entitlement funding.

Without massive changes in the way we fund entitlements in America, we cannot deliver a balanced budget to the President this year. That makes passing a line-item veto difficult, because it means for the years we cannot balanced the budget, the President is going to enjoy that extraordinary authority.

I am going to suggest a change in the bill that is before us. I am going to suggest a change called the glide path amendment a little later on. The glide path amendment says that if we are smart enough, wise enough, and responsible to stay on the glide path that the CBO predicts we need to stay on to reach the balanced budget by the year 2002, the line-item veto authority would be limited to expenditures in excess of those numbers so that we can legitimately stay within the numbers that take us to a balanced budget by the year 2002 and not give the President this extraordinary authority because we cannot balance the budget this year.

It would mean that the authority we give the President in line-item authority would be used to enforce the will power of this body to stay on schedule, to balance the budget as we have agreed to do in the balanced budget amendment, and to give the President the authority to strike any item that we appropriate in excess of those numbers until we reach the year 2002.

When we have reached that touchdown goal of 2002 and we have balanced the budget, therefore we would be under an obligation to keep the budget in balanced or else the executive would have the authority, as he has in every 50 States, to strike out any appropriation in excess of that balanced budget.

I believe that change will be very important. I would ask you to think about it now. I will be offering it later on to make this thing work in the interim, while we are trying to get the balanced budget working and in fact to enforce our will power to make it work in the year 2002.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. I thank the gentleman for yielding.

I say to the gentleman, "I am supporting the line-item veto just like you because in Louisiana you have that authority just like we do in Texas. Although I also recognize to transfer this authority from the legislative to the executive branch, which is what we are doing, it is because of the budget that we are doing that.

But I am almost sure in having read some of the Louisiana papers over the years and your current governor, oftentimes, the line-item veto is used not only to balance the budget but also to get the attention of those of us who serve in the legislative body and I am sure Governor Edwards just like Governor Briscoe and Governor Clements and White and all the rest of them in Texas have used it over the years to get the attention of us, that is a possibility.

The CHAIRMAN pro tempore. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 2 additional minutes.)

Mr. TAUZIN. Mr. Chairman, I continue to yield to my friend, the gentleman from Texas.

Mr. GENE GREEN of Texas. I thank the gentleman from Louisiana.

It is used oftentimes by the executive either to punish or to get the attention of the members of the legislative branch. But in the meantime, they are also using it to try to get spending within check.

Mr. TAUZIN. Reclaiming my time, I am not sure what the balanced budget of Texas requires nor what the line-item veto allows, but let me tell you what it does in Louisiana, as I think it does in this bill. The authority to the executive is only to strike out measures that end up reducing the deficit. If there is no deficit, then the governor does not have the line-item veto authority. He cannot use it to punish or get anybody's attention. The only thing he can use it for is to get the budget back in balance. So if the legislature does not want to get punished, does not want to get yanked by the ears, the legislature sends him a balanced budget each year. We badly need that kind of will power here.

Mr. GENE GREEN of Texas. I agree that would probably even be a compromise on this bill, because in Texas we do not have that. When the Governor vetoes the line items, whatever they do, that money, even if it is below the projected revenue, that money just stays in the treasury.

Mr. TAUZIN. Again reclaiming my time, my understanding is the bill we have before us gives the President the authority to line-item any item to reduce a deficit which, if my reading is correct, that means in effect if we send him a balanced budget, he would not have the authority to line-item anything. It is the same kind of procedure we have in Louisiana.

So to the arguments of those who are concerned that this bill would give the President some authority to punish Members, to extort a vote from them on occasion, to yank them by the ears or the nose or whatever it might be to do his will, let me assure you, if you adopt the amendment I am going to suggest, and if we stay within the contours of the path that takes us to a balanced budget, the glide path that gets us there by the year 2002, the President would not have that authority, and the legislature would be protected from that abuse.

AMENDMENT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. SKELTON: At the end of section 2, insert the following:
>
> (d) EXCEPTION.—The President may not include in a special message any rescission of more than 50,000,000 of discretionary budget authority for any program, project, or activity within the major functional category for national defense (050).

Mr. SKELTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Chairman, I offer an amendment at this point which would state that the President may not include in a special message any rescission of more than $50 million of discretionary budget authority for any program, project, or activity within the major functional category for national defense.

I also wish to thank the following gentlemen: The gentleman from Pennsylvania [Mr. WELDON], the gentleman from Texas [Mr. EDWARDS], the gentleman from California [Mr. DORNAN], the gentleman from Texas [Mr. LAUGHLIN], and the gentleman from Arizona [Mr. STUMP] for asking to be cosponsors of this amendment.

A special thanks to my friend and colleague from Texas, that very bright, able young Texas, CHET EDWARDS, for his excellent work on this amendment.

This deals with national defense, I speak for the young men and young women in uniform, so that what comes down from this legislature reflecting our constitutional duty may not be undone by someone who might in years or decades ahead sit in the White House and be against the military.

Along that line, however, let me digress for a moment and compliment the President for an announcement he made just a few moments ago. He told our Nation that he is naming the aircraft carrier CVN-75, the U.S.S. *Harry Truman*, and the aircraft carrier CVN-76, the U.S.S. *Ronald Reagan*.

I compliment him on those choices for the famous Missourian who stood so tall and so well as our President and the recent President, Ronald Reagan, who was a patriot and strong for national defense.

Back to the amendment. This amendment, Mr. Chairman, reflects what we ought to think about when it comes to legislation and our own powers.

This legislation reflects the purpose and the spirit of our Constitution. If you go into the Committee on National Security room, you will see in front of the podium a copy of the words from article I, section 8 of our Constitution that gives us, the Congress, not only the authority but the duty to raise and maintain the military and to establish rules therefor.

☐ 1820

It is our responsibility. This amendment keeps that responsibility here and does not allow the buck to be passed somewhere else.

There are those who might say what about those special projects, those research projects that some might put into a defense bill? That is taken care of, and the gentleman from Texas [Mr. EDWARDS] came through with this idea that we incorporate that anything under $50 million may be subject to the same veto message that anything else may be subject to in this legislation.

Nothing is more important than the national defense of our Nation. Securing our borders, the vital interests of our country, nothing is better than that. I speak for the young men and young women, I speak for this Congress, because it is our constitutional duty to raise and maintain them. I intend for us to let the buck stop here, where it should.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I gladly yield to my friend, the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to commend the gentleman from Missouri for his amendment. I notice he has adjusted it up to $50 million, so anything under $50 million, where we would get special projects, things of that nature, can be struck out by the President if he thinks that it is not necessary, or unnecessary.

But if we had a major thing, for example, let us say the Congress decided that we needed to have another aircraft carrier which is, say, a $3.5 billion matter, you have worked it out so you could put the money in the budget to do that. The President would not be then in a position to veto that because it is Congress, the gentleman is absolutely right, under the Constitution that has the ultimate responsibility.

The CHAIRMAN pro tempore (Mr. RIGGS). The time of the gentleman from Missouri [Mr. SKELTON] has expired.

(At the request of Mr. DICKS and by unanimous consent, Mr. SKELTON was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, it is the Congress that ultimately has the responsibility for the common defense. So I think the gentleman has a good amendment. The buck should stop here on this issue. It will get rid of any kind of special interest problems but protect Congress' prerogatives to maintain the common defense, and I want to commend the gentleman who has been one of the most thoughtful experts on defense policy in the House.

Mr. SKELTON. I thank the gentleman very much.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to my friend and colleague, the gentleman from California.

Mr. DELLUMS. Mr. Chairman, by the gentleman's amendment he would exempt all items above $50 million in the defense category of the overall budget, is that correct?

Mr. SKELTON. Absolutely, absolutely.

Mr. DELLUMS. I am one that opposes the line-item veto, but it is clear to me that the line-item veto is going to pass, and seems to me if it is going to pass this is a question I would like to ask, then: By this amendment if the President of the United States sought to knock out what he perceived or in some event she perceived as cold war relics, like the B-2 bomber, would the President not have the ability to strike antiquated weapons systems that exceeded the $50 million?

Mr. SKELTON. If the gentleman would listen to my response, the President would not be able to strike, under this legislation, anything in excess of $50 million, which would of course include the category of which the gentleman speaks, the very important B-2 stealth bomber.

Mr. DELLUMS. If the gentleman would further yield, then based upon that explanation, this gentleman would be constrained to oppose the amendment because it would seem to me if we are going to do this thing, then the President of the United States ought to have all items before him or her, and it would seem to me in that context if we are going to make any exclusion in the military budget, that is counterproductive if it does not allow the President to strike a weapons system.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. SKELTON] has again expired.

(By unanimous consent, Mr. SKELTON was allowed to proceed for 2 additional minutes.)

Mr. SKELTON. Mr. Chairman, I yield to the gentleman from California.

Mr. DELLUMS. As I was saying, this gentleman would be constrained to oppose the amendment, Mr. Chairman, because if we are going to have this thing, I oppose it, but if we are going to have it, then give the President the total prerogative. By establishing this limitation, why not do it in other areas?

Mr. SKELTON. If I may reclaim my time, which is limited, there is nothing more important than national defense. That is the purpose of a Federal Government. That is why we are all here. Everything else is in addition thereto.

Further, if carries out the spirit of the Constitution, the buck stops with us here in Congress article I, section 8.

Further, the President still has the right to veto an entire bill. He can still do that and come back and cause us to pass the entire bill.

We are losing nothing by passing this. We are keeping the prerogatives of the U.S. Congress.

I think it should be passed. I would hope it would be passed unanimously. But I appreciate the gentleman's comments.

Mr. DELLUMS. I thank the gentleman. Would the gentleman yield briefly to me?

Mr. SKELTON. I yield to the gentleman from California.

Mr. DELLUMS. I am simply saying I oppose the overall bill for the very constitutional principles the gentleman articulates, and if we are going to do it, give the President the full prerogatives. If you are going to dive off the bridge, give the President the full capacity to flap his wings.

I thank the gentleman.

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of IKE SKELTON's amendment and I agree with him that the distinguished gentleman from Texas, Mr. CHET EDWARDS, played a key, instrumental role in this amendment. I went with these two gentlemen to the Normandy 50-year commemoration, and many times during those days, from the Cambridge Cemetery for all our K.I.A. air crews from the terrible air war over Hitler's Nazi Germany, to Omaha Beach, to Utah Beach, many times we discussed among ourselves, Democrats and Republicans, exactly what the gentleman from Missouri [Mr. SKELTON] just said, that the principle purpose of our Government, beyond anything else, is to defend our homeland.

To be precise, let's analyze that beautiful Preamble to our Constitution, which I carry with me, that Preamble says: We the people of the United States, in order to, 1, form a more perfect union; 2, establish justice; 3, ensure domestic tranquility, do we ever fail on that one; and 4, provide for the common defense, defense is a priority after "forming a more perfect union," which is ongoing and never ending. It does come after justice. We need justice in our land, we need domestic tranquility, but providing for the common defense is something our Governors do not have to worry about.

Let me give some of my own personal history on this and why I was the last Republican to sign the Contract With America. I was hung up over line-item veto. I have been against it for most of my 16 years and one month here.

Mickey Edwards of Oklahoma and I had a long colloquy on the floor that a President in the White House, whether a flaky Republican or a flaky Democrat, who knows nothing about providing for the common defense could strike out, yes, the whole B-1, the DDG-51 Arleigh Burke destroyers, the V-22, the B-2, or the F-22 fighter. He or she could kill every modernization program, I said I cannot be for that. I am for it for every Governor in the Union. And I slowly evolved to accepting what on principle, like the gentleman from California [Mr. DELLUMS], I was against, because we are facing financial catastrophe and bankruptcy by the turn of the century.

But then this idea comes forward from my distinguished colleagues from Texas and from Missouri, and I said, yes, this is the answer, a slightly amended line-item veto that protects the Preamble to the Constitution, to provide for the common defense.

Look, Mr. Chairman, I get the honor today of announcing something exciting. CVN-76 will be named the *U.S.S. Ronald Reagan*. And I am expecting a call from the Secretary of the Navy. Some Democrats, every California Republican, 104 of us sent a letter 2 weeks ago to Navy Secretary Dalton, and he has accepted today the name Ronald Reagan, Sec. Dalton is striking the name *U.S.S. United States* for CVN-75, which will be christened in September of next year, 1996, to name it the *U.S.S. Harry S Truman*. And I rather like that. My dad was Harry Dornan, Battery D Commander, Captain, World War I. How can that be when Harry Truman was Battery D Commander, World War I? Simply two different divisions. *U.S.S. Harry Truman* next year, and in 2000 A.D. Ronald Reagan. I have just had the pleasure of telling the Reagan Library that news.

These are important things that we fund in defense. To have the world's largest moving objects, the Nimitz class carriers, named after Presidents is fitting and proper.

□ 1830

We have a *George Washington*. We have an *Abraham Lincoln*. I just went out and shot five landings and five catapults off the U.S.S. *Eisenhower*, the first man-of-war with women on board, we have the U.S.S. *Teddy Roosevelt*, one of my favorites. This naming of ships is important.

I do not want a Republican or Democrat to take a pen and say no CVN-76, U.S.S. *Ronald Reagan*, no CVN-75, *Harry Truman*, scrap it, do something else with the money which is what they did with the Northrop Flying Wing, the B-49, just line-itemed it out, and Congress did not fight back.

Defense is our responsibility. We have to protect defense. This is a dangerous world with a million poisonous snakes out there, although we are happy to look at a dead evil empire Soviet dragon. I say we protect defense, and for that, I am for the line-item veto with this amendment for all of our future Republican, Democrat, or Prohibition Party Presidents.

Mr. GENE GREEN of Texas. I move to strike the requisite number of words. Mr. Chairman, I rise to oppose the amendment simply because, and I support the bill, by this amendment we are setting apart defense spending, and I understand my colleague from California and my colleague from Texas and from Missouri, their concern about defense spending.

We have a mechanism in this bill to protect from an irrational response or an action by whatever President, and, I say to the gentleman from California [Mr. DORNAN], I hoped we would also see a carrier named the Lyndon B. Johnson since I am from Texas too, someday, I support that also.

But to set aside this measure and not let it go through the procedure that this bill creates for it to come back to Congress for us to vote, and I think we would not have any trouble getting a majority vote in the House or a two-thirds vote, depending on what amendments we actually adopt to reauthorize that, and say, "Mr. President, no matter who you are, we want this program." By this amendment, we are saying, "Mr. President, you cannot cut the large programs. We have a deficit problem. You cannot cut $50 million or above. We can let you pick around the edges, but we have a $4 trillion deficit, and we are not going to talk about major programs.

I think it would be irrational for us to do that, even for national defense.

Let me talk about what we are saying to the American people by doing this. The national defense is our No. 1 reason for a government. But we are also here to provide for that domestic tranquility, and obviously we are not doing it. But if we set aside and cut nutrition programs that are over $50 million for children, for school lunches, we cut nutrition programs for senior citizens, then we are not providing for that domestic tranquility any more than we are providing for the national defense.

Let me remind this House that the reason we have nutrition programs for our schools is because of national defense. Harry Truman in 1946 said that our service personnel were not up to standard, and we needed to provide that as a national defense issue.

I think this amendment is wrong. We are setting it separate. It is so important we do not send that message to our people.

Senior citizen programs are just as important, chapter 1 funding for Federal funding for education is just as important, and it is much more than $50 million. If we are going to start exempting out defense, and I agree that we need to have those programs from this, then we need to also exempt out education funding, senior citizens' food programs, elementary school programs. I just think this is the wrong method, because if a President does wrong, we can change it by this bill, and we should not start picking out certain issues or we will come with amendments up here today and do the same thing we did on the unfunded mandates and say let us exempt certain programs.

This amendment was not considered in committee, never even discussed, and we had a full day of not only markup but also a full day of hearings, and this never came up.

So I urge a "no" vote.

Mr. KLECZKA. Mr. Chairman, will the gentleman yield?

Mr. GENE GREEN of Texas. I yield to the gentleman from Wisconsin.

Mr. KLECZKA. Let me echo the sentiments of my colleague who has just spoken.

If we are going to start the exclusion game, we are going to be on this bill longer than the unfunded mandates game. I say to you right now, and I told you earlier in the debate, I support H.R. 2 as drafted.

We did amend the bill with the Thurman amendment, which I thought was a step in the right direction. If you adopt this amendment and take one major portion of the budget, 20-some percent of the budget, off the table for the most part, do not let the President get near that and not do the same for education, health care for young and old alike, medical research, I think what we are doing here, Mr. Chairman, we are purporting a sham on the American people.

And I would like to tell my colleagues there will be a rollcall on this, so if any of you are going to shout loud and run to the Cloakroom, "It ain't going to happen."

But note, if you will, the precedent we are setting with this amendment, if adopted, is terrible, terrible, and if you are serious about passing this line-item veto legislation, do not start by putting nonsense like this into the product.

I plead with my colleagues not to do so.

Ms. FURSE. Mr. Chairman, will the gentleman yield?

Mr. GENE GREEN of Texas. I yield to the gentlewoman from Oregon.

Ms. FURSE. Mr. Chairman, I want to say that this amendment truly sends the wrong message to the American public. It says there are certain things that are sacred cows, and we cannot preserve sacred cows and be serious about line item veto.

If any program is exempt, then all programs are exempt, and we are not putting forward true line-item veto legislation.

So I would oppose this amendment.

Mr. GENE GREEN of Texas. Mr. Chairman, I urge a "no" vote on the amendment.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words. I do so to oppose this amendment.

I reluctantly oppose the amendment. I know there are many Members on this side of the aisle and certain Members on the other side of the aisle who feel this is an area that should be exempt, sacrosanct, should be protected from what we are providing for the President with the line-item veto. But I submit, Mr. Chairman, this amendment really flies in the face of the purpose of what we are trying to accomplish in H.R. 2, and would, in fact, restrict the President's rescission authority even more greatly than does current law. It would go beyond what we can do under existing law, and I think the amendment should be defeated.

I think the gentleman's amendment would single out for special treatment defense appropriations of more than $50 million, and I would say to the gentleman and to the Members there are many programs, nondefense-related programs, that rise to the level of pork or could rise to the level of pork which would be exempted from even being considered for a line-item rescission under this bill.

For example, we have active forces transition enhancement, disaster relief, $70 million, disaster relief efforts $50 million, Philadelphia Naval Shipyard economic conversion, one that would be very dear to my heart, but some might consider that pork, $50 million. There are a lot of programs here that would be put off the reservation, not permitted to be touched or even considered for exemption or for line-item veto.

The other point is we have already in this debate over the last day or two exempted or considered whether to expand the judiciary, and there were very strong and powerful arguments made why the judiciary should be protected, the separation of powers and so forth. We rejected that argument and said that nobody, no program rose to the level where it should be exempted from consideration.

What it really says is that we are willing to trust the President to use his good judgment as the President elected by all the people to make determinations with regard to every other program that we deal with except defense.

I recognize that defense is certainly the No. 1 consideration, the No. 1 priority, that we need to deal with here, but to say that it is of such importance that we cannot even consider eliminating pork from that program, I think, is the wrong thing.

We do trust the President to do this. I think we have to trust him in this one as well, and I would also point out there are very few major defense programs that are less than $50 million, so it seems to me there would be almost no opportunity to really affect wasteful, outmoded, outdated, as the former chairman said, outmoded weapons systems, we would not be able to touch.

It assumes there is no pork in DOD. I think that is clearly wrong. There is pork in every program we deal with. So I must strongly resist and oppose the gentlemen's amendment.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Louisiana.

Mr. TAUZIN. As the gentleman knows, we plan later on to offer an amendment that I think cures this problem, and that is if the legislature, this Congress, stays within the glideslope projections that take us to a balance budget, we are not going to have this problem at all. It is only when we spend in excess that then the President would have to exercise the line-item veto to keep us on line, in which case every program ought to be examined to see if there is pork in it, every single one.

I think the gentleman is correct in that view. I would urge that that view prevail on this floor.

□ 1840

Mr. FATTAH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do so to make a couple of points. One is that it is less then clear, I think, to the American public when we say the budget becoming in balance as to what we mean in respect to the national debt that has accumulated. We keep referring to a balanced budget as if just the removal of the deficit would in fact bring the budget into balance. But the real purpose of my remarks at this moment is to speak to the amendment before us.

This amendment, seemingly, would restrict any line-item veto limited to items of $25 million, to no more than $25 million. It would seem to me that with some creative budgeting you could make a number of budgets, programs not presently in the defense budget part of the defense budget, and therefore protect them from the line-item veto. If the majority is trying to legitimately pass a line-item veto, they would not want to create this kind of creativity in the budget process.

Even though I do not degree with the notion of line-item veto, I have talked about my experience with it in Pennsylvania where it has been abused. But if the purpose is a pure one and a sincere one, it would seem to me this amendment would be rejected.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. And as I do so I am thinking "Here we go again." We appear to be right back on our debate, about which we were speaking earlier this week, on unfunded mandates.

You cam recall in that bill the sponsors exempted from the definition of unfunded mandates laws dealing with national security. So we had amendments to exempt other laws, like laws protecting the environment, laws protecting children, and laws protecting workers. In each case the proponents of the bill said "No." They said it would open the floodgates to more exemptions.

Here we are again. This amendment exempts defense spending from rescissions. The President could not under the amendment cut defense spending, like a missile system. At the same time there are no other exemptions. There are no exceptions for spending for nutrition programs, programs for the homeless, programs for the elderly, children's programs, programs for the aged, programs for the disabled, and education programs. It is the same set of priorities we saw the last time.

Mr. Chairman, as Yogi Berra said, "it is deja vu all over again."

I urge we vote no on this amendment. It is not a good amendment.

Mr. BLUTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a great deal of respect for the authors of this amendment. I think there are Members who are primarily responsible about keeping our national defense capability at a very, vry high level, which we all think is very important.

I reluctantly rise to oppose this amendment, though, because earlier today we debated the issue of exempting the judiciary from this bill and I think we rightfully did not exempt the judiciary.

I believe we should not exempt the Pentagon. Military spending should not be sacrosanct in terms of budget scrutiny, scrutiny with regard to pork-barrel spending. The President has a responsibility to look at all spending, even as it relates to our national defense, and to decide whether it is necessary. If indeed the President unwisely vetoes a national defense expenditure, the Congress can override that if he makes a serious mistake in judgment.

So I strongly oppose this amendment. I think as the gentlewoman from Illinois said, if we start exempting all these areas we are going to run into real problems.

Let us give the President a strong line-item veto authority and let us get this budget deficit under control once and for all.

AMENDMENT OFFERED BY MR. GENE GREEN OF TEXAS TO THE AMENDMENT OFFERED BY MR. SKELTON

Mr. GENE GREEN of Texas. Mr. Chairman, I offer an amendment to the amendment.

Amendment offered by Mr. GENE GREEN of Texas to the amendment offered by Mr. SKELTON of Missouri: Before the period at the end of the proposed amendment insert the following: "and Medicare".

Mr. GOSS. Mr. Chairman, I reserve a point of order on the amendment to the amendment.

The CHAIRMAN. The point of order is reserved.

Mr. GENE GREEN of Texas. Mr. Chairman, this amendment came up very quickly. Again, our committee did not even have the opportunity to discuss it or consider it in the public hearing or even in the markup. And my concern is if we are talking on an important national issue, and national defense is important, and setting up that anything over $50 million the President cannot line-item veto and send back to us for consideration, why should we not also, if we are going to set up a separate classification for important programs that our Government is responsible for, why should not we also include Medicare for our seniors?

Again, it is not necessarily the national defense is in the Constitution, but I make a case I think for domestic tranquillity and health care for seniors even though it was only since the 1965 under President Johnson that this Congress passed it. I think we ought to be able to set that up and send the same message that we do not want a future President of the United States to make the determination that our budget is so high that we are going to cut Medicare because it is obviously over $50 million a year.

I think we need to set up—if we are going to set up a sacred cow, and there are some that I have, and one is Medicare, I think a lot of Members of Congress would recognize that. Even the majority said they would not touch Social Security.

I would put an extension on that to say that we are not going to touch Medicare. I would hope the Members of Congress would consider this, say that if we are making national defense important, over $50 million, let us look at it and let us look at Medicare.

I would encourage Members to support this amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Florida [Mr. GOSS] insist on his point of order?

Mr. GOSS. This gentleman from Florida does insist on his point of order, Mr. Chairman.

The CHAIRMAN. The gentleman will state his objection.

Mr. GOSS. Mr. Chairman, I make a point of order against the amendment and ask to be heard on my point of order.

Mr. Chairman, the amendment violates clause 7 of rule XVI, the germaneness rule, and introduces a new subject. It really does. We are getting out of discretionary budget authority into entitlements, mandatory spending, obviously. This is wildly beyond the territory, as I believe the gentleman knows.

I want to assure everybody that that was not the intent. We are talking about discretionary budget authority. I want to put the gentleman's mind at ease that there is no attack on Social Security or anything else going on here. This is just, unfortunately, out of bounds.

The CHAIRMAN. Does the gentleman from Texas, Mr. GENE GREEN, wish to speak on the point of order?

Mr. GENE GREEN of Texas. Mr. Chairman, if I may be recognized, I would like to speak.

The CHAIRMAN. The gentleman from Texas may proceed.

Mr. GENE GREEN of Texas. Mr. Chairman, obviously, I disagree with the germaneness because it is talking about the line-item veto and setting up a different program. Now, if we want to set up a different sacred cow, so to speak, or protect a different program than we are going to protect from the line-item veto, I think it is germane to the bill. There may be a question about the amendment, but then we could run with a separate amendment. But to save the time of Congress you may want to consider it just as an amendment to the amendment.

The CHAIRMAN pro tempore (Mr. EMERSON). The Chair is prepared to rule.

The amendment is not germane to the Skelton amendment, which relates to national defense budget authority.

The point of order is sustained.

Mr. EDWARDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am a prodefense Democrat. I believe that guaranteeing a strong national defense is the first responsibility of the Federal Government. It has been so for 200 years of our Nation's history. Whether you are a Republican or a Democrat, if you believe truly in a strong national defense, you should vote "yes" on the Skelton amendment.

Let me be very clear: A vote against this amendment is a vote against protecting our Nation's defense.

To my Democratic colleagues and to the gentleman from Missouri [Mr. SKELTON] for his leadership, to my Republican colleagues, the gentleman from California [Mr. DORNAN], the gentleman from Arizona [Mr. STUMP], the gentleman from Pennsylvania [Mr. WELDON], who have cosponsored this in a bipartisan fashion, I say thank you.

To my Republican colleagues who might be thinking about voting against this amendment, let me have you ask yourself a question.

□ 1850

Do you want a President, perhaps the President that you will least like to see in the Oval Office, and only one-third of this House, or only one-third of our Senate, to be able to veto ballistic missile defense, or the B-2, or the V-22, or the F-22, or perhaps a military operation in your district? Do you want that to happen?

Do you want this President that you would like not to see sitting in the Oval Office and one-third of this House to be able to cut the size of the Army by two divisions, and you would be helpless to stop it?

I say to my colleagues, if that's what you want, then oppose the Skelton amendment.

To my colleagues, both Republican and Democratic who are very strong in favor of national defense, I say, if you vote no on this amendment, you are voting to make it easier to gut our national defense, period. If that happens, make no mistake about it. You will have done more to hurt our defense programs than any liberal Democrat who believes our defense budget genuinely should be cut in half. The choice is clear. If you believe national defense is the most important responsibility of the Federal Government, then you should vote aye on this amendment. If you believe national defense is more important than the whims or the political agenda of any one President of either party, then you should support this amendment. If you vote no on this amendment, do not try to defend your vote by saying you wanted a pure bill with no exemptions.

Mr. Chairman, defense deserves to be treated differently. If deserves to be exempted because the lives of our young service men and women and the national security of our Nation and our future are far more important than some blind commitment to vote against all amendments.

I say, the choice is clear, my colleagues. If you want to protect a strong national defense, the only vote on this amendment is a yes vote.

Mr. PETERSON of Florida. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from Florida.

Mr. PETERSON of Florida. Mr. Chairman, I want to compliment the gentleman and the gentleman from Missouri [Mr. SKELTON] for their comments on this issue.

I think the bewitching hour has arrived. We have had numerous speeches on this floor over my tenure of 4 years of everyone saying, "I'm for national defense, I'm for national defense, and I stand squarely behind the military of our country."

This is an opportunity to put really the mark on the way and say, "I truly believe it," by this vote. Absolutely a no vote on this particular amendment will state it is not OK to protect national defense of this country, and I applaud the works of the gentleman from Missouri [Mr. SKELTON] and others who have cosponsored this amendment. I strongly stand in favor of this amendment to make sure that our national defense remains strong under all circumstances.

Mr. EDWARDS. Reclaiming my time, Mr. Chairman, I want to thank the gentleman from Florida [Mr. PETERSON]. I can think of no Member of this House who can speak more sincerely and more genuinely and who has given more to this country in its national defense than the gentleman from Florida [Mr. PETERSON].

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened with great intensity to this. This is a very important subject, and I believe the people who have made this amendment have done it out of the spirit of a very strong conviction about the need for national defense, and we do not do anything here that could possibly interfere with the best possible national security we can provide for every American.

I think, however, that their effort has been a little misguided perhaps because they are not familiar with what else is in this legislation, and I reluctantly, as the gentleman from Pennsylvania [Mr. CLINGER] did, have to come to the conclusion that this is not a good amendment and that there are perhaps other ways to achieve what is being argued for, which I certainly support, which is the best possible national defense, the most efficient cost.

In fact, Mr. Chairman, I am afraid this amendment, as it is reported, as I understand it, may actually tend to undermine the intent of this bill because it opens the door. We have not opened any other door, and we heard the gentleman from Wisconsin has spoken very eloquently about what will happen if we open the door: "If you open one, they are all going to open."

Then there is talk a little bit further about what is going to happen if we do not do this amendment. There is no other way to solve these problems to protect the defense.

Well, we have just agreed to the amendment offered by the gentlewoman from Florida [Mrs. THURMAN] which I think will help. We have created an expedited process in committee to make sure that we can deal with these things quickly. We have guaranteed every Member a vote. We have gone the extra length to make sure every Member can get out and get on this concern, whatever it may be, and there will be only defense, and deal with it, and I would even suggest to the gentleman from Missouri [Mr. SKELTON], for whom I have the deepest respect, there may even be better ways outside the scope of H.R. 2 today that we are talking about, and I would be happy to share those with him because in committee we did talk about some of those things, and I think there are a number of other options, and I think we only make exceptions of the magnitude that we would have to make if we favored this that would open those doors that the gentleman from Wisconsin has referred to if there are no other choices, and it is clear there are other choices.

I am very concerned about the trigger that has been set. It is arbitrary. If this is law, it becomes law for a long time. Is that the right number for a long period of time? Will it be changed? Will it be changed and abused after a period of time? Those kinds of questions have be asked.

But perhaps the most serious concerns I have are what we would put under the, quote, defense umbrella, unquote, if we made this exception.

Now, when I look at the appendix of some of the nondefense-related programs funded by defense in 1993, I get into things like disaster relief, disaster relief, legacy resource management, World Cup USA, environmental impact on Indian lands, World University Games, breast cancer research, AIDS research, prostate research, a whole bunch of things that are critically important programs. I would not doubt that for 1 minute, but wonder if they are really central and paramount to the major defense mission of national security, and what I am concerned about is, if we tried to create an exemption like this, that suddenly everything will be defense related, there really will not be very much else to talk about, and that concerns me very, very much, and I realize that some of those programs, in an abundance of caution and fairness I will say, would not reach the trigger today, but that does not mean they would not reach the trigger tomorrow, as we get more and more into these things, and I say AIDS research might be an area where we might have that number go up dramatically.

But the other point that is perhaps more serious: It seems to me that the gentleman or the gentlelady in the White House is our President, and I wonder why we would exempt the Commander in Chief from jurisdiction over a defense program. That is a puzzle.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, am a pro-defense Member of the House of Representatives. I would point out to my colleagues that with the Thurman amendment any 50 of us that took umbrage with any decision that has been made now in either bill, either the H.R. 2 or the substitute that we will offer tomorrow, any 50 standing up may get a separate vote. Therefore, we have covered a good part of the problem that has been a concern by my colleagues who I formerly agreed with in total.

I choose to take a few minutes though to speak on behalf of why I oppose H.R. 2, and my colleagues have just heard the best example of why all of us in this body should be a little bit concerned before we grant to any President one-third-plus-one minority override on decisions of extreme importance to individual Members, whether it be on defense or any other area of our budget.

I have opposed the real line-item veto ever since I first heard of it. We are not discussing the real line-item veto because, if we were doing the real line-item veto, we would have an amendment to the Constitution of the United States for purposes of two-thirds vote in the House, two-thirds vote in the Senate, sending it to the American people to see whether or not three-fourths of the States want to see us grant this tremendous change in power that we are about to do if we adopt H.R. 2, power as defined by the Constitution, by the original writers. That is why we have come to a conclusion that we need a modified version of the line-item, a modified version even of the modification called H.R. 2.

□ 1900

I can no longer explain to my constituents why we do not give the President the right to go into appropriation bills, into tax bills, into any kind of a bill on this floor, and extract certain things that are embarrassing to the entire House. I could not do that. So we came up with the modified version in which we are perfectly willing, and I say this in all sincerity, any President of the United States today or in the future can go into any bill, any bill, and line-item CHARLIE STENHOLM's, i.e., 17th District of Texas, favorite program. Something of benefit specifically to my constituency. I want them to have that power. All I ask is that I have an opportunity to stand on this floor and to argue with you, my colleagues. And if I can find 50-percent-plus-one to agree with me, it stays in. If the President wins, it goes out.

That is the significant part of the debate that we will spend today, tomorrow, and Monday on. We will get further into this debate when we talk to him about the specifics of the substitute that we offer.

I just have a difficult time believing that there is a majority of my colleagues that want to grant one-third-plus-one minority override, particularly now that we are talking about defense. But whatever the area is, that is the fundamental question. And to all who we have managed to muddle this so much, I want to repeat, I am perfectly willing, and want to have the President to be granted new powers to go in and extract those things in budgets that should not be there. Period. The fundamental question you have to ask is: Do you want it to be a minority override? Do you want one-third of the Senate to agree with the President and it be done, one-third of the House to agree with the House? Or do we want to stay with majority rule?

If you needed a good argument for the position of the substitute of the Wise-Spratt-Stenholm amendment, you have just heard it tonight. And to my colleagues who believe that you want it to be that other way, I hope you will think twice overnight and reconsider your position. I believe the substitute is the better way for us to go.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly rise to oppose this amendment. At the beginning, I thought this might be a pretty good amendment and it was really important to make sure that under the Constitution we maintain a common defense. But let me make two very real points.

To those that are purists, like I am, you cannot come out here on the balanced budget amendment, on unfunded mandates, on this bill, the line-item veto, and be pure about the philosophy that we are trying to accomplish here with the Contract With America and exempt one program.

If we are going to exempt defense, then it is hypocritical not to exempt child issues. It is hypocritical not to exempt education or any other very favorite and solemn program that we are all for.

It disturbs me, first off, in this amendment that you have a threshold of $50 million. It very well concerns me that what in practice, in trying to avoid the President line iteming some of the very favorite programs that do not cost $50 million, defense becomes the welfare pot to throw all kinds of programs into.

Let me just show you some non-defense-related programs that I have. I have two pages that are already put into the pot. Most of these are under $50 million.

The National Guard civilian youth program; the National Guard Outreach Los Angeles program; the Presidio of San Francisco is in this; disaster relief is in this; the World University Games could be put in this. It was put in the defense bill before. Summer Olympics in the defense bill. AIDS research in the defense bill.

Now, most men in this House think it is very important, but in the defense bill there is prostate disease research. I do not know if that is really important to the defense, the common defense, of this country.

I could go on and on. Historically black colleges and universities, that may entice some that are against this amendment to be for it, but it does not belong in the defense bill. United States-Japan management training, and many other programs that could go into the defense bill and seriously harm spending for defense.

Let me tell you, the present President, my President, decides to start line-item vetoing things in the defense bill that are important to pro-defense people, I guarantee you we have the votes in this House right now to stop that President from doing so. I am not afraid to take on the President if he wants to take on the strategic defense initiative and other issues like that. We can take him on, we have the votes, and we will defeat him.

I think you have to keep this line-item veto, and I agree with the gentleman from Texas, I would much prefer to have a constitutional amendment, but this is all we have. And it is a good, very well-structured, worked-out bill, that we do not need to be exempting any one program from another.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I want to thank the gentleman from Texas. The gentleman makes my case. Every item that the gentleman mentioned is under $50 million. Every item that the gentleman mentioned could be vetoed under this amendment by the President of the United States. I thank the gentleman for making the case and in essence speaking for my amendment.

Mr. DELAY. Mr. Chairman, reclaiming my time, I disagree with the gentleman. He is right there could be line-item veto, but there are other items in here over $50 million that could not be vetoed. Disaster relief, legacy resource management, Hawaiian volcano observatory, over $50 million, Semetech research. University research grants. Some of them may be pro-defense, but we all know many of them probably are not. And there are many others.

The point that I am trying to make is that it leaves a loophole for those that may want to have a favorite social program stuck into the defense budget, something that many of us oppose.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. Mr. Chairman, the gentleman and I have served many years together in the state house, and I am glad to see we agree today on this issue.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DELAY] has expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 1 additional minute.)

Mr. DELAY. Mr. Chairman, I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. Mr. Chairman, sometimes this aisle gets to be a wall instead of a way we can cross. I am glad the gentleman spoke today and talked about this. We could set up other programs just like this if we wanted to, but this bill needs to be as pure as we can have it. I agree, though, that we might need to look at an amendment later to make it a majority of the House instead of two-thirds, because I do not know if you could get two-thirds of the House to override a Presidential line-item veto. We might look at a majority on a later amendment.

Mr. DELAY. Mr. Chairman, I am more than happy to work with the gentleman on his suggestion, and we will look at it later. I was willing to work on this amendment, but when I really looked at it, I thought in order to be honest and straightforward about this, you cannot exempt any one particular line item.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Chairman, as much as Hawaii was mentioned, and volcanoes, this is a good point. It makes my case, I must say, I believe why the line-item veto should not be used. We are dealing with the Pohakaka training site. All the training for the Pacific Rim takes place there. The reason for the appropriation is to see to it that our forces are ready for any contingency that occurs out there. It is not pork barrel. Just because it exists in Hawaii does not mean it is not vital to the national interests.

AMENDMENT OFFERED BY MR. WELDON OF PENNSYLVANIA TO THE AMENDMENT OFFERED BY MR. SKELTON

Mr. WELDON of Pennsylvania. Mr. Chairman, I offer an amendment to the amendment, which I have discussed with the initial offerer of the amendment, and I assume he is willing to accept.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WELDON of Pennsylvania to the Amendment offered by Mr. SKELTON: Strike out "$50,000,000" and insert "$200,000".

□ 1910

Mr. WELDON of Pennsylvania. Mr. Chairman, I rise to offer this amendment, which I have discussed with my friends on the other side, the gentleman from Missouri [Mr. SKELTON] and the gentleman from Texas [Mr. EDWARDS].

Let me say at the outset, Mr. Chairman, we are all in agreement here. The defense budget of this country has already become the cash cow. In last year's defense bill, Mr. Chairman, the total amount of unauthorized appropriations was $4.7 billion; $2 billion of that $4.7 billion was in the subcommittee that I now chair, the Subcommittee on Research and Development.

I asked the staff to provide me a listing of those projects that were included as unauthorized appropriations, and I have them here. There are more than two pages. There are a whole series of pages. And, in fact, Mr. Chairman, most of the projects are under $50 million, and almost all of the projects are under $200 million.

We are in agreement that those projects that are taking dollars away from the defense of this country should be subject to a Presidential line-item veto, which, if we feel strongly enough about, we can keep in the budget. Many of these programs would not withstand that test. But we also agree that there needs to be some limit.

The defense appropriation bill is the largest appropriation bill that we act on each year. We want to make sure that as we go through major weapons systems that some President down the road may not in fact wipe out an entire weapons system that in fact has been fully debated through the committee process.

What we are trying to get at are the add-ons that Members get through the back door. I would say to my colleagues that I do not know of any Member of this body, in the 9 years that I have been here, that has gotten an add-on on the defense bill more than 200 million. I cannot think of a thing. I went through this listing, and I cannot find one.

So I think it is important that we do in fact work to reduce that $4.7 billion unauthorized appropriation level. I have said that in committee. I have said it in subcommittee, and I say it on the House floor.

But I also think it is important that we understand these bigger items, which are important for our security, which are debated in our authorization and Committee on Appropriations, also should not be subjected to that kind of action without full and deliberate debate. That is why the threshold is needed.

I would hope that my good friend and colleague would in fact accept this amendment to his amendment. I would hope that our colleagues would vote "yes" on the amendment.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I thank my friend from Pennsylvania. His proposed amendment to my amendment corrects the debate that we have just heard. I gladly accept it, and the gentleman from Texas [Mr. EDWARDS] tells me he also accepts it. We appreciate the gentleman's hard work and the sincerity and the research that he has done and just offered us on the floor. And we thank him.

Mr. WELDON of Pennsylvania. I would hope that our colleagues would support this, Mr. Chairman. I consider myself a fiscal conservative. I have as many watchdogs in my office as any of my colleagues, but this is also an issue involving our national security. Please vote "yes" on the amendment.

Mr. FATTAH. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentleman from Pennsylvania.

Mr. FATTAH. I know that the gentleman is sincere, but I wanted to ask one question. What would prevent a group of projects that some might call pork being put together to get over the 200 million mark? There was some creative budgeting done back home where I come from, and I am just trying to understand how would the gentleman guard against that in this particular amendment.

Mr. WELDON of Pennsylvania. I thank my colleague for the question, my good friend from Philadelphia. And what I would say, I am not a member of the Committee on Appropriations, but typically these items are added on line by line. They are specific in nature, and, in fact, we would have that opportunity. In fact, I would be happy to show this list to any of my colleagues. Every one of the items in the R&D account of $2 billion of unauthorized appropriations are in fact individually listed. They, in fact, are not lumped together. I do not think that would be a problem. If it is, we will have to deal with that on a future legislative issue or effort of this type.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WELDON] to the amendment offered by the gentleman from Missouri [Mr. SKELTON].

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. SKELTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KLECZKA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 52, noes 362, not voting 20, as follows:

[Roll No. 87]

AYES—52

Bateman
Bishop
Brewster
Browder
Burton
Callahan
Coleman
Cramer
Cubin
Danner
de la Garza
Dicks
Dornan
Edwards
Emerson
Everett
Fazio
Fowler
Frost
Hayes
Hefley
Hilleary
Hunter
Johnson, E.B.
Jones
Klink
Laughlin
Lewis (CA)
Lewis (KY)
McKeon
McNulty
Metcalf
Mfume
Montgomery
Ortiz
Pastor
Peterson (FL)
Pickett
Scarborough
Scott
Sisisky
Skelton
Slaughter
Spence
Stump
Tanner
Taylor (MS)
Tejeda
Thornberry
Ward
Weldon (PA)
Wilson

NOES—362

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Buyer
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Collins (IL)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Crane
Crapo
Cremeans
Cunningham
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Heineman
Herger
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham

LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKinney
Meehan
Meek
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Mineta
Mink
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Orton
Owens
Oxley
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spratt
Stearns
Stenholm
Stockman
Stokes
Studds
Stupak
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thompson
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—20

Baesler
Barcia
Becerra
Bliley
Brown (CA)
Collins (GA)
Collins (MI)
Gephardt
Gibbons
Gilman
Harman
Manton
Martinez
Minge
Moakley
Radanovich
Rangel
Smith (TX)
Stark
Waxman

□ 1931

Ms. JACKSON-LEE, Mr. BALDACCI, and Mr. HOLDEN changed their vote from "aye" to "no."

Mr. HILLEARY changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. HARMAN. Mr. Speaker, during rollcall vote No. 87 on H.R. 2 I was unavoidably detained. Had I been present I would have voted "no."

AMENDMENT OFFERED BY MR. DEAL OF GEORGIA

Mr. DEAL of Georgia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DEAL of Georgia: At the end, add the following new section:

SEC. 7. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this Act violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

Mr. DEAL of Georgia. Mr. Chairman, this amendment is hopefully a noncontroversial one that addresses the issue of expedited judicial review. Since we are proceeding in a statutory form for a line-item veto and not a constitutional amendment, it should be obvious that until that constitutionality is clarified, it will be under a cloud.

This would be an expedited process for allowing that issue to be determined and allow this body, if it is determined unconstitutional, to make necessary changes and, if not, to proceed with its use.

I urge the adoption of the amendment.

Mr. Chairman, this should be a non-controversial amendment that can be supported by Members of both sides of the line-item veto issue. My amendment will simply streamline and expedite judicial review of the line-item veto authority in the bill. The amendment will ensure that any questions regarding the constitutionally of line item veto authority are resolved as rapidly as possible.

I endorsed the line-item veto in my campaign and have voted in favor of the strongest possible line item veto at every opportunity since coming to Congress. As a supporter of line-item veto, I believe that it is important that any questions regarding the constitutionally of the line item be resolved as quickly as possible. As long as legal questions remain, the President may be reluctant to fully utilize the line-item veto, and any spending cut through the line-item veto process would certainly be challenged. The effectiveness of the line-item veto will be severely handicapped until the legal questions are resolved. It is in nobody's interest to leave the legal status of line-item veto authority in limbo for an extended period of time.

Under my amendment, any Member of Congress may bring action in Federal district court challenging the constitutionally of the line-item veto. The decision of the district court would be appealed directly to the Supreme Court. Both the district court and the Supreme Court would be directed to advance any case challenging the line-item veto on the docket and expedite consideration of the case.

Hopefully, the procedure established by my amendment will result in a final resolution regarding the constitutionally of line-item veto authority before the fiscal year 1996 appropriations bills are sent to the President. If the courts uphold the constitutionally of line-item veto authority, the President will be free to utilize the line-item veto authority without any question. If the courts strike down the line-item veto authority, Congress will have time to consider legislation to take corrective action and pass legislation strengthening the ability of the President to cut out wasteful items in tax and spending bills that is consistent with the ruling of the court.

If my amendment for judicial review is not added to the bill, it is unlikely that the courts would consider the issue until the President exercises the line-item authority. Every rescission submitted by the President under the line-item veto authority for fiscal year 1996 would almost certainly be challenged and potentially blocked until the issue worked its way through the court system. This will effectively prevent the President from truly utilizing the line-item veto for fiscal year 1996.

Whether or not you support the line-item veto, I encourage you to support the Deal judicial review amendment.

Mr. BLUTE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is a good amendment which simply ensures that any court challenge to H.R. 2 be considered on an expedited basis. Because this bill affords a significant new power to the President, it almost certainly will be challenged in court. Rather than permitting any such challenge to linger on overcrowded court dockets, the Deal amendment would provide for fast-track judicial consideration of any court challenge.

The amendment is a significant enhancement to the bill and should be adopted.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Deal amendment. It is one that we should all be able to support whether we support the bill or oppose the line-item veto bill. This amendment makes it possible for the constitutionality of H.R. 2 to be brought before the courts on an expedited basis.

Proponents of H.R. 2 should want to have the constitutional question regarding this bill settled as soon as possible. Those of us who oppose H.R. 2 for constitutional reasons also want the courts to look at this bill as soon as possible.

This amendment says that the courts can go ahead and hear a test case on this legislation constitutionally without having to wait for the President to use the line-item veto authority this bill gives him.

Mr. Chairman, this bill gives the President authority to sign measures into law that are in a form the Congress has never passed. To me, that means we are giving the President authority to make laws, authority that belongs to the Congress under the Constitution. To me that raises serious constitutional questions.

On this point, I would note that in testimony before the Senate Committee on the Judiciary last week, Assistant Attorney General Walter Dellenger challenged the constitutionality of H.R. 2. I am going to read briefly from his statement in which he refers to the authority H.R. 2 gives the President over targeted tax benefits:

> It does so by purporting to authorize a President to "veto" target tax benefits after they become law thus resulting in their repeal. The use of the term "veto" and "repeal" is constitutionally problematic. Article I, Clause 7 of the Constitution provides that the President only can exercise his "veto" power before a provision becomes law. As for the word "repeal," it suggests that the President is being given authorization to change existing laws on his own. This arguably would violate the plain textual provision of Article I, Clause 7 of the Constitution governing the manner in which Federal laws are to be made and altered.

Mr. Chairman, I would urge my colleagues to support this amendment. It makes good sense to do so.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. DEAL].

The amendment was agreed to.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so only to give the Members a sense of where we are.

It is our hope to be able to deal with one more amendment this evening, an amendment to be offered by the gentleman from Pennsylvania [Mr. KANJORSKI], and at that point we will hopefully conclude action on that amendment tonight and rise.

☐ 1940

AMENDMENT OFFERED BY MR. KANJORSKI

Mr. KANJORSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. KANJORSKI: At the end, add the following new section:
>
> **SEC. 7. TERMINATION DATE.**
>
> This Act shall cease to be effective on January 1, 2000.

Mr. KANJORSKI. Mr. Chairman, the purpose of this amendment of course is to add another section indicating termination date; and it is the purpose to sunset this act as of January 1 of the year 2000, the principle being that we would enact extraordinary powers and transfer of powers from the Congress to the Executive, some of which powers are unknown or unreasonable or unthinkable right now as to what the ramifications of this may be. And I think what it does is allows us the opportunity to have a rein on the Executive, that if over the next 5 years there is abuse in the exercise of the line-item veto this Congress would have an opportunity to oversight the use of the line-item veto to either reform the amount of power that would be delegated to the Executive and if the abuse is so excessive by the Executive, it would terminate as of January 1 of the year 2000.

I have never been a supporter of the constitutional amendment of changing the balance of powers between the executive branch of government and the legislative branch of government insofar as the legislative branch would pass over to the executive all of the possibilities that could be used in the appropriation bills and in tax bills. But apparently the will of the Congress is going to be, at least the House of Representatives, is going to be quite firm, that this bill will pass, and that is what the will of the majority is. There is nothing wrong with that.

But now we have to look at the Constitution and we have to look at the precedence that we are establishing and the potential abuse.

I had the pleasure of serving in this House in the 83d Congress as a page. That is the last Congress that the Republican Party was in the majority. When I look back at the history of the 83d Congress, I find that it did some very successful things in America. It attacked clean water for the first time in navigable rivers. It attacked and thought about the Interstate Highway System. It was a Congress that when it concluded did not have to be embarrassed with its operations.

Now we are faced with the 104th Congress and a new majority, and perhaps a new wind in the land. The tool we are about to pass on to the President is a very powerful tool. It does not only affect this generation, but theoretically could affect all generations to come in America, because as we will get the opportunity to reverse a veto by a majority of this House and the Senate, in order for that to be effective the President will have the constitutional authority to exercise his veto.

If he exercises his veto on any appropriation that this House and the Senate do not agree upon, it will require a two-thirds vote of this House and a two-thirds vote of the Senate to override that veto.

I have examined back as far as I can remember from the 83d Congress until now and I have found no Congress where any single party or coalition in this House or in the Senate ever at any particular time commanded a coalition or a number that would exceed two-thirds of this body or two-thirds of the Senate.

The likelihood that that will happen in the future is quite remote. Historically, if we study the activities of the Parliaments of Europe during the periods of the 1920's and the 1930's, it was not unusual for the Fascist Party or the Communist Party to exercise a majority in those Parliaments, above a third, but below a majority. If for some reason the Executive authority fell into the hands of a party that has a third, and one vote, falls into the hands of the party that captures the Presidency, and a third and one vote of either the House or the Senate, there will be no way that the Congress can capture its constitutional responsibility to properly appropriate the will of the people and in accordance with the first article of the American Constitution.

That is a significant transfer of power.

As we go down this contract and as we go down the changes they want to be made, I hope my colleagues on the Republican side and my colleagues on the Democratic side recognize that what we are doing today is not something that is superficial in any stretch of the imagination, it is not something that can be educationally corrected in the future. The only way we could be certain that the extraordinary powers that this Congress is sending to the Executive, if abused could be changed, is if we have this sunsetting provision that allows this act to cease in 5 years, if an Executive who is now in office or the next Presidency were to violate the trust of the American people and this Congress.

In my time in life I remember only one period of time where excessive Executive authority was used. It was the end of the first term of President Nixon.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. KANJORSKI] has expired.

(By unanimous consent, Mr. KANJORSKI was allowed to proceed for 2 additional minutes.)

Mr. KANJORSKI. Mr. Chairman, it was in that period of time in the early 1970's, at the end of the first term of the Nixon administration and the beginning of the second term of the administration, and we are all aware of all of the President's men, we are all aware that we have a tarnished history where a President of the United States, as a result of unconstitutional activity, resigned the office of President.

We have the experience that an Executive did exceed his constitutional authority and indeed did abuse legislative authority that was not in his hands. Why would we want to arm and provide for that possibility to occur in the immediate future and ad infinitum until two-thirds of this House or two-thirds of the Senate would be in place to override that?

There are 18 Members of this House that have introduced legislation to bring a 5-year sunset to every piece of legislation that is introduced into the House. I call upon those 18 Members, 16 on the majority side and 2 on the Democratic side, that if they are going to be consistent today, there is not any reasons why they would not support this amendment and start with the line-item veto to provide for a reasonable protection of the constitutional values we all hold high, and to protect the fact that if we delegate this authority to the President and if it is abused, we have a built-in mechanism to stop that unusual and extraordinary power or that extraordinary abuse.

I urge my colleagues on the Republican side and the Democratic side to think in terms that we came here and took another oath of office to the Constitution of the United States and not to a political party.

This is a time not to be a Republican, not to be a Democrat or not to be an Independent, but to be an American, and first of all in American that believes in the Constitution and a constitutionalist. I urge Members to support this reasonable sunset provision.

Mr. DOGGETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, like most Americans, I support the line-item veto. Too often wasteful spending has slipped into a statute, it has hitched a ride into the statute books, and this is a way to try to prevent it.

□ 1950

We need to seize on every tool that we can to oppose wasteful spending. We have the line-item veto in Texas. It has worked up to a point. I think that over the last several sessions Governors, Republican and Democrat alike, have managed to veto through the line item about one-quarter of 1 percent of the 2-year spending budget.

Of course, here, the line-item veto usage would be even more limited since only about one-third of all spending actually occurs in the annual appropriations bill.

We must be very careful with this type of reform. There is no guarantee that, in fact, a line-item veto will be used as a intended, and that is why we offer this amendment tonight. We believe it would be prudent to sunset this legislation every 5 years and, indeed, we believe it would be prudent to sunset every new initiative of this type every 5 years so that the Congress focused on what it was passing and we had a real sense of accountability.

That is why we have proposed sunset provisions for each of these pieces of legislation that are moving through the Congress.

In Texas this has been a process that has led to the repeal of statutes, to the abolition of programs, to the savings of significant amounts of money for the State treasury and, of course, for the taxpayer.

It can work in Washington also.

Mr. Chairman, we know what we hope this reform will accomplish, that a President will be as diligent as the Members who have worked on this legislation to see that wasteful spending is ferreted out and eliminated. But we do not live in an ideal world. It is quite possible that a future President will use the line-item veto for purposes other than those which we intend this evening.

Indeed, Mr. Chairman, it does not take a great deal of imagination to imagine a future President saying that "If you will not vote for this spending program, I will veto through the line item an expenditure program that you want for your district."

Mr. Chairman, this bill in fact could actually give a President a most powerful tool to force Members of Congress to vote to increase and toe the line on his spending bill, not just to ferret out waste, but to add spending where it is unnecessary.

It is at least arguable that this is the reason why the Founding Fathers, when confronted with the notion of a line item veto, chose to deny it to the President, to the Chief Executive. We ought to think a long hard time about changing this process and this balance of power, this separation of power.

One of the ways to do that is by sunsetting the procedure and allowing for this Congress, forcing this Congress, to have to refocus its attention on the whole concept in the next 5 years.

You know, the record since the Second World War of Presidents on the question of appropriations is not necessarily a good one. In fact, during that period of time, various Presidents of both parties have requested more appropriations than this Congress has actually voted to spend. Let us suppose, Mr. Chairman, that we had a President of this Nation who could not submit a balanced budget, who came to this Congress session after session after session proposing one unbalanced budget after another, a President who engaged in the strongest rhetoric against an unbalanced budget, who came up with tools to speak about at campaign time, but never could produce a balanced budget. Such a President we have had in this country. He is the very President for whom the members of the majority wish to change the calendar of this House and dedicate this very bill to on his birthday.

But it is arguable that such a President might not do such a fine job with a line-item veto, that if he could not balance his spending, he cannot cut spending of others. It is for this reason that we ought to look to a sunset process to reviewing the whole concept of a line-item veto rather than taking a blind leap of faith that a line-item veto will actually help us cut the deficit rather than seeing it increased.

Mr. Chairman, virtually every reform has unintended consequences, but there is a way to do something about it, and having the experience of five full sessions of this Congress before we review it is exactly what we can accomplish through sunset.

I move adoption of the amendment.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment.

It was suggested that an obtrusive, Socialist government or President might arise and abuse the line-item veto.

It is our contention that every leadership over the last 40 years has tried to prevent the line-item veto, and now they want to sunset it.

Second, it will affect future generations. A balanced budget amendment, unfunded mandates, and line-item veto will keep this Congress from spending our children's and children's children's future away.

The other side has had 40 years to pass this, and in the next 40 years they may have, or the next thousand years, they may take the majority again. We want to establish a line-item veto in which a President is answerable to the American people for that line-item veto on every item that he forces.

If he abuses it, he himself will be answerable at election time.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman from Pennsylvania's amendment to sunset the rescission authority in H.R. 2 in the year 2000.

Anyone who has been listening to this debate can attest to the fact that many of our colleagues really do not know what this bill does. Members continue talking about all of the Governors who have this authority, when in fact H.R. 2 is very different than the authority the Governors have.

Many continue to believe this is a true line-item veto bill when in fact it is not. By the proponents' own admission, this bill contains, instead, the most powerful rescission authority imaginable. The President can pick and choose elements of an appropriation to rescind. He can be as specific or as general as he wants, and nothing can stop him as long as he has the support of just one-third plus one of the Members in either the House or the Senate.

Many seem to believe this authority will let the President run roughshod over the Federal judiciary; others think that concern is unwarranted.

In the Senate, Senator McCAIN supports taking the approach in H.R. 2, while Senator DOMENICI advocates the expedited rescission authority which our colleagues Mr. WISE, Mr. SPRATT, and Mr. STENHOLM also support.

The one common theme that runs through this debate is uncertainty and confusion. This confusion and uncertainty is not going to be settled here on this floor, or in the Senate, or in conference. If this bill is enacted into law, only time will tell what impact it will have.

I strongly urge my colleagues, therefore, to support the Kanjorski amendment to sunset this authority in the year 2000. The amendment would give this experiment 5 years to run. By then, we should know whether it is a policy that we should continue or terminate, or whether we need to modify it in some way.

If you are a proponent of line-item veto, I would think you would want to see this amendment adopted. There is only one way to clear up the questions and confusion that now surround this proposal, and that is to revisit it in the future. That will only occur, if this sunset amendment is adopted.

I urge my colleagues to support the Kanjorski sunset amendment.

Mr. KANJORSKI. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I am happy to yield to the gentleman from Pennsylvania.

□ 2000

Mr. KANJORSKI. It is important. I just want you to recall in 1973 the President, having been dissatisfied with the investigation of the FBI and the CIA in the Watergate scandal, all he had to do was use this provision, if it were in law, and strike the appropriations and do away with the FBI and the CIA. My memory escapes me as to what the impeachment resolution vote on Nixon was in this House, But I highly doubt it was more than two-thirds.

I just ask my colleagues on all sides, realize this is not just a housekeeping vehicle we are talking about today, this is a delegation of authority, legislative appropriation authority that is incredible, and allows the chief executive to reach down and punish those elements of the Government that oppose his views, whether his views are legal or constitutional, because we are arming a future President with that capacity.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words in opposition to the amendment. It will only take me about a minute.

I just want to say, Mr. Chairman and Members, with all due respect to the gentleman, we have great respect for him, there is no need for this amendment. We have already reached a compromise. Those of us who wanted a true constitutional amendment for a line-item veto, we have compromised on this statute. That is as far as we want to go.

Let me tell you what you are voting on here: What this line-item veto is, it reverses existing law that allows Congress to reject the President's requests to cut pork-barrel spending without even taking a vote. That is what the existing rule and law is today. In other words, Congress can block the spending without doing anything. This line-item veto reverses that procedure by saying that the cuts go through unless Congress votes to disapprove the spending cuts.

That is what we are voting on now. We need permanent law.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. KANJORSKI].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. COLLINS of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 258, not voting 23, as follows:

[Roll No. 88]

AYES—153

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (FL)
Bryant (TX)
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Costello
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Evans
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gonzalez
Green
Gutierrez
Gutknecht
Hastings (FL)
Hefner
Hilliard
Hinchey
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Markey
Mascara
Matsui
McDermott
McKinney
Meehan
Meek
Menendez
Miller (CA)
Mineta
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Rahall
Rangel
Reed
Reynolds
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Williams
Wise
Woolsey
Wynn
Yates

NOES—258

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield

Wicker
Wolf
Wyden
Young (AK)
Young (FL)
Zimmer

NOT VOTING—23

Baesler
Barcia
Becerra
Bliley
Brown (CA)
Collins (GA)
Collins (MI)
Frank (MA)
Gephardt
Gibbons
Hall (OH)
Harman
Manton
Martinez
Mfume
Minge
Moakley
Roth
Shuster
Stark
Waxman
Wilson
Zeliff

□ 2018

The Clerk announced the following pairs.

On this vote:

Miss Collins of Michigan for, with Mr. Collins of Georgia against.

Mr. Manton for, with Mr. Roth against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. HARMAN. Mr. Speaker, during rollcall vote No. 88 on H.R. 2 I was unavoidably detained. Had I been present I would have noted "no."

□ 2020

Mr. CLINGER. Mr. Chairman, I move the committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore. (Mr. LAHOOD) having assumed the chair, Mr. BOEHNER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2) to give the President item veto authority over appropriation acts and targeted tax benefits in revenue acts, had come to no resolution thereon.

PERMISSION FOR SUNDRY COMMITTEES TO SIT ON TOMORROW DURING 5-MINUTE RULE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: the Committee on Economic and Educational Opportunities, the Committee on the Judiciary, and the Committee on Science.

Mr. Speaker, it is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. DOGGETT. Mr. Speaker, reserving the right to object, under that reservation let me say that we have consulted with the ranking members of each of the affected committees, and that following that consultation I think there is no objection. This pattern of consultation with the minority which has occurred here is an appropriate way of handling this. It will avoid the kind of problems we had the other night.

Mr. Speaker, with the understanding that there has been such consultation, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

SPEAKER GINGRICH ON FREQUENT FLIER PERK

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Ms. MCKINNEY. Mr. Speaker, yesterday's Atlanta Journal and Constitution reported that my colleague from the 6th District of Georgia not only likes his frequent flyer perks, he also prefers to fly first class at the taxpayer's expense.

It appears that Government spending is only a problem for my colleague when it is used to help people who actually need it. While many people are scraping by on a minimum wage that makes welfare look attractive, they are supposed to take comfort in knowing that some in this body are using tax dollars for wide-body seats.

Mr. Speaker, the article referred to follows:

COMING UP

> Today: Rep. Cynthia McKinney (D–Ga.) and Sen. Mark Hatfield (R–Ore.) reintroduce the "Arms Trade Code of Conduct," which would prohibit the government from selling or giving weapons to regimes that violate human rights or are undemocratic.
>
> A quick look at today's activities involving House Speaker Newt Gingrich of Georgia:

SCHEDULE

> 8 a.m.: Speaks at Capitol Hill Club Headliner Breakfast.
>
> 10:40 a.m.: Regular morning news conference on C–SPAN.
>
> 2:30 p.m.: Speaks to National Association of Independent Colleges and Universities.
>
> 7 p.m.: Speaks to National Association of Wholesaler Distributors, receives national leadership award.
>
> What fear of flying? New York Magazine says Gingrich, who has been battling to keep frequent-flier miles accruing from government-paid tickets, seems to be partial to flying first class.
>
> The AJC reported that in the year and a half before assuming the speakership, Gingrich flew back and forth between Atlanta and Washington 125 times, traveling first class nearly half of the time. When accompanied by reporters and Delta chairman Ron Allen on a recent flight, says the magazine, he flew economy, boasting that he always travels that way. On the very next flight, he was back in first class, with its wide seats and free liquor.
>
> Now he's in on Out: Gingrich's new fame and position have made him cover boy of a slew of magazines lately. In his latest such sighting, his smiling face graces the cover of Out, on newsstands today. The article, "The Newt Era: Is it good for the gays?" by Newsweek correspondent Mark Miller, considers whether Gingrich's recent statements about tolerance for homosexuals are "a small step in the right direction or an insidious act of political pragmatism."

□ 1020

The Constitution article goes on to say that GINGRICH flew back and forth between Atlanta and Washington 125 times, traveling first class nearly half of the time, but when accompanied by reporters and Delta chairman Ron Allen on a recent flight, he boasted that he always travels economy. On the very next flight he was back in first class with his wide seats and free liquor.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE LINE-ITEM VETO: WIN ONE FOR THE GIPPER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I quote from President Ronald Reagan's final State of the Union Address on January 25, 1988. He said at that time,

> Let's help ensure our future of prosperity by giving the President a tool that, though I will not get to use it, is one that I know future Presidents of either party must have. Give the President the same authority that 43 Governors use in their states: the right to reach into massive appropriation bills, pare away the waste, and enforce budget discipline. Let's approve the line item veto.

We have the opportunity, hopefully by Monday, to pass that important legislation to reduce wasteful spending. On Monday it will be former President Ronald Reagan's birthday.

The line-item veto, together with a balanced budget amendment, constitutes the Fiscal Responsibility Act pledged by Republicans in the Contract With America. These two measures will work together to restore fiscal responsibility to an out-of-control Congress.

Every year, ridiculous projects and tax benefits are buried in appropriation bills and tax bills. It is clear from the writings of Madison and Hamilton in the Federalist Papers that the Framers intended a two-branch review of all laws, including appropriations. The line-item veto will restore the constitutional system of checks and balances over each individual appropriation, preventing future Congresses from effectively eliminating the President's veto authority through creative legislative packaging.

The States, the laboratories of democracy under our decentralized federalist system, have proven that the line-item veto works. State legislatures have recognized its effectiveness as an important tool in restraining the growth of government.

The goal of the line-item veto is to allow the President to rescind pork-barrel spending. Pork-barrel projects are usually attached to bills of vital importance to the continued operation of the Government or bills that enjoy wide popularity. As such, the bill is assured of passage and the President's signature. All of this will change with the adoption of the line-item veto.

The years 1993 and 1994 saw plenty of wasteful appropriations that would have been targets for the veto pen if the President had been able to exercise that authority. These are just a few: Fifteen billion to build never-authorized courthouses opposed by the Federal judges in the region where they were to be built; $1.1 million for a plant stress lab; and $35 million to eradicate screw worms in Mexico.

I call on my colleagues on Monday to adopt this important legislation unanimously, a line-item veto, to help us restore fiscal responsibility to the United States of America.

SUPPORT HEAD START

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WATERS] is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, in 1965 the Office of Economic Opportunity launched Project Head Start to help break the cycle of poverty. It provided pre-school children of low-income families with a comprehensive program to meet their emotional, social, health, nutritional, and psychological needs. In 1969, Head Start became a permanent program within the Administration on Children, Youth and Families at the Department of Health and Human Services. Since its beginning, Head Start has served over 13.1 million children and their families, representing all races, classes, and regions of this country.

After nearly 30 years, Head Start is being recognized by educators, child development specialists, community leaders, and parents across the Nation as the most successful publicly funded children's program there is. However, this program is now in jeopardy—it could be cut—it could even be eliminated.

The Republican Contract With America proposes to take Head Start out of the hands of local communities and make it a function of State child care block grants. This would be disastrous.

First of all, Head Start is not a child care program. Head Start is a comprehensive family-focused developmental program that addresses child and family needs. Head Start puts a premium on parent involvement by encouraging parents to participate in important program decisions. Head Start staff are members of the communities they serve, many are former Head Start parents. Program decisions are based on community needs, as defined by the community. Block granting Head Start would undo local control of addressing unique community needs. At a time when so much emphasis is placed on personal and family responsibility, it is more important than ever to have a program that is family-oriented. By lumping Head Start with other children's programs, the focus on families will be lost and important elements such as parenting skills, male involvement, literacy, and employment skills would be compromised.

Mr. Speaker, I have received numerous letters from concerned parents and educators urging this Congress not to destroy the Head Start Program. Many parents have shared their personal experiences with me. They tell how Head Start has helped their families, how they have learned to be advocates for their children. Many of these parents started out as volunteers with their local Head Start Programs and went on to become permanent employees. I think these are the stories that we need to hear.

Head Start must remain in the hands of local communities to ensure that important program elements are maintained. Head Start makes it possible for millions of children to look forward to a better future. To change the program now will close the door of opportunity on millions of children yet to step through a Head Start classroom door.

Head Start is an investment in the human potential of children—children who often fall behind in their first years of school and find their troubles compounded in later years. These children belong to all of us; they are the children of the Nation. We must preserve Head Start as a Federal to local program. We can no longer afford to sit back and hope that logic and sense of what is right will prevail. We need a national mobilization around Head Start, a coming together of parents, educators, community leaders, and public officials. A national mobilization that will transcend the traditional political process. Together we can make a difference. Let's not turn our backs on our children.

□ 2030

CHILD SUPPORT ENFORCEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, tonight I want to discuss an issue that I believe is critical to successful welfare reform. That is the whole issue of child support enforcement.

The interests of our children must come first in welfare reform. We cannot look out for those interests unless we demand more responsibility from their parents, especially in the area of child support.

Our country's failure to adequately collect child support has had a devastating impact on our children. The statistics are startling. Sixty-three percent of noncustodial parents do not pay child support. In 1989, only 37 percent of the almost 10 million custodial mothers caring for children under 21 received any child support. And currently only $14 billion of the $48 billion in child support payments is being paid each year, leaving a gap of $34 billion uncollected. Just think of the basic needs of these children that are not being met, adequate housing, proper clothes for school, healthy meals at the dinner table, things that all of us take for granted.

In my home State of Connecticut, failure to pay child support is the greatest cause of poverty among single parent families. Child support delinquencies in Connecticut exceeded $475 million in 1993 alone. Only 40 percent of families with child support orders in the state actually received payments.

I recently met with a group of mothers who told me horrific stories about the choices that they are forced to make because their ex-husbands refuse to honor their court-ordered child support payments.

One woman works a full-time day job and three part-time jobs at night, because her ex-husband has not paid child support in 12 years. She still finds herself falling behind, and she broke down one day in a grocery store because she had only $40 with which to buy 2 weeks' worth of groceries.

Another woman has been working four jobs for 14 years in order to support her children. She has taken her ex-husband to court more than 100 times to force him to pay child support.

These hard-working women, through no fault of their own, are just one step away from needing public assistance to support their kids. All because their children's fathers are refusing to pay what they owe.

It should not be this way. It should not be this difficult for hard-working single parents to provide for their children. Every child has two parents, and both of them should be required to live up to their financial responsibility.

Unfortunately, many do not, resulting in increased rates of childhood poverty and AFDC enrollment. And that is why the issue of child support enforcement must be addressed in the context of welfare reform.

The best welfare reform of all is reform that keeps parents and children from needing government assistance in the first place.

I want to send a clear message tonight, that when it comes to welfare reform, a solution that does not include tough child support enforcement is no solution at all.

The Republicans Contract With America falls woefully short. The contract calls for stepping up child support collection, but it neglects to include any worthwhile means of improving child support enforcement. It takes a step in the right direction with a paternity establishment provision that requires States to establish paternity in 90 percent of their AFDC cases, but it is not enough.

I believe the paternity establishment is an essential step toward enhancing child support collection. That is why we fought for provisions in the Budget Reconciliation Act of 1993 to encourage more voluntary in-hospital paternity programs. To truly improve child support collection, legislation is needed that will: First, work to establish child support awards in every case; second, to ensure fair award levels, and; three, to collect the awards that are owed. We also advocate changes in the law that will penalize noncustodial parents for failing to meet their child support obligations.

It is my hope that the Republicans will prove to be open to these kinds of changes and suggestions. I look forward to the subcommittee's meeting and hearing on Monday, and I look forward to working with my colleagues on this very important issue.

I hope that our motto for welfare reform, besides rewarding work and responsibility and allowing people to go to work to do that and to get off welfare, but that we will put our children first.

CRIME LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. BARR] is recognized for 5 minutes.

Mr. BARR. Mr. Speaker, I am very pleased and proud to report that the Committee on the Judiciary today concluded work after 3 days of markup and several days of hearings earlier in the month of January on a very important component of the Contract With America. And that is a series of pieces of legislation that will correct many of the deficiencies, serious deficiencies that were contained in last year's so-called anticrime bill, and go beyond that bill in many important respects.

This bill, for example, Mr. Speaker, says that no longer will police have their hands tied in cases where there may be a technical violation, an unknowing violation of certain constitutional provisions. But if they, in good faith, rely on objective information and can satisfy a magistrate or a court of that reliance objectively, that the evidence will go in and that individuals who are guilty will not be back out on our streets.

Further, Mr. Speaker, this new crime bill which will make its way to the floor, hopefully next week, and receive the imprimatur of this great body, says, no longer will our death penalty system be the laughing stock of this country, that for the very first time in many years people can look up to that system and say, yes, it does mean something.

Habeas corpus will no longer be abused in our Federal system.

□ 2040

The system will work better for the people, for the victims, and for all of us.

Mr. Speaker, this crime bill says that those in a position to know what our law enforcement needs are in our communities all across this land, that those who are in a position to determine how best to meet those needs, will in fact once more be in charge of meeting those needs insofar as Federal moneys coming back to the States and the local governments are concerned.

No longer will we have, as we had under the crime bill passed last year, a smoke and mirrors approach to law enforcement whereby we heard that 100,000 police officers will be on the streets, are on the streets, and will remain on the streets, because we know out on the streets that that was not true. It is not true, and it would not be true.

This crime bill, Mr. Speaker, these crime bills that will make it to the floor, and which the Committee on the Judiciary, under the leadership of Chairman HYDE, concluded action on today, takes those Federal moneys, which are indeed the taxpayers' moneys of this country, and turns them back to the States and the local governments and says:

> We recognize that you must determine, you are in the best position to determine, how those funds ought to be spent, how your needs in your community ought to be met to further the objectives of law enforcement and prevention.

It does this, Mr. Speaker, through a block grant program.

Further, Mr. Speaker, it goes on to say:

> In the area of incarceration there are two and only two ways to ensure that those who deserve to be in jail are in jail and remain in jail. More prisons must be built, and this bill provides substantial funds to States to build more prisons, if in fact the States have shown through a history of reforms in their sentencing systems that more people are being incarcerated, according to their laws, and for longer periods of time, according to their laws.

This bill also, Mr. Speaker, says that in those cases where States make significant progress toward instituting a system of incarceration and sentencing whereby inmates serve a full 85 percent, at least, of their sentence, which, after all, reflects not only the will of the people but the will of the juries and the will of the judges, that they will be eligible for additional grant moneys to build those prisons.

Mr. Speaker, this is a realistic crime bill. Mr. Speaker, this is not smoke and mirrors. Mr. Speaker, this is a series of legislative proposals passed by the Committee on the Judiciary with input from very learned experts from all across this country, with substantial input from Members of this great body on both sides of the aisle that deserves careful attention, that deserves the votes of this body, so that it can get back to the decisionmakers in our communities what they need.

That is the power to determine whether those moneys, not in the view of some bureaucrat in Washington but in the view of the elected officials and law enforcement officers in their community, should be spend on one program or another, prevention, law enforcement.

That, Mr. Speaker, is precisely, is precisely, Mr. Speaker, why the results of the election on November 8 were so profound. The will of the people has been heard. It was heard in the halls of the Committee on the Judiciary this week, and will indeed result, I hope, Mr. Speaker, in passage of these important crime measures in just a few days ahead.

SUPPORT THE CHILD RESPONSIBILITY ACT, MAKING BOTH PARENTS RESPONSIBLE FOR CHILD SUPPORT

The SPEAKER pro tempore (Mr. LAHood). Under a previous order of the House, the gentleman from Massachusetts [Mr. OLVER] is recognized for 5 minutes.

Mr. OLVER. Mr. Speaker, I, too, rise tonight to speak about that critical aspect of the welfare reform that is overlooked by the Contract With America. I'm talking about child support.

The contract spells out the exact punishments for women on AFDC. Women under 18 will be ineligible for assistance if they have a child out of wedlock. Women will not receive additional benefits if they have another child while on welfare. Women will be forced off welfare after 2 years, whether or not they have found employment or completed a training program.

Is this a personal responsibility act, or a female punishment act? Not once is the responsibility of the father mentioned in the contract. In fact, the only mention of fathers denies public assistance to the child if paternity is not established. That is an astonishing oversight.

Today, as the gentlewoman from Connecticut [Ms. DELAURO], has already pointed out, 63 percent of absent parents contribute no child support. Out of the $48 billion which should be paid annually only $14 billion is actually collected. Millions of families could escape welfare if only they received the owed child support.

The child support enforcement system in my State of Massachusetts is a model for successful collection. In the 1980's, then Governor Dukakis made child support payments a top priority. Governor Weld built on that foundation the toughest, most streamlined child support collection system in the country.

Massachusetts has been able to effectively garnish the wages, bank accounts, unemployment claims, and the lottery winnings of child support avoiders. In the last 6 months, these new laws have helped 4,000 families escape AFDC and saved Massachusetts $38.5 million.

The Massachusetts system is effective because it is centralized and uncomplicated. Only one office deals with child support payments, and there are no forms to fill out. But this system works best if the noncustodial parent lives and works within the Massachusetts border. If the parent has crossed State lines, the support order is unlikely to be paid.

We need a national system of child support. We need more cooperation and coordination between States. We need to create a national registry of child support orders.

Tougher child support enforcement is a concrete way to achieve personal responsibility of fathers for the children they conceive. Under the contract, fathers remain totally unaccountable, while mothers must sacrifice and are subjected to sometimes harsh reforms.

This is a clear double standard that I urge my colleagues in this Congress to rectify. Our support of the Child Responsibility Act would show that we believe both mothers and fathers should be held responsible for the economic well-being of their children.

OPPOSITION TO THE MEXICAN BAILOUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I rise to once again voice my opposition to the Mexican bailout, and especially to the way in which it is being done.

I have frequently said that today we have a Federal Government that is of, by, and for the bureaucrats, instead of one that is of, by, and for the people. But even I did not realize how little control the people of this Nation now have over their own National Government.

Once again we see the arrogance, the elitism, the public be damned, Big Brother knows best attitude of the powerful people who run this Government.

Because of the overwhelming opposition of the American people to this Mexican bailout, the President did what has been described as an end run around Congress.

Apparently, he found that the votes were not there, even though the politically correct vote, the "anything to gain the approval of the national media vote" would have been to be for this bailout.

So the President and the big financial powers decided to come up with a plan that did not require congressional approval. This means that our Government is sending billions to Mexico even though everyone knows the vast majority of our people are opposed to it.

This is the most undemocratic—with a small "d"—thing I have seen during my slightly over 6 years in Congress. It flies in the face of the will of the American people.

Big Government liberals have long had the belief or philosophy that Government knows best—that the people really don't know how to run their own lives or spend their own money.

This latest action—sending this money to Mexico—is just another example of big government spending the people's money in a way that most Americans do not want. And boy are we talking money here—billions, with a "b."

A few weeks ago, through the Treasury Department and the Federal Reserve, we provided $9 billion of an $18 billion package to prop up the peso. That wasn't enough.

Now, the President has announced he is taking $20 billion from the Exchange Stabilization Fund, even though this money was designed to stabilize our own currency and even though it has never before been used to prop up the money of a foreign country.

Also, we are using $20 billion of the $25 billion in this fund, thus placing our own money in a less secure status.

In addition, Mexico will receive $17.8 billion from the International Monetary Fund, the largest loan in the Fund's 50-year history. Who is the largest contributor to the IMF? The U.S. taxpayer of course.

Then we are sending $10 billion more from the Bank for International Settlements.

Billions and billions and billions—and all this at a time when the Heritage Foundation says Mexico already owes us over $70 billion that they cannot now and probably never will repay.

The big Wall Street and International investors bought Mexican bonds paying 25 and 30 percent interest rates. They certainly did not share their profits with U.S. taxpayers, but now they want us to protect them from losses for their foolish risks.

Even a liberal like A.M. Rosenthal, the New York Times columnist, has come out strongly against this deal.

Last Friday, he wrote:

> Could it be that the administration had so enthusiastically promoted Mexico that it would have been terribly embarrasing—an election coming up and all—to disclose that Mexico "suddenly" could not go on backing up its pesos and bonds unless the United States offered heavy loans to bail out investors?

And then he wrote, while we were still talking about just $40 billion in loan guarantees—instead of the more lavish deal we now have:

> Economic aid is often justified, but not 40 billion dollars to a country whose mess was created by the cowardice of bureaucrats and the mistakes of investors, theirs and ours. Americans would be foolish—I am being exquisitely polite today—if they agreed to any loan before they found out which American and Mexican investors would be the big beneficiaries.

Once again, Mr. Speaker, our Federal Government has shown that only the rich, the powerful, the wealthy, and those who work for the Government truly benefit from Big Government.

In the meantime, our taxpayers get the shaft—they are left holding the bag—this time for a wasteful Government in Mexico, whose economy has been ruined by years of socialism.

We probably cannot stop this now, but we would if we were truly listening to the citizens we are supposed to be representing.

□ 2050

PERSONAL RESPONSIBILITY ACT THREATENS SENIOR NUTRITION PROGRAMS

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker. I rise again tonight to discuss some of the effects of the Personal Responsibility Act on the nutrition programs, specifically the senior citizens nutrition programs.

Yesterday, during a hearing on the Personal Responsibility Act in the Committee on Economic and Educational Opportunities, of which I am a member, there were six witnesses, five representing local community groups, and all were against title V of the bill which deals with all our Federal nutrition programs. Title V repeals every Federal nutrition program and then block-grants the funds after severe cuts. Under this repeal of our nutrition programs, the State of Texas would lose over $1 billion in 1996 alone.

One member of the committee questioned the constitutional basis for providing nutrition and actually said it is not a Federal responsibility, and he quoted the Constitution.

Well, we all may need to reread our Constitution because where I see it in the Preamble, it says to provide for the common defense and promote the general welfare, and that is included in nutrition.

If the Republicans are holding the defense budget sacred and even increasing it because it is protected under the Constitution, at the very minimum nutrition programs should also be protected from these draconian budget cuts.

After November 8 of last year, many people called for Congress to become result-oriented. The PRA, or the Personal Responsibility Act, will result in 800 seniors going hungry every day in the city of Houston.

I hope and I pray that the PRA, the Personal Responsibility Act, was not designed to deny senior citizens their Meals on Wheels but that will surely be the result.

Let me repeat. If the PRA is passed in its current form, there will be over 800 hungry seniors in or around the district that I represent in Houston, TX. Not only will seniors go hungry, but on page 74 of the PRA, it requires seniors under the age of 63 and not disabled to work for their food.

The Older Americans Act allows any senior over 60 years of age and their spouse, regardless of age, to receive one meal a day. Would this Personal Responsibility Act repeal that law? I believe so.

What we will see, and I will show this sign, is that we will have seniors saying I will work for food, and that sign will be traded in every day with an affidavit from that senior to the State swearing that they will work at least 32 hours a week for that one hot meal. This is ludicrous.

I would hope that the committees, and I serve on one of the committees, will have better judgment than to pass this bill, particularly title V.

Stalin may have done this to the Soviet seniors, but not us. This would mean at least 35 people would be barred from a hot meal at the Magnolia Multi-Purpose Center in Houston, TX. And simply on the work requirement alone. So between 60 and 63, they have 35 people who today enjoy a hot meal that would have to either carry this sign or turn it in with an affidavit saying they will work.

Should there be budget responsibilities? Of course, yes. Should there be administrative reduction? Yes. Should there be lonely, hungry seniors in the breadbasket of the world? No.

We must take a look at this title V in the Personal Responsibility Act contained in this Contract With America to see that it is a contract on our seniors to remove the nutrition programs.

WOMEN AND GIRLS IN SPORTS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

PERSONAL RESPONSIBILITY ACT

Mr. KINGSTON. Mr. Speaker, I am glad, listening to the Democrats, that they are finally getting off NEWT GINGRICH and talking substance on the contract but as usual it is mostly specious emotional arguments hardly based in reality and it would seem incredible to me for somebody to say that the Contract With America is going to mean that 800 senior citizens in his own district would be going hungry.

I find it incredible that the gentleman who is an elected Member of Congress would take such a tactic and one of such stature at that. I hope that in the future we can have a more honest dialog.

Mr. GENE GREEN of Texas. Will the gentleman yield?

Mr. KINGSTON. I would be glad to yield time, but I have to make a statement on something else. Then if we run out of time, if perhaps someone on your side would yield time, I would like to engage you, because what I would like to talk about is entirely off the subject. But I did feel it was appropriate to react to that, which of course is why we are here, to have good substantive debate on subjects.

Mr. Speaker, what I want to talk about, something that happened on the mall outside of the Capitol this morning, and that was a celebration of National Day of Women and Girls in Sports. This was an important event for many reasons. There are so many different activities that go on in Washington that often we say, oh, that's just one more demonstration, so to speak.

Today in high schools, 38 percent of the girls are participating in athletic programs. That is up from 24 percent 10 years ago. But I think the real story is actually in the elementary schools. The young girls are participating in sports. They are flooding the soccer fields. They are on the tee ball and baseball diamond. They are running out on the basketball courts, and all the other traditional boys' arenas now have young ladies playing.

Indeed, those of us who are fathers look forward to watching our girls just as much as fathers with sons look forward to watching their boys. I want to emphasize also that this is a national trend. This is not going to be stopped or end at the county recreation level. These young ladies will grow to be women who are athletic and they are going to take the sports with them throughout junior high, high school and college, and hopefully professional.

We will, I believe, 20 years from now go to see women's soccer games and women's basketball games with the same alacrity and the same enthusiasm and the same vigor that we are now seeing in men's sports. I think it is important for us as a country to realize that.

I say that one of the best benefits of this is that for those of us who are maybe a little shell-shocked after the Super Bowl wondering who is going to go on strike next, that we are tired of the overgrown, pampered, greedy, self-indulgent millionaire prima donna players and owners who dominate our national pastime. We are sick of it. These striking athletes have built an empire which is collapsing under the weight of their own grandeur.

I think it is time to open up the system, end their monopoly, and let the girls on in. I am glad to see it.

PERSONAL RESPONSIBILITY ACT

Mr. Speaker, I yield to the gentleman from Texas so we can get back to our dialog.

Mr. GENE GREEN of Texas. Mr. Speaker, I appreciate the gentleman yielding.

I agree this is why we are here and to talk about the issues. I had not had an opportunity to read the Personal Responsibility Act or deal with it until we had the hearings yesterday.

We had six witnesses, five of them called by the majority side and one of them called by the minority side. Of those five, and that is what I said, that of those six witnesses, five of them asked that that be changed, that that PRA or the Personal Responsibility Act that deals with senior citizens nutrition.

They also asked for the school lunch program and breakfast program to be changed because the witnesses even called by the majority side said that that is wrong that we are cutting off food to children and some of the programs that have been developed over both Democrat and Republican administrations. But we used the testimony from the hearing yesterday and I called some senior citizens sites in my district and said, okay, just one provision of it that says that if you are under the age of 63, how many people are served in the Magnolia Multi-Purpose Center in Houston that are under the age of 63 and not disabled.

□ 2100

They told us, they said that this is the number we serve. They actually serve 35 people who are not classified as disabled and under the age of 63. The gentleman can look at the bill itself. It states if you are under 63, not disabled, you have to agree to work, or sign an affidavit to say you are working.

Mr. KINGSTON. Reclaiming my time for the purpose of asking a question, I am not sure about the details of that, but if I am hearing the gentleman correctly, he is saying if somebody is 63 years old and in good physical shape and able to work they are entitled to a free meal just because of their age.

The SPEAKER pro tempore (Mr. LAHOOD). The time of the gentleman from Georgia [Mr. KINGSTON] has expired.

Mr. GENE GREEN of Texas. Maybe next week we can continue this dialog.

INCREASING THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I support welfare reform. Reform of our welfare system is best accomplished by rewarding work—by making work a prize rather than a penalty.

Work is a prize when a full-time worker can earn enough to pay for life's necessities.

Work is a penalty when a person can achieve a better quality of life when getting public entitlements rather than holding a job.

That is why any discussion of welfare reform, must also include a discussion of other reforms. One such reform is minimum wage reform.

Contrary to a popular misconception, most minimum wage earners are adults, not young people.

And, many of the minimum wage workers are from rural communities. In fact, it is twice as likely that a minimum wage worker will be from a rural community than from an urban community.

The most disturbing fact is that far too many minimum wage workers have families, spouses and children who depend on them.

That is disturbing, Mr. Speaker, because a full-time worker, heading a family of three—the typical size of an American family today—and earning a minimum wage, would fall below the poverty line by close to $2,500 dollars. Imagine that.

In this country, a person can work, every day, full-time, and still be below the poverty level. Work, in that situation, is a penalty.

A review of the history of the minimum wage is revealing. First implemented in 1938, with passage of the Fair Labor Standards Act, the minimum wage covers ninety percent of all workers.

Between 1950 and 1981, the minimum wage was raised twelve times. During the 1980's, however, while prices were rising by 30 percent, Congress did not raise the minimum wage. Increases in 1980 and 1991 brought the wage to its current level, but did not bring it level with the cost of living.

In 1980, during the period when there were regular increases in the minimum wage as costs rose, a worker, with a family of three, earning a minimum wage, would have been above the poverty level. Work, in that situation, is a prize.

Enlightened economists and most recent studies now conclude that, increases in the minimum wage produce no significant changes in employment either up or down—among low wage firms.

Raising wages does not mean losing jobs. A recent, comprehensive study dramatically demonstrates this conclusion.

The State of New Jersey raised its minimum wage to $5.05. Its neighbor, the State of Pennsylvania, kept its minimum wage at the required level, $4.25.

According to the study, the number of low-wage workers in New Jersey actually increased, following the increase in the minimum wage, while the number of low-wage workers in Pennsylvania remained the same. Those are compelling results.

Since April, 1991, the minimum wage has remained constant, while the cost of living has risen, yet another 11 percent.

When costs go up and wages remain the same, the effect is that disposal income declines.

In other words, the ability of a minimum-wage worker to shelter, feed, and clothe his or her family becomes more and more difficult.

If, while working full time, a person has difficulty paying for housing, food, and clothing, the basic necessities, he or she can become discouraged.

The minimum wage affects many workers in America. More than 4 million individuals—6.6 percent of the labor force—worked at or below the labor force in 1993.

Another 9.2 million workers earned just above the minimum wage.

Mr. Speaker, it should interest us to know that most of the minimum-wage workers are women.

In fact, three out of every five or 62 percent of the minimum-wage workers are women. And, minimum-wage workers are more likely to be poor.

Last Congress, we expanded the earned income tax credit, and that helps those families who battle poverty each day.

But, that tax credit, according to the Center on Budget and Policy Priorities, does not go far enough to reach down and bring the minimum-wage workers out of poverty. We must do more.

When a person works, he or she feels good about themselves. They contribute to their communities, and they are in a position to help their families. Work gives a person an identity.

Our policies, therefore, should encourage people to work. We discourage them from working when we force them to work at wages that leave them in poverty.

Soon, Congress will have the opportunity to raise the minimum wage. Let's make rewarding work and wage reform an essential part of welfare reform. Let's encourage people to work. And, let's insure that they can work at a livable wage.

Let's raise the minimum wage.

CLEAN WATER ACT AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FILNER] is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, today my colleagues and I from San Diego introduced a bill to amend the Clean Water Act to allow San Diego to treat it sewage in a cost-effective and environmentally sensitive manner.

This has been a long fight for many of us. I have been fighting against nonsensical Fed requirements for more than 6 years.

These efforts began when I was a member of the San Diego City Council. During this time, I often found myself on the losing end of 7 to 2 votes—because a majority of my city council did not want to challenge the Environmental Protection Agency. But I was convinced—by my own research and the testimony of scientists from the prestigious Scripps Institution of Oceanography—that San Diego was already doing the right thing for our environment.

By 1992, my colleagues on the San Diego City Council came around and agreed with my position—that the requirement to upgrade the Point Loma treatment plant to secondary standards was ridiculous.

When I first ran for Congress, I promised to solve this sewage problem. And one of the first bills I introduced as a freshman in the 103d Congress was H.R. 3190, which is very similar to the bill that five of us introduced today.

But, unfortunately, here in Congress, I also met with resistance. I was told other cities were required to meet the secondary treatment standards, why should San Diego be treated differently?

I made it clear that my bill would in no way compromise the integrity of the Clean Water Act. In fact, by amending the law with common sense changes based on science, my legislation would ensure that the Clean Water Act had the flexibility needed to deal with unique situations and at the same time protect America's waters.

Mr. Speaker, let me explain. Existing law requires every city—regardless of environmental conditions and circumstances—to treat sewage at the secondary level. Yet scientific studies have proven that sewage treated at the chemically enhanced advanced primary level of treatment used by the city of San Diego, which removes over 80 percent of suspended solids in the sewage and discharges the treated effluent more than 4 miles out to sea at depths greater than 300 feet, does no environmental harm. In fact, eliminating power-consuming secondary treatment and the additional sludge it would produce would spare the environment from pollutants associated with wastewater treatment.

The city of San Diego is blessed with unique environmental conditions. The Continental Shelf drops off very sharply from the California coast. There is a very active ocean current. It also has an ocean outfall that is specifically engineered to maintain its surrounding waters so that our citizens can swim, fish, or boat with total confidence in our water quality.

By the end of the last session, my colleagues in the Congress agreed with my position and unanimously passed my bill to allow San Diego to apply for a waiver from the requirements of the Clean Water Act. And I have every confidence that this Environmental Protection Agency will approve San Diego's application for a waiver.

So why introduce another bill? Because this new legislation will ensure that San Diego will not have to jump though any more regulatory hoops.

Mr. Speaker, it costs more than $1 million to prepare an application for a waiver—and these waivers are temporary. The waivers are only good for a 5-year period. What is to prevent another administration from reversing its position and unilaterally trying to force San Diego to spend billions of dollars in unnecessary upgrades to its sewage treatment system? After all, history shows that the two previous administrations vigorously pursued such a lawsuit against San Diego.

There is scientific proof that this legislation is good environmental policy. Scientists from the highly respected Scripps Institution of Oceanography have concluded that upgrading from advanced primary to secondary treatment—the treatment required by current law—would have virtually no positive impact on our ocean's ecology.

In other words, the incredible costs for a small incremental increase in the purity of wastewater discharged into the ocean could not be justified by any measurable environmental gain.

I have led the fight against this unnecessary requirement since the time I served as a member of the San Diego City Council—that's over 6 years now. Today's action is the first time that the entire San Diego congressional delegation has united in this effort. And I applaud my colleagues for making this amendment a priority.

I hope that all of my colleagues in the 104th Congress will agree with us.

As this regulatory dance comes to its grand finale, the big winner will be the ratepayers of San Diego.

□ 2110

THE LINE-ITEM VETO DEBATE

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, I am going to speak tonight on the item that has been under discussion so much today, which is the line-item veto debate, and I want to say starting out that I have consistently supported for a number of years a modified line-item veto.

I voted on it at least twice in this House; I voted for it. This House passed a modified line-item veto twice last session of Congress. It died in the other body.

I will be offering, along with the gentleman from South Carolina [Mr. SPRATT] and the gentleman from Texas [Mr. STENHOLM], a substitute to the bill that is here before the committee, a substitute to the Republican version of a modified line-item veto.

Let us make clear what the goals are for all of us in dealing with a line-item veto discussion. The goals are twofold. First of all, the President be able to veto items in an appropriation bill that he or she thinks are unacceptable and send them back to the Congress for a vote up or down.

The second goal is that all Members be held accountable and must be forced to vote upon this veto.

The present system says that the President can rescind an item, that is, he can line-item it out, but that in order for it to go into effect, the Congress must act affirmatively. It must, both Houses, must act and vote "yes" in order for that to be preserved. The reality is that the Congress rarely takes a rescission up that the President sends in that vein, and it dies for failure of the Congress to act.

In both cases, the Republican version and the substitute that we will be offering, the Congress will be forced to vote upon this within a certain time limit. I think it is important to note that there are some letters flying around and discussion, is on an enhanced rescission, is on an expedited rescission. The fact of the matter is that whatever the policy wonks may call it, in both cases, the Republican version and our version, you are talking about a modified line-item veto, not a constitutional amendment, but a change in the statute.

Now, where are the differences? The differences are very clear. The difference is that at the end of the day after you go through the procedural hoops that each bill has, or the procedural requirements would be better stated, at the end of the day the Republican version requires two-thirds majority in order to overturn a rescission; in other words, it takes two-thirds of the Congress to say to the President, "We do not agree, and you cannot take that item out."

What that effectively does is to give control of the Congress to one-third-plus-one, a minority.

My version, the Spratt-Stenholm-Wise version, takes the other tack, which is to say it requires only a simply majority in order to defeat a rescission, and so the Congress must vote, but the majority rule is preserved, and a minority does not control the appropriations process.

Now, some argue that this really does not make any sense, that since a half of the Congress already voted for the total appropriations bill in which the offensive item was included, that, therefore, why should anyone expect that the Congress would reverse itself, that that majority would reverse itself? The answer is very clear: An appropriations bill that leaves here, a total appropriations bill, is a large package. It has many separate items in it, and sometimes you will vote for the entire package, because overall it is desirable even though there are individual items you disagree with.

What we are saying is that now when it comes back and the President has line-itemed out that offensive item, that now you can expect the Congress to take a fresh look at it, particularly since the Congress knows, every Member here knows, that their constituents at home are looking to see how they voted on this specific chance to cut the deficit and to cut the budget.

What is the significance of the difference between the Republican version and our version in terms of the two-thirds required to overturn versus the majority? It is very simple. It is one-third-plus-one. You believe that one-third-plus-one, a minority, ought to be able to control whether or not an item is preserved or not. I think that is too great a shift. The reality is almost no rescission by the President will be overturned.

Some may say, "BOB, you may be concerned about an item in West Virginia that would be line-itemed out." Certainly. But I think that if I can come to the floor and convince the majority of Members, the simple majority, that it is in the country's interest and it is a valid item, that it should be preserved.

Today it may be my problem. Tomorrow it may be somebody else's problem. Those of you from defense industry States, for instance, may feel some concern about what happens to military installations and defense projects that are so important, knowing that one-third-plus-one and an unsympathetic President, whoever, whenever that could be, could completely play havoc with your particular concerns.

This is a majority-rule country, 50 percent, and so I would simply ask Members to look closely at the Spratt-Stenholm-Wise substitute that will be offered, and I might add as well, that the gentleman from South Carolina [Mr. SPRATT] and the gentleman from Texas [Mr. STENHOLM] will be offering an additional amendment should our substitute fail. We will be offering an additional amendment that would simply add the provisions of this legislation to the existing Republican version in case the provisions of the Republican version are struck down as unconstitutional or should the President choose to follow the process that we have outlined versus the one that the Republican version outlines.

Let me also, as I finish up, reassure everyone in both cases you are guaranteed a vote in this Congress. You do not get away from that, and no Member gets away from having to go on the record, and in our case, it is usually 10 days from the time that the President submits that rescission to Congress.

I urge Members to take a close look and to vote for majority rule in this process.

EXPRESSING CONCERN FOR OUR MILITARY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Maine [Mr. LONGLEY] is recognized for 60 minutes as the designee of the majority leader.

Mr. LONGLEY. Mr. Speaker, it is a privilege and an honor to be part of this historic 104th Congress and to actively participate in one of our most sacred and basic responsibilities, insuring that the military forces of our country are prepared to fulfill any task, defeat any threat, and perform any mission their civilian leadership calls upon them to execute.

While this responsibility falls to every Member of Congress, I am especially pleased to have the additional honor of serving on the National Security Committee, formerly the Armed Services Committee. This committee assignment gives me the unique opportunity to examine our military and its overall capabilities to fulfill its missions in detail.

This will be a challenging assignment, but we have the wisdom and the very capable leadership of two veterans of this committee to guide us, first, the gentleman from South Carolina [Mr. SPENCE], the chairman of the full committee, and the gentleman from California [Mr. HUNTER], the chairman of my subcommittee, the Procurement Subcommittee.

Mr. Speaker, I am concerned today for the ability of our military to perform the many tasks we require of them, given the drawdown of our forces and the precipitous decline in funding over recent years. Any inability to perform missions is, I must stress, not for the lack of dedicated, professional, capable American men and women in uniform.

I am concerned that we, as a Nation, and specifically as a Congress, have not given our military the tools, the training, the equipment, and the support they need in recent years commensurate with the missions we have given them.

That is why I am looking forward to the committee hearing process this year. It will give me and my colleagues the opportunity to judge exactly the state of readiness that currently exists in our forces and that we need to do to restore the level of efficiency and readiness we think is desirable.

In examining the state of readiness of our forces, I think certain basic elements are guideposts. First, the quality of life for our service men and women and their families must be high, especially since we ask them to perform long hours often away from home for months at a time.

Mr. Speaker, I have been privileged to serve as a member of our armed services, particularly amongst the first marines and rangers assigned to northern Iraq during Operation Provide Comfort in the days in the aftermath of Desert Storm, but I am also proud to have served with soldiers, sailors, airmen, and marines over a period of time both on active duty and as a reserve officer, and I can personally vouch for the high quality and standards under which they serve.

Our forces, No. 2, must have adequate, realistic, comprehensive training to professionally meet the many challenges they face in this still very dangerous world.

□ 2120

No. 3, they must have adequate spare parts and equipment both to train realistically and to engage in potentially hostile missions.

No. 4, we need modern equipment. It is essential, as we cannot afford to stop the replacement of equipment to meet the ever sophisticated battlefields and threats around the world. We need our equipment ahead of time, not in the middle or after the fact because at that point it is too late.

No. 5, we need a sound ability to deploy our troops to crises around the world and especially as our force structure declines. It is key that we maintain an ability to influence world events through the rapid deployment of men, women, material and equipment in situations that affect our national interests.

Our military forces have taken the brunt of budget cutting for too long. It is clear that statistics are now indicating that our level of defense spending has now reached amongst the lowest level since since prior to Pearl Harbor. for a Nation of our size and economic significance it is time that we question whether in fact we are devoting the resources that we need to the crises that we may be asked to confront.

I think this is not a blank check. I think defense is on the table as we look at the budget, along with everything else other than Social Security. But I think we have to examine carefully our needs and be prepared, if necessary, to devote the budgetary resources necessary to insure military success in any contingency.

Toward that end I look forward to our committee work this year and will be working hard especially with my chairman, both the gentleman from South Carolina [Mr. SPENCE] and the gentleman from California [Mr. HUNTER] to do what is necessary.

I think it is also important that we establish the fact that in this new Congress defense is going to be receiving the same level of scrutiny as any other program in the budget. It is interesting that in the last 3 weeks, since this Congress first began to consider legislation, that our first major piece was the Congressional Budget Accountability Act, which held the Congress to the same standards that we hold the rest of the Government and the rest of the private sector.

Our next major piece of legislation was the balanced budget amendment. Just several days ago we passed unfunded mandates legislation. Again, in the course of looking at both the balanced budget amendment as well as the unfunded mandates legislation we were confronted with numerous requests. In fact, in the case of unfunded mandates nearly 160 different amendments that sought to carve out special exceptions from the unfunded mandate provisions of our legislation, the same type of opposition and exception was brought to the balanced budget amendment debate.

I mention that because this afternoon this House defeated an attempt to apply special provisions for the Defense Department under the line-item veto. That provision was defeated.

As a Congress we intend to stand behind principle, we intend to be consistent and we intend to confront the issues that we must confront in every area of the budget. It is on that basis that I feel very strongly that if we work and look realistically and honestly at the issues that confront us and the crises that we may be asked to confront, the needs of our defense will be self-evident and evaluated on the same basis as every other national priority.

Mr. Speaker, I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Speaker, I and a lot of other members of the Committee or Armed Services have been looking forward to listening to the gentleman from Maine talk about national defense because he has a special background of expertise, having been a Marine, having worked in Iraq during the post-Desert Storm period. He understands operational requirements and problems, he understand systems and he understands people, especially the people of the U.S. military. I look forward to listening to him tonight.

I might just say with respect to the dollars that are spent on national security, I saw an interesting fact when looking over the defense budgets that this House and the other body and the President have passed over the last 10 years or so. If you take President Clinton's defense plan and look at the 1998 projection and you compare that to the 1988 defense budget, the annual budget, and you compare them in real dollars; that is, in 1987 hard dollars, so you discount inflation, the national defense budget of this country, the annual budget in 1998 will be $100 billion less than the budget was in 1988.

So it is clear that this President has taken most of the budget cuts from national security.

I know the gentleman is a historian of sorts, that he has looked at military history and understands that after every conflict in recent times, World War II, Korea, Vietnam, and finally the closure of the Cold War, we have cut deeper and in worse ways than we should have. We have cut the wrong systems in many cases, and we have cut too deep and too soon.

I am reminded of General Marshall's words after World War II when he was asked how the demobilization was going. He said this is not a demobilization, this is a rout.

A few years later in Korea we were unable to stop a third rate military from marching right down the peninsula.

So I look forward to the gentleman's words. I think they come at a very important time in our history.

Mr. LONGLEY. Mr. Speaker, I appreciate the comments of the gentleman from California [Mr. HUNTER].

I think the gentleman has made some very important points. I am advised now that this fiscal 1995 budget is the tenth consecutive year of real cuts in defense spending and that we are approximately 35, as much as 40 percent below the level of spending in real dollars than we were in the 1986 budgets in the last several years of President Reagan's term in office.

What is very interesting is I am advised under the Bush administration that cuts proposed resulted in cuts of personnel of approximately 600,000, meaning not only cuts in the military but lost jobs in the defense sector, about 600,000, and that when we consider the current cuts proposed in the current administration's budget that could be 1.2 million jobs in this country.

You know, jobs are important, not only because of the fact that they give productive employment to our citizens, but they also represent some of the highest paying jobs in this country. But even going beyond that, this is about much more than jobs; it is about making sure that we have a strong national defense and that we are applying the resources that we need to meet the crises that we may be asked to confront.

Again, I am appreciative of the administration's effort to reinvent government. But it might interest our listeners to know that although the Department of Defense only comprises 40 percent of the civilian work force in this government, as much as 75 percent of the cuts in full time equivalent positions are occurring in the Defense Department in the area of defense.

I do not think that it is fair that the Defense Department is unjustifiably singled out, particularly given the level of commitments that we currently maintain.

There is also a more important point that needs to be made. Our defense budget, our resources must be in line with our commitments. There is a need for a balance. Our commitments cannot exceed our resources and our resources must be adequate to our commitments. But they have to be in balance, neither one can be out of line with the other because if we do not have the resources we need to cut back on the commitments, and by the same token if we make the commitments we have to make sure we have committed adequate resources to be able to fund our objectives.

I am advised that based on the administration's own bottom-up review two separate analyses of the bottom-up review indicate that the strategy that the administration is pursuing, including as it relates to the funding, is that there are discrepancies of everywhere. In the case of the General Accounting Office, there was an estimate that the defense was being underfunded to the tune of $150 billion. By the same token, the Congressional Budget Office made a similar estimate of between $65 billion and $110 billion underfunding. That means that based on the structural needs identified in the bottom-up review, based on our national defense strategy and the defense strategy and the threats that we could potentially face throughout the world, including the need to face two regional crises simultaneously, that we are not committing the resources that we need to meet the threats. In fact, there is some question not only whether or not we can confront two regional crises, but whether in fact we would be able to sustain a single major crisis.

□ 2130

Obviously we have got a level of commitment and dedication in our armed forces. I have every confidence that they are highly motivated and that they are doing the best to maintain their training and readiness, and I know that they are dedicated enough and will meet any mission that we might assign to them.

But again the underfunding, based on the commitments, the level of commitments that we seem to be seeing throughout the world, indicate to me that it is time for very serious reexamination, and I might mention, as I mentioned earlier, we passed the Congressional Accountability Act which is applying to the Congress the same standards that we apply to the private sector. We passed the balanced budget amendment in this House and sent it off to the Senate. Again we passed a clean amendment. We have protected no area of the Government from scrutiny that the balanced budget amendment will force. At the same time we have got unfunded mandates legislation that, in fact, we have specifically prevented the opportunity for anyone to carve out specific areas where the Congress could fail to have to take responsibility for spending or mandates that might be forced on our local and State government, and again, as I mentioned this afternoon under the line item veto, we are treating defense on the same basis as every other aspect of the Government.

I might mention that 2 days ago the House Committee on National Security, formerly the Committee on Armed Services, as I mentioned, worked up and marked up for forwarding to the House floor H.R. 7, the National Security Revitalization Act, and again it is important to know that we are following consistency and principle in the way we address these issues. H.R. 7 is an important first step toward restoring United States national security to the levels expected by the American people. It establishes a policy framework on national security issues, a policy framework that is designed to establish the threats that we face and provide a framework by which the party, the new Republican majority, and the Democrats in the Congress through the normal budget authorization appropriation process, can ensure that we are dealing adequately with needs of our defense and the resources that it might compel. But what is very significant is that this bill passed on a bipartisan vote of 41 to 13, again a very strong commitment from Members of both political parties behind a National Security Revitalization Act.

Several provisions that are also very important, some that may even be controversial or that will compel further public discussion, but we supported a requirement to deploy, to develop and deploy, theater and national missile defenses, a critical capability long neglected, and one of the issues that came up in committee and, I am sure, is going to come up on the floor of this House is that we are saying that it is time to eliminate much of the distinction, frankly the artificial distinction, that has been made between theater antimissile defense and national or ballistic missile defense. In fact the technology has advanced and accelerated to the point where the technology that we saw demonstrated so vividly during Desert Storm in fact can potentially be extended to prevent us against threats from intercontinental ballistic missiles. I recognize this is going to cause changes in national policy, but again it has become evident that the technology exists for missiles to be directed at this country, but simultaneously the technology also exists for us to find methods by which we can counter that threat to the innocent men, women and children of this country, and I think it is important to understand that.

I was also somewhat surprised to learn in the course of my studies on defense issues in the last several weeks the important role that the Aegis destroyer program plays and might potentially play in the antimissile defense systems in terms of the role of not only the theater antimissile defense systems, but what this technology may represent in the future, and again these are issues that I am sure my own constituents may not even be aware of, but this type of technology needs to move forward, and I think that we are going to see that start to happen once the National Security Revitalization Act is moved forward and passed, hopefully, in this House.

We have also established provisions designed to limit the placement of the United States troops under United Nations command. We have asked, and this legislation will require, congressional prior authorization before military forces can be deployed for certain U.N. peacekeeping operations.

And finally, based on the threats that exist to us throughout the world, we have established a bipartisan commission that would consist of equal Members of both parties, appointed by the Speaker, appointed by the leadership in the Senate and by the President, that would be instructed to revisit the defense policy blueprint, the bottom-up review, to ensure that we adequately identify these threats that we face, the strategies that we need to confront those threats, the force structure that will be needed to implement the strategy and the resources that we will need to make sure that our force structure, equipment and readiness are to the standard that the American people expect.

I might mention and it might be appropriate to cover briefly many of the different commitments that we have, many of them that are recent in nature, and frankly I think that the expectation at the end of the cold war was—our experiences proved contrary to what we have actually seen in fact.

As my colleagues know, as I speak on the floor of this House we have forces in Cuba handling significant numbers of refugees. We have the same commitments in Panama. In fact, Mr. Speaker, I am advised that between the two different locations we have as many as 20 or 30,000 refugees being cared for by thousands of American men and women in uniform. We have nearly 7 to 10,000 forces in Haiti, and again those forces may be withdrawing shortly, but presently they are engaged in a very important mission. Some of us may have disagreed as to whether or not it was appropriate to commit those forces, but now that they are there we are a hundred percent committed to seeing that they have what they need to fulfill the mission they have been assigned.

Furthermore, we have commitments in Bosnia. In addition we have commitments in Kuwait in the Persian Gulf, and again the subtleties of defense policy are sometimes difficult to articulate, difficult to understand, but personally I am of the opinion that one of the reasons we were forced to commit forces to Kuwait in the Persian Gulf in the latter part of last year was based on the fact that we had undertaken commitments in Haiti and the interrelationship, if you will, between our military action in one part of the world and what it potentially signals to potential adversaries in other parts of the world in terms of their estimate of our ability to respond. And again this underlies the fact that it is imperative that our national defense be second to none and that there be no question in anyone's mind of our commitment and our willingness to do what we need to do to defend this great country and its interests overseas.

We are all familiar with what has been happening in North Korea. We have commitments in Rwanda in Africa. We still have commitments in northern Iraq, a part of the world that I was privileged to serve in. We have upcoming commitments in Somalia. I have not even discussed what is happening in Russia and the Soviet Union, the threat that potentially is represented in the Middle East arising out of the Chechnya rebellion, as well as the instability in the Middle East and Israel, the real concerns that many people have as to the peace process and again our need to project the level of strength in the Middle East and around the world that will make it absolutely clear that we will not be challenged by any adversary, again a number of serious issues, very expensive in nature, and part of the reason that I am very concerned that our forces are not only being committed extensively but whether we have got and in fact have devoted the resources that are going to be necessary to make sure that we maintain the level of defense posture around the world that, again, leaves no question in any adversary's mind of our ability to defend our vital interests.

I would like to end and spend the next several minutes not talking about abstract issues of defense strategy, or weapons systems, or funding, but I would like to talk a little bit about the people, and I have been privileged to meet many of our men and women in uniform, particularly as a new Member of Congress.

□ 2340

Most recently, a week or two ago, I had an opportunity to visit at the Brunswick Naval Air Station, located at Brunswick, ME, in my district. I wanted to visit that installation to learn about the important role of the P-3 maritime patrol aircraft, the missions they are assuming. I was very surprised to learn in my own district in Maine that men and women had been committed overseas, not only in Bosnia. In fact, during the day of my visit, one of the squadrons was returning from duty in the Adriatic area, again serving our national interests and serving the interests as they have been articulated and committed to by our Commander in Chief. Not only were they serving in the Bosnia region, but in fact they had actually seen service in the Somalia area, in the Gulf, in the Middle East and the Atlantic and the Mediterranean. That was a surprise to me, even as someone who is a veteran of military service, to learn that an installation in my own district was playing such a critical role overseas, again helping project the American military presence in areas of the world where it was necessary.

I was privileged to spend some time with Capt. John Rodgers, the commanding officer of patrol wing 5, based in Brunswick. In addition, with Dave Nelson, the commanding officer of the air station. Both gentlemen were extremely helpful to me in helping to understand not only the important role of the facility and its strategic location along the North Atlantic and access to the North Atlantic sea lanes, but also the important missions served by the men and women of the P-3 squadrons in Brunswick and the P-3 squadrons in the U.S. Navy around the world, and again how important they are to the Navy's mission and to the mission of the American military.

Again, I had a great opportunity to meet not only some of the men and women returning from Bosnia, but particularly Comdr. Frank Munoz, the executive officer of patrol squadron 10. I was very surprised to learn not only had he just finished a 6-month deployment, he was greeted by his wife and children who obviously missed their husband and father, but it was actually his second deployment in the course of 12 months. Again, a perfect example of the level of commitment that our men and women in the armed services have to their jobs and to their missions.

Recently also I had an opportunity to visit the headquarters of the commander in chief of the Atlantic Fleet, particularly to spend some time with Rear Adm. Vernon Clark, the deputy commander in chief of Atlantic Naval Forces, who was kind enough to provide a small congressional delegation with a briefing on our threat and forces posture in his areas of responsibility.

Then a surprise, and a pleasant surprise at that, I had an opportunity to visit with Vice Adm. George Emery. Much to my surprise I learned that the commander of Submarine Forces Atlantic is a native of Springvale, ME, again in effect a constituent, certainly a native of the great State of Maine. But again, both individuals highly committed to their work and very serious in their concern and willingness to perform their duty in the interests of this country.

I also had a chance to spend some time with Comdr. Jack Loye, the commanding officer of the U.S.S. *Toledo*, a new Los Angeles attack submarine which will be commissioned shortly. I had an opportunity to visit his boat, his submarine, as well as talk with members of his crew and to see firsthand the level of pride, dedication, and commitment that each of these individuals had to fulfilling their mission in the course of serving in the Navy and aboard the U.S.S. *Toledo*.

Again, knowing and seeing firsthand, learning how difficult it is to perform in our military today, particularly in the case of a submarine where you could literally spend months at sea with little or no contact with your family.

I had an opportunity also to visit the U.S.S. *Theodore Roosevelt*. Again it was a bad weather day, but we flew out to the flight deck, landed on the flight deck. The *Roosevelt* was approximately 200 miles out at sea, and despite the bad weather, it was performing its training mission prior to upcoming deployments.

I had an opportunity to spend some time with Rear Adm. Steve Abbott, the commander of carrier group 8, a committed admiral and playing a very important role with this carrier task force. I also met the commanding officer of the ship, Capt. Ron Christiansen, and Comdr. Tank Rutherford, the executive officer of the *Roosevelt*.

Again there was a special significance for me to visit the *Roosevelt* because during my time in northern Iraq with the marines of the 24 Marine Expeditionary Unit and in serving with the rangers and the sailors and the airmen assigned to that part of the world, the *Theodore Roosevelt* was one of the naval vessels that was providing support for our mission.

I cannot begin to describe the feeling that one has on the ground in a hostile area, knowing that the men and women of the Navy and the Air Force were in the skies above the area to protect us if necessary on a moment's notice.

But most important, a number of constituents, residents of the State of Maine. Capt. Nils Sjostrom, whose parents live in West Southport; Lt. Stacy Murch, a young naval aviator and a recent graduate of the University of Maine at Orono, again at sea, flying the training missions required of his duty. His mother lives in Harrison. Also Cory LaPlante of Norridgewock, Stephen Willard of East Baldwin, Edward Hood of Caribou, Benjamin Crehore of Westport Island, and Michael Nantkes of Lincoln. Again, young men from the State of Maine, some of them from my district, doing their duty, 7 days a week, 24 hours a day on a vessel of our Navy. Again, this is the type of commitment that we are seeing with our young men and women in uniform.

I might mention not only the young men and women in uniform, but the kind of infectious example that they set and the impact that their service and their values have on others. I was pleased to have with me on the day I was in Brunswick my chief of staff, Floyd Rutherford, and he brought his two boys with him, Chip Rutherford and Chris Rutherford. And again, those young children, those young men, young boys, were very touched by the standards and the professionalism that they saw exhibited to the point that they might at some time want to consider service in the Navy or in the armed services. And again, that is the kind of positive impact that the training and discipline of military service has on our men and women, particularly on those civilians and those who come in contact with them.

But I want to end on a final note, and this is something that underscores for me what this is really all about, the level of commitment of our men and women in uniform. There was a resident of our great State, M. Sgt. Gary Gordon, who gave his life in Somalia. And I thought that I might end this presentation this evening by reading from the citation which by direction of the President under a joint resolution of Congress he was awarded the Medal of Honor for conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty. And I don't need to mention that the award was made posthumously. But I would like to read the type of situation that he confronted, so that people listening tonight can understand again how deeply committed the men and women of the armed services are.

M. Sgt. Gordon was serving in October 1993 in Mogadishu as a sniper team leader. His team was providing precision fire from a lead helicopter during an assault. I am going to read from the Medal of Honor citation exactly the way the official record reflects his duty.

They were providing covering fire at two helicopter crash sites, and while subjected to intense automatic weapon and rocket-propelled grenade fire, M. Sgt. Gordon, when he learned that ground forces were not immediately available to secure the second crash site, he and another sniper unhesitatingly volunteered to be inserted to protect the four critically wounded personnel of the two downed helicopters, despite being well aware of the growing number of enemy personnel closing in on the site.

□ 2150

I might mention that this young man did not volunteer once, did not volunteer twice, he volunteered three times to be inserted to go to the aid of those wounded personnel. And as the citation states, "after his third request to be inserted, permission was finally granted. He was inserted 100 meters south of the crash site, equipped with only a sniper rifle and a pistol," and I do not need to mention that those were weapons that were not necessarily adequate to the situation he was confronting.

> Through pure courage, MSgt. Gordon and his fellow sniper proceeded under intense small arms fire and fought their way to reach the critically injured crew members. MSgt. Gordon immediately pulled the pilot and other crewmembers from the disabled aircraft and established a perimeter which placed him and his fellow sniper in the most vulnerable position. They were there to protect the wounded.
>
> Despite the fact that Gordon was critically low on ammunition, he provided some of it to the dazed pilot and radioed for help. He then continued to travel the perimeter, protecting the downed crew. After his team member was fatally wounded, and Gordon's own rifle ammunition was exhausted, MSgt. Gordon returned to the wreckage, recovering a rifle with the last five rounds of ammunition and gave it to the pilot with the words, "good luck." Then armed only with his pistol, MSgt. Gordon continued to fight until he was fatally wounded. His actions saved the pilot's life.

Where, Mr. Speaker, where do we find men of this caliber? This is what it is all about. And the irony of this situation, a terrible irony, a tragic irony, is that when we do not have the equipment, the resources that we need to fulfill the mission, we still have the commitment of the American men and women who man our armed services, who are willing to give their lives in such situations. And that is what this is all about.

If we are going to commit our forces, we need to do whatever we need to do to make sure that they have the equipment, the training, the resources, that go along with the commitment. And if there is a final irony in the tragic situation that occurred on that October 3, 1993 in Mogadishu, is that after this event, the forces there finally received the M-60 tanks that they needed, the armored personnel carriers and other equipment that if that equipment had been available on that day may have saved MSgt. Gordon's life, as well as the lives of the other 17 men that were killed in that action. That is what this is all about.

Mr. Speaker, when we commit our forces, we do not have the time, it is past the time where we can make the funding decisions, where we can develop the resources, the equipment, where we can provide the training they need. When we commit our forces they are on a moment's notice. They have got to be ready at that time. And, Mr. Speaker, that is what this is all about.

Mr. Speaker, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman, Mr. Speaker. And coming from his background and as a marine officer, I think that his description of the importance of our national security posture and especially his description of the people who gave their lives for us in Somalia in Mogadishu is especially fitting.

I thank the gentleman for his expertise, and I look forward to working with him this year, because he is on the Committee on Armed Services. And we are all going to listen to him, junior member and senior members will listen to the gentleman from Maine.

Let me just add that we passed, in the Committee on Armed Services, a few days ago H.R. 7, that is the bill to revitalize the National Security Act of the United States. And that was referred by some people as a campaign promise that Republicans made and a lot of words but lacking in substance and somehow something that did not justify a serious debate and serious action.

Let me just say that in going over all of the findings and recommendations and provisions of H.R. 7, I feel that the Republican leadership and now a bipartisan majority of the House Committee on Armed Services, which endorsed this bill, has taken a step in the right direction.

For those people that said that this was not a factual set of findings, that somehow we were overblown with respect to the crash in national security, let me just go through a few of the statistics.

We said that there have been, between 1993 and 1999, budget plans for American defense that has cut defense spending by $156 billion. That is absolutely accurate. President Bush cut defense spending by in excess of $50 billion, conferring then Secretary of Defense Dick Cheney, Chairman of the Joint Chiefs, Colin Powell, and others.

President Clinton came along and cut national security $127 billion below the level that President Bush cut.

So the facts that are laid out in H.R. 7, the National Security Revitalization Act, are absolutely accurate on that point.

It also states that during the fiscal year 1995, we are reducing DOD by about 182,000 people. That is a rate of over 15,000 per month or over 500 people per day. That is absolutely accurate. And further the Bureau of Labor Statistics estimates that 1.2 million defense-related private sector jobs will be lost by 1997. That is accurate.

The bill goes on to state and define that in missions involving U.S. peacekeeping and humanitarian efforts involved in the fiscal year of 1994, over 70,000 U.S. personnel—I think it was mentioned by one of our experts that the Bosnian airlift has gone on for longer than the Berlin airlift—United Nations' assessments to the United States for peacekeeping missions totaled $1.5 billion. We pay 31.7 percent of all the peacekeeping costs that the United Nations incurs.

At the same time the United States of America undertakes unilaterally its own military missions like airlift missions in Africa, in Bosnia, and other places. And we pay for that ourselves. The French do not help us. The British do not help us. We know the Japanese do not help us. They are tight with their dollars. So we pay for our unilateral efforts and then we also pay the lion's share of the contribution to the United Nations operations.

Let me tell you what happens. The gentleman well knows that when we are involved in these pacekeeping efforts, we do what people in the military call taking expenses out of hide.

Taking expenses out of hide means that because we are paying for these peacekeeping operations in Rwanda, Haiti, Bosnia, and other places, troops are going untrained. That means, as the gentleman from San Diego, my seat mate, the gentleman from California [Mr. CUNNINGHAM], says, top gun does not get to go through its exercises. As he says, pilots fight like they train. The way you keep your pilots alive in combat is to train them well. But they do not get that training because we are taking those readiness dollars, those dollars that maintain their combat readiness, and we are spending those on peacekeeping operations.

I would challenge any Member of the House who wants to utter derogatory words with respect to the facts that are in H.R. 7, I would challenge any of them, as I challenged the Secretary of Defense to find any factual mistakes in the findings that we made in this bill.

Further, the bill goes on to say that a return to the hollow forces of the 1970's has already begun. The Secretary of Defense took issue with that. He said, that is not true. We are by far the most ready and the best military in the world.

Well, that is true. We are, as of right now, the most ready military in the world.

But we say that a return to the hollow forces has begun. And let me tell you some of the symptoms.

In 1994, one third of the units in the Army contingency force and all of the forward-deployed and follow-on Army divisions were reporting a reduced state of military readiness. During fiscal year 1994, training readiness declined for the Navy's Atlantic and Pacific Fleets. Funding shortfalls for that fiscal year resulted in grounding of Navy and Marine Corps aircraft squadrons and cancellation and curtailment of Army training exercises.

Those are symptoms of a return to a hollow military.

As of January 1, 1995, military pay is approximately 12.8 percent below comparable civilian levels. As a result, it is estimated that close to 17,000 junior enlisted personnel are having to take food stamps.

□ 2200

The Secretary of Defense may not like that fact, but that is the fact. They came out of his Pentagon.

Mr. Speaker, farther, and one factor that really influenced at least the Republican leadership's decision to sponsor H.R. 7, the National Security Revitalization Act, we looked at what President Clinton wanted in terms of force structure. He decided he wanted to take our Army divisions from 18 to 10. He decided he wanted to take our air wings from 24 to 14. He decided on our reductions in Navy ships that were fairly massive. He decided on making a number of cancellations of weapon systems.

But even to support that constrained, reduced force structure, the General Accounting Office found that the President's budget, the amount of money that he made available to us to support the forces of Army and Navy and Marines that we wanted, was $150 billion short. He did not give us enough money to do what he told us to do.

That is according to the General Accounting Office. The Congressional Budget Office came up with a figure that was less than $150 billion, but nonetheless a very substantial figure, many tens of billions of dollars.

So we were faced with a situation in which the President apparently, according to our analysts, is not giving enough money so that the people that the gentleman from Maine [Mr. LONGLEY] spoke about so poignantly, our fighting soldiers, will have the right equipment, the best equipment to carry out very dangerous missions.

Mr. LONGLEY. Mr. Speaker, I would like to just propose a question. I would be very interested in any thoughts the gentleman has on this.

Could the gentleman address the issue of what the underfunding does to the leadership in terms of the types of decisions that they need to make, the day-to-day decisions based on the financial necessities of maintaining the forces, particularly the high levels of operation and high levels of deployment, and how that has an insidious effect on our military structure?

Mr. HUNTER. Mr. Speaker, I would be happy to tell the gentleman that when you are forced to use your money for the peacekeeping operations, if that is what the gentleman is talking about, these new missions the President gives you—for example, when our marines came back from Bosnia, my understanding is they were given 12 days with their families after being away for many months, and sent immediately into the Haiti theater.

When that happens, and when the military has to use its money for operations, that means that they have to stop training exercises in many cases. That is why three Army divisions, three of our top Army divisions, were given C ratings that were less than combat ready. That means that they do not have enough money for training. That means that they do not have ammunition for training, perhaps. That means that their equipment is not kept up to speed.

Last year we did about 64 percent of what we required in terms of depot-level maintenance. That means our big equipment that we needed to take into the shop and get fixed so we could take it out on the next operation, we only did about 64 percent of what we had to do. That means that some equipment was 64 percent ready, and that means, in shorthand, if you had 100 tanks, you fixed 64 of them, not 100 of them.

What it does is make our military less ready to be able to respond to a national emergency. That is bad.

Does that answer the gentleman's question?

Mr. LONGLEY. It does, Mr. Speaker. Could the gentleman address the issues relating to the base closing process? Are we really reconsolidating and realigning our facilities?

Mr. HUNTER. If the gentleman will continue to yield, the base closing process, to answer the gentleman, was supposed to be a process in which we cut military infrastructure. By cutting down the overhead in the rear, just like a business, if you have a lot of people out there making products and you have a lot of people in the back offices who are executives, if you close down some of your overhead, that is all the white collar workers, then you become more efficient and you are able to make more products for the amount of money invested.

The idea with our base closure was, in pulling down this massive force structure that won the cold war for us and won Desert Storm for us, by reducing divisions from 18 to 10, by reducing our fighter air wings from 24 to 14, and on down the line, that what we needed to do at the same time was reduce a lot of these bases in the United States because we did not need all that overhead, just like a company does not need a lot of overhead if it reduces its operations.

That is true in many cases. We had bases in this country that were designed to hold off attacks from the Apache Indians. Those bases just managed to stay around because, even after peace was entered into between native Americans and our Federal Government, there was a good old Congressman there who wanted to keep that bastion of Federal soldiers with that payroll in his district, so we did have bases that did not perform a strong military mission. We did need to close those.

However, what we have done now is we have gone beyond closing those bases that are truly useless. We have started closing bases which have a real military requirement, but beyond that, we are not closing the bases effectively.

What has happened is that in closing bases, we have bought ourselves massive environmental problems and massive environmental costs, and we now see that it is costing us a ton of money to close the bases, much more than we ever anticipated.

What that means is like an uncle who has a string of condominiums. He just wants to give them away to his nephews, but his nephews tell him, "Uncle, before you give those condominiums to us, free of charge," like we want to give a lot of our bases away to States and counties and cities, "we want to charge you $1 million apiece to clean them up."

So we are spending a lot of our military money paying lawyers who are involved in lawsuits and administration of environmental laws with respect to our bases. We are not moving a lot of dirt, we are not really doing a lot of real substantial cleanup work. We are basically paying now a massive bureaucracy which shoves paper back and forth to its various members and gets paid for it, and at the same time keeps the bases from totally closing, and all that money comes out of the military budget.

I would say to the gentleman now that instead of spending as much money as we should on fuel, on flying time, on steaming time, on ammunition, we are now spending an extraordinary amount of money with lawyers and environmental regulators in the base closure business, so we have become ensnarled in a massive bureaucracy. We are going to have to cut off some of those environmental costs. I think we are going to have to defer them to a later time and simply, in some cases, put a padlock on those bases that we have closed, but stop spending our readiness money that keeps our troops ready to fight.

Does that answer the gentleman's questions?

Mr. LONGLEY. Mr. Speaker, I appreciate the gentleman's answer.

Mr. HUNTER. Would the gentleman continue to yield, Mr. Speaker,?

Mr. LONGLEY. I would be happy to yield.

Mr. HUNTER. Mr. Speaker, I wanted to mention one other thing that the Republican leadership placed in this National Security Revitalization Act, H.R. 7, that is related to the safety of the American people. We stated in this act that we shall deploy national ballistic missile defense systems and theater missile defense systems.

We live in an age of missiles. Dozens of countries now are developing ballistic missiles. We cannot avoid that, we cannot deny it. We cannot say, "That is war in the heavens, and we are not going to participate," because those missiles go up into the sky but they come down and they land in cities, they land on military bases, they land in the theaters where our young people in uniform serve.

We live in an age of missiles. We have to realize that, just like our forebears learned at the start of the century that we had entered the age of machineguns and we had entered the age of tanks and armor, and we had to adapt to that.

We still had a few old generals who wanted to keep the cavalry because they loved the cavalry. We had cavalry training operations up into the 1930's. Some of them said, "Boys, we just want to get faster horses, that is the answer." But that was not the answer.

The Democrat leadership has been reluctant to acknowledge that we live in an age of missiles. I will never forget watching Walter Mondale standing at the Democrat Presidential nomination convention in San Francisco and saying of the Republican idea of defending ourselves against incoming nuclear missiles, "That is war in the heavens, and I will never participate in that."

I cannot help but think, because Mr. Mondale is a fine gentleman, that if he was watching CNN and watched American Patriot missiles shooting down incoming Scud ballistic missiles—that is a slow ballistic missile, but a ballistic missile nonetheless, made by the Soviet Union—I am sure that when Mr. Mondale saw that incoming Scud coming into an American troop concentration, young men and women from the United States stationed in Saudi Arabia, and he saw a Patriot missile shoot up just like a bullet hitting a bullet and destroying that Scud, I am sure Walter Mondale, who said "I will never participate in war in the heavens," probably said "Thank heavens."

On that line, we now have to come together, Democrat and Republican, and concede that we live in an age of missiles and we have to do two things. We are going to have to have a capability of shooting down Scud missiles, the new missiles that North Korea is building and proliferating in the Middle East, Soviet missiles that are being sold by out-of-work generals in the former Soviet Union to Middle Eastern clients, to terrorist nations, and we have to have the ability to shoot those missiles down when they come into our troop concentrations in the Middle East or elsewhere.

Those are called theater ballistic missiles. They are kind of like the Models T's of missiles. They crank along a little bit slower than ICBM's.

□ 2210

Second, we have to be able to shoot down ICBM's, because other nations than the former Soviet Union are making ICBM's. Red China is making ICBM's. Those are missiles that can travel from China to the United States of America. North Korea is making ICBM's. They are trying to develop ICBM's that will be able to reach initially at least Alaska and later on other parts of the United States.

So we have to have a system that can deter, can beat, just like that Patriot missile going up and shooting down that Model T ballistic missile, the Scud, we have to have a system that can go up and shoot down one of those Cadillac ICBM's made by the former Soviet Union, made by red China, made by North Korea. And as our intelligence leaders have told you, the people we pay in our intelligence agencies, all of these nations, some of them led by very unstable leaders who want to get a piece of the action, who want to be superpowers, who want to have leverage in world affairs, are using as their weapon of choice, they envision their weapon of choice to be the intercontinental ballistic missile.

So we have to embark on a program to develop a national missile defense and a theater missile defense and this H.R. 7, the National Security Revitalization Act that was passed by the House Committee on Armed Services, and I probably say, passed by about 40 some votes to 18, I think, Democrats and Republicans passed this act.

This act says it shall be the policy of the United States to develop and deploy a national missile defense and a theater missile defense. That is the first time a body in either House has made such a strong commitment.

I am proud of my colleagues who joined with us, myself, the gentleman from Maine; our great chairman of the House Committee on Armed Services, FLOYD SPENCE, who led that bill through the markup process. I am glad so many Members of the other side of the aisle joined with us to see to it that America is well-defended. You cannot defend America if you do not defend against missiles.

Mr. LONGLEY. I thank the gentleman from California.

Mr. Speaker, I think that the strong note that is important that the public understands and the Members of this House understand is the very strong bipartisan commitment, not only in the other pieces of legislation that have been proceeding through this House in the last 3 weeks, but we have had strong cores in each party who have been aggressively working together to try to address issues of concern to the national interest.

As we move through the next several weeks, particularly as we hear more about the National Security Revitalization Act, I think that the public is going to recognize the strong bipartisan, nonpartisan commitment to defending this great country against the threats that she faces as we move into the future.

I welcome the opportunity to work with the chairman of the subcommittee and with the members of the committee as we address these very important issues.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. COLLINS of Georgia (at the request of Mr. ARMEY) for today and tomorrow on account of attending a funeral.

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT) for today after 5:30 p.m. and tomorrow, February 3, on account of attending Grandparents Day at granddaughter's school in Detroit.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. THURMAN) to revise and extend their remarks and include extraneous material:)

Ms. WATERS, for 5 minutes, today.
Ms. DELAURO, for 5 minutes, today.
Mr. OLVER, for 5 minutes, today.
Mr. GENE GREEN of Texas, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mr. CLAYTON, for 5 minutes, today.
Mr. FILNER, for 5 minutes, today.

(The following Members (at the request of Mr. KINGSTON to revise and extend their remarks and include extraneous material:)

Mr. FOX of Pennsylvania, for 5 minutes, today.
Mr. NEY, for 5 minutes, today.
Mr. BEREUTER, for 5 minutes, on February 3.
Mr. BARR, for 5 minutes, today.
Mr. DUNCAN, for 5 minutes, today.
Mr. KINGSTON, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. THURMAN) and to include extraneous matter:)

Mr. STOKES.
Mr. MARTINEZ.
Mr. FOGLIETTA.
Mrs. LINCOLN.
Mr. HOYER.
Mr. ACKERMAN.
Mr. MURTHA.
Mrs. MALONEY.
Mr. SANDERS.
Mr. OWENS.
Mr. COSTELLO in two instances.
Mr. GEJDENSON.
Mr. RUSH.
Ms. ESHOO in two instances.
Mr. CLAY.
Mrs. MEEK of Florida.

(The following Members (at the request of Mr. KINGSTON) and to include extraneous matter:)

Mr. BILBRAY.
Mr. FIELDS of Texas.
Mr. CLINGER.
Mr. KIM.
Mr. SOLOMON.
Mrs. JOHNSON of Connecticut.
Mr. HOSTETTLER.
Mr. PACKARD.
Mr. DORNAN.
Mr. BAKER of Louisiana.

ADJOURNMENT

Mr. LONGLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Friday, February 3, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

269. A letter from the Chairman, Panama Canal Commission, transmitting the Commission's report, including unaudited financial statements, covering the operations of the Panama Canal during fiscal year 1994, pursuant to 22 U.S.C. 3722; to the Committee on National Security.

270. A letter from the Administrator, Energy Information Administration, transmitting a copy of the Energy Information Administration's annual report "Energy Outlook, 1995," pursuant to 15 U.S.C. 790f(a)(1); to the Committee on Commerce.

271. A letter from the Chairman, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, transmitting a report on various issues of the Safety Research Program, pursuant to 42 U.S.C. 2039; to the Committee on Commerce.

272. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Australia (Transmittal No. 10–95), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

273. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the fiscal year 1994 report on implementation of the Support for East European Democracy Act [SEED] Program, pursuant to 22 U.S.C. 5474; to the Committee on International Relations.

274. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the administration's annual report on United States assistance and related programs for the Independent States of the Former Soviet Union, pursuant to 22 U.S.C. 5814; to the Committee on International Relations.

275. A communication from the President of the United States, transmitting a copy of the report on procedures established for effective coordination of research and development on arms control, nonproliferation and disarmament, pursuant to Public Law 103–236, section 711; to the Committee on International Relations.

276. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2000 resulting from passage of S. 2, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Reform and Oversight.

277. A letter from the Chairman, Commission on Intergovernmental Relations, transmitting the Commission's 36th annual report of the Advisory Commission on Intergovernmental Relations, pursuant to 42 U.S.C. 4275(3); to the Committee on Government Reform and Oversight.

278. A letter from the Acting Executive Secretary, National Labor Relations Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1994, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

279. A letter from the Administrator, U.S. Small Business Administration, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1994, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

280. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

281. A letter from the Chief, Forest Service, Department of the Interior, transmitting copies of the official boundary for the Clarks Fork Wild and Scenic River; to the Committee on Resources.

282. A letter from the Secretary of Transportation, transmitting the Department's 1994 annual report on the recommendations received from the National Transportation Board regarding transportation safety, pursuant to 49 U.S.C. app. 1906(b); to the Committee on Transportation and Infrastructure.

283. A letter from the Commissioner, Interstate Commerce Commission, transmitting a blueprint for further deregulation of the surface transportation industry; to the Committee on Transportation and Infrastructure.

284. A letter from the Secretaries of Defense and Veterans Affairs, transmitting a report on the implementation of the health resources sharing portion of the "Department of Veterans Affairs and Department of Defense Health Resources Sharing and Emergency Operations Act" for fiscal year 1994, pursuant to 38 U.S.C. 8111(f); jointly, to the Committees on National Security and Veterans' Affairs.

285. A letter from the Director, Office of Government Ethics, transmitting a draft of proposed legislation to amend the Ethics in Government Act of 1978, as amended, to extend the authorization of appropriations for the Office of Government Ethics for 7 years, and for other purposes; jointly, to the Committees on the Judiciary and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. McCOLLUM: Committee on the Judiciary. H.R. 665. A bill to control crime by mandatory victim restitution; with an amendment (Rept. 104-16). Referred to the Committee of the Whole House on the State of the Union.

Mr. McCOLLUM: Committee on the Judiciary. H.R. 666. A bill to control crime by exclusionary rule reform (Rept. 104-17). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLARD (for himself, Mr. BARTLETT of Maryland, Mr. BURTON of Indiana, Mr. DOOLITTLE, Mr. DORNAN, Mr. GILCHREST, Mr. GOODLATTE, Mr. HEINEMAN, Mr. METCALF, Mr. EWING, Mr. ROHRABACHER, Mr. SCHIFF, Mr. STUMP, Mrs. VUCANOVICH, and Mr. GENE GREEN of Texas):

H.R. 791. A bill to deny supplemental security income benefits by reason of disability based on addiction to alcohol or drugs; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 792. A bill to amend the Internal Revenue Code of 1986 to provide incentives for investments in tax enterprise zone businesses and domestic businesses; to the Committee on Ways and Means.

By Mr. BAKER of Louisiana (for himself, Mr. YOUNG of Alaska, Mr. EMERSON, Mr. TANNER, Mr. STUMP, Mr. KOLBE, Mr. RIGGS, Mr. MCKEON, Mr. BRYANT of Tennessee, Mr. UPTON, Mr. NEY, Mrs. CHENOWETH, Mr. LATOURETTE, and Mr. HANCOCK):

H.R. 793. A bill to eliminate the administrative authority to prohibit the possession or transfer of particular assault weapons; to the Committee on the Judiciary.

By Mr. BILBRAY (for himself, Mr. PACKARD, Mr. CUNNINGHAM, Mr. HUNTER, and Mr. FILNER):

H.R. 794. A bill to amend the Federal Water Pollution Control Act to deem certain municipal treatment facilities as the equivalent of secondary treatment; to the Committee on Transportation and Infrastructure.

By Mr. CANADY:

H.R. 795. A bill to impose a moratorium on enforcement of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980—Superfund—against certain persons and on the authority under that Act for contribution actions; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DORNAN:

H.R. 796. A bill to require the withdrawal of the United States from the NAFTA supplemental agreements on labor and environmental cooperation; to the Committee on Ways and Means.

By Ms. ESHOO:

H.R. 797. A bill to amend the Internal Revenue Code of 1986 to establish a Higher Education Accumulation Program [HEAP] under which individuals are allowed a deduction for contributions to HEAP accounts; to the Committee on Ways and Means.

By Mr. GEJDENSON:

H.R. 798. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish a permanent, confidential database and toll-free telephone line for the collection of medical information concerning members of the Armed Forces and veterans; to the Committee on Veterans' Affairs.

By Mr. HASTINGS of Washington (for himself, Ms. DUNN of Washington, Mr. TATE, Mr. METCALF, Mr. NETHERCUTT, Mr. COOLEY, Mr. BUNN of Oregon, Mr. WHITE, and Mrs. SMITH of Washington):

H.R. 799. A bill to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Resources.

By Mr. HOSTETTLER (for himself, Mr. BAKER of Louisiana, Mr. BOEHNER, Mr. BRYANT of Tennessee, Mr. BURTON of Indiana, Mr. CHABOT, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. COMBEST, Mr. COOLEY, Mr. EMERSON, Mr. LEWIS of Kentucky, Mr. MCHUGH, Mr. SMITH of Texas, and Mr. SOUDER):

H.R. 800. A bill to amend the conservation provisions of the Food Security Act of 1985 and the Federal Water Pollution Control Act to permit the unimpeded use of privately owned crop, range, and pasture lands that have been used for the planting of crops or the grazing of livestock in at least 5 of preceding 10 years; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself and Ms. WOOLSEY):

H.R. 801. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to repeal provisions relating to the State enforcement of child support obligations and to require the Internal Revenue Service to collect child support through wage withholding; to the Committee on Ways and Means.

By Mr. JACOBS:

H.R. 802. A bill to prohibit payment of Federal retirement benefits, except in certain cases, to those who are not retired as defined under the Social Security Act; to the Committee on Government Reform and Oversight, and in addition to the Committees on National Security, House Oversight, the Judiciary, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. JOHNSON of Connecticut (for herself, Mr. MATSUI, Mr. HERGER, and Mr. NEAL of Massachusetts):

H.R. 803. A bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities; to the Committee on Ways and Means.

By Mr. MILLER of Florida (for himself, Mr. STOCKMAN, Mr. CHRYSLER, Mr. SALMON, Mr. SCARBOROUGH, Mr. SANFORD, Mr. CHRISTENSEN, Mr. DAVIS, Mr. COBURN, Mrs. WALDHOLTZ, Mrs. MYRICK, Mr. ENGLISH of Pennsylvania, Mr. GANSKE, Mr. TIAHRT, Mr. NEUMANN, Mr. FOX, Mrs. SEASTRAND, Mr. BALDACCI, Mr. THORNBERRY, Mr. GUTKNECHT, Mr. HAYWORTH, Mr. GOSS, and Mr. DEAL of Georgia):

H.R. 804. A bill to amend title 5, United States Code, to limit the period of service which may be credited to a Member of Congress in the computation of retirement benefits, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OWENS (for himself, Mr. SANDERS, Mr. BROWN of California, Mr. CONYERS, Mr. DELLUMS, Mr. HASTINGS of Florida, Mr. HINCHEY, Mrs. MINK, and Mr. WATT of North Carolina):

H.R. 805. A bill to provide for the creation of jobs in America, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Transportation and Infrastructure, Banking and Financial Services, Economic and Educational Opportunities, Commerce, and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SKEEN (for himself, Mr. SCHIFF, and Mr. RICHARDSON):

H.R. 806. A bill to ensure the provision of appropriate compensation for the real property and mining claims taken by the United States as a result of the establishment of the White Sands Missile Range, NM; to the Committee on the Judiciary, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STOCKMAN (for himself, Mr. ROHRABACHER, Mr. FUNDERBURK, Mr. BURTON of Indiana, Mrs. CHENOWETH, Mr. COOLEY, Mr. FOX, Mr. GANSKE, Mr. GUTKNECHT, Mr. HAYWORTH, Mr. HUNTER, Mr. METCALF, Mr. SALMON, Mr. SANFORD, Mr. SCARBOROUGH, Mrs. SEASTRAND, Mr. SOUDER, and Mr. WAMP):

H.R. 807. A bill to protect the Constitution of the United States from unauthorized encoachment into legislative powers by the executive branch, and to protect the American taxpayer from unauthorized encoachment into his wallet by an unconstitutional action of the President; to the Committee on Banking and Financial Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS (for himself and Mr. MCKEON):

H.R. 808. A bill to amend title 10, United States Code, to provide for jurisdiction, apprehension, and detention of certain civilians accompanying the Armed Forces outside the United States, and for other purposes; to the Committee on National Security.

By Mr. VOLKMER:

H.R. 809. A bill to authorize and direct the General Accounting Office to audit the Federal Reserve Board, the Federal Advisory Council, the Federal Open Market Committee, and Federal Reserve banks and their branches; to the Committee on Banking and Financial Services.

By Mr. ZIMMER (for himself, Mr. UNDERWOOD, Mr. ENGLISH of Pennsylvania, Mr. BEILENSON, Mr. CLYBURN, Mr. EVANS, Mr. TORRICELLI, Mr. GILCHREST, and Mr. SANDERS):

H.R. 810. A bill to provide for the study of battlefields of the Revolutionary War and the War of 1812; to the Committee on Resources.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BALLENGER:

H.R. 811. A bill for the relief of Peggi M. Houston; to the Committee on the Judiciary.

By Mrs. VUCANOVICH:

H.R. 812. A bill for the relief of William P. Van Keymeulen; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 24: Mr. EHLERS.

H.R. 26: Mr. FOGLIETTA, Mr. ORTON, Mr. COYNE, Mr. MENENDEZ, Mr. DOOLEY, and Mr. SCARBOROUGH.

H.R. 40: Mr. INGLIS of South Carolina, Mr. WELLER, Mr. CHABOT, Mr. FATTAH, Mr. MCCOLLUM, Mr. ANDREWS, Mr. BILBRAY, Mr. SOUDER, Mr. FUNDERBURK, Mr. LONGLEY, Mr. FLANAGAN, Mr. SOLOMON, Mrs. SMITH of Washington, Mr. FOX, Mr. TORKILDSEN, Mr. PORTER, Mr. CHRISTENSEN, and Mr. STEARNS.

H.R. 58: Mr. STEARNS.

H.R. 123: Mr. BONO, Mr. LEWIS of California, Mrs. MYRICK, Mr. FIELDS of Texas, Mr. HOEKSTRA, Mr. LIPINSKI, Mrs. CHENOWETH, Mr. GANSKE, Mr. CHRISTENSEN, Mrs. KELLY, Mr. LIGHTFOOT, Mr. ISTOOK, Mr. BREWSTER, Mr. MILLER of Florida, Mr. MYERS of Indiana, Mr. HASTINGS of Washington, Mr. NEY, Mr. ROBERTS, Mr. SAM JOHNSON, Mrs. ROUKEMA, Mrs. SEASTRAND, Mr. STEARNS, Mr. HUNTER, Mr. SISISKY, and Mr. BROWDER.

H.R. 134: Mr. BARTON of Texas and Mrs. MYRICK.

H.R. 135: Mr. BARTON of Texas, Mr. DORNAN, Mr. SENSENBRENNER, and Mrs. MYRICK.

H.R. 136: Mr. BARTON of Texas, Mrs. MYRICK, Mr. ROHRABACHER, and Mr. DORNAN.

H.R. 138: Mrs. MYRICK, Mr. DORNAN, and Mr. SENSENBRENNER.

H.R. 139: Ms. MCKINNEY.

H.R. 141: Mr. BARTON of Texas, Mrs. MYRICK, Mr. DORNAN, Mr. SENSENBRENNER, and Mr. WELLER.

H.R. 143: Mrs. MYRICK, Mr. ROHRABACHER, and Mr. DORNAN.

H.R. 216: Mr. MCKEON.

H.R. 217: Mr. LATOURETTE.

H.R. 218: Mr. GENE GREEN of Texas.

H.R. 221: Mrs. CLAYTON and Ms. RIVERS.

H.R. 240: Mr. FORBES and Mr. SHUSTER.

H.R. 310: Mr. ENGLISH of Pennsylvania, Mr. CUNNINGHAM, and Mr. ROYCE.

H.R. 313: Mr. ENGLISH of Pennsylvania, Mr. CUNNINGHAM, and Mr. ROYCE.

H.R. 315: Mr. GENE GREEN of Texas, Ms. RIVERS, and Mr. ACKERMAN.

H.R. 326: Mr. GUTKNECHT.

H.R. 394: Mr. PACKARD, Mr. GREENWOOD, Mrs. THURMAN, Mr. STEARNS, and Mr. COX.

H.R. 398: Mr. CLAY, Mr. TORRES, Mr. CLYBURN, Mr. EVANS, Mrs. MEEK of Florida, and Mr. MFUME.

H.R. 442: Mr. JONES, Mr. BALLENGER, Mr. REGULA, Mr. HOEKSTRA, Mr. MCHUGH, Mr. HUNTER, Mr. MONTGOMERY, Mr. SANFORD, Mr. STEARNS, Mr. PAXON, Mr. LAHOOD, Mr. SCHIFF, Mr. CRAPO, Mr. GILCHREST, Mr. PACKARD, Mr. SAXTON, Mr. WELDON of Florida, Ms. ESHOO, Mr. BARTLETT of Maryland, Mr. BRYANT of Tennessee, Mr. LATOURETTE, Mr. LAZIO of New York, Mr. BURR, Mr. BONO, Mr. MCCOLLUM, Mr. DIXON, Mr. LIGHTFOOT, Mr. WYDEN, Mr. BACHUS, Mr. BENTSEN, Mrs. MYRICK, Mr. PORTER, Ms. MCCARTHY, and Mr. SOUDER.

H.R. 449: Mr. KENNEDY of Rhode Island.

H.R. 450: Mr. FIELDS of Texas, Mr. DEAL of Georgia, Mr. LUCAS, and Mr. CHAMBLISS.

H.R. 480: Mr. ARCHER.

H.R. 481: Mr. BACHUS.

H.R. 482: Mr. FLANAGAN.

H.R. 489: Mr. LAUGHLIN and Mrs. VUCANOVICH.

H.R. 491: Mr. ZELIFF, Mr. GENE GREEN of Texas, Mr. FLANAGAN, and Mr. TAYLOR of North Carolina.

H.R. 493: Mr. PASTOR and Mr. GUTIERREZ.

H.R. 592: Mr. CALVERT and Mr. DORNAN.

H.R. 607: Mr. MANZULLO, Mr. KNOLLENBERG, Mr. PAXON, Mr. ROHRABACHER, Mr. ROYCE, Mr. DORNAN, and Mr. SAXTON.

H.R. 663: Mr. LATOURETTE, Mr. KIM, and Mr. ACKERMAN.

H.R. 704: Mr. BROWN of California, Mr. WAXMAN, Mr. SMITH of Texas, Mr. ENGLISH of Pennsylvania, Mr. JACOBS, Mr. DORNAN, Mr. LANTOS, Mr. BLUTE, Mr. HYDE, Mr. BRYANT of Tennessee, Mr. SAXTON, Mr. GEJDENSON, and Mr. MANTON.

H.R. 711: Mr. STEARNS, Mr. SMITH of New Jersey, Mrs. VUCANOVICH, Mr. RIGGS, and Mr. EMERSON.

H.R. 753: Mr. HASTERT.

H.R. 756: Mr. SAM JOHNSON and Mr. SAXTON.

H.R. 762: Ms. KAPTUR.

H.R. 785: Ms. MCCARTHY, Ms. ROYBAL-ALLARD, Ms. ESHOO, Ms. MCKINNEY, Mrs. THURMAN, Ms. VELÁZQUEZ, Ms. DANNER, Mrs. KELLY, Ms. ROS-LEHTINEN, and Mrs. MYRICK.

H.R. 789: Mr. TALENT, Mr. STUMP, Mr. BURTON of Indiana, Mr. ROSE, Mr. LEWIS of Georgia, and Mr. RAHALL.

H.J. Res. 3: Mr. BARCIA of Michigan.

H.J. Res. 52: Mr. STARK, Mr. ROBERTS, and Mr. FATTAH.

H. Con. Res. 12: Mr. KLECZKA, Mr. KING, and Mr. HASTINGS of Florida.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2

OFFERED BY: MR. TAUZIN

AMENDMENT NO. 33: Section 2 is amended by adding at the end the following new subsection:

(d) SPECIAL RULE.—Notwithstanding subsection (a), in the case of fiscal years 1996 through 2002, the President may only rescind any budget authority or veto any targeted tax benefit under that subsection necessary to reduce the projected deficit for the fiscal year to which that rescission or veto pertains to the level set forth below:

Maximum deficit level

(In billions of dollars)

Fiscal year:	
1996	$174
1997	155
1998	116
1999	71
2000	59
2001	26
2002 and thereafter	0

H.R. 2

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 34: At the end, add the following new section:

SEC. 7. TERMINATION DATE.

This Act shall cease to be effective on January 1, 1997.

EXTENSIONS OF REMARKS

ON GROUNDHOG DAY

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. CLINGER. Mr. Speaker, it is with great joy that I rise on this, the 109th anniversary of Groundhog Day. Today, the fate of Old Man Winter has been sealed by one of our Nation's truly great prognosticators, Punxsutawney Phil.

While this great seer resides deep in his burrow at Gobbler's Knob in Punxsutawney, PA, the rest of the Nation suffers from the icy blasts of winter. However, he has emerged from his abode today to proclaim the near end of this, the most dire of seasons.

1995 GROUNDHOG DAY PROCLAMATION

Punxsutawney Phil, King of Groundhogs, Seers of Seers, the Omniscient Marmot, Weather Forecaster Without Peer has responded to President Bud Dunkel's summons at 07:29:43 this February 2nd, 1995. His long time friend and handler, Bill Deeley placed him atop his regal stump. From there he wished the throng of thousands "Happy Groundhog Day." After brief, observation and contemplation he spoke in groundhogese which Bud quickly translated and selected the appropriate scroll.

Oh Bud Golly Gee
Forgive me for acting giddee
But everyone will love me
Like Little Jack Horner
Spring is just around the corner
No shadow do I see, absolutely.

TRIBUTE TO THE AGRICULTURE ADVISORY BOARD

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. COSTELLO. Mr. Speaker, I rise today in recognition of a group of individuals who have been of great service to me during the past 2 years. This group is the Agriculture Advisory Board for the 12th Congressional District of Illinois. The Ag Advisory Board met several times throughout the 103d Congress, including one meeting where members met with then-Agriculture Secretary Mike Espy.

The last 2 years were challenging ones for the agricultural community. In the summer of 1993, nearly every county in my district was declared a Federal disaster area due to severe flooding. The flood, of course, had a major impact on the agricultural community. While my office was helping individuals deal with the disaster associated with the flood, I was thankful for the vital role each advisory board member played in being an ambassador for me by sharing information about flood relief to other farmers in their community.

A major success for agriculture in the 103d Congress was the inclusion of ethanol in the reformulated gasoline program. The increased use of ethanol in cities that are not in compliance with Clean Air Act standards will help increase the value of corn, our State's most abundant crop. The Ag Advisory Board members led their peers in contacting administration and congressional officials about elevating the role of ethanol.

I commend each member for giving of his time and insights to help me make well-informed decisions. The members of my Agriculture Advisory Committee during the 103d Congress were Mike Campbell of Edwardsville, John Deterding of Modoc, Lawrence Dietz of DeSoto, Edwin Edleman of Anna, Greg Guenther of Belleville, Craig Keller of Collinsville, Marion Kennell of Thompsonville, Vernon Mayer of Cutler, Dave Mueller of East Alton, Larry Reinneck of Freeburg, Bill Schulte of Trenton, Jim Taflinger of Cache, and Lyle Wessel of Columbia.

I am pleased that these gentlemen will be staying on the Ag Advisory Board during the 104th Congress. Because of a limited amount of Federal dollars, each member's input will be critical to me as I review the various Federal programs contained in the farm bill. I look forward to working with each member on agricultural matters during the 104th Congress. I ask my colleagues to join me in recognizing these individuals.

50TH ANNIVERSARY OF CABLE AIRPORT

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. KIM. Mr. Speaker, I rise to salute the 50th anniversary of Cable Airport in Upland CA, located in the heart of the 41st Congressional District. This outstanding facility is the world's largest, privately owned airport used by the public. I would also like to take this opportunity to honor the Cable family for their many contributions and years of service.

Since 1945, three generations of the Cable family have committed hardwork and dedication to the building and preservation of this airport. At a time when most publicly used airports are owned by government or quasi-governmental agencies, founders Dewey and Maude Cable have demonstrated the successful spirit of entreprenurialism and have bolstered private participation in aviation.

Smaller airports like Cable play an important role in the economic development of the surrounding region. Our communities have grown to rely on the benefits aviation facilities like this have to offer. Today, Cable Airport continues to faithfully serve the transportation needs of San Bernardino County and the State of California.

I congratulate Cable Airport and the Cable family on this memorable occasion and wish them continued success for years to come.

FISCAL RESPONSIBILITY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. PACKARD. Mr. Speaker, as a former dentist, I always stressed the importance of prevention as the best way to fight disease.

Last week Congress showed its commitment to better fiscal care with passage of the balanced budget amendment. Passing a Federal line-item veto gives the President the device he needs to prevent wasteful spending.

The line-item veto is one more prevention tool that will keep Congress under the watchful eye of the American people. It will make Congress more accountable to the people. The President can use his tool—the Federal line-item veto—to prevent Government's careless fiscal habits.

The American people demand a change in the way business is done in Congress. A Federal line-item veto will change how business is done.

IMPACT OF THE SAN DIEGO SUPERCOMPUTER CENTER ON SAN DIEGO AND THE STATE OF CALIFORNIA

HON. BRIAN P. BILBRAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. BILBRAY. Mr. Speaker, since 1985 approximately $200 million has been invested in the San Diego Supercomputer Center [SDSC]. Of this amount, the National Science Foundation has contributed $150 million, the State of California $21 million, and a large number of other government agencies and industrial partners $25 million—in cash and kind. This investment has caused businesses to invest their computing dollars in California. McDonnell Douglas has purchased a large subscription of supercomputer CPU time to do design work on its new passenger aircraft, the MD-12, and the space station *Freedom.* General Dynamics housed all of its advanced computing in SDSC.

Encouraged start-up businesses and research consortia to site their headquarters in California.—SDSC's presence was a key reason the international thermonuclear experimental reactor [ITER] project sited its headquarters in San Diego. This project, valued at $1.2 billion, is a 10-year international collaboration among scientists in the United States,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Germany, Russia, and Japan to develop a nuclear reactor design.

Similarly, Supertek, a producer of minisupercomputers, decided to site its operation in California. The company has since been purchased by Cray Research, Inc. Minneapolis, MN, which has productized the machine to expand the range in capability and price of the supercomputers it sells.

As a result of close relationships with SDSC management, the editor of the journal Supercomputing Review decided to site his publishing operation in San Diego. The journal has since renamed itself High-performance Computing Review and has established a commercial electronic news service, which now serves over 11,000 subscribers.

Produced spin-off companies.—Two operations that were spun off from SDSC are Distributed Computing Solutions [DISCOS] and the California Education and Research Federation Network [CERFnet]. DISCOS produces a long-term file storage software product, called DataTree, that runs on a variety of hardware platforms. A UNIX-based version of this product, called UniTree, is now also being marketed. These systems have been purchased by a large number of supercomputing facilities around the country. DISCOS, formerly a division of General Atomics, was sold recently to Open Vision Technologies, Inc.

CERFnet, a division of General Atomics, is a regional communications network that connects academic institutions and private industry mainly in southern California with the Internet. It was begun with a grant from NSF. Recently, as a result of its success in operations and service, CERFnet was awarded an additional $4.5 million contract from NSF to establish a commercial business to provide information on electronic resources and services available on the growing, and itself increasingly commercial, Internet.

Employed over 110 professional staff and, at any given time, some 30 part-time students.—DISCOS and CERFnet together have provided an additional 3 dozen jobs in San Diego.

SDSC'S IMPACT IN OTHER AREAS

SDSC has had an impact on San Diego and the State in other areas that are more difficult to quantify. This impact has been noticeable in:

A more highly trained work force.—SDSC has trained hundreds of undergraduate and graduate students, many of whom have remained in California as skilled professionals in high-technology industry.

The next group SDSC has targeted for training is high school science and math teachers through the Supercomputer Teacher Education Program, funded by a $1.575 million grant from NSF. SDSC will work with over 40 teachers from primarily minority high schools in a 3-year program to teach them about computational science and help them incorporate the techniques into their class curricula. Each of those teachers, in turn, will train well over 100 students per year.

Advancements in computational hardware and software.—SDSC supports close collaborations with various vendors and academic researchers—many of them within California—to develop, implement, and integrate parallel processing systems, link them by high-speed networks, and develop software such as code debuggers, performance analyzers, resource managers, and accounting tools. The goal of this work is to make powerful computer systems easier to use by large numbers of researchers.

Greater scientific understanding of problems affecting day-to-day life. In some cases this insight has led to legislative action to curb the problems.—SDSC is involved in scientific collaborations that are leading to greater understanding of scientific problems such as AIDS and Alzheimer's disease, air/water pollution, and global change.

One project is focused on designing a drug to inhibit the HIV protease. The HIV protease consists of two molecules; separated, they are harmless, but when docked together they produce AIDS symptoms. Researchers are trying to inhibit the harmful activity by creating a drug that looks like one of the molecules so it will dock with the other, but has different chemical properties so the docking will not produce harmful effects. Researchers from SDSC, Duke University, and UCSF have produced such a model using Sculpt, a program that interactively models the underlying physics and chemistry of a molecule as it is designed. This work could not have been done without Sculpt, which removes human guesswork from the process and runs 100 times faster than other commercially available systems. The next step is to synthesize and test the molecule in the laboratory.

In another project, a study of smog in the Los Angeles basin led to changes in local abatement policies. This work was done in collaboration with the California Air Resources Board.

In a third project, Project Sequoia 2000, SDSC is part of a research team to develop an advanced information management system to improve the productivity of global change scientists. This system, with advanced storage, data management, visualization, and networking capabilities, is likely to have application to a wide range of other scientific disciplines. SDSC's participation in this project was critical to the University of California winning the $15 million Digital Equipment Corp. grant. For additional important scientific projects, see "SDSC's Effectiveness," below.

A heightened awareness among government and industry of the economic benefits to be derived from computational technology.—Because of SDSC's success, there is now interest in establishing a satellite supercomputer facility in San Jose that will create jobs, attract industry to that area, and promote local area networking.

SDSC and San Diego city government are discussing how to provide CPU power and computational expertise to local-area business for defense conversion and to enhance product engineering. They are also discussing how to implement a county-wide network to link government offices, academic-research institutions, libraries, medical facilities, and, eventually, homes to enhance information exchange, improve medical services, and promote economic development in general. In fact, SDSC Director Sid Karin has become a member of the City of the Future Committee created recently by San Diego Mayor Susan Golding. An early focus of this committee is county-wide telecommunications.

SDSC has some 45 industrial partners. These partners gain a competitive advantage by obtaining access to state-of-the-art computational technology for use in product engineering. This technology helps such businesses produce better quality goods in a shorter period of time. In addition, such businesses gain the opportunity to experiment with various hardware platforms. This allows them to choose the most appropriate systems for their needs without facing the impossibly high startup costs in hardware and personnel associated with establishing a full-featured high-performance computing facility.

SDSC'S EFFECTIVENESS

Additional evidence of SDSC's effectiveness is shown by the broad scope and tangible effect of the research being conducted. Below is a sampling of projects leading, for example, to new commercial products; a cleaner, safer environment; the development of new materials; and medical breakthroughs. Many of these projects are collaborative efforts lead by researchers at universities in California and State and Federal agencies.

Industrial engineering.—Plastic injection mold design work by GenCorp to create a more durable Corvette car body; and design work by Caltrans to simulate a crash test bogie, a typical small, 1,800-pound car used to evaluate the safety of breakaway sign and lighting supports along roads and highways. Another project involves evaluating the characteristics of a potential new material for pavement consisting partly of recycled tires.

Environmental and Earth science.—Modeling a sewage spill off the coast of San Diego, which provided important information about sewage outfall engineering, containment, and cleanup. Similarly, scientists have demonstrated the effects of tides, currents, and atmospheric conditions on the distribution of pollutants in San Francisco Bay. This work was done in collaboration with the U.S. Geological Survey in Menlo Park, CA; modeling regional and global climate to understand interactions between the atmosphere and oceans or to study specific problems such as the periodic development and dissolution of the ozone hole over Antarctica; and studying fluctuations in the Earth's gravity field to better understand the formation of the Earth's surface and the movement of continental plates.

Materials science.—Studying the structures of various molecules to better understand their properties and evaluate their potential use in synthetic materials.

Medical science.—Studying the causes of fibrillation in heart tissue, which can lead to sudden cardiac death syndrome killing some 500,000 people per year in North America alone; reconstructing ultrasound data computationally into three-dimensional images to diagnose health problems noninvasively; simulating the coiling and knotting processes of DNA, which have implications for fundamental biological activities such as replication, transcription, and recombination; and calculating the stress exerted on developing bones—this is one area where stress has been shown not only to be beneficial, but crucial for proper development.

HUNGARIANS IN THE WEST CALL FOR TRANSYLVANIAN SELF-DETERMINATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. DORNAN. Mr. Speaker, the American Hungarian Congress and the Hungarian National World Council held a joint meeting and conference in Cleveland, OH on November 25, 1994, and passed a joint resolution regarding the sad situation of the Hungarian and other minorities in Transylvania—Romania.

While I realize the practical obstacles standing in the way of such a resolution of the ethnic question in Transylvania, I would like to call the attention of my colleagues to the thoughtful and bold proposal the resolution is advancing. There is no question that the tangled ethnic issue which the post-Communist government of President Iliescu seems to be incapable, or even unwilling, to solve, needs courageous and new initiatives which can point the way to a resolution which all the parties are able to live with.

AMERICAN HUNGARIAN CONGRESS AND HUNGARIAN NATIONAL WORLD COUNCIL RESOLUTION

Whereas, the history of the Transylvanian Hungarians, ever since they were separated from the Hungarian nation by the Trianon and Paris peace treaties and became a national minority in Romania, clearly demonstrates that they can neither individually nor as an ethnic group exist in Romania under acceptable humane conditions; and

Whereas, in addition, as a result of Romanian nationalist discrimination and persecution, the Csángó-Hungarians of Moldavia are no longer listed on official Romanian statistics; and

Whereas, fifty years ago, about one million Jews lived in Romania, and today they number less than 20,000; and

Whereas, fifty years ago, about 800,000 Germans lived in Romania, and today their number is about 100,000; and

Whereas, at the present time, the number of Romas (Gypsies) in Romania is about five million, but Romanian statistics recognize only a few hundred thousands; and

Whereas, since the Peace Treaty *Diktat* of Trianon, Hungarians who perished in Romanian internment camps or fled the country are estimated to be more than one million;

Therefore, in the knowledge of the above facts, the Hungarian National World Council and the American Hungarian Congress request, in the name of the more than two million Hungarians living in the United States of America, and other countries of the Western world; that be it

Resolved, that the Government of Hungary and the other governments of the Conference on Security and Cooperation in Europe secure the continued existence of the 2.5 million Transylvanian Hungarians (who were separated from their Hungarian motherland by the Trianon and Paris peace treaties) in accordance with European democratic norms (e.g. Switzerland and Belgium), so that within the framework of an independent Transylvania the Hungarians, Germans, Romanians, Gypsies and other ethnic groups may exercise their self-determination and rights as associated nations.

In witness thereof, signed in Cleveland, OH in the United States of America, this 25th day of November, 1994.

WELFARE, TIME, AND MONEY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. STOKES. Mr. Speaker, as Congress considers reforming our Nation's welfare system, articles and editorials throughout the country are capturing some of the key elements of the debate on the issue.

Just recently our distinguished colleague from Missouri, BILL CLAY, during a hearing of the Committee on Economic Opportunities, elaborated on the need for a welfare system that provides education and training, child care and health care support for individuals. His words were subsequently captured in an editorial which appeared in the St. Louis Post Dispatch.

Mr. Speaker, I am pleased to share the Post Dispatch editorial with my colleagues. It is insightful and certainly worthwhile reading. I also take this opportunity to commend BILL CLAY for his continued leadership on the welfare reform issue, and other issues of importance to American families.

[From the St. Louis Post-Dispatch, Jan. 23, 1995]

WELFARE, TIME, AND MONEY

At times, the public debate over welfare is depicted in ways to suggest that liberals want to do nothing about the problem and that conservatives have all the right answers. If the debate continues in that vein, chances are the people who need help the most could get lost in the rhetoric.

Last Wednesday, at a hearing of the Committee on Economic Opportunities, the ranking Democrat, Rep. William L. Clay of St. Louis, tried to boil the debate down to sensible questions: Are there enough jobs for the 4.6 million adults now receiving welfare? Who will care for the children while their parents work?

At issue are not people who are capable of finding work immediately. Forty-six percent of them, Mr. Clay notes, have less than a high school education. And the skills of the rest are such that they wouldn't be able to find work that pays a sufficient wage to support families.

"If we want welfare to become a temporary support system," he said, "then we must provide the education and training and child care and health care support essential to long-term employment. But that will take time and money."

Precisely. Time and money.

But that's not all. Both the GOP and the Clinton administration have to acknowledge that many of the hard-core segment of the welfare population are just plain unemployable. A study done for the federal government noted that this segment includes many with lower IQs, among other problems, making it exceptionally difficult for them to move easily from public aid to private work.

Another issue worth more discussion is the sorry state of this nation's child-support payment system. Illinois is a good example. A state audit found that 62 percent of the court-ordered support cases lacked sufficient information, such as driver's license numbers and Social Security numbers, to collect payments.

The Republican administrations at the top of Illinois government certainly haven't demonstrated that their party has all the solutions to welfare. Washington can make it easier for states to track these so-called deadbeat parents, some of whom are known to avoid their responsibilities by moving to another state. Why not use Internal Revenue Service records to help states keep track of these parents and make them pay their fair share?

Meanwhile, both the Republicans and the administration would do well to acknowledge Mr. Clay's points that genuine welfare will take time and money. To say the problem can be solved quickly or cheaply is either a delusion or a deception.

TRIBUTE TO CAROLYN JOY QUILL

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise on this occasion to pay tribute to Ms. Carolyn Joy Quill on the occasion of her retirement after more than 28 years of service at the Department of Health and Human Services and its predecessor agency, the Department of Health, Education, and Welfare.

In addition to working at the Department of Health, and Human Services [HHS] headquarters in Washington, DC, Ms. Quill has also served in the San Francisco and Philadelphia regional offices. Since 1989, she has been Regional Inspector General for Evaluation and Inspections in the Philadelphia regional office, where she was Director of an integral program of nationwide policy studies that provided Federal decisionmakers in both Congress and HHS with practical, reliable, and timely information and advice. Ms. Quill has also served in the Office of the Inspector General, the Public Health Service, the Office of Education, and the Social Security Administration.

As is evidenced by her many service-oriented positions, Ms. Quill is extremely active in community affairs. She founded and served as the first president of a local Philadelphia civic association, and in 1990 was honored with a citation from the Philadelphia city council in recognition of her dedication to civic affairs. In addition to these distinctions, Ms. Quill has received numerous Inspector General Achievement Awards, and is listed in the 1988 edition of "Who's Who of American Women." I join with Ms. Quill's friends, family, and coworkers in congratulating her on her retirement.

PROVIDING FOR THE PROTECTION OF PRIVATE PROPERTY RIGHTS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. FIELDS of Texas. Mr. Speaker, along with my colleagues, I am introducing the "Private Property Owners Bill of Rights," to require certain Federal agencies to protect the rights of private property owners in America.

Our Republic was founded upon the ancient and sound principles of ownership, use and control of private property. These principles of stewardship were embodied by our Founding Fathers in the fifth amendment to the Constitution, prohibiting the taking of private property without the payment of just compensation.

Today, a number of Federal environmental programs, specifically the Endangered Species Act of 1973 and section 404 of the Federal Water Pollution Control Act have been implemented by employees, agents, and representatives of the Federal Government in a manner that deprives private property owners of the use and control of their property. The result is that private property owners are being forced by Federal policy to resort to extensive, lengthy, and costly litigation to protect certain basic civil rights guaranteed by the Constitution.

As new Federal programs are proposed that would limit and restrict the use of private property to provide habitat for plant and animal species, the rights of private property owners must be recognized and respected. A clear Federal policy is needed to guide and direct Federal agencies with respect to their implementation of environmental laws that directly impact private property.

Therefore, it is the purpose of this act to provide a consistent Federal policy to encourage, support, and promote the private ownership of property and to ensure that the constitutional and legal rights of private property owners are protected by the Federal Government, its employees, agents, and representatives.

HONORING CAL KLEINMAN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with the constituents of my district in honoring Mr. Cal Kleinman, president of Bennett X-Ray Technologies, for his exceptional show of kindness and generosity.

Showing a remarkable combination of spiritual and physical sensitivity, Cal Kleinman traded an $85,000 cutting-edge mammography machine for a priceless, 300-year-old Torah—a prayer scroll containing the first five books of the Old Testament—that for 50 years had been lying in the basement of a drugstore in a small town less than a mile from the Auschwitz concentration camp. The town desperately needed the medical equipment, but had no way to pay for it. The only thing it had to offer were 18 Torah scrolls that had lain unnoticed since the defeat of Nazi Germany at the end of World War II. Mr. Kleinman jumped at the opportunity to help the developing country and to gain the Torah for his temple.

Through a complex network of deals and negotiations that brought the scroll to New York via Rome, Chicago, and Cincinnati, the first Torah scroll arrived in New York on January 30, 1995. Its permanent home will be Temple Beth Torah in Melville.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join me in honoring Mr. Cal Kleinman for his incredible act of benevolence.

REMEMBERING ELIZABETH MARRA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. HOYER. Mr. Speaker, the inevitability of death does not diminish the shock when it arrives prematurely and unexpectedly.

Thus came my friend, Elizabeth Julia (Betty) Marra's death: unexpected, premature, unwelcome.

Those of us who had been her friend through the years, and who, just days ago, had worked with her and experienced her enthusiasm and energy have great difficulty in contemplating her absence.

Betty Marra and I graduated from the same high school—Suitland—two years apart. We were contemporaries. Therefore, more than most, I know she has died too young. We did not know one another in high school, but soon thereafter we became friends as members of the Young Democrats of Prince George's County.

She loved politics and it was a very large part of her life. And in almost every campaign during the past 30 years, Betty was there: involved; leading; following; helping; encouraging; and making a difference.

She had come, like so many of us in Prince George's County, from someplace else. But this was home and this was where she made a difference. She worked for, taught, learned from, and greatly helped so many of us who have been given the privilege and honor of elected public service. From the great chairman of the House Judiciary Committee, Peter Rodino; to Representative Leon Galvin of Pennsylvania; to my friend, Representative Bill Hughes of New Jersey. And, of course, she participated as a member of the staff of the historic Impeachment Inquiry Committee in 1974.

Her longest continuous employment was, appropriately, with her dad—the patriarch of the wonderful Procopio family, which, like Betty, has made such a positive contribution to the life and wellbeing of our community.

Betty always reflected warmth and graciousness of her mother Rose; and evidenced by the love of her brothers: the late Alfonso, Jr., Ray, and Joe, and her sisters, Josephine and Linda. And, I can remember well, Julio as early as the 1960's, and the contribution he has made, as well. Thank you Julio, for what you have meant to so many of us.

Elizabeth Julia Marra was a special person, who reflected what Hubert Humphrey referred to in 1968 as the joy of politics. In talking to her sons, Al and Michael, they commented on that joy she shared. The excitement she derived from and brought to her involvement in the political process at the county, State, and national levels. From precinct official to President were persons she respected for their effort and their commitment.

Betty Marra was contagious. And so many of us caught her spark and carry it with us today. We will remember her and her vitality, her optimism, her drive, her warmth, her faith, her love of life and of all of us.

History chronicles the contributions of a few and we call those individuals famous. Betty was not famous. But, Betty Marra did what all of us should do; she gave freely of her time and talent to make her community and country better. She did what President Kennedy urged each of us to do and she did not "ask what her country could do for her, but what she could do for her country."

And, as she did, she joined the ranks of thousands who have played a part in preserving and protecting the great Nation we love as the "land of the free and the home of the brave." And so, for what she did for each of us; and what she did for me, I say, "Thank you Betty, we miss you."

DATABASE FOR TRACKING VETS' ILLNESSES RELATED TO VIETNAM SERVICE

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. GEJDENSON. Mr. Speaker, I rise today to introduce legislation which will establish a database within the Department of Veterans' Affairs to track patterns of illness experienced by our Nation's veterans.

In the 1950's, submariners in southeastern Connecticut were treated with radium exposure to the base of the brain. It's only recently that the Federal Government is beginning to recognize that veterans may have significant health problems as a result.

In the 1960's, we sent our troops into Vietnam. It wasn't until years later that troops suffering debilitating diseases as a result of exposure to Agent Orange received help.

In 1990, we sent our troops into the Middle East. It wasn't until the end of the 103d Congress that the mystery illnesses plaguing Gulf War vets were recognized as service-connected disabilities.

The Federal Government is beginning to respond quicker, but our veterans deserve better.

Our troops have just returned from Somalia, and will soon return from Haiti. We do not know if they are sick as a result of their service, but we shouldn't wait for years before we try to find out.

My bill would pro-actively look for health problems in service personnel and veterans beginning with those troops who returned from Somalia and continuing with all combat troops in the future.

It will establish a database in the VA to track disability claims, health screenings and individual phone calls looking for patterns of illness. The database will also include the spouses and dependents of veterans who may be ill due to the veteran's exposure. Finally, the database will be completely confidential and information will only be included with the individual's consent.

When we ask our troops to put their lives on the line in defense of our country, they do not say "we are too busy right now, maybe in a few years." They respond immediately. When they get sick as a result of their service, the U.S. Government has an obligation to respond immediately—not in a few years.

I hope other Members will consider co-sponsoring this important legislation.

RETIREMENT OF JOHN RECK

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. MURTHA. Mr. Speaker, I would like to take a moment to note the retirement of John Reck, the chairman of the United Steelworkers Association's Pennsylvania legislative committee.

John has spent 43 years with the USWA in Pennsylvania, serving in virtually every elective and appointive office in the organization. He has served as a member of various boards and commissions in the Commonwealth, and has been instrumental in negotiating labor agreements for the USWA in Pennsylvania.

I would like to take this opportunity to congratulate John and wish him well in his retirement. The USWA loses an important figure with his retirement, but John Reck has made the USWA in Pennsylvania a stronger and more effective organization through his work. His legacy will continue to influence the USWA in Pennsylvania, and his efforts on behalf of steelworkers will be long remembered.

SALUTING UNITED JEWISH APPEAL-FEDERATION OF NEW YORK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to recognize the good work of United Jewish Appeal-Federation of Jewish Philanthropies of New York.

This week marks UJA-Federation Week, a program featuring activities at community agencies, synagogues, and schools to promote awareness about UJA-Federation and the services it provides. Sunday, February 5, UJA-Federation will hold its annual Super Sunday development event.

The funds raised during Super Sunday will enable UJA-Federation to help 4.5 million people in New York, Israel, and over 50 countries around the world. UJA-Federation helps the Jewish community and New Yorkers from all backgrounds, including children, the aged, the poor, immigrants and refugees, single-parent families, the sick, the disabled, the homeless, and people with AIDS.

Mr. Speaker, it has been my great pleasure to work with UJA-Federation to help those in need, and I would ask that my colleagues join me in celebrating UJA-Federation Week as well as Super Sunday.

THE HIGHER EDUCATION ACCUMULATION PROGRAM [HEAP]

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Ms. ESHOO. Mr. Speaker, I am proud to sponsor the Higher Education Accumulation Program [HEAP] Act of 1995. This legislation would allow parents to make tax deductible contributions to IRA-like savings accounts earmarked for their children's college or vocational education.

Higher education has often become a matter of checkbooks as much as textbooks. When I first introduced HEAP last year, it was one of the few serious efforts attempting to help middle class families with climbing costs of higher education. I am pleased that my efforts put the issue on the radar screens of the Clinton administration and congressional Republicans. Last December, the President offered a tax deduction for college education and the GOP has reintroduced the American dream savings accounts. My bill will become part of the larger move in Congress to assist the middle class, promote higher education, and encourage greater savings by the American people. In short, this legislation makes a heap of good sense.

A recent study by the investment management firm T. Rowe Price found that in 11 years it will cost over $71,000 for a child to earn a 4-year degree from a public college and more than $139,000 for a child to attend a private university. HEAP will help middle class families whose kids do not qualify for low-interest student loans or other Government-subsidized education aid to meet these costs. Parents need an alternative. They should not be asked to liquidate their retirement savings or mortgage their homes to pay for higher education, and HEAP provides that alternative.

Parents and colleges are already well aware of this financing problem and are taking steps to address it. For example, a funding education committee was formed by the Kenyon College Alumni Council to explore cost projections for attending their school in the years ahead. Alumni, parents, faculty, and administration personnel spent over a year looking at costs, public policy issues, and financing ideas. They were shocked to discover that, assuming a moderate annual inflation rate, it will cost approximately $250,000 for students to obtain a 4-year degree if they enter Kenyon College in 2010.

Mr. Speaker, Kenyon College, its alumni council, and its funding education committee deserve a great deal of credit for addressing this problem. In particular, I would like to commend Neal Mayer, immediate past president of Kenyon's Alumni Council, for bringing this matter to my attention and developing the concept incorporated in my legislation. Not only has the Kenyon Alumni Council helped draft this bill, but it is also spearheading a grassroots drive to generate support for HEAP among various college parents, alumni, and officials across the country. I hope that many of my colleagues will soon hear from these HEAP supporters and cosponsor this important legislation.

The HEAP Act would allow parents to deposit up to $5,000 per child each year in a college savings account with a maximum allowable deduction of $15,000 per year. When money is withdrawn from a HEAP account for education purposes, one-tenth of that amount would be included in the gross income of the beneficiary for tax purposes over a 10-year period. The legislation also includes a 10-percent penalty for money withdrawn from a HEAP account for purposes other than paying for higher education.

Mr. Speaker, this legislation provides a HEAP of relief for middle-class families who are often not eligible for low-interest student loans and other Government aid. By encouraging these families to save for their children, we help give future generations access to all the advantages of higher education. I urge my colleagues to support the HEAP Act and pay tribute to those who shaped this worthy legislation.

ISRAEL H. MILTON HONORED

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mrs. MEEK of Florida. Mr. Speaker, next week Israel H. Milton, the Assistant Dade County Manager responsible for human services programs, will retire from our county government. I want to join with his many friends and admirers throughout our entire community in extending to him our thanks for his outstanding service and our congratulations for a job well done.

Israel Milton is a public servant in the very highest and best sense of the word. He is a veteran of more than three decades hard work and achievement in the area of social services.

Never one to shy away from difficult assignments, Israel Milton began his career in Dade County in 1967 as a social services administrator at the Kendall Children's Home. He also served as director of the Office of Neighborhood Service Centers and director of the Model Cities Program; became director of the Department of Human Resources in 1982; and rose to assistant county manager in 1992.

The talents and judgment he brought to these jobs and the breadth and depth of his experience will be sorely missed; people of his calibre are not easily replaced. He has always been accessible to the people of our community, constantly working to provide quality services and a better life for all our citizens.

Israel Milton is a graduate of Dorsey High School in Miami and Bethune-Cookman College. He received his master's degree in social work from Atlanta University.

Mr. Speaker, I want to extend my best wishes to Israel Milton and to his wife, Thelma Milton. Our community thanks you for your service and for the contribution you have made to the lives of so many people.

"PAID VOLUNTEERISM": AN OXYMORONIC IDEA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. SOLOMON. Mr. Speaker, I commend George Will's article in the Saturday, January 28th edition of the Washington Post for your attention:

TWO LIBERAL LOSERS

(George F. Will)

President Clinton's turbid State of the Union address was a metaphor for modern government—sprawling, metastasizing, undisciplined, approaching self-parody. It underscored the fact that his administration now is politically almost harmless, but is aesthetically excruciating.

The address was heavily larded—exactly the right word, that—with semi-conservative words about cutting taxes, spending and regulations. However, regarding two matters Clinton considers crucial—the American Corps "national service" program and the minimum wage—the address was half-baked and half-hearted liberalism.

AmeriCorpos, says Clinton, will revive American volunteerism. The approximately 80 million Americans who volunteer their time to religious and civic organizations may wonder who needs reviving and how much it matters whether AmeriCorps eventually produces 100,000 more volunteers. Today 2.9 million of America's 80 million volunteers are ages 18 to 25, the ages of AmeriCorps "volunteers."

To Americans who use the English language to communicate thoughts rather than parody them, the use of the word "volunteer" in connection with AmeriCorps' recruits must seem like the latest redundant evidence that Washington is stark raving mad. To plain-speaking Americans, a volunteer is someone who contributes his or her unpaid labor. Clinton's "volunteers" will be paid a $7,400 annual stipend, plus $9,450 worth of college expenses over two years. And this is not all that Clinton's little puddle of government-manufactured "volunteers"—little relative to the 80 million true volunteers who need neither financial incentives from, nor organization by, government—will cost taxpayers.

In addition to the health and childcare entitlements for AmeriCorps members, and AmeriCorps' Washington bureaucracy, money is spent to locate "volunteers" to take AmeriCorps money. The Omaha World-Herald says that AmeriCorps gave Nebraska's state government a $457,622 grant to recruit 23 AmeriCorps members. That $19,896.60 per recruit calls into question the effectiveness of the $1.7 million AmeriCorps paid a Washington PR firm for national advertising.

According to the New Citizenship Project, a conservative advocacy group, of AmeriCorps' first 20,000 "volunteers," 1,200 are working for agencies of the federal government. The New Citizenship Project warns that AmeriCorps is ripe for politicization, citing a Washington Monthly report that a 1993 pilot project became an exercise in identity politics and political correctness, developing ethnic and homosexual caucuses. And the Los Angeles Times reported that a 1994 pilot project in San Francisco used its "volunteers" to protest "three-strikes-and-you're-out" crime legislation."

Clinton calls AmeriCorps the achievement "I would say I was most proud of." No minimum wage increase will be rival for that title.

In 1992 candidate Clinton endorsed increasing the minimum wage. During 1993 and 1994, when he had a congressional majority that would have done it, he did not ask for it, primarily because some sensible Democrats told him it was a dumb idea. Al From, head of the centrist Democratic Leadership Council, which once advertised Clinton as a New Democrat, says of the minimum wage proposal: "It's anachronistic, it's a loser, it's got no bite with the middle class. And it screams old Democrat."

Now that there is a Congress that Clinton knows will not enact an increase, he calls it urgent. However, during Tuesday night's oration, when he was pitilessly detailed about almost everything, he remained reticent about how much the minimum wage should be increased. Leaving aside the unwisdom of government telling employers what to pay employees, it is generally true that when you increase the cost of something, people buy less of it. There is evidence that is true of labor at the low end of the wage scale.

The first federal minimum wage—25 cents an hour—was enacted in 1938. Since then, the longest time between increases was from 1981 to 1990. During that span, teenage unemployment (teenagers are a third of all minimum wage earners) fell from 23.2 percent to 15.5 percent, and black teenage unemployment fell from 48 percent to 31 percent. Then the forces of compassion struck, raising the minimum wage twice, in 1990 and 1991. In 1992 teenage unemployment went up to 20 percent.

Now, it is problematic establishing causation for any phenomenon as complex and varied as joblessness. And some studies, including one by associates of the current secretary of labor, purport to show that the minimum wage can be increased somewhat without increasing unemployment. However, the question is academic because a former academic—Rep. Dick Armey, the ex-professor of economics who now is majority leader—says he will oppose an increase "with every fiber of my being," and he will have much company.

But this is of more than academic interest: The minimum wage is now $4.25 an hour. Clinton is said to be thinking about seeking $5 an hour. The New Citizenship Project calculates that AmeriCorps "volunteers" earn more than $7 an hour.

SALUTE TO CHICAGO ATTORNEY AND FORMER ALDERMAN LEON DESPRES, ON THE OCCASION OF HIS 87TH BIRTHDAY

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. RUSH. Mr. Speaker, I rise this afternoon to salute a gentleman who is a Chicago institution and a lifelong friend of the underdog and of the working Chicagoan. Leon Despres, who turns 87 years young today, played a crucial role in the Chicago City Council during the senior Richard Daley's tenure as mayor of Chicago. This role, that of the loyal and principled opposition, is one that my Democratic colleagues and I are growing to appreciate more and more as we settle into our new roles in the 104th Congress. Unfortunately, I did not have the honor of serving in the Chicago City Council during the 20 years that Mr. Despres served there. However, he served as Parliamentarian of that body under the late, great Mayor Harold Washington during my first few years in the Council. Len Despres is well known as a tireless advocate of such bread-and-butter issues as racial equality, civil rights, fair housing and open government. Unlike so many of his contemporaries, he advocated many of these controversial issues during a time before they were fashionable and frequently did so in the face of great opposition. Mr. Speaker, the *Chicago Tribune* published an article about Mr. Despres in its January 22, 1995 edition, and I submit this article, which captures the essence of Mr. Despres quite accurately to be entered into the CONGRESSIONAL RECORD in honor of Mr. Despres' 87th birthday.

[From the Chicago Tribune, Jan. 22, 1995]

STILL IN THE SWIM

(By M. W. Newman)

Leon Despres gets to bed around 9 o'clock on most weeknights and sleeps the sleep of babes and sages. At 4:50 a.m. he's up and ready to go. That's the Despres way.

Thirty-five minutes later, he's downstairs at 59th Street and Stony Island Avenue, waiting in the icy darkness for the CTA's No. 6 express bus. It's a January morning, 4 degrees above zero. A prairie wind shivers in. No problem: Despres has had 86 years of getting used to it. Nearly 87.

The No. 6 at this hour is a working folks' bus. The passengers are regulars. As on most mornings, Despres is the only white person aboard. Almost certainly he is the only 86-year-old. Beyond doubt, on this trip he is the only Loop lawyer, former alderman and certified civic role model, all in one.

The bus' swings downtown along South Lake Shore Drive. Despres loves the lakeside run but notes the pileup of parking lots and convention halls and traffic ramps where trees or open water once held sway.

"Civicide" is one of his words for voluntary treeslaughter. Until a few years ago, he enjoyed bicycling to work on the lakefront until he was rammed from behind and knocked cold by another biker.

"I took that as a warning; you can't hear a bicycle," he says—and gave up the bike for early-a.m. swimming.

By about 5:50 on this morning, as on all weekday mornings, he's in the University Club, a polished neo-oldie cloister at 76 E. Monroe St. The club building dates from 1908, the year Despres was born at 41st Street and Michigan Avenue. It has dark wood paneling and baronial fireplaces, but he skips all that and is in the basement pool by 6 a.m.

Despres is not there to float around. He does his 52 laps, a half-mile, moving from backstroke to breast stroke to crawl as steadily as a swimmer a quarter of his age.

Usually a half-dozen other swimmers join him. But no one else even shows up on this ice-cold morning.

"The whole gang chickened out," he says with a laugh.

He's in the water by himself for 42 minutes, comes out lit up and follows with poolside coffee, rolls and bagels: the Despres routine.

"It makes my day," Despres says in that strong, clear voice of his. "Absolutely makes my day."

But his day is just starting. By 7:45, Monday through Friday, he's in his office at 77 W. Washington Blvd. for a full round of work. He doesn't knock off till 5:15.

Leon Despres, generally known by his nickname of Len, is an enduring natural wonder of Chicago. For 20 years ending in 1975, Despres was the City Council's independent icon, the finger-wagging conscience from Hyde Park snipping at old Boss Mayor Richard J. Daley and the party machine.

Daley has been dead since 1976 and the machine long since has lost firepower, but Despres goes on. He thrives on lawyering, the hands-on kind. He relishes phone calls, conferences, clients new and old.

He's not a man for long lunches, and sometimes grabs a salad at Morton's Cafeteria, an old-line hangout for old-line Lop types at 120 W. Madison St. He takes time out only for a half-hour afternoon nap "to recharge my batteries." Office routine elates him.

"I enjoy clearing titles, drafting wills, advising people," he says. Mind you, this has been going on since he started practice in 1929.

The man is an institution: the Phi Beta Kappa liberal, independent Democrat and best friend of underdogs who wouldn't go along and consequently never got to be a judge or a congressman.

In his time in office you couldn't beat City Hall, and Despres didn't. But now try walking with him anywhere near that hall without someone coming up and saying, "Hello, Alderman."

"Everybody wants Leon's blessing," says his friend Herbert M. Kraus, a veteran publicist and civic doer. "He's a Renaissance man in hustling Chicago."

Despres may not hustle, but he gets there just the same. He's tall and erect, with an assured manner, handsome features, silvery hair and a silver tongue to go with it. These days he's trying to take off 10 or 15 pounds. Otherwise he doesn't look all that different than he did during his warrior times in the council.

"Leon was born with a great deal of energy and can do whatever he sets out to do," says his wife, Marian. She is an eminent Chicagoan herself and a member of the Chicago Landmarks Commission. But when he gets up early to go swimming, she confides, "I roll over and go back to sleep."

'HORATIO AT THE BRIDGE'

Despres' fan club includes some members who at times crossed swords or at least words with him. Seymour Simon, now 79 and a former justice of the Illinois Supreme Court, was an alderman and ward committeeman in the Daley vs. Despres years. He calls Despres "the best alderman in the United States."

"He was Horatio at the bridge," says Simon. "Wise, brilliant, with a great grasp of details and sense of humor."

John Hoellen, 80, served with Despres from 1955 to 1975. Hoellen was that exotic aldermanic import, a Republican.

He and Despres once got into a row over a James Baldwin novel that was required reading at Wright Junior College. It wasn't any of the City Council's business, but Hoellen challenged Despres to read aloud some of the homoerotic passages. Despres replied by asking Hoellen if he would ban the Bible because it had sex in it.

But all that was 30 years ago. Hoellen now describes Despres as a "super person, thoughtful, considerate, decent, compassionate."

Probably nobody, however—starting with Despres—expected him to go on being a successful lawyer into his late 80s. He is at a peak of achievement, says his 45-year-old partner, Thomas Geoghegan.

Despres long has been an attorney for labor union, and his clients in the firm of Despres, Schwartz and Geoghegan now include the Teamsters under the reform leadership of Ron Carey.

In the 1980s, Geoghegan was the firm's point man in an embittering fight to win a settlement for the bereft employees of Wisconsin Steel after it shut down. A $14.8 million payout was awarded in 1988. Despres' Steeltown ties go back a long way—to the days when there really was a Steeltown.

Ed Sadlowski once was the youngest district director in the United Steel Workers of America, with Despres as his attorney. Sadlowski hadn't even been born in 1937 when Chicago police killed 10 labor demonstrators at a Memorial Day gathering. The shooting came to be known in labor history as the Republic Steel Massacre.

In the stunned aftermath, a protest rally was held in the Civic Opera House. "Did you know Despres helped to organize the rally?"says an admiring Sadlowski.

"He's had 60-odd years of being consistently good. He was over at my house the other day and he's as sharp as ever. I wonder what he drinks that keeps him that way."

Said Sadlowski's wife, Marlene: "Exercise!"

REMEMBERING CLARENCE DARROW

Like Cole Porter penning a lyric, Despres always seems to know what his next word should be. He can spout in four languages and quotes Thucydides, Ovid, Homer, Shakespeare and the fabled Chicago lawyer of yester-year, Clarence Darrow.

Darrow died in 1938, but Despres recalls a long talk he once had with the brooding old titan. "He had an office right in this same building," he says. "We keep his photograph in our conference room. He was an inspiration, a great trial lawyer—selflessly interested in the fight against discrimination and the death penalty."

Every year on the anniversary of Darrow's death, Despres helps to conduct a memorial ceremony for him in Darrow's beloved Jackson Park.

Despres, of course, is not the rumpled, suspenders-thumbing showman and yarn-spinner that Darrow, was. He keeps his hair combed, wears a pressed suit and a neat tie, and cannot be accused of cracker-barrel charisma.

But Despres has shown how to bring "justice to the city," Geoghegan wrote in "Which Side Are You On?" his impassioned book about organized labor published in 1991.

Despres never has left much doubt about which side he is on. The elder Daley's gumshoes spied on him for years, it turned out after Despres left the council. They may have wondered why they bothered, because he seemed to favor lost causes and oddball fancies like racial equality and fair housing, civil rights, open government, budget economy, freedom from censorship, controls on lead-paint poisoning.

Despres was even tailed to a Halloween benefit party in 1972 at the First Unitarian Church on 57th Street.

But a funny thing happen on the way to the 21st Century. Musclebound Chicago loosened up. Despres has lived long enough to see many of his causes embraced or least grudgingly accepted by the party wheelhorses.

"You don't have the top-heavy load of payrollers anymore," says Hoellen. "There's more sensitivity to problems."

BATTLING THE BOSS

But there's less comic relief. Despres' tiffs with Boss Daley, sire of the present mayor, had an "Odd Couple" sense of antic timing. The Boss was maximum leader of the troops, had the votes and presided over the City Council, so he couldn't lose.

Despres learned early to talk fast before the beet-faced mayor could grow irritated and cut off his aldermanic microphone. That happened at times. "I couldn't count on any 10 minutes," Despres explains.

Seymour Simon summons up remembrance of a Daley-Despres sideshow of the late 1960s. Despres "was the instigator" on that occasion, according to Simon, and was needling the Boss about his choice of a new police superintendent. It was a ticklish matter. Chicago had never fully reclaimed face after a 1960 "burglars-in-blue" scandal that was all but etched on the city seal.

Daley flared back and called Despres "a faker," Simon remembers.

That brought Simon into the game. He urged the mayor to cool it. At the time, Simon had begun wearing his hair in a replay of Samson before Delilah got her shears. Baseball players and hard hats often look that way now. But in the 1960s hair around the ears looked like aldermanic heresy to the Boss.

"Why don't you go get a haircut?" he snapped at Simon.

Legend has it that Despres proposed that the council's forestry committee set standards for the foliage of aldermen, though he says he doesn't remember that quip now.

Even that wasn't the last word.

Two days later, Daley telephoned Simon.

"Sis [Daley's wife, Eleanor] tells me I got to apologize," he said.

"No need," Simon replied. "We're grown men."

"Sis tells me I got to apologize," the Boss repeated.

A CIVIC LANDMARK

Despres rarely heard apologies. Ald. Vito Marzullo despaired of him as a "nitwit." Ald. Thomas Keane, Machiavelli of the council, complained that Despres was a "loudmouth." That was before Keane was sent up for mail fraud.

Aldermen who stayed clear of prison yelled "shut up" at Despres. He never did. What's more, he remained on the council scene after retiring from it by serving as parliamentarian for two mayors: Jane Byrne ("always interesting and she gave great parties") and Harold Washington ("a great mayor"). It was all in a day's routine for a man used to 100-hour work weeks when he was an alderman.

Despres never was your trademark civic father. He is a connoisseur of books, opera, theater, architecture, food, fine wines and world travel.

He founded the Friends of WFMT to support that FM radio station in a struggle with its board. His firm went into battle to ensure that the station would maintain its fine-arts character.

But Despres is first of all and most of all a Hyde Parker. He went to school there, he built his political base there. In 1967 he was mugged and shot there, on 55th Street, and lived to explain that it could happen anywhere.

He and his wife—who have a son, Robert, in Connecticut, and a daughter, Linda Baskin, in Chicago—have been married for 63 years. They celebrated their 60th by chartering a cruise boat and inviting some 200 friends to join them. In the Despres mode, the voyage was educational as well as sentimental: skyline sightseeing with a tour guide. The boat explored Chicago's Old Ma River, both branches, and Len says: "It's the greatest Chicago trip. You see the buildings in a way you never saw them before."

Despres will be 87 on Feb. 2, a Thursday. He expects it to be a workday as usual. He'll board the No. 6 bus in the darkness, swim 52 laps or maybe more, have a bagel and coffee, and get to work.

"I have been very fortunate," he says.

And that is Chicago's own good fortune.

THE IMPORTANCE OF RESEARCH AND DEVELOPMENT

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mrs. JOHNSON of Connecticut. Mr. Speaker, the single biggest factor behind productivity growth is innovation. Two-thirds to 80 percent of productivity growth since the Great Depression is attributable to innovation. In an industrialized society, research and development is the primary means by which technological innovation is generated. However, because firms cannot capture fully the rewards of their innovation—the rate of return to society of innovation is twice that which accrues to the individual company—the market activity alone creates under-investment in R&D. The situation is aggravated by the high risk associated with R&D. Eighty percent of such projects are believed to be economic failures. Therefore, economists and technicians who have studied the issue are nearly unanimous that the Government should intervene to bolster R&D.

If the United States fails to provide U.S. companies with competitive incentives to conduct R&D, many U.S. firms in key industries—aerospace, electronics, chemicals, health technology, and telecommunications, to name a few—will find it harder to compete in an increasingly globalized marketplace, jeopardizing their leadership positions.

For the past 13 years we have had an R&D tax credit, designed to provide an incentive for companies to conduct additional R&D in the United States. Some, myself included, believe the credit structure can be improved to increase its effectiveness, especially regarding small business and high-technology industries. As the marketplace changes and industries mature, we must continue to improve the effectiveness and utilization of this important program. We have made such changes on no fewer than four occasions in the past. Most importantly, however, we must remove the uncertainty surrounding the credit's extension and once and for all permanently extend the provision. Study after study has established that the credit's uncertain future reduces its ability to continue stimulating additional increases in R&D expenditures.

To the extent that researchers in American laboratories are able to pioneer the new technologies, processes, and products that will drive global markets, we will be able to offer skilled and highly paid jobs to the next generation of Americans. That is why we must now underscore our permanent commitment to a leadership role in global technological advancement. If we fail to act, the R&D credit will expire in June of this year. Such failure is the opposite message we should be sending to U.S. businesses that are gearing up to meet the challenges of a rapidly changing, global marketplace.

As we prepare to enter the 21st century, we must remain committed to providing an environment that fosters technological investment and scientific exploration. America's continued economic well-being depends on it. Such investment creates more and higher paying U.S. jobs, increases productivity, and, in turn, increases the U.S. standard of living.

There is considerable discussion, on both sides of the aisle and within the Administration, about smaller government, less regulation, and market incentives as opposed to Government-dictated solutions. The R&D credit is an example of a successful program by which the Federal Government has encouraged market forces to dictate where and when innovation and technology should occur. The most recent study on the issue, prepared by KPMG Peat Marwick's policy economic group, concludes that "a one dollar reduction in the after tax price of R&D stimulates approximately one dollar of additional private R&D spending in the short run, and about two dollars of additional R&D spending in the long run." That, in turn, implies long run increases in GDP. Thus, an effectively targeted R&D credit can help set the pace of growth and should not be allowed to expire.

Currently the Government spends over $71 billion per year on nondefense R&D. This spending will, and should, come under scrutiny with the rest of Federal spending. This spending can be cut without reducing our commitment to U.S. commercial leaders of the technological revolution. I believe a permanent R&D credit should be enacted as part of a meaningful, market-driven program to stimulate R&D, and I sincerely hope such action can be completed before the June 30, 1995, expiration date.

I am pleased to be introducing this legislation with my friends and colleagues, Representatives ROBERT MATSUI, WALLY HERGER, and RICHARD NEAL. I intend to work actively to ensure a permanent extension of the R&D credit and encourage all my colleagues, on both sides of the aisle, to work with me in this important endeavor.

AGRICULTURAL LANDS PROTECTION ACT OF 1995

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. HOSTETTLER. Mr. Speaker, today I am introducing the Agricultural Lands Protection Act of 1995. This bill is meant to provide fundamental change in the approach taken toward deciding how land can be used. It grants owners of regularly farmed land freedom from overzealous regulators and it would end the withholding of farm program benefits as a penalty for farmers farming their land.

The Agricultural Lands Protection Act of 1995 will not jeopardize ground water quality. It will not inhibit the numerous private sector efforts to restore and conserve true wetlands.

How a property owner uses his or her land should determine how that land is classified. Water levels and vegetation types should not take precedence over the property owners' land needs. We can make significant strides toward helping farmers and ranchers economically by simply getting these burdensome regulations out of the way.

Farmers are the true conservationists. Nobody appreciates more the need to take care of the land. Their livelihoods depend on it. But a low spot in a field that holds water after heavy rain is not the ideal habitat for ducks. If it has been farmland, it should stay farmland until the property owner decides otherwise. I urge all members to cosponsor and support this valuable bill.

BIG BROTHER AND THE SECOND AMENDMENT

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. BAKER of Louisiana. Mr. Speaker, today I introduced legislation to eliminate the new regulatory authority of the Bureau of Alcohol, Tobacco and Firearms [BATF] to ban firearms without congressional approval. You will certainly recall that last year, the Clinton crime bill authorized the BATF to enforce a ban on 19 semiautomatic guns while granting the BATF the discretion to ban additional firearms in the future without congressional approval.

Most people don't realize that along with the 19 semiautomatic firearms that are banned specifically by the assault weapons ban, the Clinton crime bill gives the BATF broad authority to define what other firearms qualify as assault weapons and then to ban these rifles, shotguns, and pistols as well without further congressional approval.

On May 16, 1994, I, and many of you, voted against the assault weapons ban, which passed the House of Representatives by a narrow vote of 216 to 214. As with every gun control measure, I voted against the ban because it does nothing to keep felons off the streets and behind bars, and it serves only to infringe upon the constitutional rights of law-abiding citizens. In my opinion, giving BATF and the Clinton administration the blanket authority to ban more guns was the worst part of the crime bill. The legislation I introduced today would repeal this authority and close the open door to BATF to ban further guns.

I am proud to introduce this legislation today with the bipartisan support of 12 other original cosponsors. As continued opponents of gun control efforts in Congress, we want you to know that this legislation was introduced in the hope that we can scale back recent efforts that hand over this dangerous amount of control to a bureaucratic agency—an agency which crime bill supporters have entrusted to tell the American people which firearms they can and cannot have. We believe that this is simply too much power that will no doubt be abused in the coming months by BATF unless we work to repeal it in Congress.

As a member of the new Republican majority in the House, I want you to join me to scale back the gun control measures enacted under this administration. Let us make history by stepping forward to ensure the permanent protection the second amendment, which has protected the American people for 218 years.

INTRODUCTION OF THE JOB CREATION AND INVEST IN AMERICA ACT OF 1995

HON. MAJOR R. OWENS

OF NEW YORK

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. OWENS. Mr. Speaker, we and seven other members of the Progressive Caucus today are introducing one of the 11 bills of the Progressive Caucus Alternative—The Progressive Promise—to the Republican Contract With America. Our legislation will create at least 1 million new jobs for unemployed Americans in each of the next 2 years by rebuilding our Nation's highways, bridges, mass transit, and other physical infrastructure and by investing in job training and expanded services for the most needy in our society.

This major jobs bill goes to the heart of the sweeping legislative package that the 33 members of the Progressive Caucus unveiled 2 weeks ago as the only comprehensive legislative alternative brought forth in the Congress so far that charts a positive alternative course of policy action to the Republican Contract With America.

More specifically, our ambitious jobs bill will provide $63.6 billion in new investments to stimulate the national economy during fiscal years 1996 and 1997. It is fully paid for by eliminating tax loopholes that reward U.S.-based multinational corporations for investing abroad and exporting U.S. jobs and through targeted progressive tax increases that will fall principally upon the unearned income of upper-income Americans.

Beginning in the 1940's and reaffirmed by the Humphrey-Hawkins Act in 1978, Federal law has deemed 4 percent unemployment as the hallmark of a strong and stable economy. But now we are confronted with a Republican welfare reform plan that abandons our national commitment to training and providing jobs for millions of unemployed Americans who desperately want to work and attain some small measure of economic security for themselves and their families.

The members of the Progressive Caucus believe that it is cruel, short-sighted, and counterproductive to enact welfare reform legislation without providing jobs for millions of unemployed Americans who are ready, willing, and eager to be a part of the mainstream American economy.

Furthermore, we believe that fundamental fairness dictates that upper-income Americans who have received the biggest tax cuts during the last 15 years, as well as highly-profitable multinational corporations that have enriched themselves by investing huge sums of increasingly scarce capital to manufacture overseas and to take advantage of cheap, unprotected foreign labor, pay their share to retool and rebuild our Nation to compete more effectively in the 21st century.

Full employment is what America is about. It is our promise to ensure that every American has a job with an adequate income that enables individuals and families to join in the American dream. No one that is willing and able to work should be denied that opportunity or should have to work 40, 50, or 60 hours a week and still live in poverty.

This is not a new concept. It was the centerpiece of Franklin Delano Roosevelt's "Economic Bill of Rights," proposed in 1944 as part of his last State of the Union Message. In it he called for jobs for everyone willing and able to work. The Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights recognize work as a basic human right.

One in every 10 American families now puts food on the table only with the aid of food stamps. Tens of millions more survive on bare subsistence, from paycheck to paycheck. Millions have fallen into unemployment or underemployment.

In more and more abandoned neighborhoods in America, a lack of jobs, income, education, and hope has created an extraordinary climate of savagery and violence surpassing that of many communities in third world countries.

In 1978 with the passage of the Humphrey-Hawkins Full Employment and Balanced Growth Act, the U.S. Congress made a promise to Americans. Congress made a contract with America for full employment, where the national unemployment rate was not to exceed 4 percent.

Before we move on the Republicans' Contract With America and balance the budget on the backs of poor, hard-working Americans, we have an obligation to carry-out a 50-year-old promise for full employment. Five decades ago, our national leaders recognized what is still true today: that there are numerous economic and social costs to the Nation without full employment. Those costs were stated in the Humphrey-Hawkins legislation. Without full-employment we are:

Depriving our nation of the full supply of goods and services, the full utilization of labor and capital resources, and the related increases in economic well-being that would occur under conditions of genuine full employment;

Lacking sufficient output of goods and services to meet pressing national priorities;

Depriving workers of job security, income skill development, and productivity necessary to maintain and advance their standards of living;

Exposing many families to social, psychological, and physiological costs, including disruption of family life, loss of individual dignity and self-respect, and the aggravation of physical and psychological illnesses, alcoholism and drug abuse, crime and social conflicts;

Undermining Federal, State and local government budgets by deficits due to shortfalls in tax revenues and increases in expenditures for unemployment compensation, public assistance, and other recession-related services in the areas of criminal justice, alcoholism, drug abuse, and physical and mental health.

Depriving businesses, especially small businesses, of the production, sales, capital flow, and productivity necessary to maintain adequate profits, undertake new investment, create jobs, compete internationally, and contribute to meeting society's economic needs.

These days, more people at work is bad news for the economic pundits and financial speculators. Declining unemployment should be good news. Too many of those who do have work are employed in low-wage or dead-end jobs. Statistics reveal that in the first half of last year, for instance, 27 percent of all new jobs were in the temporary-help industry, and a further 26 percent were part-time. Less than half of the new jobs were private sector, non-temporary jobs. Manpower, Inc., the leading provider of temporary workers, is now the largest private employer in America.

If we look at wages we again see the decline in well-paying, permanent jobs. In the Reagan-Bush eighties, the hourly pay of four-fifths of the American workforce declined. The typical worker was paid 4.9 percent less than at the start of the decade. No wonder workers in the United States slipped from 1st to 13th in terms of the wages and benefits they receive.

Today, almost a third of the Nation's workforce—31 percent—is employed at poverty level pay. The current minimum wage, at $4.25 an hour, buys 26 percent less in purchasing power than the minimum wage did in 1970. Is it any surprise that a recently-published study found that low-paid American workers are the lowest paid workers in the industrialized world?

Federal Reserve Chairman Alan Greenspan insists that creating more jobs, and reducing unemployment, is bad for the economy. He is dead wrong.

What we need is more jobs. We need to create millions of decent-paying jobs, not encourage massive corporate downsizing. We need a bold and courageous Congress who will fight for the needs of the average American worker, not timid politicians whose vision is circumscribed by the campaign contributions of big money interests. It is time to address the jobs crisis that America, and American workers, are facing.

The Progressive Caucus is leading the way to a brighter future and taking the first large step forward, and today we invite others to join us in this effort. We encourage our colleagues to become cosponsors of this bedrock bill in our Progressive Promise—The Job Creation and Invest in America Act of 1995.

We call upon all Americans who want to build a stronger and more fair America to join in our commitment to create millions of jobs by investing billions of dollars to rebuild and upgrade America's physical infrastructure, clean-up the environment, and improve the skills of our workforce. In keeping with the fiscal challenge confronting our Nation in these times, we do not add a penny to the deficit, but pay for our investment program by cracking down on corporate welfare. We close tax loopholes for offshore production while rewarding U.S. companies that invest, produce, and create jobs in the United States. We require the wealthiest U.S. corporations and citizens to pay their fair share of taxes.

Finally, let us underscore that the jobs we seek to create are good-paying jobs. They are jobs rooted in upgrading our Nation's physical infrastructure and improving our Nation's human capital. They represent investments in restoring real, long-term, sustainable economic growth in America.

Retooling our national economy and basing it upon real economic growth and economic justice also requires that working Americans have more real income to spend. In sponsoring this legislation, members of the Progressive Caucus are endorsing our Nation's 50-year national commitment to full employment. In the coming weeks and months, all of us who belong to the Progressive Caucus will be steadfast in offering low-income and middle-income Americans genuine hope for real jobs with livable wages and a chance to participate in the American dream.

TRIBUTE TO WALTER H. SHORENSTEIN

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Ms. ESHOO. Mr. Speaker, I rise today to honor Walter H. Shorenstein on the occasion of his 80th birthday and to celebrate his exemplary life of extraordinary contributions to our community and our country.

Walter Shorenstein began his career in real estate in 1946 after serving as a Major in the U.S. Air Force. Over the years, he has built the Shorenstein Co. into one of the oldest, largest and most well-respected privately owned real estate firms in the country, currently employing over 1,400 people.

Beyond his business success, Walter Shorenstein is a valued adviser to Presidents, a philanthropist who has given both time and money for the benefit of others, a lecturer of note and an ardent supporter of education. He was appointed by President Clinton to the Board of Directors of the Corporation for National Service and served as senior adviser to Presidents Johnson and Carter. He serves as an adviser to the Democratic leadership of the House and Senate. He is Chair of the San Francisco UN50 Committee to commemorate the 50th anniversary of the signing of the United Nations Charter in San Francisco. His numerous sponsorships, board memberships, and honors are a reflection of his dedication to art, culture, education, government, and philanthropy.

Walter Shorenstein's life has been enriched by his family: Carole, renowned producer of Broadway shows; a son, Douglas, President of the Shorenstein Co.; his grandchildren—Walter, Gracie, Brandon Jona, Sandra Joan and Daniella—have brought even more joy into his life. His lifelong partner in life, Phyllis, died in 1994, and their beloved and brilliant daughter, Joan, died in 1985.

Mr. Speaker, Walter Shorenstein is an outstanding citizen and a national treasure, and I am privileged to call him my friend. I ask my colleagues to join me in thanking Walter Shorenstein for his incomparable generosity and tireless service to our Nation, and in saluting him on yet another milestone in his life—his 80th birthday.

A SALUTE TO THE AMERICAN NEGRO LEAGUE: JAMES "COOL PAPA" BELL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 2, 1995

Mr. CLAY. Mr. Speaker, this is Black History Month. Many black Americans who lived in the First Congressional District of Missouri, which I now represent, contributed significantly to the development of this great Nation. To name a few, Scott Joplin, Josephine Baker, W.C. Handy, and one in particular, James "Cool Papa" Bell.

Cool Papa, as he was affectionately called, will long be remembered in baseball as one who set early records by which future players were measured. He was such a fast runner that his friends often described his speed with comments like "He stole two bases at one time." However, his talent was not limited to running. Cool Papa was an all-around player.

Sports Illustrated recognized the outstanding talents and contributions of James "Cool Papa" Bell in a June 20, 1994, article entitled "No Place in the Shade." I would like to share that informative and entertaining tribute with my colleagues during our observance of great black Americans.

[From Sports Illustrated, June 20, 1994]

NO PLACE IN THE SHADE

(By Mark Kram)

In the language of jazz, the word gig is an evening of work; sometimes sweet, sometimes sour, take the gig as it comes, for who knows when the next will be. It means bread and butter first, but a whole lot of things have always seemed to ride with the word: drifting blue light, the bouquet from leftover drinks, spells of odd dialogue and most of all a sense of pain and limbo. For more than anything the word means black, down-and-out black, leavin'-home black, gonna-find-me-a-place-in-the-shade black.

Big shade fell coolly only on a few. It never got to James Thomas Bell, or Cool Papa Bell as he was known in Negro baseball, that lost caravan that followed the sun. Other blacks, some of them musicians who worked jazz up from the South, would feel the touch of fame, or once in a while have the thought that their names meant something to people outside their own. But if you were black and played baseball, well, look for your name only in the lineup before each game, or else you might not even see it there if you kept on dreamin'.

Black baseball was a stone-hard gig. It was three games a day, sometimes in three different towns miles apart. It was the heat and fumes and bounces from buses that moved your stomach up to your throat and it was greasy meals at fly-papered diners at three a.m. and uniforms that were seldom off your back. "We slept with 'em on sometimes," says Papa, "but there never was enough sleep. We got so we could sleep standin' up."

Only a half-mad seer—not any of the blacks who worked the open prairies and hidden ball yards in each big city—could have envisioned what would happen one day. The players knew a black man would cross the color line that was first drawn by the sudden hate of Cap Anson back in 1883, yet no one was fool enough to think that some bright, scented day way off among the gods of Cooperstown they would hear their past blared out across the field and would know that who they were and what they did would never be invisible again.

When that time comes for Papa Bell—quite possibly the next Hall of Fame vote [he was, in fact, inducted into the Hall in 1974]—few will comprehend what he did during all those gone summers. The mass audience will not be able to relate to him, to assemble an image of him, to measure him against his peers as they do the white player. The old ones like Papa have no past. They were minstrels, separated from record books, left as the flower in Thomas Gray's Elegy to "waste its sweetness on the desert air." Comparisons will have to do: Josh Gibson, the Babe Ruth of the blacks; Buck Leonard, the Lou Gehrig of his game; and Cool Papa Bell—who was he?

A comparison will be hard to find for Papa. His friend Tweed, whom Papa calls the Black Historian, a title most agreeable to Tweed, says that you have to go all the way back to Willie Keeler for Papa's likeness. Papa's way was cerebral, improvisational; he was a master of the little things, the nuances that are the ambrosia of baseball for those who care to understand the game. Power is stark, power shocks, it is the stuff of immortality, but Papa's jewellike skills were the object of shop talk for 28 winters.

Arthritic and weary, Papa quit the circuit 23 years ago, at age 47, ending a career that began in 1922. During that time he had been the essence of black baseball, which had a panache all its own. It was an intimate game: the extra base, the drag bunt; a game of daring instinct, rather than one from the hidebound book. Some might say that it lacked discipline, but if so, it can also be said that never has baseball been played more artfully, or more joyously. "Before a game," says Papa, "one of our big old pitchers, he'd say, 'Just get me a coupla runs, that's all.' You see we played tricky ball, thinkin' all the time: We get a run, they got to get two to beat ya. Right?"

The yellow pages of Tweed's scrapbooks don't tell much about the way it was, and they don't reveal much about Papa, either; box scores never explain. They can't chart the speed of Papa Bell. "Papa Bell," says Satchel Paige, "why he was so fast he could turn out the light and jump in bed before the room got dark!" Others also embellish: He could hit a hard ground ball through the box and get hit with the ball as he slid into second; he was so fast that he once stole two bases on the same pitch. "People can sure talk it, can't they?" says Papa.

Papa says he did steal two bases on one pitch, which was a pitchout. "The catcher was so surprised the way I was runnin' that he just held the ball," says Papa. "I asked him later what he doin' holdin' that ball, and he said he didn't know, 'cept he *never* seen a man run like that before in his life." It is also a reliable fact that once in Chicago, on a mushy field, he circled the bases in 13.1 seconds, two fifths faster than Evar Swanson's major league record. "On a dry field," he says, "I once done it in 12 flat."

Papa could run all right, and he could hit and field as well. He played a shallow centerfield, even more so than Willie Mays did when he broke in. "It doesn't matter where he plays," Pie Traynor once said. "He can go a country mile for a ball." As a hitter Bell had distance, but mainly he strove to hit the ball into holes; he could hit a ball through the hole in a fence, or drag a bunt as if it were on a string in his hand. Bell never hit below .308, and one time when he was hitting

.390 on the last day of the season he purposely gave up his batting title; he was 43 at the time.

"Jackie Robinson had just signed with the Dodgers, and Monte Irvin was our best young player," says Papa. "I gave up my title so Monte would have a better chance at the majors. That was the way we thought then. We'd do anythin' to get a player up there. In the final two games of the season, a doubleheader, I still needed a few times at bat to qualify for the title. I got two hits in the first game and sat out the second. The fans were mad, but they didn't know what we were trying to do. After the season I was supposed to get the $200 for the title anyway, but my owner, he say, 'Well look, Cool, Irvin won it, didn't he?' They wouldn't give me the $200. Baseball was never much for me makin' money."

Papa Bell earned $90 a month his first year, back in 1922. He would never make more than $450 a month, although his ability was such that later he would be ranked on Jackie Robinson's all-time team in the same outfield with Henry Aaron and Mays. Bill Veeck, who also saw Bell play, puts him right up there with Tris Speaker, Joe DiMaggio and Mays. "Cool Papa was one of the most magical players I've ever seen," says Veeck.

The money never bothered Papa; it was a game, a summer away from the packinghous. "Cept one time," adds Papa, "when one team told me to pay my expenses from St. Louis to Memphis. They'd give it to me back, they said. I get there, and they say no. Owner of the club was a dentist. I say to 'em I didn't come down here 'cause I got a toothache. So I went back home. Owners are owners, whether they are blue or green."

Papa spent the winters in the packinghouse until he learned of places like Havana and Vera Cruz and Ciudad Trujillo that competitively sought players from the Negro leagues. He will never forget that winter in Ciudad Trujillo. It was in 1937, he thinks, when Dominican strongman Rafael Trujillo was in political trouble. He had to distract the people, and there was no better way than to give them a pennant. First, Trujillo had his agents all but kidnap Satchel Paige from a New Orelans hotel. Then he used Paige to recruit the edge in talent from the States; namely Papa Bell and Gibson, who along with Orlando Cepeda, the storied father of the current Cepeda, gave the dictator a pat hand.

The look of that lineup still did not ease Trujillo's anxiety. "He wanted us to stay in pajamas," says Papa, "and all our meals were served to us in our rooms, and guards circled our living quarters." Thousands would show up at the park just to watch Trujillo's club work out, and with each game tension grew. "We all knew the situation was serious, but it wasn't until later that we heard how bad it was," says Papa. "We found out that, as far as Trujillo was concerned, we either won or we were going to lose big. That means he was going to kill us." They never did meet Trujillo. They saw him only in his convertible in the streets, all cold and white in that suit of his that seemed to shimmer in the hot sun, "A very frightenin' man," says Papa.

Truijillo got his pennant and his election. A picture of Papa's, taken near a large stream, shows the team celebrating; the dictator had sent them out of the city—along with their fares home and many cases of beer. It had been a hard buck, but then again it had never been easy, whether it was down in Santo Domingo or back up with the St. Louis Stars or the Pittsburgh Crawford or the Homestead Grays or the Chicago American Giants. East or west, north or south it was always the same: no shade anywhere as the bus rattled along, way down in Egypt land.

Papa took the bumps better than most. Some, like Gibson, died too young; some got lost to the nights. *Coolpapa*, as his name is pronounced by those who came from the South, well Coolpapa, he just "went on moving on." That was the way his mother taught him back in Starkville, Miss., where he was born in 1903; look, listen and never pounce, those were her words, and all of them spelled survival. Work, too, was another word, and Papa says, "If I didn't know anythin', I knew how to work."

Long days in the sun and well after the night slipped across the cotton fields, all that Papa and his friends could talk about was "goin' off." Papa says, "One day some boy would be there along with us, and then he'd be gone. 'Where'd he go? I'd ask. 'Why that boy, he done gone-off! someone'd say. Next you'd see that fella, why he'd be back home with a hat on and a big, bright suit and shiny shoes and a jingle in his pocket." They would talk of the great cities and what they would have when they, too, went off, and only sometimes would they hear about baseball. An old, well-traveled trainman used to sit under a tree with them on Sundays and tell them of the stars he had seen.

"Why, there's this here Walter Johnson," the trainman would say. "He can strike out anybody who picked up a bat!"

"Is that right?" Papa would ask.

"Sure enough, boy. You think I'd lie? Then there is two old boys named Ty Cobb and Honus Wagner. Well, they don't miss a ball, and they never strike out!"

"Never miss a ball?" gasped Papa. "Never strike out? Is that right?"

"I'm tellin' ya, boy. I've been to the cities and I know!"

"Well, mmm,mmm," Papa would shake his head. Only one thing botherin' me. What happen when this here Walter Johnson is pitchin', and these other two boys are battin'"

"Y'all go on!" the old man would yell, jumping up. "Y'all leave me alone. I'm not talkin' anymore. Don't non of ya believe. I should know. I've been to the cities!"

By the time he was 16, Papa was up north in St. Louis with several of this brothers and sisters, who were already in the packinghouse. "Didn't want to know 'bout ball them," says Papa. "Just wanted to work like a man." His brother suggested that he play ball on Sundays. "'James,' he said, 'you a natural. You throw that knuckleball, and their ain't nobody going to hit it.'" Soon he was facing the lethal St. Louis Stars of the Negro National League. "They were a tough club," says Papa. "And mean! They had a fella named Steel Arm Dicky. Used to make moonshine as mean as he was on the side. His boss killed him when he began to believe Steel Arm weren't turnin' in all the profits."

Bell impressed the Stars, and they asked him to join them. "All our players were major leaguers," says Papa. "Didn't have the bench to be as good as them for a whole season—we only carried 14, 15 players. But over a short series we could have taken the big leaguers. That October we played the Detroit Tigers three games and won two of them. But old Cobb wasn't with them, 'cause 12 years before a black team whipped him pretty good, and he wouldn't play against blacks anymore. Baseball was all you thought of then. Always thinkin' how to do things another way. Curve a ball on a 3–2, bunt and run in the first innin'. That how we beat big league teams. Not that we had the best men, but we outguessed them in short series. It's a guessin' game There's a lot of unwritten baseball, ya know."

The Stars folded under the Depression. Papa hit the road. An outfielder now, he was even more in demand. He finally began the last phase of this career, with the Washington Homestead Grays; with Gibson and Leonard and Bell, it was one of the most powerful clubs in the black leagues' history, or anybody's history for that matter. "I was 'bout 45 then," says Papa. "Had arthritis and was so stiff I couldn't run at times. They used to have to put me in a hot tub. I had to get good and warm before I could move." Yet, he had enough left to convince Jackie Robinson that he should never try to make it as a shortstop.

"It was all over the place that Jackie was going to sign with the Dodgers," says Papa. "All us old fellas didn't think he could make it at short. He couldn't go to his right too good. He'd give it a backhand and then plant his right leg and throw. He always had to take two extra steps. We was worried He miss the chance, and who knows when we'd get another chance? You know they turned him down in Boston. So I made up my mind to show him he should try for another spot in the infield. One night I must've knocked couple hundred ground balls to his right, and I beat the throw to first every time. He got the message. He played a lot of games in the majors, only one of 'em at short."

Papa was named to manage the Kansas City Monarchs' B team in 1948, the agreement being that he would get one third of the sale price for any player who was developed by him and sold to the majors. He had two prospects in mind for the Browns. "But the Browns didn't want them," says Papa, shaking his head. I then went to the Cardinals, and they say they don't care, either, and I think to myself, My, if they don't want these boys, they don't want nobody." The Monarchs eventually sold the pair: Ernie Banks and Elston Howard. "I didn't get anythin'," says Papa. "They said I didn't have a contract. They gave me a basket of fruit. A basket of fruit! Baseball was never much for me makin' money."

Life began all over for Papa. He took a job at the city hall in St. Louis as a custodian and then a night watchman. For the next 22 years the routine was the same, and only now and then could he go to a Cardinal game. He would pay his way in and sit there in the sun with his lunch long before the game began; to those around him who wondered about him, he was just a Mr. Bell, a watchman. He would watch those games intently, looking for tiny flaws like a diamond cutter. He never said much to anyone, but then one day he was asked by some Dodgers to help Maury Wills. "He could run," he says. "I wanted to help." He waited for Wills at the players' gate and introduced himself quietly.

"Maybe you heard of me," Papa said, "maybe not. It don't matter. But I'd like to help you."

Wills just looked at him, as Papa became uneasy.

"When you're on base," said Papa, "get those hitters of yours to stand deep in the box. That way the catcher, he got to back up. That way you goin' to get an extra step all the time."

"I hadn't thought of that," said Wills, who went on to steal 104 bases.

"Well, Papa smiled, "that's the kind of ball we played in our league. Be seein' you, Mr. Wills. Didn't mean to bother you."

After that year Papa seldom went to the ballpark anymore. He had become a sick man, and when he walked, his arthritic left side seemed to be frozen. There was just his job now. In the afternoons he would walk up to the corner and see what the people were up to, or sit silently in his living room turning the pages of his books of pictures: all the old faces with the blank eyes; all of those many different, baggy uniforms.

Nights were spent at city hall, making his rounds, listening to the sound of radio baseball by the big window, or just the sound of the hours when winter mornings moved across the window. When it was icy, he would wait for the old people to come, and he would help them up the steps. Often, say about three a.m., he would be looking out the window, out across to the park where the bums would be sleeping, their wine bottles as sentries, and he would wait for their march on the hall. They would come up those steps and place their faces up against the window, next to his face and beg to be let in where it was warm.

"We're citizens, old Bell, let us in," they would yell.

"I know," Papa would say.

"It's cold out here," they would say.

"I know," he would answer.

"No, you don't, you. . . ." And Papa would just look away, thinking how cold it was outside, trying to think of all the things that would leave him indifferent to those wretched figures. Then it would be that he sometimes would think of baseball, the small things he missed about it, things that would pop into his mind for no reason: a certain glove, the feel of a ball and bat, a buttoning of a shirt, the sunlight. "You try to get that game out of your mind," he says, "but it never leaves ya. Somethin' about it never leaves ya."

Papa Bell is 70 now [he died in 1991, at 87]. He lives on Dickson Street in North St. Louis, a neighborhood under seige: vacant, crumbling houses, bars where you could get your throat cut if you even walked in the wrong way, packs of sky-high dudes looking for a score. They have picked on Papa's house a couple of times, so now when he feels something in the air, hears a rustle outside of his door, he will go to the front window and sit there for long hours with a shotgun and a pistol in his lap. "They don't mess with Papa anymore," says his friend Tweed, looking over at Papa sitting in his city hall retirement chair. "It's a reclinin' one," says Tweed. "Show 'im how it reclines, Papa."

Now the two of them, Tweed and Papa, who sits in his chair like a busted old jazz musician, torn around the edges but straight with dignity, spend much time together in Papa's living room. They mull over old box scores, over all the clippings in Tweed's portable archives. They try to bring continuity of performance to a man's record that began when nobody cared. They assemble pictures to be signed for people who write and say that they hear he will be going into the Hall of Fame; the days are sweet.

"Can't believe it," says Tweed. "Can you, Papa? Papa Bell in the Hall of Fame. The fastest man who ever played the game."

"Ain't happened yet," cautions Papa, adjusting his tall and lean figure in his chair.

"Tell me, Papa," says Tweed. "How's it goin' to feel? The Hall of fame . . . mmm, mmm."

"Knew a fella blowed the horn once." says Papa. "He told me. He say, 'Ya got to take the gigs as they come.'"

HOUSE OF REPRESENTATIVES—*Friday, February 3, 1995*

The House met at 10 a.m.

PRAYER

The Reverend Dr. Ken Massey, pastor, Calvary Baptist Church, Waco, TX, offered the following prayer:

Almighty God, bless Your servants in Congress today. Grant them clear vision and immutable wisdom. Help them speak and act truthfully in a world of lies. Keep them true to Constitution and conscience.

I ask, O Lord, that You protect and sustain them as they seek to govern with integrity. As they turn to You, guard them from fear and grant them faith. Protect them from cynicism and give them courage. Save them from pride and lead them to authentic servanthood.

I especially ask You to bless those who work for peace today: Among warring nations, cultures in conflict, cities in crisis, families divided. Bless those who promote peace in this House and in Your house. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

LEGISLATIVE PROGRAM

(Mr. VOLKMER asked and was given permission to address the House for 1 minute.)

Mr. VOLKMER. Mr. Speaker, I would inquire of the Chair, will there be any limitations on 1-minutes today?

The SPEAKER. The Chair is informed that we have talked with Members on the gentleman's side of the aisle, and if there is no Journal vote, the Chair will entertain 20 1-minute speeches on each side.

Mr. VOLKMER. I thank the Chair.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas [Mr. EDWARDS] come forward and lead the House in the Pledge of Allegiance.

Mr. EDWARDS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE REVEREND DR. KEN MASSEY

(Mr. EDWARDS asked and was given permission to address the House for 1 minute.)

Mr. EDWARDS. Mr. Speaker, it is my personal pleasure and privilege to introduce our guest chaplain of today, Dr. Kenneth Massey of my hometown of Waco, TX, a personal friend and my wife's pastor.

He is a native of Beaumont, TX, graduated from Baylor University in 1978. In 1984 and 1987 he received a masters and doctoral degrees from Southwestern Seminary in Forth Worth.

He pastored in Garland, TX and Marks, MS, and has been at Calvary Baptist in Waco since 1990.

He is married to Sara Miller Massey and has three wonderful children, Kristen, Aaron, and Adreana.

He enjoys hunting, golf, and reading and, in addition to a great pastorhood for Calvary Baptist, he has reached out to the community of Waco, TX, with his religious beliefs and convictions to all of the people of our great city.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, our Contract With America states the following:

On the first day of Congress, a Republican House will:

Require Congress to live under the same laws as everyone else; cut committee staffs by one-third; and cut the congressional budget.

We have done that.

It goes on to state that in the first 100 days, we will vote on the following items: a balanced budget amendment—we have done this; unfunded mandates legislation—we have done this; line-item veto—we are doing that today; a new crime bill to stop violent criminals; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for families to lift Government's burden from middle income Americans; national security restoration to protect our freedoms; seniors citizens' equity act to allow our seniors to work without Government penalty; Government regulatory reform; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make congress a citizen legislature.

Mr. Speaker, this is our Contract With America.

HOUSE RESOLUTION 66, A COMPROMISE ON TERM LIMITS

(Mr. DEAL of Georgia asked and was given permission to address the House for 1 minute.)

Mr. DEAL of Georgia. Mr. Speaker, soon this body will be considering the issue of term limits. It is an issue that divides many of us, not on the principle but on the details.

Roll Call has recently had a headline in which it talks about a civil war over term limits in which organizations that support certain numbers of years have actually had campaigns against those who support longer term limits. I have introduced House Resolution 66, which is a proposition that hopefully accommodates all of those who are interested in this issue. It would set a 12-year outer limit by this constitutional amendment, but would also recognize that States would not be preempted from setting lower limits by State statute if they chose to do so.

I would urge those who support the concept of term limits to examine House Resolution 66. It accommodates the principle of term limits, but recognizes the importance of States to set lower limits if they chose to do so.

ANNOUNCEMENT ON AMENDMENT PROCESS FOR THE CRIME BILLS

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I wish to announce to Members that the Rules Committee will meet next Monday, February 6, at 2 p.m. to consider rules for the first two of the six crime bills ordered reported by the Judiciary Committee.

The first two bills are: H.R. 665, Victim Restitution Act, and H.R. 666, Exclusionary Rule Reform Act.

The chairman of the House Judiciary Committee has requested that each of these bills be considered under an open rule. He has further requested that the rule include a provision giving priority in recognition to Members who have caused their amendments to be printed in the amendment section of the CONGRESSIONAL RECORD prior to their consideration.

There is a strong possibility that the Rules Committee will report the rules requested, and Members may want to avail themselves of the option of pre-

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

filing amendments in order to gain priority in recognition, though there is no requirement that they do so. Members will still be recognized whether their amendments are in the RECORD or not.

Later in the week it is anticipated that the Judiciary Committee will be coming to the Rules Committee with four additional crime bills. They are: H.R. 668, Criminal Alien Deportation Improvements Act; H.R. 667, Violent Criminal Incarceration Act; H.R. 729, Effective Death Penalty Act, and H.R. 728, Local Government Law Enforcement Block Grants Act.

Of these, the Criminal Alien Deportation Improvements Act may also be considered under an open rule with an option to gain priority in recognition by pre-printing amendments in the CONGRESSIONAL RECORD.

The remaining three bills may be considered for amendment under the 5-minute rule, with a possible overall time limitation on the amending process. There would also be the option to gain priority in recognition by pre-printing amendments in the CONGRESSIONAL RECORD.

If Members choose to avail themselves of the pre-printing option, amendments should be titled, "Submitted for printing under clause 6 of Rule XXIII," signed by the Member, and submitted at the Speaker's table.

Members should use the Office of the Legislative Counsel to ensure that their amendments are properly drafted.

The amendments must still be consistent with House rules. It is not necessary to submit amendments to the Rules Committee or to testify.

Mr. Speaker, I just wanted to put Members on notice as to what sort of amending process they might expect on the six crime bills.

TENTATIVE SCHEDULING OF CRIME BILLS IN RULES COMMITTEE

Bill	Judiciary files	Deadline announcement	Filing deadline	Rules meets	Rule on floor
H.R. 665, Victim restitution	2–2	NA (open)	NA	2–6	2–7
H.R. 666, Exclusionary rule reform	2–2	NA (open)	NA	2–6	2–7
H.R. 668, Criminal alien deportation	2–6	NA (open)	NA	2–8	2–9
H.R. 667, Violent criminal incarceration (prisons)	2–6		Noon, 2–7	2–8	2–9
H.R. 729, Effective death penalty	2–7		Noon, 2–8	2–9	2–10
H.R. 728, Block grants	2–8		Noon, 2–9	2–10	2–13

For the purpose of drafting amendments, the text to be amended will be available at the Judiciary Committee Office, 2138 Rayburn House Office Building, for the following bills on the following dates:

H.R. 667, February 6.

H.R. 729, February 7.

H.R. 728, February 8.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield briefly to my friend, the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, under the three bills that we are talking about that would have a time limit, those are habeas corpus, and what are the three again?

Mr. SOLOMON. They are the Violent Criminal Incarceration Act, the Effective Death Penalty Act, and the Block Grants Act for Local Government Law Enforcement.

Mr. VOLKMER. Habeas corpus, the prison construction, and what was the third one?

Mr. SOLOMON. It is the block grants bill.

Mr. VOLKMER. The block grant. That is on the crime prevention program.

Mr. SOLOMON. Let me just explain. The first three bills will more than likely be considered under totally open rules, and that is the way it should be. The only exceptions to open rules would be in the next three. In other words, we may have to shut down debate to be out of here by April 8 so Members can have the 3 weeks back home for Easter and the district work period. That is terribly important.

□ 1010

And there is a possibility we might take the last three bills and limit debate to one full day. That could mean 12 hours from 10 a.m. to 10 p.m. on each of those last three. Hopefully we might not even have to do that. If we can just move along with these six crime bills, we will have gotten them out of the way so that we can stay on schedule for our Easter break.

Mr. VOLKMER. Will the gentleman be able to determine whether or not that even would be necessary somewhat by a number of amendments that may be prefiled?

Mr. SOLOMON. Could very well be. We are going to consult with the minority on all of these bills.

Mr. VOLKMER. All right. And the other thing, in other words, I would urge Members, like you have, for people to put them in the RECORD, and also to contact the Committee on Rules to give you a better idea of where you have to go.

Mr. SOLOMON. That is correct. And that can be very helpful to Members. I would point out that one Member on your side of the aisle prefiled an amendment for another bill. It turned out that it was a flawed amendment. The Parliamentarians caught it. The Member was able to correct it, and it benefited him. It would benefit all Members to prefile their amendments, although there is no requirement for that.

Mr. VOLKMER. Could I ask you one additional question?

Mr. SOLOMON. All right. We have to get on with it.

Mr. VOLKMER. I understand that. But I think this is very important.

You are saying that you are talking about an overall time limit on the total bill, not on any one amendment. Therefore, if there are, let us say, you do do that on one bill, let us take the habeas corpus bill, and let us say there are still 50 or 60 amendments that are offered, that means that at the end we would still have to vote on those amendments even though there may not be any debate time left?

Mr. SOLOMON. Not necessarily. If there were an overall time limitation on the amendment process, in other words, the consideration of amendments might cease at a particular time. Let's say there is 1 hour on the rule, 1 hour on the general debate, and 6 hours on the amendment process.

With another 4 hours of walking time—voting time—we could consume altogether up to 12 hours on the clock. At the end of the 6-hour debate period for amendments, not counting the time consumed in voting, no further amendments could be considered at that point. It would benefit Members if they have significant amendments to decide which of those are truly significant and lay them out so that Members can be to heard on those amendments. That would be fair to your side.

Mr. VOLKMER. I thank the gentleman.

INTRODUCTION OF LEGISLATION ON MAKING GOVERNMENT MORE EFFICIENT

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, since I spoke here a week and a half ago about the outrageous amounts of money this body spends to provide Members of Congress with their own gold embossed set of code books, I received a great deal of support from colleagues on both sides of the aisle.

Today I will introduce a resolution that will make a few simple changes in the way Members obtain the United States Code book. First of all, this resolution will not prevent Members from obtaining the laws of this land for their use as legislators.

Instead, the measure will actually expand options for obtaining the code.

For instance, if they choose, Members can purchase the entire code for $37 on CD-ROM, or they can obtain the Government printed version of the code for a fraction of the cost. If they really want these gold books, buy them out of your own office account, not the Clerk's contingency fund.

Mr. Speaker, today is the 81st anniversary of the 16th amendment which gave the power of government to tax. Boy, have we taxed, and, boy, have we spent.

To people inside the beltway, saving half a billion dollars may be small and minuscule. To me it is a lot of money. To the taxpayers it is a lot of money.

I urge you to support my resolution on making Government more efficient.

SUPPORT AN INCREASE IN THE MINIMUM WAGE

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, today the President of the United States set forward a very bold plan that is overdue, and that is to raise the minimum wage for workers in this Nation who have steadily seen the erosion of their ability to support themselves and their families.

The actual minimum wage, when adjusted for inflation, has fallen 50 cents just since 1991, and it is 27 percent less than it was back in 1979.

I ask Members on both sides, Mr. Speaker, to support the President in this increase in the minimum wage, because it is needed. It is needed for people in my district.

I can remember back when we were trying to push the earned income tax credit as a part of President's budget. We got no votes from the other side, yet 26,000 families in my area that has been devastated by unemployment were affected by that. It helped those families to help themselves in this day and age when everybody is talking about welfare reform.

We cannot say that we can make millions of dollars on book deals when we are in Congress but we cannot have 45 cents for the American worker. We cannot say Members of Congress can go play golf with lobbyists and can have free dinners but we cannot have 45 cents for the American workers.

I laud the President, Mr. Speaker, and ask the support of both sides of the aisle.

A GREAT BIRTHDAY PRESENT FOR RONALD REAGAN

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, we are going to give Ronald Reagan a great present for his birthday on Monday, and in the process, we will also be giving a great gift to the American people, because we are finally going to pass a line-item veto, an idea that Ronald Reagan championed more than anyone else.

As usual, he was way ahead of his time. Say goodbye to studies on cow flatulence, say goodbye to Belgian endive research, and say goodbye to research on the sex lives of certain insects. Say hello to responsible government and accountability.

If only the former majority had given Mr. Reagan the line-item veto in the first place, we might not be in this deficit mess. He could have used it to cut out some of the $219 billion in additional spending that the guardians of the old order added to his budget requests.

But it is better late than never.

Happy birthday, President Reagan, and this is your victory, and it is a victory for us all.

WHERE ARE THE JOBS PROGRAMS?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the economists say that the economy is great. My question, Mr. Speaker: Are these economists smoking dope or what? Orange County is bankrupt. The District of Columbia is bankrupt. The trade deficit hit a record of $153 billion, and Americans keep getting pink slips.

Listen to this from the State of Washington to Kansas to Philadelphia, Boeing just laid off 7,000 workers.

Congress, it is jobs, living-wage jobs, and there is not a job program on the Republican side and there is not a job program on the Democrat side.

If there is any consolation, Mr. Speaker, Burger King is hiring, and I never heard of anybody that committed suicide by jumping out of a basement window.

WE ARE KEEPING OUR WORD WITH THE AMERICAN PEOPLE

(Mr. WHITFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITFIELD. Mr. Speaker, since January 4 this House has taken important steps to restore the credibility of this institution to the American people, and it is the American people who pay and provide the tax dollars for this Government to operate.

Here is what we have done in less than 1 month: We have enacted eight major reforms in the way Congress does business. We have passed a balanced budget amendment. We have passed legislation to end unfunded mandates to State and local governments. And today we move toward passage of a long-awaited line-item veto to eliminate waste and abuse in the Federal Government, and we are working hard, making important changes to continue this effort.

But more important, we are keeping our word with the American people, and that is what they expect.

THE MINIMUM WAGE: PUT WORKING PEOPLE FIRST

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO of California. Mr. Speaker, we need to put working people first. The minimum wage increase proposed today will allow hard-working Americans the opportunity to take control of their future and secure for themselves and their families a place in America's middle class.

Too many Americans are struggling to make ends meet. They work longer hours for lower pay.

The average minimum-wage worker brings home about half of his or her family's income. Sixty-five percent of them are adults.

Providing people who are playing by the rules with more take-home pay will benefit not just a select few, it will help all of us. And we have a moral responsibility to insure that people who work are not living in poverty.

As we emphasize the importance of moving people off welfare and onto work and the Congress begins that debate, we should not lose at all the simple fact that a decent hourly wage cuts through a sea of Federal benefits programs and elaborate job-training programs to provide a firm hand of support.

The President has taken the lead in making work pay for all Americans. This Congress must respond to that challenge.

□ 1020

PASS THE LINE-ITEM VETO

(Mr. CHRISTENSEN asked and was given permission to address the House for 1 minute.)

Mr. CHRISTENSEN. Mr. Speaker, Monday will be the birthday of a great man—President Ronald Reagan. Monday will also be the day that we vote on the line-item veto. Over the last 40 years this body has stood idly by as we have passed a $4.5 trillion national debt onto our children and grandchildren. Mr. Speaker, we must end this lavish spending now, and the line-item veto will help us do so.

The line-item veto will empower the President to rid legislation of wasteful spending, forcing each expenditure to survive public scrutiny and survive on its own. President Ronald Reagan had it right when he said that the line-item veto would allow the President "the right to reach into massive appropriation bills, pare away the waste, and enforce budget discipline."

The greatest gift we could give to one of the greatest Presidents of modern history is the line-item veto. Let us win one for the gipper. Let us win one for the American people. Let us pass the line-item veto.

THE GOLDEN GRAB AWARD

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, for more than a decade I had the honor of chairing the Oversight and Investigations Subcommittee. That subcommittee regularly exposed waste, fraud, and abuse committed at the taxpayer's expense. We found defense contractors charging $600 for toilet seats, and billing the Government for the expense of boarding dogs. Environmental contractors who were supposed to clean toxic waste sites were instead wasting taxpayer money on lavish parties, reindeer suits, and clown costumes. Universities used Federal research dollars to pay for yachts and 19th century Italian fruitwood commodes. The Nation's Governors were baldly raiding Medicaid funds to build prisons, pave roads, or cut their own deficits.

The experience of the Oversight and Investigations Subcommittee teaches us that behind almost every wasteful Government project, questionable Government contract, or skewed Government regulation stands a long line of interests, palms extended. The entertainment industry honors excellence with its Golden Globe Awards. To honor excellence in bilking the taxpayer, I am today announcing the Golden Grab Award.

We will be giving such awards periodically, a statue of a human hand, palm out, extended.

I expect that the 104th Congress will give us a wealth of candidates for the Golden Grab. Already, Rupert Murdoch has shown that he can collect world leaders with book contracts the way children collect baseball trading cards.

Nominations are now open for the inaugural award. Winners will have their names engraved on a statue in the form of an outstretched hand, palm up.

BALANCED BUDGET AMENDMENT

(Mr. BASS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BASS. Mr. Speaker, as a member of the Budget Committee and as a former member of the New Hampshire State senate, I know what it is like to balance budgets in good and also in hard times. That is why we passed a balanced budget amendment and sent it on to the Senate. That is why we passed an unfunded Federal mandate bill despite the dilatory tactics of a small minority of Members of this House. And that is why we will pass a line-item veto for the President.

Mr. Speaker, Orange County may be bankrupt, but so is the Federal Government, and it is time that we move to complete the third leg of the stool of accountability of Congress and to move to give the President the line-item veto so that each and every line of our budget is subject to justification in this House. So let us get on with it and pass the line-item veto on Monday.

WORKING FOR WORKERS' DIGNITY: THE MINIMUM WAGE

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, the Congress has the responsibility to help working families earn a living in the world of work. Today the minimum wage has slipped to the lowest value in decades. Men and women who are struggling to support themselves and their kids and American families are falling further behind. Unemployment is low, but many that are accepting jobs are receiving substandard wages and taking these jobs but not making ends meet. America needs a fair minimum wage. Decency demands that Congress act to give a fair shake to American workers.

The single parents, the persons trying to be able to make a living on his or her job, not with a government support program. The best welfare program is a job.

Action to raise the minimum wage, itself, helps workers, not a trickle-down political promise program to cut taxes for the rich, but social justice for workers on the job in America today.

Fairness and decency demand congressional action to make work pay. Let Congress Act to increase the minimum wage and be fair to the working people we represent.

LINE-ITEM VETO IS LONG OVERDUE

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, Christmas might come just once a year to most people in the country, but up here in Washington, land of plenty, the legislative Christmas tree shines all year long. Why? Because Congress for years has been practicing pork barrel politics.

In the past, Members have been able to hang their own little ornaments on appropriation bills, best known as Christmas trees which resulted in huge payoffs to someone back in their district. Unfortunately these ornaments cost the taxpayers hundreds of millions of dollars while only benefiting a select few.

But with the passage of a line-item veto, we are finally going to give the President of the United States the same power to remove these costly ornaments. Line-item veto will allow the President to enjoy the same authority as 43 Governors including my own Governor in Illinois, already practice. With line-item veto, we will end the long reign of pork barrel politics. This bill is long overdue.

DEMOCRATS WILL FIGHT FOR A FAIR MINIMUM WAGE

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, over these past 2 years, President Clinton and the Democratic Party have been fighting for a single fundamental goal: To raise the standard of living of America's working families. Everything else is secondary to that goal. And if you are one of the millions of Americans who try to support a family on the minimum wage, your real wages have plummeted by almost a third since 1979.

How can you raise a family on $8,500 a year? That is why it is time to raise the minimum wage by 90 cents to lift up those who have been falling behind, to make work pay more than welfare, because too often that is just not the case today. We know that a minimum wage increase will not cost us jobs. Research shows that it creates jobs. And to the Speaker, who says this will widen the gap between American wages and those in Mexico and the Third World, I say: Do we want to raise the world's wages up or just drag ourselves down?

Republican Leader ARMEY not only opposes the increase, he wants to demolish the minimum wage altogether.

To the Republicans lower wages and fewer benefits are just money in the bank for American business. Never mind that people are suffering while profits soar.

This should not be a partisan issue. This is about our standard of living. The American people want this increase by an overwhelming margin, and Democrats are going to fight to give it to them because it is right for our economy and it is right for the hardworking families who are the heart of our party and the heart of our country.

SMALLER GOVERNMENT AND LOWER TAXES

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, some Greek archaeologists recently announced that they may have discovered the tomb of Alexander the Great deep in the desert of Western Egypt. When they found the body, it had a laminated copy of the Contract With America in one hand and an ancient hole puncher in the other.

I suppose the lesson is that the ideas of smaller government and lower taxes are timeless.

However, they were not always such popular ideas in this institution or in this city. It took a revolution for them to take hold here. But take hold they have.

And in just 28 days we have completely reformed the way Congress does business, passed a balanced budget amendment, passed an unfunded mandates bill, and we are about to pass a line item veto. We have done it in record time and passed every single one with significant bipartisan support. And this is just the beginning, Mr. Speaker.

Have you heard of the new cable station called the History Channel? Well, C-SPAN is the real history channel. It is history in the making. So do not touch that dial.

THE MINIMUM WAGE

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, the President today proposed a modest increase in the minimum wage. We should support him. The President's proposal, combined with the earned income tax credit we passed last Congress, will go a long way in pushing millions of Americans out of poverty. Sixty percent or 6 out of every 10 of those who are minimum wage workers are women. Many of them have children. And, most minimum wage workers are poor.

Increases in the minimum wage have not kept pace with increases in the cost of living. That is why a worker can work full time, 40 hours a week, and still be below the poverty level. If the Federal Reserve Board can increase interest rates seven times in less than 6 months, with no inflation in sight, surely we can increase the minimum wage for the first time since April 1991, a period during which the cost of housing, food, and clothing has greatly risen for the minimum wage worker. The best welfare reform is a job, at a livable wage. I support this constrained request to lift millions of workers out of poverty.

□ 1030

PARLIAMENTARY INQUIRY

Ms. KAPTUR. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. TORKILDSEN). The gentlewoman will state her parliamentary inquiry.

Ms. KAPTUR. Mr. Speaker, my inquiry has to do with the courtesy extended to Members who are attempting to deliver their 1-minute messages this morning. I notice that Members on the other side are moving around the podium and placing their papers there, distracting from the individual who is speaking. Now this side has not chosen to use those tactics.

My inquiry is as to appropriate behavior when another Member of the House is addressing the public.

The SPEAKER pro tempore. The gentlewoman's observation is well taken. Members should not be standing in front of the rostrum while other Members are speaking, and the Chair would ask all Members to observe basic courtesy when Members are speaking in the House.

Ms. KAPTUR. And Members awaiting their turn to speak should be seated until they are recognized by the Speaker?

The SPEAKER pro tempore. Members should not traffic the well when any other Member is speaking.

WHY WE NEED REGULATORY REFORM AND A MORATORIUM ON NEW REGULATIONS

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Mr. Speaker, I rise to call your attention to another crazy regulatory scheme they are cooking up over at OSHA.

Buried in a proposed rule on indoor air quality is a requirement that employers provide 24 hours notice to employees every time a pesticide or hazardous chemical is used in the workplace. These so-called hazardous chemicals could include polishes, cleaners, air fresheners, pest control products, and so on. If OSHA has its way, every day my colleagues walk into this building, someone is going to hand you dozens of notices about chemicals that are going to be used tomorrow—if anybody can figure out what they are.

This is nuts. I do not need to know that Windex is going to be used in the men's room tomorrow. This is another example of an out-of-control agency that disregards common sense; this is another example of why we need regulatory reform and a moratorium on new regulations until we can sort this all out.

CONGRESSMEN EARNING 90 CENTS EVERY 45 SECONDS SHOULD SUPPORT INCREASING THE MINIMUM HOURLY WAGE BY 90 CENTS

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, based on a 40-hour week, Members of this body make $64.40 an hour. When we leave the floor today, at 3 p.m., we will have earned $325.

For the millions of Americans who earn minimum wage, $325 means 2 weeks of work, 2 weeks sweeping the floors in our nursing homes; 2 weeks crouched behind a sewing machine putting together our clothes, 2 weeks changing the bedpans in our hospitals, 2 weeks, for what my colleagues and I will earn in the next 5 hours.

Today, the President has proposed increasing the minimum wage by 90 cents. Congressmen earn 90 cents every 45 seconds.

Yet, how easy it will be for so many of my $65 an hour colleagues to dismiss this increase. "Not needed," they will say. "Bad economic policy." Let me tell my colleagues what I believe is bad economic policy:

A minimum wage that leaves millions of Americans with children who are hungry, with college that cannot be paid for, with homes that cannot be bought and with dreams that will never be fulfilled.

That is bad economic policy. Do the right thing. Support a livable minimum wage.

GOOD NEWS FOR THE HOUSE

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, a Washington Post-ABC news poll released last Monday contains good news for this House and better news for the country. In only 3 months public confidence in Congress has doubled from 26 to 46 percent, the largest increase of its kind in the 20-year history of this poll. The majority of Americans now say Congress can deal with the big issues our country faces. The majority of Americans also say Republicans are breaking down legislative gridlock and getting things done.

We are making history, and we all know why. In last November's election Republicans, and a lot of Democrats, too, heard what the American people wanted, and they offered a written Contract for America. Open Congress to public scrutiny, balance the Federal budget, the line-item veto for the President, a stronger national defense and removing unfunded mandates from the backs of local and State governments are just the beginning of the contract. It is real change, and it is starting to overcome America's cynicism about their government.

If anyone still needs proof that the Republican Party's Contract With America has given the American people hope, they need only look to the polls.

INCREASING THE MINIMUM WAGE SHOULD NOT BE A PARTISAN ISSUE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, Democrats finally have a defining issue, increasing the minimum wage, but it should not be a partisan issue. If Republicans want a cut in the capital gains tax for those most fortunate Americans, surely they can support a modest increase in the minimum wage for the average worker. We need to move Americans from the underclass to the middle class, and this is mainly a women's issue. Women are 60 percent of those receiving minimum wage, and many of these women are heads of households. They deserve better.

Mr. Speaker, the last election was about putting money in people's pockets, and what we are talking about is $4.75 an hour the first year and $5.25 the next year.

Let us stop the bellyaching about losing jobs, and let us do the right thing.

MOVING THE COUNTRY FORWARD WITH EACH CONTRACT PROMISE WE KEEP

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, what do 43 Governors have that President Clinton does not have? The answer: line-item veto.

By the end of the day Monday, President Reagan's birthday, this House will have approved a new power to help control Government spending that Democrats would not even give their own President.

With the line-item veto, Mr. Speaker, we cannot only cut wasteful spending, but we can return some accountability to Congress and, just as important, with each contract promise we keep, we not only move the country forward, but also help repair the bonds of trust between the people and their Representatives that have been so badly damaged over the last few decades. Politicians keeping promises will be greatly appreciated by the taxpayers of America.

IN SUPPORT OF A MINIMUM WAGE INCREASE

(Mr. MASCARA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MASCARA. Mr. Speaker, I stand here today to voice my strong support for the 90-cent increase in the minimum wage proposed by President Clinton.

As my colleagues know, I represent southwestern Pennsylvania, an area of the country that lost 200,000 jobs in the 1980's when the winds of change blew through the steel mills and the coal mines.

Many of my constituents are now left to subsist on $4.25 per hour, or $8,840 per year, hardly a living wage and no where near enough to raise a family.

The facts are that adjusted for inflation, the value of the minimum wage has fallen by nearly 50 cents since 1991 and is now 27 percent lower in buying power than it was in 1979.

Mr. Speaker, in 1989 President Bush proposed, and many of my Republican colleagues supported, a similar minimum wage increase.

Now that we are about to undertake welfare reform, a minimum wage increase could be the first step in cutting welfare rolls and giving people a chance at a decent wage.

If we are going to be fair to our workers and help the economy to continue to grow, we should pass this modest minimum wage increase now.

American workers are crying out for us to help them.

□ 1040

PASSAGE OF LINE-ITEM VETO EXPECTED TO FALL ON EX-PRESIDENT REAGAN'S 84TH BIRTHDAY NEXT MONDAY

(Mr. FORBES asked and was given permission to address the House for 1 minute.)

Mr. FORBES. Mr. Speaker, in his 1984 State of the Union Address President Ronald Reagan said, "As Governor, I found this line-item veto was a powerful tool against wasteful and extravagant spending. It works in 43 States. Let's put it to work in Washington for all the people."

Now, more than a decade later, President Reagan may get his wish. As Republicans continue to honor our Contract With America, we are finally close to the enactment of a line-item veto.

President Reagan communicated to us in ways that moved an entire nation. He painted pictures that emphasized our greatness, our heroes, and our hopes. His policies and his ideas were substantive, but he always had a knack for conveying a symbolism that helped Americans understand where he was taking us.

No one in this Chamber would ever try to compete with the style of President Reagan, but the symbolism of the vote on the line-item veto should not be lost. The House is scheduled to pass the line-item veto on Monday, February 6, Ronald Reagan's 84th birthday. We will deliver the Democrat President a budget-cutting device of surgical precision, a tool the Democrat Congress denied Ronald Reagan for 8 years.

MINIMUM WAGE RATE HIKE SEEN AS CRUCIAL TO WELFARE REFORM

(Ms. DELAURO asked and was given permission to address the House for 1 minute.)

Ms. DELAURO. Mr. Speaker, I was proud to join President Clinton and my Democratic colleagues this morning in announcing our plan to raise the minimum wage from $4.25 an hour to $5.15 an hour. I am proud because I believe that raising the minimum wage is the right thing to do.

Consider this: A family of three with a full-time minimum wage worker lives below the poverty level in America. By raising the minimum wage by 90 cents over the next 2 years, we can lift that family above the poverty line. People who are working full-time at honest jobs should be able to support their families.

More importantly, raising the minimum wage is crucial to welfare reform. We cannot ask people to move from welfare to work unless we make work pay again.

Mr. Speaker, it is time we value work again in this country. More importantly, it is time we value our workers. People who work hard and play by the rules deserve to make a living wage. Let us raise the minimum wage.

THE LINE-ITEM VETO—A NEW TOOL TO FIGHT THE DEFICIT

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, every year someone invents a new term for the line-item veto. We have had enhanced rescission authority, we have had impoundment control, we have had expedited rescission, and other names too numerous to list. But while the names have changed, there is one factor that has remained the same. That is that the big spenders in Congress have always been opposed. That is because the big spenders know that the line-item veto by any name means less spending and more cuts. It gives the President the ability to turn over the legislative rock and expose all the pork provisions and midnight deals to the light of day. Once exposed, they simply will not survive.

By enacting the line-item veto, we can trim billions of dollars off the deficit and restore accountability to the legislative process. Combined with the balanced budget amendment, it will force Congress to make those tough decisions we have avoided for years. It is one more tool in the fight against the deficit.

WORK SHOULD PAY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute.)

Mrs. SCHROEDER. Mr. Speaker, the message for today is that work should pay.

I proudly stood with the President of the United States when he said we must raise the minimum wage.

Right now, if you work on the minimum wage and you are lucky enough to have a job all year long and work 8 hours a day, you can bring home $8,500. That is tough. Imagine how those people feel. And 60 percent of them are women trying to support their families. Imagine how they feel when they hear Congressmen making $133,000 saying they cannot afford to live in Washington and they must live in their offices. Not only that, they get a tax advantage for living in Washington. Really this ought to be a bill that we pass by unanimous consent.

That is the least we can do for the working men and women of America. If we can raise this up, at least the average family will make $10,500 for full-time work, and that is very important.

Make work pay. That is the message of the day.

CONGRESS KEEPING ITS WORD TO THE AMERICAN PEOPLE

(Mr. FOX of Pennsylvania asked and was given permission to address the House for 1 minute.)

Mr. FOX of Pennsylvania. Mr. Speaker, America has a new Congress, new leadership, a new majority, a new direction, a new work ethic, and a new relationship with the American people. This Congress listened to the people and entered into a contract to make their voice heard.

What is also new is that this Congress is keeping its word. In bipartisan fashion, last week we passed a balanced budget amendment. This week another promise was fulfilled with the passage of the bill to stop unfunded mandates.

We signaled the end of the "Washington knows best" attitude of the Congresses that have preceded us. We ended the unprincipled, deceitful practice of Congress dumping expensive new laws and regulations on States and local communities and telling them, "Oh, by the way, you not only have to do as we say, your taxpayers have to pay the cost of implementing them."

Mr. Speaker, in the process of reaffirming our faith in that system of government with the passage of these laws, I believe we also took another major step toward restoring America's faith in Congress.

SHOULD MINIMUM WAGE BE TIED TO MEXICAN WAGES?

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, at today's press conference, Speaker GINGRICH argued that the wages of American workers should not be raised because of the problems with the Mexican economy. Does the Speaker and the Republican Party really believe we should tie American wages, that the standard of living of American working families should be driven down to the standard of a living wage in Mexico?

It is time for us to stand up for working people in this country. People should be rewarded for their hard work. People who try to move from welfare to work should see that work pays. Yet a person on a minimum wage today who works hard, who works 40 hours a week, who takes responsibility for his or her action, who tries to raise a family finds that that family earns less than $9,000 a year.

Mr. Speaker, that is below the poverty line. Ask yourself, how could you raise a family on less than $9,000 a year?

Mr. Speaker, I urge my colleagues on both sides of the aisle to support the increase in the minimum wage.

TERM LIMITS

(Mrs. MYRICK asked and was given permission to address the House for 1 minute.)

Mrs. MYRICK. Mr. Speaker, I would like to remind my colleagues that hearings begin today in subcommittee on the most fundamental congressional reform issue we will face this session—term limits.

As these hearings begin, I ask my colleagues to join team 290—a bipartisan group of Members of Congress committed to passing a term limits amendment in the 104th Congress.

We are gathering commitments to support final passage of a term limits amendment this session. Please join us by signing the team 290 board in the Speaker's lobby today. If you can't join today, the board will be up from 9 to 5:30 daily.

Please join team 290 and show your commitment to true congressional reform through term limits.

MINIMUM WAGE INCREASE

(Ms. ROYBAL-ALLARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, I strongly support the President's decision to raise the minimum wage.

This bold action is an important step in helping to make the American dream a reality for millions of hard-working Americans.

Far too many Americans are working fulltime, only to face the cruel reality that they do not earn enough to support their families.

Today, the minimum wage is worth 27 percent less than it was in 1979.

To allow the devaluation of reward for honest work to continue without positive adjustment is a travesty which demeans the worker and the value of work he or she performs.

This devaluation has added countless individuals to the welfare rolls—individuals who would prefer to work, if only they could support their families by doing so.

I endorse the President's decision to recognize the American worker in this manner.

The increase is justified. Workers have earned it time and again through the honest sweat of their brow.

We must no longer allow their honest efforts to go unnoticed or unrewarded.

□ 1050

TERM LIMITS FOR MEMBERS OF CONGRESS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I rise today in support of House Joint Resolution 66, which is offered by a fellow Georgian, a colleague of mine, a Democrat, NATHAN DEAL. It has bipartisan support, and I think it solves the problem that we are having on term limits, which is a philosophical debate amongst members of the same philosophical family. That is to say, should we pass a 12-year term limit or 6 or 8 years.

What the resolution offered by Representative DEAL does is say we will pass a bill, a constitutional amendment, requiring a 12-year term limit as the outer parameter, but if States want to continue with their own term limits under that amount, they are welcome to.

For example, the State of Florida right now has a term limit of 8 years. I believe California has one of 6 years. They can continue having that, and yet there will still be an overall limit of 12. This will help 19 States that already have term limit laws below 12 years.

Mr. Speaker, I think this is in line with the Contract With America, it has bipartisan support, and I urge its passage.

ON RAISING THE MINIMUM WAGE

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, it is time to raise the minimum wage. Today the minimum wage is $4.25 an hour. It has not been changed in 4 years.

That means a person working full-time, 40 hours a week, 52 weeks a year, will earn less than $9,000, and has not seen a raise in 4 years of work.

Families cannot live on that. No one can raise a child on that.

There is a lot of talk about work, not welfare. But if a full-time, minimum-wage worker cannot even earn enough to reach the poverty line, work will not be a real alternative to welfare.

Millions of Americans are working hard, trying desperately to make ends meet, but still falling farther behind. That is not fair.

We must reward work, help families help themselves. The minimum wage must be raised to a livable wage.

LINE-ITEM VETO

(Mr. PORTMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTMAN. Mr. Speaker, with the passage of the unfunded mandate reform bill and the balanced budget amendment, we are actually starting to change the way Washington works. We are laying the groundwork for a new era of accountability. The next important step is the line-item veto.

For too long Congress has sent the White House jampacked, all-encompassing spending bills. This has meant the President has had to choose between signing unnecessary spending into law or shutting down the Government.

Every year questionable projects and tax benefits are included and buried in spending and tax bills. Let me give you a few examples. We have all heard them: $500,000 to build the Lawrence Welk museum in North Dakota. Hundreds of millions to stockpile helium for the military, when we already have enough helium in storage to meet the entire world's needs for helium for the next 10 years; $11.5 million for power plant modernization at the soon-to-be-closed Philadelphia Naval Shipyard; and $25 million for an Arctic region supercomputer at the University of Alaska to study how to trap energy from the aurora borealis.

The line-item veto is needed because it would allow the President flexibility to weed out and strike other wasteful spending items in an otherwise good bill.

THE MINIMUM WAGE AND FAMILY VALUES

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. speaker, now this is the Republican Party you remember. The Republican Party and Speaker GINGRICH oppose raising the minimum wage so hard-working Americans can earn a decent living. The same Republican Party which reveres family values, refuses a minimum-wage increase to the working mother trying to help her kids.

The same Republican Party which promises a tax cut for those earning $200,000 a year, denies 45 cents an hour to workers trying to feed their families. And the same Republicans who promise welfare reform and would rather build orphanages than create a minimum wage so people can lift themselves off of the dole.

The Grand Old Party. A lot of new faces and high-flying rhetoric, and even a new contract, but the same Republican insensitivity to the needs of average people.

A HOT 2 YEARS

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, these are going to be 2 very difficult years, and I am going to try and save my thunder for outside the Halls of this Chamber and for New Hampshire and Iowa and other places. But I think every American should read the front page story of the Washington Post today on Mr. Clinton. It goes into A-4, and opens up, rips off, every tragic scab and scar from the 1992 campaign. Bob Woodward's book "Agenda" on page 287 has Mr. Clinton yelling, it says, "——— you" at a U.S. Senator, BOB KERREY, a Medal of Honor winner.

I am telling all my colleagues on both sides of the aisle, I saw George Stephanopoulos coming out of DICK GEPHARDT'S office the night before last. We know DICK has been in the press the last 2 days. Mr. Clinton is not going to be the nominee of your party. I believe it is going to be a Medal of Honor winner named BOB KERREY. That is going to create a lot of problems for our side.

Let us have a civil debate here. But when the gentleman from Illinois [Mr. DURBIN] gets up and hits my party, I have every right to say read "The Agenda," read "First in His Class," read the front page of the Post today. It is going to be a hot 2 years.

RAISE MINIMUM WAGE

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I rise today in strong support of President Clinton's proposal to raise the minimum wage by just 45 cents an hour over each of the next 2 years. Those of you watching today need to notice that while we Democrats are talking about helping working families, speaker after speaker on the other side stands silent on the increase in the minimum wage. They speak of anything but. That is because with inflation, the minimum wage has decreased almost 50 cents since 1991, and is currently only three-quarters of what it was in 1979.

How can we encourage people to get off of welfare when we do not provide them a decent wage? How can we say that we reward work over welfare when we do not provide the means by which an individual can achieve this goal?

Mr. Speaker, I applaud President Clinton's efforts, and I encourage my colleagues on both sides of the aisle to support this proposed increase.

DON'T LINK OUR SOVEREIGNTY TO MEXICO

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, is it in our best interest to link the economic security of this country to markets controlled by a nation with a record of bankruptcies and devaluations?

In fact is it proper to do free trade with a country that has a history of these devaluations, repudiations of debts and a country that lacks real democratic reforms? Mr. Speaker, I am concerned about President Clinton's decision to bail out Mexico.

Let us face the facts—Mexico's political system has not been reformed as rapidly as its economy, and therein lies the problem.

Government corruption continues, particularly in the form of bribes and kickbacks for government projects and there is a large black market. There is no middle class and most of the wealth is controlled by a few families.

Mexico's average inflation rate from 1980 to 1991 was 66.5 percent. There is a high level of regulation and there needs more privatization of government businesses.

If we are to rely on back door bailouts for countries that have this economic history, then I question the New World Economic Order.

Mr. Speaker, the President should not link our economic sovereignty to a nation that does not have sound economic and political policies.

TIME TO RAISE MINIMUM WAGE

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, now I have heard it all. Now I have heard everything. At his press conference today Speaker GINGRICH was asked about the minimum wage. He was asked if he plans to support a minimum-wage increase. You know what he said? He said we cannot raise the minimum wage. We can't raise it above $4.25. And do you know why? He said because of the problems with the Mexican economy. He said we can't raise wages here while the wages are going down in Mexico.

Does the Speaker really believe that we should base our pay raises in America on what is happening in Mexico? That Mexico should be our benchmark for wages? That 58 cents an hour should be our standard? That is two quarters, one nickel, and three pennies, held together by a bunch of tape. Why does he want to continue to keep the American worker down?

Mr. Speaker, it is time we stand up for working people in this country. It is time we reward people for their hard work. It is time we raise the minimum wage.

TAX CUTS NEEDED, NOT MINIMUM-WAGE INCREASE

(Mr. LONGLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LONGLEY. Mr. Speaker, I want to talk about the minimum wage. In the last year I have been talking about the fact that in my State of Maine if I go out to a store to buy a pack of cigarettes, I will pay three taxes. If I go out and buy a can of beer, I will pay four taxes. But if I do the right thing and go out and create a job for a working person at the minimum wage in this country, I am going to pay or manage nine different taxes.

I am tired of the nonsense we are hearing about the minimum wage and how we can increase it and how we are going to do wonderful things for people. I want to focus on the fact that those nine taxes at the minimum wage exceed $1 an hour.

□ 1100

I think that is outrageous. When I talk to young people in my district, it is bad enough that many of them feel that with the payroll tax burden that is on their jobs, they are more likely to see a UFO than to get a Social Security check when they retire. It is bad enough that they are worried about whether they are going to even receive any benefits whatsoever, now they are going to be losing their jobs.

The issue is not what is going on in the private sector. The issue is a government that is taking $1 an hour out of the minimum wage. I think that is the real issue, and that is where the focus needs to be in the rest of this session.

RAISING THE MINIMUM WAGE

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, nothing speaks more clearly to the need for an increase in the minimum wage than the plight of poor children in America. Earlier this week, the National Center for Children in Poverty released a study that should trouble all of us. The study shows that one in every four children under the age of 6 in our country was living in poverty in 1992. That number is twice what it was in 1972 and includes an increase of 1 million children in the 5 years between 1987 and 1992.

Three of every five of these children have working parents, but they make the minimum wage. And it is not a living wage. Working parents are trying to provide a decent life for their children.

We have heard our colleagues talk about the fact that if someone works full-time minimum wage, they make $8,400 a year, nearly 50 percent below the poverty line.

We have a moral responsibility to give those working parents and their children a fighting chance by giving them a living wage. The American people agree. In December, the Wall Street Journal-NCB poll showed 75 to 20 the American people favored an increase in the minimum wage. In January the L.A. Times reported 72 percent.

In 1989, when we took up this vote, 382 Members of this House, including 135 Republicans, voted for the increase in the minimum wage.

Let us do it again.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TORKILDSEN). As previously announced, the House has completed 20 1-minutes per side. Additional 1-minutes will occur after the close of business today.

REPORT ON HAITI—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

1. In December 1990, the Haitian people elected Jean-Bertrand Aristide as their President by an overwhelming margin in a free and fair election. The United States praised Haiti's success in peacefully implementing its democratic constitutional system and provided significant political and economic support to the new government. The Haitian military abruptly interrupted the consolidation of Haiti's new democracy when, in September 1991, it illegally and violently ousted President Aristide from office and drove him into exile.

2. The United States, on its own and with the Organization of American States (OAS), immediately imposed sanctions against the illegal regime. Upon the recommendation of the legitimate government of President Aristide and of the OAS, the United Nations Security Council imposed incrementally a universal embargo on Haiti, beginning June 16, 1993, with trade restrictions on certain strategic commodities. The United States actively supported the efforts of the OAS and the United Nations to restore democracy to Haiti and to bring about President Aristide's return by facilitating negotiations between the Haitian parties. The United States and the international community also offered material assistance within the context of an eventual negotiated settlement of the Haitian crisis to support the return to democracy, build constitutional structures, and foster economic well-being.

The continued defiance of the will of the international community by the illegal regime led to an intensification of bilateral and multilateral economic sanctions against Haiti in May 1994. The U.N. Security Council on May 6 adopted Resolution 917, imposing comprehensive trade sanctions and other measures on Haiti. This was followed by a succession of unilateral U.S. sanctions designed to isolate the illegal regime. To augment embargo enforcement, the United States and other countries entered into a cooperative endeavor with the Dominican Republic to monitor that country's enforcement of sanctions along its land border and in its coastal waters.

Defying coordinated international efforts, the illegal military regime in Haiti remained intransigent for some time. Internal repression continued to worsen, exemplified by the expulsion in July 1994 of the U.N./O.A.S.-sponsored International Civilian Mission (ICM) human rights observers. Responding to the threat to peace and security in the region, the U.N. Security Council passed Resolution 940 on July 31, 1994, authorizing the formation of a multinational force to use all necessary means to facilitate the departure from Haiti of the military leadership and the return of legitimate authorities including President Aristide.

In the succeeding weeks, the international community under U.S. leadership assembled a multinational coalition force to carry out this mandate. At my request, former President Carter, Chairman of the Senate Armed Services Committee Sam Nunn, and former Chairman of the Joint Chiefs of Staff Colin Powell went to Haiti on September 16 to meet with the *de facto* Haitian leadership. The threat of imminent military intervention combined with determined diplomacy achieved agreement in Port-au-Prince on September 18 for the *de facto* leaders to relinquish power by October 15. United States forces in the vanguard of the multinational coalition force drawn from 26 countries began a peaceful deployment in Haiti on September 19 and the military leaders have since relinquished power.

In a spirit of reconciliation and reconstruction, on September 25 President Aristide called for the immediate easing of sanctions so that the work of rebuilding could begin. In response to this request, on September 26 in an address before the United Nations General Assembly, I announced my intention to suspend all unilateral sanctions against Haiti except those that affected the military leaders and their immediate supporters and families. On September 29, the U.N. Security Council adopted Resolution 944 terminating U.N.-imposed sanctions as of the day after President Aristide returned to Haiti.

On October 15, President Aristide returned to Haiti to assume his official responsibilities. Effective October 16, 1994, by Executive Order No. 12932 (59 Fed. Reg. 52403, October 14, 1994), I terminated the national emergency declared on October 4, 1991, in Executive Order No. 12775, along with all sanctions with respect to Haiti imposed in that Executive order, subsequent Executive orders, and the Department of the Treasury regulations to deal with that emergency. This termination does not affect compliance and enforcement actions involving prior transactions or violations of the sanctions.

3. This report is submitted to the Congress pursuant to 50 U.S.C. 1641(c) and 1703(c). It is not a report on all U.S. activities with respect to Haiti, but discusses only those Administration actions and expenses since my last report (October 13, 1994) that are directly related to the national emergency with respect to Haiti declared in Executive Order No. 12775, as implemented pursuant to that order and Executive Orders Nos. 12779, 12853, 12872, 12914, 12917, 12920, and 12922.

4. The Department of the Treasury's Office of Foreign Assets Control (FAC) amended the Haitian Transactions Regulations, 31 C.F.R. Part 580 (the "HTR") on December 27, 1994 (59 Fed. Reg. 66476, December 27, 1994), to add section 580.524, indicating the termination of sanctions pursuant to Executive Order No. 12932, effective October 16, 1994. The effect of this amendment is to authorize all transactions previously prohibited by subpart B of the HTR or by the previously stated Executive orders. Reports due under general or specific license must still be filed with FAC covering activities up until the effective date of this termination. Enforcement actions with respect to past violations of the sanctions are not affected by the termination of sanctions. A copy of the FAC amendment is attached.

5. The total expenses incurred by the Federal Government during the period of the national emergency with respect to Haiti from October 4, 1991, through October 15, 1994, that are directly attributable to the authorities conferred by the declaration of a national emergency with respect to Haiti are estimated to be approximately $6.2 million, most of which represent wage and salary costs for Federal personnel. This estimate has been revised downward substantially from the sum of estimates previously reported in order to eliminate certain previously reported costs incurred with respect to Haiti, but not directly attributable to the exercise of powers and authorities conferred by the declaration of the terminated national emergency with respect to Haiti.

Thus, with the termination of sanctions, this is the last periodic report that will be submitted pursuant to 50 U.S.C. 1703(c) and also constitutes the last semiannual report and final report on Administration expenditures required pursuant to 50 U.S.C. 1641(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 3, 1995*.

LINE-ITEM VETO ACT

The SPEAKER pro tempore. Pursuant to House Resolution 55 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2.

□ 1103

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2) to give the President item veto authority over appropriation acts and targeted tax benefits in revenue acts, with Mr. BOEHNER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, February 2, 1995, the amendment offered by the gentleman from Pennsylvania [Mr. KANJORSKI] had been disposed of and the bill was open for amendment at any point.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. SPRATT

Mr. SPRATT. Mr. Chairman, I offer an amendment, amendment No. 20.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. SPRATT: In section 2(a), insert "or tax incentive" after "tax benefit" the first place it appears.
>
> At the end of Section 4, insert the following new paragraph:
>
> (5) The term "tax incentive" means any deduction, credit, preference, or exemption from gross income, or any deferral of tax liability, causing tax revenues to be forgone as inducement for taxpayers to pursue or forbear from certain actions or activities.

Mr. SPRATT. Mr. Chairman, I rise to support the amendment known as the Moran-Spratt amendment.

Mr. Chairman, the advocates of H.R. 2 claim that they have found a way to give the President by statute powers that he does not enjoy under the Constitution, the power, specifically, of an item veto. They claim that this power will allow the President to cut out wasteful, unwarranted, spending in appropriations bills that we adopt every year.

Our amendment simply takes the President's newfound veto power to the realm of quasi-spending sometimes known as tax expenditures or tax incentives.

The committee bill already takes a tentative step in this direction. It delegates to the President the power to rescind targeted tax benefits, special interest tax provisions that benefit 100 or fewer taxpayers. But here it stops. It stops, in my opinion, far short of the right goal.

As to spending, this bill boldly covers virtually every item in 13 different appropriations bills, all with discretionary spending, $540 to $550 billion a year, but with tax expenditures it turns timid. It stops at a limited-interest tax provisions which are really just the tip of the iceberg.

Why is this bill so tough on spending and so easy on special interest tax incentives?

Let me read my colleagues what Newsweek said to explain last week, reading from Newsweek.

> The fine print of the item veto bill reveals that though the Republicans are tough on spending, they are lax on special-interest tax giveaways. The vast majority of tax breaks, worth hundreds of billions of dollars, would remain immune from the President's veto. Any lobbyist looking for goodies from the Federal Government in the future could work through the tax code instead of working through spending bills.

For some years we all know that has been a favorite recourse. That has been a practice common here for 20 to 25 years. If we want to give people an incentive to install solar heat in their homes, we are not so obvious as to hand them out a subsidy. We allow them a tax credit for part of the cost.

If we want to promote oil and gas exploration, we do not fork over subsidies to the drillers. That would never be approved in the House, appropriating money for the major oil companies. We give them oil depletion allowances, or we let them expense costs that other businesses would be required to capitalize. Nobody notices because it is buried in the Tax Code, and who is to know when we are allowing one cost to be expensed rather than capitalized that we actually are giving a subsidy to this particular taxpayer.

Our amendment would give the President the power to police these tax expenditures, to comb through the Tax Code the way he will be able to comb through spending appropriation bills and cull out questionable policies and provisions.

Under our amendment, the President would have the right to rescind so-called tax incentives or tax expenditures.

What are tax incentives or tax expenditures? Let me read the definition we use in our amendment for tax incentives. The term "tax incentive" means any deduction, credit, preference, or exemption from gross income or any deferral of tax liability causing tax revenues to be forgone as inducement for taxpayers to pursue or forbear from pursuit of certain activities or actions.

So long as we are going to be tough on spending, as this bill certainly will be, let us also be tough on tax giveaways. They amount to the same thing. They have the same bottom line impact on the deficit.

And for that reason, Mr. Chairman, I urge adoption of the Moran-Spratt amendment.

Mr. MORAN. Mr. Chairman, the Spratt-Moran amendment which we are now considering greatly improves upon the Line-Item Veto Act.

In the Contract on America and every piece of literature touting the Line-Item Veto Act, the Republicans are quick to claim that this would give the President the authority to cut out pork spending and targeted tax benefits. But if you look at the actual legislation, you will see that it does not give the President the authority to truly cut targeted tax benefits.

The original Line-Item Veto Act only allowed the President to veto tax benefits if they benefited five or fewer taxpayers. This is a joke. There is no law, no pork project, and no tax cut, no program enacted by this Congress that only benefits five or fewer Americans. This bill was amended in committee to increase the number up to 100, but it still is worthless. No omnibus tax bill contains a tax cut for John Doe of Alexandria, VA, or the Smith family in Fairfax. There are very, very few tax benefits targeted to any class with less than 100 persons.

Tax bills, however, do contain special interest giveaways. They are loaded with individual provisions designed to either induce taxpayers to do a certain activity or discourage taxpayers from doing another. Just last month, the Senate Budget Committee released a compendium of tax expenditures that identified $453 billion in individual tax provisions for fiscal year 1995 alone. We are making a big deal because this bill may open $10 billion in unauthorized spending each year to a potential line-item veto. But in the same breath we are passing on an opportunity to open $453 billion, nine times that amount, to the same authority.

Many of these individual tax provisions are positive and should be continued. But in the same vein, many of the items contained in appropriations bills are justifiable and serve the public interest. But some of these are questionable. On page 41 of this compendium, CRS notes the "Interest Allocation Rules Exception for Certain Nonfinancial Institutions". This tax benefit classifies a finance subsidiary of the Ford Motor Co. as a financial institution and costs the Federal taxpayers $200 million. What is the rationale for this tax break? Nobody knows, it was not mentioned in the committee reports on the Tax Reform Act of 1986. There is no pork project in any appropriations act that comes close to $200 million annually. On page 29 of this compendium is the "Exclusion of Income of Foreign Sales Corporations," a tax benefit which allows firms to exclude 15 percent of income of exports sold through special foreign subsidiaries set up as paper corporations. This tax benefit costs the Federal taxpayers $1.1 billion annually.

Some of these individual tax provisions, such as mortgage interest deductions, are positive and benefit almost every American family. But some are giveaways that increase our deficit for the benefit of a few wealthy corporations.

If we are serious about reducing the deficit and are serious about giving the Executive the ability to cut wasteful spending, we must also allow him to cut any and all unnecessary and unjustifiable tax subsidies.

I hope my colleagues will support this amendment.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. Having to oppose the amendment, I regret, because the gentleman from South Carolina [Mr. SPRATT] is certainly one of the most thoughtful, constructive, and contributing members of the committee. He has given enormous thought to this issue and to all of the issues involved in this legislation. But I think that he goes beyond, way beyond what we were attempting to get at in this bill, which would allow the President to veto very special, very limited, tax perks for special fat cat friends, "fat cats" being a broad term.

This, I think, is too broad, because it would allow the President to veto things like the homeowners mortgage deduction, the earned income tax credit, credits to assist family members in taking care of elderly and indigent relations.

Clearly, Mr. Chairman, this is way outside the scope of what we were attempting to have as a very targeted, very precise rifle shot attack on those egregious examples of overreaching which we have unfortunately seen too many examples of in our Tax Code in recent years.

This is a much broader policy initiative, and I think it is a worthy one. But I think for the purposes of this legislation, it broadens the scope of the legislation too much. I must oppose the amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. This amendment would make any tax incentive subject to the Presidential line-item veto. Tax incentives would include any deduction, credit, preference, or exemption from gross income of any deferral of tax liability. For example, the mortgage deduction and the exemption for dependents could be subject to the Presidential line-item veto.

□ 1110

A very disturbing trend seems to be developing in this debate. The new Republican majority seem to have two contracts with America, one in which they protect the tax loopholes of the wealthy and the other under which they sacrifice the programs for working people on the altar of deficit reduction.

I think that is wrong. And I think the American people can see through it. The majority would like us to believe that it is the middle-income tax cut that they want to protect, but in reality they are protecting many special interests that feed daily at the Federal trough of privilege and preferred treatment.

I have here, for example, a list that I would like for my colleague to know about. One such provision which gets special tax preference that the President would not be able to veto under this legislation is a provision favoring the oil and gas industry by repealing the minimum tax for depletion and intangible drilling costs for independents and oil drillers. Since we have more than 100 oil drillers in the country, the President could not veto this bill.

Another provision we have here gave a tax preference for purchasers of fuels containing alcohol. Since thousands of people can buy gasohol, the President would not line-item veto that provision, even though one company, Archer Daniel Midlands, controls about 90 percent of the gasohol market.

A third benefits purchasers of electric cars and cars powered by natural gas. Even though this provision really benefits a handful of carmakers, the President could not veto it since many people could buy the cars.

Let me cite another example where our Tax Code gives a special tax benefit or credit to drug companies doing business in Puerto Rico; 24 big companies with receipts exceeding $250 million got a total of $2.6 billion in tax credits from this provision in 1992, but because a total of 338 companies got benefits from this provision, the President could not veto it.

You know the Moran-Spratt amendment points out that Republicans like giving tax breaks to the wealthy, and there is no reason why those tax expenditures should not be subject to the line-item veto in the same way spending programs are.

Mr. Chairman, if deficit reduction is the goal, the benefits wealthy Americans and corporations receive must be on the table, not just spending programs for the working people in this country.

I urge my colleague to support the Moran-Spratt amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina [Mr. SPRATT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SPRATT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 243, not voting 16, as follows:

[Roll No 89]

AYES—175

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Coyne
Cramer
Danner
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Laughlin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mollohan
Montgomery
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Williams
Wilson
Wise
Wyden
Yates

NOES—243

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Combest
Conyers
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Diaz-Balart
Dickey
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Meyers
Mica
Miller (FL)
Mink
Molinari
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Pastor
Paxon
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torres
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—16

Bartlett
Becerra
Collins (GA)
Collins (MI)
Gunderson
Hoyer
Istook
Kelly
Largent
Metcalf
Moakley
Sisisky
Stockman
Towns
Waxman
Woolsey

☐ 1131

The Clerk announced the following pairs:

On this vote:

Mr. Hoyer for, with Mr. Bartlett of Maryland against.

Mr. Towns for, with Mr. Largent against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. WOOLSEY. Mr. Speaker, I was unavoidably detained during the vote on the Spratt-Moran amendment to expand the President's line-item veto authority to include tax loopholes. Had I been present for this vote, I would have voted "Aye."

Mr. ARMEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have a few words about the schedule as the day proceeds.

I would like to mention to all the Members of the body that we are concerned about the snowstorm that is moving in, especially in the Midwest. We have a lot of Members who are anxious to travel. We have, I think it is four amendments we believe that we can move fast. We are trying to move the amendments as fast as we can. We are hopeful that with the cooperation of all the Members we might be able to complete our work today even before the scheduled 3 o'clock departure time. I think that could be beneficial to a lot of our traveling Members. I just wanted to bring to every Member's attention that insofar as we can move the debate and the amendments fast we might be able to alleviate their travel pressure.

I want to thank all the Members for their attention.

The CHAIRMAN. Are there any other amendments to be offered to the bill?

Mr. WISE. Mr. Chairman, I move to strike the requisite number of words.

I would like to ask if the distinguished Chair of the full committee would engage in a discussion as to the scheduling.

The majority leader asked that we run amendments at this point. I am not aware of any amendments on the floor at this time. Is it the desire of the majority leader and the committee to go out if that is not the case, to go to the substitutes? What is the will here?

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the Chair of the full committee.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, we have been noticed with a number of amendments that have been published in the RECORD, and we assumed that they would be offered in a timely fashion; that is, Ms. NORTON has an amendment, Mr. OBEY has an amendment, Ms. WATERS has an amendment, Mr. TAUZIN. We had anticipated that those amendments would be coming in due course. Our objective here would be to complete those amendments today, dispose of those amendments today, and deal with the substitutes. I know the gentleman from West Virginia [Mr. WISE] has a substitute which he would offer on Monday.

Mr. WISE. At this point it is my understanding, and I will defer to our ranking member, but it is my understanding that none of the Members are able to offer their amendments at this point or had not expected to.

So the question then becomes if there is concern about the weather, is it better to let Members go at this point; if there is concern about the weather and getting flights to the West and Midwest particularly before they get socked in, is it better, if the amendments are not offered, to——

Mr. CLINGER. If there are no amendments to be offered, I would suggest the gentleman who has a substitute would offer his substitute at this time and we would deal with that, or else we would move to final passage. In that event, we will postpone final passage until Monday.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the ranking member.

Mrs. COLLINS of Illinois. I thank the gentleman for yielding.

Mr. Chairman, if we do not have any amendments here now and if we are getting ready to go on the substitute, why would we hold final passage until Monday when we might not be able to get here on Monday?

I have been working here in Washington as long as the gentleman from Pennsylvania [Mr. CLINGER] has, I believe, and we understand that if there is a 12-inch snowstorm there is no way we are likely to be able to get here from wherever we are on Monday.

□ 1140

So it would seem to me, Mr. Chairman, the thing to do would be to go on with this legislation today, get it over with, if we possibly can. There are two options. One is to rise and come back whenever we can if we are stuck someplace because of the snow, and the other thing is to complete the bill today.

PARLIAMENTARY INQUIRY

Mr. CLINGER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. CLINGER. Mr. Chairman, in the event the substitute amendment would be offered, a substitute for the bill would be offered at this point, would it preclude the offering of other amendments upon the disposition of the substitute amendment?

The CHAIRMAN. In responding to the gentleman's parliamentary inquiry: not necessarily.

If the substitute were adopted, that would stop the amendment process with respect to the original-text substitute.

Mr. CLINGER. I understand.

Mr. WISE. Excuse me, Mr. Chairman, I could not hear the Chair. What was the ruling?

Mr. CLINGER. Mr. Chairman, I would tell the gentleman that I would encourage, in view of the fact that there are then no Members presently on the floor prepared to offer perfecting amendments, but only the gentleman standing who is prepared to offer a substitute amendment—my understanding is that if the gentleman's substitute would prevail, it would preclude consideration of further amendments. On the other hand, if the gentleman's substitute does not prevail, other amendments would be in order, and I would encourage the gentleman to present his substitute amendment.

Mr. WISE. In that case, Mr. Chairman, we will be happy to proceed.

The CHAIRMAN. Are there any other amendments to the bill?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WISE

Mr. WISE. Mr. Chairman, I offer an amendment in the nature of a substitute. It has been printed in the RECORD and is amendment No. 31.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. WISE: Strike all after the enacting clause and insert the following:

SECTION 1. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit unless the President also proposes a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided; and

"(F) a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974, if proposed by the President.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session; and

"(3) the term 'targeted tax benefit' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities."

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits."

Mr. WISE. Mr. Chairman, this amendment, or the substitute that is being offered, is the Wise-Spratt-Stenholm substitute. Some call it expedited rescission; some would call the Republican version offered by the full committee enhanced rescission. Both are forms of line-item veto, and that is the first thing we have to get clear.

There are two goals, it seems to me, with any kind of modified line-item veto such as we are discussing today. The goals are that the President be able to line item items in appropriation bills that he or she thinks should be cut and that the President is entitled to a vote on those items; second, that all Members be held accountable for whether or not they voted to sustain the President, whether they voted to cut.

So, Mr. Chairman, the goals are: the President can veto and the Congress must vote. Underline the word "must." Second is that all Members be held accountable so that the public knows how BOB WISE voted in his district for these cuts and how others voted. In both cases what the gentleman from Pennsylvania [Mr. CLINGER], the distinguished chairman, is offering on behalf of the full committee is a form of line-item veto, and our expedited rescission bill is a form of line-item veto, and both have that process.

Now the Republican version and the Democratic version, the substitute version, in both cases the Congress must vote. That is not the present situation under current law. Under current law the President may issue a rescission, but if the Congress does not take it up and vote affirmatively in both Houses, the rescission fails.

Here it is a different process. In both versions, the Republican version and our substitute, the Congress must take the measure up, and the Congress must vote. So the President gets his vote.

There is one major difference between the two versions. The difference is what does it take to sustain the President's veto? In the case of the Republican version, the full committee version, at the end of the day, after working our way through the whole process and the President sends it back, at the end of the day it takes two-thirds of this body to override a Presidential cut, a Presidential line-item veto. Under our substitute, which is essentially the same substitute that passed with 342 votes last year from the House, Republican and Democrat alike, under our substitute it is a simple majority, a simple majority. What our substitute does is to say that one-third plus one does not determine the fate of every line-item veto.

Now there are some other provisions that I think are important. Our substitute has the option for the President to allocate the moneys saved by the cutting to deficit reduction, in effect a form of lock box. That is in our amendment. Our substitute has in it language that has already been placed in the other version giving 50 Members on the floor the ability to break out a specific rescission for individual attention.

Our substitute also has in it the language that I believe is in the present version, the committee version, that permits the line item-ing of certain tax benefits to go to a class of 100 taxpayers or less.

So essentially what we are talking about here is whether or not my colleagues believe a majority ought to be all that is required to override the President or whether two-thirds. I say to my colleagues, "I urge you to look at this carefully and think. We don't know who the President will be in 2 years, or 6 years, or 10 years. Do you want to have to always be going up against a President knowing that one-third plus one in this body can overcome you at every opportunity? You can't even argue to a majority."

Now the argument is made that, if a majority passed an overall appropriation bill, then why is it likely to think that a majority would be willing to sustain a Presidential veto? In other words, a majority passed the bill; then the majority is not going to turn around and take items out of it, and I ask all of my colleagues to consider how bills, appropriation bills, are passed here. We vote on a total package. We may not like certain provisions in it, but we vote for it on the basis that the overall bill is preferable to a few of the items we disagree with.

However, when confronted with those individual items coming back by themselves, and particularly——

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

(By unanimous consent, Mr. WISE was allowed to proceed for 2 additional minutes.)

Mr. WISE. But when confronted with individual items coming back in a Presidential line-item veto or rescission, if my colleagues will, and knowing that the full public scrutiny is, "How did you vote on this controversial area or this controversial project," it is very likely that a majority would sustain that Presidential line-item veto or rescission. So it really gets down to two-thirds, or really gets down to whether one wants one-third plus one to run the appropriations process or one wants a majority vote. I remind my Republican colleagues and Democratic colleagues that 342 Members voted for this language in the past Congress.

So, with the Wise-Spratt-Stenholm substitute, Mr. Chairman, the President can rescind, the President is guaranteed a vote in Congress within 10 days of it coming to the Congress, and there is total accountability because the public sees how we vote on each item. I would ask that my colleagues uphold our substitute and guaranteed majority rule as opposed to one-third plus one.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Missouri.

□ 1150

Mr. VOLKMER. Mr. Chairman, as I have reviewed this over the years, as the House has deliberated on the line-item veto—and last year we came to the conclusion that basically the substitute the gentleman is now offering was the one that should become law—the one reason was to maintain the balance of power.

The gentleman has stated this is his opening remarks, and I would like to carry that a little further, because I think we really need to show this to the Members of the House. If the Republican version would ever become law and be held to be constitutional, the House could very well have no input at all. No Member of the House would have any input because with any President, knowing how this total system works, all he needs is 34 Senators. All he needs is 34 Senators, because both Houses have to override the veto. Is that correct?

Mr. WISE. The gentleman is correct.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. WISE] has expired.

(On request of Mr. VOLKMER, and by unanimous consent, Mr. WISE was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield further, since both Houses have to override, as we have seen in other instances, other vetoes, those of us who have been here, with such things as the shoe and textile bill we passed and Reagan vetoed and Bush vetoed, all he had to do was get 34 Senators. So what we end up with is that the whole spending policy of this Nation is governed not by you folks, not by me, not by anybody in this House. As long as we have one President and he has 34 Senators he can count on, that is it; is that correct?

Mr. WISE. That is exactly correct.

Mr. VOLKMER. So 35 people out of this whole country would make the decision on spending priorities under the Republican version?

Mr. WISE. That is correct.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Virginia.

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding. I have a question.

I, too, am uncomfortable about the two-thirds in both Houses having to override. That is a tremendous transfer of power from the legislative to the executive branch. But as I read the gentleman's amendment, in this particular case it appears that either House could kill the veto; is that correct?

Mr. WISE. Absolutely not. Both Houses have to vote. You have a vote in both Houses. For instance, if it came to the House and the House failed to pass the rescission, then obviously it does not go to the Senate because it has died here.

Mr. DAVIS. So in effect if one House approves the rescission but the other House does not, in effect one House can kill the rescission?

Mr. WISE. As is the case with any bill.

If I may continue to explain it to the gentleman, the difference between ours and the Republican version is this: When the President sends his rescission, it is introduced as a bill in the House. It goes to committee, it must be acted upon within 7 days, and it must be on the House floor within 10 days and voted on in the manner of any bill.

The difference here in the Republican version is that the Republican version requires the Congress to act affirmatively to pass a resolution of disapproval. Assuming it passes both Houses, it then goes to the President, who then presumably vetoes it, and it must then be overridden by two-thirds.

Mr. DAVIS. Let me state my concern to the gentleman and see if he can help and tell us what happens when you pork up some of these bills.

I will take the grant to Lamar University last year in the crime bill, which I think Americans looked at and asked, "Why is that there?" with the other kinds of programs that were in the bill. It did not seem to fit.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. WISE] has again expired.

(On request of Mr. DAVIS, and by unanimous consent, Mr. WISE was allowed to proceed for 1 additional minute.)

Mr. DAVIS. Mr. Chairman, if I may continue and if the gentleman will yield, in that case, that was an appropriation that standing by itself probably could not have survived.

Mr. WISE. I would be happy to talk some more about it, but as I recall, in that case it was not even an appropriation.

Mr. DAVIS. I understand that, but to get the principle once again, that was money that in point of fact both Houses would not have passed initially. It would not have passed muster. Under this, if it passed muster in only one House, it would survive a veto; is that correct?

Mr. WISE. Correct. And having been here when that was on the floor, by the time it got the scrutiny it did—and that is the purpose of the rescission process, the line item veto—by the time it got the scrutiny it did, both Houses overwhelmingly defeated it.

Mr. DAVIS. I am still uncomfortable with either House being able to overturn the President, but I understand the thrust of this.

Mr. WISE. But the gentleman might be equally as uncomfortable with the fact that one-third plus one in either body can control this whole process.

Mr. DAVIS. I am not comfortable with it.

Mr. Chairman, I thank the gentleman.

Mr. BLUTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a great deal of respect for my colleague, the gentleman from West Virginia, with whom I serve on two committees in this House, but I have to disagree and strongly oppose the Wise substitute.

I believe that we need a procedure strong enough to meet the crisis that we face in our budget situation. If we look at the amount of debt and the deficits we are running, it would indicate that we need a very strong tool to try to discipline that process and to try to end this deficit. Clearly this is not the only thing that will help us reduce our debt, reduce our deficit, but it is an important tool, and I believe we should side with a stronger measure.

It is clear that the Clinger bill we are now debating is prosavings. It leads toward savings, and the Wise substitute is prospending. It leans more toward spending than savings, and if we eventually want to get our deficit under control, if we want to finally deal with the problems we face, I think we need to give the President a strong tool, not a weak tool, and I would, therefore, urge opposition to the Wise substitute.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. BLUTE. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman please inform this body, within the past 12 years how many budgets have been submitted by the President of the United States that were even within $100 billion of being balanced?

Mr. BLUTE. Reclaiming my time——

Mr. TAYLOR of Mississippi. No, I asked the gentleman a question.

Mr. BLUTE. And I am attempting to answer.

Mr. TAYLOR of Mississippi. How many times has the President of the United States submitted to the Congress a budget that was even $100 billion within being balanced?

Mr. BLUTE. I would say to the gentleman, reclaiming my time, the same number of budgets that the Democratic Congress passed that were balanced.

This is not a partisan issue. It is a bipartisan problem that we all as a country must face.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. BLUTE. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Chairman, if a President, when given total authority—and this is one man who can write a budget all by himself—cannot submit a balanced budget or even a budget that is within $100 billion of being balanced, how on Earth do you think he is going to save us from ourselves? I did not come here to give my job away. I came here because I was elected to represent the people of south Mississippi and fulfill the constitutional duties that were given to me. If I had seen a record from the Presidency, from the Presidents of the United States, that had showed they are more frugal than us, I might think otherwise, but the fact is that over the past 40 years the combined Presidential budget requests have actually exceeded what this Congress has spent. I do not think those people are capable of saving us from ourselves.

Mr. BLUTE. Mr. Chairman, reclaiming my time. I would simply respond by saying, as somebody from the minority side said yesterday, that we are facing a new day. There is plenty of blame to go around in the past about who or what or why we have huge deficits and budgets that are out of control.

I certainly was not a Member of Congress during that period. I have been elected, and I think many other Members have been elected to try to reverse that dangerous trend and try to do something new, something that will eventually hopefully lead to a more balanced budget. The way to do that is to support the prosavings Clinger bill and oppose the Wise substitute.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman's substitute.

I have very serious reservations about line-item veto authority in any form. However, I firmly believe the proposed substitute is by far preferable to the authority in H.R. 2.

H.R. 2 is by Chairman CLINGER'S own description, the strongest possible rescission authority there is. Members have equated it during this debate to the authority of many Governors. However, they are wrong, and by making that comparison they show how very little they know about H.R. 2.

The authority in H.R. 2 is so strong that even many proponents of the line-item veto do not support it. In the Senate, Senator DOMENICI supports taking the approach that our colleague, Mr. WISE, takes in the substitute amendment we are now considering.

In addition, many Members clearly do not understand what H.R. 2 actually does. Throughout this debate, we have heard time and again that 43 Governors have line-item veto authority, so why should not the President also have the authority. However, the fact is that only 10 of those 43 Governors have authority that even comes close at all to the authority given the President that H.R. 2 provides.

H.R. 2 does not simply let the President veto a particular line of spending authority in an appropriations bill, as many Governors can do. As the Congressional Research Service said, H.R. 2 would let a President reach "as deep as he likes within an appropriations account to propose specific rescissions."

As a result, Dr. Robert Reischauer, Director of the Congressional Budget Office, testified before our committee that H.R. 2 gives the President "greater potential power than a constitutionally approved item veto."

The potential for a President to abuse this extraordinary power is enormous. He could threaten to curtail funds for a particular Federal court, if he decides they are ruling against him too often. Given the fact that the executive branch is a party to about 50 percent of all cases before Federal courts, there are many reasons the President may want to exert influence over judges.

However, the greatest abuse of power under H.R. 2 is that the President is assured of being able to make his rescission effective, as long as he has the support of one-third plus one of the Members in either the House or the Senate. This makes it highly unlikely that the Congress would be able to disapprove a Presidential rescission, except on rare occasions.

The substitute being offered strikes a more responsible balance of power between the President and the Congress. The substitute does two very important things. Like under current law, the substitute says a Presidential rescission cannot go into effect unless the Congress approves it.

Unlike current law, however, the substitute requires the Congress to vote on each and every rescission proposed by the President. The proposal offered by the gentleman would require the appropriations committees to report a bill implementing a President's proposed rescission within 7 days, or be discharged from further consideration. The rescission approval bill would then be considered on the floor within 10 days.

This is a very reasonable alternative to H.R. 2. It also has a far better chance of being upheld by the courts. Under the substitute, Congress must fulfill its constitutional responsibility for appropriating revenues; the President's rescissions can only become effective by act of Congress.

However, under H.R. 2 the President can sign appropriations bills and tax bills into law in a form that Congress never passed. Each Member of this body should think very hard before voting to give up his constitutional responsibilities for the Federal purse.

On that point I would note that Assistant Attorney General Walter Dellenger challenged the constitutionality of H.R. 2 in testimony he gave last week before the Senate Judiciary Committee. Referring to authority in H.R. 2 that permits the President to veto targeted tax benefit, Mr. Dellenger said, and I quote:

> It does so by purporting to authorize the President to "veto" targeted tax benefits after they become law, thus resulting in their "repeal". * * * The use of the terms "veto" and "repeal" is constitutionally problematic. Article I, clause 7 of the Constitution provides that the President only can exercise his "veto" power before a provision becomes law. As for the word "repeal," it suggests that the President is being given authorization to change existing law on his own. This arguably would violate the plain textual provision of Article I, clause 7 of the Constitution, governing the manner in which federal laws are to be made and altered.

Clearly, H.R. 2 has major constitutional problems. If you are for the line-item veto, you should, therefore, vote for the Wise substitute. It gives the President the authority and flexibility he needs, and it allows Congress to fulfill its constitutional responsibilities to tax and appropriate Federal revenues.

I urge my colleagues to support the gentleman's amendment.

□ 1200

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must rise in opposition to the amendment by my good friend, the gentleman from West Virginia [Mr. WISE], who is a very thoughtful and very helpful member of our committee.

President Clinton has asked us to send him the strongest possible line-item veto. This proposed substitute is not the strongest possible line-item veto. This amendment would replace what we have from H.R. 2 with little more than a very weak, in my view, nonfunctioning procedure. There is certainly no guarantee that the procedure would function, that which exists in current law and which has contributed to pass very wasteful spending.

An expedited rescissions procedure, which is the procedure encompassed within the Wise amendment, simply attempts to speed up the current approval process, but it does not do that very efficiently. In fact, I think it does it rather poorly.

The amendment would still permit a single House of Congress to kill the President's rescissions and force the release of moneys, which was the subject of the dialog with the gentleman from Virginia.

Although an expedited rescission process would at least on its surface require Congress to vote on the President's rescissions proposal and therefore improve current law, those assurances are illusory. The proposed expedited procedures are offered solely under the rulemaking authority of Congress and can be readily waived.

As we who have served in this body for some time know, the rules have been routinely waived on matters of this sort. So there is nothing in this amendment that would ensure us, provide the absolute assurance that we would have a vote on these rescissions.

In fact, that happened in 1992 when the requisite number of House Members sought to discharge appropriations of 96 rescissions. The rules were waived at that time to prevent the discharge, and Members were denied a vote on the President's rescissions proposal. In compliance with law the withheld funds were released, and wasteful spending occurred.

I think the same sort of event could happen here by virtue of just allowing the rules to be waived. We would not get the assurance of a vote.

While an expedited rescissions process attempts to ensure Members' chance to vote, nothing would prevent the Committee on Rules from once again waiving House rules and preventing a vote.

I want to commend the gentleman on his attempt at deficit reduction through the inclusion of a lockbox in this amendment. However, that benefit will really mean little on the process unlikely to produce substantial rescissions in the first place.

In other words, the lockbox is a good idea. In other words, we can get some sort of assurance that if rescissions take place, they will not then be subject to the authorizing committee using it for some other purpose, but would in fact go toward deficit reduction. I think that is a useful contribution.

But if there is no insurance we are actually going to get the rescissions, and I do not think there is one with this process, the lockbox really is sort of meaningless.

So because this amendment does little to improve our failed current system of impoundments and maintains the existing bias against spending cuts, I urge defeat of the amendment.

Mr. WISE. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from West Virginia.

Mr. WISE. Mr. Chairman, the gentleman made a couple of points, one of the same points the gentleman from Virginia [Mr. DAVIS] made. As I understand it, it is criticizing our approach on the grounds that a single House, if the President's rescission were defeated in the House, that it would not even go to the Senate.

But is it not also true that in the gentleman's proposal, one-third plus one in either House can deny a majority who would want to override the President's rescission?

Mr. CLINGER. That is right.

Mr. WISE. So the gentleman has a one-House veto, in effect, as well.

Mr. CLINGER. But both Houses would have initially voted by a majority.

Mr. WISE. That certainly is the case.

Mr. CLINGER. We have a guarantee you get a vote. There is no such guarantee in the gentleman's amendment, because it could be waived.

Mr. WISE. The President's rescission is handled as a bill with a guaranteed time within which there must be a vote in the first House it is introduced. If it is introduced in the House of Representatives, it has to be on the floor within 10 days, it must be voted on, up or down, as is the case with any bill. If it fails to get a majority vote, then, of course, the gentleman is correct, it does not go to the Senate.

As I understand the gentleman, at the end of the day, not the majority vote that sends it back to the President, but at the end of the day, assuming the President vetoes the resolution of disapproval, it is true, is it not, that one-third plus one in either House could defeat the will of the majority in both Houses?

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. CLINGER] has expired.

(At the request of Mr. WISE and by unanimous consent, Mr. WISE was allowed to proceed for 3 additional minutes.)

Mr. CLINGER. Mr. Chairman, the gentleman is correct. But I think fundamentally we have a philosophic difference over how tight this provision should be. What we are saying is we want to make it as difficult as possible, as difficult as possible, for this House, which has proven in the past to not be able to restrain itself, to, in fact, deny the President the ability to cut spending.

Mr. WISE. If the gentleman will continue to yield for another question, I just wanted to make sure it was understood that in our substitute, you cannot be tied up in committee. That if the committee fails to act within 7 legislative days of having received the package, then it is automatically discharged and put on the calendar for the next appropriate time. So there has to be full consideration by the first House at least.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I am just curious. I just thought I heard the gentleman say that the reason for this bill in this form was the inability of the Congress to control appropriated dollars. Is that accurate?

□ 1210

Mr. CLINGER. Mr. Chairman, reclaiming my time, I am suggesting that the Congress, and I think we can apportion the blame on both sides, there has been an inability under existing procedures, certainly under the existing empowerment procedure for us to really effect cuts in spending, reductions in the deficit.

Mr. SABO. Mr. Chairman, if the gentleman will continue to yield, I am curious. I heard my friend, the gentleman from Mississippi [Mr. TAYLOR], speak of this earlier. I am curious what the record is over the last 40 years in terms of requests for appropriated dollars versus what the Congress has appropriated.

If I am not wrong, Presidents have traditionally, both historically and in recent years, whether it be Reagan, Bush, or Clinton, they have all asked for more appropriated dollars than Congress has appropriated.

Am I not right?

Mr. CLINGER. Mr. Chairman, that may well be true, but I am suggesting to the gentleman that we are not blameless in this exercise of deficit reduction. As I indicated to the gentleman, we had an event in 1992, where an effort was made to try and deal with 1996 rescissions. We were not able to do that.

The procedures we have now do not let us deal in an expeditious way with the requests to reduce.

Mr. SABO. Mr. Chairman, if the gentleman will continue to yield, so I can understand this bill and the rationale for it here, to give unprecedented power to the President, is that the history is that Congress has appropriated less money than Presidents have asked for.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. CLINGER] has expired.

(On request of Mr. SABO, and by unanimous consent, Mr. CLINGER was allowed to proceed for 2 additional minutes.)

Mr. SABO. Mr. Chairman, Congress has passed as much or more rescissions in total than Presidents have asked for, that in the budget process we have strict spending limits on appropriated dollars.

I am curious if the gentleman could tell me, clearly, where the large growth in Federal spending has occurred is entitlement programs. How does this bill deal with either existing, expanded, or new entitlement authority?

Mr. CLINGER. Reclaiming my time, Mr. Chairman, this bill does not attempt to solve the problem that the gentleman is referring to. I think we all recognize that entitlements indeed are a major cause of the deficit problem we have. But we are, in this bill, approaching discretionary spending. It is a modest start.

Clearly, the entitlement problem has to be addressed. It cannot be addressed in this bill, but I would join the gentleman in efforts to deal with what is clearly the burgeoning problem that we face in this country and the burgeoning problem that is creating the deficits we have which are the entitlement problem.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Wise amendment, and I know that my friends on both sides of the aisle who feel very strongly that for some reason we need a pure line-item veto, pure being defined as one-third plus one minority control, and there are those on both sides that feel that, I want to point out again that that is not what we are voting on in H.R. 2. This is not a pure line-item veto, because it is not being constitutionally imposed.

I respect those who believe that we need to have stronger language than what is perceived to be in the modified version that the gentleman from West Virginia [Mr. WISE] is offering at this moment. I sincerely respect those who believe that the only way we can make this language stronger is somehow to give a President one-third plus one minority. I could not more sincerely or strongly disagree with that.

What some have called a modified line-item veto or what we prefer to call expedited rescission procedure is the approach that many of us have always found preferable, both sides of the aisle. Under this scenario, a President still would be given the opportunity to propose cuts to individual spending or tax items. That is not in dispute with me. That is not in dispute with the substitute before us today. We all agree that any President may go into any bill, including all of the bills. I believe it ought to be entitlements. I believe it ought to be tax bills. I believe it ought to be everything. If we are going to do what we all want to do, and that is make it more difficult for us to spend money, that is, increase the deficit, we ought to, in fact, allow the President to have a more major role in doing so.

The only question is, how much power do you wish to cede to a President. That is it.

Under our scenario, within 10 legislative days after the President sent such a rescission package to the Congress, a vote on that package would be taken. We keep talking about the world as it has been. The world has changed. We are no longer operating under what we used to do.

I do not anticipate we are going to see supplemental bills this thick hurting people's hands when they are dropped on the table. That is not going to happen under the leadership on this side, I do not believe.

If a majority of Members voted to retain fundings—if, in fact, an individual Member chooses to differ with what a President suggests ought to be vetoed, I believe very strongly that an individual Member who differs with the President ought to have the opportunity to get an up and down vote on that individual item. The base bill was amended yesterday with the Thurman amendment to provide that that can happen. If it is a program of the gentleman from Texas [Mr. STENHOLM] in question, if I can get 49 of my colleagues to agree on a separate vote, it will be taken separately. That is now in both bills.

But if the remainder of the rescissions were approved by a simple majority of the House, the bill would then be sent to the Senate for consideration under the same expedited procedure.

I want to put a little historical perspective to this amendment, because I certainly do not want to stand here and take partisan credit on behalf of the Democratic side for this amendment. Because expedited rescission legislation embodies an idea which many Members, both Democrats and Republicans, have fought hard for over the years. Dan Quayle first introduced expedited rescission legislation in 1985. Tom Carper and the gentleman from Texas [Mr. ARMEY] did yeoman's work in promoting this legislation. On the Democratic side the gentleman from South Dakota [Mr. JOHNSON], Dan Glickman, Tim Penny, the gentleman from Virginia [Mr. PAYNE] have spent years, as have Lynn Martin, Bill Frenzel, the gentleman from New York [Mr. SOLOMON], the gentleman from Illinois [Mr. FAWELL], and others, made meaningful contributions to the language that we are now debating.

Of course, the language which we voted on last year was the Stenholm-Penny-Kasich amendment. The deficit reduction prowess of my two cohorts in that effort is almost legendary and deservedly so. Thanks to effort of these and other Members, the House overwhelmingly passed expedited rescission legislation in each of the past 3 years.

I do not in any way intend to imply that all Members have supported expedited rescission to the exclusion of, or even in preference to, a pure line-item veto, although this proposal was described a few years ago by the gentleman from New York [Mr. SOLOMON] as a tremendous compromise that this House can support overwhelmingly on both sides of the aisle. My friend from New York has always made it clear that he prefers the one-third plus one approach. And again, I say to those who prefer giving the President that much power on any individual item in the budget, I respect that. But I differ strongly with that view.

The CHAIRMAN. The time of the gentleman from Texas [Mr. STENHOLM] has expired.

(By unanimous consent, Mr. STENHOLM was allowed to proceed for 5 additional minutes.)

Mr. STENHOLM. What I am saying is that in an overwhelmingly bipartisan way, Members have stated, through their words and their votes, that the expedited rescission procedure is a very good one, and I believe much preferable to the base bill. We must bring greater accountability to the appropriations process and the tax benefits process so that individual items may be considered on their individual merits.

The current rescission process does not make the President or the Congress accountable. We all agree on that. Congress can ignore the President's rescissions. The President can blame the Congress, Congress can blame the President and nothing happens. But my friend from Massachusetts a moment ago, I believe, misunderstands H.R. 2. Because under H.R. 2, I will submit to my colleagues, there is not greater deficit reduction that will occur because under the base bill, if the President chooses to line-item veto x amount of spending and the Congress does nothing, that is, lets it take effect, the deficit is not removed because the caps on spending are not changed under the base bill.

□ 1220

Therefore, even though Members say it is much preferable, I believe a close examination of the language will show that the Wise amendment is much preferable if Members are interested in getting the deficit down by removing and lowering the caps.

Another area in which the Wise amendment is much superior to H.R. 2, if Members are concerned about getting the deficit down, is the fact that we only, on tax items, say that there is a 10-day period in which it must be acted upon. Any other spending, the President can do it at any time during the year, not within a short period of time immediately following the appropriations process.

If Members are really serious about getting the deficit down, which this Member is, it seems to me we would want to allow the President to go into these bills at any time and rescind at any point in time those spending measures. That seems to be preferable to only having to do it within a narrow window.

I do not understand how H.R. 2 can be submitted as being stronger than the Wise amendment when in both of these cases I think a fair examination would show that the Wise amendment is in fact much stronger, if Members are concerned about letting the President go in and veto the unnecessary spending items that we all agree need to be done. The general public is fed up with finger pointing.

I guess I would just like to say in conclusion, Mr. Chairman, the only area of major disagreement that I have, and I think the debate last night on the Skelton amendment suddenly focused a lot of people's attention on what we are talking about, do Members really want to give any President the right to go into any bill, line item, and then only have to get one-third plus one of the Members of this body to agree? Is that really what we want to do? Do we really want to change the separation of powers to that extent?

What we are saying in this substitute, let us let any President go into any bill, veto as much as he wishes to do, send it to us, and we must vote, we cannot duck, we must vote on those particular items. If it turns out to be one of our favorite programs, then we must get 49 of our colleagues to stand up and separate, so we vote on that individually. If it is CHARLIE STENHOLM's favorite project, and I cannot get 50 percent of my colleagues to agree that money ought to be spent, it is gone, period, teetotaled.

Therefore, I think it is very important that in this debate we understand and we read this legislation, because there is a gross misunderstanding of how strong H.R. 2 is for accomplishing the goals that we are all saying.

I believe, upon an honest examination, the work of people going back to Dan Quayle in 1985, and going through a bipartisan effort since 1985, will show that the language in the Wise amendment is much preferable if Members really and truly want to get on with line item vetoing individual appropriation bills, out of appropriation bills, and also going further in the area of tax and even into the area, perhaps some day, of entitlements, et cetera. That is not in the amendment before us.

Mr. Chairman, I ask Members again, do they really want to change the power of the Constitution regarding the separation of powers? That is the only honest-to-goodness argument my colleagues on this side have, and some of my friends on this side.

The only honest difference between the two is whether we want one-third or 50 percent. The rest of it gets pretty hazy. In fact, I will submit again and again, and be glad to discuss privately, why H.R. 2 is weaker than Wise if Members in fact want to accomplish the goal of lowering the caps and lowering expenditures by congressional action.

Mr. JOHNSON of South Dakota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thank the gentleman from Texas [Mr. STENHOLM] who has very ably explained the complication, the difficulty we have with the two-thirds vote.

If in fact this Congress appropriated specific funds for a weapons systems or for a defense appropriations purpose and the President line-item vetoed that expenditure, the President plus one-third and one vote would in fact overrun the will and the priorities of this Congress. The same could be said for any area of the Federal budget.

However, let me say that while all of us are here on the floor today ostensibly to talk about ways to reduce the size of the Federal budget deficit, it distresses me that as this discussion has gone on, it has become very apparent that there are those on the other side, on the Republican side, who have consistently said "Let's subject children's and veterans' and senior citizens' programs to reductions in spending," but have been unwilling to subject special tax favors that benefit largely the very wealthy contributors to Congress to the same kind of discipline. I think that is unfortunate.

Here we are again, talking about ways to save money, to reduce the size of the deficit, when in fact the tax favors contribute as much to the deficit as any of the spending programs. Therefore, I do see this as a one-sided debate. Even so, however, I think it is important that we go forward as best we can.

Mr. Chairman, one of the issues that it seems to me needs greater stress is this reference to the two-thirds vote as somehow being the stronger version. The two-thirds vote approach is not the stronger version, unless we are simply talking about enhancing the power of the President.

If we are talking about cutting spending, the Wise amendment is the stronger version. The two-thirds vote results in a massive shift of authority to the executive branch, of whichever party that President might be.

It will be used, as has often been the case at the State level, not to cut spending but in fact to enforce the budget agenda of the executive. I can imagine President Bush telling Members, individual Members of Congress, that "Either you support my increase in foreign aid, or you will lose every increase in foreign aid, or you will lose every project in your State." I can imagine President Clinton saying "Support my health care plan, or you will lose every project in your State."

It is vote extortion that the two-thirds rule permits and in fact encourages. Better that we have the majority vote so the President can lay individual spending items on the table, say "Congress, if you think this is a good thing to spend money on, you vote up-or-down. Go home and tell your constituents that you took a recorded rollcall vote that you thought that was a good thing to spend money on."

If the projects in my State are not meritorious enough to gain a majority vote, they should not be passed, but I do not think that a two-thirds vote is the proper shift of power. I think that it is something that this institution will rue for years to come.

The question is, what is pork? I think that is fundamental to this entire debate. Pork is not something, a budget expenditure, the Congress favors over the President. A pork item is a project that is nonmeritorious, that would not stand on its own two legs. It would not stand a majority vote.

What we are saying is let us cut them out. Let us have an opportunity for a recorded rollcall vote. Let us put the spotlight on them, so we reduce that kind of spending, and yet at the same time not give the authority to the executive branch, whether it be Republican or Democrat, to extort, to coerce votes out of the legislative branch. That is what is fundamental in this debate.

Mr. Chairman, what we have here is a debate partly on reducing the deficit, although I think all of us who have looked at the budget carefully understand that pork barrel spending, however it is defined, is a relatively modest part of the problem; although I think we also would agree that if we can save a dollar, we ought to save a dollar, and we need to set about doing that.

But the larger issue is congressional accountability: Will Congress be accountable to the people for its individual spending items? The Wise amendment does that.

The other approach, the two-thirds vote approach, does not result in accountability. It simply results in greater authority for the executive branch to coerce votes for its legislative agenda, rather than for saving money, and rather than for enforcing congressional accountability.

Mr. Chairman, I rise in strong support of the Wise amendment, and encourage bipartisan support for this effort, which I think will be a very positive step in the direction of greater congressional accountability, reducing the Federal budget deficit. This is the approach which passed last year, which stands a chance of passing in the other Chamber. I think it is a badly needed reform.

Mr. CLEMENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this has been a great debate. These are things that we have needed to talk about for a long time. Going into my eighth year, I have had the opportunity to vote on a line-item veto two times now.

We have passed it in the House of Representatives, but it was blocked in the U.S. Senate. I do not think we will ever have a better opportunity than now. We have our window of opportunity to pass a line-item veto, but which one are we going to pass? Are we going to pass the Wise-Stenholm-Spratt, which I support, or H.R. 2? In my opinion, the Wise amendment is the best one for us to consider and pass at this particular time.

Mr. Chairman, it took us all the way from George Washington to Ronald Reagan to accumulate a national debt of $1 trillion, and in two administrations, in the Reagan and Bush administrations, we tripled that debt from $1 trillion to $3 trillion.

☐ 1230

We saw more spending, or more proposed spending than even what the Congress authorized in those two administrations. We have seen a lot of irresponsibility not only in the presidential administrations, whether they be Democrat or Republican, but we have seen it in the U.S. Congress. All of us are in agreement that we have got to have more discipline than we have had before. But how do we accomplish that?

In my opinion, the modified line-item veto is the answer to many of our problems. Every one of us as a Member of Congress has a laundry list of where we want to cut. Unfortunately, every one of us has a different list. Therefore, we do not cut anything.

Now we have an opportunity, where if we pass some legislation, it goes to the President, and then he has to contemplate, "Well, do I sign this particular bill or not?" At least if he finds an area where we have waste and mismanagement, he can send that particular part of that legislation back to the U.S. Congress where he does not have to veto the entire package, and where he can line item and veto a particular part of the legislation, send it back to us where we can then make a determination, are we going to pass it and override it with a simple majority override, or are we going to take a different direction?

But at least we can focus attention in that particular area, and the American people are going to come into the picture. Because even with a simple majority override, the American people are going to speak. They know. They keep up with us. They watch. They know what we are voting on, and they will be able to also influence whether we should vote for an override or not, whether this is waste or mismanagement, and move us toward a balanced budget.

We have already passed a balanced budget amendment in the House of Representatives. Now we have an opportunity to pass the line-item veto. We are doing some great things in the U.S. Congress that I have been trying to do ever since I have been here, long before I knew what it meant when we called it a Contract for America. I did not know what a Contract for America was. Many of those things I will support which I think are in the best interests of America.

Let us support the Wise-Stenholm-Spratt amendment. That is the best approach when it comes to having a modified line item veto, and what the American people need and want to bring about some fiscal discipline once and for all.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first I rise in support of the amendment offered by the gentleman from West Virginia [Mr. WISE], my distinguished colleague. But I recognize, as everyone in this Chamber recognizes, this amendment will fail, because that is not the nature of how this House is presently organized.

So my remarks will go to the result of what will happen here.

We are now in the final hours of our discussion and debate on the issue of the line-item veto. I would like to place this action in some kind of stark reality.

Mr. Chairman, what we are about to do today and on Monday is going to, for the balance of our lifetimes, every single person in this Chamber for the balance of our lifetimes, we are changing the nature of American Government. And more people are probably watching a murder trial at this very moment than are paying attention to what we are about to do to the very fragile notion of the balance of power that has made this Government a shining light of democracy throughout the world.

Mr. Chairman, first to the issue of vetoes generally.

When the Founding persons, the Framers of the Constitution, the people who discussed and debated night and day for weeks and months to come up with our form of government arrived at a discussion of the power of the President to use a veto, they never, Mr. Chairman, anticipated that the President would use the veto as an ongoing regular instrument of governance, but that the President would use the veto rarely, only on rare occasions when the President really believed that the fate of the Nation and that the health of the people was in some way endangered; and that when the President on those few occasions used the veto, it would require two-thirds of the body of the direct representatives of the people, the Congress, to overturn that.

When you read the Federalist Papers, you understand that the Framers did not want the President to use the veto on a regular basis because it would change the nature of our government.

You ask the American people: What is the basic principle of American democracy? It is majority rule, 50 percent plus 1. The sad reality is that many American people are not even aware of the fact that it takes two-thirds to override a veto. If you do not believe me, call some town meetings, and you will be shocked at the level of sophistication about this issue, when people said, "Wait a minute. You mean it takes two-thirds to override a veto?"

Absolutely. And if you have a combination, Mr. Chairman, of a President willing to aggressively use the veto as an instrument of governance, you can govern this country by what I refer to as the tyranny of the minority, because with a President willing to aggressively use the veto, one-third plus 1 can dominate the American political processes. Dominate it.

Now we are talking about a line item veto which guarantees that veto will be used as an ongoing instrument of governance. Ongoing. Vetoes would now be in our lives with even greater flair, greater drama, and greater impact, giving one-third plus 1, not a simple majority, the ability to shape policy, Mr. Chairman.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. Mr. Chairman, we are now giving the President of the United States, irrespective of party, power far beyond that contemplated by the persons who framed the nature of this Government. Far beyond it.

But we are going to do this. As I understand the symbolism, we are going to do it by 2 p.m. on Monday, so that you give this legislation as a gift to a former President.

Here is the greater danger. Once you do it, Mr. Chairman, it is not going to ever be undone. The American people need to wake up to the reality that this Government is being changed at such an extraordinary, fundamental level that any reasonable thinking human being should be disturbed by what we are about to do.

Let me tell you why we will not change it. Two years from now, another group of people will come in here. Suppose someone says, "My God, we gave the President this enormous power. Let's write a bill to rescind it." Do you think any President will give back power once you have given it to that President? They will veto it. And guess what? One-third plus 1 can kill it again.

So understand, Members of the Committee you are changing American Government for all time. For all time.

Yesterday someone offered an amendment to put a sunset provision in the bill. Let us stop this madness in 5 years if it does not work.

□ 1240

Vote that down so you do not even have an instrument to recapture the beauty and the magnificence that made this Constitution and this Government as framed by the founding persons, immortalized in the Federalist Papers by what we are doing here. We are rushing to judgment because a campaign promise was made.

I believe in making campaign promises. I do not vilify them, but I have said before, and will repeat again today and tomorrow and after that, that when we move from campaign promise to legislative initiative that has this kind of extraordinary and dramatic potential impact on the form of this Government, and on the American people's lives, the fundamental contract to the people is that we enter into a thoughtful enough processes to look efficaciously at what it is we are doing.

What is so sacrosanct about 100 days when we are about to change the Government for 100 years? Whatever your politics, left, right, or center, that is not my argument here. I appreciate this system brings us here with different values and principles.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. So, Mr. Chairman, we can come and debate and engage each other substantively on the issues. We do not all have to think alike. That is frightening and dangerous anyway. What keeps the body politic honest and flowing healthy is when there are competing ideas. I can appreciate that.

But the one place where we ought to come together and stand shoulder to shoulder and hip to hip is any time we contemplate changing the Government that has brought us over 200 years to this moment.

Mr. Chairman, I know that my colleagues are going to do this thing, and my only hope, my only hope is that enough American people will awake even to the reality that their lives have been fundamentally altered, because their representatives, their responsibilities have been fundamentally changed, the Constitution has been fundamentally altered, the balance of power has been fundamentally altered, and if we ever want to establish an imperial Presidency and impotent Congress, wait until 2:30 on Monday, and that is exactly what we will have and it is frightening and disturbing.

I am happy to engage any Member on this floor in a debate on the critical nature of what we are doing.

Mr. MORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have had a constructive debate, and many of the points that our colleague from California emphasized have been brought up in the course of amendments.

This side is disappointed that many of those, all of those amendments really were defeated. Many of them were not even fully considered by most of this body.

We just killed an amendment, the gentleman from South Carolina [Mr. SPRATT] and I had to apply the line item veto to tax bills as well as appropriation bills because those Members who have been around for any period of time, particularly in the last two terms, are aware that anything that is in an appropriations bill that could be considered pork gets subjected not only to the scrutiny of the Committee on Appropriations, but invariably we have to debate it and vote on it on this floor.

Not so with tax bills. Tax bills are replete with special provisions. Newsweek this week pointed out the fact that this is the biggest loophole, and yet a provision to subject tax bills to the same kind of scrutiny was killed in committee, and just this morning killed on the floor.

I offered an amendment to try to protect the separation of powers, reminding our colleagues that the people that served in this body in 1939, and it was an overwhelmingly Democratic Congress and obviously a Democratic President, passed a law designed to protect the judiciary. This line-item veto essentially repeals that law.

When President Roosevelt could not pack the Court and the Court would not go along with his New Deal, he started cutting out bailiffs' money, he started cutting the money for Court clerks, he took away their travel funds. He punished them. He used the power of the Presidency, which, in fact, was too much at that time in the view of the legislative branch, and so it passed a law saying that the executive branch has to pass through whatever request is made for the judiciary. The legislative branch, which does not litigate before the Supreme Court and thus does not have that conflict of interest, knowing that the Justice Department brings more than half of the cases before the Supreme Court and has a clear conflict of interest, it has to pass it on to the legislative branch, and the legislative Appropriations Committee does whatever is necessary.

We are talking about a very small amount of money. We are not talking about busting the budget, we are not even talking about any courthouse construction, just small items that allow the Supreme Court to function. But now all of these items are subject to line-item veto.

That was a mistake. When President Eisenhower called Chief Justice Warren and suggested to him it was not time to desegregate the schools and Chief Justice Warren said well, I am going to do what I think is right, he had that independence because he knew there was no way that the President, the executive branch could punish him if he did differently than what the executive branch offered.

But now we are going to repeal that, we are going to give extraordinary power to the executive branch.

I worked for President Johnson, and for President Nixon, and I was on the staff of the Senate Committee on Appropriations during the terms of President Ford and President Carter.

I know that President Ford and President Carter would have observed the basic principle of separation of powers. They probably would not have abused the line-item veto. But let me tell my colleagues that President Nixon would have, in my opinion, and President Johnson, because he knew where everything was buried or he knew every project that had gotten through the Senate, every special tax provision, he would have abused it outrageously.

I think we ought to recognize the threat to the fundamental principles that our forefathers put into the Constitution, the fundamental principle of separation of powers.

That is why this kind of amendment is so important, this substitute amendment, because it preserves some balance. The bill that is invariably going to get enacted because this side is marching in lockstep now, does fundamental damage to the basic structure of this Government.

I would just conclude by saying one last thing.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. MORAN] has expired.

(By unanimous consent, Mr. MORAN was allowed to proceed for 1½ additional minutes.)

Mr. MORAN. Mr. Chairman, no one in the 21st century even, which is about to occur within another 5 years, no one is really going to remember our faces or our names or even the words that we utter here on the floor of the House. But they will remember what we did, because it will affect their lives.

We represent the most prosperous nation on Earth, the freest nation on Earth, the Nation that has the most respect for human rights, for civil rights, a legislative body that people all over the world are coming to study. All these emerging democracies come over here to see how we operate. We are a model for the world, we are a model for the 20th century. We should be going into the 21st century building upon our strength and not eroding it, as this bill does.

□ 1250

Mr. HOSTETTLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are in a crisis in this country, and that crisis is one of fiscal irresponsibility.

We talked about campaign promises, the gentleman from California did, and he is exactly right, because there are three constituents back in my district, my three children, that I have a great responsibility to now.

And we are hearing all sorts of rhetoric from the other side, but there are really two discussions going on on the other side, and I would just like to possibly get some clarification on those, the first of which is that this proposed line-item veto will give two-thirds majority veto power to the President, and that will be too much power. But in the campaign, as I ran against a Democrat incumbent, I was told through the media, through my opponent and from the Democrat Party in general that the reason why my children have such a burden on them is because of 12 years of Republican rule, because for 12 years Republican Presidents spent too much money.

So let us just back up one moment to the Constitution. The Constitution gives the appropriating powers to the U.S. Congress, and if the Congress chooses not to appropriate funds, those moneys are not spent.

So my question is this: As we hear that this will give the President too much power, is this more power than supposedly Ronald Reagan had, more power than supposedly George Bush had to control spending and, therefore, put my children's future in graver risk? Or was it incorrect on the campaign trail, which at times we all tend to get a little verbose on the campaign trail, but was it not true that it was the fault of the appropriating body, according to the Constitution? Was it the problem of the appropriating body that my children have this debt?

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. HOSTETTLER. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, it seems to me that anybody who was here at that time ought to admit that it was a failure of both institutions, the Congress and the President. But I would make quite clear, if the gentleman would bear with me, the fact is that since the Impoundment Act passed, or since the Budget Act passed, in 1974, the Congress has spent $20 billion less, less, than Presidents asked us to spend.

Mr. HOSTETTLER. Reclaiming my time once again, $20 billion less. But how much more in debt? How many times was the debt limit raised?

The CHAIRMAN. The time of the gentleman from Indiana [Mr. HOSTETTLER] has expired.

(By unanimous consent, Mr. HOSTETTLER was allowed to proceed for 2 additional minutes.)

Mr. HOSTETTLER. Mr. Chairman, how many times was the debt limit raised as a result of a majority vote of this House?

Mr. OBEY. If the gentleman will yield further, I was here in 1981. I offered the major alternatives to both the Reagan budget and the Democratic budget, because I thought that both of them broke the bank. Our substitute, which a majority of Democrats voted for, borrowed less and spent less than any other alternative before the body.

I do not think it is useful to get into who shot John in the past. But if the gentleman wants to do that, the record is clear.

Mr. HOSTETTLER. No. But we have today shot John once again in the past. I am not running in lockstep, as you all know, with this side, but what we must do is we must give the President the power, since this body has proven time and time again that it cannot do that. We must give the President the power that was supposedly given to him, according to the campaign rhetoric that was there, and if that is the case, then we will bring fiscal responsibility to this Federal Government, and we will not continue down the same path. That is why we need to give this two-thirds power, not because we are giving overwhelming power to the President, but because we are in a crisis, a fiscal crisis.

Mr. OBEY. Mr. Chairman, I ask that the gentleman from Indiana [Mr. HOSTETTLER] be allowed 2 more minutes.

The CHAIRMAN. The gentleman from Indiana has time remaining.

Mr. HOYER. Mr. Chairman, I ask unanimous consent that the gentleman from Indiana [Mr. HOSTETTLER] be granted an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. OBEY. Mr. Chairman, if the gentleman will yield further, let me simply say I respect the gentleman. I respect the vote he cast last week.

But I want to tell you the same story I told in the Committee on Rules.

The reason that I believe it is so critically important to have majority rather than two-thirds decide this issue is because I think the most fundamental threat to the long-term liberty of this country lies in the unchecked use of Executive power, and I want to give you an example.

I told the Committee on Rules that when I was in the State legislature back in 1968 and I was passionately supporting Lyndon Johnson's reelection, I wrote a letter to the President and simply told him that, in my judgment, if he did not do something to end the Vietnam war, that he was going to lose the Wisconsin primary.

Hubert Humphrey came to town. I showed him the letter, and I told him I was about to send it to LBJ. Hubert said, "Let me give it to him myself."

He said, "I think you are right on the letter. I would like to show it to him." I said, "Look, I will mail it anyway, because I do not want you to get in a crack." He took a copy of it and presented it to the President.

A couple weeks later I get a call from a friend, "OBEY, what is this job you are being considered for in Washington?" I said, "What do you mean?" He said, "Well," he said, "we had a Federal guy by here asking questions about you."

To make a long story short, if you had Federal people asking questions about me, checking me out because I had the temerity to tell a sitting President he was going to lose his seat because of a very important public issue, now, if you have that kind of tendency on the part of any President to use whatever Executive power is around, what happens the next time we have a Mexican loan bailout before us and you have a two-thirds requirement to overturn a President's decision? And that President goes to you, or me, and says, "If you do not vote for that proposition, that $40 billion proposition, I am going to yank every single thing out of your State, and I have got one-third loyalists in this House, and, baby, you will not get a dime"; it will destroy the uniqueness of this Congress.

Mr. HOSTETTLER. Reclaiming my time, the point is that we are in a crisis; this body. You, sir, there is no doubt that you have the responsibility to the Constitution and to your constituents, but this body as a whole has shown time and time again it does not have that responsibility.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. HOSTETTLER. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding.

What we are trying to do is the Presidents, the early Presidents, had the right of a two-thirds majority to control that, that a bill came to them as a single bill. Now we have got hundreds of bills wrapped up into one. Jefferson and Lincoln and the Presidents had to have a two-thirds vote to override their veto, and that is all we are asking under this.

And, second, we have precedents by our Governors having the same kind of a thing, and it has been very successful.

Mr. KANJORSKI. Mr. Chairman, I move to strike the requisite number of words.

I would appreciate it if the gentleman from Indiana will stay, because I think he has brought up a tremendous question, a very, very important question, and I think it requires some analysis of history.

When you talk about the crisis that we are in, I am not sure that everyone can appreciate, or whether you appreciate, where we are relative to where we have been in the past. I know the gentleman from Indiana probably was not born at the end of the Second World War. I assume that.

Well, at the end of the Second World War, do you know what the debt of the United States was? Well, I mean, if we can just have a give and take.

Mr. HOSTETTLER. Proportionately it was much greater. You are right.

Mr. KANJORSKI. The debt at the end of the Second World War was $350 billion. Do you know what the present value of a 1994 dollar is relative to a 1945 dollar?

Mr. HOSTETTLER. Substantially higher.

Mr. KANJORSKI. It is about 8 cents. So that means the dollar has deflated by 12 times. So if you will multiply $350 billion by 12, you will find today that the debt of the United States is about equal in amount, in dollar amount, real value amount, as it was when we came out of the Second World War.

Now, I have been here for 10 years, and I have heard my friends on the other side talk about debt and dollars and failed to relate real dollars and real debt.

And I want to point out that the magnificence of what happened from 1945 to 1980 was that this country reduced the real debt of the United States by more than 60 percent, even though in 1980 the dollar debt of the United States was $800 billion. Its real value, relative to 1945 terms, was about $100 billion.

□ 1300

We brought that down 60 percent under a Democrat-controlled Congress from 1945 until 1980. Ronald Reagan entered the Presidency and sold the American people on a campaign that he could double defense expenditures, he could reduce taxation on the wealthy of this country, coming down from 70 percent to 28 percent ultimately during his administration, and he could balance the budget.

He did keep two of those promises. He doubled the defense expenditures of this country. Even though Russia in every study in the 1980's was shown as ready to collapse, we still doubled our military expenses. He also cut the income tax on the wealthiest corporations and the wealthiest individuals from 70 percent to 28 percent. He did make one little error, one little error: He took the debt of the United States from $800 billion to $4.2 trillion in his term of administration of office.

I hear people relating all these dollar terms, you talk about crisis. I want to make sure that you understand that the debt of the United States coming out of the Second World War was about $350 billion, about equal to our debt today. The only difference is that the population of the United States in 1945 was 120 million people and today the population of the United States is about 260 million people. The number of corporations and businesses existing in the United States in 1945 were less than one-fifth of what they are today. So when anyone in America today, and my conservative friends on that side are talking about dollars and dollars, 1995 dollars and 1945 dollars, they are talking about grapefruits and grapes in size. You cannot have an intelligent, intellectual discussion in finance or economics when you do not come down to real values. So if you say we are in crisis today when we have more than twice the population, we have five times as many eceonomic enterprises in the United States, then I cannot imagine what terms you would use in a description of 1945.

The fact of the matter is America is the wealthiest nation on Earth and up until the last 10 to 15 years its population has been benefiting from the increase in productivity in America, but it has stagnated. It has stagnated because of many situations, most of which is the advent of the global market.

Mr. LAHOOD. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. I am happy to yield to the gentleman from Illinois.

Mr. LAHOOD. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Pennsylvania, I am afraid, like a number of other of his colleagues on that side, has been around here too long. What he has just said—listen, I am not trying to——

The CHAIRMAN. The gentleman will suspend.

The time of the gentleman from Pennsylvania [Mr. KANJORSKI] has expired.

Mr. KANJORSKI. I appreciate that the gentleman does not appreciate my tenure in office. But I oppose him making an ad hominem attack on the House floor.

(By unanimous consent, Mr. KANJORSKI was allowed to proceed for 5 additional minutes.)

Mr. KANJORSKI. Mr. Chairman, instead of an ad hominem attack on the floor, let us assume we are both freshmen here.

Mr. LAHOOD. Let me finish here, let me finish.

Mrs. COLLINS of Illinois. Mr. Chairman, regular order, regular order.

Mr. KANJORSKI. Let us talk about the facts and the figures that have been discussed.

Mr. LAHOOD. Is the gentleman going to yield?

Mr. KANJORSKI. I am happy to, but I would appreciate that we not get a personal attack because, quite frankly, I enjoy the individual as he represents his State and his constituents, and I think the comity of the House is that we rise here not for personal purposes or political purposes, but to do the people's business. As long as we talk in terms of doing the people's business, I am very happy to yield to my friend.

Mr. LaHOOD. I thank the gentleman for yielding.

First of all, to the gentleman from Pennsylvania [Mr. KANJORSKI], I in no way meant to offend him. If I did, I apologize for doing that.

Mr. KANJORSKI. No offense.

Mr. LaHOOD. Here is my point, sir, here is my point. Those of us just elected in the last election came here with the idea that this institution has not had the discipline to balance its budget for too long and for many, many years.

Mr. KANJORSKI. OK, let us stop there, reclaiming my time. Let us go through the discussion. I will recall my time and respond to that. I know that the gentleman came here with that intention or that thought process. What I am indicating to him, unfortunately the facts of the economic history of the United States do not bear out this case.

Now, if we are really going to talk about what we are doing and what the fault of the Government is, what the fault of the position of the United States is, there is nothing wrong with discussing the true facts and real facts in trying to resolve good policy for the United States to be fiscally responsible. We want to do that on our side of the aisle, you want to do it your side of the aisle. But to constantly discuss grapefruits and grapes because we are talking about 1995 dollars and 1945 dollars or 1960 dollars and trying to lay down some indictment, as I have heard, 40 years of indictment; well, the 40 years that you are indicting, my friend, this side of the aisle presided over a 60-percent real reduction in the debt of the United States and it was only until the election of a President from your party back in 1980 that that was reversed, and it was reversed on a public relations gimmick. He promised the American people three facts and did not keep them.

Mr. LaHOOD. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman.

Mr. LaHOOD. I thank the gentleman for yielding.

Mr. Chairman, the results of the last election speak volumes. May I finish, sir? Thank you. The results of the last election speak volumes in terms of this particular issue. Many of us were elected on the idea that this institution has not had the discipline to balance its budgets for whatever reasons. Please let me finish, sir, make my point, and then you may continue, sir.

We believe the way to bring discipline to the institution is to pass a balanced budget amendment, to give the President the line-item veto so that when we have these monumental bills that some have called Christmas trees, where we all load up with our special projects—and it has gone on for years on both sides of the aisle, not just your side but on our side, too—that there is a mechanism in place to deal with it. That is my point.

Mr. KANJORKSI. I reclaim my time, and I will yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, let me make something very clear: I am going to offer an amendment here very quickly, I hope, that will enable us to get at every single project that was adopted last year. But I want to point out something to the gentleman: There is not a single earmark that was added under our congressional processes that has added one dime to the deficit because, as the gentleman very well knows, every subcommittee that comes out on this floor, every appropriations subcommittee comes out under a fiscal cap imposed by this institution under the 602(b) allocation.

The CHAIRMAN. The time is controlled by the gentleman from Pennsylvania [Mr. KANJORSKI], who needs to remain on his feet.

The gentleman may proceed.

Mr. OBEY. As I was trying to say, every single earmark, because of the fact that every single subcommittee comes to this floor under a fiscal cap, those earmarks are provided at the expense of other spending, but do not add one dime to the deficit. If you want to take a look at the root cause of the deficit—you can argue about the propriety of those earmarks, and I will share the gentleman's concern about many of them—but you cannot, with a straight face, suggest that they have added to the deficit because under the budget rules, which we all helped write, they do not do that. They do not do that. They simply come at the expense of other spending. That may not be good practice, but it does not make the gentleman's point.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

My colleagues, let me begin with the obligatory statement that I, too, support the line-item veto. I happen to support it in the manner in which it is before us now rather than in the basic bill. That is what I voted for a year or so ago and most of my colleagues in the House, both Republicans and Democrats, voted that way likewise.

My colleagues, if Rip Van Winkle fell asleep a couple of hundred years ago and then reawakened in this gallery anytime during the last 30 days, he would probably believe that he has awakened as a witness to America's second Constitutional Convention. He probably would not recognize this as a Congress legislating individual laws, but rather as a convention either mightily tinkering with or dramatically changing the basic law of the land. But it is not Rip Van Winkle's ghost I want to talk about for a couple of minutes; it is James Madison.

On that May 3d day 208 years ago, James Madison entered the city of Philadelphia, a city of 40,000 people back than, along with several, in fact, several dozen of his colleagues. Elbridge Gerry, whose descendant was standing in the corner just a few minutes ago, George Mason, Colonel Mason, and others. They were attacked by radicals of the day, led primarily by Patrick Henry.

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Mr. Chairman, their work, when they finished it, the Constitution of the United States, is perhaps understandably still attacked today. It is attacked continually by the extreme left, by those who say that it excludes ordinary individuals from participation in their government.

Likewise, Mr. Chairman, it has been attacked, as it has been continually during the past 30 days, by the extreme right in this House because they believe that it has created a strong central government that stifles liberty.

Those are the same attacks that were leveled against Madison and his colleagues 200 years ago.

Most Americans understand what the Constitution of the United States is. It is a basic rule of law. It is not a treaty from which one party or the other can withdraw at their convenience. It is not a set of agreements which swing is the political wind and can be altered according to the latest polling results. It is our principles. It is the principles that have been duly established and carefully preserved; yes, on the floor of this House at the cost of the seats of some of the Members in the past who have fought to preserve it. It is to be changed in whole or in part with the greatest care and caution.

While I would not be arrogant enough to presume what James Madison would say were he allowed to stand in the gallery and give us his thoughts over this last month, I think he would say, "Be careful. Be careful because you are tinkering with the political law of gravity, and when you alter it, you risk throwing out of orbit those items of stability that have kept America connected, and at peace, and sound and whole."

Mr. Chairman, it is not our economic might; it is the simple set of principles on that piece of paper that continues the stability of this Nation. It is the center of our political gravity, and James Madison would probably look on a supermajority required to legislate; yes, even to overturn the power of a President; as changing that gravitational pull, one branch of government to the other.

As I said, I would not be arrogant enough to say what James Madison might say, so let me say to my colleagues what the gentleman from Montana [Mr. WILLIAMS] might say:

Be careful, be careful, be careful.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, members of the Committee, I traveled to Paris, France, once in my life—on my own ticket, by the way—and, as a Cajun in Paris, Mr. Chairman, I discovered something that I have had to remind myself about frequently in the course of my life. We Cajuns call a truck a trook. The Parisians call it a camionner. When a Cajun wants to agree with someone or indicate that someone has said something he agrees with, he says, "tu kar ray." It is just sort of a Cajun French-ized expression of "You're right." In French they say, "Vous avez raison."

I came to understand, as I struggled to communicate with my fellow Frenchmen in ancestry that, while we spoke the same language, we had a little trouble understanding each other in that same language, and so it is with the English language. Many of us rise today to support the concept of a line-item veto. We believe, as our Constitution provides, that a supermajority of the Members of this body ought to be had to override a President when he vetoes an act of Congress. That is in our Constitution right now, and we believe that that extraordinary authority ought to be extended when this Congress is irresponsible enough to overspend its budget.

So, Mr. Chairman, this amendment comes before us today, this bill comes before us today, in its present form that says the President can use the line-item veto now in extension of the veto authority given to him by the Constitution. "The line-item veto to reduce the deficit"; that is the language in the bill. In short it says, "If the Congress is irresponsible and does not balance the budget, the congressional grant of authority to the President is to use the line-item veto to enforce responsibility to bring that deficit down." The bill does not say, as do a few States of our Nation, that that authority belongs to the Governor or this President even when the Congress is responsible.

That is a serious change of law, a serious change of the balance of power between the Executive and the legislative branch.

I say to my colleagues, "We have checks and balances in our Constitution. If you extend the power of the President to line-item veto anything, even when the Congress has been responsible and balanced the budget, you no longer have checks and balances. You got checkmate and imbalance."

So, Mr. Chairman, I suggest to my colleagues that the question of whether they want the President to override the—I mean the Congress to override the line-item veto by a two-thirds majority or by a simple majority, as in the amendment before us, depends mightily upon whether or not the bill, in its final form, will remain a bill that gives the power to the President to line-item-veto items that constitute deficit spending, or whether my colleagues want to go further and give the President that power even when the Congress is responsible enough to balance the budget.

Later on in this debate I am going to suggest to the Congress an amendment to this bill that would further enforce that notion.

I must apologize. I confused a couple of analogies in this graph. Bear with me. It is called the glidepath amendment to this bill. It is called the glidepath amendment because like an airplane coming in for a landing it follows a glidepath, and that is what we are obliged to do to get to a balanced budget by the year 2002. If we stay on the glidepath, on the CBO-projected numbers each year of how much deficit we are allowed to incur, as we reach the balanced budget amendment date of the year 2002, Mr. Chairman, we will land safely. As to this football field, we score the touchdown. Hence my two analogies.

What I am going to suggest to my colleagues, and I hope that all of us really think about this, is that, if this bill is truly a bill to enforce responsibility on the Congress, if it is truly a bill as are the bills that were passed in 33 of the 43 States that give line-item authority to their Governors, then this amendment is vitally necessary. Why? Because in the 43 States which give line-item veto authority to their Governor, three out of four of those States say that authority is limited to the line-item vetoing of items that constitute deficit spending. In our case, unlike those 43 States, we cannot, and my colleagues know it, I know it, produce a balanced budget this year. We cannot do it without enormously destroying entitlement programs, many of which, like Social Security, none of us want to hurt.

□ 1320

So it will take us time. We all know it. That is why we passed the balanced budget amendment that gives us this glidepath to the touchdown at the year 2002.

If we know that and are honest and realistic about it, what is the responsibility of the Congress during the years in which we work toward that touchdown of a balanced budget? The responsibility is to stay under those CBO numbers. If we do not, we will not reach this goal. If we do, we have been responsible according to the balanced budget amendment we passed.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

Mr. TAUZIN. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

Mr. SOLOMON. Mr. Chairman, reserving the right to object, and I probably will not object. Let me just take this opportunity to say to my good friend that I know we have been on this amendment for a number of hours now. We wanted to try to rise by 3 o'clock. There is a snowstorm coming. It is hitting out in the Midwest right now in the Chicago area and heaven knows where else.

We have a number of amendments we have to get through, no matter what time it takes. I will say to my good friend, the gentleman is debating his amendment which is going to come up a little later. We just have to move it. Participation on this side is necessary, but let us be as brief as we can and get to final passage of this amendment.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I am not yet debating this amendment. I am saying if we do not adopt this amendment later, we ought to vote for the majority override that is before us.

Mr. SOLOMON. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Chairman, the bottom line is if you are going to pass a bill that gives the President line-item veto, even when this Congress has been responsible, you are creating all of the problems that many have risen to the mike and spoken about today and yesterday. You are creating the problems of a President who has the authority to cajole, coerce, in some cases even politically blackmail Members of this body, even when the Congress has been responsible.

Now, if you want to give this Congress the same power legislators have to protect against that, and at the same time you want to use a line-item veto as a tool to enforce congressional responsibility, to enforce the balanced budget amendment we recently adopted, this kind of an amendment will do it.

On the other hand, if this bill is changed, as it may be changed, to go beyond deficit line-item reduction by line-item veto, to go beyond that point, then maybe you better consider the majority override. That is my point today.

I will support a two-thirds majority override as long as the line-item veto is like the three-quarters of our States provide, designed to protect against irresponsibility on the part of the legislature, designed to guarantee line-item veto authority to the Governor or the President for any deficit spending beyond the area of responsibility, as in this case beyond the CBO numbers and eventually beyond the balanced budget requirements of the Constitution.

This will come up later. But I caution you, if this bill is changed from a deficit reduction line-item veto into something else, and I am told that amendment may be offered later, then I suggest that the majority override is the right way to go. Perhaps we should get some signal on that before we vote on the amendment pending before us.

Mr. SKAGGS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the question is, majority rule, or minority rule?

This is my voting card. Each of us is privileged to possess one of these. We worked hard for it. It represents a sacred trust, not just between us and our constituents, but between us and all who have come before us in this body and all who will follow.

I was not elected, figuratively or literally speaking, to clip about one-sixth off of this voting card, walk down Pennsylvania Avenue, and throw it over the White House fence. That would be an incredible breach of the sacred trust that every Member of this body should try to honor.

Our responsibility is to the Congresses of the future and to the future generations who will be looking to the Congresses of the future to provide the principal protection against overreaching by Presidents of the United States.

The gentleman from Montana and the gentleman from Wisconsin have given us real reasons to worry about that. This is not some illusory or academic point. The threats to liberty in this country have not arisen here, and they will not. But we should be mindful of the risk that we run by a wholesale transfer of power to the executive branch.

The issue here ought to be one of accountability. The amendment offered by the gentleman from West Virginia [Mr. WISE] meets that purpose. It will put us all on record when we need to be put on record with regard to particular items of spending.

But what we do not need to do in the cause of that accountability is commit an outrage against the Constitution in a wholesale transfer of power, entrusted to us by the Constitution, to the President of the United States.

Let me give one further example of what is really involved here. The budgets sent to this Congress by President Reagan, among other things, proposed, for example, a zeroing out of direct student loans, a zeroing out of aid to public libraries, a zeroing out of Federal-State vocational rehabilitation programs, a zeroing out of college work study, a zeroing out of funding for education for individuals with disabilities.

Had that President had this power, those programs would be gone, because that President would have had the support of a loyal and true one-third plus one, if not in this body, then across the building in the Senate.

This is not some imaginary worry. That is what is at issue here. And if we are to honor the Constitution and to honor our responsibilities and to adhere to our oath of office, the amendment offered by the gentleman from West Virginia [Mr. WISE] meets that responsibility and does not violate the Constitution.

The committee's bill represents a profound breach of our oath and our duty to ourselves and to the Constitution.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise as one who supported the constitutional amendment to balance the budget. It was the constitutional amendment that did not require, however, an extraordinary majority to pay for what we buy, unlike spending.

The gentleman from Illinois rose and said that he was elected and he thought the American public had responded to a fundamental issue that this body had been fiscally irresponsible. I believe that many voters have been misled to come to that conclusion, and I think it is a fundamental misunderstanding of the facts of the last 14 years in which, as the gentleman from Pennsylvania pointed out, we quadrupled the national debt.

We did so because the President of the United States wanted to buy his priorities, and the Congress of the United States wanted to buy its priorities. And neither the President nor the Congress made choices to bring within revenues its spending objectives.

The gentleman from Illinois again posited that we were here because of congressional irresponsibility and that this rescission bill obviously was a response to that.

It is important for us to remember that for the past 20 years Presidents have asked for $72 billion in rescissions. This Congress over the last 20 years has rescinded $92 billion, more than the Presidents have asked.

So I suggest to the gentleman from Illinois, to the Congress, and to the American public, in fact this Congress has been willing to do more than Presidents have asked in terms of rescissions.

Now, rescissions are just another way of line-item vetoes, but it does not carry the muscle, which is what the gentleman wants to add.

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But his facts do not support it, or at least the facts do not support it.

I want to say also to my friend from New York, who is a very good friend of mine, we agree on much, disagree on some. He wants to move this bill along quickly. I respectfully suggest to him, this bill is not a birthday present. My friend from California referenced that. This is a very fundamental proposition that this Congress is considering.

The minority for the last 40 years in this House is now the majority, but I suggest to them they have not come to grips with majority rule because they, for two previous occasions in their rule on tax increases and on their constitutional amendment, suggest that it ought to be the minority, not the majority, that controls.

And this is the third time that they have proposed that the majority should not rule. That is unfortunate, in a country, as the gentleman from California so eloquently stated, that is the beacon for majorities throughout this world.

Katherin Drinker Bowen wrote of the miracle in Philadelphia in 1787, when the Founding Fathers came together and, like us, had differences. And I am sure that they had great suspicions of what the people might do. In fact, the U.S. Senate was juxtapositioned to the House of Representatives to try to leaven what the people's House might do in fits of passion.

But the fact of the matter is, the Stenholm-Spratt-Wise amendment responds to the concerns of the American public.

What were they? To some degree the gentleman is right. They believed that somehow we were out of control in terms of pork barrel projects. In fact, pork barrel projects are a relatively small portion of the budget, as any fair analysis of the budget will show. But they were concerned about that.

I remember the Lawrence Welk house, the birthplace of Lawrence Welk. Somebody had put in $500,000 to rehabilitate that house and set it aside as a national landmark. Most of us did not know it was in the bill. The American public found out about it and were outraged. We took it out.

I suggest to my colleagues, that is the reason that the line-item veto got a life.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. HOYER] has expired.

(By unanimous consent, Mr. HOYER was allowed to proceed for 2 additional minutes.)

Mr. HOYER. The American public wanted to say, Mr. President, if you see some projects in there that are not wise policy or not needed or inappropriate to be in appropriations bills, then take them out, Mr. President.

Now, the President of the United States said, "I don't have that authority. I would have to veto the entire bill."

And I think that was a good rationale. That is why I am supporting Wise-Stenholm-Spratt, because it says a President can, in fact, take that project out, take that expenditure out and highlight it to the American public and send it back to the House of Representatives in the full light of day, in the open so that the American public can look at each one of us on this floor, 435 of us, and say, I do not believe that was justified or, yes, it was justified and ask us, again, in an accelerated way to vote on that item.

I think that accomplishes what the American public wants without, as the gentleman from California and so many others on this floor have articulated so well, undermining the very critical balance of power between the executive and the legislative branches of government.

Since 1789, no other government in the world, no other form of government in the world has stood as long and as well since that magic day in 1789, when this form of government was adopted and began.

Let us not in an attempt to respond to that relatively pointed concern skew the balance between the President and the Congress to undermine the people's House, the U.S. Senate and, more importantly, the power of the American people.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in the rush to pass bad legislation, in an attempt to, so-called, save the budget, again, I want to remind my colleagues that this House for the past 40 years has spent less money than the Presidents have asked us to spend. It has been brought to our attention that things get buried in bills that were never intended to be there. Well, who wrote the bills? And who is in power now? And who can change the system?

For the freshmen, it has not happened yet, but later on this year they will be given the chance to vote on the VA and the HUD appropriation together. I have a lot of veterans in my district; I support them. I do not particularly care for the HUD programs, but they are lumped together. So rather than approaching it and saying, maybe we should separate the bills and have more than just 13 appropriations bills, that let us solve the problem, we are saying, no, we are not smart enough, we are going to give it to the President of the United States.

Well, let me give my colleagues a for instance, since I am talking to my Republican colleagues, how would they like the idea of Bill Clinton on his own deciding whether or not we are going to build any more B-2's at $1 billion apiece? How would they like President Bill Clinton to say, I am going to veto the 20 B-2's in this year's defense budget and that frees up almost $20 billion and if you American people will stick with me, we will spend it on health care? Do they really think they are going to find two-thirds of the Members of this body to stand up to the senior citizens lobby and all the other lobbyists that will be asking for more health care? Because B-2's are built in one congressional district. There are folks that need health care in 435.

Aircraft carriers are built in one congressional district. They cost $4 billion apiece. Do we want to give Bill Clinton the authority to say, if we just kill the next aircraft carrier, I can expand health care by $4 billion. Once again, are we going to pit the gentleman from Virginia [Mr. SISISKY] against 434 other Congressmen, whose people are going to say, "Give us more health care"?

What Members are asking this body to do is to give the President of the United States the authority to dismantle the Defense Department line by line.

The Stenholm approach makes sense, because it makes sense that if a majority in this body thinks it makes sense to build an aircraft carrier, then a majority can put that carrier back in the budget. If a majority thinks it makes sense to put an amphibious assault ship in the budget, then we can put it back in.

But I can tell my colleagues right now, if they search their heart of hearts, they know that there are not two-thirds of the Members of this body who will stand up to the senior citizens lobby or any other lobby when it comes down between a defense program and themselves.

And what we have ensured by the passage of this, if we do not include the Stenholm amendment, is the dismantling of the American military industrial base and, in turn, the dismantling of the world's greatest fighting force.

Mr. SPRATT. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I thank the gentleman for yielding to me.

I would just like to say this that this has been a very full debate. I just want to signal to Members, it is my belief, while we are under the 5-minute rule and talking with our side, it is my belief that the gentleman from South Carolina [Mr. SPRATT], who is one of the cosponsors of the Wise-Spratt-Stenholm amendment, will be the concluding speaker, and Members probably should expect to vote within the next 5 to 10 minutes.

In conclusion, I would also like to say that please remember, I want to make sure that we focus on the fact that the Wise-Spratt-Stenholm substitute is a majority rule substitute, not a one-third plus one.

I think that is very significant and needs to be the point that is remembered.

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Mr. SPRATT. Mr. Chairman, this is a creditable substitute. Three hundred and forty-two Members of this House said so resoundingly by voting for it. One hundred and sixty-nine of those who cast their votes "aye" were Republicans.

How did this provision, this substitute, attract 342 votes, three-fourths of the House? First of all, it works, and second, it is constitutional.

Let me take the second point first. Mr. Chairman, this bill, everyone will admit, is clearly constitutional. That ought to be an important consideration for any bill brought to this floor. We certainly cannot say as much for H.R. 2 as it is presently written.

Last night, Mr. Chairman, the last action we took was to vote on an amendment offered by the gentleman from Georgia, NATHAN DEAL, which will provide expedited review by courts of the constitutionality of this particular legislation. We would not put, and we rarely put such provisions in legislation, except when we have grave and urgent doubts about its constitutionality. Therefore, it is tantamount to admitting that we have abiding doubts about the validity of H.R. 2, its constitutionality. We know we are pushing the envelope. We are taking the delegation of powers doctrine to its outer limits in passing this bill.

Mr. Chairman, we know it, because we do not even know the answers to these basic questions. We will not until the Supreme Court has spoken. Therefore, what we have done, all the huffing and puffing, all the touting we have put into this particular piece of legislation may come to naught, Mr. Chairman, in the immediate future, because there could be a constitutional court challenge to it.

It could be enjoined. It will not even be used by this President. Then it could ultimately be rendered unconstitutional by the court. We do not know if the President can repeal or undo or disenact a spending law or a targeted tax benefit.

It was strongly suggested by the Supreme Court that it took an act of Congress signed by the President to repeal or undo or disenact a law that we have passed, but we are here saying he can do it without our intercession.

We know that Congress can delegate broad powers to the Congress, to the President, to carry out laws that we pass, to enact and execute policies and purposes that we have laid down legislatively. We know we can give him broad discretion to carry out the law, but can we give him, as we purport to do here, the power to cancel out our own purposes as stated in law?

We know we can tell him that he can execute our purposes and policies, but can he eradicate them, erase them, simply thwart them? We do not know the answers to these questions, but we do know this. The substitute before us is constitutional.

Furthermore, and this is vitally important, it works. It gives the President all of the powers to comb through spending legislation and taxing legislation and to cull and clean out things that he disagrees with, that he thinks are unnecessary, unwise, unwarranted. H.R. 2 does this, but so does this bill, just as much.

Second, Mr. Chairman, this gives some additional scope to the President that H.R. 2 does not give him. This substitute goes even further. For example, it allows the President to take rescissions that he sends up and assign them to a deficit reduction account, a lockbox.

In the last election, in the last few months of the last session of Congress, one of the hot and topical issues here was a bill called A to Z. It had a feature in it called a lockbox. You could make spending cuts and have those spending cuts assigned to a permanent reduction in the discretionary spending limit.

For those who supported A to Z, for those who support the concept of a deficit reduction account, a lockbox account, here is you change to vote for it. It is in this bill. As Chairman CLINGER admitted, it is a plus for this bill that is not included in H.R. 2.

There is another huge advantage to this amendment, this substitute. It actually has a scope that is far broader than H.R. 2. That is because, Mr. Chairman, in H.R. 2 there is a very narrow time window for the President to act, 10 days.

This bill literally goes backward and forward. It allows the President to wield the additional item veto authority we are giving him, or rescission authority we are conferring upon him, at any time during the fiscal year, backward or forward at any time, and it will be guaranteed a vote within 10 days in this House and 10 days in the Senate when he sends it up here. Therefore, this particular substitute should not be diminished. It is a powerful tool for subjecting or resubjecting all discretionary spending, all targeted tax benefits, to public scrutiny.

The CHAIRMAN. The time of the gentleman from South Carolina [Mr. SPRATT] has expired.

(By unanimous consent, Mr. SPRATT was allowed to proceed for 1 additional minute.)

Mr. SPRATT. Mr. Chairman, this substitute moves cautiously, more cautiously, constitutionally, than does H.R. 2, I will admit that, because it leans toward the fundamental concept of our Government, majority rule over minority rule, but it takes us a long stride forward without stepping off a cliff and not knowing where we are going to land.

If we pass this substitute, we can give the President of the United States significant new powers to cull spending, to cut our targeted tax benefits, without tilting the balance of powers between the Congress and the President. Mr. Chairman, I urge my colleagues to support it for those reasons.

Mrs. ROUKEMA. Mr. Chairman, I rise in support of the Wise-Stenholm substitute, and I associate myself with the remarks of the gentleman from Texas [Mr. STENHOLM].

Mr. Chairman, at the outset I want to associate myself with the remarks of the gentleman from Texas [Mr. STENHOLM], an author of this amendment. He has very lucidly analyzed the essential elements of this proposal.

I take to the floor this afternoon as a former teacher of history and civics. A constitutionalist, if you will.

We all recognize the genius of the Framers. The Constitution they crafted has stood the test of time. And the foundation of that genius has been the separation of powers and the checks and balances of our three branches of government.

They did not want a king or a dictator or an oligarchy—rule of a few or the minority—controlling purse strings of this Nation unilaterally. So they developed a delicate system of checks and balances. A clear separation of powers. A balance of powers.

I am concerned that H.R. 2 would do serious damage to that balance of power and the principle of majority rule by granting important new powers to the President. And with those new powers come tremendous opportunity for mischief.

The underlying bill here would allow any President, operating in league with 34 Senators, to strip any provision from a bill.

To my Republican colleagues and at the risk of offending my Democratic friends. Can you imagine this power in the hands of a crafty and strong-willed President like Lyndon Johnson?

Mr. Chairman, we are not discussing a genuine line-item veto here today. If we were, we would be debating an amendment to the U.S. Constitution—requiring a two-thirds vote of the House and the Senate and three-quarters of the States. This is a dramatic change, a potential rewrite of the balance of powers and should be subjected to that higher standard of deliberation.

I will support the substitute offered by the gentleman from West Virginia [Mr. WISE]. While not perfect, it will prevent a minority of either Chamber from imposing its will and is perfectly consistent with our serious purposes while focusing responsibility, on the record, and accountability of the public on our spending policies.

The Wise substitute establishes an improved expedited recessions process that will allow each and every Member of Congress to stand up and publicly act on spending and taxing decisions. If that Member can convince 50-percent, plus one, of his or her colleagues of the merit of that item, the Member wins. If not, the President wins and the item is stricken.

From a practical point of view, let me say this to my Republican colleagues. Do we want to give a Democratic President the power to strike items from spending and tax bills when he can simply round up 34 Democratic votes in the Senate to prevail? Not that the President would do this, but what if he decided to strike only Republican priorities from a defense bill, or a tax bill, or an education bill, or a health care bill. He could succeed with the assistance of 34 Democratic Senators.

Also to my Republican colleagues, this line-item veto is virtually the only proposal in our Contract With America that President Clinton agrees with. Isn't that a sobering thought? Doesn't that tell you something sobering about the balance of powers and why Presidents want that power?

I would add that I am not the only Republican with similar concerns about this potential shift of power. The Senator from New Mexico, the chairman of the Senate Budget Committee, PETE DOMENICI, has expressed the same misgivings and has offered an amendment similar to the one we debate at this time. And he's not alone. It was Senator Dan Quayle who proposed this expedited recession measure a decade ago.

Mr. Chairman, do we actually want to grant the President the power to thwart the will of this institution, no, of this separate-but-equal branch of United States Government? I don't think so.

Vote for the Wise substitute.

Mr. VISCLOSKY. Mr. Chairman, I rise today in support of the Wise-Stenholm-Spratt substitute amendment to H.R. 2. I am voting for this plan because I believe it represents an improvement to the current rescissions process, while preserving the balance of powers that our Founding Fathers so carefully laid out in the Constitution.

The Wise-Stenholm-Spratt amendment requires that questionable spending items stand alone for an up-or-down vote. Projects would have to stand on their own merit and port would have no place to hide. If our goal is truly to eliminate unnecessary spending, I view this as a fundamental improvement to the way we do business.

Under current law, the President has the authority to request the rescission of specific line items. It is Congress' part of the process that is under scrutiny. Once a Presidential rescission is received by the Congress, we have the option of voting. If nothing is done within 45 days, the rescission dies. The Wise-Stenholm-Spratt substitute would fix this problem by requiring Congress to vote on Presidential rescissions within 10 days after their receipt. As a result, the President's hand would be strengthened to control spending, and Congress would be held accountable for our spending decisions.

I do want to caution, however, that the line-item veto issue is somewhat of a red herring. Proponents of a straight line-item veto say that we need it to eliminate wasteful spending. It sounds great, except for the fact that it is not true. The fact is that the Congress rescinds more spending on average than President's request. Indeed, between the years 1974 and 1995, $73 billion in Presidential rescissions have been requested, yet $93 billion worth of rescissions have been passed by the Congress.

Also, there is a fundamental danger in going too far to fix a system that can be improved, but is not broken. The line-item veto legislation encompassed in H.R. 2 goes too far. This bill would require a two-thirds supermajority of Congress to override Presidential line-item vetoes, thereby abrogating majority rule and investing all power in one individual, the President. As a legislator, I am not willing to provide a Democratic or Republican President with power that our Founding Fathers felt were unnecessary.

The Constitution assigned the power of the purse to the people's elected representatives in the Congress. Requiring a supermajority to override Presidential budgetary decisions would be a direct affront to this fundamental principle. It is not wise public policy to amass such discretionary power in one official.

Let's keep the power with the people and pass the Wise-Stenholm-Spratt substitute amendment to H.R. 2.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of the Wise-Stenholm-Spratt substitute. I voted for this measure last year and it passed the House by a wide margin. This procedure will achieve the same thing the line-item veto bill does, but it does so without providing a great shift in power to the executive branch.

I agree the President should have the authority to strike out wasteful and unnecessary spending items in one bill or another, but Congress is still charged with the responsibility of setting spending priorities and I think we should have the chance to vote on these proposed veto items. This amendment requires Congress to vote, on the record, on these proposed cuts. I think that provides a powerful incentive to prevent Members from putting special projects and other pork barrel spending items in these bills in the first place, because they know that the House and Senate could be asked to vote up or down on those items.

There is some question about whether the base provisions of this line-item veto bill are constitutional because they shift too much power to the executive branch. This substitute provides a much more workable alternative that will be a strong tool in controlling Federal spending in the future.

I urge support for the Stenholm-Wise-Spratt substitute.

Mr. RICHARDSON. Mr. Chairman, I rise in support of the substitute. Since the 104th Congress began its work on January 4, we have spent much of our time considering the impact of Government spending on the American people. We will likely spend much of the next 2 years doing the same thing. In repeated polls and town hall meetings, the public has been very clear that they want to eliminate wasteful spending that only helps a small segment of the population. The public does not want to see narrow special interests control Government spending.

Mr. Chairman, I strongly believe that the President should have the power to rescind wasteful spending. But it's also important that once the President flags wasteful line-items and targeted tax benefits, that Congress shares the role of acting on wasteful spending and acting quickly. Several appropriation bills can reach the President's desk at the same time. The President should be able to offer a package of rescissions at anytime and Congress should then act to quickly approve or disapprove of that package.

The approach offered by this substitute preserves the balance of power between the executive branch and the legislative branch, and that is what the public wants. The public wants an efficient government that moves quickly to eliminate wasteful spending. The public does not want a single person or one-third of Congress to be able to protect targeted spending.

I believe it is ironic that at a time when most of the public does not want Washington controlled by a select few with narrow interests, and our colleagues from the other side of the aisle keep talking about spreading power beyond the beltway, that they keep reverting to procedures within Congress that give enormous power to a minority of our Members. Let us do something that makes sense. I urge my colleagues to support the substitute.

Mrs. LINCOLN. Mr. Chairman, I rise today in support of the Wise-Stenholm-Spratt expedited rescission substitute. There's a valuable goal in the line-item veto—to eliminate the practice of burying wasteful spending projects in legislative packages where your only choice is to vote for the entire bill or nothing at all.

But the line-item veto would also give the President excessive power to influence every aspect of the legislative agenda and therefore shift the constitutional balance of power.

Expedited rescission, on the other hand, accomplishes the goal of the line-item veto without fundamentally changing the separation of powers designed by our Founding Fathers. If we pass expedited rescission, everyone in this room is going to have to go on record for or against pet projects. Pork is pork, and I for one have faith that Congress will recognize this when voting on specific spending proposals as expedited rescission would require.

Why should we question the Constitution's wisdom when we can eliminate pork barrel spending with expedited rescission? I strongly encourage my colleagues to support the Wise-Stenholm-Spratt substitute.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from West Virginia [Mr. WISE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WISE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 246, not voting 21, as follows:

[Roll No 90]

AYES—167

Ackerman
Baldacci
Barcia
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Burton
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Cramer
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Gordon
Green
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Manton
Markey
Mascara
Matsui
McDermott
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mollohan
Montgomery
Moran
Myers
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Poshard
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stearns
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—246

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Combest
Condit
Cooley
Cox
Coyne
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martinez
Martini
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Mink
Molinari
Moorhead
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Pallone
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff

Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torres
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—21

Ballenger
Bartlett
Becerra
Brewster
Collins (GA)
Collins (MI)
Danner
de la Garza
DeLay
Deutsch
Fields (TX)
Gibbons
Istook
Johnston
Kelly
Largent
Moakley
Sisisky
Stockman
Waters
Waxman

□ 1404

The Clerk announced the following pairs:

On this vote:

Mr. Moakley for, with Mr. Deutsch against.

Mr. Becerra for, with Mr. Largent against.

Mr. Gibbons for, with Ms. Waters against.

Mr. Johnston for, with Miss Collins of Michigan against.

Mr. WARD changed his vote from "aye" to "no."

Ms. KAPTUR and Mr. STEARNS changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. KELLY. Mr. Chairman, it was necessary for me to undergo important dental surgery today and, in doing so, I missed two recorded votes on amendments to H.R. 2, the Line Item Veto Act.

Had I been present, I would have voted "no" on the Wise amendment.

In addition, had I been present, I would have voted "no" on the Spratt amendment.

PERSONAL EXPLANATION

Mr. LARGENT. Mr. Speaker, as part of my induction into the NFL Hall of Fame, the National Football League requires that I be available for all promotional events. On Sunday, February 5, 1995, I must attend a half-time promotional event at the Pro-Bowl in Honolulu, HI. Due to travel constraints, I was forced to leave Washington on the morning of Friday, February 3, 1995, to attend related events on Saturday and Sunday.

If I had been present for the following votes on Friday, February 3, 1995, I would have voted as follows:

Spratt amendment—"No"; adding tax incentives to the list of provisions the President may rescind.

Wise substitute amendment—"No"; requiring approval, rather than disapproval, from both Houses of Congress before any rescission takes effect, effectively turning the bill into an expedited rescissions proposal.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, on February 3, 1995, I was absent for rollcall vote No. 90. Had I been present, I would have voted "no" to this substitute amendment that would have allowed a simple majority approval vote to override a Presidential line-item veto.

PERSONAL EXPLANATION

Mr. FIELDS of Texas. Mr. Speaker, I was unavoidably detained during one vote on H.R. 2 on February 3, 1995. Had I been here, I would have voted against the Wise substitute amendment (Roll No. 90).

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to speak out of order.)

Mr. GEPHARDT. Mr. Chairman, I ask to proceed out of order for the purpose of inquiring about the schedule for next week and the rest of the day.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. Perhaps, Mr. Majority Leader, I could first ask about the schedule for the rest of today so Members will know when we are probably going to be leaving.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. ARMEY. We have one or possibly two more amendments we expect to be able to complete today. We are going to try to do that.

In any event, the Members should be advised that we will rise at 3 o'clock today, and hopefully with those amendments completed.

Mr. GEPHARDT. As I understand it, there is an Obey amendment and an Orton amendment that are likely to come next. Would these two gentleman be assured that if we do not finish their amendment by 3 o'clock that we could finish it when we come back on Monday?

Mr. ARMEY. They would, absolutely.

Mr. GEPHARDT. I thank the gentleman. Perhaps I could inquire about next week's schedule.

Mr. ARMEY. Again, if the gentleman will yield, let me first announce the meeting times for the House next week.

On Monday the House will meet at 12:30 for morning hour. Legislative business will begin at 2 o'clock and votes will occur immediately.

Let me also further advise all of the Members that they should expect that every Monday for the remainder of February we would keep to this schedule of 12:30 for morning hour and legislative business convening at 2 o'clock and votes likely to occur immediately, except for Presidents Day.

On Tuesday the House will meet at 10:30 for morning hour. Legislative business will begin at 12 o'clock.

On Wednesday the House will meet at 11 o'clock. On Thursday and Friday the House will meet at 10 o'clock.

On Monday we will return to complete consideration of H.R. 2, the line-item veto.

On Tuesday, subject to a rule, we will take up consideration of H.R. 665, the Victim Restitution Act. Depending upon how that legislation proceeds, we will also consider H.R. 666, the Exclusionary Rule Reform Act, subject again to a rule.

On Wednesday and the balance of the week we will, again, subject to rules being granted, consider H.R. 668, the Criminal Alien Deportation Act, and H.R. 667, the Violent Criminal Incarceration Act.

Again, we would expect to be able to keep our 3 o'clock departure time for the following Friday.

Mr. GEPHARDT. There are two questions or concerns that are being expressed by a lot of Members on this side. The first is by Members on the west coast who have been afforded the opportunity in the past to get here by 5 o'clock on Monday, and if the gentleman is saying we are going to be starting at 2 o'clock on every Monday in February, this really is a difficulty for many of them on being able to get here. I was wondering if perhaps we could plan to work later on Monday to accommodate their schedules?

Mr. ARMEY. I appreciate that observation and there is no doubt the concerns for the west coast Members have been taken into consideration. Nevertheless, we do have a big change and a heavy schedule. Hard work is required and, in our judgment, it is necessary to begin at 2 o'clock on Mondays whenever possible through February to complete that work.

The only solace I can offer is that the contract period is for a finite period of time, 100 days. When the 100 days is passed, certainly we would be able to give much more consideration to the west coast commuters.

□ 1410

Mr. FAZIO of California. Mr. Chairman, I appreciate the gentleman yielding.

I simply wanted to say it is not really a question of hard work. I think the Members want to be able to spend some of their time working hard in their districts. There are many of us who are going to have to leave and really give up our Sunday efforts in the district, and I know that will not necessarily be the impact on many of our colleagues.

So I wanted to see whether or not we could continue the practice that got us to this point which we felt was fair and equitable to the people west of the Rockies.

Mr. ARMEY. Well, I appreciate the gentleman's point. The fact of the matter is we have many Members who wish to talk on each and every amendment. We want to afford every opportunity for that. That takes a lot of time. Still, nevertheless, we have a clear timetable. Committees have worked very hard. You ask the members of the committees to get their work out of committee in time, so it can make the queue line for the floor schedule, and when we have bills on the floor, we really must move those bills off so we can make room for the next bill.

Perhaps if we could find ways for some of us who have so many very important things to say on each and every one of these amendments to say it less often or more quickly we can compress the time requirements and get on.

Mr. FAZIO of California. I think the issue here is that when people feel the need to talk, and I am sure that there will be occasions when all of us in both parties will feel that need, one group of people is paying the price. One group, those of both parties who have the furthest to come, are going to be the ones to pay the price.

I am saying the gentleman is perhaps, from his partisan standpoint, correct. But why do we burden one group of Members because of the propensity of others of both parties from all across the country to speak at some length?

Mr. ARMEY. If the gentleman would yield.

Mr. GEPHARDT. I yield.

Mr. ARMEY. Let me first admire the deftness of the gentleman from California in translating a discussion about geography to one of partisan politics. You are to be admired for your deftness.

Let me acknowledge we all are aware, of course, there are no big talkers from the west coast. So if perhaps we can get some of our east coast talkers to be as respectful of time concerns of the Members as the west coast talkers are, but the fact is we do have a big legislative agenda. We do have a queuing order for each of the committees.

Each of the committees must be considered, and that means we must move the work off the floor.

Mr. FAZIO of California. What the gentleman is saying, I gather, is that we have a 100-day schedule. We have to meet it. And those people who are sacrificed simply have to live with it. Is that correct?

Mr. GEPHARDT. I would like to ask the majority leader another question. There is also a concern on this side, and I assume by many on your side, about the issue of predictability of schedule at night. I know that Members on both sides are sincere about making this a family-friendly Congress, and we have a bipartisan group that is meeting to try to see if we can reach solutions in that area.

A couple of times in the last 2 weeks we have thought that we were going to leave by a certain time in the evening, and then it ran well past that. I realize you are trying to get a schedule completed.

But do you believe that it might be useful to perhaps reconvene the family-friendly task force with you and myself to see if we can find some solutions to this? Members tell their families they are going to be home by a certain time, are able to meet them at a certain time, and they are not able to do that, and it is causing a good deal of difficulty.

Mr. ARMEY. If the gentleman will yield, I think the gentleman from Missouri makes an extremely important point, and I can tell you I would be more than happy for the two of us to get together with some of the people from that task force to see if we can encourage circumstances that will allow us to all get home to our families earlier in the evening.

Mr. GEPHARDT. I yield to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. I thank the gentleman for yielding. The question I have is, understanding the necessity and the urgency to get the work done, would it be possible to have the work continue from 2 o'clock on, but to wait until at least 5 o'clock and bunch the votes so that those of us who are on the west coast can at least be here for the votes?

Mr. ARMEY. The gentlewoman makes a very reasonable request. Unfortunately, within the context of the rules, you cannot, as it were, roll the votes when you are in the Committee of the Whole, so if we are going to meet and work in the Committee of the Whole, we must be prepared to vote immediately.

Mr. GEPHARDT. It is my understanding that we might entertain an idea of that kind in future rules, and if we are trying to avoid 2 o'clock startups for the rest of February, we would certainly be willing to do that. We could also do it by unanimous consent on Monday, and I do not know whether we could achieve that, but it would be worth a try, and we would offer to try to do that.

Mr. ARMEY. The gentleman is very generous and very respectful of all the rights of all the Members, and I would be happy to sit down and see what we can work out.

Mr. GEPHARDT. I would say to the gentleman we could offer such unanimous-consent requests later today before we finish at 3 o'clock, and I will try to work with the gentleman from New York [Mr. SOLOMON] and the majority leader in that regard.

Mr. ARMEY. If the gentleman will yield, I appreciate again the generosity of the gentleman from Missouri. The distinguished chairman of the Committee on Rules just tells me that at this point in this context that is not a workable alternative, and we will have to stay with the schedule.

Mr. GEPHARDT. I will be happy to talk further with the gentleman.

I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I certainly support the majority leader's view that we have got a tough work schedule. But many of us have families back in our districts. I just checked with the Parliamentarian, and I have been informed that, by unanimous consent, even when the Committee of the Whole is sitting in this House, you can roll the votes until a later time, and so while we may not be able to do that on Monday, I wish that the majority leader would take that into consideration for those of us that have families back in the districts that we have not seen for a long time, if we could get back a few hours later, it would help us.

So I would just say that if there were unanimous consent, for instance, on a Monday, maybe not this next Monday, but on a Monday, we could roll the votes until 5 o'clock, and then we could still conduct the business in the Committee of the Whole.

Mr. GEPHARDT. The last question has to do with the corrections. I have read a report that there would be a corrections day, and I would just like to ask under what process would this legislation be considered, and would there be hearings and markups prior to floor consideration of these ideas?

Mr. ARMEY. If the gentleman would yield, corrections day is an innovation that is being discussed by the Speaker. We are not at this point ready to announce such an innovation in the calendar, and we would certainly, as we develop the notion into a new innovation in the calendar, we would welcome every opportunity to work with the minority in terms of defining the best parliamentary procedures for a new innovation like corrections day. So I think this is really something that we can be excited about, but we are not at the point yet where any announcement is ready to be made.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

If I might direct a question at the majority leader, two questions, relative to the crime bill next week or the crime bills. The gentleman mentioned the first four bills, but he did not mention 729, the Effective Death Penalty Act, or I believe it is H.R. 728, the Block Grants Act. Is it the intention of the majority to bring those up the following week? They would not be on the floor this next week? Is that correct?

Mr. ARMEY. If the gentleman will yield further, let me say to my friend, the gentleman from New York [Mr. SCHUMER], yes, you are exactly right. That is our intention.

Mr. SCHUMER. The second question, if I might, if the gentleman from Missouri would continue to yield to me, will the crime bill be considered under an open and unrestricted rule? I understand the chairman of the Committee on Rules, my good friend from New York, Mr. SOLOMON, made an announcement regarding the rules this morning, but I believe it would be useful to clarify the majority's intention for the Members.

As you know, the crime bills have been divided. One crime bill was divided into six, which limits the amount of amendments, and we were told by the chairman of our committee, the gentleman from Illinois [Mr. HYDE], and the chairman of the subcommittee, the gentleman from Florida [Mr. MCCOLLUM], that it was the intention of the majority, and this is while we marked up the bills in committee, to bring those six bills under an open rule, that anything that was germane to the relatively narrow scope of each of those six bills would be available.

☐ 1420

I would appreciate an answer, either from the chairman of the Committee on Rules or the majority leader.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Chairman, let me just say that it is the intention of the Rules Committee to be as open and as fair and as accountable as we possibly can. We have every intention of proceeding with open rules. There could come a time when on the fifth and sixth bills in the crime package, at which time we might have to, because of time constraints we might have to limit the time of debate. That would not mean we would veer away from the 5-minute rule. It means that any amendment would be in order. If I could just briefly, for instance, if we were going to take up H.R. 729, the effective death penalty bill, it would be 1 hour on the rule, 1 hour general debate and perhaps 6 hours of amendments, 4 hours of walking time. That is about 12 hours on that bill.

Mr. SCHUMER. If it is on all six bills, the majority's intention, the Rules Committee intends to allow all amendments to be offered that are germane to each of those bills, is that correct?

Mr. SOLOMON. Within that timeframe, the gentleman is correct.

Mr. SCHUMER. The question I have is what does "within that timeframe" mean? Does it mean that after a certain point of time we cannot offer any amendments at all? Does it mean we would be able to offer those amendments and not debate them? Or does it mean that we could offer those amendments and have a limited amount of time to debate them? And then do the House's business and see where the votes are that way?

Mr. SOLOMON. If the gentleman would yield further, that decision has not been made. But if we were going to limit the time for consideration of amendments, we also have a priority, prefiling offer to you, and I would suggest to the gentleman if you have significant amendments that you ought to prefile those amendments. Within the 6 hours or whatever time we arrive at, you certainly would have ample opportunity to debate those amendments, absolutely.

Mr. SCHUMER. If the gentleman will continue to yield, what are those prefling requirements? That is the question I would have.

Mr. SOLOMON. There are no prefiling requirements at all. It is not a requirement.

It might include a provision giving priority and recognition to Members who prefile their amendments. You do not have to come and testify, you do not have to prefile.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Mr. Chairman, I would just like to say that the chairman of the Rules Committee, he said the first four bills would not be restricted and the last two might. I believe that the sixth bill, the one that would redo the program and do the block grants is in fact one of the most important and in fact took the longest time in the Judiciary Committee. So I would hope that they would not be subjected to that kind of restriction simply, because it would not make sense just because that is the number in which they were ordered to take a more important bill and restrict it more just because it comes later rather than earlier on.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman.

Mr. Chairman, the first three bills, two of the three are completely noncontroversial, the third has very little controversy to it. The whole meat of the thrust of the crime bill we are debating is the fourth, fifth, and sixth bills. So I would ask the Rules Committee and the majority to do whatever they can to make those as open as possible. To only allow 6 hours of debate on the final bill, H.R. 728, which took up more time in committee to debate than the first four put together, would not be fair at all.

I would ask, given the commitments in the contract and everywhere else, that the rules be as open as possible. The Senate, as I understand it, and the gentleman can check me if I am wrong, the Senate is not going to get these bills for a month or two. We were told we would have this week and next week to finish the six bills, and I do not see why such a limitation as the gentleman is proposing would be necessary.

Mr. SOLOMON. I would just say to the gentleman that we would be more open and more fair than we have ever been when a crime package has been brought to this floor, and you can count on that.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the leader for yielding.

Mr. Chairman, I inquire of the gentleman from New York, with whom we visited on this issue before, it was my understanding from the gentleman of New York—and you correct me if I am wrong—that on three bills, the bill on the block grant, on what we have passed, called the prevention programs, on the prison construction bill, and then on the habeas corpus bill, those three bills that the gentleman from New York—I cannot remember the exact words, and you correct me if I am wrong—this morning said that on those we do in one day. In other words, you would have a rule, discussion, debate, and then amendments. And when the time came to end on that day on that bill, that any amendments pending thereafter would no longer be in order. Is that correct?

Mr. SOLOMON. Over about a 12-hour period.

Mr. VOLKMER. Over whatever period. So that is basically a closed rule. It is; gentleman, it is a closed rule, gentleman. And you are telling people that even if you have an amendment in the RECORD by that time, if we would take 3 hours on a substitute and 4 hours on several amendments and there are other Members who have amendments that they feel are just as important as the other ones, you are saying that when the time runs out you do not get to offer your amendment, "I don't care who you are, I don't care how strongly you feel on your idea, you are not going to get to express your viewpoint." That is what I want you to think about.

Mr. SOLOMON. We will be glad to take the views of the gentleman into consideration. I have been pleading on this floor all day to expedite this bill. We want to make sure that we are going to be able to finish these six crime bills because of the time constraints.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Virginia.

Mr. WOLF. I thank the gentleman for yielding.

Mr. Chairman, I was in my office and heard the debate, and I ran over. As somebody who was asked by Mr. GINGRICH to be head of the Family Friendly Caucus, let me just make a coupe of comments and observations.

One, I would hope that the votes would be rolled. To ask somebody from California to come in by 2, I live here and I do not have to fly. I am a half-hour from home. Frankly, I am tired. I just think that somehow we all know the ways of working these rules. There ought not be votes until 5 o'clock. No one should have to leave their family.

Second, if I may say two more things, second, we need—and I would ask Mr. ARMEY when we are finished and Mr. GEPHARDT—I heard your exchange about meeting on. Monday, I ask to determine a set hour, so that at a certain hour, whether it be midnight you told you wife or your kids or whether it be 7 o'clock, there are certain and set hours.

Third, speaking from this side, perhaps we cannot have open rules. Perhaps what we need are fair rules, whereby we give the leadership whatever amendments they see fit but it cannot continue to go on. Because one Member the other night said to me, and I am not going to say who, "I thought you said we were going to have a family friendly Congress." Then when I got back to my office, that Member was getting up and objecting and tying the place up.

I cannot make this a family friendly Congress, but we can, all work together, make it a family friendly Congress.

So we do not want to manipulate the rules. I think if we can develop a better spirit we can do it. First, no votes before 5, second, let us get a set time; or third, frankly, we are probably going to have to do away with the open rules and have rules, what I would call fair rules, so that we can then have set times. I hope we can do it.

Mr. GEPHARDT. Mr. Chairman, if I may reclaim my time, and this would be the last statement: I want to commend the gentleman from Virginia [Mr. WOLF]. When I was majority leader, he talked to me a lot about his concerns, which are sincere, about family life, personal life in this institution. I want to work, and I believe our Members want to work, with your Members, Mr. Majority Leader, to see if we can do that. Obviously, we have had some bad experiences early here with a lot of amendments, and we are going to go through a shakedown period here. But I think the minority is sincere in wanting to find an accommodation with regard to the kind of amendments, the time limits on amendments, so that we can make a more predictable schedule.

Before we leave today, I would like to sit down with the majority leader and chairman of the Committee on Rules and see if we can find a way as a start to begin our meeting on Monday at 5 o'clock and roll vote. I will talk to them in a moment.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I will.

Mr. ARMEY. I thank the gentleman.

Mr. Chairman, I point out to the chair it has taken us over 15 minutes to announce the schedule. That I suppose as much as anything else validates the need for the kind of schedule that I announced.

I want to thank the gentleman from Missouri [Mr. GEPHARDT] for his kind offer, and certainly we will try to find a way to work around that.

As the gentleman from Virginia [Mr. WOLF] said, with a bit of cooperation from all of us we can all have a more family friendly life.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. I thank the gentleman for yielding.

Mr. Chairman, I am all for—if you want to complain about how far you have to go—I am leaving tonight. I will have to stay overnight in Los Angeles, get home tomorrow; leave Sunday night. I do not mind.

□ 1430

We are doing the business of Congress here.

Now the Constitution of the United States is being messed with here. I say to my colleagues, "Now you want to be family friendly? I'm all for family friendly, but don't anybody come and tell this Member that in the name of family friendly that we are not going to do our business in a proper fashion. Every Member here is entitled and obligated to take his or her concerns to this floor under the rules, and I don't want to see 1 second of one Member's obligation and duty compromised in any way, shape, or form."

Is this the 100-day rule, which is not in this Constitution, but in the contract that they signed and I did not sign? I say to my colleagues, "If it takes a thousand days, 10,000 days, that's what it takes to protect the Constitution of the United States, and that's what we take."

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a colloquy with the gentleman from Wisconsin [Mr. OBEY].

Mr. Chairman, I noted that the majority leader said that we were going to take up some amendments and that, regardless of where we were, we are going to be out of here, we are going to rise, at 3 o'clock. My concern is that the gentleman from Wisconsin [Mr. OBEY] may not have sufficient time to offer his amendment with the proper responses, so I want to ask Mr. OBEY if he feels he can offer his amendment along with the time that it will take to get a vote on that and be finished at 3 o'clock or if he feels his time would be compromised and the quality of his debate would be compromised by doing so.

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I cannot tell how much time it is going to take. I do feel a requirement to explain why I am doing this because so many Members have been asking me that. But it really is not up to me to determine how much time it is going to take. I just do not know.

Mr. CLINGER. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, if it would be helpful, I would like the gentleman to know that we have examined the gentleman's amendment, and if it would assist the gentleman from Wisconsin in determining how much time might be involved in consideration of his amendment, I would inform the gentleman that we think it is an excellent addition to what we are trying to do here, which is to get at those elements of pork, wherever they may exist and wherever they exist every year.

Mr. Chairman, we will support the amendment that will be offered by the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I only intend to take about 4 minutes to explain my amendment, and I do not know of anybody else who wants to speak.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment. It is No. 15.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OBEY: At the end of section 2, add the following new subsection:

(d) SPECIAL RULE FOR FY 1995 APPROPRIATION MEASURES.—Notwithstanding subsection (a)(2), in the case of any unobligated discretionary budget authority provided by any appropriation Act for fiscal year 1995, the President may rescind all or part of that discretionary budget authority under the terms of this Act if the President notifies the Congress of such rescission by a special message not later than ten calendar days (not including Sundays) after the date of enactment of this Act.

Mr. OBEY. Mr. Chairman, as Members know, what I am doing is trying to ensure that, if we are going to pass this misguided proposal, that at least we will be able to give the President the ability to reach any and all projects in the 13 appropriation bills which passed last year.

I have in my hand a packet tagged by subcommittee which is entitled "Questionable Fiscal '95 Projects by Subcommittee," and I know that a number of Members do not like the fact that this is being offered. But I am offering it because I basically believe this bill is flawed.

First of all, I think it is based on the assumption that the Congress spends more than the President, and in fact history will show that in this last decade we have spent considerably less than the President has asked for. When you take a look at specific Presidential requests for rescissions, since 1974, Mr. Chairman, Presidents have asked this Congress to rescind $73 billion in appropriations. This Congress has actually rescinded $93 billion in appropriations, 27 percent more than the President asked us to cut. Those are not my numbers. Those are the General Accounting Office's numbers.

We rescinded double the amount of spending that President Bush wanted us to rescind, and to date we have rescinded 33 percent more in spending than President Clinton has asked us to.

So, I think that record should be cleared up, and, as the ranking Democrat on the Committee on Appropriations, I feel an obligation to do so.

I say to my colleagues, I think, if you really want to get at spending, for instance, you will consider the Orton amendment, which comes next, which if it is not adopted will leave a huge loophole in the item veto process because it will apply only to appropriations and not contract authority, something which I think would be a national joke.

But I am also offering this for a second reason, because I simply believe it is fundamentally wrong for us to be making decisions based upon what one-third plus one in this place thinks ought to be public policy. I believe that this vehicle, as it stands now, is a disgraceful and gutless granting of gigantic Executive power by this institution, and I am ashamed, I am ashamed to see that kind of willing power transfer. Because I think this institution's primary responsibility under the Constitution is to protect the American people from the excessive abuse of Executive power. And in my view, as it stands now, this proposal invites the President to use his powers that are being granted under this proposal to greatly expand his ability to leverage additional spending into each and every bill that goes through this place.

Mr. Chairman, I will explain more when we debate the amendment to be offered by Mr. STENHOLM on Monday what I mean by that.

But if, nonetheless, this institution is hell bent on that kind of a reckless transfer of power, then I think we ought to make it apply to every single project which right now Members of this body and Members of the other body think are safely beyond the reach of Presidential veto, and that is why I am offering this, so that the President will have a 10-day window after the passage of this misguided proposal during which he can examine each and every tidbit in every appropriation bill last year.

□ 1440

Now, I think we did a good job on the Committee on Appropriations last year. We eliminated some 40 programs. We cut 408 programs below the previous year's spending level. And the earmarks that were provided were substantially reduced below the level of the previous year.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. OBEY] has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, it seems to me nonetheless that the record obviously is not perfect. We had to accept many "suggestions" from the other body, for instance. So I think if this is going to go into effect, Members ought not to be allowed to assume that their own specific projects are beyond presidential reach. We ought to know in concrete terms just what is at risk.

So I offer this amendment in that spirit and would hope that it would be accepted and adopted by this House.

Mr. CLINGER. Mr. Chairman, I rise in support to the amendment.

Mr. Chairman, as I indicated before the gentleman offered his amendment, we have examined the amendment and want to commend the gentleman, frankly, on his willingness to open up his own appropriations bills for this line-item veto, appropriations bills which were dealt with last year.

I think when the former chairman of the committee recognizes the need of a line-item veto and admits the benefits it provides in eliminating unnecessary spending, we should take note and thank him for his very good work in this regard.

I think I would ask the gentleman, if he has indicated he knows where the bodies are buried and where the skeletons are, that we would have that list as promptly as possible and perhaps we could rescind or eliminate that spending and save the President the need to exercise the line-item veto.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Wisconsin.

Mr. OBEY. I think all you have to do is take a look at every appropriations report, because they are fairly well spelled out. I am not suggesting that most of them are bad items. I think the vast majority of them are infinitely defensible and, in fact, in the national interest. But I just want Members to have very specific and concrete understandings beforehand of the kind of power the President is going to have.

Mr. CLINGER. Mr. Chairman, reclaiming my time.

As I say, Mr. Chairman, we are pleased to accept the amendment, and I yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ABERCROMBIE. Mr. Chairman, is it the Chair's understanding that a ruling was arrived at or an understanding was arrived at with respect to the votes on Monday and the 2 o'clock versus 5 o'clock time? Because that is not clear to me.

The CHAIRMAN. The Chairman of the Committee of the Whole is not in a position to rule on that question.

Mr. ABERCROMBIE. Mr. Chairman, a further parliamentary inquiry. How might I go about making that inquiry? My understanding is that issue was not settled.

The CHAIRMAN. The gentleman should inquire of the leadership who makes those decisions.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY].

The amendment was agreed to.

Mr. CLINGER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having assumed the chair, Mr. BOEHNER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2) to give the President item veto authority over appropriation acts and targeted tax benefits in revenue acts, had come to no resolution thereon.

NOTICE OF INTENT TO FILE PRIVILEGED RESOLUTION ON MONDAY NEXT

Mr. TAYLOR of Mississippi. Mr. Speaker, pursuant to rule IX, I hereby give notice of my intention to offer a resolution that raises a question of privilege of the House. The form of the resolution is as follows:

H. RES.—

Whereas rule IX of the Rules of the House of Representatives provides that questions of privilege shall arise whenever the rights of the House collectively are affected;

Whereas, under the precedents, customs, and traditions of the House pursuant to rule IX, a question of privilege has arisen in cases involving the constitutional prerogatives of the House;

Whereas section 8 of Article I of the Constitution vests in Congress the power to "coin money, regulate the value thereof, and of foreign coins";

Whereas section 9 of Article I of the Constitution provides that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law";

Whereas the President has recently sought the enactment of legislation to authorize the President to undertake efforts to support economic stability in Mexico and strengthen the Mexican peso;

Whereas the President announced on January 31, 1995, that actions are being taken to achieve the same result without the enactment of legislation by the Congress;

Whereas the obligation or expenditure of funds by the President without consideration by the House of Representatives of legislation to make appropriated funds available for obligation or expenditure in the manner proposed by the President raises grave questions concerning the prerogatives of the

House and the integrity of the proceedings of the House;

Whereas the exchange stabilization fund was created by statute to stabilize the exchange value of the dollar and is also required by statute to be used in accordance with the obligations of the United States under the Articles of Agreement of the International Monetary Fund; and

Whereas the commitment of $20,000,000,000 of the resources of the exchange stabilization fund to Mexico by the President without congressional approval may jeopardize the ability of the fund to fulfill its statutory purposes: Now, therefore, be it

Resolved, That the Comptroller General of the United States shall prepare and transmit, within 7 days after the adoption of this resolution, a report to the House of Representatives containing the following:

(1) The opinion of the Comptroller General on whether any of the proposed actions of the President, as announced on January 31, 1995, to strengthen the Mexican peso and support economic stability in Mexico requires congressional authorization or appropriation.

(2) A detailed evaluation of the terms and conditions of the commitments and agreements entered into by the President, or any officer or employee of the United States acting on behalf of the President, in connection with providing such support, including the terms which provide for collateral or other methods of assuring repayment of any outlays by the United States.

(3) An analysis of the resources which the International Monetary Fund has agreed to make available to strengthen the Mexican peso and support economic stability in Mexico, including—

(A) an identification of the percentage of such resources which are attributable to capital contributions by the United States to such Fund; and

(B) an analysis of the extent to which the Fund's participation in such efforts will likely require additional contributions by member states, including the United States, to the Fund in the future.

(4) An evaluation of the role played by the Bank for International Settlements in international efforts to strengthen the Mexican peso and support economic stability in Mexico and the extent of the financial exposure of the United States, including the Board of Governors of the Federal Reserve System, with respect to the Bank's activities.

(5) A detailed analysis of the relationships between the Bank for International Settlements and the Board of Governors of the Federal Reserve System and between the Bank and the Secretary of the Treasury, and the extent to which such relationships involve a financial commitment to the Bank or other members of the Bank, on the part of the United States, of public money or any other financial resources under the control of the Board of Governors of the Federal Reserve System.

(6) An accounting of fund flows, during the 24 months preceding the date of the adoption of this resolution, through the exchange stabilization fund established under section 5302 of title 31, United States Code, the manner in which amounts in the fund have been used domestically and internationally, and the extent to which the use of such amounts to strengthen the Mexican peso and support economic stability in Mexico represents a departure from the manner in which amounts in the fund have previously been used, including conventional uses such as short-term currency swaps to defend the dollar as compared to intermediate- and long-term loans and loan guarantees to foreign countries.

□ 1450

The SPEAKER pro tempore (Mr. LAHOOD). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Speaker in the legislative schedule within two legislative days of its being properly noticed. The Chair will announce the Speaker's designation at a later time. In the meantime, the form of the resolution proffered by the gentleman from Mississippi will appear in the RECORD at this point.

The Chair is not at this point making a determination as to whether the resolution constitutes a question of privilege. That determination will made at the time designated by the Speaker for consideration of the resolution.

PARLIAMENTARY INQUIRES

Ms. KAPTUR. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state it.

Ms. KAPTUR. Mr. Speaker, as an original cosponsor of this privileged resolution, I would like to inquire of the Chair at what point we might have that Speaker's ruling? At what point might this matter be scheduled for debate for the RECORD, please?

The SPEAKER pro tempore. That will be determined by the Speaker.

Ms. KAPTUR. What would be the maximum amount of time that the Speaker might allow before making that ruling?

The SPEAKER pro tempore. Under rule IX, that is 2 legislative days.

Ms. KAPTUR. Two legislative days. So that would mean that we would have some opinion from the Speaker by late on Tuesday at the very latest?

The SPEAKER pro tempore. That would appear to be correct.

Ms. KAPTUR. Mr. Speaker, a further parliamentary inquiry: In what form will the Speaker so inform the Members?

The SPEAKER pro tempore. The Speaker will consult with the Members as to when he makes his ruling.

Ms. KAPTUR. Consult with the cosponsors, the original cosponsors of the resolution?

The SPEAKER pro tempore. The Speaker will make sure that he gets the word to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. TAYLOR of Mississippi. Mr. Speaker, I have researched this and feel very strongly that it indeed involves the privileges of the House, since this is a matter constitutional in nature that is mandatory for this body to fulfill.

It is my intention, should there be a ruling of the Chair that this is not a privileged resolution, to question the ruling of the Chair. Therefore, the timing of that ruling is of importance so that I can have the maximum number of Members who feel strongly about this issue on the floor.

Would it be possible for me to be notified in writing 24 hours in advance, giving me the time that I should expect such ruling?

The SPEAKER pro tempore. The Speaker will comply with rule IX.

Mr. TAYLOR of Mississippi. At what point during the legislative business on that second day will this be brought to a vote?

The SPEAKER pro tempore. The matter will be determined by the Speaker.

Mr. TAYLOR of Mississippi. Is the Speaker's intention to in any way inform the Members so as to give them advanced warning of this ruling?

The SPEAKER pro tempore. The current occupant of the chair cannot prejudge what the Speaker will do.

Ms. KAPTUR. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state it.

Ms. KAPTUR. Mr. Speaker, in past such rulings, how has the Speaker notified the Members?

The SPEAKER pro tempore. The Speaker would notify the Members through the Parliamentarian or through the staff of the Speaker's office.

Ms. KAPTUR. Mr. Speaker, I thank the Chair.

THE MINIMUM WAGE

(Mr. WISE asked and was given permission to address the House for 1 minute.)

Mr. WISE. Mr. Speaker, I want to rise today to state my support of the President's proposal to raise the minimum wage from $4.25 to $5.15 in 45 cent increments.

Today in West Virginia a family of three making the minimum wage is below the poverty line, making $8,800 a year.

In the 1960's and 1970's, a family of three making the minimum wage was above the poverty line, but today they would be $3,500 below the official poverty line.

The minimum wage today is, in real dollars, $2.25 below the real value of the minimum wage in 1968. The income gap is only widening for West Virginia families. In fact, 17 percent of our families in West Virginia earn less than $5 per hour.

Mr. Speaker, we are asking, and rightly so, people to leave welfare. We are trying to create jobs. We are telling people the most important thing is to work.

There must be a reward to work. One of the rewards is making sure that the minimum wage is not a truly poverty wage, as it is today.

I support the raising of the minimum wage.

ADJOURNMENT TO MONDAY, FEBRUARY 6, 1995

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

FURTHER SCHEDULING

(Mr. GOSS asked and was given permission to address the House for 1 minute.)

Mr. GOSS. Mr. Speaker, I would like to underscore any confusion there has been about the time that we will be in session on Tuesday next. We will start morning business, Tuesday next, at 9:30. And we will start the House at 11.

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from West Virginia.

Mr. WISE. Mr. Speaker, as I recall, it originally had been morning hours starting on Tuesday at 10:30, with the House beginning at noon. Now the gentleman is saying that the morning hour will begin at 9:30 with the House beginning at 11.

Mr. GOSS. Mr. Speaker, the gentleman is correct. There is no change. There was a misspeaking earlier. I am underscoring the correct time.

Mr. WISE. Mr. Speaker, if the gentleman will continue to yield, the more repetition, I think, on this, the better as far as Members and their schedules.

Mr. GOSS. Mr. Speaker, it is 9:30 for morning business and 11 for the House.

GOP'S CONTRACT ON AMERICA'S MINORITY ENTREPRENEURS

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute.)

Mrs. COLLINS of Illinois. Mr. Speaker, believe it or not my colleagues on the other side of the aisle see no need for continuing the vital efforts we in this body have made over the last two decades to diversify the ownership ranks in America's broadcast and cable industries.

Last week the House Ways and Means Oversight Subcommittee indicated its plans to do away with the Federal Communications Commission's [FCC] minority tax certificate program that has been instrumental in expanding the number of minority-owned and operated television, radio, and cable stations across our country and bringing more citizens into the great public policy debates of our time.

Despite the fact that diversity in the broadcast and cable industries has been constitutionally upheld as a vital goal of U.S. telecommunications policy, despite the fact that today only 2.9 percent of such firms are minority controlled, despite the fact that undercapitalization continues to be a major impediment to minority representation in these fields, the GOP sees the FCC's minority tax certificate program as a needless initiative.

Mr. Speaker, the information age is upon us but unfortunately those individuals and communities that are presently underserved and could potentially benefit most from advances in technology and access to the airwaves are still standing on the shoulder of the superhighway in the dust being kicked up by the megacorporations tooling down the road past them. Apparently, this suits the new majority party just fine. It sure is a new era in Washington.

□ 1500

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

URGING SUPPORT FOR RESOLUTION PRESERVING EARNINGS OPPORTUNITIES FOR THE BLIND

The SPEAKER pro tempore (Mr. Foley). Under a previous order of the House, the gentlewoman from Connecticut [Mrs. Kennelly] is recognized for 5 minutes.

Mrs. KENNELLY. Mr. Speaker, I rise today to introduce a resolution expressing the sense of Congress that the blind should continue to be able to earn as much as senior citizens under the Social Security earnings test. I will offer an amendment in the Ways and Means Committee when it marks up the Republican contract to continue the same earnings test for the blind as seniors will have under the Senior Citizen's Equity Act. This action will ensure that blind individuals can continue to be self sufficient, productive members of society.

In 1977, Congress established the same earnings exemption standard for the blind and retirees under the age of 70. In fact, this action was championed by the present chairman of the Ways and Means Committee, and provided blind individuals with incentives to contribute as members of the work force.

Blindness is often associated with adverse social and economic consequences. It is often difficult for blind individuals to find sustained employment or for that matter employment at all. Action by Congress in 1977 provided a great deal of hope and incentive for the blind population in this country.

The Republican Contract With America raises the earnings test for senior citizens from $11,160 a year to $30,000 in the year 2000. However, the bill specifically de-links blind workers from this increase in the earnings test.

It is my hope that the link between senior citizens and blind individuals can continue. Let's not remove the incentive to work that we were wise enough to offer the blind in 1977. Many in this country want to work and take pride in working and contributing to society.

I have always been a supporter of the blind. When I first came to Congress in 1982 I successfully offered an amendment as a member of the Public Works and Transportation Committee that gave the blind priority to provide vending machines at rests areas and safe areas on the National Interstate Highway System. Since that time nearly every State has passed similar State laws. This action has provided lucrative revenue opportunities for over 600 blind people throughout the country and has been considered by many as a major revenue source for the blind.

We in Congress have been successful in the past 20 years in providing opportunities for the blind to succeed. Let us not go back, let us move forward and extend the increase in the earnings exemption that we are providing to seniors to the blind.

I urge my colleagues to support this important resolution.

PRESERVING THE REPUTATION OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. Volkmer] is recognized for 5 minutes.

Mr. VOLKMER. Mr. Speaker, I view the House of Representatives as one of the most respected bodies and institutions in this world, maybe not quite to the extent that I do my church and my home, but it reaches right up there with them.

This is the greatest institution for democracy in the world. It should never be sullied, should never be soiled by actions of any of its Members, yet today we have a stain on the U.S. House of Representatives. We have a cloud over its existence. That is the question of the Speaker's involvement with Rupert Murdoch over the book deal.

Mr. Speaker, only 2 weeks ago, finally we had a House Ethics Committee appointed. It has not met. Nothing has been done. Yet we all know from published reports of the meetings between the Speaker, Mr. Murdoch, his lobbyists, and others, we all know that the corporations that are controlled by Mr. Murdoch have matters pending before the Federal Communications Commission.

We all know that there is possible pending legislation that would benefit Mr. Murdoch and his holdings before this House of Representatives. We should have a thorough investigation. Yet, what it appears is going on now is, there is nothing going to be done, that that committee is not going to meet.

It is not just the committee in action that concerns me. It is the fact that everyone agrees; we just heard from Mr. Wertheimer of Common Cause, who says we need an adviser for ethics outside, independent counsel, to look into this. I agree. We cannot just rely on our old Ethics Committee to examine what occurred or what did not occur.

I'm not prejudging the Speaker, but I do think that it needs a complete airing so that that stain can be removed from this House, or the cloud can be lifted, so that we can proceed with our business.

The other matter I would like to talk about is one that relates directly to this House of Representatives that I love so well. That is the fairness of each individual Member to be able to propose and examine their ideas as far as legislation is concerned.

We have coming up in the next 2 weeks legislation put out by the Committee on the Judiciary so-called separate crime bills. Just today we hear that the majority proposes that on certain of those crime bills, those that are the most controversial, those that will take the longest, those that will have amendments, those that will have substitutes, they propose to limit the time that the individual Members of this body, whether Democrat or Republican, can even address the House and offer their amendments.

Mr. Speaker, I would suggest to the majority that they closely examine and rethink that proposal. I believe that if the majority wishes to proceed with their legislation under the 100-day calendar, if they wish to do so, to work with the minority, I am sure that you would find that many of these so-called crime bills, some, at least three or four, there is not much controversy about at all.

Those would be disposed of very rapidly, so that the time remaining could be devoted to those areas where there is diversity of opinion and not try to lump them all as the same.

I believe strongly, and as long as I am here will work to make sure that every Member, whether Democrat or Republican, has the opportunity to offer amendments to bills, to have that discussion, to have that idea brought up, and I don't believe anybody should be gagged by the majority just to expedite a matter.

REQUEST FOR PERMISSION TO POSTPONE RECORDED VOTES ON AMENDMENTS IN THE COMMITTEE OF THE WHOLE, AND TO REDUCE TO 5 MINUTES INTERVENING TIME BETWEEN VOTES

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2, pursuant to House Resolution 55, the Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment, and that the Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device with intervening business, providing that the time for voting by electronic device on the first in any series of questions shall be not less than 15 minutes.

Mr. VOLKMER. Reserving the right to object, and I do not plan to object, Mr. Speaker, I would just like to know if this has been covered or at least discussed with the minority to make sure there is no objection to it. I think that is everything we were talking about earlier, so on Monday the votes could possibly be postponed until 5 o'clock.

□ 1510

Mr. ARMEY. If the gentleman will yield, yes, this and the ensuing unanimous-consent request I am about to read have both been cleared on both sides of the aisle.

Mr. VOLKMER. Can we hold that up for just a few minutes? Is it possible? I do not want to object, but will the gentleman withdraw at this time for just a few minutes?

The SPEAKER pro tempore (Mr. FOLEY). The request is considered as withdrawn.

CONCERN OVER USDA PROPOSED REORGANIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, this Member strongly supports efforts to create a leaner and more efficient Federal Government. Such efforts are long overdue. However, as the U.S. Department of Agriculture moves forward with its reorganization plans, it is critical to keep in mind that reorganization simply for the sake of reorganizing is inefficient, counterproductive, and often very costly.

The use of reorganization to achieve the appearance of change is certainly not new. This Member quotes from Petronius Arbiter in the year 210 B.C.:

> We trained hard * * * but it seemed that every time we were beginning to form up into teams, we would be reorganized. I was to learn later in life that we tend to meet any new situation by reorganizing; and a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency, and demoralization.

This Member believes this observation of some 2200 years ago is especially relevant as the U.S. Department of Agriculture considers a reorganization plan for the new Natural Resource Conservation Service [NRCS]. This Member is specifically concerned about the proposed closing of the Mid-West Technical Center located in Lincoln, NE. This technical center has proven to be productive and well-located and this Member is extremely doubtful that the proposed changes are either cost-effective or will bring great efficiency.

In addition to the specific concern, this Member is also concerned that the currently proposed reorganization plan will severely and adversely impact the Natural Resources Conservation Service. The current schedule to finalize plans by May 1, 1995, with implementation of the reorganization set for October 1, 1995, needs to be placed on hold until a reevaluation is completed.

Mr. Speaker, this Member is concerned that the charge given to the U.S. Department of Agriculture to reduce administrative staff in the Washington, DC, office is being implemented in NRCS by moving many of their administrators to the six proposed regional offices. In order to make room in the budget to fund the new regional administrative staffs, the technical experts now located at the technical centers would then be sacrificed. It is this Member's belief that such a move would be very short-sighted and ultimately would undermine the technical capability and reputation of the agency.

The NRCS, formerly known as the Soil Conservation Service, has earned a richly deserved reputation as a highly professional and technically competent agency. Now there appears to be a clear, and not so subtle, trend to diminish the carefully nurtured technical competence of the Service. For example, the proposed plan gives lip service to the need for technical competence while at the same time destroying the very repositories of technical skill and the knowledge, the National Technical Centers [NTC's]. The explanation for dismantling the collective technical expertise of the NRCS is not comforting. The plan calls for the duties of the NTC specialists to be taken over by the States. Yet, the States' budgets are being reduced and the State conservationists do not appear to be enthusiastic about assuming this responsibility.

Mr. Speaker, there are also suggestions to bolster technology by creating institutes of excellence at various locations throughout the country. This is a novel concept. However, in an age of integrated technology these miniature NTC's would lack synergy. This Member is afraid that in a few years someone will suggest reorganization that combines all the institutes into one or two units. They might even be called technical centers.

Mr. Speaker, this Member is also concerned about the proposed realignment of U.S. Forest Service regions to coincide with the NRCS regions because there is not that much commonality between their functions and responsibilities. This may seem like a reasonable idea for those at the undersecretary level, but it is not a good idea for the vitality and future of the NRCS. Colocation with the Forest Service would not be for the benefit of the citizen or for programs of mutual concern. The NRCS and the Forest Service clearly serve different constituencies. Because there is little overlap between the agencies' responsibilities and areas of focus, a regional division which makes sense for one of the agencies would not necessarily work for the other.

Furthermore, colocation of the NRCS with the Forest Service would, most likely, lead to the swamping of the NRCS and its programs by the larger agency. This Member believes there is a danger that the NRCS would eventually be absorbed into the larger Forest Service, rather than the two serving as coequal agencies. Also, since the Forest Service budget has been included in the Interior appropriations bill, this Member believes this is an added complication that may not have been thoroughly considered. The anticipated savings in administrative costs, as a result of colocation with the Forest Service, may also be a bit misleading since administration of the NTC's is usually a shared function between the NTC's and the State office of the NRCS.

If new administrative regions are a good idea, and they may be, then it would seem to make sense to utilize the facilities of the existing technical centers as a base of operation within the four proposed regions in which technical centers are now located. Historically, the SCS has shared locations with the ASCS, now part of the Consolidated Farm Service Agency [CFSA], because of mutual program components and for the convenience of the citizens that utilized the services. In fact, colocation of NRCS and CFSA is being required at the local level.

Finally, Mr. Speaker, this Member does not believe that the recently passed reorganization legislation was intended to change the mission of the old Soil Conservation Service. However, anonymous, but highly respected USDA employees have told me that NRCS officials have indicated that NRCS is no longer in the business of production agriculture! The SCS was born as a result of a calamity caused by nature and poor stewardship of the soil. The NRCS should be dedicated to assisting the private landowner in the production of food and fiber in a sustainable and conservation-friendly manner. Sweeping changes in the mission and basic structure of the NRCS should not be undertaken in haste and need the concurrence of Congress.

Mr. Speaker, this Member strongly urges the USDA to carefully reexamine the current proposal to reorganize the NRCS at the national, regional, and State levels. The proposed changes are, on balance, a very bad idea. I hope our distinguished former colleague, Dan Glickman, will send the USDA teams back to the drawing boards when he takes charge.

COMMERCIAL SPACE ACTIVITIES ON CALIFORNIA'S CENTRAL COAST

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from California [Mrs. SEASTRAND] is recognized for 10 minutes as the designee of the majority leader.

Mrs. SEASTRAND. Mr. Speaker, I rise to discuss one of the most important opportunities before the United States of America today. That opportunity lies in the commercialization of space and the development of commercial spaceports. In the coming weeks I will introduce Federal spaceport legislation, but I want to take a few minutes at this time to discuss some of the important strides the State of California, and the central coast in particular, have made in fostering the growth of commercial space.

In recent years I have been a leading proponent of commercial space activities on the central coast of California. But, well before me, there was a group of enlightened men and women who looked into the future and saw an industry that was waiting to be discovered.

Following the tragic *Challenger* explosion, it became increasingly clear that the long-planned shuttle launch from Vandenberg Air Force Base would not take place. In addition, between 1965 and 1986, the Air Force had spent in excess of $5 billion for a military manned-space facility at Vandenberg. The Air Force ultimately canceled the Vandenberg shuttle program and the result was a loss of 4,000 high paying jobs. It was in this environment that a group of Lompoc community activists got together with a mission to transfer Vandenberg's shuttle facilities from Air Force to NASA control. This too failed.

The next logical step was to look forward and what they saw was the small satellite commercial space market so they applied to NASA for a center for commercial development of space at Vandenberg Air Force Base. This pursuit of NASA support and funding seemed to be the most logical way to preserve both local capabilities and the region's growing aerospace industry. Moreover, NASA was already supporting 16 commercial launch centers across the country to the tune of $1 million a year for each one. However, after 5 years of vigorous pursuit, it became clear that NASA had little interest in funding technology development west of the Rockies.

In 1991, with the assistance of then-Congressman Bob Lagomarsino, Vice President Quayle visited Vandenberg and saw first hand its commercial space capabilities. In addition, he significantly raised its profile. The Vice President commented that America had entered a new phase in space launches that would bring an increase in the importance of commercial launch.

In the subsequent months, the Air Force made a recommendation to Motorola that Vandenberg be used as the launch site for their Iridium satellites—a potential $2.3 billion project as it was originally outlined. Unfortunately, for a variety of reasons, Motorola concluded that Vandenberg would not be a suitable site and the United States was faced with a half-billion loss in booster sales to France.

Through the efforts of local activists, specifically a determined community, State, Air Force, and congressional lobbying campaign, Motorola reversed its decision on Vandenberg. They signed $1.1 billion in satellite and booster contracts with American companies Lockheed and McDonnell Douglas.

The decision by Motorola was a critical step on the road to turning what could have been a several billion dollar white elephant at Vandenberg Air Force Base into a commercial space launch facility with tremendous economic potential.

Mr. Speaker, when I was elected to the California State Assembly in 1990, I took an active role in promoting commercial space activities along the central coast of California. This included bringing these issues to the attention of Sacramento lawmakers. In 1993, I introduced legislation which designated the Western Commercial Space Center as the California Spaceport Authority. In addition, we supported the establishment of a commercial space office within the California Department of Transportation to serve as an advocate and watchful eye for available Federal resources. We also worked to obtain a sales tax exemption for qualified property used in launches from Vandenberg Air Force Base. Gov. Pete Wilson, a commercial space supporter, earmarked $350,000 in 1993 matching funds.

In 1994, I introduced legislation to expand the charter of the California Spaceport Authority to encompass responsibility for development of regional technology alliances, legislation, and determinations concerning the commercial space business. Also in 1994, the State of California's earmarked matching funds rose to $550,000.

What worked for us in California was removing the issue of spaceport development from the larger issue of commercial space. We made a successful argument that the narrow issue of spaceport development was largely a transportation infrastructure issue. After all, if there is no facility from which to launch, there would be no launches.

The first thing was define a spaceport? A spaceport, in its best description, is a transportation center. It should be viewed in the same way as an airport or a seaport. A spaceport puts semi-trucks—rockets—on end and drives—launches—them into space. In the current environment this is an expensive proposition because these vehicles can only be used one time. It is my belief that commercial business will drive down these high costs and encourage developments in reusable launch vehicles.

It is important to recognize that facility development is separate from the overall commercial space industry. In the United States, the available parts of the market are launch bases, boosters, and satellites. The missing piece of the puzzle is a facility for the launches. Currently, launch facilities are controlled by the Air Force, but California is building the first commercial facility. What makes the California Spaceport special is the fact that it will be the first one capable of launching in polar orbit. Market reports and international competitors prove that polar orbit launches are the future of commercial space.

As with most things in life, timing is a very key issue. It is imperative that spaceport development progress quickly in order to maintain the other elements of the market. In the international arena, competition is fierce. This competition is currently headed by the European Space Agency [ESA] and propelled by the French. Other strong competitors are the Russians, Japanese, Chinese, and Canadians, while still others, including the Australians, are looking to get in.

Currently, the French now launch roughly 60 percent of the world's commercial satellites. From its first launch in December 1979, the spaceport in French Guiana has progressed rapidly. They have moved from 6 launches a year to a potential for 36 launches per year by the end of the decade.

The United States has many potential launch bases and two existing ones—the California and Florida spaceports. The question we must ask is, with existing spaceport facilities—plus all of the potential launch bases—and a healthy market for boosters and satellites, why isn't the United States in a better position to compete with our international competitors for a bigger share of the commercial launch market?

Mr. Speaker, in California we are no longer in the position of encouraging commercial space activity, we are there. A limited partnership between ITT and California Commercial Spaceport, Inc. puts to work $10 million in Federal and State grants and a $30 million investment by ITT toward the development of commercial space launches at Vandenberg.

This limited partnership, called Spaceport Systems International [SSI], is working hard to open the spaceport launch facility by 1996. They recently announced they will launch four Taurus vehicles in 1999. They had previously projected 15 launches by the end of 1997. Those payloads will include low Earth orbit [LEO], Earth observation, research, education, and government.

These customers will use the California Spaceport to launch LEO satellites into polar orbit—a unique ability that will generate significant business and jobs—400 to 500 for the construction phase and 700 to 1,000 when operational. However, the big jib numbers, in the tens of thousands, will be in the satellite manufacturing that will be drawn to this low-cost access to space provided by the California Spaceport.

The spaceport philosophy is a commitment to user-friendly environments, integrated launch services, and low-cost access to space. The economic potential for California and, more importantly, the Nation, is unlimited. In California the growth of spaceport helps in the revitalization of high-technology industries which have been hurt by defense cuts. This means more high paying jobs and improving local economies with new hotels, homes, shopping centers, education centers, and research facilities.

It is my hope that California can be used as a model for future spaceport development. We have stepped out of the box with a fresh perspective on space. Space is no longer the jurisdiction of little men in funny suits, Star Trek movies, or the Shuttle. The international commercial space industry is our highway into the 21st century and holds the promise of enormous economic benefits to our entire Nation.

□ 1520

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 2, LINE-ITEM VETO ACT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2 pursuant to House Resolution 55 the Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment, and that the Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than 15 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. GEPHARDT. Mr. Speaker, reserving the right to object, and I will not object, but I want to inquire of the majority leader, it is my understanding that what we are trying to arrange here is a system for voting, in consideration of the rest of the line-item veto bill on Monday, so we can start at 2 p.m., have amendments with a 30-minute time limit for the amendments that are left, have an hour time limit on the substitutes that are left, that we would not begin the consideration of the Stenholm substitute until 5 o'clock, and that the order of voting when the voting would begin would be on the amendments first and then ending finally with the Stenholm substitute, and then on to final passage of the bill. Is that generally a correct statement?

Mr. ARMEY. If the gentleman will yield, the gentleman is absolutely correct.

Mr. GEPHARDT. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Texas?

Mr. ROEMER. Mr. Speaker, reserving the right to object, I would just like to engage the distinguished majority leader in a short colloquy about the family-friendly nature of the schedule and also the productivity and effectiveness of the congressional schedule.

Many of us, as the gentleman from Texas knows, are frustrated with the current schedule, whether we have young children, whether we are on the east coast, the west coast, or in the Midwest. We see we are starting voting at 5 o'clock and 6 o'clock at night. We are all working 70 or 80 hours a week, but we are working many of these in the middle of the night where we never see our families. We are having votes overlap between committees on floor votes. Certainly the distinguished gentleman from Texas is as frustrated as anybody with this schedule, and while a bipartisan committee was appointed to work on this for the first 100 days, I did not sign that resolution on the bipartisan committee because I was afraid this would happen. It has happened. We have got angry and angrier families.

☐ 1530

I am hopeful, if the majority leader would commit to working with us as he has in the past on improving this, if not immediately, then sometime in the next 90 days.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. ROEMER. Further reserving the right to object, I yield to the gentleman from Texas.

Mr. ARMEY. The gentleman is absolutely correct about the frustrations. Certainly I felt it, too. I stand before you as a man who is a half-hour late already with a date that I have with the most beautiful woman I have known, and we feel these frustrations every day.

But I must say that, given what I have seen today as what I believe is a real breakthrough in relations with the work and the help of the minority leader and certainly the cooperation we have gotten from the distinguished ranking member of the committee on this effort, I believe we have got an opportunity to alleviate all of this tension and frustration in the future, and I am looking forward to moving on with the completion of this week, the beginning of next week under much more favorable conditions than we anticipated just a few short hours before, and I think more smoothly throughout the rest of this Congress.

Mr. ROEMER. Further reserving the right to object, so I can ascertain from the gentleman's remarks, that after the contract and the first 100 days is over, he is going to be working on spending more time with this beautiful lady after those 100 days and we can get that as a solid commitment?

Mr. ARMEY. Yes, if the gentleman will yield, not only that, you with your beautiful children and your wife as well.

Mr. ROEMER. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

Mr. GEPHARDT. Mr. Speaker, reserving the right to object, and I will not object, I wanted to say I misspoke in my explanation of the arrangement in saying all the amendments would have 30 minutes. It is my understanding that we are intending to have 1 hour for the Orton amendment alone.

Mr. ARMEY. Absolutely. That is correct. And I will have this in the request I am about to make.

Mr. GEPHARDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Texas?

There was no objection.

ORDER OF OFFERING AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 2 ON MONDAY, FEBRUARY 6, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the Committee of the Whole House meets under the 5-minute rule next Monday to consider amendments to H.R. 2 that four amendments, if offered, will be considered, time to be divided equally between proponents and opponents of the amendment, with debate not to exceed the time allotted, in this case the gentleman from Utah [Mr. ORTON] for 1 hour, the gentlewoman from California [Ms. WATERS] for 30 minutes, the gentleman from Louisiana [Mr. TAUZIN] for 30 minutes, and the gentleman from Ohio [Mr. TRAFICANT] for 30 minutes; furthermore, that no amendments to the amendments may be offered, that two substitutes, if offered, will also be considered, time to be equally divided between the proponents and opponents, and debate not to exceed 1 hour each.

Those substitutes would be by the gentlewoman from New York [Ms. SLAUGHTER] and by the gentleman from Texas [Mr. STENHOLM], with the proviso that the gentleman from Texas [Mr. STENHOLM] will not begin to offer his substitute until 5 o'clock p.m.; and, finally, that no amendments to the substitutes may be offered.

The SPEAKER pro tempore. For clarification, the Chair will ask one question.

Is it the majority leader's request that the six named amendments, and none other, be in order for the balance of the consideration?

Mr. ARMEY. The Chair is correct in that.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ORDER OF BUSINESS ON MONDAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. ARMEY] is recognized for 2 minutes.

Mr. ARMEY. Mr. Speaker, I hope that we have most of our Members that have now discerned from these two requests, and we will engage both majority and minority whip information system to inform all of our Members, that with these requests and with the generous cooperation of the minority, we are now able to advise Members that unless you have business on the floor that you need not anticipate a vote will be taken before 5 o'clock next Monday. Certainly those people with business on the floor and those people interested in debating the business on the floor will need to be here at 2, but Members not required to be on the floor for purposes of the debate may now be assured that votes will not occur before 5 o'clock, and very likely 5:30 on Monday next.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. It will take very little time, just to commend the gentleman and the gentleman from Missouri for working this out, and it is something I know will be beneficial to many Members, and I also think it is incumbent on staff now to notify those Members, a lot of whom are probably on their way home, and maybe it will make them feel better.

Mr. ARMEY. And again, one final point, the staff should be sure to notify the gentleman from California [Mr. DELLUMS], who is on his way to California to celebrate the birth of a new grandbaby.

OUR LEADERS SHOULD PUBLISH THEIR IDEAS AND WISDOM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes as the designee of the majority leader.

Mr. HUNTER. Mr. Speaker, I would hope that the gentleman from Missouri [Mr. VOLKMER] would listen to my response to his special order a few minutes ago with respect to the Speaker of the House and the Speaker's intent to write a book.

I think the gentleman from Missouri, in continuing to raise accusations, clouds over the Speaker, because of the fact that he is preparing to write a book and publish that book, does a disservice to this House, and I think a disservice to the tradition that we want to have leaders in this Nation who not only have ideas and thoughts and wisdom and insight but also express those ideas and those thoughts and that wisdom and insight in books and make them available for the American people and for the people of the world.

I thought, as I walked down here, when I listened to the gentleman complain bitterly that the Speaker of the House might write a book, I thought about the great leaders in the West who have written books, and I thought about Winston Churchill, who wrote "The History of the English-Speaking Peoples," written when he was in office and who wrote following World War II "The History of World War II," a multivolume book, that has been the source of wisdom for many of those who came after him, and I thought of our great President, Teddy Roosevelt, who wrote many books, who wrote "The Winning of the West", "Trails of a Ranch Man", "The Naval War of 1812", "Through the Brazilian Wilderness", "The Strenuous Life", "The Rough Riders", who was a prolific writer and, you know, Teddy Roosevelt, of all of the, and I disagreed with the Speaker the other night when he said that Franklin Roosevelt may have been the biggest figure on the political stage in this century, the biggest political figure.

I think the other Roosevelt, Teddy Roosevelt, was the biggest political figure of this century, and Teddy Roosevelt left his energy and left his imprint on succeeding generations up to and including this generation of political leaders, because he wrote. He wrote, and he made his words available to the American people. He made his words available to Europeans and to Asians and to people around the world. I think in many ways Teddy Roosevelt's words and his books were such ambassadors of what this country is all about, as his speeches and his career.

Let me just say to my friend, the gentleman from Missouri, this Member, speaking for himself, says this: I want to have leaders who write books. I would like to see leaders on the Democratic side of the aisle write books. I think that whether you agree with it or do not agree with it, Vice President GORE'S book that he wrote and received remuneration for provoked thought, provoked response, across the political spectrum, and for that reason was a very useful instrument in ginning up this mill of debate of the national forum.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I am happy to yield to my friend, the gentleman from California.

Mr. DORNAN. We are going to be expecting about 12 inches of snow starting late tonight, and I am going to dig my pal and classmate, AL GORE's, book out and read about global warming under those 12 inches of snow, especially if my fireplace gives out. I mean, it looks like we are getting colder, not warmer.

But it is still interesting to read the book, to get the other side. I like books. I have 4,000 at home. You have seen every one of them.

Mr. HUNTER. I am going to return his book. I have one of his MacArthur books that I promised to return for several years, and I promise, once again, that I will return that book soon.

Mr. DORNAN. We should have a carrier, the U.S.S. *Douglas MacArthur*.

Mr. HUNTER. I yield to my friend, the gentleman from Missouri, in just a second.

Let me just say with respect to remuneration, in terms of what you can do to make money in this world, there is probably nothing more democratic, nothing more open, nothing more populist than to make your words available to millions of people, and if a person wants to buy your book, he pays through the book-purchasing process $5 or $6 to the author, and there is nothing that is less of a special interest than an average American purchasing a book to read because he wants to see someone's ideas.

□ 1540

And I think it does a disservice to the House, and I will tell the gentleman that he is going to have leaders on his side of the aisle who want to share their ideas with the world.

PROS AND CONS OF PUBLIC FIGURES WRITING BOOKS

The SPEAKER pro tempore (Mr. FOLEY). Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. DORNAN] is recognized for 30 minutes as the designee of the majority leader.

Mr. DORNAN. Mr. Speaker, why should I yield to the gentleman from California [Mr. HUNTER]? Because he yielded to me? Why should I yield to the new conscience of the House who is pro-gun, pro-life, pro-guts, pro-defense and has been giving us a hard time and yelled at me the other day? Of course I yield to the gentleman from California if he will promise to yield to the distinguished gentleman and my pal from the great State of Missouri [Mr. VOLKMER].

Mr. HUNTER. I will. Just finishing my thought, I thank my friend for yielding.

Mr. DORNAN. He is pro-books, too.

Mr. HUNTER. Let me just say I hope the gentleman from Missouri writes a book. And I think as one Member when he writes it I am going to purchase that book and read it, and I will ask the gentleman from California to yield to him.

Mr. DORNAN. I am now controlling the time and loving every second of it. I yield to the gentleman from Missouri.

Mr. VOLKMER. The gentleman from California [Mr. DORNAN] has been a good friend, and we worked together for a good many years on many pieces of legislation, many of which we agree on. I agree, I have no disagreement with Members writing books. I think the gentleman from California [Mr. HUNTER] missed the point. The point that bothers me and I think we need to clear up because I have seen it in the media, I saw it the other night on TV, we need to clear it up: What influence did Rupert Murdoch have in relation to the writing of the book and to the book contract and how much the Speaker is going to get? I do not believe that Teddy Roosevelt, AL GORE, or anybody else had any types of contract with any types of person. Now there may not be anything wrong with that. I am just asking that let us get it cleared up so that we know there is nothing wrong with it. Let the Speaker go ahead and write a book, I have no objection to his writing a book. My only question is what remuneration is in that contract, did the things that Rupert Murdoch and his companies have in relation to the Federal Government as to the impact on writing that book.

Mr. DORNAN. Fair question. I yield to the gentleman from San Diego for a fair answer.

Mr. HUNTER. Let me just say to my friends almost every book that is published by a major figure is published through a major publishing house.

Mr. VOLKMER. Correct.

Mr. HUNTER. Most books that are published by a major publishing house are published with a book advance. I understand there is not going to be any advance. Most of them are published with an advance. I would say the gentleman is stating we should presume that there may be a problem because there may have been influence wielded because a Member of the House leadership has followed the American tradition of writing a book and publishing it with a publishing house, a fairly large well-known publishing house in the United States, somehow has something wrong with it, so that we should go out with absolutely no evidence of any impropriety and investigate that because someone is going to write a book.

Now I would say that the one thing that we deal with, our tools that we use in this business are words, written words and spoken words. There is nothing more natural for a public figure whether he is Democrat or Republican than to write a book. And so the idea that the gentleman has now established a new presumption of guilt for people whose stock in trade is words, that when they put these words into books and sell them to the public the relationships that they have with publishers have to be examined I think does a disservice to this House and to all public figures who would write. I want to give that person on the street a chance to buy that book, and if he pays $4 out of the $20 cost of that book to the person would wrote it, if that is the Speaker of the House, then I think that is not influence.

REMEMBERING THOMAS: GUILT, RESPONSIBILITY, AND THE CHILD WHO NEVER WAS

Mr. DORNAN. Reclaiming my time, if the gentleman will stay—the snow is not due until after midnight—through my special order, I am going to read an article appearing in America's No. 1 liberal political newspaper, the Washington Post, on abortion, by an excellent Washington Post staff writer, Phil McCombs. Now, if I were to write a book today it would be on the premiere core central issue of all the social issues, the issue that I believe is tearing apart families in our lower income categories and families in our higher income categories, and that is the destruction of innocent life in the womb. And if the gentlemen, Mr. HUNTER and Mr. VOLKMER, my good pro-life friends stay and hear this article, this column today that I am going to read, I think you will both realize that there are lots of subjects that still need to be written about in depth with great compassion and feeling.

I think that I hear Mr. VOLKMER's point clearly that if a publishing house has business before this great House and Chamber, then we have to look at those relationships. I think our dynamic Speaker is willing to do that.

Let me reclaim my time. May I ask the gentlemen to trade places because I want that lectern and then stay around if you want to comment later.

First of all, let me ask the gentleman from California [Mr. HUNTER], "What are you, about 6 foot 2?" I am so tired of people coming up to me and saying, "My Gosh, you are 5 inches taller than I thought you were." It goes on regularly. I do not know whether it is my voice sitting in for Rush Limbaugh or something about here. But a Member finally taught me something. He said, "I notice, Bob, that you will bring up the lectern, put the mike down," and I guess in that way I look like I am 5 foot 3. SONNY BONO is about 5 foot 4 and look how he comes across. They said, "If you drop it way down, pull the mike up, then you look like John Wayne, 6 foot 4." So from now on, low lectern, reading glasses, recapture my mother-given height. My mom's birthday would have been yesterday, 95 years old. She was a great Douglas MacArthur fan. She had gone on a vacation to the 1928 Olympics where my dad was an assistant boxing coach. They had already been engaged 5 or 6 years. They got married the next year. I hope that we will see a carrier named after Douglas MacArthur. Yes, give me back my book on MacArthur, "Remembrances."

Now, let me get deadly serious. In today's Style section of the Washington Post is a column called "Remembering Thomas." Above it, it says with an exclamation point and underlined, "Oh, Man," with an exclamation mark. And that is underlined. Then it goes on "Remembering Thomas, Responsibility, Guilt and a Child Who Never Was." By Phil McCombs, Washington Post staff writer.

This year's March for Life in which 45,000 abortion opponents picketed the Supreme Court, didn't have an emotional impact on me that these events often do. I was on my way out of town on business, and scarcely noticed.

Looking at the news report later, it seemed that everyone had been on his or her best behavior.

Now a footnote: One of the stations, I think it was ABC, reported 31 people were arrested during the march. They conceded to my daughter-in-law, Terri Ann Dornan, that they were mistaken. The arrests were at a different location and no part of the march. So the Washington Post columnist with a different objective here corrects that. Peaceful march. I was leading the march with the great Roger Cardinal Mahoney of Los Angeles.

The abortion opponents were making it plain that they oppose the use of violence to close clinics.

That was the principal thrust of my speech before those 45,000—I thought it was more, like 55,000–60,000 people. And it goes on:

And after counterdemonstrations by abortion rights advocates, as we're careful to call them, were rare.

It's all a little confusing to me. I do not know anyone who—in his or her heart—doesn't hate abortion. And it seems odd to see Christian conservatives so eager to force their will through the armed authority of the State when they already have at hand the far more powerful weapon of prayer.

Anyway, I like prayer. It is all I have left. And pain.

When the abortion was performed, I was out of town on business too. I made sure of that. Whatever physical, emotional and spiritual agony the woman suffered, I was not by her side to support her.

I turned my face away. My behavior was in all respects craven, immoral.

For some instinctual reason, or just imaginatively, I've come to believe that it was a boy, a son whom I wanted killed because, at the time, his existence would have inconvenienced me. I'd had my fun. He didn't fit into my plans.

His name, which is carved on my heart, was Thomas.

My feelings of responsibility and guilt are undiminished by the fact that the woman had full legal authority to make the decision on her own, either way, without consulting me or even informing me. In fact, she consulted in an open fashion reflecting our shared responsibility, and I could have made a strong case for having the child. Instead, I urged her along the path of death.

And skipped town.

It's not a lot of help, either—emotionally or spiritually—that the high priests of the American judiciary have put their A-OK on this particular form of what I personally have come to regard as the slaughter of innocents. After all, it's the task of government to decide whom we may or must kill, and not necessarily to provide therapeutic services afterward. In the Army I remember being trained at public expense in the "spirit of the bayonet," which is, simply put, "to kill." The spirit of abortion is the same, in my view, though the enemy isn't shooting back.

I feel like a murderer—which isn't to say that I blame anyone else, or think anyone else is a murderer.

It's just the way I feel, and all the rationalizations in the world haven't changed this. I still grieve for little Thomas. It is an ocean of grief. From somewhere in the distant past I remember the phrase from Shakespeare, "the multitudinous seas incarnadine."

When I go up to the river on vacation this summer, he won't be going boating with me on the lovely old wooden runabout that I can't bring myself to discard, either.

He won't be lying on the grass by the tent at night, looking at the starry sky and saying, "What's that one called, Dad?"

Because there was no room on the Earth for Thomas.

He's dead.

The latest numbers show abortions in America have been running at about 1.5 million annually. That's a lot of pain.

Secular men's groups have tended to be focused on the "no say, no pay" issue. "These men feel raped," says Mel Feit of the National Center for Men. "They lose everything they worked for all their lives. In many cases they had an agreement with the woman not to have a baby and when she changes her mind they call me up and say, 'How can she do this to me? How can she get away with it?" Feit plans to bring suit in federal court.

In more interested in the traumatic pain that many men, as well as women, often feel after an abortion. A healing process of recognition grieving and ultimately forgiveness is needed.

"There's a lot of ambivalence for men when they get in touch with their pain," says Eileen C. Marx, formerly communications director for Cardinal James A. Hickey of Washington and now a columnist for Catholic publications. "They didn't have the physical pregnancy, so often they feel they're not entitled to the feelings of sadness and anger and guilt and loss that women often feel."

She tells of one man, a friend, whose wife had an abortion. "He pleaded with her not to have it. He said his parents would raise the child, or they could put it up for adoption. The marriage broke up as a result of the abortion and other issues. He was really devastated by the experience."

Marx has recently written about a post-abortion healing ministry called Project Rachel, in which more men are becoming involved—husbands, boyfriends and even grandfathers. There are 100 Project Rachel branches, including one in Washington.

I found it helpful just talking with Marx, a caring person, on the phone, though it was a little tough when she mentioned being pregnant and hearing the heartbeat and feeling "this wonderful celebration of the life inside you."

She said not to be too hard on myself, that healing is about forgiveness and God forgives me.

I said sure, that's right, but some things are still hard.

Like looking in the mirror.

□ 1550

What a courageous column, Phil.

Mr. Speaker, I have a good friend, gone to his eternal reward, a good man. We were in the Watts riots together. Sixty-five, I bumped into him, 3 years later in Vietnam was a correspondent for CBS Radio. Gosh, am I going to forget his name? I guess I am—Bill—Bill Stout, Bill Stout. He told me that every time he drove up Hollywood Boulevard he looked up at the old medical building at the northeast corner of Highland and Hollywood Boulevard, right by the famous footprints in front of the Grauman's Chinese Theater, and he said, "On a certain floor my son died." When he wrote this column for the L.A. Times he said, "Twenty-two years ago," so now it must be 35 years ago. "I've never gotten over the pain. It wrecked my marriage, and I know my son died up there in the hands of some abortionist, on the floor, wherever." And Bill Stout was a proud mainstream liberal, as I am sure Phil McCombs is.

We are not going to get away from this abortion debate, Mr. Speaker. It will come back this summer. We are going to try to roll back all those obnoxious, in our face, Executive orders from Clinton on the very anniversary, the 20th anniversary, of the Roe versus Wade decision, a decision built on a lie, entrenched in a lie.

Norma McCorvey, the Jane Roe in that case, never had an abortion, never was raped, lied her way through it. Young Sarah Weddington, a brilliant red-haired lawyer that carried the case, told her, "Don't tell the world you weren't raped."

Norma McCorvey has had three daughters. They still are estranged from the mother because she tried to kill all three and did not make it, had them all. She travels broken, on drugs, off drugs. She is out there being used by the pro-abortion, multibillion-dollar industry.

But guess what happened yesterday, Mr. Speaker? Yesterday morning, Clinton asked everyone at the prayer breakfast to pray for him, but he had put in our face within that very 1-day period an abortionist to replace the Surgeon General, Joycelyn Elders. This is a male version of Joycelyn Elders and worse. She was a doctor, but she never said she performed abortions, and guess what? I hope the Senate is going to not only reject Dr. Foster, Clinton's nomination, but will do what we already warned Clinton in writing we were going to do, roll the Surgeon General back into the Assistant Secretary for Health in Health and Human Services where it always was.

Our friend, Ronald Reagan, made a mistake, DUNCAN. He promised the Surgeon General job to two people. They said, "Mr. President, we already have a Secretary of Health, and it's the same job." So our friend, out of his simple honest mistake, split the Surgeon General away from the Assistant Secretary of Health and gave it to Dr. Koop. He did not shave his beard. He brought back the white uniform. And we had an Amish pseudo-admiral which is what he looked like. Koop then threw up his hands on pro-life, this brilliant Philadelphia surgeon who made a well-deserved, sterling reputation for separating twins, Siamese twins, some of them joined at the brain, and then became sort of brilliant on antismoking, but sort of an apologist for the so-called pro-choice movement because he said all was lost.

With columns like Mr. McCombs', Mr. Speaker, all is not lost.

Now, is Clinton going to be the President 2 years from now? No. I said that in a 1-minute this morning. No way.

Here is the book, "The Agenda." Read "Inside the White House," DUNCAN, and then read the new book that is on the front page of the Washington Post called "First in His Class."

□ 1600

If you read just these three books, you will see that sometime this summer, late summer, when the Watergate stories are exploding across America on alternative media; that is, radio and television talk shows, on the front page of our biggest newspapers, all the other 1,750-some papers, he cannot survive this. He will resign. And when the Post, the same paper that Mr. McCombs is a staff writer for, makes a calculated decision to bring down the White House again, as they did, for good or wrong with Nixon—he did it to himself—they are going to wreck this Presidency and they are not doing it to help us, Mr. HUNTER, they are doing it to get a big headstart on the Presidential season that is already beginning.

So the Post will have in the White House someone that they accept philosophically, and that way they will not see him bringing down the White House and adding another 20 Republicans from that side of the aisle over to this side of the aisle; people who will become Republicans.

Mr. HUNTER. I thank the gentleman for yielding.

I just want to say that I stayed on the floor because I really appreciate the words of the gentleman and the wisdom of the gentleman, my great friend from California. This is a house of mechanics, word mechanics. That is what legislation is. There is probably no one more proficient in reminding us that we are not just mechanics, but we are holders and transferrers, if you will, of values, the values of our constituents. And in this area, this area of pro-life, there is a great, great need for people who have voices as articulate as the gentleman who is speaking right now, the best speaker in the House of Representatives. I want to thank the gentleman.

I have to go back to our beloved State of California, but I want to thank the gentleman for all the time he has taken over many, many years in talking about this issue. I am also reminded when he put 40 hours in an airplane going to Somalia and back to give a full report to every family member who had a beloved one who had been killed in Mogadishu, and performed such a wonderful service in doing that. I have to take off, but your words are very eloquent today. I hope that Americans listen.

Mr. DORNAN. While 1,300,000,000 listeners and watchers of C-SPAN are watching us, I might use this opportunity to tell them something. The newly named National Security Committee—you and I preferred the old title, maybe both, Armed Services and National Security—has come down to 5 subcommittees. Our great chairman, Navy Capt. FLOYD SPENCE, of South Carolina, is no longer able to take a subcommittee. He will be a shepherd, shepherding his five Napoleonic marshals, his subcommittee chairmen. You have the most important preferred subcommittee, you are the chairman of the Subcommittee on Procurement. HERB BATEMAN, of Virginia, has the great area where the U.S.S. *Ronald Reagan* and U.S.S. *Harry Truman* will be built. He has the Readiness Subcommittee. He would have been chairman of Merchant Marine and Fisheries Subcommittee if we had not done away with it, which I agreed with. Then CURT WELDON, of the great Commonwealth of Pennsylvania, has R&D, which I am on, and you have been the ranking member in the past. I am chairman of the Personnel Subcommittee. JOEL HEFLEY, of Cheyenne Mountain, NORAD, that great part of the Colorado Air Force Academy, is the fifth marshal for installations.

The five of us, together with our two Committees on Intelligence that have national security responsibility, and I got first pick there, Chairman DORNAN of Technical and Tactical Intelligence, JERRY LEWIS, our colleague, the chairman of the other, including human intelligence, and the CIA. Of our seven national security subcommittees, who dreamed on the night of November 8 I would be chairman of two out of seven, and you would have the most important one, to modernize our service with Comanche, V-22, *Arleigh Burke* destroyers, and these new carriers.

We have a battle on our hands in an approaching bankrupt nation to live up to the preamble of the Constitution to provide for the common defense.

All five of us chairmen voted yesterday to take defense above $200 million out of a simple line-item veto. I noticed FLOYD SPENCE was with us and many of the members of Armed Services, now National Security. We have a tough fight ahead of us.

If you are not in a rush, just listen to this from Bob Woodward's book, "The Agenda." Because of the new rules protecting, not AL GORE, not the Supreme Court Justice, the Chief Justice or the Associates, but only the Presidency of the United States, I will be very careful how I read this on the House floor. I will use expletives deleted.

Here is page 287 in "The Agenda," "Inside the White House," by Bob Woodward, who really along with Carl Bernstein together as investigative reporters caused the resignation of the one and only President in American history, Richard Nixon. And I for one have never said Mr. Nixon had not created his own fate.

In the middle of page 287 it says, Clinton speaking to Mr. KERREY, KERREY says, "The Constitution gives you the option, but I wouldn't take it." And you will have to read the book to see what they are talking about.

Clinton again pleaded with KERREY that he needed his vote for the largest tax increase in all of recorded history of man and womankind.

"My Presidency is going to go down," he said sharply, by now shouting. KERREY shouted back, getting fed up, "I do not like the argument that I am bringing the Presidency down."

This is a man who joined the Navy Seals. That is like being a paratrooper like you, DUNCAN, being a fighter pilot, being a special forces sniper, a commando, or a marine going behind the enemy lines for weeks at a time. A Navy seal is the best of the best. It is like carrier landing at night. This is slightly built, thin panther like BOB

KERREY, who left a leg in Vietnam, and if he gets elected President can put himself in the gallery as a Medal of Honor winner and then can run down and talk about himself.

He says, yelling back, "I don't like the argument I am bringing the Presidency down." Clinton shouted, "Defeat would be precisely that," if that huge tax increase went down. KERREY could not flee from responsibility. KERREY bellowed, "I really resent your argument that somehow I am responsible for your Presidency surviving."

Clinton, with one of the most common, foul expletive deleted words in the English language, "expletive deleted you," Clinton yelled.

Bottom of the page, 287. I turned to 288 when I was reading this a few months back, and I expected to see Navy seal KERREY returning the compliment about engaging in activity with yourself. But KERREY felt he always tried to be respectful of the Commander-in-Chief. But he also wanted to defend himself. So he continued shouting back.

Clinton pressed only two things. He had to have KERREY's vote. "I need it," he said at one point plaintively. He said if KERREY denied him the vote, KERREY would wreak national havoc.

"I have got the responsibility for me," the Senator replied. "I have got my vote. My vote matters. I vote based on what I believe is right. Always have. I don't particularly in big issues like this like to shave my vote. So that is where it is."

"Fine," Clinton said bruisingly. "OK, if that is what you want, you go do it."

They both crashed their phones down. Clinton was irate. He turned to his advisers after the conversation and said, "It is going to be a no." Clinton was wrong. KERREY voted yes later. He made a speech on national television why he didn't want to bring the Presidency down, why he would vote yes. This is just the end of 1993.

And then Senator BOB KERREY extracted from the White House the promise to be made chairman of a commission on our impending fiscal disaster. He did a good job chairing that committee.

My colleague from southern California CHRIS COX, was on it. Ask Congressman COX about that commission. They just turned in their report. The media did not give that report proper attention. It got short shrift. The report said if this Chamber doesn't complete our Contract With America, stay focused on these fiscal issues while we still, after April or May, handle the serious cultural meltdown and the destruction of the American family, the garbage that Hollywood is pumping into our culture, I don't know what we can do about that except plead with their good common sense, but we can do all of this in this House. And if we don't, Senator KERREY said there will only be 3 line items on the budget in about 20 years. We will close down all the courts, let all the Federal judges go, including the Supreme Court. No more Federal marshals, no FBI, no Army, Navy, Marine Corps, Coast Guard, no antinarcotics program.

That will solve that debate. There will only be three things left in the budget, just three: Interest on the national debt, which will then be way over $10 trillion; Social Security, which will create a generational war, because only the people who have aged past my age a little bit will be reaping way beyond what they put in the system; and the third category is Medicare and Medicaid.

□ 1610

Health care, Social Security, interest on the debt. Is that where we are headed?

As I said this morning, Mr. Speaker, BOB KERREY carrying the banner of the great Democratic Party, the oldest in the Nation's history, Thomas Jefferson's party, the least government is the best government, that is why they still sit to the treasured right although we switched on committees, that party with BOB KERREY at its top is going to make an exciting campaign next year.

A THANK YOU TO THE STAFF

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I am proud today because 1 month ago I was sworn into the House of Representatives with 434 other American citizens.

I want to take a moment, though, to thank the men and women who make this process work: The Members' personal staffs, the staff of the committees, the members of the Clerk's office and the cloakroom, the pages and their families who have allowed them to participate in this great democracy.

These individuals arrive here at the Capitol very early in the morning and they leave very late to do the people's business. The Members get all the attention from the press and the media. The staff gets all the grief.

This 1 minute is dedicated sincerely and thankfully to those individuals who make this process work, those people who work for the U.S. Government. Yes, indeed, we are proud and fortunate to have each and every one of them working for this country.

RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING AND FINANCIAL SERVICES FOR THE 104TH CONGRESS

(Mr. LEACH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LEACH. Mr. Speaker, pursuant to clause 2(a), rule XI, I submit the Rules of the Committee on Banking and Financial Services for the 104th Congress as adopted on January 12, 1995.

RULES OF THE COMMITTEE ON BANKING AND FINANCIAL SERVICES, ONE HUNDRED FOURTH CONGRESS

RULE I. GENERAL PROVISIONS

1. (a) The Rules of the House are the rules of the Committee and subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in the Committee and subcommittees.

(b) Each subcommittee of the Committee is a part of the Committee, and is subject to the authority and direction of the Committee and to its rules so far as applicable.

2. The Committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of the Committee under Rules X and XI of the Rules of the House during the Congress ending at noon on January 3 of such year.

3. The Committee's rules shall be published in the Congressional Record not later than 30 days after the Congress convenes in each odd-numbered year.

RULE II. POWERS AND DUTIES

1. The powers and duties of the Committee are all those such as are enumerated or contained in the Rules of the House and the rulings and precedents of the House or the Committee.

2. For the purpose of carrying out any of its functions and duties under Rules X and XI of the Rules of the House, the Committee, or any subcommittee thereof, is authorized—

(a) to sit and act at such times and places with the United States, whether the House is in session, has recessed, or had adjourned, and to hold hearings; except as provided in Rule XI, clause 2 of the Rules of the House;

(b) to conduct such investigations and studies as it may consider necessary or appropriate, and (subject to the adoption of expense resolutions as required by clause 5 of Rule XI of the Rules of the House) to incur expenses (including travel expenses) in connection therewith. The ranking minority Member of the full Committee or the relevant subcommittee shall be notified in advance at such times as any Committee funds are expended for investigations and studies involving international travel; and

(c) to require, by subpoena or otherwise (subject to clause 3(a)), the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, in whatever form, as it deems necessary. The Chairperson of the Committee, or any Member designated by the Chairperson, may administer oaths to any witness.

Subpoenas

3. (a) A subpoena may be authorized and issued by the Committee or a subcommittee under clause 2(c) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the Members voting, a majority being present. The power to authorize and issue subpoenas under clause 2(c) may be delegated to the Chairperson of the Committee pursuant to such limitations as the Committee may prescribe. Authorized subpoenas shall be signed by the Chairperson of the Committee or by any Member designated by the Committee.

(b) Compliance with any subpoena issued by the Committee under clause 2(c) may be enforced only as authorized or directed by the House.

Review of continuing programs

4. The Committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, insure that appropriations for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved. For the purposes of this paragraph, a government agency includes the organizational units of government listed in clause 7(c) of Rule XIII of the Rules of the House.

5. The Committee shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefore would be made annually.

Budget Act reports

6. The Committee shall, on or before February 25 of each year, submit to the Committee on the Budget—

(a) the Committee's views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions; and

(b) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within the Committee's jurisdiction which it intends to be effective during that fiscal year.

7. As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, the Committee (after consulting with the appropriate Committee or Committees of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 or section 602 (in the case of fiscal years 1991 through 1995) of the Congressional Budget Act of 1974.

8. Whenever the Committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget in accordance with the Congressional Budget Act of 1974.

Oversight report

9. Not later than February 15 of the first session of a Congress, the Committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Oversight and the Committee on Government Reform and Oversight, in accordance with the provisions of clause 2(d) of Rule X of the Rules of the House. The Chairperson shall consult with the ranking minority Member on the formulation of the oversight plan, and the Committee may not meet to adopt the plan unless a copy of the plan has been provided to all Members not less than two days in advance of the Committee meeting.

RULE III. MEETINGS

Regular meetings

1. Regular meetings of the Committee shall be held on the first Tuesday of each month while the Congress is in session, and the Chairperson shall provide to each Member of the Committee, as far in advance of the day of the regular meeting as the circumstances make practicable, a written notice to that effect. Notwithstanding the preceding sentence, when the Chairperson believes that the Committee will not be considering any bill or resolution before the full Committee and that there is no other timely business to be transacted at a regular meeting, then no Committee meeting shall be held on that day. In such instances, the Chairperson shall not issue the notice of the regular meeting to the Members and the failure to receive such notice shall be treated by the Members as a cancellation of the regular meeting.

Additional and special meetings

2. (a) The Chairperson may call and convene, as the Chairperson considers necessary, additional meetings of the Committee for the consideration of any bill or resolution pending before the Committee or for the conduct of other Committee business. The Committee shall meet for such purpose pursuant to that call of the chair.

(b) No bill or joint resolution shall be considered by the Committee unless (i) such measure has been made available to all Members at least two calendar days prior to the meeting accompanied by a section-by-section analysis of such measure; and (ii) the Chairperson has notified members of the time and place of the meeting at least two calendar days before the commencement of the meeting. The provisions of this paragraph may be suspended by the Committee by a two-thirds vote or by the Chairperson, with the concurrence of the ranking minority Member of the full Committee.

3. If at least three Members of the Committee desire that a special meeting of the Committee be called by the Chairperson, those Members may file in the office of the Committee their written request to the Chairperson for that special meeting. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the Committee shall notify the Chairperson of the filing of the request. If, within three calendar days after the filing of the request, the Chairperson does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the Members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held specifying the date and hour thereof, and the measure or matter to be considered at that special meeting. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the Committee shall notify all Members of the Committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered; and only the measure or matter specified in that notice may be considered at that special meeting.

Open meetings

4. (a) Each meeting for the transaction of business, including the markup of legislation, of the Committee or each subcommittee thereof, shall be open to the public including to radio, television and still photography coverage, except when the Committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House; provided, however, that no person other than members of the Committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public.

(b) Each hearing conducted by the Committee or each subcommittee thereof shall be open to the public including to radio, television and still photography coverage except when the Committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would compromise sensitive law enforcement information or would violate any law or rule of the House. Notwithstanding the requirements of the preceding sentence, a majority of those present (there being in attendance the requisite number required under the Rules of the Committee to be present for the purpose of taking testimony—

(1) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or would compromise sensitive law enforcement information or violate clause 6 of Rule IV; or

(2) may vote to close the hearing, as provided in clause 6 of Rule IV.

No Member may be excluded from nonparticipatory attendance at any hearing of the Committee or a subcommittee, unless the House of Representatives shall by a majority vote authorize the Committee or a particular subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this paragraph for closing hearings to the public; provided, however, that the Committee or subcommittee may by the same procedure vote to close one subsequent day of hearing.

Broadcasting of committee meetings

5. Any meeting or hearing of the Committee or a subcommittee that is open to the public shall be open to coverage by television, radio, and still photography, subject to the requirements and limitations of clause 3 of Rule XI of the Rules of the House. The coverage of any meeting or hearing of the Committee or any subcommittee thereof by television, radio, or still photography shall be under the direct supervision of the Chairperson of the Committee, the subcommittee Chairperson, or other Member of the Committee presiding at such meeting. The number of television or still cameras shall not be limited to fewer than two representatives from each medium except for legitimate space or safety considerations, in which case pool coverage shall be authorized.

Additional provisions

6. Meetings and hearings of the Committee or subcommittee shall be called to order and presided over by the Chairperson or, in the Chairperson's absence, by the member designated by the Chairperson as the Vice Chairperson of the Committee or subcommittee, or by the ranking majority Member of the Committee or subcommittee present.

7. No person other than a Member of Congress, Committee staff, or a person from a Member's staff when that Member has an amendment under consideration, may stand in or be seated at the rostrum area of the Committee unless the Chairperson determines otherwise.

RULE IV. HEARING PROCEDURES

1. The Chairperson, in the case of hearings to be conducted by the Committee, and the appropriate subcommittee Chairperson, in the case of hearings to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter at least one week before the commencement of that hearing. If the Chairperson, with the concurrence of the ranking minority Member, determines there is good cause to begin the hearing sooner, or if the committee or subcommittee so determined by majority vote, a quorum being present for the transaction of business, the Chairperson shall make the announcement at the earliest possible date. The clerk of the Committee shall promptly notify all Members of the Committee; the Daily Digest; Chief Clerk; Official Reporters; and the Committee scheduling services of House Information Systems as soon as possible after such public announcement is made.

2. (a) Each witness who is to appear before the Committee or a subcommittee shall file with the clerk of the Committee, at least 24 hours in advance of his or her appearance, 200 copies of the proposed testimony if the appearance is before the Committee, or 100 copies of the proposed testimony if the appearance is before a subcommittee; provided, however, that this requirement may be modified or waived by the Chairperson of the Committee or appropriate subcommittee, after consultation with the ranking minority Member, when the Chairperson determines it to be in the best interest of the Committee or subcommittee, and furthermore, that this requirement shall not be mandatory if a witness is given less than seven days notice of appearance prior to a hearing.

(b) The Chairperson may require a witness to limit the oral presentation to a summary of the statement.

3. Upon announcement of a hearing, the clerk and staff director shall cause to be prepared a concise summary of the subject matter (including legislative reports and other materials) under consideration which shall be made available immediately to all Members of the Committee.

Calling and interrogation of witnesses

4. Whenever any hearing is conducted by the Committee on any subcommittee upon any measure or matter, the minority party Members on the Committee shall be entitled, upon request to the Chairperson by a majority of those minority Members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure matter during at least one day of hearing thereon.

5. Committee Members may question witnesses only when they have been recognized by the Chairperson for that purpose, and only for a 5-minute period until all Members present have had an opportunity to question a witness. the 5-minute period for questioning a witness by any one Member can be extended only with the unanimous consent of all Members present. The questioning of witnesses in both the full and subcommittee hearings shall be initiated by the Chairperson, followed by the ranking minority party Member and all other Members alternating between the majority and minority. In recognizing Members to question witnesses in this fashion, the Chairperson shall take into consideration the ratio of the majority to minority Members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the Members of the majority.

Investigative hearing procedures

6. The following additional rules shall apply to investigative hearings:

(a) The Chairperson, at any investigative hearing, shall announce in an opening statement the subject of the investigation.

(b) A copy of the Committee rules and Rule XI, clause 2 of the Rules of the House shall be make available to each witness.

(c) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(d) The Chairperson may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the Committee may cite the offender to the House for contempt.

(e) Whenever it is asserted that the evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person,

(i) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of clause 4(b) of Rule III, if by a majority of those present, there being in attendance the requisite number required under the Rules of the Committee to be present for the purpose of taking testimony, the Committee determines that such evidence of testimony may tend to defame, degrade, or incriminate any person; and

(ii) the Committee shall proceed to receive such testimony in open session only if a majority of the Members of the Committee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person. In either case the Committee shall afford such person an opportunity voluntarily to appear as a witness; and receive and dispose of requests from such person to subpoena additional witnesses.

(f) Except as provided in paragraph (e), the Chairperson shall receive and the Committee shall dispose of requests to subpoena additional witnesses.

(g) No evidence or testimony taken in executive session may be released or used in public session without the consent of the Committee.

(h) In the discretion of the Committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(i) A witness may obtain a transcript copy of his or her testimony given at a public session, or, if given at an executive session, when authorized by the Committee.

RULES V. REPORTING OF BILLS AND RESOLUTIONS

1. (a) It shall be the duty of the Chairperson of the Committee to report or cause to be reported promptly to the House any measure approved by the Committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(b) In any event, the report of the Committee on a measure which has been approved by the Committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the Committee a written request, signed by a majority of the Members of the Committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the Committee shall transmit immediately to the Chairperson of the Committee notice of the filing of that request.

2. No measure or recommendation shall be reported from the Committee unless the quorum requirement of clause 1(a) of Rule VI is satisfied.

Committee reports

3. The report of the Committee on a measure which has been approved by the Committee shall include—

(a) a cover page, which must show that supplemental, minority and additional views (if any), the estimate and comparison prepared by the Director of the Congressional Budget Office, and the recommendations of the Committee on Government Reform and Oversight (whenever submitted), are included in the report;

(b) the amendments adopted by the Committee;

(c) a section-by-section analysis of the bill as reported, whenever possible;

(d) an explanation of the legislation, if the Chairperson decides one is necessary;

(e) with respect to each role call vote on a motion to report any measure, and on any amendment offered to the measure, the total number of votes cast for and against, or present not voting and the names of those Members voting for and against, or present not voting;

(f) the oversight findings and recommendations required pursuant to clause 2(b)(1) of Rule X of the Rules of the House separately set out and clearly identified;

(g) the statement required by section 308(a)(1) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority, new spending authority described in section 401(c)(2) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures, except that the estimates with respect to new budget authority shall include, when practicable, a comparison of the total estimated funding level for the program (or programs) to the appropriate levels under current law;

(h) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the Committee;

(i) a summary of the oversight findings and recommendations made by the Committee on Government Reform and Oversight under clause 4(c)(2) of Rule X of the Rules of the House separately set out and clearly identified whenever such findings and recommendations have been submitted to the Committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the Committee's deliberations on the measure;

(j) for a bill or joint resolution of a public character reported by the Committee, a detailed analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy;

(k) a statement in accordance with section 5(b) of the Federal Advisory Committee Act;

(l) any supplemental, minority, or additional views, if submitted in accordance with clause 5;

(m) the Ramseyer document required under clause 3 of Rule XIII of the Rules of the House; and

(n) the estimate and comparison of costs incurred in carrying out the bill or resolution, as may be required by clause 7 of Rule XIII of the Rules of the House.

4. The report of the Committee, when filed with the House, shall be accompanied by three copies of the bill or resolution as introduced and one copy of the bill or resolution as amended.

5. (a) If, at the time of approval of any measure or matter by the Committee, any Member of the Committee gives notice of intention to file supplemental, minority, or additional views, that Member shall be entitled to not less than three calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that Member, with the clerk of the Committee. All such views so filed by one or more Members of the Committee shall be included within, and shall be part of, the report filed by the Committee with respect to that measure or matter. No report shall be filed until the Chairperson has notified, with opportunity for discussion, the ranking minority Member of the Committee and the Chairperson of the subcommittee from which the legislation emanated or would have emanated. The report of the Committee upon that measure or matter shall be printed in a single volume which—

(i) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(ii) shall bear upon its cover a recital that any such supplemental, minority, or additional views and any material submitted under paragraphs (h) and (i) of clause 3 are included as part of the report.

(b) This clause does not preclude—

(i) the immediate filing or printing of a Committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided paragraph (a); or (ii) the filing by the Committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error or omission in a previous report made by the Committee upon that measure or matter.

Hearing prints

6. If hearings have been held on any such measure or matter so reported, the Committee shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the House prior to the consideration of such measure or matter in the House except as otherwise provided in clause 2(l)(6) of Rule XI of the Rules of the House.

RULE VI. QUORUMS

1. (a) A quorum, for the purpose of reporting any bill or resolution, shall consist of a majority of the Committee actually present.

(b) A quorum, for the purpose of taking any action other than the reporting of a bill or resolution, shall consist of one-third of the Members of the Committee.

(c) A quorum, for the purpose of taking testimony and receiving evidence, shall consist of any two Members of the Committee.

Proxies

2. No vote by any Member of the Committee or any of its subcommittees with respect to any measure may be cast by proxy.

RULE VII. SUBCOMMITTEES—JURISDICTION

1. There shall be in the Committee on Banking and Financial Services the following standing subcommittees:

Subcommittee on Housing and Community Opportunity;

Subcommittee on Financial Institutions and Consumer Credit;

Subcommittee on Domestic and International Monetary Policy;

Subcommittee on Capital Markets, Securities and Government Sponsored enterprises; and

Subcommittee on General Oversight and Investigations;

each of which shall have the jurisdiction and related functions assigned to it by this rule; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of this Committee shall be referred to such subcommittees at the discretion of the Chairperson. Subcommittee jurisdictions are as follows:

Subcommittee on Housing and Community Opportunity

(a) The jurisdiction of the Subcommittee on Housing and Community Opportunity extends to and includes:

(i) all matters relating to housing (except programs administered by the Department of Veterans Affairs), including mortgage and loan insurance pursuant to the National Housing Act; rural housing; housing and homeless assistance programs; all activities of the Government National Mortgage Association; private mortgage insurance; housing construction and design and safety standards; housing-related energy conservation; housing research and demonstration programs; financial and technical assistance for nonprofit housing sponsors; housing counseling and technical assistance; regulation of the housing industry (including landlord/tenant relations); real estate lending including regulation of settlement procedures;

(ii) matters relating to community development and community and neighborhood planning, training and research; national urban growth policies; urban/rural research and technologies; and regulation of interstate land sales;

(iii) all matters relating to all government sponsored insurance programs, including those offering protection against crime, fire, flood (and related land use controls), earthquake and other natural hazards; and

(iv) the qualifications for and designation of Empowerment Zones and Enterprise Communities (other than matters relating to tax benefits).

Subcommittee on Financial Institutions and Consumer Credit

(b) The jurisdiction of the Subcommittee on Financial Institutions and Consumer Credit extends to and includes:

(i) all agencies which directly or indirectly exercise supervisory or regulatory authority in connection with, or provide deposit insurance for, financial institutions, and the establishment of interest rate ceilings on deposits;

(ii) all auxiliary matters affecting or arising in connection with the supervisory and regulatory activities of the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System and the Federal Reserve System, the Office of Thrift Supervision, and the National Credit Union Administration, together with those activities and operations of any other agency or department which relate to both domestic or foreign financial institutions;

(iii) With respect to financial institutions and the department and agencies which regulate or supervise them, all activities relating to and arising in connection with the matters of chartering, branching, mergers, acquisitions, consolidations, and conversions;

(iv) with respect to financial institutions and the agencies which regulate them, all activities relating to and arising in connection with the sale or underwriting of insurance and other noninsured instruments by financial institutions and their affiliates other than securities;

(v) all activities of the Resolution Trust Corporation;

(vi) all matters relating to consumer credit, including the provision of consumer credit by insurance companies, and further including those matters in the Consumer Credit Protection Act dealing with truth in lending, extortionate credit transactions, restrictions on garnishments, fair credit reporting and the use of credit information by credit bureaus and credit providers, equal credit opportunity, debt collection practices, and electronic funds transfers;

(vii) creditor remedies and debtor defenses, Federal aspects of the Uniform Consumer Credit Code, credit and debit cards and the preemption of State usury laws;

(viii) all matters relating to consumer access to financial services, including the Home Mortgage Disclosure Act and Community Reinvestment Act;

(ix) the terms and rules of disclosure of financial services, including the advertisment, promotion and pricing of financial services, and availability of government check cashing services;

(x) issues relating to consumer access to savings accounts and checking accounts in financial institutions, including lifeline banking and other consumer accounts; and

(xi) all matters relating to the business of insurance, other than government sponsored insurance programs.

Subcommittee on Domestic and International Monetary Policy

(c) The jurisdiction of the Subcommittee on Domestic and International Monetary Policy extends to and includes:

(i) all matters relating to all multilateral development lending institutions, including activities of the National Advisory Council on International Monetary and Financial Policies as related thereto, and monetary and financial development as they relate to the activities and objectives of such institutions;

(ii) all matters within the jurisdiction of the Committee relating to international trade, including but not limited to the activities of the Export-Import Bank;

(iii) the International Monetary Fund, its permanent and temporary agencies, and all matter related thereto;

(iv) international investment policies, both as they relate to United States investments for trade purposes by citizens of the United States and investments made by all foreign entities in the United States;

(v) all matters relating to financial aid to all sectors and elements within the economy, all matters relating to economic growth and stabilization, and all defense production matters as contained in the Defense Production Act of 1950, as amended, and all related matters thereto;

(vi) all matters relating to domestic monetary policy and agencies which directly or indirectly affect domestic monetary policy, including the effect of such policy and other financial actions on interest rates, the allocation of credit, and the structure and functioning of domestic and foreign financial institutions;

(vii) all matters relating to coins, coinage, currency and medals, including commemorative coins and medals, proof and mint sets and other special coins, the Coinage Act of 1965, gold and silver, including coinage thereof (but not the par value of gold), gold medals, counterfeiting, currency denominations and design, the distribution of coins, and the operations and activities of the Bureau of the Mint and the Bureau of Engraving and Printing; provided, however, that the Subcommittee shall not schedule a hearing on any commemorative medal or commemorative coin legislation unless the legislation is cosponsored by at least two-thirds of the Members of the House and has been recommended by the U.S. Mint's Citizens Commemorative Coin Advisory Committee in the case of a commemorative coin. In considering legislation authorizing Congressional gold medals, the subcommittee shall apply the following standards:

(A) the recipient shall be a natural person;

(B) the recipient shall have performed an achievement that has an impact on American history and culture that is likely to be recognized as a major achievement in the recipient's field long after the achievement;

(C) the receipient shall not have received a medal previously for the same or substantially the same achievement;

(D) the recipient shall be living or, if deceased, shall have been deceased for not less than five years and not more than 25 years; and

(E) the achievements were performed in the recipient's field of endeavor, and represent either a lifetime of continuous superior achievements or a single achievement so significant that the recipient is recognized and acclaimed by others in the same field, as evidenced by the recipient having received the highest honors in the field.

Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises

(d) The jurisdiction of the Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises extends to and includes:

(i) all matters relating to depository institution securities activities, including the activities of any affiliates, except for functional regulation under applicable securities laws not involving safety and soundness;

(ii) all matters related to bank capital markets activities;

(iii) all matters related to the activities of financial institutions in financial markets involving futures, forwards, options and other types of derivative instruments;

(iv) all matters relating to secondary market organizations for home mortgages including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation;

(v) all matters related to the Office of Federal Housing Enterprise Oversight; and

(vi) all matters related to the Federal Housing Finance Board and the supervision and operation of the Federal Home Loan Banks.

Subcommittee on General Oversight and Investigations

(e) The Subcommittee on General Oversight and Investigations shall have the responsibility of reviewing and studying, on a continuing basis:

(i) the application, administration, execution, and effectiveness of the laws within the jurisdiction of the Committee, and the organization and operation of the Federal agencies and entities which have responsibility for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated;

(ii) any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of the Committee (whether or not any bill or resolution has been introduced with respect thereto), and present any such recommendations as deemed necessary to the appropriate subcommittee(s) of the Committee;

(iii) forecasting and future oriented research on matters within the jurisdiction of the Committee, and shall study all reports, documents and data pertinent to the jurisdiction of the Committee and make the necessary recommendations or reports thereon to the appropriate subcommittee(s) of the Committee; and

(iv) the impact or probable impact of tax policies affecting subjects within the jurisdiction of the Committee; provided, however, that the operations of the Subcommittee on General Oversight and Investigations shall in no way limit the responsibility of the other subcommittees of the Committee on Banking and Financial Services from carrying out their oversight duties.

Subcommittees—Referral of Legislation

2. The Chairperson shall notify each subcommittee Chairperson of all bills referred to any subcommittee on a bi-monthly basis. Upon notice, any subcommittee Chairperson may question a referral by giving written notice to the Chairperson of the full Committee and to the Chairperson of each subcommittee. A bill, resolution, or other matter referred to a subcommittee in accordance with this rule may be recalled therefrom at any time by the Chairperson, or by a majority vote of the majority Members of the Committee for the Committee's direct consideration or for reference to another subcommittee.

3. In carrying out this rule with respect to any matter, the Chairperson shall designate a subcommittee of primary jurisdiction; but also may refer the matter to one or more additional subcommittees, for consideration in sequence (subject to appropriate time limitations), either on its initial referral or after the matter has been reported by the subcommittee of primary jurisdiction; or may refer portions of the matter to one or more additional subcommittees (reflecting different subjects and jurisdictions) for the consideration only of designated portions; or may refer the matter to a special ad hoc subcommittee appointed by the Chairperson with the approval of the Committee (with members from the subcommittees having jurisdiction) for the specific purpose of considering that matter and reporting to the Committee thereon; or may make such other provisions as may be considered appropriate.

RULE VIII. SUBCOMMITTEES—POWERS AND DUTIES

1. Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it or under its jurisdiction. Subcommittee Chairpersons shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairperson and other subcommittee Chairpersons and with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

2. Whenever a subcommittee has ordered a bill, resolution, or other matter to be reported to the Committee, the Chairperson of the subcommittee reporting the bill, resolution, or matter to the full Committee, or any Member authorized by the subcommittee to do so, may report such bill, resolution, or matter to the Committee. It shall be the duty of the Chairperson of the subcommittee to report or cause to be reported promptly such bill, resolution, or matter, and to take steps or cause to be taken the necessary steps to bring such bill, resolution, or matter to a vote.

3. No bill or joint resolution approved by a subcommittee shall be considered by the Committee unless such measure, as approved, has been made available to all Members at least two calendar days prior to the meeting, accompanied by a section-by-section analysis of such measure. The provisions of this paragraph may be suspended by the Committee by a two-thirds vote or by the Chairperson, with the concurrence of the ranking minority Member of the full Committee.

4. All Committee or subcommittee reports printed pursuant to a legislative study or investigation and not approved by a majority vote of the Committee or subcommittee, as appropriate, shall contain the following disclaimer on the cover of such report.

"This report has not been officially adopted by the Committee on Banking and Financial Services (or pertinent subcommittee thereof) and may not therefore necessarily reflect the views of its Members."

5. Bills, resolutions, or other matters favorably reported by a subcommittee shall automatically be placed on the agenda of the Committee as of the time they are reported and shall be considered by the full Committee in the order in which they were reported unless the Chairperson after consultation with the ranking minority Member and appropriate subcommittee Chairperson, otherwise directs; provided, however, that no bill reported by a subcommittee shall be considered by the full Committee unless each Member has been provided with reasonable time prior to the meeting to analyze such bill, together with a comparison with present law and a section-by-section analysis of the proposed change.

6. No bill or joint resolution may be considered by a subcommittee unless such measure has been made available to all Members at least two calendar days prior to the meeting, accompanied by a section-by-section analysis of such measure. The provisions of this paragraph may be waived following consultation with the appropriate ranking minority Member.

7. All Members of the Committee may have the privilege of sitting with any subcommittee of which they are not a Member, during the subcommittee's hearings or deliberations and may participate in such hearings or deliberations after Members of the subcommittee have been given an opportunity to participate, but no such Member who is not a Member of the subcommittee shall vote on any matter before such subcommittee. The Chairperson and ranking minority Member of the Committee shall be ex officio, nonvoting members of each subcommittee of the Committee.

RULE IX. SUBCOMMITTEES—SIZE AND RATIOS

1. To the extent that the number of subcommittees and their party ratios permit the size of all subcommittees shall be established so that the majority party Members of the Committee have an equal number of subcommittee assignments; provided, however, that a majority Member may waive his or her right to an equal number of subcommittee assignments on the Committee.

2. The following shall be the sizes and ratios for subcommittees: (a) Subcommittee on Housing and Community Opportunity: Total 22—Majority 12, Minority 10.

(b) Subcommittee on Financial Institutions and Consumer Credit: Total 22—Majority 12, Minority 10.

(c) Subcommittee on Domestic and International Monetary Policy: Total 20—Majority 11, Minority 9.

(d) Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises: Total 20—Majority 11, Minority 9.

(e) Subcommittee on General Oversight and Investigations: Total 10—Majority 6, Minority 4.

RULE X. BUDGET AND STAFF

1. The Chairperson, in consultation with other Members of the Committee, shall prepare for each Congress a budget providing amounts for staff, necessary travel, investigations and other expenses of the Committee and its subcommittees and shall present same to the Committee.

2. (a) Except as provided in paragraph (b), the professional and investigative staff of the Committee shall be appointed, and may be removed, by the Chairperson and shall work under the general supervision and direction of the Chairperson.

(b) All professional and investigative staff provided to the minority party Members of the Committee shall be appointed, and may be removed, by the ranking minority Member of the Committee and shall work under the general supervision and direction of such Member.

3. (a) From funds made available for the appointment of staff, the Chairperson of the Committee shall, pursuant to clause 5(d) of Rule XI of the Rules of the House ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the Committee, and, after consultation with the ranking minority Member of the Committee, that the minority party of the Committee is treated fairly in the appointment of such staff.

(b) Except as provided in paragraph (c), the Chairperson shall fix the compensation of all professional and investigative staff of the Committee.

(c) The ranking minority Member shall fix the compensation of all professional and investigative staff provided to the minority party Members of the Committee.

4. From the amount provided to the Committee in their primary expense resolution adopted by the House of Representatives, the Chairperson, after consultation with the ranking minority Member, shall designate an amount to be under the direction of the ranking minority Member for the compensation of the minority staff, travel expenses of minority Members and staff, and minority office expenses. All expenses of minority Members and staff shall be paid for out of the amount so set aside.

5. It is intended that the skills and experience of all members of the Committee staff be available to all Members of the Committee.

RULE XI. TRAVEL

1. All travel for any Member and any staff member of the Committee in connection with activities or subject matters under the general jurisdiction of the Committee must be authorized by the Chairperson. Before such authorization is granted, there shall be submitted to the Chairperson in writing the following:

(a) the purpose of the travel;

(b) the dates during which the travel is to occur;

(c) the names of the States or countries to be visited and the length of time to be spent in each; and

(d) the names of Members and staff of the Committee for whom the authorization is sought.

2. In the case of travel outside the United States of Members and staff of the Committee, such Members or staff shall submit a written report to the Chairperson on any such travel including a description of their itinerary, expenses, activities, and pertinent information gained as a result of such travel.

3. Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, and regulations of the House and of the Committee on House Oversight.

RULE XII. RECORDS

1. There shall be kept in writing a record of the proceedings of the Committee and of each subcommittee, including a record of the votes on any question on which a roll call is demanded. The result of each such roll call vote shall be made available by the Committee for inspection by the public at reasonable times in the offices of the Committee. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of those Members absent or present but not voting. A record vote may be demanded by any one Member of the Committee or subcommittee.

2. Access by any Member, officer or employee of the Committee to any information classified under established national security procedures shall be conducted in accordance with clause 13 of Rule XLIII of the Rules of the House.

3. The transcript of any meeting or hearing shall be a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved.

4. All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as Chairperson of the Committee; and such records shall be the property of the House and all Members of the House shall have access thereto.

5. The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule XXXVI of the Rules of the House. The Chairperson shall notify the ranking minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of that rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any Member of the Committee.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. KELLY (at the request of Mr. ARMEY) for today, on account of dental surgery.

Mr. STOCKMAN (at the request of Mr. ARMEY) after 11 a.m. today, on account of the death of his mother.

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today after 2 p.m., on account of personal business.

Mr. SISISKY (at the request of Mr. GEPHARDT) for today, on account of official business.

Mr. BARTLETT of Maryland (at the request of Mr. ARMEY) for today, on account of attending a family funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WISE) to revise and extend their remarks and include extraneous material:)

Mrs. KENNELLY, for 5 minutes, today.

Mr. VOLKMER, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Member (at the request of Mr. GOSS) to revise and extend his remarks and include extraneous material:)

Mr. FOX of Pennsylvania, for 5 minutes, on Monday, February 6.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. ARMEY, for 2 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WISE) and to include extraneous matter:)

Mr. ACKERMAN in two instances.

Mr. BONIOR.

Mr. NEAL of Massachusetts.

Mrs. MEEK of Florida.

Mr. HAMILTON.

Mrs. LINCOLN in two instances.

Ms. DANNER.

Mr. VISCLOSKY.

Mr. HILLIARD.

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. BRYANT.

Mr. PACKARD.

Mr. CLINGER.

Mr. SHAYS.

Mr. SOLOMON.

(The following Members (at the request of Mr. DORNAN) and to include extraneous matter:)

Mr. LARGENT.

Mrs. LINCOLN.

Mr. STENHOLM.

Mr. BAKER of Louisiana.

Mrs. KELLY.

Mr. SKELTON.

Mr. LAFALCE.

ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 13 minutes p.m.)

under its previous order the House adjourned until Monday, February 6, 1995, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

286. A letter from the Chairperson, National Council on Disability, transmitting the Council's report entitled, "The Americans with Disabilities Act: Ensuring Equal Access to the American Dream," pursuant to 29 U.S.C. 781(a)(8); to the Committee on Economic and Educational Opportunities.

287. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification regarding the proposed transfer of major defense equipment valued at $14 million or more to the Government of Spain, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on International Relations.

288. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–370, "Youth Facilities Drug Free Zone Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

289. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–371, "Small Claims Service of Process Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

290. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–373, "Chiropractic Licensing Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

291. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–374, "July Trial Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

292. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–375, "Public Safety and Law Enforcement Support Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

293. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–376, "Insurers Service of Process Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

294. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–377, "Budget Spending Reduction Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

295. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–378, "District of Columbia Compressive Plan Act of 1984 Land Use Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

296. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–379, "Contractors Guarantee Association Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

297. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–380, "Domestic Violence in Romantic Relationships Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

298. A letter from the Executive Director, National Capital Planning Commission, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1994, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

299. A letter from the Secretary of the Treasury, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1994, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

300. A letter from the Chairman, U.S. Merit System Protection Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1994, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

301. A letter from the Chief Justice, Supreme Court of the United States, transmitting a copy of the report of the proceedings of the Judicial Conference of the United States held on September 20, 1994, pursuant to 28 U.S.C. 331; to the Committee on the Judiciary.

302. A letter from the Secretary, Department of Transportation, transmitting a report on the feasibility of using segregated ballast tanks for emergency transfer of cargo and storage of recovered oil, pursuant to 46 U.S.C. 3703 note; to the Committee on Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAESLER:

H.R. 813. A bill to authorize the Secretary of Agriculture to establish a pilot program to evaluate the feasibility of county-based rural development boards, develop a strategy for adopton of national rural goals and objectives, establish a training program for local county board leaders, providing roles and responsibilities for State rural development councils, substate regional organizations, and 1862 and 1890 land grant institutions, and establish a grant program for financing various rural and small community development initiatives, and for other purposes; to the Committee on Agriculture.

By Mr. BAKER of Louisiana (for himself, Mr. MCCOLLUM, Mr. DREIER, Mr. CASTLE, Mr. KING, Mr. LAFALCE, Mr. FRANK of Massachusetts, and Mr. FLAKE):

H.R. 814. A bill to enhance competition in the financial services sector, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WYDEN (for himself, Mr. GEPHARDT, Mr. BROWN of Ohio, Ms. DELAURO, Mrs. SCHROEDER, Mr. BRYANT of Texas, Mr. KLINK, Mr. HASTINGS of Florida, Mr. FROST, Mr. WARD, Ms. LOWEY, and Mr. DURBIN):

H.R. 815. A bill to provide that the Bureau of Labor Statistics may not change, during the 104th Congress, the method of calculating the consumer price index if it would result in higher taxes unless the change has been approved by law; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAYES:

H.R. 816. A bill to amend title 28, United States Code, with respect to the treatment of certain transportation and subsistence expenses of retired judges; to the Committee on the Judiciary.

By Mr. HEFLEY:

H.R. 817. A bill to authorize the Secretary of Energy to lease lands within the naval oil shale reserves to private entities for the development and production of oil and natural gas; to the Committee on National Security, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HINCHEY (for himself, Mr. OBERSTAR, Mr. PALLONE, Ms. VELAZQUEZ, Mr. RANGEL, Mr. MCDERMOTT, Mr. GUTIERREZ, Mr. SERRANO, Mr. ACKERMAN, Mr. ENGEL, Mr. MANTON, Ms. SLAUGHTER, Mr. SCHUMER, and Mr. MCNULTY):

H.R. 818. A bill to amend title XIX of the Social Security Act to lower the maximum Federal medical assistance percentage that may be applied with respect to any State under the Medicaid Program and to increase such percentage with respect to all States under such program; to the Committee on Commerce.

By Mrs. JOHNSON of Connecticut:

H.R. 819. A bill to amend title IV of the Social Security Act to provide welfare families with the education, training job search, and work experience needed to prepare them to leave welfare within 2 years, to increase the rate of paternity establishment for children receiving welfare benefits, to provide States with greater flexibility in providing welfare, and to authorize States to conduct demonstration projects to test the effectiveness of policies designed to help people leave welfare and increase their financial security; to the Committee on Ways and Means, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LINCOLN (for herself, Mr. UPTON, Mr. SCHAEFER, Mr. BOUCHER, Mr. MANTON, Mr. GILLMOR, and Mr. TAUZIN):

H.R. 820. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that act for certain recycling transactions; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCINTOSH:

H.R. 821. A bill to reform the regulatory process, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committees on the Judiciary, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MILLER of Florida (for himself, Mr. MINGE, Mr. ALLARD, Mr. BARCIA, Mr. BARRETT of Wisconsin, Mr. CALVERT, Mr. CONDIT, Mr. COOLEY, Mr. COX, Mr. DEAL of Georgia, Mr. DEUTSCH, Mr. ENGLISH of Pennsylvania, Mr. FORBES, Mr. FOX, Ms. FURSE, Mr. GOODLATTE, Mr. GOSS, Mr. HANCOCK, Ms. HARMAN, Mr. HERGER, Mr. KLUG, Mrs. LINCOLN, Mr. PETERSON of Minnesota, Mr. POSHARD, Mr. ROYCE, Mr. SANFORD, Mr. SAXTON, Mr. SCHAEFER, Mr. STEARNS, Mr. STENHOLM, and Mr. ZIMMER):

H.R. 822. A bill to provide a fair, nonpolitical process that will achieve $45 billion in budget outlay reductions each fiscal year until a balanced budget is reached; to the Committee on Government Reform and Oversight, and in addition to the Committees on Rules, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MILLER of Florida (for himself and Mr. MINGE):

H.R. 823. A bill to provide a fair, nonpolitical process that will achieve $45 billion in budget outlay reductions each fiscal year until a balanced budget is reached; to the Committee on Government Reform and Oversight, and in addition to the Committees on Rules, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBEY (for himself, Mr. DURBIN, and Mr. STENHOLM):

H.R. 824. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act and other laws to return primary responsibility for disaster relief to the States, to establish a private corporation to insure States against risks and costs of disasters otherwise borne by the States, and to provide for reimbursable Federal assistance to States for activities in response to disasters, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Banking and Financial Services, Small Business, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS:

H.R. 825. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate $1 of their income tax liability and some or all of their income tax refunds, and to contribute additional amounts, for purposes of rehabilitation and treatment in combating the war on drugs; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WILSON:

H.R. 826. A bill to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas; to the Committee on Resources.

By Mr. STEARNS:

H.J. Res. 67. Joint resolution proposing an amendment to the Constitution of the United States relating to voluntary prayer in public schools; to the Committee on the Judiciary.

By Mr. KENNEDY of Rhode Island (for himself and Mr. SCHUMER):

H. Con. Res. 22. Concurrent resolution affirming the purpose and value of senior nutrition programs created under the Older Americans Act; to the Committee on Economic and Educational Opportunities.

By Mrs. KENNELLY (for herself, Mr. ROSE, Mr. BISHOP, Mr. KLECZKA, Mr. HAYWORTH, Mr. RAHALL, Mr. JACOBS, Mr. PETERSON of Minnesota, Mr. MCDERMOTT, and Mr. PASTOR):

H. Con. Res. 23. Concurrent resolution expressing the sense of the Congress that the current link between the levels of earnings allowed for blind individuals entitled to disability insurance benefits and the exempt amounts allowed for purposes of the Social Security earnings test for individuals who have attained retirement age should be maintained; to the Committee on Ways and Means.

By Mr. TAYLOR of Mississippi (for himself, Ms. KAPTUR, Ms. DANNER, Mr. DEFAZIO, Mr. HUNTER, Mr. KLINK, Mr. SANDERS, Mr. VISCLOSKY, Mr. TAYLOR of North Carolina, Mr. DUNCAN, and Mrs. THURMAN):

H. Res. 57. Resolution to preserve the constitutional role of the House of Representatives to provide for the expenditure of public money and ensure that the executive branch of the U.S. Government remains accountable to the House of Representatives for each expenditure of public money; to the Committee on Banking and Financial Services.

By Mr. FOLEY (for himself, Mr. GOSS, Mr. JACOBS, Ms. RIVERS, Mr. REGULA, Mr. FRANK of Massachusetts, Mr. CHRISTENSEN, Mr. COBURN, Mr. TIAHRT, Mr. SOUDER, Mr. ENSIGN, Mr. CHRYSLER, Mr. BROWNBACK, Mr. GUNDERSON, Mr. SANFORD, and Mr. BAKER of California):

H. Res. 58. Resolution requiring that copies of the United States Code for any Member of the House of Representatives be paid for from the appropriate official allowance of the Member; to the Committee on House Oversight.

By Mr. YATES:

H. Res. 59. Resolution to emphasize the importance of understanding the history of President Franklin Delano Roosevelt and to recognize the opening of the Roosevelt Memorial and for other purposes; to the Committee on Resources.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON of Indiana:

H.R. 827. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Alpha Tango*; to the Committee on Transportation and Infrastructure.

H.R. 828. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for the vessel *Old Hat*; to the Committee on Transportation and Infrastructure.

By Mr. TORKILDSEN:

H.R. 829. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Chrissy*; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. STEARNS.

H.R. 65: Mr. GOSS, Mr. CUNNINGHAM, Mr. DAVIS, Mr. CALLAHAN, Mr. STEARNS, and Mr. NORWOOD.

H.R. 70: Mr. TORRES, Mr. BREWSTER, and Mr. FLANAGAN.

H.R. 94: Mr. FLANAGAN, Mr. CALVERT, and Mr. PAYNE of Virginia.

H.R. 103: Mr. SOLOMON.

H.R. 109: Mr. GOSS, Mr. DAVIS, Mr. TEJEDA, Mr. STEARNS, and Mr. NORWOOD.

H.R. 174: Mr. GUTIERREZ.

H.R. 218: Mr. PETERSON of Minnesota.

H.R. 246: Mr. BARTLETT of Maryland, Mr. PORTER, Mr. KNOLLENBERG, and Mr. HANCOCK.

H.R. 297: Mr. SHAYS.

H.R. 303: Mr. GOSS, Mr. STEARNS, and Mr. NORWOOD.

H.R. 325: Mr. UNDERWOOD, Mr. LEWIS of Kentucky, Mr. HAYWORTH, Mr. CHAMBLISS, Mr. KINGSTON, Mr. FUNDERBURK, and Mr. GILMAN.

H.R. 333: Mr. LIPINSKI, Mr. SPRATT, and Mr. SAXTON.

H.R. 335: Mr. FLANAGAN, Mr. PORTER, Mr. FARR, and Mr. KANJORSKI.

H.R. 370: Mr. GUTKNECHT, Mr. CAMP, Mr. HOEKSTRA, Mr. CRAMER, Mr. NUSSLE, Mr. FRANKS of Connecticut, Mr. LAHOOD, Mr. MICA, Mr. BEREUTER, Mr. REGULA, Mr. MILLER of Florida, and Mr. SMITH of Michigan.

H.R. 462: Mr. WOLF, Mr. DAVIS, Ms. NORTON, Mr. HINCHEY, Mr. HILLIARD, and Mr. SENSENBRENNER.

H.R. 469: Mr. CALLAHAN.

H.R. 548: Mr. FOX, Mr. FROST, and Mr. ACKERMAN.

H.R. 549: Mrs. MEEK of Florida, Mr. NEY, Mr. FROST, Mr. UNDERWOOD, Mr. KNOLLENBERG, Mr. FRAZER, Mr. RANGEL, Mr. JACOBS, and Mr. JOHNSTON of Florida.

H.R. 555: Mr. DEUTSCH.

H.R. 593: Mr. NORWOOD.

H.R. 645: Mr. HASTINGS of Florida, Mr. MORAN, Mr. DIXON, Mr. KENNEDY of Rhode Island, Mr. MARTINEZ, Ms. FURSE, Mr. TORRICELLI, Ms. COLLINS of Michigan, Mr. POSHARD, Mr. RICHARDSON, Mr. JOHNSON of South Dakota, Mr. BARRETT of Wisconsin, and Mr. LAFALCE.

H.R. 663: Mr. FRISA, Mr. NORWOOD, and Mr. FUNDERBURK.

H.R. 677: Mr. OLVER, Mr. FRANK of Massachusetts, Mr. PETERSON of Minnesota, Mr. FROST, and Mr. MOAKLEY.

H.R. 682: Mr. CAMP, Mr. KOLBE, Mr. BARRETT of Nebraska, Mr. LATOURETTE, Mr. GENE GREEN of Texas, and Mr. MOORHEAD.

H.R. 697: Mr. BARRETT of Wisconsin, Mr. WELDON of Pennsylvania, Mr. LATHAM, Mrs. SEASTRAND, Mr. STEARNS, Mr. ZELIFF, Mr. FARR, Mr. WOLF, Mr. ANDREWS, Mr. MOORHEAD, Mr. COOLEY, and Mr. STENHOLM.

H.R. 700: Mrs. WALDHOLTZ, Mr. BACHUS, Mr. BAKER of Louisiana, Mr. BLILEY, Mr. COBLE, Mr. COX, Mr. DICKEY, Mr. DUNCAN, Mr. GOSS, Mr. INGLIS of South Carolina, Mr. ROTH, Mr. STEARNS, Mr. SMITH of New Jersey, Mr. MCCOLLUM, Mr. LATOURETTE, Mr. RAMSTAD, Mr. LARGENT, Mr. GUTKNECHT, Mr. NEUMANN, Mrs. SMITH of Washington, Mr. MICA, Mr. MARTINI, Mr. BASS, Mr. FOX, Mr. MCHUGH, Mr. HASTERT, Mr. ISTOOK, Mr. BURTON of Indiana, Mr. MILLER of Florida, Mr. MINGE, Mr. SENSENBRENNER, Mr. BLUTE, Mr. KLUG, Mr. GRAHAM, Mr. FORBES, Mr. FIELDS of Texas, Mr. UPTON, Ms. HARMAN, Mr. DOOLITTLE, Mr. HAYES, Mr. MEEHAN, Mr. BRYANT of Tennessee, Mr. JACOBS, Mr. SHAYS, Mr. SHADEGG, Mr. HORN, Mr. WYDEN, Mr. MANZULLO, Mr. SAXTON, Mr. SOUDER, and Mr. THORNBERRY.

H.R. 708: Mr. UNDERWOOD, Mr. SAXTON, Mr. HANCOCK, Mr. CRAMER, Mr. GREENWOOD, Mr. BILBRAY, Mr. FOX, Mr. NEAL of Massachusetts, Mr. STEARNS, Mr. GENE GREEN of Texas, Mr. FROST, and Mr. EMERSON.

H.R. 733: Mr. CONYERS, Mr. HOEKSTRA, Mr. ENGEL, and Mr. KILDEE.

H.R. 734: Mr. CONYERS, Mr. HOEKSTRA, Mr. ENGEL, and Mr. KILDEE.

H.R. 764: Mr. GENE GREEN of Texas, Mr. SABO, and Mr. MARTINEZ.

H.R. 768: Mr. THOMPSON, Mr. HILLIARD, Mr. FRAZER, and Mr. KAPTUR.

H.R. 783: Ms. DUNN of Washington, Mr. MCDADE, Mr. EMERSON, and Mr. BONILLA.

H.R. 785: Mr. ENGEL, Mr. PASTOR, Mr. DURBIN, Mrs. MALONEY, Mr. MANTON, and Mrs. COLLINS of Illinois.

H.R. 789: Mr. PETRI, Mr. KLUG, and Mr. KLECZKA.

H.J. Res. 65: Mr. PETERSON of Florida.

H. Con. Res. 10: Mrs. MEYERS of Kansas, Mr. GENE GREEN of Texas, Mr. KING, Mr. WELLER, Mr. MCHALE, and Mr. WILSON.

H. Con. Res. 12: Mr. PORTER and Mr. GREENWOOD.

H. Con. Res. 13: Mr. MILLER of California, Mr. FROST, Ms. LOFGREN, Mr. OLVER, Mr. DEUTSCH, Ms. NORTON, Ms. JACKSON-LEE, Mr. NEAL of Massachusetts, Mr. CONYERS, Ms. ESHOO, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. FURSE, Mr. SCOTT, Mr. WATT of North Carolina, Mr. MORAN, Mr. TORKILDSEN, Mr. VENTO, Mr. FILNER, Mr. BERMAN, Mr. HINCHEY, and Mr. GUTIERREZ.

H. Res. 40: Ms. MCKINNEY, Mr. BEILENSON, Mr. TORRES, Mr. FROST, Mr. FRANK of Massachusetts, Mr. BROWDER, Mr. GENE GREEN of Texas, and Mr. STUPAK.

H. Res. 45: Mr. SCHUMER, Mr. GENE GREEN of Texas, and Mr. WYDEN.

H. Res. 54: Mr. MINETA.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2

OFFERED BY: MR. STENHOLM

AMENDMENT NO. 35: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

TITLE I—LINE ITEM VETO

SEC. 101. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of the dollar amount of any discretionary budget authority specified in an appropriation Act or an accompanying committee report or joint explanatory statement accompanying a conference report on that Act or veto any targeted tax benefit which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than ten calendar days (not including Sundays) after the date of enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

(b) DEFICIT REDUCTION.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) SEPARATE MESSAGES.—The President shall submit a separate special message for each appropriation Act and for each revenue or reconciliation Act under this paragraph.

(d) SPECIAL RULE.—For any rescission of budget authority, the President may either submit a special message under this section or under section 1012 of the Impoundment Control Act of 1974. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 1012 of that Act.

SEC. 102. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Any amount of budget authority rescinded under section 101 as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under section 101 as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under section 101 and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 103. DEFINITIONS.

As used in this title:

(1) The term "rescission/receipts disapproval bill" means a bill or joint resolution which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this Act and—

(A) which does not have a preamble;

(B)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on ", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on ", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: "A bill disapproving the recommendations submitted by the President on ", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term "appropriation Act" means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 104. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in section 101 or vetoes any provision of law as provided in 101, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provisions pursuant to section 101;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under section 101 shall be transmitted to the House

of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under section 101 shall be printed in the first issue of the Federal Register published after such transmittal.

(c) INTRODUCTION OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 101.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. No amendment to the bill is in order, except any Member may move to strike the disapproval of any rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this title.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this title.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under section 101.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 105. REPORTS OF THE GENERAL ACCOUNTING OFFICE.

Beginning on January 6, 1996, and at one-year intervals thereafter, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(6) A summary of the information provided by paragraphs (2), (3) and (5) for each of the ten fiscal years ending before the fiscal year during this calendar year.

SEC. 106. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this title violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

TITLE II—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS

SEC. 201. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED

Tax Benefits.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act of repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) Transmittal of Special Message.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit unless the President also proposes a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates to the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each each subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal; and

"(F) a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974, if proposed by the President.

(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 101 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 101 of that Act.

"(c) Procedures for Expedited Consideration.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate or any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control of the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) Amendment and Divisions Prohibited.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) Requirement to Make Available for Obligation.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) Definitions.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session;

"(3) the term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities; and

"(4) the term 'beneficiary' means any taxpayer or any corporation, partnership, institution, organization, item of property, State, or civil subdivision within one or more States. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities."

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

SENATE—*Friday, February 3, 1995*

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

My grace is sufficient for thee, for my strength is made perfect in weakness.—II Corinthians 12:9.

Gracious Heavenly Father, often when we need Thee most, we find it hardest to come to Thee. Sometimes we do not come because we are impressed with our strength and do not feel any need. Sometimes we do not come because we have failed or sinned and refuse to admit our need. Either way, it is pride which deprives us of Thy favor. Forgive us, Lord, for finding it so difficult to understand the meaning of grace, that grace means the unmerited favor of God.

Help us see that the one condition grace requires is admission of need; that it is our weakness which qualifies us for Thy strength; that it is our lack of wisdom which qualifies us for Thy light and truth; that it is our failure and sin which qualify us for Thy love, forgiveness, and renewal.

Loving God, we have no secrets from Thee. Thou knowest us far better than we know ourselves. Help us to humble ourselves before Thee and find in Thy grace a very present help in time of trouble. Touch every person in the Senate with grace and love and healing. Forgive and restore wherever there is need—in heart and office and home.

We pray in the name of Him whose grace is always more than sufficient, however great our need. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. LOTT. I thank the Chair.

SCHEDULE

Mr. LOTT. Mr. President, this morning the time for the two leaders is reserved, and there will now be a period for the transaction of morning business until the hour of 10 a.m., with Senators permitted to speak for up to 10 minutes each, with the following Senators permitted to speak for the designated times: Senator BOND 10 minutes and Senator HUTCHISON 10 minutes. At 10 a.m., the Senate will resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

I should advise Members we do expect that an amendment will be laid down this morning for debate only.

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Chair.

THE FUTURE OF FEDERAL HOUSING POLICY AND HUD'S BUDGET CRISIS

Mr. BOND. Mr. President, I rise today to discuss the future of Federal housing and community development policy and the financial and management crisis currently facing the U.S. Department of Housing and Urban Development.

Last November, the American people declared their anger and frustration with inefficient, ineffective, and wasteful Government programs of the past and demanded change. This new Congress must deliver on that mandate, not with more promises and debates, but with specific action and workable solutions. I emphasize that this mandate has provided the House and Senate with a real opportunity to revitalize Federal housing policy; namely, to redirect Federal housing and community development policy from HUD micromanagement to a policy of consolidation based on State and local decisionmaking.

I look forward to working with my colleagues, including my new ranking member, Senator BARBARA MIKULSKI, our new chairman of the Banking Committee, Senator D'AMATO, Senator SARBANES, and the new chairman of the Housing Opportunities Subcommittee, Senator MACK, and my friends across the aisle, to find the appropriate reforms and meaningful approaches to address the many housing and community needs of this country.

Primarily, I seek to sound an alert to my colleagues to the budgetary crisis at HUD and use this opportunity as a call to action. HUD has been likened to a massive bureaucratic and budgetary *Titanic* drifting inexorably on the shoals of spending reductions and a balanced budget amendment. We can't stop it, and we can't turn it around on a dime. No doubt some of our colleagues would just as soon fiddle with the deck chairs, and others would simply scuttle the vessel.

Moreover, I share many of those concerns. Despite my reservations about the great difficulty of finding real and meaningful solutions to the budgetary and management crisis facing the Department of Housing and Urban Development, I accepted the responsibilities of chairman of the Senate VA-HUD Appropriations Subcommittee for the 104th Congress.

In order to reach a better understanding of the HUD budgetary crisis, I began on January 19, 1995, a series of three hearings on HUD management, program status, program reform, and HUD funding before the VA-HUD Appropriations Subcommittee. We have completed these three initial hearings and the subcommittee has heard compelling testimony from a number of sources, including HUD Secretary Cisneros, the National Academy of Public Administration, the General Accounting Office, Ms. Susan Gaffney, the HUD inspector general, the Congressional Budget Office, the FHA Commissioner, Nicolas Retsinas, as well as testimony from witnesses representing housing organizations, and State and local officials.

I hope that these hearings will help both me and my colleagues in the weeks and months ahead to formulate, craft, and implement the changes—in some cases profound changes—which are necessary to sustain the Department and to serve the needs of our communities.

First, these hearings clarified that HUD programs as they currently stand cannot be sustained in this era of a freeze on discretionary spending. But if we are to preserve the billions of dollars of prior investment in the assisted housing inventory, and provide hope to millions of lower income families, senior citizens, the disabled, and the communities in which they reside, then we must chart a new course, and put steady and firm pressure at the helm.

I believe it important that I highlight and share some of the key issues we have identified and discussed over the last several weeks.

HUD, with an estimated $22 billion in annual outlays in fiscal year 1994, is one of the largest Federal agencies in terms of domestic discretionary spending with almost 12 percent of the federalwide total.

HUD is also one of the fastest growing Departments in terms of domestic

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

discretionary spending, increasing at a rate of 9 percent per year.

Moreover, HUD has amassed over $225 billion in unexpended budgetary authority, more than the entire Department of Defense and dwarfing all other Federal agencies. In fact, even were HUD abolished in fiscal year 1995 and no additional budget authority appropriated, HUD's outlays—actual dollars spent—for fiscal year 1996 would still go up.

Finally, in addition to substantial evidence of organizational, management, and program deficiencies, HUD faces a thicket of complex problems of enormous magnitude, including: First, the need to minimize mortgage loan defaults and address the physical inadequacies of insured multifamily properties, an area of critical importance since HUD expects to lose some $10 billion in multifamily loan defaults over the next 6 years; second, the need to resolve the billions of dollars of backlogged housing rehabilitation needs, increased vacancy rates, and declining tenant incomes for public housing residents; and third, the need to address the spiraling costs of providing Federal housing subsidies to lower income families.

Despite these problems, I emphasize that previously enacted limitations on discretionary spending do not allow any increase in current appropriations, even for inflation. In fact, the most recent analysis indicates that even with a hard freeze on overall discretionary spending, current budget caps will be breached by a total of $15 billion in budget authority and $11 billion in outlays over the next 3 fiscal years.

Nevertheless, the notion of a hard freeze is totally incompatible with HUD's projection of program needs. The HUD budget baseline, for example, suggests that we will increase budget authority by almost $70 billion and outlays by $26 billion over the next 5 fiscal years. The Department has indicated that the President's budget will reduce this increase down to an estimated $20 billion in budget authority and $13 billion in outlays. I again stress that these funding requirements are still substantial increases over the current rates of spending. Not only are we in the dark on how the Department plans to make these reductions and meet these projections, but, if accepted, Congress must find this $20 billion in budget authority and $13 billion in outlays from other programs over the next 5 years.

I want to make it clear about the extent of the HUD problems and the costs associated with these problems. Resolving them is a particularly difficult task since HUD has grown from an agency with some 50 programs in 1980 to an agency with the responsibility for over 200 programs currently. Therefore, I will address two broad categories of programs with which we are all familiar—the public housing program and the section 8 program. While I describe these programs in the singular, I remind my colleagues that there are many subsets of programs within each program.

Public housing: As for the public housing program, there are currently some 13,200 public housing developments, administered by 3,200 PHA's. These developments contain some 1.4 million units, with 92 percent occupancy as of 1991, providing shelter for more than 3.4 million low-income, public housing residents, 40 percent of whom are elderly or disabled.

Public housing has become, in general, housing of last resort; the assisted housing stock that tends to warehouse the poorest of the poor. In particular, median income in public housing is approximately 16 percent of the local area median income, down from 33 percent in 1980. The average income of nonelderly public housing residents is less than $7,000.

Operating subsides continue to cost about $2.7 billion per year. Yet, much of this stock is in physical distress and aging, with modernization needs that exceed $20 billion. Moreover, many of the older public housing developments are in neighborhoods that are distressed. Nearly all 700,000 nonelderly public housing households live in areas that are characterized by extreme poverty and high crime rates. Nevertheless, the public housing program continues to stagnate, strangled by bureaucratic redtape and unworkable legislative mandates.

Section 8: The Section 8 Rental Assistance Program is a microcosm of the budgetary crisis facing the Department. About 2.8 million lower income families receive assistance under the section 8 program. To be blunt, HUD estimates that by fiscal year 1996 the total cost of renewing section 8 tenant-based assistance known as vouchers and certificates will exceed $9.5 billion in budget authority, whereas the current appropriation is less than $3.3 billion. This budget estimate assumes a HUD shortening of contract term renewals from a traditional 5 year period to a 3-year contract term. By the year 2000, the annual cost of these section 8 contract renewals would approach $20 billion in budget authority. In the current fiscal climate, the Federal budget cannot begin to meet these renewal commitments; thus threatening hundreds of thousands of families currently receiving assistance with eviction or dramatic rent increases.

The cost of section 8 project-based assistance similarly is reaching crisis proportions. Some 940,000 units were developed under the section 8 new construction and substantial rehabilitation contracts of the 1970's and 1980's. Most of these units have been financed with section 8 project-based contracts that exceed the local fair market rents or the rents of comparable units, and in many cases these contracts represent 140 percent or more of the fair market rent. The budget authority for these contracts was appropriated to cover contract costs for 20- to 40-year periods, and many of these section 8 project-based contracts are now starting to come up for renewal.

These section 8 project-based contracts represent another hard decision and another high cost for the Government. However, these projects continue to house poor families, with some 47 percent of the units occupied by the elderly. Many of these projects are insured by the Department or financed with direct loans by the Department. Estimates show that approximately 390,000 of these projects, or 41 percent are insured or held by the Department. Another 240,000, or 25 percent, constitute section 202 elderly and disabled projects. The majority of the remaining one-third of the inventory are projects financed by State housing finance agencies.

Finally, there is the issue of the prepayment program first initiated in the 1987 Housing Act and permanently authorized as part of the 1990 National Affordable Housing Act where Congress authorized incentives for certain owners of HUD-insured projects not to prepay their mortgages and keep their units affordable for low-income tenants. Owners of some 400,000 rental units are, or soon will be, eligible to apply for these financial incentives, including equity take-out loans. In these cases, the Government will pay increased section 8 assistance to owners to cover the cost of the incentives. The HUD IG Susan Gaffney recently identified this program as a "rip-off" to the American taxpayer. In fact, the costs for these additional subsidies will run into the billions of dollars.

As I have indicated these are issues that require congressional attention and responsible action. It took decades of neglect, through many Congresses and several administrations, both Democratic and Republican, to create a problem of this enormous magnitude and complexity. HUD cannot be fixed overnight, or by simply passing a law with the word "reform" in its title. I stress that we need to redirect Federal housing and community development policy from Federal micromanagement to the consolidation of programs with an emphasis on State and local decisionmaking.

We need to get away from the one-size-fits-all mentality and provide flexibility at the State and local level—we need to do this by making housing more affordable through approaches such as public-private partnerships, employment incentives for low-income families, mixed income projects, and the demolition of substandard housing where the demolition makes sense.

Mr. President, I raise these issues now because it is important that all of my colleagues and those in the administration and those who are concerned about housing focus on the difficult problems we face and help us develop the drastic solutions that we need to continue our commitment to housing, yet to do so without bankrupting the budget or taking away from other very needed programs.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Texas is recognized to speak for up to 10 minutes.

UNFUNDED MANDATES

Mrs. HUTCHISON. Mr. President, last week the Senate approved landmark legislation to protect States and communities from unfunded Federal mandates, and yesterday, the House followed suit. When the President signs this legislation, we will witness a sea change in the relationship among Federal, State, and local government.

Let me remind my colleagues, however, that when we consider the staggering load of unfunded mandates the Federal Government imposes on State and local governments, southern border States such as Texas bear a huge share of the burden.

Last year, I asked Congress to allocate $350 million to the affected States for incarcerating illegal alien felons. Congress took a significant step in rectifying this situation when it appropriated $130 million for the purpose. This was the first time in history the Federal Government has ever acknowledged its fiscal obligation to States directly impacted by Federal policies—and failures.

But that appropriation was merely an initial installment on what is actually a huge, crippling debt incurred by the Federal Government.

This year I am calling on President Clinton to include that $350 million allocation in his budget proposal—to move closer toward Federal acknowledgment of the true magnitude of the costs of illegal immigration to this country.

Illegal aliens, who enter our States and take up permanent, unlawful residence, are there as a result of the Federal Government's failure to carry out one of its most important functions—the securing of our borders. Texas, California, Arizona, New Mexico, and even Florida, absorb the brunt of these costs.

My State and others similarly affected are required by Federal law and Federal courts to pay for incarcerating illegals who commit crimes and also for the costs of education, welfare, medical services, and a host of other government-funded programs serving illegal aliens.

The Federal Government underwrites very little of these expenditures. But under the threat of penalty imposed by Federal law State and local taxpayers are coerced into footing the bill.

Texas, alone, must spend more than $60 million a year to keep illegal alien felons in prison—California nearly $400 million.

Texas also spends more than $60 million annually on unreimbursed Medicaid services to illegal aliens.

Texas like other States—is experiencing a seemingly insoluble school funding crisis, due in part to the presence of illegal alien children which the Federal courts have ruled must be educated.

In several Texas school districts, close to 50 percent of the students enrolled are the children of illegal aliens. In some cases, children cross the border from Mexico every day to attend school in Texas.

In La Joya, a small lower Rio Grande Valley town near Brownsville, a third of the school district's enrollment comes from Mexico. Yet school officials are forbidden to ask students for proof of residency—in their school district.

A study by Rice University in Houston estimates that Texas pays, all told, $1.4 billion a year to provide federally mandated services to illegal immigrants.

This is $1.4 billion a year we do not have, or, if we did, could be put to better use for Texas taxpayers.

For instance, that $1.4 billion would more than make up for the funding shortfall in Texas schools.

The situation has become intolerable—and resulted unfortunately in a backlash against all immigrants such as we witnessed in California during the debate over proposition 187. I am thankful the situation in Texas has not yet reached this point.

But the unfunded mandates situation has reached the crisis stage in its impact on our State and local budgets.

To put it plainly, the Federal Government is shifting the responsibility for these mandated expenditures onto the backs of Texas taxpayers. Texans are being forced to provide social benefits to individuals who have broken our laws, jumping ahead of those who play by the rules—while the Federal Government looks the other way. Illegal immigrants ought not be entitled to State taxpayers' money for simply crossing the border—and breaking our laws in the process.

In the past, I have supported the assignment of more Border Patrol agents to make our border areas more secure. The immigration reform bill I introduced in the 103d Congress would have put 6,000 more agents in the field to stop this flagrant and habitual violation of U.S. law.

Now my colleague, Senator GRAMM, has introduced another illegal immigration bill which would put even more new agents on the border, realizing that we are going to have to get serious about stopping the influx of people who are illegal into out country.

One of the reasons I am a strong advocate of the unfunded mandate legislation is that it will enforce a kind of truth-in-lawmaking we have not seen in Washington for decades—putting a clear price tag on programs and policies when they are foisted onto the States.

This correction in our country's course is long overdue.

THE BALANCED BUDGET AMENDMENT

Mrs. HUTCHISON. Mr. President, we have seen the debate this week in the Senate on the balanced budget amendment.

I am very pleased that the House of Representatives has taken this step already, and now it is up to the Senate to decide if Americans finally will have the opportunity for their legislatures to vote to adopt a very important amendment to our Constitution. It is an amendment that will make the difference for our future generations because it will say to our future generations we are not going to rack up the bill and give you the opportunity to pay for what we are doing today. That is what this balanced budget amendment is all about.

Mr. President, we have heard all kinds of reasons why people are now saying that they might not support the balanced budget amendment. But I hope the American people realize that these are in fact excuses. This is a solid, plain, simple, understandable balanced budget amendment. Maybe I would have changed a few words. Maybe others would change a few words and make exceptions. But we cannot make exceptions if we are going to take the responsible approach of saying we are going to set parameters on the amount of spending that we can do in this country. Every business in America does that. Every household in America does that. Every State government and every local government does that in America. Why, Mr. President, should Congress be the one entity in America that does not have to live within a budget? And every day that you see someone standing up on the floor and giving an excuse why they are not going to support the balanced budget amendment, I hope the American people realize that is what it is.

We will make the cuts that are necessary. We will save Social Security.

We have done it every year except last year when there was an increase in taxes, and they did increase the taxes on Social Security recipients. Not one Republican voted for that bill; not one.

So I do not think the American people need to fear that a Republican majority is going to do something that would in any way impact Social Security in not a beneficial way. It is not our side that has done anything on Social Security. What we are trying to do is make sure that people on Social Security know that their children and grandchildren are going to have a responsible government in Washington, DC.

Mr. President, that is what the argument is about on the balanced budget amendment.

I thank the Senator from Utah for his great leadership in this effort. He has been there fighting the cause this whole week and for years before saying this is what is right for America. I appreciate the time and effort that he is putting in. I just hope that when it comes down to the bottom line that this Senate does the right thing and sends an amendment to the people of our country through its legislatures to say we are going to be responsible like every State government, every local government, every business and every household in America has to be responsible.

It is the most important vote I will ever make in my time in the U.S. Senate.

Thank you, Mr. President.

I yield the floor.

INCREASE IN THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, I commend the President for his leadership in bringing together so many Members of Congress this morning in support of an increase in the minimum wage for working families. The increase proposed by the President would raise the wages of more than 7 million hard-working Americans who currently earn less than $5.15 an hour. The increase would lift substantial numbers of working families out of poverty and diminish its severity for many more. The increase would also help millions of middle-class families who depend on the earnings of low-wage workers to get back on the track toward a better standard of living for themselves and their children. It is simple justice for working Americans.

Since the enactment of the first Federal minimum wage law in 1938, bipartisan majorities of the Congress have seven times reaffirmed the Nation's commitment to the minimum wage by voting in favor of minimum wage increases. Once again, Democrats and Republicans must join together to address the decline in the real value of the minimum wage. If we fail to act, by next year the real value of the minimum wage will be lower than it has been at any time since 1955.

Our economy is growing, corporate profits are up, and so are the incomes of the wealthiest 20 percent. But the vast majority of Americans are still losing ground. An increase in the minimum wage is long overdue. It ought to be part of any contract with America, and I hope we can vote on it in the first 100 days.

Mr. President, just an hour ago, the President of the United States in the White House reminded us that in 1989, when Congress last addressed this issue and voted overwhelmingly with bipartisan support to increase the minimum wage, we had a Republican President and Democratic majorities in the House of Representatives and Senate, but The President and the Congress came together, Republicans and Democrats alike. More than 85 percent of the Republicans in the Senate in 1989 supported legislation providing for two increases of 45 cents an hour each, to go into effect in 1990 and 1991.

The President made the point that he is hopeful that now, with a Democratic President and Republican majorities in the House and Senate, we too would go forward on a bipartisan basis and vote for two similar 45-cent increases.

The legislation enacted in 1989 provided for a 45-cent increase in 1990, and a 45-cent increase in 1991. And now the President is proposing a 45-cent increase for this year, 45 cents for next year.

The economy is much stronger today than it was in 1989 when we last voted to increase the minimum wage. In the past 2 years, we have seen the creation of over 5 million jobs. Business profits are up. The wealthiest individuals are doing well, the top 20 percent. And what we are basically saying with the President's proposal to increase in the minimum wage is that men and women in this country who are prepared to work 40 hours a week, 52 weeks of the year, ought not to live in poverty. They ought to be able to earn a living wage. That is not such a radical concept or radical idea, Mr. President.

The history of the minimum wage in this country teaches this very clearly. If we look at what the real value of the minimum wage has been and what the income needed to keep a family out of povery was from 1960 right up to 1980, the minimum wage was a livable wage. It kept working families out of poverty. And what we are seeing now is that unless we act to increase the minimum wage, by next year, in real purchasing power, the minimum wage will be the lowest it has been in 40 years.

What we are saying when we renew our commitment to a livable minimum wage is that work makes a difference. We ought to reward work in this country. We ought to say to families that we believe those who can and do and want to work and are working should be able to support themselves and their families and not be forced to rely on taxpayer-financed safety net programs to feed, house and adequately provide for their families.

If working people are not able to earn enough at the minimum wage to support their families, then it is other workers who in effect are called on to make up the difference through taxpayer-financed support programs. Thus, by raising the minimum wage, not only are we giving opportunity and prosperity to workers who want to work, we are also reducing, cutting the need to rely on public support programs.

Mr. SIMON. Will the Senator yield?

Mr. KENNEDY. Increasing the minimum wage will save taxpayer dollars because individuals will raise their incomes and no longer have to rely on the wide range of support programs which otherwise they are eligible for today. Increasing the minimum wage is a winning proposition for families that want to work, that will work. It is a winning proposition for taxpayers. It is a well-deserved increase.

I will be glad to yield for a question.

Mr. SIMON. Since the bottom fifth in terms of income in our country get 43 percent of the benefits from this, is it not true that if we were to raise the minimum wage as is suggested in this legislation, along the lines of what the Senator has just talked about, it probably would do more to provide real welfare reform than 90 percent of the talk of welfare reform that is going around right now?

Mr. KENNEDY. The Senator makes a very important point that has been reiterated in our recent Labor and Human Resources Committee hearings chaired by Senator KASSEBAUM on the various job training programs. We heard testimony from a very distinguished professional from Arlington, VA, who said you cannot expect to move people out of welfare into jobs that pay less than $7 an hour, because people cannot afford the cost of housing, transportation, health care—or day care if they have children—at a lower wage. Therefore, there is very little incentive for people to move off welfare unless the job they are moving into pays a livable wage.

Let me also point out this to the Senator from Illinois: The Senator is quite correct that 43 percent of the benefits of the last minimum wage increase went to families with earnings in the bottom 20 percent. But 45 percent of the benefits went to families with earnings in the middle 60 percent. Increasing the minimum wage is critically important to workers trying to support their families on a minimum wage job. But it is also a lifeline to families that are just on the border of middle income, and are dependent on the earning of someone who is working and supplementing the family's income with a minimum wage job to maintain their standard of living.

Mr. SIMON. Mr. President, if I may ask one more question of the Senator? So this talk that when we raise the minimum wage, we are really just helping the teenagers of people who are well off, that really is a myth and has no substance in fact?

Mr. KENNEDY. The Senator is quite correct. Two-thirds of those who are making the minimum wage today are adults—two-thirds.

It is reasonable to ask what is going to be the impact of this increase on jobs in our country? I hope, over the course of both the debate on this issue and in the course of hearings, to have a chance to review the most recent studies. David Card and Alan Krueger, of Princeton University did a very interesting study. They studied the effects on employment on the fast food industry in New Jersey, resulting from the 1992 increase in the State minimum wage from $4.25 to $5.05. This 80-cent increase in 1992 followed the 1990 increase in the Federal minimum wage from $3.35 to $3.80 and the 1991 increase of $3.80 to $4.25.

We listened to the Governor of the State of New Jersey speak the other night in her response to the President's State of the Union message about how strong the economy in New Jersey. This is a State that had a 45-cent increase, another 45-cent increase, and then had an 80-cent increase in the minimum wage after that, and the state economy is flourishing.

And that was borne out by the Princeton economists' study. It found no negative impact on employment from the increase in the New Jersey State minimum wage to $5.05. And, interestingly, it showed some evidence of positive impact on employment. People who were outside the labor market came back because they could make a decent living. So they added to the economy. Rather than a reduction of jobs, it increased jobs.

The Wessell study on the impact on restaurant employment of the 1990 and 1991 increases in Federal minimum wage from $3.25 to $4.25 also found there was virtually no impact on employment.

Similar results were found by Lawrence Katz of Harvard University and Alan Krueger of Princeton University, who did a 1992 study on employment in the fast food industry in Texas in 1990 and 1991 following the last increase in the Federal minimum wage. They also found no significant impact on employment. So we have similar results from studies of the impact of minimum wage increases in an industrial State, New Jersey, and in the State of Texas.

In addition, we have a 1992 study by Professor Card of the effects on teenage employment across 50 States resulting from the 1991 increase from $3.80 to $4.25. This study again found virtually no significant impact on teenage employment in low-wage as well as high-wage States.

And this was found true as well in another study that looked at changes in retail trade and teenage employment in California resulting from the 1988 increase in the State minimum wage from $3.25 to $4.35.

We will hear a great deal during the course of the debate about the impact of minimum wage increases on employment. I think those issues are legitimate ones and have to be addressed. But any thoughtful and fair review of recent empirical evidence on the actual effect of minimum wage increases shows that the kind of increase proposed this morning by the President would have only a marginal, neglible effect on employment.

Most of all, this issue is really about making work pay. It is a hollow argument indeed, to say this increase is going to mean a lesser life for working families in this country. We are talking about permitting working families to participate in the prosperity of America. This is a fair proposal. It ought to be treated fairly here in the Congress. I believe it ought to be part of the Contract With America.

Profits are up. Wages across this country have been stagnant for most workers for many years. This is really a concrete effort to try to make a difference for working families, to give them a livable wage so they can live with respect and dignity, and with a real sense of hope for the future.

I hope at the appropriate time we will have a chance to have further debate and take positive action, hopefully in a bipartisan way, in this body.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID "YES"

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, February 2, the Federal debt stood at $4,814,204,062,209.10. On a per capita basis, every man, woman, and child in America therefore owes $18,274.80 as his or her share of that debt.

COSPONSOR S. 228—BRYAN BILL ON CONGRESSIONAL PENSIONS

Mr. ABRAHAM. Mr. President, during the past year I have repeatedly been approached by citizens of my State of Michigan who have expressed their outrage about the current congressional pension system. Initially, their anger was focused upon what they believed to be an exorbitant level of compensation for Members of Congress. Later in the campaign, another issue also rose; namely, the shroud of secrecy which surrounded congressional pensions themselves.

Because of my experience, during the campaign I pledged to introduce or cosponsor legislation which would bring congressional pension plans into general line with the rest of the Federal Government and with the private sector. I also committed myself to eliminating the shroud of secrecy which has surrounded the pension system by pushing for full disclosure. Consequently, I am today announcing my cosponsorship of S. 228, the bill introduced by the Senator from Nevada, Senator BRYAN, which will bring the pension compensation for Members of Congress in line with that currently available to members of the Federal civil service.

However, because the Senator from Nevada's legislation does not include language on disclosure, I am also today introducing my own legislation which will require that information regarding Members' pensions be made available to the public. When the issue of congressional pension reform reaches the floor, the Senator from Michigan will offer this disclosure bill as an amendment if similar language is not already contained therein.

Mr. President, only when the American people are provided with accurate information can they make informed decisions regarding what level of pension compensation for Members of Congress and their staffs is appropriate.

Mr. President, I yield the floor.

REGULATORY FLEXIBILITY AMENDMENTS ACT OF 1995

Mr. BOND. Mr. President, yesterday I introduced S. 350, the Regulatory Flexibility Amendments Act of 1995, to provide for judicial enforcement under the Reg Flex Act. This bill is vitally important to America's small businesses who are suffering from the excessive burdens of Federal Government regulations. In support of my bill, S. 350, I have received letters from the U.S. Chamber of Commerce, the Small Business Legislative Council, and the National Roofing Contractors Association.

Mr. President, I ask unanimous consent that the letters and the bill, S. 350, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Flexibility Amendments Act of 1995".

SEC. 2. JUDICIAL REVIEW OF REGULATORY FLEXIBILITY ANALYSES.

(a) AMENDMENT.—Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) Except as provided in paragraph (2), not later than 1 year after the effective date of a final rule with respect to which an agency—

"(A) certified, pursuant to section 605(b) of this title, that such rule would not have a significant economic impact on a substantial number of small entities; or

"(B) prepared final regulatory flexibility analysis pursuant to section 604 of this title, an affected small entity may petition for the judicial review of such certification or analysis in accordance with the terms of this subsection. A court having jurisdiction to review such rule for compliance with the provisions of section 553 of this title or under any other provision of law shall have jurisdiction to review such certification or analysis.

"(2)(A) Except as provided in subparagraph (B), in the case where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), such lesser period shall apply to a petition for the judicial review under this subsection.

"(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this title, a petition for judicial review under this subsection shall be filed not later than—

"(i) 1 year; or

"(ii) in the case where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), the number of days specified in such provision of law,

after the date the analysis is made available to the public.

"(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

"(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

"(5)(A) In the case where the agency certified that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 of this title if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(B) In the case where the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with the requirements of section 604 of this title if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604 of this title.

"(6) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

"(A) to prepare the analysis required by section 604 of this title; or

"(B) to take corrective action consistent with the requirements of section 604 of this title,

the court may stay the rule or grant such other relief as it deems appropriate.

"(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

"(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after the date of enactment of this Act.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, February 2, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Senate Small Business Committee, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The U.S. Chamber of Commerce Federation, representing 215,000 businesses (96% of whom are small businesses), 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 69 American Chambers of Commerce abroad, is pleased to endorse your legislation, the Regulatory Flexibility Amendment Act, which would strengthen the Regulatory Flexibility Act (RFA) by allowing judicial review of agency compliance.

The importance of judicial review cannot be overstated. The original RFA was designed to provide the small business community respite from the ever-growing hindrance of excessive regulation by requiring federal agencies to consider the impact of proposed regulations on small entities. Its intent was to ensure that the least burdensome approach for regulatory implementation was adopted. The lack of judicial review, however, has meant that agencies do not have to answer to any compelling authority. As a result, agencies routinely give the RFA minimal attention, if any at all.

Too often, small businesses have borne the brunt of the cumulative impact of unreasonable and costly federal mandates. Given their importance to our struggling economy, we need to ensure not just their survival but their growth as well. Judicial review as part of the RFA will place us closer to that goal. That is why your legislation is so critical. It could mean the difference between job creation and job lay-offs.

We look forward to working with you and your colleagues in ensuring passage of this badly needed legislation.

Sincerely,

R. BRUCE JOSTEN.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC, February 2, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Small Business Legislative Council (SBLC) we wish to express our support for your version of legislation to enact amendments to the Regulatory Flexibility Act (RFA). As long-time supporters of the RFA, we know from first-hand experience that agencies have been able to ignore the law due to the lack of judicial review. At the time of the enactment of the original RFA, we thought it was a risk we could reluctantly accept in order for us to overcome the then formidable resistance of the bureaucracy to the entire law. Time has proven that the price was too much to pay.

The original concept of the original law is still sound. The goal is to have agencies undertake an analysis of proposed rules to determine whether they have an adverse impact on small business. If such a determination is made, then the agency must explore alternatives to mitigate the impact on small business.

In fact, for several years, we have said Congress should apply the same standard when considering proposed legislation, that is, analyze the impact on small business, and consider alternatives. We are pleased that the Senate has passed S. 1, the unfunded mandate reform bill. It goes a long way towards establishing such a discipline.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, tourism, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

JOHN S. SATAGAJ,
President.

Attachment.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Gear Manufacturers Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Travel Agents, Inc.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehouse Association.
American Wholesale Marketers Association.
AMT—The Association for Manufacturing Technology.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Automotive Service Association.
Automotive Recyclers Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Christian Booksellers Association.
Cincinnati Sign Supplies/Lamb and Co.
Council of Fleet Specialists.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Health Industry Representatives Association.
Helicopter Association International.
Independent Bakers Association.
Independent Bankers Association of America.

Independent Medical Distributors Association.
International Association of Refrigerated Warehouses.
International Communications Industries Association.
International Formalwear Association.
International Television Association.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
National Association for the Self-Employed.
National Association of Catalog Showroom Merchandisers.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Private Enterprise.
National Association of Realtors.
National Association of Retail Druggists.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Association of Truck Stop Operators.
National Association of Women Business Owners.
National Chimney Sweep Guild.
National Association of Catalog Showroom Merchandisers.
National Coffee Service Association.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Food Brokers Association.
National Independent Flag Dealers Association.
National Knitwear Sportswear Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Venture Capital Association.
National Wood Flooring Association.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Passenger Vessel Association.
Petroleum Marketers Association of America.
Power Transmission Representatives Association.
Printing Industries of America, Inc.
Professional Lawn Care Association of America.
Promotional Products Association International.
Retail Bakers of America.
Small Business Council of America, Inc.
Small Business Exporters Association.
SMC/Pennsylvania Small Business.
Society of American Florists.
Turfgrass Producers International.

NATIONAL ROOFING
CONTRACTORS ASSOCIATION,
Washington, DC, February 2, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BOND: NRCA recently testified before the House Small Business Committee in support of strengthening the Regulatory Flexibility Act of 1980 (Reg Flex). Judicial review for Reg Flex is a priority for us, and we are pleased that it's a key component of the new Republican congressional majority's agenda for regulatory relief. We are also pleased to inform you that NRCA strongly supports the Regulatory Flexibility Amendments Act of 1995.

I am certain that I speak for the Regulatory Flexibility Act Coalition, consisting of some 60 organizations representing small business and small government entities, when I state that we stand ready to assist your committee's effort to amend Reg Flex to help control excessive government regulation.

Please call if there's anything I can do.

Best wishes.

Sincerely,

CRAIG S. BRIGHTUP.

IMPORTANCE OF INTELLECTUAL PROPERTY TO AMERICA'S TRADE

Mrs. MURRAY. Mr. President, tomorrow is a critical date in United States trade relations with the People's Republic of China [PRC]. The United States Trade Representative has found that the PRC is seriously deficient in its protection of intellectual property rights. Talks have broken off, and unless the Chinese change their laws and improve their enforcement at this eleventh hour, the United States will impose steep tariffs on a number of products imported from the PRC, starting tomorrow.

I am disappointed that the situation has deteriorated to this point. More than 1 year ago I invited the Chinese Ambassador, United States executives and other Members of the Washington congressional delegation to my office to discuss this issue. I spoke with President Clinton and U.S. Trade Ambassador Michael Kantor as well. I encouraged all sides to get together and work toward a solution to the problem.

As a proponent of free trade, I am hopeful talks will be resumed and the Chinese Government will take serious steps to protect intellectual property rights. Hard-working people in the State of Washington are losing too much money to international pirates. This must end, and our relationship with this important trading partner must resume as quickly as possible.

It is up to the Clinton administration, and, more importantly, to the Chinese, to show some leadership. If China wants to be a global economic player, they have to play by the global economic rules. And those rules don't allow piracy.

Mr. President, as you know, I come from a State which is, per capita, the largest exporting State in the country. Washington State is home to America's single largest exporting company—the Boeing Co. We send the literal fruits of our labors—our apples and wheat—to every corner of the globe.

And, we are the site of some of America's most forward-looking, cutting-edge industries. We have big companies like the Microsoft Corp and Nintendo of America as well as small concerns all along the I-5 corridor which specialize in a dazzling array of high technology and biotech products.

These companies produce goods rich in intellectual property, the cornerstone of American innovation. Protecting these inventions through intellectual property rights is vital. Enforcing copyrights, patents and trademarks means that when you build a better mousetrap, you can reap the rewards of innovation. That's why we need and have strict laws in this country which protect inventions and punish thievery.

I am pleased that intellectual property has been included as a new discipline in the General Agreement on Tariffs and Trade [GATT]. Accordingly, it is important that all our trading partners uphold and enforce the strongest intellectual property laws possible, especially those countries that wish to join the GATT.

That is why the looming deadline is so disheartening. I sincerely hope China will address this situation, and prove they deserve a place in the global economic community.

WILLIAM J. BAROODY, JR.

Mr. MOYNIHAN. Mr. President, for a quarter century I have been involved with the Woodrow Wilson International Center for Scholars. I was a member of its first board of trustees in 1969, and served as vice chairman from 1971 to 1976. During the center's existence, five remarkable men have served as chairmen of its board: Hubert H. Humphrey, 1969–72; William J. Baroody, Sr., 1972–79; Max M. Kampelman, 1979–82; William J. Baroody, Jr., 1982–94; and now Joseph H. Flom.

William J. Baroody, Jr.'s term on the board expired just this week, and I would like to join his colleagues at the Wilson Center in honoring his remarkable tenure. A dinner was given in Bill's honor following the last board meeting in October, when he stepped down from its chairmanship, and I ask unanimous consent that the text of the evening's richly deserved tribute be printed in the RECORD.

REMARKS AT DINNER HONORING WILLIAM J. BAROODY, JR., OCTOBER 11, 1994

Mr. BLITZER. I want to join Joe Flom in welcoming all of you here this evening to this richly deserved tribute to Bill Baroody, a man who served with enormous devotion skill and wisdom as Chairman of the Board of Trustees of the Woodrow Wilson Center for nearly half of the Center's life.

During the years I have known Bill, and particularly during the six years that I've served under his chairmanship, my respect for him has constantly grown as has my affection. I can say with absolute sincerity that during those years I have never asked Bill for his help without receiving it. Similarly I have never sought his advice without receiving suggestions that contributed substantially and fruitfully to my own ideas and those of my colleagues. In many ways I would say that Bill has been a model of what a chairman should be. He shared with us the knowledge and the wisdom gained in the legislative and executive branches of government, including in the White House, and as the head of a kindred but not quite identical institution, and in all of this he has somehow managed to guide without being intrusive.

His chairmanship of the board, a board composed of distinguished and often strong-minded people appointed by three presidents of two parties, and his leadership of the Center under two directors, have been characterized by an extraordinary combination of effectiveness, tact, evenhandedness and self-effacement. Indeed if it is possible to be modest to a fault that perhaps is Bill's singular fault. With his clear sense of the delicate balance between the legal responsibility of a board and the authority of a director, he served the Center well and made the experience for me at least, and I suspect for my predecessor, of serving under him a genuine pleasure. It is for that accomplishment, and for his stewardship of this institution that his fellow trustees, the Center's staff, his friends, his family and I join in honoring him this evening with deep respect and affection.

TED BARREAUX. I have been given the assignment of reading one of the letters that Bill Baroody has received from the former Presidents who have appointed him to various posts. But before that I wanted to tell you all what a pleasure it is for me to be here tonight because I've known Bill for many years. The two of us met almost thirty years ago, and we were both at various points in our lives aides of President Nixon. Now I don't know if Bill's memory fades in and out as occasionally most Nixon aides' memories do, but my experience when I first met Bill was illustrative of what became a very warm and valued friendship.

I met Bill as I said nearly thirty years ago in the spring of 1967, when I was in Washington to have lunch on a Saturday morning with a friend of mine, Congressman Glenn Lipscomb from California. He was a close ally and colleague of Congressman Mel Laird, for whom Bill worked.

I didn't have a change to work with Bill while he was at the Defense Department or in Congress, but I worked very closely with him when he was the public liaison for President Ford. I had the pleasure not only of working with Bill when he was a White House aide but also when I spent twelve years on the Board of Trustees of the Wilson Center. I served under Bill's father, I served under Max Kampelman, and I served under Bill.

The one thing about Bill that impressed me as well as all of the other trustees and the Fellows is Bill's commitment to public service. He provided two characteristics that I think really mean public service to me, and he carried them out with firmness and commitment and dedication and with an élan and an ease that made it appear even more beautiful than it ordinarily is. The first of these is satisfaction. He demonstrated clearly the satisfaction one derives from the formulation of public policy. There are dozens of key policy issues where he played a central role and he did it always with grace and intelligence and style.

And the second is sacrifice. I was always impressed by the fact that he never capitalized in a personal way on his public service, which is terribly impressive when you consider that although there is nothing wrong with that, he chose a different road.

President Ford, whose letter I've been asked to read tonight, shares many of my sentiments, and I'll share his letter with you now.

"Dear Bill, I write with congratulations and best wishes on the occasion of your retirement as Chairman of the Woodrow Wilson Center Board of Trustees. It is indeed an enjoyable task to acknowledge your generosity and commitment to that fine institution.

"I also remember with great pleasure your time as a member of our White House team and I am so pleased that you and many of your colleagues have continued a tradition of outstanding public service. Thanks to your dedicated leadership, the Wilson Center is now known throughout the world as a place of both scholarly excellence and practical relevance.

"I am delighted to have this opportunity to express my appreciation of your devotion to the Center and its scholarly ideals.

"I am delighted to have this opportunity to express my appreciation of your devotion to the Center and its scholarly ideals.

"Thank you for your many kindnesses and loyal support.

Warmest, best regards,

GERALD R. FORD."

I would now like to toast Bill Baroody who is not only a friend, a colleague and a boss, all three things you get to be when you're Chairman of the Board of the Center, but he's also a very special human being.

GERTRUDE HIMMELFARB. I cannot I'm afraid compete with Ted who has known Bill for thirty years. I can only claim to have known him for less than twenty years. I was then a Fellow of the Woodrow Wilson Center and Bill Baroody, Sr. was then Chairman of the Board. The Baroodys were my introduction to Washington and I assure you it was a very enjoyable, a very interesting, a very exciting experience.

I then met Bill some ten years later when I was a member of the board and Bill, Jr. was its Chairman. I came to admire Bill as all of us did, and not only for his extraordinary devotion to the Woodrow Wilson Center, his mastery of all the details of the operation of the Center, his assiduous attendance at meetings, board meetings, fellowship and other committee meetings even in periods of ill health and an evident discomfort, but also because of his very good judgment and his wisdom in helping to keep the Center on a steady course at a rather perilous time for institutions such as this, for cultural and academic institutions which were being buffeted about as they still are by all the vagaries of intellectual fads and fashions and by political and social pressures. As I say it was a very heartening experience to serve under a chairman who was able to perform that not inconsiderable feat.

I'd like now to take the occasion to pay tribute not only to Bill but also to Charles Blitzer and to the staff of the Woodrow Wilson Center, all of whom manage to work so harmoniously together and all of whom manage to resist those fashions and those pressures, who manage to preserve the integrity of the Center and to maintain the very high standards of scholarship and research that the Center is in fact now known for, always has been known for.

Bill, Sr. would be very proud of you Bill, and I think he would like to join us in this toast to you. But first I would like to read a letter from someone who can express his appreciation of Bill more eloquently than I can.

"DEAR BILL, I am delighted to join your friends, family, and colleagues in congratulating you on the occasion of your retirement from the Woodrow Wilson International Center for Scholars.

"I hate to be the one to break the news to you, but I've found that there is no such thing as retirement! I had a fleeting notion way back: to find a shady spot under a tree and a good sturdy hammock. It was a grand plan, but it never materialized. I hope you have better luck with it than I did!

"Seriously, you have every reason to be proud of your twelve years of honorable commitment to the Center and to nationwide scholarship. You have proudly carried on your family tradition as an able and dignified leader, and it is that noble legacy which will continue to flourish thanks to your constant nurturing and tireless commitment. You have my deepest gratitude and admiration for the wisdom and integrity you have consistently shown in your devotion to the Center.

"I wish you all the happiness and success you deserve as you begin this exciting new chapter in your life. God bless you for your dedication and unwavering faith in this great nation.

Sincerely,

RONALD REAGAN."

I think President Reagan would like to join us in this toast to Bill.

LYNNE CHENEY. I want to bring you greetings, Bill, not only from myself and from the signator of the letter I'm about to read, but from Dick Cheney who is sorry he can't be with us tonight. Dick and I first knew Bill more than twenty years ago back in the Nixon and Ford years, and you were out there on the front line for public liaison putting Gerry Ford in exactly the setting in which he performed most brilliantly, dealing with citizens in forums across the country, answering questions, and Dick as White House Chief of Staff, was exceedingly grateful for your imaginative use of the President's time and for presenting him as the really great leader he was. I'm so glad that I was here tonight to hear Gerry Ford's letter to you.

Dick and I are now at the American Enterprise Institute, another organization in which you had such an important role to play, so our lives have been intertwined for quite a long time. I will remember with gratitude and warmth the opportunity that I had to serve with you as a member of the Woodrow Wilson Center's Board of Trustees. We had some challenging meetings, some interesting issues with which to deal, and I do love now seeing them all begin to come to fruition knowing that this Center will soon be housed in a way that it should be in order to honor the memory of Woodrow Wilson to whom this Center was established.

So many people are grateful to you for your service, Dick and I chief among them; and I'm especially proud tonight to have the honor to read to you a letter from yet another former President, What friends you have, Bill.

"DEAR BILL, word has reached me of your retirement as Chairman of the Woodrow Wilson Center's Board of Trustees, and I am delighted to join your family and colleagues in congratulating you for a job well done.

"Your distinguished tenure as chairman is one marked by significant accomplishment, and you can be proud in the knowledge that your many contributions helped to enhance America's leadership in a turbulent and sometimes dangerous world. As one of several Presidents to benefit from your dedicated career in service to our Nation, I am pleased to have this opportunity to thank you for your loyal support, counsel, and friendship through the years. "You will be missed, but I have a feeling this won't be the last we hear from you. In the meantime, Barbara joins me in sending best wishes for your very happiness.

Sincerely,

GEORGE BUSH."

I would like all of you to join me in a toast to Bill Baroody for whom all of us here, like all of the Presidents who have so far been named, have the greatest respect, admiration and to whom we'd like to extend our thanks.

JAMES BILLINGTON. I would like to speak to you from my heart about Bill Baroody because we honor tonight someone who is part of a unique contribution to the life of this city and to the country.

We have a kind of apostolic succession here. It began with Hubert Humphrey who was the first chairman, then Bill Baroody, Sr. succeeded him, then Max Kampelman (who had been so close to Hubert Humphrey) succeeded Bill, and then Bill, Jr. succeeded Max, and now of course we have a new chairman. I second Bea Himmelfarb's warm words of praise for Charles Blitzer and the staff. It is wonderful to see the sustaining over the years of the real commitment to quality, one of the things that the Baroodys have always been committed to and that Bill has helped this very talented staff sustain so well.

I liked Ted Barreaux' emphasis on public service, because it seems to me Bill has had an extraordinary career which has never been fully documented. There was service in Congress, with Mel Laird. There was service in the Pentagon, and a variety of different functions in the White House.

I would say there are four things that characterize Bill's public service. The first of these is an extremely self-effacing kind of leadership. When the spotlight is on, Bill always runs the other way. He reminds me very much of people like Paul McCracken and Bryce Harlow, names that you don't read very often in the history books, who had this soft spoken, quiet kind of integrity when integrity wasn't always the first currency of the day. Bill is very much a part of that world and part of that type of public servant who never gets enough attention, never gets enough praise.

The second is the commitment to dialogue. At the Ford White House, Bill bridged a gap that was very real in those days between government and the broader private sector and established a very important kind of dialogue. It continued during his days at AEI, and he certainly has sustained the Center's tradition for dialogue, one of its great contributions to this city.

And the third thing closely related to it is quality—the defense of the pure quality of scholarship in a city very closely concerned with advocacy. To maintain the purest standards of high quality in the midst of the political pressures and vortex of this city has been a wonderful achievement, and I must say we owe that to our whole apostolic succession of chairmen.

And the fourth thing that Bill has provided is something that's not always found even where there's dialogue and where there's quality, and that is genuine depth. One of Bill Baroody, Sr.'s great contributions to the intellectual dialogue of this city was introducing deeper themes such as the role of religion in public life. Bill Baroody, Jr. has continued that role.

This is a man who not only has quietly in a self-effacing way sustained dialogue and sustained quality in this wonderful institution that we celebrate and honor today, but who behind it all has a passion and understanding for the deeper things of life that are somehow inextricably connected to our broader public and individual lives.

I'd like to propose a toast to Bill Baroody and to the past—I am reminded of a wonderful evening Max Kampelman hosted like this for Bill's father here about fifteen years ago. Please join me in a toast to Bill and to the past, present and future of a wonderful family.

MAX KAMPELMAN. There is an old Yiddish superstition that if a mother wishes her newborn child to be a great thinker or a great philosopher she kisses the child on the head. If she wishes her child to be a great pianist or musician she kisses the child on the fingers. If she wishes her child to be a singer she kisses the child on the neck close to the vocal chords. I don't know where our mothers kissed Bill Baroody, Joe Flom and me when we were born, but I do know that all three of us have been blessed with the opportunity to serve as chairpersons of the Woodrow Wilson International Center for Scholars. Speaking for myself it has been one of the most satisfying public experiences of a full and busy life.

My first exposure to the Wilson Center came through my friend Hubert Humphrey who became the first Chairman of the Board. I vividly recall the excitement with which he joined the effort to create a living memorial of scholarship through which to perpetuate the memory of Woodrow Wilson in our nation's capital. I recall the deep sense of honor that he felt in being appointed by President Johnson to serve as this Center's first chairman. My long-time friend William Baroody, Bill's distinguished father, succeeded Hubert as its chairman. Bill, you and I know that your dad was a great man; a giant of a man, and I am convinced that you have filled his shoes with distinction.

Tonight we meet to acknowledge your selfless and devoted service to our Center as its fourth chairman. Your wisdom and integrity have added luster to our Center and strength to our staff. The comments we have heard this evening all add credence to that sentiment. You presided over our Center at a critical period of our nation's transition away from the Cold War with its clear challenges and objectives into a new set of problems and opportunities and you did so with dignity and determination.

In partnership with our most distinguished director Charles Blitzer you have further fashioned and strengthened our Center into one of the most distinguished and respected institutions of learning in the world.

To Joe Flom, our experienced and wise new chairman, I say let us rededicate ourselves to our mandate from Congress to harmonize and strengthen the relationship between the world of learning and the world of public affairs. It is with that aspiration that I appropriately ask all of you tonight to join me in a toast to our friend, Bill Baroody.

JOE FLOM. As the new chairman of the Woodrow Wilson Center for International Scholars I have been given the pleasurable duty by the board to read a resolution which was adopted unanimously today with respect to Bill. I would first like to thank Bill for the help he has given me in the transition. His courtesy, his wisdom and his judgment are very much appreciated. He has set a standard which I hope I can match in my role. I would now like to read this resolution, which was unanimously passed today by the Board of Trustees:

Whereas, William J. Baroody, Jr., in more than thirteen years of distinguished service to the Woodrow Wilson International Center for Scholars, both as a member of its Board of Trustees and as its Chairman, devoted himself unstintingly, wisely, and supportively to the Center's growth and well-being; and

Whereas, his devotion brought to the Center the bountiful benefits of his extraordinary wisdom, experience, and thoughtfulness, as well as his deep commitment to and participation in the worlds of scholarship and public affairs; and

Whereas, his unfailing dedication to the Center and his sensitive, fair-minded leadership and often subtle guidance have increased the Center's stature and strengths,

Therefore, be it resolved that the members of the Board of Trustees—in their own names, in the names of the Center staff, of all the scholars who have studied at the Center, and of all persons, in the United States and throughout the world, for whom the Wilsonian ideals of scholarship and high public purpose remain beacons of hope and humanity—extend to William J. Baroody, Jr., deep gratitude, lasting affection, and the sincere hope that the Center will remain close to his considerate and warm heart, and that he will continue to sustain the Baroody family tradition by participating in its life and exciting future.

JOSEPH H. FLOM AND CHARLES BLITZER.

Mr. BAROODY. I do thank you most sincerely for the kind words. I guess it's a little like perfume: It's okay to sniff it as long as you don't swallow it. This has really been a treat for me. I'm very, very proud that three presidents and some fifty-two different board members have tolerated my presence on the board of this incredibly magnificent institution for as long as they have.

I listened to the tape of a similar event held in honor of my father on June 9, 1980 just a few weeks before he died. I don't cite that tape or that event in invite comparisons, but as Max Kampelman introduced himself in that wonderfully humble way he has, Max insisted he had not replaced my father. He said he had succeeded, but not replaced my father as chairman, for no one could replace him.

I mention that tape of that event among other very personal reasons because Pat Moynihan, the patron saint of this great Center, reminisced that night about his affiliation with the Center and with my father. Pat said that when he and Charles Blitzer conspired together in 1968 to draft the legislation to create the Center, their vision was to create a center of learning which the 22nd Century would regard as having influenced the 21st.

I used to talk to dad about his vision for the Center, and in his response he would always mention an exchange he had with Pat Moynihan concerning the report dad commissioned at the beginning of his tenure as chairman in 1969 to help the Center determine what kind of an institution it should become. Pat Moynihan was then Ambassador to India, and dad cabled him to ask for his views on the mission of the Wilson Center. Ambassador Moynihan cabled back one sentence: "Think no small thoughts." Well, I dare say that all four chairmen and three directors so far have demonstrated a commitment to building an institution that can fulfill the dream that emerged from the legislative drafting session in 1968, and the mission statement in 1969. From what I've seen of the Center's fifth chairman, there is no danger of that vision being distorted as we look to the future.

This fall we conclude the first twenty-five years of the Wilson Center's existence. It has been my privilege to serve as the fourth chairman for almost half of the Center's existence. I have had the good fortune personally of observing and delighting in the increasing prominence and impact of the Center throughout the world. The essence of the Woodrow Wilson Center of course is its Fellows who come here from all over the world to pursue their scholarly studies and participate in the life of the Center. More than 1300 Fellows and guest scholars have been in residence since its creation and the fellowship selection process has become increasingly competitive each year, compelling evidence of the Center's expanding international reputation.

Over the past quarter century the Wilson Center has retained its unique status in our nation's capital as a high quality international nonpartisan center. The great public value of a scholarly center like the Wilson Center cannot be overstated. Everyone associated with it should not only take pride in its accomplishments but also in the high reputation and standards it maintains, and to that end I would be remiss if I did not single out the two directors of the Wilson Center who have occupied that position during my tenure.

Jim Billington whose vision and skill were largely responsible for building the Center into a world-class institution and Charles Blitzer who was there at the creation and in its formative years as Dillon Ripley's able agent and in the last several years as we have been consolidating and rethinking our mission in preparation for the second twenty-five years of this great institution. The Wilson Center and the country have been well served by the stewardship of these two extraordinarily able leaders and their very able staffs.

I want to thank each of my fellow board members and friends who spoke tonight. I want to thank all of you for coming and I would like to conclude by raising my glass in a toast to the extraordinary men and women who have served on the staff of the Woodrow Wilson International Center for Scholars throughout its first twenty-five years. Its future is assured if it can maintain that caliber for the future.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the bill.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I really appreciate the remarks of the distinguished Senator from Texas. She is a great leader and is undaunted in this balanced budget amendment fight like so many other Republicans and some Democrats willing to stand up and do what is necessary in this battle. I for one appreciate very much her leadership. She has been a leader ever since she has gotten to the U.S. Senate. She is right up there, up front, doing what she believes is correct and proper. I might add she is right. This is the most important vote any of us are going to cast in our whole time in the U.S. Senate. I have cast a lot of very important votes. But this one is in my opinion a save-the-country vote. We have to do everything we can to save this country.

Right now it is going to take the help of a lot of people out there in our country to work with our colleagues to let them know that they want this balanced budget amendment. Because, if you want to protect Social Security, if you want to protect some of these other important social spending programs, then we had better protect the dollar, our economy, and the things that will keep our Government and our Nation strong. Frankly, if we do not adopt this balanced budget amendment, I fear we might attempt a monetization of the debt which would wreck this country, and we really cannot allow that to happen.

Mr. President, I would now like to respond to some of the comments of some of the opponents of the balanced budget amendment.

Some of my colleagues contend that section 6 of House Joint Resolution 1, the section that mandates that Congress enforce the amendment through implementing legislation, is similar to section 5 of the 14th amendment, which permits Congress to enforce that amendment. Because they are similar, the argument goes, and because courts enforce the 14th amendment, courts will also be able to enforce the balanced budget amendment to the extent courts enforce the 14th amendment.

This analogy is misleading. First, courts may only enforce an amendment when legislation or executive actions violate the amendment or when Congress create a cause of action to enforce the amendment. An example of the latter is 42 U.S.C. section 1983, the 1871 Civil Rights Act that implements section 1 of the 14th amendment.

Of course, Congress has not created, and need not create, an analogous cause of action under section 6 of the balanced budget amendment. So there is no direct judicial enforcement in existence similar to section 1983, and I cannot imagine Congress giving that authority.

Second, as to the judicial nullification of legislation or executive action that is inconsistent with a constitutional amendment, the "case or controversy" requirement of article III requires that a litigant demonstrate standing. As I have stated at great length already during this debate, it is very improbable that a litigant can demonstrate standing—that the litigant could demonstrate a particularized injury, which is what is required for standing—different from the generalized harm facing any citizen or taxpayer. Contrast this with cases under the 14th amendment, where standing was found because a litigant could demonstrate a particular, individualized, and concrete harm. The perfect illustration could be the case of Reynolds versus Sims, a 1962 case, the one man/one vote decision.

Third, in this circumstance, the separation of powers doctrine prevents courts from redressing a litigant's alleged harm. That is, courts will not entertain a suit where they cannot bring supply relief to the litigant. The most important case here is a recent case, Lujan versus Defenders of Wildlife, decided in 1992. The Constitution, under Article I, delegates to Congress taxing, spending, and borrowing powers. These are plenary powers that exclusively and historically have been recognized as belonging only to Congress. The balanced budget amendment does not alter this. Courts, consequently, will be loathe to interfere with Congress' budgetary powers. It is simply an exaggeration to contend that courts will place the budgetary process under receivership or that the courts will cut spending programs.

Fourth, the political question doctrine will deter courts from enforcing the balanced budget amendment. Budgetary matters, such as where to cut programs or how to raise revenues, are prototypically a political matter best left to the political branches of Government to resolve. Courts, under the political question doctrine, will naturally leave these matters to Congress.

Finally, it is ludicrous to assume that Congress would just sit by in the unlikely event that a court would commit some crazy act. Believe me, Congress knows how to defend itself. I would be at the forefront of that defense. Congress knows how to strip the courts of jurisdiction or limit the scope of judicial remedies. We do not like to do it, but in the case of outrageous judicial interference, and ignorance of the law, including prior case law, and of the Constitution, we would do that.

I might say that I do not think that it is necessary. Lower courts follow precedent, and the precepts of standing, separation of powers, and the political question doctrine effectively limit the ability of courts to interfere in the budgetary process.

Let me just give some examples of judicially unenforceable political questions. The guaranty clause of the Constitution, at issue in Luther versus Borden, back in 1849, was found to be outside the range of certain separated powers.

Treaty termination by the President, decided by Goldwater versus Carter. The conduct of foreign policy by the President is almost always found to be a political question.

The conduct of foreign policy by the President almost always found to be political question. See Tiger, "Judicial Power, The 'Political Question' and Foreign Relations," 17 U.C.L.A. L. Rev. 1135 (1970) (and cases cited within).

The legality and conduct of wars and military actions. E.g., *Crockett* v. *Reagan*, 720 F.2d 1355 (D.C. Cir. 1983) (per curiam), cert. denied, 467 U.S. 1251 (1984) (legality of President Reagan's activities in Nicaragua); *Atlee* v. *Laird*, 347 F. Supp. 689 (E.D. Pa. 1972) (three judge panel) (legality of Vietnam war).

The legality and conduct of wars and military actions. Again, there are so many things that are clear here.

I do not think anybody can legitimately argue that the courts are going to interfere in enforcing the balanced budget amendment by increasing taxes or cutting spending. I just do not think anybody can legitimately argue that from a constitutional standpoint.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI] is recognized.

Mr. MURKOWSKI. Mr. President, as we continue in this historic debate, I would like to take a few minutes of the Senate's time to share a perspective on the extraordinary burden that our accumulated deficits—34 years of deficits in the last 35 years—have placed on the capacity of our Government to operate.

I will have more to say at another time, but for now I want to focus specifically on the $4.8 trillion accumulated national debt.

You have heard a lot lately of the fact that the deficit has declined for 3 consecutive years. A big part of that decline is a direct result of the growth of the economy that began in the late stages of the Bush Presidency when the country began to emerge from recession. The remaining deficit decline, in my opinion, can be attributed, to a large degree, to President Clinton's record tax increase, which has temporarily increased Federal tax revenues. Further, we have had substantial cuts in spending. But it is interesting to reflect on just where those cuts came from, primarily: The military, a decline in the military budget and military personnel.

But the reality, Mr. President, is that the decline in the deficit is but a temporary phenomenon. I am going to show some charts here that will highlight that fact. According to the Congressional Budget Office [CBO] in every year, starting next year, 1996, and for the unending future, the annual deficit, unfortunately, is on the rise. In fact, CBO projects that the deficit will more than double in less than 10 years. It will more than double in less than 10 years, from $176 billion to more than $400 billion.

This unending string of deficits has caused us to accumulate a $4.8 trillion national debt that could easily exceed $7 trillion before the end of the century. So as we add to the deficit, each year as we create a deficit, we are adding to the accumulated debt, and today it is $4.8 trillion.

Mr. President, we simply cannot tolerate the continued business-as-usual in Washington that assumes that every year we can run deficits of $150 billion, $250 billion, $350 billion. We dictate under our laws, and our financial community demands, obviously, that we live within our means. Our checks will bounce and we will no longer have credit extended to us.

The exception to that, of course, is the Federal Government. The accumulation of this debt has today brought us to the point where, for the first time in our history, we are faced with borrowing from the credit markets of the world for the sole purpose of paying interest on the debt. When you think about that, Mr. President, we are borrowing to pay interest on the debt; we are not borrowing to pay down the principal. We are borrowing to pay interest on the debt.

It may surprise some people to know that over the next 10 years, we would be running a surplus in the Federal budget in every year if we did not have to pay a $200 to $400 billion annual interest bill that has resulted from our chronic inability to bring revenue and spending into balance.

Let me begin, Mr. President, by showing on the charts the devastating effect that our fiscal policies have shown in the past and suggest over the next 10 years.

This chart shows that in every year between 1995 and the year 2004, all American Government borrowing is for the single purpose of paying interest on the debt. We could finance Defense, Medicare, Social Security, and all other Government functions over this period and still accumulate a surplus of some $360 billion if we were not strangled by this extraordinary debt.

Now, as the chart shows, beginning in 1994, our deficit was $203 billion. That was precisely the amount of interest we had to pay on the accumulated debt. So here we have the situation where we had a deficit in that year—in other words we expended $203 billion more than we collected in revenues—and we had to pay the interest on the accumulated debt, which was about $4.8 trillion but the interest was more than the deficit that year. Think about that, Mr. President. Think about the implication of what that means.

In other words, our entire deficit in 1994 consisted of interest on the debt. Without that debt service burden, we would not have had to auction a single new Treasury note or bond in the market. In 1995, we would be running a surplus of $59 billion if we did not have to service that debt. Instead, as this chart shows, our $176 billion deficit results directly from the fact that our interest costs are $223 billion. The same holds true in every year through the year 2004.

In 1997, Mr. President, a $57 billion surplus disappears into a $207 billion deficit. Why? Because, again, we have to pay $260 billion in interest.

Some say, "Well, why do we have to pay it? We are only paying it to ourselves." Well, clearly we are not paying it to ourselves. We are paying it to those who hold that debt, the Treasury bills that have to be paid. We have already seen, in the crisis in Mexico, what happens when a government cannot meet the demands of those who held the notes.

Now let us look at 1998. In 1998, our interest bill jumps to $270 billion, converting a $46 billion surplus into a $224 billion deficit. And in 1999 our interest bill jumps to $294 billion, converting a $26 billion surplus into a $284 billion deficit. And that is what happens every single year through the year 2004.

If we did not have the extraordinary debt overhanging, we would have been able to reduce the national debt by some $360 billion over the next 10 years. We would not have to go back to the credit markets to borrow more than $2.9 trillion—$2.9 trillion—to finance the debt and the deficit. In other words, if we did not have this accumulated $4.8 trillion debt, the United States would be able to retire $360 billion of our national debt and would not have to issue a single new Treasury note or bond over the next 10 years.

How did we get into this extraordinary set of circumstances? We did it to ourselves. We have had Republican Presidents, we have had Democratic-controlled Congresses. As a consequence, Mr. President, the simple reality is it has to be addressed, and it has to be addressed now. And the only way to address this debt is to adopt the proposal that is before us which amends the Constitution to require a balanced budget.

Mr. President, the projections that I have cited assume that interest rates stay within the projections that CBO assumes.

Now what would happen if, as in the past years, we would see a substantial rise in interest rates? In this past year alone, long-term interest rates on Federal borrowing was 1.3 percent higher than the CBO forecast of a year ago. So clearly, CBO makes a forecast and we rely on that forecast in making budgetary judgments.

But since the Federal Reserve raised interest rates sevens times in the past year, Government borrowing costs were higher than CBO assumed. As a result, over the next 5 years the Federal Government will have to spend $143 billion more than CBO assumed just a year ago. And that is all due to interest on the national debt.

I am going to show you the second chart, Mr. President, because I think it makes my point.

What we see here is a projection of our debt service cost if—if—interest rates continue to rise. We saw the Fed come up with the seventh increase on Wednesday. Now, if we look at the bottom line, it shows the current CBO projection with interest rates on 10-year notes averaging between 6.7 to 7.7 percent. Under that, the lowest scenario, interest payments will increase from $235 billion in 1995 to $310 billion by the year 2000. However, if interest rates rise by merely 1 percent, just 1 percent through this period, we will have to pay $175 billion more in interest; by the year 2000 our interest bill would be $50 billion higher or a total of $360 billion.

The next line, Mr. President, shows what would happen if interest rates are 3 percent higher than projected. Now mind you, the first one was 1 percent, now we go to 3 percent. Under this scenario, by the year 2000 our interest bill annually would be $460 billion if interest rates are in the 9.7 to 10.7 percent range. That is not unheard of by any means.

Now, if that happened, interest on the debt would be the single—the single—largest expenditure in the Federal budget.

I was a commercial banker, Mr. President, for 25 years. Interest is like having a horse that eats while you sleep. It goes on and on and on.

If interest rates turn out to be 3 percent higher than projected, in the year 2000 interest costs would exceed Social Security payments by $27 billion. Interest costs would exceed combined Medicare-Medicaid spending by $25 billion. And interest costs would exceed our national defense expenditure, all of it, in that year by an astounding $156 billion.

(Mr. ASHCROFT assumed the chair.)

Mr. SIMON. Will my colleague yield?

Mr. MURKOWSKI. I am happy to yield briefly, without losing the floor, because I am wandering through this chart.

Mr. SIMON. I want to point out that the Senator's figures are conservative figures. For my friends who are new, they may not know that our colleague from Alaska is a banker by background.

But the Senator starts off with net interest. For example, he starts off with a $225 billion expenditure here. The net interest is something that administrations like to use rather than the gross interest because it makes it look better. In no other field—in the Justice Department; for example, we do not say, "Well, they took in so many dollars in fines and, therefore, we should subtract that from the total of the Justice Department expenditures."

The gross interest expenditure—and I have to give credit to my colleague, FRITZ HOLLINGS, for educating me on this—the gross interest expenditure this fiscal year is $339 billion. So the figures that my colleague from Alaska is using, those are conservative figures and I thank him for his contribution.

Mr. MURKOWSKI. I thank my friend from Illinois for his comments. He has been the leader in the balanced budget amendment for a long time, and I commend him for his commitment and dedication because I know, to some extent, the issue has been somewhat like rowing uphill until this year and truly the public has said, "Wait a minute. This simply cannot go on." We have an obligation to address it, and I am pleased to join with him in that debate.

Let me conclude my remarks, Mr. President, by referring to the top line. The top line is rather interesting, because, as we know around here, many of our agencies have a worst-case scenario. The EPA has a worst-case scenario, the Corps of Engineers has a worst-case scenario. This is the worst-case scenario on the chart simply because we did not want to make another worst-case scenario. We could have.

But the top line shows our interest bill if interest costs were 5 percent higher than the CBO projects, only 5 percent higher. That would assume interest rates would be 12.7 percent. We can all remember interest rates at 12.7 percent. As many of my colleagues know, it is not without precedent for interest rates to go that high.

When I came to the Senate in 1981, the prime rate in this country, in case we have forgotten, Mr. President, was 20½ percent; 20½ percent was the prime rate. So when we talk about potentially a 5-percent interest rate increase, higher than CBO projections, for an effective rate of 12.7 percent, we are not being unreasonable in our projection.

Now, I do not expect interest rates to take such a rapid jump. However, if they did rise that high, our interest bill over the next 5 years would be $885 billion higher than projected, and the single-year cost of interest in the year 2000 would be $560 billion.

Now, to imagine how large that amount would be, I would note that all discretionary spending, all discretionary spending—defense, education, highways, criminal justice, on and on and on—is projected to cost $585 billion, barely $25 billion more than the projected interest bill in the year 2000, if interest rates spike upward.

If I were looking at the balance sheet, Mr. President, I would say we are broke. We are broke now. We do not admit we are broke. But the balance sheet simply shows if we are borrowing to pay interest on our accumulated debt, we are broke. We cannot meet our obligations. We are subject to the shifting wind of international investment, because international investment is what funds our debt. They are buying our notes, our bonds, our obligations.

A minor change of economic policy in Bonn or London, or even an earthquake in Japan has a direct effect on what the United States Government has to pay to service this unending sea of debt. Can anyone imagine what would happen if the owners of our debt—the owners of our debt are the people out there, firms, mutual funds, that hold this debt, and 18 percent of the debt is held by foreigners—what if they called the debt in and said, "Hey, we do not want to renew it. We do not want to rewrite it. We want you to pay up. We will not buy any more of your debt." They called in 18 percent, just $300 billion or maybe a little more, $500 billion of our debt. How would we pay the owners off? How would we pay the principle when we are borrowing to pay interest?

We could not, unless we inflated our dollar to the point that what a dollar buys today would be actually worth 50 cents or less tomorrow. And that is inflation. We have seen it. After the First World War in Germany, the citizens ran around with a wheelbarrow full of nearly worthless marks to buy a cup of coffee.

We have already seen what happened the other day in Mexico where we had a collapse of the monetary system. We saw fit to use a monetary stabling fund that we had since we came off the gold standard in 1934, to commit some $20 billion to a $46 billion loan guarantee.

Well, Mr. President, there was a warning signal of what can happen when debt gets out of hand. I have mentioned Mexico several times, but I would not attempt to even compare our two economies, for ours is far healthier, far stronger than Mexico. There is no comparison between the importance of the dollar and that of the peso in world currency markets.

I note that Mexico's crisis is a crisis of too much debt, and lack of investor confidence. It is simply that simple. The result of that crisis is that Mexico last week had to pay 25 percent interest to roll over a small portion of its international debt—25 percent interest. Well, 25 percent, in 4 years, 100 percent. The only way to get out from under this sea of red ink is to adopt—in my opinion and that of many on this floor—the balanced budget amendment.

The public knows, they understand that no family or business can survive very long when year in and year out the principle of the debt grows and all of its borrowing is dedicated to pay off the interest that the debt holders hold.

As we begin this debate, we should not forget that a point or two or three change in the interest rates can absolutely devastate our projections and, as a consequence, our capacity to effectively govern and spin our Nation's economy into a spiral of bankruptcy.

So, Mr. President, I urge my colleagues to break with the past and begin moving this Government away from the verge of bankruptcy. And those who have doubts about the appropriateness of this balanced budget amendment, please reflect on what these figures mean. Some say we learn by history and others say not much. Let Members recognize the reality. We did not have the self-discipline to address this. It has been proven by our inability each year to bring our revenues in line with our expenditures.

Others have said that we cannot do this until we spell out what the cuts are going to be. We saw the same extended debate year after year on what to do with the military bases. And we finally concluded that the only way to address base closings was to put together a commission. The commission would evaluate the priorities, and we in this body would vote up or down on the Commission's recommendations.

With the balanced budget amendment, it is the same set of circumstances, Mr. President. To try and spell out first what the cuts will be is simply a copout. We do not have the self-discipline. If those who say, well, this is a very dangerous proposal to mandate a balanced budget because it may affect some of our social programs, I would ask them to reflect on the reality if we do not maintain a healthy economy, a monetary system that is stable, that provides confidence, how in the world are we going to meet those obligations if there is a breakdown in investor confidence, a collapse of our monetary system, because of one single thing—too much debt.

It has happened in South America, time and time again. It has happened in Mexico. Canada is paying over 20 percent of their total budget in interest on their debt. They have a government health care system that is costing them more than their initial projection. They are among the most heavily taxed population in North America. They are facing a monetary crisis because they have nowhere to go. They cannot generate more revenue in order to float more debt. They have to pay more interest, and the consequences, Mr. President, are extremely significant and extremely severe.

So, I would ask my colleagues to reflect on this reality as we consider this issue. The previous posture that we have had of increased debt has been fraught with inability to bring together the reality associated with any fiscal matter, and that is revenue balancing expenditures. We have that set of facts today. We are not living up to it and we have little opportunity other than to take this measure which may seem extreme to some.

Mr. President, I have no further remarks. I know others are anxious to speak. But I wonder if I may be granted 30 seconds under morning business to simply introduce a technical amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

AMENDMENT SUBMITTED TO S. 333

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to speak for the purpose of submitting an amendment to legislation within the jurisdiction of the Senate Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I send to the desk an amendment to S. 333, the Department of Energy Risk Management Act of 1995, and ask unanimous consent that it be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I yield my remaining time, and I thank my colleague for the courtesy he extended to me.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. HATCH. Mr. President, I will not be long. I just wanted to make a couple of points on the balanced budget amendment debate.

I want to mention today's New York Times, February 3, an article entitled "Clinton's Budget Falls Well Short of G.O.P. Demands;" subtitle "No Balance by Year 2002," another subtitle, "His Message Foresees Deficit of About $190 Billion Each Year for Next Decade." It is by Robert Pear. It is a very interesting article:

> WASHINGTON, Feb. 2.—President Clinton will propose $1.6 trillion of spending in his 1996 budget, and he would more than offset the cost of a middle-class tax cut with savings in other areas of the budget. But he still falls far short of Republican demands for a balanced budget in the year 2002.
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> Mr. Clinton's budget request, to be submitted to Congress on Monday, shows a deficit of $196.7 billion for the 1996 fiscal year, up slightly from the $192.5 billion that he projects for this year. Although his Budget Message boasts that his economic policies have sharply reduced the deficit from record levels, he says the deficit will probably stay in the range of $190 billion through 2005.

Mr. President, I ask unanimous consent the full article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CLINTON'S BUDGET FALLS WELL SHORT OF G.O.P. DEMANDS—NO BALANCE BY YEAR 2002

HIS MESSAGE FORESEES DEFICIT OF ABOUT $190 BILLION EACH YEAR FOR NEXT DECADE

(By Robert Pear)

WASHINGTON, Feb. 2.—President Clinton will propose $1.6 trillion of spending in his 1996 budget, and he would more than offset the cost of a middle-class tax cut with savings in other areas of the budget. But he still falls far short of Republican demands for a balanced budget in the year 2002.

Mr. Clinton's budget request, to be submitted to Congress on Monday, shows a deficit of $196.7 billion for the 1996 fiscal year, up slightly from the $192.5 billion that he projects for this year. Although his Budget Message boasts that his economic policies have sharply reduced the deficit from record levels, he says the deficit will probably stay in the range of $190 billion through 2005.

The budget is always a political document, and a theme of Mr. Clinton's 1996 budget is that he wants to "work with Congress," now controlled by Republicans. Indeed, he appears to be in a race with them as he tries to eliminate or consolidate programs or transfer them to the states or to private industry.

Parts of the Clinton budget echo Speaker Newt Gingrich, "The American people remain deeply dissatisfied with how their Government works," the budget says. "Many programs, perhaps even whole agencies, have outlived their usefulness."

In confidential galley proofs of the budget, Mr. Clinton says he can "save $2 billion by ending more than 130 programs" and "provide better service to Americans by consolidating more than 270 other programs."

For example, he asks Congress to abolish the Interstate Commerce Commission and to eliminate the role of the Army Corps of Engineers in smaller projects like the control of beach erosion, "local flood protection" and the construction of recreational harbors.

He says private meteorologists should take over some functions of the National Weather Service. He would rely on private businesses to track and communicate with spacecraft like the space shuttle. And he asks Congress to terminate 37 small "low-priority" education programs.

But budget documents show that Mr. Clinton will propose a major increase in his national service program, Americorps, which has been denounced by Mr. Gingrich as a form of "coerced volunteerism."

The number of participants, now 20,000, would rise to 33,000 at the end of this year and 47,000 next year under Mr. Clinton's proposal. For the corps' parent agency, which operates several volunteer programs, he requests $1 billion in 1996, an increase of $290 million over this year's appropriation.

Mr. Clinton says his economic policies have slashed the deficit from the record $290 billion in 1992. Still, his proposals would require additional Federal borrowing of nearly $1 trillion over five years, and the Federal Government would spend $194 billion more than it collects in revenue in the year 2000. Mr. Gingrich's Contract With America calls for eliminating the deficit by 2002, but the

Republicans have not specified the cuts needed to achieve that goal.

The President's $1.6 trillion budget for 1996 breaks down this way: $262 billion, or 16 percent of the total, for the military; $351 billion, or 22 percent, for Social Security; $271 billion, or 17 percent, for Medicare and Medicaid, and $257 billion, or 16 percent, for interest on the Federal debt, the accumulated total of Federal borrowing.

Only $21 billion, or 1.3 percent of the total, is for foreign aid and other international activities.

The President and the Republicans have agreed that Social Security is off limits in their quest for savings, and Mr. Clinton has said that he will not tamper with Medicare, the Federal health insurance program for people who are elderly or disabled.

That means that a large share of the cuts must come from domestic programs subject to annual appropriations: activities like law enforcement, scientific research, highway construction and environmental protection. These account for $266 billion, or 17 percent of the budget.

The remainder—$184 billion, or 11 percent of the total—is for benefit programs like welfare, food stamps, Civil Service pensions and veterans' benefits, which are automatically available to people who meet certain eligibility criteria.

In his Budget Message, Mr. Clinton says: "Now that we have brought the deficit down, we have no intention of turning back. My budget keeps us on the course of fiscal discipline by proposing $81 billion in additional deficit reduction through the year 2000."

Mr. Clinton estimates that his tax cut, including a new tax credit for children and a new deduction for college expenses, will cost the Treasury $63 billion over five years. But he says, "I am proposing enough spending cuts to provide more than twice as much in budget savings—$144 billion—as the tax cuts will cost." So he asserts that the net effect would be to save $81 billion over five years.

The savings fall into four categories: $26 billion from radically reorganizing three Cabinet departments and two agencies; $81 billion from extending a cap on military and other discretionary spending through the year 2000; $32 billion from benefit programs, and $5 billion from lower interest payments on the Federal debt.

Here are other highlights of the President's budget:

The Federal deficit would rise to $213 billion in 1997, drop back to $196 billion in 1998 and then "fluctuate in a narrow range" around that level for several years. But the economy would continue to grow, so the ratio of the deficit to the gross domestic product would be lower than at any time in two decades.

Mr. Clinton proposes an across-the-board pay raise of 2.4 percent for Federal civilian employees military personnel. The budget includes $3 billion for the raises, which would take effect in January 1996. There would be raises of 3.1 percent in 1997 and 2.1 percent in each of the next three years.

The President proposes to increase fees charged for registration of securities and other activities at the Securities and Exchange Commission. New revenue is expected to total $1.7 billion over five years.

Mr. Clinton would require the Federal Deposit Insurance Corporation and the Federal Reserve to charge fees for examination of state-chartered banks and bank holding companies. This proposal is expected to raise $500 million over five years.

Medicare for the elderly, and Medicaid, for poor people, are growing more slowly than predicted in previous budgets. But the growth is still phenomenal. Over the next five years, Medicare outlays are expected to rise 9.1 percent a year, while Medicaid grows 9.3 percent a year.

The President's budget says that health programs account for almost 40 percent of the total increase in Federal spending over the next five years. He asserts that the deficit could be eliminated in less than a decade if per capita spending on Medicare and Medicaid increased no faster than consumer prices in general.

But Mr. Clinton, battered by his experience with health care legislation last year, offers no major proposals to rein in the cost of Medicare. He said in December that he would provide tax relief to the middle class "without any new cuts in Social Security or Medicare."

And many Democrats expect to reap a political windfall if Republicans alarm the elderly with schemes to save money in Medicare. Mr. Gingrich said this week that Republicans would "rethink Medicare from the ground up."

The budget provides details of Mr. Clinton's previously announced plan to "reinvent" the Departments of Energy, Transportation and Housing and Urban Development, the Office of Personnel Management and the General Services Administration.

Mr. Clinton said the staff of the personnel agency, which now has 5,400 employees, would be cut by one-third. And the staff of the General Services Administration, the central housekeeping and supply agency for the Government, with 16,800 employees, will be halved, the budget says.

In keeping with the new spirit of federalism, Mr. Clinton proposes to consolidate scores of Federal grants and let local officials decide how to use the money. The Transportation Department now has 30 separate grants for construction and repair of highways, mass transit systems, railroads and airports. Mr. Clinton would merge them into a "unified transportation grant" and $10 billion a year.

The Department of Housing and Urban Development would merge 60 programs into eight worth $26 billion next year. Mr. Clinton denounces public housing as "a trap for the poorest of the poor." He proposes to "demolish thousands of severely deteriorated, mostly vacant units," and he says that "by 1998 no housing authority will receive funds directly from HUD." Instead, tenants will get vouchers that they can use to pay rent in any public or private housing.

Mr. Clinton describes education and training as a "ladder into the middle class," but he would take the Government out of the business of guaranteeing loans for college students. By July 1997, all new loans would be made directly by the Government, eliminating the subsidies and fees now paid to commercial banks and other private lenders. Mr. Clinton says this change would save $5 billion over five years.

Like Ronald Reagan in 1986, President Clinton proposes to sell four Federal agencies that provide electric power at subsidized rates to millions of people in Western and Southern states. He proposes to convert a fifth such agency, the Bonneville Power Administration, to a Government corporation, so it could "operate more efficiently."

Mr. HATCH. Mr. President, let me just say that this is "business as usual." I do not blame the President. It is a tough job for him, and he knows he has to deal with the people up here, so he is trying to do the very best he can. But even doing the best he can, he is talking about $190 billion deficits for all of the next decade and then he does not know where it is going to go from there. That is assuming that all of his economic assumptions of low interest and low inflation rates are kept constant for that full 10 years. Anybody who believes that has just not listened to some of those who have been talking about increases in the minimum wage.

There are good arguments for increases in the minimum wage and excellent arguments against. But there is no doubt in anybody's mind if we increase the minimum wage 90 cents, to $5.15 an hour, that it is going to be an upward push on interest rates and inflation, and a lot of young people are going to lose jobs. A lot of small businesses are going to go out of business because they just cannot afford to pay that.

A lot of young people who need the discipline that comes from work who are uneducated, unskilled, and do not have jobs currently are going to be left as the welfare poor for the rest of their lives because business people cannot afford to hire them. So they pull in their horns, and they make do with less. They work longer and harder hours, or they go out of business. But whether it is a good thing or bad thing on the minimum wage, to increase the minimum wage, which the President says he is going to do, there is no doubt in anybody's mind that is an upward push for inflation.

By the way, it is a wonderful fix. And I have to give those who support organized labor a lot of credit for this because when they push up the minimum wage at the bottom, by almost 20 percent in this case, then all of the unionized businesses and everybody else can demand that they be given the same benefits at the top. When they push up at the bottom, those who really have the jobs are trained to make it anyway can then demand higher wage rates at the top.

I think it is a terrific scheme that has worked for years. And the American people buy off on it because they think, "Well, how could anybody live on a minimum wage of $4.25 an hour?" That is not the issue. A lot of people who make minimum wage who had the minimum-wage jobs are high school students, college students, and kids coming into the workplace for the first time who are uneducated, and unskilled. It is their chance to get into the workplace.

But I am not here to argue the merits on the minimum wage. What I am here to say is that the President admits that by his budget over the next 10 years it is business as usual. We are going to have $190 billion-plus deficits every year for the next 10 years. And then only God knows what is going to happen beyond that.

That is why we need a balanced budget tax limitation constitutional amendment. That is why we need this amendment. It is only one of the reasons, but it certainly is a prevailing positive dominant reason.

Let me just say this to show you how bad it is. Newsweek magazine, in a humorous little side article said, "While Congress Slept"— I think it is their way of taking a sarcastic jab at the President's rather lengthy State of the Union speech.

It says:

> During its 81-minute length, President Clinton's State of the Union address was not the only thing going on in the U.S.

Then it puts in parenthesis:

> Figures based on national averages.

It says:

> During that 81-minute speech, the total increase in the national debt was $40,756,284.

Just in those 81 minutes our debt went up almost $41 million.

> Total health care expenditure, $9,847,602.

Just in that 81 minutes.

The number of people losing health insurance, 4,170; number of murders were 4; number of robberies 101; babies born to teens, 80; illegal aliens entering the United States, at least 46; alleged total savings for MCI customers, $99,387.

This is data based on 1992 through 1995 sources, the Uniform Crime Report, Public Health Service, Immigration and Naturalization Service, Kaiser Family Foundation, Bureau of Public Debt, MCI.

I presume from that article seriously that no President will talk more than 15 minutes hereafter in a State of the Union speech. It may not be from that article. It may be just be from having lived through the experience this last time.

Humor aside, I think it is tough to be President of the United States, and I think this President is doing the best he can knowing that we up here in Congress are not going to be serious about balancing the budget without this fiscal mechanism.

I commend President Clinton for worrying about it. I commend him for working on it. I cannot commend more tax increases, although some of my colleagues believe that is one of the answers along with reductions in spending. I certainly can support reductions in spending. It is a tough job being President of the United States I have to say that I want to support this President as much as I can. I know it is tough. I have learned through the years that sometimes they take far too much unfair and unjustified criticism.

I thought Newsweek was really humorous. I meant it in a spirit of humor in reading it into the RECORD.

But the point I am making here is that for 10 more years under the best of projections, assuming every economic point remains the same, the President admits we are going to have at least $190 billion deficits each and every year. There is no doubt we are going to have deficits, even if we pass the balanced budget amendment, up to the year 2002, and maybe it will have to go even beyond that.

But it makes a very important point. For those who are claiming that before we pass this balanced budget amendment and submit it to the States that there ought to be a right to know what we are going to do for the next 7 years. We have already known what the President is going to do. There are going to be $190 billion deficits for each of those years or more. And I am willing to bet anybody right now it is going to be more if this balanced budget amendment does not pass. Those deficits are going to be a lot higher.

I think the burden is on the President and on the opponents of this balanced budget amendment to show where they are going to cut the budget. After all, for most of these last 60 years, Democrats have been in power. I think the burden is on them. They have never once shown us how they will get to a balanced budget without a balanced budget constitutional amendment. I think they have to show how they are going to cut the budget, especially since most of the opponents are saying that the balanced budget amendment is unnecessary. Why, we should just balance it now. I have heard that for 19 years. I have heard that for 19 years, and we are no closer to balancing the budget today than ever, and the President's announcements today in the New York Times article indicates that is true. There are some rosy scenarios and economic projections by the White House that they might do better than $190 billion a year but they pretty well admit it will be at least $190 billion a year over each of the next 10 years.

Is that the legacy we want to leave to our children, to our grandchildren? Is that the message we want to send to America? It certainly is the message that is being sent, that, if you do not have a balanced budget amendment, is what we are going to do? This is the best the President can do. Frankly, if he does that well under current circumstances with the Congress unwilling to help him and without the mechanism in place giving the incentives to help, then I have to commend him that he is doing better than most. But is it good enough for our children? Is it good enough for our grandchildren? Is it good enough for the future? Are America's hopes and dreams being taken away because we are unwilling to do what is necessary? I want to tell you. It is.

I want to tell you that article in the New York Times is devastating to those who are arguing against the balanced budget amendment. I have to say that it is time for us to put things in order and do what is right.

I yield the floor. I know the Senator from Maryland wants to talk.

Mr. DASCHLE. Mr. President, the majority leader and I both have amendments that we would like to lay down. It will take but a matter of a couple minutes and we could then proceed with the Senator's address.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Would that be acceptable to the Senator from Maryland?

Mr. SARBANES. I am obviously not going to object to that request from the minority leader.

Could I ask the majority leader what is his intention with respect to debating this matter today and next week? Because I could just as easily withdraw from the field and turn it over and then I will make my speech next week sometime.

Mr. DOLE. I say to the Senator from Maryland, I think this would be about a 1-minute operation here. We are not going to debate any amendments. We are just going to lay down the amendments and debate those later this afternoon and on Monday. We have not yet decided when the vote would come or a motion to table in relation thereto, whether it would be on Tuesday, or I think the Democratic leader was hoping it might be on Wednesday. So we will be discussing that.

But we think we have had 5 days now of debate. I must say, it has been pretty good debate, very few interruptions with quorum calls. But I think we are now at the point where we want to start moving on these amendments. It seems to me the American people want a balanced budget amendment, and they are right. There will be plenty of time for debate. But we are not going to let this stretch out for another 3 weeks if we can help it.

I will try to accommodate the wishes of the Democratic leader when the vote comes on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. What is the order?

The PRESIDING OFFICER. The Democratic leader.

Mr. SARBANES. What will happen after the conclusion of this recognition?

The PRESIDING OFFICER. The Senator from Maryland will be recognized.

Mr. SARBANES. Was that part of the request?

The PRESIDING OFFICER. It was.

Mr. SARBANES. I thank the Chair.

MOTION TO COMMIT—AMENDMENT NO. 231

(Purpose: To require a budget plan before the amendment takes effect)

Mr. DASCHLE. Mr. President, I move to commit House Joint Resolution 1 to the Judiciary Committee, to report back forthwith with the following substitute amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] moves to commit House Joint Resolution 1 to the Judiciary Committee to report back forthwith with amendment numbered 231.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the motion and amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification. The article shall be submitted to the States upon the adoption of a concurrent resolution as described in section 9 of the article. The article is as follows:

"ARTICLE —

"SECTION 1. Upon the adoption by the Congress of a concurrent resolution on the budget establishing a budget plan to balance the budget as required by this article, and containing the matter required by section 9, total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.

"SECTION 9. (a) In order to carry out the purposes of this article, the Congress shall adopt a concurrent resolution setting forth a budget plan to achieve a balanced budget (that complies with this article) not later than the first fiscal year required by this article as follows:

"(1) a budget for each fiscal year beginning with fiscal year 1996 and ending with that first fiscal year (required by this article) containing—

"(A) aggregate levels of new budget authority, outlays, revenues, and the deficit or surplus;

"(B) totals of new budget authority and outlays for each major functional category;

"(C) new budget authority and outlays, on an account-by-account basis, for each account with actual outlays or offsetting receipts of at least $100,000,000 in fiscal year 1994; and

"(D) an allocation of Federal revenues among the major sources of such revenues;

"(2) a detailed list and description of changes in Federal law (including laws authorizing appropriations or direct spending and tax laws) required to carry out the plan and the effective date of each such change; and

"(3) reconciliation directives to the appropriate committees of the House of Representatives and Senate instructing them to submit legislative changes to the Committee on the Budget of the House or Senate, as the case may be, to implement the plan set forth in the concurrent resolution.

"(b) The directives required by subsection (a)(3) shall be deemed to be directives within the meaning of section 310(a) of the Congressional Budget Act of 1974. Upon receiving all legislative submissions from committees under subsection (a)(3), each Committee on the Budget shall combine all such submissions (without substantive revision) into an omnibus reconciliation bill and report that bill to its House. The procedures set forth in section 310 shall govern the consideration of that reconciliation bill in the House of Representatives and the Senate.

"(c) The budget plan described in subsection (a) shall be based upon Congressional Budget Office economic and technical assumptions and estimates of the spending and revenue effects of the legislative changes described in subsection (a)(2).".

AMENDMENT NO. 232

Mr. DOLE. Mr. President, I send an amendment to the desk to the Daschle motion to refer.

The PRESIDING OFFICER. The clerk will report. The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 232.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.The amendment is as follows:

Strike all after the word "forthwith" in the instructions and insert the following: "H.J. Res. 1, and at a later date the Judiciary Committee, after consultation with the Budget Committee, shall issue a report the text of which shall include:

"This report may be cited as the "Need To Lead Report."

"If Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, within 60 days thereafter, the President of the United States shall transmit to the Senate and the House of Representatives a detailed plan to balance the budget by the year 2002."

AMENDMENT NO. 233 TO AMENDMENT NO. 232

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report. The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. Dole] proposes an amendment numbered 233 to amendment No. 232.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

Strike all after H.J. Res. 1, and insert the following: ", and at a later date the Judiciary Committee, after consultation with the Budget Committee, shall issue a report the text of which shall include:

"This report may be cited as the "Need To Lead Report."

"If Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, within 59 days thereafter, the President of the United States shall transmit to the Senate and the House of Representatives a detailed plan to balance the budget by the year 2002."

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. I thank the Senator from Maryland.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, what is the parliamentary situation? Are we on the balanced budget amendment?

The PRESIDING OFFICER. We are on the balanced budget amendment.

(Mr. GRAMS assumed the chair.)

Mr. SARBANES. Mr. President, I very strongly believe that adding a balanced budget amendment to the Constitution of the United States would be both economically unwise and constitutionally irresponsible. The amendment would have the substantial risk of promoting instability, retarding economic growth, and shifting the basis of our democracy from majority to minority rule. The amendment raises very difficult and unanswerable questions concerning implementation, inviting fiscal paralysis or court intervention in the conduct of economic policy, or both.

There is nothing in the Constitution today that prevents the President from submitting, or the Congress from passing, a balanced budget. Tampering with the Constitution is no way to restore a sense of fiscal responsibility to our system. Instead, it is yet another device to put off hard decisions until some unspecified point in the future. I note that in August of 1993, when we passed the major deficit reduction package, many of those who are now so strongly pushing the balanced budget amendment to the Constitution voted against a good, strong dose of deficit reduction.

I want to address some of the analogies that are made with respect to this proposal. Support for the balanced budget amendment is often based on the claim that since State and local governments are required to run balanced budgets, the Federal Government ought to do the same. Not only is this argument wrong factually—most States and local governments run deficits under the accounting principles used to compute the Federal budget—it also fails to comprehend the different responsibilities of the Federal and State governments.

The State analogy is superficially attractive. Most States have some form of balanced budget requirement, either statutory or constitutional. But most States maintain capital budgets, which are not subject to the balancing requirement. Others have developed off-budget funding mechanisms to circumvent the balancing requirement, and some use accounting rules which count some form of borrowing as "revenue" for purposes of the balanced budget requirement.

The first point to make is that if the State and local governments kept their books the way the Federal Government keeps its books, they would not have balanced budgets, because they have capital budgets financed by borrowing. They specifically provide that capital projects are going to be paid for by borrowing money. The rationale for that, of course, is a good one. You are investing in a capital asset which you will use over a period of many years and, therefore, it makes sense to borrow in order to build it now, have its use over time, and pay it off over time.

The official data on the debt incurred by State and local governments give a very different picture from the often-used assertion that State and local governments balance their budgets. In fact, the figures on this chart shows that the total debt of State and local governments has been growing. In 1972, State and local debt was a little under $100 million. Twenty years later this debt was almost $1 trillion.

How did this happen if State and local governments have to balance their budgets? How is it that their debt increased? Everyone says, "You ought to balance your budget at the Federal level. The State and local governments balance their budgets." But, in fact, their debt load has been increasing.

There was a hearing held only about 10 days ago before the Joint Economic Committee. Two Governors testified that having a balanced budget requirement at the State level assured them a good credit rating. Why do they need a good credit rating if they always balance their budget? They need a good credit rating because they are borrowing, and they plan more borrowing. Under questioning, the Governors also had to acknowledge they are only required to balance their operating budget, and that they make active use of a capital budget for which borrowing is permitted.

We do not have a capital budget at the Federal level. Yet, the balanced budget amendment to the Constitution would require that we bring the entire budget—what others divide into operating budget and capital budget—into balance—something that State and local governments do not do. As a matter of fact, businesses and individuals—except for very wealthy individuals—do not do it.

How many individuals do you know who can buy their house out of cash, or buy an automobile out of cash, or buy a heavy consumer appliance out of cash? Most people make such purchases by borrowing, and throw their budget out of balance.

Second, we should not put the fiscal policy of the National Government into the same constraint as State governments. No national government in the industrialized world has a constitutional requirement to balance its budget. This is because national governments have responsibilities for the overall performance of the nation's economy, which requires them to use fiscal and monetary policy to encourage economic growth and to moderate the destructive effects of business cycle fluctuations.

A constitutional amendment requiring a balanced budget each year would not allow for fiscal policy changes over the business cycle. It would eliminate half of the macroeconomic policy apparatus. It would force the Government to try to rely entirely on monetary policy, to promote the dual objective of adequate growth and price stability.

A rigid balanced budget requirement would have its most perverse effect during recessions. It would require the deepest spending cuts or tax increases in recessions when revenues automatically fall far short of expenditures. We have learned over the last 50 years how to be more flexible with fiscal and monetary policy in responding to business cycle downturns. As a result, we have experienced significantly less violent downturns than before. This chart, which I consider very important, illustrates the moderation of downturns that have accompanied the more flexible fiscal policy of the last 50 years.

This chart shows the movement in real gross national product since 1890 as a percentage of GNP.

This chart shows that we used to have violent fluctuations in our gross national product prior to the creation of economic stabilizers. We had a boom-and-bust cycle. The economy would come down so far that we would have negative growth, down in the 10-percent range.

The decrease here is the Great Depression. But look at these other large fluctuations from boom to bust—the so-called great panics.

In the postwar period, because we have used fiscal policy as an automatic stabilizer in order to offset the downturns, we have managed to avoid these very deep declines in gross national product, and the very high unemployment rates that we experienced as a consequence of the boom-and-bust cycle and these great panics.

Mr. President, the proposed amendment to the Constitution does not require a balanced budget over the business cycle—it requires it each and every year. I emphasize the point—this constitutional amendment requires a balanced budget in each fiscal year.

The question then is, how do you deal with an economic downturn? Because I think it is clear that if you start into an economic downturn and you try to balance the budget, you only drive the economy further into a recession.

That is what used to happen. As the chart demonstrates, we had these wild fluctuations, we had these huge drops in GNP, 10 percent negative drops in GNP through the first part of this century. We had a boom-and-bust cycle. You do not have to read much American history to have an appreciation for that.

What did we do that improved the situation so we did not always incur this particular problem? In the post-World War II period, we were able to avoid the steep negative drops in GNP. We still get fluctuations in GNP, but GNP was almost always in the positive range and the boom-bust cycle was substantially diminished. This occurred because we put into place what are called fiscal stabilizers.

When the economy would go into a downturn people's personal income would drop, we then had a loss in tax revenues and we started paying people unemployment insurance, nutrition and health supplemental programs, and so forth. So we stabilized their after-tax income while their gross income was dropping. We managed to hold up their after-tax income. This was an offset to the decline in the economy, and as a consequence, we experienced much less violent economic downturns.

If we start into a downturn, people lose their jobs, and tax revenue declines. A larger number of people receive unemployment insurance and other income support programs because they are out of work. These programs help them sustain their families. As a consequence of the downturn in the business cycle, we start running a deficit in the budget.

If at that moment, in order to comply with the balanced budget amendment, we have to take action to eliminate the deficit, namely, cut spending and raise taxes, we are only going to depress the economy even further. That would turn an economic downturn into a recession and a recession into a depression.

The automatic stabilizers worked in order to offset this economic downturn for families so that their after-tax income was not as harshly hit as their gross income. Without those income stabilizers, any downturn, will be intensified and exaggerated, and we will have a far worse economic situation.

Third, let me emphasize we are considering changing the Constitution, our fundamental doctrine. The Constitution has been amended only 27 times over the 206-year history of the Republic. Ten of the amendments came right in the beginning in the Bill of Rights. Effectively, it has been amended only 17 times in 206 years. Immediately after the Constitution was written, they adopted the first 10 amendments as the Bill of Rights. It was a condition of the ratification of the Constitution by certain of the States. In other words, they were not prepared to ratify it unless they were assured there was going to be a Bill of Rights.

Over the next 205 years, we have amended the Constitution only 17 times. Obviously, that means it is not a matter to be taken lightly. It is not a matter to be done for political expediency. It is obviously a matter whose consequences and implications need to be very carefully thought through.

I have tried to address the analogy that is made with respect to this balanced budget proposal with State and local governments, private individuals, and businesses. This argument, "Well, everyone else balances their budget, why do we not balance ours?" I pointed out that there is no capital budget at the Federal level, unlike State and local governments, unlike businesses, and unlike what is the practice of most individuals and families.

After all, only the very, very wealthy can purchase all of their capital assets out of cash. The overwhelming percentage of Americans do not balance their budget every year. Millions of Americans are buying homes by running a huge unbalanced budget the year they make the purchase. They go out and borrow money in order to do it. No one claims that is not wise, assuming the amount of the mortgage bears a reasonable and proper relationship to the amount of their income.

The reason it is prudent to borrow in this case is that they can sustain the payments over time and have the use of the capital asset now. Everyone says we want to encourage homeownership and try to make it easier for people to buy homes. We have one of the highest homeowning rates in the world. It has worked very well. Businesses do the same thing. Businesses make capital investments. They set up a part of their budget for capital investments, and then they borrow the money. They may have more debt now than they had 10 years ago, but as a consequence of those investments, they have expanded the company, they have increased their sales, they have increased their profits. They are in a stronger position today than they were.

We have even reached the point where we regard it as wise on occasion for people to borrow in order to get an education, because it enhances their earning power and the enhancement of their earning power will more than cover this debt which they incur in order to obtain an education.

I once said to someone, "Would you rather be someone who had $50,000 in income and 2,000 dollars' worth of debt or $5,000 in income and 1,000 dollars' worth of debt?" I have yet to find someone who would not rather be the person with $50,000 in income and $2,000 in debt. I say, "How can that be? You have 2,000 dollars' worth of debt, the other person has 1,000 dollars' worth of debt. You have more debt." And they say, "Yes, but I have much more income. I have 50,000 dollars' worth of income and the other person only has 5,000 dollars' worth of income. My ability to handle 2,000 dollars' worth of debt with $50,000 income is far better than their ability to handle 1,000 dollars' worth of debt with $5,000 income."

So occasionally we can incur debt for worthwhile purposes. Debt incurred for productive investment that enhances your capabilities, enhances your economic output and your economic productivity can be wise.

Second, I talked about fiscal stabilizers and how we have succeeded, to some degree, in offsetting the wild fluctuations in the business cycle so we no longer get these deep depressions with very large percentages of the population thrown out of work.

Now, third, I want to talk about the lack of wise choice among spending categories that I believe would be prompted by a balanced budget amendment. I believe it would encourage irrational economic policy by not allowing important distinctions between different types of expenditures. In the version of the amendment that is before the Senate, all outlays are lumped into a single aggregate which cannot exceed the aggregate of total revenues. Economists recognize, however, that different types of spending have different effects on the economy and they ought to be treated differently in the conduct of fiscal policy. Let me give just a couple of examples.

Take Social Security and unemployment compensation. Both of these programs are designed to build up surpluses in advance of anticipated needs for spending. In Social Security, we build up a surplus to provide for the retirement of the baby boom generation. So at the moment we are accumulating a surplus in the Social Security trust fund. The unemployment insurance trust fund builds up surpluses during good times to pay for benefits during recessions.

Under the balanced budget amendment these programs could continue to build up surpluses in advance in anticipation of needs, but those surpluses could not be used as a balancing item against future expenditures.

We have a conscious policy of building up the trust fund balances. The intention is to use them at a later point. That is a responsible budgeting policy. Yet, if you have an amendment that requires a balanced budget every year, you could not draw down those surpluses in later years because that would be an excess of outlays over revenues. So this requirement would fundamentally undermine the economic prudence which is associated with anticipatory budgeting.

I am not sure people have really thought this through. You would have under the proposal a requirement each year that the budget has to be in balance. You have built up the trust funds with the intention of using the surpluses in the outyears. The outyear comes. You cannot draw the fund down because you would have an excess of outlays over revenues in that year, which is what the amendment prohibits. The amendment says, "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year." So you would be stymied from using this trust fund which had been built up for the very purpose of being used in the outyears as part of prudent anticipatory budgeting.

Amending the Constitution would also encourage irrational economic policy by failing to allow for important distinctions between types of spending. The amendment fails to separate investment spending from spending for current consumption.

Running deficits to finance current consumption during expansionary periods is unwise for it shifts onto future generations of taxpayers the task of funding today's spending. In other words, it is not a prudent policy to borrow to fund current consumption because what you are doing is consuming today and placing the burden on tomorrow's generation. But capital investment spending as distinct from current consumption is a different matter. Today's capital investment increases the rate of growth in the economy, yielding a larger stream of future income. Because of the possibility of enhanced future income, it makes economic sense to finance some portion of capital investment with borrowed funds, in effect claiming part of that future income stream to finance the current investment.

The balanced budget amendment does not recognize this important economic distinction between consumption and investment spending and would require all investments to be fully funded with tax revenues in each fiscal year. If households were to follow such a budget strategy and never borrow, only a tiny minority of American families would own houses and far fewer Americans than is currently the case would own automobiles or major appliances. If businesses were to follow such a strategy, they would soon be driven from the marketplace by those businesses willing to borrow in order to finance prudent and productive new capital investment.

So a balanced budget amendment which makes no distinction between consumption and investment would in effect undercut our ability to accelerate the pace of national investment. In fact, it is my strong view it is almost certain that investment spending by the Federal Government would bear much of the burden of trying to move toward a balanced budget if this amendment were to be put into place.

Let me turn to the disruption that I think would be caused by this balanced budget amendment. None of the proposals for a balanced budget amendment contains any detail concerning how such provisions would be implemented or enforced.

They have general articles.

> The Congress shall enforce and implement this article by appropriate legislation which may rely on estimates of outlays and receipts.

I understand in the debate in the Judiciary Committee they said that the estimates can be off by 2 or 3 percent.

I do not quite understand how you would square that with the requirements of the amendment, and I think it reflects some of the lack of rigor in analyzing this proposal.

Fiscal policy is a complex task, and I think it would be disrupted or, indeed, paralyzed by struggles over implementing a vague constitutional balanced budget requirement. This version of the balanced budget amendment that is before us states: "Total outlays shall not exceed total receipts for that fiscal year."

If revenues unexpectedly fall short of expectations, would this provision mean that the Government would have to close down toward the end of the fiscal year in order to keep outlays from exceeding receipts? Would we have to stop paying benefits to Social Security recipients, to veterans, or abrogate contracts under agricultural stabilization programs? To what extent would the President's ability to respond to a national security problem be impeded and undercut by this provision?

The proposal says that the provisions can be waived "for any fiscal year in which a declaration of war is in effect," or they "may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by joint resolution, adopted by a majority of the whole number of each House, which becomes law."

The Congress takes a month recess in August. Congress is gone. Let us assume we have reached a magical state here and we have a balanced budget. You cannot throw it out of balance. You are prohibited from doing that by the Constitution. There are those who said, we are going to have this flexibility here.

The Congress is gone. A national security threat emerges. The President has to respond. The necessity to respond requires the President in effect to make expenditures beyond what had been projected. The consequence of doing that, of course, is to throw the budget out of balance. You have just violated this provision in the Constitution. How do you address that situation?

The lack of clarity, of precise meanings, would also certainly in my judgment lead to court involvement in both defining and implementing economic policy. Although the amendment is silent as to which parties have the standing to bring suit against the Government for enforcement of the amendment, arguably any aggrieved taxpayer would have standing to sue if they believed the amendment was being violated. And although no one can state with certainty what role the courts will play in interpreting the amendment, I think it is reasonable to expect ample opportunity for litigation in court interpretation of such terms as outlays, receipts, and debt.

So, in addition to shifting the debate on fiscal policy from the President and the Congress to the courts, this amendment raises the real possibility that the courts would eventually be required to interfere with the management of fiscal policy just as they have on occasion taken over the management of school districts or of prison systems. Managing fiscal policy is not an appropriate job for the courts, yet passage of this amendment would accelerate a trend in this direction begun when the Supreme Court declared unconstitutional one of the enforcement provisions of the first Gramm-Rudman budget legislation.

Concern over the obvious economic damage which could be done by a rigid implementation of the balanced budget amendment has led its supporters to create the so-called escape clause, to permit a suspension of the balanced budget requirement in time of war or upon a three-fifths vote of the whole number of each House.

I might note this requirement of the whole number means that you have to produce 60 votes in order to do it. An abstention or an absence would be a negative vote. The requirement to increase revenues says "approved by a majority of the whole number of each House." In other words, it would need 51 affirmative votes. Suppose you had 8 or 10 Members missing. It is not a majority of those present and voting, it is a majority of the entire membership of the body.

The override provision raises two questions. First, I find it hard to understand the logic of waivable principles in the Constitution. In fact, it seems to me a very strong argument why this should not be in the Constitution. The Constitution is designed for statements of fundamental principle, not of matters to be waived away. The three-fifths override provision contained in the proposal before us is essentially a statement that budget balance is not an enduring principle but a matter of current judgment. No other constitutional principle—free speech, individual rights, equal protection—can be waived by a three-fifths vote of both Houses. We do not have other provisions in the Constitution that are waivable.

Second, such a waiver provision shifts the balance of power from majorities to minorities in our society, violating the democratic principles upon which our Government is based. A three-fifths supermajority requirement effectively gives control over fiscal policy to a minority in either House. In other words, a minority in only one of the two Houses has the deciding power. I submit this is not what the framers of the Constitution had in mind when they established our democratic form of government.

Writing a balanced budget requirement into the Constitution will undercut countercyclical economic policy. It will undermine our ability to make the capital investments in the future strength and productivity of our economy, it will burden the Constitution and the courts with issues which should properly be decided by the President and the Congress, and it will shift the principles of our democracy from majority to minority rule.

Gladstone, the great British statesman, regarded the Constitution as the finest document of government devised by man, and I think there are many, many who share that opinion. The Constitution is not something to be dealt with lightly. It has not been dealt with lightly over the course of our Nation's history. As I indicated earlier, after the 10 amendments of the Bill of Rights passed immediately after the establishment of our Republic, the Constitution has been amended only 17 times in the succeeding 205 years. The Constitution is a relatively brief, general statement, defining our framework of government and defining the political and civil liberties of our citizens. It does not establish any specific domestic policy, foreign policy, or economic policy. We do not write the substance of policy into the Constitution. We leave that to be determined in the interplay between the President and the Congress in the enactment of legislation. We do not take substantive policy and place it in the Constitution. Because of its focus on universal principles the Constitution has endured for over 2 centuries, despite dramatic changes in American society.

In thinking about amending this document we need to proceed with great caution. The desire to put balanced budget economic policy into the Constitution is frequently justified in the name of political expediency. It is said, "We have to do this. This is the only way we will be compelled to come to grips with the problem." Obviously the question of whether in our fiscal policy we are asking future generations to pay for today's consumption is a very important question. In fact, I have voted in this body for both tax increases and spending cuts designed to achieve deficit reduction. But this proposed constitutional amendment is a promise to do something about the deficit in the future, masquerading as a tough choice today.

We do not need more masquerades and promises. We need to attack the deficit problem directly. We did that in August 1993. In fact, the U.S. performance now in bringing down the deficit is the best of any of the major industrial countries. The United States has a lower fiscal deficit as a percent of GNP than Germany, Japan, France, Canada, the United Kingdom, and Italy.

Proponents of this amendment have been citing a CBO study which was projecting incredible runup in the deficit in the future. In fact, that very study projected that the deficit ratio to the GDP at this point would be 6.8 percent. In fact, it is at 3 percent. So the program that was put into place in August 1993 was a real measure to reduce the deficit, and it has had a real impact.

Let me close with this observation. Much of today's alienation of voters from their government comes, I believe, from the practice of passing hollow laws, laws which purport to change things but which through loopholes and waivers result in nothing really happening.

I submit to my colleagues that if hollowing out the law creates political cynicism and alienation, imagine what hollowing out the Constitution would do.

Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the Senate is not now at this moment debating directly the merits of House Joint Resolution 1, the balanced budget amendment. By reason of actions taken by the distinguished Democratic leader and the distinguished majority leader, the issue before the Senate of the United States at this moment is an amendment proposed by the majority leader to a motion proposed by the Democratic leader on the duties respectively of the President and of the Congress of the United States in reaching a balanced budget. The leader of the Democratic Party proposes to add to the Constitution a longer set of sections than the balanced budget amendment itself, a detailed set of instructions, the fundamental basis of which is that the balanced budget amendment will not even be submitted to the States until there is, in effect, a binding 7-year budget leading to a balance in the year 2002 and overriding the judgment of all Presidents and all the new Congresses which will be elected between the day on which we are engaged in this debate and the year 2002.

The obvious purpose for requiring such a totally unprecedented move is to obscure the debate over general principles; that is to say, is our present fiscal system broken? Do we need to take drastic action to enforce a discipline on Congress and on the President to balance the budget? Or to the contrary, is the status quo quite satisfactory? It is to obscure that debate in the details of a hypothetical attempt to see 7 years in the future and say today precisely how the budget will be balanced 7 years from now. The hope, of course, is that a large number of elements in any such proposal could be presented as unacceptable to the American people, and, therefore, undercut the willingness of the States to balance the budget.

In response to that attempt to hide, to disguise the true issue before the body, the majority leader has in a much simpler substitute amendment proposed that if this constitutional amendment should fail of adoption, should the judgment of this body be that the status quo is just fine, that we do not need any change, the majority leader has proposed to direct the President of the United States this year to submit a proposal to Congress stating how he would balance the budget.

The majority leader has made this proposal, of course, because so many of the Members of this body on the liberal side of the debate have given eloquent lip service to the ideal of balancing the budget but have said at the same time, "Not this way. Do not touch the Constitution. Do not make any fundamental changes. Just go ahead and do it." But on this, the fifth day of this debate, not one of those Members has come up with a single detail outlining how he or she would reach that goal without the stimulus, without the discipline of a change in our Constitution. Each of those Members has defended eloquently the status quo. Each of those Members has said that we do not need a fundamental change. Each of those Members have spoken about tough votes, discipline, political courage. But in each case, depending on how long the Member has served, each of those Members has voted consistently for budgets which would never result in a balance in what we take in and in what we spend.

So the majority leader's proposal is one of great simplicity and great logic. If somehow or another there is any duty on the part of the proponents of change of constitutional discipline in this connection to say how they would solve the problem, is there not an overwhelmingly greater reason to require of those who say no change, keep the status quo, to tell us how they would reach this goal, a goal which quite obviously has not been reached in the last year, in the last decade, in the last several decades?

Personally, I believe that the majority leader's amendment is designed far more to outline the absurdity and the lack of reason behind the Democratic leader's amendment than it is to become a serious part of the fiscal discipline of this Nation. I do not believe the President of the United States can come up with a detailed item-by-item proposal to balance the budget some years after he will cease to be President of the United States.

I regret that all we hear is that the budget that he comes up with next week will include figures indicating that the budget of the United States will never be balanced pursuant to the policies which he proposes. But I do not think that this Congress, on the recommendation of the President, should adopt unchangeable policies 7 years in advance.

Well, if the President should not be required to engage in such an activity in the year 1995, how much less reason is there not only for the proponents of this amendment to follow such a discipline but to include that discipline in the Constitution of the United States of America?

Mr. President, can you imagine our basic constitutional document referring to sections in the Budget Act of 1974 and speaking of reconciliation bills, talking of details which are enshrined in our statutes, statutes which can be changed by this Congress at will? Can any individual seriously state that he or she would include two extra pages of detailed verbiage in the Constitution of the United States, all of which will become anachronistic before the constitutional amendment is ever ratified by the various States?

No, as a matter of policy, the proposal of the Democratic leader is overwhelmingly flawed. It is, by greater measure, his duty in defending the status quo to tell us how he would reach our common goal than it is the proponents of this amendment. So his proposal is flawed as a matter of policy. I have also pointed out, Mr. President, that his proposal is flawed as a matter of aesthetics, a very important branch of aesthetics—the way in which we treat our Constitution.

The last speaker on this floor, the distinguished Senator from Maryland, has talked at length and in detail about why we should not include the general proposition about how to balance the budget and a set of supermajority requirements in the Constitution. Yet, I warrant, he intends to vote in favor of the motion made by the leader of his political party to include in the Constitution the most minute detail in reference to evanescent statutes.

Finally and overwhelmingly, Mr. President, the proposal of the minority leader should not be adopted because that proposal itself is blatantly, openly, and obviously unconstitutional. It is, Mr. President, unconstitutional on its face. Article V of the Constitution, which we are all bound to obey and to serve, states in relevant parts:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, which shall be valid when ratified by the legislatures of three-fourths of the several States.

The proposal of the distinguished minority leader says: "The article"—that is to say the entire proposal with which we are dealing—"shall be submitted to the States upon the adoption of a concurrent resolution as described in section 9 of the article." In other words, it proposes something which has never happened in the history of this Republic—that this Congress, in solemn convocation, by two-thirds vote can propose an amendment to the Constitution of the United States which will not go to the States, which will sit here and wait for the Congress to pass another very detailed concurrent resolution, which it may or may not do.

Mr. President, that is, in absolute clarity, not what was intended or mandated by the people who wrote our Constitution in 1787. Either we pass a proposal in the form of a constitutional amendment, which goes immediately to the States of this Union for their ratification or rejection, or we do not. We cannot pass a proposed constitutional amendment which we say will only go to the States if it snows on Easter. We cannot set conditions on the submission of an amendment passed by two-thirds of the two bodies of Congress that will be submitted to the States only upon condition. Either it goes or it does not.

Mr. President, I take—as I know all other 99 Members of this body do—my constitutional responsibilities very seriously. In fact, much of the debate against this basic proposition has to do with the respect that the opponents to this proposed amendment have for the general terms and general political philosophy of the Constitution, to which they believe no amendment should be added that relates to fiscal policy. And I can respect that fervor to defend this Constitution. But to place before us a proposal, not only a proposal with all of the details that were included in the motion of the Democratic leader, but to do it in a fashion which ignores the very method of amendment outlined in article V of the Constitution of the United States, Mr. President, that is wrong, it is unconstitutional, and it should be rejected out of hand.

I hope that, at some point during the course of this debate, a Member deeply concerned with the Constitution—perhaps the majority leader himself—will raise a constitutional point of order against the underlying motion of the leader of the Democratic Party. If any Member does so, of course, as the Presiding Officer recognizes, neither he nor the individual sitting in his seat at the time at which that point of order is made will rule on it. Such a point of order is submitted to the Members of this body for their consideration and for their vote. And I, for one, am convinced that every Member of the body would be required, by the oath that a Senator takes, to sustain that point of order and to dismiss this motion, this attempt to disguise what the real issue is before us, to dismiss it out of hand and to return this body to a debate over first principles, over whether or not it is important in discharging our duties to the people we represent today and to generations still to come, that we not continue to pile debt after debt upon their backs; or whether, on the other hand, the status quo is satisfactory. That is the true debate, and until we have voted on House Joint Resolution 1, I trust in exactly the form it was passed by the House of Representatives, we will not have carried out our duties. But an interim duty, Mr. President, is to reject the proposal both in its original form, and as amended by the majority leader, on the clear and absolute basis that it violates the Constitution of the United States.

That debate should not take a great deal of time, Mr. President. I suspect it will take some period of time. I suspect there will be a great deal of oratory as to why the policies contained in the proposal of the Democratic leader are a good idea or are a bad idea. I have already spoken several times on that general issue. That is a reasonable debate. But the proposal before us is not a reasonable proposition. It violates the Constitution of the United States, Mr. President, and it should be dismissed as such.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Washington [Mrs. MURRAY] is recognized.

Mrs. MURRAY. Mr. President, I rise today in opposition to amending our Constitution with a balanced budget amendment. When I came to the Senate 2 years ago, I requested a seat on the Budget Committee. I wanted to learn firsthand how our budget is formed and to help steer this country's spending priorities. It is a big task.

As a nation, we accumulated more debt in the decade of the 1980's than we had in the previous two centuries. It is time for common sense, rational solutions. It is time for us to provide leadership with level headed, moderate decisions even if they are based on tough choices. The balanced budget amendment is not common sense, it is not level headed, it is not rational, and it will not achieve what it claims to do. Instead, what we need are real solutions, real cuts, and real decisions that make sense for the American people.

For example, we have reduced our deficit in a substantial way in the past 2 years. We have had to make some very tough choices. As an appropriator, I have had to say "no" more often than "yes" to programs that I support. We all know we just do not have a lot of money to go around.

So, Mr. President, no one needs convincing that we need to tighten our belt. What we do need is a workable, responsible solution. This resolution will not achieve what some in the Senate would have you believe, nor what the American people want. It will make a mockery of a document which is the very essence of our democracy.

Mr. President, our Constitution is a living document. In the course of history, we have had to change it and when we have amended the Constitution in the past we have acted to expand people's rights, to make this country more equitable for the little guy, to give ordinary Americans a stake in our society.

Look how we have amended the Constitution in the past. The first amendment, one sentence long, ensures our freedom of speech. The second amendment, just one sentence long, maintains our right to bear arms. The 13th amendment, one short sentence, abolishes slavery. The 19th amendment, again one sentence, gives women the right to vote. The 24th amendment, one sentence long, abolishes the poll tax. And the last time the American people amended the Constitution was in 1971 with the 26th amendment—and we did so with one sentence—we gave all Americans over the age of 18 the right to vote.

Mr. President, clearly when we have amended our Constitution in the past we did so to expand people's rights. This document, this Constitution and its Bill of Rights, is too important to attach pieces of legislation to it. The so-called balanced budget amendment does not fit the profile of previous amendments and, even worse, Mr. President, it is a promise to the American people that is too good to be true.

Mr. President, words on a piece of paper cannot balance our budget. Legislators, like those of us here, can and should. And let us think about what will happen if we take the flexibility out of our economic decisionmaking.

I ask unanimous consent that the text of an article from the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 22, 1995]

ANY WAY ITS PROPONENTS SLICE IT, BALANCED-BUDGET AMENDMENT IS BALONEY

(By Hobart Rowen)

The case against a constitutional amendment to balance the budget is overwhelming. It has been hyped by Democrats and Republicans alike as the only way to force reluctant congressmen to make tough decisions, and there is no doubt that a large segment of the public has come to believe this propaganda.

But the truth is that an amendment to the Constitution for this purpose is bad economics, bad budget policy and bad constitutional policy. By itself, such an amendment would cut neither a dollar nor a program from the federal budget. As Office of Management and Budget Director Alice S. Rivlin told the Senate Judiciary Committee on Jan. 5, "most of all, it evades the hard choices needed to achieve real deficit reduction."

Why is the constitutional amendment bad economics? In an interview, Council of Economic Advisers Chairman Laura D'Andrea Tyson points out that the beauty of the present fiscal system is that it contains automatic stabilizers that moderate economic activity whenever business activity weakens. Thus, when workers lose jobs, unemployment compensation rises and it cushions the slide. If business profits are off, then tax liabilities decline. These events boost the government deficit, thus offsetting to some degree the decline in the private sector.

"But the balanced budget amendment would take away these automatic stabilizers when the economy is slowing down," Tyson said. It would force the government to raise taxes or cut spending to cover the increasing deficit that a slowing economy was generating. Rivlin puts it this way: "Fiscal policy would exaggerate, rather than mitigate, swings in the economy. Rescissions would tend to be deeper and longer."

Meanwhile, the House Republican version of the amendment wrongly (and possibly unconstitutionally) requires a three-fifths majority of each house of Congress to increase revenue, run budget deficits or increase the public debt. There is supposed to be a safety valve to permit a deficit in time of real economic weakness. But who in Congress is a good enough forecaster to sense when the safety valve should be opened? As Rivlin said, in all likelihood, "the damage would be done long before we recognize that the economy is turning down."

Why would the amendment also be bad constitutional policy? Not only would it put fiscal policy, as outlined above, in a straitjacket, it would denigrate the document that deals with the big issues—individual rights, the system of separation of powers, the ultimate guarantor of our system of liberties in effect since 1776. It would force the courts to adjudicate disputes certain to arise.

Meanwhile, what are the hard choices being avoided? The Republicans who are pushing the "Contract With America" freely concede that to balance the budget by the year 2002, as called for by the amendment, would cost $1.2 trillion in cuts in the various big entitlement programs—Social Security, Medicare, Medicaid and other pensions. But they aren't prepared to make them. Rep. Richard K. Armey of Texas, House majority leader, said forthrightly that if members of Congress understood the full dimension of what is involved, "they would buckle at the knees."

But wait, there's more than $1.2 trillion involved: Because of the new tax cuts and other "reforms" proposed in the Republican "Contract," there is an additional $450 million that would have to be found by 2002—making a net reduction of $1.65 trillion.

But the story isn't over—and this is the most significant missing piece.

The bland assumption is that if somehow a miracle is accomplished—the huge $1.65 trillion cuts are made to balance the budget by 2002—the budget will continue to be in balance. Not so! The dirty little secret is that within a few years after 2002, as the Kerry-Danforth entitlement commission report showed, the workplace demographics begin to explode, and with that, the budget deficit. Fewer workers in the labor force supporting Social Security pensioners will drive the Social Security trust fund deep into the red. Once again, the budget will be unbalanced, perhaps more so than before—and the game must start over again.

Clearly, the balanced-budget amendment is bad business. Congress should reconsider the whole plot. The real goal, in the first place, should not be to balance the budget but to balance the economy. The deficit needs to be cut back sharply, but to aim at a balance in 2002 or 2012 is self-defeating. There will be some years ahead when the nation may need to run a deficit—and it shouldn't be afraid to make such decisions.

The need now is to put aside the gimmickry, forget the constitutional amendment and for the Clinton administration and the Republican Congress to attend to business. A little maturity, please!

Mrs. MURRAY. This article describes the thoughts of my friend the Chair of the Council of Economic Advisers, Dr. Laura Tyson, and those of the Director of the OMB, Dr. Alice Rivlin, who tells us that with this amendment: "Fiscal policy would exaggerate * * * swings in the economy. Recessions would tend to be deeper and longer."

"Recessions would be deeper and longer."

Mr. President, everyone I speak to these days—whether it is grocery store clerks or attorneys, farmers or Boeing machinists—everyone tells me their biggest fear is losing their job. Everyone fears the return of the dark days of recession. So why are we adding to the anxiety that is already out there?

Budget cuts mean job cuts. If we handle our fiscal policy with common sense, I believe we can reduce our deficit in a sensible way that minimizes job loss. But if Dr. Tyson and Dr. Rivlin are correct—and I believe they are—this radical approach will throw millions of Americans out of work and at the same time cut job training programs.

Mr. President, we do indeed face some tough challenges today, and one is to ease the feeling of insecurity among our Nation's work force. It seems pretty clear to me that this resolution will only make those fears a reality.

Another challenge we face is to return hope to America's youth. When I talk with kids who belong to gangs, they tell me they join these groups because at least there someone cares about them. They believe they will have no opportunity in this country.

Mr. President, I hear the same pessimism from teenagers around my own kitchen table.

So how will a wildly fluctuating, uncontrollable economy be in the interest of our youth?

And yet, Mr. President, I have sat here and listened to the proponents of this resolution talk about how amending our Constitution in this way will help our children. What will help our children is reducing our deficit, and everyone agrees with that.

But, again, this resolution alone does not get us there. It will not help our children. It will not tell them that they will have a job. It will not tell them they will have food on their table. And it will not tell them that they have parents who care. It will provide no sense of security. And, in fact, I believe it will teach our children a dangerous lesson.

There is nothing wrong with responsible borrowing. That is the backbone of our financial service industry—savings and investing. After all, how many American families could afford to buy their homes without a mortgage or send their kids to college without a student loan?

This resolution destroys the American dream. It tells our kids, if they come from a family that cannot afford to pay cash for a home, they should not try. It teaches them that investment—even if it means borrowing for education—is not an option.

Mr. President, let us think about the effect of this resolution on the little guy. Let us talk a little bit about how this resolution will affect the average Americans in neighborhoods across their country.

I heard the ranking member of the Budget Committee, my good friend, Senator EXON, on the floor a few days ago. The Senator from Nebraska supports this resolution and that is why I really appreciated his speech earlier this week.

My friend from Nebraska outlined some important points for all of us to consider. He went through an economic analysis the staff of the Budget Committee prepared, and this analysis puts the abstract words of this resolution into perspective.

Now, as you know, Mr. President, the proponents of this resolution tell us we must have a balanced budget in the year 2002, but they refuse to tell us how we will achieve that balance. They will not level with the American people about what they are going to cut and what they will eliminate. And, Mr. President, the American people do have a right to know.

Two days ago Senator EXON explained how the politics and the economics of this issue join to make a very scary situation possible. If we pass this resolution with an exemption for Social Security, defense, and some other sensitive programs, and if we still enact all the tax cuts in the Contract With America—and all of that is possible—we will see a 50 percent across-the-board cut in all other programs.

Is this responsible budgeting? Is this rational? Is this common sense?

If we put this resolution into action, Mr. President, agricultural programs could take a 50-percent cut. So would highway funds. We would lose half of our education and job training money and we would lose half of our student loans.

If the Constitution is amended in this way and Congress actually acts on it, the cleanup of Hanford nuclear reservation in my home State is in jeopardy. That is not the way we return security to this Nation, Mr. President. And it is not how we restore hope to our children.

Mr. President, I read yesterday morning's paper about the Washington, DC, budget crisis. Clearly the leaders in the District must work to balance their budget. But look where the first cuts were made: On programs affecting our children and their access to valuable educational resources.

We will see the same thing here. The radical cuts this amendment will demand will fall squarely on the backs of the most vulnerable in our society—our children, our elderly, our disabled, and those in most need of our help.

Just in my corner of the country alone, this amendment and the other provisions of the Contract With America will mean that by the year 2002, education programs will be cut by $474 million each year. Transportation will be shortchanged by $161 million. Federal Medicaid reimbursements in the State of Washington will be reduced by $1 billion. Federal economic development assistance will be reduced by $27 million.

These are not just numbers. Behind the statistics are millions of dollars, are the faces of millions of Americans: My elderly next-door neighbor with a heart problem who depends on Medicaid; my friends who sit in traffic jams daily on I–95 in Washington, commuting to their jobs; the kids in my sister's sixth grade classroom in Bellingham, WA; the people who are just getting back on their feet in our hard-hit timber communities. Taken as a whole, the plans before us will total a reduction to my home State of $6.7 billion. That, Mr. President, is real money, real people, and real needs.

Mr. President, at a time of uncertainty for all of our working families, we find this resolution will hurt our workers. The economists at Wharton predict Washington State will lose 209,000 jobs the year after this amendment takes effect. They predict my State will experience a 15-percent drop in total personal income. They tell me the hardest hit will be the manufacturing sector, especially those in the aerospace industry, which is already experiencing massive job losses. Again, I ask, is this common sense? Is this responsible budgeting?

One last word, Mr. President. I have heard many people in this body talk about the need for fiscal self-discipline. Many Americans understand that need and indeed practice it in their own daily lives. That is what Congress needs to do.

I know what it is like to sacrifice. I know how it feels to tell my kids no. And I know what tough choices are. I come from a family which is used to sacrifice and financial discipline. Mine is just like every ordinary American family. My grandparents fought a world war and survived the Great Depression. My family has ridden out nasty recessions, and now after we have survived all this, we are telling future generations, "You have no say in determining your future. The United States is going to decide the budget of the 21st century in 1995."

We need to keep things in perspective, Mr. President. We need to remember where we have come from when we consider where we are going. We need to deal with jobs, violence, and the health of our Nation. But solutions to those challenges are not found in this so-called balanced budget amendment or, frankly, in any 10-second sound bite. We do not need to amend our Constitution this way and put the future of our Nation in a precarious position. We do need to be sensible legislators by proposing real solutions that bring fiscal responsibility to our budgets.

Thank you. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

THE RIGHT TO KNOW ACT

Mr. DASCHLE. Mr. President, for the past several days, Republican and Democratic Senators alike have said they support the goal of a balanced Federal budget. Indeed, so do I.

The idea of a balanced budget, in the abstract, has universal support.

But if one thing is clear, it is that no budget is balanced in the abstract. Budgets are balanced in the context of existing circumstances.

Today, the political circumstances are very clear. The elements of the Republican Contract With America are the priority for action. There is a lot of fine print in the contract. But there is no doubt about the central selling points: A tax cut, a defense increase, and a balanced budget amendment to the Constitution.

That is what our Republican colleagues campaigned on: Cutting taxes, increasing defense, and balancing the budget while protecting Social Security.

It is a bold program. It is also the echo of an earlier program. Republicans campaigned in 1980 on a program of cutting taxes, raising defense spending, and balancing the budget.

In 1980, Republican candidates won a majority in the Senate, in part by campaigning on that program. President Reagan won the White House.

The bottom line on the chart beside me illustrates the campaign promise. A budget gradually coming into balance by 1983. It is based on the Reagan economic plan announced in 1980 in Chicago.

What happened?

That is illustrated by the top line on the chart beside me.

Instead of balancing the budget by 1983, or even by 1984, the campaign promises led to the highest Federal deficits in history. Within 12 years, those campaign promises helped quadruple the national debt.

From $69 billion in the last Carter budget, deficits rose until they almost quadrupled in the mid-1980's. By the end of the Reagan years, our debt had tripled. Subsequently, the 4 Bush years added another $1½ trillion to the debt.

The chart beside me tells the story. From a $69 billion deficit in 1980, the last year of President Carter's term, the deficits kept rising. From 1993, deficits have begun to fall. For the first time in half a century, deficits will come down 3 years in a row.

How did we change course?

Democrats changed the course. We made the unpopular choices that have to be made if you are going to reduce the deficit. We did not try to duck the bullet. We bit the bullet, twice.

In 1990, Democrats worked with President Bush and crafted a deficit reduction package that capped all discretionary spending. In the face of adamant opposition for practically the whole year, we produced $500 billion in deficit reduction—real cuts in a deficit that was then spiraling out of control.

In 1993, we did it again. In the face of adamant Republican opposition, we passed a program that achieved another $500 billion in deficit reduction over 5 years. We passed the 1993 budget without the help of a single Republican vote, in the face of fierce denunciations and wild predictions of economic ruin.

Action by Democrats resulted in real deficit reduction. Opposition from Republicans: but no deficit reduction.

To paraphrase former President Reagan, "Here they go again."

They want to cut taxes, increase defense spending, and balance the budget.

In 1980, someone asked Representative John Anderson of Illinois how you could cut taxes, increase defense spending, and balance the budget.

He gave the only coherent answer possible. "With mirrors," he said.

He was right. All the indignant talk to the contrary does not alter the facts. And the facts are as I have stated them.

Democrats have taken the lead twice in the last 5 years, in the face of intense partisan denunciations, to do what has to be done to bring the deficit down.

We have done it twice, not with mirrors, but with realistic and difficult choices among competing demands from States, cities, businesses, and individuals, who all want their programs protected, who all claim tax relief, who all have good arguments on their side.

It is that history of the last 14 years that makes us so adamant about the Right To Know Act.

The Right To Know Act is essential. Americans have the right to know whether we are about to take another riverboat gamble with their Nation's economy. That is what the Republican Senate leader called it back in 1981. He was right. It was a riverboat gamble. And we lost.

Our State Governors have the right to know how much of the dollar responsibility they will be left holding when the dust settles.

Our city mayors have the right to know how much their budgets will shrink.

Americans have the right to know about program changes that will directly affect them.

Families with elderly parents have the right to know if Medicaid or Medicare will be slightly modified or deeply slashed.

People planning college for their children have the right to know whether or not they can count on student loans.

Realtors have the right to know if VA home loan conditions are likely to be changed or if FHA-backed loans will shrink.

General contractors have the right to know if Federal construction projects will shrink dramatically.

Communities across the South have the right to know if NASA's space program will be cut, and how their job base will be affected.

People in Washington State and South Carolina have the right to know if the nuclear plant cleanups will stop.

People who live in the Tennessee River Valley have the right to know if TVA is going to disappear.

I have been part of the Democratic majority which has twice already stepped up to the plate and reduced the deficit by $500 billion each time. I know it is not easy to cut spending. But a majority of Democratic Senators has done it. We are prepared to do it again.

But we want to know what we are doing. And balancing the budget in the context of the Contract With America will be extraordinarily difficult.

How difficult is revealed by the chart here. The bottom line on this chart shows the cuts that must be made in spending as we begin to move toward a balanced budget this year.

The center line shows the CBO baseline budget. That is what will happen to spending because of demographic changes and estimated inflation rates over the next 7 years. The distance between the bottom line and the center line represents $1.2 trillion.

That is how much must be cut from the budget over the next 7 years.

The top line shows how much spending will be affected if the Contract With America, with its tax cut, is passed. It does not include defense spending increases.

If the contract's promised tax cut is passed, we will have to cut $1½ trillion from the budget over the next 7 years.

Some are claiming that modest across-the-board cuts in everything can achieve a balanced budget without any serious dislocation to anyone.

Before we accept that claim, let us look at it.

A simple across-the-board cut that would produce a balanced budget by 2002 would be a 13-percent cut. But that includes everything, including Social Security.

If, as the Contract With America says, you take Social Security benefits off the table, then everything else would have to be cut by 18 percent. That includes everything, including defense, which the contract says should be increased.

But if you remove defense along with Social Security, then everything else has to be cut by 29 percent. That would mean cutting a fifth out of Medicare, for example.

But, if you want to pass the tax cut in the contract, and you do not want to cut defense or Social Security, then everything else has to be cut a full 30 percent. That would mean 30 percent out of Medicare, 30 percent out of the space program, and 30 percent out of veterans benefits.

If you wanted to exempt veterans' benefits, because they go to the 27 million men and women who fought our wars and to the dependents of those who died in our wars, everything else would have to be cut by 31 percent. That would mean a 31-percent cut in pensions that people have earned, like the men and women of our armed services and those employed by the Federal Government.

But if you wanted to exempt retirement benefits, because people have earned them, everything left would have to be cut by more than one-third, by a 34-percent reduction. That would include Medicare, Medicaid, the FBI, the Immigration Service, school lunch programs, college aid, medical research, the Coast Guard—everything.

If you took Medicare off the table, because it is an integral part of the Social Security system, then everything else would have to be cut in half.

In other words, if the contract's tax cut is passed, if defense is protected, and the retirement benefits of veterans, servicemen, and civil service workers are protected along with Social Security and Medicare, every other function of Government must be halved to achieve a balanced budget in 2002.

It is that calculation by the Congressional Budget Office that makes it clear that the claim of modest, very minor pain from across-the-board cuts grossly mistakes the reality.

The reality is that we cannot magically not count inflation for Federal spending purposes and still end up being able to hire the same number of border guards, the same number of VA doctors, the same number of FBI agents, and so on in 7 years' time.

Nor can we pave the same miles of highways, rebuild the same numbers of bridges, build the same space station, provide the same research grants or do anything else if we have half as much money in real terms with which to do it.

I want everyone to think back to what they earned in 1987. And I want them to consider how they would like to live on that amount today. That is what it means not to adjust for inflation.

That is why the right-to-know amendment is critical. We all know that we will not bring the budget into balance by simply not allowing for inflation. The numbers demonstrate it.

In the most modest example, if Social Security is off the table, if the contract's tax cut is passed, if defense is protected, everything else will be cut by 30 percent That is neither moderate nor modest—and it will not be done that way.

The way it will be done is by cutting programs. The question is, which programs? That is what we have a right to know.

In 1981, when the deficit spiral first started up, President Reagan called for a second round of cuts in September of that year. He came up very short. He asked for $16 billion in cuts. He got $3 billion.

There was just as much indignant denunciation of waste, fraud and abuse in 1981 as there is today. There were just as many Senators willing to speak in the abstract about the importance of cutting spending. There was just as much resistance to a tax increase.

Human nature has not changed in 14 years. All the same claims were made: That easy across-the-board cuts could be made that would be pretty painless; That we would be able to protect the social safety net; that no one would be hurt.

This city recently played host to two groups of persons who came here to tell us that it did not work that way. The State Governors were here this week. The mayors of our cities were here last week.

Both groups were unanimous in opposing any more cuts in the funds that support State and local services. We passed the unfunded mandates bill recently, by a very wide margin.

Why? It is not because Congress decided in the last couple of years to force the States and cities to do useless things. It is because past cuts made in State and local programs are forcing the States and cities to absorb more of the program costs which used to be offset with Federal dollars.

It is no wonder the Governors and mayors are insisting that any balanced budget amendment be accompanied by strict language to keep Congress from passing responsibilities on to the States and cities.

The trouble is that this is a guarantee that cannot be made. We cannot assure States and cities that a balanced budget will not pass the costs on to them. To see why, look at the figures.

This pie chart shows how the Federal tax dollar is spent.

Mr. President, 14 percent is spent on net interest. That cannot be cut. It is a legally enforceable obligation to the holders of Government bonds.

Then 21 percent is spent on Social Security. Even Republicans say they will not cut Social Security.

So 14 percent plus 21 percent equals 35 percent.

Defense spending accounts for another 17 percent of the Federal tax dollar; 35 plus 17 equals 52.

In other words, 52 percent of all spending will not be cut.

That leaves 48 percent of spending to absorb all the cuts. The 48 percent includes, unfortunately, all the grants to States and localities. All the cutting will come from 48 percent of the spending.

The next chart shows us what that 48 percent of cuttable spending consists of.

Right away, we see that 19 percent of our cuttable dollars is spent for functions that cannot easily be cut: Veterans programs, military retirement, civilian retirement, the Immigration Service, the FBI, federal prisons, the federal court system, and so on.

The Speaker of the House has said he wants to see the number of immigration agents doubled. Our Republican colleagues intend to toughen a crime bill that will presumably increase our prison population. We cannot cut the Federal court system significantly. I have not heard any of my Republican colleagues say we should seriously cut the VA hospital system.

So it is reasonable to say that this 19 percent reflects activities that are not going to be slashed by 30 percent or more. But if I am wrong and there is a plan to cut military retirement by a third, I think we ought to know that. If there is the view that we should cut back VA pensions or hospitals by 30 percent, I think we have the right to know that.

In any event, that 19 percent of our 48 percent of on-the-table-for-cutting is the smallest piece.

The next biggest piece of that 48 percent of cuttable spending is Medicare.

A couple of days ago the Speaker talked about rethinking Medicare from the ground up. He said he wanted to provide more choices to retirees. I did not understand what he meant. The Medicare program today lets every participant choose his or her own physician, choose his or her own specialist.

If what the Speaker really meant was that we should rethink Medicare to limit the choices of Medicare recipients and force them into managed-care programs to save money, I would be willing to debate that. But I definitely think it is something we have the right to know.

There are working families in this country who depend on Medicare and Social Security to provide the fundamental security for their parents, so they can focus their funds on helping their children through college. If Medicare is going to change dramatically in the next few years, these people have the right to know that, so they can plan for the possibility that their parents will need financial help.

The next category of programs in our 48 percent of cuttable dollars finances things like unemployment insurance, nutrition aid, such as food stamps and school lunches, all our health research, environmental cleanup, energy, scientific research, space programs, aid to elementary and secondary schools, college tuition aid, our embassies, wildlife conservation, the parks, all our farm programs, all our transportation programs. Mr. President, 29 percent of our cuttable on-the-table 48 percent is spent for those things.

Clearly, they are going to be cut. Some might claim that things like medical research grants to universities will not affect States and cities. I think Governors and mayors know better.

Unemployment insurance affects every community that loses a plant or is in a transitional phase. Smaller communities would go under without the stabilizing effects of unemployment insurance to laid-off workers. I do not think it is easy to cut this by 30 or more percent.

If we cut the space program by 30 percent, people now employed in its operations will lose their jobs. This is Federal spending, all right. But it is not spent in Washington. It is spent in the cities and communities where the aerospace industry is concentrated.

The Food Stamp Program provides a 100-percent federally funded floor for low-income workers and welfare families alike. That lets poorer States, like Mississippi, keep their welfare benefits low without having to risk outright malnutrition. Food stamps give minimum wage workers added buying power. Small businesses in lower income areas know their workers' minimum wages will be augmented by food stamp income.

Farm State Governors should be attentive to the fact that this sector of spending includes all farm spending. It would be cut by a minimum of 30 percent.

Of course, if the two sectors I mentioned earlier are not cut by 30 percent, the cuts here would have to be heavier.

In other words, if we do not cut 30 percent from veterans, military retirees, prisons, courts, border control, and Medicare, these other programs will have to be cut more to compensate.

And so we come to the final share of our 48 percent of cuttable spending: The 30 percent that comprises State and local grants. This is the largest category in the cuttable spending programs that would be on the table.

In each one of these categories, whether it is Medicare, whether it is the Federal functions "unlikely to be cut," whether it is "all other" Federal programs—in the green—or State and local government grants, the point is that no mayor, no Governor ought to think that in some way we can protect this orange part and take all the other cuts in Federal funding out of the blue, the red and the green. It just cannot happen.

That is what we are really asking our Republican colleagues to share with us. If indeed that is the case, if indeed we can give assurances to mayors and Governors that this 30 percent can be protected, how do we get down to that $1.5 trillion deficit reduction target we are going to have to get down to by the year 2002?

I realize that earnest assurances have been given to mayors and to Governors that the Congress will not cut State and local grant aid. But I can only refer to what I know has been done before, when similar choices were faced in the Congress. And based on that experience, I have to say that this is a guarantee that cannot be made.

As a matter of fact, it is a guarantee being made by those who have no power to make it. One Congress cannot bind the next, no matter how fervently one Congress feels about something.

The 105th Congress will have new Members. Economic circumstances undoubtedly will have changed.

Even before the 105th Congress is sworn in, a Presidential election campaign and Senators' own reelection efforts will influence the shape of the debate, as elections always do.

So any Governor or mayor within reach of the sound of my voice should take this warning to heart.

No one can guarantee that aid to States and localities will not be cut.

In fact, I can just about guarantee the exact opposite. Direct aid, such as payments for highway paving, and indirect aid that is spent by residents of States and cities will be cut.

The only way to have a guarantee against cuts for State and local governments is to write it into the Constitution as part of this balanced budget amendment. But our Republican colleagues have said that the measure before us cannot be amended.

So they have asked the Governors to take it on trust. I say that is exactly what the Governors cannot afford to do.

And that is why the right-to-know language is crucial. It would let us know, before we begin to cut, how State and local budgets will be protected. It would let us know, before we begin to cut, how State and local budgets will be affected.

It is the only responsible and fair way to explain to our Governors and mayors and the people who live in our States and cities what this proposal will ask of them. It will not be painless. It can be made rational. But it can only be done rationally if everyone affected knows what is at stake.

The chart here indicates the average makeup of State budgets. It is an average, not a mirror image of one particular State, and there are variables from one State to another.

But it provides the broad picture.

State general revenue sources in 1992 were made up, on average of: 17 percent, general sales taxes; 17 percent, charges and fees; 17 percent, personal income taxes; 22 percent, other taxes; 2 percent, payments by local governments.

But all those taxes and fees and payments total 75, not 100 percent. That is because, on average, 25 percent of State budgets consists of Federal grants.

This chart shows a breakdown of those Federal grants to State and local governments.

Forty percent are for the Federal share of Medicaid costs. The single largest cost the Medicaid Program pays is the nursing home care of elderly Americans.

Here, 24 percent of Federal aid to the States consists of income security programs: the Federal share of welfare, low-income housing programs, school lunch and breakfast programs, nutrition for women and infants.

Fully 64 percent of Federal aid to State and local governments goes for income support and Medicaid.

Sixteen percent of Federal aid to the States is in the form of money for elementary and secondary schools, training and employment programs, special education programs, foster care and adoption.

Eleven percent of the Federal grant dollar helps finance highway construction, improvement and maintenance, airport construction and transit assistance that helps reduce congestion in our cities.

Nine percent of Federal aid covers all other programs: community development block grants, safe drinking water and wastewater treatment, justice assistance programs, aid to other health programs like public clinics and mental health clinics—all the other grant programs.

Each and every category of this aid stands to be cut. It is all part of the 48 percent of cuttable Federal spending if we protect Social Security and defense. No part of any of these programs has any assurance of being held harmless.

And if other programs, not shown here, but which directly affect State and local economies, are not cut at all—veterans benefits, military pensions, civil service pensions—then the cuts to these grants will have to be heavier than 30 percent.

My next chart is a map of the United States. It shows, in the estimation of State budget officers, the percentage of each State's budget the State budget officers calculate is made up of Federal dollars.

The percentages vary quite a great deal. Mississippi, for instance, is shown as depending on Federal dollars for 41 percent of its budget. Texas is shown as depending on Federal dollars for 27 percent of its budget. Some States, like Oregon, show a relatively light 16 percent in Federal dollar share. Others like New Hampshire show a 34 percent reliance on Federal dollars.

In fact, the only State which shows less than 15 percent of its budget from Federal dollars is Hawaii.

The next map shows the Treasury Department's estimate of the budget shortfall each State would face under a balanced budget amendment, assuming a 30-percent cut in grants to State and local governments.

Again, some States would be harder hit than others. My State of South Dakota would be hit by about 25 percent; Montana, almost 20 percent; Arizona, New Mexico, Utah, California, around 10 percent; Louisiana, almost 30 percent. Many of the Southern States, many of the smaller States, of course, are hit harder than some of the larger States.

Texas' budget would fall 14 percent short. Mississippi would face a shortfall of almost 21 percent. Tennessee would face a shortfall over 19 percent. Wisconsin would fall short over 10 percent, Michigan just over 13. But clearly, stated another way, to maintain current levels of services, these figures depicted here, showing the loss of revenue from the Federal Government could also be the kinds of tax hikes that would be needed to offset those cuts, were they to occur in the coming several years.

Those budgetary shortfalls are the ones that States would face directly from a balanced budget. They don't include the additional spending cuts that would be triggered by the Contract With America to pay for its tax cut and keep defense off the table.

Let me emphasize that. The figures that we have here do not include what would happen if we kept defense off the table and passed the tax cut that is currently envisioned in the Contract With America. So for South Dakota that figure would go up proportionately with the additional cuts required to pay for those additional expenses.

Instead of a 14-percent shortfall, Texas would face a 19-percent shortfall. Instead of 13 percent in Michigan, it would be 18 percent. Instead of 12 percent in New Jersey, it would be 17½, and so on.

With a balanced budget based on the Contract With America plan, State budget shortfalls are going to go up dramatically. With the Contract With America, with South Dakota, we are no longer at 25 percent; we are at virtually 34. In Iowa, we are not at the figures we were before; we are up at 15. In Illinois, we are up to almost 16 percent. In Louisiana, we are almost up to 40 percent of the overall budget.

So I urge my colleagues to appreciate the consequences of what we are talking about as we debate the balanced Federal budget and the ramifications of that budget over the next 7 years. Many of us have supported a balanced budget amendment. Many of us would like to do so again. But if we are going to do it, it has to be a rational approach. It has to recognize that there are very complicated circumstances that we all must confront if we are going to do it right, if we are going to explain to the American people the ramifications of the Contract With America, the ramifications of bringing a $1.2 trillion deficit down to size by the year 2002, the ramifications of maintaining current projected levels of defense spending over the course of the next 7 years, the ramifications of trying to include, in some way, protections for veterans and military retirees.

All of those issues are directly confronting each and every Member of the Congress today as we consider what must be done over the course of the next 7 years to accomplish what we all say we want.

I urge my colleagues to make themselves familiar with these numbers, because these are the real world effects of the Contract With America style balanced budget. These are the cuts in State budgets that would be required, or, alternatively, the increases in State taxes.

Those who have made verbal assurances to Governors that the balanced budget amendment combined with the Contract With America will not affect State budgets are, in essence, saying that it is possible to cut taxes, increase defense spending, reduce overall Federal spending by one and a half trillion dollars in 7 years without having any substantial effects.

I do not see how we can do that. I do not know how we can expect the American people to believe that we can do that. I do not think we can expect the Governors and the mayors, who themselves have to deal with budgets on a yearly basis, to understand the difficult choices that have to be made if we do what we all want to do, what we say we must do, and then say to them: Believe it. There are no painful choices here. We can simply do it with a modest cut across the board.

That is what the right-to-know amendment addresses, Mr. President. It simply says let us clearly set out a budgetary path that will lead us to that balance by the year 2002 in a way that all affected people—Governors, mayors, business people, working families, everybody—can understand.

That is why the States and the American people need to know what this will mean.

And that is what the right-to-know amendment would achieve. It would require us to clearly set out the budgetary path that will lead to balance by 2002. That way, all affected persons will be able to see what it will mean to them.

I have here in my last graphic of the day—and it is my last—a typical blood-drive thermometer. As you will note up here is the $1.5 trillion that is required if we accomplish what we want to accomplish in the year 2002.

When the spending cuts reach this level—one and a half trillion dollars—we will be close to our target and well on the way to balancing the budget. Twice in the past 5 years, Democrats have shown that we can cut the deficit. We have passed $500 billion deficit reduction packages twice. In any decade except this one, we would have finished the task, today we have a quadrupled national debt. So it's going to take more than that.

For the efforts we have already made, Democrats have been denounced and our work has been misrepresented to the American people. Predictions of economic gloom worthy of the Great Depression were heard on this floor less than 18 months ago when we passed the President's budget, the second installment of our deficit reduction effort.

Throughout last year Americans were falsely told their taxes had been raised. The only people whose taxes rose were the top-earning 1.2 percent of the entire population. No family earning less than $100,000 a year saw their Federal income taxes rise. Let me repeat that: No family who earned less than $100,000 a year saw their Federal income taxes rise as a result of our deficit reduction package.

But misrepresentations of fact were also common the first time that we faced the miracle of the mirror: The budget that would be balanced while taxes were cut and defense spending increased.

That miracle of the mirror turned into the miraculous exploding national debt.

But the right-to-know amendment is not a magic mirror. It's the mirror of reality that must be held up to these promises before we change our Constitution and ask our States to take another riverboat gamble with their futures.

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Ohio.

Mr. DEWINE. Mr. President, let me try briefly to respond to some of the very eloquent comments made by the distinguished minority leader of the Senate and also respond to the amendment that he offered earlier today.

The Senator points out very correctly that we are beginning to make some progress in regard to balancing our budget. For 3 years in a row we are beginning to move clearly in the right direction. What I believe, though, the Senator did not point out is that the Clinton administration's own projections will indicate that while progress is now being made, when we go to what those here in Washington refer to as the "outyears", the 4th, 5th, 6th, 10th year from now, the projections are that the deficit goes up and up and up and up. That was confirmed, Mr. President, in an article in the New York Times this morning, which my colleague, the distinguished Senator from Utah, has already referenced earlier today.

Let me, if I can, Mr. President, quote a brief part of this article. The article has to do with President Clinton's upcoming budget. I quote:

> Although his budget message boasts that his economic policies have sharply reduced the deficit from record levels, he says the deficit will probably stay in the range of $190 billion through the year 2005.

The year 2005, Mr. President, according to this article, citing the administration's budget that will be submitted next week.

Mr. President, if there ever was an argument eloquently made in favor of the need for having a balanced budget amendment, that argument was just made by President Clinton in this budget—at a time when everyone agrees that we need to move forward meaningfully to balance our Federal budget, at a time, Mr. President, when really the only debate on this floor is not whether we need to have a balanced budget; the only debate is whether we are going to just go ahead and do it and tell the American people, "Trust us to do it," or whether we are going to pass a constitutional amendment which compels Congress to do it.

That really is the only debate, and that is the climate that the President will be submitting—a budget which shows really no meaningful progress. The amendment we are talking about, Mr. President, says that we would have a balanced budget by the year 2002, which seems like a long way off.

According to this article in the New York Times this morning, the President's own budget, or own estimates, will show that even by the year 2005, we will not be moving in the right direction.

Mr. President, we have had good intentions. Everyone has good intentions. Yet, under Republican Presidents we have had a huge deficit. Under Democrat Presidents we have had a huge deficit. Under a Republican-controlled Senate we have had deficits, and under a Democrat-controlled Senate we have had deficits.

It is clear, Mr. President, that good intentions are not enough. The American people, I believe, clearly understand that. The distinguished Senator, the minority leader, talked about the right to know—an interesting term. I agree that the American people do have a right to know. But I think what they really have a right to know is that finally—finally—this Congress is going to pass a constitutional amendment and send it out to the States, and if that constitutional amendment is ratified, then finally we will have the ability to balance the budget and this Congress will be compelled to balance the budget.

Mr. President, let no one misunderstand what this debate is about. This debate, we can anticipate, will go on for some time. We have been at it a week now, and I am sure we will be 2, 3, 4 weeks still debating it. There will be many issues that will be raised. We will talk about Social Security, we will talk about the right to know, and we will talk about all kinds of different things.

Let no one mistake what really is at stake. In 1992, the American people voted for change. They said, by their votes, we want to change the way Government works; we want to change particularly the way Washington works or does not work. In 1994, people voted for change again. If in this political climate this Congress cannot pass a constitutional amendment, then when in the world are we going to be able to pass one?

Mr. President, Members of the Senate, the time is right, the time is now, the opportunity is here. If we do not seize this opportunity, and if we allow the naysayers, who can come up with 25 reasons why not to do this, to have their way, I honestly do not know that we will ever be able to do it again. I do not know that we will ever have the opportunity.

The distinguished minority leader also stated that this must be a bipartisan effort. That, I say, is absolutely correct. It has to be a bipartisan effort. Not only the passage of a constitutional amendment, because those of us on this side of the aisle—certainly if you count, we do not have two-thirds on this side. We have to have many Democrats involved, many Democrats who will vote "yes," not just a bipartisan effort to pass the constitutional amendment. We also will have to have a bipartisan effort to balance the budget year after year and to begin to move toward that balanced budget and to make the very, very difficult decisions that we will have to make.

That is why, Mr. President, I believe that the argument about the right to know does not really make a whole lot of sense. Those who use this argument are, in essence, saying that the Senator from Ohio—for example, whatever I say on the Senate floor about how I want to balance the budget, that will be law, or whatever the distinguished majority leader says, or the Senator from Oregon. The fact is, no matter what is said at this point, the reality is that it will have to be a bipartisan effort and that democracy will work, and we will go through the gut-wrenching process that we have to, on this floor, move year after year toward that target goal that we have to meet in the year 2002.

So to say that we are going to stop and we cannot pass a constitutional amendment because some of the proponents are not able, or are not willing, to say that for the next 7 years this is what our budget will be every single year, seems to me to be wrong and a misplaced argument and not really to be leveling with the American people.

Mr. President, yesterday there was a poster on the Senate floor with the words "Trust me" on it, as if somehow the supporters of the balanced budget amendment were hiding the truth from the American people; that if the American people ever found out what a balanced budget would really mean, they would be strongly opposed to a balanced budget.

Mr. President, I do not think anyone in this country today really thinks that balancing the budget is going to be easy. The distinguished minority leader had some very interesting charts, although I am not sure I followed every detail of each chart. But my summary of the charts would be simply that they demonstrated very clearly that balancing the Federal budget, to achieve the goal by the year 2002, is not going to be easy. The minority leader is right. It is going to be very, very difficult. But is that an argument for not doing it? Is that an argument for not setting the standard? Is that an argument for not saying and putting into the Constitution that, yes, by the year 2002 we will achieve this goal, and that is our vision and that is what we want to do? I think not.

The opponents say that we need to spell this out. Mr. President, is it really appropriate to spell out beforehand all of the details and ramifications of a constitutional provision? I contend that it is not. Mr. President, the Constitution is a document about basic principles. It does not write our laws. It creates a process under which legislatures can write the laws. In this case, it is a process by which the U.S. Congress can write the laws.

Let me give you a few examples. Article I, section 8 of the U.S. Constitution says:

> The Congress shall have Power To lay and collect Taxes * * *

Mr. President, that provision does not set the marginal income tax rate. It does not decide whether there should be accelerated depreciation or investment, plant and equipment.

Mr. President, the Constitution also says that Congress has the power "To raise and support Armies * * *" It does not say what percentage of the gross national product ought to go to defense. Working out these details is a task for the democratic process. That is what democracy does. That is what democracy is all about. That is why we have a Congress.

What the Constitution does is set the ground rules so that we can act. The Constitution empowers the Congress.

Mr. President, it is also true that for 25 years, the democratic process, without a balanced budget amendment, has not succeeded in balancing the Federal budget. That is why the American people, by an overwhelming margin, are demanding the process reform known as the balanced budget amendment.

A few days ago, Ohio's Governor, George Voinovich, proposed a balanced budget, as do the Governors in all of the States. Very soon—in a couple days—President Clinton, as we have seen this morning, is going to be sending us a budget that clearly is not balanced, not only for this year, but it is not giving any indication that we are going to be balanced by the year 2005.

Mr. President, what is the difference? Why can Governor Voinovich do it in Ohio when the President cannot do it here?

Quite frankly, Mr. President, it has less to do with the occupant of the Governor's office or the occupant of the Oval Office than it does with the basic facts. The difference is because Ohio's constitution, like the constitution in many States, says the Governor has to balance the budget—has to balance the budget. Consequently, the Governor, State legislatures, and their constituents have to work out the details for a balanced budget every single year.

Mr. President, as someone who has served in the Ohio Senate, as someone who has served as Lieutenant Governor, let me tell you and other Members—and I am sure everyone knows and we have many Members here who have served in a legislative body or have been a Governor—that that is a process that is not very easy. It causes some heartburn and causes some hard feelings and is very, very difficult. But State legislatures do it and Governors do it because they have to. They have no choice. They have to do something that the U.S. Congress has not done, frankly, something that Congress has resisted doing, for most of our lifetime. The State of Ohio has to make choices. The State of Ohio has to set priorities. They have to do it. And, Mr. President, when you have to do something, you can. When you have to do something, you can.

We need a constitutional order that allows our National Government to do the same thing—to make choices and set priorities for the Federal budget. This is not something the American people wanted to do. None of us likes to be here debating this. It is not a pleasant task. It is something, though, that the American people are convinced that we have to do, really as a last resort. The other ways just did not work.

The balanced budget amendment is not, as the opponents contend, a straitjacket for democracy. Rather, it is a tool—a tool we can make use of to make democracy work.

All Senators, even those who are opposed to this constitutional amendment, are going to be involved in the process of writing the balanced budget itself. Are these Senators saying that if we pass the balanced budget amendment they will somehow be unable to participate or will not want to participate? I think not.

Further, Mr. President, if we were to give specifics with those, would those who oppose this be wedded to our specifics? Would they have to live by what we expressed with our original intent in passing the amendment? Of course not.

But what will happen if the balanced budget amendment does pass and it is ratified by the States? Well, one thing that will happen is that we will have to balance the budget. We will have to do it. The opponents will finally be forced to come forward with their own specific proposals, and so will we. The American people will see their spending priorities and the American people will see our spending priorities. Then the debate will begin.

I believe, Mr. President, that this amendment is precisely what we need to bring everyone to the table and to get serious about deficit reduction.

Mr. President, Senators have also been issuing a rhetorical challenge. They said, "If we want to have a balanced budget, why not do it now? Why wait for 8 years?"

Well, my response to that is, first of all, those two options, the options we are talking about of having a balanced budget amendment and having a balanced budget, are certainly not mutually exclusive. We can pass the balanced budget amendment and get to the work immediately on balancing the budget. Indeed, the harder we work over the next couple of years the easier it will be for us to balance the budget once the amendment actually does in fact go into effect.

Mr. President, we need, however, to create a process that will force everybody to participate in making these choices. Out in this country, in the real America, nobody, nobody, Mr. President, believes that we will ever balance the budget without a balanced budget amendment. But once we pass the amendment, doing nothing will no longer be an option. We will have to deliberate, to make the best choices we can and be judged by the American people on the results we produce.

The current process simply does not work. We need to fix the process. And that is why we have a procedure for a constitutional amendment. It is spelled out in article V of the Constitution that says:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution.

And those amendments:

> * * * shall be valid * * * when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof.

Mr. President, that is what the Constitution says. The Daschle amendment attempts to create a brand-new constitutional requirement between the approval by two-thirds of Congress and the approval by three-fourths of the States. This amendment tries to put in an unconstitutional stop sign, another hurdle to go over. It says that Congress has to do something else, that Congress has to write a balanced budget before the amendment goes to the States.

But, you know something, Mr. President, even if we pass the Daschle amendment, the Daschle amendment is really a dead letter. It has no effect, because the Constitution is clear—Congress approves, then the States approve. There is nothing in between. There is no stop sign in the Constitution between those two stages of the amendment process.

This amendment was described earlier on the floor as being blatantly unconstitutional, unconstitutional on its face. I think clearly, Mr. President, it is.

Mr. President, we can try to pass a statute creating a new requirement. But that statute cannot, under basic constitutional law, that statute cannot change the Constitution itself. We have amended the Constitution 27 times in this country's history. In each of those 27 cases, and in the 5 other cases when amendments were proposed but not actually ratified, we have followed this basic constitutional process. We have not had recourse with the kind of gimmick that is embodied in this particular amendment.

Of course, if Senators who support the Daschle amendment do not like what the Constitution says, they can try to amend the Constitution. Then we can have a debate on that. But under the Constitution that we have, this amendment, the Daschle amendment, is unprecedented. Not only is it unprecedented, it is unconstitutional. And, make no mistake about it, it is a killer amendment. It is an amendment that, quite frankly, will have the effect of protecting the status quo.

Why, Mr. President, are we having this debate on the Daschle amendment? We are having it because I believe some do not want to see the amendment ultimately passed. I think that is too bad. I think that whether they intend that or not—they may not intend that—but that would be the ultimate effect of the passage of this amendment. I know that the gentleman, the minority leader, is certainly well-intentioned, but I believe that would be the unintended consequence.

Mr. President, in the 1994 elections the American people demanded change. They demanded it. Eighty percent of them support a balanced budget amendment. They support it because they know that under today's process Congress is simply incapable of creating the kind of change the American people want. That is why Americans are insistent on the balanced budget amendment. Nothing symbolizes fundamental change more for the American people than the passage of the balanced budget amendment.

Mr. President, I will vote against the Daschle amendment because I believe it is harmful to this amendment. I will vote for the constitutional amendment and for the fundamental change demanded by the American people. I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Thank you, Mr. President.

Mr. President, this debate is the defining moment for the American people, if we are going to turn this escalation of debt, if we are going to turn away from this and protect our children and our future generations. This is it. This is the moment.

If we defeat this amendment to the Constitution, then we are on the fast track to economic destruction of the United States of America. People must understand that. Those who would use the dilatory tactics to delay this amendment or to put killer amendments on this amendment, must understand that. And the American people out there who are serving as the constituents of those Senators must also understand that.

This is the defining moment. This is it. There will not be another chance to pass an amendment to balance the budget to the Constitution of the United States of America. It will not happen. We have been trying for years.

I ran for Congress the first time in 1980. I ran on a balanced budget amendment then. I have been running on it ever since. I have been campaigning for it, both in my campaigns, as well as a Member of the U.S. Senate and the House of Representatives before that, trying to get to this moment. We are here. The House of Representatives by a vote of 300 to 132 passed it. It is now lying before the Senate. This is it. People must understand that. There will be no tomorrow for this amendment if we defeat it today. It is over. The American people, 80 percent of whom—some polls are higher than that—support this amendment.

We must understand the significance of this debate and how important it is. The focus of the last elections, the focus of those elections, the midterm election, in 1994, was change. "We are sick of it," the American people said. "We are tired of business as usual." "We are tired of politics as usual. We want this country changed. We want the direction of this country changed." That is what they voted for—Democrats, independents, Republicans. They voted to change this country.

One very important aspect of that change was a balanced budget amendment to the Constitution. They spoke loudly, and they spoke very clearly. They want Washington to turn away from—frankly, I cannot think of a better way to say it—the disgusting habit of piling up debt on our children, deficit spending, and increasing the national debt.

It imposes an enormous and unconscionable responsibility on our children. Not only our children, all future generations. We must realize that the national debt right now is almost $5 trillion. If we borrow at 8 percent, that is $400 billion when we get to $5 trillion—$400 billion a year in interest on that debt. It will get to the point in a very few years, less than 15 years, when the national debt is so big that we will not even have enough money in revenues to pay the interest on that debt.

When that happens, it is over. We default. Or we print money, and we print so much of it that we need to take a wheelbarrow of money with you to go to the grocery store to buy a loaf of bread. Think it cannot happen in America? That is what we thought in South America, not too many years ago. It can happen. It will happen.

I heard the distinguished minority leader talking on the floor a few moments ago about all of the horror stories out there, all these terrible things that are going to happen. All of these budget cuts. That is the point. If we do not have the amendment, that is all we will ever hear—one horror story after another about who will get cut, who will lose money, how much are the States going to lose in their States, how much is Medicare going to use, how much is Medicaid going to lose, how much is defense going to lose. Over and over again. That is the point. That is why we need the amendment, because we will not get the budget balanced because we will hear speeches like that time and time again as we have heard overwhelmingly over the past 30 years, if not more.

The election of 1994 was a mandate. "We have had enough of that," the people said. "We have had enough talk. We want a balanced budget amendment to the Constitution of the United States because you won't do it without the amendment."

There can be no doubt about that. There are 11 Members of the class of 1994. Mr. President, the distinguished Senator sitting in the Chair at this moment is one of those, from Tennessee. They heard the message. That is why 11 new Senators are here, all of whom—all of whom—support this amendment.

In demanding change in 1994, the American people said, "We are not only concerned about America's economic future, not just that. We are concerned about America's moral future." That is what they said. It is immoral to pass this debt on to our future generations. How can anyone—any American citizen, I do not care whether they are a Medicare recipient, Medicaid recipient, defense contractor, I do not care what you are or who you are or in what livelihood you have, what you do for a living. How can a person in good conscience say I am willing to break the bank of the United States of America and pass on my debts to my kids? Do parents want to pass their mortgage on to their children? Or would parents rather pass their home on to their children? Think about that. That is really what is at stake here.

We hear all this rhetoric about all the horror stories. Let me tell Senators what the horror stories will be if we do not do it. There will not be anything in the Social Security trust fund. There will hot be anything for Medicare. There will not be anything for Medicaid. There will not be anything for national defense because there will not be anything left. It will be gone.

No less an authority than the distinguished author of the Declaration of Independence himself, Thomas Jefferson, spoke about this. He spoke, he even thought ahead about this type of debate that we are having right here. He said this:

> The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle our posterity with our debt, and morally bound to pay those debts ourselves.

Thomas Jefferson, the author of the Declaration of Independence. I am amazed, as I serve in political office, the number of times I hear our distinguished colleagues come down on this floor not only here in the Senate but in the House, but even in the courts where decisions are made interpreting what our Founding Fathers said. I think our Founding Fathers would probably turn over a few times in their grave, maybe even do a rapid spin in their grave when they hear this stuff. Thomas Jefferson knew what he was talking about. He knew this could happen. He was against it.

Let me tell Members why it is immoral. A couple gets married. They decide to have a baby. In making that decision to have a baby, do they also plan where the baby will go to college? Do they plan where they are going to live to have that baby for 20 years? Do they plan the meals for that baby for the next 20 years? Do they plan the schools? Do they get the pencils and books and notebooks ready and the homework ready for each assignment before they decide to have the baby? That is what Senator Daschle's amendment is saying. Lay it out. Lay it out completely. We cannot do that. It is irresponsible. It does not make sense. Know what the problem is? We will not make the decision. That is the problem.

Another example. Take 50 American citizens, any citizens, anywhere in the United States. Put them in a room and say, "OK, do you agree we should balance the budget?" If the answer is "yes," you set about doing it. You may not like it, one person may not like what the other guy says cut, but you do it. You make the decision to do it. We have not made the decision. That is the bottom line. That is what our colleagues over there are saying. We have not made the decision.

Indeed, we do not want to make the decision. That is why they are being dilatory. That is why they are delaying. Frankly, it is an insult to those on their side of the aisle who have been distinguished in their leadership for this amendment, like Senator SIMON, Senator HEFLIN, Senator MOSELEY-BRAUN, and others.

In that declaration, Jefferson wrote majestically, very majestically, about inalienable rights with which man is endowed by his Creator and among those are life, liberty and the pursuit of happiness.

Can any one of my colleagues doubt that a crushing burden of national debt on our children infringes on their God-given right to pursue happiness? Right now every single American baby, born as I speak, is born some $17,000, $18,000 in debt because that is your share, each person's share of the national debt.

Lest there be any doubt where Thomas Jefferson would have stood on the balanced budget amendment, that doubt ought to be laid to rest by the following statement he made in 1798:

> I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our Government to the genuine principles of its Constitution. I mean an additional article taking from the Federal Government the power of borrowing.

Taking from the Federal Government the power of borrowing.

How right Jefferson was. If you want to modify it a little bit, if you want to borrow, pay it back. Pay it back. That is what every single American has to do. Borrow money; pay it back. Do not pay it back; go to jail or lose your home or whatever it is that you put up for credit.

But we are asking our children to pay the cost—selfish, immoral, unconstitutional, in my opinion. According to Jefferson it would be. If we put it in the Constitution, it will be unconstitutional. That is why they do not want it in over there, because then they cannot play politics anymore, because then the decision has been made in the room and then we have to sit down and do the job. But we will not even sit down and do the job without the amendment. That is the issue.

Now, when you go to buy a home, you go to the bank. You borrow money. You buy your home. And if you are smart, you will get some type of insurance, mortgage insurance, so that if you die, your mortgage will be paid off and the home will be left to your children or your spouse, whatever the case may be.

But that is not what we are doing here. What we are doing here is, to use an analogy, we are buying a house, and what we are saying is I am not going to go to the expense of buying mortgage insurance. Hey, I am going to go buy myself a new car; I am going to go to Hawaii. I am not going to buy mortgage insurance. That costs too much money. I am going to make my kids cosign the note. I am going to make my wife cosign the note so if anything happens to me, they have to pay for it, not me. This is the now generation. I am going to have a good time. I am going to do my thing. I am not going to be responsible for this. Let my kids pay for it.

That is exactly what we are doing, and we have been doing it. The American people know it, and they are sick of it. That is why they voted the way they did in 1994. I cannot believe that some of my colleagues on the other side of the aisle have not gotten that message yet. I will tell you, I predict, if this amendment goes down, they are going to get the message in 1996, loud and clear.

Mr. President, there can be no doubt that the fate of this amendment, the fate of this amendment rests in the hands of about 12 or 15 Members on the other side of the aisle. That is the fate of not only this amendment to the Constitution, it is the fate of the United States of America.

In a few days, perhaps a week, 2 weeks, whenever it happens, we are going to be standing right here and we are going to be called. The clerk is going to say, "Mr. SMITH," and I am going to stand up, and I am going to vote "aye." And the clerk is going to call other names. Those who are going to say "nay"—and there will be many—do so at great peril because when those nays are tabulated, if we do not have the 67 votes that we need and this amendment goes down, the economic future of the United States of America and indeed the moral future of the United States of America is imperiled.

I say again, it will be a long, long time, Mr. President, before we ever get back to it because I envision the consequence of this as being something along these lines. President X 20 years down the road, 50 years down the road—I do not know when it will be—will stand up and do a press conference and he or she will say, "My fellow Americans, I regret to inform you today that the United States of America must default on every single obligation it has because we cannot pay our bills."

I hope and pray that we do not subject our children and our grandchildren in any future generation to that press conference or any President to have to deliver it. I truly hope that does not happen. And it does not have to happen. We must make the decision. If you listen to the remarks of our colleagues, well-intentioned, it is a dilatory attempt to obfuscate the issue, to get away from the focus.

What do we hear? Oh, we are going to cut Social Security. We are not going to cut Social Security. Or we are going to cut off money to this State or that State and we are going to cut this and we are going to cut that.

Something has to be cut to balance the budget. The alternative is pass on the debt. And pretty soon—it might be 100 years, it might be 50 years; no one knows for sure, but it is not going to be too many—100 percent of our budget will be interest on the national debt.

In the year 2013, according to a bipartisan commission headed by Senator BOB KERREY and one of our former colleagues, Senator Danforth, they say by the year 2013 100 percent of our budget will be spent on interest and entitlements if we do not change it. It is immoral.

Sixty-seven votes, that is what we need. Now, many of my colleagues on the other side of the aisle are very proud of Thomas Jefferson, the founder of their party, and I implore them to listen to him. Listen to the founder of your party. He is right. He believed it was immoral for one generation to saddle another generation with its debt. Mr. President, he said that he wished it were possible to obtain a single constitutional amendment that said the Government did not have the power to borrow money.

It is not just Jefferson to whom our colleagues should listen. Let us jump up a little bit to Andrew Jackson, a pretty famous Democrat. Even though I am a Republican, he is one of my favorites—from Tennessee, I believe.

"Once the budget is balanced," Jackson said, "and the debt is paid off, our population will be relieved from a considerable portion of its present burdens and will find not only new motives to patriotic affection, but additional means for the display of individual enterprise."

Another great Democrat, Woodrow Wilson, spoke even more clearly on that issue, on the balanced budget amendment. This is what he said:

> Money being spent without new taxation and appropriation without accompanying taxation is as bad as taxation without representation.

It is as bad as taxation without representation.

Wilson was the only President—I believe I am right—who had a Ph.D. in government. As a student of government, Wilson knew that the American revolution was sparked by a moral uprising against taxation without representation, which was imposed by the British on the American colonies. Thus, it can be said that to liken deficit spending to taxation without representation was perhaps the strongest possible denunciation that Wilson knew how to make. It is pretty heavy company, to put it in the company of taxation without representation.

This should not be a partisan political issue. It has not been a partisan political issue. Senator CRAIG and Senator SIMON have worked together side by side on this issue for years. It is not a partisan issue. Why are we making it a partisan issue? The American people said to us: Work together. This is the time to work together for the good of the country. This is a perfect example, the best example I have seen in any item we have had, with the possible exception of the vote on the Persian Gulf war, to say we are going to get together in a nonpartisan way and do what is good for the country for a change. I am proud to have the support of my distinguished colleague, who is on the floor now, Senator SIMON, and Senator HEFLIN, and Senator MOSELEY-BRAUN, and others—I am proud of it and I am proud of them. It is not partisan.

On the House side, I think it was 72 Democrats who voted for the balanced budget amendment, including a young Democrat from Massachusetts by the name of JOSEPH KENNEDY II. That is a pretty famous name in American politics.

None of us are going to serve here forever—God forbid we ever serve here forever. When we leave—I speak for myself—when I leave, I would like to be remembered not as some partisan politician who opposed everything the other party was for, but as somebody who tried to be a statesman, who tried to do what was right for his country.

I am standing now in front of the desk used by Daniel Webster—Daniel Webster's desk. His name is inscribed in it in the drawer. It is one of the few original desks in the Senate. He was one of the greatest orators of all time. He served here at a time prior to the Civil War when the debate was hot, and many times he stood in the Chamber of the U.S. Senate and spoke out forcefully on various issues.

But when you stand before the desk of someone who has served here before you of the stature of a Webster, you know the time is fleeting. You are only here for a little while. It is a very insignificant time. This is not my seat. This is a seat that belongs to the people of New Hampshire. That is whose chair this is; that is whose desk this is. It is not mine. I am only going to be here for a short time. Somebody else will fill it. Regardless of when I leave, there will always be somebody there.

But the vote we cast on the balanced budget amendment will be one of the most important votes I believe I will cast in my time here, because it affects the future of our country.

I say to my colleagues with the greatest respect, those on the other side—the reason I keep saying "those on the other side" is because we have, I believe, 52 or 53 of our colleagues who are for this amendment. So the balance is held by a few on the other side of the aisle. I say to you in all good conscience, vote to be worthy as a successor of Thomas Jefferson. Be worthy of that. Honor your party leader. Make a vote that you will be proud to talk about, to place in the center of your legacy to your posterity, a vote in favor of a balanced budget amendment.

I would like to focus briefly—and then I will yield the floor—on the amendment offered by the minority leader, Senator DASCHLE. This is basically an amendment to an amendment to the Constitution. It is a killer amendment. It is going to kill the amendment, if it passes, because it is unconstitutional. It will be challenged. It will not work. You cannot put something between what the Congress passes and the State legislatures before they approve it. That is unconstitutional—everybody knows it. So why is it up here? It is up here because some on the other side do not want to make those hard choices. They do not want to make the choices. They know they do not have to make the choices if we do not pass this amendment. That is the point.

We can talk forever. That is all we do around this place is talk. It is time to act. We have to pass the amendment or it will not get done.

You say that is not true? I heard the distinguished minority leader say that is not true. We need to make the tough decisions. The Senator from Washington, while I was in the chair a short while ago—we can make the tough decisions. Let me just comment on the tough decisions.

In 1921, we passed a statute and it required the President to make recommendations to Congress whenever there was an estimated deficit or surplus.

In 1964, we passed the Revenue Act of 1964, a sense of the Congress to balance the budget.

In 1978, we passed the Revenue Act of 1978. It called for a balanced budget by the year 1982.

The Bretton Woods agreement, in New Hampshire in 1978, known as the

Byrd amendment, required a balanced budget by fiscal year 1981.

In 1978, we passed the Full Employment and Balanced Growth Act of 1978, the Humphrey-Hawkins Act, including a provision calling for a balanced budget.

In 1979, we passed a temporary increase in the public debt limit and it required Congress to balance the budget. We called on the Budget Committees and the President to produce balanced budget plans.

In 1980, the Bretton Woods Agreement Act of 1980, the Byrd amendment, reaffirmed Congress' commitment to a balanced budget by fiscal year 1981.

In 1985, we passed a Balanced Budget and Emergency Deficit Control Act, better known as Gramm-Rudman-Hollings. What happened to that? The rest is history.

In 1987, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 revised Gramm-Rudman-Hollings and set the deficit targets to require a balanced budget by the year 1993.

And finally, the Budget Enforcement Act of 1990, which revised maximum deficit targets to reduce the deficit $83 billion by fiscal year 1999.

Here we are. We started in 1921. We have all these wonderful acts we have passed requiring all these balanced budgets, and we are almost $5 trillion in debt.

What more proof do you need than that? How much clearer can I make it than that? It does not work. Congress will not do it—period. That is why we need the amendment.

If I did not think we need the amendment, I would not be for the amendment. I wish Congress had done this. I wish they had balanced the budget. I wish they had the guts to come up here and do the job. I wish they had done it in 1921, 1985, 1987—all those years I mentioned. But they did not.

Republican Presidents, Democratic Presidents all through the years, and Republican Congresses, Democratic Congresses—there is enough blame to go around. There is plenty of blame to go around. We did not get the job done and we are never going to get it done because we are going to hear all these horror stories. This is what you are going to hear next week: The Republicans will not exempt Social Security; we will not exempt Social Security from the balanced budget amendment and therefore we want to cut Social Security.

You cannot exempt Social Security. Do you want to put Social Security in the Constitution? You cannot do that because do you know what will happen? Everybody will put everything under Social Security. We will probably have aid to some of our States in the Constitution—we will put that under Social Security. We will put anything you can think of that you want to protect, stick it under Social Security. And what will happen? We will drain the Social Security trust fund.

So those who say this amendment exempting Social Security is going to save Social Security are dead wrong. Those out there lobbying in favor of it are also wrong. I say to my senior citizen friends out there, beware of a wolf in sheep's clothing, because it is going to destroy Social Security, it is not going to save it. The way to save Social Security, believe me, is to pass this amendment to the Constitution of the United States requiring a balanced budget. That is the way to save Social Security. We cannot get there without the amendment because people will not do it.

If people over the years really wanted to do it, if the moral argument does not turn you around, what will? If knowing that your children are going to have to pay for what we are doing does not turn you around, what will? The answer is nothing.

I saw the charts that the minority leader had up there. He had a chart that said that if in order to balance the budget, if we take defense, Social Security, and interest on the debt, which we cannot until we reduce the debt, and exempt them, which everybody says we have to do, then Medicare has to take a hit, the IRS has to take a hit, the Immigration and Naturalization Service has to take a hit, the FBI has to take a hit, Medicaid has to take a hit, veterans have to take hits, and retirees have to take hits. Put them all up there. Scare everybody to death. But when we go broke, what is there for the veterans? You have a family. You invest. You open up a business. You fall on hard times, and you loose the business. The bank is not going to do it. The bank says they need the collateral and they need it now. You are a year behind. It is gone. That is the way it works. So what is left then? Nothing.

We have to have the courage to take this issue on. We should not be debating and talking about how hard the cuts are going to be. Of course, they are going to be hard. They are going to be very hard. They are going to be very painful. The American people want to know the truth. They deserve to know the truth. We ought to be telling them the truth instead of politicizing this thing on the floor of the U.S. Senate hour after hour talking about how terrible these cuts are going to be. Of course, they are going to be terrible. They are not going to be as terrible as the consequences of going bankrupt and defaulting on every single loan, and every single fiscal obligation we have. Nothing is worse than that. That is what is going to happen. That is exactly what is going to happen, my colleagues.

So if you assume that under this right-to-know provision, as sponsored by the minority leader, if we assume that we have to have the right to know everything—that is, we have to know where that baby is going to live, where that baby is going to go to school, what meals that baby is going to eat, and where that baby is going to go to college before we have the baby—if we have to do that, then we are not going to get there; period. You are not going to have the baby. You will be so frustrated.

That is exactly what we are talking about here. They are not going to do it. We are not going to balance the budget. We are not going to do it without the amendment. How much more proof do you need than what I have given you? We will not balance the budget until we get the amendment and are required to do it. We have had plenty of time.

I was very excited when I came here in 1985 to the Congress of the United States and shortly thereafter the Gramm-Rudman-Hollings balanced budget amendment passed. Warren Rudman, the Senator from New Hampshire—with a lot of fanfare, and a big deal. We are going to balance the budget, and have it laid out. It is right. True. We had it laid out. What happened? We voted to change it, change it, roll it back and roll it back, and we piled up $2 or $3 trillion since then. We are going to keep right on piling it up.

I tell you. If we lose this vote sometime this month, when we have this vote, if we lose it, somebody is going to be standing here at Daniel Webster's desk some years from now looking at a $12 trillion debt. Then what are we going to do? That is what is going to happen.

I urge my colleagues in the strongest way that I possibly can, out of moral concern—moral concern, forget the economics, forget the politics—moral concern, I urge my colleagues to please consider the damage you are going to do to future generations in this country without this amendment. If we do, then we can get the job done. Without it, I would be the first person to stand up here and say we cannot, and we will not. We have to do it with the amendment. Putting something in between passage of this amendment on the floor and the State legislatures, three-quarters of which have to ratify, is unconstitutional. It is dilatory. It is not going to work. It is obfuscating the issue.

I urge my colleagues to step up to the plate, and do what is right for the country. Put the politics aside. Tell the truth to the American people that we cannot afford not to have this amendment because we cannot afford not to have a balanced budget.

Mr. President, I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

I wanted to compliment the Senator from New Hampshire for the fine speech. I was here to listen to the majority of it. I think his comments on having the baby are very appropriate. We have one on the way. It is due in July. If I were to sit down and think about all the bills I had to pay and all the things I have to do, all the things—maybe I could play golf, do all these things I really do love to do, wonderful things in my life that I have to give up for that baby—I might sit there and selfishly think I had better not have that baby. But you have to look at the other side. All the joy that it gives you in providing for the future, all the love and support that you are going to get from that child and the wonderful relationship, and knowing that you are doing something to preserve the long-term future of our country. The birth of that child which you will nurture and bring up to being a responsible citizen of this country, it is exactly the same. We have that same responsibility to this country as I do to this child, to bring them up in a sound, responsible fashion to lead for the next generation to make a contribution, to give them the chance.

So I think the Senator's analogy hits right on point. It is one that obviously my wife and I have. When we found out that she is pregnant, we were just overjoyed—overwhelmed at times given the cost—but overjoyed with the opportunity to do something for the future, to make our mark. We have a chance right here to make our mark. We have a chance to make our mark right here.

The minority leader's right-to-know proposal, I think, is one of the most dastardly amendments that we could consider because it really does focus on the wrong thing. I hear so many say, "Well, we have a right to know how you are going to get to a balanced budget." No, no, no. You are wrong. We have a right to know how you are going to get to a balanced budget. That is who has the right to know.

You see, those of us who are for the balanced budget must get to a balanced budget. We have to. We signed up. We say we are going to do it. We are going to be required in the Constitution to do it. We do not have to show you that we are sincere about getting to a balanced budget because we pledged to do it, and we are going to put it in the Constitution to make it.

It is those who come to the floor who sign the right-to-know pledge who say they are for a balanced budget who have the obligation to come to this floor and say, "How are you going to do it without it?" They are the people who have the burden to come forward and say how are we going to make this happen given the fact that we do not have the balanced budget amendment. You show us or do not come to this floor and say you are for a balanced budget but you are not for a balanced budget amendment. Unless you can show us how you are going to get there, how this Senate and this Congress are going to work together to put together a balanced budget by the year 2002, unless you show us that you are serious about getting there, then do not come and ask us how to show it. We are making that commitment. We are showing you by this vote that we mean business.

I know a lot of Members are going to come here and say they are for a balanced budget. My question to them is, "When? Next year, 2002, 2005, 2010?"

That is the real issue. I hope that we can get back to the real basic core of this debate, which is whether we are going to put in place the obligation for us to make sure that those children that the Senator from New Hampshire was talking about are going to have a secure and safe financial future.

Mr. CRAIG. Will the Senator yield?

Mr. SANTORUM. I am happy to yield.

Mr. CRAIG. The Senator is so accurate about what he says about where the obligation rests. Those of us who have championed the cause of a balanced budget amendment and have argued that—and I think all of us currently on the floor have agreed in the text of the current balanced budget amendment.

Within the next 48 hours the President of the United States—who stood on the floor of the other body for the State of the Union about a week ago and announced the concept of a balanced budget, and said, "Show me how to balance it"—will be introducing his new budget. That new budget has $190 billion in deficits as far as the eye can see. This President with a straight face is going to look the American people in the eye and say I am going to put at least another trillion dollars to that $5 trillion debt that our colleague from New Hampshire just spoke about.

That is responsibility? No, it is this President's obligation and his party's obligation—or at least those who are advocates of this new amendment that has just been proposed—to come up and say, here is how we get it done under our vision, because if they are committed to trillions of dollars more of debt structure, they are in fact being irresponsible.

I thank my colleague for yielding. I think he is so accurate in those observations. I congratulate him on his tremendous strength and support of this issue.

Mr. SANTORUM. I thank the Senator.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, the Senator from Tennessee seems to be stuck presiding whenever I am speaking here. He has my sympathy.

I want to slightly differ with my friend from Idaho in that I think, to the President's great credit, in 1993, he did come forward with a program to move that deficit down. The problem is that was a brand new President in a honeymoon period, with both Houses of Congress in his corner. It was a first step. But there is no indication that we are willing to make further steps, and that is why we need the constitutional amendment. And my colleague from Idaho and I agree on that.

Senator SMITH mentioned that a large majority of Americans are for this, and he also said we are going to have to make some hard choices. What is also true is, according to the Wirthlin poll, that while 79 percent of the people in the United States are for this, 53 percent believe they are going to have to sacrifice if we get it. The American people understand that. But they also, in some vague way—they may not know the General Accounting Office statistics, but the General Accounting Office says if we are willing to sacrifice a little, by the year 2020, our children and grandchildren can experience a 36-percent increase in their standard of living. That is powerful. That is what we ought to be looking at. So I can sacrifice a little—and I have said this half a dozen times, and you are going to hear me saying it again—I have to sacrifice a little so that my grandchildren can have a better future. That is what it is all about. Are we willing to do that?

Earlier today, one of our colleagues asked, "What do we do if we have a recession?" That was implying that we are not able to respond if there is a recession. But what do we have to do if there is a recession and all of a sudden outlays exceed receipts? First of all, we are implementing legislation—we made clear in committee, and we will make clear in the legislation that there has to be some flexibility in a $1.6 trillion budget. You cannot, right down to the dime, work things out. The best way to protect against that is what has been suggested by Alan Greenspan and Fred Bergsten, and some of the others, that is building up a surplus so if there is a dip in economy, you are not in a deficit situation.

The second thing we will make clear is that if it is within 3 percent of being balanced—so on a $1.6 trillion budget, that is $48 billion—if you are $38 billion or $30 billion in the red, that is considered a balance, but you shift that over to the next fiscal year. So you have that option.

Third, we can simply, with 60 percent of the Senate and 60 percent of the House, vote to have that amount in deficit. So there are really a number of options, and the idea that we are frozen and we cannot do anything in a recession—it is very interesting that in past recessions, we have extended unemployment compensation for the people of Pennsylvania, for the people of Tennessee, for the people of Maryland, for the people of Illinois. And in these recessions—it is very interesting—I have been able to find only one time, I say to my colleague from Maryland who spoke on this, when we did not get 60 votes for an extension of unemployment compensation. That was in 1982.

Listen to those votes: 92–8, 92–1, voice vote, 75–18, 84–10, 84–16, 61–36, voice vote, voice vote, 86–14, 85–10. It is clear that we have the ability to respond.

(Mr. SANTORUM assumed the chair.)

Mr. SARBANES. Will the Senator yield on that point?

Mr. SIMON. I will be pleased to yield, but I will yield only for a question, and I want to retain my right to the floor.

The PRESIDING OFFICER. The Senator has the right to yield for a question.

Mr. SARBANES. I say to the Senator, is he talking about extending unemployment benefits?

Mr. SIMON. Yes, which we have done in recessions.

Mr. SARBANES. But, by definition, Mr. President, the extension of the unemployment benefits is a crisis response to the fact that we find ourselves in a fairly serious recession. The fact of the matter is that we start running deficits related to the developing unemployment situation well ahead of the crisis which surrounds extended benefits. The increased payments under the regular unemployment insurance system would provoke the application of this balanced budget amendment.

The Senator says if we get in a serious economic situation, surely 60 Members will vote to waive this provision. I do not want to argue whether they will or will not. You have no guarantee that they will and, in fact, a minority may not want to make that adjustment. I will leave that to one side, because the Senator from Illinios is talking about acting once we are "in the soup," so to speak.

The way these fiscal stabilizers are established, as soon as the economy begins to weaken, we begin to go out of balance in order to compensate for weak economy. That is the success we have had for the last 50 years in offsetting the business cycles. This chart shows the fluctuations in GDP since 1890. Look at the fluctuations we used to have, the boom and bust cycles we had in this country. We have been able to control this through the use of fiscal stabilizers.

Mr. SIMON. I yielded to my colleague from Maryland for a question. I would be happy to have his question here.

Mr. SARBANES. Mr. President, the question is simple: How are you going to avoid these boom and bust cycles?

Mr. SIMON. The answer is that we are not going to eliminate economic cycles in this country. There are going to be dips. I favor automatic stabilizers, and we have some. Unemployment compensation is one. Social Security is another. It is a very solid stabilizer.

I favor creating more that are automatic stabilizers in this kind of a situation. But, Mr. President, I point out to my colleague—he was not on the floor when I said that we can build some small surpluses in.

Former Assistant Secretary of the Treasury, Fred Bergsten, whom the Senator from Maryland knows well, says we are frozen by our deficits from responding. That is why we could not, even with a brand new President, and both parties of Congress of his party, pass a $15 billion job stimulus program, because we saw this huge deficit.

Fred Bergsten said, build in a 2-percent surplus and then have some automatic programs that kick in when unemployment goes above a certain level in Pennsylvania or some other place. That makes infinitely more sense than what we are doing now. And if we continue on the present path, we are inviting economic chaos.

I point out further to my colleagues here that the Investors Business Daily had this substantial item I put in the RECORD the other day pointing out that this idea that we stabilize the situation and we reduce recessions just does not work. The National Bureau of Economic Research came out with a paper recently, written by two University of California economists, which says, "Our main finding is that monetary policy has been the source of most postwar recoveries," as it has been of this recovery.

When those interest rates went down—thanks, I say, to Bill Clinton and his courage in facing this recession—our economy picked up.

And Data Resources, Inc., says, if we pass this, when we balance the budget we are going to have a 2.5 percent reduction in interest rates.

But here is what the University of California economists say:

> Our main finding is that monetary policy has been the source of most postwar recoveries. While limited fiscal actions have occurred around most troughs, these actions have almost always been too small to contribute much to economic recovery.

Mr. SARBANES. Will the Senator yield on that point?

Mr. SIMON. I will not yield at this point.

Mr. SARBANES. OK.

MR. SIMON. An article in the Public Interest by an economist named Bruce Bartlett makes the same point, but my colleague from Maryland may not believe them.

Here is the report of the Joint Economic Committee of the Congress. One of the members of that committee is a fellow named PAUL SARBANES. Here is Lloyd Bentsen speaking, as he says, clearly in a consensus for both parties in the joint economic report. Here is Lloyd Bentsen's language:

> Examining actions taken to combat these economic slumps over the last 35 years, the committee is convinced that Government responses too often have been too late and too ineffective to influence recessions.

Do not take my word for it. Do not take the word of all these economists. This is Lloyd Bentsen, not a Republican—nothing against my Republican colleagues—chairman of the Joint Economic Committee, in behalf of the joint committee, and, as he says, it is the consensus of that body—that includes Bill Proxmire, Abe Ribicoff, TED KENNEDY, George McGovern, PAUL SARBANES, Jacob Javits, BILL ROTH, Jim McClure and Roger Jepsen on the Senate side, plus a number of people on the House side, including someone both of us respect a great deal, Henry Reuss, who for many years was a Member of the House and was chairman of the Banking Committee and a very distinguished Member.

Mr. SARBANES. Will the Senator yield, since the Senator mentioned me?

Mr. SIMON. Yes, I am pleased to yield. I wanted to make that point.

Mr. SARBANES. First of all, I agree with that statement. The response has often been too little and too late, which only underscores the problem as set out by the Senator earlier.

He said, "Surely if we go into a recession, we will join here to waive the requirement and make the extended unemployment benefits available." The fact is we have done that too late.

What the Senator is not recognizing is that the way the stabilizers work now, they kick in as soon as the economy slows down. We then start running a deficit. Under the balanced budget amendment, we would not be able to do that. You would not be able to run the deficit until you convene and got your 60 votes in order to do the waiver. By that time, you are on the downward slope.

Mr. SIMON. I reclaim my time.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. SIMON. I reclaim my time to point out there is absolutely nothing to prevent us from responding.

There is something to prevent us from responding irresponsibly, and that is what we have been doing. We have been saying, basically, "The heck with our children and our grandchildren and future generations. We are going to give a political response."

Now, there is no question we are going to have to make some hard choices, but I think it is essential that we make those hard choices. And I think, whether it is the Senator from Maryland or the Senator from Tennessee or the Senator from Pennsylvania or the Senator from Illinois, we have to keep in mind what the GAO says, and that is if—and they use the year 2001, this was a June 1992 report—by the year 2001, we balance the budget, by the year 2020 there will be a 36 percent increase in the standard of living of all of our people.

Mr. THOMPSON. Will the Senator yield?

Mr. SIMON. I am pleased to yield to my colleague from Tennessee.

Mr. THOMPSON. To make sure I understand, in answer to the question of the Senator from Maryland as to how this amendment would operate, he is under the impression, apparently, that we would have difficulty in responding, as he suggested, because it might put us in a deficit situation.

I am wondering whether or not, however, the Congress would have the opportunity subsequent to that action any time within that fiscal year to come up with a three-fifths vote and, in effect, ratify the previous action. In other words, does the Senator subscribe to the concern of the Senator from Maryland or is this an answer to that?

Mr. SIMON. There is no question that is one of the options. I would add, Data Resources, Inc., says if we adopt this, we are going to create 2.5 million more jobs in this country.

Mr. SARBANES. What is the option on responding to the recession?

Mr. SIMON. In response to the question of the Senator from Tennessee, Mr. President, it is that we face basically three options. One is to build in a surplus, which I favor and which others have indicated they favor so that you have this cushion.

And maybe there are really four options.

The second is to build in additional automatic stabilizers so that you build up a fund and if you have a dip in employment in Tennessee, the President would be authorized to immediately launch some projects there.

Mr. SARBANES. Will the Senator yield on that point?

Mr. SIMON. Let me finish responding to your question and the question of the Senator from Tennessee.

The third option is that we build in, as we have discussed in committee, because you cannot balance everything down to a dime, that in a $1.6 trillion budget you might have a 3 percent leeway where that could then be shifted over to the next fiscal year.

And the fourth option is to get more than the 60 votes. And we have shown over and over and over again we have the ability to do that. And we have done that, you know, for earthquakes in California, for storms in Florida and Louisiana, for floods in Illinois and Missouri. We have done that over and over. So I do not think that is a great problem.

Mr. THOMPSON. Will the Senator yield?

Mr. SIMON. I yield to my college from Tennessee.

Mr. THOMPSON. As I understood the concern of the Senator from Maryland it is that for each action anywhere within the fiscal year we would have to get a three-fifths vote together immediately to take any action. However, I was under the impression that that was not the case; that subsequent to any action, any time within the fiscal year, Congress would have the option to ratify the action or perhaps take other measures that might counterbalance it. In other words, there would not be a succession of crises all along the way. The obligation would be to have a balance at the end of the fiscal year.

Mr. SIMON. Mr. President, it seems the obligation to have a balance at the end of the fiscal year—I would have to say someone might have a point of order at some point. If someone wanted to launch a $100 billion program, and that clearly would create a deficit situation.

Mr. THOMPSON. Even though technically we would not know, even then.

Mr. SIMON. That is correct. So ultimately we are at the end of the fiscal year.

Mr. SARBANES. Will the Senator yield on those points?

Mr. SIMON. I will be pleased to yield for a brief question.

Mr. SARBANES. Maybe I will reserve and answer the Senator's points, point by point. I thought the Senator might prefer an exchange, but if he wants to do it that way it is fine by me.

Mr. SIMON. Mr. President, I want to touch on one other point, and then I will be leaving the floor here.

The question has been mentioned about capital budgets, and that States have capital budgets. Now, frequently, States have to. But I also have to add, and I say this as a former State legislature in Illinois, frequently States take advantage of this.

The State decides—in Illinois—does not need to have bond issues. We are now spending huge amounts of money on interest. We do not call it deficits but we issue bonds. It is not wise. The biggest capital budget in the history of humanity, not just the history of our country, has been the Interstate Highway System. It was proposed, to his credit, by President Eisenhower. But President Eisenhower said, "Let's issue bonds to pay for it." And a distinguished Senator from Tennessee, the father of our Vice President, Senator Albert Gore, Sr., said, "Let's not issue bonds. Let's do it on a pay-as-you-go basis, and let's increase the gasoline tax." And we did it.

As of about a year ago the estimate was that we saved about $750 billion in interest because of that. What project is there that the Federal Government does today that requires that we have to issue bonds? The biggest single thing we do is a nuclear carrier. That will cost about $6 billion. We will say inflation goes up to $8 billion, pay for it over a period of 4 to 6 years. In a 1.6 trillion budget, we can do that.

Second, it is very significant that we were putting a lot more money into capital investments when we were not paying $300 billion-plus for interest. Our investment budget has gone down with these deficits, not up. Our fiscal imprudence just does not make sense.

The General Accounting Office has said we ought to divide our budgets into investment and consumption. The General Accounting Office also warns against using capital budgets as an excuse for deficits. It would be a great mistake to follow that line.

There is no question, Mr. President, if we have the courage to adopt this amendment, we are going to face some tough choices. And we are going to have to squirm. And we are going to have to cast some unpopular votes. If balancing the budget were popular, we would have done it a long time ago. It is popular in concept but as soon as I say, "We will have to step on your toes in spending," then, all of a sudden, it does not become popular.

I would add one other point: My friends who say we can balance the budget without a constitutional amendment—first of all, they gave that speech in 1986 when we failed by one vote. Then we had a $2 trillion deficit. Now it is $4.7 trillion. We have an obligation to spell things out, and I think we should spell out, in general terms. Not as suggested precisely by Senator DASCHLE's motion. But I think in general terms we do have an obligation. I think we should move on that right after this is adopted.

But if we have an obligation, so do our friends who oppose this, who say we can do it without a balanced budget. We have this advantage. The most conservative estimate on savings on interest with the adoption of this is by the Congressional Budget Office. They say we can save $140 billion in interest. Data resources, Inc. is talking about $500 or $600 billion in savings. Plus when interest goes down, revenue goes up.

We are talking about how we, because we exercise some discipline, can build a better future for our country.

I am never going to be a candidate for anything again, Mr. President. Maybe I will run for the local school board or something like that, but I will not run for the Senate. I will not run for Governor. I will not run for President. I am interested in doing something for the future of my country. Here we have a chance to do it. Let Members not miss this opportunity. I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I thank the Chair. Mr. President, I want to comment on a couple of points that have been made.

First of all, on the capital budget issue, most economists estimate that of the current official budget, anywhere from $125 to $200 billion—depending on the standard used of what we spend—would be a capital expenditure if we had a capital budget.

It is important to understand that because what the Senator from Illinois and his adherents are pushing for here is to balance the budget, encompassing what State and local governments or businesses would treat as a capital budget.

These are the items that any prudent, well-run business or State and local government would say represent investments in the future. These are assets that have a long useful life, and therefore it is reasonable to provide for them by borrowing and then amortizing the expenditure over the life of the asset.

That is what individuals do. In fact, most people, when they buy a home do not balance their budget in the year they buy the home. They go very deeply into deficit. Only those who can pay for the home out of cash are able to say that they are not incurring a deficit in that year. If they were bound by an amendment such as the one we are talking about here, they would not be able to do that.

Most people, assuming that the size of the mortgage they are getting bears a proper relationship to their income and their employment prospects, regard borrowing as a prudent thing to do. In fact, we say to young people,

> You ought to go ahead and buy a home. You have enough income to sustain the mortgage payment and you have the use of this asset. You would be building up home equity instead of paying rent. Why not go ahead and do it?

Businesses make this type of investment decisions. They go out and borrow in order to enhance the productive capacity of their businesses.

We do have the problem whether at the Federal level we are incurring the deficit for consumption or investment. I think if it is being incurred for consumption, there is a very strong argument against doing that because we are enhancing today's living standard by throwing the burden on tomorrow.

I heard the Presiding Officer talk about the responsibility he feels toward his offspring that is coming, and that is a reasonable statement to make. However, if it is an investment that is being made for the future, borrowing may be a very smart thing to do. Is it imprudent and irresponsible to incur a reasonable amount of debt in order to educate your children?

Suppose you cannot afford at the moment the full cost of your child's education out of your current income flow? But you know that if your children are educated, their earning capacity will be enhanced. I am able to carry this obligation over time if I treat it as a capital asset and amortize it. I think most middle-class people do that in meeting the college or professional school costs of the education of their children.

This distinction is made at the State level—the States would not balance their budgets if they kept their books the way the Federal Government does. Most States have an operating budget which they are required to balance. They have a capital budget which they fund by borrowing. They are very explicit about borrowing.

We had two Governors who testified only 10 days ago that having a balanced budget requirement at the State level helped them to maintain a good credit rating.

Now, why do they need a good credit rating if they are not borrowing? They have a balanced budget requirement and which is helpful to them in maintaining a good credit rating.

The reason you are concerned about having a good credit rating is because you are borrowing. They acknowledged under questioning that only the operating budget must be balanced, and they make active use of a capital budget for which borrowing is permitted. So this obligation you are placing upon the Federal budget would be the equivalent of saying to every State you must balance not only the operating budget but you must fund the capital budget out of current revenue. It could be the equivalent of saying the same thing to private business or to individuals. If we had capital budgeting at the Federal level now, the deficit problem would be very significantly diminished, because a fair amount of what we are spending are on capital items which under any reasonable capital budgeting approach would have been placed in the capital budget, and in most places then financed through borrowing.

That is why these Governors want to have a good credit standing. I have a State that runs a very responsible fiscal policy, and they are one of five States with a AAA bond rating. That is important to us. But the fact is that we are still borrowing in order to carry out our capital projects. We get a very good interest rate on doing that, better than most States, but we are still not doing the capital budget out of current revenues.

Now, let me turn to the problem about economic downturns, and whether they will be precipitated into a recession and in turn a depression.

What we have managed to do is build into the workings of our fiscal policy automatic stabilizers. If the economy declines, we lose revenues because people lose their jobs, they are not paying taxes, and we also increase expenditures because they receive income support payments—unemployment insurance, food and medical supplements—in order to sustain their family. The consequence of the increase in expenditures and the reduction in revenues is that you get a deficit.

Now, if you try to eliminate that deficit as the economy is moving downward, you are only going to drive the economy down further. You are going to push it down into the hole. This is what happened all through the last century and through the first half of this century.

Mr. President, I invite your attention to this chart about the percentage change in our gross national product beginning back in the 1890's and coming forward until today.

This drop is the end of World War II. It was after World War II, learning from the experience of the Great Depression, that we built in these automatic stabilizers which, when the economy went soft, would in effect seek to offset that deterioration by compensating aspects in the Federal budget.

What has happened because of that is that we now have been able throughout this postwar period to avoid the very deep boom and bust cycles that we previously had experienced.

We still get some fluctuation in the business cycle, but we have been able to diminish them very significantly. There are tremendous economic benefits that flow from a more stable business cycle.

The question becomes how are you going to address that situation as it develops? My friend from Illinois says we will get together and 60 votes will certainly waive the requirement and we will then incur the deficits which need to be incurred to offset this.

He then, quoted from a study which said that the use of fiscal policy had been too late and too little, generally speaking, in the post-World War II period. And I indicated to him that I agreed with it had been too late and too little.

It has been too late and too little without the constraint of a balanced budget amendment and without the requirement of a supermajority to have a more responsive fiscal policy, it defies logic and rationality to anticipate under this changed circumstance that the action is going to come earlier and in greater quantity than heretofore experienced.

Mr. THOMPSON. Will the Senator yield on that question?

Mr. SARBANES. Sure.

Mr. THOMPSON. Does the Senator believe that we have been too late and too little because of just a willful refusal to address it or perhaps because of Government's inability to fine tune the economy and to predict where it is going to be even a short place down the road?

Mr. SARBANES. I think at the moment we have a certain stabilizing benefit that comes automatically. For instance, the unemployment insurance plan. But it is limited. Then we go into a downturn, and we say we have to extend the unemployment insurance benefits. But by the time you reach that point, you are on the downward slope and you look around and you have a pretty serious situation on your hands.

Now, as we start on the downward slope, we often do not recognize it at the time. The automatic stabilizers start working right away.

It is my own view we would not admit or recognize a situation that required a response in time. In fact, I doubt even if we can get a majority requirement early in the downturn. I will not argue for the moment whether later, when things are really falling to pieces all around you, whether you can get the 60 votes or not. Some think you would have difficulty doing it even then. I am focusing on to what extent you get on this slope and how much momentum begins to build in a downward direction before you are able to check it.

We have done a pretty good job here in the post-World War II period. We get ups and downs, but only in a couple of instances have they actually crossed into negative growth. So we have been able to keep the economy in essentially a positive growth mode with varying degrees of ups and downs and stability. But this is a marked contrast of what we used to go through.

Mr. THOMPSON. If the Senator will yield for a moment? Is it the Senator's understanding of the constitutional amendment proposed that, if early in the fiscal year a need was perceived to take such action as the Senator just described, that there must be an immediate vote with a 60 percent majority at that time? Or could that vote be taken at a subsequent time within the fiscal year?

Mr. SARBANES. That is a good question. I do not think the amendment fully answers that question. I think one might well go into court and assert if we had taken measures to incur a deficit, that in effect would end up violating this provision and ought to be restrained by court. Whether a court would pick up on that I do not know.

I take it the Senator's argument is we could do it in June and we would have until September 30, somehow, to work this thing out. The trouble with that is the recessions do not turn around in a quarter or two quarters. Once you get on a downward trend it takes a little bit of time to come back up. You are fighting to hold it back.

The point I make to my distinguished colleague is the more momentum that builds up in a downward direction the harder it is to check it and bring the economy back. It is always better to respond early because usually that means you can address the situation with a lesser amount than will be required later when the economy is driven deeper into the hole.

So I understand the point the Senator is making. I do not know the answer to it. But even if one were to answer it in the direction in which he presupposes, I do not think it helps very much because we are going to come up against that fiscal year before long and then we are going to be faced with an absolute crisis: What to do prior to the end of the fiscal year, in terms of the amendment. This amendment does not require a budget balance over the business cycle.

Mr. THOMPSON. Suppose——

Mr. SARBANES. A budget balance over the business cycle would have more rationality to it. It still does not address the capital budget point.

Mr. THOMPSON. Pardon me. The underlying question—we will set aside the previous question. I am sure others can address that in terms of when the vote must be taken or whether or not there is any leeway. My impression is that there is probably substantially more leeway under this amendment than the Senator believes that there is.

I guess my underlying concern is, and question is the extent to which the Government has had success in fine-tuning the economy by fiscal policy?

It seemed to me the Senator from Illinois was very persuasive, and the economists he quoted, of the proposition that we have not been very successful along those lines and that it, in fact, has had to do with monetary policy more than fiscal policy which would not be addressed by the concern of the Senator.

Mr. SARBANES. My answer to that is it depends on your definition of success. I happen to think that the fiscal stabilizers in the post-World War II period have been a success. And I think it is a consequence of a combination of fiscal and monetary policy.

It is the same process used by other countries. It is not as though I am putting for an analysis something that is only used by the United States and not used by others. Countries have sought to avoid what they experienced, which of course culminated in the Great Depression in 1930's when we had an absolute collapse with respect to our gross national product. We had a 15-percent drop in gross national product.

Franklin Roosevelt came in and he said we are going to balance the budget. Hoover was running deficits in the budget. Everyone said you have to balance the budget. Hoover tried to balance the budget unsuccessfully. The effort to balance the budget, I am asserting here, in those economic circumstances, worsened the economy.

Roosevelt came in and said we are going to balance the budget. Then they got in there and they came to realize if they tried to balance the budget in those economic times they were only going to worsen the state of the economy. More people would be out of work. There would be less purchasing power and the spiral would continue to go downward. That is when they moved in a different direction.

I am not arguing you should have unrestrained or unlimited deficits. Obviously you need to be very prudent. I am trying to make the point, first on the capital budget, that this amendment requires you to pay out of current income for items that virtually everyone else in the economy pays on a capital basis. In other words they borrow it and pay for it and they regard that as a prudent measure.

Second, I do not think the amendment permits the flexibility necessary during economic downturns. It says "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year," unless you use the escape clause.

This also means you cannot do anticipatory budgeting. We now have a concept that we build up a surplus in a trust fund and then use it in difficult circumstances. That is what we do with unemployment insurance. So when the economy is running well, the income into the unemployment trust fund is greater than the outgo from the trust fund. We build up a balance in the trust fund. The thinking is that then when we hit a tough economic time in which the payments out will exceed what is flowing in, we will use up the balance in the trust fund that we have built up.

This amendment would not allow you to do that because in the outyear, it makes no provision for having outlays in excess of receipts. If everything else was in balance and you sought to pay out of the trust fund, your outlays would be exceeding your receipts; total outlays and total receipts. So you would be in a jam as a consequence.

Again people say, "We are going to waive that. We are going to give the supermajority vote." I am not sanguine about that, even if the issue is put to us. But the point I made earlier is that these things happen early on and now we get an automatic response. In the future you would require a discretionary response. I have very serious doubts that it would come early enough and responsively enough to avoid this kind of development.

Mr. President, I want to turn to this GAO study that the Senator from Illinois has been citing from time to time. This was a study in which the GAO had four alternative scenarios, one of which was an absolute scare scenario that any rational person would have been traumatized by. This report, incidentally, is being used in the discussion here as a support for the balanced budget amendment.

Prof. Sidney Winter, of the Wharton School of the University of Pennsylvania, Chief Economist of the General Accounting Office, when the 1992 report, "Budget Policy, Prompt Action Necessary to Avert Long-Term Damage to the Economy" was prepared for the Congress made the following statement about his views on the balanced budget amendment to the Constitution.

> A balanced budget amendment is an amendment that would risk converting some future economic downturn from recession to depression. For that reason, a constitutional amendment is the wrong tool for long-term

budget discipline. The right tool is the Budget Enforcement Act of 1990, as amended, which is the only tool the Congress really needs.

Last year, after my colleague from Illinois quoted the GAO report, we wrote to the GAO asking some questions about the assumptions of this June 1992 report, and also asking about the current long-term deficit outlays. They, in their response last year to me, stated that they developed four scenarios to show the implications of various fiscal policies in dealing with the deficit. These scenarios were projected out to the year 2020. One scenario was doing nothing and allowing the deficit and cumulative debt to grow unchecked. This was a report in June 1992.

So this report actually was before the August 1993 deficit reduction program, which was passed by the Congress at the recommendation of the President.

So the scenarios were: One, doing nothing and allowing the deficit and cumulative debt to go unchecked. That is the scenario which is constantly cited by my colleague from Illinois. In other words, he takes that scenario and what it said, and says, "My God, look at this." The fact of the matter is that the scenario has already been rendered irrelevant, its assumptions not warranted, by actions taken by the Congress since the report in June of 1992 and up to this time.

The second scenario was holding the deficit to 3 percent of gross national product. The third was achieving a balanced budget early in the next century, and maintaining balance thereafter. And the fourth was achieving a balanced budget and then moving in the surplus.

The letter then goes on and says:

> You ask whether our analysis considered the costs or benefits of adopting a balanced budget amendment to the Constitution. It did not.

I repeat that. "It did not."

> The GAO has long supported making the hard programmatic policy choices that would lead the country to a more balanced budget. We have not endorsed the balanced budget amendment to achieve this goal.

We then asked them about the current deficit outlook. This is what they said:

> With regard to your question about the current deficit outlook, it has indeed improved in the 2 years since our 1992 analysis. In the Omnibus Reconciliation Act of 1993, the Congress and the President have taken action that the Congressional Budget Office estimates will reduce the deficit by $433 billion from 1994 through 1998.

Actually, the figures are turning out better than that.

> The CBO now projects the deficit will be 3.1 percent of gross domestic product in 2003, down from its projections of 6.8 percent a year ago. These recent improvements in the deficit obviously would affect the starting point used in our 1992 report, which would in turn alter the outcomes of the four scenarios we outlined years ago. At least through 2004, CBO's projections indicate that we have steered away from the path projected in the no-action scenario.

So here is what happened. They projected a no-action scenario path, and on the basis of a no-action scenario path, you had great difficulty. In fact, we took action, and as a consequence of taking action, they were projecting last year the deficit would be down there 6.8 percent of GDP to 3.1 percent of GDP.

Obviously, more needs to be done. But the point that needs to be made is this absolute scare scenario that has been cited again and again is no longer applicable because the assumptions upon which it was based no longer hold.

In fact, they went on and said in the letter:

> In the 2 years since we have developed the model, new information has become available that shows somewhat higher productivity, lower Federal interest costs, and higher labor force projections. We believe these changes could work to improve the long-term deficit outlook to some extent.

So, Mr. President, I want to underscore that the dynamics of this situation are such that the changes we have made have in fact had a very beneficial effect. The United States now ranks the best among the G–7 industrialized countries, in the ratio of the deficit to its gross product. That was not the case before; that was not the case before the August 1993 legislation. But as a consequence of that and the deficit reduction that has followed the 1993 Omnibus Reconciliation Act, what has happened is the economy has grown, and grown in a very steady and encouraging way. The deficit has come down, and the ratio of the deficit to the gross product has improved markedly, as this letter said—and this letter was in the first part of last year—projected down from what was projected as 6.8 percent to 3.1 percent.

So this is all by way of making the point that, first, we are making progress; second, as to the scare scenario that is constantly cited to say we absolutely have to adopt this balanced budget amendment because things are just worsening, worsening, worsening, is in fact wrong, things are improving. There is more that remains to be done. But in my judgment, to try to do them through an amendment to the Constitution is not the way to go.

Actually, I agree with the GAO, whose report is being cited as a justification to enact this constitutional amendment. And the GAO itself says:

> The GAO has long supported making the hard programmatic policy changes that would lead the country to a more balanced budget. We have not endorsed a balanced budget amendment to achieve this goal.

There are real problems that are inherent in this amendment. Economic downturns would be exaggerated and become recessions. We make no provision for a capital budget, and therefore, there would be a real question of whether we would be able to do the kind of capital investment for the future strength and productivity of the economy, which everyone in a dynamic society is doing. There is a great concern that this matter would be thrown into court; we may have the judiciary making basic budget decisions which ought to be made by the President and by the Congress.

I hope it is not anyone's intention here to shift these issues into the courts. The Constitution does not have particular, substantive policies in it. Those are left to be worked out by the President and the Congress. The Constitution is a framework to define how we reach decisions, and it also guarantees the liberties of our citizens.

I think that this amendment has a very substantial risk of promoting instability and retarding economic growth. I very much hope that, upon reflection, perceiving the problems that are connected with locking a matter of this sort into the Constitution, my colleagues will not move to send this proposal to the Senate.

(Ms. SNOWE assumed the chair.)

Mr. THOMPSON. Will the Senator yield for a question?

Mr. SARBANES. I am happy to yield. I am more than willing and anxious to explore these matters with my colleagues.

Mr. THOMPSON. I appreciate that. The Senator from Maryland has had a long and distinguished career with these budgetary matters, and I want to have the benefit of his insight, because it is certainly different than the insight I have.

I get the impression from the Senator that we made progress in 1993, and that is indicative of the fact that we can continue to do that and we will really have no big problem.

Mr. SARBANES. No. I think we have a problem, but I think we have made progress and I hope we can continue to make progress. I do not think the recourse, as the GAO indicated, is this amendment to the Constitution.

Mr. THOMPSON. I wonder if we should not examine how much progress we have made and what the likelihood is of making the progress we are going to have to make. The 1993 budget arrangement, as I understand it, adds over $1 trillion to the debt. We have come to the point now where we are using as a flag of success to wave a situation that actually adds over $1 trillion to the debt. As I look at the figures, CBO figures, they indicate that the deficit is going to go up to $222 billion in 1998, and will go up in the year 2004 to $421 billion.

The Senator rightfully points out that the deficit as a percentage of GDP has gone down. But I look and see that they project in the year 2020 that the deficit will be 21 percent of GNP. That is going to be along the time, or shortly after the time, the baby boomers start retiring and the demographics overwhelm us.

Mr. SARBANES. What are the assumptions of that projection? That nothing is done?

Mr. THOMPSON. You would have to ask CBO that.

Mr. SARBANES. I think I know the answer.

Mr. THOMPSON. Does the Senator disagree with the CBO analysis?

Mr. SARBANES. I think the assumption of the projection is a no-change scenario, just like an assumption of the GAO study which has been cited was a no change. GAO then, literally in less than 2 years from the time they made this projection, based on a no-change scenario, in effect, says that is now moot or irrelevant because important changes have been made and therefore the dynamics are very different.

The biggest problem on the deficit as we look ahead is the health care issue. If you look at the components of where they expect to have a deficit problem, it is in the health care field, and obviously we have a tough problem to deal with in health care. Despite not dealing with it last year, it is my understanding that most Members think something has to be done and it has to be addressed. What will be done and how is another open question. But there is obviously a matter there that has to be addressed.

Suppose I said to the Senator, well, we have a capital budget and we are going to have $150 or $200 billion a year in the capital budget—which would be $1 trillion over 5 years—of capital investment, just like a business would make a capital investment or State and local governments would; would the Senator be upset by that? Would he regard that as being imprudent, as sort of an irrational policy?

Mr. THOMPSON. My understanding is that it would represent only about 4 percent of our expenditures anyway. I am not sure it would make that much difference one way or another, frankly.

My other concern with the capital budget, of course, is the definition of a capital budget and how you defined it and whether or not everything all of a sudden would start to go into that budget.

Mr. SARBANES. I think that is a good point. Obviously, you would have to have careful definitions because, in fact, the way State governments or private businesses sometimes get into trouble is they put into the capital budget items that ought to be on the operating budget side and paid for through the current flow of income. But the fact that you have that problem at the margin in terms of definition and the possibility of abuse does not detract from the fact that very prudent people, as part of rational decisionmaking, use a capital budget and adopt a concept of paying for the capital budget by borrowing. And depending on the circumstances, it makes sense for the family, it makes sense for the business, it makes sense for State and local government, and it would for the Federal Government.

Mr. THOMPSON. I think the Senator's concern is well placed. I, for one, have been concerned that in this country for a long period of time we have refused to make any sacrifices, as far as consumption is concerned, and that the first things usually on the chopping block are things that benefit the next generation and that we ought to be spending more on what would probably be decided as capital items, infrastructure, things that will make our country stronger and more competitive and greater in future years and consume less. I happen to not think the Senator's concern would best be the approach to take to resolve that. But I appreciate the concern.

But getting back to, I think, the most fundamental concern, we can talk about a capital budget, we can talk about this would somehow restrict the Government from fine-tuning the economy, we can debate over whether or not the Government has had that much success in times past.

Mr. SARBANES. If I could interject, I think the impact of this would not be on fine-tuning. It would be on rough-tuning. In other words, I do not even think you would be able to do rough-tuning, let alone fine-tuning.

Mr. THOMPSON. All right. But the basic question to me, fundamentally, is whether or not we have a very, very serious problem that is going to turn into a catastrophic problem down the road or whether or not this is overblown; whether or not the entitlements commission, for example, the bipartisan commission headed by two very distinguished Senators, one from each party, whether or not they are wrong when they say in the year 2020 that a handful of programs and the interest on the debt is going to run us out of money and we are not going to have enough money for national defense, infrastructure, research and development, and all these other things. Whether or not the President, as I understand it, is wrong when his own projections show that around about 1998, even though we have made some progress in recent years with a massive tax increase—we cannot have one of those every time we want to make a little progress, in my estimation; anyway I will not argue you that point now—but the President's own figures show that the deficits skyrocket.

One of my colleagues used this chart. If we do not balance the budget, deficits will grow to more than 18 percent of GDP by 2030. I mean we have all seen these charts. And everybody—all the economists I have heard, the Concord Coalition, headed by two distinguished former Senators, one from either party; the distinguished Pete Peterson, a former Secretary of Commerce, in the recent book he has out—everybody that I have heard pretty much agrees that we have a very, very serious problem on our hands and that we are kind of fiddling while the country is burning around here.

Does the Senator disagree with that assessment?

Mr. SARBANES. In part.

What I would say to my distinguished colleague is you could have shown me a chart far worse than that one if you had done it before August 1993 and the adoption of the deficit reduction package.

Mr. THOMPSON. And I could show you a chart far worse than that one if we take it out into the future.

Mr. SARBANES. But what you are doing when you show me those charts is you are assuming no action. Just as in 1992, if you assumed no action, you would have shown a chart of great concern. We took action and, therefore, the situation was improved.

Now I am not asserting that the action taken thus far is a complete response to the problem. But I am trying to make the point that these scare scenarios are all premised on sort of doing nothing. We had one before. We did something. We got a very substantial improvement. We need to do even more in order to have further improvement.

And the hangup is essentially connected with the rising costs of medical care. If you break out the analysis and say, "What is it that is growing that is going to create this problem in the future?" It is the cost of medical care.

Mr. THOMPSON. I think we are narrowing the debate. I think we both pretty much agree that we have a very serious problem. I think where we finally perhaps disagree is the prospects of doing anything about that on the current course.

We have been talking about balancing the budget for years and years and we have been talking about fiscal responsibility. Every Member who gets on this floor to speak says they are for a balanced budget and every Member says they fought for fiscal responsibility.

As the Senator from Illinois pointed out awhile ago, the last time we debated the balanced budget amendment the same things were said. "We made some progress. We are going to make more."

We are going in the wrong direction. My concern is that we will take no action. My concern is that we will continue to do the wrong action that we have been doing for the last 70 years.

Mr. SARBANES. I say to my distinguished friend, I voted for the 1993 package and that was used against me in the last campaign. But I bellied up and I voted for a measure that had spending cuts and tax increases in an effort to try to do something real about the deficit. And I think it did do something real about the deficit. We need to do yet more.

But I think we need to do it that way and not to pass an amendment to the Constitution of the United States, which then carries with it all of these problems that I have been discussing.

I am essentially arguing that some of the concepts contained in this proposal are really counterproductive and will, in effect, be harmful to us. I am very concerned what will happen to investment. And I am very deeply concerned that we are going to go back to a situation in which the economy starts moving this way instead of what has happened in the postwar period.

One point on growth in the size of our current economy is $65 billion in goods and services. So if you get a drop like this, interestingly enough, not only are you going to have no growth and rising unemployment, but you are going to have an incredible deficit problem. In the end, you are going to break down because if you keep trying to correct the deficit problem in an economic downturn, you are just going to drive yourself deeper into the hole.

That is what happened, as I indicated earlier, first to Hoover and then to Roosevelt, until Roosevelt moved off it in an effort to come out of the depression.

Mr. THOMPSON. I thank my colleague.

Mr. SARBANES. Madam President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. I thank the Chair.

Madam President, the distinguished minority leader today introduced what he is calling a right-to-know amendment to the balanced budget amendment legislation.

Well, the Senator's amendment has at least one thing right: its title, because the American people certainly do have a right to know.

They have a right to know why Congress has spent this country $4.5 trillion into debt, and why it still keeps spending. They have the right to know how much their taxes will go up if the balanced budget amendment does not pass.

And, Madam President, they have the right to know what these higher taxes will mean to the kind of life they are trying to provide for their children and for their families if the balanced budget amendment does not become law.

That is what Americans have a right to know.

The question is not "what happens if the balanced budget amendment passes?" The question really is, "What happens if it does not pass?"

The question is not, "What will get whacked?" The question is, "What will get taxed?"

Madam President, without this amendment, taxes will go up. That has been the pattern over the past 30 years. Congress decides it needs another ornament for its Christmas tree of social programs, another rich chocolate concoction on its dessert tray, and it passes along the bill to the folks who can least afford to pay it, and that is the taxpayers.

There is no reason to think that Congress has changed its ways.

But do we really need an amendment to the Constitution to protect the taxpayers? My colleagues in this body who say we should not need a balanced budget amendment are right, because Congress should have the backbone to limit its spending and to set priorities, just as every Main Street American family does.

The good Senator from Maryland has been talking about borrowing.

If a family in St. Paul, MN, wants to buy a house, it works out a mortgage and a payment schedule that fits the family budget.

But eventually, that debt is repaid. It is not passed on to the next generation. That is what the vast majority of Americans do when they make a major purchase. That is not how the Federal Government works. It borrows the money without any kind of payment schedule. The debt continues to build, the payments keep being deferred, and the debt is passed down to our children.

Now, if that family in St. Paul decides it needs to tighten its belt, it does. But Congress simply goes out and buys a bigger belt. Congress does not have the backbone to restrain itself. It never has. Maybe it never will.

We will now look at the facts. Congress has spent more than it has taken in for 55 of the last 63 years. We have not had a balanced Federal budget since 1969 and deficit spending is now responsible for about 90 percent of the national debt.

For my colleagues who sometimes get lost in all the statistics, here is the reality of what the national debt means to average Americans. Every family of four owes $3,500 on just the interest alone on the national debt, and that means $3,500 less to care for our kids, $3,500 less to keep our families fed and clothed.

Those numbers are scary, but what is that interest based on? It is based on the debt, $4.5 trillion, a debt that equals nearly $20,000 for every man, woman, and child in this country today. Now, I have four children: Michelle, Tammy, Rhiannon, and Morgan. And I have four grandchildren: Wesley, Wyatt, Chelsea, and the latest, born just this morning, less than 12 hours old, and already his share of the national debt is nearly $20,000. All he has consumed is some air—free air that we take for granted. But he already owes more than $20,000 to our national debt.

We need the balanced budget amendment to force Congress to do what it should have done already. The American people agree. A large majority of them support the balanced budget amendment. A large majority say that they are willing to sacrifice some Government services in order to get this burdensome Federal deficit under control.

Madam President, I remind my colleagues who speak against the amendment that we would not be having this debate were it not for 30 years of irresponsible spending by this body, abuses that led to bloated committee staffs and expenses, and duplicative programs. A lot of what passed for Government spending in the last several decades was simply window dressing, window dressing for a very expensive shop in which the American people were sold a phony bill of goods on their own credit card.

Now, opponents have accused Members of being mean spirited and cold during these debates. But those are simple scare tactics tossed around by those who like the comfortable cushion of Government that they have been resting on for 30 years, but which has become a bed of nails for the American taxpayers. What is truly mean spirited and cold would be saddling the next generation with more deficit, more debt, and more uncertainty.

So, Madam President, the right-to-know amendment is a clever bit of propaganda, but it is dangerous legislation. We cannot strap the hands of future Congresses by carving in stone exactly how a balanced budget must be achieved. Three Congresses will come and go during the 7 years over which the budget will be balanced. Things change, needs will change, conditions will change. Each Congress needs the leeway to make its own budget decisions.

Now, if the Senate breaks the promise it made to the American voters last November and ultimately votes this legislation down, we, the majority party, must be prepared to take the next step. We have to show that we can submit a balanced budget. We have to show that we can live under a balanced budget. Many of my colleagues are committed to a balanced budget, but without this amendment. In working together, we must be prepared to prove we sincerely are interested in restoring fiscal sanity into the Federal Government.

My friend and colleague from Idaho, Senator CRAIG, has taken such a strong leadership role in this issue. It reminded me of a quote I would like to share:

> The question of whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, morally bound to pay them ourselves.

That was Thomas Jefferson, almost 200 years ago, and yet the questions he raised during the founding years of this Republic are just as relevant today. And now it is time to answer the questions—not for me, not for my colleagues, but for our children and our grandchildren and, again, the newest member of my family, just 12 hours old, Blake, and the debt we are passing on to him. They have a right to know. They have a right to know we did everything within our power to help secure their future.

Thank you, Madam President. I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, parliamentary inquiry. Is there any time limit on Senators at this point?

The PRESIDING OFFICER. No, there is not.

Mr. DOMENICI. I do not intend, by that question, to leave the impression that I intend to speak a long, long time. I just wondered how much time I had.

I want to start my talk here with fellow Senators, and more importantly, with those people in the United States who are interested in what is going on. I want to say, particularly to the senior citizens of the United States, those who have spent their adult lives in our behalf, who have worked hard and diligently to make America a great country, I want to tell them what I think the Democrats are doing to their grandchildren and to their children's future by the tactics they are taking here on the Senate floor in an effort to defeat a constitutional amendment.

This is not said in any animosity or anger. It is because we are lodged in a very difficult war. Our war and our declaration of war is, we want to get rid of the deficit and we want the people of our country to back Members in that with a constitutional amendment. That is how we think we will win the war. If the war is declared in a constitutional amendment, and the people adopt it, then we will have at our side the full power of America saying, "Enough's enough. We are going to see how it all comes out, but we will tell everyone right up front, the politicians, they are not going to have the luxury of spending beyond our means a few years down the line."

First, I want to say to those who are listening, some make it sound like if this constitutional amendment is passed and we get to the year 2002, it does not make a difference what the condition of the world is, what happens by way of emergencies; we are going to have a balanced budget.

Now, it is not that at all. So I want to say to those Americans who are worried about themselves and their security or their pension program, this is a constitutional amendment that says, "If you do not want to balance the budget, you have to bring the issue front and center; you can't hide it anymore. And second, you need 60 votes instead of a simple majority to add to the deficit."

Now, let me explain the way it is structured. We will not wake up in the morning and say, "We passed a budget and we can't do anything about it because we are going in the red $60 billion and we didn't know it." That will not happen, Madam President and fellow Americans, because at a point in time when we are supposed to be at zero and we get there, then whenever we exceed it, we cannot borrow any more money. We cannot make it any clearer. We cannot borrow any more money unless we bring it to the floor of the Senate and the House, and hopefully by that time, contrary to what we have today, Presidents will be on the side of the balanced budget because there will be a Constitution that says not just Republicans and a few Democrats that are supporting them are supposed to balance a budget; the law of the land, the Constitution, will say "Mr. President, down there at Pennsylvania Avenue, you send up budgets that are in balance."

Rest assured that Presidents are not immune. They are not going to send budgets up here, as the one we are going to get on Monday, that in the midst of very good times, cuts nothing and says: We did pretty well 3 years ago. We will leave everything alone while this happens.

This is a very good chart. I wish it were bigger so we could see it. While it has a lot on it, it is very descriptive of what will happen to our great country soon. Here is 1990, 1991, 1992; the budget is going up. The little red pile here is going up. Coming down a little, the so-called "We are getting the deficit under control budget," that I heard my good friend from Maryland just say he voted for. Here it comes down a little bit; this is going to be the year 1996. It is coming down a little, if the President does not do anything.

Look what happens after that. Here we come up; it is not so far. Here we are at 2000; going up again by 2010. I say to those people in the United States that have little grandkids, now it is starting up about 2010, and about the time they are getting in high school, look what happens to it.

Now, frankly, there are those who will say, "We do not need a constitutional amendment to fix this. We do not need one. We will just go about fixing it up, as we have."

Let me read here. Do Members know how many times we passed statutes saying we are supposed to get to a balanced budget? I will count them here: 1921, 1964, 1978, 1978, 1978, 1979, 1980, 1985, 1987, and 1990 we passed this; in some cases, just passed others. We told the American people "We have done it. We have done it."

I was here when the great Senator, Mr. Byrd from Virginia, passed statute law, and it said we are not going to have any more debts, did it not? It said the law of the land is going to be balanced budgets. Ever since it was passed they go up. Is that not interesting? Is that not interesting?

That is what this shows. We have come to the conclusion—and thank God about 75 percent of Americans agree—that it will not happen unless it is the absolute, basic constitutional law of the land, unless we have up here in front of Congress and Presidents a law that says you do it; it is against the law unless you do that. That is what we think will get the job done.

Now, there are those who say we would like to do it another way, or let us just be patient. There are even those who have this list of economists of the United States, just a long list, I say to my friend of Tennessee, of all these American economists.

Well, frankly, the economists, when you put them in front of you at a table, most of them will say you have to get the deficit under control. And most of them will say it is a big, big problem. So if you are a political leader, you have a responsibility to do something about it, not just talk. And the economists, if you ask them, Mr. Economist, if there is no way to get there, and if the trend of our political leadership is our inability to stop the appetite to come to the Federal Government so we will try to solve problems by spending money, if it is that or a constitutional amendment, there are a lot of them who will say they do not like its rigidity, but we ought to get there.

Now, I try to tell everyone, including those who might be worried that with three-fifths vote in the Senate and House, if there is an emergency or if one of the major programs of our land temporarily went out of kilter, you can get the votes in the Chamber to break that budget for the circumstance that demands it. So that makes it rather rational.

You could even ask that list of economists that are against it that I hear some Democrats touted in the press galleries of this Chamber today, you could even ask some of them if the emergency is serious enough and three-fifths of the Congress votes to change it, does that not do away with a lot of your worries? And most of them would say yes, from the purely economic standpoint.

I have used this quote over and over, but I am going to wrap it into my comments today, and I have been talking about it. The quote I am going to read is from Laurence Tribe, whom the Senator from Utah knows, a very liberal constitutional professor:

> Given the centrality in our revolutionary origins of the precept that there should be no taxation without representation, it seems especially fitting in principle that we should

somehow seek to tie our hands so that we cannot spend our children's legacy.

Now, that is the constitutional amendment. We are going to tie our hands so this does not happen because, if this happens, not only will we destroy our children's legacy, but we will tell you next week as we address economic issues as it relates to a balanced budget amendment, we will tell you in more detail the economics. But for now we can tell you that in about 10 or 12 years, if you do not get with it and tie our hands and hit us, hit all the elected leaders with a great big 2 by 4, which is addressed at their tendency to be mules, just address that so that they will do something, there will not be any money to spend on anything except paying for the national debt and paying for part of the population's entitlements. There will not be any National Government money for education, I say to the Senator from Tennessee, none. In fact, under one scenario there will not be any for the Defense Department, which is the only thing we could not send back to the States to do, in theory. It is the only thing we are totally obligated to do. The rest of what we do is optional. We elect to do much of it, but it is optional. But there would not be any money to do that if everything in the entitlements of our country is unchanged.

Now, what is rampant in America today—and you see the battlegrounds. I have just stated them for you. We declare war against the deficit. And when we declare it, we say let us win it. When we say let us win it, we say there has not been a way to win it before. So this war will be the amendment that says you cannot spend any more. That will be the declaration. That will be when you go to war.

Those who oppose it say they want us to go to war before we make the declaration of war. They want us to produce a 7-year balanced budget before the war has been declared, and what? And the President of the United States and Democrats and Republicans alike and every American has to be committed to that balanced budget.

Before that ever occurs, this amendment that they are offering here today, this resolution, let us be honest about it, it is not intended to do anything except kill the constitutional amendment. That is what it is for, plain and simple. They know, those who propose it, if you could draw a 7-year balanced budget today, you would not need the constitutional amendment. What are we going through all this for, if we could just sit down, a few of us—maybe the Senator from Tennessee could join me, we could have our Republicans on the Budget Committee and a few Democrats and write this 7-year balanced budget. We all tried that for so many years. If we could do it and it meant anything, then we would not be here asking these sovereign States of America to seriously consider changing our most sacred document, the Constitution.

Mr. HATCH. Will the Senator yield for a question on that?

Mr. DOMENICI. I will be happy to yield.

Mr. HATCH. Through the years, we have had a variety of plans proposed that would bring us to a balanced budget—Zero Deficit Plan, Concord Coalition, Senate Budget Committee Plan, Economic and Budget Outlook for Fiscal Years—a lot of others. You could just go through plan after plan. But they have never had the votes. Is that not really the problem?

Mr. DOMENICI. Not only they never have the votes, as soon as you have them all out there, they become political documents and whoever had the courage to put something down in them that was tough, the other side immediately turned down the plan and went to the public, and it became a war of who is not going to hurt this group or that group, and there goes the plan.

You are beginning to see what those who have this in mind intend of this document. They intend that. I would say for those on the other side who propose and regularly say they are for balanced budgets—the President said it in his State of the Union Address, we need a balanced budget, something like that—I would ask them to draft that 7-year document. Put the 7 years down and tell us how we are going to get there under your idea.

We do not see any forthcoming, and do not hold your breath, it will not be forthcoming Monday in the President's budget either. But at some point in time when a constitutional amendment is in effect, no President will escape sending a budget down here that is balanced. And that makes a big difference, because then we are in the war together. We are not Republicans in the war and Democrats on the sideline and a President who speaks it but not engaged.

For those who say, where is the detailed plan? I just want to tell you of the great achievements in our history that were tough, that you had to put everybody together on, that you had to muster all kinds of support, the biggest one might be the Second World War, just might be.

Is it not interesting, FDR took to the airwaves of the United States and declared war. Would it not have been nice if we would have said: Mr. President, you really know what is wrong with America. You know this is a danger to democracy and freedom. It probably will stop existing in the world. We know that with you, but how are you going to win the war? Put it all down. Write it up. What are we going to do the first 6 months? What are we going to do at the end of a year? What are we going to do at the end of 2 years? Do not declare the war until you have done all that. Right?

That is what is being said here and across America about a constitutional amendment. Do not declare the war and put everybody in this boat together to save America from this—do not do that. Tell us how you are going to get there, precisely, before in fact you pass the instrument of public support, the amendment, which is the equivalent of FDR's declaration of war.

As you think of how things go together, what happened after that declaration? People who did not have the least idea that they were supposed to do something for their country, did it. People who had no idea they were supposed to sacrifice, sacrificed. People changed their way of life because of that declaration. In fact, people went on ration plans, as I recall. I was young. A lot of things were raised and controlled because we had a real problem.

So I think we just ought to be honest with the American people and I want to be honest with them today. I have tried my dead-level best to be honest. The Democrats who are proposing that we not pass the amendment until we have the 7-year game plan—and I will talk about that in detail next week, on how much will be required to do what they have done, how many words they have changed, how many new demands they have put in, in a Constitution —but those who are on that side of this issue, they do not want a balanced budget. They can come down here, and clearly some of them may come and say Senator DOMENICI was not fair. I want one. They are saying if we want one, why do we not produce it? For those who want to get up here and say we do not want the constitutional amendment but we want a balanced budget, I challenge them. Tell the American people how you are going to do it. Right? Everybody gets up on that side of the aisle and says we do not want this—we want a balanced budget. How long are we going to be on the floor, 2 more weeks? We will ask our leader, if you want to start meeting over there we will give you another week, go meet and you tell us how you are going to do it. Because you are either not for it or you are telling us we will do it another way, just do not do it this way.

So I say to them do it your way. We anxiously await it. Put it on paper.

They will not do it. There is no question about it. First of all they would not have the courage to do it. Second, they would say it is useless to do it, nobody is going to buy it anyway this early. So what is left? What is left is what we are for and what we have been telling our people we are for.

Those people who are against this—I want to just conclude—they are for the status quo. They do not want to change anything. If they do not want to change anything then this will never get changed—this will never get changed. We will rock along and in good times we will not cut anything significant.

If ever there was a time to dramatically reduce the deficit spending, it is now. Guess what might have happened if we would have been reducing the deficit more, Madam President? We might not have had the interest rates go up. That is interesting. Ask some economists that, all those who are saying we need flexibility. If we reduce the deficit some more so there would not be so much pressure out there, you might not have had the interest rates go up or they might have gone up less. It is the right time. In fact it was a better time to have done more 2 years ago, as we recommended to the President.

Those who are against this want to continue to do what they have been doing. I have alluded to the President's ideas that we will see in his budget proposal.

I want to conclude and say to those who are worried about how this is going to affect them, I want to suggest two things. Maybe—maybe you ought to think with us what is going to happen to you if we do not do it. If we do not do it. For every American who says I want to know what is going to happen to me, I want to see the plan—and those people are great Americans. And the organizations representing those people, the AARP—wonderful organization—but why do we not ask, and why do they not ask what will happen to us in the best sense of the word "us," our kids, our neighbors, our friends, our families—what is going to happen to them if we do not do this?

Second, I want to seriously propose that once the constitutional amendment is passed—and I hope those who believe some of us in public life will listen attentively—the constitutional amendment will not determine your cause. It will not determine—the amendment for the balanced budget—it will not determine how your program is handled. It will not determine how your pension is handled. It will tell your political leaders get to a balanced budget. And before you ever get there, the issues will be joined on whether their cause shall be—whether Social Security's cause shall be secure; whether Medicare will be changed—because we will have to vote on those as we implement the constitutional amendment.

There will be ample opportunities to protect everybody's cause. But everybody knows you cannot keep them all like they are. So they all have to be ready to say let us talk. After we have this in let us have hearings.

Now some say, wait a minute, Senator DOMENICI, why do we not do that ahead of time? We try that ahead of time; we do not get anywhere ahead of time. We try it bipartisan and we leave some people out and it is dead. Presidents do not join and then they wait. And those who wait win and those who propose it lose. Just like this one. If we were to propose one without the President, we lose, we accomplish nothing. And we pulled a big hoax on the American people.

So I conclude that we are on the right side. We are on the right side if this is an American cause. If we are worried about our economic future and our children's future, there is no way to get where we ought to go by saying, at a point in time when a constitutional amendment is adopted, we are all in the same boat. And the boat is sailing—changing here and there—but it is sailing toward balance. And those who are interested in the future will join in trying to direct it in the right way, doing the least harm and doing the best that we can with the money we have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Madam President, first of all I want to thank the Senator from New Mexico for his remarks and for his inspirational leadership in this area. Those of us who have been following these matters know the Senator from New Mexico is not only the strongest advocate for fiscal responsibility but he has been a leader and an inspiration to all those who are concerned in this area. If we had the leadership and the knowledge and the courage of Senator DOMENICI more prevalent in this body we would not be here today, debating a constitutional amendment. But we are. Because we have not had that kind of leadership.

I would like to address, for a moment, the discussion that was had earlier concerning an amendment, the so-called right-to-know amendment. I was not here for most of the discussion that was led by the distinguished minority leader. But basically as I understand it, his position is that they think the American people have a right to know the details of this plan which they know as a practical impossibility and would be an irrelevance anyway. One Senator could not bind another and there are all kinds of plans floating around. All that is known but the point is yet made—the people's right to know.

I would like to make a couple of points about that. First of all, it occurs to me this approach assumes a great deal more ignorance on the part of the American people than is present. It assumes the American people, who overwhelmingly support a balanced budget amendment, think it can be done without any sacrifice whatsoever.

This amendment and this approach presupposes that the American people want a balanced budget amendment but they think we can go right along the same old way we have been going without anybody making any incremental adjustment in any program and still achieve a balanced budget.

I just came off the campaign trail. I can tell you that the people in my State know better than that. I can also tell you that I have never run across a grandparent or I have never run across a recipient of any of these programs, Medicare, Medicaid and so forth, I have never run across a person who is concerned enough to even be present around where there is a political discussion taking place who would not be willing to make some incremental modest adjustment if they thought it went to benefit their child or their grandchild.

We assume apparently in this body that the American people not only are ignorant but they are greedy, and that it does not matter that we are spending our grandchildren's birthright; it does not matter that we are bankrupting them; it does not matter that they have no representation and we are spending their money; that we are so greedy all we can concern ourselves with is the current list of goodies or the current list of programs or the current benefits that are now being received; and we cannot see past that and we will let the next generation take care of itself.

Madam President, I am not willing to concede that. How in the world can we come to the conclusion that is the kind of America that we have in this country? The American people are better than that. It is time that the Congress of the United States caught up to the American people. But let us talk a little bit more about the right to know.

The distinguished minority leader believes in the right to know. I believe in the right to know. It is kind of like the balanced budget. Everybody in this body believes in the right to know. Everybody in this body believes in a balanced budget. I think the American people have a right to know. Let us talk about the young people for a minute because there may be some young people out there—maybe just teenagers—who are just beginning to familiarize themselves with the process, who are just beginning to understand what is going on in this country, and are just beginning to realize that this is for them, this is for them and for their children. But they may not really fully understand some things yet.

They have the right to know that, if we do not make any more progress than we have made in the past, we are headed for economic disaster in this country. It is not even a matter of debate. You talk to any economist. You talk to anybody who has written on the subject. You talk to any congressional committee. We have all seen the charts. We look at what is right in front of us and say, "Well, by George, we really were courageous. We passed the largest tax increase in the history of America a couple of years ago. So that is the kind of courage we show. We are going to spend the taxpayers' money again, and we do not have any problem." When everybody knows, even the administration's own estimate that in 1998—after the next Presidential election, coincidentally—it is going to go off the charts. These young people have a right to know that.

They also have a right to know, if they are listening to the eloquent remarks on the other side of the aisle about all we have to do is do what we did in 1993, it is ironic, I think, and somewhat indicative of the position that we are in in this country where a piece of legislation that adds over $1 trillion to the debt is used as a success story. But be that as it may, there have been several efforts in times past that have been alluded to earlier. But it is really significant. It cannot be overemphasized enough when you go to consider what the alternative is if we do not pass a balanced budget amendment.

Can we do what the opponents of the balanced budget amendment say? We have to pull up our socks and do the right thing. I wish it were that simple. I wish it were that easy. Some of us probably would not have even run for office, if it had been that simple and that easy. But we have been talking about this, passing resolutions, making promises, trying to bind the President for 70 years.

Everybody was for a balanced budget back in 1921 to force the President to recommend one. In 1964, Congress got up on its feet and said we must do it soon. It is the sense of the Congress that we have to balance this budget in 1964. They actually balanced the budget after that. But even before the last balanced budget they were talking about it. In 1978, it became a matter of national policy. Are we to take that lightly? Is that something that just trips off the lips of folks around here? We state it is a matter of national policy, and they go on record in 1978. The deficit kept growing. The debt kept growing.

In 1978, Humphrey-Hawkins came back, and say it is a prioritization. We prioritize a balanced Federal budget. That was a good year. Apparently everybody had balanced budgets on their mind because it was obvious even then that things were getting out of hand. And if we did not put aside some of our short-term political considerations where every special interest group in America would descend on this town periodically and demand theirs, and the devil with the future generation, if we did not stop that way of doing business, we would be in big trouble. In 1978 they passed a law that required a balanced budget for the year 1981.

So what happened in fiscal year 1981? They had a $79 billion deficit for the very year they passed the law saying this cannot happen.

The Budget Act of 1974, they said we have the solution now. We have the answer to it now because Congress will have to come up with an annual budget resolution, and people will be afraid to vote for these large debts, these large deficits in a budget resolution. That was 1974. What happened? In 1975, the deficit skyrocketed again and continued on.

Gramm-Rudman-Hollings in 1985—we know what happened to that. It worked fine until the gravy train stopped, and a little bit of a lid was put on the pork barrel. So we had to make some adjustments, and effectively rendered it irrelevant. The 1990 budget deal, the deal to end all deals, did nothing to reduce the deficit. In 1993, we talked about it.

That is the only answer that I hear. From 1921 on, we have been trying our best, with everybody agreeing, that we had to balance the budget. And not only have we not balanced the budget, the problem continues to get worse as we sit here today, and as we discuss this. This is the good news. This is the good news. There are more people in the work force, more two-earner families. Before too long it is going to reverse itself. It is going to be the bad news. It is going to be the bad news with fewer and fewer people in the workplace supporting more and more people.

That is why we have to take responsible measures to protect Social Security. The balanced budget amendment protects Social Security. The most irresponsible thing you could do to elders on Social Security, including my mother, would be to let the status quo continue. There is not going to be anything for anybody a little bit further down the road.

The Democratic Senator from Nebraska and the Republican Senator from Missouri issued a report recently that said in the year 2020, I believe, we are going to run out of money. I am paraphrasing it a little bit. They were more eloquent than that. But they said a handful of programs and the interest on the national debt is going to take everything. Yet we continue down the same road.

The right to know? The young people have a right to know what is happening to them. There is a lot of talk about the stagnation of income over the last 20 years. Real income is not going up. What people do not talk about is for the younger folks, the younger working people starting out with their families. Since 1973, their income level has been going down and actually losing ground for these young people because of the tremendous debt which is sopping up the savings. And we cannot have investment without savings, and we cannot have growth without investment.

The economy is slowing down and people are feeling the loss of the American dream, the basic optimistic assumption that every young person growing up has had since this country began, and that was that if they worked hard, they would do at least as well or better than their parents. You talk to young people now and they do not feel that way. Young people have a right to know what is happening to them. What about their right to know?

The other side says they want the right to know what State is going to be cut. I think we ought to tell the young people what is going to happen to them. I think we ought to tell them how long the fight has been and the struggle has been and how fruitless it has been and how the Congress of the United States has ignored its own protestations, ignored its own laws, because it is so, so difficult, apparently, to do the right thing because of the political considerations and the political careerism that drives people to shortsightedly look toward the next election instead of the next generation.

People have a right to know what is going to happen. The real purpose of the right-to-know amendment, of course, is a scare tactic. It is designed to be able to point to some program that some group is going to be hurt by and have them descend on this town and pressure them and raise money against Members and try to scare everybody off, because there are certain groups who apparently are shortsighted enough to say if it means any reduction in my State, for example, that I will do anything rather than take any kind of reduction in my State. Never mind that it might work to benefit my State in the long run. Never mind that it might work to lower interest rates because we get a handle on this deficit, and that it will help my State or my municipality in its borrowings and the activities of my State. Never mind all that. If there is any scare tactic that might work, let us use it.

No, the real problem is that there are a lot of people who, for the first time in their lives, see a realistic possibility for the lid to get put on the pork barrel and the gravy train to stop on the tracks. That is what most of this is all about.

Finally, as long as we are talking about the right to know, I think if this body does not do the overwhelming will of the American people, they ought to have the right to know next election the people who were not willing to take the first step toward putting us in a position to avoid bankrupting our grandchildren.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Utah.

Mr. HATCH. I cannot begin to tell folks out there how much I appreciate these new Senators, who really realize how important it is to bring about change in the Congress of the United

States. I particularly appreciate these last two who have spoken here today, Senator Grams and Senator Thompson. They know what the feeling is out there. They understand the American people are sick and tired of what is going on. They know that we have to do something about it.

Mr. President, I was very interested in how the Daschle amendment was brought to the forefront here today. I was absolutely astounded at the form of that amendment. That amendment is a trivialization of the Constitution of the United States.

As a matter of fact, the Daschle substitute amendment is unconstitutional. It is constitutionally defective. It sets forth a mode of promulgation for the balanced budget amendment that violates article V of the Constitution. Article V sets forth only two conditions for promulgation by Congress of a constitutional amendment. First, the amendment must be passed by a two-thirds vote of both Houses of Congress.

Second, Congress may specify the mode of ratification of the amendment. That is, Congress may specify either that the amendment is to be ratified by State legislatures or State conventions. These are the only constraints that the Constitution attached to Congress in promulgating an amendment.

Any amendment that satisfies these conditions must be sent to the States for ratification. However, the Daschle substitute here would add another condition. Under the Daschle substitute, even after the balanced budget amendment has been passed by both Houses, it would not be submitted to the States until after "the adoption of a concurrent resolution as described in section 9 of his substitute."

In short, the Daschle substitute would impose a wholly new condition upon submitting the balanced budget amendment for ratification. The new condition violates article V of the Constitution. It would impose an additional hurdle on ratification by the States of a validly promulgated amendment. It would prevent the States from ratifying the amendment as quickly as they might otherwise do. There is no precedent for this new condition on promulgation, and it plainly violates the heralded article V of the Constitution.

As a matter of fact, under the Daschle approach, Congress could, for example, condition promulgation of a very popular amendment on the States first giving up their power to the Federal Government. If it is popular enough, the States might not even have any control over it.

Some of the opponents of the balanced budget amendment have expressed concern about amending the Constitution. Some of those who have always been against the balanced budget amendment have actually been concerned about amending the Constitution. It would be especially odd if these opponents supported the Daschle substitute, which seeks to amend the Constitution in an unconstitutional manner. The mode of promulgation of the amendment set forth in the Daschle substitute is unconstitutional, and everyone should reject that amendment.

Let me just make the case here for a minute and point to just some of the constitutional language. On the chart you will notice I have a big question mark after "constitutional language." These are some of the new terms that the Daschle amendment has in it, statutory terms, terms that are interpreted by the Congress itself, that they are going to put into the Constitution and load up the Constitution, so there will be even more litigation.

"Aggregate levels of new budget authority." My goodness. Think about that. "Aggregate levels of new budget authority." I will get into these in detail on Monday. I will just list them now. Here are the words "major functional category." What in the world does that mean? It means anything Congress says it is. All of these mean anything Congress says. After we put it into the Constitution, Congress can manipulate these words and the definitions any way Congress wants to. That means the balanced budget amendment would not be worth the paper it is written on. It means we trivialize the Constitution with unconstitutional language and an unconstitutional approach.

"Account-by-account basis." These are accounting terms that we are going to write into the Constitution, in the sense of undefined accounting terms?

"Allocation of Federal revenues." What does that mean? What does "reconciliation directives" mean? We all know that in the budget process it means pretty much whatever the budget process says it means. That is continually shifting and changing.

"Section 310(A) of the Congressional Budget Act." Write the Budget Act into the Constitution? As much as many think the Budget Act is a good act, it is not the Constitution and it is not perfect. Some think it is a lousy approach to budgeting.

"Omnibus reconciliation bill." What in the world does that mean? This is language in the Daschle amendment that the opponents of this are bragging would help to protect the people out there. Give me a break.

The Congressional Budget Office? They are going to write the Congressional Budget Office into the Constitution? If there is any office I would not write into the Constitution, it would be the Congressional Budget Office. It is incredible. We will not just need lawyers to analyze the Constitution, we are going to need a group of accountants. Now, if you think lawyers are bad, think about that.

How about economic and technical assumptions? Oh, my goodness, what does that mean? Talk about language that is inappropriate for the Constitution.

And they even write Committee on the Budget into the Constitution. Now, some on the Budget Committee may feel that is a good idea, but in all honesty I do not see how any constitutional scholar would think that is a good idea.

This is trivialization of the Constitution. This is unconstitutional language. This is language that can be interpreted any way the Congress wants to interpret it or the Budget Committees wants to interpret it, or anybody on the floor of the Senate or House wants to interpret it, at any time they want to interpret it, in any way they want to interpret it.

How in the world can we put that type of stuff in the Constitution as though we are writing a mere statute. The reason the Constitution has been in existence and heralded by people all over the world and certainly every American and sworn to be upheld by all of us Members of Congress is because the Constitution does not get into statutory specifics, and it does not leave huge loopholes. It is subject to interpretation as it is, and sometimes the interpreters do not believe it.

But can you imagine the field day those who want to disrupt this country, those who really do not believe in the Constitution, those who really want to change things all the time, those who want to spend and tax more and more, can you imagine what this type of language will do to benefit them? And this is supposed to be a legitimate amendment? A legitimate good faith amendment? No. It is for one reason, and that is to try to defeat the balanced budget amendment. And the opponents would do it at any cost.

Now, look, let us get down to brass tacks. Since almost every Republican will vote for this, we need no less than 15 of the 47 Democrats over here to vote for it. That is what we need. We need 15 courageous Democrats to match the 72 courageous Democrats in the House. Those people will be heroes to all of us because they will make the difference whether the balanced budget amendment passes. Forget the better than 50 Republicans who will be voting for this. We will give the credit to those 15.

As a matter of fact, I do not care who gets the credit. I just want to get this fiscal house in order. And the only hope we have, after years of profligate spending, after years of unbalanced budgets, after years of people standing up in the Senate and saying, "Let's do it"—I have heard that so much it makes me sick anymore—after years of that type of language, we know we are not going to get there without a balanced budget amendment.

So why do we not bite the bullet and do the things we have to do? Let us not trivialize the Constitution with junk like this.

Now, what does this mean? Well, we have two amendments to it saying if this amendment does not pass, then the President should have to come up with a 7-year plan.

Now, the President's budget will be here Monday. And it is going to have, by their own admission, according to the New York Times, no less than $190 billion deficits every year for the next 10 or 12 years. And that is assuming that all of the optimistic economic projections of the President and economic factors stay the same.

We all know that is unlikely, because already Senator KENNEDY has been on the floor today talking about increasing the minimum wage. Well, you do not increase something 20 percent and expect it not to affect inflation. Because if they push the minimum wage up from the bottom, you can well bet those at the top of that wage spectrum are also going to demand that same 10- to 20-percent increase.

What does that do? That increases inflation. That means the interest rates go up. That means that we pay more for this second highest item in the Federal budget, interest against the national debt. It means that $190 billion a year in deficits every year for the next 12 years is very optimistic. It means that for another 10 or 20 years without a balanced budget amendment we will not have any mechanism, not any, other than people saying we should do it, to get spending under control. Except maybe increasing taxes.

Do you not think the American people are taxed to death? My gosh, wait until April 15 comes along. Some of the taxes in the President's tax plan, the tax increases do not even hit until this April 15. And I think people are really going to be upset when they find out it is not just the rich that are paying for all this. Everybody in America is paying higher gas taxes right now. They are paying higher gas prices right now. I saw a top premium gas last night for $1.40 a gallon. It was about a $1.18 when that tax bill passed.

What do you think causes those things to go up? Why, it is Government, by and large. And count on your gas prices, if we do not get a balanced budget amendment passed, count on your gas prices to start getting up around the European prices of $2 and $3 and $4 a gallon. Wait until America has to do that and our love affair with the automobile is going to be severely hampered. That is where we are headed. That is exactly where we are headed, in the same direction as those socialized economies all around the world which are paying through the nose because they have allowed Government to grow too large.

Mr. President, it is unbelievable to me that anybody would in any kind of sincerity put up an amendment that does this to the Constitution. It is unworthy of this body, in my opinion. Others can come out and argue for it if they want to.

But the fact of the matter is any amendment they bring up is an amendment to kill the balanced budget amendment. And there are some in this body who would do anything to keep on taxing and spending, because that is what they believe gets them elected. To me, it is time to quit worrying about elections and to worry about the country, and the balanced budget amendment makes us worry about the country.

Mr. President, we will have a lot more to say about this on Monday. But let me tell you what is going to happen. Senator DOLE has asked me to tell the Senate that if we have a full and good debate on Monday and probably Tuesday, we may be able to carry over the vote on this Daschle amendment for Wednesday. But if we do not have a good debate and we just waste time around here on Monday, then we will probably move to table the underlying Daschle amendment on Tuesday.

Some of our friends on the other side want to put it over until Wednesday so they can coordinate it with the President's press conference down at the White House, which, of course, is, in the opinion of some, geared to undermine the balanced budget amendment.

We can live with that. We think a good idea does not necessarily have to be afraid to stand up to any kind of withering criticism. It is not very withering after all, anyway.

But we are going to table this Daschle amendment. We have to table it. We could not for a minute allow this type of stuff into the Constitution of the United States, this type of definitional misuse of words.

Mr. President, that is basically what is going to happen this next week. We looked forward to Monday when we can debate this in earnest and go into some of these words and what they mean in detail.

Also talk even further, about why we need the balanced budget.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMISTS OPPOSE BALANCED BUDGET AMENDMENT

Mr. MOYNIHAN. Mr. President, this morning, in a room just off the Senate floor, a group representing over 450 of our Nation's most distinguished and respected economists—among them seven Nobel Laureates—gathered to express their profound and unequivocal opposition to a constitutional amendment requiring a balanced Federal budget.

Their conclusions, based not on partisan proclivities, but on decades of scholarly inquiry in the field of economics, deserve the full attention of the Senate. I ask unanimous consent that a portion of their remarks be reprinted in the CONGRESSIONAL RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF HENRY J. AARON ON THE BALANCED BUDGET AMENDMENT

The economic, legal, and political arguments against the balanced budget amendment are powerful, and I hope that these arguments persuade enough Senators to defeat the amendment in the Senate. Nonetheless, it is possible that the proposed amendments will be sent to the states for ratification. My remarks this morning are addressed to state legislators. They can be expressed in one word: Beware!

Congress has elected not to include in the draft amendment any limit on the capacity of Congress to place mandates on the states. The reason is the supporters of the amendment knew that they could not count on enough votes to pass the amendment if such a prohibition were included. Why are members of Congress unwilling to include such limits in the amendment but instead are limiting themselves to procedural limitations, which they are free to change at any time?

The reason, clearly, is that members of Congress understand that they may wish to carry out policies for which they are unwilling to vote the taxes that would be required under the balanced budget amendment. They wish to reserve to themselves the power to force states and localities to carry out the Congressional will.

Let me be clear. I believe that unfunded mandates are often appropriate vehicles for federal action and I oppose including in the constitution prohibitions or major constraints on their use. But such mandates, on occasion, have been used abusively or inappropriately in the past. A balanced budget amendment makes it quite likely that they would be used far more extensively in the future.

The public mood currently oppose activist policies by the federal government. But anyone with more than an ounce of historical perspective should recognize the political styles change. Should the states ratify the balanced budget amendment, Congress will predictably and inexorably turn to mandates on states and localities to carry out the Congressional will at such time in the future as the public mood comes once again to favor activist government, By forcing states to raise taxes to pay for mandated services, Congress will be able to claim credit, while state officials take the heat.

In plain English, the balanced budget amendment is a time-bomb that threatens to undermine state fiscal and governmental autonomy. State legislators, whether conservative or liberal, should act as custodians for their successors whose independence is vital for the health of the U.S. political system.

STATEMENT OF ISABEL V. SAWHILL

There are lots of reasons to be against a Balanced Budget Amendment to the Constitution. These have been well-articulated by my colleagues today.

However, in my view, there is only one big reason—and that is that a Balanced Budget Amendment is a dishonest means of achieving a worthy goal.

Let me be clear. I am all for balancing the budget. It is the single most important means we have to put the economy on a higher growth path and improve standards of living. But amending the Constitution will not get the job done. Only doing the job will get the job done.

To use a simple analogy, you can't lose weight simply by making a New Year's resolution to go on a diet. You can only lose weight by eating less or exercising more.

Let's have a debate about how fast and when we can safely take off the pounds. Let's also have a debate about whether we should eat less or exercise more. But let's not pretend that resolutions or changing a document as basic as the Constitution will solve the problem.

It substitutes process for problem-solving, pious words for specific deeds, public manipulation for restoration of the public trust.

Thank you.

STATEMENT BY PAUL A. SAMUELSON AND ROBERT M. SOLOW

We oppose the Balanced Budget Amendment because we believe it to be both bad government and bad economics.

At the most fundamental level we think that it is a grave mistake to involve the Constitution in the year-to-year making of economic policy. In this case, especially, when the mere definition of what is allowed and forbidden can never be unambiguous, it seems damaging and foolhardy to impose a constitutional mandate whose meaning will have to be adjudicated on a case-by-case basis by the courts. Federal judges who have better things to do will have to decide whether this or that accounting gimmick counts as revenue or outlay in calculating the balance of the budget. The infinite inventiveness of accountants can always stay one step ahead of the judiciary. It is astonishing that conservatives who think of themselves as strict constructionists can contemplate embroiling the Constitution so directly in matters of everyday politics that should clearly be the province of legislation.

It is inevitable, and it is clearly intended, that the constraint imposed by the Balanced Budget Amendment will be used as an instrument of social policy by denying the Federal government the means to do things that a majority of Congress might otherwise wish to do. The result will be legislation by accounting decisions, reviewed by the courts.

More narrowly, the Amendment is bad economics. It puts more emphasis on the ritual idea of an annually balanced budget than it should have. There may be times when it would be best if the Federal Budget, however defined, should be in prolonged surplus. The Balanced Budget Amendment does not forbid this, but there can be no doubt that it works in the direction of favoring exact balance. The economy may not always suffer from inadequate national saving, as it does now. So there may be times when the Federal budget should be in deficit for a few years. We emphasize that we do not think this is one of those times, but we can not say it will never happen.

Many economists have pointed out how perverse the Amendment can be when the economy falls into recession. Then the appearance of a cyclical deficit is a desirable, functional event, not an undesirable one. At such a moment, the higher taxes or reduced transfers or lower expenditures that would be needed to restore balance will worsen the recession and do relatively little to reduce the budget deficit. Of course some escape mechanisms will be built into the amendment. But they will inevitably be slow, uncertain in their scope, and subject to manipulation by a minority. (This would be an obvious occasion for dissidents to challenge the accounting conventions in use.)

We are strongly in favor of a gradual, appropriately flexible program aimed at increasing the national saving rate by reducing the Federal deficit. This is a hard thing to do, given the voting public's desire to have public services and social programs without paying for them by taxes. But that is the sort of problem democracies have to learn to deal with in the ordinary way, by legislation and executive action. Getting the Constitution involved can only subvert our political system and endanger our economy.

STATMENT OF JEFF FAUX,

Economists are famous for producing a wide variety of different answers to the same question.

Yet there are some things on which there is—although never a perfect consensus—wide agreement. The folly of a Balanced Budget Amendment to the Constitution is one of them. Even those who almost always disagree on budgetary and fiscal policies believe such an amendment would seriously damage the nation's ability to conduct sensible economic policy.

The Amendment would: make economic policy making more rigid, legalistic, and slow at a time when domestic and world markets are increasingly volatile and complex; cripple efforts to stabilize the business cycle; hamper the public's capacity for making long-term investments in human and physical capital; make it almost impossible to coordinate economic policies with other nations; and, put macroeconomic policy in the hands of the courts.

The Balanced Budget Amendment is an irresponsible act that will severely weaken the national capacity to cope with the economic problems of the 21st century.

STATEMENT OF LAWRENCE CHIMERINE

My name is Lawrence Chimerine. I am Managing Director and Chief Economist of the Economic Strategy Institute. I appreciate the opportunity to testify before the Joint Economic Committee on the advisability of a constitutional amendment to balance the federal budget.

In sum, my views are as follows:

a. While the Clinton administration economic and budget program enacted in 1993 has dramatically improved the deficit outlook, future deficits will still be unacceptably high without further policy actions. In particular, while the deficit is now falling, most projections suggest that it will start rising again in approximately two years, and will continue to rise substantially into the next decade.

b. Deficits do matter. In particular, cutting the deficit is the only reliable way to increase our anemic national saving rate in order to provide for higher investment in the long term—this is necessary to increase productivity, improve our international competitiveness, and to create a rising standard of living for most of our citizens. Cutting the deficit will also bring down real interest rates and reduce our dependence on foreign capital, both of which are also desirable in the long term.

c. There is no simple rule to guide future deficit reduction. My own view is that a multi-year deficit reduction program should be enacted as soon as possible to reduce the projected deficit in ten years by at least one-half, but to allow for delays of part or all of the policy actions if economic growth in any year is below a specified minimum level. This will avoid excessive fiscal drag at a time when the economy may already be weak, but at the same time will generate confidence in financial markets that significant future deficit reduction will occur in order to get the maximum impact on long term interest rates as soon as possible.

d. Despite my view that it is important that we bring down future budget deficits, I am strongly against enactment of a balanced budget amendment, for several reasons. First, striving for a balanced budget in the year 2002 may create too much fiscal drag, especially during the next several years when the effect of recent increases in interest rates and other factors begin to slow economic growth. Thus, it may not be good fiscal policy—at a minimum, it may be necessary to stretch out the period for reaching a balanced budget considerably. Secondly, it will be extraordinarily difficult to achieve a balanced budget in the year 2002 without decimating some major programs which are important for our economic and/or social well being, or without significant tax increases. This would be especially the case if defense, social security benefits, and some other entitlements, as well as the now large interest component of federal spending, are excluded from cuts—this would require extraordinarily large cuts in other programs. Since many of these programs affect the poor, many people will be badly hurt, or it will force state and local governments to sharply raise taxes in order to reduce their pain. Spending cuts are also likely to affect programs that are needed to help build for the future, including public infrastructure, support for research and development, education, etc.—this too would be unwise. Third, the requirement to balance the budget in every year would make the business cycle worse by requiring spending cuts or tax increases during recessions, exactly the opposite of sound macroeconomic policy. Fourth, it will likely result in budget gimmickry, such as the use of optimistic assumptions, putting programs off budget, etc. to reduce the difficulty in actually facing up to the spending cuts or tax increases that would be required. In the long run this could actually make future deficits even worse.

e. I am particularly concerned about consideration of a balanced budget amendment at the same time that there appears to be a head-long rush to enact sizeable tax cuts and to increase the defense budget, and to make it more difficult to raise taxes in the future. Needless to say, the huge revenue losses from the tax cuts now being proposed will make it even more difficult to even come close to balancing the budget in the years ahead, or even in fact to put the deficit on a downward trend. Furthermore, while no one likes tax increases, it is not desirable to reduce our future flexibility on the tax side because we may reach a point where tax increases are necessary in order to reduced budget deficits, or to fund vital programs.

THE EVOLUTION OF THE DEFICIT PROBLEM

Many still believe that the enormous deficits of the last fourteen years have been the result of overspending by Congress. However, today's massive deficits, as well as those during the 1980s, were directly attributable to the misguided economic policies that were implemented in the early 1980s under the banner of supply-side economics. Multi-hundred billion dollar deficits for as far as the eye can see were predictable at that time because:

1. The mythical spending cuts that would supposedly result from the elimination of waste, fraud, and abuse were enormously exaggerated from day one.

2. The incentive effects of supply-side tax cuts were inconsistent with most empirical evidence, and thus were enormously overstated.

3. Thus, not only did the big military spending increases and large tax cuts put massive pressure on the deficit, but the anticipated spending offsets, and the added revenues from economic growth, could never and did never materialize.

4. Furthermore, the explosion in health care costs and other entitlements have pushed the cost of those programs far beyond earlier expectations.

5. The problem was worsened by the use of extremely optimistic (and usually inconsistent) economic assumptions, understatement of program costs, budgetary gimmicks, etc. which enabled the Reagan administration to consistently present budgets that were projected to be in balance, when in truth there was virtually no possibility of that occurring.

6. Finally, the problem began to feed on itself. The inaccurate projections created an attitude of indifference and neglect which prevented any real solution to the deficit problem, thereby causing the national debt to skyrocket so that interest on the debt began to grow at an enormous rate.

BUDGETARY MYTHS

The move toward a constitutional amendment to balance the budget clearly reflects the frustration which currently exists in the Congress regarding the inability to effectively deal with the deficit problem, as well as an effort to find a way to avoid making the hard decisions. It also appears to be an indirect admission of guilt by the Congress that they in fact are also responsible for the budgetary mess. The real problem, as mentioned earlier, was the lack of leadership by the Reagan Administration during those years, and the spreading of a number of budgetary myths that perpetuated the inaction. As indicated earlier, these included the following:

1. Waste, fraud and abuse—the idea that multi-billions could be saved by eliminating waste, fraud and abuse in government programs—a painless solution that was absurd from day one.

2. Tax cuts would pay for themselves (even more than pay for themselves) because of strong incentive effects which would create faster economic growth—there was no legitimate economic evidence to support the conclusion that the large tax cuts enacted in the early 1980s would have the huge impact on savings, investment, and work effort that had been predicted, nor would it produce the strong economic growth which underlied economic and budgetary projections at that time. As a result, it was clear that the tax cuts would result in substantial revenue losses, which is exactly what happened. The assertion by many that the problem is not on the revenue side because tax revenues actually increased as a result of the tax cuts of the early 1980s is inaccurate. Both personal and corporate income tax collections as a share of income and profits respectively are far below where they were a decade ago—total tax revenues are roughly at the same ratio of GNP as they were prior to the enactment of the supply-side program primarily because of the big increase in Social Security taxes enacted in the mid-1980s, and because of other tax increases enacted along the way.

3. We will grow our way out of it—this was another form of the argument stated above, which, as mentioned earlier, was insupportable from day one.

4. State and local budget surpluses will offset the Federal deficit—this too was a red herring which was employed by those who were belittling the deficit in the 1980s. State and local surpluses were never large enough to come anywhere near offsetting Federal deficits.

5. Deficits don't matter—when all the arguments mentioned above turned out to be wrong, it was asserted by the Reagan administration that deficits don't really matter anyway. They cited the economic expansion of the 1980s, despite the deficit, as proof. Of course, as many of us pointed out at the time, we were able to attract massive sums from overseas to help finance those deficits and extend the economic expansion—any reasonable expectation was that the flow of capital from overseas would eventually fade out, as has now been the case.

6. The deficit is due to Congressional overspending—once previous Administrations ran out of rationalizations, the blame shifting began. The truth is, however, that Congress has appropriated less money for discretionary programs (usually in defense) than the Administration asked for in ten out of the twelve years between 1980 and 1992. In fact, discretionary non-defense spending and grants-in-aid to State and local governments were cut substantially during the 1980s, not only relative to earlier current service projections, but as a share of the total budget, and as a share of total GNP. Many domestic programs have fallen sharply in real terms as a result.

We all know why the deficit is still huge and why the problem has not been addressed. It's because of dishonesty in the budgeting process, and lack of leadership from previous Administrations, which resulted in a series of proposed budgets which purportedly balanced the budget in "out years" based completely on mythical savings, extraordinarily optimistic assumptions, budgetary gimmicks, program understatements, etc. The problem was essentially assumed away. Perhaps Congress should have taken the lead on its own, but it was unrealistic to expect 535 Senators and Congressmen, each with their own constituents, to take the lead on a matter like this.

THE CURRENT DEFICIT OUTLOOK

The Clinton Administration and Congress enacted the most significant deficit reduction package in 1993 since the problem developed. The combination of spending cuts and tax increases enacted will reduce total deficits in the 1994–1998 period by almost $500 billion and will also reduce the level of the deficit each year beyond that time. Furthermore, unlike previous attempts to reduce the deficit, this is real deficit reduction—it was based on realistic economic assumptions and estimated impacts of the specific policy actions, so that the actual reduction in the future will closely match the estimates provided at the time the budget plan was implemented.

Unfortunately, however, the deficit outlook is still poor. While the deficit in the next two fiscal years will be about half of the near $350 billion annual level experienced in the early 1990s, in great part because of the new deficit package, as well as because of the economic recovery, virtually all projections indicate that the deficit will begin to rise again by fiscal 1997, and all continue to rise at a substantial rate into the next century. For example, the Congressional Budget Office is now projecting that the deficit will rise to over $400 billion in the year 2004, from the approximately $180 billion projected for fiscal years 1995 and 1996. These projections imply increases in the deficit to GDP ratio, and in the national debt to GDP ratio. In great part, this reflects the bottoming out of defense spending near the end of this decade, as well as continued increases in the cost of the entitlements. Furthermore, this horrendous deficit outlook is in reality even worse because it includes sizable surpluses from the Social Security trust fund—when these trust fund surpluses begin to be paid in benefits early in the next century, the unified deficit is likely to skyrocket unless steps are taken to reverse current trends.

CUTTING THE DEFICIT IS IMPORTANT

This outcome is unacceptable. It should now be clear that these enormous deficits do matter. They have already begun to slowly suck the vitality out of the U.S. economy by squeezing out productive investment, keeping real interest rates extraordinary high, increasing our dependence on foreign capital, reducing the effectiveness of fiscal policy as a stabilization tool, and by creating pressures on those Federal programs that are needed to help build our economy for the future. In my view, the urgency to reduce the deficit is even greater now than it was in previous years, for the following reasons:

1. Personal savings have declined since the 1980s, despite the supply-side incentives, thus reducing the supply of domestic savings.

2. The flow of capital from Japan, Germany, and other parts of the world, which helped fund our deficits in the 1980s when we were the world's major capital importer, has slowed dramatically. This is resulting from the fact that many of those countries are no longer generating surpluses at the same degree as they were previously, and because other parts of the world have become large capital importers as well.

3. A consensus is finally developing that the most critical need in the United States is to improve our productivity and competitiveness—we can no longer grow, as we did in the 1980s, by building empty office buildings and patriot missiles, and by leveraging the system, while long-term growth factors are deteriorating. It is clear that reversing the weak trend of productivity and improving our international competitiveness will require substantial increases in investment, including modernizing our capital stock, investing in education and job training, and rebuilding our infrastructure. High real long-term interest rates, largely caused by massive deficits at a time of lower domestic savings and a reduced inflow of foreign capital, will discourage some of our needed investment.

In effect, it is essential that we create invest-led growth in the United States in order to begin to build for the future. But to do that, the federal deficit must be gradually reduced in order to free up more of our savings to finance private investment, and to reduce real long-term interest rates. Furthermore, it is essential that government priorities be changed at the same time that deficits are reduced—clearly, more federal spending is needed for rebuilding the existing infrastructure and developing the infrastructure of the future, improving the quality of education, funding more non-defense research and development, and for other such programs that will both directly improve U.S. productivity, and help begin to rebuild the U.S. economy. The challenge of course is how to do both—across the board spending cuts, or any other method that does not result in the necessary change in priorities, will not be sufficient if our objective is to get the U.S. economy on the right course for the future.

A BALANCED BUDGET AMENDMENT IS NOT THE ANSWER.

Despite the urgency of reducing future budget deficits, I am strongly opposed to the enactment of a balanced budget amendment. In my judgment, it is simply another gimmick like those that have been implemented in the last six or seven years, beginning with Gramm-Rudman, which have had very little, if any, impact. It will not only be an ineffective tool in dealing with the problem, but in my view is simply a way to attempt to avoid what will be difficult choices, and place the blame for any unpopular spending cuts or tax increases on a mechanical formula rather than on Presidential or Congressional decisions. In brief, my concerns, are as follows:

1. Which budget is to be balanced? Is it the structural budget deficit, the unified budget deficit, the on-budget deficit, etc.? Should government investment be included or excluded? Answers to these and similar questions are not intuitively obvious.

2. It is likely to encourage even more use of optimistic forecasts, program underestimation, moving programs off-budget, and other similar techniques in order to avoid the tough decisions that will be needed to be made to actually balance the budget. Thus, the balanced budget amendment has the potential of making the budget process even more flawed than it was in the 1980s. We are also likely to see the adoption of more gimmicks that produce short-term revenue gains at the expense of revenue loss beyond the balanced budget period, which will simply make the long-term problem even worse.

3. There are times when a balanced budget may be undesirable. These may include periods of recession or slow growth, wartime periods, or situations when domestic emergencies might exist. In my view, it will be difficult to plan for all these contingencies in a balanced budget amendment, and any effort to offset these factors will be harmful to the economy. Furthermore, its goal of reaching a balanced budget in a relatively short period of time may create too much fiscal drag too rapidly.

4. In my view, if will probably make it more difficult for us to deal with our other critical budget problem, namely reorienting our priorities, because the tendency will be to look for the easiest ways of cutting the deficit, rather than those that are best for the economy.

5. What if, in fact, a balanced budget isn't achieved because the economic assumptions turned out to be incorrect, even if they were reasonable in the first place? How do we make adjustments for it? Who gets penalized? These are also difficult issues that would have to be covered.

6. Efforts to enact major tax cuts at the same time that the balanced budget amendment is being debated is the height of cynicism, especially the tax cuts that have been proposed in the Republican Contract with America. Those tax cuts would generate sizable revenue losses, especially in the out years, making what will already be an extraordinarily difficult task of substantial deficit reduction (let alone a balanced budget) in seven years virtually impossible without almost a near dismantling of government programs except for social security and national defense. This is the height of cynicism, as well as horrendously bad social and economic policy.

It is also important to remember that the Federal budget, by its sheer size, and because of its role as a stabilization tool, should not be considered in the same way as an individual state or local government.

HOW TO CUT THE DEFICIT

While additional long term deficit reduction is thus essential, this must be balanced with two other objectives. First, it is important that we do not further undermine the use of fiscal policy as a stabilization tool. In particular, it would be counterproductive to cut the deficit so quickly that we would dramatically weaken the economy when it is already operating below full employment. Second, we need to reduce future deficits in a manner that would not make it more difficult for us to deal with our other critical budget problem, mainly reorienting our priorities away from consumption and more toward public investment and other expenditures that are needed to support long term economic growth.

I suggest the following approaches an alternative to a balanced budget amendment.

1. Unfortunately, there is no precise rule of thumb or model simulation which can give us the optimum path for future deficit reduction. In my view, an appropriate objective would be to cut the $400 billion deficit now projected by CBO for 2004 in half—this would suggest that over the next 10 years the nominal deficit would be roughly flat, implying a gradual decline in the deficit in real terms, in the deficit as a share of GDP, and even more importantly, in the debt to GDP ratio. Such a target would imply putting in place approximately $15–20 billion per year of budget restraint for each year over the ten year period—in my judgment, with the safeguards I will list below, I think this is doable and will not create too much fiscal drag on the economy.

2. Spending cuts should be the top priority. In view of the large cuts in non-defense discretionary programs in the 1980s, and given the need to increase spending in some of these areas, it is unlikely that huge savings will be realized from this sector of the budget. Thus, spending cuts must come from additional reductions in military spending, from an effective health care cost control program, and from slowing the enormous growth in the entitlements, especially the pension and health programs. I would suggest that the concept of entitlements is no longer something that this country can afford. All of the so-called entitlement programs must be slowly converted to means testing, either by scaling back benefits for upper income and high wealth individuals and/or by increasing taxes on those benefits. We should reduce (not eliminate) benefits for those who could do with less—households and individuals with modest means should be spared. Furthermore, consideration should be given to further extending the retirement age for full benefits. Scaling back of health and pension benefits should not apply only to entitlement programs—public employees are now receiving extremely generous benefits which are no longer affordable. Finally, I would suggest that any reductions in social security benefits partly be earmarked for investments to build for our future, especially for education and other programs which benefit primarily younger people. In effect, we would be reducing benefits for the elderly to be used to make a better life for their children and grandchildren.

3. Deficit reduction must be fair. In particular, it is now well documented that most of the benefit of the tax cuts of the 1980s went to those in the upper income groups—in the meantime, large social security tax increases and budget cuts have significantly reduced after-tax incomes for many low and middle income families. This has only been partly reversed in the 1993 budget package. Thus, it is important that deficit reduction be structured in a way that the impact is greatest on those who can afford it. Many will make the argument that increases in taxes on upper income individuals will create huge disincentives for savings and investment and thus would be counterproductive—however, as we learned in the 1980s, these arguments are exaggerated. Furthermore, the economy can not function effectively when a large and increasing share of purchasing power and wealth is concentrated in relatively few hands—this holds down demand and thus will prevent long term growth.

4. The arithmetic is very clear—even with the phasing-in of entitlement reform and some additional cuts in defense and non-defense discretionary programs, some tax increases (not tax cuts) will be needed in order to reduce deficits to acceptable levels. The assertion that the problem is not on the revenue side because tax revenues have actually increased as a result of the tax cuts of the early 1980s is inaccurate. Both personal and corporate income tax collections as a share of income and profits, respectively, are below where they were a decade ago—total tax revenues are roughly at the same ratio of GDP as they were prior to the enactment of the supply-side program primarily because of the big increase in Social Security taxes enacted in the mid-1980s, and because of other tax increases enacted along the way.

In my view, increased revenues should come first from eliminating counterproductive tax expenditures (incentives, exemptions, etc.) now in place, and then secondly, if more revenues are needed, from increasing taxes in a progressive manner on activities that we want to consume less of. Thus, broadening the tax base and consumption taxes should be considered before across the board tax increases. In the former category, some candidates are the following: eliminating or scaling back the interest deduction on mergers and acquisitions; scaling back the deduction for corporate advertising expenses and/or for corporate entertainment; a lower limit on the mortgage interest deduction than is now in place; taxation of a portion of corporate health care insurance premiums (this may also be helpful in controlling health care costs).

5. Most importantly, I believe that to the extent possible, a multi-year program designed to bring about the amount of deficit reduction described above should be adopted as soon as possible. This would be desirable for several reasons. First, it would avoid having to go through the torturous process on an annual basis—the medicine can all be taken at once. Second, and more importantly, one way to reduce the effect of fiscal drag on economic growth is to bring interest rates down as quickly as possible, especially long term rates—this can be best accomplished if the markets believe that a credible program to reduce future deficits is in place. While easier Federal Reserve policy can also help, the Federal Reserve has lost most of its control over long term interest rates. Convincing the markets that the federal demand for credit will be dramatically reduced in the future will be a more effective way to bring down long term interest rates than an easier monetary policy.

6. It is possible to design a multi-year deficit reduction program that can allow some

flexibility to deal with emergencies and recessions. This will prevent fiscal policy from worsening economic downturns. If these exceptions are truly limited, they are not likely to undermine the credibility of the long term program. I suggest that the deficit reduction program be accompanied with an "escape clause" in the form of a minimum level of GDP or employment growth, or a threshold unemployment rate, beneath which future installments of deficit reduction will be delayed or scaled back in order not to create an even weaker economic environment. This is particularly important since the current level of economic activity is so low that the economy is likely to be underutilized for many years.

MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that we now call up a period to transact morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE NATIONAL EMERGENCY WITH HAITI—MESSAGE FROM THE PRESIDENT—PM 8

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

1. In December 1990, the Haitian people elected Jean-Bertrand Aristide as their President by an overwhelming margin in a free and fair election. The United States praised Haiti's success in peacefully implementing its democratic constitutional system and provided significant political and economic support to the new government. The Haitian military abruptly interrupted the consolidation of Haiti's new democracy when, in September 1991, it illegally and violently ousted President Aristide from office and drove him into exile.

2. The United States, on its own and with the Organization of American States [OSA], immediately imposed sanctions against the illegal regime. Upon the recommendation of the legitimate government of President Aristide and of the OAS, the United Nations Security Council imposed incrementally a universal embargo on Haiti, beginning June 16, 1993, with trade restrictions on certain strategic commodities. The United States actively supported the efforts of the OAS and the United Nations to restore democracy to Haiti and to bring about President Aristide's return by facilitating negotiations between the Haitian parties. The United States and the international community also offered material assistance within the context of an eventual negotiated settlement of the Haitian crisis to support the return to democracy, build constitutional structures, and foster economic well-being.

The continued defiance of the will of the international community by the illegal regime led to an intensification of bilateral and multilateral economic sanctions against Haiti in May 1994. The U.N. Security Council on May 6 adopted Resolution 917, imposing comprehensive trade sanctions and other measures on Haiti. This was followed by a succession of unilateral U.S. sanctions designed to isolate the illegal regime. To augment embargo enforcement, the United States and other countries entered into a cooperative endeavor with the Dominican Republic to monitor that country's enforcement of sanctions along its land border and in its coastal waters.

Defying coordinated international efforts, the illegal military regime in Haiti remained intransigent for some time. Internal repression continued to worsen, exemplified by the expulsion in July 1994 of the U.N./O.A.S.-sponsored International Civilian Mission [ICM] human rights observers. Responding to the threat to peace and security in the region, the U.N. Security Council passed Resolution 940 on July 31, 1994, authorizing the formation of a multinational force to use all necessary means to facilitate the departure from Haiti of the military leadership and the return of legitimate authorities including President Aristide.

In the succeeding weeks, the international community under U.S. leadership assembled a multinational coalition force to carry out this mandate. At my request, former President Carter, Chairman of the Senate Armed Services Committee Sam Nunn, and former Chairman of the Joint Chiefs of Staff Colin Powell went to Haiti on September 16 to meet with the de facto Haitian leadership. The threat of imminent military intervention combined with determined diplomacy achieved agreement in Port-au-Prince on September 18 for the de facto leaders to relinquish power by October 15. United States forces in the vanguard of the multinational coalition force drawn from 26 countries began a peaceful deployment in Haiti on September 19 and the military leaders have since relinquished power.

In a spirit of reconciliation and reconstruction, on September 25 President Aristide called for the immediate easing of sanctions so that the work of rebuilding could begin. In response to this request, on September 26 in an address before the United Nations General Assembly, I announced my intention to suspend all unilateral sanctions against Haiti except those that affected the military leaders and their immediate supporters and families. On September 29, the U.N. Security Council adopted Resolution 944 terminating U.N.-imposed sanctions as of the day after President Aristide returned to Haiti.

On October 15, President Aristide returned to Haiti to assume his official responsibilities. Effective October 16, 1994, by Executive Order No. 12932 (59 Fed. Reg. 52403, October 14, 1994), I terminated the national emergency declared on October 4, 1991, in Executive Order No. 12775, along with all sanctions with respect to Haiti imposed in that Executive order, subsequent Executive orders, and the Department of the Treasury regulations to deal with that emergency. This termination does not affect compliance and enforcement actions involving prior transactions or violations of the sanctions.

3. This report is submitted to the Congress pursuant to 50 U.S.C. 1641(c) and 1703(c). It is not a report on all U.S. activities with respect to Haiti, but discusses only those Administration actions and expenses since my last report (October 13, 1994) that are directly related to the national emergency with respect to Haiti declared in Executive Order No. 12775, as implemented pursuant to that order and Executive Orders Nos. 12779, 12853, 12872, 12914, 12917, 12920, and 12922.

4. The Department of the Treasury's Office of Foreign Assets Control [FAC] amended the Haitian Transactions Regulations, 31 C.F.R. Part 580 (the "HTR") on December 27, 1994 (59 Fed. Reg. 66476, December 27, 1994), to add section 580.524, indicating the termination of sanctions pursuant to Executive Order No. 12932, effective October 16, 1994. The effect of this amendment is to authorize all transactions previously prohibited by subpart B of the HTR or by the previously stated Executive orders. Reports due under general or specific license must still be filed with FAC covering activities up until the effective date of this termination. Enforcement actions with respect to past violations of the sanctions are not affected by the termination of sanctions. A copy of the FAC amendment is attached.

5. The total expenses incurred by the Federal Government during the period of the national emergency with respect to Haiti from October 4, 1991, through

October 15, 1994, that are directly attributable to the authorities conferred by the declaration of a national emergency with respect to Haiti are estimated to be approximately $6.2 million, most of which represent wage and salary costs for Federal personnel. This estimate has been revised downward substantially from the sum of estimates previously reported in order to eliminate certain previously reported costs incurred with respect to Haiti, but not directly attributable to the exercise of powers and authorities conferred by the declaration of the terminated national emergency with respect to Haiti.

Thus, with the termination of sanctions, this is the last periodic report that will be submitted pursuant to 50 U.S.C. 1703(c) and also constitutes the last semiannual report and final report on Administration expenditures required pursuant to 50 U.S.C. 1641(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 3, 1995.*

REPORT OF A PROCLAMATION TO AMEND THE GENERALIZED SYSTEM OF PREFERENCES—MESSAGE FROM THE PRESIDENT—PM 9

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

The Generalized System of Preferences [GSP] program offers duty-free treatment to specified products that are imported from designated beneficiary countries. It is authorized by the Trade Act of 1974, as amended.

I am writing to inform you of my intent to add Armenia to the list of beneficiary developing countries for purposes of the GSP program. I have carefully considered the criteria identified in sections 501 and 502 of the Trade Act of 1974. In light of these criteria, I have determined that it is appropriate to extend GSP benefits to Armenia.

I am also writing to inform you of my decision to terminate the designation of The Bahamas and the designation of Israel as beneficiary developing countries for purposes of the GSP program. Pursuant to section 504(f) of the Trade Act of 1974, I have determined that the per capita gross national products of The Bahamas and of Israel have exceeded the applicable limit provided for in section 504(f). Accordingly, I have determined that it is appropriate to terminate the designation of The Bahamas and Israel as GSP beneficiaries.

This notice is submitted in accordance with sections 502(a)(1) and 502(a)(2) of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 3, 1995.*

MESSAGES FROM THE HOUSE

At 12:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House insists upon its amendments to the bill (S.1) to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local, and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statues and regulations; and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. CLINGER, Mr. DREIER, Mr. PORTMAN, Mr. DAVIS, Mr. CONDIT, Mrs. COLLINS of Illinois, Mr. TOWNS, and Mr. MOAKLEY as the managers of the conference on the part of the House.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-341. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-348 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-342. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-349 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-343. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-350 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-344. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-351 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-345. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-352 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-346. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-353 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-347. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-354 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

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EC-350. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-357 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-351. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-358 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-352. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-359 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-353. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-360 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-354. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-361 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-355. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-365 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-356. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-367 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-357. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-368 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-358. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-369 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 178. A bill to amend the Commodity Exchange Act to extend the authorization for the Commodity Futures Trading Commission, and for other purposes (Rept. No. 104-7).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. BAUCUS, and Mrs. FEINSTEIN):

S. 351. A bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities; to the Committee on Finance.

By Mr. PRESSLER:

S. 352. A bill to amend the Federal Water Pollution Control Act to establish a comprehensive program for conserving and managing wetlands and waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SIMON:

S. 353. A bill to clarify the circumstances under which a senior circuit court judge may cast a vote in a case heard en banc; to the Committee on the Judiciary.

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. SIMON, and Mr. BUMPERS):

S. 354. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing; to the Committee on Finance.

By Mr. ABRAHAM:

S. 355. A bill to provide that the Secretary of the Senate and the Clerk of the House of Representatives shall include an estimate of Federal retirement benefits for each Member of Congress in their semiannual reports, and for other purposes; to the Committee on Rules and Administration.

By Mr. SHELBY (for himself and Mr. COVERDELL):

S. 356. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. BAUCUS and Mrs. FEINSTEIN):

S. 351. A bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities; to the Committee on Finance.

RESEARCH ACTIVITIES LEGISLATION

Mr. HATCH. Mr. President, I am pleased today to join with my friends and colleagues, Senator MAX BAUCUS, and Representatives NANCY JOHNSON and ROBERT MATSUI in the House, in introducing legislation that would extend permanently the tax credit for increasing research activities. The Omnibus Budget Reconciliation Act of 1993 temporarily extended this tax credit until June 30, 1995, when it is set to expire.

As the United States is shifting from an industrial based economy to an information and technology based economy, conducting research for tomorrow's products and methods is increasing in importance. In 1981, the Reagan administration and the Congress recognized this need, and the credit for increasing research and experimentation [R&E] activities was first enacted. Unfortunately, due to revenue concerns and uncertainty about its effectiveness, the credit was enacted with a sunset date of December 31, 1985. Since then, the credit has been extended four more times for periods varying from 6 months to 3 years.

Mr. President, this Nation is the world's undisputed leader in technological innovation. American know-how has given our Nation benefits undreamed of a few years ago. Research and development by U.S. companies has led the way in delivering these benefits, which enhance U.S. competitiveness as well as the quality of life for everyone. And, as the pace of change in our world quickens, the role of research has taken on increased importance.

The R&E credit has played a key role in placing the United States ahead of its competition in developing and marketing new products. Recent studies indicate that the marginal effect of $1 of the R&D credit stimulates approximately $1 of additional private research and development [R&D] spending over the short run, and as much as $2 of extra R&D over the long run.

Mr. President, the benefits of the R&D credit, though certainly very significant, have been limited by the fact that the credit has been temporary. In many fields, particularly pharmaceuticals and biotechnology, there are relatively long periods of development. The more uncertain the long-term future of the R&D credit is, the smaller the potential of the credit to stimulate increased research. This only makes sense, Mr. President. U.S. companies are managed by prudent business men and women. They evaluate their R&D investments by comparing the present value of the expected cash flows from the research over the life of the investment with the initial cash outlay. These estimates take into account the potential availability of tax credits. However, because of the uncertainty of a credit that has been allowed to expire 5 times in 14 years, many decision makers do not count on the R&E credit as being available in the long run. This, of course, means that fewer research projects will meet the threshold of viability and results in fewer dollars being spent on research in this country.

It is important to note that while U.S. investment in research and development has generally grown since 1970, our international competitors have not stood still. In fact, United States nondefense R&D, as a percentage of gross domestic product [GDP], has been relatively flat since 1985, while Japan's and Germany's have grown.

Unlike a few years ago, it is now not always necessary for U.S. firms to perform their research activities within the boundaries of the United States. As more nations have joined the United States as high-technology manufacturing centers, with educated work forces, multinational companies have found that moving manufacturing functions overseas is sometimes necessary to stay competitive. The same is often true with basic research activities. In fact, some of our major trading partners now provide generous tax incentives for research and development conducted in those nations. In some cases, these incentives are more attractive than the R&E credit the United States provides, particularly when the temporary nature of our credit is considered. Therefore, Mr. President, we are at risk of having some of the R&D spending in the United States transferred overseas if we do not keep competitive.

President Clinton, when campaigning for the presidency in 1992, recognized the importance of stimulating private R&D investment and called for a permanent R&E credit. I firmly hope that the President's fiscal year 1996 budget continues this commitment by providing for the permanent extension of the credit.

Mr. President, my home State of Utah is home to a large number of innovative companies who invest a high percentage of their revenue in research and development activities. For example, between Salt Lake City and Provo lies the world's biggest stretch of software and computer engineering firms. This area, which was named "Software Valley" by Business Week, is second only to California's Silicon Valley as a thriving high technology commercial area.

In addition, the Salt Lake City area is home to at least 145 biomedical firms that employ nearly 8,000 workers. These companies were conceived in research and development and will not survive, much less grow, without continuously conducting R&D activities.

In all, Mr. President, there are approximately 80,000 employees working in Utah's 1,400 plus and growing technology based companies. Research and development is the lifeblood of these firms, and hundreds of thousands more throughout the Nation that are like them. A permanent and effective tax incentive to increase research is essential to the long-term health of these businesses.

High-technology companies are leading us into the 21st century. Research and development must continue or this industry will shrivel up and die. We cannot allow that to happen.

I am aware, Mr. President, that not every company that incurs R&D expenditures in the United States can take advantage of the R&E credit. For many companies, particularly in the defense and aerospace industries, declining research and development expenditures as a percentage of sales, which came about as a result of lower defense spending by the Federal Government, have put the credit out of reach. Thus, even a permanent credit, as currently structured, holds little or no incentive to increase research activities for these firms. Other companies find the current R&E credit less effective than it could be because of various problems inherent in the structure of the credit. In short, the credit, even if permanently extended, is not perfect. Congress should examine ways to improve it and to make it more effective in delivering incentives to increase R&D activity for all companies. I intend to explore various ideas to make the credit better. And, I invite my colleagues and interested parties to join me in this endeavor.

In the meantime, however, it is important that this Congress send a strong signal that the current credit should not be allowed to expire. This bill today is intended to serve as a benchmark. I urge my colleagues to show their support for the concept of a permanent R&E credit by cosponsoring this legislation. By the time we have the opportunity to consider a tax bill, probably later this spring, we hope to be able to offer improvements to the credit that all companies will find effective in encouraging the kind of research activities that will keep this Nation a leader in the technological developments that will lead us into the next century.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 351

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR INCREASING RESEARCH ACTIVITIES MADE PERMANENT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 28(b) of such Code is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1995.

• Mr. President, it is with great pleasure that I join with my colleague from Utah, Senator HATCH, to introduce a bill critical to the ability of American businesses to effectively compete in the global marketplace. This bill will provide the economic incentive to encourage businesses to undertake the research necessary to develop the technical innovations required to increase the supply of quality jobs in the United States.

The legislation that we introduce today, and the companion legislation Representatives NANCY JOHNSON and ROBERT MATSUI are introducing in the House on this date, will make the R&D credit permanent for amounts paid for incurred after June 30, 1995.

For the past several years, essentially because of budget constraints, Congress extended the R&D credit on an sporadic basis. Corporations have been unable to count on the credit as a certainty in financing the multi-year development projects necessary to the economic well being of the companies particularly in a highly competitive, global market place.

The bill introduced today to permanently extend the R&D credit is only the beginning. Over the last few years, I have received the input of a variety of business leaders and industry representatives concerning ways to facilitate additional investment in research and development. Included in this process were discussions with representatives of small and large businesses, new companies, and mature industries. As a result, I have concluded that additional modifications should be made to the R&D credit provisions to fulfill the objectives contemplated by Congress when it first enacted and subsequently modified the credit—fostering leadership in new technology, promoting the emergence of new businesses, aiding the conversion of the defense industry, and promoting an environment in which our Nation's companies can successfully compete with their foreign counterparts.

On March 26, 1993, I, together with our former colleague, Senator Danforth, introduced S. 666, the Research Development Enhancement Act of 1993. I believed at that time and continue to believe that S. 666 effectively addressed a number of issues which, had the legislation been enacted, would have facilitated additional investment in U.S.-based research and development.

I look forward to working with my colleague, Senator HATCH, and with Members of Congress and the administration to obtain a permanent extension of the R&D credit and to ultimately effect revisions to the credit to encourage American companies to invest additional funds in research and development.•

By Mr. PRESSLER:

S. 352. A bill to amend the Federal Water Pollution Control Act to establish a comprehensive program for conserving and managing wetlands and waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

THE COMPREHENSIVE WETLANDS CONSERVATION AND MANAGEMENT ACT OF 1995

Mr. PRESSLER. Mr. President, today I am introducing legislation that addresses a major concern of land owners and businesses not only in South Dakota but throughout the United States. The concern is wetlands.

Traveling throughout South Dakota and listening to the people, it is clear that wetlands are an issue on everyone's mind. More often than not, current wetlands policy is a burden on our farmers, ranchers, and business people. Problems with current wetlands policies have affected farmers and ranchers predominantly. However, current policies also are now affecting those who live in our cities and small towns. The bill I am introducing today would go far in establishing a policy that neither is burdensome nor imposes unwarranted costs and regulations.

And what are these wetlands concerns? The right to own private property is one. Compensation to property owners when land is taken away or when use of the land is restricted is another. Government-forced changes in farming and ranching operations are on everyone's mind. Current excessive penalties and fines could force young farmers and ranchers off the land. Obstacles to business expansion are another current concern.

Mr. President, the list of concerns goes on. These concerns are not imagined. They are real. Problems are occurring throughout South Dakota. In just one county in South Dakota—Kingsbury—nearly 20 percent of that county's farmland contains Government wildlife easement wetlands. However, Government officials have not notified farmers of those easements.

Seven possible wetlands violations were reported in Kingsbury County last year. Yet four of the seven operators charged had no idea there were wetlands easements on their farms.

In several cases, local officials quickly identified the problem, and notified the affected farmers. The farmers, unaware of any wetlands damage or violations, quickly repaired the disruption of their wetlands. Now these farmers are waiting for a ruling from Washington bureaucrats on what their penalty will be.

The penalties will not be light. Farmers have told me they are being threatened with fines as high as $515,000. Fines as high as $65,000 have already been levied.

Mr. President, I do not know any farm or ranch family that can afford to lose that amount of money. Efforts must be taken to ensure that any fine or penalty is in line with violations. Many violations are incidental and quickly repaired. Penalties should fit the crime.

Thousands of South Dakotans have written, called, or visited with me about the definition of wetlands and the rules and regulations designed to protect wetlands. Farmers, ranchers, business men and women, and individual South Dakotans have clearly identified one of the most important issues affecting their lives. They are concerned about the definition of wetlands and what guidelines should be adopted to protect them.

The bill I am introducing today addresses these wetlands concerns. My bill would create much-needed guidelines for identifying and delineating wetlands and creating a balance between growth and the protection of private property. Simply put, this bill puts common sense into our wetlands policy.

Current law is too broad, and it is causing to many problems throughout the country. Congress has never passed a comprehensive law defining wetlands. Without that definition, Federal agencies have been aggressively pursuing control over private property in the name of saving wetlands.

What the Government should or should not be doing in this area needs to be defined clearly. My bill does that. It provides definitions that protect true wetlands areas and protects the rights of private property owners.

My bill requires certain criteria to be met and verified before an area can be regulated as a wetland. Such an approach is more reliable in identifying true wetlands. It prevents field inspectors from mistakenly classifying dry, upland areas that are drained effectively as wetlands, and also eliminates a major source of confusion and abuse caused by current regulations.

Mr. President, I ask that an explanation of the bill be printed in the RECORD at this point.

Mr. President, I applaud my friend and colleague Senator BREAUX for being the leader on this issue during previous Congresses. Only through the kind of common sense and balanced approach proposed in my bill can the Nation's agricultural, business, environmental, and individual interests be addressed properly. Action is needed. I urge my colleagues to take a close look at this bill and join me in supporting this bill.

Mr. President, I ask unanimous consent that a copy of my bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Wetlands Conservation and Management Act of 1995".

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) wetlands play an integral role in maintaining high quality of life through material contributions to the national economy, food supply, water supply and quality, flood control, and fish, wildlife, and plant resources, and to the health, safety, recreation, and economic well-being of citizens throughout the United States;

(2) wetlands serve important ecological and natural resource functions, such as providing essential nesting and feeding habitat for waterfowl, other wildlife, and many rare and endangered species, fisheries habitat, the enhancement of water quality, and natural flood control;

(3) much of the wetlands resource of the United States has sustained significant loss or degradation, resulting in the need for effective programs to limit the loss and degradation of ecologically significant wetlands and to provide for long-term restoration and enhancement of the wetlands resource base;

(4) because 75 percent of the wetlands in the lower 48 States is privately owned and because the majority of the population of the United States lives in or near wetlands, an effective wetlands conservation and management program must reflect a balanced approach that conserves and enhances important wetlands functions and values while observing private property rights, recognizing the need for essential public infrastructure, such as highways, ports, airports, sewer systems, and public water supply systems, and providing the opportunity for sustained economic growth; and

(5) the Federal permit program established under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) was not originally conceived as a wetlands regulatory program and is insufficient to ensure that the wetlands resource base of the United States will be conserved and managed in a fair and environmentally sound manner.

(b) PURPOSE.—The purpose of this Act is to establish a new Federal regulatory program for activities in wetlands and waters of the United States to—

(1) assert Federal regulatory jurisdiction over a broad category of specifically identified activities that result in the loss or degradation of wetlands and waters of the United States;

(2) account for variations in wetlands functions or values in determining the character and extent of regulation of activities occurring in wetlands;

(3) provide sufficient regulatory incentives for conservation, restoration, or enhancement activities;

(4) encourage conservation of resources on an ecosystem basis to the fullest extent practicable; and

(5) balance public and private interests in determining the conditions under which activity in wetlands and waters of the United States may occur.

SEC. 3. WETLANDS CONSERVATION AND MANAGEMENT.

Title IV of the Federal Water Pollution Control Act (33 U.S.C. 1341 et seq.) is amended by striking section 404 and inserting the following new section:

"SEC. 404. PERMITS FOR ACTIVITIES IN WETLANDS OR WATERS OF THE UNITED STATES.

"(a) DEFINITIONS.—As used in this section:

"(1) ACTIVITY IN WETLANDS OR WATERS OF THE UNITED STATES.—The term 'activity in wetlands or waters of the United States' means—

"(A) the discharge of dredged or fill material into waters of the United States, including wetlands at a specific disposal site; or

"(B) the draining, channelization, or excavation of wetlands.

"(2) CREATION.—The term 'creation', used with respect to wetlands, means an activity that brings wetlands into existence, at a site where the wetlands did not formerly occur, for the purpose of compensation.

"(3) DIRECTOR.—The term 'Director', used without further modification, means the Director of the United States Fish and Wildlife Service.

"(4) ENHANCEMENT.—The term 'enhancement', used with respect to wetlands or waters of the United States, means an activity that increases the value of a function in wetlands or waters of the United States.

"(5) FASTLANDS.—The term 'fastlands' means lands located behind permitted man-made structures, such as lands located behind a levee to permit utilization of the lands for commercial, industrial, or residential purposes consistent with each local land use planning requirement.

"(6) GROWING SEASON.—The term 'growing season' means, for each plant hardiness zone, the period between the average date of last frost in spring and the average date of first frost in autumn.

"(7) INCIDENTALLY CREATED.—The term 'incidentally created', used with respect to wetlands, means lands that otherwise meet the standards for delineation of wetlands described in paragraphs (1) and (2) of subsection (g), if a characteristic of the wetlands is the unintended result of a human-induced alteration of hydrology.

"(8) MAINTENANCE.—The term 'maintenance' means an activity undertaken to ensure continuation of wetlands or the accomplishment of a project goal after a wetlands restoration or wetlands creation project has been technically completed, including water level manipulation and control of any nonnative plant species.

"(9) MITIGATION BANKING.—The term 'mitigation banking' means wetlands restoration, enhancement, preservation, or creation for the purpose of providing compensation for wetlands loss or degradation.

"(10) NORMAL FARMING, SILVICULTURE, AQUACULTURE, OR RANCHING ACTIVITY.—The term 'normal farming, silviculture, aquaculture, or ranching activity' means a normal ongoing practice identified as a normal ongoing activity by the Secretary of Agriculture (in consultation with the Cooperative State Research, Education, and Extension Service for each State, the land-grant university system, and the agricultural colleges of the State), taking into account any existing practice (as of the date of the identification) and any other practice that may be identified in consultation with the affected industry or community.

"(11) PRIOR CONVERTED CROPLAND.—The term 'prior converted cropland' means lands that were both manipulated (by drainage or other physical alteration to remove excess water from the land) and cropped before December 23, 1985, to the extent that the lands no longer exhibit significant wetlands functions or values.

"(12) RESTORATION.—The term 'restoration', used with respect to wetlands, means an activity undertaken to return wetlands from a disturbed or altered condition with lesser wetlands acreage or fewer wetlands functions or values to a previous condition with greater wetlands acreage or more wetlands functions or values.

"(13) SECRETARY.—The term 'Secretary', used without further modification, means the Secretary of the Army.

"(14) TEMPORARY.—The term 'temporary', used with respect to an impact, means the disturbance or alteration of wetlands or waters of the United States caused by an activity under a circumstance in which, not later than 3 years following the commencement of the activity, the wetlands or waters—

"(A) are returned to the condition in existence prior to the commencement of the activity; or

"(B) display a condition sufficient to ensure that without further human action the wetlands or waters will return to the condition in existence prior to the commencement of the activity.

"(15) WETLANDS.—The term 'wetlands' means lands that meet the standards for delineation of lands as wetlands set forth in paragraphs (1) and (2) of subsection (g).

"(16) WETLANDS FUNCTIONS.—The term 'wetlands functions' means the roles wetlands serve that are of value, including flood water storage, flood water conveyance, ground water discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fishery support, wetlands plant habitat support, aquatic habitat support, and habitat for wetlands-dependent wildlife support.

"(b) AUTHORIZED ACTIVITIES.—

"(1) PERMIT REQUIREMENT.—No person shall undertake an activity in wetlands or waters of the United States unless the activity is undertaken pursuant to a permit issued by the Secretary, except as provided in paragraph (3).

"(2) ISSUANCE OF PERMITS.—The Secretary may issue permits authorizing activities in wetlands or waters of the United States in accordance with the requirements of this section.

"(3) ACTIVITIES NOT REQUIRING PERMITS.—An activity in wetlands or waters of the United States may be undertaken without a permit described in paragraph (2) from the Secretary if the activity is authorized under paragraph (5) or (6) of subsection (e), is exempt under subsection (f), or is otherwise exempt under another provision of this section.

"(4) APPLICATION.—Any person seeking to undertake an activity in wetlands or waters of the United States shall submit an application to the Secretary identifying the site of the activity. The applicant shall also provide such additional information regarding the proposed activity as may be necessary or appropriate for purposes of determining whether and under what conditions the proposed activity may be permitted to occur.

"(c) WETLANDS CLASSIFICATION.—

"(1) APPLICATION.—In submitting an application under subsection (b), any person seeking to undertake an activity in wetlands for which a permit is required under subsection (b) shall request that the Secretary determine, in accordance with paragraph (3), the classification of the wetlands in which the activity is proposed to occur. The applicant shall also provide such information as may be necessary or appropriate for determining the classification of wetlands.

"(2) NOTICE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 90 days after the receipt of an application described in paragraph (1) relating to an activity in wetlands, the Secretary shall provide notice to the applicant of the classification of the wetlands that are the subject of the application and shall state in writing the basis for the classification. The classification of the wetlands that are the subject of the application shall be determined by the Secretary in accordance with the requirements for classification of wetlands under paragraphs (3), (4), and (5).

"(B) NOTICE REGARDING ADVANCE CLASSIFICATION.—In the case of an application proposing an activity located in wetlands that are the subject of an advance classification under subsection (h), the Secretary shall provide notice to the applicant of the classification within 30 days following the receipt of the application, and shall provide an opportunity for review of the classification under paragraphs (4) and (5).

"(3) CLASSIFICATION.—On receipt of an application under this subsection with respect to wetlands, the Secretary shall, in accordance with the standards and procedures established by regulation issued under subsection (i)—

"(A) classify as type A wetlands the wetlands that are of critical significance to the long-term conservation of the ecosystem of which the wetlands are a part if—

"(i) the wetlands serve critical wetlands functions and values, including the provision of critical habitat for a concentration of avian, aquatic, or wetlands-dependent wildlife;

"(ii)(I) the wetlands consist of or are a portion of 10 or more contiguous acres and have an inlet or outlet for relief of water flow; or

"(II) the wetlands contain a prairie pothole feature, playa lake, or vernal pool;

"(iii) there exists a scarcity within the watershed or aquatic ecosystem of identified ecological functions served by the wetlands such that the use of the wetlands for an activity in wetlands or waters of the United States would seriously jeopardize the availability of the identified functions;

"(iv) there is no overriding public interest in the use of the wetlands for purposes other than conservation; and

"(v) the nature and scope of the wetlands functions and values of the wetlands are such that minimization and compensation are not feasible means for conserving the wetlands functions and values;

"(B) classify as type B wetlands the wetlands that provide habitat for a significant population of avian, aquatic, or wetlands-dependent wildlife, or provide other significant wetlands functions and values, including significant enhancement or protection of water quality in waters of the United States, or significant natural flood control; and

"(C) classify as type C wetlands the wetlands that—

"(i) serve limited wetlands functions and values;

"(ii) serve marginal wetlands functions and values but that exist in such abundance that regulation of activities in the wetlands is not necessary for conserving important wetlands functions and values;

"(iii) are prior converted cropland;

"(iv) are fastlands; or

"(v) are wetlands within industrial complexes or other intensely developed areas that do not serve significant wetlands functions and values as a result of the location of the wetlands.

"(4) DE NOVO DETERMINATION.—Not later than 30 days after receipt of notice of an advance classification by the Secretary under paragraph (2)(B), an applicant may request that the Secretary make a de novo determination of the classification of wetlands that are the subject of the notice. The de novo determination shall be made by the Secretary in consultation with the Director. The Secretary may sustain the advance classification made by the Director. The Secretary may modify the classification if the Secretary determines, on examination of all relevant information submitted by the applicant or otherwise available to the Secretary (including, if appropriate, an on-the-ground examination) that—

"(A) the lands involved do not meet the standards for delineating wetlands set forth in paragraph (1) or (2) of subsection (g);

"(B) the weight of relevant information does not support the determination of the advance classification with respect to the specific wetlands involved;

"(C) the factual basis for the advance classification is no longer valid; or

"(D) the limitations on uses of the specific wetlands involved that would be imposed by the Secretary under this section would effectively preclude reasonable economic use of the wetlands.

"(5) APPEALS.—In the event that the Secretary delegates authority to determine the classification of wetlands under paragraphs (3) and (4), the Secretary shall, by regulation, provide for a right of appeal to the Secretary or the designee of the Secretary of the classification of wetlands under paragraph (3) or the de novo determination of an advance classification in accordance with paragraph (4).

"(6) MAXIMUM PERCENT OF LANDS CLASSIFIED AS TYPE A WETLANDS.—No more than 20 percent of any county, parish, or borough shall be classified as type A wetlands. For purposes of this paragraph, a county, parish, or borough includes any land in the county, parish, or borough that is owned by the United States or by a State, including land in a unit of the National Wildlife Refuge System, land in the National Park System, and land subject to a conservation easement.

"(d) COMPENSATION FOR LANDOWNERS.—

"(1) ELECTION TO SEEK COMPENSATION.—Any person (including a State or political subdivision of a State) who owns an interest in lands that have been classified as type A wetlands by the Secretary under subsection (c)(3)(A) or by the Director under subsection (h) may, not later than 2 years after receipt of actual notice of the classification (or not later than 2 years after a de novo determination of the classification under subsection (c)(4)), notify the Secretary and the Director that the person is electing to seek compensation for the fair market value of the interest in lands at the time of the classification, in accordance with the requirements of this section. The fair market value may include reasonable attorney's fees and shall be calculated without regard to any diminution in value resulting from the applicability of this section.

"(2) NEGOTIATIONS.—Immediately on receipt by the Secretary and the Director of notification of election to seek compensation under paragraph (1), the Director shall enter into good faith negotiations with the owner for purposes of determining the value of the interest in lands that have been classified as type A wetlands. Not later than 90 days after receipt of the notification of election by the owner under paragraph (1), the Director shall make an offer of reasonable compensation to the owner.

"(3) ACTION OF OWNER.—

"(A) IN GENERAL.—Not later than 6 years after the date the Director makes an offer of compensation under paragraph (2), the owner shall provide notice that the owner, in the discretion of the owner—

"(i) accepts the offer of compensation;

"(ii) has filed a claim for determination of the value of the compensation described in paragraph (1) with the United States Court of Federal Claims; or

"(iii) advises the Director and the Secretary that the owner elects to retain title to the wetlands and elects not to receive compensation for the taking of land under this subsection.

"(B) FAILURE TO PROVIDE NOTICE.—Failure to provide notice in accordance with this paragraph shall be deemed an election to retain title to the wetlands and not to receive compensation under this subsection.

"(4) EFFECT OF ACCEPTANCE OF OFFER OR FILING OF CLAIM.—On acceptance of an offer of compensation, or the filing of a claim for determination of the value of compensation, under paragraph (3), the classification as type A wetlands of the wetlands that are the subject of the offer or claim shall be binding on the owner and any successor in interest, and the title to the lands shall pass to the United States. The classification of the lands as type A wetlands under this paragraph shall constitute a taking by the United States of the interests in the lands of the owner and shall be compensable under this subsection.

"(5) EXTENT OF TAKING.—A taking under this subsection shall be deemed to be a taking of surface interests in lands only, with the following exceptions:

"(A) EXPLORATION OR DEVELOPMENT NOT COMPATIBLE WITH CONSERVATION.—If the Secretary determines that the exploration for or development of oil and gas or mineral interests is not compatible with conservation of the surface interests in lands that have been classified as type A wetlands located above the oil and gas or mineral interests (or located adjacent to the oil and gas or mineral interests where the adjacent lands are necessary to provide reasonable access to the interests), the Secretary may classify the oil and gas or mineral interests as type A wetlands and notify the owner of the interests that the owner may elect to receive compensation for the interests under paragraph (1).

"(B) FAILURE TO PROVIDE REASONABLE ACCESS.—The failure of the Secretary to provide reasonable access to oil and gas or mineral interests located beneath or adjacent to surface interests of type A wetlands shall be deemed a taking of the oil and gas or mineral interests. The Secretary shall classify the oil and gas or mineral interests as type A wetlands and notify the owner of the interests that the owner may elect to receive compensation for the interests under paragraph (1).

"(6) JURISDICTION.—The United States Court of Federal Claims shall have jurisdiction—

"(A) to determine the value of interests taken and the fair compensation required under this subsection and the Constitution;

"(B) in the case of oil and gas or mineral interests, to require the United States to provide reasonable access in, across, or through lands that may be the subject of a taking under this subsection solely for the purpose of undertaking activity necessary to determine the value of the interests taken; and

"(C) to provide other equitable remedies determined to be appropriate.

"(7) EXECUTION OF JUDGMENT.—Any judgment rendered under paragraph (6) may be executed, at the election of the owner. Any owner seeking to execute such a judgment shall execute the judgment not later than 2 years after the date the judgment is rendered. The owner may, prior to the execution of the judgment, enter into an agreement with the United States for satisfaction of the judgment through a crediting of a tax benefit, acquisition of an interest in oil and gas or minerals, an exchange of interests in lands with the United States, or other means of compensation.

"(8) CONSTRUCTION.—

"(A) AVAILABILITY OF OTHER REMEDIES.—The remedy for a taking of an interest in lands under this subsection shall not be construed to preempt, alter, or limit the availability of other remedies for the taking of the interest in lands under the Constitution or under State law, including the taking of rights to the use of water allocated under State law or the taking of the interest in lands by denial of a permit under this section.

"(B) TAKING BY DENIAL OF A PERMIT.—Any award of compensation for the taking of an interest in lands by denial of a permit under this section shall be based on the fair market value of the interest in lands at the time of the taking. The fair market value may include reasonable attorney's fees and shall be calculated without regard to any diminution in value resulting from the applicability of this section.

"(9) MANAGEMENT.—Interests in lands acquired by the United States under this subsection shall be managed by the United States Fish and Wildlife Service as a part of the National Wildlife Refuge System unless the Secretary of the Interior, acting through the Director, makes a determination otherwise, or unless otherwise provided by law.

"(10) REQUIREMENTS GOVERNING USE OF WATER.—No action taken under this subsection shall be construed to alter or supersede requirements governing use of water applicable under State law.

"(e) REQUIREMENTS APPLICABLE TO PERMITTED ACTIVITY.—

"(1) ISSUANCE OR DENIAL OF PERMITS.—Following the provision of notice of wetlands classification pursuant to subsection (c) if applicable, and after compliance with the requirements of subsection (d) if applicable, the Secretary may issue or deny a permit for authorization to undertake an activity in wetlands or waters of the United States, in accordance with the requirements of this subsection.

"(2) TYPE A WETLANDS.—

"(A) IN GENERAL.—The Secretary shall deny a permit authorizing an activity in type A wetlands unless the Secretary determines that—

"(i) the activity can be undertaken with minimal alteration or surface disturbance of the wetlands; or

"(ii) the proposed use of the land, taking into account all proposed mitigation, will result in overall environmental benefits, including the prevention of wetlands loss or degradation.

"(B) TERMS AND CONDITIONS CONCERNING MITIGATION.—Any permit issued authorizing activities in type A wetlands may contain such terms and conditions concerning mitigation (including terms and conditions applicable under paragraph (3) for type B wetlands) as the Secretary determines to be appropriate to prevent the unacceptable loss or degradation of type A wetlands.

"(3) TYPE B WETLANDS.—

"(A) CONSIDERATIONS.—The Secretary may issue a permit authorizing an activity in type B wetlands subject to such terms and conditions as the Secretary finds are necessary to ensure that the watershed or aquatic ecosystem of which the wetlands are a part does not suffer significant loss or degradation of wetlands functions and values. In determining whether specific terms and conditions are necessary to avoid a significant loss or degradation of wetlands functions and values, the Secretary shall consider the following:

"(i) The quality and quantity of ecologically significant functions and values served by the areas to be affected.

"(ii) The opportunities to reduce impacts through cost-effective design to avoid or minimize use of wetlands.

"(iii) The costs of mitigation requirements and the social, recreational, and economic benefits associated with the proposed activity, including local, regional, or national needs for improved or expanded infrastructure.

"(iv) The ability of the applicant for the permit to mitigate wetlands loss or degradation as measured by wetlands functions and values.

"(v) The environmental benefit, measured by wetlands functions and values, that may occur through mitigation efforts, including restoration, preservation, enhancement, or creation of wetlands functions and values.

"(vi) The marginal impact of the proposed activity on the watershed or aquatic ecosystem of which the wetlands are a part.

"(B) ALTERNATIVE SITE ANALYSES AND PROJECT PURPOSES.—In considering applications for permits with respect to act'vities on type B wetlands, the Secretary may require alternative site analyses for individual permit applications involving the alteration or permanent surface disturbance of 10 or more contiguous acres of wetlands. In the case of such an application, there shall be a rebuttable presumption that the project purpose for the activities as defined by the applicant shall be binding on the Secretary. In the case of such an application, the definition of project purpose for the activities sponsored by a public agency shall be binding on the Secretary, subject to the authority of the Secretary to impose mitigation requirements to minimize impacts on wetlands functions and values, including cost-effective redesign of the project to avoid wetlands.

"(C) REQUIREMENTS FOR MITIGATION.—Except as otherwise provided in this section, requirements for mitigation shall be imposed if the Secretary finds that activities undertaken under this section will result in the loss or degradation of type B wetlands functions and values where the loss or degradation is not an incidental or a temporary impact. When determining the mitigation requirements in any specific case, the Secretary shall take into consideration the characteristics of the wetlands affected, the character of the impact on ecological functions, whether any adverse effects on wetlands are of a permanent or temporary nature, and the cost-effectiveness of the mitigation and shall seek to minimize the costs of the mitigation.

"(D) REGULATIONS GOVERNING REQUIREMENTS FOR MITIGATION.—The Secretary shall issue regulations under subsection (i) governing requirements for compensatory mitigation, for activities occurring in type B wetlands, that allow for—

"(i) minimization of impacts through project design for the activities, including avoidance of specific wetlands impacts where economically practicable and consistent with the project purpose, provisions for compensatory mitigation, if any, and other terms and conditions necessary and appropriate in the public interest;

"(ii) preservation or donation of type A wetlands or type B wetlands (if title has not been acquired by the United States and no compensation for the taking of the wetlands has been provided) as mitigation for activities that result in loss or degradation of wetlands;

"(iii) enhancement or restoration of lost or degraded wetlands as compensation for wetlands lost or degraded through permitted activity;

"(iv) compensation through contribution to a mitigation banking program established for a State pursuant to subparagraph (F);

"(v) offsite compensatory mitigation with respect to an activity in a wetlands, if the mitigation contributes to the restoration, enhancement, or creation of significant wetlands functions and values on a watershed or ecosystem-wide basis and is balanced with the effects that an activity proposed to be carried out under a permit will have on the specific site (except that offsite compensatory mitigation, if any, shall be required only in the State in which the proposed activity is to occur, and shall, to the extent practicable, be within the watershed or aquatic ecosystem within which the proposed activity is to occur, unless otherwise consistent with a State wetlands management plan);

"(vi) contribution of in-kind value acceptable to the Secretary and otherwise authorized by law;

"(vii) in areas subject to wetlands loss or degradation, construction of coastal protection and enhancement projects;

"(viii) contribution of resources of more than 1 permit recipient toward a single mitigation project; and

"(ix) other mitigation measures determined by the Secretary to be appropriate, in the public interest, and consistent with the requirements and purposes of this Act.

"(E) COMPENSATORY MITIGATION.—Notwithstanding subparagraph (C), the Secretary may determine not to impose requirements for compensatory mitigation, with respect to an activity in a wetlands, if the Secretary finds that—

"(i) the adverse impacts of an activity proposed to be carried out under a permit are limited;

"(ii) the failure to impose compensatory mitigation requirements is compatible with maintaining wetlands functions and values and no practicable and reasonable means of compensatory mitigation is available;

"(iii) there is an abundance of similar significant wetlands functions and values in or near the area in which the proposed activity is to occur that will continue to serve the functions and values lost or degraded as a result of the activity, taking into account the impacts of the activity and the cumulative impacts of similar activity in the area;

"(iv) the temporary character of the impacts and the use of minimization techniques make compensatory mitigation unnecessary to protect significant wetlands functions and values; or

"(v) a waiver from requirements for compensatory mitigation is necessary to prevent special hardship.

"(F) MITIGATION BANKING PROGRAM.—

"(i) ESTABLISHMENT.—The Secretary, in consultation with the Director, shall establish a mitigation banking program in each State. The mitigation banking program shall be developed in consultation with the Director and the Governor of the State in which the wetlands covered by the mitigation banking program is located. After approval of the program by the Secretary, the Secretary may require contributions to the program as a means for ensuring compensation for loss and degradation of wetlands functions and values in the State in accordance with the requirements of this paragraph.

"(ii) PRIMARY OBJECTIVE.—The primary objective of the programs shall be to provide for the restoration, enhancement, or, where feasible, creation of ecologically significant wetlands on an ecosystem basis.

"(iii) FUNCTIONS AND VALUES.—Each program described in clause (i) shall—

"(I) provide a preference for large-scale projects for conservation, enhancement, or restoration of wetlands, unless the Secretary (or the Governor of a State that is administering a State permit program under subsection (l)) determines that a smaller project will contribute substantially to the conservation, enhancement, or restoration of ecologically significant wetlands functions and values or that the restoration of indigenous wetlands resources cannot be accomplished through large-scale projects;

"(II) authorize mitigation banks sponsored by private entities or public entities;

"(III) provide for the crediting to a State or privately maintained mitigation bank of contributions in land or cash, or in-kind contributions, so that persons unable to sponsor specific mitigation projects can contribute to the mitigation bank;

"(IV) have sufficient requirements to ensure completion, maintenance, and supervision of wetlands projects for at least a 25-year period, including requirements for bonds or other evidence of financial responsibility;

"(V) authorize the imposition of bonding requirements on private entities operating the banks;

"(VI) limit activities in or on wetlands that are part of a mitigation bank to uses that are consistent with maintaining or gaining significant wetlands functions and values; and

"(VII) authorize a credit to be provided on an acre-for-acre or value-for-value basis for type A and B wetlands that are permanently protected in national conservation units in any State that has converted less than 10 percent of the historic wetlands base of the State to other uses.

"(4) ACTION ON APPLICATIONS.—

"(A) TIMING.—In the case of any application for authorization to undertake activities in wetlands or waters of the United States that are not type C wetlands, final action by the Secretary shall occur not later than 180 days after the date the application is filed, unless—

"(i) the Secretary and the applicant agree that the final action shall occur within a shorter or longer period of time;

"(ii) the Secretary determines that an additional, specified period of time is necessary to permit the Secretary to comply with other applicable Federal law; or

"(iii) the Secretary, not later than 15 days after the date the application is received, notifies the applicant that the application does not contain all information necessary to allow the Secretary to consider the application and identifies any necessary additional information, in which case the provisions of subparagraph (B) shall apply.

"(B) ADDITIONAL INFORMATION.—On the receipt of a request for additional information under subparagraph (A)(iii), the applicant shall supply the additional information and shall provide notice to the Secretary that the application contains all requested additional information and is therefore complete. The Secretary may—

"(i) not later than 30 days after the receipt of notice from the applicant that the application is complete, determine that the application does not contain all requested additional information and, on the basis of the determination, deny the application without prejudice with respect to resubmission; or

"(ii) not later than 180 days after the receipt of notice from the applicant that the application is complete, review the application and take final action on the application.

"(C) FAILURE TO ACT ON APPLICATION.—If the Secretary fails to take final action on an application as provided in subparagraph (B)(ii), on the 180th day described in the subparagraph a permit shall be presumed to be granted authorizing the activities proposed in the application under such terms and conditions as are stated in the completed application.

"(D) APPEALS.—Not later than 60 days after the date of a decision of the Secretary denying a permit requested in an application under this paragraph, the applicant may appeal the decision to the Secretary of Defense or the designee of the Secretary of Defense. On such an appeal, the Secretary of Defense or the designee shall uphold the decision of the Secretary of the Army if the Secretary of the Army proves by clear and convincing evidence that granting the permit requested in the application would be inconsistent with this section.

"(5) TYPE C WETLANDS.—

"(A) PERMIT NOT REQUIRED.—Activities in wetlands that have been classified as type C wetlands under subsection (c)(3)(C) by the Secretary or under subsection (h) by the Director may be undertaken without a permit referred to in subsection (b).

"(B) REPORTING REQUIREMENTS.—The Secretary may establish requirements for reporting activities undertaken in type C wetlands.

"(C) ALTERNATIVE SITE ANALYSIS AND MITIGATION NOT REQUIRED.—No requirements for alternative site analyses or mitigation of environmental impacts shall apply for activities undertaken in type C wetlands.

"(6) NATIONAL, REGIONAL, OR STATEWIDE GENERAL PERMITS.—

"(A) IN GENERAL.—The Secretary may, in accordance with a regulation issued under subsection (i), issue general permits on a national, regional, or statewide basis for any category of activities in wetlands or waters of the United States for which a permit would otherwise be required under subsection (b), if the Secretary determines that the activities in the category are similar in nature and that the activities, whether performed separately or cumulatively, will not result in a significant loss or degradation of ecologically significant wetlands functions and values or of ecologically significant waters of the United States. Permits issued under this paragraph shall include procedures for expedited review of eligibility for the permits (if the review is required) and may include requirements for reporting and mitigation. The Secretary may impose requirements for compensatory mitigation for the permits if necessary to avoid or minimize the significant loss or degradation of significant wetlands functions and values where the loss or degradation is not an incidental or a temporary impact.

"(B) EXISTING GENERAL PERMITS.—General permits issued on a national or regional basis for activities in the wetlands or waters of the United States and in effect on the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall remain in effect until otherwise modified by the Secretary.

"(f) ACTIVITIES NOT REQUIRING PERMIT.—

"(1) ACTIVITIES.—Except as provided in paragraph (3), activities in wetlands or waters of the United States shall be exempt from the requirements of this section and shall not be prohibited by or otherwise subject to regulation under this section or section 301 or 402 (except to the extent the sections relate to compliance with effluent standards or prohibitions under section 307), if the activities—

"(A) result from normal farming, silviculture, aquaculture, or ranching activities and practices, such as plowing, seeding, cultivating, minor drainage, burning of vegetation in connection with the activities and practices, harvesting for the production of food, fiber, or forest products, or upland soil and water conservation practices;

"(B) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts of currently (as of the date of the maintenance) serviceable structures, such as dikes, dams, levees, water control structures, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

"(C) are for the purpose of construction or maintenance of farm, stock, or aquaculture ponds or irrigation canals and ditches, or the maintenance of drainage ditches;

"(D) are for the purpose of construction of temporary sedimentation basins on a construction site that does not include placement of fill material into navigable waters;

"(E) are for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, if the roads are constructed and maintained, in accordance with best management practices, to ensure that flow and circulation patterns and chemical and biological characteristics of the waters involved are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

"(F) are undertaken on farmed wetlands, except that any change in use of the wetlands for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to this section;

"(G) result from any activity with respect to which a State has an approved program for which an application was submitted under section 208(b)(4) that meets the requirements of subparagraphs (B) and (C) of the section;

"(H) are consistent with a State or local land management plan submitted to the Secretary and approved pursuant to paragraph (2);

"(I) are undertaken in connection with a marsh management and conservation program in a coastal parish in Louisiana if the program has been approved by the Governor of the State or the designee of the Governor;

"(J) are undertaken on lands or involve activities within a coastal zone of a State that are excluded from regulation under the State coastal zone management program approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

"(K) are undertaken in incidentally created wetlands, unless the incidentally created wetlands have exhibited wetlands functions and values for more than 5 years (in which case activities undertaken in the wetlands shall be subject to the requirements of this section);

"(L) are part of expanding an ongoing farming operation involving the water dependent, obligate crop, Vaccinium macrocarpin, if—

"(i) the expansion does not occur in type A wetlands;

"(ii) the expansion does not result in the conversion of more than 10 acres of wetlands or waters of the United States per operator per year; and

"(iii) the converted wetlands or waters of the United States (other than in locations where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

"(M) result from aggregate or clay mining activities in wetlands or waters of the United States conducted pursuant to a State or Federal permit that requires the reclamation of the wetlands or waters of the United States, if the reclamation meets conditions for reclamation, including conditions that—

"(i) the reclamation shall be completed within 5 years of the commencement of activities in the wetlands or waters; and

"(ii) on completion of the reclamation, the wetlands or waters shall support functions (including wetlands functions, as appropriate) and values equivalent to the functions and values supported by the wetlands or waters at the time of commencement of the activities.

"(2) STATE AND LOCAL LAND MANAGEMENT PLANS.—

"(A) DEVELOPMENT AND SUBMISSION OF PLAN.—Any State or political subdivision of a State acting pursuant to State authorization may develop a land management plan with respect to lands that include wetlands. A State or local government agency, acting on behalf of the State or political subdivision, may submit the plan to the Secretary for review and approval. The Secretary shall, not later than 60 days after receipt of the plan, notify a designated State or local official in writing of approval or disapproval of the plan.

"(B) APPROVAL.—The Secretary shall approve any plan described in subparagraph (A) that is consistent with the objectives of this section. No person shall be entitled to judicial review of the decision of the Secretary to approve or disapprove a land management plan under this paragraph.

"(C) CONSTRUCTION.—Nothing in this paragraph shall be construed to alter, limit, or supersede the authority of a State or political subdivision of a State to establish a land management plan for purposes other than the objectives of this subsection.

"(g) STANDARDS FOR DELINEATING WETLANDS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, by regulation issued under subsection (i), that shall govern the delineation of lands as wetlands for purposes of this section.

"(B) CONSULTATION.—Before establishing standards as described in subparagraph (A), the Secretary shall consult with the heads of other departments and agencies of the United States, including the Director, the Administrator of the Environmental Protection Agency, and the Chief of the Natural Resources Conservation Service of the Department of Agriculture.

"(C) STANDARDS BINDING ON FEDERAL AGENCIES.—The standards established as described in subparagraph (A) shall bind all Federal agencies in connection with the administration or implementation of this section.

"(2) DELINEATION OF WETLANDS.—

"(A) IN GENERAL.—The standards established as described in paragraph (1)(A) shall be issued in accordance with this paragraph, and any decision of the Secretary, the Director, or any other Federal officer or employee, made in connection with the administration of the standards, shall be made in accordance with this paragraph.

"(B) REQUIREMENTS FOR DELINEATION OF WETLANDS.—For purposes of this section, lands shall be delineated as wetlands only if—

"(i) the lands are wetlands, as defined in section 502;

"(ii) the Secretary finds clear evidence of wetlands hydrology, hydrophytic vegetation, and hydric soil during the period in which the delineation (to be conducted during the growing season unless otherwise requested by the applicant) is made;

"(iii) the delineation does not result in the classification of vegetation as hydrophytic if the vegetation is equally adapted to dry or wet soil conditions or is more typically adapted to dry soil conditions than to wet soil conditions;

"(iv) the Secretary finds some obligate wetlands vegetation present during the period of delineation (except that if the vegetation is removed for the purpose of evading a requirement of this section, this clause shall not apply);

"(v) the delineation does not result in the conclusion that conditions of wetlands hydrology are present, unless the Secretary finds water present at the surface of the lands for at least 21 consecutive days during the growing season (or period requested by the applicant) in which the delineation is made and for 21 consecutive days during the growing seasons in a majority of the years for which records are available; and

"(vi) the lands were not temporarily or incidentally created as a result of adjacent development activity.

"(C) NORMAL CIRCUMSTANCES.—For the purpose of delineating wetlands under this section, a normal circumstance shall be determined on the basis of the factual circumstance in existence on the date a classification is made under subsection (h), or on the date of application under subsection (b), whichever is applicable, if the circumstance has not been altered by an activity prohibited under this section.

"(h) UNITED STATES FISH AND WILDLIFE SERVICE WETLANDS ADVANCE IDENTIFICATION AND CLASSIFICATION PROJECT.—

"(1) IN GENERAL.—The Director, after receiving the concurrence of the Chief of the Natural Resources Conservation Service, shall conduct a project to identify and classify wetlands in the United States. The Director shall complete the project not later than 10 years after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995.

"(2) STANDARDS FOR CLASSIFYING WETLANDS.—In conducting the project, the Director shall identify and classify wetlands in accordance with the standards for delineation of wetlands established by the Secretary as described in paragraphs (1) and (2) of subsection (g).

"(3) NOTICE AND HEARING.—Before completion of identification and classification of wetlands under paragraph (1), the Director shall provide notice and an opportunity for a public hearing in each county, parish, or borough that includes lands subject to identification and classification.

"(4) PUBLICATION.—Promptly after completion of identification and classification of wetlands under paragraph (1), the Director shall publish information concerning the identification and classification in the Federal Register and in publications of wide circulation and take other steps reasonably necessary to ensure that information concerning the identification and classification is made available to the public.

"(5) RECORDING.—The Director shall, to the fullest extent practicable, record any classification of lands as wetlands under paragraph (1) on the property records in the county, parish, or borough in which the wetlands are located.

"(6) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, and annually thereafter, the Secretary of the Interior shall prepare and submit to the appropriate committees of Congress a report on implementation of the project conducted under this subsection.

"(i) ADMINISTRATIVE PROVISIONS.—

"(1) PROMULGATION OF FINAL REGULATIONS.—Not later than 1 year after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, the Secretary shall, after notice and opportunity for public comment, issue 1 or more final regulations for the issuance of permits under this section. The regulations shall—

"(A) establish standards and procedures for—

"(i) the classification and delineation of wetlands, and procedures for administrative review of the classification or delineation of wetlands;

"(ii) the review of State or local land management plans and State programs for the regulation of wetlands and waters of the United States;

"(iii) the issuance of general permits on a national, regional, or statewide basis under this section;

"(iv) the issuance of individual permit applications under this section;

"(v) enforcement of this section;

"(vi) administrative appeal of an action by the Secretary denying an application for a permit referred to in subsection (b), or issuing a permit referred to in subsection (b) subject to 1 or more conditions; and

"(vii) any other related area that the Secretary determines necessary or appropriate to implement the requirements of this section; and

"(B) establish requirements governing the establishment of a mitigation bank.

"(2) JUDICIAL REVIEW OF A FINAL REGULATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any judicial review of a final regulation issued pursuant to paragraph (1), and any denial by the Secretary of a petition for the issuance or repeal of a regulation under paragraph (1), shall be conducted in accordance with sections 701 through 706 of title 5, United States Code.

"(B) JURISDICTION OF COURT.—

"(i) PETITIONS FOR REVIEW.—A petition for review of the action of the Secretary in issuing a regulation under paragraph (1), or denying a petition for the issuance or repeal of a regulation under paragraph (1), may be filed only in the United States Court of Appeals for the District of Columbia. The petition for review may only be filed—

"(I) not later than 90 days after the date of issuance or denial; or

"(II) if the petition for review is based solely on grounds arising after the date of issuance or denial, not later than 90 days after the date the grounds arise.

"(ii) PROHIBITION ON REVIEW DURING ENFORCEMENT PROCEEDINGS.—Action by the Secretary with respect to which review could have been obtained under this paragraph shall not be subject to judicial review in civil or criminal proceedings for enforcement.

"(3) INTERIM REGULATIONS.—

"(A) PROMULGATION OF INTERIM REGULATIONS.—Not later than 90 days after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, the Secretary shall issue interim regulations consistent with paragraph (1). The interim regulations shall become effective on the date of issuance. Notice of the interim regulations shall be published in the Federal Register. Except as provided in subparagraph (B), the interim regulations shall apply until the issuance of final regulations under paragraph (1).

"(B) WAIVER OF INTERIM REGULATIONS.—The Secretary shall provide a procedure for waiving a provision of an interim regulation—

"(i) in a case in which the applicant demonstrates special hardship, inequity, or unfair distribution of burdens; or

"(ii) in a case in which the Secretary determines that a waiver under this subparagraph would advance the purposes of this section.

"(4) AUTHORITY TO CARRY OUT REGULATIONS.—Except as otherwise expressly provided in this section, the Secretary shall be responsible for carrying out this section. The Secretary or any other Federal officer or employee in whom any function under this section is vested or to whom any such function is delegated may perform any and all acts (including appropriate enforcement activity), and may prescribe, issue, amend, or rescind any regulation or order the officer or employee may find necessary or appropriate to prescribe, issue, amend, or rescind under this section, subject to the requirements of this section.

"(j) VIOLATIONS.—

"(1) ENFORCEMENT BY SECRETARY.—Whenever the Secretary finds, on the basis of reliable and substantial information and after reasonable inquiry, that a person is or may be in violation of this section or a condition or limitation set forth in a permit issued by the Secretary under subsection (b), the Secretary shall—

"(A) issue an order requiring the person to comply with this section or with the condition or limitation in the permit; or

"(B) bring a civil action in accordance with paragraph (3).

"(2) ORDERS ISSUED BY SECRETARY.—

"(A) COPY OF ORDER SENT TO STATES.—A copy of each order issued under paragraph (1) shall be sent immediately by the Secretary to the Governor of the State in which the violation occurred and the Governor of any other affected State.

"(B) SERVICE.—Except as provided in subparagraph (C), any order issued under paragraph (1) shall—

"(i) be issued by personal service to the appropriate person or corporate officer;

"(ii) state with reasonable specificity the nature of the asserted violation; and

"(iii) specify a period for compliance, not to exceed 30 days, that the Secretary determines is reasonable (taking into account the seriousness of the asserted violation and any good faith efforts to comply with applicable requirements).

"(C) TIME LIMIT ON ORDER AND ESTOPPEL.—

"(i) IN GENERAL.—Not later than 150 days after the date of service under subparagraph (B), the Secretary shall—

"(I) take such action as is necessary for the prosecution of a civil action in accordance with paragraph (3); or

"(II) rescind the order issued under paragraph (1) and be estopped from any further enforcement proceeding for the same asserted violation.

"(ii) DISPUTED ORDERS.—If a person receiving service under subparagraph (B) disputes the finding described in paragraph (1) and notifies the Secretary in writing not later than 90 days after the service, the Secretary shall, not later than 60 days after receiving the notification of the dispute—

"(I) take such action as is necessary for the prosecution of a civil action in accordance with paragraph (3); or

"(II) rescind the order and be estopped from any further enforcement proceeding for the same asserted violation.

"(3) CIVIL ACTIONS.—The Secretary may commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which the Secretary may issue an order under paragraph (1). An action commenced under this paragraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and the court shall have jurisdiction to restrain the violation and to require compliance. Notice of the commencement of the action shall be given immediately to the Governor of any affected State.

"(4) PENALTIES.—

"(A) IN GENERAL.—Any person who violates this section or a condition or limitation in a permit issued by the Secretary under subsection (b), or who violates an order issued by the Secretary under paragraph (1), shall be subject to a civil penalty not to exceed $25,000 per day for each violation involved, commencing on the day following expiration of the period allowed for compliance.

"(B) DETERMINATION OF AMOUNT.—The amount of the penalty imposed per day shall be in proportion to the scale or scope of the project that results in the violation. In determining the amount of a civil penalty under this paragraph, the Secretary or the court, as appropriate, shall consider the seriousness of the violation, the economic benefit (if any) resulting from the violation, any history of a previous violation, any good-faith effort to comply with applicable requirements, the economic impact of the penalty on the violator, and any other matter that justice may require.

"(k) STATE AUTHORITY TO CONTROL DISCHARGES.—Nothing in this section shall affect or impair the right of a State or interstate agency to control activity, including activity of a Federal agency, in waters of the United States within the jurisdiction of the State or interstate agency. Each Federal agency shall comply with a State or interstate requirement, whether substantive or procedural, to the same extent that a person is subject to the requirement. This section shall not affect or impair the authority of the Secretary to maintain navigation.

"(l) STATE REGULATION OF WETLANDS AND WATERS.—

"(1) APPLICATION FOR STATE REGULATION.—The Governor of a State desiring to administer an individual and general permit program for an activity in wetlands or waters of the United States within the jurisdiction of the State shall submit to the Secretary—

"(A) a description of the program proposed to be established and administered under State law; and

"(B) a statement from the chief legal officer of the State that the State law provides adequate authority to carry out the described program.

"(2) DETERMINATION BY SECRETARY.—Not later than 1 year after the date of receipt by the Secretary of a program description and statement under paragraph (1), the Secretary shall determine whether the State has the authority to—

"(A) issue permits that—

"(i) apply, and ensure compliance with, each applicable requirement of this section; and

"(ii) can be terminated or modified for cause, including—

"(I) a violation of any condition or limitation in the permit;

"(II) evidence that the permit was obtained by misrepresentation or failure to disclose fully all relevant facts; or

"(III) a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted activity;

"(B)(i) issue permits that apply, and ensure compliance with, all applicable requirements of section 308; or

"(ii) inspect, monitor, enter, and require reports to at least the same extent as required under section 308;

"(C) ensure that the public, and any other State in which the wetlands or waters of the United States may be affected by the issuance of a permit under this subsection, receive notice of each application for a permit under this subsection and provide an opportunity for a public hearing before a ruling on the application;

"(D) ensure that the Secretary receives notice of each application for a permit under this subsection and, prior to any action by the State, ensure that both the applicant for the permit and the State receive from the Secretary information with respect to any advance classification under subsection (h) applicable to wetlands or waters of the United States that are the subject of the application;

"(E) ensure that each State (other than the State seeking to issue permits under this subsection) in which the wetlands or waters of the United States may be affected by the issuance of a permit under this subsection may submit a written recommendation to the permitting State with respect to any permit application and, if any part of the written recommendation is not accepted by the permitting State, ensure that the permitting State will notify the affected State (and the Secretary) in writing of the failure by the permitting State to accept the recommendation together with the reason for the failure by the permitting State to accept the recommendation of the affected State; and

"(F) abate a violation of the permit or the permit program, through a civil or criminal penalty or other means of enforcement.

"(3) APPROVAL OR MODIFICATION OF PROGRAM.—

"(A) APPROVAL OF PROGRAM.—If, with respect to a proposed State program for which a description and statement were submitted under paragraph (1), the Secretary determines that the State has the authority set forth in paragraph (2), the Secretary shall approve the program, notify the State, and suspend the issuance of permits under subsection (b) for each activity with respect to which a permit may be issued pursuant to the State program.

"(B) MODIFICATION OF PROGRAM.—If, with respect to a proposed State program for which a description and statement were submitted under paragraph (1), the Secretary determines that the State does not have the authority set forth in paragraph (2), the Secretary shall notify the State and provide a description of any revision or modification necessary so that the State may resubmit the program for another determination by the Secretary under this subsection.

"(4) FAILURE OF SECRETARY TO MAKE DETERMINATION.—If, with respect to a proposed State program for which a description and statement were submitted under paragraph (1), the Secretary fails to make a determination within 1 year after the date of receipt of the description and statement, the proposed program shall be deemed to be approved pursuant to paragraph (3)(A) on the day that is 1 year after that date, the Secretary shall notify the State of the approval, and the Secretary shall suspend the issuance of permits under subsection (b) for each activity with respect to which a permit may be issued pursuant to the State program.

"(5) TRANSFER OF APPLICATIONS.—After approval of a State permit program under this subsection, the Secretary shall transfer to the State for appropriate action any application for a permit pending before the Secretary for an activity with respect to which a permit may be issued pursuant to the State program.

"(6) SUSPENSION OF ENFORCEMENT.—If the Secretary is notified that a State with a permit program approved under this subsection intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e)(6), the Secretary shall, with respect to each activity in the State to which the general permit applies, suspend the administration and enforcement of the general permit.

"(7) CORRECTIVE ACTION.—If the Secretary determines after a public hearing that a State administering a program approved under this subsection is not administering the program in accordance with this section, the Secretary shall notify the State and, if appropriate corrective action is not taken within a reasonable time (not to exceed 90 days after the date of the receipt of the notification), the Secretary shall—

"(A) withdraw approval of the program until the Secretary determines appropriate corrective action has been taken; and

"(B) resume the program for the issuance of permits under subsections (b) and (e)(6) for all activities with respect to which the State was issuing permits, until such time as the Secretary makes the determination described in paragraph (2) and approves the State program again.

"(8) REGULATION BY AN INTERSTATE AGENCY.—For purposes of this subsection:

"(A) GOVERNOR.—The term 'Governor' includes the head of an interstate agency.

"(B) STATE.—The term 'State' includes an interstate agency.

"(C) STATE LAW.—The term 'State law' includes an interstate compact.

"(m) COPIES AVAILABLE TO PUBLIC.—A copy of each permit application submitted, and each permit issued, under this section shall be available to the public. Each permit application or portion of a permit application shall also be available on request for the purpose of reproduction.

"(n) COMPLIANCE WITH PERMIT SATISFIES REQUIREMENTS.—Compliance with a permit issued pursuant to this section, including carrying out an activity pursuant to a general permit issued under this section, shall be deemed, for purposes of sections 309 and 505, to be compliance with sections 301, 307, and 403.

"(o) EFFECTIVE DATE FOR PERMIT PROVISIONS.—After the 90th day after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, no permit for an activity in wetlands or waters of the United States may be issued except in accordance with this section. Any permit for an activity in wetlands or waters of the United States issued prior to the 90th day shall be deemed to be a permit under this section and shall continue in force and effect for the term of the permit unless revoked, modified, or suspended in accordance with this section. An application for a permit pending under this section on the 90th day shall be deemed to be an application for a permit under this section.

"(p) LIMIT ON FEES.—Any fee charged in connection with—

"(1) the delineation or classification of wetlands;

"(2) an application for a permit authorizing an activity in wetlands or waters of the United States; or

"(3) any other action taken in compliance with the requirements of this section (other than a penalty for a violation under subsection (j));

shall not exceed the amount of the fee in effect on January 1, 1990.".

SEC. 4. DEFINITIONS.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following new paragraph:

"(21) WETLANDS.—The term 'wetlands' means lands, such as swamps, marshes, bogs, and similar areas, that have a predominance of hydric soils and that are inundated by surface water at a frequency and duration sufficient to support, and that under normal circumstances support, a prevalence of vegetation typically adapted for life in saturated soil conditions.".

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 119(c)(2)(E) of the Federal Water Pollution Control Act (33 U.S.C. 1269(c)(2)(E)) is amended by striking "wetland" and inserting "wetlands".

(b) Section 208(b)(4)(B)(iii) of the Act (33 U.S.C. 1288(b)(4)(B)(iii)) is amended by striking "the guidelines established under section 404(b)(1), and" and inserting "section 404, and with the guidelines established under".

(c) Section 309 of the Act (33 U.S.C. 1319) is amended—

(1) in subsection (a)—

(A) in the first sentence of paragraph (1), by striking "or 404"; and

(B) in paragraph (3), by striking "or in a permit issued under section 404 of this Act by a State";

(2) in the first sentence of subsection (d), by striking "or in a permit issued under section 404 of this Act by a State,"; and

(3) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) VIOLATIONS.—If the Administrator finds, on the basis of any information available, that a person has violated section 301, 302, 306, 307, 308, 318, or 405, or has violated any permit condition or limitation implementing any of the sections in a permit issued under section 402 by the Administrator or by a State, the Administrator may, after consultation with the State in which the violation occurred, assess a class I civil penalty or a class II civil penalty under this subsection.";

(B) in the third sentence of paragraph (2)(B), by striking "and the Secretary";

(C) in paragraph (6)(A)(iii), by striking ", the Secretary,";

(D) by striking "or Secretary, as the case may be," and "or the Secretary, as the case may be," each place they appear; and

(E) by striking "or Secretary", "or the Secretary", and "or Secretary's" each place they appear.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall become effective 90 days after the date of enactment of this Act.

THE COMPREHENSIVE WETLANDS CONSERVATION AND MANAGEMENT ACT OF 1995

The protection of America's wetlands is a crucial public issue that deserves significant national priority. The Pressler bill is designed to conserve true wetlands and balances wetlands protection with protection of private property rights. More important the bill contains provisions that would require fair and just compensation to the owners for the loss of or use of land classified as wetlands.

The Pressler bill would:

Assure that functionally important wetlands are protected.

Classify wetlands by value and function. Certain wetlands would be classified as wetlands with critical significance to the long-term conservation of the ecosystem of which they are a part. Others would be classified as providing habitat for significant wildlife populations, protection water quality or significant natural flood control, and others as marginal wetlands.

Provide safeguards so that large amounts of land with little or no true wetland characteristics will be classified as wetland.

Require compensation be provided to landowners for the loss of economic use of private lands.

Clarify and reinforce current law that provides an exemption from individual permit requirements for normal farming and ranching activities on farmed wetlands.

Exempt from regulation all prior converted agricultural land since this land no longer exhibits any wetland characteristics.

Establish three criteria in designating wetlands. Criteria to be met and verified would be presence of water, hydric soils and hydrophytic vegetation.

Under the Pressler bill, prairie potholes would receive same treatment as all wetlands and not be kept under stricter rules and regulations.

Exclude man-made or artificial wetlands such as farm ponds and irrigation ditches.

NO HARM, NO FOUL?

(By Rick Mooney)

A few words to the wise wetland owner: If you're ever charged with violating Swampbuster rules, don't count on good intentions or the adage about no harm, no foul to bail you out.

Just ask Brian Odden, a grain and beef producer from Lake Preston, S.D. In November 1993, after an extremely wet summer, Odden plowed up 25 acres of rented ground that was overrun with weeds. "I had corn on it the year before," he says. "But [in 1993] we never got in the field because it was so wet. I was afraid the weed board would be after me."

The field was bordered on the north by a 14-acre slough that Odden's landlord had placed under perpetual easement with the U.S. Fish and Wildlife Service (FWS). After Odden finished plowing the field, he laid a single diagonal plow furrow across it, following a natural drainage pathway.

"I was just trying to put things back the way I found them," he says.

The following April Odden was notified by the Soil Conservation Service (SCS) that his plow furrow violated Swampbuster rules for converting a wetland. At the same time FWS notified Odden that he had violated easement provisions for "burning, draining or filling" a wetland.

In an attempt to rectify the situation, Odden immediately filled in the plow furrow. He claims local SCS officials told him that would qualify him for a minimal-effect postapproval ruling. Filling the furrow also seems to have appeased FWS, which notified Odden in a May 9 letter that they were "closing the file on the matter." In the same letter, FWS thanked Odden for his "timely restoration."

But at a field hearing two months later, state SCS officials ruled that Odden's furrow had led to substantial water loss in the wetland. To qualify for minimal effect, Odden was told, he would have to file an appeal with national SCS in Washington, D.C. He did that on July 25 and was still waiting for the outcome in December.

Big Brother watching. State SCS spokesmen claim the agency is simply following the letter of the law. But Don Parrish, policy analyst with the American Farm Bureau Federation, says Odden's case appears to be one more example of federal overreach on wetlands regulation. "Everyone talks about local solutions to local problems," he says. "But here you have a case where the locals had it all resolved and yet the feds get involved."

Even more unsettling to Odden is uncertainty about what he'll face if his appeal to Washington is turned down. Under the strictest interpretation of the law, he stands to forfeit all federal farm program benefits, including crop insurance and disaster payments, that he received during the year of the violation and the following year. An outstanding loan with FmHA could be called and an additional fine based on the size of the wetland he allegedly converted could also be levied.

Three others who are part of a family farm corporation with Odden, and the corporation itself, could each pay equal fines and penalties. "Early on, we were told that total fines and penalties could be as high as $515,000," says Odden. "It would finish us. With the kind of years we've been having, there's no way we could climb out of a hole like that."

By Mr. SIMON:

S. 353. A bill to clarify the circumstances under which a senior circuit court judge may cast a vote in a case heard en banc; to the Committee on the Judiciary.

SENIOR CIRCUIT JUDGES LEGISLATION

• Mr. SIMON. Mr. President, I introduce a bill that is neither controversial nor monumental, but highly important to the operation of our U.S. circuit courts of appeal.

Under our current law, there is a real question as to whether a circuit judge who hears an en banc case, but then takes senior status prior to the decision of that case, is eligible to participate in that decision. This situation creates the potential for significant confusion within an en banc court: If judges who participated, and cast initial votes, in an en banc case were to become suddenly ineligible to decide the case by virtue of taking senior status, the initial determination as to how a case should be decided would possibly have to be revisited. Moreover, though unlikely, the current situation also creates the potential for manipulation of the system by circuit judges unhappy with an en banc decision: Conceivably a judge could hold up the release of a particular en banc opinion in order to render a judge who heard the case as an active judge ineligible to participate in the case's decision, and thereby to force a change in the outcome of the case.

The bill I introduce today would simply clarify that circuit judges who hear an en banc case as active judges may participate in the ultimate decision of the case even if they take senior status between the time the case is argued and the time it is decided. I believe this technical change to be consistent with what Congress would have done had it been aware of this problem when it enacted the law governing circuit judges, and hope that my colleagues will facilitate its passage.

Finally, let me say that I am indebted to Chief Judge Richard Posner of the seventh circuit for bringing this problem to my attention. Judge Posner is a stellar member of the Federal judiciary, and I am very appreciative of his concerns about the technical management of our Federal courts.•

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. SIMON, and Mr. BUMPERS):

S. 354. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing; to the Committee on Finance.

THE LOW-INCOME HOUSING PRESERVATION ACT

• Mr. BREAUX. Mr. President, I am introducing a bill today that charts a promising new way to enlist the private sector's help in preserving and improving the country's stock of affordable housing. I urge my colleagues to join me in cosponsoring this bill, entitled the "Low-Income Housing Preservation Act."

All of us are aware from our trips home that there is a serious shortage of affordable housing in this country. All one has to do is look at the number of homeless in towns throughout the country to know this, but the statistics tell the story as well. A 1992 Harvard study estimated that there were 4.1 million units of HUD or privately owned, publicly assisted units, while there are 13.8 million households eligible to receive HUD-funded housing assistance if the assistance were available.

Clearly we need a new approach, one that does a better job of leveraging private resources, and bringing the discipline of the marketplace to bear, while recognizing that the resources that the Federal Government can expend are severely limited. The bill I am introducing today does this by encouraging the investment of private capital to improve the condition of the Nation's stock of existing rental housing for low-income tenants. By relying largely on the private sector, rather than HUD for the necessary funding, it reduces the necessary level of Government involvement to a minimum. It is very cost-effective, because of the way the bill's tax proposals have been drafted. At the same time, it will save the Government a great deal of money that otherwise would have to be expended to fund existing or new HUD-grant programs to achieve the same end.

This is the problem. Much of the rental housing that is currently occupied by low-income tenants is not public housing, but privately owned apartment houses. HUD assistance reduces the amount of monthly rent paid by eligible tenants. This stock of affordable housing is in crisis. Many of these projects are 10 to 25 years old, or more. Their continued physical and financial stability is threatened, as the projects age and private investors have no incentive to invest additional capital to rehabilitate them.

While the needs of these projects have been widely recognized for some time by both the Federal Government and the private sector, little has been done to address the problem. If these projects disappear because the private owners are no longer able to maintain the units, the already short supply of affordable housing will be further reduced. It is therefore vital to preserve and improve this important source of housing for low-income tenants. This is especially so in light of the considerable interest in Congress this year in making major changes in the way HUD operates. These proposals would place greater reliance on private-sector alternatives to public housing, while at the same time reducing the size and number of HUD's traditional programs to assist privately owned housing.

The private sector cannot continue to provide the low-income housing needed unless Congress corrects some of the current disincentives in the tax laws that discourage the preservation of this inventory of affordable housing. The value of these projects has been severely depressed by the 1986 changes to the tax laws. As a result, the current owners have no way to raise additional capital to rehabilitate the structures, as has become inevitably necessary with time. Because the projects' market values are so depressed, the current owners cannot receive enough cash upon sale to pay the capital gains taxes they would owe. Nor is there interest among new investors under current conditions in purchasing the projects and investing needed capital in them. As a result, these aging projects are locked into a long, slow, downward spiral. It is essential that something be done before more of these projects go into bankruptcy or fall altogether out of the Nation's stock of affordable housing.

I believe that the bill I am introducing provides a solution to the problem that will work and that is very cost-effective. Except for some technical refinements to tighten the bill's provisions, the bill is the same as the legislation I introduced last year as S. 1986.

In the first place, the bill targets the projects which are most at risk. These are projects assisted by HUD under the old section 221(d)(3) below market rate interest rate program or the section 236 program, or projects insured under the section 221(d)(3) market rate or section 221(d)(4) programs, and assisted under section 8. In all cases, the projects must be at least 10 years old and at least a majority of the units in the projects must be occupied by tenants whose income was no more than 80 percent of the area median income when they first became tenants.

According to HUD, there are almost 1 million units in the affordable housing projects that meet the bill's criteria. These projects are located in every State in the country.

The bill offers special tax benefits to new investors who agree to buy these affordable housing projects, invest the necessary capital to fix them up, and maintain them for low-income tenants. It will be the responsibility of HUD in each case to determine how much new capital must be invested in the project to make it financially and physically sound, but in no event may the capital improvements equal less than 10 percent of the adjusted basis of the rental property. In exchange, the bill reduces from 27½ years to 15 years the depreciation schedule for eligible projects purchased after the bill's effective date. It also provides that any investor in the project may claim annually up to $50,000 of losses from such projects without regard to the passive loss rules. Any project will lose its special tax benefits if it ceases to serve low-income tenants.

The Low-Income Housing Preservation Act specifically provides that any project claiming benefits under its provisions could not also benefit from the low-income housing tax credit, which provides tax credits and limited passive loss relief to those investing in low-income housing. As a practical matter, the tax credit has not been widely used to preserve the existing projects targeted by the bill I am introducing today. Under the low-income housing tax credit, the amount of tax credits available to each State is limited by law and I understand that State and local authorities have chosen as a general matter to use their credits on the construction of new projects rather than the preservation of existing projects. This bill will compliment the low-income housing tax credit by providing a deduction specifically for those investing in existing projects.

Mr. President, it is clearly in the public interest to help ensure the continued existence of these projects. The tenants will benefit as the existing owners are replaced with new owners with new capital, and a new willingness to preserve and improve the projects. The local community and the local economy will benefit from the work done in the neighborhood improving the projects, from the general improvement in the appearance of the neighborhood, and by the lower crime rates that go along with refurbished buildings. The taxpayer benefits because the number of projects that go into bankruptcy and end up in HUD's portfolio will be reduced, and because HUD will find it easier to dispose of projects already in its portfolio. Over the longer run, the taxpayers will save the cost of directly funding the needed capital improvements to the existing projects, or the cost of constructing new units that must be built when the existing projects are lost from lack of financial support.

I hope my colleagues will support this important legislation.•

By Mr. ABRAHAM:

S. 355. A bill to provide that the Secretary and the Clerk of the House of Representatives shall include an estimate of Federal retirement benefits for each Member of Congress in their semiannual reports, and for other purposes; to the Committee on Rules and Administration.

THE CONGRESSIONAL PENSION DISCLOSURE ACT OF 1995

• Mr. ABRAHAM. Mr. President, I introduce S. 355 which would require the Secretary of the Senate and the Clerk of the House of Representatives to make publicly available information relating to the pensions of Members of Congress. Under this legislation, these officers would be required in the course of their semiannual reports to the Congress to clearly set forth information relating to the following:

First, the individual pension contributions of Members;

Second, an estimate of annuities which they would receive based on the earliest possible date they would be eligible to receive annuity payments by reason of retirement; and

Third, any other information necessary to enable the public to accurately compute the Federal retirement benefits of each Member based on various assumptions of years of service and age of separation from service by reason of retirement.

The purpose of this legislation is simply to afford citizens their rightful opportunity of learning how public funds are being utilized. The taxpayers are not only entitled to know the various forms of compensation being paid to their elected officials, they are also entitled to make decisions about the reasonableness of such compensation.

My bill, S. 355, would make this information conveniently available to the public. The public does not begrudge Members of Congress reasonable pensions. Before that assessment can intelligently be made, however, the public needs to have better access to information than they currently have.•

ADDITIONAL COSPONSORS

S. 55

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 55, a bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

S. 91

At the request of Mr. COVERDELL, the name of the Senator from Maine [Mr.

COHEN] was added as a cosponsor of S. 91, a bill to delay enforcement of the National Voter Registration Act of 1993 until such time as Congress appropriates funds to implement such act.

S. 216

At the request of Mr. INOUYE, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 216, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 218

At the request of Mr. MCCONNELL, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 218, a bill to repeal the National Voter Registration Act of 1993, and for other purposes.

S. 252

At the request of Mr. LOTT, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 252, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 253

At the request of Mr. LOTT, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 253, a bill to repeal certain prohibitions against political recommendations relating to Federal employment, to reenact certain provisions relating to recommendations by Members of Congress, and for other purposes.

S. 254

At the request of Mr. LOTT, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Louisiana [Mr. BREAUX] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the U.S. merchant marine during World War II.

S. 256

At the request of Mr. DOLE, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 287

At the request of Mrs. HUTCHISON, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 299

At the request of Mr. COCHRAN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 299, a bill to amend the Federal Power Act to modify an exemption relating to the territory for the sale of electric power of certain electric transmission systems, and for other purposes.

S. 303

At the request of Mr. LIEBERMAN, the names of the Senator from New Hampshire [Mr. GREGG] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 303, a bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the names of the Senator from Arizona [Mr. KYL] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 326

At the request of Mr. HATFIELD, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 326, a bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

S. 328

At the request of Mr. SANTORUM, the names of the Senator from Delaware [Mr. ROTH], the Senator from Mississippi [Mr. LOTT] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of S. 328, a bill to amend the Clean Air Act to provide for an optional provision for the reduction of work-related vehicle trips and miles traveled in ozone nonattainment areas designated as severe, and for other purposes.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the names of the Senator from Nevada [Mr. REID] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect elections for Federal, State, and local office.

AMENDMENTS SUBMITTED

DEPARTMENT OF ENERGY RISK MANAGEMENT ACT

MURKOWSKI (AND LOTT) AMENDMENT NO. 230

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. MURKOWSKI (for himself and Mr. LOTT) submitted an amendment intended to be proposed by them to the bill (S. 333) to direct the Secretary of Energy to institute certain procedures in the performance of risk assessments in connection with environmental restoration activities, and for other purposes; as follows:

At the end of the bill add the following:

SEC. 11. AMENDMENT OF TITLE 5, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER II—RISK ASSESSMENTS

"§ 621. Definitions

"In this subchapter—

"(1) AGENCY.—The term 'agency' has the meaning stated in section 551(1).

"(2) BENEFIT.—The term 'benefit' means the reasonably identifiable significant benefits, including social and economic benefits, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"(3) BEST ESTIMATE.—The term 'best estimate' means an estimate that, to the extent feasible and scientifically appropriate, is based on one or more of the following:

"(A) Central estimates of risk using the most plausible assumptions.

"(B) An approach that combines multiple estimates based on different scenarios and weighs the probability of each scenario.

"(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the agency concerned.

"(4) COST.—The term 'cost' means the reasonably identifiable significant costs and adverse effects, including social and economic costs, reduced consumer choice, substitution effects, and impeded technological advancement, that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule.

"(5) EMERGENCY.—The term 'emergency' means a clearly imminent and substantial endangerment to public health, safety, or natural resources.

"(6) MAJOR RULE.—The term 'major rule'—

"(A) means—

"(i) a rule or a group of closely related rules that the agency proposing the rule or the President reasonably determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased direct and indirect costs, or has a significant impact on a sector of the economy; or

"(ii) a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, or by the President on the ground that the rule is likely to result in—

"(I) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions; or

"(II) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets; but

"(B) does not include—

"(i) a rule that involves the internal revenue laws of the United States; or "(ii) a rule that authorizes the introduction into commerce, or recognizes the marketable status, of a product;

"(7) PERSON.—The term 'person' has the meaning stated in section 551(2).

"(8) PLAUSIBLE.—The term 'plausible' means realistic and scientifically probable.

"(9) RISK ASSESSMENT.—The term 'risk assessment' means—

"(A) the process of identifying hazards, and quantifying (to the extent practicable) or describing the degree of toxicity, exposure, or other risk the hazards pose for exposed individuals, populations, or resources; and

"(B) the document containing the explanation of how the assessment process has been applied to an individual substance, activity, or condition.

"(10) RISK CHARACTERIZATION.—The term 'risk characterization'—

"(A) means the element of a risk assessment that involves presentation of the degree of risk to individuals and populations expected to be protected, as presented in any regulatory proposal or decision, report to Congress, or other document that is made available to the public; and

"(B) includes discussions of uncertainties, conflicting data, estimates, extrapolations, inferences, and opinions.

"(11) RULE.—The term 'rule' has the meaning stated in section 551(4).

"(12) SUBSTITUTION RISK.—The term 'substitution risk' means a potential increased risk to human health, safety, or the environment from a regulatory option designed to decrease other risks.

"§ 622. Applicability

"(a) Except as provided in subsection (b), this subchapter shall apply to all risk assessments and risk characterizations prepared by, or on behalf of, or prepared by others and adopted by, any agency in connection with health, safety, and risk to natural resources.

"(b)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

"(A) a situation that the head of the agency considers to be an emergency;

"(B) a rule that authorizes the introduction into commerce, or recognizes the marketable status of a product; or

"(C) a screening analysis.

"(2)(A) An analysis shall not be treated as screening analysis for the purposes of paragraph (1)(B) if the result of the analysis is used—

"(i) as the basis for imposing a restriction on a substance or activity; or

"(ii) to characterize a positive finding of risks from a substance or activity in any agency document or other communication made available to the public, the media, or Congress.

"(B) Among the analyses that may be treated as a screening analyses for the purposes of paragraph (1)(B) are product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices and existing chemicals under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(3) This subchapter shall not apply to any food, drug, or other product label or to any risk characterization appearing on any such label.

"§ 623. Rule of construction

"Nothing in this subchapter shall be construed to—

"(1) preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability; or

"(2) require the disclosure of any trade secret or other confidential information.

"§ 624. Requirement to prepare risk assessments

"(a) Except as provided in section 622, the head of each agency shall prepare for each major rule relating to human health, safety, or natural resources that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 627—

"(1) a risk assessment in accordance with this subchapter;

"(2) for each such proposed or final rule, an assessment, quantified to the extent feasible, of incremental risk reduction or other benefits associated with each significant regulatory alternative to the rule or proposed rule; and

"(3) for each such proposed or final rule, quantified to the extent feasible, a comparison of any human health, safety, or natural resource risks addressed by the regulatory alternatives to other relevant risks chosen by the head of the agency, including at least 3 other risks regulated by the agency and to at least 3 other risks with which the public is familiar.

"(b) A risk assessment prepared pursuant to this subchapter shall be a component of and used to develop the cost-benefit analysis required by subchapter II, and shall be made part of the administrative record for judicial review of any final agency action.

"§ 625. Principles for risk assessment

"(a)(1) The head of each agency shall apply the principles set forth in subsection (b) when preparing any risk assessment, whether or not required by section 624, to ensure that the risk assessment and all of its components—

"(A) distinguish scientific findings and best estimates of risk from other considerations;

"(B) are, to the maximum extent practicable scientifically objective, unbiased and inclusive of all relevant data; and

"(C) rely, to the extent available and practicable, on scientific findings.

"(2) Discussions or explanations required under this section need not be repeated in each risk assessment document as long as there is a reference to the relevant discussion or explanation in another agency document.

"(b) The principles to be applied when preparing risk assessments are as follows:

"(1)(A) When assessing human health risks, a risk assessment shall be based on the most reliable laboratory, epidemiological, and exposure assessment data that finds, or fails to find, a correlation between a health risk and a potential toxin or activity. Other relevant data may be summarized.

"(B) When conflicts among such data appear to exist, or when animal data are used as a basis to assess human health, the assessment shall include discussion of possible reconciliation of conflicting information, and, as appropriate, differences in study designs, comparative physiology, routes of exposure, bioavailability, pharmacokinetics, and any other relevant factor, including the availability of raw data for review. Greatest emphasis shall be placed on data that indicates a biological basis of the resulting harm in humans. Animal data shall be reviewed with regard to relevancy to humans.

"(2) When a risk assessment involves selection of any significant assumption, inference, or model, the agency shall—

"(A) describe the plausible and alternative assumptions, inferences, or models;

"(B) explain the basis for any choices among such assumptions, inferences, or models;

"(C) identify any policy or value judgments involved in choosing from among such alternative assumptions, inferences, or models;

"(D) fully describe any model used in the risk assessment and make explicit the assumptions incorporated in the model; and

"(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

"(3) A risk assessment shall be prepared at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition.

"§ 626. Principles for risk characterization and communication

"In characterizing risk in any risk assessment document, regulatory proposal or decision, report to Congress, or other document that is made available to the public, each agency characterizing the risk shall comply with each of the following:

"(1)(A) The head of the agency shall describe the populations or natural resources that are the subject of the risk characterization.

"(B) If a numerical estimate of risk is provided, the head of the agency, to the extent feasible and scientifically appropriate—

"(i) shall provide—

"(I) the best estimate or estimates for the specific populations or natural resources which are the subject of the characterization (based on the information available to the department, agency, or instrumentality) or, in lieu of a single best estimate, an array of multiple estimates (showing the distribution of estimates and the best estimate) based on assumptions, inferences, or models which are equally plausible, given current scientific understanding;

"(II) a statement of the reasonable range of scientific uncertainties; and

"(III) to the extent practicable and appropriate, descriptions of the distribution and probability of risk estimates to reflect differences in exposure variability in populations and uncertainties;

"(ii) in addition to a best estimate or estimates, may present plausible upper-bound or conservative estimates, but only in conjunction with equally plausible lower-bound estimates; and

"(iii) shall ensure that, where a safety factor, as distinguished from inherent quantitative or qualitative uncertainties, is used, such factor shall be similar in degree to safety factors used to ensure safety in human activities.

"(2) The head of the agency shall explain the exposure scenarios used in any risk assessment, and, to the extent feasible, provide a statement of the size of the corresponding population or natural resource at risk and the likelihood of such exposure scenarios.

"(3)(A) To the extent feasible, the head of the agency shall provide a statement that places the nature and magnitude of individual and population risks to human health in context.

"(B) A statement under subparagraph (A) shall—

"(i) include appropriate comparisons with estimates of risks that are familiar to and routinely encountered by the general public as well as other risks; and "(ii) identify relevant distinctions among categories of risk and limitations to comparisons.

"(4) When an agency provides a risk assessment or risk characterization for a proposed or final regulatory action, such assessment or characterization shall include a statement of any significant substitution risks to human health identified by the agency or contained in information provided to the agency by a commenter.

"(5) If—

"(A) an agency provides a public comment period with respect to a risk assessment or regulation;

"(B) a commenter provides a risk assessment, and a summary of results of such risk assessment; and

"(C) such risk assessment is reasonably consistent with the principles and the guidance provided under this subtitle,

the agency shall present such summary in connection with the presentation of the agency's risk assessment or the regulation.

"§ 627. Regulations; plan for assessing new information

"(a)(1) Not later than 1 year after the date of enactment of this subchapter, the President shall issue a final regulation that has been subject to notice and comment under section 553 for agencies to implement the risk assessment and characterization principles set forth in sections 625 and 626 and shall provide a format for summarizing risk assessment results.

"(2) The regulation under paragraph (1) shall be sufficiently specific to ensure that risk assessments are conducted consistently by the various agencies.

"(b)(1) Review of the risk assessment for any major rule shall be conducted by the head of the agency on the written petition of a person showing a reasonable likelihood that—

"(A) the risk assessment is inconsistent with the principles set forth in section 625 and 626;

"(B) the risk assessment produces substantially different results;

"(C) the risk assessment is inconsistent with a rule issued under subsection (a); or

"(D) the risk assessment does not take into account material significant new scientific data or scientific understanding.

"(2) Not later than 90 days after receiving a petition under paragraph (1), the head of the agency shall respond to the petition by agreeing or declining to review the risk assessment referred to in the petition, and shall state the basis for the decision.

"(3) If the head of the agency agrees to review the petition, the agency shall complete its review within 180 days, unless the Director of the Office of Management and Budget agrees in writing with an agency determination that an extension is necessary in view of limitations on agency resources.

"(4) Denial of a petition by the agency head shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

"(c) The regulations under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

"(d) At least every 4 years, the President shall review, and when appropriate, revise the regulations published under this section.

"§ 628. Decisional criteria

"For each major rule subject to this subchapter, the head of the agency, subject to review by the President, shall make a determination that—

"(1) the risk assessment under section 624 is based on a scientific and unbiased evaluation, reflecting realistic exposure scenarios, of the risk addressed by the major rule and is supported by the best available scientific data, as determined by a peer review panel in accordance with section 640; and

"(2) there is no alternative that is allowed by the statute under which the major rule is promulgated that would provide greater net benefits or that would achieve an equivalent reduction in risk in a more cost-effective and flexible manner.

"§ 629. Regulatory priorities

"(a) In exercising authority under any laws protecting human health and safety or the environment, the head of an agency shall prioritize the use of the resources available under such laws to address the risks to human health, safety, and natural resources that—

"(1) the agency determines are the most serious; and

"(2) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources to be expended.

"(b) In identifying the sources of the most serious risks under subsection (a), the head of the agency shall consider, at a minimum—

"(1) the plausible likelihood and severity of the effect; and

"(2) the plausible number and groups of individuals potentially affected.

"(c) The head of the agency shall incorporate the priorities identified in subsection (a) into the budget, strategic planning, and research activities of the agency by, in the agency's annual budget request to Congress—

"(1) identifying which risks the agency has determined are the most serious and can be addressed in a cost-effective manner under subsection (a), and the basis for that determination;

"(2) explicitly identifying how the agency's requested funds will be used to address those risks;

"(3) identifying any statutory, regulatory, or administrative obstacles to allocating agency resources in accordance with the priorities established under subsection (a); and

"(4) explicitly considering the requirements of subsection (a) when preparing the agency's regulatory agenda or other strategic plan, and providing an explanation of how the agenda or plan reflects those requirements and the comparative risk analysis when publishing any such agenda or strategic plan.

"(d) In March of each year, the head of each agency shall submit to Congress specific recommendations for repealing or modifying laws that would better enable the agency to prioritize its activities to address the risks to human health, safety, and the environment that are the most serious and can be addressed in a cost-effective manner consistent with the requirements of subsection (a).

"§ 630. Establishment of program

"(a) The President shall develop a systematic program for the peer review of work products covered by subsection (c), which program shall be used uniformly across the agencies.

"(b) The program under subsection (a)—

"(1) shall provide for the creation of peer review panels consisting of independent and external experts who are broadly representative and balanced to the extent feasible;

"(2) shall not exclude peer reviewers merely because they represent entities that may have a potential interest in the outcome, if that interest is fully disclosed;

"(3) shall exclude, to the maximum extent practicable, any peer reviewer who has been involved in any previous analysis of the tests and evidence presented for certification by the peer review panel; and

"(4) shall provide for a timely completed peer review, meeting agency deadlines, which contains a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments.

"(c) The peer review and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.".

(b) CONFORMING AMENDMENT AND TECHNICAL CORRECTIONS.—

(1) CONFORMING AMENDMENTS.—Part I of title 5, United States Code, is amended by striking the chapter analysis for chapter 6 and inserting the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—REGULATORY ANALYSIS

"Sec.
"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unnecessary analyses.
"606. Effect on other law.
"607. Preparation of analyses.
"608. Procedure for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—RISK ASSESSMENTS

"621. Definitions.
"622. Applicability.
"623. Rule of construction.
"624. Requirement to prepare risk assessments.
"625. Principles for risk assessment.
"626. Principles for risk characterization and communication.
"627. Regulations; plan for assessing new information.
"628. Decisional criteria.
"629. Regulatory priorities.
"640. Establishment of program.

"SUBCHAPTER I—REGULATORY ANALYSIS"

(2) TECHNICAL CORRECTIONS.—The part analysis for part I of title 5, United States Code, is amended—

(A) in the item relating to chapter 5 by striking "**501**" and inserting "**500**"; and

(B) by inserting after the item relating to chapter 5 the following:

"6. The Analysis of Regulatory Functions .... 601".

BALANCED-BUDGET CONSTITUTIONAL AMENDMENT

DASCHLE (AND OTHERS) AMENDMENT NO. 231

Mr. DASCHLE (for himself, Mr. BUMPERS, Mr. CONRAD, Mr. DORGAN, Mr. FEINGOLD, Mr. GLENN, Mr. KERRY, Mr. LEAHY, Ms. MOSELEY-BRAUN, Mr. KERREY, and Mr. PELL) proposed an amendment to the motion to commit the joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States; as follows:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification. The article shall be submitted to the States upon the adoption of a concurrent resolution as described in section 9 of the article. The article is as follows:

"ARTICLE —

"SECTION 1. Upon the adoption by the Congress of a concurrent resolution on the budget establishing a budget plan to balance the budget as required by this article, and containing the matter required by section 9, total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.

"SECTION 9. (a) In order to carry out the purposes of this article, the Congress shall adopt a concurrent resolution setting forth a budget plan to achieve a balanced budget (that complies with this article) not later than the first fiscal year required by this article as follows:

"(1) a budget for each fiscal year beginning with fiscal year 1996 and ending with that first fiscal year (required by this article) containing—

"(A) aggregate levels of new budget authority, outlays, revenues, and the deficit or surplus;

"(B) totals of new budget authority and outlays for each major functional category;

"(C) new budget authority and outlays, on an account-by-account basis, for each account with actual outlays or offsetting receipts of at least $100,000,000 in fiscal year 1994; and

"(D) an allocation of Federal revenues among the major sources of such revenues;

"(2) a detailed list and description of changes in Federal law (including laws authorizing appropriations or direct spending and tax laws) required to carry out the plan and the effective date of each such change; and

"(3) reconciliation directives to the appropriate committees of the House of Representatives and Senate instructing them to submit legislative changes to the Committee on the Budget of the House or Senate, as the case may be, to implement the plan set forth in the concurrent resolution.

"(b) The directives required by subsection (a)(3) shall be deemed to be directives within the meaning of section 310(a) of the Congressional Budget Act of 1974. Upon receiving all legislative submissions from committees under subsection (a)(3), each Committee on the Budget shall combine all such submissions (without substantive revision) into an omnibus reconciliation bill and report that bill to its House. The procedures set forth in section 310 shall govern the consideration of that reconciliation bill in the House of Representatives and the Senate.

"(c) The budget plan described in subsection (a) shall be based upon Congressional Budget Office economic and technical assumptions and estimates of the spending and revenue effects of the legislative changes described in subsection (a)(2).".

DOLE AMENDMENT NO. 232

Mr. DOLE proposed an amendment to the motion to commit the joint resolution, House Joint Resolution 1, supra; as follows:

Strike all after the word forthwith in the instructions and insert the following: "H.J. Res. 1, and at a later date the Judiciary Committee, after consultation with the Budget Committee, shall issue a report the text of which shall include:

"This report may be cited as the 'Need To Lead Report.'

"If Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, within 60 days thereafter, the President of the United States shall transmit to the Senate and the House of Representatives a detailed plan to balance the budget by the year 2002."

DOLE AMENDMENT NO. 233

Mr. DOLE proposed an amendment to amendment No. 232 proposed by him to the joint resolution, House Joint Resolution 1, supra; as follows:

Strike all after H.J. Res. 1, and insert the following: ", and at a later date the Judiciary Committee, after consultation with the Budget Committee, shall issue a report the text of which shall include:

"This report may be cited as the 'Need to Lead Report,'

"If Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, within 59 days thereafter, the President of the United States shall transmit to the Senate and the House of Representatives a detailed plan to balance the budget by the year 2002."

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the President's 1996 proposed budget.

The committee will hear testimony from the Forest Service on Wednesday, February 15, 1995.

The hearing will begin at 9:30 a.m., and will take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Betty Nevitt or Jim Beirne at (202) 224–0765.

ADDITIONAL STATEMENTS

THE REPUBLIC OF CHINA

• Mr. CRAIG. Mr. President, last year I had the opportunity to visit the Republic of China on Taiwan and witness first hand the social, economic, and political progress in that country. During my visit I had the pleasure of meeting with President Lee Teng-Hui, who has been a strong agent of change and leader for his country. My home State, Idaho, has directly benefited by the developments in the Republic of China though an enhanced relationship and growing trade relations.

During my visit to the Republic of China I did not have an opportunity to meet with Premier Lien Chan. Therefore, it is with great pleasure that I rise today to enter into the RECORD the following statement detailing the efforts and accomplishments of Mr. Lien as presented to me by Winston L. Yang, chairman of Seton Hall University Department of Asian Studies. In so doing, I hope that others may benefit from Mr. Yang's comments and become more familiar with developments in the Republic of China.

The statement follows:

PREMIER LIEN CHAN'S REFORMS AND PROGRAMS

(By Winston L. Yang)

It has been almost two years since Lien Chan became the 14th Premier of the Republic of China (ROC) on Taiwan.

As Premier, Mr. Lien has been carrying out polices of democratization and using Taiwan's economic power to break out of the international isolation created by Peking.

Lien has reaffirmed the ROC's commitment to the official goal of eventual reunification with the mainland. But while following a pragmatic policy toward the mainland and working to expand unofficial exchanges between the two sides, he also insists on the need to strengthen Taiwan's defense and international standing. In implementing "Pragmatic Diplomacy," Lien has advanced the possibility of Taiwan's renewed representation at the United Nations and membership in other international organizations. Mr. Lien wants to hasten the pace of Taiwan's modernization and economic development. One of his goals is to increase per capita income to at least $20,000 by the beginning of the twenty-first century.

His economic recovery program, which is both realistic and well-designed, is intended to strengthen Taiwan's economy and competitiveness.

Premier Lien has attached great importance to his administrative reform programs, which are designed to improve morale, to upgrade the quality and efficiency of government, and to reduce and ultimately eliminate corruption, insubordination, bureaucratic elitism, and waste in personnel and resources. His sight is set on establishing a clean, efficient, capable, and streamlined government, making it Taiwan's greatest "service enterprise." Personnel cuts, office automation, the closing or merging of unwieldy agencies, and an anticorruption campaign have been launched.

The administrative reform programs call for a five percent reduction in the number of government employees, a close watch for corruption, heavy penalties for violations by officials, and less bureaucratic red tape for Taiwan people. Public officials involved in fourteen targeted areas, from handling construction bids to performing judicial duties, are being closely monitored.

In the political arena, the government has overcome a number of obstacles to promote constitutional reform and established a framework for democracy that should lead to far broader democratization within the next few years. Furthermore, it has introduced an administrative reform bill to establish a clean and effective government. The plan is built on the cornerstones of honesty, efficiency, and public convenience. To achieve honest government, Lien Chan has taken concrete measures and moved simultaneously to eliminate corruption, prevent corruption, and revise laws to ensure that government employees at all levels dare not, cannot, do not, and need not be corrupt.

In an effort to improve Taiwan-mainland relations, the Government has been devoting itself to the expansion of cultural and academic exchanges, and to building complementary economic relations for the benefit of both sides. Intermediary bodies from Taiwan and the mainland have held talks and negotiations to address problems resulting from people-to-people exchanges. In April 1993 in Singapore, the intermediary bodies signed four historic agreements, the first agreements to be reached by the two sides since 1949. In August 1994, representatives of the two bodies met in Taipei and achieved important breakthroughs after Peking's delegates made concessions by recognizing Taiwan's judicial authority over the fate of airline hijackers from the mainland and Taipei's authority to patrol fishing in the Straits of Taiwan.

Naturally, Taiwan's economy is critical to the success of all programs. Mr. Lien's economic recovery program has already produced concrete results. Steady recovery and stable growth have been clearly evident since mid-1993, even though the ROC's trade surplus continues to decline. In 1993, Taiwan's economy grew by about six percent. Analysts expect the 1994 economic performance to improve further.

Yet significant change must be made in the light of economic realities. The Six-Year National Development Plan has encountered a number of problems. Necessary modifications have been made after a thorough review on the basis of needs, priorities, and the availability of resources. Seven hundred seventy-five projects have been reduced to 632, and the original budget of NT$8,238.2 billion has been scaled down to NT$6,029.4 billion. The revised plan is much more realistic. Of the 632 projects, 69 have been completed, and 406 are being implemented. Seventy-four are well into the detailed planning stages and another 30 are on the drawing board. Feasibility studies are being made for 32 projects, while the remaining 21 are yet to be started.

Lien's pragmatic approach to the ambitious plan for national development has been hailed by many experts as a prudent course toward the conservation of available resources, the reduction of waste, and the establishment of priorities. The review of the National Development Plan ordered by the Premier has revealed that supply and demand can be coordinated and balanced. Problems can be anticipated and resolved and the projected benefits can be realized through comprehensive planning concerning the use of land, manpower, and material resources.•

RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

• Mr. MURKOWSKI. Mr. President, in accordance with rule XXVI, section 2, of the Standing Rules of the Senate, I hereby submit for publication in the CONGRESSIONAL RECORD, the Rules of the Committee on Energy and Natural Resources.

The rules follow:

RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

GENERAL RULES

Rule 1. The Standing Rules of the Senate as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

MEETINGS OF THE COMMITTEE

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Business meetings of any Subcommittee may be called by the Chairman of such Subcommittee, Provided, That no Subcommittee meeting or hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee meeting or hearing, unless a majority of the Committee concurs in such concurrent meeting or hearing.

OPEN HEARINGS AND MEETINGS

Rule 3. (a) Hearings and business meetings of the Committee or any Subcommittee shall be open to the public except when the Committee or such Subcommittee by majority vote orders a closed hearing or meeting.

(b) A transcript shall be kept of each hearing of the Committee or any Subcommittee.

(c) A transcript shall be kept of each business meeting of the Committee or any Subcommittee unless a majority of the Committee or the Subcommittee involved agrees that some other form of permanent record is preferable.

HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee or the Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure or subject shall be included on the agenda of the next following business meeting of the full Committee or any Subcommittee if a written request for such inclusion has been filed with the Chairman of the Committee or Subcommittee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee or Subcommittee to include legislative measures or subjects on the Committee or Subcommittee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee or any Subcommittee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee or Subcommittee. The Staff Director shall promptly notify absent Members of any action taken by the Committee or an Subcommittee on matters not included on the published agenda.

QUORUMS

Rule 6. (a) Except as provided in subsections (b), (c), and (d), six Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless ten Members of the Committee are actually present at the time such action is taken.

(c) Except as provided in subsection (d), one-third of the Subcommittee Members shall constitute a quorum for the conduct of business of any Subcommittee.

(d) One Members hall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

VOTING

Rule 7. (a) A rollcall of the members shall be taken upon the request of any Member. Any member who does not vote on any rollcall at the time the roll is called, may vote (in person or by proxy) on that rollcall at any later time during the same business meeting.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any Member who did not vote on any rollcall shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the committee to make necessary technical and clerical corrections in the measure.

SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the ranking Minority Member.

(b) Assignment of Members to Subcommittees, shall, insofar as possible, reflect the preferences of the Members. No Member will receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings and business meetings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 9. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or Subcommittee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee and at the request of any Member, any other witness shall be under oath. Every nominee shall submit a statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made public on a form approved by the Committee, unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule. Members of the Committee are urged to make public a statement of their financial interests in the form require in the case of Presidential nominees under this rule.

CONFIDENTIAL TESTIMONY

Rule 10. No confidential testimony taken by or confidential material presented to the Committee or any Subcommittee, or any report of the proceedings of a closed Committee or Subcommittee hearing or business meeting, shall be made public, in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 11. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee or Subcommittee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 12. Any meeting or hearing by the Committee or any Subcommittee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 13. These rules may be amended only by vote of a majority of all the Members of the Committee in a business meeting of the Committee: Provided, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting.•

ORDER OF BUSINESS

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I have some unanimous-consent requests. That have been cleared with the Democratic leadership.

THE UPDATE MANDATE REFORM ACT OF 1995—MESSAGE FROM THE HOUSE

Mr. LOTT. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 1) a bill to curb the practice of imposing Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1) entitled "An Act to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unfunded Mandate Reform Act of 1995".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to strengthen the partnership between the Federal Government and States, local governments, and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on States, local governments, and tribal governments in a manner that may displace other essential State, local, and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting States, local governments, tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate and House of Representatives before the Senate and House of Representatives votes on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance;

(5) to establish a point-of-order vote on the consideration in the Senate and House of Representatives of legislation containing significant Federal mandates;

(6) to assist Federal agencies in their consideration of proposed regulations affecting States, local governments, and tribal governments, by—

(A) requiring that Federal agencies develop a process to enable the elected and other officials of States, local governments, and tribal governments to provide input when Federal agencies are developing regulations; and

(B) requiring that Federal agencies prepare and consider better estimates of the budgetary impact of regulations containing Federal mandates upon States, local governments, and tribal governments before adopting such regulations, and ensuring that small governments are given special consideration in that process;

(7) to establish the general rule that Congress shall not impose Federal mandates on States, local governments, and tribal governments without providing adequate funding to comply with such mandates; and

(8) to begin consideration of methods to relieve States, local governments, and tribal governments of unfunded mandates imposed by Federal court interpretations of Federal statutes and regulations.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the terms "agency", "Federal financial assistance", "Federal private sector mandate", "Federal mandate" (except as provided by section 108), "local government", "private sector", "regulation" or "rule", and "State" have the meaning given those terms by section 421 of the Congressional Budget Act of 1974; and

(2) the term "small government" means any small governmental jurisdiction as defined in section 601(5) of title 5, United States Code, and any tribal government.

SEC. 4. LIMITATION ON APPLICATION.

This Act shall not apply to any provision in a Federal statute or a proposed or final Federal regulation, that—

(1) enforces constitutional rights of individuals;

(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status;

(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;

(4) provides for emergency assistance or relief at the request of any State, local government, or tribal government or any official of such a government;

(5) is necessary for the national security or the ratification or implementation of international treaty obligations;

(6) the President designates as emergency legislation and that the Congress so designates in statute; or

(7) pertains to Social Security.

TITLE I—REVIEW OF UNFUNDED FEDERAL MANDATES

SEC. 101. REPORT ON UNFUNDED FEDERAL MANDATES BY ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.

(a) In General.—The Advisory Commission shall in accordance with this section—

(1) investigate and review the role of unfunded Federal mandates in intergovernmental relations and their impact on State, local, tribal, and Federal Government objectives and responsibilities, and their impact on the competitive balance between States, local and tribal governments, and the private sector and consider views of and the impact on working men and women on those same matters;

(2) investigate and review the role of unfunded State mandates imposed on local governments, the private sector, and individuals;

(3) investigate and review the role of unfunded local mandates imposed on the private sector and individuals; and

(4) make recommendations to the President and the Congress regarding—

(A) allowing flexibility for State, local, and tribal governments in complying with specific unfunded Federal mandates for which terms of compliance are unnecessarily rigid or complex;

(B) reconciling any 2 or more unfunded Federal mandates which impose contradictory or inconsistent requirements;

(C) terminating unfunded Federal mandates which are duplicative, obsolete, or lacking in practical utility;

(D) suspending, on a temporary basis, unfunded Federal mandates which are not vital to public health and safety and which compound the fiscal difficulties of State, local, and tribal governments, including recommendations for triggering such suspension;

(E) consolidating or simplifying unfunded Federal mandates, or the planning or reporting requirements of such mandates, in order to reduce duplication and facilitate compliance by State, local, and tribal governments with those mandates;

(F) establishing common Federal definitions or standards to be used by State, local, and tribal governments in complying with unfunded Federal mandates that use different definitions or standards for the same terms or principles; and

(G) establishing procedures to ensure that, in cases in which a Federal private sector mandate applies to private sector entities which are competing directly or indirectly with States, local governments, or tribal governments for the purpose of providing substantially similar goods or services to the public, any relief from unfunded Federal mandates is applied in the same manner and to the same extent to the private sector entities as it is to the States, local governments, and tribal governments with which they compete, and to ensure that unfunded Federal mandate relief does not increase private sector burdens.

Each recommendation under paragraph (4) shall, to the extent practicable, identify the specific unfunded Federal mandates to which the recommendation applies.

(b) Criteria.—

(1) In general.—The Advisory Commission shall establish criteria for making recommendations under subsection (a).

(2) Issuance of proposed criteria.—The Advisory Commission shall issue proposed criteria under this subsection not later than 60 days after the date of the enactment of this Act, and thereafter provide a period of 30 days for submission by the public of comments on the proposed criteria.

(3) Final criteria.—Not later than 45 days after the date of issuance of proposed criteria, the Advisory Commission shall—

(A) consider comments on the proposed criteria received under paragraph (4);

(B) adopt and incorporate in final criteria any recommendations submitted in those comments that the Advisory Commission determines will aid the Advisory Commission in carrying out its duties under this section; and

(C) issue final criteria under this subsection.

(c) Preliminary Report.—

(1) In general.—Not later than 9 months after the date of the enactment of this Act, the Advisory Commission shall—

(A) prepare and publish a preliminary report on its activities under this title, including preliminary recommendations pursuant to subsection (a);

(B) publish in the Federal Register a notice of availability of the preliminary report; and

(C) provide copies of the preliminary report to the public upon request.

(2) Public hearings.—The Advisory Commission shall hold public hearings on the preliminary recommendations contained in the preliminary report of the Advisory Commission under this subsection.

(d) Final Report.—Not later than 3 months after the date of the publication of the preliminary report under subsection (c), the Advisory Commission shall submit to the Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a final report on the findings, conclusions, and recommendations of the Advisory Commission under this section.

(e) Priority to Mandates That Are Subject of Judicial Proceedings.—In carrying out this section, the Advisory Commission shall give the highest priority to immediately investigating, reviewing, and making recommendations regarding unfunded Federal mandates that are the subject of judicial proceedings between the United States and a State, local, or tribal government.

(f) State Mandate and Local Mandate Defined.—As used in this title:

(1) State mandate.—The term "State mandate" means any provision in a State statute or regulation that imposes an enforceable duty on local governments, the private sector, or individuals, including a condition of State assistance or a duty arising from participation in a voluntary State program.

(2) Local mandate.—The term "local mandate" means any provision in a local ordinance or regulation that imposes an enforceable duty on the private sector or individuals, including a condition of local assistance or a duty arising from participation in a voluntary local program.

SEC. 102. SPECIAL AUTHORITIES OF ADVISORY COMMISSION.

(a) Experts and Consultants.—The Advisory Commission may procure temporary and intermittent services of experts or consultants under section 3109(b) of title 5, United States Code.

(b) Staff of Federal Agencies.—Upon request of the Executive Director of the Advisory Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Advisory Commission to assist it in carrying out its duties under this title.

(c) Administrative Support Services.—Upon the request of the Advisory Commission, the Administrator of General Services shall provide to the Advisory Commission, on a reimbursable basis, the administrative support services necessary for the Advisory Commission to carry out its duties under this title.

(d) Contract Authority.—The Advisory Commission may, subject to appropriations, contract with and compensate Government and private agencies or persons for property and services used to carry out its duties under this title.

SEC. 103. DEFINITIONS.

In this title:

(1) Advisory commission.—The term "Advisory Commission" means the Advisory Commission on Intergovernmental Relations.

(2) Federal mandate.—The term "Federal mandate" means any provision in statute or regulation or any Federal court ruling that imposes an enforceable duty upon States, local governments, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

SEC. 201. REGULATORY PROCESS.

(a) In General.—Each agency shall, to the extent permitted by subchapter II of chapter 5 of title 5, United States Code—

(1) assess the effects of Federal regulations on States, local governments, tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in legislation), including specifically the availability of resources to carry out any Federal mandates in those regulations; and

(2) seek to minimize those burdens that uniquely or significantly affect such governmental entities or the private sector, consistent with achieving statutory and regulatory objectives.

(b) State, Local Government, and Tribal Government Input.—Each agency shall develop an effective process to permit elected officials (or their designated representatives) of States, local governments, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates.

(c) Agency Plan.—Before establishing any regulatory requirements that might significantly or uniquely affect small governments, an agency shall have developed a plan under which the agency shall—

(1) provide notice of the contemplated requirements to potentially affected small governments, if any;

(2) enable officials of affected small governments to provide input pursuant to subsection (b); and

(3) inform, educate, and advise small governments on compliance with the requirements.

(d) LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.—An agency may not issue a rule that contains a Federal mandate if the rulemaking record for the rule indicates that there are 2 or more methods that could be used to accomplish the objective of the rule, unless—

(1) the Federal mandate is the least costly method, or has the least burdensome effect, for—

(A) States, local governments, and tribal governments, in the case of a rule containing a Federal intergovernmental mandate, and

(B) the private sector, in the case of a rule containing a Federal private sector mandate; or

(2) the agency publishes with the final rule an explanation of why the more costly or burdensome method of the Federal mandate was adopted.

SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

(a) IN GENERAL.—Before promulgating any final rule that includes any Federal mandate that may result in the expenditure by States, local governments, or tribal governments, in the aggregate, or the private sector of at least $100,000,000 (adjusted annually for inflation) in any 1 year, and before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any such rule, the agency shall prepare a written statement identifying the provision of Federal law under which the rule is being promulgated and containing—

(1) estimates by the agency, including the underlying analysis, of the anticipated costs to States, local governments, tribal governments, and the private sector of complying with the Federal mandates, and of the extent to which such costs may be paid with funds provided by the Federal Government or otherwise paid through Federal financial assistance;

(2) estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible; of—

(A) the future costs of the Federal mandate; and

(B) any disproportionate budgetary effects of the Federal mandates upon any particular regions of the country or particular States, local governments, tribal governments, urban or rural or other types of communities, or particular segments of the private sector;

(3) a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal mandates (such as the enhancement of health and safety and the protection of the natural environment);

(4) the effect of Federal private sector mandates on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, worker benefits and pensions, and international competitiveness of United States goods and services;

(5) a description of the extent of the agency's prior consultation with elected representatives (or their designated representatives) of the affected States, local governments, and tribal governments, and designated representatives of the private sector;

(6) a summary of the comments and concerns that were presented by States, local governments, or tribal governments and the private sector either orally or in writing to the agency;

(7) a summary of the agency's evaluation of those comments and concerns; and

(8) the agency's position supporting the need to issue the regulation containing the Federal mandates (considering, among other things, the extent to which costs may or may not be paid with funds provided by the Federal Government).

(b) PROMULGATION.—In promulgating a general notice of proposed rulemaking or a final rule for which a statement under subsection (a) is required, the agency shall include in the promulgation a summary of the information contained in the statement.

(c) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.—Any agency may prepare any statement required by subsection (a) in conjunction with or as part of any other statement or analysis, if the statement or analysis satisfies the provisions of subsection (a).

SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.

The Director of the Office of Management and Budget shall—

(1) collect from agencies the statements prepared under section 202; and

(2) periodically forward copies of them to the Director of the Congressional Budget Office on a reasonably timely basis after promulgation of the general notice of proposed rulemaking or of the final rule for which the statement was prepared.

SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with Federal agencies, shall establish pilot programs in at least 2 agencies to test innovative and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small governments; and

(2) meet overall statutory goals and objectives.

(b) PROGRAM FOCUS.—The pilot programs shall focus on rules in effect or proposed rules or on a combination thereof.

SEC. 205. ANNUAL REPORT TO CONGRESS REGARDING FEDERAL COURT RULINGS.

Not later than 4 months after the date of enactment of this Act, and no later than March 15 of each year thereafter, the Advisory Commission on Intergovernmental Relations shall submit to the Congress, including each of the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a report describing Federal court rulings in the preceding calendar year which imposed an enforceable duty on 1 or more States, local governments, or tribal governments.

SEC. 206. JUDICIAL REVIEW.

(a) REVIEW OF AGENCY ACTIONS SUBJECT TO REVIEW UNDER OTHER FEDERAL LAW.—If an agency action that is subject to section 201 or 202 is subject to judicial review under any other Federal law (other than chapter 7 of title 5, United States Code)—

(1) any court of the United States having jurisdiction to review the action under the other law shall have jurisdiction to review the action under sections 201 and 202; and

(2) in any proceeding under paragraph (1), any issue relating exhaustion of remedies, the time and manner for seeking review, venue, or the availability of a stay or preliminary injunctive relief pending review shall be determined under the other law.

(b) LIMITATION ON PRELIMINARY INJUNCTIVE RELIEF.—The second sentence of section 705 of title 5, United States Code (relating to preliminary relief pending review), shall not apply with respect to review under subsection (a)(1) of an agency action, unless process authorized by that sentence is not authorized by the other law under which the action is reviewed.

SEC. 207. ANNUAL STATEMENTS TO CONGRESS ON AGENCY COMPLIANCE WITH REQUIREMENTS OF TITLE.

Not later than one year after the effective date of title III and annually thereafter, the Director of the Office of Management and Budget shall submit to Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, written statements detailing the compliance with the requirements of sections 201 and 202 by each agency during the period reported on.

TITLE III—LEGISLATIVE ACCOUNTABILITY AND REFORM

SEC. 301. LEGISLATIVE MANDATE ACCOUNTABILITY AND REFORM.

Title IV of the Congressional Budget Act of 1974 is amended by—

(1) inserting before section 401 the following:

"PART A—GENERAL PROVISIONS"; and

(2) adding at the end the following new part:

"PART B—FEDERAL MANDATES

"SEC. 421. DEFINITIONS.

"For purposes of this part:

"(1) AGENCY.—The term 'agency' has the meaning stated in section 551(1) of title 5, United States Code, but does not include independent regulatory agencies, as defined by section 3502(10) of title 44, United States Code.

"(2) DIRECTOR.—The term 'Director' means the Director of the Congressional Budget Office.

"(3) FEDERAL FINANCIAL ASSISTANCE.—The term 'Federal financial assistance' means the amount of budget authority for any Federal grant assistance or any Federal program providing loan guarantees or direct loans.

"(4) FEDERAL INTERGOVERNMENTAL MANDATE.—The term 'Federal intergovernmental mandate' means—

"(A) any provision in legislation, statute, or regulation that—

"(i) would impose an enforceable duty upon States, local governments, or tribal governments, except—

"(I) a condition of Federal assistance; or

"(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B); or

"(ii) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

"(B) any provision in legislation, statute, or regulation that relates to a then-existing Federal program under which $500,000,000 or more is provided annually to States, local governments, and tribal governments under entitlement authority, if—

"(i)(I) the provision would increase the stringency of conditions of assistance to States, local governments, or tribal governments under the program; or

"(II) would place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding to States, local governments, or tribal governments under the program; and

"(ii) the States, local governments, or tribal governments that participate in the Federal program lack authority under that program to amend their financial or programmatic responsibilities to continue providing required services that are affected by the legislation, statute, or regulation.

"(5) FEDERAL PRIVATE SECTOR MANDATE.—The term 'Federal private sector mandate' means any provision in legislation, statute, or regulation that—

"(A) would impose an enforceable duty on the private sector except—

"(i) a condition of Federal assistance; or

"(ii) a duty arising from participation in a voluntary Federal program; or

"(B) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that will be provided to the private sector for the purpose of ensuring compliance with such duty.

"(6) FEDERAL MANDATE.—The term 'Federal mandate' means a Federal intergovernmental mandate or a Federal private sector mandate, as defined in paragraphs (4) and (5).

"(7) FEDERAL MANDATE DIRECT COSTS.—

"(A) FEDERAL INTERGOVERNMENTAL DIRECT COSTS.—In the case of a Federal intergovernmental mandate, the term 'direct costs' means the aggregate estimated amounts that all States, local governments, and tribal governments would be required to spend or would be required to forgo in revenues in order to comply with the Federal intergovernmental mandate, or, in the case of a provision referred to in paragraph (4)(A)(ii), the amount of Federal financial assistance eliminated or reduced.

"(B) PRIVATE SECTOR DIRECT COSTS.—In the case of a Federal private sector mandate, the term 'direct costs' means the aggregate estimated amounts that the private sector would be required to spend in order to comply with a Federal private sector mandate.

"(C) EXCLUSION FROM DIRECT COSTS.—The term 'direct costs' does not include—

"(i) estimated amounts that the States, local governments, and tribal governments (in the case of a Federal intergovernmental mandate), or the private sector (in the case of a Federal private sector mandate), would spend—

"(I) to comply with or carry out all applicable Federal, State, local, and tribal laws and regulations in effect at the time of the adoption of a Federal mandate for the same activity as is affected by that Federal mandate; or

"(II) to comply with or carry out State, local governmental, and tribal governmental programs, or private-sector business or other activities in effect at the time of the adoption of a Federal mandate for the same activity as is affected by that mandate; or

"(ii) expenditures to the extent that they will be offset by any direct savings to be enjoyed by the States, local governments, and tribal governments, or by the private sector, as a result of—

"(I) their compliance with the Federal mandate; or

"(II) other changes in Federal law or regulation that are enacted or adopted in the same bill or joint resolution or proposed or final Federal regulation and that govern the same activity as is affected by the Federal mandate.

"(D) DETERMINATION OF COSTS.—Direct costs shall be determined based on the assumption that States, local governments, tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations. Reasonable steps to mitigate the costs shall not include increases in State, local, or tribal taxes or fees.

"(8) LOCAL GOVERNMENT.—The term 'local government' has the same meaning as in section 6501(6) of title 31, United States Code.

"(9) PRIVATE SECTOR.—The term 'private sector' means individuals, partnerships, associations, corporations, business trusts, or legal representatives, organized groups of individuals, and educational and other nonprofit institutions.

"(10) REGULATION.—The term 'regulation' or 'rule' has the meaning of 'rule' as defined in section 601(2) of title 5, United States Code.

"(11) STATE.—The term 'State' has the same meaning as in section 6501(9) of title 31, United States Code.

"(12) SIGNIFICANT EMPLOYMENT IMPACT.—The term 'significant employment impact' means an estimated net aggregate loss of 10,000 or more jobs.

"SEC. 422. LIMITATION ON APPLICATION.

"This part shall not apply to any provision in a bill, joint resolution, motion, amendment, or conference report before Congress that—

"(1) enforces constitutional rights of individuals;

"(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status;

"(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;

"(4) provides for emergency assistance or relief at the request of any State, local government, or tribal government or any official of such a government;

"(5) is necessary for the national security or the ratification or implementation of international treaty obligations;

"(6) the President designates as emergency legislation and that the Congress so designates in statute; or

"(7) pertains to Social Security.

"SEC. 423. DUTIES OF CONGRESSIONAL COMMITTEES.

"(a) SUBMISSION OF BILLS TO THE DIRECTOR.—When a committee of authorization of the House of Representatives or the Senate orders a bill or joint resolution of a public character reported, the committee shall promptly provide the text of the bill or joint resolution to the Director and shall identify to the Director any Federal mandate contained in the bill or resolution.

"(b) COMMITTEE REPORT.—

"(1) INFORMATION REGARDING FEDERAL MANDATES.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of a public character that includes any Federal mandate, the report of the committee accompanying the bill or joint resolution shall contain the information required by paragraph (2) and, in the case of a Federal intergovernmental mandate, paragraph (3).

"(2) REPORTS ON FEDERAL MANDATES.—Each report referred to in paragraph (1) shall contain—

"(A) an identification and description of each Federal mandate in the bill or joint resolution, including the statement, if available, from the Director pursuant to section 424(a);

"(B) a qualitative assessment, and if practicable, a quantitative assessment of costs and benefits anticipated from the Federal mandate (including the effects on health and safety and protection of the natural environment); and

"(C) a statement of—

"(i) the degree to which the Federal mandate affects each of the public and private sectors, including a description of the actions, if any, taken by the committee to avoid any adverse impact on the private sector or on the competitive balance between the public sector and the private sector; and

"(ii) in the case of a Federal mandate that is a Federal intergovernmental mandate, the extent to which limiting or eliminating the Federal intergovernmental mandate or Federal payment of direct costs of the Federal intergovernmental mandate (if applicable) would affect the competitive balance between States, local governments, or tribal governments and the private sector.

"(3) INTERGOVERNMENTAL MANDATES.—If any of the Federal mandates in the bill or joint resolution are Federal intergovernmental mandates, the report referred to in paragraph (1) shall also contain—

"(A)(i) a statement of the amount, if any, of increase or decrease in authorization of appropriations under existing Federal financial assistance programs or for new Federal financial assistance, provided by the bill or joint resolution and usable for activities of States, local governments, or tribal governments subject to Federal intergovernmental mandates; and

"(ii) a statement of whether the committee intends that the Federal intergovernmental mandates be partly or entirely unfunded, and, if so, the reasons for that intention; and

"(B) a statement of any existing sources of Federal financial assistance in addition to those identified in subparagraph (A) that may assist States, local governments, and tribal governments in paying the direct costs of the Federal intergovernmental mandates.

"(4) INFORMATION REGARDING PREEMPTION.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of a public character, the committee report accompanying the bill or joint resolution shall contain, if relevant to the bill or joint resolution, an explicit statement on whether the bill or joint resolution, in whole or in part, is intended to preempt any State, local, or tribal law, and if so, an explanation of the reasons for such intention.

"(c) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

"(1) IN GENERAL.—Upon receiving a statement (including any supplemental statement) from the Director pursuant to section 424(a), a committee of the House of Representatives or the Senate shall publish the statement in the committee report accompanying the bill or joint resolution to which the statement relates if the statement is available to be included in the printed report.

"(2) OTHER PUBLICATION OF STATEMENT OF DIRECTOR.—If the statement is not published in the report, or if the bill or joint resolution to which the statement relates is expected to be considered by the House of Representatives or the Senate before the report is published, the committee shall cause the statement, or a summary thereof, to be published in the Congressional Record in advance of floor consideration of the bill or joint resolution.

"SEC. 424. DUTIES OF THE DIRECTOR.

"(a) STATEMENTS ON BILLS AND JOINT RESOLUTIONS OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLUTIONS.—

"(1) FEDERAL INTERGOVERNMENTAL MANDATES IN REPORTED BILLS AND RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or the Senate, the Director shall prepare and submit to the committee a statement as follows:

"(A) If the Director estimates that the direct cost of all Federal intergovernmental mandates in the bill or joint resolution will equal or exceed $50,000,000 (adjusted annually for inflation) in the fiscal year in which such a Federal intergovernmental mandate (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

"(B) The estimate required by subparagraph (A) shall include estimates (and brief explanations of the basis of the estimates) of—

"(i) the total amount of direct cost of complying with the Federal intergovernmental mandates in the bill or joint resolution; and

"(ii) the amount, if any, of increase in authorization of appropriations or budget authority or entitlement authority under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by States, local governments, or tribal governments for activities subject to the Federal intergovernmental mandates.

"(2) FEDERAL PRIVATE SECTOR MANDATES IN REPORTED BILLS AND JOINT RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or the Senate, the

Director shall prepare and submit to the committee a statement as follows:

"(A) If the Director estimates that the direct cost of all Federal private sector mandates in the bill or joint resolution will equal or exceed $50,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate. and briefly explain the basis of the estimate.

"(B) The estimate required by subparagraph (A) shall include estimates (and brief explanations of the basis of the estimates) of—

"(i) the total amount of direct costs of complying with the Federal private sector mandates in the bill or joint resolution; and

"(ii) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution usable by the private sector for the activities subject to the Federal private sector mandates.

"(C) If the Director determines that it is not feasible to make a reasonable estimate that would be required under subparagraphs (A) and (B), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement.

"(3) LEGISLATION FALLING BELOW THE DIRECT COSTS THRESHOLDS.—If the Director estimates that the direct costs of a Federal mandate will not equal or exceed the threshold specified in paragraph (1)(A) or (2)(A), the Director shall so state and shall briefly explain the basis of the estimate.

"(4) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If the Director has prepared the statement pursuant to subsection (a) for a bill or joint resolution, and if that bill or joint resolution is reported or passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in an amended form, the committee of conference shall ensure, to the greatest extent practicable, that the Director shall prepare a supplemental statement for the bill or joint resolution in that amended form.

"(b) ASSISTANCE TO COMMITTEES AND STUDIES.—

"(1) IN GENERAL.—At the request of any committee of the House of Representatives or of the Senate, the Director shall, to the extent practicable, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

"(A) a significant budgetary impact on State, local, or tribal governments;

"(B) a significant financial impact on the private sector; or

"(C) significant employment impact on the private sector.

"(2) CONTINUING STUDIES.—The Director shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

"(3) FEDERAL MANDATE STUDIES.—

"(A) At the request of any committee of the House of Representatives or the Senate, the Director shall, to the extent practicable, conduct a study of a legislative proposal containing a Federal mandate.

"(B) In conducting a study under subparagraph (A), the Director shall—

"(i) solicit and consider information or comments from elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and such other persons as may provide helpful information or comments;

"(ii) consider establishing advisory panels of elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and other persons if the Director determines, in the Director's discretion, that such advisory panels would be helpful in performing the Director's responsibilities under this section; and

"(iii) include estimates, if and to the extent that the Director determines that accurate estimates are reasonably feasible, of—

"(I) the future direct cost of the Federal mandates concerned to the extent that they significantly differ from or extend beyond the 5-year period after the mandate is first effective; and

"(II) any disproportionate budgetary effects of the Federal mandates concerned upon particular industries or sectors of the economy, States, regions, and urban, or rural or other types of communities, as appropriate.

"(C) In conducting a study on private sector mandates under subparagraph (A), the Director shall provide estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

"(i) future costs of Federal private sector mandates to the extent that such mandates differ significantly from or extend beyond the 5-year period referred to in subparagraph (B)(iii)(I);

"(ii) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon any particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

"(iii) the effect of Federal private sector mandates in the bill or joint resolution on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services.

"(c) VIEWS OF COMMITTEES.—Any committee of the House of Representatives or the Senate which anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on the States, local governments, or tribal governments, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall provide its views and estimates on such proposal to the Committee on the Budget of its House.

"(d) ESTIMATES.—If the Director determines that it is not feasible to make a reasonable estimate that would be required for a statement under subsection (a)(1) for a bill or joint resolution, the Director shall not make such a statement and shall inform the committees involved that such an estimate cannot be made and the reasons for that determination. The bill or joint resolution for which such statement was to be made shall be subject to a point of order under section 425(a)(1).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Congressional Budget Office to carry out this part $4,500,000 for each of fiscal years 1996 through 2002.

"SEC. 425. POINT OF ORDER.

"(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider—

"(1) any bill or joint resolution that is reported by a committee unless the committee has published the statement of the Director pursuant to section 424(a) prior to such consideration, except that this paragraph shall not apply to any supplemental statement prepared by the Director under section 424(a)(4); or

"(2) any bill, joint resolution, amendment, motion, or conference report that contains a Federal intergovernmental mandate having direct costs that exceed the threshold specified in section 424(a)(1)(A), or that would cause the direct costs of any other Federal intergovernmental mandate to exceed the threshold specified in section 424(a)(1)(A), unless—

"(A) the bill, joint resolution, amendment, motion, or conference report provides new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that equals or exceeds the estimated direct costs of such mandate; or

"(B) the bill, joint resolution, amendment, motion, or conference report provides an increase in receipts or a decrease in new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate and an increase in new budget authority or new entitlement authority in the House of Representatives or an increase in direct spending authority for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that equals or exceeds the estimated direct costs of such mandate; or

"(C) the bill, joint resolution, amendment, motion, or conference report—

"(i) provides that—

"(I) such mandate shall be effective for any fiscal year only if all direct costs of such mandate in the fiscal year are provided in appropriations Acts, and

"(II) in the case of such a mandate contained in the bill, joint resolution, amendment, motion, or conference report, the mandate is repealed effective on the first day of any fiscal year for which all direct costs of such mandate are not provided in appropriations Acts; or

"(ii) requires a Federal agency to reduce programmatic and financial responsibilities of State, local, and tribal governments for meeting the objectives of the mandate such that the estimated direct costs of the mandate to such governments do not exceed the amount of Federal funding provided to those governments to carry out the mandate in the form of appropriations or new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate, and establishes criteria and procedures for that reduction.

"(b) LIMITATION ON APPLICATION TO APPROPRIATIONS BILLS.—Subsection (a) shall not apply to a bill that is reported by the Committee on Appropriations or an amendment thereto.

"(c) DETERMINATION OF DIRECT COSTS BASED ON ESTIMATES BY BUDGET COMMITTEES.—For the purposes of this section, the amount of direct costs of a Federal mandate for a fiscal year shall be determined based on estimates made by the Committee on the Budget, in consultation with the Director, of the House of Representatives or the Senate, as the case may be.

"(d) LIMITATION ON APPLICATION OF SUBSECTION (a)(2).—Subsection (a)(2) shall not apply to any bill, joint resolution, amendment, or conference report that reauthorizes appropriations for carrying out, or that amends, any statute if enactment of the bill, joint resolution, amendment, or conference report—

"(1) would not result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates; and

"(2)(A) would not result in a net reduction or elimination of authorizations of appropriations for Federal financial assistance that would be provided to State, local governments, or tribal governments for use to comply with any Federal intergovernmental mandate; or

"(B) in the case of any net reduction or elimination of authorizations of appropriations for such Federal financial assistance that would result from such enactment, would reduce the duties imposed by the Federal intergovernmental mandate by a corresponding amount.

"SEC. 426. ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.

"It shall not be in order in the House of Representatives to consider a rule or order that waives the application of section 425(a).

"SEC. 427. DISPOSITION OF POINTS OF ORDER.

"(a) THRESHOLD BURDEN.—In order to be cognizable by the Chair, a point of order under section 425(a) or 426 must specify the precise language on which it is premised.

"(b) QUESTION OF CONSIDERATION.—As disposition of points of order under section 425(a) or 426, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

"(c) DEBATE AND INTERVENING MOTIONS.—A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

"(d) EFFECT ON AMENDMENT IN ORDER AS ORIGINAL TEXT.—The disposition of the question of consideration under this section with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this section with respect to an amendment made in order as original text.".

SEC. 302. ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.

(a) MOTIONS TO STRIKE IN THE COMMITTEE OF THE WHOLE.—Clause 5 of rule XXIII of the Rules of the House of Representatives is amended by adding at the end the following:

"(c) In the consideration of any measure for amendment in the Committee of the Whole containing any Federal mandate the direct costs of which exceed the threshold in section 424(a)(1)(A) of the Unfunded Mandate Reform Act of 1995, it shall always be in order, unless specifically waived by terms of a rule governing consideration of that measure, to move to strike such Federal mandate from the portion of the bill then open to amendment.".

(b) COMMITTEE ON RULES REPORTS ON WAIVED POINTS OF ORDER.—The Committee on Rules shall include in the report required by clause 1(d) of rule XI (relating to its activities during the Congress) of the Rules of the House of Representatives a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and the subject matter of that measure.

SEC. 303. EXERCISE OF RULEMAKING POWERS.

The provisions of this title (except section 305) are enacted by Congress—

(1) as an exercise of the rulemaking powers of the House of Representatives and the Senate, and as such they shall be considered as part of the rules of the House of Representatives and the Senate, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the House of Representatives and the Senate to change such rules at anytime, in the same manner, and to the same extent as in the case of any other rule of the House of Representatives or the Senate, respectively.

SEC. 304. CONFORMING AMENDMENT TO TABLE OF CONTENTS.

Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting "PART A—GENERAL PROVISIONS" before the item relating to section 401 and by inserting after the item relating to section 407 the following:

"PART B—FEDERAL MANDATES

"Sec. 421. Definitions.
"Sec. 422. Limitation on application.
"Sec. 423. Duties of congressional committees.
"Sec. 424. Duties of the Director.
"Sec. 425. Point of order.
"Sec. 426. Enforcement in the House of Representatives.".

SEC. 305. TECHNICAL AMENDMENTS.

(a) TECHNICAL AMENDMENT.—The State and Local Government Cost Estimate Act of 1981 (Public Law 97–108) is repealed.

(b) TECHNICAL AMENDMENT.—Section 403 of the Congressional Budget Act of 1974 is amended to read as follows:

"ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

"SEC. 403. The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

"(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate; and

"(2) a comparison of the estimate of costs described in paragraph (1) with any available estimate of costs made by such committee or by any Federal agency.

The estimate and comparison so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.".

SEC. 306. EFFECTIVE DATE.

This title shall take effect on October 1, 1995.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate disagree with the House amendments, agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. CRAIG) appointed Mr. ROTH, Mr. DOMENICI, Mr. KEMPTHORNE, Mr. GLENN, and Mr. EXON conferees on the part of the Senate.

THE REGULATORY REFORM BILL

Mr. LOTT. Mr. President, I ask unanimous consent that the regulatory reform bill, S. 343, introduced yesterday by Senator DOLE, be jointly referred to the Committees on the Judiciary and Governmental Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, FEBRUARY 6, 1995

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. on Monday, February 6, 1995; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

I further ask unanimous consent that at 10:30 a.m., the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM FOR MONDAY, FEBRUARY 6, 1995

Mr. LOTT. Mr. President, for the information of my colleagues, on Monday, the Senate will resume consideration of the balanced budget amendment and the pending amendments thereto.

The majority leader has indicated that there will be no rollcall votes on Monday. However, Senator DOLE has stated that he expects a full and extensive debate on the pending amendments on Monday.

This side of the aisle believes that this is a very serious issue, and I assume that the other side of the aisle considers the Daschle motions to commit to be very serious, as well.

Therefore, again, Members should expect a full day of debate on this matter on Monday. If we are ever going to be able to get to the point where we reach a conclusion on this legislation, we must move forward. I expect that there will be amendments and votes all of next week. But we should make sure that we have a full day on Monday.

RECESS UNTIL MONDAY, FEBRUARY 6, 1995, AT 10 A.M.

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, and if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 4:55 p.m., recessed until Monday, February 6, 1995, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 3, 1995:

THE JUDICIARY

ELDON E. FALLON, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA, VICE ADRIAN G. DUPLANTIER, RETIRED.

IN THE COAST GUARD

THE FOLLOWING REGULAR AND RESERVE OFFICERS OF THE U.S. COAST GUARD TO BE PERMANENT COMMISSIONED OFFICERS IN THE GRADES INDICATED:

To be lieutenant commander

GENELLE T. VACHON

To be lieutenant

THOMAS D. BEISTLE
ALGERNON J. KEITH
BRIAN J. PETER
JEFFREY J. KOZBIEL
LESLIE J. PENNEY
KIM J. PACSAI
WILLIAM D. HOGUE
CHRISTOPHER J. CLARK
JOHN M. BRYANT
HUGH R. GRIFFITHS
MARTIN W. WALKER
MANUEL J. PEREZ
CHINH T. LE
DAVID M. LARKIN
RANDY W. EMERY
ROBERT A. ENGLE
WILLIAM D. CAMERON, JR.
SCOTT H. SHARP
PAUL C. FITZGERALD
CLAUDIA J. CAMP
JOHN W. MC KINLEY
LUTHER B. JENNINGS
GREGORY G. STUMP
PAUL W. GEBERT, JR.
TIMOTHY D. DENBY
JAY D. ANDREWS
DAVID R. PERTUZ
MORGAN R. POWERS
JEROME H. HILTON
ANDREW G. DUTTON
MARK W. FLUITT
BARBARO J. ORTA
JENNIFER F. BECK
ROSANNE TRABOCCHI
JACKQUELINE M. LOSEGO
MARY J. SOHLBERG
VALERIAN F. WELICKA
FRANK W. JESTER
WILLIAM B. SWEARS
SHELLEYJO M. ATKINSON
JOHN G. HOMAN
ROBERT J. THOMAS
EVAN C. GRANT
GREGORY D. ERICKSON
CHARLES M. HANCOCK
MARY P. MC KEOWN
ERIC G. HELM
JULIO A. MARTINEZ
EUGENE V. VOGT
JONATHAN B. DUFF
WILLIAM D. HENNESSY
CRAIG L. WELTMAN
PAUL ALBERTSON
CHRISTOPHER J. FALK
STEPHEN A. LESLIE
ANDREW P. WOOD
KENT R. CHAPPELKA
KENNETH A. PIERRO
MICHAEL T. CUNNINGHAM
SHANNON W. MC CULLAR
WILFORD E. MORTON
BRIAN K. PENOYER
PHIL M. PERRY
JANICE L. JENSEN
BRIAN J. DOWNEY, JR.
REED A. STEPHENSON

To be lieutenant (junior grade)

ALAN L. TUBB
KATHERINE E. WEATHERS
GEORGE A. LESHER, JR.
FRED A. GRIFFIN
PATRICK J. NEAL
MARTIN L. MALLOY
JOSEPH H. SNOWDEN II
PAUL MEHLER III
ROBERT J. BACKHAUS
THOMAS MC CORMICK
KYLE J. MARUSICH
TROY A. BESHEARS
GARY D. HENDERSON
MARK J. MC CADDEN
THOMAS P. DURAND
DANIEL W. UTTING
DENIS J. FASSERO
FRANK E. PEDRAS, JR.
DAVID K. DIXON
DEREK F. MYERS
DIANE R. FOSTER
THOMAS S. SWANBERG
DAVID E. CLEARY
PATTI S. BROSSMAN
CHRISTOPHER P. MOORADIAN
STEPHEN H. CHAMBERLIN III
KEVIN P. DUNN
ANDREW N. ZAVENELLI
ERIC J. BAUTZ
JENNIFER P. CROOT
DANIEL SCHRODER
DIANE J. HAUSER
BRIAN M. LISKO
MATTHEW C. CALLAN
CHRISTOPHER L. DAY
JOSE L. JIMENEZ
DANIEL C. JOHNSON
DANIEL J. PIKE
RONALD R. DEWITT, JR.
GEORGE E. DEACON, JR.
JOHN R. FRANCIC
RANDAL S. OGRYDZIAK
RAYMOND C. HAYES II
JOSE L. RODRIGUEZ
PHILLIP S. MC CARTY II
KRISTINE M. HORVATH
JOHN C. WICHT
ANTHONY E. RUMBAUGH
CHRISTOPHER C. MOSS
JAMES M. BOYER
KARA M. SATRA
WILLIAM A. KASTEN
ROBERT A. SANCHEZ
ROBERT W. HOLTHAUS, JR.
JENNIFER A. CUMMINGS
WILLIAM J. MOORE
DARRELL G. MCINNIS
MICHAEL C. BRADY
DOUGLAS H. BORDEN III
NILES L. SEIFERT
FRANCIS J. SUSSKEY, JR.
DAVID MOYNIHAN
JOHN E. VALENTINE
STEVEN R. CUSTER
LLOYD L. STONE II
FREDERICK REYES
JEFFREY C. BABB
ROBERTO E. DEVARIE
MARK A. TENNYSON
LANCE A. ROCKS
DRADY C. DOWNS
ROBERT G. PEARCE, JR.
CHRISTOPHER J. WOODLEY
FREDERICK C. RIEDLIN
STEVEN T. PEARSON
ROBERT E. BAILEY, JR.
THOMAS J. GLYNN
JAMES H. FINTA
JOSEPH M. CARROLL
TODD J. SHOENFELT
TODD J. OFFUTT
JOEL L. REBHOLZ
CHARLES E. GEHINSCOTT
ELIZABETH D. BLOW
DAVID H. CRONK
DAWN C. GORMAN
EUGENE R. LYTTON, JR.
THERESA A. PALMER
MARK E. HAMMOND
PABLO E. ROQUE, JR.
CARLOS A. TORRES
JAMES B. ROBERTSON III
ROBERT E. IDDINS
JEFFREY T. CARTER
RANDALL W. TUCKER
RICHARD M. PRUITT
STEVEN K. MACHOVINA
CHARLES A. HATFIELD III
EDWARD J. LANE III
KRISTY M. PAQUETTE
ERIC S. ENSIGN
MICHAEL J. DREIER
MATTHEW P. ROTHER
JAMES F. DRISCOLL
JAMES J. SZRAMA
LUIS M. ROLDAN
BOBBY L. WILLIAMS
JAMES L. DUVAL
MARK A. LIND
FRANCIS T. BOROSS, JR.
THOMAS A. NORTON
MARK D. WARD
MICHAEL B. WALLACE
RICHARD A. ROBERTS, JR.
KEVIN W. LOPEZ
EDGARDO ROSA
KENNETH A. SMITH
JEFFREY W. JOHNSON
RICKY N. SORRELL
BARBARA A. ROSE
JEFFREY S. FRAZIER
NICOLAS D. CARON
DANIEL C. ROCCO
DAVID B. MAC LEAN
ERIN D. MAC DONALD
DAVID E. PUGH
HAROLD P. BRUU, JR.
THOMAS I. MAC DONALD
KELLY M. POST
DARREN A. DRURY
MICHAEL T. ARNOLD
JAMES B. PRUETT
LYNN A. GOLDHAMMER
GREGORY L. PURVIS
ROBERT P. WARD
DAVID W. EDWARDS
MARC S. HARTMAN
MARK L. COLLIER
RICHARD R. HAYES
JAMES M. MATHIEU
RICHARD S. CRAIG
BRUCE N. DECKER
JESS W. MC GINNIS
RAYMOND C. STONE
ANTHONY C. CURRY
BRIAN R. WETZLER
DAVID C. MORTON
ALBERT R. AGNICH, JR.
MICKEY D. COLE
DAVID A. DRAKE
THEODORE B. GANGSEI
ROBERT P. GILLAN
TRACY J. WANNAMAKER
BRAD J. ERVIN
TRELLIS M. BIVINS
THOMAS H. SHERMAN III
ELMER A. LIMOS
MARK A. CAMACHO
RICKY M. SHARPE
NELSON MEDINA
JOSEPH J. GLEASON
JOHN R. HELTON, JR.
ROBERT J. BOWEN
LILLIAN M. MAIZER
BENJAMIN B. WHITE
DANIEL J. SCHIFSKY
KEITH C. RALEY
MARK T. CUNNINGHAM
SHERMAN P. WHITMORE
CAROLA J. ATKINSON
CHRISTOPHER J. ROBINSON
DANIEL L. YOUNGBERG
TED J. SANCHEZ
DAVID C. BILLBURG
BRUCE L. DAVIES
DARREN M. MOORE
DAVID B. SCOTT
CRAIG S. BREITUNG
SHELDON J. ROBERTS
GREGORY A. HOWARD

IN THE AIR FORCE

THE FOLLOWING INDIVIDUALS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 12203 WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067 TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be colonel

HAROLD L. KENNEDY [redacted]

MEDICAL CORPS

To be lieutenant colonel

GEORGE Z. WEISSFISCH [redacted]
CHAU W. YAN, [redacted]

DENTAL CORPS

To be lieutenant colonel

BRUCE A. JOHNSON [redacted]

THE FOLLOWING INDIVIDUALS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 12203.

LINE OF THE AIR FORCE

To be lieutenant colonel

CHARLES R. DAVIS [redacted]
HUGH A. FORDE [redacted]
JOHN D. KIRBY, JR. [redacted]
WALTER G. LUCAS, JR., 155–44–8377
DOUGLAS D. TAYLOR [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

JUDGE ADVOCATE GENERAL

To be lieutenant colonel

ORIN R. HILMO, JR. [redacted]

MEDICAL CORPS

To be major

TARA L. CHRONISTER [redacted]
VICTOR A. TORANO [redacted]

MEDICAL SERVICE CORPS

To be major

STEPHEN C. WALLACE [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED MAJOR OF THE U.S. MARINE CORPS FOR PROMOTION TO THE GRADE OF LIEUTENANT COLONEL, UNDER THE PROVISIONS OF SECTION 624 AND 628 OF TITLE 10, UNITED STATES CODE:

To be lieutenant colonel

LAWRENCE J. KOVALCHIK [redacted]

EXTENSIONS OF REMARKS

FIGHTING DRUGS IS THE ANSWER TO MORE THAN ONE QUESTION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. SOLOMON. Mr. Speaker, drug abuse takes an enormous toll on our society. We spend billions of dollars on tangible ways to fight abuse like police, prisons, and courts. The problems is many don't recognize the other areas where drugs attack the fabric of this country. Rather than only affecting the individual, drug abuse has widespread and damaging repercussions. Today, 1 out of every 10 babies born in our country is addicted to drugs. According to the Partnership for a Drug Free America, drug use is related to half of all violent crime. Illegal drugs play a part in half of all homicides. Drug use is a factor in half of all family violence which is mostly directed against women. And over 30 percent of all child abuse cases involve a parent using illegal drugs. Obviously, drugs are playing an enormous part in the decline of our country. By aggressively allocating our resources to fight drug use, we show our commitment to mending many of this country's ills. This excellent article from the January 29, 1995 issue of the New York Times Magazine recommends several prescriptions.

[From the New York Times Magazine, Jan. 29, 1995]

IT'S DRUGS, STUPID

(By Joseph A. Califano, Jr.)

Despite all the Republican preening and Democratic pouting since Nov. 8, neither political party gets it. If Speaker Newt Gingrich is serious about delivering results from his party's "Contract With America" and if President Clinton means to revive his Presidency, each can start by recognizing how fundamentally drugs have changed society's problems and that together they can transform Government's response.

For 30 years, America has tried to curb crime with more judges, tougher punishments and bigger prisons. We have tried to rein in health costs by manipulating payments to doctors and hospitals. We've fought poverty with welfare systems that offer little incentive to work. All the while, we have undermined these efforts with our personal and national denial about the sinister dimension drug abuse and addiction have added to our society. If Gingrich and Clinton want to prove to us that they can make a difference in what really ails America, they should "get real" about how drugs have recast three of the nation's biggest challenges.

Law, Order and Justice. In 1960 there were fewer than 30,000 arrests for drug offenses; in 30 years, that number soared beyond one million. Since 1989, more individuals have been incarcerated for drug offenses than for all violent crimes—and most violent crimes are committed by drug (including alcohol) abusers.

Probation and parole are sick jokes in most cities. As essential first steps to rehabilitation, many parolees need drug treatment and after-care, which means far more monitoring than their drug-free predecessors of a generation ago required, not less. Yet in Los Angeles, for example, probation officers are expected to handle as many as 1,000 cases at a time. With most offenders committing drug- or alcohol-related crimes, it's no wonder so many parolees go right back to jail: 80 percent of prisoners have prior convictions and more than 60 percent have served time before.

Congress and state legislatures keep passing laws more relevant to the celluloid gangsters and inmates of classic 1930's movies than 1990's reality. Today's prisons are wall to wall with drug dealers, addicts, alcohol abusers and the mentally ill (often related to drug abuse). The prison population shot past a million in 1994 and is likely to double soon after the year 2000. Among industrialized nations, the United States is second only to Russia in the number of its citizens it imprisons: 519 per 100,000, compared with 368 for next-place South Africa, 116 for Canada and 36 for Japan.

Judges and prosecutors are demoralized as they juggle caseloads of more than twice the recommended maximum. In 1991 eight states had to close their civil jury trial systems for all or part of the year to comply with speedy trial requirements of criminal cases involving drug abusers. Even where civil courts remain open, the rush of drug-related cases has created intolerable delays—4 years in Newark, 5 in Philadelphia and up to 10 in Cook County, Ill. In our impersonal, bureaucratic world, if society keeps denying citizens timely, individual hearings for their grievances, they may blow off angry steam in destructive ways.

Health Care Cost Containment. Emergency rooms from Boston to Baton Rouge are piled high with the debris of drug use on city streets—victims of gunshot wounds, drug-prompted child and spouse abuse, and drug-related medical conditions like cardiac complications and sexually transmitted diseases. AIDS and tuberculosis have spread rapidly in large part because of drug use. Beyond dirty needles, studies show that teen-agers high on pot, alcohol or other drugs are far more likely to have sex, and to have it without a condom.

Each year drugs and alcohol trigger up to $75 billion in health care costs. The cruelest impact afflicts the half-million newborns exposed to drugs during pregnancy. Crack babies, a rarity a decade ago, crowd $2,000-a-day neonatal wards. Many die. It can cost $1 million to bring each survivor to adulthood.

Even where prenatal care is available—as it is for most Medicaid beneficiaries—women on drugs tend not to take advantage, of it. And as for drug treatment, only a relatively small percentage of drug-abusing pregnant mothers seek it, and they must often wait in line for scarce slots. Pregnant mothers' failure to seek prenatal care and stop abusing drugs accounts for much of the almost $3 billion that Medicaid spend in 1994 on impatient hospital care related to drug use.

The Fight Against Poverty. Drugs have changed the nature of poverty. Nowhere is this more glaring than in the welfare systems and the persistent problem of teen-age pregnancy.

Speaker Gingrich and President Clinton are hell-bent to put welfare mothers to work. But all the financial lures and prods and all the job training in the world will do precious little to make employable the hundreds of thousands of welfare recipients who are addicts and abusers.

For too long, reformers have had their heads in the sand about this unpleasant reality. Liberals fear that admitting the extent of alcohol and drug abuse among welfare recipients will incite even more punitive reactions than those now fashionable. Conservatives don't want to face up to the cost of drug treatment. This political denial assures failure of any effort to put these welfare recipients to work.

The future is not legalization. Legalizing drug use would write off millions of minority Americans, especially children and drug—exposed babies, whose communities are most under siege by drugs. It has not worked in any nation where it's been tried, and our own experience with alcohol and cigarettes shows how unlikely we are to keep legalized drugs away from children.

Drugs are the greatest threat to family stability, decent housing, public schools and even minimal social amenities in urban ghettos. Contrary to the claim of pot proponents, marijuana is dangerous. It devastates short-term memory and the ability to concentrate precisely when our children need them most—when they are in school. And a child 12 to 17 years old who smokes pot is 85 times as likely to use cocaine as a child who does not. Cocaine is much more addictive than alcohol, which has already hooked more than 18 million Americans. Dr. Herbert D. Kleber, a top drug expert, estimates that legalizing cocaine would give us at least 20 million addicts, more than 10 times the number today.

It's especially reckless to promote legalization when we have not committed research funds and energies to addiction prevention and treatment on a scale commensurate with the epidemic. The National Institutes of Health spend some $4 billion for research on cancer, cardiovascular disease and AIDS, but less than 15 percent of the amount for research on substance abuse and addiction, the largest single cause and exacerbator of those diseases.

Treatment varies widely, from inpatient to outpatient, from quick-fix acupuncture to residential programs ranging a few weeks to more than a year, from methadone dependence to drug-free therapeutic communities. Fewer than 25 percent of the individuals who need drug or alcohol treatment enter a program. On average, a quarter complete treatment; half of them are drug- or alcohol-free a year later. In other words, with wide variations depending on individual circumstances, those entering programs have a

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

one-in-eight chance of being free of drugs or alcohol a year later. Those odds beat many for long-shot cancer chemotherapies, and research should significantly improve them. But a recent study in California found that even at current rates of success, $1 invested in treatment saves $7 in crime, health care and welfare costs.

Here are a few suggestions for immediate action to attack the dimension drugs have added to these three problems:

Grant Federal funds to state and Federal prison systems only if they provide drug and alcohol treatment and after-care for all inmates who need it.

Instead of across-the-board mandatory sentences, keep inmates with drug and alcohol problems in jails, boot camps or halfway houses until they experience a year of sobriety after treatment.

Require drug and alcohol addicts to go regularly to treatment and after-care programs like Alcoholics Anonymous while on parole or probation.

Provide Federal funds for police only to cities that enforce drug laws throughout their jurisdiction. End the acceptance of drug bazaars in Harlem and southeast Washington that would not be tolerated on Manhattan's Upper East Side or in Georgetown.

Encourage judges with lots of drug cases to employ public health professionals just as they hire economists to assist with antitrust cases.

Cut off welfare payments to drug addicts and alcoholics who refuse to seek treatment and pursue after-care. As employers and health professionals know, addicts need lots of carrots and sticks, including the threat of loss of job and income, to get the monkey off their back.

Put children of drug- or alcohol-addicted welafare mothers who refuse treatment into foster care or orphanages. Speaker Gingrich and First Lady Hillary Rodham Clinton have done the nation a disservice by playing all-or-nothing politics with this issue. The compassionate and cost-effective middle ground is to identify those parents who abuse their children by their own drug and alcohol abuse and place those children in decent orphanges and foster care until the parents shape up.

Subject inmates, parolees and welfare recipients with a history of substance abuse to random drug tests, and fund the treatment they need. Liberals must recognize that getting off drugs is the only chance these individuals (and their babies) have to enjoy their civil rights. Conservatives who preach an end to criminal recidivism and welfare dependency must recognize that reincarceration and removal from the welfare rolls for those who test positive is a cruel Catch-22 unless treatment is available.

Fortunately, the new Congress and the new Clinton are certain not to legalize drugs. Unfortunately, it is less clear whether they will recognize the nasty new strain of intractability that drugs have added to crime, health costs and welfare dependency, and go on to tap the potential of research, prevention and treatment to save billions of dollars and millions of lives.

If a mainstream disease like diabetes or cancer affected as many individuals and families as drug and alcohol abuse and addiction do, this nation would mount an effort on the scale of the Manhattan Project to deal with it.

(Joseph A. Califano Jr. is president of the Center on Addiction and Substance Abuse at Columbia University and former Secretary of Health Education and Welfare. His book "Radical Surgery: What's Next for America's Health Care" was published this month.)

IN RECOGNITION OF MR. BENNETT FISCHTHAL FOR HIS BRAVERY AND COURAGE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today with great pride to share with my colleagues in the House of Representatives the inspiring story of a man who has proven to be an extremely courageous citizen.

Mr. Bennett Fischthal, a graduate of Brooklyn Law School, was returning from a bar review course when he encountered a large fire in the subway station. Bennett did what he does naturally: he came to the assistance of people in crisis. Bennett did not run for safety or worry about his own physical well-being, he stopped and helped the passengers in the subway get to safety.

Bennett responded valiantly to this emergency and has won the praise and the respect of his community. For these actions we cannot express sufficient gratitude to Bennett, an individual who recognizes that the preservation of life and property is a massive responsibility. He made that responsibility his own by coming to the aid of the subway passengers in peril.

Mr. Speaker, I ask my colleagues to join with me now to salute Bennett Fischthal because he has exhibited the ultimate commitment by caring and working so diligently for the safety of others.

A TRIBUTE TO JEAN GILLIGAN

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mrs. MORELLA. Mr. Speaker, I would like to bring to the attention of the House the retirement of a remarkable woman, Jean W. Gilligan, who has now retired after 45 years service as a congressional staffer.

Jean came to Capitol Hill from South Dakota in 1949 and began her career as secretary to Representative Gardner Withrow of Wisconsin. She then became the administrative assistant to Representative Vernon Thomson of Wisconsin from 1961 to 1974. Jean then served on the Committee on Post Office and Civil Service from 1975 to 1994 under four ranking Republican Members: Representatives Edward Derwinski of Illinois, Gene Taylor of Missouri, BENJAMIN GILMAN of New York, and JOHN MYERS of Indiana.

Last night Mr. Speaker, the Congressional Staff Club [CSC] honored Jean W. Gilligan at its annual membership party where she was lauded by friends, colleagues, and CSC members. Jean was the primary force in developing the club into a vital entity for staff members. She served as second vice president of the club in 1965, first vice president in 1966 and president in 1967 and 1993. She was one of the founders of the mixed ten pin bowling league and served as its secretary, vice president and president. The Congressional Staff Club honored Jean by awarding her a life membership in 1977.

There is no doubt that Jean will be greatly missed on Capitol Hill by hundreds of staff members who consider her a colleague par excellence, a friend and a mentor. I, too, will miss you, Jean.

Mr. Speaker, I congratulate Jean on her dedicated service and wish her a long, healthy, and active retirement.

COMMEMORATION OF THE 77TH ANNIVERSARY OF LITHUANIAN INDEPENDENCE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. BONIOR. Mr. Speaker, I rise today to commemorate the 77th anniversary of Lithuanian independence. On Sunday, February 5, 1995, the Detroit-area Lithuanian community will mark the event by holding a commemorative ceremony at the Lithuanian Cultural Center in Southfield, MI.

Lithuania was occupied for nearly 55 years. During that time, Lithuanian representation in the United States was uninterrupted. For those many difficult years, the United States never recognized Lithuania's forced incorporation into the former U.S.S.R.

In 1991, the United States granted most-favored-nation trading status to the Baltic Republic of Lithuania. Since that time, trade with Western countries has risen from less than 8 percent of the total to over 24 percent. In addition, the spread of private sector activity is creating jobs and boosting consumer spending. I understand that the introduction of a stable currency a year and a half ago is stimulating investment. And, there are now over 55,000 privately owned companies in Lithuania. The transition from an occupied nation to a free country has been challenging, but it is a challenge that Lithuanians proudly face.

The Lithuanian community is especially excited to have as their guest speaker, Arturas Paulauskas, Esq., the current attorney general of Lithuania. Mr. Paulauskas has devoted his energies to combating corruption and economic crime. Along with Lithuanians in American and the homeland, I support him in his work to promote a prosperous future for all Lithuania.

I am watching events in Lithuania with much optimism. This weekend's celebration marks the second anniversary without Russian military forces deployed inside the Republic. We must all work to see that they never return.

I commend the Lithuanian-American community for their vigilance through the many difficult years and I urge my colleagues to join me in commemorating the 77th anniversary of Lithuanian independence.

TRIBUTE TO BRADFORD MORSE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. CLINGER. Mr. Speaker, I rise today to remember a former colleague, and one of the founders of the House Wednesday Group, Representative Bradford Morse. The objectives of Brad and the others in starting the Wednesday Group was to foster and promote moderate, Republican ideas. This temperate philosophy carried over to Representative Morse's work as a legislator as he served on the Government Operations and Merchant Marine and Fisheries Committees, and later on Foreign Affairs. On behalf of the members of the Wednesday Group, we deeply regret his passing.

Much to the credit of Mr. Morse, he never forgot the reason he was able to work in this body and establish the group that still meets. The constituents of his Massachusetts district were always a priority. He began contributing to the State early in his career, long before his time here in Washington. Mr. Morse pursued all phases of his education in his home State, and decided to practice and teach law there as well. Appropriately, he also served on the Lowell City Council, the town in which he was born. As you can see, Mr. Speaker, Brad Morse was a man of integrity, a man whose heritage defined his successful career.

After he left Congress, Mr. Morse continued to make a significant contribution as he worked to achieve international peace at the United Nations. In his role as administrator for the U.N.'s Development Programme, Mr. Morse set out to accomplish monumental tasks. Accordingly, and in his typical fashion, the effects of the results he achieved were also monumental.

Mr. Speaker, although I am saddened to be addressing you on the occasion of Brad Morse's passing, it is my privilege and honor to associate myself with the ideas he represented. Perhaps the greatest tribute my colleagues and I can pay to the late Representative is to continue the thoughtful undertakings of the group he founded nearly 30 years ago.

INTRODUCTION OF LEGISLATION TO MAKE THE R&D CREDIT PERMANENT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. NEAL. Mr. Speaker, yesterday Mrs. JOHNSON, Mr. MATSUI, Mr. HERGER, and I introduced legislation to make permanent the Research and Development [R&D] tax credit. U.S. based R&D is critical to our continued economic growth. The R&D credit provides a significant incentive for U.S. companies of perform valuable R&D in the United States providing high-skilled, high-paid jobs for American workers.

The R&D credit was enacted in 1981 to provide an incentive for companies to increase their spending on U.S. R&D. The credit requires companies to increase their current year R&D spending above a predetermined base before they are eligible to receive the credit. Since 1981, the credit has been extended five times and changed to reduce the benefits available to certain companies. The current R&D credit expires on June 30, 1995.

Failure to make the credit permanent has substantially reduced its value to business. Research and Development projects are generally long-term efforts, often spanning 5–10 years. Corporate research planners can not rely on the incentive provided by the R&D tax credit if it is extended for only 12–18 months at a time.

I believe New England would substantially benefit from a permanent R&D credit. New England is still trying to recover from difficult economic times. A permanent R&D credit will provide a signficant incentive for New England companies to perform R&D in New England. The technological innovations perfected through R&D are necessary to assist New England companies that are undergoing defense conversion to compete in the market place.

R&D will help rebuild our economy. –I urge you to support this legislation.

KEEPING THE CONTRACT WITH AMERICA ON TRACK

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. PACKARD. Mr. Speaker, the new Republican Congress continues to carry out its mandate with the American people. We are committed to keeping our Contract With America on track. The American people demanded a Congress that produces results. That's what our contract is about.

We are committed to reducing the size, cost, and scope of Government. So far, we have kept our promise to balance the budget and reform unfunded mandates. Next, we will vote on passage of a line-item veto, a sharp tool to give the President to cut bloated, wasteful Government spending. It will fundamentally change the budget process—in favor of wise spending.

Mr. Speaker, the Republican agenda for change continues. Gone are the days of empty rhetoric. The new Congress works for results, not empty promises. Mr. Speaker, I hope America is watching and checking off the items in our contract. We are working for them.

THE WAR ON DRUGS: RENEWING THE BATTLE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. SOLOMON. Mr. Speaker, during the 1980's, the message to Americans was "Just Say No to Drugs and Alcohol." Children were admonished by their sports and entertainment heros to stay away from marijuana and cocaine. Statistics show that the message was working, at least as far as adolescent drug use was concerned. But during the Clinton administration, the war on drugs has been downsized and their supporters in the drug culture are claiming it can't be won. As the following article emphasizes, teenagers are showing a renewed interest in illegal drugs. Without the constant reminders to avoid these mind-numbing and brain killing substances, kids have begun testing the waters. The only way to safeguard the future of America is to stop this experimentation before the sharks take over again.

The article follows:

[From the Wall Street Journal, Jan. 18, 1995]

DRUG COMEBACK: ONE SAD TREND LOST IN SHUFFLE

(By Gerald F. Seib)

The new Congress isn't exactly short of things to do, but here's one task crying out for attention: putting a stop to the backsliding underway in the national war against drugs.

Subtly, almost imperceptibly, drug use is creeping back up among America's youth. Worse yet, all the warning signs of bigger problems ahead are flashing. Use of marijuana, often a precursor of cocaine use, is up sharply among teens. Simultaneously, young people's perception that drugs are risky is declining, an attitude change that usually forecasts an actual upturn in drug use.

At least one powerful voice is trying to persuade the new, Republican-controlled Congress to fix its eyes on this troubling picture. The voice belongs to William Bennett, the former drug czar, who has been pressing new GOP members to get drugs onto at least their second 100 days' agenda. His message, Mr. Bennett says, is simply this: "You cannot ignore it."

In truth, though, ignoring the problem is what a lot of people, in Congress and out, have been doing. Consequently, the country is in a position roughly akin to that of a drug abuser who may appear to be recovering but who actually is in grave danger of a relapse.

Over the last few years, it was possible to conclude that, outside of the inner cities, broader American society had finally turned the tide in its long battle against illegal drugs. Studies by the University of Michigan Institute for Social Research, for instance, showed that drug use among high school seniors declined gradually but steadily through the second half of the 1980s and into the 1990s. Not coincidentally, perceptions that regular drug use was risky rose through the same period.

Now, those comforting trendlines have turned. The University of Michigan research shows that illicit drug use has been rising, slowly but clearly, among eighth and 10th graders and high school seniors in each of the last two years. Particularly alarming was the rise found in the use of marijuana. Over the past two to three years, the share of students reporting use of marijuana at least once in the past year has doubled among eighth graders, grown by two-thirds among 10th graders, and jumped by 40% among high school seniors.

The rise in marijuana use is particularly troubling, because historical trends show that marijuana is a "gateway" drug often leading to other drugs. Recent studies by Columbia University's Center on Addiction and Substance Abuse, or CASA, document a link between marijuana, as well as alcohol and tobacco, and later cocaine use. To put a grim human face on the latest statistics, CASA estimates that the jump in youthful marijuana use means 820,000 more young Americans will try cocaine in their lifetime, and that 58,000 of them will become regular cocaine users as adults.

Why is this happening? The best guess is the broadest one. The country is letting down its collective guard.

For starters, society generally has stopped pounding home the theme that drugs are dangerous, meaning that a whole new set of young Americans isn't getting the same kind of clear signal their older brothers and sisters did. "The message is getting mixed," frets Joseph Califano, the former health, education and welfare secretary and CASA's chairman. "It's everything from the fact that we're starting to see pot come back to the movies and the music business, which are incredibly important to young people, to the fact that Joycelyn Elders is sending out an ambiguous message."

Surgeon General Elders has just departed, of course, so now it's up to President Clinton and his administration to undo any damage her casual remarks about possible drug legalization may have done. But the problem is hardly confined to the Clinton administration. Congress is equally complicit in toning down the anti-drug message.

In the budget he presented for the current fiscal year, Mr. Clinton proposed spending $659.2 million on a program to help ensure safe and drug-free schools. Congress last year chopped that request down by 27%, to $482 million.

Now comes the new Republican Congress, which will be torn between its budget-cutting impulses and the painful fact that programs to interdict drugs and prevent their use cost money. This is one area where anticrime bromides alone won't suffice. Some in the drug-fighting community are particularly worried that, as spending on federal social programs gets packed into block grants and shipped out to the states, drug-fighting will get pushed to the back of the line of competing claims.

For his part, Mr. Bennett suggests that existing federal and state law-enforcement money could be used for a "targeted, intense effort at closing down drug markets in the cities." The first battle, though, isn't against drug dealers. It's against creeping national complacency.

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HONEST WORK EQUALS JUST REWARD

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. HILLIARD. Mr. Speaker, I rise today to address the issue of welfare, specifically, reforming our welfare system. How can we, as a Congress, and as a society, make welfare reform work?

I'll tell you how—by paying people a livable wage. Individuals must be able to earn a decent wage for a day's work. We have to pay our workers enough to live on, enough to keep themselves and their families above the poverty level.

Current discussion of welfare reform would require recipients to find gainful employment. Gainful employment should at least be a viable alternative, providing adequate compensation for workers and their families. The only way to achieve this is to increase minimum wage levels. If wages had kept up with inflation after 1970, the current rate would have risen to $5.54.

I am urging that we immediately raise the minimum wage to $5.50, and index it for inflation, in order to avoid this injustice in the future. We must protect the interest of America's working class by offering fair compensation for honest work. This is the way we take people off of welfare. Thank you, Mr. Speaker.

THE DEPOSITORY INSTITUTION AFFILIATION ACT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. LAFALCE. Mr. Speaker, today I am happy to join my distinguished colleague, Congressman BAKER of Louisiana, in introducing the Depository Institution Affiliation Act of 1995.

We are on the brink of a new century. Yet the laws which govern the financial services system which must meet the demands of that century are antiquated. They reflect a world in which only banks offered bank services; major corporations relied primarily on banks for their financing; consumer needs were simply and easily segregated into discrete products offered by distinct industries; and U.S. banks were easily preeminent at home and abroad.

That world no longer exists. Technology and product innovation have blurred the lines between various financial products and the businesses of the companies which provide them. Increasingly, individual and corporate customers have their financial needs met through new financial products provided outside the traditional U.S. banking system. Strong competition from foreign banks, which operate within legal structures which recognize rather than ignore new market dynamics, pose a serious competitive challenge to U.S. institutions in both foreign markets and our own.

As policymakers have failed to address these issues and U.S. law has remained static, the banking system has attempted to respond to new consumer demands and market developments through ad hoc regulatory adjustments and strained and unduly complex efforts by the banks to devise products and structures which might allow them to meet new demand within the limitations current law permits. The result has been a system that is excessively costly, complex, and inefficient. It undercuts our international competitiveness, limits consumer choice and convenience, and ultimately suppresses economic growth.

This cannot continue. In a competitive global marketplace, we can no longer afford to be indifferent to something as critical as the financial system which underpins our economy.

In 1991, I had the privilege of chairing a Banking Committee Task Force on the International Competitiveness of U.S. Financial Institutions. After an exhaustive analysis of the condition of U.S. banks and the challenges they faced, that task force concluded it was absolutely incumbent upon policymakers to undertake a fundamental and comprehensive reassessment of the major laws and the regulatory structure which underpin the U.S. banking system. Four years have passed and, while there has been some progress—most notably last year's interstate legislation—and much effort, the structure of our financial system has remained substantially unchanged and U.S. banks still face the same problems and constraints.

We can no longer respond to the serious problems our outdated financial services system imposes by peripheral change. The task force had a much broader vision of what needed to be done, and the bill we are introducing today responds to that vision. While this bill may not be perfect, it will facilitate a badly needed debate addressing the basic structural problems that result from the outdated activities and affiliation restrictions in current law. I would expect there will be changes as the process moves forward. In particular, I look forward to working closely with my colleague, Mr. BAKER, to address our mutual concern that the bill ensure that a restructured system will provide international banks comparable treatment to our domestic institutions, so we can in turn ensure that our own firms are equally fairly treated abroad.

Our objective in this legislation is to create a structure for the U.S. financial services system that will allow U.S. companies to provide consumers and businesses with the most cost-efficient and highest quality financial products, and to compete fairly in a global marketplace, while operating in a safe and sound manner. It is an objective we must achieve if we are to meet the challenges ahead. I urge that my colleagues offer their support to this important effort.

INTEREST RATES

HON. PAT DANNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Ms. DANNER. Mr. Speaker, home interest rates are up, housing starts are down. Car plants are closing, credit cards rates are rising, and more jobs are lost.

I am alarmed that these scenarios exist in America in 1995 during this time of apparent prosperity. But for the seventh time since last February, the Federal Reserve has raised the short-term interest rate. And for the seventh time since last February, Americans will experience increased borrowing costs. We have heard many technical excuses about "cooling an overheating economy" and "curbing the rise of inflation."

Meanwhile, the people I represent are saying, "that's enough!" The Fed does not reserve the right to impose rate hike after rate hike on the hardworking citizens of my district who struggle every day to meet upward spiraling home, farm, and car payments. Most Americans who can scarcely afford life's necessities are having a difficult time believing that the economy is growing too rapidly. It is my hope that this is the last rate increase for a long time.

TRIBUTE TO PAUL BUTHERUS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. SKELTON. Mr. Speaker, today I wish to honor a great Missourian, Paul F. Butherus. Last fall Paul Butherus was inducted into the Northwest Missouri State University's Athletic Hall of Fame.

An athlete, official, and coach, Butherus began his athletic career at Maryville High School. During 1940–44, Butherus was a letter winner in football, basketball, track, and tennis. Before moving onto college, Butherus served in the U.S. Infantry from 1944–46, where he was awarded a Purple Heart in the Battle of Luzon. In his college years at Northwest Missouri State College from 1946–49, Butherus was a 3-year letter winner in football, basketball, and track.

Butherus served as a teacher, coach, and athletic director from 1949–83 at various high schools. From 1949–50 he was at Madrid High School in Iowa. Following his years in Iowa he returned to Plattsburg High School in Missouri until 1958. He then went to Wentworth Military Academy in Missouri where he was until 1983.

I urge my colleagues to join me in recognizing this talented athlete. I congratulate him on his lifetime accomplishments and contributions.

MEXICAN BAILOUT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. VISCLOSKY. Mr. Speaker, I rise today in adamant opposition to President Clinton's unilateral decision to bailout the Government of Mexico. In response to the President's actions, I am joining a number of my colleagues in introducing today a resolution calling for a full investigation of this matter by the U.S. Comptroller General.

I am extremely disappointed that the President decided to circumvent Congress and provide billions of dollars in United States-backed loan guarantees to rescue Mexico from a financial collapse without first receiving congressional approval. The taxpaying citizens of northwest Indiana are absolutely opposed to this United States-funded bailout of the Mexican Government.

While I recognize and appreciate the problems associated with a devalued peso and illegal immigration, I do not believe these arguments are compelling enough to justify a nearly $50 billion bailout of the Mexican Government. As someone who adamantly opposed NAFTA, I strongly believe that the United States aid package designed to prop up Mexico's unstable economy is the wrong course of action to take at this time. Mexico's problems are far more serious than a short-term currency shortage. This crisis clearly shows that NAFTA has failed to deliver on its promises of a strong and stable Mexico.

Mexico's problems are social, political, and economic in nature. The present crisis was precipitated by the Chiapas rebellion, as well as the assassination of key leaders. Mexican society is unstable, as evidenced by the recent elections, which contained extensive voter fraud. Mexico is also continuing its policy of repressing worker rights and labor standards in order to attract United States factories and foreign investors. New economic reforms proposed by the Mexican Government would reduce the average Mexican wage by at least 5 percent over the coming year, making cheap Mexican labor even cheaper.

Mexican's reforms have not gone far enough and they are now going the wrong direction. The Mexican Government is going to reduce wages of the ordinary worker, including the minimum wage, in order to help balance the Mexican budget and control the economy. Punishing the ordinary Mexican worker because of the irresponsibility of the Mexican elite is typical of a country with such a large gap between the rich and the poor.

Finally, we are setting a bad precedent by helping Mexico. It is entirely possible that Mexico will face a similar or worse crisis in the near future. United States taxpayers should not have to put up billions of dollars every time Mexico is unable to maintain fiscal stability. After all, 38,000 taxpaying citizens of northwest Indiana lost their jobs in the late 1970's and 1980's. The U.S. Government certainly did not step in to provide loan guarantees for those with home mortgages, credit card debt, or car loans.

I urge all Members to take a strong stand on this issue by supporting the resolution introduced by Representative GENE TAYLOR requiring that the U.S. Comptroller General provide a detailed explanation about the legality of the President's decision.

CONCERNING THE STENHOLM AMENDMENT TO H.R. 2—LINE-ITEM VETO ACT

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. STENHOLM. Mr. Speaker, as indicated by my submission of amendments, placed into the RECORD on Wednesday, I intend to offer an amendment to H.R. 2, the Line-Item Veto Act. Although my first choice would be to substitute my expedited rescission authority for H.R. 2, I understand that there is great difficulty in achieving the votes for that approach. Therefore, my plan is to offer an amendment which leaves H.R. 2, as amended, entirely intact and simply adds on the expedited rescission authority.

As you know, Mr. Speaker, there were three amendments approved by the Committee of the Whole during yesterday's proceedings. I was particularly pleased to see the amendments offered by the gentlewoman from Florida [Mrs. THURMAN] and the gentleman from Georgia [Mr. DEAL] accepted by the House.

In order to guarantee that I am offering my add-on to the base package which has been approved by the House, I have redrafted my amendment to incorporate the Clinger, Thurman, and Deal amendments. I am today submitting for the RECORD my amendment so that everyone might have full opportunity to examine it.

INTRODUCTION OF THE SUPERFUND RECYCLING EQUITY ACT OF 1995

HON. BLANCHE LAMBERT LINCOLN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mrs. LINCOLN. Mr. Speaker, today I am introducing legislation along with Mr. UPTON, Mr. SCHAEFER, Mr. BOUCHER, Mr. MANTON, Mr. GILLMOR, and Mr. TAUZIN to relieve legitimate recyclers from Superfund liability. We introduced similar language last year with bipartisan support. This language was developed in conjunction with the recycling industry, the environmental community and the Federal Government and was incorporated into the Superfund Reform Act of 1994 in the 103d Congress.

The Superfund Recycling Equity Act of 1995 is intended to place traditional recyclable, or secondary, materials which are used as feedstocks in the manufacturing process on an equal footing with their virgin, or primary, materials counterparts. Traditional recyclables are made from paper, glass, plastic, metals, textiles, and rubber.

This legislation has become necessary because of an unintended consequence of the

Comprehensive Emergency Response, Compensation, and Liability Act [CERCLA] or Superfund. Some courts have interpreted CERCLA to mean that the sale of certain traditional recyclable feedstocks is an arrangement for the treatment or disposal of a hazardous substance and, therefore, fully subject to Superfund liability. While there exists in law and legislative history no suggestion whatever that the Congress intended to impede recycling in America by providing a strong preference for the use of virgin materials through the Superfund liability scheme, that is precisely what has happened.

Mr. Speaker, the American people and their elected leaders have insisted that the recycling rates in our country increase, not decrease. I am offering the Superfund Recycling Equity Act of 1995 to encourage more, not less, recycling. Intuitively, our citizens know that increased recycling means less use of natural resources, which both extends the life of those resources and minimizes any adverse environmental impacts of their exploitation.

The use of recyclables is also of importance to the achievement of the goals of pollution prevention and waste minimization, which have taken on increased importance in the environmental debates of the past few years. For example, the use of recycled steel results in a 90 percent savings in virgin material use, 40 percent reduction in water use, 76 percent reduction in water pollution and a 97 percent reduction in mining waste over the use of virgin ores. Recycling is also more energy efficient than the production of primary metals. As an illustration, using recycled materials in place of virgin materials results in tremendous energy savings: 95 percent for aluminum production, 75 percent for iron and steel, 64 percent for paper, and 80 percent for plastics.

Let me now address what my bill does—and does not—do. The Superfund Recycling Equity Act of 1995 acknowledges that the Congress did not intend to subject to Superfund liability those governmental or private entities who collect and process secondary materials for sale as feedstocks for manufacturing. This bill removes from liability those who collect, process, and sell to manufacturers paper, glass, plastic, metal textiles, and rubber recyclables. This bill also exempts from liability those individuals who collect lead acid, nickel, cadmium, and other batteries for the recycling of the valuable components. However, my CERCLA bill does not address or exempt chemical, solvent, sludge, or slag recycling. It addresses traditional recyclables in a CERCLA context only. I do not intend it to be viewed as a precedent for any other amendment to Superfund or to any other environmental statute, whatsoever.

It should also be clearly understood that this bill addresses the product of recyclers, that is the recyclables they sell which are utilized to make new products. This does not affect liability for contamination that is created at a facility owned or operated by a recycler. Neither does it affect liability related to any process wastes sent by a recycler for treatment or disposal. In order to assure that only bonafide recycling facilities benefit from this bill, I have established a number of tests by which liability relief will be denied to sham recyclers.

I encourage my colleagues to support and cosponsor this worthwhile piece of legislation that will promote the practice of recycling to preserve our natural resources and the environmental integrity of this country.

CONGRATULATIONS TO THE JEWISH FEDERATION OF GREATER BRIDGEPORT AND UNITED JEWISH APPEAL ON SUPER SUNDAY

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. SHAYS. Mr. Speaker, today I am pleased to congratulate the Jewish Federation of Greater Bridgeport, CT, as it proclaims Sunday, February 5, 1995 Super Sunday.

For nearly 55 years, the Jewish Federation of Greater Bridgeport has served and represented Jews in need, through its service to the cities and towns of Bridgeport, Easton, Fairfield, Monroe, Stratford, and Trumbull. It provides health services, social and educational opportunities to citizens through agencies such as the Greater Bridgeport Jewish Community Center, the Jewish Home for the Elderly, Jewish Family Service, Hillel Academy, and Merkaz Community Hebrew High School.

Through the continuing work of the United Jewish Appeal, the Jewish Federation has been able to provide both social and humanitarian services to hundreds of thousands of Jews in Israel and in 40 other countries around the world.

On Sunday, February 5, both organizations will conduct a combined annual telethon campaign to raise vitally needed funds to continue providing these worthwhile services abroad and here at home. The dedication and perseverance demonstrated by each of these organizations is a testament to the commitment they have to the Jewish community.

I commend each organization for the valuable contribution they have made to Jews in this country and around the world.

VOLUNTARISM IS ALIVE IN TENNESSEE—MAURY COUNTY OBSERVES THE 50TH ANNIVERSARY OF WORLD WAR II

HON. ED BRYANT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. BRYANT of Tennessee. Mr. Speaker, so many Tennesseans volunteered their services to their country during the War of 1812 that the State became known as the Volunteer State, and is so known to this day. Voluntarism is yet alive in the State, not only by those in the military, but by civilians as well.

President George Bush, by Presidential proclamation, designated the years 1991–95 as time to observe the 50th anniversary of World War II, judged by historians to be the outstanding event of the 20th century. He asked that every county in the country appoint a World War II Commemorative Committee to encourage the observance.

Long before the proclamation, Maury County, TN, had begun making plans to honor those men and women who had served in that great struggle. Volunteers copied more than 4,000 discharges. Veterans were contacted and urged to share letters, diaries, newspaper clippings, and other memorabilia, and to either write their memoirs or allow themselves to be interviewed.

The response was overwhelming and grew into a two volume history, 832 pages, 8½ by 11, entitled "Maury County Remembers World War II," edited by Virginia W. Alexander, editor, and Margaret D. Ashton, associate editor. Like the character Kilroy, Maury Countians were all over the globe, engaged in every conceivable activity. They were storming the beaches, sailing the high seas, building the Ledo Road, flying with General Chennault. One doctor was captured with the medical unit of the 101st Airborne at the Bulge. Another medical officer was captured on Corregidor.

For those Doubting Thomases who do not believe there was ever a Holocaust, F.J. Haley's letter should dispel that doubt. Although 225 consecutive days in combat with the 808th Tank Destroyer Battalion had hardened him to war, he was not prepared for what he found when they liberated a concentration camp.

The apologists for dropping the A-Bomb should read Lt. Col. Newsom Cooper's account of locating two cyclotrons when he went into Japan with the 8th Army. And artillery officer John Jewell's account of how ill-prepared we were for war should make every American marvel at how we overcame that obstacle to go on to victory.

This is history, not written by professional historians after the fact, but by those who were right in the thick of it.

All of the work on the book was by volunteers, who contributed not only their time, but paid for their own postage, telephone calls, and gasoline. The only cost was for the actual printing, which was borne by the Maury County Historical Society.

On December 7, 1991, the books came off the press and American Legion Post 19 and Auxiliary Unit 19 hosted an autograph party and show-and-tell day, when veterans brought memorabilia to share with many who attended.

Many other activities have honored veterans since that time. Post 19 and Unit 19 have hosted three reunions, one being for those who left here with a Naitonal Guard outfit, and became the 181st Field Artillery. Another was for those who were in the Normandy campaign, and another for those who served in the Pacific. Other reunions are planned before the observance ends. Videos were made at the reunions, when each veteran present told about his experiences.

These are but a few of the activities honoring World War II veterans of Maury County, when not a penny of tax payers money was spent.

Members of the World War II Commemorative Committee in addition to Mrs. Alexander and Mrs. Ashton are: Hal Morgan, a Marine World War II veteran; Cam Anderson, 101st Airborne veteran of World War II; Robert Bradley, Armored Division veteran of World War II, and James Bloss, Korean war veteran and Veterans Service Officer. The late Lon

MacFarland, Chief of Staff of the 5th Armored Division, was also a member.

PITTSTOWN TO HONOR FRANK LOSZYNSKI, RETIRING TOWN JUSTICE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. SOLOMON. Mr. Speaker, earlier this year, one of the finest public servants I have ever known retired after more than 30 years of service. I'd like to say a few words about him.

Mr. Speaker, I'm not exactly famous for my kind remarks about Democrats, but when they are as outstanding as Frank Loszynski, former town justice of Pittstown, NY, I have no problems at all. Keep in mind that Republicans outnumber Democrats two to one in Pittstown, and you will have an idea of the man's effectiveness and popularity.

Actually, Frank Loszynski had a solid reputation for integrity even before his election. His personal and business conduct established him in the eyes of his neighbors as an excellent candidate for a justice seat, and they were right. Over the years he confirmed the confidence of the voters by conducting his office with fairness and understanding, earning the support of Democrats and Republicans alike.

Mr. Speaker, on March 25 there will be a banquet in his honor. I would ask you and all Members to join me today in paying our own tribute to Frank Loszynski, an outstanding judge and a great American.

SPECIAL TRIBUTE TO ALFRED AND GENESSA BERTEL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. ACKERMAN. Mr. Speaker, I wish to pay special tribute to Alfred and Genessa Bertel of East Hills, NY, an absolutely remarkable and special couple, on the occasion of their 50th wedding anniversary. This auspicious occasion was joyously celebrated this past Sunday at a surprise party at Papagallo's in Glen Head, NY, with over 100 loving close friends and family. The party was, according to one account one of the funnest celebrations ever.

Al and Nessa have both touched the lives of many people indeed. The mark of a successful life is the positive influence on other people, and by that measure, the Bertels are a resounding success. In addition, they have achieved great successes in other areas of their lives. Al founded one of the first supermarket chains in New York City, and to this day runs a very successful wholesale produce business in the Bronx. He served in the U.S. Army during World War II, and fought in the Pacific. His deep and sincere generosity and largeness of spirit have endeared him beyond description to family, friends, business associates, and employees.

Nessa, as past president of the Roslyn Chapter of Hadassah, and as a continuing active member of Hadassah, has long been devoted to the cause of Israel, and other worthy causes. She is, for good reason, a popular and very beloved figure in the community. Her love and devotion is a source of strength not only for her children, Sharon, Aaron, and Mindy, but for many other family and friends.

Al and Nessa, who are in remarkably good physical shape, and have somehow managed to barely change their appearance over the past 50 years, deserve the highest accolades and congratulations over this unique and happy milestone. I ask all my colleagues in the House of Representatives to join me now in congratulating Alfred and Genessa Bertel on their 50th wedding anniversary, in lauding them for their many years of good works to the community and to the Nation, and in wishing them many more years of health and happiness.

DEPOSITORY INSTITUTION AFFILIATION ACT OF 1995

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. BAKER of Louisiana. Mr. Speaker, the landmark legislation I am introducing this afternoon, the Depository Institution Affiliation Act of 1995, is designed to restore the competitiveness of our Nation's financial services sector and to set the stage for the financial markets in the 21st century. I am particularly pleased to introduce this legislation with Senate Banking Committee Chairman ALFONSE D'AMATO who introduced similar legislation yesterday in the Senate. In the 193d Congress, I had the distinguished honor to work with the Senator on another piece of legislation, the Small Business Loan Securitization Act of 1994, and it is certainly my hope that our efforts this year will be just as successful.

Mr. Speaker, I would like to digress a moment with a bit of history to illustrate the great importance of this legislation. In 1933, an American engineer perfected the FM radio. In 1956, color televisions were selling in the retail market. In 1969, Neil Armstrong took the historic first walk on the Moon. Today, while we are at the edge of the information superhighway, we take for granted home computers, fax machines, and pocket-sized cellular phones. If you were born some 50 years ago, you've seen remarkable advancements in technology and business opportunities that have revolutionized the way we live and the way we work. Unless, of course, you are a banker or a provider of financial services. I invite everyone in the House of Representatives to join me in rewriting the laws governing our Nation's financial services industry by supporting the Depository Institution Affiliation Act of 1995.

A few days ago, I had a conversation with one of our Federal bank regulators which had a lasting impression on me. While detailing the present condition of the banking industry, he suggested that it was in many ways analogous to the state of our Nation's railroad industry a decade ago. In making that comparison, he underscored that our banking industry, and more broadly the financial services industry, is at a crossroads. He suggested that the regulatory structure that presently governs our financial services marketplace—like that of our railroad industry a century ago—serves only to hinder competitiveness, to restrict rapidly developing markets, and to limit the availability of financial products and services to American consumers.

Mr. Speaker, the legislation I introduce today is virtually identical to legislation that I have previously cosponsored in the past three Congresses. I introduce this bill today with broad bipartisan support, just as it has enjoyed bipartisan support in years past. I would like to personally thank my colleagues BILL MCCOLLUM, DAVID DREIER, MIKE CASTLE, PETER KING, JOHN LAFALCE, BARNEY FRANK, and FLOYD FLAKE for joining me as original cosponsors of this landmark legislation.

The bill this year differs only slightly to reflect the changes in the banking laws over the past few years. Most notably, for example, some changes were made as a consequence of the Federal Deposit Insurance Corporation Improvement Act of 1991—Public Law 102–242.

With this in mind, Mr. Speaker, the Depository Institution Affiliation Act of 1995 seeks: (1) To promote competition among bank and nonbank providers of financial services; (2) to encourage innovation in the design and delivery of financial services and products to individuals, consumers, large and small businesses, non-profit institutions, and States and municipalities; (3) to ensure that adequate regulation of financial intermediaries in order to protect depositors and investors; (4) to preserve the safety and soundness of the banking system and the overall financial system; and, (5) to protect the Nation's taxpayers by requiring that nonbanking activities are conducted in separately capitalized and functionally regulated affiliates.

It is important for all of us to remember that the antiquated structure of today's financial services industry is much the same as it was 62 years ago, except there are more rules and regulations to prohibit the development of new products and services. The banking rules of 1933 and 1956 are still the law of the land, despite the fact that the rest of the business world has changed dramatically.

In the last half of this century, the banking and financial services industry has undergone enormous change largely due to advances in technology and information processing—changes that were not contemplated when our present structure was conceived. Between 1933, with the Glass-Steagall Act, and 1956, with the Bank Holding Company Act, much of the current Federal legal structure governing providers of financial services was erected. Thus, our present structure is based on a bygone era of market segmentation of generally distinguished financial products, such as deposits, securities, whole life insurance, and other products. This form of market segmentation no longer corresponds to the realities of today's dynamic financial marketplace. In many ways the financial markets are progressing despite Congress. Interstate banking, for example, was practically obsolete by the time

Congress got around to it last year. All too often, participants in the financial markets, like commercial banks and investment banks, work together within the confines of current law to improve the availability of products and services to the consumer. We can improve upon the financial service industry's ability to deliver these services to their customers with this legislation I introduce today.

As a member of the House Banking Committee since 1989, I have noticed that we all too often respond to the problems of the past instead of trying to set the stage for a competitive marketplace in the 21st century. As with competition in any business, there will be winners and there will be losers. The real question is, who should decide the winners? Governmental rules that restrict the markets of hard work and competitiveness in the financial marketplace?

Recently, Bill Gates, the chairman of Microsoft Corp., referred to the banking industry as a "dinosaur" because of the banking industry's inability to keep pace with technological advances. Under today's artificial segmentation of the financial services industry, if a customer goes to a bank for financial planning they may be told to invest in a CD, a money market fund, and get a home equity loan—because that is all the bank has to offer. At the insurance company, they may be told to invest in an annuity and buy whole life insurance. And finally, at a securities firm, they may be told to invest in a mutual fund, stocks, or government bonds. All of these suggestions are based not necessarily on the best interests of the consumer, but simply on what the institution has to offer. I believe that if institutions were able to market a full array of financial products they could better serve the needs of all customers.

The legislation has been carefully designed to address the barriers to market entry contained in the Bank Holding Company Act, the Glass-Steagall Act and other laws designed to artificially restrict competition.

As the chairman of the Subcommittee on Capital Markets, Securities and GSE's, I hope that the introduction of this bill, with broad bipartisan support, will encourage further debate on the future of the entire financial services industry rather than merely focus on only one of its component parts. To this end, I intend to hold a series of hearings addressing the way our capital markets function and how the financial services industry operates under current law. Finally, it is my hope that we will advance legislation this spring to respond to our ever-changing financial marketplace.

Piecemeal reforms that merely address bank powers without taking into consideration competitive interests of the system as a whole does the consumer of financial products a disservice. Removing restrictions on bank affiliations, while at the same time ensuring safety and soundness within the depository institution affiliate, would ensure that the financial services industry could continue offering new products while protecting and enhancing the financial system as a whole.

Whatever reforms we undertake must recognize the reality of the marketplace, which is that the financial services industry has become one market. We must eliminate outmoded barriers to the conduct of financial businesses that deny this reality and thereby limit the profitability of all financial firms.

Mr. Speaker, I look forward to working with you and all Members of the House in order to bring real reforms to our Nation's financial marketplace. For the record, I also would like to include the enclosed article written by the Senate Banking Committee Chairman ALFONSE D'AMATO that appeared in yesterday's Wall Street Journal. I ask that you please join me today in supporting the Depository Institution Affiliate Act of 1995. Thank you.

[From the Wall Street Journal, Feb. 2, 1995]

MY PLAN FOR A STRONGER FINANCIAL INDUSTRY

(By Alfonse D'Amato)

It's time to bring financial regulation out of the 1930s and into the 21st century. To achieve that goal, I am introducing legislation today that would break the Chinese wall between different sectors of the financial industry built by the Depression-era Glass-Steagall Act and other laws.

My Depository Institution Affiliation Act would level the playing field for banking, securities and insurance companies by authorizing the creation of "financial services holding companies" to engage in everything from banking to securities underwriting to manufacturing.

This diversification—which would reduce the risk that taxpayers would have to pick up the tab for a future banking crisis—is long overdue. The past 20 years have seen growing competition among financial providers that has undermined the strict limits in federal law on permissible activities for bankers, stock brokers and insurance underwriters. The banking industry's share of U.S. financial assets has fallen to less than 30% from 66% in just 20 years. Borrowers are relying on securities, finance and insurance firms to raise funds. Since 1980, mutual funds assets have grown at a compounded rate of 22% and today total $2 trillion—not much less than the $2.4 trillion of domestic deposits in U.S. banks.

The walls between different financial sectors have been crumbling—but slowly. Banks have had to jump through all sorts of regulatory hoops to move into new areas such as securities and insurance. Major retailers, auto makers and appliance manufacturers, meanwhile, have established finance arms to provide customers with credit to purchase their goods. But they haven't been able to open their own banks.

Many of these developments have come about through a patchwork of deregulation by bank regulators and the courts. Recently, for example, the Supreme Court approved the Comptroller of the Currency's ruling that banks may broker annuities.

Last year Congress got into the picture by authorizing interstate banking. But Congress has so far been unable to enact a sweeping reform that would simplify the regulatory picture and make the U.S. financial services industry more competitive globally.

My bill would accomplish that goal. Under this legislation, regulation of banks and nonbank affiliates would be divided along functional lines. The FDIC-insured-bank affiliates would be regulated by federal and state bank regulators; the securities affiliates by the Securities and Exchange Commission; and the insurance affiliates by state insurance commissioners.

Strong firewalls, costly penalties and expedited enforcement procedures would prevent bank holding companies from jeopardizing taxpayer-insured deposits. Provisions against "tying"—requiring a bank customer to use a bank's new services in conjunction with its old ones—would protect customers against anti-competitive conduct.

A National Financial Services Oversight Committee consisting of representatives of the leading financial regulatory agencies (Treasury, the Federal Reserve, FDIC, SEC, CFTC, and so on) would help to ensure that regulations for the entire financial industry are streamlined and uniform.

As long as the insured-bank affiliates are protected, there is little to fear, and much to gain, from allowing industry and commercial businesses into banking. Commerical firms will infuse new capital and expertise into the banking system.

What makes me think this ambitious bill can pass now after similar efforts were defeated in the recent past? For one thing, there is now a Republican Congress. In the House, legislation was often blocked in the past by splits between the Banking and Commerce committees; now that authority over financial services has been consolidated in the Banking Committee, that shouldn't be a problem. And House Banking Chairman Jim Leach has moved in our direction by introducing legislation that would remove barriers on commercial banks affiliating with securities firms.

The Clinton administration is now studying our plan. I've urged Treasury Secretary Robert Rubin to support the principles outlined in the Depository Institution Affiliation Act, and endorsed by the Bush Treasury Department in 1991. By working together with the administration, the Republican Congress can overcome the companies of vested interests and reform our outdated financial services laws. We should not miss this opportunity for bipartisan cooperation.

WHY WE SHOULD NOT LIFT THE ARMS EMBARGO UNILATERALLY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 3, 1995

Mr. HAMILTON. Mr. Speaker, on January 11, 1995 three high-level administration officials briefed the Congress on the situation in Bosnia. Attention was focussed on the impact that unilaterally lifting the arms embargo would have on the ground in Bosnia and on our relations with our NATO allies, as well as the implications of such action for United States military involvement in the conflict.

Lt. Gen. Wesley Clark, director for strategic plans and policy, Joint Chiefs of Staff, on this occasion provided a detailed and forceful analysis of the probable sequence of events and the dangerous consequences for Bosnia and the United States that would result from lifting the arms embargo unilaterally: the war will intensify; U.N. peacekeepers will leave; United States Armed Forces will be drawn directly into the ground war and a deep rift will develop with our NATO allies.

General Clark's remarks at this closed briefing have just been declassified. I am inserting them into the RECORD at this time so my colleagues who did not have the opportunity to hear General Clark will now have an authoritative analysis of the why the United States should not lift the arms embargo unilaterally.

Congressional Testimony, LTG Clark's Remarks, 11 January 1995

Mr. Chairman, let me say at the outset that we welcome the opportunity to update you on the current situation on the ground in Bosnia, current operations, options for alleviation the situation, the status of ongoing planning for UNPROFOR withdrawal, and efforts to strengthen UNPROFOR.

The situation on the ground has stabilized since the signing of the cease fire on 31 December. The heavy fighting has subsided and the skirmish lines have remained steady since the agreement went into force. Sporadic small arms fire remains a threat, however there is an overall improvement in the conditions in Bosnia-Hercegovina.

From the military perspective, I would like to first assure you that we are continuing with a number of ongoing operations in the Balkans including:

TF Provide Promise (Humanitarian initiative).

Deny Flight (No Fly Zone Enforcement).

Sharp Guard (Sanctions Enforcement).

Able Sentry (Stabilizing Force).

We have no units on the ground in Bosnia-Hercegovina, but do have 15 personnel in Sarajevo on the UNPROFOR staff. We are also responsible for funding a proportion, 31 percent, of all costs associated with UNPROFOR—this amounted to $271 million in Fiscal Year 94.

I would like to open the discussion of lifting the arms embargo by stating briefly that the Joint Staff has studied the impact of unilaterally lifting the arms embargo, and while I do not intend on going through the full briefing, I would like to cite some of the key findings that may prove relevant today.

The concept underlying a unilateral lifting of the arms embargo would be to improve the ability of the Federation Armed Forces to counter the strengths of the Bosnian Serb Army. Our analysis indicates that, if the US lifts unilaterally, this is an extremely unlikely outcome. Rather, if the arms embargo is unilaterally lifted, we believe that violence and humanitarian suffering in the region will increase.

Let me run through what we believe will happen if the US determines unilaterally to lift the arms embargo.

(1) The Congressional vote would have immediate adverse repercussion among our allies in NATO, most of whom warned us strongly about the risks to their soldiers and the adverse international consequences should the arms embargo be unilaterally lifted.

(2) Following a Congressional vote, the President would issue a determination that would direct that the embargo be unilaterally lifted despite United Nations Security Council Resolution 713. Additionally, restrictions on the issuance of munitions export licenses to Bosnia would be lifted, and the US Government policy to utilize authorities under the Arms Export and Control Act and Foreign Assistance Act would be changed to allow transfer and sale of arms to Bosnia.

(3) Contributing nations would immediately decide to withdraw their forces before the escalation of violence. We have been assured privately and publicly that they will leave. NATO forces and equipment will immediately begin staging for withdrawal operations. Within weeks of the vote to unilaterally lift the arms embargo and hopefully, before the lift is implemented, the withdrawal operation would commence. The United States has decided in principle to participate in the withdrawal, as described by Mr. Slocombe. Under the best circumstances, there will be little organized threat to the withdrawn UNPROFOR forces or the NATO force, however there would be sniping and intermittent harassment impeding the withdrawal. The withdrawal will take 2 to 4 months to accomplish.

(4) Humanitarian support would fall off. NGO/PVOs also would begin withdrawing as tensions rise and fighting increases. Some of the 248 NGOs/PVOs in country would need to be extracted using the NATO force, lengthening the overall withdrawal process, and further depriving the populace of humanitarian support.

(5) Bosnian Serb Forces would likely begin an offensive. In a coordinated effort, at some point during or immediately after the withdrawal, we anticipate that Serb forces will attack to split Bosnia, overrun eastern enclaves, and deprive Bosnia of military options. The lifting of the arms embargo has sent a signal to the Serbs that their strength relative to the Bosniaks will only decrease as arms begin to flow to their adversary. They must attack or see their hopes for a greater Serbia vanish. Fighting will escalate. The humanitarian efforts will all but stop as Serbs interdict both governmental and nongovernmental relief organizations at will.

(6) Bosniak offensive action would also ensue—fighting designed to protect their people, their existing territory, and enhance their credibility as a military. We believe that despite the Bosniaks superiority in manpower and notable ongoing efforts to build up their forces, the outcome would likely follow the outlines of the battles around Bihac * * * some initial Bosniak gains followed by Serb counterattacks to cut off and isolate Bosniak forces.

(7) Additional arms would begin to flow into Croatia bound for Bosnia.

(8) Meanwhile, Bosnia would likely appeal for US assistance—unable to defeat Serb heavy weapons, hindered in fighting effectively by trying to absorb the new weapons and build a modern fighting force * * * there will be charges and counter-charges of outside intervention * * * and more urgent appeals to Islamic nations.

(9) If the battlefield situation were to evolve in this manner, the US would confront a profound dilemma * * * stand aside, or intervene. The arguments for direct US military intervention would be strong.

That the purpose of lifting was to give the Bosniaks the means to defend themselves * * * we cannot allow their defeat and slaughter.

That US airpower can make a crucial difference * * * and must be applied quickly to forestall a need for US intervention on the ground.

That others are already helping the other side.

Of course, there would also be cogent arguments for not intervening:

That US intervention—even from the air alone will substantially raise the risks of widening the war.

That there are very real limits on what airpower can accomplish in that terrain * * * if it does not intimidate the Serbs, it may not be able to physically prevent them from seizing the eastern enclaves or other actions.

That the US determination to unilaterally intervene in the war will further isolate us from our NATO allies.

That by military intervention, we will further Americanize the conflict.

(10) While we were debating, regional tensions would continue to rise. The threat of the Serbs would cause all regional parties to lobby for arms for self protection and to take preventive action. The future of the confederation between Bosnia and Croatia would be cast into doubt if the United States does not supply arms to Croatia—and if we do supply weapons, we might raise the probability that the Croats will attempt to regain the Krajina region by force.

(11) Further widening of the conflict. As the Serbs press the attack, the countries of the region would seek even more intensively to draw in outside support. All parties in the conflict will seek supplies from their benefactors. If the US has lifted unilaterally, it is likely that the Russians or others would begin overt support to Serb forces throughout the region. There would also be more support for the Bosniaks from Islamic nations, including the most radical, anti-Western elements. Even within NATO, there would be strong tensions between nations, and in some cases strong support for opposite sides.

(12) The conflict may spin out of control. The escalation in fighting and the additional weapons flowing into the region would lead to a widening of the war.

In sum, these are the long-term implications of unilaterally lifting of the arms embargo:

(1) There would be an Americanization of the war. Explicit U.S. involvement would likely be required, including both U.S. Close Air Support (CAS) to assist the Bosnians and ground forces for ensuring humanitarian aid flows and for filling the vacuum created by UNPROFOR withdrawal, unless we wish to see the Bosnian state partitioned between Serbia and Croatia.

(2) Damage to NATO would be extensive and perhaps irreparable. There would be a significant impact on our alliance relationships that would impair our cooperation within NATO and undermine 45 years of alliance cooperation. Loss of access to key NATO basing, infrastructure, or overflights is a virtual certainty. NATO relevance will be thrown into doubt the very time we are seeking to establish NATO as the central foundation for a new European security architecture.

(3) Unilateral lift would also have a detrimental impact on our national credibility both within our alliance and at the United Nations. The long-term impact of our noncompliance with a United Nations Security Council Resolution would call into question our reliability, motives and ability to exercise global leadership. Other sanctions efforts, such as Iraq and Libya, would be weakened as well.

(4) A dangerous East-West confrontation becomes a real possibility, as does a geographic widening of the war.

(5) Finally, unilateral lift is unlikely to provide any reasonable solution to the problem on the ground in Bosnia.

The focus of the scenario that I have developed applies primarily to a unilateral lift of the arms embargo. If this were to be a multilateral effort, many of these problems would be obviated.

In the event that the embargo is lifted or that the UNPROFOR mission is determined no longer to be viable, UNPROFOR will have to withdraw. NATO has already made the determination to support this effort. As a result, NATO planning to support UNPROFOR withdrawal is ongoing.

Planning for withdrawal of UNPROFOR began in July, when it was recognized that UNPROFOR would be unable to execute such a complex and difficult operation without substantial assistance from NATO. The current status is that a NATO concept plan was presented to the Military Committee in Brussels and sent back to SACEUR for detailed planning. The detailed plans have been completed in draft by Allied Command Europe and briefed to SACEUR.

The essence of the plans, as we understand them, is to provide additional combat brigades, with supporting elements to assist UNPROFOR's withdrawal. Some portion of the force will, in all likelihood, need to be stationed in Bosnia prior to the commencement of the withdrawal. The operation would be conducted under NATO control, with appropriate rules of engagement to facilitate force protection as well as mission accomplishment.

As previously stated, the President has expressed our commitment to participate in such an operation, subject to a detailed review of the plans, and consultation with Congress.

However, we continue to believe that the option with the greatest chance of long-term success is to encourage UNPROFOR to remain in Bosnia-Hercegovina until a negotiated settlement can be reached. To this end, an information meeting of Chiefs of Defense from the NATO nations, the Russian Federation, NATO staff, UN Secretariat and the Commander of UNPROFOR was held in The Hague from 19–20 December in which participants formulated a number of military recommendations to enhance UNPROFOR's effectiveness.

The results of the meeting were unanimous. There was "a unified resolve to continue UNPROFOR's mission in order to help alleviate the suffering of the civilian population in conflicts areas of the former Yugoslavia. Furthermore, the meeting recognized the important role UNPROFOR is playing in creating the conditions favorable to the eventual achievement of a negotiated settlement."

The meeting's specific recommendations cover various steps for improving the capabilities, effectiveness and the freedom of movement of UNPROFOR and reducing its vulnerability. These include measures:

Enhancing the effectiveness and self-defense capabilities of UNPROFOR. Examples include equipment, communications enhancements and the improvement of liaison between UNPROFOR and the warring parties.

Facilitating the delivery of humanitarian aid to Sarajevo and the enclaves.

Finally, the meeting reaffirmed the crucial important of maintaining UNPROFOR's impartial mission until a negotiated settlement can be reached.

At this time, capitals are examining potential national contributions that could be made with an aim towards an improvement in UNPROFOR's effectiveness.

Mr. Chairman, I thank you for the opportunity to speak with you today, and I would be happy to entertain your questions at this time.

SENATE—*Monday, February 6, 1995*

(Legislative day of Monday, January 30, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by a guest Chaplain, Rabbi Joshua O. Haberman, of the Washington Hebrew Congregation.

PRAYER

The guest Chaplain, the Rabbi Joshua O. Haberman, offered the following prayer:

Let us pray:

God of all nations, Thou has put into our minds the vision of an age when "Nation shall not lift up sword against nation * * * Neither shall they learn war anymore." When human follies overshadow this vision of peace, let not cynicism overtake us. Create a new heart and renew a steadfast spirit within us so that we may see Thy light even in darkness and still believe that Thou hast put divinity into mankind and still trust that reason has not altogether forsaken the human race nor compassion frozen in our hearts.

May we ever be humble enough to learn, bold enough to act, and faithful enough to persevere in the hope for brighter days when all human families will be one as Thou art one. Amen.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon [Mr. HATFIELD] is recognized.

APPRECIATION FOR RABBI JOSHUA HABERMAN

Mr. HATFIELD. I thank Rabbi Joshua Haberman for his willingness to come this week and open our Senate with a prayer. He is the rabbi of one of the largest congregations here in the Washington, DC, district. I am very grateful, and I know on behalf of the leadership of both sides we wish to express our deep gratitude to the rabbi.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. DEWINE. Mr. President, this morning the time for the two leaders has been reserved, and there will now be a period for the transaction of routine morning business until the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each.

At the hour of 10:30 a.m., the Senate will resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment and the pending amendments thereto. The majority leader has indicated there will be debate only today on the amendments. Therefore, there will be no rollcall votes during today's session.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. AKAKA addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Hawaii [Mr. AKAKA] is recognized.

OPPOSING THE BALANCED BUDGET AMENDMENT

Mr. AKAKA. Mr. President, as my colleagues know, we have all been elected to the Senate to make the difficult policy decisions that confront our Federal Government. Every day on the Senate floor, we engage in decisionmaking that is the essence of the legislative process.

Some decisions that come before the Senate are rather commonplace, such as how much to spend on scientific research or whether we will build and maintain new highways or ports. Other decisions are much more profound, such as who will become the next Supreme Court Justice, or whether or not our Nation will go to war.

No decision a Senator makes it more profound than our vote on an amendment to the Constitution. Amending the Constitution is an extraordinary legislative action that has occurred only a few times in our Nation's history.

The first 10 amendments, which we know as the Bill of Rights, were proposed and ratified almost immediately after the Constitution itself. In the next 200 years, only 16 amendments were proposed by Congress and ratified by the States.

This experience tells us that the balance and compromise crafted during the Constitutional Convention has served us very well. We are governed by a remarkably resilient document, and it is a tribute to our Founding Fathers that the Constitution has been amended so infrequently.

I am deeply concerned that the amendment we are now considering will upset the delicate balance of power forged during the Constitutional Convention of 1787. The balanced budget amendment would transfer fundamental spending and taxing authority from Congress to the executive branch. By this amendment, we would unravel mechanisms that our Founding Fathers delicately weaved into the fabric of the Constitution to keep the excesses of the executive, judicial, and legislative branches in check. I genuinely fear that the balanced budget amendment would give rise to an imperial Presidency. And let us remember that domination by the Executive is what caused us to abandon our relationship with England and establish a great democracy.

During hearings convened by House and Senate committees, many professors of law and learned constitutional scholars expressed well-founded concerns that, if ratified, the balanced budget amendment would permit the President to impose taxes or fees in order to enforce the amendment. It would also implicitly or explicitly repeal the impoundment control measures contained in the 1974 Budget Act.

The notion that the Executive should be allowed to impose taxes without the concurrence of Congress is a radical proposition. It violates the constitutional principle that Congress alone should have the power to lay and collect taxes.

Our Constitution is a remarkable document. As ratified by the States, its fundamental elements are now familiar to us all: A government divided into three parts—each part separate and distinct—and each armed with tools to defend against the excesses of the other.

Yes, our Constitution has been amended over the years. We have 10 amendments that set forth fundamental rights guaranteed to all. We have a number of housekeeping amendments which establish the electoral college, provide for the election of Senators by popular vote, and establish an orderly process in the event of the death of the President. We have amendments that secure freedom and promote universal suffrage, such as the 13th, ending slavery; 14th, due process, equal protection; 15th, end discrimination; and the 19th and 26th amendments, vote for women and 18-year-olds.

But none of these amendments reorders the fundamental structure of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

power and authority as would occur under the balanced budget amendment. The balanced budget amendment would tilt the balance of power heavily in favor of the Executive, and, as I said earlier, promote an imperial Presidency.

There are those who argue that a balanced budget amendment is a good idea. After all, if families can balance their budgets, why cannot the Federal Government? Under the proposed amendment, the Federal Government would be required to balance its budget every year. The only time a deficit could occur would be during time of war, or when three-fifths of the House and Senate agree. While it sounds easy, there remains a glaring problem with such a simplistic approach to reducing the Nation's debt. What programs would Congress cut to achieve a balanced budget by the year 2002, the date on which the amendment would go into effect? What Federal agencies would have their budgets slashed in order to help the Federal Government meet the requirements of the balanced budget amendment?

Estimates by the nonpartisan Congressional Budget Office call for spending cuts totaling $1.5 trillion by the year 2002. CBO also predicts that if Social Security and defense are exempted from the balanced budget numbers then all other Federal programs would be cut across the board by 30 percent. That of course, is assuming that all cuts are equal and that partisanship is left out of the mix.

Although I wholeheartedly support and endorse efforts to balance the Federal budget, I am greatly concerned that the $1.5 trillion in spending cuts needed to meet the goals of a balanced budget amendment by the year 2002 would have a devastating impact on a wide segment of our population. Supporters of the resolution fail to explain where these tremendous budget cuts would fall. Without assurances that Federal agencies and programs would be equitably affected, such a plan is unworkable.

I strongly back Democratic leader DASCHLE's amendment that would require Congress to pass an honest, detailed plan to balance the budget before the balanced budget constitutional amendment goes to States for ratification. It is irresponsible for us to vote on an amendment requiring a balanced budget which would necessitate draconian budget cuts without knowing what we would be cutting and how. We need to know. The American people have the right to know.

Let me mention a few more aspects of this balanced budget amendment that concern me. A constitutional amendment to balance the Federal budget could damage the economy more than strengthen it. Greater amounts of deficit cutting would be required in periods of slow growth than in times of rapid growth—an action which economists predict would result in more frequent and deeper recessions.

Such an amendment could also limit public investments that are critical to long-term growth because the amendment makes no distinction between investments such as education and training and early intervention programs for children, and other types of government spending. These investments are necessary to ensure the Nation's competitiveness and help the economy grow.

Because the amendment calls for a balanced budget every year, regardless of whether economic growth is strong or weak, larger spending cuts or tax increases would be needed in periods of slow growth than in times of rapid growth, further exacerbating an already crippled economy.

Mr. President, I know we will have ample time to debate this issue further, and I look forward to the ensuing debate.

* * *

ALAN EMORY, DEAN OF WASHINGTON-BASED NEW YORK REPORTERS

Mr. MOYNIHAN. Mr. President, I rise today to honor the dean of Washington based New York reporters, Alan Emory. Mr. Emory, a writer for the Watertown Daily Times, has been covering Washington for the last 43 years. His personal style and fabled wisdom have allowed Mr. Emory to provide his readers in upstate New York with a window to Washington.

Deemed a small town by some, Watertown's success stories include three former Secretaries of State: John Foster, John Foster Dulles, and Robert Lansing. Other notable Watertown residents included Roswell P. Flower, former Governor of New York State; and Frank Woolworth, founder of the five-and-dime store.

Having been voted president of the prestigious Gridiron Club in recognition of his many years of reporting excellence, Mr. Emory now joins the list of celebrated Watertown residents. Alan Emory was sent to Washington in 1952 when his distinguished publisher, John B. Johnson, decided to give his readers more for their money. He has certainly done that. Mr. President, I ask unanimous consent that an article from the Watertown Daily Times celebrating Mr. Emory's accomplishments and years of service be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Watertown Daily Times, Jan. 29, 1995]

ALAN EMORY, DEAN OF WASHINGTON REPORTERS

(The following article by Jonathan D. Salant is reprinted by permission from the January edition of Empire State Report.)

At one of U.S. Sen. Daniel Patrick Moynihan's infrequent gatherings for the Washington press corps from New York newspapers, a New York Times reporter attempted to sit in the front row.

"No, no, no," Moynihan sputters. "That's the dean's seat."

The "dean" in this case refers to Alan Emory, the 72-year-old correspondent for The Watertown Daily Times. Most of the reporters who join Emory weren't born when he came to Washington 43 years ago, the result of an effort by his publisher to give the readers something more in exchange for a price hike. The rest of the New York press corps watches Emory take his seat in front and pour a cup of coffee for the senator. They sit silent deferentially to allow Emory to ask the first question, much as the senior wire service reporter opens presidential news conferences.

Emory began covering Washington before Moynihan, who later served in the administration of four presidents, began his career in public service as an aide to then-Gov. Averell Harriman. Emory has covered Govs. Thomas Dewey, Harriman, Nelson Rockefeller, Malcolm Wilson, Hugh Carey and Mario Cuomo. He has covered Sens. Irving Ives, Kenneth Keating, Jacob Javits, Robert Kennedy, Charles Goodell, James Buckley, Alfonse D'Amato and Moynihan.

Emory has reported on the administration of Harry Truman, Dwight Eisenhower, John Kennedy, Lyndon Johnson, Richard Nixon, Gerald Ford, Jimmy Carter, Ronald Reagan and George Bush.

Come March, he'll be dining with Bill Clinton.

"It's a very exciting prospect," Emory says.

In December, Emory was elected president of the Gridiron Club, an association of powerful Washington journalists. Some of his predecessors include David Broder, Helen Thomas, Carl Rowan and Jack Germond. Emory says he can't remember another reporter from a small newspaper being elected club president.

Each March, the Gridiron Club holds an ultra-exclusive white-tie dinner featuring the president, his cabinet, and most of Washington's top public officials and politicians. Like the Legislative Correspondents Association's annual show in Albany, the Washington reporters write parodies poking fun at Republicans and Democrats alike. As club president, Emory gets to dine with Clinton and must keep an eye on him throughout the show, the better to report back to the membership on how he reacted to the skits.

Clinton gets to deliver a rebuttal following the show. Next year's speakers also include Moynihan and former Education Secretary Bill Bennett.

It's been a long journey between dinner with the president and Watertown, where Emory first was hired in 1947 after graduating from Columbia University with a master's degree in journalism. (He attended Harvard University as an undergraduate.)

Emory was covering the Dewey administration in Albany when his publisher, John B. Johnson, called him in August 1951.

"We're going to raise the price of the paper. We owe the readers something," Emory recalls Johnson telling him. "How would you like to go to Washington?"

Emory jumped at the chance. He and his wife, Nancy, packed up and moved south. Shortly after arriving in Washington, they found a house on a lake in a Virginia suburb. They've been there ever since, raising three children. They now have four grandchildren as well.

He's traveled with presidents, covered the White House, and written on foreign affairs. But his bread-and-butter is the local, day-to-day coverage of New York affairs in Washington. The congressional delegation. The St. Lawrence Seaway. The state lobbying office. Politics. Federal decisions as they affect the Empire State.

The New York connection has served Emory well. At the 1960 Republican National Convention, Emory got there a few days early and hung out with aides to then-New York Gov. Nelson Rockefeller. They told him that Rockefeller was not going to be nominated for president against Richard Nixon. A national scoop.

"I got the story long, long before anyone else even came close to it," Emory says.

Likewise, at the 1968 Republican convention, while waiting to interview with William Miller, the former upstate New York congressman who was Barry Goldwater's running mate four years earlier, Emory found a poll that showed Nixon being more popular than Rockefeller in New York. The two men were competing for the 1968 Republican presidential nomination. Emory gave his story to the Nixon folks with the stipulation that they agree to credit his newspaper if they used the information. Sure enough, there was Nixon a few days later, quoting the Watertown Daily Times.

Emory spends much of this time chronicling the Watertown-area congressman, John McHugh, R-Pierrepont Manor. McHugh was 3 years old when Emory first went to Washington.

"I took my first lessons about politics from Alan Emory's column," McHugh says. "I've read about his experiences and his observations. I finally had a chance to meet with him face-to-face and work with him. It was a thrill for me. To most people in the north country, Alan Emory is our window on the Capitol."

Many regional reporters in Washington move on to greener pastures. They land jobs at larger papers or enter the government. Emory says he has never tired of his job or the Watertown paper. He once had a shot at a bigger paper, but it fell through. Otherwise, he says, he's never wanted to leave.

"Watertown treats me like a member of the family," he says. He goes on vacation when he wants. He has the time to do projects like Gridiron. The paper was very supportive when he underwent cancer treatment a few years back.

One of Emory's friends, Allan Cromley of the Daily Oklahoman, walks by. "Don't believe a word he says," Cromley says. Emory smiles and goes on.

"When people play up to the big metropolitan papers, there's that frustration," Emory says. "But there's a counterweight that comes if you luck into somebody from your neck of the woods who gets way up there."

Eisenhower's press secretary, Jim Haggerty, used to work for Dewey. Nixon's secretary of state, William Rogers, was a native of St. Lawrence County. Former Central Intelligence Agency chief Allan Dulles was a Watertown native. All became sources for Emory.

Others from the north country have passed through. Former state Sen. Douglas Barclay of Pulaski chaired President Bush's upstate campaign in 1988 and was named to the Overseas Private Investment Corporation. Former north country Rep. Robert McEwen was appointed by President Reagan to one of the joint U.S.-Canadian commissions. Former Assistance Education Secretary Donald Laidlaw was an Ogdensburg native.

Another official, former Republican National Committee Executive Director Albert (Ab) Herman, had played professional baseball in Watertown. Emory wrote a story about him, and Herman began hearing from old friends long forgotten. "He was a fabulous political source from then on," Emory recalls.

In the 1950s, the federal government used to publish a book listing the home congressional district of numerous federal workers. Anyone hailing from the north country's congressional district could expect a call from Emory.

"I would leaf through that book, call them up and do interviews," Emory says. "These people nobody had ever been in touch with before. They started getting mail from old neighbors who saw their write-ups in The Watertown Daily Times. Also, it gave me all kinds of contacts. If the individual didn't have the answer, he could lead me to someone who did."

A U.S. senator named Hubert Horatio Humphrey became a source as well. Humphrey and Emory's mother, Ethel Epstein, served together on the board of the liberal Americans for Democratic Action.

Emory lists Humphrey and former Michigan U.S. Sen. Philip Hart as his two favorite politicians. He came to know Hart after an aide to New York U.S. Sen. Herbert Lehman joined the Michigan senator's staff.

Among contemporary politicians, it is Cuomo, who Emory landed as the speaker for the 1988 Gridiron show, who is his favorite. Cuomo sent him a note a couple of years back for his 70th birthday.

Had Cuomo run for president, he might have been the chief executive accompanying Emory to the Gridiron dinner next March. But Emory says he's not surprised Cuomo never went for the White House.

"I was never totally convinced that he wanted to undergo the battle," Emory says. "He would have loved to be president but he would have hated to be a candidate."

UNITED STATES TRADE SANCTIONS ON THE PEOPLE'S REPUBLIC OF CHINA

Mr. THOMAS. Mr. President, over the weekend the administration announced its decision to impose trade sanctions beginning on February 26 on the People's Republic of China in retaliation for the latter's dismal failure in safeguarding U.S. intellectual property rights. As the chairman of the Subcommittee on East Asian and Pacific Affairs, I fully support that decision.

Since 1992, the PRC has failed to live up to its obligations under the Memorandum of Understanding on Intellectual Property Rights. Factories throughout China, especially in the southern and eastern provinces, continue to mass-produce pirated versions of American computer software, compact discs, CD-ROM's, and video and audio cassettes mostly for sale abroad. The USTR estimates that piracy of audio-visual works runs close to 100 percent, while piracy of other technological items such as computer software runs around 94 to 100 percent. In addition, piracy of trademarks is rampant.

This piracy is much more than a minor nuisance. The sale of these pirated items has cost U.S. businesses more than $1 billion, a sum which threatens to increase exponentially as the number of pirated products swells. It endangers American jobs, as well as our primacy in software innovation.

What makes the manufacture of these illegal goods even more galling, however, is the fact that their production is tolerated, if not actively encouraged in some instances, by Chinese municipal and provincial governments as well as the central authorities in Beijing. The USTR has complained repeatedly about the problem and United States-China negotiators have been meeting for more than a year and a half in an effort to resolve it. Still, the Chinese refuse to stem the flow of these goods out of the PRC.

Certainly, the Government cannot claim ignorance of the problem. Even if the USTR had not been so thorough in documenting the problem, this is hardly a case of a few small "mom-and-pop" concerns operating covertly in an open, unregulated economy. Rather, these are large factories—some, enterprises run by governmental entities such as the People's Liberation Army—operating in a Communist country with an economy that is still largely command-based. The likelihood that, for example, the estimated 75 million compact discs produced illegally in China each year—of which 70 million are exported—could escape the attention of the government is about nil.

Mr. President, I realize that this is an especially sensitive time in Sino-American relations, and that this is not the only thorny issue with which we are presently grappling. Human rights issues, trade barriers, Taiwan, the proliferation of weapons to such rogue nations as Iran all complicate our relationship. What's more, with an ailing Deng Xiaoping apparently no longer in complete control of the party or the government, and the hold of Jiang Zemin and Li Peng on the reins of power less than firm, we face a possibility that taking a strong stand on any of these issues with the Chinese could aid in bringing in power reactionary hardliners inimical to a beneficial relationship between our two countries.

Despite this concern, I believe that the time has come to take a firm stand with the PRC on this issue. In the 1960's, Mao Zedong was fond of referring to the United States as a "paper tiger," a fierce countenance but no substance to back it up. In Wyoming we'd say "all bark and no bite." In my view we have, unfortunately, all too often lived up to that assessment. It is hardly in our own interest to be perceived as a paper tiger on this issue. Intellectual property is one of the fastest growing areas of the world economy. The PRC is not the only country we are having this problem with: Brazil, India, and others are sources for concern with the USTR. By taking a firm position now with the Chinese, I believe we help head off similar problems elsewhere in the future.

While I will be the first to acknowledge the importance and desirability of a strong relationship—both diplomatically and economically—with the PRC, such a relationship should not be built at the expense of America's businesses, or America's reputation for resolve. This administration, I believe, has been too quick to hold us hostage in the present in favor of the mere expectancy of an economic benefit in the future.

Later this week, I will be meeting with Ambassador Li Daoyu. While I intend to reaffirm with him our desire to maintain a strong relationship with Beijing, I also hope to discuss the importance of resolving this issue before advances can be made on other fronts. I support free trade, as long as it is fair trade. In my view, a failure on the part of the PRC to do so would indicate to me they do not desire a level playing field. Consequently, I would be hard pressed to continue to support the present trade relationship with the PRC.

Mr. President, the Chinese have a saying: "Either the East Wind prevails over the West Wind, or the West Wind prevails over the East Wind." It seems to me, though, that we should both strive for that preferred state where neither wind blows: Calm.

Mr. President, I yield the floor.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, I doubt that there have been many, if any, candidates for the Senate who have not pledged to do something about the enormous Federal debt run up by the Congress during the past half-century or more. But Congress, both House and Senate, have never up to now even toned down the deficit spending that sent the Federal debt into the stratosphere and beyond.

We must pray that this year will be different, that Federal spending will at long last be reduced drastically. Indeed, if we care about America's future, there must be some changes.

You see, Mr. President, as of the close of business Friday, February 3, the Federal debt stood—down to the penny—at exactly $4,804,726,503,001.28. This means that on a per capita basis, every man, woman, and child in America owes $18,238.82 as his or her share of the Federal debt.

Compare this, Mr. President, to the total debt a little over 2 years ago—January 5, 1993—when the debt stood at exactly $4,167,872,986,583.67—or averaged out, $15,986.56 for every American. During the past 2 years—that is, during the 103d Congress—the Federal debt increased over $600 billion.

This illustrates, Mr. President, the point that so many politicians talk a good game, at home, about bringing the Federal debt under control, but vote in support of bloated spending bills when they get back to Washington. If the Republicans do not do a better job of getting a handle on this enormous debt, their constituents are not likely to overlook it 2 years hence.

COMMENDING THE CHOIR OF ST. OLAF COLLEGE

Mr. GRAMS. Mr. President, I rise today to honor the St. Olaf Choir, from St. Olaf College in Northfield, MN, and welcome its members to Washington, DC.

For more than three-quarters of a century—since 1912—the St. Olaf Choir has been Minnesota's musical ambassador, performing concerts in the United States, Europe, and Asia that have earned it a reputation for artistic excellence and have brought these talented young people international acclaim.

During its 83-year history, the St. Olaf Choir has garnered a considerable list of achievements. In 1970 and 1972, it became the only college choral group ever invited to perform at the world-renowned Strasbourg International Music Festival in France; it was one of only five choirs to sing at the 1986 Olympic Arts Festival in Seoul, South Korea; and the St. Olaf Choir celebrated its 75th anniversary season with a month-long tour of Japan, Taiwan, and the People's Republic of China.

Under the direction of Anton E. Armstrong, the St. Olaf Choir is performing this week at Washington's Kennedy Center. I welcome them to our Nation's Capital, and I thank the St. Olaf College Choir, its students, and instructors for serving as Minnesota's musical voice to the world.

LANETT'S CENTENNIAL CELEBRATION

Mr. HEFLIN. Mr. President, I rise today to commemorate the recent 100 year birthday of Lanett, AL, a small textile city located on the bluffs of the Chattahoochee River in Chambers County. Lanett—named for Mr. Lafayette Lanier, an early councilman and president of West Point Manufacturing Co., and Mr. Theodore Bennett, a Bostonian who served as the selling agent for West Point Manufacturing Co.—is a town rich with history.

On December 7, 1865, the Alabama Legislature convened in general assembly and passed the act of incorporation for the town of Bluffton, AL. Twenty-eight years later, a new charter was sought. Bluffton had grown, and the citizens of the town deemed it appropriate to change the town's name. On February 1, 1895, a charter for the newly named town of Lanett was approved by the State legislature.

The new charter provided means by which the town clerk could assess taxes and sell property of delinquent taxpayers after a proper notification. Police were given jurisdiction over areas 1 mile beyond the town boundaries. Road and street work, which previously was demanded of every male over the age of 18, could now be exempted upon payment of a $3-a-year street tax.

The city of Lanett struggled in its infancy for financial survival. Early records show the city had to borrow money at 8 percent interest in order to pay its bills. Happily, in the year of 1902, the treasurer reported for the first time that income exceeded the town's debts and that there was even a balance on hand at year's end.

Other problems beset the first few years of Lanett. The smallpox epidemic of 1903 had a grave impact on the city. Dr. S.H. Newman was paid $10 a year by the city to treat the patients. After a long bout with this disease, a fumigation and vaccination program was begun.

The city of Lanett has come a long way over the past 100 years. Today, it is a healthy city of over 9,000 residents. It owns and operates its own electrical, natural gas, water, an sewage treatment systems. It has a street department and collects its own garbage. Furthermore, it has one of the most modern police, fire and emergency medical service departments in the State. As you can see, Mr. President, Lanett has a lot going for it.

The centennial celebration committee has chosen as its theme, "Remembering the past as we prepare for the future." Mr. President, I believe that Lanett, AL, is evidence that small town America is alive and well.

VOLUNTARY SCHOOL PRAYER: IT MUST BE RESTORED

Mr. HELMS. Mr. President, the U.S. Senate, since the inception of the 104th Congress, has thus far participated in two significant debates. The first determined the role of the Federal Government in the affairs of the States; and the second will decide whether, after decades of insane spending of the American taxpayers' money, the U.S. Congress will finally get around to controlling itself with a balanced budget amendment to the U.S. Constitution.

All of us should recognize the importance of these significant issues. Certainly, I do. However, one wonders whether liberal politicians, who time after time have beaten back attempts to restore moral and spiritual principles to our society, are not content for Congress to focus its attention on the Nation's economic woes while spiritual issues—for example, protecting unborn life and restoring school prayer—are being sidetracked with harsh rhetoric such as extreme, worthless, and insignificant.

Mr. President, lest our leftward-tilted friends become too satisfied with the neglect of religious and spiritual values in America, they should be reminded of what our Nation's first President acknowledged—and what so many in Congress have disregarded—that our Nation's material and spiritual wealth is bestowed by the Creator only when we seek His guidance in our Nation's affairs. George Washington stated:

> * * * the propitious smiles of heaven can never be expected on a nation which disregards the eternal rules of order and right which heaven itself has ordained.

Mr. President, in 1962, the Supreme Court forfeited by judicial fiat the rights of millions of American children to invoke in their schools the blessings and guidance of God. Consequently, this act begat a popular culture, the values, discipline, and moral standards of which are devoid of God and laden with relativism. A greater crime against our children could hardly be conceived.

Today, all of us should take note of the desperate need to return to our Nation's children their constitutional right to voluntary prayer in the public schools. In this regard, a guest column published by the Charlotte (N.C.) Observer and authored by Dr. Norman Geisler, dean of Southern Evangelical Seminary in Charlotte, NC, is very worthy of broad consideration. Dr. Geisler titled it "10 Reasons for Voluntary School Prayer."

Dr. Geisler is a foremost theologian as evidenced by his impressive catalog of degrees and achievements. He has lectured and traveled in 50 States and 24 countries on 6 continents. Dr. Geisler has been honored and listed in many leading publications including "The Who's Who in Religion," "The Writer's Who's Who," and "Men of Achievement." He has authored or coauthored 45 books on a wide range of social, moral, and religious issues.

Mr. President, I fervently hope that all Senators will spend a few minutes reading Dr. Geisler's convincing defense of the right of children to pray in public schools. His defense of one of our Founding Father's rule(s) of heaven has never been more needed nor more eloquently stated.

I ask unanimous consent, Mr. President, that the January 30 guest column in the Charlotte Observer, "10 Reasons for Voluntary School Prayer," be printed in the RECORD.

[From the Charlotte Observer, Jan. 30, 1995]

10 REASONS FOR VOLUNTARY SCHOOL PRAYER

(By Norman L. Geisler)

There are many good reasons for a constitutional amendment to permit voluntary prayer in the public schools. Ten come to mind.

1. Our government was based on religious principles from the very beginning: The Declaration of Independence says: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by God with certain unalienable rights . . . ." Indeed, it speaks of God, creation, God-given moral rights, the providence of God, and a final Day of Judgment—all of which are religious teachings. Indeed, the Supreme Court affirmed (Zorach, 1952) that "We are a religious people whose institutions presuppose a Supreme Being." And school prayer has been an important part of our religious experience from the very beginning.

2. The First Amendment does not separate God and government but actually encourages religion. It reads: "Congress shall make no law respecting the establishment of religion, nor prohibiting the free exercise thereof." The first clause merely declares that the federal government cannot establish one religion for all the people. It says nothing about "separation of church and state." In fact, five of the 13 states that ratified it had their own state religions at the time. The second clause insists that the government should do nothing to discourage religion. But forbidding prayer in schools discourages religion.

3. Early congressional actions encouraged religion in public schools. For example, the Northwest Treaty (1787 and 1789) declared: "Religion, morality, and knowledge being necessary for good government and the happiness of mankind, schools and the means of learning shall forever be encouraged." Thus, religion, which includes prayer, was deemed to be necessary.

PRESIDENTS ENCOURAGED PRAYER

4. Early presidents, with congressional approval, made proclamations encouraging public prayer. President Washington on Oct. 3, 1789, declared: "Whereas it is the duty of all nations to acknowledge the providence of Almighty God, to obey His will, to be grateful for His benefits, and humbly to implore His protection and favour, and Whereas both Houses of Congress have, by their joint committee, requested me 'to recommend to the people of the United States a day of public thanksgiving and prayer. . . .' "

5. Congress has prayed at the opening of every session since the very beginning. Indeed, in a moment of crisis at the very first Continental Congress Benjamin Franklin urged prayer and observed that "In the beginning of the Contest with G. Britain, when we were sensible to danger, we had daily prayer in this room for Divine protection.—Our prayers, Sir, were heard, & they were graciously answered. . . . And have we now forgotten that powerful Friend? or do we imagine we no longer need His assistance? . . . I therefore beg leave to move—that henceforth prayer imploring the assistance of Heaven, and its blessing on our deliberations, be held in this Assembly every morning before we proceed to business, and that one or more of the clergy of this city be requested to officiate in that service." Congress has begun with prayer ever since. If the government can pray in their session, why can't the governed pray in their (school) sessions?

6. Public schools had prayer for nearly 200 years before the Supreme Court ruled that state-mandated class prayers were unconstitutional (Engel, 1962). The fact that prayer was practiced for nearly 200 years establishes it by precedent as a valid and beneficial practice in our schools.

7. Since the court outlawed prayer, the nation has been in steady moral decline. Former Secretary of Education William Bennett revealed in his cultural indexes that between 1960 and 1990 there was a steady moral decline. During this period divorce doubled, teenage pregnancy went up 200%, teen suicide increased 300%, child abuse reached an all-time high, violent crime went up 500% and abortion increased 1000%. There is a strong correlation between the expulsion of prayer from our schools and the decline in morality.

8. Morals must be taught, and they cannot properly be taught without religion. There cannot be a moral law without a moral Law Giver. And there is no motivation for keeping the moral law unless there is a moral Law Giver who can enforce it by rewards and punishments.

SECULAR HUMANISM ESTABLISHED

9. Forbidding prayer and other religious expressions in public schools establishes, in effect, the religion of secularism.

The Supreme Court has affirmed that there are religions, such as "secular humanism," which do not believe in God (Torcaso, 1961). Justice Potter (Abington, 1963) rightly feared that purging the schools of all religious beliefs and practices would lead to the "establishment of a religion of secularism." In fact, the beliefs of secular humanism are just the opposite of the Declaration of Independence. By not allowing theistic religious expressions, the courts have favored the religious beliefs of secular humanism, namely, no belief in God, God-given moral laws, prayer and a Day of Judgment.

10. To forbid the majority the right to pray because the minority object, is to impose the irreligion of the minority on the religious majority. Forbidding prayer in schools, which a three-quarters majority of Americans favors, is the tyranny of the minority. It is minority rule, not democracy. Why should an irreligious minority dictate what the majority can do? The majority wishes to preserve our moral and spiritual values and, thus, our good nation.

"MEET THE PRESS"—FEBRUARY 5, 1995

Mr. BYRD. Mr. President, I ask unanimous consent that the transcript of the NBC News program, "Meet the Press," of yesterday, Sunday, February 5, 1995, be printed in the RECORD. The guests were Senator BOB DOLE, Senate majority leader, and Senator ROBERT C. BYRD. The moderator was Tim Russert of NBC, with panelists Robert Novak, of the Chicago Sun-Times, and Lisa Myers, of NBC News, and roundtable guest William Safire, a columnist with the New York Times.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

TRANSCRIPT FROM NBC NEWS "MEET THE PRESS," FEB. 5, 1995

Guests: Senator Bob Dole and Senator Robert Byrd.

Moderator: Tim Russert, NBC News.

Panel: Robert Novak, Chicago Sun-Times and Lisa Myers, NBC News.

Roundtable guest: William Safire, columnist, the New York Times.

Mr. RUSSERT. Welcome again to Meet the Press. Our issue this Sunday morning: a constitutional amendment to balance the budget. Is it a good idea? Will it work? Will it pass? We'll ask our guest in his first Sunday morning interview in more than eight years. He's now serving his 37th year in the US Senate, the legendary Robert C. Byrd, Democrat from West Virginia.

Then we'll get the Republican view from a senator who would prefer to be president. We'll talk about budget, taxes, and presidential politics with Bob Dole, Republican of Kansas.

And in our roundtable, a look at the political landscape in China, Russia, and here in America with author and New York Times columnist William Safire.

And beginning today and every Sunday, we'll end our program with the Meet the Press Minute. We're going to share with you rare archival footage from our Meet the Press library. This morning you'll see young congressman John F. Kennedy talking about Harry Truman and Dwight Eisenhower. The date: December 2nd, 1951.

And joining me in the questioning today, Lisa Myers of NBC News and Robert Novak of the Chicago Sun-Times. And with us now, Senator Robert C. Byrd, Democrat from West Virginia.

Senator, welcome back to Meet the Press.

Senator BYRD. Thank you.

Mr. RUSSERT. We have a $200 billion deficit, a $4 trillion debt. Why wouldn't you be for a law forcing Congress to balance the budget?

Senator BYRD. You say, "for a law." This is not a law. This amendment will amend the basic organic law of this country, which is above an ordinary statute. There are two reasons it's in the main: It is bad constitutional policy and it is bad economic policy. As to its being bad constitutional policy, the Constitution is a charter of government. It is a charter of certain basic, individual rights. It is decidedly not a charter of economic policy, and for the first time, if this amendment were adopted, it would be writing into the Constitution economic policy.

Also, this amendment would interfere with the majoritarian democratic control of the Congress. It would institute minority rule by imposing supermajorities, supermajority requirements on the development of fiscal policy. It would also tamper with all three parts of the tri-part constitutional structure of government that was set into place by the framers 206 years ago.

As to its being bad economic policy, it would severely damage the Nation's ability to develop a sane, sensible fiscal policy. It would cripple efforts to stabilize the business cycle in that it would create a severe fiscal drag on the economy at a time when the economy may already be weak.

It would hamper the capacity of the nation to make long-term investments in fiscal and human infrastructure. It would make it almost impossible for our nation to coordinate its economic policy with the economic policies of other nations. Moreover, it would put into the hands of the courts the management of macroeconomic policy. And finally, it would be devastating for a group such as the elderly. It would devastate Medicare, other programs that aid the elderly such as Meals on Wheels, veterans' programs, veterans' pensions, veterans' compensation, veterans' health care, and it would also be very destructive of environmental policy and other social policies which the nation—which are good for the nation and good for its people.

Mr. RUSSERT. Senator——

Senator BYRD. So these in the main are the fears that I have concerning this amendment. Now if it didn't do any of these—if it didn't do any of these, it would mean that it does nothing, in which case it would be but an empty promise in the Constitution, and that would undermine the faith of the American people and the Constitution.

Mr. RUSSERT. Senator Dole, our next guest, said that there'll be a vote within the next three weeks on the balanced budget amendment. Will there be?

Senator BYRD. I hope we'll not rush this matter. Sixty-eight percent of the Republicans, 77 percent of the Democrats and 83 percent of the Independents feel that the American people ought to know what's in this amendment before we adopt it. It takes time, and I hope that Mr. Dole will give the Senate time to inform the American people. Woodrow Wilson said that the informing function of the legislative branch was as important as the legislative function.

The American people don't know what's in this measure, and we senators who vote on it ought to also be told what the plan is, what the details are for achieving a balanced budget in seven years. The American people are entitled to that.

The American people are smart consumers. When they go to the store, they press and squeeze the tomatoes and the cantaloupes and the vegetables; they look under the hood when they buy a car, they kick the tires. They need to know what's in this amendment. They're entitled to know. We shouldn't distrust them. We shouldn't treat them like children, and we should let them know what's under the hood. They want to know that.

Mr. RUSSERT. Do you have the 34 votes necessary to block the amendment as of now?

Senator BYRD. It's a very close call right now. It could go either way, but I believe that if the American people are informed as to what's in this plan, they're going to be so concerned that, "the knees of senators will buckle," in the words of one of the House leaders. So I think the American people are entitled to know, and we're treating them like children if we don't tell them.

Mr. RUSSERT. Will you use every tactic you know to stop this?

Senator BYRD. I'm glad you asked me that. I'm not interested in dilatory tactics. I'm only interested in the American people having the information that they ought to have. And I hope that we would debate this sufficiently for them to be informed. And I believe that Mr. Dole, the majority leader—and he's a very capable majority leader; I'm very fond of him—I hope that he will give the Senate ample opportunity to debate this matter so that the American people, who send us here, will be informed.

Mr. RUSSERT. What's ample opportunity? Weeks, months?

Senator BYRD. We've got to remember that the constitutional convention met behind closed doors. It met for almost four months to write this Constitution. Now surely we shouldn't be in a hurry to vote on something that is going to deliver irreparable injuries to the basic organic document. It would seem to me that anything less than 3 weeks for debate—from 3 to 4 or 5 weeks ought to be sufficient time in which to inform the American people and inform ourselves. We're entitled to know what the details are of the plan which would achieve this goal.

Mr. RUSSERT. Are you concerned, Senator, that by putting forth the Democratic Party as the party that blocks a constitutional amendment, you're going to give the Republicans a huge political issue in the presidential race in '96?

Senator BYRD. I'm not concerned in this instance so much about party as I am about the Constitution of the United States. And what this amendment will do to the institutions of government, the three branches of the government—it will impact on the executive, on the judiciary and on the legislative. And it will change forever. It's not like a statute which can be repealed later in the same year by the Congress. It's an amendment which will change the Constitution we'll be delivering to our children, a Constitution that is far different from the one which was handed down to us by our forefathers.

Mr. RUSSERT. Lisa.

Ms. MYERS. Senator, you have said that this amendment would mean radical changes in people's lives, that it would be devastating to the elderly, to the environment, to veterans, to a whole series of people. What about the devastation to your five grandchildren, though, of continuing to pile up these mountains of debt? Aren't these deficits that we're running today tantamount to stealing from them?

Senator BYRD. I agree that we have to do something about the deficits. We have to reduce them, and we have done something. I think we ought to stay on a steady, strong course such as the one we set in 1990 at the budget summit when we passed a bill that would reduce the deficits by $482 billion over five years, and again in 1993 when we passed a package with President Clinton's help that would reduce the deficit over $432 billion over the next five years, and it has done better than that.

And remember this, that in the case of the 1993 budget deficit reduction package, not one Republican in the Senate, not one Republican in the House, voted for that budget reduction package because it increased taxes some and it cut programs and it inflicted some pain. Now that's the course we should stay on: additional multifaceted budget deficit bills. And let's don't tamper with the Constitution, because I don't want to pass a Constitution on to my children that is a different Constitution, providing for a different form of government, than we have had in our time.

Ms. MYERS. Senator, President Clinton is sending up a budget tomorrow which projects $200 billion deficits as far as the eye can see, at least for the next decade. How soon are you willing to commit to balance the budget?

Senator BYRD. I began my commitment in 1990 at the budget summit under Mr. Bush and under a Democratic Congress. I continued my commitment in 1993 with the deficit reduction package that I've already described. We ought to stay on that course.

I'm concerned about the President's budget which will be sent to the Congress tomorrow. I'm not in favor of the $63 billion tax cut over a period of the next five years. I'm also not in favor of the $205 billion tax cut which is in the so-called Contract With America. I think we shouldn't be cutting taxes now. I must say that Mr. Clinton is going to pay for his tax cut with reductions in programs. But the monies that are saved from reductions in programs ought to go toward balancing the budget and reducing the deficit.

Now as to the Contract With America, let me tell you what my contract is. There's my contract with America. This is the Constitution of the United States of America. That's the only contract I have with America. That contract was written 206 years ago. It didn't suddenly bloom in the last election. So I'm concerned about these proposed tax cuts. I think it's folly at a time like this when we ought to be doing everything we can to reduce the deficit to be talking about cutting taxes.

Ms. MYERS. Senator, one last thing. The Washington Post—I'm sure you're familiar with this headline—has called you "the king of pork." Given your commitment to balance the budget, are you now willing to tell the people of West Virginia that they're going to have to settle for less?

Senator BYRD. I took an oath to uphold the Constitution of the United States 13 times in the last 48 years. I took that oath, I swore to God and I put my hands on God's Gospel when I did it. Now I am of a generation that believes in keeping one's oath. I'm talking about my oath to the Constitution in this situation here. I'm talking about this immortal document that was written by men. And I think it's somewhat a pretense for those of us in our generation to assume that we're wiser than the framers of that constitutional document who lived 200 years ago.

Mr. NOVAK. Senator Byrd, tomorrow the House of Representatives will pass a line item veto which would give the president authority to veto individual items in bills instead of the whole bills. You oppose that. Now you have said that when Robert Byrd does a filibuster in the Senate, you will make it clear that it is a filibuster. Are you ready to filibuster the line item veto?

Senator BYRD. Bob, there are people in this town who wouldn't know a filibuster if they met it on the street. I don't intend to engage in dilatory tactics, dilatory quorum calls and so on. Now that's the way of the old filibuster. But there is such a thing as an unlimited debate, and that's one of the two things in particular that makes the Senate the premier upper body in the world today, the right of unlimited debate and the right to amend. Now we owe it to the American people to debate these matters.

There are people, I think, who have the attitude, it seems to me, that if we debate a bill three days or a week or two weeks, that we're filibustering. Now a line item veto, again, would shift power from the legislative branch to the president. It disturbs the balances of powers, the separation of powers, the checks and balances in the Constitution. And we ought not to alter that Constitution lightly. So I will fight that, again, as I have fought it before. But I don't intend to engage in dilatory tactics, that kind of filibuster.

Mr. NOVAK. Senator Byrd, you have also said that you thought perhaps the Republicans, who have been in opposition in the minority much more than the Democrats, know how to be a minority party more in the Senate. Are you attempting to guide the new Democratic leader, Senator Thomas Daschle, in how to be an opposition party, because at times you seem more like the opposition leader than Senator Daschle?

Senator BYRD. Well, let me tell you about that. The two things that we've had up in the Senate, in which I've taken a little time on, were the so-called unfunded mandates. Now Congress can't bind the next Congress. Congress can change that law even in this Congress. And I felt that the Congress ought to take more time to debate. I'm not in favor of ramming things through just because there's a so-called charter, Contract With America, that somebody signed. I didn't sign it.

So I was on the Senate floor at a time when I wanted to stop that contract—so-called contract—from being rammed through, or one of its parts, and I also saw coming behind that this constitutional amendment on the balanced budget. And, no, Tom Daschle's doing a good job. I want to see him succeed. I want to help him. I think he's off to a good start. I walked away from the leadership. I could have had it again, I knew where the votes were. But I'm not interested in being the leader of the Senate. I'm interested in doing my job as a senator, which I came here to do.

Mr. NOVAK. Senator, you've been quoted, sir, as saying you thought the Senate has lost its soul. Why do you think it's lost its soul?

Senator BYRD. Well, one reason why I say that is that we seem to have lost our sense of history. We have no institutional memory in the Senate, it seems to me. We ought to understand that it is our responsibility to defend the institution, to defend the Constitution and to take the time to do it. I think sometimes we bend whichever way the wind blows. We don't realize that being a United States senator is the highest public office that this country can give. Presidents come and presidents go, but senators don't fade away very easily sometimes.

Mr. RUSSERT. Senator, is the Senate less civil now than it was?

Senator BYRD. Yes, it is far more partisan now than it was when I came here.

Mr. RUSSERT. Why?

Senator BYRD. I think there are too many who put party first, last and always. Party is important, but I don't rank it as the first thing in my life or in the history of this country. I believe that we have a duty to study as legislators, to try to know what we're doing and to try to do what's right for the country. And that's what I see, what I think is wrong. We're too partisan. There are some who seem to think that the Senate is a crucible that was intended to enable us to forge the party's fortunes for the next half-century. But I believe—getting back to this situation, I believe and hope that we'll have the time—we'll take the time to study this matter carefully. It's going to come to a final vote. It'll be voted up or it'll be voted down. I hope we'll take the time because it's far too important to rush through.

Mr. RUSSERT. Senator Robert C. Byrd of West Virginia, we thank you for joining us this morning.

Senator BYRD. Thank you.

Mr. RUSSERT. Coming next, Bob Dole. He wants to be your president. We'll find out why after this message.

(Announcements.)

Mr. RUSSERT. We're back with the Republican leader of the U.S. Senate, Bob Dole.

Senator, lots of speculation about you.

Senator DOLE. Really?

Mr. RUSSERT. The week of April 14, 1945, 2nd Lieutenant Bob Dole, 10th Mountain Division, trying to take Hill 913 in Northern Italy, wounded. Fifty years later, the week of April 14, 1995, what will Senator Bob Dole do?

Senator DOLE. Will probably make—well, we'll make a formal announcement that we're a candidate for president of the United States. Can't do it on the 14th, that happens to be Good Friday. But it will be that week.

Mr. RUSSERT. That week. And why are you picking that week?

Senator DOLE. Well, it will be warmer. It also, I think, has some—you know, that's a week that meant a lot to me a long time ago. And I think it puts a focus on America and what's happened in the past 50 years, some of us who were involved and where we intend to go from here. But, you know, we haven't picked a definite date, but I assume it's going to be that week.

Mr. RUSSERT. The week of April 14th. Will it underscore the difference in your military experience as opposed to Bill Clinton's?

Senator DOLE. That's not the purpose, but I assume some people might suggest that. But I picked it because I thought it was a fairly important experience in my lifetime, and it's not aimed at anyone else.

Mr. RUSSERT. You're going to challenge Bill Clinton for the presidency. It's an intensely——

Senator DOLE. Well, if I get the nomination. But if you want to bestow it on me today——

Mr. RUSSERT. I'm a registered Independent. I don't have that power, but——

Senator DOLE. That's all right.

Mr. RUSSERT. It's an intensely personal choice for a voter to make. How is Bob Dole different than Bill Clinton?

Senator DOLE. Well, I don't want to describe Bill Clinton, but I would just say as far as Bob Dole is concerned, if people are looking for someone with experience and someone who's been tested in a lot of ways and somebody who gets up every morning and knows that people can have difficulties—because I have a little difficulty dressing and things like that—that being sensitive, I guess, to people's concerns, who I think has a good record of conservative views on taxes and spending and—but also understands that we need to reach out as a party. You know, that's where I come from. Much like Jack Kemp, I must say, when dealing with black Americans, Hispanics, it seems to me that if we're going to be a majority party, it's going to be up to us to make that happen. That means we reach out to people.

Mr. RUSSERT. You're 71 years old. In 1996——

Senator DOLE. That's chronological. I'm probably about 55, otherwise. I know, I always subtract the four years I spent in the hospital, so that gets me down to 67 right there.

Mr. RUSSERT. In 1996 you'll be 73 years old, which would be the oldest for any man to begin his first term as president. In light of that, would you commit to the American people that you would only serve one term as president?

Senator DOLE. Well, I must say that's an option that people have talked about. But we haven't made a decision. I assume we will make that decision before we announce so the American people will know. Some people might like it; some might say, "Well, you're a lame duck on day one." There have been a lot of one-term presidents in the past few years, in the past two decades or so, but it's a judgment we haven't made.

Mr. RUSSERT. You have been in Washington for 36 years?

Senator DOLE. I guess that's right. Not quite—34 years.

Mr. RUSSERT. Why wouldn't people say, "Bob Dole, you created this mess. Who are you to suggest you can fix it?"

Senator DOLE. Well, I think basically I've tried to keep in touch with real people all the time I've been in Washington. I know where I'm from; I've never forgotten my roots in Kansas. And secondly, again. I think many of us have been fighting the battle. We're happy to have the replacements, the troops, the cavalry come riding in as they did last November. Now we have a majority in the House and Senate, we can really make these things happen.

Mr. RUSSERT. Lots of discussion about President Clinton and the so-called character issue. How big of an issue do you think that would be in a presidential race?

Senator DOLE. I don't know. I mean, I think the media, others—certainly we're all going to be subject to total scrutiny. But my view is maybe it's an issue; I think the overriding issue should be where will this person—this nominee, whoever—take us or take America and does he or she have any ideas? So it's going to be a difficult race. We have a number of outstanding Republicans, you know, going to be involved in the primary process. So anybody who's thinking about it is going to have to give up about a year and a half of their life.

Mr. RUSSERT. Your wife Elizabeth Hanford Dole, former secretary of labor, secretary of transportation, educated at Duke, Oxford and Harvard Law. Will she be an activist first lady like Hillary Rodham Clinton?

Senator DOLE. Not in that sense—not in the policy sense. But Elizabeth certainly has her own career and would like to—you know, I haven't discussed this with her and you're going to get me in trouble. I mean, I can handle most things, but I want to be careful here. So it would be—obviously, she would want to be doing something, maybe more traditional first lady efforts. But she's been involved in the Red Cross. She likes it. It's a public service, making a difference in people's lives.

Mr. RUSSERT. But you don't think the first lady should be involved directly in policy formulation?

Senator DOLE. I think it's a very high risk. I said that when Hillary Clinton was assigned health care. It's a high risk. If it fails, A, and, B, if it—to keep it from failing, how much do you give way? I think it was a mistake then and I think it would be a mistake for any future first lady or first man.

Mr. RUSSERT. One issue that is going to be on the ballot in 1996 in California, you were talking about the politics of inclusion, reaching out to black Republicans, like Jack Kemp, is a proposition or referendum which is going to say that, "Race or color will not be a criteria for either discriminating against or granting preferential treatment to anyone." Would you be in favor of such a referendum or proposition?

Senator DOLE. Well, right now we've asked the Congressional Research Service to send us all the bills that involve—with preferences, and we're looking at it. I mean, it—again, with my record, I think I can look at it with some credibility. Has it worked? Has it had an adverse or reverse reaction? Why did 62 percent of white males vote Republican in 1994? I think it's because of things like this, where sometimes the best qualified person does not get the job because he or she may be of one color, one—and I'm beginning to believe that may not be the way it should be in America.

Mr. RUSSERT. So that this referendum, which would, in effect, eliminate affirmative action, is something that you could support?

Senator DOLE. Well, you know, I haven't read that. It's something that we're looking at. Let me say that. I want to be fair. I want people to have opportunities in America by creating more jobs and not having to struggle every time. If you have somebody that wants a raise, "Well, what's your color? What's your ethnic background?" You know, the people in America now are paying a price for things that were done before they were born. We did discriminate; we did suppress people. It was wrong. Slavery was wrong. But should future generations have to pay for that? Some would say yes. I think it's a tough question.

Mr. RUSSERT. Lisa.

Ms. MYERS. Senator, the balanced budget amendment—you just heard Senator Byrd.

Senator DOLE. Yes.

Ms. MYERS. Why don't Republicans just get it over with and lay out a seven-year plan on how you would accomplish a balanced budget?

Senator DOLE. Well, we were sort of hoping the president in his budget would give us some clues on a seven-year plan. He didn't give you any clue on anything. He didn't cut spending. It's—doesn't even cut the deficit. All he does is extend these caps and there's no real spending cuts. But I'm going to say a thing about Robert Byrd. He's the master of the game. And I say that with admiration. He knows the Senate rules. He knows it will not have a—vote very soon on a balanced budget amendment because he knows every trick in the book; in fact, he wrote the book. So I believe it will pass by a very close vote. And we'll lay out all we can. We'll be as specific as we can. But it's like a seven-year weather forecast. You know, we don't know what's going to happen. What may sh—we don't know what economic—maybe there'll be some calamity somewhere in the world, maybe some conflict we're involved in.

But that—in my view, this is a way to, in effect, skirt responsibility. If we don't do anything, we're going to increase spending in the next—the deficit by 18 percent in the next 20 to 30 years. We're never going to have a balanced budget. We have to make tough decisions. It's going to affect everybody, and we ought to be prepared for it.

Ms. MYERS. When will you lay out as much as you can?

Senator DOLE. Well, Senator Domenici, chairman of the Budget Committee, is working on that now.

Ms. MYERS. So the Republicans will have at least an outline on how you balance the budget over seven years?

Senator DOLE. Well, we'll have as much information as we can, but with the und——

Ms. MYERS. While the amendment is being debated?

Senator DOLE. Sure, with the understanding that, you know, we can't be certain of anything.

Ms. MYERS. Right.

Senator DOLE. These are all economic assumptions. The economy may go up or down. But I think we'll do the best we can and this so-called "right to know" amendment—we've offered an amendment called the "need to lead" amendment. It's about time the Democrats started some leadership around here instead of trying to scare people on Social Security or veterans or everything else. We'll never have a balanced budget if everybody is going to be exempt.

Ms. MYERS. All right. Let's talk about the nomination of Dr. Henry Foster to be surgeon general, President Clinton's choice. Are you troubled by the fact that Dr. Foster now says he performed as many as a dozen abortions?

Senator DOLE. I'm troubled by the fact that we were not—more troubled by the fact that we were not given that information before the nomination was sent up. I think the administration, maybe they should have known; they surely asked the question. That troubles me almost as much as knowing they've sent up this nomination. Will it be in some difficulty? Yes.

Ms. MYERS. How much difficulty?

Senator DOLE. I don't know yet. It depends on—I know Senator Coats, of Indiana, a member of the Labor Committee, has indicated strong opposition. We haven't had a discussion of it, a so-called "conference level" where all Republicans were present.

Ms. MYERS. Will you oppose the nomination?

Senator DOLE. I'm not certain. I don't like what I hear or what I read. I haven't met with the nominee.

Ms. MYERS. But you don't like it because he performed a dozen——

Senator DOLE. That's right. I think it's one thing to be an obstetrician, but, again, it's sort of—I think again, it doesn't show—well, I think they should have checked it more carefully.

Ms. MYERS. But even though that Dr. Foster says that he—most of these abortions, less than a dozen over, I think, some 30 years of practice, were performed in cases of rape——

Senator DOLE. Right.

Ms. MYERS [continuing]. Incest or danger to the life of the mother.

Senator DOLE. Again, let's get him on the record and let's see what the testimony is. My view is, we shouldn't shoot down somebody before they've even had a hearing, and you may decide that based on everything that is laid out and his record in other areas, his record on teen pregnancy—he's done a lot of good things, don't misunderstand me—that maybe he should be confirmed. The general rule is that the president is entitled to his nominees. And that's been the general rule around here forever.

Ms. MYERS. So you do not agree, then, with some anti-abortion activists who say the very fact that he performed abortions is a disqualifying factor?

Senator DOLE. I may turn out to be that way, but, again, I—since I get to vote and they don't, I want to see the evidence.

Ms. MYERS. Well, if you feel that strongly about it, if you're elected president, would you then promise to never appoint anyone who favors abortion rights to any judicial position?

Senator DOLE. Well, I'd rather wait until I get elected to answer that, but——

Ms. MYERS. But if you feel that strongly about it, Senator, doesn't it carry over——

Senator DOLE. No, I feel strongly about hearing the facts. I mean, it's—I know it's not—a lot of precedent for it in this town, but I'd like to have the facts laid out—everything he's done. If that one thing disqualifies him, we'll see what happens.

Mr. NOVAK. Senator Dole, since neither you nor any other Republicans leaders are planning to do anything on abortion in this Congress, which would satisfy the strong pro-life constituency you have, critics say that taking off on Dr. Foster is a cheap way out of that predicament, instead of trying for a human life amendment, which you probably couldn't get through the Senate at all, you can just satisfy the pro-lifers by attacking Dr. Foster. Is there some validity to that?

Senator DOLE. Well, I must—I haven't thought of that. I mean, I happen to be pro-life. I think we agree with Ralph Reed when they ask about prayer in school and these other issues, and he's the executive director of the Christian Coalition, that we need to address jobs and welfare reform and tax cuts. This should be our priority. It doesn't mean we're not going to address these issues some time in the next two years.

Mr. NOVAK. Senator, you have been known for scathing criticism of supply side, as you once said that—had a little joke with the——

Senator DOLE. That wasn't my joke. I repeated it and it became my joke.

Mr. NOVAK. But the—the good——

Senator DOLE. Good news, bad news.

Mr. NOVAK. The good news was, a bus full of supply siders crashed; the bad news was some of them survived. With that background——

Senator DOLE. No, there were three empty seats.

Mr. NOVAK. Three empty seats, all right. Well, you can tell it better than I can.

Senator DOLE. Yeah.

Mr. NOVAK. With that background, sir, how can you hope to get support from the supporters of Jack Kemp who has now dropped out of the presidential race?

Senator DOLE. Well, we've already picked up his supporters in Iowa. Darrell Carney is on the Dole team. He was Kemp's chairman.

We're going to pick up a lot of support of Iowa. Plus, I think, people looking at Jack Kemp and Bob Dole's records, they find them fairly consistent, plus the effort to reach out to other people to broaden the party. But I must say, if you look back when we were saying those things—and that was not my joke, but—pretty good—always got a laugh, so I kept repeating it. Bob Hope still uses some of his stuff he had 25 years ago. So what we were saying then is what Republicans are doing now.

Ten years ago when we had to fight and win by one vote, the budget battle is 1985, House Republicans were saying, "We don't want to cut spending, just cut taxes." Now they're saying. "Cut spending first." That's been my position ever since I've been here. So I think its consistent. I don't think—I think it's going to appeal to many people who say, "Cut spending first before we have a big tax cut."

Mr. NOVAK. In line with Mr. Russert's question about whether you would only serve one term, there's also been speculation that you might name your selection for vice president and run as a tandem as Ronald Reagan did with Richard Schweiker in 1976. Are you considering Jack Kemp for that?

Senator DOLE. Well, certainly Jack would be on any list I put together, along with Pete Wilson and Colin Powell and——

Mr. NOVAK. In advance of the convention?

Senator DOLE. Well, if I did that, we have—again, that's a decision that hasn't been made. I think some think it's a plus and some think it's a minus and some haven't thought about it.

Mr. NOVAK. But it's possible?

Senator DOLE. Yeah.

Mr. NOVAK. And you also had—who else——

Senator DOLE. You know, it's not really a short list. It includes a number of people. We have a number of outstanding governors—Governor Voinovich; Tommy Thompson, who's thinking about running; Jim Edgar; Bill Weld; Governor Whitman. You've got this whole list of people that I think would be outstanding running mates. And some may run for president.

Mr. NOVAK. You would include General Power on that list, though?

Senator DOLE. Oh, yes.

Mr. NOVAK. Colin Powell.

Senator DOLE. I had a good visit with him two or three weeks ago. We didn't talk about this specific thing, but——

Mr. NOVAK. Did he say he was a Republican?

Senator DOLE. No. But he—the thing that encouraged me—he did know that polling was going on in America and that his name was in the polling.

Mr. NOVAK. Let me ask you two quick questions on issues, sir.

Senator DOLE. Thank you. He knew he was running ahead of me.

Mr. NOVAK. Let me ask you two quick questions on issues. The minimum—President Clinton has asked for an increase in the minimum wage; Speaker Gingrich and the House leadership is against it. You have now taken a position. Do you see any kind of a tradeoff where the Republicans support an increase in the minimum wage and the Democrats support a cut in the capital gains tax?

Senator DOLE. I knew that would occur to you. I haven't thought about it fully—might be a good trade. But I think first we want to take a look at the minimum wage. He goes back and says, "Well, Bob Dole and Newt Gingrich supported one before." But we also had a sub-minimum wage—a training wage and we also excluded certain size companies. Where has he been the last two years with the increase in min—why did we wait until now? Maybe because he made the deal with Mexico and there's all the criticism with that, he thought maybe he ought do something for low-income people.

My colleague, Senator Kassebaum, is very wary of increasing the minimum wage. She thinks we ought to have, if anything, a targeted minimum wage that goes to low-income people, that most of this is not going to people in the poverty level, it's going to go to, you know, job entrants, young people and some whose families make $50,000, $60,000 a year.

Mr. NOVAK. But you don't rule it out. You don't rule out supporting it.

Senator DOLE. With the deal you've suggested, I'd—you know, that throws some new light on it. That might make it very attractive.

Mr. NOVAK. One last thing. You wrote in a letter—you and several of your colleagues wrote a letter to Secretary of the Treasury Rubin a couple weeks ago asking, "What was the role of the U.S. Treasury and the International Monetary Fund in the devaluation of the Mexican peso, which has led to all this trouble?" Are you going to pursue that? Are you going to ask for hearings? Just what do you have in mind? Is there some scandal involved there?

Senator DOLE. Well, we don't know. I mean, there could be because there's a feeling that somebody was feasting off these devaluations around the world forever. It might be some of the big concerns on Wall Street. We don't know the facts, but we're going to try to find out.

Senator D'Amato is very determined, and he told Secretary Rubin just last week, he's going to monitor this almost on a daily or weekly basis. And we're going to continue to push to sort of peg the peso to the dollar at 3.52.

Mr. NOVAK. You are going to push for that?

Senator DOLE. Sure.

Mr. NOVAK. When will those hearings be held, sir?

Senator DOLE. Well, I know—whenever—I know Senator D'Amato and Secretary Rubin met last week. I think it's going to be an ongoing thing at a staff level and at the necessary time maybe have hearings.

Mr. RUSSERT. Finally, Senator, our colleague Mark Shields, talking about Newt Gingrich the other day, said, quote, "Imagine a Republican leadership team comprised of a good guy and a bad guy and Bob Dole is the good guy?"

Senator DOLE. That shows you can finally make it in this town.

Mr. RUSSERT. Has Newt Gingrich's rhetoric softened Bob Dole?

Senator DOLE. I don't think it's so much that, it's been—everybody's been comparing Gingrich and Clinton, and I've been able to be the spectator and people have sort of forgotten about me. And they say, "Gee, well, it's not the same fellow I met last week." So maybe some of the things that have been said—but I think it's been more the comparison. Let's face it, Newt is in line to be president. He's in the line of succession, which is more than most of us can say. And he and Clinton—the speaker is very powerful, the most powerful speaker we've had in a long, long time; doing a good job and we're working closely together.

Mr. RUSSERT. Should he temper his rhetoric?

Senator DOLE. Well, I think things are settling down. I've noticed a little different—you know, I look down the hall now and then from the Senate over to the House and I don't hear anything. Used to be able to hear it, just putting your hea—so I think it's settling down on the House side.

Mr. RUSSERT. In 1976, When Bob Dole ran, he was described as a hatchet man, and accused the Democrat wars—World War I, World War II, Korea, were Democrat wars.

Senator DOLE. It was in my briefing book.

Mr. RUSSERT. Well, it—in 1988, you said to George Bush, "Stop lying about my record." In 1996——

Senator DOLE. See. I only made two mistakes.

Mr. RUSSERT. Well—but in 1996, will there be a different Bob Dole running for president?

Senator DOLE. I think—well, I hope so. I mean, you try to—if you don't try to learn from your mistakes, you ought to get out of the business, whatever it is, whether it's media or politics. And certainly I've said things I shouldn't have said. Now I've never been more relaxed about what I'm doing now. I mean, it seems to me that, you know, I'm at sort of peace with myself. I know what I want to do. I'm not going to be around criticizing any of my running mates or—not running mates, but anybody out there running on the Republican side. I've never personally attacked President Clinton or Mrs. Clinton. I gave that up. I had a round of that several years ago.

Mr. RUSSERT. Senator Dole, thanks for joining us.

Senator DOLE. Thank you.

Mr. RUSSERT. And we'll see you in Russell, Kansas, in April.

Senator DOLE. I hope so. That's right, Meet the Press will be there, right?

Mr. RUSSERT. Well, I lost the Super Bowl bet; I'll be there.

We'll be right back with William Safire.

(Announcements.)

Mr. RUSSERT. Welcome back to Meet the Press. With us now, William Safire.

Bill, welcome. We have a trade war with China?

Mr. SAFIRE. Yeah. We weren't able to apply human rights to the Chinese, and so the Clinton administration said, "We'll do anything you want, we'll give you MFN, we'll trade with you," and that policy has been a big flop. And what has happened is now American business has said, "Well, we can't fight on human rights grounds, but we're certainly ready to fight on CD grounds." And I think that's kind of sad to see. We should be standing for principle rather than just saving $300 million on a—on the trade war.

Mr. RUSSERT. Who's going to lead China in the next century?

Mr. SAFIRE. Big question. It can go any one of four ways. If it goes the establishment way, Xiang, then China will hold together the way it is now. I don't think that'll happen. He's a transitional figure. If it goes to Lee, he's the tough guy of Tiananmen. And then you would have repression and a very tough dictatorship. If it goes to Xu Rangzhi—he's the economist; he's more the good guy, looks like Mayor Koch actually, but a sound citizen. And then there's a dark horse, Xiao Zhou, who is the Newt Gingrich of China, the head of the legislature there, and nobody knows what he stands for.

Mr. RUSSERT. Who's going to lead the United States of America in the next century?

Mr. SAFIRE. In the next century——

Mr. RUSSERT. Well——

Mr. SAFIRE [continuing]. Are you talking about—you skipping over 1996 and——

Mr. RUSSERT. All right, we'll start at '96. I was trying to let you off the hook, but got to '96, Safire.

Mr. SAFIRE. OK. We see Dole, who is awfully good as a majority leader, and that's the big weakness. He's a compromiser. And when you asked earlier, what about a one-term commitment, the very fact that they're talking about that, and he's allowing the talk to continue, suggests that perhaps he's better off in the job he's in. He looked over his shoulder sort of on today's program and I think mentioned Pete Wilson out there. So if Gingrich goes for it, that would weaken Gramm and help Dole. It's a wonderful business.

Mr. RUSSERT. We have to take a quick break. We'll be back with more Bill Safire after this.

(Announcements.)

Mr. RUSSERT. Bill Safire, we've talked with you about Russia quite a bit on this program. President Clinton said at the State of the Union, "American children go to bed now and there's no nuclear missiles from Russia aimed at them." But what is this real situation in Russia?

Mr. SAFIRE. Things are in terrific turmoil at the moment because of the Chechnyan war. Boris Yeltsin's popularity has gone right into the tank. I mean, he's in single digits. He's below—you know, way below any other major leader. That's because the reformers have deserted him, or they think he's deserted them. And the Zhirinovsky nationalists have also deserted him, because he's brought discredit on the armed forces, and he's got nobody, except he's got himself surrounded with about 70,000 or 80,000 soldiers who answer directly to him around Moscow. The big question—here we are talking about American elections and who's going to be the candidate. The question in Russia is: Will there be an election in 1996?

Mr. RUSSERT. Well——

Mr. SAFIRE. There are some good men around, Yavlinsky and—you know, it's coming along. But if the popularity of Yeltsin stays so low, he may not want to have an election.

Mr. RUSSERT. And cancel the election.

Mr. SAFIRE. And postpone it for a few years, and that will be terrible.

Mr. RUSSERT. A chilling thought to end our roundtable this morning. Bill Safire, Bob Novak, Lisa Myers, thank you very much. We'll be right back with our Meet the Press Minute.

(Announcements.)

Mr. RUSSERT. Deja vu: December, 1951, President Truman was in the third year of his term, there was widespread speculation about another Democrat challenging him. And the big unknown: the plans of General Dwight David Eisenhower. Let's take a look.

(File footage from December 2, 1951).

Mr. ERNEST LINDLEY. Who, in your opinion, would make the strongest Democratic nominee for the presidency next year?

Representative JOHN F. KENNEDY (Democrat, Massachusetts): Well, as—I've only heard of one or two men discussed, and as it seems fairly inevitable that if President Truman is a candidate for reelection, he will receive the nomination. I would say that he would be probably the strongest. Now there's been some talk of General Eisenhower running. I don't know whether General Eisenhower's a Republican or a Democrat.

Ms. MARTHA ROUNTREE. You're not convinced that he is a Republican, though, are you?

Representative KENNEDY. I have no reason to be convinced he's a Republican or a Democrat, as he's ignored politics for a long time, quite rightly, in his military career. But there are those who say they know, and in view of that, perhaps we can accept their opinion.

Once General Eisenhower takes off his uniform, leaves a very critical situation in Western Europe and takes a position on issues like civil rights and labor legislation, etc., and becomes a candidate and runs for office, I think we'd get a better idea of whether he is going to be able to sweep the country or not.

(End of footage.)

Mr. RUSSERT. Hmm. General Colin Powell, are you listening?

That's all for today. Join Giselle Fernandez later tonight for the "NBC Nightly News." And tomorrow on "Today," continuing coverage of the O.J. Simpson trial. Tomorrow night on the "NBC Nightly News" with Tom Brokaw, remarkable advances in the treatment of strokes.

We'll be back next week when our guest will be another presidential hopeful, former Vice President Dan Quayle. If it's Sunday, it's Meet the Press.

(Announcements.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the joint resolution.

Pending:

Daschle motion to commit the resolution, with instructions to report back forthwith, with Daschle amendment No. 231, to require a budget plan before the amendment takes effect.

Dole amendment No. 232 (with instructions to commit), to establish that if Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, within 60 days thereafter, the President shall transmit to Congress a detailed plan to balance the budget by the year 2002.

Dole amendment No. 233 (to amendment No. 232), in the nature of a substitute.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to say a few words about the amendment filed by the distinguished minority leader Thursday or Friday of last week. Actually, he called it the right-to-know amendment. I call it the right-to-stall amendment because that is what it amounts to.

The balanced budget amendment represents the kind of change that the American people asked for last November. The American people know the Federal Government, they know the bureaucrats who run it, and they know that those bureaucrats need to be put on a fiscal diet.

In contrast, the proposal offered by the distinguished minority leader, with all due respect, is offered in defense of the status quo and business as usual. If my colleagues supporting the Daschle proposal had been in the first Congress, we never would have adopted the first amendment of the Bill of Rights. Just imagine James Madison defending the free speech clause of the first amendment to some of our colleagues today:

"Does this mean you can't yell 'fire' in a crowded theater," they would ask?

"Does it protect obscenity? If not, what is the line between obscenity and protected free speech? We cannot accept the free speech clause without these details spelled out," they would say.

"Does the free-speech clause protect the American flag from desecration? If so, we cannot accept the first amendment."

Some of my colleagues made that very clear when they turned down the flag amendment twice a few years ago.

What about the religion clause, the free-exercise clause and the establishment clause of the first amendment, would the supporters of the Daschle proposal, had they been in the first Congress, have demanded an accounting of just when and how the Government can aid religious schools?

Would they have insisted on knowing all of the circumstances under which citizens or local governments can put a menorah or a creche on public property?

Would they have turned down the first amendment because the first Congress would not fulfill the ludicrous task of answering these questions? Or would they have accepted the principles contained in the first amendment and have allowed those principles to develop as they have over the years?

Just imagine if the following clause in article I, section 9 came before the Constitutional Convention of 1787 in Philadelphia:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; * * *

"Oh, no," my colleagues of today would have said had they been there, "tell us how much the appropriations will be over the next 7 years or we cannot adopt this provision in the Constitution."

What about the clause in article I, section 8 giving Congress the power to regulate foreign and interstate commerce? "Oh, no," some of our colleagues, had they been in Philadelphia in 1787, would have said, "we cannot give Congress the power to regulate commerce until we know the tariffs and the interstate regulations Congress will enact over the next 7 years."

Here and now let us adopt the principle of a balanced budget with the careful exceptions of wartime or when a supermajority consensus is reached for a pressing national purpose on a rollcall vote. Then, after we adopt the principle, we can implement it over the next 7 years, adjusting the budget to take into account changing circumstances during that time.

Yesterday, on the Frank Sesno show on CNN, I debated with Alice Rivlin. It was interesting to me that at the very time that we are making the case on the floor that the Federal Government is not serious about balancing the budget, that unless we have a balanced budget constitutional amendment, we will not get to a balanced budget by the year 2002, the President is filing his budget for this next year, a budget which, by the way, proves our case.

By their own reckoning, that is those in the White House—and Mrs. Rivlin did have a difficult time really supporting their position—by their own budget, we will face deficits for the next 12 years that average no less than $190 billion a year. There is no desire to get to a balanced budget by the year 2002. In fact, they say by the year 2005, 2006, or 2007, the average deficit will be $190 billion a year. In fact, the President's own budget will increase the national debt from $4.8 trillion to a little over $6 trillion in the next 5 years. If there ever was a case made for the need for a balanced budget amendment, it has to be this budget which has been delivered today.

How ironic it is that they would deliver that budget at the very time when we are arguing that the only way to get to a balanced budget by the year 2002 would be to put some fiscal mechanism into the Constitution that will help us to get there.

What do we face? Why, we have an amendment filed by the minority leader that is so defective that it is even constitutionally unsound. In fact, some authorities are now calling it unconstitutional because it would add to section 5 of the Constitution another reason, another debate before we could have a constitutional amendment.

I just have to say, after all, this is the Constitution that we are amending, not budget legislation. In fact, as I read the Daschle proposal, it requires that we pass a resolution laying out the details of a plan starting in fiscal year 1996, even though that requirement would be contained in an amendment that does not become effective until the year 2002, ignoring the fact that there will be three intervening Congresses before we get to the year 2002.

To require that a constitutional provision be fully implemented before it is adopted puts the cart a long way before the horse. After all, the whole problem is that Congress has not been able to balance the budget in the absence of a constitutional requirement to do so. For 26 years, Congress has failed to balance the budget. Mrs. Rivlin said on that program yesterday—and I have admiration for her, she is a fine woman. If she had her way, she would get to a balanced budget by the year 2002, but she was unable to get this administration to do it. Mrs. Rivlin basically said yesterday we just simply should do it.

I remember the distinguished Senator from West Virginia saying we should just do it. It is odd to me how those who are always saying we should just do it right here in the Congress, we have the power to do it now, it is odd to me how many of those who are saying that are people who are opposed to the balanced budget amendment and, in the process, are dedicated to the same old order that has put us in this financial difficulty that we are in right now—$4.8 trillion in national debt, going to $6.3 trillion in just 5 years under the President's so-called deficit reduction plan.

I do give the President some credit for at least trying. He is consolidating programs; he is recommending cutting out some programs. But those are minuscule efforts in comparison to what needs to be done and what will be done if we pass a balanced budget constitutional amendment.

To require that a constitutional provision be fully implemented before it is adopted is really, really something that nobody should be deceived by reading. It seems to me that the people who really have the burden of showing us how they will balance the budget are the ones who claim we do not need the balanced budget amendment. We say the budget cannot be balanced without a constitutional requirement. It is that simple, and the President's budget makes our case.

To those who think we can balance the budget without the balanced budget amendment, I say to them, "Show us how; you tell us how you want to do it. If you cannot show us the way to a balanced budget without the amendment, this suggests one of two things: Either you agree with us that it cannot be done without the constitutional requirement or you are simply against balancing the budget at all."

Now, if the truth be known, there is a lot of mouthing about balancing the budget, but the very people who are doing it most of the time are those who are against the balanced budget amendment, except those who want a balanced budget amendment so we can get to a balanced budget.

Now, that brings me to the President. If President Clinton gets his way and defeats the balanced budget amendment this year as he did last year, what is his purpose? Does he not want a balanced budget? Does he stand for the status quo of ever-higher taxes and ever-higher deficits? Or is his point that we can balance the budget without the constitutional mandate?

The fact is, his own budget will increase the deficit by $1 trillion over the next 5 years, and that is assuming the optimistic economic assumptions in that budget will remain optimistic and will actually occur.

Or is his point that he can balance the budget without the constitutional mandate? If so, I would expect him to release his plan for a balanced budget this week.

Well, his plan is anything but a plan for a balanced budget. For the next 12 years he admits that under his budget, as much as he has tried—and I give him credit for that—we will have an average of a $190 billion deficit every year for those 12 years—again, if all the economic assumptions they make are correct, and they have never been correct yet. It is always higher.

Where is this Presidential leadership we have been hearing about? I guarantee you there will be no efforts, really successful efforts made without a balanced budget amendment and without both the President and the Congress working together to get there. And that is what the balanced budget amendment will bring about. It will force us to work together to get a balanced budget by the year 2000.

The President's deficit reduction tax plan has failed to control even the growth of annual budget deficits which continue to rise during the latter years of the plan, surpassing $200 billion as early as 1996. And if his old plan is correct, they would reach the record level of $297 billion in the year 2001 and would top $421 billion in annual deficits in the year 2005.

Now, he claims this new budget, by cutting some programs and consolidating others, will get it down to only a $190 billion deficit each year through the year 2005. That is 10 years from now.

The President's so-called deficit reduction plan, which included massive tax increases on working people, retirees, and other Americans, neither stops the growth of the national debt nor balances the budget. The fact is that if House Joint Resolution 1 passes in its current form, we can and will balance the budget. It is not the lack of plans that has prevented us from balancing the budget. It is the lack of will.

We do not claim to have the perfect, painless way to balance the budget, but there are quite a number of options for us to examine and draw from, at least in part. In fact, over the last few years, we have seen a number of plans released from both sides of the aisle from both bodies and from outside organizations. I will just hold up a few:

The Concord Coalition zero deficit plan, the Republican alternative to the fiscal 1994 budget, the Congressional Budget Office's illustration of one path to balance the budget in their Economic and Budget Outlook 1996–2000, just to name a few. There are others.

Senator DOMENICI has said that if we would allow the Government to only grow 2 percent a year—now, 2 percent of $1.5 trillion is still a lot of billions of dollars. We would still be increasing spending, but if we would only allow it to grow 2 percent a year and you totally exclude Social Security from any cuts and keep it just totally inviolate, we would reach a balanced budget by the year 2002.

So the fact is we have the way to get there, a variety of ways of getting there. We just do not have the votes right now without a balanced budget constitutional amendment. Even the current White House Chief of Staff Leon Panetta submitted a balanced budget proposal during his tenure in the House, but they have not been able to do it since his tenure in the White House.

Like I say, other ideas include limiting the growth of spending to 2 percent without touching Social Security or cutting just 4 cents a year off every dollar of planned spending except Social Security. That would get us to a balanced budget in the year 2002.

Unfortunately, a lot of the people who are arguing that we ought to lay out in detail how we get there in 7 years are the people who would vote against that type of an approach as they are voting against the balanced budget amendment. Furthermore, there are many proposals out there to reduce spending significantly and reduce the deficit: the Dole 50-point plan, the Penny-Kasich deficit reduction plan, the Brown-Kerrey bipartisan cutting plan, the prime cuts list prepared by Citizens Against Government Waste, the Kasich budget alternatives for fiscal year 1994 and fiscal year 1995, and the Brown deficit reduction plan by our distinguished Senator from Colorado, who made that point in the last year or so.

Now, I do not think that any one of these proposals is necessarily the ultimate solution, yet they all have some ideas worth considering. I certainly believe that we could evaluate and analyze proposals in these plans as well as other ideas that I guarantee will be forthcoming from both sides of the aisle if we pass this balanced budget constitutional amendment.

Let me say it one more time. The problem is not the lack of ideas. It is the lack of will. House Joint Resolution 1 in its current form will provide that will.

Now, the Daschle proposal itself raises more questions than it would answer. We are talking about this amendment that now has been amended twice by Senator DOLE, or at least has two amendments pending against it. For example, the Daschle amendment would require a statement of new budget authority and outlays only on accounts which were over $100 million in 1994.

Well, what about accounts that were under $100 million in 1994 but have grown? What about new accounts? The Daschle proposal would also require an allocation of Federal revenues among major resources of such revenues, but what qualifies as major?

The Daschle proposal would further require a detailed list and description of changes in Federal law required to carry out the plan. Such information is currently in a document separate from the budget resolution. That document for President Clinton's 1993 budget plan was over 1,000 pages long. Do we really want to increase the already mammoth budget resolution? Besides that, I really do not understand the Daschle provision. Are we supposed to predict over the next 7 years not just the changes in law Congress may ultimately pass but the date upon which Congress will pass them?

The Daschle proposal creates additional problems by making constitutional references to statutory law. It incorporates section 310(a) of the Congressional Budget Act of 1974 by reference. Now, what happens if Congress amends that section? The balanced budget amendment, it would seem to me, would allow that amendment any time Congress chooses to do so, which, of course, makes the balanced budget amendment totally worthless. I guess that is, after all, what the Daschle proposal is trying to do, make it so it is impossible for us to ever balance the budget.

If Congress amends that section, would that qualify as a constitutional amendment itself or does it qualify just as an amendment within the constitutional amendment that is permitted because section 310(a) is merely mentioned by point of reference in the balanced budget amendment? That is, if Daschle would pass. And I cannot believe anybody would be serious about voting for something like that.

Similarly, the Congressional Budget Office is explicitly referred to in this proposal. That means that the Constitution would now refer to four branches of Government—the Congress, the Supreme Court, the Executive or President, and the Congressional Budget Office. What constitutional thinking is that? How in the world could they put that into the Constitution? We know the Congressional Budget Office has been wrong more than it has been right. So we are going to write it into the Constitution? We will if the Daschle amendment is passed. I cannot imagine anybody really voting for an amendment that would put the Congressional Budget Office into the Constitution.

Now, here we are in the new Congress trying to reduce the Federal Government, the Federal bureaucracy, and the Daschle proposal attempts to enshrine a part of it in the Constitution.

Those of us on both sides of the aisle who have worked for years to pass this constitutional amendment have consistently heard from our opponents that we are trivializing the Constitution with budget matters. Talk about trivializing the Constitution—the Daschle proposal would have us add a new section to the Constitution, longer and extraordinarily more detailed and technical than the proposal that has been the subject of hearings, a committee debate and vote, and a committee report. It adds new terms to the Constitution like "aggregate levels of new budget authority." What does that mean? It means whatever Congress says it means. I guess that is the genius of this proposal. Because Congress will make it very clear they are never going to get serious about a balanced budget until it is defined.

The first term on that list is "aggregate levels of new budget authority." This phrase, like many of the terms on this list, is technical budgetary and accounting jargon. This proposal asks us to put into the Constitution a phrase that means the total levels of new spending Congress will allow for the next 7 years.

Can you believe that? Determining new budget authority is a part of the budget and appropriations process we go through every year. This is not the type of timeless language that enunciates broad, immutable principles as does the language of the Constitution. Adding this type of language will only demean and trivialize the Constitution.

But look at the next one. Here is another one: "major functional category." Functional categories are part of the system we use to classify budget resources and activities to reflect the national priorities and needs being addressed. The proponents of the Daschle amendment, or proposal, appear to be asking us to freeze one portion of our current budget policies and national priorities by adding them to the Constitution.

Mr. President, balancing the budget is not a one-time event. It is a dynamic process. This amendment asks us to put one or two 30-second spots from a 2-hour movie into the Constitution. This is not the purpose of our Constitution.

But look at this one: "account-by-account basis" is going to be written into the Constitution. This is another of the technical accounting terms used to define our budget. These accounts represent agencies and programs that reflect our national spending priorities. This type of language may be wholly appropriate for implementing legislation but it is wholly inappropriate for inclusion into our Constitution.

Look at this one: "allocation of Federal revenues." This is just another way to define and present our budget information. I feel a bit as though I am repeating myself, but this is not the type of language we should be adding to our Constitution. I cannot believe that the proponents of this proposal could mean to use this type of language to drive constitutional policy. Nor can they mean to freeze current budgeting terms and techniques in the Constitution.

What about this one: "reconciliation directives"? These are all part of the so-called Daschle amendment. These "reconciliation directives" are the tools used during the budget process to instruct the committees to report legislation changing existing laws or pending legislation in order to bring spending, revenues, or debt limit into conformity with the budget resolution. Can you imagine the games that could be played with that? This amendment calls for a budget resolution extending out to the year 2002. Are we really going to ask our committees to change current or pending laws that far out into the future? Again, I remind the Senate that the budget is a process which proponents of this amendment are asking us to significantly slow down and freeze. This just does not reflect reality.

Look at this one, No. 6: "section 310(A) of the Congressional Budget Act." This "reconciliation directives" is a serious issue, but this is even more serious, and it is raised by the reference to section 310(A) of the Congressional Budget Act. This could have far-reaching implications. Not only do we have the unprecedented step of referring to a statute in the Constitution, but a particular section of that statute. This raises a serious question about our ability to reform the budget process through legislation. Will this proposal of having that written into the Constitution constrain our ability to amend that statute or that section through legislation? Or would we need a constitutional amendment to do so? Would this proposal lock Congress into the budget process status quo?

A lot would argue it would. There has been a lot of discussion about reforming the budget process to streamline it and make it more responsive to national priorities. I would hate to see us constrain ourselves to such a point that this would be next to impossible, by writing section 310(A) of the Congressional Budget Act into the Constitution.

What about this one? "Omnibus reconciliation bill" is mentioned in the Daschle constitutional amendment language. The reference to omnibus reconciliation bill once again puts a budgetary process into the fundamental charter of our Nation.

Once again, I want to say this type of language does not belong in the Constitution. This is coming from those who say we are trivializing the Constitution? Ms. Rivlin, the leading budgeteer in this administration and a person for whom I have great admiration, said that she does not think we should put these types of things—she is against the balanced budget amendment because it puts, in her eyes, some economic matters into the Constitution. She must be sick at heart at what they are trying to do here.

Look at this one: "Congressional Budget Office." This is perhaps my favorite of all of the references in the Daschle amendment. Here we are, in this Congress, trying to cut bureaucracy, and the Daschle proponents are attempting to enshrine the bureaucracy, the Congressional Budget Office, in the Constitution of the United States of America.

We now have four branches of Government, if they get their way: the executive, legislative, judiciary, and the accountants. If they get their way. The Congressional Budget Office? Will that be the fifth branch of Government? What about the FDA? Should we not enshrine the FDA in here and make it the sixth branch of Government? This is what the folks who are pushing this mean. Of course, we will have to say no. No, that will simply not do.

Look at this one: "Economic and technical assumptions." Once again, we have the example of technical jargon being put into the Constitution. "Economic and technical assumptions" are the tools used in determining the basis of our budget activities. They are vital in determining forecasts of our future events. Yet, I do not think they belong in the Constitution. This phrase, indeed this whole proposal, is better addressed in implementing language which could be changed by a simple majority vote. It just does not belong in our Constitution; and that is why we have implementing language.

So when you hear them saying we should exclude Social Security from the balanced budget amendment, I say how could anybody really seriously argue that? The balanced budget amendment should be written like a constitutional amendment, which it is, the House resolution. It is, and we should not trivialize it by putting all kinds of jargon into the Constitution.

My friend, Senator DOMENICI, may like this last one. It is a reference to the "Committee on the Budget." It may mean that his committee now has constitutional status and cannot be eliminated without a constitutional amendment. I fear he may be pleased with the committee's new power to trigger constitutional law.

But, seriously, I hope we will all agree we should not be enshrining congressional committees in the Constitution by reference. They are established by internal rules and can change title or function, or even cease to exist, as we have already seen in this new Congress. Would this proposal make us pass a constitutional amendment just to change the name of a committee? This is what I call really trivial stuff.

Mr. President, just look at that, "constitutional language?" Aggregate levels of new budget authority? Major functional category? Account-by-account basis? Allocation of Federal revenues? Reconciliation directives? Section 310(A) of the Congressional Budget Act? Omnibus reconciliation bill? Congressional Budget Office? Economic and technical assumptions? Committee on the Budget? All to be enshrined into the Constitution in what will be one of the largest constitutional amendments in history.

I notice Senator DOMENICI is here. Let me just finish my remarks with just a couple of other comments.

I daresay that James Madison and the Founding Fathers must be turning over in their graves. They must be.

In testimony by Alice Rivlin before the Senate Committee on the Judiciary, where she said she was against the balanced budget amendment on behalf of the administration, she had this to say:

> Consequently, the administration continues to oppose the effort to write fiscal policy into the Constitution. The Constitution should establish principles that are basic and necessary at all times, not fiscal policies like a balanced budget that may not be appropriate in every year under every condition.

One can only imagine what she thinks of the Daschle amendment. At least a constitutional amendment to balance the budget is written in constitutional language, language that would get us all there, if we have that fiscal mechanism in the Constitution.

So to write all of this other stuff in is to trivialize and demean the Constitution of the United States. And, frankly, I hope all of our colleagues will vote to keep that out.

I notice the distinguished chairman of the Budget Committee is here. We look forward to hearing his remarks.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank Chairman HATCH for yielding.

Mr. President, I thought he might be interested in my analysis of the President's budget. If there is anything that ought to convince us that we need a constitutional amendment for a balanced budget, it is the President's budget that he put out officially this morning.

It is hard to have all the details. But I would like to state for the Senate and for the American people just a few observations and perceptions about this budget which the President has presented.

First, I want to say that, to the extent that we can, we ought to work with the President. We ought to try. Normally, President's budgets have been declared dead on arrival. When the Republicans were in the White House the Democrats said that.

I do not want to say that. But I would say that this budget is on life supports. There is no question about that. It is not dead, but it is on life supports. There are a few concepts in it that we ought to build on. There is no deficit reduction of any significance; nothing for our children at all. The President in his remarks on this says this is good for the American dream, and then proceeds to talk about middle-class Americans who will be helped, et cetera. But he forgets to say this budget is an antichildren of the future of America budget.

Right now we believe every man, woman, and child is indebted $18,000 for the debt that we have been incurring without regard to their future—man, woman, and child. This deficit produced in 5 successive years, as he puts them together—the added deficit—will add $2 trillion, I say to the occupant of the chair, to the debt; $2 trillion. We think by that time the children of America will be saddled with a $24,000 to $26,000 debt. So let us use $26,000. It is $18,000 now. It will be $26,000 because of this budget, and worse than that—which is ignored in the comments from the White House today—while the deficit stays steady but does not go down, it will go skyrocketing up again. And whose responsibility is it to address that? Do we wait for our children to address that, or do we address it now? There is no question that the deficit of the United States by the year 2002 will be back up to $321 billion.

So that is what this amendment on the floor is about. Remember we were going to have a balanced budget by 2002. Under the President's budget it will be $321 billion. The President talks about getting the deficit down, and since I was on the floor for maybe 5, 6, or 10 days—I do not even remember talking about the budget which the President produced the last time—in 1993 when he takes credit for getting the deficit down—my projections then are now coming true. The nightmare that I predicted is true. It is upon us. What was the nightmare? The nightmare was that we will raise taxes on the American people, the largest tax increase package in history, and we will not get the deficit under control. That is true. Most of the deficit reduction heretofore are tax increases and defense spending cuts. What about the rest of Government? There were no cuts then, and no cuts now.

First of all, the President had a good handle when he ran for this office, a good fix on the deficit. In 1993, when he talked to the American people about getting it under control, he understood it very well for he said we will never get the deficit under control until we get the health-care programs of the U.S. Government under control. That was true then. That is true today.

The President's budget, which I have just indicated while not dead on arrival certainly takes a walk on the important issues of our day, takes a walk on the importance deficit reduction issues of our day because none of the health-care programs of the Government are addressed. There are no reductions in them of any significance. They are left to carry right on growing at somewhere between 10.5 and 11.5 percent a year. So why should anyone believe that this budget is a good budget for America?

Frankly, in the midst of a solid recovery, when the signs are there everywhere that we have to have major reform, that we have to reduce the size of our National Government, the President proposes in his budget that we ought to put 300 programs together and block them into 27 programs. Will not one think that there would be an effort to streamline Government, and what else? Save money? Actually, the block grants go up. Unless I can be informed to the contrary, the best I can find is after going through this exercise and streamlining of Government—which is not much streamlining because you still have 27, you do not give many of them back to the States—but even it is supposed to be an efficiency in delivery of service measure. To improve the delivery, you ought to get some savings out of it. It goes up.

Let me go through and quickly talk about a couple of other things because, obviously, we want to have a very constructive year. We do not want to have a year when all we do is argue. But I do not believe we should leave some of the things that the President talks about already, and in his budget, I do not believe we should leave them unanswered, for when Republican Presidents issued budgets the opposition party was quick to talk about what was wrong with them.

So I repeat. This budget is a white flag on entitlement spending. Surrender, or at least it says, as the President of the United States, "I do not want to do it. It is too hard. Maybe you ought to do it, Republicans." I think those commenting on it are already sort of saying that. The President said, "I do not want to do anything that is tough. Why don't you do it, Republicans? Then we will negotiate."

I submit that one is contrary to what this President says all the time. I mean he talks about leadership. Where is the leadership when you put a white flag up to surrender to that part of the budget that you know you must get under control and in doing that you kind of hoodwink the public that you are really getting the deficit under control?

Let me move on.

You know, there used to be the magic asterisk, the question of veracity; the question of, How truthful is the budget? I would like to just raise a question of veracity in this budget.

First of all, significant problems occur in the President's budget proposal related to a concept that has worked heretofore. Everybody acknowledges that there is a new portion of the budget called pay-as-you-go procedures and savings adjustments from adjusting and extending discretionary spending limits established in the current budget. So what the President has done relates to this pay-as-you-go. Let me talk about it.

The President's budget does not reduce direct spending programs enough. I spoke of that on the white flag of surrender. So let me talk a minute. He will claim there is $28.7 billion there to offset reductions in tax receipts of $54.7 billion. Instead, it attempts to close this gap with what I will call creative accounting, $101 billion in discretionary spending cuts, creative accounting as to $101 billion in discretionary spending. In truth, the $101 billion savings is overstated by nearly $90 billion. Mr. President, he takes credit, through creative accounting, for $101 billion in discretionary spending reduction, and $90 billion of that is overstated. Following current budget rules, the net result of the President's budget is not a reduction in the deficit claimed as $80 billion over 5 years, but rather is an increase in the deficit of between $15 billion and $20 billion over that 5 years.

Current law defines pay-as-you-go enforcement procedures that apply to direct spending and receipts. The President's budget assumes the law is changed to include discretionary spending in the definition of pay as you go to offset reductions in taxes. Even so, the discretionary cuts are significantly overstated from inflating spending caps from 1996 to 2000. Let me repeat. Savings from discretionary spending cuts are overstated from inflating spending caps from 1996 to 2000.

You see, if you have in place caps at this level and those caps as a matter of law expire, the President lets it go back up and then claims the savings. And that is $90 billion of the $101 billion. So, in essence, they go up and he reduces them back to where they are, and through creative accounting, that is the big savings in the budget.

We will get that from the Congressional Budget Office. We will ask them for that. It is not Senator DOMENICI who ought to be saying this, it is officials who have at least as much prowess as the President's experts but are neutral and not part of any political presentation of a budget.

So creative accounting has created a very big credibility gap in terms of whether or not there are any cuts in this President's budget.

Let me wrap this up again by saying the deficit, under the President's proposal, will increase each year, and the public debt—which we are talking about in the constitutional amendment—will go from a 1995 level of $4.9 to $6.6 trillion—from $4.9 trillion to $6.6 trillion—and the debt on each man, woman, and child will go from $18,000 to $26,000. The dream of our children and for our children is getting stepped on once again. No action now because it is too tough; action later when it is too late, when the children are bearing the burden when we leave them little of a legacy because we do not have the courage to do what we ought.

Frankly, without the President's leadership, I do not know where we are going. Frankly, I have told this Senate and the public in the United States that you will not get a balanced budget unless the President wants to cooperate with the Congress. I can tell you unequivocally, unabashedly, you cannot get to a balanced budget without the leadership of a President. Second, you cannot get there without both parties participating. It is too tough, really and politically.

So when you have a President who takes a walk and opposes the constitutional amendment for a balanced budget, it would seem to me that the expectations and hopes of the American people that we might finally have arrived at a point in history when we are serious about this, when we might get the deficit under control, get a balanced budget, I want to warn them that the will may be there on the part of many of us, but we may indeed not win this constitutional amendment that would have made the President join in the team that wants to get it done. Obviously, some Members on the other side and this President do not choose that. I think they do not choose it for a number of reasons. But I tell you unequivocally, absolutely, when they say they will not choose it, we will never get there, and certainly we will never get there with budgets like this one.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho [Mr. CRAIG], is recognized.

Mr. CRAIG. Mr. President, we have just heard Senator DOMENICI from New Mexico, chairman of the Budget Committee here in the Senate, outline for us what many of us feared we would hear from this President as he presented his budget to the Nation which will now be presented today—statistics and facts and figures that I do not think any of us wanted to hear or that the American people can even begin to fathom as it relates to what it all means.

Certainly, this chart I have with me reflects exactly what the Senator from New Mexico, the chairman of the Budget Committee, said. From a debt structure for our country at the end of fiscal 1995 somewhere in the $4.9 trillion mark to, by this President's own admission with the submission of his budget today, a deficit out here in the outyears around the year 2002 of $6.6 trillion. What does all of that mean?

I find it also very unique that as we debate the balanced budget amendment here on the floor—as we have been now for well over a week, and as we will, maybe, for the next several weeks—that the leader of the Democratic Party would come to us with an amendment that, in essence, says: Submit a budget in all of the detail of how you want to balance the budget, and if you do not, we cannot submit a balanced budget constitutional amendment as a matter of principle to the people for their consideration.

I say that is an interesting combination, Mr. President, because as our colleagues on the other side of the aisle are now saying that, the very leader of their party has presented a budget today that looks like this as it relates to debt structure. Not even their President was willing to talk about a reasonable approach toward the kind of deficit reduction that he himself pledged to us as a country but 1 year ago. In less than a year, this President has moved away from the very premise he ran on, on the very budgets he proposed, on the very premise by which he pushed through one of the largest tax increases in the history of the country, and that is, that we would have continually declining deficits toward a balanced budget, with a progressive reduction in the rate of debt growth for our country.

Mr. President, what happened? Where are you? Why did you forsake us? Why did you say one thing in one budget year and now come forth with an entirely different approach in another budget year?

Well, I may sound a little hard on the President this morning. Let me back off a little bit and say I guess I am not surprised, because for the last two decades, other Presidents have been making similar promises, and many of those Presidents have been Republican Presidents. Yet, we saw the deficit and the debt structure of our country grow from 1990, where we had a debt of around $3 trillion, now to a President walking before the cameras and talking to the American people and, in a straight-faced way, suggesting that this budget projected outward will produce a $6.6 trillion deficit.

This morning in the Wall Street Journal, Stephen Moore, who is the director of fiscal policy at the Cato Institute here in Washington, tried to put these kinds of analyses and projections in perspective for the American people. I recommend to my colleagues that they read that article, because it begins to cause us to focus about why we are here on the floor of the U.S. Senate and will be here for the next 3 weeks debating a balanced budget amendment to our Constitution.

I ask unanimous consent that that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

IF YOU BOUGHT 2 TRILLION COPIES OF THIS PAPER * * *

(By Stephen Moore)

Today, President Clinton releases his fiscal 1996 budget. Already the Associated Press is reporting that officials claim the budget "proposes to abolish or consolidate hundreds of government programs, reducing federal spending by $144 billion over the next five years." No doubt the president will firmly insist that this is the most tight-fisted, penny-pinching budget in 20 years.

Why is this so predictable? Because this is what every president since Richard Nixon has said. But 20 years ago the federal budget was $370 billion. Today, Mr. Clinton will request almost $1.6 trillion. Even adjusting for inflation, the federal budget is twice as large as it was during the last years of the Nixon presidency. Besides, without the sleight of hand of baseline budgeting, President Clinton's new budget calls for a $50 billion increase in spending from the current budget. And that was $70 billion more than was spent the year before that. Yet the budget-busting news is bound to be greeted with a national yawn of unconcern.

Why is there more public outrage when we learn that Washington wastes $100 on Al Gore's famous ashtray than that it wastes nearly $1.6 trillion on everything else? Much of the problem seems to be that 1½ trillion is an incomprehensibly large number. So here are some simple ways to picture how enormous the U.S. government is today:

One trillion dollars—$1,000,000,000,000.00. That's 12 zeroes to the left of the decimal point. A trillion is a million times a million. It would take more than 1½ million millionaires to have as much money as is spent each year by Congress.

One of the highest-paid workers in America today is basketball superstar Shaquille O'Neal, who reportedly earns about $30 million a season in salary and endorsements. He is rich beyond our wildest imaginations. But he'd have to play 33,000 seasons before he earned $1 trillion. It would take a Superdome full of Shaquille O'Neals to have enough to pay all of Congress's bills each year.

Here's an experiment. What if we were to try to pay off the $4 trillion national debt by having Congress put one dollar every second into a special debt-buy-down account? How many years would it take to pay off the debt? One million seconds is about 12 days. One billion seconds is roughly 32 years. But one trillion seconds is almost 32,000 years. So to pay off the debt, Congress would have to put dollar bills into this account for about the next 130,000 years—roughly the amount of time that has passed since the Ice Age.

Even if we were to require Congress to put $100 a second into this debt-buy-down account, it would still take well over 1,000 years to pay the debt down.

Try this one on for size. Imagine a train of 50-foot boxcars crammed with $1 bills. How long would the train have to be to carry the $1.6 trillion Congress spends each year? About $65 million can be stuffed in a boxcar. Thus, the train would have to be about 240 miles long to carry enough dollar bills to balance the federal budget. In other words, you would need a train that stretches the entire Northeast corridor, from Washington, through Baltimore, Delaware, Philadelphia, New Jersey, and into New York City.

Former Office of Management and Budget Director Jim Miller calculates that if a military jet were flying overhead at the speed of sound and spewing out a roll of dollar bills behind it, the plane would have to fly for more than 15 years before it reeled out 1.6 trillion dollar bills.

Here's a challenging one: If you laid $1 bills from end to end, could you make a chain that stretches to the moon with 1.6 trillion? Answer: without a sweat, with billions and billions of dollars left over. In fact, they would stretch nearly from the Earth to the sun.

The newspaper tabloids report that O.J. Simpson is paying some $55,000 a day in legal fees. The trial would have to last 26 million days, or almost 100,000 years, before the lawyers earned $1.6 trillion.

This year the White House want to spend three times as much as America did to win World War I, which cost roughly $500 billion in today's dollars. Adjusted for inflation, the combined cost of defeating the Nazis and the Japanese in World War II and winning World War I was $4.5 trillion. This is what Washington will spend in peacetime in just the next three years to continue losing the war on poverty, drugs, illiteracy, homelessness and so on.

So far, we've just been counting the amount Washington spends each year. When state and local expenditures are included, total annual government spending now surpasses $2.5 trillion. That's more than $23,000 of government for every household in America. In constant dollars government spends twice as much per household as it did in 1960—though most Americans believe that government services have deteriorated since then.

With the $2.5 trillion government spends each year, you could purchase all of the farmland in the U.S. (market value: $725 billion), plus all of the stock of the 100 most profitable U.S. corporations today ($1.6 trillion). You would then still have just enough money left to pay the advance on Newt Gingrich's book deal.

All of this points to one conclusion: The budget that Bill Clinton is presenting today is not lean; it is not efficient; it is not frugal. It is a monstrosity. It should be greeted with heaps of ridicule and scorn. No matter how you stack it, $1.6 trillion is a whole lot of money—even in Washington.

Mr. CRAIG. Mr. President, let me take from Stephen Moore's article this morning some of the examples he used as to what all of this means, because I really do believe that every Senator has been lost in the woods of trillions and trillions and trillions of dollars and no longer do we really understand what it means for this President to come forth with a budget of $1.6 trillion. And we turn and say, Mr. President, what does that mean? What kind of impact will that have on the economy of this country? What does it mean to every American? Well, you heard the chairman of the Judiciary Committee say it meant a debt structure per capita in this country, per individual citizen, going from $18,000 to $26,000.

Here is another figure: A $1.6 trillion budget is representative of spending $23,000 for every household in America. Can you imagine that this President is saying to every American who owns a home or household—and that could be an apartment—that this Government is going to spend $23,000 per household? Well, that is what this $1.6 trillion budget represents. Here is another fascinating figure. We are all riveted—at least some are. In all fairness, I am not too riveted to the television set these days watching the O.J. Simpson trial. But we are told that O.J. is paying something like $55,000 a day in legal fees, at least that was a figure that came out several days ago.

Well, here is an interesting figure—$55,000 a day, that is what O.J. apparently is paying his lawyers. Compare that to a $1.6 trillion budget, the American people would be privileged to watch O.J.'s trial for how many days? Twenty-six million days to get to a $1.6 trillion price tag. Again, that is 100,000 years of watching O.J. and the trial. Does that begin to focus what our President has just announced or will be announcing today with a $1.6 trillion budget? Twenty-six million days of O.J., 100,000 years at $55,000 a day.

Have we lost our senses? Have we lost our perspective? Yes, we have. And that is why the House 2 weeks ago, by a very large and historic vote, passed a balanced budget amendment to our Constitution. And that is why myself, the Senator from Utah, the Senator from South Carolina, and others for so many years have led the issue on the balanced budget amendment. And it is why we introduced House Joint Resolution 1 here on the floor and we are debating it today, because this Congress and this Government has lost its perspective. We do not know what a $1.6 trillion budget is all about or what a $6.6 trillion debt is all about.

One trillion—12 zeros behind the deficit figure. That is equivalent to 1.5 million millionaires all giving up their fortune for 1 year of Federal budget. That is another perspective that Stephen Moore put in his article that I think begins to cause us to focus on what this budget is all about.

Now, here is another good example. I am using these this morning because I think the American public's eyes glaze. They hear us talking about section 3, subsection (a). They hear us talking about the kind of language that the Daschle amendment has in it—"aggregate levels of new budget authority." I have a feeling that they do not understand that. Frankly, not many of us understand it.

How about "major functional category"? I doubt that they understand it. But, believe it or not, that is what the opponents to a balanced budget amendment want to put in the Constitution of our country today.

Now here is an analysis that the American people will understand. Again, it is an analysis of what $1.6 trillion means. Imagine a train, a freight train, 50-foot boxcars, crammed with $1 bills, each boxcar 50-foot long, crammed with $1 bills. How long would that train have to be to house $1.6 trillion or President Clinton's budget?

Well, here is an interesting statistic. You can get about $65 million in a boxcar. Now if any of you are quick with mind and calculate that, you may well be ahead of me. But my calculations and the calculations of Stephen Moore of the Cato Institute suggest that that is a train that is 240 miles long.

So, in other words, if you are thinking of the Northeast corridor here of our rail system—that is from Washington, DC, through Baltimore, through Delaware, through Philadelphia, through New Jersey and into New York City—one train all hooked together, not moving, each boxcar 50-foot long, crammed with $1 bills, $65 million per boxcar, and Mr. President, you got your budget—$1.6 trillion.

Now, I think the American people understand that analysis. I do not think they understand "aggregate level of budgetary authority." I doubt that they understand "account by account basis."

Many Americans have read our Constitution and they understand what a beautifully simple and clear document it is. They understand the purpose of why it is clear, so that it cannot be reinterpreted and misinterpreted and reinterpreted again. And what is also very important is that every word that is in that Constitution does not allow the Congress, on a daily or yearly basis, to change the game plan or the definition of the words or the description of the program or the policy that might be enshrined within the Constitution.

And, of course, that is exactly what the amendment that has been presented and is now known as the Daschle amendment does. And that is why there is no doubt that this Senate has to vote it down. We cannot trivialize our Constitution. We must stay on focus as to why the American people sent us here and to what they so profoundly said on November 8 of last year.

Well, let me give you another analysis. If you do not understand what $1.6 trillion is all about, what $6.6 trillion of debt is all about, what a debt per every American of $26,000, as their share of the national debt, or a budget that spends $23,000 per American household is all about, here is a quote from the former Office of Management and Budget Director Jim Miller, who I believe headed that up under Ronald Reagan.

He calculates that if a jet airplane were flying overhead at the speed of sound and spewing out a roll of $1 bills behind it—that is, all connected together, open up the side door and drop it out and let it roll out across the skies of America—what would happen. Well, that plane would have to fly more than 15 years nonstop, airborne, constantly spewing out those $1 bills all connected together to get to $6.6 trillion.

Well, people are probably beginning to say, "Senator CRAIG, we have had enough of that." But I think those are important visuals for the American people to begin to understand what we are talking about and why a balanced budget amendment to our Constitution is so critically important.

Now let me for the next few minutes talk about the kind of impact that this will mean to the American people, our ability as a Government to establish priorities and to determine those areas where Government does have a legitimate role and a responsibility to spend the tax dollars of this country for a variety of purposes and priorities that the American people believe are necessary and essential.

Here is one of the greatest problems we have today with a constantly mounting debt. This chart represents interest on the Federal debt through the year 2005. Yes, we do borrow money and, yes, that money is debt. It is real money. We owe it to someone. They expect a return from the money that we have borrowed from them. We do pay interest.

This year in the budget that the President has just proposed, $1.6 trillion, that ".6," ".3 of the .6" is interest on debt, now the second largest item in the Federal budget. It is now crowding out defense, crowding out discretionary spending, like the management, running of our Forest Service, our Department of Agriculture, and a variety of other programs that a lot of Americans think are pretty important and pretty essential. It is just interest on debt.

It is not buying any program. It is not putting any food in any poor child's mouth. It is going out to pay for the amount of money that the Federal Government has already borrowed. That figure, as we know it, is today around $300 billion annually. Of course, with the growth from 4.9 to 6.6 in Federal debt, as this President has now sanctioned, that figure will progressively grow over the next good number of years.

The gross interest payment exceeded, as I mentioned, in 1994, nearly $300 billion. This is the greater of the total outlays of the Federal Government in 1974. That is an interesting piece of history: That the interest on debt in 1994 was greater than the total outlays of the Federal Government in 1974. Is there any reason to try to understand why the American people spoke in the election of November of last year with such alarm, why they rejected those who were there running again for reelection, who tried to defend the status quo?

I believe the American people are growing frightened of this kind of a debt structure, fearful that their Government and its spending are out of control, and that there is no way to rein it in and; as a result of that, we could risk out here, at a $6.6 trillion debt, loss of our ability to control our Government or our ability to pay interest, if not principle, on debt.

Those are very real facts. That is why I believe the balanced budget amendment passed so soundly in the House for the first time in history, and why I believe it can pass here in the U.S. Senate.

There is no doubt that we have our work cut out for Senators. As we watched some of the leaders of the Senate talking on national television in the news shows yesterday, one of them, strongly opposed to this, said he will speak weeks and weeks on the floor, convincing the American public that what we are doing is OK, that somehow we ought to just keep on doing what we are doing; while he, of course, recognized that reduction in deficit and control of debt was important and he said we ought to try to do that, too, and we ought to work toward that, and he even suggested that all of the successes of the last several years were producing a substantially better budget.

Well, I am sorry, that Senator was not right. He was wrong, if we use the example of the very budget that the President is producing today, which is a reflection of the spending programs of the last several years. In other words, anyone who stands on this floor in the next 3 weeks and opposes a balanced budget amendment to our Constitution or, more importantly, the right of this Senate to agree with the House and send out to the American people a balanced budget amendment for them, the American people, to decide whether it ought to be a part of the Constitution, and whether it ought to control or bring into control the growth rate of our Federal budgets, what those people are simply advocating is the status quo. They are trying to avoid the people of our country taking their Government back. They do not want to give up the power they have: The power to spend, the power to go home and say, "Look what I have done for you."

Well, I think the message is changing. I think the American people are saying something entirely different from what they have said in the past. The reason is very simple: They now see, as far as the eye can see, the red of debt; or as far as the plane can fly, billions of dollars spewing out of it, year after year. Or to imagine that $1.6 trillion budget really is beyond the ability of any Member to imagine how much that kind of money really is.

We are talking about a fundamental change in the course of our country that can be produced if the Congress of the United States is willing to address the demand of the public they were sent to represent. That, of course, is to pass a balanced budget amendment, and to send it forth to the States, and to begin a national debate across our country in every capital city of every State as it relates to the ratification of that amendment, where every citizen and every State legislator will begin to understand exactly what the Federal budget is all about and the kind of impact it has on the general economy of our country.

Those are the issues. Over the next several days, as we look at the President's budget, as we hear the rhetoric from the other side, saying, "We don't want a balanced budget amendment. We want business as usual," and more importantly, "We want you to show every cut you would make to balance your budget." We cannot even get from this President the commitment that he told Members he would honor last year and the year before with his budget messages, and that was to reduce the deficit and to keep the deficit declining. Even this President has begun to walk away from it, so reflected by his proposal and by the budget that he is now presenting.

There will be adequate time for me to discuss other issues over the course of the next several weeks. Several other Senators are joining me on the floor, and I certainly hope our colleagues from the other side will find it today in their ability to come to the floor and defend their amendment, their motion to recommit, their motion to duck and run from a balanced budget amendment, their motion that would muddy up the Constitution of our country with language like "aggregate levels," and "major functional categories," language that has no business in the Constitution.

But, more importantly, the American people cannot even begin to understand. We know what the American people understand. They understand that every day and every week and every month and every year, they have to balance their checkbooks. Their budgets have to balance. They have to pay their bills, or they are in trouble. And they are now growing fearful that our unwillingness to do so could bankrupt our country, their country, their future.

Now, that is very simple, and the American people clearly understand the importance of that kind of basic economic simplicity—balancing budgets, controlling debt, spending within your means.

I am sorry, Mr. President, your budget just does not get it.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington State.

Mr. GORTON. Mr. President, I wish to express my admiration to my colleague from Idaho on the quality and clarity with which he has outlined both what the President proposes to Members, and the way in which that proposal illustrates better than almost anything we can say the need for this constitutional amendment.

Last week, Mr. President, we ended the week in a debate over a motion by the distinguished leader of the Democratic Party that would have the effect of adding to this constitutional amendment for a balanced budget a detailed set of requirements, the net result of which would be to mandate that the Congress pass binding laws which would lead to a balanced budget by the year 2002 before the amendment itself would be submitted to the States.

Those requirements themselves were to become, according to the distinguished Democratic leader, a part of the Constitution of the United States. Thus, they would preempt to this Congress not only the statement of a general principle, but an outline of the precise blueprint by which a balanced budget would be reached, taking that power away from three Congresses that are to convene between now and the year 2002, and ignoring totally whatever dynamic changes may and will take place both in our economy and in our situation in the world during that period of time.

The proposal was an improvident and unreasonable proposal, in any event. The illustration as to why it was so unreasonable is best drawn by the budget submitted by the President of the United States since the Daschle motion was laid before this body.

The view of those of us who favor the constitutional amendment, of course, was that it was more the duty of those who defend the status quo, those who feel that Congress has operated responsibly, along with the President, over the course of the last many years, those who feel that the situation is not broke, that we do not need dramatic change, that it was more their duty to tell us how they would reach a goal to which all of them give lipservice—the goal of a balanced budget—without any fundamental change in the Constitution than it was for those of us who feel that the situation is flawed at the present time, that the discipline that will lead to a balanced budget will not be imposed internally by either the President or the Congress of the United States and that, therefore, we need to change the Constitution itself to mandate that all of us—Republicans and Democrats, conservatives and liberals, Presidents and Members of Congress—work together to reach a balanced budget.

We attempted to make that position clear last week. I think to a certain extent we did so. But the President has ended that argument for us by the submission of his budget. His budget, for all practical purposes, never, never, never will result in a budget with a deficit of less than $200 billion. And using the figures of the Congressional Budget Office, which all agreed to use earlier during the course of this year, that deficit, in fact, will increase very substantially, upward of $400 billion either at or not long after the time that this constitutional amendment will become effective if promptly ratified by the States.

So we now have before us two starkly differing views of the fiscal and financial future of the United States: First, represented by those who back this constitutional amendment, whose view it is that as difficult as it may be it is important 7 years from now to have reached a balanced budget or at least to make it more difficult thereafter to vote an unbalanced budget, as against those whose view it is that the Federal debt can keep on increasing by $200 billion a year, $300 billion a year, $400 billion a year to infinity. These are the two distinctly different points of view represented in this body that will be validated, that will be evidenced by votes on final passage on this constitutional amendment.

Once again, it is important to point out that even this amendment, should it be enshrined in our Constitution, will not under any and all circumstances require that the budget be balanced every year. It will simply make it considerably more difficult to vote for an unbalanced budget because that unbalanced budget will have to be, under almost all circumstances, at least bipartisan in nature; that is to say, it will have to get a 60-percent majority vote in both Houses of Congress and, of course, be approved by the President.

But the opposing point of view was outlined by the distinguished senior Senator from Idaho magnificently in his remarks, as it was by my senior colleague from the State of New Mexico. The opposing point of view is essentially: Let us give it up; let us pass a budget which does not deal with entitlements in any respect whatsoever; let us pass a budget which admits that even if everything comes out as favorably as the administration hopes, there will never be a deficit significantly less than $200 billion a year.

To this Senator at least, that strips away the disguise that opponents to this constitutional amendment do wish for a balanced budget but just feel that to require it by passing an amendment to the Constitution is too drastic a remedy. In fact, those who will support the President's budget this year will be ratifying his decision that a balanced budget is not necessary, is not appropriate, never needs to come into being at all.

I may be overstating the case. It may very well be that there are opponents to this amendment in this body who themselves disagree with the President's budget. If so, I hope that during the course of this debate they will tell us how they disagree with the President's budget and how they propose to bring the budget into balance without the discipline of this constitutional amendment.

So far, no one has spoken up to that point of view. Nothing more than lip service to fiscal responsibility has been heard from our opponents. Maybe, perhaps there is an outside chance that we will hear how that can be done without this joint resolution having passed, but in the meantime, while our opponents have the opportunity to come up with their contrasting ideas, in the meantime, we are dealing with the Democratic leader's motion to recommit and to send back out to this floor not just the constitutional amendment for the balanced budget, but two additional pages of material, Mr. President—two whole additional pages of material—which are to go into the Constitution of the United States with topical references to the Budget Act of 1974, with specific requirements related to statutes—not constitutional provisions—but statutes on the books at the present time, outlining in detail how the Congress must reach the goal of a balanced budget by law, by changes in our fiscal policies today that will be impossible or at least extremely difficult to change at any time during the next 7 years before this constitutional amendment is even submitted to the people.

Leaving aside, Mr. President, the aesthetic considerations of whether such purely statutory material should ever, under any circumstances, be included in the Constitution, a proposition which I find to be outrageous and which I believe most constitutional scholars would find to be outrageous, leaving that aside, the proposal of the distinguished Democratic leader is itself unconstitutional on its face.

As I did on Friday, I should like to leave with this body the specific provisions of article V of our Constitution which deal with the way in which constitutional amendments are to be added to that document. Article V, and its material portions, reads as follows:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution * * * which shall be valid * * * when ratified by the Legislatures of three-fourths of the several States * * *.

Mr. President, that provision does not allow for conditional constitutional amendments. This motion proposes a conditional constitutional amendment. It envisages, it imagines that both Houses of Congress with two-thirds votes will pass a long, long constitutional amendment, far longer than any other amendment to be found in that document, but that it would not be submitted to the States until Congress had passed, and the President had signed, another law—a very long and complicated law, a reconciliation bill—thus bringing the President into the process of amending the Constitution, something which the people who wrote the Constitution specifically ignored, specifically barred.

This proposal says that the constitutional amendment will not be submitted to the States until that complicated reconciliation bill is passed, signed by the President and becomes law. That, Mr. President, is a clear, open and blatant violation of article V. Under article V, the Congress of the United States passes a constitutional amendment. The States ratify it. Nothing happens in between, no conditions subsequent, no statement that this amendment will not really go to the legislatures of the several States unless we do something or someone else does something in between.

Mr. President, not only does the proposition that we should include such language in the Constitution offend the sensibilities of everyone deeply concerned with that document, it is in and of itself unconstitutional. I believe that it should be dealt with by a constitutional point of order. I am convinced that not only will all of the supporters of the constitutional amendment in its present form uphold that constitutional point of order, but I think many of the opponents to the constitutional amendment would do so as well because they have a deep respect, a deep respect which they have spoken to eloquently and at length on this floor, for the Constitution, and I cannot imagine that they would wish to engage in such a blatantly unconstitutional procedure and clutter up our magnificent founding document with such language.

Mr. CRAIG. Will the Senator yield?

Mr. GORTON. I will be happy to yield to my friend.

Mr. CRAIG. Let me thank the Senator from Washington for his very clear explanation of why so many of us are frustrated by this motion by the Democratic leader and the rewriting, almost instant rewriting of an amendment that the Senator from Washington and I and others have spent almost a decade with constitutional scholars writing to make sure that it was extremely accurate and that it fit the mode and the style of our Constitution, an amendment that was thoroughly reviewed by the Judiciary Committee of both Houses and now all of a sudden this massive new amendment with all kinds of language in it.

I truly appreciate, first of all, the Senator's legal mind and the clarity with which the Senator has spoken to this issue and pointed this out. I am amazed, and I think most Senators that are now examining this motion are extremely amazed, as to why would they do something like this. It is not even a very good diversion. It is a tragically poorly written document, and they are proposing by its presentation that it become a part of the Constitution. So I thank the Senator very much for that explanation and going into that kind of detail. I think it is terribly frustrating to the American people but, more importantly, I think now Senators on this floor are becoming extremely frustrated over why this kind of amendment.

Mr. GORTON. My friend from Idaho is entirely correct. I think in recap we have to say about this motion, first, the motion proposes that the Congress of the United States act in a profoundly unconstitutional manner. Second, it proposes that we add to the Constitution of the United States language which no serious person could ever consider ought to be a part of our fundamental document of Government. Third, it proposes a course of action which is irresponsible. We are dealing with a general principle that budgets ought to be balanced. Obviously, if Congress and the States put that in the Constitution, everyone—Presidents, Democrats, Republicans—together will have to work to meet that constitutional obligation. The details of one particular method of reaching that goal, when there are a multitude of such matters, should play no role in this debate.

But, fourth, it seems to me it was designed to hide what many must have known would be the President's total and abject failure to come up with an alternate method of reaching this goal without a constitutional amendment. We now know that the alternate method is never to have a balanced budget—in fact, never to get the budget deficit significantly below $200 billion a year.

Mr. CRAIG. Will the Senator yield again? Is it not true that as we write proposed constitutional amendments, the one concern we have is that the wording that goes into those amendments is not something that falls within the purview of the Congress on a daily basis? By that I mean they could simply rewrite or change a law and it would change the meaning of it. The Constitution, as we know it and as we are certainly pledged to uphold, is a document that we are constantly trying to comply with instead of change.

The language that is put in the Daschle amendment used, as I mentioned earlier, and as the Senator has mentioned, and the Senator from Utah mentioned—the word "aggregate" sums, and it used a variety of other words that, is it not true, every year the Congress could pass by a majority vote here in the Senate and the House and change the definition and therefore change the approach of the amendment itself?

Mr. GORTON. We could certainly do so, and undoubtedly we could provide employment to numerous constitutional scholars and courts to either interpret what we had said in the constitutional amendment and what we said in the later statute, or whether or not the two corresponded with one another. We have examples of this kind of Constitution writing in many States which have constitutions that did go into statutory detail that are 4, 5, 10 times longer than the Constitution of the United States and are universally criticized as not stating general principles.

The original House Joint Resolution 1, on which the Senator from Idaho has worked so diligently over the years, is cast in Constitution-type language. Members can agree or disagree with the fundamental principle that it establishes, but it does deal with a fundamental principle. This proposal by the Democratic leader deals with nothing at all that is fundamental, and it takes its language out of a statute which has been changed several times since it was originally passed in the mid-1970's. It does not belong in the Constitution of the United States.

Mr. CRAIG. I thank the Senator for yielding and responding.

Mr. GORTON. And I yield the floor.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, one message that Tennessee has conveyed to me in very clear terms over the past years and most recently over the weekend as I traveled in east Tennessee is that they want a balanced Federal budget, and they believe and they know that the only way to accomplish this is through passage of the balanced budget amendment.

Tennesseeans and the American people in general understand full well today the consequences that will result from further irresponsible deficit spending—rising long-term interest rates, lower productivity, and deteriorating living standards. They understand full well that with Federal spending on auto pilot, the debt continues to grow, interest rates will continue to escalate, and we cannot guarantee that in the future there will be enough money to fund Social Security.

Gross interest on the debt is now the second-largest single Federal spending item after Social Security. Mr. President, the American people understand full well that balancing the Federal budget will not be easy; there will be tough choices to make. But their message to Washington is that they as individuals make tough choices every day. They balance their own budgets and they expect the Federal Government to do likewise.

Mr. President, this is not a problem that will disappear. It must be addressed now, by this Congress. The last vote on the balanced budget occurred in March 1994, just last year. Since that time, just a year ago, the national debt has increased by more than $160 billion.

We spent almost six times as much on net interest payments on the debt in 1994 as we did on total outlays on all Federal job training, education, and employment programs combined.

Mr. President, we have two choices. We can continue the reckless and destabilizing policy of deficit spending as we have seen in the President's budget as proposed today, or we can reverse our course and begin pursuing a responsible fiscal agenda. The first important step toward restoring fiscal discipline is to adopt a balanced budget amendment.

But there are those who oppose the balanced budget amendment. They say if our Founders had intended a constitutional requirement for a balanced budget they would have put it in the original document. This argument ignores history. The writings of some of our early leaders like Thomas Jefferson revealed that paying off the Federal debt and balancing the budget was critical to them. It was second nature. It was something they took as a given. They did not and could not anticipate the gross fiscal irresponsibility of future generations of Congress. If they had, I believe they would have included in the Constitution a requirement that the Federal budget be balanced each year.

Still others who oppose the balanced budget amendment say, "Well, first tell us what you will cut before we vote on it." But this argument misses the point. If Congress had the discipline to decide and agree upon where the cuts would be made without being forced to do so, the budget would be balanced today and we would not need a balanced budget amendment. That is precisely the point. Congress cannot agree and Congress does not have the discipline and the American people today recognize that. That is why they demanded that the balanced budget amendment be passed. Moreover, we will learn as we go. We will determine what reforms work, which programs should be repealed. The plan will be flexible, designed to deliver Government services as efficiently as possible. We should not tie our hands before we decide to pass the balanced budget amendment.

I spent the last 18 years of my life in medicine, transplanting hearts and lungs into patients who were dying, whose futures had been destroyed. Many of my heart transplant patients recognized that they, too, faced a choice. They could undergo an enormously difficult surgery, endure tremendous pain and a long and difficult recovery but they would have a chance at a good future. They would have the opportunity to live. Or, on the other hand, they could decide to forgo surgery and die—with no future, no opportunity.

Those patients did not ask me to describe to them what would happen on each day of that difficult recovery period after surgery, after their operations. They knew it would be tough. And they knew they had no choice if they wanted that new opportunity, if they wanted a new future. They first made the decision to undergo the operation. Then they dealt with the day-to-day hardships of recovery.

Our situation today is somewhat analogous. Our country is literally hemorrhaging from the enormous debt under which we labor. We are threatening future generations. We are threatening the future of our children. We are threatening our Social Security system. And we are threatening our ability to lead the way in the global economy of the 21st century.

Individual Americans and most State governments live with a balanced budget. It is time the Federal Government do likewise.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I rise in support of the balanced budget amendment, not only because I favor the concept of a balanced budget amendment but because, it seems to me, it is one of the building blocks of the kind of change that American voters asked for in November; a procedural change that not only will change the specifics of what is done but, over time, will change the character of this Federal Government and will deal with the basic question, How do we achieve less Government and a less expensive Government? It is one of the procedural changes I think is necessary, one of the procedural changes that will have to be dealt with—some of which we have already dealt with.

We need a balanced budget amendment to put some honesty and truth back into our budgeting, too, to deal with the question of whether or not it is morally right to spend more than we take in. The answer, of course, is it is not.

The other, of course, is unfunded mandates, which this body has dealt with, as has the House. We will soon be reconciled in conference committee.

I think a line-item veto is another of these building blocks, along with congressional accountability, which has also been passed here. So we are making real progress toward fundamental change, the kind of change that will have long-range impacts on this Government, that will have a long-range impact on the transfer of power to local and State governments, that will have a long-range impact on transferring power to individuals as this Government was set up to do.

So I rise in favor of this as one of the building blocks. It is not a new idea. It is something many of us have favored for a very long time. It is basic to change. We can talk a lot about the details, as the Senator from Tennessee pointed out. The real question, of course, is should we balance the budget? Should we be fiscally responsible? Should we pass along debts to our children and our grandchildren? Or should we be responsible for them ourselves? Should we take account of the fact that our credit card is maxed out and be responsible for the decisions we make? Should we be forced to have a cost-benefit ratio on the issues we talk about? If they are worth having, they are worth paying for. If we are only willing to put them on the credit card, then we cannot do that. That is what balanced budget amendments are all about, to bring about the fundamental change.

However, and I take a little from Bill Bennett when he said: We, now, in this new Congress, are allowed to consider the concept that everything that is worthwhile, everything that is good has to be controlled and funded by the Federal Government. That is a concept that has slipped into our society that does not need to be there.

So I rise in strong support of the balanced budget amendment. We hear, of course, it is not needed. The evidence is that it is. We hear, of course, there are tools there to accomplish that without a balanced budget amendment. There is no evidence of that, even in the President's budget, which was made public today. There is no evidence of that.

One of the things we seem to lose sight of as we talk about the deficit—and talk about it we should—is the fact that spending has increased each year. Spending increases to $1.6-plus trillion under the President's budget. The President talks about the administrative efforts to reduce the deficit, which have been useful. Nevertheless, spending has continued to increase all throughout that. We seldom hear the reduction in deficit is generally a one-time proposition, where there was a revision of some projected spending that gave us most of the deficit reduction. So people ask for change. People want less Government, less spending, and lower taxes. This will help do that.

We hear we need more time. This is not a new idea. This is one we have talked about for years. Most people have known this has been necessary for years. I have no objection to full discussions. I begin to wonder whether this is full discussion or simply delaying. Nevertheless we are here, prepared to do that.

We hear occasionally if we have an amendment, judges will be setting the budget. There is no evidence of that. I think 49 States have balanced budget amendments. My State of Wyoming has a balanced budget amendment. It has a balanced budget amendment in the constitution. It is very simple. In section 1 of article 16 it says:

> The State of Wyoming shall not in any ,manner, create any indebtedness exceeding 1 per centum on the assessed value of the taxable property in the State * * * except to suppress insurrection or to provide for the public defense.

It has been very satisfactory. The legislature knows this is your income, this is your expenditure. You have to make it fit.

The balanced budget, I believe, was one of the primary reforms we were sent here to consider, that we were sent here to pass. We are not moving toward it without the balanced budget amendment—$1.6 trillion in spending next year more than last year, with a projected deficit of approximately $200 billion until the year 2002 with no appreciable change of where we have been. This is not the kind of change that people asked us for when we were sent here in November. Those of us who just ran this year I think have a particularly clear picture of what voters were talking about. There are 11 new freshmen in this body, all 11 of whom support the balanced budget amendment. I think that says something about it.

Mr. President, I hope we continue to work on this issue. I hope we come to a resolution before long. I think there is a limit to the productive discussion and debate. We need to consider those things that are real. We do not need to spend a great deal of time simply postponing a decision that needs to be made, and which needs to be made for the good of this country.

There are additional Senators on the floor.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I wish to congratulate the Senator from Wyoming for his excellent statement on the issue of a balanced budget amendment. It is one which I hope Senators will listen to closely. The Senator has I think outlined some critical issues that this Senator is discussing as we move down the road to determine whether or not we are going to pass this critical piece of legislation.

I want to rise on an ancillary issue dealing with the balanced budget amendment, dealing more importantly with the budget which we are going to have to pass this year as the Senate and as a Congress.

Today, the President laid before the American people his budget proposal, and, to say the least, it was not a document that would excite a whole lot of interest or enthusiasm from a variety of different quarters, including many within his own party it appears.

It is difficult to presume that here in the late 20th century a President of the United States could be deemed irrelevant, and certainly some of the pundits in the national media, however, have reflected on that question. I do not believe that can occur to a Presidency in the late 20th century; become irrelevant.

Yet, when you read this budget proposal that the President has put forward, you have to say that he has left the field of play on what is probably the most important issue which we have to face as a nation and as a people; that is, how we manage our fiscal house, and what we do for our children relative to managing our fiscal house, or, more appropriately, what we do to our children in managing our fiscal house.

As we all know, because this debate on the balanced budget has been going on for a considerable amount of time, and regrettably will probably go on for an additional period of time—a couple of weeks—the debt of this Nation has exploded. And it is a debt which is going to be borne by the next generation. As we allow it to expand further and further by each year running a Federal deficit, we put a greater burden on the next generation.

It is getting to the point where many of the economic scholars who are leaders in this country are concluding that as we move into the period 2010 to 2020 this Nation will face financial bankruptcy. Our children, instead of being raised in a country which is the force, the economic engine of the world, will find themselves in their earning years in a nation which is scrambling to keep up, a nation which is feeding itself from hand-to-mouth potentially. Potentially we could end up like Mexico is today, as a nation whose debts have skyrocketed so quickly that it is no longer able to service even an interest on its debts.

It is a fact that, if we continue to drive the debt, the present deficit which we have in the budget as proposed by the President is exactly what will occur: That some time around the year 2020 we simply will not be able to finance the Government of the United States because so much of the funds of the Government of the United States and revenues will be absorbed by interest costs on the Federal debt. Around the year 2015 or 2017 the revenues of the Federal Government will only be enough to cover four items in the Federal budget: Social Security, pension benefits, health care, and interest on the national debt. And all other functions within the Federal Government will not be paid for—national defense, education, caring for the sick, the elderly, caring for the less fortunate. All of those items will be beyond our means to pay for. We will as a nation be bankrupt.

If you are going to address that issue in the outyears, you have to address it beginning today. Yet, this President has consciously decided to put forward a document which makes absolutely no substantive attempt to address the deficit which we are confronting as a nation. Not only does it not attempt to address it and to reduce it, it actually accepts as a fait accompli that we will have deficits for as far as the eye can see of a dramatic nature.

The number that they use is $200 billion a year for 5 years every year; $200 billion a year. Even I, in my elementary level of mathematics, recognize that is $1 trillion of new debt that this President has decided is acceptable to pass on to our children. That is a huge cost and a huge burden to put on them. But worse than that, no attempt is made in the budget proposal of the President to address the underlying structural causes which are driving that debt. No attempt is made to address those elements of the Federal budget which are causing us to run the $200-plus billion deficits. As a result, when you get past that 5-year window that is the timeframe that budgeteers use around here, that $200 billion debt starts to geometrically progress, and we find that we have a deficit in terms of $300, $400 billion, potentially even $500 billion, as we move into the next decade because nothing is being done to slow that growth in the budget proposed by the President.

It was a conscious decision. That is I think what bothers me the most. It was a conscious decision made by the leader of this Nation to walk away from seriously addressing how we deal with this, the most critical issue that we as a nation have relative to passing on our concerns and well-being to the next generation. It was a conscious decision.

The President has decided—and I find this ironic because he has decided to do this in the context of raising the visibility of the baseball strike while he moves onto the back burner his budget plan. The President has decided to walk away from the budget process, the issue of addressing the deficit, and, as his smokescreen so that hopefully the public will not notice this most egregious act of malfeasance he has raised the visibility of his participation in the baseball strike.

Well, that is very nice. We all want to see baseball played again in the United States. I am sure we will, and we will probably see it sooner rather than later. But I have to say that for the children of this country who enjoy baseball, much more important to their future is their capacity to have a job, to raise a family, and to live in a prosperous nation when they reach adulthood. And by walking away from the field of addressing the budget deficit, the President has gone well down the road toward undermining the future of those children.

Baseball terms do come to mind when you think of what is happening here, when you think of what this administration is doing on the issue of debt, terms like "walk," "strikeout," "whipped," "misplay," "wrong field." I think the one that probably most aptly describes it, however, is "another down the first baseline." That is what this budget is, another down the first baseline—$200 billion of deficit being accepted as a fait accompli for the next 5 years, $1 trillion in new debt added to the Nation's already staggering debt for our children to pay. That certainly is not even a single. It is not even a double play. It is another down the first baseline of the budget.

Worse than that, they could not even come to $200 billion without using gimmicks. They claim $100 billion of spending cuts in this budget, with great fanfare. I heard the Director of the Office of Management and Budget today saying we have saved $100 billion in this budget, and we are going to take $63 billion, and we are going to give it to a tax deduction. Well, $100 billion is not saved in this budget. It is an accounting adjustment, a game of numbers shift. They take the caps off, then they put the caps on. These are technical terms, but basically what it is, is a shell game of maneuvering numbers around, which produces $90 billion in savings—allegedly.

They are not real savings. They are savings we are going to incur anyway. We have already taken credit for them, and as a practical matter we would take credit for them. The fact that they are scoring them is a reflection of their insincerity in the entire process, which I guess is driven by a desire of this administration for reelection, exceeding its desire to address the issues it was elected to address. That is unfortunate. Irrelevant? No, but clearly not participating in its opportunities to lead, would be a way to define this administration's proposal on the budget.

So what do we do? Well, we have a Republican Congress now and, obviously, the pollsters for the President have said to the President, let us just leave it to them, let them do it. Then we will play off the things we like and the things we dislike, we will attack and set up a political confrontation and, as a result, we will gain many points from the American people because we will be on the offensive against the Republicans, who are attempting to address the deficit responsibly.

I suppose our response in the Senate or in the House could be, well, we can play that game, too. We can put forth budgets which are structured on poll numbers versus being structured on the need for the future of our country and our children. But I hope we will not. I hope that, as a party, we will come forward with an aggressive budget and I expect we will because we have the type of leadership it takes to do that, leaders in the House and in the Senate. Senator DOMENICI and certainly the majority leader of the Senate, Senator DOLE, I do not think, are going to opt to bunt, hit a number, to balk, or leave the field. I expect we will come forward with a very aggressive proposal to try to address the deficit. It will be one which has to address, if it is going to be successful, the core issues of what is driving spending in the country today, as far as Federal accounts are concerned.

Fifty-five percent of the Federal Government today is represented by entitlements. Entitlements are programs where you have a right as a citizen to receive a payment under that program because you meet certain qualifications under the law. Discretionary spending represents a significantly smaller percentage of the Federal budget. You cannot balance this budget, or even make a significant downpayment on the need to balance the budget, or at least bring down the deficit, unless you are willing to address entitlement spending—something which the President has absolutely refused to recognize or acknowledge or do in his own budget, and which reflects the cynical, really, approach that his budget takes toward addressing the financial concerns of this country.

How do you address entitlements? Well, we have, for a variety of reasons, taken Social Security off of the table—probably the real reason is because every time it is put on the table, one side or the other demagogs the issue so badly that somebody ends up a terrible loser in the fight over how you address Social Security. As a practical matter, Social Security is not driving the deficit, so there is no huge momentum to take it up. It is not like in 1983 when the Social Security trust fund was about to go bankrupt and we were able to put together a bipartisan effort under the leadership of President Reagan and Congressman Pepper and came forward with the Pepper Commission, which made the fund not only solvent but put it into a position of surplus, as it is today. Today because the fund is actually putting in more money than it is taking out, there is no immediate need to address Social Security. And we will not, for political reasons and because of that substantive reason, other than, I hope, we will look at the payroll tax, because we are generating these huge revenue surpluses and there is no reason to be subjecting people to what is one of the most regressive taxes we have in this country at its present level, when it is generating surplus. We should be considering reducing the payroll tax, at least for low- and moderate-income individuals.

But there are other entitlement accounts which have to be addressed. Look at them. Independent of Social Security, 55 percent of those accounts are health care accounts, 20 percent are pension accounts, about 20 percent are welfare accounts, and about 10 percent are the rest, including agriculture. There are significant things that can be done in all of those areas, which would dramatically reduce—especially in the outyears—the rate of growth of the cost of those programs and in many instances would also significantly improve the quality of those programs and the beneficiaries' lifestyle under those programs.

Take, for example, the issue of welfare. The Governors have come to us and said, essentially—this is a capsulization—all right, if you will give us control over the welfare programs, which have been an abject failure—has anything been more of a failure in the liberal welfare state than welfare itself? I am not aware of anything else, if it has. After 40 years of the most expansive Federal control over welfare, we have seen a society where we have more poor, more illegitimate births, more women living in poverty, where we have more bureaucracy, and where we have more disillusionment and lack of hope amongst those on welfare than we started out with 40 years ago. That has been a function of the liberal welfare state applying its largess and compassion to a system in a manner which has failed miserably.

So the Governors came to us and said: Give us these programs and allow us to manage them, give us flexibility, and we will take less dollars. That sounds like a pretty good deal to me. What we have now is not working and is costing a lot more. So let us take the Governors up on their offer.

Did the President do that in his budget proposal? No. Even the President, who is a former Governor and who made welfare one of his primary concerns, did not have the fortitude to take that step. Why? Because his pollsters probably told him: You are going to upset one of constituency groups, so let us stay away from that and let the Republican Congress handle that and make the tough decisions. If they come up with a program that works, we will put our imprimatur on it and get credit for it. If not, we will use it in the next campaign. That is not what you call leadership, to say the least.

As a practical matter, we, as Republicans, can take the Governors up on their offer. We can save considerable money, and I will guarantee you that a welfare program—at least in my State, administered by my State—free of Federal oversight, Federal regulation, bureaucracy and the incredible costs and inefficiency. The Federal Government will be able to deliver more dollars to the welfare recipient in a more efficient and better way than we do today. Welfare recipients will benefit dramatically from that system. We can take the issues of what we do in the future as part of the entitlement question.

Prospectively, programs can be changed around here to make them more cost-efficient. In the area of new hires coming into the Government, new hires coming into the military, we can change the retirement system to make it more reasonable and more in line with what the private sector has and save considerable money in the outyears.

In the area of health care, there is a great deal that can be done. I know we are going to have a lot of discussion about this. There is a great deal that can be done that will positively impact—especially the senior citizens who take part in the Medicare Program today—and still save money. Well, of course, everyone from the liberal camp says that cannot be; you cannot save money and positively impact somebody. Yes, you can. You can create incentives in the marketplace, which give senior citizens better health care, more comprehensive health care than they are getting today, which saves money for the senior citizen and for the Federal Government.

There will be proposals along that line. One that I happen to like is one where I have coined a phrase called "choice care," where we actually give seniors significant choices. We do not take away any choices they presently have; we give them more choices. When they make choices that are cost beneficial to us and them, we do not allow them to lose their present health care plans. We add to them with this choice care. When they make those choices, we see savings, they see savings and better care, and we get some controls over the cost of the entitlements.

Well, how can that be? Because there are senior citizens who come from a culture of fee-for-service that is the most significant and expensive form of health care. To the extent we can change that culture and encourage our seniors, through incentive systems of better care and lower costs which they benefit from, to move into other forms of delivery than fee-for-service, we save money and we reduce the cost of entitlements.

And in the area of Medicaid, which goes to people who are essentially on welfare, as health care coverage, again we can join with the States as partners and Governors and come forward with a proposal and save a dramatic amount of money.

Again, the President has ignored all these fields of opportunity for the sake of putting forward a political budget.

In the area of farm price control supports, we can also do a significant amount, although this is not a large part of the budget.

In the area of pensions, we can do a significant amount, and we will. That is our purpose. We have an obligation to do this. If we do not do it, it will be our children who will pay the price and it will be a price which will be unconscionable, unthinkable to have passed on to them. So we must do it.

You know, over the last month, I have listened, from the other side of the aisle, to a number of presentations made very well and very eloquently, I think, especially from the Senator from North Dakota, who has come down here a couple of times with a number of charts and made extraordinarily strong presentations on the size and the projection of the Federal deficit. And it is staggering.

I say to those Senators, they must be embarrassed by this presentation by the President. Those folks who are trying to conscientiously raise the issue of how bad the deficit is and how something must be done about it must be embarrassed that the President of the United States would present a budget which essentially accepts $1 trillion of new debt over the next 5 years as an acceptable event passed on to our children.

The President of the United States would walk off the playing field of responsible activity in the area of trying to manage this deficit and, as the Wall Street Journal said, punt the ball. It is not really a punt. It is a punting punt. It does not even qualify as a punt; more like a missed kick. But it is inappropriate, whatever it is, because if this Nation is not going to be able to survive as a prosperous and decent place in which to raise and have a family, it is not going to be able to fulfill the American dream or even hold out the American dream to its people unless we address this deficit.

Regrettably, this President has decided that he, as the leader of this country, has no obligation to lead in this area. And that is a mistake

Mr. President, I yield back my time.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, the Senator from New Hampshire laid down eloquently the problems that we have with respect to spending. I think it is interesting and informative, however, to know that those are not new problems. Those are problems that were thought about by those who fashioned this Constitution.

Let me read a couple of quotes from Thomas Jefferson that seem to me to be relevant.

> The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of Government. We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.

That question continues today. That is what we are talking about.

Further, he said:

> I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our Government to the genuine principles of the Constitution; I mean an additional article, taking from the Federal Government the power of borrowing.

Thomas Jefferson indicated that.

Mr. President, I yield back my time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today to continue the debate on this historic opportunity to adopt House Joint Resolution 1, the balanced budget amendment.

Over the past week we have heard many eloquent speakers on the need to pass a balanced budget amendment and bring this Nation's fiscal policy under control. It has been especially encouraging to see our freshman colleagues take to the floor and urge this body to adopt a balanced budget amendment.

Mr. President, I am opposed to the motion to recommit with instructions offered by the minority leader, Senator DASCHLE. The language of his proposed substitute amendment would be a cumbersome addition to the U.S. Constitution. His proposed amendment to the Constitution reads more like Federal regulations or a statute rather than part of the great document which governs this Nation.

Undoubtedly, it is the desire of every Member who supports the balanced budget amendment to see the Federal budget deficit eliminated that we may begin to cut away at the Federal debt which currently stands at $4.8 trillion—I repeat, $4.8 trillion. Without a balanced budget amendment, there has been little pressure on the Congress to make tough legislative choices on Federal spending and the Federal deficit has continued to grow. With a balanced budget amendment as part of the Constitution, the Congress would understand the reality that there are a finite number of tax dollars available for public spending and various proposals would compete on merit and need, not popularity.

The balanced budget amendment would instill an urgent need for legislative accountability as Congress considers various proposals for increased Federal spending. Currently, there is no real check on runaway Federal spending, and there will never be a shortage of legislation creating new Federal programs or efforts to increase spending in existing programs. Without a balanced budget amendment, budget deficits over the long term will continue to rise and the Federal debt will continue to grow. The Congress has not shown the fortitude to address, in a meaningful way, the budget deficit and the Federal debt. There have been times when gestures were made to bring spending within our means but those efforts were short lived. Statutes to reduce Federal spending have not been enough. They are too easily cast aside and the Congress rolls along on its path of fiscal irresponsibility.

I am convinced that without the mandate of a balanced budget amendment, Federal spending will continue to eclipse receipts and the American people will continue to shoulder inordinate tax burdens to sustain an indefensible congressional appetite for spending. In 1950, an average American family with two children sent $1 out of every $50 it earned to the Federal Government. Today, the average American family is sending $1 out of every $4 it earns to the Federal Government. Under current budget projections, there is no reason to believe that these statistics will improve.

Mr. President, we can trace the debate on a balanced budget amendment back in our history for 200 years. A defining moment may well have been the appointment of Thomas Jefferson as Minister to France. Thomas Jefferson was abroad when the Constitution was written and he did not attend the Constitutional Convention. If Jefferson had been in attendance, it is quite possible that he would have been successful in having language placed in the Constitution to limit the spending authority of the Federal Government. Upon studying the Constitution, Thomas Jefferson wrote in a letter of a change he so fervently believed should become part of the Constitution. He wrote the following:

> I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of the administration of our Government to the genuine principles of its Constitution. I mean an additional article taking from the government the power of borrowing.

Further, Jefferson stated:

> To preserve our independence, we must not let our rulers load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude.

Another former President, Andrew Jackson stated the following:

> Once the budget is balanced and the debts paid off, our population will be relieved from a considerable portion of its present burdens and will find * * * additional means for the display of individual enterprise.

President Harrison described unnecessary public debt as "criminal."

Mr. President, early American Presidents and public leaders understood the dangers of excessive public debt. For almost 150 years, balanced budgets or budget surpluses were the fiscal norm followed by the Federal Government. The unwritten rule followed by Presidents and legislators until recently in our Nation's history was to achieve balanced budgets except in wartime. But the role and the size of the Federal Government has grown out of control. In the past three decades, the Federal Government has run deficits in every year except one. Further, the Federal Government has run deficits in 56 of the last 64 years.

Mr. President, during the 1960's, deficits were averaging around $6 billion per year. The following decade, the 1970's, saw deficits rise and they averaged $36 billion per year. In the last decade, the 1980's, deficits continued to rise and averaged $156 billion per year. So far, in the 1990's, deficits have averaged $259 billion per year.

The Federal debt has grown as deficits have continued to grow and the debt now stands at $4.8 trillion. It took this Nation over 200 years to run the first trillion-dollar debt yet we have recently been adding another trillion dollars to our debt about every 5 years.

I have been deeply concerned during my time in the Senate over the growth of the Federal Government. It has been too easy for the Congress to pass legislation creating new Federal programs and spending more tax dollars whenever there is a call for Federal intervention. Of course, the Federal Government has an appropriate role to protect the citizens of this Nation, but it is not realistic to believe that Washington should respond to every perceived problem with a new Federal approach. This Nation has drifted from its original foundations as a national government of limited authority. I believe the adoption of a balanced budget amendment will do much to return us to a more decentralized Federal Government of limited authority and the mandates of such an amendment will increase legislative accountability. A balanced budget amendment is the single most important addition we can propose to the Constitution to begin reducing the size of the Federal Government.

Mr. President, we have seen the national debt and deficits rise because in large part, the Federal Government has grown. The first $100 billion budget in the history of the Nation occurred in 1962. This was almost 180 years after the Nation was founded. Yet, it took only 9 years, from 1962 to 1971, for the Federal budget to reach $200 billion. Then, the Federal budget continued to skyrocket; $300 billion in 1975, $500 billion in 1979, $800 billion in 1983, and the first $1 trillion budget in 1987. The budget for fiscal year 1995 was over $1.5 trillion. Federal spending has gripped Congress as a narcotic but it is time to break the habit and restore order to the fiscal policy of this Nation.

It is incumbent upon this body to send the balanced budget amendment to the American people for ratification. The vote on final passage on House Joint Resolution 1 could well be the most important vote we will face as Senators as its adoption is essential for protecting our liberties as a free nation. I hope we don't fail the American people on this historic opportunity and instead present to the States our proposed amendment to mandate balanced budgets. it is time to act to secure the future for all Americans.

I thank the Chair and yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, efforts have been made to portray the right-to-know amendment as constitutionally questionable. Those claims are driven by politics. The argument is not compelled by the Constitution.

The Constitution sets out two requirements for the approval of an amendment. It must be approved by two-thirds of each House of the Congress, and it must be ratified by the legislatures of three-fourths of the States.

The Constitution sets no other limits.

All we are proposing is that the Constitution be amended in the same way it has been amended 27 times before, with a two-thirds congressional majority in each House.

Ironically, the underlying proposal itself contains a clearly extra-constitutional provision: That if it is not ratified within 7 years, its provision will not take effect, no matter how many State legislatures thereafter desire to approve it. It is a time-limited proposal.

The time limitation is not a constitutional requirement. It is a customary requirement.

There is no warrant in the Constitution for such a time limit or against such a time limit. It has been used in this century as a way to ensure reasonably contemporaneous consideration of proposals to change the Constitution. It is a good idea, but it is not a constitutional requirement.

Indeed, if we look at the 27th amendment, having to do with congressional pay, which was revived and ratified by the States 200 years after first being proposed to them, and which is now part of the Constitution, it is quite clear that there is no constitutional impediment to ratifying an amendment outside the time constraints that have been common in our century.

Opponents of the right-to-know amendment claim that, by imposing a duty on Congress before the proposal is submitted to the States, it somehow contravenes the Constitution. At the same time, those opponents claim that imposing a time limit on the States after the proposal is sent to them does not contravene the Constitution. I do not think this argument holds up very well.

The right-to-know amendment falls squarely within the constitutional purview of the Congress, an article I power that permits each House to establish its rules of procedure.

The right-to-know amendment is an exercise in the article I power.

It in no way affects the ratification process. I think most people would concede that. It in no way affects the congressional approval process, and I think most people would concede that. Again, those are the only two constitutionally established requirements to amend the Constitution.

In fact, the right-to-know amendment, by requiring that the House and Senate first adopt a budget path leading to a balanced budget, and then send the proposal to the States for their consideration, impinges less upon the Constitution's requirements than the 7-year deadline contained in the language of the proposed amendment itself.

In short, this argument against the right-to-know amendment is a smokescreen. It is meant to shift attention from the issue, the question of specifically how to cut spending, to a dry debate over constitutionality. I am not a constitutional lawyer. In fact, I'm not any kind of a lawyer at all, but I can read.

The Constitution very clearly and plainly says, in language that can be understood by anyone, that there are two requirements to amend the Constitution when you choose the route of moving through the Congress: Two-thirds of the Congress must pass it, and three-fourths of the State legislatures must ratify it.

The Constitution says absolutely nothing else on this particular subject. All of the sophisticated arguments in the world will not change the plain language of our Constitution. The document speaks plainly, and where it is silent, it is silent. It does not, by implication, permit a time limit on constitutional amendments and then bar a prior congressional action. It is silent on both counts. I think that is an important issue. It does not, by implication, permit a time limit on constitutional amendments and then bar a prior congressional action.

The proposal before us has a time limit. I have not heard one Senator argue that this is unconstitutional because it is not mentioned in the Constitution. My amendment adds a prior requirement that doesn't interfere with either of the constitutionally sanctioned requirements or the extra-constitutional requirement of a 7-year ratification deadline.

If Congress can limit the time within which a proposed constitutional amendment may be ratified, nothing prevents Congress from adopting an internal procedure before we send a proposed constitutional amendment to the States in the first place. That is all that the right-to-know amendment seeks to do.

Each House of the Congress has parliamentary rules, established under article I, to expedite or retard the movement of legislation in various ways. All these rules have full force whether we are debating an annual appropriations bill or a proposed constitutional amendment.

The only thing the right-to-know amendment seeks is a prior congressional action before the proposal is forwarded to the States, under Article I rules. It does not impinge on the provisions that deal with a proposed constitutional amendment. It is well within the power of the Congress to determine that a prior action be taken. The conditions in the right-to-know amendment are no less constitutional as applied against the Congress, which is how they would apply, than a time limit applied against the States, which is how a time limit is applied.

The argument that the right-to-know amendment is in some way unconstitutional is not a serious argument. It is an effort to divert attention from the bottom line, and because we are talking about a balanced budget requirement, the bottom line is the only line that matters.

The right-to-know amendment asks that the Congress tell us how, over the next 7 years, it will reduce spending in 48 percent of the budget by enough to balance the budget in 7 years' time. That is all. It does not tie future Congresses to a particular line of action. One Congress cannot bind another. It simply asks the responsible Congress—this one, the one that would vote on the constitutional amendment to balance the budget—to tell the citizens and the States what the spending reductions must be to comply with the mandate that is being proposed to the States.

The mandate is to cut spending to reach budgetary balance in 7 years' time without cutting defense spending and without cutting Social Security. The only thing my amendment demands is that we tell the people, the States and the cities how we plan to achieve this goal. This is neither unfair nor onerous. When Congress debated the 14th amendment in the wake of the Civil War, Members of Congress were required to step up to the plate and give their views on what those proposals would mean.

Congressmen of the time did so. They stood up and said, plainly enough, that they did not intend that the 14th amendment be read to require voting rights for black Americans or integrated education.

A hundred years later, the Supreme Court ruled against them. What they said and meant did not stop the march of time. Neither will any words of ours. There is no need for exaggerated concern about the ability of some future Congress to steer its own course. The right-to-know amendment does not dictate to a future Congress, because that is impossible. It simply asks those who today claim we can easily and painlessly reach a balanced budget in 7 years' time to tell us how this is to be done.

Some of the most fervent advocates of this approach will be long gone from here when the time comes to bite the bullet, just as the writers of the 14th amendment were not around when the Supreme Court said we had to end de jure segregation.

I do not think that in 2002 voters should have a right to call up retired Senators and Members of Congress and demand to know what we were thinking in 1995. But I think it is eminently fair to ask those who are our contemporaries, who say this can be done now and that it is going to be relatively easy, to tell us how it can be done now, how it is going to be done easily. This is not an intellectual exercise in abstract economics. We are talking about issues that are going to affect the way real people live their lives—this year, next year, in the year 2002, and beyond.

I want to make it plain that I am a supporter of a balanced budget amendment. I have been for a balanced budget amendment for many years, because I believe Government can and should operate within its revenue base. I think it is doable. I think it ought to be done. But as we debate that issue, let us be honest with the people; let us tell them what this means, not in abstract, general terms, but in concrete, specific terms, because those are the only terms on which we can cut spending. There is no abstract, general spending in the budget. It is all concrete. It is all specific.

Past Republican budget proposals have gutted student loans, cutting them by over $12 billion. Middle-class parents planning to send their children to college or vocational school have a right to know whether we will eliminate student loans.

Republican budget proposals have slashed Medicare benefits by $30 billion. Senior citizens who count on Medicare have a right to know whether we will make it even more costly to get health care. Republican budget proposals have slashed spending on public education by $3 billion. American school children and their parents have a right to know whether we will limit their opportunity to learn and succeed. The American people have a right to know—and the majority has a responsibility to tell us—specifically what will be cut, who will be hurt, who will be helped, and how and when this will be decided.

That is the purpose of the right-to-know amendment.

The President's budget was submitted this morning. It contains $140 billion in spending reductions. It has been under attack by some Members of Congress beginning last Friday, when details first began to leak to the media. I understand the partisan desire to attack, I do not understand how people think they can posture on a balanced budget amendment, denounce the President's plan, offer nothing themselves, and still have credibility. We have been hearing since last November that there would be a Republican spending cut plan in the public arena shortly. It is now February. News reports now tell us that we're not actually going to get this plan until perhaps April or May.

We are being asked to pass unfunded mandates legislation, line-item veto legislation, a balanced budget constitutional amendment, all sorts of procedural proposals, but where's the beef? Where's the long-promised budget plan itself? We have a very modest proposal—the right-to-know amendment. It simply requires us to produce the beef, what we hear is that we are contravening the Constitution and ignoring the sacred trust handed on by the Founding Fathers. Perhaps some are protesting too much.

We are engaged in a serious enterprise. We are trying to remake a system inherited and modified over 200 years. We cannot guarantee that the next Congress will follow in our footsteps. But we can't be immobilized by that, either. Americans vote every 2 years. They expect each new Congress to deal with the problems that arise within each 2-year cycle. If we come up with a good plan, the next Congress is very likely to follow it. All we ask is that we come up with a plan. If the next Congress improves it, all the better. We cannot control the future. We can control what we are willing to do now.

The right-to-know amendment is targeted to now. The balanced budget amendment asks some future Congress, some years down the road, to do something. That is fine.

This amendment asks this Congress to do something now. That is the difference. Frankly, I do not understand the reluctance to act. I especially do not understand the reluctance based on the criticism of the President's budget. Clearly, all the critics have better plans, less costly, more effective, less painful, easier. That is great. Let us see these plans. Let us lay them out. Let us hear how the easy alternatives really are. I want to hear what, in detail, these painless cuts are. If we can learn this, we can go ahead with the right-to-know amendment because it will be painless.

I understand the effort to drag the Constitution into this. It is an effort to change the subject. The subject is still on the table, and it is very straightforward. Americans have the right to know what we propose to do because it will affect their lives. It will affect their State and local tax burdens. It will affect the environments of their cities and the kind of country their children will inherit. It will affect all of us—our futures. Given that, we cannot let this opportunity pass.

With that, Mr. President, I yield the floor. I thank the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Ohio.

Mr. GLENN. Mr. President, there is not a single Senator who can rise in this Chamber and come out solidly for an unbalanced budget, for going further into debt than we already are. Every person, including myself, knows that we have to get to a balanced budget. We cannot afford to keep on, year after year after year after year, going deeper into debt and, along with it, deeper into the interest payments, increased interest payments on that debt.

We have to resist what I would call "secret agent" budgeting. The proposal on the Republican side this year is you appoint me your agent, and I cannot tell you how I am going to balance the budget, but in secret I will decide whether your Social Security is going to be cut, whether Medicare is going to be cut, whether your pension protections in the pension benefit guarantee are going to be cut, and on down with a whole host of things.

I desperately want to achieve a balanced budget, but a little later in my remarks here I will point out what the Democrats did back in 1993 when we faced up to, in advance, laying out exactly what we were doing, what the cuts were going to be, what the tax increases were going to be. It was honesty in budgeting. It was truth in advertising, honesty in budgeting.

I feel the only way to achieve a balanced budget, whether you have the balanced budget amendment in place or not, is to approach this difficult issue openly and honestly. How on Earth can we talk about the balanced budget amendment without talking about what is necessary to balance the budget?

Let us say we vote this out of here; we are going to put out a balanced budget amendment, have the two-thirds vote here, put it out to the States; the States within a couple of months come back—surprising speed for the States. They are allowed 7 years to consider this but instead of that they are right down the line 39 or 40 States—it takes 38 to approve this. But let us say they come right back to us in 60 days, 90 days. They say we voted for it. We think it is a great idea. We have to do that in our States. How are you going to do it nationally? And we approve it. It is now part of the Constitution. We no longer have an option then. We have to balance the budget.

That is pretty straightforward, really. All the people of the country want to know how the balanced budget amendment will affect them if it is passed. What is it going to do to them? What services will be reduced? What taxes will be increased? That is what they want to know. What is really going to happen? In theory, do we all want a balanced budget amendment? Yes, we do. But in practice, how do we get there?

I do not think that secret agent budgeting is the way we should get there. The people of Ohio, the people of America are the taxpayers of this country and they deserve to know. If I go back home to the people of Ohio and I go to a discussion with some of the elderly people in our State, or I go to a nursing home or I go to a meeting of the AARP, the American Association of Retired Persons, and I point at them and I say, "They are going to cut your Social Security, make no mistake about it," the first person up would say, "Oh, no, wait a minute. They have guaranteed they are going to take that off budget. They are going to take that off budget. They are not going to touch Social Security over here."

I say: "Oh? OK. I am glad to know that. Let me tell you something. They are going to cut your Medicare." The next person up would say, "Oh, no, wait a minute. They have guaranteed they are not going to cut Medicare. That is going to be off base over here." So we have those two things now, Social Security and Medicare, which are not going to be touched by our new budgeting procedures here. Then we add a couple of other things to that. We cannot ignore interest on the national debt. That is running over $100 billion a year plus—$200 billion a year now. So we say OK, the interest on the national debt. Here we have Social Security, Medicare, and we have interest on the national debt. Then we say, "How about defense?"

No, we think we are a little thin on defense already. In fact, the Republican side is saying we have to add money for defense. We cannot get any further down. And I do not necessarily disagree with that. I am on the Armed Services Committee. It has given me some concern, too, about how far we have cut, particularly in the area of personnel. I am not sure we could take care of two emergencies, as we are supposed to be able to do, with regard to Korea and the Persian Gulf. I am not at all sure we could do those right with the forces we have right now. Yet, we are the only power in the world that could do that.

We have a lot of people who say, "Yes but we are spending more than all the rest of the world put together on defense." And that is true, we are. But I also say we are the world's leader and we have greater responsibilities than anyone else, too.

So you take Social Security—that is off over here. Then take Medicare—that is off base. We cannot cut into those two things, Social Security and Medicare. We have to pay interest on the national debt. The good faith of the U.S. Government is behind those payments. Then we take defense off. OK. We have those four items off budget. I do not quarrel one iota with taking all those off budget. But where does that leave us?

I will tell you where it leaves us. It leaves us with everything else in the budget being cut about 30 percent. Everything else in the Federal budget has to average a cut of 30 percent if we are going to leave those four items off budget. Let me give an example of some of this. If you leave all spending programs on the table, the across-the-board cut for everything else is 13 percent, if you are going to achieve a balanced budget by fiscal year 2002; a 13-percent cut in everything across the board: Social Security, Medicare, defense, the whole works.

If you take Social Security off the table then cut across the board for everything else, it goes up to 18 percent. If you take defense off the table, the across-the-board cut for everything else is 22 percent. If you also assume the tax cuts that the House Contract With America proposed, if you put that in, the across-the-board cut for everything else is 30 percent. And if you also take all veterans programs off the table, an across-the-board cut for everything else is 31 percent. If you take military retirement off the table—which has been proposed by some people—it goes up to 32 percent, as a cut that would have to be taken on everything else. If you take civilian retirement off the table, it goes up to 34 percent. And if you add Medicare to that, you take that list I just named there and you add Medicare onto it, it means everything else in the Federal budget—everything has to be cut by 50 percent.

Let us go back just to the four basics I mentioned: Medicare, Social Security, interest on the national debt, and the defense budget. Just take those off and everything else in the budget has to be a 30-percent cut.

Let us look at that a little bit. Do you want AIDS research cut by 30 percent? Oh, no; we cannot cut that. We are going to put that off budget here so we will have to consider that, of course. We are not going to that. So that means something else has to be cut more than its 30 percent.

How about cancer research? No, we cannot cut cancer research.

Let us get over in another area. How about air traffic control? We all fly airliners on occasion, some of us more than others. How about air traffic control? Are we going to cut out 30 percent of the controllers; 30 percent of the budget the FAA uses for air safety? No, I think we have to exempt that.

How about the Food and Drug Administration? Do we want some more thalidomide tragedies contemplated in our future? Do we want to avoid those? Do we want the FDA to be cut by 30 percent? How about Alzheimer's research? Do you want that cut 30 percent? How about meat inspection, poultry inspection, salmonella prevention programs? Cutting out 30 percent of all agricultural research? How about your money in the bank? Do you want bank regulatory authorities to have their budgets cut by 30 percent? How about Americans on pensions? Do we want the Pension Benefit Guarantee Program that the Government has as a backup in case the pensions are not funded properly—do we want that to go?

If we are cutting all these things, too—you know, we just passed an unfunded mandates program here—how about the States out there? They get about $230 billion a year for environmental programs. That is going to be pretty attractive for cutting, it seems to me, if we are forced to go into a 30-percent cut on everything else.

We can name a whole host of things: Food stamps; highway money; higher education; Social Security for the blind and for the disabled; the Head Start Program; school lunch; the Special Supplemental Food Program for Women, Infants, and Children; all farm support; nuclear regulation—nuclear regulation for those places around the country where there are nuclear plants—nuclear cleanup; research funds; vaccines for children; dollars to track down the fathers of children of unwed mothers; veterans hospitals; eliminating deductions on mortgages—everything.

All the other functions of Government, all of those and far, far more—that is not even beginning to be a complete list—would have to be cut 30 percent. If they are not cut 30 percent, then something else has to make up more than their 30 percent change. And that is only if we put off budget Social Security, Medicare, interest on the national debt, and the defense budget.

No one will tell us what is going to be in this, what is going to be in the budget if we go ahead and pass a balanced budget amendment and it is placed into effect more rapidly than most people think. I want to know up front what is going to be cut. I think that is only reasonable. We did it on the Democratic side back in 1993, when we had the reconciliation bill on the floor. Yet the Republicans in 1995 tell us, "Just trust us, somehow we are going to work this thing out. We are not going to name all these things, as Democrats did back in 1993." We named them in detail. We gave specifics of exactly how we were going to do this, including tax increases. We were honest about this thing. It was truth in budgeting.

There have been a number of estimates of just how this amendment will affect Ohio in specific terms. It is all speculation because Ohioans are not being told what is going to be cut.

I say to my constituents back home in Ohio who may be watching this today, they are not willing to tell us, on the other side, what will be cut or how much your taxes will be raised, or anything about either one of those issues.

We should be able to tell you back home how you are going to be affected by the balanced budget amendment. But we are not. Let me give you just a little bit of speculation on how this might impact Ohio. Here is the speculation.

The Contract With America calls for balancing the Federal budget by the fiscal year 2002 while cutting some taxes. Experts estimate that doing so without cutting Social Security or defense spending or raising taxes would require slicing all other Federal expenditures by 30 percent. Children's programs could suffer even more, if cuts in such programs as Medicare or veterans' services were limited, as is likely. Costs might be cut in several ways: By dropping groups of children from programs, putting them on waiting lists, and reducing benefits or quality of services. For example, by ending Medicaid coverage for some health treatment, cutting AFDC grants by 30 percent, or by requiring families to put up more costs through copayments and cost sharing.

Let me get down to the nut of this for Ohio. The following estimates how many children would be affected in fiscal year 2002 if costs were cut solely by reducing program enrollments. This is just Ohio alone. No. 1 on our list, 74,800 babies, preschoolers and pregnant women would lose infant formula and other WIC nutrition supplements; 183,350 children would lose food stamps; 291,800 children would lose free or subsidized school lunch programs; 284,400 children would lose Medicaid health coverage, those poorest of the poor, those who can afford to lose it the very least; 287,150 cases now served by the State child support agency would lose help to establish paternity or collect child support, something we all want to see happen; 141,900 children would lose welfare benefits under the Aid to Families with Dependent Children; 11,500 blind and disabled children would lose the help we give them under supplemental Social Security income; 10,150 or more children would lose the Federal child care subsidies that enable parents to work or get an education and training; 10,200 children would lose Head Start early childhood services; 20,950 children in child care and Head Start would lose child and adult care food program meals; and, 56,300 children would lose remedial education through title I.

We hear the screams obviously from the other side saying we do not want to cut those programs. Let me repeat again, those estimates are for programs to be cut just for my home State of Ohio. Those are not national figures. We have just under 11 million population in Ohio. Those figures are the ones that would apply to just our people in Ohio.

They say we are not going to cut all those things. All right, if you are not going to cut all those things, if they are off limits, tell us and tell us now so we do not have all the uncertainty that people have about which programs are going to be cut. Just tell us. That is all. Just be honest enough to do this up front. That is all we are asking.

If you do not cut Social Security, Medicare, interest on the national debt, and national defense, then you have the across-the-board 30-percent cut that I mentioned earlier. What does this do to a State like Ohio? If the same services are to be provided as are provided now—maybe some of those would be eliminated, I do not know—but if the same services are to be provided while we protect the programs at the Federal level, if Ohio is to pick up that difference, it would mean that the State taxes in Ohio would have to go up 14.4 percent to maintain services. If we are going to cut services, OK, those decisions would have to be made. But let us know in advance what we are doing so we know which people are going to be hurt.

Other States get hit even more than Ohio. Some are around 19 percent; New York 17.4; Tennessee, 19.5; Mississippi, 20.8 percent. Their State taxes would have to be increased just to maintain the services.

Mr. President, time and time again I have received letters from my constituents in Ohio asking why the Congress cannot act like the average citizens, why we cannot look at how much money we have, what the programs are, why we cannot in Congress sit down like the people do at home at the kitchen or dining room table and lay out all of the papers and act and decide how they are going to go about balancing the budget. Why cannot we in Congress in effect sit down at our table here and balance a budget and live within our means as every other person in this country has to do?"

If an average middle-class taxpayer can simply state that kind of a goal at home, like sitting there saying I want to pay off all my debts, I want to stop spending more than I am taking in and they look at all the papers in front of them on the dining room table. They say, "Well, the first thing you have to do is—I am glad I sat down here. Now I have to plan out exactly where my belt is going to have to be tightened. I am going to have to decide where I am going to cut back. I am going to have to decide what my income is going to be, and then I am going to have to determine what sacrifices will have to be made so that I am planning for the future in a more realistic way than I have done in the past."

Now, to carry out what the taxpayer sitting at the table back home has to do, the American taxpayers are really in a terrible debt. If they individually at home are in a terrible debt like the Federal Government and they individually end up in bankruptcy court, you can bet that taxpayer, he or she, will be forced to sit down and draw up a financial plan for the future. I would say today should we not do the same right here in the Senate? Should we be required to do exactly the same thing and not do it with blue smoke and mirrors, not hiding behind something that says we have to have a balanced budget amendment and then we are going to tell you how to balance this thing. Why not do it now?

The Houston Chronicle had a recent editorial that commented on this type of situation. They said a citizen purchasing an automobile might reasonably be expected to be informed of such basics as what type of motor the car has, if it has one at all, what color the auto is, the drive-out price, et cetera. "Would we not take the same or greater care with our Constitution than we would in buying a car?

Mr. President, I have not given a commitment to either side in this issue about how I will vote on a balanced budget amendment. I frankly would like to be able to vote for it. But I would like to do it on an informed basis that tells me what is going to happen if the balanced budget amendment happens, if it comes back approved, if the States say yes, we want you to act this way. All the services that now we get from the Federal Government, are we going to cut those things out? Or are we going to alter them? And how are they going to be altered? If they would tell me ahead of time what is going to happen, I might assess that with regard to the whole country and my home State of Ohio and say, yes, maybe I can be for that balanced budget amendment. Maybe if that is where they want to cut and they specify those cuts and where the tax increases will be—and I have no doubt there will be some eventually—tell me what they are going to be before, not after I voted for it, tell me before so I know what I am getting my people of Ohio into. How could anything be more fair than that?

Going back to the Houston Chronicle article, I want to make sure before this amendment leaves the lot that we know if we have a real lemon on our hands. Let us have truth in advertising. Let us check the sticker price. Let us look under the hood; let us kick the tires. If everything checks out, we will move down the road to our final destination to a balanced budget, which I absolutely think we have to get to. Above all, Mr. President, let us not embark on this trip without knowing the direction we will take to get there. Let us not do it with blue smoke and mirrors. Let us not hide our intentions.

I think sometimes our fears are not well justified here. I do not think our knees will buckle if somebody says what we have to cut. We will consider it. I do not think the knees of the American people will buckle if somebody is honest with them and says: Here is exactly how we are going to get to this laudable objective.

There is an old Shakespeare quote, and I do not know what play it was in, but it said:

> Our doubts are traitors, And make us lose
> the good we oft might win
> By fearing to attempt.

Never is that more applicable or more true than in our budgeting considerations here. We have to have guts enough to allay those fears and be willing to attempt a balanced budget by telling the American people exactly how we are going to get there.

Mr. President, here we are discussing the balanced budget amendment, and in the immortal words of Yogi Berra: It is deja vu all over again. The first time I was part of the debate on the balanced budget amendment here in the Senate was in 1982. That was the second year of our grand experiment with supply side economics. Remember that, where if we just cut taxes it was going to result in such an economic increase of our general economy in the country, the new revenue would more than make up the cuts in what revenue we lost with the cut. We reduced taxes 25 percent over a 3-year period; a 5-percent cut on income tax 1 year, and 10 percent each of the next 2 years. What happened? What happened on that was that the new economic level did not increase the way it was supposed to increase. We could not get those percentages changed through the years, and we wound up with another $3.5 trillion added to the $1 trillion in debt we had that had been accumulated from every single President from George Washington through Jimmy Carter. In the last 12 years, the deficit or the debt has gone up to a little over $4.5 trillion. That is what happened with supply side economics.

Even back then, when we were talking about all this, like today, there was a lot of talk about balancing the budget but almost no talk about how to get there. Instead, we preferred to talk about tax cuts. Cut taxes, smile, be happy, it is morning in America; in the city set on a hill, we can make no mistakes.

After 12 years of feel-good budgeting, we found ourselves with a $4.5 trillion debt; $4.5 trillion. It was a credit card. It was all done on a credit card, a great big national plastic credit card. Well, then what happened? We came along with the Presidential candidate who vowed to take the deficit seriously, not by talking about magical fixes, about supply side economics, about Laffer curves, and all the other things we heard about back in those days, but by presenting real options to reduce the deficit.

Luckily for our Nation's fiscal health, that candidate's message of truth-in-budgeting resounded with the American public, and that candidate, of course, now occupies the White House, President Clinton. President Clinton showed us that his campaign commitment on deficit reduction was not just election-year rhetoric.

I referred a little earlier here to what the Democrats did in 1993, contrasted to what the Republicans are proposing to do in 1995, and what happened. In the first year of the Clinton Presidency, he presented a clear agenda for deficit reduction. He offered us real specifics, but he offered us very tough choices, also. I mean, they were tough choices. Congress responded and assigned specific cuts, cut objectives, to the committees of the Senate here, in particular, and the committees went to work on this plan. We came up with a program at that time that was tough, tough, tough. And we made more tough voting decisions back in the summer of 1994 than almost any time since I have been in the Senate.

Why can the Republicans not do the same thing right now that we did back in 1993? They are not giving specifics. Our program back then gave specifics. It was not hidden. It did not say, "Trust me and I will tell you later about how we are going to get to these ends." It was tough. Do you know what happened? The Omnibus Reconciliation Act of 1993 was a major component of President Clinton's overall economic strategy to reduce the deficit by nearly $500 billion, half a trillion dollars, in 5 years, to create jobs and invest in the American people. It was the largest deficit reduction package in history. The President's deficit reduction and economic growth package, as reported by the House-Senate conference we voted on, was the largest deficit reduction in U.S. history.

When the savings from this reconciliation bill were coupled with the savings on caps on discretionary spending and interest savings, deficit reduction would total almost $500 billion over the next 5 years.

These historic reductions were achieved through spending cuts and by asking wealthy Americans, those who benefited through the 1980's, to make their fair contribution to make sure of the Nation's economic security. Was there a tax increase? Of course, there was. But there were tax cuts, also, in trying to get at least toward a balanced budget.

The President's plan, though, as agreed to with the House and Senate conference, relied more on spending cuts than revenue increases. Under the plan, Federal revenue would be increased by $241 billion and Federal spending would be cut by $255 billion over a 5-year period, with every penny locked in a deficit reduction trust fund. The deficit reduction and economic growth package contained $88 billion in mandatory spending cuts over the next 5 years. In addition, with discretionary spending caps, there was a net savings of $102 billion through the regular annual appropriations process, and the resulting lower annual deficits and improved debt management will reduce interest payments by $65 billion over that same 5-year period.

Those were laudable objectives and we put them into effect. We made tough judgments in such areas as agriculture, nutrition, forestry, and they were assigned to that committee to report a savings of $3.2 billion over 5 years. And they did that. They met their goal—$3.2 billion out of one committee. They modified the so-called Pay-92 programs and had changed some of the cotton targets, dairy products, tobacco assessments, sugar, oilseed, peanuts, home loan rate, wool and mohair programs, refinancing and prepayment of Federal financing, bank borrowing to finance and prepay loans subject to certain penalties, Federal crop insurance, CRP enrollment, Forest Service recreation fees—those were all tough votes and they were taken in committee and brought out here for discussion on the floor. Some were contested on the floor, and we stood up and made our votes on those subjects.

The Armed Services Committee was assigned $12.63 billion over 5 years. That was tough to meet. We asked military retirees to forgo COLA's. That is a tough vote when you vote on something like that. It is very tough telling the veterans that, no, they are not like some other people who would get cost-of-living increases. We are asking them, in the interest of the national good, to forgo that for a little period.

The reason I am pointing out some of these is we are being asked to accept this proposal on the other side as a pig in a poke. The veterans would not know now what was going to happen to them.

The Banking, Housing, and Urban Affairs Committee was instructed to report savings of $3.31 billion over 5 years, and they met that goal. Depositor preference changes; transfer of Federal reserve surpluses; HUD–IRS income verification; Ginnie Mae REMIC's, the real estate mortgage investment conduits; and FHA premiums—all of these things were tough votes in committee and out here on the floor.

But we did them back in 1993 as part of that reconciliation package.

The Commerce, Science, and Transportation Committee. They were assigned $7.405 billion in cuts over 5 years and they achieved that goal, with some of the communications Spectrum auctions, as they are called, and user fees. And those are tough votes.

The Energy and Natural Resources Committee, they were able to report savings of $737 million over 5 years. They came out $77 million under the target that was set out for them, but they still made major cuts. And they made controversial votes such as on recreation fees in national parks; some changes in the hard rock mining holding fees; state royalty collection costs.

The Environment and Public Works Committee was assigned $1.254 billion over 5 years. They went into this on Nuclear Regulatory Commission user fees, the Army Corps of Engineers user fees, and a series of other things I will not even mention here. NRC's operating budget was another one, requiring nuclear utilities to pay fees to cover all of NRC's operating budget.

The Finance Committee was given a big target and they had to make a number of changes. They did some of these in changing tax rates for high-income earners. They changed gift and estate taxes, meals and entertainment, club dues, executive pay, moving deductions, individual estimated tax simplification, Social Security benefit changes, corporate income tax changes affecting business, lobbying expenses changes, corporate estimated tax rules, treatment of passive loss, credits and AMT credits. And in international businesses, excessive accumulated foreign earnings; research and experimental expenses allocation changes; oil, gas and shipping income foreign tax credit. Transportation fuels tax increase, 4.3 cents a gallon on all transportation fuels currently subject to the leaking underground storage tank trust fund; extension of transfer of current 2.5-cent-per-gallon tax. Other intangibles, change of appreciation of intangible assets; change in charitable contributions, change in expanding the 45-day interest rules for tax refunds, denying business travel deductions for spouses, increasing withholding rates on bonuses to 28 percent.

They had more under the Finance Committee—education and training provisions, and extension of target job tax credit; research and development, R&D credit; targeted capital gains tax cut; real estate investment provisions: Permanent low-income housing credit, passive loss relief for real estate provision, exclusion for discharge of real property business debt. Luxury excise tax changes. Extension of the AMT, alternative minimum tax, provision. Changes in how we would treat empowerment zones and enterprise communities and some other changes also.

They changed some of the things in Medicare and Medicaid also as to how those programs were to be treated. All these under the Finance Committee. Medicaid, some of the changes were made there.

And let me add a couple others here. The food stamp program was changed. States had to match food stamp administrative costs; shelter expense; earned income tax credit. Human resources.

I read all these not to bore my colleagues or to bore those watching but to point out that there were hundreds, literally hundreds, of changes made, hundreds of changes made that we voted up front in committee and/or out here on the floor in advance letting people know exactly how their future would be affected by the votes that we are going to make on that reconciliation bill.

Now, I submit to my colleagues and anyone watching or listening, if it was important enough on a reconciliation bill, just on a reconciliation bill, that we go through all that and let people know specifically how they were going to be affected and be up front about it on letting everyone know what the votes were, then that is the least we can do if we are taking up something so much more fundamentally important to our whole Government, our whole Constitution as a balanced budget amendment.

The Foreign Relations Committee was assigned a savings of a $5 million target over 5 years. They met it.

The Governmental Affairs Committee, which I chaired at that time, was assigned a $10.668 billion in savings. And I can tell you, we sweated over that one in committee and we made it. Once again we had to delay some retirement cost-of-living increases, the lump sum retirement option was knocked out for Civil Service employees, Medicare part B fee limits were changed, changed the extension of the proxy premium law, the D.C.-Federal Employee Health Benefits, payments by the U.S. Postal Service.

All of these things were tough votes, and I hate to keep just saying that, but they were, but we did it up front and let people know exactly what was going to happen to them.

Even the Judiciary Committee a $345 million target over a 5-year period, and they met that.

The Labor and Human Resources Committee, $4.5 billion over 5 years, and they met that goal. They brought up such things as student benefits and cost savings that came from the Federal student loan programs being administered differently.

The conference agreement also would require States to be responsible if a default rate for borrowing that attend institutions of higher education located in their State exceeds 20 percent. Those were hard votes—Home loan program changes.

In other words, I bring up all these—and this is just a sampling; this is not a whole listing of everything, but I bring these up to indicate the tough votes.

Now we put this whole package together. President Clinton led the way on this. He sent up where he felt we could cut; took the political heat for this. We joined him in taking the political heat for saying up front how we were going to vote on these things, laid it out. Everybody, all the special interest groups, crowded out here by the elevator, called on us in our offices and said, "You can't touch this. You can't touch that." Yet we did. We made the tough votes.

And there were several hundred votes, either in committee or out here on the floor to put this thing into effect.

Let me come down to the bottom line. And here was what happened out of all that reconciliation bill. Here is what happened.

Our budget deficit, at the time we passed that, was approaching $300 billion, just the budget deficit. We put that reconciliation bill into effect. The next year it went down to somewhere around $250 billion. This year some of the original estimates were that we were going to be down to a budget deficit of only $168 billion. I think it is back up a little bit now. I think the refined estimate is about $190 billion. But we have gone from around $300 to $250 to $190 billion. That is heading in the right direction with the budget deficit.

You know, the last time that ever occurred, where we had 3 years where the budget deficit went down 3 years in a row, was under Harry Truman. Clear back to the time of Harry Truman, the last time we had the budget deficit go down 3 years in a row. It is working. That reconciliation bill that we made those tough votes on did have an effect.

Now some of the forecasts are that it is going to level off or it may even turn up again, but let us modify that. Let us take action to correct that. We have it heading in the right direction. Why would anybody want to throw that out now and say we are in effect going to put a gun pointed at us all and say we have to do something that may cut the things I have mentioned earlier.

Social Security, Medicare, no, those are off base; interest on the national debt, no, that is off base; the defense budget, no, that is off base. Take those four items off base and everything else in the budget has to average a 30-percent cut.

And we are not willing to tell people up front what is going to happen, as we were back in 1993. Now in 1993, I say there were tough votes.

When this bill went to conference with the House back in 1993, there were some changes made in the conference. When it came back out here on the Senate floor, it was one of the more dramatic moments I have seen in my 20 years here in the Senate. What happened over in the House was that not one single Republican voted for that conference package in the House. Not one single Republican.

What happened here on the Senate floor? Not one single Republican voted for that conference package that has resulted in the first 3 years of continual budget deficit reduction since the days of Harry Truman. Not one single vote.

The Vice President is the Presiding Officer in the Senate. He shows up quite often when there may be a close vote. That day there was a 50–50 tie. The Vice President voted as is his constitutional duty to do. He broke that tie, and so we had a 51–50 vote to put that reconciliation bill into effect.

We had been up front in telling people what the effect was going to be. What programs—all those that I went through. I did not go through all the litany of the committees here just to fill up time here on the Senate floor. I wanted to point out we went through things that affected every single man, woman and child in this country. We did it upfront. We did it to try and get to a balanced budget. We are trying to do it without a balanced budget amendment.

Now we are told, "We will not tell you how we will do it. We will not tell you what will happen. We will not tell you what the estimates are going to be, or how it will be implemented if the balanced budget amendment passes, and if it is ratified by the States. We will figure it out. Just trust us. Then we will figure out some things."

Back in 1993 with that reconciliation bill we figured it out in advance and got it started on the right track, honestly and openly, and upfront, by telling every person in this country how they would be affected.

That reconciliation bill of 1993 became law despite the lack of bipartisan support. So we are now seeing our third year of declining deficits. There were dire predictions then by some of our Republican friends. I will not quote names but we have the quotes available. There was going to be a recession and massive joblessness, a dire thing for the economy, we would go downhill because of what we are doing, because we increased taxes in some areas just on that top 1.2 percent of the wealthiest of this country, I would add, was most of it. None of these dire predictions panned out. The economy recovered, remains in good shape, and in Ohio, my home State, as near as we can calculate it has meant over the past several years about an average of 43,000 new jobs every year.

Remember all the talk about how the cuts in that deficit reduction bill were not real? Over a quarter of a trillion dollars in spending has been cut. Has been cut. We are not talking about prospective. We are talking about what has happened. It has been cut.

Fiscal year 1994, 342 Federal programs were reduced before the prior year spending levels. Fiscal year 1995 just ended in October, more than 400 Federal programs were reduced below their prior year's spending levels and another 40 were eliminated entirely. People talk about downsizing Government. Starting to cut back on Government, cut down on the size of the Government.

Know what happened as a result of the programs voted back in 1993? We are doing that. The President set out a goal of cutting the Federal employment by 272,000 people. I thought that was a lot. In the Governmental Affairs Committee we oversee the civil service. We are the committee of jurisdiction that looks into matters involved with civil service. I thought when they talked about cutting back 272,000 people, that was a big cut. I did not quite know how we would do that. We went to work with the administration, at that time, when a lot of people were rolling their eyes and saying they would believe it when they see it. Well, just look at it now. People can believe it because they do see it. I think a lot of people still do not believe it.

Of that 272,000, just over 101,000 positions have already been cut. This is not prospective. This is not looking on down the pike someplace. They have been cut. I worked with them on setting up programs that would help accomplish that on Governmental Affairs Committee. We passed that legislation. It helped them achieve those goals. There are early buyouts, early retirements. All sorts of things we put in to help get to that end. We were very, very successful.

Know what else we did? We tailored that program at the time. And let me add a side bar: One of the problems in the Federal Government is that we have had too many bosses and too few employees carrying out the words of those bosses or the directions of those bosses. In private industry, across the country, the average is one boss for every 12 to 15 employees. What is it in the Federal Government? One to seven.

While we are getting people out, we tailored these so that the different branches and agencies and departments of Government had some leeway, had some discretion to tailor these programs for the GS 13's, 14's, and 15's. So we got more of those people out who are the bosses. So we are at the same time reducing the overall size of Government, we are correcting some of this imbalance on the ratio between the supervisors and the employees. That means a more efficient Government as we go down the road to the future.

So about 101,000 jobs have been cut from the Federal work force. We are ahead of schedule. We want to continue to work with the administration to make sure that the cuts continue and we get to the objective of 272,000.

All of these things were accomplished because we made the tough cuts. We made the tough votes. We did not ask people to say "Well, just trust us and somehow we will get around to this in the future. Somehow we will get to this end eventually." No, we made the tough votes. We Democrats stood up and took the heat. I would repeat, all these programs that we put through in that reconciliation bill, we did not have one single, not one, Republican vote across the aisle. The Vice President had to break the tie.

There were probably a number of people, judging by what happened in last year's election, who stood up and made some of those tough votes who are not here today. It may have been a factor in why they are not here. I do not know. They had the political courage to stand up and tell people what was going to happen to their lives if we made the tax increases or made the cuts in programs that affect those people across the country. And they did it. And they had political courage, whether they are here today or not. We need to have that same kind of political courage today.

There has been a lot of criticism about the tax increases that were part of that program back then to balance the budget. There is a good article in the Washington Post on the first of February by Judy Mann, entitled "Fiddling With the Numbers." I will not read the whole article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 1, 1995]

FIDDLING WITH THE NUMBERS

(By Judy Mann)

Gov. Christine Todd Whitman, the Republican meteor from New Jersey, had the unusual honor for a first-term governor of being asked to deliver her party's response to President Clinton's State of the Union message last week.

And she delivered a whopper of what can most kindly be called a glaring inaccuracy.

Sandwiched into her Republican sales pitch was the kind of line that does serious political damage: Clinton, she intoned, "imposed the biggest tax increase in American history."

And millions of Americans sat in front of their television sets, perhaps believing that Clinton and the Democrat-controlled Congress had done a real number on them.

The trouble is that this poster lady for tax cuts was not letting any facts get in her way. But don't hold your breath waiting for the talk show hosts to set the record straight.

The biggest tax increase in history did not occur in the Omnibus Budget Reconciliation Act of 1993. The biggest tax increase in post-World War II history occurred in 1982 under President Ronald Reagan.

Here is how the two compare, according to Bill Gale, a specialist in tax policy and senior fellow at the Brookings Institution. The 1993 act raised taxes for the next five years by a gross total of $268 billion, but with the expansion of the earned income tax credit to more working poor families, the net increase comes to $240.4 billion in 1993 dollars. The Tax Equity and Fiscal Responsibility Act of 1982, by comparison, increased taxes by a net of $217.5 billion over five years. Nominally, then, it is true that the 1993 tax bill was the biggest in history.

But things don't work nominally. "A dollar now is worth less than a dollar was back then, so that tax increase of, say, $10 billion in 1982 would be a tax increase of $15 billion now," says Gale. In fact, if you adjust for the 48 percent change in price level, the 1982 tax increase becomes a $325.6 billion increase in 1993 dollars. And that makes it the biggest tax increase in history by $85 billion.

Moreover, says Gale, the population of the country increased, so that, on a per person basis, the 1993 tax increase is lower than the one in 1982, and the gross domestic product increase over the decade, which means the personal income rose. "Once you adjust for price translation, it's not the biggest, and when you account for population and GDP, it gets even smaller."

He raises another point that makes this whole business of tax policy just a bit more complex than the heroic tax slashers would have us believe. "The question is whether [the 1993 tax increase] was a good idea or a bad idea, not whether it was the biggest tax increase. Suppose it was the biggest? I find it frustrating that the level of the debate about stuff like this as carried on by politicians is generally so low."

So was it a good idea? "We needed to reduce the deficit," he says, "we still need to reduce the deficit. The bond market responded positively. Interest rates fell. There may be a longer term benefit in that it shows Congress and the president are capable of cutting the deficit even without a balanced budget amendment."

Other long-term benefits, he says, are that "more capital is freed up for private investment, and ultimately that can result in more productive and highly paid workers."

How bad was the hit for those few who did have to pay more taxes? One tax attorney says that his increased taxes were more than offset by savings he was able to generate by refinancing the mortgage on his house at the lower interest rates we've had as a result. The 1993 tax increase did include a 4.3-cent-a-gallon rise in gasoline tax, which hits the middle class. But most of us did not have to endure an income tax increase. In 1992, the top tax rate was 31 percent of the taxable income over $51,900 for single taxpayers and $86,500 for married couples filing jointly. Two new tax brackets were added in 1993: 36 percent for singles with taxable incomes over $115,000 and married couples with incomes over $140,000; and 39.6 percent for singles and married couples with taxable incomes over $250,000.

Not exactly your working poor or even your average family.

The rising GOP stars are finding out that when they say or do something stupid or mendacious, folks notice. The jury ought to be out on Whitman's performance as governor until we see the effects of supply side economics on New Jersey. But in her first nationally televised performance as a spokeswoman for her party, she should have known better than to give the country only half the story. In the process, she left a lot to be desired in one quality Americans are looking for in politicians: honesty.

Mr. GLENN. Mr. President, I quote just a short part of this, talking about a writer who commented on this and said:

> He raises another point that makes this whole business of tax policy just a bit more complex than the heroic tax slashers would have us believe. "The question is whether [the 1993 tax increase] was a good idea or a bad idea, not whether it was the biggest tax increase. Suppose it was the biggest? I find it frustrating that the level of the debate about stuff like this as carried on by politicians is generally so low."
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refinancing the mortgage on his house at the lower interest rates we've had as a result.

I hope, in addition to that, people can read the whole article.

I do not want my speech today to be taken wrong. I am not looking for a job in the President's communications office to try to put out rosy scenarios for the White House. I am trying to make a very simple point. We have seen the wrong way to approach balancing the budget, and we have seen the right way, the honest way, the straightforward way for the American people.

The wrong way led us to a $4 trillion debt, $4.6 trillion, I think, is the best estimate right now of what we actually owe. The right way of making the tough votes around here is such as we did in that reconciliation bill of 1993. That put us back on the track.

What are we being told on the other side today? "No, we won't put out any figures, just trust me." We are going back into supply-side economics again, that which gave us an additional $3.5 trillion in national debt that we now have to pay interest on. We are going back to some reconsideration of the Laffer curve. It was a "laugher," all right, the way it worked. We have a new name for it; now we are going to rely on dynamic economics. That is what we hear from the House side. We are going to rely on dynamic economics, which is supply-side economics revisited. It says the dynamism comes from the fact that if you cut taxes, it gives more money to the people who will invest, move on to a new, higher level of economics; we will recoup a lot from that, and that will help mitigate the tax loss to begin with. That is exactly what we went through—exactly what we went through—in the early eighties, only then it was called supply-side economics.

We are being asked today to vote on a balanced budget amendment without being told what the cuts are going to be, what the tax increases may have to be, what plans will be cut. Will it be Social Security, Medicare? "No, those are off limits," we are told, "we can't interfere with those." Interest on the national accident? "Oh, off limits." Defense budget? "Oh, off limits." And I favor that defense budget. I agree we probably cut a little further than I would like to see us cut on that.

Take those four things off and everything else in the Federal budget is going to have to be cut by 30 percent if we are going to meet the objectives. And yet we are not told, they refuse to tell us how we are going to do this.

If I ever saw peekaboo budgeting, this is it. Peekaboo budgeting. We just give you a little hint here that we are going to do dynamic economic modeling, or something, and that is supposed to quiet our curiosity, I guess, a little bit. Now you see it, now you do not. But we do not have any plan that lays out for us in this proposal, nothing that even comes close to the type of definition and specificity that we had the guts to vote back in 1993.

As we debate the balanced budget amendment, let us do it the right way. I would like to vote for a balanced budget amendment. I truly would. And I have not said yet that I will vote against the balanced budget amendment positively. But I cannot vote for a balanced budget amendment that just asks the American people and the people of Ohio and all of us to just somehow accept this without any definition whatsoever of how we are going to get there, what is going to be cut, what programs people rely on now are going to be axed out of the program, as we have to get into doing this.

So let us let the taxpayer know what is ahead. Let us lay out a 7-year plan. Let us present it to the American people. Let us make it in comparable specificity to what we did back in 1993, which had not one single Republican vote when we passed that. Then we will all know whether this balanced budget amendment is a good idea.

In 1993, the Democrats in the Senate showed that we could lay out a plan. We did the hard work in committees, we did the hard debate, the hard work here on the Senate floor.

In 1995, the process that is being proposed from the Republican side basically says they either cannot or will not give us any information on how we are going to achieve this balanced budget, if it passes. They say just, "Trust us, we will somehow figure it out. We will force ourselves. We want a forcing mechanism here with a balanced budget amendment. We have to have that or we cannot get around to saying what the tough decisions are going to be and acting on them."

And yet we have the history just 2 years ago in 1993 when we did this. We did have the guts to do it then. So it is possible in the Senate of the United States to have some political courage and say in advance what is going to happen.

But the saying goes, or what we hear all the time is, if we force ourselves with a balanced budget amendment, then I think we will have an excuse, we will have an excuse for cuts that we would not have the guts to make otherwise, and we would tell the people back home, "I'd have liked to have kept your veterans' benefits, I'd have liked to have kept Social Security, I'd have liked to have kept your Medicare, but we had the balanced budget amendment and so it forced me to vote to do this to you." So we are looking for cover.

Do you remember the comedian Flip Wilson a few years ago? I remember him very well. I thought he was very good. He had this character called Geraldine. Every time Flip Wilson had something with this character of Geraldine that somebody was criticizing him for doing, he would say, "Oh, the devil made me do it; oh, the devil made me do it." Remember that?

It seems to me that is a little of what we are talking about here. The Republicans seem to want this, and some other people, too—not just Republicans—they want this balanced budget amendment so when we have to tell the elderly that we may have Social Security cuts, may have Medicare cuts, defense, may have cuts in women's and infants' programs, may have cuts in a lot of other things, "Oh, the balanced budget amendment made me do it." In other words, not my fault, we have the cover of a balanced budget amendment.

I do not think we need that for political courage here. That is sort of getting your courage out of a bottle or courage out of something false when we are not willing to say what the cuts are going to be, not willing to say what we will do if a balanced budget amendment passes.

Let us say we pass it here and the States ratify it within about 2 months. Then what are we going to do? Where will the cuts have to be made? "Oh, the balanced budget amendment made me do this thing." Supposedly that gives us political cover.

But I will say, in the meantime, let us not be reckless. I would like to call on my colleagues on the other side of the aisle to show some guts and tell us where you will cut, tell us how much taxes will have to be increased when the balanced budget amendment passes. Tell us now. Tell us up front. Let us be honest. Let the American people know. Let the States know what they are going to have to pick up on this if it passes.

Mr. HATCH. Will my friend yield for a question?

Mr. GLENN. Not right now. I am just about to end, and then I will take any questions.

If we are honest, I say let us get started and do it now. So why wait? Why do we need to wait for a balanced budget gun, in effect, pointed to force us to action? We can take that action right now.

So let us not be reckless. Our Constitution has been amended only 27 times in well over 200 years, and before we amend it again, we ought to at least know what the ramifications will be; for after all, none of us wants the 28th amendment to turn out like the 18th amendment did. I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Illinois.

Mr. SIMON. Mr. President, if I may respond to my friend from Ohio very briefly—and he is my friend and he is one of the most valued Members of this body. Digressing just a moment, if anyone ever questions JOHN GLENN's courage, take a look at that small little thing that he got into—"thing" is the wrong word, but he knows what I am talking about—that went into space. It is incredible that anyone would get into that and get tossed into space.

But any way, I think there are some answers for the questions of my friend from Ohio. One is that we know from the General Accounting Office if we balance the budget—and they suggested by the year 2001. That is now 2002—that by the year 2020 we would have an average increase in income per American, inflation adjusted, of 36 percent—that is a huge increase—or, as they say, we are going to continue to go downhill.

Second, we do know some of the options. And we have not spelled them out in detail. One is the Concord Coalition put together a package. CBO has suggested—and they have the most conservative estimate in terms of what the savings would be on interest—the savings would be $140 billion on interest.

We could follow the present limitations we have through fiscal year 1998 and then put together for fiscal years 1999 through 2002 a combination of the last Bush package and the package that we voted for in 1993. I was pleased and proud to join the Senator from Ohio in voting for that. That is not that onerous. That is doable.

What I do favor—and I have discussed this just very informally with my colleague from Utah, who is the chief sponsor—I favor, once this passes, asking the two leaders to put together a task force to outline in broad terms where we are going so that the States can know with some more specificity. But I would add that you cannot—the Daschle amendment has us down to $100 million for 7 years out. That is just not realistic. But I think in terms of billions you can do that.

I would add the CBO figure on savings on interest is the most conservative. The Wharton School estimates the savings on interest will be 4 percent; Data Resources, Inc., says a savings of 2.5 percent. Their estimate is that half the savings that we will need by the year 2002 can come out of interest. This is Data Resources, Inc. They also estimate if we do it we will have 2.5 million more jobs in this country. How many that will be in Ohio and Illinois, I do not know. But it is a very substantial amount.

I would add two other points here. One—and my colleague from Ohio may differ with me as well as my colleague from Utah—I happen to think we would not be in a bidding war on tax cuts right now if we had a balanced budget amendment. I do not think it makes any sense, real candidly, for us to say let us give ourselves a little bit of a tax break and impose a further burden on our children and our grandchildren. I think that is a good example of why we need this. We are not going to be able to do everything we want. We are going to be forced to make some tough votes. But I think we have to be forced to do that. And I hope they will be bipartisan.

Let me just add one final point. Those who say we can balance the budget without a constitutional amendment have two things going against them. One is that for 26 years we have not done it. That is a pretty powerful record. And second, they are saying to us you spell out in detail what is going to happen, but they are not spelling it out in detail. And at least we have, by all estimates we are going to save a huge amount of money with interest. Whenever interest rates go down, employment goes up. So there is a revenue plus in addition to the interest savings.

So I hope my colleague from Ohio will continue to keep an open mind on this because I think it is really essential for the future of our country.

Mr. HATCH. Will the Senator yield?

Mr. SIMON. I yield to my colleague from Utah.

Mr. HATCH. We both value our great friend from Ohio, and I have to tell you that there is an offer by the other side and that is by the President. It is right here, the budget for this year.

I have to say I give him credit for certainly bringing the deficit down from the almost $300 billion that it was—$279 billion—to $190 billion. But from here on in, through the year 2005, this budget, using optimistic economic assumptions that we all know are going to fluctuate, is admitting that the deficits will be $190 billion at least for every one of those years over the next 10 years. So they are not doing anything to get down to a balanced budget.

If I could just add one other thing to my friend from Ohio. Back in the early 1960's, when President Kennedy said we need to put a man on the Moon, he set that as a goal. Nobody then was fully cognizant of what it was going to cost or what we were going to do to get that man there. But we also know that our friend from Ohio was one of the earliest pioneers in that field. He is a hero to all of us, to everybody who understands space and what it took to get there.

But if before the President could even set the goal, before the President could even get it done, Congress had said we have to know every detail on how you do it before we do anything, we would not be on the Moon to this day.

The fact of the matter is all we are saying here is that if we pass this amendment—and I appreciate my friend keeping his options open on this amendment. That means a lot to me. I know it means a lot to my friend and colleague from Illinois, and I think it means a lot to everybody in this body who is for a balanced budget amendment and maybe some who are not. But the fact of the matter is it is important that we not have to plug in every detail over three successive Congresses, which can change drastically on how we get there, when we have at least 10 programs that have been advanced and there have not been the votes for any one of those without a balanced budget amendment forcing the issue. And that is what this amendment does.

I just cite with particularity that sometimes we have to set the goal out there and provide the mechanism to reach that goal just like we did in space. Had we demanded that we have every detail of how you do it over three successive Congresses, we would not be in space to this day.

So I just cite that as an illustration that in budgetary parlance those who are criticizing the amendment by demanding to know now how we are going to get there—we can give you 10 plans—they are the very people who have never gotten us there for 26 years and who, it seems to me, are not going to get us there if the President's budget is any indication, and this is reality. This is tangible. This is something that all of us got today.

I happen to have Alice Rivlin's copy of this because she gave it to me last night. I did not use it until right now because I did want to use it without her permission, but she gave me permission to use it once it was distributed.

Frankly, here is tangible evidence that they are not going to do it themselves. But if we put this balanced budget into place, we are going to do it. We will get it done just like we got it done in space.

They are not particularly analogous, I acknowledge that, but still I think there is a point that for three Congresses the only way we get there is to modify this, and the only way we are going to do that is if we have a balanced budget amendment that gives us the incentives to do the same.

I thank my colleague.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. I appreciate the comments of my colleagues here, but I disagree on what happened. We have not gone 26 years without action. I disagree with that.

In 1993, we took action that headed our budget deficit downhill. We were up to almost 300, we went down to around 250, one estimate this year was for 168. It is back up around 190 now. But the point is we have cast tough votes. We took tough action. We told the American people in advance how we were going to do it so they knew how they were going to be affected.

We had things headed in the right direction. We can make all we want out of the President's budget that was submitted today, but let us continue on the track that we are on. And if there is to be, as my friend from Illinois says, a task force appointed to tell us how to do this, let us form the task force now. Hold up the balanced budget amendment. Let the task force get together and tell us where the cuts are going to occur if it passes. Then I would be much more happy with this proposal.

I think we are reading so many things off the record here. I started out my remarks this morning by saying if I go home to Ohio and I point to somebody and I say, "Your Social Security is going to be cut," they say, "Oh, no, wait a minute now, the other side says we are going to put Social Security off limits. That is not going to be cut." Then I say, "They are going to cut your Medicare." And they say, "Wait a minute, Medicare is going to be off budget here. We cannot cut that." Then we say, "Interest on the national debt, we cannot cut back on that because that would destroy the trust in our Government. And defense is not going to be cut—probably it is cut a little too far already given our worldwide responsibilities."

If you take those things off budget, then everything else in the Federal budget—Alzheimer's, cancer, AIDS—everything else, unless you make up the difference, is going to have to be cut by over 30 percent. Those are the facts.

So back in 1993, I think we took real action. We took action that showed we can lay out these tough choices in advance and then have the political courage to enact them. And we did. Why do we say we cannot possibly make these decisions without a balanced budget amendment, when we did it 2 years ago?

So I say once again, I would love to vote for a balanced budget amendment, but I am not going to vote for a pig in a poke that may wreck the support system for a lot of people in Ohio and across this country without knowing the details of what we are voting for.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I will just take a couple of minutes. I agree with my colleague from Ohio, to the great credit of President Clinton and to the credit of 50 Members of this body, we did start down the right path.

What I also would have to acknowledge, as our colleague from Nebraska, Senator KERREY, said, is that it was a first step. But we have not for 26 years balanced the budget. To go back to another time when, as was pointed out in your remarks, we had that kind of decline, you have to go back to Harry Truman's day. I think we have illustrated we just are not doing it on our own.

I finally point out we can change a lot of things in this body. We cannot change history. And the history of nations is, as they pile up this debt, they keep piling it up because it is politically attractive to do so, and then they end up monetizing the debt. They just start the printing machines running.

That is where we are heading if we do not adopt this amendment, in my opinion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, while the Senator from Illinois is on the floor, I wonder whether he might be willing to engage in colloquy with me about the implementation legislation that would be required under this amendment.

Before I ask him about that implementation legislation, however, I was intrigued by his comment last time that we cannot change history. I agree with that. We can interpret history, but we cannot change it.

Part of the history of this body is that if we put the onus on future Congresses to do something instead of doing it ourselves, it is unlikely to get done. We pass legislation here—see, I remember in 1980—that says, "Congress will balance the budget." I think it became law. We did not. It was in the law, the law that we obligated ourselves to comply with. We took an oath to uphold the Constitution of the United States and the laws created pursuant thereto.

The Senator from Illinois, who is a dear friend of mine, and I had a colloquy back in 1986, I believe—1986—about this same issue. This is about 8 years ago, 9 years ago, when a similar amendment was pending before us.

I asked the Senator from Illinois these questions.

How would the monitoring of the flow of receipts and outlays be done to determine whether the budget for any fiscal year is on the track of being balanced? Would this require implementing legislation?

Mr. SIMON. There would have to be monitoring, and future legislation would have to take care of the implementation of that monitoring.

Mr. LEVIN. What exactly is the definition of receipts and outlays? Specifically, would the receipts and outlays of Bonneville Power Administration be receipts and outlays of the United States pursuant to this constitutional amendment? Would the answer to these questions require implementing legislation?

Mr. SIMON. Implementing legislation will be needed on some of these peripheral questions, but the intent is clear.

* * * * *

Mr. LEVIN. * * * In an instance in which the President's Office of Management and Budget and the Congressional Budget Office disagree with each other on what a level of outlays is, how will the dispute be resolved so that it can be determined whether or not outlays exceed receipts?

Mr. SIMON. Future legislation will have to take care of this.

Mr. LEVIN. Who will determine the level of receipts and whether a revenue bill is "a bill to increase revenues"? * * * My question is, What happens if the revenue estimaters in the Treasury Department say the bill is revenue neutral, and the Joint Committee on Taxation say the bill will result in a net increase in revenues? Whose estimate will prevail? How will the dispute be resolved?

Mr. SIMON. That will also have to be determined through future legislation.

And on and on.

I am going to read into the RECORD, now, dozens of questions which have to be answered by implementation legislation which we are not going to answer, we are not going to adopt legislation which will answer them, but which are left up to a future Congress.

The Senator from Illinois and the Senator from Utah both said this is not a self-executing provision. This provision requires Congress to act sometime between the year 1995, or whenever we adopt it and the States ratify it, and the year 2002.

The Senator from Illinois has said over and over again courts cannot implement it, cannot enforce it. There is no impoundment here for the President to enforce it. It is up to us to adopt implementation legislation sometime in the next 7 years.

My question of my friend from Illinois, and I do not know he is going to be able to stay on the floor while I read through a whole host of questions which are not answered by this amendment—but which are similar to the ones which we talked about in 1986 is—would he agree that this amendment requires congressional legislation as a practical matter in order to be enforced?

I understand putting the language in the Constitution will make it more likely in his opinion that Congress will act. He is optimistic Congress will read this language and do, by the year 2002, what it has not done up until now. I understand that he feels there will be a political onus of some kind that will be borne if some Congress does not put together a majority in the next 7 years to adopt that implementation legislation.

But specifically, does he not agree that in order for this amendment to have effect, implementation legislation is going to be required?

Mr. SIMON. Mr. President, if I may respond to my colleague, the answer is yes and no. The answer is the amendment itself has the requirement for 60 percent to extend debt. So that is self-executing. And if Congress would not pass a single bill to implement, that would be the power that is there. But there is no question that we have to pass legislation to implement. I would not wait for future Congresses to act. I think we ought to start right away. I see my new colleague from Maine nodding in agreement here.

But let me make one other point, and that is we can nitpick here and there on this. But the real important question and point is, that dialog took place in 1986. We missed by one vote, passing that in the U.S. Senate. At that point, the debt of this Nation was $2 trillion. Now it is $4.6 trillion. What if we had picked up one more vote? We would have more people working; we would have a higher standard of living; we would have lower interest rates; we would have more homes constructed; we would have a much lower trade deficit; we would have millions more jobs in our country. We would have millions more jobs in our country. And so we failed to act in 1986. There is no question.

There are things that we are going to have to work on. I know my colleague from Michigan well enough to know that even though he opposes this, if we have the votes, he is willing to dig in and work on the implementing legislation. He will be a valued Member in doing that. But we should not fool ourselves. We should not nit-pick here and not recognize the basic principle, and that is that we are doing harm to our country in not facing up to our problems.

I thank my colleague.

Mr. LEVIN. If my friend would again be willing to yield, obviously if we had adopted a constitutional amendment 6 years ago, or 60 years ago, which led to a balanced budget we would probably be in better shape than we are now depending on whether or not there was an opportunity during a recession to be flexible.

But the issue I am raising is the opposite of a nit-pick. The issue that I am raising goes to the heart of this amendment. This amendment does not assure us that we will achieve a balanced budget. That is not a nit-pick. That is a statement that goes straight to the heart of this amendment.

I want to get to the language that my friend from Illinois pointed to. The only language which the sponsor has pointed to that appears to be self-enforcing is in section 2, having to do with the debt of the United States. But section 2 says that "the limit on the debt of the United States held by the public shall not be increased."

Does the Senator from Illinois know whether or not we have adopted a statute which sets a limit on the publicly held debt of the United States?

Mr. SIMON. Mr. President, in response to my colleague, I think those terms are fairly clear. We had testimony on that very question from the former Attorney General of the United States, Bill Barr, who believes that language is very clear.

Mr. LEVIN. No. But my question to the Senator from Illinois—by the way, it is not that clear. But assuming for the moment it is clear as to what is meant by "publicly held debt," assuming for a minute it is clear—I do not think it is; I will accept the statement—my question is: Do we have a statute now which sets a limit on the publicly held debt of the United States?

Mr. SIMON. We have a statute that limits the debt of the United States.

Mr. LEVIN. I understand. But my question is not that, because this section 2 does not say that limit of the debt of the United States shall not be increased unless three-fifths vote. The sponsors have gone over the words very carefully. This is an amendment to the Constitution. They have gone over each word. I assume that it is very clearly their intent that it not be the limit of the debt of the United States, but just a part of that debt which they say will not be increased except by three-fifths vote.

So my question again to my dear friend from Illinois is this: Is there currently a statutory limit on the debt of the United States which is held by the public?

That is my specific question.

Mr. SIMON. Mr. President, if we had changed the language so it just says "debt" instead of "publicly held debt," there would be questions about that. Our intent is clear. When my good friend—he is my good friend—from Michigan implies that we are not going to pay attention to this, the Senator from Michigan, the Senator from Maine, the Senator from Wyoming, and the Senator from Illinois stood over there right to the left of the Presiding Officer. We held up our right hands and we took only one oath—to uphold the Constitution. I do not think this body is going to ignore that. I think that is the real question. I am not suggesting that my colleague from Michigan is not sincere. But we can nit-pick. The principle is clear. The language, constitutional scholars have told us, is clear.

I hope we move ahead and not get sidetracked on this.

I yield the floor.

Mr. LEVIN. Mr. President, let me answer my own question since my friend from Illinois has not; that is, there is no limit that I know of in statute on the publicly held debt. So when the Senator from Illinois points to that provision as being the self-executing provision of this language, and there is none other that could be pointed to, he is pointing to a limit which does not exist currently in law which would require the Congress to enact a limit. Each one of us upholds the Constitution of the United States within the best of our ability. We each have taken that oath. We each raise our hands. The Senator from Maine did it just a few weeks ago in this body. She has done it many times in the other body. We do not raise our hands as a group. It is not a group oath. It is an individual oath. We can carry out that oath while not agreeing with each other. As a matter of fact, we carry out that oath all the time while not agreeing with each other. If we always agreed with each other because we took an oath, there would be unanimity in this Senate instead of division. We do not always agree, although we have all taken the oath.

This constitutional amendment does not require us to balance the budget in a way which can be enforced. It simply requires us to try to pass a statute within the next 7 years. There is a lot of difference. It basically takes us off the hook for 7 years because it raises the suggestion, it purports to state that we are going to balance the budget by the year 2002 but has no enforcement mechanism in there to achieve it; none. So for the next 7 years we are off the hook, and then there is no hook.

The Senator from Illinois says, yes, there is because there is this language in section 2 which says that the debt limit will not be raised unless 60 percent of the whole Members of each House vote for such an increase.

That is not a hook for two reasons. No. 1, there is no debt limit for publicly held debt that is currently in law, and, therefore, the Congress is going to have to pass a statute setting a debt limit for "publicly held debt." So even that language requires the Congress to establish a publicly held debt limit which is a subpart; by the way, a subpart that is in dispute as to exactly how much it is of the current debt limit.

But it is also not a hook for another reason; that is, that it simply suggests that somehow or other we are not going to pay our debts, that having run up debts, the Congress of the United States is not going to pay our bills. That has historically not worked, and it should not work because we should pay our bills. We should not default on obligations of the United States of America. Catastrophe would result if we did not pay our debts.

I quoted a colloquy between myself and the Senator from Illinois about the 1986 version in which repeatedly the Senator from Illinois, as always, is candid in saying that is going to require implementing legislation, and that is going to require implementation legislation and that is going to require implementation legislation. There are a lot of other "that's"; probably 30, 40, or 50 other important issues which would require Congress somehow or other to reach agreement as to how to do something.

What is the definition of "receipts"? Do receipts include receipts from the Postal Service, TVA power savings, Medicare premium payments, receipts of government corporations, deposits in non-Treasury accounts? I am sure implementation legislation is going to have to be used for that.

What is the definition of "outlays"? Do they include Federal loans, federally guaranteed loans? Do they include spending by government corporations, quasi-Federal agencies which pay for their activities out of user fees? It goes on and on and on. Will we use estimates or actual expenditures and actual receipts?

What happens if the OMB and CBO disagree with each other on what the level of outlays and receipts are? How is the dispute going to be resolved? What is a bill to increase revenues? It sounds easy. It is not. It is a very difficult question, as a matter of fact. At what point will it be determined that outlays will in fact exceed receipts, which triggers remedial action? Are we going to do it early in the year or in the middle of the year? The answer is we will resolve all that by 2002.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of questions, the answers to which I believe—but we will wait and see—will be left up to implementation legislation.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

BALANCED BUDGET AMENDMENT QUESTIONS

1. What exactly is the definition of receipts? For example, do receipts include the receipts from Postal Service stamp sales and TVA power sales? Do they include Medicare premium payments. Do they include the receipts of government corporations and quasi-federal agencies which deposit money in non-Treasury accounts? Who will make this determination?

2. What exactly is the definition of outlays? For example, do outlays include federal loans and federally-guaranteed loans? Do they include spending by government corporations and quasi-federal agencies which pay for their activities out of user fees instead of out of Treasury accounts? Who will make this determination?

3. Will estimates or actual levels be used for receipts and outlays? In an instance in which the OMB and the CBO disagree with each other on what the outlays or receipts are, how will the dispute be resolved so that it can be determined whether or not outlays exceed receipts?

4. Who will determine whether a bill is 'a bill to increase revenues?' For example, what happens if OMB says the bill is revenue neutral, and CBO says the bill will result in a net increase in revenues? Whose estimate will prevail? How will the dispute be resolved?

5. At what point will it be determined that outlays will in fact exceed receipts, triggering remedial action? August 1? September 15? Who will make that determination—OMB or CBO?

6. At whatever point it is determined that outlays do or will exceed receipts, will automatic spending cuts or tax increases be triggered? When would that happen, and who would be responsible for making it happen? Will cuts affect all programs equally across-the-board, or will certain programs be exempt?

7. Would it violate the language of the amendment if Congress passes, with less than 60% of the votes, a budget resolution that is not balanced?

8. Would it violate the language of the amendment if Congress passes, with less than 60% of the votes, a bill to increase spending from some base level without off-setting spending cuts or revenue increases? Would it matter whether this was the last appropriations bill of the year, and would result total appropriations exceeding expected receipts? If not, how will we ensure that Congress does not increase spending without paying for it?

9. Would it violate the language of the amendment if Congress passes, with less than 60% of the votes, a bill to cut taxes without off-setting spending cuts or revenue increases? If not, how will we ensure that Congress does not cut taxes without paying for it?

10. What happens if Congress passes a budget resolution which is in balance, that enacts appropriations bills on the basis of that resolution, but part way through the year it appears that outlays will exceed receipts? Would Congress be required to vote separately on whether to authorize or eliminate the excess, even through it voted for budget and appropriations bills in the believe that the budget would be balanced? What mechanism would be created to ensure that such a bill would be considered?

11. At what point during the fiscal year would Congress be required to voter to authorize an excess of outlays or to eliminate that excess? What would happen if Congress did not approve either such measure?

12. Would the amendment be enforced through sequestration of impoundment? If so, when and how would that action take place?

13. What happens if Congress approves a specific excess of outlays over receipts by the required three-fifths vote of each House, but the projection turns out to be wrong—the deficit is greater than expected. Would a second vote be required to approve the revised estimate of the deficit? Who determines the dollar amount of excess that Congress will vote on in each case? Who determines that the estimated excess was wrong? How often would such determinations be made, and such votes be required? Who determines when the votes must take place?

14. The resolution requires that three-fifths of each House vote to approve an excess "by law". Does this mean that the President must sign a bill to approve an excess? What happens if three-fifths of the Members of each House approve a deficit, but the President vetoes the bill? On the other hand, what happens if Congress passes a reconciliation bill to balance the budget and the President vetoes it and there are insufficient votes to override the veto? For example, what if Congress votes to increase taxes to eliminate the deficit and the President says he prefers spending cuts and vetoes the bill. If there are insufficient votes to override the veto, who has violated the Constitution—the Congress or the President?

15. Could Congress shift receipts or outlays from one year to another to meet balanced budget requirements? For example, could paydays for government employees be put off a few days into the next fiscal year to achieve a balance between receipts and outlays? What mechanisms will prevent this type of abuse?

16. Section 2 of the resolution provides that "the limit on the debt of the United States held by the public shall not be increased" without a three-fifths vote. What is the current statutory "limit on the debt of the United States held by the public", if any? If there is currently no such limit, how will such a limit be established?

17. What does the debt of the United States held by the public include? Specifically, does it include the debt of wholly-owned government corporations (like the Commodity Credit Corporation and the Overseas Private Investment Corporation)? Does it include the debt of mixed-ownership government corporations (like Amtrak and the Federal Deposit Insurance Corporation)? Does it include loans guaranteed by the federal government, such as guaranteed student loans, guaranteed agriculture and export loans, or Mexican loan guarantees? If not, could additional government corporations and quasi-governmental agencies be created to conduct federal programs off-budget to evade the amendment? Could new government guaranteed lending programs replace government spending? How would this be prevented?

18. May the President transmit a proposed budget which is not in balance in addition to his balanced budget proposal? May the President transmit a balanced budget, but recommends against its adoption? Can he submit the balanced budget at any time before the fiscal year begins?

19. The Committee report states that the words "bill to increase revenue" covers "those measures whose intended and anticipated effect will be to increase revenues to the Federal Government." Does this mean net revenue? Over what period of time would this be judged?

Would the revenue provision apply to a bill that increases revenues for three years and reduces revenues for the following three years, with a net change of zero over the six-year period? What happens if the amendment is repealed after three years, because it would result in a deficit?

Would a bill to increase the capital gains tax be exempt, since many argue would have the effect of reducing revenue in at least the early years after enactment?

20. Does "revenue" include fees? How do we tell the difference between a revenue measure increasing fees and a spending measure decreasing outlays by requiring users to pay for services provided to them instead of funding the services out of tax revenues?

What about a bill to raise the federal share of receipts from concessions in our national parks?

What if the bill simply required regular competition for national park concessions? Would that be a bill to increase revenue, since it would have the "intended and anticipated effect" of increasing the federal share?

21. Does revenue include tariffs? Would a trade measure which authorizes use of retaliatory tariffs in certain cases be considered a "revenue measure", since it would arguably have the "intended and anticipated effect" of increasing revenues? Who will make this determination?

22. Does revenue include civil and criminal penalties? Would a bill that establishes a new civil or criminal penalty be considered a "revenue" measure? How about a bill that indexes certain penalties for inflation? How about a measure to toughen enforcement of criminal or civil penalties? Would a bill to tighten enforcement of the tax laws or provide more personnel to the IRS be covered, since it would have the "intended and anticipated effect" of increasing revenues? Who will decide what is covered by this provision?

23. Would a statute that requires a new, lower measure for inflation, be considered a bill to increase revenue, since by slowing the adjustment of tax brackets it would have the "intended and anticipated effect" of increasing taxes? Would the elimination of a special, targeted tax break be covered by this provision? Would it cover a bill authorizing the sale of buildings or land?

24. Sponsors of the amendment have said that the social security trust funds will be protected in implementing legislation and that the budget will not be balanced at the expense of the States. How will this result be ensured?

25. The term "fiscal year" is not defined in the amendment. The report indicates that Congress has the power to define the term "fiscal year." Does this mean that Congress

could change the effective date of the amendment by legislation, passed by majority vote, which changes the statutory time at which a fiscal year begins and ends?

Mr. LEVIN. There are about 50 questions here which will determine whether or not in fact this constitutional amendment can be implemented in a way to achieve a balanced budget.

I will submit a copy of these to the sponsors of the legislation so they can give us an answer to the question.

The bottom line for me, Mr. President, is that this proposed constitutional amendment does not balance the budget. It dodges the issue because it depends on Congress passing implementation legislation by the year 2002. What if it were fully implemented? The sponsors are optimistic that it will be fully implemented. I think they are overly optimistic, for all the reasons which I have stated and a whole bunch more.

It is going to be very difficult for Congress to agree on how to make cuts in legislation which will automatically sequester, which will determine who will make the cuts, which will determine what all of the hundreds of other decisions are that have to be made so that we can have a balanced budget assured. Let us assume for a minute that the sponsors' optimism is borne out and we kick the can down the road to the Congress 7 years from now and we say: You folks pass implementation legislation.

I do not think that is a responsible thing to do. In fact, I think what we are likely to do by kicking the can down the road to a future Congress, instead of acting ourselves on either the implementation legislation or the cuts, is to increase the deficit.

So the answer to my friend from Illinois as to whether or not we would not have been, 6 or 8 years ago, had we passed the amendment is probably we would be worse off because probably then we would have said, oh, they will take care of that in that future Congress. We would not have done the hard work necessary a couple of years ago when we finally decided to make some cuts in the deficit. We would have ducked and said, oh, the Constitution will take care of that. A future Congress will take care of that. That is what this amendment does.

But, for the moment, let us say that this legislation, which this amendment relies on—this implementation legislation—in fact will be passed, that somehow or other a majority of individual Members of the House and the Senate will be able to agree on a process to make the cuts that are necessary; what would be the impact? Should we know about them?

I was interested when the Senator from Illinois said: "Well, after we pass the amendment, the leaders ought to get together and give us something of a roadmap—not too specific, but so the States will know what the cuts are."

Why should we wait? The Senator from Ohio asked the Senator from Illinois: "Why are we waiting for whatever roadmap and whatever specificity we are going to get from the leaders? Why do we wait for the roadmap until after we have voted on the amendment? Why not adopt it now and why not see it now? Why not have the benefit of knowing what the impacts will be now, again assuming that this legislation is going to be fully implemented?"

There was no answer to that question that was forthcoming, because I think the same logic that says that the States should have some idea as to what the impacts are would lead to the conclusion that we should know what the impacts are—again, under a very big assumption, the assumption being that this will indeed be fully implemented.

There are two problems with this constitutional amendment that have been pointed out—two big ones. One is that the cuts will be massive and should be known in advance. Another problem that others hold more closely is that in fact it will not be implemented. Neither one of those are particularly desirable outcomes. If it were not implemented, if this is a dodge, if there are so many loopholes in this language that it will not be fully implemented, it would be tragic to use the Constitution that way. We would then be using the Constitution as a way of avoiding our own responsibility of saying that Congress, by 2002, should do something that we are unwilling to do, thereby evading what we should be doing ourselves. I do not think the public is telling us to pass language in a Constitution which says to a future Congress, "Do something." I think the public wants us to do it and not dodge it. That is my view as to what the likely outcome is of adopting this constitutional amendment.

But there is another view which also has a lot of support, it seems to me, behind it, which is that, yes, this thing could be fully implemented, and then we should know what the cuts are prior to our adopting the language of this constitutional amendment. We should know and the States should know before they are sent an amendment for ratification.

Whether we pass this amendment or not, it is still going to take a majority of the votes of the Members of each House to make the tough choices that are needed to cut spending and raise taxes. But unless and until we make these choices, we are not going to have a balanced budget regardless of whether we pass this resolution and regardless of whether the States ratify.

Saying that we have to balance the budget cannot make it happen. Unless and until we do the hard work of budgeting, or at least unless we adopt the implementation legislation, it is all a dodge. It encourages us to say that we have a cure before we have taken the medicine. That, to me, is the irresponsible part of this amendment, that it allows us to say that we have cured something before we have either taken the medicine or at least adopted the implementation legislation that will lead us to a certain result.

Every one of us in this body knows that we are not going to get to a balanced budget without real sacrifice. One plan which was put forth by some House Republicans last March would have cut spending on the environment by 44 percent, spending on agriculture by 72 percent, spending on energy by 65 percent, and cut the defense budget by $83 billion. I give those sponsors of that amendment credit for laying out what the impacts would be—at least what they were willing to support. They are entitled to credit, I believe, for what they did. But are we all willing to do that? I hope we have the same kind of courage. It may lead to different kinds of cuts or a different balance of cuts, but at least I hope we will have that courage.

Yet, the reason we are told we should not adopt this roadmap, that we should not lay out what the impacts will be in advance, was set forth by the House majority leader, Dick Armey, who said that once Members of Congress know exactly, chapter and verse, the pain that the Government must live with in order to get to a balanced budget, their knees will buckle.

Think about that for a minute. What he means is if you look at real-world numbers, if we level with the American people about what it will take to balance the budget, in his assessment, it will not pass. I think that is an ostrich-like way of legislating, and far worse. It is an ostrich-like approach to amending the Constitution. And we ought to be much more serious about the Constitution than to pass amendments which do not tell us either what the process will be to achieve it or at least have an enforcement mechanism to achieve it.

I do not know of any other provision of the Constitution—there may be one; I cannot find it—that is not enforceable, either in court or by the executive branch.

Now, we do not want this enforceable in court because we do not want courts deciding to raise taxes or making us do it, and we do not want it enforceable by the executive branch. And we are sure we do not because we do not want to give the President impoundment authority.

If it is not going to be enforceable by either the courts or the executive through impoundment—which, by the way, I agree with that conclusion that we ought to make it very specific in this amendment that that cannot be, either have courts telling us where the cuts are, courts adopting taxes, or the President impounding—but if it is not going to do that, if the intent of the sponsors is that it not lead to either impoundment or court enforcement, it then totally depends upon Congress implementing and enforcing it. In that case, one of two things is necessary: Either it is not going to be implemented, which would be irresponsible and a misuse of the Constitution; or it will be, in which case the American people and the States should know what the impacts are.

It is one or the other. It either is going to be implemented by the Congress—and I do not share the optimism of my friend from Illinois that a Congress 6 or 7 years from now will adopt implementation legislation. I think it is wrong for us to pass the buck to them. But if it is not going to be implemented by them, it is wrong. If it is going to be implemented by them, we should know the impact and the American people and the States should know the impact.

We have been down this road before. This is not new, that we considered constitutional amendments before.

We actually put into our laws before that Congress shall balance the Federal budget by a certain year. We put in our laws the Gramm-Rudman mechanism which did not work, and it did not work because it did not have an enforcement mechanism which assured that we would get to a certain point by a certain time. It was left to future Congresses. Always future Congresses.

But what is unique about this legislation is that this is not a bill. This is a constitutional amendment which fundamentally says, "Congress shall do something." It leaves it to a future Congress to pass the implementation legislation to do it instead of us doing it.

And, I must say, I am intrigued by reference to the Founding Fathers. It is unthinkable to me that those Founding Fathers of this country, in a constitutional convention, would pass language that says a future Congress should do something. Not that we should do it, not that we should take the responsibility, not that we should be accountable, not that we should act, but we should put into the document which is nearly sacred for every American, the Constitution, language which says "Congress, by a certain year, should adopt a law which will achieve something."

Would any of us vote for a constitutional amendment which reads something like this: "Congress, within the next 7 years, shall adopt a law which will make racial, religious, or ethnic discrimination unlawful"? Would we put that in the Constitution? "Congress, within the next 7 years, will adopt a law to prohibit religious, racial, and ethnic discrimination"? I cannot believe we would do that. I think we would pass the law to prohibit the discrimination. We would take the responsibility.

The Founding Fathers would take the responsibility for passing the law or they would put into the Constitution a right or a prohibition which is enforceable.

The Constitution is the place where we put in rights and prohibitions which are enforceable. They are not a place where we put in language such as this which allows us to kick the can down the road for 7 years which allows us to tell a future Congress to do what we are unwilling to do, either to make the cuts or to adopt a process which will lead to it.

There is no other constitutional amendment like this, and for a good reason.

We should face up to the obligation. We either should adopt the cuts or adopt the process. Either make the cuts or adopt the implementation legislation so we all know what it is. We should not simply say, "We are going to amend the Constitution to tell a future Congress that they should do something," knowing full well the difficulties for any Congress to do it.

Now, Senator SIMON and others are optimistic that a future Congress will do it, much more optimistic in those future Congresses being able to do things that we have been unable to do, frankly, than I am. But their optimism should be tested now. We should adopt the implementation legislation. If a future Congress can do it, we can do it, and that is the test of their optimism.

In the absence of our doing it, either making the cuts or adopting the implementation legislation which their language requires a future Congress to do, this balanced budget amendment is, I am afraid, going to be little more than a feel-good amendment which purports to address the problem of Government spending and deficits without actually addressing the problem.

The people want us to move to a balanced budget. They want us to do that. They do not want us to push the responsibility off to a future Congress, as this amendment would do. They want us to do it.

The proposed amendment is full of loopholes and ambiguities. For example:

The implementation of the amendment depends on economic estimates that can be made overly optimistic if that is what is necessary to project a balanced budget. We have seen enough rosy scenarios in the budgets of both Republican and Democratic administrations to know how this game is likely to be played.

The amendment requires a balanced budget in each fiscal year. Throughout the 1980's Congress and the President artificially lowered the reported deficit and met Gramm-Rudman targets by shifting the timing of spending from one fiscal year to another. Under the proposed amendment, we can expect similar budgetary shell games.

States with balanced budget requirements have frequently avoided them by creating independent or quasi-public agencies and placing their expenditures off-budget. We did much the same thing in the 1980's with the costs of the savings and loan bailout. Because the amendment does not define key terms such as "receipts" and "outlays," it is certain to lead to similar manipulations.

Costs could be shifted from the Federal Government to State and local governments by simply reducing funding for existing programs. Reduced grants to the States would shift the burden of the deficit from the Federal Government to State and local governments but would not shrink the overall gap between Government revenues and Government spending.

The authors of the amendment have acknowledged that the proposed amendment would be unenforceable without further legislative action by the Congress. If outlays exceed receipts, they say, neither the President nor the courts could step in to address the problem. I am not aware of any case in which we have enacted a constitutional amendment which the sponsors themselves claim to be unenforceable, but that is what the authors of this resolution have said.

This resolution does not tell us what an "outlay" is. It does not tell us what a "receipt" is. It does not tell us how Congress, which enacts appropriations and revenue measures, will regulate the precise level of outlays and receipts. It does not tell us how Congress will monitor the flow of outlays and receipts. It does not tell us who will determine the levels of outlays and receipts, whether it is CBO or OMB. And it does not tell us what will happen if outlays in fact exceed receipts.

The answers to all of these questions are left to a future Congress. But, Mr. President, amending the Constitution is far too important an undertaking to be done in the dark.

Mr. President, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I think it is about time for us to start voting on this amendment. After a week of talking about the balanced budget, I believe that just about every argument against it is pointless, except maybe one. The opponents' arguments are just many different ways of saying, "I don't want a balanced budget amendment, because I don't want a balanced budget."

The one I had to research to respond to is that the amendment is nothing more than a gimmick. After the fourth or fifth time I heard this, I stopped assuming that I knew what a gimmick is and decided to look it up.

One dictionary says a gimmick is "A trivial or unnecessary innovation added to enhance appeal."

The opponents of this constitutional amendment say we are supposed to pass responsible budgets without constitutional requirements.

Now, how would you explain that, when we have run deficits in this country for 34 of the last 35 years? When were they planning to start being responsible? Mr. President, when were they planning to say we are going to be serious without a balanced budget amendment that says we are going to be serious and there is no wiggle room?

The opponents also say this amendment is a gimmick and we should not mess with the Constitution. The Framers expressly provided for constitutional amendments.

We have been debating this proposal for over 12 years. The entire Constitutional Convention took about 4 months in 1789. We are not proceeding recklessly. We are acting after careful deliberation. We passed a balanced budget amendment here in the Senate in 1982. We failed in 1986, 1992, and 1994 by a handful of votes. The House tried in 1990 and 1992.

A few days ago, with its new Members elected by a public demanding a real change in Washington, the House passed the amendment for the first time. With so many years of debate and preparation, Mr. President, we cannot throw away this opportunity to put America on a new course. I believe this is the most important vote that we will take in our terms in the Senate.

Now, the opponents say, "We should not legislate on the Constitution." Well, I agree, we should not legislate on the Constitution. It is a framework for Government and it should not spell out particular policy choices. But the same opponents that make this claim also propose amendments to this resolution which legislate exemptions into the Constitution for high-priority items.

Such exemptions would, themselves, create gimmicks. Every possible program would get squeezed into the off-budget constitutional exception. Such exceptions, Mr. President, would require future Congresses and future generations to follow our priorities. They would have to use our programs instead of setting their own priorities and using their own plans, public or private, to address them.

Even the minority leader's motion to recommit with instructions provides for a balanced budget amendment that says, "The directives required by subsection A–3 shall be deemed to be directives within the meaning of section 310(A) of the Congressional Budget Act of 1974. Upon receiving all legislative submissions"—now, does that sound like James Madison? It sounds an awful lot like legislation to me. It sounds like the Budget Act, something no Member really wants to see enshrined for all time in our Constitution. If we start amending the Constitution with sentences like that, people will not be able to carry our Constitution in their vest pockets anymore.

Now, my dictionary has another definition for gimmicks. It says it is "a significant feature that is obscured, ordinarily misrepresented; a catch." Now, the opponents of this amendment keep trying to say there is a catch. They are trying to scare the public into thinking that all of the services that the Federal Government provides will be eliminated. Of course that is not true. To balance the budget by 2002 we only have to slow down future increases in total spending, not cut spending below its current level.

We can cut the bureaucracy and the redundancy of the Federal Government while preserving our most important programs. That is prioritizing. We must provide the programs that help those who cannot help themselves. We have always done that in this country. What is to change? We will feed the hungry. We will care for children and disabled people who cannot help themselves. And we can do it while continuing to cut waste, and do it more efficiently.

Like all bureaucrats whose kingdoms are threatened, the opponents of this amendment claim that any cut would destroy the most popular program, while they hide the waste, fraud, and abuse in the back. Now, I have heard this argument before. It is called the "We are going to have to close the Washington Monument argument." They show us the most popular program and they say, "This is what is going to be cut." They are acting like we do not have the sense or the commitment or the ability to prioritize what are the most important uses of taxpayers' dollars.

They are like the boy who cried wolf one too many times. We do not believe them anymore. We do not believe that the Government cannot really operate with a few cents less on the dollar. That is what balancing the budget comes down to. Pennies on the dollar. We can reach a balanced budget by the year 2002 without cutting Social Security or Medicare.

(Mr. THOMPSON assumed the chair.)

Ms. SNOWE. Mr. President, will the Senator from Texas yield for a question?

Mrs. HUTCHISON. Mr. President, I yield.

Ms. SNOWE. I thank the Senator.

I think the Senator is raising some very significant issues concerning this constitutional amendment to balance the budget. The Senator was mentioning the fact that so many of the opponents of this balanced budget amendment call it a gimmick. My response has always been if it were a gimmick, Congress would have passed it long ago.

As the Senator knows, over the years we have had a number of statutory approaches. Now there have been suggestions under the Daschle amendment and the so-called right to know that somehow we should pass implementing legislation to tell the American public how we plan to balance the budget over the next 7 years. But that is also statutory language.

On the other hand, they are saying the constitutional amendment we would not necessarily have to enforce. How do we know the Congress in the year 2002 will actually enforce a constitutional amendment? Would the Senator not agree that this is the only way, given your experience here in this institution, to get a balanced budget for the American people and for future generations, is through a constitutional amendment to balance the budget?

Mrs. HUTCHISON. Mr. President, I think the Senator from Maine has made the most important point. Gramm-Rudman was a wonderful idea that should have worked. But what happened? Congress came along and bypassed it, and bypassed it again, and bypassed it again. So it meant nothing.

That is exactly the point that I was making about having an exception to the amendment. Any exception. What will happen? Congress will start putting more things into what we except, and it will bind future generations to say, "That is the area that you must except out." It could be that in 20 years Social Security or whatever exception they are going to put forward may be taken care of. It may not even be an issue at all. Why would we put that in the Constitution and take away the ability of future generations to just act within a framework?

It is clear that we have to have a framework in the Constitution. Saying that there would be this exception or that exception does not take into account the changes in our society that might happen in the next 50 or 100 years.

Ms. SNOWE. Mr. President, would the Senator further yield for a question?

Mrs. HUTCHISON. Mr. President, I yield.

Ms. SNOWE. Mr. President, as the Senator was mentioning, the constitutional amendment establishes a very important framework, as our forefathers established through our Constitution. We obviously take an oath of office, individually; we take an oath of office, on behalf of this institution and on behalf of the American people. So, we logically would follow up in enforcing that constitutional amendment.

As the Senator was mentioning about the various pieces of legislation that have been enacted over the years in Congress, for example, in the Gramm-

Rudman-Hollings to which she was referring, again, numerous adjustments were not made. It gets back to the issue of whether or not we would be able to balance the budget through the Constitution, statutory approaches. But we know the statutory approaches have already failed on numerous occasions, stretching back to the year 1921.

We had the Budget Accounting Act, the Revenue Act, the Byrd Act. We have adjusted the Gramm-Rudman-Hollings Act on numerous occasions because we could not meet the requirements within that legislation for balancing the budget, believe it or not, by 1993 and then again in 1995, and in the 1990 revision of the Gramm-Rudman-Hollings. So it is clear that that has not worked.

Now, as the Senator knows, this amendment that is before the Senate concerning the right to know, I think the American people do not agree that we are right in terms of what we are enacting in this hypothetical budget that has been suggested here, that we would pass accompanying the Constitution an amendment which would somehow be the budget that would be operative in the year 2002. Of course it would hot.

Would the Senator not agree that this approach is somewhat of a dilatory action, or hypothetical sideshow not to enact a constitutional amendment, knowing full well that we will get a balanced budget through a constitutional amendment and not through a statutory approach?

Mrs. HUTCHISON. I think the Senator from Maine is making an important point. When you are doing something that is as important as this, we do need to do it right because it is going to be an amendment to our Constitution that will last. Our Constitution has prevailed over the centuries because we have been very careful not to bind future generations. With the Constitution, less is more.

There is one thing that we have to do, and that is make a bottom line. We have to say, like every business in America, like every household in America, like every State government and every local government in America, there is an end. We must set our parameters and then work within those parameters to set our priorities. That is what every other entity in America does.

As the Senator from Maine has said, this is the time. It is a very short window that we have to make a difference in the direction this country is going, and we have the mandate.

For the first time, the House of Representatives has passed a balanced budget amendment, and if we miss this opportunity, it may be that the window will not return.

I wonder what all of these people who are convinced we should not have an amendment, I wonder what they are going to say to the American people about how they will balance the budget if they do not want it in the Constitution and they say, show me first. Show me what you are going to do if we do not have it. What is going to be different today than 34 out of the last 35 years? Isn't that really the question?

Ms. SNOWE. Will the Senator yield? I think that is exactly the question. Would you not agree that those who are opposed to a constitutional amendment have a greater burden to prove how they could enact a balanced budget statutorily, because all previous attempts have failed time and again?

There has been obfuscation, diversion, delays, distraction, and, in the final analysis, we have only seen our debt grow. We have heard some discussions how the deficit has come down in recent years, but what we do not hear is the fact the deficit is going to go back up for the remainder of this decade. In fact, since the last time the Senate passed a balanced budget amendment in 1982, the debt has grown 309 percent.

Even the President's own budget, interestingly enough—we hear so much talk about the President's tax package in 1993, and I well recall that because I served on the House Budget Committee. We were challenged to bring up our own specific line-item cuts. As Republicans on the committee, we did. We did $435 billion worth of specific line-item reductions in the budget.

Guess what? They were all rejected. So we got a tax increase, which happens to be the largest tax increase in the history of the country. It was supposed to reduce the deficit. To some extent it did, but, again, what happened is the deficit continues to rise. In fact, one of the reasons why it is rising is that the revenues projected from that tax increase are less than had been anticipated and projected by the administration. As a matter of fact, the Congressional Budget Office has recalculated the deficit by $25 billion for each of the next 5 years, and that is based on an 11-year economic expansion. That would be 3 years longer than the longest postwar expansion.

And so we can understand what is going to happen; we are just going to see more debt. There will be obfuscation here about the right to know, what we ought to do, we should do implementing legislation. But the bottom line is, are we willing to balance the Federal budget?

As the Senator has mentioned, the only way that can be done is through a constitutional amendment because we have all taken an oath of office. That is why the opponents of this amendment do not want this amendment enacted, to become law, because they know that we will take our responsibilities seriously and we will be obligated to balance that budget.

Mrs. HUTCHISON. Since the Senator brought up the President's budget and the inability of Congress to deal with this issue in the past, I should say that the budget did come out today from the President, who promised to cut the deficit in half, and it actually spends $200 billion more than we have in revenue this year.

After the Clinton administration is over, he will have added $800 billion to the national debt. The debt today is about $4.7 trillion. That is $18,500 for every man, woman and child in this country. So every baby that is born can be welcomed into our country knowing that that poor baby has an $18,500 debt hanging over his or her head the minute he or she comes into the world.

They talk about not putting it in the Constitution and yet as recently as today, a budget is submitted that is again not in balance. I think it is time for us to say enough is enough.

They talk about the sky is falling if this is passed, but do they realize what we are going to have to do to get to a balanced budget by the year 2002? According to the Joint Economic Committee, we can balance the budget without cutting Social Security or Medicare and permitting Medicaid to grow by 5 percent if we just limit the growth of all other programs to 2 percent a year—that's the growth, not current spending.

If we exempt only Social Security, we can balance the budget in 6 years by cutting projected spending by 4 cents on the dollar.

We are talking about limiting the amount of growth. We are talking about prioritizing within our budget to limit the growth. If you set aside Social Security and Medicare, you can still grow 5 percent in Medicaid and 2 percent in all other programs and balance the budget.

Ms. SNOWE. Will the Senator yield?

Mrs. HUTCHISON. Yes.

Ms. SNOWE. Again, I think the Senator is focusing on some key issues that I think are important focal points for this debate. The Senator was referring to the President's budget. Were you not surprised to see the President did not sufficiently address spending reductions in his budget, basically accepting the economic status quo? In fact, the variances in his package on projected deficits between now and his package of 1993 is more than an 11 percent change in the deficit, for the worse.

Mrs. HUTCHISON. You say you were not surprised. Well, after seeing the State of the Union Message where he challenged Republicans to come up with spending cuts and yet did not offer spending cuts for us to consider, it is really not a big surprise.

Ms. SNOWE. Will the Senator further yield? I think the President has in the past, as the Senator referred to, challenged us to offer specific cuts. As I said, I served on the House Budget Committee for the last 2 years and the last two budgets that we presented had very specific cuts of $435 billion in reduction in spending over 5 years. And then for the 1995 budget, we proposed an additional $150 billion. The fact is, there was another budget that was offered on the floor, in addition to the Republican-offered budget, and that was a budget that would have provided additional spending cuts over the President's by $182 billion for a total of $682 billion worth of spending reductions in the Federal budget over 5 years.

But the fact is, no one is prepared to accept those spending reductions and recommendations unless we are forced to because there is no discipline, and I think the American people are savvy enough to recognize that we are not going to take that self-enforced action unless we are required to.

That has been the past and clearly will be the future without a balanced budget amendment.

The Senator was referring to the issue of restraining growth as proposed by the Joint Economic Committee in terms of what we could do to balance the budget just by restraining the growth in Federal spending. It is remarkable. If we were to restrain growth in spending by 2.4 percent exempting Social Security, we could save $28 billion in new spending every year. That is $28 billion. Increased spending based on growth is $420 billion over the next 7 years and we can increase spending by half that amount. I do not think there is anybody in America who would not think that is a substantial amount or sufficient enough to address some of the issues and some of the programs and the needs of this country and our changing priorities because over the next 7 years I would expect that we would have some changing priorities and needs and concerns as they arise.

Mrs. HUTCHISON. I think the Senator from Maine is making an important point. We are starting to talk about prioritizing—what can we cut in order to put more in the programs that we need, the ones that are really essential. In the President's budget he says he is going to look at reinventing Government by paring down HUD and the Department of Transportation, and I applaud the President and I wish to give him credit for taking that step.

However, I think what we have to do is to start looking at how we can do things in a different way. Maybe it is not just cutting down departments. Maybe it is cutting down the infrastructure. Why do we necessarily have to keep the entire infrastructure of the Department of Transportation and the infrastructure of the Department of Housing and Urban Development?

Perhaps we could take away some of the bureaucracy by having fewer departments, by streamlining Government, by terminiating some programs, such as the ICC, which the President has proposed again to eliminate and which I am going to support, and by handing power back to the States. Handing power back to the states is very important in the overall effort to make the Federal Government smaller. When we do that, let us not keep all of these massive bureaucracies in place. Let us consolidate some departments—maybe the Department of Education.

I think the Senator from Maine would probably agree with me that if we are going to get this country going in a different direction, the one most important thing we can do is to pass a balanced budget amendment and force ourselves to stop deficit spending. Let us start working toward the balanced budget and then eventually we will be able to start working on paying down the $4.7 trillion debt.

Ms. SNOWE. Will the Senator yield? I think the Senator is absolutely correct in referring to performance-based budgeting which was part of the testimony that was submitted to the Senate Budget Committee recently.

The Senator is correct in suggesting that what we should do is look at every Federal agency, look at Federal programs, examine how we can deliver them more efficiently. Perhaps they are best delivered by the States and local governments. How can we be innovative and creative rather than just accepting the status quo.

We have hundreds and hundreds of programs that we have been delivering for years and years in pretty much the same manner, and there has been no incentive to address them differently or to rework them in a way where it could save taxpayers money.

I think the taxpayers of this country understand full well that the Federal Government should be balancing its revenues with its expenditures because ultimately that debt is being passed on to future generations.

So the Senator is correct in saying that we should examine—and I gather that is what the Senator is recommending—all of these Federal programs and agencies so that we have a better understanding of what we can afford, what is best left to the States to address and perhaps the Federal Government should not be implementing some of the services programs that we currently do.

We have never looked at it from that standpoint in the past. It has never been a performance-based driven budget, and we have no innovation and creativity delivered in a way that will save taxpayers money. The constitutional amendment to balance the budget will clearly be incentive considering there has been no incentive in the past other than to divert and avoid the statutory requirements of balancing the budget.

Mrs. HUTCHISON. I think the Senator from Maine would agree that for us to be able to put our best creative efforts forward, to decide how we can go forward into the 21st century by doing things a different way, doing things more efficiently, and giving the States back the power that they had when our Founding Fathers made the Constitution, we have to say there is a limit. The Government, like everyone else in America, will have to live within a budget.

We are not going to cut everything. The sky is not falling, as you have heard on this floor day after day after day. We are going to make responsible expenditures.

The Federal Government needs to do what it does well. It needs to have a strong national defense. We need to have big science projects to create the new technologies that create the new jobs for the future and improve the quality of life. We need to deliver our mail; that is one of the things that everybody assumed the Federal Government would do. We are not doing it very well. We could do it a lot better. We need to have foreign representation. We need to have foreign policy.

There are many things that the Federal Government should do and do well, and we need to appropriate the money to do that. We need to appropriate the money for closing our borders to illegal immigrants. There are many things that we will need to fund. But the difference is, from the debate we have heard between the two parties disagreeing on this issue, with some exceptions, of course, are we going to live within the budget and are we going to make those tough decisions? It is not a cart before the horse—you tell me what the decisions are going to be and then I will decide if I am going to do the responsible thing by saying you have to live within your budget.

There can be no question that we must live within our budget. And it is irrefutable that for 34 of the last 35 years we have not lived within a budget. We are going to have to take the necessary precaution of making parameters, and in this case the parameter is a balanced budget amendment which says Congress, you are going to live with a budget, and you can decide the priorities.

I think we should give Congress the freedom through the generations of the future to decide its priorities. But for heaven's sake, let us not miss this opportunity to promise to the American people that we are going to stop putting an $18,000 debt on every child born in this country.

Ms. SNOWE. Will the Senator yield?

Mrs. HUTCHISON. I will be happy to yield.

Ms. SNOWE. Would the Senator be surprised to know that half of the citizens of this country, half under the age 35 have only witnessed Congress balancing the budget just once? I guess it would not be surprising, given the fact we have seen on so many occasions

Congress has avoided that responsibility.

As the Senator knows, before the Senate is pending the Daschle amendment, the right-to-know amendment. Do you think it is fair, I would like to ask the Senator, that we would present a budget, according to the Daschle amendment, a balanced budget plan to the American people knowing full well that that might not be the plan in the year 2002 because we have three intervening elections with two Presidential elections, different makeups of Congress, different priorities, different emergencies that might arise? If we only recall what has happened in the 7 years since 1988, we can only appreciate what might happen over the next 7 years.

Under the Daschle amendment, we are being asked to set forth a balanced budget plan, right to know, send it out to all the States accompanying the ratification of the constitutional amendment. People will be making their decisions thinking that this will be the balanced budget plan in the year 2002 when in fact, of course, it would not because in the meantime Congress will be making all kinds of changes to that balanced budget plan.

So, Mr. President, I would ask the Senator, do you think it is fair to present that kind of plan to the American people knowing full well that that will not be the plan ultimately in the year 2002?

Mrs. HUTCHISON. I would only say to the Senator from Maine that I think it would be more fair if the minority leader would put forth in his right to know to the American people what they are going to do to balance the budget if we do not pass the constitutional amendment to require it.

I think that is what the American people would like to know. What are you going to do differently today than you did 34 out of the last 35 years? That is a right I think the American people have, to know before someone votes to kill this opportunity to have a balanced budget amendment for this country for the future, to know what they would do if it is defeated.

We must make sure that our future generations do not carry the debt of overspending and the excesses of the present day. We should not have the right to bind future generations from any present point by not living within our means. That is the bottom line.

It is not fair to say you are going to kill this amendment with a right-to-know provision if you are not going to say to the American people what they have a right to know, and that is what are you going to do to balance this budget if you do not have the amendment? That would be the responsible approach. Does my colleague not agree with me?

Ms. SNOWE. Mr. President, if the Senator will yield, I certainly do agree. I am sure that she will agree the fact is these amendments that are being offered—certainly the Daschle amendment is an attempt ultimately to kill the constitutional amendment to balance the budget. Which, as the Senator has mentioned, this will be our last occasion. This is our window of opportunity, because we have seen a historic vote take place in the House of Representatives last week. For the first time, that body enacted a constitutional amendment.

The last time the Senate enacted a constitutional provision and the House did not was in 1982. As I said, since that time, we have seen a 309-percent growth in the debt. That is $3.5 trillion since the last time the U.S. Senate enacted a constitutional provision.

We certainly cannot put that onto future generations by failing to do what is important here today. I think all of these amendments that are being offered are being offered in the spirit of killing the constitutional amendment to balance the budget, because they know full well we will in the final analysis balance that budget because we will take that action now.

Does the Senator not agree we would obviously begin that process to achieve that goal of balancing the budget so we can be prepared for meeting the final goal in the year 2002?

I know when I was in the House working on this issue, and we worked on to 1992, and in 1994 we in fact had planned to begin to set the process forward, in the first year and the second year, of course, as we are here, to begin the process of gliding us toward that path of a balanced budget in the year 2002, in anticipation of and presuming the States would ratify the constitutional amendment.

Mrs. HUTCHISON. Mr. President, I think the Senator from Maine has come to the bottom line. The amendments that are being offered are being offered to kill the amendment. I hope the American people will see this debate for what it is.

I have so much faith in the American people, in the good common sense of the people of this country. They can see the people who are being sincere about wanting to change the course of America, and those who are throwing up the roadblocks in the name of—whatever. Whatever exception they would like to have. It is a smokescreen. It is an effort to keep us from doing what really will get this country back on track.

We will have to make very tough choices. There is no question about that. Everyone knows that. But as I go out in my State and in the other States I am able to visit, I think people are ready. I think people more than ever are ready to say, "You know, I would really like to have that expenditure, or some other program, but if it takes not having that particular program in order to balance our budget, we are willing to say in the scheme of things this may not be as important as the big things that only the Federal Government can do and do well."

I am sensing that.

Does the Senator sense that in the State of Maine as she goes home and talks to the good, commonsense folks of Maine?

Ms. SNOWE. Mr. President, if the Senator will yield, I certainly do. Having been involved, of course, in this last election, I certainly understood the concerns of the people of my State of Maine, which was that we needed to be accountable for our actions and to be fiscally responsible.

People are no longer prepared to accept the notion we were going to continue with the economic as well as the political status quo. They understand we have not been accountable fiscally in the past. They are concerned not only about their own futures; they are concerned about their children's futures, as well. They know the impact of the deficit has affected their standard of living, whether it is through loss of jobs, the loss of productivity, the loss of savings that allowed this country to grow—it has prevented us from making the necessary investments in our infrastructure so we can invest in the future of this country. We cannot grow if the pie is getting smaller because we are consuming greater and greater pieces of that pie to pay the interest on our growing national debt.

The American people understand that. I know my constituents in the State of Maine understood that. For those people who are not involved—and I know the Senator was involved in an election last November—but for those who were not involved, they clearly misunderstood the message if they think the American people do not want a constitutional amendment to balance the budget. They do. They do not understand, as the Senator has mentioned, that the Federal Government does not balance its budget. Because everybody else in America does. They cannot understand why the United States Congress is not required to meet the same bottom line as every State save one in America, every family, and every business.

So in the election last November, that was the message. I think, in the final analysis, if we fail to pass this constitutional amendment, it really will send a message to the American people that somehow we do not get it. I think that would be unfortunate.

As the Senator from Texas would agree, the American people deserve more than that.

Mrs. HUTCHISON. Mr. President, I think the Senator from Maine has hit the nail on the head. Those of us who were in the election, an election that I think was to change the course of this country, do get the message. We got the message from the American people that they want a balanced budget amendment. Probably of all the issues they were voting on, this was among the very top.

I saw a poll in the Washington Post that showed 4 out of 5 Americans want a balanced budget amendment. Of course, the people will have another say in this. They do have the right through their legislatures to act on this balanced budget amendment to the Constitution. It does not just automatically go into the Constitution if we do pass this amendment by our two-thirds vote here. It will go to the States and three-fourths of those State legislatures must ratify the amendment.

So the people are going to have their say. They will be able to have the final word. I think it is very important for us, because of the message the people sent so loud and clear, that we are required to send it to the States to let people have their say. I think the people will feel much better if they have the opportunity to act in this way on a very important part of the election of 1994; the election in which they said we want a more accountable Government, we want a more accountable Congress, and we want responsibility to be shown by our leaders.

That is exactly what we are trying to do. As the Senator from Maine pointed out, I think the people are going to send another very clear message in 1996, if they do not see that things are being done differently in the Halls of Congress. I think particularly because the House has acted on this already, it is very important the Senate, hearing the people's voices, give them a chance to let their legislatures ratify this amendment, or not ratify it, as they see fit. That is their voice.

But I think it is incumbent on us to let the people speak, through their legislatures, exactly what their feelings are on this issue.

We have the opportunity of a lifetime. For the first time in years, this Congress has the opportunity to change the course of this country by letting people have their say. I think we must do it. We really must do it. If we do not, if we did not get the message, I think that the people in the U.S. Senate who are now representing the people of our Nation will hear a lot more from the people. I got the message. I think the Senator from Maine got the message. But I am not sure that everybody that I have heard debating for the last week has gotten the message. I certainly hope for everyone's sake that we do the right thing.

Last year, when we were debating this amendment, Senator SIMON from Illinois, who was the sponsor of the balanced budget amendment and who did a wonderful job, was talking about the importance of this balanced budget amendment. He said the reason there were so many heroes in the Alamo is because there was no back door. Well, of course, no Texan could let that pass because I had to defend the honor of the heroes at the Alamo. I had to set history straight and say to the good Senator from Illinois there was a back door at the Alamo. The back door was when the line was drawn in the sand and every man at the Alamo was given a choice to cross the line and stay and fight or not to cross the line. Any man that did not cross would have been able to leave the Alamo before the siege began and go to the rear. Of course, everyone knows that every man crossed the line, including Jim Bowie, who had to be carried across the line in a stretcher. In effect, the Senator from Illinois was correct. The back door was a line in the sand. The line in the sand gave them the escape but the great heroes at the Alamo chose to close that door.

What the Senator was saying was we have a balanced budget amendment that is closing the door. We are not going to have heroes because we are going to close the back door, and we are going to do what is right. It is not heroic. It is just good common sense. Every person in America should know that it does not take a hero to do what everybody else in America is already doing, and that is living with a balanced budget; setting the parameters of what they think is best, and, saying, OK, this is what I have and I am going to prioritize with the resources that I have.

That is what we are asking the Congress of the United States to do, not just for today, but for our future generations. It is right that we amend the Constitution because this is a very important policy. It is part of our structure of government that we say we will live with a balanced budget.

Just about every State in this country has a balanced budget amendment in its constitution. It is the framework of government, whether you live with a debt or not. It is right to put it in the Constitution. What is not right is to legislate on the amendment by saying we are going to balance the budget but we will have these exceptions. That is not a document that will live through the centuries as our Constitution has.

Our Founding Fathers created a living document because they put the framework in place. It is a giant step to amend this wonderful document. That is why it has not been done very often. But it has been done when there was a need to continue to make it a living document, and that is why our Founding Fathers gave us a chance to amend it. They knew things would change in the course of our country's history. They knew that they would have to provide some way for us to be able to add to it so that it would continue to live, so that our people would not be oppressed with the document that did not protect them from the changes that they could not even envision.

I think a balanced budget amendment to the Constitution is very proper because it says this is going to be part of the framework of our Government, that we will live within our means and that we will not put a debt on the heads of our children for the spending that we do today.

It is pretty simple, and I think the American people understand that. I think the American people are a lot smarter than the politicians give them credit for. I think the American people are going to understand in this vote exactly whether the Senate of the United States got the message from November 8, 1994. They are going to be able to determine from this vote whether they need to send another message in 1996, or whether we are going to get this country back on track. Whether we are going to do responsible budgeting for our future and for the future of our children and grandchildren.

We must pass this amendment if we are going to take that first step toward bringing our country back to what our Founding Fathers thought it should be; that is, a very strong Federal Government that is limited in its powers and very strong States that can make the decisions for their people because they are closer to the people.

So I hope the Senate of the United States does the right thing for the people who have voted for us and who sent a clear message on November 8, 1994.

Thank you, Mr. President.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, let me just take a few minutes. I want to reply to the distinguished minority leader who took time to come to the floor and chat about some of the arguments that we have been making. I want to point out that the distinguished Senator from North Dakota mistakes my arguments.

I pointed out that article V sets forth the exclusive conditions for promulgation of a constitutional amendment. The distinguished Senator from North Dakota brought up that there is a 7-year time limit and that is a condition on ratification. Promulgation and ratification, of course, are distinct acts and are two different acts. They should not be confused. Under article V once Congress has passed an amendment by the necessary two-thirds margin in both Houses, the amendment must be promulgated to States for ratification. There is nothing in the text of article V nor in the constitutional history that suggests that Congress can play slick games with the States by passing an amendment but keeping it from going to the States.

The act of promulgation is a ministerial act that must be performed once the two-thirds vote has been obtained. By contrast, there is ample reason why Congress should be permitted to include additional terms and conditions on ratification such as the 7-year time limit.

Article V makes it clear that it is up to Congress to specify the "Mode of Ratification." There is also substantial precedent in our constitutional history for Congress to specify time limits on ratification. In INS versus Chadha, a 1983 case—the case that struck down the legislative veto—the Supreme Court expressed the principle that when the Constitution sets out a methodology, Congress cannot expand on it, contract it, or otherwise alter it. Article V provides that a Constitutional amendment that is passed by both Houses shall be proposed to the States for ratification. The Daschle substitute is unconstitutional in that it would place an additional condition on, and thereby delay, Congress' promulgation of the balanced budget amendment. So I wanted to point out that difference.

In the meantime, what I would like to do, Mr. President, is just point out what is happening as we debate the balanced budget amendment. We call this chart the balanced budget amendment debt tracker. In other words, this is the increase as we debate. On day one of the debate, the American taxpayers were called on to pay $829,440,000 in additional debt. That is day one of the debate. Now we are in day eight since the debate started. I have to tell you that if we put day eight down and accumulate it up to today's date, we are talking about a $6,635,520,000 increase in the national debt as we have debated the balanced budget amendment. In just 8 days, we shot up from here to here. We have gone up from a little less than a billion dollars to almost $7 billion—$6,635,520,000—in just 8 days. We intend to put this balanced budget amendment debt tracker on the floor every day. Day 9 will go up even a little bit more, and we will keep that going on as we go through each day of debate, because there are those who think that a prolonged debate and a defeat of the balanced budget amendment in the end, of course, is a good thing for America. We think a prolonged debate and defeat of the balanced budget amendment is a disaster for America, and this shows us the difference in just 8 days of debate, what it means to the American taxpayers.

According to the Concord Coalition, our national debt increases at $9,600 a second. That is $576,000 a minute, $34,560,000 per hour, and $829,440,000 a day.

So as this chart shows, the national debt on January 30, 1995, the day we began debating this amendment, was in excess of $4.8 trillion. That is what this red line means. On the first day of that debate, we added $829,440,000 to the national debt, all while we are standing here talking about the balanced budget amendment.

By 2 o'clock today, 7 days later, the eighth day, the debt has increased by $6,635,520,000. So as I have said, beginning today, I will post on this chart how much the debt has increased since the debate began. As you can see, the amount is tremendous.

Mr. President, we have been debating day in and day out, for the 19 years that I have sat in this body, how we should balance the budget. We ought to have the guts to do it and we should do it. Yet, every day we are going up $1 billion in national debt while Washington spins around and does business as usual. Mr. President, that is what is happening here—business as usual, the old order, the old way of doing things. I loved James Q. Wilson's article in the Wall Street Journal. He has never been a believer in the balanced budget amendment, but he has come to the conclusion that it is the only thing that politically will work. I think this type of a chart helps him to understand why it has to be.

Mr. President, I am tired of the old order. I am tired of the old arguments. I am tired of the excuses. I am tired of the American taxpayers having to live with our profligacy. I am tired of your children and my children, your grandchildren and my grandchildren, having to pay for the profligacy of people who do not have the guts to do what is right here. We have a population out there, in part, that is demanding that we cut the deficit but the reason we do not do it is that we are demanding tax cuts while they want more spending. If someone tries to bring fiscal order around here, many of these people will scream that it may hurt my program.

That is why we need a balanced budget amendment. We have to do something in the best interest of the country as a whole, of our children and our grandchildren. This chart, I think, as well as anything I know, shows us where we are going. Each one of these days we will put up how much, since the first day of debate, spending and the deficit has gone up.

The best argument I know to make for the balanced budget amendment is to read this budget of the administration that they just handed out today. I know the administration tried to do its best, but even it has thrown its hands in the air and said we cannot do any better than almost $200 billion deficits every year for the next 12 years.

I have to tell you, that is not the answer, Mr. President. The answer is the balanced budget amendment that says, look, the game is up, fiscal responsibility is finally here, or else you are going to have to vote to not be fiscally responsible and face the wrath of the taxpayers. That is what this amendment will do. That is why our colleagues should vote for it. I hope they all will.

I yield the floor to my colleague from Alabama.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, there is certain language in the resolution calling for a constitutional amendment to balance the budget that I think needs some explanation and may throw some light on some aspects of our Government that we need to be informed about.

Section 2 speaks of the debt of the United States. This is a section that I believe should be very strongly included because I think it gives enforcement power. It reads as follows:

> The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

Now, the particular language that I want to direct the attention of the Senate to is "the debt of the United States held by the public." In the committee report, which I intend to offer in its entirity into the RECORD, there are explanations on various aspects of the language found in the resolution. Let me direct your attention to these words

> * * * debt of the United States held by the public * * * a phrase which is a widely used and understood measurement tool. The General Accounting Office, in its "Glossary of Terms Used in the Federal Budget Process" [(Exposure Draft, January 1993)], defines "Debt Held by the Public" as "That part of the gross Federal debt held outside the Federal Government. This includes all Federal debt held by individuals, corporations, State or local governments, the Federal Reserve System, and foreign governments and central banks. Debt held by government trust funds, revolving funds, and special funds is excluded from the debt held by the public."
>
> The current, accepted meaning of "debt * * * held by the public" is intended to be the controlling definition under this article.

I think it is very important, relative to trust funds, that we understand that the debt held by Government trust funds, revolving funds, and special funds is excluded from the language "debt held by the public."

Now, under section 2, it takes a three-fifths vote to be able to raise the national debt held by the public. I interpret this to mean that in the event that we did not raise the national debt, we did not vote by the three-fifths vote to do it, then trust funds, revolving funds, and special funds that are in surplus could continue to be paid.

Normally, in the course of events, if the U.S. debt is not raised, you have reached the maximum of the debt. Therefore, you cannot borrow. When you cannot borrow and do not have funds to operate on, the Federal Government comes to a halt.

But by this language, "trust funds, revolving funds, and special funds" are excluded from this. Therefore, if there is surplus in those trust funds, then payments can be made to the recipients of those trust funds or those revolving funds. Now, that would apply to Social Security funds. That would apply to highway trust funds. That would apply to aviation trust funds and others, according to the way I read this, relative to the operation of the Federal Government in the event that a debt limit is not raised in order for the government then to continue to borrow.

I want to also speak briefly on trust funds and to some of the other aspects of this language. Under section 1, we have a situation where the total outlays shall not exceed the total receipts for the fiscal year unless you have a three-fifths vote. In the definition as to what "receipts" means, under section 7, it is defined in the language and it is the explanation given in the committee report that:

> Total receipts * * * is intended to include all moneys received by the Treasury of the United States, either directly or indirectly through Federal or quasi-Federal agencies created under the authority of acts of Congress, except those derived from borrowing. In its present usage, "receipts" is intended to be synonymous with the definition of "budget receipts," which are not meant to include offsetting collections or refunds.

The exception to total receipts is "except those derived from borrowing." And this "is intended to exclude from the receipts the proceeds of debt issuance. To borrow is to receive with the intention of returning the same or the equivalent. It is intended that those obligations, the title to which can be transferred by the present owner to others, such as Treasury notes and bonds, be excluded from receipts."

Now here is an important aspect of this explanation: "Contributions to social insurance programs, though also carrying an implied obligation, are not transferable and should be included in receipts."

Basically, I interpret this language to mean that trust funds, like Social Security, which take in contributions, should, therefore, consider those contributions as receipts within the meaning of the foregoing language. Therefore, they are not excepted from the definition of total receipts. Actually, I believe the way this is written, "to include all moneys received by the Treasury of the United States," will mean that Social Security funds and other trust funds cannot legislatively be declared to be off-budget. I believe that the way this language is written constitutionally requires that trust funds be on-budget as opposed to being off-budget.

Now, trust funds are in instances loaned to the Government where there is a surplus like in the Social Security trust fund or in the highway trust fund or in the aviation trust fund, and so forth. They are placed in Government securities, as required by Federal law. Being placed in Government securities, therefore, they are not transferable, because they are a unique type of obligation that is required for the Government to purchase.

Therefore, a surplus that is invested from the Social Security trust fund can be repaid under the language of this amendment and the definition of outlays has to be considered. In the definition of outlays, the amendment says, "Total outlays shall include all outlays of the United States Government except for those for the repayment of debt principal."

So, in regard to the application of the balanced budget amendment and the balancing of the budget to require a three-fifths vote, we see that, first, trust funds surpluses are included in the total receipts but for the pay-back of the trust funds. Therefore, there is the exception that excludes it from the three-fifths vote in that it is a repayment of debt principal. And the repayment of debt principal allows the borrowing that is done from trust funds to be repaid without having to go through the three-fifths votes or to be, in effect, on budget in that manner.

Now, there is a problem, as I see it, where the Social Security trust fund or any other trust fund with a surplus, is taken and put into the special types of instruments by which the Government invests in Government securities. But there is a problem in that attributable interest is not included in the "total outlays" exception.

As the attributable interest on the debt principal becomes due and payable, therefore, a question is raised as to whether or not it has to be paid through the regular budget and could Congress, by law, refuse to pay the interest due on the principal debt? These are questions which must be answered in the days ahead as we debate the implications of whether or not there should be a Social Security exclusion within the proposed constitutional amendment to balance the Federal budget.

A similar question is raised in regard to an issue pertaining to a capital budget. As I interpret the language, the definition of total receipts excepts from the total receipts those that are derived from borrowing. If we borrow, then we would have the right for that income not to be included in regard to total receipts.

Then, on outlays where we have an exception for the repayment of debt principal, we have an exception which can apply to a capital budget. But again, the attributable interest has to be handled through the two-thirds vote and through the three-fifths vote in a manner that it is brought up.

I do not think the language of this excludes a capital budget, but on the other hand there is the question pertaining to the interest that I think is a matter that ought to be considered and about which we ought to be knowledgeable as we further debate this amendment.

Mr. President, I ask unanimous consent that the committee report filed on this proposed resolution be considered, as fully printed, a part of the debate at this point in my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Now, Mr. President, we know all the statistics and have heard all the arguments for and against an amendment requiring a balanced Federal budget on numerous occasions over the years. It appears, however, that this body will finally get its best chance yet to draw upon the potential of this Nation and finally adopt a balanced budget amendment resolution and send it to the States for ratification.

The 104th Congress has seen a confluence of political and fiscal developments that makes the amendment's chances of passage this year by both Chambers of the Congress better than ever before. The House has already acted, and has said emphatically that this is the discipline we need. The intense concern to do something about the deficit has become part of the national psyche: It is on the mind of every person who thinks and cares about the future of America. This resolution enjoys broad bipartisan support.

For most of our history, a balanced budget at the national level of government as an unwritten part of our Constitution. A balanced or surplus budget was the norm for the first 100 years of the Republic. In recent decades, however, Americans have witnessed a continuing cycle of deficits, taxes, and spending. We tend to look at each program in isolation, not realizing how each appropriation affects an already strained treasury.

Alexander Hamilton, while serving as Secretary of the Treasury, once said: "Public debt swells 'till its magnitude becomes enormous, and the [burdens] of the people gradually increase 'till their weight becomes intolerable. Of such a state of things great disorders in the whole political economy, convulsions, and revolutions of government are a natural offspring." Hamilton made this observation nearly 200 years ago, but it is surely instructive to us as we debate the balanced budget amendment.

Similarly, once our Constitution was finally adopted, Thomas Jefferson warned, "The public debt is the greatest of dangers to be feared by a republican government" Jefferson knew the long-term evils of deficit spending.

Over the course of history, we have lost sight of our Forefathers' warnings. I am firmly convinced that the Federal Government does not have the will power to reduce spending and balance its budget without a constitutional amendment mandating that it do so.

Yes, this amendment's opponents argue that if we possessed and practiced a stronger discipline, such a drastic measure would not be needed. I do not dispute that sentiment. I wholeheartedly wish that we did not need this amendment. I do not take amending the U.S. Constitution lightly. But I do dispute the sentiment's reality. Incredibly, the last balanced budget came 25 years ago under President Johnson. The haphazard fiscal policies of the last 20 years or so show that the problem goes much deeper than individual or collective resolve. We have to admit that simple collective will power will not solve this dilemma, regardless of who is responsible for the state of affairs as it now stands. We all must accept responsibility. It is the institutional structure of government that encourages short-term responses to individual need, rather than their implications for the greater good and the future.

Others argue that such an amendment would alter forever the balance of power between the executive and legislative branches. But under this amendment, each branch will retain its constitutional powers. The stalemate we have now with regard to national fiscal policy would be broken without significant changes in the balance of power.

Other opponents say that this amendment will result in economic policy and budgeting by court decree, significantly higher taxes, and severe cuts in important programs. The provisions in this resolution address each of these arguments and provide safeguards against them. The bottom line is that the amendment will impose upon the executive and legislative branches the discipline needed to set priorities.

It is important to understand what will happen if we do not get our national deficits and debt under control. Increased debts leave smaller safety margins necessary to deal with possible economic adversity. This poses a certain threat to our economy, leaving it highly vulnerable to increases in interest rates or shortfalls in income.

Moreover, should interest rates rise during this period of high personal and corporate debt, many individuals and businesses would be unable to meet the high interest payments to follow. Bankruptcy and economic instability would become widespread.

If we look back just a few years, we can see that the refusal of the executive branch and Congress to take seriously the mounting deficit was one reason the American economy faltered during the period before the 1992 elections. As our national savings pool shrank, our rate or gross investment became too low, our interest rates too high, and job creation too slow. The favorable economic conditions we have now are encouraging, and proof that the omnibus bill we passed in August 1993 was the right thing to do. But this should in no way absolve us from taking further, more definitive action by passing this resolution.

We should not fear the State's approval of an amendment to balance the Federal budget, as over 30 have already signaled a willingness to do. The State legislatures are where the heart of this debate should be, since more than 40 out of 50 have already learned to operate under laws mandating balanced budgets.

There is no doubt as to what our responsibilities as national leaders are in this regard. There is also no question as to what the American people want and deserve. The only question is whether we are willing to respond affirmatively by accepting the challenge. What this debate boils down to is the very future of this country. A constitutional amendment to require a balanced budget is the only way to once and for all control spending and eliminate record high deficits. It is time to take decisive action rather than to continue divisive rhetoric.

Indeed, we have already exhausted a wealth of different options to bring our finances under control, but they remain out of kilter. The right thing to do is to amend the Constitution so that Congress and the President are required to balance the budget.

Mr. President, I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Louisiana.

Mr. BREAUX. I thank the President for recognizing me.

Mr. President, we are engaged in debate on the question of whether we should submit to the States a constitutional amendment to ask them to approve that which would require the Federal Government to balance the budget. You would think that on such a historic debate people in the galleries would be falling over themselves to listen to the words of all of the Members of the Senate because, indeed, this is a very important debate. But I do not see there is that great interest in what we are doing on the floor of the Senate this afternoon, and that is unfortunate, because I think it is very, very important that Members of Congress, not only in Washington, but elected officials in our States, also reflect on what we are doing because it, indeed, will affect them directly.

I take this time to call to the attention of my colleagues a very excellent editorial which appeared this morning in the Baton Rouge Morning Advocate, one of the, I think, outstanding papers that covers the State of Louisiana. I will ask that it be made part of the RECORD. It addresses what I think is a key part of this debate.

We, in the Senate, cannot pass a balanced budget amendment by ourselves. I want to say very clearly, I support a balanced budget; I support a balanced budget amendment. I think it should be part of the Constitution. But I think that we should recognize that there is a partnership arrangement here. We cannot do it by ourselves. A balanced budget amendment can only be part of the Constitution if 38 States ratify it. Then it is going to be incumbent upon them to look at the balanced budget when they get it, say, my State of Louisiana, and say, "All right, what does this mean? How is it going to affect the people of Louisiana?" not just how does it affect Congress or how does it affect Washington, because the real effect is going to be on the people in the various States.

The editorial is headlined "People Deserve an Explanation." And it says:

> House majority leader Dick Armey, R-Texas, is right when he says spelling out necessary spending cuts will make it tough, maybe impossible, to enact a balanced budget amendment.
>
> However, Armey and his party are wrong to refuse to level with the people about what this would entail.

The editorial continues:

> As Armey has suggested, knees are likely to buckle in Congress if the pain this will cause is detailed. Many citizens also will lose zeal for fiscal responsibility when they discover that it is likely to affect them.
>
> The Republicans' refusal to say how they propose to balance the budget sends a clear message that they believe the cowards among us, in Congress and elsewhere, outnumber those who are willing to face unpleasant facts and do what is necessary to correct this problem. Recent history supports that premise, but this can change with responsible national leadership in the White House and Congress.
>
> In a representative democracy the people deserve to be given information they need to make up their minds about vital issues. Given that information, the people might well make the wrong decision, but that is the privilege of a free society.
>
> Furthermore, the political strategy of refusing to divulge details, as smart as it might seem to congressional leaders, could backfire on them.
>
> The public's appetite for detail is not always keen, but the American people don't appreciate politicians who deliberately keep them in the dark.

The editorial concludes by saying:

> We want the budget balanced and the national debt reduced, but we cannot support the notion that what the people don't know won't hurt them.

I ask unanimous consent that the entire editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Baton Rouge Morning Advocate, Feb. 6, 1995]

PEOPLE DESERVE AN EXPLANATION

House Majority Leader Dick Armey, R-Texas, is right when he says spelling out necessary spending cuts will make it tough, maybe impossible, to enact a balanced-budget amendment.

However, Armey and his party are wrong to refuse to level with the people about what this would entail.

As Armey has suggested, knees are likely to buckle in Congress if the pain this will cause is detailed. Many citizens also will lose zeal for fiscal responsibility when they discovered it is likely to affect them.

The Republicans' refusal to say how they propose to balance the budget sends a clear message that they believe the cowards among us, in Congress and elsewhere, outnumber those who are willing to face unpleasant facts and do what is necessary to correct this problem. Recent history supports that premise, but this can change with responsible national leadership in the White House and Congress.

In a representative democracy the people deserve to be given information they need to make up their minds about vital issues. Given that information, the people might well make the wrong decision, but that is the privilege of a free society.

Furthermore, the political strategy of refusing to divulge details, as smart as it might seem to congressional leaders, could backfire on them.

The public's appetite for detail is not always keen, but the American people don't appreciate politicians who deliberately keep them in the dark.

We don't doubt that Democrats are politically motivated in calling for the Grand Old Party to detail its grand new plans. As columnists Jack Germond and Jules Witcover recently noted, Democrats realize details would bring out special interests in opposition to the amendment. They correctly observed that details of President Clinton's health-care proposals were "the ammunition for their rejection" last year.

On the other hand, we are convinced that Hillary Rodham Clinton miscalculated mightily when she and a legion of advisers undertook to draft those health-care proposals in secrecy. That tactic might have delayed attacks by special interests regarding the specifics, but it also aroused considerable public suspicion about what was being fashioned behind closed doors.

The Democrats' motivation might be petty indeed, but their position is quite correct. As the saying goes, the devil is in the details, and that is precisely why the public is entitled to know them.

A balanced-budget amendment has been approved in the House and likely will come to a vote in the U.S. Senate shortly. U.S. Sen. Bennett Johnston, D-La., has announced his opposition to the amendment. Sen. John Breaux, D-La., says he is undecided.

Breaux, Johnston and 39 other senators support a "right-to-know" provision for the amendment. We don't necessarily favor putting that language in the amendment, but we do support the concept behind it.

Breaux says Congress cannot spell out every projected budget cut in every federal program over the seven years Republicans want to gradually balance the budget. However, he says Congress can pass a seven-year outline of general intent and budget-writing methods.

Breaux is right.

We want the budget balanced and the national debt reduced, but we cannot support the notion that what the people don't know won't hurt them.

Mr. **BREAUX**. Mr. President, the point that the editorial attempts to make, and I think does a good job of doing, and the point I have been trying to make is that we are, in effect, by this amendment, without the right to know accompanying it, sticking it to the States and doing it in the dark. We are saying to the States that you should trust us to do the balanced budget efforts that are necessary in Congress in a way that you are going to like or a way that you can handle it or in a way that you can support, but do not make us tell you how we are going to do it.

We are saying, we are going to give you the balanced budget and you should ask your State legislators to vote for it, make it part of the Constitution. And then sometime later, the Congress is going to tell you, after you have already voted for it, after the fact, we are going to tell you what it is going to mean to your State.

But I suggest at that point it is too late, they will have already voted. They will have already voted to cut programs, they will have already voted to have to raise taxes, if they are going to keep a level of program funding for their respective States. But then it is going to be too late.

So I say, what is wrong with trying to require that, when we submit the balanced budget amendment to the respective States, it is accompanied with a budget resolution that says to the States that if you adopt this, here is what it is going to mean to your State? Like the editorial said, they might not vote for it, they may make the wrong decision, but at least they will have made the decision knowing what the implications are.

I asked the National Governors Conference when I spoke to them last week: "Governors, how are you going to answer the question of your speaker of the house or your president of the senate when he or she comes to you and says, 'Governor, if I ask our colleagues to vote for this, what is it going to mean to the people of our State?'"

And the Governor is going to have to say: "I don't know. Trust Congress."

That is not a sufficient answer. It is like Ronald Reagan used to say when he talked about the Soviets, he said trust, yes; trust but verify. I suggest that if the only verification we can give the States is to tell them how we are going to reach that time in the year 2002, in effect achieve a balanced budget in 7 years, what is wrong with telling them how we are going to do it?

Some of our colleagues say, "We can't do that, we can't do a 7-year balanced budget amendment; it is too difficult, it is too hard to do it." I suggest we did it 2 years ago when we passed a 5-year reconciliation. We cut the Federal deficit by over $500 billion. It was not easy. Not a single Republican voted for it, but we did it for 5 years. And if my Republican colleagues say, "Well, we can't do it for 7; that is just impossible," how about 5? Make me an offer. Let us do it for 5. I will go along with 5. But at least give the States some information so they can cast an intelligent vote when we ask them to vote for the balanced budget amendment.

Like the editorial said:

> We cannot support the notion that what the people don't know won't hurt them.

I suggest that as the States become more concerned about what this really means, they will demand that the Congress give them an indication of what we are going to do, how we are going to do it, before we ask them to vote for it. I think that is fair. I think it is the right thing to do.

Mr. President, I yield the floor.

Mr. **ROCKEFELLER** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from West Virginia.

Mr. **ROCKEFELLER**. Mr. President, I rise today to address the Senate, not only as a Senator representing the State of West Virginia, but also in my capacity as ranking member of the Senate Committee on Veterans' Affairs.

To repeat a point I made before this body last Thursday, I still do not understand why so many of my colleagues want to add another page or even more to the U.S. Constitution to force us to do the job we were sent here to get done.

From the day I entered the Senate, and saw the way the Federal deficit was growing out of control, I braced myself for the decisions and the public, out-in-the-open votes that would be required to deal with our budget crisis. Making actual cuts in programs and benefits is hardly ever easy—they almost always take something away from someone. but that's what our job requires. And that is why just 50 of us voted less than 2 years ago to enact a record level of real, actual deficit reduction. We did not need to clutter the Constitution to enact a more responsible and fair budget.

And to speak to today's question, I cannot emphasize enough how enormously troubled I am by the idea of using the Constitution to force $1 trillion or even $1.4 trillion in more cuts without West Virginians or the rest of the American people having any idea where those cuts would be made.

At the moment, I want to speak not only for the people of my State, but for the 202,200 West Virginians who are veterans—and for the 26,364,900 veterans across the country.

Mr. President, the veterans of West Virginia and the United States of America have the right to know. They have the right to know what this proposed amendment to the Constitution will do to the services and benefits that come to them because they once served, or fought, or even physically suffered to stand up for the very rights that our Constitution stands for. What a cruel irony it will be if Congress revises the Constitution to break faith with the very men and women who have served their country so faithfully.

It is not that veterans have excluded themselves from dealing with the country's fiscal problems. Sitting on the

Veterans Affairs Committee, I have heard the leaders of veterans organizations repeatedly tell us they are willing to do their fair share in solving the Nation's problems, and that includes the Federal deficit. In fact, veterans made a major contribution to the package that we enacted in 1993. That deficit reduction plan required $2.6 billion in savings in veterans' programs, spelled out on paper for anyone and everyone to evaluate, debate, support, or oppose.

The difference between the 1993 deficit-cutting plan and this constitutional amendment is that the former told veterans, in my State and across this country, what Congress felt had to be done to cut waste and reduce Government spending—where the latter, this balanced budget amendment, may as well say, "Sign now, pay later." There is not a clue in this amendment to even hint at what will happen to veterans' compensation, pensions, health care, widows' benefits, prosthetics, education, and claims processing. Not one word.

That is why we want to attach a Right-to-Know "rider" on the business before us. We are simply saying a better, more honest policy is for the proponents of the balanced budget amendment to first show upfront who will pay, and when and how, and then we can talk about signing at the bottom line.

I have said before, and I continue to say, that we in this body owe the American people a clear explanation of where the trillion dollars or more of cuts will come from, not vagueness about where they might come from or whether taxes will be increased or decreased. We owe those who have served and sacrificed for this country, the more than 26 million veterans from coast to coast, a clear explanation. They have at least earned the right to hear the full truth.

The Federal Government's agencies and experts are struggling to forecast what impact this constitutional amendment might have on Americans. Most sources from the Government or private organizations say that the size of the cuts required will be unprecedented—immense in scope. Because the budget would have to be balanced in 7 years, one-third of programs from anticrime efforts to Medicare may have to be eliminated. That is a figure, a number: one-third.

In the real world, that figure translates into less police and fewer prison cells. It means seniors finding out their doctor cannot see them anymore because Medicare has stopped paying. It means rural hospitals going under when payments aren't keeping up with the cost of providing the world's greatest medical care I always hear about on this floor when we try to enact health care reform.

And today, I want to talk about what all this might mean to our Nation's veterans.

I have sometimes told veterans that when you are a veteran yourself, or when you work at the VA or volunteer for a veteran's service organization, you do not need to be reminded about the sacrifices of those who served in our Armed Forces. It is part of your daily life—and it is very easy, Mr. President, to begin to think that everyone thinks about veterans, and the veterans community. But it is not always the case.

Veterans have carried the torch of freedom proudly from one generation of Americans to the next, by their courage in war, in defense of America—and by their dedication in peace to keeping America strong.

So how exactly will this constitutional amendment affect veterans? I do not see a single provision in this proposal to exempt veterans' benefits and services, like monthly compensation for disabled, service-related veterans. I cannot find any large or even fine print that gives one single clue on how veterans' programs will be cut, where they will be cut, when they will be cut.

Make no mistake about it. Veterans' benefits will have to be on the cutting table under a balanced budget amendment that tries to get the job done in the next 7 years. The contract made to veterans will have to be rewritten to rush this quickly and this blindly toward the Promised Land.

Let us talk just a minute about veterans' benefits, Mr. President. We hear a lot about them. What exactly do we mean when we say "veterans' benefits"?

First, there is service-connected disability compensation. This compensation is paid to veterans who were injured while in service to this country. It is a benefit valued perhaps more than any other in VA. Why? Because our Nation recognizes and respects, as we should, the commitment we made to those who gave up their livelihood, left their homes, agreed to risk their lives for their country, and suffered an injury while doing it. Many never came home. Who here intends to break our contract with the disabled men and women who have served their country and risked so much?

When commenting recently on the Contract With America, the Secretary of VA, Jesse Brown, said, "America already has a contract, if not a sacred trust, with its 26 million veterans who have honorably and faithfully served their country."

Veterans with low incomes get help through a pension program. It differs from compensation in that it is a needs-based program. It is available only to a totally disabled veteran who served during wartime and though not injured while in service, suddenly finds himself or herself in need of help just to survive. And with the amount of money the Government pays them under this program now, it is all they can do to survive.

Jesse Overbaugh and his family in Richwood, WV, are a good example of how a pension works. Jesse was ill this past year with serious circulatory problems and unable to work. He and his wife, Lucena, still had four children living at home. Jesse is a Vietnam combat veteran who was awarded the Bronze Star. The VA was able to help the Overbaughs until they began receiving other help. The family received a monthly check for $1,296 from VA. Not much money for a family of six, but it was all the help they could get at the time—and the least our government could do for a man who risked his life in Vietnam.

Do the proponents of this constitutional amendment want to tell Jesse Overbaugh and his family to expect to lose a third of that pension? Or what does the Senator from West Virginia tell them about how this amendment will affect them? They have a right to know, and I would like to know.

When we combine the amount of money VA spends on compensation, pension, and education, it makes up almost 50 percent of the total VA budget. Many people do not realize that.

Yes, the budget can be balanced in 7 quick years through a plan that includes slashing veterans' benefits by 30 percent. That is, indeed, an option. But it is not this Senator's idea of a just or responsible plan.

The veterans and families of my State and this Nation have a right to know what exactly is being contemplated to get the budget balanced this quickly. Is one idea to break promises—our contract—with the men and women who agreed to risk their lives for freedom at home and around the world?

As I stand here today, let us think about reducing our debt—by a third—to the veterans of the 11th Airborne who 50 years ago this past weekend parachuted into the mountains outside of Manila as part of the operation to liberate the Philippines. What do the proponents of this amendment have to say to these veterans and their families, as we debate a constitutional amendment to balance the budget that does not include a single detail on how the job will get done?

Last year, we celebrated the 50th anniversary of the GI bill, often referred to as the most comprehensive legislation ever passed. Twenty million veterans benefited from its programs.

In keeping with that tradition, over 380,000 service members and veterans received benefits from the Montgomery GI bill just in 1994. The veterans still counting on this help to attend college or more education have a right to know. It is time to tell them, many of them Persian Gulf veterans, to give up on that hope? If this program is cut by a third, there will be $258 million less in return for the contributions they made to their education. Shouldn't someone be telling them that Congress may be on the verge of breaking this contract with them?

How about our contract with America's military widows? How do you tell the widow of a disabled veteran who died as a result of his service-connected injuries, that her monthly income will be cut from $769 a month to $539? That is less than $7,000 a year. These are not rich people—these are the sons and daughters of America, people often on the margin. We need to remember the price that is paid by those who are left behind during a time of war and world conflict, those left behind to worry—to wonder—to wait. The wives, daughters, and mothers; the fathers, sons, and brothers. War leaves its mark on all of them. They, too, have the right to know what this proposed amendment to the Constitution will mean to them.

Recent surveys show that between 250,000 and 600,000 veterans are homeless each night. Imagine—some 250,000 veterans on any given night living on the streets or in shelters. These figures are absolutely staggering. Outrageous.

I want to remind my colleagues that in 1994, 20,200 homeless veterans received assistance in VA regional offices, shelter sites, and on the streets. How many homeless veterans are living in Maine—in Florida—in New Mexico, or Oregon? My colleagues may not be hearing from homeless veterans. There are good explanations for that. Like not even having the pen and paper or the money for a phone call to be in touch.

We will know soon enough, if this amendment is attached to the Constitution, just how serious the problem of homeless veterans is in every State. The States and communities that don't want unfunded mandates will be handed an immense, unfunded shift in responsibility for veterans living on the streets and grates.

There is not one hospital, one vet center, one outpatient clinic, one veterans' home or domiciliary, that will be safe. If we put the budget on this speeding train, it may have to trample any one of these.

I cannot say which veterans hospitals will be hurt the most by the cuts. Because this constitutional amendment does not come with details like that. I can only guess.

I can speculate that hospitals in rural States and communities will be especially vulnerable. Then I think about small States like Delaware. Would the veterans of Delaware lose their only VA hospital? Or other rural States where VA medical centers provide health care to thousands of lower income people who have no place else to go? Medical centers like those at Hot Springs, SD, or Fort Harrison in Montana?

Mr. President, I ask unanimous consent at this time that tables from the 1994 Annual Report of the Secretary of Veterans Affairs showing the number of patients receiving inpatient and outpatient medical care, broken down by State and facilities, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 7.—PROGRAM SUMMARY, INPATIENT AND OUTPATIENT MEDICAL CARE, FISCAL YEAR 1994

Location of VA facility	Inpatient care—patients treated [1]								Outpatient medical care	
	Hospitals			Nursing homes			Domiciliaries			
	VAMC hospital care component	Non-VA [2,3]	State home [2,4]	VAMC nursing home care component	Community [2,3]	State home [2,4]	VAMC domiciliary care component	State home [2,4]	Visits to VA staff	Fee basis care
Departmentwide:										
Totals	906,925	20,377	2,056	30,926	29,096	17,873	18,244	6,453	24,134,839	1,023,144
Transfers	33,651			614	452		20			
All facilities: Totals	940,576	20,377	2,056	31,540	29,548	17,873	18,264	6,453	24,134,839	1,023,144
Alabama:										
Birmingham	7,455	86			129				166,437	
Montgomery	3,668	88			37	205			45,299	20,092
Tuscaloosa	4,016	3		236	19				65,562	
Tuskegee	5,822			208	60				82,849	
Alaska: Anchorage (ROC)	46	1,700			55		71		57,349	33,113
Arizona:										
Phoenix	10,379	122		306	211				232,574	10,718
Prescott	2,533	12		77	177		706		77,304	
Tucson	5,966	2		664	370				183,676	
Arkansas:										
Fayetteville	3,733				60				76,726	
Little Rock [6]	16,696	214		307	397	34	268	15	288,136	27,375
California:										
Fresno	4,376	29		330	80				125,171	4,786
Livermore	1,365	87		206	31				49,131	
Loma Linda	7,504			273	267				191,043	
Long Beach	11,961	233		496	268				358,982	
Los Angeles (IOC)									158,800	349
Martinez		666			115				293,825	15,767
Palo Alto [6]	10,389	117		775	583		212		278,897	13,420
San Diego	8,280	211		308	202				261,458	19,695
San Francisco	7,719	245	570	256	274	883		1,284	228,609	22,200
Sepulveda	1,788	176		72	107				250,206	
West Los Angeles [6]	15,683	52		318	609		956		407,912	
Colorado:										
Denver	7,732	29		239	247	301		42	213,383	7,986
Fort Lyon	840	48		192	35				37,583	
Grand Junction	2,428			71	67				42,410	
Connecticut:										
Newington	2,713	66	717		102			971	80,393	7,083
West Haven	7,330	5		159	197				177,174	
Delaware: Wilmington	3,142	23		129	90	455			80,271	2,091
District of Columbia: Washington	10,295	124		233	222	368		124	241,055	3,740
Florida:										
Bay Pines	11,560	1,594		488	481		609		264,921	61,692
Gainesville	9,604	47		224	143				183,575	
Lake City	6,059	6		216	59				89,620	
Miami	12,051	235		421	246				396,341	
Tampa	12,325	48		506	437				372,733	
Georgia:										
Atlanta	8,662	422		225	291				176,838	44,653
Augusta [6]	9,870	4		88	245	358			147,809	
Dublin	4,588	2		174	153	396	743	135	74,004	
Hawaii: Honolulu (ROC)		2,009			52				81,929	15,956
Idaho: Boise	3,275	25		277	105	253		132	92,650	2,977
Illinois:										
Chicago (Lakeside)	6,746	23			133				171,059	
Chicago (West Side)	8,177	225			340				265,084	11,016
Danville	6,271	43		358	142				122,187	

TABLE 7.—PROGRAM SUMMARY, INPATIENT AND OUTPATIENT MEDICAL CARE, FISCAL YEAR 1994—Continued

Location of VA facility	Inpatient care—patients treated [1]								Outpatient medical care	
	Hospitals			Nursing homes			Domiciliaries			
	VAMC hospital care component	Non-VA [2,3]	State home [2,4]	VAMC nursing home care component	Community [2,3]	State home [2,4]	VAMC domiciliary care component	State home [2,4]	Visits to VA staff	Fee basis care
Hines	13,080	75		495	543	515		15	273,266	
Manon	4,858	21		133	283				92,650	
North Chicago	4,465	40		554	476		211		146,396	
Indiana:										
Fort Wayne	3,102			132	144				37,560	
Indianapolis [6]	7,995	182		218	305	417		78	183,679	21,416
Manon	2,418			100	79				54,701	
Iowa:										
Des Moines	4,041	9	256		121	742	75	184	78,740	11,062
Iowa City	6,576	40			233	581		103	106,962	
Knoxville	2,349			368	53		433		55,620	
Kansas:										
Leavenworth	4,014	27		183	200		695		108,640	3,145
Topeka	5,178	23		159	82				142,153	3,467
Wichita	3,902	110		151	150	93		165	79,776	13,057
Kentucky:										
Lexington [6]	8,570	14		215	115	299			130,061	
Louisville	7,944	144			260				157,053	11,732
Louisiana:										
Alexandria	4,504	22		256	195				84,724	
New Orleans	7,622	105			140	187		128	250,013	5,966
Shreveport	6,515	59			252				116,000	6,674
Maine:										
Togus	4,475	122		113	72	332			121,664	28,945
Maryland:										
Baltimore	7,157	76			179				239,150	6,862
Fort Howard	1,907	31		69	33				39,484	
Perry Point	3,496	5		159	83				92,646	
Massachusetts:										
Bedford	2,919	22		327	135		144		143,386	
Boston	9,501	112	405		200	119		390	355,437	3,746
Brockton [6]	7,818			195	258				235,745	
Northampton	2,891	38	108	119	167	391		40	123,643	
Michigan:										
Allen Park	8,154	219		155	88	661		103	208,982	10,748
Ann Arbor	6,489	16		407	181				169,602	
Battle Creek	4,646	19		282	99				145,378	
Iron Mountain	2,432	12		117	45	216		62	40,551	1,724
Saginaw	2,453	24		225	96				49,029	
Minnesota:										
Minneapolis	14,629	508		801	715	537		285	331,284	18,530
St. Cloud	2,889	84		285	62		269		87,900	2,938
Mississippi:										
Biloxi [6]	6,015	12		160	180		880		198,294	
Jackson	9,107	77		248	258	208			136,795	15,083
Missouri:										
Columbia	7,670	11		126	292				84,852	
Kansas City	7,834	138			375				160,354	15,366
Poplar Bluff	3,341	21		89	117	219			46,463	1,073
St. Louis [6]	13,141	104		433	225	865			279,566	8,544
Montana:										
Fort Harrison	3,527	16			173	128		52	43,196	12,185
Miles City	971	27		38	39				26,663	
Nebraska:										
Grand Island	1,378			208	25	347		50	32,211	
Lincoln	3,095	59			89				49,584	6,658
Omaha	6,059	44			188	277		6	108,156	
Nevada:										
Las Vegas (IOC)		108							106,804	2,587
Reno	3,910	58		415	109				122,044	7,200
New Hampshire: Manchester	2,691	77		358	84	172			82,933	6,199
New Jersey:										
East Orange	9,626	57		109	192	620		11	204,476	3,718
Lyons	3,723			332	51		155		73,626	
New Mexico: Albuquerque	9,821	81		247	225	258		21	258,524	3,305
New York:										
Albany	6,469	57		306	257				186,461	7,062
Batavia	983	6		118	58				69,762	
Bath	2,032	7		208	75		647		59,639	
Bronx	6,272	14		237	125				230,835	
Brooklyn [6]	9,327	75		357	209		156		376,524	214
Buffalo	8,469	30		189	187				204,517	6,081
Canandaigua	2,165	4		140	34		175		74,359	
Castle Point	2,223	9		187	74				56,686	
Montrose	3,603	7		193	46		165		69,048	
New York	7,837	57			89				312,765	1,212
Northport	6,407	6		270	142	646			249,112	
Syracuse	5,226	135		208	95	184			132,144	14,055
North Carolina:										
Asheville	6,484	13		89	178				88,976	
Durham	8,220	143		414	245				131,329	
Fayetteville	4,349	8		90	150				100,447	
Salisbury	3,987	111		181	202				93,196	47,686
North Dakota: Fargo	3,449	215		280	63	41		143	54,141	10,971
Ohio:										
Chillicothe	6,124	44		705	437				84,925	
Cincinnati	6,688	159		106	223		189		158,974	3,499
Cleveland [6]	10,462	255		330	262	415	1,159	231	342,239	8,349
Columbus (OC)		273							112,108	20,230
Dayton	6,384	53		406	370		627		192,709	
Oklahoma:										
Muskogee	4,274	98			208				127,340	24,138
Oklahoma City	8,780	59			314	1,646		61	215,845	
Oregon:										
Portland [6]	10,786	137		351	544		196		234,694	23,891
Roseburg	3,936	127		202	193				93,735	12,660
White City (Ind. Dom.)		51			45		1,850		23,100	
Pennsylvania:										
Altoona	2,397	63		93	52	649		337	43,699	9,893
Butler	2,249	29		206	92		256		54,844	2,411
Coatesville	3,168	31		318	172		390	150	68,361	1,191

TABLE 7.—PROGRAM SUMMARY, INPATIENT AND OUTPATIENT MEDICAL CARE, FISCAL YEAR 1994—Continued

Location of VA facility	Inpatient care—patients treated [1]								Outpatient medical care	
	Hospitals			Nursing homes			Domiciliaries			
	VAMC hospital care component	Non-VA [2,3]	State home [2,4]	VAMC nursing home care component	Community [2,3]	State home [2,4]	VAMC domiciliary care component	State home [2,4]	Visits to VA staff	Fee basis care
Erie	2,028	41		47	122	102		122	63,098	2,059
Lebanon	3,777	61		275	151				78,040	7,931
Philadelphia	7,980	138		305	82				241,715	5,942
Pittsburgh (Highland Dr.)	3,388	58			193		109		101,330	2,767
Pittsburgh (Univ. Dr.) (6)	7,776	81		364	304				132,633	7,418
Wilkes-Barre	5,450	154		232	111	97		17	153,993	11,074
Philippines: Manila (ROC)		1,001							9,650	
Puerto Rico: San Juan	11,551	464		292	24				364,215	30,555
Rhode Island: Providence	4,251	35			203	312		32	170,151	5,642
South Carolina:										
Charleston	6,289	48			117				136,677	
Columbia	6,545	615		187	181	473			177,943	20,827
South Dakota:										
Fort Meade	2,848			158	80				53,427	
Hot Springs	2,441				56	62	554	134	64,171	
Sioux Falls	3,538	114		130	84				64,675	8,391
Tennessee:										
Memphis	10,494			361	222				213,727	
Mountain Home	6,937	76		168	375		1,000		176,215	
Murfreesboro	4,886	22		256	122	283			103,371	
Nashville	8,316	95			182				163,920	8,254
Texas:										
Amarillo	4,000	17		177	235				126,877	7,794
Big Springs	2,951			103	90				37,314	
Bonham	1,767	16		219	153		417		49,554	
Dallas	11,791	201		365	450		130		310,449	16,408
El Paso (IOC)		864			19				84,300	10,740
Houston	17,709	39		246	359				397,542	1,786
Kerrville	3,485	2		221	120				41,603	
Martin	1,542				61				18,035	
San Antonio	13,014	331		452	247				319,120	11,569
Temple	7,408	22		214	269		828		211,593	
Waco	4,157	69		196	127		142		90,196	7,072
Utah: Salt Lake City	7,811	49			400	93			151,603	10,480
Vermont: White River Junction	3,578	62		153	74	280		43	82,534	2,483
Virginia:										
Hampton	5,166	32		254	150		1,055		176,981	529
Richmond	11,968	12		150	257				213,059	
Salem	7,242	340		327	120			68	176,722	20,821
Washington:										
American Lake	2,386	311		126	129		252		141,202	11,213
Seattle	8,967	148		209	530	434		218	219,302	15,309
Spokane	2,840	84		222	109				76,458	6,867
Walla Walla	1,528	29		206	85				36,121	4,926
West Virginia:										
Beckley	3,001	4		73	86				40,502	
Clarksburg	3,633	1			246				72,301	
Huntington	4,762	41			329			199	83,985	11,848
Martinsburg	4,818	5		201	158		727		129,085	1,159
Wisconsin:										
Madison	5,239	13			45	660		126	74,145	
Milwaukee	8,193	225		377	206		813		250,097	18,591
Tomah	2,761	3		158	151				56,917	
Wyoming:										
Cheyenne	1,760	108		71	52	59		75	43,786	2,507
Sheridan	1,819			48	37			101	24,610	

[1] Number of discharges and deaths during FY1994, plus the number on the rolls (bed occupants and patients on authorized leave of absence) on September 30, 1994. Transfers to another facility are included in the count of discharges for each facility.

[2] As reported by VA authorizing facility.

[3] Authorized and paid for by VA.

[4] Supported by VA.

[5] Medical visits to private physicians authorized by VA on a fee-for-service basis.

[6] Includes data for two divisions of the VA medical center.

Mr. ROCKEFELLER. Mr. President, do my colleagues realize that the VA just last year added four new Women Veterans Comprehensive Health Centers, bringing to eight the number of such VA facilities in the country? Do we need to let those facilities know they better prepare to roll back care for these women who served side by side with their male counterparts, or nursed dying soldiers and sailors?

VA medical centers admitted over 870 quadriplegic veterans last year. With a balanced budget amendment, will we need to tell 261 of them to seek treatment elsewhere? I do not know the answer, because I can't find the budget that goes along with writing new promises into the Constitution.

VA is predicting a loss of 63,000 full-time employees under the balanced budget amendment. Understand that these employees are the doctors, the nurses, the technicians who administer health care, as well as the vital support staff that keep our facilities operating. It would require closings.

The loss of this staff would mean that literally thousands of veterans who are now receiving health care would no longer be able to get treatment. VA figures suggest there would be 488,000 fewer inpatient visits and 11,403,000 fewer outpatient visits at our medical centers.

Staff cuts will create severe problems in an already troubled adjudication system within VA. Timely decisions in benefits claims will become impossible. Over the past 2 years, in my capacity as chairman of the Senate Committee on Veterans' Affairs, I have heard from literally hundreds and hundreds of veterans from across the country complaining of the time it takes to receive the benefits they are entitled to as a result of the injuries they sustained in the service. Some veterans wait years. Who is going to tell them it will get worse?

Veterans write us daily about the long delays in processing their claims. I know because I get copies of those letters to my colleagues, because of my duties with the Senate Committee on Veterans' Affairs.

It currently takes VA 25 to 30 weeks to process an original claim. Are my colleagues aware of that, Mr. President? Disabled veterans—disabled because of something that happened to them when they were serving their country—and they wait 30 weeks to get a claim processed? And as if that weren't bad enough, they often wait years if they file an appeal.

A recent study showed that 50 percent of veterans believe that VA took too long. That adds up to approximately 60,000 unhappy veterans in the State of Georgia, 24,000 unhappy veterans in the State of Oregon, and 110,000 unhappy veterans in the State of Florida. A 30 percent cut in veterans' benefits will not help them get their claims faster, and every Senator will hear from those unhappy veterans.

Am I going to have to tell the 32,000 veterans and dependents who receive benefits in my State of West Virginia, that the promises made to them will no longer be kept?

Mr. President, at this point I ask unanimous consent that the tables from the 1994 annual report of the Secretary of Veterans Affairs showing estimated expenditures of VA benefits for veterans, broken down by State, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 57.—ESTIMATED SELECTED EXPENDITURES BY STATE [1]—FISCAL YEAR 1994

State	Total of selected expenditures ($000)[2]	Readjustment benefits					
		Total readjustment benefits ($000)[2]	Education assistance				
			Post-Vietnam conflict (chapter 32) amount ($000)	Montgomery GI Bill			
				Active duty chapter 30		Selected reserve chapter 106	
				Trained during fiscal year	Amount ($000)	Trained during fiscal year[3]	Amount ($000)
U.S. total[2]	$37,065,479	$1,353,964	$74,621	274,208	$742,457	101,411	$121,645
Alabama	785,715	32,530	1,307	6,049	16,851	3,984	4,603
Alaska	66,312	5,414	492	1,261	2,460	0	267
Arizona	670,660	33,104	1,687	7,851	20,355	1,518	1,568
Arkansas	587,811	15,226	439	2,327	6,983	1,867	2,261
California	3,365,923	125,891	8,009	29,201	77,984	6,392	7,125
Colorado	516,016	32,789	1,999	6,823	18,100	1,289	1,532
Connecticut	385,507	10,284	619	1,562	4,448	1,171	1,541
Delaware	110,636	3,533	190	656	1,640	0	345
District of Columbia	967,169	3,433	236	806	1,130	1	164
Florida	2,298,565	82,537	4,626	19,681	52,348	3,481	3,574
Georgia	1,032,498	44,585	3,214	9,795	27,297	3,832	3,159
Hawaii	150,428	7,803	824	2,494	4,565	1	361
Idaho	104,717	8,451	405	1,747	4,893	753	907
Illinois	1,299,820	49,215	2,167	11,582	32,326	1	6,096
Indiana	591,100	23,285	1,282	4,341	11,484	2,451	2,813
Iowa	391,646	15,431	674	2,465	7,319	0	2,343
Kansas	402,285	16,616	985	3,515	9,719	0	2,023
Kentucky	576,813	21,932	1,138	4,052	11,663	1,546	1,772
Louisiana	662,189	26,150	793	4,471	13,187	4,688	6,365
Maine	242,324	8,744	340	1,033	3,023	528	632
Maryland	581,570	22,837	1,954	5,973	10,641	1,038	1,704
Massachusetts	1,035,435	21,606	1,125	2,932	7,945	2,525	3,549
Michigan	1,013,182	34,797	2,453	8,309	21,196	2,432	2,703
Minnesota	610,199	25,701	1,227	4,459	13,022	1	3,939
Mississippi	510,578	13,510	375	1,996	5,802	2,465	3,240
Missouri	843,611	29,324	1,396	5,537	14,101	14,569	2,866
Montana	135,931	7,508	293	1,227	3,906	528	763
Nebraska	272,180	12,676	496	2,604	7,111	1,541	1,944
Nevada	215,290	9,082	520	1,495	3,775	0	303
New Hampshire	157,206	6,493	367	777	2,257	1	518
New Jersey	732,046	16,633	1,161	2,750	7,132	1,455	1,688
New Mexico	327,691	13,368	682	3,094	8,612	0	931
New York	2,364,552	51,795	4,151	8,544	26,795	5,390	4,380
North Carolina	1,033,147	46,054	2,701	8,946	26,253	2,331	3,013
North Dakota	96,701	6,850	195	1,034	3,406	0	1,412
Ohio	1,290,547	46,852	2,534	9,799	24,838	3,803	4,608
Oklahoma	667,384	27,678	1,162	4,954	12,936	4,200	2,599
Oregon	539,912	21,609	1,014	3,858	11,082	1,122	1,245
Pennsylvania	1,615,823	45,247	2,345	8,094	23,358	3,884	4,895
Rhode Island	169,601	5,207	283	776	1,828	0	543
South Carolina	523,427	25,556	1,234	5,063	13,657	2,249	2,723
South Dakota	198,971	8,383	300	1,111	3,793	976	1,312
Tennessee	927,700	28,630	1,418	5,303	15,395	1,953	2,383
Texas	2,649,635	106,722	4,985	24,102	63,069	5,661	6,241
Utah	236,066	11,311	516	1,717	4,805	1,814	2,014
Vermont	106,809	2,820	96	289	909	0	318
Virginia	995,424	51,903	3,834	11,474	28,969	2,219	3,095
Washington	793,159	47,044	2,567	9,672	27,562	1,637	1,861
West Virginia	431,465	10,257	268	1,432	4,519	1,060	1,405
Wisconsin	647,126	25,644	1,390	4,323	13,504	2,770	3,675
Wyoming	99,606	3,916	153	852	2,504	284	324

[1] Expenditures for Compensation and Pension for the 50 states and D.C. were derived from the Federal Assistance Awards Data System (FAADS) and are gross expenditures. Education expenditures come from the COIN EDU 666, information for insurance and indemnities for the 50 states and D.C. are statistical estimates. All other dollar estimates are derived from VA accounting reports.

[2] The totals for "Readjustment Benefits" are the sums of the programs shown plus $5.1 million for the Service Members Occupational Conversion Training Act (SMOCTA), which is not shown.

[3] As reported by station of jurisdiction which may report for more than one state.

TABLE 57 (continued)—ESTIMATED SELECTED EXPENDITURES BY STATE [1]—FISCAL YEAR 1994

State	Readjustment benefits (continued)							Insurance and indemnities amount ($000)	Hospital domiciliary and other construction amount ($000)	Medical services and administrative costs amount ($000)
	Education assistance (continued)					Automobiles and other conveyances for disabled veterans ($000)	Specially adapted housing for disabled veterans ($000)			
	Dependents educational assistance (title 38, U.S.C., ch. 35)			Vocational rehabilitation (title 38, U.S.C., ch 31)						
	Total trained during FY		Amount ($000)							
	Sons and daughters	Widow(er)s and spouses		Trained during fiscal year	Amount ($000)					
U.S. total	33,714	4,422	$102,341	43,668	$274,540	$24,861	$8,006	$1,975,804	$627,015	$16,470,058
Alabama	1,025	133	3,146	958	5,791	515	266	27,060	37,284	292,424
Alaska	68	12	227	399	1,920	25	0	2,678	11,210	2,145
Arizona	810	147	2,256	1,015	6,070	960	196	38,552	4,963	269,036
Arkansas	626	70	1,970	474	2,920	354	158	17,078	4,837	242,797
California	2,872	413	8,325	3,588	20,883	2,453	510	219,313	62,273	1,623,737
Colorado	598	103	1,840	1,344	8,556	439	112	31,135	647	192,858
Connecticut	173	13	673	358	2,617	180	190	33,242	4,582	201,525
Delaware	83	18	252	222	1,049	28	0	5,850	4,518	55,102
District of Columbia	114	5	243	153	1,645	15	0	4,362	8,424	897,908
Florida	2,410	352	7,018	2,095	11,795	2,064	762	163,325	41,632	759,754
Georgia	1,262	174	4,079	977	5,901	669	194	43,687	13,717	379,525

TABLE 57 (continued)—ESTIMATED SELECTED EXPENDITURES BY STATE [1]—FISCAL YEAR 1994—Continued

State	Readjustment benefits (continued)									
	Education assistance (continued)									
	Dependents educational assistance (title 38, U.S.C., ch. 35)			Vocational rehabilitation (title 38, U.S.C., ch 31)		Automobiles and other conveyances for disabled veterans ($000)	Specially adapted housing for disabled veterans ($000)	Insurance and indemnities amount ($000)	Hospital domiciliary and other construction amount ($000)	Medical services and administrative costs amount ($000)
	Total trained during FY		Amount ($000)	Trained during fiscal year	Amount ($000)					
	Sons and daughters	Widow(er)s and spouses								
Hawaii	118	19	411	283	1,528	89	0	15,054	5,504	52,309
Idaho	182	27	520	274	1,570	112	0	7,867	457	51,257
Illinois	639	66	1,998	812	5,876	514	190	87,060	16,598	752,069
Indiana	546	61	1,515	951	5,515	502	114	30,188	24,117	247,372
Iowa	229	19	654	434	3,868	319	232	23,448	4,574	202,763
Kansas	400	58	1,248	434	2,452	132	0	19,770	8,263	195,742
Kentucky	704	89	1,913	910	5,040	264	113	19,475	3,374	218,943
Louisiana	598	77	1,951	551	3,454	360	0	24,498	7,771	281,976
Maine	335	56	1,133	490	3,264	153	190	9,791	6,937	76,526
Maryland	472	73	1,544	1,200	6,358	471	74	43,068	4,695	232,300
Massachusetts	710	48	2,080	703	6,089	502	273	55,625	7,481	510,201
Michigan	876	77	2,448	810	5,208	632	0	55,883	91,739	400,762
Minnesota	383	45	1,333	708	5,295	725	114	40,079	9,091	290,195
Mississippi	508	54	1,634	322	1,949	193	309	14,772	2,655	219,102
Missouri	616	100	2,009	1,109	8,132	656	38	38,651	12,740	405,640
Montana	131	11	407	316	1,989	59	0	7,649	1,036	47,908
Nebraska	349	44	1,053	337	1,899	120	38	13,918	264	130,460
Nevada	131	14	410	637	3,908	74	76	11,275	2,330	87,036
New Hampshire	198	20	630	319	2,295	177	190	10,095	101	49,515
New Jersey	407	46	1,663	710	4,526	417	0	72,964	7,234	282,614
New Mexico	350	39	943	369	1,838	222	76	13,267	2,661	140,968
New York	1,335	110	4,171	1,467	10,846	957	118	143,402	31,316	1,274,225
North Carolina	1,464	229	4,603	1,277	8,081	906	403	44,245	18,596	345,783
North Dakota	99	6	352	196	1,408	37	0	5,249	1,631	44,385
Ohio	904	96	2,705	1,262	10,235	1,539	190	77,523	6,872	553,423
Oklahoma	1,035	148	2,869	1,450	7,318	434	228	22,279	9,897	197,974
Oregon	352	56	1,013	973	6,609	464	38	24,374	5,138	257,743
Pennsylvania	919	96	2,834	1,145	10,262	839	114	104,254	11,651	752,636
Rhode Island	177	10	475	206	1,840	122	38	8,579	1,668	74,939
South Carolina	857	136	2,503	991	4,604	390	392	25,104	1,197	183,512
South Dakota	140	18	416	376	2,365	95	76	5,818	2,727	120,560
Tennessee	762	93	2,176	1,114	5,866	865	431	29,216	7,290	448,757
Texas	3,165	441	9,415	3,698	20,319	1,485	772	112,710	78,768	1,019,808
Utah	317	47	899	458	2,815	184	0	11,399	7,153	125,459
Vermont	74	9	232	142	1,199	19	37	4,471	444	58,294
Virginia	1,400	209	4,592	1,637	10,427	738	228	56,910	7,397	348,214
Washington	830	132	2,566	1,647	11,180	701	280	43,561	6,549	290,245
West Virginia	329	38	999	430	2,811	175	0	10,850	7,365	221,392
Wisconsin	551	55	1,796	789	4,523	487	208	41,402	5,023	301,780
Wyoming	81	10	199	148	632	31	38	3,779	2,628	58,462

[1] Expenditures for Compensation of Pension for the 50 states and D.C. were derived from the Federal Assistance Awards Data System (FAADS) and are gross expenditures. Education expenditures come from the COIN EDU 666. Information for insurance and indemnities for the 50 states and D.C. are statistical estimates. All other dollar estimates are derived from VA accounting reports.

[2] The totals for "Readjustment Benefits" are the sums of the programs shown plus $5.1 million for the Service Members Occupational Conversion Training Act (SMOCTA) which is not shown.

[3] As reported by station of junsdiction which may report for more than one state.

TABLE 57—(continued)—ESTIMATED SELECTED EXPENDITURES BY STATE [1]—FISCAL YEAR 1994

State	Compensation and pension								
	Living and deceased veterans							Living veterans	
	Total		Burial benefits ($000)	Service-connected		Nonservice-connected		Total	
	Number	Amount ($000)		Number	Amount ($000)	Number	Amount ($000)	Number	Amount ($000)
U.S. total	3,254,932	$16,638,638	$58,558	2,474,684	$13,619,967	780,248	$2,960,113	2,604,420	$12,906,987
Alabama	78,829	396,416	1,375	52,860	284,684	25,969	110,357	58,216	288,352
Alaska	7,940	44,865	57	7,571	42,894	369	1,913	7,460	40,910
Arizona	58,518	325,004	978	49,893	288,844	8,625	35,182	49,291	254,748
Arkansas	50,579	307,873	1,173	33,308	238,527	17,271	68,173	37,908	239,334
California	270,727	1,334,710	4,117	219,440	1,152,717	51,287	177,876	220,024	992,633
Colorado	49,271	258,587	605	42,541	231,380	6,730	26,601	41,557	202,924
Connecticut	29,667	135,874	524	25,023	121,090	4,644	14,260	25,250	110,854
Delaware	8,618	41,633	170	6,939	35,603	1,679	5,860	7,069	32,423
District of Columbia	9,026	53,043	165	6,169	40,339	2,857	12,539	6,979	39,630
Florida	238,368	1,251,318	3,114	198,620	1,105,840	39,748	142,364	197,330	971,126
Georgia	104,509	550,984	1,929	76,620	447,248	27,889	101,807	79,384	406,135
Hawaii	12,732	69,758	165	11,521	64,618	1,211	4,975	10,949	55,431
Idaho	14,016	72,685	265	11,520	62,087	2,496	10,333	12,001	59,525
Illinois	89,023	394,878	2,132	62,120	288,105	26,903	104,641	70,863	307,636
Indiana	55,755	266,138	993	41,784	213,672	13,971	51,473	44,972	212,343
Iowa	29,399	145,429	688	21,069	111,569	8,330	33,173	23,337	115,236
Kansas	31,129	161,895	642	23,529	129,800	7,600	31,453	24,963	126,315
Kentucky	58,944	313,089	1,180	38,111	226,760	20,833	85,148	44,493	240,883
Louisiana	63,277	321,795	1,163	36,997	213,673	26,280	106,959	45,208	235,274
Maine	23,256	140,325	405	17,206	117,406	6,050	22,513	19,154	117,688
Maryland	55,153	278,670	1,079	44,779	240,837	10,374	36,754	44,333	209,629
Massachusetts	90,525	440,523	1,507	75,595	393,556	14,930	45,460	75,745	356,422
Michigan	93,653	430,001	1,380	72,341	347,597	21,312	81,024	77,228	350,685
Minnesota	51,390	245,133	1,182	39,145	198,414	12,245	45,537	42,176	198,689
Mississippi	48,002	260,539	1,027	27,823	183,343	20,179	76,170	34,139	193,923
Missouri	67,617	357,256	1,425	46,474	265,774	21,143	90,057	52,523	277,006
Montana	13,182	71,830	246	10,352	61,014	2,830	10,330	11,330	61,174
Nebraska	20,752	114,862	453	15,669	91,483	5,083	22,926	16,824	91,615
Nevada	22,220	105,568	418	18,636	91,159	3,584	13,991	19,343	84,780
New Hampshire	16,719	91,002	288	14,220	80,863	2,499	9,851	14,350	75,416
New Jersey	77,252	352,601	1,305	64,885	312,051	12,367	39,245	64,720	281,182
New Mexico	28,032	157,428	426	22,053	133,517	5,979	23,485	23,075	125,396
New York	180,913	863,814	3,773	136,280	709,995	44,633	150,046	146,100	694,641
North Carolina	108,132	578,470	1,820	76,158	454,132	31,974	122,518	81,844	433,219
North Dakota	8,031	37,956	181	5,982	29,574	2,049	8,202	6,709	31,508
Ohio	127,478	605,877	2,189	96,132	482,272	31,346	121,415	103,510	483,509
Oklahoma	64,837	409,556	1,252	46,162	310,834	18,675	97,470	51,130	324,660
Oregon	41,447	231,048	721	32,288	190,148	9,159	40,178	34,719	188,326

TABLE 57—(continued)—ESTIMATED SELECTED EXPENDITURES BY STATE [1]—FISCAL YEAR 1994—Continued

State	Compensation and pension								
	Living and deceased veterans							Living veterans	
	Total		Burial benefits ($000)	Service-connected		Nonservice-connected		Total	
	Number	Amount ($000)		Number	Amount ($000)	Number	Amount ($000)	Number	Amount ($000)
Pennsylvania	148,652	702,035	2,835	111,177	575,082	37,475	124,118	117,879	552,091
Rhode Island	15,223	79,208	350	12,350	69,303	2,873	9,555	12,557	63,285
South Carolina	57,238	288,058	1,156	39,020	219,404	18,218	67,498	42,350	207,635
South Dakota	11,572	61,483	297	8,040	45,586	3,532	15,600	9,443	50,505
Tennessee	79,751	413,807	1,679	51,656	304,708	28,095	107,420	59,569	313,633
Texas	247,939	1,331,626	4,446	188,353	1,102,254	59,586	224,926	193,861	999,636
Utah	15,763	80,745	277	13,313	70,803	2,450	9,665	13,535	66,262
Vermont	7,320	40,781	157	5,593	34,506	1,727	6,118	6,010	33,199
Virginia	100,056	532,001	1,860	79,481	454,537	20,575	74,604	79,049	391,930
Washington	78,647	407,760	1,070	68,917	365,966	9,730	38,724	67,423	322,175
West Virginia	32,992	181,601	798	21,491	132,205	11,501	48,598	25,216	142,172
Wisconsin	54,846	273,277	999	42,493	225,473	12,353	46,805	46,084	227,515
Wyoming	6,015	30,821	122	4,985	26,722	1,030	3,977	5,238	25,772

[1] Expenditures for Compensation and Pension for the 50 states and D.C. were derived from the Federal Assistance Awards Data System (FAADS) and are gross expenditures. Education expenditures come from the COIN EDU 666. Information for insurance and indemnities for the 50 states and D.C. are statistical estimates. All other estimates are derived from VA accounting reports.

TABLE 57 (continued)—ESTIMATED SELECTED EXPENDITURES BY STATE [1]—FISCAL YEAR 1994

State	Compensation and pension—Continued									
	Living veterans—Continued						Deceased veterans			
	Service-connected		Nonservice-connected		Total		Service-connected		Nonservice-connected	
	Number	Amount ($000)	Number	Amount ($000)	Number	Amount ($000)	Number	Amount ($000)	Number	Amount ($000)
U.S. total	2,182,465	$10,775,024	421,955	$2,131,963	650,512	$3,673,093	292,219	$2,844,943	358,293	$828,150
Alabama	45,584	216,030	12,632	72,322	20,613	106,689	7,276	68,654	13,337	38,035
Alaska	7,197	39,314	263	1,596	480	3,897	374	3,581	106	317
Arizona	43,865	227,343	5,426	27,404	9,227	69,278	6,028	61,500	3,199	7,778
Arkansas	28,284	190,368	9,624	48,966	12,671	67,366	5,024	48,159	7,647	19.207
California	190,059	860,022	29,965	132,612	50,703	337,960	29,381	292,695	21,322	45,265
Colorado	37,694	182,540	3,863	20,384	7,714	55,058	4,847	48,841	2,867	6,217
Connecticut	22,918	100,348	2,332	10,505	4,417	24,496	2,105	20,741	2,312	3,755
Delaware	6,184	28,193	885	4,230	1,549	9,040	755	7,410	794	1,630
District of Columbia	5,273	29,871	1,706	9,759	2,047	12,248	896	10,468	1,151	2,780
Florida	173,976	865,108	23,354	106,018	41,038	277,077	24,644	240,732	16,394	36,346
Georgia	65,202	337,102	14,182	69,033	25,125	142,920	11,418	110,146	13,707	32,774
Hawaii	10,226	51,672	723	3,759	1,783	14,162	1,295	12,946	488	1,215
Idaho	10,403	51,226	1,598	8,299	2,015	12,895	1,117	10,861	898	2,034
Illinois	55,938	230,656	14,925	76,980	18,160	85,111	6,182	57,449	11,978	27,661
Indiana	37,692	175,624	7,280	36,719	10,783	52,802	4,092	38,048	6,691	14,754
Iowa	18,875	90,375	4,462	24,861	6,062	29,506	2,194	21,194	3,868	8,312
Kansas	20,782	103,010	4,181	23,305	6,166	34,938	2,747	26,790	3,419	8,148
Kentucky	32,961	179,020	11,532	61,863	14,451	71,026	5,150	47,740	9,301	23,286
Louisiana	31,540	162,197	13,668	73,077	18,069	83,358	5,457	51,476	12,612	33,882
Maine	15,392	99,969	3,762	17,719	4,102	22,231	1,814	17,437	2,288	4,794
Maryland	39,060	184,094	5,273	25,535	10,820	67,963	5,719	56,744	5,101	11,219
Massachusetts	68,590	323,529	7,155	32,894	14,780	82,593	7,005	70,027	7,775	12,567
Michigan	65,973	290,866	11,255	59,820	16,425	77,936	6,368	56,732	10,057	21,204
Minnesota	35,690	164,613	6,486	34,077	9,214	45,261	3,455	33,801	5,759	11,460
Mississippi	23,333	140,827	10,806	53,096	13,863	65,590	4,490	42,516	9,373	23,074
Missouri	40,781	211,581	11,742	65,425	15,094	78,826	5,693	54,193	9,401	24,632
Montana	9,536	52,850	1,794	8,323	1,852	10,411	816	8,164	1,036	2,247
Nebraska	13,858	73,609	2,966	18,006	3,928	22,794	1,811	17,874	2,117	4,920
Nevada	16,816	73,263	2,527	11,517	2,877	20,370	1,820	17,896	1,057	2,474
New Hampshire	12,904	67,607	1,446	7,809	2,369	15,298	1,316	13,256	1,053	2,042
New Jersey	58,860	253,619	5,860	27,563	12,532	70,115	6,025	58,432	6,507	11,683
New Mexico	19,425	107,483	3,650	17,912	4,957	31,606	2,628	26,034	2,329	5,573
New York	123,702	588,042	22,398	106,599	34,813	165,401	12,578	121,954	22,235	43,447
North Carolina	65,432	351,727	16,412	81,492	26,288	143,431	10,726	102,405	15,562	41,026
North Dakota	5,517	25,294	1,192	6,214	1,322	6,268	465	4,280	857	1,988
Ohio	87,136	396,541	16,374	86,968	23,968	120,179	8,996	85,732	14,972	34,447
Oklahoma	39,872	249,151	11,258	75,509	13,707	83,644	6,290	61,683	7,417	21,961
Oregon	29,013	157,722	5,706	30,604	6,728	42,001	3,275	32,426	3,453	9,575
Pennsylvania	99,793	466,992	18,086	85,100	30,773	147,108	11,384	108,090	19,389	39,018
Rhode Island	11,053	56,050	1,504	7,235	2,666	15,573	1,297	13,253	1,369	2,320
South Carolina	33,167	163,054	9,183	44,581	14,888	79,267	5,853	56,350	9,035	22,917
South Dakota	7,274	38,285	2,169	12,220	2,129	10,681	766	7,301	1,363	3,380
Tennessee	44,630	239,403	14,939	74,230	20,182	98,495	7,026	65,305	13,156	33,190
Texas	161,799	839,273	32,062	160,363	54,078	327,544	26,554	262,981	27,524	64,563
Utah	12,079	58,692	1,456	7,570	2,228	14,207	1,234	12,112	994	2,095
Vermont	4,983	28,435	1,027	4,765	1,310	7,424	610	6,071	700	1,353
Virginia	68,319	340,184	10,730	51,745	21,007	137,211	11,162	114,352	9,845	22,858
Washington	61,613	291,648	5,810	30,527	11,224	82,515	7,304	74,319	3,920	8,197
West Virginia	18,744	107,049	6,472	35,122	7,776	38,631	2,747	25,156	5,029	13,476
Wisconsin	38,908	190,970	7,176	36,545	8,762	44,764	3,585	34,503	5,177	10,261
Wyoming	4,560	22,587	678	3,185	777	4,927	425	4,135	352	792

[1] Expenditures for Compensation and Pension for the 50 states and D.C. were derived from the Federal Assistance Awards Data System (FAADS) and are gross expenditures. Education expenditures come from the COIN EDU 666. Information for insurance and indemnities for the 50 states and D.C. are statistical estimates. All other dollar estimates are derived from VA accounting reports.

Mr. ROCKEFELLER. Mr. President, I spoke earlier about a West Virginia veteran receiving pension benefits. I would like to take just a moment now to give you an example of a disabled veteran receiving disability compensation and medical care in our VA medical centers. I do not want any doubt about who is getting VA benefits and why.

Jim Honce lives in Bridgeport, WV, and I am enormously proud of him. Jim is a World War II disabled veteran. He is a Navy man and served aboard a minesweeper, the U.S.S. *Skill*. During the war, a minesweeper would travel 3 or 4 hours ahead of a convoy, sweeping for mines in the water, setting buoys for ships to follow, and cutting channels for them to land. It was a vital mission. Thousands upon thousands of American lives were saved because of the work done by those on our minesweepers. It was incredibly important and dangerous work.

On September 23, 1943, off the coast of Italy, Jim's life was changed. The U.S.S. *Skill* took a direct hit from an enemy torpedo and sank. Only 32 of the heroic 102-man crew survived. They were all wounded. Not one of the ship's officers survived.

Jim was thrown 70 feet to a lower deck, suffered flash and fuel oil burns over his entire upper body, his left arm and ribs were fractured, and he had a scalp wound. He remembers being dragged off the burning ship by an electrician's mate, who was suffering from a broken arm himself. They made it about 100 yards from the ship when it went down.

Jim was not able to be placed on a liferaft with 12 other survivors because of his injuries, so he held onto a rope in the water. The water was shark infested, and Jim tells of a sister ship shooting at the sharks when it arrived to rescue the men. Just imagine it. It sounds like an action movie—but it was real life—it happened.

Once he arrived back in the States, home for Jim for the next 2 years was the naval hospital in Bethesda, MD. During his stay there he had nine operations and had to learn to walk all over again.

Jim has gone on with his life, went on to college, married, and raised a family. But he still suffers terribly from both his physical and emotional wounds—and the memories of those crew mates lost—and the events he experienced in that war—will never go away.

Jim was awarded the Purple Heart—he earned his "Contract With America." Today, he is one of our 2.1 million veterans receiving a service-connected compensation check for the injuries that still plague him and that changed his life forever.

Mr. President, there is no way that I, in good conscience, can vote for an amendment to balance the budget without being absolutely positive that Jim Honce, and the many, many disabled veterans like him—and Jesse Overbaugh and his family, and the many, many other families like his—will retain what little repayment the Government now provides them. They have earned their contract with their country—and we should not let them down.

There is a lot of talk about sacrifices on this floor, Mr. President. The American people need to make sacrifices and shoulder the burden for the sake of the future. Somehow, that wasn't the talk that led 50 Senators to vote against a historic plan of real deficit reduction before us 2 years ago.

But the talk is back, and now it is around the idea of using the Constitution to make a mad, blind dash to a balanced budget, and maybe even $400 billion of tax cuts to take along for the ride.

My purpose in taking the floor is to ask the proponents of this speed chase to the finishing line to let more than 26 million Americans called veterans—those who are disabled, those who are widows, those who are poor, those who are sick, know something about what happens to them along the way. Will they be sidestepped or stomped on? Will their benefits and services be untouched or will they get sliced down the middle?

Mr. President, if anyone in America has earned the right to know, it is America's veterans and their families. With more than 200,000 veterans just in my State, and more than 26 million veterans across the country, I could not possibly consider this proposed use of the U.S. Constitution, before knowing what it will mean to the men and women who have paid the highest honor to this sacred document through their military service.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from New York [Mr. MOYNIHAN] is recognized.

Mr. MOYNIHAN. Before the Senator from West Virginia leaves the floor, I hope he will pause long enough for me to congratulate him on his remarks. The Senator from New York joined the U.S. Navy 50 years ago last July 1 and, without having any expectation of it, came to benefit enormously from the GI bill, from veterans' insurance. I shall be remarking this afternoon that during the first year of the KENNEDY administration, in an effort to stimulate the economy back from the sharp recession of 1960 that came so quickly on the recession of 1958, the VA issued a double dividend on that $10,000 life insurance we had all signed up for. It was not a lot, but it was enough to enable us to buy our little farm in Delaware County, the last hills in Appalachia which connect us with West Virginia. We live there to this day.

I do not think that would be possible under the proposed amendment. I am confident that if it were tried it would be litigated, and that years after the effort was made by Walter Heller and James Tobin and President Kennedy, and such, we might find out we had or did not have such a benefit, but it would not help those who needed it at the time. The prospect of any litigation and leaving the decisions of the Federal Government, taking them out of the Senate Chamber across the park to the Court, or down the avenue to the Federal Reserve, is baffling and certainly troubling, and he has described it with great clarity and force. I thank him.

Mr. President, this week I propose to present three papers to the Senate arguing in opposition to House Joint Resolution 1, "Proposing an amendment to the Constitution of the United States to require a balanced budget."

The first of these papers will show that the current deficit is a recent event that marks a sharp departure from fiscal problems of earlier administrations that were directed primarily to the seemingly intractable problem of a persistent full employment surplus, with its accompanying downward pressure on consumer demand.

The second of these papers will relate the singular events of the 1980's which led to huge deficits and a correspondingly huge debt. I will show that there is no reason whatever to think we will repeat this behavior, or misbehavior, especially now that the events are better understood.

The third paper will explore the folly and danger of writing into the Constitution decrees concerning fiscal policy which would have been inappropriate to a small 18th century republic and would be absurd and potentially destabilizing to a world power in the 21st century.

Representative democracy in the United States is fully capable of balancing the Nation's accounts without an amendment to the Constitution. Deficits are not endemic to democracy. As recently as the Nixon administration, the President's economic planners faced a problem of surplus in the national accounts, and thought it wise to create deficits in order to move the economy toward full employment.

In those not notably distant years full employment with price stability was the central goal of fiscal policy; this had been indicated by the Employment Act of 1946 which established the Council of Economic Advisers, and became steadily more feasible as economic projections became steadily more reliable. The Nixon administration inherited a difficult economic situation. Contrary to advice from the Council, President Lyndon B. Johnson had been unwilling to raise taxes to pay for the increased outlays occasioned by the Vietnam war. The result was inflation. This was stamped out, but then unemployment rose. It became necessary to stimulate the economy once again by deliberately incurring a deficit. George P. Shultz, then Director of the newly established Office of Management and Budget, explained the policy in the budget of the U.S. Government, fiscal 1973:

> Budget policy.—The full-employment budget concept is central to the budget policy of this Administration. Except in emergency conditions, *expenditures should not exceed the level at which the budget would be balanced under conditions of full employment*. The 1973 budget conforms to this guideline. By doing so, it provides necessary stimulus for expansion, but is not inflationary. [Italic in original]

George P. Shultz is one of the most admired public men of his generation. His service as Secretary of State in the Reagan administration won the esteem and gratitude of much of the world, along with that of the American people. It is useful to recall that he is by profession an economist, having once been dean of the School of Business at the University of Chicago. He had joined the Nixon administration as Secretary of Labor. He was speaking in terms then readily understood by fellow economists, but not always clear to laymen, such as myself. The key phrase in his policy statement is italicized:

> * * * *expenditures should not exceed the level at which the budget would be balanced under conditions of full employment.*

Which is to say that in the absence of full employment, as was the case in fiscal year 1973, the Federal Government should deliberately contrive to incur a deficit equal to the difference between the revenues that would actually come in at levels of underemployment and those that would come in at full employment.

Far from being inevitable and unavoidable, there were points in the business cycle where a deficit had to be created. Otherwise surpluses would choke off recovery.

The contrary thought, that budget deficits will be continuous and uncontrollable is surely the oldest of prejudices against democracy. Which is to say the assertion that a majority will continuously vote itself benefits which the economy cannot sustain.

In an earlier age this supposed tendency was seen as a threat to property. Benefits would be obtained by confiscatory taxation—or plain confiscation. Hence, John Locke's prescription for a stable society: the security of "Life, liberty, and estate." In the Declaration of Independence, Thomas Jefferson devised a more felicitous formula: "Life, liberty, and the pursuit of happiness." Yet, there was never any doubt that the security of property was essential to such happiness. In the Federalist No. 10, James Madison address this issue with not the least apology. Ours would be a representative Government, concerned to moderate, if not indeed to control appetites.

> From this view of the subject, it may be concluded, that a pure Democracy, by which I mean, a Society, consisting of a small number of citizens who assemble and administer Government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert results from the form of Government itself; and there is nothing to check the inducements to sacrifice the weaker party, or an obnoxious individual. Hence it is, that such Democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security, or the rights of property; and have in general been as short in their lives, as they have been violent in their deaths. Theoretic politicians, who have patronized this species of Government, have erroneously supposed, that by reducing mankind to a perfect equality of their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

In modern times a more common fear has been that the excesses of democracy would debauch the currency through the monetization of debt, which is to say inflation. Indeed, there have been such episodes, albeit relatively rare. Twentieth century democracies have experienced fairly steady price increases. Yet nothing ruinous. Far the greater fact has been the economic growth of the 20th century. Far from inhibiting such growth, democracy is now widely seen as an essential precondition. If democracy caters to wants more than to needs, it has proven itself reasonably capable of satisfying both, not least because we have developed a profession of economics which, if not in any sense perfected or even especially scientific, even so has a lot to show for itself. In the United States, for example, real per capita income has increased fourfold over the course of the 20th century from about $4,300 to $20,500 per person.

The historian Alan Brinkley has recorded the development of the idea of Federal spending as a route to prosperity, dating back to the 1890's, particularly for public works to counteract the business cycle. In the 1920's, William Trufant and Waddill Catchings argued for public spending as an antidote to underconsumption, an idea that would come to dominate both theoretic, to use Madison's term, and applied economics. The theoretical approach to underconsumption is much associated with the publication in 1935 of John Maynard Keynes "the General Theory of Employment Interest and Money." That master of the calling, John Kenneth Galbraith, records that by the autumn of 1936, "the General Theory" "reached Harvard with tidal force." In a review of Galbraith's autobiography, I have commented there has been no other event like it in the history of the social sciences. The Great Depression, then two-thirds over, had seemingly falsified the central tenet of classical economics, which is that markets clear through the price mechanism—that whatever is offered for sale, including labor, is purchased. There were business cycles, to be sure, but, most important, there was said to be an inherent tendency for the system to return to an equilibrium in which all resources were fully employed. But for 6 years there has been no such return; none was in sight. In "the General Theory of Employment Interest and Money," Keynes demonstrated that there could be unspent savings, and that when this happened prices would not adjust downward to ensure that the same volume of goods would be purchased with the reduced—after saving—purchasing power. Galbraith summarizes:

> Instead, output and employment fell until reduced profits, increased losses and the need to spend from past savings ensured that all income from current production or its equivalent was thus established, one with a lot of people out of work—the under-employment equilibrium.

After an unprecedented period of depression, mounting crisis, and something like intellectual desperation, this had indeed the quality of revelation.

However, by the time any considerable portion of the economics profession had converted to Keynesianism, the Second World War had commenced. And so to a considerable irony, Keynesian economics was to be given its first trial not in the conditions of depression for which it had seemed designed but in the very opposite circumstances of a wartime economy, when the central problem was an excess of consumer demand and a shortage of consumer goods production.

Yet, in the crucible of war, the new doctrine produced, well, astonishing results. In a series of newspaper articles, Keynes set forth how to maintain price stability, during wartime, and in the United States a new Office of Price Administration did just that. Until, that is, the war ended and wartime controls collapsed. Here are the inflation rates for that period.

	Percent
1941	9.7
1942	9.3
1943	3.2
1944	2.1
1945	2.3

With the war ended, Congress enacted the Employment Act of 1946. The authors of the legislation, and perhaps especially committee staff, were convinced that this new economics could now be used as originally intended, which is to say to ward off a recurrence of the Great Depression of the 1930's. It was widely assumed that the depression would indeed resume at war's end. Hence, for example, the Interstate Highway Act of 1944, a public works program in the classic New Deal mode. The Employment Act established the annual economic report of the President which steadily became a more detailed and instrumental document. By 1947, for example, we established the current survey methods measuring unemployment on an annual basis, a national statistic previously gathered through a patch-work of survey and administrative data. In 1960, with the election of John F. Kennedy, the new economics was well-established. Kennedy assembled a brilliant Council of Economic Advisers, Walter W. Heller, Kermit Gordon, and James Tobin. Although but little noted at the time, the present Senator from New York became Assistant Secretary of Labor for Policy Planning and Research. What I now report, I saw. I dare to think that what I saw is of great importance in the matter now before the Senate.

The unemployment rate had remained remarkably low throughout the post-war period. Then, in 1958 recession struck. The unemployment rate rose to 6.8 percent, two-and-one-half times the 2.9 percent rate of 1953. A recovery followed. But then stalled. By 1961, when the new President took office, it was back up to 6.7 percent. What had happened? In their first annual report to the President, in January 1962, the new

Council of Economic Advisers offered a striking explanation. The Federal budget was running a surplus. This was termed "the full employment surplus." Chart 6 in the report, entitled, "Effect of Level of Economic Activity on Federal Surplus or Deficit," showed how this worked. Higher Government expenditures during the 1957–58 recession helped to reduce the unemployment rate from 6.8 percent in 1958 to 5.5 percent in 1959. But the fiscal 1960 program, the next to last of the Eisenhower administration, and which, according to the Council, was "The most restrictive program of recent years * * *" had a large full employment surplus amounting to almost 2 percent of potential gross national product. This surplus came about as follows. As the recovery from the 1958 recession got underway, economic activity grew and so did the revenues of the Federal Government. But Congress would not, or in any event, did not spend the additional revenue. As a result, the recovery stalled. This untoward event was ascribed to "fiscal drag." Accordingly, the President's economic advisers devised a fiscal 1962 program with a built-in deficit, which moved the economy closer to full employment. To say again, the Federal Government had to find ways to prevent a recovery from stalling because of an accumulation of a budget surplus.

The President's economists then proceeded to explain their actions and plans to reduce the full employment surplus.

> The full employment surplus is a measure of the restrictive or expansionary impact of a budget program on over-all demand.
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> * * * * *
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> THE BUDGET IN 1958–60
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> The analysis of the budget program in terms of the full employment surplus points to a probable major cause of the incomplete and short-lived nature of the 1958–60 expansion. The most restrictive fiscal program of recent years was the program of 1960. Its full employment surplus exceeded any from 1956 to date . . . The full employment surplus declined sharply as a result of higher expenditures during the 1957–58 recession until it reached an estimated $3 billion in the second half of 1958. Thereafter, it rose gradually through most of 1959 but then increased sharply to about $12½ billion in 1960. Thus, whereas the Federal budget contributed to stability during the contraction phase of the cycle and during the first year of the expansion, it was altered abruptly in the direction of restraint late in 1959 at a time when high employment had not yet been achieved.
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> * * * * *
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> FEDERAL FISCAL ACTIVITY IN 1961–62
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> Immediately upon taking office, the new Administration moved vigorously to use the fiscal powers of the Federal Government to help bring about economic recovery. Federal procurement was accelerated by presidential directive early in February, and tax refunds were also expedited . . . Changes in transfer programs added about $2 billion to the combined total of transfer payments for fiscal years 1961 and 1962. The Veterans Administration advanced the payment of $150 million of veterans' life insurance dividends into the first quarter of calendar year 1961, and then made an extra dividend payment of $218 million at midyear. The Congress promptly adopted a number of measures requested by the President. A Temporary Extended Unemployment Compensation Act was adopted, providing for extension of exhausted benefits and giving the Administration time to develop a comprehensive program for permanent improvement in unemployment compensation.

In time, the Council came forward with a proposal for a tax cut, which was enacted in 1964, and Walter Heller hit upon the idea of revenue sharing. If the Congress would not spend the surplus, then surely the Governors would oblige. Those were heady times. I recall visiting the White House mess in the company of that most eminent of public men, Arthur J. Goldberg, then-Secretary of Labor, later an Associate Justice of the Supreme Court and Permanent Representative to the United Nations. Walter Heller was there and recounted in the most precise terms just how much GNP had been lost by congressional delay in the tax cut, just how much would be gained once it was enacted. His projections were perhaps too confident, but his principles were sound, as well as the practice that went with them. That double dividend on G.I. bill life insurance brought our family savings to just the point where we were able to buy the farm near Pindars Corners in Delaware County which has been our home ever since.

In the economic report of the President transmitted to Congress in January, 1969, the Council of Economic Advisers, now headed by Arthur M. Okun, could report.

> The full employment surplus was a particularly enlightening measure of fiscal policy in the early 1960's when the economy was far below its potential. Actual Federal budgets were then in deficit. But after taking account of the large shortfall in tax revenues associated with the gap between potential and actual output, there was a large full employment surplus. It meant that the economy could realize its potential only if private investment far exceeded private saving. By that standard, discretionary fiscal policy was highly restrictive.
>
> The vigorous and unbroken expansion of the last 8 years is in dramatic contrast to the 30-month average duration of previous expansions. No longer is the performance of the American economy generally interpreted in terms of stages of the business cycle. No longer do we consider periodic recessions once every 3 or 4 years an inevitable fact of life.

As remarked earlier, the Johnson administration left office with too much of a deficit, which had to be reversed. And was. But the 1960's had produced an economics capable of understanding such matters to a degree never previously achieved. An understanding which we are asked to reject altogether by an amendment to the Constitution which economists of every political persuasion reject as potentially ruinous.

This consensus was stated February 3, in a statement issued by hundreds of such economists. They state:

> When the private economy is in recession, a constitutional requirement that would force cuts in public spending or tax increases could worsen the economic downturn, causing greater loss of jobs, production, and income.

That insight is the great legacy of the economics that emerged from the great depression of the 1930's. It was hard-won knowledge. It is not to be lost in the turbulence and contention that accompanied and now follow a single congressional election.

Mr. President, seeing my distinguished friend from California on the floor—she has been waiting patiently to address the Senate—I am happy to yield the floor and I look forward to her remarks.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I say to my friend, the Senator from New York, I thank him for his leadership, protecting the senior citizens of this Nation. I think as we develop the arguments on this balanced budget amendment to the Constitution, both pro and con, his leadership will be a real bright spot in this U.S. Senate.

Mr. MOYNIHAN. I thank my friend from California.

Mrs. BOXER. Mr. President, I do hope all Americans are paying close attention to this debate on the balanced budget amendment to the Constitution and that they are listening very carefully to the arguments presented on both sides. This is a very important debate. We do not very often even discuss amending the Constitution of the United States of America. So it is important that we hear the arguments, we debate both points of view and the various amendments that will come before us as those on each side of the aisle try to perfect this amendment and some will try to defeat it.

Some will say the only way to balance our budget is to write the requirement to balance it into the Constitution. Others will say the Constitution is not the appropriate place to put economic theory. I myself am not philosophically opposed to the idea of amending the Constitution with a balanced budget amendment if it provides flexibility to the people's elected representatives to respond to national security threats, disasters, emergency situations, and recessionary conditions. It also must protect our commitment to American workers past and present, by exempting the Social Security trust fund from its procedures.

By flexibility I mean specifically that such an amendment should not enshrine a supermajority vote into the Constitution. The balanced budget amendment pending before the Senate now, which has the strong support of the Republican leadership, a part of the

Contract With America, does not meet that criterion of flexibility. It does, in fact, require a supermajority and I think that is a tremendous mistake and it does violence to what I consider the rule of democracy. I think majority rule is what our ancestors fought and died for.

Amending our Nation's most important document is not something that should be done lightly. I know this is the time of the 30-second sound bite, the wisecrack, the easy solution. But some issues are more complicated than that, and this, amending the Constitution of the United States of America, is one of those issues. The Californians I represent—and I might say 31 million strong—and all Americans should ask the following questions in this critical debate.

First, should we build into the Constitution the requirement of a supermajority vote to take the budget out of balance? For example, if we are in a deep recession one year, or a depression—and this country has gone through recessions and depressions—should it take a supermajority to enable us to respond? In the Republican contract it will take a three-fifths vote in each House to enable us to act. In the Senate that is 60 votes. I think that is downright dangerous.

The second question we should ask is should we build into the Constitution the requirement of a supermajority to respond to a natural disaster, an earthquake, for example, or a flood that ravages our homes, our towns, our farms? I know the Presiding Officer sitting in the chair tonight has gone through that as a brand new Senator. He has seen what floods can do. The Republican contract would require a three-fifths vote to respond to a natural disaster and I think that is very dangerous. I am going to talk a lot more about the whole issue of disaster relief later in my remarks.

Third, should we build into the Constitution the requirement of a supermajority to respond to a flood of illegal immigrants or a public health crisis or an internal terrorist attack—a terrorist attack that strikes us unexpectedly?

If we have to move and we have to act, should we have to have a rule of a supermajority for us to respond to that? The Republican contract would require a three-fifths vote for us to go out of balance to respond to that. I think that is very dangerous.

(Mr. ABRAHAM assumed the chair.)

Mrs. BOXER. So, what the constitutional amendment before us will do is require a supermajority for us to do our jobs as U.S. Senators. And, as I said, I think that does violence to democracy itself, which is based on majority rule. I do not believe in the tyranny of the minority. And I am in the minority now. I am not happy about it. I see my friend, the Senator from Utah, has a big smile on his face because he should be happy. The Republicans won control of the Senate. But I do not like the idea of giving the minority the right to stop things in their tracks. I think it is wrong. I thought it was wrong when the Republicans were in the minority. I tried to change the filibuster, for example, even when it was not in my own best interests as now a member of the minority party.

There are those who say we will never balance this budget if we do not put that amendment into the Constitution and if we do not have a supermajority requirement. History shows us that this is not the case. I think it is very important to learn from history. History has shown us that it is an aberration to have these kinds of deficits. Our ballooning deficits, as a share of the size of the overall economy, did not become a problem until around 1980.

I want to quote Herbert Stein of the American Enterprise Institute. He was the chairman of the Council of Economic Advisers under Richard Nixon. I want to say that again. Herbert Stein worked in the Republican administration of Richard Nixon. Let us hear what he said about this amendment.

I see that we have a very strong leader on the floor right now, the Senator from West Virginia, who to many people is still their leader. He is still their chairman. Certainly when it comes to defending the Constitution of the United States of America, I say unequivocally that I know of no one else who does it with the style and substance of the Senator from West Virginia. Last year, the Senator from West Virginia held hearings on this balanced budget amendment to the Constitution, and they were extensive. I urge every Senator, Republican and Democrat, to read those hearings.

Herbert Stein came down to the hearing. This is what he said:

> Our experience under the current regime without the amendment has not been terrible. Between 1950 and 1980 the annual deficit averaged about 1.2 percent of the GDP. After 1980 there was a break in history. Deficits became much larger than they have been, averaging 4 percent of GDP.

I think it is very important for us to know that it was Democratic President Bill Clinton and a Democratic Congress that began reversing the anomaly of the eighties. It is true there was a budget agreement under George Bush, and it did start down the track. But I believe it was that vote that we cast here in the Senate for the deficit reduction plan that brought us to a point where we can be very proud of that $500 billion deficit reduction package which passed this Senate. I want to point out that not one Republican voted for real, substantial, deficit reduction. They talked about the amendment then. They talked about how terrible it was to have deficits. But not one Republican joined us. We did not just talk about the procedures as gimmicks for getting us to a balanced budget. We actually took the steps needed to reduce our deficit.

With the President's leadership, we made some very tough choices. We cut spending. We cut taxes also for millions of working families and, yes, we did raise some taxes on the top 1 percent of families in America, the top 1 percent of the economic strata. The very wealthy did pay a tax increase. That is not an easy vote, my friends. No one likes to go home and say, "I hate to tell you, but I had to vote to raise your taxes." But we did it. We did it because I believe it was the right thing to do to get this deficit on the downward track.

How can I explain that someone making $400,000 a year was paying the same tax rate as someone making $55,000 a year? I believe the Tax Code must be fair, and every one of us has to do his or her share to reduce that deficit. What is interesting is after that deficit reduction plan, for every American who pays higher taxes, 10 pay lower taxes. So it was a fair bill, a fair package. And it brought fairness to the Tax Code, and it started us on this decline of this deficit without a constitutional amendment. We started to get the deficit on the decline.

So here it is in plain view, in this Senator's perspective, the difference between making the tough votes on budget and making this very simple vote on amending the Constitution. Let me say how I feel about that. I respect every one of my colleagues, Democrats and Republicans, who will vote for this, no matter what the shape of it is. I do not particularly think it is a courageous vote. I think it takes this country into a position where the minority Members of Congress can hold our country hostage to depression, recession, disasters, and unknown emergencies.

I have heard many of my colleagues say, because I am very concerned about this, "Oh, in times of recession and depression, in times of disaster, we will all come together and it will be easy to get 60 votes in the U.S. Senate. It will not be a problem, Senator BOXER. It will be easy. We will pull together as Americans. We will have supermajorities to go out of balance and to increase the debt ceiling"— which by the way also takes 60 votes. I have read the RECORD. That is just not so. Supermajorities are hard to get, and I will show that in this debate.

I think we are going to find that our hands are tied, ensuring our inability to act when we should act. Why else do we come to the Senate? Why else do we want to be here if not to help the people, particularly in times of crisis, whether it is an earthquake, whether it is a veteran who is, yes, a paraplegic? We heard Senator ROCKEFELLER, who lives his life here in the Senate in behalf of veterans. We heard what he said about what would happen to veterans if this passes.

Why are we here? Why are we here? I ask my friends. To tie our hands, to make it impossible for us to act? I hope not. I hope the American people ask those who support this amendment if they voted for real deficit reduction last year. If they did not, then I say they are hiding behind this constitutional amendment. It is a figleaf. They want to be able to say they are for a balanced budget. Well, whoopee. That is easy. Saying you are for a balanced budget is easy. What is tough is making the tough votes to make it happen. But when they had the opportunity to vote for deficit reduction by casting a very difficult vote—and it was difficult—they took a powder on that vote. If they had prevailed, we would not have had the success we have had thus far in getting that deficit under control.

I think it is very important to continue to talk to the American people about—since the Republicans did not vote for the deficit reduction that the President put forward and the Democrats supported—what kind of deficit reduction do they support?

I know what I supported because I supported the President's package. So I can show you what I supported. It was difficult. But I can show you. And I will take the heat for it, and I took the heat for it.

But I say they have not shown us their hand. They support an amendment to the Constitution that supposedly outlaws deficits unless a supermajority decides to go out of balance. And I say they have a moral obligation to tell us what their version of deficit reduction looks like.

Now, I heard Senator BYRD discussing this the other day, and he said something very sensible. He said if an average American goes to buy a used car, would they not look under the hood and see what is under the hood?

Well, I say to my Republican friends, if you want to put forward this balanced budget amendment, show us your budget. Open up the hood. We need to see what you mean and what you want to do. It is the right of the American people to know and to know before, not after, we vote for this amendment.

Now, in the deficit reduction bill that I voted for, which passed in 1993, we protected education and children and new technology investments and health research and Social Security and the fight against crime. We did cut other things. As I said, over 200 Government programs were terminated or reduced.

I say, what are the Republican priorities? Where is their budget? We know that the Republican Contract With America promises $700 billion of tax cuts over the next 10 years and, by the way, not targeted to the middle class but to those also in the high tax brackets. They have proposed the same child tax credit for families making $200,000 a year as for families making $30,000 a year.

Now, think that is not going to drain the Treasury. I can assure you that it will. How will they pay for these tax cuts? How will they pay for these tax cuts? They already said they do not want to cut defense. Indeed, they want to spend more on defense. They already said they do not want to touch Social Security even though, by the way, many of them do not support the amendment to exclude Social Security from the balanced budget amendment. They say they do not want to touch Social Security. I am going to vote to remove Social Security from the balanced budget requirement. Social Security should be separate and apart from the budget, untouchable because it is a trust fund and it must be there for current and future retirees.

The Republicans want to leave it right there. In the House, they defeated the amendment to delete Social Security from the requirements of this amendment. But I want to take them at their word tonight. I am going to take them at their word tonight. Even though they did not want to remove Social Security from the requirements of the balanced budget amendment, let us take them at their word that they will not touch Social Security.

Now, if Social Security is off the table, what would we have to cut? We already know they do not want any new taxes. They have already said that. They want tax cuts. They do not want to touch the military. They want to spend more. So what would their balanced budget look like? They will not tell us. It is as simple as that.

I say to the American people, you have a right to know. I am trying to get you the facts. As soon as I learned about the balanced budget amendment, on January 12, I sent the following letter to my colleagues, who have brought this amendment before us. I sent it to the distinguished majority leader, to the chairman of the Budget Committee, and to every Republican Senator who is part of the leadership of this Senate and endorses this balanced budget amendment. This is what I wrote. I am going to read you what I wrote the Republican leaders of this Senate.

> DEAR SENATOR: I understand that it is the intention of the Republican majority to bring the constitutional amendment to require a balanced budget to the Senate floor as soon as possible because of the Republican Contract With America. Because you are a supporter of this constitutional amendment, I ask that you send to me your plan to reach this balanced budget target by the year 2002. As I am sure you are aware, the Congressional Budget Office has estimated that to get to a balanced budget by the year 2002 would require deficit reduction in the amount of $1.2 trillion. I would be interested to know what programs you recommend be cut or revenue raised in order to reach a balanced budget.

Specifically,

I wrote to my colleagues:

> I am interested in knowing the cuts you would make in programs for crime prevention, education, health and science research, border enforcement, environmental protection, veterans, or transportation. I would also be interested to know what cuts you intend to make to defense, Social Security, and Medicare. Because—

I wrote—

> there is no exception for assistance to people who have been struck by a natural disaster, I would also appreciate your candid assessment of how this constitutional amendment could impact funding for disasters such as an earthquake, flooding or fires. Ominously, a supermajority would be necessary or other programs would have to be cut to provide assistance to these disaster victims.
>
> I thank you for you attention to these questions.

I sent 16 letters. So far I have not received a single response. I hope that they will in fact write to me and give me the details of their budget because the American people deserve these details. I am waiting, and I think they are waiting. Now, I must say I am not shocked that I have not received a response.

House Majority Leader ARMEY said that if Members of Congress saw the details, "it would make their knees buckle." Listen to that one.

The House has very fast procedures over there. I was there for 10 years. It is an incredible atmosphere, a very exciting atmosphere. As some watchers of the Congress have been known to say, the House is like the cup where things get really hot and the Senate is like the saucer where they cool down. We are cooling things down here because, as DICK ARMEY, the majority leader of the House said, if Members of Congress saw the details, "it would make their knees buckle."

House rules allowed the balanced budget amendment to be rushed through the House. I am not critical of that. That is the way it is over there. But we have the ability over here to fully debate measures, and we will not be rushed. We will be able to point out very clearly what will happen when we have a requirement for a balanced budget in the Constitution that requires a supermajority to respond to the needs of the American people.

Now, I said when I was elected to the U.S. Senate that I would fight for the people of California and for what I believe in, and after the Republicans took over the Senate, the press started asking, "Aren't you going to change? Aren't you going to be different?"

I said that I was elected to fight for the people of California and what I believe in. And that is what I intend to do for as long as they want me to do it. The day they do not want me to do it, they will pick someone else. That is the Contract With California that I have.

I said at the opening of this Congress that I would work hand in hand with the Republicans if I felt that what they were doing was good for my State and my country, but I also would stand up and fight against them when I felt what they were doing would hurt my State and my country.

I want you to know I supported the Congressional Accountability Act with my Republican friends. Yes, I felt it could have been made stronger, so I also supported amendments for campaign finance reform and the gift ban that they voted down. I finally voted for that bill because on balance it was a good bill which, by the way, Democrats and Republicans had pushed in the last Congress.

Let me tell you, this rigid amendment that gives so much power to the minority is bad for my State. You need to have three-fifths of the Congress to vote to go out of balance or raise the debt limit—60 votes of the Senate right here—and that gives power to the minority to thwart the will of the majority, and that is not right. That is not right. The majority should rule—not the minority. And if I am stuck in the minority, that is my problem. I have to learn to live with it. I should not be able to stop this Senate from responding to the needs of, say, a disaster, a crisis, a health emergency.

I know a health scientist who told me that the worst virus you can imagine, Mr. President, is one plane ride away from this country. It is unbelievable. There is a book called "The Hot Zone" which talks about this. The worst virus, the worst bacteria that you can dream of, is one plane ride away from America, and we are going to have a situation wherein a minority could stop us from reacting to that kind of emergency. I say that is bad for the people of California and bad for the people of this country.

I have already shown you by reciting history that you do not need an amendment to balance the budget. We did it around here for many, many years. It was not until the 1980's that things got out of control. Trickle-down economics did not do what it was advertised to do, and this budget went out of control. We have to make progress and we are making progress. I would like to get that deficit down to zero, and I believe we can. But in some years—some years—because of major problems, because of the state of the economy, which may reduce revenues to this Government—what causes the deficit? Expenditures and revenues have to match and some years in this country, because we are a free market, proud economy, some years we go into recession. We used to go into worse recessions. But we have gone into some pretty bad ones. Of course, before I was born was the depression that so impacted the lives of my parents, because they lived through that and they never stopped telling me the horror stories of that time.

Sometimes those revenues go down. Do we want to say, no matter what, we will have a balanced budget, and even if we have a virus that comes in from another country, a bacteria, an earthquake, a fire, a recession, a depression, we need to get a supermajority? My friends say: It is easy, you will get it at a time like that. If they feel that way, why do we not have some exemptions here for recessions, for disasters, so that we know we can respond in a timeframe that makes sense.

Let me tell you what would happen to my State if this amendment passes in the timeframe laid out and if the Republicans stick to their promise—namely, that they will not touch Social Security, and they will enact a megabillion dollar tax cut, and they will increase military spending. That is what they said. And they will not show us their budget. I am trying to figure it out.

What is left on the table? Let me tell you who I went to to get the answer. I did not go to my own party or call the White House. In February 1994, the Wharton Econometrics Forecasting Group, one of our Nation's leading economic forecasting firms, said the balanced budget amendment could cost the State of California more than 700,000 private sector jobs as a result of a significant decline in economic activity in the State. The drop in personal income would be roughly $148 billion.

The Treasury Department reports that the balanced budget amendment would reduce annual Federal grants to the California State government by $7.7 billion. So, first of all, we have a 700,000 loss of private sector jobs as a result of that decline in economic activity, and we have the drop in personal income of $148 billion in my State and loss of Federal grants of $7.7 billion. How can I not take to the Senate floor and protest this amendment? It is going to kill my State. It is going to hurt the people of my State—the children, the families, the elderly, the veterans, people caught in disasters. It is going to hurt our ability to stop illegal immigration at the border.

I cannot sit back and allow this to happen to the people of my State without fighting. I cannot sit back and not fight for an exception in this balanced budget amendment for disasters. I have to fight for an exception for disasters. The Kobe earthquake in Japan demonstrates in ways words cannot express the violence that can be released from an earthquake at 7.2 on the Richter scale. The 6.7 rated Northridge earthquake caused at least $20 billion in damages for both the public and private sector. But a 7.0 earthquake could cause more than $57 billion in damages to Los Angeles, according to a University of Southern California study.

Let me say to my friends from the Midwest and from other parts of this country, we had a report from James Lee Witt that just hit the press yesterday that says they expect an earthquake of that size—Kobe-size—to hit this country, and more than likely it will be in the Midwest. So talking about earthquakes simply is not a matter for California. Talking about floods simply is not a matter for California.

The tragedy in Japan revealed another underlying problem, and that is the problem the Japanese Government had in responding to the crisis. The Government's slow response is undergoing intense scrutiny by Japanese citizens, and rightly so. I bring it up here today because I want us to understand, because we are on the firing line, when something like that happens, we do not want our Government to be indecisive and unresponsive in times of crisis.

Let me say this: We have responded beautifully to the recent disasters in California and the Midwest floods and the problems in Georgia and the problems in Texas, under this really newly designed FEMA that we have under the Clinton administration. I do not want us to go back to the days when FEMA did nothing.

Let me tell you what a Japanese bureaucrat said to hundreds of homeless people gathered at a local city hall. Put on your thinking caps, because it is going to be us for sure if we do not make an exception for disasters. This is what this bureaucrat said to these homeless people, hardworking citizens of Japan, suffering from an earthquake, homeless:

> I can't do anything about your house at this point. I suggest you go to another city.

Imagine Americans taking that. Are we going to tell the people of our cities, suburbs, our rural areas, to move and leave their memories, their dreams, their hopes, because we put in the Constitution a mechanism that tied our hands and said we cannot act? I hope not. I hope the American people will not let that happen. They all love the sound of a balanced budget amendment to the Constitution. "They better look under the hood," as Senator BYRD said.

Our States are not colonies of the Federal Government. When disaster strikes, "we are," as the words say above this beautiful Capitol dome, "from the many one." No confederation of States can respond to a natural disaster as the U.S. Federal Government can respond to a disaster.

When I offer my amendment to exempt disasters from this, I am going to go into chapter and verse about how we have responded and the time that it took and the billions of dollars of relief we were able to send to the various parts of this country.

I hope all of my colleagues from both sides of the aisle will join with me. I do not see how we can possibly not learn from the disasters in this country and from the Kobe experience that the United States of America is the preeminent of, by, and for the people, because we can respond in a crisis. Let us not tie our hands and let 40 people in this body stop us—or 41 to be exact. It takes 60 votes to go out of balance, to respond to a disaster.

I am saying to you, let us not put ourselves in a situation while the debate rages day after day after day, and we have 51 votes to help and we have 52 votes to help, but we are a long way from 60 votes and we cannot help. I would not want to be the Senator whose constituents are going through the hellish nightmare of a disaster without a Federal Government to help. Getting 60 votes will be difficult. History has proved that. Let me tell you, my friends, I am not just theorizing here. We had a horrible earthquake in San Francisco where the Cypress Freeway was badly damaged. Hundreds of thousands of people commute on that every week.

Now I will tell you, I barely survived a vote to rebuild the Cyprus Freeway, 52 to 43, because none other than the distinguished majority leader, who was minority leader then, tried to say, "Let's get offsetting cuts."

There are some times when there is a crisis and you do not expect it, whether it is in your family or in the family of government, and we must act to help people.

So I hope that my friends on the Republican side and on the Democratic side will join me when I offer the amendment, which, by the way, is cosponsored by Senator LEAHY of Vermont. It has the support of Senator FEINSTEIN and Senator INOUYE, and the list is growing. Because we should not have our hands tied in a disaster.

Now let me cite another example of where we should not have our hands tied. We should not require a supermajority to act in case of a recession. I do not think we want to return to the days of Herbert Hoover. During the Great Depression of the 1930's, Republican President Hoover refused to see the economic danger signs and he would not act to bolster the plummeting American economy.

When the Depression struck and unemployment in this country rose from under 5 percent to over 20 percent in roughly 2 years, Hoover still refused to act. He refused to provide assistance for the one-fifth of the American population that was out of work.

Let me tell you what he said. And I want the American people to please listen to the words of Herbert Hoover. He said. "The principles of individual and local responsibility" would be applied to the victims of the economic suffering.

Let me repeat that. In the days of the Depression, when people of skill were selling apples on the street and heads of families were jumping out of windows because they could not provide for their families, President Hoover said, "The principles of individual and local responsibility" would be applied to the victims of economic suffering.

And I quote him further:

> Each community and each State should assume its relief of the distress with that sturdiness and independence which built a great nation.

Sound familiar? Let me read it again.

> Each community and each State should assume its relief of the distress with that sturdiness and independence which built a great nation.

My friends, that statement is true, but in times of deep emergency in this country—from the many, one. That is the purpose of the United States of America. From the many, one. We come together and we have great strength when we come together.

Now I hear a lot of talk about the new federalism. And I hear words that sound just like this. There is nothing new about it. We tried it and it failed.

Of course, we must be responsible for ourselves and our families, but there are times when things occur in this country that we cannot control, such as recession, depression, an outbreak of cholera, or a serious bacterial infection that may come in, a plane ride away, or a disaster that only God understands why it has to happen to us. And then from the many, one, from the many States, one, and not a situation where in order to act as one we need a supermajority. That is wrong.

We understand that there are times when the Federal Government needs to act to counterbalance cyclical downturns and serious economic trouble.

And, again, Senator BYRD had a press conference with Senator MOYNIHAN and Senator SARBANES and prize-winning economists who said this is a huge mistake to put this requirement into the Constitution with a supermajority vote.

A statement signed by over 200 economists and political scientists says that the balanced budget amendment—and let me quote from them—"hinders severely the public sector's ability to compensate for cyclical fluctuations." In other words, recession, depression. "The need for Federal action to stabilize the economy has been widely recognized since the 1930's."

This is the economists talking.

> A balanced budget eliminates one the few mechanisms preventing mild downturns from developing into severe recessions.

Sometimes you want to act early in a recession to turn it around so it does not turn into a depression. Well, it would be hard to get 60 votes for that, I say to my friends.

I have received letters from several economists repeating these concerns.

Dr. James Tobin, a professor of economics at Yale University and a Nobel laureate, says in a letter to me: "The balanced budget amendment would make the economy more unstable, more vulnerable to business cycle recessions, because it requires the budget to be balanced every fiscal year regardless of economic conditions," which is what I talked about before. In many years, it will be perfectly good economic policy to have a balanced budget, but sometimes it may be very difficult.

This is what this Nobel laureate says in his letter to me:

> The tax increases or expenditure cuts necessary to keep the budget balanced would make recessions worse and retard recoveries.

Let me repeat that: This amendment would "make recessions worse and retard recovery."

He goes on and explains:

> When the economy is depressed, individual and business incomes are smaller; income and payroll tax receipts are smaller, too. Spending is down throughout the economy, so excise and sale taxes yield less revenues than normal. Outlays for unemployment insurance, food stamps, cash welfare and even Social Security benefits are higher * * *.

Now, why are they higher? Because people are out of work and they are drawing down on these safety net programs which I have not heard anyone say they want to destroy.

"The economy," he goes on, "would be worse if these responses to recession did not occur or were cancelled out. Individuals and businesses hit by losses of income and employment would be hit even harder if their tax liabilities remained as high as before and if they received no help. They would have to curtail their spending even more, depressing economic activity further."

So we have a vicious circle of misery. And what does it take to go out of balance? Under this amendment, unless there is an amendment to go out of balance with 51 votes in a recession, you have to get 60 votes to ease the pain of the American people.

Dr. Robert M. Solow, professor of economics at the Massachusetts Institute of Technology, and also a Nobel laureate, says the following:

> The Amendment is not only bad law, it is bad economics. One of the important ways we protect ourselves against deep recessions is through "automatic" variations in the Federal budget. When business turns bad and sales turn down, incomes fall too. Wage and salary income is reduced by short time and layoffs; business profits are usually even harder hit. The Treasury's tax revenues fall automatically. A balanced Federal budget will be thrown into deficit, not by act of Congress, but by workings of the economy.
>
> If the law required Congress to respond by increasing taxes or reducing income-support payments or other expenditures, the result would be perverse. Families and firms would find themselves even worse off, business sales would fall further, and the recession would worsen.

Dr. Lawrence R. Klein, a proessor of economics at the University of Pennsylvania and a Nobel laureate, also opposes the balanced budget amendment because of its potentially damaging effect on the economy. Professor Klein wrote in his letter to me that:

> * * * the primary economic objection to the proposed amendment is that it locks government fiscal policy into an inflexible position. * * * The experience of 1991 and 1992 provides ample evidence of the failure of monetary policy to bring the economy significantly out of recession when it is acting alone instead of being coordinated with fiscal policy in a balanced way.

Professor Klein goes on to say:

> There are times when budget deficits are needed for temporary stimulus and when surpluses are needed for restraint. If these short-run fiscal policies are properly coordinated with monetary policies we can enjoy a much better national economic performance.

These economists are very impressive.

I started off with Herbert Stein, who has been a leading voice for the Republicans, who says this is not a good idea. So it is bipartisan. These are people who really care about this country's economy. This is not a political issue to them. This is an issue of substance. They are concerned about our inability to act quickly to head off a recession, stop it from getting worse.

Now I want to bring up some of the real, what I call red herrings of this debate. They are thrown up there, but they are really not real.

The argument is made that all we are doing to the Federal Government is what the States already do. This is untrue. The balanced budget requirements of the States usually apply only to the State's general fund, which, according to the General Accounting Office, is only about 54 percent of a State's spending.

The balanced budget requirements of most States only deal with a very small part, with 54 percent of the State's budget and the rest does not have to be in balance.

As State deficits start to rise, State governments do some interesting things; 47 States can issue general obligation debt to finance operations and other State activities.

They say they have to have a balanced budget, but they go out when things arise and they issue debt; 42 percent of States have capital budgets for infrastructure and other investments that are not required to be balanced. In other words, where the United States of America's budget includes infrastructure, capital improvements, highways, bridges, roads, as part of our budget, in 19 States, those things are off budget. They are separate. And they can be, in fact, financed by debt.

I know that the leader here is getting a little concerned at the length of my speech, but I can assure him this will not be the last time I am on the floor, and I am getting to the end of my statement. This is the longest speech I have ever made on this Senate floor. I am very proud that I am able in this democracy to take to the Senate floor and give a complete speech on a subject that is so important.

This is the Constitution of the United States of America, and in a Contract With America that Republicans have written, they want to have a constitutional amendment to balance the budget. They would like to get it done in 100 days. Maybe they will. But I came here to fight for the people of my State and for what I believe in. This is going to hurt the people of my State.

For me, it is unprecedented to speak longer than 30 minutes on the Senate floor. But I am doing it because in my heart I would be failing the people of my State if I did not.

Forty-seven States can issue general obligation debt to finance operations and other State activities; 42 States have capital budgets for infrastructure and other investments that are not required to be balanced; and 37 States are allowed to borrow for capital projects. Moreover, the General Accounting Office reports when States begin to experience deficits, they often resort to financial gimmicks to achieve a balanced budget, such as putting things off budget, shifting accounts, and reducing contributions to pension plans which, by the way, can be very dangerous.

Let me tell Members what the debt is in my State of California. It is $23.5 billion. The Governor of my State says he has to balance his budget. He does not say he has $23.5 billion of debt.

Now, the argument is made, so if we say that the Federal Government should act as the States act, I say to Members, the States have debt. I am not saying it is right. I am not saying it is wrong. I am saying it is a reality. So then some people will say, why do we not have the Federal Government act more like a business? Members have heard that—act more like a business. By the way, I think we should sometimes. Does business have debt? In fact, debt for businesses was $3.8 trillion in the third quarter of 1994. The Federal debt is about $4 trillion. Business debt is $3.8 trillion. It is very close.

Now, why does business go into debt? They do it because they make investments with the money they borrow; they expand their capabilities. And I do not think there is one successful business person who would come before Members and say they could never imagine a time when they did not make a loan to expand unless they had unlimited resources. That is why businesses are so dependent on interest rates. When interest rates go down, they are happy because they can go to the bank and get cheap loans, and they can turn that into productivity and profit. Now, they must be wise about it. So should Government. Sometimes, they go into debt.

Now the argument is often made, let the Federal Government look like a family. Now we will look at family. Private debt held by households in the third quarter of 1994 was $4.5 trillion. Private debt by households is larger than the Federal debt. Federal debt is $4 trillion; household debt $4.5 trillion. Amazing. I do not know too many people who do not have home mortgages. Maybe other Members do. I do not even know too many people that own their cars outright. The upper echelon, sure, no problem. Clip the coupons, get the inheritance, no problem. But the average working American has a mortgage. Indeed, we encourage them to buy homes. We make the interest on the mortgage tax deductible.

So, yes, families have debt. Now, it should be reasonable. It should be intelligent. It should not be overdone. We know when we get in trouble we have to pull back. But if we say the Federal Government should look like a family, families have some debt. More like a business? Business has some debt. More like the States? States have a whole lot of debt. I am not saying it is right. I am not saying it is wrong. I am saying it is the way it is in a capitalistic society.

If someone in our family suffers a setback, we do not throw up our hands and say, "Sorry, we did not expect that you would get cancer, and we have used up our rainy day funds and we cannot do anything about it." We pull together; from the many, one. We reach out to friends and community to help, and that is why we have to be able to act as a Federal Government and to act quickly and to act in such a fashion that it does not take a 60-vote majority.

Now, many of those supporting this amendment rail against bureaucracy and unelected folks having too much power. I agree with them. Therefore, I cannot understand them supporting this rigid amendment where the power will go, first, to a minority in the House and Senate, and second to the courts. For example, how do we define outlays in this amendment? How do we define revenues? These basic questions will surely be the subject of litigation. But that is just the tip of the iceberg.

Constitutional scholars anticipate that the President will be sued by parties who think his revenue estimates are too high, and by parties who think his revenue estimate is too low; by parties who think his growth projections are too high, and by people who think his growth projections are too low; by people who will lose benefits or salary increases if the President impounds appropriated funds, which he can do in this amendment in the event of a shortfall, and by Congress if the President declines to impound. And, of course, the cases will be heard by judges who do not necessarily have any background in fiscal policy, who will find in their case books no useful precedent and will discover in the amendment itself no description, no remedies.

Ironically, the simplest solution for the courts in some cases may very well be to order a tax increase. So the power goes to a minority of Congress, to the courts, and maybe even to the Federal Reserve, because they will be the only institution which will be free to respond in an economic crisis through monetary policy.

If Congress' hands are tied by the will of a minority, as the pending amendment would do, the central bankers of the largest nations who already have great power will fill the vacuum. They will be able to wield greater authority over financial markets, interest rates, industrial development, and economic behavior all around the globe, and we do not even know who these people are.

So, Mr. President, I am coming to the end of my remarks. I am down to the last few brutal minutes. For all these reasons, I hope we will not add this amendment to the Constitution. It is a tough vote to vote "no" because it seems simple. If you favor a balanced budget, vote for the amendment to the Constitution. But that is not what this is about.

I have made tough deficit reduction votes and continue to do that. But I will not put Social Security at risk. And that is what this constitutional amendment does. I will not put our citizens at risk in case of natural disaster. And that is what it does. I will not put our people at risk in a recession, and that is what this amendment does. And I will not put our fighting crime budget at risk, and that is what this amendment does, as well as put so many people—our children, our elderly, our families—at risk.

I will not stand by while my State of California gets the shaft from colleagues who, frankly, will not even tell Members where the cuts are coming from. They are taking a budget ax, but we do not know where it will land. I cannot stand by quietly and not talk out for my State and for the people I represent.

I worry very much about this amendment. It is one of our most important votes. I think, again, out of many, one. That means we should be able to respond to a crisis. We will not be able to do this. I think if we vote for this, before we vote, we should demand that my Republican friends show us their budget.

Let us support amendments to protect our people by exempting Social Security disasters and economic downturns from this rigid amendment. Let us remove the requirement of a supermajority which will totally tie us in knots, and if we do not do these things, then let us defeat this amendment.

In closing, Mr. President, true leadership requires patience, courage, and convictions. This debate will challenge our patience, our courage, and our conviction. Let us meet the test not just as a personal challenge, but because the stakes are enormous for America for now and for decades and decades to come.

I thank my colleagues for their patience. I yield the floor.

Mr. HATCH. Mr. President, the Senator from California suggests that the balanced budget amendment is inconsistent with the Framers of the constitution and their Constitution because it requires a supermajority to pass an imbalanced budget. She asserts that this is countermajoritarian and that majority rule is the main principle in the Constitution. This is simply wrong.

Virtually every provision of the Bill of Rights is countermajoritarian—each limits what passing majorities can do. There are many instances in the Constitution: separation of powers, checks and balances, bicameralism, the qualified veto, advise and consent provisions, and treaty ratifications which do not involve the House and often involve supermajorities. The entire amendment process requires supermajorities of Congress and the States. Each of these involves supermajority requirements or gives decisionmaking power to less than the majority.

But, Mr. President, the Bill of Rights goes even further: It does not allow changes with majorities, or even supermajorities. In fact, even a unanimous vote cannot contravene the Bill of Rights without amending the Constitution itself. A majority cannot make laws abridging freedom of speech. A majority cannot establish a national church or interfere with the free exercise of religion. A majority cannot allow police to make unreasonable searches and seizures. A majority cannot infringe on the right to keep and bear arms—at least not legitimately.

A majority cannot change the bicameral Congress to a parliamentary system or divide the unitary Executive into a Roman triumvirate. A majority cannot even lower the age requirement of Senators.

Mr. President, the Constitution itself is a countermajoritarian document. If all we wanted in a government was mere majority rule, we would not need a Constitution at all. The very notion of a set of rules that a majority cannot change is countermajoritarian and empowers a minority. But, Mr. President, I believe the Constitution has proven its worth by protecting transient majorities from themselves and protecting the minority as well. And it has proven its worth as a basic charter for our Government and our Nation.

Changing majorities in Congress have been spending our children's money and they have trampled on the rights of those generations who do not have a vote yet. It is wholly appropriate to require at least a measure of consensus among those represented to spend the legacy of the young and the unborn. It is wholly consistent with Madison's "auxiliary precautions" which serve to control the Government to help maintain the freedom of the governed.

Mr. ABRAHAM. Mr. President, let me take a few minutes to explain to the American people what this debate over the balanced budget amendment is really all about.

It is a debate between those in this body who want to maintain the status quo versus those of us who want to implement the change that the American people voted for last November.

It is a debate between those who want to preserve the business-as-usual practices of official Washington—more taxes, more spending, and more debt—versus those of us who want to shake up Washington and promote less government and more individual freedom.

Mr. President, in March 1994, 17 Senators on the other side of the aisle voted for the balanced budget amendment. Although I was not here, I am told that many of these Senators gave impassioned speeches about the dire economic consequences of high and rising budget deficits—about the immorality of burdening future generations with massive debt.

Today, the projections of future deficits and debt are significantly higher than they were last year. The latest CBO outlook for the budget deficit shows it climbing from $207 billion in fiscal 1996 to $243 billion in fiscal 2000. By fiscal year 2005, the CBO projects that the deficit will rise to over $400 billion.

Budget deficits are rising. Interest rates are rising. The national debt will increase by over $1 trillion over the next 5 years. But somehow our colleagues on the other side of the aisle who voted for the balanced budget amendment in March 1994 now feel less compelled to support the amendment today.

They now want to attach special conditions; namely, the right-to-know and Social Security exemption amendments to the balanced budget amendment in exchange for their support on final passage.

As a new Member of the Senate, I would like to know why our colleagues voted for a balanced budget amendment that did not include a right-to-know provision last year? Why were there no requests for budget details back then?

The minority leader was quoted the other day in Congress Daily saying that he may not vote for the balanced budget amendment because he does not "have sufficient information on it." Again, I was not here, but the minority leader and others apparently had sufficient information when they voted for the balanced budget amendment the last March.

Why did our colleagues vote last year for a balanced budget amendment that did not include a provision to exempt Social Security? Is Social Security somehow more at risk this year than it was last year? Judging from the cards, letters, and phone calls that I get from Michigan's senior citizens, Social Security is politically as strong as ever. I have no doubt that it will compete very well with other programs in the Federal budget.

Mr. President, in truth, the only difference between today and last year is that a new party controls the Congress—and some people do not like it. These amendments are nothing but veiled attempts to torpedo the balanced budget amendment, thereby thwarting the American public's will as demonstrated in the last election.

In my judgment, we need the balanced budget amendment now more than ever. Clearly, the budget deficit is once again spiraling out of control. And President Clinton has apparently decided to raise the white flag on the budget deficit.

His proposed budget for fiscal 1996 barely puts a dent in the out-year budget deficits. In fact, his budget calls for an increase in Federal spending from $1.5 to $1.9 trillion by the turn of the century. It will produce budget deficits of about $200 billion every single year through the year 2000.

Mr. President, according to an article in Saturday's Washington Post, one administration official who participated in drafting the President's budget said that, "It should be a source of shame."

With this budget submission, the President has basically decided to walk away from his campaign pledge to cut the budget deficit in half during his first term—and walk away from the public's overwhelming desire to balance the Federal budget.

In my view, President Clinton's budget should be the poster child for the balanced budget amendment.

Without the constitutional force of a balanced budget amendment, the President is simply not compelled to make some tough choices and submit a balanced budget.

Mr. President, as I mentioned earlier, I think this debate is a showdown between the business-as-usual politics of official Washington and the desire for sweeping change that the people voted for last November. It is that simple.

Those Senators who oppose the amendment want to maintain the status quo of higher deficits, higher spending, and higher taxes. Those Senators who support the amendment want to shake up the system and force Congress to do what every American family must do—live within its means.

EDUCATION INFRASTRUCTURE AND THE RIGHT-TO-KNOW AMENDMENT

Ms. MOSELEY-BRAUN. Mr. President, as a strong supporter of the right-to-know amendment, as well as a strong supporter of the balanced budget constitutional amendment, there is a lot I would like to say on behalf of the principles that underlie both ideas. However, at this time, I would like to say just a few words about the fiscal year 1996 administration budget proposals and their impact on my top legislative priority in the last Congress, the Education Infrastructure Act.

I ran for the Senate in no small part because I believe that the Federal Government has a real responsibility to make primary and secondary education a higher priority. I think it is absolutely clear that a solid primary and secondary education is the foundation on which opportunity is built, and I am convinced that one of the most cost-effective ways the Federal Government can open up opportunities for our children over the long-run is to give primary and secondary education the attention they deserve.

That is why I am so disappointed that the administration is proposing to rescind the $100 million fiscal year 1995 appropriation for the Education Infrastructure Act, which I authored last year, and it is why I am so disappointed that the President is not requesting any money for this very important program in fiscal year 1996.

Last year, Congress passed the Goals 2000: Educate America Act, which President Clinton signed into law on March 31, 1994. I strongly supported this legislation when it was before the Congress. It promises to help create a coherent, national framework for education reform, founded on the national education goals.

Helping to achieve real progress in education is what the Education Infrastructure Act is all about. Last Wednesday, the General Accounting Office released a frightening report on the physical condition of our Nation's public schools. This study concluded that it will take $112 billion to restore school facilities nationwide to a "good" overall condition. The GAO found that public schools need $11 billion just to meet Federal requirements, including $46 billion to make all programs accessible to all students and $5 billion to remove or correct hazardous substances.

The Education Infrastructure Act, which was included in the reauthorization of the Elementary and Secondary Education Act is specifically designed to help school districts that do not have adequate local resources to provide facilities where students can learn. It assists school districts in renovating, altering, and rehabilitating old facilities and in constructing needed new facilities.

It is inherently unfair to expect our children to meet national performance standards if they do not have a real opportunity to learn. The Education Infrastructure Act will help our children learn by helping to restore an environment conducive to learning. In her research at Georgetown University, Maureen Edwards found that students in poor school facilities are likely to fall over 5 percentage points below those in schools that are in fair condition and 11 percentage points below those in schools in excellent condition. These figures are eloquent testimony as to why the Education Infrastructure Act is so needed, and why it is such a cost-effective idea to pursue. And they provide important evidence as to why the decision to zero out the Education Infrastructure Act in the budget was so ill-advised.

But building on the work Congress did last year on the Education Infrastructure Act was not the only opportunity this budget missed. Looking at the budget more broadly, I am very disappointed that it does not continue the work that the administration and Congress began in 1993 to reduce Federal deficits. The current strength of the U.S. economy and the long-term budget trends the United States is facing make this the time to act. In too many areas, however, this budget defers taking actions that are already long overdue.

Most importantly, the budget does not contain proposals to deal with the major entitlement problems the Federal Government is facing. Mandatory spending is becoming an ever-greater portion of the Federal budget, and it is the engine driving the growth of the budget. Mandatory spending will be almost three-quarters of the entire Federal budget by the year 2003, and mandatory spending, together with interest expense, represents 95 percent of the growth of year-to-year Federal spending. The only way to get a real handle on Federal deficits is to take a hard look at mandatory spending. That is what the Bipartisan Commission on Entitlement and Tax Reform, on which I served, was all about. And that is what the Commission found, approving its report on the trends driving the growth of Federal spending by an overwhelming 30 to 1 vote.

However, the truth contained in the Commission's report—that rapidly rising health care costs and the "graying of America" are what are driving Federal deficits—is not reflected in the budget.

Medicare and Medicaid continue to rise at rates above the rate of economic growth or Federal revenues. Health care reform continues to be essential in order to make any lasting progress on health care cost growth. Yet the budget does not face the need for reform in health care.

Social Security needs reform to ensure it will be there for future generations as it has for current and past beneficiaries. This does not mean cutting benefits for any current beneficiary by even a nickel, but it does mean that we need to face the reform issues honestly, and that we owe it to the American people, and particularly to younger Americans who worry that Social Security will not be there for them, to face them now. Yet, this budget does not do so.

Instead, the budget seems to concentrate on the part of the budget—discretionary domestic spending—that CBO says has not grown as a percentage of the economy since 1960, rather than taking on the real area of growth—mandatory spending. And it proposes tax cuts, when the American people know that deficit reduction is the higher priority.

The President does not support the balanced budget constitutional amendment, but the underlying budget trends do not either know or care who is for the balanced budget amendment or against it. The trends simply go on until we develop the political will to act to change them.

We all have an obligation to the American public to tell the truth about the budget, and about the future we face if we do not act. The American people know that something is wrong with the budget; the budget document should be a clear guide to what that something is.

Mr. President, I am confident that the American people will make the right decisions regarding the budget if they have the right information. This budget does not do enough to see that they do. Not facing our budget problems condemns us to a future where we don't have the money to solve either old problems or new ones. It costs us economic growth, savings, and works to undermine the standard of living of most Americans.

Dealing with our budget deficits is not an arcane accounting issue, it is perhaps the most important issue facing America today, and the most important determinant of the kind of future we will see. Balancing the budget is a people issue—an issue for our children and their children. It is disappointing that the budget does not do more to communicate those fundamental truths to the American people. I expected more.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for morning business, not to extend beyond 7 p.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RONALD REAGAN'S BIRTHDAY

Mr. DOLE. Mr. President, 14 years ago, America was flat on her back. Our economy was a disaster, with inflation, interest rates, and unemployment all in or near double digits.

Abroad, respect for American leadership was at an all-time low, as our resolve was questioned by allies and adversaries alike.

Many in this town surveyed the situation, wrung their hands, shook their heads, and pronounced that America was in decline, and that our best days were far behind us.

But Ronald Reagan knew better.

Ronald Reagan knew that power belonged to the people, not with the Federal Government.

Ronald Reagan knew that the best solutions to our problems came not from bureaucracies on the Potomac, but from men and women on the Mississippi, the Colorado, and the Columbia.

Ronald Reagan knew that economic recovery could be achieved not through rules and regulations, but by allowing the magic of the marketplace to work its wonders.

Ronald Reagan knew that America was right far more often than she was wrong.

Ronald Reagan knew that military strength was not the means to war, but the key to peace.

And Ronald Reagan knew that the price of American leadership was a price worth paying.

It was this vision that Ronald Reagan brought to this town in January 1981. And it was this vision that revitalized America, and brought hope and freedom to millions across the world.

And it is that vision that America endorsed last November when they gave Republicans control of Congress.

Today is Ronald Reagan's 84th birthday. And along with those of countless Americans, my thoughts and prayers are with President and Mrs. Reagan today and will remain with them in days to come.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

VERY BEST TO PRESIDENT AND MRS. REAGAN

Mr. HATCH. Mr. President, I would like to echo the distinguished majority leader's sentiments with regard to President Reagan and the dramatic impact he made on this town. Both the majority leader and President Reagan worked very closely together, hand in hand, and did a terrific job for this country.

I really wish the President and Mrs. Reagan my very best. We all love them, appreciate them, and wish them well.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, with the consent of the minority leader, I ask unanimous consent that at 12 noon on Wednesday, February 8, the majority leader, or his designee, be recognized to make a motion to table the Daschle motion to commit.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object. I just want to make sure, is this agreed to by the minority leader?

Mr. HATCH. This is agreed to by the Democratic leader, as I understand it.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. HATCH. Mr. President, further, for the information of my colleagues, in light of the consent just granted, there will be no votes during Tuesday's session of the Senate this week. However, this side of the aisle expects extensive debate on the Daschle motion and the pending Dole amendments thereto throughout Tuesday's session.

EXECUTIVE CALENDAR

Mr. HATCH. Mr. President, as in executive session, I ask unanimous consent that the Senate proceed immediately to the consideration of Executive Calendar Nos. 2 through 7 and all the nominations placed on the Secretary's desk; that the nominations be confirmed, en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table, en bloc; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

IN THE ARMY

The following-named officer to be placed in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Ira C. Owen [redacted] U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Paul E. Menoher, Jr [redacted] U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. John N. Abrams [redacted] U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Guy A.J. LaBoa [redacted], U.S. Army.

IN THE NAVY

The following-named officer for reappointment to the grade of vice admiral while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. William C. Bowe[redacted], U.S. Navy.

IN THE MARINE CORPS

The following-named brigadier generals of the U.S. Marine Corps for promotion to the permanent grade of major general, under the provisions of section 624 of title 10, United States Code:

To be major general

Brig. Gen. Leslie M. Pal[redacted].
Brig. Gen. Michael J. William[redacted].
Brig. Gen. Lawrence H. Livingston[redacted].
Brig. Gen. Martin R. Steel[redacted].
Brig. Gen. Frederick McCorkl[redacted].
Brig. Gen. Michael D. Rya[redacted].
Brig. Gen. Patrick G. Howar[redacted].
Brig. Gen. Wayne E. Rolling[redacted].

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Rex E. Carpenter, and ending Steven D. Damanda, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1996.

Air Force nominations beginning William H. Bobbitt,[redacted] and ending Dante M. Gamboa, [redacted] which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Air Force nominations beginning Maj. Travis D. Balch[redacted] and ending Maj. Deborah C. Messecar[redacted] which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Air Force nominations beginning Maj. David S. Angle,[redacted] and ending Maj. Marvin C. Starlin, Jr[redacted] which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Air Force nominations beginning George M. Abernathy, and ending Alan L. Zohner, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Air Force nominations beginning Milton C. Abbott, and ending Edward M. Zastawny, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Air Force nominations beginning Donald R. Adams, Jr., and ending Robert Zajac, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Air Force nominations beginning Lydia D. David, and ending Alan J. Sutton, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 10, 1995.

Air Force nominations beginning David W. Abba, and ending James D. Zwyer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 10, 1995.

Army nominations beginning Stephen M. Bahr, and ending William L. McMullen, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning John E. Baker, and ending Joseph Russelburg, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nomination of Col. Kip P. Nygren, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning David A. Gutowski, and ending Lew D. Skull, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning Eduardo C. Cuison, and ending Judith M. Allen, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning James E. Akers, and ending Richard G. Hines, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning Charles M. Coleman, and ending Diana L. Culbert, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning Frank D. Chaffee, and ending Ludvig E. Towner, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning Richard E. Cooley II, and ending Ronald F. Zink, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning Michael P. Breithaupt, and ending Marcus G. Coker, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nomination of David E. Bell, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nomination of Leopoldo A. Rivas, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning John C. Aupke, and ending Steven H. Zinser, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nomination of Darryl A. Wilkerson, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning Richard Monnard, and ending Daniel L. Runyon, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning John F. Armstrong, and ending Julie K. Zadinsky, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning Glendon L. Acre, and ending Patric M. Zwolenski, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Army nominations beginning with Ajay Verma, and ending Joseph C. Pierson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 10, 1995.

Army nominations beginning Rose J. Anderson, and ending Randy L. Woolf, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 10, 1995.

Army nominations beginning Michael T. Adams, and ending Ronald N. Wool, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 10, 1995.

Marine Corps nomination of Lt. Col. Thomas E. Sheets, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Marine Corps nominations beginning Karen J. Anthony, and ending Robert J. Wilkinson, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Navy nominations beginning Michael J. Esper, and ending Bruce M. Wenig, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Navy nominations beginning Claudio Biltoc, and ending John E. Gardella, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Navy nominations beginning Joseph A. Surette, and ending Neil E. Gibbs, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

BUDGET OF THE U.S. GOVERNMENT FOR FISCAL YEAR 1996—MESSAGE FROM THE PRESIDENT—PM 10

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; pursuant to the order of January 30, 1975; referred jointly to the Committee on Appropriations and the Committee on the Budget:

To the Congress of the United States:

The 1996 Budget, which I am transmitting to you with this message, builds on the Administration's strong record of economic progress during the past two years and seeks to create a brighter future for all Americans.

When I took office two years ago, the economy was suffering from slow growth, inadequate investment, and very low levels of job creation. We moved quickly and vigorously to address these problems. Working with Congress in 1993, we enacted the largest deficit reduction package in history. We cut Federal spending by $255 billion over five years, cut taxes for 40 million low- and moderate-income Americans, and made 90 percent of small business eligible for tax relief, while increasing income tax rates only on the wealthiest 1.2 percent of Americans. And while we placed a tight "freeze" on overall discretionary spending at 1993 levels, we shifted spending toward investments in human and physical capital that will help secure our future.

As we fought for our budget and economic policies, we moved aggressively to open world markets for American goods and services. We negotiated the North American Free Trade Agreement with Canada and Mexico, concluded negotiations over the Uruguay Round of the General Agreement on Tariffs and

Trade, and worked with Congress to enact implementing legislation for both.

Our economic plan helped bring the deficit down from $290 billion in 1992, to $203 billion in 1994, to a projected $193 billion this year—providing three straight years of deficit reduction for the first time since Harry Truman was President. Measured as a percentage of our economy—that is, Gross Domestic Product [GDP]—our plan will cut the deficit in half.

By reassuring the financial markets that we were serious about getting our fiscal house in order, our plan also lowered interest rates while holding inflation in check. That helped to stimulate private investment and exports, and sparked the creation of 5.6 million new jobs—more than twice the number in the previous four years.

Now that we have brought the deficit down, we have no intention of turning back. My budget keeps us on the course of fiscal discipline by proposing $81 billion in additional deficit reduction through the year 2000. I am proposing to save $23 billion by reinventing three Cabinet departments and two other major agencies, to save $2 billion by ending more than 130 programs altogether, and to provide better service to Americans by consolidating more than 270 other programs. Under my plan, the deficit will continue to fall as a percentage of GDP to 2.1 percent, reaching its lowest level since 1979.

Despite our strong economic record, however, many Americans have not shared in the fruits of recovery. Though these Americans are working harder and harder, their incomes are either stagnant or falling. The problem is particularly acute among those with less education or fewer of the skills needed to compete in an increasingly global economy. To build a more prosperous America, one with rising living standards for all Americans, we must turn our attention to those who have not benefited from the current recovery.

My budget proposes to do that.

PROMOTING A RISING STANDARD OF LIVING FOR ALL AMERICANS

I am proposing a Middle Class Bill of Rights, which will provide tax relief to middle-income Americans. The Middle Class Bill of Rights includes a $500 per child tax credit for middle-income families with children under 13, expands eligibility for Individual Retirement Accounts and allows families to make penalty-free withdrawals for a range of educational, housing, and medical needs; and offers a tax deduction for the costs of college, university, or vocational education. Also as part of my Middle Class Bill of Rights, I am proposing to revamp our confusing array of job training programs by consolidating some 70 of them. In my G.I. Bill for America's Workers, I propose to offer dislocated and low-income workers "Skill grants" through which they can make their own choices about the training they need to find new and better jobs.

The G.I. Bill for America's Workers is the final element of my effort to improve the education and skills of Americans, enabling them to compete in the economy of today and tomorrow. In the last two years, we enacted Goals 2000 to encourage States and localities to reform their education systems; revamped the student loan program to make post-secondary education affordable to more Americans; and pushed successfully for the School-to-Work program that enables young Americans to move more easily from high school to training or more education.

And I am proposing to pay for this Middle Class Bill of Rights with specific spending cuts. In fact, I am proposing enough spending cuts to provide more than twice as much in budget savings—$144 billion—as the tax cuts will cost—$63 billion—over five years.

CREATING OPPORTUNITY AND ENCOURAGING RESPONSIBILITY

By itself, the Federal Government cannot rebuild America's communities. What it can do is give communities some of the tools and resources to address their problems in their own way. My national service program provides incentives for Americans of all ages to volunteer their services in local communities across the country, and earn money for their own education. The budget proposes to invest more in our urban centers as well as in rural areas, and to continue our efforts to build stronger government-to-government relations with American Indian and Alaska Native Tribes. And I will work with Congress to enact comprehensive welfare reform that embodies the principles of work and responsibility for abled-bodied recipients, while protecting their children.

My Administration has worked with State and local law enforcement agencies to help retake the streets from the criminals and drug dealers who, in far too many places, now control them. Congress enacted my crime bill last year, finally answering the cries of Americans after too many years of debate and gridlock. We pushed successfully for the "three strikes and you're out" rule for violent criminals, and we are making significant progress on my promise to put 100,000 more police on the street. Congress also passed the long-overdue Brady Bill, which provides for background checks that will keep guns out of the hands of criminals. In this budget, I am proposing new funds with which States and localities can hire more police, build more space in prisons and boot camps, invest in prevention programs for first-time offenders, and provide drug treatment for many more drug users.

My Administration inherited deep-seated problems with the immigration system, and we have gone a long way toward addressing them. This budget proposes the strongest efforts yet, including funds for over 1,000 new Border Patrol agents, inspectors, and support staff. While working to fulfill the Federal Government's responsibility to secure our borders against illegal immigration, the budget also proposes funds to assist States that are unduly burdened with the health, education, and prison-related costs associated with illegal immigrants.

We must redouble our efforts to protect the environment. My Administration has sought more innovative, effective approaches to do so, and this budget would build upon them. In particular, I am proposing to work more with State and local governments, businesses, and environmental groups on collaborative efforts, while seeking more funds for high-priority programs.

Because investments in science and technology pay off in higher productivity and living standards down the road, I am seeking significant new funding for the Advanced Technology Program at the Commerce Department's National Institute of Standards and Technology, NASA's New Technology Investments, the Defense Department's Technology Reinvestment Project, biomedical research at the National Institutes of Health, and research and development at the National Science Foundation. I am also seeking to strengthen our coordinated efforts through the Administration's National Science and Technology Council and to improve the payment system for federally-sponsored research at colleges and universities.

I remain committed to comprehensive health care reform. The problems that prompted me to send Congress the Health Security Act in November 1993 have not gone away. Health care costs have continued to soar for individuals, businesses, and all levels of government. More Americans are losing their health coverage each year, and many others are staying in jobs only out of fear of losing their own coverage. I am asking Congress to work with me on a bipartisan basis, to take the first steps toward guaranteeing health care coverage to every American while containing costs.

PROJECTING AMERICAN LEADERSHIP AROUND THE WORLD

We have begun the post-Cold War era and welcome one of its most significant fruits—the continuing efforts of Russia and the newly-independent states to move toward democracy and economic freedom. We propose to continue our support for this fundamental change that clearly serves the Nation's long-term interests.

My proposals for international affairs also promote and defend this Nation's vital interests in Central Europe, the

Middle East, and Asia. The budget supports the important role we play in fostering our historic peace process in the Middle East.

With the global economy offering the prospect of new markets for American goods, we are redoubling our efforts to promote an open trading system in Asia, as well as in Latin America and the rest of the globe. I am, for instance, proposing increased funding for our trade promotion agencies, such as the Export-Import Bank, which strengthen our trade position. I am also asking for continued support for the bilateral and multilateral assistance to less-developed nations that can prevent humanitarian crises, as well as support for a strong American response to these crises.

Our military strength works in synergy with our foreign policy. Our forces defend our interests, deterring potential adversaries and reassuring our friends. My Defense Funding Initiative, a $25 billion increase in defense spending over the next six years, marks the third time that I have raised defense spending above my initial funding plan in order to support and maintain the most capable military force in the world. I am determined to ensure a high level of readiness of U.S. military forces, to continue to improve the pay and quality of life for the men and women who serve, and to ensure that our forces are modernized with new systems that will be available near the end of the century.

MAKING GOVERNMENT WORK

None of our efforts can fully succeed unless we make Government work for all Americans. We have made great progress with the National Performance Review (NPR), which I established early in the Administration and which Vice President Gore has so ably run at my direction.

Specifically, departments and agencies across the Government have made substantial progress on each of the NPR's four themes: putting customers first, empowering employees to get results, cutting red tape, and cutting back to basics. The departments and agencies have established customer service standards and streamlined their operations. They also are working with my Office of Management and Budget to focus more on "performance"—what Federal programs actually accomplish. And they are doing all this while we are cutting the Federal workforce by 272,900 positions, bringing it to its smallest size since John Kennedy was President.

We also greatly improved the Federal regulatory system, opening it up more to public scrutiny. We plan to build upon our efforts, to make sure that we are protecting the public while not unduly burdening any one industry or group. We also overhauled the Federal procurement system, cutting mountains of red tape and enabling the Government to buy high-quality goods and services at lower cost.

Despite such progress, however, we are only beginning our efforts. I recently announced a major restructuring of the Departments of Housing and Urban Development, Energy, and Transportation, the General Services Administration, and the Office of Personnel Management. The budget contains details of these restructurings and our related proposals that affect hundreds of other programs.

In the coming months, the Vice President will lead Phase II of our crusade to reinvent Government—an effort to identify other agencies and programs to restructure or terminate, to sort out responsibilities among the Federal, State, and local levels of government, and to choose functions better performed by the private sector.

CONCLUSION

Our agenda is working. By cutting the budget deficit, investing in our people, and opening world markets, we have begun to lay the foundation for a strong economy for years to come. And by reinventing the Federal Government, cutting red tape and layers of management, we have begun to make Government more responsive to the American people.

This budget seeks to build upon those efforts. It seeks to spread the benefits of our economic recovery to more Americans and give them the tools to build a brighter future for themselves. It also seeks to continue our reinvention efforts—to eliminate or restructure agencies and programs, and to better sort out responsibilities among the Federal, State, and local levels of government.

These proposals will help us to create a stronger economy and more effective Government. I will ask for Congress's help in these efforts.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 6, 1995.*

RESCISSION PROPOSALS OF BUDGETARY RESOURCES—MESSAGE FROM THE PRESIDENT—PM 11

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Agriculture, Nutrition, and Forestry; the Committee on Commerce, Science, and Transportation; the Committee on Labor and Human Resources; the Committee on Banking, Housing, and Urban Affairs; the Committee on Environment and Public Works; the Committee on Small Business; the Committee on the Budget; and the Committee on Appropriations:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report 23 rescission proposals of budgetary resources, totaling $1.1 billion. These rescissions, when combined with other discretionary savings proposals contained in the FY 1996 Budget, will reduce FY 1995 budgetary resources by $2.4 billion.

The proposed rescissions affect the Departments of Agriculture, Commerce, Education, Health and Human Services, Housing and Urban Development, Labor, and Transportation; the Environmental Protection Agency; the National Aeronautics and Space Administration; the Small Business Administration; the Chemical Safety and Hazard Investigation Board; and the National Science Foundation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 6, 1995.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–359. A communication from the Chairman of the Board of the Panama Canal Commission, transmitting, pursuant to law, the annual report of the Commission relative to unaudited financial statements for fiscal year 1994; to the Committee on Armed Services.

EC–360. A communication from the Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a fiscal year 1994 report relative to National Historic Landmarks which are damaged; to the Committee on Energy and Natural Resources.

EC–361. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the 1994 report of the Safety Research Program of the Nuclear Regulatory Commission; to the Committee on Environment and Public Works.

EC–362. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the quarterly report relative to trade between the United States and China for the period July-September 1994; to the Committee on Finance.

EC–363. A communication from the Chairman of the Board for International Broadcasting, transmitting, pursuant to law, the annual report on the Board's activities for fiscal year 1994; to the Committee on Foreign Relations.

EC–364. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report relative to foreign military sales customers; to the Committee on Foreign Relations.

EC–365. A communication from the Assistant Secretary of State, Legislative Affairs, transmitting, pursuant to law, the 1994 annual report on U.S. Assistance and Related Programs for the Independent States of the Former Soviet Union; to the Committee on Foreign Relations.

EC–366. A communication from the Chairman of the Farm Credit Administration, transmitting, pursuant to law, the 1994 report of the Administration's compliance with the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC–367. A communication from the Administrator and Chief Executive Officer of the Department of Energy, transmitting, pursuant to law, a 1994 annual report in compliance with the Chief Financial Officers Act with respect to the Federal Columbia River Power System; to the Committee on Governmental Affairs.

EC–368. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to the Competition in Contracting Act for fiscal year 1994; to the Committee on Governmental Affairs.

EC–369. A communication from the Secretary of Labor, transmitting, pursuant to law, notice of the award of a sole-source contract for the Cleveland Job Corps Center; to the Committee on Governmental Affairs.

EC–370. A communication from the Deputy Independent Counsel, transmitting, pursuant to law, a report relative to the Inspector General's Act; to the Committee on Governmental Affairs.

EC–371. A communication from the Director of the Administrative Office of the United States Courts transmitting a draft of proposed legislation to provide for the appointment of additional United States circuit and district judges, and for other purposes; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. AKAKA:

S. 357. A bill to amend the National Parks and Recreation Act of 1978 to establish the Friends of Kaloko-Honokohau, an advisory commission for the Kaloko-Honokohau National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HEFLIN (for himself and Mr. LOTT):

S. 358. A bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance; to the Committee on Finance.

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 359. A bill to provide for the extension of certain hydroelectric projects located in the State of West Virginia; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 357. A bill to amend the National Parks and Recreation Act of 1978 to establish the Friends of Kaloko-Honokohau, an advisory commission for the Kaloko-Honokohau National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

REESTABLISHMENT OF THE FRIENDS OF KALOKO-HONOKOHAU

Mr. AKAKA. Mr. President, I rise today to reintroduce legislation to reestablish the Friends of Kaloko-Honokohau, an advisory Commission for the Kaloko-Honokohau National Historical Park located on the big island of Hawaii. Identical legislation passed both Houses during the 103d Congress, but failed to reach the President's desk before adjournment.

The advisory Commission was originally authorized for a 10-year period under the National Parks and Recreation Act of 1978, the bill which established the Kaloko-Honokohau National Historical Park. Unfortunately, since the National Park Service did not acquire a sufficient land base for park operations until October 1990, the 10-year period expired without the Commission being established.

My bill simply reauthorizes the Friends of Kaloko-Honokohau to complete its original mandate. The Commission will advise the Director of the National Park Service on historical, archaeological, cultural, and interpretive programs for the park. Particular emphasis will be given to the demonstration of traditional native Hawaiian culture.

Mr. President, Congress intended Kaloko-Honokohau Historical Park to be dedicated to the preservation and perpetuation of traditional native Hawaiian culture and activities. The reestablishment of Friends of Kaloko-Honokohau is a necessary step in achieving this goal.

By Mr. HEFLIN (for himself and Mr. LOTT):

S. 358. A bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance; to the Committee on Finance.

TAX TREATMENT OF AIR AMBULANCE FLIGHTS CLARIFICATION ACT

Mr. HEFLIN. Mr. President, today I introduce S. 358, a bill which will clarify the tax treatment of air ambulance flights.

The purpose of an air ambulance is to transport critically ill or injured patients quickly and with the appropriate level of care between hospitals or from roadside accidents to emergency rooms. Nearly 70 percent of all air medical transports originate in rural locations. Since air ambulances are reimbursed for providing their services, though, they are considered charter operators, and therefore, must pay the Federal aviation excise tax.

The need for this legislation is evident when you consider that nearly half of all air medical flights are reimbursed from Government programs such as Medicare, Medicaid, Champus, or State programs. In effect, this means that the tax revenue generated is simply one Government agency paying a tax to another with an air ambulance program acting as tax collector. Commercial airlines can pass this tax on to its paying customers, but for transportation on an air ambulance, this tax is passed on to the payor even if that payor is another Government program such as Medicare.

Furthermore, even though the total portion of tax revenue generated by air ambulances is small compared to airlines, approximately 45,000 covered air medical transports compared to 500 million commercial and charter passengers, the financial and administrative burden on air ambulance administrators is significant.

I do not believe that it was the intention of Congress, when this tax was drafted, for critically ill or injured patients, or those paying their health costs, to support the aviation trust fund. My bill will correct this obvious oversight by reducing the administrative burden on air medical programs. Its impact on Federal revenues is only slight. Its impact on access to rural health care however is significant. Therefore I urge my colleagues to support this legislation.

Mr. LOTT. Mr. President, I am pleased to join as a cosponsor of Senator HEFLIN's legislation that would clarify the tax treatment of air ambulances transporting the critically ill and injured.

The role of air medical services continues to grow as the number of rural and community hospitals continue to close. Air ambulances provide the vital service of transporting patients needing a higher level of trauma or emergency care to the appropriate medical facility. This is particularly important in rural areas where the availability of appropriate medical care is always a concern.

Air ambulances transport approximately 45,000 patients annually that must pay the Federal aviation excise tax. Nearly half of these patients are covered by Federal or State health care plans, such as Medicare. Therefore, approximately 50 percent of the time, this tax results in one Government program paying a tax to another.

Not only do I support the role of air medical services in my State, but I also question the logic of the Federal Government paying a tax to itself. Preliminary estimates indicate that the cost to the aviation trust fund would be approximately $10 million, with nearly half that amount coming from other government health care programs.

I urge my colleagues to support this bipartisan legislation. It makes no sense to charge an excise tax on those that are critically ill or injured.

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 359. A bill to provide for the extension of certain hydroelectric projects located in the State of West Virginia; to the Committee on Energy and Natural Resources.

NEW MARTINSVILLE FERC LICENSE EXTENSION

Mr. BYRD. Mr. President, I introduce, on behalf of Senator ROCKEFELLER and myself, a bill to grant the city of New Martinsville, WV, a 4-year extension to its Federal Energy Regulatory Commission [FERC] licenses to begin construction of two hydroelectric power projects at New Cumberland and Willow Island on the Ohio River. These projects are to be financed by the city of New Martinsville through the sale of municipal bonds. This extension is necessary because the city has already invested over $4 million in these projects. The hydroelectric projects take advantage of existing Army Corps navigation dams on the Ohio River in order to generate power, and also will include the development of recreational facilities. Without any contribution from the Federal Government, the city of New Martinsville will finance projects that will include fishing piers, underwater reefs, walkways, picnic facilities, and parking areas.

The city anticipates that the two projects would employ 500 workers during the peak of construction, with a $1.5 million monthly payroll. The total construction payroll for both projects is expected to be $25 million. The New Martinsville hydropower projects will also pay substantial taxes and other payments to various governmental entities during construction and operation. The Federal Government will benefit from these projects, since it will receive annual payments of $800,000 from the hydroelectric projects, even though the projects will be financed by the city of New Martinsville. The license extensions made possible by this bill will bring significant economic development to the northern Panhandle region of West Virginia.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. DASCHLE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 7, a bill to provide for health care reform through health insurance market reform and assistance for small business and families, and for other purposes.

S. 8

At the request of Mr. DASCHLE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 8, a bill to amend title IV of the Social Security Act to reduce teenage pregnancy, to encourage parental responsibility, and for other purposes.

S. 12

At the request of Mr. ROTH, the names of the Senator from Wyoming [Mr. THOMAS], the Senator from Alabama [Mr. SHELBY], the Senator from Nevada [Mr. BRYAN], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 227

At the request of Mr. HATCH, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 227, a bill to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions, and for other purposes.

SENATE JOINT RESOLUTION 16

At the request of Mr. BROWN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of Senate Joint Resolution 16, a joint resolution proposing an amendment to the Constitution of the United States to grant the President line-item veto authority.

SENATE JOINT RESOLUTION 19

At the request of Mr. BROWN, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of Senate Joint Resolution 19, a joint resolution proposing an amendment to the Constitution of the United States relative to limiting congressional terms.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the nomination of Wilma Lewis to be Inspector General of the Department of the Interior.

The hearing will take place Monday, February 13, 1995, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Camille Heninger at (202) 224–5070.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the President's 1996 proposed budget.

The committee will hear testimony from the Department of the Interior on Thursday, February 16, 1995.

The hearing will begin at 9:30 a.m., and will take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Betty Nevitt or Jim Beirne at (202) 224–0765.

ORDERS FOR TOMORROW

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. on Tuesday, February 7, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day.

I further ask unanimous consent that at 10 a.m., the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment; and further, that the Senate stand in recess between the hours of 12:30 p.m. to 2:15 p.m. for the weekly party luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, and no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:45 p.m., recessed until Tuesday, February 7, 1995, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 6, 1955:

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be lieutenant general

IRA C. OWENS [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601.

To be lieutenant general

PAUL E. MENOHER, JR. [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A).

To be lieutenant general

JOHN N. ABRAMS [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A).

To be lieutenant general

GUY A. J. LABOA [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601.

To be vice admiral

WILLIAM C. BOWES [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED BRIGADIER GENERALS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE.

To be major general

LESLIE M. PALM [redacted]
MICHAEL J. WILLIAMS [redacted]
LAWRENCE H. LIVINGSTON [redacted]
MARTIN R. STEELE [redacted]
FREDERICK MC CORKLE [redacted]
MICHAEL D. RYAN [redacted]
PATRICK G. HOWARD [redacted]
WAYNE E. ROLLINGS [redacted]

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING REX E. CARPENTER, AND ENDING STEVEN D. DAMANDA, WHICH

NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

AIR FORCE NOMINATIONS BEGINNING WILLIAM H. BOBBITT, [redacted] AND ENDING DANTE M. GAMBOA, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

AIR FORCE NOMINATIONS BEGINNING MAJ. TRAVIS D. BALCH, [redacted] AND ENDING MAJ. DEBORAH C. MESSECAR, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

AIR FORCE NOMINATIONS BEGINNING MAJ. DAVID S. ANGLE, [redacted] AND ENDING MAJ. MARVIN C. STARLIN, JR, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

AIR FORCE NOMINATIONS BEGINNING GEORGE M. ABERNATHY, AND ENDING ALAN L. ZOHNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

AIR FORCE NOMINATIONS BEGINNING MILTON C. ABBOTT, AND ENDING EDWARD M. ZASTAWNY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

AIR FORCE NOMINATIONS BEGINNING DONALD R. ADAMS, JR., AND ENDING ROBERT ZAJAC, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

AIR FORCE NOMINATIONS BEGINNING LYDIA D. DAVID, AND ENDING ALAN J. SUTTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 10, 1995.

AIR FORCE NOMINATIONS BEGINNING DAVID W. ABBA, AND ENDING JAMES D. ZWYER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 10, 1995.

IN THE ARMY

ARMY NOMINATIONS BEGINNING STEPHEN M. BAHR, AND ENDING WILLIAM L. MC MULLEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING JOHN E. BAKER, AND ENDING JOSEPH RUSSELBURG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATION OF KIP P. NYGREN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING DAVID A. GUTOWSKI, AND ENDING LEWIS D. SKULL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING EDUARDO C. CUISON, AND ENDING JUDITH M. ALLEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING JAMES E. AKERS, AND ENDING RICHARD G. HINES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING CHARLES M. COLEMAN, AND ENDING DIANA L. CULBERT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING FRANK D. CHAFFEE, AND ENDING LUDVIG E. TOWNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING RICHARD E. COOLEY II, AND ENDING RONALD F. ZINK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING MICHAEL P. BREITHAUPT, AND ENDING MARCUS G. COKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATION OF DAVID E. BELL, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATION OF LEOPOLDO A. RIVAS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING JOHN C. AUPKE, AND ENDING STEVEN H. ZINSER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATION OF DARRYL A. WILKERSON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING RICHARD MONNARD, AND ENDING DANIEL L. RUNYON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING JOHN F. ARMSTRONG, AND ENDING JULIE K. ZADINSKY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING GLENDON L. ACRE, AND ENDING PATRIC M. ZWOLENSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

ARMY NOMINATIONS BEGINNING AJAY VERMA, AND ENDING JOSEPH C. PIERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 10, 1995.

ARMY NOMINATIONS BEGINNING ROSE J. ANDERSON, AND ENDING RANDY L. * WOOLF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 10, 1995.

ARMY NOMINATIONS BEGINNING MICHAEL T. ADAMS, AND ENDING RONALD N. WOOL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 10, 1995.

IN THE NAVY

NAVY NOMINATIONS BEGINNING MICHAEL J. ESPER, AND ENDING BRUCE M. WENIG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

NAVY NOMINATIONS BEGINNING CLAUDIO BILTOC, AND ENDING JOHN E. GARDELLA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 6, 1995.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF LT. COL. THOMAS E. SHEETS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

MARINE CORPS NOMINATIONS BEGINNING KAREN J. ANTHONY, AND ENDING ROBERT J. WILKINSON, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

NAVY NOMINATIONS BEGINNING JOSEPH A. SURETTE, AND ENDING NEIL E. GIBBS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

HOUSE OF REPRESENTATIVES—*Monday, February 6, 1995*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. NUSSLE].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 6, 1995.

I hereby designate the Honorable JIM NUSSLE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

LINE-ITEM VETO

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana [Mr. HOSTETTLER] for 2 minutes.

Mr. HOSTETTLER. Mr. Speaker, I come to the floor today for a number of reasons. It is my hope and expectation that later this evening, this Chamber will pass H.R. 2 and give the President a much overdue line-item veto. I commend my colleagues for this effort and look forward to casting my vote in support of this very useful tool as it will be a good first step in eliminating unnecessary Federal spending and put a bit of balance into the Federal budget process. However, I think the words that I should most emphasize here would be "first step." Giving the President the power and authority to rescind spending that is viewed as wasteful or excessive is only the first step in the long and arduous journey toward fiscal responsibility. However, given the fact that President Clinton's budget, which was just released today, contains an annual budget deficit of over $190 billion for the next 5 years, Congress is obviously going to have to take the lead in instilling some kind of fiscal control in the Federal budget process.

Line-item veto or no-line-item veto, from the looks of the red ink in this President's budget, it is readily apparent that if anything is going to be done about this country's fiscal crisis, it is going to be done by us. And at the risk of sounding cynical or pessimistic, we have not even begun to make the difficult decisions that we will undoubtedly have to make to put the Federal budget process and Federal spending back on the path toward fiscal health. It is because I am ready, even anxious, to make these decisions that I decided to run for Congress last year at this time. I looked around me, at what was happening to the priorities our Federal Government had established when doling out Federal tax dollars, my tax dollars, and I became concerned, actually frightened, and I thought about the future of my children. I began to seriously worry about the burden that trillions of dollars in debt will place on my children and on the children of all Americans. Each year, lawmakers seem to ignore what is fiscally sound economic advice from their constituents and endlessly deficit spend the hard working citizens' tax dollars. And every year that this happens, the financial security of our children, and our children's children is jeopardized. I am no longer willing to take this kind of chance with the future of our country. Today we celebrate the birthday of former President Ronald Reagan, a man whose commitment to fiscal responsibility was acknowledged and respected far and wide. Today I celebrate the birthday of another gentleman who taught me about fiscal accountability. My father turns 72 today, and it is from him that I learned about the duty, responsibility, and obligation for family that I try to incorporate into my life every day. It is because of this overwhelming sense of commitment to my family that I stand before you today. As we undertake this enormous task in front of us, I urge us not to lose sight of the fact that it will be our children that will actually suffer from our lack of dedication to true fiscal responsibility.

WELFARE REFORM AND INCREASING THE MINIMUM WAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, as the prior gentleman in the well was talking about, this is a week where we are really going to be focusing on the budget. But I think there is an awful lot of other issues as we all sit down as Americans around the budget table and try and figure out how we get our budget under control.

The first thing that strikes me is that tomorrow night, February 7, there is going to be a dinner in this town, and they are going to charge $50,000 a plate for the Speaker. That is an awful lot of money.

While that dinner is going on, many of us are trying to increase the minimum wage. But let us think about how many minimum wage people are going to be at that dinner. I do not think there is going to be any there eating the dinner. There may be some serving the dinner because a minimum wage employee, if they work full time an 8-hour day throughout the year would make $10,500. And that would not get them even to the hors d'oeuvre course if they took their whole year's salary and put it there.

A $50,000-a-plate dinner and the minimum wage and the Federal budget, how do we bring all of that together, because the issue in the budget is what we spend our money on, and who we think has the greatest claim to getting Federal attention.

My guess is most of the people who buy those dinners have something they want. It just does not pass the straight face test to say, oh no, they paid $50,000 for dinner because they believe in good government or they wanted a decent meal. No, no, I think they want something. And I think we know what they want. They probably want some little tax benefit.

One of the things that we have done over and over again is we talk about spending programs, but we never talk about the fact that special tax benefits to individuals are also spending much, because we are taking money away that would be coming in.

We had last week on this floor a very important amendment pointing to that when we talked about the line-item veto. We said not only should the President be able to line item veto spending that looked like pork, but the President should be able to line item veto any special tax privileges.

Guess what? That lost. So I guess the dinner is going on because people still figure that is a possibility if they go to their dinner.

But I think when we look at America and when we look at our long historic tradition we have felt that there

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

should be room in the budget for those who need the most help. That is how families do it. When American families sit around the table and they are in tough times they do not cut the kids out first, for heaven's sake, they do not say we will drop education first because they happen to think that is an investment. They tend to look at the parts of the budget that really are going to those who are best off in the family. And yet, somehow, because of how we collect revenues to run for office and everything else, we tend to distort our budget priorities.

Think how many people who get the minimum wage can make much of a campaign contribution. If you make $10,500 a year, what kind of campaign contribution do you think you could make? How many fancy dinners do you think you can go to? What kind of clout do you think you are going to have in Washington trying to bring your case to the table? Does your case have to be traded off with balancing it for those who are the most well off?

We now understand there is a new deal on the table, and that is maybe people will go along with the minimum wage increase if we can have a capital gains cut. I am not sure we are ever going to get to balancing the budget if we continue to do that, saying we just absolutely cannot do anything for those who are struggling along on the lowest rung unless we continue to do things for those who are on the upper rungs because otherwise I do not know what rich people will do. Maybe they will just get mad and not give money to campaigns anymore. Would that not be a terrible thing?

So, I think as we look at all of these issues that are floating around out there, I hope everybody listens to several very key things. No. 1, we have to stop kidding people we are going solve the deficit by finding some waste, fraud, and abuse. Anywhere we find waste, fraud, and abuse, sure, cut it, just cut out the tea tasters and those things, but we know that is not going to balance the budget. We have to do some other thing too and let us think about our very core priorities as we get to that.

SUPPORT FOR THE LINE-ITEM VETO

The **SPEAKER** pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Georgia [Mr. NORWOOD] is recognized during morning business for 5 minutes.

Mr. **NORWOOD**. Mr. Speaker, I rise today in support of the line-item veto. This is an action we need to take to save this country from our runaway debt. It is an action we must take to end the irresponsible practices by this body. It is an action that is completely consistent with the wishes of our Founders.

Mr. Speaker, we are making significant changes in the way the Federal Government operates. I have listened to the arguments made by the other side against these changes, and I am struck by how little regard is shown for our Federal debt. Perhaps we do not understand the amount our debt costs us? Perhaps we think that these programs we are so afraid of cutting will survive even if we bankrupt the Nation. We owe $4.8 trillion. I hear the other side talk about us hurting programs that benefit young people. They do not seem to understand that we are trying to save the future for young people all over America. We have no right to fund any program, no matter how well intentioned, at the expense of the children of the next generation.

I ran for this office because I have two little grandchildren. I saw the ever-rising debt and the dreadful impact it will have on their future. I am here to do something about the debt and free that burden from their future and from the future of young people throughout my district and throughout America. I support the line-item veto because the students in Sallie Bullock's calculus class at Madison County High in Danielsville, GA already owe $310,760. I support it because Mary Mills fifth grade class at Oconee County Intermediate School in Watkinsville, GA already owes $365,600. I support it because Martha Scroggs' kindergarten class at Episcopal Day School in Augusta already owes $457,000. Mr. Speaker, the line-item veto is an important step for the future of these young people.

I have listened to the constitutional arguments against the line-item veto. To those people, I would share the words of Alexander Hamilton in Federalist No. 73. In response to those who stated that the veto would give the President too much power, Hamilton argued that the veto power was important because it limited the power of Congress.

> The propriety of the thing does not turn upon the supposition of superior wisdom or virtue in the executive; but on the supposition that the legislative will not be infallible; That the love of power may sometimes betray it into a disposition to encroach upon the rights of the other members of the government; that a spirit of faction may sometimes pervert its deliberations; that the impressions of the moments may sometimes hurry it into measures which itself on maturer reflection condemn.

Mr. Speaker, if Alexander Hamilton only knew what we have come to in this body. When $20 million for a fingerprint facility in West Virginia is inserted into an emergency assistance bill for Los Angeles earthquake victims, we prove that Hamilton was right. When $11½ million are spent on powerplant modernization in a shipyard about to be closed, we prove that we need to give the President the line-item veto. If Hamilton could see what we do here today, he would certainly support it as well.

One other argument that we hear is that it will be used by the President as a political weapon. Mr. Speaker, 43 Governors have the line-item veto. If it was being used as this evil political weapon as our opponents would suggest that it is, you would certainly think that far fewer States would have them. If it were being used irresponsibly by those who have it, it would be taken away. I believe that our opponents greatly overstate the danger of the use of the line-item veto. The veto power possessed by the President today is a far more powerful tool, but it has been used wisely. We have no reason to expect otherwise with the line-item veto.

Mr. Speaker, we are making significant changes in the way business is conducted by the Federal Government. The line-item veto is one more way for us to show the American people that we are making their Government more responsible.

INCREASING THE MINIMUM WAGE

The **SPEAKER** pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. **MILLER** of California. Mr. Speaker, later in this session we will be discussing efforts at reforming the welfare system in this country, and it is clearly the goal of both the Republicans and the Democrats to make sure that people move from welfare into the American economic system and that those individuals move into that economic system in the hopes of achieving economic self-sufficiency. It is clearly what the President has announced as he has discussed welfare reform and as he has discussed the minimum wage.

The minimum wage becomes key to that effort of moving people from welfare, from public assistance, from dependency, to economic self-sufficiency. We must make it clear that in this country those individuals that choose to go to work, those individuals that later we will seek to require to go to work, that they are making a logical economic choice for them and for their families.

The key to doing that is making sure that the minimum wage will boost people above the poverty level in this country; that when they make a decision to get up every morning and go to work and go to work all day long, that in fact when they come home to their families and their children, they will know they succeeded in lifting their family out of poverty. If we do not do that it is very difficult to rationalize to those individuals why in fact they should go to work.

The $4.25 minimum wage that we have today does not do that for individuals, and it clearly does not do that for individuals who are working on behalf of themselves and their families.

What we see today is more children under the age of 6 are living in poverty than at any time in recent history, and 58 percent of those children are living in families where individuals go to work every day. They go to work on a part-time or full-time basis but they do not receive, they do not receive wages sufficient to keep their family above the poverty line.

We have got to make sure that that no longer is true. And that is why the increase in the minimum wage is so terribly important. Clearly, work must pay, and that is the signal that we must send in this country; that you go to work, it is worth your while to go to work to do that job and to provide for your family. That simply is not true.

The increase in the minimum wage that the President has asked us to support, 45 cents this year and 45 cents next year, will raise an individual above the poverty line. It unfortunately still does not address an individual that is working on behalf of a spouse and/or children in that family. But we have got to make that effort. This is the minimum that we can do on the minimum wage.

Historically, the increase in the minimum wage has had very, very substantial bipartisan support. When we addressed this exact same increase, 45 cents one year and 45 cents the next year, when it was presented to us by President Bush it was passed overwhelmingly on a partisan basis; 383 Members in this House voted for it, 135 Democrats voted for it, crystallizing again that President Bush had the same goal that President Clinton did, and that is to make work pay, to get people to go to work and to be able to provide for their families.

I think it is unfortunate that we now see the Republican majority leader say to this country that he will oppose the minimum wage with every fiber in his body, that he will deny these individuals who are seeking to provide for their family the ability to go to work and come home above the poverty line.

I think it is unfortunate when we see the people of this House suggest that we cannot raise the minimum wage because we have to compete with wages in Mexico. I think we should have told the people of this country that that was the conditions on the passing of NAFTA, and that now Americans' wages are going to be tied to the wages of Mexico.

Is that the message we have for people that go to work in this country every day, that you can live at the standard of living provided people in Mexico? That simply cannot be.

□ 1250

That simply cannot be. That cannot be the underpinnings of the American system of economics. It cannot be the underpinning of the free enterprise system, and it cannot be the underpinning for support for families in this country.

We have got to understand that Americans who go to work are entitled to participate in the American standard of living on behalf of themselves and for their families.

I am delighted to see that apparently the support for the minimum wage is not complete across the Republican spectrum, because this weekend we found out Senator DOLE is not opposed to it. The question is only what we will have to pay to achieve the minimum wage, and the indications are that if you cut the capital gains tax, where 75 percent of the benefit goes to 10 percent of the population, then and only then are the Republicans prepared to try to help the millions of American families who go to work every day yet remain in poverty.

BAILOUT OF MEXICO

The SPEAKER pro tempore (Mr. NUSSLE). Under the Speaker's announced policy of January 4, 1995, the gentleman from Kentucky [Mr. BUNNING] is recognizd during morning business for 5 minutes.

Mr. BUNNING. Mr. Speaker, article I of the U.S. Constitution vests the power of the purse in the Congress. Unfortunately, the President of the United States has taken it upon himself to do an end run around the Constitution, the Congress, and the American people to bail out Mexico.

Mr. Clinton has pushed the barriers past the breaking point. He is basing his power grab on a twisted reading of his authority under the Gold Reserve Act of 1934. That is the law which established the Exchange Stabilization Fund that Mr. Clinton has raided to save Mexico.

The Exchange Stabilization Fund was not meant for the kind of shenanigans that Mr. Clinton is trying to pull. It was designed to ensure that we would have an orderly and stable system of exchange rates.

In other words, the Gold Reserve Act gives the President authority to stabilize the U.S. dollar and protect its value. It does not give the President the authority to prop up the currency of Mexico.

It seems that Mr. Clinton needs to take a refresher course in constitutional law. Only Congress has the authority to appropriate money.

Apparently, the chairman of the Federal Reserve, Alan Greenspan, doesn't think too much of Mr. Clinton's bailout scheme either.

The Washington Times reported on February 1 that the Exchange Stabilization Fund, the IMF and the BIS do not have the resources to deal with Mexico's problems. He went on to say that the bailout should be addressed by the political leaders of the country because of its broad implications.

Mr. Greenspan is not alone in thinking that this financing scheme is a multibillion-dollar disaster waiting to happen.

The Heritage Foundation had warned that this bailout was a bad deal as early as January 25. A study by Heritage warned,

> The proposed loan guarantees may bail out Mexico this year, but they will not prevent another crisis unless the Mexican Government corrects the fundamental structural problems that caused the peso's collapse.

Our financial partners in Europe seem to understand the problem. When it came to a vote at the International Monetary Fund, Germany, Britain, Denmark, the Netherlands, Belgium, and Switzerland all abstained from voting rather than support Mr. Clinton's plan.

I applaud my colleague, Mr. TAYLOR of Mississippi, for pushing the envelope on this issue by introducing a privileged resolution that will put the House on record as to where we stand on this bailout.

His resolution will put us on track to determine whether the President has acted outside the scope of his authority.

We have all sworn to defend the Constitution of the United States. If the President is wrongly seizing power from the legislative branch, it is our duty to stop him.

Mr. TAYLOR's privileged resolution is just the thing to start the inquiry into what I believe may be the power grab of our time. Congress, not the President or the Courts, is charged with the power to spend the money.

We cannot sit on our hands and watch the President shred the Constitution and ignore the will of the Representatives of the American people. We must let everyone know that this body looks out for the interests of the American people, not the Government of Mexico.

CALCULATION OF CONSUMER PRICE INDEX SHOULD BE OUTSIDE POLITICS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Oregon [Mr. WYDEN] is recognized during morning business for 5 minutes.

Mr. WYDEN. Mr. Speaker and colleagues, I am a Member of the House who has felt that the calculation of the Consumer Price Index for our country should be a concern that was outside politics, one that was going to be nonpartisan. Making sure that the Consumer Price Index is calculated accurately is of enormous importance to, for example, low-income senior citizens who depend on their Social Security to pay for their necessities, but it is also important to millions of middle-income taxpayers, because our brackets are now indexed for inflation, and the tax brackets and the personal exemption, the standard deduction. A number of these concerns for middle-income people are affected by the Consumer Price Index.

But recently it seems to me politics has been introduced to these discussions, because the Speaker has said that unless the Consumer Price Index is changed within the next 30 days, the agency that calculates it, the Bureau of Labor Statistics, would be zeroed out.

I think this is very unfortunate. We understand why someone might want to do this, because if you lower the Consumer Price Index, you can have a no-fingerprints way to cut the deficit by about $150 billion, if you cut the Consumer Price Index by just 1 percentage point. But what you will do in the process is hurt those low-income seniors and, ironically, there are some new studies by the Bureau of Labor Statistics that show because of the high medical expenses of seniors their Consumer Price Index may be understated rather than overstated. So you will hurt those seniors.

But you will also hurt the middle-income taxpayers who will find they will be paying more in taxes as a result of these changes.

Now, I am one of the Democrats who voted on the first day of the session to make it tough to raise income taxes, because I thought it was important to protect small businesses and seniors and others. So last Friday, with the minority leader, the gentleman from Missouri [Mr. GEPHARDT], and a number of our colleagues, I introduced a piece of legislation stipulating that to cut the Consumer Price Index in this Congress and raise the taxes on middle-income people and hurt low-income senior citizens you would have to comply with rule XXI that was passed the first day saying that a tax increase has got to be approved by a three-fifths majority. I am very hopeful that this bill will not be necessary.

I want that Consumer Price Index calculated on nonpartisan bases by professional economists, but if there is going to be an effort to politicize the Consumer Price Index, it will come out on the floor of the House of Representatives and cutting it and hurting the senior citizens and the middle-income taxpayers, for those who want to do it, they will have to comply with the rule making it tougher to raise income taxes.

SUPERFUND LIABILITY MORATORIUM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Florida [Mr. CANADY] is recognized during morning business for 5 minutes.

Mr. CANADY of Florida. Mr. Speaker, I rise today to offer an avenue of relief to small businesses and individuals throughout the country who have done nothing wrong, but are nonetheless being held liable for the expensive task of Superfund site clean up.

As you know, Mr. Speaker, Congress passed the Superfund law in 1980 to clean up the country's most polluted waste sites. The merits of the Superfund effort are without question. Superfund sites are environmental disaster areas which have a clear potential for impact on public health and safety. Superfund sites must be cleaned up.

But while the Superfund law may have a noble purpose, the details are a nightmare. The framers of Superfund, adhering to the concept of "polluter pays," created a scheme of joint and several and retroactive liability. This wrongheaded provision has forced many individuals and small businesses to pay a portion of the clean up costs although they are not in fact responsible for the pollution.

Mr. Speaker, this structure has resulted in a notorious tangle of litigation and enforcement, and it has wreaked havoc on the lives of innocent citizens while accomplishing very little in the way of actual clean up.

These innocent individuals had no knowledge of the release of hazardous substances into the environment. They were simply trying to do the right thing by contracting with a third party for proper disposal. Now they are liable, under Superfund, for the cleanup of environmental disasters they did not create.

Such liability without culpability is patently unfair. It runs contrary to common sense and the fundamental requirements of justice. Further, it can be financially devastating to innocent individuals who are caught in the Superfund trap.

There is general agreement, in this body and elsewhere, that the Superfund liability structure must be changed. I am aware that the appropriate committees and subcommittees in both Houses of Congress are working on a comprehensive reform effort. I support this effort.

However, as Congress debates the shape and scope of reform, individuals in my district and elsewhere continue to be pursued and persecuted for something they did not do. This is not right, Mr. Speaker. We must stop this injustice and prevent this law from further disrupting the lives of innocent individuals.

It is for this reason that I introduced H.R. 795 last week to provide relief for innocent parties while we proceed with comprehensive reform of the law. My bill instructs the Administrator of the Environmental Protection Agency [EPA] to cease all agency actions against the nonpolluters. It also places a moratorium on the authority for contribution actions under the statute.

It is important, Mr. Speaker, to explain what my bill does not do. It does not abolish the Superfund Program, it does not repeal Superfund funding authority and it does not stop the clean up of Superfund sites. It allows the EPA to continue its enforcement actions against the true polluters—the culpable owners and operators of the contaminated sites and all others who had prior knowledge of illegal or environmentally harmful disposal activities.

H.R. 795 simply suspends the practice of financing Superfund clean ups on the backs of innocent people who had no knowledge of wrongdoing and no intent to harm the environment.

This legislation is needed to provide relief to the innocent individuals caught in the Superfund liability trap. The Superfund nightmare has gone on far too long. We should stop the injustice without further delay. I encourage my colleagues to join me in this effort.

THE LINE-ITEM VETO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 5, 1995, the gentleman from Oregon [Mr. DEFAZIO], is recognized during morning business for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, today we have before the House the issue of the line-time veto, or did we really have a viable form of the line-item veto pending before this House? This could be a useful tool in the armamentarium of a President who is truly concerned about reducing the budget, a President who just does not want to use it in a political or punitive manner to go after a few programs, that he or she in the future could not convince the Congress to otherwise not fund.

But the question is, is this a viable form, or is it a grandly symbolic gesture, a gesture intended for the 84th birthday of ex-President Ronald Reagan? We have heard that a lot from the other side.

Well, let us just recount a few of the Reagan years so we can get this in perspective. Remember, President Reagan promised the people of the United States of America that he would balance the budget by 1984. Instead, his administration worked hand in glove with Congress to pile up the greatest amount of debt ever seen for this Nation. It took us 200 years to amass the first $900 billion of debt, but in a mere 8 years, President Reagan's administration more than tripled the national debt to over $3 trillion. Yes, they talked a great game about reducing the deficit and balancing the budget, but they never ever submitted a balanced budget. They never ever even submitted a budget within $100 billion of balance.

And then finally in the twilight years, in the last year of the Reagan administration, Budget Director Miller submitted a list of what he said Ronald Reagan would have used the line-item veto on if only he had that power.

The deficit in 1988 was $150 billion. After tremendous efforts downtown at the White House, President Reagan and Mr. Miller came up with a list of $1 billion in cuts that they would have made had they had the line-item veto. So instead of $150 billion deficit, it would have been $149 billion, and, of course, not a penny would have come from the Pentagon, the largest single source of general fund spending.

Last year we passed a constitutional version of a line-item veto called an enhanced rescission. This year we have before us an empty gesture. Clearly, the bill that will be voted on finally today, the Stenholm amendment, the bill we passed last year having been defeated in a vote last Friday on the floor of this House, is unconstitutional, and will be thrown out by the courts.

So if what we want is a grandly symbolic empty gesture, then vote "yes" on final passage today.

Happy birthday, of course, to the ex-President.

His legacy of a $3 trillion will stand as a monument for generations of Americans to come. I would hope this House would begin to take real steps toward cutting the Federal deficit and the Federal debt and no more gestures. Do not vote today for this empty gesture.

THE PRESIDENT'S PROPOSED BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. BAKER] is recognized during morning business for 1½ minutes.

Mr. BAKER of California. Mr. Speaker, in response, today President Clinton just introduced his budget, and if you heard, the previous speaker said the last 2 years of Ronald Reagan was $150 billion in deficit and $155. In today's budget introduced by President Clinton the deficit is $210 billion.

The first 4 years of the Clinton administration will show a deficit of over $1 trillion. This budget is not balanced.

But it is not the President's fault. It was not the President's fault for the last 26 years. Pick your favorite, was it Carter, was it Reagan, was it Ford, was it Clinton? Who is your favorite for unbalancing the budget? And the answer is this Congress. This Congress has had its foot on the accelerator for 26 years.

Never once has this Congress balanced the budget in 26 years. Never once has this Congress balanced the budget in 26 years.

Well, today is President Ronald Reagan's 84th birthday, and today we are going to give President Reagan and President Clinton a little present, and that is the line-item veto, because we need new tools. We have shown we cannot balance the budget ourselves.

Last week this Republican Congress passed the balanced budget amendment. This week we are going to give the President, whomever the President is, the tool to help us balance the budget with the line-item veto.

Let us remember it is not the President, it is the Congress. And we are going to allow the Executive and Congress to sit down together to continue to work toward a balanced budget in 2002 so that our grandchildren will not have to pay for the Government we use and are afraid to pay for.

FISCAL RESPONSIBILITY AND THE LINE-ITEM VETO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Michigan [Mr. KNOLLENBERG] is recognized during morning business for 1½ minutes.

Mr. KNOLLENBERG. Mr. Speaker, today I rise in strong support of the line-item veto which will effectively give the President the ability to strike out pork-barrel projects from otherwise good legislation.

The line-item veto will end the "Christmas Tree" practice of tacking on pet projects to wholly unrelated legislation—burying the details away from the public's eye.

Last year and in 1993 we saw this practice expand to an unprecedented level. The most flagrant abuse was after the city of Los Angeles was devastated by the earthquake. Congress eventually passed the emergency supplemental earthquake assistance bill, but not before slipping in $10 million for a train station in New York, $1.3 million for Hawaiian sugar cane mills, and $20 million to add employees to the FBI in West Virginia.

This list of abuses goes on and on and the taxpayers are stuck with the bill and asked to pay more of their fair share. I don't think they would think that their share should include $1.1 million for a national pig research facility in Iowa or $35 million to eradicate screw worms in Mexico.

Mr. Speaker, tacking on these types of pet projects has become a runaway train and the American taxpayers are getting taken for a ride toward economic disaster. Let us keep the train on the tracks.

I urge all of my colleagues, on both sides of the aisle, to support this critical piece of legislation.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 9 minutes p.m.) the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. LINDER] at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Open our eyes, O gracious God, so that we may see the magnificence of Your creation; open our minds to the promises of Your true and lively word; open our ears to hear the words of others and to listen to their thoughts and experiences; open our intellect so we can understand the mysteries of knowledge and the fruits of wisdom, and open our hearts so we can love and forgive, so we can hope and have faith, so we can be thankful for all Your good gifts of life and the blessings of each new day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House it's approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Alabama [Mr. EVERETT] will please come forward and lead the House in the Pledge of Allegiance.

Mr. EVERETT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PERMISSION FOR SUNDRY COMMITTEES AND SUBCOMMITTEES TO MEET TODAY DURING THE 5-MINUTE RULE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule.

The Committee on Economic and Educational Opportunities and the Committee on the Judiciary.

Mr. Speaker, it is my understanding that the minority has been consulted, and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WISE. Mr. Speaker, reserving the right to object, the gentleman is quite correct. The minority has been consulted in the case of the Committee on

Economic and Educational Opportunities and the Committee on the Judiciary. Once again we want to applaud the majority. This consultation, we think, is a very helpful and healthful process, and we look forward to continuing it in the future.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 1) "An Act to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates, on State, local, the tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ROTH, Mr. DOMENICI, Mr. KEMPTHORNE, Mr. GLENN, and Mr. EXON to be the conferees on the part of the Senate.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, our Contract With America states the following:

On the first day of Congress, a Republican House will: Force Congress to live under the same laws as everyone else; cut committee staffs by one-third, and cut the congressional budget; we have done that.

It goes on to state that in the first 100 days, we will vote on the following items: A balanced budget amendment—we have done this; unfunded Mandates Legislation—we have done this; Line-item veto; a new crime bill to stop violent criminals; Welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat Dads and protect our children; Tax Cuts from Families to lift Government's burden from middle income Americans; National Security Restoration to Protect our Freedoms; Senior Citizens; Equity Act to allow our seniors to work without Government penalty; Government regulatory reform; commonsense legal Reform to end frivolous, lawsuits, and Congressional term limits to make congress a citizen legislature.

This is our Contract With America.

PRESIDENT'S BAILOUT OF MEXICO RAISES SERIOUS CONSTITUTIONAL QUESTIONS

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, if NAFTA is such a great deal, why do we have to bailout Mexico? That is the central question that must be answered before a single dime of our money is placed at risk.

The $47 billion bailout is a raw deal for the American taxpayer. Adding insult to injury, the President is taking an end run around the people's elected Representatives and unilaterally placing our money at risk. Since Congress controls the power of the purse, this action raises serious constitutional questions.

A depression in the steel industry in the late 1970's and early 1980's cost the northwest Indiana district I represent 50,000 good jobs. The U.S. Government did not bailout a single person who had a mortgage, a car payment, or children attending college.

It is flat out wrong for our Government to bail out Mexico without first seeking permission from the American people, through their elected Representatives, whose money will be placed at risk.

Mr. Speaker, I urge acceptance of Mr. TAYLOR's privileged resolution so that we can find out what the bailout really means for the American taxpayer.

WHAT TOOK US SO LONG

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Mr. Speaker, for years, the American people have supported the line-item veto as another tool to help control Government spending and balance the budget. In November 1994, a poll showed that 77 percent of the American people supported the line-item veto, and in 1992, a poll showed a 68-percent approval rating. With this kind of support for a good Government measure, I have to ask what took us so long?

Putting aside any notion of partisan politics, the Republican majority has finally brought the line-item veto to the floor for a vote. We are delivering to the President a necessary tool to allow him to control Government spending and to kill pork-barrel politics. We are keeping our promise to the American people through our Contract With America. I hope my Democrat colleagues join me in supporting this legislation. Its time has finally come.

WELFARE QUEENS AND THE WELFARE KINGS OF THE CORPORATE WORLD

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the President's budget is already under attack, and that is par for the course. There are people who are still blasting welfare queens, but keep in mind that AFDC helps American children and food stamps help feed America's poor.

What bothers me is that no one talks about those welfare kings, with that $51 billion in direct subsidies to corporations and $53 billion in tax breaks for fat cats. And no one talks about welfare kings. Check this out: $18 million for Sunkist to sell orange juice; $5 million for Gallo to sell wine; $1 million for M&M to sell candy; half a million to Ronald McDonald to sell chicken; and half a million to Campbell's Soups to sell V–8 juice. Beam me up, Mr. Speaker.

President Clinton's budget may not be perfect, but it has a heart and it has a soul, and that may be just a good place to start our debate from. Think about that.

TODAY'S VOTE ON THE LINE-ITEM VETO: A PRESENT FOR EX-PRESIDENT REAGAN

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, we are doing something today that the Democrat-controlled Congress over the past 40 years could never bring itself to do. Today we are going to vote on a line-item veto to give the President, regardless of party affiliation, the ability to control spending and Government growth. The President will finally be able to exert the same power that 43 Governors already enjoy—the line-item veto.

I am proud to stand here today in support of this important budget-control issue. It finally took a Republican majority to bring this item to the floor for a vote. Let us pass the line-item veto and help eliminate unnecessary and wasteful Government spending.

Happy birthday, President Reagan. You are finally getting the present you dreamed about.

THE MANY FACES OF POVERTY

(Mr. HILLIARD asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, I rise today in favor of increasing the minimum wage for the working poor, a group of individuals who are helping themselves but because of inflation and laws passed by governing bodies, including this body, their wages have been eroded over the years. We must raise the minimum wage.

Families headed by women are much more likely to be poor and for a longer period of time. For example, 35 percent of families headed by women, as compared to 7 percent of two-parent households, fell below the poverty level in a given month in 1990.

These are the working poor, a group of individuals who have rejected welfare and who are trying hard to make it. We must take them out of poverty. An increase in the minimum wage is only the first step.

□ 1410

PASS THE LINE-ITEM VETO

(Mr. EVERETT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. EVERETT. Mr. Speaker, in a speech to the City Club of Cleveland a little over 7 years ago, former President Ronald Reagan had this to say about the line-item veto: "No President should be faced with the all-or-nothing proposition. The time is here for giving the President the same thing that 43 Governors have—a line-item veto."

Mr. Speaker, the Contract With America calls for a vote on the line-item veto. Hopefully this measure will pass with the same measure of bipartisan support that unfunded mandates did.

President Reagan was right 7 years ago and his words are true today.

Republicans are working hard to deliver on our promise to the American people to give the President a tool to help fight waste and redundancies in the Federal budget.

INCREASE MINIMUM WAGE

(Mr. WATT of North Carolina asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WATT of North Carolina. Mr. Speaker, I want to commend the President on his proposal to increase the minimum wage and encourage my colleagues to have hearings on the proposal and move it to passage immediately. Over two-thirds of working people making the minimum wage are adults over 21 years of age. They work 40 hours a week and still live below the poverty level.

Let us be blunt: All the current minimum wage and 40 hours of work will get you is poverty. That is shameful. While the rich get richer over the last 15 years, the real value of the minimum wage has fallen 27 percent since 1979. If we expect working people to be responsible, we need work to pay. Let us pass the President's proposal and increase the minimum wage.

END THE BOTTOMLESS PIT: ENACT THE LINE-ITEM VETO

(Mr. HORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, for decades now Congress has treated the American taxpayer as an unlimited source for revenue. Congress has spent millions and ultimately billions of dollars on programs and policies which have limited our freedom and imperiled the dignity of millions of Americans by entrapping them on welfare.

The spending habits of this body over the last quarter century has come at a terrible cost. The Federal Government has racked up almost $5 trillion in debt. This is the height of irresponsibility. It is an utter disregard for future generations.

Mr. Speaker, today we will vote on the line-item veto. This measure will give the President the power to review our budgets and veto unneeded projects, and thus help eliminate budgetary fat.

Last November the American people sent a clear message to this body. They said they were tired of the waste, tired of the deficits, tired of the mismanagement, and thus tired of Government.

Mr. Speaker, in the last 4 weeks this body has worked on a bipartisan basis to pass unfunded mandates reform and a balanced budget amendment. Now we must pass the line-item veto on a similar basis and stop treating the American taxpayer as an unlimited bottomless pit.

CUT FAT, NOT GROWTH

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, make no mistake about it, the President's budget coming to Congress today contains some serious cuts. For West Virginia, the Appalachian Regional Commission, which is the underpinning of so many community development projects, is cut at least one-third. The Economic Development Administration, which recently provided the underpinnings as part of the Swearingen aircraft industry deal, that would be cut 27 percent. Veterans should know they would be basically protected. Medicare, Social Security, and Medicaid, so important to our State legislature right now, would be protected. A class tax cut would affect thousands of West Virginians, and would be paid for.

Significantly, this budget will continue the deficit reduction pattern of reducing the deficit by one-half in relation to our economy and with no tax increase this year.

I understand this budget will only be the starting point and there will be additional cuts, but I do hope that people understand we cannot be cutting growth at the same time we are cutting fat.

SUPPORT H.R. 2, THE LINE-ITEM VETO

(Mr. HEINEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEINEMAN. Mr. Speaker, I rise today in strong support of H.R. 2, the line-item veto.

With the passage of the balanced budget amendment, the 104th Congress has taken an important first step in controlling rampant Federal spending. Now we must take the next step—we must give the President the line-item veto.

This past November, the people of my district—and the people all across America—voted for change. They sent a message loud and clear to Washington—it is about time we listened.

Congress has abused the trust of the American people over and over again, spending far beyond its means. Now it is time to stop this runaway Federal spending and to regain the trust of the taxpayers. We can balance the budget. We can bring some fiscal restraint to the Federal budget process.

It is time to change business as usual in this city. It is time to let the people know that we are serious about making this Government work for them. It is time to give the President of the United States the same power that 43 Governors have to control spending.

Mr. Speaker, it is time to pass the line-item veto, and I say to my colleagues today—just do it. Vote for H.R. 2, vote for the line-item veto—vote for common-cents fiscal reform.

LINE-ITEM VETO A NECESSARY TOOL

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, I rise in strong support of the line-item veto. Opponents of the line-item veto say they believe it would take power away from Congress and give it to the President. But I see it as a way of taking power away from pork-barrel programs and giving it to people who want to cut spending and reduce the deficit, regardless of which side of Pennsylvania Avenue they work on, and regardless of which party they call home.

My only regret about the line-item veto we will pass later today is that it does not allow the President to veto pork in tax incentive programs. There is no difference between a program that appropriates $100 million to directly subsidize a certain activity and a tax incentive that cuts taxes by $100 million for the same activity. Both increase the deficit and neither is available to the average citizen.

I urge my colleagues to support the line-item veto. It is a good tool in the hands of both Republican and Democratic Presidents.

REDUCE FEDERAL SPENDING

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, if it is one thing the American people have had their fill of, it is seeing their hard-earned tax dollars squandered on frivolous special interest projects. Whether it is a $500 toilet seat for the military or $100 million interstate to nowhere, the American people have had it with paying for someone else's pork.

Up until now America's real pork producers, referring, of course, to Congress, has buried their pet pork projects in important legislation. That is why our line-item veto is such an important part of the Contract With America. It gives the President the power to search out and destroy wasteful spending before it starts.

With the line-item veto, the buck isn't all that stops at the President's desk. The pork stops there too. Several minutes ago the President delivered to Congress his budget, which is out of balance by over $210 billion, the 27th year in a row.

It is time the President and Congress worked together to reduce Federal spending. When Mr. Clinton ran for President, he said he wanted a line-item veto. Our Contract With America gives him just that.

Happy birthday, Ronald Reagan.

SURGEON GENERAL NOMINEE HAS GOOD CREDENTIALS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. SCHROEDER. Mr. Speaker, I think every American would agree that one of the most critical health problems we have in this Nation is the raging incidence of teen pregnancy. I was very proud when President Clinton came forward with a nominee for Surgeon General who has credentials that are better than almost any other American in dealing with this very important issue of teen pregnancy. Dr. Henry Foster, Jr., is a very distinguished Ob-Gyn in Tennessee who has worked in the housing projects, who has worked in his State tirelessly to tackle teen pregnancy, and this country could make great strides with his knowledge.

How sad I am that some people on the other side want to treat this President as though he is road kill. They are saying they will not deal with this nominee because of his associations with Planned Parenthood of America.

Now, I thought the right to free association still stood. I think that Planned Parenthood of America is a very honorable group to be associated with, and I certainly hope they change their mind.

SUPPORT FOR RAISING THE MINIMUM WAGE

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I rise today in support of an increase in the minimum wage by 45 cents over each of the next 2 years. I spoke last week on this issue. However, due to new opposition and a new Republican proposal, I find it necessary to address the minimum wage increase again.

The proposal was offered by Senator DOLE to strike a deal with Democrats whereby we would support a capital gains tax cut in return for support of the increase in the minimum wage. This is ludicrous and it clearly demonstrates the sharp differences between the two parties.

Mr. Speaker, the Democratic Party is not interested in making deals that would give a tax cut to the richest in our society. When we are trying to break the cycle of welfare dependency, our Republican colleagues are trying to ensure that the wealthy are protected from paying their fair share.

The January 29 issue of the Washington Post, they state that "Republicans want to replace welfare with work." If we do not increase the minimum wage, we are making that even harder.

ONE FOR THE GIPPER

(Mr. BUNN of Oregon asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUNN of Oregon. Mr. Speaker, today is Ronald Reagan's birthday. As one of our greatest Presidents, Ronald Reagan won the cold war, expanded the economy, and restored America's faith in herself. He inspired us because in his heart, he knew the American people were crying our for a smaller Government, lower taxes, and a strong defense.

Ronald Reagan fought for these goals over the unending objections of a do nothing Democrat Congress. Now, as he fights against the cruel indignities of Alzheimers disease, a Republican Congress meets to take up the line-item veto.

Mr. Speaker, I cannot imagine a more appropriate birthday present than the passage of the line-item veto Ronald Reagan so desired, and so deserved. So, to my friends on the Republican side of the aisle—let us go to work, pass the line-item veto, and win one for the Gipper!

MINIMUM WAGE INCREASE

(Mr. KLINK asked as was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, I rise today also to talk about the increase in the minimum wage.

I was talking to a woman from my district on Friday. She said, "Congressman KLINK, I don't want to be forced to go on welfare." And then she listed off the expenses that she would have to pay when she goes to work, with child care and with her rent and with food and with transportation costs.

And she said, "for $4.25, I can't afford to go to work; I don't want to go on welfare."

In fact, that is the position so many people find themselves in. They want the pride of going to work each day, of having sweat on their brow at the end of the day and talking about a job well done. They want to get some discipline back in their lives again. But at $4.25 an hour, they just cannot afford to do that.

I think it is among Members of this House and the other body also to say to people that $4.25 an hour is not a livable wage and to increase the minimum wage of this Nation.

LINE-ITEM VETO: AN IDEA WHOSE TIME HAS FINALLY COME

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, today we will vote to add one more disciplinary tool to the budget and appropriations process, the line-item veto. Along with the balanced budget amendment, which we passed 2 weeks ago, the line-item veto will help bring fiscal sanity to Congress' out-of-control spend-a-thon over the last 40 years.

Former President Ronald Reagan used to say the line-item veto was not a partisan issue but a good-government issue. Unfortunately, the Democrat-controlled Congress refused, refused to put aside partisan differences to pass this important legislation. But today we will finally throw aside partisan politics. We will pass this good-government measure.

Happy birthday, Ronald Reagan. The line-item veto is an idea whose time has come. It is too bad we could not have done this years ago when Ronald Reagan was President.

LINE-ITEM VETO WILL HELP CUT WASTEFUL SPENDING

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute.)

Mrs. VUCANOVICH. Mr. Speaker, today we will note on H.R. 2, the Line-Item Veto Act. Having recently cast a historic vote to pass the balanced budget amendment, we are on our way to sound fiscal management. But if we are genuinely interested in bringing the Federal budget under control, we must look at additional means of restraining spending. H.R. 2 is an important tool in this process.

H.R. 2 gives the President true line-item veto authority, empowering him to disallow specific items in spending bills without having to veto the entire legislation—which may contain worthwhile and necessary programs. Perhaps more importantly, H.R. 2 places the burden on Congress to act initially to reject a President's rescission message.

Too often, spending bills passed by Congress contain items, especially pork-barrel projects, that would not stand up to the test of an individual vote. If used in a conscientious manner, the authority that H.R. 2 confers on the President could indeed help effectively cut wasteful spending out of the Federal budget.

I support H.R. 2 and urge my colleagues to likewise support this important measure.

RESTORE SANITY AND ACCOUNTABILITY TO FEDERAL SPENDING

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, here is a list of good reasons why the line-item veto must be passed:

A $58 million bailout of George Steinbrenner's shipbuilding company; $15 million for never-authorized courthouses which were opposed by the Federal judges whom they were built for; $11.5 million to upgrade a powerplant for the soon-to-be-closed Philadelphia Naval Shipyard; and $35 million to eradicate screwworms in Mexico.

It is time to end the spending sprees and get off the pork-barrel merry-go-round. The American people are watching and they are demanding greater accountability in the budget process. We should pass the line-item veto with the same bipartisan majorities that the unfunded mandates and the balanced budget amendment had.

Mr. Speaker, the line-item veto is a no-brainer. We need it; the American people want it. And we should act now to restore sanity and accountability to Federal spending.

AND THE BEAT GOES ON

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, that sound you hear from the other side of the aisle is the last drumbeat of the old order. Our liberal friends continue to march to the beat of Government mandates, Government spending, and Government taxing. That is why they are so quick to endorse an increase in the minimum wage, so quick to oppose the balanced budget amendment, so desperate in their opposition to the line-item veto.

But the American people are marching to the beat of a different drummer. They look to the future and to us for new solutions, smaller Government and fewer mandates.

The American people want the private sector to be able to create jobs that pay more than just the minimum wage. They want a future free of nonsensical, repetitive, and unproductive regulations. And that is why the people voted against liberal Democrats in overwhelming numbers last November.

Mr. Speaker, the tired, old drumbeat of bigger Government, bigger taxes, and bigger spending goes on. Thankfully, the American people have stopped listening. They have started reading the "Contract With America," soon to be No. 1 on the best seller list and the No. 1 priority of this New Republican Congress.

□ 1430

RAISING THE MINIMUM WAGE WILL HELP MAKE WORK PAY

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, I received a letter last week from Harvey Nehring, who lives in Farmington, NM. Harvey cannot understand how anybody could even think of opposing a raise in the minimum wage.

Harvey stated that people who oppose an increase in the minimum wage do not realize that it costs the working poor $40 an hour to get their car repaired and $60 an hour to fix their plumbing. The working poor have no health insurance, no retirement benefits. They receive no gifts from lobbyists, and do not receive frequent flyer miles. In Harvey's words, the working poor are simply honest Americans who work hard to keep this country going.

Mr. Speaker, raising the minimum wage is a bipartisan issue. In 1989, the vote on increasing the minimum wage was 382 to 37 in the House. It was proposed by then President Bush. Mr. Speaker, we should all agree that in order to get people off welfare, we need to give them a salary that will help their ends meet.

Mr. Speaker, I agree with Harvey. Let us raise the minimum wage.

THE TAXPAYER WILL BE THE WINNER WITH THE LINE-ITEM VETO

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, last fall, we asked the American people to vote for us, the Republican Party, and in return, we would change the way Congress does business. We promised a three-part attack consisting of change, reform, and fiscal accountability.

We pledged to adopt the Fiscal Responsibility Act, combining the balanced budget amendment and the line-item veto. Two weeks ago, we soundly passed the balanced budget amendment, and now it is our responsibility, to pass the line-item veto.

The bill continues the fight we began for the American people in January. The veto requires Congress to justify or eliminate all spending projects. Ultimately, it changes business as usual, no longer will the President blindly sign a bill with hidden pork projects.

It is the ultimate budget reform initiative. Let us continue the fight and pass this much needed legislation. The taxpayer will be the definite winner.

INCREASING THE BUDGET DOES NOT CUT SPENDING

(Mr. NEUMANN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEUMANN. Mr. Speaker, I rise today to call attention to the spending increases in the budget recently proposed by President Clinton. Only in Washington, DC, would we look at spending increases from year to year and talk about budget cuts.

Mr. Speaker, look at the numbers. In fiscal year 1995, we will spend $1,539 billion. In fiscal year 1996, if we do as the President has proposed, that number goes to $1,612 billion. Mr. Speaker, that is a spending increase of $73 billion, and all I am hearing discussion about is how we have cut spending. We have not cut spending, we have increased spending by $73 billion.

Carry this thing out to the year 2000. In the fiscal year 2000, if we do as is proposed today in the President's budget we will spend $1,905 billion. That is an increase of $366 billion. We have not cut spending, Mr. Speaker, we are increasing spending. It is about time the American people knew what was going on here, so we can get down to the serious business of balancing this budget.

Mr. Speaker, we can do better. We must do better. Our children deserve it.

A PROMISE TO FORMER PRESIDENT REAGAN: THE HOUSE WILL PASS THE LINE-ITEM VETO

(Mr. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRISTENSEN. Mr. Speaker, Republicans have promised a lot lately. We promised to make Congress subject to the same laws that the rest of the American people have to live with. We kept that promise. We promised to give the American people a balanced budget amendment. We kept that promise. We promised to put an end to burdensome unfunded mandates, and we kept that promise.

Mr. Speaker, Republicans are keeping every single promise we have made to the American people. Today we will fulfill another promise by voting and passing the line-item veto.

Mr. Speaker, I would like to make one more promise. Seven years ago President Ronald Reagan delivered his final State of the Union Address. He asked Congress to give the future Presidents the line-item veto. He would not have it, but he was asking for the American people and for every President to come after him to have that opportunity.

I promise to him on his 84th birthday today that we will give the President of the United States the line-item veto. I ask my colleagues to vote in favor of that today.

CONGRESS MUST RESTORE THE 25-PERCENT DEDUCTION FOR HEALTH CARE EXPENSES TO FARMERS AND SMALL BUSINESS PEOPLE

(Mr. GANSKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GANSKE. Mr. Speaker, I am going to vote today for the line-item veto. Two summers ago in the State of Iowa when we had floods, we saw the disaster bill pay for courthouses in New York and strips of highway in West Virginia. However, I want to address another issue, also. I rise today to express the frustration of the people of Iowa over the failure of this body to restore the 25-percent deduction for health care expenses for self-employed individuals.

America's farmers, the heart and soul of this Nation, do not qualify for the same tax deduction for health care expenses which are available to employees of large corporations. Instead, they are provided with only a thin 25-percent deduction, and that expired at the end of 1993. Congress has still failed to take the steps necessary to restore this.

Mr. Speaker, farmers and other self-employed individuals across the State of Iowa and the rest of America are waiting for this important tax provision to be extended. At a time when every Member of Congress is working to expand this health care insurance, we must make this available again.

URGING CONGRESS TO DO JUSTICE TO RONALD REAGAN'S BIRTHDAY AND PASS A STRONG LINE-ITEM VETO

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I want to join all of our colleagues this afternoon who have endorsed the line-item veto and are going to be voting for it today. I think it is important to recall the exact words of President Reagan when he was here January 21, 1988, and asked the House to do that. He said:

> Let's help ensure our future prosperity by giving the President a tool that, though I will not get to use it, is one I know future Presidents of either party must have.
>
> Give the President the same authority that 43 Governors use in their States: The right to reach into massive appropriation bills, pare away the waste, and enforce budget discipline. Let's approve the line-item veto.

Today we are going to carry that through on the President's wishes. Mr. Speaker, the line-item veto is an invaluable instrument in the arsenal to cut Government spending, and an absolute necessity to give the Congress the discipline we need to change the spending culture in Washington.

I applaud my colleagues for putting forth the hard work and finally bringing us to the line-item veto which we will face today.

KEEP MOVING FORWARD ON THE CONTRACT—SUPPORT THE LINE-ITEM VETO

(Mr. LATHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATHAM. Mr. Speaker, I rise to encourage my colleagues to take the next step forward on fulfilling the Contract With America and approve the Presidential line-item veto.

During meetings with constituents over the last several weeks, I have been extremely pleased to hear their message. They say "We see you working hard, making real changes and keeping your promises, and we like what we are watching."

The line-item veto is the next step in making it harder for Congress to tax, spend and pile up debt. Asking the President to cut unnecessary spending without line-item veto is like asking a surgeon to do this work with a meat ax. His prospects for success are so slim, the most likely result is that he will not take the chance. That is why we need to provide him with a precision instrument, the line-item veto.

Members of Congress should not be afraid of the line-item veto or any other tool that increases accountability. By making ourselves more accountable, we are winning back the people's trust. And that is the most important tool in any democracy.

RAISING SPENDING IS NOT A SPENDING CUT

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, in President Clinton's State of the Union that he gave just about 2 weeks ago in this Chamber, this is what he said: "Should we cut the deficit more? Well, of course we should." As many of the Members will remember, that was a great line, and many a lot of us applauded. However, his 1996 fiscal year budget came in, and the question is, why did he not?

I wonder, Mr. Speaker, does the Clinton administration still have as its highest priority reduced spending? Not only does his budget ring up almost $200 billion in deficit for fiscal year 1996, but it projects deficits of almost $200 billion every year to the year 2005. It uses the same old accounting gimmicks that we have seen before, and it claims $144 billion in cuts in Federal spending over 5 years. The reality is that in fiscal year 1996 alone, the administration proposed increasing spending by $50 billion.

Mr. Speaker, do we have to say it again? Raising spending by less than we plan is not a spending cut.

PRESIDENT CLINTON'S BUDGET INCREASES THE DEFICIT

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, Members of Congress were given the President's budget today, and once we look at that budget, I hope every Member, Republican and Democrat, as well as the American people, will be as upset as I am as I have gone through this budget.

Here is what I see: Spending every year goes up faster than inflation. Even the so-called reductions are gimmick accounting. They are not truly reductions.

Let me tell the Members what happens to the national debt.

□ 1440

At the end of 1994, the national public debt of this country was $4.6 trillion. This budget, by the year 2000, increases the debt to $6.67 trillion, from $4.6 to $6.67 trillion in this 5-year period. Ladies and gentlemen, the interest on the public debt this year is going to be $339 billion. That is 25 percent of all revenues coming into the Federal Government.

We have to do it better. Let us do it.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, February 3, 1995.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, February 3, 1995 at 4:30 p.m. and said to contain a message from the President whereby he informs the Congress of his intent to add Armenia to the list of beneficiary developing countries for the purposes of the generalized system of preferences program.

With great respect, I am

Sincerely yours,

ROBIN H. CARLE,
Clerk, U.S. House of Representatives.

ADDITION OF ARMENIA TO LIST OF BENEFICIARIES UNDER THE GENERALIZED SYSTEM OF PREFERENCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–26)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed.

To the Congress of the United States:

The Generalized System of Preferences (GSP) program offers duty-free treatment to specified products that are imported from designated beneficiary countries. It is authorized by the Trade Act of 1974, as amended.

I am writing to inform you of my intent to add Armenia to the list of beneficiary developing countries for purposes of the GSP program. I have carefully considered the criteria identified in sections 501 and 502 of the Trade Act of 1974. In light of these criteria, I have determined that it is appropriate to extend GSP benefits to Armenia.

I am also writing to inform you of my decision to terminate the designation of The Bahamas and the designation of Israel as beneficiary developing countries for purposes of the GSP program. Pursuant to section 504(f) of the Trade Act of 1974, I have determined that the per capita gross national products of The Bahamas and of Israel have exceeded the applicable limit provided for in section 504(f). Accordingly, I have determined that it is appropriate to terminate the designation of The Bahamas and Israel as GSP beneficiaries.

This notice is submitted in accordance with sections 502(a)(1) and 502(a)(2) of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 3, 1995.*

UNITED STATES BUDGET, FISCAL YEAR 1996—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–3)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

To the Congress of the United States:

The 1996 Budget, which I am transmitting to you with this message, builds on the Administration's strong record of economic progress during the past two years and seeks to create a brighter future for all Americans.

When I took office two years ago, the economy was suffering from slow growth, inadequate investment, and very low levels of job creation. We moved quickly and vigorously to address these problems. Working with Congress in 1993, we enacted the largest deficit reduction package in history. We cut Federal spending by $255 billion over five years, cut taxes for 40 million low- and moderate-income Americans, and made 90 percent of small business eligible for tax relief, while increasing income tax rates only on the wealthiest 1.2 percent of Americans. And while we placed a tight "freeze" on overall discretionary spending at 1993 levels, we shifted spending toward investments in human and physical capital that will help secure our future.

As we fought for our budget and economic policies, we moved aggressively to open world markets for American goods and services. We negotiated the North American Free Trade Agreement with Canada and Mexico, concluded negotiations over the Uruguay Round of the General Agreement on Tariffs and Trade, and worked with Congress to enact implementing legislation for both.

Our economic plan helped bring the deficit down from $290 billion in 1992, to $203 billion in 1994, to a projected $193 billion this year—providing three straight years of deficit reduction for the first time since Harry Truman was President. Measured as a percentage of our economy—that is, Gross Domestic Product (GDP)—our plan will cut the deficit in half.

By reassuring the financial markets that we were serious about getting our fiscal house in order, our plan also lowered interest rates while holding inflation in check. That helped to stimulate private investment and exports, and sparked the creation of 5.6 million new jobs—more than twice the number in the previous four years.

Now that we have brought the deficit down, we have no intention of turning back. My budget keeps us on the course of fiscal discipline by proposing $81 billion in additional deficit reduction through the year 2000. I am proposing to save $23 billion by reinventing Cabinet departments and two other major agencies, to save $2 billion by ending more than 130 programs altogether, and to provide better service to Americans by consolidating more than 270 other programs. Under my plan, the deficit will continue to fall as a percentage of GDP to 2.1 percent, reaching its lowest level since 1979.

Despite our strong economic record, however, many Americans have not shared in the fruits of recovery. Though these Americans are working harder and harder, their incomes are either stagnant or falling. The problem is particularly acute among those with less education or fewer of the skills needed to compete in an increasingly global economy. To build a more prosperous America, one with rising living standards for all Americans, we must turn our attention to those who have not benefited from the current recovery.

My budget proposes to do that.

PROMOTING A RISING STANDARD OF LIVING FOR ALL AMERICANS

I am proposing a Middle Class Bill of Rights, which will provide tax relief to middle-income Americans. The Middle Class Bill of Rights includes a $500 per child tax credit for middle-income families with children under 13; expands eligibility for Individual Retirement Accounts and allows families to make penalty-free withdrawals for a range of educational, housing, and medical needs; and offers a tax deduction for the costs of college, university, or vocational education. Also as part of my Middle Class Bill of Rights, I am proposing to revamp our confusing array of job training programs by consolidating some 70 of them. In my G.I. Bill for America's Workers, I propose to offer dislocated and low-income workers "Skill grants" through which they can make their own choices about the training they need to find new and better jobs.

The G.I. Bill for America's Workers is the final element of my effort to improve the education and skills of Americans, enabling them to compete in the economy of today and tomorrow. In the last two years, we enacted Goals 2000 to encourage States and localities to reform their education systems; revamped the student loan program to make post-secondary education affordable to more Americans; and pushed successfully for the School-to-Work program that enables young Americans to move more easily from high school to training or more education.

And I am proposing to pay for this Middle Class Bill of Rights with specific spending cuts. In fact, I am proposing enough spending cuts to provide more than twice as much in budget savings—$144 billion—as the tax cuts will cost—$63 billion—over five years.

CREATING OPPORTUNITY AND ENCOURAGING RESPONSIBILITY

By itself, the Federal Government cannot rebuild America's communities. What it can do is give communities some of the tools and resources to address their problems in their own way. My national service program provides incentives for Americans of all ages to volunteer their services in local communities across the country, and earn money for their own education. The budget proposes to invest more in our urban centers as well as in rural areas, and to continue our efforts to build stronger government-to-government relations with American Indian and Alaska Native Tribes. And I will work with Congress to enact comprehensive welfare reform that embodies the principles of work and responsibility for abled-bodied recipients, while protecting their children.

My Administration has worked with State and local law enforcement agencies to help retake the streets from the criminals and drug dealers who, in far too many places, now control them. Congress enacted my crime bill last year, finally answering the cries of Americans after too many years of debate and gridlock. We pushed successfully for the "three strikes and you're out" rule for violent criminals, and we are making significant progress on my promise to put 100,000 more police on the street. Congress also passed the long-overdue Brady Bill, which provides for background checks that will keep guns out of the hands of criminals. In this budget, I am proposing new funds with which States and localities can hire more police, build more space in prisons and boot camps, invest in prevention programs for first-time offenders, and provide drug treatment for many more drug users.

My Administration inherited deep-seated problems with the immigration system, and we have gone a long way toward addressing them. This budget proposes the strongest efforts yet, including funds for over 1,000 new Border Patrol agents, inspectors, and support staff. While working to fulfill the Federal Government's responsibility to secure our borders against illegal immigration, the budget also proposes funds to assist States that are unduly burdened with the health, education, and prison-related costs associated with illegal immigrants.

We must redouble our efforts to protect the environment. My Administration has sought more innovative, effective approaches to do so, and this budget would build upon them. In particular, I am proposing to work more with State and local governments, businesses, and environmental groups on collaborative efforts, while seeking more funds for high-priority programs.

Because investments in science and technology pay off in higher productivity and living standards down the road, I am seeking significant new funding for the Advanced Technology Program at the Commerce Department's National Institute of Standards and Technology, NASA's New Technology Investments, the Defense Department's Technology Reinvestment Project, biomedical research at the National Institutes of Health, and research and development at the National Science Foundation. I am also seeking to strengthen our coordinated efforts through the Administration's National Science and Technology Council and to improve the payment system for federally-sponsored research at colleges and universities.

I remain committed to comprehensive health care reform. The problems that prompted me to send Congress the Health Security Act in November 1993 have not gone away. Health care costs have continued to soar for individuals, businesses, and all levels of government. More Americans are losing their health coverage each year, and many others are staying in jobs only out of fear of losing their own coverage. I am asking Congress to work with me on a bipartisan basis, to take the first steps toward guaranteeing health care coverage to every American while containing costs.

PROJECTING AMERICAN LEADERSHIP AROUND THE WORLD

We have begun the post-Cold War era and welcome one of its most significant fruits—the continuing efforts of Russia and the newly-independent states to move toward democracy and economic freedom. We propose to continue our support for this fundamental change that clearly serves the Nation's long-term interests.

My proposals for international affairs also promote and defend this Nation's vital interests in Central Europe, the Middle East, and Asia. The budget supports the important role we play in fostering our historic peace process in the Middle East.

With the global economy offering the prospect of new markets for American goods, we are redoubling our efforts to promote an open trading system in Asia, as well as in Latin America and the rest of the globe. I am, for instance, proposing increased funding for our trade promotion agencies, such as the Export-Import Bank, which strengthen our trade position. I am also asking for continued support for the bilateral and multilateral assistance to less-developed nations that can prevent humanitarian crises, as well as support for a strong American response to these crises.

Our military strength works in synergy with our foreign policy. Our forces defend our interests, deterring potential adversaries and reassuring our friends. My Defense Funding Initiative, a $25 billion increase in defense spending over the next 6 years, marks the third time that I have raised defense spending above my initial funding plan in order to support and maintain the most capable military force in the world. I am determined to ensure a high level of readiness of U.S. military forces, to continue to improve the pay and quality of life for the men and women who serve, and to ensure that our forces are modernized with new systems that will be available near the end of the century.

MAKING GOVERNMENT WORK

None of our efforts can fully succeed unless we make Government work for all Americans. We have made great progress with the National Performance Review (NPR), which I established early in the Administration and which Vice President Gore has so ably run at my direction.

Specifically, departments and agencies across the Government have made substantial progress on each of the NPR's four themes: putting customers first, empowering employees to get results, cutting red tape, and cutting back to basics. The departments and agencies have established customer service standards and streamlined their operations. They also are working with my Office of Management and Budget to focus more on "performance"—what Federal programs actually accomplish. And they are doing all this while we are cutting the Federal workforce by 272,900 positions, bringing it to its smallest size since John Kennedy was President.

We also greatly improved the Federal regulatory system, opening it up more to public scrutiny. We plan to build upon our efforts, to make sure that we are protecting the public while not unduly burdening any one industry or group. We also overhauled the Federal procurement system, cutting mountains of red tape and enabling the Government to buy high-quality goods and services at lower cost.

Despite such progress, however, we are only beginning our efforts. I recently announced a major restructuring of the Departments of Housing and

Urban Development, Energy, and Transportation, the General Services Administration, and the Office of Personnel Management. The budget contains details of these restructurings and our related proposals that affect hundreds of other programs.

In the coming months, the Vice President will lead Phase II of our crusade to reinvent Government—an effort to identify other agencies and programs to restructure or terminate, to sort out responsibilities among the Federal, State, and local levels of government, and to choose functions better performed by the private sector.

CONCLUSION

Our agenda is working. By cutting the budget deficit, investing in our people, and opening world markets, we have begun to lay the foundation for a strong economy for years to come. And by reinventing the Federal Government, cutting red tape and layers of management, we have begun to make Government more responsive to the American people.

This budget seeks to build upon those efforts. It seeks to spread the benefits of our economic recovery to more Americans and give them the tools to build a brighter future for themselves. It also seeks to continue our reinvention efforts—to eliminate or restructure agencies and programs, and to better sort out responsibilities among the Federal, State, and local levels of government.

These proposals will help us to create a stronger economy and more effective Government. I will ask for Congress's help in these efforts.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 6, 1995.*

VOTE FOR THE LINE-ITEM VETO

(Mr. SANFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANFORD. Mr. Speaker, I stand before you and the rest of this body to encourage the adoption of the line-item veto. In fact, I have a scary couple of numbers here in front of me.

What do $1.75 million for national pig research have in common with $1.7 million for plant stress have in common with $600,000 to ease fish migration up a western river? The thing they all have in common is I cannot do anything about them.

I came here to affect the way Government is spending money, and yet the way Congress works is that I cannot get my hands on them.

The line-item veto would allow the President to do what 43 Governors can do, and that is to reach in, say this is a piece of fat, it does not make sense and it needs to go.

Please vote with me for the line-item veto.

LINE-ITEM VETO ACT

The SPEAKER pro tempore. Pursuant to House Resolution 55 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2.

□ 1445

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2), to give the President line-item veto authority over appropriation Acts and targeted tax benefits in revenue Acts, with Mr. HOBSON (chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Friday, February 3, 1995, the amendment offered by the gentleman from Wisconsin [Mr. OBEY] had been disposed of and the bill was open for amendment at any point.

Pursuant to the order of the House of Friday, February 3, 1995, only the following further amendments, if offered, will be considered:

An amendment by the gentleman from Utah [Mr. ORTON] debatable for 1 hour;

An amendment by the gentlewoman from California [Ms. WATERS] debatable for 30 minutes;

An amendment by the gentleman from Louisiana [Mr. TAUZIN] debatable for 30 minutes;

An amendment by the gentleman from Ohio [Mr. TRAFICANT] debatable for 30 minutes;

An amendment in the nature of a substitute by the gentlewoman from New York [Ms. SLAUGHTER] debatable for 1 hour; and

An amendment in the nature of a substitute by the gentleman from Texas [Mr. STENHOLM] debatable for 1 hour.

No amendment to the specified amendments are in order. Debate on each amendment will be equally divided and controlled by the proponent and an opponent of the amendment.

The chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment.

The chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

For what purpose does the gentleman from Utah [Mr. ORTON] rise?

AMENDMENT OFFERED BY MR. ORTON

Mr. ORTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ORTON: At the end of section 4, add the following new paragraph:

(5) The term "discretionary budget authority" includes authority to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriations Acts.

The CHAIRMAN pro tempore. Pursuant to the unanimous consent request, the gentleman from Utah [Mr. ORTON] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Utah [Mr. ORTON].

PARLIAMENTARY INQUIRY

Mr. GOSS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. Will the gentleman please state his parliamentary inquiry.

Mr. GOSS. Mr. Chairman, I just wanted to make sure that we understood the rule the Chair read in its entirety. It was also our understanding, I believe the gentleman would agree, there would be no secondary amendments offered on votes that were going to be held and amendments that were going to be held for rolling; is that a correct assumption?

The CHAIRMAN pro tempore. Under the rule, no secondary amendments are in order.

Mr. GOSS. I thank the Chair.

Mr. ORTON. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, I am a Member who has supported the line-item veto since before being elected to Congress. This is not a partisan issue, and the line-item veto did not begin with the Contract With America. Many Members on both sides of the aisle support the line-item veto and many new Members have come to the floor of the House today to support the line-item veto.

I would ask those new Members especially to carefully consider the amendment which I now offer. It will be very difficult to explain a "no" vote against this amendment which does not weaken but strengthens the President's line-item veto.

The purpose of H.R. 2, the line-item veto, is to single out specific projects of pork barrel spending which are tacked on to larger billions. In fact, last Friday Chairman CLINGER, in accepting the Obey amendment said that the purpose of the bill was to "get at pork wherever and whenever it may occur." My amendment does that in a very simple and straightforward manner. It states, "the term discretionary budget authority includes authority to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriations Acts."

□ 1450

The most visible type of pork-barrel spending are the earmarked projects tucked neatly into large appropriation bills. H.R. 2 will subject this type of pork to line-item veto.

We are also aware of targeted tax expenditures wherein a limited group of taxpayers get a special deduction or credit. H.R. 2 will subject some of this pork to line-item veto.

However, there is a third type of pork which H.R. 2 does not reach without my amendment. It is direct spending which is not appropriated in advance but, rather, is obligated under contract authority. The most common types of contract authority spending are transportation projects authorized by the Transportation and Infrastructure Committee which are not appropriated but, rather, spent directly from the trust funds.

Most funding under the Federal Aid Highways Program goes out to the States by formula based upon total highway miles, transportation tax revenues, et cetera. This spending is included in the annual 602(b) caps, and the Appropriation Committee limits the total amount which can be expended under such contract authority.

However, the Transportation Committee also earmarks certain demonstration projects. Demonstration projects are not subject to appropriations limitations but are subject to the spending caps. Therefore, and this is critical, any dollar spent on a demonstration project is a dollar which cannot be given to the States under the general formula law. Demonstration projects are priorities set by Washington, DC, while projects funded under the general formula are priorities set by State and local governments.

In a "Dear Colleague" letter opposing my amendment, last Friday it was suggested that contract authority is spent from trust funds and does not contribute to the deficit. Therefore, it should not be subject to the line-item veto. I would suggest this is ridiculous.

Should we be any less concerned over wasteful spending from the trust funds than we are wasteful spending from the general Treasury? Cutting wasteful spending could result in better spending or reducing taxes.

H.R. 2 was designed for precisely this sort of spending. There were hundreds of demonstration projects in the 1991 ISTEA bill which totaled over $6 billion. Here is what President Bush said about it:

> The authorization levels in the bill are excessive. H.R. 3566 earmarks $1.2 billion for 27 projects on 20 priority corridors and $3.8 billion for 460 other highway demonstration projects which could ultimately cost over $23 billion. Many of them are not the highest State priorities and would not survive the normal process of selection on their merits. More than three-quarters of the mass transit new start projects earmarked by the bill either failed to meet basic cost-effectiveness criteria or lack sufficient information for meaningful evaluation.

The gentleman from Illinois [Mr. FAWELL], known for his work on the pork busters coalition, said,

> I cannot support this version of reauthorization, because it contains 455 highway demonstration projects totaling $5 billion. These projects are given contractual authority for the next six years creating what amounts to a pork entitlement program. Secretary of Transportation Samuel Skinner has recommended a veto of the bill because of these demonstration projects.

The majority leader, the gentleman from Texas [Mr. ARMEY], said that this bill again spends, first, on where it is needed in the parochial interest, special interests, in the local interest, what they call pork-barrel spending.

The chairman of the Committee on the Budget, the gentleman from Ohio [Mr. KASICH], filed an amendment to H.R. 2 in the RECORD which would do the same thing as my amendment, extend line-item veto to contract authority. I am not aware whether or not he will offer his amendment. I hope he will. I would support it.

Of the 1991 ISTEA bill, the gentleman from Ohio [Mr. KASICH] said, "This bill includes $4.9 billion in demonstration projects that I feel should not be included in this bill."

Mr. Chairman, the American people are sick and tired of this place. They are sick and tired of perks. They are sick and tired of demonstration projects. They are tired of pork, and we have got to clean it up.

The other people that are getting the shaft in this bill are the American taxpayers who are sick and tired of pork.

The gentlemen from Indiana [Mr. BURTON] listed project after project which he suggested were ridiculous saying, "The fact of the matter is there are 455 pet projects in this bill. Now, not all of them could be considered pork-barrel projects, but much of it, much of it is."

Mr. Chairman I wish to speak just for a moment about a matter of great concern. It is very sensitive and I raise it for only one purpose, to demonstrate why this amendment should be adopted.

I want to share with my colleagues a telephone call which I received from a mayor in my district last Friday. The mayor called to question my amendment and expressed concern over funding for a highway project in the city. The mayor states that the staff of the chairman, the gentleman from Pennsylvania [Mr. SHUSTER], had let it be known that they are looking at transportation projects in my district, and if I offered this amendment, there will be retaliation. It was suggested that we would neither get any further contract authority nor authorization for appropriations for future funding of projects in my district.

The only difference between appropriated spending, which H.R. 2 covers, and contract authority, which H.R. 2 does not cover, is the committee which hands our the pork.

I understand why members of the Committee on Appropriations would oppose line-item veto, and I understand why members of the Committee on Transportation would oppose my amendment.

Contract authority for direct spending which can be given to Members to reward proper voting or taken away to punish Members is exactly the kind of spending the line-item veto is designed to cover, and I urge adoption of my amendment.

The Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the Committee on Transportation and Infrastructure.

Mr. SHUSTER. Mr. Chairman, I thank my good friend for yielding this time to me.

Mr. Chairman, I believe that this amendment should be overwhelmingly defeated for four reasons. First of all, it is very poorly drafted. There are unintended consequences which could flow from this if it were to be adopted. This amendment does not simply reach to projects. Rather, entire highway programs could be canceled by any President. A President could decide to wipe out a rural highway program, not a particular project, but an entire program. He could decide to wipe out an entire urban funding program, not a specific urban project, but a whole urban program. So it is poorly drafted and it should be defeated for that reason alone.

Further, it should be defeated, second, because highway and aviation programs already have spending controls. They are among the few programs around this place which are deficit proof. In fact, the Secretary of the Treasury must certify every year that the money is going to be there to pay for the programs or the money cannot be spent. That is the second reason why this should be defeated.

And, third, this amendment should be defeated because it saves no money. The law clearly says that the money from those trust funds not spent will remain in the trust funds. So the only thing that can be done is it can be reallocated by some faceless, nameless bureaucrats or it can be left in the trust fund to build up a surplus, and then the American people, who paid their gas tax and paid in their airline ticket tax, will not get the benefit of those trust funds.

And, fourth, rather than targeting this kind of a spending program which is a pay-as-you-go program, we should be working to have more programs like this in the House.

My good friend mentions projects in his own district and a mayor calling him. Well, I am a little surprised. I am told the gentleman has five projects which were in ISTEA, and if he is so opposed to projects, then I would think that he would not want his community to benefit from these projects. If these projects are terrible pork-barrel projects, then I think he would step forward and say, "They should not be in my district."

So for all of these reasons, we should overwhelmingly defeat this amendment.

And, finally, let me point out that this amendment does not touch any of the projects to which the gentleman referred to. It only will touch the future, and as I have said before, and I will emphasize again, any Member of Congress who comes before our committee with a project, a high-priority project for his State or his district, must have a letter from the Secretary of Transportation of his State endorsing the project.

These projects must be worthwhile projects, and if they are not, we will not permit them to go forward.

So for all of those reasons, for the protection we have provided and for the overwhelming reason that this amendment goes far beyond individual projects, for all of those reasons, this amendment should be overwhelmingly defeated.

□ 1500

Mr. ORTON. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. SHUSTER] has expired.

Mr. ORTON. Mr. Chairman, I yield myself 1 minute to ask the gentleman a question.

Mr. SHUSTER. Mr. Chairman, if the gentleman will yield, I would be happy to respond.

Mr. ORTON. Mr. Chairman, could the gentleman tell me from which funding the Bud Shuster Highway in Pennsylvania, which runs parallel to——

Mr. SHUSTER. I am delighted; yes, I will be happy to answer.

Mr. ORTON. It is my time—which runs parallel to the Pennsylvania Turnpike, and runs a four-lane highway through a town of 1,700 people; is that from contract authority? Was that from the general formula funding that the State determined? Or where did that funding come from?

Mr. SHUSTER. Mr. Chairman, will the gentleman yield for an answer?

Mr. ORTON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I presume he is referring to Route 220. That came from contract authority as a high-priority project. It has been in operation for 5 years, and in the past the old highway experienced six fatalities a year, and since that new highway has been built, there have been zero fatalities.

On top of that, 53 businesses have been located, and 4,000 jobs have been created. These are the kinds of projects we need in this country; more of them, not less of them.

The CHAIRMAN. The time of the gentleman from Utah [Mr. ORTON] has expired.

Mr. ORTON. Mr. Chairman, I yield myself an additional 30 seconds.

Mr. ORTON. Mr. Chairman, I suggest that this Member, nor other Members I know supporting this amendment, do not question whether the projects which are funded are valid projects, good safety projects, or et cetera. The question is:

This is authority which a chairman, or a ranking member or members of one committee, can choose where to spend this money in their own districts or in other districts, and it is not being selected by the States. It is not subjects to the same criteria——

The CHAIRMAN. The time of the gentleman from Utah [Mr. ORTON] has expired.

Mr. CLINGER. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I am opposed to the amendment offered by the gentleman from Utah for a variety of reasons.

First, the amendment includes contract authority within the definition of "discretionary budget authority." In a letter to Members of the House, Mr. Orton has cited only spending from the aviation and highway trust funds as examples of programs his amendment would cover. But what other programs might be affected? We really do not know what the effect of this amendment might be.

Second, it is important to note that rescinding aviation or highway trust fund dollars does not result in any real savings. Instead, these funds would simply languish in the trust funds since, by law, these funds which have been collected from the users of our highway and aviation systems may not be used for any purpose other than transportation. In addition, these programs are deficit-proof since outlays are restricted to the amount of receipts taken in. Those interested in deficit reduction should look elsewhere in our budget.

Third, Members should be aware that this amendment does not simply affect highway projects—in fact, entire highway programs where funds are provided in multi-billion-dollar lump sums and distributed to States by formula would be subject to rescission. One of the major purposes in establishing the highway trust fund almost 40 years ago, was to provided to the States assurances that they could rely with some certainty on the level of Federal highway funding which would be received over the years. This is essential for administering an efficient highway program where each project involves literally years of study, planning, design, engineering and construction. If States could never be certain which programs might be rescinded at any given time in the future—perhaps interstate maintenance or the National Highway System Program or others—the effect on State programs would be devastating.

Mr. Chairman, it is my understanding that the chairman and ranking Democrat of the Government Reform and Oversight Committee as well the chairman of the Rules Committee are all opposed to this amendment. The rest of the membership should be as well, and I urge a "no" vote on the Orton amendment.

Mr. CLINGER. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, the gentleman from Utah [Mr. ORTON], my friend, would not want to misstate the facts. The facts are, when he says that a chairman and a ranking member can do this, that is baloney. A ranking member and a chairman first must get it through the subcommittee, must get it through the full committee; our committee, 61 members, the largest committee in the House; and then must come to the floor, and this Congress must vote in favor of that legislation, or it will not pass.

So, it is very misleading, and I am sure my good friend does not intentionally mean to do that, to suggest that two Members can make this happen.

Mr. ORTON. They, however, cannot vote item by item.

Mr. ORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Chairman, I am amazed. Just 4 days ago, the House Republican leadership effectively killed the Skelton amendment which would have exempted major national defense programs from the line-item veto. By opposing the Skelton amendment just last Thursday and opposing the Orton amendment today, Mr. Chairman, the Republican leadership of this House and everyone who follows it is saying this: "It's OK for a President to be able to veto strategic missile defense, and the B-2 bomber, and the F-22, the C-17, the V-22 helicopter. It's OK to veto military pay increases. But it's not OK to be able to veto a bridge, or a road, or pork-barrel highway projects if you call them demonstration projects."

The Republican leadership is saying, "We won't fight to protect major defense programs, but we will go the wall to protect pork-barrel projects and highways if you just call them demonstration programs."

Mr. Chairman, any Member who voted against the Skelton amendment on Thursday, an amendment that would have protected national defense, should think twice before opposing this amendment today.

I say to my colleagues, "If you believe in a strong national defense, if you have a military base in your district or defense jobs in your district, I wish you good luck in trying to explain to your constituents why you voted today to protect bridges and roads but voted just last Thursday, 4 days ago, not to protect national defense from the line-item veto."

Mr. Chairman, I think most Americans will be shocked to find out that the Contract of America now says that highway pork is more important than national defense. Our motto "Don't Tread on Me" has taken on a new meaning. It means now a President can veto defense, but cannot veto highway pork. For years, for years, my Republican colleagues have attacked Democratic pork. Now, less than 30 days into this new session, are we seeing the beginning of new Republican pork? It might have a different label on it, but it has got the same fat level as the old pork, and it surely is just as well going to clog the arteries of our taxpayers' pockets.

When new Republican Members of Congress were elected by saying there would be no sacred cows in the Federal budget, surely the American people did not think sacred cows would be replaced by sacred pork. As one retired Republican Member said not too long ago, to paraphrase, "Members, you can't hate pork but keep protecting the bacon."

Vote no on pork. Vote "yes" on the Orton amendment.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the distinguished minority leader, the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Chairman, I rise to speak against this amendment which would threaten our Nation's vital infrastructure programs. Our Nation's budget problems are not caused by excessive spending on highways, transportation, and airports. These programs, as has been stated, are financed through self-supporting trust funds and, by law, cannot spend more than they take in. If anything, we should spend more on our Nation's infrastructure needs, not less.

The American people know the dismal state of our highways, subways, and bridges. They drive on them every day. Many of our bridges are more than 50 years old, and of course some have actually collapsed while motorists were driving on them.

The greatest expansion on our Nation's road network was begun more than 40 years ago in one of the greatest demonstrations of Government working on behalf of the people and promoting the market and private sector through the Interstate Highway System in the 1950's, and delays due to our Nation's infrastructure problems cost American businesses more than $100 billion a year. We could help the working men and women of this country, and we can help our commerce by spending what is needed to make sure that our roads, our bridges, our highways, our transportation systems, our airports, meet the standards that are necessary to make this economy, a free market economy, grow.

So, Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. SABO], the ranking minority member of the Committee on the Budget.

Mr. SABO. Mr. Chairman, Members, I rise in support of this amendment, maybe for reasons different than others. I do it for the sake of consistency, not for the sake of pork versus goodness, or whatever else may be talked about today. But the reality is the base bill today transfers incredible power to the President to modify spending decisions by the Congress, and the President, with the support of one-third of the Congress, can maintain those decisions. When the gentleman from Pennsylvania [Mr. SHUSTER] says that a President might be able to wipe out a highway program, he is right, but that also applies to a whole host of other worthwhile expenditures.

Why have one covered and the other exempt? I know of no good reasons.

Mr. Chairman, I am not one——

Mr. SHUSTER. Mr. Chairman, will the gentleman yield on that point?

Mr. SABO. Let me finish a minute. I am not one who talks about pork. I think there is good cause at times for demo projects. I do not condemn them. I have been involved with them. Sometimes they are contract authority, sometimes they are authorized and appropriated money. I have got a couple right now that are partially one, partially the other. The authorized part would be subject to line-item veto; the contract authority would not. There is absolutely no reason for the distinction.

Mr. SHUSTER. Mr. Chairman, would the gentleman yield on that point since he mentioned my name?

Mr. SABO. I yield to the gentleman because the gentleman is right in what he says in terms of the ability of the President with the support of one-third of the Congress to wipe out a whole program, but that would also include education programs, legal aid, a variety of other things.

Mr. SHUSTER. Mr. Chairman, the gentleman used my name.

The difference is this is out of a trust fund. This is contract authority. There can be no deficit spending. That is the distinction here, and that is why this amendment should be overwhelmingly defeated.

Mr. SABO. Reclaiming my time, Mr. Chairman, all expenditures by the Federal Government go into making up what our outlays are each year.

□ 1510

We have hundreds of trust funds in the Federal budget. If we said every one of them was exempt, we would be talking about tiny portions of the budget. The reality is that if our judgment is to pass this base bill, it should apply to appropriated dollars, it should apply to contract authority, frankly it should apply to new or expanded entitlement authority, and it should also apply to tax expenditures and tax cuts.

If we really wanted to have a fair bill, it would be in toto. There is no reason for the sake of consistency to say that it should apply to appropriated dollars which would be going to good programs, maybe bad programs, maybe some in between, and the same with the contract authority—lots of good programs, some maybe not so good—but what we are saying in this bill is we want to subject those kinds of expenditures to the scrutiny of the President, who can prevail if one-third of the House or the Senate will stay with him.

Mr. Chairman, for consistency's sake, let us have it apply uniformly.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Iowa [Mr. LATHAM], a member of the Committee on Transportation and Infrastructure.

Mr. LATHAM. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise to oppose the Orton amendment to the Line-Item Veto Act.

The line-item veto is, as many Members of this House have stated, an idea whose time has come. The American people have reached their boiling point over unnecessary and wasteful Federal spending; $10 million here, $20 million there of special interest spending have added billions to our national debt over the years. No part of discretionary spending should be off-limits to the line-item veto.

The Orton amendment, however, shoots at the wrong target. Discretionary transportation spending is already on the table and will be scrutinized under the line-item veto. The President will be able to wield his veto knife against special interest transportation spending that comes at the expense of veterans, children, the elderly, or other important highway projects.

However, no money would be saved under the Orton proposal. Program transportation funding is allocated from money in the highway or aviation trust funds, and spending for these purposes is the only allowable purpose for these funds. Thus, a Presidential veto of contract authority spending would merely send money back to the trust funds.

Rather than sending money back to the Treasury, these contract authority funds would continue to collect in the trust fund. Adding the Orton amendment to the line-item veto bill would be giving the President a deficit-masking tool, not a budget cutting tool.

This amendment would move us in exactly the wrong direction. I know that my colleague from Utah has been an advocate for fiscal responsibility in this House, but this amendment is simply off-the-mark. I urge my colleagues to vote "no" on the Orton amendment and yield back the balance of my time.

Mr. ORTON. Mr. Chairman, I yield myself 1 minute to speak in response to the gentleman's statement.

Mr. Chairman, I am sure my friend and colleague would not want to misspeak or misrepresent the facts. In fact, discretionary spending for transportation programs includes the contract authority spending. It does come under the 602(b) allocations. It is all part of discretionary spending, only this part would not be subject to the veto. That is the difference.

I would also suggest to the gentleman that under the current language of the line-item veto, H.R. 2, any amount which is vetoed by the President goes back into the appropriation cycle to be reallocated among other programs. Without a deficit reduction trust fund, it does not lower the deficit either.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in support of the Orton amendment for the same reason that the gentleman from Minnesota [Mr. SABO] a moment ago did, and that is for the sake of consistency.

Having been involved in the line-item veto and being opposed to giving any President one-third plus one minority override on any of the issues, and then working gradually to this point, I come to the expedited rescission process in which I am perfectly willing to give any President 50 percent plus one line-item veto over any project in the 17th District of Texas.

Having listened to the arguments of the appropriators for years opposing either line-item veto or modified rescission for getting into the decisions that the appropriators make and then listening to the members of the Committee on Ways and Means make the various all-substantial and very good arguments as to why the President should not get involved in tax matters, and now listening to the Public Works Committee giving all the very valid reasons why this should not be applied to public works, I come to the same basic conclusion, and that is why we will be offering our amendments later this afternoon to strengthen H.R. 2 to allow the President to go into any bill at any time, whether it is contract authority, tax authority, or spending authority, and to make an independent judgment as to whether or not that project is as good as we might have believed it to be when we came to the Public Works Committee and asked in this case for contract authority. I am perfectly willing to do that, and if we are going to do it for one, I think we should do it for all.

We have heard the statement made that the trust funds are somehow different. They are not different, Mr. Chairman. Trust funds come from taxes that are in fact paid by the American people for the purposes for which we pay them into the trust fund.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I say to my friend they are user fees. It is not a general tax paid by all Americans, but rather by the traveling public who buys a gallon of gasoline or pays a ticket tax. They are user fees, and, therefore, they are fundamentally different from other taxes.

Mr. STENHOLM. Mr. Chairman, I reclaim my time and say they are not fundamentally different because they are user fees, because the users have the right to believe those funds are being expended in the most efficient way possible. Therefore, the argument we make, I think, is extremely valid.

What we are saying today in H.R. 2, and hopefully as amended, with all the amendments added, is that we all agree the basic thrust we want to see is that the President of the United States have the right to go into appropriation bills, Ways and Means tax bills, and now Public Works bills, and if he has a different opinion, then we shall have to vote up or down on the floor on those individual projects.

This is what the argument is about. As I say, in my particular feeling, I get nervous about one-third plus one, but I do not get nervous about a 50 percent plus one independent judgment.

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 4 minutes to the gentleman from California [Mr. MINETA], the former chairman and now ranking member of the Committee on Transportation and Infrastructure.

Mr. MINETA. Mr. Chairman, I really appreciate our colleague, the gentleman from Pennsylvania [Mr. CLINGER] leading the committee on this issue, as well as my very fine colleague, the gentleman from Pennsylvania [Mr. SHUSTER], and I rise in very, very strong opposition to the Orton amendment.

I think there are two things that bother me about the discussion that is going on. One is that there is no recognition whatsoever about the user taxes that are being generated right now through a gasoline or a ticket tax, and they are treating those dollars the same as general tax revenues.

There is no tax for a V–22, a C–17, or for defense in general, but there is a dedicated fund, a highway trust fund or an aviation fund that has revenue coming either from a ticket tax on passengers on airlines or on the gasoline and diesel tax from the users of the highway system.

There is another thing that is starting to bother me, and that is that there is no distinction between a dollar spent for operations and a dollar spent on capital items. A dollar spent on capital items is an investment that brings back or generates economic growth and other kinds of activities.

Those who have advocated a line-item veto have argued that if we are going to get serious about deficit spending, we have to have this tool—the line-item veto—to bring spending down.

This amendment would extend the line-item veto to contract authority programs, which is to say the trust fund supported aspects of the highway, transit, and airport programs.

But all this contract authority spending is fully supported by dedicated revenues into the trust funds. This is all spending which does not contribute one dime to the deficit. These are the ultimate in pay-as-you-go programs. This is what we want more of the Federal budget to look like.

Whether you think the line-item veto is a good idea or not with respect to most Federal spending, it just makes no sense with regard to contract authority. Our contract authority programs already are prohibited by law from contributing to the deficit. That's iron-clad protection against deficit spending. You might say that with regard to the contract authority programs, we already have the balanced budget amendment in pace. A line-item veto on contract authority is not needed and makes no sense.

If this amendment were adopted, entire programs could be reduce or eliminated, even though they are now entirely pay-as-you-to. The programs we are talking about are key to our States, our communities, and our businesses. I'm talking about programs like the interstate construction program, the interstate maintenance program, the National Highway System, the minimum allocation, the congestion mitigation program, and a variety of other highway, transit, airport, and safety programs, all of which are 100 percent fund supported. Any of these programs could be reduced or eliminated in their entirety by the line-item veto, even though we were already taxing our constituents more than enough to fully fund these programs through the trust funds.

This is ultimately an issue of truth in taxing. When we approved these trust fund taxes, and when most of our constituents agreed to support these trust fund taxes, it was the promise that these monies could and would be spent on needed transportation improvements. That's what the trust in trust funds is all about. If we now create a situation where the taxes will go on being collected, but the line-item veto can be used to block spending those taxes back out as promised, we will have fundamentally broken trust with our constituents, and that would be profoundly wrong.

I strongly urge my colleagues to oppose this amendment.

☐ 1520

Mr. ORTON. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Utah [Mr. ORTON]. The measure we are debating today, the line-item veto, attempts to put some control over Federal spending. The line-item veto as drafted in H.R. 2 controls appropriation spending. The line-item veto as drafted in H.R. 2 applies to targeted tax benefits. The line-item veto as drafted in H.R. 2 does not apply to contract authority, that is, Federal trust funds such as the Federal highway and airport trust funds.

Why should the line-item veto apply to appropriations funding and funding from the tax fund, but not apply to spending from the Federal trust fund? As the gentleman from Utah [Mr. ORTON], has already pointed out, the highway reauthorization bill, what we call ISTEA, contains numerous highway demonstration projects that were nothing but pork-barrel projects in the districts of powerful Members.

Mr. Chairman, if we are to have an effective line-item veto, it must apply to all forms of Federal spending. Without the Orton amendment, a good portion of Federal pork-barrel spending will be off limits. That is unfair and unwise and unworkable.

We need to have this be applicable to all spending here. We need to make sure that we are able to scrutinize every bit of Federal spending, and the Orton amendment will ensure us we have the opportunity to do that.

We have an obligation, if we are going to pass this line-item veto, to make sure it works and works in a fair fashion. I would urge all my colleagues, my colleagues on the Democratic side, my colleagues on the Republican side, who absolutely know that this is fair and right, You have been here before, even your own colleagues have proposed this, and it is a fair amendment, and we ought to pass it.

Mr. Chairman, as an original cosponsor of H.R. 2, I rise in strong support of the line-item veto.

Since the early 1980's, our national debt has soared. The national debt expands by $1 trillion every 4 years. The debt has skyrocketed to such an extent that interest payments on the debt are one of the largest items in the Federal budget. Something must be done to change course.

Before coming to the floor, I was up in my office watching the debate and I have to tell you that I have a hard time understanding what some have said about H.R. 2. Many of the opponents of the line-item veto have criticized this bill because they believe that it gives too much power to the President. Even though I disagree, I can understand this argument. But others have said that our Nation has survived tougher times than we find ourselves in today without having to upset the constitutional balance between the executive and the legislative branches. It is this argument that I do not understand. Do the Members of this body realize that we have a $4.6 trillion debt? Do the Members of the body realize that we are getting closer and closer to financial insolvency every day? Do the Members of this body realize that future generations will have to pay 82 percent of their income in taxes because we have left them with this terrible debt? From the comments on the floor today I am not sure.

I firmly believe that if we do not take decisive and dramatic action to reduce and eliminate our wasteful spending habits, we will condemn our children and grandchildren to pay for our excesses. As a father and a grandfather, I can tell you that this would be wrong and unfair.

For these reasons, I am a strong supporter of a pure line-item veto. The current budget process is woefully inadequate in this regard. It is true that the President can propose budget rescissions. However, we in Congress can thwart the will of the President and allow pork barrel spending to be spent by simply ignoring the President's rescission requests.

H.R. 2 will fundamentally change this process by requiring us to consider the President's rescissions. But most importantly, H.R. 2 will require us to muster a two-thirds vote to restore a spending program that the President has targeted for elimination. It is this two-thirds requirement that distinguishes H.R. 2 as the true line-item veto.

Finally, Mr. Chairman, the line-item veto is a commonsense issue. President Clinton supports it. Forty-three State Governors have this authority. And most importantly, the American people believe that we should give it to the President.

Mr. CLINGER. Mr. Chairman, might I inquire how much time is remaining on both sides?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 18 minutes remaining, and the gentleman from Utah [Mr. ORTON] has 8½ minutes remaining.

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 2 minutes to the gentleman from Pennsylvania [Mr. MASCARA].

Mr. MASCARA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the Orton amendment. While I do not doubt the sincerity of the motives of the gentleman from Utah [Mr. ORTON], I know firsthand how harmful enactment of this amendment could be to a section of the country, southwestern Pennsylvania, struggling to overcome the economic upheavals of the 1980's and the early 1990's.

For the past 25 years, citizens of my southwestern Pennsylvania district have struggled to win approval and funding for a road called the Mon-Fayette Expressway. Like the playing field in the movie "Field of Dreams," they hope if this highway is built, businesses and jobs will follow.udies all around the world have indicated a strong correlation between highway and infrastructure development and economic development. I served for 15 years as a member of the southwestern Pennsylvania Regional Planning Commission, where I served as chairman of the planned policy committee which had the responsibility of fulfilling the obligations under the 1990 Clean Air Act amendments and the 1991 Intermodal Surface Transportation Efficiency Act.

Passage of the Orton amendment would allow this President or some other President to reach into a bill, and, with the stroke of a pen, wipe out this highway. I do not think that is right.

While I support the concept of the line-item veto, I must say that the trust fund programs targeted by the Orton amendment are not part of the problem this legislation is trying to solve.

The highway trust fund that will hopefully be used one day to fund the Mon-Fayette Expressway is totally financed, as some of my colleagues said earlier, by gasoline taxes, paid by motorists and truckers across this country. For every 1 penny, there is $1 billion going into that plan. So I ask Members on the Republican side and the Democratic side to oppose this amendment.

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 4 minutes to the gentleman from West Virginia [Mr. RAHALL], a member of the Committee on Transportation and Infrastructure and ranking member on the Subcommittee on Surface Transportation.

Mr. RAHALL. I thank the distinguished chairman for yielding and appreciate his leadership, as well as the leadership of our Committee on Transportation and Infrastructure Chairman, the gentleman from Pennsylvania [Mr. SHUSTER] and our ranking member, the gentleman from California [Mr. MINETA].

Mr. Chairman, I, of course, rise in opposition to the spending amendment. I could perhaps understand the rationale for its introduction if its author were a new Member of the majority party. But I am rather dumbfounded by the rationale of its current author, considering his background and his work in the past with our Committee on Transportation and Infrastructure. The gentleman certainly comes to this debate with no clean hands, protest notwithstanding.

As most of us know, the airport, highway, and transit projects are financed through the trust funds supported by users fees, as has been repeated during this debate. This is entirely different from last week's debate on exempting defense from the line-item veto. Defense has no dedicated user financed trust fund.

Expenditures from these highway trust funds are achieved through contract authority contained in authorizing bills under our jurisdiction on the Committee on Transportation and Infrastructure. Our highway and aviation programs are already covered by spending controls. I repeat, they are already covered by spending controls. Annually our appropriators impose obligation limitations on transportation contract authority which in turn controls outlays for these programs.

Second, rescissions of highway and aviation contract authority will not save any money. By law the funds not expended from these trust funds remain in the trust fund and may not be used for any other purposes. These are dedicated funds, derived from user fees.

□ 1530

We ought to be putting more trust into these highway trust funds, not detracting from the trust in these highway trust funds

This is about truth in taxing, Mr. Chairman, using the people's money for what they believe the money is going toward when they pay that fee at the gas pump or buy that airline ticket. It is what they truly believe their money is going for, improved airports and security at our airports, improved highways.

This is about truth in taxing, putting trust back into these highway trust funds, being honest with the American taxpayer about where his or her money is going, not into some black hole in Washington known as deficit reduction, for which they may never see any positive results.

These trust funds are deficit proof. By law, by the Byrd amendment, they cannot spend more money than they take in. They should not, therefore, be target for deficit reduction.

Road building in our respective States is a jobs issue as well. When we build roads, we provide jobs in both the short term and in the long term.

And finally, enactment of this amendment would cause havoc in our transportation programs. State and transportation contractors have no assurance that once a project is initiated, the funds necessary for its completion would be there. There would be no smooth flow of funds to our States to conduct transportation policy and build projects with any amount of certitude.

Who can conduct a transportation and road building project like that? And talk about unfunded mandates. If the President vetoes an entire highway safety program or the national highway system program, who is going to build these projects in the States, these lifelines to many a community? Obviously States are going to have to pick up the tab themselves. Talk about unfunded mandates.

This is not the type of way, this is not the manner in which we should be conducting transportation policy in this country, especially as we look into the 21st century and try to adopt a new and sound policy of intermodalism.

I tell my colleagues that this vote will send an important message, not individually, I might add, but collectively, to this body and to the world as we begin writing a transportation policy this year.

Mr. CLINGER. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota [Mr. OBERSTAR], a very prominent member of the Committee on Transportation and Infrastructure and ranking member of the Subcommittee on Aviation.

Mr. OBERSTAR. I thank the gentleman for yielding and congratulate him on the dignified manner in which he has conducted the debate from his position as chairman.

The Orton amendment strikes at two of the Federal programs that have been the most successful, the most universally accepted and which are deficit free and do not contribute to deficit and by their very constitution and establishment cannot run a deficit and never have and never will.

Contract authority, which is the underlying principle of the aviation trust fund, and the highway trust fund were invented in 1956, with the establishment of the highway user tax because the founders of the interstate highway program realized that we needed a dedicated revenue stream, one that States could count upon year after year to build these projects that took years to design and engineer and years more to construct and to complete. We cannot complete a bridge or a highway from one day to the next, from one fiscal year to the next. It takes several, years and that is why they established the principle of contract authority to make sure that there would be this dedicated revenue stream to complete these projects after their initiation. And then the same concept was adopted in the 1970's with establishment of the aviation trust fund and the airline ticket tax which finances our airport improvement program.

We specifically, in the airport improvement program, the gentleman from Pennsylvania and I worked together on this for years, kept individually designated projects out. But that did not stop States from designating one project having more significance than another. And the same with the highway program. States made choices as to where those dedicated revenues are going to go. They make choices of one project over another. State legislatures make those decisions. Governors make those decisions. We, too, are the people's elected representatives. And we have a responsibility to the people that elect us and who pay their taxes into the highway trust fund and who expect that dedicated revenue stream to operate.

Now, under this amendment, the president would have the authority to abolish the contract authority itself. The money then could not be spent on any other purpose. It would not be spent on highways or airports. It would just sit there and build up surplus to offset the deficit and make the President's program, whichever President that happened to be, look better.

I do not think we want that. I do not think our people sent us here to just be a rubber stamp for a President. We are not a rubber stamp Congress. We have the responsibility to represent, and that is to represent the people who sent us here, to stand for something, and that something is a highway trust fund that has built the finest system of highways that is the envy of other countries in the world and the finest network of airports that is the envy of other countries in the world. And we should not undermine it by adopting this provision, I hate to dignify it with that term, that would undermine the very purpose of building infrastructure, serving the economy of this country, serving the needs of transportation and movement of people and goods throughout America.

Defeat the Orton amendment.

Mr. ORTON. Mr. Chairman, I yield myself 10 seconds to suggest that the President, under H.R. 2, could also veto the entire funding for the Central Intelligence Agency. I do not know why he would do that, or the transportation funding.

Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman from Utah for yielding time to me.

There is an old country song that goes, "I was country when country wasn't cool."

I was for the line-item veto long before being for the line-item veto was cool, and those who support the line-item veto, who believe that it really ought to work in this country to enforce congressional will power, to stop deficit spending, and stop pork-barrel projects, ought to be for the line-item veto in its purest form, ought to make sure we exempt no discretionary spending that is deficit spending from this bill.

I joined many of my colleagues in voting to make sure we did not exempt military spending, defense spending from this bill, and I am amazed today that we are debating whether to leave an exemption for highway funding in this bill. How can we be consistently for the line-item veto and all it means for us to enforce the balanced budget and to end deficit spending, to stand up, as I did and others did, against exempting defense spending from this bill, and then be for exempting highways and bridges?

Well, my colleagues know there is a little log-rolling goes on once in a while. I am not saying highways and bridges are not important, any more than I thought defense was not pretty important for our country. But when we start exempting things that are discretionary spending from the line-item veto, designed to stop deficit spending in our country, we are on a slippery slope, rather, that I think destroys the whole purpose of the line-item veto.

Those in America who believed in that contract provision are going to be sadly surprised when they wake up tomorrow morning and find out we adopted a bill that leaves out highway funding as an item for the line-item veto when we would not leave out defense spending. They are going to be sadly surprised that some Members who support the line-item veto do not really support it in all its purposes.

Mr. CLINGER. Mr. Chairman, may I again inquire as to the amount of time remaining on both sides?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 8 minutes remaining, and the gentleman from Utah [Mr. ORTON] has 6½ minutes remaining.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. BLUTE], a principal, prime cosponsor of this legislation and a member of the Committee on Government Reform and Oversight.

□ 1540

Mr. BLUTE. Mr. Chairman, I rise in strong opposition to the amendment offered by the distinguished gentleman from Utah [Mr. ORTON]. While I am sure that gentleman's intentions are of the highest order in offering his amendment, this is simply a bad idea which will have dire unintended consequences.

The line-item veto is a tool that allows for the surgical removal of wasteful spending items from large spending and tax bills. The whole idea behind this device is to save money. However, the gentleman's amendment has zero potential to save even one dime.

Contract authority allows for money to be spent from trust funds. If a contract authority item is vetoed out of an authorizing bill, the money would go back into the trust fund, where it would simply continue to sit. There would be no saving associated with such a move.

The whole matter of trust funds has become the focus of much discussion and debate in the Congress. There is certainly no clear consensus on whether and how these funds should be spent down.

There are two schools of thought. Some would like to see the trust funds stockpiled to match the size of our Federal deficit. Others feel these funds should be spent on the types of things for which they are intended.

Mr. Chairman, this is neither the time nor the place to conduct the next round in this debate. As we work to reduce our debt, we also have to make sure our transportation infrastructure is modernized through prudent investments.

Thus, these expenditures are key to future economic growth, and thus key to future Government revenues. If Members want to see our debt explode, watch as our economy declines, as our transportation infrastructure declines, and we are unable to move goods and consumers in an effective way.

Our goal with this legislation, Mr. Chairman, is to save money and to reduce the amount of waste that taxpayers have to pay for each year. This amendment does absolutely nothing toward that goal, Mr. Chairman. I urge my colleagues to defeat this misguided amendment.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BAKER], a very valued member of the Committee on Transportation and Infrastructure.

Mr. BAKER of California. Mr. Speaker, this is not a question of protecting pork in highway infrastructure bills. This is a question of protecting the highway fund, paid for by motorists into a trust fund which cannot be overspent and which is earmarked for highway and rail projects. At last accounting, the highway trust fund had involuntarily loaned to the general fund $13 billion for cash flow for that $210 billion deficit this year.

Therefore, Mr. Chairman, the purpose of the line-item veto, bringing deficit spending in line, does not exist in the highway trust funds which are already in line. Indeed, both the Bush budget debacle of 1990 and the Clinton tax increase of 1993 robbed the gas taxpayers of over an additional $6.5 billion a year, which will not build rail or road projects, which was, rather, sent to the Bermuda Triangle known as the general fund budget balancing act.

No more transportation funds to the general fund. Vote no on this amendment.

Mr. CLINGER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strongest possible opposition to the Orton amendment to H.R. 2. Although I support efforts to cut excessive Federal spending, the amendment offered by the gentleman from Utah could have a devastating effect on our Nation's transportation system.

The Federal Government supports investment in our Nation's infrastructure because it is a critical need beyond the scope of any individual State. The aviation and highway trust funds are designed to ensure that transportation needs are consistently met throughout the country. The trust funds are simply the wrong target for this effort.

Mr. Chairman, highway and aviation programs are already covered by spending controls. Each year, the Appropriations Committee sets obligation limitations on transportation contract authority. These limitations in turn control outlays from the programs. Contract authority, like any funding appropriated by Congress, is simply a piece of the pie—not a lifetime supply of pie.

In addition, rescissions of highway and aviation contract authority will not actually save any money. Because of the importance of transportation funding, the law clearly establishes that funds from the transportation trust funds cannot be used for any other purpose—even deficit reduction.

The transportation trust funds are the wrong target for deficit reduction. By law, they cannot spend more than they take in. Rather than trying to slash them, we should be looking to the aviation and highway trust funds as a model for other programs. Every Federal program should pay for itself as these trust funds do and not contribute to the deficit.

Under this amendment, all the aviation and highway grant programs could be in jeopardy of rescission by the President. Nearly all highway and aviation funds are statutorily provided in multibillion dollar blocks of formula distributed funds. The President might only have the option of eliminating an entire program in order to reach a particular project. Surely we do not wish to advocate that. That would be cutting off your nose to spite your face.

The bottom line is that this amendment is a really bad idea. Its impact would be devastating for transportation programs—as well as any nontransportation programs which use contract authority. We can cut spending and give the President a line-item veto today, but we cannot pass this amendment. Although it may be well-intentioned, the impact on the Nation's transportation system is intolerable. Vote "no" on the Orton amendment.

Mr. CLINGER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I rise in opposition to the Orton amendment.

Mr. Chairman, this amendment would include under the definition of "discretionary budget authority" in the bill the concept of "contract authority."

This runs contrary to all existing definitions under the Budget Act which clearly distinguishes between discretionary budget authority and contract authority.

This exercise reminds me of a riddle Abraham Lincoln used to pose: If you call a tail a leg, how many legs does a horse have?

While many would answer, five, Lincoln responded that the answer is still four because calling a tail a leg doesn't make it a leg.

By the same token, calling contract authority "discretionary budget authority" doesn't make it so. Contract authority is the authority given to agencies to enter into contracts. It does not obligate the money to be spent and therefore does not involve discretionary appropriations.

If we begin to give the President the authority to selectively item veto what is in effect enacted, authorization language, we are raising serious constitutional questions, and we are going against the grain of this bill as it is currently drafted.

We have already agreed by way of language in the bill and the report that we are talking about allowing the President to reduce or eliminate dollar amounts in appropriations bills. And we have explicitly adopted language to ensure that the President cannot eliminate legislative language.

According to testimony last month of Walter Dellinger, Assistant Attorney General for the Office of Legal Counsel in the Department of Justice, the pending line-item veto bill does not raise constitutional questions because, in his words, "The President would merely be authorized to decline to expend certain appropriated funds, not alter or repeal an enacted law."

To permit the President to sign a law containing contractual authority, then turn around and propose to cancel it by way of the line-item veto process, goes contrary to the lawmaking process of the Constitution.

In the words of the Department of Justice testimony, it violates the "specific textual requirement of Article I, section 7 of the Constitution governing the manner in which laws are made" because it "amends a duly enacted law which is inconsistent with Article I, section 7."

Mr. Chairman, we have already adopted an amendment that provides for an expedited judicial review of the constitutionality of this act. I would hate to see us jeopardize the constitutionality of the bill as it now stands by inserting a clear red flag in the form of permitting the President to cancel duly enacted contractual, legislative language in a manner other than through the normal lawmaking-veto process established by the Constitution.

I therefore urge rejection of this amendment.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from New York [Mr. QUINN], a long time sponsor of this legislation.

Mr. QUINN. Mr. Chairman, as a member of the House Committee on Transportation and Infrastructure, I, too, rise in strong opposition to the Orton amendment.

The amendment blurs the Budget Act's clear distinction between mandatory and discretionary funding. Proponents of the measure today have said we must be consistent, that we must vote for the line-item veto and not have any exceptions. The exceptions that we talk about this afternoon, however, make a clear distinction how that money is raised.

This is a trust fund, a dedicated trust fund where residents and constituents that I represent do not want to see their money and their tax dollars go to Washington and be put in the rest of the black hole where their money goes, and never see a return. A dedicated trust fund like this gets a bang for their buck. They know it is going to be used for highway or aviation programs. That is certain. They know it will not be put in with all the rest of the money where those Washington tricks are played.

I urge all my colleagues to vote no on the Orton amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 4 minutes remaining, and the gentleman from Utah [Mr. ORTON] has 6½ minutes remaining.

Mr. ORTON. Mr. Chairman, I yield myself 10 seconds to point out that these user fees, as they are being called, just a couple of years ago in the President's budget when they raised gas taxes, were ranted and railed against as gasoline taxes against the people. Now they are user fees.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I rise to support the Orton amendment.

Mr. Chairman, I want to make clear from the start that the issue is not whether or not projects being built with contract authority are good ones or bad ones. That is beside the point. Some of them are good and some of them are bad, no doubt.

The question simply, to me, Mr. Chairman, is whether or not we are going to treat all spending the same when it comes to making spending vulnerable to the President's ability to review it. Mr. Chairman, the issue is simply why should contract authority be exempt when money spent through direct appropriations is not exempt from the President's review?

As the ranking Democrat on the Committee on Appropriations, I stood on this floor last week and offered an amendment which was accepted by this committee which enabled the President to review every single project approved for fiscal 1995 in the appropriations process.

I happen to think most of those projects are perfectly defensible. I happen to think that most of the projects that are financed by the Committee on Transportation and Infrastructure under contract authority are perfectly defensible. However, that is not the question.

I also think that we can make the same argument with respect to deficit reduction on appropriated earmarks that the gentleman has made with respect to contract authority. It is alleged that because we do not add to the deficit, because this represents trust fund spending, therefore, these projects ought to be exempt.

Mr. Chairman, I would point out not a single appropriation earmark adds to the deficit, either, because each of the appropriation subcommittees comes to the floor within a budget ceiling. They cannot exceed it. That means if we provide an earmark, those dollars come from other projects that would otherwise be funded.

It seems to me, Mr. Chairman, in both cases the issue is not whether the spending adds to the deficit. The issue is whether or not, if an occasional project is acutely embarrassing, whether the President ought to have the right to reach that project or not.

Mr. Chairman, I say if we are going to require each and every project in the appropriations process to be subject to presidential review, then we ought to do the same thing for contract authority.

To me the issue is not whether these projects add to the economy or not. I suspect most of them do, just as most of the appropriated earmarks do. The issue is not whether or not these projects are useful. Most of them probably are.

The issue is whether or not we are going to exempt one kind of spending from presidential review when we are subjecting all other kinds to that review. And it seems to me, especially when we recognize that in any fiscal year the amount of money being provided under contract authority is at least four to five times as large as that being provided under appropriations, that we ought not to exempt the kind of spending which is four and five times as large as the appropriated direct spending which was made subject to this review just last week. I would urge a vote for the Orton amendment.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Florida [Mr. MICA] a member of the Committee on Government Reform and Oversight.

Mr. MICA. Mr. Chairman, I am probably one of the most fiscally conservative Members of this body. I am a strong supporter of the legislation before us to provide the President with a line-item veto authority. However, quite frankly, I do not think that this particular amendment proposed by the gentleman from Utah [Mr. ORTON] really deserves our support at this point.

The reason is, first of all, while his intent may be good and sound good, the policy, in fact, is bad policy. We could have some serious unintended consequences by instituting this legislation.

Most importantly, Mr. Chairman, the rescission of highway and aviation contract authority will not save any money. By law, funds that are not expended from these trust funds remain in the trust fund, and may not be used for any other purpose, so we are not saving any money with adoption of this amendment.

Therefore, I oppose this amendment, and I urge my colleagues to also oppose it when it come before the House.

□ 1550

Mr. ORTON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from Minnesota [Mr. SABO] and the gentleman from Wisconsin [Mr. OBEY] have said it better than I could. This is not a question of pork. Any qualified projects will stand the scrutiny of the line-item veto and, in fact, will survive. The question is, why should we be treating spending under an appropriations bill any different than treating spending under a transportation bill?

Should we be any less concerned about earmarked spending from gas tax trust funds than we are from general revenues?

I would just suggest some quotes from some of my colleagues during this debate on H.R. 2. The gentleman from Pennsylvania [Mr. CLINGER] said that we have rejected the argument about whether to exempt spending from the judiciary and said that "no program rose to this level where it should be exempted from consideration."

The gentleman from New York [Mr. SOLOMON] said, "And we should not exempt anybody."

The gentleman from Florida [Mr. GOSS] said, "If there is belt tightening, it is everywhere."

The gentleman from Massachusetts [Mr. BLUTE] said, "If we start exempting all of these areas, we are going to run into real problems."

The gentleman from Texas [Mr. DELAY] said, "If we are going to exempt defense, then it is hypocritical not to exempt child issues. We do not need to be exempting any one program from another."

Mr. Chairman, the critical point: Money that is vetoed under appropriation bills does not reduce the deficit. It goes back and is subject to the same 602(b) allocations and is reallocated among other appropriated spending. Spending under contract authority which would be vetoed would not reduce the deficit. It would go back into the trust fund and would therefore be eligible to be spent through the general formula funding.

In ISTEA we funded a little over $100 billion of spending from the trust funds under the general formula. We funded about $6 billion in demonstration programs. Those demonstration programs, some of them are very, very good. Some of them may not be so good.

If we want to give the President the authority to look into appropriation bills, to circle out those items that are embarrassing, that are wasteful, that should not be spent, why on Earth should we not allow the President to look into contract authority authorized by the Committee on Transportation and Infrastructure to do the same thing? To look at those projects, demonstration projects, most of which are good and valid projects, but to circle out those items which are embarrassing, which should not be spent, which cannot be justified.

How can we say simply because this money is raised from a gasoline tax and is in a trust fund to be spent only for transportation projects that we do not have to be concerned about how wisely those transportation funds are spent?

We are not trying to attack the transportation trust fund program or to stop funding for transportation programs. What we are saying is the President ought to be able to look at how wisely we are spending those transportation trust funds, and it is not any less responsible of us to look at appropriations versus transportation contract authority.

I would urge adoption of my amendment.

Mr. CLINGER. Mr. Chairman, I yield 10 seconds to the gentleman from Florida [Mr. GOSS] to respond.

Mr. GOSS. I thank the gentleman for yielding me the time.

Mr. Chairman, I just wanted to point out, it is true I did say that if there is belt tightening, it should be shared by all. But I would like to point out, H.R. 2 talks about discretionary budget and talks about numbers. It does not talk about policy because as so many have articulately expressed, we are concerned about shifting the balance of power.

Mr. CLINGER. Mr. Chairman, I yield briefly to the gentleman from Pennsylvania [Mr. SHUSTER] to respond to another matter that was raised.

Mr. SHUSTER. Mr. Chairman, I thank my good friend for yielding me the time.

My friend from Utah made the allegation that a member of my staff called the mayor of Provo, UT, to pressure him to get him to withdraw this amendment.

I have not only talked to my staff, I have just gotten off the phone from talking to the office of the mayor of Provo, UT. No one from my staff spoke to the mayor of Provo, UT.

I am sure my good friend in the heat of the moment made an honest mistake, but I would simply like the record to reflect that.

Mr. ORTON. Mr. Chairman, will the gentleman yield to me so that I can at least answer or respond?

Mr. CLINGER. I yield 10 seconds to the gentleman from Utah.

Mr. ORTON. I thank the gentleman for yielding me the time.

Mr. Chairman, I did not make an allegation that they called the mayor of Provo, UT. If you will read the RECORD, it is clear what I said, and the information came from various lobbying sources who lobbied this city in behalf of a mayor in my district, and the comments were made to the lobbyist.

Mr. CLINGER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I rise in opposition to this amendment. I believe I am also speaking on behalf of the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules, in opposing this amendment.

I think one of the things that has been sort of part of this whole debate is the suggestion at least that there are many, many projects out there that may not be worthy and that the President should be given an opportunity to look into those and deal with them in this veto. But I think it needs to be pointed out that when we are talking about trust funds here, 96 percent of those funds go to the States, directly to the States. They are distributed by formula, they are not earmarked, and that is the overwhelming amount of the money that is involved in these trust funds, come from us to the States. Only about 3 to 4 percent for very high-priority projects and ones that have been carefully vetted, all of which have been approved by the State departments of transportation, are approved by the State DOT's before they are approved, before they are funded. I think it is distorting the debate a bit to suggest that there are massive numbers of projects the President might want to reach.

The other item I would just respond to is the transportation trust funds presently have or have had a cash surplus of $33 billion. One of the suggestions the Committee on Transportation and Infrastructure has had over the years is that that has been used to mask, to hide the deficit, to make the deficit look better, and to make the general fund look better. It has been a smoke-and-mirrors device that has been used over the years because the trust funds cannot spend more than they take in. I think we do not need to contribute to this problem by providing a veto of contract authority.

Mr. Chairman, rescissions of highway and aviation trust authority are not going to save any money. I think that is the bottom line. This is a deficit reduction provision. The Orton amendment will do nothing to reduce the deficit. I urge opposition to this amendment.

Mr. GILCHREST. Mr. Chairman, I rise in opposition to the Orton amendment.

Mr. Chairman, there is only one good reason to provide line-item veto authority to the President—to reduce the deficit. Providing a line-item veto just for the sake of doing so would be an example of Congress cutting off our nose to spite our face. The amendment before us, while well-intentioned does exactly that.

Contract authority comes out of trust funds which are fenced off for explicit transportation purposes. If the President were to line-item veto a highway project or an airport grant, it would have no impact on the deficit. It would merely require that a given amount of money sit unused in the trust fund until the next fiscal year.

Our transportation trust funds represent a user fee to our highway and airway travelers. They pay for improvements to the Federal transportation infrastructure through taxes levied on fuel and airline tickets. The expenditure of this money is the Government fulfilling a contract with these travelers. If we instead use this money for deficit reduction, we will have turned an ostensible user fee into a tax, changing the rules in the middle of the game.

As an aside, Mr. Chairman, I might point out that the language of the bill requires a Presidential finding that his veto of the line item would reduce the deficit. Although I am not an expert on this, I would wonder how the President could make such a finding when the line-item in question was contract authority.

Mr. Chairman, a line-item veto for contract authority makes no sense. It doesn't save any money and it doesn't reduce the deficit. Let's defeat the Orton amendment and preserve the integrity of the transportation trust funds.

Mr. DUNCAN. Mr. Chairman, I rise in opposition to the Orton amendment but in strong support of the underlying bill, H.R. 2.

As I mentioned on the floor yesterday, I have introduced line-item veto legislation almost identical to H.R. 2 on the first day of every Congress since I was elected in 1988.

I think it is fair to say that there are not many Members of this House who support giving the President true line-item veto authority more strongly than I do.

But Mr. Chairman, this amendment is aimed very specifically at the aviation trust fund and the highway trust fund, which were created with the understanding that the money they contained would be used exclusively for aviation and highway projects.

The ultimate goal of this amendment appears to be to get at the money in these trust funds so that it can be used for nontransportation purposes, which violates the very concept of a trust fund.

I strongly believe that these funds should be off-budget and should be used for the purpose for which they were created, namely to fund various airport and highway improvement projects and to strengthen our overall transportation system.

When these trust funds were originally established, it was made clear that the money they contained would be set aside for such projects.

If we are going to turn around and violate that pledge, then we should just be honest and stop referring to them as trust funds at all.

Mr. Chairman, the money that is in these trust funds comes from fees that are paid by the users of our Nation's airlines and highways.

I believe that this money should continue to be used for the types of improvement projects that we have promised these users it will be used for.

At a time when use of our airlines is increasing rapidly each year and use of our highways is at an all time high and still climbing, it does not make sense to make an end run around these funds.

If this amendment is approved, we will end up hurting our transportation system at the very time that we should be doing everything we can to make it stronger.

Mr. Chairman, there is almost no one in this House who is more fiscally conservative than I am or who has voted to cut spending more often than I have.

But I must oppose this targeted attack on our aviation and highway trust funds and I urge my colleagues to join me in opposing the Orton amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. ORTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ORTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the order of the House of Friday, February 3, 1995, further proceedings on the amendment offered by the gentleman from Utah [Mr. ORTON] will be postponed.

The CHAIRMAN. Are there other amendments to the bill?

AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. WATERS: The first sentence of paragraph (3) of section 4 is amended by inserting "or which the President determines would yield at least 20 percent of its benefit to the top 1 percent of income earners" before the period.

The CHAIRMAN. Pursuant to the order of the House, the gentlewoman from California [Ms. WATERS] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment I am offering today is about fairness. I am trying to bring a measure of accountability to this process.

Mr. Chairman, we all know the impression of how law is made in Congress. Many people believe special interests have too much influence and that the rich are getting their way with too many politicians.

□ 1600

Unfortunately, this impression is often too close to reality. My amendment would give the President the authority to veto any provision which gives the lion's share of benefits to the rich.

Make no mistake about it, my amendment makes this bill stronger. My amendment would increase the chance that H.R. 2 would reduce the deficit.

Specifically, my amendment would change the definition of targeted tax benefit in the bill to include any tax benefit which would accrue more than 50 percent of its benefit to the top 10 percent of income earners. As I said, this is only fair and this is common sense.

Anyone looking at this legislation, or listening to us debate it, may concede that a targeted tax benefit should include one that goes mainly to the wealthy. This amendment goes to the heart of the legislation. We know from the pollsters who have brought us all of this information about the Contract With America that a majority of Americans support the line-item veto, but the important question is why? The answer is because the American people believe that special interests and corporate America exert too much influence on our spending and revenue decisions.

My amendment would merely bring any tax break which disproportionately benefits the rich under the provisions of the line-item veto. It would not prohibit Congress from passing such a tax break, it would not require the President to veto such a tax break, it would simply give the President, Democrat or Republican, the option of striking such a regressive, narrow tax break from a bill.

My amendment would not change the procedure of the bill in any way. The President, through the Office of Management and Budget, would make a determination of the beneficiaries of the tax legislation we send him. Under my amendment, if it is determined that any tax change would severely disproportionately benefit the rich, the President would be given the option of vetoing that portion of it.

The majority of Americans are tired of struggling to make ends meet while they see the economic elite get more and more from Government. While economic factors in the past 20 years have exacerbated the trend toward inequality, tax policy has made matters worse.

Since 1977, the effective tax rate for the top one-fifth of wage earners went from 27.2 to 26.8 percent, a net reduction of $450 in tax liability. For the top 5 percent, the effective tax rate has dropped from 30.6 to 28.3 percent, which translates into a $5,311 tax cut. Finally, the top 1 percent, those earning over $675,000 per year, have seen a reduction in their tax rate from 35.5 percent down to 29.3 percent, the equivalent of nearly $42,000 in net tax reduction.

Amazingly, in the same time period the after-tax income of the families in the top 1 percent of income has increased from 7.3 percent of all U.S. earnings to 12.3 percent. This has taken place at the same time as the income of the bottom four-fifths has declined. It is no wonder that despite the economic recovery, most Americans still feel quite insecure and they think the Government is not on their side. These trends have caused Americans to distrust Washington. The tax policies enacted here in the past 15 years are a direct contributor to this mistrust.

The bill before us, as currently drafted, is just too narrow. The targeted tax benefit only includes those tax breaks which affect 100 or fewer entities. While I agree that any tax benefit which benefits as few entities as this certainly qualifies as a targeted tax benefit, a broader definition better serves Congress, the President, and most importantly, the American people.

Words, symbols, and definitions are important when public officials communicate to the people. Any tax break in which half the revenue would go to the top 10 percent of income earners in this country is a targeted tax benefit. It only makes common sense.

I do not know how many tax breaks would fall into the category I am proposing today, but that is not important. What is important is that we set a standard. It is important that American taxpayers know that any tax provision which benefits the rich, excessively, will be carefully—not carelessly—considered by the President and Congress. Without my amendment I am afraid we are not doing all that we can to protect American taxpayers from special breaks for the wealthy and well-connected.

Let us send a powerful message to the American people today. Let us show them that the days of corporate influence, the days where rich people can pick the pockets of the Federal Treasury are over. Let us make it a little more difficult for the wealthy to get more than their fair share.

In conclusion, I appeal to my colleagues who support the bill before us to adopt this amendment. It strengthens the underlying legislation. This amendment would help reduce the budget deficit. My amendment could save billions in taxpayer money.

So please, before Members vote, think about the budgetary consequences of what I am proposing, and at the time that we do vote I am asking my colleagues for an "aye" vote.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] is recognized for 15 minutes.

Mr. CLINGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I commend the gentlewoman from California because she is well known for the efforts that she has exerted over the years to bring greater equity, I think, to the Federal Government and deserves commendation for that. But I think I was a little surprised by this amendment which, in my view, would create some unexpected perhaps, and unnecessary tensions where none existed before. I think we have to focus on what the very limited provisions in this bill, in H.R. 2, is designed to get at.

We have had in the past, we are all familiar with where there have been egregious examples of abuse in allowing certain tax advantages to be written into the legislation which benefit a very few, very few fat cats, if you will, or others, and this provision is designed to attack that very narrow problem. There should not be an effort, I think, in this bill to basically determine tax policy, and I think that is what the gentlewoman's amendment would do. It would really broaden very dramatically the scope of what we are proposing in this bill which is very narrowly to focus it, rifle shot it, I guess, instead of a shotgun approach to this issue saying yes, the President should be able to identify those outrageous examples of tax preferences that are given. Whether it is wine makers in California or whoever it might be, this is an effort to say the President should have an opportunity to deal with those kinds of examples, and eliminate them.

But to broaden it to the extent that the gentlewoman has, and I understand what she is trying to do, but I think she is basically giving the President an ability to second-guess Congress on policy matters by vetoing out entire tax provisions out of the code. I think that goes beyond.

So I think because the gentlewoman's amendment creates a previously unforeseen differential, and that is what is really involved, and because it obscures the purpose of H.R. 2, which is to ensure the ability to assure everyone pays his fair share, this amendment, Mr. Chairman, should be defeated.

Mr. Chairman. I reserve the balance of my time.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message from the President.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. QUINN) assumed the chair.

FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1610

LINE-ITEM VETO ACT

The Committee resumed its sitting.

Ms. WATERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Pennsylvania is to be commended for his attempt to protect that part of the bill that speaks to the 100 entities, and I understand that that is a very small attempt to talk about fairness in a certain way. Certainly we need to do that.

We need to say that if there is any tax legislation that will benefit as few as 100 entities, then something is wrong with that, because both you and I and others know far too well that we have had legislation in this Congress that benefited one or two persons, and certainly it is usually those who are well connected, the rich and the powerful who have influence with a particular elected official who are able to do that.

And I am saying, yes, let us have that measure of protection, but let us go a little bit further. I think it is important for us to go a little bit further, because it has been documented time and time again that the top 1 percent in this society have a disproportionate share of the wealth. And as I cited in my opening remarks, the tax income of the families in the top 1 percent of income has increased from 7.3 percent of all U.S. earnings to 12.3 percent.

I think we can in this legislation put a stop to that. We are simply saying if there is anything that is put together that allows that top 1 percent to further benefit, if there is anything that is done that allows the top 10 percent to have over 50 percent of the tax breaks, then we need to give the President the opportunity to veto it, and this is no small matter.

The gentleman from Pennsylvania identifies that this would in some way have too great an influence on tax policy. That is precisely what I wish it to do. I wish it to do that, because at some point in time we must send a signal to the American people that somebody is doing the business of the average working person in this Congress. The average working man or woman does not have a lobbyist here. They cannot be represented but by the people they elect to represent them.

Sometimes we get a little bit too insulated, and oftentimes when we produce tax policy, as we did in 1981 during the Reagan years where we allowed the selling of tax credits and major corporations in America ended up paying no taxes, if I recall during that time, many of the top corporations, Fortune 500 corporations in America, ended up paying no taxes. General Motors ended up paying no taxes. They even got a tax rebate.

At the same time, the taxes of the average working person have increased, and so I am saying we can take a big step as we give the line-item veto to the President of the United States and say:

> Mr. President, it looks fishy if what we have done allows the top 10 percent to get over 50 percent of the tax breaks in anything that we have done. So we want to make sure that we protect against that.

And we are going to allow this line-item veto to operate under those circumstances. I do not think it is too much to ask. I know we do not oftentimes think like that. We do not oftentimes think that we can take the broad strokes on behalf of just average working Americans, but I am saying with this line-item veto, which is rather novel, which is quite different, that it is big enough. It is creative enough to allow room for some more creativity.

And I am simply saying that we can broaden the measure of protection and not just do a very small thing such as protect against 100 entities, but we can protect the majority of Americans if we have the will to do so.

So, Mr. Chairman, I would ask that my amendment be adopted.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Chairman, I want to congratulate the gentlewoman for addressing this amendment, as well, on this subject. It is a subject we took up under the Slaughter amendment on these targeted tax credits, and how we do it.

I do not agree with the amendment. I hope the fact they have the amendment indicates that perhaps the gentlewoman will support the line-item veto legislation with or without the amendment.

Ms. WATERS. Mr. Chairman, if the gentleman will yield, all things are possible.

Mr. GOSS. That is good, we are making progress.

Mr. Chairman, I think there are a couple of things that need to be clarified.

The last time I heard about a change in the tax rate it seems to me there was a special top rate including a surtax of up to 39.6 percent for the people at the top end of the scale, and actually those cuts that I believe the gentlewoman was referring to back in 1981 for the rich were cuts for every American who were paying taxes.

But I am glad that she has brought that up on Reagan's birthday, because I think the idea of trying to get spending under control and reduce taxation is something President Reagan stood for.

With regard to the amendment itself particularly, I am a little concerned that we have a very vague definition here, "income earners." Now, that would presumably excuse coupon clippers from this, or people from rents, royalties and other types of income, perhaps pensions, that are not earned income under that definition. I am not sure where stock options or other things like that would come in.

Certainly when you start talking about large corporations under the definition that is being used in H.R. 2, I would point out that large corporations pay an awful lot of wages to blue collar workers who depend on those to keep food on the table and shelter over their head. So I think maybe it has been mischaracterized a little bit for what it would do, and I would, therefore, be opposed to it. But I am glad the gentlewoman has an interest in this subject.

Ms. WATERS. Mr. Chairman, I yield myself the balance of my time. I would just simply close.

I thought it was very important that we try and strike a blow for the people. I really do believe that we are at a time in our society when people are very unhappy with the way public policy is made, with elected officials in general.

I have watched over the past 10 years or so as we have exported jobs of Americans to third world countries for cheap labor; I have watched wage earners be able to buy less with their dollars; I am watching young people with an inability to purchase their own home, to have a down payment, I am watching as the rich get richer basically, and the poor get poorer.

I really do believe that somehow we have to use this forum to begin to engage each other in a debate about what we are going to do for the average wage earner. What are we going to do to represent their interest?

I know that many people believe that we know best and that somehow whatever we do is all right. I do not think so anymore.

I think there are a lot of bright people in this body. I think there are a lot of well-meaning people in this body. But however bright and well meaning we are, we have not done a good job for the average working person who is earning less and less, and able to purchase less and less, is extremely unhappy. They are unhappy with us because we have not been able to represent their interests.

I would simply ask that we adopt this amendment. This amendment would send a signal that we in fact care about those who work every day, and that we are not here simply to do the bidding of those who were well connected, those who have already a disproportionate share of the income, and those who are very powerful.

Mr. CLINGER. Mr. Chairman, I yield myself 30 seconds just to suggest to the gentlewoman that she is a very articulate and forceful and powerful advocate for the very people she is concerned about being affected by this.

□ 1620

I am very confident that it is unlikely that any such overreaching in terms of tax policy is going to occur which would warrant the President having this veto so long as the gentlewoman from California [Ms. Waters] is here to defend those interests, which she does so well.

Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. Blute].

Mr. BLUTE. Mr. Chairman, at a time when many people are decrying our Tax Code as too complicated, the amendment offered by the gentlewoman from California would increase that complexity. How would the President determine if a tax credit provided half its benefit to 10 percent of the population? In order to accelerate the process, the Committee on Government Reform and Oversight shortened the length of time the President had to submit rescissions. Trying to determine who will reap what benefits will likely take longer than the deadline allows.

Mr. Chairman, it is unclear what is meant in this amendment. Does it mean that half of the beneficiaries will be in the top 10-percent income bracket, or does it mean that half of all the revenues lost would be lost to the top 10 percent?

In addition, the committee accepted an amendment offered by a Democrat which broadened the definition of targeted tax breaks to a hundred or fewer taxpayers. This House has already resoundingly turned back an attempt to alter that and should do likewise with this amendment.

Mr. Chairman, let us give the President the strongest line-item veto possible, one that is narrowly and clearly defined and able to let the President get the job done. I ask that the House oppose the gentlewoman's amendment

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. BLUTE. I yield to the gentlewoman from California.

Ms. WATERS. Will the gentleman agree that, if we take any steps that would give 10 percent in our society 50 percent of the tax breaks, that something would be wrong with that, that that would not be fair? Would the gentleman agree?

Mr. BLUTE. I am sorry; would the gentlewoman repeat that?

Ms. WATERS. If we adopted any measures that would give 10 percent of our society 50 percent of the tax breaks, would the gentleman agree that that would be unequal and unfair?

Mr. BLUTE. Well, Mr. Chairman, I would only say, reclaiming my time from the gentlewoman, that implicit in that argument is that all income belongs to the Federal Government and that the Federal Government should decide how they will share it with each taxpayer. Tax cuts are not Government giveaways. It is simply less taking of people's earnings.

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Idaho [Mrs. Chenoweth] who has some general comments on the legislation we are considering this afternoon.

Mrs. CHENOWETH. Mr. Chairman, I ask unanimous consent to revise and extend my remarks and that my remarks appear during the general debate.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Idaho?

There was no objection.

Mrs. CHENOWETH. Mr. Chairman, I rise in opposition to the line-item veto.

Mr. Chairman, I have heard as a major argument in support of the line-item veto, as suggested by former President Ronald Reagan, that we should, quote, give the President the same authority that 43 Governors use in their States, and whereas I adore Ronald Reagan and I believe he was an impetus to believe, have the people believe in America again, we must not confuse the powers given to the States with the powers given to the Federal Government by the Constitution. There is a distinct difference between the authority allowed for State governors and authority given to the President.

The States, according to the 10th amendment, are given more leeway as they formulate their own laws. The 10th amendment says that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to their people, and therefore individual States may give their Governors line item veto authority, but we may not give the President that authority delegated only to the Congress because article I, section 1, states all legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and a House of Representatives, and this section specifically states that it is the Congress that has the power. Since Congress was given this power by the Constitution, Congress cannot give this power to the President to formulate legislation.

This violates, this law, H.R. 2, violates the separation of powers. This bill gives to the President the ability to form and to shape legislation proffered by the Congress by allowing him to cut out parts of an appropriations or revenue bill for continued legislative consideration while allowing him to approve other parts of the passed legislation. The President has no role under article I, section 1, in legislating or shaping law.

The Founding Fathers were correct in instilling the separation of powers, and they had reflected on and examined thousands of years of world history and have established the negative effect of when the ruling powers were allowed to thread upon one another's jurisdiction. It was Montesquieu's fundamental contention that men entrusted with powers to abuse it would abuse it, and hence it was desirable to divide the powers of government first in order to keep to a minimum the powers lodged in any one single organ of the government, and, second, in order to be able to oppose organ to organ.

Federalist No. 76, which is stated in the Federalist Papers which the gentleman from Georgia [Mr. GINGRICH] our Speaker, asked us to read, and I read, does state that, without the one separation or the other, the former would be unable to defend itself against the depredations of power of the latter, and he might gradually be stripped of his authorities by successive resolutions.

I ask this body to be very cautions in this vote to make sure that we are not giving powers to the President that the Constitution specifically gives only to the Congress.

Mr. CLINGER. Mr. Chairman, just in closing I would urge a no vote on this amendment. I think that the amendment, while well intentioned, is really irrelevant to this bill. I think the question of the kind of outrageous attacks on a bill that might be passed here should clearly be thought out in subcommittee, and committee and on the floor of this House, but I think it is irrelevant to say that we should give the President this line item veto.

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentlewoman from California [Ms. WATERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. WATERS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the order of the House of Friday, February 3, 1995, further proceedings on the amendment offered by the gentlewoman from California [Ms. WATERS] will be postponed.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. CLINGER

Mr. CLINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLINGER: In section 3(a)(1), strike "unless" and all that follows through the period and insert the following: "unless, during the period described in subsection (b), there is enacted into law a rescission/receipts disapproval bill that disapproves the rescission of that amount of budget authority.".

In section 4(1), insert ", as introduced," after "which".

Mr. CLINGER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. CLINGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a technical amendment which simply cleans up two minor drafting changes omitted when the House adopted the amendment offered by the gentlewoman from Florida [Mrs. THURMAN] earlier in this debate on this measure. The Thurman amendment permits 50 Members to move to strike an individual rescission or tax benefit repeal. This amendment corrects H.R. 2 to fully conform the bill to our acceptance of the amendment offered by the gentlewoman from Florida [Mrs. THURMAN]—

The CHAIRMAN. If the gentleman would suspend, the chair must inquire whether this amendment was included in the order of February 3?

Mr. CLINGER. Of the unanimous consent request of that evening?

It was not included in that. I thought I would be permitted to offer a strictly technical amendment, I believe it has been approved by both sides. There will be no debate on it. I just wanted to offer it at this time.

Mr. Chairman, I ask unanimous consent to offer the amendment.

The CHAIRMAN. An order of the House cannot be superseded by an order of the Committee of the Whole.

The Committee of the Whole may not materially vary an order of the House.

PARLIAMENTARY INQUIRY

Mr. CLINGER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. CLINGER. Would it be in order to offer this amendment when we sit in the House?

The CHAIRMAN. In response to the gentleman's inquiry, only a order of the House can make this amendment in order, and once we are back in the House, the gentleman could inquire of the House whether to make it in order to be considered.

Mr. CLINGER. At that point it would be appropriate to ask unanimous consent to have the House consider it in order?

□ 1630

The CHAIRMAN. For that, the Committee of the Whole would have to rise. Then the House would have to move back to the Committee of the Whole for the consideration of the amendment.

Because the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER] was not in order under the previous order of the House, the proceedings are vacated on that amendment.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment that is in order.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TAUZIN: Section 2 is amended by adding at the end the following new subsection:

(d) SPECIAL RULE.—Notwithstanding subsection (a), in the case of fiscal years 1996 through 2002, the President may only rescind any budget authority or veto any targeted tax benefit under that subsection necessary to reduce the projected deficit for the fiscal year to which that rescission or veto pertains to the level set forth below:

Maximum deficit level

Fiscal year:	*In billions of dollars*
1996	$174
1997	155
1998	116
1999	71
2000	59
2001	26
2002 and thereafter	0

The CHAIRMAN. Pursuant to the order of the House, the gentleman from Louisiana [Mr. TAUZIN] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the other day as we debated the issue of the line-item veto itself, I noticed to the Members of the House the likelihood of my offering this amendment in the Committee of the Whole. This amendment is called the glide path amendment and is offered in an attempt to make the line-item veto a more practicable, workable solution to a problem that plagues this Congress and has plagued Congresses in years past.

The graph on my right, as I indicated earlier, is a confusion of metaphors, but nevertheless accomplishes the purposes intended. The graph at the right indicates the CBO estimates of where this Congress needs to be every time we have an appropriation for the next budget year if we are in fact to accomplish the purposes of the balanced budget amendment recently sent to the Senate, and if we are in fact to balance the budget by the year 2002.

For example, in the next fiscal year, 1996, we are expected to have no more than about $174 billion in deficit if we are to be on the path that takes us to this balanced budget, as we have dedicated ourselves to when we adopted the balanced budget amendment.

Each year thereafter, the deficit must be reduced pursuant to this graph if we are to reach that point by the year 2002.

Now, if you saw recently in the news the President's announcement of his budget plans for the next 5 years, you will be astounded to find out that the President is proposing that we stay at $200 billion deficit for the next 5 years. His budget plans as outlined just yesterday indicate that for the the next fiscal year, 1996, he is proposing a $200 billion deficit. For the year 1997, he is proposing a $200 billion deficit. For the year 1998, approximately a $200 billion deficit. In fact, to use the analogy of this football field, he would have us stepping out of bounds a few of those years, running over cheerleaders and the bands and everything else on the sideline. We would simply never begin to get on this glide path to the line-item veto, and that is unfortunate.

That means, of course, we here in Congress are going to have to do a better job than the President proposed yesterday if we are going to carry out the promise we made to the American people in a contract signed by many Members here to carry out the promise of a balanced budget amendment by the year 2002.

Now, what the glidepath amendment to this bill does is it attempts to make the line-item veto a very practicable tool to be used by this Congress, the Presidency, and the American people, in achieving these numbers.

Now, why do I suggest it? I suggest it because in three out of the four States that have a line-item veto, those States provide that the line-item veto is used by the Governor to delete from the budget bill approved by the legislature any appropriations he deems necessary to reduce their budgets down to a balanced budget.

The bill as it comes before us today is written very similarly. It says in effect that the President of the United States, when we adopt the line-item veto later today, would have the authority to strike from our budgets each year any appropriation he deems necessary in order to reduce the deficit.

Now, here is the problem. Unlike the States that have a line-item veto, we cannot pass a balanced budget for next year. If you believe we can, please raise your hand. I do not see any hands. And if all the Members were here, I would probably not see many hands.

The bottom line is we cannot find $200 billion of spending cuts in the next years's budget, and everybody knows it. The best we can do is get on this glidepath that takes us to a balanced budget by the year 2002.

So what authority ought we give the President during this 7-year period when Congress should be responsible enough to stay on this glidepath not to adopt budgets that give us $200 billion deficits each year. It seems to me the practicable way in which to use a line-item veto and to enforce responsibility in this Congress is to say that the Presidents should use that line-item veto authority to excise from the budget every expenditure that rises above this line in order to enforce responsibility in this Congress, to ensure that we stay on this glidepath, that we land safely in the year 2002 with a balanced budget.

Now, I understand that my friends on the Republican side are not going to accept this amendment, and I understand why. They want to think about it some more. They want to think whether or not this derogates from the contract provisions of a line-item veto, and I appreciate that, and for that reason I will not even ask for a recorded vote today.

But I did want to bring it up. I think it is the most practicable way to make this thing work, to enforce responsibility in the House, to ensure that this House and the other body lives up to the promise of the balanced budget amendment and delivers each year a budget that meets the CBO estimates, that gets us to the balanced budget by the year 2002.

The amendment also provides once we hit that balanced budget in the year 2002, that every year thereafter the President would have a line-item veto, every year, to excise from the budget any expenditure that went above the balanced budget from the year 2002 thereafter. So unlike the sunset amendment that came earlier, that I think was an amendment to weaken this bill, this amendment actually strengthens it, and makes it in fact more workable.

Now, I want to caution my friends in the Republican Party who have signed what I consider to be a pretty dog-gone good Contract With America, many of its provisions will find a great deal of support, as you did in the last few weeks, from Democrats in this body who have long fought for things like unfunded mandates, have long fought for a balanced budget amendment, long fought for property rights amendments and reform of some of the regulatory processes, long fought for lowering the taxes on businesses and workers in America, particularly the taxes that act as a disincentive to investment and job creation in our society. That is why so many of us have cosponsored so many of the features of the contract. We have in fact pursued those bills ourselves for many years.

But I want to caution you. If we are going to pass into law, into a law that really works for the American people, the provisions of that contract, not just to vote on them today, pass them in the House and see them die in the Senate, not to just pass them even in the Senate and see them vetoed by the President, not even just to pass them and see them become law and then fail because we have not written them properly, my caution is let us do it right the first time. Make sure when we pass a line-item veto it really works for the purposes intended, that it works to discipline the Congress, to ensure that we follow the promises we made when we adopted the balanced budget amendment just a week or so ago, and that we do in fact get on a glide path that gets us down safely to a balanced budget by the year 2002.

This amendment is an attempt to do that. It is offered in a very friendly fashion. I will vote for the line-item veto without this amendment.

☐ 1640

I only hope that my friends on the other side who believe as I do, as strongly as I do, in the line-item veto, in fact, as they saw just recently, I even voted against exempting highway funding from the line-item veto. If they believe as strongly as I do in it, then work to see possibly in the process that an amendment like this gets considered, perhaps in the conference between the House and the Senate, perhaps somewhere along the way, that when we get through we have an amendment, a line-item veto probably that really works for the good that we intended it for, that it works to discipline this body toward a balanced budget by the year 2002 and does not unnecessarily, unnecessarily reshape the balance of powers so critical in our Constitution.

Let me make that final point. This grant of a line-item veto authority, as the States have given their Governors, as we are about to give it to the Presidency, is an extraordinary grant. It says to the President, you have more authority, rather than just veto an entire bill to take on the entire Congress on a bill, it gives the authority to the President to take on every single Member of the House and Senate and every line they write in every bill that appropriates money in this Nation. And it requires two-thirds of the body to overrule him. That is a pretty strong grant of authority, pretty extraordinary.

I think we can constitutionally do that. But I think we ought to limit it to the cases where the Congress has failed to meet its responsibility, failed to live up to its obligation to balance our accounts, failed to stay, if Members will, on this glide path that gets us to a balanced budget and eventually stays in a balanced budget posture after the year 2002.

If we grant this extraordinary authority for that purpose and that purpose alone, I think we will have written a good bill today. If we create a new authority in the President that has nothing to do with congressional responsibility, which allows the President to take on any Member of this House and Senate regardless of whether this body has been responsible, then perhaps we are going too far and we ought to think about that before we finally adopt this bill. Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] is recognized for 15 minutes.

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I thank the distinguished chairman for yielding time to me.

I, too, rise in opposition, but very reluctantly. My good friend, the gentleman from Louisiana [Mr. TAUZIN] I think has explained his glidepath on a football field very well. First, that glidepath is so steep it pops my ears every time I think of going down it. Then when I get to the bottom of it, I see there is not a landing field. I think there is probably a brick wall there. And I do jest a bit.

I want to let the gentleman know, we have given this a lot of thought. It is an intriguing idea. It gets away, though, from what we are trying to do.

Basically what the gentleman is saying, that the President loses his line-item veto if we happen to hit our reduction targets year by year. That seems like a very intriguing proposition. The problem is those sort of moving targets. I am not sure exactly who is going to set them.

I have got a list here, CBO. CBO is always very good and without any, usually, challenge to their targets. That causes me some concern that somebody might challenge them. Those are the kind of pragmatics I have and am a little bit concerned about.

I guess there are some other points, too, that are more generic. What we are trying to do here is get a handle on wasteful spending. And the reason we are trying to do that is for two purposes. It is to get rid of wasteful spending, spending that is unnecessary, redundant, off target, not necessary, out-of-date programs, all of those things. And we should encourage the President to do that any time. That should not just be relative to the deficit. That is something we should never do. We should always give some kind of encouragement.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

While I agree that that is a good idea, that is not what the bill does. The bill refers only to deficit-reduction line-item veto authority.

Mr. GOSS. Reclaiming my time, Mr. Chairman, I recognize that. That was just an aside. The purpose is the deficit reduction and the problem with that is, I am afraid that if we ever did, let us hope we do someday get to zero, even in 2002, would that not be wonderful? You would be interested to know that my text reads 20002 through a typo. I am not even sure that is good enough.

But I wanted to point out that this is a little bit like the lion tamer going into the cage with the lions. Those lions are going to do the right thing as long as they know that fellow has got the whip. But the minute that tamer puts the whip down, the lion gets a slightly different perspective of what his capabilities are relative to the fellow who used to have the whip. And I think that is a very important point as we go through this process.

I want to make sure that we keep this whip out there. If we ever do get the lion tamed, I want to make sure this lion is never going to get in a position where it can get out of the cage or eat the trainer again.

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume to respond.

Mr. Chairman, I hate to think that we have just confused a metaphor with the circus analogy.

But the point of the matter is that the bill as we have it before us today is very much like the bills that came before I think 33 of the 43 legislatures that have a line-item veto authority. It says in effect that the President is going to have this authority to reduce deficit spending. That is what this is all about.

Hopefully we will use it to get rid of wasteful, incorrect spending, but the purpose is to reduce the deficit. And my point in this amendment, and I hope the gentlemen on the other side will continue to consider it as we go through this process, is that if the Congress of the United States cannot deliver a balanced budget next year, the question ought to be what can be deliver, what ought we deliver? And the answer is, we ought to stay on that glidepath. If we do not stay on that glidepath, as steep as it looks to my friend, as dangerous as it seems, as risky as it may appear, we will never reach the balanced budget by the year 2002. We simply have to get on that glidepath, and we have to stay on it.

It seems to me that if we use the line-item veto properly, as other States do, to insist that the Congress stay on that glidepath, that that will be the most important thing we do to make the line-item veto work and to make the balanced budget of the Constitution work, if indeed the Senate approves that amendment that we have sent over just last week.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Chairman, I rise reluctantly to oppose the amendment by my good friend from Louisiana. I believe he has the best intentions and is someone who in this House has proven time and time again that he is dedicated to reducing our great deficit, to getting the debt lowered, and to establishing a balanced budget here in the U.S. Government.

I oppose it because I think it does muddy the procedures that are clearly spelled out in this bill. The gentleman's amendment is more like a Gramm-Rudman approach that brings an automatic sequestration trigger if the budget goes over the CBO time line, but I believe that the line-item veto is more important than that and should go beyond that. It is a means of bringing the President into the appropriations process, as the Founders envisioned, and also as we have added to this bill and to the tax benefit issues that may come up in a particular bill.

Whether they are above or below the CBO glidepath or not, it is my understanding the Governors in the States that we heard testimony from use the line-item veto not just to balance the budget, although that is a very important tool to be able to do that, but also to go after the type of spending that cannot be justified.

I just want to use an example, once again, from the State of Massachusetts. We had Governor Weld testify about using his line-item veto to discipline a deal between the judiciary and the legislative appropriators that was not proper, that attempted to set their budgets high in exchange for the judiciary saying, using those dollars to hire appropriators' political cronies in the court system.

Those dollars were not dollars that put the budget out of balance, but they were improperly spent according to the Governor. The Governor was able to use his line-item veto to discipline that process. I think the gentleman's amendment is well-intentioned, but I would oppose it on those grounds.

□ 1650

Mr. TAUZIN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, just in quick answer to my friend, the gentleman from Massachusetts [Mr. BLUTE], no, the amendment does not act as Gramm-Rudman did to set caps and have automatic rescissions. It simply says that the authority of the President to line item any item of the appropriations would occur when the Congress appropriated funds in excess of the glidepath numbers set by CBO to take us to that balanced budget amendment.

If, for example, this Congress this year approved the budget that President Clinton just submitted yesterday, we would be approving a $200 billion deficit for the next fiscal year. Under the glidepath amendment I suggested, the President would have the authority to line item 26 billion dollars' worth of appropriations out of that bill. He certainly could look for all the wasteful spending in $26 billion.

If we approved his budget for the next 5 years, in each one of those successive years his line item authority would be $45 billion in 1997, $84 billion in 1998, $129 billion in 1999, and $141 billion in the year 2000. I want Members to think for a second about what authority and how that authority might be used when the President had the authority to line item 141 billion dollars' worth of appropriations out of this Congress.

This amendment I am offering, Mr. Chairman, is by no means a weakening amendment. This amendment is meant to strengthen, in fact, the application, the practicalities of this bill, and to make it work.

Mr. Chairman, I ask Members to think about this. It may be, by the time the Senate gets through with this bill and we get to a conference, this may be just the tool to make it work, to get enough of the Members of the other body to accept it, and to get a bill on the statute books, not just past this House, that really works.

Mr. Chairman, I yield back the balance of my time.

Mr. CLINGER. Mr. Chairman, to close, I yield myself such time as I may consume, to say to the gentleman from Louisiana [Mr. TAUZIN], I think this is a very thoughtful and helpful addition to the debate we are having on this matter.

I do think it goes to far. Frankly, there are implications of the amendment that I do not fully understand at this point. I think there may well be, as we proceed to further consider this matter and move to the Senate and so forth, it may well be that something in this nature can be done.

I do think, however, that at the moment it does seem to strike me more as a sort of Gramm-Rudman rescission. The gentleman says it is not the same, but it seems to me there are implications of that.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yield to me.

Mr. Chairman, a previous speaker rose to question whether or not we can constitutionally pass this line-item veto. I think that argument needs to be answered. I would like to try to answer it just for a second.

This Congress could, if we wanted to, instead of appropriating in 13 appropriation bills or 11 or 3 or 1, we could appropriate in hundreds of appropriation bills. We could appropriate every single appropriation in a single bill, if we wanted to.

Clearly, under the Constitution, the President would then have the right to veto that appropriation, and we would have a two-thirds obligation to override that veto. Clearly, Mr. Chairman, we could if we wanted to create a line-item veto authority through that mechanism.

If we can create it that way, my argument to the gentlewoman from California, who argued against the constitutionality of what we are trying to do today, is that if we could create it that way, we can most certainly, under the Constitution, create it the way we are trying to create it today.

I want, last of all, to commend my friend, the gentleman from Pennsylvania [Mr. CLINGER], for the excellent job he did in this bill. I will join him in support of the bill.

I only ask that before we get through with this process, that some of the arguments I have made today, the suggestions I have made today, be considered in this process, because I want this bill eventually to be signed into law and I want it, most of all, to work.

I thank the gentleman for yielding to me.

Mr. CLINGER. Reclaiming my time, Mr. Chairman, I share the gentleman's desire to get a bill that is ultimately going to be passed into law and signed by the President. We appreciate the contributions the gentleman from Louisiana has made to all of these budget-cutting, deficit-reducing efforts.

I can certainly commit, from my point of view, to work with the gentleman to achieve the goals that are common to both of us. However, I would now have to urge a no vote on this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendment was rejected.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT: At the end, add the following new section:

SEC. 7. TERMINATION DATE.

This Act shall cease to be effective on January 1, 1997.

The CHAIRMAN. Pursuant to the order of the House, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman from Ohio, who is chairing this debate, and I want to commend him, my good friend, for the fine job he has done in dispatching the duties of the Chair in keeping this debate in order. I think he has done a fine job.

Mr. Chairman, my amendment says that this line-item veto authority, if passed, would sunset in 2 years. Actually, I would like this to sunset in 2 weeks. I would not even like to see the Sun shine on the line-item veto.

However, I would just like to say this, Mr. Chairman. I want to warn the Congress of the United States, who continues to transfer power from the Congress, which is that of the people, to the Presidency, I do not want to see President Bill Clinton have a line-item veto.

It is nothing against President Clinton. I do not want to see any President, Democrat or Republican, or Independent, I might add, which I see coming down the pike in the future, a third party that I predict will in fact surface and ultimately elect a President in our country, because of the tremendous problem that we continue to agitate with legislation that does not in fact deal with the problems.

However, Mr. Chairman, in this warning, I would like to say that while we make the Presidency much stronger and weaken the government of the people, keep in mind that powerful groups out there just have to concentrate on electing one political figure in America, the President,

The way Congress is going, that is where the emphasis will be: Get that President, keep that President, control the power, and then get 35 Senators in lockstep, and be damned with the rest. That is about the new constitutional construct of the people's Congress.

I have heard of the House of Commons and the House of Lords. I think we are going further and further toward a House of Lords in America, where few people really govern. In fact, today few people really govern. What we say here today, Mr. Chairman, may not make great shock waves in the CONGRESSIONAL RECORD for the future, but I think there is a lot of common sense in that, Mr. Chairman.

Therefore, I say again, be careful, Congress. If we are just sending to 1600 Pennsylvania Avenue more and more power, the real powerful interest in America do know that, do recognize it, and they are concentrating their efforts to elect that one person.

Mr. Chairman, I would also like to say, as the gentleman from Texas [Mr. STENHOLM] readies his notes and some other machination of a line-item veto authority, which I hate to admit this, I will have to oppose, I would say to the gentleman from Texas, because I oppose not just the line-item veto, I oppose what it stands for. It stands for the transferring of power from the people in the Congress to 1600 Pennsylvania Avenue. That is a cancer, I believe, that should be stopped.

However, what do I know? I am still trying to figure out my taxes. I will say this, tough, before I close, trying to take up a couple more minutes in a little bit of filibuster for the gentleman from Texas [Mr. STENHOLM], because I love him dearly, and I am sure I am going to support one of these good initiatives if I should see the light.

Mr. Chairman, I want to say happy birthday to former President Ronald Reagan. I want to say that much of the machinations going on with the majority party now are directly attributable to Ronald Reagan. I did not oppose a lot of his trickle-down programs. In 1986 he threw a lot of it out.

Mr. Chairman, I want to say this about Ronald Reagan on his birthday, as a Democrat that did not totally agree with some of those policies: Never was there a President that was so well respected around the world. When Reagan said he was going to do something, by God, he did it. I hoped to God that the old Gipper would have taken on trade, because he was just the person to make it happen for us.

So I want to say here, here, President Reagan, Nancy, the best to you.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. TRIFICANT. I yield to my good friend, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding to me.

Mr. Chairman, I was going to rise to congratulate the gentleman on his wishing Ronald Reagan a happy 84th birthday, because he was in my opinion, a great, great President. He had vision and he focused us on that vision. It is too bad that he could not accomplish all the things he wanted to do.

Mr. Chairman, I just want to point out to the gentleman that today is Ronald Reagan's birthday and we want to pass this line-item veto as a birthday present, for not only him but for the American people.

□ 1700

But, we were also going to hold a special order, which means that a few of us were going to get up and talk about Ronald Reagan and what we think about him. But because there is a dinner in his honor tonight. If and when we finish this bill, some of us are going to that dinner, so we are going to postpone that special order tonight. But tomorrow night we will be holding that special order in honor of the great President Ronald Reagan, and I appreciate the gentleman yielding me this time.

Mr. TRAFICANT. I did not vote on some of those issues with former President Reagan, but I have great admiration for former President Reagan and I do mean this. He was assertive, and when Ronald Reagan said he was going to do something, by God, he did it, and the world respected him and I totally respect him.

To in fact further an opportunity for the majority party to have that meeting tonight and to honor President Reagan on his 84th birthday, and not to belabor the debate longer so that Members can have a vote, I want to say to make everybody happy over there, I would like to see this thing sunset in about 2 weeks, maybe not let sunshine in at all.

But I am going to withdraw my amendment. Happy birthday, former President Ronald Reagan.

Mr. Chairman, I yield back the balance of my time.

Mr. Chairman, I ask unanimous consent that my great amendment that should have been passed without prejudice be withdrawn. Knowing that I do no have the votes and do want to honor President Reagan and let the Members get out in time, I ask unanimous consent that my great amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. WATT of North Carolina. Mr. Chairman, reserving the right to object, I wanted the opportunity to vote on this amendment because I agree with the gentleman, this thing ought not to see the light of day. I wanted to amend it maybe to reduce it to 2 days instead of 2 weeks.

Having said that, Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. STENHOLM:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

TITLE I—LINE ITEM VETO

SEC. 101. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of the dollar amount of any discretionary budget authority specified in an appropriation Act or an accompanying committee report or joint explanatory statement accompanying a conference report on that Act or veto any targeted tax benefit which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than ten calendar days (not including Sundays) after the date of enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

(b) DEFICIT REDUCTION.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) SEPARATE MESSAGES.—The President shall submit a separate special message for each appropriation Act and for each revenue or reconciliation Act under this paragraph.

(d) SPECIAL RULE.—For any rescission of budget authority, the President may either submit a special message under this section or under section 1012 of the Impoundment Control Act of 1974. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 1012 of that Act.

SEC. 102. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Any amount of budget authority rescinded under section 101 as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under section 101 as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the

rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under section 101 and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 103. DEFINITIONS.

As used in this title:

(1) The term "rescission/receipts disapproval bill" means a bill or joint resolution which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this Act and—

(A) which does not have a preamble;

(B)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on ", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on ", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: "A bill disapproving the recommendations submitted by the President on ", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term "appropriation Act" means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 104. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in section 101 or vetoes any provision of law as provided in 101, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provisions pursuant to section 101;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under section 101 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under section 101 shall be printed in the first issue of the Federal Register published after such transmittal.

(c) INTRODUCTION OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 101.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. No amendment to the bill is in order, except any Member may move to strike the disapproval of any rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this title.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this title.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under section 101.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 105. REPORTS OF THE GENERAL ACCOUNTING OFFICE.

Beginning on January 6, 1996, and at one-year intervals thereafter, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(6) A summary of the information provided by paragraphs (2), (3) and (5) for each of the ten fiscal years ending before the fiscal year during this calendar year.

SEC. 106. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this title violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

TITLE II—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS

SEC. 201. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit unless the President also proposes a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates to the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal; and

"(F) a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974, if proposed by the President.

(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 101 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 101 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate or any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control of the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENT AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session;

"(3) the term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities; and

"(4) the term 'beneficiary' means any taxpayer or any corporation, partnership, institution, organization, item of property, State, or civil subdivision within one or more States. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or", each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

The CHAIRMAN. Pursuant to the order of February 3, 1995, the gentleman from Texas [Mr. STENHOLM] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Stenholm-Spratt amendment that I offer at this time is the same amendment that passed the House of Representatives July 14, 1994, with a 342 to 69 vote, basically the same amendment in my judgment. We offer it today and it is the same amendment we offered last week as a substitute, but the will of the House was we should not substitute majority override for one-third plus one override and I respect the will of the House. Today we offer this amendment not as a substitute but as a supplement, amendment to, and I will make the argument to my friends on the other side that this does not weaken H.R. 2. In fact it strengthens H.R. 2, because in the words of the gentleman from Florida a moment ago when he was arguing against the Tauzin amendment, when he was saying we need to be able to get rid of wasteful spending at any time in any circumstance, regardless of glide path, I happen to agree with that statement. That is precisely why we offer our amendment today as a supplement to H.R. 2, because as everyone I know understands by now, under H.R. 2 it is only during that window of opportunity of 10 days after an appropriation bill is signed and sent to the President do we have the opportunity to rescind spending.

Under the modified rescission process that the gentleman from South Carolina [Mr. SPRATT] and I offer today, the President will have the opportunity to rescind spending at any time during the year.

For example, if after October 1 comes and we see that spending is getting out of hand and we are on the glide path that we have already agreed by a 300 vote to 102 I believe the number was the other day on the balanced budget amendment, that the President would have the opportunity to go into any appropriation bill and rescind spending as he can today.

□ 1710

So there is, it seems to me, a kind of a schizophrenia in the approach that the gentleman has meant to take by giving two versions. I do think it is a helpful addition. I think obviously, if the amendment that we are dealing with here is declared unconstitutional, it is certainly one we would want to revisit, but I think to include it in the H.R. 2 provision is premature, and is weakening from that extent, and so I would have to oppose the amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair was mistaken when he recognized the gentleman from Texas for 15 minutes. Under a previous order of the House, the gentleman is recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, how much time did I consume on my opening remarks?

The CHAIRMAN. The gentleman from Texas consumed 4½ minutes.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Stenholm-Spratt amendment. I would just urge my colleagues to support this amendment.

It accomplishes the purpose for why a line-item veto is needed, and that is to shine light on an individual appropriation so that it cannot hide within a massive appropriation bill.

I am a supporter of the line-item veto legislation. I am going to vote for it. But I think this gives us an alternative in the event that the traditional two-thirds override is declared to be unconstitutional, to have on the books a procedure that works and will accomplish the exact same purpose.

The amount of the vote is not important. It is important to segregate that appropriation to allow an individual consideration of it so that it cannot be hidden in a large appropriation bill.

I congratulate my colleague for bringing forward an alternative and urge my colleagues to support the amendment.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. BLUTE], again a prime cosponsor of H.R. 2 and one of the architects of this measure.

Mr. BLUTE. Mr. Chairman, I thank the distinguished chairman of the Committee on Government Reform and Oversight for his work on this important bill, and also the chairman of the Committee on Rules for reporting out an open rule.

I think we have had a very good and long debate on this very important issue.

I rise in strong opposition to the Stenholm amendment. While I acknowledge the great leadership of the gentleman from Texas on deficit reduction, the most recent authoring with the gentleman from Colorado [Mr. SCHAEFER] the balanced budget amendment to the Constitution, I believe that this amendment has the intention of weakening the base bill. If the amendment's sponsors are worried about the constitutionality of H.R. 2, I believe the CRS, the Congressional Research Service, American Law Division, wrote a brief last year confirming that the process involved in H.R. 2 would stand up to judicial review.

CRS said:

> In sum, we generally conclude this bill is an exercise of delegation which, under the precedents, is permissible. Further, we conclude that the precedents establish no constitutional barrier to delegation of power to the President to set aside or void an Act of Congress.

While getting the thumbs up from the CRS is not the same as getting the OK from the Supreme Court, precedents show the courts are hesitant to rebuff Congress' delegation of its power to the Executive.

I urge my colleagues not to buy into this argument, and beyond that, Mr. Chairman, I think the line-item veto, the strong line-item veto, is exactly what is needed in our system to check the growth of the deficit and the debt that has piled up over the years, and I believe by adopting the Stenholm amendment we are giving the other body an out, giving them a fall back position that too many unfortunately will see.

Let us give the President the strongest line-item veto we can. He asked for it. His budget director asked for it. Eleven State Governors have it, and it works to keep spending under control. Give the President the strong line-item veto.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I think the question in the debate is: Is this about illusion or reality, substance or not? This is a tough amendment. It is fair, and it is constitutional.

I think there are significant constitutional problems with H.R. 2, and it is likely it may be rescinded by the Court. So it will be wise to append this to that legislation so you have a backup, if you believe in line-item authority for the President.

Remember this is not a panacea. I know we are going to honor Ronald Reagan on his 84th birthday, but he did send a message to Congress on March 10, 1988, saying, "These are the items I would delete if I had the line-item veto," and out of a budget deficit of $150 billion, Ronald Reagan could only find $1.5.

This is not a panacea for the deficit. We are going to make some tough choices and decisions right here in this body if we want to get the deficit under control.

Mr. BLUTE. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise reluctantly against the amendment offered by my good friend, the gentleman from Texas [Mr. STENHOLM], because without question his amendment would strengthen existing law, but the fact is it weakens the bill before us, and it clouds the issue.

Seriously, we have a problem here, ladies and gentleman, and this is the budget that the President of the United States gave us today. Let us just look at it. Ronald Reagan at one time dropped a bill on the floor back in the early 1980's and broke his finger doing it.

This bill before us, this budget, reflects an additional debt service, debt for this year, and over the 5 years it is another trillion. As a matter of fact, I think it is $1.4 trillion it is going to add to the deficit.

So, you know, line item veto is not going to balance the budget. The balanced budget amendment is not going to balance the budget. Only the will of this Congress is. But you need the prodding of the balanced budget amendment. You need the prodding of this legislation, and this legislation is constitutional.

The Congressional Research Service, as has been stated, says it is. The Attorney General says it is. There is no question about it.

What the bill before us does, without the Stenholm amendment, is reverse existing law that allows Congress to reject the President's requests to cut pork barrel spending without even taking a vote. That is what the law is today. In other words, Congress can block the spending cuts requested by a President by doing absolutely nothing.

This line-item veto reverses that procedure by saying that the cuts go through unless Congress votes to disapprove those spending cuts.

Now, that is real line-item veto, and that is what we need to give Congress this prod to try to do something about this.

I shudder to think what is going to happen. I hope this Congress, Republicans and Democrats alike, have got the guts to at least adopt a budget this year that in 7 years will balance the budget. Otherwise, this country is going down the drain, Mr. Chairman.

Mr. STENHOLM. Mr. Chairman, I yield myself 1 minute for purposes of entering into a colloquy with the gentleman from New York, because I would like to believe that the gentleman misspoke a moment ago when he said our amendment weakens H.R. 2. Because in all interpretation that we have received, this strengthens H.R. 2, because we do not get into anything of the merits of H.R. 2.

In fact, under H.R. 2, would you not agree, that only in the 10-day window can a President veto under H.R. 2?

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from New York.

Mr. SOLOMON. I will say to my what it does——

Mr. STENHOLM. Yes or no?

Mr. SOLOMON. It continues. No, I do not think it does.

Mr. STENHOLM. I believe you will find it does. Therefore, under our amendment, we provide the President the other 355 days out of the year may rescind, and the Congress must vote on individual Presidential rescissions. So I do not see how you can represent our amendment as weakening. I believe it must be strengthening.

Mr. SOLOMON. Because it sets up a dual system, and it continues that dual system, and it gives the President, it gives the Congress another way out. I do not want him to do that. I want him to have to stick to this real line-item veto. That is the whole point. I know your intentions are very well, and I hope we defeat your amendment.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Chairman, I rise in strong opposition to H.R. 2, the line-item veto act on constitutional grounds.

In addition, I rise in strong support of the Stenholm amendment which is an alternative, an expedited rescission bill, which would require the Congress to vote on proposed Presidential rescissions within a time certain and can uphold them with simple majorities in the House and the Senate.

This alternative, as most Members will remember, is very similar to legislation passed by the House last year but killed by the other body.

This system does not turn the Constitution really upside down, but, instead, focuses congressional action on disputed items without disrupting the balance of powers.

□ 1720

It would have the same impact as the line-item veto because Members would be certainly less inclined to include special-interest provisions in either appropriations or tax bills. Nor would Members probably be willing to risk recorded votes on items identified by a sitting President as either narrow or parochial.

I would say to my friends that, as we rush forward in passing this Contract on America, we do need to be aware of putting the Federal taxpayer into the courthouse and having to pay for the costs of litigating these many provisions, and this one will be litigated.

Mr. BLUTE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. GOSS], a member of the Committee on Rules.

Mr. GOSS. Mr. Chairman, I spent a lot of time working this over, and we talked a lot about expedited rescission, and enhanced rescission, and line-item veto, and the different formats, and what one of those terms used to mean, and whether one would or would not have to have a vote under an approval process, and, as I understand it, the gentleman from Texas [Mr. STENHOLM] has come up with a very good program which tries to get the best of two worlds, and I really congratulate him on that because at first sight this appears to be a very good idea, to be able to say, "Well, we can get the tough version, and then in the outdays of the given year we can go with a simple majority vote," and my understanding is that, if we use that process, it would come under the rulemaking powers of the House, and there is probably the single flaw that I see rise now, and maybe the gentleman will disagree with me. I am afraid that, as was shown in our unfunded mandates discussion about the rules, the powers of the Committee on Rules, to deal with different situations, no matter what the plan or the intent is, when those are delivered to the Committee on Rules, it is very clear in the history of this House, certainly clear in the history of the Committee on Rules since I have been on it, and I point out that was under another regime, that we did some things that people did not think we could do, and I am not sure we could, but we did them anyway because we are the Committee on Rules.

Then we get down to this subject on unfunded mandates. As my colleagues remember, we have points of order, and we go into this long process of creating a new rule, a new setup, a new process for Members to be guaranteed a way to get something identified or defended under an unfunded mandate, to waive a point of order against it, another elaborate process.

I would certainly admit that the gentleman has an intriguing prospect here. The concern I have is one that the chairman made, that it binds the clearshot vote we had on the Contract With America, line-item veto, up or down, but I think the gentleman is onto a point that our current budget process is definitely weak, should be made better, and in my view in another day I would rather take this approach on in that process.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I thank the gentleman from Florida [Mr. GOSS] for yielding; he brings up a very good point on the rule.

I say to my colleague, "But if you will read more carefully our substitute, the substitute specifically states that it shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a special rule. Furthermore, OMB would continue to withhold the funds from obligation until the President's plan was voted on, as required by this legislation——

The CHAIRMAN. The time of the gentleman from Florida [Mr. GOSS] has expired.

Mr. BLUTE. Mr. Chairman, I yield an additional 15 seconds to the gentleman from Florida.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I thank the gentleman from Massachusetts for his generosity.

But this, I think, is very important. Furthermore, OMB could continue to withhold the funds from obligation until the President's plan was voted on, as required by the legislation regardless of any attempts by Congress to waive its internal rules. If Congress used its constitutional authority to set its own rules to avoid a vote on the President's rescissions, it would give the President the ability to withhold indefinity the funds in question.

So, Mr. Chairman, we are really strengthening the legislation.

Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY. Mr. Chairman, I rise in support of the Stenholm-Spratt amendment to H.R. 2. This amendment would expedite the rescission process, as well as retain the line-item veto language in the bill.

I would like to point out to those Members who are serious about ending the practice of deficit spending that this amendment makes sense. By including both rescission and line-item veto language in the bill, the Stenholm-Spratt amendment guards against the Congress and the President being without the tools needed to balance the budget.

One strength of the Stenholm-Spratt amendment is that it requires Congress to vote on rescissions submitted at any point in the year. Currently, under H.R. 2, rescissions submitted by the President 10 days after signing an appropriations bill would not require congressional action. Under expedited rescission language, congressional action would be mandatory, regardless of when the rescission package is sent to Congress.

The Stenholm-Spratt amendment will provide us with two instruments, expedited rescission and the line-item veto, to help restore fiscal integrity to the Federal budget process. If we want Congress to be accountable and responsible for the money it spends, then the expedited rescission language in the amendment will make us answerable by forcing a vote on a Presidential rescission package, something that is not currently required.

President Clinton supports expedited rescission and the line-item veto, and I believe we should grant him the choice of either vetoeing or rescinding frivolous spending and tax breaks. Therefore, I urge bipartisan support of the Stenholm-Spratt amendment.

Mr. STENHOLM. Mr. Chairman, I yield 6 minutes to the gentleman from South Carolina [Mr. SPRATT], the coauthor of the amendment today.

Mr. SPRATT. Mr. Chairman, I rise to support the Stenholm-Spratt amendment, and I want to stress from the start what this amendment does not do:

It does not replace H.R. 2, the bill before us. It does not even weaken H.R. 2. It adds to that bill extra rescission powers, and broadens the timeframe for the use of those powers, and gives the President a plus, an option, that H.R. 2 does not give him, the option of entering any spending saved from any rescission into a so-called locked box or deficit reduction account.

So, Mr. Chairman, this expedited rescission lock-box amendment is a supplement and not a substitute to H.R. 2. It would not conflict with, or weaken, or change one whit the powers that are delegated to the President under H.R. 2.

The gentleman from Texas [Mr. STENHOLM] and I offer this amendment for several reasons:

First, I am genuinely concerned that the courts may hold the line-item veto power which we confer upon the President here under a novel interpretation of law unconstitutional, unconstitutional because it is a broad, broad, sweeping delegation of authority with very scant standards to govern the use of that authority. No court has ever decided the exact question that we are putting to the courts and will be putting to the courts here, and virtually everyone in this Chamber acknowledged that this is a novel question, acknowledged his uncertainty about how the court would rule when several days ago the Deal amendment came up, and with very little debate and very little dispute the Deal amendment—providing for expedited judicial review—was approved virtually unanimously.

But even in the case of expedited review, it will take months, surely the rest of this budget year, before we have a definite opinion from the Supreme Court as to the constitutionality of H.R. 2. During that period of time, Mr. Chairman, we are providing the President this as a standby, fall-back authority. In case the courts invalidate H.R. 2, then the President has this authority on the books. He can use it, put it to good use, because the scope of this, as I point out, is even broader in many respects than H.R. 2.

And what if the courts find H.R. 2 constitutional? In that case, this amendment gives the President one more weapon to use to wipe out unwarranted, unnecessary, or wasteful spending or spending that he finds we cannot afford given the status of the economy or the state of the budget in the middle of a fiscal year. The rescission authority we provide here is not redundant for that reason by any means. Actually, it is more useful in some respects, in many respects, than H.R. 2 as it now stands.

I do not need to explain H.R. 2 in detail because this is virtually the same as the Stenholm-Penny-Kasich expedited rescission bill which this House passed on July 14, 1994, by an overwhelming vote. By my count, every single Republican then in the House, 169 in all, voted for its passage. Three hundred forty-two Members of this House thought enough of the efficacy and utility of this bill to vote for it then. Only 69 Members opposed it.

□ 1730

This amendment, as I said, is broader in scope than H.R. 2 because it allows the President to rescind appropriations at any time during the fiscal year. The veto power under H.R. 2, on the other hand, has to be used within a very narrow window of time, 10 days after a passage of appropriation bills. Under our amendment in H.R. 2 the President can only repeal targeted tax benefits within 10 days, but under our bill he can send spending rescissions up at any time and under our bill he will be guaranteed an up or down vote on his package in the House within 10 days and a vote in the Senate within 10 more days. And for any Member who wants a separate vote on any particular item in the package, it is important to his or her district, then if he can muster 50 Members on the House floor to support his request, he can have it broken out.

This bill, as I said, also allows the President the authority, the extra power which the gentleman from Pennsylvania [Mr. CLINGER] acknowledged in debate the other day, was a commendable provision, to put any savings that were realized under a rescission into a lock box. The lock box was part of a popular bill that many Members subscribed to in the last session called A to Z. The lock box allows the President to direct that the discretionary spending account will be lowered to the extent that we adopt any rescission that he sends up here, lowered by that amount so the savings cannot be spent upon something else.

Once the President has sent his bill up, the rescission message will be converted to a bill. The bill has to be introduced within 3 days, the Committee on Appropriations has to act upon it and report it to the floor, and we have to vote within 7 days. When it leaves here it goes to the Senate on the same fast track.

So let me sum up, Mr. Chairman, by saying this amendment in no way weakens, detracts from, or is inconsistent with H.R. 2. It is a plus to H.R. 2. It is a fall-back alternative if H.R. 2 is found to be unconstitutional, and at the very least it is a temporary alternative for the President to use if H.R. 2 is restrained or enjoined pending the outcome of a challenge in court.

Furthermore, our amendment is broader in scope than H.R. 2 because it applies throughout the fiscal year, not just for 10 days following the enactment of an appropriation bill, and, of course, it has the lock box feature I spoke of earlier. This amendment is a plus for H.R. 2, and I urge support for its adoption.

Mr. BLUTE. Mr. Chairman, I yield 4 minutes to a distinguished new Member of this body, the gentleman from Wisconsin [Mr. NEUMANN], an original cosponsor of the line-item veto bill.

Mr. NEUMANN. Mr. Chairman, I rise to speak in opposition to anything that would in any way, shape, or form complicate or weaken this line-item veto bill as we have proposed it here today. The line-item veto bill needs to maintain its strength so we get at the root of the problem facing this Nation, which is a debt in the amount of $4.8 trillion.

I was an original cosponsor on the line-item veto bill because I feel as we look at the debt facing our Nation today, it is time we actually do something about it, and the only way we are going to do something about it is if we actually get to the point where we can reduce spending.

The balanced budget amendment passed last week is important, but as we move forward, we must look at line-item veto to go with the balanced budget amendment so we can actually get at the root of the problem, and that is spending.

Why do we need a line-item veto here? I have the numbers with me today and can show Members the impact on the children of this Nation if we do not pass the line-item veto bill today. I do not want to see anything that weakens it in any way, shape, or form.

Today this Nation stands $4.8 trillion in debt. For the folks that have not seen this number, it looks like this. The number is very, very real. We are paying interest on that debt each and everyday, and it impacts the families in my district and the families all across America. $4.8 trillion has been borrowed on behalf of the American people in the last 15 years. Something needs to be done about it.

I am a former math teacher. As a former math teacher I like to look at this number as it relates on an individual basis to each person across this Nation. If we take that $4.8 trillion and divide it by the 260 million people in the United States of America, each and every person in the United States of America is responsible for $18,500 of debt. Again, if we take the $4.8 trillion and divide by the 260 million people in this Nation, every man, woman and child is responsible for $18,500 worth of debt. For a family of four in America, from my district back home in Wisconsin, the Federal Government has borrowed $74,000 on behalf of the American people. It is not OK, folks, and it is not OK if we let this continue forward.

For a family of five like my own, the Federal Government has borrowed $92,500. The real problem is not when we look at just the debt, but when we look at the interest that has to be paid on the debt. I would like to point out that this family of four is going to pay approximately $5,180 in interest alone on the national debt. Just think about this number for a second. A family of four in our district earns about $32,000 a year. This family of four is going to pay about $5,100 out of that $32,000 of income to pay just the interest on the national debt. It does not get any goods or services from the American Government. That simply pays the interest on the national debt.

Why am I so adamant? Why can I come here and work so hard for the line-item veto and the balanced budget? Because it is time the American people do something about this situation. When we start thinking about a family in our district paying over $5,000 a year to do nothing but pay the interest on the national debt, you think it is time we get serious about doing something about the budget, something about balancing the budget, and in fact I think we should start talking about paying off the debt.

The day has come where we need to think about how we are going to get to the balanced budget and then go the next step. How can we get rid of this atrocious debt that is costing the family of four in my district over $5,000 a year in just interest? It is time we get past it.

There are two things that are necessary to do that in my opinion. One is the balanced budget amendment which the House passed not very long ago, and the other is this line-item veto, a very strong line item veto needs to be passed. It needs to be passed today.

The CHAIRMAN. The gentleman from Texas [Mr. STENHOLM] has 14½ minutes left, and the gentleman from Massachusetts [Mr. BLUTE] has 15½ minutes left.

Mr. STENHOLM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I realize there has been considerable confusion and misinformation about just what this amendment would do. The last chart in all honesty has nothing to do with this amendment. It has everything to do with why I too offer this amendment. Because we do want to get after spending. The Stenholm-Spratt amendment is offered as a supplement to the line-item veto authority in H.R. 2.

Even though it is presented here as a substitute here at the end of the debate, it includes all of H.R. 2, as reported. I want to repeat, this amendment we offer includes all of H.R. 2 as reported. In addition, this amendment incorporates all of the amendments approved by the Committee of the Whole only Thursday and Friday of last week, namely the Clinger, Thurman, Neal, and I will ask the same unanimous consent request that Mr. CLINGER asked to add Obey to my amendment so it will do what we intended for it to do when we go into the House. This expedited rescission authority portion of this amendment would allow the President to propose to cut or eliminate individual spending items in appropriations bills throughout the year. The President could earmark some or all of the savings for deficit reduction.

In addition, the President would be able to propose to repeal targeted tax breaks which benefit a particular taxpayer or class of taxpayers only within the 10 days of signing the bill.

The House would have 10 legislative days after the President sends up a rescission package to bring it to the floor. There has been some debate as to whether or not that 10-day limitation would actually occur. I believe the answer is clearly yes, it would. First the rules would not permit consideration of other matters until the rescission package was dealt with. Second, any appropriation or tax item that was submitted by the President in effect would be suspended until Congress acted on the President's package.

Now, just a moment ago we were talking, the gentleman from Wisconsin was talking about guaranteed cuts, guaranteed deficit reduction.

□ 1740

I must submit, again, H.R. 2 does not guarantee deficit reduction. Only with our amendment can we have guaranteed deficit reduction, because we included the lock box provision. And that was as a result of last year's debate in which the gentleman from Ohio [Mr. KASICH] was very instrumental in changing the language of the amendment that we in fact bring to Members today.

The line-item veto includes no guarantee that the savings from the President's rescissions would go to deficit reduction. Congress would be free to spend the savings from rescissions proposed by the President on other programs.

Although H.R. 2 allows the President to propose to reduce the discretionary caps, there is no provision for a vote in Congress to reduce the spending caps. In other words, rescissions submitted under the line-item veto would not save one dime. We believe our substitute provides for that alternative should we, the Congress and the President, believe that was important.

The Stenholm-Spratt amendment includes provisions to ensure that the savings from spending cuts would go to deficit reduction.

Furthermore, under H.R. 2, standing alone, the President would have the veto option for only the first 10 days after signing a bill. Although H.R. 2 is intended to increase the ability of the President to identify and eliminate wasteful and low priority spend, it dramatically restricts the President's flexibility by setting this artificial 10-day deadline.

Mr. SPRATT. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Chairman, we had the Congressional Research Service do some research which I think is extremely helpful in understanding the importance of this power that we give the President to use this additional rescission authority throughout the fiscal year.

According to CRS, the Congressional Research Service, 99 percent of all rescissions sent up here by the President were sent beyond the 10-day period after the adoption of appropriation bills. That points up that frequently the rescission authority is not used to knock out pork barrel stuff, but to try to adjust the budget in midyear when we have got underfunded accounts for the Veterans Administration, underfunded accounts for operations and maintenance and defense, and we have to pay for the supplementary budget authority by rescinding other budget authority on the books. Then the President has the authority to formulate his request, send it up here and be guaranteed under our bill a quick 20-day turnaround.

Mr. STENHOLM. Mr Chairman, I would conclude my remarks at this time by saying that I believe it grossly unfair to categorize our amendment as being weakening. If we are truly concerned about deficit reduction, I believe the language of our amendment, as a supplement to, not as a replacement for, but a supplement to, clearly stands out as being more able to reduce the deficit because of the language which we put into our amendment.

As the gentleman said, again, Members have talked about this language from the standpoint that somehow current law is better. It is not. And unless we in fact add our amendment, we will have current law 355 days out of the year but 10 days out of the year, 10 calendar days out of the year we will have a much improved situation over the current system.

Mr. Chairman, I reserve the balance of my time.

Mr. BLUTE. Mr. Chairman, I reserve the balance of my time.

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, let me say that what we have offered here supplements, does not substitute for or replace, it supplements H.R. 2, and it does not do it in any sort of redundant or cosmetic way. We give the President some important additional rescission authority. He can use this authority pending any court challenge to the constitutionality of H.R. 2 and he may have well need that authority this budget year because there is likely to be a constitutional challenge to this bill if it becomes law.

Second, we give him authority that he can use throughout the budget year, not just in that narrow period of time 10 days after the adoption of an appropriations bill.

The Congressional Research Service says, as we were just pointing out, that 99 percent of all rescissions typically sent up here by presidents since 1976, 99 percent of them have been sent well beyond that 10-day period of time.

Our bill covers that additional period of time, when by tradition 99 percent of the rescission bills have been sent up.

Finally, we allow the President to say, we want to take these savings, put them in a deficit reduction account and not have the money spent elsewhere during the course of the fiscal year. Three strong features that add to, do not detract from or conflict in any way, strengthen this bill and should be adopted to perfect it.

Mr. STENHOLM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in summation I would just like to say if Members want to replace the cumbersome and unworkable process for year-round authority with teeth, they need to vote for the Stenholm-Spratt amendment. This amendment has had a proud bipartisan history, despite the effort recently to portray it as partisan.

Mr. Chairman, I am submitting for the RECORD some material on past Republican support for the amendment. I also am submitting two legal opinions. Finally, I am submitting for the RECORD a list of some of the most commonly asked questions about this amendment, along with the answers that have been prepared.

Mr. Chairman, whether Members think H.R. 2 is constitutional or not, whether they prefer line item veto authority or expedited rescission authority, there is a reason for Members to vote for the Stenholm-Spratt amendment. This amendment provides a rare opportunity in the legislative process, a win-win scenario.

I urge my colleagues on both sides of the aisle to approve my amendment.

Mr. Chairman, I include for the RECORD the information to which I referred.

[From the Congressional Research Service, the Library of Congress, Washington, DC., Feb. 3, 1995]

To: The Honorable Nathan Deal, Attention Ed Lorenzen.

From: Virginia A. McMurtry, Specialist in American National Government, James V. Saturno, Specialist on the Congress, Government Division.

Subject: Submission dates of Presidents' rescission request.

In response to your request for figures on the dates of submission to Congress of rescission requests from the President under the Impoundment Control Act since 1974, we have prepared the attached table.

The table provides the number of rescission requests, by month, for each fiscal year. The actual unit of analysis is the individual rescission, not rescission messages as we initially discussed. If five separate rescission requests were included in a single message during a given month, the number entered on the table would be five. This provides a more accurate way for considering the transmission of rescission proposals, since under current law there is no requirement for the President either to combine or to separate rescissions transmitted at the same time. The number of rescissions included in a single message have varied considerably, even within the same Administration.

As indicated in the notes accompanying the table, the End-of-Year Cumulative Reports on Rescissions and Deferrals, prepared by the Office of Management and Budget, provided the source. Actually, for one year, Fiscal Year 1990, OMB prepared no end-of-year report. In this instance we used the monthly cumulative report for September, 1990, which happened to include a complete listing of rescissions for that year.

We hope that this information proves useful to you. If we can be of further assistance, you may reach Ginger at 7–8678, or Jim at 7–2381.

PRESIDENTIAL RESCISSION REQUESTS SUBMITTED TO CONGRESS BY MONTH, FISCAL YEAR 1976–94

Fiscal year[1]	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Total
1976	0	6	13	17	0	0	0	0	0	[2]6	0	[3]4	46
1977	0	0	0	9	0	0	0	1	0	[4]10	0	[5]1	21
1978	0	0	0	3	0	0	0	1	1	1	0	1	7
1979	0	1	0	10	0	0	0	0	0	0	0	0	11
1980	1	0	0	2	0	1	53	2	0	0	0	0	59
1981	0	0	0	34	0	120	0	0	10	1	0	0	165
1982	2	1	0	0	22	1	0	0	1	3	1	0	31
1983	0	0	1	0	19	0	0	0	0	1	0	0	21
1984	0	0	1	0	8	0	0	0	0	0	0	0	9
1985	0	0	0	0	241	0	0	2	0	0	0	1	244
1986	0	0	0	0	77	3	3	0	0	0	0	0	83
1987	0	0	0	73	0	0	0	0	0	0	0	0	73
1988	0	0	0	0	0	0	0	0	0	0	0	0	0
1989	0	0	0	6	0	0	0	0	0	0	0	0	6
1990	0	0	0	0	0	0	3	8	0	0	0	0	11
1991	0	0	0	0	26	0	1	0	2	1	0	0	30
1992	0	0	0	0	1	98	29	0	0	0	0	0	128
1993	7	0	2	0	3	0	1	0	6	0	0	0	19
1994	0	38	0	0	27	0	0	0	0	0	0	0	65
Total	10	46	17	154	424	223	90	14	20	23	1	7	1,029
Percent	0.97	4.47	1.65	14.97	41.21	21.67	8.75	1.36	1.94	2.24	0.10	0.68	100

[1] Although the Impoundment Control Act became effective upon enactment (July 12, 1974), the fiscal year calendar change did not begin until Oct. 1, 1975, for FY 1976. In addition to the rescission messages listed there were also eight rescission messages in July 1975 concerning spending for FY 1976 and the transition quarter (July–Sept. 1975).

[2] Of the five rescission requests received in July 1976 one concerned spending for FY 1977.

[3] Of the four rescission requests received in September 1976, three concerned spending for FY 1977.

[4] Of the ten rescission requests received in July 1977, four concerned spending for FY 1978.

[5] the rescission requests received in September 1977 concerned spending in FY 1978, and was later reclassified as a deferral by the Comptroller General.

Source: Office of Management and Budget End-of-Year Cumulative Report on Rescissions and Deferrals for each FY1976–94.

Republican Support for Expedited Rescission

99TH CONGRESS

Bills introduced

S. Con. Res. 65—The Porkbusters Resolution of 1985. Introduced by Senator Dan Quayle (R–IN) on September 17, 1985. Required Congress to vote on resolutions approving Presidential rescissions by a majority vote within fifteen days after the rescission was submitted.

H.R. 3675—a bill providing the President with modified rescission authority while preserving the authority of Congress in the budget process. Introduced by Rep. Ralph Regula (R–OH) on November 1, 1985. Required Congressional votes on Presidential rescissions within 45 days.

Floor consideration

On September 19, 1985, Senator Quayle offered the text of S. Con. Res. 65 as an amendment to the Omnibus Reconciliation Act of 1986. The amendment was ruled non-germane and defeated on a procedural motion of 34–62.

100TH CONGRESS

Bills introduced

S. Con. Res. 16—a bill providing for expedited consideration of a bill or joint resolution approving a Presidential rescission. Introduced by Senator Quayle on February 5, 1987. The bill was cosponsored by two Republicans.

H. Con. Res. 119—similar to S. Con. Res. 16. Introduced by Rep. Lynn Martin (R–NY) on May 8, 1987. Cosponsored by 15 Republicans.

H.R. 3129—Line-item Rescission Act of 1987. Introduced by Rep. Tim Johnson (D–SD) on August 6, 1987. Cosponsored by 20 Republicans, including Rep. Gerald Solomon (R–NY) and Rep. Dan Coats (R–IN).

Floor consideration

Rep. Dick Armey (R–TX) attempted to add an amendment to the FY88 Long-term Continuing Resolution granting the President enhanced rescission authority over funds included in the CR. Under the amendment, a simple majority of Congress could overturn the rescission. The effort was unsuccessful.

Notable quotes

Senator Dan Quayle (February 5, 1987, S3136 Congressional Record)

"The Pork-Buster Resolution is based on a simple, fundamental premise. Before the taxpayers' money can be spent, the President and a majority of both the Senate and the House of Representatives should be required to agree those funds should be spent. Congress should be made—and held—accountable to the American people on rescissions that a President believes are appropriate. By using the rulemaking power of each House, the Pork-Buster Resolution would require expedited consideration of Presidential rescission messages."

Rep. Dick Armey (Dear Colleague dated November 2, 1987)

"Enhanced rescission authority will involve the Administration and the Congress in a meaningful deficit reduction process in a manner that ensures both institution's prerogatives are protected."

Rep. Dick Armey (November 5, 1987, H30961 Congressional Record):

"I will go to the Rules Committee and I will request a rule that will allow me to amend that long-term continuing resolution to include in it enhanced rescission authority that would allow the President to examine that large omnibus spending bill line item by line item and make line-item vetoes, as it were, with a simple majority override capacity remaining for the House."

101ST CONGRESS

Bills introduced

H.R. 235—Line-item Rescission Act of 1989. Introduced by Rep. Tim Johnson (D–SD) on January 3, 1989. Cosponsored by 9 Republicans.

H.R. 962—Current Level Rescission Act of 1989. Introduced by Rep. Dick Armey on February 9, 1989 and cosponsored by 105 Republicans. Provided for expedited consideration of Presidential rescissions if the rescission did not reduce any program below its prior-year level.

H.R. 3800—a bill providing for expedited consideration of certain Presidential rescission. Introduced by Rep. Tom Carper (D–DE) along with Reps. Armey, Johnson, Martin, Dan Glickman (D–KN), Bill Frenzel (R–MN) and others as a bipartisan consensus expedited rescission bill on November 21, 1987. Cosponsored by 65 Republicans.

Notable quotes

Rep. Dick Armey and Rep. Tim Johnson (Dear Colleague dated March 1, 1989)

"The Current Level Enhanced Rescission Act is a realistic, rational proposal that protects Congress' own spending priorities and restores the President's role in fighting the deficit."

102D CONGRESS

Bills introduced

H.R. 2164—a bill providing for expedited consideration of certain Presidential rescissions. Introduced by Rep. Carper on May 1, 1991. Cosponsored by 108 Republicans. Required votes in Congress on Presidential rescissions within ten days of their submission. Limited the amount that the President could rescind authorized programs to 25%. Established the new procedure for two years.

H.R. 5700—Expedited Consideration of Proposed Rescissions Act of 1992. Introduced by Rep. Solomon on July 28, 1992. Identical to H.R. 2164 except that it eliminated the distinction between authorized and unauthorized programs included in H.R. 2164.

Floor consideration

July 30, 1992—Rep. Solomon attempted to defeat the previous question on the Commerce, Justice and State Appropriations bill so that he could offer a motion to make in order what he described as "a slightly different line-item veto rescission amendment" which consisted of the text of his expedited rescission bill. Reps. Bob McEwan (R–OH), David Dreier (R–CA), John Duncan (R–TN) and Bob Walker (R–PA) spoke in support of Solomon's motion. The effort failed on a vote of 240–176.

October 3, 1992—The House passed H.R. 2164, the expedited rescission bill introduced by Rep. Tom Carper, by a vote of 312–197. It was supported by 154 of 159 Republicans voting.

Notable quotes

Rep. Dick Armey (May 5, Rules Committee Hearing on H.R. 4990):

"I think the President's authority should be enhanced, perhaps enhanced in the way Mr. Solomon suggests, but even enhancing it a little bit in the way Mr. Carper will later recommend. That would be an improvement."

Rep. Harris Fawell (R–IL) (May 5, Rules Committee Hearing)

"When Tom Carper comes up in reference to his enhanced rescission bill, it isn't everything I would want, but I could support it. It does valuable things. It moves us down that road."

Rep. Jerry Solomon (May 7, 1992, H3029 Congressional Record):

"We moved to make in order an amendment by Mr. Carper, a Democrat, and Mr. Stenholm, a Democrat, to provide for expedited rescission procedures for the next two years, similar in concept to my line item veto bill, but watered down considerably. Still, it is a strong step in the right direction."

Rep. Bob McEwan (July 30, 1992, H6988 Congressional Record):

"The Solomon amendment would mandate that Congress consider legislation approving the President's rescissions within twenty days. If either House fails to pass the bill, then the money would be obligated. Mr. Speaker, in the name of fiscal responsibility, the House must be given the opportunity to at least consider the Solomon amendment."

Rep. Jerry Solomon (July 30, 1992, H6992 Congressional Record):

"If we defeat the previous question, I will offer the Carper line-item rescission amendment that simply requires Congress to vote up or down on the President's request not to spend the money. This requires only a simple majority vote."

Rep. Jerry Solomon (July 30, 1992, H6992 Congressional Record):

"For those of you who really believe in the line-item veto, we have reached a tremendous compromise here that you can vote for. It should be something that this House can support overwhelmingly on both sides of the aisle."

Rep. Harris Fawell (October 2, 1992, H10811 Congressional Record):

"(H.R. 2164) is at least the first step of a 1,000 mile journey toward hopefully someday being able to balance the federal budget."

Rep. Jerry Solomon (October 2, 1992 H10813 Congressional Record):

"I favor the bill before us today (H.R. 2164) because it is an improvement over the current rescission process * * *. It is a step in the right direction."

103D CONGRESS

Bills introduced

H.R. 1013—Expedited Consideration of Proposed Rescissions Act of 1993. Introduced by Rep. Charlie Stenholm (D–TX) on February 18, 1993. Cosponsored by 33 Republicans. Required the President to submit rescissions within a three-day window after signing an appropriations bill. The expedited rescission authority would have a 2 year sunset. Does not include targeted tax credit.

H.R. 1578—Expedited Rescissions Act of 1993. Introduced by Rep. John Spratt (D–SC) on April 1, 1993. Required the President to submit rescissions within a three-day window after signing an appropriations bill. The expedited rescission authority would have a two year sunset. Does not include targeted tax credit. A framework would be established for consideration of an appropriations committee alternative if the President's package was defeated.

H.R. 4600—Expedited Rescissions Act of 1994. Introduced by Rep. John Spratt (D–SC) on June 17, 1994. Applies only to appropriations, may be used only within 3-day window after an appropriations bill passes, applies only to the 103rd Congress.

H.R. 4434—Common Cents Budget Reform Act of 1994. Introduced by Reps. Stenholm (D–TX), Penny (D–MN), and Kasich (R–OH). Cosponsored by 14 Republicans. Guarantees a vote on every rescission bill submitted by the President. The President can designate any portion of the savings for deficit reduction. The President can submit a special message repealing a targeted tax credit within 10 days after a bill is enacted. The President can submit a special message to rescind appropriations at any time. Permanently extends authority.

Floor consideration

July 14, 1994—The House passed the Stenholm substitute to H.R. 4600 on final passage by a vote of 342–69. The Stenholm substitute was agreed to by a vote of 298–121. The Solomon substitute failed 205–218. All 169 Republicans present and voting voted yes on final passage, and all 170 Republicans present and voting voted yes on the Stenholm substitute.

Notable quotes

Rep. John Kasich (July 14, 1994, H5728 CONGRESSIONAL RECORD):

"This (Stenholm-Penny-Kasich amendment), ladies and gentlemen of the House, represents the most significant movement on trying to control the deficit through the use of the line-item veto that we have voted on and have a chance to pass in this House since I have been a Member of the House * * *. This (Stenholm-Penny-Kasich amendment), is precisely what the American people have been calling for * * *. It will bring real change."

Rep. Jim Kolbe (July 14, 1994, H5715 CONGRESSIONAL RECORD):

"Let us not let the opportunity to support tough budget reform slip away again. Support the Stenholm-Penny-Kasich amendment to H.R. 4600."

Rep. Rick Lazio (July 14, 1994, H5711 CONGRESSIONAL RECORD):

"We have significantly strengthened the process (existing rescission process) by adopting the Penny-Kasich-Stenholm amendment, for which I voted."

Rep. Harris Fawell (July 14, 1994, H5710 CONGRESSIONAL RECORD):

"Should this substitute (Michel-Solomon) fail, I then will support the Stenholm-Penny-Kasich substitute, because it is a vast improvement over the enhanced rescission power we presently have."

QUESTIONS AND ANSWERS REGARDING EXPEDITED RESCISSION AUTHORITY

How does the Wise and Stenholm-Spratt substitutes differ from H.R. 1578 and H.R. 4600, the versions of expedited rescission reported by the Rules Committee in the 103rd Congress?

Both substitutes incorporate several changes from earlier expedited rescission legislation made by the Stenholm-Penny-Kasich amendment to H.R. 4600 on July 14, 1994. The Stenholm-Penny-Kasich amendment made several changes to respond to concerns raised by many members and significantly strengthen the legislation. The President would be able to single out newly enacted targeted tax benefits as well as appropriated items for individual votes. Unlike H.R. 1578 and H.R. 4600, which required the President to submit rescissions within a three-day window after signing an appropriations bill, the President would be able to submit a rescission package for expedited consideration at any point in the year. The President would have the option of earmarking savings from proposed rescissions to deficit reduction, which no other expedited rescission or line-item veto proposal would permit. The new expedited rescission authority would be established permanently instead of being sunsetted after two years. Members would have the ability to obtain separate votes on individual items in a rescission package that have significant support. The Wise and Stenholm substitutes explicitly prevent the President's rescissions from being considered under a special rule which would waive the requirements of the section. Finally, the prerogative of the Appropriations Committee to move their own rescission bill would be preserved without creating a cumbersome new procedure.

How is the procedure under expedited rescission different from the existing procedure for considering Presidential rescissions under Title X of the Budget Control and Impoundment Act?

Under Title X of the Budget Control and Impoundment Act, the President may propose to rescind all or part of any item at any time during the fiscal year. If Congress does not take action on the proposed rescission within 45 days of continuous session, the funds must be released for obligation. Congress routinely ignores Presidential rescissions. The discharge procedure for forcing a floor vote on Presidential rescissions is cumbersome and has never been used. Most Presidential rescission messages have died without a floor vote.

Congress has approved just 34.5% of the individual rescissions proposed by the President since 1974 (350 of 1012 rescissions submitted), representing slightly more than 30% of the dollar volume of proposed rescissions. Nearly a third of the Presidential rescissions approved came in 1981. Excluding 1981, Congress has approved less than 20% of the dollar volume in Presidential rescissions. Although Congress has initiated $65 billion in rescissions on its own, it has ignored nearly $48 billion in Presidential rescissions submitted under Title X of the Budget Control and Impoundment Act without any vote at all on the merits of the rescissions.

In 1992, the threat that there would be an attempt to utilize the Title X discharge procedure to force votes on 128 rescissions submitted by President Bush provided the impetus for the Appropriations Committee to report a bill rescinding more than $8 billion. However, this was an exception. Most rescission messages are ignored. Expedited rescission would change that and force Congress to react to Presidential messages by voting on them, increasing the likelihood that unnecessary spending would be eliminated.

Could Congress thwart the provisions of expedited rescission legislation by reporting a rule that waives the requirements of this proposal?

No. The substitute specifically states that "It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section . . . under a special rule." Furthermore, OMB could continue to withhold the funds from obligation until the President's plan was voted on as required by this legislation regardless of any attempts by Congress to waive its internal rules. If Congress used its Constitutional authority to set its own rules to avoid a vote on the President's rescissions, it would give the President the ability to indefinitely impound the funds.

How does expedited rescission legislation ensure that a Presidential rescission is voted on by Congress?

Expedited rescission legislation establishes several procedural requirements ensuring that Congress cannot simply ignore a rescission message. A rescission bill would be introduced by request by either the Majority or Minority Leader. If the Appropriations Committee does not report out the rescission bill as required within ten days, the bill is automatically discharged from the committee and placed on the appropriate calendar. Once the bill is either reported by or discharged from the Appropriations Committee, any individual member may make a highly privileged motion to proceed to consideration of the bill. Although a motion to adjourn would take precedence, the House could not prevent a vote on a rescission message by adjourning because only legislative days are counted toward the ten day clock. Action is also promoted by providing for a highly privileged motion to proceed to consideration and limiting debate and preventing amendments to a rescission bill. This proposal ensures that there will be a vote on a rescission bill so long as one member is willing to stand up on the House floor and make a motion to proceed.

The substitute includes language to discourage the House from avoiding a vote on the President's package, by making the release of funds by OMB contingent on Congress voting on and defeating the President's package.

Under current law, OMB withholds funds from apportionment until Congress acts on a rescission message. Funds included in a rescission message would be frozen in the pipeline until Congress either votes to rescind them or to release them for obligation. The substitute provides that the funds must be released for obligation upon defeat of the President's rescission bill in either House. This is different from the requirement in Section 1012 of the Impoundment Control Act of 1974, which states "Any amount of budget authority proposed to be rescinded . . . shall be made available for obligation, unless, within the prescribed 45 day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded." By specifically providing that the funds would be released upon defeat of the President's package and not providing for any other circumstances in which OMB must release the funds, the language of the Wise and Stenholm-Spratt substitutes clearly provide that OMB will be required to release the funds only when Congress votes on and rejects the rescission bill.

Similarly, the amendment provides that any tax benefits proposed to be repealed be "deemed to have been repealed unless . . . either House rejects the bill transmitted with that special message."

How would the motion to strike individual items from a package of rescissions work?

A member would be able to make a motion to strike an individual item in the rescission bill if 49 members support the motion. This procedure would be similar to existing procedures to call for recorded votes or the procedure for discharging rescission bills under Title X of the Impoundment Control Act in which the members supporting the motion would stand and be counted. If the requisite number of members supported a motion to strike, the motion would be debated under the five minute rule and the House would vote on the motion. If the motion was supported by a majority of members, the item would be struck from the bill. The House would vote on final passage of the rescission bill after disposing of any motion to strike.

If 50 members feel strongly enough about an individual item to coordinate the actions necessary to obtain a motion to strike, they deserve to have the opportunity to make their case to the full House. They would still have to convince a majority of the House that their project was justified.

Wouldn't the motion to strike deprive the President of a vote on his rescissions?

No. Congress would vote on the merits of each rescission either as part of the overall package or on a motion to strike. While there might not be one vote on the entire package if a motion to strike succeeded, Congress would have voted on the merits of individual rescissions when it voted on the motions to strike items from the package.

The motion to strike increases the chance of passing rescissions submitted by the President by providing a safety valve to take "killer" items out of a rescission package to avoid the entire package from being defeated because of one item with strong support. If there is a strong core of support within Congress for an individual item, there would be a high likelihood that the supporters of that item could form an alliance to defeat the entire bill. Although the President would presumably make political judgements to avoid including items that would sink the entire package, the administration will not always be aware of all traps that may lie with an individual spending program or tax provision. This safety valve would prevent a political miscalculation from sinking the entire bill.

What types of tax provisions would be subject to the new rescission process?

The provision for expedited consideration of proposals to repeal tax items would be restricted to targeted tax benefits. "Targeted tax benefits" are defined as provisions which provide a deduction, credit, exclusion, preference, or other concession to 100 or fewer taxpayers. The rescission authority would apply to narrowly drawn tax items, the so-called "tax pork", which are slipped into tax bills to benefit special interests. It will not apply to broader tax breaks that apply to a larger number of taxpayers such as a capital gains tax reduction or middle class tax cut.

Wouldn't the ability to repeal tax items create uncertainty in the tax code?

No. The substitute provides for swift consideration of proposals to repeal tax provisions so that taxpayers would know the final disposition of any tax provision within a reasonable period of time following the passage of a tax bill. The President must submit a proposal to repeal a tax provision within ten business days after signing a tax bill. Congress would be required to act within twenty legislative days.

Could the President propose to rewrite tax provisions?

No. The President would only be able to propose legislative language necessary to repeal individual tax provisions for expedited consideration. Legislation submitted by the President to rewrite a tax provision would not be subject to the expedited procedures of this amendment.

Doesn't this legislation constitute an unconstitutional legislative veto?

No. This legislation was carefully crafted to comply with the Constitutional requirements established by the courts by *I.N.S.* v. *Chada*, 462 U.S. 919 (1983), the case that declared legislative veto provisions unconstitutional. Legislative vetoes allow one or both Houses of Congress (or a Congressional committee) to stop executive actions by passing a resolution that is not presented to the President. The *Chada* court held that legislative vetoes are unconstitutional because they allow Congress to exercise legislative power without complying with Constitutional requirements for bicameral passage of legislation and presentment of legislation to the President for signature or veto. For example, allowing the House (or Congress as a whole) to block a Presidential rescission by passing a motion of disapproval without sending the bill to the President for signature or veto would violate the Chada test. This substitute meets the Chada tests of bicameralism and presentment by requiring that both chambers of Congress pass a motion enacting the rescission and send it to the President for signature or veto, before the funds are rescinded. The substitute does not provide for legislative review of a preceding executive action, but expedited consideration of an executive proposal. Thus, it represents a so-called "report and wait" provision that the court approved in *Sibbach* v. *Wilson and Co.*, 312 U.S. 1 (1941) and reaffirmed in Chada.

If a majority of Congress has voted for items as part of an appropriations or tax bill, wouldn't the same majority vote to preserve the items when they were rescinded?

Just as President's often sign appropriations bills (or other bills for that matter) that include individual items that he does not support, Congress often passes appropriations bills without passing judgment on individual items. Expedited rescission legislation would force the President and Congress to examine spending items on their individual merit and not as part of an overall package. Many items included in an omnibus appropriations bill would not be able to receive majority support in Congress if they were forced to stand on their own individual merits. Members who voted for an appropriations or tax bill may be willing to vote to eliminate individual items that had been in the omnibus bill.

Isn't requiring an additional vote on items that have already been approved by Congress a waste of time?

As was stated above, the fact that an item was included in an omnibus appropriations or tax bill does not necessarily imply that a majority of Congress supported that individual item. For example, when Congress passed the Agricultural Appropriations Bill in 1990, the majority of the members did not endorse spending on Lawrence Welk's home. Requiring a second vote on individual items included in an omnibus appropriation bill is not an unreasonable response to realities of the legislative process.

Doesn't providing the President expedited rescission authority alter the balance of power between Congress and the President?

No. The approach of expedited rescission legislation strikes a balance between protecting Congress' control of the purse and providing the accountability in the appropriations process. Unlike line-item veto legislation, this substitute would preserve the Constitutional power of Congressional majorities to control spending decisions. Expedited rescission authority increases the accountability of both sides, but does not give the President undue leverage in the appropriations process because funding for a program will continue if a majority of either House disagree with him.

Since the rescission process would apply only to the relatively small amount of spending in discretionary programs and a limited number of small tax breaks, isn't this just a political gimmick that won't have a significant impact on the deficit?

The authors of this proposal have never claimed that this proposal would balance the budget. However, it will be a useful tool in helping the President and Congress identify and eliminate as much as $10 billion in wasteful or low-priority spending each year. Furthermore, the existence of expedited rescission authority will have a cleansing effect on the Appropriations process which will prevent many wasteful programs from being included in the Appropriations bills in the first place. Many of the special interest tax provisions that would be subject to expedited rescission have a considerable cost. It will help ensure that the federal government spends its scarce resources in the most effective way possible and does not divert resources to low-priority programs. Perhaps most importantly, by increasing the accountability of the budget process, it will help restore some credibility to the federal government's handling of taxpayer money with the public. This credibility is necessary if Congress and the President are to gain public support for the tough choices of cutting benefits or raising taxes necessary to balance the budget.

Would this proposal apply to entitlement programs funded through the appropriations process such as unemployment insurance and food stamps?

No. Although other versions of expedited rescission legislation would have allowed a President to propose to rescind spending for entitlement programs funded through the regular appropriations bills (as is the case with unemployment insurance and other income support programs), this was changed to clarify that the expedited rescission process does not apply to any entitlement programs.

Doesn't the expedited rescission process violate the legislative prerogative by requiring action under a specific timetable and preventing amendments to a rescission bill?

The expedited procedure for consideration of rescission messages in this substitute is similar to fast track procedures for trade agreements or for base closure reports, which have worked relatively well. In fact, the scope of the legislation that would be subject to expedited consideration is much more confined under this procedure than in either trade agreements or base closings.

Wouldn't allowing the President to submit rescissions throughout the year give the President undue ability to dictate the legislative calendar?

The substitute preserves the flexibility of Congressional leaders to develop the legislative schedule while ensuring that the President's package is voted on in a timely fashion. It provides that the time allowed for consideration of the bill before a vote is required be counted in legislative days instead of calendar days, ensuring that the House will be in session for ten days after receiving the message before a vote is required. The House could vote on the package any point within the ten legislative days for consideration.

Could the President propose to lower the spending level of an item, or would he have to eliminate the entire item?

The President could propose to rescind the budget authority for all or part of any program in an appropriations bill. Consequently the President could, if he so chose, submit a rescission that simply lowered the budget authority for a certain program without eliminating it entirely. In comparison, most line-item veto proposals require the President to propose to eliminate an entire line item in an appropriations bill.

Would this proposal allow the President to strike legislative language from appropriations bills?

No. It specifically allows a President to rescind only budget authority provided in an appropriations act and requires that the draft bill submitted by the President have only the effect of canceling budget authority. Legislative language, including limitation riders, would not be subject to this procedure.

Could the President propose to increase budget authority for a program?

No. The substitute specifically provides that the President may propose to eliminate or reduce budget authority provided in an appropriations bill. It does not allow the

President to propose an increase in budget authority.

What happens if the President submits a rescission message after Congress recesses for the year?

The House has ten legislative days to consider the rescission message. Since the time allowed for consideration of the rescission message only counts days that Congress is in session, Congress would not be required to vote on a rescission message until after it returns from recess. However, the funds would not be released for apportionment for proposed rescissions until Congress votes on and defeats a Presidential rescission bill. Congressional leaders would have to decide whether to reconvene Congress to consider the rescission message or to leave the message pending while Congress is in recess. Congress could delay adjourning sine die until the time period in which the President could submit a rescission has expired so that it can reconvene to consider a rescission message if it is submitted after Congress completes all other business. If the funds included in a rescission message are considered by Congress to be important, Congress would have to return to session to vote on the message. If a rescission message is submitted after the first session of the 103rd Congress has adjourned for the year, or if Congress adjourns before the period for consideration of a rescission message expires, the rescission message would remain pending at the beginning of the second session of the 103rd Congress. The House still would be required to vote on the rescission message by the tenth legislative day after the rescission package was submitted.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, March 31, 1993.

To: Hon. Charles W. Stenholm.
From: American Law Division.
Subject: Validity of the Approval Mechanism in the "Expedited Consideration Rescissions Act of 1993".

Under H.R. 1013, the Expedited Consideration of Proposed Rescissions Act of 1993, as modified, the Budget and Impoundment Control Act of 1974, 2 U.S.C. 681 et seq., would be amended to provide for a fast-track process for considering and voting on presidential proposals embodied in a bill or joint resolution to rescind budget authority provided in an appropriations act. If the President submits rescission proposals within three days after enactment of an appropriations measure, a legislative process is triggered whereby a House floor vote may be had within 10 legislative days after receipt of the proposal, and a Senate floor vote will be held within 10 days after transmittal of the House-passed measure. The resultant legislative action is subject to the President's veto.

You inquire whether the proposed rescission process embodies a legislative veto proscribed under the Supreme Court's ruling in *INS* v. *Chadha*, 462 U.S. 919 (1983), and subsequent cases,[1] or is otherwise violative of the constitutionally mandated lawmaking process prescribed by Article I, rec. 7. For the reasons set forth below, we do not believe it is.

The constitutional defect of the legislative veto disclosed by the Chadha Court was that Congress sought to exercise its legislative power without complying with the constitutionally mandated requirements for lawmaking: bicameral passage and presentation to the President for his signature or veto. There, and in two subsequent cases, the Court found unlawful legislative actions which sought to accomplish the reversal of exercises of executive actions taken pursuant to lawfully delegated authority without presentation to the President. But the Court carefully noted in Chadha that it was not casting doubt on so-called "report and wait" provisions which it had previously approved in *Sibbach* v. *Wilson & Co.*, 312 U.S. 1 (1941). Under such provisions a proposed executive action does not become effective unless a specified contingency occurs, i.e., a set period of time passes without congressional action preventing it from going into effect or Congress takes affirmative legislative action approving its effectiveness.

H.R. 1013, as modified, utilizes both methods of contingent legislation. For all rescission recommendations a presidential proposal does not become effective unless it is approved by a bill or joint resolution with 10 legislative days of continuous session after the date on which the bill or joint resolution is received by the House, and an additional 10 legislative days after it is transmitted by the House to the Senate for consideration. Rescission proposals cannot become effective unless affirmatively enacted into law. Both methods comply with Chadha since the legislative action to be taken meets the constitutional requirements of bicameralism and presentment. Moreover, under the proposed contingency scheme, the Executive has not been delegated any legislative authority at all; he has been directed to recommend and that proposal has no legal effect unless Congress gives it such effect through further legislation. Thus it is a classic reporting provision of the type approved in Sibbach. Similar report and wait mechanisms requiring affirmative legislative action have been enacted several times since Chadha. See, e.g., Reorganization Act Amendments of 1984, Pub. L. No. 98-614, sec. 3(a)(1), 98 Stat. 3192 (1984); Pub. L. 98-473, 98 Stat. 1916-1918, 1935-1937 (1984)(proscription on use of intelligence agency funds for Nicaragua); Pub. L. No. 98-441, 98 Stat. 1701 (1984)(obligating funds for MX missile).

MORTON ROSENBERG,
Specialist in American
Public Law.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, March 30, 1993.

To: Hon. Charles Stenholm.
From: American Law Division.
Subject: Application of Rescission Authority to "Tax Expenditures.

This memorandum provides, at your request, quick analysis of whether the same constitutional principles that govern application of rescission authority to appropriated funds apply as well to rescission of "tax expenditures." We understand as well that the requested context for analysis is H.R. 1013, a bill entitled "Expedited Consideration of Proposed Rescissions Act of 1993." It is proposed that language be added to that bill adding "tax expenditures" as a category within which the President may trigger expedited congressional consideration of proposed rescission legislation.

Some background may be helpful. The same constitutional principles govern application of rescission authority to "appropriations" and to "tax expenditures." These governing principles are set out in previously prepared memoranda enclosed for your review: "Constitutionality of Granting President Enhanced Budget Rescission Authority," June 27, 1989; and "Adequacy of Standards in Bill Granting President Enhanced Budget Rescission Authority," July 21, 1989, both by Johnny H. Killian, Senior Specialist in American Constitutional Law, CRS. The basic issue raised by actual conferral of rescission authority on the President involves delegation of legislative authority, and whether there are adequate standards set forth in the law so that it can be determined whether the executive has complied with the legislative will. In 1989 the Supreme Court held in *Skinner* v. *Mid-America Pipeline Co.*, 490 U.S. 212, 223, that the same principles govern delegation of taxing authority that govern delegation of Congress' other authority.

"[T]he delegation of discretionary authority under Congress' taxing power is subject to no constitutional scrutiny greater than that we have applied to other nondelegation challenges. Congress may wisely choose to be more circumspect in delegating authority under the Taxing Clause than under other of its enumerated powers, but this is not a heightened degree of prudence required by the Constitution."

We note, however, that no constitutional delegation issues are posed by H.R. 1013 or the proposed amendment. Instead, the bill merely provides for expedited congressional consideration of presidential proposals that Congress enact legislation authorizing rescission of "any budget authority provided in an appropriations Act." No authority to effectuate a rescission, to exercise a line-item veto, or otherwise to nullify statutory enactments would be conferred on the President by the bill. Inclusion of "tax expenditures" along with budget authority as a category about which the President may propose legislation that will receive expedited consideration does nothing to change this basic fact that the bill contains no delegation of rescission or taxing authority.

With or without a delegation of authority, the principal constitutional distinction between the categories of budget authority and tax expenditures is the requirement of Art. I, §7, cl. 1 that all bills for raising revenue shall originate in the House of Representatives. A bill providing for "tax expenditures" (currently defined in 2 U.S.C. §622(3) as "revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction . . . or which provide a special credit, a preferential rate of tax, or a deferral of tax liability") might also include measures for raising revenues, and a bill providing for repeal of tax expenditures could be considered to be a bill for raising revenues.

A further point. The President has the power conferred by Art. II. §3 of the Constitution to "recommend to [Congress'] consideration such measures as he shall judge necessary and expedient," and Congress of course cannot prevent the President from proposing consideration of legislation, including legislation that would rescind budget authority or repeal tax expenditures. In conferring authority to propose rescissions that will be subject to expedited consideration by the Congress, the bill also restricts the President's authority to make a second such request and does not explicitly tie that restriction to operation of the expedited procedures. The bill would add a new section 1013 to the Congressional Budget and Impoundment Control Act of 1974, and subsection (a) would provide in part that "[f]unds made available for obligation under this procedure may not be proposed for rescission again under this section or section 1012." A reasonable implication of "proposed . . . under this section or section 1012" is that a proposal may be submitted independently of the cited authority, and that the only restriction is that the expedited procedures authorized by the new section or in connection with existing section 1012 would not be operative. Thus, while the language can and should be interpreted to avoid any constitutional issue that would be created by interference with the President's authority under the Constitution to make recommendations to Congress, a more direct statement tying the restriction to operation of the expedited procedures could eliminate any basis for question.

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[1] *Process Gas Group* v. *Consumer Energy Council*, 463 U.S. 1216 (1983)(one-House veto of rules invalid); *United States Senate* v. *F.T.C.* 463 U.S. 1216 (1987)(two-House veto of rules invalid).

GEORGE COSTELLO,
Legislative Attorney,
American Law Division:

Mr. Chairman, I yield back the balance of my time.

Mr. BLUTE. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I just want to say to the distinguished gentleman who brought this point forward that we have been watching and listening very carefully. We agree, at least I agree and I think others do, too, that what he is proposing does strengthen the present expedited rescission process, which is extremely weak. It never requires a vote; doing nothing spends the money. That is too much temptation for almost anybody to overcome, and I think we are proof that that temptation is true and is not overcomeable.

I think the gentleman has some good ideas. We have gone back and taken a look at section 904 of the Budget Act and matched that up with the gentleman's title II section under the requirement to make available for obligation and his reliance on the antideficiency process. I believe there is some area to work in there. I do not think it is quite right.

I would like to state to the gentleman I hope to work with him in cleaning up the budget process. We would like to take a clear shot at this one for the tough two-thirds disapproval vote, which is primarily our main concern. We are worried about the confusion. I do think the gentleman has some good ideas which are worthy of further attention as we clean up the budget process.

Mr. BLUTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in closing, I want to commend the Committee on Rules for giving us an open rule in which we had a very, I think, thorough debate on a whole range of issues surrounding the line item veto authority. With regard to the Stenholm-Spratt amendment, I would only say that it complicates matters and that H.R. 2 freestanding is the strongest line item veto authority that we could give the President. President Clinton asked for the strongest version, his budget director asked for the strongest version, and this bill is the strongest version that we could give the President to help him reduce the deficit and discipline the budget process.

I would also say that the Congressional Research Service has issued a report on its constitutionality. But the larger issue, Mr. Chairman, is that the line item veto has been kicking around up here on Capitol Hill for a very, very long time. We have an opportunity tonight to give the President this tool and to do something tangible about our Federal budget deficit and about the expenditures in our yearly budgeting process.

I urge this House to tonight pass the line item veto authority for the President, send it over to the other body, and ultimately to give the President this important tool.

Mr. RICHARDSON. Mr. Chairman, I rise in support of this amendment. The President should have the power to rescind wasteful spending. But it is also important that once the President flags wasteful line-items and targeted tax benefits, that Congress should share the role of acting on wasteful spending and acting quickly. The balance of power between the executive and legislative branches must be preserved. One should not be given greater power to identify and rescind government spending. The framers of our Constitution did not foresee the need to give greater rescission power to one or the other, nor should we.

In practice, several appropriation bills can reach the President's desk at the same time. The President should be given the flexibility to offer a package of rescissions at anytime and Congress should then act to quickly approve or disapprove of that package. We have already rejected a substitute that would have provided greater flexibility for rescinding funds while not tipping the balance of power. I urge my colleagues not to reject this kind of common sense a second time. The approach offered by this amendment preserves the balance of power between the executive and legislative branches, and that is what the public wants. The public wants an efficient government that moves quickly to eliminate wasteful spending. The public does not want a single person or one-third of Congress to be able to protect targeted spending.

I believe it's ironic that at a time when most of the public does not want Washington controlled by a select few with narrow interests, and our colleagues from the other side of the aisle keep talking about spreading power beyond the beltway, that they keep reverting to procedures within Congress that give enormous power to a minority of our Members. Let's do something that makes sense. I urge my colleagues to support this amendment.

Mr. BLUTE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. STENHOLM].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. STENHOLM. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of February 3, 1995, further proceedings on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. STENHOLM] will be postponed.

The point of order of no quorum is considered withdrawn.

□ 1750

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the order of the House of Friday, February 3, 1995, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

The amendment offered by the gentleman from Utah [Mr. ORTON], the amendment offered by the gentlewoman from California [Ms. WATERS], and the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. STENHOLM].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. ORTON

The CHAIRMAN. The pending business is the demand of the gentleman from Utah [Mr. ORTON] for a recorded vote on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

RECORDED VOTE

A recorded vote was ordered.

The CHAIRMAN. This is a 15-minute vote, to be followed by several 5-minute votes.

The vote was taken by electronic device, and there were—ayes 65, noes 360, not voting 9, as follows:

[Roll No. 91]

AYES—65

Andrews
Barrett (WI)
Beilenson
Bentsen
Berman
Browder
Brownback
Bryant (TX)
Coleman
Condit
Dellums
Doggett
Dooley
Durbin
Edwards
Eshoo
Fawell
Fazio
Furse
Gibbons
Gutierrez
Hoyer
Inglis
Johnson (SD)
Kasich
Kennedy (MA)
Kennedy (RI)
Lincoln
Lofgren
Lowey
Luther
Maloney
McHale
Meehan
Miller (CA)
Minge
Obey
Orton
Pallone
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Rivers
Rohrabacher
Royce
Sabo
Schroeder
Schumer
Sensenbrenner
Serrano
Shays
Skaggs
Slaughter
Smith (MI)
Spratt
Stenholm
Tauzin
Taylor (MS)
Visclosky
Wilson
Wolf
Wyden
Yates
Zimmer

NOES—360

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman

Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Evans
Everett
Ewing
Farr
Fattah
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kelly
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Mineta
Mink
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Rush
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stark
Stearns
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff

NOT VOTING—9

Becerra
Bryant (TN)
Ford
Frost
Jefferson
McDade
Mollohan
Tucker
Watts (OK)

☐ 1808

Ms. JACKSON-LEE and Messrs. FATTAH, FOGLIETTA, and LEWIS of Georgia changed their vote from "aye" to "no."

Messrs. SKAGGS, McHALE, INGLIS of South Carolina, Ms. ESHOO, Mrs. MALONEY, and Ms. PELOSI changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the order of the House of Friday, February 3, 1995, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each further amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MS. WATERS

The CHAIRMAN. The pending business is the demand of the gentlewoman from California [Ms. WATERS] for a recorded vote on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 144, noes 280, not voting 10, as follows:

[Roll No. 92]

AYES—144

Abercrombie
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cramer
Danner
Deal
DeFazio
DeLauro
Dellums
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Hastings (FL)
Hilliard
Hinchey
Jackson-Lee
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Lewis (GA)
Lincoln
Lofgren
Luther
Manton
Markey
Martinez
Mascara
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Skaggs
Slaughter
Stark
Stenholm
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—280

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brownback
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Maloney
Manzullo
Martini
Matsui
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf

Meyers
Mica
Miller (FL)
Molinari
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Torricelli
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Becerra
Bryant (TN)
Chenoweth
Ford
Frost
Jacobs
Jefferson
McDade
Tucker
Watts (OK)

☐ 1818

Messrs. MARTINEZ, CRAMER, MOLLOHAN, TAYLOR of Mississippi, and WYDEN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STENHOLM

The CHAIRMAN. The pending business is the demand of the gentleman from Texas [Mr. STENHOLM] for a recorded vote on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 156, noes 266, not voting 12, as follows:

[Roll No. 93]

AYES—156

Ackerman
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clement
Clyburn
Coleman
Condit
Costello
Coyne
Cramer
Danner
de la Garza
Deal
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Eshoo
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E.B.
Johnston
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
LaFalce
Lantos
Laughlin
Levin
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Moakley
Montgomery
Moran
Nadler
Neal
Obey
Olver
Ortiz
Orton
Pastor
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Richardson
Rivers
Roemer
Rose
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Vento
Visclosky
Volkmer
Ward
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—266

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brown (FL)
Brownback
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clinger
Coble
Coburn
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Evans
Everett
Ewing
Fawell
Fields (LA)
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Martini
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Mineta
Mink
Molinari
Mollohan
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Owens
Oxley
Packard
Pallone
Parker
Paxon
Payne (NJ)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stokes
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torres
Traficant
Upton
Velazquez
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Waters
Watt (NC)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Becerra
Bryant (TN)
Crane
Ford
Frost
Gekas
Jefferson
McDade
Morella
Peterson (MN)
Tucker
Watts (OK)

☐ 1825

Mr. RANGEL changed his vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mrs. MINK of Hawaii. Mr. Chairman, I rise in opposition to H.R. 2.

Mr. Chairman, I rise in opposition to H.R. 2 on constitutional grounds. The issue is the principle of separation of powers. The line-item veto power that H.R. 2 grants to the President violates this principle. The Constitution states that all legislative power resides in the Congress, article I, section 1. It provides only that a bill can be returned unsigned by the President which then to become law must have a two-thirds vote of approval, article I, section 7. Further the Constitution states that it is the Congress that has the power to collect taxes, pay debts, and to provide for the general welfare, article I, section 8. Finally and most importantly the Constitution states that "No money shall be drawn from the Treasury but in consequence of appropriations made by law."

No bill passed by this Congress can alter the clear meaning and intent of the Constitution. Only a constitutional amendment can change that. H.R. 2 is a simple bill. It is not a constitutional amendment. If the proponents of this idea were serious, they would propose a Constitutional amendment and not try to circumvent the constitution.

Why didn't the committee go the constitutional amendment route? I have to assume that it is because they realize that the people of this country are not prepared to give any President even more power than he already possesses, and because the idea of giving one-third of the House and the Senate the power to kill a duly enacted appropriations item was a subversion of the basic concept of majority rule.

The legislative process would be seriously skewed if the line-item veto were interjected. Items could be added knowing that the President could remove them. Majority will would be compromised. The President could use the veto power to punish Members who did not go along with the White House on key votes. Small States would be especially vulnerable.

During the course of this debate an expedited judicial review amendment was accepted. This acknowledges the very point that I make. That this bill is incompatible with the Constitution of the United States.

Further, this bill would grant power to the President to item veto targeted tax benefits. Another word to describe what a targeted tax benefit is a tax loophole. The bill initially allowed the President veto power only over tax loopholes which affected five or fewer people. The committee extended this veto power to tax loopholes affecting 100 or less taxpayers. We should not be protecting any special tax loophole no matter what the size of the group receiving this selective treatment under the Tax Code. No matter how we stand on this issue of the line-item veto, we ought not be protecting a group of taxpayers merely because there are more than 100 of them in the group. If it is a bad loophole, the President ought to have the power to veto it no matter whether it affects 100 or 5,000 taxpayers or more. This selective treatment of targeted tax benefits by number of taxpayers who enjoy it, is clearly inequitable and should be stricken from the bill to allow the President power to strike any and all of them.

I do not understand the rationale of those who argue that the line-item veto is needed to balance the budget. The record will show that the Congress has systematically underspent the President's budget recommendations. Further, the Congress has exceeded the President's rescissions submitted to the Congress after the appropriations bills have been signed into law. Over the past 20 years the President has proposed $72 billion in rescissions and the Congress has passed $92 billion in rescissions, $20 billion more than the President.

Finally, the most egregious power granted to the President under this bill is not only that he can veto any item in an appropriations bill, but he can reduce any discretionary budget authority. This is tantamount to Congress abdicating the power to appropriate. The Constitution clearly grants to Congress the legislative power to appropriate. Only the Congress can by majority vote decide against funding a project and only Congress can cut the funding of a project or of a department.

If the Congress, for instance, votes by a majority vote to fund the Corporation for Public Broadcasting, or Head Start, it is inconceivable that we would allow the President to not only rescind this decision or veto it, but to also reduce the funding which then can only be reversed by a two-thirds vote. What this means is that one-third of the House and the Senate will ultimately decide what gets funded and what does not.

The foundations of our democracy will be shattered. However you feel about congressional funding decisions, there is no justification for enlarging the power of the President to appropriate money as well as to rescind. The tyranny of one-third of the Congress in combination with the White House could cut funding of programs that a clear majority of the people of this country support.

If we are to submit our spending bills to this inordinate executive power, then surely it should only be by constitutional amendment.

If this measure went to the States for ratification as a constitutional amendment, it clearly would fail to receive the three-fourths vote of 38 States. Thirteen small States could see the handwriting on the wall, and not vote to ratify. I suspect this is why the line-item veto is not being proposed as a constitutional amendment. It simply would not be ratified.

I urge H.R. 2 be voted down. It is an unwarranted invasion of the most important legislative powers granted to the Congress by the Constitution.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

Mr. LAZIO. Mr. Chairman, in passing the balanced budget amendment by an overwhelming margin, the House of Representatives took an historic first step to finally controlling Federal spending. Now, for the second time in the 104th Congress we have another opportunity to pass a measure which will give us the tools needed to tackle the huge task of balancing the budget. I urge my colleagues to join me in giving the President of the United States the line-item veto that 43 of our Governors already have.

Passing the line-item veto will better enable Congress and the executive branch to do what we should have done a long time ago—cut wasteful spending. The line-item veto will force Congress and the President to be fiscally responsible and answerable to the American people.

According to the General Accounting Office [GAO] a presidential line-item veto could have cut $70.7 billion in needless spending from fiscal years 1984–89. We need to learn from what has not worked in the past and pass this bill that will help in the future.

The American people want us to cut unnecessary spending. Let us pass this measure and continue our journey to a balanced budget.

Mr. BENTSEN. Mr. Chairman, I rise today in opposition to House Resolution 2, the Line-Item veto legislation.

I want to be clear about my intentions. I support giving the President the authority to eliminate wasteful spending. For too long, Government has spent more than it receives. In addition, projects have been funded which are not merited. Both Congress and the President have participated in this exercise.

However, this legislation is not the correct mechanism to reduce Federal spending. As drafted, House Resolution 2 will disrupt the balance of power between the legislative and executive branch and concentrate too much power in the Executive. The President will dictate the spending priorities to Congress that the founding fathers clearly placed under the legislative branch.

I am committed to reducing our Federal deficit. However, I am concerned that this legislation will not actually reduce spending. Taxpayers should have full disclosure on how this legislation will work. House Resolution 2 does not require Congress to reduce spending caps, when it approves spending cuts. In effect, Congress could support spending cuts, without applying the reductions to the federal deficit.

Today, we considered an amendment offered by Congressmen STENHOLM and SPRATT that would have ensured that any generated savings from spending cuts are applied directly to the deficit. This lock-box requirement is critical to successful deficit reduction. House Resolution 2 does not contain such a mechanism.

Another important feature of the Stenholm-Spratt amendment is a provision that gives the President authority to submit rescissions for projects within a larger program. If the President disapproves of a certain project, the President could lower the budget authority for a certain program without eliminating the entire program. For instance, the President may wish to eliminate the Lawrence Welk Museum without eliminating other agriculture programs.

House Resolution 2 is further flawed in that it does not cover all Federal spending including contract authority for infrastructure, and special tax breaks for wealthy individuals and corporations.

Finally, I am concerned about the provision in House Resolution 2 that would require a two-thirds vote to overturn the President's package of rescissions. That concentration of power in the hands of a minority of the Congress is contrary to our Constitution.

Congress must learn to review Federal spending more carefully each year. We have the opportunity to vote upon each program during the appropriations process. I strongly believe that we must exercise our rights to kill inefficient, wasteful projects.

For all of the reasons outlined above, I cannot support House Resolution 2 in its present form.

Mr. BUYER. Mr. Chairman, the American people have spoken and we in return have proposed an aggressive agenda for the 104th Congress. We made a promise that this new Congress would bring to the floor of the House a true line-item veto bill. Today, Republicans will again hold true to our promise in the Contract With America and we will vote on the line-item veto, H.R. 2.

In the Fifth District of Indiana, whether it be Wabash, Kokomo, Plymouth, or Crown Point, Hoosier families continue to be concerned about wasteful Federal spending. They do not want their legacy to their children to be one of saddling future generations with increasing debt. They want Congress to pass a line-item veto.

The line-item veto will no longer allow useless projects to be funded and buried in the budget without accountability. H.R. 2 forces the President and Congress to be responsible. In essence, it makes Congress stop its habitual practice of wasteful and excessive spending. This is an opportunity we cannot let pass.

By giving President Clinton and those who follow him the same tools for which 43 Governors currently use, we will take a giant step in restoring fiscal responsibility to the Federal budget process.

We must answer the public's call for a leaner, more efficient, and less costly effective Federal Government. I support passage of the line-item veto as a necessary budget reform tool. We must restore our Nation's fiscal responsibility.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 2, the Line-Item Veto Act of 1995. While I am aware of the excitement in the Congress to do anything perceived as promoting deficit reduction, I am also mindful of my duty as a Member of Congress to act in the best interest of the people I represent and in the best interest of the U.S. Constitution I have sworn to uphold. We cannot and should not, in an attempt to decrease the deficit or put an end to pork-barrel programs, shirk our responsibility to act in the best interest of the American people by disrespecting the founding document of this Nation—the U.S. Constitution. This shortsighted and rushed legislation will not only fail to put a dent in the deficit, but will endanger the delicate balance of power so skillfully and wisely laid down in the U.S. Constitution.

The bill before us today, the Line-Item Veto Act of 1995, will not only attempt to curtail unwanted spending, but will also make it more difficult to pass into law good legislation to which the President alone may object. Such an abdication of congressional responsibility will certainly undermine many of our most important efforts to improve the quality of life for all Americans.

Mr. Chairman, the stated purpose of the Line-Item Veto Act is to provide a statutory item veto for both appropriations and targeted tax benefits. The bill will permit the President to rummage through legislation so that he can eliminate whatever he wants to of all or part of any appropriation item or any targeted tax benefit. Under this bill, Presidential line-item vetoes would take effect unless both Houses obtain a two-thirds vote to override the veto.

This legislation to limit Congress' ability to fulfill the will of the American people warps the constitution to such an extent that the constitutionality of the Line-Item Veto Act is obviously in question. While I agree that Congress should continue to make significant strides to reduce the budget deficit, this proposed measure goes well beyond the legitimate objective of balancing the budget. In fact, this bill is specifically designed to inhibit the will of the people by transferring congressional power to the President that has been granted exclusively to Congress by the U.S. Constitution.

Mr. Chairman, transferring the power of the purse to the President is clearly contrary to the explicit language in the Constitution. The Constitution clearly places with the Congress the power to legislate appropriations bills. The Line-Item Veto Act will transfer a significant portion of this constitutional power to the President. The great constitutional significance of the separation of powers cannot be questioned. In his famous *Myers* v. *United States,* 272 U.S. 52 (1926) dissent, Justice Louis D. Brandeis said:

> The doctrine of the separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the excercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy. (P. 293).

It is also apparent that the Line-Item Veto Act is also redundant. Under current law, the Constitution gives the President two opportunities to provide input into the Federal budget process. The President's budget is his first opportunity to express his views regarding funding for particular programs. Congress may then either accept or reject the President's recommendations.

The President may also veto any appropriations bill if he does not agree with the funding provisions contained in it. On several occasions we have seen Presidents exercise this option in order to prevent Federal funds from being used for various programs. Congress did not override these vetoes and the President's will prevailed. Therefore, granting the President an additional means through the line-item veto to attack legislation is completely unnecessary and duplicative. The President already has all of the veto power that is constitutionally permissible.

Mr. Chairman, I must also stress that reports of the deficit reducing impact of the line-item veto have been greatly exaggerated. Of the 43 States which have already enacted a line-item veto, there has been, overall, negligible progress toward State deficit reduction as a result of this law. A study conducted by the University of Wisconsin examining the deficit reducing power of the line-item veto revealed that vetoes produce budget cuts that ranged from .006 to 2.5 percent. Several other studies also reveal that, contrary to the representations made in the slick sales packaging of this bill, line-item vetoes are primarily used as a tool of policymaking and partisan advantage rather than fiscal restraint.

Such a compromise of authority could result in the undermining of important legislation and Government programs that a majority of Congress has deemed necessary for this Nation. Considering the majority party's historic hostility toward antipoverty programs, it is not a surprise that they support legislation that would grant the President greater power to use the line-item veto to act as a tool of policymaking and political advantage. I fear that the election of a President hostile to antipoverty and equal opportunity legislation would initiate an unwarranted and unprecedented line-item veto attack on aid to families with dependent children, public housing, food stamps, equal opportunity efforts, and other programs for the disadvantaged.

Mr. Chairman, this legislation is unsurpassed in its compromise of the balance of powers in our Nation. With very little opportunity for open hearing, and with limited debate, this measure has been placed before us. A measure of this kind requires detailed analysis of the impact it may have on the American people, and the greatest pillar of the American Republic: The separation of powers—but no such review has, or will, take place. In the current rush to force this bill through the House, the will of the American people and the Constitution I have sworn to uphold will certainly be compromised. I urge my colleagues to join with me and vote against this bill.

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of H.R. 2, the Line-Item Veto Act, which I have cosponsored in this 104th Congress and in the six previous Congresses.

With the passage of this legislation, we fulfill our commitment made in the Fiscal Responsibility Act, the first legislative item in our Contract With America. We completed the first half of this act last month with the passage of the balanced budget amendment. Tonight we send the Senate legislation giving current and future Presidents the line-item veto authority already available to 43 Governors.

The American people have made clear their desire to eliminate wasteful Federal spending and this powerful tool gives the President a way to eliminate programs he deems wasteful without having to veto an entire appropriations bill or other major legislation that may also contain many important and timely programs.

Under current law, wasteful or questionable projects or programs often find their way into law because the President cannot afford to veto the important overall legislation in which they are included. Today's line-item veto legislation will change that procedure by allowing the President to single out specific projects and force Congress to vote on each of them individually. This makes both Congress and the President more accountable to the American taxpayers for every dollar in the Federal budget, and injects greater honesty and openness into the budgetary process, another important goal of the Contract With America.

More than any other provision of our Contract With America, our support for this bill indicates Republicans' deep commitment to cut the budget deficit, balance the Federal budget, and restore fiscal sanity to the Federal Government.

In the past, Democrat-controlled Congresses not only refused to give this authority to Republican Presidents, they also failed to give it to Presidents of their own party. The Republican Contract With America puts the welfare of the country above partisan differences, and will not only give future Presidents of any party a greater ability to keep the size and scope of the Federal Government under control, but this legislation, when enacted, will give President Clinton a line-item veto authority the day he signs it into law.

By granting Presidents greater power to control spending, Congress also places upon them a responsibility to use this tool to cut waste as demanded by the American taxpayers. The line-item veto creates a bias in the Federal Government in favor of saving tax dollars, not spending them. I urge my colleagues to join me in voting for this important governmental reform to take another step toward getting our Nation's fiscal house in order.

Mr. HALL of Texas. Mr. Chairman, I rise today in support of legislation that will save taxpayers billions of dollars by eliminating wasteful and unnecessary spending, namely, H.R. 2, the Line Item Veto Act of 1995. For too many years Congress has been spending the taxpayers' money as if there were no tomorrow. Mr. Chairman, yesterday's tomorrow has become today's reality. We can no longer pretend that the problem will go away.

The House measured up to the first challenge last week when we passed a balanced budget amendment to the Constitution. That was the first step toward restoring fiscal accountability and responsibility in the Federal budget. The next step is before us, Mr. Chairman, in the form of the Line-Item Veto Act, which would give the President the authority to strike all or part of any appropriation item or any special tax benefit. Congress would still have the option of disapproving this action and then overturning a Presidential veto, if necessary.

There has been much publicity in recent years about waste in government, and there has been a lot of finger-pointing. Actually, most Americans probably have benefited in some way, at some time, from some special authorization, whether in the form of a tax benefit, a special service, or simply a new bridge in their district. The time has come, though, to review our budget item by item and make the difficult choices that every family in America must make when they attempt to balance their budgets and live within their means each year.

We are talking about tough choices for tough times, Mr. Chairman. The line-item veto will give the President a check and balance on the budget process and ultimately will encourage Congress to submit fiscally responsible budgets. It also will help restore the American people's confidence and trust in government and help ensure that they are getting the most value for their tax dollars.

Mr. Chairman, I urge my colleagues to overwhelmingly approve this legislation and send a message to the Nation that "the buck stops here."

Mr. ENSIGN. Mr. Chairman, by the close of business today, the House will have taken another great strike toward its commitment to greater fiscal responsibility.

The House's approval of H.R. 2, the Line-Item Veto Act, will ensure that the budget President Clinton sends to Capitol Hill today, and the budgets of future Presidents, are no longer considered dead on arrival. Congress will have to start paying attention to what's in those budgets.

The Line-Item Veto Act, along with the balanced budget amendment, are the only measures strong enough to hold Congress accountable for its spending. The line-item veto is crucial in our efforts to eliminate wasteful pork in the budget because the President can require the Congress to justify, with the veto, its spending priorities. Current rescission powers granted to the President have failed miserably because the law simply allows Congress to sit on its hands and do nothing. Forty years of hand sitting has given us an annual deficit of $200 billion.

Mr. Chairman, 43 of our Nation's Governors have the power to pare down wasteful pork-barrel spending. Beginning today, we take yet another step and recognize that Washington should live under the same discipline that our State governments have exercised for some time.

Support for the line-item veto is bipartisan; 77 percent of Americans favor it. In the spirit of bipartisanship, the Republican Congress will give line-item veto authority to our Democratic President. Passage of the Line-Item Veto Act will give future Presidents—Republicans and Democrats—the necessary authority to scrutinize every dollar of discretionary spending.

Mr. Chairman, I urge my colleagues to join me in support of the Line-Item Veto Act, and I yield back the balance of my time.

Mr. SKAGGS. Mr. Chairman, the Framers of the Constitution set up a system of three branches of Government because they knew that concentration of power is dangerous. No matter how much faith we might have in any individual, or branch of Government, we should remember the warning of Lord Acton about the corrupting effects of power. That warning is especially on point today as we consider the line-item veto.

Once again, we are engaged in tampering with the Constitution simply to comply with an obsession to meet a mindless 100-day goal for enacting, without careful consideration of the consequences, the Contract With America.

We should have passed the Wise-Stenholm-Spratt amendment last week. It provided for expedited rescissions, and represented a constitutionally acceptable approach to this issue, requiring each member of Congress to be accountable with a specific vote on any items a President might find objectionable enough to rescind. Without it, H.R. 2 is clearly unconstitutional.

Last month we passed a change to the House Rules to require a three-fifths majority vote to raise tax rates. I argued then that the Constitution permits no such way to change the basic rules of the Republic. And we can no more change the basic constitutional requirement of majority rule by statute than by House rules. So, to the sponsors of this legislation, I say: If you want to make this kind of change in how our laws are passed, you must do so through an amendment to the Constitution.

Article I, section 7, clause 2 states that:

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approve it, he shall sign it, but if not, he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their journal and proceed to reconsider it.

The Framers then went on to spell out the two-thirds majority requirement for overriding the veto.

The language in the Constitution clearly gives Congress the responsibility for crafting legislation, while the President is limited to simple approval or disapproval of bills presented to him. Article I, section 7 refers to the President returning a bill, not pieces of a bill. Yes, the Constitution allows the President to state his objections to a bill upon returning it, but the objections merely serve as guidelines for Congress should it choose to redraft the legislation.

Thus, there's a clear constitutional delineation of responsibilities, and we are obliged by our oath of office to adhere to it. The Constitution does not allow the President to approve only those parts of a bill with which he agrees. We have no legitimate power to pass a statute to the contrary. The Constitution does not allow the President to amend a bill by striking a spending level approved by Congress and substituting another of his own choice. We have no legitimate power to pass a statute to the contrary.

As the Supreme Court noted in its decision in I.N.S. versus Chadha, "Explicit and unambiguous provisions of the Constitution prescribed and define the respective functions of the Congress and of the Executive in the legislative process." The Court continues, "These provisions of Article 1 are integral parts of the constitutional design for the separation of powers." The line-item veto proposal in H.R. 2 would impermissibly alter that "constitutional design for the separation of powers" between the executive and legislative branches by allowing the president singlehandedly to amend legislation which Congress has already approved.

The Framers were deliberate and precise in dividing legislative powers. In the Federalist papers, Hamilton and Madison both expressed the view that the legislature would be the most powerful branch of Government. Thus, they also recognized the need for some checks on its powers. So, the Constitution provides for a bicameral legislature, with each body elected under different terms and districts. And it affords the President a veto power. Other constraints are also imposed, such as requirements for origination of certain legislation in the House.

The President's veto power, as a check on Congress, was recognized to be a blunt instrument. As Hamilton explains in Federalist 73, the Framers acknowledged that with the veto power "the power of preventing bad laws includes that of preventing good ones." It was their sense, however, that "the negative would be employed with great caution."

The line-item veto proposed in H.R. 2, by providing the President with the authority to veto subsidiary parts of legislation, turns the framework defined in article I, section 7 on its head. What the President might decide to eliminate is simply eliminated, unless the Congress goes through an entire repetition of the article I legislative process, including a two-thirds vote of both Houses. This would allow the President and a majority in only one House of Congress to frustrate the will of the majority—an outcome that flies in the face of the constitutional principle of majority rule.

Mr. Chairman, this proposal goes too far in fuzzing the separation of powers set forth in the Constitution. I urge my colleagues to reject it before it is rejected by the courts.

The problem here isn't just that this measure is unconstitutional. It's also unwise. Common sense tells us that enactment of the line-item veto would make the operation of the Federal Government less responsive to the will of the people.

Consider just one recent example of the sort of havoc a single individual might wreak if that individual—the President—is given this additional authority. Some of us here remember that during the 1980's, President Reagan sent up budgets proposing to end most Federal aid to education. He wanted to zero out direct student loans. He wanted to eliminate aid to public libraries. He wanted to end aid for disadvantaged students at the elementary and secondary level, and Federal/State vocational rehabilitation programs, and college work study programs, and funding for the Individuals With Disabilities Education Act. To be fair, he did propose replacing some of these programs with block grants to the States for "educational purposes." But if he had the line-item veto, it's fair to assume he would have used it on many or most of these items.

If President Reagan had been able to exercise a line-item veto like the one in H.R. 2 to kill these education programs, he almost certainly would have succeeded, even though those programs were supported by a vast majority of Americans and of their representatives in Congress.

How could he have prevailed with only minority support? Because under the bill before us, even if every single Member of the House, and a large majority of the Senate, voted to pass a joint resolution disapproving his line-item veto, the President could, and presumably would, veto that joint resolution. And if just 34 Senators out of the entire 535 Members of Congress voted to uphold that veto, the veto would stand. And, by the way, it's possible to have a group of 34 Senators who represent barely 7 percent of the American people.

Mr. Chairman, that would represent an enormous shift in the constitutional balance of power. And that should trouble us much more than any of the problems inherent in our current appropriations process, in which Presidents have frequently succeeded with the veto of an entire bill in order to force the excision of an offensive item or two.

The Framers gave Members of Congress the power of the purse for a reason. Congressional decision reflect a consensus of the many elected representatives, not the solitary decision of a single individual. Members of Congress are closer to the people they represent, and know better their needs and views. And Members of the House, where all spending bills originate, are accountable to the electorate every 2 years, making them more immediately accountable to the people than the President. The tremendous power of setting the budget is diffused among hundreds of people working together, and responsible to each other. We should not now cede it to a single individual.

None of this should be taken to mean that we shouldn't find a way to make it easier to eliminate wasteful programs. For example, I supported the enhanced rescission bill that was passed by the House in the last Congress. That bill would have forced Congress to act on every proposed Presidential rescission, but Congress would have had to act affirmatively for the rescission to take effect. Unfortunately, the Senate failed to take action on that legislation. The text of that enhanced rescission bill was before us again as the Wise-Spratt-Stenholm substitute to H.R. 2, but unfortunately it failed to pass. Without the mitigating effect of that substitute, H.R. 2 remains an unmitigated affront to the Constitution. I urge my colleagues to defeat it.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise today in support of H.R. 2, the Line-Item Veto Act. I firmly believe that we cannot have meaningful budget reform without the Presidential line-item veto. Regardless who is President, we need this added check and balance on spending if we have any hope of getting Federal spending under control.

Most people don't fully understand the importance of the line-item veto. If it does nothing else, the line-item veto will place the public spotlight on Federal spending that deserves closer scrutiny.

Under current Federal law, Congress sends the President legislation containing hundreds of spending items and the President, whoever he or she may be, has only two options—sign the bill or veto it.

With this act, we are proposing that the President would have a third option—to choose those individual spending items that are questionable, and just veto those items, while signing the bill as a whole.

Congress would be given the power to override the President's veto with a two-thirds vote.

The line-item veto will force Congress and the President to work more closely on spending decisions, as the Governors and legislators in 43 of the 50 States do now.

As the chairman of the New Jersey Assembly Appropriations Committee in Trenton, I worked with Jim Florio, a Democrat, and Christine Whitman, a Republican, under the line-item veto law, and I can tell you that I defend the line-item veto for all chief executives, regardless of party as necessary and desirable.

I don't worry about the transfer of power from the legislative to the executive branch, because I know that it may end gridlock by forcing everyone to sit down at the same table and work out our differences. We have seen the alternative in Washington year after year, and it is not the best way to run the Government.

Mr. CARDIN. Mr. Chairman, I rise in support of a strong line-item veto proposal.

The debate over the line-item veto is mostly about shining the bright light of public attention on bad small ideas. Battles in Congress tend to be fought over big ideas. When Congress and the President clash over major policy issues, the constitutional authority of the President to veto legislation serves as a meaningful tool.

President Bush used the veto effectively in headline issues like most-favored-nation status for China, the gag rule on abortion counseling, family and medical leave, and campaign finance reform legislation. Individual Members might agree or disagree with those vetoes, but we can agree that the veto power served the President well and functioned as the Founding Fathers envisioned.

The reason we are here today is that the veto power provided the President is virtually useless to combat small bad ideas. Any of the individual 13 regular appropriations bills sent to the President each year is likely to include major spending decisions that are supported by broad majorities of the American people. Funding for the interstate highway program, for instance, enjoys broad support.

But the bills are also likely to include special pet projects, sought by individual Members, that might not have the same national base of support. Under the current structure, the President has a choice. He can stop the smaller projects, at the risk of delaying the national priorities and shutting down entire agencies of Government. Or he can hold his nose and sign the bill, accepting the crumbs in order to keep the main program on track.

Those of us who support the line-item veto say the President should have a third choice. He should be able to weed the garden. He should have the option of identifying spending or tax items which he considers wasteful and unjustified and forcing Congress to act specifically on those items.

The value of line-item veto is in its potential to help restore confidence in Government. The public perception of Members of Congress hiding away goodies in spending and tax bills underscores the public's suspicion and distrust of this institution and their Government. Let's shine a spotlight on wasteful spending and tax loopholes, and help restore the confidence of the American people that we're managing their money wisely.

Mr. BUNNING. Mr. Chairman, I rise in strong, enthusiastic support for H.R. 2, the long overdue line-item veto bill that we are considering today.

Persistence does pay off.

When I came to Washington, a little over 8 years ago, the first two pieces of legislation I cosponsored were the balanced budget amendment—which we finally passed the week before last—and the line-item veto—which we are going to pass today.

And it's about time.

The balanced budget amendment will give Congress the budgetary backbone it has always lacked.

And the line-item veto that we pass today will give the President the scalpel he has always needed to trim out unnecessary spending from major appropriations bills.

It's time for the Christmas tree to come down. The line-item veto will do that.

It's time to take the pork out of the barrel. The line-item veto will do that.

It's time to establish a rational way for the President of the United States to strip wasteful, special interest or local interest projects out of omnibus spending bills. The line-item veto will do that.

It is not cure-all. Nobody claims that it is. By itself, it won't balance the budget.

But this bill will give the President a very valuable tool that will help him cut Federal spending, weed out Federal waste and root out Federal boondoggles.

That might not balance the budget—but it will reduce spending and it will help restore the confidence of the American people that the system works.

Considering the size of our Nation's national debt, there is simply no way that we can refuse to take advantage of such a promising tool.

It would be foolhardy to turn back now that we are so close.

There is no magic or voodoo or smoke and mirrors here. We know the line-item veto works. We have seen it work at the State level. 43 Governors have—and use—the line-item veto authority. It works.

This is not a partisan issue. Presidents of both parties get the same authority.

It is a good government issue. And I urge my colleagues—of both parties—to join me in supporting this measure and give the President of the United States the line-item veto authority.

In November, the American people made it very clear that they want a leaner, cleaner, smaller Federal Government. The line-item veto will be a great help in achieving that goal.

Mr. CRANE. Mr. Chairman, I rise in strong support of H.R. 2, the Line-Item Veto Act.

As a supporter of the line-item veto since the 98th Congress, I believe that floor consideration of such legislation is long overdue.

While Congress has failed to address its wasteful spending habits, our annual deficits have routinely exceeded $200 billion. Inaction is no longer an option.

When our Founding Fathers wrote article I, section 7 of the Constitution, they provided for the means by which a bill becomes law. According to section 7, legislation passed by both Houses of Congress shall be presented to the President for approval. If the President does not approve of the bill, he may return it to Congress, with his objections.

I provide this history lesson because some of my colleagues who oppose H.R. 2 apparently believe that Congress would somehow abdicate its constitutional obligations to the Executive by enacting a line-item veto. Clearly, the Executive plays a vital role in the process by which bills become law. I assure my colleagues that the line-item veto is completely appropriate, and, in fact, would argue that it has always been a legitimate prerogative of the Executive.

The line-item veto, while not a panacea to our runaway national debt, will provide an important check on wasteful pork-barrel spending. When combined with the balanced budget requirement just passed by the House, we will finally be able to tilt the effort of the Federal Government away from the profligate spending habits that have left us with a $5 trillion debt.

The benefits of a line-item veto have been demonstrated by 43 of the Nation's Governors who have this prerogative. One study has estimated that if the executive branch had exercised such fiscal restraint, the budget deficit for 1995 would be almost $23 billion smaller.

I urge my colleagues to vote for H.R. 2.

Mr. FAZIO. Mr. Chairman, there is no doubt that we must build on the progress we have made in getting the deficit under control. The line-item veto will help us do this by highlighting and eliminating wasteful and unnecessary spending. It will enable us to spotlight narrow interest items and make it difficult for them to be camouflaged in large, omnibus spending bills.

However, I have several serious concerns about the version of the line-item veto that is proposed in H.R. 2. H.R. 2 is not the solution to our problem. Although the underlying concept is sound, the process yields disturbing results.

First, H.R. 2 drastically skews the balance of power in favor of the executive branch of Government. It transfers the most important power that our Constitution gives Congress—the power of the purse—to the President and could result in just substituting Presidential spending priorities for congressional ones.This shift in power raises the question of the degree to which we want to let a President use a punitive approach to force Members to vote for things they would otherwise oppose. The President could use these new powers to force Congress to increase spending on Presidential priorities. This could undermine the original purpose of the line-item veto, possibly resulting in more—not less—spending.

If the intent of this bill is to rein in congressional spending even more, it is important to realize that Congress has more than lived up to its responsibility to contain Federal spending. Over the last 15 years, Congress has appropriated less money than the President has proposed. Furthermore, over the past 20 years in which the President has had authority to rescind appropriations, Presidents have proposed $72 billion in rescissions. During that same time, Congress has passed rescissions of $92 billion—$20 billion more than Presidents have requested.

Lastly, the bill's supermajority requirements are dangerous. If H.R. 2 is enacted as written, a President, along with a very small minority—only 34 Senators or 146 Representatives—would be able to override the decisions of elected majorities in the House of Representatives and Senate. Additionally, supermajorities tend to create gridlock. I can well remember the 1992 California State budget crisis when our State legislature and Governor were held hostage because a two-thirds majority was needed to approve budget changes made by the Governor. The gridlock that this created demonstrates the need for a majority, not two-thirds, vote on a President's ability to change Congress' spending priorities. If we are serious about keeping gridlock out of Congress, we must support giving Congress an opportunity to overturn a President's decision by majority alone.

It is for these reasons that I support the alternative proposed by my colleagues Mr. WISE of West Virginia, Mr. STENHOLM of Texas and Mr. SPRATT of South Carolina. Their version of the line-item veto is identical to a bill that passed the House last year by a vote of 342–69. It requires a vote in the House—under accelerated procedures—on rescissions and vetoed tax benefits proposed by the President. Under the Wise-Stenholm-Spratt substitute, the President's rescission package becomes effective only if it is approved by the House and Senate. It therefore forces Members of Congress to be accountable for their votes on crucial budget issues. Yet, it preserves the constitutional balance of power and upholds the principle of majority rule.

There is still a great deal of work to be done if we are to continue our efforts to reduce Government spending and bring the deficit under control. We must continue to make sizeable reductions in Federal spending in order to sustain the economic growth of the past 2 years. That is why I support the goals of H.R. 2—uncovering and eliminating unwarranted, wasteful, and special-interest spending and tax breaks. But we need to do so without an extreme—and possibly counterproductive—shift in legislative power. In order to be effective, we must approach this honestly, fairly, and responsibly.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. KLUG) having assumed the chair, Mr. BOEHNER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2) to give the President item veto authority over appropriation acts and targeted tax benefits in revenue acts, pursuant to House Resolution 55, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that the gentlewoman from Illinois [Mrs. COLLINS] be permitted to speak out of order for 5 minutes and then I be permitted to follow her remarks for 5 minutes out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1830

Mrs. COLLINS of Illinois. Mr. Speaker, we have heard a lot during this debate about the need to reduce the Federal deficit and to control Federal spending. However, we have not heard very much about what H.R. 2 the Line-Item Veto Act, will actually do.

This bill does one thing: It makes it possible for a President acting on his own to change a law after it has been signed. Is there any one of us who would claim that changing a law is not a legislative function? Is there any circumstance from the past in which changing a law has been regarded as an executive function rather than a legislative function? I think not.

The Constitution, which each of us has sworn to uphold, is very clear on who has legislative responsibility. Section 1 of Article I of the Constitution states unequivocally that all legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and a House of Representatives.

Now, let me repeat this for my colleagues. All legislative powers shall be vested in a Congress of the United States.

This is critical. The Constitution did not say only some legislative powers shall be exercised by the Congress. It does not say the Congress has to share its legislative responsibilities with any other branch. Perhaps most importantly from the standpoint of this debate, the Constitution does not give the Congress the power to delegate its legislative powers to the President or to anyone else.

Under the Constitution, you, my colleagues and I, are solely and exclusively empowered to make the laws of our land. If we do not vote as an assembled body to enact a bill, that bill under the Constitution cannot become law. The Framers gave Congress the exclusive power to legislate as a check on the power of the President. Once Congress passes legislation, the Constitution surely does give the President the power to veto, which he can use if he disagrees with the matter Congress presents him.

The Framers understood that provisions needed to be made for those instances in which the Congress, like the President, may abuse its power or legislate unwisely. The line-item veto authority in H.R. 2 is very-different than the veto authority the Framers of the Constitution had in mind. Rather than enabling the President to check abuses by the Congress, H.R. 2 allows the President to be virtually certain that he can abuse and infringe on the legislative powers of this body, of the Congress.

Under this legislation, the President is guaranteed that he can make his rescission effective as long as he has the support of a mere one-third plus one of the Members of this House or of the Senate. This makes it highly unlikely that the Congress will ever disapprove a Presidential rescission.

The authority of H.R. 2 is so extraordinary that even some proponents of the line-item veto did not support the bill. For example, Senator DOMENICI supports taking the approach that our colleagues, the gentleman from Texas [Mr. STENHOLM] and the gentleman from South Carolina [Mr. SPRATT], advocated in the expedited rescission authority they proposed to add to H.R. 2. In addition, many of my colleagues appear to not fully understand the authority H.R. 2 would give the President that is very different than the authority most Governors have. They have repeatedly said that 43 Governors have this and therefore the President ought to have it too.

Well, the fact is that only 10 of the 43 governors have anything like the authority that the power of H.R. 2 gives to the President. It does not simply let the President veto a particular line of spending authority in the appropriation bill as many governors certainly do have. Instead, as the director of Congressional Budget Office says, H.R. 2 gives the President "greater potential power than a constitutionally approved item veto."

We have heard time and again during this debate that President Clinton has asked Congress to give him the strongest possible line-item veto authority. Of course he wants that. Every President wants that. My colleagues should know, however, that President Clinton's own Justice Department thinks H.R. 2 gives the President, any President, Democrat or Republican, too much power. His own Justice Department says that.

Testifying before the Senate Committee on the Judiciary, Assistant Attorney General Dellenger challenged the constitutionality of H.R. 2. He said it is constitutionally problematic and would appear to "violate the plain textual provision of Article I, Section 7 of the Constitution, governing the manner in which Federal laws are to be made and altered."

He very clearly states further that the Congress, not the President, has the responsibility for making and changing Federal laws. That power, Mr. Speaker, is ours. If we give it away in this legislation, we will never, ever get it back again.

While it is questionable what effect this legislation might have on Federal spending, there is absolutely no doubt that this legislation will give the President power to threaten elimination or cuts in spending for projects and programs Members of Congress may find critical. That kind of leverage ensures that future Presidents will be able to stop any effort to change or alter his line-item veto authority, once Congress gives it to him.

I, therefore, urge my colleagues to think carefully about the vote they will cast on this legislation. At issue is not just needed cuts in Federal spending. Instead, our whole structure of government is at stake. If H.R. 2 becomes law, the President—any President, Democrat or Republican—would, for the first time, have legislative power that the Constitution gives exclusively to the Congress.

I urge my colleagues to vote against H.R. 2.

The SPEAKER pro tempore. (Mr. KLUG). The gentleman from Pennsylvania [Mr. CLINGER] is recognized for 5 minutes.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, after years of talking about giving the President the line-item veto, we are on the threshold, the verge, of giving him that power, a power which 43 governors have had and have not abused, a power which has been sorely needed to bring some order to our fiscal house.

I want to thank everybody who participated in this debate. I think it was a very, very open debate. We did this bill again under an open rule. Everybody who had an amendment to offer had an opportunity to offer it and to fully discuss it. I think it was in the best traditions of this House to have an open, complete debate on all of the issues involved.

I want to particularly thank the staff who was instrumental in helping us throughout, particularly Monty Tripp on my staff, who did a superb job, and all who participated in this historic debate.

Mr. SPEAKER, I yield the balance of my time to the Speaker of the House, the gentleman from Georgia [Mr. GINGRICH].

The SPEAKER pro tempore. The gentleman from Georgia [Mr. GINGRICH] is recognized for 4 minutes.

Mr. GINGRICH. Mr. Speaker, I thank the Chair, and I thank my friend from Pennsylvania for recognizing me, and I thank the House for the orderly speed with which we have managed this bill, only 3 days, as opposed to unfunded mandates. I think we are moving and learning how to do some of this.

I think of this evening as a very historic evening. We have a bipartisan majority that is going to vote for the line item veto. For those who think that this city has to always break down into partisanship, you have a Republican majority giving to a Democratic President this year without any gimmicks an increased power over spending, which we think is an important step for America, and therefore it is an important step on a bipartisan basis to do it for the President of the United State without regard to party or ideology. I think compared to what people all too often expect of this city, this is the kind of positive effort to work together that is good for America.

The line-item veto is an idea which has been around a long time. Ronald Reagan campaigned on it, but, frankly, Jimmy Carter used it when he was governor of Georgia, and Bill Clinton used it when he was the governor of Arkansas. Again and again on a bipartisan basis, president after President has said it is something that would be good for America, because it would allow the President to cut out some of the worst of the spending, to set some fiscal discipline, and to indicate where the President stood. Yet it is being done in such a way that when it is totally inappropriate, the Congress can override it and the Congress can insist on spending if there is a distinct disagreement.

Governor after governor, I think 43 governors have this power. Again and again they say it does help, it cuts the cost of government, it does cut spending.

☐ 1840

It is particularly, I think, symbolic to be passing it today. There are two birthdays today, as many of my colleagues know.

This is President Ronald Reagan's 84th birthday. I think the hearts of every Member of this body go out, without regard to party or to ideology, to what President Reagan and Nancy Reagan are going through. I think all of us have them in our prayers. I think he will appreciate the symbolism of the scheduling. I particularly commend the majority leader, the gentleman from Texas [Mr. ARMEY], for his thoughtfulness in arranging for this debate and insisting that we do it on this date.

Second, this is the 100th anniversary of the birthday of Babe Ruth. In a sense this is a very symbolic home run for this Congress to hit out of the park for the people of the United States.

On behalf of the former President, on behalf of the many millions of Americans who want this to pass, I urge all of my colleagues to vote yes and help us pass the line-item veto.

The SPEAKER pro tempore (Mr. KLUG). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Mrs. COLLINS of Illinois. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. COLLINS of Illinois moves to recommit the bill H.R. 2 to the Committee on Government Reform and Oversight with instructions to report the same back to the House forthwith the following amendment:

Paragraph (3) of section 4 is amended to read as follows:

(3) The term "targeted tax benefit" means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers whether or not such provision is limited by its terms to a particular taxpayer or class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.

Mr. CLINGER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, under my motion, the line-item veto authority, originally proposed in the Contract With America would be adopted. Unlike H.R. 2, the line-item veto authority in my motion would apply to all tax benefits designed to reduce tax obligations of persons or classes of persons in order to promote certain types of activity. Thus, all tax loopholes intended to benefit particular industries would be subject to line-item veto under my motion.

A very disturbing trend has developed in this debate. The new Republican majority seems to have two contracts with America; one under which they protect the tax loopholes of the wealthy; and the other under which they sacrifice programs for working people on the altar of deficit reduction.

I think that is wrong, and I think the American people see through it.

The majority would like us to believe that it is the middle income tax cut they want to protect; but in reality they are protecting many special interests that feed daily at the Federal trough of privileged and preferred treatment. Let me cite on example:

Our Tax Code gives a special tax benefit or credit to drug companies doing business in Puerto Rico. Twenty-four big drug companies with receipts exceeding $250 million got a total of $2.6 billion in tax credits from this provision in 1992. Because a total of 338 companies get benefits from this provision, the President could not veto it.

The authors of H.R. 2 chose to change the definition that was contained in the Contract With America. They limited it to a tax benefit that helped 5 or fewer people. We increased that number to 100.

However, the definition that was in the Contract With America is a much better definition of a special interest tax break. It is broader. It focuses on real special interests, and the tax breaks worth millions of dollars.

It does not apply to tax benefits based upon income, such as an earned income tax credit. Nor does it apply to tax benefits generally available, such as deductions for dependents.

When this amendment was offered in 1993 by the then minority leader, Bob Michel, it passed with unanimous support from the Republican members, and it passed with support from Democratic members.

There is no reason for the supporters of this bill to rewrite the contract in order to save special interest tax breaks. I commend Congresswoman SLAUGHTER and Congressman BARRETT for raising this amendment earlier in debate.

Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, what we see in this highly politicized Chamber for the last month is Republicans trying to portray Democrats as big spenders. And Democrats trying to portray Republicans as guardians of the wealthy and the privileged. What do the American people want?

The American people want the President of the United States to get rid of both pork barrel spending and tax loopholes for special interests.

This language, which is identical to the language of the Contract With America, does just that. It keeps a promise with the American people that those Members in this Chamber care about deficit spending and want to cut deficit spending. Anybody in this Chamber who is serious about that wants to get rid of both pork barrel spending and tax loopholes for the rich. This is the only way to do that.

The new Speaker talked about honoring President Reagan and Babe Ruth. I think we should hit a home run in honor of Babe Ruth today and do this bill right and give the President the authority to get rid of both.

Mrs. COLLINS of Illinois. Mr. Speaker, I would hope that now that Members have heard the balance of this debate that they would conclude that this amendment just makes good sense, and I would say that I would urge them not to protect the special interests and vote for the motion to recommit.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. CLINGER] is recognized for 5 minutes.

Mr. CLINGER. Mr. Speaker, I would urge a "no" vote on the motion to recommit. This is an amendment that was debated fully and at great length in the House this week and earlier in this debate and was defeated by a vote of 196 noes to 231 ayes.

Basically the argument for this is, of course, that it is going to enable the President to have a broader approach to getting rid of unnecessary spending.

It goes so far beyond what the purpose of the language in H.R. 2 is designed to do, which was to get at those egregious, outlandish, outrageous special tax privileges for fat cats and others on a limited basis. It was not intended by this language to give the President the power to really shape tax policy unilaterally by changing provisions in the tax laws which he would otherwise be precluded from doing. So it goes enormously beyond where the President should be permitted to go in terms of shaping tax policy.

What H.R. 2 does is focus it very directly on those outrageous examples where we have snuck things into tax bills or into appropriations bills and should be eliminated. So I would urge a "no" vote.

Mr. Speaker, I yield to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I would simply like to thank the gentleman from New York [Mr. SOLOMON] and members of the Committee on Rules and staff who have worked so hard to work closely with the gentleman from Pennsylvania [Mr. CLINGER] and his committee to bring an open rule and to conform two bills and bring them together and solve some of the complexities of the problem of this discussion.

I think it is very important we do that, particularly as we speak to that issue, just briefly, at this section, because there has been a lot of confusion about what we are doing.

I think we have improved Mr. Michel's words very clearly by saying what he meant in the RECORD in this bill. It is clear what the RECORD has said, and I think we have made it clear for everybody. We have read those words in the RECORD, and our bill reflects that.

We have debated it, and we voted on it—one amendment.

□ 1850

However, Mr. Speaker, I have to say there has been confusion. I note the gentlewoman from New York, as well as the gentlewoman from Illinois, have both voted against the Michel language when it first come out, the language they are offering today. Then I notice that they voted for the Wise substitute last Friday, which in fact had the version that we are trying to agree on now in H.R. 2.

Then I went back and read the committee report, and I discovered that this in fact was a positive aye vote by voice in the committee, which I believe was supported by the Democratic members of the committee when that vote was taken.

We have gone around all the circles and corners. We have all taken our sides and positions. What we have finally done is take Mr. Michel's intent, get it into language we can all understand, and put it into the bill. Now I think we should go forward and pass it.

I thank the gentleman for yielding.

Mr. Speaker, I would urge a "no" vote on the motion to recommit.

Mr. HOYER. Mr. Speaker, will the gentleman from Pennsylvania yield?

Mr. CLINGER. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, before we vote, I understand what the gentleman from Florida, [Mr. GOSS] said, but the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the committee, has said that the language proposed now is exactly what was in the Contract.

Mr. Speaker, I would ask the gentleman, is that correct?

Mr. CLINGER. Reclaiming my time, Mr. Speaker, it is correct, and I would tell the gentleman that I would be the first to say that that language was inartfully drafted to accomplish what we hope to be able to accomplish with this language, which is a much more targeted approach. Therefore, Mr. Speaker, we would concede the point that this language was broader than was intended to reach the goal we are trying to reach, which was to eliminate those most outrageous tax breaks that people get.

Mr. HOYER. I thank the gentleman for those comments.

The SPEAKER pro tempore (Mr. KLUG). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mrs. COLLINS of Illinois. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 185, noes 241, not voting 8, as follows:

[Roll No 94]

AYES—185

Abercrombie
Ackerman
Allard
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—241

Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Molinari
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Becerra
Bryant (TN)
Ford
Frost
Jefferson
McDade
Tucker
Watts (OK)

☐ 1906

Ms. WOOLSEY, Mr. GONZALEZ, and Mr. COYNE changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. KLUG). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. COLLINS of Illinois. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 294, noes 134, not voting 7, as follows:

[Roll No. 95]

AYES—294

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Browder
Brown (CA)
Brown (OH)
Brownback
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane

Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—134

Abercrombie
Ackerman
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brewster
Brown (FL)
Bryant (TX)
Chenoweth
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Durbin
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Gejdenson
Gephardt
Gonzalez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jacobs
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Markey
Martinez
Matsui
McDermott
McKinney
Meek
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murtha
Myers
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Rahall
Rangel
Reed
Reynolds
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Shuster
Sisisky
Skaggs
Slaughter
Stark
Stenholm
Stokes
Studds
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Yates

NOT VOTING—7

Becerra
Bryant (TN)
Frost
Jefferson
McDade
Tucker
Watts (OK)

☐ 1925

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BRYANT of Tennessee. Mr. Speaker, I was unavoidably delayed in transit because of inclement weather coming out of my district in Tennessee. I just made it in running, but I understand I did miss the vote on H.R. 2. I would like the RECORD to reflect had I been here, I would have voted for the passage of H.R. 2.

PERSONAL EXPLANATION

Mr. WATTS of Oklahoma. Mr. Speaker, I was unavoidably detained today due to weather in Memphis. I missed about five votes.

Mr. Speaker, had I been present, I would have voted "no" on rollcall No. 91, "no" on rollcall No. 92, "no" on rollcall No. 93, "no" on rollcall No. 94, and "yes" on rollcall No. 95.

PROPOSED RESCISSIONS OF BUDGETARY RESOURCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore [Mr. KLUG] laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations, and ordered to be printed:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report 23 rescission proposals of budgetary resources, totaling $1.1 billion. These rescissions, when combined with other discretionary savings proposals contained in the FY 1996 Budget, will reduce FY 1995 budgetary resources by $2.4 billion.

The proposed rescissions affect the Departments of Agriculture, Commerce, Education, Health and Human Services, Housing and Urban Development, Labor, and Transportation; the Environmental Protection Agency; the National Aeronautics and Space Administration; the Small Business Administration; the Chemical Safety and Hazard Investigation Board; and the National Science Foundation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 6, 1995.*

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 665, VICTIM RESTITUTION ACT OF 1995

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–19) on the resolution (H. Res. 60) providing for the consideration of the bill (H.R. 665) to control crime by mandatory victim restitution, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 666, THE EXCLUSIONARY RULE REFORM ACT OF 1995

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–20) on the resolution (H. Res. 61) providing for the consideration of the bill (H.R. 666) to control crime by exclusionary rule reform, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR VARIOUS COMMITTEES AND THEIR SUBCOMMITTEES TO SIT DURING 5-MINUTE RULE TOMORROW

Ms. PRYCE. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: Committee on Agriculture; Committee on Commerce; Committee on Economic and Educational Opportunities; Committee on Government Reform and Oversight; Committee on International Relations; Committee on the Judiciary; Committee on Resources; Permanent Select Committee on Intelligence; and the Committee on Transportation and Infrastructure.

Mr. Speaker, it is my understanding that the minority has been consulted and that there is no objection to these requests.

The Speaker pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. WATT of North Carolina. Mr. Speaker, reserving the right to object, I have conferred with the leadership and have been advised by the minority leadership that, notwithstanding the fact that this appears to be inconsistent with the rule adopted by the majority which does away with absentee voting in committees, and notwithstanding the fact that it will require some Members to be in two places at one time, we will not object to this request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

SPECIFIC SPENDING CUT SUGGESTIONS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, today I present my annual list of specific funding cut suggestions. These 75 discretionary, not entitlement, discretionary cuts, would save an estimated $275 billion over the next 5 years, which is almost double the amount of spending cuts the President has presented in his budget.

The vast majority of these suggestions were contained in my "Spirit of 76" package introduced in the last Congress. Unfortunately, since the programs named here escaped intact, as they often do, most are the same old suspects we have talked about eliminating for years. I urge colleagues to look at the list.

These suggestions apply only to discretionary spending, because we must prove to the American people that we have truly cut all the waste out of the discretionary budget before we ask for changes in their quality of life programs.

We have a balanced budget amendment. We are controlling unfunded mandates. We have a line item veto under discussion. We are talking about a supermajority to raise taxes. All great ideas, but we must cut wasteful spending first.

Thrifty Fifty Plus: Seventy-Five Suggestions

(In millions of dollars/5 years)

	Savings
Cancel the National Aerospace Plane (NASP)	300
Continue partial civilian hiring freeze at DOD	8,850
Eliminate below-cost timber sales from National Forests	235
Lower target prices for subsidized crops 3 percent annually	11,000
Eliminate the Market Promotion Program	500
End the Federal Crop Insurance Program and replace with standing authority for disaster assistance	1,660
Limit Federal highway spending to the amount brought in by motor vehicle fuel taxes	8,850
Repeal the Davis-Bacon Act	3,080
Reduce Commodity Credit Corporation subsidies to those with off-farm incomes over $100,000	660
Reduce the Attending Physician Office by 33 percent	2.5
Fully implement H.R. 2452 (102d) to provide additional energy conservation measures for Federal agencies	1,900
Enact H.R. 1620 (103d) to prohibit direct Federal benefits and unemployment benefits to illegal aliens	27,000
Eliminate the Tobacco Price-Support Program	100
Consolidate the Bureau of Indian Affairs	53
Close 20 under-utilized black lung offices	0.3
Allow private sector investment in the Space Shuttle	1,522
Eliminate Rural Economic and Community-Development (RECD) duplication with the Small Business Administration (SBA)	913
Eliminate the Rural Electric Administration	3,000
Terminate all highway "demonstration projects"	2,590
Lower the travel budgets of all non-postal, civilian agencies by 15 percent	858
Lower by 10 percent per annum the projected growth rate of non-postal, civilian agency's overhead (excluding travel)	64,000
Abolish Cotton Price Support and Loan Programs	12,700
Cut the Foreign Aid budget (150 Account) by 15 percent and make all earmarks in that account subject to a two-thirds vote for passage	13,125
Phase out the Foreign Agricultural Service Cooperation funding	150
Eliminate the Appalachian Regional Commission	690
Roll back Congressional pay raise to $89,500	118
Sell the National Helium Reserves to a joint venture comprised of current employees and other private investors	692
Reduce the "Franking" allocation to Members of Congress by 50 percent	167
Cut National Endowment for the Arts by 50 percent	2,600
Cut funding for the Corporation for Public Broadcasting by 50 percent	883
Phase out subsidies for AMTRAK	2,660
Phase out ACTION (umbrella organization for domestic volunteer activities) as a tax-supported program	660
Facilitate contracting out and privatization of military commissaries	4,170
Terminate the Interstate Commerce Commission	188
Phase out U.S. Fire Administration	10
End funding for all non-energy Tennessee Valley Authority (TVA) activities	580
Eliminate Essential Air Services subsidies	195
Eliminate Consumer Homemaking grants	140
Privatize the House and Senate Gymnasiums	1.1
Reduce the Legislative Branch Appropriations by 20 percent	2,844
Reduce the Executive Office of the President appropriation by 20 percent	284
Close the Bureau of Mines and merge its data gathering activities with other Interior Department research agencies	140
Raise the level and schedule of the Power Marketing Administration's debt repayment	970
Eliminate the Clean Coal Program	300
Reduce the fill rate for the Strategic Petroleum Reserve	1,000
End all new Bureau of Water Reclamation water projects	7,400
Eliminate the Dairy Subsidy Program	5,000
Merge the Agricultural Research Service, the Cooperative State Research Service, and the Agricultural Extension Service; cut funding by 50 percent	3,950
Privatize the Government National Mortgage Association (Ginnie Mae)	2,000
Eliminate the Economic Development Administration	1,140
Eliminate non-targeted vocational State funding	3,400
Consolidate the administrative costs of the AFDC, Food Stamps, and Medicaid programs	6,300
Replace new public housing construction with vouchers	610
Increase Medicare safeguard funding by $540 million over 5 years (net savings)	5,400
Eliminate the Legal Services Corporation	1,900
End postal subsidies to not-for-profit organizations (excluding blind and handicapped individuals)	2,000
Eliminate HUD special-purpose grants	990
Reform vacation and overtime for the Senior Executive Service	540
Eliminate DOD payments for indirect research and development; substitute direct R&D	14,740
Reduce DOE energy technology spending	2,550
Scale back Rural Rental Housing Assistance Program	1,400
Reduce mass transit grants; eliminate operating subsidies	6,250
Eliminate Rural Development Association loans and guarantees	1,380
Eliminate "Impact Aid" to school districts with military bases	3,850
Consolidate Social Services programs	1,000
Reduce NIH funding by 10 percent, concentrating on overhead	4,900
Freeze the number of rental assistance commitments	5,700
Scale back Low Income Home Energy Assistance grants	5,150
Service Contract Act reform	900
Reduce overhead in federally-sponsored university research	1,000
Strengthen and restructure NASA (NPR proposal)	1,500
Eliminate redundant polar satellite programs	250
Streamline HUD	144
Reform prison construction	580
Eliminate Travel, Tourism and Export Promotion Administration	1,002

SURGEON GENERAL SHOULD REPRESENT TRADITIONAL AMERICAN VALUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. COBURN] is recognized for 5 minutes.

Mr. COBURN. Mr. Speaker, I rise tonight to consider the characteristics that should be present in any individual nominated to the position of Surgeon General of the United States.

As a physician whose entire medical career has dealt with adolescent sexual activity, teenage pregnancy and sexually transmitted disease, I know that we have had exactly the wrong leadership over the past 2 years from Washington.

The underlying assumptions of the safe sex policy are flat wrong and the statistics bear out this fallacy. The predicate of the safe sex policy is that our children cannot and will not act responsibly if given correct and factual information. In other words, our children are incapable of reason.

We have not assumed this predicate in any other area of risk presented to our children. Look at the basis for our educational efforts on alcohol, tobacco, and drugs for example.

The basis for our illogical predicate of safe sex is to rationalize our own lack of self control and sexual promiscuity and our children end up paying the price.

If you have ever been faced with telling the parents of a 19-year-old female that their daughter is dying of AIDS you would truly understand my lack of comprehension with a vision that says to a teenager we know you cannot control yourself and that you are unable to make a reasoned choice so here is a condom.

Mr. Speaker, we currently have a sexually transmitted disease epidemic that is out of control and studies now tell us that over 40 million Americans are carrying some type of viral sexually transmitted disease. In my practice alone, one in three sexually active teenagers is carrying a sexually transmitted disease.

Now what principles should a Surgeon General nominee possess in regard to the present epidemic of sexually transmitted disease and illegitimacy?

I believe that at a minimum the candidate should:

First, be dedicated to the future of our children by supporting their positive attributes and discouraging dangerous behavior. The foundation of a condom clinic is that we have failed to teach the benefits of abstinence and consequently we have given up;

Second, recognize the failure of the present "safe sex" message;

Third, recognize that the growth of the current AIDS epidemic is secondary to a failed public health policy and is directly related to substituting political correctness and its irrationality for a rational public health policy based on medical facts and the current epidemiology of the human immunodeficiency virus;

Fourth, recognize that abortion is a poor alternative for any unwanted pregnancy;

Fifth, recognize that all life is valuable, even when unintended, and that the consequences of abortion, even though legal, seriously impairs us as a society; and

Sixth, recognize that illegitimacy is born out of a society which does not value life and consequently our costs for supporting such a society are a direct result of illicit sexual activity outside of a monogamous married relationship, that is, the traditional American family.

Mr. Speaker, in conclusion I would like to say that it is high time that our Surgeon General represents the traditional American family and the values that the majority of Americans hold and voted for on November 8, 1994.

I plead with our President to nominate such a person.

SUPPORT COMMUNITY POLICING

Mr. STUPAK. Mr. Speaker, tomorrow we will begin the debate on a new Republican crime bill. There will be six bills, and we expect the debate to go for a week to 10 days.

One of the first victims in the new GOP crime bill will be cops on the street, or community policing as we know it.

Cops on the street may be the first victim actually victimized and mugged under the new proposed crime bill. In August 1994, a crime bill was passed by this body. Even though I may not have supported the final committee conference version of the crime bill, I believe that the community policing program is an invaluable tool in the fight against crime.

No one law will stop crime, no one program will stop crime in this country. The revamping of the crime bill that is going to be proposed in the next day on this floor certainly will not stop crime in this country.

In order to stop crime we must all join in the fight against crime. We must all share that responsibility. Police officers cannot do it alone. We must each work in our respective communities and work with the police officers if we are going to have an impact on crime. That is what community policing is all about, law enforcement officers living and working in their beat, in their patrol area, to gain the respect and trust of the citizens they serve.

To gain that trust, respect and confidence, community policing requires the law enforcement to actually live in the community they serve. Therefore, if there is a crime, the initial complaint is handled by the police officer. The follow-up investigation is handled by the same police officer. That same police officer goes to the prosecutor to secure the warrant, and that is the same police officer that goes with you at the time of a criminal trial, if one takes place.

What community policing does is personalizes crime to build the trust and confidence between the community and a police officer. Your crime will no longer just be your crime, but it will be a crime that will be shared with your police officer. You are working with, you are standing with, you are living with, not only your community, but you are living with the police officer who is there to serve you.

As a police officer for almost 12 years myself, we had an old saying back when I was working the road: "If you want to know what is going on in any community, ask a 12-year-old kid on a bicycle, for they know what is going on in their communities."

□ 1940

They will not tell the police officers what is going on until there is that confidence, that trust and that respect.

In the last crime bill, the community policing program, commonly referred to as Clinton Cops, was a program that is being used throughout this nation. It has only been in effect for the last 3 or 4 months. But the forerunner to this Clinton Cops program was back in 1978 and 1979, in the Department of Justice, a pilot program which was put forth in northern Michigan.

Northern Michigan, my district, is a sparsely populated area in the north end of Michigan, and three rural, sparsely-populated townships were put together to form a community policing program.

The program was a smashing success, with over 70 percent of all the reported crimes being solved.

Unsolved crimes from years past were cleaned up by the community police officer. In fact, in this case, it was a Michigan State police trooper, and he was referred to as the resident trooper.

It was the first community policing program in Michigan. Community policing is now currently at work in communities as rural as northern Michigan with our three townships or in the highly populated cities such as Houston. Community policing works because police officers live in the community and near the neighbors which they police.

These police with the faith and confidence and trust of the people they serve, their constituents.

It is one program that is highly successful. To dismantle the President's community police program would be a crime in and of itself. It will be dismantled if the votes hold up as they have in recent days, not because there is waste in the program. It will be dismantled not because it does not work, because we all know it does. The reason why it will be dismantled will be purely for political reasons.

In a crime bill, we need a combination of police, prevention and prisons. A balance of these three principles will be most successful in fighting crime.

We must leave community policing intact. We must leave the Clinton Cops program alone. It may only have been in existence for 3 or 4 months, but in city after city, in rural area throughout this country, it has worked.

APPOINT A SURGEON GENERAL WHO SUPPORTS ABSTINENCE

The SPEAKER pro tempore (Mr. KLUG). Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, I rise to first commend my colleague, the gentleman from Oklahoma [Mr. COBURN], on his, I believe, very timely and very cogent comments.

I ran for the U.S. Congress not only because I though our Nation needed things like the line-item veto, passed tonight, as well as the balanced budget amendment, some real welfare reform, but I also ran because I was concerned about the moral and spiritual direction of our Nation.

I believe that our Nation because the great nation that it is not only because our Founders worked hard but also because they were a disciplined and virtuous people who planted the seeds that grew into the great nation that we are today.

I, too, am a physician, and I began to become concerned about the future of our Nation when working in inner-city obstetrics clinics. I began to see many, many young people coming in with not only unwanted pregnancies but also venereal diseases that in many cases were incurable and that were going to lead to permanent scarring that would affect their future, their future ability to have a family.

And then after I finished my training and my time in the military, I went into practice in Florida. I had the opportunity to work with a very skilled and knowledgeable infections disease specialist, Dr. Tim Poirier, who was the only physician in our part of the county seeing AIDS patients at the time. And I spent a good part of the last 7 years taking care of AIDS patients.

I have had the opportunity to treat some of the most terrible, devastating complications of AIDS that I could ever imagine seeking. I have had the opportunity to counsel grieving families. I have had the tragic opportunity to have to pronounce many of these young people dead, to fill out their death certificates. And I have to say that we have a terrible problem in our Nation today with AIDS, and that it is very wrong for our leaders here in Washington to propose that the distributions of condoms is a solution to this problem. The failure rate of these devices in preventing pregnancy in various studies ranges from 5 to 25 percent.

Mr. Speaker, a women can only get pregnant 1 day out of the month, and yet the failure rate preventing pregnancy is that high. The failure rate for preventing AIDS is much, much higher. Nobody would risk their life to anything that has a failure rate that high.

There are many Americans who are afraid to get on an airplane out of a fear of a plane crash, when the failure rate of an airplane is something in the range of one in a million, yet the failure of a condom to prevent AIDS is much, much higher than that, probably in the order of 5 percent or more. Yet our leaders in Washington and now our new nominee for Surgeon General is proposing this device as the solution to our problem.

The problem, Mr. Speaker, is the morality that was presented to America's youth in the 1960's, that sex outside of marriage is safe and acceptable, is wrong. It is leading to unprecedented problems of terrible disease amongst our Nation, amongst our young people. And it is yielding terrible problems of infertility in our Nation.

Mr. Speaker, we need a nominee for Surgeon General who will tell the young people of America the truth, who will expose the lie of the safe sex proselytizers who would have our young people believe that a condom is the solution to the problem.

The solution to the problem is abstinence, Mr. Speaker, and I would urge our President to appoint a Surgeon General who supports that philosophy.

COMMUNITY POLICING WORKS—THE KEY TO FIGHTING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FILNER] is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today to talk about one of the strongest weapons we have in fighting crime, and that is community-oriented policing.

I join my colleague, the gentleman from Michigan [Mr. STUPAK], who has taken a strong lead in this, and other colleagues who will follow me, on what we believe to be the direction that our communities ought to be taking with the support of our Congress.

If we truly want to take back our streets and improve the quality of life in our cities, police officers cannot do it alone. Local residents cannot do it alone. They must work together. That is exactly what community policing does. It allows police officers to work together with local community residents to fight crime.

Now certain Members of Congress want to eliminate this critical approach to crime prevention. And I strongly oppose any efforts to cut community policing programs, and I ask my colleagues to take a good, hard look at exactly what community policing does for our towns and cities.

Community policing works, and it works because it asks the experts to create crime-fighting strategies.

When I say experts, I am not talking about bureaucrats in Washington offices. When I say experts, I am talking about the people who actually live in the neighborhoods plagued with crime. I am talking about the police officers who patrol these neighborhoods every day.

So when the crime bill says it will put 100,000 new community police officers on the beat, we must remember that these officers will know both the neighborhoods they patrol and the people in them.

I talk from experience. I served on the city council of the city of San Diego for 5 years. San Diego is the sixth largest city in the Nation.

My district, both on the city council and in Congress, includes some of the poorest areas of our city, areas which both have high crime and also a traditional fear of and hostility toward police officers.

Yet we established in those areas of highest crime and highest fear walking patrol teams, teams of police officers who got to know their communities and the communities got to know the cops.

They all had beepers that could be paged at any time. They all had first names, which the residents knew, and they got to know the kids in the community. They got to know the storekeepers in the community.

□ 1950

They got to know the seniors. They knew where people lived and worked and played, and a confidence developed.

I tell the Members, I am one of the few city councilmen in this Nation, I thought, that could walk into a meeting of people in my district, working people, poor people, and the cops would get a standing ovation from those residents, because they had established the trust. They had established the confidence.

Mr. Speaker, I have worked hand-in-hand with neighborhood residents and community policing teams. I have seen the effect this partnership has had in reducing crime. The police officers become real human beings, and the cops become real human beings. They are there working together.

Mr. Speaker, the first year we established in San Diego the walking teams, crime went down a minimum of 10 percent in every major category. However, more than this, more than the rate going down, fear went down in those communities. The community got involved in fighting the crime. The cops had a stake in that community. The cops felt accountable. There were real, objective reasons why the crime rate went down.

Yes, we need to be tough on crime. We need stiffer penalties. We need to make sure criminals serve their full sentences. However, we also need to work together as communities.

What the crime bill proved last year was that Congress was serious about fighting crime. We had enough foresight to make it a comprehensive fight and a comprehensive effort.

Mr. Speaker, let us not move backward from this effort. Let us understand the central role of community policing in fighting crime. Let us join together to oppose any cuts in these critical programs. It works.

The people have confidence in their police force. The police force know the people they are working with and protecting. The crime rate goes down, and community spirit goes up. Let us keep it.

THE MINIMUM WAGE INCREASE

The SPEAKER pro tempore (Mr. KLUG). Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, this Congress should affirm work more by our actions than our words.

At the current minimum wage rate of $4.25 an hour, a full-time year-round worker earns $8,500 per year. The President announced his plan last week to raise the minimum wage 45 cents a year over a 2-year period, bringing the wage to a $5.15 an hour rate by 1997. A 90-cent per hour increase in the minimum wage means an additional $1,800 per year in the worker's pay check—as much as the average family spends on groceries in over 7 months. Such increases are significant and should be implemented by this body without hesitation.

Sixty percent of all minimum wage workers are women—most of whom are trying to raise a family as a single parent. People who work 40 hours a week, 52 weeks a year should not be living in poverty. When citizens take responsibility to work full-time, they should be able to raise a family on their wages. We have begun to take up the issue of welfare reform, but if we refuse to make work pay, how will our arguments be effective? Who can afford to listen?

While considering these increases, I am cautious not to upset the balance between the needs of the workers and the economic means of the small business owners. I believe that small businesses are the backbone of this Nation and I would never want to move forward with a proposal that would severely paralyze productivity or adversely affect profit margins. I am confident, though, that raising the minimum wage will do no harm to either, because I believe we should carefully assess any other burdens proposed for such businesses so as not to burden them twice.

Adjusted for inflation, the value of the minimum wage has fallen by nearly 50 cents since 1991, and is now 27 percent lower than it was in 1979. We must bring these wages back up to a respectable level. We must reward hard work with fair wages. We must take pride in our workers' skills and empower them to be a contributing force in our Nation's growing economy. Prosperity should not be reserved for an elite few—it belongs to all of America's working-class.

Let us keep this in mind when considering the arguments for and against increasing the minimum wage. We should not make this debate more difficult than it needs to be, because despite current posturing, increasing the minimum wage traditionally garners bipartisan support. Although President Bush did not support the measure, the 1989 vote to increase the minimum wage was passed 382 to 37 in the House and 89 to 9 in the Senate. With Presidential support this round, I hope the numbers will continue to enjoy such company in this Congress. I urge my colleagues to join me in support of the proposal to raise the minimum wage.

COMMUNITY POLICING WORKS TO LOWER CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. CHAPMAN] is recognized for 5 minutes.

Mr. CHAPMAN. Mr. Speaker, I would like to congratulate the gentleman from Michigan [Mr. STUPAK] for arranging for those of us whose experience has been in the field of law enforcement prior to our duties in the Congress to come and express this evening, and for some time in the evenings in the future, our concerns about what we see as perhaps the direction in the new crime bill, as part of the Contract for America, that may do some serious damage to some of the good things this Congress did last year.

Mr. Chairman, tonight a couple of my colleagues have already addressed the issue of community policing. I want to join them this evening. Before I came to the House of Representatives, I served for 8 years as an elected district attorney in a rural district in northeast Texas.

In that job, I found two things to be true: one, that the best deterrent to criminal conduct was effective prosecution, the certainty of punishment; and even more importantly, the presence of law enforcement on our streets, in our communities, all over the country.

Mr. Speaker, last year's crime bill provides for 100,000 new cops on the beat in a community policing effort. I don't know any law enforcement official that would not tell the Members that one of the most effective things we can do or they can do or anyone can do to fight crime in America is to increase the presence of police on our streets.

You don't have high crime where you have a high number of police officers. You don't have folks breaking into homes if they know the policeman may walk by in the next few minutes. You have a lower incidence of crime where you have a higher presence of police.

Mr. Speaker, in our State just about 4 years ago, in the city of Houston, a mayoral candidate ran on the platform that he would dramatically increase the size of the Houston Police Department if he was elected, and he did so. In that city, the violent crime rate decreased in 1 year by 27 percent. Crime went down all over the city of Houston, and the mayor was recently reelected with one of the largest percentages of any big city mayor in the country.

Mr. Speaker, I can tell the Members that the new cops program is going to work because I have been there and I know, and so will every law enforcement association in America who have endorsed this program and who share our concerns with the direction of turning everything in the arena of law enforcement into some kind of block grant, where we send a check from Washington and just trust the folks at home to know what to do with it.

Our cities, our communities, our neighbors, our homes, our schools deserve to have the very best that we can offer. One of the good things Congress did last year in passing the crime bill was to put the cops on the beat, 100,000. We say without understanding, sometimes, "What does 100,000 new policemen mean?"

□ 2000

When you think in the context that in our country we only have about 600,000 police officers, what it means is a 17 percent increase in the number of policemen in our communities, on the streets, in the patrol cars, working with our kids, working in the schools, working to make sure that our neighborhoods are safe.

Mr. Speaker, I hope we do not undo the good we did. Clearly there are some things in the crime bill that we can improve on. I hope we do that in this debate and the votes that we will face in the days and weeks ahead. But one of the things that Congress did right, joining together in a bipartisan way, was to put the cops program in place.

Given a chance to work, that program will reduce crime, increase the confidence of American citizens in their police, will increase the assurance that those who violate the law will pay the price. It is a good policy, it is a good program, it is one that is working and it is one we ought to keep.

Mr. Speaker, I hope we do not undo the good things we have done.

DISENFRANCHISING CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. ENGEL] is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker, during the debate earlier today on the line-item veto, Members were not permitted to strike the requisite number of words and speak before the vote. And therefore I want to take this opportunity to put my thoughts out in terms of the vote that just happened.

I voted against the line-item veto. I must say, Mr. Speaker, that I believe we in this Congress are going to rue the day that we voted for the line-item veto, and as was said many times by many colleagues, this line-item veto, in my opinion, is nothing more than an unconstitutional ceding of power to the executive branch.

I believe that in order for a line-item veto to be put forward we need a constitutional change, and therefore, a constitutional amendment, and surely when there is a legal challenge to the line-item veto I believe it will ultimately be declared unconstitutional without a constitutional amendment.

Congress is granted the power of the purse. I do not believe Congress has the right to cede that power to the Executive.

This to me has nothing to do with partisan politics, it has nothing to do with Congress being controlled by the Democrats or the Republicans or the President being a Democrat or a Republican. It simply to me reflects the very serious nature that I feel about our Constitution. I feel it is a very sacred document and I do not think any vote of Congress ought to be allowed to alter that.

Much is said today about this being President Reagan's birthday and the gesture of passing this on his birthday, but I must say with all due respect to President Reagan, he was President for 8 years, and while he talked about the importance of a line-item veto in terms of bringing the budget deficit down, he never once in his 8 years as President submitted a balanced budget to Congress. President Bush in 4 years in the Presidency never submitted a balanced budget to Congress.

So I think this fervor that people are rushing toward in terms of both the balanced budget amendment and the line-item veto is a bit misplaced.

What also scares me, Mr. Speaker, is that now if this becomes law, and the Senate concurs, two-thirds will have to pass something to override the President's veto.

I think that is very, very dangerous. It means simply that the President, plus one-third, plus one, of either House, would have control not just over entire spending bills, but each detail within them. To me that is a huge increase in Presidential power, and an increase in Presidential power, I might add, not just to affect the composition of spending, but also to punish and reward.

Simply put, the President might send to the Senate certain nominees to be confirmed and might make it very, very clear that unless his putting forth the line-item veto was sustained, that Congress would be in big trouble in terms of the confirmation. In other words, unless the Senate confirmed the Presidential appointments, the President might line-item veto certain appropriations.

So the President could use the line-item veto not only to stop spending, but can use it as a wedge over the heads of Congress to say if you do not do what I want, I am going to line-item veto what you want.

When there are negotiations between the executive branch and the legislative branch, Mr. Speaker, everyone knows how negotiations go, be they labor-management negotiations or any other kind. Baseball is now on strike and owners and players in negotiations whenever there is a settlement there is give and take on each side, each side gives a little, each side accepts a little bit of the other person's side, and they come out with a final document that may not be to everyone's liking, but it is a compromise document.

Now if the President has a line-item veto, what will happen I fear is when Congress and the President sit down and each gives a little, the little that the Congress gives to the President will be sustained, and the little that the President gives to the Congress will be line-item vetoed, altering the balance.

I want to just read in conclusion the first paragraph from the editorial of the Washington Post last week entitled "Disenfranchising Congress," and I will put the entire editorial in the RECORD, but I want to just conclude by reading this first paragraph. It says,

> The version of the line-item veto now on the floor of the House is dangerous legislation. Too little attention has been paid to what it would do. It would likely do very little to reduce unnecessary spending and the deficit, the stated purpose. It would, however, transfer an enormous amount of power from Congress to the President, which the President could use for other purposes. It would also greatly strengthen congressional minorities at the expense of majority rule. That threatens to become a pattern; the balanced budget amendment to the Constitution that the House approved last week would also disenfranchise the majority.

I am sorry to say, Mr. Speaker I think with the passage of this, it is a very sad day for out country and I believe that those of us who voted no will be proven right in the future.

The text of the article referred to is as follows:

DISENFRANCHISING CONGRESS

The version of the line-item veto now on the floor of the House is dangerous legislation. Too little attention has been paid to what it would do. It would likely do very little to reduce unnecessary spending and the deficit, the stated purpose. It would, however, transfer an enormous amount of power from Congress to the president, which the president could use for other purposes. It would also greatly strengthen congressional minorities at the expense of majority rule. That threatens to become a pattern; the balanced budget amendment to the Constitution that the House approved last week would also disenfranchise the majority.

There's a better way to give the president line-item veto authority, which Reps. Bob Wise, Charles Stenholm and John Spratt are offering as an amendment, and which Budget Committee Chairman Pete Domenici supports in the Senate. The House should adopt this benign version.

A president now can't choose among the items in an appropriations bill. He must sign or veto the whole thing; then he can ask Congress to rescind the items he regards as ill-advised; but Congress is free to ignore him. A line-item veto would let him pluck out offending items and force separate votes on them. But there are different ways of doing that.

The proposal on the House floor would give him what is known as enhanced rescission authority. He'd sign an appropriations bill, then announce his intention not to spend—in effect to impound—some of the money in it. The money couldn't be spent unless Congress next passed a separate bill within a set time ordering him to do so, and he could veto the bill. Two-thirds votes of both houses would be required to override the veto; the president plus one-third plus one of either house would thus have control over not just entire bills but each detail within them. That's a huge increase in presidential power not just to affect the composition and level of spending but to punish and reward.

The alternative, called expedited rescission authority, would not upset the present balance of powers to the same degree. It's the same system as now, except that Congress couldn't ignore a rescission request but would have to vote on it within a certain time. If it passed, the money wouldn't be spent; if it failed, that would be the end of it. The president's only new power would be to turn a spotlight on a disputed item and force Congress to cast an explicit majority vote to adopt it. That's fair enough, and all you need.

In purely fiscal terms, the line-item veto is more a symbol than anything else. Presidents Reagan and Bush both suggested they could reduce the deficit significantly if given the power to cut the pork out of spending bills, and President Clinton has asked for the power as well. But domestic appropriations are only a sixth of the budget and already under tight control; the pork in the budget amounts to much less than the mythology surrounding federal spending would suggest. Congress makes a huge mistake if on the basis of mythology it disturbs the traditional balance of power between the elected branches to the extent that this bill would do.

REVISING THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MEEHAN] is recognized for 5 minutes.

Mr. MEEHAN. Mr. Speaker, I too rise to join with my colleagues, the gentleman from Michigan [Mr. STUPAK], the gentleman from California [Mr. FILNER], and the gentleman from Texas [Mr. CHAPMAN] to discuss what is going to happen before this body this week, and that is action on the crime bill.

Just this past September President Clinton signed into law the smartest, most comprehensive, toughest crime bill in the history of this country. This legislation was the result of input over a 6-year period from Members of Congress and law enforcement officials all across this country. It puts more cops on the streets. It builds more prisons, it pays for crime prevention programs and imposes tougher penalties for violent crimes.

Before I got elected to Congress I had an opportunity to learn a little something about crime because I ran the Middlesex County district attorney's office. We had 13,000 criminal cases in that office a year. I worked with 54 cities and towns, police departments, in urban areas and suburban areas working on a daily basis in the fight against crime, on the front line of the fight against crime.

This week the Congress will begin consideration of a crime bill designed by Republican political strategists based on focus groups and political polls. I have to tell my colleagues that you do not determine a strategy for fighting crime by reading a political poll or talking to a focus group, or sticking your finger in the wind to determine which way the political winds are blowing.

Fighting crime is a profession, fighting crime requires research, and experience on the front lines. And it is not ironic that the Attorney General of this country is a woman who has experience in the front lines of the fight against crime.

When I heard the rhetoric during the crime bill, it was so painfully obvious to me that there were so few Members of this institution that really had experience in the front lines against crime.

But not even 4 months after we passed and the President signed into law this crime bill, we are going to vote changes on this crime bill based on partisan politics, all in the name of partisan politics and solely for the purpose of claiming ownership of the crime issue.

□ 2010

What makes matters even worse is that the changes are not going to help but going to hurt the fight against crime. The bill will not put 100,000 new police officers on the streets. It eliminates community policing programs.

Community-based policing is one of the most effective proven ways to fight crime. My home city of Lowell just put a report out, because we instituted community policing, the new Lowell police chief with 13 new police officers as a result of a community policing initiative. Since instituting community policing, car theft, larceny, home burglary, and business burglaries are all down significantly. The Republican plan will put fewer cops on the streets by eliminating this community policing program and allowing local officials to do what they deem necessary, perhaps buy more fax machines, perhaps buy more automobiles. That is not effective community policing. Community policing involves community partnerships.

The city of Lowell has instituted a model program in community policing, forming partnerships, because that is the hallmark of community-oriented police departments. They have put in neighborhood police precincts, cutting the rate of crime in those neighborhoods, establishing a relationship with the people in those neighborhoods. They have closed down more than 150 buildings in 1994 which were identified as drug houses.

Other special units have resulted in the community response team having made over 350 arrests, school visits by precinct officers where precinct officers actually go into the schools and lecture about crime prevention and lecture about what the goals of the police department are and how the community can play a role, a flag football league where members of the Lowell Police Department actually volunteer their time to get involved with the community in that flag football program, street worker program, basketball leagues where the police officers again, they are volunteers, operating within the community to get to know the community and get those kids headed in the right direction. Community policing works. It is not a debatable proposition.

There is not a law enforcement professional in the country who will say that community policing is not in the best interests of fighting crime. Gov. Bill Weld, a Republican Governor from Massachusetts, is in favor of community policing.

While we look and watch the debate this week, let us put aside partisan politics and look at what really works. We cannot afford to dismantle this community policing program.

QUESTIONS ABOUT THE NOMINEE FOR SURGEON GENERAL

The SPEAKER pro tempore (Mr. KLUG). Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, this evening I would like to talk about the President's appointment for the Surgeon General of the United States of America. I think it is absolutely crucial that the Surgeon General be somebody who has a great deal of credibility, and I think that credibility is going to be the issue in this nomination.

As many of us know, the last Surgeon General of the United States, Joycelyn Elders, drew a lot of focus off what I think are main health care issues of this country by some of the positions that she took. Those positions apparently she felt would move this country forward in its progress on health care to the average American. But it did not do that. What it did do instead was draw attention to the issue of abortion or to the issue of sex education and draw attention away from the important issues like health care in rural America, like immunization for children throughout America, like prenatal programs throughout America.

Well, I am concerned now with the new appointment or the new nomination that the President has made that this country is headed down the same path. It comes back to the issue of credibility.

Folks, whether you are pro-choice or whether you are pro-life, the focus of the Surgeon General for this country and of that nomination process needs to be on credibility. How is the credibility going so far with this nomination? Mr. Foster and the people supporting this nomination sent information to Senator NANCY KASSEBAUM, who is the chairwoman of the committee which will handle this nomination, saying that Dr. Foster was only involved in one abortion, and, in fact, that abortion involved saving the life of the mother, hardly objectionable in some circles, in some other circles, maybe, but just maybe. But just one abortion.

Then within hours, there is a revision of that statement. Now Dr. Foster comes out and says,

> Well, not exactly one abortion, but less than 12 abortions, and not all to save the life of the mother, but mostly to save the life of the mother.

And now if you read your news reports this evening, a new press conference, press release, comes out. It seems Dr. Foster served on a panel in 1978 under which testimony was taken from a Dr. Foster, and he was the only Dr. Foster on that panel where that Dr. Foster boasts or talks of performing up to 700 abortions.

What is the truth, Dr. Foster?

President Clinton said, if, and he is referring to Dr. Foster, he has done what he said he has done, the abortion issue should not be a disqualification. Well, Mr. President, has he done what he said he has done?

He did not do one abortion. He did less than 12. And if the evidence shows 1 more abortion than 12, then the issue should leave abortion and go immediately to the center focus of credibility.

Why do I stand up here today in front of you talking about that issue? Because, doggone it, folks, we have got a lot of people in rural America that need a Surgeon General that will address the health care issues of this country. We need a Surgeon General who is going to focus on health care issues and not this abortion issue.

The abortion issue cannot continue to be the focus of the Surgeon General's office with the kind of health crisis we have in every State in this country.

If the Surgeon General nominee is not telling the truth, if, in fact, it has now gone over 12, he has an obligation to the United States of America to step forward and announce the withdrawal of his nomination. If the President of this country determines that his nominee for Surgeon General has, in fact, been less than straightforward, has, in fact, performed more of these procedures than he admits to, then it is the President's obligation not to stand by his nominee, but to stand by the country and say, "Your credibility has now been damaged to the extent by credible evidence, by the way, that it cannot be repaired. You must then step down as my nominee."

Mr. President, do us a favor. If your nominee is not being straight with us, dump him, and move on to somebody who is qualified to do this job, and whom the No. 1 question that is asked of him will not pertain to their credibility.

COMMEMORATING PRESIDENT REAGAN'S 84TH BIRTHDAY

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, today is former President Ronald Reagan's 84th birthday and thus a fitting time to remember his striking record of accomplishment and his uniquely American life.

Late this year, President Reagan once again tugged at the heartstrings of our Nation by revealing he was in the early stages of Alzheimer's disease—an act of great courage. His intent was typically Reagan. It was not to gather sympathy, but to be an example and a beacon of hope for the millions of people who suffer from this disease.

Today, as the Republican-controlled Congress tries to move the Contract With America through the House of Representatives, we are reminded of the first revolution—the Reagan revolution—that swept through Washington during the 1980's. Many of the things President Reagan championed throughout his Presidency have found a home and a new life in the Republican contract.

Mr. Speaker, Ronald Reagan was one of the finest Presidents in our Nation's distinguished history. Despite the arguments put forth by revisionist thinkers, President Reagan's place in history is secure. As he fights with courage, conviction, and that famous Reagan optimism against Alzheimer's, let us remember and pay tribute to a man who embodies the American dream.

THE MEXICAN RESCUE PACKAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 60 minutes as the designee of the minority leader.

Ms. KAPTUR. Mr. Speaker, we are holding this special order this evening because our various offices here on Capitol Hill have been inundated with telephone calls and inquiries regarding the Mexican rescue package, and many questions are being asked by constituents and citizens of our country that we can not, in fact, answer.

I was asked today how much money has already left our U.S. Treasury as part of the drawdown on the deal that was announced last week by the Secretary of the Treasury and the President. The facts are that we cannot tell you.

□ 2020

Therefore tomorrow morning, likely after the morning business, there will be a special resolution brought up here in the House, and it will be a privileged resolution. In that resolution we will be asking for a vote of the House and a ruling of the Speaker so that we can obtain the information that we cannot give you this evening about the terms of the arrangement that was made by our Government with the nation of Mexico. Our resolution requires that the Comptroller General of the United States report back to us within a 7-day period.

So, we would try to draw to the Members' attention that this vote will likely occur tomorrow morning after the regular morning business, the 1-minutes and, perhaps, a vote on the Journal, and we will look forward to that moment.

It is likely that in the way that the resolution will be brought up there will be very little time for debate. There may actually be an effort by certain interests in this Chamber to table the resolution, and we would ask the Members to vote against tabling the resolution so that, in fact, we will have an opportunity to get the facts that we really want.

Mr. Speaker, I yield to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. So, the situation we are confronted with is the Treasury, in concert with the Federal Reserve Board, agencies of the Federal Government of the United States, have extended, as far as we know, in excess of $40 billion of credits, loan guarantees, currency swaps and other instruments to Mexico, that our questions regarding the source of these funds, the exact amount and the terms of these funds, whether or not these funds are somehow secured—you know, what authorization exists for extending these funds without coming to Congress for appropriations; the gentlewoman saying that there is a possibility that this House will not ask to have those questions answered, that we could just be shut down here on the floor by ruling of the chair, and we will have no opportunity for debate, no opportunity to go forward and ask these questions.

I, for one, as a Representative of a district from the Far West United States, feel that my constituents—this is not the greatest issue before them, but they would certainly like to know what authority the President, the Secretary of the Treasury, and the Federal Reserve, have, if it was extended to them by Congress, what amounts of money are controlled, what risks are involved, what collateral are involved. I mean all sorts of things we would like to know about even a small business transaction let alone one of this magnitude.

But in this ruling we could just be shut down and not have any opportunity to discuss that?

Ms. KAPTUR. That is really what the vote tomorrow is about. We know that the constitutional authority of the House as the place within the Congress; that is, the first to authorize and appropriate dollars through the U.S. Treasury, was essentially shut off. Our Members were muzzled. We were not privy to information that should be ours in relation to the dollars of our taxpayers being put at risk either inside the United States or outside the United States, and we thought we were going to have full debate and disclosure on this matter when a decision was made without the involvement of the legislative branch of the United States of America.

We now have to resort to special parliamentary tactics in order to bring this measure to a vote on the floor, and the gentleman is correct, that there are so many questions we want answers to that we are being asked, which are impossible for us to obtain, and we think that that is not what the Constitution intended, that in fact this is not a monarchy, this is not a parliamentary government. We are not an arm of the executive branch. We have our own status within the Constitution, and our constituents have an absolute right to know when their tax dollars are at risk, as they are, in this agreement, what the terms of that agreement are, what the terms of repayment are, what the nature of the collateral is. We need to know how fast money is being drawn down. Otherwise you cannot make a judgment as to what might happen in the future.

What type of precedent does this set? It is our understanding that never has the authority of this particular set of institutions within the Government of the United States been used to such a degree, and, therefore, we think there are some very serious constitutional questions to be asked, as well as questions to be asked about the nature of the agreement itself.

You know, I say with some humor this evening, "I hope the Mayor of Washington DC, will take it in the humor that I offer it, but, you know that the District of Columbia here in our Nation's Capital has been having a lot of difficulty with its finances and is about to go bankrupt. It has been on all the pages here in the Nation's Capital and in other parts of the country, and we know that it's going to cost the District of Columbia real money to bail itself out, and it's money that we don't have in this Congress."

So I had an idea over the weekend that what we ought to do for the Mayor of Washington and the citizens of the Nation's Capital is to get the executive branch involved because they obviously are very creative in figuring out how to make things happen and make it seem as though you are not spending any real money, and they ought to work up a Mexico-type deal for Washington.

Mr. DEFAZIO. Perhaps, if the gentlewoman would yield, I like that idea, and perhaps what the Government of the District of Columbia could do would be similar to what Wall Street has been doing.

They can go down to Mexico, get a bunch of pesos, which are declining rapidly in value, and then they can take and exchange them to the Federal Reserve Board for United States dollars at a preferred rate, and by arbitraging this they can probably earn up to a billion quite readily, and they can pay off their debts.

I mean, if we can do this for the Government of Mexico and the Wall Street speculators, why would we not do it for the District of Columbia?

Ms. KAPTUR. I figure, if the capital of Mexico can draw on the taxpayers of the United States, why should not the Capital of the United States be able to draw on the taxpayers of the United States? I agree with the gentleman, and, knowing that those pesobonos are paying anywhere between 20 and 40 percent interest rates, the Mayor of Washington would certainly be well advised to get in on that because he could probably get the money he needs in a flash.

Mr. DEFAZIO. I bet, if the gentlewoman would yield further, I would imagine, if the city were to engage, perhaps, Goldman Sachs as their financial adviser, perhaps they could do very well on this matter because, if I could go back to the questions the gentlewoman is asking, as I recall, the gentlewoman from Ohio and a number of us signed a letter with a series of questions probably 3 weeks ago——

Ms. KAPTUR. There were 13.

Mr. DEFAZIO. To the Treasury and the Secretary of the Treasury and asked many of these same questions in a just straightforward and friendly manner. We thought it was things it was essential we know before any sort of bailout go forward.

Have we had any response?

Mr. KAPTUR. I am glad the gentleman put that on the RECORD.

We asked over 12 questions, over a dozen questions; the first one: Who are the creditors that Mexico was paying off, seeing as how they were going to be borrowing the money from us to do it. We wanted to know specifically. We did not want to know some sort of general answer.

We have received no reply from the Department of Treasury to our questions.

Mr. DEFAZIO. So, if the gentlewoman would yield further, it is not exactly like we are sandbagging them with this resolution of inquiry. We have been waiting 3 weeks on issues of national concern involving tens of billions of taxpayers dollars, and we have had no response to a group of Members of Congress who have asked these questions.

Ms. KAPTUR. That is correct.

I yield to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. You know, as bad as we thought, as bad an idea as we thought the bailout was 3 weeks ago, in the last few days, with Alan Greenspan and the Federal Reserve raising interest rates in this country, it only exacerbates the problem in Mexico. If you remember 2 weeks ago, 3 weeks ago, Mr. Greenspan was all over the Congress, lobbying, talking to Republicans, talking to Democrats, meeting with Speaker GINGRICH, talking to the President, everybody he could, about this Mexican bailout on the one hand. Then on the other hand we began to hear stories that he was leaking out that the Federal Reserve is about to increase interest rates.

When that happens, when interest rates are increased in this country, which happened late last week, in addition to what it does to home buying, homebuilding, the cost of credit, the costs to borrowed money for small businesses, all the hurt that puts on the economy, what it does with the Mexico situation is simply pull the rug out from under this whole bailout situation whereas the price, the cost, as the dollar gets stronger, the peso by definition gets weaker, which means that the $16 billion or so that Mexico already owes back to western investors gets more expensive so that it decreases the chance of pay back. It means those loan guarantees and direct loans may in fact not be paid back, but increases the chances there, and at the same time it undercuts the whole ability of the Mexican Government to get back on its feet in the Mexican society.

□ 2030

It simply does not make sense that the Federal Reserve did both of those things, or the Federal Reserve Chairman did both of those things the same month.

Ms. KAPTUR. If I might reclaim my time just for a second, does it not interest you that over the last year the Federal Reserve of our country raised interest rates six times, and during that period of time, of course, it became more lucrative for funds to be drawn into the United States and away from Mexico? This was all going on at the same time. We were asking ourselves why are interest rates going up in the United States when there is no inflation.

Mr. BROWN of Ohio. American investors were benefiting. There were incentive for American investors to pull their money out, and that is what accelerated the whole downward plunge of the peso. You couple the politics of NAFTA, that the Mexican Government and the American Government did not want any peso devaluation during NAFTA, the Mexican Government did not want any peso devaluation, although it could have been done in small increments during their own Presidential elections. So the politics of Mexico and the easy availability of money sent to Mexico, and the American bankers and American investors sending their money there, the Mexicans glad to receive it, certainly with the NAFTA stamp of approval, yes, our Government was saying it is OK to invest there, all played into this.

Ms. KAPTUR. If I might yield time to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. I thank the gentlewoman from Ohio. We are back together again, right.

Mr. DEFAZIO. After hours.

Mr. SANDERS. Fourteen months ago many of us, all of us, and many other of our colleagues told the American people that we thought the NAFTA Agreement was going to be a disaster. On the other side we had the President, we had the Republican leadership, we had virtually every major corporate newspaper in America, who were telling us what a wonderful deal NAFTA was going to be for American workers, for Mexican workers, and for the people in general.

Fourteen months have come and gone, and sadly, sadly, virtually every concern that we had at that time has proven to be true. And after the 14 months, instead of our friends who supported NAFTA coming forward and saying, "OK, we admit it, we made a mistake, we were wrong, everybody is wrong, they were wrong"; but instead of coming forward and saying they were wrong, what they now come forward and say is, "Hey, we need a $40-plus billion loan guarantee to Mexico, because NAFTA has been such a success that the Mexican economy is disintegrating, their Government is extremely unstable, and therefore, at a time when small business in America is in trouble and we do not offer them loan guarantees, family farmers in America, we do not offer them loan guarantees, we have a $200 billion deficit."

And what irritates me very much is every single day on the floor of this House Members of Congress say, "Hey, we have got to cut back on Social Security, on Medicare, on Medicaid, on nutrition programs for hungry children and hungry senior citizens. We have got to do that." We do not have enough money. And yet apparently there is not quite that concern for putting $40 billion of taxpayers' money at risk for this bailout.

The first point I would like to make this evening in terms of this bailout is it is very interesting who is for it and who is against it. Polls indicate, I think the latest poll I saw is that some 80 percent of the American people are against this bailout. Maybe some of the viewers would say, well, obviously all the Mexican people are for this bailout.

Wrong. Polls indicate, as I understand it, that a healthy majority of Mexicans are against the bailout because they are concerned about the sovereignty of their nation.

Mr. BROWN of Ohio. If the gentleman will yield, including one of the major presidential candidates in Mexico who has come out against and spoken at a rally of literally tens of thousands of Mexicans, I would add.

Mr. SANDERS. So you have the American people against the bailout, you have the Mexican people against the bailout. And one of the frustrations that all of us share is that we know that, if that vote had come to the floor of the House, the U.S. Congress, House and Senate, Republicans and Democrats, and the only independent, were all against the bailout.

Mr. TAYLOR of Mississippi. How did the gentleman vote on this issue?

Mr. SANDERS. Well, that is a very interesting question. I was about to vote no for the bailout. Unfortunately, it never came to the floor of the House. I have not yet voted on it.

Mr. TAYLOR of Mississippi. How did Ms. KAPTUR vote on the issue?

Ms. KAPTUR. On this bailout issue, we have not had a chance to vote on it.

Mr. TAYLOR of Mississippi. How did the Speaker of the House vote on the issue?

Ms. KAPTUR. The Speaker of the House has not had a chance to vote on this matter.

Mr. TAYLOR of Mississippi. The chairman of the Committee on Ways and Means, the chairman of the Committee on Appropriations?

Ms. KAPTUR. The chairman of the Committee on Appropriations I spoke with the other day. There has been no bill referred to his committee. There is not a bill that has been brought up here to the Congress.

Mr. TAYLOR of Mississippi. Twenty billion dollars of American tax dollars, and there was not a vote in the Congress of the United States. Is that what you are telling me?

Ms. KAPTUR. There has not been a vote here in the Congress of the United States.

Mr. TAYLOR of Mississippi. When will Congress get a chance to vote on this?

Ms. KAPTUR. We were trying very hard to get a vote, hopefully tomorrow. We introduced a bill on Friday. Because the Speaker will not bring up the bill, we have to use very unusual procedures to force a bill on the floor, which we expect will come up tomorrow sometime after 11 o'clock, under very prescribed rules where we will have very little opportunity to debate. But we have not been able to get any hearings in the committees of any significance. We have not been able to get a bill. The executive branch did this completely on their own, without the Congress being involved.

Mr. TAYLOR of Mississippi. Ms. KAPTUR, is it really fair to say the executive branch did this entirely on their own? Let us go back the 13 months that my friend Mr. SANDERS made reference to. What was then minority whip, now Speaker of the House GINGRICH'S position on NAFTA?

Ms. KAPTUR. Mr. GINGRICH was a very strong supporter of NAFTA, and in fact when NAFTA got in trouble, he ended up rounding up the votes to ultimately pass it. There were I think 43 votes that were switched at the end.

Mr. TAYLOR of Mississippi. So again going back to what Mr. SANDERS had to say, what incentive then does Speaker of the House GINGRICH have to bring this to a vote? After all, his folks got their $20 billion. The American people are left holding the bag. Four hundred and thirty-five Cngressmen never voted on it. Folks back home do not know if they were for it or against it. What recourse is there for a Member of Congress who feels like his constituents have gotten the short end of this stick, and that his constituents' children have gotten the short end of the stick? After all, they have already lent $20 billion. But it is my understanding, please correct me if I am wrong, there is $35 billion in this fund. That means there is $15 billion still to be left at the whim of the President. To put that as a reference to the citizens of this country, $35 billion is roughly what this Nation will spend on its veterans this year. Yet, you are telling me without a vote in this body, up to $35 billion can be pledged by the United States, with little or no guarantee that it will ever be repaid. As a matter of fact, I have heard the Mexicans have only made one debt payment one time in the past dozen years or so.

Ms. KAPTUR. If the gentleman will yield, what has been very interesting is if you look back over the decade of the 1980's, this fund was used every once in a while, especially around the 1982 Presidential elections in Mexico, to prop up that Government. There were loans made from this fund, $500 million, $1 billion. Then you went up to 1988 when there was another Presidential election in Mexico, and they used $1.1 or $1.2 billion out of the funds to prop up the existing Government there.

Now the Presidential elections of this past August 1994: The fund was used again over these numbers of years. Mexico has never really paid back its money. It has refinanced its debt, which is getting larger and larger and larger.

□ 2040

That is like if you had a credit card and you never paid the principal and you just kept adding more and more debt and then you were charged a higher interest rate.

Mr. TAYLOR of Mississippi. So if you would explain to the Members who might still be watching, what is it that you are trying to accomplish tomorrow?

Ms. KAPTUR. What we are trying to accomplish tomorrow is to give the 435 Members of this House a chance to vote against the Mexican rescue package. We have essentially been muzzled. The executive branch, in conjunction with the leadership of this institution, went around the other 434 Members of the Congress of the United States.

We want our chance to vote.

Mr. DEFAZIO. Mr. Speaker, if the gentlewoman will continue to yield, I would like to clarify, I think that we do not even have to characterize it in exactly that fashion. We are asking the basic questions regarding the extension of these credits to Mexico. How much money is involved? What risks are there for the U.S. taxpayer? And the series of interrogatories, someone could vote in support of our resolution tomorrow, not having made up their mind but saying as a representative of the people they need more information.

So I would say that the Members who would support our resolution would be both Members who already feel that they have enough information to say no to the bailout for Mexico, but I would say for the other Members of this body, I cannot imagine that any single person in this body who has not had those questions answered could vote in support of it.

I can see where you could still have an open mind and say, I would like to know what risks we have, how much it is costing, what the terms are, what our exposure is. But we do not have that. So I would characterize the vote tomorrow a little differently.

Ms. KAPTUR. The gentleman is correct. If one reads the resolution, it asks for us to have the constitutional authority retained here as we would hope we could tomorrow, and then it asks the Comptroller General to report back on the specifics of the package that was negotiated by the administration. I think the gentleman from Mississippi would like to comment.

Mr. TAYLOR of Mississippi. I wanted to get back to something the gentleman from Vermont mentioned, when he said that Wall Street was all in favor of NAFTA and Wall Street was all in favor of the bailout.

In fact, former U.S. Trade Representative, Ms. Carla Hills, who used to come regularly up to Congress and tell us what a great deal NAFTA was, has written an article for the Washington Post saying we have to bail out these poor people.

It was funny that just 1½ years ago, when Ms. Hills came before the Merchant Marine Committee and I brought to her attention that a lot of shrimpers in the gulf coast, a lot of people in the garment plants would probably lose their jobs as a result of NAFTA, she said, "that is economic Darwinism. You just have to have some people who are going to suffer when things like this happen, but it is for the benefit of everybody that this happens."

Would someone explain the wisdom to me why it is OK to let somebody who makes $5.50 an hour working at a sewing machine all day lose their job, but when some Wall Street investor loses a couple of bucks on his investments down in Mexico, or maybe a lot more than a couple bucks, that it suddenly becomes the responsibility of the working people of this country, the very same working people that you may have put out of work to bail them out, to go on the line and cosign that loan? And above all, why is it right that this huge expenditure, the equivalent of the Veterans Administration budget, is being made available for the President alone to spend and the Congress of the United States, which is given the constitutional duty, not privilege but the constitutional duty to see how our money is spent, what kind of debts we incur, where is the Speaker? Where is the minority leader? Is this not crazy that neither party's head is demanding a vote on this and that 6, 7, 12 Members have to be the ones to come forward and, by using the rules of the House, demand a vote on this? It is just not right.

Ms. KAPTUR. It is interesting, because I come from the Midwest, midwestern part of our country, as did the gentleman from Ohio, Congressman BROWN, who has joined us, the gentleman from Vermont, Congressman SANDERS, comes form the northeast, the gentleman comes from the Deep South in Mississippi, the gentleman from Oregon, Mr. DEFAZIO, it has been very interesting to me to see the breadth of support inside this institution on this issue.

Mr. TAYLOR of Mississippi. If I may interrupt, on both sides of the aisle.

Ms. KAPTUR. On both sides of the aisle.

Mr. TAYLOR of Mississippi. There are, I believe as many Republican sponsors of this resolution as Democrats. I think that is very important, because I think a number of the Republicans are at odds with what their leadership has done, which is, again, to deprive the majority of the Members of this body just expressing this sentiment, yes or no, this is a tremendous obligation.

I know it is more than three times the State budget for a whole year of my home State.

Mr. DEFAZIO. If the gentlewoman would yield further, I was talking to a freshman Republican Member today, and that freshman stated unequivocally that they had done a whip of their own group and there were 3 Members of the 73-Member Republican freshman class who were prepared or leaning toward voting for the bailout of Mexico.

So I think what has happened here is the leaders on both sides can count, and they did count. When they counted, they found probably out of this entire institution, the representatives of the people of the United States of America, duly elected and all equal under the Constitution, that probably less than 100 were willing to vote for this bailout.

Now I guess what we are being told is we just do not know, we just do not know the facts. Well, then, give us the facts. That is what we are asking here. If there are facts that would change my mind, bring them forward. But there is an absence of fact and we are being treated as though we, as elected representatives of the people, well, we just do not know better. This is something that the big folks on Wall Street, the Federal Reserve decided in secret, Robin Rubin, managing director of Goldman, Sachs and the President behind closed doors, and public discussion is foreclosed and votes of the people are prohibited.

Mr. SANDERS. My friend from Oregon is exactly right, as is my friend from Mississippi.

My friend from Mississippi makes an interesting point, if he will allow me to amplify his statement a little bit, that all over this country there are people who work for $5 an hour and $6 an hour and $8 an hour. And they go to work every day and many of them do not have any health insurance, and we are told that the Government does not have the money to provide health insurance. Their jobs are uprooted and taken to Mexico or to China and we are told, "Hey, that is the way life goes, that is what the market system is about, no security, you are out on the street." They pay unfairly too much in taxes, that is the way the system goes.

And nobody is hearing their pain. And then suddenly our friends from Wall Street, who by the way, let us be honest about this, in the last few years have made out like bandits in their investments in Mexico. In the city of Burlington, VT, people put their money in the savings bank to make 3 percent, 4 percent, 5 percent, safe investment; in Mexico people were making 50 percent, people were make 100 percent of their investments. And then suddenly, for reasons that we do not fully know, we know some of them, the economy of Mexico took a tumble and their investments went sour.

And how amazing it is, and I remember this when I was mayor of the city of Burlington, it was not the poor people and the working people who came into my office to ask for help. It was always the powerful and the wealthy who tell us, "What can you do for us?" and they are back again. These people who have the money, who have made out like bandits, have suddenly taken a loss.

Well, when you invest in a risky proposition, that is the nature of the game, is it not? You stand to win a lot if things go well, you stand to lose if things go badly.

I absolutely agree with my friend from Mississippi that it is an outrage to go back to the working people in this country, some of them who have lost their jobs from these very same folks who have taken their plants to Mexico, and then to ask working people of America to bail them out.

To pick up on the point from my friend from Oregon, what makes me really sad is not only the horror of this whole agreement, but in fact as a result of it there will be even more people giving up on the democratic process. We just had an election recently and 62 percent of the people did not come out to vote. They no longer believe that the Government of the United States represents their interests. What do you think this action on the part of the President is going to do to the political process?

☐ 2050

You are standing up from Oregon, you are standing up from Mississippi, you are standing up from Ohio, many of us are standing up and the people are saying "What difference does it make? Thanks for standing up for us, but you don't have any power. We send you here to represent us but you can't do anything about it. Why do you want me to come out and vote for you or vote for anybody else?"

I think one of the other aspects about this agreement which disturbs me is not only the agreement itself, which we disagree with, but the process which denies the elected officials of this country to stand up and do what is best for their districts.

Ms. KAPTUR. Mr. Speaker, I think the gentleman raises some excellent, excellent points. I know that there are working people across this country who feel that they have lost voice at the highest levels of our Government.

What is equally disturbing to think about, Mr. Speaker, is that for the people of Mexico who have no voice, the working people of Mexico who have no voice, if our Government, and I think they were in cahoots with the top leaders of Mexico, has now caused the standard of living in Mexico to be cut by half, and it wasn't very high anyway, there are people who are hungry and there are people who are streaming across our borders now because our Government was too greedy for some of the interests that supported it and some of the top leaders in the Government of the United States, then shame on us as the most powerful economic force on this continent.

I yield to the gentleman from Mississippi [Mr. TAYLOR], who wanted to make a comment.

Mr. TAYLOR of Mississippi. The only point I wanted to make, Mr. Speaker, and I wanted to get back as to the very eloquent delivery by the former mayor of Burlington, could he not just vote against the appropriation for this when it comes up?

Mr. SANDERS. If the gentleman knows, Mr. Speaker, if I had the opportunity to, I could and I would, but I do not have the opportunity. Unfortunately, as we have been discussing, we do not have that opportunity.

Mr. TAYLOR of Mississippi. Mr. Speaker, isn't it interesting that every group—there are groups like the National Taxpayers Union, Common Cause, groups that represent the defense industry, groups that represent the homeless, everyone has a score card on how you voted. You hear the Nation has incurred at least a $20 billion liability and there was not even a vote on it, and there will not be a vote on it next year or the following year or the following year, unless something happens.

Mr. Speaker, I think the point all of us are trying to make, and maybe not saying as well as we can, is that the reason we need the information, the reason for the vote tomorrow morning, is that, No. 1, we find out just how far our liability goes with this; just what kind of assets, if any, the Mexicans have pledged. I have heard they pledged oil revenues that have already been pledged to pay other bills, so, therefore, they are really not available to get our money back. What kind of track record do the Mexicans have in paying things back? Where did this money come from?

Isn't it interesting, Mr. Speaker, that while everything comes before this body, from the amount of money we will have to mail letters home to our constituents, the amount of money we will spend on B-2 bombers, the amount of money we will spend on housing and urban development, the amount of money we will spend on veterans, all these things, sometimes much, much smaller amounts dealing in just tens of thousands of dollars, we will get an up-or-down vote on, but for $20 billion, neither the President of the United States nor the Speaker of the House nor the minority leader even though we ought to have a vote. The only chance we get to rectify that starts tomorrow.

Mr. SANDERS. If the gentlewoman will yield further, Mr. Speaker, the gentleman makes a very important point. There almost seems to be an inverse relationship between the amount of money that is being spent and the level of discussion that takes place here.

We are seeing a whole lot of discussion on the National Council on the Humanities and Public Broadcasting, right? Every day people are down here, some on one position, some on the other. It is a matter of a few hundred million dollars.

What we are talking about is more than $20 billion, and as of this moment, we do not have a vote on that, and that is clearly an outrage.

Mr. DEFAZIO. If the gentleman will continue to yield, Mr. Speaker, in an answer to the gentleman's earlier inquiry, there has not been a vote on an appropriation for the Economic Stabilization Fund since 1934, 60 years since an appropriation has been voted for, yet the fund has continued to garner money through Treasury withdrawals, through having money printed, and they exchange some sort of bizarre notes which they obtain from the International Monetary Fund. They give them to our Treasury in exchange for dollars which the Treasury orders printed at the mint.

If you want to talk about creating something out of nothing but obligating the American people, and if Alan Greenspan is concerned about inflation, how about the inflation that is caused when you just run the presses overnight, running out whatever the largest denomination of bills is, I don't know, a thousand $10,000 bills, so we can shovel that money over to the Economic Stabilization Fund, so we can send it to Mexico, or so that we can secure the loans of Mexico?

Also, Mr. Speaker, the gentlewoman put together an excellent list in response to your query here. I have heard a little bit about this "We will guarantee these funds with the oil revenues." There is a list here put together by the gentlewoman from Ohio [Ms. KAPTUR].

The gentleman is right, those funds are already 100 percent committed. In fact, they are so committed that the Mexican oil company has not been able to invest any money in exploration or maintenance, because their funds are so over committed already.

You go through the list: Pemex bonds, 7.75 percent; French francs, $750 million; Euro notes, Pemex, 8.375; $400 million, Austrian bond, dated July 23, 1993, due 1998. The list goes on and on and on. They are already well in hock for any oil they can pump until their supplies are exhausted, and we are going to take security out of this? You can't get blood out of a turnip.

Ms. KAPTUR. If the gentleman will yield on that, Mr. Speaker, Oil and Gas magazine also reported about that by the end of this decade, by 1997, 1998, 1999, Mexico will be a net importer of oil because the number of barrels she has been able to produce has been cut in half, and because capital investment has not been able to be made in capital plant, and because of instability among the workers in the oilfields in Mexico, where conditions are just terrible.

Mr. Speaker, I think any wise investor would question that, oil being used as collateral.

If I might respond to the gentleman from Vermont [Mr. SANDERS], who raised a good point, when it is a small item involving the budget, we get tied up in knots here, right?

When we are talking about $20 or $40 billion or however much the American people will be on the line, it is like the Stealth bomber. It goes through here, nobody saw it, we didn't vote on it. It happened, it is a happening in America, but we didn't have anything to do with it.

Mr. Speaker, I remember when the President came up here with his State of the Union speech. He didn't like the fact that the Department of Agriculture had spent a few thousand dollars trying to eliminate ticks. He spent a long time talking about ticks.

If you come from a rural area, a lot of my district is rural, that can be a pretty significant problem for people. In fact, we had one gentleman here in Congress, Berkeley Bedell, who had to leave Congress because he got Lyme disease. If you know anything about what can happen, it is a pretty serious area to be doing research on, so I didn't quite understand why he picked that particular few thousand dollar expenditure out.

Here we are talking about an enormous amount of money, and the gentleman from Mississippi [Mr. TAYLOR] said "Could we vote on it in the Committee on Appropriations?"

I asked one of the subcommittee chairs of Appropriations, "Will this come up before your subcommittee this year? Will we get a vote? How do we get a vote on this?"

He said "Well, you know, yes, the Treasury Department is under our subcommittee's jurisdiction, but this particular fund, I guess it is more like foreign aid, so we don't think it would come under us."

This is the kind of fund, it is like mercury. If you have ever seen mercury and you try to put your finger on it, it keeps moving around. You can't pin it down, really; $20 billion, maybe $40 billion, and it is rising every day.

So here we stand, at 9 o'clock at night Washington time, trying to say it is our responsibility to vote on this kind of money, and putting our taxpayers at this kind of risk.

I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Again, Mr. Speaker, I would like to point out that in the past couple of weeks this Chamber has taken some steps toward getting our financial house in order.

Regardless of where you stand on it, the House has passed a line-item veto. The Speaker as we speak is holding a press conference bragging about how that is somehow going to save the House of Representatives from itself, but we passed it.

A few weeks ago we passed the balanced budget amendment, which I supported, because I think we have to be accountable. We passed earlier on the first day a resolution calling for an audit of every single House office and every single budget within the House of Representatives.

But going back to what Mr. SANDERS says, if it makes sense, and the Speaker will support an audit for a congressional office that has a budget of about $600,000, don't you think he would support an audit of a fund that has $35 billion in it; we think $35 billion, because no one really knows for sure, and it is the taxpayers' money. It is not the Speaker's money, it is not the money of the gentleman from Vermont [Mr. SANDERS], and it is certainly not my money.

But don't the taxpayers deserve to know where it came from, where it is going, and don't they deserve an up-or-down vote of their elected representative on how this money ought to be spent, especially when our Nation's veterans are being told "There is not enough room in the military hospitals for you;" especially when every university within short order in the continental United States is going to get a letter saying "Don't ask for as much money as you got last year, money is tight;" especially when highway funds are getting ready to get cuts; especially when everybody's State's budget, at least the money they receive from the Federal Government, is going to get cut?

□ 2100

How on Earth can we say domestically we want all you people to share in the pain, but if you are south of the Rio Grande, or if you happen to be a big shot up on Wall Street, here is a blank check for $20 billion, and here is $15 billion more when you need it? And the vote tomorrow morning is the only chance the people in this body are going to get to have an accounting on that.

I hope the Speaker will rule that this resolution is in order. But if he does not rule it is in order, then we have got to wonder whose side is he on. Is he on the side of accountability or is he on the side of hiding all of this from the public?

I had an interesting call today from an Under Secretary of the Treasury, and he will meet with a number of us tomorrow morning. Interestingly enough, he said, "You know, I can't give you all that information publicly." Why? I can understand a military secret being kept from the public, we would not want our enemies to know our capabilities of our weapons or troop strengths, but why should not the public know how their money has been invested and where it has been invested and what kind of return they have on it, and what kind of promise we have to get this money back? That troubles me. That is sort of like the old Washington mentality, "We know it all and those folks back home don't know."

Tomorrow morning, the Members of this body will decide who they are with, whether they think the people of America are smart enough to know and ought to know where their money is coming from, and where it is going, or whether they just think a couple of guys, the Speaker, the President, the minority leader, a couple of guys from the Treasury Department, whether they think they alone ought to have the responsibility for $35 billion. That is really what the vote tomorrow morning is all about.

No. 1, I would certainly encourage the Speaker to rule that this resolution is in order so that we can have a vote on it. But, No. 2, if he decides that he will not rule it in order, then I think he ought to at least be man enough to give us an hour to decide, to make our pitch in front of the full body before any sort of a motion is made to table it, because the people of America deserve to know what in the heck is going on, and they deserve an opportunity to fix this problem.

I want to thank the gentlewoman and both gentlemen for their time.

Ms. KAPTUR. I want to thank the gentleman from Mississippi for being the lead sponsor of this privileged resolution. The people of Mississippi should be very proud of the gentleman, an independent, strong-minded Member who stood up to the most powerful interests in America, both political and economic.

In response to something the gentleman said, let me just mention that I received a letter this week from a woman from Coral Gables, FL. She supports us in our efforts to get a vote on this measure tomorrow. She sent this beautiful letter really saying the people of America understand what is going on and encouraging us in our efforts to get at the truth and to get the figures for the American public.

But it was very interesting. She attached a letter to her letter to me that had been written to her by the chairman of the Banking Committee in the House 2 years ago, Congressman HENRY GONZALEZ. In this letter, and she even highlighted it in yellow ink for me, she quotes some of his statements which I think are so instructive I wanted to read them tonight, in which he said that during NAFTA, the NAFTA debate, that he endeavored to bring out that NAFTA was more than just a trade agreement. It is a free trade and finance agreement. And he underlined finance. And he was concerned that the finance and banking portions would turn out to be the driving force, backed by the largest banks and financial interests in this hemisphere. And he said NAFTA will have profound implications for the safety and soundness of the U.S. banking and financial services industries, the integrity of the basic banking laws of this country and counteraction against international money laundering.

Now that NAFTA has passed he said the stage may also be set for another savings and loan style bailout as United States bankers pursue risky investments in the unregulated Mexican market.

To his letter he then attached even more lengthy hearings that he has held in his committee. I just want to read one paragraph here by two gentlemen, Mr. Niko Valance and Mr. Andres Penaloza, who testified before his committee that the omission of an exchange rate stabilization mechanism in NAFTA was deliberate and a mistake. Mr. Valance argued that without an established exchange rate, stabilization mechanism, it is possible for foreign corporations to exert pressure on the Mexican Government to devalue the peso, thus lowering wages in terms of other currencies.

In addition, Mr. Davidson cautions that the relatively volatile currency in Mexico poses increased potential exchange and interest rate risks to U.S. financial institutions. The fact that these issues are not addressed in NAFTA was of considerable concern to many of the witnesses.

Mr. DEFAZIO. If the gentlewoman will yield, it is interesting to hear those statements from 2 years ago, because we have heard most recently from the proponents of NAFTA, the apologists for NAFTA, the Secretary of the Treasury and others, that no one could have anticipated the circumstances. But yet the gentlewoman is saying that letter from the chairman of the Banking Committee, a neighbor to Mexico who lives just over the border, who understands that country well and is sympathetic to the needs of that country, he discerned these problems. What was the date on that letter?

Ms. KAPTUR. The date on the letter was December 6, 1993, but the respective sections from the CONGRESSIONAL RECORD were dated November 15, 1993, remarks by Mr. GONZALEZ on NAFTA, page H9661.

Mr. DEFAZIO. That is absolutely extraordinary. So perhaps a rational person could have anticipated that the peso was overvalued, that there were problems with political manipulations of the currency values in Mexico and, in fact, that inextricably tying the fate of our economy to Mexico, which seems to be what our administration is telling us, was a mistake.

I would ask the gentlewoman if she noticed the statement in the Washington Post last weekend where the Speaker said there was a relationship between the minimum wage and the value of the peso in Mexico and Mexican workers, and said he was hesitant to support an increase in the minimum wage in the United States of America for people who work in this country because that would probably drive more jobs across the border.

So we have just seen the value of the wages in Mexico, which were pitiful to begin with compared to U.S. wages, dropped by 50 percent, and now we have to withhold any increase in the standard of living for the people of the United States because be might lose yet more manufacturing jobs to Mexico.

What happened to the promise of hundreds of thousands of jobs in America as we sold goods to the Mexican people? I am puzzled.

Mr. SANDERS. Mr. Speaker, if the gentlewoman will yield, in Sunday's Washington Post Raul Avila, president of the National Maquiladora Industry Council, said that during the first 10 months of 1994 maquiladora employment increased 6.2 percent, over 600,000 employees, and importantly enough, as the gentlewoman has just indicated, "The industry forecasts the opening of another 600 assembly plants this year."

Mr. DEFAZIO. If the gentlewoman will yield, that, I believe, was because of the drop in the value of the peso.

Mr. SANDERS. The gentleman is exactly right. With cheaper labor it becomes a better investment in the maquiladoras, and we can expect more American companies to be going down there.

The gentleman and the gentlewoman raised interesting points a while ago. I am a member of the Banking Committee that dealt with the S&L fiasco, and as my colleagues will recall the concept "too big to fail." Do my colleagues remember that concept? What too big to fail means is that the taxpayers of America were obligated to bail out very, very large banks because if they failed, the repercussions of that failure were supposedly so great that it would have been worse than bailing them out.

I would like my colleagues to comment on this thought. It seems to me that that is precisely what is happening with regard to Mexico. We are now asked, well, not asked, but the President is proposing to put $40 billion of loan guarantees into Mexico. Maybe the President is right and we do not know. Maybe, in fact, this will improve the Mexican economy, everything will work out well, and there will not be a loss of taxpayer money. That may be true.

But let us look at the other side of the story. Maybe in fact the Mexican economy will not improve and we will lose that $40 billion. What I would like to ask my colleagues is this: Is it not possible that a year from now or 2 years from now a President will come back and say we have got to provide even more loan guarantees to Mexico because we already have $40 billion in the hopper there; we cannot afford to lose that. We have to protect that investment and, therefore, we need to put even more money into Mexico?

□ 2110

And I think the implications of that are very, very frightening. This Congress and this President are having a difficult enough time running the American economy that we know something about on behalf of American workers. We are not doing very well at that.

The idea that we have the knowledge or the ability to sustain the Mexican economy, upon which we are dependent, is really quite beyond me.

But I am afraid that we are going to have this too-big-to-fail concept once again. Then we are going to have to pump more and more money into Mexico, because if it fails, then we have lost all the money we put into them last year.

Mr. DEFAZIO. I guess to bring it down to something smaller than billions, I think I heard very early on in my life and the old saw, you know, "If you owe the bank $1,000 and you cannot pay, you have got a problem. If you owe the bank $100,000 and you cannot pay, the bank has got a problem." That is where we are at here.

It is not only ultimately an obligation of the economic stabilization fund, and it does admit in here that losses can be incurred, and those losses would have to be made up, but also the interest earnings, gains or losses of the economic stabilization fund are reflected in the budget of the United States of America. So if the economic stabilization fund loans to Mexico, $20 billion or so to Mexico go bad, then suddenly we are told that not only do we have to come up with the money but that counts as $20 billion more deficit for the United States of America.

Ms. KAPTUR. On that point, if you look at what we are spending on as a Nation, the very first set of categories have to do with Social Security, and especially Medicare, the cost that the taxpayers subsidize Medicare. Defense is a large expenditure. Then comes interest rates. Right after that, the fourth largest category of spending in this Government is to pay the interest on the savings and loan bailout which totals over $1 trillion. Our children's children will be paying for that.

So when we get in these debt financing arrangements, what we are talking about is obligating the people of our country so far down the road you can hardly even see the end of it.

But in this situation with Mexico, we are not talking about money we own to ourselves. We are talking about money that is owed to investors and creditors to foreign nations. This is a very different animal than that exchange stabilization fund was meant to be used for in the past.

I think what we are seeing is a different form of foreign aid, which does not have to be voted on here in the Congress, and that is not how a democracy should function or a democratic republic should function. We should have the debate here. We as a people must make a decision about what our relationship is to various countries around the world.

Mr. SANDERS. My recollection—and help me out here—is that foreign aid that we do vote on is about what, $15 or $16 billion?

Ms. KAPTUR. That is right.

Mr. SANDERS. There is lot of debate. Many people throughout this country think that is too much.

Ms. KAPTUR. Half of that is weapons.

Mr. SANDERS. All right. What we should appreciate is that this loan guarantee to Mexico puts us at risk for over double what our entire foreign aid package is today. Is that correct?

Ms. KAPTUR. That is correct. The gentleman is correct. I kept listening to the President when he said, "Oh, this is not anything serious. This is just cosigning a loan." I would say to the gentleman from Oregon and the gentleman from Vermont what if someone came up to you and said, "Would you sign a loan with me for $50,000? Right now, sign it?"

Mr. SANDERS. For you, Ms. KAPTUR, absolutely.

Ms. KAPTUR. But maybe you do not know what my finances are like. I mean, would you not want to know the credit history of that person, what kind of assets the person had? And there is absolutely a risk that something might go wrong. Cosigning the loan does not absolve risk.

Mr. SANDERS. I was on a national television program the other day and one of the proponents of his bailout was saying, well, the Mexican economy is basically in good shape; they are having a short-term cash flow problem. But basically it is strong. One of my colleagues here talked about the national debt of Mexico. Is, in fact, the Mexican economy strong and stable?

Ms. KAPTUR. The Mexican economy is not strong and stable, and the nation is not politically stable, which is why there is all of this moving up and down of the value of the peso. Mexico owes somewhere between $160 and $200 billion. That is with a "b." That is in public debt that is owed to other creditors. This is only one small piece of it. This is probably the piece that they thought they might be able to bite off without too many people disagreeing, but there is a lot more money owed, and then inside Mexico, because of the strange relationship between their private sector and their public sector and their banks, there are all kinds of debts internal to Mexico, and with interest rates going up there and with the inflation rates going up, it is a very unstable economic situation inside of Mexico.

The value of their money has just been cut in half. Lots of businesses there have loans. The relationship of those businesses to their banks, to the inflation rate, et cetera, is a very unstable situation, and the largest revenue generator to the Government is Pemex, the oil company.

Over, I think, nearly half the revenues of that Government are generated by Pemex, so that is another place that the oil revenues are pledged as collateral to their own Government.

I happen to believe that Mexico's main problems are not economic but, rather, social and political; in other words, if you could get a system there that operated in a more democratic fashion, could you begin to put the pieces in place of an economic order that shared the wealth with the vast majority of people rather than just at few people on the top.

Mr. SANDERS. The main point I wanted to make very briefly is that it is not for sure that this $40 billion loan guarantee is without significant risk, and that is the main point I wanted to make.

Ms. KAPTUR. It is absolutely with significant risk.

Mr. DEFAZIO. I think this was a question I asked very early on when I was contacted, when I filed my legislation to withdraw from NAFTA. They brought up all of these concerns about how it would further destabilize the economic situation. They said we are only cosigning, and I said, well, I understood if someone had impeccable credit they would not need a cosigner. Usually you get a cosignor because no one else wants to extend you credit, and they think maybe you would not be good for it. If Mexico's credit is so great, I suggest they go to the same Wall Street financiers who have made 20- to 50-percent interest, nice rate of return, and perhaps say, "Look, you have been making a lot of money down in Mexico, how about extending some loans on favorable terms, maybe only 15–20 percent interest per year as opposed to what we have been paying you, still better than you can get generally in the United States stock market, S&P index, United States Treasury, better than you can get anywhere else."

I would assume the Wall Street financiers, thinking there is no problem, if they want the Government to cosign, why do they not just do it directly. Why do not they do it themselves? They are telling us we will make money on this. The taxpayers might make money on it. Might lose $40 billion on it, but, this is a river boat gamble. We are river boat gamblers with $40 billion of assets of the United States of America that belong to the people of this country. I do not think so. That is not our role here. Let the people on Wall Street be the river boat gamblers, not the people on Main Street.

Ms. KAPTUR. I am telling you, if those people on Wall Street and in the banks around this country made as risky investments as this group did down in Mexico, our entire banking system would be in a state of collapse.

Mr. SANDERS. Essentially what we want is two things. We need far more information about this bailout and, second of all, and most importantly, we want the U.S. Congress, which presumably was elected to represent the American people, to be able to vote this thing up or down, and in my view, the Congress would vote it down.

Now, I think if the American people are upset about this process, it is terribly important that they stand up, they tell the President and the Republican leadership that they understand what is going on, that they want a vote on the floor of the House, they want the Members of Congress to represent their interest and not put $40 billion at risk.

So we hope very much that the people will stand up, fight back, and start callng their Members of Congress, the President's office, and the leadership to demand a vote on this important issue.

Ms. KAPTUR. I want to thank the gentleman from Vermont [Mr. SANDERS] for joining us this evening, the gentleman from Oregon [Mr. DEFAZIO], the gentleman from Mississippi [Mr. TAYLOR], and the gentleman from Ohio [Mr. BROWN].

RULES AND PROCEDURE FOR THE COMMITTEE ON THE BUDGET FOR THE 104TH CONGRESS

(Mr. KASICH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KASICH. Mr. Speaker, pursuant to clause 2 of rule XI of the Rules of the House of Representatives, I am pleased to submit the Rules of the Committee on the Budget for the 104th Congress and ask that they be printed in the CONGRESSIONAL RECORD. These rules were adopted by the committee in open session on January 6, 1995.

RULES OF THE COMMITTEE ON THE BUDGET

MEETINGS

Rule 1—Regular meetings

The regular meeting day of the committee shall be the second Wednesday of each month at 11 a.m., while the House is in session.

The chairman is authorized to dispense with a regular meeting when he determines there is no business to be considered by the committee, provided that he gives written notice to that effect to each member of the committee as far in advance of the regular meeting day as the circumstances permit.

Regular meetings shall be canceled when they conflict with meetings of either party's caucus or conference.

Rule 2—Additional and special meetings

The chairman may call and convene additional meetings of the committee as he considers necessary, or special meetings at the request of a majority of the members of the committee in accordance with House Rule XI, clause 2(c).

In the absence of exceptional circumstances, the chairman shall provide written or verbal notice of additional meetings to the office of each member at least 24 hours in advance while Congress is in session, and at least 3 days in advance when Congress is not in session.

Rule 3—Open business meetings

Each meeting for the transaction of committee business, including the markup of measures, shall be open to the public except when the committee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public in accordance with House Rule XI, clause 2 (g)(1). No person other than members of the committee and such congressional staff and departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This rule shall not apply to any meeting that relates solely to matters concerning the internal administration of the committee.

Rule 4—Quorums

A majority of the committee shall constitute a quorum. No business shall be transacted and no measure or recommendation shall be reported unless a quorum is actually present.

Rule 5—Recognition

Any member, when recognized by the Chairman, may address the committee on any bill, motion, or other matter under consideration before the committee. The time of such member shall be limited to 5 minutes until all members present have been afforded an opportunity to comment.

Rule 6—Consideration of business

Measures or matters may be placed before the committee, for its consideration, by the chairman or by a majority vote of the members of the committee, a quorum being present.

Rule 7—Procedure for consideration of budget resolution

It shall be the policy of the committee that the starting point for any deliberations on a concurrent resolution on the budget should be the estimated or actual levels for the fiscal year preceding the budget year.

In developing a concurrent resolution on the budget, the committee shall first proceed, unless otherwise determined by the committee, to consider budget aggregates, functional categories, and other appropriate matters on a tentative basis, with the document before the committee open to amendment; subsequent amendments may be offered to aggregates, functional categories, or other appropriate matters which have already been amended in their entirety.

Following adoption of the aggregates, functional categories, and other matters, the text of a concurrent resolution on the budget incorporating such aggregates, functional categories, and other appropriate matters shall be considered for amendment and a final vote.

Rule 8—Rollcall votes

A rollcall of the members may be had upon the request of at least one-fifth of those present. In the apparent absence of a quorum, a rollcall may be had on the request of any member.

Rule 9—Parliamentarian's Status Report and Section 302 Status Report

(a) In order to carry out its duty under section 311 of the Congressional Budget Act to advise the House of Representatives as to the current level of spending and revenues as compared to the levels set forth in the latest agreed-upon concurrent resolution on the budget, the committee shall advise the Speaker on at least a monthly basis when the House is in session as to its estimate of the current level of spending and revenue. Such estimates shall be prepared by the staff of the committee, transmitted to the Speaker in the form of a Parliamentarian's Status Report, and printed in the Congressional Record.

The committee authorizes the chairman, in consultation with the ranking minority member, to transmit to the Speaker the Parliamentarian's Status Report described above.

(b) In order to carry out its duty under section 302 of the Congressional Budget Act to advise the House of Representatives as to the current level of spending within the jurisdiction of committees as compared to the appropriate allocations made pursuant to the Budget Act in conformity with the latest agreed-upon concurrent resolution on the budget, the committee shall, as necessary, advise the Speaker as to its estimate of the current level of spending within the jurisdiction of appropriate committees. Such estimates shall be prepared by the staff of the committee and transmitted to the Speaker in the form of a Section 302 Status Report.

The committee authorizes the chairman, in consultation with the ranking minority member, to transmit to the Speaker the Section 302 Status Report described above.

HEARINGS

Rule 10—Announcement of hearings

The chairman shall publicly announce the date, place, and subject matter of any committee hearing at least 1 week before the commencement of that hearing, unless he determines there is good cause to begin such hearing at an earlier date, in which case public announcement shall be made at the earliest possible date.

Rule 11—Open hearings

Each hearing conducted by the committee or any of its task forces shall be open to the public except when the committee or task force, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security, or would compromise sensitive law enforcement information, or would tend to defame, degrade, or incriminate any person, or would violate any law or rule of the House of Representatives. The committee or task forces may by the same procedure vote to close one subsequent day of hearing.

For the purposes of House Rule XI, clause 2(g)(2), the task forces of the committee are considered to be subcommittees.

*Rule 12—Quorums**

For the purpose of hearing testimony, not less than two members of the committee shall constitute a quorum.

Rule 13—Time for questioning witnesses

Committee members shall have not to exceed 5 minutes to interrogate each witness until such time as each member who so desires has had an opportunity to interrogate such witness.

After all members have had an opportunity to ask questions, the round shall begin again under the 5-minute rule.

In questioning witnesses under the 5-minute rule, the chairman and the ranking minority member may be recognized first, after which members may be recognized in the order of their arrival at the hearing. Among the members present at the time the hearing is called to order, seniority shall be recognized. In recognizing members to question witnesses, the chairman may take into consideration the ratio of majority members to minority members and the number of majority and minority members present and shall apportion the recognition for questioning in such a manner as not to disadvantage the members of the majority.

Rule 14—Subpoenas and oaths

In accordance with House Rule XI, clause 2(m) subpoenas authorized by a majority of the committee may be issued over the signature of the chairman or of any member of the committee designated by him, and may be served by any person designated by the chairman or such member.

The chairman, or any member of the committee designated by the chairman, may administer oaths to witnesses.

Rule 15—Witnesses' statements

So far as practicable, any prepared statement to be presented by a witness shall be submitted to the committee at least 48 hours in advance of presentation, and shall be distributed to all members of the committee in advance of presentation.

Rule 16—Committee prints

All committee prints and other materials prepared for public distribution shall be approved by the committee prior to any distribution, unless such print or other material shows clearly on its face that it has not been approved by the committee.

BROADCASTING

Rule 17—Broadcasting of meeting and hearings

It shall be the policy of the committee to give all news media access to open hearings of the committee, subject to the requirements and limitations set forth in House Rule XI, clause 3. Whenever any committee business meeting is open to the public, that meeting may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any such methods of coverage, in accordance with House Rule XI, clause 3.

STAFF

Rule 18—Committee staff

(a) Subject to approval by the committee, and to the provisions of the following paragraphs, the professional and clerical staff of the committee shall be appointed, and may be removed, by the chairman.

Committee staff shall not be assigned any duties other than those pertaining to committee business, and shall be selected without regard to race, creed, sex, or age, and solely on the basis of fitness to perform the duties of their respective positions.

All committee staff shall be entitled to equitable treatment, including comparable salaries, facilities, access to official committee records, leave, and hours of work.

(b) Associate staff for members of the committee may be appointed only at the discretion of the chairman (in consultation with the ranking minority member regarding any minority party associate staff), after taking into consideration any staff ceilings and budgetary constraints in effect at the time, and any terms, limits, or conditions established by the Committee on House Oversight under clause 6 of House Rule XI. Such staff members shall be compensated at a rate, determined by the member, not to exceed $60,000 per year; provided, that no member shall appoint more than one person pursuant to these provisions; provided further, that members designating a staff member under this subsection must certify by letter to the chairman that the employee is needed and will be utilized for committee work and, to the extent space is available, will spend no less than 10 hours per week in committee offices performing committee work.

Rule 19—Staff supervision

Staff shall be under the general supervision and direction of the chairman, who shall establish and assign their duties and responsibilities, delegate such authority as he deems appropriate, fix and adjust staff salaries (in accordance with House Rule XI, clause 6(c)) and job titles, and, in his discretion, arrange for their specialized training.

Staff assigned to the minority shall be under the general supervision and direction of the minority members of the committee, who may delegate such authority as they deem appropriate.

COMMITTEE RECORDS

Rule 20—Preparation and maintenance of committee records

An accurate stenographic record shall be made of all hearings and business meetings.

The proceedings of the committee shall be recorded in a journal which shall, among other things, include a record of the votes on any question on which a record vote is demanded.

Members of the committee shall correct and return transcripts of hearings as soon as practicable after receipt thereof, except that any changes shall be limited to technical, grammatical, and typographical corrections.

Any witness may examine the transcript of his own testimony and make grammatical, technical, and typographical corrections.

The chairman may order the printing of a hearing record without the corrections of any member or witness if he determines that such member or witness has been afforded a reasonable time for correction, and that further delay would seriously impede the committee's responsibility for meeting its deadlines under the Congressional Budget Act of 1974.

Transcripts of hearings and meetings may be printed if the chairman decides it is appropriate, or if a majority of the members so request.

Rule 21—Access to Committee Records

(a) The chairman shall promulgate regulations to provide for public inspection of rollcall votes and to provide access by members to committee records (in accordance with House Rule XI, clause 2(e)).

Access to classified testimony and information shall be limited to Members of Congress and to House Budget Committee staff and stenographic reporters who have appropriate security clearance.

Notice of the receipt of such information shall be sent to the committee members. Such information shall be kept in the committee safe, and shall be available to members in the committee office.

*(b) The records of the committee at the National Archives and Records Administration shall be made available for public use in

accordance with Rule XXXVI of the Rules of the House of Representatives. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any member of the committee.

APPLICABILITY OF HOUSE RULES

Rule 22—Applicability of House Rules

Except as otherwise specified herein, the Rules of the House are the rules of the committee so far as applicable, except that a motion to recess from day to day is a motion of high privilege.

CONFEREES

Rule 23—Appointment of conferees

Majority party members recommended to the Speaker as conferees shall be recommended by the chairman subject to the approval of the majority party members of the committee. The chairman shall recommend such minority party members as conferees as shall be determined by the minority party, provided that the recommended party representation shall be in approximately the same proportion as that in the committee.

MISCELLANEOUS

Rule 24—Waivers

When a reported bill or joint resolution, conference report, or anticipated floor amendment violates any provision of the Congressional Budget Act of 1974, the chairman may, if practical, consult with the committee members on whether the chairman should recommend, in writing, that the Committee on Rules report a special rule that enforces the act by not waiving the applicable points of order during the consideration of such measure.

Rule 25—Report on the budget resolution

The report of the committee to accompany a concurrent budget resolution shall include a comparison of the estimated or actual levels for the year preceding the budget year with the proposed spending and revenue levels for the budget year and each out year along with the appropriate percentage increase or decrease for each budget function and aggregate. The report shall include any rollcall vote on any motion to amend or report any measure.

Rule 26—Oversight

Not later than February 15 of the first session of a Congress, the committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Oversight and the Committee on Government Reform and Oversight in accordance with the provisions of clause 2(d) of House Rule X.

* Written rule required by House Rules.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FROST (at the request of Mr. GEPHARDT) for Monday, February 6, and Tuesday, February 7, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STUPAK) to revise and extend their remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mr. CHAPMAN, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. MEEHAN, for 5 minutes, today.

(The following Members (at the request of Mr. COBURN) to revise and extend their remarks and include extraneous material:)

Mr. COBURN, for 5 minutes, today.

Mr. WELDON of Florida, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MCINNIS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. STUPAK) and to include extraneous matter:)

Mr. BRYANT of Texas in three instances.

Mr. CARDIN.

Mr. ACKERMAN.

Mr. HINCHEY.

Mr. TRAFICANT.

Mr. TOWNS in two instances.

Ms. RIVERS.

Mr. ORTIZ.

Mr. BARRETT of Wisconsin.

(The following Members (at the request of Mr. COBURN) and to include extraneous matter:)

Mr. FIELDS of Texas.

Mr. ENSIGN.

Mr. MCINNIS in four instances.

Mr. SEASTRAND.

Mr. WOLF.

Mr. PACKARD.

Mr. YOUNG of Florida.

(The following Members (at the request of Ms. KAPTUR) and to include extraneous matter:)

Mrs. MORELLA.

Mr. FILNER.

□ 2120

ADJOURNMENT

Ms. KAPTUR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 20 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, February 7, 1995, at 9:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

303. A communication from the President of the United States, transmitting his request to make available emergency appropriations totaling $150 million in budget authority for the Forest Service of the Department of Agriculture, and to designate these amounts as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 104–27); to the Committee on Appropriations and ordered to be printed.

304. A letter from the Deputy Assistant Secretary of Defense (Installations), Department of Defense, transmitting a report entitled, "Report on the Performance of Department of Defense Commercial Activities", pursuant to 10 U.S.C. 2461(c); to the Committee on National Security.

305. A letter from the Assistant Administrator for Legislative and Public Affairs, U.S. Agency for International Development, transmitting a report on human rights in countries receiving development assistance, pursuant to section 116(d)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

306. A letter from the Chairman, Federal Election Commission, transmitting 63 recommendations for legislative action, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House Oversight.

307. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing personal use of campaign funds, pursuant to 2 U.S.C. 438(d); to the Committee on House Oversight.

308. A letter from the Administrator, Federal Railroad Administration, transmitting the Administration's report entitled, "Train Dispatchers Followup Review," pursuant to Public Law 102–365, section 17 (106 Stat. 981); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SPENCE: Committee on National Security. H.R. 7. A bill to revitalize the national security of the United States; with an amendment (Rept. 104–18, Pt. 1). Ordered to be printed.

Mr. GILMAN: Committee on International Relations. H.R. 7. A bill to revitalize the national security of the United States; with an amendment (Rept. 104–18, Pt. 2). Ordered to be printed.

Mr. COMBEST: Permanent Select Committee on Intelligence. H.R. 7. A bill to revitalize the national security of the United States; with amendments (Rept. 104–18, Pt. 3). Ordered to be printed.

Ms. PRYCE: Committee on Rules. House Resolution 60. Resolution providing for the consideration of the bill (H.R. 665) to control crime by mandatory victim restitution (Rept. 104–19). Referred to the House Calendar.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 61. Resolution providing for the consideration of the bill (H.R. 666) to control crime by exclusionary rule reform (Rept. 104–20). Referred to the House Calendar.

Mr. MCCOLLUM: Committee on the Judiciary. H.R. 667. A bill to control crime by incarcerating violent criminals; with an amendment (Rept. 104–21). Referred to the Committee of the Whole House on the State of the Union.

Mr. McCOLLUM: Committee on the Judiciary. H.R. 668. A bill to control crime by further streamlining deportation of criminal aliens; with an amendment (Rept. 104–22). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CLINGER (for himself, Mr. Sisisky, Mr. McIntosh, Mr. Davis, Mr. Solomon, and Mr. Blute):

H.R. 830. A bill to amend chapter 35 of title 44, United States Code, to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. ARCHER (for himself, Mr. Matsui, Mr. Thomas, and Mrs. Johnson of Connecticut):

H.R. 831. A bill to amend the Internal Revenue Code of 1986 to permanently extend the deduction for the health insurance costs of self-employed individuals, to repeal the provisions permitting nonrecognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission, and for other purposes; to the Committee on Ways and Means.

By Mr. BARTON of Texas (for himself, Mr. Hefley, Mr. Sam Johnson, Mr. Combest, Mr. Cunningham, Mr. Schaefer, Mr. Hoekstra, Mr. McCollum, Mr. Stenholm, Mr. Hutchinson, Mr. Smith of Texas, Mr. Miller of Florida, Mr. Largent, Mr. Thornberry, Mr. Latham, Mr. Hancock, Mr. Shadegg, Mr. Livingston, and Mr. Brewster):

H.R. 832. A bill to establish limits on wage continuation and severance benefits for Amtrak employees displaced by a discontinuance of service, and for other purposes: to the Committee on Transportation and Infrastructure.

By Mr. GREENWOOD (for himself, Mr. Porter, Mr. Waxman, and Mrs. Lowey):

H.R. 833. A bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes; to the Committee on Commerce.

By Mr. JACOBS:

H.R. 834. A bill to nullify the 25 percent pay increase that was afforded to Members of Congress and certain other Government officials by the Ethics Reform Act of 1989; to repeal section 225 of the Federal Salary Act of 1967, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committees on House Oversight, the Judiciary, Ways and Means, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MEEK of Florida:

H.R. 835. A bill to amend the Public Health Service Act to provide for expanding and intensifying activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases with respect to lupus; to the Committee on Commerce.

By Mrs. MORELLA:

H.R. 836. A bill to amend the Metropolitan Washington Airports Act of 1986 to provide for reorganization of the Metropolitan Washington Airports Authority and for local review of proposed actions of the Airports Authority affecting aircraft noise; to the Committee on Transportation and Infrastructure.

By Mr. OLVER:

H.R. 837. A bill to promote quality environmental research by permitting the Administrator of the Environmental Protection Agency to enter into cooperative research and development agreements; to the Committee on Science.

By Mr. PETERSON of Minnesota:

H.R. 838. A bill to amend the Internal Revenue Code of 1986 to treat for unemployment compensation purposes Indian tribal governments the same as State or local units of government or as nonprofit organizations; to the Committee on Ways and Means.

By Mr. TATE (for himself, Mr. Metcalf, Mr. Hastings of Washington, Ms. Dunn of Washington, Mrs. Smith of Washington, Mr. McIntosh, Mr. White, Mr. Stockman, Mr. Scarborough, and Mr. Fox):

H.R. 839. A bill to establish a moratorium on regulatory rulemaking actions respecting small business; to the Committee on Government Reform and Oversight, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TRAFICANT:

H.R. 840. A bill to designate the Federal building and U.S. courthouse located at 215 South Evans Street in Greenville, NC, as the "Water B. Jones Federal Building and United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. WOLF (for himself, Mr. Barton of Texas, Mr. Armey, Mr. DeLay, Mr. Packard, Mr. Fox, Mr. English of Pennsylvania, and Mr. Horn):

H.R. 841. A bill to provide an equitable process for strengthening the passenger rail service network of Amtrak through the timely closure and realignment of routes with low economic performance; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. Souder and Mr. Spence.

H.R. 62: Mrs. Chenoweth, Mr. Radanovich, and Mr. Norwood.

H.R. 70: Mr. Edwards, Mr. Chapman, Mr. Stump, Mr. Taylor of North Carolina, and Mr. Skeen.

H.R. 77: Mr. Radanovich, Mr. Stearns, Ms. Rivers, and Mr. Smith of Michigan.

H.R. 104: Mr. Emerson and Mr. Calvert.

H.R. 110: Mr. Fattah.

H.R. 127: Mr. Gilchrest, Mr. Cramer, Mr. Evans, Mr. Fattah, Mr. Kleczka, and Mr. Skaggs.

H.R. 199: Ms. Molinari, Mr. English of Pennsylvania, Mr. Smith of Texas, Mr. Royce, Mr. Doolittle, Mr. Ney, Mr. Parker, and Mr. Sensenbrenner.

H.R. 216: Mr. Riggs.

H.R. 218: Mrs. Myrick and Mr. Forbes.

H.R. 219: Mr. Beilenson and Mr. Gallegly.

H.R. 230: Mr. Stearns.

H.R. 259: Mr. Royce and Mr. Doolittle.

H.R. 260: Mr. Young of Alaska.

H.R. 325: Mr. Bunning of Kentucky, Mr. Gutknecht, Mr. Miller of Florida, Mr. Regula, Mr. Wicker, Mr. Brownback, Mr. Pombo, Mr. Boehner, Mr. Barr, Mr. Laughlin, and Mr. Duncan.

H.R. 328: Mr. Livingston and Mrs. Seastrand.

H.R. 343: Mr. Frost, Mr. Pete Geren of Texas, Mr. Lewis of Georgia, and Mr. Vento.

H.R. 353: Ms. Rivers, Mr. Waxman, Mr. Markey, Mr. Horn, and Mr. Vento.

H.R. 354: Mr. Solomon and Ms. Danner.

H.R. 363: Mr. Rush, Mr. Rangel, Mr. Olver, and Mr. Watt of North Carolina.

H.R. 399: Ms. Norton and Mr. Ackerman.

H.R. 450: Mr. Brewster, Mr. Weldon of Florida, Mr. Roberts, and Mr. Barrett of Nebraska.

H.R. 488: Mr. Gilman.

H.R. 511: Mr. Shays.

H.R. 559: Mr. Underwood, Ms. Pelosi, and Mr. Vento.

H.R. 579: Mrs. Chenoweth.

H.R. 585: Mr. Gutknecht, Mr. Hall of Ohio, Mr. Pete Geren of Texas, Mr. Montgomery, Mr. Johnston of Florida, Ms. Molinari, and Ms. Furse.

H.R. 592: Ms. Danner, Mr. Ewing, Mr. McKeon, and Mr. Doolittle.

H.R. 599: Mr. Cooley.

H.R. 605: Mr. Fox, Mr. Shuster, Mr. Saxton, Mrs. Chenoweth, and Mr. Hancock.

H.R. 612: Mr. Rohrabacher.

H.R. 663: Mr. Forbes, Mr. Holden, and Mrs. Lincoln.

H.R. 667: Mr. Bryant of Tennessee, Mr. Bliley, and Mr. English of Pennsylvania.

H.R. 668: Mr. King, Mr. Bliley, and Mr. English of Pennsylvania.

H.R. 682: Mr. Bono.

H.R. 697: Mr. Cramer, Mr. McDade, Mr. Bono, Mr. Gunderson, Ms. Danner, Mr. Johnson of South Dakota, Mr. Ballenger, Mr. Gallegly, and Mr. Norwood.

H.R. 698: Mr. Crane, Mrs. Chenoweth, Mr. Goodlatte, Mr. Hutchinson, Mr. Schaefer, Mr. Bass, Mr. Ney, Mr. Emerson, Mr. Cunningham, Mr. Bunn of Oregon, Mrs. Vucanovich, Mr. McCrery, Mr. Myers of Indiana, Mr. Funderburk, Mr. Coble, Mr. Norwood, Mr. Wamp, Mr. Rohrabacher, Mr. Canady, Mr. Scarborough, Mr. Solomon, and Mr. Young of Alaska.

H.R. 703: Mr. Johnston of Florida, Mr. Brown of Ohio, Mr. Wyden, Mr. Evans, Ms. Slaughter, and Mr. Vento.

H.R. 728: Mr. Bryant of Tennessee and Mr. Bliley.

H.R. 729: Mr. Bryant of Tennessee, Mr. Bliley, and Mr. English of Pennsylvania.

H.R. 752: Mr. Borski, Mr. Hancock, Mr. Rohrabacher, and Mrs. Vucanovich.

H.R. 759: Ms. Pryce.

H.R. 789: Mr. Neumann, Mr. McHugh, Mr. Zeliff, Mr. Barrett of Nebraska, Mr. Horn, Mr. Wolf, and Mr. Smith of New Jersey.

H.R. 791: Mr. Cooley, Ms. Danner, Mr. Norwood, Mr. Miller of Florida, and Mr. McKeon.

H.R. 793: Mr. Sensenbrenner and Mr. Holden.

H.R. 795: Mr. Gibbons.

H.R. 810: Mr. Markey.

H.J. Res. 3: Mr. Minge.

H.J. Res. 8: Mr. TALENT.

H. Con. Res. 12: Mr. GEKAS, Mr. HORN, Mr. BARTLETT of Maryland, and Mr. SCHAEFER.

H. Res. 15: Mr. BEILENSON and Mr. DEAL OF GEORGIA.

H. Res. 40: Mr. MEEHAN, Mr. SPRATT, and Mr. JACOBS.

H. Res. 57: Mr. BUNNING of Kentucky, Mrs. CHENOWETH, Mr. BILIRAKIS, Mr. DELLUMS, and Mr. LIPINSKI.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 665

OFFERED BY: MR. SANDERS

AMENDMENT NO. 1: Page 4, line 24, after the period insert "A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution.".

H.R. 665

OFFERED BY: MR. SANDERS

AMENDMENT NO. 2: Page 9, after line 24, add the following:

"(c) JUSTICE DEPARTMENT GUIDELINES RELATING TO COMMUNITY SERVICE.—The Department of Justice shall establish minimum guidelines for seeking community service by offenders in cases where such service would provide restitution to members of a community harmed by the criminal conduct of such offenders. Such service may include a requirement that a set percentage of the future profits of an organizational offender be used to educate the public about corporate crime and its control."

H.R. 666

OFFERED BY: MR. CONYERS

AMENDMENT NO. 1: Page 3, line 12, strike "Rule" and insert "Rules".

Page 3, line 14, after "proceeding." insert "Nothing in this section shall be construed so as to violate the fourth article of amendment to the Constitution of the United States.".

H.R. 666

OFFERED BY: MR. CONYERS

AMENDMENT NO. 2: Page 2, strike line 1 and all that follows through the end of the bill and inserting the following:

SEC. 2. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"§ 2237. Good faith exception for evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in objectively reasonable reliance on a warrant issued by a detached and neutral magistrate or other judicial officer ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Evidence obtained by invalid warrant."

H.R. 666

OFFERED BY: MR. CONYERS

AMENDMENT NO. 3: Page 2, strike line 1 and all that follows through the end of the bill and inserting the following:

SEC. 2. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT OR STATUTE.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"§ 2237. Good faith exception for evidence obtained by invalid means

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in objectively reasonable reliance—

"(1) on a warrant issued by a detached and neutral magistrate or other judicial officer ultimately found to be invalid, unless—

"(A) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(B) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(C) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(D) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid; or

"(2) on the constitutionality of a statute subsequently found to constitutionally invalid.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Evidence obtained by invalid means."

H.R. 666

OFFERED BY: MR. DEFAZIO

AMENDMENT NO. 4: Strike all after the enacting clause and insert therein:

"SECTION 1.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§ 3510. Reaffirmation of the Bill of Rights

"(a) The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized."

H.R. 666

OFFERED BY: MR. REED

AMENDMENT NO. 5: Page 1, strike line 6 and all that follows through the end and inserting the following:

SEC. 2. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Evidence obtained by invalid warrant."

H.R. 666

OFFERED BY: MR. WATT OF NORTH CAROLINA

AMENDMENT NO. 6: Page 2, line 13, strike all after the word "States," and insert the following:

"provided that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

H.R. 667

OFFERED BY: MS. SLAUGHTER

AMENDMENT NO. 1: After paragraph (2) of section 503(b) of the bill, add the following:

"(3) laws which allow the court to impose a sentence of life in prison without parole on a defendant in a criminal case who is convicted of a State offense for conduct which—

"(A) is an offense under section 2241 or 2242 of title 18, United States Code; or

"(B) would have been an offense under either of such sections if the offense had occurred in the special maritime or territorial jurisdiction of the United States;

after having previously been convicted of another State or Federal offense for conduct that was an offense described in subparagraph (A) or (B)."

H.R. 667

OFFERED BY: MR. WATT OF NORTH CAROLINA

AMENDMENT NO. 2: Page 3, line 6, strike the word "assurances" and insert in lieu thereof the word "confirmation"

Page 3, line 12, strike the word "and"

Page 3, line 15, strike the period and add "; and"

Page 3, after line 15, insert the following:

"(4) decrease the rate of violent offenses committed in the State, taking into account

the population of such State, at a level at least equivalent to the lesser of the percentage increase confirmed in section (1), (2) or (3) above."

Page 4, line 2, strike the word "assurances" and insert in lieu thereof the word "confirmation"

Page 4, line 17, strike the comma and replace it with a semicolon

Page 4, after line 17, insert the following:

"(C) procedures for the collection of reliable statistical data which confirms the rate of serious violent felonies after the adoption of such truth-in-sentencing laws."

Page 5, line 3, strike the "—" and insert instead "confirms that"

Page 5, line 4, strike the word "and"

Page 5, line 8, strike the period and insert instead "; and (3) the rate of violent felony offenses committed in such State has decreased since such State commenced indeterminant sentencing for such offenses."

H.R. 667

OFFERED BY: MR. WATT OF NORTH CAROLINA

AMENDMENT NO. 3: Page 12, strike lines 5–16 and insert instead the following:

"Prospective relief in a civil action with respect to prison conditions shall extend no further than necessary to remove the conditions that are causing the deprivation of Federal rights. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn and the least intrusive means to remedy the violation of the Federal right. In determining the appropriateness of the relief, the court shall give weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

Page 13, strike lines 1–17 and insert instead the following:

"In any civil action with respect to prison conditions, any prospective relief shall terminate upon a finding that the conditions against which prospective relief was ordered have been remedied."

H.R. 667

OFFERED BY: MR. WATT OF NORTH CAROLINA

AMENDMENT NO. 4: Page 14, strike lines 1–11.

H.R. 667

OFFERED BY: MR. WATT OF NORTH CAROLINA

AMENDMENT NO. 5: Page 15, strike lines 8–18.

Page 15, line 19, strike the letter "g" and insert instead the letter "f"

H.R. 729

OFFERED BY: MR. WATT OF NORTH CAROLINA

AMENDMENT NO. 1: Page 4, line 21, strike the period and insert the following:

"or a substantial showing that credible newly discovered evidence which, had it been presented at trial, would probably have resulted in an acquittal for the offense for which the sentence was imposed or in some sentence other than incarceration."

Page 4, lines 21–22. Strike the entire sentence beginning with the word "The" and ending with "standard."

Page 13, line 12, delete "and"

Page 13, line 17, delete the period and insert instead "; or"

Page 13, after line 17, add:

"the facts underlying the claim consist of credible newly discovered evidence which, had it been presented to the trier of fact or sentencing authority at trial, would probably have resulted in an acquittal of the offense for which the death sentence was imposed."

EXTENSIONS OF REMARKS

GOOD BUMPER STICKER SLOGANS DO NOT MEAN GOOD GOVERNMENT

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. FILNER. Mr. Speaker and colleagues, I rise in strong opposition to H.R. 2, the Line Item Veto Act. I urge us to think very clearly about the important mechanism of checks and balances that I believe will be irreparably damaged if we accept the line item veto.

Article I of the U.S. Constitution—the only contract we really have with America—addresses the duties of Congress. The Founding Fathers gave the power of the purse to Congress, and not to the President. Why, in their wisdom, did they do so? Constitutionalists will tell us the answer lies in the old saying, "the President proposes, the Congress disposes."

It is the legislative branch that is charged with dealing with the details that are so important to every piece of legislation that we see in this, the "people's Chamber." It is tedious and often thankless, but it is part of our agreement with each and every American who cast their votes for us every 2 years.

We hear so much talk these days about term limits and how much better they would make our legislative process. The President already has term limits. Combine that with this line item veto, and what the American people will get is a chief executive with unlimited, unchecked power to unilaterally pick and choose projects to reject.

This should not be construed as an attack against the judgment of the current President. On this issue, I am strictly nonpartisan. Nothing should interfere with the balance of power between the executive and legislative branches of Government. I caution us to resist the temptation of bumper sticker politics.

CONGRATULATIONS TO ALAN NELMS, COLORADO'S VOCATIONAL TEACHER OF THE YEAR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Alan Nelms for being named Vocational Teacher of the Year by the Colorado Vocational Association. Alan is a marketing teacher at South High School in Pueblo, CO.

Alan has been recognized for his innovative approach to teaching. Bringing more academics into his marketing classes, the development of business partnerships and job placement programs for his students, Mr. Nelms has exhibited the type of individual we need teaching our children. His approach to teaching is innovative, refreshing, and continually changing with the demands of the workplace.

Alan's future curriculum includes such ideas as, establishing business internships for teachers so they can learn more about the workplace and improve the School-to-Work Program.

Mr. Speaker, I ask our colleagues to join me in congratulating Alan Nelms on his award. I know all of us thank Alan for his dedication, professionalism, and selfless service to his students.

A TRIBUTE TO F.F. "PANCHO" MEDRANO, JR.

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. BRYANT of Texas. Mr. Speaker, Texas lost a leading citizen and active advocate for the working people of Texas with the sudden death on January 18, 1995, of F.F. "Pancho" Medrano, Jr.

A member of a politically active family committed to advancing the cause of organized labor and the election of progressive Democratic candidates, Pancho Medrano, Jr., has left an important legacy of community participation.

Pancho Medrano, Jr., was devoted to his family, his community, the well-being of the working men and women he so ably represented, and improvement of society through the electoral process.

His unexpected death at the age of 53 deprived Dallas, TX, and the Nation of an important and influential voice.

For 28 years—more than half his all too brief life—Pancho Medrano, Jr., was an aerospace employee of Vought Aircraft Corp. in Grand Prairie.

He was an effective leader of the organized labor movement in Texas, serving as vice president of the United Auto Workers Local 848 and chairman of its political action committee.

Following in the footsteps of his father and namesake, Pancho Medrano, Jr., made politics and the labor movement part of his extended family.

As Dallas County Democratic Party chairman Ken Molberg noted, "For years, Pancho promoted the policies, platform, and candidates of this great party with a passionate activism that is unique in our times * * *. He gave his all."

That commitment and involvement ran deep in the Medrano family—his father, Pancho Medrano, Sr.; his brothers, Robert, Ricardo, and Rolando Medrano; his sister Pauline; his wife, Socorro Medrano; his sons, Adam and Frank Medrano III; his daughters, Virginia Coronado and Mia Medrano; and his four grandchildren.

Mike Hall, president of Pancho Medrano, Jr.'s UAW Local accurately described him: "Pancho was the kind of person who never met a stranger. He was always on the campaign trail for someone. He was a friend of the Kennedys in the 1960's and a personal friend of Bill Clinton today."

Whether they were Presidents or union members or a neighbor down the street, Pancho Medrano was a good and loyal friend, who will be missed from the White House to the houses of those of us who lived and worked with him.

WALTER B. JONES FEDERAL BUILDING

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. TRAFICANT. Mr. Speaker, this week I reintroduced legislation to designate the Federal building and U.S. courthouse located at 215 South Evans Street in Greenville, NC, as the "Walter B. Jones Federal Building and U.S. Courthouse." The late Walter B. Jones was a dear friend, and one of the most respected and accomplished members ever to have served in this august body.

Walter Beaman Jones was born in Fayetteville, NC, on August 19, 1913. He attended Fayetteville public schools and the Elise Academy in Hemp, NC. In 1934, he graduated from North Carolina State University and entered the office supply business.

In 1949, Walter Jones began what would prove to be an illustrious and historic career as a public servant when he was elected the mayor of Farmville, NC. He served for 4 years as mayor of Farmville. In 1955 he was elected to the North Carolina State Assembly. After being elected to three terms as a State assemblyman, Walter Jones was elected to the State senate in 1965. In 1966 he won a special election to fill the vacancy caused by the death of former Member Herbert Bonner. From his first days in Congress, Walter worked hard and long for his constituents. He also became a tireless advocate for the American worker and the American farmer. He was reelected to 11 successive Congresses, serving in the U.S. House of Representatives from February 5, 1966 to January 3, 1989. He was a member of the House Agriculture Committee and served as chairman of the Merchant Marine and Fisheries Committee and served as chairman of the Merchant Marine and Fisheries Committee from the 97th through the 100th Congresses.

As chairman of the Merchant Marine and Fisheries Committee, Walter Jones committed himself to ensuring that the United States

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

maintained a viable merchant marine fleet and maritime industry.

After leaving Congress in 1989, Walter Jones retired to Farmville, NC where he resided until his untimely death on September 15, 1992. Walter Jones was not only a dedicated, hard working and accomplished public servant, he was a good friend and mentor. I will always remember Walter Jones and I miss him to this day. It is fitting and appropriate to designate a Federal building and U.S. courthouse in his honor. I urge all my colleagues to support his long overdue legislation.

TRIBUTE TO FORMER PRESIDENT RONALD REAGAN

HON. ANDREA H. SEASTRAND

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mrs. SEASTRAND. Mr. Speaker, today is former President Ronald Reagan's 84th birthday and thus a fitting time to remember his striking record of accomplishment and his uniquely American life.

Late last year, President Reagan once again tugged at the heart strings of our Nation by revealing he was in the early stages of Alzheimer's disease—an act of great courage. His intent was typically Reagan. It was not to gather sympathy, but to be an example and a beacon of hope for the millions of people who suffer from this disease.

Today, as the Republican-controlled Congress tries to move the Contract With America through the House of Representatives, we are reminded of the first revolution—the Reagan revolution—that swept through Washington during the 1980's. Many of the things President Reagan championed throughout his Presidency have found a home and a new life in the Republican Contract. Welfare reform, real spending cuts, the balanced budget amendment, giving more flexibility to the States, and the line-item veto were all regular features of the Reagan program stifled by the Democrat Congress.

President Reagan's list of accomplishments seems unending. On the economic front, Reaganomics—as it was derided by his opponents—produced the longest peacetime economic expansion since World War II and blew holes right through the traditional and current Democrat appeals to class warfare. The Reagan tax cuts reduced the top marginal income tax rate from 70 percent to 28 percent and took many low-income people off the tax rolls altogether. The double-digit inflation and soaring interest rates of the Carter years crumbled to record lows. As Mr. Reagan himself has pointed out on many occasions, his only regret was an inability to get Congress to cut spending.

In foreign policy, Mr. Reagan's steadfast commitment to peace through strength sent an important signal to the world that the United States would no longer stand back and watch an expansionist Soviet Union roll up more territory. From Afghanistan to Angola to Nicaragua, the Reagan doctrine put the United States firmly behind the freedom fighters who sought to throw off the oppressive Soviet yolk.

Notwithstanding Time magazine's opinion, President Reagan was truly the man of the decade during the 1980's. There was no single figure more responsible for ending the cold war than Ronald Reagan. One sterling example was the 1986 Reykjavik summit. For 2 days the United States and the Soviets negotiated the most comprehensive arms-reduction treaty in history only to have Mikhail Gorbachev throw a big curve at the end—the United States would have to give up the strategic defense initiative. Ronald Reagan stood before Gorbachev and the world, held his ground, and said no deal. More than any single moment of his Presidency that was the nail right through the heart of the Soviet empire. As Gorbachev himself later admitted, when the Soviets realized that Reagan could not be bowled over, the game had changed and they did not have the resources to keep up.

President Reagan's policy of peace through strength was a hands-down winner. It was a winner in spite of his critics. All during his Presidency Ronald Reagan withstood a vigorous assault from the left. But, through it all, he remained committed to restoring our Nation's defenses. There would be no further examples of American helicopters breaking down over foreign lands, no more fears of a hollow Army, and no lack of morale on the part of American serviceman. Having lived through four major wars in his lifetime, President Reagan was determined to make sure that our Armed Forces—those who would be asked to defend American interests at home and abroad at a moment's notice—had the resources, the respect, and the commitment from their Government to do the job. As he so passionately and eloquently stated in perhaps his finest speech, the 40th anniversary of the allied invasion at Normandy: "We will always remember. We will always be proud. We will always be prepared, so we may always be free."

Ronald Reagan was one of the finest President's in our Nation's distinguished history. Despite the arguments put forth by revisionist thinkers, President Reagan's place in history is secure. He stands next to the giants, Presidents like Roosevelt and Lincoln, who arrived at a time when the Nation desperately needed the passion and the leadership of a true believer. As he fights with courage, conviction, and that famous Reagan optimism against Alzheimer's, let us remember and pay tribute to a man who embodies the American Dream.

IN RECOGNITION OF THE LATE BROOKS STEVENS

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. BARRETT of Wisconsin. Mr. Speaker, I am saddened, but honored, to pay tribute to the late Brooks Stevens, a pioneer in industrial design who recently died in his and my home town of Milwaukee at the age of 83.

Our Nation has lost one of its most esteemed and accomplished citizens. But, he has left behind a legacy that will continue to touch our lives.

Mr. Stevens' distinguished career extends several decades. He was a founder of the industrial design business in the 1930's and, along with 13 others, met in New York to create the Society of Industrial Designers. Unlike the other designers, he resisted the temptation to move to New York, keeping his business, Brooks Stevens Design Associates, in the Milwaukee area.

Without us realizing it, Mr. Stevens' accomplishments in the world of design affect our lives daily. His ideas have helped make our lives easier, simpler, and grander. And, no doubt you have used one of his products.

One of Mr. Stevens' earliest successes was the prototype clothes dryer to which he added a window to draw attention to the function of the new product.

He was also responsible for the front fender design for the 1949 Harley-Davidson Hydraglide motorcycle, still used by the company in its heritage classic series of motorcycles.

Other inventions include the Lawnboy, the world's first rotary mower; the Excalibur, an ornate antique-style car with a regular powerful engine; the Miller Beer logo; the outboard motor; civilian Jeepsters after World War II; the Hiawatha train, which he designed from nose to tail; and of course, the Oscar Mayer Wienermobile, the famed advertising car.

Mr. Stevens worked for a total of 585 clients throughout the world, producing 3,000 designs.

In his later years he devoted much of his time and talent to the Milwaukee Institute of Art and Design, where he spent three afternoons a week critiquing the work of design students. There is no doubt, Brooks Stevens was a national treasure. He personified the American spirit and the principles that have made our country great. Milwaukee will sorely miss his presence. But, he will continue to be an inspiration to all of us.

TRIBUTE TO CINDY BOWEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. McINNIS. Mr. Speaker, today I rise to recognize an outstanding Coloradan, Mrs. Cindy Bowen, on the occasion of her being awarded 1994 Commissioner of the Year.

Each year the Colorado Counties Board of Directors select a Colorado county commissioner in recognition of their achievements and contributions they have made the previous year. Cindy Bowen is no exception. Her innovative approach to problem solving made her a valuable player, not only in local politics, but in national politics as well. Through her hard work, Commissioner Bowen was instrumental in convincing Members of Congress of the need to increase funding to counties in order to compensate taxpayers for the impact of tax-exempt supporters.

Furthermore, Cindy Bowen is very active in several public land issues and participated in reviewing the Department of Interior's rangeland reform proposals. In my opinion, Cindy is a very intelligent choice to be named this years Commissioner of the Year.

Mr. Speaker, I ask my colleagues to join me in marking this occasion, and saluting Cindy Bowen.

STAY IN SCHOOL YEAR—CHANDLER, TX

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. BRYANT of Texas. Mr. Speaker, I call the attention of my colleagues and fellow Americans to the leadership role individuals and governmental groups have assumed in my district, the Fifth Congressional District of Texas, in stressing the importance of education to our young people—particularly in the city of Chandler.

The counties, cities, and towns of this congressional district have for decades mirrored the economic and educational makeup of our Nation, with farming being the economic foundation of the rural counties, while finance, manufacturing, and the service industries stoked the furnace of urban areas.

These traditional roles are now less defined throughout our Nation, and nowhere more so than in the district that I am privileged to serve. New technologies, boosted by the information explosion, have resulted in greater production from fewer individuals on lesser acreage, in dairy, beef, and farming operations.

The result is that, more than ever before, fewer and fewer people are able to work the land in exchange for a comfortable, rewarding living.

The answer to this challenge facing our youth is found in one word—education. It is an accidental illustration of the times that the boundaries of the Fifth Congressional District of Texas are defined by two of the Nation's leading institutions of higher learning.

Just to the north of the district is Southern Methodist University, a long-time Dallas fixture as a liberal arts college and graduate school that supplies the area with leaders in business, legal, and other professions. Just beyond the southern border is Texas A&M University, the Nation's premier land-grant educational system. Scientific breakthroughs within the A&M system have changed the face of agriculture for the better, while A&M graduates exert influence on virtually all phases of industry.

And throughout the fifth district community, private and State universities, and junior college systems enhance educational opportunities for students.

In the Fifth Congressional District of Texas the hardware is in place, the dedication is in place, and the commitment is in place to make sure our leaders in the next century will be at the very least the equals of their competitors in the world market.

An outstanding example of this dedication to excellence in education was recently exhibited in the city of Chandler, Anderson County, TX, thanks to the cooperative efforts of city leaders and the U.S. Army.

Mayor Winston Reagan introduced to the Chandler City Council a proclamation stating that 1995 be Stay In School Year in Chandler. It states:

> Whereas, each and every young person in this country needs at least a high school education for both financial and personal reasons, and,
>
> Whereas, the United States Army, through its recruiters, is stressing for all U.S. youngsters to "stay in school and stay off drugs" because an education provides the best opportunities, whether in enlisting in the Army or working at a civilian job; and,
>
> Whereas, Army recruiters will serve as role models for youth and will provide programs encouraging youngsters to stay in school, I, Winston Reagan, Mayor of Chandler, Texas, hereby proclaim 1995 as "Stay in School Year."

I commend Mayor Reagan, the City Council of the City of Chandler, the citizens of Chandler, the U.S. Army and its recruiters for their concerted and cooperative efforts to stress the importance of education, and recommend that their example be followed throughout our Nation.

TRIBUTE TO GEORGE HERMAN "BABE" RUTH

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. CARDIN. Mr. Speaker, I rise today in recognition of George Herman "Babe" Ruth's 100th birthday. In Baltimore, MD, they are celebrating this historic occasion in the house where he was born.

They are celebrating a man who was larger than life, one of America's true heroes. A man who, many claim, "saved" baseball. They are celebrating a man who earned his nickname "The Sultan of Swat" by creating new standards for baseball players and setting extraordinary batting records, many of which still stand today and none of which were broken in his lifetime.

They are celebrating not just the baseball accomplishments and records of a legend. They are celebrating Babe Ruth the Baltimorean; Babe Ruth the devout Catholic, Babe Ruth the devoted son, Babe Ruth the friend to every kid he ever met. Above all, they are celebrating Babe Ruth the man.

I am proud to be from Baltimore and proud to say that George Herman "Babe" Ruth, born at 216 Emory Street in Baltimore, MD on February 6, 1895, is a native son, long to be remembered not only for his athletic ability, but also for the goodness of his heart.

TRIBUTE TO LORRAINE PACE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. ACKERMAN. Mr. Speaker, I ask you and my colleagues in the House of Representatives to join me in congratulating Lorraine Pace on the occasion of her induction into the Suffolk County Women's Hall of Fame.

Mrs. Pace's induction is the culmination of her public and private dedication to the survivors of breast cancer. Her tireless activism has made her a role model and an inspiration for all women.

A Long Islander who is all too aware of the high incidence of breast cancer on Long Island, Lorraine continues to be at the forefront of the fight against breast cancer in Suffolk County. As the breast cancer education specialist at the Stony Brook University Medical Center, Mrs. Pace is uniquely qualified to lead this fight that all too many women on Long Island and throughout this Nation must face in their lifetime. The American Cancer Society estimates that 182,000 women were diagnosed with breast cancer last year alone. Approximately 46,500 women died from the disease in 1994.

As the fight to prevent, and find a cure for breast cancer goes forward, Lorraine Pace takes an honored place in the Suffolk County Women's Hall of Fame.

I ask all my colleagues in the House of Representatives to join me in congratulating Lorraine Pace on her induction and lauding her for many years of work on behalf of the women of Suffolk County.

HONORING THE MID-HUDSON UNIT OF IRISH NORTHERN AID

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. HINCHEY. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the accomplishments of the Mid-Hudson, NY, unit of Irish Northern Aid, commemorating 25 years of support for Irish-American causes. On February 11, the Mid-Hudson unit will come together not only to celebrate the success of the current peace process, but also to pay tribute to several outstanding local citizens who are dedicated to furthering the Irish-American political agenda, principally among them, my friend Tom Hoffay.

Tom Hoffay has been an outspoken advocate for issues of significance to Northern Ireland and has been responsible for the success of many celebrations and events here in the Hudson Valley. He is committed to seeing that our country plays the vital and pivotal role that it is capable of in order to effect lasting peace in Northern Ireland. His dedication to peace through justice is to be commended and should be echoed by all.

I am honored to ask my colleagues to unite with me in expressing support for the Irish-American community on the occasion of the 25th anniversary of Irish Northern Aid.

AMTRAK ROUTE CLOSURE AND REALIGNMENT ACT OF 1995

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. WOLF. Mr. Speaker, I am today, along with Mr. BARTON, Mr. ARMEY, Mr. DELAY, Mr. PACKARD, Mr. FOX, and Mr. ENGLISH, introducing the Amtrak Route Closure and Realignment Act of 1995. Before I elaborate on this legislation, I want to say that this is not an attempt to eliminate passenger rail service in the United States.

This is an attempt to save it. This bill is about an economic rebirth of a system headed for financial disaster—a disaster that would loom large even if the American taxpayers were willing to continue present subsidies. And they are not.

When the private railroads turned over their passenger business to the Government in 1971, Congress made what was referred to as a one-time grant of $140 million for startup help. More than two decades later, a total of about $15 billion in taxpayer assistance has been granted to Amtrak.

This legislation seeks to achieve the evolution of a passenger rail network in this Nation which can be viable on greatly reduced taxpayer subsidies. Current Federal subsidies for Amtrak, including operating, capital, and mandatory retirement payments, total more than $1 billion annually. Of that total, nearly $400 million is for operating subsidies. The goal of this legislation would be to reduce and possibly phase out the operating subsidies over a 5-year period.

In December, the Amtrak Board of Directors took very positive action in announcing some route closings, truncations, and frequency reductions. But these realignments were targeted only at dealing with the current revenue shortfall of about $200 million. These decisions, painful as they were, represent just the first step. Much more remains to be done.

Since some of Amtrak's unprofitable routes have been mandated by Congress, it is imperative that Congress provide Amtrak with the assistance needed to reinvent this system into one that is operated under strict business principles.

My legislation would remove the painful decisions that must be made from the political realm and place them in the hands of an independent Commission modeled after BRAC, the Base Realignment and Closure Commission. The Total Realignment of Amtrak Commission [TRAC] would conduct an economic analysis of the entire Amtrak system and hold public hearings around the country to ensure that the public and other stakeholders were given the opportunity to be heard. This would be as fair a process as humanly possible with the end goal to make recommendations on route closings and other realignments urgently needed to ensure the survival of a passenger rail system in America.

In addition to economic data, TRAC would also review nonmonetary data such as the contributions made by certain routes toward alleviation of airport congestion, pollution abatement, and energy conservation. This Commission would also examine alternative modes of transportation in rural areas, as well as look at uses communities could make of abandoned rail lines.

Under my legislation, no segment of the Amtrak system would be exempt from review, including the Northeast corridor. TRAC would also examine the ridership forecasts and other assumptions underlying the Northeast corridor, particularly with respect to the continuation of the electrification of this corridor from New Haven to Boston, a project that will demand large subsidies in future years. This is about a $2 billion project, with nearly $500 million already expended.

The recommendations of this Commission would not be limited to a system which offers national, interconnected service. After the completion of systemwide economic analysis, the Commission could find, for example, that the only system which can be justified to the taxpayers is one that provides regional services. However, connectivity could be an option examined by States along currently unprofitable long haul routes. If States would decide to continue service along such routes slated for closure, State officials could contract with Amtrak to continue service, possibly using flexibility under block grants.

I would point out that, under current law, this Commission would face a difficult dilemma. Because the Rail Labor Protection Act mandates payment of 6 years of full benefits to any rail worker who loses a job due to a route closing, many of the most unprofitable routes would cost more to close than to keep them limping along at a loss. In fact, under the 30-mile rule also in current law, an Amtrak employee is entitled to demand the full severance package if he is merely relocated 30 miles or more. No union workers in the private sector are afforded such generous severance compensation, and these astronomical costs are one of the reasons that every trip on this system costs American taxpayers $25.

My colleague, Mr. BARTON of Texas, has reintroduced his legislation to remedy this dilemma by limiting such severance benefits to 6 months and by eliminating the so-called 30-mile rule. I am supporting my colleague's bill and its speedy enactment would be very helpful to the decisions which would have to be made by the route closing Commission.

After conducting a complete, systemwide, economic review, TRAC would present its recommendations to Congress. The Commission's recommendations would then be considered by Congress under an expedited timeframe with no amendments permitted and an up-or-down vote.

The members of TRAC would be appointed by the President and by the majority leadership in the House and Senate, in consultation with minority leadership in both bodies. My legislation calls for the membership of the Commission to be comprised of individuals with expertise in rail finance, economic analysis, legal issues, and other relevant areas. Also serving on the Commission would be the Secretary of the U.S. Department of Transportation, one representative of a rail labor union, and one member of rail management.

In conclusion, Mr. Speaker, I would reiterate that saving passenger rail service in this country requires objective analysis and urgent remedies. And, I believe it has to be a system that we can justify to the taxpayers.

TRIBUTE TO COL. WILLIAM F. GABELLA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to congratulate Col. William F. Gabella, who recently received his Master of Law (LLM) in Air and Space Law from McGill University in Montreal, Canada.

Mr. Speaker, as Colonel Gabella receives his degree, I would like to join his colleagues, family, and friends throughout the community of Canon City in congratulating him. Colonel Gabella is an individual whom I greatly admire and respect, and I am pleased to salute him on this important occasion.

This amazing accomplishment was arrived at by hard work and great intelligence. Colonel Gabella is a credit to Colorado and I'm proud to say he resides in my congressional district.

My best wishes to Colonel Gabella and his family. He has made all who know him proud.

A TRIBUTE TO PHILLIP L. WILLIS, AN AMERICAN HERO

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. BRYANT of Texas. Mr. Speaker, one can tell a lot about a man by what he chooses to do with his life. And Phillip LaFrance Willis was an American hero who chose to live his to the fullest.

This much decorated veteran of World War II died of leukemia on Friday, January 27, 1994, at his home in Dallas.

Phil Willis, major, U.S. Air Force, retired. That is how he will be best remembered. And that is the way he would want to be remembered.

At daybreak on December 8, 1941—the morning after the day of infamy—23-year-old Second Lieutenant Willis, wearing his cowboy boots as he patroled a beach near Pearl Harbor, captured America's first enemy prisoner of World War II.

Until his retirement as a 28-year-old major as a result of combat injuries in 1946, Phil Willis served with distinction as a B–17 bomber pilot through the Battles of Midway, Guadalcanal, the Coral Sea, New Guinea, and New Britain.

In 52 missions, he was credited with sinking four ships, including one of Japan's largest troop transports, and a submarine and shooting down eight enemy aircraft. He walked away from two downed bombers in the Pacific without losing a crewmember

His service earned him more than 20 decorations, making him among the most decorated Texas pilots of the war and winning him a place in the Army Air Corps Hall of Fame at Brooks Field in San Antonio.

Born in Kaufman County, TX, on August 2, 1918, Phil Willis did not confine his patriotism to military service.

Throughout his 76 years, Phil Willis was devoted to his country, his community, and his fellow citizens. Whether in uniform, in appointed or elective public office, in community and veterans organizations, or in private life, he was devoted to public service. Loyalty always guided him.

While working to earn his 1948 undergraduate degree from North Texas State University, now the University of North Texas, the young veteran was elected to the Texas House of Representatives from Kaufman County, where he served two terms.

Simultaneously elected to the Texas Legislature, Phil and his brother, Doyle Willis, who continues to serve with distinction, are the only two brothers to have served together in the Texas House of Representatives.

Phil Willis also served as a member of the San Antonio Zoning and Planning Commission and was a Texas Centennial Statehood Commissioner. As a real estate broker, builder, and developer, he was always active in professional and business affairs.

He was named Man of the Year by the San Antonio Jaycees in 1951 and was tirelessly devoted to veterans affairs, particularly through the Veterans of Foreign Wars of which he was a life member and which honored him for distinguished service in 1958 and elevated him to National Aide-de-Camp that year.

Phil Willis served as president, chaplain, and trustee of his chapter of the Pearl Harbor Survivors Association and served as its representative to the Greater Dallas Veterans Council.

A 32d Degree Scottish Rite Mason, he was active in raising funds for the Shrine Crippled Children's Hospital.

He was proud to be a member of the Sons of the Republic of Texas and the Sons of Confederate Veterans, and he earned accolades as an award winning chili cook.

Phil Willis was devoted to his family—his wife of 51 years, Marilyn Stubblefield Willis, his daughters, Linda Pipes and Rosemary Roach, and his four grandchildren—his church, and his friends.

He was a good yellow dog Democrat who served as a precinct election judge. In fact, his memorial service program proclaims that he was a "proud, conservative Sam Rayburn Democrat."

Phillip L. Willis, major, USAF, retired, a man who served his country and community exceeding well, a man of humor and good will who enjoyed life and those he lived it with, a man described appropriately, and with humor in that memorial program as "A myth of a man—he didn't myth much."

Phil Willis, patriot and friend, we will miss you.

50 YEAR ANNIVERSARY OF VFW POST 4012, NORTHVILLE, MI

HON. LYNN N. RIVERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Ms. RIVERS. Mr. Speaker, I rise today to recognize a very important organization in my district. The Veterans of Foreign Wars Post 4012 in Northville, MI, achieved the milestone of 50 years on January 30, 1995. On February 4, 1995, the Post is celebrating this milestone with their families and friends.

VFW Post 4012 has been supportive of service men and women at any time of need. Every month members from the post travel to nearby VA hospitals to enjoy fellowship with fellow veterans. During the Persian Gulf conflict the post provided support to our soldiers by sending over 1,200 CARE packages to our troops. The post also operates, in conjunction with the local American Legion, their own cemetery for local veterans.

VFW Post 4012 has been a leader within the VFW organization. They were the first post worldwide to achieve 100, 200, 300, 400, and 500 lifetime members. Including the ladies' auxiliary, the post currently has over 600 members, a feat that speaks to the commitment of veterans to continued service to our community.

Post 4012 is having an impact on everyone in the Northville community. Their efforts include coordination of parades with the American Legion, opening the doors of their hall for several community organizations to meet at no cost, and finally, in an effort to help with the costs of college, a local scholarship for Northville students.

Mr. Speaker, the members of VFW Post 4012 all served this country once. Now they are serving their country again. And I for one would like to thank them for all they have done, and will continue to do. So to Commander Gordon Mason, Senior Vice Commander Henry Tiilikka, and all members of Post 4012: Congratulations on your 50th anniversary.

AFFORDABLE HOUSING IN WINDWOOD

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. ORTIZ. Mr. Speaker, a cherished part of the American dream is home ownership. It gives people a sense of permanence and a stake in their communities and in their country.

Today, a first of its kind public-private partnership with Fannie Mae and the city of Brownsville, Texas Commerce Bank, the Department of Housing and Urban Development HOME Program, Federal Home Loan Bank of Dallas, and Mercantile Bank NA, was announced for the development and construction of a subdivision to provide affordable housing to hundreds of Brownsville residents. The single-family homes to be constructed at Windwood will be available for purchase by families earning as little as $11,500 per year through a unique lease-purchase financing plan that will transfer fee-simple ownership to qualifying families in 2 years.

Today in Texas, 59.3 percent of the families own their own homes. This rate compares with a national home ownership rate of roughly 64 percent, according to the latest U.S. Census figures. As the Representative of families living in the 27th Congressional District of Texas, I am pleased to see the Brownsville Community Development Corp., Fannie Mae, Federal Home Loan Bank of Dallas, and the Texas Commerce Bank spearheading such public-private partnerships which will help young, hardworking families in south Texas move into the home they have always wanted.

The Windwood Development will be the largest lease-purchase housing program on a single site ever financed by Fannie Mae's Southwestern Regional Office. Fannie Mae will buy over $11.2 million in first lien loans originated by Texas Commerce Mortgage Co., a division of Chemical Bank. Families wishing to purchase their home under the lease-purchase program must make a $750 down payment, exhibit a credit history acceptable to Texas Commerce Mortgage Co., complete a first-time home buyer education program, and contribute monthly payments for 2 years to an escrow account set up to assist the family in saving the remainder of the down payment and closing costs.

This public-private partnership is one of the State's most innovative combinations of public and private sector financing. Anytime a city can completely recover a public sector investment through the immediate creation of a property tax base, while at the same time providing safe, high-quality housing and the opportunity for home ownership for our citizens—we all win.

The subdivision at Windwood is specifically targeted to provide the opportunity for young, working families to own a high quality home of their own. This reduces the need for them to live in cramped quarters with their parents, or to pay for building their own home later.

The total project is expected to be completed within 2 years and will cost approximately $13 million. Financing partners will include Texas Commerce Mortgage Co.—supplying $11.2 million in one-time assumable loans, the Department of Housing and Urban Development HOME Program—through the city of Brownsville, the Federal Home Loan Bank of Dallas—providing $1.6 million in second lien deferred loans, and Mercantile Bank NA—lending $10 million for interim construction and development financing, and Fannie Mae. The Community Development Corp. of Brownsville will be the project owner through the lease purchase period, and will serve the project developer.

I commend the financing partners for recognizing the needs of the local community, while at the same time exhibiting the willingness to invest in new solutions to help working Brownsville families realize a part of the American dream. It is only through public-private partnerships such as these that the dream of home ownership will become a reality for many of our working families in south Texas.

AMENDING THE METROPOLITAN WASHINGTON AIRPORTS ACT OF 1986

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mrs. MORELLA. Mr. Speaker, today I am pleased to introduce legislation to amend the Metropolitan Washington Airports Act of 1986, which has been overturned by a Supreme Court ruling. Under the 1986 Airports Act, Congress transferred control of National and Dulles Airports from the Federal Aviation Administration [FAA] to a local authority, the Metropolitan Washington Airports Authority [MWAA]. When the Supreme Court last month upheld a decision by the Appeals Court regarding the constitutionality of the Congressional Board of Review, it also dissolved the authority of MWAA. On March 31, MWAA's ability to pass a budget, issue bonds, and implement plans for the $2 billion renovations at

National Airport will end. Consequently, we, in Congress, must act quickly and pass legislation to allow National and Dulles Airports to continue to operate.

My legislation would create a new Airport Authority governed by a board of directors made up of 11 members who would meet certain criteria: they must live in the area affected by the airports; and they cannot be paid for their services on the board.

The members of the board of directors would be appointed: 1 by the Governor of Virginia, 1 by the mayor of the District of Columbia, 1 by the Governor of Maryland, 2 each by the representatives from the local governments of Virginia, Maryland, and the District of Columbia who sit on the Metropolitan Washington Council of Governments [COG] board of directors, and 2 by the Virginia State legislature.

Under my bill, the Congressional Review Board would be dissolved, in keeping with two separate rulings by the Supreme Court.

An airport authority appointed by local elected officials, under the watchful eye of Congress, would work hard to foster regulations that are fair and in the best interest of both the airlines and the public. An authority that is responsible to local concerns will help the aviation industry remain a good neighbor to the communities that it serves. I hope all of my colleagues will join me in support of this necessary legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Metropolitan Washington Airports Act Amendments of 1995".

SEC. 2. FINDINGS.

Section 6002(7) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2451(7)) is amended—

(1) by inserting "declining" after "perceived"; and

(2) by striking "the growing local interest," and inserting "the increasing need for local planning and management on a metropolitan statistical area basis,".

SEC. 3. AIRPORTS AUTHORITY.

(a) BOARD OF DIRECTORS.—Section 6007 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456) is amended by striking subsections (e), (f), (g), and (h) and inserting the following:

"(e) BOARD OF DIRECTORS.—

"(1) APPOINTMENT.—The Airports Authority shall be governed by a board of directors of 11 members as follows:

"(A) 1 member shall be appointed by the Governor of Virginia.

"(B) 1 member shall be appointed by the Mayor of the District of Columbia.

"(C) 1 member shall be appointed by the Governor of Maryland.

"(D) 2 members shall be appointed by the Virginia State legislature.

"(E) 2 members shall be appointed by those representatives from Virginia local governments who are on the Board of Directors of the Metropolitan Washington Council of Governments.

"(F) 2 members shall be appointed by those representatives from the District of Columbia government who are on the Board of Directors of the Metropolitan Washington Council of Governments.

"(G) 2 members shall be appointed by those representatives from Maryland local governments who are on the Board of Directors of the Metropolitan Washington Council of Governments.

The Chairman shall be appointed from among the members by a majority vote of the members and shall serve until replaced by a majority vote of the members.

"(2) RESTRICTIONS.—Members (A) shall serve without compensation other than reasonable expenses incident to board functions, and (B) must reside within the Washington Standard Metropolitan Statistical Area.

"(3) TERMS.—Members shall be appointed for terms of 4 years.

"(4) REQUIRED NUMBER OF VOTES.—7 votes shall be required to approve bond issues and the annual budget.

"(f) AIRPORT NOISE.—

"(1) BALANCED ENVIRONMENTAL PROTECTION.—In order to protect the public from the impact of aircraft noise and at the same time provide for suitable air transportation service to the Washington Standard Metropolitan Statistical Area, a proposed action of the board of directors which could result in a change in the impact of aircraft noise in the vicinity of a Metropolitan Washington Airport may not take unless, at least 60 days before the action is to take effect, the board of directors—

"(A) notifies, in writing, the Committee on Noise Abatement at National and Dulles Airports of the Washington Council of Governments of the action for the purpose of allowing such committee the opportunity to review, and submit comments on, the action; and

"(B) submits, in writing, to such committee a response to any comment of such committee with respect to the action within 30 days after the date of receipt of such comment.".

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by sections 2 and 3 shall take effect on the date of the enactment of this Act.

(b) LIMITATION ON APPLICABILITY.—Persons appointed as members of the board of directors of the Metropolitan Washington Airports Authority on the date of the enactment of this Act shall continue to serve on such board until their respective terms expire under former section 6007(e).

(c) INITIAL APPOINTMENTS.—

(1) VIRGINIA APPOINTMENTS.—The Governor of Virginia shall appoint under new section 6007(e)(1)(A) a person to fill the vacancy of the first member appointed by the Governor of Virginia under former section 6007(e)(1)(A) whose term expires after the date of the enactment of this Act. The Virginia State legislature shall appoint under new section 6007(e)(1)(D) persons to fill the vacancies of the second and third members appointed by the Governor under former section 6007(e)(1)(A) whose terms expire after such date of enactment. Representatives from Virginia local governments shall appoint under new section 6007(e)(1)(E) persons to fill the vacancies of the fourth and fifth members appointed by the Governor under former section 6007(e)(1)(A) whose terms expire after such date of enactment.

(2) DISTRICT OF COLUMBIA APPOINTMENTS.—The Mayor of the District of Columbia shall appoint under new section 6007(e)(1)(B) a person to fill the vacancy of the first member appointed by the Mayor of the District of Columbia under former section 6007(e)(1)(B) whose term expires after the date of the enactment of this Act. Representatives from the District of Columbia government shall appoint under new section 6007(e)(1)(F) persons to fill the vacancies of the second and third such members appointed by the Mayor under former section 6007(e)(1)(B) whose terms expire after such date of enactment.

(3) MARYLAND APPOINTMENTS.—The Governor of Maryland shall appoint under new section 6007(e)(1)(C) a person to fill the vacancy of the first member appointed by the Governor of Maryland under former section 6007(e)(1)(C) whose term expires after the date of the enactment of this Act. Representatives from Maryland local governments shall appoint under new section 6007(e)(1)(G)—

(A) a person to fill the vacancy of the second member appointed by the Governor under former section 6007(e)(1)(C) whose term expires after such date of enactment; and

(B) a person to fill the vacancy of the member appointed by the President under former section 6007(e)(1)(D) when the term of such member expires after such date of enactment.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) FORMER SECTION 6007(e).—The term "former section 6007(e)" means section 6007(e) of the Metropolitan Washington Airports Act of 1986 as in effect on the day before the date of the enactment of this Act.

(2) NEW SECTION 6007(e).—The term "new section 6007(e)" means section 6007(e) of the Metropolitan Washington Airports Act of 1986, as amended by section 3 of this Act.

TRIBUTE TO JOSEPHINE "JO" GORE ON HER RETIREMENT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 6, 1995

Mr. McINNIS. Mr. Speaker, today, I want to congratulate Josephine "Jo" Gore on the occasion of her retirement from the Delta County clerk's office on January 9, 1995.

During her 14-year career, Jo has served in the Motor Vehicle Department and the county clerk's office. Her professionalism and devotion to the people of Delta County has not gone unnoticed. Jo has successfully moved Delta County into the 20th century with the coming of the high-technology age. With the ever-growing population of Delta County and the advent of Amendment One, we have seen Jo's role in the community grow in importance. She will surely be missed.

Mr. Speaker, I ask our colleagues to join me in congratulating Jo Gore on her transition to civilian life. I wish her the best of luck in whatever she decides to do. I know all of us in Colorado thank her for her dedicated, professional, and selfless service to Delta County CO.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees

to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, February 7, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 8

9:30 a.m.
Budget
To hold hearings on the President's fiscal year 1996 budget for the Federal Government.
SD–608

Finance
Organizational meeting to consider subcommittee membership; to be followed by hearings to examine proposed tax cuts contained in the President's fiscal year 1996 budget for the Federal Government.
SD–215

Governmental Affairs
To continue hearings to examine regulatory reform issues.
SD–342

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD–226

Select on Intelligence
To hold closed hearings on intelligence matters.
SH–219

FEBRUARY 9

9:30 a.m.
Armed Services
To hold hearings on proposed legislation authorizing funds for fiscal year 1996 for the Department of Defense and the future years defense program.
SH–216

Energy and Natural Resources
To hold hearings on the President's proposed budget request for fiscal year 1996 for the Department of Energy and the Federal Energy Regulatory Commission.
SD–366

Finance
To hold hearings on S. 287, to expand individual retirement accounts (IRA's) for spouses, and on proposals to expand IRA's, 401(k) plans, and other savings arrangements.
SD–215

Labor and Human Resources
To hold hearings to examine employee involvement and worker management cooperation.
SD–430

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Jewish War Veterans, Retired Officers Association, Non-Commissioned Officers Association, and the Association of the United States Army.
345 Cannon Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs, focusing on U.S. policy toward Russia and the New Independent States.
SD–192

Indian Affairs
To hold oversight hearings to review challenges facing Indian youth.
SR–485

FEBRUARY 10

9:00 a.m.
Judiciary
To hold hearings on the national drug control strategy.
SD–226

9:30 a.m.
Budget
To hold hearings on the President's proposed budget request for fiscal year 1996 for the Department of Defense.
SD–608

10:00 a.m.
Small Business
To hold hearings on the future of the Small Business Administration.
SR–428A

FEBRUARY 14

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine how to reduce excessive government regulation of agriculture and agribusiness.
SR–332

Indian Affairs
To hold hearings on proposed legislation authorizing funds for fiscal year 1996 for Indian programs.
SR–485

FEBRUARY 15

9:30 a.m.
Energy and Natural Resources
To hold hearings on the President's proposed budget request for fiscal year 1996 for the Forest Service.
SD–366

Labor and Human Resources
To hold hearings on S. 141, to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on federal construction contracts, promote small business participation in Federal contracting, and reduce unnecessary paperwork and reporting requirements.
SD–430

2:00 p.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine the court imposed major league baseball antitrust exemption.
SD–226

FEBRUARY 16

9:30 a.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1996 for Indian programs.
SR–485

10:00 a.m.
Labor and Human Resources
Children and Families Subcommittee
To hold hearings to examine the effectiveness of the Federal child care and development block grant program.
SD–430

FEBRUARY 23

2:00 p.m.
Indian Affairs
To hold oversight hearings to examine the structure and funding of the Bureau of Indian Affairs.
SR–485

MARCH 1

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the Disabled American Veterans.
345 Cannon Building

MARCH 2

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Transportation.
SD–192

MARCH 7

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

MARCH 9

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Transportation Safety Board.
SD–192

MARCH 16

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Highway Administration, Department of Transportation.
SD–192

MARCH 23

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Railroad Administration, Department of Transportation, and the National Passenger Railroad Corporation (Amtrak).
SD–192

MARCH 30

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of AMVETS, American Ex-Prisoners of War, Vietnam Veterans of America,

Blinded Veterans Association, and the Military Order of the Purple Heart.

345 Cannon Building

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Aviation Administration, Department of Transportation.

SD–192

APRIL 27

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Transit Administration, Department of Transportation.

SD–192

MAY 4

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Coast Guard, Department of Transportation.

SD–192

SENATE—*Tuesday, February 7, 1995*

(Legislative day of Monday, January 30, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rabbi Joshua O. Haberman, of the Washington Hebrew Congregation.

PRAYER

The guest Chaplain, the Rabbi Joshua O. Haberman, offered the following prayer:

Let us pray:

Rock of Ages:

We whose lives are forever in motion, from moment to moment, from place to place, even from life to death, we turn to Thee, Creator of all, who alone remains eternally the same in this ever-changing world.

Though we be but specks of dust in this vast universe, not knowing why and for what purpose we were brought into life, we are still Thy creatures and Thou art the very source of our being. In this moment of prayer and in spiritual linkage with Thee, we partake of Thine eternity and glory in the faith that Thou hast set meaning and purpose for our existence. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished chairman of the Judiciary Committee is recognized.

Mr. HATCH. I thank the Chair.

SCHEDULE

Mr. HATCH. As the President pro tempore said, this morning time for the two leaders has been reserved and the Senate will immediately resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

For the information of all of my colleagues, according to the consent agreement entered last night, Senator DOLE or his designee will move to table the Daschle motion to commit at 12 o'clock noon tomorrow. Therefore, there will be debate only today on the pending amendments, so there will be no rollcall votes during today's session.

Also, the Senate will recess between the hours of 12:30 to 2:15 for the weekly policy luncheons to meet.

I notice my friend and colleague from Wisconsin is here and would desire to speak, so I yield the floor.

Mr. KOHL. I thank the Senator.

Mr. President, I ask to speak as if in morning business.

The PRESIDING OFFICER (Mr. JEFFORDS). Without objection, it is so ordered.

REDUCING GUNS IN AMERICA

Mr. KOHL. Mr. President, last week was Schools Without Violence week in the Milwaukee public schools. However, last Monday, at the same time that students in my alma mater, Washington High School, were preparing essays on a theme of "Peace Begins with Me," gunshots shattered that peace. In the first shooting ever in a Milwaukee classroom, a 19-year-old former student shot a high school senior in the arm and leg. He was fortunate that he was not killed.

In the aftermath, one concerned mother stated:

> Washington High School is a place of learning for kids. They should feel safe enough to learn. For this to happen here is unfair.

Mr. President, this is not just unfair. It is unacceptable. Young people should be able to concentrate on their biology and math classes and not on avoiding bullets.

Of course, there is no easy cure for the violence that is riddling our streets and ravaging our schools. We need more police, more prisons, and better family structure. However, I do believe that in the last Congress we passed three measures which can begin to make a difference: The Brady Act, the Youth Handgun Safety Act, and the assault weapons ban. I do not believe that any of these bills infringe on anyone's second amendment rights, and I am a strong supporter of these rights.

First, the evidence strongly supports the fact that during the 11 months that it has been in effect, the Brady law has helped save lives. According to the Bureau of Alcohol, Tobacco and Firearms, the Brady law has resulted in approximately 2 percent of all applicants being turned down from purchasing firearms because they were ineligible. Fugitives, rapists, murderers, and convicted felons have been arrested while trying to purchase guns.

In my own State of Wisconsin, which has a 2-day waiting period and a background check on handguns, more than 800 convicted felons have been prevented from buying handguns in the past 3 years.

Second, as we all know, homicides involving firearms, especially among our Nation's young, are on the increase. The risk of being murdered by a firearm in the United States has more than doubled since 1966. But for young people aged 15 to 19, it is much worse. The rate has increased nearly seven times. In our America of 1995, far too many of our young people are being killed and far too many of our young people are killing each other.

The problem of young people and guns has concerned me ever since I came to Washington. Last year, we finally made some progress. We enacted the Youth Handgun Safety Act as part of the crime bill which makes it a Federal crime to sell a handgun to a minor and for a minor to possess a handgun under most circumstances. Our measure had bipartisan support, from Senators CRAIG and THURMOND to former Senator Metzenbaum, from the NRA to law enforcement. It is not a total solution, but it does take a step toward stemming the violence.

Finally, we have all read reports that some House Members want to repeal the ban on assault weapons as part of a new crime bill. I believe that this would be a terrible mistake. Have we forgotten about the 1989 massacre of innocent schoolchildren in Stockton, CA, and have we forgotten about the Long Island Railroad commuters who were ruthlessly gunned down just last year?

The ban on assault weapons is supported by almost 80 percent of the American people and numerous police organizations. Law enforcement claims that these are the weapons of choice for gang members and drug kingpins and that repealing the ban would ensure that gangs outgun police officers who walk the beat. In any event, to repeal the ban would be to reopen a partisan political wound just at a time when we are trying to work together on behalf of the American people. For that reason alone, Senators DOLE and HATCH deserve credit for not including a repeal in their crime legislation.

Yes, things have certainly changed from when I was a student at Washington High School. Back then, we did not have to worry about gangs and drugs and assault weapons and broken homes. Young people were not raised in front of TV sets that bombarded them with senseless violent images. And now

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

for many young people guns, crime, and violence are the only way that they think they can get ahead.

Mr. President, this is not the kind of a world that our children deserve, but it is one in which too many do in fact live. And so I look forward to working with my colleagues in the 104th Congress to reduce the number of guns in school and the number of young people with guns.

I thank the Chair.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the joint resolution.

Pending:

Daschle motion to commit the resolution, with instructions to report back forthwith, with Daschle amendment No. 231, to require a budget plan before the amendment takes effect.

Dole amendment No. 232 (to instructions to commit), to establish that if Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, with 60 days thereafter, the President shall transmit to Congress a detailed plan to balance the budget by the year 2002.

Dole amendment No. 233 (to amendment No. 232), in the nature of a substitute.

Mr. HATCH. Mr. President, I would like to just continue where I was yesterday. I appreciate the comments of my dear friend from Wisconsin and the leadership he is providing on the balanced budget amendment as well.

Yesterday I brought up a Balanced Budget Act debt tracker, and you can see by this tracker that since we have been debating—we are now in our ninth day—since we have been debating the balanced budget amendment, each day the national debt has gone up $829,440,000. That was day one. As you can see, each day that we are debating this amendment, the deficit that the American taxpayers are owing is going up by that amount. It is a steady climb. As of yesterday, we were up to $6,635,520,000. As of today, the ninth day of our debate, we are now up to $7,464,960,000.

The trend line is straight up and we have only debated this 9 days. The President's budget does not do anything about that. As a matter of fact, his budget is going to go on at about $200 billion a year in deficits.

Today I added this other bar to this balanced budget amendment debt tracker. The debt, as I said, is now increased by $7,464,960,000 in just the 9 days we have been on this balanced budget amendment. A staff member told me this morning, regarding the balanced budget, in an attempt to balance his own budget at home he spends $50 a week for groceries. This $7.4 billion that we have just spent in 9 days, putting us into more bankruptcy—that $7.4 billion would buy that staff member groceries for 2,871,138 years at $50 a week. So you can see how big this really is. If you look in the Wall Street Journal yesterday there is a very clever article related to the debt.

I ask unanimous consent it be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Feb. 6, 1995]

If You Bought 2 Trillion Copies of This Paper * * *

(By Stephen Moore)

Today, President Clinton releases his fiscal 1996 budget. Already the Associated Press is reporting that officials claim the budget "proposes to abolish or consolidate hundreds of government programs, reducing federal spending by $144 billion over the next five years." No doubt the president will firmly insist that this is the most tight-fisted, penny-pinching budget in 20 years.

Why is this so predictable? Because this is what every president since Richard Nixon has said. But 20 years ago the federal budget was $370 billion. Today, Mr. Clinton will request almost $1.6 trillion. Even adjusting for inflation, the federal budget is twice as large as it was during the last years of the Nixon presidency. Besides, without the sleight of hand of baseline budgeting, President Clinton's new budget calls for a $50 billion increase in spending from the current budget. And that was $70 billion more than was spent the year before that. Yet the budget-busting news is bound to be greeted with a national yawn of unconcern.

Why is there more public outrage when we learn that Washington wastes $100 on Al Gore's famous ashtray than that it wastes nearly $1.6 trillion on everything else? Much of the problem seems to be that 1½ trillion is an incomprehensibly large number. So here are some simple ways to picture how enormous the U.S. government is today:

One trillion dollars—$1,000,000,000,000.00. That's 12 zeroes to the left of the decimal point. A trillion is a million times a million. It would take more than 1½ million millionaires to have as much money as is spent each year by Congress.

One of the highest-paid workers in America today is basketball superstar Shaquille O'Neal, who reportedly earns about $30 million a season in salary and endorsements. He is rich beyond our wildest imaginations. But he'd have to play 33,000 seasons before he earned $1 trillion. It would take a Superdome full of Shaquille O'Neals to have enough to pay all of Congress's bills each year.

Here's an experiment. What if we were to try to pay off the $4 trillion national debt by having Congress put one dollar every second into a special debt-buy-down account? How many years would it take to pay off the debt? One million seconds is about 12 days. One billion seconds is roughly 32 years. But one trillion seconds is almost 32,000 years. So to pay off the debt, Congress would have to put dollar bills into this account for about the next 130,000 years—roughly the amount of time that has passed since the Ice Age.

Even if we were to require Congress to put $100 a second into this debt-buy-down account, it would still take well over 1,000 years to pay the debt down.

Try this one on for size. Imagine a train of 50-foot boxcars crammed with $1 bills. How long would the train have to be to carry the $1.6 trillion Congress spends each year? About $65 million can be stuffed in a boxcar. Thus, the train would have to be about 240 miles long to carry enough dollar bills to balance the federal budget. In other words, you would need a train that stretches the entire Northeast corridor, from Washington, through Baltimore, Delaware, Philadelphia, New Jersey, and into New York City.

Former Office of Management and Budget Director Jim Miller calculates that if a military jet were flying overhead at the speed of sound and spewing out a roll of dollar bills behind it, the plane would have to fly for more than 15 years before it reeled out 1.6 trillion dollar bills.

Here's a challenging one: If you laid $1 bills from end to end, could you make a chain that stretches to the moon with 1.6 trillion? Answer: without a sweat, with billions and billions of dollars left over. In fact, they would stretch nearly from the Earth to the sun.

The newspaper tabloids report that O.J. Simpson is paying some $55,000 a day in legal fees. The trial would have to last 26 million days, or almost 100,000 years, before the lawyers earned $1.6 trillion.

This year the White House want to spend three times as much as America did to win World War I, which cost roughly $500 billion in today's dollars. Adjusted for inflation, the combined cost of defeating the Nazis and the Japanese in World War II and winning World War I was $4.5 trillion. This is what Washington will spend in peacetime in just the next three years to continue losing the war on poverty, drugs, illiteracy, homelessness and so on.

So far, we've just been counting the amount Washington spends each year. When state and local expenditures are included, total annual government spending now surpasses $2.5 trillion. That's more than $23,000 of government for every household in America. In constant dollars government spends twice as much per household as it did in 1960—though most Americans believe that government services have deteriorated since then.

With the $2.5 trillion government spends each year, you could purchase all of the farmland in the U.S. (market value: $725 billion), plus all of the stock of the 100 most profitable U.S. corporations today ($1.6 trillion). You would then still have just enough money left to pay the advance on Newt Gingrich's book deal.

All of this points to one conclusion: The budget that Bill Clinton is presenting today is not lean; it is not efficient; it is not frugal. It is a monstrosity. It should be greeted with heaps of ridicule and scorn. No matter how you stack it, $1.6 trillion is a whole lot of money—even in Washington.

Mr. HATCH. That article lists how much $1 trillion really is.

As I look at the President's recent budget, the way deficit cuts are calculated by the administration is like a 200 pound man claiming he lost weight when he weighs in at only 300 pounds because he thought he would be 400 pounds. Only in Washington can an increase be called a cut, and that is precisely what is happening.

The Daschle motion to recommit has rightly been called the right-to-stall proposal. It purports to put off the requirement of a balanced budget until Congress actually achieves a balanced budget, by adopting such a budget plan.

Mr. President, this proposal purports to give Congress a constitutional right to stall the requirement of a balanced budget by mere failure to balance the budget. Mr. President, the very reason we need a balanced budget amendment is because Congress has failed to balance the budget for decades. The Daschle right-to-stall amendment would make that abject failure of responsibility the explicit condition of avoiding the acceptance of that responsibility. If there is a better manner to lock in business as usual, a better way to constitutionalize or borrow and spend status quo—our ever-steeper slide into the debt abyss—I admit I cannot think of it.

Think of it, Mr. President, the proponents of the right-to-stall amendment want to use Congress' historical inability to balance the budget as a reason—a constitutional reason—to deny the American people, to deny future generations, the requirement they want to force Congress to act responsibly, get its fiscal house in order, and live within its means. Talk about a recipe for inaction. The right-to-stall proponents say "if Congress cannot balance the budget, they should not have to." They say, "if Congress has been and is unable to balance the budget in the absence of a balanced budget requirement, we should not impose a balanced budget requirement on it." Is this what the American people want? Do they want Congress' failure to fulfill its responsibility to be a reason to drop the requirement? Does this even make any sense?

Mr. President, I do not think so. If someone borrowed money from you, would you forgive the debt simply because they had not repaid it or had no plan to do so? I do not think so. If someone were dangerously overweight, would you suggest they not resolve to go on a diet because they did not yet have a full and particularized diet plan? I do not think so. When the Framers established the Congress in article I of the Constitution, did they first require that all subsequent legislation be disclosed before ratification? I do not think so.

Mr. President, the "right-to-stall" amendment confuses the difference between choosing rules and making choices within the rules. This distinction was elaborated by Prof. James M. Buchanan, a Nobel Prize-winning economist in a letter to the editor in yesterday's Wall Street Journal. I would like to quote it because I believe it points up a basic fallacy in the reasoning of the objection of the right-to-stall proponents. Professor Buchanan says:

> The essential argument [of the Daschle amendment proponents] against the balanced budget amendment reflects a basic misunderstanding of the difference between a choice of rules and choices made with rules. The Clinton-Democratic argument suggests that proponents of the amendment should specify what combination of spending cuts and revenue increases are to be implemented over the seven-year transition period. This argument reflects a failure to understand what a choice of constitutional constraint is all about and conflates within-rule choices and choices of rules themselves.
>
> Consider an analogy with an ordinary game, say poker. We choose the basic rules before we commence to play within whatever rules are chosen. Clearly, if we could foresee all of the contingencies beforehand (for example, how the cards are to fall), those of us who know in advance that we shall get bad hands would not agree to the rules in the first place. Choices of rules must be made in a setting in which we do not yet know the particulars of the within-rule choices.
>
> Applied to the politics of taxing and spending, the constitutional amendment imposes a new rule of the game, under which the ordinary interplay of interest groups-majoritarian politics will generate certain patterns of taxing-spending results. By the very nature of what rules-choices are, outcome patterns cannot be specified in advance.
>
> The opponents of the proposed balanced budget amendment should not be allowed to generate intellectual confusion about the difference between choices among vs. within rules. There are, of course, legitimate arguments that may be made against the amendment, but these involve concerns about the efficacy of alternative rules, including those that now exist, rather than a specific prediction of choices to be made under any rule or choices made during the transition between rules.

That was James M. Buchanan's letter to the Wall Street Journal on February 6 of this year.

Mr. President, Professor Buchanan is right. Proponents of the balanced budget amendment recommended a rule change. Opponents argue against the amendment on the basis of either possible choices under the new rule which could hurt well-organized special interest groups or the failure to specify which well-organized special interest groups will be hurt under the new rule. Either objection is, as Professor Buchanan points out, intellectually confused as an objection to the new rule. The proponents do not advocate any particular outcomes, just a new way of making those choices. That is what we proponents feel. The right-to-stall motion offered by the Democrat leader does not move the debate forward.

In fact, Mr. President, the Daschle right-to-stall amendment is nothing more than a way to stop Congress from adopting the resolve to force itself to act responsibly and balance the budget and live within its means in the future.

Now, the opponents point to President Clinton's tax plan of 1993 as the great epitome of budgetary courage we should follow. But, Mr. President, that was no plan to balance the budget. I would ask my colleagues, did the 1993 tax bill balance the budget? Does the President propose a path to a balanced budget? Just look at the President's budget released this week. It projects $200 billion yearly budgets as far as the eye can see—and that is the best case scenario with the most optimistic assumptions. There is no budget balancing leadership here.

As a matter of fact, there are pundits now saying in the press that the reason the President has done that is because he wants the Republican Congress to have to make the cuts so that he can then criticize them for making them. I certainly hope Congress will pass a balanced budget constitutional amendment. We will have to.

Those who offer the right-to-stall proposal seek to distract us and the Nation from the clear principle of a balanced budget requirement by starting the budget battle before the rules are established. They either seek to divide the strong coalition who supports the principle by the implementing details which can and should change with the national priorities over time; or they hope to be able to say, once such a budget plan is adopted, that we no longer need the amendment. Either way this is simply a distraction tactic to stall the amendment and protect the status quo.

Mr. President, those who say we can balance the budget without the balanced budget amendment are the ones who should show us how they propose to do it. They are the ones who say, regardless of history, we can balance the budget now, without a rules change.

The President has not done it, and he is against the balanced budget amendment. And neither will those who are against it here on the floor. But I continue to ask in vain, how do they propose to do it, Mr. President? Why should we trust they will do better under the status quo than they have for the last 26 years?

Mr. President, I ask again: What is their budget plan to reach a balanced budget? If you read this one, the administration recent budget, it just throws in the towel and says there will be $190 billion-plus deficits every year for the next 12 years. Is this the plan that they want?

Mr. President, their plan is no plan at all. Their plan is more of the same. it is preservation of the status quo. It is the old order. We are saying it is time for a new view, a new order, where we start living within our means. The only way we are going to get there is if we change the rules of the game so that there are incentives to get there.

The beauty of this balanced budget amendment is it does not force us to get there, but it gives us the incentives to get there. That is something we need to do.

Mr. President, the administration's type of budgeting will not do. Is this their plan? Mr. President, their plan is no plan. Their plan is more of the same.

We should adopt the binding resolve to accept our responsibility, and then fulfill it. We should not avoid responsibility on the ground that we have so far failed to act responsibly. We should not be able to deny the American people and future generations the responsible rule of fiscal discipline on the grounds of our historical lack of discipline. And, Mr. President, the correct way to proceed is the way of the Dole need-to-need proposal, which suggests that if President Clinton and his allies succeed in defeating the balanced budget amendment once again, they should have to show us how to balance the budget without the amendment. And if they are going to make this argument that we ought to show them before we set the rule in place, then where are their ideas on how to do it without the rule in place?

Let us take the first step first. Let us get our house in order by adopting the balanced budget amendment.

Finally, let me go back to this chart one more time. This red line happens to be our current national debt, $4.8 trillion. These green blocks represent how much that debt has now gone up above the $4.8 trillion each day that this debate has been going on. We are now in our 9th day of this matter and we have gone from an $829,440,000 increase in this $4.8 trillion deficit on the 1st day to the 9th day, where we are at $7,464,960,000. So every day that this debate goes on, and every day that we do not have a balanced budget amendment, we are going to continue to increase the debt.

Last but not least, with the President's budget, over the next 5 years we will have the deficit go up $1.3 trillion more.

So you have the idea. It is time for this fiasco to end, for us to pass a rule called the balanced budget amendment that will put some mechanism in place to get us to move in the right direction so that we can save this country. We cannot allow this country to go into a fiscal bankruptcy through monetizing the debt and paying off our debts with worthless dollars. We have to pass this balanced budget amendment now. I hope our colleagues will do it.

I notice the distinguished Senator from Vermont has been waiting. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont [Mr. LEAHY] is recognized.

Mr. LEAHY. Mr. President, the Senator from Utah, of course, was a trial attorney, as was I and the distinguished occupant of the chair. I listened to his debate. I recall some of the trials that I was in. I recall some where we were ending up having long trials on contracts. Usually, what brought us there was the fact that somebody had said at one point, "Sign this contract. You do not have to read all of the print in it. Let us hurry up and get this going because time is wasting."

Then, later on, of course, we were in a long trial trying to figure out just what somebody had signed away.

Basically, my good friend from Utah is saying that time is wasting. Sign this. He, of course, says it is a rules change. It is a lot more than that. We are amending the Constitution.

We are the most powerful nation on Earth. We are also the most powerful democracy history has ever known.

No other country has achieved, in economic or military power, the diversity the United States has. No other country has even come close to such a clear and concise Constitution as we have. We have only amended it 17 times since the Bill of Rights.

Yet, in the past few weeks, since the elections last fall, we have had 75 proposals to change the Constitution. Can you imagine, Mr. President? We were able to keep on somehow as a country for 200 years, amending the Constitution only 17 times since the Bill of Rights; but somehow America has so changed in the last 4 months since the elections in November that we have to have 75 new constitutional amendments? I really cannot accept that.

I say to my good friend from Utah that when he speaks of the amount the debt has gone up, and that if we pass this, somehow the suggestion is that it would stop—well, the balanced budget amendment, which is far more than a rules change, which does not say how we are going to get there, says that in the year 2002, whoever might still be standing will somehow come up and miraculously balance the budget. It does nothing to stop this increase in debt.

In fact, I point out that during the 1980's, incidentally, during the 6 years that the party of the chairman of the Judiciary Committee controlled the U.S. Senate, they, along with the President, nearly quadrupled the national debt, more than the debt that had been piled up over in the previous 200 years, including two world wars. During that 6 years, they were in control and quadrupled the American debt.

In fact, when you look at how much the debt is piling up today, virtually all of it is interest on the debt they piled up during those 6 years. We spend nearly $500 million every working day just on interest on the debt that was piled up during those halcyon days of the 1980's.

President Clinton was the first President since I have been in the Senate who actually had a budget which, 3 years in a row, has cut the deficit. President Clinton is the first President to cut the deficit for 3 years in a row since President Truman. He would actually have a balanced budget if he was not having to find money to pay for the interest on the debt run up by his two Republican predecessors. I do not say that to be partisan but simply to set the record straight.

In fact, one of the local dailies in Vermont, the Burlington Free Press, has a cartoon in today's paper. It shows a rather rotund person flying through the congressional Chambers, little wings flapping away. He is smoking a big cigar, and he has a thing on his shirt that says "Balanced Budget Amendment." And here are all these eager, young Members of Congress clapping and clapping, saying, "If you believe in fairies, keep clapping, keep clapping."

That is what the balanced budget amendment is about.

Frankly, Mr. President, I would like to know more of what we are going to do if this passes. We can look at how much debt is piling up. This debt will keep piling up to the year 2002, I am afraid, even if we pass this, unless we have the will to vote to actually cut the deficit. The only Presidential budgets that have cut the deficit have been those President Clinton has submitted in the last couple of years—with no votes on the Republican side of the aisle to actually bring down the deficit. The Republican side of the aisle voted to quadruple the debt when they were in control of the Senate and when they had the Presidency. Not one of them voted to bring it down.

We overwhelmingly passed a bill against unfunded mandates. But the balanced budget amendment may be the biggest unfunded mandate of all time. It ignores the two fundamental principles underlying the reasons we are against unfunded mandates: The Federal Government should not shift burdens onto the States without paying for them; and to protect against such shifts, we have to examine the unintended consequences of Federal actions on State and local governments.

The nonpartisan Congressional Budget Office has estimated that Congress has to achieve $1.2 trillion in deficit reductions if we are going to balance the budget by 2002. If we are going to do that, all of us know it is going to affect local and State governments.

Unless we carefully balance the budget, the balanced budget constitutional amendment could be a disaster for the States. I do not support the balanced budget amendment, but I assume it is going to pass. I worry about what it will do in my own State. If we look at some of the ways we could have cuts, we can do across-the-board spending cuts, for example, and that avoids having to make the choices needed to balance the budget.

But the Treasury Department looked at this, in answer to a question from Governor Dean of Vermont. They said that assuming Social Security and defense cuts were off the table—and the Republican majority said they are—then the Treasury analysis predicts cuts in Medicaid, highway grants, welfare, and other Federal grants in Vermont that would total $200 million. If we wanted to offset these losses, Vermont would have to increase State taxes by 17 percent.

They also looked at other States. New York would lose over $8 billion in Federal grants, resulting in a State tax increase of 17 percent to make up the difference. California would lose $7.7 billion in Federal grants, resulting in a State tax increase of 9 percent to make up the difference. Texas would lose over $4 billion in Federal grants, resulting in a State tax increase of 14 percent to make up the difference. Louisiana would lose $2 billion, resulting in a State tax increase of 27 percent to make up the difference.

In another study, the Center on Budget and Policy Priorities estimates that by 2002, Vermont would have cumulative cuts in Federal aid to the State and local government of $1 billion due to the balanced budget amendment. We are a very small State; others would lose a great deal more.

The Children's Defense Fund has estimated what the balanced budget amendment would do to children. Children do not vote, children do not have PAC funds, and children do not have political influence; but children are going to really feel it. In Vermont, 4,850 babies, preschoolers, and pregnant women would lose infant formula under the WIC program; 13,900 children would lose subsidized school lunches; 13,750 children would lose Medicaid health coverage. The other 49 States would, of course, have similar losses.

So House Joint Resolution 1, the balanced budget amendment, may become the super silent unfunded mandate. I know what is going to happen in my State. We will do everything possible in our churches, our synagogues, our private organizations, to pick up the difference, but the State will ultimately have to pick up a great deal of it. It may not pick up all of it. To do so would require 17 percent in higher taxes. I do not believe that would happen. We would find a lot of the children, pregnant women, and others left off the rolls. At the same time, Vermont taxes would go up.

Basically, it is the ultimate budget gimmick. It is the easy, feel-good budget gimmick. We do not have to make any hard choices. We can just pass this and say we did our bit, and guess what? In the year 2002, a Senate and House full of angels will stand up here and somehow do everything that we are unwilling to do and, of course, what they will do is simply pass it on to the States and the local communities.

We have passed the buck to the States before. Federal aid to State and local governments fell sharply in the 1980's, at the same time we were quadrupling the national debt. In fact, during that time, in my State of Vermont—I suspect as in most other States—State and local taxes went up to make up the difference.

So let us talk to the States and tell them exactly what is in here. I support Senator DASCHLE's amendment. We should let the States know what the details are; and if they know what the details are, then those who do support this balanced budget amendment can work in conjunction with them to ratify this constitutional amendment.

What I am afraid of is we are going to pass this, and everybody is going to go home and say, "Look what we did," and instead of the checks in the mail to the States, the bill will be in the mail.

I would note that almost every weekend when I go home, I have a lot of people come up to me when I am pumping gas in my car, shoveling snow, in the grocery store or just walking down the street to pick up a paper, people come up to me and say they favor this amendment, but only if they know what is going to be in it. They want to know the effect of this constitutional amendment before it is passed.

And in Vermont, we are no different than the rest of the country. CNN did a poll that said 74 percent of those surveyed support the right to know. The Los Angeles Times found it was 80 percent. They surveyed the whole Nation. Eighty percent of Americans want what Senator DASCHLE is suggesting in his amendment. Let us know what is in the balanced budget amendment.

I said before that when I practiced law and a client would come in with a contract that had some big type and a whole lot of little type, I would say: You go ahead and read the big type. You do not need a lawyer for that. You need a lawyer to read the small type. That is the "gotcha" kind of type. The effects of this amendment are the small type, the "gotcha. The big type is the balanced budget amendment. We could put that on a bumper sticker. "We balanced the budget," whoop-de-do. It means that someone in the next century, the next millennium, will then stand up and make the hard choices.

But what we should do is say we are going to at least tell you what is involved in this amendment, where the cuts are, what the States are going to have to do. Then, if the Congress and the States want to amend the Constitution for the 18th time in nearly 200 years after the Bill of Rights, then go ahead and do it. If it is that important, then do it.

But do not sell the American people on the idea that suddenly, if we just tamper with this Constitution, the real contract with America, we are going to solve all our budget problems. Do not tell the American people that after 200 years of the most powerful, diverse democracy in history, a democracy that has existed with only 17 amendments to the Constitution since the Bill of Rights, that suddenly we need these 75 amendments, including this one, to make us a real democracy.

We are the envy of the rest of the world. Every emerging democracy looks at our Constitution to see how to do it. And we should not allow that to change.

So does the debt rise each day, even as we debate? Of course, it does.

But I would point out there are a lot of people who stood on this floor during the 1980's, when the other party controlled the Senate, as they do now, and voted for one huge—one huge—deficit after another. President Reagan proposed them and then President Bush did. They quadrupled the national debt.

There are only seven of us left in this body who voted against that, and I am one of them. Ironically, had we been listened to, we would have a balanced budget today. Instead, our deficit today is about what we are paying for the interest, legally obligated interest, on that debt of the 1980's.

So next time we talk about doing this by slogans, let the reality at least come up even with the rhetoric, and the reality is a lot different than the rhetoric.

Mr. President, I yield the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I thank the Chair and I thank the distinguished Senator from Vermont for his statement. I also thank the manager of the bill for yielding the floor at this time.

Mr. President, I intend to take the next hour or so, maybe a bit longer, to try to lay out the case for at least letting the people know what might be entailed in a balanced budget amendment.

But let me try to put this balanced budget amendment in a broader context. We will shortly get into a lot of numbers, because if you are going to deal with the balanced budget amendment, you have to get into numbers. However, before we get into those numbers, let me try to establish what I think is the proper context for the balanced budget debate.

During the 1992 campaign, the Clinton campaign had a theme song by Fleetwood Mac, called "Don't Stop Thinking About Tomorrow." This song represented a kind of theme for the campaign—change, hope, "don't stop thinking about tomorrow"; tomorrow is coming, think about it, it is important.

Yet, if you actually thought about that song and you thought about what has been happening in the country, it is clear that we have not been thinking about tomorrow and we have not been thinking about tomorrow for a long time.

Every speaker needs a text, or theme, for his or her statements. I would like to take as the text for my remarks today one of Aesop's fables. It is an old fable. All of us knew it when we were children. This is about the grasshopper and the ant. The fable goes like this:

It was wintertime. The ants' stored grain had gotten wet and they were laying it out to dry. Along came a hungry grasshopper and asked them to give him something to eat. One of the ants said, "Why didn't you gather food in the summer like us?" The grasshopper replied, "I didn't have any time. I was busy making sweet music." The ants laughed and said, "Very well, then, since you piped in the summer, now dance in the winter."

The moral of the story: In everything, beware of negligence if you want to escape distress and danger.

Now, that is the Aesop fable. It is a pretty clear message: If you do not work in the summer and put the food away, you are not going to have the food in the winter.

And I think that it basically is saying that not thinking about tomorrow means being negligent, acting like the grasshopper instead of the ant. Too many of us, I think, have been grasshoppers for too long, not thinking about tomorrow.

Let me just give you a couple of examples. Let us just think about urban America. Each year it gets poorer, more violent, more populated with families in distress. If we stopped to think about this reality, the reality that is there, we would be compelled to act because of the morality. If you are your brother's keeper, you have to walk your talk. Because of self-interest, I mean, we are never going to compete and our living standards will be lower with a larger and larger unskilled population on our collective backs.

And as for world leadership, how are we going to lead the world by the power of our example after the events that occurred in Los Angeles a couple years ago which popped across television screens from Tokyo to London? Or where 40 percent of the people in America who wanted to vote were denied this basic right because they were not registered.

Clearly, on this issue, Mr. President, we have not been thinking about tomorrow. If we were thinking about tomorrow, we would see the human and national tragedy that is building in our cities and we would act to change those conditions. But we have not.

Like the grasshopper, we have been playing our sweet music in the suburbs, while things have just gotten worse in the cities.

Then, Mr. President, there is the plight of our children. Not just poor children, but all children. How can we say that we are thinking about tomorrow but continue to neglect our children?

In 1975, one-third of married couples with children had both spouses working. By 1993, that percentage had doubled, as nearly two-thirds of all married couples with children had both spouses working. It is no mystery as to why that is the case. Without the second paycheck, many families just would not make it. Yet with it, their children are often alone and without supervision from an early age.

Parents in this Chamber and in this institution know the pressures. Certainly I know the pressures. Certainly the distinguished Member from Vermont in the Chair knows the pressure. Certainly the staff knows the pressure. Certainly those who are listening know the pressures. If parents are lucky, they have a loving relative living in the neighborhood who can help take care of the children. If you are upper income, you can hire somebody to provide full-time care. If you do not have a relative in the neighborhood or you do not have enough money, then it becomes a little more difficult.

There are only a few possible answers to this. For a spouse of either gender to have the option of staying at home, the salary of the spouse that continues to work outside of the home has to be a lot higher than it is now, or companies are going to have to give family leave that is measured not just in weeks but in years, or everyone will have to pay more taxes so Government can subsidize day care at the company, union, neighborhood center, the church, the synagogue or the mosque.

Those seem to me to be the options. The only given, the only imperative, is that someone has got to provide loving care for our Nation's children. Too often, this does not happen. We have not given child care a priority. Like the grasshopper, we have been dancing toward winter. Not facing the reality that is staring everyone in the face. We have not been thinking about tomorrow.

So, Mr. President, there is urban America, the plight of our children, but by far, probably the best obvious example of our failure to think about tomorrow is the enormous debt that we have amassed over the last 12–14 years. It is not only public debt. Between 1980 and 1987 consumer credit increased 90 percent. People under economic stress did not consume less, they borrowed and consumed more. And they borrowed and in some cases to speculate. However, in 1989, 1990, 1991, the bubble burst and it was over. People cut back, businesses started to pay debt down and, gradually, the private sector began to come back.

Here in Washington the bubble has never burst. It just keeps getting bigger and bigger. The national debt went from about $800 billion in 1980 to about $4.5 trillion by the end of 1994. Over the next 5 years, unless we change our ways, the debt will exceed $5.5 trillion. Over 58 percent of all personal and corporate savings go to finance the interest on this debt.

It is as though in 1980 you owed about $10,000 on the credit card and now you owe $43,000 and the interest you have to pay is money that you do not have to spend on your kids' college education, to buy a house, to buy a car, to put an addition into your factory and hire more workers. People do not have the money and they cannot borrow it because it is being sucked up by the Government to pay interest on the debt.

In other words, Mr. President, we have placed the burden of our irresponsibility on the backs of our children. Someone once said democracies are pretty good dealing with today's problems, but sometimes they are not very good thinking about tomorrow. By amassing this debt and passing this burden onto our children, I believe we have shown that we are not very good thinking about tomorrow.

So, Mr. President, this brings us to the question, "What do we actually do about this debt?" I will not talk about remedies for urban America or child care. This is a balanced budget amendment debate, a debate about Federal spending. Therefore, today I would like to focus the rest of my remarks on the Federal budget and what do we can do about this debt. I would also like to point out how facing reality means actually facing the numbers in this budget.

First, Mr. President, we will take the analogy that we often hear—that is, the family household. Every family manages its income and the Federal Government has things way out of whack. A giant deficit—that does not happen in a family, at least not for very long. However, before we begin with this analogy, we need to think about what a budget is. A budget is not a snapshot of what happened yesterday. It is a guess about what is going to happen in the future. It is not a picture of what happened last year with respect to spending or taxes, it is a guess about what will happen in the future on spending and taxes.

We will take it to the household level. You sit around the kitchen table, trying to figure out what will your budget be for the coming year. What is the first thing you do? You figure out what is your income likely to be. Some basic questions come up. Are you going to work? Am I going to work? Is he going to work? How many people in the household are going to work? How many incomes are we going to count? Do we count the husband and the wife? How about the teenage son? Is that the family income? Do we count the husband, the wife, and the wife's older sister who is living with the family? Is that counted as income? What is the income? That is fairly central to devising a budget. What is the income that we can count on?

Second, there is the issue of growth. Well, do you anticipate, will there be bonuses in the year? Will you work overtime? Will you get a raise? Will the company, because it is doing well, give you a 15 percent increase? All of these would provide more income. Each family has to figure these out in an effort to decide what is likely to happen. Each family also has to figure out where are prices going. What can we afford? What should we spend our income on? Last year you might have spent *x* on food; what will it be this year? What will the price of food be? If there is inflation, if there is a crisis in the coffee market and you have to buy coffee and it goes up three times from the cost of last year, suddenly you have to deal with inflation. It increases prices. It also has the effect of increasing taxes, often. It pushes you into a higher bracket. Less so at the Federal level, but more so at the State level.

Then there is interest. How do you calculate your interest expenditure? You could say well, I have a variable rate mortgage. I got that variable rate mortgage at 9 percent and during the last couple of years interest rates had been going down. Interest rates were down around 7 percent. However, in laying out a budget, each family has to think about how much it will pay next year. Maybe interest rates will go back up. If the Federal Reserve continues on its current path, clearly the interest rates will go back up and that means more pressure on the family budget. With a variable rate mortgage, the family will have to pay more in interest charges to pay back the bank.

So every family, Mr. President, when it makes a set of budget decisions, has to figure out what is the income coming in, and what it is going to spend money on. The income depends on how many people are working and depends on whether you think times are good or times are bad. Will you get a raise? Are interest rates going up? What is the inflation rate going to be? How much can I actually spend? How much can I actually buy? These are factors in any kind of household decision.

Mr. President, these types of factors apply equally to the Federal budget. Let us assume that you miscalculated on your variable rate mortgage and you have to pay 1 percent more in interest because the rates have gone back up. Well, if you are the Federal Government and you miscalculate your interest on your projected budget, you add $20 billion to the deficit that year alone.

If a family is counting on the income of one of its members, that family will have a big problem if that family member loses his or her job. Similarly, in the country as a whole, if a number of people unexpectedly lose their jobs, we will have a big problem: a much bigger deficit. Just a 1-percent increase in unemployment, adds $60 billion to the Federal deficit.

What about growth? Let us assume that our economy grows 1 percent less than we predicted. This small change in the assumptions adds $32 billion to the deficit. These are aspects of budget policy that change in the course of a year. If unemployment is higher, that costs the Government more. If inflation is higher, that costs the Government more. If interest rates are higher, that costs the Government more. If growth is lower, fewer people have a chance to work, less money is earned, and the Government receives less revenue and pays more in benefits. All of this adds to the deficit.

So let us begin this by simply laying these points out that when you do a budget, you are basically making a projection and the projection is affected by things that are out of your control in your household. For example, there are plenty of people in this Congress who know the Federal Reserve's efforts to raise interest rates are out of our control. These things, over time, will have an impact on your family's budget, just as they have a dramatic effect on the Federal budget.

Let us discuss for a few moments what is the Federal budget. What I want to do today is to lay out clearly what is the Federal budget. What do we spend taxpayer's money on, and where do we get these funds. Every year we debate a budget resolution, 50 hours equally divided. Our colleagues get up, read their opening statements, and a couple hours are already gone already. As a result, despite the debates, I am not sure that the American public gets an opportunity to fully understand what is in the Federal budget. If we are going to consider balancing the budget, I think the American public should know what is in the budget. They are entitled to know what things are likely to be cut or what taxes will be increased. You cannot decide what things will be cut or what taxes will be increased until you know what is in the budget and how the Government raises the money to pay for its spending.

So let us go with the basic point, a very basic point. The expenditures of the Federal Government in 1994 were roughly $1.5 trillion. The revenue, the total of all taxes that have been collected, are $1.3 trillion. Because the $1.3 trillion in revenue was less than what was spent, we ended up with a deficit, an annual deficit, of $200 billion.

It would be important to know what are the taxes? Where does the Federal Government get its $1.3 trillion? Who pays the $1.3 trillion? Taxes are broken down into the following categories:

The individual income tax is, in total, 43 percent of all revenues, and it raised $545 billion in 1994. Now remember, we spent $1.5 trillion. The individual income tax raises $545 billion.

The next largest set of taxes is what are called social insurance taxes. Those are the Social Security taxes, the FICA tax, and unemployment insurance collections. Of the $460 billion that was raised with social insurance taxes, $430 billion of that was the Social Security FICA tax. Everybody has it deducted from their wage statement each pay period. The total of that is $430 billion. Unemployment insurance taxes made up the remaining $30 billion.

So you have individual taxes, social insurance taxes, and corporate taxes. Corporate taxes raise $140 billion a year. All of the corporations in America pay in total $140 billion a year.

And then you have a category called other, which totaled $60 billion. That consists of essentially estate taxes. You die, you pass on your estate, you pay a tax on that; customs duties, you import something into the United States, you pay a tariff or a duty. Those taxes equal $60 billion.

And then finally, the smallest amount of total taxes are the excise taxes, like the gasoline tax and the cigarette tax, which raise approximately $55 billion.

So in total, the U.S. Government raised $1.3 trillion in 1994 —$545 billion come from the individual income tax; $460 billion come from the Social Security and unemployment insurance taxes; $140 billion from all of the corporations in America; $60 billion come from estate and gift taxes; and $55 billion come from the gasoline tax, cigarette tax, and other excise taxes.

So that is it, that is where the money comes from. That is the money that the Federal Government has to spend from taxpayers. Total: $1.3 billion.

Now the question is, What do we spend this money on? Well, first, I would like to give you a quick overview, and then I will provide a more detailed explanation.

Broadly speaking, there are three big categories of Federal expenditures.

In total, the expenditures are $1.5 trillion. One of the three main types of Government spending is on what are called mandatory expenditures. Mandatory expenditures are really expenditures for which Congress does not appropriate a specific amount of money every year. Instead, we write into the law certain eligibility rules and benefit levels. For example, if you are over 65 and have made certain minimum payments into the system, you are entitled to Social Security benefits. If you are poor, you may qualify for certain benefits to help you meet a minimum income level. Or, if you are a veteran, you may be entitled to other benefits. These are mandatory expenditures that automatically flow to eligible recipients. The total amount of mandatory expenditures is $790 billion. In other words, nearly half of the Federal budget is for mandatory expenditures.

Next are the discretionary expenditures. These total about $545 billion. This amount includes spending on things such as national defense, education, housing, transportation—$545 billion. These are discretionary expenditures, meaning that Congress, if it wants to, every year can change that amount. It does not have to appropriate that amount of money, unlike a mandatory spending which occurs almost automatically. A discretionary expenditure is the Federal Government deciding whether it wants to spend a specified amount each year on national defense or education.

The third category after mandatory and discretionary spending is interest—interest on the national debt. Last year, we paid roughly $205 billion in interest on the national debt. As the debt has grown—especially since 1980—the more we have paid in interest, because the more you have to borrow, the more people you have to pay interest to those who have loaned you, the Government, money.

Now, an interesting caveat about interest is that when the Government collects all of those taxes, the first call on these funds, the first place that money has to be spent is not defending the Nation or feeding children or providing for education or building highways or sending money to Social Security recipients. The first place that money has to be spent is to pay those bondholders who have loaned us money. So right off the top, $205 billion goes to people in this country—and others—who buy Government debt, people who have enough money to buy Government securities, Treasury bills, Treasury bonds, people who are not spending all of their money every year just to get by, but rather people who have enough money to buy Government bonds. The more we have to pay in interest, the more that interest flows to those bondholders.

So in terms of total expenditures, you have $790 billion in mandatory spending, $540 billion in discretionary spending, and $205 billion in interest payments.

Mr. President, this is a rough overview of the Federal budget: where the revenues come from and where they go. What I would like to do on the spending side—because we are discussing a balanced budget amendment, and the American public should know how this budget is going to be balanced—is to take a closer look at Federal spending so that we can determine what Federal spending must be cut in order to balance the budget.

First, let us look again at the mandatory spending programs, again about half of all Federal spending. These funds go to eligible recipients at preset benefit levels—at a total of $790 billion worth of benefits.

Well, what is this $790 billion spent on? First, we need to make one distinction on the mandatory programs. Some mandatory spending programs flow to everybody who is eligible. Others flow only to those who have lower income; in other words, means tested and non-means tested. Take the biggest mandatory program, Social Security. Social Security is not means tested. Everybody in America who meets certain age and contribution requirements, gets Social Security. If you are a millionaire and you worked 30 years and paid into Social Security, you receive these benefits, just as the guy that worked in the GM plant in Detroit or in the neighborhood drugstore who paid Social Security for 30 years. In fact, these folks all probably get the same amount. It is not a means tested program.

The next largest mandatory program, Medicare, is the same thing. If you are over 65, you are eligible for Medicare. The Federal Government will pay your health costs under the provisions and rules of the system. If you are a multimillionaire and you check into a hospital and you stay several days and you have a hospital bill of $10,000, send it to Medicare. It is a non-means-tested program. This means that a millionaire gets the same amount of money as somebody, a husband or wife, who worked for 30 years, gets sick, goes to the hospital, and needs that same $10,000 treatment.

Then there are other mandatory programs. You take $25 billion in unemployment benefits. If you are unemployed in the United States, you are eligible for unemployment compensation. We have had that in place for 50 years or more. It is one of the things we learned from the Great Depression. Because we have an automatic stabilizer, we are less likely to have as deep of a recession. We are all better off if we have an automatic stabilizer, this one being unemployment compensation, because the economy then will not go down so far. People will at least have enough money to buy some food or begin to keep themselves until they get another job.

We also spend $70 billion automatically each year for the civilian and military pension and disability systems. Every member of the military, every member of the Federal Government who has a retirement plan pays into that plan, and that plan then pays benefits. Last year, those benefits were $70 billion.

Then there is Medicaid. Medicaid is a means-tested program. This means that if you are dirt poor in America and you get sick and you go to the hospital, somebody is going to take care of you. And because somebody takes care of you, somebody has to pay, and the Federal Government will chip in its share if the State agrees to pick up some part of the cost as well. But it is a mandatory spending program based on income, and it accounts for roughly $80 billion in annual spending.

Now, in this category of other mandatory spending are such things as food stamps—again, means tested. If you are poor, you are eligible for this type of assistance. This is $25 billion.

Supplemental security income, again, goes to the poorest, overwhelmingly elderly, overwhelmingly female population, who just cannot get by without some assistance. In addition, there is child nutrition which totals about $7 billion.

So the mandatory portion of the Federal budget is the amount of money that flows simply because of certain eligibility criteria—you are over 65 and eligible for Social Security, you are over 65 and eligible for Medicare.

Thus, $460 billion of mandatory expenditures, nearly one-third of the whole budget, goes to people over 65 who have paid into the Social Security and Medicare systems throughout their lifetimes. You are eligible, regardless of income, if you have paid into the system. The other areas of mandatory spending are Medicaid, food stamps, supplemental security income, retirement, and unemployment benefits.

So when we talk about cutting the Federal budget and we decide that we are not going to touch any entitlements—meaning the mandatory spending—we have to realize that this leaves a much smaller portion of the budget and this remaining portion will have to cut a lot more to balance the budget. But to cut those mandatory expenditures, we would have to change the eligibility rules and we would have to change the benefit levels. We could say that you have to be poorer to get food stamps or Medicaid, or we could say that you have to pay more, if you are above a certain income level, for Medicare. But we would be changing the rules. That is the way that entitlements would be cut.

Mr. President, let us look for a moment at the next biggest chunk of Federal expenditures. First, we have mandatory expenditures. Now we have approximately $545 billion of discretionary expenditures. This is the money that the appropriations committees appropriate every year. The tax dollars come in. The appropriations committees meet, and they decide that this program or that program merits funding. What do the appropriations committees spend $545 billion on? Overwhelmingly, the money in discretionary programs is spent on the national defense. It is $280 billion a year out of the total of $545 billion which is spent on discretionary programs.

What are the other big discretionary expenditures in addition to national defense? You have $40 billion for education, training and social services. This includes education for the handicapped—it used to be that if you had a child that was autistic, the child had no chance of getting into any school anywhere, and had no chance of going to the public school. Now because of a Federal program for handicapped education, we are able to challenge that child and develop that child's potential.

In addition, there is transportation spending, primarily for mass transit, highways, and airports. There is spending for income security which is essentially housing assistance.

There is also spending to support Government activities which cost $30 billion. This amount is basically what it costs to run the Federal Government. Of this $30 billion, the Congress accounts for $2.5 billion. The other Government activities include running the Department of the Interior, the Park System, the FBI, keeping guards in our prisons, and making sure that the IRS collects taxes. Some people do not like that. But spending for these, and other, Government activities represents what it costs to run the Federal Government, $30 billion out of $1.5 trillion.

In addition to all of this is foreign aid. Foreign aid—for both humanitarian and security assistance—represents $20 billion out of $1.5 trillion.

So discretionary spending is divided among defense, education, training, social services, transportation, income security, Government activities, foreign aid, and other domestic non-defense programs.

Mr. President, there is a point that should be made on discretionary spending. I have implied that discretionary spending is whatever the appropriations want to spend money on. That is true. Yet, since 1991 this spending has been capped. We have said by law that the Congress and the Government cannot spend above a certain amount. It has been capped. As we discussed earlier, inflation is not capped. Inflation continues to eat away at the purchasing power of American families, and it continues to eat away at the purchasing power of Government.

So when you cap spending programs, all $545 billion in discretionary spending, that means it will buy less. Essentially the caps on discretionary spending shrink in real terms what this will buy, by about 9 percent between now and 1998.

There are no caps on mandatory spending; no caps at all. How could there be? You do not know how many people are going to be unemployed. You do not know how many people are going to be poor. You do not know how many people are going to qualify for the mandatory spending programs. However, for those things that the Congress and the Government have direct control over, there has been a cap since 1991. You can argue the caps should be lower. But there has been a cap.

With the next chart I would like to demonstrate how Federal spending has changed over the years. Back in 1963, a long time ago, discretionary spending represented 70 percent of what the Federal Government spent. Entitlements—the so-called mandatory expenditures, such as Social Security—represented 22 percent. Net interest represented 6 percent. In 1965 we added in Medicare and Medicaid, and in 1972, we indexed Social Security. In 1973, discretionary gets a little smaller, entitlements get a little bigger. In 1983, entitlements have grown to 45 percent of the budget and discretionary has dropped. But 1983 was, of course, 2 years after the Reagan defense buildup and tax cut and the start of gigantic deficits. So interest rates and the amount we spent on interest are higher.

In 1993, suddenly entitlements are up to 47 percent. Discretionary expenditures are down to 39 percent. It is projected that if current law continues, by 2003 mandatory spending—those things we talked about earlier, such as Social Security, Medicare, income security—will eat up almost 60 percent of the budget, and interest will be almost 14 percent. And all of the rest of the money that the Government spends, such as for transportation, education, and defense, will be 28 percent of the budget.

So, Mr. President, what clearly we see is that over the years those mandatory portions of spending have increased dramatically. So dramatically that, by 2003, interest payments on the debt will equal almost half of all discretionary spending.

Mr. President, I think that it is important here to talk about another kind of spending, and that is essentially what I call off-budget spending through the Tax Code. You have $1.5 billion of Federal expenditures. We talked about that already. And we raise $1.3 billion through all taxes. If you recall, we raise $545 billion from the individual income tax. But, of course, the income tax does not apply to everybody in the same way. You would think that under an income tax system the same rules and rates would and apply to everybody. No, no, no, not the case.

Over the last several years, much to my own distress, we have returned to aggressive spending through the Tax Code, meaning we tell people that if they simply do this activity, they will pay less in taxes. Some of these activities that we tell people will lower their taxes have been long established in the Tax Code. If you buy a house and pay mortgage interest, that interest is deductible, so you pay less taxes because you have mortgage interest. If your employer pays health insurance premiums for you, those premiums are not included in your taxable income. If you have a pension plan that builds up, or investment income building up, you do not pay taxes on those. If you pay State and local taxes, like property taxes and State income taxes, you deduct those and you do not pay Federal taxes on them. The more taxes you pay, or the bigger your pension plan is, or the more generous your employer-paid health benefits are, or the bigger your mortgage interest is, the less you pay in taxes.

Those are some of the well-known, biggest tax expenditures. And then there are, of course, the little special ones that are not used by the vast majority of Americans. These are not in the Tax Code because of a particular public policy reason—whether flawed or not—but because a lobbyist had a way to insert into a tax bill a special exclusion for a particular category of people. For example, I do not know how many people in America know that if you rent your home for 2 weeks a year, you do not pay any income tax on that income. That is a special exclusion. It costs $50 million a year in foregone income. How did that happen? Well, the story goes that a guy who had a big house close to the Masters Golf Tournament also had a friend on the Finance Committee. During one of those late night sessions, the friend slipped in an amendment to a bill which said if you rent your house for 2 weeks a year, you do not pay any income tax on that income. This is not going to help me and probably will not help a lot of other people, if they are living in your house. But if you have a big house next to a big international event, you might make a little money.

How about the $12 million a year that we use to essentially subsidize the production of some of the most toxic chemicals and minerals in the world? On the one hand, you have the Federal Government telling people to take asbestos out of the schools and workplaces. We have ads on television about lead contamination telling how it makes our children's intelligence lower than it otherwise should be. Meanwhile, you have the Tax Code telling people that if you mine asbestos or if you mine lead, you pay less tax.

Mr. President, the point is that $545 billion is raised from personal income taxes. But that Tax Code that sets rates is riddled by exceptions to those rates. And because of all those exceptions, the people who use those exceptions end up paying less tax and the rest of us end up paying a higher rate of tax than we otherwise would have to pay. And the question is raised, since this is a balanced budget amendment debate, how much would revenues be if we did not have any of those loopholes? We have had a little debate about a flat tax led by Congressman ARMEY on the other side. If we did not have any of those loopholes, how much more money would the Federal Government raise? The answer is $455 billion a year. In 1986, we trimmed this amount back dramatically. Since then, it has exploded. It is one of the fastest growing Government programs and accounts for $455 billion a year in tax expenditures.

So, Mr. President, you can see if you had a deficit of $176 billion—as is projected for 1995—if you simply trimmed a third off of the tax expenditures, you could eliminate the entire budget deficit. Earlier we talked about mandatory spending, discretionary spending, and interest on the debt. Now, we have seen that we also spend off budget through the Tax Code.

Mr. President, if I could, I think that it helps to get a picture of how these deficits have changed over time. I have interns who come into my office thinking that the deficit is a little like oxygen. They would not know how to exist if the deficit did not exist. It has been there their whole lives.

People say that the Federal Government has always run a deficit. Are politicians not always spending more money than they have? Are we not always living beyond our means as a Government? Well, the answer to that question is absolutely not. In the 1940's and 1950's, Harry Truman had a few surpluses. Dwight Eisenhower had surpluses in a couple of years. In fact, Lyndon Johnson had a surplus in 1969. As hard as that is to believe, they collected more than they spent. No depressions occurred in the late 1940's and early 1950's. No depressions occurred in the mid-1950's. In the early 1960's when we had a tremendous economic boom, the deficit was minuscule, and the debt was minuscule, and policymakers were thinking about tomorrow.

But the story changes in 1980. And we all know that story—defunded Government, dramatic tax cuts. A lot of the hotels in this town were built after 1980 because the Federal Government said in that tax bill, "If you build this hotel for $20 million, you can write $1.5 million off a year of income taxes." We gave depreciation in 15 years on structures that were going to last 30 and 40 years. So a lot of lobbyists decided they would become hotel investors and pay no tax.

We also were going to trade tax benefits from one corporation to another corporation. We also gave dramatic individual income tax cuts, 30 percent across the board, and defunded Government.

At the same time, we began a massive defense buildup—not to say we should not spend more on defense—but unlike Lyndon Johnson in the 1960's, Ronald Reagan in the 1980's did not finance his defense buildup. And as a result of these facts—a dramatic decrease in tax revenues, a dramatic increase in defense expenditures, and a continued growth of mandatory spending—the deficit took a dramatic turn for the worse.

In the 1940's, 1950's, and 1960's, not much of a deficit; there was even a surplus in some years. But then what happened in the 1980's? Well, you can see what happened. Here is the passage of the tax bill, around August 1981. See what happens to the deficit? It starts going up and up, and soon becomes over $200 billion. It only took a couple of years for the national deficit to grow larger than the whole debt of the country in the previous 15 to 20 years.

The deficit then dropped a little in 1984, came back up in 1985 and 1986, and then dropped significantly for 1987 and 1988 due to cosmetic and process changes such as the Gramm-Rudman Act, which arguably kept things under control for a short while. But the deficit then exploded again after 1989, and kept rising until 1992. As a result, from 1980 to 1992, the national debt of this country grew from $800 billion to $4.3 trillion. Is that thinking about tomorrow? Hardly.

Since 1992, what has happened? Because of the 1993 deficit reduction package, the national deficit has dropped dramatically.

My point here is simply that these deficits have not always been a part of our history. They are a part of bad public policy, and they have placed a gigantic burden on the backs of our children. And if we do not face up to this burden all of our tomorrows will be darker than they otherwise would have to be.

And it is also important to note that these deficit figures actually mask the seriousness of the problem. This is because we have been using the surpluses that are accumulating in our trust funds to hide the true size of the deficit in the rest of the budget. Because of changes we made to Social Security in the mid-1980's, this program now raises more funds than it pays out. Prior to 1983, Social Security was a pay-as-you-go program. Money would come in, stay a few months, and immediately be paid out to eligible recipients. But in 1983, we changed the program so that it would start accumulating surpluses, so we could supposedly guarantee that there would be enough money there for my generation when we retired. But right now we are actually spending these surpluses, by borrowing them to pay for deficits in other parts of the Federal budget. And, Mr. President, if action is not taken to stop this practice, the Federal Government will borrow an additional $636 billion from the Social Security trust fund between 1996 and 2002. So let us be candid about that.

So, once again, Mr. President, here is the history of our national debt. The situation was pretty good during the late 1940's and 1950's, with surpluses under both Truman and Eisenhower. Under Kennedy and Johnson we had solid fiscal policy. Under Nixon, Social Security was indexed and high inflation began. This inflation accelerated throughout the decade, and was accompanied by oil shock repercussions, but the deficit still remained relatively under control, with the national debt less than $1 trillion. But the 1980's heralded the sudden arrival of tax cuts, increased defense expenditures, and out-of-control mandatory spending, which have led to today's debt of nearly $5 trillion.

Mr. President, that is a cautionary tale. What would the ant say to the grasshopper if at this point the grasshopper said, "Let me come in from the cold into the house that you prepared, because you were not spending beyond your means"? The ant would say, "Play your sweet music in the summer, dance in the winter. You're on your own." Unfortunately, this is the position we all find ourselves in as a result of this profligate activity.

Mr. President, how do we make this situation real to people? How do we get them to understand? It is such a complicated issue. People do not want to think it through. They want to sound bite it. They want to have a quick answer. They want to believe if they vote for the balanced budget amendment they do not have to make any of these tough choices about cutting spending.

Mr. President, that is the furthest thing from the truth.

Think of it this way: If the average taxpayer's share of Federal spending and revenues were arranged in the form of a credit card statement, it would look something like this table entitled "Uncle Sam Says Charge It."

Mr. President, the first line shows the balance due. Take the national debt, divide it by all the taxpayers in the United States, and the result is that every taxpayer in this country had a debt of $37,838 at the start of this year. Each one of us. That is just to get to where we are right now. Each one of us has to pay that debt. And it is getting larger all the time. So the first line shows the outstanding balance. As you can see, at the start of 1994, it was $37,838.

But what about Government spending during 1994? Well, we ran a big deficit again, about $200 billion, in that year. How did that break down for each citizen of the United States? Well, each citizen is spending about $4,000 per person on Social Security; about $2,400 for national defense; about $1,900 for income security and welfare; about $926 for health; about $389 for education, training, and employment programs; $313 for agriculture and natural resources; $320 for transportation; and $133 for the administration of justice.

Now, that comes to a total of about $2,273.

What about the money that we have taken in, per person? Well, average, this totaled about $4,700 in income taxes, $3,700 in Social Security taxes, and about $2,484 in other forms of payments to the Government, such as customs, estate taxes, and excise taxes. This comes to a total of $10,932 for each taxpayer. Compare this to total spending per taxpayer of $12,700. The result is $1,765 added to the credit card bill of every taxpayer—and remember that this is added on top of the $37,838 that every taxpayer owes from previous years.

Now, Mr. President, what happens in this kind of situation? We cannot continue down this path. Something has to give. About 3 years ago, the distinguished chairman of the Budget Committee, the Senator from New Mexico, and I asked the General Accounting Office to tell us what would happen if we do nothing about this deficit situation. They came back with a report that said if we do nothing, every one of our income will be 40 percent less than it otherwise would be by the year 2020—40 percent less.

That is understandable, given all the money which must be sucked in from the economy just to pay interest to bondholders, in order to keep financing our $5 trillion in national debt. None of that money is available to create jobs, pay raises, buy cars, or purchase homes.

Things have changed since that GAO report. If we recall the last graph, the deficit came down in 1993. We took action in 1993, passing the biggest deficit reduction package in history. But there is still an awful lot to do.

So, Mr. President, having discussed what is in the federal budget, we now come to the more difficult part. We clearly need to reduce the deficit, but the question is, What are we going to do to cut spending? Let us start by asking how much spending cuts will be needed in order to balance the budget. If we do not implement the tax cuts that are included in the Contract With America, we would need to cut on average $922 for every resident of my State. If the contract tax cuts are enacted, then this number rises to about $1,265.

What does this mean? These are vague numbers. All the budget debates eventually turn into numbers, and people turn them off. What is the real impact of cutting $922 or $1,265 per person in New Jersey, and of making similar cuts in other States? What does this mean in terms of the Federal spending that we have talked about?

Given our current fiscal policies, balancing the budget would require a 13-percent cut in every spending program—13 percent. The question is, Are we willing to tolerate cuts in every one of those programs? Are we willing to take a 13-percent cut in Social Security? Are we willing to take a 13-percent cut in the national defense? Of course, we cannot take a 13-percent cut on interest. The bondholders get paid, regardless.

However, if Social Security is off the table, and everybody in this Chamber has given speeches that have resonated across America promising that there will be no cuts at all in Social Security, then the size of cuts needed in all other programs goes up to 18 percent. Take Social Security off the table, and everything else is cut 18 percent. Medicare, defense, grants to State and localities, and all other spending—18 percent.

Let us carry this a little further. I know no one in here wants to make the United States vulnerable, even in the post-cold-war world. So in addition to taking Social Security off the table let us take defense off also. And remember that interest is automatically off the table because we have to pay the bondholders. If we say that there are to be no cuts in any of these three areas, then the remaining programs are subject to across-the-board cuts of 22 percent. And if the tax cuts outlined in the Contract With America are implemented, then the level of cuts needed to balance the budget rises to 30 percent. That would be a 30 percent cut in all non-Social Security entitlements, including Medicare, and in every other existing program except Social Security and defense. That would mean a 30-percent cut in grants to state and local governments. It would require that we cut areas such as investment in infrastructure and unemployment compensation by 30 percent.

Now, Mr. President, it is not really likely we will cut 30 percent of the FBI or 30 percent of the Immigration Service or 30 percent of the Internal Revenue Service or 30 percent of Federal prisons or 30 percent of military pensions or 30 percent of veterans programs. To be honest, we will take certain things off the table in the same way that Social Security and defense will be off the table. We will have to take these other programs off the table as well.

As a result, the cuts in the other programs are going to be even deeper. This means cuts of over 30 percent in Medicare, State and local grants, environmental programs, automatic stabilizers like unemployment compensation, and many other programs. What would cuts of at least 30 percent mean to these remaining programs? Well, in 1993, Medicare payments to doctors were approximately 40 percent less than private-sector payments. Imagine cutting them by at least another 30 percent. And cutting back on many of the other programs would be penny-wise and pound-foolish. We could cut back on programs for early childhood but end up paying more later for prisons.

Mr. President, going to this next table, what if we decided to cut grants to State and local governments? We give them $200 billion a year. The Federal Government gives it right to the States, many of whom are advocating the balanced budget amendment. Well, going after those grants for States, what are they for? Highways, airports, and other forms of transportation spending total 11 percent, or over $20 billion in Federal spending. Then take education, training, employment and social services, such as the handicapped education program, special education, foster care. These total about $25 billion in Federal spending, or 16 percent of grants to State and local governments. Cut it. What about income security, welfare, section 8, school breakfast, WIC, nutrition, and related programs—these total 24 percent. Cut it. Medicaid is 40 percent. Cut it.

So say that we cut all these programs that go to States, and in doing this we balance the budget. Then the State has to make the decision: Does it increase taxes, or does it forget about the education programs, the health programs, the housing programs?

So, Mr. President, what would significant cuts to States and localities look like? As I said, grants to States and local governments totaled $200 billion in 1994. In New Jersey, we received about $6 billion in Federal grants. This money funded a significant number of programs. Roughly 40 percent of the Federal funds went to health, 16 percent to education, 24 percent to welfare, and 11 percent to fund transportation.

On average—this is an important point—on average, Federal grants to support programs administered by States comprise 25 percent of all State revenues—25 percent. Remove those.

This is money that Governors have to spend—States get more money from the Federal Government than they raise with the personal income tax, more money than they raise with the general sales tax, more money than they raise with any other kind of taxes. If the Federal Government eliminated this 25-percent contribution, it would either lead to a dramatic increase in State or local taxes or else essentially eliminate many of these programs.

I think people have not really focused on what the impact of this will be. I know that people in this body have not focused on impact, but I guarantee you the State legislatures will. In my State of New Jersey, only about 20 percent of our State budget comes from the Federal Government. We have a diverse State, with a broadly based economy and rapid growth. New Jersey is quick to rebound from recessions, heavily export oriented, dramatically changed from manufacturing to services, and it has a very flexible work force with very talented people. The Federal Government gives us 20 percent of our State revenues.

This percentage is a little different in other places: in Arizona, it is 30 percent; in Michigan, 30 percent; in California, 34 percent; and in Idaho, 32 percent. This raises a very interesting question. Your people send tax dollars to Washington. They get dollars back from Washington, in terms of Federal expenditures.

My State has the second-highest income in the country. We pay a lot of taxes, because a lot of people with high income pay taxes. We do not have a lot of big defense expenditures in the State. We do not get back much relative to what we give the Federal Government, but a lot of other States do pretty well. For every dollar that New Mexico sends to Washington it gets back $1.96; Mississippi gets back $1.63; West Virginia gets back $1.45; North Dakota, $1.41; Virginia, $1.38. What do these figures mean? They mean that more Federal dollars are being spent in these States than are being sent to Washington from those States.

So here we have the West, the site of some of the strongest supporters of the balanced budget amendment. In the West, the Federal Government still plays as big a role as the Governor plays; for example, in Arizona, 30 percent of State revenues come from the Federal budget; the percentage is 32 percent in Idaho; 34 percent in California. Some of these States are owned by the Federal Government. Ninety percent of the land in Nevada is owned by the Federal Government; 1 percent of the land in New York is owned by the Federal Government. I think 9 percent of the land in Michigan is owned by the Federal Government; 90 percent of the land in Nevada is owned by the Federal Government.

So the point, Mr. President, is that if we are going to cut spending and we are going to do it across the board 30 percent, then those States that are getting more money back from the Federal Government than they are contributing are going to be disproportionately cut. It is not only going to be poor people who are going to be affected. So you might want to look at some of the other ways to raise revenue.

For example, right now we have public lands all over the West. Let us say I want to mine gold. Well, I pay about $500 to $1,000 max. I go in and mine the gold, and I do not pay the Government anything, I do not owe the Government anything. If we are asking individuals to pay more in taxes or we are cutting money to help them send their kids to college, do you think we might want to ask some of the mining companies to pay more if they mine minerals on public lands?

So the advocates of the balanced budget amendment have to understand the disproportionate impact that these cuts or additional revenue increases will have on their respective States.

So, Mr. President, I think that the analysis makes two points very clear, and they are that we have to balance the budget for the sake of our children's long-term economic prospects and that doing so is inevitably going to be very painful. What looks like a cheap move or an easy move here—cutting back that State and local Government transfer—will translate into, in some cases, higher taxes in many States.

Finally, as much as it is necessary to reduce the deficit—and it will be a bitter pill for the country—I think that it is absolutely essential that we do so. Trying to rush a balanced budget amendment through the Congress without a thorough discussion of how the budget will be balanced is, in my view, unfair and undemocratic.

So a lot of those Western States are probably going to have second thoughts when they look at the numbers. Alabama, with about $2.38 on every dollar, is going to look at it and have a second thought. The amendment will have dramatic effects on the lives of American citizens and every one of these citizens has a right to know what these effects will be before their elected representatives are asked to vote on this issue.

Mr. President, I have heard an awful lot of people saying, particularly States: Oh, you ought to balance your Federal budget; we want the balanced budget Federal amendment.

And yet, Mr. President, Governors do not have to balance their budgets in the way we have to balance our budget here in Washington. Governors have the right to, and in many cases do, have capital budgets, which means that instead of raising taxes and spending money, they simply borrow from these bondholders that we are borrowing from to create a Federal deficit, except when they borrow, it does not count in their State because they have a capital budget. I do not know about all States, but if you look in total, public indebtedness has dramatically increased at the State level.

So, increasingly, what the State governments are doing is the same thing the Federal Government did in the 1980's except they do not need a balanced budget amendment because they have simply defined the problem away. What if we had the same capital budget at the Federal level that exists in most States, mine included? Do you know what portion of the Federal budget would be included as a capital budget? And that includes all physical infrastructure, defense and non-defense, and all education programs. Do you know what that would be? $225 billion. If we simply defined our Federal budget as most States do, in one stroke of the pen we would have no Federal deficit this year. We would have a $25 billion surplus.

So when Governors tell me that they want to have a balanced budget amendment, I say to them: Give me the same capital budget. Give me the same capital budget you have, and we will have a surplus.

So, Mr. President, I think before we get a vote on the balanced budget amendment, we ought to have the specifics. I have spent almost 2 hours here today laying out what this budget is. The proponents of the amendment have not stepped forward and told us what they are going to cut. Which of the mandatory programs are they going to cut? Which of the discretionary programs are they going to cut?

I have a suspicion that there might be another game going on here. I do not mean to cast aspersions on anyone, and I do not. But my guess is that the other side will not take my suggestion of defining the problem away with a capital budget. A capital budget would make a lot of sense. It would be like State governments. I mean it would be like most businesses that have a capital budget. It would be like most families. You have mortgage interest. You have a mortgage on your house. You are in debt. But you can make your debt payments. You do not have to pay the whole thing immediately. Everybody in America has debt. The question is how you manage the debt and, most importantly, how you structure the debt.

Let us make a reform: a capital budget. Then we have a surplus. Then we have a surplus. That is a change that I could certainly support.

I am concerned there is going to be another approach, though. I already see it rumbling out there. And that is going to be to redefine CPI, saying that the deficit is not as big as you think it is because we have exaggerated inflation. Inflation is really lower, and if you calculate it in this different way, we will save $150 billion over 5 years just like that, so the deficit is much less.

Well, to those who are contemplating this, I would simply say beware, because—I am almost inviting the people to do this—the result is you pay about $21 billion in higher taxes every year if you do that. Why? You pay $21 billion in higher taxes because we have indexed the rates. But if you understate what inflation is, then people are going to be pushed into higher rates and pay more taxes. And about $28 billion less, in terms of less benefits, will go out because the CPI is calculated at a lower level. That is my fear.

If you really wanted to come out of this with significant reform that would be right to every legislator, it would be to implement a capital budget, take Social Security out and focus on the operating expenditures.

My hope is that, before this is over, at least we will have a chance to think about that. If we are serious about cutting the budget, at the minimum why not do it on a basis of some principle as opposed to lobbyists mud wrestling? Why not say, look, here is the deficit. We looked at this gigantic budget deficit we have. We have to do something about it. We are tired of being grasshoppers. We want to start to be the ant. We want to start to think of our future. We want to start thinking of tomorrow.

What we are going to do, maybe what we will say is, "What principle could we use?" Well, we have a principle for liberals and a principle for conservatives. If we join the two principles, we might actually have a way to proceed here. The principle for liberals would be, I would say, well, why not make income a principle? You get a Federal benefit up to a certain income level. Above that level you get less or you get none. Why should the millionaire who goes to the hospital get the same payment from Medicare as my struggling uncle who went to work every day in the lead factory for 40 years? Why should that happen? Why should a wealthy farmer who makes $3 million a year get the same farm subsidy or the same water subsidy that a struggling family farmer with 600 or less acres such as in the great State of Iowa or even the cotton farmers in Arizona gets? Why should it be the same for the millionaire as for the average person? Well, that is one principle. Maybe make income a criterion.

The other principle, for my conservative friends, would be to ask: How about the market? Everybody talks about the market. Yes, we want the market to allocate resources. Well, great, get the Government away from the market. Let the market allocate the resources. Cut the budget by eliminating all these subsidies that impede the function of the market.

If we join those two, having a principle of income and a principle of no subsidies, then you would have a way to proceed and explain to people why we are cutting this and not that. Otherwise, it is going to be that the agriculture people are stronger than the mass transit people, who each have their lobbyists trying to figure what levels of subsidies are there going to be.

So, Mr. President, as I tried to demonstrate today in this talk, it is not going to be easy to cut the Federal budget. It is not going to be easy at all to balance this budget. It is going to require bigger cuts in expenditures than anyone has heretofore contemplated. And as we proceed, if we proceed, I hope we will have not only a suggestion from the proponents of the amendment as to how they would balance the budget, but I think also those who oppose it might raise specific questions of how they would reduce the budget deficit. I believe that reducing the budget deficit is an imperative, second only to getting growth started in our economy. That is a big debate. What comes first, growth or deficit, savings or investment? I think you have to first get growth; second, reduce the deficit, and reducing the deficit has the potential of improving the prospects for growth. It requires some tough choices.

Mr. President, to go back to the cautionary tale, we are living in a time when the grasshopper and the ant continue to look at each other across the great divide. The grasshopper says to the ant, the ant that has worked all through summer and put food away for the winter, "Please, please, Mr. Ant, let me come into your warm home in the winter."

And the ant says to the grasshopper, "What did you do all summer?"

"I made sweet music."

"If you make sweet music in the summer, you die in the winter, and you are on your own."

More and more are we saying that. And more and more have we acted as the grasshopper and not the ant. Less and less have we thought of tomorrow. As I hope the last hour and a half has made abundantly clear, less and less have we thought of tomorrow with regard to our urban centers, with regard to our children. It is about time we start thinking of tomorrow and tell the truth to the American people.

I yield the floor.

REPLY TO SENATORS LEAHY AND BRADLEY

Mr. HATCH. Mr. President, I would like to take this time to briefly respond to certain contentions made by Senators LEAHY and BRADLEY regarding the balanced budget amendment. These contentions fall into several categories: First, that the balanced budget amendment does absolutely nothing to balance the budget; it is an unenforceable gimmick; second, that the deficit is the result of the Reagan administration; third, that President Clinton's deficit program effectively deals with the deficit program; and fourth, that the balanced budget amendment is the largest Federal unfunded mandate program to date and will be ruinous to the States because it forces the States to assume the cost of Federal social spending programs. Each of these contentions are either false or widely exaggerated.

BALANCED BUDGET AMENDMENT IS ENFORCEABLE

Senator LEAHY's assertion that the amendment is an unenforceable gimmick that does nothing to balance the budget, is both wrong and misleading. Of course, the amendment does not balance the budget by itself. But neither does the first amendment protect free speech nor the free exercise of religion by itself. The balanced budget amendment, similar to most of the Constitution, establishes a process, a mechanism to effectuate governmental power and obligations. The amendment establishes a limitation on Congress' taxing, spending, and borrowing power that furthers the goal of a balanced budget.

Moreover, the notion advanced by opponents of the balanced budget amendment that it is a paper tiger—that Congress will flout its constitutional authority to balance the budget—is simply wrong. First, the amendment has sharp teeth. It is self-enforcing. Because, historically, it has been easier for Congress to raise the debt ceiling, rather than reduce spending or raise taxes, the primary enforcement mechanism of House Joint Resolution 1 is section 2, which requires a three-fifths vote to increase the debt ceiling. This provision is a steel curtain that will shield the American public from an all ill-disciplined and profligate Congress.

Furthermore, Members of Congress overwhelmingly conform their actions to constitutional precepts out of fidelity to the Constitution itself. We are bound by article VI of the Constitution to "support this Constitution." I fully expect fidelity by Members of Congress to the oath to uphold the Constitution. Honoring this pledge requires respecting the provisions of the proposed amendment. Flagrant disregard of the proposed amendment's clear and simple provisions would constitute nothing less than a betrayal of the public trust. In their campaigns for reelection, elected officials who flout their responsibilities under this amendment will find that the political process will provide the ultimate enforcement mechanism.

WHOSE FAULT IS THE DEFICIT

Both Senators LEAHY and BRADLEY claim that the current deficit is the work of the Republicans—particularly former President Ronald Reagan. They claim it was the massive defense buildup of the 1980's along with the Reagan tax cuts that led to the present day deficits. In President Reagan's words, "Well, there they go again."

In reality, one thing and one thing only has led to our massive deficits, Congress' voracious appetite to spend and spend. During the 1980's, the Reagan tax cuts stimulated the economy and led to the largest peace time boom in American history. About 20 million new jobs were created and revenue increased by about $1 trillion. The problem was that Congress, whose constitutional authority it is to oversee and legislate the budget, spent $1.4 trillion.

In fact, it really doesn't matter whose fault it is. This is a bipartisan problem with fault enough for both sides of the aisle. Let's stop pointing fingers and work together.

Senator BRADLEY, who presented a very detailed and erudite exegesis of the budget process—I wish more of my colleagues were present on the floor to see it—hit the nail on the head when he stated that the real problems of the budget shortfalls is the mammoth growth in entitlement spending and payments on interest on the debt. He even seemed at times to make a case for passage and ratification of the amendment since he must concede that Congress, without a balanced budget amendment, has been wholly ineffective in resolving the budgetary crisis.

Furthermore, both Senators proudly point to President Clinton's deficit reduction plan as some kind of solution to the deficit problem. But they neglected to mention one simple thing—that after a small drop in the deficit for the first few years of the plan—the deficit continues to rise, surpassing $200 billion in 1996, reaching the record level of $297 billion in 2001, and topping $421 billion in 2005. Even the President's new budget plan fails to resolve the deficit problem as it averages about $200 billion deficits for each year of the budget plan.

BALANCED BUDGET AMENDMENT AS AN UNFUNDED MANDATE

Finally, both Senators LEAHY and BRADLEY contend that passage and ratification of the balanced budget amendment will act as an enormous fiscally crushing Federal unfunded mandate, forcing the States to assume responsibilities for social spending that the Federal Government has shouldered for years. This statement is the mother of exaggerations. First of all, it does not take into account that many of these Federal programs come with inflexible bureaucratic strings attached and ofttimes hamper localities resolve economic and social problems. Indeed, many Governors, including Governors Wilson of California, Allen of Virginia, Whitman of New Jersey, and my own Governor, Governor Leavitt of Utah, have publicly stated that they will gladly take the decrease in Federal proceeds due to a Federal balanced budget for control over how moneys are spent in States and localities. I truly believe that the States and localities will be far more efficacious in how money is spent without Big Brother Federal Government looking over their shoulder.

Of course, passage and ratification of the balanced budget amendment will require sacrifices, sacrifices from all of us. But the returns on a balanced budget are enormous—increased economic growth and more and better jobs. Indeed, as Senator SIMON often cites, GAO estimates that a balanced budget in the late 1990's will result in a 33-percent increase in the standard of living in about 10 years. I bet Senators LEAHY and BRADLEY did not take this into account.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Iowa.

THE PRESIDENT'S FISCAL YEAR 1996 BUDGET

Mr. GRASSLEY. Mr. President, the issue of constitutional amendment for a balanced budget that has been before us for a week and probably will be before this body for several more days before we make a final decision has had the debate on that issue intertwined pretty much with the present budget situation and even lately with the budget that the President has presented to this specific Congress.

The President's budget of yesterday reflects an abdication of leadership. It fails not only to put the budget on a glidepath toward balance, it also fails to seek even the President's own goal and promise to the American people. That promise, if you remember, Mr. President, was as stated in the 1992 campaign that the deficit would be cut in half by the 1996 election. That will not be the case under the budget that the President has presented to Congress.

So I am overcome by the farcical vision of how this budget must have been sent up here to Capitol Hill. Members of the President's team lined up on Pennsylvania Avenue and punted. They punted copies of that budget up here one by one.

On January 24, after the President's State of the Union Address, I had occasion to remark when I was asked about his address that it seemed that the President was very willing to accept the leadership of Congress and to follow our agenda because he recognized the outcome of the election. That election gave Republicans the responsibility to lead. Today, through his actions, the President confirmed my suspicion and submitted a budget that says, "Let Congress make the tough choices. Let Congress lead."

According to reports, several of the President's high-level advisers counseled that, since the administration has failed to get credit from previous deficit reductions, there is little wisdom in trying to cut more. I hope that this is not the case. For, if it were true, there would be no clearer signal of the absence of leadership from this administration.

Just last month administration officials were boasting about their achievements on the deficit front. They were bemoaning the fact that the message of what they supposedly have cut and accomplished on the deficit scene was not getting out.

So why are they now abandoning what they consider a virtuous policy instead of working to get that message out, if they want to be viewed with any sort of credibility? Because in my estimation, in abandoning their goal of more deficits, the administration has also abandoned its promise to the American people and, as a consequence, the President has lost all moral authority to lead.

Clearly, this President has chosen to play defense; that is, after the punting of the budget to us, they are now saying "You"—meaning Republicans—"call the plays, now. It is your turn with the ball and let us see if you can do any better." We have heard that for a long period of time and just this morning on the floor of this body.

I believe that Congress can do better. For the sake of our children and grandchildren, we can and must do better. The President has followed the lead of the American people who spoke in November. Thus he has passed the mantle of leadership on to us.

With that leadership, the Republican Congress has already delivered on making Congress more accountable to the public and State governments, and now we will work toward making Congress more accountable to our children and grandchildren.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

THE DASCHLE AMENDMENT TO THE BALANCED BUDGET AMENDMENT

Mr. GRASSLEY. Mr. President, what the 104th Congress is all about is ending business as usual in Washington. We started out by passing the bill that Senator LIEBERMAN and I introduced to make Congress live by the same laws it passes for everyone else. Then we passed a bill to restrict unfunded mandates.

These proposals represent a change from business as usual. The voters last November demanded a change in business as usual in Washington. And this Congress has delivered. And I am confident that we will continue to deliver.

One of the changes the American people wanted is a balanced budget amendment. They are tired of Congress coming up with clever rhetoric that has defeated this amendment over the years. Now, those same critics want us to spell out on an account by account basis the receipts and outlays for fiscal years 1996 to 2002. The proposal is yet another rhetorical trick designed to let big spenders defeat the balanced budget amendment by people who want no fiscal discipline.

The proposal represents a last gasp by the old guard to continue business as usual. For them, business as usual means a continually expanding Federal Government. The voters have spoken, and the business-as-usual crowd refuses to listen. That is not what representative government and democracy is all about.

We all know that a balanced budget is achievable. I know that our respected colleague Senator DOMENICI, chairman of the Budget Committee on which I serve, is working on a variety of fiscal strategies to show that it can be done—without touching Social Security. The numbers are clear.

We can limit spending growth to over 2 percent and reach a balanced budget, again without touching Social Security. Under current fiscal policy, Federal spending in fiscal 2002 will be 44 percent higher than this year if we do nothing. By holding growth to 22 percent, Republicans can balance the budget without cutting Social Security or raising taxes. Federal spending will increase under either approach.

But by how much? That is the question. Many of the supporters of this right-to-know amendment think Government spending must double by 2002. Supporters of the balanced budget amendment think Government can get by on approximately $260 billion more than we are currently spending, but half of what other people think we should spend.

I say that is enough money, taking inflation into account, to balance the budget while still allowing programs to grow. The argument has been made by my colleagues that, in 1993, Congress and the President acted honestly and forthrightly in enacting the fiscal 1994 budget. They say specific cuts and tax increases were spelled out to bring us toward a reduced budget deficit. Now opponents say supporters of this constitutional amendment have a similar obligation to spell out our plan. But the premise of the argument is invalid and the conclusions do not follow.

The 1993 tax bill raised taxes, and it had very few spending cuts. I doubt that anybody outside of the beltway can name a single real cut. The whole premise of the tax bill that the deficit would be cut was fallacious. The President's own budget predicts $200 billion in budget deficits for the next 5 years if we do nothing. Notwithstanding the 1993 tax bill, the President still projects deficits as high as an elephant's eye.

And so the debt still continues to grow clear up to the sky. The so-called honesty in budgeting of 1993 is a very slender reed on which to base a so-called right-to-know amendment.

In addition to serving on the Budget Committee, I also serve on the Judiciary Committee and I am concerned that the Democratic leader's amendment—another amendment before our body—will be beyond the intent of the Constitution. It says that the amendment shall not take effect until Congress passes a budget reconciliation act.

But article V of the Constitution—that is, the amending article—provides that when both Houses of Congress pass a proposed constitutional amendment, it "shall be valid to all intents and purposes, as a part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress." But the proposal before us would not allow the amendment to be effective once Congress has passed it and, in this case, three-fourths of the State legislatures having ratified it. Instead, we put a whole new condition on the amendment that we have before us, the amendment to be ratified: The passage of a 7-year budget reconciliation act.

That is not a constitutional convention for the ratification of an amendment. And I think this amendment by the leader of the minority should be beaten.

We have heard it said that if Congress may constitutionally insist as a condition for ratification that the States ratify a proposed constitutional amendment within 7 years, then it is constitutional for Congress to impose a condition such as the Daschle amendment before Congress submits the proposal to the States. This analysis is incorrect for two reasons.

First, the courts have upheld limitations on the ratification process, but no case has ever upheld the imposition of a condition for initiating ratification proceedings once Congress has adopted an amendment.

Second, the Supreme Court has ruled that although it is a political question, article V implicitly requires a contemporaneous majority to ratify an amendment. Thus, a 7-year or equivalent period is a constitutional necessity under the case law. But no such status pertains to the proposal by the Senator from South Dakota.

So, Mr. President, we should pass the balanced budget amendment. We should not adopt the Daschle amendment to that amendment because it is impractical and because it is unconstitutional. The American people want us to end business as usual. They see the so-called right-to-know amendment to be business as usual—a business-as-usual approach, rejected by the people in the November 8 election, a business-as-usual approach rejected by Congress for the first time in 40 years, as we try to bring to a vote all of the things that have been buried in Congress by a Congress controlled for 40 years by the now minority party.

We accept our responsibilities to reject business as usual, with our surveys showing 80 percent support for the constitutional amendment for a balanced budget. It has been before this body four or five times over the past 15 years. Now is the time to pass it.

I yield the floor and the remainder of my time.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. BRYAN], is recognized.

Mr. BRYAN. Mr. President, if the Chair and the acting floor manager will indulge me, I ask unanimous consent to speak for 3 minutes as in morning business and to extend the time before the recess.

The PRESIDING OFFICER. Without objection, it is so ordered.

ILLEGAL IMMIGRANTS OCCUPYING PUBLIC HOUSING

Mr. BRYAN. I thank the Chair and my colleague from Iowa. Mr. President, I want to call the attention of my colleagues a situation, which I discovered during our recent December recess, dealing with public housing.

Since 1980, the law has been clear that those who are illegal immigrants are not entitled to occupy public housing. So I was somewhat astonished in visiting with a housing authority director in my own State and to have him tell me that in the city of Reno, he would estimate that approximately 10 percent, maybe a little more, maybe a little less of those who occupy public housing are, in fact, illegal immigrants. At the same time, in the city of Reno—and I think this is replicated throughout the country—there are some 500 families waiting to occupy public housing.

So I asked the question, well, if it is illegal for them to occupy public housing, why have you not done something about it? That, Mr. President, is an astonishing story. In 1982, 1984, and 1986, apparently, efforts were made to implement by regulation what the statute establishes by way of policy. Through a series of administrative or bureaucratic delays and obfuscation, in fact, none of these regulations have been implemented.

So currently the housing authority directors in America are told that although the 1980 law remains in effect, you may not inquire and you may not verify the resident status of those persons who seek to make application to occupy public housing. May I say, Mr. President, this is absolutely absurd and ridiculous.

The law says that they ought not to be eligible—those who are illegal immigrants—to occupy public housing. Nevertheless, they are permitted to do so. There is a glimmer of hope. That is, that there is a rule making its way through the Office of Management and Budget, and I urge OMB to implement that regulation immediately so that the policy since 1988 may be carried out.

I thank you, Mr. President for your courtesy and that of the distinguished Senator from Iowa.

I yield the floor.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COHEN).

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

(Mr. THOMPSON assumed the chair.)

Mr. COATS. Mr. President, for decades Congress has enjoyed the unlimited luxury of unlimited debt. Our practices, which are pleasing for the moment to constituencies that profit from the practice of unlimited debt, have seriously undermined the credibility of this institution with the American people.

Skepticism and cynicism abound. That skepticism and cynicism—directed toward those who have made hollow promises, unfulfilled year after year, perceived to have been made for political purposes—brought about, in my opinion, the results that we saw in the November election. The American people want Congress to be honest and to be straightforward with them, even if it brings some unpleasant truths.

Now, with the passage in the House of Representatives of the balanced budget amendment by a historic 301 to 132 vote, the spotlight has turned on the Senate. As such, we, in a sense, are on trial. Our credibility is at stake. We are debating something of which the American people have become very well aware—the impact, year after year, for 25 straight years, of expenditures that exceed our revenues.

It has become apparent to the American people that we are forfeiting not only our own future but, more importantly, that of future generations and their opportunity to participate in the American dream.

I do not think there should be any argument about the urgency of our circumstances. Every child born in America inherits about $18,000 in public debt. This unfair burden placed on the future is the result of a failure of political will and it is a betrayal of moral commitments.

It was Thomas Jefferson who noted long ago:

> The question of whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of Government. We should consider ourselves unauthorized to saddle posterity with our debts, and be morally bound to pay them ourselves.

"The fundamental principles of Government," Jefferson noted. What is perhaps the most fundamental of those fundamental principles?

It is the same principle that applies to each person in our individual lives, to our family life, to corporate America, to business America, to virtually every institution. That fundamental principle involves being responsible and accountable to the people we serve, to our employees, to our family members, to ourselves. It means not spending more than we receive and running up a debt to the extent where we have become unable to pay that debt. Or, in paying that debt, we must squander resources that should go for essential purposes and essential services.

That is exactly what has happened here in the United States. We now face a national debt of $4.8 trillion. Applied across the board per capita that is $18,000 for each individual child born in America.

The debt robs people of the opportunity for economic progress. It steals their opportunity to set essential priorities of how they will spend their money. This failure of fundamental principle has led some of the most distinguished Members of this body to leave out of frustration, perhaps, or disgust. These respected Senators lost faith in our ability to act.

As I said earlier, the public generally shares that skepticism. With the House of Representatives now having passed the balanced budget amendment—and I hope the Senate will soon follow—we can begin to recover the trust of the American people. Despite the pleas of constituencies that walk in each of our offices and say, "Yes, it is a problem, but not my program," I believe the American people instinctively know that we have got to get our hands on this monster that has just grown beyond anybody's ability to control.

Now, I understand that amending the Constitution is serious business. Perhaps it is the most serious act of which this Congress is capable. It alters the most basic social contract between government and its citizens. The continued accumulation of debt threatens the endurance, the very endurance of that very contract, because it is an agreement not only with ourselves but an agreement with our children.

The constitutional amendment is, admittedly, a strong measure, a strong remedy. Sometimes it is needed, as we have demonstrated in the past. It is needed when the crisis is truly here. And it is truly here.

A General Accounting Office report says that interest payments will exceed $1 trillion by the year 2020 if we simply remain on our present course. That fact has to be unacceptable to every Member of this body. That continued load of interest on the debt means that we hinder our economy from growth it can provide in jobs and opportunities for Americans. It means that we divert money from essential expenditures that this Congress needs to make while continually taking more money from hard-working taxpayers who need those funds to meet basic individual and family needs.

We borrow at the rate of $1 billion a day—$1 billion a day. What could we do in this country with $1 billion a day to meet essential needs, to return funds, or allow taxpayers to retain more hard-earned dollars, to make decisions for themselves and their family. What can we do with those funds.

So it does come down to a test of will. It does come down to political courage. But this Congress and previous Congresses have demonstrated, to date, that we do not have the political courage or the will because it is simply too easy to take the expedient route, to say "yes" to the constituent groups that might help ensure our reelection, rather than say, "I am sorry. We simply do not have the funds." We can say what legislators of 48 States have to say to their constituents. That is, "Yes, I recognize your concerns. I understand the need. But you must understand we have to decide how we will spend our scarce revenue dollars on the basis of priorities. That's what we are elected to do."

This body has not had to do that. It has become an all too convenient method of ensuring political longevity and reelection to be able to say "yes" while we ask future generations to pay for that "yes."

Spending habits of Congress are simply too entrenched. There is an ideology of many Members that has nothing to do with left or right, liberal or conservative, Republican or Democrat. It has to do with power. Power to use the Federal Treasury to please special interests, to make powerful constituencies happy, to ensure our longevity and our reelection.

Deficit spending has always made political sense because it allows Congress to please people in the present by placing burdens on the future. The future, significantly, has no vote in the next election. We have built that power on the ability to buy constituent support for cash funded from debt. That power, it is obvious here, will not be easily surrendered even when we face a crisis of our own creation. Even when the views of most Americans are clear, that power will not be easily surrendered.

Make no mistake, what we are talking about with the balanced budget amendment is surrendering power, power which I contend we have handled irresponsibly. The record is clear. I came to this body, the body of Congress, in 1981. I remember the recoiling of new Members over the prospect of having to vote early on in 1981 to raise the debt limit to over $1 trillion. I stand here today, a few short years later, and we are looking at the prospect of a $5 trillion debt.

It is a failure of political will. We all bear responsibility. The question now is, how do we address the problem, given the fact that the crisis is here and we must not continue the past practice of increasing debt and placing the responsibility on the shoulders of future generations—how do we address that? That is the fundamental question.

We have had proposal after proposal, scheme after scheme, promise after promise that holds out the hope that we finally will have summoned the political will and the courage to address the crisis in a legislative manner. Yet the record is clear. Year after year, proposal after proposal, we have failed in that responsibility.

So now comes the moment of truth. Now comes the opportunity for Members to enshrine in the Constitution of the United States—perhaps the one promise none of us dares violate—a mandate to which we will pledge fealty upon our swearing in, a mandate that says, "Thou shalt not spend more than you bring in." Such an oath will make honest politicians out of all, honest legislators out of all. Having placed our left hand on the Bible and raised our right hand, swearing to uphold the Constitution of the United States, including the injunction that "We will not spend more than we take in," we will have to face the music at every legislative session. We will have to look our constituents in the eye and say, "We are sworn to uphold this Constitution, and this Constitution forbids us from going into debt. So your program, your proposal, the additional spending that you seek may be worthy, but it has to be placed among the categories and lists of priorities that we will have to decide each time we meet."

We will be forced to establish those priorities. We will be able to summon the wherewithal to finally live up to the responsibility that each of us has failed in, and that is to be careful guardians of the dollars that the public entrusts to Members. It will force us to avoid a system which allows Members to transfer that responsibility from the present to the future, and ensure that we do not place on future generations the debts which we are obligated to pay.

The constitutional amendment to balance the budget would transform the nature of our commitment to a responsible budget. It is one thing to vote for a deficit, it is something entirely else to violate the Constitution.

That, Mr. President, I contend is what is at issue here. The constitutional amendment to balance the budget is an opportunity, a chance to leave some legacy other than monumental debt.

I ask my colleagues, many of whom have provided many, many years of meritorious service, what legacy do you want to leave when your time is finished? What legacy, what heritage do you want to pass on, given the service that you have been privileged to provide as a Member of the U.S. Congress? Do we want to leave a legacy of debt which places a burden on the opportunities for this Nation. Do we want to leave a legacy for our children and grandchildren and future generations that denies them the very opportunities of which we have taken advantage? Is that the legacy we want to leave?

I suggest that it is not the legacy we want to leave. I suggest that every other attempt that we have made, every other proposal that we have addressed has not solved the problem or even come close to solving the problem. There has been too much temptation to please the present by shifting the responsibility to the future. We have demonstrated that we are not capable of dealing with it.

So we are almost asking to approve the balanced budget amendment as a way of saving ourselves, saving ourselves from the continued moral failure of being responsible to the very people that we are privileged to represent. Let us leave a legacy of which we can be proud, a legacy that will ensure for future generations the rights and privileges that we have been so fortunate to enjoy.

The balanced budget amendment is also a chance to restore some needed trust, to prove that the Congress can stand for something other than defense of its own power and its own privilege.

Mr. President, I will have, obviously, many opportunities to speak further on this issue. It is a critical one. We will spend a considerable amount of time dealing with it. There are obviously divisions of opinion as to how we should get from here to there. I look forward to speaking and participating on this issue in the days ahead.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have listened to the closing words of my distinguished friend from Indiana, Mr. COATS. Speaking for myself, I do not want to leave my children and my grandchildren the legacy of a crippled Constitution. I believe that the balanced budget amendment, if adopted, would be an irresponsible act that would cripple this Nation's capacity to cope with the economic problems of the 21st century and beyond.

Does the Senator wish me to yield?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I wonder if the distinguished ranking member of the Appropriations Committee will yield to me for the purpose of making a statement on another issue for approximately 7 or 8 minutes.

Mr. BYRD. Mr. President, as for myself, I have no problem with yielding to the Senator. I do know that Senator BUMPERS has been waiting patiently to speak, and there are others who wish to speak.

I ask unanimous consent that I may be permitted to yield to the distinguished Senator from Montana for not to exceed 8 minutes without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I very deeply thank the Senator from West Virginia and the Senator from Arkansas, Senator BUMPERS, who I know wishes to speak.

I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUTTE, MT

Mr. BAUCUS. Mr. President, today I begin a series of statements about a place that is very special to me, the city of Butte, MT. These statements will focus on Butte's economy, its people, its quality of life, and other special attributes of Butte.

I will begin today by discussing the recent history of Butte's economy.

Butte, MT, is 1 of 13 communities across the Nation under consideration for a new microchip manufacturing plant to be constructed by Micron Technologies.

Now, Butte and Micron may seem to have little in common; after all, why would one of the Nation's leading high-technology companies want to set up a shop in an old western mining town like Butte?

Yet, if you scratch just below the surface, Butte and Micron have a lot in common. Thanks to the basic American values of hard work, patriotism, ingenuity, competitiveness, both Butte and Micron have grown and prospered over the past 10 years. And Micron has done this without shipping jobs overseas.

Many of their managers have told me, with great and justifiable pride, that their corporate philosophy is to grow jobs not overseas but in America. It is exactly that kind of loyalty that has helped the people of Butte rebuild their economy after the loss of the largest employer more than a decade ago.

For over a century, the business of Butte was mining. Butte's first settlers called it "the glittering hill." Later, Butte would be known as the "mining city." At first, it was silver and gold but primarily copper.

While the mining industry flourished, Butte grew and prospered, and some in Butte got very wealthy. Many others made a hard but a decent living in the mines. During the early part of this century, Butte's population rose to nearly 100,000 people, about the same size as today's Billings, MT, our largest city.

With copper prices falling in the 1970's, Butte's once mighty mining industry began to slowly taper off.

Then it happened. The mines closed. This January 7, 1983, headline, a replica, a mockup of the Montana Standard, reads like a death sentence for Butte: "Butte Mining to Stop." There is a big stop sign; a death sentence for Butte, MT.

Hundreds of jobs were lost, direct jobs; over $32 million in annual payroll disappeared; over $1 million in yearly tax payments to the local government were lost, and Butte lost a big chunk of its identity—mining. The "mining city" became the "former mining city."

Butte's chief executive at the time was a good friend of mine named Don Peoples. Don told the local paper:

> It's like being told that a patient has a terminal illness. You first feel frustration, anger and then sit back and determine how you fight on.

Don's reaction of the news was typical of the spirit, optimism, and loyalty that helped make Butte such a special place.

Yet, there were a lot of other people, most of whom, by the way, do not live in Butte, who counted Butte out. They thought Butte was destined to become nothing more than a very large ghost town on the western landscape.

But were they ever wrong. Perhaps they underestimated the teamwork and the ingenuity of Butte's leaders, people like Don Peoples, Harp Cote, Joe Quilici, Bob Pavlovich, J.D. Lynch, Judy Jacobson, Fritz Daily, Evan Barrett, Bob Gannon, and Jack Lynch. And I know they underestimated the thousands of other hardworking Montanans who were still proud—fiercely proud—to call Butte their home.

These people were not about to pack up and leave. They were determined to stay in Butte and build a better life for themselves and their families, and they did it. By working together and creating a probusiness environment, they made Butte of 1995 a great economic success story.

There is much, much more to the Butte of 1995 than mining.

The Montana technology companies have earned Butte international recognition as a center for the development, testing, and marketing of new environmental technologies. They have done it themselves in Butte.

Montana Power Co., based in Butte, operates one of the most dynamic utility and energy businesses in the Nation.

Butte's Montana Tech turns up on any list of the best engineering and science schools in the country. For instance, in a survey of college presidents recently published in U.S. News and World Report, Tech, Montana Tech was voted the top ranked small college science program in the Nation—top, No. 1.

Hundreds of new small businesses have grown up and prospered in Butte.

Well, 12 years have now passed since the mines closed. Mining has come back to Butte. With the development of Montana Resources several years ago, Butte can again rightfully call itself the mining city.

In short, if Micron is looking for a good place to do business, Butte is the best place. Its industrious people are the perfect match for Micron's record of growth and productivity.

Over 30,000 Montanans from Butte and southwest Montana have signed petitions urging Micron to locate in Butte. I can only add my voice to theirs by expressing my fervent hope that Micron will become Butte's next economic miracle.

I thank the Chair, and I thank the Senator from West Virginia.

I yield the floor.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. BYRD. Mr. President, today we continue one of the most important debates in the history of the Senate. The debate involves whether to change the basic, fundamental, organic law of this Nation forever, and for the first time to write fiscal policy into the Constitution of the United States—for the first time, amended only 27 times in its history. The Constitution of the United States is one of the most brilliant, uplifting, and inspired documents ever written by the hand of mere mortals. It has served as a model for other nations, nations that are struggling to emulate the American genius and ensure a government that allows maximum freedom for its people, and yet also fairly imposes the strictures of the rule of law.

Such a document, with its carefully weighted checks and balances, its beautiful guarantees of freedom and liberty, its eloquent preamble of 52 words, and its visionary flexibility has inspired and guided this great Nation of ours for generations.

Now the decision to preserve it for our future generations rests with this body—100 men and women sworn to support and defend this marvelous Constitution against all enemies, foreign and domestic. And the decision rests with us. The buck stops here. I have taken that oath 13 times in the last 48 years—to support and defend the Constitution against all enemies, foreign and domestic. I have administered the oath of office on a good many occasions to several of my colleagues, and I have considered it an honor and a privilege to do so.

This body has a solemn responsibility to debate the proposed amendment carefully, fully, thoroughly and with diligence. Nothing on the Senate's agenda is as important as this proposal. It is the most important decision that will be made in this Senate this year. And if, which God avert, this amendment is adopted, it will prove to have been the most important amendment, the most important change to the Constitution since the Constitution became effective 206 years ago, and it will be the first time out of 27 times that an amendment has been adopted to damage this inimitable document.

Nothing on the Senate's agenda, as I say, is as important as is this proposal. So I say that no politically crafted, so-called Contract With America—you have heard about that, the Contract With America, the so-called Contract With America. Let me show you my contract with America. Here it is, the Constitution of the United States. It cost me 15 cents. There it is—15 cents. Any Senators who wish to get similar copies may do so from the Government Printing Office. It only costs a dollar even at today's prices.

So this so-called Contract With America, which I did not sign on to, and which just sprouted up like the prophet's gourd overnight, during the last election, should not drive this debate or crowd out the thorough consideration of this proposed constitutional amendment.

We have a duty to air all sides before the public, lest there be any misunderstanding about what is being proposed. If we are to adopt this most serious of alterations to our Constitution, let us not do so without telling the American people exactly what the change will mean to them. Let us not do so without telling the American people exactly, to the very best of our ability, what the change will be to them, the American people.

The debate may be at times tedious. It deals with concepts and truths which are not usually on the public radar screen. But it is our responsibility to focus the public, if we can, on this issue which is so fundamental, so fundamental to the future of our Nation.

And so it is my hope that the Senate and its Members will concentrate their fractured attention spans, clear the decks, and listen to and participate in this extraordinary debate. Now, this is no ordinary bill. It is no mere amendment to a statute. This is the supreme law of the land about which we are talking. We are talking about amending the supreme law of the land, the Constitution of the United States, the supreme law of the land, the guarantor of our freedoms and the freedoms of generations of Americans which we are considering here on this Senate floor. We are considering an amendment to write into the Constitution for the very first time language dealing with fiscal policy. That is a subject which the framers of the Constitution, in their wisdom, left for the decisions of the elected representatives of the people in this body and in the other body.

I hope that we will be guided by at least a limited wisdom of the Framers. There is a kind of pretense that one can read between the lines in this amendment, namely that the statesmen of today are wiser than those Framers of the Constitution who acted 208 years ago to submit to the States for their ratification the great document. I hope that we will reread the solemn oath that we all took when we were sworn in. I hope that Members will listen to their consciences and resist the political winds that have already blown through the other body.

Now is the Senate's time to shine. It can fulfill the task before us, with faithfulness to its purpose, by an exhaustive review of the impact of this proposal. Nothing we do during our collective service in the Senate will ever be more important than this task which is before us today, the task of examining, scrutinizing, dissecting, and hopefully rejecting this constitutional amendment.

The people hopefully will remember one truth as they watch and as we engage in this historic debate; that is, that there is no disagreement over the goal of getting to a balanced budget by reducing the Federal deficit. This debate, however, is about tampering with the United States Constitution in such a way as to mandate a zero deficit each and every year for the life of this Republic—for the life of this Republic—not just for a few years, but for centuries. Who knows? This is an extreme and serious remedy, indeed.

We can change a statute a month after it is enacted, 2 weeks after it is enacted, or a year after it is enacted. A statute can be repealed by the same Congress that originally enacted it. But not so with an amendment to the Constitution. Once this surgery has been performed, once the frontal lobotomy has been done, it will be very difficult to undo if we do not like the consequences.

That is why as much should be known about this proposal as possible, including a blueprint for exactly how the proponents would get the budget into balance by 2002. If that blueprint cannot be produced, then the American people should be aware from the outset that the amendment may be a sham and a cruel hoax by politicians looking to curry favor by making promises that they cannot keep, and by using the Constitution—this Constitution of the United States—as cover for their singular lack of courage.

Public service should mean more than that. The welfare of the people should mean more than that. And the Constitution of the United States must surely mean more than that.

Mr. President, I have heard the great name of Thomas Jefferson invoked time and time again during this debate by some of those who support this constitutional amendment on the balanced budget. Thomas Jefferson was not one of those at the Constitutional Convention. Thomas Jefferson was not one of the 39 signers of the Constitution. He was a Minister to France at the time that the Constitutional Convention was underway.

We all know that a failure of the Congress under the Articles of Confederation to provide the Nation with a responsible financial system was the principal stimulus to the drafting of the Constitution. That was one of the things that was wrong with the Congress under the Confederation, one of the things that weakened the Continental Congress.

The First Continental Congress met on September 5, 1774. The Second Continental Congress met in 1775, and it continued until 1781, in which year the Articles of Confederation were created, and the Congress under the Confederation continued to exist until 1789, when this Republic, created under the new Constitution, came into being.

One of the principal reasons why it became clear that the Congress was ineffective under the Confederation was the fact that its financial system was really a paralyzed system, one in which the Congress had to depend upon the States for their good will and their support in coming up with the funds that were levied against them. The Congress had little power. It had to requisition moneys from the States, and the moneys were not always forthcoming.

So, it was decided that there would have to be a new form of Government, and a new Constitution was thus written. There were also problems with regard to commerce between and among the States. All those things came into focus and made clear the need for a new Constitution and a new form of Government. That Constitution, therefore, was written during those 116 days that occurred between and including May 25 and September 17, 1787.

Jefferson did not help to write that Constitution. Jefferson was not at the Constitutional Convention. So why invoke his name? This notion that today's populace should not be able, by borrowing, to burden future generations with debt was never seriously considered by the convention. Such an amendment to the Constitution was never submitted to the people.

Jefferson was President of the United States from 1801 to 1809. Why did he not suggest or recommend that such an amendment be submitted to the people by the Congress? He had the opportunity to do it. Why did he not do it?

I think we have to recognize a limitation as to what we are willing to include in the Constitution by recognizing that there is a vast gulf between what might be considered a Utopian Constitution and what it might contain, and what a Constitution in the real world can achieve.

One should never underestimate the price of making promises that even a Constitution might not be able to deliver.

Thomas Jefferson took no part in the debates, as I have said, of the 1787 Convention that produced the Constitution. He was in France. He did not return home until October 1789. The Constitution had already gone into effect on March 4, 1789.

A month previous to his return home from Paris, Jefferson wrote the celebrated "The Earth Belongs to the Living" letter, and he wrote it to James Madison. In that letter, Jefferson argued that "no generation can contract debts greater than may be paid during the course of its own existence," and Jefferson calculated such a period to be about 19 years. We would calculate it to be a longer period these days.

James Madison, though, is generally recognized to be the Father of the Constitution. Here it is in my hand, the Constitution of the United States. This is not the so-called Contract With America; this is the Constitution of the United States. That is my contract with America.

James Madison is generally agreed to have been the Father of the Constitution of the United States. He continued to explain that "the improvements made by the dead form a charge against the living who take the benefit of them." In other words, the improvements made by those of this generation, who years hence, would be dead. The improvements made by the dead form a charge against the living generations hence, who will take the benefit of those improvements. Continuing, Madison said, "Debts may be incurred for purposes which interest the unborn, as well as the living"—This is not ROBERT C. BYRD talking; this is James Madison. I was not there when this Constitution was written. I did not have a thing to do with writing it. But it is my contract with America. Madison said: "The improvements made by the dead form a charge against the living who take the benefit of them. Debts may be incurred for purposes which interest the unborn, as well as the living; such are debts for repelling a conquest, the evils of which may descend through many generations."

Madison's view, therefore, was that "debts may be incurred principally for the benefit of posterity." Jefferson said, in essence, we should not pass debts on to our children and grandchildren. But Madison took the other view—the better view, in my judgment—that "debts may be incurred principally for the benefit of posterity."

I think greater weight should be given to Madison's view than to Jefferson's more abstract idea, written from the distant European shores. Particularly compelling is Madison's salient observation of the year 1790, namely, that "the present debt of the United States"—in 1790—"far exceeds any burdens which the present generation could well apprehend for itself." Even in 1790, the next year following the flowering of this new republic, under the new Constitution.

Madison believed in the "descent of obligations" from one generation to another. "All that is indispensable in adjusting the account between the dead and the living," he wrote, "is to see that the debits against the latter do not exceed the advances made by the former." As I stated earlier, Jefferson later became President. Why did he not propose a constitutional amendment? Why did he not lead an effort to propose a constitutional amendment to carry out the "Earth Belongs to the Living" theory? Say what you want; he did not do it.

To the contrary, in 1803, Jefferson encountered an unexpected offer from France to purchase the Louisiana Territory. Although he felt that he lacked clear constitutional authority to act, Jefferson accepted the offer—and I am glad that he did—and incurred a public debt to pay the required $15 million. Where did he get the money? He borrowed it from English and Dutch banks. Grappling with this contradiction now, Jefferson said in 1810 that the question was "easy of solution in principle, but somewhat embarrassing in practice," and then Jefferson went on to suggest that the "laws of necessity" were sometimes higher than the written laws of government and concluded that it would be absurd to sacrifice the end to the means. I think he did the right thing.

I have no doubt that, once the American people are better informed on this question before the Senate, the judgment of the American people will be sound.

Talleyrand, who dominated the politics of Europe for 40 years—he was Prime Minister of France, who served under Napoleon—said there is more wisdom in public opinion than is to be found in Napoleon, Voltaire, or all the ministers of State, present and to come.

(Ms. SNOWE assumed the chair.)

Mr. BYRD. But, Madam President, it has to be an informed public opinion. It has to be an informed public opinion.

And that is, more than anything else, why the Senate is the premier deliberative body of the world today. It is the forum of the States and the forum of minorities, and a forum in which there is unlimited debate, the right of unlimited debate, only to be shut off by a cloture motion adopted or by a unanimous consent agreement.

I happen to believe that the American people are not fully informed as to the ramifications of this snake oil constitutional amendment which would mandate—mandate—a balanced budget every year from now until kingdom come; every year.

Madison, in Federalist Paper No. 63, said:

> * * * so there are particular moments in public affairs when the people, stimulated by some irregular passion, * * * or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn.

Now he was talking about the Senate. That is what Madison was talking about. Go look at the Federalist Paper No. 63. He was talking about the Senate.

"In these critical moments," he said, "how salutary will the interference of some temperate and respectable body of citizens in order * * * to suspend the blow meditated by the people against themselves until reason, justice and truth can regain their authority, over the public mind."

Madison was talking about the Senate.

"What bitter anguish" he said, "would not the people of Athens have often escaped if their government had contained so provident a safeguard against the tyranny of their own passions? Popular liberty might then have escaped the indelible reproach of decreeing to the same citizens the hemlock on one day and statutes on the next."

That was Madison, the father of the Constitution, talking about the Senate. William Ewart Gladstone—who was prime minister four times under Queen Victoria—referred to the U.S. Senate as "that remarkable body, the most remarkable of all the inventions of modern politics."

Madison was talking about the Senate, referring to it as a body of "temperate and respectable" citizens who might interfere and "suspend the blow meditated by the people against themselves" in a time of partisan political passion, "until reason, justice, and truth can regain their authority over the public mind."

That is why we have the Senate. That is why we are here to debate these issues.

Madam President, for more than a week now I have listened with great fascination as some of the proponents of the balanced budget constitutional amendment have laid out every conceivable reason as to why we should adopt this measure. If I did not know better, if I did not certainly think I knew better, I might be convinced by all of the rhetoric that the amendment is the silver bullet cure-all for everything that ails the country. But I do know better, and, more importantly, the American people will know better, too, if only they can be fully informed on the matter.

Unfortunately, left unsaid in all the pro-amendment talk has been one of the most important parts of this, what it will really amount to, what it really amounts to in my judgment will be an immense fraud: the people's right to know how implementation of the amendment will affect them. How will the adoption of this amendment affect you, Mr. and Mrs. America, you and your children and your grandchildren?

And, contrary to what some may think, the public does have a right to know how they will be affected. The people have a right to know how spending cuts on the magnitude of $1.5 trillion over the course of a 7-year span will impact their lives and the lives of their children.

The fact that the public is beginning to understand that they are going to be hit and hit hard can be seen in the results of a recent nationwide survey. Last week, the American Association of Retired Persons released a poll, conducted by the Wirthlin Group during the last week of January, which showed that 75 percent of the American people want to know the details of what will have to be cut to balance the budget before the amendment is voted on. Notice, I said "before the amendment is voted on."

So, as will be seen by this chart here, the American people are saying, "Spell out the cuts." Spell out the cuts.

Three out of four Americans, according to this poll that was released by the American Association of Retired Persons last week, three out of four Americans want to know, Madam President, where, oh where, we intend to come up with $1.5 trillion and they want to know it before the vote on this fiscal pie-in-the-sky proposal takes place.

Even more amazing than those overwhelming numbers, though, is that the support for the radical idea of knowing the details ahead of time runs across party lines.

The chart to my left plainly states that 68 percent of the Republicans polled by the Wirthlin Group want to know what will be cut first before Congress passes the balanced budget amendment. Seventy-seven percent of the Democrats want to know. Eighty-three percent of the independents want to know. Want to know what? What will be cut first?

They want to know first, before we adopt any such amendment, they want to know the figures that will be cut.

These results of the poll show that the argument over the people's right to know is not a partisan argument. It is not, as some have suggested, simply a way of delaying a vote on the balanced budget amendment. Sixty-eight percent of the Republicans polled do not believe that it is simply a way of delaying the vote. Seventy-seven percent of the Democrats polled do not believe it is just a way to delay the vote. They want to know what is in the amendment. Eighty-three percent of the independents do not believe it is just a way to delay the vote. They want to know what is going to be cut.

It is not, as some have suggested, simply a way of delaying a vote on the balanced budget amendment. On the contrary, the people's right to know is a very real issue that must be confronted. In reality, Madam President, none of the Members should be surprised by the poll results because the American people are not reckless.

People know, for example, that before they buy a house, they need to ask whether or not the roof leaks. They know that before they buy an insurance policy, they should read the fine print to see exactly what it covers. And they know if they want to cut the amount of fat and cholesterol in their diets, they should read the label on the foods that they buy at the supermarket.

The people take the time to think about what they are being asked to buy. They consider all of the pluses and all of the minuses of what they are judging. They do not run out willy-nilly and lay down their money without asking for the details of what they are about to purchase. They do not take it on faith that what they are being told is the full story. They ask questions. They ask questions. They expect to be given clear and honest answers to their questions.

Now that the American people are asking questions, now that they are asking the details of the $1.5 trillion magic pill that will shrink the deficit without pain or suffering, are they going to be ignored? Is the American people's right to know going to be ignored? By refusing to honor the public's right to know, the proponents will, in effect, be telling the American people that we here in Washington know what is best.

"Take it on faith," is what the American people are being told. "Trust us. Trust us. Do not press us. Do not press us for all of these messy details." Is that what Senators think the public was telling Members last November? Do Senators honestly believe the message out of the last election was that the American people want Members to pass legislation in such a hurry that we do not tell the American people the ramifications?

Does anyone think that the public is happy with being kept in the dark on this $1.5 trillion scam? In my view that is what it is, unless we tell them, let them look under the hood, unless we tell them what is on the label, unless we at least put a label on this bottle. If anyone thinks that, then they should think again. The American people have a right to know the details behind this amendment. They have a right to know whether or not their children are going to be able to get a student loan, whether or not the national parks in their State will be closed, whether or not the National Institutes of Health will be able to continue with breast cancer research, whether or not they will see fewer cops on the beat in their cities, whether or not the Federal Government will continue to offer financial help with highways and water treatment plants in their communities. People have a right to know.

Nearly everyone is making promises, as I listen, promises that Social Security will not be cut under the balanced budget amendment. There will be amendments offered to exempt Social Security, we hear, and promises made to protect Social Security from cuts. I do not want our senior citizens to be misled. Taking the Social Security trust fund off the table does not totally ensure our elderly citizens from the devastation of this amendment. Taking the Social Security trust fund off the table simply means that even more pressure for cuts falls on Medicare and on other programs that help the elderly, such as Meals on Wheels.

Moreover, there are backdoor ways, backdoor ways of getting at Social Security even if it were to be taken off the table. One such idea which is being explored, I believe by our Republican friends, is to recalculate the way we measure cost-of-living increases in order to help to reduce the deficit. That proposal, that recalculation, would actually mean a reduction in inflation adjustments for taxpayers' standard deductions and personal exemptions on their income tax form. Those changes, then, would result in both a cut in Social Security benefits and a tax hike to the recipients of Social Security benefits. So Social Security recipients should not rest easy, even if the trust fund were to be exempted.

Social Security recipients will not be protected. The mammoth cuts that will have to be made under this balanced budget amendment, even if Social Security were to be taken off the table, will mean that state taxes and local taxes will likely go through the ceiling so that States can pay for some of the essential services which the Federal Government no longer will be able to provide.

The elderly, along with everybody else in the Nation, will see their incomes eroded by higher taxes in the States. The elderly will be hurt by this balanced budget amendment, whether or not the trust fund is exempted. And I say make no mistake about that.

Additionally, I do not want to see a kind of generational and interest group warfare set up by the enactment of this amendment. There will be interest group and generational hand-to-hand combat the like of which we have never seen if this amendment is adopted, and the warfare and sniping will worsen if Social Security were to be exempted.

A recent study shows that 26 percent of the children under 6 years old live in poverty in the United States. Do we want to set up a situation that forces Members to choose between helping the elderly and helping the children; helping the elderly and helping the grandchildren of the elderly?

What about pitting the elderly against their grandchildren? What about pitting the elderly against the veteran? Certainly, we should not want to see that. Many senior citizens also receive veterans benefits. This amendment sets one American against another, one interest group against another, and would tend to force severe across-the-board cuts under the guise of fairness. Instead of using our judgment, instead of looking at what could and should be cut, Senators would likely buckle under competing interest group pressure, put the blindfolds on, and enact sweeping, meat-ax cuts on all programs.

That would be bad public policy. But if that is to be the policy, then the elderly, the veterans, the mayors and Governors, the parents and grandparents of the children and everybody else in America, including the Members of this body, need to know now, in order to be able to make an informed choice about the wisdom, or the unwisdom, of this constitutional amendment.

Did the Senator ask me a question?

Mr. HOLLINGS. I thought you completed your comments. I will wait.

Mr. BYRD. I say to my able friend, I will not go longer than another 5 minutes at most. The Senator has been sitting here waiting. I did not see him sitting back there because this chart is between the two of us. If the Senator will indulge me just another 3 or 4 minutes.

Mr. HOLLINGS. I have been enjoying it.

Mr. BYRD. I thank the Senator.

Mr. President, the American people have a right to know these things, and while many of them come to the floor to speechify on the need for a balanced budget amendment, over the past 5 years we here in the Congress have already cut more than $900 billion from the deficit. In the Budget Enforcement Act of 1990, Congress cut $482 billion from the deficit. We followed that effort with $432 billion worth of deficit reduction in 1993—without, I would note, the help of many of those who favor a balanced budget amendment. And each and every one of those dollars of deficit reduction, Mr. President, was cut without—without—a constitutional amendment. What was required to do the job then, and what will be required to do the job in the future, was putting a budget plan out here on the Senate floor, getting down to business and discussing the pros and cons of the proposed cuts in full view of the American public, and then voting up or down.

Yesterday, we were treated to several hours of bashing of the President's budget by the proponents of this constitutional amendment to balance the budget. But I hope that no one will be confused by those transparent attempts to obscure the central point of this debate. That point is that the American people need to know how the proponents intend to get to a perfect budget balance by the year 2002, and they need to know it before their Senators vote on the amendment. The President has submitted his budget. He does not support a constitutional amendment to balance the budget by 2002; therefore, it is not incumbent upon him to produce a budget that does so. He will not even have a chance to sign such an amendment or veto such, constitutional amendment, because that amendment goes straight to the States if we in the Congress approve it, God forbid. The President is largely a mere observer in this process. The decision to amend the Constitution is a decision that is reserved for the Congress and for the people of the several States.

But the President's budget is a useful illustration of one thing. Budget balance, or even a continuing glidepath to deficit reduction, is difficult to achieve if tax cuts are part of the equation. Be that as it may, I believe that the President has given us an honest budget, even if I personally do not agree with it. I do not believe he has cooked the numbers. We have seen plenty of that in the past. He has held the deficit steady, even though health care costs will grow by more than 9 percent a year for the next 5 years. And I believe that we could have had a continuing glidepath of deficit reduction if the tax cuts had been dropped from the President's budget.

But, the President has put his cards on the table. What about the amendment's supporters? They say that they are in favor of this so-called constitutional amendment, but they refuse to show their cards. And, worse, they propose to start on the road to this constitutional amendment with a gigantic tax cut—one that dwarfs the administration's modest proposal, by something like three to one. Just last week, the staff of the Joint Committee on Taxation estimated that the revenue loss to the Treasury, if the Republican tax cuts are enacted, would be almost $205 billion over 5 years. Even that figure is somewhat misleading because the tax cuts which the proponents are suggesting are back-loaded. Taking the back-loading into account, in the fifth year alone, revenue losses would be some $69 billion.

But, the proponents claim that, not only can they pay for these tax cuts with spending cuts; they can cut even further and get the budget to balance by 2002. So far, the proponents will only make vague promises about what they will not cut. They have listed Social Security, defense, and interest on the debt as items that will not be touched. Those three items together make up a little over one-half of the Federal budget. To get to budget balance by 2002, the proponents would have to cut the remaining Federal budget by about one-third. The largest category of spending in the half of the budget that is to be on the chopping block are the health care programs. Medicare and Medicaid amount to about one-sixth of all Federal spending. These same health care programs, Medicare for the elderly and the disabled, and Medicaid for the poor, are also the fastest growing programs in the half of the budget which the proponents propose to cut.

So why do the proponents not stop talking about what they will not cut and tell the American people what they will cut? It is popular to say Social Security is off the table. But how about telling the American people what is left on the table? Medicare is on the table. State and local grants are on the table. Why not tell the Governors and the mayors and the elderly about the cuts that will be necessary for budget balance by 2002? Veterans pensions, civilian and military retirement pensions, highway grants, environmental cleanup, WIC, education—all those items are left on the table. Why do the proponents not show down? This so-called balanced budget amendment is their idea, not mine, not President Clinton's. So, let us hear how the proponents intend to deliver. Let us know how the proponents plan to enact giant tax cuts, protect Social Security from any cuts, protect defense from any cuts, pay the interest on the debt and still get the budget into balance by 2002. The silence from the proponents about the specifics of how we get to budget balance is positively deafening. Why is that? Will someone please tell the American people why we are not laying out a plan for their scrutiny? I can only say what I believe. I believe that we are hearing nothing from the proponents because it cannot be done, or because they will not do it.

We are already required to project the deficits for at least 5 years out. Why can the proponents not project the plan for this amendment, as it will affect the American people, 7 years out? I believe that we are hearing nothing from the proponents because they don't really want the American people to know.

Tax cuts, coupled with removing Social Security, defense, and interest payments from any consideration for spending reductions, make balancing the budget by 2002 without totally devastating the economy of this Nation and the 50 States, is mission impossible.

Let us not tell the patient that he is going under the knife for cosmetic liposuction—lipo comes from the Greek, l-i-p-o, meaning "fat"—when, in fact, we all know that he will wake up with most of his intestines and part of his stomach missing. Let us not sign on to this contract with evasion. We hear so much about the so-called Contract With America. This is a contract with evasion and deceit. Unless we tell the American people how we intend to get the budget to balance by the year 2002 before we vote, this amendment amounts to little more than a contract with deceit. The Senate would have to be infected with the virus of collective madness to adopt this contract with deceit and evasion.

But as the poll shows, the American people have caught on to this unbecoming ruse, and they are not going to let us get away with it. Passing the buck is a political cop out. In the case of the constitutional amendment to balance the budget, the buck stops right here.

Madam President, I ask unanimous consent to insert in the RECORD at this point an article from the Wall Street Journal of today, titled "GOP Tax Cuts Are Seen Costly Over 10 Years," which states that the GOP tax cuts would cost $704.4 billion over the next decade.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 7, 1995]

GOP TAX CUTS ARE SEEN COSTLY OVER 10 YEARS

NEW CONGRESSIONAL ANALYSIS FINDS LOSS OF REVENUE REACHING $704.4 BILLION

(By Jackie Calmes and Christopher Georges)

WASHINGTON.—Even as Republican lawmakers lambasted President Clinton's budget for its failure to slash federal deficits, a new congressional analysis put the cost of their promised tax cuts at $704.4 billion over the next decade.

That analysis yesterday from Congress' nonpartisan Joint Committee on Taxation, whose estimates are the basis for Republican legislation on taxes, closely parallels the Clinton administration's own earlier finding, which many GOP leaders criticized at the time. Now both have found that the revenue loss from the proposed tax cuts would balloon in later years far beyond the five-year estimates of $200 billion that Republicans previously have cited. The Treasury Department last month put the cost of the Republican tax cuts at $725.5 billion through fiscal 2005.

Although Republicans in Congress have vowed to offset the five-year cost through $200 billion in matching spending cuts, the effort has proved such a struggle that the House isn't expected to act on the package until at least mid-March. Only afterward will it turn to drafting a budget aimed at slashing deficits. While Congress bases its budgets on five-year outlooks, the new 10-year forecast for the tax cuts is pertinent given the Republicans' current push for a constitutional amendment mandating a balanced budget by 2002.

Meanwhile, at a news conference on the president's budget, Senate Majority Leader Robert Dole said "the administration has given up" on the deficit, a realization that "will certainly help our cause to get enough votes for a balanced-budget amendment." The Senate is in the second week of debate on the amendment.

President Clinton and his advisers yesterday defended their budget after it was released as one that would reduce the deficit gradually if measured as a percentage of the gross domestic product, the total value of goods and services produced in the country. "There is no magic amount of deficit reduction that you need," Budget Director Alice Rivlin told reporters. "We now have a deficit that's under control and coming down in relation to the size of the economy."

"The best way or the most obvious way to do additional deficit reduction," Ms. Rivlin said, "is the one that we talked so much about last year, namely, controlling the out-year costs of health care." She described the administration's decision to essentially ignore health-care reform in this year's budget as a tactical one. The president still wants to work with Congress to slow the growth in the cost of health care and to improve access to health care, she said.

The budget projects a deficit of $196.7 billion, or 2.7% of GDP, in fiscal 1996, which begins Oct. 1. If Mr. Clinton's proposals were adopted by Congress and if the economy performs precisely as the White House projects—two unlikely outcomes—then the deficit is projected to be 2.7% of GDP the following year and to fall to 2.4% of GDP in fiscal 1998. But it would remain around $200 billion a year for the foreseeable future.

The new White House economic forecast published in the budget shows that the administration thinks the Federal Reserve is finished raising interest rates. The president's economic advisers anticipated the increase of one-half percentage point in short-term interest rates that the Fed engineered last week, but they don't foresee any further boosts, chief White House economist Laura Tyson said.

BALLOONING COSTS

The congressional committee previously estimated that the Republican tax-cut proposals would cost $203.9 billion in the first five years. But over 10 years, the reductions would cost the Treasury more than three times as much because the cost of some proposals balloon in the future. GOP proposals to reduce capital-gains taxes would lose $170.3 billion over 10 years—up from $53.9 billion in the first five years. The Treasury projects similar revenue drains, of $60.9 billion in the first five years, and $183.1 billion over 10.

The similarity of the Treasury and Joint Committee findings—and particularly those on the much-debated capital-gains proposals—provides striking evidence that the new GOP-controlled Congress hasn't significantly departed from longstanding procedures for measuring the impact of tax changes. For years, some Republicans had vowed to overhaul those procedures to reflect their belief that tax cuts boost revenues through economic growth, rather than lose revenues.

Two GOP proposals that are shown to raise revenues over the first five years would become revenue-losers after that period, as Treasury had found. One, to liberalize the existing deductions for individual retirement accounts, would raise an estimated $2.2 billion through 2000 but then increasingly lose revenue—for a total of $23.9 billion over 10 years. Early on, the new proposal would encourage taxpayers to transfer existing IRAs into new "American Dream Savings Accounts," but they would have to pay taxes on the amount transferred. After five years, however, savers could withdraw money from the new accounts tax-free.

WRITE-OFF PROVISION

The second provision, liberalizing write-offs for capital-intensive businesses' plant and equipment, would raise $16.7 billion over the first five years but lose $88.8 billion over 10 years. The early gain comes because the proposal would create less generous write-offs for the first years of an investment, in exchange for more generous write-offs later. The Treasury found an even larger loss from this "neutral cost recovery" provision—$120.4 billion over a decade.

The Treasury says President Clinton's tax cuts for the middle class would cost $62.7 billion over five years and $171.2 billion over 10 years.

Although many private forecasts anticipate further increases in short-term interest rates, last week's employment report has led some to conclude that the Fed won't raise rates much more than it has already.

"They'll be wrong on interest rates, but not by much. We'll get one more rate hike from the Fed this year," Elliott Platt, an economist at Donaldson, Lufkin & Jenrette, said of the White House forecast. The Fed has increased short-term rates three percentage points in the past year.

The economic forecast in the budget says the unemployment rate, now at 5.7% of the work force, will climb to 6% by the fourth quarter of this year. But the president's Council of Economic Advisers has already changed its mind and now predicts that unemployment will range between 5.5% and 5.8% over the rest of the decade.

NEW OR HIGHER FEES

Nearly all the significant features of the president's budget were leaked over the weekend. Among the details in documents released yesterday are a number of new or higher fees, including some on small-business loans and pesticide registration. The president also proposes:

To levy a border-crossing fee of $3 a vehicle and $1.50 a pedestrian, with discounts for those who cross the border frequently.

To fund the Commodity Futures Trading Commission with a 10-cent fee for each round-turn transaction on commodity futures and options contracts.

To charge federal employees for parking, but only where the agency heads decide to do so.

To raise about $1 billion over five years by requiring the Federal Deposit Insurance Corp. and the Federal Reserve to assess fees from state-chartered banks they regularly examine. The fees would be calculated according to the size of the banks; those with assets of less than $100 million would be exempt.

To submit a plan to raise $4.8 billion over five years by expanding Federal Communication Commission authority to auction off more of the radio spectrum or to levy new user fees.

To collect fees from medical-device makers that are seeking Food and Drug Administration product approvals, using the money to hire more staff to speed reviews.

Mr. BYRD. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Chair.

Madam President, there is an old axiom in the court of equity that is he who seeks equity must do equity; he who comes into the court of equity must come with clean hands. We have had many chants and claims in recent days calling on Members to submit a balanced budget.

Two weeks ago, with that equitable axiom in mind, I did exactly that. I felt that I lacked standing in this so-called court of the U.S. Senate to demand that my colleagues submit a budget blueprint that I had not submitted myself.

Two weeks ago, I included it in the RECORD and attempted to highlight certain realities of our present fiscal situation. The reality is that balancing the budget in a 7-year period requires $1.2 trillion in spending cuts.

The other reality was that the savings from entitlement reform would not be enough to balance the budget. Clearly, we must try our best to slow health costs and reform our welfare system. Likewise, we can save some Federal dollars by reviewing supplementary security income as Mort Zuckerman suggested in last week's U.S. News and World Report.

But putting these reforms in place costs money. Anyone who argues that they can set up a work program for welfare recipients, care for their children, and reap large savings is whistling Dixie. Likewise, in reforming in health care, our focus has been on slowing the growth of overall spending rather than cutting back on existing funds. President Clinton's commitment to health care reform has already led to marketplace reforms in my own State of South Carolina. In fact, not too long ago the chairman of the board of one of the largest employers in my State said, "Fritz, you keep on debating that health reform package up there, because whatever happens is healthy. Rather than seeing increases, I am now getting a 10 percent decrease in premiums for coverage of my employees."

So while the President has done a magnificent job in encouraging the marketplace to make reforms, we are still a long way from getting on a realistic path to a balanced budget. In short, to stop the hemorrhaging in interest costs, spending cuts as well as taxes are necessary.

I ask unanimous consent, Madam President, to include once again in the RECORD this particular document which lists the budget realities and a potential list of discretionary spending cuts.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATOR HOLLINGS ON TRUTH IN BUDGETING

Reality No. 1: $1.2 trillion in spending cuts necessary.

Reality No. 2: Not enough savings in entitlements. Yes, welfare reform but job program will cost; savings questionable. Yes, health reform can and should save some, but slowing 10 percent growth to 5 percent—not enough savings. No, none on social security; off-budget again.

Reality No. 3: Hold the line budget on Defense—no savings.

Reality No. 4: Savings must come from freezes, cuts in domestic discretionary—not enough to stop hemorrhaging interest costs.

Reality No. 5: Taxes necessary to stop hemorrhage in interest costs.

	1996	1997	1998	1999	2000	2001	2002
Deficit CBO Jan. 1995 (using trust funds)	207	224	225	253	284	297	322
Freeze discretionary outlays after 1998	0	0	0	−19	−38	−58	−78
Spending cuts	−37	−74	−111	−128	−146	−163	−180
Interest savings	−1	−5	−11	−20	−32	−46	−64
Total savings ($1.2 trillion)	−38	−79	−122	−167	−216	−267	−322
Remaining deficit using trust funds	169	145	103	86	68	30	0
Remaining deficit excluding trust funds	287	264	222	202	185	149	121
5 percent VAT	96	155	172	184	190	196	200
Net deficit excluding trust funds	187	97	27	(17)	(54)	(111)	(159)
Gross debt	5,142	5,257	5,300	5,305	5,272	5,200	5,091
Average interest rate on the debt (percent)	7.0	7.1	6.9	6.8	6.7	6.7	6.7

	1996	1997	1998	1999	2000	2001	2002
Interest cost on the debt	367	370	368	368	366	360	354

Note.—Does not include billions necessary for middle class tax cut.

Mr. HOLLINGS. Here is a list of the kinds of nondefense discretionary spending cuts that would be necessary now as a first step to get $37 billion of savings and put the country on the road to a balanced budget:

Nondefense discretionary spending cuts	1996	1997
Cut space station	2.1	2.1
Eliminate CDBG	2.0	2.0
Eliminate low-income home energy assistance	1.4	1.5
Eliminate arts funding	1.0	1.0
Eliminate funding for campus based aid	1.4	1.4
Eliminate funding for impact aid	1.0	1.0
Reduce law enforcement funding to control drugs	1.5	1.8
Eliminate Federal wastewater grants	0.8	1.6
Eliminate SBA loans	0.21	0.282
Reduce Federal aid for mass transit	0.5	1.0
Eliminate EDA	0.02	0.1
Reduce Federal rent subsidies	0.1	0.2
Reduce overhead for university research	0.2	0.3
Repeal Davis-Bacon	0.2	0.5
Reduce State Dept. funding and end misc. activities	0.1	0.2
End P.L. 480 title I and III sales	0.4	0.6
Eliminate overseas broadcasting	0.458	0.570
Eliminate the Bureau of Mines	0.1	0.2
Eliminate expansion of rural housing assistance	0.1	0.2
Eliminate USTTA	0.012	0.16
Eliminate ATP	0.1	0.2
Eliminate airport grant in aids	0.3	1.0
Eliminate Federal highway demonstration projects	0.1	0.3
Eliminate Amtrak subsidies	0.4	0.4
Eliminate RDA loan guarantees	0.0	0.1
Eliminate Appalachian Regional Commission	0.0	0.1
Eliminate untargeted funds for math and science	0.1	0.2
Cut Federal salaries by 4 percent	4.0	4.0
Charge Federal employees commercial rates for parking	0.1	0.1
Reduce agricultural research extension activities	0.2	0.2
Cancel advanced solid rocket motor	0.3	0.4
Eliminate legal services	0.4	0.4
Reduce Federal travel by 30 percent	0.4	0.4
Reduce energy funding for Energy Technology Develop	0.2	0.5
Reduce Superfund cleanup costs	0.2	0.4
Reduce REA subsidies	0.1	0.1
Eliminate postal subsidies for nonprofits	0.1	0.1
Reduce NIH funding	0.5	1.1
Eliminate Federal Crop Insurance Program	0.3	0.3
Reduce Justice State-local assistance grants	0.1	0.2
Reduce Export-Import direct loans	0.1	0.2
Eliminate library programs	0.1	0.1
Modify Service Contract Act	0.2	0.2
Eliminate HUD special purpose grants	0.2	0.3
Reduce housing programs	0.4	1.0
Eliminate Community Investment Program	0.1	0.4
Reduce Strategic Petroleum Program	0.1	0.1
Eliminate Senior Community Service Program	0.1	0.4
Reduce USDA spending for export marketing	0.02	0.02
Reduce maternal and child health grants	0.2	0.4
Close veterans hospitals	0.1	0.2
Reduce number of political employees	0.1	0.1
Reduce management costs for VA health care	0.2	0.4
Reduce PMA subsidy	0.0	1.2
Reduce below cost timber sales	0.0	0.1
Reduce the legislative branch 15 percent	0.3	0.3
Eliminate Small Business Development Centers	0.056	0.074
Eliminate minority assistance, score, Small Business Institute and other technical assistance programs, women's business assistance, international trade assistance, empowerment zones	0.033	0.046
Eliminate new State Department construction projects	0.010	0.023
Eliminate Int'l Boundaries and Water Commission	0.013	0.02
Eliminate Asia Foundation	0.013	0.015
Eliminate International Fisheries Commission	0.015	0.015
Eliminate Arms Control Disarmament Agency	0.041	0.054
Eliminate NED	0.014	0.034
Eliminate Fulbright and other international exchanges	0.119	0.207
Eliminate North-South Center	0.002	0.004
Eliminate U.S. contribution to WHO, OAS, and other international organizations including the U.N.	0.873	0.873
Eliminate participation in U.N. peacekeeping	0.533	0.533
Eliminate Byrne grant	0.112	0.306
Eliminate Community Policing Program	0.286	0.780
Moratorium on new Federal prison construction	0.028	0.140
Reduce Coast Guard 10 percent	0.208	0.260
Eliminate Manufacturing Extension Program	0.03	0.06
Eliminate Coastal Zone Management	0.03	0.06
Eliminate National Marine Sanctuaries	0.007	0.012
Eliminate climate and global change research	0.047	0.078
Eliminate national sea grant	0.032	0.054
Eliminate state weather modification grant	0.002	0.003
Cut Weather Service operations 10 percent	0.031	0.051
Eliminate regional climate centers	0.002	0.003
Eliminate Minority Business Development Agency	0.022	0.044
Eliminate public telecommunications facilities, program grant	0.003	0.016
Eliminate children's educational television	0.0	0.002
Eliminate National Information Infrastructure grant	0.001	0.032
Cut Pell grants 20 percent	0.250	1.24
Eliminate education research	0.042	0.283
Cut Head Start 50 percent	0.840	1.8
Eliminate meals and services for the elderly	0.335	0.473
Eliminate title II social service block grant	2.7	2.8
Eliminate community services block grant	0.317	0.470
Eliminate rehabilitation services	1.85	2.30
Eliminate vocational education	0.176	1.2
Reduce chapter 1, 20 percent	0.173	1.16
Reduce special education, 20 percent	0.072	0.480
Eliminate bilingual education	0.029	0.196
Eliminate JTPA	0.250	4.5
Eliminate child welfare services	0.240	0.289
Eliminate CDC Breast Cancer Program	0.048	0.089
Eliminate CDC AIDS Control Program	0.283	0.525
Eliminate Ryan White AIDS Program	0.228	0.468
Eliminate maternal and child health	0.246	0.506
Eliminate Family Planning Program	0.069	0.143
Eliminate CDC Immunization Program	0.168	0.345
Eliminate Tuberculosis Program	0.042	0.087
Eliminate Agricultural Research Service	0.546	0.656
Reduce WIC, 50 percent	1.579	1.735
Eliminate TEFAP—administrative	0.024	0.040
Commodities	0.025	0.025
Reduce Cooperative State Research Service 20 percent	0.044	0.070
Reduce Animal Plant Health Inspection Service 10 percent	0.036	0.044
Reduce Food Safety Inspection Service 10 percent	0.047	0.052
Total	36.941	58.402

Note.—Figures are in billions of dollars.

Mr. HOLLINGS. Madam President, we have heard a lot in recent days about a simple way to balance the budget—the so-called 3 percent growth approach—which the Senator from Texas spoke of last week. But let's look at the facts. According to CBO, the budget is growing annually at about 6.2 percent or by $94 billion. Thus, if you plan to cut that in half to 3 percent growth, that is $46 billion. But wait, we all agree Social Security is off the table and will grow by $18 billion next year. Similarly, we will have to pay the interest costs on the debt which will increase by $25 billion next year. Kick in the last $3 billion to try and hold the line on defense spending and you quickly see that there's not much left of that 3 percent. While seductively simple, this approach fails to spell out the impact on the American people. If the 3 percent is used up, what is the effect on Medicare and Medicaid programs, education, and law enforcement?

The glidepath that I have put before the Senate requires $37 billion in spending cuts for the first year. It meets that target by listing some 80 spending cuts that I do not think for a minute would ever pass on the floor of the Senate. In addition to cuts in discretionary programs, I also included a list of possible entitlement programs to pick and choose from that was circulated earlier this year by Senator GREGG of New Hampshire.

We tried such budget cutting exercises before. Give credit to Senator DOMENICI, who was chairman of the Budget Committee in 1986, when he offered an amendment to adopt President Reagan's budget cuts. Do you know how many votes they got? Fourteen, fourteen votes.

Last year, on the House side, Congressman Solomon corralled together a list of cuts that had been recommended by various groups. He put them all together and came up with $700 billion in cuts over 5 years. Do you know who voted against it? Congressman KASICH. Do you know who voted against it? Speaker GINGRICH. Do you know how many votes they got? Seventy-three out of four hundred and thirty-five.

Madam President, you have to face the realities and I think one stark reality is the one stated by the House majority leader who feared that coming forward with specific spending cuts would cause members knees to buckle. That is the truth.

I have come to the floor this afternoon to say a word about those who are blaming President Clinton for not doing anything about the deficit. If there is one fellow who had nothing to do with this deficit, it would be President William Jefferson Clinton. He came from Arkansas up to Washington, and he inherited fiscal chaos.

I do not mean to sound rude. I mean to sound factual and to give you the reality of the situation. Yesterday, we honored our distinguished past President, President Reagan, on his birthday. We gave him a birthday present but he has given us a birthday present. That birthday present is an increase in taxes of a billion a day. It is the biggest tax increase in the history of this land.

I constantly hear about the largest tax increase. We were there, this particular Senator, and Senator Mathias on the other side of the aisle at the birth of Reaganomics. Eleven of us voted against the massive tax cuts that some called a riverboat gamble. President Bush called it voodoo economics.

But the fact of the matter is this Senator voted against the tax cuts of Reaganomics and for the spending cuts. Only three Senators who voted against the tax cuts but for spending cuts: Senators BRADLEY, Mathias, and myself.

So we have positioned ourselves with some kind of credibility on trying to balance the budget. When they talk about the biggest tax increase in history, we only have to refer very quickly, Madam President to—and I was going to at length, but I only just refer to it—the article by Judy Mann in the Washington Post entitled "Fiddling With the Numbers."

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FIDDLING WITH THE NUMBERS

(By Judy Mann)

Gov. Christine Todd Whitman, the Republican meteor from New Jersey, had the unusual honor for a first-term governor of being asked to deliver her party's response to President Clinton's State of the Union message last week.

And she delivered a whopper of what can most kindly be called a glaring inaccuracy.

Sandwiched into her Republican sales pitch was the kind of line that does serious political damage: Clinton, she intoned, "imposed the biggest tax increase in American history."

And millions of Americans sat in front of their television sets, perhaps believing that Clinton and the Democrat-controlled Congress had done a real number on them.

The trouble is that this poster lady for tax cuts was not letting any facts get in her way. But don't hold your breath waiting for the talk show hosts to set the record straight.

The biggest tax increase in history did not occur in the Omnibus Budget Reconciliation Act of 1993. The biggest tax increase in post-World War II history occurred in 1982 under President Ronald Reagan.

Here is how the two compare, according to Bill Gale, a specialist on tax policy and senior fellow at the Brookings Institution. The 1993 act raised taxes for the next five years by a gross total of $268 billion, but with the expansion of the earned income tax credit to more working poor families, the net increase comes to $240.4 billion in 1993 dollars. The Tax Equity and Fiscal Responsibility Act of 1982, by comparison, increased taxes by a net of $217.5 billion over five years. Nominally, then, it is true that the 1993 tax bill was the biggest in history.

But things don't work nominally. "A dollar now is worth less than a dollar was back then, so that a tax increase of, say, $10 billion in 1982 would be a tax increase of $15 billion now," says Gale. In fact, if you adjust for the 48 percent change in price level, the 1982 tax increase becomes a $325.6 billion increase in 1993 dollars. And that takes it the biggest tax increase in history by $85 billion.

Moreover, says Gale, the population of the country increased, so that, on a per person basis, the 1993 tax increase is lower than the one in 1982, and the gross domestic product increased over the decade, which means that personal income rose. "Once you adjust for price translation, it's not the biggest, and when you account for population and GDP, it gets even smaller.

He raises another point that makes this whole business of tax policy just a bit more complex than the heroic tax slashers would have us believe. "The question is whether [the 1993 tax increase] was a good idea or a bad idea, not whether it was the biggest tax increase. Suppose it was the biggest? I find it frustrating that the level of the debate about stuff like this as carried on by politicians is generally so low."

So was it a good idea? "We needed to reduce the deficit," he says, "we still need to reduce the deficit. The bond market responded positively. Interest rates fell. There may be a longer term benefit in that it shows Congress and the president are capable of cutting the deficit even without a balanced budget amendment."

Other long-term benefits, he says, are that "more capital is freed up for private investment, and ultimately that can result in more productive and highly paid workers."

How bad was the hit for those few who did have to pay more taxes? One tax attorney says that his increased taxes were more than offset by savings he was able to generate by refinancing the mortgage on his house at the lower interest rates we've had as a result. The 1993 tax increase did include a 4.3-cent-a-gallon rise in gasoline tax, which hits the middle class. But most of us did not have to endure an income tax increase. In 1992, the top tax rate was 31 percent of the taxable income over $51,900 for single taxpayers and $86,500 for married couples filing jointly. Two new tax brackets were added in 1993: 36 percent for singles with taxable incomes over $115,000 and married couples with incomes over $140,000; and 39.6 percent for singles and married couples with taxable incomes over $250,000.

Not exactly your working poor or even your average family.

The rising GOP stars are finding out that when they say or do something stupid or mendacious, folks notice. The jury ought to be out on Whitman's performance as governor until we see the effects of supply side economics on New Jersey. But in her first nationally televised performance as a spokeswoman for her party, she should have known better than to give the country only half the story. In the process, she left a lot to be desired in one quality Americans are looking for in politicians: honesty.

Mr. HOLLINGS. Madam President, I quote:

> The biggest tax increase in post-World War II history occurred in 1982 under President Ronald Reagan.

Because when you cut all the revenues on the one hand and then you increase all the spending on the other hand, rather than growth, growth—"growth." That is what they are trying to come up again with. It is the same act, same scene, same players, same disaster, in this Senator's opinion. When they come up with that growth, instead of growing out of the deficit, we have grown into the worst deficit and debt, saddling us with interest costs.

Madam President, in 1981 the gross interest cost on the national debt with President Reagan—of course, he had nothing to do with that one because that one was already made up by President Carter. But, incidentally, President Carter cut the deficit that he received from President Ford, and President Lyndon Johnson gave us a balanced budget. So I have been around when we have been cutting deficits and when we balanced the budget in this Government.

But President Reagan came to town and he was elected on the promise that, "I am going to put this Government on a pay-as-you-go plan." He said, "I am going to do it in a year." When he got to town, he said, "Oops. This is worse than I ever thought. It is going to take 2 to 3 years to do it." He cut back, and never increased that interest cost of $95.5 billion.

I am listening to the other side of the aisle and the blame game on President Clinton about what he said and what he is doing. President Reagan said that he was going to balance the budget in a year and not add to the interest costs. Rather, he has the interest up to $339 billion, according to CBO, and that does not take into account the increase by Alan Greenspan, the Federal Reserve, here this past week.

So it is going to be about $350 billion, $352 billion—$1 billion a day. That is what it is. The interest cost cannot be avoided. It has to be paid. There are two things in life: Death and taxes. It has to be paid. But interest cost is interest taxes. You get absolutely nothing for it. The deficit this year is only conceived to be $176 billion by CBO. We would have a $67 billion surplus if President Ronald Reagan had not given us that birthday present of the biggest tax increase.

So here they come to town and talk about "taking a walk," "white flag of surrender," and on "life supports." I know Speaker GINGRICH gives out to the troops the right expressions around here to make on the 7 o'clock news. But that does not take over the facts. The facts remain that we are in one heck of a fix financially, and you cannot do it without taxes.

On that score, do not blame President Clinton. President Clinton came and struggled in his first year as a freshman President for a $500 billion cut in the deficit, and there was not a soul talking about taking walks. They squatted, sat in the chair fixed, on both sides of the aisle, and would not move, would not give a vote. Then after he did that, he went about health care reform. And in health reform, yes, he recommended Medicare cuts. But he said, "I have to get health reform with it." Now they blame him.

Do you know why they blame him, Madam President? It is very interesting. Because they put out the alternative budget, the "GOP Alternative: Deficit Reduction and Tax Relief." This was last year.

You cannot get anything out of them this year except the blame game and the catchy phrases they are putting out here, and now the "white flag of surrender" and "taking a walk."

"GOP Alternative: Deficit Reduction and Tax Relief; Slashing the Deficit, Cutting Middle Class Taxes."

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The Republican Alternative Budget will reduce the deficit $318 billion over the next five years—$287 billion in policy savings and $31 billion from interest savings. This is $322 billion more in deficit reduction than the President proposes and $303 billion more in deficit reduction than the House-passed resolution contains.

Moreover, the GOP alternative budget helps President Clinton achieve two of his most important campaign promises—to cut the deficit in half in four years and provide a middle-class tax cut. The GOP plan:

Reduces the deficit to $99 billion in 1999. This is $106 billion less than the 1999 deficit projected under the Clinton budget.

Even under this budget federal spending will continue to grow.

Total spending would increase from $1.48 trillion in FY 1995 to more than $1.7 trillion in FY 1999.

Medicare would grow by 7.8-percent a year rather than the projected 10.6-percent. Medicaid's growth would slow to 8.1-percent annually rather than the projected 12-percent a year growth.

It increases funding for President Clinton's defense request by the $20 billion shortfall acknowledged by the Pentagon.

Provides promised tax relief to American families and small business:

Provides tax relief to middle-class families by providing a $500 tax credit for each child in the household. The provision grants needed tax relief to the families of 52 million American children. The tax credit provides a typical family of four $80 every month for family expenses and savings.

Restores deductibility for interest on student loans.

Indexes capital gains for inflation and allows for capital loss on principal residence.

Creates new incentives for family savings and investments through new IRA proposals that would allow penalty free withdrawals for first time homebuyers, educational and medical expenses.

Establishes new Individual Retirement Account for homemakers.

Extends R&E tax credit for one-year and provides for a one-year exclusion of employer provided educational assistance.

Adjusts depreciation schedules of inflation (neutral cost recovery).

Tax provisions result in total tax cut of $88 billion over five years.

Fully funds the Senate Crime Bill Trust Fund, providing $22 billion for anti-crime measures over the next five years. The Clinton budget does not. The house-passed budget does not. The Chairman's mark does not.

Accepts the President's proposed $113 billion level in nondefense discretionary spending reductions and then secures additional savings by freezing aggregate nondefense spending for five years.

Accepts the President's proposed reductions in the medicare program and indexes the current $100 annual Part "B" deductible for inflation. Total medicare savings would reach $80 billion over the next five years.

Achieves $64 billion in medicaid savings over the next five years, by capping medicaid payments, reducing and freezing Disproportionate Share Hospital payments at their 1994 level.

Achieves additional savings through reform of our welfare system totaling $33 billion over the next five years.

Repeals Davis-Bacon, reduces the number of political appointees, reduces overhead expenditures for university research, and achieves savings from a cap on civilian FTE's.

Mr. HOLLINGS. I will not read it all. I want to be accurate:

The GOP plan:

Accepts the President's proposed reductions in the medicare program and indexes the current $100 annual Part "B" deductible for inflation. Total medicare savings would reach $80 billion over the next five years.

And then:

Achieves $64 billion in medicaid savings . . .

So you see, that was $144 billion in savings that the President did not stand over them for to ride on.

I saw my distinguished chairman of the Budget Committee on the House side throw a duck fit. Cover it. Oh, no. He got caught off base. He was the one in December, I say to the Senator from Utah, who said: "We are on a roll. I have to meet the press, right here." He said: "We have three budgets now. When that is done, Alan"—he is talking to Alan Murray. He says, "at the same time, we are going to move onto the glidepath of zero now." Who is taking a walk? That was December, one for January, one of three budgets; we are moving, we are going, and where is his?

That is what the Senator from West Virginia wants. That is what this Senator wants. I put up mine. We ask that they put up theirs. This rings in my ears when they say take a walk, when they talk about the largest tax increase in the history of the Government. We are suffering from the largest tax increase. That is why, with all the spending cuts, even in entitlements, on the SSI, some of the programs, and domestic discretionary, try it on for size. You are going to need tax increases in order to get on top of this monster. You are going to need tax increases.

I recommended a 5-percent value added tax. I disagree with President Clinton. I think the need of the hour is just that, to get physically sound, put us on a pay-as-you-go basis and a Marshall plan for the United States. We have 40 million in poverty. We have 10 million homeless, sleeping on the streets of America. We have 12 million hungry children. We have the cities, dens of violence and crime; the land is drug infested. And we have the biggest deficit in the balance of trade. That age group between 17 and 24, 73 percent of that age group cannot find a job out of poverty. They are the hope of the land.

We need now, with the fall of the Wall and the sacrifices to occur in order to keep the alliance together, to sacrifice for ourselves. We need a 5 percent value added tax; $180 billion could start paying down the deficit, the debt, take care of health costs, and get the country moving with respect to women and infants feeding, Head Start, and title I for the disadvantaged. Biotechnical research at NIH, they are cutting. They are all going around being proud to cut. I do not believe in dismantling the Government.

I got the first triple A credit rating of any State from Maryland around to Texas. So I have been down the road. We know how to pay our bills. I have said time and again we need more South Carolina-led Government than Washington Government in South Carolina.

So I go along with my Republican colleagues on that particular score. But when they come around here now and they say, about welfare and pulling the wagon—that is another one. Pulling the wagon. The idea is, of course, that we here are pulling the wagon and the welfare people are all squatting in the wagon. We are all in the wagon and nobody is pulling it, except maybe the Japanese who are buying the bonds. Yes. Get trade policy, and try to go against Japan. If the Chinese want to get out of this soup that they are in on CD's, tell them to buy a few Treasury bills and the Secretary of Treasury will come over and say, "I am sorry. We didn't mean to talk. We have a special relationship."

We are in the hands of the Philistines because we have to sell those bonds to finance this debt. That is what is going on. They all know it. We are all in the wagon to the point of $1 billion a day, and nobody is pulling it. So let us get away from that particular expression. But they do not want Government and everything else.

Another thing, then I will close. But I have to refer to this because I have the greatest respect for, and I have worked very closely with the distinguished Senate majority whip, TRENT LOTT of Mississippi.

Senator LOTT said, "Nobody, Republican, Democrat, conservative, liberal, moderate, is even thinking about using Social Security to balance the budget."

Absolutely false. They are not thinking about it; they are working on it. When I was buddied up with the distinguished Senators from Texas and New Hampshire in Gramm-Rudman-Hollings, I talked to Senator GRAMM, and the first page he gave me was an across the board cut entitlements including Social Security. I said, "PHIL, I can tell you now that is a nonstarter. You will not get a single Democrat, including me, that is going to vote for that one." So, we exempted Social Security and split it in half with entitlements and discretionary spending on one side and defense on the other. I knew he was particularly anxious to cut Social Security. I am particularly unanxious to cut any kind of Social Security because it pays for itself. If you want a contract for America, let us pull out the 1935 contract for the senior citizens of America. As a result of that agreement, taxes are paid, put in a trust fund, and they want to violate it.

On July 10, I offered the Social Security Preservation Act before the Budget Committee. There were 20 yeas with the Senator from Texas [Mr. GRAMM] voting nay. Then, the distinguished Senator from Texas came along last year and introduced his Balanced Budget Implementation Act on February 16, 1993, at page S1635, and I read: "Exclusion from budget. Section 13301(a) of the Budget Enforcement Act of 1990 is amended by adding at the end thereof the following: This subsection shall apply to fiscal years beginning with fiscal year 2001."

I put section 13301 into the Budget Enforcement Act because I did not want to use the Social Security funds. We put it into statutory law by almost a unanimous vote on this floor. There were only two dissenters, but we had 98 others who supported it. But the Senator from Texas, in his own budget there, is proposing it.

Madam President, it is against the law to cite the deficit using the Social Security trust funds, but Members of Congress and the White House violate it at every level. I cannot get them to enforce the law. I do not want to go along with any constitutional amendment that violates that law, because I am talking about truth in budgeting. That is how we passed Gramm-Rudman-Hollings.

I could go on, Mr. President, but I want to yield. I will tell you, this off-Broadway show generalities and percentages fails to tell the American people the true facts about the fiscal crisis we face. I challenge them, or anyone on this side of the aisle, or on any aisle in any House, to give me a 1-year budget that only grows by 3 percent.

Republicans can continue to give us the gamesmanship and the percentage arguments, but let us cut out this blame game. There is one thing we cannot charge William Jefferson Clinton with and that is the responsibility for the deficit. He came up with a plan to cut it $500 billion during his first year. The second year he has proposed terminating 131 programs and consolidating 271 programs into 27. He has not left much for "President" DOLE, if he ever takes over this budget in Government.

I do not believe in dismantling the Government. I think we live in the real world and we have to come out here and quit dancing around the fire. Let's end the argument and provide the American people with a 1-year budget that has only a 3-percent increase and puts Government in the black. They cannot do it without taxes.

I thank the Senator from Minnesota for yielding time, and I thank the Senator from Utah.

Mr. WELLSTONE. Mr. President, the distinguished Senator from Utah may want to speak.

Mr. HATCH. I notice the Senator from Minnesota is trying to get to an appointment. So why do we not proceed. If I could ask some comity, I know the Senator from Arkansas is waiting, too. Senator SPECTER would like to speak. I will defer my remarks until later if we can go to Senator SPECTER for a few minutes after the distinguished Senator from Minnesota, and then to the distinguished Senator from Arkansas; is that OK?

Mr. BUMPERS. Yes.

Mr. HATCH. I ask unanimous that be the case—first the Senator from Minnesota and then the Senator from Pennsylvania and then the Senator from Arkansas and perhaps myself.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. WELLSTONE] is recognized.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the Senator from Pennsylvania be allowed to speak for several minutes—he has a plane to catch—after which I would go forward with my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my colleague from Minnesota for yielding for a few moments. I am about to join colleagues in going to St. Louis for an event in honor of Senator Danforth. I appreciate this time.

NOMINATION OF DR. HENRY FOSTER, JR., TO BE SURGEON GENERAL

Mr. SPECTER. Mr. President, I urge my colleagues in the Senate to withhold judgment on Dr. Henry Foster, Jr., the nominee for Surgeon General, until we know all the facts. I do not believe that performing a legal medical procedure should be a litmus test for confirmation for Surgeon General of the United States.

According to news reports, Dr. Foster flatly denies what purports to be a transcript of his statement that he performed "a lot of amniocentesis and therapeutic abortions, probably near 700."

I am very much concerned about allegations that Dr. Foster misrepresented his record. If the issue is veracity and character, that may be a basis for disqualification. If the facts support Dr. Foster's statement that he has "performed fewer than a dozen pregnancy terminations, all in hospitals, and were primarily to save the lives of women or because the women had been the victims of rape or incest," then his status looks much stronger, although the White House still has to answer for its representation that he had performed only one abortion.

If some wish to deny Dr. Foster confirmation because he has performed any abortions, then I believe the Senate should debate and carefully consider whether a nominee should be disqualified where he has performed a medical procedure which is legal under the U.S. Constitution.

I do not believe that there ought to be a litmus test which would disqualify a person from being Surgeon General if he/she has performed a medical procedure which is legal under the U.S. Constitution. It is already difficult to persuade qualified people to accept governmental appointments because so often the character of an individual is irreparably damaged by charges before the facts are known. What is printed in the newspaper, uttered on television, or heard on the radio simply cannot be erased. The facts cannot catch up with that.

I hope that the President and the Senate will give Dr. Foster an opportunity to state his case before we rush to judgment.

I thank the Chair, and again I thank my colleague from Minnesota for permitting the interruption.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, let me just associate myself with the very, very thoughtful and important remarks of the Senator from Pennsylvania. I thank my colleague for the timely and I think judicious and very important statement that he made on the floor.

Mr. President, let me thank my colleague from Utah for his graciousness. I know he wanted to respond to some of the remarks of my colleague from West Virginia and the Senator from South Carolina.

Mr. President, let me, first of all, present a little bit of context, which I think is important to this debate. The Congressional Budget Office has calculated that to reach a balanced budget by 2002, subtracting interest that we would save from projected spending cuts, still we would have to cut a trillion dollars. The question is, where are we going to make the cuts? The question is, what kind of standard of fairness will be employed, and will this be some standard of fair sacrifice, shared sacrifice, if you will?

I have a lot of passion about this issue because I think this is the central issue of this Congress in this decade. But I think objectivity serves my subjectivity. I believe I can marshal evidence that will support my point of view, evidence that I want the people in Minnesota, our State, and people around the country, to carefully consider.

If you add to the equation the proposed $82 billion of defense increases over the next 5 years in the Contract With America, and in addition the $364 billion that would be required to pay for additional Republican tax cuts, Mr. President—by the way, tax cuts which I have not supported since I think it is difficult, to use the old Yiddish proverb, to dance at two weddings at the same time, and to be talking about deficit reduction while you are also in a bidding war to cut taxes yet further.

I believe the Senator from South Carolina was trying to speak directly to that contradiction.

Then we have $1.481 trillion of cuts before us. The question that the people in Minnesota and people around the country deserve an answer to is: Where are we going to be making the cuts?

Who is going to be asked to sacrifice? Is it going to be by some standard of fairness? What is its impact going to be on people in Minnesota and around the Nation?

So far, Mr. President—and I would say this to my colleague from Arkansas who has been really trying to push hard for defense and other cuts to be made according to some standard of fairness—so far, what the Senator from North Dakota has called the Republican credibility gap really sort of just stares you in the face, because all we have heard so far from Republican proposals is that there will be $277 billion of cuts. Not as in tax cuts, but budget cuts.

So on the one hand we have $1.481 trillion of budget cuts that have to be made to have a balanced budget in the year 2002 and so far the only thing we have had listed is $277 billion.

Mr. President, that is one huge credibility gap. That is $1.200 trillion to go.

Mr. President, given this credibility gap, it is in this context and knowing that we would be involved in this historic debate that, from the very beginning of this 104th Congress, I have tried to push forward on the idea of accountability.

Mr. President, what I worry about is simple. Given a bidding war to cut taxes, given a bidding war not to decrease the Pentagon's budget but to increase the budget, understanding full well that Social Security is not going to be a part of this plan and is taken off the table, understanding that interest that we have to pay on debts can't go unpaid, then it is crystal clear to me that there are only a relatively few other areas where cuts can take place.

Mr. President, my concern is that the deficit reduction that will take place and the way in which we will meet a balanced budget deadline, if in fact we pass this balanced budget amendment, will be to make the cuts according to the path of least resistance; that is to say, ask some of the citizens in this country to tighten their belt who are least able to tighten their belt.

Mr. President, I came to the floor early on in the session and I had an amendment on the unfunded mandates bill. It was a sense-of-the-Senate amendment that we in the U.S. Senate would go on record that we would not pass any legislation, make any cuts that would increase homelessness or hunger among children. I could not get a majority vote. It was defeated on essentially a party-line vote. I want people in the country to know that. I could not get a majority vote.

Then I had another amendment that said if we are going to talk about accountability, we ought to have a child impact analysis. When we pass legislation out of committee, if there is a report that accompanies that legislation, there ought to be a child impact statement. Mr. President, I could not get a majority vote for that.

Then I came to the floor several weeks ago and offered a motion very similar to the amendment that our leader, Senator DASCHLE, has presented, which is now before us.

This amendment came straight from our State of Minnesota, where the Minnesota State Senate unanimously, and the House of Representatives, I think, three votes short of a unanimous vote, signed by the Governor January 20, sent a resolution here. I took the wording of that resolution and brought it to the floor of the Senate as an amendment which essentially said that if we pass a balanced budget amendment, before we send that amendment to the States, we should present to the States a detailed analysis of the impact of this amendment on our States.

Where will the cuts take place? What is the budget over the next 7 years? How will it shape the lives of the people we represent? Will this become some shell game where a State like Minnesota sees cuts, and then is required to raise taxes to make up the difference?

Under the balanced budget amendment, there will be cuts in higher education, in K-12 education, child nutrition programs, early childhood development programs, veterans programs, agriculture programs, health care programs, and others on which regular middle-class Minnesotans depend. No question about it. In fact, they would have to cut them 30 percent across the board to reach this target, given the parameters that have been set.

By the way, Mr. President, nowhere in the Contract With America, and not once in the debate that has taken place in the Senate from those who have been pushing so far for a balanced budget amendment, have I heard any analysis of all of the benefits of the tax loopholes and deductions that go to large corporations and large financial institutions in America. We will cut child nutrition programs; school lunch and school breakfast; women, infants, and children's programs, but we will not cut subsidies for oil companies.

Mr. President, this is the reason there is such resistance to this right-to-know amendment. I raise the question again on the floor of the Senate: What is it that we do not want the people in our States to know? Were the Minnesota Legislature, Democrats and Republicans alike, and the Governor correct in saying before they send the balanced budget amendment, please present an analysis of the cuts that will be ahead, and how it will affect our States so we know what we will have to pick up through an income tax or sales tax or property tax? And we are not willing to do that. That goes against the very essence of accountability.

Now, Mr. President, about a week ago, I filed a motion that I will make on the floor of the Senate at the appropriate time that would refer this House joint resolution to the Budget Committee with instructions to report it to the Senate with a report containing a detailed description of the 7-year budget plan.

I say to my colleagues, here is the one irony to the debate. There are many ironies, but here is one central irony. If we believe, and many do, that State legislators and Governors ought to understand the impact of this balanced-budget amendment, if we agree that they have a right to know exactly what it is that they will be voting on for ratification, if we agree that decisionmakers ought to know what they are voting on, if we agree that the people back in our States ought to have an understanding of what exactly is going to happen, where will the cuts take place, and how will it affect them, then it seems to me that we as Senators ought to also know what the impact of this plan will be on the people we represent before we vote on it.

That is why sometime during this very historic debate, I will move to refer this to committee so that the Budget Committee can present to Senators a detailed 7-year plan on how to get to balance by the year 2002, and then we will know what we are voting on.

Mr. President, I am not in favor of constitutional amendment, for all the reasons that Senator BYRD and others have spelled out, I think in a more profound way than I can. But as far as deficit reduction and moving toward balancing the budget, of course we should do that. But how can anyone vote on it until we know what the choices are? If we were going to have cuts in the Pentagon budget, if we were going to look at tax expenditures, if we were going to look honestly at how we knew to raise revenue, or if we were going to do this by some standard of fairness, I might be all for it; that is to say, an effort to move toward balancing the budget. But there is no accountability here.

Now, Mr. President, in the last part of my remarks today, I want to speak to one issue that I think tells the large story of what is going on. I also want to ask unanimous consent that the amendment that I will be filing today be printed in the RECORD. It would, at the appropriate place in section 1 of this balanced budget amendment, amend the section which reads "total outlays for any fiscal year shall not exceed total receipts for the fiscal year unless," to add "unless a majority of the whole number of each House of Congress shall determine that compliance with this requirement would increase the number of hungry or homeless children." I believe we should all be held accountable on this issue.

It seems to me a reasonable proposition that we do not want to do anything that would increase hunger or homelessness among America's children.

Mr. President, I will file another amendment, and I am not sure I was clear in my unanimous consent. I would like to have both amendments printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I will file another amendment that will say again, in the same place as the first, "a balanced budget unless a majority of the whole number of each House of Congress shall determine that compliance with this requirement would not provide for the common defense and promote the general welfare."

Mr. President, that comes from the Preamble to the Constitution and from section 8. When we are talking about the general welfare, it strikes me that if it becomes clear that we are going to cut Medicare, cut Medicaid, slash and burn, make higher education not affordable for young people, cut into child nutrition programs for our children, we are moving away from investing in our people, in our communities. That has had a lot to do with the general welfare.

Mr. President, there is one issue that I do not think has been discussed thoroughly on the floor that I want to talk about for a few moments, and then I want to yield because I know Senator BUMPERS is anxious to speak. That issue is Medicare.

Mr. President, let me be crystal clear with my colleagues: You cannot dance at two weddings at the same time. You cannot say you are for this balanced budget amendment but you are unwilling to lay out where you will make the cuts. But you already made it clear you want to increase the Pentagon budget, you already made it clear you want tax cuts, you already made it clear that Social Security is off the table, and then we look at the big expenditure items that are left, and Medicare is clearly one of them. Of course, Medicare will be cut deeply.

Now, let me take Members back to last year's debate. We had some health care proposals, the single-payer plan being one of them, about which the Congressional Budget Office and General Accounting Office, depending on which estimate we want to look at, talked about projected savings of up to $100 billion a year.

And Mr. President, we had other health care proposals—for example the President's plan—that talked about putting a limit on insurance company premiums. Some of us during that debate were talking about how we could contain costs. The single-payer plan contained health care system costs while also providing universal coverage with choice of doctor and a huge administrative savings. But, granted, the insurance companies would have to give something up.

And that's why Mr. President, very early on in the health care debate, the whole issue of how we contain health care costs by putting some limit on insurance company premiums was taken off the table. Huge amounts of money were pouring into the Congress in the form of campaign contributions. We saw a huge amount of lobbying from powerful interests. No way were they going to see any of their profit hurt. So what happened was, the special interests made the argument that premium limits—the only way you can do cost containment—would lead to rationing. What they neglected to say was that rationing only happens when you limit spending on one population without limiting the spending on the whole system.

Mr. President, I want to be clear on the floor of the Senate today that the very Senators who were most vociferous in their opposition to universal health care coverage—and we could not do universal coverage unless we could contain costs—the very Senators who blocked that legislation, the very Senators who yelled about rationing, right now when it comes to deep cuts in Medicare and Medicaid, which will lead to rationing among the elderly and the disabled and the poor, have nothing to say.

Their silence is deafening. And Mr. President, here is why. Looking at some Treasury Department estimates, total Medicare cuts would total $404 billion between 1996 and 2002. Medicare cuts in 2002 alone would equal $106 billion. That translates into roughly $10,000 per senior citizen over a 7-year period.

I hope that I was clear with these numbers. Let us not be fooling people in any State. I do not want to fool people in Minnesota. There are going to be deep cuts in Medicare. There have to be. There is no way you can get there any other way: $404 billion between 1996 and 2002; $106 billion in 2002.

Now, there are a number of ways that you could make these cuts. And none of them makes any sense in a country where we are trying to improve coverage and contain total system costs. One of the ways you could do it would be to reduce provider payments. Most hospitals—and I know, Mr. President, that you know this, especially in rural Minnesota—are already reimbursed by Medicare at less than cost. Let me just say this as best I can. We should be trying to improve health care in this country, not ruin it. When you cut the Medicare reimbursement, either your hospitals close—especially your rural hospitals—or your providers have to make it up some way, and this leads to charge shifting. Those people who have private health insurance are charged more and then their premiums go up and then less people can afford it. That is where we are heading.

Not only are we going to have this kind of vicious cost shifting, but in addition, those people who are going to be most severely hurt by these severe cuts in Medicare are going to be precisely the rural and public hospitals that have been providing care to those citizens who have had the least care in this country and who have the most trouble accessing services.

A few days ago, I met with John Stindt, the CEO of Swift County-Benson Hospital in Benson, MN. Swift County-Benson is a small rural hospital 30 miles from Willmar, MN. Seventy-five percent of Swift County's revenues come from Medicare and 11 percent from Medicaid.

Last year they had a loss of $148,000 from operations. They have two family practice physicians and are desperately trying to hire more to handle their patient load. Mr. President, they do not have any room for any further cuts. Do not ask people who cannot tighten their belts to tighten their belts. Do not sacrifice the health care of citizens in this country who most need it. Cut the oil company subsidies, cut the insurance company subsidies, cut some of the large global corporation subsidies. I do not hear a word about cuts there. Deep cuts in Medicare, that is what is going to be. That is exactly the direction we are going in and that is why our colleagues do not want to spell out where they are going to make these cuts.

Mr. President, I lived 20 years in Northfield, MN and I can just tell you that severe cuts in Medicare are going to have just a cruel impact on rural communities. Hospitals in communities like Rush City, Aitkin, Grand Marais, Comfrey, Karlstad, Virginia, and Bigfork are all struggling to make ends meet.

Closing down local hospitals does not make a lot of sense, either from a health care or an economic development perspective. There was an article in the Minneapolis Star Tribune entitled "When a Hospital Closes Its Doors." It talked about a hospital in Karlstad that closed last week because of financial difficulties—low Medicare reimbursements—and the inability to recruit doctors. It left a northwestern community in shock and limbo.

Mr. President, in Minnesota, 10 percent of the population already lives 30 miles from their doctor. We are seeing an increased reliance on helicopters to move people from rural areas to our cities to get care. It is not cheaper to transport people by helicopter. And in Minnesota, helicopters cannot fly in the fog and in the snowstorms.

We should be supporting community-based health care, not dismantling it. The reason that many of my colleagues do not want to vote for a right-to-know amendment and lay out where the cuts will take place and the impact these cuts will have on people that we represent is because they know we are going to have to make these cuts, they know it is wrong, they know what its impact will be and they are unwilling to step forward and be accountable.

In Minnesota, there is a shortage of 300 physicians and 180 midlevel providers in the rural communities. Places like University of Minnesota Duluth do a phenomenal job of training and retaining family practitioners who practice in rural communities. But, they need more than a pat on their back and a cut in their training budget to continue this work.

There are a number of other ways that these cuts will take place, but I just want to focus on one other. One option is to shift more of the cost back on the beneficiaries. Seniors already spend close to 25 percent of their household incomes on health costs, about $2,803 per person, and I am not including the health care costs of people that are in nursing homes.

I have received more than 1,000 letters from elderly citizens in Minnesota who are concerned about Medicare costs. Let me just read a few of them. A couple from Detroit Lakes, MN, writes:

> DEAR SENATOR WELLSTONE: My husband and I are concerned about Medicare cuts. When we reached 65, we were advised to sign up for Medicare, so we did, also taking out medigap insurance. We pay over $3,000 for medigap insurance plus the Medicare that is withheld from our Social Security. Medicare is a great help to decent taxpaying people. The GOP have a contract for the American people. We feel that Social Security and Medicare is also a contract with the American people.

A woman from Coon Rapids writes:

> We paid into both Social Security and Medicare all the working years of our life. Reducing the deficit must be done in a fair and balanced way. They did not ask our wealthiest citizens and corporations to share the burden by giving up their tax loopholes.

And she is absolutely right, absolutely right. Not one word, not one word in the Contract With America is asking large corporations to share.

And finally a woman from Watertown, MN:

> I am writing to you about the proposal to cut Social Security and Medicare. I hope you will say no to these unfair and irresponsible cuts. I am 86 years old. My husband and I worked hard all our lives. He died 8 years ago after being in a nursing home for 5 years. That took all of our savings. I receive $489 a month from Social Security and I think I have saved enough for my funeral. We never wanted to be a burden to our children or anyone else. I recently had to go on medical assistance. I have enjoyed good health, and I am a foster grandparent to a child center three mornings a week. We never missed voting and really worked hard for conservation and betterment of our country. I hope this has not inconvenienced your time. Perhaps you did not find time to read it, but I surely hope you will vote "no" on that proposal.

Well, Mr. President, for me that letter pretty much says it all. And, of course, we hear discussions about also restructuring Medicare. I'm willing to hear some more details on this—none of which have been outlined for us—but it sounds to me like a poorly disguised way of forcing seniors into managed care and cutting their benefits. Managed care should be an option for seniors—not a mandate.

I conclude this way with first, a policy discussion and second, a ringing denunciation and enunciation.

Policy statement: We will have premium death spiral in health care if we go forward with this balanced budget amendment which will necessitate deep cuts in Medicare. What will happen is we will have to reduce the payments for our public programs—and many citizens are dependent on those programs—and providers will cost shift to those of us who have private insurance. The insurance premiums will go up, fewer people will be able to afford coverage and the base of payers becomes smaller and smaller. Then you get more cost shifting and premiums keep going up.

Mr. President, last session we were talking about universal health care coverage. We were talking about decent health care for our citizens. And last session, when we tried to do that, my colleagues, too many of them, talked about rationing. They said cost containment would be rationing—a catastrophic end to quality health care. Now we really are about to ration because we are talking about cuts for only certain programs. Now we are about to ration care for the elderly, ration care for the poor, and ration care for the disabled. But do you hear any of those same voices yelling now? No. As I said before, their silence is deafening.

I come from a State that had probably one of the greatest Senators ever to serve in the Senate, Hubert Humphrey. Hubert Humphrey said the test of a government and the test of a society is how we treat people in the dawn of their life, our children; in the twilight of their life, the elderly; and in the shadow of their life, people who are struggling with an illness or struggling with a disability or those who are needy and those who are poor.

I did not come to the Senate to vote for a balanced budget amendment—which is essentially a pig in the poke—when I do not even know what it means, and when I have no idea as a decisionmaker where the cuts are going to take place. I know full well, given the parameters of what has been laid out, that some of the deepest cuts and some of the cruelest cuts will have to affect the very people that Senator Humphrey talked about. I am not going to be a Senator who is going to vote for cuts directly or indirectly in nutrition programs for children, and I am not going to be a Senator who is going to vote for cuts in a way that takes one of the most successful parts of health care in this country and begins to dismantle it. I am talking about Medicare.

My mother and father both had Parkinson's disease, and every time I hear people criticize Medicare, I remember that for them Medicare was the difference between being able to make it and utter financial chaos and disaster.

So, Mr. President, I just want to remind my colleagues that this amendment in the Chamber right now, the minority leader's amendment, which has been superseded by the majority leader's amendment, is right on the mark.

It is irresponsible, it is not being accountable, it is not being straightforward to vote for a balanced budget amendment unless we have the courage to lay out specifically where those cuts are going to take place, what kinds of choices we are going to make, and how it affects the people we represent. For my own part, I think people have made a big mistake. I think this 2002 date makes very little sense, given the parameters that have been spelled out. For myself, we need to have deficit reduction, and we need to invest in our people. That is the challenge for us, and we should do it. But we ought to be straightforward and lay out for the people in this country what that means to them. That I think is the only responsible approach to take, and as a Senator from Minnesota that is the position I take in this debate.

I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, there is a great story about Winston Churchill. It is probably apocryphal. Somebody was introducing him one night at a dinner, and they alluded to his drinking habits. And whoever it was that introduced him drew an imaginary line on the wall and said, I bet if all the whiskey Winston Churchill had drunk were put in this room, it would fill this room up to this mark. Churchill looked at that line, looked at the ceiling and said, "Oh, so much to do and such a short time in which to do it."

Now, here we have a constitutional amendment, and everybody has said everything that needs to be said—well, I guess everything that needs to be said has been said but everybody has not said it. So I come late to the debate, 10 days after it began, to put in my 2 cents' worth and express my undying opposition to this proposal.

When it comes to the Constitution of the United States, I belong to the wait-just-a-minute club. I confess that I voted for a constitutional amendment early on in my career in the Senate. I would not do it again.

I have taken plenty of political heat in my lifetime. I remember that great school prayer amendment in 1984 which would have allowed the school board or the State legislature to compose prayers or adopt prayers composed by others and demand their recitation by the students in school. And now it has become so commonplace to offer an amendment to cure every seemingly intractable problem.

As to the Contract With America, I join my colleague from West Virginia. I am not a party to that contract. My contract is with the people of America: the Constitution of the United States. But right in this session, there is a proposal to require a balanced budget, which is the debate now, a proposal to again address the prayer in school issue, and a proposal to limit the terms of Members of Congress, which I also consider to be a very bad idea. Every time we demonstrate to the people of America that we do not have the spine or the political courage to deal with a pressing problem, somebody says, "Well, let's amend the Constitution."

In 205 years, Mr. President, the Bill of Rights, the first 10 amendments to the Constitution, have not been tinkered with. So far as our Constitution is concerned, 205, coming on 206 years old, we have amended it 27 times including the 10 amendments which constitute the Bill of Rights. So actually, the people of this country in their infinite wisdom have seen fit to tinker with the Constitution only 17 times.

When you take out the constitutional amendment that said, "We will not drink," and the ensuing constitutional amendment of 1933 that said, "We will drink," only 15 times in 205 years have we chosen to tinker with this very precious document. There is a fellow named Robert Goldwin at the American Enterprise Institute. I do not know him, but I was reading an article by Robert Samuelson the other day where he quotes Robert Goldwin as saying, the first principle of a conservative should be "Don't muck with the Constitution."

Now, I do not agree with the American Enterprise Institute very often. I do not always agree with Robert Samuelson. But I can tell you there is infinite wisdom in that statement for everybody who considers himself or herself a conservative. "Do not muck with the Constitution."

When the House of Representatives came back into session, and Speaker GINGRICH told Members of Congress that they ought to read some of these early documents. Two that he mentioned were the Federalist Papers and Alexis de Tocqueville's "Democracy in America."

I read those in political science 103A. I read them again in law school, and have read them a couple of times since then. The Federalist Papers, written by James Madison, Alexander Hamilton, and John Jay, were published in New York newspapers explaining to the people what the Constitution would do, and why they ought to vote to ratify it. New York and Virginia were key States and were absolutely essential for the ratification of the Constitution.

Incidentally, do you know how old James Madison was when he wrote that magnificent series of papers? Hamilton wrote most of them. Hamilton was 31, and Madison was 37. I think John Jay was the old man in the crowd, and he was 44. But the point is that the most important point that Madison made in the Federalist Papers was that we have three separate branches of government, and we have created all these checks and balances so that one branch does not run amuck or usurp the powers of another. He said we should let the President nominate Supreme Court Justices, but Congress is the one that is going to have to sign off on them. Time after time Madison returned to the theme of checks and balances. Lets not muck with it now.

I will come back to this in a moment. There is absolutely no question that this amendment is utterly foolish, totally unenforceable, unless the courts, the judiciary branch of Government, enforce it. Who wants that? You go back home to the coffee shop, Senators. Go home this weekend and walk into small town America in the coffee shop, and say, "We are passing that balanced budget amendment up there. We are going to get our house in order."

Maybe some old farmer or small business owner says, "Well, now, Senator, how you going to enforce that amendment?"

You say, "Well, we are going to let the courts do that."

And he is going to say, "Wait just a minute. Are you telling me that you people are so spineless that you cannot deal with this deficit, and so you are going to put a few words in the Constitution and buck it over to the courts?"

I promise you that you just lost his vote.

If there is anything America does not need or want it is for the Court to say, "Congress, you must raise taxes. Congress you must cut spending." Where? When? How much? In what programs? It is the height of folly.

You know sometimes we all ought to go listen to the folks at the coffee shop more often. I never will forget in 1979 speaking to the Nevada County Cattleman's Association. Jimmy Carter had just imposed a grain embargo on the Soviet Union. I voted for it. I thought, "We will show those Soviets." And the embargo had an effect precisely opposite what we expected. It did not bother the Soviets at all. They just bought wheat in other places, and the American wheat farmers saw the price of their product go down dramatically.

So this old cowboy said, "Senator, you voted for that grain embargo against the Soviet Union?"

I said, "Yes. I did." By that time, I knew I had done the wrong thing, and, I said, "I am sorry about that. I will never do it again."

Then he said, "I hope you won't Senator, because I think a fat, happy Russian is a lot less dangerous to us than a starving Russian."

I said, "You are wiser than most of the people I serve with in the U.S. Senate."

I remember in 1981 when President Reagan came to town, he said, "We are going to grow our way out of this deficit. We are going to have an economy so hot people will be paying more taxes, and we are going to balance this budget in nothing flat." That was in 1984. Those were his words. They were not mine.

Ronald Reagan is the one who said we will balance the budget by 1984, and that we might even do it in 1983. I remember it so distinctly. When we asked him how, he said, "We are going to cut taxes, double defense spending, and balance the budget." And with the utmost respect to everybody who was here at the time, I say it was a lunatic idea; sheer lunacy. When I die I want my epitaph to say, "DALE BUMPERS was 1 of the 11 Senators in the U.S. Senate that voted no." Very shortly after that vote we saw the deficit start zooming. That was $3.5 trillion ago, Senator; 14 years and $3.5 trillion ago that we were told that was the way to balance the budget.

Did you know that if we had not done that, if we did not have those mammoth deficit increases during the 12 years before Bill Clinton became President—the deficit today would be $800,000, less than $1 million. Virtually every dime of the interest we are paying on the national debt today is due to the deficit from 1981 to 1992.

So everybody says, well, we mucked that up. We forgot something. What did we forget? We forgot to put a few words in the Constitution.

Mr. President, you could put all the words in the Constitution you want to put in, and it will not matter. I do not mean to be denigrating to anyone, but I can tell you what this is all about. It is about two or three things.

No. 1, it is about putting the balanced budget amendment into the Constitution, your simply declaring that we will achieve balance by the year 2002. Then everybody hoped and assumes that by the year 2002 the American people have forgotten what was said in 1995.

No. 2, what we are in effect saying is that we do not have the spine or the courage to do what we have to do to get the deficit under control. Therefore, let us put a few words in the Constitution that we can hide behind for at least another 7 years. Members will say, "I probably will want to be out of here then anyway, so what difference does it make?"

Finally, Mr. President, the Contract With America says we will amend the Constitution, and we will balance the budget by 2002 or 2 years after the States ratify the Constitution, whichever is later.

I want you to think about that. What does that mean? It means that the people who are championing this amendment and saying "Trust me," are also saying that we will cut spending by $1.6 to $2 trillion over the next 7 years, and we will do it while increasing defense spending and we will not touch Social Security, and obviously, we cannot touch interest on the debt.

So what does that mean? That means that at least 30 percent of all the rest of Government spending has to be cut. There is not one person in this body, Republican or Democrat, who believes that is even remotely possible—not even remotely possible. Yet, we plow ahead asking the American people to not probe too deeply into what we are doing here, hoping they will not expose us for our hypocrisy and our cynicism.

When the year 2002 rolls around and the deficit is still soaring, we will have done exactly what Alexander Hamilton said we should guard carefully against, and that is: Do not raise people's expectations beyond the point of fulfillment. Every time you promise the American people something you fail to deliver, they become that much more cynical.

Mr. President, let me show you a chart here regarding the space station. Everybody knows that I think the space station is an utter waste of money. I saw the picture this morning of the Russian cosmonaut waving at the American astronauts. That is heady stuff—sending a shuttle up there and to come within 35 feet of the Russian space station *Mir*. I do not want to berate the space station, but that is the seventh space station Russia has had orbiting the Earth. One guy aboard has been on it 2 years. We say we want to put one up there, too. That is going to cost about $70 billion.

So last year, 63 Senators voted for a constitutional amendment to balance the budget, yet within 3 months, 43 of them voted to plow ahead with this $70 billion boondoggle, the space station. Some of the other amendments I offered last year to cut spending were just as embarrassing, or more so. So now we have people saying, "Well, it did not work in 1981 when we proposed to cut taxes, raise defense spending, and balance the budget. But this time we really mean it, and we are going to put some words in the Constitution, and now it will work." Some very wise reporter here in Washington has properly called it deja voodoo.

You remember the comedian Flip Wilson, who use to say "The Devil made me do it." I suppose people in this body think that in the future when they have to make the tough choices and cut spending, they will have the Constitution to rely on. They can go home, and when everybody is irritated because their program got cut, they can say, "The Constitution made me do it." If we just put a few lines into the Constitution, you can go home and say, "We had to cut Medicare, Social Security, and all of those things because the Constitution made me do it." But did it? Will it?

This proposal, as the Senator from Utah well knows, provides that if 60 people in this body want to vote to unbalance the budget, the budget will be unbalanced and we can have all the deficit spending we want. If you do not think they will do that, look at this chart. This bar represents the 60 votes it would require to unbalance the budget and these bars represent the votes we made on the 13 appropriations bills last year. The lowest vote on any appropriation bill was 71. On average the appropriations bills, where we do the real spending, passed with 84.5 votes.

So, do you think the Members of the Senate are not going to vote to unbalance the budget if it means a cut in Social Security and Medicare? When you mention those two programs, 100 Senators dive under their desks. Let us assume, for the sake of argument, that 60 Senators will not vote to unbalance the budget. Where does that leave you? Let us assume that the economy is in a recession, as it was in 1929 and 1930 and 1931, and only Government can bring it out and avoid a depression. So somebody comes on the Senate floor and says we have to vote for spending money we do not have because people are homeless, out of work, and they are hungry; we have to vote to unbalance the budget until we get over this recession. Forty-one Senators—a very slim minority—can say, no, we are not going to unbalance the budget. Forty-one Senators can bring this country to its knees by refusing to address a dramatic economic crisis in the country.

Do you know another thing I remember about the Reagan years and the Carter years? Senators, especially on that side of the aisle, decided they would quit voting to raise the debt limit to match spending. That's liking going into a restaurant and eating the biggest steak and when they bring the bill, you say, "I am not going to pay it." So everybody thought this it would be a great campaign issue to vote not to raise the debt ceiling. They said, "I voted for all these appropriations bills, all the spending; but now I have decided I am not going to vote to raise the debt ceiling." That happened five times in 5 years. And one time we brought the Government to a halt over the weekend and a good part of Monday and Friday, and it cost the taxpayers of this country $150 million. That is just peanuts compared to the damage we risk under this amendment. Under this amendment, 41 Senators can bring this country to its knees.

Do you think when that thing comes up on the floor, though, and somebody says we are going to have to cut Social Security 10 percent, cut 20 percent out of Medicare, we are going to have to close 18 veterans' hospitals, we are going to have to cut back civil service pensions, do you think 60 Senators will not vote in a minute to unbalance the budget?

(Mrs. HUTCHISON assumed the chair.)

Mr. BUMPERS. Madam President, to the lay people who may not understand the workings of Congress, here is the way it works. The Budget Committee goes into session when we first come into session, and they decide what revenues next year are expected to be, how much we are going to take in. And then they go through the various budget functions and they say, here is how much we are going to spend. And they say, in order to have a balanced budget, we have to cut spending by this amount. Let us assume, just for easy figuring, that they say we are going to have $2 trillion in revenues and here is our $2 trillion in expenditures, the budget is balanced.

They bring it before the Senate. It passes by a lopsided majority. We pat ourselves on the back, give ourselves the good Government award, and go home happy as a clam.

Then, October 1 rolls around and it looks as though the economy is not doing so well. Within 5 or 6 months, it is obvious that we are going to have a $50 billion deficit.

So what happens? Well, somebody goes to court and says, "Why, those clowns told us they had a balanced budget, and look here. They are going to run a $50 billion deficit."

Who can sue? First of all, will the Federal courts have jurisdiction? We do not know. Not one person in this body can answer that question.

Second question: Who has standing to challenge the budget in Federal court? Everybody? Taxpayers? State and local governments? Foreign nationals? We do not know.

Third question: What will we do while the current budget is tied up in court? We do not know.

Fourth question: How will the amendment force Congress to reach an agreement as to what they are going to cut or what tax hikes they are going to adopt? We do not know.

Fifth: Would the courts find that enforcement of the balanced budget amendment is a political question on which they refuse to rule? We do not know.

Sixth question: Can the Congress just ignore the amendment as drafted, and go merrily on their way? They probably can, and they probably would.

Another scenario: Let us assume that even before October 1, in the beginning of the year 2002, as soon as Congress adopts the budget resolution, 6 months before October 1, somebody says, "Why, you guys are crazy. What are you talking about? You're projecting a $2 trillion income. You're not even going to come close."

They go to court even before the year starts and say, "Those people are mucking with the figures, cooking the books. They say they are going to have an income of $2 trillion when they are going to be lucky to have $1.9 trillion. Make them do it right. Make them cut more spending or raise taxes."

And let us assume for the purposes of argument that court then says, "You're right. I agree with you. Those people have overestimated revenues by $100 billion," and issues an order to Congress to close the gap and Congress does not do it. Can the court raise taxes to make us comply with this amendment? Maybe.

Would that not be a beautiful thing to see? Would that not be something? James Madison would be whirling so hard in his grave, it would be like a fan in the kitchen. He would be saying, "What have those clowns done to abdicate their responsibility to another branch of Government, the one thing I warned against?"

Madam President, I could go on with scenarios like this.

Senator JOHNSTON has an amendment that is going to clarify this. It is going to say the courts can take jurisdiction over these questions. I think it ought to be clarified. Can they or can they not? And if the courts cannot take jurisdiction, if the courts have no role to play in this, who is going to enforce it? There is nobody left but us. If we are the ones that are already flagrantly violating the constitutional amendment we are debating here today, we are flagrantly violating it, do you think we are going to correct it?

Let us assume, finally, one further scenario. Let us assume that my colleague, Senator PRYOR over here, is so upset about the fact that he does not believe we have a balanced budget, and maybe the court has already said "You are right. The budget is $100 billion off, but this is a political question and we are not going to get involved in it. This would be meddling in legislative affairs and we are not going to do it."

So then Senator PRYOR goes to court and says: "I want an injunction to prevent the Treasury Department from issuing one single bond, T-bill, or note to pay off that $100 billion deficit for this year."

A court might take jurisdiction of a case like that. The plaintiff would simply be saying that if compliance with the balanced budget amendment is a political question and the courts are not going to make Congress pass a balanced budget, then keep them from doing anything, namely, issuing scrip, bonds, notes to cover the deficit.

Some will say the courts will not do that, but in fact they already have. Most people here have heard of Missouri versus Jenkins, the Kansas City segregation case where the courts ordered the city of Kansas City to raise taxes. The Supreme Court affirmed it.

You know something, Madam President, if I went home to that same coffeeshop I talked about a moment ago and I told my friends sitting around the coffee shop in Charleston, AR, that the effect of this amendment would be to turn the budget over to the courts and the courts would have jurisdiction to raise taxes or cut spending, the balanced budget amendment would not have a 75-percent approval rating; it would be lucky to get a 25-percent approval rating.

Madam President, we keep dealing with distractions and issues that are not relevant to the real problems of this country.

The Contract With America has some things in it which are legitimate and which Democrats ought to join Republicans in passing, as we have already done on the congressional compliance question. In thumbing through the Federalist Papers yet once again this weekend, I found that James Madison talked considerably about the House. Strangely, he did not say Congress or the Senate. He said the House of Representatives should be very careful not to pass a law from which they are protected.

So we are 205 years late passing a bill to make us comply with the laws other people have to comply with, and I was happy to vote for that bill.

But this idea that we are going to do middle-class tax cuts—when it comes to doing what is popular, Madam President, let me tell you something that is interesting. Seventy-nine percent of the people say they favor a balanced budget amendment to the Constitution. Over 80 percent favor the right-to-know amendment, which is the pending business here. The right-to-know amendment simply says if you people in Congress are so hot for this amendment and you can balance the budget by the year 2002, you tell us now how you are going to cut between $1.5 and $2 trillion between now and the year 2002.

That is an absurdity on its face. It is as utterly impossible as my soaring out of here into the heavens, flapping my arms.

We have a right to know. And the reason everybody is silent is because they do not have a clue as to how they would even come close to cutting that kind of spending. It is ridiculous in the extreme.

Yesterday, the Joint Tax Committee, which does the best job of estimating, says the Republican tax cuts over the next 10 years—listen to this, I say to the Senator—those tax cuts are $704 billion. Add that to the trillion-dollar base line just for the first 7 years, $704 billion in lost revenue for the middle-class tax cut plus the capital gains tax cuts and the IRA's. That ought to cause people to wake up screaming.

What is the biggest item on the budget now? Interest. Interest on the debt. But talk about how popular this amendment is, the right to know is popular, too. Know what else is popular? The idea that if we can find $80 or $200 billion in spending cuts to provide for a middle-class tax cut, we should apply that money to reducing the deficit, rather than a tax cut. And 81 percent of the people favor that idea, Senator.

I disagree with the President's budget to this extent. I am not willing to accept $190 to $200 billion a year in deficits for the next 7 or 8 years. We can do better. We can do a lot better. I have seven bills pending that will save $133 billion over the next 15 years, $33 billion over the next 5 years.

Madam President, we have big problems. We have a crime problem. We have welfare problems. Our educational system has been failing miserably. Our culture is degenerating. On that point, is it not curious that when people are becoming increasingly uncivil to each other and we have crime on every street corner, the proposals in the House are to cut funding for the Corporation for Public Broadcasting, the one station we can watch without getting blood all over ourselves. One small piece of culture left, and they want to torpedo that.

That is not enough. They want to abolish the Education Department. Take ourselves back to the stone age while we are at it. And abolish the National Endowment for the Arts, without which the State of Arkansas probably would not have the Arkansas Symphony. Who cares about the old music that Bach and Beethoven and all those guys wrote 200 or 300 years ago? Get rid of that, too. The National Endowment for the Humanities who gave Arkansas a $50,000 grant when I was Governor and allowed Betty Bumpers to start artist programs in every first grade in the State. Get rid of that. What are we doing teaching first graders about art? What a waste. They are trying to scrap every smidgen of culture left in this society.

There are not any words that we can put into the Constitution, Madam President, that are going to stiffen one single spine. Not one word in the Constitution will make somebody vote against Social Security or the space station, the latter, particularly if there is a contract providing 500 jobs in your State. No, words in the Constitution do not change people's character. We vote for what is popular around here.

James Madison, again, "Do not take that stale bait of popularity * * *," as opposed to what is best for the country. Many of the people of this country think there is enough waste, fraud, and abuse to balance the budget. A lot of them think if we change our salaries and the pension fund we could balance the budget. Take away our airport parking, install term limits. With issues like that, nobody will notice much of anything we do around here.

In August 1993 we did something that we are asking the Republicans to do this year. I will never forget the month or the year. We said we would get the budget deficit going down, and keep it going down. We said we would do that by raising taxes on the wealthiest 1.2 percent of the people in this country by $250 billion, and cutting spending by $250 billion. And we did it. We did it just before the August recess. I voted for it, unhappily. Even though we told people exactly what we were going to cut, exactly what the tax hike would be, we still did not get one single Republican vote. Not one.

Now the $500 billion in deficit reduction we promised over the next 5 years, has turned into nearly $600 billion, maybe headed for $700 billion. It was the most courageous thing, the most important thing that has been done since I have been in the Senate.

I have screamed my head off about the deficit. I have offered amendments here every fall to cut spending. I might as well be shouting in a rain barrel. But we passed that bill, 50 votes from Democrats alone, plus the Vice President in the Senate Chamber. Everybody knew exactly what we were doing.

And now we are saying, You tell us exactly how you will come up with almost $2 trillion in spending cuts in the next 7 years. Why should they not? People on Social Security want to know if they are included. People on Medicare, people on Medicaid, people who pay taxes, want to know what it will do to them.

Mrs. BOXER. Madam President, would the Senator yield for a question?

Mr. BUMPERS. Madam President, I am happy to yield.

Mrs. BOXER. I say to the Senator, Madam President, he is so eloquent in bringing home this point to the American people. We put ourselves out here on the line and we cast a tough vote.

By the way, I serve on the Budget Committee. I will tell the Senator that Members should have heard the Republicans in the Budget Committee. I have their comments in writing. "This thing will lead to higher deficits. This budget will lead to unemployment. This will be the worst thing that ever happened." In fact, we have the best economy that we have had in 25 years.

So I would say to my friend, since our colleagues will not tell Members what they have in mind for the American people, we have to make some educated guesses on that point. I would ask my colleague this: Is it not true that the Republicans said they would not touch Social Security even though they are not supporting removing it from this amendment? Have they not said they are taking that off the table?

Mr. BUMPERS. Madam President, the Senator is absolutely right. They have said they will not touch Social Security, and obviously they cannot avoid interest on the debt. Although they did not say defense was off the table, they said, "We will increase defense spending." I think one could assume if they increase spending it is also off the table.

Mrs. BOXER. Madam President, I was going to make that point.

The contract calls for increases in military spending, even though, as we know, we are spending in excess of two to five times than of all our enemies combined. So if they take Social Security off the table, I say to my friend, and if defense is taken off the table, and if they come through with a $700 billion tax cut, I ask my friend what is going to happen to Medicare? What is going to happen to veterans' benefits? What is going to happen to crime fighting? What will happen to the Border Patrol? What will happen to roads and highways and freeways and research on breast cancer that is so important, and AIDS and other things that are real threats to the people of this Nation.

If the Senator, who has been around here a lot longer than I, could paint that picture I would greatly appreciate it.

Mr. BUMPERS. Madam President, let me just say that common sense dictates three or four conclusions that seem obvious to me.

No. 1, the Contract With America says we will not include Social Security or interest on the debt. Obviously we cannot do anything about interest on the debt. We have to pay it. As I said, they are proposing to increase defense spending. That leaves Medicare, and Medicaid, and it leaves nondefense domestic discretionary spending.

In order to reach a balanced budget under that scenario, we would have to cut crime prevention, education, highways, law enforcement, everything that goes to making us a decent civilization. We would have to cut every one of those by at least 30 percent. In my opinion, in 2002 we would still have a deficit. I appreciate the Senator raising the question.

If you want to do what is popular, vote for this amendment. There is not any question about its popularity. Public opinion is contradictory about it because the people also support the right to know amendment which would require to say what we are going to cut. Seventy-four percent of the American people want the middle-class tax cut to be applied to the deficit instead of their tax bill. They want that to go on the deficit. Yet, the same people who are hot for a middle-class tax cut ignore the popular will of the people on that one.

But I am willing to admit I am going to vote "no" on this, and that is not the popular vote. So if you want to do what is popular, you vote "aye."

If you really, in your heart of hearts, believe that you can meet the mandate that I just laid out for you about balancing the budget in the year 2002, for God's sake vote "aye" if you think you can do that.

If you think the Founding Fathers did not know what they were doing when they crafted this most magnificent of all organic laws in the world, vote "aye."

If you are one of the 11 new Senators who came to this body in January and you do not have the courage to do what you told those voters you were going to do when you were campaigning about spending cuts, you vote "aye."

If you want to postpone the tough choices until the problem is even worse than it is now, vote "aye."

With an "aye" vote, you get 7 more years of grace in which the budget will balloon. The Senator from Utah has a chart over there showing how much the debt has gone up since we have been debating this. If this constitutional amendment were on the books right now, or any time in the future, that chart would be exactly the same. Nothing would be changed by a balanced budget amendment.

But if my colleagues believe that the highest calling they have is their duty to the Constitution, to be honest with their constituents, if they believe that their constituents can handle the truth no matter how unpleasant, even though all they have been getting is talk-show idiocy, distortions, pap, and partisan snapping, then they should vote "no." And then they should follow that with a few courageous votes on cutting spending, even if it tears their hearts out to cast those votes.

Ten times nobler is the man who bit the bullet in his quest to fulfill the promise of a great nation than the man who reaps the contempt and hatred of historians and, thereafter, the people, because political expediency overcame our nobler instincts.

If you take that stale bait of popularity over what is best for our country, you are, in effect, saying, "Let this great Nation perish."

I yield the floor, Madam President.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HATCH. Madam President, I am happy to have the Senator from Arkansas recognized. I hope he will be the last speaker of the day. I would like to say a few words in closing, and we can recess the Senate. I am hoping he will be the last speaker.

Mr. PRYOR. Madam President, I thank my distinguished and good friend from Utah for allowing me to speak at this time. I want to compliment my worthy friend and colleague from Arkansas for delivering one of the eloquent, forceful, and thoughtful speeches of this debate on amending the Constitution with a balanced budget amendment.

Although we always marvel at this great constitutional system that we have, somehow or another, we cannot help tinkering with it. We love to mess with our Constitution. Over 10,000 proposals in our some 200 years of history have been introduced in the Congress to amend the Constitution. But over this same 200-year period, we have adopted only 17 since our Bill of Rights containing the first 10 amendments was enacted.

These relatively few amendments which have actually survived the amending process suggest how very difficult it is to amend the Constitution, as our Founding Fathers intended it to be, and also just how high the stakes really are.

Efforts to make our Government budget more responsible date back not just 2 or 3 years ago, but they date back to the early days of our forefathers. And these efforts have taken on various forms from reorganizing our budget process to amending the Constitution.

Today's debate, whether to authorize a constitutional amendment to be sent out to the States to balance the Federal budget, has been unfolding, Madam President, since 1982 when the Congress first attempted and failed to write a constitutional amendment to balance the budget.

After this first attempt, proponents have pushed and failed to authorize the amending process in 1986, 1990, and 1994.

I have participated in each of these four very difficult debates, and I have argued at length, not only here but in my home State of Arkansas, on the merits and the demerits of amending our Constitution with such an amendment.

In these debates, the U.S. Senate, and my friends on each side of the aisle—all of us together—have struggled during this debate to overcome our differences. But what is so striking today is not our differences, but our common goal, a goal that every Member of this body agrees with: The goal of achieving a balanced budget.

No one quarrels with this debate. No one quarrels with this notion. No one quarrels with this goal. It is the one unifying idea that binds us. At the same time, it is the course of this particular devise of achieving our common goal, a constitutional amendment, which fractures us so very deeply, and there is a fundamental reason for this.

Americans have shaped their lives through laws, and for more than 200 years, the Constitution has been at the very core, the very center of our Nation of laws. It is the world's oldest written charter in continuous effect.

When we change the Constitution, Madam President, we alter who we are as a people. We change our lives by changing the way we govern ourselves. So before taking this ominous step of changing who we are as a people, we have an obligation to fully explore the consequences of amending our Constitution.

These consequences are neither obvious or simple. By this, I mean that by solving one problem, we may be creating a whole new set of problems. Certainly the consequences of balancing the budget will create a wide range of hardship and difficulty for some Americans—some of which will be foreseen and some of which will not.

So before we launch into this long and complex process of changing our Constitution of changing our lives, along with those who will follow, the American people deserve and expect our honesty and they deserve our leadership.

Madam President, I have been carrying around with me for the past several weeks a report from the Bipartisan Commission on Entitlement and Tax Reform. We call this effort in the Senate the Kerrey-Danforth commission, cochaired in a bipartisan manner by Senator BOB KERREY and Senator John Danforth. Senator John Danforth, of course, is no longer a Member of this body. I want to congratulate the authors of this report and I hold it out to my colleagues and the American people as an effort of true leadership and honesty in explaining today's budget dilemma in which we find ourselves.

Finding No. 3 in this report, on pages 10 and 11, tells us a story we just cannot run away from. It is found actually on this chart, Madam President, and it starts in 1963, when mandatory spending, which is comprised mainly of Social Security, Medicare, Medicaid, military retirement, civil retirement, and interest on the debt, amounted to 29.6 percent of our Federal outlays. We see those combined, net interest on the debt and entitlements, on the chart as mandatory spending of 29.6 percent of our Federal outlays.

Madam President, we see in the blue-green area of the pie chart what happened also in 1963 in the area of discretionary spending. The remaining portion represented some 70 percent of the total Federal outlays, while some 30 percent was mandatory.

Chart No. 2, Madam President, shows the story when 30 years later, in 1993, mandatory spending is now at 61 percent, that is, entitlements of 47 percent, and net interest of 14 percent. Add the two and we find 61 percent of our budget is comprised of mandatory expenditures and discretionary spending shrunk to only 39 of total Federal outlays.

The third chart is revealing, Madam President, because the third chart indicates what is going to happen in 8 years. Eight years from now, only 1 year after this proposed constitutional amendment to balance the budget will go into effect. If we continue as we are at this time, we are going to see mandatory spending increased to 72 percent. That is net interest on the debt, 13.8; entitlements, 58.2, and discretionary spending, Madam President, down to the very small percentage of 28 percent.

Now, what does all this mean when we actually put ourselves in this straitjacket of a constitutional amendment over the next 7 years to balance the Federal budget.

Two weeks ago, Dr. Robert Reischauer was before the Senate Finance Committee. He was testifying before our committee, and I asked him what does this mean if we are to balance the budget? His answer, and I quote, Madam President,

> I do not think that you can find them out of discretionary spending, especially if you listen to the concerns that many of your colleagues have about defense spending and think that defense spending is over one-half of discretionary spending. Clearly, the major portion of the answer has to lie in the entitlement area or in the tax code. And there is no escaping that.

Clearly, Madam President, the major portion of the dollars needed to be cut to balance the budget has to come from entitlements or the Tax Code, and there is no escape from that fact.

In the next question, I asked Dr. Reischauer before the Senate Finance Committee, if we exclude Social Security, which we should, from a balanced budget amendment, then what is going to be left for us to find the funds to balance the budget?

Dr. Reischauer responded by citing among others Medicare, Medicaid, civil service, military retirement, veterans pensions, and veterans compensation, student loans, farm price support systems, AFDC, food stamps, and SSI.

The point is, Madam President, the consequences of a balanced budget will definitely be felt by all Americans, present and future, who depend on these programs which Dr. Reischauer cited in his testimony a few days ago.

Now, how will these Americans be affected? This is the question that we in Congress must do our dead level best to be honest with the American people about. With no plan set forth to achieve a balanced budget by the year 2002, it is impossible, absolutely, totally impossible to tell the people even our best guess of the consequences of balancing the Federal budget.

Madam President, I do not wish to blame any one person or any political party or any sponsor of this particular amendment before the Senate today for not having a specific plan because the cuts would be extremely painful, extremely unpopular, and standing alone both Democrats and Republicans have much to lose by offering such a plan at this time.

In the absence of a plan at this date, a number of studies and reports are now coming out, that are now being issued which break down in very real terms the effect of actually balancing the budget with across-the-board spending cuts.

Madam President, I can say that those findings from these reports are sobering. CBO estimates that the balanced budget amendment would require a cut of $1.2 trillion in Federal spending over the next 7 years. What does that mean? The Treasury Department has now reported that a balanced budget amendment for the State of Arkansas would require reducing Federal grants and other annual spending in the State by some $3 billion—$416 million lost per year in Medicaid, $65 million lost per year in highway funding, $225 million a year in lost funding for education, for job training, environment and housing, and $1.1 billion per year in lost benefits for the elderly.

These are enormous, unthinkable numbers that mean little when we say them, but what does it mean to actual people? It means that seniors will see massive reductions in health care benefits along with the hospitals and the doctors who serve them. In turn, the cost of the public health care burden is going to be shifted to private employers and their employees. It means millions of requests by seniors for rides to the doctor's office, grocery store, and pharmacy will go unanswered. It means millions and millions of home delivered meals will not get delivered, will not go to the homes of the elderly persons who are disabled.

Some now claim that these findings are meant only to spread fear and to scare people about the balanced budget amendment. However, Madam President, I think that the people making this claim are missing the point. Sometimes being honest in budgeting is a very, very frightful proposition, but it is my responsibility, it is our responsibility collectively to explain in advance the best way we can—what we are going to do and how we are going to do it—even if it scares us all.

I know, Madam President, that the President has received a lot of criticism in the last few hours about the submission of his budget that he sent to the Congress yesterday.

Here is the budget. "A Citizens Guide to the Federal Budget" is the first booklet. We have all of the appendices to the budget that he has proposed. We have an "Analytical Perspective of the Budget of the United States Government." We have "Historical Tables, Budget of the United States Government," and then finally the document that most of us hopefully have seen, the "Budget of the United States Government," in a form that I think most of us hopefully can comprehend.

What this says, Madam President, is our President has kept faith with his part of the contract. He has submitted a budget. It may be controversial. As my colleague Senator BUMPERS just said, we may not be willing to accept $180 billion deficits into the outyears. But be that as it may, this is at least a good faith effort to let the people of America know where we stand with the budget, and to know what our plans are with the budget.

However, as we look around the Senate Chamber today, on the eve of a very critical vote on the balanced budget amendment, the right-to-know amendment, offered by the distinguished minority leader, Senator DASCHLE, and several colleagues, we find that there is absolutely not one scintilla, not one scintilla of a plan offered by the proponents of the constitutional amendment to balance the budget, to show us how that budget is going to be balanced, to show us if it is going to require new revenues, or to show us the number of dollars that we are going to have to cut spending.

Madam President, here is a blank piece of paper. There is nothing on it. And, thus far, this is about all we have from the proponents of this amendment to tell us how they plan to balance the budget.

Our colleague, Senator DOMENICI, the distinguished Senator from New Mexico and chairman of the Budget Committee, has been very straightforward from the outset of this debate. But should not we be just as straightforward about the consequences to millions of Americans who are going to be impacted by these cuts? We should know the plan of action. We should know how they propose to balance the budget.

No one who is a part of this debate is suggesting we do nothing to balance the budget. That is not an option. We all want to balance the budget. The price of doing nothing is too high. What is at the core of this debate is the right of Americans to see the direction we are heading to achieve this goal before we take this drastic step of amending our 200-year-old Constitution. Without this direction, I believe such a proposal is going to do more harm than good.

During this debate an amendment to exclude Social Security from this balanced budget amendment is going to be offered and I am going to be supporting that amendment. The Social Security System is a 60-year-old contract with the American people. It has worked. It has worked well. And if changes need to be made, I am willing and ready to consider them. We made some changes back in 1983 that put our Social Security System back in a very good financial posture. But I will consider them on their own merit, not as a part of any across-the-board spending cut because I think our contract with the elderly people of our country as they pay into Social Security is a separate contract which they started some 60 years ago. And this is a contract of 60-year standing that I plan to honor and I hope our colleagues in the Senate will honor.

The Democratic Joint Economic Committee has recently estimated that if both Social Security and Medicare were included in across-the-board spending cuts, the average senior citizen in America would lose some $2,000 a year in Social Security benefits; some $1,500 a year in Medicare benefits. The consequences of this debate to retirees, to widows, to the disabled are too important to subject them to broad brush budget cuts. And I will not support a constitutional amendment that allows this to happen.

In last week's debate it was pointed out the balanced budget amendment does not require a balanced budget. This is true. Section 1 of the proposed amendment that is before this body at this time allows for three-fifths of both the House and the Senate to waive the requirement for a balanced budget. So, if the amendment as proposed does not require a balanced budget, what does it do? That is the question today.

One, this proposal gives the President and two-fifths plus 1 of either Chamber a procedural lock on deficit spending and debt ceiling limits.

Let us place to one side the argument that we are frustrating the democratic process by allowing minority rule of our economic order. That point has been made repeatedly. I think it has been made well.

Madam President, let us take another look at the amendment and compare that, to see how this proposal fits into the framework, the overall global framework of the Constitution. Compare it to, say, the first amendment.

The proposed amendment before us is going to allow, if adopted, a supermajority to waive the requirement of a balanced budget. In this respect, this amendment is truly a first. It is a first in the 200-year history of our constitutional Republic. We have never had such an amendment. This is the first time. Let us compare it, if we might, to the first amendment:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble; and to petition the Government for a redress of grievances.

Madam President, nowhere in this language of the Constitution in the first amendment does it even suggest about providing that: Congress shall make no law respecting the establishment of religion unless three-fifths of each House passes legislation specifying otherwise. And to suggest so would be ludicrous.

When we take the oath of office to protect and defend this Constitution, do we do so unless three-fifths of each house of Congress passes legislation specifying otherwise? Of course not. If the proponents of a balanced budget amendment believe it is so important to our way of life, why is this procedural loophole included?

This is not the only loophole. Let us look at section 6, which provides that the "estimates of outlays and receipts may be used by Congress when drafting legislation to enforce and implement the provisions of this amendment."

This may be the biggest loophole of all. The amendment will be enforced by "estimates," agreed to by Congress. Even on our best, our luckiest days, estimates are just that, good faith estimates, but often they differ greatly. They change over time. And estimates in the wrong hands for the wrong reasons can be very, very destructive.

Do we really want to introduce this notion into our Constitution? I think not. It is just one more example of why the balanced budget amendment will not balance the budget. And what happens, finally, Madam President, if Congress does not balance the budget? What happens if this straitjacket that we have placed ourselves in is such that we cannot abide by those rules? Would the Federal courts be called upon to enforce them? Are we going to be like Kansas City when the Federal judge, who was unelected, appointed for life said: I will raise the taxes, I will run the schools? Many have grave doubts whether the courts should assume this role. This is the role for the Congress. This is a role for the President. Further, even Federal judges today are very skeptical that the courts would assume this particular role.

Judge Robert Bork has predicted that "hundreds, if not thousands, of lawsuits would arise from such an amendment."

No tinkering with our Constitution is going to substitute for the courage it will take actually to balance the Federal budget. The introduction of gimmicks and loopholes and uncertainty into the Constitution will not give us the courage or the political cover to reach this goal.

The Declaration of Independence, the Constitution, the Bill of Rights—are housed just a few blocks from here. In fact, this morning I was sitting in my office and I was thinking about this vote that we are going to have tomorrow, Wednesday, at high noon; a vote whether to require that the public and the Congress have the right to know basically the glidepath or some of the numbers as to how we are going to achieve a Federal budget, if we support this constitutional amendment.

I got to thinking about the Declaration and the Constitution and the Bill of Rights. We talk about them all the time in this body. I remembered I had not seen those documents since I was about 16 years of age.

So I called up the Archives. I said, "Would it be possible for me to come down on short notice and have explained to me how we protect and look after these very sacred documents?" So I got in the car. I went to the Archives. I found that on each day at 10 o'clock sharp every day, except Christmas, on display we find the Declaration of Independence, the Constitution, and the Bill of Rights.

These founding documents of our country are in cases shielded by tinted glass and inert gases. Each evening these cases are lowered into a recessed, reinforced vault. If the Capital of our country were attacked, the vault would continue to protect its contents long after the city above ceased to exist. The Constitution, the Bill of Rights, and the Declaration of Independence for this country would survive long after all of us were gone.

The scene at the National Archives, I think, reinforces the reverence we have for these documents. This scene, I think, demonstrates the degree of respect for the Founding Fathers who wrote these particular documents.

While I was standing there this morning—and I took several members of our staff, Madam President, to the National Archives to see the Constitution, the Declaration of Independence, and the Bill of Rights once again—I watched the people as they walked in. As they approached these documents, they approached them with reverence, with quiet, and deep respect for the environment in which they were in.

There was a couple. I started visiting with them quietly. They were from Washington State. I introduced myself. They introduced themselves. They said that this was their very first trip to Washington, DC. They said that they thought they would never have the opportunity to be so close to the reason that this country has become so great and so powerful as it is today.

It makes me shudder to think that we would, in effect, remove this Constitution from its specially protected environment in the National Archives and inscribe on its parchment something that we believe is a bad idea. The reverence inspired by the Constitution comes from the impression that it is permanent and that it is enduring. A bad idea cannot endure, and we should not discolor the Constitution with it. We should not taint it. We should not stain this magnificent document with such an untried extreme as this particular amendment presents.

Madam President, can we balance the budget without this amendment?

Madam President, I see my distinguished friend from Utah rising. I want him to know, if he will allow me about 2 or 3 more minutes, I am going to sit down and let him conclude today's activities in the Senate, if that would be permissible with the distinguished manager.

Can we balance the budget without a constitutional amendment? The answer is "yes." Is it going to be easy? The answer is "no."

The 1990 and 1993 deficit reductions which were passed represent over $1 trillion in deficit reduction. I voted for them. We did this without a balanced budget amendment. We can do it again, and we can do it by keeping the Constitution intact. It is very difficult, and some may not have liked it. It was uncomfortable. It caused heartburn. But I think very few would disagree with the fact that we reduced the deficit of the U.S. Government, and once again, we did it by keeping the Constitution of our country intact.

Some Democrats lost their seat in this Congress to vote on the 1990 and 1993 deficit reduction bills. But these individuals did it anyway because they knew that their first obligation was to their country, to their children and to their grandchildren, and they knew they must make tough choices. Many who support this balanced budget proposal have never voted for a tough deficit reduction package. To vote on this amendment does not in any way ensure that they will in the future.

Whatever the outcome of this debate might be, Madam President, I hope that I will be able to continue to make the tough votes to reach this goal. I support a balanced budget. But I will not support a bad idea to achieve it.

To our colleagues in the Senate who have just arrived here—and I note that all 11 have signed a letter recently, dated January 18, 1995. The new freshmen Members of the U.S. Senate which have come from 10 of our great States in this Union, have all supported this balanced budget amendment. I would like to say a word, Madam President, in closing to those fine new colleagues of ours. That is this: This is going to be the easiest vote that they have ever cast. This is an easy vote for them. It is an easy vote for anyone in this body because it says that we are going to propose an amendment to the Constitution that requires a balanced budget, but it ultimately does not require a balanced budget; that we are going to propose an amendment to the Constitution that says we are going to let the next Congress basically balance the budget. We are going to let the next President basically balance the budget. And what we will be doing in the meantime is sending out press releases and stating what a great thing we have done by supporting a constitutional amendment to balance the budget.

Madam President, I hope our colleagues will rethink this position. I know they realize—because they are not only good people, they are smart people—we did not get ourselves as a country, as a Nation, into this predicament in 7 years. And let us be honest, we are not going to get ourselves out of it in 7 years.

Madam President—and I say to my wonderful friend of long standing from Utah who has been eloquent in his management and his statements on this issue—I would like to conclude my statement this afternoon by quoting a paragraph from a 1993 book that has just come out. It is called "Amending America," written by Richard Bernstein and Jerome Agel. Up here on the top on the cover, I say to my colleague from Utah and the distinguished occupant of the chair, it says: "If We Love the Constitution So Much, Why Do We Keep Trying to Change It?"

A paragraph from page 185 in the book states this, which is relative to the debate in 1992 on the constitutional amendment:

In June 1992, Stanley Collender, the director of Federal budget policy for Price Waterhouse, pointed out another problem with enforcing the amendment. Under present law, no person would have standing to bring suit to compel Congress to obey this amendment. If the courts could not enforce it, then the amendment would have no teeth and its failure would breed contempt for the Constitution and the rule of law, again, echoing the disaster of constitutional prohibition.

Mr. Collender concluded, "This whole effort is nothing but a scam."

Madam President, I am not calling this effort a scam, but I do call it misguided, and I truly believe that there is another way to attack the national debt and our deficit, and at the same time keep our revered and respected Constitution intact.

I thank the Chair and I thank my colleague from Utah, Senator HATCH, for having the patience to sit and listen and for managing this legislation.

Mr. HATCH. Madam President, I want to make a few comments before we close for the day. If the courts cannot enforce the balanced budget amendment—and they will not be able to—I do not believe there is any way people can meet across the board the standing justiciability and the political questions in order to have the courts enforce the balanced budget amendment. The only way it is going to be enforced is through moral suasion, because it will be part of the Constitution and it will be enforced just like the States enforce their amendments to their constitutions. They revere their State constitutions and the State Governors and legislatures balance the budget in accordance with the State constitution. It will be the same here.

Every Member of this body is sworn to uphold the Constitution, and the moral suasion alone will cause us to do what we should. That does not mean we cannot get a three-fifths vote or a constitutional majority. Maybe we can, in cases of severe distress and difficulty. This is the only chance that we have to pass something that will get spending under control.

If there is ever an argument as to why we need a balanced budget amendment, the Senator from Arkansas was extremely eloquent in talking about the importance of this budget. The fact of the matter is that this budget agreement, I think, is a great argument for the balanced budget constitutional amendment. It is not because I want to criticize it so much as it is that the President has thrown in a sponge.

If you read this budget, over the next 12 years, we are not going to go toward a balanced budget at all, but we will be at a $200 billion deficit for the next 12 years. What happens to our kids and grandkids? Who cares about them? Can we not do something to stop this incessant spending? I think we can. Here we have a Democrat and Republican amendment to do this.

Madam President, by codifying these terms and concepts in our Constitution, the supporters of the Daschle amendment will constitutionalize the very processes that have produced trillions of dollars in red ink. This is the politics of the past. It is business as usual.

We may find that we have to go about the budget process differently at some point in the future. But the Daschle amendment locks us pretty much into one particular process.

Instead of working for change, the supporters of the Daschle amendment want to freeze the status quo in place. Is that what the American people want?

I must say, the Daschle amendment fits hand in glove with the Clinton budget—there is no real change there either. President Clinton promises at least $200 billion in deficits as far ahead as we can project, year after year.

Instead of attacking the deficit, the President's budget plans attack the wallets of our citizens. Our citizens will wind up paying more taxes to pay the ever growing interest on our skyrocketing national debt. And our citizens will pay more for the material things they want in life, from housing to automobiles to everyday consumer spending. These deficits will keep interest rates higher than they otherwise would be. These deficits will crowd out the private sector, resulting in fewer jobs and lower wages.

The President campaigned on change. He has demonstrated he is part of the status quo.

I ask unanimous consent that a letter to me from Lincoln Oliphant be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
REPUBLICAN POLICY COMMITTEE,
Washington, DC, February 7, 1994.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Re the Daschle amendment is anti-constitutional

DEAR MR. CHAIRMAN: This is the first of two letters that assess the constitutional implications of the Daschle amendment.

H.J.Res. 1, proposing an amendment to the Constitution relative to a balanced budget, is being debated on the Senate floor. On Friday, February 3, 1995, Senator Daschle moved to commit H.J. Res. 1 to the Judiciary Committee with instructions to report back forthwith with a Daschle substitute amendment.

The Daschle substitute would add to H.J. Res. 1 a new and lengthy and complicated section 9 that requires Congress to use the processes of the Congressional Budget Act to reach a balanced budget. Senator Daschle's section 9 is longer than the original H.J. Res. 1, and it is far more complicated. For example, subsection 9(b) of the Daschle amendment reads as follows:

"The directives required by subsection (a)(3) shall be deemed to be directives within the meaning of section 310(a) of the Congressional Budget Act of 1974. Upon receiving all legislative submissions from Committees under subsection (a)(3), each Committee of the Budget shall combine all such submissions (without substantive revision) into an omnibus reconciliation bill and report that bill to its House. The procedures set forth in section 310 shall govern the consideration of that reconciliation bill in the House of Representatives and the Senate."

The Daschle amendment sounds like it came out of the Code of Federal Regulations, not the Constitution of the United States, but Article V of the Constitution which governs amendments does not require constitutional amendments to be written elegantly or even well. This paper is not, however, concerned with the coarseness of the Daschle language, nor with its merits *per se*, but with its fitness for inclusion in the Constitution of the United States.

WHAT THE DASCHLE AMENDMENT MEANS FOR THE CONSTITUTION OF THE UNITED STATES

The Daschle amendment seeks to take a statute of the United States, the Congressional Budget Act of 1974, and graft it onto the Constitution of the United States. This appears to mean that a future amendment to the Budget Act would constitute a change in the Constitution of the United States.

Section 310 of the Congressional Budget Act, 2 U.S.C. 641 (1988 ed. & Supp. V 1993), was enacted on July 12, 1974, P.L. 93–344, §310, 88 Stat. 315. It was amended on Dec. 12, 1985, P.L. 99–177, 99 Stat. 1053, and again on Nov. 5, 1990, P.L. 101–508, 104 Stat. 1388–608, −618, −620. In the future, these kinds of amendments (which were relevant to the Budget Act), and all other amendments to section 310 (no matter their relevance to budgetary matters), will be incorporated into the Constitution of the United States through the language of the Daschle amendment, if ratified.

"Constitutionalizing" a statute of the United States is unprecedented because it is antithetical to the Constitution of the United States. The Daschle amendment allows Congress and the President (or Congress alone when it overrides a presidential veto) to re-enter the constitutional text at will and change it. This is *anti-constitutional*.[1]

The Daschle amendment is open-ended, there is no limit on future amendments. It would "constitutionalize" the Congressional Budget Act on the date of enactment and forever thereafter, however amended. The Daschle amendment could have avoided the possibility of future amendments by providing that the trust funds were to be "constitutionally fixed" on a date certain. This would have been a large step away from the charge of anti-constitutionalism, though it would have brought charges of grotesque constitutional drafting because it would have made chunks of the Budget Act a permanent part of the Constitution of the United States. America's Constitution-makers have stayed away from such rigidity because they have believed that laws like the Budget Act should be able to be amended without requiring a constitutional amendment.

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[1] Footnotes at the end of article.

The Daschle amendment is at cross-purposes with the structure and intent of the American Constitution—it threatens such fundamentals as the separation of powers, federalism, and the rule of law, as will be shown below.

THE PRACTICAL EFFECT OF THE DASCHLE AMENDMENT: THE EXAMPLE OF ARTICLE V

Article V of the Constitution provides the sole method for amending the Constitution. It reads in relevant part:

"The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendment, which, in either case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States * * *"

The sole mode of amendment established by the Constitution, therefore, involves only the States and the Congress, and Article V requires the consent of a super-majority of both. The President has no formal role in the proposing or ratifying of constitutional amendments. *Hollingsworth v. Virginia*, 3 U.S. 378 (1798). The Judicial Branch has no formal role in the proposing or adopting of amendments and only a limited role in reviewing Article V cases. *Coleman v. Miller*, 307 U.S. 433 (1939) (many issues arising under Article V are political questions which are nonjusticiable).

In the ordinary Article V case (the convention method for proposing amendments never having been used), two-thirds of the Senate and two-thirds of the House of Representatives propose an amendment to the Constitution which can be adopted only by the consent of three-fourths of the States. There is no other way to amend the Constitution—unless the Daschle amendment is ratified!

If the Daschle amendment is adopted, there will be two additional ways in which the Constitution may be amended:

First, if Congress passes a bill to amend relevant sections of the Congressional Budget Act and the President signs the bill, the Constitution will be changed.

Second, if Congress passes a bill to amend the relevant sections of the Congressional Budget Act and the President vetoes the bill, Congress can enact the bill unilaterally by overriding the President's veto by a two-thirds vote.

By allowing Congress alone, or Congress with the concurrence of the President, to change the Constitution, the Daschle amendment overthrows settled understandings of the separation of powers[2] and federalism.[3] The Daschle amendment is, therefore, anti-constitutional.

Additionally, the Daschle amendment is anti-constitutional because it undermines the concept of a written Constitution superior to all other enactments. U.S. Const. Art. VI. *The Federalist* no. 78 ("No legislative act . . . contrary to the Constitution can be valid"). See also, *Marbury v. Madison*, 1 U.S. 137, 177 (1803) ("Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation"). The excerpt from *Marbury v. Madison* that appears in the Appendix emphasizes this weakness of the Daschle amendment.

Sincerely,

LINCOLN C. OLIPHANT,
Counsel.

FOOTNOTES

[1] The word "anti-constitutional" signifies a proposal that is contrary to the structure and purposes of the founders' constitution. A statutory provision which is forbidden by the constitution is said to be "unconstitutional" (and that is the subject of our second letter on the Daschle amendment), but a proposed constitutional amendment that would stand the Constitution on its head is "anti-constitutional."

[2] The Constitution of the United States is predicated on a separation of the legislative, executive, and judicial powers. U.S. Const. Art. I, Art, II & Art. III. *The Federalist* No. 47 ("The accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny. Were the federal Constitution, therefore, really chargeable with the accumulation of power . . . no further arguments would be necessary to inspire a universal reprobation of the system. I persuade myself, however, . . . that the charge cannot be supported").

[3] The Constitution of the United States is predicated on federalism, a diffusion of powers between the national government and the States, See, e.g., U.S. Const. Art. I, sec. 8 (enumerated powers), Amend, X (reserving powers to the States), & Amend. XI (protecting States against lawsuits). *The Federalist* No. 45 ("The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce . . . The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people").

APPENDIX

MARBURY V. MADISON—1 CRANCH (5 U.S.) 137, 176–78 (1803)

"That the people have an original right to establish, for their future government, such principles as, in their opinion, shall most conduce to their own happiness is the basis on which the whole American fabric has been erected. The exercise of this original right is a very great exertion; nor can it, nor ought it, to be frequently repeated. The principles, therefore, so established, are deemed fundamental. And as the authority from which they proceed is supreme, and can seldom act, they are designed to be permanent.

"This original and supreme will organizes the government, and assigns to different departments their respective powers. It may either stop here, or establish certain limits not to be transcended by those departments.

The government of the United States is of the latter description. The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed, are of equal obligation. It is a proposition too plain to be contested, that the constitution controls any legislative act repugnant to it; or, that the legislature may alter the constitution by an ordinary act.

"Between these alternatives there is no middle ground. The constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the legislature shall please to alter it.

"If the former part of the alternative be true, then a legislative act contrary to the constitution is not law: if the latter part be true, then written constitutions are absurd attempts, on the part of the people, to limit a power in its own nature illimitable.

"Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation, and, consequently, the theory of every such government must be, that an act of the legislature, repugnant to the constitution, is void.

"* * *

"It is emphatically the province and duty of the judicial department to say what the law is. . . . If two laws conflict with each other, the courts must decide on the operation of each.

"So if a law be in opposition to the constitution; if both the law and the constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the constitution; or conformably to the constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.

"If, then, the courts are to regard the constitution, and the constitution is superior to any ordinary act of the legislature, the constitution, and not such ordinary act, must govern the case to which they both apply.

"Those, then, who controvert the principle that the constitution is to be considered, in court, as a paramount law, are reduced to the necessity of maintaining that courts must close their eyes on the constitution, and see only the law.

"This doctrine would subvert the very foundation of all written constitutions. It would declare that an act which, according to the principles and theory of our government, is entirely void, is yet, in practice, completely obligatory. It would declare that if the legislature shall do what is expressly forbidden, such act, notwithstanding the express prohibition, is in reality effectual. It would be giving to the legislature a practical and real omnipotence, with the same breath which professes to restrict their powers within narrow limits. It is prescribing limits and declaring that those limits may be passed at pleasure.

"[I]t thus reduces to nothing what we have deemed the greatest improvement on political institutions, a written constitution. . . ."

Mr. HATCH. Two more things, Madam President. We started this morning by pointing out our balanced budget amendment debt tracker. You can see we have been in debate for 9 days now. You can see the green mark is up from the $4.8 trillion baseline we have. Each day, the national debt is going up almost $1 billion as we debate this. It is really mind boggling.

Let me point this out to our general public. This chart is "Calculating the Deficit Under President Clinton." This budget puts us in this deficit picture. We are in 1995, right here. In 1994, the deficit was projected to be 3.2; in 1995, 194.7; in 1996, 192.5; in 1996, 193.1; in 1997, 193.4, and then 194.4, and on into the future. This is all red ink for our children and grandchildren and everybody in this country.

Over the next 5 years, we will have a $1.39 trillion total increase, projected increase in the deficit from 1994 to the year 2000—billions of dollars in debt, with not one hope for anybody of bringing that line down unless we pass this balanced budget amendment. That is why we are fighting so hard for it now and why we are asking colleagues to consider voting for it. We are also asking the people to be heard with regard to this.

Eighty-five percent of the people want a balanced budget amendment. There is good reason for it and that is a perfect illustration why. On both of these charts, this continual red-ink deficit, and the continual going up—even while debating it on a daily basis, it is going up $1 billion a year.

I do not want to keep the Senate any longer. We are prepared to close the Senate. I will end my remarks at this point.

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Senate Resolution 105, adopted April 13, 1989, as amended by Senate Resolution 280, adopted October 8, 1994, announces the following appointments and designations to the Senate Arms Control Observer Group:

The Senator from Alaska [Mr. STEVENS] as majority Administrative cochairman; and

The Senator from South Carolina [Mr. THURMOND] and the Senator from Indiana [Mr. LUGAR] as cochairmen for the majority.

APPOINTMENTS BY FINANCE COMMITTEE CHAIRMAN

The PRESIDING OFFICER. The Chair announces on behalf of the chairman of the Finance Committee, pursuant to section 8002 of title 26, U.S. Code, a substitution in the membership of the Joint Committee on Taxation. The Senator from Kansas [Mr. DOLE] has resigned from the joint committee and will be replaced by the Senator from Utah [Mr. HATCH] for the duration of the 104th Congress only. Therefore, the membership of the Joint Committee on Taxation for the 104th Congress is as follows: the Senator from Oregon [Mr. PACKWOOD], the Senator from Delaware [Mr. ROTH], the Senator from Utah [Mr. HATCH], the Senator from New York [Mr. MOYNIHAN], and the Senator from Montana [Mr. BAUCUS].

MORNING BUSINESS

Mr. HATCH. Madam President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO LT. GEN. EDWARD CRAIG

Mr. HEFLIN. Madam President, I rise today to pay tribute to one of the Marine Corps' most outstanding leaders, Lt. Gen. Edward Craig, who recently passed away.

Lieutenant General Craig was born in Danbury, CT, in 1896. He later attended St. Johns Military Academy in Delafield, WI. Upon graduation from the academy in 1917, he was commissioned a second lieutenant in the Marine Corps, and reported for duty on August 23, 1917.

In November 1917, he was assigned to duty with the 8th Marine Regiment, and in April 1919, was ordered to foreign shore duty in Haiti and later with the Second Provisional Brigade marines in the Dominican Republic.

His overseas World War II commands began in the summer of 1943 when he was given command of the 9th Marine Regiment at Guadalcanal. He was my regimental commander. He inspired great confidence in his officers and men. He was a superb battle commander. He led this regiment in the Bougainville invasion that fall. While remaining the colonel in charge of this regiment, he was in the forefront in the liberation of Guam, for which he was awarded the Navy Cross. The last of his World War II involvements included service in the 5th Amphibious Corps in the fall of 1944. As the corps operations officer, Lieutenant General Craig designed and actually participated in the landing and assault on Iwo Jima in 1944. He returned to the United States from the Pacific in July 1945.

Following the end of World War II, he was again ordered overseas as assistant division commander of the 1st Marine Division, reinforced, in Tientsin, China.

On June 1, 1947, he was assigned as commanding general, 1st Provisional Marine Brigade, Fleet Marine Force, on Guam, where he remained for 2 years.

When the Korean conflict began he was assigned to Korea and served as the commanding general of the 1st Provisional Marine Brigade and participated in fighting around the Pusan perimeter. He later served as assistant division commander of the 1st Marine Division and took part in the landing at Inchon and operations in northeast Korea.

At the time of his retirement on June 1, 1951, he was the director of the Marine Corps Reserve and was a veteran of more than 33 years of Marine Corps service.

All of his endeavors in the service led to many well-deserved medals and honors. They include the Navy Cross; the Distinguished Service Medal; the Silver Star Medal; the Legion of Merit; the Bronze Star Medal; and the Air Medal with Citation; and the Navy Unit Citation. His other decorations and medals include the Presidential Unit Citation; the Navy Unit Citation; two Korean Presidential Unit Citations; the Victory Medal; the Haitian Campaign Medal in 1919; the Marine Corps Expeditionary Medal with one Bronze Star, Dominican Republic 1919–21, and China 1924; the Second Nicaraguan Campaign Medal, 1929–30; the American Defense Service Medal with Fleet Clasp; the American Campaign Medal; the Asiatic-Pacific Campaign Medal with four Bronze Stars; the World War II Victory Medal; the China Service Medal, 1947, the Navy Occupational Medal, Japan 1946; and the Korean Campaign Medal.

Memories of Lt. Gen. Edward Craig and his wife, Mrs. Marion Mackie Craig will always be with me. He was truly an American hero and a marine's marine.

TRIBUTE TO JUDGE WILLIAM C. SULLIVAN

Mr. HEFLIN. Madam President, I want to pay tribute and offer my congratulations to my dear friend Judge William C. Sullivan on his new-found lifestyle—retirement.

Before starting his legal career in 1951, and becoming a circuit judge for Talledega County, Bill served in the U.S. Navy; played on a semi-pro baseball league; and was mayor of Lincoln, AL.

When recalling my many memories of Judge Sullivan, I remember a rather humorous occasion which occurred in the summer of 1954. A police chief came to a baseball game in which Sullivan was a player only to tell him a gubernatorial candidate, "Big Jim" Folsom, wanted to see him. William sent word back to Jim that he would have to wait until the end of the game before he would break loose.

When the two met, Bill of course in his soiled uniform, Big Jim was in disbelief—he even told Bill Sullivan he did not look like a mayor. Sullivan simply smiled and reminded Big Jim he was only a candidate, and not a Governor.

The two later reunited when Big Jim swore Bill in as a judge 4 years later.

Perhaps Judge Sullivan is most known for a 1962 civil rights case he presided over in which the late Supreme Court Justice Thurgood Marshall was an acting attorney.

Bill and I share one belief—we both agreed the transition from attorney to judge was difficult because once we became judges, we simply acted as referees. Thus, we could not "slug it out" in court with other attorneys.

Judge Sullivan obviously knew his stuff. He went 20 years without a single reversal.

Bill and his followers are proud of the fine job he did while serving on the Alabama Pattern Jury Instructions Committee, since it was his panel that published a reference book for jury instructions in civil cases used by most judges and lawyers in the State today.

Bill has said he will not miss the workload, but will miss the challenging cases being played out in the courtroom.

Upon his retirement, Talledega lost one of its best judges. I wish him all the best in his retirement and commend him for his leadership over the years.

TRIBUTE TO PUBLISHER W.M. "BILL" STEWART

Mr. HEFLIN. Madam President, publisher William Mathews "Bill" Stewart passed away on January 21 at the age of 74. A noted newspaperman in the State of Alabama for many years, Bill had been the owner of the Monroe Journal and a Monroeville, AL radio station.

Bill bought the Journal in 1947, and in 1952 started radio station WMFC. He also established WBCA radio in Bay Minette, AL. Since 1958, he and his family owned the paper and the radio station. He remained editor of the paper until 1989 and was active in its management until very recently. He also owned papers in Bay Minette, Brewton, Camden, and Jackson, AL.

A native of Autaugaville, Bill was a former president of the Alabama Press Association and the American Newspaper Representatives, an advertising agency. He earned his degree in journalism at the University of Alabama, was a reporter at the Huntsville Times, and served in the Army during World War II.

Bill was also active in his local community. He was a past president of the Monroeville Chamber of Commerce and the Monroeville Kiwanis Club, and an organizer of the Monroe Country United Way. He was also a Sunday school teacher. The Kiwanis Club named him "Man of the Year" in 1996 and "Citizen of the Year" in 1990. He devoted most of life to bringing information to the people in his region of the State.

Bill Stewart was totally committed to his profession and to serving his community through the written and spoken word. He truly understood the power of information and the importance of communication. He was known in the community as a leader dedicated to making his hometown the best place in the world in which to live. He was warm and friendly, and the depth of his compassion for people was reflected through his employment of the disabled. His demeanor was always that of a true gentleman.

Bill's quiet and calm leadership helped lead Monroeville through the social changes of the last 35 years. It is never easy being the publisher of a small-town newspaper, but he was more willing than most to sacrifice popularity for his conscience. He was referred to by his minister as a "tower of righteousness and integrity."

Bill Stewart will be greatly missed by all those who had the pleasure of knowing him over the years. I extend my deepest condolences to his wife, Carolyn Hall Steward, and her entire family in the wake of this tremendous loss.

I ask unanimous consent that an editorial from the Mobile Register commenting on the life and career of Bill be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Mobile Register, Jan. 24, 1995]

BILL STEWART: EDITOR, LEADER

William M. "Bill" Stewart made his money and his reputation the old-fashioned way. He earned them.

When his family and friends said farewell to the long-time newspaperman Monday in a Monroeville cemetery, they saluted the former publisher of the Monroeville Journal for his contributions to the newspaper profession—contributions that began at the University of Alabama, where he earned his journalism degree. From an early stint in daily journalism at the Huntsville Times, he went on to discover his real love: community newspapers.

Bill Stewart's ensuing achievements were many. He was a former president of the Alabama Press Association, where he championed the rights of the state's newspapers large and small. For a time, he also headed the American Newspaper Representatives, a national advertising service. He had owned or been a partner in newspapers in Bay Minette, Jackson, Camden and Brewton, and he helped found two radio stations, including WMFC in Monroeville, which his family continues to own.

But it was his ownership of the Monroe Journal for which Bill Stewart was best known. He bought the paper in 1947 with a partner from Bay Minette, Jimmy Faulkner, and acquired sole ownership of it 11 years later. Devotion to reporting the news of Monroeville and its surrounding rural communities was his hallmark.

One notable writer who passed through the Journal's newsroom was syndicated columnist Rheta Grimsley Johnson, who now writes for the Atlanta Constitution and United Feature Syndicates. She worked in Monroeville in 1975, by which time Mr. Stewart's son and daughter-in-law were operating the newspaper. Ms. Johnson, who occasionally writes about her days as a young reporter in South Alabama, recently remembered the paper as "a model weekly" that was devoted to and in touch with its readers.

"And that doesn't come easy," Ms. Johnson said. "It's certainly the cleanest newspaper. There's never a typo in the Monroe Journal; if there is, heads will roll."

Today, Bill Stewart's sons Steve and David own and operate the newspaper and radio station. Until their father's death from complications of Parkinson's disease, however, he had maintained a vigorous interest in the family's businesses.

It is doubtlessly safe to predict that residents of Monroe County can count on the sons, who have won journalistic accolades in their own right, to carry on the senior Mr. Stewart's commitment to community journalism.

BASEBALL

Mr. DOLE. Madam President, I will just take a second. I need to testify on another matter, but I want to say a word about baseball.

Mr. BRADLEY. Baseball?

Mr. DOLE. Not basketball, baseball. I note the distinguished Senator from New Jersey.

Mr. BRADLEY. Madam President, will the majority leader yield? He said he wanted to make a statement about baseball?

Mr. DOLE. Baseball.

Mr. BRADLEY. Not basketball.

Mr. DOLE. I would be happy to make a statement about basketball, football, hockey——

Mr. BRADLEY. The national sport.

Mr. DOLE. I thank my colleague from New Jersey, one of the great players of all time.

Madam President, for nearly 6 months now, baseball fans all across America have patiently stood by watching the transformation of our Nation's pastime into a crass tug-of-war over money.

Multimillion-dollar players and multimillion-dollar owners have argued, haggled, argued some more, and ultimately deprived the American people of one of the most exciting seasons in recent memory.

After 179 days of confrontation, the players and the owners must now put aside their differences and find common ground. Not tomorrow. Not 2 weeks from now. But today: Tuesday, February 7. There is simply no more sand left in the negotiating hourglass. The integrity of the institution of baseball is far more important than anyone's bottom line.

With that said, let me be crystal clear on one important point: Neither party—player nor owner—should be looking to Congress for any magic solutions. The magic solution can only be found at the bargaining table.

If, for some reason, the players and owners cannot reach an agreement today, then they should do the next best thing—which is to voluntarily accept whatever settlement special mediator Bill Usery may propose. If it is good enough for Bill Usery, I am confident it is good enough for baseball.

Here is a man who has had long experience, he has worked tirelessly on this matter as he has done successfully in many other areas. He said this is the toughest he has ever negotiated.

But I would just say again, today is the day. We do not have any magic wand up here. Congress cannot solve these things if they cannot be solved in negotiations. So if everything else fails, my advice would be, before 3 p.m. today, they accept the efforts of the negotiator, Bill Usery.

I thank my colleagues and I yield the floor.

Mr. HATCH. Madam President, I appreciate the remarks of our distinguished majority leader. I hope his remarks are taken very seriously by all concerned. We need to resolve this matter very much.

PRESIDENT CLINTON'S IMMIGRATION INITIATIVE

Mr. KENNEDY. Madam President, today, President Clinton announced an important and innovative new $1 billion immigration initiative to address the problems of illegal immigration. This initiative represents a coordinated new approach by the Immigration Service, the Customs Service, and the Labor Department to confront this problem head-on, and to do so in ways which protect the rights of law-abiding Americans and legal immigrants.

This initiative comes on top of already substantial accomplishments by the Clinton administration in the enforcement of the immigration laws. This administration, more than any other, has enhanced border enforcement by increasing the ranks of the Border Patrol and applying modern enforcement tools. It has sought—and received—the largest budget increases in the history of the Immigration and Naturalization Service. It has expanded efforts to identify and remove criminal aliens from the country. And it has provided specific assistance to States which bear the brunt of the costs of illegal immigration.

It is clear that effective control of illegal immigration requires not only strong border enforcement, but also removal of the magnet of employment that attracts illegal aliens to the United States.

For the past 2 years, the administration has focused unprecedented new resources on the problem of illegal border crossers. The administration's fiscal year 1996 plan will add 700 new Border Patrol officers this year, and bring the total officers added during this administration to 1,750. It will give these Border Patrol officers the backup support they need to do their jobs, by adding 140 support staff and by providing additional sophisticated border technology such as surveillance cameras and motion sensors.

Millions of people enter the United States for business and tourism each year. The administration's goal is to ensure that legitimate border crossers are assisted in entering as rapidly and efficiently as possible, and that potential law-breakers are identified and kept out.

The administration's proposal will provide 680 new INS inspectors and 375 new Customs inspectors to facilitate legal entries and to prevent smuggling of aliens, drugs, and other contraband. The plan will provide these inspectors with upgraded lookout systems and other computer facilities for rapid detection of those unqualified for entry. Since legitimate border crossers benefit most by these enforcement activities, the administration is seeking authorization to charge a nominal border crossing fee, for use exclusively in upgrading ports of entry and in border enforcement.

Aliens enter the United States illegally, or overstay legitimate visitor visas, principally because too many employers are willing to violate the law to hire them. The second aspect of the administration's proposal will invest an additional $93 million in workplace-related enforcement. The administration will add 365 new INS investigators and 202 Department of Labor wage and hour investigators to target geographical locations and industries where illegal aliens most commonly find employment.

The majority of American employers want to comply with the law. But many find it difficult to determine which aliens are eligible to work. To address this problem, the Commission on Immigration Reform has called for establishment of a nationwide database of INS and Social Security data that employers can use to verify the work-authorized status of job applicants.

The Commission's recommendation has significant support, but a number of critics have raised important questions about the wisdom of a nationwide database. Experts in computer privacy and civil liberties have questioned it, and others have suggested that the cost of such a database may be prohibitive.

The administration's plan is a step-by-step approach to test the feasibility and desirability of the Commission's proposal, and to explore other methods of verifying eligibility for employment. This approach will permit us to evaluate the potential benefits and costs of such reforms, while making real improvements in existing systems now.

The third major portion of the administration's plan provides $178 million in additional funding for the deportation of criminal and other deportable aliens, including a major enhancement of an existing program that permits INS to deport criminal aliens immediately after they have finished serving their criminal sentences. The administration will also concentrate greater resources on locating and deporting noncriminal aliens who have been ordered deported in the past but have failed to leave the country.

Madam President, I commend the Administration for its proposal. I look forward to hearings and action by Congress on this critical issue, and I ask unanimous recent that a summary of the administration's proposal may be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY—THE PRESIDENT'S 1996 IMMIGRATION INITIATIVE

STRENGTHENING THE NATION'S IMMIGRATION SYSTEM

After two years of unprecedented efforts, the President's FY 1996 budget includes an additional $1 billion to further strengthen the Administration's commitment to border security and to its comprehensive strategy "that addresses job security through worksite enforcement, community security through removal of criminal aliens, and economic security through assistance to states."

Strengthen border enforcement and management

With a record infusion of new resources in 1994 and 1995, this Administration is taking control of the border. The FY 1996 budget provides an additional $369 million to strategically reinforce our border strategy and to build on successes. This strategy includes:

700 new border patrol agents, 680 new INS inspectors, and 165 new support staff, bringing the number of INS personnel devoted to nationwide border control to nearly 9,000, a 51 percent increase over 1993. On the Southwest border alone, we will have increased border control staffing (agents, inspectors, and support) by 60 percent by the end of FY 1996.

Over 1,000 new INS and Customs inspectors for land ports of entry to complement border enforcement activities and facilitate commercial vehicular and pedestrian traffic;

Continued technological improvements, including surveillance cameras, fingerprint technology, encrypted radios, and sensors to augment agent effectiveness;

Automated lookout systems and case tracking systems to facilitate traffic and inspections processes and provide electronic information exchanges between overseas Consular offices and the domestic inspection process;

Enhanced domestic and overseas enforcement and intelligence enforcement resources to deter alien smuggling and the use of fraudulent documents; and

A new Border Services User Fee program at land border ports of entry to pay for improvements that will ease traffic congestion, expedite the issuance of Border Crossing Cards and detect fraudulent documents.

Expand and improve worksite enforcement and verification

The President's budget includes $93 million to reverse years of inattention to enforcement of labor standards and employer sanctions. The Administration also has firmly endorsed the recommendations of the Jordan Commission to conduct pilots to test various techniques for improving verification of employment authorization and is now seeking substantial funding to implement these pilots. The worksite initiatives will help to ensure that jobs are available only to those who are authorized to work in the United States. The budget enhancement provides:

365 new INS investigators—an 85 percent increase over 1993—for a targeted enforcement effort in the seven states with the largest number of illegal immigrants and against industries that have historically exploited illegal workers;

202 new Department of Labor Wage and Hour investigators and other enforcement personnel to maintain fair and lawful labor practices; and

$28 million for several verification pilots, including expanding the INS Telephone Verification System for employers. We also will significantly improve the quality of INS records and make additions to Social Security Administration databases that contain information related to work eligibility.

Triple the number of illegal aliens deported since 1993 and increase detention

The Administration's immigration strategy will ensure that more aliens who have been ordered deported or excluded actually depart from the United States. The Administration's FY 1996 budget requests $178 million to expand the capacity to detain and remove both criminal aliens and other deportable aliens. With these resources, the Administration will:

Triple the deportation of both criminal and non-criminal aliens from 37,000 in 1993 to more than 110,000 in 1996, based on current projections. Next year, we expect to deport more than 58,000 criminal aliens, more than double the number of criminal aliens we plan to deport in 1995;

Increase detention of deportable aliens by adding more than 2,800 beds to detention facilities, an increase of 46 percent over 1993;

Implement streamlined administrative procedures authorized in the Violent Crime Control and Law Enforcement Act of 1994 to deport aggravated felons, saving costs related to the judicial process; and

Ensure that those denied asylum are deported from the United States.

Expand assistance to States

Deterring illegal immigration is the best way to contain the associated costs to states. Beyond this clear federal responsibility to support states by deterring illegal immigration and removing illegal aliens, the Administration is requesting a total of $563 million for direct assistance to states and improved services, including $550 million to offset the states' costs associated with illegal immigrants. Of the total $563 million budget request for assistance and services, $383.4 million represents the increase from FY 1995. See funding summary attached. The resources requested will:

Fund the commitment established in 1986 by Congress to reimburse states for the costs of incarcerating illegal aliens. The $300 million in resources requested for incarceration costs represents the full amount authorized and exceeds reimbursements in 1995 by $170 million;

Provide $100 million for grants to school districts that enroll large numbers of recent immigrant students—double the amount provided for FY 1995; and

Provide $150 million for a new discretionary grant program to help states cover the costs of providing emergency and certain other medical services.

Expand the current Law Enforcement Support Center pilot, which assists local law enforcement agencies in determining whether criminals arrested for felonies are non-citizens.

Fund a high quality Center for Immigration Statistics to collect, evaluate, and disseminate accurate and timely immigration data to Congress, state and local governments, and the public.

Deny public benefits to undocumented migrants

Undocumented migrants should not be eligible for public services or benefits, with very limited exceptions. These exceptions include emergency medical services, children's right to an education, temporary emergency or humanitarian disaster assistance, and services necessary for the protection of public health and safety interests (e.g., immunization programs).

The Administration will work to improve benefit eligibility verification to protect the integrity of these programs from eligibility fraud by undocumented migrants.

Summary of $1 billion immigration budget enhancement

[In millions]

Border enforcement and management:	
Border control between ports of entry	$81.0
Facilitation/enforcement at ports of entry	260.1
Enhance anti-smuggling, intelligence, and overseas deterrence	28.2
Subtotal	369.3
Worksite enforcement and verification:	
Department of Justice	53.7
Department of Labor	11.0
Verification information systems pilots	28.3
Subtotal	93.0
Detention and removal of criminal and deportable aliens	178.0
Assistance to States:	
Incarceration of criminal aliens	[1]170.0
Medicaid/emergency medical services	150.0
Immigrant education	[1]50.0
Law enforcement support center	3.4
Center for quality immigration statistics	10.0
Subtotal	[1]383.4
Total increase required:	
Financed through fees	$219.0
New appropriations (budget authority) needed	804.7

[1] Amounts represent increases from FY 1995 to FY 1996.

Total 1996 assistance to States

[In millions]

Assistance to States:	
Incarceration of criminal aliens	$300.0
Medicaid/emergency medical services	150.0
Immigrant education	100.0
Law enforcement support center	3.4
Center for quality immigration statistics	10.0
Subtotal	[1]563.4

[1] Includes $550M for incarceration/medical/education.

Immigration and Naturalization Service's budget increases by over 70 percent since 1993 and a 24-percent increase over 1995:

	Billion
1993	$1.5
1994	1.6
1995	2.1
1996	2.6

* * *

SENATE QUARTERLY MAIL COSTS

Mr. STEVENS. Madam President, in accordance with section 318 of Public Law 101–520 as amended by Public Law 103–283, I am submitting the frank mail allocations made to each Senator from the appropriation for official mail expenses and a summary tabulations of Senate mass mail costs for the first quarter of fiscal year 1995 to be printed in the RECORD. The first quarter of fiscal year 1995 covers the period of October 1, 1994, through December 31, 1994. The official mail allocations are available for frank mail costs, as stipulated in Public Law 103–283, the Legislative Branch Appropriations Act for fiscal year 1995.

There being no objection, the allocations were ordered to be printed in the RECORD, as follows:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING, DEC. 31, 1994

Senators	Total piece	Pieces per capita	Total cost	Cost per capita	FY 1995 official mail allocation
Abraham	0	0	0.00	0	$140,289
Akaka	0	0	0.00	0	29,867
Ashcroft	0	0	0.00	0	83,043
Baucus	0	0	0.00	0	34,694
Bennett	0	0	0.00	0	30,689
Biden	0	0	0.00	0	28,591
Bingaman	0	0	0.00	0	30,834
Bond	0	0	0.00	0	108,312
Boren	0	0	0.00	0	18,822
Boxer	0	0	0.00	0	582,722
Bradley	0	0	0.00	0	151,392
Breaux	0	0	0.00	0	82,088
Brown	0	0	0.00	0	74,406
Bryan	0	0	0.00	0	45,030
Bumpers	0	0	0.00	0	48,743
Burns	0	0	0.00	0	34,694
Byrd	0	0	0.00	0	34,593
Campbell	0	0	0.00	0	74,406
Chafee	0	0	0.00	0	30,524
Coats	0	0	0.00	0	111,738
Cochran	0	0	0.00	0	48,596
Cohen	1,786	0.00145	$368.04	$0.00030	37,937
Conrad	0	0	0.00	0	25,438
Coverdell	0	0	0.00	0	137,674
Craig	12,795	0.01199	$2,650.73	0.00248	31,846
D'Amato	0	0	0.00	0	335,341
Danforth	0	0	0.00	0	29,786
Daschle	3,300	0.00464	1,069.20	0.00150	27,650
DeConcini	0	0	0.00	0	22,805
DeWine	0	0	0.00	0	168,128
Dodd	949	0.00029	183.34	0.00006	66,615
Dole	0	0	0.00	0	51,907
Domenici	0	0	0.00	0	30,834
Dorgan	0	0	0.00	0	25,438
Durenberger	0	0	0.00	0	24,183
Exon	0	0	0.00	0	32,516
Faircloth	111,300	0.01626	20,088.20	0.00294	140,612
Feingold	0	0	0.00	0	97,556
Feinstein	0	0	0.00	0	582,722
Ford	0	0	0.00	0	74,054
Frist	0	0	0.00	0	78,686
Glenn	0	0	0.00	0	219,288
Gorton	0	0	0.00	0	106,532
Graham	0	0	0.00	0	323,488
Gramm	22,000	0.00125	4,696.47	0.00027	352,339
Grams	0	0	0.00	0	67,423
Grassley	0	0	0.00	0	56,381
Gregg	0	0	0.00	0	34,552
Harkin	0	0	0.00	0	56,381
Hatch	0	0	0.00	0	30,689
Hatfield	0	0	0.00	0	62,019
Heflin	0	0	0.00	0	81,113
Helms	0	0	0.00	0	140,612
Hollings	0	0	0.00	0	72,302
Hutchison	0	0	0.00	0	352,339
Inhofe	0	0	0.00	0	52,475
Inouye	0	0	0.00	0	29,867
Jeffords	0	0	0.00	0	23,830
Johnston	0	0	0.00	0	82,088
Kassebaum	0	0	0.00	0	51,907
Kempthorne	0	0	0.00	0	31,846
Kennedy	0	0	0.00	0	121,391
Kerrey	0	0	0.00	0	32,516
Kerry	0	0	0.00	0	121,391
Kohl	0	0	0.00	0	97,556
Kyl	0	0	0.00	0	63,581
Lautenberg	0	0	0.00	0	151,392
Leahy	975	0.00171	203.21	0.00036	23,830
Levin	0	0	0.00	0	182,978
Lieberman	0	0	0.00	0	66,615
Lott	0	0	0.00	0	48,596
Lugar	0	0	0.00	0	111,738
Mack	0	0	0.00	0	323,488
Mathews	0	0	0.00	0	11,084
McCain	0	0	0.00	0	82,928
McConnell	0	0	0.00	0	74,054
Metzenbaum	0	0	0.00	0	60,304
Mikulski	0	0	0.00	0	91,956
Mitchell	0	0	0.00	0	10,433
Moseley-Braun	0	0	0.00	0	216,454
Moynihan	0	0	0.00	0	335,341
Murkowski	0	0	0.00	0	23,179
Murray	3,900	0.00076	825.18	0.00016	106,532
Nickles	0	0	0.00	0	68,442
Nunn	0	0	0.00	0	137,674
Packwood	0	0	0.00	0	62,019
Pell	0	0	0.00	0	30,524
Pressler	0	0	0.00	0	27,650
Pryor	0	0	0.00	0	48,743
Reid	0	0	0.00	0	45,030
Riegle	0	0	0.00	0	50,319
Robb	0	0	0.00	0	124,766
Rockefeller	0	0	0.00	0	34,593
Roth	0	0	0.00	0	28,591
Santorum	0	0	0.00	0	182,834
Sarbanes	0	0	0.00	0	91,956
Sasser	0	0	0.00	0	28,223

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING, DEC. 31, 1994—Continued

Senators	Total piece	Pieces per capita	Total cost	Cost per capita	FY 1995 official mail allocation
Shelby	0	0	0.00	0	81,113
Simon	0	0	0.00	0	216,454
Simpson	0	0	0.00	0	19,826
Smith	0	0	0.00	0	34,522
Snowe	0	0	0.00	0	29,086
Specter	0	0	0.00	0	238,468
Stevens	0	0	0.00	0	23,179
Thomas	0	0	0.00	0	15,200
Thompson	0	0	0.00	0	94,111
Thurmond	0	0	0.00	0	72,302
Wallop	0	0	0.00	0	5,452
Warner	0	0	0.00	0	124,766
Wellstone	0	0	0.00	0	87,939
Wofford	0	0	0.00	0	65,579

Other offices	Total Pieces	Total Cost
The Vice President	0	0.00
The President Pro-Tempore	0	0.00
The majority leader	0	0.00
The minority leader	0	0.00
The assistant majority leader	0	0.00
The assistant minority leader	0	0.00
Sec of Majority Conference	0	0.00
Sec of Minority Conference	0	0.00
Agriculture Committee	0	0.00
Appropriations Committee	0	0.00
Armed Services Committee	0	0.00
Banking Committee	0	0.00
Budget Committee	0	0.00
Commerce Committee	0	0.00
Energy Committee	0	0.00
Environment Committee	0	0.00
Finance Committee	0	0.00
Foreign Relations Committee	0	0.00
Governmental Affairs Committee	0	0.00
Judiciary Committee	0	0.00
Labor Committee	0	0.00
Rules Committee	0	0.00
Small Business Committee	0	0.00
Veterans Affairs Committee	0	0.00
Ethics Committee	0	0.00
Indian Affairs Committee	0	0.00
Intelligence Committee	0	0.00
Aging Committee	0	0.00
Joint Economic Committee	0	0.00
Joint Committee on Printing	0	0.00
Jcmte Congress Inaug.	0	0.00
Democratic Policy Committee	0	0.00
Democratic Conference	0	0.00
Republican Policy Committee	0	0.00
Republican Conference	0	0.00
Legislative Counsel	0	0.00
Legal Counsel	0	0.00
Secretary of the Senate	0	0.00
Sergeant at Arms	0	0.00
Narcotics Caucus	0	0.00

THE RETIREMENT OF JAMES E. CARNEY FROM THE RHODE ISLAND DEPARTMENT OF HEALTH

Mr. PELL. Madam President, at the end of 1994, the Rhode Island Department of Health suffered an enormous loss—the retirement of James E. Carney. Jim was with the department of health for 16 years, serving as its director of community affairs for 13 years.

And what a job he did. There was no question, no deadline, no request that I or my staff made that Jim Carney could not handle quickly, courteously, and to the point. He was always well informed about the activities and mission of the department, and the need for communication and coordination with other branches of government. He was a public servant in the very finest sense of the word, and we will sorely miss his help, his good humor, and his presence at the department of health.

Jim was involved in the passage and implementation of many laws and programs, including the HMO Act of 1983; the central cancer registry at the department of health; newborn screening programs, childhood immunization and lead screening programs; oversight of the State medical examiner's office; protection of the rights of the terminally ill, and promotion of public health research and minority health programs.

I regret to hear that Jim has not been in the best of health recently, and, on behalf of myself, my staff, and the people of Rhode Island, I want to wish him a speedy recovery, a long and happy retirement, and the best of everything in the future.

RETIREMENT OF ROBERT J. PFEIFFER

Mr. INOUYE. Madam President, I have known Robert J. Pfeiffer, the outgoing chairman of the Board of Alexander & Baldwin, Inc. for many years. He is an acknowledged and respected leader in the shipping industry in Hawaii and in our Nation. I wish to join the people of Hawaii in wishing him a happy and rewarding retirement.

Bob Pfeiffer was born in Fiji in 1920. As a very young child he came to Hololulu, was educated at McKinley High School and became a deckhand for the Inter-Island Steam Navigation Co., Ltd., of which he later became president.

Bob Pfeiffer's career with Alexander & Baldwin [A&B] began in 1956 when he joined its subsidiary, Matson Navigation Co., Inc. Matchinal Corp., a Matson off-shoot, was a stevedoring and terminal company in the San Francisco Bay area, which Bob Pfeiffer joined as vice president and general manager. In 1962 he as promoted to president of Matson Terminals, Inc., another Matson subsidiary. He was appointed Matson president and CEO in 1973; he has served as Matson's chairman continuously since 1979. At Matson, he guided the company through a period of tremendous growth and success and in the process transformed it into one of the world's most efficient, modern ocean transportation companies.

Bob Pfeiffer was named to A&B's board of directors in 1978; he was appointed president of A&B the next year. He assumed the posts of chief executive officer and chairman of the board in 1980. Under his leadership, A&B has grown, modernized, and diversified. Bob Pfeiffer also earned the company a solid reputation for involvement in philanthropic activities and community affairs, both in Hawaii and California, its two principal places of business.

Today, the Alexander & Baldwin Foundation, which he created, has established a level of giving in excess of $1 million a year. Bob Pfeiffer has served on many corporate, professional and non-profit boards and organization, often in leadership positions. These include First Hawaiian, Inc.; First Bank; the Chamber of Commerce of Hawaii; the American Bureau of Shipping; the Maritime Transportation Research Board of the National Academy of Sciences, as chairman; and many others.

Bob Pfeiffer's community and professional leadership earned him numerous honors. The latest was the presentation to him on January 25, 1995, of the Charles Reed Bishop Medal by Honolulu's Bishop Museum, which cited his "leadership and personal example" in making A&B "a leader in corporate citizenship * * * through its exemplary support of community organizations * * *"

In 1986 the Aloha Council of the Boy Scouts of America honored him with the Distinguished Citizen of the Year Award and in 1985 the United Seamen's Service gave him its Admiral of the Ocean Sea Award in New York. Bob Pfeiffer has been granted honorary doctorates by the Marine Maritime Academy, the University of Hawaii, and Hawaii Loa College.

His outstanding contributions to the State of Hawaii and to our Nation will not be forgotten.

THREAT OF ORGANIZED CRIME IN EASTERN EUROPE

Mr. NUNN. Madam President, in May of last year the Senate Permanent Subcommittee on Investigations held a hearing on the growing threat of organized crime in Eastern Europe and the countries of the former Soviet Union. This hearing featured an historic joint appearance by Louis Freeh, the Director of the FBI, Hans-Ludwig Zachert, the President of Germany's Bundeskriminalamt, and General Mikhail Yegorov, the head of Russia's Organized Crime Control Department.

In his prepared statement submitted to the subcommittee, General Yegorov made reference to an Austrian company by the name of Nordex, implying that its president was an individual known as Umar Vokov, who is suspected by Russian authorities of underground criminal activity. Recently, the subcommittee has received a letter from the real president of Nordex, a Mr. G. Loutchansky, disputing General Yegorov's statement and denying any relationship between Nordex and Umar Vokov. Mr. Loutchansky also provided the subcommittee with a letter from the Russian Ministry of Internal Affairs to Nordex's attorney in which the Ministry accepted Nordex's assurances concerning Vokov and expressed regret to Nordex for any inaccuracies in General Yegorov's statement.

Mr. Loutchansky had sought to have these letters added to the subcommittee's hearing record in order to correct any misimpressions which could result from the printing of General Yegorov's original statement. Unfortunately, by the time the subcommittee received Mr. Loutchansky's request the hearing record had already gone to print. While I have directed that Mr. Loutchansky's material be included in the official exhibits to the hearing, I believe it is important that they also be placed on the public record. For this reason, I would ask that the correspondence between Mr. Loutchansky and the subcommittee and the letter from the Russian Ministry of the Internal Affairs to Nordox's attorney be reprinted in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, February 7, 1995.

Mr. G. LOUTCHANSKY,
President, Nordex G.m.b.H.,
Vienna, Austria

DEAR MR. LOUTCHANSKY: The Permanent Subcommittee on Investigations has received your letter of December 2, 1994, in which you dispute a statement in the prepared testimony of First Deputy Minister Mikhail Yegorov submitted to the Subcommittee in connection with its May 25, 1994 hearing on "International Organized Crime and Its Impact on the United States." This statement concerned an alleged relationship between your company and an individual named Umar Vokov, who is suspected by Russian authorities of criminal activity. Attached to your letter was a letter from the Russian Ministry of Internal Affairs which accepted your assurances of a lack of any relationship between your company and this individual and expressed regret for any inaccuracies regarding this matter in the statement of First Deputy Minister Yegorov.

You have requested that these letters be made a part of the printed record of the Subcommittee's proceedings. Under normal circumstances, the Subcommittee would be happy to accommodate such a request; however, by the time the Subcommittee received your letter, the hearing record was already in the process of being printed. Although the Subcommittee is thus unable to include this information in the printed record, I have directed that it be included in the official exhibits to the hearing. As such the information will become part of the permanent records of the Subcommittee with respect to these proceedings. I will also request that your material be reprinted in the Congressional Record.

I thank you for bringing this matter to the attention of the Subcommittee.

Sincerely,

SAM NUNN.

NORDEX,
Vienna, Austria; Dec. 2, 1994.

Subject: hearing of the Committee on May 25, 1994, Testimony of Mr. Mikhail Yegorov, First Deputy Minister and Head of the Organized Crime Control Department, Russian Ministry of Internal Affairs.

Hon. Senator SAM NUNN,
Chairman, Committee on Governmental Affairs, Permanent Subcommittee on Investigations, Capitol Hill, Washington, DC.

DEAR SENATOR NUNN, In subject Testimony the Russian Deputy Minister stated:

"Vokov's brother Umar is the President of the Austrian company Nordex, located in Vienna, and also suspected of underground business."

This statement of Minister Yegorov went on the Congressional files, and had probably also been picked up by various agencies of the Government of the United States of America.

We were very concerned about this statement and its implications, since neither Vokov nor his brother Umar are or were shareholders, directors, or employees of our company or any of their associated companies. We have, therefore, taken up this matter with the Russian Ministry of Internal Affairs and enclosed herewith is a copy of their letter, dated November 9, 1994, together with a translation thereof, which I believe clarifies the position.

Nordex G.m.b.H. is a very big Trading house based in Vienna and has no connections whatsoever to organized crime or any other illegal activities.

It is, therefore, essential that the correction and expression of regret contained in the a/m letter of the Russian Ministry of Internal Affairs, dated November 9, 1994, be entered into the public record of your Committee and also passed on to the various governmental organizations, so that the reputation of Nordex G.m.b.H. and its associates, is cleared.

May we ask you to kindly confirm the receipt of this letter and for your consent to take the requested steps. If you require any further information, please feel free to contact us.

We remain, Sir,

Sincerely yours,

G. LOUTCHANSKY,
President.

MINISTRY OF INTERNAL AFFAIRS
OF THE RUSSIAN FEDERATION,
City Moscow, November 9, 1994.

To Dr. GABRIEL LANSKY,
Lawyer,
Vienna, Austria.

DEAR MR. LANSKY, The Ministry of Internal Affairs of the Russian Federation has examined your letter of August 29, 1994, and subsequent letters, concerning the speech of the First Deputy Minister of Internal Affairs, M. Egorov, on May 25, 1994, in the course of open hearings of the Permanent Subcommittee on Investigations of the USA Senate on the question of organized crime in the republics of the former USSR.

The quotation in your letter has been taken from M. Egorov's written thesis, which was handed to the organisers of the hearings, and not from the transcript of proceedings of his speech in the Subcommittee.

Having received your assurances that Umar Bokov is neither an employee, nor a manager, nor a shareholder of either the "Nordex GmbH" company or of any of its branches, representative offices or joint ventures, one could state with regret, that an inaccuracy occurred in the quotation, which was caused by two circumstances.

Firstly, in the course of the investigation of the criminal case in connection with the murder of a militiamen, Umar Bokov, while given evidence, stated his place of work as the firm "Nordex", situated in Vienna, and also presented himself as its president. The preliminary examination proved the existence of a firm with the given name in Vienna and the fact that U. Bokov used to leave for Austria on commercial business trips. There was no need to prove U. Bokov's place of work because he was merely a witness in that case.

Secondly, at the stage of translation or typing of M. Egorov's thesis, the important word in this context, "likely" (also given in English in the text), which applied to the phrase that U. Bokov is the president of the Austrian company "Nordex", was omitted.

Expressing regret concerning the inaccuracy, we declare that the Ministry of Internal Affairs of Russia had no basis for, or intention of, connecting the "Nordex GmbH" company and its actual President, G. Loutchansky, with the underground business in general or, in particular, with international drug trafficking.

The quotation stated in your letter applies exclusively to Umar Bokov.

Yours faithfully,

V.P. GORTCHAKOV.

SUBCOMMITTEES OF THE COMMITTEE ON FOREIGN RELATIONS

Mr. HELMS. Madam President, I ask to have printed in the RECORD the membership and jurisdiction of the subcommittees of the Committee on Foreign Relations as agreed to by the committee pursuant to its business meeting on January 11, 1995.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS

(The chairman and ranking minority member of the full committee are ex officio members of each subcommittee on which they do not serve as members)

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Jurisdiction:

The subcommittee deals with matters concerning the continent of Europe, including the newly independent states of former Soviet Union and member states of the North Atlantic Treaty Organization. Matters relating to Greenland, Iceland, and the north polar region are also the responsibilities of this subcommittee.

This subcommittee's responsibilities include all matters, problems and policies involving promotion of U.S. trade and export; terrorism, crime and the flow of illegal drugs; and oversight over U.S. foreign assistance programs that fall within this subcommittee's regional jurisdiction.

Republicans	Democrats
Richard G. Lugar, Chair	Joseph R. Biden, Jr., Ranking
Nancy L. Kassebaum	Claiborne Pell
Hank Brown	Paul S. Sarbanes
Olympia J. Snowe	Russell D. Feingold
Fred Thompson	

SUBCOMMITTEE ON AFRICAN AFFAIRS

Jurisdiction:

The subcommittee has geographic responsibilities corresponding to those of the Bureau of African Affairs in the Department of State. The subcommittee considers all matters and problems relating to Africa, with the exception of countries bordering on the Mediterranean Sea from Egypt to Morocco, which are under the purview of the Subcommittee on Near Eastern Affairs.

This subcommittee's responsibilities include all matters, problems and policies involving promotion of U.S. trade and export; terrorism, crime and the flow of illegal drugs; and oversight over U.S. foreign assistance programs that fall within this subcommittee's regional jurisdiction.

Republicans	Democrats
Nancy L. Kassebaum, Chair	Russell D. Feingold, Ranking
Olympia J. Snowe	Dianne Feinstein
John Ashcroft	

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Jurisdiction:

This subcommittee deals with all matters and problems relating to the Middle East and Arab North Africa, including Arab-Israeli and inter-Arab issues, economic relations, and general security in the Persian Gulf, Mediterranean, the Middle East and North Africa. This subcommittee also deals with matters and problems relating to Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka.

This subcommittee's responsibilities include all matters, problems and policies involving promotion of U.S. trade and export; terrorism, crime and the flow of illegal drugs; and oversight over U.S. foreign assistance programs that fall within this subcommittee's regional jurisdiction.

Republicans	Democrats
Hank Brown, Chair	Dianne Feinstein, Ranking
Olympia J. Snowe	Paul S. Sarbanes
Fred Thompson	John F. Kerry
Craig Thomas	Charles S. Robb
Rod Grams	

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Jurisdiction:

The geographic scope of this subcommittee extends from the Arctic Ocean to Tierra del Fuego, including the Caribbean. Problems which are of concern to the subcommittee include relations between the American nations, U.S.-Canadian affairs, boundary matters, the implementation of various treaties and conventions, economic relations and security matters affecting the Western Hemisphere, and the Organization of American States.

This subcommittee also exercises general oversight over all of the activities and programs of the Peace Corps.

This subcommittee's responsibilities include all matters, problems and policies involving promotion of U.S. trade and export; terrorism, crime and the flow of illegal drugs; and oversight over U.S. foreign assistance programs that fall within this subcommittee's regional jurisdiction.

Republicans	Democrats
Paul Coverdell, Chair	Christopher J. Dodd, Ranking
Jesse Helms	Claiborne Pell
Richard G. Lugar	Charles S. Robb
Fred Thompson	

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS

Jurisdiction:

The subcommittees responsibilities include all matters, problems and policies involving international operations. This jurisdiction includes the general oversight responsibility for the Department of State, the United States Information Agency, the Foreign Service, international educational and cultural affairs, foreign broadcasting activities, foreign buildings, operational budget of the United States Agency for International Development, United States participation in the United Nations, its affiliated organizations, and other international organizations not under the jurisdiction of other subcommittees. The subcommittee also has jurisdiction over general matters of international law, law enforcement, and illegal activities.

Republicans	Democrats
Olympia J. Snowe, Chair	John F. Kerry, Ranking
Jesse Helms	Claiborne Pell
Hank Brown	Joseph R. Biden, Jr.
Paul Coverdell	Russell D. Feingold
John Ashcroft	

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Jurisdiction:

The subcommittee's responsibilities encompass U.S. foreign economic policy, including export enhancement and trade promotion, and international economic growth and development. The subcommittee's jurisdiction includes measures that address:

(1) the enhancement of American exports and promotion of U.S. trade opportunities and commercial interests abroad;

(2) the promotion of and protection of economic interests of U.S. citizens abroad;

(3) international investment, management, intellectual property, technological transfer and general commercial policies;

(4) international monetary policy, including U.S. participation in international financial institutions.

The subcommittee is also responsible for matters and policies involving the use, development and protection of the environment, including the oceans and space.

Republicans	Democrats
Fred Thompson, Chair	Paul S. Sarbanes, Ranking
Craig Thomas	Claiborne Pell
Rod Grams	Joseph R. Biden, Jr.
John Ashcroft	

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Jurisdiction:

The geographic scope of the subcommittee extends from China and Mongolia to Burma, inclusive of the mainland of Asia, Japan, Taiwan, Hong Kong, the Philippines, Malaysia, Indonesia, Australia and New Zealand, Oceania, and the South Pacific Islands.

This subcommittee's responsibilities include all matters, problems and policies involving promotion of U.S. trade and export; terrorism, crime and the flow of illegal drugs; and oversight over U.S. foreign assistance programs that fall within this subcommittee's regional jurisdiction.

Republicans	Democrats
Craig Thomas, Chair	Charles S. Robb, Ranking
Richard G. Lugar	Joseph R. Biden, Jr.
Nancy L. Kassebaum	John F. Kerry
Paul Coverdell	Dianne Feinstein
Rod Grams	

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

Mr. HELMS. Madam President, pursuant to the requirements of paragraph 2 of Senate rule XXVI, I ask to have printed in the RECORD the rules of the Committee on Foreign Relations for the 104th Congress adopted by the committee on January 11, 1995.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

(Adopted January 11, 1995)

RULE 1—JURISDICTION

(a) Substantive.—In accordance with Senate Rule XXV.1(j), the jurisdiction of the Committee shall extend to all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Acquisition of land and buildings for embassies and legations in foreign countries.
2. Boundaries of the United States.
3. Diplomatic service.
4. Foreign economic, military, technical, and humanitarian assistance.
5. Foreign loans.
6. International activities of the American National Red Cross and the International Committee of the Red Cross.
7. International aspects of nuclear energy, including nuclear transfer policy.
8. International conferences and congresses.
9. International law as it relates to foreign policy.
10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing, and Urban Affairs).
11. Intervention abroad and declarations of war.
12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
13. National security and international aspects of trusteeships of the United States.
14. Ocean and international environmental and scientific affairs as they relate to foreign policy.
15. Protection of United States citizens abroad and expatriation.
16. Relations of the United States with foreign nations generally.
17. Treaties and executive agreements, except reciprocal trade agreements.
18. United Nations and its affiliated organizations.
19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.

The Committee is also mandated by Senate Rule XXV.1(j) to study and review, on a comprehensive basis, matters relating to the national security policy, foreign policy, and international economic policy as it relates to foreign policy of the United States, and matters relating to food, hunger, and nutrition in foreign countries, and report thereon from time to time.

(b) Oversight.—The Committee also has a responsibility under Senate Rule XXVI.8, which provides that "* * * each standing Committee * * * shall review and study, on a continuing basis, the application, administration, and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of the Committee."

(c) "Advice and Consent" Clauses.—The Committee has a special responsibility to assist the Senate in its constitutional function of providing "advice and consent" to all treaties entered into by the United States and all nominations to the principal executive branch positions in the field of foreign policy and diplomacy.

RULE 2—SUBCOMMITTEES

(a) Creation.—Unless otherwise authorized by law or Senate resolution, subcommittees shall be created by majority vote of the Committee and shall deal with such legislation and oversight of programs and policies as the Committee directs. Legislative measures or other matters may be referred to a subcommittee for consideration in the discretion of the Chairman or by vote of a majority of the Committee. If the principal subject matter of a measure or matter to be referred falls within the jurisdiction of more than one subcommittee, the Chairman or the Committee may refer the matter to two or more subcommittees for joint consideration.

(b) Assignments.—Assignments of members to subcommittees shall be made in an equitable fashion. No member of the Committee may receive assignment to a second subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one subcommittee, and no member shall receive assignments to a third subcommittee until, in order of seniority, all members have chosen assignments to two subcommittees.

No member of the Committee may serve on more than four subcommittees at any one time.

The Chairman and Ranking Minority Member of the Committee shall be ex officio members, without vote, of each subcommittee.

(c) Meetings.—Except when funds have been specifically made available by the Senate for a subcommittee purpose, no subcommittee of the Committee on Foreign Relations shall hold hearings involving expenses without prior approval of the Chairman of the full Committee or by decision of the full Committee. Meetings of subcommittees shall be scheduled after consultation with the Chairman of the Committee with a view toward avoiding conflicts with meetings of other subcommittees insofar as possible. Meetings of subcommittees shall not be scheduled to conflict with meetings of the full Committee.

The proceedings of each subcommittee shall be governed by the rules of the full Committee, subject to such authorizations or limitations as the Committee may from time to time prescribe.

RULE 3—MEETINGS

(a) Regular Meeting Day.—The regular meeting day of the Committee on Foreign Relations for the transaction of Committee business shall be on Tuesday of each week, unless otherwise directed by the Chairman.

(b) Additional Meetings.—Additional meetings and hearings of the Committee may be called by the Chairman as he may deem necessary. If at least three members of the Committee desire that a special meeting of the Committee be called by the Chairman, those members may file in the offices of the Committee their written request to the Chairman for that special meeting. Immediately upon filing of the request, the Chief Clerk of the Committee shall notify the Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held, specifying the date and hour of that special meeting. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk shall notify all members of the Committee that such special meeting will be held and inform them of its date and hour.

(c) Minority Request.—Whenever any hearing is conducted by the Committee or a subcommittee upon any measure or matter, the minority on the Committee shall be entitled, upon request made by a majority of the minority members to the Chairman before the completion of such hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

(d) Public Announcement.—The Committee, or any subcommittee thereof, shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearings, unless the Chairman of the Committee, or subcommittee, determines that there is good cause to begin such hearing at an earlier date.

(e) Procedure.—Insofar as possible, proceedings of the Committee will be conducted without resort to the formalities of parliamentary procedure and with due regard for the views of all members. Issues of procedure which may arise from time to time shall be resolved by decision of the Chairman, in consultation with the Ranking Minority Member. The Chairman, in consultation with the Ranking Minority Member, may also propose special procedures to govern the consideration of particular matters by the Committee.

(f) Closed Sessions.—Each meeting of the Committee on Foreign Relations, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee or a subcommittee on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct; to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person, or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

A closed meeting may be opened by a majority vote of the Committee.

(g) Staff Attendance.—A member of the Committee may have one member of his or her personal staff, for whom that member assumes personal responsibility, accompany and be seated nearby at Committee meetings.

Each member of the Committee may designate members of his or her personal staff, who hold a Top Secret security clearance, for the purpose of their eligibility to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13, and 14.

In addition, the Majority Leader and the Minority Leader of the Senate, if they are not otherwise members of the Committee, may designate one member of their staff with a Top Secret security clearance to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13, and 14. Staff of other Senators who are not members of the Committee may not attend closed sessions of the Committee.

Attendance of Committee staff at meetings shall be limited to those designated by the Staff Director or the Minority Staff Director.

The Committee, by majority vote, or the Chairman, with the concurrence of the Ranking Minority Member, may limit staff attendance at specified meetings.

RULE 4—QUORUMS

(a) Testimony.—For the purpose of taking sworn or unsworn testimony at any duly scheduled meeting a quorum of the Committee and each subcommittee thereof shall consist of one member.

(b) Business.—A quorum for the transaction of Committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the members of the Committee or subcommittee, including at least one member from each party.

(c) Reporting.—A majority of the membership of the Committee shall constitute a quorum for reporting any measure or recommendation to the Senate. No measure or recommendation shall be ordered reported from the Committee unless a majority of the Committee members are physically present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken.

RULE 5—PROXIES

Proxies must be in writing with the signature of the absent member. Subject to the requirements of Rule 4 for the physical presence of a quorum to report a matter, proxy voting shall be allowed on all measures and matters before the Committee. However, proxies shall not be voted on a measure or matter except when the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he or she be so recorded.

RULE 6—WITNESSES

(a) General.—The Committee on Foreign Relations will consider requests to testify on any matter or measure pending before the Committee.

(b) Presentation.—If the Chairman so determines, the oral presentation of witnesses shall be limited to 10 minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to testify in person.

(c) Filing of Statements.—A witness appearing before the Committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least 48 hours prior to his appearance, unless this requirement is waived by the Chairman and the Ranking Minority member following their determination that there is good cause for failure to file such a statement.

(d) Expenses.—Only the Chairman may authorize expenditures of funds for the expenses of witnesses appearing before the Committee or its subcommittees.

(e) Requests.—Any witness called for a hearing may submit a written request to the Chairman no later than 24 hours in advance for his testimony to be in closed or open session, or for any other unusual procedure. The Chairman shall determine whether to grant any such request and shall notify the Committee members of the request and of his decision.

RULE 7—SUBPOENAS

(a) Authorization.—The Chairman or any other member of the Committee, when authorized by a majority vote of the Committee at a meeting or by proxies, shall have authority to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials. When the Committee authorizes a subpoena, it may be issued upon the signature of the Chairman or any other member designated by the Committee.

(b) Return.—A subpoena, or a request to an agency, for documents may be issued whose return shall occur at a time and place other than that of a scheduled Committee meeting. A return on such a subpoena or request which is incomplete or accompanied by an objection constitutes good cause for a hearing on shortened notice. Upon such a return, the Chairman or any other member designated by him may convene a hearing by giving 2 hours notice by telephone to all other members. One member shall constitute a quorum for such a hearing. The sole purpose of such a hearing shall be to elucidate further information about the return and to rule on the objection.

(c) Depositions.—At the direction of the Committee, staff is authorized to take depositions from witnesses.

RULE 8—REPORTS

(a) Filing.—When the Committee has ordered a measure or recommendation reported, the report thereon shall be filed in the Senate at the earliest practicable time.

(b) Supplemental, Minority and Additional Views.—A member of the Committee who gives notice of his intentions to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the Chief Clerk of the Committee, with the 3 days to begin at 11:00 p.m. on the same day that the Committee has ordered a measure or matter reported. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the Committee report may be filed and printed immediately without such views.

(c) Rollcall Votes.—The results of all rollcall votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee report. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee.

RULE 9—TREATIES

(a) The Committee is the only Committee of the Senate with jurisdiction to review and report to the Senate on treaties submitted by the President for Senate advice and consent. Because the House of Representatives has no role in the approval of treaties, the Committee is therefore the only congressional committee with responsibility for treaties.

(b) Once submitted by the President for advice and consent, each treaty is referred to the Committee and remains on its calendar from Congress to Congress until the Committee takes action to report it to the Senate or recommend its return to the President, or until the Committee is discharged of the treaty by the Senate.

(c) In accordance with Senate Rule XXX.2, treaties which have been reported to the Senate but not acted on before the end of a Congress "shall be resumed at the commencement of the next Congress as if no proceedings had previously been had thereon."

(d) Insofar as possible, the Committee should conduct a public hearing on each treaty as soon as possible after its submission by the President. Except in extraordinary circumstances, treaties reported to the Senate shall be accompanied by a written report.

RULE 10—NOMINATIONS

(a) Waiting Requirement.—Unless otherwise directed by the Chairman and the Ranking Minority Member, the Committee on Foreign Relations shall not consider any nomination until 6 calendar days after it has been formally submitted to the Senate.

(b) Public Consideration.—Nominees for any post who are invited to appear before the Committee shall be heard in public session, unless a majority of the Committee decrees otherwise.

(c) Required Data.—No nomination shall be reported to the Senate unless (1) the nominee has been accorded a security clearance on the basis of a thorough investigation by executive branch agencies; (2) in appropriate cases, the nominee has filed a confidential statement and financial disclosure report with the Committee; (3) the Committee has been assured that the nominee does not have any interests which could conflict with the interests of the government in the exercise of the nominee's proposed responsibilities; (4) for persons nominated to be chief of mission, ambassador-at-large, or minister, the Committee has received a complete list of any contributions made by the nominee or members of his immediate family to any Federal election campaign during the year of his or her nomination and for the 4 preceding years; and (5) for persons nominated to be chiefs of mission, a report on the demonstrated competence of that nominee to perform the duties of the position to which he or she has been nominated.

RULE 11—TRAVEL

(a) Foreign Travel.—No member of the Committee on Foreign Relations or its staff shall travel abroad on Committee business unless specifically authorized by the Chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the Ranking Minority Member. Requests for authorization of such travel shall state the purpose and, when completed, a full substantive and financial report shall be filed with the Committee within 30 days. This report shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee. Except in extraordinary circumstances, staff travel shall not be approved unless the reporting requirements have been fulfilled for all prior trips. Except for travel that is strictly personal, travel funded by non-U.S. Government sources is subject to the same approval and substantive reporting requirements as U.S. Government-funded travel. In addition, members and staff are reminded of Senate Rule XXXV.4 requiring a determination by the Senate Ethics Committee in the case of foreign-sponsored travel. Any proposed travel by Committee staff for a subcommittee purpose must be approved by the subcommittee chairman and ranking minority member prior to submission of the request to the Chairman and Ranking Minority Member of the full Committee. When the Chairman and the Ranking Minority Member approve the foreign travel of a member of the staff of the committee not accompanying a member of the Committee, all members of the Committee shall be advised, prior to the commencement of such travel of its extent, nature, and purpose.

(b) Domestic Travel.—All official travel in the United States by the Committee staff shall be approved in advance by the Staff Director, or in the case of minority staff, by the Minority Staff Director.

(c) Personal Staff.—As a general rule, no more than one member of the personal staff of a member of the Committee may travel with that member with the approval of the Chairman and the Ranking Minority Member of the Committee. During such travel, the personal staff member shall be considered to be an employee of the Committee.

(d) Personal Representatives of the Member (PRM).—For the purposes of Rule 11 as regard staff foreign travel, the officially-designated personal representative of the member (PRM) shall be deemed to have the same rights, duties, and responsibilities as members of the staff of the Committee on Foreign Relations. Furthermore, for the purposes of this section, each Member of the Committee may designate one personal staff member as the "Personal Representative of the Member."

RULE 12—TRANSCRIPTS

(a) General.—The Committee on Foreign Relations shall keep verbatim transcripts of all Committee and subcommittee meetings and such transcripts shall remain in the custody of the Committee, unless a majority of the Committee decides otherwise. Transcripts of public hearings by the Committee shall be published unless the Chairman, with the concurrence of the Ranking Minority Member, determines otherwise.

(b) Classified or Restricted Transcripts.—

(1) The Chief Clerk of the Committee shall have responsibility for the maintenance and security of classified or restricted transcripts.

(2) A record shall be maintained of each use of classified or restricted transcripts.

(3) Classified or restricted transcripts shall be kept in locked combination safes in the Committee offices except when in active use by authorized persons for a period not to exceed 2 weeks. Extensions of this period may

be granted as necessary by the Chief Clerk. They must never be left unattended and shall be returned to the Chief Clerk promptly when no longer needed.

(4) Except as provided in paragraph 7 below, transcripts classified secret or higher may not leave the Committee offices except for the purpose of declassification.

(5) Classified transcripts other than those classified secret or higher may leave the Committee offices in the possession of authorized persons with the approval of the Chairman. Delivery and return shall be made only by authorized persons. Such transcripts may not leave Washington, DC, unless adequate assurances for their security are made to the Chairman.

(6) Extreme care shall be exercised to avoid taking notes or quotes from classified transcripts. Their contents may not be divulged to any unauthorized person.

(7) Subject to any additional restrictions imposed by the Chairman with the concurrence of the Ranking Minority Member, only the following persons are authorized to have access to classified or restricted transcripts.

(i) Members and staff of the Committee in the Committee rooms;

(ii) Designated personal representatives of members of the Committee, and of the Majority and Minority Leaders, with appropriate security clearances, in the Committee's Capitol office;

(iii) Senators not members of the Committee, by permission of the Chairman in the Committee rooms; and

(iv) Members of the executive departments involved in the meeting, in the Committee's Capitol office, or, with the permission of the Chairman, in the offices of the officials who took part in the meeting, but in either case, only for a specified and limited period of time, and only after reliable assurances against further reproduction or dissemination have been given.

(8) Any restrictions imposed upon access to a meeting of the Committee shall also apply to the transcript of such meeting, except by special permission of the Chairman and notice to the other members of the Committee. Each transcript of a closed session of the Committee shall include on its cover a description of the restrictions imposed upon access, as well as any applicable restrictions upon photocopying, note-taking or other dissemination.

(9) In addition to restrictions resulting from the inclusion of any classified information in the transcript of a Committee meeting, members and staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Chairman, the Ranking Minority Member, or in the case of staff, by the Staff Director or Minority Staff Director. A record shall be kept of all such authorizations.

(c) Declassification—

(1) All restricted transcripts and classified Committee reports shall be declassified on a date twelve years after their origination unless the Committee by majority vote decides against such declassification, and provided that the executive departments involved and all former Committee members who participated directly in the sessions or reports concerned have been consulted in advance and given a reasonable opportunity to raise objections to such declassification.

(2) Any transcript or classified Committee report, or any portion thereof, may be declassified fewer than twelve years after their origination if:

(i) the Chairman originates such action or receives a written request for such action, and notifies the other members of the Committee;

(ii) the Chairman, Ranking Minority Member, and each member or former member who participated directly in such meeting or report give their approval, except that the Committee by majority vote may overrule any objections thereby raised to early declassification; and

(iii) the executive departments and all former Committee members are consulted in advance and have a reasonable opportunity to object to early declassification.

RULE 13—CLASSIFIED MATERIAL

(a) All classified material received or originated by the Committee shall be logged in at the Committee's offices in the Dirksen Senate Office Building, and except for material classified as "Top Secret" shall be filed in the Dirksen Senate Building offices for Committee use and safekeeping.

(b) Each such piece of classified material received or originated shall be card indexed and serially numbered, and where requiring onward distribution shall be distributed by means of an attached indexed form approved by the Chairman. If such material is to be distributed outside the Committee offices, it shall, in addition to the attached form, be accompanied also by an approved signature sheet to show onward receipt.

(c) Distribution of classified material among offices shall be by Committee members or authorized staff only. All classified material sent to members' offices, and that distributed within the working offices of the Committee, shall be returned to the offices designated by the Chief Clerk. No classified material is to be removed from the offices of the members or of the Committee without permission of the Chairman. Such classified material will be afforded safe handling and safe storage at all times.

(d) Material classified "Top Secret," after being indexed and numbered shall be sent to the Committee's Capitol office for use by the members and authorized staff in that office only or in such other secure Committee offices as may be authorized by the Chairman or Staff Director.

(e) In general, members and staff undertake to confine their access to classified information on the basis of a "need to know" such information related to their Committee responsibilities.

(f) The Staff Director is authorized to make such administrative regulations as may be necessary to carry out the provisions of these regulations.

RULE 14—STAFF

(a) Responsibilities—

(1) The staff works for the Committee as a whole, under the general supervision of the Chairman of the Committee, and the immediate direction of the Staff Director; provided, however, that such part of the staff as is designated Minority Staff, shall be under the general supervision of the Ranking Minority Member and under the immediate direction of the Minority Staff Director.

(2) Any member of the Committee should feel free to call upon the staff at any time for assistance in connection with Committee business. Members of the Senate not members of the Committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the Committee.

(3) The staff's primary responsibility is with respect to bills, resolutions, treaties, and nominations.

In addition to carrying out assignments from the Committee and its individual members, the staff has a responsibility to originate suggestions for Committee or subcommittee consideration. The staff also has a responsibility to make suggestions to individual members regarding matters of special interest to such members.

(4) It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the Committee, or of individual Senators with particular interests.

(5) The staff pay due regard to the constitutional separation of powers between the Senate and the executive branch. It therefore has a responsibility to help the Committee bring to bear an independent, objective judgment of proposals by the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff shall avoid impinging upon the day-to-day conduct of foreign affairs.

(6) In those instances when Committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by members of the Committee and of the Senate. The staff shall bear in mind that under our constitutional system it is the responsibility of the elected Members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

(b) Restrictions—

(1) The staff shall regard its relationship to the Committee as a privileged one, in the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the Committee-staff relationship is to be a satisfactory and fruitful one, the following criteria shall apply:

(i) members of the staff shall not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group;

(ii) members of the staff shall not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the Staff Director, or, in the case of minority staff, from the Minority Staff Director. In the case of the Staff Director and the Minority Staff Director, such advance permission shall be obtained from the Chairman or the Ranking Minority Member, as appropriate. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, Committee action; and

(iii) staff shall not discuss their private conversations with members of the Committee without specific advance permission from the Senator or Senators concerned.

(2) The staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Staff Director or Minority Staff Director. Unauthorized disclosure of information from a closed session or of classified information shall be cause for immediate dismissal and may, in the case of some kinds of information, be grounds for criminal prosecution.

RULE 15—STATUS AND AMENDMENT OF RULES

(a) Status.—In addition to the foregoing, the Committee on Foreign Relations is governed by the Standing Rules of the Senate which shall take precedence in the event of a clear inconsistency. In addition, the jurisdiction and responsibilities of the Committee with respect to certain matters, as well as the timing and procedure for their consideration in Committee, may be governed by statute.

(b) Amendment.—These Rules may be modified, amended, or repealed by a majority of the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. However, Rules of the Committee which are based upon Senate Rules may not be superseded by Committee vote alone.

UNITED STATES TRADE SANCTIONS ON THE PEOPLE'S REPUBLIC OF CHINA

Mr. THOMAS. Madam President, late yesterday afternoon the Office of the United States Trade Representative received a letter from Wu Yi, the PRC Minister of Trade, stating that the Chinese were prepared to resume talks in Beijing next week on the issue of infringements on American intellectual property rights.

As I noted on the floor of the Senate yesterday, since 1992 the PRC has failed to live up to its obligations under the memorandum of understanding on intellectual property rights. Factories throughout China, especially in the southern and eastern provinces, continue to mass-produce pirated versions of American computer software, compact discs, CD-ROM's, and video and audio cassettes mostly for sale abroad. The USTR estimates that the sale of these pirated items has cost U.S. businesses more than $1 billion. Efforts by the USTR to bring the PRC into compliance with the MOU have failed, resulting in the proposed sanctions announced by the administration on Saturday.

Madam President, I am very pleased that the Chinese Government has agreed to resume negotiations over this vitally important issue. A strong and equitable relationship between our two countries is of the utmost importance, and I know that no one relished the prospect of a protracted trade dispute. I hope that the PRC will use this opportunity to constructively address our grievances, and move toward adopting stronger measures to curb economic piracy.

IS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Madam President, the incredibly enormous Federal debt is a lot like television's well-known energizer bunny—it keeps going and going—at the expense, of course, of the American taxpayer.

A lot of politicians talk a good game—when they are back home—about bringing Federal deficits and the Federal debt under control. But so many of these same politicians regularly voted in support of bloated spending bills during the 103d Congress—which perhaps is a primary factor in the new configuration of U.S. Senators.

This is a rather distressing fact as the 104th Congress gets down to business. As of Friday, February 3, 1995, the Federal debt stood—down to the penny—at exactly $4,804,906,983,189.27 or $18,239.50 per person.

Madam President, it is important that all of us monitor, closely and constantly, the incredible cost of merely paying the interest on this debt. Last year, the interest on the Federal debt totalled $190 billion.

Madam President, my hope is that the 104th Congress can bring under control the outrageous spending that created this outrageous debt. If the party now controlling both Houses of Congress, as a result of the November elections last year, does not do a better job of getting a handle on this enormous debt, the American people are not likely to overlook it in 1996.

ED LEVI—AN OUTSTANDING ATTORNEY GENERAL

Mr. KENNEDY. Madam President, today marks the 20th anniversary of the swearing-in of Edward Levi as Attorney General of the United States under President Gerald Ford.

Throughout our history, we have been fortunate when the right man has served in the right job at the right time. Ed Levi was the right man at the right time when he was nominated by President Ford and confirmed by the Senate as Attorney General.

Those were turbulent times. Skepticism and cynicism abounded. The Department of Justice was still suffering from the Watergate scandal. Two Attorneys General had been indicted. Another had resigned rather than follow a President's order. In just over a year, the Department of Justice had three Attorneys General, three Deputy Attorneys General, and even more assistant attorneys general. Stories began to surface about abuses committed by the Federal Bureau of Investigation—the arm of government entrusted with the investigation of violations of the law. Select committees were formed to investigate the FBI as well as the CIA and other intelligence agencies. Faith in the fairness and integrity of the administration of Federal justice was at a low ebb.

Levi, in his 2 short years as Attorney General, restored that faith. He did it by the sheer force of his own integrity, by a concerted effort to articulate the standards that would govern government conduct, and by his demonstration to the public that these standards would ensure that our Nation remained a government of laws.

There was not time, of course, to do everything. There never is. But much was accomplished. Standards were formulated to guide the conduct of the FBI. As a protection against abuses of the past, guidelines were developed for the first time to govern domestic security, foreign intelligence and counterintelligence investigations, and other aspects of the Bureau's work, including the handling of informants and background employment investigations.

All of these issues were extremely controversial. One statistic demonstrates the profound effect that these guidelines have had on the Bureau's operation. In July 1973, the FBI had more than 21,000 open domestic security cases. Many were investigations of Americans and American groups who were considered to be threats to domestic security. After the guidelines were adopted, by September 1976, the number was reduced to 626. it is even lower today.

The test of time has demonstrated that these efforts did not hamstring the FBI. They strengthened the Bureau and protected its agents. These principles still guide the Bureau's operations.

Another controversial practice split constitutional scholars and sowed the seeds of Government distrust. When Ed Levi became Attorney General, the FBI tapped telephones and planted microphones to gather foreign intelligence without any prior judicial approval—that is, without a warrant. Though approval of the Attorney General was required for this warrantless electronic surveillance, suspicions were rife about who was being wiretapped and how many listening posts existed throughout the country.

To reassure the public, Attorney General Levi took several steps. He announced that there were no outstanding instances of warrantless taps or electronic surveillance directed against American citizens. He then undertook, at every opportunity, to discuss the process and safeguards that guided the use of electronic surveillance. But he realized that he could not eliminate this distrust of Government without legislation that would balance the need to protect personal privacy and the need to protect the Nation from foreign terrorism.

He proposed a law that provided a judicial warrant mechanism employed by a special court, shaped to meet the particular problems of foreign intelligence and to do so within constitutional standards. Just as he had done in drafting the FBI guidelines, he consulted with Congress in the best nonpartisan tradition. Indeed, the legislation was drafted by the staffs of the Department of Justice and the Senate Judiciary Committee, working closely with the Attorney General and many Members of Congress. I recall frequent conversations with Attorney General Levi concerning this proposed legislation. Soon after its introduction, the bill was overwhelmingly approved by the Senate Judiciary Committee and the Senate Intelligence Committee. It was enacted in the next Congress as the Foreign Intelligence Surveillance Act and it is a tribute to Attorney General Levi's principled and effective leadership.

Other accomplishments were just as important. As the guidelines governing decisions about how and when to conduct investigations were nearing completion, the process was launched to establish standards to govern the equally important area of prosecutorial decisions—such as when to charge an accused, when to bargain for a guilty plea, when the Federal Government should prosecute an individual already prosecuted in State court for a related offense, and when to grant immunity in exchange for testimony. Immigration policies were reformulated to deal with illegal immigration within a framework that protected the rights of individuals. His comments then are just as relevant today:

> We must remember that we face the problem of unlawful immigration because we remain the world's best hope. Unauthorized immigrants are responding to the same human impulses that motivated each of our forebears. We must address the illegal alien issue in a manner compatible with our democratic values and our tradition as a nation of nations.

I also recall the time when the Ford administration, acting through Attorney General Levi, proposed major new handgun control legislation to require a waiting period before a handgun could be purchased. The Ford administration sought in vain to find a Senator from the President's own party willing to introduce such legislation. I met with the Attorney General and offered to sponsor the administration's legislation in an effort to advance the debate over handgun control. The Attorney General recognized that any comprehensive effort by the Federal Government to stem the tide of violent crime required effective handgun control legislation. The successful and bipartisan enactment of the Brady law in the last Congress owes a great deal to the leadership of Ed Levi many years ago.

Throughout his tenure as Attorney General, Ed Levi was guided by the fundamental principle of equal justice under law for all Americans. He believed that faith in the law must continually be renewed or else it is lost. As he said near the end of his services as Attorney General in words that should still guide us today—

> In a society that too easily accepts the notion that everything can be manipulated, it is important to make clear that the administration of justice seeks to be impartial and fair, and that these qualities are not inconsistent with being effective.

A grateful Nation pauses today on this anniversary to honor a great Attorney General for all he did at a difficult period in our history to restore the Nation's faith in its system of law and justice. Ed Levi is a profile in courage, and a proud example for all citizens of excellence in the law and justice at its best.

HOMICIDES BY GUNSHOT IN NEW YORK CITY

Mr. MOYNIHAN. Madam President, I rise today to continue my weekly practice of reporting to the Senate on the death toll by gunshot in New York City. Last week, 8 people were killed by firearms in New York City, bringing this year's total to 66.

THE PRESIDENT'S IMMIGRATION INITIATIVE

Mr. SIMON. Madam President, the administration has come under much criticism lately for its alleged failure to provide leadership on issues that are important to the nation. The 1996 Immigration Initiative announced by the administration this week, however, belies these contentions. The administration's policy proposal on this extremely important issue is thoughtful and comprehensive, and I applaud it.

The administration's initiative recognizes, as do the people of this country, the need to formulate an effective response to the problem of illegal immigration, and proposes increased resources not only for border enforcement, but also increased resources to eliminate the job magnet that will continue to draw undocumented aliens into the country regardless of the success of our border policy. The initiative also reflects a desire to improve our ability to deport those aliens that have been identified as deportable, and to assist States that have long borne the burdens of our inability to prevent illegal immigration.

For each of these objectives the administration has proposed the commitment of substantial resources; yet, at the same time, the initiative contains little that unnecessarily feeds the anti-immigrant xenophobia that has characterized the immigration policy debate in recent years. Rather, the administration's proposal takes a measured yet aggressive approach to the problems we must face. In short, while it has taken an undeniably firm stance against illegal immigration, the administration has not succumbed to the belief that immigration in all its shapes and forms is a bad thing. Quite the contrary: the initiative reflects the fact that, as the President has said, an effective immigration policy must combine deterrence of illegal immigration with an encouragement and celebration of legal immigration.

I look forward to working with the administration and my colleagues in the Senate to effect this delicate balance, and to implement an immigration policy that is both tough and fair. The administration's proposal is certainly a great step in this direction.

SENATOR CLAIBORNE PELL'S SPEECH BEFORE THE GEORGETOWN UNIVERSITY LAW CENTER ON THE LAW OF THE SEA CONVENTION

Mr. DODD. Madam President, on Friday, January 27, 1995, Senator CLAIBORNE PELL spoke at the Georgetown University Law Center on the topic of the United Nations Convention on the Law of the Sea. During that speech, Senator PELL made a very strong case for United States ratification of the Law of the Sea Treaty.

As many of my colleagues may already know, Senator PELL has been a leading advocate for promoting the peaceful uses of the oceans for more than four decades. I believe he first became interested in the subject as a young man in the service of the U.S. Coast Guard—an interest he has continued to pursue with energy and imagination since he was elected to the Senate in 1960.

While the national security implications associated with the Law of the Sea Convention have been widely discussed over the years, I do not believe that as much attention has been focussed on the economic implications of the treaty. In that regard, Senator PELL's speech on January 27, very clearly spelled out the economic importance of the treaty to the United States. I found his arguments most useful in gaining a fuller appreciation of the treaty's many provisions.

I know that Senator PELL very enthusiastically endorsed President Clinton's decision to sign the Law of the Sea Convention and to seek the advice and consent of the Senate to its ratification. And, that he believes it to be of the utmost importance that the United States become a party to this important convention as soon as possible.

I am confident that Senator PELL is willing and eager to play an active role in educating this body on the very important issues associated with the Law of the Sea Convention. I hope that the Senate will have an opportunity to address this subject during the 104th Congress.

Madam President, I ask unanimous consent that a copy of Senator PELL's speech at Georgetown University Law Center be printed in the RECORD at this point.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR CLAIBORNE PELL

It is a great pleasure to join you here this evening at the Georgetown University Law Center to discuss the United Nations Convention on the Law of the Sea. This is a subject that is near to my heart and one that I have been involved with for much of my working career.

With its transmission to the Senate in October and entry into force in November, the Convention has again moved to the fore as an issue for public debate.

These events make today's symposium particularly timely, and I want to thank the organizers, and especially Mr. Eric Fersht, for their outstanding work. The panels you have heard from provide a truly exceptional array of information about the Law of the Sea Convention.

The initial support for this idea was led by Arvid Pardo, Malta's delegate to the United Nations, with his famous "Common Heritage of Mankind" speech before the United Nations General Assembly in 1967.

The Convention then became the interest of many people. I remember particularly the "Pacem in Maribus"—Peace on the Seas—meetings organized by Elizabeth Mann Borgese.

Her book, The Ocean Regime, published in 1968, gave written expression to the ideas that were to gain a wider audience through Pacem in Maribus, on their way to being embodied in the negotiated texts of the Law of the Sea Convention.

For me the dream began even earlier. It was during my service in the U.S. Coast Guard during World War II that I wrote my first memorandum on the subject to Admiral Waesche, then Commandant of the Coast Guard. And even before that I had been appointed by President Eisenhower as a Delegate to the first meeting of IMCO (the International Maritime Consultative Organization.)

My service on the staff of the San Francisco Convention that prepared the UN Charter, just fifty years ago this summer, further confirmed me in my belief that ways could be found to create a working ocean peace system.

The Law of the Sea Convention is the product of one of the more protracted negotiations in diplomatic history. When the process began, the Vietnam War was nearing its peak; the Cold War was at its height; it had been only five years since the construction of the Berlin Wall.

I was proud to serve as a delegate and observer to those early Law of the Sea negotiations, one of the few who had also attended a Pacem in Maribus meeting. My enthusiasm led me in 1967 to introduce the first Senate Resolution calling on the President to negotiate a Law of the Sea Convention.

That resolution and a draft treaty that I proposed in 1969 led to the Seabed Arms Control treaty, which was ratified by the Senate in 1972. This little-known treaty has permanently removed nuclear weapons and other weapons of mass destruction from the ocean floor, which is seventy percent of the earth's surface.

It has been signed by nearly 100 countries, it works, and it provides a good precedent for the Convention on the Law of the Sea.

With the Seabed Arms Control Treaty as my model, you can appreciate my enthusiasm for the Law of the Sea Convention. In my view there are few actions that the Senate can take in the year or two ahead that can have greater long term benefits for the world as a whole than to ratify this Treaty.

The implications for world peace are enormous; the potential for trade and development is equally far-reaching. I hope this Convention will not be caught up in a spate of politics as usual, but will be seen in the framework of a renewed commitment to bipartisanship in foreign policy.

The old saying was that "politics stops at the water's edge." That would be an apt motto for our consideration of Law of the Sea, since its scope begins precisely at "the water's edge."

Let me outline just a few of the reasons that have come to make me such a strong supporter of the Convention.

Of greatest importance, the Convention will enhance our national security, because it establishes as a matter of international law, freedom of navigation rights that are critical to our military forces.

At the Foreign Relations Committee's hearing on the Convention in August, Admiral William Center—whom you heard this morning—testified, "The Convention underpins strongly the worldwide mobility America's forces need. It provides a stable legal basis for governing the world's oceans. It reduces the need to fall back on a potentially volatile mixture of customary practice and gunboat diplomacy."

The Secretary of Defense, William J. Perry, also supports prompt Senate action "to send a strong signal that the United States is committed to an ocean regulatory regime that is guided by the rule of law."

I have heard arguments that the Convention's provisions on freedom of navigation are not really important because they reflect customary international law. I disagree with that argument.

Customary international law is inherently unstable. Governments can be less scrupulous about flouting the precedents of customary law, than they would be if such actions are seen as violating a treaty.

Moreover, not all governments and scholars agree that all of the critical navigation rights protected by the Convention are also protected by customary law.

They regard many of those rights as *contractual* and, as such, available only to parties to the Convention.

For example, it was not long ago that the United States claimed a territorial sea of only three miles. Now it is twelve. I am certain there are countries that would like to expand their territorial sea even further. Only the Convention establishes limits on countries' claims to territorial seas as a matter of international law.

These navigational rights are of very real importance to our armed forces. There have been recent situations where even U.S. allies denied our forces transit rights in times of need.

For example, during the 1973 Yom Kippur war our ability to resupply Israel was critically dependent on transit rights through the Strait of Gibraltar. In 1986, U.S. aircraft passed through the Strait to Strike Libyan targets in response to that government's acts of terrorism directed against the United States.

On February 11, 1992, the USS BATON ROUGE (SSN689) was struck by a Russian Sierra-class attack submarine while on patrol in the Barent Sea, off the major naval port of Murmansk. The USS BATON ROUGE, a Los Angeles-class attack submarine, was submerged at a depth of 59 feet at the time of the collision, in waters claimed by Russia as territorial, but considered by the United States to be high seas.

In addition, the following examples are situations where having the Law of the Sea Convention in effect might have made a difference:

Between 1961 and 1970, Peru seized 74 U.S. fishing vessels over disputed tuna fisheries.

In 1986, Ecuador interfered with the USAF aircraft flight over the high seas 175 miles from the Ecuadorian coast.

Since 1986, Peru has repeatedly challenged U.S. aircraft flying over its claimed 200 nautical mile territorial sea. During several of these challenges, the Peruvian aircraft operated in a manner that unnecessarily and intentionally endangered the safety of the transiting U.S. aircraft and its crew.

This includes an incident where a U.S. C-130 was fired upon and a U.S. service member was killed.

In 1986, two Cuban MIG-21 aircraft intercepted a USCG HU-25A Falcon flying outside of its 12 nautical mile territorial sea, claiming it had entered Cuban Flight Information Region (FIR) without permission.

In 1988, Soviet warships intentionally "bumped" two U.S. warships engaged in innocent passage south of Sevastopol in the Black Sea.

In 1984, Mexican Navy vessels approached U.S. Coast Guard vessels operating outside Mexican territorial waters and interfered with valid USCG law enforcement activities.

Libyan claims to the Gulf of Sidra have resulted in repeated challenges and hostile action against U.S. forces operating in high seas.

During the 1980's, transits of the Northwest Passage by the USCG POLAR SEA and POLAR STAR were challenged by the Canadian government.

I do not doubt that, if necessary, the United States Navy will sail where it needs to to protect U.S. interests. But, if we reject the Convention, preservation of these rights in non-wartime situations will carry an increasingly heavy price for the United States.

By remaining outside of the Convention, the United States will have to challenge excessive claims by other states not only diplomatically, but also through conduct that opposes these claims. A widely ratified Convention would significantly reduce the need for such expensive operations.

It would also afford us a durable platform of principle to ensure support from the American people and our allies when we confront claims we regard as illegal.

The Convention's provisions on freedom of navigation are also vitally important to the U.S. economy and the thousands of U.S. workers whose jobs are dependent on exports and imports. We live in an interdependent world, and 80 percent of trade between nations in this interdependent world is carried by ship.

Oil is one example of this. In 1993, 44 percent of U.S. petroleum products supplied came from imported oil. This oil was carried on tankers that every day pass through straits, territorial waters, and exclusive economic zones of other nations.

The U.S. has a vital interest in the stability of the international legal order that serves as the basis for this commerce. We also have an interest in avoiding higher prices for consumers and job losses that can result from costly coastal state restrictions on navigation.

The benefits of the Convention extend to many other areas. Protection of submarine cables is one example. The new fiber optic cables that connect the United States to other countries are crucial for international communications and our increasingly information-based economy.

These cables are enormously expensive. A new fiber optic cable connecting the United States to Japan can carry up to one million simultaneous telephone calls, and is valued at $1.3 billion. The total value of existing cables is measured in the many billions of dollars.

When these cables are broken, U.S. companies, and ultimately U.S. consumers, incur huge repair costs. The Convention contains new provisions that strengthen the obligation of all states to take measures to protect the cables, and cable owners.

Past U.S. concerns with the Convention's provisions on deep seabed mining—concerns that had prevented the United States from signing the Convention—were resolved in an agreement signed in July at the United Nations in New York.

Earlier today, you heard about this subject from Wes Scholz, the head of the U.S. delegation to the negotiations on the Part XI Agreement. He and his negotiating team did a truly superb job in adjusting the Convention's provisions on seabed mining to provide a workable framework for the 21st century.

Looking to the future, U.S. interests in the Convention lie not only in what it is today, but in what it may become. Just as form and substance have been given our Constitution by the courts, so too will future uses of the oceans be influenced and shaped by decisions made under the Convention.

With the Convention's entry into force last November 16th, the United States stands on the threshold of a new era in oceans policy. Under the Convention, U.S. national interests in the world's oceans would be protected as a matter of law. This is a success of U.S. foreign policy that will work to our benefit in the decades to come.

The question on many people's minds now is: will the Senate act on the Convention during this, the 104th Congress?

I think that those who support the treaty should help make the case for its approval. The benefits of the Convention are many. We should not be shy in making them known. The consequences of not ratifying the Convention are also many. Those too should be made known.

Over the past 25 years, the Convention and its supporters have overcome many obstacles. The same tenacity and commitment that brought the Convention to where it is today will be needed to take the Convention the next step.

U.S. ratification of the Convention may not come quickly, but I am confident it will come. It is up to us to make that happen sooner rather than later. And when it happens, that for me will be a nearly life-long dream come true.

MESSAGES FROM THE HOUSE

At 2:24 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill; in which it requests the concurrence of the Senate:

H.R. 2. An act to give the President item veto authority over appropriation acts and targeted tax benefits in revenue acts.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 2. An act to give the President item veto authority over appropriation acts and targeted tax benefits in revenue acts; pursuant to the order of August 4, 1977; referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–372. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–370 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–373. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–371 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–374. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–373 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–375. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–374 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–376. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–375 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–377. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–376 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–378. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–377 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–379. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–378 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–380. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–379 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–381. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–380 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–382. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–381 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–383. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–382 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–384. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–383 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–385. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–385 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–386. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–386 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–387. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–387 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–388. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–388 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–389. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–391 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC–390. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–390 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SMITH (for himself, Mr. GRASSLEY, Mr. INHOFE, and Mr. KEMPTHORNE):

S. 360. A bill to amend title 23, United States Code, to eliminate the penalties imposed on States for noncompliance with motorcycle helmet and automobile safety belt requirements, and for other purposes; to the Committee on Environment and Public Works.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 361. A bill to amend title 38, United States Code, to provide that the monthly amounts paid by a State to blind disabled veterans shall be excluded from the determination of annual income for purposes of payment of pension by the Secretary of Veterans Affairs; to the Committee on Veterans Affairs.

By Ms. MIKULSKI:

S. 362. A bill to amend the Metropolitan Washington Airports Act of 1986 to provide for the reorganization of the Metropolitan Washington Airports Authority and for local review of proposed actions of the Airports Authority affecting aircraft noise; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 363. A bill to improve water quality within the Rio Puerco watershed, New Mexico, and to help restore the ecological health of the Rio Grande through the cooperative identification and implementation of best management practices that are consistent with the ecological, geological, cultural, sociological, and economic conditions in the region, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWN:

S. 364. A bill to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National park in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mr. BROWN (for himself and Mr. CAMPBELL):

S. 365. A bill to amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity tests in connection with publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

By Mr. FEINGOLD:

S. 366. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DORGAN:

S. 367. A bill to amend the Internal Revenue Code of 1986 to increase and make permanent the deduction for health insurance costs of self-employed individuals; to the Committee on Finance.

S. 368. A bill to amend the Internal Revenue Code of 1986 to provide that installment sales of certain farmers not be treated as a preference item for purposes of the alternative minimum tax; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. STEVENS:

S. Con. Res. 5. A concurrent resolution permitting the use of the Capitol for a ceremony to commemorate the days of remembrance of victims of the Holocaust; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH (for himself, Mr. GRASSLEY, Mr. INHOFE, and Mr. KEMPTHORNE):

S. 360. A bill to amend title 23, United States Code, to eliminate the penalties imposed on States for noncompliance with motorcycle helmet and automobile safety belt requirements, and for other purposes; to the Committee on Environment and Public Works.

MOTORCYCLE HELMET AND SAFETY BELT PENALTY ELIMINATION

• Mr. SMITH. Mr. President, section 153 of the Intermodal Surface Transportation Efficiency Act [ISTEA] of 1991 (Public Law 102-240) penalizes States that do not institute mandatory motorcycle helmet and seatbelt laws. Today, I will introduce a measure to repeal this patently unfair provision that forces States to transfer scarce construction funds to other programs.

The November elections have shown that the American people want more decisionmaking authority with their State and local governments as opposed to heavy handed Federal mandates. Furthermore, outlining how a State spends its own money, which is collected through the consumer gas tax, infringes on States' ability to control their own budgets. Dangling essential highway construction money in front of States to coerce them into adopting helmet and seatbelt laws is fiscal blackmail. State governments are aware of the need for safety programs and I do not support Washington's micromanagement of issues that should clearly be left up to the States.

Mr. President, I am a strong supporter of highway safety. However, mandatory motorcycle and seatbelt laws do not guarantee safety. In fact, of the 10 safest States in which to ride a motorcycle, 7 do not require mandatory helmet use for adults. Furthermore, New Hampshire, which does not have mandatory helmet and seatbelt laws, has been ranked as one of the five States with the best highway safety record in the Nation, as far as fatalities per million miles traveled.

Mr. President, highway safety education programs are the key to highway safety and I believe that States have the expertise and know-how to develop their own programs without Federal intimidation. I invite my colleagues to join me in supporting their States' highway departments and highway users by repealing helmet and seatbelt mandates.•

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 361. A bill to amend title 38, United States Code, to provide that the monthly amounts paid by a State to blind disabled veterans shall be excluded from the determination of annual income for purposes of payment of pension by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

LEGISLATION TO ASSIST BLIND VETERANS

• Mr. D'AMATO. Mr. President, since the mid-1930's, New York State has paid blind disabled veterans a monthly annuity. Qualified veterans—of which there are less than 2,000—receive monthly payments of $41.66, the same amount as has been paid since the program's inception.

The blind annuity has not been adjusted upward, because should a State decide to increase its blind annuity, the U.S. Department of Veterans Affairs would respond by reducing Federal pensions paid to these individuals by the same amount. Thus, there would be no net benefit for veterans receiving the annuity.

The legislation that I and my distinguished colleague from New York, Senator MOYNIHAN, are reintroducing today will prevent the VA from penalizing blind veterans, should any State undertake or increase a blind annuity. Charity begins at home. My legislation will allow States to compensate those who have paid a very high price in defense of our country, at no cost to the Federal Government.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION OF CERTAIN AMOUNTS FROM INCOME DETERMINATION FOR PENSION PURPOSES.

Section 1503 of title 38, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(11) amounts equal to amounts paid to a veteran by a State under a program of such State to make monthly payments to qualifying veterans who are blind and totally disabled.".•

By Ms. MIKULSKI:

S. 362. A bill to amend the Metropolitan Washington Airports Act of 1986 to provide for the reorganization of the Metropolitan Washington Airports Authority and for local review of proposed actions of the Airports Authority affecting aircraft noise; to the Committee on Commerce, Science, and Transportation.

WASHINGTON AIRPORT ACT AMENDMENTS

Ms. MIKULSKI. Mr. President, today I introduce S. 362, the Metropolitan Washington Airports Act Amendment of 1995.

In light of the Supreme Court's decision last month which compels congressional action, I am sponsoring this legislation which finally eliminates congressional oversight over the Airports Authority Board of Directors, and makes this Board more accountable to the communities it serves. Similar legislation was introduced in the House of Representatives by my colleague, Mrs. MORELLA of Maryland.

This legislation will amend the Metropolitan Washington Airport Act of 1986 by reorganizing the Metropolitan Washington Airports Authority and providing for greater local involvement in the management of Dulles and Washington National Airports.

I believe in strong local involvement in the management of our airports. The Airports Authority Board structure which was struck down recently by the Supreme Court did not adequately incorporate representation of local communities. The legislation will restore the involvement of communities in this region into the management of the Washington area airports by reorganizing the Airports Authority Board of Directors into 11 members who reside in the Washington, DC, region. These board members will be appointed by the chief executives of Virginia, Maryland, and the District of Columbia, the Virginia State legislature, or by the local council of governments.

The legislation also ensures local involvement in any decision by the Washington Metropolitan Airports Authority Board of Directors which could result in a change in aircraft noise in the vicinity our local airports. The legislation mandates that a local group of citizens, the committee on noise abatement, be notified by the Board of any decision affecting noise abatement so that they have the opportunity to review the proposed action. In the interest of the citizens most affected by aircraft noise, I feel that local oversight is important in any airport authority decision involving the serious issue of noise abatement.

I hope my colleagues will agree with me that airports should be accountable to the communities they serve, and I hope we will see enactment of this legislation during the 104th Congress. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1 SHORT TITLE.

This Act may be cited as the "Metropolitan Washington Airports Act Amendments of 1995".

SEC. 2. FINDINGS.

Section 6002(7) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2451(7)) is amended—

(1) by inserting "declining" after "perceived"; and

(2) by striking "the growing local interest," and inserting "the increasing need for local planning and management on a metropolitan statistical area basis,".

SEC. 3. AIRPORTS AUTHORITY.

(a) BOARD OF DIRECTORS.—Section 6007 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456) is amended by striking subsections (e), (f), (g), and (h) and inserting the following:

"(e) BOARD OF DIRECTORS.—

"(1) APPOINTMENT.—The Airports Authority shall be governed by a board of directors of 11 members as follows:

"(A) 1 member shall be appointed by the Governor of Virginia.

"(B) 1 member shall be appointed by the Mayor of the District of Columbia.

"(C) 1 member shall be appointed by the Governor of Maryland.

"(D) 2 members shall be appointed by the Virginia State legislature.

"(E) 2 members shall be appointed by those representatives from Virginia local governments who are on the Board of Directors of the Metropolitan Washington Council of Governments.

"(F) 2 members shall be appointed by those representatives from the District of Columbia government who are on the Board of Directors of the Metropolitan Washington Council of Governments.

"(G) 2 members shall be appointed by those representatives from Maryland local governments who are on the Board of Directors of the Metropolitan Washington Council of Governments.

The Chairman shall be appointed from among the members by a majority vote of the members and shall serve until replaced by a majority vote of the members.

"(2) RESTRICTIONS.—Members (A) shall serve without compensation other than reasonable expenses incident to board functions, and (B) must reside within the Washington Standard Metropolitan Statistical Area.

"(3) TERMS.—Member shall be appointed for terms of 4 years.

"(4) REQUIRED NUMBER OF VOTES.—7 votes shall be required to approve bond issues and the annual budget.

"(f) AIRPORT NOISE.—

"(1) BALANCED ENVIRONMENTAL PROTECTION.—In order to protect the public from the impact of aircraft noise and at the same time provide for suitable air transportation service to the Washington Standard Metropolitan Statistical Area, a proposed action of the board of directors which could result in a change in the impact of aircraft noise in the vicinity of a Metropolitan Washington Airport may not take unless, at least 60 days before the action is to take effect, the board of directors—

"(A) notifies, in writing, the Committee on Noise Abatement at National and Dulles Airports of the Washington Council of Governments of the action for the purpose of allowing such committee the opportunity to review, and submit comments on, the action; and

"(B) submits, in writing, to such committee a response to any comment of such committee with respect to the action within 30 days after the date of receipt of such comment.".

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by sections 2 and 3 shall take effect on the date of the enactment of this Act.

(b) LIMITATION ON APPLICABILITY.—Persons appointed as members of the board of directors of the Metropolitan Washington Airports Authority on the date of the enactment of this Act shall continue to serve on such board until their respective terms expire under former section 6007(e).

(c) INITIAL APPOINTMENTS.—

(1) VIRGINIA APPOINTMENTS.—The Governor of Virginia shall appoint under new section 6007(e)(1)(A) a person to fill the vacancy of the first member appointed by the Governor of Virginia under former pectin 6007(e)(1)(A) whose term expires after the date of the enactment of this Act. The Virginia State legislature shall appoint under new section 6007(e)(1)(D) persons to fill the vacancies of the second and third members appointed by the Governor under former section 6007(e)(1)(A) whose terms expire after such date of enactment. Representatives from Virginia local governments shall appoint under new section 6007(e)(1)(E) persons to fill the vacancies of the fourth and fifth members appointed by the Governor under former section 6007(e)(1)(A) whose terms expire after such date of enactment.

(2) DISTRICT OF COLUMBIA APPOINTMENTS.—The Mayor of the District of Columbia shall appoint under new section 6007(e)(1)(B) a person to fill the vacancy of the first member appointed by the Mayor of District of Columbia under former section 6907(e)(1)(B) whose term expires after the date of the enactment of this Act. Representatives from the District of Columbia government shall appoint under new section 6007(e)(1)(F) persons to fill the vacancies of the second and third such members appointed by the Mayor under former section 6007(e)(1)(B) whose terms expire after such date of enactment.

"(3) MARYLAND APPOINTMENTS.—The Governor of Maryland shall appoint under new section 6007(e)(1)(C) a person to fill the vacancy of the first member appointed by the Governor of Maryland under former section 6007(e)(1)(C) whose term expires after the date of the enactment of this Act. Representatives from Maryland local governments shall appoint under new section 6007(e)(1)(G)—

(A) a person to fill the vacancy of the second member appointed by the Governor under former section 6007(e)(1)(C) whose term expires after such date of enactment; and

(B) a person to fill the vacancy of the member appointed by the President under former section 6007(e)(1)(D) when the term of such member expires after such date of enactment.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) FORMER SECTION 6007(e).—The term "former section 6007(e)" means section 6007(e) of the Metropolitan Washington Airports Act of 1986 as in effect on the day before the date of the enactment of this Act.

(2) NEW SECTION 6007(e).—The term "new section 6007(e)" means section 6007(e) of the Metropolitan Washington Airport Act of 1986, as amended by section 3 of this Act.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 363. A bill to improve water quality within the Rio Puerco Watershed, New Mexico, and to help restore the ecological health of the Rio Grande through the cooperative identification and implementation of best management practices that are consistent with the ecological, geological, cultural, sociological, and economic conditions in the region, and for other purposes; to the Committee on Energy and Natural Resources.

RIO PUERCO WATERSHED ACT

• Mr. BINGAMAN. Mr. President, today I am introducing legislation that will authorize a coordinated approach for restoration of the Rio Puerco Watershed, which at 7,000 square miles is the largest tributary to the Rio Grande in terms of area and sediment. The Rio Puerco was once known as New Mexico's breadbasket, with water supply and soil tilth to support that reputation.

Over time, extensive ecological changes have occurred in the Rio Puerco Watershed, some of which have resulted in damage to the watershed that has seriously affected the economic and cultural well-being of its inhabitants. This has resulted in the loss of existing communities that were based on the land and were self-sustaining. Mr. President, a healthy and sustainable ecosystem is essential to the long-term economic and cultural viability of the region.

According to the Bureau of Land Management, the Rio Puerco contributes only 6 percent of the total water but over 50 percent of the sediments which enter the Rio Grande. Accelerated, progressive soil erosion within

the basin threatens not only the sustained productivity of the rangeland watershed, but also the middle Rio Grande aquatic system, irrigators dependent on those waters, and the economic foundation of the Mesilla Valley dependent on Elephant Butte Reservoir.

A substantial proportion of the rural population is concerned about its ability to maintain a traditional lifestyle with an economy which is natural resource based and dependent upon the productivity of land with multiple ownership. The vast Rio Puerco drainage system is a mosaic of land ownership and agency management. No single agency has watershed-wide expertise and management responsibility. It is imperative that the numerous agencies and individuals with resource management responsibility—Indian pueblos, Federal and State agencies, and private citizens—work together to develop a plan for and implement an effective Rio Puerco Watershed management program.

This legislation directs the Secretary of the Interior to lead and coordinate a management program in the Rio Puerco Watershed with the advice and input of a Rio Puerco Management Committee composed of the various landowners, affected Indian pueblos, local, regional, State, and Federal governments, and other interested citizens.

The committee will prepare a management plan to identify reasonable and appropriate goals and objectives for land owners and managers in the Rio Puerco Watershed; to describe potential alternative actions to meet the goals and objectives; to recommend voluntary implementation of appropriate best management practices on both public and private lands; to provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on both public and private lands; and other activities that will promote cooperation and information sharing among those that own and manage land in the Rio Puerco Watershed.

Mr. President, I am pleased that Senator DOMENICI is a cosponsor of this legislation. It is our hope that this legislation will advance the restoration of and maintenance of a healthy Rio Puerco Watershed that will serve New Mexico and its citizens in the future as well as it has served us in the past. We have a lot of work ahead of us. A clear path must be outlined and a base of authorization, from which this program can be funded, established. Most importantly, this legislation authorizes an approach that brings all of the stakeholders together. The Federal Government cannot, and should not, undertake this effort alone. The support and contributions of local citizens, tribes, governmental entities, and others is crucial. I urge my colleagues to support this legislation, and I ask unanimous consent that the full text of my remarks and this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 363

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Puerco Watershed Act of 1995".

SEC. 2. FINDINGS.

Congress finds that—

(1) over time, extensive ecological changes have occurred in the Rio Puerco watershed, including—

(A) erosion of agricultural and range lands;

(B) impairment of waters due to heavy sedimentation;

(C) reduced productivity of renewable resources;

(D) loss of biological diversity;

(E) loss of functioning riparian areas; and

(F) loss of available surface water;

(2) damage to the watershed has seriously affected the economic and cultural well-being of its inhabitants, including—

(A) loss of communities that were based on the land and were self-sustaining; and

(B) adverse effects on the traditions, customs, and cultures of the affected communities;

(3) a healthy and sustainable ecosystem is essential to the long-term economic and cultural viability of the region;

(4) the impairment of the Rio Puerco watershed has caused damage to the ecological and economic well-being of the area below the junction of the Rio Puerco with the Rio Grande, including—

(A) disruption of ecological processes;

(B) water quality impairment;

(C) significant reduction in the water storage capacity and life expectancy of the Elephant Butte Dam and Reservoir system due to sedimentation;

(D) chronic problems of irrigation system channel maintenance; and

(E) increased risk of flooding caused by sediment accumulation;

(5) the Rio Puerco is a major tributary of the Rio Grande, and the coordinated implementation of ecosystem-based best management practices for the Rio Puerco system could benefit the larger Rio Grande system;

(6) the Rio Puerco watershed has been stressed from the loss of native vegetation, introduction of exotic species, and alteration of riparian habitat which have disrupted the original dynamics of the river and disrupted natural ecological processes;

(7) the Rio Puerco watershed is a mosaic of private, Federal, tribal trust, and State land ownership with diverse, sometimes differing management objectives;

(8) development, implementation, and monitoring of an effective watershed management program for the Rio Puerco watershed is best achieved through cooperation among affected Federal, State, local, and tribal entities;

(9) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, in consultation with Federal, State, local, and tribal entities and in cooperation with the Rio Puerco Watershed Committee, is best suited to coordinate management efforts in the Rio Puerco watershed; and

(10) accelerating the pace of improvement in the Rio Puerco watershed on a coordinated, cooperative basis will benefit persons living in the watershed as well as downstream users on the Rio Grande.

SEC. 3. MANAGEMENT PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management shall—

(1) in consultation with the Rio Puerco Management Committee established by section 4—

(A) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin, as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994, including—

(i) current and historical natural resource conditions; and

(ii) data concerning the extent and causes of watershed impairment; and

(B) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project, as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994; and

(2) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(b) RIO PUERCO MANAGEMENT REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall prepare a report for the improvement of watershed conditions in the Rio Puerco Drainage Basin described in subsection (a)(1).

(2) CONTENTS.—The report under paragraph (1) shall—

(A) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(B) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(C) recommend voluntary implementation of appropriate best management practices on public and private lands;

(D) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on public and private lands;

(E) provide for the development of public participation and community outreach programs that would include proposals for—

(i) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(ii) involvement of private citizens in restoring the watershed;

(F) provide for the development of proposals for voluntary cooperative programs among the members of the Rio Puerco Management Committee to implement best management practices in a coordinated, consistent, and cost-effective manner;

(G) provide for the encouragement of, and support implementation of, best management practices on private lands; and

(H) provide for the development of proposals for a monitoring system that—

(i) builds on existing data available from private, Federal, and State sources;

(ii) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(iii) will provide information to—

(I) assess existing resource and socioeconomic conditions;

(II) identify priority implementation actions; and

(III) assess the effectiveness of actions taken.

SEC. 4. RIO PUERCO MANAGEMENT COMMITTEE.

(a) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(b) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management and shall include representatives from—

(1) the Rio Puerco Watershed Committee;

(2) affected tribes and pueblos;

(3) the National Forest Service of the Department of Agriculture;

(4) the Bureau of Reclamation;

(5) the United States Geological Survey;

(6) the Bureau of Indian Affairs;

(7) the United States Fish and Wildlife Service;

(8) the Army Corps of Engineers;

(9) the Natural Resources Conservation Service of the Department of Agriculture;

(10) the State of New Mexico, including the New Mexico Environment Department and the State Engineer;

(11) affected local soil and water conservation districts;

(12) the Elephant Butte Irrigation District;

(13) private landowners; and

(14) other interested citizens.

(c) DUTIES.—The Rio Puerco Management Committee shall—

(1) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in section 3; and

(2) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in section 3.

(d) TERMINATION.—The Committee shall terminate on the date that is 10 years after the date of enactment of this Act.

SEC. 5. REPORT.

Not later than the date that is 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report containing—

(1) a summary of activities of the management program under section 3; and

(2) proposals for joint implementation efforts, including funding recommendations.

SEC. 6. LOWER RIO GRANDE HABITAT STUDY.

(a) IN GENERAL.—The Secretary of the Interior, in cooperation with appropriate State agencies, shall conduct a study of the Rio Grande that—

(1) shall cover the distance from Caballo Lake to Sunland Park, New Mexico; and

(2) may cover a greater distance.

(b) CONTENTS.—The study under subsection (a) shall include—

(1) a survey of the current habitat conditions of the river and its riparian environment;

(2) identification of the changes in vegetation and habitat over the past 400 years and the affect of the changes on the river and riparian area; and

(3) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and to restore habitat through reintroduction or establishment of appropriate native plant species.

(c) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary of the Interior shall transmit the study under subsection (a) to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out sections 1, 2, 3, 4, and 5 a total of $7,500,000 for the 10 fiscal years beginning after the date of enactment of this Act.•

By Mr. FEINGOLD:

S. 366. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Labor and Human Resources.

CIVIL RIGHTS PROCEDURES PROTECTION ACT

• Mr. FEINGOLD. Mr. President, today I am introducing a bill that I also introduced in the 103d Congress. This bill mirrors a House bill introduced last year by Representatives PATRICIA SCHROEDER, EDWARD MARKEY, and Marjorie Margolies-Mezvinsky as companion legislation to my original bill, S. 2012, the Protection From Coercive Employment Agreements Act of 1994.

This bill addresses a rapidly growing practice in employment relations—the practice of requiring employees to submit claims of discrimination or harassment to arbitration as a term or condition of employment or advancement, and prohibiting the employee from resolving their claim in a court of law.

This bill amends seven specific civil rights statutes to make clear that the powers and procedures provided under those laws are the exclusive ones that apply when a claim arises. The legislation would invalidate existing agreements between employers and employees that require the employment discrimination claims to be submitted to mandatory arbitration.

The statutes this would amend are title VII of the Civil Rights Act of 1964, section 505 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, section 1977 of the Revised Statutes, the Equal Pay Act, the Family and Medical Leave Act, and the Federal Arbitration Act [FAA]. The amendment to the FAA extends the protections of the bill to claims of unlawful discrimination that arise under State or local law, and other Federal laws that prohibit job discrimination.

Mr. President, I want to reiterate that this legislation, as in the case of S. 2012, is in no way intended to bar the use of voluntary arbitration, conciliation, mediation or other informal quasi-judicial methods of dispute resolution. In fact, I strongly support the use of voluntary alternative dispute resolution methods as a way of reducing the caseloads of civil and criminal courts where appropriate.

This bill closes a widening loophole in the enforcement of civil rights laws in our Nation. An entire industry—Wall Street—and a growing number of companies and firms in many other industries have been able to circumvent formal legal challenges to their unlawful employment practices in court—a right intended to be protected by the statutes this bill amends. Employers can tell current and prospective employees, "if you want to work for us, you'll have to check your rights as an American citizen at the door."

Mr. President, this practice should be stopped now. It is simply unfair to require an employee to waive, in advance, his or her statutory right to seek remedy in a court of law, in exchange for employment or a promotion. This bill will restore integrity in the relations between employees and employers.

I ask unanimous consent that the text of the legislation be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Procedures Protection Act of 1995".

SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"EXCLUSIVITY OF POWERS AND PROCEDURES

"SEC. 719. Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 3. AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and

(2) by inserting after section 15 the following new section 16:

"EXCLUSIVITY OF POWERS AND PROCEDURES

"SEC. 16. Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to resolve such right or such claim through arbitration or another procedure.".

SEC. 4. AMENDMENT TO THE REHABILITATION ACT OF 1973.

Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 795) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on right under section 501, such procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 5. AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.

Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 6. AMENDMENT TO SECTION 1977 OF THE REVISED STATUTES OF THE UNITED STATES.

Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a right to make and enforce a contract of employment under this section, such procedures shall be the exclusive procedures applicable to a claim based on such right unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 7. AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any Federal statute of general applicability that would modify any of the powers or procedures expressly applicable to a claim based on violation of this subsection, such powers and procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 8. AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) is amended by adding at the end the following new section:

"SEC. 406. EXCLUSIVITY OF REMEDIES.

"Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on a right provided under this Act or under an amendment made by this Act, such procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 9. AMENDMENT TO TITLE 9 OF THE UNITED STATES CODE.

Section 14 of title 9, United States Code, is amended—

(1) by inserting "(a)" before "This"; and

(2) by adding at the end the following new subsection:

"(b) This chapter shall not apply with respect to a claim of unlawful discrimination in employment if such claim arises from discrimination based on race, color, religion, sex, national origin, age, or disability.".

SEC. 10. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply with respect to claims arising on and after the date of the enactment of this Act.•

By Mr. DORGAN:

S. 367. A bill to amend the Internal Revenue Code of 1986 to increase and make permanent the deduction for health insurance costs of self-employed individuals; to the Committee on Finance.

HEALTH INSURANCE DEDUCTION FOR THE SELF-EMPLOYED

Mr. DORGAN. Mr. President, today I rise to urge my colleagues in Congress to work quickly to pass legislation to correct a serious problem affecting our Nation's farmers, ranchers, and small businesses.

As you know, the 25-percent tax deduction for the health insurance costs of self-employed individuals expired on December 31, 1993. This provision is absolutely critical to the health care concerns of small business owners and farmers who conduct their businesses as sole proprietors. While the 25-percent health costs tax deduction enjoys broad bipartisan support, it was not restored last year when the prospects for broader health care reform collapsed.

We should expect the outcry from small businesses to be deafening this April unless we move quickly to extend this provision beyond its December 31, 1993 expiration date. Further, it is indefensible that our tax laws tell some businesses that they can deduct 100 percent of their health costs, while others, mostly smaller businesses, are told they can deduct none of their health care costs.

The health of a farm family or small business owner is no less important than the health of the president of a large corporation, and the Internal Revenue Code should reflect this simple fact.

That's way I am reintroducing legislation to restore tax fairness for sole proprietors who acquire health insurance coverage for themselves and their families. My bill would renew the 25-percent health insurance tax deduction as if it had not expired in December 1993. It also expands the current 25-percent deduction to 100 percent over the next several years. As a result, sole proprietors would receive the exact same tax treatment that large corporations now enjoy.

Almost no one disagrees that the tax code unfairly discriminates against self-employed business owners with respect to health care costs. Yet, Congress has always scrambled to simply retain the current 25-percent health tax deduction.

We can no longer afford to allow this provision to be held hostage to sunset provisions or politics. So long as we turn a blind eye to this problem, millions of Americans are prevented from purchasing adequate and affordable health care for themselves and their families.

We ought to move to correct this matter without further delay. This matter needs immediate attention.

By Mr. DORGAN:

S. 368. A bill to amend the Internal Revenue Code of 1986 to provide that installment sales of certain farmers not be treated as a preference item for purposes of the alternative minimum tax; to the Committee on Finance.

TAX TREATMENT OF INSTALLMENT SALES LEGISLATION

Mr. DORGAN. Mr. President, today I rise to introduce legislation to rectify a serious tax problem confronting our family farmers.

The Internal Revenue Service [IRS] has, in my opinion, mistakenly taken a position that may preclude our farmers from using deferred payment grain contracts, which have been routinely used in their businesses for decades. In my judgment, the IRS' position imposes an unintended and unacceptable financial hardship on the farming industry.

Let me briefly explain. For years, family farmers have used deferred payment grain contracts to sell their commodities to grain elevators to help manage the business income. A typical grain contract between a farmer and grain elevator calls upon a farmer to sell and deliver grain to a grain elevator—often because the farmer does not have adequate storage—for a fixed amount. In many cases, one or more payments paid by the elevator to the farmer under the contract occur after the close of the farmer's taxable year.

For regular tax purposes, farmers are allowed to defer income from the deferred payments under the grain contracts in computing their regular tax liability. But because the IRS apparently views all deferred payment grain contracts as installment sales, it now requires them to add back this income in computing the Alternative Minimum Tax [AMT] in the tax year preceding the year of payment. As a result, thousands of family farmers are facing hefty tax bills because they are being whip-sawed by an AMT provision which effectively repeals their ability to use such contracts.

To make matters worse, many farmers were advised by tax experts that some kinds of traditional deferred payment grain contracts do not amount to an installment sale that would require an AMT calculation. For this reason, they did not make an AMT adjustment on their income tax returns. Now they are being told by the IRS that they owe large tax bills on income that they will not receive until later.

That is why I am introducing legislation to ensure that our family farmers are allowed to engage in deferred payment transactions and get the same kind of tax treatment they have always received.

I do not believe that Congress intended this kind of tax treatment for farmers using deferred payment grain contracts for legitimate business purposes. It seems to me that the IRS position is based upon an incorrect interpretation which ignores the fact that our family farmers are, by law, permitted to manage their business operations on a cash basis.

My bill would simply make clear the original intent of Congress in the Tax Acts of 1986 and 1987, which was to allow farmers to continue to receive the tax benefit provided from the use of cash method accounting and from installment sales for their deferred payment grain transactions.

I urge my colleagues to include this much-needed legislation in any revenue measure considered by the Senate this year.

ADDITIONAL COSPONSORS

S. 5

At the request of Mr. DOLE, the names of the Senator from Indiana [Mr. COATS], and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 5, a bill to clarify the war powers of Congress and the President in the post-cold war period.

S. 104

At the request of Mr. D'AMATO, the names of the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 104, a bill to establish the position of Coordinator for Counter-Terrorism within the office of the Secretary of State.

S. 150

At the request of Mr. MCCAIN, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 150, a bill to authorize an entrance fee surcharge at the Grand Canyon National Park, and for other purposes.

S. 154

At the request of Mr. BUMPERS, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 154, a bill to prohibit the expenditure of appropriated funds on the Advanced Neutron Source.

S. 157

At the request of Mr. BUMPERS, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 157, a bill to reduce Federal spending by prohibiting the expenditure of appropriated funds on the United States International Space Station Program.

S. 184

At the request of Mr. HATFIELD, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Illinois [Mr. SIMON], and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 184, a bill to establish an Office for Rare Disease Research in the National Institutes of Health, and for other purposes.

S. 233

At the request of Mr. MCCAIN, the names of the Senator from Arizona [Mr. KYL] and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 233, a bill to provide for the termination of reporting requirements of certain executive reports submitted to the Congress, and for other purposes.

S. 234

At the request of Mr. CAMPBELL, the names of the Senator from New Hampshire [Mr. GREGG], the Senator from Wyoming [Mr. THOMAS], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 234, a bill to amend title 23, United States Code, to exempt a State from certain penalties for failing to meet requirements relating to motorcycle helmet laws if the State has in effect a motorcycle safety program, and to delay the effective date of certain penalties for States that fail to meet certain requirements for motorcycle safety laws, and for other purposes.

S. 277

At the request of Mr. D'AMATO, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 277, a bill to impose comprehensive economic sanctions against Iran.

S. 281

At the request of Mr. D'AMATO, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 281, a bill to amend title 38, United States Code, to change the date for the beginning of the Vietnam era for the purpose of veterans benefits from August 5, 1964, to December 22, 1961.

SENATE CONCURRENT RESOLUTION 5—RELATING TO THE USE OF THE ROTUNDA OF THE CAPITOL FOR A CEREMONY FOR VICTIMS OF THE HOLOCAUST

Mr. STEVENS submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 5

Whereas, pursuant to such Act, the United States Holocaust Memorial Council has designated April 23 through April 30, 1994, as "Days of Remembrance of Victims of the Holocaust"; and

Whereas the United States Holocaust Memorial Council has recommended that a one-hour ceremony to be held at noon on April 27, 1995, consisting of speeches, readings, and musical presentations as part of the days of remembrance activities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on April 27, 1995 from 8 o'clock ante meridian until 3 o'clock post meridian for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

AMENDMENTS SUBMITTED

BALANCED BUDGET AMENDMENT

WELLSTONE AMENDMENTS NOS. 234–235

(Ordered to lie on the table.)

Mr. WELLSTONE submitted two amendments intended to be proposed by him to the joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States; as follows:

AMENDMENT NO. 234

On page 2, line 3, following the word "unless", insert the following:

"(a) compliance with this requirement would increase the number of hungry or homeless children, or (b)".

AMENDMENT NO. 235

On page 2, line 3, following the word "unless", insert the following:

"(a) a majority of the whole number of each House of Congress shall determine that compliance with this requirement would not provide for the common defense and promote the general welfare, or (b)".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, February 7, at 9:30 a.m., in SR–332, to discuss what tax policy reforms will help strengthen American agriculture and agribusiness.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, February 7, at 9:30 a.m. in open session to receive testimony on U.S. national security strategy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COATS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, February 7, at 9:30 a.m. for a hearing on the subject of regulatory reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

REGARDING THE COURAGE OF MRS. DEVORAH HALBERSTAM

• Mr. D'AMATO. Mr. President, I rise today to present the remarks of a courageous woman, Devorah Halberstam, whose son Ari was brutally murdered by Rashid Baz on March 1, 1994, in a cowardly act of terrorism on the Brooklyn Bridge.

Mrs. Halberstam's statement before New York State Supreme Court Justice Harold Rothwax on January 18, 1995, took place before the sentencing of Rashid Baz, who subsequently received 141 years in prison for a single count of second-degree murder, 14 counts of attempted murder in the second-degree, and one count of criminal use of a firearm in the first-degree.

Mr. President, what happened that day on the Brooklyn Bridge was nothing less than an act of terrorism and we should call it just that. Ari Halberstam was murdered for one reason: He was a Jew.

In her piognant statement before the court, Mrs. Halberstam relates a tearful plea that she hopes that what happened to her and her family, never happen to any other family. Her statement is a powerful one and I urge my colleagues to read it so that they may gain a greater insight into the sorrow and grief suffered by a woman whose son was taken from her in an act of terrorism.

Mr. President, I ask that the text of Mrs. Halberstam's statement be included in the RECORD following the conclusion of my remarks.

The statement follows:

STATEMENT BY MRS. DEVORAH HALBERSTAM BEFORE STATE SUPREME COURT JUSTICE HAROLD ROTHWAX, JANUARY 18, 1994

Your Honor: Fourteen boys testified before this Court. Fourteen very special young men whose pure and innocent lives are dedicated to the betterment of our world. Fourteen adolescents whose own lives were forever changed on the Brooklyn Bridge less than a year ago on March 1st.

But the youngest of the students—the fifteenth—his voice was silent. And will remain silent forever.

Ari's blue eyes were deep as the ocean—windows to a soul in which I swam and energized myself every day of his 16 brief years.

A soul who feared nothing but the Almighty, whose humility was an inspiration, whose days and nights were testimony to the heights of human endeavor and aspiration.

A soul hand-picked by the Lubavitcher Rebbe and the Rebbe's wife, to serve as their surrogate child from earliest infancy, to be surrounded by their holiness and kindness and universal love.

A gem of a human being who combined the rigors of Chassidic life with its long days of study, with a grace on the basketball court that was star quality. A mere child who would jump at the opportunity—and they were numerous—to relinquish his own bed to a tired guest. A prince of a boy who was generous to a fault with his time—always ready to listen to a troubled friend.

But above all he loved his family, especially his sisters and brothers.

That, your honor, was my son Ari.

That, your honor is the witness who could not be here to testify.

Which is why I have gathered what fragments are left of my energy and sanity, your honor, to address this court today.

On May 6, 1977, I was blessed and overjoyed as my first born son Ari came into this world.

On March 1, 1994 I was there at his side watching as the final color of life ebbed from his dying face. And on that day, I too died your honor. And my husband.

Our lives will never be the same. Yes, my life has been forever shattered by the hot bullet released by Rashid Baz's cold and calculating and viciously Jew-hating hand.

Your honor, we are compelled to look at the shocking and outrageous events that are going on in our world.

Several weeks ago, Islamic terrorists highjacked a French airliner with nearly 200 passengers. Their intent was to explode the jet in the heart of Paris in a suicide mission that would have killed thousands.

Their mission was not the complete success they had hoped for—instead of thousands, only five innocent civilians were actually murdered.

That very week, an Islamic terrorist—explosives strapped to his body—detonated himself beside a crowded public bus in the heart of Jerusalem. His mission was not the complete success he had hoped for—because only one person was seriously wounded, four others less seriously. The 50 passengers on the target bus were miraculously unharmed.

Two years ago, Islamic terrorists attempted to detonate the World Trade Center hoping to collapse a 110 story building and kill tens of thousands of our fellow Americans.

Their mission was not the complete success they had hoped for—because only 6 were actually killed and dozens more wounded.

On March 1st of last year an Islamic terrorist armed with an arsenal of sophisticated weapons stalked a van carrying 15 Rabbinical students on the Brooklyn Bridge with the intent to kill them all. His mission was not the complete success he had hoped for—because only one of the fifteen was killed—And that as you know, was my precious son Ari.

Your honor. The civilized world cannot afford "failures" like these.

Each day, innocent people—men, women and children—are being targeted in the cross hairs of these mass murderers who would kill and wound indiscriminately, not only others, but even themselves.

They murder with the sanction and participation of governments in Teheran and Baghdad, Damascus, Lebanon, Tripoli and Khartoum. Governments whose representatives roam our streets freely. Whose diplomatic pouches—laden with plastic explosives and conventional weapons—are inviolate. Whose treacherous plans sow destruction, mayhem and terror in the hearts of civilized people everywhere.

They murder with the blessing of fanatical religious leaders—some of whom are guests in this great land.

They murder in the name of a god they call "Allah the Merciful."

These killers are a disgrace to all people of faith, including the many millions of their own coreligionists who pray for peace in their hearts but dare not speak peace because they fear for their lives.

These murderers respect no territorial boundaries. They obey no law. They view anybody and everybody, but especially Jews, as fair game. They believe—not without justification—the more blood they shed the more ready the world will be to capitulate to their nefarious and bloodthirsty aims.

A cowardly world hands down token sentences to those who are apprehended. Spineless western governments discreetly free some of the most wanton mass killers—releasing them into the hands of the very fundamentalist, dictatorships and theocracies which dispatched them in the first place.

They do this in order to improve their balance of trade, or worse yet, as a payoff, selfishly and foolishly hoping to forestall further acts of terrorism against their own people and on their own territory. This, your honor, is the world we live in. And the time has come to say, "Enough, we won't take it anymore."

I have addressed you on behalf of a civilized world which will be further threatened, further degraded, and further destabilized if this killer gets anything less than the maximum sentence you can give.

The man you will sentence today, Rashid Baz, killed my baby. And robbed Nochum Sossonkin of his youth. And he felt immune and invincible because the world's track record in dealing with his kind is an embarrassment to all civilized and justice-loving people.

The jury which declared this murderer guilty showed incredible personal courage in reaching its verdict. Because the community of Islamic terrorists is as vindictive as it is sadistic.

Yes, Rashid Baz's mission on the Brooklyn Bridge was a failure. Because 14 of his 15 intended victims are still alive.

But for me, my husband, my aged parents, and my four other children—as for the mothers and fathers and grandparents and sisters and brothers and sons and daughters of the other murder victims from those other "failures" I mentioned before—his mission was a success.

For we will never see our Ari again * * * For I will never see my tall, beautiful, kind, scholarly, charming, friendly 16 year old son grow to maturity * * * For my younger children will never again have the loving, compassionate guidance of the older brother they adored * * * For my husband and I will never see the grandchildren we had expected.

And the generations upon generations of descendants that were to have come from Ari will never be—generations that were meant to replace and replenish the catastrophic loss of Jewish life that is our legacy from the Holocaust.

On March 1st Rashid Baz murdered Ari. But he also sentenced me and my family to a lifetime of mourning. To an endless series of sleepless nights. To a wound which can never heal. To a living death which chips away at us, measured in the slow cadence of endless seconds * * * to a limbo of joylessness which will end only when we ourselves are reunited with Ari.

Indeed, there is nothing that can happen here today, nothing you or anyone else can do to bring Ari back. There is no way to give me back all those years of joy, love and worry. There is no sentence that you can give Baz for my murdered heart or for the security that was robbed from the lives of my children and replaced instead with cobrays, glocks and terror.

What can you say to Ari's sister Sara who grew up side by side with him and was her best friend throughout her life?

Or Chanie, his sister who fears going into any taxicab.

Or Mendy, Ari's brother, who looked up to Ari as his mentor and protector. And who lost his older brother on the day of his birthday.

Or Ari's four year old brother, who keeps asking me when Ari will be back. And whose last prayer at night is I love you Ari with my whole heart please come back home.

Your honor, our pain is too great to bear. We long for our son constantly. We listen for his footsteps and voice in hour home.

Yet life must go on, and justice, the inadequate justice that humans can mete out, must be done.

And now, your honor, it is your responsibility to show courage, and demonstrate that we in America are not cowards. That we do not capitulate to the blackmail of terrorism. That we value life and liberty. That those who would presume on American hospitality and freedom in order to bring civilization to its knees will find no refuge in this land. And that here, at least justice will prevail, and this cold blooded killer will never see the light of freedom again so long as he lives.

There is no death sentence in New York State. If there were, I would surely be tempted to ask for it.

Because death would send a message to the world that America knows how to deal with terror.

And death, too, might have brought a measure of finality to the horror me and my family have to live with.

But death, unfortunately, is not an option.

Which is why I beseech you, your honor, from a heart filled with pain and anguish, in the name of civilization and the values we hold dear, in memory of my son, and out of basic consideration for me and my family—sentence Rashid Baz to the very same sentence to which he sentenced us—namely, that not a day, not an hour, not a minute or a second of his life should go by without him being reminded of what he has done.

Remorse? The only remorse he has is over his faulty aim, and the fact that his mission was not completed entirely.

This murderer must live and die behind bars and barbed wire. He must spend the remainder of his natural life caged like the remorseless creature that he is. Deprived of any of the rights or freedoms he mocks. Separated from any opportunity to continue in his ways. Reduced to a number in the impersonal hell of prison. Consigned to a life of living death until God takes him and renders the eternal justice which we on earth cannot.

Your honor, this is the least you can do. Unfortunately, it is also the most.

Thank you.●

CRUELTY TO PATIENTS

● **Mr. SIMON.** Mr. President, one of the more thoughtful writers on our scene today is Joan Beck with the Chicago Tribune.

Recently, she had a column on our national health care system that takes a slightly different perspective on where we are and some of our problems.

I believe her comments merit serious consideration.

We are talking about some modification of the health care system this year.

On the floor of the Senate, several of us on both sides of the aisle have talked about the need for bipartisan cooperation.

I hope we can go ahead.

In the meantime, I urge my colleagues to read the Joan Beck column, and I ask to insert it into the RECORD at this point.

The column follows:

CRUELTY TO PATIENTS—NATION'S HEALTH CARE SYSTEM NEEDS AN EXAMINATION

(By Joan Beck)

Even without new federal legislation, health care in America is changing rapidly. Many of these changes are worrisome. Some are deadly scary.

Increasingly, the focus of medical care is becoming to reduce costs, to do only the minimum possible for patients, to wring money out of the system for a new set of corporate providers.

Fewer people are now allowed by HMOs and insurance company rules to see specialists. Far more surgery—more than half in many hospitals—is being done on an outpatient basis, often with assembly-line rules. Hospital stays after childbirth are often numbered in hours, not days.

Hospitals are cutting nursing staffs, lowering the level of patient care and substituting other caregivers with less training and lower pay. Teaching hospitals, with their higher costs and heavy load of patients needing specialized treatment, are getting squeezed.

Many doctors, like Ma and Pa stores swallowed up when a Wal-Mart comes to town, are losing their independence to a whole new world of corporate-managed health care.

Physicians, in fact, don't really seem to be major players in the health-care business these days. Politicians, administrators, employers, insurance companies, even the financial markets, are shaping the future of health care to an extent that makes many people highly uncomfortable—and may endanger their health.

There is a new emphasis on efficiency, not on humanitarianism and healing. Hospitals are competing for contracts from insurance companies, HMOs and big employers to care for large groups of people, often for a fixed, per-person fee. Then they must try to push down their costs however they can—by eliminating unnecessary tests and treatments, by being more efficient, by avoiding as many high-cost procedures as possible, perhaps even by taking risks with patients' health.

Federal efforts to pass national health-care legislation seem to be in hiatus for now, although Illinois Sen. Paul Simon has been trying to talk up the issue again. There are new threats to make drastic cuts and changes in Medicare and Medicaid. Congress may do some tinkering with insurance regulations.

But in the immediate future, changes in health care will not come from Washington. There will be more efforts by hospitals to trim costs. More efforts from HMOs, insurers and employers to get discount prices. More pressures on physicians to follow HMO and insurance company rules. More attempts at change by the states, particularly California, Minnesota, Washington, Hawaii and Pennsylvania. And more lamenting that while the increase in costs is slowing down, health care still takes 14 percent of the gross national product.

It is difficult to measure the impact of all of these changes on the nation's well-being. But a useful yardstick is to evaluate how these changes affect the way physicians can do their job and how well they safeguard patient choice in their doctors.

Doctors should be the ones to decide the future of health care in the United States—not Hillary Rodham Clinton or Ira Magaziner or Newt Gingrich or Bob Dole or the Republicans or the Democrats or Prudential or Humana or General Motors or Exxon.

It's disappointing to see how little impact doctors have actually had on the health-care debate and on the future of health care and how quietly most of them have gone along with restrictions on how they care for patients.

Medical societies, of course, have issued proposals and lobbied legislators. The American Medical Association has a big lobbying arm in Washington and in 1990 proposed its own Health Access America plan. The Journal of the American Medical Association has published hundreds of articles and proposals, as have other medical journals. But these efforts have not had major impact on the future of health care.

It is taken for granted among health-care reformers that a major factor in high costs has been overtreating by physicians who stand to make a buck by doing so. Yet these same reformers assume that the same physicians can be trusted not to undertreat patients when the economic incentives are reversed.

Undertreatment is hard to define and, often, to detect. It's difficult to measure outcomes; the data is subject to interpretation, not only for individuals, but for HMO populations, communities and states. Monitoring and evaluation protocols are not well developed. Clinical guidelines need further development if they are to be used as protection against undertreatment. Databases that will permit comparisons are still far from adequate.

People must rely on their physicians to withstand pressures to undertreat, to do what's best for patients regardless of new and increasing incentives to do less than that.

If the kinds of changes now happening in health care really reflect advances in medicine and commendable efforts to reduce unnecessary expenses and unneeded treatment, we should all be cheering. But how can we be sure that pressures from insurers and employers and HMOs won't push doctors and hospitals to cut even more corners that will risk patients' health?

There is still an enormous reservoir of trust in physicians in this country. But it will be increasingly hard for doctors to keep that trust and to deserve it in the new regimes of red tape and cost controls. They will have to figure out how to control the health-care system, not be controlled by others. And they will have to stand up for patients against the cost-cutters and the administrators when they interfere with optimum treatment if we are to be comfortable and safe with our health care in the future.●

RULES OF THE COMMITTEE ON THE JUDICIARY

● **Mr. HATCH.** Mr. President, in accordance with rule XXVI, section 2, of the Standing Rules of the Senate, I hereby submit for publication in the CONGRESSIONAL RECORD, the Rules of the Committee on the Judiciary. The rules follow:

COMMITTEE ON THE JUDICIARY

I. MEETINGS OF THE COMMITTEE

1. Meetings may be called by the Chairman as he may deem necessary on three days notice or in the alternative with the consent of the Ranking Minority Member or pursuant to the provision of the Standing Rules of the Senate, as amended.

2. Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee, at least 48 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

3. On the request of any Member, a nomination or bill on the agenda of the Committee will be held over until the next meeting of the Committee or for one week, whichever occurs later.

II. QUORUMS

1. Ten Members shall constitute a quorum of the Committee when reporting a bill or nomination; provided that proxies shall not be counted in making a quorum.

2. For the purpose of taking sworn testimony, a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a quorum being present, a Member who is unable to attend the meeting may submit his vote by proxy, in writing or by telephone, or through personal instructions. A proxy must be specific with respect to the matters it addresses.

IV. BRINGING A MATTER TO A VOTE

The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bring the matter to a vote without further debate, a rollcall vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the minority.

V. SUBCOMMITTEES

1. Any Member of the Committee may sit with any Subcommittee during its hearings or any other meeting, but shall not have the authority to vote on any matter before the Subcommittee unless he is a Member of such Subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the Subcommittee chairmanship and seniority on the particular Subcommittee shall not necessarily apply.

3. Except for matters retained at the full Committee, matters shall be referred to the appropriate Subcommittee or Subcommittees by the chairman, except as agreed by a majority vote of the Committee or by the agreement of the Chairman and the Ranking Minority Member.

VI. ATTENDANCE RULES

1. Official attendance at all Committee markups and executive sessions of the Committee shall be kept by the Committee Clerk. Official attendance at all Subcommittee markups and executive sessions shall be kept by the Subcommittee Clerk.

2. Official attendance at all hearings shall be kept, provided that Senators are notified by the Committee Chairman and ranking Member, in the case of Committee hearings, and by the Subcommittee Chairman and ranking Member, in the case of Subcommittee hearings, 48 hours in advance of the hearing that attendance will be taken; otherwise, no attendance will be taken. Attendance at all hearings is encouraged.●

ORDERS FOR TOMORROW

Mr. HATCH. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. on Wednesday, February 8, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak for not to exceed 5 minutes each, with Senator LAUTENBERG to be recognized for up to 15 minutes; further, that at the hour of 9:30 a.m., the Senate resume consideration of House Joint Resolution 1, the balanced budget constitutional amendment, and the time between 9:30 and 11:30 be equally divided between the two leaders or their designees; that at the hour of 11:30 a.m., Senator DASCHLE be recognized for 15 minutes, to be followed by Senator DOLE for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. HATCH. Madam President, for the information of all of my colleagues, under the previous order, on Wednesday at 12 noon, Senator DOLE, or his designee, will make a motion to table the Daschle motion to commit. Therefore, Senators should be on notice that a rollcall vote will occur on that motion to table at 12 noon tomorrow.

RECESS UNTIL WEDNESDAY, FEBRUARY 8, 1995, AT 9:15 A.M.

Mr. HATCH. If there is no further business to come before the Senate and no other Senator is seeking recognition, I now ask that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:19 p.m., recessed until Wednesday, February 8, 1995, at 9:15 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, February 7, 1995*

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore [Mr. BURTON of Indiana].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 7, 1995.

I hereby designate the Honorable DAN BURTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Indiana [Mr. ROEMER].

REASONS WHY PRESIDENT CLINTON SHOULD NOT MEET WITH PRESIDENT YELTSIN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Indiana [Mr. ROEMER] is recognized during morning business for 2 minutes.

Mr. ROEMER. Mr. Speaker, I rise this morning to encourage my colleagues to sign a bipartisan letter that I am circulating with the gentleman from Virginia [Mr. WOLF] today. We have already gained 20 other signatures, bipartisan signatures on this letter that would say to President Clinton and, in very strong terms, suggest that he not meet with President Yeltsin at the upcoming summit in May. We urge him not to do this for a number of reasons, because the United States has so much at stake in continuing to see Russian economic and political reform.

The first reason, Mr. Speaker, is that the Russian economic and political reform efforts are on very shaky ground. As the Russians now fight this war in Chechnya, they have diverted over $2 billion that should be going to stabilize the ruble, to support the economic efforts we have supported through loans through the IMF and other world banks totaling over $12 billion. These efforts are critical if the Russians are to work their way to a free market system and to continue to work toward a more open and democratic system in the new Russia.

Second, future issues are at stake, future issues that are important to the United States and a good, strong, healthy relationship with Russia. We need to be on good terms with Russia in terms of Bosnia and peace in that very unstable part of the world. We need to work with the Russians on START and other nonproliferation treaties, and we need to work with them on the future of NATO.

Third, we encourage the President not to meet with Mr. Yeltsin in May because of the human rights violations going on in this terrible war between Russia and the Chechnyan people.

I would encourage my colleagues to sign this letter. We are not saying that Mr. Christopher and Mr. Karazdzic cannot talk. We are saying symbolically the President should not at this point sit down with Mr. Yeltsin at this very precarious time as the Russians are fighting a very, very bad war in terms of diverting their resources away from economic and political reform.

75 SPECIFIC DISCRETIONARY CUTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, today I present my annual list of specific spending cut suggestions. I introduced these yesterday in the RECORD. Today I want to talk a little bit about them and elaborate on them.

These are 75 discretionary cuts which would save an estimated $275 billion, those are taxpayer dollars, over the next 5 years. That is just about double the amount of spending cuts the President has offered us in his most recent budget package.

These savings could be produced without touching a single nondiscretionary item. Let me put that into English for the rest of America. Nondiscretionary item would mean entitlement, and that translates into Social Security, Medicare and so forth, Medicaid. This list of budget cuts I am submitting does not touch Social Security, Medicare, Medicaid or any of those items that we call entitlements. It is only the discretionary items, the things that we control the purse strings on here in the House of Representatives, the power of the purse as it were.

It is imperative that before we ask Americans to sacrifice any of their earned benefits we demonstrate an ability to root out the hundreds of billions of dollars of wasteful spending in this Government. And that is not just rhetoric. That is something that the Grace Commission, the GAO, anybody who has looked at our spending here will tell you, that every year we have waste by the billions, by the tens of billions, by the hundreds of billions.

How in the world are we going to balance the budget and do all of these things we have promised if we have that kind of waste at that level? The answer is we are not until we get at it, and the hard work of pinning down the specifics has got to start somewhere. That is why we submit our list of what could be cut.

Mr. Speaker, an administration official was quoted in Sunday's Washington Post as saying that "While the deficit is not optimal, it is not out of control." Let me tell my colleagues, the national debt is $4½ trillion. The debt service on that is about $250 billion every year, every year, $250 billion, so that is a trillion every 4 years just in interest payments. Put simply, this empty rhetoric does not put, in my view, the administration in a very good light. I wonder what an optimal debt situation would be.

The White House has consistently ignored the tremendous waste and duplicative spending in the Federal budget and our Federal Government. We have seen that in the budget that they sent up. Instead of opting to try to reduce the deficit through tax hikes and on the backs of senior citizens, they should be looking at cuts, not raising taxes.

Mr. Speaker, the American people sent a powerful message to this Congress that was loud and clear, and it was cut spending, and do it now, get rid of the waste, the redundancy, the out of date, the off-target, the things we do not need anymore. The American people did not say trim a little here or trim a little there. The American people did not say move with caution and go slow. The American people told this Congress to look for any and all wasteful spending and get rid of it, take it out.

The Vice President complained yesterday that "Republicans haven't put any cuts on the table." Well, they cannot say that anymore, because the cuts

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

are out there for all to see, a list of 75 totaling $275 billion over the next 5 years. I stand before this Congress with most of the same cuts I introduced in the past two terms, and some of them which we have made some progress on, but most of them have gone untouched. So we are still able to come forward with a list of waste of 75 items.

I invite the administration to debate us on the specifics. Tell us why we need to be spending $140 million on grants to prepare youths and adults to be homemakers. Explain to the American people why when 99 percent of America's farmers have electricity and 98 percent have phones we need to be spending billions of dollars in assistance to rural electric and telephone utilities.

The American people deserve better. They need answers. They deserve full debate on these and other programs that serve narrow special interests rather than the collective good of our country and all taxpayers.

Mr. Speaker, we must strive to move beyond the rhetoric, to achieve the fundamental change that we talk about here with real action and with specifics. It is time to debate real spending cuts and real fiscal reform, and I am confident if we do we actually will have taken a very important step toward restoring fiscal responsibility and, perhaps even more than that, retaining, restoring some of the credit that this institution needs to build with the American people.

We have done the balanced budget program in the House. We have passed it. We have done that unfunded mandates program in the House. We have passed it. We did the line item veto. We did it yesterday, we passed it. We are going to be talking about and going to introduce a supermajority to raise taxes. Those are all critically important tools to get a handle on spending, to make sure we do the right thing.

But the proof will come. Do we have the courage, do we have the wisdom to pick out the things that are true waste and start chopping them? That is actually the easiest part of the job. If it is not doing much for very many Americans, then why are we spending a lot of money on it? Usually the answer is political. "Well, it's in my district," or "I hate to do something to that program to cut it." That is something we cannot be doing anymore. We cannot afford it, and it is not good expenditure of money.

Accountability time has come, and we welcome accountability time, and I welcome the American people to take a look at our list of 75 cuts.

COMMONSENSE DEFENSE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Missouri [Mr. SKELTON] is recognized during morning business for 5 minutes.

Mr. SKELTON. Mr. speaker, we are at a crossroads in American military preparedness. Since the Iron Curtain collapsed in 1989, the quantity and extent of U.S. military commitments abroad have stretched our forces thin. Today, there are signs of a serious weakening in troop training readiness. The Pentagon reports that key modernization programs have been interrupted to pay for current operations and an ailing base infrastructure.

We have reduced our military too far and too fast. If we continue, by the end of the decade we won't have the military power to shape a peaceful and prosperous world. Without security, peace, and free trade, all Americans lose.

The erosion in military preparedness disturbs many of our Nation's leaders. President Clinton recognized the shortfall in December when he added $2 billion to this year's defense budget. Several Members of Congress proposed staying at the fiscal year 1995 budget level, adjusted for inflation. That amount, about a $14 billion increase, would be a major step toward bolstering American military preparedness.

Some critics argue that defense increases are not needed because today's world is less dangerous. They fail to remember that in 1994 the United States came close to armed conflict three times. In June, we deployed additional forces toward Korea to halt the production of nuclear weapons. In September, we sent 22,000 troops to Haiti to restore democracy and stop the flow of refugees to our shores. Then, in October, we responded to Saddam Hussein's move to imperil the world's oil supply. These occurred during ongoing American military commitments in the Sinai, Rwanda, Macedonia, Cuba, Bosnia, Turkey, Panama, Okinawa, and Western Europe.

In 1993, the administration outlined our national security strategy in the Bottom-Up Review. It reasonably concluded America needed enough military forces to fight and win two major regional conflicts, nearly simultaneously. Our recent trials with North Korea, Haiti, and Iraq affirm this two-war strategy.

But our experience under the Bottom-Up Review, now approaching 2 years, suggests that we cannot take our force structure any lower. Indeed, modest increases are needed.

Events in 1994 revealed our military is on the verge of being over-committed. Our experience in the new security environment also teaches that the Bottom-Up Review incorrectly assumed we can withdraw troops from peacekeeping and humanitarian relief commitments to fight a major regional conflict. Disengagement inflicts high cost.

Some critics, observing defense officials juggle resources among competing demands, suggest we've sacrificed modernization for readiness and quality of life. They've got it wrong. A serious imbalance does exist, but it's because all three are underfunded. Simply put, we are not adequately funding our strategy that ensures American security. The shortfall is not large, but it is big enough to create disturbing imbalances in our current military posture. We cannot allow troop morale, training readiness, and force modernization to get out of balance. Common sense says we should eliminate this strategy-resource mismatch to restore our overall military preparedness.

My defense plan for fiscal years 1995–99 which I propose today, provides a $44 billion increase to add force structure; pay for peacekeeping obligations; and correct the imbalance in readiness, modernization, and quality of life. With this prudent investment, we can eliminate an over-committed force structure. We can meet out military commitments abroad. We can restore a high level of readiness. We can provide an adequate quality of life for our deserving service personnel. And we can continued to modernize our forces to be prepared for future threats. It is right and it is affordable.

The choice is clear—continued decline or prudent restoration of our military preparedness. Will the history books say that American service men and women who performed unselfishly in our Armed Forces had the strong support of the Congress of the United States? Or, will the record show that the Congress chose to leave them unprepared for the difficult trials asked of them? Common sense says that a secure and prosperous America can afford adequate, fully trained, properly equipped, and highly prepared military forces.

HISTORIC CHANGE IN THE CONGRESS OF THE UNITED STATES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Florida [Mr. WELDON] is recognized during morning business for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, this morning I rise to talk about what I feel is a historic change in the Congress of the United States.

When I was running for Congress last year and I received the Contract With America in the mail, I was very, very pleasantly surprised, because when I read through the contract I felt like I was reading my own campaign platform. For months I had been campaigning on how we need to reform the Congress itself and how the Congress does business, how we needed to shrink the size of Government, and how we needed to start in the Congress itself by reducing the number of committees and the number of committee staff.

One of the most important things that I ran on was how strongly I felt that the Congress needed to make all of the laws that they exempted themselves from apply to themselves. Indeed, I was very impressed when I read in the Federalist papers No. 37 written by Madison, how he described in that paper how the Congress should not be allowed to pass laws that did not apply to themselves and their friends.

Mr. Speaker, I am so delighted to actually be here and to see us fulfilling our commitment to the American people, how on that historic day on January 4 we passed all of those congressional reforms reducing the staff, reducing the number of committees, and then how we went on to pass legislation making all of the laws the Congress had exempted themselves from applying to the Congress itself.

Then in recent weeks we have seen historic vote after vote, the passage of a balanced budget amendment, the passage of legislation stopping the practice of passing unfunded mandates on to our cities and on to our counties. I heard over and over again in my campaign from local legislators, local politicians how the burden of unfunded mandates and regulations was killing them.

Then last night again we had another historic vote where a Republican Congress, with a sitting Democrat President, voted to give the President line-item veto authority. It was doubly ironic, it was sweet that this occurred on the birthday of President Ronald Reagan, a man who had campaigned over and over again for the need for a line-item veto for our President. He stated over and over again how there were dozens of Governors in our Nation, in our States who have line-item veto authority, and how they exercise that line-item veto authority prudently to pare back pork-barrel spending and to trim State deficits and help State governments to be more efficient.

Last night we had a historic bipartisan vote where we passed a line-item veto.

Mr. Speaker, we have many, many more important votes coming before this body, votes on some real criminal justice reform to lock up violent offenders, some real welfare reform. Mr. Speaker, I am excited and delighted to be here and to be part of this historic Congress, restoring to the American people, their body, faith in Government again.

□ 0950

MINIMUM WAGE

The SPEAKER pro tempore (Mr. Burton of Indiana). Under the Speaker's announced policy of January 4, 1995, the gentleman from Alabama [Mr. Hilliard] is recognized during morning business for 2 minutes.

Mr. HILLIARD. Mr. Speaker, I rise in support of increasing the minimum wage. Lately I have heard a lot of rhetoric which is both misleading and dead wrong.

Just this Sunday I heard it stated that the only people who work minimum wage jobs are high school and college age kids. Mr. Speaker, this may be true in the wealthier suburban areas of this country, but I wish to tell you that in Appalachia or in the Mississippi Delta or in the black belt of Alabama or in Watts, in Harlem, this is just not the case, and I wish to inform all of those persons who are misinformed that these are jobs that people work to live, and they are not living the American dream. They are having difficulties just living. They are having difficulties in many ways trying to find a decent place to live, because of the low wages that they receive. These are not people who are on welfare, but these are Americans. They are those who reject welfare. They are those who try to live within the system.

Yes, they have a hard time living the American dream, but these are good Americans. They work minimum wage jobs in many instances, because there are no other jobs available in the communities where they live. These are hard-working Americans.

Some of them have high school diplomas, and some who even went to college; many of them are too proud to take welfare, so they are stuck in these low-paying jobs.

Mr. Speaker, we talk a lot about welfare reform, and getting many of our citizens off of welfare. I believe we owe it to these working Americans, these young adults who work minimum wage jobs, the working mothers and fathers, the seniors trying to make ends meet. Yes, we owe it to them who are in the job market to raise the minimum wage.

This act may be the finest welfare reform bill which we vote on during this session of Congress.

THE PROPOSAL TO LIST THE ARKANSAS RIVER SHINER AS AN ENDANGERED SPECIES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Oklahoma [Mr. Lucas] is recognized during morning business for 5 minutes.

Mr. LUCAS. Mr. Speaker, I say to my colleagues if you are fishing in the Arkansas River Basin, you had better watch what you put on your hook. There is a mighty dangerous little bait fish lurking in the basin's waters when there is water in the basin.

This little bait fish might have the power to stop those in the agriculture industry from irrigating their land, or protecting their crops. This little bait fish might inhibit rural towns from utilizing their primary water sources. This little bait fish might even stop a major metropolitan area from completing its $250 million downtown restoration project which is crucial to its economic future. Yes my colleagues should know there is a dangerous little bait fish lurking in the river.

The Fish and Wildlife Service is considering whether to put the Arkansas River shiner on the endangered species list. As a new Member of Congress, I am truly underwhelmed by my first dealings with this segment of our Nation's Government. On September 15, 1994, I joined Congressman Pat Roberts of Kansas, and Congressman Larry Combest of Texas in sending a letter to Ms. Mollie H. Beattie, the Director of the Fish and Wildlife Service, expressing our thoughts on the Arkansas River shiner proposal. To date, neither of my colleagues nor I have received a formal reply.

In our letter, we stated that we were concerned that the listing of the Arkansas River shiner could result in land- and water-use restrictions and other prohibitions that preclude full economic use of property, lower property values, and decimate the economies of the communities in the area. We further urged the Fish and Wildlife Service or an appropriate Government agency to conduct an assessment of the economic impact of any proposal to preserve this little bait fish.

In recent history, western Oklahoma, the Texas Panhandle, and western Kansas were the heart of the legendary Dust Bowl. One generation removed from today's watched as their top soil dried up and blew away. The fact that thriving economies have developed on this once barren land is a testament to the drive and fortitude of the people that live there and their ability to use the resources available to them. The most important of these resources is water. All of us who live in the region will fight any attempts to turn back the clock of progress.

While I believe the Endangered Species Act is important, I believe as written it is flawed because of its lack of human compassion. Economic impact and private property rights must be taken into account in future draftings of the act.

Many of my colleagues know, there is a strong push in the early days of the 104th Congress to put a moratorium on any future endangered species listings until the act is reauthorized. I support this effort wholeheartedly and have cosponsored both the Farm, Ranch and Homestead Protection Act of 1995 by Mr. Smith and the Endangered Species Moratorium Act by Mr. Bonilla. I would urge my colleagues to do the same.

Beware, there is probably a little minnow lurking somewhere in your district too.

INCREASE IN MINIMUM WAGE LONG OVERDUE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from New York [Mr. HINCHEY] is recognized during morning business for 2 minutes.

Mr. HINCHEY. Mr. Speaker, I would like to commend the Clinton administration for taking action on behalf of working Americans today and raising the minimum wage.

The administration's action is long overdue and I hope this wage increase will help the working families of my district—and the Nation—to share in the economic recovery that we read so much about.

According to the Labor Department, the Employment Cost Index, which measures the wages, salaries and benefits paid to American workers, rose by only three-tenths of 1 percent during the past 12 months—the smallest annual increase on record.

This means that wages and benefits have failed to rise in response to economic growth and lower unemployment.

This is not a normal economic recovery in which wages rise as the economy picks up steam.

The Federal Government has few opportunities to improve the wages and benefits of America's labor force and subsequently improve the quality of life of working Americans. Adjusting the minimum wage is one method available.

Today, I applaud President Clinton for attempting to deal directly with the declining standard of living for working Americans.

An increase in the minimum wage is long overdue and I support President Clinton's effort to strengthen the economic outlook for working families.

THE CAN DO CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

Mr. HOKE. Mr. Speaker, what we have seen in the past 30 days is a stark contrast between the can-do Congress and the me-too White House.

Let us just review a little bit about what this can-do Congress has done. By the way, the can-do Congress is something that is being said about our U.S. Congress in international reports. If you pick up the Herald Tribune in Europe or if you pick up any of the London papers, you find out there is tremendous celebration and rather a fair amount of amazement that the U.S. Congress can get so much legislation accomplished in so little time, in such a short time.

What exactly have we done? Well, first of all, we reformed the process. We required Members of Congress would actually have to be present at committee meetings to vote on the bills that are being marked up at those meetings. It means no more proxy voting. It requires our presence at those meetings. We cut staff by a third. We cut the budget for the Congress itself, and we have cut two standing committees, the first time since the 1940's, as well as 27 subcommittees.

So we have reformed this process to make it more efficient, more streamlined, more workable.

And we passed the Congressional Accountability Act. It seems like a very simple concept. We had not even been able to get it to the floor of the Congress for a vote before this session.

We passed the balanced budget amendment for the very first time. We voted on that many times on this floor. We actually passed it. We passed an unfunded mandates bill that requires analysis before we go putting mandates on the States. We have to know exactly what it is going to cost on a State or a local community.

And last night we passed a very important piece of legislation, the line-item veto. The line-item veto is something President Clinton asked for in the 1992 campaign. He did not talk about that very much in the 103d session of Congress, the last session of Congress.

I might go through a few of these things, too, that Mr. Clinton campaigned for in 1992. He campaigned for unfunded mandates reform both as a Presidential candidate and as the Governor of the State of Arkansas. He campaigned for reforming the process, and he campaigned for a middle-class tax cut, all of which are in our Contract With America, and yet last fall what did he do, he called this not a Contract With America but a contract on America. Now, he is back to being me too, but so that he will say, "Well, me, too, we want to do this as well with some exceptions or some provisions or some considerations."

What did he present to us yesterday? He presented to us his version of the 1996 budget for the United States of America for the Federal Government, and without overreacting to that budget, because in a way you have to remember, you have to remind yourself this is not that important an event since he does not have the votes in the Congress to pass the budget anyway, but let us look at what he did do and, in my view, what he did is he went through the motions. He is treading water. He produced a document that he has to produce because of a law that says that he has to send a document to the U.S. Congress.

But it essentially does not make any real changes. What it does do is it continues $200 billion deficits all the way through to the 21st century. What it does do is it adds in the next 5 years, it adds $1 trillion to the national debt. What it does do it makes the interest payments projected for the year 2000 to be $310 billion, when we spent $204 billion on interest in 1994, in other words, a 50-percent increase in interest payments alone in this budget.

And it is clear that there is no will for bringing us to a balanced budget. It is clear from testimony that the Director of the Office of Management and Budget, OMB, Alice Rivlin, gave several weeks ago to my Judiciary Subcommittee, that not only is there no plan for it, but there is no real desire to balance the budget in the White House.

What we have got is we have got a can-do Congress that is actually keeping the promises that it made to the American public. It is re-instilling a sense of confidence in the integrity of this institution. It is re-instilling a sense of confidence in the American people's own ability to elect officials who will do what they said they would do, that this is an institution which can accomplish things, which can get things done, instead of pretending to get things done all the while obfuscating and making every attempt to only create the appearance of activity when, in fact, the real issue is to keep things under wraps.

So here we have got the can-do Congress versus the me-too White House. Keep your eyes posted on what happens in the next month.

IN SUPPORT OF RAISING THE MINIMUM WAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from New Mexico [Mr. RICHARDSON] is recognized during morning business for 5 minutes.

Mr. RICHARDSON. Mr. Speaker, I am here to commend President Clinton for initiating the minimum wage increase, 45 cents for this next year and 45 cents for the next.

It is interesting to note that this morning in USA Today, America's newspaper, 77 percent of all Americans approve of this measure. We cannot allow hard-working Americans to work full-time and not make enough money to pull themselves out of poverty. Eleven million Americans in this country rely on the minimum wage to support themselves and their families. Sixty-four percent of all minimum wage workers are adults with families to feed and rent payments to make.

Today the average minimum wage worker brings home about half of his or her household's weekly earnings. Let me tell you about a family who lives in Clovis, NM, who shared their monthly budget with me. They are a married couple with a 4-year-old son. They both work 40 hours a week at minimum wage jobs. They pay $450 a month for child care, $70 dollars for utilities, $435 for a two-bedroom apartment, $110 for a car payment, $45 for car insurance.

After fixed costs, they have just under $300 a month left to pay for gas, clothes, groceries, and health care. If their little boy gets an ear infection and goes to the doctor, they must feed their family on $35 a week. If their car breaks down, they feed and clothe their family on $20 a week.

This family is not alone. Just in my own congressional district, over 30,000 people get up and go to work every morning to earn a wage that, at the end of a full week, will not even bring them above the poverty level and the ranks of the working poor in our country are growing.

The economy is good. The unemployment rate is at its lowest level in years. The help wanted index is climbing. Yet some hard-working Americans are just not making it.

If left unchanged, by next year the minimum wage will be the lowest point in 40 years. If you are tired of seeing the welfare rolls grow, then let us make work pay. If someone cannot earn enough money working 40 hours a week to feed their family, then we are forcing them into the welfare office. We are telling them it is more profitable to collect than to work.

Do not be fooled by the argument that a modest increase in minimum wage eliminates jobs. Over a dozen recent economic studies have found that modest minimum wage has had an insignificant effect on unemployment levels and has boosted total worker income. Nine states currently have minimum wage levels higher than the Federal minimum wage, and in these States, increasing the minimum wage did not eliminate jobs.

A December Wall Street Journal poll found 75 percent of Americans support raising the minimum wage. To my colleagues, I say the message is clear, minimum wage earners can no longer make it on their salaries, 11 million Americans would get a pay raise if the minimum wage is increased to $5.15 an hour. A 90 cent per hour increase in the minimum wage means an additional $1,800 for a minimum wage earner who works full-time year around.

This is as much as the average American family spends on groceries over 9 months.

Five years ago this body voted to increase the minimum wage by a vote of 382 to 37. The large majority of Americans support it. It is time to raise the minimum wage.

ACCOMPLISHMENTS OF THE 104TH CONGRESS IN ITS FOURTH MONTH

(Mr. EHLERS asked and was given permission to address the House for 1 minute.)

Mr. EHLERS. Mr. Speaker, last month a very important event occurred. We passed a bill giving the President line-item veto authority. We hope this will also pass the Senate and be signed into law.

What is remarkable to me is the pace of what we have been doing in this Congress during the past month and the accomplishments we have made.

And those of you who know me well know I am not this sort of person who brags. In fact, I was born in Minnesota, just like Garrison Keillor, I am somewhat shy and humble. As Garrison Keillor does occasionally, I have to talk about what we do.

We are often criticized as being a do-nothing Congress. I would like to announce we now have a do-something Congress, and I have the figures to prove it, and in the words of the gentleman from Ohio [Mr. HOKE], who spoke a few moments ago, a can-do Congress.

If you look at what this Congress has accomplished in the first month compared to Congresses of the past dozen years, it is striking. The number of hours spent in session, the average for the past 12 years, 28, our Congress, 115, three times as much; number of votes on the House floor, 9.3 is the average of the past dozen years, this year 79, roughly eight times this many; number of committee and subcommittee sessions, average before, 25, this year 155, six times more; number of measures reported out of committee, the average, 1.6, this year, 14, about nine times more.

This Congress is not in the process of reinventing Government, to use that term that is often used. We have a new way of governing. We are getting things done. Not only have we passed a number of important measures such as the balanced budget amendment which Congresses have tried to pass for 40 years or the line-item veto which has been discussed for many years, we have also passed unfunded mandates reform which the States desperately want. We passed the Congressional Accountability Act which applies many of the work place laws to Congress itself. Previous Congresses have exempted themselves.

I think what is even more striking are the internal reforms that we have accomplished, many of which were done the first day of Congress. We have eliminated proxy voting which I felt was an abominable practice. We have cut committee staff by one-third. We have reduced the number of committees and subcommittees.

And I wish all the people in this land could walk through the basement corridors of the Cannon Building and some of the other buildings and see the dozens and dozens of desks lining the walls in the corridor, the hundreds and hundreds of file cabinets that are there and will be auctioned off because they are no longer needed. The staff that used those desks and those file cabinets are no longer here. Congress truly has cut back, and I hope that trend continues.

I think we have to have many cuts in the budget of this Nation, but we have to start with ourselves first, and we have done that.

We have open committee hearings to the public, and we have made dozens of other changes in reforming the way Congress operates, even on such mundane matters as parking. It was discovered that some lobbyists had been given parking privileges in the parking garages here in our buildings, and that has been stopped. Providing parking for partisan political organizations has been stopped.

What I want all of us to recognize and to appreciate and in fact celebrate, is that we are governing in a different way, and the people of this Nation have responded.

Last year the favorable rating of Congress was about 14 percent. It is now almost 50 percent. We have really made progress in changing things, and the public is responding and saying, "Go on. That is what we like. Keep it up."

Now, I do want to warn the people of this Nation that these cuts we imposed on ourselves, as I said a moment ago, are a precursor of what we will be doing to the entire budget, and no one likes to have their part of the budget cut, but everyone is going to have to share the pain, because the people of this Nation have said, "Enough, we want our budget balanced. We want our taxes to be reasonable. We want our country to go forward and operate the way we have to operate our families and stay within our income."

This Congress has pledged to do that.

INTRODUCTION OF LEGISLATION CONCERNING MEXICAN RESCUE PACKAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Ohio [Ms. KAPTUR] is recognized during morning business for 3 minutes.

Ms. KAPTUR. Mr. Speaker, in order for Congress to begin to fulfill our duty under our Constitution regarding the Mexican rescue package, my colleagues and I have introduced a privileged resolution, House Resolution 57. This resolution will be brought up today under special parliamentary procedure after the 1-minute session and the Journal vote this morning.

Our resolution does two things: It reasserts Congress constitutional authority in regard to the purse strings of this Nation, and it also asks the Comptroller General of the United States to report back to the Congress within 7 days on how our tax dollars are being used.

Four men in this Congress and one in the White House do not a republic make. Our bipartisan resolution speaks on behalf of the vast majority of American taxpayers who have clearly said to us that they do not want their money put at risk to ensure a foreign nation nor its creditors.

We were told NAFTA would not result in a great sucking sound. Well, it has not only resulted in a sucking sound of jobs, but now also our taxpayer dollars. To the unilateral actions of the administration in concert with four men here in the Congress, the American people have been denied their just voice on such a consequential matter.

Our Government is not a monarchy. It is not a parliament. We are not here to approve what the Executive does. This legislative branch has equal powers in the law.

Let me read you two sections of the U.S. Constitution which pertain to the powers of Congress in this regard; under article I, section 9, the Constitution states, "No money shall be drawn from the Treasury but in consequence of appropriations made by law." And under article I, section 8, the Constitution states, "Congress has the power," and I underline Congress, "to pay the debts and provide for the general welfare of the United States, to borrow money on the credit of the United States, to regulate commerce with foreign nations, and to coin money, regulate the value thereof, and of foreign coin."

As is evident in this reading, the administration's recent decision to extend United States taxpayer funds to the Mexican Government and its Wall Street creditors without a vote of Congress is a direct violation of the spirit and letter of our United States Constitution. Where in the Constitution does it say that the executive branch has the sole power to create new money and use that money to fund a multibillion-dollar back door foreign aid program for Mexico without the approval of this Congress? Where in the Constitution does it give the executive power to make U.S. taxpayers liable for the mistakes and machinations of a foreign government and its rich U.S. speculators from the United States who went south in search of quick profits?

Today vote for House Resolution 57. Reassert Congress' proper duty and obligation.

□ 1015

PRESIDENT'S BUDGET DOA, DEVOID OF ACCOUNTABILITY

The SPEAKER pro tempore (Mr. BURTON of Indiana). Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. HORN] is recognized during morning business for 3 minutes.

Mr. HORN. Mr. Speaker, when Democrats controlled this Chamber and Republicans were in the White House, the budgets submitted by Republican Presidents were always considered DOA, dead on arrival.

Well, we Republicans who are now in the majority will not follow that tradition. We will take a good, hard look at what the President proposes, and where we find common ground, we will work with him. But it is clear that the President's budget is not nearly as aggressive as it should be in reducing the size and the power of the Federal Government.

The few cuts that are there are half-hearted, and spending is still going up too rapidly. In fact, this budget calls for a $50 billion increase in spending from the current budget.

So much for leadership. The Wall Street Journal reported that the budget "makes little further progress in reducing the deficit." So much for leadership.

The paper reports that the President's game plan is to let Republicans make the hard decisions. This is not Presidential leadership; it is Presidential abdication.

You know, come to think of it, maybe the President's budget is DOA. But that is not dead on arrival, that is devoid of accountability.

THE $50,000 TAX DEDUCTIBLE DINNERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I come to the well to speak about something that troubles me a lot. I spent 3 years of my life, and I must say they were miserable years, studying the Tax Code when I was in law school. And the one thing that was very clear in our Tax Code was you did not get a charitable deduction for political donations. If you gave to charity, fine, you got a charitable deduction. But if you gave to politics, you did not get one.

I think most of us as Americans think that that is the way it should be. But we are in interesting times, very interesting times. We have a new Speaker who has found ways to stretch these things, and tonight we have a very interesting occasion going on, showing how these bright lines are being blurred more and more.

If you saw the Chicago Tribune today, they are mentioning the Speaker's dinner tonight, which will cost $50,000 a plate—$50,000 a plate. But unlike a normal political contribution, $19,800 will be tax deductible.

Now, what is this dinner about and how do you get the tax deduction? Well, you get the tax deduction because they are saying it goes to a nonprofit organization. But that organization happens to be the Speaker's television network called National Empowerment Television. And what is it? It does not even pretend to have balance. It does not even pretend to present both sides. It presents NEWT's views 24 hours a day. I do not think NEWT's views qualifies as news all the time, and I do not think that is what the Tax Code was meant to back.

So you see, now really an indirect taxpayer subsidy is going to this television thing that is absolutely nothing but broadcasts of whatever they want to put on. That looks terribly political, and I think is terribly political.

At the very same time you see them taking on public television, which is a different kind of direct subsidy which does attempt to be balanced and does let everybody on.

Now, is it not interesting? While you hear they don't want taxpayer subsidies of that, they are perfectly willing to craft these dinners that only let in people from a certain strata of society. Believe me, to pay $50,000 for a dinner you have got to come from a lot wealthier background than I do in my district. You get a House for $50,000. Nobody would ever think of paying $50,000 for a dinner.

Also think about if you are an average tipper like I am and you did a 20-percent tip. A tip on that $50,000 dinner would equal what the average minimum wage earner earns in a year. Just think, one tip on one dinner, one night, equals what a minimum wage earner makes for a year.

I mean, what is going on here? This is one of the things that many of us on this side are very troubled about. I was pleased to see that Time magazine is also getting troubled about it. Time magazine has an excellent article this week called "Newt, Inc." I hope everybody reads it, because it lays out many of the interesting ways the Speaker has been able to spread his tentacles out to control all these different ways of access to public information, shut off those who are not with him, find novel ways for people to be able to deduct it, and really march forward.

That does not look like the democracy I knew. The democracy I knew was one where everybody had an equal weighted voice and everybody's vote counted equally. I just do not see why we should be doing taxpayer subsidies of this type of occasion, and I do not see how in the world you can ever pretend that everybody's voice is going to be weighted equally, if you cannot get access to the TV stations that the taxpayers indirectly subsidize, nor can you buy the ticket to the dinner which the taxpayers are indirectly subsidizing.

So I think we have to pose some very serious questions to the Internal Revenue Service, and we have to look at all these different stretchings of the law. There is absolutely no question what the spirit of the law is. I think that we should not be stretching the spirit, but instead we should be upholding the spirit of the law in this body.

INCREASE THE MINIMUM WAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Texas [Mr. GENE GREEN] is recognized during morning business for 3 minutes.

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the minimum wage was increased 4 years ago. However, the purchasing power of that same $4.25 has declined 40 percent due to inflation. A recent study shows that in 1968 the minimum wage had a purchasing power in 1995 dollars of $6.49. There are arguments on both sides of this issue but allowing working Americans to work for a living wage is the best method to reform welfare.

If a worker puts in 40 hours a week, 52 weeks a year, their gross wage is just over $8,800. For an average family in the 29th Congressional District of Texas which I represent they will be over $3,500 below the poverty line. Add the maximum earned income tax credit and that family will be $400 under the poverty line and eligible for welfare under many programs.

However, this same family, with a minimum wage increase to $5.15 and their maximum earned income tax credit, will now be above the poverty level and will no longer have to be on welfare. If the Members on the other side wish to save on welfare, and wish people to work, increase the minimum wage so full-time workers will not be eligible for welfare.

The myth that the minimum wage is only paid to teenagers does not fit with the fact that over half of the minimum wage earners are 26 or older. Congress must act and allow working Americans to earn a living wage.

My Republican colleagues talk about "me-too-ism" from the White House on Republican proposals. My Republican colleagues should develop me-too-ism on reducing welfare by paying an increase in the minimum wage—me-too-ism is bipartisanship working. Let us see it work for working Americans.

GIVE WORKING AMERICANS A BREAK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized during morning business for 2 minutes.

Mr. BONIOR. Mr. Speaker, let me see if I get this straight: First the Republicans said we cannot raise the minimum wage because it would cost jobs. Well, that argument did not fly. We know that from the studies that have been done recently between New Jersey and Pennsylvania and New York, where those establishments along the border that did raise the minimum wage actually found increased employment. That argument did not fly.

So next the Speaker said we cannot raise the minimum wage because of the crisis in Mexico, as if 58 cents an hour should be our benchmark. That our wages in this country should be tagged to those in Mexico. That did not fly.

So now the Senate majority leader says that the only way we can raise the minimum wage is if we cut taxes on the wealthy investors first. The Republicans say that the only way we can help people who earn $9,000 a year is by cutting taxes on those who make $9,000 a day.

Mr. Speaker, give me a break. If the Republicans want to help their wealthy friends, fine. But we are not going to let you do it on the backs of working families in this country. It is time we give working Americans a break, not just the wealthiest in our society.

I urge my colleagues to support the minimum wage, which is a just, living wage, which will move people to work, off welfare, and give them the wherewithal and the sustenance and a living wage to care for their families and to move up into the middle class, where they can hopefully enjoy a better future for themselves and their family.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 11 a.m.

Accordingly (at 10 o'clock and 26 minutes a.m.) the House stood in recess until 11 a.m.

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 a.m.

PRAYER

The Reverend Dr. Ronald Christian, Office of the Bishop, Evangelical Lutheran Church in America, Washington, DC, offered the following prayer:

Almighty God, in this moment of stillness, before the work of this day begins, we first acknowledge our daily dependency upon Your grace and Your care.

We seek guidance when we could so easily be led of the course of justice for all,

We ask for wisdom when our decisions could so quickly be driven by selfish desires,

We plead for mercy when our petty jealousies have caused a wedge to be driven between ourselves and others,

And, we pray for courage when, with feeble heart, we might easily give in to goals that are less than the best for our neighbors.

Oh God, in these words and for these moments, let us all be reminded again of Your presence with us and our responsibility to You,

And may our words and actions this day serve more Your majestic will and purpose, than our fleeting wants and wishes. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Illinois [Mr. GUTIERREZ] lead the House in the Pledge of Allegiance?

Mr. GUTIERREZ led the Pledge of Allegiance as follows:

> I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, our Contract With America states the following:

On the first day of Congress, a Republican House will: Force Congress to live under the same laws as everyone else; cut committee staffs by one-third; and cut the congressional budget.

We did all this on the first day.

It goes on to state that in the first 100 days, we will vote on the following items:

A balanced budget amendment—we have done this; unfunded mandates legislation—we have done this; line-item veto—we have done this.

Yet to be accomplished:

A new crime bill to stop violent criminals; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for families to lift Government's burden from middle-income Americans; national security restoration to protect our freedoms; Senior Citizens' Equity Act to allow our seniors to work without Government penalty; Government regulatory reform; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature.

This is our Contract With America.

PROPOSED SPECIAL FEES ON CARS AND PEDESTRIANS CROSSING UNITED STATES BORDERS

(Mr. LAFALCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAFALCE. Mr. Speaker, I can think of no proposal more objectionable to the people of western New York, no proposal more potentially harmful to the economy of western New York than the administration's budget proposal to initiate a $3 special fee on any vehicle entering the United States from Canada or Mexico, and $1.50 on any pedestrian coming into the United States.

Mr. Speaker, the whole purpose of the free-trade agreement between the United States and Canada was to facilitate the flow of people and products.

This runs contrary to that concept. The whole purpose of the free-trade agreement between the United States and Canada was to reduce and then eliminate all tariffs on products coming back and forth between our countries.

Now, the administration wants to impose a fee on people and their cars.

This cannot stand.

MY MISSION

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, 40 years ago, in College Station, TX—PHIL GRAMM country—I pinned on Air Force wings of silver. Forty years is a long time. When my dad was in his eighties, he said, "Son, your whole life will seem like 3 weeks when you get to my age."

I have reflected back over my life, and as awed and as humbled as I was by being elected to this great deliberative body in the bicentennial year, it was not the greatest event of my life. Those events are marriage, 5 children, 9 grandchildren. I proposed to my wife 40 years ago tomorrow night, after driving all night to get to California.

But the greatest event in my public life was these wings. Imagine serving with men, every one of them like JOHN GLENN, JOHN MCCAIN, PETE PETERSON, "DUKE" CUNNINGHAM, our own "Gary Cooper," SAM JOHNSON. I owe it to those men to go into the melee next week and explore things in Iowa and New Hampshire and at least South Carolina. Only God knows the outcome. But I am ready for what may be the toughest mission of my life. I do not know how far I will go, but I am going to give it a try.

A HIGHER MINIMUM WAGE

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, I know that to many Members of Congress, another 90 cents is nothing more than pocket change.

But to Americans making minimum wage it is not pocket change—it is real change.

A change from worrying about paying the rent, or food, or buying new shoes for their kids.

A change to a life with some economic security.

It amazes me that our opponents say "yes" to a book deal that is worth more than four and a quarter million, but "no" to anything over four and a quarter an hour for the people who will print, pack, ship, and sell that very book.

Well, I want to speak to everyone earning $4.25 today. If your wage is not $5.15 an hour when that book hits the shelves, I say, "don't buy it." Because I think our Speaker should read a book about the hopes and dreams of America's working families rather than the other way around.

So I say to our opponents—you defend your millions and we Democrats will defend ours. Your millions, of course, are the millions of dollars earned on a book, and our millions are the millions of Americans trying to earn a decent livable wage.

OLD SOLUTIONS TO NEW PROBLEMS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, as Republicans worked to pass an unfunded mandate reform bill last week, President Clinton worked to pass another unfunded mandate on our private sector.

Maybe I missed something, but I thought the election of last November was about change. So far this year, the only thing the Democrats have wanted to change is the subject.

From the balanced budget amendment to the line-item veto, the liberal Democrats have consistently supported the status quo. With the President's minimum wage proposal, they have reached back again to the past for an issue they hope will help them in the polls.

But the American people are no longer satisfied with old solutions to new problems. They do not want bigger government and bigger mandates. They want a more effective and more efficient federal Government.

I challenge the President to join Republicans in changing the way Government works. Let us work together to ease the regulatory burden on our small business. We worked together to pass a line-item veto. Mr. Speaker, I urge the President to stop changing the subject and work with Republicans in changing the Government.

□ 1110

NAFTA, 1 YEAR LATER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, NAFTA, 1 year later. Thirty-six thousand Americans have filed claims with the Labor Department. They lost their jobs due to NAFTA. That is right, and the list goes on. Woolrich up in Pennsylvania and Colorado, they laid off 450 workers, moved to Mexico, hired workers at $1 an hour. You have Magnatech in Indiana and Michigan. They moved to Mexico.

Tell me, Congress, how can American workers survive when American companies can move to Mexico, hire people at $1 an hour, have no IRS or EPA or OSHA to pay them a visit? Is it any wonder the American worker is fed up with Congress? A Congress that will take care of Russia, but forget about Rhode Island? A Congress that will take care of Kuwait, but forget about Kentucky? A Congress that will worry about Mexico and forget about Mississippi and Massachusetts?

Is it any wonder, Congress? Think about the American worker for a change.

THE PRESIDENT'S BUDGET

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, the President's budget is a microcosm of his entire administration: too little, too late.

Sure, he has some spending cuts. But those cuts are not enough to satisfy the American people, or get the job done.

He may have sprinkled in a few tax cuts, but they are far too late for the middle class.

Mr. Speaker, the President's budget may not be dead on arrival, but it is on a respirator.

Republicans will take up many of the President's cuts, while adding billions more. And we will look carefully at his other proposals. But clearly, the President has not gotten the message of the last election.

We need a fundamental change in the Federal Government, not just tinkering around the edges.

With his budget, the President has offered only a modified status quo. For many of us that simply is not good enough.

THE $50,000 TAX DEDUCTIBLE DINNER

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, the American people have a right to know—just who is coming to dinner tonight?

And what will they be getting in return for their $50,000 tax deductible contribution to Empowerment TV?

This is the same tax exempt TV network that carries Speaker GINGRICH's college course.

The same tax deductible course that is the core of the Speaker's soon-to-be-very-profitable book deal.

Mr. Speaker, these interlocking networks of special interests—multimillion dollar think tanks and political action committees, many of them subsidized at taxpayer expense for personal or partisan political gain—is casting a long ethnical cloud over this House.

Is it any wonder that Public Citizen, Common Cause, and others have joined the chorus calling for an independent, nonpartisan investigation into the ethical charges surrounding the Speaker?

It is time for an outside counsel to untangle this web.

THE PRESIDENT'S BUDGET

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, it is my hope that the more we delve into President Clinton's budget, the more we will find in it that we like and can support. As we heard already this morning, this budget will not be dead on arrival.

If the President has some good ideas that we can support while being consistent with our goal of smaller, less costly government, we will gladly incorporate some of his ideas into the budget.

But I have to say, Mr. Speaker, that upon initial examination the President's budget proposal is not very bold. In fact, it merely treads water.

Mr. Clinton constantly reminds us that he is the first President in memory to cut the deficit 3 years in a row. Well, that is a start, but it is not an end in itself. Under the President's own projections, the budget begins its upward path again next year.

We Republicans are committed to balancing the budget by the year 2002. If the President wants to help us, fine. But if he wants to remain wedded to the politics of the past, then we will act alone. However, one way or the other, rest assured, we will get the job done.

A $50,000 A PLATE FUNDRAISER

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, tonight National Empowerment Television, the taxpayer-subsidized station which broadcasts Speaker GINGRICH's college course, is holding a $50,000 a plate fundraiser. But it is the Speaker, not the filet mignon, that is the main course.

This lavish dinner speaks volumes about who Republicans represent. They are dining with the elite, at the same time Republicans are opposing a minimum wage increase for American workers. A full-time minimum wage worker would have to work 5¾ years to buy a seat at Mr. GINGRICH's table tonight.

Those lucky enough to have a spare fifty grand to buy a ticket for tonight's fundraiser will be rewarded with a nifty $19,800 tax break. You see, National Empowerment Television operates as a nonprofit, even though it is the only TV station devoted solely to a particular political ideology. Like tonight's dinner, this is another example of the commingling of politics and special interests that has led to the calls for an outside counsel to look into and investigate Mr. GINGRICH's political and financial dealings.

RESTORE THE RULE OF LAW TO SOCIETY

(Mr. MARTINI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTINI. Mr. Speaker, I rise today as a former Federal prosecutor to discuss a topic that this body will soon debate: crime reform.

Crime in this country has reached epidemic proportions. It is time we as a body get serious about restoring the rule of law to our society.

Alexander Bickel of Yale University once said:

> No society will long remain open and attached to peaceable politics and the decent and controlled use of public force if fear for personal safety is the ordinary experience for large numbers.

Yet sadly, today 8 out of every 10 Americans can expect to be the victim of a violent crime at least once in their lives.

It is apparent that the debate over these crime bills embroils us in more than simply an exchange of competing partisan ideas.

The coming debates will engage us in a struggle that affects the very core and future of American society.

As the discussions begin, I urge my colleagues to take swift and strong action on behalf of the well-being and safety of a nation's people.

APPOINTMENT OF OUTSIDE COUNSEL NEEDED

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, the clouds of scandal once again are gathering above the House of Representatives. The Wall Street Journal has been running daily accounts of the special favors that the contributors of GOPAC and the contributors to the Progress and Freedom Foundation that are controlled by the Speaker have sought and received.

According to the Wall Street Journal, 10 percent of the contributors to the Progress and Freedom Foundation are makers of drugs and medical devices, whom we now learn are the same people who have sought special legislation and are now seeking to gut the Food and Drug Administration. What we as Members of the House are witnessing is very strong suggestion that the House of Representatives is somehow for sale.

This cannot be allowed to stand. We as Members deserve better, and the people of this Nation deserve better. It is imperative that the House Committee on Ethics and its chair, the gentlewoman from Connecticut, NANCY JOHNSON, move to appoint outside counsel. Given the ramifications of these stories and the fact that GOPAC and the Progress and Freedom Foundation are controlled by the Speaker, the committee has no other choice. It owes it to the people of this Nation to do so, and I urge my colleagues to call upon the gentlewoman from Connecticut [Mrs. JOHNSON] to appoint outside counsel.

ANOTHER CONTRACT WITH AMERICA ITEM PASSES HOUSE

(Mr. KINGSTON asked and was given permission to address the House for 1 minutes and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, imagine going to the grocery store to buy your daily fruit, vegetables, and meat, and when you go through the counter the clerk reaches over and sticks some caviar in your grocery cart. And you say, "I don't want any caviar." And he says, "Tough, you want your meat and potatoes; you have to buy my caviar. And if get too sensitive, I am going to throw in some Twinkies."

Well, that is what the Congress has been doing to the American people and their President for too many years. But as of yesterday, with the passing of the line-item veto, we, the American people, can have our President stop it.

Item three on the Contract With America has now passed the House. Call your Senator, ask him or her to support the line-item veto, and then we can have that lean, green, grocery shopping machine that we all want. Cut out the fat, Mr. Speaker.

FUNDRAISING FOR NATIONAL EMPOWERMENT TELEVISION

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, tonight the Speaker of the House is the special host of a dinner to benefit National Empowerment Television, a radical right-wing TV station devoted solely to espouse reactionary views over the airways 24 hours a day. It is appalling that there is a TV station designed not to be objective, but to brainwash, and to boot it is tax deductible.

Just as appalling is the price tag for the dinner, $50,000 a plate.

What do you they serve at a $50,000-a-plate dinner? First is access, a chance to rub elbows with the Speaker; second, and just as outrageous, a huge taxpayer subsidy. That is right. Unlike meals most working Americans eat, this one comes with a special $19,800 tax break. About a dozen people are attending the dinner, for a total tax break of $237,600, enough money for 21,000 meals-on-wheels for the elderly.

□ 1120

By the way, if you are working for the minimum wage, it will take you 5 years, 45 weeks, 4 days, 2 hours and 33 minutes to pay for this one dinner. I guess that dinner will be served in the year 2000 on December 22. The fundraiser is wrong. The price tag is way out of line. The TV station is bizarre and the taxpayer subsidy is a disgrace.

MINIMUM WAGE

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, in his State of the Union Address, President Clinton made the point that a Member of Congress earns more in a month that a minimum-wage worker earns in a year. Well, perhaps a more interesting statistic is the Federal Government spends more in less than 4 days than all the 3.5 million minimum-wage earners make in a full year. Yet in his new budget, the President proposes that we spend $50 billion more next year than this year, $50 billion we do not have.

While the President has taken some small, positive steps, it is clear he is not up to making the tough decisions on the budget. So we in Congress, yesterday, voted to give the President a new tool, the line-item veto. We would like to have the President as a partner, but we are prepared to go it alone in balancing the budget.

We are going to improve the lot of minimum-wage earners and middle-income Americans and the best way to do it is to get the Federal budget under control and grow the economy.

Our Contract With America will do precisely that by lowering taxes, reducing Federal regulation and Government spending and increasing incentives for work and investment. The results will be a balanced budget by the year 2002, the sooner, the better.

SPECIAL INTERESTS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, to anyone who is wondering why Public Citizen, Common Cause, and almost every other good Government group I know and many others are calling for outside counsel to investigate the growing array of special interest connections that are alleged to be gathering at the Speaker's doorstep, watch tonight. Because tonight lifestyles of the rich and famous come to Washington.

Yes, for $50,000 you can get a dinner. Well, the steak better be good. Yes, you can get a dinner, but you can also get access. And that dinner can be publicly subsidized because you as a taxpayer are going to pay $19,800 for that dinner. So if you are outraged by that dinner, think about it. Especially on the very same day the Speaker is quoted in the Washington Post as saying public high school is nothing but publicly subsidized dating.

Please, what is wrong? Let us get on with an outside counsel and get this cleared up.

THE CRIME BILL

(Mr. WHITE asked and was given permission to address the House for 1 minute.)

Mr. WHITE. Mr. Speaker, I have looked forward to this moment for a long time. These are my first remarks on the floor of the House.

I have waited for this moment for an important reason. The crime bill that we are about to consider this week is one of the most important things that this Congress will do in the entire 2 years we are here.

I have said many times that the crime bill that passed last year was not an example of everything that is wrong with Congress. It was directed at an important national problem, but it did not solve that problem. It spread social spending out in every congressional district, a little bit of pork for every Congressman. It was the worst tradition of politics as usual.

This year we are going to be different. This year's bill focuses on what the Federal Government can do to solve the crime problem, including building more prisons, changing some of our procedural rules, and sending the responsibility back to the local governments to decide what to do.

Mr. Speaker, I am proud to be here. I am proud of this Congress. And I look forward to dealing with this crime bill over the next week.

THE MINIMUM WAGE

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, the distance between low- and high-income families is growing. We must act now to close that gap. If we do not act, the cost of basic necessities—housing, food, and clothing—may be unaffordable for these families. Those costs are rising. Earnings for low-income families are falling. An increase in the minimum wage, as proposed by the President, will help to close the gap. With no minimum wage increase, those with little money end up with less money.

An increase in the minimum wage will not provide plenty, but it can raise working families out of poverty. In 1993, high-income families averaged $104,616 in earnings. Low-income families averaged $12,964. Between 1980 and 1992, income for the top 20 percent in America increased by 16 percent while income for the bottom 20 percent decreased by 7 percent. An increase in the minimum wage will help low-income families, but it will not hurt high-income families. The growing income gap hurts the economy. The best welfare reform is minimum wage reform. Low-income workers are helped. The economy is helped. No one is hurt. If we want to help people, we should help them and not hurt them.

PUT TEETH BACK IN THE CRIME BILL

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, when the Democrats passed their soft-on-crime bill last year, we were assured that it would be tough on criminals and attack crime's root causes. But once the American people learned what it was—dance classes and midnight basketball, what they called hugs for thugs—they issued a very different verdict at the polls. They said the Democrat crime bill was guilty of being pollyannaish, that it coddled criminals instead of incarcerating them, and they said, "We want our streets back. We want the criminal justice system to act as a deterrent. We believe that you have got to catch, convict, and confine. That is what criminal justice is all about."

When we take up the crime bill today, we are going to put some real teeth back into it and give our police and prosecutors the tools that they need to do their job effectively. We are going to stop frivolous appeals. We are going to end the practice of letting criminals off on technicalities and build more prisons to keep them off the streets.

Our Constitution demands that we ensure domestic tranquility, a duty that we have been failing at recently. That changes, starting today.

SUPPORT OUR AFFIRMATIVE ACTION LAWS

(Mr. STOKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOKES. Mr. Speaker, I rise to express my strong support for the affirmative action laws of the United States. Within the last two decades, affirmative action has been the primary tool that has allowed minority and women workers to break through the many barriers of employment discrimination.

Despite the steps our Nation has taken to move forward in the area of affirmative action, we are now faced with a new onslaught on civil rights, as evidenced by the recent statements of a Republican Senate leader. In a Washington Post article published yesterday, this Republican Senate leader is quoted as asserting that affirmative action has caused some Americans to "Have to pay" for discrimination practiced "before they were born." A congressional leader who opposes affirmative action should realize that jobs do not belong specifically to one race of people. Black Americans born in this country, also have a contract with America. That contract, by virtue of birth, is rooted in both the Constitution and the Declaration of Independence.

The truth of affirmative action programs is that they do not grant preferential treatment to selected Americans, but provide for a means of equal opportunity employment for all members of our society.

BIPARTISAN COOPERATION HELPS IN KEEPING PROMISES TO THE AMERICAN PEOPLE

(Ms. PRYCE asked and was given permission to address the House for 1 minute.)

Ms. PRYCE. Mr. Speaker, a few weeks ago in an historic and symbolic gesture the esteemed minority leader from Missouri passed the gavel onto the first Republican Speaker in 40 years announcing: "Let the great debate begin."

But a great debate there was not. For it seemed that when the Republicans wanted to change the way Congress works, the Democrats wanted to change the subject. When Republicans wanted to make Government leaner and less intrusive, Democrats seemed intent to use scare tactics and delaying maneuvers.

But Mr. Speaker, this past week or two were different and for the third time in about the same period, the American people won. Casting politics aside and placing the American people first, we together have now passed a balanced budget amendment, unfunded mandate reform, and a line-item veto.

Mr. Speaker, we are now on a roll. There is a renewed spirit of reform and fiscal restraint in this great body of the people. I look forward to even more bipartisan cooperation in our goal to keep our promises to the American people.

□ 1130

URGING CONGRESS TO PASS THE MODEST INCREASE IN THE MINIMUM WAGE

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, our Republican friends support a tax cut for wealthy Americans earning more than $200,000 a year, but they will not support a raise in the minimum wage for people who want to work and not collect welfare.

If we truly want to move people off public assistance, we must make work more attractive than welfare. We ought not be deceived by those who say the minimum wage is only being paid to teenagers from well-off families. Two-thirds of minimum wage workers are adults over the age of 21, many of whom bring home at least half their family's income.

Let us look at the choices faced by a single mother living at the poverty level. If she goes on welfare, she can get comprehensive health care and a monthly check from the government. If she goes to work at a minimum wage job, she earns only $8,500 a year, and her family loses her health coverage. She must find a way to care for her children while she is at work. That is not much of a choice. Mark my words, Mr. Speaker, tossing people off welfare will not make these dilemmas magically disappear.

The minimum wage is an important piece of the effort to raise the living standards for all Americans. We started on the right path last year when we voted to expand the earned income tax credit. Let us raise the minimum wage.

COMPENSATION FOR VICTIMS OF CRIME SHOULD BE A BIPARTISAN CONCERN

(Mr. LATOURETTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATOURETTE. Mr. Speaker, today this House will begin debate on the Victim's Restitution Act of 1995.

While there may be honest points of disagreement in subsequent consideration of habeas corpus reform, restrictions on the exclusionary rule and the death penalty, there should be no difficulty in recognizing the absolute need within our justice system to compensate victims of crime for the horrors visited upon them by those who cannot abide by society's rules.

In my tenure as a county prosecutor, the most commonly heard complaint by victims of crime was that their voices and their rights were the only absent parties from the criminal justice equation.

The people are represented by the D.A.; the defendant had his high-priced or taxpayer-supported mouthpiece—but the victim, like the cheese in the children's rhyme "The Farmer in the Dell"—stands alone.

And although financial recompense cannot replace the loss of personal security one suffers at the hands of the criminal, it is wholly appropriate that the wrongdoers pay in many ways for their inability to conform their behavior to socially acceptable standards.

It has become commonplace for the pendulum to swing back and forth between protection of society and protection of defendants' due process guarantees. Today it is time it swings toward victim's rights—and after today, the victims of crime will no longer stand alone.

CALLING FOR OUTSIDE COUNSEL TO HELP THE ETHICS COMMITTEE

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, on May 26, 1988, a Member of this House said: "I believe that honesty and accountability lie at the heart of self-government and freedom. Without integrity, our free institutions cannot survive." I could not agree more.

Mr. Speaker, on that same day, that same Member said: "Recently the weight of evidence has grown so large that Common Cause has called for an investigation." That Member was NEWT GINGRICH. While Speaker GINGRICH and I may not agree on much in the 104th Congress, I certainly agree with what he said then.

I join Common Cause in calling for an outside ethics adviser to help the Ethics Committee.

As Speaker GINGRICH said in 1988: "I think there is a different standard for being Speaker." I agree.

As the Speaker himself said, we need an outside counsel.

THE EXCLUSIONARY RULE REFORM ACT WILL HELP REDUCE CRIME

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. We have all heard stories about suspected criminals that have had their cases dropped due to illegal searches. I, like all Americans, believe strongly in the fourth amendment which bans unreasonable search and seizures. However, the number of dismissed cases is on the increase.

We have police officers risking their lives each and every day to put these criminals behind bars only to later have the criminals released on a technicality.

Under current law, judges must ignore evidence which was gathered illegally based on present interpretation, even when police thought they were acting legally. This must stop. We cannot allow criminals to control us.

The Exclusionary Rule Reform Act allows a good faith exception to be adopted. It ensures that violent criminals will not be released on a technicality if a search or seizure was conducted in good faith. People are tired and fed up with the justice system.

Let us give the people a sense of security and pass H.R. 666. The police desperately need this help in fighting crime. The American people are demanding help from elected officials in reducing crime.

HONOR THE BIRMINGHAM BLACK BARONS AND THE NEGRO BASEBALL LEAGUES

(Mr. HILLIARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, during segregation, blacks were excluded from organized baseball. To play baseball, black players and supporters organized the Negro Leagues. These leagues not only gave black players an opportunity to play, but they were an important part of the social life of the community.

The Birmingham Black Barons was one of the founding teams in the Negro Southern League. They often drew larger crowds than white teams which played in the same park. Their games often featured such promotions as dance contests, beauty pageants, and visiting celebrities like Lena Horne and Lionel Hampton. The Black Barons produced players such as Willie Mays and Satchel Paige, who later had prominent careers in organized baseball, when the barriers against black players were lowered.

The Birmingham Public Library is honoring players from the Birmingham Black Barons and other Negro League teams on Thursday night. At this time I would like to honor the following players: Mr. Pat Patterson, Mr. Willie Young, Mr. Eugene Williams, Mr. Norman Lumpkin, Mr. Verdell "Lefty" Mathis, Mr. Joe Scott, Mr. Sherwood "Chet" Brewer, Mr. Sammy Haynes, Mr. Frank King, Mr. James Zapp, Mr. James "Fireball" Bolden, Mr. Tommy Sampson, Mr. Cecil Witt, Mr. Ralph Johnson, Mr. Arthur Hamilton, Mr. John Kennedy, Mr. Anthony Lloyd, Mr. Johnnie Cowan, Mr. Bob Hayden, Mr. Carl Holden, Mr. James Norman, Mr. William Davis, Mr. Harold Hair, Mr. Willie Sims, Mr. Ralph Johnson, Mr. Louis Gillis, Mr. Carl Holden, Mr. Nathaniel Pollard, Mr. Joe B. Scott, Mr. Otha Bailey, Mr. Lyman Bostock, Mr. William "Cap" Brown, Mr. Lorenzo (Piper) Davis, Mr. Frank Evans, Rev. William Greason, Mr. Wiley Griggs, Mr. Raymond Haggins, Mr. Sam Hairston, Mr. Willie Harris, Mr. James "Sap" Evory, Mr. Willie Lee, Mr. Jesse Mitchell, Mr. John Mitchell, Mr. Wiliam Powell, Mr. Eugene Scruggs, Mr. Freddie Shepard, Mr. Willie Young, and Mr. Harry "Mooch" Barnes.

We are honoring only a few of the pioneers, but the others are not forgotten. Their contributions added immensely to the joys, pleasures and "good times" of a disenfranchised people at a difficult time in their lives. The work of each one of them shall be etched in the history of a people struggling to be free. This insertion into the CONGRESSIONAL RECORD ensures them that a record of their part in making America free, shall be preserved as long as this country exists.

May we play the game of life as honorably as they played the game of baseball.

KEVORKIAN (DEAD ON ARRIVAL) ACCOUNTING IN PRESIDENT CLINTON'S BUDGET

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, the Wall Street Journal's editorial page says it all, calling Clinton's budget Kevorkian accounting. It is dead on arrival.

Did the President's budget show leadership? I do not think so. Courageous? Not. Again, quoting the Wall Street Journal, "Mr. Clinton's budget is essentially a defense of the status quo."

Mr. Speaker, we were not elected to this great body to defend the status quo. We were elected to this great body to reform Congress, to get this Nation's financial house in order, and to make Government leaner and less intrusive.

We have made great progress, passing a balanced budget amendment, unfunded mandate reform, and just yesterday the line-item veto. Despite our President, who has taken a walk with his budget presentation, we will make the tough choices which will lead to a balanced budget.

For the sake of our children and our children's children, we must not fail. We must show the courage and leadership to balance the budget.

CALLING FOR A TRUE OUTSIDE COUNSEL

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, what does the Speaker's dinner tonight, called Dining for Dollars, the minimum wage, and the outside counsel, have in common? It is a $50,000-a-plate dinner on which there will be a $19,000 tax break for everyone attending, which, incidentally, will pay the total wage for two minimum wage earners, the waiters, valets, car parkers, and so on, who will be waiting on those people, and incidentally, those wage earners will have trouble going to McDonald's to get the same tax break.

It all raises questions of access. I want to suggest a show for the new National Empowerment Network. Legal shows are popular. This will focus on questions such as media tycoons who have matters before Federal agencies and book deals with high congressional officials.

It can focus on political action committees that will not release the contributors before January 1. It can probe all types of questions of access. However, Mr. Speaker, we ought to take this show for the outside counsel out of Congress and get it where it belongs, in the public and with a true outside counsel.

APPLAUDING EMPLOYEES OF THE KENNEDY SPACE CENTER ON A REMARKABLE SPACE SHUTTLE MISSION

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, right now, the shuttle *Discovery* is orbiting 170 miles above, on a remarkable mission.

This shuttle mission, commanded by James Wetherbee is a mission of firsts.

Yesterday we witnessed a historic event: the rendezvous with the Russian space station *Mir*.

The shuttle *Discovery* maneuvered within 44 feet of the Russian space station.

This was a major effort of two former enemies, with different languages, cultures, and technologies, working together in peaceful cooperation.

This cooperation gives us great hope for the continued success of the U.S.-led international space station.

□ 1140

On board the space shuttle is Eileen Collins, the first woman to pilot a space shuttle mission. She is joined by the second Russian cosmonaut to fly aboard a United States space shuttle, Vladimir Titov.

Mr. Speaker, I salute and applaud the employees of Kennedy Space Station as well as Johnson in support of this remarkable shuttle mission.

WHAT A DINNER

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Georgia. Mr. Speaker, tonight the taxpayers are going to dinner with Speaker GINGRICH.

Tonight a dozen high rollers will sit down to dine with the Speaker and hand over $50,000 checks for his radical right wing television station. In the process, each attendee will get a tax write-off of almost $20,000. That is almost $240,000 of our tax dollars going to support the radical right wing agenda.

This is the same Speaker who refuses to release the names of the contributors to his personal political machine GOPAC. The same Speaker who, according to the Atlanta Constitution, accepted almost $715,000 from one couple for GOPAC and hundreds of thousands of dollars from other individuals.

A television station, a political organization, a foundation, even a $4.5 million book deal. It is amazing Speaker GINGRICH has any time at all to be Speaker of the House.

Too many ethical questions have been raised about this Speaker. We need an outside counsel to clear the air, to find the truth, and we need one now.

PRESERVE THE CONSTITUTIONAL ROLE OF THE HOUSE FOR EXPENDITURES OF PUBLIC MONEY

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, the American people and the Congress oppose the Mexican bailout, yet some power brokers in New York and in the executive branch seem to think they own the U.S. Government, and they have decided that the taxpayers are going to bail out Mexico anyway.

Using our own exchange stabilization funds to rescue Mexico from default is the equivalent of selling our own car insurance so that we can pay for the insurance of an irresponsible neighbor who cannot get insurance of his own because his driving record is so bad, and this arrangement may work as long as we do not have an accident.

In this situation, our greatest chance of an accident is being hit by our irresponsible neighbor.

This bailout for Wall Street and the elite in Mexico is putting our people at risk. What happens then to our own currency if there is an emergency and our stabilization fund is empty?

It is a travesty and a crime against our own people to do this. The administration must be held accountable to the Congress and the American people.

Please, support, I ask my colleagues, support the Kaptur-Taylor privileged resolution to stop this crime.

GINGRICH AFFAIRS REQUIRE OUTSIDE COUNSEL

(Mr. BRYANT of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Speaker, the $57,000-per-seat private dinner whereby the Speaker of the House is raising money for his new right-wing television network is the latest in a long series of questionable activities that require the investigation by an outside counsel.

Most Members of Congress, like the American people, are inclined to take their colleagues and fellow Americans at their word, but on the questions about whether the activities of a high public official are appropriate, ethical or legal become as pervasive as those raised about the complicated affairs of House Speaker NEWT GINGRICH, an independent review by an outside counsel is essential. It is in the Speaker's interest as well as the House's interest and the American people's to see to it that allegations against him of conflict of interest and inappropriate behavior are settled.

The person that holds the office third in line to the Presidency should be above reproach, and serious allegations about the activities of the Speaker of the House demand swift, deliberate, nonpartisan, and above all, independent investigation by an outside counsel.

Mr. Speaker, it is time for an outside counsel.

THE MEXICAN BAILOUT: VOTE FOR THE RIGHT TO KNOW

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, today the House will vote on House Resolution 57, a privileged resolution to assert Congress' constitutional duty to vote on the expenditure of our taxpayer dollars regarding the recent Mexico rescue package. The resolution will require the Comptroller General to perform an audit of the Mexican rescue package and report back to the Congress within 7 days.

One man in the White House, one Speaker and three other men here in Congress do not a republic make.

We ask the Speaker to grant our privileged resolution the right of full debate.

Authorizing billions of dollars without a vote of this Congress is wrong. Vote for your right to know. Vote for our people's right to know, vote for our taxpayers' right to know, vote for House Resolution 57, and vote "no" on any motions to table this bill.

SUPPORT AN INCREASE IN THE MINIMUM WAGE

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, on November 1, 1989, 135 Republicans voted with the Democrats in passing a 90-cent increase in the minimum wage. The vote of this body was 382 to 37.

On that day, Democrats and Republicans joined together in raising the standard of living for nearly 5 million American workers. On that day our former Republican colleague, Tom Ridge, now the Governor of Pennsylvania, spoke very eloquently when he said, "Republicans and Democrats today must make a joint statement that we, as elective Representatives, appreciate the contribution that these working men and women are making to our country, and once we peel away the political debate," Governor Ridge said, "what Republicans and Democrats should join together in saying is that there is considerable value to their work."

Governor Ridge had it right, Mr. Speaker. This proposal that we have before us now, another 90-cent increase, is a modest increase that working people need and deserve. It is a tribute to their labor.

An increase in the minimum wage will primarily benefit adult workers, many of whom rely on their minimum wage to support their households.

REPUBLICAN MAJORITY IS PRODUCING REAL RESULTS

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, one more contract item down. Yesterday, we passed the line-item veto, and it joins the ranks with congressional reform, unfunded mandate reform, and a balanced budget amendment as those items in the Contract With America that we have passed. We are keeping our promises with the American people to bring real change to Congress.

Now we will move on to a real crime bill that seriously deals with violent criminals after that, we will continue to work on welfare reform, legal reform, tax cuts for middle-income Americans, term limits, and national security legislation.

Mr. Speaker, we committed to completing our Contract With America agenda within the 100-day timeframe. We are restoring credibility to this institution by keeping our promises with the American people. The Republican majority is producing real results.

MAJORITY OF AMERICANS SUPPORT AN INCREASE IN THE MINIMUM WAGE

(Mr. FATTAH asked and was given permission to address the House for 1 minute.)

Mr. FATTAH. Mr. Speaker, I come today just to take this 1 minute to talk to my fellow colleagues here in the Congress and to all those who listen out in the heartland of our Nation about the desire now among many of our leaders to raise the minimum wage.

The President of the United States and many Members of this Congress and the vast majority of Americans want to see the minimum wage increased. Now we have heard from the majority that they passed a balanced budget amendment because the majority of the people in our country want that to be passed, and the line-item veto and on and on and on about how this is the people's House, and they are doing what the people want done.

Well, the vast overwhelming majority of Americans have now made it known that they would like to see the minimum wage raised, and so that you do not appear to be contradicting yourself, I would ask that the majority join with us as we seek a small 90-cent increase over 2 years for the minimum wage for millions of Americans who deserve to have their work rewarded.

$4.25 AN HOUR IS NOT A LIVING WAGE

(Ms. McKINNEY asked and was given permission to address the House for 1 minute.)

Ms. McKINNEY. Mr. Speaker, there is an ever-growing empire lurking on Capitol Hill called Newt, Inc.

While Big Bird, school lunches, and the handicapped face savage cuts this year, that new empowerment television will host an obscene $50,000-a-plate tax deductible dinner this evening. While the rich and powerful escape paying taxes, this new empowerment television will propagandize to the poor and working people of this country that $4.25 is more than enough on which to live.

□ 1150

Moreover, with in-kind GOPAC contributions, a questionable book deal, and the phenomenal group of Newt, Inc., an outside counsel is required.

Mr. Speaker, there is something rotten in Washington, DC, and, "It ain't the cookie monster."

A VOTE TO CARRY OUT OUR CONSTITUTIONAL RESPONSIBILITIES

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, Members who do not want to be treated like mushrooms will come to the floor now to speak and vote in favor of House Resolution 57.

This is a critical question: What are the terms, the amounts, the conditions and, more to point, the constitutional authority to extend unlimited full faith and credit of the United States Treasury—that is, the funds of the taxpayers of this country—to a foreign power, Mexico? Do the elected Representatives of the people have a right to disclosure?

A vote for this resolution is a vote to carry out our constitutional responsibilities, our fiduciary responsibilities as caretakers of the public purse; a vote "no" is a vote to be treated like a mushroom kept in the dark and fed unsavory substances.

MORE THOUGHTS ON THE BAILOUT OF MEXICO

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, all over this country, working people and elderly people and those people who do not have a lot of money are wondering about what is going on in Washington with regard to the bailout of Mexico.

We have always been told that if people want to invest their money, especially making risky investments, sometimes you win but sometimes you lose.

Investors in Mexico over the last several years have received very high rates of return on their investment, and that is fine. But recently some of those investments have turned sour. It seems to me and, I believe, a majority of the Members of this House that the U.S. Congress and the taxpayers and the President and the Republican leadership should not be bailing out those investments.

Members of Congress demand the right to vote, to debate, to discuss, to learn about the bailout of Mexico. The gentleman from Mississippi [Mr. TAYLOR] will soon be introducing a privileged motion to begin that process.

I would urge our colleagues to support that motion.

CONGRESS SHOULD BE INVOLVED IN THE MEXICAN BAILOUT

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I find myself at least in partial agreement with my Democrat colleagues. The stabilization fund that is being used by the President to help with the loan guarantee for Mexico is not for that purpose. That stabilization fund is to be used to stabilize and guarantee the value of the dollar, and I cannot fathom how using those funds to buy Mexican pesos, for instance, is going to stabilize the dollar when the peso is going straight down the toilet.

I would like to say to my colleagues that I think the Congress should be involved in this process, and I support their efforts to try to make sure that we are. When we are talking about $40 or $50 billion of American taxpayer dollars, the Congress should be involved, not just the President.

This is not a dictatorship. Unilateral action by the White House should not be tolerated.

INTRODUCTION OF HOUSE RESOLUTION 57

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute.)

Mr. TAYLOR of Mississippi. Mr. Speaker, I would like to use this 1-minute to inform my colleagues that within a matter of minutes this House will be given the privilege that the President of the United States did not give us; and that is, to decide for ourselves whether or not we thought the Mexican bailout was a good idea.

The privileged motion that will be before the House in just a few minutes is to require the comptroller general to tell us if the law was obeyed when the President used $20 billion from the stabilization fund to bail out Mexico. It will further give us a report of all the transactions for the past 24 months so that we can have some sort of an idea if this is being done on a daily basis, has become a regular thing, or something of a one-time thing.

Getting to what the gentleman from Indiana [Mr. BURTON] said, there is a reason for getting this information. First, we have to isolate the problem so that later in this session we can offer a solution. And the solution to that should be that this fund, like every other fund in the budget, has to be appropriated.

Members of Congress have to know how much is in it, what are our risks, and there ought to be an up or down vote by this body as to whether or not this should exist.

First of all, we need the information to show the American people that the purpose of this fund has been abused.

ENSURING EXECUTIVE BRANCH ACCOUNTABILITY TO THE HOUSE IN EXPENDITURE OF PUBLIC MONEY

Mr. TAYLOR of Mississippi. Mr. Speaker, I offer a privileged resolution (H. Res. 57) to preserve the constitutional role of the House of Representatives to provide for the expenditure of public money and ensure that the executive branch of the U.S. Government remains accountable to the House of Representatives for each expenditure of public money, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 57

Whereas rule IX of the Rules of the House of Representatives provides that questions of privilege shall arise whenever the rights of the House collectively are affected;

Whereas, under the precedents, customs, and traditions of the House pursuant to rule IX, a question of privilege has arisen in cases involving the constitutional prerogatives of the House;

Whereas section 8 of Article I of the Constitution vests in Congress the power to "coin money, regulate the value thereof, and of foreign coins";

Whereas section 9 of Article I of the Constitution provides that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law";

Whereas the President has recently sought the enactment of legislation to authorize the President to undertake efforts to support economic stability in Mexico and strengthen the Mexican peso;

Whereas the President announced on January 31, 1995, that actions are being taken to achieve the same result without the enactment of legislation by the Congress;

Whereas the obligation or expenditure of funds by the President without consideration by the House of Representatives of legislation to make appropriated funds available for obligation or expenditure in the manner proposed by the President raises grave questions concerning the prerogatives of the House and the integrity of the proceedings of the House;

Whereas the exchange stabilization fund was created by statute to stabilize the exchange value of the dollar and is also required by statute to be used in accordance with the obligations of the United States under the Articles of Agreement of the International Monetary Fund; and

Whereas the commitment of $20,000,000,000 of the resources of the exchange stabilization fund to Mexico by the President without congressional approval may jeopardize the ability of the fund to fulfill its statutory purposes: Now, therefore, be it

Resolved, That the Comptroller General of the United States shall prepare and transmit, within 7 days after the adoption of this resolution, a report to the House of Representatives containing the following:

(1) The opinion of the Comptroller General on whether any of the proposed actions of the President, as announced on January 31, 1995, to strengthen the Mexican peso and support economic stability in Mexico requires congressional authorization or appropriation.

(2) A detailed evaluation of the terms and conditions of the commitments and agreements entered into by the President, or any officer or employee of the United States acting on behalf of the President, in connection with providing such support, including the terms which provide for collateral or other methods of assuring repayment of any outlays by the United States.

(3) An analysis of the resources which the International Monetary Fund has agreed to make available to strengthen the Mexican peso and support economic stability in Mexico, including—

(A) an identification of the percentage of such resources which are attributable to capital contributions by the United States to such Fund; and

(B) an analysis of the extent to which the Fund's participation in such efforts will likely require additional contributions by member states, including the United States, to the Fund in the future.

(4) An evaluation of the role played by the Bank for International Settlements in international efforts to strengthen the Mexican peso and support economic stability in Mexico and the extent of the financial exposure of the United States, including the Board of Governors of the Federal Reserve System, with respect to the Bank's activities.

(5) A detailed analysis of the relationships between the Bank for International Settlements and the Board of Governors of the Federal Reserve System and between the Bank and the Secretary of the Treasury, and the extent to which such relationships involve a financial commitment to the Bank or other members of the Bank, on the part of the United States, of public money or any other financial resources under the control of the Board of Governors of the Federal Reserve System.

(6) An accounting of fund flows, during the 24 months preceding the date of the adoption of this resolution, through the exchange stabilization fund established under section 5302 of title 31, United States Code, the manner in which amounts in the fund have been used domestically and internationally, and the extent to which the use of such amounts to strengthen the Mexican peso and support economic stability in Mexico represents a departure from the manner in which amounts in the fund have previously been used, including conventional uses such as short-term currency swaps to defend the dollar as compared to intermediate- and long-term loans and loan guarantees to foreign countries.

□ 1200

The SPEAKER. Does the gentleman from Mississippi [Mr. TAYLOR] wish to be heard briefly on whether the resolution constitutes a question of privilege?

Mr. TAYLOR of Mississippi. Yes, Mr. Speaker.

Mr. Speaker, in the past few days a dozen Members of Congress, ranking from people on the ideological right, like the gentleman from Kentucky [Mr. BUNNING] and the gentleman from California [Mr. HUNTER], all the way to people on the ideological left, like the gentleman from Vermont [Mr. SANDERS], have asked the question of whether or not the role of Congress has been shortchanged in the decision by the President to use this fund to guarantee the loans to Mexico.

We have come to the conclusion that it is privileged under the Rules of the House of Representatives, under rule IX, Questions of Privilege. It states, "Questions of privilege shall be first those affecting the House collectively." Obviously, the fact that every Member of this body was denied a vote on the matter is a matter of the House collectively.

Furthermore, in section 664 of rule IX, entitled "General Principles," as to the precedent of questions of privilege, it states that "As the business of the House began to increase, it was found necessary to give certain important matters a precedent by rule. Such matters were called privileged questions." Section 664 goes on and says, "Certain matters of business arising under the Constitution mandatory in nature have been held to have a privilege which superseded the rules establishing the order of business."

One provision of our Nation's Constitution that is most clearly mandatory in nature is article I, section 9, clause 7. It states, "No money shall be drawn from the Treasury but in consequence of appropriations made by law, and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

Mr. Speaker, this Congress cannot stand idly by and avoid our constitutional duty, a duty mandatory in nature.

I request that the Chair rule immediately on this resolution, and in making that ruling abide by section 664 of rule IX, General Principles, as to precedents of question and privilege.

Once again, it states that "Certain matters of business arising under the provisions of the Constitution mandatory in nature have been held to have a privilege which has superseded the rules establishing the order of business."

Obviously, 31 U.S.C. 5302 is unconstitutional because it allows the executive branch to exercise powers exclusively given to the Congress in the Constitution. Therefore, it is a matter which directly affects a provision of the Constitution mandatory in nature. This resolution is therefore a privileged resolution as defined by rule IX of the House of Representatives.

Mr. Speaker, since there were a dozen cosponsors of this resolution, each of us with an equal input, I would like the Chair to oblige those other Members who would like to speak on the matter.

The SPEAKER. The Chair is willing to hear other Members. The Chair recognizes the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I rise as an original sponsor of this legislation and in full support of our bipartisan efforts to get a vote on this very serious matter. Our resolution is very straightforward in attempting to reassert our rightful authority under the Constitution of the United States.

Our resolution simply requires that the Comptroller General report back to the Congress within 7 days, particularly with regard to a detailed evaluation of the terms and conditions of the commitments and agreements entered into by the President or any officer or employee of the United States acting on behalf of the President.

This is not an insignificant amount of money. From our study of this particular section of the law that the President claims he used in presenting this particular arrangement for Mexico, never, never in the history of the United States has that fund been used to such a large extent, over $20 billion, and it appears to be growing as the days go on, and never for this particular purpose.

As one looks down the road at the conditions in Mexico and the fact that inflation is out of control——

The SPEAKER. If the Chair may interrupt, the Chair is recognizing the gentlewoman from Ohio for the purpose of explaining why the resolution is privileged, not for the purpose of explaining its merits. The only question at stake at the moment is whether or not this meets the test of being privileged.

Ms. KAPTUR. Mr. Speaker, let me say, is it the Chair's understanding that when any matter comes before the House for a vote, each Member's vote has equal value in standing? On any vote we might take?

The SPEAKER. The Chair will rule presently on the resolution under rule IX. The Chair at the moment is simply as a courtesy recognizing Members to explain why they believe it is a matter of privilege. The Chair will then rule on this resolution fitting into the rules of the House.

Ms. KAPTUR. We believe that this is a question of privilege of the House because of the constitutional role of the House of Representatives to provide for the expenditure of public money and ensure that the executive branch of the U.S. Government remains accountable to the House for each such expenditure of public money.

The gentleman from Mississippi [Mr. TAYLOR] referenced the section of the Constitution, article I, section 9. Let me reference article I, section 8 of our Constitution to coin money, regulate the value thereof, and of foreign coins. We believe this is a matter that involves every single Member of the House of Representatives.

The SPEAKER. The Chair recognizes the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, it states, "Questions of privilege shall arise whenever the rights of the House collectively are affected," and, further to the point, "No money shall be drawn from the Treasury but in consequence of appropriations made by law."

The issue is whether or not the authority previously extended by the House in a 1933 statute has been exceeded, and if it has been exceeded, then certainly the House is collectively affected, and most certainly we see a violation of section 9, article I of the Constitution.

Further, as the Speaker knows, appropriations are to originate in the House. In this instance we are dealing with large sums of money to be drawn on the U.S. Treasury which have not been appropriated by this House. So we feel that it is essential that the House assert its prerogative.

To tell the truth, Mr. Speaker, I do not believe we can come to a final and dispositive determination whether or not there is a violation of the constitutional prerogatives of the House unless we have these questions answered, and unless the resolution goes forward they will not be answered.

The SPEAKER. The Chair recognizes the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, you and I or the President of the United States and I may disagree with the wisdom of the Mexican bailout, but I think very clearly the American people are wondering about what is happening to our Constitution and to the ability of Members of Congress to represent them.

Mr. Speaker, every single day Members come up here and they question this appropriation, whether this $50,000 is well spent, whether this $200 million is well spent. It seems to me that the people of Vermont and the people all across this country are wondering about the Constitution when we are talking about putting at risk $40 billion of taxpayers' money without serious discussion and debate on the floor of the House.

It seems to me what the Constitution is about is that if the Members of the House and if the Members of the Senate want to approve this $40 billion bailout, OK. But it is incomprehensible, and it seems to me unconstitutional, that that bailout can take place without debate, without discussions, and without a vote.

So, Mr. Speaker, I very much support this privileged resolution, and hope that the Members will vote for it.

The SPEAKER. Having heard now from five Members, the Chair is prepared to rule on this. The Chair would first of all point out that the question before the House right now is not a matter of the wisdom of assistance to Mexico, nor is the question before the House right now a question of whether or not the Congress should act, nor is what is before the House a question of whether or not this would be an appropriate topic for committee hearings, for legislative markup, and bills to be reported.

What is before the House at the moment is a very narrow question of whether or not the resolution offered by the gentleman from Mississippi [Mr. TAYLOR] is a question of privilege. On that the Chair is prepared to rule.

The privileges of the House have been held to include questions relating to the constitutional prerogatives of the House with respect to revenue legislation, clause 1, section 1, article I of the Constitution, with respect to impeachment and matters incidental, and with respect to matters relating to the return of a bill to the House under a Presidential veto.

Questions of the privileges of the House must meet the standards of rule IX. Those standards address privileges of the House as a House, not those of Congress as a legislative branch.

□ 1210

As to whether a question of the privileges of the House may be raised simply by invoking one of the legislative powers enumerated in section 8 of article I of the Constitution or the general legislative "power of the purse" in the seventh original clause of section 9 of that article, the Chair finds helpful guidance in the landmark precedent of May 6, 1921, which is recorded in Cannon's Precedents at volume 6, section 48. On that occasion, the Speaker was required to decide whether a resolution purportedly submitted in compliance with a mandatory provision of the Constitution, section 2 of the 14th amendment, relating to apportionment, constituted a question of the privileges of the House.

Speaker Gillett held that the resolution did not involve a question of privilege. His rationale bears quoting. And I quote.

> This whole question of a constitutional privilege being superior to the rules of the House is a subject which the Chair has for many years considered and thought unreasonable. It seems to the Chair that where the Constitution orders the House to do a thing, the Constitution still gives the House the right to make its own rules and do it at such time and in such manner as it may choose. And it is a strained construction, it seems to the Chair, to say that because the Constitution gives a mandate that a thing shall be done, it therefore follows that any Member can insist that it shall be brought up at some particular time and in the particular way which he chooses.
>
> If there is a constitutional mandate, the House ought by its rules to provide for the proper enforcement of that mandate, but it is still a question for the House how and when and under what procedure it shall be done. And a constitutional question, like any other, ought to be decided according to the rules that the House has adopted. But there have been a few constitutional questions, very few, which have been held by a series of decisions to be of themselves questions of privilege above the rules of the House. There is the question of the President's veto.
>
> Another subject which has been given constitutional privilege is impeachment. It has been held that when a Member rises in his place and impeaches an officer of the government, he can claim a constitutional privilege which allows him at any time to push aside the other privileged business of the House.

Later in the same rule, Speaker Gillett made this observation, again I quote:

> But this Rule IX was obviously adopted for the purpose of hindering the extension of constitutional or other privilege. If the question of the census and the question of apportionment were new questions, the Chair would rule that they were not questions of constitutional privilege, because, while of course it is necessary to obey the mandate of the Constitution and take a census every ten years and then make an apportionment, yet there is no reason why it should be done today instead of tomorrow. It seems to the Chair that no one Member ought to have the right to determine when it should come in in preference to the regular rules of the House but that the rules of the House or the majority of the House should decide it. But these questions have been decided to be privileged by a series of decisions, and the Chair recognizes the importance of following precedence in obeying a well-established rule, even if it

is unreasonable, that this may be a government of laws and not of men.

The House Rules and Manual notes that under an earlier practice of the House, certain measures responding to mandatory provisions of the Constitution were held privileged and allowed to supersede the rules establishing the order of business. Examples included the census and apportionment measures mentioned by Speaker Gillett. But under later decisions, exemplified by Speaker Gillett's in 1921, matters that have no other basis in the Constitution or in the rules on which to qualify as questions of the privileges of the House have been held not to constitute the same. The effect of those decisions has been to require that all questions of privilege qualify within the meaning of Rule IX.

The ordinary rights and functions of the House under the Constitution are exercised in accordance with the rules of the House, without necessarily being accorded precedence as questions of the privileges of the House.

Consistent with the principles enunciated by Speaker Gillett, the House considered in 1941 the joint resolutions to declare war on Japan, Germany and Italy by way of motions to suspend the rules. On July 10, 1991, again in consonance with these principles, the House adopted a special order of business reported from the Committee on Rules to enable its consideration of a concurrent resolution on the need for congressional authorization for military action, a concurrent resolution on a proposed policy to reverse Iraq's occupation of Kuwait, and a joint resolution authorizing military action against Iraq pursuant to a United Nations Security Council Resolution.

Finally, the Chair observes that in 1973, the House and the Senate, again consistent with Speaker Gillett's rationale, chose to exercise their respective constitutional powers to make their own rules by including in the War Powers Resolution provisions according privilege to specified legislative measures relating to the commitment of U.S. Armed Forces to hostilities. It must be noted the procedures exist under the rules of the House that enable the House to request or compel the executive branch to furnish such information as it may require.

The Chair will continue today to adhere to the same principles enunciated by Speaker Gillett. The Chair holds that neither the enumeration in the fifth clause of section 8 of article I of the Constitution of Congressional Powers "to coin money, regulate the value thereof, and of foreign coins," nor the prohibition in the seventh original clause of section 9 of that article of any withdrawal from the Treasury except by enactment of an appropriation, renders a measure purporting to exercise or limit the exercise of those powers a question of the privileges of the House.

The resolution offered by the gentleman from Mississippi recites the enumerated powers of Congress relating to the regulation of currency and the general legislative "power of the purse," and resolves that the Comptroller General conduct a multifaceted evaluation of recent actions taken by the President to use the Economic Stabilization Fund in support of the currency of Mexico and to report thereon to the House.

It bears repeating that questions of privileges of the House are governed by rule IX and that rule IX is not concerned with the privileges of the Congress, as a legislative branch, but only with the privileges of the House, as a House.

The Chair holds that the resolution offered by the gentleman from Mississippi does not affect "the rights of the House collectively, its safety, dignity, or the integrity of its proceedings" within the meaning of clause 1 of rule IX. Although it may address the aspect of legislative power under the Constitution, it does not involve a constitutional privilege of the House. Were the Chair to rule otherwise, then any alleged infringement by the executive branch, even, for example, through the regulatory process, on a legislative power conferred on Congress by the Constitution would give rise to a question of the privileges of the House. In the words of Speaker Gillett, "no one Member ought to have the right to determine when it should come in in preference to the regular rules of the House."

PARLIAMENTARY INQUIRIES

Mr. TRAFICANT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The chair has ruled that this is not a privileged resolution.

Mr. TRAFICANT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TRAFICANT. Mr. Speaker, I would ask that there be a reconsideration on the ruling of the Chair, because I believe that the precedents so cited do not apply. This is not, in the opinion of the drafters, simply to be an infringement by the executive branch.

The SPEAKER. The gentleman's parliamentary inquiry is moot. The Chair has, in fact, ruled that this resolution, as drafted, does not meet the procedures required for being a question of privilege and that is based upon very thorough study by the Parliamentarian of the precedents of the House.

Mr. TAYLOR of Mississippi. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TAYLOR of Mississippi. Mr. Speaker, since the Speaker has gone to great pains to research the precedents of the House, I would like to point out to the Speaker that in the past whether or not the ceiling tiles were properly affixed to the ceiling of this Chamber has been ruled as a privileged resolution.

The SPEAKER. The Chair would respond to the gentleman from Mississippi, that relates directly to the safety of the House.

Mr. TAYLOR of Mississippi. Mr. Speaker, I would also like to point out that the original custom of this body was to present any question of a privilege of the House to the Members and let the Members decide whether they felt it was a privilege of the House that was being violated. Is the Speaker willing to grant the Members of this House that same privilege?

The SPEAKER. The Chair would simply note that the Chair is following precedent as has been established over the last 70 years and that that precedent seems to be more than adequate. And in that context, the Chair has ruled this does not meet the test for a question of privilege.

Mr. TAYLOR of Mississippi. Mr. Speaker, a further parliamentary inquiry: What is the procedure for——

The SPEAKER. The only appropriate procedure, if the gentleman feels that the precedents are wrong, would be to appeal the ruling of the Chair and allow the House to decide whether or not to set a new precedent by overruling the Speaker.

□ 1220

Mr. TAYLOR of Mississippi. Mr. Speaker, I appeal the ruling of the Chair, and I would like Members of Congress to be granted the 1 hour that the House rules allow for to speak on this matter.

PREFERENTIAL MOTION OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a preferential motion.

The SPEAKER. The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. ARMEY moves to lay on the table the appeal of the ruling of the Chair.

PARLIAMENTARY INQUIRY

Ms. KAPTUR. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentlewoman will state the parliamentary inquiry.

Ms. KAPTUR. Mr. Speaker, am I correct in understanding that the motion to table this appeal is not debatable?

The SPEAKER. The gentlewoman is correct.

Ms. KAPTUR. And thus, Mr. Speaker, Members of Congress will be deprived by this vote without any type of a debate on the authority vested in our constitutional rights to vote on this issue?

The SPEAKER. The Chair would say to the gentlewoman that the motion is not debatable.

The question is on the preferential motion offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker announced that the "ayes" appeared to have it.

Mr. TAYLOR of Mississippi. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This vote will be 17 minutes total.

The vote was taken by electronic device, and there were—yeas 288, nays 143, not voting 3, as follows:

[Roll No. 96]

YEAS—288

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coburn
Coleman
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kennedy (MA)
Kennelly
Kim
King
Kingston
Knollenberg
Kolbe
LaFalce
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Maloney
Manton
Manzullo
Markey
Martini
Matsui
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Mineta
Moakley
Molinari
Moorhead
Moran
Morella
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Olver
Ortiz
Oxley
Packard
Pastor
Paxon
Payne (VA)
Pelosi
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Reynolds
Richardson
Riggs
Roberts
Rogers
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stenholm
Stockman
Studds
Stump
Talent
Tate
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Torricelli
Upton
Vento
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—143

Abercrombie
Ackerman
Andrews
Baesler
Barcia
Barrett (WI)
Bevill
Bilbray
Bishop
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
Deal
DeFazio
Dellums
Deutsch
Dingell
Doyle
Duncan
Durbin
Engel
English
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Furse
Gibbons
Gonzalez
Gordon
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Hunter
Istook
Jacobs
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kleczka
Klink
Klug
Lantos
Largent
Lincoln
Lipinski
Lofgren
Lowey
Luther
Martinez
Mascara
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Murtha
Myers
Nadler
Oberstar
Obey
Orton
Owens
Pallone
Parker
Payne (NJ)
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Reed
Rivers
Roemer
Rohrabacher
Rose
Sabo
Sanders
Schroeder
Scott
Sisisky
Slaughter
Spratt
Stark
Stearns
Stokes
Stupak
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thurman
Towns
Traficant
Tucker
Velazquez
Visclosky
Watt (NC)
Weldon (PA)
Whitfield
Wilson
Wise
Woolsey
Wyden
Wynn

NOT VOTING—3

Dornan
Frost
Yates

☐ 1240

Messrs. SPRATT, SABO, MASCARA, and WYNN, Ms. WOOLSEY, and Mr. COYNE changed their vote from "yea" to "nay."

Messrs. HOEKSTRA, EWING, TIAHRT, HEINEMAN, JONES, DICKEY, FUNDERBURK, KENNEDY of Massachusetts, and OLVER, Ms. ROYBAL-ALLARD, Mrs. SMITH of Washington, Mr. TORRES, and Mr. SANFORD changed their vote from "nay" to "yea."

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1240

SCHEDULING OF HEARINGS CONCERNING THE MEXICAN BAILOUT

Mr. ARMEY. Mr. Speaker, if I might just take a moment of the body's time, I want to first begin by observing my appreciation to the gentleman from Mississippi [Mr. TAYLOR] and his cosponsors for the initiative they have taken, the interest and concern they have expressed with this initiative. It is unfortunate that the initiative came to the floor in an order that was not, in fact, in order with the rules of the House.

I did want to tell all the Members that the House Republican leadership does, in fact, recognize the amount of concern that we have on both sides of the aisle on this issue, and that there are arrangements being made in the committees to begin hearings to give this Congress its legitimate and orderly exercise prerogative to examine this issue and the manner in which it is carried out, and the Members should be reassured that, in fact, they will have an opportunity to address this issue.

And again, as I said, in all due respect to the effort taken by the gentleman from Mississippi [Mr. TAYLOR] and his colleagues, we do appreciate their effort.

Before I yield enough, I would like to make the observation, I frankly do not think it is desirable to take up the body's time for an extended debate. So for brief comments, I will yield first, to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding to me. I will not take a long time.

Obviously, those of us who strongly supported that resolution are extremely disappointed. We consider this to be a historic moment in the House because of that ruling, and the fact that we were just silenced without even the ability to debate for 1 hour in the full House.

Now, I understand the gentleman and the majority control the committees, and I understand what happened in the committees, and why we do not have a bill on this floor today.

But let me say to the gentleman I encourage you on your efforts in the committees. We do not expect anything of consequence to result from that. But I know that there are Members along with myself on both sides of the aisle who are very concerned about this historic move of the House to silence the Membership on the largest use of unappropriated dollars in the history of this Nation.

Mr. ARMEY. Let me just say I do appreciate the gentlewoman's disappointment. I have felt it myself many times.

But it was, in fact, the correct ruling of the Chair.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Let me just say I share the concern of the gentlewoman from Ohio. We will hold extensive hearings on this subject, how it will impact on the United States, Mexico and other Latin American countries. It will not be just window dressing. We are going to hold extensive hearings. The gentlewoman will be included in the discussion at the hearing.

VICTIM RESTITUTION ACT OF 1995

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 60 and ask for its immediate consideration.

The clerk read the resolution, as follows:

H. Res. 60

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 665) to control crime by mandatory victim restitution. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruction.

The SPEAKER pro tempore (Mr. Kolbe). The gentlewoman from Ohio [Ms. Pryce] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my good friend and colleague, the gentleman from Ohio [Mr. Hall], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 60 is an open rule providing for the consideration of H.R. 665, a bill designed to ensure that criminals pay full restitution to their victims for all damages caused as a result of the crime committed and to any other persons who are harmed by an offender's unlawful conduct.

This legislation is the first in a series of anticrime measures which the House will consider this week. It is only fitting that the first bill, the one dealing most directly with the casualties of crime, the victims themselves, be considered under an open, wide open, rule, because each and every Member here brings to this debate a unique and personal perspective on this issue.

For, tragically, crime is so pervasive that no citizen escapes its reach.

This rule provides for 1 hour of general debate equally divided and controlled by the chairman and the ranking minority member of the Committee on the Judiciary, and makes in order the Committee on the Judiciary amendment in the nature of a substitute as the original bill for the purpose of amendment under the 5-minute rule

Finally, the rule provides for one motion to recommit with or without instructions. Under this rule, the Chairman of the Committee of the Whole may give priority and recognition to Members who have printed their amendments in the Congressional Record.

Let me just emphasize once again to my colleagues that preprinting of amendments is not mandatory. It is purely optional. Members who have not published their amendments will still be permitted to offer them at the appropriate time.

The majority on the Committee on Rules continues to encourage Members to exercise this option in the future not only to receive priority status but also to inform our colleagues in advance of the number and type of amendments they are likely to be offering.

□ 1250

Mr. Speaker, throughout my years as a judge and prosecutor, I worked closely with victims of crime, and was very often moved by their plight. These individuals and their families did not ask to be victims, yet after experiencing crime firsthand, they bravely embarked on the process of trying to recover from unexpected, unwanted, and totally undeserved trauma.

The committee report accompanying H.R. 665 includes some very sobering statistics. For example, according to the Bureau of Justice Statistics, from 1973 to 1991, more than 36 million people in the United States were injured as a result of violent crime. In 1991 alone, crime resulted in an estimated $19.1 billion in losses. Clearly, there are tremendous costs associated with crime—emotional, physical, and financial—all of which must be borne by individuals, families, and ultimately, by this Nation.

After years of elevating the rights and needs of criminals, the American public is beginning to recognize that crime victims have very real needs as well. Their voices are finally being given a meaningful role in the public policy process, helping them turn their personal anguish into positive action. Despite this progress, crime victims' rights are still often overlooked, and additional reforms are needed to bring some balance into an often one-sided process. One of those reforms is the right to adequate restitution from the perpetrator for losses incurred as a result of the crime itself.

That is the purpose of H.R. 665—to mandate that restitution be awarded by the court in Federal proceedings, and that it also be considered for persons other than the victim who may have been harmed by the criminal's unlawful acts.

Although this legislation cannot erase the victims' suffering, it is an important step toward securing justice and ensuring greater accountability on the part of criminals themselves. H.R. 665, would require criminals to come face-to-face with the harm suffered by their victims and also just as important provide the victim with some small sense of satisfaction that the system addresses their needs as well.

Only one amendment was offered during the Judiciary Committee's markup of H.R. 665, and it was accepted by voice vote. The bill itself was reported favorably, as was this rule. Should there be any remaining concerns about the legislation, this open rule would give the House ample opportunity to discuss them.

Mr. Speaker, crime victims do not ask for our pity and do not ask for our sympathy. They simply ask to be treated with the respect and compassion their circumstances deserve. I strongly support the Victim Restitution Act of 1995, and urge adoption of this very open rule so that we may continue the spirit of openness and deliberation that is needed in the people's House.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend my colleague, the gentlewoman from Ohio [Ms. Pryce], as well as my colleagues on the other side of the aisle for bringing this resolution to the floor. House Resolution 60 is essentially an open rule which will allow full and fair debate on the important issue of victims restitution. Under this rule, germane amendments will be allowed under the 5-minute rule, the normal amending process in the House of Representatives. I am pleased that the

Rules Committee was able to report this rule without opposition and I plan to support it.

Although this rule is open it does include a provision allowing the Chair to give priority recognition to Members who have preprinted their amendments in the Congressional Record. This is unnecessary to the rule and sometimes confuses Members who are not sure whether the printing requirement is mandatory.

Mr. Speaker, House Resolution 60 allows the House to consider a very important piece of legislation, H.R. 665, the Victim Restitution Act. According to the Bureau of Justice Statistics, from 1973 to 1991, 36.6 million people in the United States were injured as a result of violent crime. In 1992, there were nearly 34 million victims of crime nationally. The purpose of this bill is to ensure that criminals pay full restitution to their victims for all damages caused as a result of a crime.

Since crimes against people and households have resulted in an estimated $19.1 billion in losses in 1991 alone, it is only fair that restitution be ordered. By requiring full financial restitution, the act requires an offender to face the victims of his crime, and the victims to receive some compensation for their emotional and physical harm resulting from the crime. I understand this bill does have bipartisan support and major amendments are not expected. I sincerely hope we will continue to see open rules on the more controversial crime bills coming down the pike as well.

As I indicated before, I support this open rule and I urge my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE. Mr. Speaker, it is my pleasure to yield 3 minutes to the very distinguished gentleman from Florida [Mr. Goss], our very able chairman of the Subcommittee on the Legislative Process of the Committee on Rules.

Mr. GOSS. I thank the distinguished gentlewoman from Columbus, OH, Judge Pryce, for yielding this time to me and would like to say how happy we are to have her as a member of the Committee on Rules. It is already making a difference, as you have just heard.

Mr. Speaker, what a difference 7 months makes as well. Last August this House spent countless hours in an effort to pass a crime bill conference report that I do not think anybody was enthusiastic about. After keeping Members in town for an extra week and a half of sweet persuasion, as I think Speaker Foley used to call it—some others of us would call it arm-twisting—the Democratic leadership was able to eke out a very small majority to pass out the rule and the bill.

I had the privilege of managing the crime bill rules for the minority last August, and two things about that debate really stand out in my mind. The speech by Minority Leader Bob Michel preceding the original vote on the crime bill, I think, can now be seen as the turning point in 40 years of congressional history and, in some ways, the start of the 104th Congress.

An energized Republican minority at that time joined by dissatisfied Democrats defeated the rule, actually defeated the rule, signalling the beginning of the end, I think, for the old order. Republicans won a hard-fought battle for a seat at the bargaining table because of that vote, primarily, and many saw for the first time a light at the end of the permanent minority status tunnel that we were in.

However, despite that long bipartisan negotiation that followed, I think most Members of the House were underwhelmed by the final crime bill product, and so here we are today.

Our Members on this side in fact did make a promise then, we promised to revisit the crime bill and to address its many shortcomings if we were put in the majority. The American people listened, and we are here today as the majority. A short 7 months later, just over a month into the 104th Congress, we are fulfilling that promise. And we are doing so under an open rule.

Let us not forget that the original rules, there were several of them for consideration of last year's omnibus crime bill, were some of the most creative, I think you can read contrived for that, that we have seen, including special provisions to report and consider a rule on the same day, a multitude of waivers, including waivers for not having a report on the bill, a report on the bill, and for dispensing with the normal 3-day layover. In other words, Members did not necessarily know what was in the bill. And a closed amendment process that picked and chose among the scores of amendments that were actually filed. What a difference 7 months make, and what a difference a new majority makes. Today we have an open rule, as promised, to proceed under.

So I cheerfully urge my colleagues to support the rule and the bill. It is worth your vote.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. Moakley], the ranking member of the Committee on Rules.

Mr. MOAKLEY. I thank my colleague from Ohio for yielding this time to me.

Mr. Speaker, like the other Democratic members of the Committee on Rules, I am very glad the bill is being brought up under an open rule, but I must say that I think it could just as easily have been brought up under suspension of the rules, especially given the great hurry to finish the Contract With America within 100 days.

Mr. Speaker, there is no controversy at all around this bill. It had one amendment in committee that passed by voice vote. The bill itself passed the committee on the Judiciary by a voice vote. The majority could have just as easily put this under the suspension calendar, and I do not know why they did not, unless they want to show all the open rules that they have amassed over the year.

□ 1300

Yesterday, in the Committee on Rules, the chairman of the Committee on the Judiciary said this bill was noncontroversial. So, an open rule for the bill is a good step, but not exactly a courageous one.

Mr. Speaker, what concerns me is what may happen when we get the more controversial parts of the crime bill to the floor. Last week the majority brought up three bills under open rules that passed last session under suspension. Well, I say to my colleagues, "You know, it's one thing to have a definition of what an open rule or closed rule is, and it's one to use open rules when you can and suspensions when you can, and especially when the chairman keeps prodding people, 'Hurry up, hurry up, we have only got a hundred days, and Ronald Reagan's birthday,' and so on, an I'm just afraid it might be somebody else's birthday Sunday and we might not even be able to go home."

But today my Republican colleagues are bringing up a bill that has few, if any, amendments under an open rule, but it looks like tomorrow or the next day they will bring up bills that do have amendments under a closed rule. In other words:

"You can have an open rule, if it doesn't look like you're going to use it."

Mr. Speaker, let us continue this trend of open rules on crime bills, whether Members have amendments or not.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from upstate New York.

Mr. SOLOMON. Where it is about 30 below zero without the wind chill factor right now.

It just bothers me that here we are trying to be as open, and fair and accountable as we possibly can. I just want to inform the gentleman that we are right now entertaining a suggestion from his minority leader, the gentleman from Missouri [Mr. Gephardt], and other Democrat leaders on trying to do exactly what the gentleman is complaining about.

The SPEAKER pro tempore (Mr. Hefley). The time of the gentleman from Massachusetts [Mr. Moakley] has expired.

Mr. HALL of Ohio. Mr. Speaker, I yield an additional minute to the gentleman from Massachusetts.

Mr. SOLOMON. Mr. Speaker, I ask, "Why doesn't he yield him such time as he might consume?"

Mr. MOAKLEY. I say to the gentleman, "Mr. SOLOMON, we know you're all-powerful, but please let Mr. HALL do what he wants to do."

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Well, as I was saying, the Democrat minority would like to bring up on the floor, as early as maybe even this afternoon or tomorrow morning, the habeas corpus or the death penalty bill.

Mr. MOAKLEY. Under an open rule.

Mr. SOLOMON. We are trying to accommodate our colleagues; with no rule at all by unanimous consent, so the gentleman ought to, as my colleagues know, be cooperative. We are going to consult.

Mr. MOAKLEY. I will be very cooperative. All I want to do is show the rules, the definition of the rules, that we worked when I was chairman and the definition of the rules that the gentleman is working as the chairman. Last week, Mr. Speaker, we put three bills on open rules, when under my chairmanship they went through the Suspension Calendar.

Mr. SOLOMON. I do not want to belabor the point.

Ms. PRYCE. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I thank the gentlewoman from Ohio [Ms. PRYCE] for yielding and would like to congratulate her on her superb management of this bill, and I would simply respond to the former chairman, the now distinguished minority ranking Member's position on suspensions versus open rules, and we need to recognize, Mr. Speaker, that under the suspension provisions amendments are not allowed, and the main reason that we have proceeded with this open amendment process is that we allow Members to have a chance to offer amendments, whereas in the past open rules were granted when there were virtually no amendments that were even being considered at all, and so our goal here is to allow Members that opportunity.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield.

Mr. DREIER. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Well, there were no amendments offered in committee on the ones that went through suspension last year, and there was one amendment that was accepted by voice vote in the Committee on the Judiciary, and then after that was accepted, the entire bill was accepted on voice vote.

Mr. DREIER. Reclaiming my time, Mr. Speaker, under the open amendment process we did not announce here on the floor for Members to come upstairs, the reason being that we planned to have a completely open process. Two amendments were filed with the RECORD here, so there were amendments the gentleman from Vermont [Mr. SANDERS] offered, and we, in fact, have wanted to have free and fair debate and an open process.

We are not simply trying to run up the number of open rules we have, which tragically was the case in the 103d Congress, and so the Suspension Calendar actually does restrict Members from having the opportunity to participate——

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I ask the gentleman, would you and Mr. SOLOMON go back over the RECORD a couple of years, and take all the bills that we put under suspension, and make——

Mr. DREIER. Absolutely not because it is a completely different structure.

Mr. MOAKLEY. It is a completely different regime.

Mr. DREIER. That is true, too.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, can there by any doubt in the America of today that crime, that lawlessness, that violence that is afflicting our families and their homes and their businesses on streets and highways across this country is a No. 1 concern?

Indeed at the very moment of this debate, Mr. Speaker, there are honest, hard-working Americans who are out there being subject to violence to their life, to destruction of their property, from those who are lawless, who are the target of this legislation, and yet one would think that, knowing the enormity of this problem, our Republican colleagues, who have a commanding majority, would be here structuring a debate so that we could have an open and free-flowing discussion of the most effective way to fight crime in this country.

That is not occurring here.

In fact, the underlying agenda of what is occurring here today is not open and free-flowing debate. Rather it is the attempt to split, and to split asunder, the first truly comprehensive smart crime fighting measure that this Congress enacted within less than 9 months. That bill is not presented to us today in whole. It is split into itty-bitty parts.

And where do we begin in that debate? Do we begin up front in trying to prevent crime? Do we begin with the law enforcement officers, all of whom, all of the major law enforcement organizations, back this smart crime bill; do we begin with them? No, we begin at the tail end.

I can tell my colleagues that this debate is a classic case of the tail wagging the dog, and, as a fellow named DOGGETT, I am an expert on that subject. I can tell my colleagues, "When you begin at the tail end of crime instead of dealing with the dog, instead of dealing with the police, and with the crime fighting, and with the crime prevention, you begin at the wrong end."

So what do we find ourselves doing in this great building at a time that Americans are dying, at a time that Americans are having their property stolen? We are here talking about a bill that everybody agrees on, that there should be restitution. Of course there should be restitution.

As a State senator, I sponsored crime victims compensation strengthening amendments to ensure that criminals in our State of Texas did some restitution and did some repayment to victims. But, by golly, do my colleagues know a victim anywhere in this country who would not rather have the crime prevented? Who would not rather have the law enforcement officer there on the beat in the community instead of getting restitution?

Our Republican colleagues bring us a bill to fight crime that we agree with, and why do they do it this way, under this great open rule? Well, I will tell my colleagues why. Because somewhere among the splintered bills of this great crime bill that was passed by the last session of Congress, right at the tail end of the presentation is the measure concerning our police, concerning crime prevention.

Why is it that the police always have to come in last? Why is it that the crime prevention has to come in last? Because the Republican majority that claims to be against crime has structured a debate that does not allow for a free-flowing discussion of whether we ought to end the commitment to a hundred thousand police on American streets, end the Federal commitment to effective local crime prevention programs, and take all that money that the police would have gotten that have added 25 new police to my hometown in Austin, who are being trained right now, take that money and pour it into concrete, pour it into steel bars, and somehow think we can build prisons fast enough to house all these violent criminals if we do not do a better job of preventing crime in the first place.

□ 1310

Mr. Speaker, it is essential that in the course of this debate we recognize that if all that is accomplished out of these splintered bills is to take money away from our policemen, many of whom are here today as I speak covering a press conference defending the crime bill that was passed last week, if we take that money away from our law enforcement officers, that thin blue line that protects American communities, if we take away that commitment and if we destroy a Federal commitment to an effective local crime prevention program, which is exactly what this series of bills does, if we take all that money and we pour it into concrete and we pour it into steel bars and we pour it into boondoggles, Mr. Speaker, there is no way we can build fast enough to replace what we have destroyed.

I support this victims restitution bill. I do not know of anyone who does not support it. But, by golly, we need to be on the side of our law enforcement officers. We need to keep adding more law enforcement officers and more prevention and then take care of restitution.

Ms. PRYCE. Mr. Speaker, I am very pleased to yield 3 minutes to one of our new colleagues, the distinguished gentleman from Florida [Mr. FOLEY]. The gentleman from Florida has already proven to be a very active and very effective Member of the House of Representatives, and we are very pleased to have him with us.

Mr. FOLEY. Mr. Speaker, I thank the gentlewoman from Ohio and, of course, my good friend, the gentleman from Florida [Mr. MCCOLLUM] for their leadership on the crime bill.

This is the Victim Restitution Act. "Victim"—let us say that word repeatedly—"victim." This is not about hurting the police officers. We want to help them, but we cannot help them unless we make the victims whole from their tragedies. Let me tell the Members about a personal experience I had.

My home was broken into. The perpetrator of the crime was a juvenile. He had been arrested 17 times. Each time the parents came into the courtroom and said, "Your Honor, we're trying. He's really a nice young man. We're doing our best."

Each time the judges would say, "O.K., go home. Probation."

When my home was robbed, the judge looked at the family when the parents started that same pablum about "My good child," and said, "You know, you must be proud of your son. Who wouldn't be proud of a child that had been arrested 17 times? I'll make a deal for you. Mr. FOLEY has lost 3,000 dollars' worth of valuable possessions from his home. If you're not in the courtroom, parent, at noontime tomorrow with a check made payable to the Clerk of Courts for $3,000, I will put in an arrest warrant for you and your son and you'll stay in jail until you decide who is going to be the boss of the family."

With that the father hit the kid in the head and said, "Look what you got me into."

It took money out of the parents' pockets to recognize that they are responsible for their children.

Let me tell the Members another story that happened in my district. Joe Dubeck, a young man in my district, was stabbed in the chest. After nearly dying on the way to the hospital, he was rushed into intensive care. While he was laying on the gurney, the assailant was bailed out with $3,000. Three thousand dollars, and he is out of jail. Joe Dubeck spent weeks in recovery, and thankfully, he is seeking recovery, and I am happy to say that he is now back with his wife and children. While he continues that recovery, however, his small business that he was building is undergoing serious challenges.

For far too long we have forgotten the innocent victims of crime. This House resolution and H.R. 665 are going to help prevent that. The bill restores common sense in the criminal justice system by holding criminals responsible for their actions.

I rise in support of this bill because of the Dubeck family and the many young families like them that have had to watch from the sidelines as our system coddles the villains and ignores those who abide by the laws of this Nation.

Mr. Speaker, I urge my colleagues to support this bill to get tough on the criminals, to support law enforcement officers who want this bill to pass because they are tired of arresting criminals who are released before their report ink is dry. They want this bill to pass because it will help them do their jobs to protect the members of their communities.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. PRYCE. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. HEFLEY). Pursuant to House Resolution 60 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 665.

□ 1312

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 665) to control crime by mandatory victim restitution, with Mr. RIGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, to explain this victims restitution bill, I yield such time as he may consume to the chairman of the full Committee on the Judiciary, the honorable gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, the 1994 Omnibus Crime Control Act was not so omnibus. It did nothing for the victims of crime.

This bill remembers that crime has victims; this bill remembers that the victims for too long have been forgotten in the sentencing process; this bill remembers that the victims for too long have been without standing to address and advise sentencing judges of the economic harms visited upon them through the criminal actions of the offender.

This bill directs Federal judges to impose upon convicted defendants restitution orders to pay back their victims for the harm caused by virtue of their criminal activity. No longer will the defendant's financial situation take precedence over his victim's. Instead, consideration for the victim is a primary consideration in the sentencing process, just where it belongs. Today criminals know that crime pays. Now it will pay the victims. Defendants are financially responsible for physical, emotional, or monetary harm. Victims can be reimbursed for child care, transportation, and other reasonable expenses related to their participation in the prosecution of the offense.

The court under this legislation must consider the victim's financial circumstances when determining the manner and method of payment or restitution. The victim will be paid either a lump sum, in interval payments, or in kind. In-kind payments include return of the victim's property and replacement of the property or services rendered. The bill guarantees that the victim of criminal activity will not be overlooked at any point in the criminal justice proceedings.

Mr. Chairman, this is a restitution bill with teeth.

Mr. MCCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this may have been a bill that could have been a candidate for the Suspension Calendar, but I think it will move rapidly through the House under the procedure that now exists.

I rise in support of the Mandatory Victim Restitution Act of 1995. It is a good measure which has the broad support of Members on both sides of the aisle. In essence, the bill changes the current law which gives Federal judges the discretion to order restitution.

□ 1320

Now under H.R. 665, judges would be compelled to order convicted offenders to pay restitution to their victims. It is clear to me that this provision draws upon the 1994 crime bill enacted into law which created a similar provision to enable women who had been victims of violence to recover damages from their attackers, another good measure that we all supported.

An innovative aspect of this legislation is the provision that restitution may also be ordered for any other person, that is, one who is not a victim, who has yet suffered physical, emotional, or monetary injury from the criminal act or conspiracy or pattern of unlawful activity.

For instance, in drug dealing and racketeering cases there are thousands of victims who now have a chance of meaningful economic recovery for the damages inflicted upon their communities. In neighborhoods where crack houses now spread destruction among young people and where businesses are afraid to operate, it is not enough to arrest of few low-level drug dealers who can easily be replaced.

Now, after a conviction, when the trial moves to the damages stage, all the victims will now be empowered to rise in unity against the hugely profitable drug dealers to seek restitution for their injuries.

But let us be candid: This provision should be a useful tool in white collar prosecutions as well. It is needed to combat environmental pollution by requiring corporate defendants who have been convicted of toxic discharges to pay homeowners whose property has been damaged or who have suffered emotional injury. It is needed to pay restitution to victims of price fixing or securities violations or for those who are victims of criminally negligent actions of manufacturers.

Of course, in many cases involving poor defendants, the chances of a victim recovering any restitution at all are about as good as getting blood from a turnip. In fact, only 18 percent of the current Federal defendants are under a restitution order, suggesting that this may be an impracticable idea in many ways.

However, given the broad possibilities of helping reduce fear in neighborhoods and holding corporate criminals accountable for their actions, I urge my colleagues to support this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to have introduced H.R. 665, the Victim Restitution Act of 1995, and to speak in favor of its passage today. It is very fitting that we begin our floor consideration of crime legislation in the 104th Congress with a bill about victims. Perhaps no group has been more forgotten in our criminal judicial process than the victims of crime. Too often they are denied justice, but even more they must endure their losses without compensation.

Under current law Federal judges are merely authorized to order offenders to make restitution to their victims. While the restitution may be ordered in addition to any other penalty if the crime is a felony, it can only be ordered in lieu of any other penalty if the crime is a misdemeanor. There is no provision for restitution to be paid to anyone other than the immediate victim of the crime.

Under H.R. 665, however, Federal judges would now be required to order criminals to make restitution to their victims. The bill also would give the court the discretion to order the offender to make restitution to persons other than the victim, but who have also been harmed by the offender's unlawful conduct.

Specifically, H.R. 665 would ensure that offenders make restitution to their victims by mandating that restitution be paid to victims of crime, in addition to any other penalty authorized by law. Judges would be able to substitute restitution for other penalties only in the case of misdemeanor crimes. The bill would also help to ensure that all persons harmed by an offender's unlawful conduct receive restitution by giving judges the discretion to award restitution to all persons harmed by the offender's conduct, regardless of whether that harm was physical, emotional, or financial.

The bill would ensure that restitution is paid in full by requiring that restitution orders be calculated without regard to the offender's ability to pay or the fact that the victim has received or is entitled to receive compensation from some other source. But the bill does allow the judge to consider the offender's finances and assets, projected earnings, and other financial obligations when deciding how to schedule the offender's payments of the restitution actually awarded.

The bill's provisions ensure fairness by limiting the victim to one recovery through a provision which requires that the restitution award be set off from any damages that the victim may recover against the offender in a civil action relating to the crime. The bill also provides that insurers which pay compensation to victims will be entitled to receive the restitution payments once the victim is made whole.

The bill's provisions have teeth, so that offenders will comply with restitution orders. The bill provides that if the offender fails to live up to the terms of the restitution order, the court may revoke any probation or supervised release granted to the offender, hold the offender in contempt of court, enter a restraining order or injunction, or take any other action necessary to force the offender to comply with the restitution order. The bill also allows the Government and the offender to enforce the order as a civil judgment in Federal court.

The bill ensures that judges will have maximum flexibility in awarding restitution. Under the bill, judges may award restitution in the form of money payments or in-kind restitution such as the return of property, replacement of property, or services to be rendered to the victim or even to a person or organization other than the victim. It also allows both victims and offenders to petition the court to modify the restitution order if the offender's economic circumstances change at a later date.

I might make sure at this point, Mr. Chairman, that everybody is clear that this bill covers not only violent crimes that most people think of when they think of crimes, but whatever white-collar crimes you might conceive of, including Federal crimes involving fraud. Mail fraud in particular, I would point out, would be covered by this. If some elderly person in my home State of Florida were to be defrauded in the process of some hooligan coming through with mail fraud or some other Federal fraud crime, that certainly is covered. It also would cover any kind of situation involving a securities fraud or securities scam or any other crime of a Federal nature involving a pecuniary loss to an individual as well as those kinds of crimes involving physical harm, as has been pointed out in this previous discussion.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want to commend the chairman of the subcommittee for making that clarification, because we raised this briefly in the full committee, and also in my remarks. So we are talking about the fact that corporate defendants and white collar criminals would all be caught under this, as well as those who commit street crime.

Mr. McCOLLUM. They will be caught under this bill. Restitution would apply to all types of Federal crimes as far as the injuries are concerned. It is very clear we are talking about pecuniary as well as injuries to the person.

Mr. CONYERS. Mr. Chairman, I commend the gentleman, and thank him for that further detailed explanation.

Mr. McCOLLUM. Mr. Chairman, reclaiming my time, I would also point out that as we look through this restitution provision, you will note that there are other victims who might be not considered normally a victim who are going to get some kind of compensation. For example, let us assume that you have a single mother, a single parent, who is going to come to court to testify against a criminal defendant. That person may not be the victim in the sense of having been the person who was harmed, but perhaps she witnessed the activity, and she has to leave her child with a child care sitter or somebody to care for that child and has to pay those costs.

Under this restitution bill, the court could order that the accused, who then becomes the convicted person once he is convicted of the crime, the judge could order him to pay restitution to this witness, the mother, who had to pay the child care fees and so on.

So it is a very broad restitution bill. It leaves a lot of discretion to the judge, but it mandates that he compensate, at least through the order of restitution, the actual victim of the crime.

Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. OXLEY], who authored, I believe, the first one of these restitution proposals several years ago, and it is finally coming to fruition.

Mr. OXLEY. Mr. Chairman, I want to first commend the Committee on the Judiciary for bringing this crime victims restitution bill to the floor today. It is not I think an accident that this is the first of several crime bills in which the new majority attempts to rewrite the crime bill of 1994. I applaud them for their efforts and for their foresight.

□ 1330

Mr. Chairman, I obviously rise in support of H.R. 665, the Victim Restitution Act.

This has been a long time coming for this Member. Five years ago, in the 101st Congress, I introduced the first mandatory victims' restitution bill into the Congress. Then minority leader, Bob Michel, and I offered an amendment to the 1990 crime bill on the floor of the House, and with Bob Michel's strong support, we passed that crime victims' restitution bill on a voice vote.

Our good friend and colleague in the other body, Senator DON NICKLES from Oklahoma, introduced a similar bill that was passed in the Senate, so we had a crime victims' restitution bill that had passed in the House, in the 101st Congress, passed in the Senate, and then somehow disappeared from the conference committee report. Lo and behold, that was to set the pattern for crime victims' restitution bills during the last 5 years.

I think that is unfortunate, because this bill is essentially based on personal responsibility, saying to the bad guy, "Look, not only do you have to face jail and fines, but you also have to try to make that victim whole. That is, as a personal responsibility, you have violated not only the law of the land but you have violated some other individual or group of individuals and, therefore, you should have to be required to make that person whole."

That is really what this provision is all about. So we fought and fought. Last year in the 1994 crime bill, same old stuff, introduced a bill, had 150 some cosponsors, bipartisan in nature. Went to the Committee on Rules and asked that the amendment be made in order. Guess what? The Committee on Rules, about midnight, essentially stiffed us one more time. We were not able to bring up crime victims' restitution, even though I had, again, the strong support of Bob Michel, and though he is no longer with us and has retired, I am sure that this is a proud day for him as we finally see this legislation on the floor and ultimately going to be enacted into law.

This bill holds support for victims. It holds an offender accountable for his actions and strengthens some of his personal responsibilities, something that we have too little of today, society. I am just excited about the prospects for this bill.

Let me say also to my friend from Florida, who has shown great leadership on this issue, that all of the crime victims' restitution organizations, the crime victims' groups that are all over the country, and I know he has some in his district, I have got some in my district, all of them for numerous years, at least 5 years since I have been involved in this project, have strongly endorsed mandatory crime victims' restitution. I think we owe it to those folks who have worked long and hard for this day to pass this legislation. I commend it to my colleagues.

Mr. MCCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, I rise in support of the Victim Restitution Act of 1995. Let me add that none of us clearly can imagine or walk in the shoes, the footsteps, in the footprints of victims.

Clearly I believe that what we have done in a really bipartisan manner is to be able to say to the more than 36 million victims in this Nation that this House will stand with you. Many times victims have approached some of the systems that have been put together by States which in good faith have offered victims restitution. They have not been mandatory. They have not been required. Some victims have been confused as to how they access this compensation.

It is also important to note, as I stand here, that coming from the 18th congressional district in the State of Texas, that importantly victims come in all shapes and sizes, all races, male and female, children, families. We come now under this particular act to be able to say to these individuals that "we will now stand for you and with you. Restitution is not only offered but it is required. And we will not treat you like another litigant in the courtroom, asking you to show what other compensation you have received. But we will say to you that regardless of insurance and other sources, it is important for the person who did the crime, and was convicted to show the victim the deference and the respect of restitution for the emotional, financial and other kinds of loss that you have received."

I think that we are truly going in the right direction. This legislation gives the court the discretion to provide restitution to someone who is not just the crime victim, who in some manner has been harmed physically, emotionally, or financially by the criminal's acts. That speaks to some very tragic situations that have occurred in my district in Texas, where a grandmother now is taking care of the children of her deceased daughter, a loving daughter who stood by her children, who simply was going to the grocery store in order to provide them with the necessities of life and never, never came home.

Now we have that grandmother who is left to care and love and nurture those children. Oh, she does it in good spirit and love. She does it with enthusiasm. But yet she does it with great need, need for support, need for restitution from that particular criminal or that person who was the offender.

I think we are starting in the right place. And I think the place where we are starting is a bipartisan place, which offers to the American people a commitment to the victims of crime.

We should go further, of course, as we proceed with this bill. We certainly should look at prevention. We should look at expanded cops on the streets. All of those are parts of the aspects of making sure that we face crime in an intelligent manner, but a compassionate manner.

Mr. Chairman, I rise to support the Victim Restitution Act of 1995, because I know the victims in my community. I know the police in my community who have come to me to share in these many stories. As a lawyer, I have seen individuals, as victims, who have had various situations that have required assistance.

So I simply say that it is important that we stand for the victims and support the Victim Restitution Act of 1995.

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. SCHUMER], the distinguished ranking member of the Subcommittee on Crime, of the Committee on the Judiciary, and the former chairman of that subcommittee.

□ 1340

Mr. SCHUMER. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS], not only for the time but for his leadership on this important issue.

Mr. Chairman, I would like to make three points. The last one will be about the bill. I would like to talk about two other things first.

First is the timing of the whole six crime bills. I would say to my colleagues—and the gentleman from Florida [Mr. MCCOLLUM], who in all the years I have worked with him, including his brief tenure as chairman of the Subcommittee on Crime of the Committee on the Judiciary, he has been very fair—that today we only have one or possibly two bills on the floor.

I know that the majority leader and others are saying we have to meet certain deadlines on the crime bill and on the contract. There is a great deal to debate on the last three bills, the exclusionary rule, the prisons bill, and the police prevention bill.

What we had urged, Mr. Chairman, through our leadership, and I know they met with the Speaker this morning and late last week, was that we hurry up, we do these bills together, and give us more time Thursday, Friday, Monday, and Tuesday for exclusionary rule, prisons, and prevention. To just do this restitution bill, which is not controversial in the least and has broad bipartisan support, and then not do anything else today, and then rush us in on Monday and Tuesday to do both habeas and prevention would not make much sense.

I would just make that point: Mr. Chairman, let us use that time today.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I am happy to yield to the gentleman from New York.

Mr. MCCOLLUM. Mr. Chairman, the gentleman may not be aware, but when this restitution bill is finished, and I do not believe it is going to take much time, we are going to move right into the exclusionary rule bill. We should complete that today.

In addition to that, as the gentleman may be aware from discussions yesterday, there are ongoing discussions with the ranking member of the gentleman's full committee in an effort to bring up some of these bills earlier, which we are more than happy to do if we can waive some of the technicalities involved in it.

Mr. SCHUMER. Reclaiming my time, Mr. Chairman, I think that is a very worthwhile thing, to do the exclusionary rule today. That makes a good deal of sense. That was the main urgency I had. I would not have wanted to adjourn at 3 o'clock and be told we did not have time to debate.

The second point I would make is on a different point. It is on the general crime bills themselves; that is, what the American people want is this: They want us to do something real about crime.

They knew that we did something real last year. The tough on punishment, smart on prevention, hundred thousand cops formula had broad and wide public support from one end of America to the other. There may have been minor imperfections in those bills, most of which were cleared up by the time the bill reached the President's desk, but the basic concept was there.

Mr. Chairman, I am virtually certain—I have seen polling data, I have talked to people in law enforcement and everywhere else—that the American people do not want to rip up that bill and start all over. They certainly do not want to just make a few quick and rather cheap political points to say, "We had a better one than you had." They want us to work together on crime.

This bill, Mr. Chairman, that we are talking about is just what it is all about. If the new majority wants to build on our old crime bill, fine. Everything can be improved. That is what is happening in restitution. The very restitution measures that were in the Violence Against Women Act, this bill expands to all other victims. Good idea. It does not destroy what we did before; it builds on it.

However, I must say much of the rest of the bill, particularly on the police and the prevention side, as well as on the prisons, goes back. To rip up those bills and start all over does not make any sense to anyone in America, and it seems to me that we are making a big mistake.

Therefore, I would use this bill, the restitution bill, as a model of what we should do, working together, building on what was done last year, which was at least in the field of crime, quite epochal. It was the first time the Federal Government got involved.

However, we should not destroy for the sake of destroying, destroy for the sake of saying, "See, we did it better." It is almost like little kids in the schoolyard going, "Nyaa, nyaa, nyaa, nyaa, our bill is better than yours, and we are doing a new one." That does not make any sense. I would urge my colleagues on both sides of the aisle to do that.

Mr. Chairman, my third point is on the substance of this bill itself. This is a good bill. Members will not find much argument from many people on this side about that. It restores restitution to people who deserve it from those who have committed crimes. As I said, it builds on what we did in the Violence Against Women Act last year.

We are all for it. We do not expect a lot of debate. The gentleman from Vermont [Mr. SANDERS] has a couple of amendments. Other than that, we will move through it quickly.

I want to compliment the majority for coming up with this proposal. It is a good idea and I fully endorse it.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT], a distinguished member of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. SCOTT. Mr. Chairman, this bill will streamline the procedure by which victims can get restitution. Victims already have the right to sue and could go into civil court, but since everybody is right here in court to begin with, they can get the restitution that they deserve.

There is one problem. It does not provide extra money for the judges and the probation officers for the extra work they will do. However, on the whole, it will allow victims to get more justice while they are in court.

However, Mr. Chairman, I would believe that victims would appreciate more of a focus on preventing the crimes to begin with than what to do after they have been victimized. This bill focuses on what happens after the people have already been victimized. We are, in other crime bills, taking money away from prevention and police officers that could have prevented their crime to begin with.

Hopefully, Mr. Chairman, we will restore some of that money to crime prevention and community police officers. In the meanwhile, I guess we have to deal with the fact that victims will be out there victimized because we did not have the foresight to prevent the crimes before they occurred.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, when I first came to Congress, I had come from a State which had paid a great deal of attention to the rights of victims, and like many other States, had established crime victims compensation commissions and boards, with ample appropriations to cover some of the damages suffered by crime victims which could not have been recovered in court.

When I came to the Congress, President Reagan and President Bush and now President Clinton all paid their respects to victims of crimes in various ways, including Rose Garden ceremonies with anecdotes of heroic incidents involving victims of crimes, and the families of victims gathered for the proper respect that the public should have and the President did in each case pay to the victims of crime.

However, today, we elevate our consciousness and the awareness of the public to a new level of respect for the victims when we include, as we do in this bill, a feature of mandatory consideration by the judges of the most important aspect of crime victims; namely, restitution, to try to restore them to the position that they were in before the dastardly crime had occurred.

Therefore, Mr. Chairman, when we act today, what we are doing is sending a signal once and for all that the victims of crime who have for too long become a secondary feature in a criminal case in court now become equal to the juries and to the judge and to the citizens who are witnesses, and to their families, when we accord them the ultimate satisfaction and the ultimate sense of justice when we make sure that restitution is ordered on their behalf against the very individual who caused the damages in the first place.

Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, on the old television show "Baretta", the detective used to say, "Do the crime, do the time."

Today we are telling the criminals they will owe more than time.

Crime is not restricted to large cities. Even in my district that includes many rural areas, threats to personal safety are a top concern.

Crime is not restricted to certain age or income categories but the sad fact is that the problem is even more severe among minorities and the poor.

Most alarming of all are the statistics regarding women and crime. A rape occurs every 5 minutes in our country and an aggravated assault every 29 seconds.

Last year, Congress passed a bill that spent billions of dollars on criminals. This year we are going to pass a bill that makes the criminals pay.

Today we are considering an important bill that does more than give criminals time, if forces them to pay their victims for what is really irreputable harm.

For too long, crime bills have been about criminals. Now, we are recognizing that crime is about the victims.

Mr. Chairman, this is an important bill. This is a bill we should pass today. I urge my colleagues to join me and vote for this measure.

□ 1350

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. WATT], a member of the committee.

Mr. WATT of North Carolina. Mr. Chairman, I thank the minority leader on this committee for yielding time to me.

I am not going to jump up and down about this bill, either for it or against it. I will probably vote for it, but I do think that we need to point out some things to the American people about this bill and some concerns that I have.

No. 1, there is a provision in this bill that talks about when a person is on probation or parole and is not able to meet the restitution schedule, that probation or parole can be revoked, and I think that gets us dangerously close to being back to the point of the old debtors prison, and I want the American people to be aware that that provision exists in the bill.

There is a process for going back into the court and getting the restitution order revised, but I think that process is going to be very, very difficult. So it causes me some concern.

The second point I want to raise is the matter of due process under this bill. There is really no detailed way drawn out in the bill for due process to be given to the defendant in this case. The probation officer goes out and finds certain information, brings it back to the court, there is no process for a hearing at the initial level to decide whether the restitution is just or how much restitution will be awarded, and there are some concerns that I have about that.

I simply thought that it behooved me to stand up and say that despite the fact that this bill generally moves in a good direction, there are some concerns. Those concerns were not addressed in committee because of the pace with which this bill was being moved, and I thought it would be remiss of me not to point out those concerns to the American public.

Mr. CONYERS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself so much time as I may consume to close the debate.

I simply want to point out the fact that as we move through this process, we are beginning to bring to the floor six bills that comprised the Contract With America crime legislation that the Republicans, when we took over as the majority in the House of Representatives, committed to bring out in the first 100 days.

There are six separate bills, but in the proposals we put forward, we did it in one complete crime process.

The second piece of legislation that will come out later today deals with the evidence rules in search and seizure cases to open up more avenues for the officers of our criminal justice system to get convictions.

The next bill that we have will deal with prison grants and prison construction in an effort to provide a better scheme in order to resolve the issue of what we think is most important, and that is, requiring those who have committed repeat violent felonies to serve at least 85 percent of their sentences.

Another bill that will be out here very shortly deals with expediting the process of deporting criminal aliens. Those are aliens who have committed crimes in this country and are sitting in our jails taking up jail space and oftentimes actually are released and go out into the public and get lost again to commit more crimes before they are deported.

Another bill that we are going to be bringing forward very shortly deals with the process of the issue of how we speed up carrying out death sentences in death row cases to try to end the seemingly endless appeals of death row inmates.

And the last of this series of six deals with the issue of the block grant programs that we think should be used in place of cops on the streets and the prevention programs that were passed in last year's crime bill.

The gentleman from New York referred to this latter bill when he said that he was perfectly happy with the restitution bill that we have out here today, but he did not really think we ought to be tinkering around the edges with what was done already.

I would suggest to him and to all others who may be observing this proceeding today of our Members here, that we are not going to be tinkering with that. We are going to be making a major overhaul when we get to it. We are going to be taking virtually all the grant programs that were proposed last year in the prevention area and the cops-on-the-street program which constituted together a combined amount of almost $16 billion and we are going to be putting these together in community block grants to the cities and to the counties of this country with the highest crime rates, according to those rates and their population. We are going to be giving them this money in the amount of about $10 billion in order that they may, in their pure exercise of their judgment, decide what is in the best interest of their communities in fighting crime, whether that be hiring a new police officer, paying overtime pay to existing police, or doing some prevention program, gosh knows what it may be. But it will be their decision. We will allow maximum flexibility to the local communities instead of having Washington dictate it.

I would just suggest that when we finish the six bills out here, including the one that the gentleman from New York referred to, we will have at that point in time actually made some very major revisions in the laws. We are not going to be tinkering with what was done last year. We are going to be making major revisions and we are going to be putting forth a general principle that Republicans believed at the time of that debate was important.

Mr. Chairman, I am not here to debate those bills, I am here to close the debate, but I felt because of the comments that were made I needed to explain that.

I close the debate on this restitution bill. It is not controversial. We do need to provide adequate restitution to those who are victims of crime. The bill before us today, H.R. 665, does that. It does go a long way to making victims whole again and making sure that those who have committed their crimes, be they violent crimes or be they white-collar crimes, pay not only in the sense of paying by punishment but paying in literal dollars and cents to those who are their victims and the other people whom they have cost in some way through their crimes compensation that will at least in some small measure provide relief to those individuals who are the victims and others who have been harmed by this process.

It is a good bill and I urge the adoption of the bill today.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, if you would have noticed, our colleague from North Carolina raised a very sensitive point that troubles me and I would just like the gentleman to agree that we really need to look very carefully into the matter of someone on parole or probation who is brought back into the system for not meeting his restitution order, the suspicion being that he might be unemployed or unable to pay and that there ought to be some procedure that makes sure that we have not created a mini debtors prison in the process.

Mr. McCOLLUM. If I could reclaim my time, Mr. Chairman, the court has the discretion, I might point out to the gentleman from Michigan, to make sure that he can change or modify the particular order of restitution at any time if the economic circumstances of the offender have changed, so that I do not believe the difficulty the gentleman from North Carolina raised is really present. I understand his concern. But we say here in one of the provisions of the bill, "A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender."

I really believe that that will remedy the problem that the gentleman is concerned about.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, the trouble I have with that provision, and that provision is fine and it contemplates a situation where the economic conditions of a defendant have changed and there is the time to do that, but I am not sure under this bill what court the defendant has the right to go back in front of immediately, before his probation is revoked, before his parole is revoked. There seems to be a disjoint between the process for raising that issue and the process of revocation of the parole and probation. That is the trouble I have with it.

Mr. McCOLLUM. If I may reclaim my time, the revoking of probation when restitution is not paid is discretionary with the court. The word is "may." So presumably the court that is going to be revoking it is going to be the court that indeed handed out the restitution in the first place.

But I would submit to the gentleman that you could have different judges in the same court. We have that in many civil proceedings as well as criminal proceedings today in our courtrooms where for one reason or another, maybe a judge retires, maybe a judge is ill, maybe a particular judge is not there and he delegates it to a different one. But it is the same court.

I would submit to the gentleman that I would share his concern, but I really believe the language is very broad and I do not think his fears will come to any real truth is reality.

Nonetheless, I suppose we could always come back and address it. The gentleman would have a right, if he could find a better way of doing it in the amendment process, to deal with it in the amendments that we are about to offer.

Mr. YOUNG of Florida. Mr. Chairman, I rise today in support of H.R. 665, the Victim Restitution Act. This legislation represents title III of the Taking Back Our Streets Act, one of the 10 points of the Republican Contract With America, and begins our efforts here in the House to address our Nation's crime problem.

The bill before us today embodies one of the most fundamental tenants of our Nation's justice system—that criminals pay for the consequences of their crimes. H.R. 665 mandates that those convicted of a Federal crime provide full restitution to their victims for damages caused as a result of the crime. The court may determine the amount of restitution based on the victim's situation and regardless of the economic resources of the criminal.

Mr. Speaker, our Nation faces a crime problem of epidemic proportion. Each year, one in four U.S. households fall victim to violent or property crime. That translates into nearly 5 million victims of murder, rape, robbery, and assault, and 19 million victims of arson, theft, and burglary. According to the Department of Justice, in the past two decades more than 36 million people in the United States were injured as a result of violent crime.

In addition to the physical and emotional costs of these crimes there are substantial economic costs as well. In fact, in 1991 alone, crime against people and households cost an estimated $19 billion. Each year crime-related injuries force Americans to spend 700,000 days in the hospital. Today's legislation will help the victims of these crimes recoup the costs of these recoveries, and I strongly support its passage.

Mr. LAZIO. Mr. Chairman, every day, career criminals exact an untold cost on American societal and cultural life. When the perpetrator of a crime commits his illegal act, be it an environmental crime, a white collar crime, or a crime of violence, the effect on the victims goes far beyond what the newspaper headlines tell. If the person responsible for injuring the victims goes to prison, he may pay his debt to society. But the victims of the crime are not made whole. There are physical, emotional, and financial costs that are not compensated unless that person brings a civil suit, a long and unpredictable process. Sadly, these individuals are often not paid any monetary restitution for their loss.

Imagine this on a larger scale. Imagine this occurring in towns and cities across our Nation, all those victims of crimes whose lives have been dramatically disrupted by individual crimes. We as a society suffer. Indirectly we all pay these costs of crime in our Nation. "No [person] is an island * * * every [person] is a piece of the continent."

Presently, Federal courts have discretion to order restitution be paid to victims by offenders. Why not make this a requirement? This is not a radical notion. Although a small step, this measure will ensure that to some extent, there will be compensation for those victimized by Federal crimes. Steps will be taken to make those affected by crime whole again. This bill also prohibits double-dipping, so injured parties will not receive undue compensation. Passing this bill is the least we can do here in Congress to help repair the damage done to peoples' lives by this epidemic of crime.

Mrs. FOWLER. Mr. Chairman, I rise in support of the Victim Restitution Act.

H.R. 665 addresses a fundamental question of fairness. Should victims have to suffer the burden of damages caused by criminals, or should be criminals compensate the victims of their crimes? I believe we must send a clear message that those who commit crimes will not only have to pay their debt to society, but also to those they have wronged.

In Jacksonville, there are two facilities that offer assistance to victims: Hubbard House, which provides a full range of services to victims to domestic violence, and the Victims' Service Center, which provides services to victims of all types of crime. Both facilities are funded by private donations, businesses, and the city of Jacksonville.

I mention these programs because they are excellent examples of local government and business responding to the needs of crime victims. However, these kinds of initiatives are not enough—and it is time for Congress to join the fight and pass H.R. 665.

Mr. CUNNINGHAM. Mr. Chairman, I rise in strong support of H.R. 665, the Victim Restitution Act. This bill, which is part of our Contract With America, will help to bring real justice to the millions of Americans victimized by crime each year.

Too often, our criminal justice system ignores the victims of crime. Americans are justifiably outraged by a system that guarantees cable television and other creature comforts to criminals, while leaving the victims of crime facing recuperation from injuries or massive financial loss. Insurance rates are increased by a need to provide health care for victims of crime or compensating victims for losses from theft. Meanwhile, no mechanism exists to insure that criminals bear a financial penalty for their actions. This bill will change Federal criminal proceedings to insure that the victims are compensated by their assailants.

The Bureau of Justice Statistics has reported that from 1973 through 1991, there were 36.6 million people injured as a result of violent crime. In 1992, almost 34 million Americans were victims of crime. Crime against people and households resulted in an estimated $19.1 billion in losses in 1991. Each year, injuries from crime cause some 700,000 days of hospitalization. The human costs of crime are real and growing.

While we have seen a growing awareness of this problem in recent years, we still fail to adequately compensate the victims of crime. This bill requires full financial restitution.

H.R. 665 instructs Federal courts to award restitution to crime victims and allows courts to order restitution to people harmed by unlawful conduct. Although victims may receive temporary relief from insurance, the criminal must ultimately pay the amount. If a victim receives compensation from a civil suit, that amount must be reduced by the amount of the restitution order.

For the first time, we establish that criminals must comply with restitution orders made by the court as a condition of probation, parole, or supervised release. H.R. 665 gives judges the authority and leeway to take any action necessary to insure that victims receive proper compensation.

Under H.R. 665, Federal judges must order compensation when sentencing for convictions of Federal crimes. The judge may also order compensation to any other person who was physically, emotionally, or financially harmed by the unlawful conduct.

Judges are given the leeway to consider indirect costs to victims, such as lost income, child care, and other expenses arising from the need to be in court. The judge is not to consider the income or resources of the offender or victim when determining the amount of compensation.

Mr. Chairman, H.R. 665 is an important component in our battle to restore commonsense to our judicial system. It will act as a deterrent to crime and more importantly, shows that Congress is serious about recognizing and addressing the needs of the victims of crime. I urge passage by the House.

Mr. FAZIO. Mr. Chairman, from 1973 to 1991, over 36 million Americans were injured as a result of violent crime. In 1991, crime against people and households resulted in an estimated $19.1 billion in losses. Crime-related injuries typically account for more than 700,000 days of hospitalization annually.

Although current law requires restitution in Federal crimes of domestic violence, for most other Federal crimes, judges have the discretion to order restitution. However, H.R. 665, the Victim Restitution Act, makes such restitution mandatory. If H.R. 665 is enacted, those convicted of Federal crimes will have to pay full restitution to their victims for damages caused as a result of their crimes. Federal courts will also be able to order restitution for any person—not just the direct victim of the crime—who demonstrates, through a preponderance of evidence, that he or she was harmed physically, emotionally, or financially by the offense. If the defendant fails to comply with the restitution order, the court could revoke probation or parole, modify the conditions of probation or parole, hold the defendant in contempt of court, enter a restraining order or injunction against the defendant, order the sale of the defendant's property, or take any other action necessary to ensure compliance with the restitution order.

Whatever our views are on crime and how to deal with it, we are in agreement that the crime victim deserves respect and support from society. This is an issue that unites this country—support for victims of crime. I believe that H.R. 665 will provide crime victims and their families with this necessary protection and I therefore support its passage.

□ 1400

Mr. McCOLLUM. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Victim Restitution Act of 1995".

SEC. 2. MANDATORY RESTITUTION AND OTHER PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law" and inserting "shall order"; and

(ii) by adding at the end the following: "The requirement of this paragraph does not affect the power of the court to impose any other penalty authorized by law. In the case of a misdemeanor, the court may impose restitution in lieu of any other penalty authorized by law.";

(B) by adding at the end the following:

"(4) In addition to ordering restitution to the victim of the offense of which a defendant is convicted, a court may order restitution to any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(B) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (b)—

(A) by striking "and" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and";

(5) in subsection (c) by striking "If the court decides to order restitution under this section, the" and inserting "The";

(6) by striking subsections (d), (e), (f), (g), and (h);

(7) by redesignating subsection (i) as subsection (m); and

(8) by inserting after subsection (c) the following:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution to each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution to victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restriction order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful; and

"(B) notify the court and the interested parties when an offender is 30 days in arrears in meeting those obligations; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) Procedure for Issuing Order of Restitution.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

The CHAIRMAN. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the Congressional Record. Those amendments will be considered as read.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment, the amendment numbered 1, printed in the February 6 Congressional Record.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Sanders: Page 4, line 24, after the period insert "A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution."

Mr. SANDERS. Mr. Chairman, this amendment is being offered by myself and members of the Progressive Caucus and I believe should not be controversial. In fact, I believe that it is consistent with the intent of the proposed legislation.

Mr. Chairman, there is no argument about the need for restitution for violent crimes, and I believe that the intent of this legislation is to cover white collar and corporate crime as well. The gentleman from Florida [Mr. McCollum] has made that quite clear. The amendment that I am offering simply requires that companies convicted of crimes must notify the victims of those crimes. Convicted companies should be required to notify as best as possible all of their victims.

Let me give an example if I might. Price fixing goes on in America and I think there is no debate about it. We have had circumstances where companies that deliver oil, heating fuel to people's homes are convicted of price fixing, they are charging their customers too much money. It seems to me to be appropriate that if that company is convicted of price fixing, all of the victims, people who have paid more money than they should have, should be notified of that conviction and then again do as they choose to do. And that essentially is what this amendment is about.

I have talked to the majority and I believe that they are not in disagreement with the intent of this amendment.

I yield to the gentleman for a response.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, will the gentleman please repeat the question?

Mr. SANDERS. I was suggesting that we had talked about this issue and that the gentleman is not in disagreement with the intent of the amendment.

Mr. McCOLLUM. The gentleman is quite correct, I am not in disagreement, though I would suggest that we might be able to modify the gentleman's amendment to make it more palatable, because I think there is a question about how an offender would know under the broad language the gentleman has who all his victims are.

MODIFICATION OFFERED BY MR. MC COLLUM TO THE AMENDMENT OFFERED BY MR. SANDERS

Mr. McCOLLUM. Mr. Chairman, I would like at the appropriate time, if now is the appropriate time, to ask unanimous consent to modify the gentleman's amendment to add at the end the words, "and where the identity of such victims and other persons can be reasonably determined."

If the gentleman would concur in that, I ask unanimous consent, Mr. Chairman, that modification be made to this amendment.

Mr. SANDERS. I would concur, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. WATT of North Carolina. Mr. Chairman, reserving the right to object, let me just raise the issue of whether that same shortcoming does not exist under the other language in the bill, that there is a lot to be desired in this bill on the issue of identifying who has been injured and who is entitled to have restitution made to them. If we are going to address it with respect to corporate defendants, it seems to me that we ought also to be making that language broad enough to cover others.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield on his own reservation?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding. In the case of the victims being determined in the normal course of this, the burden is on the prosecutors in the case to bring forth the evidence and present it to the court. In the case of the Sanders amendment, it is requiring a burden on the offender to determine who his victims are and in some cases that will be very simple. But there is no prosecutor involved here. This is after the fact, he has to notify them after the fact. So the court is not in the process at that juncture, the government is not in the process, and it is all left up to the individual. That is the reason why I believe it is appropriate to give some caveat of reasonableness here so that this person, whoever it may be, is not being asked to do the impossible. Whereas in a case again of the major part of this, if the government cannot show what it is supposed to show, nobody is going to be harmed, and there is no burden on any individual.

Mr. WATT of North Carolina. Further reserving the right to object, and I will not object if the sponsor of the amendment is satisfied, but it seems to me I cannot understand why we are putting corporate defendants in some separate section of the bill as opposed to putting them in with all of the other defendants.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. It is my understanding also they were being put in the bill someplace different from all other defendants.

Mr. McCOLLUM. If the gentleman will yield, we are not. The gentleman from Vermont's proposal applies equally to noncorporate defendants as to corporate. He simply is providing, as I read it, a very broad interpretation. I think his intent is primarily to get at the corporate, but he actually gets at everybody in this case.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I think it is my time to begin with.

The CHAIRMAN. The gentleman from North Carolina controls the time now on his reservation.

Mr. WATT of North Carolina. I am reserving the right to object, and I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding.

My concern here is to make sure that in what would most likely be a corporate crime, multiple victims are notified. When somebody stabs somebody we know what is going on. If somebody rips off hundreds of people, it is very likely those hundreds of people will not know that they have been ripped off, will not be notified of that, will not have the opportunity to seek redress and that is the purpose of this amendment.

Mr. WATT of North Carolina. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Does the gentleman from Vermont [Mr. Sanders] desire his amendment be modified as proposed by the gentleman from Florida?

Mr. SANDERS. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. McCollum to the amendment offered by Mr. Sanders: At the end include "and where the identity of such victims and other persons can be reasonably determined."

The CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment offered by Mr. Sanders, as modified: Page 4, line 24, after the period insert "A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution and where the identity of such victim and other persons can be reasonably determined.".

Mr. SANDERS. Mr. Chairman, I have nothing more to add to the discussion, and I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to make it clear that on our side we strongly support the amendment of the gentleman from Vermont and commend the chairman of the majority for accepting a commonsense provision that would make victims of corporate activity able to be notified of their right to appear in court and to state their claims for restitution. I am proud to join in support of this amendment.

Mr. Chairman, I yield back the balance of my time.

Mrs. VUCANOVICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman—it was not long ago when we could go out in the streets and to the parks of our neighborhood and feel perfectly safe. Sadly, that is no longer the case. Now, it is virtually impossible for a day to go by without a headline detailing the newest criminal outrage.

It is time that criminals understand their behavior will not be tolerated. Punishment must be certain, swift, and severe. Until they fear the consequences of being caught, we do not have a chance to win the war on crime.

H.R. 665 the Victim Restitution Act, goes a long way in achieving this goal. It instructs Federal courts to award restitution to crime victims and allows those courts to order restitution to other people harmed by the criminal's unlawful conduct. Criminals who commit Federal crimes now know they will literally pay a price for their actions. Presently, such restitution is permitted, but not required.

I am especially supportive of this measure because victim restitution is widely considered one of the most effective weapons to help fight violence against women. By requiring full financial restitution, this act required the offender to directly face the harm suffered by his victim by his unlawful actions.

It also strives to provide crime victims with some means of recouping the personal and financial losses resulting from these terrible acts of violence.

I urge my colleagues to support H.R. 665.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont [Mr. Sanders], as modified.

The amendment, as modified, was agreed to.

□ 1410

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mrs. Vucanovich) having assumed the chair, Mr. Riggs, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 665) to control crime by mandatory victim restitution, pursuant to House Resolution 60, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 431, nays, 0, not voting 3, as follows:

[Roll No. 97]

YEAS—431

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—3

Frost
Wilson
Yates

□ 1432

Mr. BURR changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXCLUSIONARY RULE REFORM ACT OF 1995

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 61 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 61

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 666) to control crime by exclusionary rule reform. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida [Mr. DIAZ-BALART] is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 61 is an open rule providing for the consideration of H.R. 666, legislation to control crime by means of reforming the exclusionary rule.

This rule provides for 1 hour of general debate, equally divided between the chairman and ranking minority member of the Judiciary Committee, after which time any Member will have the opportunity to offer an amendment to the bill under the 5-minute rule. Finally, the rule provides for one motion to recommit, with or without instructions.

As with the rule for H.R. 665, which we recently debated, this rule also includes a provision allowing the Chairman of the Committee of the Whole to give priority in recognition to Members who have printed their amendments in the CONGRESSIONAL RECORD prior to their consideration.

I feel that this option of pre-printing is a common courtesy that enables Members to see what amendments their colleagues may be offering. Any Member's amendment, pre-printed or not, will still have the opportunity to be offered and heard on its merits.

Mr. Speaker, the fourth amendment to the Constitution provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated * * *

The Founding Fathers did not provide that law enforcement officers could not rely on their common sense and reasonable judgment to fight crime. But, that is what has happened unfortunately in our society. Something is profoundly wrong when, in a State where 2 license plates on automobiles are required, a policeman stops a car with only one plate, finds 240 pounds of cocaine in the car, and the evidence is thrown out—excluded under the "exclusionary rule"—because the judge says that the car was registered in a State that only issues one license plate. Who gets hurt when that drug dealer walks? The police officer? No, the children of that community, the people, society gets hurt.

In 1984, in United States versus Leon, the Supreme Court created the good faith exception to the exclusionary rule. In Leon, the Court held that even if a search warrant was ultimately held to be invalid, the evidence gathered by police using that warrant could be permitted at trial, so long as the prosecution could demonstrate that the police believed, in good faith, at the time of the search, that the warrant was valid. The Court stated that since the exclusionary rule had been created to deter law enforcement officials from violating the fourth amendment, excluding evidence gathered by those who believed in good faith that they were acting in accordance with the Constitution served no legitimate purpose.

H.R. 666 would limit the effect of the exclusionary rule, and give Federal judges more latitude to admit evidence seized from those accused of crimes, so long as the search and seizure in question took place under circumstances providing the law enforcement officer conducting the search with an objectively reasonable belief that his actions were in fact lawful and constitutional. Moreover, H.R. 666 establishes a shift in the burden of proof. If a search is conducted within the scope of a warrant, the defendant will have the burden of providing that the law enforcement officer could not have reasonably believed that he was acting in conformity with the fourth amendment.

H.R. 666 builds upon Leon by codifying its holding. A Federal judge may still suppress evidence if it was seized in knowing or negligent violation of the Constitution.

Evidence gathered in violation of any statute, administrative rule or regulation, or rule of procedure would be admissible unless a statute specifically authorizes exclusion of evidence. But, the good faith exception would apply and may render such evidence usable.

Mr. Speaker, I strongly support the Exclusionary Rule Reform Act of 1995 and urge adoption of this open rule for its consideration.

□ 1440

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I appreciate my colleague, the gentleman from Florida [Mr. DIAZ-BALART], yielding the customary 30 minutes of debate time to me, and I yield myself such time as I may consume.

House Resolution 61, the provisions of which the gentleman from Florida has well explained, is an open rule. I support it, and I urge my colleagues to do the same.

I am, However, as are others, concerned about the wisdom of the provisions of H.R. 666, the bill for which this rule has been granted. As my colleagues on the Judiciary Committee have written, H.R. 666 "commits affirmative harm to the Constitution."

It breaks our Constitution's promise, as expressed in the fourth amendment, and which has been maintained for over 200 years, that all Americans have the right to be protected from arbitrary and unfounded governmental invasions of their homes.

The protections of the fourth amendment have been enforced through the exclusionary rule, which prohibits prosecutors from using evidence in criminal cases that has been obtained in violation of the constitutional guarantee against unreasonable searches and seizures.

We should not only question the provisions of H.R. 666 which allow the use of evidence obtained without a warrant as going beyond permissible police search and seizure powers, but we must also question whether Congress has the power to change the exclusionary rule by simple legislation rather than by a constitutional amendment. Along with many of my colleagues, Mr. Speaker, I am confident that the constitutionality of H.R. 666 will be challenged and, I suspect, successfully.

We have to be particularly careful when we deal with an issue as highly charged and emotional as crime to legislate with as much thoughtfulness and as much care as possible. That is especially true in cases such as this when changing the law necessarily raises questions of abridging constitutional protections that were adopted with good cause to protect the innocent.

I fear that in our desire to prove to our constituents that we are not soft on crime we have forgotten that certain procedures such as the exclusionary rule were instituted to protect the innocent—in this case, those who may be subjected to illegal searches and seizures.

Because of these very serious problems with the provisions of H.R. 666, I am pleased, as are Members on our side, that the majority on the Committee on Rules has recommended this open rule.

Mr. Speaker, to repeat, while I have strong and serious reservations about H.R. 666, and even about our considering it as written, I support the rule and urge my colleagues to do the same.

Mr. Speaker, we have no requests for time, and I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield 2 minutes to my good friend and colleague from the Committee on Rules, the gentleman from Colorado [Mr. McINNIS].

Mr. McINNIS. Mr. Speaker, I thank the gentleman from Florida for yielding time to me so I may have the opportunity to address the floor for a couple of minutes.

First of all, I think it is appropriate once again to address the fact that this is going to be a very controversial bill. We are going to have some very interesting debate on both sides of the aisle, and I think it should be highlighted that the chairman of the Rules Committee chose that an open rule would be appropriate.

In the last couple of weeks I have heard some comments about "Gee, we see the open rule really when it is a noncontroversial bill." Well, today is a good example of when we have a controversial bill and we see an open rule through the Speaker of the House and through the chairman of the Rules Committee. I think that fact should be noted.

Let us talk about the substance of the bill. Obviously, the substance of the exclusionary rule, I think, has merit and will prove to be constitutional in a court of law. Every time we pass some kind of criminal statute in these chambers they are always challenged on a constitutional basis. A defense lawyer's job is to challenge it in any way he can. But I am confident that the constitutionality of the good faith exception to the exclusionary rule will be upheld.

What is the exclusionary rule? We have a lot of people today, perhaps some who are observing this action, who do not understand what we mean by an exclusionary rule. Very simply, let me explain it in this way:

I used to be a police officer, and let us say that I stopped someone incorrectly and in the process of that error in judgment in stopping, say, a motor vehicle, I confiscated or found evidence that led to charges being filed against a defendant. Then the court could come in and say that because of my error of judgment in stopping the person, they are going to exclude any evidence or any fruits of my search that resulted because of my improper stopping.

I think the gentleman from Florida gave an excellent example in that particular case. I do not want to be repetitive, but I think it is important. In that particular case a police officer stopped a car; the car only had to have one license plate. The police officer was in error. He thought the car required two license plates. So when he stopped the car, he was in error. But in the process of going up and checking the driver's license, he noticed in the back seat of the car a certain amount of cocaine. I think there were 240 pounds of cocaine there. The court threw out the cocaine as evidence in the criminal trial because the officer improperly stopped the person for missing a license plate.

Now, there is not a person on the Main Street of America who would agree with that finding, and there is not a person on the Main Street of

America, other than defense attorneys, who is not going to say that we should have a good faith exception to the exclusionary rule.

So, Mr. Speaker, I commend the gentleman from Florida for the open rule that he has helped to facilitate. I think the substance of the issue is on our side. I think we are going to have bipartisan support, and I predict the bill will pass.

Mr. BEILENSON. Mr. Speaker, we have no requests for time, and I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I grant such time as he may consume to the distinguished gentleman from California [Mr. DREIER], a member of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me this time, and I would like to congratulate him on his management of the rule. It is really quite easy to manage an open rule. It has always been somewhat of a challenge to take on what is known as a restrictive rule.

My friend from Woodland Hills raised some very valid questions about the exclusionary rule, and I think that as we look at this legislation, it is going to be considered under a process that will allow amendments to be offered and debated. We will be able to discuss it openly here, as was the case in the Committee on the Judiciary and as were the case when we heard testimony from the chairman and the ranking minority member of that committee.

So basically the institution will be able to work its will on this legislation. Some will vote for it, some will vote against it, and I hope very much we will be able to see the House overwhelmingly pass this open rule and move ahead with this critically important legislation.

□ 1450

Mr. DIAZ-BALART. Mr. Speaker, at this time, again commending Chairman SOLOMON and all of the members of the Committee on Rules for bringing forth this very important piece of legislation, with the opportunity of all Members of this House to bring forth all amendments they wish to be considered on behalf of their constituents, I yield back the balance of my time, and move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. CUNNINGHAM). Pursuant to House Resolution 61 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 666.

□ 1451

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 666) to control crime by exclusionary rule reform, with Mr. HOBSON, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we are considering the exclusionary rule exception called the good faith exception. It is perhaps of all of those things we are considering today the one that has as much import as any that we will consider in the whole series of crime legislation over the next week. It is one which will break down some of the barriers that many have been waiting for us to do for a long time and allow more evidence to come in in search and seizure cases in order that we may get more convictions and not have people get off on technicalities.

The public is tired of people getting off on technicalities. We want to see those who have committed the crimes that they have committed be prosecuted, convicted, sentenced and put away for a reasonable period of time; of course, in the case of violent crimes, for a very long period of time.

The problem has been in part because the courts a few years ago decided to carve out a so-called exclusionary rule to protect us as citizenry from unwarranted intrusions into our constitutional rights of privacy and freedom from search and seizure in terms of police officers committing those kinds of intrusions.

The court thought in its infinite wisdom in this process of creating this rule a few years ago of excluding evidence that is gotten from illegal searches and seizures by police that we could deter the police officers from making those kinds of decisions that would violate our rights, and the courts felt that this was the only way they could go about making sure that the constitutional protections were honored by the police around the country.

Well, obviously when the police do not intend to violate your rights, when it is done without any kind of malice or forethought on their part, there is no deterrent effect. The rule does not have any meaning in the sense that it was intended to be in those kinds of situations.

So a few years ago the U.S. Supreme Court said that in cases where there are search warrants, there can be certain exceptions called the good faith exception, in common parlance, to this rule of procedure and that we will then let evidence in and allow convictions to take place.

Unfortunately, the Court did not rule in the non-search-warrant cases where there are other rights that police have in those cases to go in and do certain searches and seizures, so we have had a lot of litigation going on around the country and many questions raised in various Federal circuits as to whether or not evidence in admissible with a good faith exception in non-search-warrant cases.

That is what brings us here today. The proposal before us would carve out this good faith exception and broaden it to include not just cases that involve search warrants, but involve all of the cases of search and seizure where the police officer acted as we call it in good faith.

Now, specifically the bill would provide for an exception to the rule in situations where law enforcement officers obtained evidence improperly, yet do so in the objectively reasonable belief that their actions comply with the protection of the fourth amendment to the Constitution.

It is the role of Congress to determine the rules of evidence and procedure that apply in Federal courts. In drafting these rules, we should strive to ensure that unreliable evidence is excluded from the finder of fact, but that trustworthy evidence is not excluded. It should be our guiding principle that evidence of truth should be admissible in a court of law as often as possible.

The exclusionary rule, as I stated earlier, is a judicially crafted rule of evidence that prevents evidence of the truth from being admitted into evidence at trial. The rationale of this rule is excluding truthful evidence obtained in violation of our Constitution will discourage law enforcement officials from acting improperly. Of course, in some cases application of this rule allows guilty persons to go free because truthful evidence is excluded from their trial.

In 1984, the U.S. Supreme Court decided in the Leon case that evidence gathered pursuant to a search warrant that proved to be invalid under the fourth amendment could nevertheless be used at trial if the prosecution demonstrated that the law enforcement officials who gathered the evidence did so under an objectively reasonable belief that their actions were proper. This bill codifies the so-called good faith exception of that case.

H.R. 666 also expands the good faith exception to situations where law enforcement officials improperly gather evidence without a warrant, yet still have acted with the objectively reasonable belief that their actions are proper.

Specifically H.R. 666 provides that evidence obtained through a search or seizure that is asserted to have been in violation of the fourth amendment will still be admissible in Federal Court if the persons gathering the evidence did so in the objectively reasonable belief that their actions were in conformity with the fourth amendment. The bill makes it clear that it is the Federal judge who will determine whether the persons who gathered the evidence were reasonable in believing that their actions were appropriate under the circumstances.

Mr. Chairman, I wish to point out that the standard that the judge is to apply is an objective one. It does not involve an inquiry into the subjective intent of the law enforcement officials. In other words, just because a law enforcement official thought he or she was acting in proper fashion is not enough. The bill requires that a detached Federal judge view that mistake to have been reasonable.

The bill also provides that the exclusionary rule shall not be used to exclude evidence that may have been gathered in violation of a statute, administrative rule or regulation, or a rule of procedure; that is, where no constitutional violation is asserted. Congress could still authorize exclusion of this type of evidence by passing a statute or procedural rule that specifically authorized the exclusion of that evidence. Even in that situation, however, the evidence in question would still not be admitted if the Court found that the persons who gathered the evidence did so in the objectively reasonable belief that their actions were proper.

Mr. Chairman, this bill does not limit the fourth amendment, nor does it reverse any Supreme Court precedent. This bill simply codifies the principles of the Leon holding and applies it to similar situations, ones that have yet to be presented to the Supreme Court for review. It is appropriate for Congress to determine by statute the evidentiary procedures that will be used in Federal courts. H.R. 666 does exactly that.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is an exceedingly important debate, one that I feel very privileged to be the ranking member on the Democratic side to advance, because we are now talking about a part of the so-called Contract With America that now inflicts affirmative harm to the Constitution. This so-called Exclusionary Rule Reform Act of 1995 attempts to keep its promise made in the Contract With America by eradicating our Constitution's higher covenant with the American people that it has maintained for over 200 years.

□ 1500

Let us review the exclusionary rule. Started in 1914 by court decision that made no exceptions but applies only to the Federal jurisdiction, it rolled along without event until 1961, when Mapp versus Ohio then created another exception that included States as well as Federal in the application of the exclusionary rule. Then in the 1970's came two very, very important additional modifications: the plain-view doctrine, which allowed that evidence or activity going on in plain view of the officers was a reason that one would not have to go to the magistrate to get a warrant; then came the exigent-circumstances doctrine, which rationally concluded that evidence that was either in danger of being destroyed or eliminated or that put the officers at great bodily risk were also exceptions to the exclusionary rule that had been created.

Notice that all of these modifications were positive and supportable for those of us, like me, who view this constitutional protection to be absolutely important. And then in 1981 came Leon versus the United States that created yet another reception, in which it dictated through the Supreme Court majority, incidentally, a Republican Supreme Court, that if good faith was used by the officer in seeking a warrant and that for reasons unknown to him at that time the warrant was invalid or defective, that the exclusionary rule would not be obtained and the evidence would be admissible into court anyway.

And so today we meet here with our new majority, which are here to tell us that we are now going to codify the Leon case and make it merely a continuing part of the exclusions to the exclusionary rule that I have just recited.

Well, my colleagues, this is not a codification of Leon versus the United States. I want to repeat that one more time. This bill before us, H.R. 666, is not a codification of Leon versus United States. For anyone who looks at the case will find that in Leon the officers sought and were given a warrant. They went to a magistrate and got a warrant. It turned out later that it was not a good one, and Leon said that even so, if the officer in good faith went to get a warrant and got one that was subsequently invalid for any reason, then he would be held, the evidence would be admissible and he would be held to have been operating in good faith.

But the measure before us does not do that. The measure before us now permits the officer to declare on his own that he believes that he is operating in good faith, having not ever gone to a magistrate.

My friends in the Committee on the Judiciary are now suggesting that this is a codification of Leon. Well, I suggest that anyone in or out of law school examining the Leon case will quickly come to the conclusion that this is not the case at all, and I think it makes a very important argument.

What we are doing is going far, far beyond Leon and are moving now to dispense with the exclusionary rule in its entirety.

What we are saying now is that law officers, Federal or local, that operate on their perception that they are operating in good faith will now be let off beyond the purview of the exclusionary rule. I think that this is the most dangerous damage and harm that we could work to a rule that has been a part of our Constitution for 200 years. I suggest to my colleagues that the amendment that I will offer is the only codification of Leon.

What we will do is codify Leon by saying where a warrant turns out to be invalid or defective, given by a magistrate to a police officer who operates on the basis that he had a perfectly legal document, that he will be excused and his evidence will be allowed to be offered. Nothing more. And it is on that basis that I want everyone to realize that this is far more than codification. It is a complete wiping out of the exclusionary rule as we have known it throughout American history.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself 30 seconds.

I would just like to comment on the fact that this bill does not in any way, as the gentleman from Michigan, implied, allow for a court to look into the mind of the police officer and make a subjective determination or base its determination on the thought pattern of the police officer. It is an objectively reasonable standard.

We would never want to do what the gentleman suggested. I suppose that is the subject of the debate here, but is the way the wording of the statute is written.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding time to me.

I just want to disagree with my good friend, the gentleman from Michigan [Mr. CONYERS].

The exclusionary rule is not wiped out. It is changed from the way it is presently administered. But if the evidence is offered and an unreasonable search and seizure has been made that was not in good faith, I am sure the exclusionary rule in all its glory will be enforced. This does no violence to the fourth amendment.

The exclusionary rule is judge-made. It was not made by this Congress. It is a rule the judges thought up to deter the policeman from making unreasonable searches and seizures. And their idea of deterring that was just not to admit the evidence.

What happens is, the policeman is not punished. He walks out of the courtroom and the accused walks out of the courtroom. And the evidence of his or her guilt is suppressed. The people who lose on that one, the victims, still end up with the dirty end of the stick. So this does not codify Leon.

I agree with the gentleman from Michigan [Mr. CONYERS]. It codifies the principle of Leon, which applies to warrants and may well apply to warrantless searches.

If the search was done in good faith, as determined by the court, not by the policeman, by an objectively reasonable standard, then the evidence, the heroin that they got in the trunk of the car, gets admitted, not suppressed. And the judge makes that judgment.

Yes, this is a change in emphasis. Heretofore in criminal law, the rights of the criminal, the rights of the accused have been paramount. In the last bill we suddenly awoke to the fact that victims have rights and are entitled to restitution, regardless of the financial solvency or insolvency of the criminal.

Now we are saying, with Justice Cardozo, who famously pronounced that a trial should be a search for the guilt or innocence of the accused, not a determination as to whether the constable blundered, if constables are going to blunder, then punish the constables, but do not suppress the evidence.

The public out there is also an important factor in this equation. I hope this bill passes unmended, and I thank the gentleman again for yielding time to me.

□ 1510

Mr. CONYERS. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I am reminded by my colleagues on the other side not to worry about what we are doing here today, that we are merely changing law that was made by the courts.

However, Mr. Chairman, the Supreme Court can make the laws of the land unless we modify them. That is how the whole exclusionary rule came into the law. Therefore, let us not put some pejorative effect on Supreme Court law. Thank goodness they came up with the exclusion.

The gentleman from Illinois [Mr. HYDE] says "Don't worry, the courts will eventually catch up with illegal actions," but that, again, is not the point. What we are saying is that illegally seized evidence should not be part of a trial.

We are not saying that people should walk out of courts. If you can make a case legally, fine. If you cannot make a case legally, that is precisely why the fourth amendment has been here for 200 years.

Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. SCHUMER], the former chairman of the Subcommittee on Crime and Criminal Justice of the Committee on the Judiciary.

Mr. SCHUMER. Mr. Chairman, I would like to make a few points about this.

Mr. Chairman, I rise in opposition to H.R. 666, which is appropriately numbered. Let me say, Mr. Chairman, that there are two points I guess I would make here. The first is, there have been many instances where judges, defense lawyers, and others have hung on technicalities, and it seems, when we hear the result, that the technical change is overruling common good sense and what is good for the people of this country. That has happened, basically, in search warrant cases.

However, I must say that the Supreme Court in the Leon case dealt with that issue and dealt with it well. They said "When you get a warrant and the warrant is technically deficient, for some reason that is no one's fault and there was no real attempt to make that warrant technically deficient, we will allow the evidence to be admitted, the seized evidence to be admitted."

That is a good decision. It was done by a very conservative court, and it makes a good deal of sense.

However, Mr. Chairman, what the other side wants us to do now is take the rule of good faith and extend it to warrantless searches. That is taking what Leon did, which was a change that was needed, and falsely extending that logic to an area where there is no place for it.

Most Americans, Mr. Chairman, feel very strongly that police officers should not be allowed, unless there are exceptions, emergencies, in plain view, and there are lots of exceptions to the exclusionary rule, should not be allowed to knock on the door of their house and enter and search and seize. That is one of our more fundamental rights, just like free speech and freedom of religion.

Mr. Chairman, to undo that when, first of all, the evidence is that there are very few cases where this would apply that this would make a difference, as I heard the two gentlemen from Florida get up and talk about cases with automobiles, I would remind my colleagues, we are not talking about automobiles here, because there is a much more lenient standard under the Terry case for automobiles. We are talking about people's homes. In that situation, we find almost no egregious cases.

Mr. Chairman, when we talk to law enforcement people, they indicate that they think that they can live with this.

I guess my first point, Mr. Chairman, and let me sum up that one here, to fix technicalities is one thing. To avoid getting a warrant altogether when there are none of the recognized exceptions, I think if that happens, Americans are going to shudder, including Americans like myself who are very much afraid of crime, and Americans like myself who think that in many instances the pendulum has swung too far for individual rights and against societal rights.

The second point, Mr. Chairman, that I would make, that is equally relevant, is that when I learned about the exclusionary rule in law school I scratched my head. I said "This doesn't quite fit." A law enforcement officer steps over the line, and we punish them by not allowing what might well be good evidence. It does not fit.

As I learned more and more about it, both in law school and afterwards, there was one major problem with the logic of those who say it does not fit and we should repeal it. They do not come up with a good alternative. That is the problem.

The only alternative I have seen proposed in the law books, et cetera, is to punish the police officer. That side is not going to vote for that. This side is not going to vote for that. Our police officers, God knows, have enough burdens on them that we are not going to punish them when they go over a line.

Mr. HYDE. Mr. Chairman, would the gentleman yield?

Mr. SCHUMER. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, does the gentleman think suppressing the evidence punishes the policeman who had made an unreasonable search?

Mr. SCHUMER. No, Mr. Chairman, I do not.

Mr. HYDE. Mr. Chairman, if the gentleman will yield further, I am just saying the present exclusionary rule does not accomplish anything but let the accused go free.

Mr. SCHUMER. Reclaiming my time, Mr. Chairman, what I would say to the gentleman, the one thing it does accomplish is that there is care before making a search of one's home. I would like there to be a better way to create that level of care, Mr. Chairman. I agree with the gentleman. However, the gentleman has not shown it.

What the gentleman has shown in his amendment, or what H.R. 666 does, which is not the gentleman's amendment, there is no alternative standard proposed. There is simply something that says "If you are in good faith, you do not need a warrant." To me that crosses the line we ought not to cross.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. SCHIFF. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I rise in support of H.R. 666.

First of all, Mr. Chairman, I have to point out, with respect to that statement that the exclusionary rule has applied within the courts of the United States of America as a congressional doctrine for all 200 years plus of our existence, that that is incorrect.

The exclusionary rule was first, I believe, announced in Federal court in Federal cases in 1914. It was not applied to the States, at least not through Federal doctrine, until all the way to 1961.

However, I want to say that I do support the broad purpose of the exclusionary rule. I think, as the Supreme Court said in Mapp versus Ohio, cited by the gentleman from Michigan, that the exclusionary rule was a necessary device to encourage police officers not to flagrantly disregard the Constitution of the United States, and in particular the 4th and 14th amendments to the Constitution of the United States, in terms of their search and seizure practices.

I think the exclusionary rule, even though it is opposed by some, I think implied in some of the remarks we have already heard, because it does represent a fact that evidence sometimes is not allowed in cases, is still an important device in terms of protecting constitutional rights. If there were a bill, if there were a bill that proposed to totally eliminate the exclusionary rule completely, I would not support it.

However, that is not what it does. What it does is broaden the exception already announced by the U.S. Supreme Court for a good-faith error in terms of search and seizure.

The whole purpose of the exclusionary rule, and it is a rule, it is not in the Constitution itself—one cannot find it in the Constitution—the whole purpose of this rule is to encourage officers to observe our rights under the fourth amendment in terms of their putting together criminal cases.

Again, I have said I agree with that. The penalty, of course, the deterrence intended, is evidence cannot be used if officers deliberately or for any reason, as of right now, violate the fourth amendment.

The point is, Mr. Chairman, this rule makes sense in terms of encouraging officers to comply with the fourth amendment to the best of their ability. It makes no sense—it makes no sense under the theory of the exclusionary rule—to exclude evidence from a court where an officer has acted in good faith; that is, has acted on an objectively reasonable standard and in the belief that the search was legal.

I can recall, Mr. Chairman, during the years when I was general counsel for the Albuquerque Police Department, and also when I was district attorney of the Albuquerque area, that certain areas of search and seizure without a warrant were changing so rapidly in court decisions that it was hard to even advise the police officers what the standards were.

☐ 1520

It seems to me that it accomplishes nothing to exclude evidence in a particular case where an officer has seized that evidence and later a court says this was in fact a good faith error but was an error when that officer has to try to be a lawyer out on the street. It seems to me that the purpose of the exclusionary rule is not accomplished when an officer in good faith, under the standards announced here in objectively reasonable good faith, makes an error.

That is the reason why I support H.R. 666. It is true that "objectively reasonable" has to be determined in each case, but that is no different than the fact that probable cause has to be determined in each case. It is no different than the fact that the term "beyond a reasonable doubt" must be determined in each case. The legal system has handled that in the past on a case-by-case basis and, I am confident, is capable of doing so in the future.

For that reason, I urge passage of this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, to the gentleman from Illinois [Mr. HYDE], our chairman, I would have him remember that the exclusionary rule was put in place to make sure that the police behave rather than allowing "anything goes," and then we have years later a court decision that finds out that they did not conduct themselves in the manner that they should. That is the importance of the exclusionary rule.

Mr. Chairman, to my friend from Arizona who said we want an objectively reasonable standard, but not the police officer's objectively reasonable standard. We want the magistrate's objectively reasonable standard at the front end. We do not want policemen applying court doctrine unilaterally.

Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. WATT], a member of the committee.

Mr. WATT of North Carolina. I thank the gentleman for yielding me the time.

Mr. Chairman, I am beginning to wonder what happens when the Republicans' 1995 political contract comes into conflict with the people's 1791 contract with the American people, the Constitution.

I thought the conservative approach was to uphold the people's contract under all circumstances. What I have found recently is that the Republicans are not willing to be conservative in their approach. They talk about being conservative but when it comes time to be conservative, they throw the most conservative document in the world out the window.

When the Constitution conflicts with their beliefs, they are willing to either violate it or amend it, because they think they are smarter than the Founding Fathers of this country were.

The 1791 contract leaves no equivocation. It says the right of the people to be secure in their persons, houses, papers, and so on shall not be violated. it does not say if we find some objectively reasonable standard, we will violate it. It says "shall not be violated." "No warrant should issue but upon probable cause." It does not say probable cause if there is some objective belief that there was probable cause. It says "probable cause." Yet here we are trying to undermine that document.

Since 1791 when this fourth amendment was put into the Constitution, there has been litigation. Case after case after case we have litigated what this fourth amendment means. Notwithstanding that, what did they come back with? Some more language, objectively reasonable standard, that we will have to litigate for 200 more years before we find out what it means.

Mr. Chairman, this makes no sense. The gentleman from New Mexico [Mr. SCHIFF] says it is not in the Constitution. I beg to differ with him. My Constitution says, "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated."

Nobody can tell me that there is any objectively reasonable standard in this Constitution. It says "shall not be violated." And here we are, claiming that we are conservatives and all the while treading on the most conservative document we have in this country, treading on the rights of the people.

This document was not written for the protection of the guilty. This document was written for the protection of the innocent. They can tell me all they want that only 1 percent or 2 percent of the cases that come up under this amendment are won by the defendant. Those are the people that this language was designed to protect.

If we believe in the Constitution, we will leave it exactly like it is. In fact, we will vote for the amendment I plan to offer when the time for amendment comes on this bill.

Mr. SCHIFF. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the exclusionary rule is what is not in the Constitution. It was not imposed upon the States as a mandatory Federal doctrine until the year 1961. And somehow the Republic made it all that way from the 18th century until 1961 without the exclusionary rule. Nevertheless, I support it as enunciated in the case Mapp versus Ohio and the circumstances they were talking about, an outrageous ignorance of following constitutional prescription, and the reason they imposed it on the States. But it makes no sense to impose it in a situation where an officer is in objective good faith.

Although the last speaker said we should not change anything, the Supreme Court has already made a modification in the exclusionary rule by allowing this very good faith exception in the case where a warrant is obtained by police officers and the warrant is later held to be invalid, and that has not caused a wholesale violation of constitutional rights through that exception.

Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. HEINEMAN].

Mr. HEINEMAN. I thank the gentleman for yielding me the time.

Mr. Chairman, we hear the talk about the exclusionary rule, and I do not think we have had much dialog about the warrant search, the search under the authority of a warrant, other than having Leon explain to us on two occasions. What we are really talking about is we are really talking about the warrantless search. Leon did not speak to the warrantless search, but warrantless search is basically what this exclusionary rules points up. Warrantless searches are searches performed by police officers at the scenes of a provocation, so to speak, a situation where the exigencies of the service require a police officer to act.

Police officers do not have with them the luxury of a law library to look up in the library as to what is legal and what is illegal. They have their own instincts, they have their own practices, and they have their own good common sense. Nor do they have a boardroom to caucus their contemplated actions before making an arrest or a search. They have to again rely on their experience and precedent.

Of course we can talk about officers in 1910 or we could talk about officers in 1995, the training and those that are not trained. I submit that officers in 1995 are better trained than officers at any other time in the history of law enforcement in this country.

□ 1530

But it all comes down to an arrest and evidence being seized and it all comes down to the courtroom where defendants have a right to an attorney present. Those attorneys, if they are worth their salt, and in Federal cases and I have great respect for Federal attorneys and people that ply their wares in Federal court and the judges, at that point the attorneys have an obligation to make a motion to suppress, a motion to suppress the evidence that was seized, and the attorney, and if he does not do that, then that is something else, then that is another motion to make to get rid of the attorney.

But the judges present, listening to the probable cause that was offered by the police officer that generated his action, will make a determination as to whether to suppress that evidence or not to suppress the evidence. And if that evidence was not seized under probable cause, then I am sure that the evidence will be suppressed.

If it was not, if the evidence, if the probable cause that was laid before the judge would have been probable cause to issue a warrant, then the judge has an obligation not to suppress that evidence, and I think that the Constitution, yes, the Constitution which gives the right of the people to be secure in their persons, protects the victim.

We are not talking about specifically protecting the criminal, we are talking about in this day and age protecting the victims of crime. And I as a citizen, and 2 months ago was a citizen, not a legislator, I want to know that the courts, I want to know that the Constitution, I want to know that law enforcement is out to protect me, because determination of the evidence seized and suppressed has to go to someplace. And if it is a pound of cocaine or if it is a gun in a room or whatever, it is going to come down to the citizens of this country one way or another.

I am for law enforcement officers and I urge the passage of the exclusionary rule, H.R. 666.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding me this time.

The right of persons to be secure in houses, papers and effects against unreasonable searches and seizures shall not be violated, the fourth amendment to the Constitution of the United States.

Today we are told it is an inconvenience, it is in the way of the police, it did not apply to the States until 1961 anyway. It is the Bill of Rights, and every Member comes to this floor every day and pledges allegiance to that Constitution and has sworn an oath to it.

It is not always going to be convenient and sometimes it is going to cause problems. And yes, I say to the gentleman from New Mexico [Mr. SCHIFF], it did not apply to the States in these cases until 1961.

But the Supreme Court of the United States, the people of this country, had decided in each generation, in each decade to expand its powers, because for 200 years we have understood that the principal danger to the freedom of the people of this country was expanding Government power. For 200 years we have understood the very cause of our revolution, that we wanted to be secure in our homes, that we feared the criminal and lawlessness, but we also feared a government so content in its own powers that it would enter our own homes and violate our own rights.

It is a great irony that a new conservatism, believing that government robs people of their freedom, believing in the right and the sanctity of private property, would now cause a new exclusion, the exclusion of the right of the person to be free of government power.

It is, of course, worth noting that many of those things that we are told that need to be protected for law enforcement are already protected. A fleeing felon, the police can already enter under the fourth amendment. The destruction of evidence, the police can already enter under the fourth amendment. The possibility of escape, the police can already enter under the fourth amendment.

Indeed, the very things the police need for practical law enforcement for the dangers of our times are already protected. We achieve nothing but lowering the standard that we apply to law enforcement, a standard which will be lowered and lowered if this measure succeeds.

My colleagues, we must make compromises, but if today we violate the fourth amendment, then the criminals have already won. Our Constitution will have been compromised.

Mr. SCHIFF. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. BARR].

Mr. BARR. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, we are really talking here today not about thousands upon thousands of court decisions, not about tens of thousands of pages of court documents, but about two documents, the Constitution of the United States of America, and H.R. 666.

Is it not interesting, Mr. Chairman, that both of these documents talk about reasonableness? They complement each other, they are not antagonistic, they do not fight with each other as the other side would have us believe they are doing here today. We are simply taking that standard of reasonableness embodied in this document, the Constitution of the United States, which includes the word "reasonable," which many Members on the other side conveniently disregard in their quotings from the Constitution, the fourth amendment today as does H.R. 666.

We are not saying we do not believe in the Constitution. No Member on this side of the aisle needs to allow those on the other side of the aisle impugn our motives or with regard to the Constitution of the United States of America. What we are talking about here today, Mr. Chairman, is strengthening that document and saying we pay attention to the entire document, including that language which says in the preamble:

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity.

Mr. Chairman, today that preamble, the ability of our Constitution is in danger, it is in danger because we have drifted, drifted through decisions over the years that do not pay attention to the specific wording of the fourth amendment.

This bill today, H.R. 666, gets us back to the root, the heart of what our Constitution was intended to do, and that is to apply a reasonable standard to protect all people, including those of us who may be victims of crime, those of us such as myself as a former U.S. attorney who seek to promote and protect the welfare as well as the rights of the accused.

Mr. Chairman, I rise today in strong support of H.R. 666 which supports our Constitution, which follows in recent cases and says that, yes, to the people of the United States, reasonableness, as embodied in our Constitution but has been forgotten in recent years, is there, should be there. And this proposed statute that we are debating today simply contradicts that and says to the people of this country who spoke very loudly on November 8 that yes, we want our Constitution, but we want it to apply with reasonableness to our police officers who are there to protect the good and to carry out this great document.

Mr. CONYERS. Mr. Chairman, I am pleased now to yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

□ 1540

Mr. VOLKMER. Mr. Chairman, I just want to alert the Members that I will be having an amendment to this bill that would exempt the Bureau of Alcohol, Tobacco and Firearms agencies from the provisions of this bill.

BATF has been the biggest rogue, Rambo outfit that has taken guns away from innocent people, and this will permit them to break into houses, break into businesses, without a warrant. It is bad enough now with a warrant.

The gentleman from Georgia talked a minute ago about the fourth amendment. Well, he had better start looking at the second amendment, because this bill, as it is written right now, lets BATF, if somebody tells somebody, "Hey, that guy has got an illegal gun down there in his house," they can go in and bust the door down and get it. If it is not there, they just say, "Tough luck, buddy," just like they have said to many people in this country. I have fought BATF since the 1970's since I first came here. What do you think happened at Waco? Who was that? What happened in Idaho? Who was that?

Mr. SCHIFF. Mr. Chairman, I yield myself 1 minute.

I just want to respond and point out that if any agency breaks down a door looking for evidence and it is not there and they say, "tough luck," that is true under the exclusionary rule today. The exclusionary rule only applies if something illegal is in fact found.

One of its detriments is the fact it offers by itself no protection in those situations where someone, an innocent's rights are transgressed.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Missouri.

Mr. VOLKMER. If they have a warrant; if they have a warrant. If they do not have a warrant, as your bill permits it, they do not have to have a warrant to break into that house, and if the warrant is defective, even under the Supreme Court, which I disagree with, the evidence can possibly be used.

Mr. SCHIFF. Reclaiming my time, the example given by the gentleman from Missouri was, if nothing illegal is found, tough luck. That is true under the exclusionary rule today. That is my point. The exclusionary rule, since it suppresses evidence that is found that the police officers seek to use has no effect if nothing is found.

Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I had not planned to speak on this matter. I sit with the gentleman from New Mexico and the gentleman from Michigan on the House Committee on the Judiciary, I am proud to say, but I heard other speakers come to the podium, and I feel obliged to insert my oars into the water, if you will.

Mr. Chairman, no one on this floor is trashing the Constitution, as far as I am concerned. I intend to vote in favor of H.R. 666. In doing so, am I guilty of trashing the fourth amendment? Indeed not.

The gentleman from Georgia, I believe, who preceded me here, he used a key word that many are either conveniently or unintentionally avoiding, "reasonableness," and "good faith." Those are words you do not hear kicked around too much.

Now, I am not suggesting that every police officer and every law enforcement officer in this country is a model citizen.

I am suggesting, however, Mr. Chairman, that most police officers and most law enforcement officers in this country are good people, and most of them do their jobs orderly and properly and most of them do their jobs, in my opinion, at least speaking for the law enforcement officials in my district, they do their jobs laced very generously with good faith.

I think it is a shame that we are hearing those of us who are speaking in favor of this piece of legislation as being guilty of trashing the Constitution. I resent such charges. They are not well founded.

I urge passage of H.R. 666.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, we all want to see criminals convicted and serve prison sentences for their crimes. No one wants to hinder the police in their dangerous and difficult effort to protect all of us and to combat crime.

However, this bill is not about merely eliminating legal technicalities. It is about removing the requirement for a warrant prior to a search and seizure, and the Founders of our country believed that our citizens should be free from unreasonable searches and seizures.

The words of the Constitution, the fourth amendment, "The right of the people to be secure in their persons, houses, and papers and effects against unreasonable searches and seizures shall not be violated." I am not talking about the rights of defendants or the rights of prosecutors. We are talking about a fundamental right of the people of this country, and that is what we want to protect here today.

I do not think we should chip away at that fundamental right. The warrant requirement is not a burden on law enforcement. Police can get a warrant by telephone. In fact, it takes sometimes only 2 minutes to get a warrant.

Warrantless searches are permissible under exigent circumstances. I do agree that officers who rely on a warrant that later turns out to be invalid should not be penalized. I support that part of the bill that codifies that good-faith exception.

I also support extending this exception to cases where the police relied upon a statute that later turned out to be unconstitutional.

However, I am reluctant to leave behind the presumption that in the ordinary course a police officer should obtain a warrant.

The majority would have you believe that this technicality results in many cases being thrown out. The evidence is contrary to that. The Comptroller General, in a report, indicated that suppression motions, those motions to eliminate evidence, succeed only in 1.3 percent of Federal cases. In fact, in those cases, 50 percent of the individuals are convicted anyway.

In fact, under the majority's formulation, more evidence may be thrown out as police officers have to justify after the fact their constitutional compliance.

I suggest we maintain the protections of the Constitution for the people.

Mr. CONYERS. Mr. Chairman, I yield 2¼ minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, I think we need to go back to exactly what we are talking about. What we are talking about in this discussion is illegal searches.

Legal searches are not affected by this legislation.

Oliver Wendell Holmes, Justice Oliver Wendell Holmes, said the fourth amendment protects an individual's legitimate expectation to privacy. "The right to be let alone, the most comprehensive right and the most valued by civilized men." The fourth amendment, Mr. Chairman, allows the State to breach an individual's right to privacy only when the amendment's rules are followed.

The purpose of the exclusionary rule is to protect innocent people from illegal searches, because it removes all incentives the police officer may have to conduct illegal searches. If an officer conducts illegal searches, a search of innocent people, those for whom he has no probably cause that there is evidence of a crime, if he conducts illegal searches, he could not use the evidence anyway if he happened to find some evidence.

So police officers do not conduct illegal searches.

This bill would remove the incentive to obey the law and gives the incentive to police officers to break the law, because if they break the law in good faith, then they can still use the evidence.

Mr. Chairman, the police officers always act in good faith. I believe that the officers who beat Rodney King were acting in good faith. If they act in good faith, they act in good faith when they develop racial profiles to target certain ethnic groups for arrests. For example, there is the drug courier profile. If you have a black or Hispanic young male driving a Florida rental car up Interstate 95, they are targeted for arrest.

Those kinds of profiles ought to be illegal. If the police find something in an illegal arrest, they can always come up with an excuse for the search.

The exclusionary rule removes the incentive for illegal searches. It protects innocent people from those searches. It is the exclusionary rule that first causes complications, but now is being complied with. We should not dilute the Constitution. We should uphold the Constitution.

We should not encourage police misconduct.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I just am pleased to come to the well right at this point, because I think it helps show why we feel H.R. 666 is a radical diversion from the Constitution and really is trashing it.

The gentleman from Virginia who spoke before me asked some very serious questions in the committee, and that brought it all right down to where we are.

□ 1550

Right now Americans are basically protected from illegal searches and seizures by the fact that, yes, or course, today the FBI or the BATF or the local police could come and go through your house, your car, whatever, without a warrant. But if they find anything, they could not use it against you. Therefore, that is a real inhibitor. Why would you, as a FBI agent or BATF or a police officer, go running through, stopping people illegally or searching homes illegally if you could not use it to prosecute? The idea being now, if you want to prosecute someone and you have cause, you go get a warrant and then you go get it. If you take away that, which is what this bill does—this bill says if they come through your house, if they come through your car, if they do not have a warrant and the find anything, they could still use it—why would anybody go get a warrant?

Why would anybody go get a warrant? This is Monday morning quarterbacking, then. They will say, "Oh, but the way you are protected is the court will see whether or not they have an objective standard to illegally search your house without a warrant." If they could not figure out something by then to say, they are not worth their pay, they are not worth their salary.

So what we are really doing as we adopt this bill is just totally doing away with the requirement to have a search warrant, because there is not penalty paid, no penalty at all paid if they illegally search.

Therefore, I hope everybody takes a great, sober second look at H.R. 666.

Mr. CONYERS. Mr. Chairman, I am pleased to yield the balance of my time to the gentleman from California [Mr. MINETA].

Mr. MINETA. I thank our very fine ranking Democrat on this committee for yielding me this time.

Mr. Chairman, I rise today in strong opposition to H.R. 666, exclusionary rule reform.

Mr. Chairman, this legislation in its present form is an affront to the fundamental principles upon which our great Nation was established. It hollows-out the fourth amendment and severely curtails one of our most basic civil liberties.

The exclusionary rule was designed to protect the fourth amendment right of all Americans to be free from unlawful persecution by the government. It ensures that evidence illegally obtained cannot be used in a trial.

This legislation would make a mockery of the fourth amendment. It would expand the good faith exception to say that evidence illegally obtained, in instances where law enforcement officers did not even try to get a warrnt, could be admitted in court if the officers were acting in good faith.

If we could depend on "good faith", Mr. Chairman, then we would not need a Constitution. But our founders adopted the Bill of Rights 200 years ago because they wanted civil liberties to be the foundation upon which this Nation was built.

We needed that protection 200 years ago, Mr. Chairman, and we need it more than ever today.

Mr. Chairman, I strongly urge my colleagues to oppose this legislation.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this debate today indicates some woeful belief, I think, of the wrong direction of what we are about. My judgment on the debate I have been hearing today is that there are some Members, particularly on the other side of the aisle, who think somehow there is a constitutional right that we are undermining today, that we are doing something radical—I have heard that word used—we are making a major change that would undermine the basic rights for the protection against unlawful search and seizure in our homes. I think this needs to be put in perspective. There was no exclusionary rule of evidence prior to 1914, when the Supreme Court made the decision to enact such a rule to discourage police officers from carrying out unlawful searches and seizures. It is not a constitutional matter. It is a matter of procedure, and the courts thought this was the best way to go about doing it whenever they could do it, trying to discourage police from knowingly and intentionally doing something wrong.

There have been exceptions to this rule in order to make it more likely to get convictions in those cases where there was no reason to have this rule. That is in cases where the police officers are not going to be deterred from doing something unlawful.

That is the whole exception that was carved out in cases of search warrants. One needs to note that this particular question of just keeping it to the search warrants has never been decided by the U.S. Supreme Court. In fact, in the fifth and 11th circuits of our system, our Federal court system, they have for quite some time allowed the good-faith exception we want to adopt today on the floor of the House. They have allowed it to be the law in those two circuits. There has been no ill that I know of that comes from that broader interpretation. And there have been a few cases where we have gotten some convictions with search and seizure evidence that we otherwise would not have gotten against the bad guys. I cannot find any instance where any harm has come from this looser interpretation that the fifth and 11th circuit courts have given to the rule that we want to adopt here today.

I would cite that there is a case going before the Supreme Court in Arizona that illustrates the absurdity of the situation we are in.

On Jan. 5, 1991, two Phoenix police officers stopped Isaac Evans for driving the wrong way on a one-way street. After obtaining Mr. Evans' identification, one of the officers ran a computer check from his car, which showed an outstanding arrest warrant for Mr. Evans. As the officers arrested Mr.

Evans, he dropped a marijuana cigarette, which, along with more marijuana found in his car, was seized as evidence.

However, 17 days earlier, the Central Phoenix Justice Court had quashed the Evans arrest warrant. It is unclear whether a check in the Justice Court had failed to notify a police clerk or whether a police clerk, after receiving notice, had failed to remove the warrant from the police computer. The trial court concluded that the arrest was invalid since the warrant had been quashed and, applying the exclusionary rule, suppressed the evidence of Mr. Evans' guilt. The Arizona Supreme Court agreed, with that interpretation.

I would suggest that if the recordkeeping efficiency of the Phoenix criminal justice system was what was wrong, that is what should have been corrected, not throwing out the evidence. The better solution obviously if it is the clerk who was at fault, to fire the clerk, not to exclude the evidence and deny the public the right to convict somebody who actually committed a crime we all know he committed.

We are going overboard, and to the excess, in our law enforcement process today to protect the innocent, if you will, protect us from unlawful searches and seizures. We need to have a balance in the system, one that says, "Yes; the rights of the individual under the Constitution are protected, but we also have a right, as the general public, to be safe and secure in our homes and on our streets of this Nation."

We cannot be safe and secure if we go to the extremes to protect the rights of the individual under the Constitution with the created rule that we have developed in the court systems today that excludes evidence when somebody is clearly guilty, evidence of their guilt, in cases where it would not deter the police at all from doing whatever acts that they did to have excluded that evidence.

I submit that we are not doing anything complicated in this bill if we pass H.R. 666. We are simply taking what two circuit courts in the Federal system today already have adopted as the rule of evidence and apply that rule, that good-faith exclusionary rule, throughout the Nation, throughout all the circuits, to obviate the necessity of protracted litigation and the potential for more Supreme Court rulings coming down over the years in the future and that undoubtedly will gradually expand the rule to encompass all these possible cases as the fifth and 11th circuits have already done. That is all we are doing, nothing really profound, but something the law enforcement community and the general public can be very important because we need to get more convictions and do not need to let criminals get off on technicalities. That is what it is all about, pure and simple.

That is what the good-faith exception to the exclusionary rule is all about. Again I would urge my colleagues to proceed through the amendment process and keep that in mind and that in the end we have an overwhelming vote to pass this bill, as we have twice before done in this body and previous Congresses, only to see it fail because the other body did not act on it. But we have passed it overwhelmingly here this good-faith exception to the exclusionary rule in two previous Congresses in recent years.

I would urge my colleagues, before the day is out or by tomorrow if it goes to tomorrow, to pass this bill.

Mr. LAZIO. Mr. Chairman, what does the fourth amendment say? It is illuminating to read the text which describes each and every American's constitutional right:

> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath and affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

While the fifth amendment contains an explicit exclusionary rule in that "No person * * * shall be compelled in any criminal case to be a witness against himself * * *" the fourth does not. The exclusionary rule is a mechanism created by the Supreme Court designed to enforce violations of the fourth amendment.

This bill does not abolish the exclusionary rule, but rather improves it. This bill seeks to broaden the "good faith exception" by applying it to warrantless searches. The rationale of this is the same as searches with warrants which the Supreme Court addressed in the 1984 Leon decision. The reasoning is that since the action was taken in good faith, there would be no deterrent effect, the means by which the fourth amendment is enforced. Some critics of this bill say that it allows the police officer to be ignorant of the law. This is not the case. The bill calls for an "objectively reasonable belief" on the part of the police officer. The police officer's belief must not only be reasonable to him or her, it must be an objective one made in good faith.

As a former prosecutor, I have seen clearly guilty individuals go free merely because certain evidence was excluded, despite the best efforts of the police. H.R. 666 would end this unfair result. The safety of our community is more important than a law review article.

Mr. YOUNG of Florida. Mr. Chairman, I rise today in support of H.R. 666, the Exclusionary Rule Reform Act. This legislation represents title VI of the Taking Back our Streets Act, one of the 10 points of the Republican Contract With America, and continues our efforts here in the House to address our Nation's crime problem. As you know, Mr. Speaker, we have already completed work on the Victim Restitution Act.

Mr. Speaker, the fourth amendment to the U.S. Constitution protects Americans from unreasonable search and seizure of their persons, houses, papers, and effects. Under current law, if a court finds that evidence was obtained in violation of this amendment, that evidence cannot be used by the Government in its case against the defendant and is to be excluded at trial.

Unfortunately, this exclusionary rule has been manipulated by skillful defense attorneys to protect murderers, drug dealers, rapists, and robbers. In one instance, more than 250 pounds of cocaine found in a car during a routine traffic stop were ruled inadmissible at trial because the officer did not have a warrant to search the car. This strict interpretation too often leads to the acquittal of many who are obviously guilty.

In 1984, the Supreme Court modified the exclusionary rule to permit the introduction of evidence that was obtained in good faith reliance on a search warrant that was later found to be invalid. H.R. 666 codifies this decision into law. However, as the above example makes clear there is a need for a similar good faith exemption in cases where police officers, acting in good faith, conduct a search or seizure without a warrant. Today's legislation creates such an exemption by allowing evidence to be admissible so long as the law enforcement officials who gather the evidence held an objectively reasonable belief that their action conformed to the requirements of the fourth amendment.

Mr. Speaker, H.R. 666 strikes the proper balance between the rights of Americans against unreasonable search and seizure, and the rights of society to be free of criminal threat. It will help to protect America's citizens and put away America's criminals, and I urge its support.

Mr. FAZIO. Mr. Speaker, the fourth amendment to our Constitution prohibits unreasonable search and seizure by the government. It protects all Americans from arbitrary and unfounded government invasions into their homes.

The Supreme Court has held—in its ruling establishing what is known as the exclusionary rule—that any evidence seized in violation of the fourth amendment cannot be used as evidence at trial. In 1984, however, the Court created the good faith exception to the exclusionary rule, specifying that, if law enforcement officers in "objective good faith" believe they are conducting a constitutional search or seizure, then the evidence can be used at trial. The Court limited this exception to apply only to searches with warrants.

If H.R. 666, the Exclusionary Rule Reform Act, is enacted, the good faith exception to the exclusionary rule would be broadened to apply to searches both with and without warrants. As a result, evidence obtained in a search or seizure that violated constitutional protections would not be excluded if the search or seizure were carried under an objectively reasonable belief that it was in conformity with the fourth amendment. In other words, the bill permits the use of evidence obtained without a search warrant in Federal proceedings, if law enforcement officers believe they were acting in good faith compliance with the fourth amendment.

The good faith exception to the exclusionary rule has been in effect since 1984. At that time, the Supreme Court ruled that, so long as evidence is seized in reasonable good faith reliance on a search warrant, that evidence is admissible, even if the warrant is subsequently found to be defective, so long as the officer's reliance is objectively reasonable. As a result, officers were given the leeway to discharge their duties in good faith, without having to check with a judge or magistrate. This good faith exception perseveres today.

I supported the amendment offered by my colleague from Michigan, Mr. CONYERS, which would enact into law the Court's ruling regarding the good faith exception for searches with warrants. It would also enact into law the Court's later ruling that extends the exception to evidence that is obtained in an officer's good faith reliance on a statute, even if that statute is later held to be unconstitutional.

Because the exclusionary rule protects all of our citizens against unreasonable searches and seizures and the invasion of privacy by law enforcement officers, I am concerned with attempts to erode its protections. Broadening the limited good faith by exception to include searches without warrants, as H.R. 666 does, would eviscerate the rule itself and leave Americans open to the very violations of our constitutional rights that the rule is designed to prevent. For this reason, I cannot support H.R. 666, as written.

The roots of the exclusionary rule were planted during the British occupation of the American colonies—when illegal search and seizure were commonplace. Our Founding Fathers enacted the fourth amendment to protect us from arbitrary and unjust searches of our homes and private property. Tampering with this fundamental American right is dangerous. Without the perfecting amendment which I support, H.R. 666 leaves average American citizens wide open to abuses of authority by overly zealous law enforcement officers who, in their eagerness to uphold the law, may find themselves violating the most basic rights of American citizens. I hope my colleagues will carefully weigh the far-reaching effects of creating such a broad loophole in the fourth amendment. If we seriously consider the intent of the Framers of our Constitution, we must ultimately decide to leave this basic, constitutional protection intact.

Mr. MCCOLLUM. Mr. Chairman, I yield back the balance of my time.

THe CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 666 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Exclusionary Rule Reform Act of 1995."

SEC. 2. ADMISSIBILITY OF CERTAIN EVIDENCE.

IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§3510. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—

"(1) GENERALLY.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(2) SPECIAL RULE RELATING TO OBJECTIVELY REASONABLE SEARCHES AND SEIZURES.—Evidence which is otherwise excludable under paragraph (1) shall not be excluded if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that the search or seizure was in conformity with the statute, administrative rule or regulation, or rule of procedure, the violation of which occasioned its being excludable.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3510. Admissibility of evidence obtained by search or seizure.".

□ 1600

The CHAIRMAN. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CONYERS: Page 2, strike line 1 and all that follows through the end of the bill and inserting the following:

SEC. 2. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT OR STATUTE.

(a) IN GENERAL.—Chapter 109 of title 18. United States Code, is amended by adding at the end of the following:

"§2237. Good faith exception for evidence obtained by invalid means

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in objectively reasonable reliance—

"(1) on a warrant issued by a detached and neutral magistrate or other judicial officer ultimately found to be invalid, unless—

"(A) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(B) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(C) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(D) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid; or

"(2) on the constitutionality of a statute subsequently found to constitutionally invalid."

(b) CLERCIAL AMENDMENT.—The table of chapters at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237 Evidence obtained by invalid means."

Mr. CONYERS. Mr. Chairman and colleagues, we have heard continually that those who have brought H.R. 666 to the floor contend that all they want to do is codify existing law with respect to the exclusionary rule. If that is their simple goal, then what is the purpose of the current legislation before us since current Supreme Court decisions are controlling in American jurisprudence in the first place? In other words, why are we doing that?

If, however, the sponsors of H.R. 666 content that even with Supreme Court decisions it is necessary for the Congress to put them in statute, I have no exceptions save one. Let us really codify the law as it exists and not use this as an exercise, as a pretext, totally invalidate the fourth amendment protections to innocent and law-abiding citizens.

So, Mr. Chairman, I have brought forward this amendment to protect law-abiding citizens. This amendment codifies the key controlling case law on the so-called good-faith exception, which includes both the Leon case as well as the Krull case. In both cases the Supreme Court recognized a good-faith exception for police officers who rely either on an improperly issued search warrant, or as in Krull, an invalid statute as a basis to make a search or seizure of property. The reasoning of the court in these two cases was that police need this type of latitude in exercising their duties and that they should be held harmless for any error that a magistrate commits in issuing a warrant or any error that a legislature makes in passing a statute. Hence the phrase "good-faith reliance."

Yet, both Supreme Court decisions that define the good-faith exceptions share a crucial, common aspect, the need for a law enforcement official to rely on a source of authority outside of himself to make the final determination that probable cause exits for search for evidence. Without the requirement of an external source of authority making such a determination, government and law enforcement agencies can simply be a tribunal to themselves as to when and how they will invade the privacy of law-abiding citizens in their homes. We have already seen the results of such carelessness in ill-conceived and disastrous raids in Texas and in Idaho.

These cases dealing with good-faith reliance by law enforcement officials were developed by the more conservative Supreme Court appointees during the 1980's as a reaction to, perhaps, a very valid criticism, that the law on the exclusionary rule was too restrictive and confining on police officers. However, following the Leon and Krull cases, Justice Sandra Day O'Connor warned that the Supreme Court has reached the outer limits on the fourth amendment through its good-faith exception and that any further diminishment of the requirement of having an outside, neutral authority issue a warrant could lead to complete chaos and complete violation of our citizens' expectations of privacy in their own homes.

Justice O'Connor further warned very perceptively that some in the Congress might want to push the envelope beyond these outer bounds to that, and I quote, "they would not be perceived to be soft on crime," and we are now witnessing her warning and prediction come true in the form of the bill that is before us as passed out of the Committee on the Judiciary.

My amendment would simply restate the law on good-faith reliance by police officers to exactly where it currently exists. That reaffirmation would keep the delicate balance struck by the court between assisting the police in their important duties while safeguarding the rights of innocent Americans from improper searches of their homes.

Let us remember also that in addition to the good-faith exception, law enforcement already has the right to take whatever action it deems necessary in emergency circumstances under the "plain view" doctrine that would not be affected. In fact, if there is a desire to codify the good-faith exception, then my amendment provides us with just such an opportunity.

I say to my colleagues, "Support this amendment if you want to codify the existing Supreme Court decisions."

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan [Mr. CONYERS].

Mr. Chairman, I must oppose this amendment. It actually would reserve the court rules with regard to evidence in the area of the fifth and the eleventh circuits by adopting the Leon case and one little small additional exception from one other Supreme Court ruling dealing with statutes. We already have, as I explained a few moments ago in general debate, two of the circuits of our Federal court system, the fifth and the eleventh, which for quite some time now have had this broader good-faith exception to the exclusionary rule as their rule of evidence allowing more evidence in than has been yet certified by the Supreme Court as in the Leon case, which is what the gentleman from Michigan is trying to codify into law. He would by this amendment.

So we all understand it, he would strike the bill that we have before us today and substitute his own language. The language of the gentleman from Michigan [Mr. CONYERS] is the language derived, 98 percent of it, from the so-called Leon case that deals with the good-faith exception in cases where there have not been search warrants issued. He does not broaden it to all of those cases where there have not been search warrants issued, nor would he cover the Arizona case that is now before the Supreme Court where I described a situation which a warrant had been issued, but it had been illegally quashed some 17 days before the search occurred which resulted in the contraband being seized, which was then held to be inadmissible in that particular case on the basis of the previous Supreme Court rulings.

I think this is way too narrow, and, as I said,

It does change the law elsewhere in the country in ways that are not beneficial, and I would urge my colleagues to defeat this amendment and to stick with the broadening provisions that we have placed in this bill in order to allow the good-faith exception that all of us on this side have promoted for quite some time.

So, again I object and oppose this amendment and urge its defeat.

Mr. STUPAK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I come down here today. I had no intention of coming down here until I started listening to the debate, and the more I listened to it, the more concerned I have become and the more convinced I am that we need the amendment proposed by the gentleman from Michigan [Mr. CONYERS].

There are very few principles in our Constitution or in the amendments in our Bill of Rights that are more sacred than protecting people and their homes from unreasonable search and seizures.

As I was in my office discussing matters with some constituents, the gentleman from North Carolina, who had a very long and distinguished career in law enforcement, came up and spoke in favor of H.R. 666, but what the gentleman said are words to this effect, that the fourth amendment applies only to law-abiding citizens, as he was 2 months ago.

I say to my colleague, "The fourth amendment applies to everyone in this country, whether you're a law-abiding citizen, whether you are driving down the road and being stopped by the police, or whether you are walking home at night and being stopped by the police. We are all citizens, and we all have the protection of the fourth amendment against unreasonable search and seizures."

□ 1610

Having been a police officer for 12 years, 12 years of having worked the road while I was a police officer, I also went back and got my law degree and was assigned to special investigations. I also taught constitutional law, search and seizure and criminal law at the Michigan State police academies, and I continued to work the road and to do special investigations.

No matter who you are, the fourth amendment applies to you. We do not know when the resources of the State or local or Federal Government will turn their resources on you, and you then become a suspect. You do not suddenly lose your fourth amendment rights. You cannot lose these rights.

The gentleman from Florida mentioned the Arizona versus Evans case, and he said in his comment "We all know he was guilty." That is the reason why we need the fourth amendment, because we do not know people are guilty until they are tried by a jury of their peers. It is not a subjective standard. It is reasonable search and seizure.

The Leon standard as articulated by the Supreme Court in 1984, that was a Reagan Supreme Court that decided Leon. Last night we were handling President Reagan as a hero of the line item veto. Today we are saying his Court did not know what they were doing? It cannot be both ways.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I have no problem with the Leon decision or what his Court decided. They did not have before them anything but the warrant cases. They had no non-warrant cases we have up here today. So I have no squabble at all with Leon.

Mr. STUPAK. Mr. Chairman, reclaiming my time, how can one get on the floor and say under this law we all knew in Evans versus Arizona the gentleman was guilty? That is the kind of standard we cannot have.

Mr. McCOLLUM. Mr. Chairman, if the gentleman will yield further, I never said the gentleman was necessarily guilty. I said there are many cases where the people were guilty out there who have been getting off on technicalities. Not necessarily that case. We know the evidence in that case was not allowed in, and therefore that is the problem. We assume that might have made him guilty. It might not have.

Mr. STUPAK. Mr. Chairman, reclaiming my time, the reason we don't allow it in is because the standard is to be proven guilty beyond a reasonable doubt. Beyond a reasonable doubt is a fair and honest doubt growing out of the evidence or the lack of evidence. The lack of evidence comes in when evidence illegally obtained is excluded from the courtroom procedure. It is not the subjective standard that the gentleman argues, but rather a very, very profound standard with parameters on it that the Supreme Court gives to all of us and the Constitution has guaranteed.

Let us be clear about this: The ABA studies at the time of the Leon case found that less than 1 percent of the individuals arrested for felonies are released because of illegal search and seizures, less than 1 percent. So there is a huge standard here, a very sacred standard, and we should not disregard it. Your H.R. 666, while well-intended, puts a good faith exception, and we do not know what that good faith is, other than the good faith as articulated in a police report. But the Conyers amendment says take the highest authority we have, the Supreme Court, let us codify it, and bring some reasonableness to the standard.

Believe me, if we are wrong on one or two, so be it. But less than 1 percent. Not everyone is guilty. You do not know when the resources of government will be turned on you.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. STUPAK] has expired.

(At the request of Mr. CONYERS and by unanimous consent, Mr. STUPAK was allowed to proceed for 1 additional minute.)

Mr. STUPAK. Mr. Chairman, I yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, the gentleman has been a law enforcement officer for many years in Michigan. I would just like to ask the gentleman, were the exceptions to the exclusionary rule sufficient while the gentleman was operating as a law enforcement officer? You have the good faith exception, you have the emergency exception, you have a number of provisions that it seems to me would allow any officer, even without a warrant, to be able to operate, and certainly in most cases to get a warrant from the magistrate.

Mr. STUPAK. Mr. Chairman, reclaiming my time, the requirement I always felt was proper, having spent 12 years there. If I may expand, warrants are not needed in exigent circumstances like hot pursuit. Consent searches, you do not need a warrant. Stop and frisk, you do not need a warrant. Before you place someone in your squad car to transport them, you do not need a warrant. Inventory searches upon arrest, you do not need a warrant. Automobile searches, you do not need a warrant. Independent sources, and I can go on and on.

Mr. MCCOLLUM. Mr. Chairman, I move that the Committee do now rise for the purposes of having the minority leader and the majority leader conduct a colloquy on the further order of business today.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SCHIFF) having assumed the chair, Mr. RIGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 666) to control crime by exclusionary rule reform, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I take this time to inquire of the majority leader about consultations we have been having on trying to work out a procedure for the consideration of the rest of the crime bills.

Mr. Speaker, I yield to the distinguished majority leader.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding. Let me preface my remarks by saying we have been having consultations, not only between the minority leader and myself, but between the chairman of the committee and the distinguished gentleman from Michigan [Mr. CONYERS] and other members of the committee, and the Committee on Rules, and they have been going well. So I think I can report to the Members with a high degree of confidence a probable schedule for today and the remainder of the week, with a few caveats interceded.

First of all, we expect to be able to finish the exclusionary rule reform today, and there is a very good likelihood we could be out by 7 o'clock this evening. We would begin tomorrow at 11 o'clock and, if necessary, we would finish the exclusionary rule.

We would then begin an attempt to finish the effective death penalty, subject to a unanimous-consent request that I will make in a moment that has been cleared on both sides of the aisle. We ought to be able to be out tomorrow night by a reasonable time, about 8 o'clock possibly.

We should mention that in our proceedings tomorrow on the effective death penalty, there will be 6 hours in which we would consider amendments.

On Thursday, we would convene at 9 o'clock. We would have a limit on 1-minutes, and we would begin the discussion on prisons, and we could expect to go late Thursday night.

On Friday, subject to a unanimous-consent request, we would begin at 10 o'clock in the morning. We should be able to finish our discussion of the prison bill. The we would begin to attempt to finish the criminal alien deportation bill, trying to be out by 3. We will rise at 3 in any event on Friday and we may have to have a unanimous-consent request later on to facilitate that.

That would make it possible for us to convene the House at 2 o'clock next Monday and have a general debate that would allow Members to be sure they would not face a vote before 5 o'clock Monday afternoon. We would hope on Monday to finish the Criminal Alien Deportation act and begin local law enforcement block grants.

We should expect a late night next Monday. On Tuesday, we would convene at 11 o'clock and finish local law enforcement blocks grants, and Tuesday could be a possible late night.

Obviously, we have been receiving, I think, very good dialog, debate, and cooperation from all Members. Certainly the discussions between the leadership teams, not only in the committee and the minority leader's office as well as mine, have gone well. So let me just encourage the Members to know this represents what we consider to be a highly probable schedule outcome, and clearly we will try not to surprise anybody. I think the 3 o'clock departure on Friday is something they can by very certain about, and they can be quite confident they would face no votes before 5 on Monday.

With those comments, I would yield back.

□ 1620

Mr. GEPHARDT. I thank the gentleman. I would just like to add some other items that we have been discussing. One was that we would like to be able to have an hour of general debate on the prisons bill by unanimous consent, if we can get it, on Wednesday. We would also hope to have the House convene at 9 a.m. on Friday and would be willing to agree to limit 1-minutes, if that would be helpful to get us started on that day at an earlier point.

Obviously, we have got to get some unanimous-consents to get rules up. We would like to finish the criminal alien deportation bill on Friday so that Monday could be dedicated to the law enforcement block grants, along with Tuesday. Obviously, we have to get a unanimous-consent. And we have to agree to the rule.

We would like to have open rules, but we are willing to agree to some time limits which we can talk among ourselves with the Committee on Rules about so that we can assure everyone that we can finish these bills when the gentleman would like to finish them on the schedule. But having an open rule and requiring us to discipline the amendment process would be a good way for us to proceed.

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, the gentleman is correct. I do need to correct my earlier statement.

On Thursday, the House will convene at 10 and there will be a limit on 1-minutes. And we will be asking unanimous consent presently for Friday, for the House to convene at 9.

Mr. GEPHARDT. I thank the gentleman.

HOUR OF MEETING ON FRIDAY, FEBRUARY 10, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent then when the House adjourns on Thursday, February 9, 1995, it adjourn to meet at 9 a.m. on Friday, February 10, 1995.

The SPEAKER pro tempore. (Mr. SCHIFF). Is there objection to the request of the gentleman from Texas?

There was no objection.

PROCEDURE FOR CONSIDERATION OF H.R. 729, THE EFFECTIVE DEATH PENALTY ACT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the bill, H.R. 729, be considered in the following manner:

The Speaker at any time may declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 729) to control crime by a more effective death penalty, and that the first reading of the bill shall be dispensed with. All points of order against consideration of the bill shall be waived. General debate shall be confined to the bill and shall not exceed 1 hour, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate, the bill shall be considered for amendment under the 5 minute rule for a period not to exceed 6 hours. It shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute ordered reported by the Committee on the Judiciary, and all points of order against the substitute shall be waived. The committee amendment in the nature of a substitute shall be considered as having been read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXCLUSIONARY RULE REFORM ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 61 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 666.

□ 1624

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 666) to control crime by exclusionary rule reform, with Mr. RIGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier, pending was amendment No. 3 offered by the gentleman from Michigan [Mr. CONYERS].

Is there further debate on the amendment offered by the gentleman from Michigan?

Mr. SCHIFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to point out, first of all, that the amendment offered by the gentleman from Michigan, if enacted into law ultimately, allows for a good faith exception to the exclusionary rule. I understand the gentleman makes a distinction between how his amendment is worded and how H.R. 666 is now worded. I will address that in a moment.

But I want to point out that both H.R. 666 and the amendment of the gentleman from Michigan would codify in some form a good faith exception to the exclusionary rule. My point, obviously, is that if all constitutional rights are not going to come to an end under the amendment of the gentleman, which allows a good faith exception to the exclusionary rule, all constitutional rights are not going to come to an end under H.R. 666.

Let me more precisely address the difference between the amendment from the gentleman from Michigan and this bill.

Basically, though there is another exception in the gentleman's amendment, basically the gentleman's amendment would codify the Leon case which allows this good faith exception when there is a warrant used by a police officer and that warrant is later determined to be invalid. But the point of our bill, H.R. 666, goes to what the previous speaker stated, before we resolved into the House of Representatives for other business, and that is, not every search requires a search warrant. There are a list of exceptions where a search can be perfectly legal just as an arrest can be perfectly legal without a search warrant.

The point we have here comes down to the same idea on a good faith occurrence. If in the course of a search an officer on an objectively reasonable basis believes that a search is legal without a search warrant, not an arbitrary basis, not a capricious basis, but a reasonably objective basis comes to that conclusion, it serves no purpose under the entire theory of the exclusionary rule, which is to deter misconduct by police officers, to at that point exclude the evidence.

That is why H.R. 666 is better as written than it would be as amended by the amendment of the gentleman from Michigan. That is why I urge rejection of that amendment.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words. I rise proudly in support of the gentleman's amendment.

Mr. Chairman, I want to have a colloquy with the gentleman from Michigan, because he is getting beat up here on the floor. The way I understand the gentleman's amendment is that it does absolutely nothing but codify the Leon decision, which we hear praised over there. But then when we offer it, we hear it attacked. So I am a little bit confused.

I also thought we got a little window into the fact that we were correct in that if we adopt H.R. 666 without the gentleman's amendment, what we are really saying is people can go around and do massive searches in neighborhoods or anything they want and if they come up with something, then they can go ahead and prosecute, that there really would be no reason to ever bother to get a search warrant in the future.

I have just heard the gentleman from Michigan's amendment being attacked around here, and I think it is only fair for the gentleman to have some time to explain it, because I, the way I read it, I have been reading it and reading it and it looks to me just like the codification of Leon decision.

Would the gentleman please answer?

Mr. Chairman, I yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I am very happy that the gentlewoman has again put her finger on precisely what is in difference over this H.R. 666. Because we have now, and I think the other side will agree, we have all kinds of exceptions written into the exclusionary rule already.

□ 1630

This includes destruction of evidence, imminent danger to law enforcement officers, stop and frisk laws in automobiles, including trunks, which the police can stop. We have the fleeing felons exception. We have the plain view exception, where if we see illegal evidence or a stash of drugs and they are in plain view, or guns, the police officer is perfectly permitted to act.

However, what we do not have is an officer using his own objective, reasonable good faith to determine whether he should do something over and above these exceptions. Therefore, the gentlewoman is absolutely correct.

In Leon there was a writ given by the magistrate that turned out to be subsequently invalid. In that case, we said that the police officer operated in good faith, and therefore the evidence could be excluded.

However, what they are saying is, let us get rid of any warrants at all by the magistrate, and let us let the police officers' own reasonable good faith be the test. In other words, each law officer would become the judge under this exception, which is nowhere to be found in Leon.

Mrs. SCHROEDER. Mr. Chairman, the other thing I would like to ask the gentleman about is, when I was discussing this before, I said "OK, if we do not pass the gentleman's amendment, and police officers can go around and search at will, then if they find something, they are not worth their pay if they cannot figure out some probable cause or something to cover it up."

How do we as individuals then protect ourselves from unreasonable searches and seizures? Is the gentleman aware of any criminal prosecution in the United States that has ever gone on against any law enforcement officer anywhere, for illegally searching someone's home?

Mr. CONYERS. If the gentlewoman will yield again, Mr. Chairman, the whole idea of us not checking with a magistrate in the beginning and getting an OK, or using one of the exceptions, we will have then eviscerated the exclusionary law as it exists, because then there will not be any need. Every officer can use his own judgment.

Now whether somewhere in some jurisdiction in some State, some police officer, has been nailed, I cannot tell. All I am saying is, why do we not correct the problem on the front end, instead of waiting for some hapless citizen to have to go into court, and maybe years later it will be determined that the police officer was wrong?

Mrs. SCHROEDER. Mr. Chairman, I think the gentleman is correct. As I remember our hearings, we asked some of the prosecutors that showed up, some of the district attorneys, if they were aware of any cases in the court of law enforcement officers being prosecuted for illegally searching and seizing, and they said no, not to their knowledge, either.

The CHAIRMAN. The time of the gentlewoman from Colorado [Mrs. SCHROEDER] has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 5 additional minutes.)

Mrs. SCHROEDER. Mr. Chairman, the reason I feel so strongly about this is, the gentleman from Missouri was on the floor talking before about ATF being able to run through people's homes looking for guns. If they find nothing, then OK, that is the end of it. If they find something, then they go after the person.

That is a real invasion of our rights, as our forefathers knew them. I stand here as a person who the FBI came trooping through my house over and over with an agent named Timothy Redford.

When I first started running in 1972, we kept having break-in after break-in after break-in, and we really were terrified. We thought they were trying to maybe kidnap the children, because we could not find anything that was missing. We could just see that they had broken in, through the window or through whatever, we had no idea what was going on. They were breaking into the cars. We saw nothing missing.

Many years later, under the Freedom of Information Act, I found that the FBI had hired this Timothy Redford to break into our house. The things that he had gotten at taxpayer expense was the fact that I belong to the League of Women Voters and I paid dues there, the fact that I had been a Girl Scout, the fact that my husband was a lawyer.

These were incredible things. There were 50 pages of incredible revelations, that if he had ever come to my campaign office, we would have told him. However, the main thing he found was a campaign button that said "Pat Schroeder: She wins, we win." He thought that was probably a Communist slogan, so therefore, he thought he had reasonable cause to go running through my house.

Mr. Chairman, granted, he found nothing illegal. My word, there is nothing in our house, unless dust kittens are illegal. We have those that weigh 10 tons. However, beyond that, I do not think there is anything illegal in my house, but if he had, under this amendment they could then prosecute. However, in the interim, as a citizen I have no recourse to that.

I really think one's home is one's castle. What we are doing without the amendment of the gentleman from Michigan [Mr. CONYERS] is saying there is a license for law enforcement people to go out and search and seize on anything, whether it is a campaign button or whether you look suspicious or whether you happen to live in a neighborhood that they think has a taint of crime or whatever. If they find something, you bet they are going to make a good case for why they do it, so why would they ever get a warrant?

The second point the gentleman from Michigan makes is, the courts have common sense. Guess what, these guys did not come to town on a turnip truck. Most of them have been prosecutors or defense lawyers before they sat on the bench, and they have allowed evidence to be accepted when it was in plain view, when you were in hot pursuit, when there were all sorts of things that would make a reasonable exception.

Therefore, the question is, are we going to tear up the 4th amendment, or are we going to continue to believe that one's home is one's castle.

Mr. CONYERS. If the gentlewoman will continue to yield, first of all, the gentlewoman has revealed out of her own experience an absolutely shocking situation, as a Member of Congress and a distinguished person in her own State and the country, that this could happen to her.

Mr. Chairman, what about a citizen anywhere? Do Members know what their remedy would be? They would have to go get a lawyer, file a civil suit. They obviously are going to have to pay for it. It would be a long, protracted piece of litigation, and there are very, very few people that would have the well of the House of Representatives to make clear the kind of horror stories that could occur.

The average citizen is, in effect, without remedy if H.R. 666 would be applied, because this is what is happening without it. What this bill would do would be make it legal and permissible for an officer then to come before the court and say "I used objectively reasonable good faith in trying to determine that we should break into the Schroeder house because we thought we might find something."

Mrs. SCHROEDER. Mr. Chairman, reclaiming my time, I totally agree with the gentleman. I think one of the things that happens here is everybody sits around and says "This could not happen to me." I must say, it was a very shocking day when I found out many years later what was happening. It can happen to anybody.

Mr. Chairman, there is absolutely nothing that says that times do not change or people cannot draw all sorts of deductions.

The gentleman from Virginia [Mr. SCOTT] had a very interesting dialog during the hearing with one of the witnesses talking about if they stopped his car and searched it on 395 and found nothing, did he have a recourse. The answer is no. That is why this amendment is so important.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the bill and in opposition to the amendment.

Mr. Chairman, I just want to point out that the committee bill does not validate searches and seizures that are made in bad faith. The court will make that determination.

It seems to me under the scenario the gentlewoman just recited, she would have a great lawsuit. She is a lawyer, and her husband is a lawyer. I am sure they know lots of lawyers. They must consort with lawyers. I cannot imagine why a good, healthy lawsuit did not ensue. Police are sued every day. If they intrude, if they trespass, they have no more rights than anybody else.

However, Mr. Chairman, what we are talking about is a good faith arrest. I can conceive of a situation where two men are on the street with a policeman nearby and one of them pulls a gun. What he is doing is showing his friend his gun that he just bought, but the policeman thinks this is a holdup, jumps the guy with the gun, and in searching him, finds cocaine in his pocket.

Mr. Chairman, under the committee bill, that cocaine would be admissible in a trial. Under the exclusionary rule, it would not. Who is penalized by the exclusionary rule as it presently is employed? The people. The people are victimized, nobody else, just the people.

□ 1640

The principle of Leon is to be distinguished from the terms of Leon. Leon stands for the principle that there is nothing sacred about the exclusionary rule and if the law enforcement officer made a good faith effort to make a reasonable search and seizure, to be determined by an objectively reasonable standard, then the evidence shall not be suppressed.

Yes, it tilts toward the public, it tilts toward the victims of crime. It no longer tilts toward the accused. But what is more unjust than suppressing evidence that should lead to a conviction of a serious crime because of some technical difficulty? We are addressing that.

Any time they invade the gentlewoman's house again, I would like that case, and I would do it pro bono for the gentlewoman.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan.

Mr. CONYERS. May I reacquaint the gentleman, because he is a distinguished member and chair of the committee, of the United States versus Watson, in which it has been held as inviolate law that arrests in public areas where there is probable cause does not require any warrant whatsoever.

Mr. HYDE. The key words are "probable cause."

Mr. CONYERS. When a person pulls a gun in the presence of a law enforcement officer, I say to the gentleman from Illinois [Mr. HYDE], he does not have to go to a magistrate to determine whether he can arrest him. He is also in imminent danger of his life, in addition. That is two requirements.

Mr. HYDE. Let us say he is hugging his wife and the policeman thinks that sexual harassment is going on in front of him. Incident to arresting or halting that, he discovers narcotics. I want that to go into evidence. You want it suppressed.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from California.

Mr. BERMAN. Is there any question but that pursuant to the lawful arrest and a search when you find evidence, when there is probable cause for the arrest, the search incident to the arrest, the evidence produced of another crime is admissible? I would like to know the case that excludes that evidence. If it is a search incidental to a lawful arrest, it is admissible. We do not need this bill for that.

Mr. HYDE. It would not be a lawful arrest if no crime were being committed and no crime was being committed in exhibiting the gun to his friend. There was no crime.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I do not quite understand. You can have a lawful arrest and then defend yourself. But it would be a reasonably lawful arrest, and then the person could present what was really happening. It is not like you can only arrest a person unless it is 100 percent proof in court, and under a lawful arrest, you are allowed to do a lawful search.

Mr. HYDE. But there could be an unlawful arrest, however, but made in good faith, under misapprehension of the facts, misapprehension even of the law. But if it is made in good faith as determined by the court under an objectively reasonable standard, then we have reached a crossroads. You want the evidence suppressed. We want the evidence admitted.

Mrs. SCHROEDER. If the gentleman would yield further, I still cannot figure out what an unlawful arrest would be unless you just saw someone walking down the street and arrested them.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, when the court originally came down with the exclusionary rule, it recognized that this is not a good rule in some abstract sense. It is forcing the exclusion of evidence which was seized which could show that an individual may have committed a crime. But they went through a whole process of pointing out that without this kind of rule, there was no other effective deterrent to unlawful searches and seizures, there was no other effective way of protecting an individual's fourth and fourteenth amendment rights to privacy and against unlawful searches and seizures.

If the proponents of this bill and the opponents of the Conyers amendment would propose a series or any remedy which was effective in protecting an individual and giving him some recourse against unlawful searches and seizures which would provide the kind of deterrent that would make those fourth amendment rights meaningful, I think everybody in this House would agree in a second to get rid of the exclusionary rule because of the problems with the exclusionary rule. But when the gentleman from Illinois talks about a lawsuit against the police, the evidence is replete that for all kinds of reasons, the absence of demonstrating monetary damages, the time it takes, the difficulty in establishing any proof, civil remedies in the traditional courts against a policeman for an unlawful search are not effective. They are not a deterrent.

Surely within the context of discipline, statutory kinds of remedies, you might want to explore the possibility of providing an alternative that provides that kind of effective deterrent. But I have never heard the proponents of doing away with the exclusionary rule takes any serious time to try and create more effective remedies that would constitute that deterrence.

That was the very heart of what the court said when they came down with the exclusionary rule. In effect they said, "We don't like it but we don't know how to provide a meaningful deterrent against unlawful searches and seizures without that rule."

I suggest that if people would get together and try to come up with those effective remedies, there would be a much better approach towards doing this then keeping the exclusionary rule.

But so far no one who wants to do away with it comes up with effective alternatives. I think it is a big mistake.

I also want to make one other point. The difference between objective and subjective. I am happy to see the committee report spent some time clarifying the objective standard. But the fact is when you talk about what a police officer thought at the time, I would suggest these may be words but it may not have any real meaning. In the end, you may really be giving to the police officer the final decision on whether or not he thought that search was in good faith, and we will slide very quickly to the intent to provide an objective standard to the reality in the courtroom of a subjective standard which rewards a lack of knowledge about search and seizure law, it promotes and encourages not knowing the specifics of what is permitted and what is not permitted. I do not think it is a healthy standard to give real meaning to the fourth amendment protections.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman from California for his discourse, because what he has revealed is this: We have almost a dozen exceptions that come to mind, including the one by the chairman of the Committee on the Judiciary who was not aware of the fact that a law officer does not have to go get a warrant or see a magistrate if someone in public pulls a gun out. That has been tested and is hard law.

But when we take the Leon case and all of the exceptions: stop and frisk, the fleeing felons, hot pursuit, plain view, good faith, arrests in public areas, what on Earth else do they want to be excluded from an exclusionary rule that would lead them not to support codifying Leon as this amendment of mine does, what other exceptions are they looking for?

What they are doing is only one thing in my judgment: Transferring the test of reasonable good faith from the magistrate to the police officer. That is the one limit that I cannot go to because it in effect eviscerates whatever else is left of the exclusionary rule.

Mr. BERMAN. If I may reclaim my time, I agree, and it does so without providing any effective alternative to protect that individual's fourth amendment rights.

Mr. GEKAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to accomplish two purposes: First to congratulate the gentleman from Michigan for bringing the amendment to the floor, and then to announce that I will oppose that amendment.

Why do I congratulate him? It appears that the gentleman from Michigan is for the first time since I have been in the Congress espousing a return at least to sanity in the warrant search and seizure realm of the law enforcement and agrees through the proposition of his amendment that a good faith exception shall exist in the warrant arrest. That is a great departure from all that we have heard for 12 years in this Chamber, particularly from the colleagues of the gentleman from Michigan. But I congratulate him on doing that. Because we have come a long way, baby, if indeed you come and plead with the House to pass an amendment that would provide a good faith exception to a warrant arrest.

□ 1650

I am exorbitantly pleased at the gentleman's gesture, but at the same time, I want to tell the gentleman the second part and he may not want me to yield. I oppose the amendment because it goes against the purpose of the main bill, namely, to extend that good faith exception, that trust that we want to reside in the law enforcement officer when he acts in good faith in warrantless situations. We know that in several jurisdictions the warrantless good faith exception has already been installed in the intermediary Federal courts, and so, if we adopt the amendment of the gentleman, we would be, in effect, taking a step backwards from the upward march of the good faith exception in the warrantless situations, which has already been blessed by some of the intermediary Federal courts.

Mr. Chairman, nothing infuriates the public more than the spectacle of a criminal standing before the judge, facing his prosecutors and learning right there in open court that his case, where he was caught red-handed in a burglary, red-handed in an assault, red-handed in some heinous crime, to find that the judge dismisses his case right there in open court for the sake of a technicality that we have seen over and over and over again. That infuriates the American public in itself, and then doubles the fury when we see that criminal walking out of court, in effect literally and figuratively laughing at the judge, laughing at the prosecutor, laughing at the witnesses who testified against him, laughing at the system of justice, and perhaps encouraging him to commit the same kind of offense later, knowing, sophisticated criminal that he might be, that he can escape justice on a technicality.

What we are about here today is to put some fear of God in that criminal, and remove the technical release from the prison of the hardened criminal and to allow our law enforcement community in whom we have faith to bring about a sense of safety in the streets in a good faith exception to the exclusionary rule. That is not too much to ask.

Let us defeat the gentleman's amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. Having said that, I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, first of all I am always pleased to receive congratulations from my colleague from Pennsylvania with whom I have worked on these matters across the years.

May I remind the gentleman that intermediate court decisions are secondary at best to Supreme Court decisions on this subject. And that anybody that is caught red-handed would be brought within the exclusion to the exclusionary rule, known in the Supreme Court case as Washington versus Chrisman, where anything that happens criminally in plain view vitiates the need for any kind of a warrant.

Finally, could the gentleman give me one example where H.R. 666 would operate in a different way from the amendment that I have before the gentleman and which is current law?

Mr. GEKAS. Seizing back my time, I will be glad to prepare a white paper for the gentleman and outline it.

Mr. CONYERS. No; right here on the floor.

Mr. GEKAS. The issue at hand is whether or not we want to extend the good faith exception to the warrantless arrests. That is the issue.

Mr. SCOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Virginia for yielding.

What the gentleman from Pennsylvania has proved here today is he cannot tell us why he would change the existing law, which I am codifying by amendment in the Leon case. He does not have an example, because we have already given dozens of exceptions to the exclusionary rule and there is not one he can even make up now on the floor or ever that would justify what they are trying to do to the exclusionary rule, and I thank my friend for yielding to me.

Mr. SCOTT. Mr. Chairman, the proposed Conyers amendment seeks to codify the 1984 Supreme Court decision in United States versus Leon, where the Court held that the exclusionary rule should not be used to bar evidence gathered by officers acting in a reasonable reliance on a search warrant issued by a magistrate but ultimately found to be improper. Although this amendment in and of itself dilutes the exclusionary rule, I support it for it does far less damage to fourth amendment rights than the bill before us and does not go further than what is already current Supreme Court case law.

On the other hand, Mr. Chairman, the underlying bill is a radical departure from established precedent and would radically extend the permissibility of warrantless searches. It would allow evidence gathered from warrantless searches to be admitted. Indeed, the Leon court explicitly states that it strongly prefers searches with warrants to warrantless searches, because the process of obtaining a warrant, that process by itself provides safeguards against improper searches.

Mr. Chairman, the fourth amendment allows the State to breach the individual's right to privacy only when the amendment's rules are followed.

As Justice Oliver Wendell Holmes said, the fourth amendment protects the individual's legitimate expectation of privacy—"the right to be let alone—the most comprehensive right and the right most valued by civilized man."

The heart of the fourth amendment is the issuance of a warrant based on probable cause. In obtaining a warrant the police officer goes before a magistrate and shows that the totality of the circumstances indicate that there is evidence of a crime, in effect, that he has probable cause. The cost of conducting constitutional searches is not high. The process of obtaining a warrant is not cumbersome for police. It has been shown that a magistrate will take an average of 2 minutes and 45 seconds to approve a search warrant. The vast majority—over 90 percent—of warrant applications are approved. Police officers can even obtain a warrant over the telephone.

Critics of the exclusionary rule exaggerate its practical significance in the disposition of cases. They talk vaguely of enormous numbers of criminals walking because evidence either was or probably will be excluded. This argument is simply not supported by responsible statistical studies. Adherence to the fourth amendment and use of the exclusionary rule does not result in large numbers of criminals being set free. For example, a study by the Comptroller General's office found that suppression motions were granted in only 1.3 percent of Federal cases.

The leading commentator on search and seizure law has found that,

> . . . the most careful and balanced assessment of all available empirical evidence shows that . . . the cumulative loss in felony cases because of prosecutor screening, police releases and court dismissals attributable to the acquisition of evidence in violation of the Fourth Amendment is from 0.6% to 2.35%. (W. LaFave, "The Seductive Call of Expedience: U.S. v. Leon, Its Rationale and Ramifications,", 1984 Ill. L. Rev. 895, 913.

Historically, searches without warrants were judged unreasonable and illegal. Only under certain tightly defined circumstances were warrantless searches considered legal. Today, the basic rule holds. Warrantless searches are allowed only in the unusual circumstances, as the ranking Member, Mr. CONYERS, has indicated.

Mr. Chairman, H.R. 66 would allow so called good faith warrantless searches. This would mean the demise of the warrant process, and its attendant protection. Instead of a warrant issued upon probable cause, we would have good faith. The bill would mean that good police practice would be discouraged. It would be unnecessary for police officers to prepare an affidavit requesting a warrant from a neutral magistrate. The determination of whether probable cause exists would no longer be made before the search, as I believe is consistent with the letter and spirit of the fourth amendment. There would be after-the-fact determination of whether or not the police officers acted in so-called good faith.

There is no substitute, Mr. Chairman, for the fourth amendment. We know police officers will always be able to make up after-the-fact excuses for the search. The fourth amendment protects the innocent public from illegal searches. Police should not conduct illegal searches, they should not conduct illegal arrests. The exclusionary rule removes the incentives that they would have for such law breaking.

In summary, Mr. Chairman, the Conyers amendment maintains a balance to protect innocent people from illegal searches, and I urge the House to adopt it.

Mr. RUSH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this exclusionary rule, this move to enact H.R. 666. Mr. Chairman, as I sat in my office and listened to the debate, I must tell Members of this body that I became more terrified about this piece of legislation than I have been about any legislation that I have been asked to consider as a Member of this body since I was elected to this office representing the First Congressional District of Illinois.

Mr. Chairman, I believe that I am the only Member of this body to ever have been victimized by illegal search and seizure by a member of the police force in this Nation, the city of Chicago police force.

A little over 25 years ago, Mr. Chairman, there was an illegal search and seizure conducted by the Chicago Police Department within the city of Chicago.

☐ 1700

As a result of that illegal search and seizure, admittedly illegal search and seizure by the Chicago Police Department, two individuals were killed, seven individuals were wounded. They also, the survivors of that particular raid in the city of Chicago, had the right to sue. They did sue. The county of Cook settled out of court, but it did not bring life back to the two individuals who were killed. That was December 4, 1969.

December 5, 1969, Mr. Chairman, my apartment was also raided illegally, supposedly in search of guns. They did not come with a warrant. They came with weapons pulled, weapons blazing. They shot my door down.

Fortunately I was not at the apartment. My family was not at the apartment at that time. They entered my apartment, did not find any weapons, but yet and still, they justified it, Mr. Chairman, Members of this body, by saying that they, in fact, did find contraband in my apartment; they did find a bag of what they identified at the time, a bag of marijuana in my apartment.

Mr. Chairman, upon further research and upon actions by my attorneys at the time, my attorneys took them to court, and in court they indicated that that bag of marijuana where they had shot my door down, guns blazing, threatening; had I been there, I would have been killed also, and my family would have been killed, wiped out totally, they found that that bag they called marijuana was nothing more than bird seed.

Mr. Chairman, Members of this body, there is no such thing as giving the police force exclusionary rights. Those individuals who are advocates of this particular measure, they can rush to judgment, they can rush to enacting this piece of legislation simply because of the fact that it might look good on their resume to their voters in their districts, it might sound good in terms of being politically correct, and that they are tougher than tough in regards to enforcing the laws of this Nation. It might sound like they are friends of the police departments, and we all understand that the police departments are under siege right now from a number of sources throughout the Nation.

But, Mr. Chairman, in human context, in human terms, this legislation in more instances than not would mean life and death for certain individuals, individuals who have been ostracized, cast aside by law enforcement officers and by the status quo.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. RUSH] has expired.

(At the request of Mr. CONYERS and by unanimous consent, Mr. RUSH was allowed to proceed for 3 additional minutes.)

Mr. RUSH. Mr. Chairman, I must say to you that although at the time, 25 or more years ago, a little over 25 years ago, back in the city of Chicago we felt as though we had no friends. We felt as though the power of this Nation was coming down on our backs as young men who felt, young men and young women, who felt that we wanted to challenge the status quo.

I must say that it was Members of this body led by the distinguished gentlemen from Michigan who did come into Chicago, the Congressional Black Caucus, and put the skids, put the skids on the type of police atrocities and police violations of the law and police murder that was occurring in the city of Chicago, put the skids on that. They came in, and they conducted a hearing, and because they did focus national attention on what was happening in Chicago, police forces there backed up and subsequently were found, they admitted, that they had no legal grounds to murder two individuals, and so they had no legal grounds to come into my apartment to seize and to search and seize in my apartment and to charge me with a felony of which it was baseless. It was groundless. It was only an excuse, only an excuse, Mr. Chairman, to take my life away.

I must tell you that today that is the issue that is at stake for many, many Americans, whether or not we are going to have police forces throughout this Nation, any police force, given the arbitrary power for political reasons to invade someone's privacy, to invade their homes under the guise of arbitrary decisions that they want to make.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. RUSH. I yield to the gentleman from Michigan.

Mr. CONYERS. I want to commend the gentleman, because it takes a great deal of courage to go back into the past in very terrible times that were going on in Chicago, the Fred Hampton massacre and others, yourself who fought a very noble fight.

But is not it true that in cities like Chicago the police can go to a magistrate at any point 24 hours a day, 7 days a week; they are on duty, that for any reason whatsoever that they needed to go into your apartment or anybody else's, they could get a search warrant and if they had a reason, if they did not have a search warrant, they have all of these other exceptions that could have been used, and none of them apply to you?

The CHAIRMAN. The time of the gentleman from Illinois [Mr. RUSH] has again expired.

(At the request of Mr. CONYERS and by unanimous consent, Mr. RUSH was allowed to proceed for 1 additional minute.)

Mr. RUSH. Mr. Chairman, the gentleman's inquiry is absolutely correct. Right now in the city of Chicago, the police are authorized to go to any judge, be they a sitting judge or be they any other type of judge, they can go to a judge on a 24-hour basis, any judge within the city of Chicago, any judge within the county of Cook, any Federal magistrate. They can go to any judge and get a warrant to enter into anyone's home to search anyone's home or vehicle or whatever, their private possessions. They do have that authority at this moment in time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 138, noes 291, not voting 5, as follows:

[Roll No. 98]

AYES—138

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Furse
Gejdenson
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rangel
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn

NOES—291

Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Allard
Frost
Gephardt
Hunter
Yates

☐ 1726

On this bill:

Mr. Gephardt for, with Mr. Allard against.

Messrs. COSTELLO, BARCIA, and DICKEY changed their vote from "aye" to "no."

Mr. TORRES and Mr. GONZALEZ changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any further amendments?

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WATT of North Carolina: Page 2, line 13, strike all after the word "States," and insert the following: "provided that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Mr. WATT of North Carolina. Mr. Chairman, Members of the House, this amendment would simply have the effect of providing that evidence could be admitted into court after a search and seizure providing that the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched.

☐ 1730

If this language sounds familiar to the Members of this body, it is the exact language of the fourth amendment of the U.S. Constitution.

I want to start by thanking my cosponsors of this amendment, Mr. DEFAZIO and Mr. FIELDS, for jointly sponsoring this. We believe in the Constitution of the United States.

Mr. Chairman, after I addressed the body in general debate and after I addressed the body on the balanced budget amendment, several of my colleagues have asked me why I get so excited about the Constitution of the United States.

They ask me, "Why are you so conservative when it comes to the Constitution of the United States?"

I respond to them that we all bring our different perspectives to this body. We all bring our different histories to this body. We heard an eloquent example of this during the last debate from the gentleman from Chicago [Mr. RUSH].

My history is this: I learned the Constitution from a constitutional specialist, Robert Bork. My friends on the other side may understand that. They know him well, a very conservative gentleman. I also studied under Professor Emerson.

These two gentleman were at opposite ends of the spectrum. But one thing they believed vigorously in was the Constitution of the United States. And when I started practicing law, it was not surprising that the first jury trial that I handled called into question the first amendment provisions, because I was called upon to represent the interests of a group of native Americans who had been demonstrating against attending school with black kids. And despite the fact that I disagreed with them in what they were demonstrating about, I thought they had a right to demonstrate and to the protection of their first amendment rights.

Later my law firm was called upon to represent the Ku Klux Klan when they were demonstrating, and we also protected their rights to demonstrate under the first amendment, despite the fact that we disagreed with what they were demonstrating about.

So my commitment to the Constitution does not have anything to do with whether I agree with somebody or disagree with somebody. My commitment is to defend the Constitution. And when I took the oath in this body, my commitment to that proposition continued.

It is a conservative philosophy which I espouse. I love the Constitution of the United States. Even when it is not convenient for me to love it, I still think it needs to be defended and protected, contrary to some of my colleagues, apparently, in this body.

For over 205 years now we have had this sacred language in the fourth amendment of the Constitution. It says that people ought to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures. Today my colleagues come in with new language, trying to add some other language that they would have the Supreme Court go back and interpret for 200 more years.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

(At the request of Mr. WISE and by unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 3 additional minutes.)

Mr. WATT of North Carolina. Mr. Chairman, it is my opinion that this bill is going to generate 200-plus more years of litigation, because the language justifying an objectively reasonable belief is no more precise than the language of the fourth amendment of the Constitution which exists currently.

My colleagues on the Republican side would have us believe that they can wave a magic wand and craft some language that is so clear, so crystal clear, that there will not be any litigation about it. But, my friends, the crafters of our Constitution drafted this language, and I would submit to you that my colleagues on the other side are no smarter than the drafters of the original Constitution and the Bill of Rights.

Mr. Chairman, I hope that we can fight to uphold the constitutional provisions. I do not know anybody in this body who can vote against this basic amendment. All it does is say we are going back to the fourth amendment of the U.S. Constitution. I hope anybody who will vote against this amendment will go home and look their constituents in the eye and say, "I voted against the fourth amendment."

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think everybody here needs to understand that though the gentleman may be acting quite in good faith, and I know he believes sincerely what he is doing, Members need to understand that this amendment guts the bill as it now is written altogether. While the gentleman is offering a provision of the Constitutional language that clearly is already there, and we might all want to say, "Hooray, we are going to vote for that," what we have to realize is the gentleman is saying we are going to put it in a place in this bill that comes very early in the bill, after about three lines, and then strike the entire rest of the bill, H.R. 666, so there will be no good-faith exception for any purpose in this bill when it is done. All we will be doing is reproducing in bill form the fourth amendment to the Constitution.

In essence, it is another way of voting against this bill. If you want to vote the bill down, it is another way to proceed to do that.

It is demeaning, in my judgment, to the Constitution in the second order of things to go out and reproduce the Constitution or 1 of the 10 amendments in the Bill of Rights as a statute. It is in the most sacrosanct document we have. It is in our Constitution. I do not think it calls for any reproduction to ratify our belief in the Constitution in some statutory form.

So really there are two reasons to vote against this: If you believe, as I do very strongly, in wanting to reaffirm an exception to the exclusionary rule and expand that exception, which this bill does, to allow us to get more evidence in in search and seizure cases, and get more convictions and get away from technicalities letting people who have committed crimes off the hook, then you need to vote against this amendment.

☐ 1740

Because the amendment just does away with that possibility altogether. And by perhaps the interpretation somebody could place on it, it does not just do away with an expansion of that good faith rule, it is quite possible the Supreme Court would come in and say, "aha, Congress has spoken and we have to do away with the good faith exception we have already carved out for cases where there are search warrants" because we are presumably enacting this provision of the Constitution in conjunction with the debate we are having today and with language that talks about search and seizure evidence being admissible or not.

So I would submit to my colleagues on both sides of the aisle that this is a worse amendment than the preceding amendment we just voted down. This amendment goes further and potentially can destroy the entire concept of any exceptions to an exclusionary rule whatsoever. In other words, it could go all the way back and say, look, if there has been any illegal search and seizure, even if done in good faith with a search warrant, it is out the window. Forget the Leon case. Forget any of those other cases.

I would urge my colleagues to defeat the amendment. It is offered, I know, in good faith, but it turns out to be very mischievous, guts this bill and should be defeated.

Mr. DEFAZIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment and would respond to the previous speaker before me on the floor. The gentleman finds that somehow by substituting the exact wording of the fourth amendment to the Constitution, wording which the Supreme Court in its wisdom has interpreted and finds allows exceptions in cases of good faith with searches which involve warrants, the gentleman feels that by restating the fourth amendment that somehow we would overturn that judgment of the Supreme Court. That is an absurd argument.

The Supreme Court has rendered an opinion on these words previously and the Supreme Court has found a limited good faith exception in cases where warrants exist.

But what the other side would do here today is trash the fourth amendment to the Constitution by saying, no, even though the courts have not found exceptions in cases where there are warrantless searches, we feel that should happen. Or one gentleman mentioned some lower courts have found in some limited cases that warrantless searches might be acceptable. We have already talked at great length on this floor about where exceptions exist and have great precedent, and apparently there are perhaps some others coming up through the court. Let the Supreme Court render that judgment on the fourth amendment which has stood for more than 200 years.

Now, I perhaps suffer a disadvantage in this debate. I am not one of the many attorneys in the House of Representatives, but then again, nonattorneys outnumber attorneys still in this country, perhaps for a little while longer. Many of us are attached to the Bill of Rights in the Constitution, particularly the fourth amendment. And I believe that this goes to the issue of us being secure in our homes.

This is not about a drug deal on the street. It is not about two people hugging with a gun sticking out of their pocket or drugs in the park. It is not about that at all. It is whether or not someone, an officer of the law, has to spend 2 to 3 minutes on the telephone convincing a magistrate that they have probable cause before they kick down someone's door. I do not think that 2 or 3 minutes is an inconvenience. They already have many exceptions, when there is imminent threat, many exceptions when there is a crime in progress, many exceptions when they have a warrant.

But warrantless searches, broadly construed, are a threat to the security of the people of this country. And they certainly are a threat to the continued sanctity of the fourth amendment to the Constitution. So restating that amendment here in this law does not threaten the precedents and the exceptions that have been taken previously.

Mr. Chairman, I yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. The gentleman is really saying that without the seven exceptions created by the Supreme Court, the Constitution still requires that one gets a warrant.

Mr. DEFAZIO. That is correct.

Mr. CONYERS. And what that means then is that the gentleman's bill itself will soon be rendered unconstitutional. And I think that this proposal, which repeats the fourth amendment, will likely stand.

Mr. DEFAZIO. And it would certainly reinforce the exceptions, the seven exceptions already created by the Supreme Court and allow any other exceptions to be heard upon their merits, particularly these lower cases we heard vaguely referred to earlier.

What we would not do is sanctify warrantless searches. I do not believe, as a layperson, in a body and before these many esteemed lawyers, that my constituents want to see this country move toward a system of warrantless searches. That is what this legislation before us would do.

I urge my colleagues to support this amendment. And if this amendment fails, to vote against 666.

Mr. FIELDS of Louisiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment because it is an amendment that makes a lot of sense and is an amendment that this body should adopt.

Let me give Members a couple reasons why. The gentleman to my right mentioned that there were no constitutional problems with this bill as it is. But let me just read one portion of the bill that I find a very significant constitutional flaw with.

And that is on line 8, it starts by saying:

> Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment of the Constitution.

What this bill actually would do, this bill would basically make the fourth amendment of the Constitution moot. And I do not think that this body, first of all, has the legal responsibility nor the right to violate the Constitution by making an amendment of the Constitution moot. So, therefore, I think the bill in itself is unconstitutional, not to mention unconscionable.

We talk about this bill being a bill to deal with the criminals. The biggest criminal act is the passage of this piece of legislation. Because what we are doing to the poor citizen on the street, we are telling them that they have less rights. They cannot have a fourth amendment to the Constitution. They cannot have that protection, if a law enforcement officer chooses to knock their door down or to pull them on the side and search their belongings, go into their home and search their belongings without a warrant. I think that is simply unconscionable, not to mention unconstitutional. So I would urge the Members of this body to actually look at the Constitution before we pass this piece of legislation.

I mean, I am all for a contract for America, but I do not think a contract ought to be to dismantle the Constitution of the United States of America. So if we support the Constitution, the fourth amendment of the Constitution, and all of us as Members of this body, when we arrived here in January, all of us, each and every last one of us, raised our right hand and we said in no uncertain terms that we were going to abide by the laws of the United States of America, which includes the Constitution of the United States of America, so to come here and to undo the fourth amendment of the Constitution by taking the rights away from a citizen and say, under the guise that we are doing something about crime and we are being tough on crime, when some poor soul is sitting at home tonight, if the passage of this legislation, if this legislation passes tonight, some soul in the future sitting at his house, inside of his home, watching his television, some Rambo cop can bust down his door, search his belongings, go through all of his belongings and say that they have a constitutional right to do so because of this legislation, I think that is unconscionable.

I would urge the Members of this body to seriously look at what we are about to do. I do not think there is any member in this Hall that would want to pass a law that would take away a Member's constitutional rights, fourth amendment constitutional rights. And that is exactly what this bill would do.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am very concerned about the procedure here, because as I read this amendment, this is the fourth amendment to the Constitution. We are being asked, as Members of the House, do we or do we not support the fourth amendment. And I have taken this well before saying, I really thought that H.R. 666 repealed it, and here is a chance for us to now say, we are not repealing it, as the gentleman from Louisiana just said.

My real question is, can any Member vote against this? Because we are all sworn to uphold the Constitution. The fourth amendment is part of the Constitution.

□ 1750

I think parliamentary-wise, it is a very interesting question as to what would happen if Members vote directly against a part of the Constitution. I do not think we have ever had that on the floor before, as long as I have been here.

Mr. Chairman, I wanted to ask the esteemed ranking Member, is this not absolutely the entire fourth amendment, all jot and tittle? This is it, is that correct?

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, this is the fourth amendment to the Constitution. I have never remembered voting on it, Mr. Chairman, and what happens here is that the reason that he had to replace it in its entirety is that there is a great likelihood that the McCollum bill, as it is written, will subsequently be found unconstitutional itself, so we not only have our obligation to the Constitution, but we fortunately had this replaced from a provision I think is unconstitutional, and predict it will never stand court muster. Therefore, I support the gentleman as well.

Mrs. SCHROEDER. Let me ask the gentleman, too, Mr. Chairman, from his history, does the gentleman have any idea what happens if a Member of Congress takes the well and at the beginning of each session, pledges to uphold the Constitution? Does anyone know what happens if they do not vote to uphold the fourth amendment? What will happen if people vote against it?

Mr. CONYERS. Mr. Chairman, if the gentlewoman will yield further, this is the 104th Congress. The question has never arisen before. Let us all stay tuned.

Mrs. SCHROEDER. Mr. Chairman, I certainly hope everybody votes to uphold the Constitution. I think we have seen an awful lot of silliness, but one of the things every American says is their home is their castle, and your home is not your castle if anybody can come knock down the door any time they want without a warrant. This is one of the premises that our forefathers and foremothers felt very strongly about.

Mr. Chairman, I think if we do not stand for this, we do not stand for anything. The people who sent us here and thought we were sworn to uphold the Constitution, if we vote against this, Mr. Chairman, they are going to really wonder. They are going to really wonder, and I would not blame them at all if they wanted their money back for the salaries of the people that maybe had their fingers crossed when they took that oath. Mine were not.

Mr. Chairman, I will probably vote for this amendment, and I think the gentleman from North Carolina is to be complimented in reminding us all, let us stop this silliness with the contract and realize our real contract is the Constitution of the United States, that every Member of this body is pledged to uphold.

I thank the gentleman from North Carolina [Mr. WATT] for reminding us of that.

Mr. BISHOP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to echo what I have heard from the gentleman from North Carolina [Mr. WATT] and the distinguished gentlewoman from Colorado [Mrs. SCHROEDER]. I, too, remember the oath that the Members of this body took when we were sworn into this office.

I just went up to the Clerk's desk and asked the Clerk to allow me to refresh my recollection. We said:

> I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same.

This bill, Mr. Chairman, does not do that. In fact, in order to save this body in terms of our integrity, we must support the Watt amendment, because the Watt amendment reaffirms the fourth amendment to the U.S. Constitution. To vote against the Watt amendment is to vote against the fourth amendment to the Constitution. To vote against the Constitution is to violate the oath of office that each and every Member of this body took to uphold, to support, and defend that Constitution.

As the gentlewoman from Colorado [Mrs. SCHROEDER] so eloquently stated, our contract is the Constitution of the United States. Let us have a contract with and for America, not a contract on America.

Mr. WYNN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I feel a chill in the air this afternoon. I think we are about to see a very dark day in history of the United States of America, the beginning of the police state. I submit that historians looking back will write that America's liberty began to erode in 1995 when they undertook to substitute language for the fourth amendment.

Mr. Chairman, I think one of the great fears that the science fiction writers write about is the black-clad storm troopers that break through your door, seizing whatever they might, seizing your personal items. That is the modern-day version of what our forefathers in the fourth amendment were afraid of.

Today, Mr. Chairman, I believe if the majority prevails we are about to undertake the beginning of that scenario.

That is not a question of whether we trust police officers. As an attorney, I represented police officers and I know them to be hard-working, dedicated public servants, but I also know from their own mouths that they are not above making conscious mistakes. I also know that there are instances in which they go beyond the bounds of the law.

My statement is not to indict police officers, Mr. Chairman, I am here to commend them, but rather to say that the protections contained in the fourth amendment were designed to protect the most precious group of people in this society, more precious even than police officers; that is, the U.S. citizenry.

Therefore I say, Mr. Chairman, today, that this could be a very dark day in the history of the United States when we suspend the rights so dearly protected in the fourth amendment, and in its place allow individuals to state what they thought they were doing, what they wanted to do, what they intended to do, rather than provide what the Constitution provides, that the people shall be secure, secure in their person.

Mr. Chairman, I urge the adoption of the Watt amendment.

Mr. INGLIS of South Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, two things I think we should point out. One is that we are not talking about here a rule that goes back to the foundation of the Constitution. In fact, as I understand it, it first appeared in 1914, and then the exception, good faith exception, appeared in 1984, so we are not talking about the founding documents.

The second thing I think is important to point out is that we are not talking about here some sort of an abuse of process. What we are talking about simply is the ability of police officers and prosecutors to use material seized in good faith, in this case with a warrantless search.

I think it makes a whole lot of sense. It makes a whole lot of common sense to the American people. I do not see any violence being done to the fourth amendment.

I do, however, see some violence being done every time we would have some kind of an issue on the floor that we would put up for a vote a piece in the Constitution. I suppose that means that if we get into a debate on last year's crime bill, somebody could have arisen and suggested that we reiterate the words of the second amendment.

It does not really make much sense to go around reiterating in statute form the words of the Constitution. I am very happy to affirm those words, because they are very meaningful, but it really does not have much legal significance to affirm those words by statute.

That is to demean the Constitution of the United States, because it is not a statute. It is not amendable here on the floor of this House, but only by the people of this country after two-thirds vote here and three-fourths of the States ratify it.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I am happy to yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I just simply wanted to inquire of the gentleman from South Carolina whether he agreed with the gentleman from Florida [Mr. McCOLLUM] that this amendment guts the bill by putting in the provisions of the fourth amendment, which is the Constitution.

Is it the gentleman's opinion that, as the gentleman from Florida has expressed, that it guts the gentleman's bill?

Mr. INGLIS of South Carolina. Mr. Chairman, reclaiming my time, I would say to the gentleman, I really cannot figure out exactly what the amendment does, to tell the truth. The legal significance of the amendment is an absurdity, really. It is from the Constitution. I just see it as a legal absurdity.

Mr. WATT of North Carolina. Mr. Chairman, if the gentleman will yield further, I do not know how this could be an absurdity unless the fourth amendment itself is an absurdity. The words speak for themselves. They say exactly what the fourth amendment says.

It seems to me that preserves the Constitution, not denigrates the bill.

Mr. INGLIS of South Carolina. Reclaiming my time, Mr. Chairman, I would simply say to the gentleman from North Carolina, it just does not make sense to go around restating in statute form the words of the Constitution of the United States. It is as though we have to shore up the Constitution.

I do not see any need here to shore up the Constitution. The Constitution is the Constitution, regardless of what we do here on the floor today. We cannot amend it here on the floor. I know, as somebody involved in the term limit effort, it is hard to amend the Constitution of the United States.

We do not need to, by simple statute, do something that really has no legal effect. It is just to repeat the words of the fourth amendment.

□ 1800

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I am happy to yield to the gentleman from Florida. I believe he wanted to have some further words about this.

Mr. McCOLLUM. Mr. Chairman, I do want to reiterate what I said earlier. I do think this does gut the bill. I think it guts it for the simple reason it strikes out three-quarters of the bill. It takes out the good faith exception that we tried to put in the bill. It is as simple as that.

It is not that there is anything wrong with the Constitution or any of the language that the gentleman is offering. It is that what it does in the process is just strike after the word "States" everything there that talks about a reasonable and objective standard for making an exception to the exclusionary rule that will let us get more evidence in and get more convictions. So that is why I am opposed to the amendment, and I certainly understand there are Members on the other side that think somehow this whole exclusionary rule debate is going to violate the fourth amendment and do away with it. It does no such thing.

The particular provisions we are proposing today have been in existence for quite a number of years in two Federal circuits, and I have never heard anybody come forward and complain that there has been some unreasonable search and seizure, the police have been abusing this in those jurisdictions. That covers quite a number of States, 14 or 15 States.

It is just not practical to continue to have two of the circuits on one path and the rest of the country on another on the rules of evidence in this country when we need to get more evidence in to get convictions. These technicalities are killing a lot of our police officers' efforts and the prosecutors' efforts to get convictions.

I do not see why we should allow an amendment like this one that would just totally wipe out the bill, and that is what it does.

The CHAIRMAN. The time of the gentleman from South Carolina [Mr. INGLIS] has expired.

(On request of Mr. WATT of North Carolina and by unanimous consent Mr. INGLIS of South Carolina was allowed to proceed for 1 additional minute.)

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, it seems to me the only way one could conclude that this guts the bill is to say that the rest of the bill is somehow inconsistent with the fourth amendment. I am wondering whether that is what the gentleman from Florida is saying, because that is the only way I could see the actual language of the fourth amendment being inconsistent and gutting the rest of the bill, if the rest of the bill is somehow inconsistent with the fourth amendment.

Mr. INGLIS of South Carolina. Mr. Chairman, reclaiming my time if I may, before I yield to the gentleman from Florida I would say this is the only reason it would. I would say to the gentleman from North Carolina we are making positive progress here and the gentleman simply goes back to restate law that is actually the constitutional law and, therefore, he obliterates all of the forward progress. I think that is fairly obvious as to why this would gut the bill. We are not making any forward progress.

The CHAIRMAN. The time of the gentleman from South Carolina [Mr. INGLIS] has again expired.

(On request of Mr. MCCOLLUM and by unanimous consent Mr. INGLIS of South Carolina was allowed to proceed for 1 additional minute.)

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I think the gentleman from North Carolina over here is making a point about something that is misleading in a sense. I know he does not intend it to be. The truth of the matter is, all of us believe in the fourth amendment, all of us believe in the Constitution, and there is nothing that I would not do to embrace it. If we had a vote out here tomorrow to say BILL MCCOLLUM, vote for the fourth amendment, I would be in there saying I would certainly vote for it. I cannot imagine anybody who would not vote for it.

But that is not what the gentleman is asking us to do. He is asking us to wipe out the bill in the process of voting for the Constitution. It is not inconsistent on our part to say heck, we do not want to do that. The Constitution stands free and clear in its own right. We do not disturb it. But we want to modify a rule of court that has been used for a number of years in certain ways to patrol this constitutional right. That is all we want to do. We do not want to wipe out the right, and I thank the gentleman for yielding.

Mr. BARR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the debate that we have been hearing on the other side of the aisle strikes me, frankly, as rather absurd to be arguing that the only way to protect the fourth amendment, which the gentlemen on the other side of the aisle claim is their desire and their goal here, that the only way to do that is to codify it in statute. Really, as the gentleman from South Carolina said, it demeans the Constitution itself by taking something that is the highest law of the land, codified in the Constitution itself, and we have to put it into statute in order to give it meaning. That is absurd.

But the debate has reflected on something that is important, and that is language in the fourth amendment. Lost in a lot of this debate here is the notion that the fourth amendment contemplated that there would be searches and seizures. It was never the intent of our Framers that there would not be searches and seizures conducted in support of law enforcement and to protect the public welfare. It was contemplated that there would be warrantless searches and seizures subject to the standard of reasonableness, and that is precisely what this proposal in H.R. 666 does. It says that that standard of reasonableness is codified in the Constitution itself and shall apply, shall apply.

What this proposal in H.R. 666 would do, which I support, and which the amendment proposed by the gentleman from North Carolina would undo, is to provide a standard of reasonableness explicitly set forth in statute to give further meaning, to give further focus, to the fourth amendment of the Constitution of the United States. That is what the people have a right to expect under their Constitution, and to play these games of smoke and mirrors by saying the only way we can address this problem is by gutting H.R. 666 and taking the amendment that we already have in the Constitution and codifying it, does a disservice to the debate which we have been trying to have here today.

Mr. FATTAH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wanted to add a note of caution to all of those who are watching this debate and hope that throughout this land that Americans are going to watch very carefully how these votes get cast on this amendment, because what is in jeopardy here and now in this Congress is the very fabric and moral standing of our land written into the Constitution. That is the notion that Members of the U.S. Congress could not stand enthusiastically and embrace the fourth amendment, that they could not embrace the amendment offered by the gentleman from North Carolina, who simply asserts the wording of our Constitution which says we grapple with this issue about illegal searches, that we could be guided by that language, and I think that it sends a wake-up call to all of America.

I heard a Member of the other body say the other day that there have been in total some 75 amendments offered to the Constitution just since January 4. We have a group of Members who have come to Washington who on the one hand profess to support the Constitution, but on the other hand are trying in a wholesale fashion to change the very makeup of that Constitution, not just through constitutional amendments, but through other statutes and other attempts such as the one before us. I hope that we as Members of the U.S. Congress forget the contract for a minute and remember our oath to protect and stand in support of the Constitution and support the Watt amendment.

Mr. MOAKLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, they are quoting the sanctity of the Constitution, and I was just looking through the Bible at Revelations. I would like to quote:

> [13] And I saw a beast rising out of the sea, with ten horns and seven heads, with ten diadems upon its horns and a blasphemous name upon its heads. And the beast that I saw was like a leopard, its feet were like a bear's, and its mouth was like a lion's mouth. And to it the dragon gave his power and his throne and great authority. One of its heads seemed to have a mortal wound, but its mortal wound was healed, and the whole earth followed the beast with wonder. Men worshiped the dragon, for he had given his authority to the beast, and they worshiped the beast, saying, "Who is like the beast, and who can fight against it?"
>
> And the beast was given a mouth uttering haughty and blasphemous words, and it was allowed to exercise authority for forty-two months;

□ 1810

Skipping over,

> It works great signs, even making fire come down from Heaven to earth in the sight of men; and by the signs which it is allowed to work in the presence of the beast, it deceives those who dwell on earth, bidding them make an image for the beast which was wounded by the sword and yet lived; and it was allowed to give breath to the image of the beast so that the image of that beast should even speak, and to cause those who would not worship the image of the beast to be slain. Also it causes all, both small and great, both rich and poor, both free and slave, to be marked on the right hand or the forehead, so that no one can buy or sell unless he has the mark, that is, the name of the beast or the number of its name. This calls for wisdom: Let him who has understanding reckon the number of the beast, for it is a human number, its number is 666.

Mr. Speaker, I think this says it more than anybody else. It limits the authority to 42 months which is approximately 2 years, and the beast is named 666, and I say this is the beast we are dealing with today.

Mr. FOGLIETTA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the so-called Exclusionary Rule Reform Act and support the Watt amendment. I talked to cops about what do we do on crime. My brother was a police officer, and I tell you that this is not on their minds. It is not the exclusionary rule or giving the Miranda warning.

What is on their minds is guns, police-killing bullets, and assault weapons.

If we want to spend that time in this House making life safer and easier for cops, we should continue the work we have done to take more weapons off our streets.

There are few things that we do in Washington that have worked so well as the exclusionary rule. It has passed the test of time for eight decades. Moreover, the Supreme Court has created one good-faith exception, in cases where an independent magistrate issuing a warrant has made a mistake, but the court, which is not known as a shrinking violet when it comes to crimes, has refused to expand exceptions like this for 10 years.

The exclusionary rule has improved police procedures, making them constitutional and fair.

This issue is a red herring, and the statistics bear this out. Only 1.37 percent of all evidence is thrown out in Federal cases.

Let us defeat this bill. In addition to being an assault on the Constitution, this is a waste of time and another gimmick. If I may again reiterate and re-quote just what the fourth amendment says, namely, that we are to be protected against unreasonable searches and seizures, that they shall not be violated, and no warrants shall be issued but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the person to be seized or things to be seized.

Mr. Chairman, nothing could be clearer, and to say that a warrantless search is not in violation of this Constitution is ludicrous.

Let us support the Watt amendment. Let us preserve the right to be secure in our homes. Let us guarantee all Americans by our Constitution.

Ms. WATERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and Members, I rise in opposition to the Exclusionary Rule Reform Act and in support of the Watt amendment.

I am inspired to speak here because I heard one gentleman, the gentleman from South Carolina, say that we should not be quoting the Constitution. We would be a lot better off it, instead of reading the Contract on America in this body every day, that we would simply quote the Constitution, remind ourselves of what this magnificent document is all about. It begins, as you know, "We the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Now, let us understand what was happening at that time and the history that we should never forget. When the citizens of Great Britain decided to leave, they left because of oppression and tyranny. They left because they simply wanted a quality of life that would provide them with some freedom and justice so that they could feel secure, and when they left to establish in the new land, they were invaded. They were imposed upon. They were violated. Their homes were broken into. Not only were they overtaxed, they were simply mistreated. They could not pursue justice, freedom and equality.

And they said, "We are going to establish a Constitution. We are going to establish in this new land a document that will protect us from tyranny."

Now, those of us who are involved in this body who are forever about the business of exporting democracies around the world, we are appalled, as we were appalled in South Africa at the fact that people's homes could be invaded, that whole towns could be torn down, that at any time of night or day the police could ride into an area, beat the people, dismantle their homes, literally invade them.

This Constitution protected us from this kind of invasion and violation. This document that set out to establish freedom, justice and equality, perfected by the Bill of Rights and the amendments, the first 10 amendments to the Constitution, simply said we will not allow people to be violated in the fashion that they were violated when they left their mother country.

These were not blacks. They were not Mexicans. They were basically people who had left Great Britain. They kind of all looked alike.

But let me tell you, it does not matter whether you are black, white, green or any other color, if you find yourself in a situation where those who are ruling, those who are in power are so egotistical or so disrespectful or so unmindful of the fact that we all deserve the right to be free and they decide to move in your town or in your community a corrupt police force, corrupt elected officials, if they decide they are going to walk into your home, they are going to invade your property, they are going to violate the most precious of that that can be violated, the sanctity of the home, you allow them to do this when you mess around with this Constitution this way.

You will see a number of African-Americans on the floor today. You may wonder, "Why are so many African-Americans in this Congress so concerned about this exclusionary rule?" Well, we were not there when those who were fleeing the tyranny of Great Britain were being violated, but we were there as slaves. We were there when our doors were kicked down. We were there when children were grabbed away from their families, when people were sold into slavery, violated, and so we feel this very deeply. We understand this. We do not want anything to violate the fourth amendment of the Constitution.

This is not about some game we are playing. This is not about some political posturing. This is about protection of human and individual rights for the people, and the Constitution defends that, and it guarantees that.

Mr. GOODLATTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. This amendment is not about tampering with the Constitution. We are not doing that in any way, shape, or form here.

And this is poor legislative procedure to take language that is already law, consecrated law in our Constitution, and attempt to substitute it in a bill. All that has the effect of doing is abandoning to the Supreme Court our responsibility to interpret the Constitution.

Certainly the Supreme Court has that responsibility, and they have a whole history of cases determining what the fourth amendment means. But we are entitled to pass legislation so long as it is in compliance with that Constitution, and this language simply adds to that interpretation that the Supreme Court already has and creates a good-faith exception so that criminals do not get off on technicalities.

☐ 1820

All we are saying here is do not allow somebody who is guilty of a crime to evade conviction because of a police officer who acted in good faith, and everybody's constitutional right is protected because the judge will have the discretion and it can be taken up on appeal as well. The judge will have the discretion to determine whether or not the individual police officer was acting in good faith. If he finds he was not, the evidence is excluded. But if he was acting in good faith, not intentionally depriving anybody of their rights, the evidence should be brought in and the criminal should be convicted and put in prison. That is what their bill is about. That is why the amendment should be defeated and the bill passed.

Ms. LOFGREN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as Americans we should be devoted to the Bill of Rights. The Bill of Rights and our respect for the Bill of Rights is what has kept our country free for over 200 years. The fourth amendment to our Constitution is part of our precious Bill of Rights. Today in America we are legitimately worried about crime. As the mother of two young children I know how much I worry about their safety. I worry that unless we do the right thing our country will be an even more dangerous place by the time they are adults.

But even as we worry about crime we cannot worry less about freedom and the freedom guaranteed by our Bill of Rights. Because of our concern about crime the operation of the exclusionary rule which protects the fourth amendment has been increasingly narrowed over the past years by the Supreme Court. Police can act in emergencies, police are excused under the Leon ruling when they execute a faulty warrant in good faith. This lets the police do their job.

But H.R. 666 goes further than that. The fourth amendment is not in our Constitution to protect the guilty, it is there to protect innocent regular Americans. It is to prevent the government from coming into your home whenever they want to. It is to protect the American people from big government that would intrude on our privacy. H.R. 666, if it is constitutional, would allow the government to intrude on our privacy without having an impartial magistrate review the situation. That is why, as the mother of two little children, I will vote for the fourth amendment offered by Mr. WATT. I worry about my children's freedoms, freedom from the fear of crime is something I want for them. But I also want them to enjoy the freedoms that Americans have always had to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures.

Mrs. CLAYTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, may I engage the Chair of the subcommittee, Mr. MCCOLLUM?

Mr. MCCOLLUM. I would be delighted to.

Mrs. CLAYTON. I would like to know, and I have heard repeated, and I have to believe that you and others believe that in your bill you do not intend to violate the Constitution, you certainly do not intend to give up unconstitutional language being in conflict with the fourth amendment.

Mr. MCCOLLUM. The gentlewoman is completely correct.

Mrs. CLAYTON. Well, help me understand then. If this language is inserted would it not go to perfect that very intention that if you do not intend, anything motivating to annihilate the Constitution particularly the fourth amendment, why then, although it may be redundant, why not allow this language to be there that says without any ambiguity that the fourth amendment is to be upheld? Why not allow this language to be there?

Mr. MCCOLLUM. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentleman from Florida.

Mr. MCCOLLUM. I thank the gentlewoman for yielding.

Mr. Chairman, I have no objection to that language particularly. What I object to is what would be stricken from the bill by the amendment that the gentleman, Mr. WATT, has offered. If you look at his language——

Mrs. CLAYTON. Is he not substituting the fourth amendment?

Mr. MCCOLLUM. He is substituting the fourth amendment for the language in the bill. Thereby he eliminates efforts we are making to modify the evidentiary rule that the Supreme Court has carved out for search and seizure cases under the fourth amendment.

Mrs. CLAYTON. Would not the Constitution be superior language to what the gentleman has codified?

Mr. MCCOLLUM. If the gentlewoman would yield further, it would not be superior in the sense—it is superior in any event to anything the court would do—but we have to interpret the Constitution for purposes of deciding whether to admit evidence or not. That is, we are not modifying the Constitution in any way, we are simply providing a modification to a Supreme Court rule made in 1914 to police the police. It was their decision to create this rule of evidence. They did not modify the Constitution when they created it.

And they came along and said we are going to change our rule because we think it is too harsh, what we did in 1914, back in 1984. And they said, what we have before us is a search warrant case, and we think the police in that case really acted in good faith.

They thought it was a good warrant, it turns out that it was not a good warrant. We do not think there is any reason to exclude the evidence that they got. There is nothing to be gained by this, because we are not going to deter their conduct. So we want to simply expand that.

Mrs. CLAYTON. Reclaiming my time: What I want to know is why not allow this amendment to stand because it seems to achieve what the gentleman wants. The gentleman wants to convince us that nothing he has is inconsistent with the fourth amendment. And if that is true, whether it is redundant or not, it simply would reaffirm his intention.

Mr. MCCOLLUM. If the gentlelady would yield further, it would not reaffirm my intention because what we have in the bill is not a recodification of the fourth amendment. The fourth amendment would exist and we cannot change it here on the floor of the House in any event. It exists whether we pass the bill here or not. All we are modifying is a rule of evidence. If you pass the fourth amendment as a substitute for the rule of evidence modification then the existing rule of evidence will continue to exist unmodified. We want to change it. We do not want to leave it up to the Court. The court right now is determining the rules of evidence in this area.

In Federal Rules of Procedure on Evidence we want to say—we have the right to do that in the Congress and that is all we want to do. We want to say to the court, instead of you doing it, we want to do it.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. I thank the gentlewoman for yielding to me.

Mr. Chairman, the gentleman's, my friend's explanation is a little disingenuous. This is the mother of all warrantless searches that we have before us and will ultimately, I predict, be found unconstitutional because we put the objective reasonable good faith in the police officer, not in the magistrate. And that is the fatal flaw. So we have the gentleman from North Carolina [Mr. WATT] with a constitutional provision replacing it with what I predict will be an unconstitutional amendment.

Mrs. CLAYTON. Let me raise one question: Does the gentleman believe then if this was put in there that it would gut his bill, the Constitution would then be nullified?

Mr. MCCOLLUM. If the gentlewoman would yield further, yes, it would, because it strikes the bill.

Mrs. CLAYTON. But does that mean that the Constitution nullifies the gentleman's bill?

Mr. MCCOLLUM. No. If the Constitution exists it is going to exist whether my bill is passed or not; it does not nullify the bill. But if you pass a provision that strikes what is in the bill, that is what nullifies it. I think we can add to the Constitution if we want to add it to the bill, it would not nullify it. But by striking the language in the bill you have provided us with a provision which does not leave our provision standing.

Mr. MFUME. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Exclusionary Rule Reform Act, H.R. 666, which has heretofore in this debate been referred it as the mark and the number of the beast. And while I rise not to impugn the integrity of any Member of this body or never felt intentions, I do rise to talk, as I must, about what I consider to be the misguided wisdom of this act. In an effort to correct a wrong we are imposing, in my opinion, an even larger wrong. In the years that I have been a Member of this body, with all due respect, I never felt more violated.

And I would suspect that people who are now watching this debate and those who in years yet to come will read it will feel just as violated also. And would ask as many are asking at this hour: What have we come to? And what have we become?

□ 1830

In an effort to punish the guilty, Mr. Chairman, we are ignoring our sworn obligation to protect the innocent, and someone, Mr. Chairman, rose earlier in this debate in a brash, and rash and unconscionable way and argued that the debate was almost without merits and that the debate on this side of the aisle was, in that person's opinion, absurd.

Well, the real question becomes then: Is it absurd to protect the public welfare as we know it? Is it absurd to protect the sanctity and the security of one's home against unreasonable search and seizure? Is it absurd to enshrine the words of the fourth amendment in the bill that we're about to vote on?

I would argue and submit, Mr. Chairman, that the absurdity is not in the effort to correct the wrong. The absurdity is in the folly that protects the wrong.

This bill renders the fourth amendment mute. It simply says it no longer, for all intents and purposes, exists, and if that assumption is wrong, then why not enshrine the words of that amendment in this bill so that we underscore and underline for all to see our intention to protect and uphold the fourth amendment of the Constitution of the United States, a Constitution that every Member of this body 6 weeks ago swore to protect and defend against all enemies, foreign and domestic?

Few people will remember what we say here today, but all will remember what we do, and I would urge Members of this body, in supporting the amendment offered by the gentleman from North Carolina [Mr. WATT] to understand our mission is to protect the innocent and to take to heart the words that we are sworn to uphold and to protect the Constitution that has protected us even against ourselves.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. MFUME. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I would like to say we would be happy to add the fourth amendment to the end of the bill. We would have been happy to accept on this side the gentleman from Michigan's published amendment No. 1 that would say, had he offered it, nothing in this section shall be construed so as to violate the fourth article of amendments to the Constitution of the United States.

We would be happy to do that because we do not think anything we do does that, and we have no intention of doing so, and I understand the gentleman's sincerity in what he has to say. It is just a concern that I have that, instead of doing that, this particular amendment eliminates the bill, the underlying bill. It is not simply added on.

Mr. MFUME. Mr. Chairman, I thank the gentleman from Florida for his words.

Mr. Chairman, I yield to the bill's sponsor to respond to the suggestion by the gentleman from Florida [Mr. MCCOLLUM] that he would be happy to add the words.

Mr. WATT of North Carolina. Mr. Chairman, nobody has proffered any language to me that they would be interested in being supportive of, and I would be happy to look at it and consider whatever language they are proposing. But right now the amendment speaks for itself.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman would yield, I would just like to point out that the amendment I suggest is what the gentleman from Michigan [Mr. CONYERS] has published as his first amendment in the RECORD, in the CONGRESSIONAL RECORD, and we would be glad to accept that in lieu of what the gentleman is offering, if that would be something he would want to do.

Mr. WATT of North Carolina. Mr. Chairman, I would be happy to take a look at it and, while the next speaker is speaking, see if we can get together on some language.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Members on both sides of the aisle, Mr. Chairman, I think are genuine in their concerns, and I think also that Members on both sides of the aisle often feel that there are too many laws that protect the criminals and not enough for those that are persecuted, and that is the victims. Who supports the exclusionary rule? Gestapo storm troopers? No, it is all of our local law enforcement agencies and the district attorneys. Why? Because often, too often, Mr. Chairman, those criminals are let back out onto our society because of small technical reasons.

We are not taking a look to storm into people's houses. We are looking where there is evidence found on good faith that that evidence can be used in a court of law. That is not unreasonable.

Some of the same Members that are fighting for the fourth amendment, we fought desperately for the same rights under the second amendment. We said, "Let's force and let's put minimum mandatory sentences on those that violate the law using a weapon, any kind of a weapon, and not go against the law-abiding citizens." But yet our voice was muted on that issue, and I am sure it will be muted again. We do not want to let criminals go on technicalities.

I would ask Members on both sides of the aisle to look at the items in which we can really strengthen a crime bill, habeas corpus. We had a gentleman named Alton Harris in San Diego that shot two boys and then ate their hamburgers, he spent 14 years habeas corpus after habeas corpus on death row, but yet many of the same Members will fight against that. We need to go after the criminals and protect the innocent in those kinds of things.

I had three Russian generals in my office, and they said that the No. 1 right that they value in the new Russia today is to own private property and those rights, but I see it violated time and time again on this floor, and I would say to the gentleman that quoted The Beast, "Many of us consider Damien was killed on November 8."

PARLIAMENTARY INQUIRIES

Mr. FIELDS of Louisiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FIELDS of Louisiana. Mr. Chairman, since we are about to vote on this measure, I have a question: Since this bill that is before us modifies the Constitution to some degree, would this not call for a two-thirds vote of the House?

The CHAIRMAN. The simple answer is no. The amendment before us is not a constitutional amendment.

Mr. FIELDS of Louisiana. A further parliamentary inquiry, Mr. Chairman:

My inquiry was on the bill and not the amendment.

The CHAIRMAN. The Chair will issue the same ruling:

This is a bill and not a constitutional amendment.

Mr. FIELDS of Louisiana. A further parliamentary inquiry, Mr. Chairman:

The bill precisely says that evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the grounds that the search or seizure was in violation of the fourth amendment.

How is that not, Mr. Chairman, making the fourth amendment of the Constitution moot or at least revising it?

Mr. CHAIRMAN. The gentleman is not stating a parliamentary inquiry. He is raising a question of constitutional law.

That is a matter for the House to decide.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in light of the comments of the last speaker, I would simply note that the purpose of the Constitution is not to protect the guilty. The purpose is to protect the innocent. What we are talking about here is the power of agents of the government to search the homes of American citizens and to seize the property of American citizens, and the amendment offered by the gentleman from North Carolina [Mr. WATT] gives us an opportunity to choose between the language of H.R. 666 drafted by the gentleman from Florida or the language reflecting the fourth amendment of the Constitution of the United States drafted by Thomas Jefferson and James Madison.

□ 1840

I know it is a close call, but, pardon me, I am going to stick with the old fellows.

I would also like to remind Members, in light of the comments made by the previous speaker, of the words of Sir Thomas More in the play "A Man for All Seasons." More was having a discussion with his son-in-law about the power of the king and the power of law, and his son-in-law said, "I would strike down every law in England to get at the devil." To which Sir Thomas More replied, "And when the devil turned round on you the laws all being flat, where would you be then? I would give the devil the benefit of law for my own safety's sake."

And that is really what we are talking about here today, whether or not we will stand by the constitutional privileges laid down by the Founding Fathers that protect American citizens from the occasional and regrettable excess of the use of power by their own Government or by the representatives of that Government.

I find it quaint indeed that in the name of conservatism we seem to have conservatives in a wide variety of measures taking actions which in fact give great additional power to the State, be it in this language that is being provided today in H.R. 666, or be it in the line item veto amendment by which we transfer huge pieces of authority to the White House, or be it in some of the other portions of the contract that are about to come before us.

So as I said beginning my remarks, I do not think the gentleman from North Carolina need apologize for bringing the words of Thomas Jefferson and James Madison to this floor. Frankly, if I looked out on this floor and saw an awful lot of people that reminded me of Thomas Jefferson or reminded me of James Madison, I might be willing to entertain this language. But, frankly, when I look out on the floor, I find precious few.

Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am here because I heard the debate on this issue, and I have to tell you that the fourth amendment is not just words to me, it is protection, real protection.

Let me tell you what it is like to live in a country which has no fourth amendment.

I lived in South Africa, in fascist South Africa, and my mother was a fighter for justice and for truth. And she lived in fear, constant fear, that her home might be invaded, that papers might be taken out of context and used in trials by the government against people who believed in justice. And in South Africa, they longed for the fourth amendment, Mr. Chairman. They longed for that protection.

Our police must be given the tools to fight crime, but it is our citizens who must be protected, in their homes, in their lives, and in their beliefs.

Ms. JACKSON-LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in the committee we talked about not juxtaposing the rights of victims against those of us who would think that freedom is equally as important. We sought to strike a chord to bring legislation forward that would fairly respond to the needs of victims and the apprehension of criminals, but yet recognize the Constitution of the United States.

For over 80 years since the Supreme Court's decision in Weeks versus United States, the mandates of the fourth amendment have been enforced through the application of the exclusionary rule, that prevents illegal searches and seizures. It is not broken; it is working.

The Constitution stands alongside the exclusionary rule. This proposed legislation without the amendment of the gentleman from North Carolina [Mr. WATT] does damage to the Constitution and the sanctity of the Supreme Court's affirmation of the exclusionary rule's application to the fourth amendment.

Mr. Chairman, it is important that as we have our children view high-technology movies like the Last Action Hero, that they not view this as today's America; that they know that the Constitution protects their home, protects their privacy, protects their rights. I think we need not move into the 21st century believing that we are nothing but a movie, simply seeing strangers around the country knock in our doors.

Mr. Chairman, that is not your average law enforcement officer. They are law abiding. They have easy access to getting warrants based on probable cause. They seek such warrants, they arrest people, they get convictions. Why tamper with something that is not broken? Why not stand for the Constitution that clearly says that our citizens have rights? In particular when we talk about minority citizens, people who are seeking an opportunity to work cohesively with law enforcement, but yet acknowledge the fear sometimes of the intrusion on their private rights.

Let us not dismantle what we are trying to build, a sense of confidence and comfort, that the Bill of Rights, the Constitution of the United States protects them too, protects those who are new immigrants, protects those who do not speak the language, protects those who live in inner-city neighborhoods. It is important that we include all Americans, and that it is not in conflict with law enforcement or protecting all citizens.

Mr. Chairman, I would ask for support of the Watt amendment, because I believe the fourth amendment clearly states the purview of where we need to go. It protects those who have been victims, it protects those who are law enforcers, and it protects the rights of law abiding citizens. It is the Constitution. It is something to be supported, recognized and respected.

I rise to support the Watt amendment.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in listening to the comments of some Members here as ardent defenders of the Constitution, and we heard the Founders invoked, one would think the exclusionary rule is written into the Constitution. Yet I challenge anyone to show me where in the Constitution that exists, because in point of fact it does not exist. It was a creature of the court beginning in 1914 and applicable to the actions of the Federal Government, and it was not until I believe 1964 in the infamous Miranda case that it was applied to State and local agencies. It was simply an example of judicial legislation, the type that has done such great violence to the Constitution that we should all revere.

Mr. Chairman, I strongly believe in the Constitution, and I believe that this creation, the exclusionary rule, has subjected innocent men, women, and children to be the victims of crimes, and the perpetrators of those crimes have gone free in some instances because of the doctrine of the exclusionary rule. When violent crimes and homicides have shot up hundreds of percent since 1960, it is time that we, the people's representatives, set a proper balance, and that balance is the good-faith exception to the exclusionary rule.

Mr. Chairman, I urge the defeat of this amendment.

Mr. BATEMAN. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Virginia.

Mr. BATEMAN. Mr. Chairman, I appreciate the gentleman yielding, and I would like to echo his refrain. I have the utmost regard for those who favor the exclusionary rule as a means of enforcing or implementing the fourth amendment. I respect your view. But it is necessary to point out, as the gentleman just did, that almost none of the Constitution is self-enforcing. It has to be enforced by a rule.

☐ 1850

The courts have chosen to try and enforce it in this instance by the exclusionary rule. There are some of us who feel as deeply as our colleagues that this is not the appropriate way to enforce the fourth amendment. I would only add that the ultimate, almost, insult to the Constitution of the United States is for those of us here, elected for 2-year terms, to demean the Constitution of the United States by deigning to place the language of the Constitution in a mere statute that we enact.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the exclusionary rule is not, as was just pointed out, written into the Constitution. It was enacted in effect by the courts in a series of decisions starting in 1914. The courts have observed, the Supreme Court has observed many times, it is the only effective means that has ever been discovered to enforce the guarantees against unreasonable searches and seizures that are in the fourth amendment. It is the only means that we have ever found which makes the words of the Constitution guaranteeing the people the right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures to be effective in the real world.

Mr. Chairman, the Supreme Court of the United States has said in construing the fourth amendment that the exclusionary rule shall not apply where you have a search warrant and there is good faith asserted. But it still applies where good faith is asserted but there is no search warrant, not even a search warrant. They did not even go before a magistrate to get a warrant to show probable cause why they should search this person's home or possessions or seize his property.

This bill would eliminate the exclusionary rule there, too. It would say that even when you have no search warrant, you can go to somebody's house, break into the house, search his papers, seize his effects, seize the papers, and assert that you believed you were in good faith, that you had constitutional right to do that.

In effect, it removes any real limits on the power to search and seize.

Mr. Chairman, if you look at the history books, one of the chief grievances that caused the Revolutionary War was the issuance by the British authorities of writs of assistance, search warrants, and they were trying to enforce legitimate revenue-collection laws. They issued writs of assistance which said anybody must assist this officer in searching this house or that place for anything. James Otis and Sam Adams and John Adams thought this was tyranny, and what this bill would do is to recreate the same effect as the British writs of assistance.

We are, in the name of trying to have law enforcement, so widening the exceptions here that we have no effective protection for our own liberty in our own homes.

"A man's home is his castle" is an ancient maxim of the English common law which we inherited. The writs of assistance issued by the British authorities were invasions of that. It was felt to be tyrannical, one of the leading causes of the Revolution in this country against Great Britain. We have forgotten all this, and we are recreating the writs of assistance by this bill, except, even with the writ of assistance, you had to go before a magistrate and describe—you did not have to describe what you were looking for, that was one of the problems, but you had to describe why you were looking for something.

With this, you do not need a warrant. You do not go before a magistrate, you simply break into somebody's house, seize whatever you want to seize, and then assert that you, in good faith, believed mistakenly that you had probable cause.

Mr. Chairman, this restores—it makes even worse what we rebelled against in 1775. The Watt amendment, by putting the words of the fourth amendment into this bill, which the Supreme Court has construed to permit an exception to the exclusionary rule only when there is a warrant, would put back that construction and would limit the exceptions to the exclusionary rule to where it is now, and would prevent it from being so widened as this bill would otherwise do as to recreate even worse the situation that we rebelled against in 1775.

For the protection of our liberty, I urge that this amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. WATT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 121, noes 303, not voting 10, as follows:

[Roll No. 99]

AYES—121

Abercrombie
Ackerman
Baldacci
Barcia
Becerra
Beilenson
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Durbin
Engel
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Furse
Gejdenson
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Levin
Lewis (GA)
Lofgren
Maloney
Martinez
Matsui
McCarthy
McDermott
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pastor
Pelosi
Rangel
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Woolsey
Wynn

NOES—303

Allard
Andrews
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Manzullo
Markey
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torres
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Archer
Chapman
Frost
Gephardt
Manton
McKinney
Moran
Payne (NJ)
Ward
Yates

☐ 1911

The Clerk announced the following pair on this vote:

Mr. Gephardt for, with Mr. Manton against.

Mr. WISE and Mrs. LOWEY changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. McCOLLUM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HANSEN) having assumed the chair, Mr. RIGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 666) to control crime by exclusionary rule reform, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. WARD. Mr. Speaker, due to unavoidable circumstances, I missed rollcall vote No. 99 during consideration of H.R. 666, Exclusionary Rule Reform Act on February 7, 1995. Had I been present, I would have voted "aye."

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 665 and H.R. 666.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR CERTAIN COMMITTEES AND SUBCOMMITTEES TO SIT ON TOMORROW DURING THE 5-MINUTE RULE

Mr. HORN. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule; Agriculture; Commerce; Economic and Educational Opportunities; Government Reform and Oversight; House Oversight; International Relations; Judiciary; National Security; Resources; Science; and Transportation and Infrastructure.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WATT of North Carolina. Mr. Speaker, reserving the right to object, I have consulted with the minority leadership, and they have advised me that notwithstanding the fact that this is contrary to the rule which prohibits voting in committee without being there, and contrary to the House rules, we are in agreement to it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

INCREASING THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the gap in income is growing between those who have a lot of money and those who have a little money. That is unacceptable in a stable and strong economy. According to Business Week, the income gap "hurts the economy."

Almost half of the money in America is in the hands of just 20 percent of the people. That top 20 percent is made up of families with the highest incomes. The bottom 20 percent has less than 5 percent of the money in their hands.

A modest increase in the minimum wage could help the bottom 20 percent, and it will not hurt the top 20 percent.

Between 1980 and 1992, income for the top 20 percent increased by 16 percent. During that same period, income for the bottom 20 percent declined by 7 percent. For the first 10 of those 12 years, between 1980 and 1990, there were no votes to increase the minimum wage. Without an increase in the minimum wage, those with little money end up with less money. That is because the cost of living continues to rise.

□ 1920

By 1993, families in the top 20 percent had an average income of $104,616. Families in the bottom 20 percent in America only had an average income of just $12,964. That is a gap of more than $90,000.

Mr. Speaker, that amount of money makes a big difference in the ability of families to buy food and shelter, to pay for energy to heat their homes, and to be able to clothe, care for, and educate their children. That amount of money makes the difference between families with abundance and families in poverty.

An increase in the minimum wage will not provide abundance, but it can raise working families out of poverty.

As income dropped for low-income families during the decade of the 1980's, costs escalated. The earnings of the bottom 20 percent of families dropped by nearly $1,000 during that period. At the same time, the income of the top 20 percent of families climbed by almost $14,000. This gap cannot continue.

While the income for the bottom 20 percent was declining, the rate of inflation for food, shelter, heating fuel, clothing, transportation, and medical care was increasing.

In other words, Mr. Speaker, the cost of bread, milk, eggs, a place to sleep, heat, clothing to wear, a bus ride, and a visit to the doctor went up, as the income of poor people went down. The rate of inflation for each of those items increased, on average, 60 percent, with a low of 31 percent and a high of 117 percent.

Despite these spiraling prices, Congress took no steps to increase the minimum wage, and poor people—the bottom 20 percent—became poorer. That deep valley remains with us today.

The bottom 20 percent of our citizens can have a full-time employee in the family, working at least 40 hours a week, and still not be able to make ends meet—still living in poverty.

At least, they can be working 40 hours and still not be out of poverty. Their earnings from those families have not gone up, and they need to go up and we need to reward work, not make it a penalty. Work is a burden when, despite an individual's best efforts, 40 hours of work, they find themselves paying more for the necessities of life and yet earning less as income.

Other nations around the world have lessened that gap, have been faced with the same gap, but found ways to reduce that gap between those who lived at the top and those who are on the bottom.

We pride ourselves on being competitive with France and Germany and Japan, but we are not really competitive in giving people a decent wage. The gap is much closer there than it is here. Additionally, a recent survey indicated job growth in America is the lowest where the income gap in the widest. When we have a wide gap, we really do not have a strong economy. So having a wide gap hurts our economy. Closing that gap helps everybody, and especially it helps those of the lowest. We should be about the record of establishing that we believe that all Americans have the right to a decent salary if they are willing to work.

Mr. Speaker, New Jersey had such an experience. They raised the minimum wage and the States around them did not. At the same time, they saw jobs increase where their neighbors' jobs decreased.

Mr. Speaker, we should be about raising the salary of those who work. The minimum wage is the least we should do. It is about being fair to citizens. It is about being fair to our economy, closing the gap between the upper 20 percent and the lower 20 percent.

Mr. Speaker, we need to support the minimum wage.

I urge all of my colleagues to at least do that.

A CLARIFICATION OF THE RECORD

The SPEAKER pro tempore (Mr. HANSEN). Under a previous order of the House, the gentleman from Utah [Mr. ORTON] is recognized for 5 minutes.

Mr. ORTON. Mr. Speaker, yesterday, during floor debate on H.R. 2 and consideration of my amendment to extend line-item veto to contract authority, an exchange between myself and Mr. SHUSTER, the gentleman from Pennsylvania, occurred which I would like to clarify.

During debate, I made the following statement: I want to share with my colleagues a telephone call which I received from a mayor in my district. The mayor called to question my amendment and express concern over funding for a highway project in the city. The mayor stated that staff of Chairman SHUSTER had let it be known that they are looking at transportation projects in my district, and if I offer this amendment there will be retaliation. It was suggested that we would neither get any further contract authority nor authorization for appropriations for future funding of projects in my district. That statement is accurate.

After my statement, Mr. SHUSTER sought recognition and made the following statement: My good friend mentions projects in his own district and a mayor calling him. Well I am a little surprised. I am told the gentleman has five projects which were in ISTEA.

And later at the end of debate, Mr. SHUSTER again took the floor and made the following statement: My friend from Utah made the allegation that a member of my staff called the mayor of Provo, UT, to pressure him to get him to withdraw this amendment.

I have not only talked to my staff, I have just gotten off the phone from talking to the office of the mayor of Provo, UT. No one from my staff spoke to the mayor of Provo, Ut.

I am sure my good friend in the heat of the moment made an honest mistake, but I would simply like to RECORD to reflect that.

Mr. Speaker, tonight I have taken the floor to clarify the record.

In my statement, I made no reference to which mayor contacted me. There are several cities in my district with transportation projects, including Salt Lake City, West Valley City, Orem City and Provo City among others.

Also, I did not allege that the mayor called to pressure me to withdraw my amendment.

Prior to making my statement yesterday, I spoke to the mayor and the lobbyist representing the city. This is what was reported to me: First, that a member of Chairman SHUSTER's staff informed the lobbyist representing the city that they were looking at transportation projects within my district and relayed a not so veiled threat of retaliation. Second, that the lobbyist conveyed the information to the mayor who then called me to express concern over funding for a project.

After explaining my amendment to the mayor, the mayor expressed personal support for my amendment, saying that this was not the message the lobbyist wanted delivered but that I should do what is right and let the chips fall where they may. There are witnesses to my conversations.

In closing, let me say that it appears to me that the information conveyed to me through the lobbyist and the mayor was accurate. Chairman SHUSTER referred exactly to the number of transportation projects in my district—and knew exactly which mayor to call, even though I have never referred to which city's mayor contacted me.

EXPRESSING SUPPORT FOR ADMINISTRATION DECISION TO IMPOSE SANCTIONS ON CHINESE PRODUCTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I rise today to express support for the Clinton administration's decision on Saturday to impose sanctions on Chinese products because of China's failure to protect and enforce intellectual property rights of United States companies and its failure to provide market access for intellectual property-based products and industries.

China's piracy of United States CD's, videotapes, software and other intellectual properties costs the United States Economy at least $1 billion a year. This means lost American jobs.

The administration's actions, after prolonged negotiations, are long overdue. Indeed, many of us had encouraged President Bush to take this action instead of giving credence to the United States-China memorandum of understanding on intellectual property a few years ago.

Indeed, this action is the same one many of us had urged the administration to take on behalf of promoting human rights in China.

While I am pleased the Clinton administration has taken this step, it is ironic that such an action is being taken to protect products, but that it was not taken to protect human life and human rights. The United States business community is now seeing that human rights and economic certainty are connected as they face problems with a lack of rule of law and respect for contracts in China.

There are other ironies in this decision, Mr. Speaker. Last year, when the President granted MFN to China unconditionally, the argument was made that the approach targeting sanctions on State enterprises including products made by the People's Liberation Army advanced by then Senator majority leader Mitchell, then House majority leader GEPHARDT, majority whip, BONIOR, and me, was not implementable.

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And in an August 5 letter to Members the Commissioner of Customs stated that our approach would not work because there are no longer clear distinctions between companies that are State-owned enterprises and those that are not. It is important to note therefore, Mr. Speaker, that the sanctions scheduled to go into effect February 26 if the Chinese do not come around and hopefully they will, specifically target some of China's State-owned enterprises including some run by the People's Liberation Army. In fact at its February 4 conference announcing the imposition of sanctions Ambassador Kantor while listing criteria for picking the products for sanctions listed said No. 2, we picked products that were more involved with China's state enterprises than other enterprises. Indeed I also want to call to the attention of our colleagues that last year when we were having this same debate about sanctions on products made especially by State-run industries and the People's Liberation Army that some of our colleagues in fighting our legislation sent a "Dear Colleague" which says:

> Imposing sanctions against products produced by the Chinese Army defense-related companies and State-owned enterprises will be unworkable and unenforceable. It would be a logistical nightmare for the U.S. Customs Service to try to manage. Not only is it almost impossible to identify Chinese Army ownership of Chinese companies but in a mixed economy like China's, it is also virtually impossible to draw clear lines between State and nonState activity.

Well I guess a lot has happened in the past 6 months because we have all of a sudden now, the proposal we are making is indeed one that is being proposed by the administration. I say that once again in support of the action that was taken because those of us who are concerned about human rights in China are also concerned about violations of our trade relationship and also about the proliferation issues.

Mr. Speaker, I yield to my colleague, the gentleman from California [Mr. ROHRABACHER.]

Mr. ROHRABACHER. I would just note that the Chinese have a $24 billion trade surplus.

Ms. PELOSI. If the gentleman would allow, now $30 billion.

Mr. ROHRABACHER. Now $30 billion. Now a $30 billion trade surplus with the United States. And for these people, for the Government of China to be running these factory operations, stealing our intellectual property rights, ripping them off, extracting funds from our pockets to the tune of $1 billion a year, these are the factories that are, as the gentlewoman has just stated, so clearly these are not private sector factors in China, they are factories run by the government and the army themselves. And this adds insult to injury. They are not just satisfied with a $29-billion surplus, they have to rip us off and then even export the intellectual property rights, the CD disks, the software that they are producing.

In our State of California hundreds of thousands of people pay for their mortgage, feed their children, clothe their families, educate their children with the money that they get from jobs related to the entertainment industry. We are now on the edge of a new era where ideas and creative instincts become evermore important. This kind of rip-off is incredible and I am very pleased that the gentlewoman has taken the leadership on this.

CONTINUATION OF DISCUSSION ON CHINESE SANCTIONS

The SPEAKER pro tempore (Mr. HANSEN). Under a previous order of the House, the gentleman from California [Mr. ROHRABACHER] is recognized for 5 minutes.

Mr. ROHRABACHER. I thank the Speaker, and I yield to the gentlewoman from northern California [Ms. PELOSI].

Ms. PELOSI. I thank the gentleman for yielding, and I thank the Speaker for his directing our debate in this way.

I appreciate the remarks the gentleman has made because indeed the Chinese Government has not only been ripping off our intellectual property, they also have been exporting this intellectual property which they have pirated to other countries in Asia, again hurting United States jobs here at home.

So I commend the administration for finally placing sanctions on China. I think it is important that our colleagues know because many of us who voted together on this issue that the sanctions that were placed on the Chinese Government are the self-same sanctions we were recommending that the administration at that time said were unworkable when we were proposing them for promoting human rights in China and Tibet.

I would like to make a further point that since the President made his MFN decision, human rights violations in China have increased. The crackdown has intensified in China and Tibet. That can be documented when we have more time.

The trade deficit has increased to $30 billion in 1994 and is growing. The proliferation issue is still not resolved in China. Indeed, the evidence is that they are still exporting dangerous technology to unsafeguarded countries.

Having said that, I still commend the administration for finally standing tall and taking the action that they did.

Mr. ROHRABACHER. As the gentlewoman knows, many of the businessmen who decided they were going to make a quick buck and an easy buck making a deal with this dictatorship on the mainland are now finding that they are being ripped off by that Government. The fact is that our own business community that was so much in favor of the most favored nation for the Chinese and said forget human rights are now finding that the Government that abuses the human rights of its own people will certainly negate a contract with a foreigner. And millions upon hundreds of millions of dollars are being lost. I predict even billions of dollars will be lost because this is an outlawed gangster regime and America should be on the side of freedom. It is right in the long run, it is beneficial in the long run.

Ms. PELOSI. If the gentleman will yield further, once again I thank the gentleman for the opportunity to extend my remarks and those of my colleague. The fact is that we will have another evening to talk about the violations of human rights in China, but in addition to the violations of the intellectual property rights—and in China the piracy is rampant, enforcement is absent and the cost to the United States taxpayer and the American worker is huge. In addition to that, they are violating our trade relations with transshipments, exporting of products made by prison labor, by market barriers to United States products going on into China; the list goes on and on. As my colleague so ably said, there is a connection between human rights and business, and that promoting human rights is good for business because then American businesses going into China will know that their contracts will be honored, that their products will not be made by slave labor and that the rule of law will prevail. And that is a lesson they have learned in the last 8 months. They are not as head over heels in love with going into China doing business now. But we still have to fight for human rights, fight the fight to free Wei Jingsheng and his assistants and some hundreds, maybe thousands of political prisoners as well as the millions in the slave labor camps in China.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 2 AND HOUSE JOINT RESOLUTION 4

Mr. ALLARD. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of House Joint Resolution 2 and House Joint Resolution 4.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

COMMUNITY POLICING PROGRAM

The SPEAKER pro tempore (Mr. HANSEN). Under the Speaker's announced policy of January 4, 1995, the gentleman from Michigan [Mr. STUPAK] is recognized for 60 minutes as the designee of the minority leader.

Mr. STUPAK. Mr. Speaker, I am here tonight and I will be joined by some of my colleagues on the Democratic side to talk about the community policing program and the proposal that will be before us later this week to do away with the community policing program and the 100,000 cops as the President has outlined in the past, in last year's crime bill.

So the special order tonight will deal with community policing commonly called cops on the beat or Clinton cops.

Today at a press conference there were representatives from police organizations all over the country, mostly the FOP and the National Association of Police Organizations which represent most of the rank-and-file police officers in the country.

They spoke articulately of the need to get police officers on the street.

The program has been a win-win situation not just for the police officers, not just for fighting crime but especially for the communities in which they serve.

Last night in this Chamber we spoke, a number of us, about community policing, how you need to restore the trust, confidence and faith in the police with the specific area they serve in order to form a working partnership, working in concert to help with community policing, to combat the crime elements that they face in their communities.

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The gentleman from California [Mr. FILNER] was here, and he represents San Diego, and they had one of the first programs ever on community policing and the dramatic impact it had on crime in San Diego, and then there was the gentleman from Massachusetts [Mr. MEEHAN], Middlesex County, Lowell, MA, where he talked about his role as a district attorney to help to reduce crime.

Mr. Speaker and those folks who are listening to us, there is no one program that is going to solve crime. There is no one police agency in and of itself that can solve crime. We will never solve crime until the citizens we serve work hand in hand with the police officers who are there to help them. Fighting crime is more than just prisons, fighting crime is more than just putting a new law on the book, and it is even more than just police officers. There must be a partnership between the police, the citizens they represent, but most of all it is a responsibility for each and every one of us in this great country.

I would like to speak, if I may, about two programs tonight in my home State of Michigan; the COPS program, as it is called, in Marquette, MI, which is in northern Michigan and is a town of only 17,000 people. But the community policing program works in rural areas as well as in urban areas, but the COPS program was started back in 1990.

In its first 2 years of operation, Mr. Speaker, overall crime in my city dropped 23 percent. As the community police officers get progressively closer to the community in which he lives and serves, more and more citizens are coming forward to report incidents of crime. This is because a community and a community police officer have developed a special relationship that relates to more trust, more confidence, a greater willingness to become involved in the system.

I would like to share with my colleagues some other stories regarding the COPS program in Marquette, MI, because the program is often referred to as just Cops on the Beat. Well, more than just cops on the beat, they must interact with the communities.

A major problem area in Marquette centered around a 116-unit family public housing development the COPS program in Marquette County and Marquette city had developed in coordination with the city police and the public housing authority in an attempt to decrease the crime rates there at the public housing. A police officer, a public housing authority and residents there formed a partnership which was developed to reduce crime and maintain order. The program has lowered crime and has restored a sense of pride in that housing project.

A good example was back in 1991 and 1992, Halloween or Devil's Night, as it is called, with the first 2 years in which there were at least 26 fires, arson fires, per night in and around this housing project. But with the working with the local police departments, volunteers on patrol and CB radios, Mr. Speaker, we have gone on to deter this program, and last year not one arson complaint was answered during Halloween or Devil's Night.

Another one they did in Marquette was the adopt-a-park program, and it was to eliminate the drinking and drugs in a wooded area by the community, and again the COPS program opened up this community, identified the problem and patrolled the area.

Other achievements that COPS programs have helped out is bike registration, bicycle safety, child identification fingerprinting, bike patrols, court-referred workers to do community service work, anti-trespass programs, say no to drug crimes, community child watch program and others. Again the first year the COPS program, and there has been much criticism of the President's program, and you only have so much money. How are you going to pay for 100,000 cops?

Well, as you all know, it is a sharing program—75 percent of the costs of the police office for the first year is paid by the Federal Government, 25 percent is paid by locals. Second year it is a 50-50 match. That is how we can provide 100,000 police officers underneath the crime bill that was passed last year and that took effect as of October 1 this year.

There are 17 police departments in Michigan with COPS programs. The COPS programs throughout the State, the one in Marquette, was rated No. 1, but from a small city like Marquette of 17,000 people you can go on to city like Detroit, our largest city in Michigan.

The recently passed crime bill has awarded the Detroit Police Department 96 new police officers. These officers are currently attending the Detroit Metropolitan Police Academy and are being trained in community policing.

Why community policing? Because we know that when police officers work with the folks in which they must serve, it is the greatest positive effect on reducing crime.

The community policing program in Detroit has conducted over 130 residential surveys, has installed security hardware for citizens, has organized over 50 blocks in the city streets into neighborhood watch programs and has increased and provided aggressive patrolling in high drug activity areas. It has created and maintained child safety and substance abuse programs and continues the youth programs to combat violent crime and drug related offenses.

I want to ask in the survey what was the most positive change in these areas just during the last 3 months. The great majority of these residents responded and said, "It was community policing and a police keep-the-cops-on the-streets program."

Now our friends on the other side of the aisle are going to tell us in the next few days, and probably on to Monday, that Members, that mayors and local elected officials, support this family and the Clinton COPS program, that they want to wider discretion, and let the locals determine what it is. But we believe, those of us on this side of the aisle, that what we will do is just buy more pork barrel projects that we saw in LEAA in the late 1960's and early 1970's, but as my mayor in Detroit, Mayor Dennis Archer, said, the time has come for us to stop throwing money at crime, but put it into law enforcement officials, and what they want is cops and not programs.

Mayor Archer believes that the President and the Congress got it right last year when we funded the police on the street program. People in Dennis archer's city of Detroit, or whether it is up in my district in Marquette, want protection and the ability to walk their streets at night, and we know that the only way to do it is to continue funding for the 100,000 cops that currently exist with the cops on the beat program.

One of the most effective tools for law enforcement committees is about to become a casualty underneath the GOP crime bill. Those of us are here tonight, and many others who cannot be with us, intend to keep fighting to keep the 100,000 police officers on the street.

Underneath the GOP plan of block grants there is no guarantee that any police officers will be hired. There is no guarantee that the cops on the street program will be maintained. There is no program specifically earmarked for community policing.

Tomorrow I know the President will announce underneath a fast cops program that 49 more police officers have been awarded in my district alone, 250 in the State of Michigan. Marquette, with their program ready to run out, will be awarded another police officer. In the President's program, in the one that we are fighting to try to save, there is very little bureaucracy. In fact, in order to do a fast cop application, it is a one-page form. It is a program that began November 1, and here we are on February 7, 1995, just over 3 months, and they are already just in my State alone providing 250 police officers underneath the COPS fast program.

It is a good program. It works. There is very little pork—there is no pork in it. There is very little administrative cost. My police agencies are very pleased with us and implore us to continue keeping this program.

One more word before I turn over to my good friend from Massachusetts [Mr. MEEHAN]:

Community policing and the cop on the street or cop on the beat, whatever handle you want to put on it, is a program I strongly believe in, having been a police officer for many years myself. When I was in the Michigan legislature, I helped to write the community policing program in Michigan. It is a winner. It works. But it only works when we put police officers in touch with their local communities, and they work together to provide secure residents, secure neighborhoods, by getting the trust, the faith and confidence back in law enforcement.

With that I yield to my good friend from Massachusetts who comes from maybe a little different perspective, not being a police officer, but a district attorney in Lowell, MA.

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Mr. MEEHAN. Mr. Speaker, let me first of all say to the gentleman from Michigan, Congressman STUPAK, I want to congratulate the gentleman for his efforts. One of the ways I think we are better able to articulate what we need to do in the fight against crime is to rely on the various experiences that the Members of Congress have. Certainly the gentleman's experience, 12 years as a police officer, is a very, very important experience and one that I hope that our colleagues will pay attention to as we debate this bill offer the coming days.

I wanted to comment first of all, the gentleman mentioned the one-page application. Because he was a police officer, the gentleman is aware that oftentimes police departments across the country express concern in dealing with the Federal Government because of bureaucracy in the past. But the gentleman has indicated a one-page sheet is all a police department had to fill out. I would imagine that the gentleman has gotten some favorable responses from the police departments in his district, as I did.

Mr. STUPAK. In the first round of the Clinton COPS program, we did receive four sheriffs in one of my larger growing areas, two in Grand Traverse County, one in the city of Escanaba, and another in the California Kalkaska sheriff's department. All these individuals related to me once we submitted our application, there was some phone calls and verifications, and that was it. They sent in a voucher periodically, certifying the individual is working for that department. They sent in an invoice based upon their cost to the local department. The Federal Government then pays 75 percent. It was one of these programs that was so simple, they were so surprised at the reduction in paperwork, that the Federal Government not only did it right but did it extremely efficiently, quickly, and responded to their needs.

Mr. MEEHAN. I do not remember any time the Federal Government undertook such a major project, putting 100,000 police officers on American streets, and did it so quickly without really any of the bureaucratic messes that have plagued other programs in the past.

Just this past September, President Clinton signed into law what I believe was the most comprehensive, smartest, toughest crime bill in the history of this country. This legislation, as the gentleman indicated, was the result of many years of hard work from law enforcement professions. When I listened to the debate and the rhetoric in the Congress, I cannot help but think that we would be better off if we had more Members of Congress with some of the experiences in law enforcement. It would help kind of frame what this debate ought to be about.

It seems to me any law to put more police officers on the streets is very, very important, particularly this community policing, which is really the cutting edge of law enforcement.

We have an Attorney General now, Janet Reno, who is a lot different from previous Attorneys General in that she has been in the front line of the fight against crime. It is not often when we have been able to point to an Attorney General that has ever prosecuted a case, that ever has managed a criminal law enforcement agency, that has ever had to put prosecutors out to a homicide scene.

As I listen to the rhetoric in the Congress, it is very, very clear that there are very, very few Members of Congress who have had that experience in the front lines of the fight against crime. And this crime bill, with 100,000 police officers, is without question working everywhere in America.

I want to mention my home city of Lowell and community-based prosecution. When I first became the first assistant DA in Middlesex County, by the way, it is one of the largest counties in the country, we had 13,000 criminal cases per year that came into that office.

It was my responsibility under the district attorney when there was a homicide anywhere in Middlesex County to have to respond to a beeper from the State police to get to a homicide scene to begin the investigation. The first five homicides in the county, three of them were in the city of Lowell. It is an area that has suffered through a very, very difficult time in terms of crime. Since the passage of the initiatives from this Attorney General and this administration, they have formed community partnerships, which are the hallmark of community oriented policing.

During the last year Lowell has opened up several neighborhood precinct departments in several neighborhoods. They put together something called Team Lowell that involves the community, the probation departments, the police department, and the school departments, working together to identify career criminals and identify those who are the repeat offenders.

They have also put together a community response team, with inspection services. They have closed down more than 150 buildings in 1994 which were identified as drug houses. That is what the front line of fighting crime is all about. They have established flag football leagues, where the police officers are volunteering their time to work in these leagues to get kids headed in the right direction.

As I listen to the debate and I anticipate the debate on this bill, I am very concerned because the Republican alternative will not put 100,000 new police officers on the street.

Mr. STUPAK. I know the gentleman has been working on the crime task force with myself and many others, and you have been deeply involved in this. Do you know how many police officers will be allocated or earmarked under the Republican crime bill we are debating this week?

Mr. MEEHAN. There will be absolutely zero earmarked. What they are attempting to do is put money into block grants and send them to communities, and hope that those communities use the money correctly, and hope that those communities are on the cutting edge of community policing. So there is no guarantee there will be any police officers as a result of this crime bill.

Let me also say in regard to that, as I watch and try to figure out how in the world we could have passed a crime bill initiative like this, it has only been given four months to work, and all of a sudden there are new proposals coming forward. I see stories where it shows there are political polls that have been conducted to come up with this data, focus groups where they bring in citizens and figure out what citizens are thinking or what the buzz words are. And it really bothers me, because the fight against crime is serious business. It requires a level of professionalism. It requires looking beyond political polls and focus groups and looking at hard data of what works and what does not.

That is what this bill is all about. Community policing works. It works anywhere where it is instituted in America properly.

In my city of Lowell we have 13 city police officers that undertook a program of community policing, where we got those police officers in the community, learned who was who in the community, identified those worse offenders, those people who should be made a priority, and made them a priority in the criminal justice system. It worked with the majority of the other people to get the trust.

The gentleman told a story at one of the task force meetings of what happens and where you get information. You more likely get information riding in the neighborhood from a kid riding a bicycle, assuming that police office has the credibility. That is what happens under community policing.

It is interesting to me, because there was a press conference in the city of Lowell last week; the police chief wanted to have a press conference and show what happened in the city of Lowell as a result of the community policing efforts.

The report is out, and I got a copy of that report this week, that shows the number of assaults, burglary, larcency, and car thefts. In 1994 they have changed dramatically. For example, burglaries are down 34 percent in the city of Lowell as a result of community policing; residential burglaries, down 32 percent; business burglaries, down 41 percent; larcenies, down 23 percent; car thefts, down 20 percent.

Now, a lot of Members will not want to make determinations of how they going to vote based on this, because it is hard data from a police chief in a community that is making community policing work.

You see, this is not a political poll. It is not a focus group. It is not anything that necessarily sounds good. It is not something that has anything to do with authorship of a crime bill. It is just cold, hard facts of what is working in Lowell, MA. And it is community policing. All of these categories, crime is down significantly, and the police chief of that community says the reason it is down is because of the fact that they have instituted the community policing program there.

This is how we should be determining what we do in the crime bill, what is working and what is not. That is what fighting crime is all about. I know in your experiences you have had experiences where some things work and some things do not. Once we know what works, we have to put it into the form of legislation that gets the job done.

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Community policing gets the job done.

Mr. STUPAK. It is not just what works; there has to be a commitment, a commitment so the resources will be there.

Back in 1978, 1979, when I was in the Michigan State Police, one of the first community policing pilot programs in the Nation was in northern Michigan. If I can go back up to Marquette County, it is a very large county. There it is very sparsely populated at some point and other points it has, like I said, my largest city of 17,000. But there are these three townships. We call them the tri-townships, which was sort of struck away from the center of population, sort of extreme end of the county. They had a rampant crime rate going on, based upon the number of people there.

The factors we looked at, back in 1978 and 1979, is population density, the number of crimes committed, and the number of juveniles who live in that area. Then when we went in there, we identified these three townships. We asked the township boards, one of the most local forms of government, if they would be willing to share in a community policing program and would they put up a police officer and some resources and the Federal Government would provide them with a State trooper to go in and to coordinate it and work out of homes and live in the communities.

Well, in less than 2 years, they reduced the crime rate by 70 percent. They were solving burglaries and safe jobs 5, 6, 7 years old already. But once the community realized that it was their police officer and it was them that were involved in this fight against crime, they knew that when they called that police officer and if their house was broken into, the police officer who responded would be the same police officer that followed up the investigation, who would be the same police officer that went to the prosecutor's office. It would be the same police officer would be there in court with them, that trust relationship developed and we were able to solve crime in this very sparsely populated, tri-township area of Marquette County. That was back in 1978–79.

When they left, when the trooper left in 2 years, tri-township still has a police department. They are still involved in community policing. And they still have been able to keep the crime rate at a very low rate, even up in northern Michigan.

So community policing does work.

You mentioned Lowell and your Team Lowell. In Detroit, with the 96 police officers they received underneath the Clinton Cops Program, they called their team or the program CLEAN, which is the initials for Community Law Enforcement And Neighborhood Teams.

So CLEAN in Detroit really symbolizes what we want. We want the community working with law enforcement who are in neighborhoods working together to help solve the crime problems. If it can work in Detroit, MI, or tri-township in northern Michigan, it can work anywhere in this country.

And it is one program that, yes, we need police and, yes, we need the public working with us, but we need some leadership and some financial resources from the Federal Government. And that should be our role. Not to tell them what squad car to buy or to buy this radio, but you set up your community policing program. We will give you the incentives. We will provide you, and it is up front, it says right on our application, 75 percent the first year, 50/50 the second year. The 75/25 match with Federal paying 25 the third year and the fourth year hopefully you are financially able to then provide the program itself.

And as you pointed out, correctly pointed out, here we are 3 months later, just over 3 months, arguing for the life of a program which everyone has said works.

How do Members go back to their local communities and say, that cop that was walking the beat, that was providing you that extra bit of security, that person you trusted, the person you had confidence in is going to be terminated because we have just terminated the program. Because remember, we are talking about the same pot of money here.

When the crime bill was passed last year, I did not support all the aspects of the crime bill. In fact, I, even in the House, I voted for it. And in the final conference committee, because of what happened to the Byrne grants and some other crime labs, I was not pleased with it. I did not support it.

But the point is, there was $30 billion that was what we always centered around, $30 billion over 5 years which is going to be paid for by reducing the number of Federal employees that would go into the crime trust fund so the money would be there.

And the Republican proposal right now is $30 billion. But instead of having police officers on the street, what they want to do, they want to go to these block grants and they want to shift it to prisons. We will never fight crime if we merely throw everyone in prisons. We do not have enough prisons.

And the fallacy with the argument further is, you can provide money for the brick and mortar, but what about the costs for the security officers, the corrections officers, the administration of those prisons.

In northern Michigan, we had two prisons, one in Baraga, a maximum security prison, which Michigan went on a prison building spree in the 1980's, and we built these prisons. For 2 years, Baraga maximum security prison sat empty because the State did not have the money for the correction officers or for the administrative cost, operational costs of that prison. We had a juvenile detention center. We built a juvenile detention facility so young people that had to be incarcerated could still stay closer to their families. The closest one for northern Michigan was some 400 miles away, and it was built in Escanaba, my hometown. Again, when I was back in the State legislature, we got that program put in. That was 1989.

It just opened this year, excuse me, July 1994. So it has been built, it has been sitting empty because we did not have the money to maintain it. And now Michigan is on another prison building spree, Newberry regional site is going to be built, again up in my district. But how long will that last? They are going to use some Federal money to clean it up, build it up but, again, nowhere in either bill, the Republican proposal, is there any money for the administration, for the correction officers of these prisons.

Mr. MEEHAN. That is an interesting point. We are going to commit extra moneys, we are going to take money out of other sections of the bill and give it to build still more prisons without even having—we talk about local mandates, how people, once these prisons are constructed—who is going to pay for them? The local communities and the States are going to have to try to pay for them.

You are right, many of them do not have the money to pay for them. It is interesting, I had gone back to the D.A.'s office during the congressional break, and they had listened to a lot of debate on the crime bill. And they said, "Boy, we disagree with much of rhetoric that we heard. And it sounded like you guys were really getting a lot of rhetoric about getting tough on crime."

Ninety to 95 percent of all crimes in this country are enforced, prosecuted on the local and State level. And I have been amused by the debate in the Congress about getting tough on crime, and we are going to require so many of this and so many of that. And the truth of the matter is, all this bill is about is giving local prosecutors, local police departments some help. And no bill has ever given this much help in the history of the Congress to local communities in hiring more police officers and actually putting them on the street.

The other thing that I think is unfortunate is this bill passed with bipartisan support. This is not something that just Democrats should support or just Republicans should support. Anyone who has been in law enforcement, whether they are Democrat or Republican, support community policing.

Governor Bill Weld from Massachusetts, a Republican, a prominent Republican, strongly supports community policing. And guess what, he is a former Federal prosecutor. He knows a little bit about what law enforcement is really all about. He also supports, strongly supports the basketball programs that were part of that bill. Guess what? He is a law enforcement official.

Ralph Martin, a Republican district attorney of Suffolk County, strongly supports community policing money. So the truth is anyone that knows anything about what works in law enforcement in this country and what does not work strongly supports community policing.

So here we are, it seems to me, having this partisan debate back and forth. I have to believe it is all about authorship. It is all about, you have some of the same Republicans who supported this bill now apparently are going to go along with making some changes so it now can be a Republican crime bill rather than a Democratic crime bill. We need a crime bill. We do not need it to be Democratic. We do not need it to be Republican. This issue transcends partisan politics.

I wish that we could take the expertise that is available. If there is some tinkering that needs to be done, let us make some changes. But not wholesale changes that may result in my hometown community of Lowell, MA not being able to put together the type of community policing programs that work, that is making the quality of real people's lives better day in and day out because as a police officer in the communities that knows that community, making sure that burglaries, larcenies, and car thefts, businesses are safer, all are going down by anywhere from 20 to 41 percent.

□ 2010

Those are the facts. Unfortunately, too often in the debate around here, the facts are secondary. It is all sound bites, political polls: "We don't want to know what law enforcement professionals say. What we want to do is what we think will make either the President look bad, the Democrats look bad, or somebody else look good." It is a foolish way to attempt to fight crime, and it is really unfortunate if we take a step backward, rather than forward, when we have a program that is working.

It is interesting that I talked about an urban area in Massachusetts, Lowell, MA, where it is working effectively, and you cited examples of rural areas where community policing is working effectively. It seems to me, Mr. Speaker, that is what this debate ought to be all about.

Mr. STUPAK. Mr. Speaker, the other point that should be made in community policing, nowhere in the bill that was passed last fall do they tell you how to do community policing. What may work in Marquette, MI, in our 116-unit public housing unit, may not work in Lowell, MA.

But what we have said is, this concept of community policing is flexible. It transcends party lines, it transcends neighborhoods, and what it must do is, you must tell us what works in your community, put forth your proposal, and we promise you that we have 100,000 new police officers that we would be willing to put forth and assist you in that concept.

So the creativity that we need to fight crime is there. The only thing we ask is to develop a program where the community can work with the police and build on friendship, trust, and confidence in each other to fight crime.

As we said earlier, I know you have alluded to it and I stated earlier, in order to fight crime it is everyone's responsibility, everyone in this Chamber, everyone who is listening to us tonight. It is our responsibility to help the police officers.

When I went to a crime scene as a State trooper, whether it was an automobile accident, a breaking-and-entering, or a murder case, whatever it might have been, I knew nothing when I got there until I stepped out of my car. I could rely on my sight, my five senses, but I had to rely on the community, witnesses, possible witnesses, to fill in the blanks for me or to create that puzzle, and when the puzzle is complete, hopefully then we could apprehend a perpetrator.

So we always had community policing in a sort of effort. The difference about this program is that being the police officer working a small community, hopefully I will know them on a first name basis, we will have a chance to have communications in a more friendlier, relaxed atmosphere, as opposed to a conversation during the height of a crime or a criminal investigation.

Because when I pull up in my squad car they would not know who I was, and I did not know who they were, so two strangers or three or four strangers were supposed to solve a crime. But if we have three or four friends trying to solve a crime, the results are much greater.

Mr. Speaker, that is why community policing is such a valuable tool. It has been around for a few years. What has always kept policing down is the cost. It is expensive to assign a police officer to a couple of townships, and he takes his car home with him every night. It is not parked at the station.

He has certain needs which require a little bit more than probably a police officer who switches cars at every shift, and trades off with equipment, because each individual is a police officer and almost a police station in and of himself. His office is his home or his office is his car or her car. It requires a degree of help. What this program offers them is, we will make a 3-year commitment if they will commit to a community policing program that will work in their communities.

Mr. MEEHAN. Mr. Speaker, the other thing that is interesting, and I thank the gentleman, when we had the crime debate in August just before the recess, it became frustrating for me listening to the rhetoric of many Members of Congress who had never been in a district attorney's office, had never been police officers, and really had very little experience, real life experience, in crime, in fighting crime.

I challenge Members of Congress to take some time during their recess to go into a district attorney's office and volunteer, whether it be volunteer to work with attorneys on cases, whether it be to volunteer with victim witness advocates, who have to take the victims of crime and let them know what their rights are and help them through the criminal justice process, which is so intimidating to many victims, particularly victims of domestic violence, who really are victims twice, once to the original abuse, and twice when they have to go through a court system that frankly is not equipped to deal with the devastating problem that is permeating American society.

But I challenge Members, and I have talked to Members to see whether any had the time to go into a district attorney's office, or to go into a police department and learn what the front lines of the fight against crime is really all about. I cannot help but believe if more Members had been willing to do that, to really find out what is happening in district attorney's offices across this country, in attorney generals' offices across this country, in police departments, whether they be urban police departments, whether they be county police departments or suburban or rural police departments, it would certainly help the tenor of the debate here if we can begin to debate real, professional crime tactics, real, professional crime opportunities that we have around this country, rather than to listen to the bantering back and forth based on, as I say, a focus group, a political poll, what sounds good, what might make the President look bad, what they might be able to embarrass the Attorney General with, partisan politics, back and forth.

It is amazing. This is not a partisan issue; this is serious business. I feel very strongly that efforts to kill this community policing program are not in the interests of the communities that we represent, the communities clear across America.

It is really important that we stay the course and let this program work. Four months, 4 months, and we are talking about dismantling a program that I have shown very persuasive evidence tonight that is working, not only in Lowell, MA. It is working all over the country.

To take partisan politics to defeat this is something that disturbs me greatly. I hope that the debate on this will be a debate based on the merits of the argument. I oftentimes would break with my own party's leadership in the last 2 years, and boy, oh, boy, talk about party discipline this year, march step-by-step, go to the left, go to the right.

I hope that we can have a legitimate debate about the community policing program in this country, because it would be great for America, it would be great for law enforcement in this country, and I think in the long run it would dramatically increase standards of living by lowering the crime rate all over this country.

I thank the gentleman for his efforts on the Crime Task Force. I look forward to working with him over the next several days, and well into next week. I don't know how long we will get to debate the community policing program. It seems we are going to spend more time up front debating the first few days of the various victims' issues, which I think there is a broad agreement on.

There is nothing wrong with, as I say, making minor adjustments to the bill. We spent half a day, three-quarters of a day, debating something that we all agree on, that we all agree on, but it seems when we get down to the end of this debate on community policing and prevention programs that are working, it looks like we are going to be a little squeezed for time, because we are going to be running out of time. I am not sure whose birthday it is, but we have to get it done on Tuesday, so there is not going to be a whole lot of time.

I would hope that we could get a discussion based on the merits of the arguments over the next few days, and your experience as a police officer for 12 years has been invaluable to our task force, invaluable to the Members of Congress who are looking at this issue objectively, trying to find professional solutions to what many Americans feel is the No. 1 problem facing this country, crime.

So thank you for your efforts, and thank you for putting together this special order. I look forward to working with you.

Mr. STUPAK. I thank the gentleman for not only joining me tonight, but also last night, along with the gentleman from California [Mr. FILNER], the gentleman from Texas [Mr. CHAPMAN], and others who came out.

The purpose for doing these special orders or 5 minutes, as you can see, the Chamber is practically empty, is for the benefit of our viewing audience. It is our hope that they will call their Members and urge them to support the community policing program.

This debate will probably start, I think, Thursday, and then go into Friday and possibly Monday.

□ 2020

So time is of the essence. We are on this fast track legislation.

Many people throughout my district, and as I speak out more and more on community policing and 1,000 police officers, the cops on the street program, most people are not aware that the proposal that will be presented later this week is to kill this program, so we need help from the public to call their Representative and tell them to keep this program, keep the police officers on the street. We need police. We need prevention and not just the prisons and pork that are going to be offered by the other side.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on my special order of today, a tribute to Ronald Reagan.

The SPEAKER pro tempore. (Mr. HANSEN). Is there objection the request of the gentleman from New York?

There was no objection.

A TRIBUTE TO RONALD REAGAN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from New York, [Mr. SOLOMON] is recognized for 60 minutes as the designee of the majority leader.

Mr. SOLOMON. Mr. Speaker, I take this special order tonight to pay tribute to a great American, the greatest American that I have ever known, and that is President Ronald Reagan. As you know, I had intended to hold this event last night as a birthday present for the former President, but the House was occupied on an even better birthday present, passage of the line item veto. And what better birthday present could be offered to the President and to Mrs. Reagan than to complete the unfinished business of the Reagan revolution?

I know I speak for every Member of this House, Mr. Speaker, and virtually all Americans in offering President Reagan and his beloved First Lady, Nancy, our prayers and our very best wishes on this very wonderful occasion.

Mr. Speaker, what do you get for the man who has everything, so that saying goes? Well, Mr. Speaker, as we observe President Reagan's birthday, a better question is how do we appropriately honor a man who has done so much for us, for our country and for the cause of freedom around the world? Our tribute this evening should extend beyond the President's accomplishments in office, although they are numerous, too numerous to mention here tonight.

Let us examine Ronald Reagan's record with the benefit of historical reflections. The story has been told that during his darkest hours, President Nixon was reassured by those around him that history would treat him well. Ever sharp and skeptical, President Nixon shot back, "That depends on who is writing the history." In the case of Ronald Reagan, Mr. Speaker, most of those writing the history of his Presidency have done everything in their power to turn light into darkness, achievement into failure and hope into despair.

Those of us who stood shoulder to shoulder with Ronald Reagan from the very beginning are here today on the occasion of his 84th birthday to say that we are not going to let them get away with it anymore.

Ronald Reagan's views now occupy the center, the main street, of American politics. Look at some recent House votes, the balanced budget amendment passed this House by 300 to 132; unfunded mandates reform to implement the new federalism Ronald Reagan espoused passed this House by a vote of 360 to 74, and the line item veto just the other day, 294 yeses to only 134 noes. All of these measures passed with substantial Democratic support from the other side of the aisle as well, good conservative Democrats voting for the Ronald Reagan programs that we were unable to deliver a number of years ago.

And, yes, Mr. Speaker, throughout the proceedings of the 104th Congress and, indeed, through the election of 1996, coming up, a history debate has been resolved in favor of the ideals articulated by President Reagan and his remarkable vision.

Over the last 15 years, President Reagan's goals were subject to the most robust scrutiny that our system of democracy has to offer. During the 1994 election, some liberal Democrats even campaigned against the Contract With America on the basis that the contract was a continuation of what, of the Reagan legacy. Can you imagine?

Well, Mr. Speaker, the actions of this Congress are evidence that President Reagan's legacy has not just endured that test of scrutiny and criticism but that it flourishes today to the benefit of all Americans.

It is useful to look back, however, in order to more fully savor and appreciate President Reagan's vision. American morale in the 1970's, think back, could not have been lower. President Jimmy Carter declared us in a state of malaise. Ronald Reagan's Presidency was what turned things around. Ronald Reagan's economic policies triggered the largest and longest peacetime extension of our economy in the history of the this Nation.

Nineteen million new jobs were created. Incomes grew at all levels and new industries and technologies flourished and exports exploded. Why? Because President Reagan, he cut taxes, he slowed the growth of domestic spending and regulation, and he restored faith in what he liked to call the magic of the marketplace.

That magic then caught on all around the globe. Remember, my colleagues, the world in 1980 was a very different place than it is today. The Soviet Union was continuing a massive arms buildup, bolstering the formidable number of missiles already pointed at the West, and at cities right here in the United States of America. Soviet troops were marching literally through Afghanistan. Do you remember that? Eastern Europe suffered under the boot of totalitarian regimes, and the Berlin Wall scarred the face of Europe.

The United States military was described back in those days as a hollow force, and our citizens were held hostage by thugs in a place called Iran. Do you remember that?

Our world today contains pockets of instability, but the simple fact is that democratic tide that has swept this globe in the last 5 years is a direct result of Ronald Reagan's Presidency. The man and his policies were essential to freedom's march across this globe. It was Ronald Reagan who faced down the nuclear freezeniks in this Congress and in Western Europe by deploying the Pershing II in West Germany.

Eventually this deployment and a policy called Peace Through Strength, Mr. Speaker, that you and I helped to formulate, forced the Soviets to the bargaining table. The result in 1987 was the IMF Treaty, the first agreement to eliminate an entire class of weapons. Ronald Reagan turned out to be right on that issue.

It was Ronald Reagan who armed freedom fighters in Afghanistan and in Nicaragua, allowing those nations to determine the course of their own destiny. Ronald Reagan was right.

It was Ronald Reagan who said this country had a moral obligation to defend its citizens from nuclear attack, and that we had to strive for something better than that and the same policy of mutually assured destruction with weapons aimed at every city in America. He said we must work for the day when nuclear missiles were no longer pointed at American cities.

But the experts laughed, and they ridiculed. "This is nothing more than a naive daydream of a silly old man." Do you remember reading those headlines by the liberal press in this country? But you know what, again, Ronald Reagan was right. President Reagan pointed out from the start that the Soviet system was morally and financially bankrupt. Such a system, he argued, could not bear the cost of occupying Eastern Europe.

What was the ultimate result of Ronald Reagan's Peace Through Strength policies? Well, as Ronald Reagan used to say, the Soviet Union collapsed and captured nations all around this world were freed from the atheistic tyranny of the tentacles of communism.

Once again, Ronald Reagan was right.

It was Ronald Reagan who stood under the shadow of the Berlin Wall, which you all remember, and said, "Mr. Gorbachev, tear down this wall." I will never forget his saying that. The experts laughed again, and decried his plea as a public relations stunt. Do you remember that? But Ronald Reagan was right again as he always was. Ronald Reagan encouraged us to maintain a strong defense in case the United States was forced to defend its interests in any remote corner of the globe, and after all, that is the reason this Republic of States was formed, to provide for a common defense, to protect America's interests around the world.

Given this, should anyone really be surprised that our Armed Forces performed so well during the Persian Gulf war? President Bush and General Schwartzkopf were able to lead our troops magnificently and to bring them home with astonishingly low casualties. Do you remember that? Once again, Ronald Reagan was right. Those of us who served in the House at the time and fought President Reagan's fights right here on this floor were so proud to do so.

I was honored that President Reagan signed my legislation to create the Department of Veterans Affairs so that we could guarantee that, with an all-volunteer military, it would work.

☐ 2030

As a member of the House Committee on Foreign Affairs. I was so, so proud to carry his water for a foreign policy respected around the world by friends and foe alike, and it was a privilege to join these battles, looking back at the enormous good that came of those policies. But, Mr. Speaker, more than any specific policy, we must salute Ronald Reagan's ability to bring out the best in us as a nation. He consoled us on the evening of the *Challenger* disaster. Do you remember that? It was a sad day in our history.

And on the 40th anniversary of the D-Day landing, Mr. Speaker, President Reagan painted a vivid picture of the scene on that day and genuinely proposed that we, we dedicate ourselves to the cause for which those soldiers gave a last full measure of devotion.

He never offended us with staged prayers or phony flag placements. His words and his gestures were all genuine, and, as proud as we should be of his many accomplishments, Mr. Speaker, it is a sad commentary that it took over 5 years longer, over 5 years longer, to tear down the wall of resistance to the line-item veto and the balanced budget amendment. It took 5 years longer than it did to tear down the Berlin Wall and the Iron Curtain.

Ronald Reagan inspired a generation of young people to ignore the cynical bombardment of the media and hold dear the American heritage: "hopeful, big-hearted, idealistic, daring, decent and fair," as he described it during his second inaugural address.

Mr. Speaker, last night 1,000 supporters turned out for a birthday party, including the former British Prime Minister Maggie Thatcher, that I attended along with many of you to pay tribute to this great President, Ronald Reagan. We were so fortunate to have him as our President during that period of time in the history of our country, and at this time I would yield to a Democrat, one of the finest Members of this House, the gentleman from California [Mr. CONDIT]. He is an outstanding Member.

Mr. CONDIT. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding to me.

Mr. Speaker, whether you are liberal or conservative, Democratic or Republican, from California or elsewhere in the country—you always knew where Ronald Reagan stood on any important issue.

One of his greatest achievements was restoring to our people a sense of the greatness of America.

He was honest, he was forthright, he did not quibble and he was bold. I have always been convinced our hostages were freed from Iran as Reagan took the oath of office because the President had described in great detail his contempt for the Ayatollah's regime. The Government of Iran knew, when Reagan described them as Barbarians, our new President would act if the hostages were not freed. They came home within hours of his oath of office.

Reagan never suffered from a lack of "the vision thing." In large measure, the end of the cold war is the result of his steadfastness and courage in difficult times. In a statement in 1976 on nuclear war, he articulated his goal for all of us: "Those . . . a hundred years from now will know whether those missiles were fired. They will know whether we met our challenge. Whether they have the freedoms that we have known up until now will depend on what we do here." And, 100 years from now, the answer will be that we met those challenges and Ronald Reagan led us to that victory.

Those of us in California perhaps know Reagan better than most other Americans. We embraced him in a special way. We got to vote for or against the former President on nine separate occasions. In California, a State known for its diverse communities, its fickle political loyalties, and its great passion over various ideological issues, Reagan was elected overwhelmingly, every one of those nine times.

Mr. Speaker, I say to the gentleman from New York [Mr. SOLOMON], I'm delighted that you allowed me to stand here with you today to pay tribute to, salute and pay tribute to, a great citizen of the Golden State of California and a great American, Ronald Reagan.

Mr. SOLOMON. Mr. Speaker, I certainly want to thank the gentleman from California [Mr. CONDIT], and he is a Member of the other political party. I used to belong to that political party many years ago myself, and I remember when, about the same time that Ronald Reagan saw the light, so did I, but I just want to thank the gentleman for his comments because certainly no President deserves more bipartisan remembrance and support than Ronald Reagan. I can just stand here all night and think of all the times that he has inspired me, but I can recall one time:

As a matter of fact, I was over in Korea, and we had been over trying to arrange in Vietnam to bring home the remains of fallen soldiers, and we were socked in by bad weather. We could not get back, and it was for the State of the Union Message, and that was the night that Ronald Reagan picked up this heavy budget that was about so thick, and he brought it up, and he dropped it like that on the table, and his finger got caught underneath it, and he actually cracked the bone in his finger.

But he was talking about the Federal Government and how it has grown into such huge bureaucratic proportions, and Ronald Reagan never really had the opportunity to make the corrections because he never really had a Congress that would back him up. In 1981 and 1982, Mr. Speaker, he accomplished more in the first 2 of his 8 years than in all the other time, and unfortunately, because we did what we are going to do this year, we made the cuts in the spending in this Congress that really need to be made to bring us back to fiscal sanity around here.

We made those cuts, and unfortunately a lot of us got beat, and a lot of good Democrats as well, those conservative Democrats that sit in that corner right on that side of the aisle, and a lot of Republicans, and consequently Ronald Reagan in the next 6 years, was dealing from a point of compromise where he never could really finish the Reagan revolution, and I am going to be speaking about that as I close out my remarks in a few minutes, but right now I would like to yield to one of the outstanding Members of this body. He is from Miami, FL. He is now a member of the Committee on Rules with me, and we are so proud to have him there because he is my kind of a guy.

He is like Ronald Reagan. He is a fighter, and he is a man of vision, and I yield to the gentleman from Miami, FL [Mr. DIAZ-BALART].

Mr. DIAZ-BALART. Mr. Speaker, I want to thank the gentleman and say, as chairman of the Rules Committee, you were instrumental and really decisive in the fact that passage of the line-item veto was accomplished on President Reagan's birthday, and I think that that was so appropriate because, as you have mentioned, he fought so long for passage of that, that weapon in the arsenal that will be needed to balance the Federal budget, and what an appropriate birthday present it was for President Reagan.

Mr. Speaker, at each moment in the history of the United States, when the Nation has been in danger, great leaders have risen to guide the Nation to safety.

☐ 2040

I think, as Chairman SOLOMON pointed out so wisely, it is appropriate and really necessary to think back upon the condition of the Nation and the world at the time that Ronald Reagan became President, at the time that he was elected to the Presidency in 1980.

I think it is important to think back a minute to that moment. The Soviets, as Chairman SOLOMON has mentioned, felt so emboldened, felt so unthreatened and so unchecked, that for the first time in history, even after so many instances and examples of aggression that they had committed, for the first time in history they rolled their own tanks directly into a nation not even in the Warsaw Pact, a nation that was not even a slave nation, a satellite nation of the Soviet Union, into Afghanistan. They just directly rolled their tanks in there and surrounded, as you will recall, the Presidential palace, and they blasted away, killed the President and first family there in Afghanistan, and they just felt that they were completely unchecked.

That is along with the capture of our Embassy in Iran by those thugs, as you so well mentioned, I think that illustrates where we were at that point, the lack of respect with which the United States was held in the world, and internally what was reflected, creating that lack of respect, the era of malaise, as Chairman SOLOMON pointed out.

We saw in that era also how, for example, just a few years before the Soviets felt so unchecked that they moved into Africa through the Cuban Castro surrogates, in violation of an agreement after so many years of struggle, for example, in Angola, between the—against the colonial forces, the three different groups there had an arrangement. Yet the communist group, the MPLA, felt so unchecked, unthreatened, that they broke the arrangement and called in the Soviets and Cubans, and they were taking over Angola.

Of course, we saw what happened in Ethiopia, Somalia, and you mentioned El Salvador and Nicaragua.

In fact, I recall, at the time that President Reagan took office, an analysis about El Salvador that pointed out the collapse of El Salvador was imminent. There was nothing we could do. And in Nicaragua, of course, the communists had already taken over. In Grenada, here in the Caribbean as well, the communists had taken over. And then Ronald Reagan became President. And he called the Soviet Union what it was.

I remember like you described him, Mr. Chairman, the experts, when they laughed at President Reagan for calling the Soviet Union what it was, the evil empire.

Now, if you ask the people of Russia or the other captive nations at that time whether the Soviet Union was the evil empire, they certainly knew the answer. But a lot of the so-called experts laughed at President Reagan when he called the Soviet Union what it was. And he worked in such a close alliance with that other figure, as we were speaking before at the beginning of this special order, the other instrumental figure in world history in this century, Pope John Paul II. And he worked in close concert, in such a close relationship with the Pope. And I remember reading a report after the Reagan Presidency about how he put the intelligence community and every instrument of American power that he could at the service of the Pope. And he said:

> You listen to the Pope, because the Pope knows what is going on in Eastern Europe and he knows how to deal with those Communists. Listen to him.

That relationship between Ronald Reagan and John Paul II was a decisive relationship in the history of the world, and we saw what happened. And he announced the strategic defense initiative. And the experts laughed at him again and said that is not possible. And we know now, just a few years after the collapse of the Soviet Union, that it was the Strategic Defense Initiative, along with the rest of the Reagan policies that directly led to the explosion that occurred, the collapse of the evil empire.

And he liberated Grenada. I was not in Congress, but I know, Mr. Chairman, that you were, as was the Speaker and others, and how you had to put up, and I see Congressman HUNTER here as well that was in Congress at that time, and how you had to put up defending at that time the liberation of Grenada that the President had accomplished, had carried out, against such ruthless attacks, ruthless attacks, from Members in this body as well as in the media who did not want to recognize the truth and the fact that Ronald Reagan was right, as Chairman SOLOMON stated so eloquently this evening.

And he armed El Salvador, and he saved El Salvador; and he armed the Afghanistan people, and he saved Afghanistan, and he armed the Africans fighting against the Communists, and he saved them as well; and he armed the Nicaraguans against all the pressures, and forced even the Communists in Nicaragua to have elections there, the last thing that they would have ever wanted to do. A great man had risen to lead the greatest Nation on earth to safety, and to save the world. And the rest is history now.

The year that Ronald Reagan left the Presidency, the Berlin Wall collapsed. And then the Soviet empire itself, the evil empire itself came tumbling down.

Now, some will say that it was among the greatest miracles of all time, and it certainly was. Of course, the hand of providence was involved. But it would not have happened without the direct participation and the leadership of Ronald Reagan.

Chairman SOLOMON and Mr. Speaker, he inspired me. President Reagan inspired me to become a Member of our party, as he inspired millions of Americans throughout our country in so many important ways. And I thank him from the bottom of my heart for all that he did for the United States of America, and for freedom and for our posterity. Thank you so much, Chairman SOLOMON.

Mr. SOLOMON. Congressman DIAZ-BALART, I just want to tell you those eloquent words mean so much to me, because I know you spoke them from your heart.

You know, you mentioned Pope John Paul. There is another part of that triangle, and her name was Maggie Thatcher. Between the Pope and Maggie Thatcher and Ronald Reagan, they, more than any three people in this world, are the very reason that democracy is breaking out all over the world instead of the opposite, communism breaking out all over the world.

It was the peace through strength movement that you spoke of that was supported by our free market economy, by this democracy that works, as opposed to a communist government. And because the Soviet Union could not keep pace with us, that is what bankrupted them. That is what brought them to their knees, and that is why democracy is breaking out all over this world.

Let me recognize another part of the country, the State of Georgia, and an outstanding sophomore Member of this body, JACK KINGSTON.

Mr. KINGSTON. Thank you, Mr. Chairman. I certainly appreciate being part of this great special order on a great American, and have enjoyed listening to you and Mr. DIAZ-BALART and DUNCAN HUNTER.

My wife and I actually met through College Republicans. We were so enthusiastic in 1979 with the Reagan campaign, when he won, and Libby would say to me on many occasions, "Don't you just love this President? He's the first one in our life we can be absolutely enthusiastically thrilled over," and so forth, and she would go on and on and on about Ronald Reagan.

I finally said, "Libby, I think you love Ronald Reagan more than you love me." And she said, "Yes, but I love you more than I love George Bush." So she put it in perspective for me.

But as you have pointed out, it is absolutely true that Ronald Reagan defeated the Soviet Union without firing a shot. And I think today that the freedom that we have and the democracy that they are getting is simply because of that war. It was the coldest of wars, and yet it was so important. And as people look back and criticize the military buildup during that period of time, that maybe they would prefer to have a deficit than they would to have the deaths of young Americans that would have happened had we continued on the road that we were on.

As you have pointed out, he did the same all over South America and all over the world, and restored America to being a true world leader. I have heard the saying many, many times that there shouldn't be a policeman of the world, but if there is one, let it be America. And that is what Ronald Reagan did. It was always peace through strength.

In addition to that, there is so much domestically. Creating 18 million jobs, the largest peacetime prosperity in the history of this Nation. Bringing down interest rates. Interest rates in the late seventies were 20 percent. When Libby and I went to buy our first house in 1979, the interest rates were 16 percent.

□ 2050

How many young couples can get on their feet with paying 16 percent interest? It is very difficult to do. Inflation, 12 percent when he took office. And he brought it down to the extent that now it is hardly even a campaign discussion.

The Iranian hostage situation, remember now depressing that got to Americans and how we were told, well, we just cannot go in there and play cowboy anymore. Ronald Reagan did not have to. All he had do was put on his uniform and then the Ayatollah got the message.

The great thing about Ronald Reagan, I would say, beyond those accomplishments was that intangible American spirit that we have within all of us that he reached in our heart of hearts and made us pull out. The other night at this alumni dinner, there were so many people there from all over the country who had returned to Washington to celebrate Reagan's 84th birthday. There were many, many people there from all over the country. One man who was not there is a constituent of mine, Joe Tribble who was a Reagan appointee in the Department of Energy.

But like Joe Tribble, the people who were there the other night were there not because they served in the Reagan administration. That was a job and it was good times. It is because they were part of something they believed in. And they were all there to say, here was a guy who was a clear-cut thinker, a great American.

If you look at the PATCO situation, there would be so many Presidents who would waffle on the air traffic controller strike. So many Presidents and politicians in general who would say, I am not sure, maybe they should have a right. Reagan said, they took an oath of office that they would not strike. They struck. They are fired. It was clear cut. You might not have always agreed with Ronald Reagan, but he told you how he thought. He told you what he was going to do. And he did it. And that was a strength that made him such a great American leader and world leader, because at the time we had forgotten those sort of things.

I had the great opportunity to meet him one time, Libby and I. I was not serving in Congress with some of you guys, but Libby and I had an opportunity to meet him in Savannah, GA, and had a chance to talk to him, one on one.

What struck both of us is that he was a very sincere and very gentle and very graceful man. He would be the kind of guy you would describe as the last one to leave the foxhole, but the first one to open the door for a lady or senior citizen. Absolutely had the touch.

You will remember the debate with Jimmy Carter, the famous "there you go again," just the graceful way of saying, you know, we have had it, we have heard it.

In 1984, I was going door to door, running for the Georgia Legislature. And I represented a very solid middle-class district and still have the honor of representing most of those people in my congressional or the congressional district that I represent. And I would go to the door and people would say, are you Republican or Democrat? And I would say, I am Republican. And they would say, I am going to vote for you because I have had enough. And I was the first Republican elected to the Georgia General Assembly from the 125th House seat, but I can say clearly, it was because of Ronald Reagan.

Fortunately, I had the picture that Libby and I had with Ronald Reagan, and we put it in a big ad in the paper that said, "Reagan-Kingston, let's face it, we need conservatives on all levels of government."

A good friend of mine who was working for my opponent at the time told me, he said that ad sealed our fate. We knew that if you kept running a picture of you and Ronald Reagan in there, even though you were running for the State legislature, that would do us in.

So I would say, I will yield the floor because I know that the gentleman from California [Mr. HUNTER] wants to say a word or two. But just a great American, somebody that you are happy to be on the ballot with and happy to say, that is my President.

Mr. SOLOMON. The gentleman from Georgia [Mr. KINGSTON] is just such a great addition to this body, ever since he got here. We just appreciate those words on behalf of Ronald Reagan.

Let me say that the next speaker, the gentleman from California [Mr. HUNTER] never is a man of one or two words.

He is a man of many words. All of what he says always makes sense. He is one of the most valuable Members of this body. He has served on the Committee on Armed Services since he arrived here. And when I was on the Foreign Affairs Committee, we were pretty good tandem in carrying the water for Ronald Reagan.

Mr. Speaker, I am proud to yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman from New York [Mr. SOLOMON] for yielding.

I have to say that you were my leader in the Reagan revolution on the House floor and did a wonderful job. The gentleman from Georgia, who has mentioned all the great accomplishments of Ronald Reagan, he himself standing here obviously is part of that Reagan record of accomplishment, because it was the great conservative message that he exuded that helped to bring the gentleman from Georgia [Mr. KINGSTON] to this place and myself.

Mr. KINGSTON. I know my time is up, but the thing that Ronald Reagan did, as much as anything, was let you believe in the American dream again. And one of my dreams, my mother was a Republican Party leader for many years, when I was a small boy, one of my dreams was to be a Member of Congress. And I think Ronald Reagan assured me that the American dream was alive and well. And so you are correct on a very personal level.

Mr. HUNTER. I thank the gentleman. I know we may be out of time shortly. I just would advise my friends, I am going to take an hour and we can continue for a few minutes, if my friends have some other things to say.

But you mentioned about the freeing of the world, a great part of the world under Ronald Reagan. The interesting thing is even though his adversaries classified him as a friend of the rich and the Republican fat cats and all of those derogatory things that they said, he really was a man of the people and not just a man of the average people in America, the middle class in America, but around the world.

Because of his policies of peace through strength and pushing the Russian bear back and refusing to allow our allies to be intimidated by the Soviet Union and finally breaking down the Soviet Union, he created a situation in which literally millions of families around the world no longer had to sit huddled at their dinner table waiting for that knock on the door from a representative of their police state involving themselves in that family's affairs, taking off members of that family to the gulags, to the jails, to the prisons, because of their beliefs, because of their religious beliefs, their desire for freedom or their desire simply not to be ruled by a particular dictatorship or proletarian state.

So Ronald Reagan freed literally tens of millions, hundreds of millions of people around this world who had very little relationship to the United States.

And he did that, I might say, by rebuilding America's defense budget.

I think it is appropriate that on his birthday, we reflect on the great things that he did in rebuilding national defense from that level in the 1970's, when we had 1,000 petty officers every month leaving the Navy because they could not support their families on what the Carter administration was paying them.

I remember he brought us from that period when we had about 50 percent of our combat aircraft that were not fully mission capable because we had been cannibalizing those aircraft to get spare parts. And it is fitting and proper that we should talk about him today when President Clinton has dropped his defense budget on this Congress, because President Clinton's defense budget, I think, takes us back to those Carter days or starts us back to those Carter days. It is literally $100 billion in real terms, approximately $100 billion less than the budgets that we had in the middle of the Reagan administration.

In fact, most of President Clinton's cuts that he gives great ballyhoo to have been taken from national security, taken from national defense.

What did Ronald Reagan do? I can remember when the Soviet Union very aggressively in the mid-1980's was ringing our neighbors in western Europe with their SS–20 missiles. And they were greatly intimidating our neighbors. And Ronald Reagan moved forward against the advice of all the liberal Members of Congress and liberal pundits and liberal defense experts. He moved forward to put our own ground-launched cruise missiles and Pershing missiles in Europe. That is, he stood up to the Soviet Union, and an apocalyptic situation was predicted by those on the left.

They said, now you can have it. You are going to bring the country down. We are going to have a conflict with the Soviet Union. Yet a few days later, Mr. Gorbachev was on the phone and wanted to talk.

Those talks blossomed into arms control treaties, real arms control treaties in which we trusted but verified. And they brought peace to a great deal of the world and ultimately resulted in our defense budgets coming down, although I think this President has taken them far below where they should prudently be.

Ronald Reagan saved a ton of defense money by being strong at the right time.

□ 2100

I thank the gentleman for yielding.

Mr. SOLOMON. The gentleman from California is so right. Even when we attempted to rescue the hostages being held in Iran, as the gentleman mentioned, we had to actually cannibalize about seven helicopter gunships to get five that would work. Three of those failed and so did the mission. That was typical of what was happening when we were losing back in those days all of our noncommissioned officers and officers because they could not afford to stay in the military. They were on food stamps.

That is where the peace through strength movement came in. We rebuilt our military, we funded it properly, and that is what brought freedom throughout this world.

Mr. Speaker, there is another Member here who is a new Member of this body. He has only been here for 5 weeks, but I can tell you, there are 73 new Republicans in this House. This one I really appreciate. He replaced a Democrat named Tim Penny. Tim Penny worked with me in sponsoring a lot of legislation to try to get this sea of red ink under control that is in this budget here today, presented by President Clinton.

I would like to recognize him now for a few minutes, the gentleman from Minnesota [Mr. GUTKNECHT].

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman from New York, [Mr. SOLOMON] so much.

I am so excited and proud to be part of this discussion tonight, because I think I speak on behalf of an awful lot of the freshman class this year, that Ronald Reagan was such a leader and such a symbol and such an inspiration to all of us.

In fact, I must tell you in our own family one of our most cherished possessions is an autographed picture that we have of Ronald Reagan, and it is prominently displayed. My wife, Mary, really is one of Ronald Reagan's biggest fans.

I am just so happy to be here to talk a little bit about some of the things that I remember most about President Reagan, both before he became President, and listening to the gentleman from California [Mr. HUNTER] earlier tell the story about the national defense.

I will never forget, I was just thinking about getting into politics in a serious way in 1979. Former Congressman Vin Weber hosted an event up in Minnesota. One of the people who was invited to speak was a gentleman by the name of John Lehman. This was before President Reagan became President.

I will never forget what he talked about. He literally laid out the Reagan defense doctrine that day. It became really the cornerstone, I think, of the Reagan foreign policy. What he said was that it was time that we look the Soviets in the eye, eyeball to eyeball, and say simply this: If it is an arms race that you want, it is an arms race you will get. It is an arms race you cannot win, and it is an arms race which ultimately will bankrupt your economy.

That was, in a sense, I believe, the cornerstone of the Reagan foreign policy and the cornerstone of the Reagan defense buildup. I think now that we have seen, and many would have never guessed that we would see the day when, as we did a few years ago on Christmas Day, when the red flag came down for the last time over the Kremlin, that we would see the death of communism in our lifetime.

However, it is largely because President Reagan had the vision and the foresight to enunciate that policy and to stick by it, even when some of his own advisors had encouraged him to abandon, for example, SDI, or what some would call Star Wars.

Another memory that I have of President Reagan, I remember, again before I entered the political arena and ran for the legislature, in 1980, in January, I was in Nuone, MN. Some of you were probably here for the inaugural. I will never forget that inaugural address. I pulled the car off by the side of the road and listened on the radio to the inaugural address.

I will never forget how he closed that inaugural address. I think we ought to remind ourselves of it often, because I think it typified President Reagan, his beliefs, his values, and I think he spoke so clearly to the American people when he told the story of the young man from Wisconsin who had written on his diary during World War I, that he was going to work and he was going to fight and he was going to serve as if the entire outcome of the long and bloody battle depended upon him and him alone.

Then President Reagan closed, and I think this is a direct quote, I had this committed to memory, I may not have it exactly right, but I believe the words were these. He said:

> Our problems do not require that kind of sacrifice. They do, however, require our best effort, and our willingness to believe in ourselves, to believe in our capacity to perform great deeds; that together, with God's help, we can resolve the problems which confront us now. And after all, why shouldn't we believe that? We are Americans.

I've got to tell you, those words burned in my ears and they burned in my consciousness. I think it is one of the reasons that I ultimately ran for the State legislature, and by the grace of God, ultimately ran for the United States Congress, and I am so proud to be here today.

One of my favorite expressions from Ronald Reagan, and I use it often, if you talk to my staff, and we used it in the campaign, we use it around the office a lot, I believe originally came from Benjamin Franklin. President Reagan used it often. He said "Facts are stubborn things. You know, we can ignore the facts, we can deny the facts, but ultimately facts are facts."

As he pursued his agenda, as he pursued the things that he wanted to do for this country, he stuck by the facts. I think, Mr. Speaker, many people called him the great communicator. He was a great communicator, but he was a great communicator principally because he stuck to the facts and he talked in simple terms that the American people can understand.

As a matter of fact, another story that I always like to remind people of with President Reagan was when he went to Reykjavik and he negotiated with Mikhail Gorbachev. I remember the stumbling block was SDI. Again, the press was fond of using the term Star Wars. Essentially, we could have a large reduction in nuclear arms if only President Reagan were willing to give up on this misguided notion that he called Star Wars.

Ultimately, the meeting broke down and they were not able to solve many of the big issues. I will never forget, the national press was saying, essentially, This old man was unwilling to give up on this crazy idea, Star Wars, and as a result, we didn't get that peace treaty, the press was having a field day, and they were trying to make light of all of what had happened, trying to make President Reagan look bad.

The next night he came back and he spoke to the American people. He spoke in very simple terms. He said that the SDI, the Strategic Defense Initiative, was America's insurance policy against Soviet cheating. The interesting thing was, the next day all the polls were taken, the overnight polls, and about 85 percent of the American people understood exactly what the President meant and they agreed with him. Than all of the ballyhoo stopped.

Facts are stubborn things. One of the real tragedies, I would say to the gentleman from New York [Mr. SOLOMON] about what is happening today, many people are trying to rewrite the facts. They are trying to rewrite the myths about what really happened in the eighties.

The eighties was a very special time. I don't want to be redundant. I suspect some of the issues have been covered earlier. However, when we look at what really happened with the economy during the eighties, we continue to hear that it was the decade of greed, and during the eighties the rich got richer and the poor got poorer.

The facts do not simply bear that out. The truth of the matter is that real per capita income during the eighties went up by 15.7 percent, and average family income increased by more than $15,000. In fact, if you look at the poverty rate, it dropped from 13.7 to 12.1 percent.

The budget deficit, believe it or not, was only $152.5 billion during his last year. Now we are looking at $200 billion plus budget deficits, on to the end of this decade, and we are saying that it was because of the Reagan buildup.

When you talk about taxes, we keep hearing that the rich didn't pay their fair share during the decade of greed, but the average tax payment for the lowest 50 percent of earners fell by 26 percent between 1981 and 1988, and we removed 6 million low-income families from the tax rolls during the eighties.

The other myth is that social spending was slashed. We talk about all the Reagan cuts of social spending. Unfortunately, I would say, over 45 percent of the $1.9 trillion in new expenditures during that period went to social spending.

We hear the myth of charitable giving, that Americans were greedier in the eighties, but the truth of the matter is that charitable giving rose $48.7 billion during the eighties, a 55-percent increase.

Mr. Speaker, it was a very special time. President Reagan was a very special President. In fact, one of my last memories I would like to share with you tonight, my wife and I talk about this often, was when he finally left office.

I talked about when he was sworn in, but when he left the office for the last time, out here on the steps of the Capitol, he turned around and saluted. I remember saying to my wife at that time, I said "Mary, you know, he was a long time coming. He will be a long time gone."

Mr. Speaker, if I could, I would like to close my remarks here with a quote, and I would like to submit for the CONGRESSIONAL RECORD a column which was written by Jeff Bell, because he said more in a few words about Ronald Reagan and he said it better than I can say it. I would like to submit for the record this column.

However, I would like to close, if I could, with the last paragraph, because I think it says so much about President Reagan: "Unfashionable, misunderstood, or held in contempt by political elites of all stripes, never respected by the press, patronized privately, even by his own aides, Mr. Reagan soldiered on with his populist vision and unexpected moves, essentially alone at the top, for eight years of the most pivotal years in world history. This was more than enough."

Thank you, Mr. Speaker; thank you, I would say to the gentleman from New York; and thank you, President Reagan.

The article referred to is as follows:

[From the Wall Street Journal, Dec. 27, 1989]

MAN OF THE DECADE? MAN OF THE CENTURY!

(By Jeffrey Bell)

As European communism collapses, it would seem logical that credit would be given to the man who led the winning side during the decisive period. This shows no sign of happening.

Abraham Lincoln and Franklin Roosevelt died just before the end of the great struggles they won. Ronald Reagan has lived to see not just ideological victory over communism, but what increasingly appears to be a vindication of his seemingly most outlandish hopes for a democratic world. Yet few people give Mr. Reagan himself much credit.

Perhaps this shouldn't be so surprising. In one way, the treatment of his presidency in the year since it ended is a continuation of the pattern of Mr. Reagan's entire political career, which led his opponents (and a solid majority of his allies) to underestimate him and his ability every step of the way. The dynamic of underestimation is helped along by the foibles of his wife, in particular the taste for luxury embodied by the Reagans' recent multi-million dollar trip to Japan, engineered by Mrs. Reagan and her long-time friend, Charles Z. Wick. Harmful as this sort of thing to Mr. Reagan's post-presidential image, in the long run it will be relatively unimportant to the story of Mr. Reagan's presidency.

WINNER OF THE COLD WAR

Clare Boothe Luce once remarked that any great presidency can be summed up in a sentence or so. Lincoln: He destroyed slavery and saved the Union, thus preserving and enhancing democracy's example to the world. Reagan: By making democracy vigorous again—ideologically, economically, militarily—he won the Cold War and ended the century-long era in which socialism appealed to popular opinion.

How did Mr. Reagan manage to do these things in his eight years? Did he in fact do them at all, or did a combination of circumstances cause these things to take shape during his watch?

Both of the above are true. Historic opportunities presented themselves to Mr. Reagan—and he took advantage of every single one of them. The result was a global revolution.

Mr. Reagan cut the top personal tax rate in this country from 70% to 28%. He ended inflation and achieved a seven-year-long expansion that created 20 million new jobs. He asserted traditional values, unapologetically. He revived patriotic sentiment and remade the Supreme Court. In the Webster abortion decision, his appointees delivered a crucial defeat to judicial elitism.

In foreign policy, Mr. Reagan was frustrated in Lebanon and Nicaragua, but ultimately nowhere else. He rolled back communism in Grenada. His Strategic Defense Initiative set technological limits on Soviet hopes for strategic dominance. In Afghanistan, Angola and Cambodia, the Reagan Doctrine served notice that Soviet advances were no longer irreversible.

In Mr. Reagan's first term, the Brezhnev-Andropov Soviet regime showed a tendency to push matters in the direction of global confrontation, particularly in its boastful reaction to the Korean Airliner shootdown of 1983. In the face of this frightening Soviet attitude, Mr. Reagan showed no inclination to compromise on anything—SDI, the defense buildup, the deployment of Pershing-IIs in Western Europe or the Reagan Doctrine.

But when Mikhail Gorbachev succeeded to the Soviet leadership in March 1985. Mr.

Reagan quickly discerned—before it was evident to almost anyone else—the possibility of a profound change. His repeated assertion of this possibility won him much ridicule through most of his second term, from his natural allies most of all. Particularly after Reykjavik. Mr. Reagan ran into much criticism in this country and in Europe for his indulgent attitude toward the Soviet leader.

But Mr. Gorbachev, perhaps surprisingly, turned out to be the sort of leader highly susceptible to praise and approval from his antagonists. His growing willingness to unleash the human forces in his empire will undoubtedly win him a major place in history, whatever happens to him personally from now on. But that same history will evaluate Mr. Reagan's handling of Mr. Gorbachev as one of the masterpieces of 20th-century diplomacy.

Mr. Reagan's greatest foreign-policy failure was the Iran-Contra scandal, in particular his attempt to trade arms for hostages. When Mr. Reagan tried to retrieve the situation, with the Kuwaiti tanker reflagging of 1967, initially just about everyone saw his efforts as absurd. The press did. The allies did. The Democrats did. His fellow conservatives did. Even the Navy Department did.

But Mr. Reagan, who genially ignored his critics when he was determined on a course of action, once again was right. The operation was chaotic and seemed to have little rationale, but its target succumbed. In agreeing in 1988 to a cease-fire in the eight-year-old war against Iraq, the Ayatollah Khomeini likened the action to drinking a cup of poison—a cup necessitated by Mr. Reagan's move into the Gulf. This must be the closest thing in recent politics to an international concession speech. This tribute from Mr. Reagan's most implacable and resourceful enemy was a cut above anything said on behalf of the policy at home.

But that was always the way in the Reagan years. A radical or unexpected Reagan initiative would be greeted with reactions ranging from disbelief to ridicule. It was open season during the execution of the policy, which, as is so often the case with radical or counterintuitive policies, invariably ran into many hitches. Then, upon the success of the policy, there fell a dead silence as to Mr. Reagan's earlier role in it. Mr. Reagan liked to joke about how the word "Reaganomics" suddenly disappeared as the magnitude of the 1982–89 expansion became clear.

Mr. Reagan was full of jokes and stories, and never seemed to take anything said about him personally, but he was deadly serious about his goals. He loved to talk politics and issues almost all his adult life, but never sought office until he was 55. He steadily developed and forwarded his agenda, with many setbacks, until he was 69. Then he became the oldest man ever to take office as president, and (despite a fearful wound) served until he was nearly 78, as the most consistently effective president since Lincoln.

Still, Mr. Reagan the political leader has been underestimated even by many who recognize his achievements. They note his lack of interest in the details of policy, and the role of talented aides in forcing through a number of his programs. Yet how odd that Mr. Reagan's success continued through a succession of four White House chiefs of staff and six national security advisers who differed widely from each other in knowledge, style and policy.

Perhaps even more revealing is that in some of his most distinctive policies—tax rate reduction, abortion, SDI, the Reagan Doctrine, the Kuwaiti reflagging, the decision to address human-rights activists during the Moscow summit, to name a few—Mr. Reagan acted against the expressed opinions of nearly all his close advisers. Historians may conclude that Mr. Reagan's lack of interest in administrative details masked a laser-like ability to separate the important from the transitory, and to focus on the important.

THE WORLD HIS OYSTER

Perhaps the greatest irony of all is that the one area where virtually everybody thought him deficient—foreign policy—may prove to be his most lasting success. In a moment of bemusement a couple of years ago, the Washington Post remarked in an editorial that when Mr. Reagan ventured aboard, he found not just the nation but the world was his oyster.

His successes at home and abroad were intimately related. It was partly, of course, that domestic revitalization fed into renewed American assertiveness on the world scene. But it was also that, unlike nearly everyone else in U.S. politics in the 1980s, Mr. Reagan thought foreigners aspired to a fully democratic life just as much as Americans did. His Wilsonian-FDR global populism, the element of his ideology least shared by U.S. elites of both the right and left, is what ties together the "hawkish" Reagan of the first term and the "naive" Reagan of the second, and made the two work toward the same end: the globalization of democratic values.

Unfashionable, misunderstood or held in contempt by political elites of all stripes, never respected by the press, patronized privately by most of his own aides, Mr. Reagan soldiered on with his populist vision and unexpected moves, essentially alone at the top. For eight of the most pivotal years of world history, this was more than enough.

□ 2110

Mr. SOLOMON. I say to the gentleman from Minnesota [Mr. GUTKNECHT] I really want to thank you for those eloquent remarks.

You know, I only regret that Ronald Reagan could not be in office here today with this new Republican majority backed up by 40 or 50 conservative Democrats. Look what we have done in just 5 weeks, and think what we could do over the next several years if Ronald Reagan were still President.

You know, the first week we were here, I will say this to the gentleman from Minnesota [Mr. GUTKNECHT] because it came with his help, we began to shrink the size and power of the Federal Government and started it with the Congress.

The second week we were here we passed an accountability act which foists the same laws on the Congress that we foist on the American people. What a message that sent.

The third week we did the impossible, we passed the balanced budget amendment, something Ronald Reagan wanted so much.

And the fourth week we passed unfunded mandates, something that was impossible to pass before the new Republican majority took over.

And look what happened on Ronald Reagan's birthday yesterday, that line item veto. You know, if we had Ronald Reagan here, think what we could do for the next 2 years, welfare reform, product liability reform, capital gains tax reductions, tort reform. We could go on and on and on.

Since we are running out of time, Mr. Speaker, let me say in the epilog of Ronald Reagan's autobiography on American life, the President recalled his thoughts as he boarded the plane to California after George Bush's inauguration, and I have a picture of him saluting hanging on my wall with he and his wife Nancy boarding that helicopter. You know, he described a feeling of incompleteness, that there was still work to be done, a balanced budget amendment to the Constitution, and a line item veto for the President to cut out unnecessary spending.

Well, Mr. Speaker, this House passed a balanced budget amendment on January 26, and as I said before, the line item veto passed yesterday.

We have done President Reagan's unfinished business. We are just getting warmed up. Over the next several months and years we will finish the Reagan revolution of shrinking the size and the power of this Government and returning the power back to the States and local governments and letting the private sector run and work the way it should, you know.

Mr. Speaker and Members, I would like to close with a quote from Ronald Reagan's first inaugural address and suggest it apply to this 104th Congress as we continue the second Reagan revolution. I say to the gentleman from Minnesota [Mr. GUTKNECHT], here is the exact language, and you were not far off, he said, "We have every right to dream heroic dreams, to believe in ourselves and to believe in our capacity to perform great deeds, to believe that together, with God's help, we can and we will resolve the problems which now confront us."

And after all, why should we not believe that? Because we are Americans.

Mr. President, we wish you a very, very happy 84th anniversary, birthday. Thank you so much for what you have done for America. America will never forget you.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman from New York for organizing this special order to pay tribute to one of the 20th century's greatest world leader's former President Ronald Reagan.

Yesterday was President Reagan's 88th birthday and as we honor him, I want to express sincere thanks on behalf of myself and everyone in my congressional district for the visionary leadership that he gave to this Nation during the 8 years he was its Chief Executive.

I had been in Congress for 2 years when Ronald Reagan formally entered the American political scene by giving his thrilling televised speech in support of Barry Goldwater in 1964. His heartfelt statement of his conservative political beliefs made likeminded conservatives like myself look up and see a standard bearer whom we would be able to rally behind in the future.

I was already very familiar with his career as an actor and television spokesman, and I continued to follow his effortless switch to the public arena when he ran for governor of California in 1966. The astounding margin by which he upset an incumbent governor put everyone who watched on notice that a political force be reckoned with had arrived.

After his 8 successful years as governor of our most populous state, Ronald Reagan devoted all of his considerable energies to seeking the Nation's highest office. In 1980, during a dark time for our Nation, he waged a successful campaign to set the ship of state on the proper course again.

The Republican landslide that seized Washington in the wake of the Reagan victory created heady times for conservatives, and we waged many battles here on the floor of the House to bring about the changes that President Reagan spoke of in his revolutionary campaign. And although the President's party did not then control this chamber, for a brief period of time, his ideas did.

During the President's first year of office, his leadership enabled us to set America on the course that would win the Cold War and turn loose the engine of economic freedom. The work that he did then made it possible for the new Republican majority here in the House to have the cohesive agenda for its first 100 days that is energizing this country.

Mr. Speaker, as President Reagan battles illness at his California home, it is altogether proper that we gather to honor him and his legacy in this way. I know that all of my constituents join me in sending our heartiest congratulations on his birthday, and to this great American, we wish Godspeed.

Mr. SHADEGG. Mr. Speaker, I am honored to be able to participate in this tribute to a great American—Ronald Reagan—and to his continuing legacy. Through my father's lifelong association with Senator Barry Goldwater, I first met then Governor Reagan in 1968 on my way to the Republican National Convention in Miami. He impressed me then and he impresses me today. There can be little doubt that it was his commitment to downsizing government, renewing federalism, restoring America's defenses and re-establishing our belief in ourselves that led to the tide that swept Republicans to victory on November 8 and put this House under the control of the Republican party for the first time in 40 years.

As we debate the Contract with America, whose central features are intended to bring fiscal discipline to Congress and the country, I am absolutely confident that the Reagan record will stand the test of time. Under the policies of Ronald Reagan, America experienced the longest period of peacetime expansion in our history. This expansion created 19 million new jobs ad more than doubled the U.S. economy. Regardless of all attempts to rewrite the Reagan legacy, the central fact is that Ronald Reagan's policies benefited more people at every economic level than ever before.

Had Congress had the discipline to rein in domestic spending during the Reagan years, not only would we have defeated the Evil Empire, but we also would have avoided the serious deficits and mounting debt which now threaten our security.

Thanks to Ronald Reagan more of the world is free today than ever before and as a result, people who were once prisoners of tyranny and our enemies are now our trading partners. It was his vision for the Strategic Defense Initiative that is being pursued today to protect our troops on the battlefield; and it was his commitment to peace through strength that brought the cold war to an end.

Ronald Reagan reminded us daily and by example what it means to be an American. He is still reminding us today.

It is for all of these reasons and for all of the others that will be discussed in this tribute that the Goldwater Institute, a Phoenix-based public policy institute, will present to him their prestigious Goldwater Award. The award is presented to an individual whose efforts have significantly promoted the principles that Senator Goldwater championed through out his career: Limited government, economic freedom and individual responsibility.

This year the award will be presented on April 21 and will be accepted by Former First Lady Nancy Reagan. The award ceremony will be a true celebration of the movement for limited government. Barry Goldwater, the man largely responsible for launching the movement, will honor President Reagan, who brought the movement to victory. And, the keynote address will be given by our Speaker, NEWT GINGRICH, the man whose task it is now to carry this movement into the future.

Mr. WELLER. Mr. Speaker, I rise today to honor former President Ronald Reagan. I am proud to have this opportunity to speak about our 40th president who was born 84 years ago, in my home State of Illinois. At the age of 9 his family moved from Topica and settled in Dixon, IL where he played football and basketball, ran track, served as president of the student body, and first performed as an actor. Continuing his education in Illinois, Ronald Reagan graduated from Eureka College in 1932 with a degree in economics and sociology.

From humble beginnings, Ronald Wilson Reagan went on to become a sportscaster, actor, governor of California, and President of the United States.

Sworn in at the age of 69, Ronald Reagan was the oldest President ever elected. As one of America's most popular Presidents, Reagan presided over a period of great fiscal growth as he revitalized the American economy. Through his efforts, the American people enjoyed great prosperity, while he steered the country through the delicate times of the cold war.

Mr. Speaker, the state of Illinois is proud to have Ronald Wilson Reagan as a native Illinoisan. It is for this reason and all of his great services to the United States of America, that efforts are being made by the Illinois Senate to have Interstate Route 57 designated as the Ronald Reagan Highway. Stretching from the great city of Chicago, through the fields of middle America, to the beautiful scenic land of southern Illinois the Interstate offers a view of both the Land of Lincoln and the birthplace and early home of Ronald Reagan.

I urge my former colleagues of the Illinois State House to pass the legislation honoring Ronald Reagan and name Interstate Highway 57 after him.

Mr. ALLARD. Mr. Speaker, I am pleased to join in this celebration of President Reagan's 84th birthday. Ronald Reagan's place in history is secure. With each passing year, his stature as a leader grows.

President Reagan's most important contribution was the leadership he provided during the West's long struggle with totalitarian communism. When he called the Soviet Union an evil empire media pundits scorned him. Today, we all know that he was right. But President Reagan provided far more than rhetoric in the struggle against communism. In 1980, America was dangerously weak and demoralized. President Reagan understood this and he directed the strengthening of all aspects of our military, coordinating our efforts with other members of the Western alliance.

Following the end of World War II, country after country fell to communism. All of Eastern Europe fell, much of Asia fell, and inroads were even made in Africa and Latin America. the Iron Curtain went up, and freedom was on the defensive. This all ended in 1981. From the point when Ronald Reagan entered the White House, no additional territory fell to the Communists. From that point forward the tide began to turn. On all fronts, the Reagan administration backed the forces of freedom. Solidarity in Poland was helped, the Afghan freedom fighters were helped, Grenada was liberated, and democratic struggles throughout Latin America were supported. The Soviet Union was confronted by a Western alliance that had finally awaken to the dangers of appeasement. The alliance was greatly strengthened by the friendship and support of President Reagan's close friend and ally, British Prime Minister Margaret Thatcher. The west won the cold war, and Ronald Reagan deserves much of the credit.

President Reagan's second great triumph was his economic plan. We was the first modern President to directly challenge the notion that more government was good. In his view, Government does not solve problems, it subsidizes them. While this view is widely held today, it was ridiculed throughout the 1960's and 1970's. During those years, Reagan was nearly alone in his struggle against the endless growth of government. But he never altered his message. Unlike other politicians, he stood firm, and gradually the country moved his way. That is what made him a leader.

The Reagan program of lower taxes and less regulation was a tremendous success. In the early Reagan years all income taxes were cut across-the-board by 25 percent. The decade to follow witnessed the longest peacetime economic expansion in the history of our Nation. All income groups experienced significant income gains from 1980 to 1989. Twenty million new jobs were created, and the vast majority were high-paying professional, production, and technical jobs.

In the late 1970's inflation was as high as 18 percent, and interest rates rose to 21 percent. The Reagan economic program brought both of these down dramatically. The 1970's malaise brought on by high inflation, skyrocketing interest rates, high unemployment, and high taxes was replaced by an economy that fostered opportunity, growth, and optimism.

President Reagan rallied our Nation. He reminded each of us of our proud history and heritage. He was never afraid to proclaim his love for America. Most important, he stood up for what he believed. He knew the importance of strength and resolve. The result was the most successful Presidency in decades. As Reagan himself reminded us:

> History comes and goes, but principles endure and inspire future generations to defend liberty, not as a gift from government, but a blessing from our creator.

Happy birthday Mr. President.

Mr. SOUDER. Mr. Speaker, I rise to pay tribute to the 40th President of the United States, Ronald Reagan. Many have called our new freshman class the children of the Reagan revolution or the real Reagan revolution.

Ideologically, this is true. We are committed to the principles upon which Ronald Reagan was the chief spokesman: reduce the size of Government, cut taxes, rebuild not undermine our Nation's strong moral and family base, and stand for a strong America. In my case, it goes beyond the generalization. In 1964, just after my 15th birthday, I heard Ronald Reagan's famous speech for Barry Goldwater for President. Like many others, I was moved to action.

First, I took $5 of my hard-earned "pop-bottle sorting" money I earned at our family's general store and sent it to Goldwater. Second, I was activated and never looked back. After Goldwater's shocking defeat—he did pretty well in my hometown of Grabill—I organized a Young Americans for Freedom chapter at Leo High School, one of the Nation's first high school YAF chapters.

At our 1968 Leo High School commencement, as senior class president, I was asked to speak. In my draft remarks was a quote from then Governor of California Ronald Reagan, with the comment, "who will someday make a great President of the United States." Our faculty advisor, Mrs. Mumma, said to delete it or I couldn't speak. It was deleted off my cards, but I ad-libbed it anyway, being a somewhat independent person.

At the 1971 YAF national convention, I was part of a group of conservatives pushing Reagan to run in 1972. In 1976, I helped in his surprise victory in the Indiana Presidential primary for President. President Gerald Ford was respected in Indiana, as our neighbor from Michigan, but our hearts were with Reagan. A friend of mine, who had also been a Reagan backer since 1968, won the 4th Congressional District Republican primary in that same election. That Reagan fan went on to upset an incumbent member of Congress in the fall. I now hold my friend, and fellow Reaganite, Dan Quayle's old congressional seat.

In 1980, Dan Quayle went on to defeat an incumbent U.S. Senator and another friend of Reagan won the 4th District Congressional seat. After Quayle was elected Vice-President, our friend DAN COATS moved up to the U.S. Senate.

This is the Indiana version of the Reagan revolution. To those who thought the Reagan revolution was over, prepare yourselves. Dan Quayle is obviously still an important player and DAN COATS is in the Senate, and I am joined in the Indiana House delegation by my distinguished freshman colleague DAVE MCINTOSH, who worked in the Reagan administration.

After a short break, we are back. The legacy of Ronald Reagan will live on, led by the first State for Reagan—Indiana.

Mrs. FOWLER. Mr. Speaker, I rise today to pay tribute to former President Ronald Reagan, who celebrated his 84th birthday yesterday.

President Reagan has always loomed larger-than-life on the political landscape of this Nation, and though he has retired from the spotlight, his many contributions to our Nation are still being felt today. His enlightened world-view and his commitment to our national security ultimately resulted in the end of the cold war and the spread of democracy around the world.

And the conservative ideals upon which he based the Reagan revolution are experiencing a renaissance, as both citizens and lawmakers realize that the big-government, bureaucratic approach to problem-solving is not working.

I know that this must be a bittersweet birthday for President Reagan, as he faces what is perhaps his greatest challenge. However, I am also sure that he derives a great deal of comfort from knowing that he has his devoted wife at his side, that he is remembered in the prayers of a grateful Nation, and that, once again, on the horizon of this great Nation, there is a glimmer of morning in America.

Happy birthday, Mr. President, and thank you.

Mr. CRANE. Mr. Speaker, Ronald Reagan's Presidency brought a fresh breath of renewed freedom to this country shackled by regulation, inflation, high interest rates, and higher taxes at the time of his first inauguration.

It was the policies of Ronald Reagan which brought about the greatest national upset of the century—the collapse of the Soviet Union. Ronald Reagan toppled the reign of an evil empire which its own citizens sought but who were helpless to free themselves from—the dictatorship which Lenin and Stalin had set upon them.

He kept his faith in America.

Ronald Reagan gave this country its biggest tax cut in the first year of his presidency. The Reagan cut stimulated the dynamic growth of the decade that followed, an explosion which created 20 million jobs.

Ronald Reagan adhered faithfully to traditional American family values. He was adamant against abortion.

It was Ronald Reagan who touched off the debate on free trade. His leadership in this area brought about our first free-trade agreement with Canada. The NAFTA pact followed.

I personally have been a Ronald Reagan supporter for over a quarter of a century. I battled in vain to gain him the Republican nomination for President in 1968 in Miami Beach, and in 1976 in Kansas City. When I withdrew from the presidential campaign in 1980, I threw all my support behind him.

Ronald Reagan—a native of my own home State of Illinois—was ever the optimist who recognized that the United States still represents the world's best hope.

Mr. FUNDERBURK. Mr. Speaker, I join with my colleagues in sending grateful happy birthday wishes to President Ronald Reagan.

Mr. Speaker, there are a few figures in each century who transcend their times. Americans point to Washington and Jefferson, Britons to Winston Churchill. As we celebrate his eighty-fourth birthday, it is past time to add the name of Ronald Reagan to liberty's pantheon.

It is hard to remember what it was like before Ronald Reagan came to Washington. The 1970's were a decade of disillusionment. Communism was on the march. Democratic government and the rule of law were in retreat. We were even questioning our purpose as Americans.

Yet, there came a great wind of change in 1980 which left America and the globe transformed beyond all recognition. Ronald Reagan led the way. Like Churchill before him, he gave free people the voice they thought they had lost. His ideas produced an economic dynamism Americans had not seen for decades. He exuded confidence in the American spirit. He harbored no inhibitions about the use of American power and he stood guard as the iron curtain crumbled before our eyes.

Mr. Speaker, Ronald Reagan mirrored the thoughts, desires, and faith of ordinary Americans. He recognized as they did, that America is "the bright shining city on the hill." Happy birthday, Mr. President. May you have many more.

Mr. PACKARD. Mr. Speaker, today we celebrate President Ronald Reagan's birthday. During his administration, President Reagan rekindled our Founding Fathers' guiding principles of limited government. In his inaugural speech President Reagan reminded Americans that "we are a nation that has a government—not the other way around."

I began my congressional service under his administration. I came here sharing Reagan's vision of American renewal. Today, his insight continues to drive the work of the 104th Congress as we press for less spending, less taxes, and less regulation. His philosophy echoes in the mandate Americans sent Congress in November. His values provided the underpinnings for the Republican Contract With America.

Under decades of liberal leadership, the Congress forced the American people to carry the weight of a bloated, wasteful government. Under Reagan's leadership the American people found relief from the liberal tax-and-spend machine and a sense of national renewal.

During the 97th Congress, President Reagan initiated the line-item veto by choosing to hold the line on wasteful spending. He sent House Joint Resolution 357—the continuing resolution providing appropriations for fiscal year 1982—back to Congress. He courageously tried to protect the American taxpayer from unnecessary spending. Unfortunately, Mr. Speaker, the budget-busting liberal Congress chose to ignore his warnings and continued to produce wasteful, bloated budgets year after year.

The Republican-controlled 104th Congress has the opportunity to roll back the big spenders in Congress. President Reagan showed us the way. Now we must take the lead and pass the line-item veto.

Mr. Speaker, it is an honor to recognize President Reagan for his political and personal achievements. His freedom agenda, our Republican Contract With America, is alive within the walls of Congress. Happy birthday, President Reagan.

NATIONAL SECURITY CONCERNS

The SPEAKER pro tempore (Mr. HANSEN). Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 60 minutes.

Mr. HUNTER. Mr. Speaker, I want to talk about something that was important to Ronald Reagan and important to the American people and at the heart, I think, of our success as a Nation during the 1980's and very much at the heart of whether or not we will be successful in the 1990's, and that is national security.

Today the President unveiled his defense budget and, Mr. Speaker, to be charitable, it is a budget that slashes national defense.

To give you some idea of the magnitude of the cuts that have been made by the Clinton administration, it is important to understand that in 1990, President Bush, then President Bush, got together with the Democrat leadership of this House, and he established a defense line below which we would not cut, and Democrats and Republicans agreed that that was an important line to keep, an important mark to keep if we were to maintain America's interest and maintain the security of our people. Now, after the fall of the Berlin Wall and the commencement of the breakup of the Soviet Union and in light of that, in 1992, President Bush got together with his Secretary of Defense, Dick Cheney, his then Chairman of the Joint Chiefs of Staff, Colin Powell, and they put together an other defense budget, and because of the breakdown of the Soviet empire, they decided that they could prudently cut $50 billion over 5 years below the agreement that the President had made with the Democrat leadership in 1990, and they started to engage in those cuts, $50 billion.

Well, when President Clinton was elected, he put together a 5-year defense plan cut $127 billion below even the Bush cuts of $50 billion. That means about $177 billion below the agreement that had been made in 1990.

I want to talk tonight a little bit about what this installment, this year's installment of the Clinton defense cuts will mean to the armed services of the United States and to the security of the American people.

You know, last year the President's people projected what this year's defense budget should be. And what is very interesting, and I heard Secretary Perry give a very well-ordered speech yesterday in description of the defense budget, but it was interesting to see that Secretary Perry and President Clinton have cut $9 billion in new weapons systems, new equipment systems, out of the budget that last year they felt were important systems. And it is also interesting to see that President Clinton understood last year that he was about $6 billion short with respect to this year's defense budget. He knew he would have to get the money somewhere.

And yet he only added $2 billion to this year's defense spending, meaning he knew that he was going to be going in the hole about $4 billion.

Well, Secretary Perry says, and I am paraphrasing his theme, he says that our country will be ready to fight even with these reduced forces. Let me tell you how low our force structure is going to be under the Clinton defense plan.

We are going to go from about 18 active army divisions to 10, almost cut 50 percent in our army divisions. We are going to cut from about 24 fighter air wing equivalents to about 13, and we are almost there. That means we will have to cut from America's air power almost 50 percent.

That means we are cashiering young people at a rate in excess of 1,500 young people a week out of the military, and I am reminded of what George Marshall said at the conclusion of World War II when we were demobilizing at such a radical pace, and when he was asked how the demobilization was going, he said, "This isn't a demobilization, it is a rout," and I would assert what we are undertaking right now is not a demobilization, it is not a drawdown, it is not a prudent reduction, it is a rout.

Now, I want to concentrate right now just on what the President is cutting this year, that last year he said he needed. First, the first item on this list is called the TSSAM, TriService Standoff Attack Missile, and very simply, for those folks that watch CNN and watched our aircraft in Desert Storm approach various strategic institutions of Iraq like bridges and roads, command bunkers, and for those people that watched those precision-guided munitions leave an aircraft some distance from the target and be guided in by a laser spotter or other means, they watched those munitions guided in and hit those targets precisely. I think we all remember when CNN showed the depiction of Iraq's luckiest taxicab driver. He was a guy that got about all the way across that bridge, just barely got across the bridge before a precise munition hit that bridge and destroyed it.

Very simply, in these days when the other side, the bad guys, have some missile systems that are very accurate, that is surface-to-air missiles, that can kill your planes, knock down your planes and kill your pilots, you need to have standoff missiles. Those are systems you can launch from many miles away. You can turn the airplane back. You can get the airplane safe, and your missile will follow on. It will hit that bridge. It will hit that antiaircraft position. It will hit that command bunker with precision. We need precision-guided systems.

Now, the interesting thing is that after he canceled this new precision-guided system that we desperately need, the President also canceled some other classes.

□ 2120

He canceled the air-launched cruise missile, which is a very accurate system and which could have filled in for the standoff missile that he was canceling. So, he canceled the air-launched cruise missile also. We were going to purchase between 75 and 100 air-launched cruise missiles, and the President canceled that system.

Now, with respect to Cobra helicopters, the Cobra is a gun ship. It is one of—in light of the fact that we have not developed a new helicopter lately, we have not moved forth on the Apache program. It is an important helicopter for our ground troops and works in close support with our Army and with our Marine troops in ground assaults. The President canceled nine of those.

With respect to the Comanche helicopter, which is a new scout, armed scout, helicopter that the Army says is very important to their mission and that the President's own review, the so-called Bottom-Up Review, said was important to the Army's mission, the President has entered an order of no production. We are going to be building a couple of prototypes, but we are not producing as of now.

With respect to the DDG–51 Aegis destroyer, we are coming down from a Naval fleet that was close to 600 ships, between 500 and 600 ships, and we are coming down to less than 375 ships, and the DDG–51 Aegis destroyer is a very important ship because each one of these ships carries what I call a little SDI system. It is a system that allows radar to track a missile that is coming in, or an aircraft that is coming in, and shoot out a standard missile, one of our surface-to-air missiles, ship-to-air missiles, and destroy that incoming missile, and this ship has a potential of being developed as a theater ballistic missile defense system.

Now what that means is, for those of us that watched those Scud missiles, which are ballistic missiles, zeroing in on our troop concentrations in Desert Storm, Aegis destroyers off the coast of Iraq, had he had this new theater missile ballistic missile system developed at that time, it could have shot down those missiles in mid-air, much as your Patriot missile systems did with varying results on the ground. So, this is a system—this new ship maintains an air defense system, which could blossom into a theater ballistic missile defense system that will protect American kids, our men and women in uniform who are concentrated in various areas of the world.

So, it is a very important system. The President is canceling this new production, this production of a single new ship, in this year's budget.

He is also canceling this LPD–17 amphibious transport dock. Now that, according to the bottom-up review, is an important part of our ability to take a beachhead, and the President is going to cancel that.

F/A–18 C/D's; those are our new fighter slash attack aircraft that are based on our carriers which are supposed to take over the roles of two aircraft, our F–14's and our A–6 attack aircraft. Now the interesting thing is we actually purchased about 27 fighter aircraft last year in the entire American inventory. That means that the United States of America bought fewer fighter aircraft than the country of Switzerland.

Now, just to keep our fleet modern, because we lose a few aircraft all the time, our aircraft are always exercising, they are always training, they are often on deployment. Just to keep the fleet modernized so we do not end up with a bunch of 1965 Chevy aircraft, we have to buy about six times that number of aircraft each year just to keep our fleet modern so the young men and women who are flying those aircraft have a good chance of coming back alive.

The President this year is going to buy 12 aircraft. That is less than half of what Switzerland purchased last year.

Now with respect to E–2C's, those are the AWACS aircraft that our Navy uses, and those aircraft can detect adversary aircraft. That means that, if we have a ship or a battle group that is off the gulf in the Middle East, and we have aircraft, adversarial aircraft, that are launched by Iraq or Iran, and E–2C aircraft is your early warner. That is the aircraft that has a guidant pod on top of it, a radar system, and it can tell you what is coming in, and when you scramble your own aircraft to meet that threat, it helps direct them in for the kill. We are canceling one of those this year.

The Tomahawk missiles I already mentioned; we are canceling 97 of those. Tomahawks are tried and true missile systems, and I cannot give you the absolute number of standoff weapons because that is a classified number, but I can tell you that we are short on standoff weapons. We could expand in a real conflict like a Desert Storm conflict all of our standoff weapons in a fairly short period of time, and it makes no sense, even if you are downsizing people and you are cutting the number of ships and the number of aircraft you have, it makes no sense to cancel your standoff weapon systems and cut down those numbers. Those are bullets in your gun, and just because we have enough troops and have enough bullets right now to go out and engage in a very fast firefight, you also have to have sustainability. That means the ability to fight for days, for weeks, and sometimes for months, and that means you have to have a big enough stockpile of ammunition and missiles to do that job.

And finally we have the Trident II D–5 missiles. That is considered to be very important part of the remaining part of our nuclear deterrent. Those are nuclear missiles, strategic missiles that are mounted on our submarines, and while we are cutting out almost all of our land-based missiles, we are alshing our bomber force, we are relying more and more on our submarines, and yet the President is cancelling this most modern program in our strategic submarine-launched ballistic missiles.

So this President interestingly is not just cutting $127 billion below what George Bush thought was prudent. He is cancelling his own systems. He is cancelling systems that he said last year we would need and that his own experts said we would need, and I see the gentleman from Georgia [Mr. KINGSTON] has risen. I yield to my friend.

Mr. KINGSTON. Mr. Speaker, I say to the gentleman, "Thank you, Mr. HUNTER. I wanted to make sure I got this straight. You were saying earlier that what the President or the administration had said is that we can fight a battle on two fronts, a war on two fronts, and, listening to you, I'm not so convinced that is true. How would you respond to that?"

Mr. HUNTER. Well, actually I think it would be very, very difficult for the United States to be engaged in two wars the magnitude of Desert Storm and win, and secondly, even if we won, it would be very difficult to win without taking enormous casualties. Secretary of Defense Dick Cheney said, as I recall, some months into the Clinton cutbacks that it would be very, very difficult to win a single Desert Storm again in the manner that we won it the first time, and there are two aspects to fighting this regional conflict.

Mr. KINGSTON. Mr. Speaker, if the gentleman would yield, let me ask him about Desert Storm.

Now that was what, a 43–42 day war?

Mr. HUNTER. It was a very short war because the United States has overwhelming force, and that was the point that I am getting to, that you reap a couple of benefits from having a vastly superior force. One is that you close the war down quickly by winning with overwhelming force, but the second is you do not bring a lot of young Americans back in body bags, and it was projected that we could have lost 40,000 people in Desert Storm, but because we were so successful in building enough weapon systems in the 1980s, like the M–1 tank, the Apache helicopter, the Patriot missile system, we were able to win quickly, and that saved thousands of Americans' lives.

Mr. KINGSTON. Now that being the case, as I recall, and I used to know the number, but the American casualties were just incredibly low for a conflict of that scale. Does the gentleman remember the numbers offhand?

Mr. HUNTER. I do not have the exact figure on the number of American casualties, but I believe the number of American KIA, killed in action, was less than 200, and interestingly almost a majority of those, or a majority of those casualties, came from the Scud attacks, just a few ballistic missile attacks which were made by Saddam Hussein, and that brings out the question as to why this President is cutting back on our antiballistic missile capability because we saw with just a few launches Saddam Hussein was not only able to show the world that he had offensive capability against the United States, but he was able to bring about our largest number of casualties when his Scud missiles hit the American barracks.

□ 2130

So this President has cut back on theater ballistic missile defense systems, and that means our ability to stop an incoming missile that is launched by an enemy that is coming into our troop concentrations. Our old Patriot system was kind of a model T. It was kind of a model T Ford, and the incoming ballistic missile, the SCUD system, sold to Iraq by the Soviet Union, was kind of a model T also. They were both fairly slow moving in terms of modern warfare. But by golly, we shot down those missiles, a number of them in midair, and saved a lot of our troops. We had varying success, but at least we had something to shoot some of those missiles out of the air.

This President ought to be accelerating the program. Let me tell the gentleman, you have the theater high-altitude defense program, this great Navy program where we already have the radars on the ships. We have to train them to be a little different. You have the missile tubes for the standard missiles. We need a little modification, and we can turn that system on the Aegis ships, which the President is cutting, we could turn those into theater defensive systems.

So if we have a marine America amphibious force on the land in the Persian Gulf, say they just made a beachhead and are there with their tents and operations and artillery and are setting up, and SCUD missiles start coming in, our Aegis ships can back off of the land a little bit and throw up a protective umbrella around those marines with their antiballistic missile defense systems, they can shoot down incoming ballistic missiles that come in to threaten those marines.

That program is called the Navy upper-tier program, the high end of this Navy program, which has a Navy lower tier that is kind of like the Patriot missile defense system, but the

Navy upper-tier program that can shoot down the fast-moving incoming ballistic missiles, has been cut down to $30 million by the President. That may seem like a lot of money, but that allows us to basically terminate the program. It gives you just enough money to terminate the program, pay all the contractors you owe money to.

Mr. KINGSTON. You were saying earlier that the number of divisions in the U.S. Army is being scaled back from 18 to about 10. What is happening in the Marines, particularly as respects this program? Because if you do not have the manpower, you do not have the technology. I know that we have got shuttle diplomacy, and I do not know that this administration has really anything to brag about on shuttle diplomacy. I think the Carter administration sure does, it has resurrected itself quite well.

Mr. HUNTER. I would say, to be fair to the President and the Secretary of Defense, Mr. Bill Perry, the Marine Corps forces have not been reduced. they have only been reduced by a few tens of thousands. They have not been reduced as drastically as the Army has been reduced and as the Air Force has been reduced. I think that that makes a lot of sense. So that is one area where this administration has not reduced drastically.

But one thing that this President has done with respect to the marines is run them ragged. And my information is that the marines who came out of the Bosnian theater, who had to come back after 6 months, were given about 12 days of time with their families, and then they went right back into the Haitian theater. That is called stretching people thin. And that is one reason the Commandant of the Corps said at one time he only wanted single people to apply to the Marine Corps, and that is because there are not a lot of wives, except maybe some congressional wives, who will put up with these husbands being gone for such long periods of time.

Mr. KINGSTON. I am going to have to grab a little time here to say it is also true with the Rangers. Fort Stewart is in the district I represent, the 24th Infantry Division, and my district manager's husband is a Ranger and another employee's husband is a Ranger, and they are gone all the time. And they are first class people, just topnotch.

Mr. HUNTER. In fact, the gentleman has opened up another area that I think is very important, and that is that we have utilized our Armed Forces, the remaining Armed Forces that we have, as world policemen. And these peacekeeping operations in Haiti, in the Bosnian theater, I think we have carried on now the Bosnian airlift longer than we carried on the Berlin airlift. In Africa and around the world, we are using our military forces, but not so much in sending them out with a military mission to win a war or battle and come back, but as peacekeepers. I think when the final bill is in, we will have spent about $1.7 billion until Haiti just on that peacekeeping operation.

What that does to the gentleman's Rangers is it stretches them thin. It keeps your Rangers from spending as much time as they should at home. It also uses up the money that they have for training and for equipment repair and for spare parts and all the things that amount to readiness, it uses that money up. And let me tell you what Secretary Perry has said, to go through this analysis he has been giving for the past several days.

He has been saying, you know, we are not going to sacrifice readiness. He was a little embarrassed by the three Army divisions last year to be found to be in less than a complete state of readiness. He said it is true money used for peacekeeping missions comes out of the hide of the military. That means you do not get to train your top gun pilots, go out to the rifle range as much, get those spare parts, so you become less ready because you are using all your money to go off on peacekeeping operations.

He said we are going to see to it we do not use up our readiness money this year. What he did not tell you is this: What he did not tell you was he was not going to add that much money, because we are only adding $2 billion this year, and we have a $6 billion shortfall by the President's own estimate of what we would need, the estimate he made last year. So we are still $4 billion short.

What Secretary Perry did not tell you is he was going to cancel all these modern weapons and equipment programs to pay for this year's readiness. So what he has been doing, in the old axiom, is robbing Peter to pay Paul. So the problem is we are going to have less modern equipment for these young men and women when they need it.

Mr. KINGSTON. Now, we are also about to consider an emergency budget for the military of about $3.4 billion. Of that, one-half of it is going to come from cutting existing programs. But then the other half of it has already been spent in Somalia, in Bosnia, in Rwanda, in Haiti, and actually going back to Iraq as well.

One of the things that concerns me as we do some of this globe trotting and getting back to the Rangers and the Marines and so forth is that when we were in Somalia there was not a clear American peril, there was not a clear objective and there was not a clear mission, there was not a clear timeframe to achieve the mission nor a plan to get our personnel out. And if you are a service person going over there, then it is going to have to be a little bit discouraging. Even as loyal as I know that they are, it is very discouraging to realize they are doing these missions, and there is not a statement, there is not an objective.

So I think in terms of the dollar, it is one thing. But the morale is another.

Mr. HUNTER. The gentleman is absolutely right. You know, when young men and women join our service, they do it under an understanding there is some risk involved, and they do it with an understanding their mission will be to engage in conflicts on this Nation's behalf, and win those conflicts. And I think a lot of them do not want to sign up to be peacekeepers, to spend their time away from their families nursemaiding folks in other countries.

While Americans do not mind sacrifice, and I think that is the key, and I remember Desert Storm and I am sure the gentleman has not only a lot of active duty people but reserve people who volunteered for Desert Storm because they thought it was worthwhile, I think a lot of those people have second thoughts when they are told that the mission is "peacekeeping." In some cases that means "nation building," trying to impose our structure of government on a country that is very resistive to that imposition.

I think that Americans, American troops, have experienced a cut in morale because of this new mission that they see this President giving them.

□ 2140

And I think what bothers them most is he is not giving them everything that they need to carry out this tempo of operations. They know that that is making them a little less ready to have to carry out those operations.

Mr. KINGSTON. Well, I wanted you to talk about the personnel and so forth in the Army and the Marines staying about level, but the Army going down tremendously.

As I understand it, and these numbers are rough, but there were about 2 million troops in the armed services in 1991. And now is that number not about 1.5 million? It has been cut roughly 25 percent in terms of personnel, which that may be appropriate since there is not a conflict going on like Desert Storm, but am I accurate in that?

Mr. HUNTER. Let me give the gentleman the numbers that come right from the Personnel Subcommittee chairman, the gentleman from California, ROBERT DORNAN, who issued this statement today of active duty end strength. It has gone from, the gentleman is right, from an excess of 2 million personnel to about 1,400,000. So it has been cut not quite in half but not too far away.

Now, let me just read what the gentleman from California [Mr. DORNAN] has said: "End strength reductions for this year are slightly accelerated over what DOD projected in last year's budget submission. DOD will end fiscal year 1995 about 2,300 below the end strength authorized by the fiscal year 1995 DOD Authorization Act."

That means that this glidepath that the President has us on that is going to end up going from 18 Army divisions to 10, from 24 air wings to 13, that we are on that glidepath, we are cutting sharply, but this year's reductions cut even more sharply, 2,300 personnel, more sharply than what we have projected last year. It says that the fiscal year 1996 DOD request projects an end strength loss of 40,790 from fiscal year authorized levels, so that is how fast we are going down. We are going to have 40,000 less people this year than we had last year.

That means that we are losing people at a very high rate, at about 1,700 young people a week are being cashiered out of the uniformed service.

Mr. KINGSTON. In terms of dollars, we had a budget in 1991 of just shy of $300 billion. And now this projection, and I do not know if you or the gentleman from California, Mr. DORNAN, had a number, but is it 260?

Mr. HUNTER. It is this year, I would say to my friend, we are going to spend about $257 billion. The President's people made a great thing about the fact that he was adding $2 billion to his glidepath. So it was 255. It is going to 257. And the gentleman is right. That is down almost $40 billion from what it was in 1991.

But let me put it another way: If you look at what we spent in 1988, the last year of the Reagan administration, and really we had the highest spending level in 1985, but if you look at what we spent in 1988, in real dollars, that means not adding inflation or adding inflation each year, in real dollars, and you compare that to what we will spend in 1998, that is 2 years from now on this glidepath that President Clinton has taken us on, the annual budget in 1998 will be $100 billion less than it was 10 years ago. That is the annual budget.

So when President Clinton stands up and talks about how he is taking a knife to all these programs across the board, you have to understand that actually almost all of his cuts, real cuts are coming out of national defense.

Mr. KINGSTON. It is ironic because you hear so often about cutting the budget and you hear about the Pentagon waste. You hear all about agriculture waste. And yet the two agencies that have had the biggest budget cuts of all are the Department of Defense and the U.S. Department of Agriculture. And if we can get HUD and Health and Human Services and Education and some of these other agencies to take the cuts just in percentage that defense has taken, we would be very close to having a small deficit compared to the $200 billion deficit which the President's budget projects for this year.

Mr. HUNTER. The gentleman from Georgia is absolutely right. We have, as I recall in this city, in Washington, DC, we have what I guess military would call headquarters personnel, because all of the agencies do not carry out functions in this city but they have their headquarters people here who issue orders and demand reports that come in from all over the Nation. So we have all these agencies like Agriculture and all the rest of them, HUD and many others, headquartered here in Washington. So I guess our line troops would refer to these as headquarters staff, and we have over 450,000 headquarters personnel in the social agencies right here in Washington, DC.

Mr. KINGSTON. It is interesting, everybody does like to jump on the Pentagon, wasteful spending and talk about the $400 toilet seat and $200 hammer and so forth. We want to know about these things. We want to ferret it out. We think that is what the mission is about, defense of the country, survival of the country, and protecting your son or your daughter who may need to have the most high-technology airplane or tank or ship or whatever.

Here is something that we spent, as taxpayers, your taxpayers in California and mine in Georgia, $30,000 on this poem. I am going to read this to you.

> Suddenly, masked hombres seized Petunia pig and made her into a sort of dense Jello. Somehow the texture, out of nowhere, produces a species of Atavistic anomie, a melancholy memory of good food.

It was written by Jack Collom of Boulder, CO. The National Endowment for the Arts awarded $30,000 for that poem.

And yet we are telling our American service personnel that they cannot get a raise. We are rolling the COLA's of veterans so that they cannot get what we contractually obligated to them.

I have met in Hinesville, GA, service personnel who can qualify for food stamps and other public assistance benefits. Some of them are taking them, some are not. But it is very hard to tell somebody who is on his way to Haiti, Somalia, Bosnia, wherever, we have got $30,000 for poems like this and your tax dollars are paying for it. I think one of the things that we are about in this Congress right now is to go back and try to find things like this so that we can spend our dollars smarter, cut where we need to. But where we are going to spend, let us spend it appropriately.

Mr. HUNTER. I think the description of the expenditures that were made by the National Endowment for the Arts are one thing that would lower the morale of our service people if they knew that that was keeping them from having a higher quality of life. Let me just say, this Secretary, Secretary Perry, gave a very even and I thought a very smooth press conference. I like Secretary Perry. I think he is a fine gentleman.

He gave, he has given a series of briefings about the defense budget and said we are ready, our readiness levels are good and I am going to spend, he said, and I am quoting him, "I am going to spend enough money to provide for quality of life for our armed services families."

What the Secretary did not say was that he is providing this new quality of life because Republicans have rolled the administration in past years. Last year, when President Clinton did not provide a pay increase for military families, the Republicans saw to it that he did. So this year the President is anticipating that and they are going to provide a pay increase for military personnel. But they are going to do that by taking out these very important modernization programs which could save the lives of those young people in battle. So they are serving them in one way, they are disserving them in another way.

But let me tell the gentleman that the cavalry is here. The Republican Contract With America, which was successfully passed out of the Committee on Armed Services with a good bipartisan vote, and I might compliment the Democrats on that committee who really have the interest of the country at heart, because we passed it with the vote of a lot of Democrats as well as Republicans, but that H.R. 7, the National Security Act, that legislation provides for something that is very critical to the United States.

It says that the United States shall deploy at earliest opportunity theater missile defense systems to stop those ballistic missiles from coming into our troop concentrations where they exist around the world. It also says that we shall deploy missile defense systems against ICBM's that may come in and strike portions of the United States.

□ 2150

Now we are doing this because we have listened to all of our intelligence agencies, we listened to CIA Director James Woolsey, who talked about the growing ICBM threat and missile threat. We live in an age of missiles.

One thing that was not lost on all these Third World countries, including countries like Korea and China, was that with all of our superior military capability in Desert Storm, the one place where Saddam Hussein was able to get the attention of the world and make an impression was when he used ballistic missiles against American troop concentrations.

So you have the North Koreans building the taepo-dong missiles, some of which, at the end of this century, will begin to acquire the capability to go several thousand miles and to hit American troop concentrations a long ways from Korea, and ultimately hit some of the United States positions in the Pacific, that will be able to threaten our allies.

We see North Korea doing that. We see engineers and scientists from the

Soviet Union being hired by Middle East countries to develop missile systems for them. We see China moving ahead with ballistic missile systems.

We have to develop the ability to stop those ballistic missiles. It makes sense— a lot of Democrats say "We will stop them in the theater, but we do not want to have a national ballistic missile system."

We passed out of the Committee on Armed Services, or now the Committee on National Security, H.R. 7, the Republican Contract With America, that said "We shall deploy a national defense system." That means if a missile is launched intentionally or by mistake at the United States, we want the ability to shoot it down before it hits New York or San Diego or Houston or Detroit or any other part of the United States of America.

And we are going to be building that missile defense system, even though this President this year has cut national missile defense funding by 80 percent in this budget.

I yield to the gentleman from South Carolina.

Mr. KINGSTON. Mr. Speaker, I guess it is just true that as long as there are people like the gentleman, and some of the others you have mentioned tonight and in the past in your speeches, I think there will always be somebody inside and underneath the dome who is looking out for the American service personnel and the security of our Nation.

I appreciate the gentleman's leadership on this. I appreciate being with you tonight. I know you have some other comments, but I'm going to yield the floor and wish you the best and plan to support you in these endeavors, and work with you.

Mr. HUNTER. Mr. KINGSTON, I want to thank you as a good friend and a person who really has the interest of the United States at heart. Even though you are doing a lot of other important things and you are not a member of the Committee on Armed Services, we all thank you for your interest in national security, because that is one of the primary reasons for our existence, this House of Representatives, and you serve your people well by exhibiting that interest and supporting a strong national defense. Thank you for being with us.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman.

Mr. HUNTER. Let me talk for just another minute or two about the missile defense programs, because Secretary Perry went over that the other day and he has a word that he likes to use. It is called robust.

Robust is a pretty subjective term, and something that is robust to one person may not be robust to another, so I want to talk about the real funding levels that President Clinton put out on the table in today's budget, this year's new budget, with respect to missile defense. We all know missile defense is important, both theater missile defense, that is when you shoot down the slow-moving missiles before they come into your troop concentrations, like the Scud missiles coming into our barracks in the Middle East during the Desert Storm, and you also want national missile defense that will shoot down fast-moving missiles that are coming into your cities, whether by accident or by design.

Mr. Speaker, the President's request for missile defense in this year was $2.9 billion. That sounds like a lot, and that has been described by Secretary Perry as robust, and I guess compared to the rest of the President's defense slashes that may be robust, but this is the lowest amount requested since fiscal year 1985, which was the very first year that we started the SDI program, that is, the missile defense program.

Mr. Speaker, regarding national missile defense, the President asked for around $500 million. That is $371 million for the ballistic missile defense office and $120 million for the Brilliant Eyes Program in the Air Force, about $500 million.

That amounts to about an 80 percent cut over what President Bush recommended in spending on missile defense, because President Bush recommended spending about $3 billion, so President Clinton has cut this program by four-fifths, even though his intelligence agencies tell him we live in an age of missiles.

You had better be able to shoot missiles down, not only coming into your theaters, but coming in by accidental or designed launch by Third World adversaries into your population centers. At some point these nations are going to have the capability of delivering ICBM's into the United States, and several adversaries besides the remnants of the former Soviet Union have some ICBM's right now. China, for example, has ICBM's right now. North Korea is working at a feverish pace to develop ICBM's.

Mr. Speaker, a lot of people say wait a minute, we don't have to have these theater defenses or these national defenses yet, because Korea doesn't yet have a missile that can reach the United States.

The point is, it takes us a while to build these defenses. You want to make sure that the missile system you are going to send up to shoot down the incoming ballistic missile is ready for deployment before the ballistic missile that is going to come into the United States is ready for deployment. The point is, it takes us about 10 years to build these systems, so it does not make sense to not get started.

President Bush wanted to get started on a national defense system, and he recommended spending this year $3 billion. President Clinton has cut that by four-fifths, by 80 percent. Those are real facts.

Mr. Speaker, regarding theater missile defense, this President requests approximately $2 billion. That represents a cut of $800 million from the spending level that was recommended by President Bush.

Again, he recommends only $30 million for what is known as the Navy Upper Tier Program. That is this very effective, high altitude program that can be used to defend Americans by using Navy ships with their standard missile tubes and with their existing radar. You turn that into an SDI system, and you shoot down incoming ballistic missiles. That is a very promising system.

When the President did his own bottom-up review, his experts, his reviewers, said "We should move toward this Navy Upper Tier Program. It is an important program for acquisition." They called it at one point a core program, an important program, and he has killed it, because the $30 million that he has allowed for the Navy theater missile defense system is only about enough money to close up the shop. It is about enough money to close the doors, pay off the contractors who have existing contracts, and forget that system.

Why is the President abandoning the defense of our troop concentrations around the world? Because that is exactly what you are doing when you give up one of your most promising technologies.

Mr. Speaker, one other thing the President is doing that is very disturbing is this. Right now the ABM treaty does not limit the production of American theater missile defense systems. Yet, his negotiating team is now working with members of the former Soviet Union to limit the theater defense systems that we can set up around the world to protect our troops. That does not make a lot of sense.

I can simply say that, without naming names, that I have talked with a number of our military experts, people in the service and out of the service, who are very, very worried that this President, in his haste to make deals, is making a deal that we are going to regret because it is going to stop programs cold that could have defended Americans in time of war.

Therefore, the President should review this Navy Upper Tier Program which he himself, which his own analysts have said is a very, very important program.

Mr. Speaker, finally, when the President did this bottom-up review program, he went through all the requirements, or his experts went through all the requirements of things we would need for a strong defense establishment in the coming year.

One aspect of that review covered ammunition. Ammunition is kind of important. You need ammunition in time of war, and you need lots of it, because you have to sustain your troops. A three-month or a six-month or a nine-month war is a lot different from a two-week war, and you expend ammunition sometimes very quickly.

According to the Army's own study, the amount of money that this President is going to spend on ammunition is about 50 percent of what we need. According to the Army's own study, we are seeing the collapse of about 80 percent of our industrial base that makes ammunition.

Now, doggone it, you have to have ammunition in time of war. The fact that you have got smart, sharp, well-trained troops doesn't mean anything if their guns are empty.

□ 2200

And yet this budget that was presented today by Secretary Perry gives us about half the level of ammunition that the Army's open study says we will need in times of war. That is the President's open review, this so-called Bottom-Up Review board.

So in this very important area of sustainability, the President is deficient, and his Secretary of Defense, while he is an excellent manager and he has taken this little shrinking pot of money that the President has given him and he has tried to manage that reduced amount of money as effectively as he can, he is giving up American capability. You have to have capability to keep your troops, to have quality of life, to equip them well.

That means have modern equipment. We are not giving them modern equipment, because we are putting off modernization of Army and Air Force and naval systems. You have to be able to lift them. That means you have to be able to carry them into a theater in times of combat with either ships or aircraft and you have to be able to sustain them until they win the war for you, and that means they have to have lots of ammunition.

They have to have stand off missile systems like the ones that the President is canceling to keep your pilots from being at risk. You have to have fairly modern aircraft so that they do not break down on you when you need them the most; you do not have to retire them off the carriers leaving gaps in those carriers.

And this President, on the whole, is failing to provide that capability, and in doing so, he is doing a disservice to the American people who look to Congress to provide for the Army and the Navy and the Marine Corps to protect this Nation.

But he is also doing a disservice to the men and women who wear the uniform of the United States, because ultimately in a conflict, their ability to stay alive and come home, as the vast majority did in Desert Storm, is a function of our modernization, our sustainability, our readiness, our airlift, and our national will.

I would look to this Congress, and especially look to the Republican leadership in this Congress, to restore some of the cuts that this President has made in a prudent manner so that in 1995, 1996, 1997, 1998, 1999, and into the next century we remain by far the superior force on the face of the Earth.

RULES OF PROCEDURE OF THE COMMITTEE ON INTERNATIONAL RELATIONS FOR THE 104TH CONGRESS

(Mr. GILMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GILMAN. Mr. Speaker, pursuant to rule XI, clause 2(a) of the House rules, I am submitting a copy of our rules which were adopted by the Committee on International Relations on January 10, 1995, to be printed in the RECORD.

RULES OF THE COMMITTEE ON INTERNATIONAL RELATIONS, 104TH CONGRESS

(Adopted January 10, 1995)

1. GENERAL PROVISIONS

The Rules of the House of Representatives, and in particular, the committee rules enumerated in Clause 2 of Rule XI, are the rules of the Committee on International Relations, to the extent applicable. The Chairman of the Committee on International Relations (hereinafter referred to as the Chairman) shall consult the Ranking Minority Member to the extent possible with respect to the business of the Committee. Each subcommittee of the Committee on International Relations (hereinafter referred to as the "Committee") is a part of the Committee and is subject to the authority and direction of the Committee, and to its rules to the extent applicable.

2. DATE OF MEETING

The regular meeting date of the Committee shall be the first Tuesday of every month when the House of Representatives is in session pursuant to Clause 2(b) of Rule XI of the House of Representatives. Additional meetings may be called by the Chairman as he may deem necessary or at the request of a majority of the Members of the Committee in accordance with Clause 2(c) of Rule XI of the House of Representatives.

The determination of the business to be considered at each meeting shall be made by the Chairman subject to Clause 2(c) of Rule XI of the House of Representatives.

A regularly scheduled meeting need not be held if there is no business to be considered.

3. QUORUM

For purposes of taking testimony and receiving evidence, two Members shall constitute a quorum.

One-third of the Members of the Committee shall constitute a quorum for taking any action, with the following exceptions: (1) Reporting a measure or recommendation, (2) closing Committee meetings and hearings to the public, and (3) authorizing the issuance of subpoenas.

No measure or recommendation shall be reported to the House of Representatives unless a majority of the Committee is actually present.

A rollcall vote may be demanded by one-fifth of the Members present or, in the apparent absence of a quorum, by any one Member.

4. MEETINGS AND HEARINGS OPEN TO THE PUBLIC

(A) MEETINGS

Each meeting for the transaction of business, including the markup of legislation, of the Committee or a subcommittee shall be open to the public except when the Committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public, because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise violate any law or rule of the House of Representatives. No person other than Members of the Committee and such congressional staff and departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This subsection does not apply to open Committee hearings which are provided for by subsection (b) of this rule.

(B) HEARINGS

(1) Each hearing conducted by the Committee or a subcommittee shall be open to the public except when the Committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security, would compromise sensitive law enforcement information, or otherwise would violate any law or rule of the House of Representatives. Notwithstanding the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony—

(A) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, would compromise sensitive law enforcement information, or violate paragraph (2) of this subsection; or

(B) may vote to close the hearing, as provided in paragraph (2) of this subsection.

(2) Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person—

(A) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of paragraph (1) of this subsection, if by a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony, the Committee or subcommittee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and the Committee or subcommittee shall proceed to receive such testimony in open session only if a majority of the Members of the Committee, a majority being present, determines that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

(3) No Member of the House of Representatives may be excluded from nonparticipatory attendance at any hearing of the Committee or a subcommittee unless the House of Representatives has by majority vote authorized

the Committee or subcommittee, for purposes of a particular series of hearings, on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subsection for closing hearings to the public.

(4) The Committee or a subcommittee may by the procedure designated in this subsection vote to close 1 subsequent day of hearing.

(c) No congressional staff shall be present at any meeting or hearing of the Committee or a subcommittee that has been closed to the public, and at which classified information will be involved, unless such person is authorized access to such classified information in accordance with Rule 20.

5. ANNOUNCEMENT OF HEARINGS AND MARKUPS

Public announcement shall be made of the date, place, and subject matter of any hearing or markup to be conducted by the Committee or a subcommittee at least 1 week before the commencement of that hearing or markup unless the Committee or subcommittee determines that there is good cause to begin that meeting at an earlier date. Such determination may be made with respect to any hearing or markup by the Chairman or subcommittee chairman, as appropriate.

Public announcement of all hearings and markups shall be made at the earliest possible date and shall be published in the Daily Digest portion of the Congressional Record, and promptly entered into the committee scheduling service of the House Information Systems.

Members shall be notified by the Chief of Staff, whenever it is practicable, 1 week in advance of all meetings (including markups and hearings) and briefings of subcommittees and of the full Committee.

The agenda for each Committee and subcommittee meeting, setting out all items of business to be considered, including a copy of any bill or other document scheduled for markup, shall be furnished to each Committee or subcommittee Member by delivery to the Member's office at least 2 full calendar days (excluding Saturdays, Sundays, and legal holidays) before the meeting, whenever possible.

6. WITNESSES

A. INTERROGATION OF WITNESSES

Insofar as practicable, witnesses shall be permitted to present their oral statements without interruption subject to reasonable time constraints imposed by the Chairman, with questioning by the Committee Members taking place afterward. Members should refrain from questions until such statements are completed. In recognizing Members, the Chairman shall, to the extent practicable, give preference to the Members on the basis of their arrival at the hearing, taking into consideration the majority and minority ratio of the Members actually present. A Member desiring to speak or ask a question shall address the Chairman and not the witness in order to ensure orderly procedure.

Each Member may interrogate the witness for 5 minutes, the reply of the witness being included in the 5-minute period. After all Members have had an opportunity to ask questions, the round shall begin again under the 5-minute rule.

B. STATEMENTS OF WITNESSES

To the extent practicable, each witness shall file with the Committee, 48 hours in advance of his or her appearance, a written statement of his or her proposed testimony and shall limit his or her oral presentation to a brief summary of his or her views.

7. PREPARATION AND MAINTENANCE OF COMMITTEE RECORDS

An accurate stenographic record shall be made of all hearings and markup sessions. Members of the Committee and any witness may examine the transcript of his or her own remarks and may make any grammatical or technical changes that do not substantively alter the record. Any such Member or witness shall return the transcript to the Committee offices within 5 calendar days (not including Saturdays, Sundays, and legal holidays) after receipt of the transcript, or as soon thereafter as is practicable.

Any information supplied for the record at the request of a Member of the Committee shall be provided to the Member when received by the Committee.

Transcripts of hearings and markup sessions (except for the record of a meeting or hearing which is closed to the public) shall be printed as soon as is practicable after receipt of the corrected versions, except that the Chairman may order the transcript of a hearing to be printed without the corrections of a Member or witness if the Chairman determines that such Member or witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule XXXVI of the House of Representatives. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee.

8. EXTRANEOUS MATERIAL IN COMMITTEE HEARINGS

No extraneous material shall be printed in either the body or appendixes of any Committee or subcommittee hearing, except matter which has been accepted for inclusion in the record during the hearing. Copies of bills and other legislation under consideration and responses to written questions submitted by Members shall not be considered extraneous material.

Extraneous material in either the body or appendixes of any hearing to be printed which would be in excess of eight printed pages (for any one submission) shall be accompanied by a written request to the Chairman, such written request to contain an estimate in writing from the Public Printer of the probable cost of publishing such material.

9. PUBLIC AVAILABILITY OF COMMITTEE VOTES

The result of each rollcall vote in any meeting of the Committee shall be made available for inspection by the public at reasonable times at the Committee offices. Such result shall include a description of the amendment, motion, order, or other proposition, the name of each Member voting for and against, and the Members present but not voting.

10. PROXIES

Proxy voting is not permitted in the Committee or in subcommittees.

11. REPORTS

A. REPORTS ON BILLS AND RESOLUTIONS

To the extent practicable, not later than 24 hours before a report is to be filed with the Clerk of the House on a measure that has been ordered reported by the Committee, the Chairman shall make available for inspection by all Members of the Committee a copy of the draft committee report in order to afford Members adequate information and the opportunity to draft and file any supplemental, minority or additional views which they may deem appropriate.

With respect to each rollcall vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in any Committee report on the measure or matter.

B. PRIOR APPROVAL OF CERTAIN REPORTS

No Committee, subcommittee, or staff report, study, or other document which purports to express publicly the views, findings, conclusions, or recommendations of the Committee or the subcommittee may be released to the public or filed with the Clerk of the House unless approved by a majority of the Members of the Committee or subcommittee, as appropriate. In any case in which Clause 2(l)(5) of Rule XI of the House of Representatives does not apply, each Member of the Committee or subcommittee shall be given an opportunity to have views or a disclaimer included as part of the material filed or released, as the case may be.

C. FOREIGN TRAVEL REPORTS

At the same time that the report required by clause 2(n)(1)(B) of Rule XI of the House of Representatives, regarding foreign travel reports, is submitted to the Chairman, Members and employees of the committee shall provide a report to the Chairman listing all official meetings, interviews, inspection tours and other official functions in which the individual participated, by country and date. Under extraordinary circumstances, the Chairman may waive the listing in such report of an official meeting, interview, inspection tour, or other official function. The report shall be maintained in the full committee offices and shall be available for public inspection during normal business hours.

12. REPORTING BILLS AND RESOLUTIONS

Except in unusual circumstances, bills and resolutions will not be considered by the Committee unless and until the appropriate subcommittee has recommended the bill or resolution for Committee action, and will not be taken to the House of Representatives for action unless and until the Committee has ordered reported such bill or resolution, a quorum being present. Unusual circumstances will be determined by the Chairman, after consultation with the Ranking Minority Member and such other Members of the Committee as the Chairman deems appropriate.

13. STAFF SERVICES

The Committee staff shall be selected and organized so that it can provide a comprehensive range of professional services in the field of foreign affairs to the Committee, the subcommittees, and all its Members.

The staff shall include persons with training and experience in international relations, making available to the Committee individuals with knowledge of major countries, areas, and U.S. overseas programs and operations.

(a) The staff of the Committee, except as provided in paragraph (b), shall be appointed, and may be removed, by the Chairman with the approval of the majority of the Members of the Committee. Their remuneration shall be fixed by the Chairman and they shall work under the general supervision and direction of the Chairman. Staff assignments are to be authorized by the Chairman or by the Chief of Staff under the direction of the Chairman.

(b) Subject to clause 6(a)(2) and clause 6(c) of Rule XI of the House of Representatives, the staff assigned to the minority shall be appointed, their remuneration determined, and may be removed, by the Ranking Minority Member with the approval of the majority of the minority party Members of the Committee. No minority staff person shall be compensated at a rate which exceeds that paid his or her majority staff counterpart. Such staff shall work under the general supervision and direction of the Ranking Minority Member with the approval or consultation of the minority Members of the Committee.

(c) The Chairman shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the Committee. The Chairman shall ensure that the minority party is fairly treated in the appointment of such staff.

14. Number and Jurisdiction of Subcommittees

A. FULL COMMITTEE

The full Committee will be responsible for the markup and reporting of general legislation relating to foreign assistance (including development assistance, security assistance, and Public Law 480 programs abroad) or relating to the Peace Corps; national security developments affecting foreign policy; strategic planning and agreements; war powers, executive agreements, and the deployment and use of United States Armed Forces; peacekeeping, peace enforcement, and enforcement of United Nations or other international sanctions; arms control, disarmament and other proliferation issues; the Agency for International Development; oversight of State and Defense Department activities involving arms transfers and sales, and arms export licenses; international law; promotion of democracy; international law enforcement issues, including terrorism and narcotics control programs and activities; and all other matters not specifically assigned to a subcommittee.

B. SUBCOMMITTEES

There shall be five standing subcommittees. The names and jurisdiction of those subcommittees shall be as follows:

1. Functional Subcommittees

There shall be two subcommittees with functional jurisdiction:

Subcommittee on International Economic Policy and Trade.—To deal with measures relating to international economic and trade policy; measures to foster commercial intercourse with foreign countries; export administration; international investment policy; trade and economic aspects of nuclear technology and materials, of nonproliferation policy, and of international communication and information policy; licenses and licensing policy for the export of dual use equipment and technology; legislation pertaining to and oversight of the Overseas Private Investment Corporation; scientific developments affecting foreign policy; commodity agreements; international environmental policy and oversight of international fishing agreements; and special oversight of international financial and monetary institutions, the Export-Import Bank, and customs.

Subcommittee on International Operations and Human Rights.—To deal with Department of State, United States Information Agency, and related agency operations and legislation; the diplomatic service; international education and cultural affairs; foreign buildings; programs, activities and the operating budget of the Arms Control and Disarmament Agency; oversight of, and legislation pertaining to, the United Nations, its affiliated agencies, and other international organizations, including assessed and voluntary contributions to such agencies and organizations; parliamentary conferences and exchanges; protection of American citizens abroad; international broadcasting; international communication and information policy; the American Red Cross; implementation of the Universal Declaration of Human Rights and other matters relating to internationally recognized human rights generally; and oversight of international population planning and child survival activities.

2. Regional Subcommittees

There shall be three subcommittees with regional jurisdiction: the Subcommittee on the Western Hemisphere; the Subcommittee on Africa; and the Subcommittee on Asia and the Pacific; with responsibility for Europe and the Middle East reserved to the full Committee.

The regional subcommittees shall have jurisdiction over the following within their respective regions:

(1) Matters affecting the political relations between the United States and other countries and regions, including resolutions or other legislative measures directed to such relations.

(2) Legislation with respect to disaster assistance outside the Foreign Assistance Act, boundary issues, and international claims.

(3) Legislation with respect to region- or country-specific loans or other financial relations outside the Foreign Assistance Act.

(4) Resolutions of disapproval under section 36(b) of the Arms Export Control Act, with respect to foreign military sales.

(5) Oversight of regional lending institutions.

(6) Oversight of matters related to the regional activities of the United Nations, of its affiliated agencies, and of other multilateral institutions.

(7) Identification and development of options for meeting future problems and issues relating to U.S. interests in the region.

(8) Base rights and other facilities access agreements and regional security pacts.

(9) Oversight of matters relating to parliamentary conferences and exchanges involving the region.

(10) Concurrent oversight jurisdiction with respect to matters assigned to the functional subcommittees insofar as they may affect the region.

(11) Oversight of all foreign assistance activities affecting the region, and such other matters as the Chairman of the full Committee may determine.

15. Powers and Duties of Subcommittees

Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it. Subcommittee chairmen shall set meeting dates after consultation with the Chairman, other subcommittee chairmen, and other appropriate Members, with a view towards minimizing scheduling conflicts. It shall be the practice of the Committee that meetings of subcommittees not be scheduled to occur simultaneously with meetings of the full Committee.

In order to ensure orderly and fair assignment of hearing and meeting rooms, hearings and meetings should be arranged in advance with the Chairman through the Chief of Staff of the Committee.

The Chairman and the Ranking Minority Member may attend the meetings and participate in the activities of all subcommittees, except for voting and being counted for a quorum. The Chairman and Ranking Minority Member may vote and shall be counted for a quorum on those subcommittees of which they are formal members.

16. Referral of Bills by Chairman

In accordance with Rule 14 of the Committee and to the extent practicable, all legislation and other matters referred to the Committee shall be referred by the Chairman to a subcommittee of primary jurisdiction within 2 weeks, unless by majority vote of the majority party Members of the full Committee, consideration is to be otherwise effected. In accordance with Rule 14 of the Committee, legislation may also be concurrently referred to additional subcommittees for consideration in sequence. Unless otherwise directed by the Chairman, such subcommittees shall act on or be discharged from consideration of legislation that has been approved by the subcommittee of primary jurisdiction within 2 weeks of such action.

The Chairman may designate a subcommittee chairman or other Member to take responsibility as manager of a bill during its consideration in the House of Representatives.

17. Party Ratios on Subcommittees and Conference Committees

The majority party caucus of the Committee shall determine an appropriate ratio of majority to minority party Members for each subcommittee. Party representation on each subcommittee or conference committee shall be no less favorable to the majority party than the ratio for the full Committee. The Chairman and the Ranking Minority Member are authorized to negotiate matters affecting such ratios including the size of subcommittees and conference committees.

18. Subcommittee Funding and Records

(a) Each subcommittee shall have adequate funds to discharge its responsibility for legislation and oversight.

(b) In order to facilitate Committee compliance with Clause 2(e)(1) of Rule XI of the House of Representatives, each subcommittee shall keep a complete record of all subcommittee actions which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each rollcall vote shall be promptly made available to the full Committee for inspection by the public in accordance with Rule 9 of the Committee.

All subcommittee hearings, records, data, charts, and files shall be kept distinct from the congressional office records of the Member serving as chairman of the subcommittee. Such records shall be coordinated with the records of the full Committee, shall be the property of the House, and all Members of the House shall have access thereto.

19. Meetings of Subcommittee Chairmen

The Chairman shall call a meeting of the subcommittee chairmen on a regular basis not less frequently than once a month. Such a meeting need not be held if there is no business to conduct. It shall be the practice at such meetings to review the current agenda and activities of each of the subcommittees.

20. Access to Classified Information

Authorized persons.—In accordance with the stipulations of the Rules of the House of Representatives, all Members of the House who have executed the oath required by

Clause 13 of Rule XLIII of the House of Representatives shall be authorized to have access to classified information within the possession of the Committee.

Members of the Committee staff shall be considered authorized to have access to classified information within the possession of the Committee when they have the proper security clearances, when they have executed the oath required by Clause 13 of Rule XLIII of the House of Representatives, and when they have a demonstrable need to know. The decision on whether a given staff member has a need to know will be made on the following basis:

(a) In the case of the full Committee majority staff, by the Chairman, acting through the Chief of Staff;

(b) In the case of the full Committee minority staff, by the Ranking Minority Member of the Committee, acting through the Minority Chief of Staff;

(c) In the case of subcommittee majority staff, by the Chairman of the subcommittee;

(d) In the case of the subcommittee minority staff, by the Ranking Minority Member of the subcommittee.

No other individuals shall be considered authorized persons, unless so designated by the Chairman.

Designated persons.—Each Committee Member is permitted to designate one member of his or her staff as having the right of access to information classified confidential. Such designated persons must have the proper security clearance, have executed the oath required by Clause 13 of Rule XLIII of the House of Representatives, and have a need to know as determined by his or her principal. Upon request of a Committee Member in specific instances, a designated person also shall be permitted access to information classified secret which has been furnished to the Committee pursuant to section 36(b) of the Arms Export Control Act, as amended. Designation of a staff person shall be by letter from the Committee Member to the Chairman.

Location.—Classified information will be kept in secure safes in the Committee rooms. All materials classified top secret must be kept in secured safes located in the main Committee offices. Top secret materials may not be taken from that location for any purpose.

Materials classified confidential or secret may be taken from Committee offices to other Committee offices and hearing rooms by Members of the Committee and authorized Committee staff in connection with hearings and briefings of the Committee or its subunits for which such information is deemed to be essential. Removal of such information from the Committee offices shall be only with the permission of the Chairman, under procedures designed to ensure the safe handling and storage of such information at all times.

Notice.—Appropriate notice of the receipt of classified documents received by the Committee from the executive branch will be sent promptly to Committee Members. The notice will contain information on the level of classification.

Access.—Except as provided for above, access to classified materials held by the Committee will be in the main Committee offices in a designated reading room. The following procedures will be observed:

(a) Authorized or designated persons will be admitted to the reading room after inquiring of the Chief of Staff or an assigned staff member. The reading room will be open during regular Committee hours.

(b) Authorized or designated persons will be required to identify themselves, to identify the documents or information they wish to view, and to sign the Classified Materials Log, which is kept with the classified information.

(c) No photocopying or other exact reproduction, oral recording, or reading by telephone, of such classified information is permitted.

(d) The assigned staff member will be responsible for maintaining a log which identifies (1) authorized and designated persons seeking access, (2) the classified information requested, and (3) the time of arrival and departure of such persons. The assigned staff member will also assure that the classified materials are returned to the proper location.

(e) The Classified Materials log will contain a statement acknowledged by the signature of the authorized or designated person that he or she has read the Committee rules and will abide by them.

Divulgence.—Any classified information to which access has been gained through the Committee may not be divulged to any unauthorized person in any way, shape, form, or manner. Apparent violations of this rule should be reported as promptly as possible to the Chairman for appropriate action.

Technical security countermeasures.—Committee rooms and equipment shall be maintained in accordance with such technical security standards as the Chairman deems necessary to safeguard classified information from unauthorized disclosure. Such standards may include requirements for technical security monitoring during closed sessions involving classified information, conducted under the direction and control of the Chairman by personnel responsible to the Sergeant at Arms of the House of Representatives.

Other regulations.—The Chairman may establish such additional regulations and procedures as in his judgment may be necessary to safeguard classified information under the control of the Committee. Members of the Committee will be given notice of any such regulations and procedures promptly. They may be modified or waived in any or all particulars by a majority vote of the full Committee. Furthermore, any additional regulations and procedures should be incorporated into the written rules of the Committee at the earliest opportunity.

21. BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

All Committee and subcommittee meetings or hearings which are open to the public may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any such methods of coverage in accordance with the provisions of clause 3 of House rule XI.

The Chairman or subcommittee chairman shall determine, in his or her discretion, the number of television and still cameras permitted in a hearing or meeting room, but shall not limit the number of television or still cameras to fewer than two representatives from each medium.

Such coverage shall be in accordance with the following requirements contained in Section 116(b) of the Legislative Reorganization Act of 1970, and Clause 3(f) of Rule XI of the Rules of the House of Representatives:

(a) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(b) No witness served with a subpoena by the Committee shall be required against his will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This subparagraph is supplementary to Clause 2(k)(5) of Rule XI of the Rules of the House of Representatives relating to the protection of the rights of witnesses.

(c) The allocation among cameras permitted by the Chairman or subcommittee chairman in a hearing room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(d) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any Member of the Committee or its subcommittees or the visibility of that witness and that Member to each other.

(e) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(f) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the Committee or subcommittee is in session.

(g) Floodlights, spotlights, strobelights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing room, without cost to the Government, in order to raise the ambient lighting level in the hearing room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the current state of the art of television coverage.

(h) In the allocation of the number of still photographers permitted by the Chairman or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos, United Press International Newspictures, and Reuters. If requests are made by more of the media than will be permitted by the Chairman or subcommittee chairman for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(i) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the Members of the Committee or its subcommittees.

(j) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(k) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(l) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(m) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

22. SUBPOENA POWERS

A subpoena may be authorized and issued by the Committee or its subcommittees, in accordance with Clause 2(m) of Rule XI of the House of the Representatives, in the conduct of any investigation or series of investigations, when authorized by a majority of the Members voting, a majority of the Committee or subcommittee being present. Pursuant to House Rules and under such limitations as the Committee may prescribe, the Chairman may be delegated the power to authorize and issue subpoenas in the conduct of any investigation or series of investigations. During any period in which the House has adjourned for a period of longer than three days, the Chairman may authorize and issue subpoenas under Clause 2(m) of Rule XI of the House of Representatives only after polling the Members of the Committee and obtaining the approval of a majority of such Members. Authorized subpoenas shall be signed by the Chairman or by any Member designated by the Committee.

23. RECOMMENDATION FOR APPOINTMENT OF CONFEREES

Whenever the Speaker is to appoint a conference committee, the Chairman shall recommend to the Speaker as conferees those Members of the Committee who are primarily responsible for the legislation (including to the full extent practicable the principal proponents of the major provisions of the bill as it passed the House), who have actively participated in the Committee or subcommittee consideration of the legislation, and who agree to attend the meetings of the conference. With regard to the appointment of minority Members, the Chairman shall consult with the Ranking Minority Member.

24. GENERAL OVERSIGHT

Not later than February 15 of the first session of a Congress, the Committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Oversight and the Committee on Government Reform and Oversight, in accordance with the provisions of clause 2(d) of Rule X of the House of Representatives.

25. OTHER PROCEDURES AND REGULATIONS

The Chairman may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee. Any additional procedures or regulations may be modified or rescinded in any or all particulars by a majority vote of the full Committee.

RULES OF PROCEDURE FOR THE COMMITTEE ON NATIONAL SECURITY FOR THE 104TH CONGRESS

(Mr. SPENCE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SPENCE. Mr. Speaker, in accordance with clause 2(a) of rule XI of the Rules of the House of Representatives, I submit herewith for publication in the CONGRESSIONAL RECORD the rules of the Committee on National Security that were adopted by the committee on Tuesday, January 10, 1995.

RULES OF THE COMMITTEE ON NATIONAL SECURITY

RULE 1. APPLICATION OF HOUSE RULES

The Rules of the House of Representatives are the rules of the Committee on National Security (hereafter referred to in these rules as the "Committee") and its subcommittees so far as applicable.

RULE 2. FULL COMMITTEE MEETING DATE

(a) The Committee shall meet every Tuesday at 10:00 a.m., and at such other times as may be fixed by the chairman of the Committee (hereafter referred to in these rules as the "Chairman"), or by written request of members of the Committee pursuant to clause 2(b) of rule XI of the Rules of the House of Representatives.

(b) A Tuesday meeting of the committee may be dispensed with by the Chairman, but such action may be reversed by a written request of a majority of the members of the Committee.

RULE 3. SUBCOMMITTEE MEETING DATES

Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the Committee on all matters referred to it. Insofar as possible, meetings of the Committee and its subcommittees shall not conflict. A subcommittee chairman shall set meeting date after consultation with the Chairman and the other subcommittee chairmen with a view toward avoiding simultaneous scheduling of committee and subcommittee meetings or hearings wherever possible.

RULE 4. SUBCOMMITTEES

The Committee shall be organized to consist of five standing subcommittees with the following jurisdictions:

Subcommittee on Military Installations and Facilities: military construction; real estate acquisitions and disposal; housing and support; base closure; and related legislative oversight.

Subcommittee on Military Personnel: military forces and authorized strengths; integration of active and reserve components; military personnel policy; compensation and other benefits; and related legislative oversight.

Subcommittee on Military Procurement: the annual authorization for procurement of military weapon systems and components thereof, including full scale development and systems transition; military application of nuclear energy; and related legislative oversight.

Subcommittee on Military Readiness: the annual authorization for operation and maintenance; the readiness and preparedness requirements of the defense establishment; and related legislative oversight.

Subcommittee on Military Research and Development: the annual authorization for military research and development and related legislative oversight.

RULE 5. COMMITTEE PANELS

(a) The Chairman may designate a panel of the Committee drawn from members of more than one subcommittee to inquire into and take testimony of matters that fall within the jurisdiction of more than one subcommittee and to report to the Committee.

(b) No panel so appointed shall continue in existence for more than six months. A panel so appointed may, upon the expiration of six months, be reappointed by the Chairman.

(c) No panel so appointed shall have legislative jurisdiction.

RULE 6. REFERENCE OF LEGISLATION AND SUBCOMMITTEE REPORTS

(a) The Chairman shall refer legislation and other matters to the appropriate subcommittee or to the full Committee.

(b) Legislation shall be taken up for hearing only when called by the Chairman of the Committee or subcommittee, as appropriate, or by a majority of the Committee or subcommittee.

(c) The Chairman, with approval of a majority vote of a quorum of the Committee, shall have authority to discharge a subcommittee from consideration of any measure or matter referred thereto and have such measure or matter considered by the Committee.

(d) Reports and recommendations of a subcommittee may not be considered by the Committee until after the intervention of 3 calendar days from the time the report is approved by the subcommittee and printed hearings thereon are available to the members of the Committee, except that this rule may be waived by a majority vote of a quorum of the Committee.

RULE 7. PUBLIC ANNOUNCEMENT OF HEARINGS AND MEETINGS

Pursuant to clause 2(g)(3) of rule XI of the Rules of the House of Representatives, the Committee and subcommittees shall make public announcement of the date, place, and subject matter of the committee or subcommittee hearing at least one week before the commencement of the hearing. However, if the Committee or subcommittee determines that there is good cause to begin the hearing sooner, it shall make the announcement at the earliest possible date. Any announcement made under this rule shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of the House Information Systems.

RULE 8. BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

Clause 3 of rule XI of the Rules of the House of Representatives shall apply to the Committee.

RULE 9. MEETINGS AND HEARINGS OPEN TO THE PUBLIC

(a) Each hearing and meeting for the transaction of business, including the markup of legislation, conducted by the Committee or a subcommittee shall be open to the public except when the Committee or subcommittee, in open session and with a majority being present, determines by rollcall vote that all or part of the remainder of that hearing or meeting on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security, would compromise sensitive law enforcement information, or would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance no less than two members of the committee or subcommittee, may vote to close a hearing or meeting for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, would compromise sensitive law enforcement information, or would violate any law or rule of the House of Representatives. If the decision is to close, the vote must be by rollcall vote and in open session, there being a majority of the Committee or subcommittee present.

(b) Whenever it is asserted that the evidence or testimony at a hearing or meeting may tend to defame, degrade, or incriminate any person, and notwithstanding the requirements of (a) and the provisions of clause 2(g)(2) of rule XI of the Rules of the House of Representatives, such evidence or testimony shall be presented in closed session, if by a majority vote of those present, there being in attendance no less than two members of the Committee or subcommittee, the Committee or subcommittee determines that such evidence may tend to defame, degrade or incriminate any person. A majority of those present, there being in attendance no less than two members of the Committee or subcommittee, may also vote to close the hearing or meeting for the sole purpose discussing whether evidence or testimony to be received would tend to defame, degrade or incriminate any person. The Committee or subcommittee shall proceed to receive such testimony in open session only if a majority of the members of the Committee or subcommittee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade or incriminate any person.

(c) Notwithstanding the foregoing, and with the approval of the Chairman, each member of the Committee may designate by letter to the Chairman, a member of that member's personal staff with Top Secret security clearance to attend hearings of the Committee, or that member's subcommittee(s) which have been closed under the provisions of rule 9(a) above for national security purposes for the taking of testimony: Provided, That such staff member's attendance at such hearings is subject to the approval of the Committee or subcommittee as dictated by national security requirements at the time: Provided further, That this paragraph addresses hearings only and not briefings or meetings held under the provisions of paragraph (a) of this rule; and Provided further, That the attainment of any security clearances involved is the responsibility of individual members.

(d) Pursuant to clause 2(g)(2) of rule XI of the Rules of the House of Representatives, no member may be excluded from nonparticipatory attendance at any hearing of the Committee or a subcommittee, unless the House of Representatives shall by majority vote authorize the Committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to members by the same procedures designated in this rule for closing hearings to the public: Provided, however, That the Committee or the subcommittee may by the same procedure vote to close up to 5 additional consecutive days of hearings.

RULE 10. QUORUM

(a) For purposes of taking testimony and receiving evidence, two Members shall constitute a quorum.

(b) One-third of the Members of the Committee or subcommittee shall constitute a quorum for taking any action, with the following exceptions, in which case a majority of the Committee or subcommittee shall constitute a quorum: (1) Reporting a measure or recommendation; (2) Closing committee or subcommittee meetings and hearings to the public; and (3) Authorizing the issuance of subpoenas.

(c) No measure or recommendation shall be reported to the House of Representatives unless a majority of the Committee is actually present.

RULE 11. THE FIVE-MINUTE RULE

(a) The time any one member may address the Committee or subcommittee on any measure or matter under consideration shall not exceed 5 minutes and then only when the member has been recognized by the Chairman or subcommittee chairman, as appropriate, except that this time limit may be exceeded by unanimous consent. Any member, upon request, shall be recognized for not to exceed 5 minutes to address the Committee or subcommittee on behalf of an amendment which the member has offered to any pending bill or resolution.

(b) Members present at a meeting of the Committee or subcommittee when a meeting is originally convened will be recognized by the Chairman or subcommittee chairman, as appropriate, in order of seniority. Those members arriving subsequently will be recognized in order of their arrival. Notwithstanding the foregoing, the Chairman and the ranking minority member will take precedence upon their arrival. In recognizing members to question witnesses in this fashion, the Chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority.

RULE 12. SUBPOENA AUTHORITY

(a) For the purpose of carrying out any of its functions and duties under rules X and XI of the Rules of the House of Representatives, the Committee and any subcommittee is authorized (subject to subparagraph (b)(1) of this paragraph):

(1) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold hearings, and

(2) to require by subpoena, or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers and documents as it deems necessary. The Chairman of the Committee, or any member designated by the Chairman, may administer oaths to any witness.

(b)(1) A subpoena may be authorized and issued by the Committee, or any subcommittee with the concurrence of the full Committee Chairman, under subparagraph (a)(2) in the conduct of any investigation, or series of investigations or activities, only when authorized by a majority of the members voting, a majority of the Committee or subcommittee being present. Authorized subpoenas shall be signed only by the Chairman, or by any member designated by the Chairman.

(2) Pursuant to clause 2(m) of rule XI of the Rules of the House of Representatives, compliance with any subpoena issued by the Committee or any subcommittee under subparagraph (a)(2) may be enforced only as authorized or directed by the House.

(c) No witness served with a subpoena by the Committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This subparagraph is supplementary to clause 2(k)(5) of rule XI of the Rules of the House of Representatives, relating to the protection of the rights of witnesses.

RULE 13. WITNESS STATEMENTS

(a) Any prepared statement to be presented by a witness to the Committee or a subcommittee shall be submitted to the Committee or subcommittee at least 48 hours in advance of presentation and shall be distributed to all members of the Committee or subcommittee at least 24 hours in advance of delivery. If a prepared statement contains security information bearing a classification of secret or higher, the statement shall be made available in the Committee rooms to all members of the Committee or subcommittee at least 24 hours in advance of delivery; however, no such statement shall be removed from the Committee offices. The requirement of this rule may be waived by a majority vote of a quorum of the Committee or subcommittee, as appropriate.

(b) The Committee and each subcommittee shall require each witness who is to appear before it to file with the Committee in advance of his or her appearance a written statement of the proposed testimony and to limit the oral presentation at such appearance to a brief summary of his or her argument.

RULE 14. ADMINISTERING OATHS TO WITNESSES

(a) The Chairman, or any member designated by the Chairman, may administer oaths to any witness.

(b) Witnesses, when sworn, shall subscribe to the following oath:

Do you solemnly swear (or affirm) that the testimony you will give before this Committee (or subcommittee) in the matters now under consideration will be the truth, the whole truth, and nothing but the truth, so help you God?

RULE 15. QUESTIONING OF WITNESSES

(a) When a witness is before the Committee or a subcommittee, members of the Committee or subcommittee may put questions to the witness only when they have been recognized by the Chairman or subcommittee chairman, as appropriate, for that purpose.

(b) Members of the Committee or subcommittee who so desire shall have not to exceed 5 minutes to interrogate each witness until such time as each member has had an opportunity to interrogate such witness; thereafter, additional time for questioning witnesses by members is discretionary with the Chairman or subcommittee chairman, as appropriate.

(c) Questions put to witnesses before the Committee or subcommittee shall be pertinent to the measure or matter that may be before the Committee or subcommittee for consideration.

RULE 16. PUBLICATION OF COMMITTEE HEARINGS AND MARKUPS

The transcripts of those hearings and mark-ups conducted by the Committee or a subcommittee which are decided to be officially published in verbatim form, with the material requested for the record inserted at that place requested, or at the end of the record, as appropriate. Any requests to correct any errors, other than those in transcription, or disputed errors in transcription, will be appended to the record, and the appropriate place where the change is requested will be footnoted.

RULE 17. VOTING AND ROLLCALLS

(a) Voting on a measure or matter may be by rollcall vote, division vote, voice vote, or unanimous consent.

(b) A rollcall of the members may be had upon the request of one-fifth of a quorum present.

(c) No vote by any member of the Committee or a subcommittee with respect to any measure or matter may be cast by proxy.

(d) In the event of a vote or votes, when a number is in attendance at any other Committee, subcommittee, or conference committee meeting during that time, the necessary absence of that member shall be so recorded in the rollcall record, upon timely notification to the Chairman by that member.

RULE 18. PRIVATE BILLS

No private bill may be reported by the Committee if there are two or more dissenting votes. Private bills so rejected by the Committee may not be reconsidered during the same Congress unless new evidence sufficient to justify a new hearing has been presented to the Congress.

RULE 19. COMMITTEE REPORTS

(a) If, at the time of approval of any measure or matter by the Committee, any member of the Committee gives timely notice of intention to file supplemental, minority, additional or dissenting views, that member shall be entitled to not less than 3 calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that member, with the staff director of the Committee. All such views so filed by one or more members of the Committee shall be included within, and shall be a part of, the report filed by the Committee with respect to that measure or matter.

(b) With respect to each rollcall vote on a motion to report any measure or matter, and on any amendment offered to the measure or matter, the total number of votes cast for and against, the names of those voting for and against, and a brief description of the question, shall be included in the committee report on the measure or matter.

RULE 20. POINTS OF ORDER

No point of order shall lie with respect to any measure reported by the Committee or any subcommittee on the ground that hearings on such measure were not conducted in accordance with the provisions of the rules of the Committee; except that a point of order on that ground may be made by any member of the Committee or subcommittee which reported the measure if, in the Committee or subcommittee, such point of order was (a) timely made and (b) improperly overruled or not properly considered.

RULE 21. PUBLIC INSPECTION OF COMMITTEE ROLLCALLS

The result of each rollcall in any meeting of the Committee shall be made available by the Committee for inspection by the public at reasonable times in the offices of the Committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition and the names of those members present but not voting.

RULE 22. PROTECTION OF NATIONAL SECURITY INFORMATION

(a) All national security information bearing a classification of secret or higher which has been received by the Committee or a subcommittee shall be deemed to have been received in executive session and shall be given appropriate safekeeping.

(b) The Chairman of the Committee shall, with the approval of a majority of the Committee, establish such procedures as in his judgment may be necessary to prevent the unauthorized disclosure of any national security information received classified as secret or higher. Such procedures shall, however, ensure access to this information by any member of the Committee or any other Member of the House of Representatives who has requested the opportunity to review such material.

RULE 23. COMMITTEE STAFFING

The staffing of the Committee and the standing subcommittees shall be subject to the rules of the House of Representatives.

RULE 24. COMMITTEE RECORDS

The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the Rules of the House of Representatives. The Chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of rule XXXVI, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee.

RULE 25. INVESTIGATIVE HEARING PROCEDURES

Clause 2(k) of rule XI of the Rules of the House of Representatives shall apply to the Committee.

RULES OF PROCEDURE FOR THE COMMITTEE ON VETERANS' AFFAIRS FOR THE 104TH CONGRESS

(Mr. STUMP asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STUMP. Mr. Speaker, pursuant to clause 2 of rule XI of the Rules of the House of Representatives, I submit the rules of procedure of the Committee on Veterans' Affairs for printing in the RECORD.

COMMITTEE RULES OF PROCEDURE OF THE 104TH CONGRESS

(Adopted January 11, 1995)

RULE 1—APPLICABILITY OF HOUSE RULES

The Rules of the House are the rules of the Committee on Veterans' Affairs and its subcommittees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees and subcommittees. Each subcommittee of the committee is a part of the committee and is subject to the authority and direction of the committee and to its rules so far as applicable.

RULE 2—COMMITTEE MEETINGS AND HEARINGS

Regular and additional meetings

(a)(1) The regular meeting day for the committee shall be at 10 a.m. on the second Tuesday of each month in such place as the chairman may designate. However, the chairman may dispense with a regular Tuesday meeting of the committee.

(2) The chairman of the committee may call and convene, as he considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purpose pursuant to that call of the chairman.

Public announcement

(b)(1) The chairman, in the case of a hearing to be conducted by the committee, and the subcommittee chairman, in the case of a hearing to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one week before the commencement of that hearing unless the committee or the subcommittee determines that there is good cause to begin the hearing at an earlier date. In the latter event, the chairman or the subcommittee chairman, as the case may be, shall make such public announcement at the earliest possible date. The clerk of the committee shall promptly notify the Daily Clerk of the Congressional Record and the committee scheduling service of the House Information Systems as soon as possible after such public announcement is made.

(2) Meetings and hearings of the committee and each of its subcommittees shall be open to the public unless closed in accordance with clause 2(g) of House rule XI.

Quorum and rollcalls

(c)(1) A majority of the members of the committee shall constitute a quorum for business and a majority of the members of any subcommittee shall constitute a quorum thereof for business, except that two members shall constitute a quorum for the purpose of taking testimony and receiving evidence.

(2) No measure or recommendation shall be reported to the House of Representatives unless a majority of the committee was actually present.

(3) There shall be kept in writing a record of the proceedings of the committee and each of its subcommittees, including a record of the votes on any question on which a rollcall is demanded. The result of each such rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the office of the committee. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members present but not voting.

(4) A record vote may be demanded by one-fifth of the members present or, in the apparent absence of a quorum, by any one member. With respect to any rollcall vote on any motion to amend or report, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the report of the committee on the bill or resolution.

(5) No vote by any member of the committee or a subcommittee with respect to any measure or matter may be cast by proxy.

Calling and interrogating witnesses

(d)(1) Committee and subcommittee members may question witnesses only when they have been recognized by the chairman of the committee or subcommittee for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one member may be extended only with the unanimous consent of all members present. The questioning of witnesses in both committee and subcommittee hearings shall be initiated by the chairman, followed by the ranking minority party member and all other members alternating between the majority and minority. In recognizing members to question witnesses in this fashion, the chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority.

(2) So far as practicable, each witness who is to appear before the committee or a subcommittee shall file with the clerk of the committee, at least 48 hours in advance of the appearance of the witness, a written statement of the testimony of the witness and shall limit any oral presentation to a summary of the written statement.

(3) When a hearing is conducted by the committee or a subcommittee on any measure or matter, the minority party members on the committee shall be entitled, upon request to the chairman, of a majority of those minority members before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of the hearing thereon.

Media coverage of proceedings

(e) Any meeting of the committee or its subcommittees that is open to the public shall be open to coverage by radio, television, and still photography in accordance with the provisions of clause 3 of House rule XI.

Subpoenas

(f) Pursuant to clause 2(m) of House rule XI, a subpoena may be authorized and issued by the committee or a subcommittee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present.

RULE 3—GENERAL OVERSIGHT RESPONSIBILITY

(a) In order to assist the House in:

(1) Its analysis, appraisal, evaluation of (A) the application, administration, execution, and effectiveness of the laws enacted by the Congress, or (B) conditions and circumstances which may indicate the necessity or desirability of enacting new or additional legislation, and

(2) its formulation, consideration and enactment of such modifications or changes in those laws, and of such additional legislation, as may be necessary or appropriate, the committee and its various subcommittees, consistent with their jurisdiction as set forth in Rule 4, shall have oversight responsibilities as provided in subsection (b).

(b)(1) The committee and its subcommittees shall review and study, on a continuing basis, the applications, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of the committee or subcommittee, and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated.

(2) In addition, the committee and its subcommittees shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of the committee or subcommittee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake future research and forecasting on matters within the jurisdiction of the committee or subcommittee.

(3) Not later than February 15 of the first session of a Congress, the committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Oversight and the Committee on Government Reform and Oversight, in accordance with the provisions of clause 2(d) of House rule X.

RULE 4—SUBCOMMITTEES

Establishment and Jurisdiction of Subcommittees

(a)(1) There shall be three subcommittees of the committee as follows:

(A) Subcommittee on Hospitals and Health Care, which shall have legislative, oversight and investigative jurisdiction over veterans' hospitals, medical care, and treatment of veterans.

(B) Subcommittee on Compensation, Pension, Insurance and Memorial Affairs, which shall have legislative, oversight and investigative jurisdiction over compensation, pensions of all the wars of the United States, general and special, life insurance issued by the Government on account of service in the Armed Forces, cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior, and burial benefits.

(C) Subcommittee on Education, Training, Employment and Housing, which shall have legislative, oversight and investigative jurisdiction over education of veterans, vocational rehabilitation, veterans' housing programs, and readjustment of servicemen to civilian life.

In addition, each subcommittee shall have responsibility for such other measures or matters as the Chairman refers to it.

(2) Any vacancy in the membership of a subcommittee shall not affect the power of the remaining members to execute the functions of that subcommittee.

Referral to Subcommittees

(b)(1) The chairman of the committee may refer a measure or matter, which is within the general responsibility of more than one of the subcommittees of the committee, jointly or exclusively as the chairman deems appropriate.

(2) In referring any measure or matter to a subcommittee, the chairman of the committee may specify a date by which the subcommittee shall report thereon to the committee.

Powers and Duties

(c)(1) Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full committee on all matters referred to it or under its jurisdiction. Subcommittee chairmen shall set dates for hearings and meetings of their respective subcommittees after consultation with the chairman of the committee and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of committee and subcommittee meetings or hearings wherever possible.

(2) Whenever a subcommittee has ordered a bill, resolution, or other matter to be reported to the committee, the chairman of the subcommittee reporting the bill, resolution, or matter to the full committee, or any member authorized by the subcommittee to do so, may report such bill, resolution, or matter to the committee. It shall be the duty of the chairman of the subcommittee to report or cause to be reported promptly such bill, resolution, or matter, and to take or cause to be taken the necessary steps to bring such bill, resolution, or matter to a vote.

(3) In any event, the report of any subcommittee on a measure which has been approved by the subcommittee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the subcommittee, for the reporting of that measure. Upon the filing of any request, the clerk of the committee shall transmit immediately to the chairman of the subcommittee notice of the filing of that request.

(4) A member of the committee who is not a member of a particular subcommittee may sit with the subcommittee during any of its meetings and hearings, but shall not have authority to vote, cannot be counted for a quorum, and cannot raise a point of order at the meeting or hearing.

(d) Each subcommittee of the committee shall provide the committee with copies of such records of votes taken in the subcommittee and such other records with respect to the subcommittee as the chairman of the committee deems necessary for the committee to comply with all rules and regulations of the House.

RULE 5—TRANSCRIPTS AND RECORDS

(a)(1) There shall be a transcript made of each regular meeting and hearing of the committee and its subcommittees. Any such transcript shall be a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved.

(2) The committee shall keep a record of all actions of the committee and each of its subcommittees. The record shall contain all information required by clause 2(e)(1) of House rule XI and shall be available for public inspection at reasonable times in the offices of the committee.

(3) The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with House rule XXXVI. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on written request of any member of the committee.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GEPHARDT (at his own request), after 5 p.m. today, on account of official business.

Mr. YATES (at the request of Mr. GEPHARDT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ORTON) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Mr. FATTAH, for 5 minutes, today.

Mr. GUTIERREZ, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. ORTON, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

(The following Members (at the request of Mr. HORN) to revise and extend their remarks and include extraneous material:)

Mr. KOLBE for 5 minutes each day, today and on February 8 and 9.

Mr. MARTINI, for 5 minutes on February 8.

Mr. FOX of Pennsylvania, for 5 minutes, today.

Mr. HORN, for 5 minutes, on February 8.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. ROHRABACHER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ORTON) and to include extraneous matter:)

Mr. STARK.

Mr. SISISKY.

Mr. HAYES.

Mr. STOKES.

Mr. HINCHEY.

Mr. COLEMAN.

Mr. CLAY.

Ms. WOOLSEY in two instances.

Mr. WARD.

Mr. FAZIO of California.

Mr. DINGELL.

Mr. CARDIN.

Mr. TORRICELLI.

Mr. ROEMER.

Mr. BORSKI.

Mrs. LINCOLN.

(The following Members (at the request of Mr. HORN) and to include extraneous matter:)

Mr. RADANOVICH.

Mr. SMITH of New Jersey.

Mr. CUNNINGHAM.

Mr. DAVIS in two instances.

Mr. CRANE.

Mr. FAWELL.

Mr. LINDER.

ADJOURNMENT

Mr. HUNTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; according (at 10 o'clock and 3 minutes p.m.), the House adjourned until tomorrow, Wednesday, February 8, 1995, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

309. A letter from the Federal Housing Finance Board, transmitting the Board's Annual Enforcement Report covering the period of January 1, 1994, through December 31, 1994, pursuant to 12 U.S.C. 1833; to the Committee on Banking and Financial Services.

310. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a report entitled "Performance Profiles of Major Energy Producers 1993," pursuant to 42 U.S.C. 7267; to the Committee on Commerce.

311. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting the Commission's annual report for fiscal year 1993, pursuant to 15 U.S.C. 2076(j); to the Committee on Commerce.

312. A communication from the President of the United States, transmitting the annual report on science, technology and American diplomacy for fiscal year 1994, pursuant to 22 U.S.C. 2656c(b); to the Committee on International Relations.

313. A letter from the Under Secretary of Defense (Personnel and Readiness), Department of Defense, transmitting a report on the audit of the American Red Cross for the year ending June 30, 1994, pursuant to 36 U.S.C. 6; to the Committee on International Relations.

314. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that a reward has been paid pursuant to 22 U.S.C. 2708(h); to the Committee on International Relations.

315. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that a reward has been paid pursuant to 22 U.S.C. 2708(h); to the Committee on International Relations.

316. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-381, "bilingual and Multicultural Government Personnel Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

317. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-392, "District of Columbia Nonviolent Offenses Mandatory-Minimum Sentences Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

318. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-393, "Recreation Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

319. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-394, "Health Occupation Revision Act of 1985 Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

320. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-395, "Closing of a Public Alley in Square 253, S.O. 88-107, Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

321. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-396, "Uniform Commercial Code—Negotiable Instruments Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

322. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-397, "D.C. Resident Tax Credit Temporary Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

323. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-398, "Solid Waste Facility Permit Temporary Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

324. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-399, "Commercial Piracy Protection Temporary Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

325. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-401, "Multiyear Budget Spending and Support Temporary Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

326. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-402, "Term Limits Initiative of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

327. A letter from the Potomac Electric Power Co., transmitting a copy of the balance sheet of Potomac Electric Power Co. as of December 31, 1994, pursuant to D.C. Code, section 43-513; to the Committee on Government Reform and Oversight.

328. A letter from the Director, Congressional Budget Office, transmitting a report on unauthorized appropriations and expiring authorizations by CBO as of January 15, 1995, pursuant to 2 U.S.C. 602(f)(3); to the Committee on Government Reform and Oversight.

329. A letter from the Acting Administrator, General Services Administration, transmitting notification of the determination that it is in the public interest to use other than competitive procedures to award a contract to the city of Manassas to establish a pilot telecommuting center in Manassas, VA, pursuant to 41 U.S.C. 253(c)(7); to the Committee on Government Reform and Oversight.

330. A letter from the Inspector General, General Services Administration, transmitting the semiannual report on activities of the inspector general for the period April 1, 1994, through September 30, 1994, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Reform and Oversight.

331. A letter from the Chief Administrator, Postal Rate Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

332. A letter from the Secretary, Postal Rate Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1994, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

333. A letter from the Secretary of Labor, transmitting notification of the Department's intent to award a sole-source contract to the Management and Training Corp. for the operation of the Cleveland Job Corps Center in Cleveland, OH; to the Committee on Government Reform and Oversight.

334. A letter from the Director of Operations and Finance, The American Battle Monuments Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

335. A letter from the Special Assistant to the President for Management and Administration and Director of the Office of Administration, the White House, transmitting the Integrity Act reports for each of the Executive Office of the President agencies, as required by the Federal Manager's Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

336. A letter from the Administrator, General Services Administration, transmitting informational copies of various lease prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

337. A letter from the Inspector General, Federal Emergency Management Agency, transmitting a copy of the Agency's administration of the permanent and temporary relocation components of the Superfund Program during fiscal year 1993, pursuant to 31

U.S.C. 7501 note; jointly, to the Committees on Commerce and Transportation and Infrastructure.

338. A letter from the Secretary of the Army, transmitting a report on the Washington Aqueduct, pursuant to Public Law 103–334, section 142(c); jointly, to the Committees on Transportation and Infrastructure and Appropriations.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SHUSTER (for himself, Mr. MINETA, Mr. PETRI, Mr. RAHALL, Mr. DUNCAN, Mr. OBERSTAR, Mr. BOEHLERT, and Mr. BORSKI):

H.R. 842. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Budget, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CARDIN (for himself and Mr. SHAW):

H.R. 843. A bill to amend the Internal Revenue Code of 1986 to restore the exception to the market discount rules for tax-exempt obligations; to the Committee on Ways and Means.

By Mr. COSTELLO:

H.R. 844. A bill to amend the Internal Revenue Code of 1986 to permit farmers to rollover into an individual retirement account the proceeds from the sale of a farm; to the Committee on Ways and Means.

By Mr. LIVINGSTON:

H.R. 845. A bill rescinding certain budget authority, and for other purposes; to the Committee on Appropriations.

By Mr. CREMEANS:

H.R. 846. A bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes; to the Committee on Resources.

By Mr. DAVIS (for himself, Mr. WELDON of Florida, Mr. FOLEY, Mr. PORTMAN, Mr. TORKILDSEN, Mr. FORBES, Mr. HAYES, Mr. TAYLOR of Mississippi, Mr. BLUTE, Mr. CHAMBLISS, Ms. PRYCE, Mr. HUNTER, Mr. WHITE, Mr. GUTKNECHT, Mr. WICKER, Mr. HORN, Mr. TIAHRT, Mr. CANADY, Mr. BROWNBACK, Mr. BASS, and Mr. WHITFIELD):

H.R. 847. A bill to reduce the official mail allowance of Members of the House; to the Committee on House Oversight.

By Mr. DEAL of Georgia:

H.R. 848. A bill to increase the amount authorized to be appropriated for assistance for highway relocation regarding the Chickamauga and Chattanooga National Military Park in Georgia; to the Committee on Resources.

By Mr. FAWELL (for himself, Mr. OWENS, Mr. GOODLING, Mr. CLAY, Mr. BALLENGER, Mr. PETRI, Mrs. ROUKEMA, Mr. HOEKSTRA, Mr. SAWYER, Mr. MARTINEZ, Mr. KILDEE, Mr. TALENT, Mrs. MEYERS of Kansas, Mr. KNOLLENBERG, Mr. PAYNE of New Jersey, Mr. WELDON of Florida, Mr. GRAHAM, Mr. GENE GREEN of Texas, Mr. MCDERMOTT, Mr. ENGEL, Ms. SLAUGHTER, Mr. ANDREWS, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 849. A bill to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers; and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mrs. FOWLER:

H.R. 850. A bill to ratify the States' right to limit congressional terms; to the Committee on the Judiciary.

By Mrs. LINCOLN (for herself, Mr. RICHARDSON, and Mr. DICKEY):

H.R. 851. A bill to direct the Secretary of Health and Human Services to establish pilot projects to investigate the effectiveness of the use of rural health care provider telemedicine networks to provide coverage of physician consultative services under part B of the Medicare Program to individuals residing in rural areas; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY (for herself, Mr. SHAYS, Mr. DELLUMS, Mr. ZIMMER, Mr. BROWN of California, Mr. BRYANT of Texas, Ms. ESHOO, Mr. SANDERS, Mr. STARK, Mr. BARRETT of Wisconsin, Mr. WAXMAN, Mr. FARR, Ms. VELÁZQUEZ, Mr. BROWN of Ohio, Mr. EVANS, Mr. TORRES, Mr. GUTIERREZ, Mr. NADLER, Mr. LANTOS, Mr. CARDIN, Ms. NORTON, and Mr. FILNER):

H.R. 852. A bill to designate as wilderness, wild and scenic rivers, national park and preserve study areas, wild land recovery areas, and biological connecting corridors certain public lands in the States of Idaho, Montana, Oregon, Washington, and Wyoming, and for other purposes; to the Committee on Resources.

By Mrs. MEEK of Florida:

H.R. 853. A bill to provide for adjustment of immigration status for certain Haitian children; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey:

H.R. 854. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to provide that municipalities and other persons shall not be liable under that act for the generation or transportation of municipal solid waste; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 855. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to establish a maximum limit of liability for municipalities and other persons liable under that act for the generation or transportation of municipal solid waste; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ZIMMER:

H.R. 856. A bill to require that unobligated funds in the official mail allowance of Members be used to reduce the Federal deficit; to the Committee on House Oversight.

By Mr. DIAZ-BALART:

H. Con. Res. 24. Concurrent resolution calling for the United States to propose and seek an international embargo against the totalitarian Government of Cuba; to the Committee on International Relations.

By Mr. ROEMER:

H. Con. Res. 25. Concurrent resolution expressing the sense of the Congress that the war in Chechnya is of concern to the United States and that President Clinton should not attend the United States-Russia summit in Moscow in May 1995 until the Chechen situation has been resolved; to the Committee on International Relations.

By Mr. CLINGER:

H. Res. 62. Resolution providing amounts for the expenses of the Committee on Government Reform and Oversight in the 104th Congress; to the Committee on House Oversight.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3: Mr. FIELDS of Texas.

H.R. 13: Mr. KIM.

H.R. 28: Mrs. SEASTRAND.

H.R. 34: Mr. FOX, Mr. BISHOP, Mr. GENE GREEN of Texas, Ms. DANNER, Mr. MINGE, Mr. ANDREWS, Mr. ISTOOK, Mr. SANDERS, and Mr. CRAMER.

H.R. 70: Mr. HORN, Mr. CUNNINGHAM, Mr. LEWIS of California, Mr. DELAY, Mr. BONO, Mr. KIM, and Mr. GENE GREEN of Texas.

H.R. 76: Ms. DELAURO.

H.R. 77: Mr. CALVERT.

H.R. 78: Mr. STEARNS.

H.R. 97: Mr. ACKERMAN.

H.R. 99: Mr. DELLUMS, Mr. LIPINSKI, Mr. FARR, Ms. MCCARTHY, Ms. VELÁZQUEZ, Mr. NEAL of Massachusetts, Mr. YATES, Mr. FATTAH, Mr. HASTINGS of Florida, Mr. BURR, Mr. DIXON, Ms. LOFGREN, Mr. KLECZKA, Mr. ENGLISH of Pennsylvania, Mr. GUTIERREZ, Mr. KENNEDY of Rhode Island, Mrs. MEYERS of Kansas, and Mr. NADLER.

H.R. 210: Mr. PACKARD.

H.R. 216: Mr. CALVERT.

H.R. 217: Mr. MCCRERY.

H.R. 218: Mr. COLLINS of Georgia.

H.R. 219: Mrs. SEASTRAND.

H.R. 325: Mr. KLECZKA and Mr. STUMP.

H.R. 370: Mr. SHUSTER, Mr. ROTH, Mr. GOODLING, Mr. HOSTETTLER, and Mr. HEINEMAN.

H.R. 372: Mr. BILBRAY.

H.R. 373: Mrs. MEYERS of Kansas and Mr. NORWOOD.

H.R. 447: Mr. STEARNS, Mr. GENE GREEN of Texas, Mr. MCNULTY, Mr. TAYLOR of Mississippi, Mr. MCHUGH, Mr. BONIOR, Mr. HILLIARD, Mr. ORTIZ, Mr. BLUTE, Mr. KANJORSKI, Mr. HEFNER, Mr. HAYES, Mr. BRYANT of Texas, Mr. VENTO, and Mr. HOLDEN.

H.R. 450: Mr. BALLENGER, Mrs. FOWLER, Mr. GEKAS, Mr. HERGER, Mr. HORN, Mr. SAM JOHNSON, Mr. MCINNIS, Mr. WATTS of Oklahoma, Mr. BROWNBACK, and Mr. CALVERT.

H.R. 462: Mr. ROEMER and Mr. UPTON.

H.R. 485: Mr. CALVERT.

H.R. 553: Mr. TOWNS.

H.R. 558: Mr. ARCHER.

H.R. 580: Mr. EVERETT, Mr. LEWIS of California, Mr. HALL of Texas, and Mr. CALVERT.

H.R. 592: Mr. KIM, Mrs. SEASTRAND, Mr. BILBRAY, Mr. STUMP, Mr. CANADY, Mrs. CHENOWETH, and Mr. SHAYS.

H.R. 619: Mr. CONYERS, Ms. WOOLSEY, Mr. NADLER, and Mr. SERRANO.

H.R. 620: Mr. CONYERS, Ms. WOOLSEY, and Mr. NADLER.

H.R. 638: Mr. MILLER of Florida, Mr. MILLER of California, Mr. OWENS, Mr. VENTO, Ms. RIVERS, and Mr. WATT of North Carolina.

H.R. 696: Mr. GENE GREEN of Texas, Mr. ANDREWS, Mr. BILBRAY, Mr. FATTAH, Mr. WYNN, Mr. EMERSON, Mr. SANDERS, Mr. SHADEGG, and Ms. BROWN of Florida.

H.R. 698: Mr. BALLENGER, Mr. WICKER, and Mr. HAYWORTH.

H.R. 709: Mrs. MORELLA, Ms. PELOSI, Mr. SOLOMON, Mrs. CLAYTON, Mr. RANGEL, and Mr. FROST.

H.R. 728: Mr. WELLER.

H.R. 729: Mr. WELLER and Mr. ROYCE.

H.R. 731: Mr. HASTINGS of Florida and Mr. BAKER of California.

H.R. 739: Mr. STEARNS, Mr. CHRYSLER, and Mr. DUNCAN.

H.R. 795: Mr. NORWOOD, Mr. HUTCHINSON, and Mr. MILLER of Florida.

H.R. 800: Ms. DANNER, Mr. FUNDERBURK, and Mr. MCCRERY.

H.R. 824: Mr. VISCLOSKY.

H.R. 840; Mrs. CLAYTON.

H.J. Res. 5: Mr. ORTON.

H.J. Res. 38: Mr. MCCOLLUM.

H.J. Res. 66: Mr. INGLIS of South Carolina, Mr. COOLEY, Mr. CHRISTENSEN, Mr. TALENT, and Mr. ENGLISH of Pennsylvania.

H. Con. Res. 4: Mr. SAM JOHNSON, Mr. BARTLETT of Maryland, Mr. MOORHEAD, Mrs. MEYERS of Kansas, and Mr. HANCOCK.

H. Con. Res. 5: Mr. STEARNS and Mr. CALVERT.

H. Con. Res. 12: Mr. UNDERWOOD and Mr. SENSENBRENNER.

H. Con. Res. 23: Mr. SANDERS, Mr. DEUTSCH, Mr. DELLUMS, Ms. KAPTUR, Mr. MILLER of California, Mr. CLYBURN, Mr. BOUCHER, and Mr. GENE GREEN of Texas.

H. Res. 25: Mr. HAYWORTH, Mr. ENGLISH of Pennsylvania, Ms. DUNN of Washington, Mrs. CUBIN, and Mr. PETERSON of Minnesota.

H. Res. 30: Mr. BOEHLERT, Mr. EMERSON, Mr. KLECZKA, Mrs. VUCANOVICH, Mr. GUTIERREZ, Mr. COBURN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BONIOR, Mr. MINGE, Mr. CHAPMAN, Ms. ROYBAL-ALLARD, Mr. EHLERS, Ms. PELOSI, Mr. BURTON of Indiana, Mr. FALEOMAVAEGA, Mr. REED, Mr. LEWIS of Georgia, Mr. LIGHTFOOT, Mr. SOLOMON, and Mr. HOEKSTRA.

H. Res. 57: Mr. CONDIT.

H. Res. 58: Mr. HAYWORTH and Mrs. MEYERS of Kansas.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 2: Mr. ALLARD.

PETITIONS, ETC.

Under clause 1 of rule XXII,

2. The SPEAKER presented a petition of the board of commissioners, Fulton County, GA, relative to unfunded Federal mandates; which was referred jointly, to the Committees on Government Reform and Oversight and Rules.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 667

OFFERED BY: MR. CARDIN

AMENDMENT NO. 6: Page 8, strike lines 7 through 11, and insert the following:

"(1) $990,300,000 for fiscal year 1996;

"(2) $1,322,800,000 for fiscal year 1997;

"(3) $2,519,800,000 for fiscal year 1998;

"(4) $2,652,800,000 for fiscal year 1999; and

"(5) $2,745,900,000 for fiscal year 2000.

H.R. 667

OFFERED BY: MR. RIGGS

AMENDMENT NO. 7: After subsection (b) of section 504, insert the following new subsection (and redesignate subsequent subsections accordingly):

"(c) AVAILABILITY OF FUNDS FOR JAIL CONSTRUCTION.—A State may use up to 15 percent of the funds provided under this title for jail construction, if the Attorney General determines that the State has enacted—

"(1) legislation that provides for pretrial release requirements at least as restrictive as those found in section 3142 of title 18, United States Code; or

"(2) legislation that requires an individual charged with an offense for which a sentence of more than one year may be imposed, or charged with an offense involving violence against another person, may not be released before trial without a financial guarantee to ensure appearance before trial.".

H.R. 667

OFFERED BY: MR. SCHIFF

AMENDMENT NO. 8: Strike subparagraph (B) of section 101(a)(2) of the Violent Crime Control and Safe Streets Act of 1994, as amended by section 2 of this bill, and insert the following:

"(B) Enhancing security measures—

"(i) in and around schools; and

"(ii) in and around any other facility or location which is considered by the unit of local government to have a special risk for incidents of crime.

H.R. 667

OFFERED BY: MR. TORRICELLI

AMENDMENT NO. 9: On page 6, line 14, after "General" insert "including a requirement that any funds used to carry out the programs under section 501(a) shall represent the best value for the government at the lowest possible cost and employ the best available technology."

H.R. 668

OFFERED BY: MR. BURR

AMENDMENT NO. 1: At the end insert the following new section (and conform the table of contents accordingly):

SEC. 14. MANDATORY DETENTION OF ALIEN AGGRAVATED FELONS PENDING DEPORTATION.

Section 242(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1252(A)(2)) is amended—

(1) by striking subparagraph (B); and

(2) in subparagraph (A)—

(A) by striking "(2)(A)" and inserting "(2)", and

(B) in the second sentence—

(i) by striking "but subject to subparagraph (B)", and

(ii) by inserting before the period "either before or after a determination of deportability until such alien is deported, unless the alien is finally determined to be not deportable".

H.R. 668

OFFERED BY: MR. BURR

AMENDMENT NO. 2: At the end insert the following new section (and conform the table of contents accordingly):

SEC. 14. DISCRETIONARY AUTHORITY TO DEPORT ALIENS BEFORE COMPLETION OF SENTENCE.

(a) IN GENERAL.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(e) DISCRETIONARY AUTHORITY TO DEPORT CERTAIN CRIMINAL ALIENS BEFORE COMPLETION OF SENTENCE.—(1) In the case of an alien who has been determined to be deportable, except as provided in paragraph (2), the Attorney General may provide for the alien's deportation before the completion of the sentence, if the authority providing for the term of imprisonment is authorized to consent and consents to the alien's release for deportation before completion of the sentence.

"(2) The Attorney General shall not exercise authority under paragraph (1) unless the Attorney General determines that (A) the early release from imprisonment is in the public interest; and (B) the alien is not confined pursuant to a criminal offense of a State, a political subdivision of a State, or the Federal Government which consists of (i) murder or attempted murder, (ii) rape or sexual assault, (iii) espionage, (iv) terrorism, (v) pedophilia, (vi) assassination or attempted assassination of a public official, (vii) leading a drug trafficking ring, or (viii) alien smuggling.".

(b) CONFORMING AMENDMENTS.—

(1) Section 242(h) of such Act (8 U.S.C. 1252(h)) is amended by striking "An alien" and inserting "Subject to section 242A(e), an alien".

(2) Section 242A(d)(3)(A)(iii) of such Act (8 U.S.C. 1252a(d)(3)(A)(iii)) is amended by inserting ", subject to subsection (e)," after "become final and".

H.R. 668

OFFERED BY: MR. CUNNINGHAM

AMENDMENT NO. 3: At the end insert the following new section (and conform the table of contents accordingly):

SEC. 14. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

H.R. 668

OFFERED BY: MR. CUNNINGHAM

AMENDMENT NO. 4: At the end insert the following new section (and conform the table of contents accordingly):

SEC. 14. STUDY OF PRISONER TRANSFER TREATY WITH MEXICO.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty with Mexico (in this section referred to as the "Treaty") to remove from the United States aliens who have been convicted of crimes in the United States.

(b) USE OF TREATY.—The report under subsection (a) shall include the following information:

(1) The number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the Treaty.

(2) The number of aliens described in paragraph (1) who have been transferred pursuant to the Treaty.

(3) The number of aliens described in paragraph (2) who have been incarcerated in full compliance with the Treaty.

(4) The number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty.

(5) The number of aliens described in paragraph (4) who are incarcerated in State and local penal institutions.

(c) EFFECTIVENESS OF TREATY.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the Treaty. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address the following areas:

(1) Changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(2) Changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(3) Changes in the Treaty that may be necessary to increase the number of aliens convicted of crimes who may be transferred pursuant to the Treaty.

(4) Methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty.

(5) Any recommendations of appropriate officials of the Mexican Government on programs to achieve the goals of, and ensure full compliance with, the Treaty.

(6) An assessment of whether the recommendations under this subsection require the renegotiation of the Treaty.

(7) The additional funds required to implement each recommendation under this subsection.

H.R. 668

OFFERED BY: MR. FOLEY

AMENDMENT NO. 5: At the end insert the following section (and conform the table of contents accordingly):

SECTION 14. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) IN GENERAL.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

"(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

"(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

"(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

"(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense, and (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

"(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).".

(b) REENTRY OF ALIEN DEPORTED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) amended by adding at the end the following new subsection:

"(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.".

H.R. 668

OFFERED BY: MR. HORN

AMENDMENT NO. 6: At the end insert the following new section (and conform the table of contents accordingly):

SEC. 14. PRISONER TRANSFER TREATIES.

(a) NEGOTIATION.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirement of prisoner consent to such a transfer.

(b) CERTIFICATION.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

H.R. 668

OFFERED BY: MR. MORAN

AMENDMENT NO. 7: Page 14, after line 6, insert the following new section (and conform the table of contents accordingly):

SEC. 14. JUSTICE DEPARTMENT ASSISTANCE IN BRINGING TO JUSTICE ALIENS WHO FLEE PROSECUTION FOR CRIMES IN THE UNITED STATES.

(a) ASSISTANCE TO STATES.—The Attorney General, in cooperation with the Commissioner of Immigration and Naturalization and the Secretary of State, shall designate an office within the Department of Justice to provide technical and prosecutorial assistance to States and political subdivisions of States in efforts to bring to justice aliens who flee prosecution for crimes in the United States.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Attorney General shall compile and submit to the Congress a report which assesses the nature and extent of the problem of bringing to justice aliens who flee prosecution for crimes in the United States.

H.R. 668

OFFERED BY: MR. SENSENBRENNER

AMENDMENT NO. 8: Strike section 11 (and redesignate the subsequent sections and conform the table of contents accordingly).

H.R. 728

OFFERED BY: MR. SCHIFF

AMENDMENT NO. 1: Strike subparagraph (B) of section 101(a)(2) of the Violent Crime Control and Safe Streets Act of 1994, as amended by section 2 of this bill, and insert the following:

"(B) Enhancing security measures—

"(i) in and around schools; and

"(ii) in and around any other facility or location which is considered by the unit of local government to have a special risk for incidents of crime.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1995

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. FAWELL. Mr. Speaker, today, I join my colleague, the Honorable MAJOR OWENS of New York, in introducing legislation to restore the public safety exemption under the Age Discrimination in Employment Act of 1967 [ADEA]. This exemption, which expired on December 31, 1993, would allow police and fire departments and correctional institutions to utilize maximum hiring ages and early retirement ages as an element of their overall personnel policies. As a general matter, the use of age-based employment criteria is impermissible under the ADEA.

I believe strongly that the use of an age requirement as a qualification for employment is rarely justified. However, the public safety arena presents one of the very limited exceptions where the need to perform at peak physical and mental conditioning is critical and the natural effects of the aging process cannot be discounted. Police and firefighters have the safety and well-being of not only their fellow officers, but the general public as well, in their hands, and we simply cannot tolerate the risk presented by the possibility of sudden incapacitation or slowed reflexes.

I recently chaired a hearing of the Subcommittee on Employer-Employee Relations of the Committee on Economic and Educational Opportunities on the need for the public safety exemption under the ADEA, and the testimony of firefighting and law enforcement organizations and local government was compelling. A representative of the International Association of Firefighters testified that "the most important reason that public safety occupations are an exception to the general rule against age-based employment criteria is simply that human lives are at stake." Both the firefighters and police officers presented persuasive testimony that State and local governments must ensure a physically fit and fully qualified workforce and that there are no adequate physical tests available to enable them to do so without the use of age criteria. I might also add that essentially the same legislation restoring the public safety exemption twice passed the House of Representatives in the last Congress.

Drawing a line between the employment rights of one group of Americans and the general good of all Americans is never easy. However, given the increasingly difficult task facing both the law enforcement and firefighting communities, I do not feel we can deny them a personnel tool which management and labor alike feel is necessary to the effective performance of their jobs. I urge all my colleagues to join me in sponsoring the Age Discrimination in Employment Amendments of 1995 and in restoring the public safety exemption to the ADEA.

SUPPORT FOR MINIMUM WAGE

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Ms. WOOLSEY. Mr. Speaker, I rise to commend the President in the strongest possible terms for his proposal to increase the minimum wage and provide much-needed relief for the working families of this country.

In 1991, before I came to Congress, I was a human resources consultant. Back then, the minimum wage was at the same level that it is today: $4.25 an hour. In Sonoma County, where I worked, it was a joke to expect someone to support a family with a minimum wage job, because the minimum wage was not a livable wage. Well, Mr. Speaker, it is even less livable now, because inflation has cut its value by 50 cents over the past 4 years. This is a crisis for America's working families that Congress must address immediately.

To those who oppose President Clinton on this issue, and especially to those who want to eliminate the minimum wage altogether, I want to remind you that 75 percent of the American people agree with our President. I urge my colleagues to unite on behalf of America's working families—to provide them with the wage they deserve.

GOD, GIVE US MEN

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. CRANE. Mr. Speaker, as the new majority in Congress, we face tough decisions in following through with our promises to the American people.

My friend and constituent, Mr. Bill Zimmerman from Gurnee, IL, provided me with a poem that describes the traits Americans expect from their legislators. I include a copy of "God, Give Us Men" for the RECORD, and commend it to the attention of my colleagues.

GOD, GIVE US MEN!

(By Josiah Gilbert Holland)

God, give us Men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Men who can stand before a demagogue
And damn his treacherous flatteries without winking!
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking;
For while the rabble, with thumb-worn creeds,
Their large professions and their little deeds,
Mingle in selfish strife, lo! Freedom weeps,
Wrong rules the land and waiting Justice sleeps.

REDUCTION OF THE OFFICIAL MAIL ALLOWANCE

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. DAVIS. Mr. Speaker, I am today introducing legislation to reduce the official mail allowance of Members of Congress by one-third. I am joined in this request by 21 cosponsors. It has long been my opinion that the ability of Members of Congress to blanket their constituency with unsolicited mass mailings gives them a distinct advantage over challengers in congressional elections. The citizens of the Eleventh District of Virginia have made it clear to me that Congress needs to reform and return itself to its intended purpose as an instrument of the people. It is my hope that this legislation will play a key role in these reforms.

In the past, the official mail allowance was determined by multiplying the number of addresses in a Member's congressional district by the first class postal rate. The current formula allows each Member three times the total number of addresses in their congressional district. The Committee on House Oversight has been responsible for regulating this appropriation; however, preliminary figures have shown that Members altogether overspent this allowance by approximately $2 million last year. It is clear that we need to take stronger action in order to control this appropriation.

Tomorrow, the Committee on House Oversight will enact regulations that will consider cutting the statutory appropriation. My legislation will couple this regulation by reducing the number of addresses in the formula determining a Member's official mail allowance, resulting in a real money difference of approximately $55,000 per Member each year. I hope my colleagues and the Committee on House Oversight will support our efforts in the fight for this overdue change.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HONORING DR. LAURANCE NICKEY

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. COLEMAN. Mr. Speaker, I rise to applaud the efforts of a special leader in my home community of El Paso, TX. In fact, I am quite proud to commend the American Medical Association in its decision to award the 1994 Dr. Nathan Davis Awards to Dr. Laurance Nickey, who will be honored with the Career Public Servant Award at a special awards banquet tonight at the Mayflower Hotel. The Dr. Nathan Davis Awards are presented for outstanding contributions "to promote the art and science of medicine and the betterment of the public health."

Dr. Laurance Nickey is the director of the El Paso City-County Health District and has long been proactive in promoting the public health of the entire southwestern border region. In fact, Dr. Nickey was the first to propose the idea of creating a United States-Mexico Border Health Commission, which was signed into law in October 1994. Dr. Nickey espoused the need to work collaboratively with health, officials of the Mexican side because of his true commitment to improving the health of residents all along the border.

Dr. Nickey has a long and impressive history of service in El Paso, where he was raised. He founded a private pediatric practice there from 1960 to 1983. Dr. Nickey's accomplishments can be found in both the legislative and community health arenas. Legislatively, Dr. Nickey was instrumental in securing legislation that prohibits insurance companies in Texas from discriminating against newborn babies during the first several weeks of life. Dr. Nickey's community successes include the 1963 oral polio immunization program, which administered 800,000 doses of polio vaccine to El Pasoans, west Texans and southern New Mexicans. In 1965, Dr. Nickey was responsible for getting a tuberculosis control physician from the U.S. Public Health Service to come to El Paso, which led to the establishment of an excellent tuberculosis control unit to be operated by the Texas Department of Health through the El Paso City-County Health District.

More, recently, in 1990, Dr. Nickey launched the improved pregnancy outcome program [IPOP], which resulted in the increase of prenatal visits in El Paso from 420 to over 17,000. In fact, at Thomason General Hospital, our principal public hospital, the percentage of women that delivered without prenatal care fell from 40 percent to 11 percent. In August 1991, Dr. Nickey began the only local international task force on cholera along the southwestern border. This project encompassed widespread community involvement. These are but a few. Dr. Nickey's list of accomplishments is impressive and endless.

I know that I share the appreciation and admiration of all El Pasoans when I say, thank you, Dr. Nickey, for your tireless and selfless efforts toward improving the health of all Americans.

THE PAPERWORK REDUCTION ACT OF 1995

HON. NORMAN SISISKY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. SISISKY. Mr. Speaker, I rise today to voice my strong support for H.R. 830, the Paperwork Reduction Act of 1995. I and four other Members of this House joined Mr. CLINGER last night in introducing this urgently needed and long overdue legislation, and I strongly urge my Democratic and Republican colleagues to lend it their wholehearted support.

H.R. 830 makes a series of improvements which strengthen the Paperwork Reduction Act of 1980. It gives the Federal agencies the tools and the mandate they need to curb paperwork demands on small businesses. It makes permanent the OMB office that is responsible for overseeing the paperwork reduction process. And it closes the enormous loophole created by the Dole Supreme Court case, which agencies have taken advantage of to exempt themselves from requirements of the original Paperwork Reduction Act.

In the 103d Congress, Congressman CLINGER joined me in introducing H.R. 2995, the Paperwork Reduction Act of 1993, a very similar version of the same bill. In this Congress, I have the distinct pleasure of joining Congressman CLINGER in introducing H.R. 830.

I am pleased that H.R. 830 and its Senate counterpart enjoy such broad bipartisan support, as well as the endorsement of the Clinton administration. It is truly good news for small businesses all across the country that this bill has such promising prospects for enactment.

As a senior Democrat on the Small Business Committee, I know that small businesses consistently rank the reduction of Government paperwork as one of their top priorities. Federal paperwork requirements amount to a hidden tax on small businesses, who spend billions of dollars every year in compliance. Since small businesses are responsible for creating most new jobs in today's economy, it only makes sense to check this hindrance to small business job creation.

Reducing the amount of paperwork drowning small businesses in America is a reform that both Democrats and Republicans can enthusiastically support. It is encouraging that Members of both parties have been able to put aside their partisan differences to work together on this important legislation. I hope this effort can serve as a model for constructive bipartisan cooperation on many other issues that directly affect small businesses and average citizens on a day-to-day basis.

WHAT NEGRO HISTORY MONTH MEANS TO ME

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. CLAY. Mr. Speaker, black Americans have fought in every war in which the United States has been involved. However, black soldiers were not afforded the same rights and privileges as their white counterparts until recently. Despite the courage and patriotism they displayed, black soldiers were often forced to endure overt discrimination and racism from their superiors and peers.

I want to share with my colleagues an essay that describes the trials of one black soldier. The account was written by Joseph "Joe" Myers, my old friend and club member in the Lamb's Club. It is my hope that Joe's story will positively inspire my colleagues during this Black History Month.

WHAT NEGRO HISTORY MONTH MEANS TO ME

(By Joseph "Joe" Myers)

This is a salute to the Negro American men and women who served in the United States Marine Corp during the last fifty years.

As I lie here thinking of Negro history month being celebrated today, little did I know or think when I volunteered for service in the U.S. Marine Corp in Dec. 1942, that I would today be considered a legend in Negro Military History.

Being among the first thirty platoon of men enlisted and called, the quota was to be twelve hundred (1200) and this was on an experimental basis to see if we could finish basic training, which was hazardous and highly disciplined. To become part of this highly elite organization was our goal. We had all kinds of setbacks, embarrassing, degrading and harassing experiences, but we banded together with our dignity and pride.

We made it. This was the first time in U.S. Marine Corp history that Negro Americans were on record as part of the U.S. Marine Corp. The first thirty platoons were trained and supervised by white instructors who reminded us constantly that we were not wanted in the Corp. They even suggested we go over the hill (AWOL). This made us band together with more determination to prove we were as qualified as others.

Today it makes my heart beam with joy to hear a great leader, General Colin Powell, former Chief of Staff, state that The Montford Point Marines are among the Negro Military legends. To have served and see blacks rise from a Boot recruit to a Lt. General and now Major, and Brigadier Generals is amazing. I knew it would happen. Yes, we served in World War II, the Korean era, the Vietnam conflict, the Desert Storm, Granada, Panama and now the Haitian conflict.

We have served with the highest distinction, some even getting this nation's highest award, "The Congressional Medal of Honor" and awards for being among the best fighter pilots in combat. Yes, we salute the men and women who have followed in our footsteps and are continuing to carry the baton.

To quote General Chappie James: "We have run a good race and come a long way, but there are better trophies ahead."

You may hear some conflicting lies and exaggerating stories about us. If you want the true analysis ask someone from the First Thirty Platoons.

Semper Fi.

MARSHA GRILLI: MILPITAS CITIZEN OF THE YEAR

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. STARK. Mr. Speaker, I rise today to recognize the achievements of Ms. Marsha Grilli, a resident of the city of Milpitas in the 13th Congressional District. She has just been selected as the 1995 Milpitas Citizen of the Year by the Milpitas Chamber of Commerce.

Marsha has been an active member of the Milpitas community for over 13 years but has really made her mark in our community's schools. She has been immersed in the education of her five children, as any parent would be. But Marsha's interest in their education has benefited all of the schoolchildren of Milpitas.

She has served on numerous committees, including the Community Board Advisory Council, school site councils, and Curtner School Association. She was the cofounder of the Milpitas Foundation for Education, served as its chair and continues to be an active member. The foundation's purpose is to work with businesses to secure grants for both teachers and students. Under Marsha's leadership, the foundation has made a difference in Milpitas. Since Marsha was recently elected to the Milpitas Unified School District, she is no longer able to serve on its board of directors, but I am certain that she will continue to be even more dedicated—if that is possible—to our schools in her new capacity.

In 1990, Mayor McHugh appointed Marsha to the Parks, Recreation and Cultural Resources Commission for the city of Milpitas. She currently serves as the commission's chair. She has also been an active member of the Milpitas Volunteer Partners Program for many years where she has participated in such programs as the Fall Fest and Milpitas USA Parade and Festival. Marsha also recently cochaired the Great Mall of the Bay Area Evening Gala which raised over $35,000. She has also been a member of several other organizations such as the Little League, Cub Scouts, Pal Soccer, the Milpitas Chamber of Commerce, and Trinity Episcopal Church.

Marsha is also a successful businesswomen who, while raising a family and managing her child care business, has always taken the time to give back to her community. That is why I am proud to recognize Ms. Marsha Grilli as the 1995 Milpitas Citizen of the Year.

TRIBUTE TO TERRANCE NELSON HOSKINS MEDINA

HON. JOHN LINDER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. LINDER. Mr. Speaker, I want to take this opportunity to recognize Terrance Nelson Hoskins Medina on his accomplishment of earning the rank of Eagle Scout. This is a substantial achievement demonstrating his abilities and perseverance, as only 2 percent of all Scouts ever achieve the Eagle rank.

Terrance began Scouting in 1988, as a member of the Emory Presbyterian Church-sponsored Troop 55. However, in just 2 years Terrance had moved from Troop 55 to Troop 455, where he was elected to the Order of the Arrow. On February 7, 1995, he completed his Eagle Scout requirements having reconstructed a 60-by-5-foot bridge for the Morningside Presbyterian Church.

Aside from Scouting, Terrance has maintained an "A" average, while still allowing enough time to devote himself to his music. For the past two summers, Terrance has participated in the highly competitive program at Interlochen, MI, where he specialized in the flute. He has also performed for the Atlanta Symphony Youth Orchestra and Olympic band and was also named to the All State band in 1994. After graduation, he plans to attend a conservatory where he can continue his study of music.

I extend my congratulations to Terrance, who should be justifiably proud of his accomplishments. I also congratulate his parents, Augusto and Norma Medina, and his adult Scout leaders whose support and encouragement helped make his goal a reality.

INTRODUCTION OF THE HAYES-BAKER SMALL BUSINESS AMENDMENT TO H.R. 5

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. HAYES. Mr. Speaker, as much as the debate surrounding unfunded Federal mandates is grounded in Federal irresponsibility toward State and local governments, unfunded mandates also undermine our respect for and commitment to the small entrepreneur. 97.6 percent of the nongovernmental, nonagricultural businesses in my home State of Louisiana employ 99 workers or less. We depend on the small businessman to provide jobs for our children and our grandchildren. With unfunded mandates already estimated to cost $229 per capita in fiscal year 1995, Lousiana's small businessmen and their employees can ill-afford to shoulder any additional regulatory burdens.

It is for these reasons that my Louisiana colleague, RICHARD BAKER, and I proposed an amendment to H.R. 5 to ensure that the business community is adequately factored into the unfunded mandate equation. Our proposal is consistent with the substance and intent of our own regulatory and legislative review bill, the Small Business and Private Sector Economic Impact Act, H.R. 58.

This amendment would modify title III of H.R. 5 to require that the Director of the Congressional Budget Office [CBO], at the request of any standing committee of the House or Senate, consult with and assist those committees in analyzing, when practicable, whether legislation has a significant employment impact on the private sector. The CBO will continue to examine the significant budgetary impact on State, local, or tribal governments as well as the significant financial impact on the private sector. Given the enormous workload that CBO must shoulder to fulfill its current obligations under this bill, our amendment necessarily focuses the committees on unfunded mandates specifically impacting jobs. At the same time, our amendment allows the committees to appropriately prioritize to ensure that the legislative process is not bogged down and that the CBO does not study employment issues whenever such matters are nongermane or deiminimus.

President Wilson once characterized our search for direction by saying that "there is much excitement and feverish activity, but little concert of thoughtful purpose." I believe that his insight paints an accurate picture particularly when, as is currently the case, the Federal bureaucracy fails to set priorities, places its needs ahead of those of the people it is supposed to serve, and when regulators, and Members of this body for that matter, propose inane, onerous laws and regulations without regard for who ultimately must pay for them. Clearly, the people should be made aware of the full effect, good and bad, that their Government's actions will have on them. This amendment would help prevent the Federal Government from shirking its responsibility.

INTRODUCTION OF THE RURAL TELEMEDICINE ACT OF 1995

HON. BLANCHE LAMBERT LINCOLN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mrs. LINCOLN. Mr. Speaker, I rise today along with my two colleagues, Congressman JAY DICKEY and Congressman BILL RICHARDSON to introduce a bill which will have far-reaching implications for rural citizens in our Nation. This legislation, the Rural Telemedicine Act of 1995, will finally provide rural health care providers with Medicare reimbursement for the telemedicine services they provide.

Telemedicine, while not all that new, has the potential to become the breakthrough technology for rural residents and their access to specialized and emergency health care. However, we have a role in making sure that rural residents have access to this possible innovation.

In the past, Congress has focused solely upon providing funding for the equipment to transmit telemedicine services. This bill will enhance our efforts by giving providers in rural areas appropriate Medicare reimbursement for the services they are already providing for free. I am concerned that if we do not begin to pay for utilization, this service will not meet it's potential and rural constituents will be left out in the cold again.

The Rural Telemedicine Act of 1995 is very cost conscious. The Health Care Financing Administration [HCFA] will oversee the disbursement of the Medicare funds to determine that care givers are using telemedicine appropriately. In addition, HCFA must provide Congress with several reports, both during and after this project's 3-year lifetime. This provision alone removes the blank-check syndrome we have experienced through pilot programs being constantly reauthorized. In this instance, Congress will receive substantive data about the most viable uses of telemedicine.

I urge Members of this House to seriously consider cosponsoring the Rural Telemedicine Act of 1995. Please assist your rural constituencies in gaining access to viable health care options.

AMENDING THE CLEAN WATER ACT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. CUNNINGHAM. Mr. Speaker, on February 2, 1995, I was pleased to join my colleagues from San Diego in introducing H.R. 794. Representative BILBRAY's bill, H.R. 794, is intended to amend the Clean Water Act to exempt San Diego from secondary sewage treatment requirements of its wastewater.

Current law requires every city, no matter its environmental conditions, to handle sewage at the secondary level. However, study after study has concluded that sewage treated at advanced primary levels and released into ocean depths greater than 300 feet does not harm the environment. With this in mind, it seems senseless to appropriate billions of dollars to upgrade a system to secondary treatment when our ocean waters are adequately protected at the primary levels.

The Environmental Protection Agency [EPA] has been trying to force San Diego to upgrade its wastewater treatment plant, at a cost of billions, to comply with the act. The Clean Water Act mandates that cities use secondary treatment of sewage which removes at least 85 percent of the solids from sewage. However, San Diego's Point Loma Wastewater Treatment Plant uses advanced primary treatment to remove approximately 82 percent of the solids before it is discharged 4.5 miles out into the ocean.

For years, San Diego has argued that because of its deep ocean outfall, secondary treatment of its sewage is unnecessary and costly. According to noted scientists from Scripps Institute of Oceanography, it may even be detrimental to the environment. That is why I am encouraged that H.R. 794 would allow the city of San Diego to be free of the requirements regarding biological oxygen demand and total suspended solids in the effluent discharged into marine waters. Such modifications will not alter the balance of our marine life and viability.

As a Representative of San Diego, a retired naval officer, and all around sea-lover, I have immense concerns for the proper treatment of our waters. San Diego is unique in its ability to discharge of its waste into deep waters. We are unlike so many cities that must discharge into lakes and rivers. I believe this issue should be treated as a matter of common sense. According to current law, San Diego would be required to waste money to alter a system that has proven successful. The intent of H.R. 794 is to allow San Diego to treat its sewage in a cost-effective, as well as environmentally safe, manner.

Finally, I would like to thank Representative BILBRAY for his efforts in this regard. This legislation would help to right a major wrong for San Diego. I look forward to the consideration of H.R. 794 in the near future. Speaker GINGRICH has also stated his concern for this unique situation. Speaker GINGRICH has proposed that 1 day a month be set aside in the House for the consideration of bills, such as this, targeted to eliminate specific activities of Federal agencies that are deemed stupid. I believe this is a perfect example of an unfunded mandate at its worst. As witnessed by majority votes in the House and Senate, there is a need to prevent Congress from imposing mandates, often unnecessary, on States without providing the proper funding for them.

INTRODUCTION OF THE TOXIC POLLUTION RESPONSIBILITY ACT AND THE MUNICIPAL LIABILITY CAP ACT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. SMITH of New Jersey. Mr. Speaker, today, I reintroduced legislation addressing one of the central problems in the Superfund Program—municipal liability. I have introduced this legislation in the past two sessions and was pleased that it was included in principle in the comprehensive Superfund reform which was supported by a wide coalition and nearly gained congressional approval last year.

The Toxic Pollution Responsibility Act and the Municipal Liability Cap Act would free local governments from the costly entanglements of third party lawsuits generated by parties eager to share the costs of Superfund cleanup. Far too often, potentially responsible parties [PRP's] with obligations to contribute to cleanup costs initiate third party lawsuits against communities which had disposed simple municipal solid waste at sites which later found their way onto the National Priorities List [NPL]. Sometimes, these legal actions are predicated on serious, but erroneous, intentions of shifting cleanup costs to municipalities and taxpayers. Sometimes, however, they are just dilatory tactics meant to postpone final payments and cleanup.

The success of these tactics is obvious. In the 15 years of the program, only 5 percent of the 1,245 sites on the NPL have been completely cleaned up. And for that small accomplishment, an estimated $20 billion in combined Federal, State, and private funds has been spent. The National Association of Manufacturers estimates that the average site clean up takes 11 years and between $25 and $40 million. This is a far cry from the original EPA estimates of 5 to 8 years and $7 million.

To linger in negotiations and courts for years on end is very costly. A November 1993 Rand Corp. study of Superfund-related expenditures for 108 companies indicates that 32 percent of these combined expenses went to legal fees. There are few municipalities—particularly small communities—which can afford such exorbitant prices. To meet these costs, implicated towns would have little recourse other than tax hikes and/or reduced local services.

And beyond this, these lawsuits have averted the main principle of the Superfund law—to make the polluter pay.

Municipalities are not the hazardous waste polluters. They disposed simple everyday waste at these sites—coffee beans, toilet paper tubes, and banana peels—and not the industrial hazardous waste which transformed simple landfills into Superfund sites. There is no equating one with the other. And the law must reflect this distinction.

Furthermore, communities performed this duty not only to fulfill their traditional local responsibilities, but at the behest of the U.S. Congress and the Environmental Protection Agency [EPA]. In passing the Resource Conservation and Recovery Act of 1976 [RCRA], Congress specifically noted that "the collection and disposal of solid wastes should continue to be primarily the function of State, regional, and local agencies." Congress was clear in RCRA that local governments should hold the primary responsibilities in solid waste management within their jurisdiction. Are we to punish them now for complying so efficiently?

The two bills which I have introduced today recognize the innocence of these actions. The provisions of the bills apply to transporters and generators of municipal solid waste which have not been named by the EPA as PRP's. The first of my bills—the Toxic Pollution Responsibility Act—would entirely exempt these parties from the threat of third party suits. The second of my bills—the Municipal Liability Cap Act—would cap the total municipal liability obligation at 4 percent for each site. This cap was first advocated in 1992 by an internal EPA review board. This principle was also incorporated into last year's comprehensive Superfund reform proposal as a 10-percent cap on municipal liability.

The overwhelmingly decisive passage of unfunded mandates legislation by the House demonstrates our commitment to providing overburdened local governments with long overdue relief. These are our partners in governance and serve the same citizens we serve. We owe them this much. I encourage my colleagues to cosponsor one or both of these initiatives and I encourage the House Committee on Commerce to consider this important proposal for inclusion once again in a comprehensive Superfund reform package.

A DECENT MINIMUM WAGE

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. WARD. Mr. Speaker, I would like to bring to the attention of my colleagues an article by Robert Kuttner which appeared in the January 29, 1995 issue of the Washington Post. I feel that this article vividly illustrates the need for an increase in the minimum wage and I hereby submit the following text of this article for the RECORD.

[From the Washington Post, Jan. 29, 1995]

A DECENT MINIMUM WAGE

(By Robert Kuttner)

President Clinton wants to raise the minimum wage. The Republicans object. Indeed, House Majority Leader Richard Armey wants to repeal existing minimum wage laws.

Politically, this was a difficult call for Clinton. On the one hand, raising the minimum wage seems to contradict Clinton's well-advertised return to his "New Democrat" roots. The federal minimum wage evokes FDR, factory workers and the Great Depression, a set of images that Clinton hopes to transcend. The middle class, object of Clinton's courtship, earns a lot more than the minimum wage—or it isn't middle class.

At the same time, a higher minimum wage clearly resonates with the Clinton theme of honoring work. In his State of the Union speech, the president once again saluted Americans working longer hours for less pay, and suggested they deserve more reward. These are precisely the people who've stopped voting, but who tend to vote Democratic when they vote at all.

Contrary to mythology, most of the 4 million minimum wage workers are not teenagers flipping burgers after school. They are breadwinners, mostly female, contributing to an increasingly inadequate household income.

Moreover, the value of the minimum wage has deteriorated markedly. Throughout the late 1950s, under President Eisenhower, it had a real (inflation adjusted) value of over $5 an hour in today's dollars. In the mid-'60s, before eroded by inflation again, it peaked at $6.38—50 percent higher than today's value. As recently as 1978, it was worth over $6, enough for two breadwinners to earn a barely middle-class living. Today it is just $4.25.

In that sense, the Republican views on the minimum wage are also contradictory. Republicans, even more fiercely than President Clinton, want to replace welfare with work. But if work doesn't pay a living wage, then even people who dutifully take jobs can't pay the rent.

Republicans also want budget balance. But hiking the minimum wage is a lot more budget-friendly than having government subsidize low-wage work.

The government's principal device for making work pay is the Earned Income Tax Credit—a kind of negative income tax targeted to low-wage workers with families. It was expanded, with strong bipartisan support, in 1993. Next year, the EITC will cost the federal budget more than $15 billion.

Of course, the Republican desire to encourage work and reduce federal outlays clashes with the Republican worship of unregulated markets. Conservatives, seconded by many economists, have long argued that minimum wage laws reduce jobs. By raising the cost of workers, minimum wages force industry to make fewer hires.

That makes intuitive sense. However, a new and comprehensive study by two Princeton University economists rebuts the conventional wisdom. Economists David Card and Alan Krueger had a laboratory case when New Jersey raised its state minimum wage and neighboring Pennsylvania did not.

Card and Krueger found that employment in New Jersey actually expanded after that state hiked its minimum wage from $4.25 to $5.05 an hour in April 1992. Comparable fast-food outlets across the river in eastern Pennsylvania, whose minimum wage remained at $4.25, experienced lower job growth. Nor was New Jersey's hike in wages offset by reduced fringe benefits. The economists found similar results in studying other states.

What explains these surprising findings? In their forthcoming book, "Myth and Measurement" Card and Krueger find that management has a degree of "market power." They could have been paying higher wages all along. They simply chose not to, given that enough workers were available at the lower wage.

Contrary to the usual claim that higher minimum wages are inflationary, they also found that restaurants mostly did not respond to the higher labor costs by raising prices. Rather they offset the higher pay with improved output and lower turnover. In some cases, they simply absorbed the higher costs.

At some point, say $7 an hour, Card and Krueger agree that a higher minimum wage would likely reduce employment. But with the value of the minimum wage having eroded so badly, we are nowhere near that tipping point.

All of this suggests that the wisdom of legislating a decent social minimum is far from a cut-and-dried economic proposition. It is simply a political choice.

As a society, we can permit employers to recruit as many low-wage workers as they please, at the lowest going rate. But it turns out that the path of low productivity and low wages doesn't necessarily produce more jobs. Alternatively, we can insist that more company earnings be shared with employees—and we may well reap a more productive economy as well as a fairer one, at less cost to the taxpayers.

By embracing higher minimum wages, President Clinton has identified himself with the work ethic and with the occasional virtue of government regulation to correct imperfect markets and protect vulnerable people. In a speech that otherwise seemed heavily Republican, it was a good place to draw the line.

LINCOLN'S LASTING LEGACY

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. RADANOVICH. Mr. Speaker, many of us are about to return home, to the communities we represent and to the constituents we serve, to join in observing Lincoln Day. In the words of the man whose birth 186 years ago we celebrate on February 12 and whose memory we venerate, that commemoration is "altogether fitting and proper." It also is, in my belief, remarkably timely when we pause to compare Mr. Lincoln's views on Government to what we understand is the mandate that brought us to Washington.

Recently, when our neighbors on Capitol Hill, the Library of Congress, put on public display the original manuscripts of the Gettysburg Address, I joined with tens of thousands of our fellow Americans who visited this exhibition. While there I talked with members of the Library staff in charge of rare documents and was given a brief tour of the stacks in which are held some of the papers of our past Presidents, including Abraham Lincoln.

I assure my colleagues and constituents, Mr. Speaker, that it was one of the more memorable moments of my life to hold in my hands correspondence and other materials actually written by Mr. Lincoln. And, of course, there was that simple signature we have seen reproduced so many times in so many places, "A. Lincoln."

The experience moved me to look anew at Lincoln works and words. At every turn it seems, Mr. Lincoln demonstrated a strict adherence to the ideals of our Founders. His proclamation in 1863 said:

> No service can be more praiseworthy and honorable than that which is rendered for the maintenance of the Constitution and the consequent preservation of free government.

The Lincoln basic belief in self-government is compellingly clear in an 1858 Chicago speech:

> I have said very many times . . . that no man believed more than I in the principle of self-government; that it lies at the bottom of all my ideas of just government from beginning to end.

Mr. Lincoln's definition of Government's purpose stands at the best I ever have encountered. Speaking in Springfield, IL in 1854, he said:

> The legitimate object of government is to do for a community of people whatever they need to have done, but cannot do at all, or cannot do so well for themselves, in their separate and individual capacities. In all that people can individually do as well for themselves, government ought not to interfere.

The preeminent position of the people in public affairs was a Lincoln guiding light. As a Member of this House of Representatives, he spoke from the floor in 1848:

> In leaving the people's business in their own hands, we cannot be wrong.

In his First Inaugural Address, President Lincoln asked in 1861:

> Why should there not be a patient confidence in the ultimate justice of the people; Is there any better or equal hope in the world?

On Independence Day that year, the message to Congress from President Lincoln advised:

> The people themselves, and not their servants, can safely reverse their own deliberate decisions.

And, from perhaps one of the most-repeated of Lincoln quotations comes his counsel about the ultimate wisdom of the people:

> You can fool all the people some of the time and some of the people all of the time, but you can't fool all of the people all of the time.

Mr. Speaker, Abraham Lincoln also addressed the meaning of mandates from the people who elect us. His 1861 speech in Pittsburgh as President-elect referring to the balloting behind him should admonish us today as we reflect on our own elections:

> We should do neither more nor less than we gave the people reason to believe we would when they gave us their votes.

These are the Lincoln lessons. They are the Lincoln legacy.

As I prepare to commemorate Lincoln Day with friends and family in Fresco, Mariposa, and elsewhere in California's 19th District, I pledge that my service will remain faithful to Lincoln principles.

HONORING DR. LAURA FLIEGNER

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. HINCHEY. Mr. Speaker, on February 25, my friends in Ulster County, NY, will gather to pay tribute to a woman who has dedicated years of service to our community. It is an honor and a privilege to ask that this body join me in tribute to Dr. Laura Fliegner, a woman of considerable talent and vision, who has served as district superintendent of the Ulster County board of cooperative extension since 1987.

It has been a personal pleasure to count Dr. Fliegner among my friends and advisors over the years. She is a woman dedicated not just to the education and training of our community's young people, but she is also committed to making the community more receptive and eager to particpate in the many good works that she has initiated. Laura has a rare gift for conveying to a wide constituency the importance of our young people and the vital contribution that they can and should make to our community. In her capacity as liaison and board member to a wide range of service and business organization throughout the Hudson Valley, she has been able to bring about programs and progress that have effected positive change for all of us.

Those of us who have been privileged to work with Laura over the years will sorely miss her continued participation in the betterment of our region. I thank my esteemed colleagues for taking this opportunity to recognize the public service that Dr. Fliegner has extended to the community at large.

SALUTING CUYAHOGA COUNTY BAR FOUNDATION PUBLIC SERVANTS MERIT AWARD RECIPIENTS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. STOKES. Mr. Speaker, I rise today to salute eight individuals who are being honored as outstanding public servants. On Thursday, February 16, 1995, the Cuyahoga County Bar Foundation and the Cuyahoga County Bar Association will be hosting the 49th Public Servants Merit Awards luncheon at the Marriott at Society Center. On that occasion, eight individuals will receive the Franklin A. Polk Public Servants Merit Award. The individuals are: John D. Chmielewski, Rita B. Cloonan, Carrie Cook, Gail A. Dadich, Deidre Taylor, Sherman S. Terry, Jr., Robert C. Townsend II, and George F. Williams.

The Public Servants Merit Award is named in honor of Franklin A. Polk, a distinguished lawyer who chaired the Annual Public Servants Awards luncheon for 40 years. As the 49th Awards luncheon approaches, Frank will be remembered for recognizing the efforts and contributions of public servants.

Mr. Speaker, I take special pride in saluting the 1995 Public Servants Merit Award recipients. I want to share with my colleagues some information on these outstanding individuals. Mr. John D. Chmielewski has served his entire career with the clerk of courts. He currently holds the post as deputy of the criminal division office. Mr. Chmielewski is a native of Cleveland. He is a graduate of Holy Name High School, Cuyahoga Community College, and Cleveland State University.

Mr. Chmielewski can boast numerous accomplishments during his career. He is responsible for developing an integrated information system, which upon completion will link the county's various criminal justice offices. He is a member of the jail utilization committee which facilitated the design and construction of the new annex. In addition, he is credited with the development of the State's first updatable microfiche system for court system use; the creation of a bar-coded charge-out system for criminal files, and an optical imaging system to replace the photocopying process.

Mr. Chmielewski, who resides in Brecksville, is also active in his community. He has conducted various seminars for neighborhood community and records management principals, and coached for the Brecksville/Broadview Heights Soccer Organization. He is also a member of the Brecksville/Broadview Heights Band Boosters. He and his wife, Susan, are the proud parents of three children, Adam, Jason, and Laura.

Mr. Speaker, Ms. Rita Cloonan is also a native Clevelander, and a graduate of Charles F. Brush High School. Her tenure with the Cuyahoga County Probate Court spans 24 years. She currently serves as deputy clerk/secretary for the court. During her career, she has worked in the account department, release of assets, and the application counter.

As deputy clerk, Ms. Cloonan schedules hearings, processes adversary complaints, assists attorneys and law clerks with court filings, and the general public in estates and guardianship filings. She is also responsible for compiling data and filing monthly status reports for judges and referees.

Ms. Cloonan is an active member of her community. She is a volunteer at St. Malachi Church, where she helps to feed homeless and needy individuals. She is also a member of the Westlake Irish-American Club, and coordinates the Ohio Irish festival. Ms. Cloonan is also politically active, serving as a campaign volunteer with the Rocky River Democratic Club. Bowling, gardening, needlework, antique shopping and travelling are just a few of her favorite hobbies.

Mr. Speaker, Mrs. Carrie W. Cook graduated from high school in Columbus, MS, where she was born, and has attended Cuyahoga Community College. At present she is enrolled at Moody Bible Institute. Mrs. Cook has been employed at Cuyahoga County Juvenile Court since 1970.

For the past 15 years, Mrs. Cook has supervised the traffic unit. In this post she is responsible for directing and coordinating activities of the department. The position also involves a close working relationship with other court offices and staff. Mrs. Cook's court tenure has also included providing administrative support to child support counselors and the Equal Employment Opportunity Commission manager.

Mrs. Cook is a member of First Bethel Baptist Church, where she is president of the gospel choir, a Sunday school teacher for the adult class and a member of the executive board. Her hobbies include reading, cooking, crafting, home decorating, and helping the needy. She and her husband, Arthur, will mark their 28th wedding anniversary this year. They reside in Cleveland Heights, and are the proud parents of a son, Erek.

Mr. Speaker, Mrs. Gail A. Dadich is the next Public Servants Merit Award recipient. For the past 13 years, she has served as the journal department administrative assistant/court community service liaison for the Cuyahoga County Domestic Relations Court. A native of Berea, OH, she is a graduate of James Ford Rhodes High School.

In her current post, Mrs. Dadich reviews journal entries to make certain that all documents required by statute and local rules are attached. She also monitors contempt of court cases for compliance with the court's order for community service in lieu of jail time. Additionally, she fills in as acting bailiff and scheduler for the judges.

Mrs. Dadich and her husband, Dan, are residents of North Royalton. They are the proud parents of three children, Devon, Danny, and Derek. In her spare time, Mrs. Dadich enjoys cross-stitching, movies, and sports. She is an avid Cleveland Browns fan, and supports the North Royalton Soccer Club, where her sons are team members.

Mr. Speaker, the next honoree, Mrs. Deidre Taylor, has enjoyed a 24-year tenure with the courts. She is currently the administrative assistant to the Eighth District Court of Appeals. Mrs. Taylor is a native of Cleveland and a graduate of St. Augustine Academy. She is currently enrolled in Dyke College where she is working toward a bachelor's degree in management.

In her role as administrative assistant, Mrs. Taylor is responsible for budget preparation and personnel administration. She also oversees the purchase of furniture and supplies for the office. Prior to this assignment, she served as administrative clerk for the common pleas court.

Mrs. Taylor, and her husband, James, have been married 23 years and reside in Euclid. They are the proud parents of four children, Colleen, Katie, James, and Megan. Mrs. Taylor is a member of the East Side Irish-American Club, St. Felicitas School PTU and Boosters, and the Ohio Association for Court Administration. Her other activities include coaching girls' summer league softball and reading.

Mr. Speaker, Mr. Sherman Sumner Terry, Jr., has been employed by the common pleas court for 26 years. He is a native Clevelander and a graduate of John Adams High School. Mr. Terry currently serves as assistant chief scheduler in the central scheduling office. He is the former president and vice president of the bailiff and attaches association.

Mr. Terry is a decorated veteran who saw active duty in Korea with the United States Army's 40th Infantry Division, 160 Infantry Regiment, Company D, and attained the rank of staff sergeant. His military decorations include the Combat Infantryman Badge, Korean Service Medal with three Bronze Stars, United Nations Medal, National Defense Medal, Good

Conduct Medal, and the Republic of Korea Presidential Unit Citation Badge.

Mr. Terry and his wife, Ruby, are residents of Shaker Heights. They have two adult children, Sherman III and Celeste, and a daughter-in-law, Gail. Mr. Terry is a Boy Scout leader and a volunteer for the United Black Fund. At the Fifth Christian Church [Disciples of Christ] he has served as treasurer, a member of the Christian men's fellowship and the male choir. Mr. Terry is also a gifted artist, an avid photographer, and enjoys travelling.

Mr. Speaker, our next honoree, Robert C. Townsend II serves as the chief bailiff for the Cleveland Municipal Court. He is a graduate of Glenville High School and Clark-Atlanta University. His previous positions with the court have included personal bailiff, deputy bailiff, equal employment opportunity compliance and personnel officer and deputy court administrator.

Throughout his career, Mr. Townsend has received special training in criminal justice and court administration. He has studied at Case Western Reserve University, Cleveland State University, and George Washington University. Mr. Townsend and his wife, Roberta, are the proud parents of a daughter, Alisa, and a son, Robert.

Mr. Townsend has been active in more than 25 community-based organizations where he has been an officer or board member. They include the Association of Neighborhood Councils, NAACP, Cleveland Magnet School Advisory Committee, Community Organizations for Community Progress, and the Corrections Planning Board of Cuyahoga County, just to name a few. He was honored as most trusted volunteer by the Federation of Community Planning, and is the former chair of the Cuyahoga Metropolitan Housing Authority.

Mr. Speaker, the final honoree for the Public Servants Merit Awards is George F. Williams. Mr. Williams is a native of Knoxville, TN. He attended John Hay High School and Kent State University.

Prior to joining the Cleveland Municipal Court, Mr. Williams was employed at Precision Metalsmiths, Inc. Currently, he serves as a deputy clerk at the court, where he is the assistant supervisor of the criminal counter division. He has been employed by the Court for 26 years.

Mr. Williams is an active member of the Emanū-El AME Zion Church, where he is a member of the board of trustees and the victory chorus. His other hobbies include listening to jazz music and travel. Mr. Williams and his wife, Yvonne, have been married nearly 38 years. They are the proud parents of a son, George F. Williams, Jr., and daughter, Peggy J. Dunlap.

Mr. Speaker, I take pride in saluting the eight individuals who have been selected to receive the Public Servants Merit Awards. They have each exhibited a strong commitment to public service and personal excellence. I also commend the bar foundation and bar association for recognizing the importance of honoring employees who strive to make the court system work more effectively.

A BILL TO REVISE THE TAX TREATMENT OF MUNICIPAL SECURITIES PURCHASED AT MARKET DISCOUNT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. CARDIN. Mr. Speaker, today I am introducing, along with my Ways and Means Committee colleague, Representative CLAY SHAW, legislation to repeal a provision of the 1993 tax bill that has reduced secondary market liquidity for municipal bonds and complicated the Tax Code unnecessarily. The existing law will likely make it more difficult for States and localities to invest in our Nation's crumbling infrastructure.

The provision in question changed the way certain municipal bonds are treated under the Internal Revenue Code and caused some of these bonds to be less attractive to investors. As a result of this provision, State and local issuers attempting to address America's chronically underfunded public investment needs may be forced to offer higher yields on their securities, which would drive up their borrowing costs.

Of critical importance to the success of the American system of public finance is the liquidity of the secondary market for municipal bonds. Investors are willing to accept lower rates of return on State and local government securities because of the tax exemption, but also because they know they can readily sell their bonds, if necessary, before maturity. It is this indispensable characteristic of the municipal bond market that was handicapped in 1993 by the Budget Act.

In certain situations, holders of municipal bonds seek to sell their securities at what is known as a market discount. Market discount is the difference between the purchase price of a bond and its stated redemption price at maturity. In general, market discount occurs when a bond is purchased on the secondary market at a price below par or below the adjusted issue price. Market discount is typically caused by a rise in market interest rates or a decline in the creditworthiness of the borrower.

Before the enactment of the 1993 budget reconciliation bill, accreted market discount on a municipal bond was taxed as capital gain at the time the bond was sold, redeemed, or otherwise disposed of. A strong public policy argument can be made that, consistent with the tax exemption on municipal bond interest, market discount on State and local government securities should be exempt from taxation altogether.

However, the legislation Congressman SHAW and I have introduced today seeks only to restore the traditional capital gains treatment of market discount bonds. We believe that increases in the value of market discount bonds should be treated as capital gains, consistent with the standard treatment of increases in the value of most investments.

Under the new law, however, accreted market discount is taxed as ordinary income. Since they are now subject to higher ordinary income tax rates, market discount bonds have become more difficult to sell on the secondary market than other municipal bonds.

Furthermore, any security issued by a State or locality could become a market discount bond at some point during its life, so secondary market liquidity for all municipal securities has decreased. With the repeated rises in interest rates over the past year, the 1993 change has had dramatic consequences for the secondary market in these bonds.

The change to ordinary income tax treatment for market discount bonds also reduces their liquidity because investors cannot use capital gains on market discount bonds to offset capital losses. Investors in secondary market municipal securities now demand higher rates of return to compensate them for higher tax rates on discount bonds and for increased risk that the securities will be more difficult to sell.

The bottom line on the higher tax rates for market discount is that State and local governments could ultimately face higher costs in issuing securities to pay for much needed public infrastructure investment. Early anecdotal evidence suggests that yields on market discount bonds are as much as 25 basis points higher than they would have been under the old rules. These effects have been exacerbated over the past year as interest rates have risen and bond prices have fallen.

Moreover, the new market discount rule has resulted in a reporting nightmare for bond dealers, mutual funds, bank trust funds, and others who are required to sort out and document income to taxpayers. Some tax-exempt mutual funds have simply stopped buying market discount bonds altogether because of this complexity, further reducing the liquidity of and demand for these securities and driving up their yields.

The new market discount rules could result in higher capital costs for State and local municipal bond issuers, raise extremely complex financial considerations that repel investors, and provide little or no economic advantage to the Federal Government. As Federal and State budgets get tighter and tighter, the importance of the tax-exempt market increases. For those reasons, I propose that Congress restore the law to its pre-1993 status.

The current proposal to cut the capital gains tax presents us with an opportunity to address this important issue. Consistent with that effort to encourage investment, we should reverse the destructive proposal enacted in 1993, and remove the penalty on investors and issuers it imposed. I encourage my colleagues to join me as cosponsors of this legislation.

TRIBUTE TO JAMES A. WILLIAMS

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to my good friend, Jim Williams, who will be honored as "Glazier of the Year" at the Glaziers, Architectural Metal and Glass Workers Union Local No. 252's annual stewards dinner on March 11, 1995.

Mr. Williams has been chosen for this honor because of his unparalleled dedication to the glazing industry and organized labor. As a third generation glazier, Jim has provided the members of local No. 252 with the finest training in the country, fair and decent contracts, and the access to a dignified retirement. His tireless efforts on behalf of all unionized workers will benefit the labor movement for years to come.

Jim Williams began his apprenticeship with Glaziers and Glass Workers Local No. 252 in 1968 upon graduating from Northeast Catholic High School. The next year he enlisted in the Army to serve our country in Vietnam. As an infantryman, he was awarded two Bronze Stars, the Army Accommodation Medal, and an Air Medal. Returning home in 1971, Jim completed his apprenticeship and began work as a journeyman glazier. He was elected president of local No. 252 in 1975. He was subsequently chosen as business manager in 1979, serving until August, 1994, when he was elected to his current position as vice president of the International Brotherhood of Painters and Allied Trades.

As business manager, Mr. Williams made Glaziers Local No. 252 into a well respected and influential force in the Delaware Valley, with membership tripling. He personally oversaw the construction of a new union hall in the northeast in 1982, which has since expanded with an Apprentice Training Facility.

Jim Williams has also been very successful in many other areas. He has served as a member of the board of trustees of Temple University, and vice president of the Philadelphia Building Trades Council. In addition, he has been a board member of the Private Industry Council of Philadelphia and Special trustee and general representative of the I.B.P.A.T. Along with these esteemed positions, Mr. Williams has been honored repeatedly for his contributions to various organizations. In 1982, he received the prestigious UNICO Man of the Year Award. He was also chosen as Labor Man of the Year by the Israeli Bond Association in 1990, and in 1992 he received the Vietnam Veterans Labor Leader of the Year Award.

Along with his many professional accomplishments, Mr. Williams is respected as a traditional family man. He resides in Holland, PA, with his wife of 22 years, Gerrie, and their two daughters and two sons.

Mr. Speaker, I thank you for this opportunity to bring to the attention of the House the accomplishments of Mr. Williams, a dedicated and respected worker who has contributed much to both his profession and society at large. I commend Mr. Williams for these achievements.

SENATE—*Wednesday, February 8, 1995*

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rabbi Joshua O. Haberman, of the Washington Hebrew Congregation.

PRAYER

The guest Chaplain, the Rabbi Joshua O. Haberman, offered the following prayer:

Let us pray:

Creator of all the world: Thou who has set limits to the forces of nature to keep all things in balance, help us to cope with the forces of human nature. Help us distinguish the line between right and wrong; between the interest of some and the welfare of many; between instant gain and the larger, lasting good of future years.

Lead us by Thy justice to enact just laws and by Thy mercy to lift up the fallen.

We thank Thee for all men and women who are faithful to their public trust. May they keep America free, strong, and righteous. May the Lord grant strength unto His people. May the Lord bless His people with peace. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. GORTON. Mr. President, this morning the time for the two leaders has been reserved, and there will now be a period for the transaction of morning business until the hour of 9:30 a.m., with Senators permitted to speak for up to 5 minutes each, and with Senator LAUTENBERG to speak for up to 15 minutes.

At the hour of 9:30, the Senate will resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment and the pending amendments thereto.

Under the order entered last night, debate between the hours of 9:30 and 11:30 will be equally divided between the two leaders or their designees. At the hour of 11:30 a.m., Senator DASCHLE will be recognized for 15 minutes, to be followed by Senator DOLE for 15 minutes. At 12 noon today, the majority leader will make a motion to table the Daschle motion to recommit, so all Senators should be aware that there will be a rollcall vote at noon today.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

THE BALANCED BUDGET AMENDMENT

Mr. PELL. Mr. President, the balanced budget amendment is certainly an appealing idea. I can understand why many believe that it is a necessary procedural reform to ensure fiscal responsibility. I voted for the concept in 1986 when there seemed to be a lack of shared political will, between Congress and the Executive, to impose discipline.

Last year, it seemed to me that the atmosphere had improved dramatically, and I opposed the balanced budget amendment because of the substantial and significant strides which the Clinton administration was then making, and continued to make, to curb expenditures and reduce the deficit.

Now, things appear even more promising for the imposition of fiscal restraint. The new congressional majority has made it a primary objective, and the President remains committed to the idea of smaller and leaner government, although I might add parenthetically that I wish his 1996 budget would have gone a bit further than it does in this direction.

But I am not yet convinced that this apparent convergence of political will power should result in a constitutional amendment that dictates procedure for all time to come.

For one thing, I, like many of my colleagues want to see where it will lead in the immediate future. I want to know the full consequences of a 7-year plan to bring revenues and expenditures into balance.

In particular, I want to know the impact on programs in which I have a deep and abiding interest as a legislator—education programs, foreign aid, support for the United Nations, and support for the arts and humanities.

And I especially need to know if the cumulative loss of Federal aid to the State of Rhode Island over the 7-year period ending in 2002 could indeed be nearly $1.8 billion as has been predicated, and, if so, how will my small State adjust to such a massive change.

For all of these reasons I joined in cosponsoring the right-to-know amendment offered by our distinguished minority leader, Senator DASCHLE. We not only have a right to know, we have a responsibility to ask.

But even if we succeed in getting all the right answers I still am not sure the case will be made for amending the Constitution.

I am troubled by the reservations which have been expressed—economic, fiscal, and constitutional—as we look more closely beneath the attractive surface of the proposed amendment.

I wonder about the economic impact of rapid withdrawal of some $1.6 trillion in Federal spending in the arbitrary timeframe of the next 7 years. Some have warned that the resulting fiscal drag could virtually wreck the economy, especially if it should coincide with high interest rates or a recession.

I wonder too about the rigid annual requirement for balance in each fiscal year. Some have called it ritualistic in its disregard for the more random vagaries of economic cycles, precluding the timely operation of automatic stabilizers such as unemployment insurance during downswings when tax receipts may be on the decline.

And on the other side of the ledger, I wonder if the ritual requirement to balance might deter the accumulation of budget surpluses in good years, since the pending amendment might tend to promote unreasoning tax slashes when such opportunities arise.

I wonder if this constitutional amendment will be any more immune to evasion and accounting chicanery than other attempts to put the political process in a straightjacket. I think of the experience of my own State of Rhode Island where, in order to comply with a constitutional mandate and to take advantage of independent financing authority, various categories of expenditures simply have been moved off budget to a number of commissions and authorities.

And finally, Mr. President, I wonder about the wisdom of using our Constitution for the purpose of imposing

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

accounting rules. Will this amendment still be relevant a century from now in the light of now-unforeseen developments in technology, medical science, space exploration, demographic changes, and all intervening natural disasters and climatic variations?

From the perspective of 2095, it may appear rather anomalous that the U.S. Senate spent much of the month of February 1995 trying to mandate for all time that our books should be balanced, down to the last dollar and cent, at the end of each 12-month period.

Having said that, Mr. President, I would only add that if this amendment is not approved, there will be a great burden on us all to get to work with a minimum of recrimination to produce the general result which would have been mandated; namely, a progressive reduction in Government spending and a corresponding alleviation of debt, hopefully at a more measured pace and without resort to troublesome arbitrary time constraints. I pledge my support to the effort.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from Rhode Island withhold his request?

Mr. PELL. Mr. President, I withhold my request.

Mr. BREAUX. Mr. President, are we still in morning business?

The PRESIDING OFFICER. The Senate is conducting morning business until 9:30.

URGE ADOPTION OF RIGHT-TO-KNOW AMENDMENT

Mr. BREAUX. Mr. President, I thank the Chair.

I would like to use just a couple of minutes in morning business to comment on a very important vote that the Senate will engage in, sometime around noon today. That is on the motion which I guess will be made to table the right-to-know amendment or to send it back to committee, and why I think it is very important that this body adopt a right-to-know amendment so that the people back in the respective States, when their legislators have to vote on this very important balanced budget amendment, will know what they are voting on.

I support a balanced budget amendment. I have supported it in the past. I have voted for it in the past. I hope to be able to vote for it again.

The thing that really concerns me is that we would expect that someone who proposes a balanced budget amendment, like our colleagues on the other side of the aisle, one would expect if they propose this, they would have an idea about how they will do it; that they have a plan that allows them to get, in the year 2002, to a balanced budget. Surely, they are not just proposing a balanced budget amendment without any plan, or without any idea as to how they are going to get there.

I have not seen the plan. That is what I think the American people are entitled to. Is there a secret plan on how to balance the budget that they do not want to share with the American people, that they do not want to share with the Governors of the respective States who will have to live by it, as well as us? Is there a secret plan they do not want to tell the members of the legislatures about, because if they see it, it may be so devastating they will not vote for it? Is there a secret plan to reach the year 2002 that cuts Social Security, slashes spending on Medicare, health programs for the elderly? Is there a secret plan, for instance, which wipes out State highway programs?

I do not know. I do not think anybody knows. Surely those who propose a balanced budget must have in their heads an idea of how to get there. The only thing that we are suggesting is that before we send the balanced budget amendment to the States and say, "Vote on it," that we share with them the secret plan. If there is a plan that proposes how we get there, let Members see it.

What is wrong with it? If the balanced budget amendment is a good thing, and I think it is, certainly how we get to that balanced budget is something that is equally important. It may be that there is a golden secret plan that does not cut defense, that does not have any tax increases, that does not cut Social Security, that does not cut Medicare, that does not cut highway programs, and yet gets to a balanced budget by the year 2002. If there is such a plan, let me see it. Let me show it to the States so that when they vote on it they will know exactly what they are voting on.

I think the bottom line, Mr. President and my colleagues, is that the American people not only have a right to know, but in the real world, they have a need to know. I want my legislators in Louisiana, when they vote on this balanced budget, to say, "Now we know how it will be achieved. Here is what we have to do as a State in order to make it work."

This is a partnership, I say to my colleagues. We are not doing this by ourselves. This is a partnership arrangement between the Congress, the Federal Government, and the States. We all will have to share in it. Maybe States will have to increase taxes. It might be they will have to slash State programs that the Federal Government cannot assist, as in the past, with many of these programs. But the bottom line is that the only protection the American people have is the right to know what we are talking about.

I will say, once again, that surely the people who have proposed a balanced budget have a plan. It should not be a secret plan, it should be a public plan. The only thing that we are asking is that it should be made part of this effort so that when the States are called upon to act on this, they will be able to do it intelligently, and not have to do it in the dark.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up, bear in mind that the Founding Fathers made it very clear that it is the constitutional duty of Congress to control Federal spending.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,806,972,690,433.20 as of the close of business Tuesday, February 7. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $18,247.10.

SUSSEX COUNTY, DE: NO. 1 IN COUNTRY

Mr. BIDEN. Mr. President, I am very proud to come to the Senate floor today to announce that the 1992 Census of Agriculture has named Sussex County, the southern most county in the beautiful State of Delaware, as the No. 1 poultry producing county in the United States. As my hometown newspaper, the Wilmington News Journal, so eloquently stated it: "Sussex County still rules the roost as the chicken-growin'est county in the nation."

Of course, being the No. 1 producer is nothing new for Sussex County—the county has officially remained the No. 1 producer since 1982. In fact, Sussex County has been the unofficial leading poultry producer since the industry got its start in Ocean View, DE, in 1923.

It all started with Mrs. Wilmer Steele when she placed an order for 50 chicks, intended for egg production, and ended up with 500. She decided to raise rather than return the extra chicks, and when they were big enough she sold approximately 400 of them to a local buyer. Three years later, she and her husband were raising 25,000 young chickens and selling them to the local population who were discovering the versatility of chicken meat. America is eating about 10 times as much chicken today as we were in 1925, numbers attributable to the fact that chicken is high in protein, low in fat, tasty, and very affordable.

Mr. President, we are doing everything we can in Delaware to maintain the productivity of the poultry industry nationwide. Today there is a disease, harmless to humans but deadly for chickens, affecting the productivity of Delaware poultry industry flocks. Avian diseases such as this affect flocks across the country on a regular basis. In an effort to prevent the economic damage done by these outbreaks, the University of Delaware, in cooperation with the Federal Government and private industry, is building a poultry research facility that will help the poultry industry solve this type of disease problem.

I have worked very closely with the poultry industry people in my State to get this facility up and running. The Delmarva poultry industry has an outstanding record of commitment to research and development in avian diseases and I am hopeful that the remainder of the funds needed to finish this project can be secured this year. The growers who are responsible for keeping Sussex County and the Delmarva Peninsula in the ranks of the top producers know the importance of this facility to the national production of poultry.

Mr. President, I would like to congratulate Sussex County for, once again, achieving No. 1 producer status and for providing the American public with healthy and affordable nutrition.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, under the previous order, the period for morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the joint resolution.

Pending:

Daschle motion to commit the resolution, with instructions to report back forthwith, with Daschle amendment No. 231, to require a budget plan before the amendment takes effect.

Dole amendment No. 232 (to instructions to commit), to establish that if Congress has not passed a balanced budget amendment to the Constitution by May 1, 1995, within 60 days thereafter, the President shall transmit to Congress a detailed plan to balance the budget by the year 2002.

Dole amendment No. 233 (to amendment No. 232), in the nature of a substitute.

The PRESIDING OFFICER. The time between 9:30 a.m. and 11:30 a.m. shall be equally divided between the two leaders or their designees. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, I will manage the time on this side until the minority leader appears. I yield to myself such time as I may consume.

Mr. President, this is not an insignificant or an unimportant issue. The Senate is debating the issue of whether to change the U.S. Constitution and, if so, how to change it.

The reason we are at this point today is because the country has had fiscal policy problems of a very significant nature. We have had very significant yearly budget deficits, and we are now bearing a very large Federal debt.

And the question is: What can or should be done about that? I guess most people here would not mind very much if we had a very large Federal deficit if it resulted from our having to fight a war to protect our liberty and freedom. I do not think anyone would complain much about floating bonds and going into debt to protect this country and to protect freedom and liberty. We would understand that.

I do not suppose anybody would complain very much about a Federal deficit if we spent several hundred billion dollars that we did not have and we cured cancer just like that. It would be well worth the price. I do not imagine anyone would complain very much of having borrowed to do that.

But that is not what we are doing today. We have operating budget deficits year after year after year that represent a very significant imbalance between the amount of money we take in and the amount of money needed to routinely run the Government and do the things that this Government does, including all of the transfer payments and all of the programs. And that is the problem. It is not a new problem.

I understand that in this Chamber when you look at the division of the Chamber, some will stand up and decide to boast, "Gee, we're the conservatives, we're the ones who want to help the taxpayer and save the money and save the country, and you all, you're the liberals, you're the ones who want to tax and spend."

Total baloney, total nonsense. There is not a plugged nickel's worth of difference between the appetite for spending the taxpayers' money on that side of the aisle as opposed to this side of the aisle. That side of the aisle wants to spend it on military; we want to spend it on milk for hungry kids. The fact is, you look at the record in 15 years and I guarantee you will discover not any significant difference at all in terms of the appetite about how much money the two sides want to spend. Oh, they have different priorities, no question about that. They want to spend it on different things. But they all have the appetite for spending.

But we do not have an appetite to raise the money for that which we spend. So the question is, what do we do about that? The answer is, we cannot spend that which we do not have. We have to cut back. We have to deal with that honestly. We have to make tough choices, and that is why we come to this juncture.

Tough choices are choices that often persuade Members of this body and the other body in our legislative branch to gnash their teeth and sweat profusely and wring their hands and worry and not sleep because they are tough votes, they are awful choices. People think that somebody is going to be angry, maybe I will lose my job. If that is the attitude, one ought not serve here. These are not tough choices. These are issues you look at and decide what is right for this country, what makes sense, what must we do to fix what is wrong.

Every day that I serve in this Senate, I am proud of that service, and some days I rue the fact that there are many who decide that public service is unworthy and Government somehow is corrupt and evil and bad and cast those kinds of aspersions. I am proud of my service here. I think public service is a wonderful undertaking.

Mine comes, I suppose, from a family history and background. I was reading last evening something my brother, who is a journalist, had written about my ancestors. One of them was a great-grandmother named Carolyn and a great-grandfather named Otto. They got married in Oslo, Norway, and moved to Minnesota. They had eight children. Then Otto died, and Carolyn, living in Minnesota with eight children and a husband who just died, apparently contemplated what to do in life.

What Carolyn did was respond to something that the Federal Government did. The Federal Government said to the people, "If you are willing to move into a homestead out on the Great Plains, we will give you a quarter section of land. If you want to go out and claim it, go farm it, go live on it, we will give you a quarter section of land."

So Carolyn with all these children, a husband just died, moved to North Dakota, Cherry Butte Township, ND, and pitched a tent on the prairie with her kids. This strong Norwegian woman homesteaded a quarter section of land and built herself a house and built herself a farm, raised a family and had a son who had a son who had me. And here I am.

I think of the strength of someone like Carolyn, and all of us have these folks in our background. Tough choices? I suppose that is a tough choice, losing your husband and deciding to move to pitch a tent on the winter prairies of North Dakota with your children to try to start and build a farm and make a go of it. That is a tough choice. These are not tough choices.

When we decide that we do not have the strength and we do not have the will to do the fundamental things that are necessary to protect and preserve and nurture this country's future, then something is wrong with all of us.

So I come to the floor today to say on this question there ought not be a serious question about whether we do something about this crippling budget deficit. That question ought not be asked anymore. Anybody who is still asking that question deserves to go out the other side of that door.

The question is what and how, and that is what the amendment is about today. The amendment we are going to vote on in a couple of hours does not say we do not want to balance the budget. It does not say we should not have a constitutional amendment to balance the budget. I have voted for a constitutional amendment to balance the budget in the past. I did not come here thinking we ought to do that, but I was persuaded over the years by Republicans and Democrats, yes, conservatives and liberals, who ratcheted up year after year deficit after deficit. I have been persuaded that any additional discipline, any additional incentive that requires balance is something I would support.

But we come today to vote on a constitutional amendment to balance the budget, and the question many of us ask is, is this just one more empty promise? Because, if it is, the pail is full of those, and the American people can hardly lift it anymore. Or does this have some strength and some meat? Is this honest? Is this going to lead to a plan that actually balances the budget?

Why do we ask? We ask because those who propose this, those who say let us change the Constitution, let us improve on the work of Washington and Madison and Franklin and Jefferson and others who contributed to the Constitution, they say: "We want to do a couple things. We recognize there is a big deficit in this country, but we want to do a couple things. One, we want to cut the income by cutting taxes and, two, we want to increase defense spending."

It is logical for those who took simple arithmetic that if you are going to increase the biggest area of public spending and decrease your revenue, one might be willing, and probably required, to ask then how are you going to get to a balanced budget? What is your plan? Or is this another empty vessel, one more broken promise? Is this just politics?

We have offered an amendment that is called the right-to-know amendment, and we are just saying that in this country, if this is not an empty promise, if this is not an empty vessel, then somebody must have a plan that says we can cut taxes and increase defense spending and by the year 2002 find a balanced budget out there.

I hope we can find a balanced budget by the year 2002, and I plan to be part of the solution to do that. I may vote for this constitutional amendment to balance the budget, but I do not understand why anyone in this Chamber would vote against this amendment called the right-to-know amendment.

One prominent Member of Congress says, "Well, if the American people understood what this means, it would make their knees buckle." Does he know something that I do not know? Does he know what the plan is? Is there a mystery plan there someplace that he is aware of that is going to make people's knees buckle? If so, I wonder if he shared it with the Presiding Officer. He has not shared it with me. I suspect he has not shared it with you.

The question is, I guess, is there a plan out there someplace? Is there a mystery plan floating around that is going to make people's knees buckle? If so, let us hear it, let us have it, let us debate it, let us discuss it.

I remember a television commercial—one of my favorites—about chicken. The television commercial was a customer that came up to the counter and wanted to know what was in these chicken nuggets. The person at the counter said, "Well, its chicken."

"Well, what kind of chicken?"

"Chicken parts," they said.

"Well, what kinds of chicken parts?"

And the person behind the counter said, "Different parts."

I wonder what is in a plan in the minds of those who propose to balance the budget, mystery meat of some type?

Could they share it with us, maybe? How do you get from here to there? Does anybody who took arithmetic understand you cannot increase your biggest area of spending, cut your revenue, and get from here to there?

I do not understand what they are telling us. So we are saying if this is more than an empty promise, let us fill it up a bit. Let us say to the American people here is what we are going to do, and here is how we are going to do it.

If we are not willing to do that, what we are saying is this is business as usual. This is not about policy. This is not about substance. This is about politics. And if this is about politics, then this is not about balancing the budget. This is not about doing what we ought to do for this country's future.

So when we discuss the document that begins with "We the People," and we decide we want to change a few words here and there, we are going to try and sort of monkey around a little bit because we have had a lot of people over a long period of years who have not had the courage to say you can only spend what you take in, when we discuss that and decide that, I wonder if we cannot begin to discuss what that would mean in practical terms for the American people.

We are going to have a task here that is pretty ominous, actually. But I for one think it is a task we must undertake.

Last evening, I was looking through this sheet, which does not mean much to anybody. It is a sheet by the Congressional Budget Office that plots out for 10 years what our spending and taxing and deficits will be. What this sheet says, to the extent that you can forecast out 10 years—it is kind of like forecasting the weather in North Dakota, a little uncertain. But what this says is at the current rate, with the current plan, we are talking about the potential of adding $4.3 trillion to the Federal debt—$4.3 trillion. If anybody thinks that we do not have a problem, just look at all the projections and understand we do not have any alternative. We have to deal with this. However, we cannot deal with it just as a political issue. We have to deal with it in a real way.

Now, we are going to have an amendment following this one on Social Security. I do not want five reasons that someone would vote against either the right-to-know amendment or the Social Security amendment. I would just like one decent reason, just one. There is only one reason someone would vote against a right-to-know amendment, I suppose, and that is because they have no plan and you cannot get there from here. You cannot be saying I wish to increase spending, and I want to cut revenue, and I wish to balance the budget.

So we have a right to know. The American people have a right to know. How can you know something that cannot be accomplished? I guess that is why we do not have a plan. But if this is honest, if it is real, if it is not just an empty promise, then why would someone vote against this right-to-know amendment? Why? And the next amendment, the Social Security amendment, saying we take Social Security out of paychecks in a dedicated tax and put it in a trust fund. We say we promise, in a promise between the people who work and the people who retire in a binding contract, we promise to maintain a trust fund as a solemn obligation. We promise that it will be used for Social Security.

Why—just one reason, not five—would anyone vote against an amendment that says you cannot use Social Security trust funds, you cannot raid Social Security trust funds to balance the budget? It has not added 1 cent to the budget deficit. In fact, it is running a surplus. To the extent that we now have national savings extracted from that system, we need them when the baby boomers retire. So I am not asking for five reasons, just one decent reason someone would vote against either of these amendments.

Now, we will in the coming hours this morning continue to discuss what all of this means in terms of balancing the budget and plans and the ultimate vote on the constitutional amendment. And I would like, if I can—I know that we are in a situation where we do not have very thoughtful or very interesting debates, unfortunately. I think it would be more fun if we all talked to each other on the floor and figured out what we are doing. Is it political for you and me? Is it policy?

The Senator from Utah is here, and I have listened to him at great length, and I would like to engage in a dialog with him if we could for a couple of minutes.

We propose that if we say as a body, maybe with my vote, that we should change the Constitution, it is a big step. If we say that and we should therefore balance the budget by the year 2002, we say we have an obligation to the American people, to the State legislatures, to everyone out there to decide to give them some skeleton of a plan. Here is the way it is going to happen in 7 years.

Now, some say, well, it cannot be done in 7 years. We have a 5-year budget. Well, why not give us five-sevenths of the plan? Just give us a part of it. We will take a fraction.

I would ask the Senator, if I could, without losing my right to the floor, what prevents some in this Chamber from believing the American people have a right to know?

Mr. HATCH. That is a good question. I do not think anybody knows except for one thing. We have had over 10 plans offered by colleagues on both sides of the aisle, some together as bipartisan plans that would lead us to a balanced budget by the year 2002.

The problem is not 1 of those 10 plans has 51 votes. And we have worked on trying to come up with some way of satisfying everybody from a balanced budget standpoint for the whole 19 years I have been here, and we have not been able to do that.

Our contention is that we will never do that unless we pass the balanced budget amendment and put a fiscal mechanism in place so that literally we can balance the budget.

I just cite to the distinguished Senator a very interesting article that appeared in the Washington Times just this morning. It is entitled "Social Security and the balanced budget."

Now, the thrust of it is to criticize those who believe that you should exclude Social Security out of the balanced budget amendment; in other words, write a statute into the balanced budget amendment. But it does make a very interesting point here. This is by David Keating.

> During the Vietnam war, an American officer was quoted saying we had to destroy the village in order to save it. Now the U.S. Senate may apply similar logic when it votes on a proposal to add a huge loophole to the Balanced Budget Amendment, supposedly to save Social Security.

Mr. DORGAN. All right, I get the drift.

Mr. HATCH. But the point I wanted to make—let me just take a second here. There was a point on this——

Mr. DORGAN. But I understand the point the Senator has made, and I do not want to——

Mr. HATCH. Let me conclude with just one more sentence to answer the Senator's question.

The fact is we have never been able to do it up to now, and there is no way that we should hold the amendment hostage, assuming we pass it by a two-thirds vote and send it to the States, there is no reason why we should hold it hostage until we take another 18 years to try to get together on a balanced budget without the balanced budget amendment being in place.

Mr. DORGAN. Mr. President, I understand the point the Senator from Utah makes. It is an interesting point. The reason I ask the question is this. The Senator's party controls the Senate. We understand that. I mean I was up election night and saw the results. I did not smile as broadly as the Senator did perhaps, but the fact is that is the way the system works.

Mr. HATCH. It is all relative.

Mr. DORGAN. Republicans control the Senate. Now, when we controlled the Senate, we passed a deficit reduction bill in 1993. It was a hard bill, in many respects, to get votes for. But we rounded up votes for it and, with 51 votes, passed a bill that, the statistics now demonstrate, cut the budget deficit by somewhere around $600 billion.

We did not even get one accidental vote on the other side of the aisle. You think somebody would just make a mistake over there. But I tell you, it took every single vote that we could muster on this side of the aisle to do what was necessary. This is heavy lifting. The political vote, the easy vote is to vote "no" and walk away. But we did not. We did it. We voted to cut the deficit in a significant way, and I went home and took a lot of heat, and I was proud to stand up and say I am not part of the problem, I am part of the solution. Even if it is controversial, even if some of you do not like it, I am going to cast my vote to try to fix what is wrong in this country.

The reason I make that point is this. You say that, well, you know, the reason we are not able to give you a plan is we do not think there is a plan out there that can get 51 votes.

Look, part of the responsibility of leadership when you run this Chamber is to come up with those votes—and I may join you on those votes. But at the very least, especially because of recent experience we have had where we could not even get one vote on that side of the aisle to do the heavy lifting, I think in this circumstance when you say let us change the Constitution, then you have a special obligation to provide the leadership to get the votes for a plan to say to the American people, here is what we stand for. It is not just words to change what Ben Franklin and Madison and others did. It is not just words. Here is what we stand for. Here is our plan. And here is what we are willing to vote for.

Mr. HATCH. Will the Senator yield on that?

Mr. DORGAN. I will be happy to yield.

Mr. HATCH. I respect the Senator and his Democratic colleagues for standing up and doing what they thought was right. We did not think it was right because we did not want to increase the taxes the way they did—or you did, the highest tax increase in history.

Mr. FORD. No, no.

Mr. HATCH. I know there are those who want to say the dollar is worth less and, therefore, Reagan's was the highest—therefore, they are both high. Both occurred because of people who felt the same way as people who voted last time.

But under the Daschle amendment, what it would do is it would hold things up. This is the one time in history where we have a chance of passing a balanced budget amendment, sending it to the States, letting the States make the determination whether they are going to ratify it, three-quarters of them, or 38 States, and make it part of the Constitution.

The Daschle amendment would basically hold that up until we come up with a balanced budget approach that passes 535 Members of Congress.

Mr. FORD. No.

Mr. HATCH. We think that is not the way to go. We believe we have to pass the balanced budget amendment, get it out to the States, and I assure my colleague, Republicans and Democrats will get together and we will have to come up with that glidepath in the year 2002. I think we will have to get a majority of both Houses to do it. That is the only way we are going to get there.

And my point about the last 19 years is that we have never been able to do it in that time. I want to have the mechanism, the procedural route by which we can get there.

Mr. DORGAN. I understand that and I appreciate the point the Senator is making. I understand that is why they are likely to defeat this right-to-know amendment—which is a terrible mistake, incidentally, because the question of whether this is a real promise or a broken promise is really a judgment by the American people about: Is this simply more words and more posturing, more politics, or is there something here that is real?

The interesting point of all this is the American people, I think, are pretty resilient and pretty strong. You go through 200 years of history in this country, and they move right to left but they always come back to the strong center. And they have a good sense of what is right or wrong and a good sense of what ought to be done.

Mr. HATCH. I agree.

Mr. DORGAN. The fact is the American people are a lot more able to tolerate the kinds of medicine that need to be administered these days than most people here give them credit for. But I think they do want to know. They want to know if someone says: "Look, we have the votes. We want to go off and build star wars. We know that is out of fashion, but it is not out of fashion with us. We want a star wars program. It is $30 billion, $40 billion. We want to build it because we have the muscle."

Somebody back home will want to know, if you are going to build star wars, does that mean you are going to cut school hot lunch programs? They want to know what all this means, and those are simple issues. What are the priorities?

You can look back 100 years from now in this country and look at this country's budget and you can tell something about what our people were, what we felt was important, what we invested in, what we considered important for the future. You could tell that by what we decided to spend money on.

The American people, I think, given 18 or 20 years of promises—most of them empty—by both parties, given complicity in arranging this deficit by creating a situation where we spend more each year than we take in because we ratchet up all the entitlement programs to inflation and we ratchet down taxes on the other side so you create an imbalance—I think the people would want to say if this is not business as usual, if it is not really business as usual, why, then, are there not, this time, honest answers? Why are there not honest answers to the questions of what will this mean to us?

Mr. HATCH. Will the Senator yield?

Mr. DORGAN. What is this medicine about? I would say to the Senator from Utah, we have limited time. I probably consumed a few more minutes than I should have on my side. I would love to continue this. I hope we can have it when we do not have a time agreement, at some other time, because I would like to talk through some of these things. With that, I would like to——

Mr. HATCH. If the Senator will yield on my time?

Mr. DORGAN. I will be happy to yield on the Senator's time, sure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I think the Senator is making a terrific case for the balanced budget amendment. I know he is a supporter of it. So I commend him for that as well.

He makes the case that we are going to spend billions on star wars, will that take away from school lunches? Right now we just fund both of them because we do not have to live within any procedural or any disciplined constraints.

The balanced budget, if we pass it, then becomes the discipline through which we are going to have to look at defense as well as everything else and we are going to have to somehow or other come to a conclusion among competing programs and make priorities. I think it would force us to do that. Of course, that is the whole argument for a balanced budget amendment, and I think the Senator is making a good case for it.

I guarantee I will work with the distinguished Senator and others to try to get to that consensus, but until we get the discipline in place, we will never get there and we know it and everyone knows it.

Mr. DORGAN. My intention was to make a strong case for the right-to-know amendment, and I hope we will get some votes on the other side of the aisle to pass that. That will make this constitutional amendment an honest amendment, give people some hope that instead of talking about it, we will finally get something done.

Mr. President, I have consumed some time on our side of the aisle. We have a number of other people who want to speak. I know we have been going back and forth.

I yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, how much time remains on our side?

The PRESIDING OFFICER (Mr. KEMPTHORNE). The minority has 36 minutes.

Mr. FORD. Mr. President, I ask unanimous consent that the distinguished Senator from Wisconsin, Senator FEINGOLD, have up to 10 minutes and the distinguished Senator from the State of Washington, Senator MURRAY, have up to 5 minutes of our 36 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I also rise to support this amendment. I offered a similar version of the right-to-know amendment, the glidepath amendment, in the proceedings in the Senate Judiciary Committee. I thought it was the best discussion we had in the committee after a couple of days of discussion. I thought the discussion on the right-to-know amendment was really the most thoughtful and the one that really crystallized the issue.

In at least two important ways, this is the truth amendment. First, in one sense the amendment is a truth test. If the supporters of this constitutional amendment are serious about balancing the budget, this amendment is the one that really provides that opportunity. The central concern I have had with the proposed balanced budget amendment is that it will actually undercut our efforts to reduce the deficit and balance the budget by just providing political cover for those who are unwilling to make these really tough decisions. Having voted for the balanced budget amendment, I fear Members will feel free to duck the real work of actually identifying and voting for real spending cuts and they will be able to continue to do this ducking of the issue as the States go through the rather laborious process of trying to see if they are going to ratify this thing in the next year or 2 or 7 years.

Of course, supporters of the constitutional amendment deny this assertion. They proclaim loudly they will seek specific cuts and we just have to wait and see what they might be. This amendment to the balanced budget amendment, this right-to-know amendment, provides those who are genuinely interested in ensuring the Congress does its job with the opportunity to demonstrate their commitment to real deficit reduction. It does what the proponents of a balanced budget amendment contend they want to do. This amendment forces Congress to get the job done. It forces Congress to lay out over the next 5 or 6 or 7 years, exactly how we are going to accomplish this.

Except, Mr. President, the good thing about this amendment that cannot be said about the balanced budget amendment is that the right-to-know amendment does not allow delay and evasion. It does not let the 104th Congress off the hook by simply passing an amendment, a balanced budget amendment, that does not lay out a single spending cut. The last Congress made substantial progress in reducing the budget deficits that have been generated by the budget policies of the 1980's. That progress was made because the 103d Congress was willing to lay out and have a very difficult process of discussing specific items to reduce the deficit. It was not easy. It was not always popular. But it was specific and it worked and the economy is sound and ultimately the efforts of the President and the majority at that time have been accepted by the American people.

Now there is a new majority, a new leadership in Congress. As is so often the case when there is a change in the ruling party, that new majority promises great change. On the first bill we considered in this Congress we were told very bluntly there would be no amendments no matter how reasonable, no matter how necessary, because, in the words of the new majority and in the words of one Senator, it was because this is about who runs this place.

But when is the majority going to show us how they plan to reduce the deficit? In other words, when are they going to show us how they are going to run the place when it comes to balancing the budget? That is part of running the place.

Why is it the new Congress, from which all things are supposedly possible, is apparently incapable of providing us with a plan to reduce the deficit? Mr. President, a majority of those supporters of this proposed amendment who were here in 1993—and I am referring to the balanced budget amendment—refused to support the deficit reduction package that was passed and that has resulted in progress.

I remember the discussion in the Judiciary Committee of the Senator from Wyoming, Senator SIMPSON, who referred to past votes when the Republicans were in the majority, which he called times when the rubber hit the road. He said the Democrats were not there to help.

In 1993, the rubber hit the road here; $500 billion in deficit reduction was proposed and passed, and not one single Republican in either House chose to vote for those specific spending cuts.

That is, unfortunately, the only way this can be accomplished, identifying what has to be cut and actually doing it.

So I understand that nobody necessarily has to assign any particular plan. But if you are going to propose a balanced budget amendment I think you have a special burden to at least show us some plan with regard to how it is going to be accomplished.

Mr. President, I said there were two ways this was a truth amendment. The other is that this is the truth-in-packaging measure. The voters, local government, and the State legislatures that are asked to ratify this amendment are all entitled to know what supporters of the constitutional amendment mean to do before they modify the Constitution of the United States.

Looking at the Presiding Officer, one of leaders in this body of concern with State and local governments, this is exactly the kind of thing that this Senator has talked about—the fact that these folks have a right to know what we are up to out here, and that we do not lay an unreasonable burden on them in the form of the balanced budget amendment.

Unfortunately, though, the supporters of the balanced budget amendment have been very reluctant to provide that kind of information. They maintain that to reveal the whole horrible truth to the Congress and the public would make it impossible to pass the balanced budget amendment.

Mr. President, I find that kind of reasoning to be a gross underestimate of the American people. And it is amazing. It even reveals a little bit of an antidemocratic philosophy, and is a little bit insulting to the American people. This is a critical point. I think, in contrast, supporters of this proposal, instead of giving the information, want to alter one of the greatest testaments to democracy in history, our Constitution, and they want to do it in a way, they freely admit, they say would be opposed by the people if they knew what was proposed. The obvious irony of this is also a form of hypocrisy.

Mr. President, though I oppose the proposed constitutional amendment, I am convinced that the failure of the supporters to provide a specific proposal and glidepath will actually undermine the efforts to have the amendment ratified. Even worse, it may jeopardize the real world, the real effort that is required to reduce the deficit. Without a broad-based consensus, no significant deficit reduction plan would stand. Any plan which would generate the opposition that the proponents so obviously fear would be overturned, and rightly so, in a democracy.

So, Mr. President, we will not achieve the broad-based consensus that we need by dealing dishonestly with the American people. We have made progress on the deficit. I for one believe the American people are ready to sacrifice and do more, if they are treated with respect, with honesty, and with open Government. I have seen this consistently over the last 2 years and when I was running for the Senate. I see it in each of the 72 counties of our State, where I hold a listening session in each county every year. Most recently, I have seen it in the willingness of so many of my constituents. The vast majority of my constituents say to me, "Don't take a tax cut and give it to the American people." They say, "Just reduce spending to reduce the deficit." This is the way the people are talking. They are ready to handle this problem, if we are open about it.

Mr. President, the people of this country are willing to make sacrifices to help clean up the mess that was not of their making. The very least we can do is to deal honestly with them. That is what this amendment does. It provides an honest approach.

To conclude, Mr. President, the Constitution of the United States is still our great national contract. Before we ask people to accept a change in that contract, they are entitled to read the fine print.

So I urge my colleagues on this important vote later today to support the Senator from South Dakota and provide the American people the information they need so they can go forward with some confidence on this issue.

I thank the Chair.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized for up to 5 minutes.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, there is no more important aspect to this debate than the amendment put forward by my good friend from South Dakota, the minority leader.

Yesterday, the Budget Committee heard very important testimony from Dr. Laura Tyson, the Chair of the President's Council of Economic Advisers. Dr. Tyson explained how risky passing this resolution can be if we do not know exactly what is going to be cut, how much, and when.

She outlined for us how dangerous these drastic, irrational cuts can be to the current economic expansion. She described how our fiscal policy will be "handcuffed," that is her word, not mine, if this resolution becomes part of the Constitution.

I refer our colleagues, Mr. President, to her testimony before the Budget Committee yesterday. And, I ask unanimous consent that the text of an article by Dr. Tyson in yesterday's Washington Post be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IT'S A RECIPE FOR ECONOMIC CHAOS

(By Laura D. Tyson)

Continued progress on reducing the deficit is sound economic policy, but a constitutional amendment requiring annual balance of the federal budget is not. The fallacy in the logic behind the balanced budget amendment begins with the premise that the size of the federal deficit is the result of conscious policy decisions. This is only partly the case. The pace of economic activity also plays an important role in determining the deficit. An economic slowdown automatically depresses tax revenues and increases government spending on such programs as unemployment compensation, food stamps and welfare.

Such temporary increases in the deficit act as "automatic stabilizers," offsetting some of the reduction in the purchasing power of the private sector and cushioning the economy's slide, not be able to moderate the ups and downs of the business cycle on its own as well as it can with the help of the automatic fiscal stabilizers.

First, monetary policy affects the economy indirectly and with notoriously long lags, making it difficult to time the desired effects with precision. By contrast, the automatic stabilizers of fiscal policy swings into action as soon as the economy begins to slow, often well before the Federal Reserve even recognizes the need for compensating action.

Second, the Fed could become handcuffed in the event of a major recession—its scope for action limited by the fact that it can push short-term interest rates no lower than zero, and probably not even that low. By historical standards, the spread between today's short rates of 6 percent and zero leaves uncomfortably little room for maneuver. Between the middle of 1990 and the end of 1992, the Fed reduced the short-term interest rate it controls by a cumulative total of 5¼ percentage points. Even so, the economy sank into a recession from which it has only recently fully recovered—a recession whose severity was moderated by the very automatic stabilizers of fiscal policy the balanced budget amendment would destroy.

Third, the more aggressive actions required of the Fed to limit the increase in the variability of output and employment could actually increase the volatility of financial markets—an ironic possibility, given that many of the amendment's proponents may well believe they are promoting financial stability.

Moreover, they do so quickly and automatically, without the need for lengthy debates about the state of the economy and the appropriate policy response.

By the same token, when the economy strengthens again, the automatic stabilizers work in the other direction: tax revenues rise, spending for unemployment benefits and other social safety net programs fall, and the deficit narrows.

A balanced budget amendment would throw the automatic stabilizers into reverse. Congress would be required to raise tax rates or cut spending programs in the face of a recession to counteract temporary increases in the deficit. Rather than moderating the normal ups and downs of the business cycle, fiscal policy would be required to aggravate them.

A simple example from recent economic history should serve as cautionary tale. In fiscal year 1991, the economy's unanticipated slowdown caused actual government spending for unemployment insurance and related items to exceed the budgeted amount by $6 billion, and actual revenues to fall short of the budgeted amount by some $67 billion. In a balanced-budget world, Congress would have been required to offset the resulting shift of more than $70 billion in the deficit by a combination of tax hikes and spending cuts that by themselves would have sharply worsened the economic downturn—resulting in an additional loss of 1¼ percent of GDP and 750,000 jobs.

The version of the amendment passed by the House has no special "escape clause" for recessions—only the general provision that the budget could be in deficit if three-fifths of both the House and Senate agree. This is a far cry from an automatic stabilizer. It is easy to imagine a well-organized minority in either House of Congress holding this provision hostage to its particular political agenda.

In a balanced budget world—with fiscal policy enjoined to destabilize rather than stabilize the economy—all responsibility for counteracting the economic effects of the business cycle would be placed at the doorstep of the Federal Reserve. The Fed could attempt to meet this increased responsibility by pushing interest rates down more aggressively when the economy softens and raising them more vigorously when it strengthens.

Finally, a balanced budget amendment would create an automatic and undesirable link between interest rates and fiscal policy. An unanticipated increase in interest rates would boost federal interest expense and thus the deficit. The balanced budget amendments under consideration would require that such an unanticipated increase in the deficit be offset within the fiscal year!

In other words, independent monetary policy decisions by the Federal Reserve would require immediate and painful budgetary adjustments. Where would they come from? Not from interest payments and not, with such short notice, from entitlement programs. Rather they would have to come from either a tax increase or from cuts or possible shutdowns in discretionary programs whose funds had not yet been obligated. This is not a sensible way to establish budgetary priorities or maintain the health interaction and independence of monetary and fiscal policy.

One of the great discoveries of modern economics is the role that fiscal policy can play in moderating the business cycle. Few if any members of the Senate about to vote on a balanced budget amendment experienced the tragic human costs of the Great Depression, costs made more severe by President Herbert Hoover's well-intentioned but misguided efforts to balance the budget. Unfortunately, the huge deficits inherited from the last decade of fiscal profligacy have rendered discretionary changes in fiscal policy in response to the business cycle all but impossible. Now, many of those responsible for the massive run-up in debt during the 1980s are leading the charge to eliminate the automatic stabilizers as well by voting for a balanced budget amendment.

Instead of undermining the government's ability to moderate the economy's cyclical fluctuations by passing such an amendment, why not simply make the hard choices and cast the courageous votes required to reduce the deficit—the kind of hard choices and courageous votes delivered by members of the 103rd Congress when they passed the administration's $505 billion deficit reduction package?

Mrs. MURRAY. Mr. President, Dr. Tyson, probably more clearly than anyone I have heard in the past few days, explains how dangerous this resolution is and why the American people have a right to know what our budget will look like before we act on this measure.

Mr. President, the staff of the Budget Committee prepared an analysis of the balanced budget amendment which puts the abstract words of this resolution into perspective.

Now, as you know, Mr. President, the proponents of this resolution tell us we must have a balanced budget in the year 2002. But, they refuse to tell us how they will achieve that balance. They will not level with the American people about what they will cut and what they will eliminate. And, Mr. President, the American people have a right to know.

They have a right to know before we pass this amendment how this will affect them.

If we pass this resolution with an exemption for Social Security, defense, and some other sensitive programs and if we still enact all the tax cuts in the Contract With America, and all of that is possible, we will see a 50-percent across-the-board cut in all other programs.

Is this responsible budgeting, Mr. President? Is this rational? Is this common sense? If we put this resolution into action, Mr. President, agricultural programs could take a 50-percent cut. So could highway funds. We could lose half of our education and job training money, and we could lose half of our student loans.

If the Constitution is amended in this way, and Congress actually acts on it, the cleanup of the Hanford Nuclear Reservation is in jeopardy. This is not the way we return security to our Nation, Mr. President. And, it is not how we restore the glimmer of hope to our children's eyes.

The radical cuts this amendment will demand will likely fall squarely on the backs of the most vulnerable in our society—our children, our elderly, our disabled most in need of help.

And, Mr. President, at a time of uncertainty for all of our working families we find this resolution will hurt our workers. The economists at Wharton predict Washington State could lose 209,000 jobs the year after this amendment takes effect. They predict my State will experience a 15-percent drop in total personal income. And, they tell me hardest hit will be the manufacturing sector—especially the aerospace industry—which is already experiencing massive job losses.

Mr. President, it is time to level with the American people. If we are gong to engage in a discussion of balancing the budget, let's get beyond the 10-second sound bites. Let us tell the American people how this budget will affect our lives, and their children's lives. Because, Mr. President, if we are going to change the Constitution of the United States the American people have a right to know exactly how this will affect their lives, their security, and their future.

I retain the balance of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 10 minutes to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. I thank the Senator from Utah for yielding the time.

Mr. President, as I indicated in previous remarks on the floor in this debate on another day, this really is the defining moment. This is the opportunity for us to move on balancing the Federal budget. If we do not do it during this time when we have the opportunity to pass this amendment, it will be the last time. The House has passed it 300 to 132. It is very close here in the Senate. Some would say that we do not have the 67 votes that are required as of now.

Here we are, out here talking about a right to know, so-called. Everyone knows that is a smokescreen. It is dilatory. It is a delay tactic to try to stop us from voting on this amendment or to try to obfuscate the issue so much that no one will understand what the real problems are.

Here is the real problem, Mr. President. This is the President's budget.

It is interesting that the color is green, and it should be because in this budget the President spends one heck of a lot of money. In this budget, the President adds, over 5 years, well over $1 trillion more to the national debt. The annual deficits run over $200 billion a year, on an average, for the next 5 years, adding over $1 trillion to the national debt. That is what it says.

The other side says we need a right to know. Well, what about the President of the United States? Why does he not submit to us at least something that leads toward a balanced budget? He basically has taken a walk and has presented this budget. It is green. You know, Mr. President, here is the color it should be—red—because it is red ink, more red ink, more red ink, more red ink, business as usual, politics as usual. We stand down here on the floor and we talk and talk and talk, and the debt goes up and up and up, and our children's future is at stake.

That is what this is all about, Mr. President. Let us face it, that is what it is all about. How can the President of the United States, with his party on the floor trying to delay this amendment by using this phony argument of the right to know, keep a straight face in presenting this budget? He ought to replace Jay Leno, for crying out loud. It is hysterical. It is so funny that no one could possibly take the man seriously. How can you say that?

If you want further evidence of what this thing is all about on this amendment—and I say to my colleague, the floor leader from Utah—I remind him because he was very much a participant in this debate a year ago, in February 1994, when we had the amendment up here and we lost it by three or four votes, as the Senator well remembers. The sponsor of this right-to-know amendment by the minority leader of the U.S. Senate was on the floor, and it is interesting to hear what he said because he supported the amendment in that debate and voted for the balanced budget amendment to the Constitution. Here is what he said:

> To remedy our fiscal situation, we must stop spending beyond our means. This will not require the emasculation of important domestic priorities, as some suggest.

He also said:

> We are building a legacy of debt for our children and our grandchildren and hamstringing our ability to address pressing national priorities.

And then he said:

> In this debate on a balanced budget amendment, we are being forced to face the consequences of our inaction. Quite simply, we are building a legacy of debt for our children and our grandchildren and hamstringing our ability to address pressing national priorities.

Here, Mr. President, ironically is what Senator DASCHLE, the minority leader, said on February 28 on the floor of the U.S. Senate about the right to know:

> Congress and the President will have 7 years to address the current deficit and reach a consensus on our Nation's budget priorities. We will have time to find ways to live within our means and still meet existing obligations to our citizens, particularly the elderly.

So you have the sponsor of this amendment on the floor of the Senate 1 year ago in support of the balanced budget amendment and saying pass the amendment and we will lay out the plan and we will work together to lay out a plan to balance the budget. That is 180 degrees in reverse of where we are today with the Senator from South Dakota with his so-called right-to-know amendment.

When are we going to do this? The reason why we need the amendment could never be more obvious than it was when the President submitted that budget, because we will not do it without the amendment. I want to comment for a few moments on this issue of the right to know, because it is kind of fascinating. I hear about the public's right to know as if we have to know every single item, everything we are going to do before we pass the amendment. If Congress wanted to get a balanced budget, they would have done it, Mr. President, and we would not need the amendment. The reason we need the amendment is because they will not do it. That is the reason—because they will not do it.

Do you know what I think? I think the public has a right to know why every child born in America today, even as I speak, is born approximately $18,000 in debt. I think that child has a right to know why that is happening in this country and what we are going to do about it. That is a right to know that I think we ought to have.

Also, I hear on the floor that we are going to make the tough decisions. Give me a break. That is why we need the amendment. We are not making the tough decisions, and the President did not make the tough decisions in this budget. He did not make the tough decisions. He took a walk. That is going to continue to happen until the national debt goes right through the roof. It is already fast approaching, or will be by the turn of the century, over $6 trillion. Where does it stop, at $12, $13, $15, $16, $20, $100 trillion? That is where it is going to go if we do not stop. We just have to do it.

Why would anybody think the American people are going to trust us to make those decisions? Why should they? We have never done it. That is why 80 percent of them have said over and over again that they support an amendment. That is why they said it. That is why they want this amendment. And that is why those who do not want it are using these delay tactics and phony arguments, because they do not want to make the tough decisions.

In order to force us to do what we have been unwilling to do for the past 15 years or longer, we need this amendment.

Do you know what has been really lost in this debate, beyond the right to know? We are forgetting about the American people. They are the losers in this debate. Many of my colleagues say, oh, the Governors are against it, State legislators will not support it; there will be a lot of polls cited next week saying that. The only poll that the Framers of the Constitution ever thought about or knew about, as far as I am concerned, is whether or not 38 States deem this amendment essential and a majority of the House and Senate deem it essential. If they do, we will be bound by the Constitution that all of us swore to uphold to put our fiscal house in order and, by doing so, we will bring some dignity to this body and restore fiscal sanity to this country. That is what it is all about, fiscal sanity and dignity.

How in the world can we call it dignified to roll up trillions of dollars more of debt on our children, basically saying I am not going to worry about it today, I am going to live the good life and do what I have to do, and I am going to pass my debts on to my kids. That is what we are doing with trillions of dollars.

My friends who oppose the amendment speak only of their ability to make the tough choices. "We will make the tough choices," they say. I heard one of my colleagues say how they made the tough choices. In fact, it was said this morning that they made the tough choices in 1993 in the President's budget. He said, "No Republican voted for this agreement."

I remind my colleagues that Republicans were not a party to the agreement. We did not have anything to do with negotiating the agreement. We were not invited to participate in it. I do not know what the discussion was like behind closed doors, nor do any of my Republican colleagues know. Do you know what they talked about in those meetings and discussions? They did not talk about cutting spending or balancing the budget. They talked about, should we raise the top tax rate 5, 8, 9 percent? What are we going to raise it to? They talked about raising taxes. They talked about, should we make tax increases retroactive for 6 months, 1 year, year and a half? How long can we go with a millionaires' surtax? Should it be $500,000 or $250,000. That is what was going on. There were no talks in those meetings about spending cuts or about tough decisions.

So that is one of the reasons why I believe my friends fear the constitutional amendment, those who are opposing it, because they know exactly what is going to happen. You will have to cut spending and cut the bloated bureaucracy and eliminate outdated programs, and you will have to make the tough decisions. That is the truth. They are not ready to do it. That is the bottom line.

I will close on this point. I was very much interested in the story in the Washington Post this week regarding Washington, DC. They announced they are $722 million in debt. And Mayor Barry is telling us in the papers that home rule does not work. He is one of the most noted figures in the history of home rule in the District. He is now saying: I have to have the Federal Government take over some of the services, the prison system, and other programs that he says he cannot maintain. He is in debt.

Now, why has the Mayor changed his mind? Why has he changed his tune from the big government mayor that he was for all those years?

It is quite simple. He does not have the tax base any longer to maintain the bureaucracy that had been created by him and his predecessors. The well is dry. They cannot raise any more taxes.

Indeed, we have the representative from Washington, DC, in the House saying we may want to eliminate income taxes altogether for people who live in the District. They cannot pay any more taxes. They are up to here. That is the problem.

That is not the answer. The answer is not raising more taxes. The answer is cutting spending. That is the issue. So he has given up. So the Mayor says, "Come in. Take these things from me. I can't deal with it any more. I do not have the tax base."

That, my friends, is exactly the predicament that we are going to be in in the very, very near future. We are going to go to the well once too often. There is not going to be any more money there. You cannot squeeze any more blood out of this turnip, out of the American people. They do not have it any more. They are fed up. They have had enough. You cannot get any more. And, therefore, the end is in sight. That is what is going to happen. That is where we are going to get to.

And when that point comes, what do we do? Are we going to turn and say, "Take these programs"? The answer is no. We all know, when that comes, it is going to be too late and we will have bankruptcy, the equivalent of chapter 1, where we spend a whole bunch more dollars.

That is not what the American people want. The American people want us to be fiscally responsible, to make the tough decisions and pass this amendment so that the Congress and the President, both political parties, Democrats, Republicans, liberals, conservatives, sit down in a room and make the decision to balance the budget. Yes, we will differ on where the priorities are, but we have to do it. Now we do not have to do it. That is why we need the amendment.

So I urge my colleagues to move off this phony debate of right to know and exempting programs and get on to the business of passing this amendment sooner rather than later and stop the dilatory tactics.

Thank you, Mr. President.

I thank the Senator from Utah for yielding to me.

Mr. HATCH. Mr. President, I thank the distinguished Senator from New Hampshire for his excellent statement. It was terrific.

Mr. President, I yield 3 minutes to our courageous colleague from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President and my colleagues in the Senate, I am for the basic aim of this amendment, but I am going to vote against the amendment for two reasons.

One is, while I think we do need to spell out in broad outlines where we are going and how we are going to achieve a balanced budget before it goes to the States, I do not believe this should be in the Constitution. We are talking about a procedural thing that should not be in the Constitution.

Second, to spell out down to $100 million where we are going I think is just totally unrealistic in terms of where we are going to be 7 years from now. So I think it is an unwise amendment.

I would add, if we pass the balanced budget amendment—and my hope is that we will have the wisdom and the courage to do so—I will request—and I hope to be joined by Senator HATCH and others on this—I will request the leaders of both parties to either ask the Budget Committee or a special task force to put together in broad outlines how we can get to a balanced budget in the year 2002.

Now, CBO has outlined some things; the Concord Coalition has outlined some things. There have been other suggestions. But I think a task force that can be appointed immediately after passage and report back to the Senate is the way we should go. I do not believe we should put this kind of an amendment in the Constitution. I think it is just not constitutional in nature.

Second, I think to say where we are going to be 7 years from now in terms of $100 million—and at that point it will be about a $1.8 trillion budget—is just unrealistic. So I will be voting for the motion to table.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank the Senator.

Mr. President, I yield 1 minute to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 1 minute.

Mr. BURNS. Mr. President, I thank my friend from Utah for yielding.

Mr. President, I have been listening to the speeches and debate on this amendment and especially on this issue. I just want to go to the bottom line real quick.

We have to get away from these scare tactics that everything is going to be cut. I have had people come into my office and say, "We are going to lose our programs. Everything is going to be out because you will not tell us how you are going to do it."

Let me tell you, this is going to make us all set up a criteria to select those things to be funded that should be funded. How many programs have we got right now that are being funded that have not been authorized by this body or the other body or ever signed into law by the President of the United States? If that is one of those criteria, then we are going to see those folks who want to fund programs that have not been authorized or cannot pass the scrutiny of the Senate or the House and we get them out. We just go ahead and fund them.

A case in point is the National Biological Survey. We appropriate all kinds of money for a program that has never passed this Congress. And if we do not have the criteria on which we fund and what we do not fund, we will never do it, we will never get it under control.

So the scare tactics are all baloney.

I thank my friend from Utah for yielding me the minute. You usually hear a lot of flowery speeches, but that is the bottom line when you go to taking up this issue.

Mr. HATCH. I thank my colleague from Montana for his cogent remarks.

I now yield 15 minutes to our distinguished chairman of the Policy Committee, the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 15 minutes.

Mr. NICKLES. I thank the Chair.

Mr. President, I wish to compliment my colleague from Montana for his remarks. They were brief, but they were right on target.

I also wish to compliment Senator HATCH, Senator CRAIG, and Senator SIMON. I very much appreciate the bipartisanship which we have exhibited in trying to pass this constitutional amendment.

We have all been working for a long, long time to pass a constitutional amendment saying, "Congress, you cannot spend any more than you take in." It is long overdue.

Consider the remarks Thomas Jefferson made in 1798. He said, "I wish it were possible to obtain a single amendment to our Constitution." He further says, "I mean an additional article, taking from the Federal Government the power of borrowing." These are Thomas Jefferson's words and he was correct.

Mr. President, we have a heck of a problem. We are spending a lot more money than we take in and we have been doing it for a long time. We did it for many years under Republican administrations, under Democratic administrations, and under primarily Democrat Congresses. We had a Republican Senate in the interlude. But we have seen Federal spending escalate year after year.

Mr. President, I am going to put a lot of tables into the RECORD which represent the facts, the fact that Federal spending has been exploding.

In 1960, Mr. President, the Federal Government spent less than $100 billion. In 1970, we spent less than $200 billion. In 1980, we spent $591 billion. So, we went from less than $100 billion in 1960, less than $200 billion in 1970, and less than $600 billion in 1980. By 1990, Mr. President, we spent $1.25 trillion.

I am bothered, Mr. President, when the President of the United States claims in his State of the Union Message that he cut spending by $250 billion. The fact is that Federal spending has not been reduced; it has climbed every year. The only way that the President can say we have cut spending is by using the inflated baselines that only the Federal Government would use. He is not accurate. Federal spending has gone up every single year.

In 1992, Federal spending was $1.382 trillion; in 1994 it was $1.461 trillion; in 1995 it will be $1.531 trillion. The President's budget for next year is over $1.6 trillion—And the spending continues to escalate. By the year 2000, spending exceeds $1.9 trillion. Federal spending continues to climb every year, and it has under every President and every administration.

Revenues have been climbing as well, but not quite as fast. I really think we need some kind of restraint. I happen to think a constitutional amendment is the restraint we need. I wish we did not. Some of my constituents asked me recently, was it really necessary? I said it would not be necessary if we had a strong majority in both the House and the Senate that was willing to make the tough fiscal decisions that would have to be made to balance the budget.

We have not seen that kind of majority. Maybe with the new Congress we will have that kind of opportunity, but history has shown that we have not had it in decades. Most States have a balanced budget requirement. Some may allow exceptions, but most States have something in their constitution that limits the amounts of money that they can spend and/or the amount of money they can borrow.

So, Mr. President, I think it is vitally important we pass a balanced budget amendment. It has to be a bipartisan effort, and I hope we will have bipartisan support to make it happen.

Mr. President, some people have said, "How do you do it?" This is the intent of Senator DASCHLE's amendment on the right to know. Unfortunately, Senator DASCHLE's amendment amends the Constitution. This is not the proper way to do what he wants to do. I happen to agree that we should put out as much information on how we will get there as possible. I would also say that 7 year estimates are just guessing. No one knows what will happen in the economy between now and then, and certainly the economy makes a lot of difference on what the outlays will be and what the revenues will be. But to put something like his amendment in the Constitution is wrong. I just hope my colleagues before they vote on this amendment will read the amendment that is pending and read section 9. It includes about 11 or 12 paragraphs.

The rest of the balanced budget amendment is quite simple. The rest of the amendment, which is similar to an amendment we passed in the Senate in 1982, one which Senator DASCHLE himself has supported in the past, makes sense. It is logical. It would fit in the Constitution. Section 9 does not belong in the Constitution.

I hope that my colleagues will not support the right to know amendment. Does that mean that Congress should abdicate its responsibility and wait until the seventh year to do anything to balance the budget? No, we should take concrete steps each year to reduce our deficit down to zero.

I regret to say that President Clinton, in his latest budget submission, has not done that. I think he has raised the white flag on deficit reduction. His deficit stays at about $200 billion in the foreseeable future, and beyond the year 2000 increases rather dramatically. The President's budget touches a little bit on discretionary spending, it increases it dramatically in some areas, cuts it in defense and some other areas, and does not touch entitlements.

Entitlements have been exploding. I think that is irresponsible. I think, basically, the President punted and said, "Congress, you take over. We will wait and see how you do and we will throw rocks at it." I think that is irresponsible.

Regardless of what the President does, we need to move toward a balanced budget. Regardless of whether or not we pass this amendment, we need to move to balance the budget. I hope we will. I hope we take concrete steps this year and each and every year to reduce the deficit, reduce the enormous debt load we have on the American people.

Mr. President, we do have enormous debt load. Federal debt in 1994 is $4.6 trillion. Mr. President, per capita that is $17,848 for every man, woman, and child in the United States. That is the amount of public debt we have today. Next year, 1995, that figure is $18,800. So that figure has risen by over $1,700 for every man, woman, and child in the United States, the amount of debt load increase they have all inherited.

I do not think that is acceptable. I think we have to manage something. Maybe this is not the perfect solution, but it happens to be one of the few that I think will work. We are sworn to uphold the Constitution, and we all take an oath that we will uphold the Constitution, I think we will show the courage to do so.

Unless and until we have that constraint, I am afraid we will fall back to business as usual, and business as usual is passing the Daschle amendment or passing another amendment that says we will exclude Social Security or gut this amendment some way or another and not pass it, and we will continue spending more money than we take in.

Why do we do that? Senators are a lot more popular if we spend money than if we take it. People do not like taxes. They like spending. Therefore, we spend more, tax less, and have big deficits. I do not think that is responsible, Mr. President. I do not think we can continue doing that.

How can we balance the budget? Can we do it? CBO says we will have to cut spending by $1.2 trillion. The President's budget would cut spending by $144 billion in the next 5 years. Mr. President, we will spend over $10 trillion in the next 6 years. The President is talking about a marginal reduction of about 1 percent. Again, Federal spending under the President's program goes from $1.5 to $1.9 trillion. That is not a spending reduction. If spending goes up by a dollar, we should say spending went up, not that we reduced the rate of both and therefore it is a spending cut.

Mr. President, we can balance the budget if we allow spending to increase, but spending cannot increase as fast. According to the baseline that CBO uses, spending is increasing right now about 5.26 percent. We can balance the budget keeping spending growth to 3.21 percent for the next 7 years. Then we can balance the budget. Let me repeat that: Spending can increase each and every year, by 3.26 percent.

Mr. DORGAN. Mr. President, will the Senator yield?

Mr. NICKLES. Mr. President, I will not yield. I have a few more points to make, and I will be happy to yield in a moment.

So, Mr. President, how do we do that? We have some programs growing astronomically. I will mention a few: Defense has actually gone down, but there are a lot of other programs that are growing very dramatically. Medicaid, for example, in the last 4 years has grown at 28, 29, 12, and 8 percent. We cannot continue that rate of growth.

Earned income tax credit, a program that this President is very proud of, the last 4 years has grown at 11, 55, 18 percent, 1994 at 22 percent, 1995 at 55 percent. That is an exploding entitlement program that this President expanded. I could go on. Food stamps in the last 4 years has grown 17, 25, 21, and 11 percent. Last year, zero percent. We can see it has exploded in growth. In 1990 we spent $15 billion in food stamps; in 1994, $25 billion in food stamps.

Mr. President, I ask unanimous consent that these tables be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FEDERAL SPENDING CATEGORIES

[In billions of nominal dollars—Source: CBO]

Year	Outlays	Dollar growth	Percent growth	Percent of GDP
Mandatory				
1980	$292	....	....	11
1981	341	$49	17	11
1982	373	32	9	12
1983	412	39	10	12
1984	406	(5)	−1	11
1985	450	44	11	11
1986	460	10	2	11
1987	470	11	2	10
1988	494	24	5	10
1989	526	32	6	10
1990	567	41	8	10
1991	634	67	12	11
1992	712	78	12	12
1993	762	50	7	12
1994	789	27	4	12
1995	845	56	7	12
1996	899	54	6	12
1997	962	63	7	12
1998	1,026	64	7	12
1999	1,097	71	7	13
2000	1,173	76	7	13
Domestic				
1980	129	....	....	5
1981	137	7	6	5
1982	127	(9)	−7	4
1983	130	3	2	4
1984	135	5	4	4
1985	146	10	8	4
1986	148	2	1	3
1987	147	(0)	−0	3
1988	158	11	8	3
1989	169	11	7	3
1990	183	14	8	3
1991	195	13	7	3
1992	214	19	10	4
1993	229	15	7	4
1994	242	13	5	4
1995	253	11	5	4
1996	262	9	4	4
1997	274	12	5	3
1998	284	10	4	3
1999	295	11	4	3
2000	304	9	3	3
International				
1980	13	....	....	0
1981	14	1	6	0
1982	13	(1)	−5	0
1983	14	1	5	0
1984	16	3	20	0
1985	17	1	7	0
1986	18	0	2	0
1987	15	(3)	−14	0
1988	16	1	3	0
1989	17	1	6	0
1990	19	3	15	0
1991	20	1	3	0
1992	19	(1)	−3	0
1993	22	2	12	0
1994	20	(2)	−7	0
1995	21	1	5	0
1996	22	1	5	0
1997	22	0	0	0
1998	22	0	0	0
1999	23	1	3	0
2000	24	1	6	0
Defense				
1980	135	....	....	5
1981	158	23	17	5
1982	186	28	18	6
1983	210	24	13	6
1984	228	18	9	6
1985	253	25	11	6
1986	274	21	8	6
1987	283	9	3	6
1988	291	8	3	6
1989	304	13	5	6
1990	300	(4)	−1	5
1991	320	20	7	6
1992	303	(17)	−5	5
1993	293	(10)	−3	5
1994	282	(11)	−4	4
1995	270	(12)	−4	4
1996	270	0	0	4
1997	278	8	3	4
1998	285	7	3	3
1999	295	10	4	3
2000	304	9	3	3
Social Security				
1980	117	....	....	4
1981	138	21	18	5
1982	154	16	12	5
1983	169	15	9	5
1984	176	8	5	5
1985	186	10	6	5
1986	197	10	5	5
1987	205	9	4	5
1988	217	12	6	4
1989	230	14	6	4
1990	247	16	7	4
1991	267	20	8	5
1992	285	18	7	5
1993	302	17	6	5
1994	317	15	5	5
1995	334	17	5	5
1996	352	18	5	5
1997	371	19	5	5
1998	390	19	5	5
1999	411	21	5	5
2000	433	22	5	5
Net Interest				
1980	53	....	....	2
1981	69	16	31	2
1982	85	16	24	3
1983	90	5	6	3
1984	111	21	24	3
1985	130	18	17	3
1986	136	7	5	3
1987	139	3	2	3
1988	152	13	9	3
1989	169	18	12	3
1990	184	15	9	3
1991	195	10	6	3
1992	199	5	3	3
1993	199	(1)	−0	3
1994	203	4	2	3
1995	235	32	16	3
1996	260	25	11	3
1997	270	10	4	3
1998	279	9	3	3
1999	294	15	5	3
2000	310	16	5	3
Earned Income Tax Credit				
1980	1	....	....	0
1981	1	0	0	0
1982	1	(0)	−8	0
1983	1	0	0	0
1984	1	0	0	0
1985	1	(0)	−8	0
1986	1	0	27	0
1987	1	0	0	0
1988	3	1	93	0
1989	4	1	48	0
1990	4	0	10	0
1991	5	1	11	0
1992	8	3	55	0
1993	9	1	18	0
1994	11	2	22	0
1995	17	6	55	0
1996	20	3	18	0
1997	23	3	15	0
1998	24	1	4	0
1999	25	1	4	0
2000	26	1	4	0
Medicaid				
1980	14	....	....	1
1981	17	3	20	1
1982	17	1	4	1
1983	19	2	9	1
1984	20	1	6	1
1985	23	3	13	1
1986	25	2	10	1
1987	27	2	10	1
1988	31	3	11	1
1989	35	4	13	1
1990	41	7	19	1
1991	53	11	28	1
1992	68	15	29	1
1993	76	8	12	1
1994	82	6	8	1
1995	90	8	10	1
1996	100	10	11	1
1997	111	11	11	1
1998	123	12	11	1
1999	136	13	11	2
2000	149	13	10	2
Unemployment				
1980	17	....	....	1
1981	18	1	8	1
1982	22	4	21	1
1983	30	8	34	1
1984	17	(13)	−43	0
1985	16	(1)	−7	0
1986	16	0	2	0
1987	16	(1)	−4	0
1988	14	(2)	−12	0
1989	14	0	2	0
1990	18	4	26	0
1991	25	8	43	0
1992	37	12	47	1
1993	35	(2)	−4	1
1994	26	(9)	−27	0
1995	22	(4)	−15	0
1996	23	1	5	0
1997	24	1	4	0
1998	26	2	8	0
1999	27	1	4	0
2000	28	1	4	0
Food Stamps				
1980	9	....	....	0
1981	11	2	24	0
1982	11	(0)	−3	0
1983	12	1	7	0
1984	12	(0)	−2	0
1985	12	0	1	0
1986	12	(0)	−1	0
1987	12	0	0	0
1988	12	1	6	0
1989	13	1	4	0
1990	15	2	17	0
1991	19	4	25	0
1992	23	4	21	0
1993	25	2	11	0
1994	25	0	0	0
1995	26	1	4	0
1996	27	1	4	0
1997	29	2	7	0
1998	30	1	3	0
1999	32	2	7	0
2000	32	0	0	0
Medicare				
1980	34	....	....	1
1981	41	7	21	1
1982	49	8	19	2
1983	56	6	13	2
1984	61	6	10	2
1985	70	9	14	2
1986	74	5	6	2
1987	80	6	8	2
1988	86	6	7	2
1989	94	9	10	2
1990	107	13	14	2
1991	114	7	6	2
1992	129	15	13	2
1993	143	14	11	2
1994	160	17	12	2
1995	176	16	10	2
1996	196	20	11	3
1997	217	21	11	3
1998	238	21	10	3
1999	262	24	10	3
2000	286	24	9	3
AFDC				
1980	7	....	....	0
1981	8	1	12	0
1982	8	(0)	−2	0
1983	8	0	5	0
1984	9	1	6	0
1985	9	0	3	0
1986	10	1	8	0
1987	11	1	6	0
1988	11	0	3	0
1989	11	0	4	0
1990	12	1	9	0
1991	14	1	11	0
1992	16	2	16	0
1993	16	0	3	0
1994	17	1	6	0
1995	18	1	6	0
1996	18	0	0	0
1997	19	1	6	0
1998	19	0	0	0
1999	20	1	5	0
2000	20	0	0	0
Farm Price Supports				
1980	3	....	....	0
1981	4	1	43	0
1982	12	8	193	0
1983	19	7	62	1
1984	7	(12)	−61	0
1985	18	10	142	0
1986	26	8	46	1
1987	22	(3)	−13	0
1988	12	(10)	−46	0
1989	11	(2)	−13	0
1990	7	(4)	−39	0
1991	10	4	55	0
1992	9	(1)	−8	0
1993	16	6	68	0
1994	10	(6)	−36	0
1995	10	0	0	0
1996	9	(1)	−10	0
1997	9	0	0	0
1998	8	(1)	−11	0
1999	8	0	0	0
2000	8	0	0	0
Veterans Benefits and Services				
1980	14	....	....	1
1981	15	1	10	1
1982	16	0	3	1
1983	16	0	1	0
1984	16	0	1	0
1985	16	(0)	−1	0
1986	16	(0)	−1	0

FEDERAL SPENDING CATEGORIES—Continued

[In billions of nominal dollars—Source: CBO]

Year	Outlays	Dollar growth	Percent growth	Percent of GDP
1987	16	0	0	0
1988	18	2	12	0
1989	18	0	1	0
1990	16	(2)	−10	0
1991	17	1	9	0
1992	20	2	13	0
1993	21	1	7	0
1994	18	(3)	−14	0
1995	17	(1)	−6	0
1996	17	0	0	0
1997	18	1	6	0
1998	19	1	6	0
1999	20	1	5	0
2000	21	1	5	0
Federal Retirement and Disability				
1980	32			1
1981	37	5	17	1
1982	41	3	9	1
1983	43	3	6	1

FEDERAL SPENDING CATEGORIES—Continued

[In billions of nominal dollars—Source: CBO]

Year	Outlays	Dollar growth	Percent growth	Percent of GDP
1984	45	2	3	1
1985	46	1	2	1
1986	48	2	4	1
1987	51	3	7	1
1988	54	3	7	1
1989	57	3	6	1
1990	60	3	5	1
1991	64	5	8	1
1992	67	2	3	1
1993	69	2	3	1
1994	72	3	5	1
1995	75	3	4	1
1996	77	2	3	1
1997	81	4	5	1
1998	85	4	5	1
1999	90	5	6	1
2000	96	6	7	1
Other Mandatory				
1980	160			6
1981	187	27	17	6

FEDERAL SPENDING CATEGORIES—Continued

[In billions of nominal dollars—Source: CBO]

Year	Outlays	Dollar growth	Percent growth	Percent of GDP
1982	196	9	5	6
1983	208	13	6	6
1984	219	10	5	6
1985	241	22	10	6
1986	233	(8)	−3	5
1987	235	2	1	5
1988	255	20	8	5
1989	270	15	6	5
1990	288	18	7	5
1991	314	26	9	5
1992	336	23	7	6
1993	352	16	5	6
1994	368	16	4	5
1995	394	26	7	6
1996	412	18	5	6
1997	431	19	5	5
1998	454	23	5	5
1999	477	23	5	5
2000	507	30	6	6

HISTORICAL BUDGET ESTIMATES

[In billions of dollars]

Year	Revenues	Discretionary	Mandatory	Net interest	Deposit ins.	Off. receipts	Outlays	Deficit
1970	193	125	69	14	(1)	(12)	196	(3)
1971	187	127	83	15	(0)	(14)	210	(23)
1972	207	133	97	16	(1)	(14)	231	(23)
1973	231	135	112	17	(1)	(18)	246	(15)
1974	263	143	127	21	(1)	(21)	269	(6)
1975	279	163	164	23	1	(18)	332	(53)
1976	298	176	190	27	(1)	(20)	372	(74)
1977	356	197	207	30	(3)	(22)	409	(54)
1978	400	219	228	36	(1)	(23)	459	(59)
1979	463	240	248	43	(2)	(26)	504	(40)
1980	517	277	292	53	(0)	(29)	591	(74)
1981	599	308	341	69	(1)	(38)	678	(79)
1982	618	326	373	85	(2)	(36)	746	(128)
1983	601	354	412	90	(1)	(45)	808	(208)
1984	667	380	406	111	(1)	(44)	852	(185)
1985	734	416	450	130	(2)	(47)	946	(212)
1986	769	439	460	136	2	(46)	990	(221)
1987	854	445	470	139	3	(53)	1,004	(150)
1988	909	465	494	152	10	(57)	1,064	(155)
1989	991	490	526	169	22	(64)	1,144	(154)
1990	1,031	502	567	184	58	(58)	1,252	(221)
1991	1,054	535	634	195	66	(106)	1,323	(269)
1992	1,092	537	711	199	3	(69)	1,382	(290)
1993	1,153	543	761	199	(28)	(67)	1,408	(255)
1994	1,257	545	789	203	(7)	(69)	1,461	(203)
1995	1,355	544	845	235	(16)	(77)	1,531	(176)
1996	1,418	549	899	260	(9)	(73)	1,625	(207)
1997	1,475	548	962	270	(5)	(76)	1,699	(224)
1998	1,546	547	1,026	279	(5)	(79)	1,769	(222)
1999	1,618	566	1,097	294	(3)	(82)	1,872	(253)
2000	1,697	585	1,173	310	(3)	(84)	1,981	(284)
2001	1,787	605	1,245	325	(3)	(88)	2,084	(297)
2002	1,880	626	1,328	344	(3)	(93)	2,202	(322)
2003	1,978	647	1,417	365	(3)	(97)	2,329	(351)
2004	2,082	669	1,513	387	(3)	(102)	2,465	(383)
2005	2,191	692	1,617	412	(4)	(106)	2,611	(421)

FEDERAL DEBT

[In millions of dollars]

Year	Gross Federal debt	Held by the Government	Held by the public	Amount subject to the debt limit
1940	50,696	7,924	42,772	43,219
1945	260,123	24,941	235,182	268,671
1950	256,853	37,830	219,023	255,382
1955	274,366	47,750	226,616	272,348
1960	290,525	53,685	236,840	283,827
1965	322,318	61,540	260,778	314,126
1970	380,921	97,723	283,198	372,600
1971	408,176	105,139	303,037	398,650
1972	435,936	113,559	322,377	427,751
1973	466,291	125,381	340,910	458,264
1974	483,893	140,194	343,699	475,181
1975	541,925	147,225	394,700	534,207
1976	628,970	151,566	477,404	621,556
1977	706,398	157,295	549,103	699,963
1978	776,602	169,477	607,125	772,691
1979	828,923	189,207	639,716	827,615
1980	908,503	199,212	709,291	908,723
1981	994,298	209,507	784,791	998,818
1982	1,136,798	217,560	919,238	1,142,913
1983	1,371,164	240,115	1,131,049	1,377,953
1984	1,564,110	264,159	1,299,951	1,572,975
1985	1,816,974	317,612	1,499,362	1,823,775
1986	2,120,082	383,919	1,736,163	2,110,975
1987	2,345,578	457,444	1,888,134	2,336,014
1988	2,600,760	550,508	2,050,252	2,586,869
1989	2,867,537	678,210	2,189,327	2,829,770
1990	3,206,347	795,990	2,410,357	3,161,223
1991	3,598,993	911,060	2,687,933	3,569,300
1992	4,002,669	1,004,039	2,998,630	3,972,578

FEDERAL DEBT—Continued

[In millions of dollars]

Year	Gross Federal debt	Held by the Government	Held by the public	Amount subject to the debt limit
1993	4,411,489	1,100,758	3,309,717	4,378,039
1994	4,644,000	1,212,000	3,432,000	4,605,000
1995	4,942,000	1,325,000	3,617,000	4,902,000
1996	5,280,000	1,443,000	3,838,000	5,240,000
1997	5,641,000	1,563,000	4,077,000	5,599,000
1998	6,001,000	1,684,000	4,317,000	5,959,000
1999	6,392,000	1,803,000	4,589,000	6,349,000
2000	6,814,000	1,923,000	4,891,000	6,771,000

FEDERAL DEBT PER CAPITA

[In dollars]

Year	Gross Federal debt	Held by the Government	Held by the public	Amount subject to the debt-limit
1940	384	60	324	328
1945	1,963	188	1,775	2,028
1950	1,691	249	1,442	1,682
1955	1,662	289	1,373	1,650
1960	1,614	298	1,316	1,577
1965	1,666	318	1,348	1,624
1970	1,869	479	1,390	1,828
1971	1,979	510	1,469	1,933
1972	2,093	545	1,548	2,054
1973	2,222	597	1,624	2,184

FEDERAL DEBT PER CAPITA—Continued

[In dollars]

Year	Gross Federal debt	Held by the Government	Held by the public	Amount subject to the debt-limit
1974	2,289	663	1,626	2,248
1975	2,544	691	1,853	2,507
1976	2,930	706	2,224	2,895
1977	3,264	727	2,537	3,235
1978	3,559	777	2,782	3,541
1979	3,766	860	2,906	3,760
1980	3,998	877	3,122	3,999
1981	4,333	913	3,420	4,353
1982	4,907	939	3,968	4,933
1983	5,865	1,027	4,838	5,894
1984	6,633	1,120	5,512	6,670
1985	7,637	1,335	6,302	7,665
1986	8,829	1,599	7,230	8,791
1987	9,681	1,888	7,793	9,641
1988	10,637	2,252	8,386	10,580
1989	11,618	2,748	8,870	11,465
1990	12,857	3,192	9,665	12,676
1991	14,243	3,605	10,637	14,125
1992	15,697	3,938	11,760	15,579
1993	17,126	4,273	12,849	16,996
1994	17,848	4,658	13,190	17,698
1995	18,808	5,043	13,766	18,656
1996	19,906	5,440	14,469	19,755
1997	21,072	5,839	15,230	20,915
1998	22,217	6,235	15,983	22,062
1999	23,459	6,617	16,842	23,301
2000	24,795	6,997	17,797	24,638

Mr. NICKLES. Mr. President, I could go on. Medicare, in the last 4 years is compounded at 13, 11, 12 percent. This year it is expected to compound at 10 percent. Those are rates greater than 3.2 percent.

I admit, we will have to slow the rate of growth in a lot of programs if we will balance the budgets. Will it be easy? Not necessarily. The point is that Federal spending will continue to grow and we can still balance the budget. It will not be able to grow as much or as fast.

Again, I have heard people say, wait a minute, to balance the budget we will have to reduce spending $1.2 trillion. Over the next 7 years we will spend about $15 trillion. Can we afford $1.2 trillion? I think we can reduce the rate of growth and not spend $15 trillion.

I think we have to do it, Mr. President. I think passing a constitutional amendment to balance the budget will make us do it. If we do not pass it, I am afraid we will be back to business as usual. I hope that is not the case. I really do hope we will be serious. I hope that we will be serious and make a concerted effort to balance the budget, make the tough decisions, cut spending, cut entitlement programs, reduce those programs that are growing to astronomical levels, and try to live within our means. We have to do it.

I just have a couple of comments concerning the pending Daschle amendment. It says:

> In order to carry out the purpose of this article, Congress shall adopt a concurrent resolution setting forth a budget plan to achieve a balanced budget (that complies with this article) * * *.

And so on. And it says in section C:

> New budget authority and outlays, on an account-by-account basis, for each account with actual outlays or offsetting receipts of at least $100,000,000 in fiscal year 1994.

This does not belong, Mr. President, in the Constitution. This does not fit. It does not work. And it will not work.

I will read from Senator DASCHLE's comments that he made last year on February 28. He said:

> To remedy our fiscal situation, we must stop spending beyond our means. This will not require emasculation of important domestic priorities, as some suggest.

And then he says:

> Congress and the President will have 7 years to address the current deficit and reach a consensus on our Nation's budget priorities. We will have time to find ways to live within our means and still meet existing obligations to our citizens, particularly the elderly.

I happen to concur with that. However, his amendment does not concur with the statements last year. His amendment does not belong in the U.S. Constitution, with all respect to its supporters. I may concur with their desire for Congress to set out a glidepath. The glidepath is this: Let us limit Federal spending to 3.2 percent, and if we want spending in some areas, like Social Security, to grow at 5 percent, that is fine; we have to find some other spending areas to be reduced to offset that amount. We can do that, if we will just show the courage to do it. Unfortunately, Congress has not shown the courage in the past.

Mr. President, I will conclude with, again, complimenting the sponsors of the balanced budget amendment, Senators SIMON, HATCH, and CRAIG, and many others who worked tirelessly to make it happen. We passed a similar amendment in 1982—I wish it would have been adopted by the House—in 1982, we were spending about $746 billion. We are spending more than twice as much today, in 1995, as we did in 1982.

So I think we need this balanced budget amendment. It is regretful we did not pass it a decade ago, or maybe in Jefferson's time. We would not be in the plight we are in, with our children inheriting a debt of over $18,000 per person. So I hope that the Daschle amendment will be either defeated or tabled, and I hope that we will pass a constitutional amendment to balance the budget identical to that of the House and then allow the States to go forward with the ratification process.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, I intend to yield time to the Senator from Illinois. Let me for 30 seconds on my time indicate that which sounds deceptively simple is just plain wrong. As someone said, as happens often, you can simply limit to 3 percent growth and you solve the problem. If you limit Social Security to 3 percent growth, you effectively—Social Security recipients would not have the cost-of-living adjustments—but you tell the 6 million new people who become eligible, "There is no money for you; you don't get your Social Security benefits." It sounds simple.

Mr. NICKLES. Will the Senator yield?

Mr. DORGAN. I do not have the time, as the Senator did not, either. Let me yield 10 minutes, if I might, to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for up to 10 minutes.

Mr. NICKLES. Will the Senator from Illinois yield for 30 seconds?

Ms. MOSELEY-BRAUN. Mr. President, I cannot yield because there is precious little time left in the debate. I would like to take this opportunity to state my support for the right-to-know amendment.

Mr. President, I am a strong supporter of the balanced budget constitutional amendment, and I am an equally strong supporter of the American people's right to know what balancing the budget will mean for them, for their future, and for their children's future.

Frankly, I do not understand why the right-to-know amendment should be the least bit controversial. I cannot believe that any Member of this Senate would argue that the American people should not know how the Government spends their money. I cannot believe that any Member of this Senate would argue that the American people should not know—in advance—what programs will need to be cut, or consolidated, or terminated, in order to balance the budget. I cannot believe that any Member of this Senate would argue that the American people should not have the right to make their views known on the options for balancing the budget before we are committed to any particular set of options, and that includes options for changes in tax laws, as well as spending cuts. Most of all, I cannot believe that any Member of this Senate would seriously argue that the American people should be asked to make a decision on an issue as important as the balanced budget constitutional amendment without knowing in detail—before they decide—what balancing the budget will mean, both for the United States in general, and for themselves.

It seems to me that we have an obligation to give the American people the absolute truth about the Federal budget, and about the choices we have to make to bring it back to balance—and to keep it there. If we think balancing the budget is important—and I, for one, believe that it is critically important to meeting our responsibility to future generations—then we have an obligation to present the facts to our constituents, to let them know what the options are, and the consequences they entail. In a democracy, the only way to build broad, sustainable support for the hard decisions that adopting a balanced budget constitutional amendment will force is to talk sense to the American people and to tell them the truth.

The people know the truth when they hear it—and they want to hear it. They know that, all too often in the past, budgetary issues have been presented to them as if they were the marks in a three-card monte con game.

Americans don't want to put up with that any more. They want the truth—now. They know they haven't been getting that truth, but they also know that in our democratic system, they deserve that truth, and they are entitled to it.

What the right-to-know amendment is all about is seeing that they get the truth. It calls for nothing more than treating the American public with the respect they deserve. It does nothing more than ask the Congress to do what common sense requires—to simply tell the truth about what it means to balance the budget, and about the changes that balancing the budget will bring. Most importantly, it means putting an end to the kind of budgetary gamesmanship that has contributed so greatly to the rise in public cynicism about Government, and its ability to tell the truth.

Just yesterday I was talking to an auto worker from Decatur, IL. He recounted a joke that goes something like this: "How can you tell the government official is lying?" The answer is: "Because his lips are moving." That response is a telling indictment of the Government's stewardship of the budget and the kind of cynicism that is out there about what we do. In 1981, the American people were asked to believe in supply side economics, a plan that told the American people that cutting taxes would lead to faster economic growth, generating additional Federal revenues that would painlessly balance the budget. Of course, the only thing that it actually generated was staggering deficits that led to a quadrupling of the national debt from $1 trillion to over $4 trillion in just 12 years.

And the American people were told that Gramm-Rudman budget discipline would lead to a balanced budget. That effort also failed, because, like supply-side economics, it was more a cosmetic fix. It made the Congress look good and look like it had the discipline to make hard choices concerning the budget. But it was not based on telling the American people the truth about the Federal budget, or about what it would really take to balance it.

That is why the right-to-know amendment is so important now. If the balanced budget constitutional amendment is not to be seen as another budgetary gimmick, as another way to avoid the decision, or as another attempt to concentrate on process in order to again postpone the real decisions that must be made, the American people need to know that Congress is prepared to act, realistically and forcefully, based on budgetary realities rather than political illusions. And the only way they will be convinced of that is if they are made a full partner in the decisionmaking process.

There are those who fear that telling the American people the truth will undermine support for the balanced budget amendment, and there are others who hope it will. But there is no reason to fear the truth. The only thing we should fear is the consequences for our country and our democracy if we do not tell the truth.

Yet, there are those who continue to twist and turn in order to avoid meeting their obligation to the American people—to avoid telling the truth about the budget—and thereby put the balanced budget constitutional amendment unnecessarily at risk. These continued attempts at evasion make the right-to-know amendment, and the facts it will provide, even more necessary.

After all, according to the Congressional Budget Office, it will take over 1.2 trillion dollars' worth of budget changes to reach a balanced budget by the year 2002. And that is just the beginning, because balancing the budget that year will not ensure that it is balanced from then on, and that is what the balanced budget amendment requires.

The fact is that, as difficult as it will be to balance the budget by 2002, that task looks almost insignificant when compared to the challenge of keeping it balanced. I served on the Bipartisan Commission on Entitlement and Tax Reform. That Commission's interim report, adopted by an overwhelming 30 to 1 vote, found that, without major reform in entitlements, the Federal Government will almost double in size by 2030 as a percentage of the economy, and the Federal deficit that year would exceed 18 percent of the economy.

Think of that. Not only would the Federal deficit in 2030 equal virtually one-fifth of our GDP that year, but interest expense alone would consume over $1 of every $10 our economy generates.

The Commission report also made it very clear that growth in spending on discretionary programs subject to annual appropriations is not what is driving the growth of Federal spending. As a percentage of overall Federal spending, discretionary spending has dropped from over 70 percent of the budget in 1963 to only 28 percent of the budget now.

What is growing is entitlement spending, spending for activities like Social Security, Medicare, and Medicaid, and the like. Entitlements consumed only 22 percent of the Federal budget in 1963, but by 2003, together with interest on the national debt, they will account for 72 percent of overall Government spending.

The report of the Congressional Budget Office entitled "The Economic and Budget Outlook: Fiscal Years 1996–2000," confirms the findings of the Entitlement Commission. It found that nondefense discretionary spending has basically not grown at all, as a percentage of GDP, since 1960. Over that same period, however, the CBO report found that entitlement spending has more than doubled.

Some might say, however, that looking only at percentages of the economy masks very large spending increases. The actual numbers tell much the same story. For example, based on CBO's latest estimates, Federal spending increased by a total of $70 billion between fiscal 1994 and fiscal 1995. Ninety-five percent of that increase was due to growth in entitlement programs and interest expense. In fact, those two budget areas actually increased by a total of $88 billion, well over the $70 billion net overall increase in Federal spending this year.

It seems to me, Mr. President, that every American has a right to know these budget facts, and that every American has a right to know what Congress plans to do about them. Yet, it is also very clear that the American people have not been told these facts, either by the media or by the Congress or the administration. Instead, the American people have been led to believe, as a recent poll by the Wirthlin Group found, that "cutting welfare, foreign aid, and 'congressional perks'" would "do a lot towards balancing the budget."

Most Americans, however, harbor substantial doubts about what they know about the budget. According to a recent memo done for the Republican Conference by the Luntz Research Cos., entitled "Communications Strategy for the Upcoming Budget Battle":

> Again and again, focus group participants complain that they don't have anywhere close to the information on the budget that [Members of Congress] do. Survey respondents always overestimate their knowledge on nearly any subject, and only 22% believe they know either "a lot" or "a good amount" about the budget process.

What that means is most Americans know that they are missing a lot of important information about the budget. Most Americans do not know, for example, that AFDC spending—and I have heard a lot of talk about programs for the poor—in real dollars per beneficiary, is down by roughly 40 percent since 1970. Most Americans do not know that foreign aid is only about 1 percent of the Federal budget, and that the value of congressional perks much, much smaller than that. But every American has a right to know these and the myriad other important facts about the budget, and every American has a right to know how Congress plans to change the budget if the balanced budget constitutional amendment becomes the law of the land. Americans have a right to know in advance so that they can determine whether those plans make sense, whether they will work, who will be affected, and why.

There are those who argue against providing details at this point, on the ground that it is somehow premature. Timing, however, did not prevent the new House majority from laying out its tax proposals in great specificity, proposals that the Treasury Department estimates will cost $375 billion over the next 7 years, and increase the size of the budget gap over that period by almost 40 percent.

Why is it, Mr. President, that now is the time to be specific about tax cuts, but now is not the time to be specific about the changes on the spending side of the equation that will be required to pay for those tax cuts and still balance the budget by the year 2002?

Americans have the right to know the specifics. It is time to put aside talking about waste, fraud, and abuse, and pork barrel spending as if the budget could be balanced by eliminating those sins. It is, instead, time to come clean with the American people and tell them what balancing the budget will really mean. I do not say that to suggest that we abandon our efforts to deal with waste, an inefficiency. Far from it. Tackling those issues must continue to be a priority. But it is time to acknowledge reality, and the reality is that dealing with waste, fraud, and abuse is not, and cannot be, in and of itself, a complete strategy for dealing with the budget deficit. It is only a component of a strategy, and not even the biggest one.

It is time to stop diverting the American people's attention from the major policy options that absolutely must be examined if the budget is to be balanced. If we are serious about balancing the budget, if we want to meet our obligation to future generations—and if we want the American people to support the tough decisions that will be required—then we have to stop the budget gamesmanship now, and enter a real partnership with the American people.

The American people need to know the dimensions of the budget problems we face, and what the realistic options are to address those problems. They need to know that it would take a 13-percent across-the-board cut in every Federal program, including Social Security and Medicare, to balance the budget by 2002—and that more cuts would be needed thereafter to keep it balanced unless the rate of growth of entitlement spending can be cut.

They need to know that it would take an 18-percent cut in every other program but Social Security to balance the budget by 2002, if that program is taken off the table, and that further cuts would be needed in those other programs to keep the budget balanced after 2002. And they need to know that even taking Social Security off the table will not keep Social Security viable in the long run, because that does nothing to restore the actuarial balance in that program that the Social Security trustees say is now out of balance. They need to know that we must act to keep Social Security available for future generations—and that the sooner we act, the easier it is to accomplish. And they need to know that maintaining Social Security's viability can be accomplished without cutting the benefits of any current beneficiary by even a nickel.

They need to know that it would take a 32-percent cut in all other Federal programs, including defense, to balance the budget by the year 2002, if both Social Security and Medicare are taken off the table—and more cuts in those programs thereafter to keep it balanced, because both Social Security, and particularly Medicare, are growing faster than our economy or Federal revenues. And they need to know that it will take a cut of 36 percent in all other Federal programs if defense is also taken off the table.

They need to know that it is not the programs benefiting the poorest Americans that are driving the growth of the Federal budget. They need to know that the real engines of growth are rapidly rising health care costs, and the fact that the baby boom generation is moving toward retirement.

Perhaps most of all, they need to know what some of the options for balancing the budget might mean for them. Would the proposed path toward the balanced budget mean rougher roads, or higher subway fares? What would it mean to their children, to their opportunity to get a good grammar school and high school education, and to their chances to go to college. What will it mean to their ability to buy a home and to obtain a mortgage? And what would it mean to older Americans who need access to affordable health care? Would they face additional gaps in coverage, higher premiums, higher deductibles, or some combination of all of these? Would older Americans be able to choose to pay somewhat more in taxes to keep Medicare solvent, or would the only choice they are offered be private insurance—even if that option were to be more costly. Will COLA's—cost of living adjustments—be set based on the facts and the best measurement of inflation we can make, or will COLA's be determined on a more political basis?

Americans also want to know whether the result of Federal actions to balance the budget means higher State and local taxes for them. After all, the Federal Government currently provides more than 21 percent of the State of Illinois' budget, and provides major support for the budget of towns and cities across my State. An analysis done by the Treasury Department at the request of the chairman of the National Governors Association found that across-the-board cuts in Federal spending to balance the budget could lead to tax increases in my State of over 10 percent—and in some States, the tax hikes necessary to make good the loss of Federal funds could be as much as 25 percent.

In the 1970's and the 1980's, both the Presidents and the Congress failed in their obligation to face our long-term budget problems. They flinched from making the necessary decisions because those decisions were politically difficult and because it was easier to talk about fiscal responsibility, than to act to achieve it. However, if we had balanced the budget in 1980, there would be no need for even a single dollar of program cuts this year. The budget would actually be in surplus. Dealing with the rapid cost increases in Medicare and Medicaid would be much easier than it will be now. The Government would have a far greater ability to act to address problems that need our attention, because it would not be spending over $200 billion a year just on debt service.

The failures of the 1980's brought us to where we are now, and those failures make the job of restoring fiscal discipline more difficult now. The lesson of that failure is that we cannot afford further delay. That is why I was critical of the President's budget that was released yesterday. It avoids facing our budget problems. It avoids telling the American people the truth about those budget problems, and what it will take to solve them. It does not meet the responsibilities that leadership entails.

But the fact that the President did not act aggressively does not lessen the responsibility of the Congress to act, particularly when Congress is attempting to add a balanced budget amendment to the Constitution. We must begin to act—now—whether there is a balanced budget constitutional amendment or not.

And that is the real importance of the right-to-know amendment. It properly focuses attention where it absolutely must be focused—on the decisions involved in implementing a constitutional amendment—on what is involved in turning the promise of a balanced budget into a reality. The work is not done if and when the balanced budget amendment becomes a part of the Constitution, and the truth is that the real work cannot wait until a constitutional amendment is ratified.

The ongoing Mexican financial situation gives us a glimpse of the future if we do not tell the truth to the American people about our budget problems and get their help in beginning to solve them now. Mexico was financing economic growth with foreign capital, and was therefore vulnerable to a loss of confidence. The result of that loss of confidence is creating economic recession in Mexico, and real hardship for millions of Mexicans.

The United States economy is much larger and stronger, and much more resilient than Mexico's. We do not face the same kind of sudden collapse. But the U.S. national savings rate has been declining for many years now. We are financing an increasing portion of our Government debt, and private economic investment with foreign capital. And the result will likely be ever-higher interest rates in the United States, and increasing pressure on the incomes of most Americans, if we do not begin to act now. On the other hand, if we do begin to move toward a balanced budget, OMB Director Alice Rivlin, in her "Big Choices" memo, tells us that we can turn the anemic 3.7-percent national savings rate into a 6.1-percent savings rate by the year 2000. And that higher national savings rate would mean more opportunity and a brighter future for our children—and their children.

As important as it is to our futures, and our country's future, to restore discipline to the Federal budget—to balance the budget—how we get to that balance makes a difference. Some options work better for the American people than others. How we choose to get to a balanced budget makes a big difference.

The right-to-know amendment ensures that every American has the opportunity to get a good, hard look at the plans for balancing the budget, and, indeed, at all of the available options. It takes the abstractions involved in the balanced budget amendment, and makes them concrete and real.

The right-to-know amendment calls on Congress to meet its obligation to American democracy. It is nothing less than a recognition of our fundamental moral responsibility to our country, because it seeks to ensure that the American people have the information they need to be able to meet their own responsibilities as Americans.

No one can make good decisions without good information. In a democracy, that means not only must Congress and the President have good information, but so must the American people. For that reason alone, it should have universal support in this Senate. It is the only way to demonstrate that Congress is serious about wanting to balance the budget, that Congress wants the American people to be real partners in the decisions required to make that happen, and that Congress is committed to doing what is right—telling the whole budget truth to the American people.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. MOSELEY-BRAUN. I ask if the Senator will yield for 5 minutes.

Mr. DORGAN. I have 12 minutes and two additional statements.

Ms. MOSELEY-BRAUN. I conclude by saying, Mr. President, the balanced budget amendment is going to require some real hard decisions by all of us, decisions that will affect our States, decisions that will affect our constituencies, and it seems to me that we have an obligation to tell the truth beforehand so people get a sense of exactly how this will work.

Taking Social Security off the table, taking Medicaid off the table, taking defense off the table, doing the kinds of changes that will come up in amendments after we get past this one, will, I think, require some hard decisions. It seems to me that with the right-to-know-amendment the people will have the truth. They can evaluate our actions more accurately and more effectively. They can hold us accountable for what we do.

With that, Mr. President, I thank the Senator from North Dakota and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. I yield myself 6 minutes.

Mr. President, at the outset of this debate, I observed that Members of the Senate divided into three distinct groups in connection with the proposal now before us.

The first was those who believe that the present budget and financial system of the Government of the United States is broken, broken seriously and requires major surgery in order to fix it. The evidence which we, a majority, in this body have cited is the fact that in 30 years we have had but one balanced budget. In the last 20 years, the total debt has multiplied by more than 10 times to almost $5 trillion, a tremendous burden on the people of the United States of America; that even at the present time, at a time of relative prosperity, we are running deficits of $200 billion a year, adding that amount to our total debt. The cure, it is the belief of the substantial majority of the Members of this body, is the balanced budget amendment in the form in which it passed the House of Representatives.

The second group in this debate are those who claim allegiance to the concept of a balanced budget but not in this fashion, not through the provision for such a budget in the Constitution of the United States.

Now, I believe that the overwhelming challenge to that second group is if not this way, what way? What indicates to them in the history of the last 30 or 40 years that either a President of the United States or a Congress of the United States without any external discipline whatsoever will change the course of action of several decades and work toward a balanced budget without external discipline?

So far, this second group has been quite silent about what there is that has so profoundly changed in America that we will now get what we have lacked over the course of the last 30 years. In fact, it seems to me that it is more the duty of that group to show us how they would reach the goal than it is of those who believe that a constitutional amendment is necessary and who are the subject of the demands in this motion by the distinguished Democratic leader.

Third, of course, is the group that does not believe in a balanced budget at all, who feel that the present, the status quo is perfectly appropriate. There are relatively few in number in this body who candidly advocate that position but one certainly can credit their candidness. Probably a number of those in the second group really fall into the third group with the balanced budget as a low priority or no priority at all.

That third group, however, got a wonderful new recruit on Monday. On Monday, the President of the United States, William Clinton, joined them by presenting to us a budget with a $200 billion deficit and projections that are very optimistic from the perspective of inflation and economic growth, projections that never bring the budget deficit to significantly less than $200 billion a year, with a deficit that increases after the turn of the century, so that another $1.5 trillion will be added to the debt. That budget, that Presidential budget is the best single advertisement for the passage of this constitutional amendment in its original form.

The Daschle motion, the motion of the distinguished Democratic leader, is designed to justify doing nothing, to retain the status quo. I cannot imagine that any of its proponents really believe we ought to include in the Constitution of the United States two pages of detailed instructions which will become irrelevant if the constitutional amendment is actually passed. They cannot believe it.

But beyond the inappropriateness of putting such language in the Constitution of the United States is the unconstitutionality of the motion itself because our Constitution tells us that this Congress passes proposed constitutional amendments which are then submitted to the States for their ratification. Under the Daschle motion, no such thing will happen. The submission to the States is conditioned upon Congress passing a series of laws before that submission takes place.

The Daschle motion is, therefore, not only bad policy, not only bad aesthetics by putting terrible language in the Constitution of the United States, it is itself blatantly unconstitutional.

Both for reasons of policy and for reasons of constitutionality, the Daschle motion should be decisively and swiftly tabled so we can move on to a debate over the merits of the constitutional proposal itself.

The PRESIDING OFFICER (Mr. KYL). Who yields time?

Mr. HATCH. Mr. President, I yield 7 minutes to the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I rise in support of the pending resolution to amend the Constitution to require a balanced budget.

I have not always supported the balanced budget amendment. When this measure was considered by the Senate in 1982 and again in 1986, I felt that Congress could and would address deficits without the aid of a constitutional amendment. Several years ago, however, I realized that I had overestimated Congress' ability to deal responsibly with the budget. We have not balanced the budget in 25 years.

When it came time for the tough spending cuts ordered by the Gramm-

Rudman deficit reduction law, Congress did not have the will to follow through. So in 1992, for the first time I supported a balanced budget amendment in the Senate.

Public debt is not inherently bad. It was both necessary and wise for the Federal Government to borrow heavily during World War II. In the three decades following the war, the United States gradually paid down this debt. Beginning in the 1970's and worsening in the 1980's, however, the Federal Government reversed this trend by borrowing more and more to pay for current expenses. The huge deficits we have been running for the past 15 years have not been to finance public investments that will yield benefits in the future. We have been borrowing primarily to pay for current consumption. We're not borrowing to build roads; we're borrowing to put gas in the car.

Contrary to popular belief, Congress is never faced with the option of raising taxes or borrowing money to finance Government. Spending can only be paid for through taxes—it is simply a question of whether we raise taxes today or tomorrow. Borrowing invariably means that future generations will face a heavier tax burden. In fact, the Office of Management and Budget last year published an analysis of the growing tax burden. The report forecast that, without changes in Federal law, the average net tax rate for future generations would eventually reach 82 percent of their lifetime earnings. Clearly, such a tax burden would be unacceptable.

The real harm caused by Government borrowing is that it draws down the pool of savings available for investment. Rising standards of living are possible only through investments in infrastructure, in plants and equipment, and in education. Savings by American families and businesses provide the capital for these investments. But deficits draw down, or crowd out, the national pool of savings. This year, for instance, the first $200 billion in savings will not go to investments in new plants and equipment but to feed the deficit.

As more and more of our savings are devoured by the deficit, investments for the future decline—and with them, the rate of economic growth in the country.

So the deficit is a double hit on future generations. We are not only asking them to finance our current spending; we are handicapping their ability to meet this obligation—by crowding out investments for the future. We are not only eating their seed corn, we are asking them to pick up the dinner check.

This travesty simply must end. As nearly every economist in the country agrees, the surest way to increase investment in the future is to cut the deficit. And, the surest way to cut the deficit is to pass the balanced budget amendment. All other remedies have failed.

Repeated deficits have done serious damage not only to the economy but to Congress' standing with the public. The low esteem in which Congress is held is directly related to our fiscal irresponsibility. For the sake of the integrity of this institution, we cannot continue to promise the American people long-term deficit reduction and do little about it. Actions do speak louder than words.

We have tried every conceivable legislative option to force a more responsible budget policy. With few exceptions, these efforts have failed. A constitutional amendment appears to be the only solution left. As others have said, it may be a bad idea but one whose time has come.

Amending the Constitution should not be proposed lightly. It is a very serious matter. However, the balanced budget amendment is consistent with the historic role of the Federal constitution in safeguarding the rights of those who may be under-represented in the political process. In this case the under-represented individuals are future generations who are being asked to pay for our profligacy.

Numerous arguments have been made in opposition to the balanced budget amendment. Some have argued that the balanced budget amendment is a gimmick that will not work, while at the same time arguing that it will wreak havoc by imposing draconian cuts. The balanced budget amendment is neither a gimmick nor a merciless ax hanging over all Federal programs—and it is certainly not both.

The balanced budget amendment is not an easy political vote. The easy votes have been the routine ones to spend beyond our means. The proposed amendment will not—with certainty—end deficit spending, but it will undoubtedly make it more difficult.

When the 1990 budget agreement required a supermajority to exceed annual caps in discretionary spending, no one argued that the supermajority requirement was a gimmick. It was recognized as an essential step toward fiscal responsibility. When all the smoke is cleared on the balanced budget debate, it is undeniable that deficits will be harder to continue under a constitutional amendment. If you want to make it more difficult for Congress and the President to pass the tax bill on to future generations, you should support the balance budget amendment.

The amendment does not tie Congress' hand to the point that it could not respond to a national crisis. With the approval of three-fifths of the Congress, deficits would be permitted. In times of war or dire economic circumstances, three-fifths of the Members of the Congress can be expected to recognize the need for deficit spending.

Unfortunately, Congress has too often viewed deficits not as a necessary tool in dire circumstances but as a convenient way to spend beyond our means. We have turned the exception into the rule and have become hooked on deficit spending. It has been easier to reach for the deficit brew than to abstain and act responsibly. The practical effect of the balanced budget amendment will be to put this elixir a little higher on the shelf and further out of Congress' reach.

In closing, I would like to make three points that I think put this debate into context.

First, 37 States have balanced budget amendments. Complying with these requirements is not always convenient. But over the long term, forcing governments to balance their budgets promotes good and disciplined government.

Second, the fact that taxpayers are willing to finance only $1.4 trillion of the $1.6 trillion worth of current Government services, begs the question of whether the public really wants as much Government as currently exists.

Last, we should not lose sight of the fact that there is no free lunch here. Every dollar the Government borrows is a dollar unavailable for job-creating investment in the private sector. Also, every dollar the Government borrows today is a dollar tomorrow's taxpayers will have to repay. At its most basic level the balanced budget amendment stands for the simple principle that we should pay today for the Government we use today. If we are unwilling to put the money in the barrel ourselves, by what right can we ask future generations to put their money in the barrel?

The balanced budget amendment offers the best hope of ending the fiscal child abuse in which we have been engaged. The bruises may not show right now, but the pain is going to last a lifetime. We owe it to our children and their children to balance the budget. I have no illusions that this will be an easy task, but if we do not in earnest set this as our goal and accept it as our responsibility, it will never happen. The debate today is not about how do we get there, it is about where are we going.

Thomas Jefferson once said that whenever one generation spends money and taxes another to pay for it, it is squandering futurity on a massive scale. Let us end this squandering and pass the balanced budget amendment now before our task becomes even more difficult.

Mr. President, now let me speak briefly about the pending amendment, the so-called right-to-know amendment.

The word "gimmick" has been thrown around here quite a bit in this debate, with the opponents of the balanced budget amendment arguing it is simply a gimmick rather than a serious effort to balance the budget. I respectfully suggest if there is a gimmick stalking the Chambers these days, it is the so-called right-to-know amendment. It is designed to kill the balanced budget amendment and nothing else. Some of its principal sponsors supported the balanced budget amendment last year, and there was no mention on their part of a right to know at that time. Curiously, suddenly it has emerged.

Any one of us can produce a balanced budget plan by the year 2002. Indeed, some of us have. I joined last year with Senators Danforth, Boren and JOHNSTON, to offer the only bipartisan alternative to the President's budget. Our plan called for cutting spending on the basis of $2 for every $1 in taxes. It was a serious and detailed plan. Unfortunately, it gathered more critical acclaim from the Concord Coalition and others than it did from Members of the Chamber.

But the issue pending before the Senate is not how we are going to get somewhere. It is about where we are going. Are we truly committed to balancing the budget? If so, let us take the first step by passing this amendment. The process of figuring out how we achieve the goal is going to be difficult. Everyone in the Chamber understands just how it is that no serious debate can take place in an atmosphere of partisan sniping, where one side is trying to score points through fear mongering, by saying the other side is trying to attack Social Security or veterans or some other group.

Three years ago, Senators NUNN and DOMENICI offered a plan to cap entitlement spending the way we already cap discretionary spending. I supported it. Unfortunately, there were only 28 votes in favor of that approach.

A second-degree amendment was offered by the Democratic leader to exempt veterans' programs. It was effective. Very few Senators wanted to vote against that amendment. It was effective in terms of short-term politics, but it served to underscore what is wrong with Congress and why the American people are basically fed up with Washington. Every thinking person who has looked at the Federal Government knows entitlement reform is the key to any serious deficit reduction, yet the political fires are stoked to the point where no one dares to discuss openly what we know privately to be essential—entitlement reform.

During the debate on the Nunn-Domenici plan, we were told, do not undertake broad entitlement reform, that is really not where the problem is. The problem is with health care spending. We need health care reform.

After a year of debate in this Chamber, after the President submitted his 1,435-page proposal for health care reform, the best that could be said was that it was deficit neutral. Yet before we were told, "Wait until we get to health care reform, that is where the savings are, forget about entitlement reform," and when the plan finally came up it was at best deficit neutral. It certainly did not reduce the deficit.

It is a mistake both in terms of politics and policy. The atmosphere around here has become so poisoned that honest debate has become nearly prohibited, and that is neither in the country's nor the Senate's best interest.

The President's budget calls for $200 billion in deficits as far as the eye can see. We all understand why it does not call for a long list of specific cuts, because he would be attacked, just as Republicans are when we produce lists of spending cuts. We need an environment like the one Chief Justice Earl Warren sought when the Supreme Court took up the case of Brown v. Board of Education, dealing with racial segregation in public schools. The Chief Justice, knowing this would be a landmark and controversial case in the country's race relations, first sought an agreement among the Justices for unanimity in their decision. He did not want such an important decision to be decided by a split Court.

I have no illusion that the Members of Congress could unanimously agree on a difficult deficit reduction package, but I do think we ought to learn from Chief Justice Warren's approach in terms of securing an atmosphere where debate can be undertaken without fear of being punished for candor. The budget deficit is rivaled only by the candor deficit. Until we can openly discuss these issues without fear of charges of heresy, is any serious progress ever going to be made? The balanced budget amendment is necessary to create that atmosphere, and I urge my colleagues to reject the attempt to subvert and derail this effort by the so-called right-to-know amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, I yield the remaining 11 minutes to the Senator from Massachusetts [Mr. KENNEDY].

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Do I understand the Senator from Connecticut desires time?

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, I thank the distinguished Senator from Massachusetts. I will ask for just 2 minutes, if that is appropriate, if the Chair will notify me so I do not eat into the time of the Senator from Massachusetts.

Mr. President, I rise to support the right-to-know amendment offered by the distinguished Senate minority leader, Senator DASCHLE.

The first headline to greet me yesterday morning was "Republicans Vow Leadership They Say Clinton's Budget Lacks."

Mr. President, I look forward to their leadership on this vitally important matter. We have not seen any yet, but I am sure it is right around the corner.

I look forward to providing as much scrutiny of Republican deficit reduction efforts as has been accorded to the President's efforts. To my Republican friends, I say it is time to see your cuts. The 104th Congress has now been in session for 36 days, and we have yet to see any specific cuts.

THE CLINTON RECORD

Twenty-seven days after President Clinton assumed office he submitted a detailed budget plan that contained more than $500 billion in deficit reduction. He did not say "I want to see the Republicans plan first." Instead he did what he was elected to do—he led.

He made difficult and painful choices. The choices were so hard, in fact, that not a single Republican Member supported his deficit reduction initiative. The House Budget Committee chairman, Representative JOHN KASICH, proposed an alternative plan that cut the deficit by $15 billion less than the President's plan.

Despite the doom and gloom predictions of our Republican colleagues, the President's plan has substantially reduced the deficit and helped the economy. President Clinton has reversed the trend of the Reagan/Bush era. Then the national debt was growing faster than the economy. Now the economy is growing faster than the debt. And the combined rates of unemployment and inflation have reached a 25-year low.

HEALTH CARE

Last year, the President exercised considerable leadership again by tackling the principle cause of rising deficits, skyrocketing health care costs. The President offered a comprehensive plan to reform our health care system and contain rising health care costs that are fueling deficit growth. Forty percent of the increase in spending is due to increasing medical costs.

Last February, CBO reported that:

> Once the administration's proposal was fully implemented, it would significantly reduce the projected growth of national health expenditures * * * from 2000 on national health expenditures would fall below the baseline by increasing amounts. By 2004, CBO projects that total spending for health would be $150 billion—or 7 percent—below where it would be if current policies and trends continued.

Unfortunately, the President's efforts were thwarted.

The President remains committed to reining in rising health care costs and reforming our system in a comprehensive manner. Health care, however, is not even mentioned in the Contract With America.

FISCAL YEAR 1996 BUDGET

On Monday, the President submitted his 1996 budget and recommended an additional $81 billion in deficit reduction. That savings, and the President's tax cuts, are fully funded with specific spending cuts.

REPUBLICAN LEADERSHIP

Mr. President, we have heard much from our colleagues on the other side of the aisle about their desire to achieve significant accomplishments in the first 100 days of this session. We are now 36 days into that benchmark and we have yet to see the Republicans spending cut plans.

We have heard much talk, and seen very little action. The GOP has reversed the advice of a great Republican leader, Theodore Roosevelt. Instead of speaking softly, and carrying a big stick, they are shouting loudly and carrying a fig leaf. A constitutional amendment provides their cover.

Congressman KASICH said recently, "You can't have people who are afraid to break china when you've got to go at this with a sledgehammer."

Let us see what the sledgehammer will produce.

RIGHT-TO-KNOW AMENDMENT

Mr. President, that is the purpose of this amendment. It is no more and no less than a truth in budget advertising amendment. It says simply that we must be honest with the American people.

Before we pass a balanced budget amendment to the U.S. Constitution, we should tell the American people how we intend to accomplish this task. I cannot imagine this effort being at all controversial anywhere but Washington, DC. It simply says if you are going to talk the talk of balanced budgets, you have to walk the walk of how you get there. So far, that is exactly what is not happening.

RENEGING ON PROMISES

Several weeks ago, in response to President Clinton's demand that any tax cuts be deficit neutral, our Republican colleagues promised that spending cuts would precede tax cuts. The message was clear: Before we pass broad new benefits, we must assure the American public that they will be paid for. This promise has since been abandoned to concerns of kneebuckling constituents.

MORE PROMISES—NO DETAILS

The Contract With America promises to balance the budget by 2002. CBO estimates that this will cost $1.2 trillion over 7 years.

The contract also promises $200 billion in tax cuts over 5 years, and $700 billion in cuts over 10 years. Fifty percent of the tax cuts, I might add, would benefit Americans with incomes in excess of $100,000 a year.

Before attempting to pay for these promises, the GOP proposes to take more than half the budget off the table. Republicans want to increase defense spending and remove Social Security, while at the same time continuing to pay interest on the debt. Less than half the budget would then remain on the chopping block.

Removing these items would require a 30-percent across-the-board reduction in everything else.

That means a 30-percent across-the-board cut in: Violent crime programs, veterans pensions, Medicare benefits, child nutrition, headstart, health programs, low-income energy assistance, student loans, research and development, and so forth.

Let us analyze further for a moment what these cuts may well mean in human terms:

A 30-percent across-the-board could mean:

A $5,175 increase in Medicare premiums and out-of-pocket costs for seniors.

An elimination of nursing home coverage or optional services like home care and prescription drugs.

Some 6.6 million less children with health care coverage through the Medicaid Program.

A drop of a third in NIH biomedical research grants severely impeding research on cancer, AIDS, heart disease, and other illnesses.

Veterans disabled in their service to our country could expect their average monthly benefit check to decline from $819 to $574.

A middle-class family relying on Government loans to send a child to college could owe over $3,000 in additional interest.

As many as 3,000 teachers could lose their jobs, dramatically increasing class sizes.

Over 200,000 American families could lose the child care subsidies that enable parents to work or attend school.

Approximately 1.8 million households could lose the Federal assistance that enables them to pay their heating bills during the winter.

Over 150,000 jobs could be lost through cuts in highway funds.

Almost 2 million pregnant women and young children could lose infant formula and other nutrition supplements.

Over 30 million meals on wheels for homebound seniors might not be delivered.

Over 38 million meals might not be served at seniors centers.

The average interval between inspections of food manufacturing facilities could increase from 6 to 11 years.

Over 200,000 dislocated workers could be denied retraining and job replacement services; 40,000 violations of workplace safety regulations uncovered by the Occupational Safety and Health Administration could remain uncorrected.

Mr. President, it is clearly impossible to achieve significant deficit reduction without pain.

That is the whole point of this amendment. Before we promise to balance the budget, and enact new tax cuts, the American public deserves to know exactly what kind of pain to expect.

The President has revealed his cuts. Democratic members have made painful choices and tough votes. It is time for the Republicans to reveal how they intend to fulfill their own promises.

NO DETAILS

On spending cuts, the Republicans are essentially saying to each other, like Connie Chung, "Whisper it, just between you and me." They do not want a serious debate by an informed public of all the implications of this constitutional amendment.

It is true that 80 percent of the American public supports a balanced budget amendment to the U.S. Constitution, as long as it remains a slogan or a simple statement of principle. But what happens to that 80 percent figure when people are presented with various spending cut options?

A Washington Post-ABC news poll is telling:

Only 59 percent still support the balanced budget amendment if it would mean cuts in welfare or public assistance to the poor.

Only 56 percent still support it if it would mean cuts in defense.

Only 37 percent still support it if it would means cuts in education.

Only 34 percent still support it if it would mean cuts in Social Security.

Mr. President, before we amend the fundamental charter of our Nation, the U.S. Constitution, we must be open and frank with the American people about our plans.

I urge my colleagues to support this amendment to inform the electorate of the important budgetary choices this body intends to make in the years ahead.

Let me briefly say it is no secret to my colleagues here that I am opposed to this amendment to the Constitution. My intention would be to vote against all amendments that are offered to it. This amendment, however, I think, deserves support. It simply asks us to know what I think most persons would like to know: Before their Congressmen or Senators vote on something as significant and profound as to change the organic law of the country into which we will incorporate economic theory—and it is always open to speculation and guesswork in such an organic law—to have some idea as to how this is all going to be achieved.

It is, as one would enter into contract negotiations—since that is a subject of some heated debate now in this city, between baseball owners and players—as if someone would suggest: Look, sign the contract. We will talk about the details afterwards.

You would be ridiculed if you made such a proposal.

Here, what we are merely suggesting is that as we go down this road, which will incorporate for the first time a real straitjacket into the Constitution of the United States, what are the implications of this? What does it mean to people out there who pay the taxes and fund all these programs? They, it seems to me, are really the ones who have a right to know how their tax dollars will be used or not used in the future.

The suggestion, somehow, their knees would buckle if they knew because it is painful is no reason to reject the desire to find out exactly how this is going to work. And for that reason I strongly support this amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I oppose the proposed balanced budget constitutional amendment, because it is unnecessary and unwise to write a balanced budget requirement into the Constitution.

It is obvious why the Republican majority has scheduled consideration of the balanced budget amendment now, so early in this new Congress.

The Republican majority wants to pass the constitutional amendment before more pressure builds for them to explain how they would achieve the balance. The more the American people understand this leap-before-you-look strategy, the less the people like it.

The House Republican majority leader has already admitted to this strategy. Congressman ARMEY, a strong supporter of the proposed constitutional amendment, said that if Members of Congress know what it takes to comply with the requirement, "their knees will buckle." He also is reported to have said that "putting together a detailed list beforehand would make passing the balanced budget amendment virtually impossible."

Instead of devoting the time and effort to craft a responsible budget, the Republican majority asks us to amend the Constitution now, ask questions later. But the Constitution has served this Nation through wars, economic depressions, and other crises far worse than the current budget deficit. Amending the Constitution should be the considered option of last resort, not the expedient course of first resort.

For that reason, I commend Senator DASCHLE's amendment to insure that the constitutional amendment will not take effect unless Congress first passes a resolution specifying in detail how the budget would be balanced by 2002. The American people and their elected representatives in the State legislatures have a fundamental right to know how this constitutional amendment would affect their lives.

The Congressional Budget Office estimates that a total of $1.2 trillion in deficit reduction will be required to balance the budget by the year 2002. And that total does not include the tax cuts called for by the Republican Contract With America, which would raise the total of cuts required to $1.5 trillion.

If Social Security, defense, and interest on the national debt are excluded from the deficit-cutting calculations, all other Federal programs will have to be cut by 22 percent to achieve a balanced budget in 2002. And if the tax cuts in the Contract With America are included, all other Federal programs will have to be cut by 30 percent. That's a 30-percent cut in spending on Medicare, Medicaid, veterans benefits, student loans, farm benefits, and all other Federal programs.

The American people have a right to know if that is how the Republican majority will balance the budget.

Across-the-board 30-percent cuts would have a disastrous impact on children, the elderly, and hard-working famlies throughout the United States. Here are just a few examples:

Over 220,000 children would be unable to enroll in Head Start early childhood programs.

Over 200,000 families would lose the child care subsidies that enable parents to work or attend school.

And 1.9 million students would lose the opportunity for remedial education through title I of the Elementary and Secondary Education Act.

Also, 3,000 teachers would lose their jobs, dramatically incresing class sizes in many school districts.

To achieve the necessary cuts, the House Budget Committee has already proposed that the Federal Government should stop paying the interest on student loans while students are in college or professional school. Middle-class students on the full available amount of such loans would owe over $3,000 in additional interest at the end of 4 years of college. Instead of $17,000 in loans to pay back, they would have to pay back over $20,000.

The challenge that we are facing in higher education is not how we are going to raise the burden on middle-income families to send their children to school, but how we are going to dampen that burden, lessen that burden, so that the young members of their family are going to be able to go to school. The fact, even as we are here this morning, is that efforts are being made within the Republican Budget Committee and by the Republican chair of the Appropriations Committee to raise the cost of those loans significantly for future years.

If those same needy students were to attend medical school and continue to borrow the full amount available, they would owe over $16,000 in additional interest at the end of medical school. A debt that would be $51,000 under current law would climb to a debt of $67,000.

If Pell grants are slashed by 30 percent, eligible students would receive a maximum of $1,560, a fraction of the $8,000 it now costs to attend many State universities. Many students could not even afford community college at this reduced level of support.

What we have seen in the 1980's to 1992 is a dramatic shift from the grant programs for the children of working families to go to schools and colleges which they were qualified to go to and to which they wanted to go—three-quarters for the grants and one-quarter for the loan. Now it is three-quarters for the loan and one-quarter for the grant.

Now the Republicans are talking about increasing the costs of those particular loans and indenturing young sons and daughters of working families for years to come. That will only be increased dramatically with a balanced budget amendment.

If the cut is achieved by reducing the number of students receiving Pell grants rather than the amount of the grant, 1.1 million students would fail to receive the Federal aid they need to attend college.

Senior citizens would face drastically higher medical bills. Medicare beneficiaries would pay an additional $1,320 more in premiums and out of pocket costs.

Monthly benefits for disabled veterans would drop from $819 to $574 a month.

A 30-percent cut in Federal support for biomedical research would reduce the number of annual research project grants awarded by the National Institutes of Health from 6,000 to 4,200. This cut would severely damage research on cancer, AIDS, heart disease, and other illnesses affecting millions of Americans. The promising current effort to identify a genetic basis for diabetes would be set back.

The greatest opportunity for breakthroughs that we have had in the history of this country is out at the NIH. There is a difficulty, even with the administration getting an additional $500 million for additional grants. More than 90 Nobel laureates won because of NIH support over the history of the NIH with extraordinary opportunities for breakthroughs in cancer and many other diseases that affect families all across this country.

The effect of a balanced budget amendment, in cutting back what is called discretionary funds—we are not talking about exempting NIH. No; no. We are talking about cutting discretionary funds, whatever that means. Make no mistake about it. You are talking about cutting NIH; you are cutting cancer research; you are cutting heart disease research; and you are cutting AIDS research. That is going to be a direct result with a balanced budget amendment.

Why not give us the opportunity to find out from those that support a balanced budget amendment whether they are going to include the NIH? Let us have a debate on it. What is wrong with that? Why not say: Are you going to include NIH, or are you going to be willing to cut back on other kinds of spending? Or, do you want to enhance some fees in terms of other parts of the country, mining fees or grazing fees? But we are denied that opportunity, and the Daschle amendment would require that kind of a factor.

Approximately 1.8 million households would lose the Federal assistance that enables them to pay their heating bills during the winter. Alternatively, the assistance available to all eligible households would be cut to only $120 each year, barely enough to pay a single month's bill.

Nearly a quarter million senior citizens who rely on the Meals on Wheels Program for their nutrition would be denied that assistance. There are some 32,000 seniors every single day who get Meals on Wheels in my State of Massachusetts. You are talking about cutting thousands off of that particular list. Over 700,000 senior citizens who benefit from the congregate meals program would lose that assistance. Large numbers of these senior citizens, unable to feed themselves, would no longer be able to live at home and would be placed into institutions.

The Occupational Safety and Health Administration would be able to carry out 12,000 fewer inspections each year. Some 40,000 violations of workplace safety regulations that OSHA uncovered last year might remain uncorrected. A similar number of violations uncovered by the Mine Safety and Health Administration might remain uncorrected.

Over 200,000 dislocated workers would be denied retraining and job placement services. An additional 200,000 teenagers seeking summer jobs would be refused that opportunity.

The average number of food inspections by the Food and Drug Administration would fall from 10,000 to 7,000.

The average interval between inspections of food manufacturing facilities would go from 6 years to 11 years. The average frequency of blood bank inspections would decrease from once every 2 years to once every 3 years.

The process for reviewing new pharmaceutical products would lengthen from approximately 20 months to 30 months initially, and get longer as the backlog carries over from year to year.

Those are but a few of the examples of the impact of the 30-percent across-the-board cut in Federal spending that would be required under the Republican proposal for a balanced Federal budget by 2002.

If that is what the Republican majority have in mind to comply with the proposed constitutional amendment, the American people have a right to know it.

The Treasury Department has also estimated the impact of the proposed constitutional amendment on the States.

An across-the-board deficit reduction package that excluded Social Security and defense would require cuts in Federal grants to States of $97.8 billion and cuts of an additional $242.1 billion in other Federal spending that directly benefits State residents. We can ask whether the States have a full understanding and awareness of this as they begin this debate.

According to the Treasury Department, State taxes would have to increase an average of 17.3 percent, just to offset the loss of Federal grants.

If that will be the impact of the proposed constitutional amendment, then the States have a right to know it.

Asking the States and the American people to support this proposed constitutional amendment without telling them what it means is bumper sticker politics at its worst. The American people deserve facts, not slogans.

I urge my colleagues to support the right-to-know amendment. Sunshine is the best disinfectant. It is understandable that the Republican majority prefers to keep Congress and the country in the dark about this proposal. But if it cannot stand the light of day, it does not deserve to pass.

We have the election of Republicans, and they have leadership positions in the House and Senate of the United States. I hope that at least they would feel honor bound to be able to describe to the institutions and the American people what their vision is in terms of a balanced budget.

That is all this amendment does. If we are going to have a balanced budget, why not let the American people understand exactly what is going to be involved, both at the Federal level and at the State level? This particular amendment would give that kind of information to the American people. I think the amendment is flawed without this amendment.

I hope that the amendment will be agreed to.

I yield back whatever time remains. I thank the Chair.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I enjoyed listening to my dear colleague from Massachusetts, and almost everyone, I think, knows of my affection for him. But we know what is going to happen if we do not do this balanced budget amendment. He and his friends are going to continue to spend us blind, which is what they have been doing for most of the last 60 years.

The fact of the matter is everyone knows that this country is in real trouble and they know who has basically put the Great Society programs into effect, many of which, if not all of which, were well-intentioned—they know who has caused the entitlements to grow to now. If you put interest in the entitlements, which it should be, 72 percent of the total Federal budget, it is running out of control. And if you add in the factor that most of them do not support any type of fiscal discipline to bring the Federal Government into some sort of a balance, and now they come to us and say: Well, now that you have the balanced budget amendment on the floor, you ought to tell us how you are going to do it, knowing that we have all kinds of plans already on the boards, some of which I agree with and some of which I do not, but nevertheless budgets that would get us to balance without the draconian 30-percent cut that the distinguished Senator from Massachusetts is talking about, this 30-percent cut across the board that my friend from Massachusetts has been presenting is highly exaggerated.

Congress could adopt many types of these plans or parts of these plans into a consolidated whole, if they want to, and we can reach a balanced budget without cutting 30 percent across the board. In fact, I do not think anybody would argue against that provision.

But while we have been talking here in the Congress—we are now in our 10th day since we started this—our balanced budget debt track we reach each day, $4.8 trillion is the baseline; that is our debt which we started with before we started this debate. We are now in our 10th day, and we are now up to $8,294,400,000 in additional debt just in the 9 days since we started here.

All I hear from my friends is you should not be able to enact a balanced budget amendment until you tell us how you are going to reach a balanced budget, and you cannot submit it to the States until you do. They know once we put this fiscal discipline into place, the game is over. And they know that they are going to have to start to live within their means. No longer can they spend themselves into the Senate or keep themselves in the Senate by spending and telling the people how much we are doing for them while we are spending them into bankruptcy.

I cannot sit here and simply ignore the fact that the liberals, who have spent us into bankruptcy, are the ones who are fighting against this amendment. We have irresponsible debt in this country. We have runaway spending. We have a destructive welfare system that not only is too expensive but it is destroying families. We have an antisavings Tax Code that is eating us alive. We have a huge Washington bureaucracy. We are killing the American dream, and we are killing our children's future.

We have to cut the waste. We have to cut the fat. We have to do it through a discipline that only the balanced budget amendment will bring to us. And if we do not do that, I just worry about the country, and so does everybody else. This is not a game around here. For those who are against the amendment to come and say, now, after they have been in control for most of the last 60 years, and never having reached a balanced budget for the last 26 years, to come to us and say, you have to explain how you can do it and satisfy 535 Members of Congress before you can put the discipline into place that will get us there, it seems to me is pure sophistry.

We need the discipline. That is what is missing. Remember Gramm-Rudman-Hollings? We all thought that statute was going to do the job. It did do a little bit until we amended it and set the goals farther out there, and amended it again, and now we have done away with it altogether because it was a simple statute. It was well-intentioned, and a lot of people thought it might work, and it did to some to degree, but it was tossed out when they decided to spend more around here.

The Democrats against this balanced budget amendment were in charge last year, and they have been in charge since 1986. They have never presented a balanced budget, nor have they presented a plan. Certainly the President's program is not a plan either to get us to a balanced budget. His budget, very clearly, is not a plan to get us there.

Now we come down to the Daschle amendment, this right-to-know amendment. I have seldom seen a more frivolous trivialization of the Constitution than what this amendment would do, because it would write a section 9 into the balanced budget amendment that would put new language into the constitutional amendment—new language for the first time, all kinds of budgetary terms, all kinds of language that really would allow loopholes galore, which would institutionalize even committees in the Senate and the Congressional Budget Office.

Look at this language and you have to say, constitutional language? That is with a big question mark. I do not see how anybody can argue this is what we ought to do for the Constitution, even though they talk about the right to know. Aggregate levels of new budget authority. In the Constitution? Major functional category, account-by-account basis, allocation of Federal revenues, reconciliation directives, section 310(a) of the Congressional Budget Act. That can be changed by a simple majority vote? Talk about trivialization. Omnibus reconciliation bill. What in the world does that mean? That is going to be written into the Constitution so they can continue doing business as usual? Congressional Budget Office. They are going to go write that into the Constitution, the Congressional Budget Office? For all of its good intentions, it has been wrong more than it has been right on budgetary matters. Economic and technical assumptions. And then they are going to write the Committee on the Budget into this Constitution?

Let me just end. This is a trivialization of the Constitution. It does not make constitutional sense. It would destroy the balanced budget amendment. It would destroy the one time in history since the House, for the first time, has passed the balanced budget amendment, the one time in history when we really have a chance to restore discipline to this process. It would put language into the Constitution that is totally unworkable, unless you want to keep spending.

I thought it was appropriate for some of those who did come out here and speak right before this important vote. The opponents are apologists for the status quo. They are the people that have been here 30, 40 years. They are the people that have been around here and have seen it go the same way every time, and they say we ought to have the guts to do it. Yet, when they had control, they could not do it because there was not a fiscal discipline in the Constitution that required them to do it, or at least gave incentives, which is what this amendment does, to get to a balanced budget.

Are we going to stick with the old order around here, the old way of doing things, the status quo, that now has us $4.8 trillion in debt, plus another $8.294 billion in the 10 days we have been debating this? Are we going to stick with the people who brought us to this and let them come in here with this phony trivialization of the constitutional amendment and say all of a sudden, in just a short period of time, you Republicans, before you pass a balanced budget amendment and submit it to the States, you have to show us how you are going to cut the budget? The fact of the matter is that we will show them once the discipline is in place, because we will all have to show them. The Democrats who support this amendment will be right there with us helping us to show how this can be done. But you cannot do that in less than a year or so, and we have to get the balanced budget amendment in place before we do.

The Daschle proposal raises a lot more questions than it will answer. For example, it would require a statement of new budget authority and outlays only on accounts which were over $100 million in 1994. What about accounts which were under $100 million in 1994 but have grown over that? What about new accounts? This proposal would also require an allocation of Federal revenues among major resources of such revenues. But what qualifies as major? This proposal would further require a detailed list and description of changes in Federal law required to carry out the plan. Such information is currently in a document separate from the budget resolution. That document for President Clinton's 1993 budget plan was over 1,000 pages long. His budget plan will keep deficits at around $200 billion well into the future, for 12 years into the future, and then we do not know what will happen. That is assuming if the rosy economic circumstances continue that they are claiming will be the case.

Do we really want to increase the already mammoth budget resolution? In addition, the provision is vague and incoherent. The Daschle proposal literally requires that we predict over the next 7 years not just the changes in law Congress may ultimately pass, but the date that Congress will pass them.

The Daschle proposal creates additional problems by making constitutional reference to statutory law, as I have just shown on this chart. It is ridiculous. Incorporate 310(a) of the Congressional Budget Act of 1974 by reference. What happens if Congress amends that section? Does that qualify as a constitutional amendment by a simple majority vote? Similarly, as we have said, the CBO is explicitly referred to in this proposal. That means that the Constitution will now have to refer to four branches of Government: judiciary, executive, legislative and, of course, the Congressional Budget Office.

Here we are in the new Congress trying to reduce the Federal bureaucracy, and the Daschle proposal attempts to enshrine a part of it in the Constitution. Those of us on both sides of the aisle who have worked for years to pass this constitutional amendment have consistently heard from our opponents that we are trivializing the Constitution with this budget matter. Talk about trivializing the Constitution.

The Daschle proposal would have us add a new section to the Constitution that is longer and extraordinarily more detailed and technical than the proposal that has been the subject of hearings, committee debate, vote, and a committee report. It adds new terms to the Constitution like "concurrent resolution." I have gone through those terms. They will no longer have just lawyers pouring over the document; we are going to need a slew of accountants to tell us what the Constitution means as well.

I think we ought to vote this amendment down. It does not deserve to be in the Constitution.

Mr. President, I have stated many times during this debate that the balanced budget amendment represents the kind of change the American people voted for in November. The American people know that the mammoth Federal Government must be put on a fiscal diet. In contrast, the proposal offered by the distinguished minority leader, with all due respect, is offered in the defense of the status quo and business as usual.

THE RIGHT TO STALL AMENDMENT

The Daschle motion to recommit has been termed by the opponents of the balanced budget amendment the right-to-know motion. But it has rightly also been called the right-to-stall proposal. It purports to put off the requirement of a balanced budget until Congress actually agrees to a balanced budget, by adopting such a budget plan.

Mr. President, this proposal actually will give to Congress a constitutional right to stall the requirement of a balanced budget by mere failure to balance the budget. Mr. President, the very reason we need a balanced budget amendment is because Congress has failed to balance the budget for decades. The Daschle right-to-stall amendment would make that abject failure of responsibility the explicit condition of avoiding the acceptance of that responsibility. If there is a better manner to lock in business as usual, a better way to constitutionalize our borrow and spend status quo—our ever-steeper slide into the debt abyss—I admit I cannot think of it.

Consider, Mr. President, that the proponents of the right-to-stall amendment want to use Congress' historical inability to balance the budget as a reason—a constitutional reason—to deny the American people, to deny future generations, the requirement they want to force Congress to act responsibly, get its fiscal house in order, and live within its means. Talk about a recipe for inaction. The right-to-stall proponents say "if Congress cannot balance the budget, they should not have to." They say, "if Congress has been and is unable to balance the budget in the absence of a balanced budget requirement, we should not impose a balanced budget requirement on it." Is this what the American people want? Do they want Congress' failure to fulfill its responsibility to be a reason to drop the requirement? Does this even make any sense?

If my colleagues supporting the Daschle proposal had been in the First Congress, we would never have adopted the first amendment in the Bill of Rights. Just imagine James Madison defending the free speech clause of the first amendment from some of my colleagues: Does this mean you cannot yell fire in a crowded theatre? they would ask. Does it protect obscenity? If not, what is the line between obscenity and protected free speech? We cannot accept the free speech clause without these details spelled out, they would say. Does the free speech clause protect the American flag from desecration? If so, we cannot accept the first amendment. Some of my colleagues made that clear when they turned down the flag-burning amendment twice a few years ago.

What about the religion clauses, the free exercise clause and the establishment clause, of the first amendment? Would supporters of the Daschle proposal, had they been in the First Congress, demanded an accounting of just when and how the Government can aid religious schools? Would they have insisted on knowing all of the circumstances under which citizens or local governments can put a Menorah or a creche on public property? Would they have turned down the first amendment because the First Congress could not fulfill the ludicrous task of answering these questions? Or would they have accepted the principles contained in the first amendment and allowed those principles to develop, as they have over the years?

Just imagine when the following clause in article I, section 9 came before the Constitutional Convention of 1787 in Philadelphia: "No money shall be drawn from the treasury, but in Consequence of appropriations made by law * * *" Oh no, my colleagues would have said, tell us how much the appropriations will be over the next 7 years or we cannot adopt this provision and this Constitution.

What about the clause in article I, section 8, giving Congress the power to regulate foreign and interstate commerce? Oh no, some of our colleagues would have said in Philadelphia in 1787. We cannot give Congress the power to regulate commerce until we know the tariffs and interstate regulations Congress will enact over the next 7 years.

Here and now, let us adopt the principle of a balanced budget with the careful exceptions of war time or when a supermajority consensus is reached for a pressing national purpose, on a rollcall vote. Then, after we adopt the principle, we can implement it over the next 7 years, adjusting the budget to take into account changing circumstances during that time.

After all, this is a constitution we are amending, not budget legislation. In fact, as I read the Daschle proposal, it requires that we pass a resolution laying out the details of a plan starting in fiscal year 1996 even though that requirement is contained in an amendment that does not become effective until 2002.

To require that a constitutional provision be fully implemented before it is adopted puts the cart a long way before the horse. After all, the whole problem is that Congress has not been able to balance the budget in the absence of a constitutional requirement to do so.

It seems to me that the people who really have the burden of showing us how they will balance the budget are the ones who claim we do not need the balanced budget amendment. We say the budget cannot be balanced without a constitutional requirement. To those who think we can balance the budget without the balanced budget amendment, I say show us how. If you cannot show us the way to a balanced budget without the amendment, this suggests one of two things. Either you agree with us that it cannot be done without the constitutional requirement, or you are simple arguing against balancing the budget at all.

CONFUSING PROCESS WITH SUBSTANTIVE CHOICES

Mr. President, the right-to-stall amendment confuses the difference between choosing rules and making choices within the rules. Yesterday, I mentioned a letter to the editor in the Wall Street Journal by Prof. James M. Buchanan, a Nobel Prize-winning economist, who explained that important distinction. I would like to quote it again because I believe it points up a basic fallacy in the reasoning of the objection of the right-to-stall proponents. Professor Buchanan states:

> The essential argument [of the Daschle amendment proponents] against the balanced budget amendment reflects a basic misunderstanding of the difference between a choice of rules and choices made with rules. The Clinton-Democratic argument suggests that proponents of the amendment should specify what combination of spending cuts and revenue increases are to be implemented over the 7-year transition period. This argument reflects a failure to understand what a choice of constitutional constraint is all about and conflates within-rules choices and choices of rules themselves.
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> Consider an analogy with an ordinary game, say poker. We choose the basic rules before we commence to play within whatever rules are chosen. Clearly, if we could foresee all of the contingencies beforehand (for example, how the cards are to fall), those of us who know in advance that we shall get bad hands would not agree to the rules in the first place. Choices of rules must be made in a setting in which we do not yet know the particulars of the within-rule choices.
>
> Applied to the politics of taxing and spending, the constitutional amendment imposes a new rule of the game, under which the ordinary interplay of interest groups—majoritarian politics will generate certain patterns of taxing-spending results. By the very nature of what rules-choices are, outcome patterns cannot be specified in advance.
>
> The opponents of the proposed balanced budget amendment should not be allowed to generate intellectual confusion about the difference between choices among verus within rules. There are, of course, legitimate arguments that may be made against the amendment, but these involve concerns about the efficacy of alternative rules, including those that now exist, rather than a specific prediction of choices to be made under any rule or choices made during the transition between rules. [Wall St. Journal, 2/6/95, p. A13.]

Mr. President, Professor Buchanan is obviously correct. Proponents of the balanced budget amendment recommend a rule change. Opponents argue against the amendment on the basis of either possible choices under the new rule which could hurt well-organized special interest groups or the failure to specify which well-organized special interest groups will be hurt under the new rule. Either objection is, as Professor Buchanan points out, intellectually confused as an objection to the new rule. The proponents do not advocate any particular outcomes, just a new way of making those choices. The right-to-stall motion offered by the Democrat leader does not move the debate forward.

In fact, Mr. President, the Daschle right-to-stall amendment is nothing more than a way to stop Congress from adopting the resolve to force itself to act responsibly and balance the budget and live within its means in the future.

PRESIDENT CLINTON'S DEFICIT REDUCTION RECORD

This brings me to the President. If President Clinton gets his way and defeats the balanced budget amendment this year as he did last year, what is his purpose? Does he not want a balanced budget? Does he stand for the status quo of ever higher taxes and even higher deficits? Let us look at his record.

The President's 1993 deficit reduction tax plan has failed to control even the growth of annual budget deficits, which continue to rise during the later years of the plan, surpassing $200 billion as early as 1996, reaching the record level of $297 in 2001, and topping $421 in 2005.

The President's so-called deficit reduction plan, which included massive tax increases on working people, retirees, and other Americans, neither stopped the growth of the national debt nor balances the budget.

Now, the opponents point to President Clinton's tax plan of 1993 as the great epitome of budgetary courage we should follow. But, Mr. President, that was no plan to balance the budget. I would ask my colleagues, did the 1993 tax bill balance the budget? Does the President propose a path to a balanced budget?

Now look at the President's budget released this week. It projects $200 billion yearly budgets as far as the eye can see—and that is the best case scenario with the most optimistic assumptions. There is no budget balancing leadership here.

Mr. President, those who say we can balance the budget without the balanced budget amendment are the ones who should show us how they propose to do it. They are the ones who say, regardless of history, we can balance the budget now, without a rules change. But I continue to ask in vain, how do they propose to do it, Mr. President? Why should we trust they will do better under the status quo than they have for the last 26 years? Mr. President, I ask again, where is their plan?

Mr. President, this will not do. We should adopt the binding resolve to accept our responsibility, and then fulfill it. We should not avoid responsibility on the ground that we have so far failed to act responsibly. We should not be able to deny the American people and future generations the responsible rule of fiscal discipline on the grounds of our historical lack of discipline.

Mr. President, let us take the first step first, and let us get our house in order by adopting the balanced budget amendment.

The fact is that if House Joint Resolution 1 passes in its current form, we can and will balance the budget. It is not the lack of plans that has prevented us from balancing the budget; it is the lack of will.

We don't claim to have the perfect, painless way to balance the budget, but there are quite a number of options for us to examine and draw from, at least in part. In fact, as I stated previously in this debate, over the last few years we have seen a number of plans released from both sides of the aisle, from both bodies, and from outside organizations. [I will just hold up a few of them]: The Concord Coalition zero deficit plan; the Republican alternative to the fiscal year 1994 budget, and the Congressioinal Budget Office's illustration of one path to balance the budget in their Economic and Budget Outlook 1996–2000, just to name a few.

Even the current White House Chief of Staff submitted a balanced budget proposal during his tenure in the House.

Other ideas include limiting the growth of spending to 2 percent without touching Social Security, or cutting 4 cents a year off of every dollar of planned spending except Social Security.

Furthermore, there are many proposals out there to reduce spending significantly and reduce the deficit: The Dole 50-point plan; the Penny-Kasich deficit reduction plan; the Brown-Kerrey bipartisan cutting plan; the prime cuts list prepared by Citizens Against Government Waste; the Kasich budget alternatives for fiscal year 1994 and fiscal year 1995; and the Brown deficit reduction plan.

I do not think that any one of these proposals is necessarily the ultimate solution. Yet, they all have some ideas worth considering. I certainly believe that we could evaluate and analyze proposals in these plans as well as other ideas that I guarantee will be forthcoming from both sides of the aisle if we pass this amendment.

Let me say it one more time: The problem is not the lack of ideas, it is the lack of will. House Joint Resolution 1, in its current form, will provide that will.

THE UNWORKABILITY OF THE DASCHLE PROPOSAL AND THE TRIVIALIZATION OF THE CONSTITUTION

Furthermore, the Daschle proposal raises more questions than it would answer. For example, it would require a statement of new budget authority and outlays only on accounts which were over $100 million in 1994. What about accounts which were under $100 million in 1994 but have grown? What about new accounts? This proposal would also require an allocation of Federal revenues among major resources of such revenues. But what qualifies as major?

This proposal would further require a detailed list and description of changes in Federal law required to carry out the plan. Such information is currently in a document separate from the budget resolution. That document, for President Clinton's 1993 budget plan, was over 1,000 pages long. Do we really want to increase the already mammoth budget resolution?

In addition, this provision is vague and incoherent. The Daschle proposal literally requires that we predict, over the next 7 years, not just the changes in law Congress may ultimately pass, but the date that Congress will pass them.

The Daschle proposal creates additional problems by making constitutional reference to statutory law. It incorporates section 310(a) of the Congressional Budget Act of 1974 by reference. What happens if Congress amends that section? Does that qualify as a constitutional amendment?

Similarly, the Congressional Budget Office is explicitly referred to in this proposal. That means that the Constitution would now refer to the four branches of Government: Congress, the Supreme Court, the President, and the Congressional Budget Office.

Here we are in the new Congress, trying to reduce the Federal the bureaucracy, and the Daschle proposal attempts to enshrine a part of it in the Constitution.

Those of us on both sides of the aisle who have worked for years to pass this constitutional amendment have consistently heard from our opponents that we are trivializing the Constitution with budget matter. Talk about trivializing the Constitution. The Daschle proposal would have us add a new section to the Constitution longer and extraordinarily more detailed and technical than the proposal that has been the subject of hearings, a committee debate and vote, and a committee report. It adds new terms to the Constitution like concurrent resolution, aggregate levels of new budget authority, account-by-account basis, allocation of Federal revenue, reconciliation directives, section 310 of the Congressional Budget Act, omnibus reconciliation bill, Congressional Budget Office, and economic and technical assumptions. We will no longer have just lawyers pouring over this document, we'll need a slew of accountants.

THE DASCHLE PROPOSAL IS UNCONSTITUTIONAL

Perhaps the most significant reason for opposing this proposal is that it is unconstitutional. Article V of the Constitution provides for two—and just two—ways to amend the Constitution: By a proposal passed by two-thirds of both Houses of Congress, or by a proposal of a constitutional convention called by two-thirds of the States. In either case, three-fourths of the State legislatures must ratify the proposal before it becomes part of the Constitution.

The Daschle proposal is infirm because it places a condition subsequent to the explicit methodology for amending the Constitution contained in article V. Article V mandates that whenever two-thirds of both Houses concur, a proposed amendment must be promulgated to the States for ratification. The Daschle proposal, on the other hand, delays sending the proposed amendment to the States after passage by Congress until Congress acts again, this time by a simple majority on a budget resolution. It is black letter law that Congress may not alter, expand, or restrict, procedures established and explicitly mandated by the Constitution. See *Immigration and Naturalization Service* v. *Chadha*, 462 U.S. 919 (1983) (the Supreme Court held unconstitutional the one-House congressional veto as violative of the bicameralism and presentment to the President requirements of the Constitution).

Now Senator DASCHLE defended his proposal by referring to the 7-year time requirement in House Joint Resolution 1 itself as an example of a condition that Congress has historically set to the amendment process. Indeed, the Supreme Court in *Dillon* v. *Gloss*, 307 U.S. 433 (1939), did hold that the 7-year limit that appears in the text of an amendment is a constitutional condition placed on the ratification process.

Senator DASCHLE, however, misstates my argument. Article V sets forth the exclusive conditions for promulgation of a constitutional amendment. The 7-year time limit is a condition on ratification. Promulgation and ratification are, of course, distinct acts, and the two should not be confused.

Under article V, once Congress has passed an amendment by the necessary two-thirds margin in both Houses, the amendment must be promulgated to the States for ratification. There is nothing in either the text of article V nor in our constitutional history that suggests that Congress can play slick games with the States by passing an amendment but keeping it from going to the States. The act of promulgation is a ministerial act that must be performed once the two-thirds vote has been obtained.

By contrast, there is ample reason why Congress should be permitted to include additional conditions on ratification, such as the 7-year time limit. Article V itself makes clear that it is up to Congress to specify the mode of ratification. There is also substantial precedent in our constitutional history for Congress to specify time limits on ratification.

In conclusion, the promulgation of a constitutional amendment is distinct from its ratification. The Daschle substitute is unconstitutional in that it would place an additional condition on, and thereby delay, Congress' promulgation of the balanced budget amendment. Under article V, once Congress passes an amendment, it shall be promulgated to the States. The Daschle substitute violates this provision.

Mr. President, for the forgoing reasons, I urge my colleagues to support the Dole amendment and vote to table the Daschle proposal.

I would like to point out that, look, we would like to resolve these problems. We hope there are enough Senators here who are willing to stand up for this one time in history, Democrat-Republican, bipartisan amendment that would put us on the fiscal path we should be on. We would not have to worry about all those moneys being laundered through the Federal Government and getting back to the people Senator KENNEDY said they are meant for. I think it is time to get real about budgeting and spending and real about balancing this budget and real about what is best for this country. The only way we are going to do that is by passing the balanced budget amendment intact, without statutory language added to it.

The PRESIDING OFFICER. Under the previous order, the hour of 11:30 having arrived, the Senator from South Dakota [Mr. DASCHLE] is recognized for 15 minutes.

Mr. DASCHLE. Mr. President, I yield 2 minutes of my time to the distinguished Senator from Louisiana.

Mr. BREAUX. I thank the minority leader for yielding.

I would just say this, as we come down to the critical point of the vote: You would think that when someone proposes a balanced budget amendment, they must have a plan to get to it after the balanced budget amendment passes. The only thing I am suggesting is that they should share that information with the American public. They should share it with the States.

If there is a secret plan that they have to balance the budget, does it include massive cuts in Social Security? Or does it include massive reductions in veterans' pension plans? Or does it include the dismantling of the highway assistance programs for the States? I am not sure what it includes.

But if there is a secret plan to reach this balanced budget, I would suggest that it should be secret no longer. If it is good enough to balance the budget in the year 2002, let the States see it. Let them have an opportunity to vote knowing how we are going to balance that budget.

How can we send this amendment to the States and not let them know what the plan is as to how we are going to achieve it?

Oh, perhaps, maybe there is a golden secret plan they have that does nothing with regard to cutting Social Security and does not increase taxes and increases defense spending and yet still balances the budget. Maybe they have that type of a plan. But let us see it.

I mean, somebody over there who is proposing this must have a plan on how to get to the end result. How are we going to ask the States to be able to pass this amendment unless they know what that plan is?

And that is what the right-to-know amendment is all about. I think the people of America have a right to know how they are going to do this. How are we all going to do it, because it is a collective effort. It is going to be a partnership between the Federal Government and the States. And the States are not going to be able to vote unless they see what plan they are going to be voting on. I think we need a right-to-know amendment. I think America needs it.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, let me thank the Senator from Louisiana for his comments this morning.

Like this Senator, the Senator from Louisiana was in the House of Representatives in 1981. I am sure he, like I, remembers the ease with which we passed the tax package of 1981. The President and the Republican leadership at that time convinced the Congress and the American people to cut taxes, to increase defense spending, to protect Social Security, and to balance the budget by 1984. There were no details, very few specifics, just a promise and the words "trust us." The vote was overwhelming.

I will never forget that morning on the floor and the overwhelming vote. Everyone applauded. We all went home.

But 10 years later, the American people saw an increase in the national debt to $4 trillion, four times what it was when we had cast that vote in 1981.

I also remember the difficulty we encountered in 1993, as we passed the President's economic package. That did not pass overwhelmingly. That passed by a margin of 50 to 49, amid doom and gloom predictions of recession and mass unemployment and negative market reaction. We heard it all. It was a very, very tough vote. I vividly remember that morning, as well.

But the difference between 1981 and 1993 was more than the difficulty in passage. Rather than vague predictions with rosy scenarios of 1981, the 1993 proposal put details into black and white—details involving cuts, details involving revenue, details requiring major changes in the way we do business; hundreds and hundreds of pages of black and white details. It was controversial. And we fought over many of the details in this document for days. No one can forget that.

But, do you know what? It was effective. And in the end, the 103d Congress passed a 5-year deficit-reduction plan that reduced the deficit by $500 billion. Instead of asking the American people to trust us, we showed them, up front, line-by-line, what our intentions were. And the results—well, the results speak for themselves.

Mr. President, those are the two models from which we can choose today. The only difference is that today the issue is far more serious—more serious because the debt has now risen to $4.5 trillion; more serious because this is the first time in history that we may be adding an amendment to the Constitution affecting the fiscal policy of this Nation.

The question for the American people is really very simple: After those two experiences, will the Senate roll the dice, will it roll the dice and say, "trust us again," or will we do what we know we must do? Will we show in 1995, as we showed the American people in 1993, exactly what must be done? That is the issue.

The Senator from New Hampshire, my good friend, this morning mentioned my willingness to support a balanced budget amendment last year and took issue with us for not arguing the right-to-know amendment then.

Well, the reasons are easy for anyone to understand. First, we had just passed our own version of the right to know. It was right here. The print was hardly dry. Second, we were not faced then, as we are today, with the exact situation with which we were faced in 1981—promises of tax cuts, promises of increases in defense, promises to protect Social Security, and promises to balance the budget in a designated period of time, but no promise to explain how it is going to be done.

If the Senate is unwilling to promise the American people a blueprint, I guess I would have to ask: What is it they are trying to conceal? What is it we are trying to conceal from Social Security recipients whose pensions are affected by the decision we are going to make in the next couple of weeks? What is it we are trying to conceal from the Pentagon and our allies about the true commitment to the military strength of this Nation in the coming years? What is it we are trying to conceal from veterans and military retirees about our true intentions with respect to their future?

What about States? What are we trying to conceal about the real impact this decision will have on them, on the Governors, and on their fiscal health?

And, very honestly, what about us? What about us? What are we trying to conceal from ourselves, and how is it possible that we can commit ourselves to repeating the clear mistake of the past? How can we set a goal and have no idea—none—how we are going to get there?

Tax cuts, defense spending increases, protection for Social Security—all these are doable in the abstract. It is only in the context of a constitutional amendment to balance the budget in 7 years that the job becomes nearly impossible.

Assuming we pass the Contract With America, assuming that we protect Social Security, our job is to cut $2.2 trillion in 7 years. That is our goal—$2.2 trillion. That means we have got to cut $300 billion for each of the next 7 years.

Pass the Contract With America, protect Social Security, balance the budget by the year 2002. And we are going to ask our colleagues in the next 7 years, each and every year, to cut $300 billion. And every year we delay, the task becomes even more overwhelming the next year.

But that is only part of the story, because if we actually take Social Security off the table, if we take defense off the table, and because we must exclude interest payments, we are left with a mere 48 percent of the budget with which to work. That is really what we have left—48 percent. If you take those three items off the table, that is all we have left, 48 percent of the entire Federal budget from which we now must cut $2.2 trillion in 7 years.

Well, do you know what the American people are saying? The American people are saying: "Right. Show me. Show us how you are going to cut all that and how you are going to cut funding for the States. Show us how you are going to cut my farm programs and other programs directly affecting rural America. Show us how you are going to deal with education, nutrition, health and housing, and as you do, do not even think about saying any of this is going to be easy or painless."

Mr. President, I bet there is one thing for which there is universal agreement within this Chamber. That is, there is a lot of skepticism out there, and, frankly, I think there is skepticism for a good reason.

Too many times, Washington has said one thing and done another. We cannot afford, on something this important—this important—to let that happen again. We cannot afford to add to the deep-seated skepticism about this institution or its actions. Not now. Not on an issue this important.

My Republican colleagues have lodged three basic objections to the right-to-know-amendment. The House majority leader said recently, "Once Members of Congress know exactly, chapter and verse, the pain that the Government must live with in order to get a balanced budget, their knees will buckle." The majority's apparent solution is to hide the truth and sidestep the pain. But the right-to-know-amendment says we have tried all that. We did it back in 1981, and $4 trillion later, we now must come to the realization that we have to end business as usual. That will not work again.

The second objection is that they cannot be precise about a 7-year budget process. Yet, the current law requires already that we offer 5-year estimates. What is so much more mysterious or unknowable about years 6 or 7 than years 4 and 5? All the health reform proposals last year were evaluated over a 10-year budget projection. The Congressional Budget Office already has the ability to give us 7-year budget estimates. We should use them. I have not heard one credible economist tell Members that this cannot be done, that we cannot lay out a budgetary glidepath for 7 years.

The third objection is especially ironic. It asserts that the right-to-know-amendment is somehow unconstitutional because the Constitution does not specifically sanction Congress to set conditions on an amendment before it goes to the States for ratification. But neither does the Constitution specifically sanction the 7-year limit for ratification that is found in the underlying amendment.

I have not heard any of my colleagues argue that their amendment is unconstitutional because it includes the customary but not constitutionally sanctioned time limit. As everyone here knows, the Constitution has just two requirements: First, that we pass the amendment by a two-thirds vote in both Houses; and second, that it be ratified by three-fourths of the States. That is all it says. Period.

Mr. President, the issue is pretty simple. If we are going to build a sturdy house of real deficit reduction, do we have a blueprint? Are we going to ask this body to lay out the blueprint by which that will be done? Or do we just start pounding away, hoping we have the materials to build that house, hoping we know where the budget-cutting rooms really are, hoping we can do it all in 7 years, hoping that somehow we can build a house of real deficit reduction without the details.

The American people would never build their house without a blueprint. They know we cannot, either. By a margin of 86 to 14 percent, they are saying, "Show us. We have a right to know if you are going to affect Social Security. We have a right to know if you are going to cut defense. We have a right to know if you are going to cut veterans programs. We have a right to know how you plan to cut $2.2 trillion from 48 percent of your budget in 7 years. We have a right to know if you have learned from the mistakes of the past. We have a right to know if you are really serious."

So today, Mr. President, the Senate has an opportunity. It is an opportunity to end business as usual, an opportunity to be honest, an opportunity to affirm that when it comes to an amendment to the U.S. Constitution, the American people have a right to know.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, the majority leader is in a meeting and is having a difficult time getting here, and has asked that I take a few minutes before he gets here. He may have to use some of the leader's time.

The PRESIDING OFFICER. The Senator from Kansas was to be recognized for 15 minutes.

The Senator from Utah will be recognized.

Mr. HATCH. Mr. President, I particularly enjoyed the comments of the distinguished minority leader of the Senate. He is a very fine man. I am sure he is very sincere in what he is talking about. And he is a good friend. I do not have any desire to make this a partisan thing. This is a bipartisan constitutional amendment. We are fighting to try to get this country's fiscal house in order.

To have people come here now and say, "Just show us a blueprint," and to use that tax vote a year ago, when they increased taxes on the American people—and they did get the deficit down to a little below $200 billion, but this was nothing, and they all know that that very bill that they passed and they are taking such credit for, touting it as their fiscal responsibility, that bill had the deficit jamming upward in 1996 and thereafter to the point where we get to a $400 billion deficit after the turn of the century.

That is hardly something I would brag about, increasing taxes against the American people, the largest in history, and then a jump in spending, starting in 1996. Now, the President has come in and he has tried to reduce that jump in spending, but even his budget admits, until the year 2007, we will have at least a $190 billion deficit a year.

Now, we have had 38 years since the balanced budget amendment has been introduced. Since we passed it when I was Constitution chairman back in 1982 in the Senate, we have had 13 years. And every time we turn around, somebody is saying, "Well, show us how you will get to a balanced budget before we pass a balanced budget amendment," or, as in this amendment's case, "Show us how you will get there before you can submit the balanced budget amendment, once passed, to the States," putting another requirement into the Constitution that really does not deserve it to be there.

Now, look, this is a game. It is a game by those who personally do not want a balanced budget amendment, although some who will vote for this will do so out of loyalty to the leader on the other side. It is not a game to us. The distinguished Senator from Illinois and I are not playing games. We have worked to bring the whole Congress together on a bipartisan consensus—Democrat and Republican—constitutional amendment, and we intend to get it there. This type of an amendment to the basic constitutional amendment would gut the whole amendment, and everybody on this floor knows it.

I yield a couple of minutes to the distinguished Senator from Idaho.

Mr. CRAIG. Mr. President, let me thank the Senator from Utah for yielding. Let me express my thanks for the leadership that he and the Senator from Illinois have taken on this issue, along with myself and others, to bring to the floor and to build the consensus that is clearly here in a strong majority to pass a balanced budget amendment.

Now, within a few moments, we will have a vote on the Daschle motion. We have been debating this amendment and the Daschle motion in part for a week and a half, without a vote. I think the American people expect Members to move in an expeditious fashion through this issue, to a time when we can vote up or down on it, and send it to them to make the decision.

Article V of the Constitution is very clear. We have the right to propose amendments, and when we do, they must go straight to the States. In all fairness, the Daschle amendment has to be called not the right to know, but the right to stall, and stall and stall, and deny the American people the opportunity to express their will through their State legislators as to whether they want a balanced budget amendment, as to whether they want a balanced budget amendment to the Constitution to be the 28th amendment to our Federal Constitution.

So while Senator EXON or Senator HOLLINGS may have offered similar amendments to the unfunded mandates issue, they were entirely different. That was a statute. That was an issue that can be changed year to year, day to day, as the Congress meets. This is an amendment to our Constitution. Nowhere has there ever been within the Constitution such a prescriptive process as so designed by the Senator from South Dakota. It is not the right to know, it is simply the right to stall, in an effort to defeat this amendment or to deny the American people the right to express their will.

The Senator from Utah has made that evident time and time again. I have and our colleagues have joined Members on the floor to debate this issue.

Certainly we are now at a point, within a few moments, of voting, the very first vote in over a week and a half, while the other body has already moved several other pieces of legislation.

I am not at all convinced that just stalling and stalling and stalling, as has been proven here, is the way to solve this problem. Thorough debate is, and I am all for adequate and thorough debate on this issue. Now it is time to vote and move on to other portions of it in a timely fashion, and then allow the American people to make the decision on how we govern, not the elite few.

I yield back to the Senator from Utah.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I rise to give my strong support to the right-to-know amendment.

The American people have a right to know what a balanced budget means.

If a balanced budget amendment is added to the U.S. Constitution without a plan for how to balance the budget, we will leave the American people in the dark.

Mr. President, I will not defend every line item in the Federal budget. I believe we must look at the mission of programs. If a program achieves its mission and helps people, it should continue. If not, it should be scrapped.

However, before we adopt a balanced budget amendment, we should know exactly what it is that we are doing. We need to know just how these programs are going to be affected. What cuts are going to be taken. How deep. What programs. And most importantly what the consequences will be to the health, safety, and security of the American people.

My first question is how a balanced budget amendment will affect Medicare.

Achieving a balanced budget in 2002 will require cuts of between 20 and 30 percent in Medicare—between $75 and $100 billion in 2002. What will this mean for seniors?

Medicare already pays less than half of older Americans' health costs. In the year 2002, older Americans are expected to spend more than $4,600 on health care premiums and other out of pocket health costs. But a balanced budget amendment could make seniors pay $1,300 more. What will that $1,300 mean? It could mean forcing older Americans to choose between health care and eating, or between health care and heat.

Could a balanced budget amendment restrict access to health care providers? We do not know. If the cuts are taken out of payments to providers, those providers may decide not to see Medicare patients. This could leave millions with no access to health care, especially in rural areas. We have a right to know.

Could a balanced budget amendment mean raising the eligibility age for Medicare up to age 70? We do not know. Unemployed individuals in their fifties and sixties already find it difficult to obtain health insurance. Many struggle with no insurance, hoping they will not get sick before they reach age 65, when they will at least have access to Medicare. If we raise the Medicare eligibility age, many more seniors could be forced into poverty, unable to pay their medical bills. We have a right to know.

Will the balanced budget amendment force elderly Americans into managed care plans so they are no longer able to choose their physicians? We do not know. We—and they—have a right to know.

There are many other agencies and many other programs that the American people depend upon to protect their health, their safety, their economic security. Law enforcement, traffic safety, education—now will they be affected? What is the plan? Do we not owe it to the people we represent to explain to them how they will be affected by the balanced budget amendment?

I applaud this effort by my colleague Senator DASCHLE, the Democratic leader. His amendment would satisfy the American people's right to know. I am proud to cosponsor and vote for this amendment, and I urge each of my colleagues to join me.

I yield the floor.

Mr. BIDEN. Mr. President, Senator DASCHLE has put before us a common sense addition to the balanced budget amendment, that requires us to tell the people of the States—the people who will decide on ratification of the balanced budget amendment—what the effects of their decision will be.

Should we and the people who will be asked to ratify this permanent change to our Constitution not be given the facts we need to understand its effects?

It seems to me that to oppose full disclosure is to say that we want this decision—that is a fundamental change in our Nation's charter—to be made in the dark, in ignorance.

Two years ago, we voted for a budget plan that laid out a course of action that identified the specific changes that would be needed to cut half a billion dollars from our deficits over 5 years.

That plan was clear and detailed; it was of course subject to both honest disagreement, and, unfortunately, some partisan distortion. But it has cut the deficit for 3 years running, for the first time since the Truman administration.

We told the American people what we were going to do, and we did it. We cut over $500 billion from our deficits over 5 years.

And a strong economy that followed passage of that plan has brought our deficits even lower.

Like all of us here, I hope that the most recent action of the Federal Reserve Board will not be the one-two punch that wipes out the benefits of that plan—a blow that both flattens the economy and increases our deficits with higher interest rates.

Our plans here in Congress, like the plans of private citizens and businesses across the country, now hang on the hope that the Federal Reserve has not gone too far.

But that is a topic for another day.

Some of my friends here who voted against cutting the deficit back then, and some of my newer friends, who do not like the way we did it, now act surprised to see that deficits will rise again in the future, even though no one—certainly not the administration—ever claimed they would not.

We all knew that fundamental health care reform and other actions would be necessary to turn the deficit trend down permanently, and not just over the life of the 1993 budget plan.

But the fact is that we passed that budget plan with the narrowest possible margin in each House of Congress.

As for those who now complain, their own plan was less specific than ours and still could not promise as much deficit reduction as we have actually accomplished.

So let us not be distracted from our duty of being honest about the future by arguments about the past.

With the release of President Clinton's budget plan, we hear again from those who voted against deficit reduction in 1993 that they could do better.

Well, Mr. President, I believe them. That is why I challenge them to tell us how they would do better, as specifically as the plan they are attacking.

If an amendment to the Constitution is needed to keep building on the accomplishments of the last few years, to force us to confront the continuing deficits that are predicted through the end of this decade, then it only makes sense for us to prepare a document that sets forth the choices that will be necessary to bring the budget into balance.

Right now, we are confronted with an interesting situation. A new majority in Congress, that promised a new legislative agenda, now tells us that they cannot commit themselves to bring the budget into balance until after the Constitution is changed to force them to do it.

It is certainly within the competence of our budget committee and Congressional Budget Office to provide us with the specifics of a budget path that will bring us to balance by the year 2002.

Of course projections are only our best scientific estimates of future economic activity. But virtually all of my friends who support the balanced budget amendment have made good use of projections of future deficits under current law.

Those estimates are the best view we have of the future, even if we cannot be certain that all of our assumptions will hold true.

So let us drop that argument right now—we all accept that it is possible to make useful estimates about our economic and budget future.

It is because we accept such projections that we are here today, contemplating an amendment to our Constitution.

The particular problem this year is that this amendment is part of an economic plan—as announced in the so-called contract—that, taken all together, raises serious problems.

If we cut taxes, increase defense spending, and promise not to push any new costs off onto the Governors and mayors, the road to the balanced budget looks rocky indeed.

It may be, Mr. President, that you cannot get to a balanced budget from here, if the contract is your road map.

There is powerful evidence—the one-vote margins in both Houses for the 1993 budget package—that votes for deficit reduction are difficult to find.

How much more difficult will it be if we reduce our revenues, and keep major segments of the budget safe from the requirements of the balanced budget amendment?

Well, we know that it will be difficult, but we cannot know just how difficult until we see some numbers about where the axe is going to fall.

Mr. President, I would like to echo the astute observation of a new member of the judiciary, the distinguished Senator from Wisconsin [Mr. FEINGOLD].

During the debate in the Judiciary Committee on a similar proposal, Senator FEINGFOLD responded to the suggestion that this was a transparent ploy to kill the balanced budget amendment.

I want us all to reflect on that charge for a moment—that an attempt to find out just how a permanent addition to our Constitution will work is nothing but a ploy by those who oppose it.

Mr. President, when I took on the task as floor manager for this important proposal, I did so because I am genuinely torn between my concern for our fiscal future and my concerns about the effects of this balanced budget amendment on our Constitution and on our economy.

I did not anticipate that honest questions about the effects of a permanent change in our fundamental charter would be dismissed as insincere or disingenuous.

But I ask my colleagues to consider Senator FEINGOLD's response to that charge. He said that the American people would be more likely to ratify this amendment if they knew for sure what was in it, than if they had to buy it sight unseen.

Those of us who have faith in the people who will make the final decision on this amendment believe—whether we support or oppose it ourselves—that it is our constitutional duty to establish a record of debate and evidence before we send this amendment to the people.

Not often enough, I am afraid, does this chamber live up to its claim to be the world's greatest deliberative body.

Certainly, we should aspire to fulfill that role as we debate a change in our Constitution.

And certainly, the American people deserve to know what the new majority party has in mind when they say that they can comply with the terms of the balanced budget amendment.

If we truly believe that amending the Constitution is the right thing to do, then let us give the American people the facts they need to make that choice themselves.

Certainly, that is not too much to ask.

In addition to the very real benefits of being honest with the American people, and restoring some of their faith in our ability to solve problems, there is another substantial benefit of accepting Senator DASCHLE's amendment.

If we accept this amendment, we will have the assurance that we have in place a plan to get us from where we are today to a balanced budget by the year 2002.

By itself, that is no small accomplishment.

I cannot believe where we now find ourselves in this debate—where the call for a specific set of goals that provide a path to a balanced budget is denounced as a delaying tactic, a distraction.

And where those who call for an amendment to the Constitution that will go into effect in the next century say that a promise to take action in the future is more serious than a call for action now.

That does not make sense to me.

If we accept this amendment, we will still have to send the amendment to the States. Let us assume for a moment that the American people lose their enthusiasm for the balanced budget amendment. What happens if we put all our eggs in that one basket?

Will we wait for the year or more that ratification is likely to take before we decide what to do next?

Or would we be more prudent, more serious, more committed to real deficit reduction if we were to also pass a binding budget resolution that sets a course for a balanced budget regardless of the outcome of the ratification process?

I believe that the answer to that question is clear. The more serious approach is to pass the actual law that compliance with the balanced budget amendment would require, not simply to pass an amendment with the promise that at some future date we will get down to the real work of balancing the budget.

And there is a further substantial advantage to what Senator DASCHLE's amendment offers—a commitment to start now on the very difficult journey ahead of us.

Without a plan that starts now to build on the real progress of the past 3 years—without such a plan in place from the beginning, we will have established a collision course between our Constitution and our economy.

In a game of chicken, we will approach the year the balanced budget amendment comes into effect, without the capacity to comply with its mandate.

If we wait until the last minute, when huge budget cuts will be required—over $300 billion for the deficit in 2002—we will swerve, and avoid the economic crash that deficit reduction on that scale would cause.

At that point, the balanced budget amendment will not keep us from extending the year of reckoning yet further into the future. As we all know, it will not make deficit spending—at any level—unconstitutional.

Lest we forget, Mr. President, the balanced budget amendment makes deficits difficult, not illegal.

And if we make use of the established procedure in the amendment to permit continued deficits—probably rightly, if the cost would be a disastrous recession—we will only add to the frustration and anger of the American people.

The balanced budget amendment will be not just another empty promise from Washington, but the most cynical one of all—one that we were willing to put into the Constitution, but not into action.

And so Mr. President, to avoid making a mockery of our constitutional duties, to avoid a collision between the Constitution and the economy, to provide the American people the facts they need to make an informed decision, we should adopt this right-to-know amendment.

Mr. LIEBERMAN. Mr. President, I rise in support of this amendment to require us to pass a detailed plan on how we will balance the budget before we act to send this proposed balanced budget amendment to the States for ratification. This amendment makes good sense because it requires us to consider in the here and now—not at some undefined time in the future—just what steps we will take to get our books in order. I support getting us to a balanced budget. And I support tough cuts in programs to get us there. But taken alone, I am not convinced that a balanced budget amendment will get us to make those tough cuts. Taken alone, I am not convinced that a balanced budget amendment will get us in balance by the year 2002. In fact, taken alone, I am concerned that the balanced budget amendment may have the unintended consequence of taking us further, not closer to, the goal of a balanced budget.

That is why I support this right to know amendment. What I do not support is an amendment which might make us all feel better but will not make us behave better with taxpayer dollars. Taken alone, the balanced budget amendment is long on the atmospherics and short on the details—the amendment does not take Social Security off the table, it does not provide for a continued strong national defense, it does not require us to choose difficult cuts over increased taxes. And although I know it is not intended to be I am fearful that this amendment is potentially dangerous to our economic health. I say potentially dangerous because I am fearful that this amendment may lull us into a false sense of security—that we have balanced the budget just by saying we will do so.

Mr. President, this Chamber has just spent long hours debating the unfunded mandates bill. The idea behind that bill is that we should not pass on costs to other levels of government, particularly if we have no clear idea what those costs will be. In a certain sense, if ever there was an unfunded mandate, it is asking the States to ratify the balanced budget amendment without fessing up to what that amendment will cost. By refusing to give the details on how we will achieve the goal of a balanced budget, we are hiding the costs, and pushing the tough decisions we must make into the future. We may also be pushing the costs of getting our financial house in order onto our States and our localities. At least one Treasury study shows that a balanced budget amendment would reduce Federal grants to Connecticut by $1 billion a year. Treasury estimates that if Social Security and defense are off the table, Connecticut would be faced with truly draconian cuts in education, job training, and the environment.

If those are the decisions we intend to make, then let us debate them. If they are decisions that we would prefer to avoid, let us figure out what we can support in a rational and thoughtful way. What we really need to do, is figure out how we intend to get to a balanced budget and map out that strategy. If we are serious about balancing the budget, the least we can do is provide those details and start working toward our goal. Because I believe that it is both desirable and possible to come up with a workable roadmap to a balanced budget, I strongly support the right-to-know amendment which calls for a 7-year approach to get us to a balanced budget by the year 2002. This approach makes good sense and prods us toward action sooner rather than later.

The consequences of waiting are daunting and quite frankly, the balanced budget amendment gives us the excuse to wait. If we wait until the year 2002, when this amendment would go into effect, the Congressional Budget Office [CBO] has estimated that we would need to cut $322 billion—that is billion with a "b"—out of the Federal budget in a single year. That would create national, local, and personal chaos. What we need to do is start acting now by making the kind of tough spending cuts that will bring us closer to our goal of a balanced budget and by implementing policies that will help our economy to grow in a healthy way.

Standing in front of the mirror and announcing that you are going to lose 10 pounds does not take the weight off, dieting and exercise does. That is what this Chamber must pledge to do. As Hobart Rowen noted a few weeks ago, "By itself, such an amendment would cut neither a dollar nor a program from the Federal budget."

As anyone who has read the resolution mandating a balanced Federal budget can tell you, it is sketched with a very broad brush. It excludes nothing from the requirements of a balanced budget—not Social Security, not defense, not veterans' benefits. Nor does it leave higher taxes off the table. And it allows 40 rather than 50 percent of the House and Senate to hold up the entire Federal budget in the event that there is a Federal deficit. I have spent a tremendous amount of time exploring ways to bring that deficit down. At the same time, I do not support increasing the power of large States with lots of Members of the House. By decreasing the number of House Members needed to hold up the budget we would be doing just that. When you come from a small State like mine, changing the rules in this way just does not sit well.

I want us to balance the budget in a responsible and thoughtful way. For this reason, I support drawing up a 7-year plan toward that goal. Regardless of what happens in this particular debate, I hope that all of us in this Chamber will pledge to work together to make that happen.

Mr. KERRY. Mr. President, I rise in support of this commonsense amendment to the balanced budget proposal. No matter what our beliefs are on the wisdom of this amendment, we should at least ensure America's right to know who will be hurt and what will be cut if we pass a balanced budget amendment to the U.S. Constitution.

It would seem to me, Mr. President, that notwithstanding any Senator's position on this legislation, this amendment—which simply requires that we be honest about the impact of our actions—is little to ask in the face of such a monumental constitutional change.

Frankly, I cannot imagine that we would consider passing any piece of legislation, regardless of the subject, without doing our best to understand as much as possible about its potential impact on the general public. Is that not, in fact, our fundamental responsibility as legislators? Is that not what we were sent here to do?

Is that not what we just asked in the legislation this body passed not more than a week ago that required the CBO to advise us of the impact on State and local governments of the unfunded mandates bill?

I have to say, Mr. President, I am somewhat confused. The same Senators who insisted on knowing the nature and the exact impact of that legislation are now arguing that we do not need to know the financial impact of our actions. Are we not supposed to know what we are doing here?

I ask you, are we not obligated—as a body—"to protect the people," as Madison said in his Journal of the Federal Convention "against the transient impressions into which they themselves might be led."

And here we are, legislating by impressions. That is exactly what we are doing if we do not show the people what this means.

We do not need to know the contents. We do not need to know how it works or what it does, we just need to buy it, we are told.

Mr. President, is this the modern day equivalent of the "traveling salvation show" complete with snake oil and magic elixirs that cure all of our ills? We do not need to know what is in it. Trust us. It works.

Have we lost our perspective here? Have we lost all touch with reality? I wonder if anyone in this Chamber can go home to his or her constituents and say, "Ladies and gentlemen who elected me, I have absolutely no idea what this legislation will do. However, I've been assured that everything will be fine. Trust me, and thank you for your continued support."

And yet here we are suggesting that we pass this constitutional amendment and worry about the details later. By God, let us be honest with our constituents.

If achieving a balanced budget by 2002—with half of the budget protected from cuts—will cost my State, annually, $1.9 billion in Federal grants, then let us be honest about it.

If a balanced budget will cost Massachusetts $248 million in highway trust fund grants, $459 million in lost funding for education, job training, the environment, and housing, then let us be honest about it.

If—over 7 years—it will cost over $1 billion in Medicaid, and almost $2½ billion in Medicare, then let us be honest.

Mr. President, what are we afraid of? If we support it, let us talk about it. If we believe in it, let us defend it. But I implore you, let us be honest about the impact of what we do here. It is our job. It is our obligation. It is our only mandate from the people who sent us here.

Thank you, Mr. President. I yield the floor.

Mr. HATCH. Mr. President, I have been informed that the majority leader is in meetings which he cannot interrupt.

(At the request of Mr. HATCH, the following statement of Mr. DOLE was ordered to be printed in the RECORD):

Mr. DOLE. Mr. President, let us be clear about one thing. Whether or not the Senate votes to approve the balanced budget amendment, Republicans intend to offer a detailed 5-year budget plan that will put us on a path toward a balanced budget by 2002—a test that President Clinton's latest budget makes no attempt to meet.

The Daschle amendment is a poorly crafted, last-ditch effort to thwart the will of the American people who overwhelmingly support a balanced budget constitutional amendment. The distinguished chairman of the Judiciary Committee, Senator HATCH, and the distinguished chairman of the Budget Committee, Senator DOMENICI, and others have already made that point.

The Daschle amendment is an effort to change the subject. Rather than debate the value of making a balanced Federal budget a national priority, most opponents of the balanced budget amendment would prefer talk about potential cuts that might affect their pet programs.

This bait-and-switch effort will not work.

This Congress will put forward a plan to control Federal spending and move us toward a balanced budget without touching Social Security and without raising taxes. Everything else, every Federal program from Amtrak to zebra mussel research will be on the table. For those who want an idea of how we would try to achieve this goal, look at the Republican alternative budgets that have been introduced in each of the past 2 years.

Mr. President, it is ironic that on April 1, 1993, the vast majority of those who now support the Daschle right-to-know amendment voted to adopt a budget blueprint paving the way for President Clinton's massive tax increase before President Clinton submitted the legally required details of his plan to Congress. They voted to adopt a budget blueprint that called for a massive tax increase without knowing the specifics.

This debate is different. It is a lot simpler. The central issue is whether or not we should vote to make balancing the budget a national priority. We are debating whether or not future generations of Americans—our children and our grandchildren—deserve constitutional protection. That is what this amendment is all about.

This year, we have a real chance to approve a balanced budget amendment and send it to the States for ratification. It is the best chance we have had in years. Every single vote matters.

Several Senators who voted for a balanced budget amendment in the past are now under tremendous pressure from the special interests and others who are addicted to Federal spending. The special interests are trying to convince past supporters of the balanced budget amendment to switch their votes. I hope that every Senator who supports the balanced budget amendment will continue to stand firm, do what is right for our children and our grandchildren, and vote for the balanced budget amendment.

Let us get on with the real debate.

Mr. HATCH. Mr. President, I would like to just read a few of the distinguished majority leader's remarks because I think they are very appropriate.

I will read these for and on behalf of the majority leader:

> * * * Mr. President, it is ironic that on April 1, 1993 the vast majority of those who now support the Daschle right-to-know amendment voted to adopt a budget blueprint paving the way for President Clinton's massive tax increase before President Clinton submitted the legally required details of his plan to Congress. They voted to adopt a budget blueprint that called for a massive tax increase without knowing the specifics.
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>
> Let us get on with the real debate.

On behalf of the majority leader, I move to table the Daschle motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Daschle motion to commit House Joint Resolution 1. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. THOMAS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—56

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Santorum
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Wellstone

So the motion to lay on the table the motion to commit House Joint Resolution 1 was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAUCUS. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business, and that at the conclusion of my remarks the Senate proceed to a quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUTTE, MT

Mr. BAUCUS. Mr. President, my statement today is the second in a series on Butte, MT, and the attractions it offers the Micron semiconductor company. I would like to focus today on Butte's top-notch higher education facilities, particularly in technical fields.

Foremost among these is Montana Tech. Under the dynamic leadership of Montana Tech president, Lindsay Norman, Montana Tech has grown and developed into one of the best small engineering and science schools in the country.

A former vice president of Chase Manhattan Bank in New York, Mr. Norman really understands business, and has made it his mission to ensure that Montana Tech's programs reflect the needs of the private sector.

As I pointed out yesterday, a recent survey of college presidents voted Montana Tech the best small college science program in the United States—the best, No. 1. Other surveys show that this is no fluke. Money Guide magazine rated Montana Tech one of the top 15 best buys in college education in the southwest and mountain States. And last year, U.S. News & World Report ranked Montana Tech the No. 1 educational value among western regional universities.

Let me repeat. The U.S. News & World Report ranked Montana Tech the No. 1 educational value among western regional universities.

Established in 1895 as the Montana School of Mines, Montana Tech historically focused on mineral and energy-related engineering programs. It now offers undergraduate and graduate programs in a multitude of science and engineering disciplines, including computer science, environmental engineering, hydrogeological engineering, and mathematics.

Montana Tech also offers a broad range of courses in the humanities and social sciences. In addition, the college has an active continuing education program which offers night courses for adults.

The university has said that it would work closely with Micron to make sure class offerings not only meet the educational needs of Micron's employees but convene at appropriate times for Micron's work force.

Altogether, Montana Tech offers Micron a top-quality source of new recruits, and the perfect place to ensure that existing employees are able to upgrade their technical and computer skills.

Also located in Butte is the Butte Division of Technology, whose 41-acre site offers occupational training. Its strength is its ability to meet immediate and short-term training needs of regional industry and businesses, as well as to constantly update and revise its courses of instruction in order to meet changing market demands.

Finally, of course, Butte's educational resources are not limited to Butte-Silver Bow County. The city is strategically located at the center of the southwestern Montana technology corridor at the intersection of Interstates 90 and 15.

Thus, in addition to Montana Tech and the Division of Technology, Micron employees would have easy access to Montana State University at Bozeman [MSU], Carroll College in Helena, and the University of Montana at Missoula. These institutions together have combined research and engineering programs that exceed $49 million a year.

Education has always been a top priority for Montanans. As Michael Malone, the president of Montana State University and the dean of Montana historical scholars, writes, as early as 1900 our State boasted one of the Nation's highest literacy rates.

Our earliest State education laws paid special attention to technical and scientific fields. That commitment continues today in top-quality institutions like Montana Tech. And it is a perfect fit for a company like Micron.

If I might, Mr. President, it is interesting to make another observation. Last year, the senior Senator from New York [Mr. MOYNIHAN] presented in the Democratic Caucus two charts. One chart listed the per capita State expenditure for elementary and secondary education, ranked with the most expensive on down to the least expensive. That is, the top States spend more dollars per pupil in elementary and secondary education on down to the States that spend the fewest number of dollars per pupil.

Next to that was another chart. It ranked, in descending order, States whose elementary and secondary students do best in mathematics, the best States being at the top, the worst States down at the bottom. Senator MOYNIHAN put the charts side by side and asked a very pertinent question: What on Earth could one deduce by looking at these two charts? One is that there is no correlation, zero correlation, between the number of dollars spent per pupil on the one hand, and how elementary and secondary students ranked in mathematics performance on the other.

Finally, the Senator pointed out, in a way only he can, combinations, and in seeing linkages that others do not see, he said that one can draw only one conclusion by comparing the two charts and, that is, if you want your kids to have the best math education, either live in Montana or live in the State adjoining Montana, because the States that have the highest rankings of mathematics are the States of Montana, the Dakotas, and Wyoming.

I mention this to point out the commitment the State of Montana gives to education in general, and particularly the commitment Butte gives to its people, Montana Tech and related universities, so that Micron will do very well if it comes to Butte. Butte wants Micron and will make any necessary adjustments to tailor its operations to Micron.

This is the second in a series of statements I will make. I will make another speech regarding the ties between Micron and Butte on Monday.

I yield the floor.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:00 p.m.

There being no objection, the Senate, at 12:35 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FRIST).

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. DOLE. Mr. President, I now ask that there be a period for the transaction of morning business, not to extend beyond the hour of 2:30, with Senators permitted to speak for not to exceed 5 minutes each.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding the leader just put the Senate into morning business.

The PRESIDING OFFICER. That is correct.

SOCIAL SECURITY AND THE BALANCED BUDGET

Mr. REID. Mr. President, I take this opportunity to address the Senate about the amendment we hope to offer in the immediate future. That is the amendment regarding the exclusion of Social Security from the balanced budget amendment.

Mr. President, I believe that we lost the amendment that has been debated on this floor for a week dealing with the right to know; that is, whether the American public should be able to understand the glidepath that will allow this Government to arrive at a balanced budget by 2002. That was denied. The American public does not have the right to know how we are going to arrive at that balanced budget by the year 2002.

I hope, though, Mr. President, that the next matter we are going to discuss, namely, Social Security, would be something the American public should have the right to know. How are we going to handle Social Security in the overall mix of this balanced budget amendment?

It would seem to me that senior citizens, but just as importantly all the people of this country, men and women who are working for a living and those people who yet will work, should be entitled to know how we are going to handle Social Security.

I, frankly, am disappointed the way it was handled in the other body. In my opinion, the other body in handling this, in passing House Joint Resolution 17, recognized how weak their references were to protect Social Security. They did not even go to the trouble of introducing a statute, trying to pass a statute. They had a concurrent resolution that passed by a vote of 412–18 that has, Mr. President, the authority of this blank piece of paper.

I suggest that we would all be well advised to get to the debate on Social Security, to have a determination made by this body whether we will exclude Social Security from the stringencies of the balanced budget amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my understanding is that we are in a period of morning business.

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. And I may be recognized for 5 minutes.

The PRESIDING OFFICER. Yes.

SOCIAL SECURITY EXCLUSION AND THE BALANCED BUDGET

Mr. DORGAN. Mr. President, following on the comments by the Senator from Nevada, let me ask the Senator from Nevada a question. The right-to-know amendment was an amendment offered by the Senator from Nevada, myself, and many others who felt that it was important to try to understand: Is this a promise to balance the budget, or is it a promise with a plan this time to balance the budget? Lord knows the American people have had a barrel full of promises.

Was there something behind it? If there is, as one of the leaders in the other body said, the plan is so significant it will make America's knees buckle. It will make the knees buckle of the American people if we ever told them what is required. The question many ask is, should not the American people understand what it is they are talking about? What will buckle people's knees? Is there a plan? Is this a mystery plan that we are not allowed to understand or see? Well, we had a vote on that and the vote was no. This is a program, but we do not want you to see the plan, if there is one. We are not sure there is one.

Second question: Will, in the process of balancing the budget, the Congress decide to take Social Security trust funds and use them to balance the Federal budget? After all, the Social Security trust funds come from dedicated taxes to be used for only one purpose. They go into the Social Security trust fund to be used for Social Security. It is a contract between those who work and those who are retired.

The question is, yes or no, does someone intend to use receipts from the Social Security trust fund to balance the budget? The Social Security system has not caused one penny of the Federal deficit. This year it is running a surplus of $70 billion. This is not a difficult question. It is easy to understand, and it is even easier to answer—yes, or no.

I think the Senator from Nevada understands, because of the way the constitutional amendment that is on the floor is proposed, the wording says receipts mean all receipts including Social Security receipts. Because it is worded that way, one cannot correct this problem in any other way except to amend the constitutional amendment that is on the floor.

I hope the Senator from Nevada will move as quickly as possible and that when we debate that amendment—I hope that is the next amendment the Senate will consider—we will get an up or down vote. I do not think we should have a ricochet vote on this, I do not think we should bounce around on various procedural motions.

I think the question can be answered simply yes or no, are we going to use the Social Security trust funds to balance the budget? Is it the Senator's intention to offer this as the next amendment if that is in order, and do we hope to get a recorded vote on the question, yes or no?

Mr. REID. Mr. President, my friend from North Dakota asked two questions. Is there a plan? I have to answer that, yes, I think there is a plan, and it is not one that people who are now depending on Social Security would like. I think the plan is to raid the Social Security trust fund.

The second question, do I want to vote on my amendment? The answer is yes, I think we have to have a vote on the amendment. It is the only thing that would be fair to the American public. Is the Social Security trust fund a separate trust fund? The answer to that is yes.

I would also say to my friend from North Dakota that it is interesting that those Members who are pushing so hard for the Social Security exclusion are people who support the balanced budget amendment. The Senator from North Dakota and the Senator from Nevada are not people here trying to deep six the balanced budget amendment. I believe in a balanced budget amendment. And I have heard speeches on this Senate floor by our colleague, who I do see on the floor in front of me, from North Dakota, the senior Senator from North Dakota. He has talked many, many times about the need to balance this budget. Those people that are pushing for the Social Security trust fund to be excluded are people—the most vocal—are people who support the amendment.

Mr. DORGAN. Mr. President, can the Senator think of any reason that someone would want to vote no on an amendment like this, unless one had designs on using the Social Security revenues to balance the budget? I cannot think of any other reason.

I came here this morning and said I do not ask anybody for five reasons or even three if it is hard for somebody. I just ask for one simple, easy-to-understand reason from somebody that would say, "Here is why we do not want to include this," because, I guess, the only reason that is plausible is that we would like to use the Social Security revenues at some point to balance the budget. Is there any other possible reason for someone not wanting to vote for this?

Mr. REID. Mr. President, I say to my friend from North Dakota, as I have said on this floor on another occasion, the answer is, that is where the money is. As Willie Sutton, the famous bank robber said when he was let out of prison, they asked, "Why do you rob banks?" And he said, "That is where the money is."

The Social Security trust fund is where the money is. That is why there are some who do not want to exclude it.

Mr. DORGAN. I appreciate the Senator's comments. The problem with those of us here is we get confused by labels—what is conservative and what is liberal. You get totally confused, because the conservative approach, it seems to me, is to balance the budget the way it is supposed to be balanced. And the way it is supposed to be balanced is you set the Social Security trust fund aside and balance the budget deficit. That it seems to me is a conservative approach.

Yet, it seems to me that most who call themselves conservatives say, "Gee, we don't want to do that." That position, apparently, is a liberal position. Maybe we ought to all change seats here for a while, because I just do not understand why we are in this quandary.

This ought to be the simplest of questions to answer: Do we want to balance the budget by raiding the Social Security trust fund? The answer is, of course not. Do we want to balance the budget? The answer is, of course.

I take a back seat to nobody on this subject. I have been in charge of waste task forces, identified $80 billion of Federal spending we ought to eliminate, much of which we have not. The fact is that still does not deal with the deficit. We have an abiding deep deficit problem that we have to deal with. That is why I voted for balanced budget amendments in the past. It is why I likely will in the future, but there is a right way and wrong way to do things.

Those who come to the floor say, "We want to cut taxes and increase defense." I want them to come to the floor to say to us, if we intend to do that, cut taxes and increase defense, how do you get to where you want to get to, how do you balance the budget? Do you do it by taking Social Security funds? Not with my consent you do not. That is not honest. That is not an honest approach.

I hope when the Senator from Nevada offers his amendment that we can have an up-or-down vote on the merits of the amendment and we can understand what are the virtues of conservatism here: Pay your bills and treat money the way you promised people you would treat money. These principles hold especially true with Social Security.

We told people, we promise you we will put it in a trust fund, we promise you we will keep it there. That will not be the case, if it is then used sometime later to offset tax cuts, much of which will go to the wealthy, and offset defense spending increases at a time when we are choking on Federal deficits. That is the dilemma. I hope we can clarify this and have a very simple vote after an honest debate.

Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, the reason this debate is so important is because we are talking about issues that have enormous implications for the future, and the implications are a balanced budget amendment to the Constitution of the United States that would have, as its predicate, that we would loot the Social Security trust funds of $636 billion over the next 7 years in order to have the operating budget of the United States balanced.

That is just a fundamentally flawed strategy. It is not right. Any CEO in this country, if they went before their board of directors and said that their plan for balancing the operating budget of the corporation was to loot the trust funds of their employees, that individual would be on his or her way to a Federal facility and, as I said moments ago in the press gallery, it would not be the U.S. Congress, it would be the Federal facility they would be headed for. They would be headed for a Federal penitentiary because that is fraud. Unfortunately, that is what is occurring with respect to the budget of the United States now.

Social Security trust fund surpluses are being used to fund the operating expenses of the United States. What is fundamentally wrong about that is that we are using a regressive payroll tax to fund not the retirement systems of Americans but instead we are using those funds to understate the real budget deficit we confront in this country. And now we have a constitutional amendment before us that would take that approach and put it in the Constitution of the United States.

Mr. President, that cannot be the result of this balanced budget amendment debate. We should never allow a trust fund to be looted in order to achieve balance, and we should never put that kind of construct into the Constitution of the United States. That is profoundly wrong.

I am just very hopeful that we can get to a vote and a debate on the amendment that Senator REID and others of us will be offering. It is an amendment Senator REID and I offered last year, along with my colleague Senator DORGAN. I understand that there are others who are proposing an alternative mechanism and vehicle for the implementing language. Let me just say, this Senator would never accept that kind of pale imitation. That is not going to suffice.

We are talking about an amendment to the organic law of the United States: The Constitution of the United States. That is the document that each of us swore to uphold when we took the oath of office. We are talking about a Contract With America; that is the contract with America that counts.

I thank the Chair and yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I have been listening with interest to the debate on what very likely will be an upcoming amendment with regard to whether or not we are eventually going to get to a vote on the balanced budget amendment.

As the Chair knows, this Senator has been very much involved in all of this because while I think that there are many good reasons for not having a balanced budget amendment as a part of the Constitution, I think after the years that I have served here and on the Budget Committee, I must say that without that discipline that I think we have exhibited in the past by the tendencies that seem to prevail and by the fact that we have not even come close to balancing the Federal budget, I am convinced that with the reservations that are obviously in order, and many of them well taken, this Senator believes that we have to have a constitutional amendment to balance the Federal budget.

I think the arguments that are being made today with regard to Social Security are good ones. Many of my close friends, with whom I have worked for many, many years in this body, are supporting that kind of an amendment.

I guess the question comes down to in this Senator's mind: How are we going to fashion, if we can, 67 votes in this body to pass a constitutional amendment? The more I see and the more I hear, the more fearful I come to the conclusion that maybe it is not possible, maybe some of these votes that were taken pro and con on this issue are going to simply give cover to one group or one party or one Member to vote against the balanced budget amendment.

I say in all candor, Mr. President, one of the big problems we have is that I am not sure a majority of this body understand the difficulty we have once we have passed a constitutional amendment and assume that will be ratified by three-fourths of the States.

Another way of putting it would be that passing the constitutional amendment to balance the budget, as was done with great fervor, with great fanfare, and with great flag waving on the Contract With America, was the easy part. That was not necessarily the time for celebration. That was done in the House of Representatives, I would suggest, without fully informing the Members of the House of Representatives, 435 of them, and certainly not informing the State legislators who are going to have to vote, three-fourths of them, before such a constitutional amendment, if it passes the Senate, would be enforceable.

Certainly last, but far from least, I do not believe the American people have been afforded an opportunity to fully understand what all of this means. In fact, I am very much concerned because I saw a poll the other day that I suspect is accurate. I think it kind of represents what I have heard from various sources. That is, that 72 percent of the American public strongly support a constitutional amendment to balance the budget, but 47 percent of the American public think the budget can be balanced by eliminating waste, fraud and abuse.

I say to the people of the United States that they have been sorely misled, indeed, if they believe the Federal budget can be balanced by the year 2002 with the elimination of waste, fraud and abuse. No one in this body and no one over on the House of Representatives side really believes we should have one dollar or one penny of waste, fraud and abuse. And I can understand how the public has been abused on that because of the time and attention that has been paid to $1,400 toilet seats and $200 hammers and other things of that nature, which is ridiculous on its face.

There was a half an hour program on the prominent show called Nightline a couple of weeks ago, a whole half-hour devoted to whether or not we should dispose of the $268 million we are spending annually to subsidize public radio and public television, and that is a very legitimate debate. There are two sides of discussion on that, and both of them can make a point. But when you talk about that, even if we would eliminate any and all assistance, taxpayer assistance to public radio and public television, that $238 million, although it is an awful lot of money, is such a small, infinitesimal amount of the deficit that if we eliminated that and all such programs it would not even put a minor, thimble-sized dent in the budget deficit.

Another way of putting all of it is that far too much attention is being focused on shortcomings in the budget process and not enough attention is being given to the significant cuts that are going to have to be made to balance the budget in the year 2002 as would be required under a constitutional amendment to balance the budget.

I guess another way of saying this is that I am not sure all of it has been put in proper perspective. I voted earlier today for the amendment offered by the Democratic leader called the right-to-know-amendment. I voted for that amendment not because I was particularly excited, nor did I really feel we should go so far as to incorporate such language as the Daschle amendment, of which I was a cosponsor, into the Constitution of the United States of America.

I would guess that probably, if we would have passed that and it had been included, it would be the first time in the history of the United States of America such language would have been incorporated in with a constitutional amendment. And so I caution with regard to what we should be putting into the Constitution.

I was a cosponsor, and I voted for that amendment, trying to have a better understanding, trying to bring the two sides, the Democrats and the Republicans, together on this issue. And even had it passed, which I suspected that it would not have, we maybe could have taken that out and gotten back to a constitutional amendment at least somewhat in the form of the constitutional amendments that have been passed in the past. Certainly I would be one of those to say we should amend the Constitution with considerable restraint.

Now, back to the matter of Social Security. The Senator has stood at this desk before, as I stand here today, to say I think many good points have been made by those who do want to protect the Social Security trust fund. And I wish to do that also. I have said that even if the coming constitutional amendment would be passed without such protection, at least this Senator very likely would not ever agree to raid the Social Security trust funds. My only appeal is that possibly there is a way we could sit down and work together to come up with some type of arrangement offering proper guarantees to the logical protection of the Social Security trust fund which I think have been outlined very effectively and precisely by many of my colleagues who have spelled out this matter in this Chamber.

Let me put it another way, if I might, Mr. President. I would be willing to sit down with anyone, any group, any combination of groups to see if we could factor in some type of workable compromise which would get us the 67 votes that are necessary, and I think we should try to get, to proceed to have a constitutional amendment to balance the budget and then refer it to the States.

So I would simply like to ask, Mr. President, if there is any way that we could assure—and under those conditions I might vote with my colleagues who are offering the Social Security amendment, if I could have the assurance of some of those who are proposing the amendment that they then would turn around and be one of the 67 votes we need to pass the constitutional amendment.

Putting together 67 votes in the Senate on this issue is going to be a very difficult task. From the counting that I have done as of now—it is not infallible because I think there is some shifting going on, but it would appear to me very likely, if we had the vote today, the final vote on sending a constitutional amendment to the States by the Senate would fail.

Given that concern of mine, I would simply say to my colleagues on both sides of this issue, and both sides on the many other issues that are likely to be brought forth on this matter: Let us try to work together. I do not think anyone has the wisdom, the knowledge, the intellect to be able to solve all of these problems. As a body of 100 people who are charged to represent their constituents and the people of the United States as a whole, I just hope we can get together. I think there are many of us who share the goal. All of us do not——

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. EXON. Mr. President, I ask for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I hope we can maybe come together on some kind of compromise, some kind of understanding that does not so weaken and change the constitutional amendment to balance the budget that it will not work.

Last but not least, whatever we do, I think we must—we have the obligation to go far further than we have as of now, to explain how difficult this will be, and the sacrifices that probably every American is going to have to make to get it accomplished.

I outlined in a speech 10 days ago some of the major concerns in this area, that I would reference as a part of my speech. That might be referred to.

Mr. President, I call for cooperation to get a balanced budget amendment passed by the Senate. That is most important of all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. I thank the Chair.

(The remarks of Mr. KOHL pertaining to the introduction of S. 274 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KOHL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the original joint resolution to be offered by Senators SIMON, BREAUX, and others regarding Social Security, and that during the consideration of the Senate joint resolution, no amendments be in order and debate be limited to 2 hours to be equally divided in the usual form. I further ask that immediately following the conclusion or yielding back of the time, the Senate proceed to vote on the resolution without any intervening debate or motion.

Finally, I ask unanimous consent that immediately following the disposition of the Senate joint resolution, the Senate resume consideration of House Joint Resolution 1.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I respectfully object to the leader's request.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

AMENDMENT NO. 236

(Purpose: To protect the Social Security system by excluding the receipts and outlays of Social Security from the budget)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. DASCHLE, Mr. DORGAN, Mr. CONRAD, Mrs. FEINSTEIN, Mr. FORD, Mr. HARKIN, Mr. HEFLIN, Mr. GRAHAM, Mr. KOHL, Mr. BAUCUS, Mrs. BOXER, Mr. HOLLINGS, Ms. MIKULSKI, and Mr. LEAHY, proposes an amendment numbered 236.

Mr. REID. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 8, after "principal." insert "The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article.".

Mr. REID. Mr. President, this amendment is being offered on behalf of the Senator from Nevada, Senator REID, and Senators DASCHLE, DORGAN, CONRAD, FEINSTEIN, FORD, HARKIN, HEFLIN, GRAHAM, KOHL, BAUCUS, BOXER, HOLLINGS, MIKULSKI, and LEAHY.

Mr. President, this is a very simple amendment. It really is. It will take some time during the next few days to talk about this amendment. But it is an amendment to determine what we are going to do about Social Security. In effect, this amendment excludes from the balanced budget amendment the Social Security trust fund as it relates to the old-age pension aspect thereof.

Mr. President, I rise in support of the balanced budget amendment. If Social Security is excluded, I will vote for the balanced budget amendment. As a veteran of a number of debates in this body on this issue, I am fairly well versed on persuasive arguments for the balanced budget amendment. There are people who I have heard—including my friend, the senior Senator from Utah—over the years make very, very persuasive arguments why it is important that this country have a more sound fiscal policy and why it is necessary to have a balanced budget amendment. Some would say in debating this issue—that is, whether we should include Social Security or exclude it from balanced budget amendment—that it is a very painful vote, and it perhaps is. This body would be forced to make a determination as to whether or not the proceeds of Social Security, and the old-age pension aspect thereof, would be excluded from this balanced budget amendment when it would become part of the Constitution.

Mr. President, we have all been called upon as legislators, and those who served as Governors or Lieutenant Governors in States or mayors of cities, to make decisions that are difficult sometimes. I remember one of the most difficult decisions I had to make as a Senator in this body, which I was relating to my friend, the senior Senator from New Mexico, and my colleague, the junior Senator from New Mexico, regarding whether a stealth wing should be taken out of the State of Nevada. We had spent the taxpayers' money in this country—about one-half billion dollars—building the secret air base in the deserts of Nevada to test this very exclusive weapon, which was the Stealth fighter bomber. There came a time when it was no longer secret, and therefore the Pentagon made the decision that they would move this Stealth fighter wing from Nevada to New Mexico. It was a difficult decision. It involved many, many jobs, several thousand jobs, something that was very important to Nevada. But I made the decision that, if the GAO would tell us that it would save this country money to move that wing and that we would be just as secure, I would not object.

The General Accounting Office came back in a relatively short period of time with the report that it would save money and we would be just as strong as a nation if this wing were moved to New Mexico. I swallowed hard and watched the wing move to New Mexico without raising a hand to stop it.

Yesterday, I received a call from some of my friends in Nevada that the President's budget called for the elimination of a facility we have—the Bureau of Mines—in Reno doing research. There are not as many jobs, but a job is a job.

These are some of the things we have to make decisions on, and it appears to me that it is sound fiscal policy to consolidate. And perhaps that is the best thing for the country to do. We all have to make tough decisions.

This amendment is a tough decision. If we ever are going to balance the budget of the United States, there will have to be a series of very difficult decisions made as to how we will do that. This is different than a simple statute that we are going to amend. It is different because we are talking about not passing a law; we are talking about amending the Constitution of the United States.

Over the years there have been in this and the other body about 4,000 attempts to amend the Constitution. As we know, very, very few have been accomplished. This is not one of those amendments that is done for press releases to be sent home. This is not an attempt made to satisfy a certain constituency. This is a serious attempt to put language in the Constitution of the United States that would force us to balance the budget. We all know that we have the legal authority to balance the budget right now. But over the decades we have not done a very good job doing that, and, therefore, a majority of the people of this body feel that we should amend the Constitution of the United States to include in there a provision mandating a balanced budget. I say a majority. I think we do not know yet that there will be a supermajority; that is, 67 votes to make this a part of the Constitution. I say now as I have said before, if Social Security is excluded, I will be one of the 67. If it is not, I will not.

I emphasize the U.S. Constitution because, Mr. President, it is unlike States balancing their budgets. In the State of Nevada, for example, we just completed the construction of a new State building in Las Vegas. That building cost about $400 million. But, no, that is not a part of the budget that is talked about every year as being a balanced budget in the State of Nevada. The reason that it is not is because they have bonding authority. Many capital expenditures are taken off budget.

This amendment that we have before this body is more stringent than the laws and the constitutions of most all States. Most all States, as I mentioned, do not balance their budgets as they say they do because there are capital expenditures which are off budget.

This amendment has no smoke and mirrors. If this amendment passes, everything will have to be balanced. This will be much different than when most of us handle our personal lives. If we own a home, we make payments on it. Most of us, if we have a car, we make payments on the car, refrigerators, things of that nature. But, if this amendment passes, this will not do that. This is not a smoke and mirrors amendment by any stretch of the imagination.

Mr. President, I think that it is important that we recognize that budgeting decisions, assuming we are working on a balanced budget amendment, will necessarily include all of our operating expenses and all of our capital expenditures. That is the legislation that is now before this body.

So I repeat, with all due respect for States that say they balance their budgets, ours would be honest and truthful budgeting, I think more so than has ever been done at any level of government. Senate Joint Resolution 1 guarantees a balanced budget. It does not spell out how we will get there, and I am disappointed that the amendment that we just voted on a couple of hours ago failed. I think it would have been nice had that passed. I think it would have given the American public a glidepath of how we are going to arrive at the balanced budget by the year 2002. But that is not what happened. We were only able to get 44 votes.

The amendment to the Constitution that is pending before this body is a rule without any exceptions. I believe this balanced budget amendment will ultimately pass because the American people want it to pass. Indeed, Mr. President, according to a recent ABC-Washington Post poll, well over 80 percent of the American public wants a balanced budget amendment to pass. However, when these same people were asked in a subsequent poll, would they want the budget balanced by using Social Security trust funds, the answer was a resounding 90 percent no.

Mr. President, I offered this amendment about a year ago. At that time, I did not know that the American public felt about this the way they did. Had any of us known, there may have been a lot of other people offering the amendment. But we have learned subsequent to last year that the American public feels very strongly about protecting Social Security. I raise this issue not because decisionmaking should or ought to be guided by the polls. I believe it should not be, and I think we in political life—at the Federal, State, and local level—follow the polls too much. As my staff will tell anyone who will listen, I am not a believer in polls. Very, very infrequently do I do polling.

Rather, I raise this issue because much of the rhetoric in the balanced budget debate revolves around carrying out the demands of the American people. How often have we heard someone say that the American people are demanding passage of the balanced budget amendment and Congress ought to pass it? Well, I think in that same breath we should recognize that they are also demanding action to guard against unilateral raiding of the Social Security trust fund to balance the Federal budget. Passage of the amendment that is now pending before this body is the only sure-fire assurance that such action will not occur.

Mr. President, we have heard a lot of promises being thrown around during the balanced budget debate. It should not come as a surprise to anyone that in this Chamber and in the other body individuals have said that they will fight against any cut of Social Security. We have some special interest groups that are saying the same. That is to be expected. There seems to be universal agreement that Social Security should not be used to balance the budget. This agreement, I believe, transcends party lines. Democrats and Republicans alike support protecting Social Security.

I have found it interesting to read the CONGRESSIONAL RECORD, Mr. President, to see what others are saying about Social Security. When this debate transpired in the other body, I believe it was on the 25th of January of this year, a number of people said a number of different things. I had the pleasure of being able to serve in the other body for a couple of terms and found it a most enjoyable experience. I say that the turnover there has been significant, and I do not know a lot of the people that now serve in that body.

However, Mr. President, one of the men that spoke on this issue, one of the Members of Congress that spoke on this issue is the Congressman that replaced the former chairman of the Ways and Means Committee, Congressman Rostenkowski, by the name of FLANAGAN. Here is what he said, among other things:

> The committee shall do nothing to increase Social Security taxes or reduce benefits to achieve that goal.

That is, balancing the budget. That is what he said.

We have another Congressman by the name of FUNDERBURK, who stated:

> The balanced budget amendment will protect Social Security because there will be no more borrowing from the trust funds, which truly protect our Nation's retirees.

Mr. Hayworth stated:

> One of the previous speakers was quite correct to point out that before there was this contract—

Meaning the Contract With America that we hear so much about.

> there was enacted a solemn contract with the American people, and we call that Social Security.

Mr. Wamp indicated:

> We can achieve a balance without touching Social Security. Our party and our leadership are on record opposing cuts in Social Security, and so am I.

Mr. CHAMBLISS, from the eighth district of Georgia, said:

> Mr. Speaker, let us send a message of assurance to seniors of this great Nation.

He, of course, is referring to Social Security not being touched.

Mr. ENGLISH of Pennsylvania said:

> At a time when some are talking about a new covenant, we should signal our intent to protect Social Security for those who participate.

Mr. YOUNG of Florida—and I did not have the pleasure of serving with any of the Members I have mentioned until now. I served with Mr. YOUNG of Florida. He said, on January 25 of this year:

> It reaffirms what I have long said and supported, that in reducing the Federal budget deficit we should look to cutting spending in those areas which are driving our Nation deeper into debt. That certainly is not the Social Security trust fund, which actually runs an annual surplus—last year $61 billion.

I could go on with other statements about how Members of the other body talked about the balanced budget amendment. They do not want Social Security to be affected by the balanced budget amendment. They are right. It should not be.

What my amendment does, Mr. President, is put into writing what we have now only as an oral promise. This disagreement that is the subject matter of this debate seems to center on how best to protect those trust funds. I believe that if I were trying this case to a jury of my peers, the jury would return a verdict in favor of this amendment in a matter of minutes. This would not be one where the jury was hung up or one where they deliberated a long period of time. I would suggest that the debate clearly favors, and will favor, the amendment that the Senator from Nevada has offered, along with 14 of his colleagues.

Why, Mr. President, do we need to express exemption? Very simple. Anything less would be insufficient. If we want to take this off budget and exempt it from efforts to balance the budget, it must be done in a binding fashion. I suggest that burying it in implementing legislation, as was suggested last week in another debate, is like passing a sense-of-the-Senate resolution; it has no binding effect. It makes us feel good but, essentially, it is a nonbinding resolution. This language will specifically exclude Social Security.

I also submit, Mr. President, that we will hear some debate here on this amendment that will be offered by the senior Senator from Alabama. He, having been former chief justice of the Alabama Supreme Court, is a person who has had long experience on the Judiciary Committee of the Senate and somebody we look to for legal advice. He is the Judiciary Committee's legal scholar. He is going to tell this body why this amendment is essential. If we do not have this amendment—you will hear from the Senator from Alabama—Social Security must be included in the receipts that will be necessary to balance the budget.

Hiding a Social Security exemption in implementing legislation, as I said, is like playing a shell game with the American people. It is the proverbial smoke and mirrors trickery. It is the fig leaf that we have heard so much about, or whatever other words that you can connote that is a coverup. That is what, in effect, implementing legislation would be.

Some want to have their cake and eat it, too. They want to say, "Well, we are going to protect Social Security, but we are also going to vote for the balanced budget amendment." I am not going to do that.

Some want to be able to go home and tell their constituents that they voted against touching Social Security. And they may even get by with it for a year or two, but it will not be long, because you will have to go after Social Security. And we know that, even if it is more than a sense-of-the-Senate resolution but a statute that says you want Social Security, you have the argument from my friend from Alabama, the senior Senator, but you also have the argument that there is no place to go. You would have to do that.

So, it sounds good, but it is really not what I believe is factual.

So I predict the majority of the American people will see through this what I believe is a charade and recognize this proposal, in fact, in implementing legislation is offered as a real fig leaf.

I want people within the sound of my voice to understand a little bit about the history of Social Security.

Mr. President, I first learned about Social Security as a little boy. I was born and raised in a very small town in the southern tip of the State of Nevada, a place called Searchlight, Nevada. When I grew up, it was a town of less than 250 people. A lot of the Reids lived there. We made up a significant number of the people that lived there. One of the Reids that lived there during that period of time was my grandmother. Her name was Harriet Reid. She was born in England.

My grandmother—I can picture her very clearly in my mind's eye, even though she has been dead for many years—was a very short woman and very, very fat. She had trouble walking, and to do her work was very difficult. She had raised eight or nine children.

Now, Mr. President, I was a little boy in the late 1940's, but my grandmother got, every month, her old age pension check. That is what she called it, "My old age pension check." That check gave my grandmother, Harriet Reid, it gave her dignity, it gave her independence. Even though she had children that would help her, that check was a message to everyone that she could make it on her own. She deserved to make it on her own. She worked hard.

So I see Social Security in the eyes of my grandmother. And I believe that this amendment is offered on behalf of Harriet Reid and other grandmothers and grandfathers to be.

I believe it is important that we understand the reasons for placing this exemption on this balanced budget amendment. My reason, as I have just explained, stems from personal reasons and a deeply held conviction that the integrity of the Social Security system will be violated unless we do this.

(Mrs. HUTCHISON assumed the Chair.)

Mr. REID. In 1935, Social Security passed. It passed, Madam President, because the American people wanted it to pass. It was really at that time, perhaps, an experiment. We did not know if it really worked, but it did work.

I believe we have heard a lot about the Contract With America. I think that most all the items that my friends are talking about with the Contract With America are good and will help the country.

But let us be realistic. The real, valid first contract with America was Social Security. That program has been in existence for 60 years. That is the real contract. And it is a contract that has worked and we should do everything we can to protect the Social Security trust funds.

We should do that, Madam President, not only for the Harriet Reids of the world, but also for those children that are now in their beginning years, because we need to provide security for them in their old age, also.

President Roosevelt and Members of Congress recognized in 1935 that by financing the program by earmarked payroll taxes, we would ensure that a future President and Congress could not morally or politically repeal or mutilate the character of the program.

Interestingly, Madam President, President Roosevelt's fears were realized in the early part of the 1980's, when there were attempts made to make sweeping cuts in Social Security. Those cuts were repulsed by Congress. But Congress came back right away, came back quickly and solved the problems that they were having with Social Security.

It was truly a bipartisan commission—Claude Pepper, the man who was known for protecting Social Security; Tip O'Neill, President Reagan, all these people got together and figured out a way to save the Social Security old age pension. And they did a good job. Social Security was not damaged in any way. It was renovated. It was revamped.

And we are now celebrating the benefits of that, recognizing that last year there was over $60 billion in surplus, this year over $70 billion in surplus, and those surpluses will continue to increase.

So the arguments for defending the Social Security trust funds are rooted in the history of the program and that is what is truly unique about our Social Security system. I believe that, in part, it is because of the structure of the system that Social Security is really like a contract. This is not a giveaway program. This is not welfare that Social Security recipients receive. But, in fact, the employers and the employees pay in about 12.5 percent of their salary to put into a trust fund so that they have some moneys in their later years. So, it is their money. They have earned it. They have paid their dues. They have played by the rules.

And if you want to know why those of us in Government refer to this as the so-called third rail of politics, that is why. People trust that their funds will be there upon their retirement. It is understandable why so many are willing and have fought so hard and so long to maintain the integrity of this trust fund.

As they used to say in an old advertisement—I believe it was Smith-Barney, or one of those companies that sells stocks and bonds—they make their money the old fashioned way, they earn it. That is, in effect, what Social Security recipients do and have done.

So our obligation as Members of Congress is to recognize the contractual nature of the system and take the necessary steps to honor that agreement.

Madam President, our contractual obligation to the people of this country as it relates to Social Security is similar to the obligation—of course, our obligation is on a much larger scale—that I had when I practiced law.

I had to set up a separate trust fund to put my clients' money in. When I did that, I could not draw any of that money out for anything other than my clients' needs. I could not pay my rent, could not pay my car payment, house payment, rent on the office. I could only use those moneys for my clients. I had a fiduciary duty to my clients to protect those moneys.

While lawyers, people who work in banks, and insurance companies recognize the consequences of a fiduciary duty, attorneys are well aware of the consequences they face for breaching this duty.

Any person who violated this fiduciary trust, if they were an attorney, would be disbarred. If they were an insurance agent, they could have their license taken away. A real estate agent, the same thing. Or they could go to prison. They could go to jail. We have an obligation to protect the integrity of the Social Security trust funds. We, too, have fiduciary duty to protect the integrity of these funds, not only as I have mentioned for the seniors of this country, but for all working men and women.

Madam President, what is this word we are throwing around—fiduciary duty? What does it mean? Why does it describe Congress' role in maintaining the Social Security trust fund? I thought it would be educational to me—and it gave me an opportunity to look at one of my old law books—to talk about from a level perspective, what is a fiduciary duty? It means a person holding the character of a trustee with respect to the trust and confidence involved in it and the scrupulous good faith and candor which it requires; a person having a duty created by his undertaking to act primarily for another's benefit in matters connected with such undertaking. This came from Black's Law Dictionary.

It explains that a breach of fiduciary responsibility would make the trustee—and that is what we are—liable to the beneficiaries for any damage caused by such breach.

So, Madam President, what penalties do we face for breaching this duty? I am sorry to say, not much. I will not be disbarred. I will not have a complaint filed against me with the National Bar Association. The only opportunity that someone has to get back at a Member for breaching our fiduciary duty is in the ballot box.

I think they need more protection. I think there needs to be more stringent control of the Social Security trust funds than somebody saying, "If you violate your fiduciary trust, we will vote against you."

My amendment expressly exempts the Social Security trust fund from any calculation of Federal deficit. Absent an expressed exemption included in the constitutional balanced budget amendment, we, the guardians of the Social Security trust fund, will be in breach.

Unfortunately, Madam President, for the tens of millions of beneficiaries who have paid into this system most all their working lives, they will have no remedy. They can have recourse at the ballot box. Sometimes that comes too late. That will not compensate them in dollars for their lifelong contribution to the Social Security trust fund if we, in effect, raid this fund to balance the budget. It certainly will not help their retirement. The cold, hard fact of the matter is the beneficiaries have a right, but are without a remedy, to ensure that that right is enforced.

I have said the real contract with America is Social Security. And it is like a contract. There are many good reasons why the protection of the Social Security trust fund is so important to all Americans. Social Security is a unique Government program. The program is not, however, difficult to comprehend. Yet its simplicity, I think, Madam President, masks the strong undercurrents of emotions so often espoused when discussing this Social Security system.

People feel so strongly about this issue. Why? Because it involves a contractual agreement that they know that they have with the Government. The Government and the American people. That is the contract.

How many Members have been at town hall meetings where people stand up and say, "Are you going to protect Social Security?" How many times have people stood up at Social Security meetings and they say, "I am not on welfare. I have worked hard all my life. I want to be able to draw my Social Security. Are you going to protect that?"

Why is it a contract? This is a word that has been thrown around by people in Government and pundits over the last several months. If we stop and think about it, Social Security, I repeat, is best described as the true contract with America. It is a contract, or, in other terms, an agreement, that benefits all Americans.

I have mentioned how we pay into that system. I have mentioned how people who receive that money are not receiving a Government giveaway. They are not collecting money for no reason. I am sure that no one enjoys the Social Security payroll deductions that we suffer through on our paychecks. It is a lot of money. There is an understanding that in many ways this produces a greater good. We are, in effect, building. We are being forced to build a nest egg provided for us in our golden years. That does not seem to be stretching the point at all.

To attack Social Security as another Government giveaway program is a straw man. It is a self-financing, self-sustaining, publicly administered contributory retirement program. This program requires personal sacrifice. Through the Federal Insurance Contributions Act, which we call FICA, workers are required to contribute, as we have talked about, 6.2 percent, which is matched by another 6.2 percent by the employers, for 12.4 percent. That is a lot of your paycheck.

By law, the funds are required to be held by the Federal Government in trust. The key to understanding this system, however, rests in the recognition that all of these dollars that are amassed, the billions and soon to be trillions of dollars do not belong to the Federal Government. They are contributions workers and employers are paying in and the workers expect to get back.

Our role as Members of this august body is to ensure that there be a continued vitality of these funds. I believe, in this respect, our greatest obligation is to ensure that retirees receive their just compensation. That could apply to people who are 5 or 6 years old. We have to ensure that they receive their moneys, as we do someone that is presently drawing Social Security. I say again that unless we expressly exempt the Social Security trust funds from any calculation of Federal deficit, we may not be able to meet that obligation. Social Security, Madam President, does not contribute to the Federal deficit.

Throughout this debate we have talked about rights and obligations, both present and future. I support a balanced budget amendment to the Constitution of the United States because I believe that we have an obligation to do a better job of balancing the budget than we have been doing. This obligation is owed importantly to future generations of future Americans.

The balanced budget amendment must ultimately provide for a government to act in a more fiscally responsible manner. If we do not handle this amendment properly, and my belief if we do not exclude Social Security, we will be not only violating a fiduciary violation that we have, we will be fiscally irresponsible. We must not, through this amendment, loot the Social Security trust fund in order to eliminate the Federal deficit. This is not fair to the generation which has paid into the system their entire lives, nor is it fair to the generations in the future that will pay into the system their entire lives.

In short, because Social Security does not contribute to the Federal deficit in any way, it should not be used to eliminate the Federal deficit.

Madam President, we have a chart here. I referred to it as the Government looting chart, and we have another entitled the same. There have been some who have suggested that the Social Security trust fund should be referred to as the Social Security slush fund. But without name calling, we will look at this chart. This chart shows the surpluses as they will accumulate until the year 2002, significant amounts of money, over $700 billion.

We can look at this chart in a different way. It will accomplish the same fact and perhaps it is a little more graphic, Madam President, to see the dollar amounts here.

What we would do is show it in this manner. This is how those funds are going and should be allowed to accumulate. If we do not have an exemption—that is, if my amendment does not pass—in 2002 we will pull this chart out and it will be all white because the moneys will have been used to balance the budget. That will be a shame.

There is no question that the Social Security trust fund surpluses are masking the true size of the deficit. In 1995—that is this year—we will take in about $70 billion more than we pay out in benefits out of the Social Security trust fund.

By the year 2003, Social Security will be running surpluses far in excess of $100 billion a year. By not exempting Social Security in the constitutional balanced budget amendment, the smoke and mirror games of Congress would simply hide the true deficit problem. Again, the key here is that to the extent that Social Security does not add to the deficit, it ought not be used to eliminate it.

I, again, refer to this chart that shows what should accumulate, if nothing else happens, in the next 7 years and the amount of money, Madam President, that will accumulate during those 7 years in dollar amounts—over $700 billion, almost a trillion dollars. That should not be used to balance the budget.

I stated an hour ago on this floor, and I will state again, some have said, "We will have implementing legislation that we are not going to do it," and in the House what they did, they had a concurrent resolution saying, "We won't affect Social Security. Why won't you just accept it as our word?" I say that every person who voted for that in the House of Representatives, they certainly have no intention, I hope, of raiding the Social Security trust fund, but the resolution they passed is meaningless.

Why am I concerned about Social Security? I am concerned about Social Security because that is where the money is, that is where we have looked before to help balance the budget. I repeat, Willie Sutton, a famous bank robber, got out of jail and they asked him, "Why did you rob banks?" And he said, "That's where the money is."

Social Security is where the cash cow is for this Government. Funds are running in surplus. We have an obligation to protect that cash cow so when people draw down on the Social Security trust fund, they will be able to have a check rather than an IOU.

If we do not pass this amendment, this really is a case of robbing Peter to pay Paul. Further raiding will certainly occur unless we protect this trust fund.

In the late seventies and early eighties, Congress changed the way Social Security was financed. I mentioned that—Claude Pepper, Tip O'Neill, President Reagan. The change was a result of Congress' recognition of the large demand on the system that would be created.

I should include that the Republican leader was in on that. He was at that time the majority leader of the Senate. This change is the result of Congress' recognition of a large demand on the system that would be created by the retirement of the baby boomer generation. Accordingly, the Social Security system was changed from a pay-as-you-go system to a system that accumulated large surpluses now to prepare for the vast increase in the number of retirees later.

Unfortunately, rather than saving these large surpluses, Congress has used them to finance the deficit. This fiscally irresponsible behavior is putting us on a collision course toward catastrophe.

Madam President, during the Vietnam war, for the first time, the Social Security moneys were used to mask the deficit being developed as a result of that very unpopular war. So we have had experience in Congress of using Social Security moneys to mask the deficit.

In the year 2012, Social Security—maybe a little after that, maybe 2015, maybe 2020—Social Security is going to have to start drawing down. We need to accumulate these huge surpluses now for payout later. I served on the Entitlement Commission, a bipartisan group that was charged to look at entitlements, chaired by Republican Senator Danforth and Democratic Senator KERREY from Nebraska. We all know that Social Security is going to need some adjustment, but let us do it on the basis of Social Security, let us do what we have to do with Social Security, and not have it when we get around to needing to do something and there is no money there.

The problem we are facing is clear. Unless we begin saving Social Security surpluses, unless we begin addressing the needs of the system as it stands on its own, we will be leading, I believe, to financial Armageddon. That is where we are going if we do not exempt Social Security from the balanced budget amendment.

Specifically exempting Social Security does not mean that we are sweeping under the rug, under the carpet, any problem. In fact, we are making the situation very clear. The situation is this: We want to balance the budget; we want to exclude Social Security trust funds. We are saying the reason we need a balanced budget amendment is because we are not strong enough, we do not have the courage to do what we have the right to do under the law presently.

If we are saying that, and that is one of the reasons that is being put forth and has been put forth for a long time as to why we need a balanced budget amendment, it seems to me that that same logic would dictate that, Members of Congress, you had better protect Social Security because otherwise you will not have the courage not to spend those moneys. It would be a lot easier to spend Social Security surpluses than to raise taxes or to cut programs.

So we are not sweeping anything under the rug. In fact, we are making very apparent what our problem is.

There are few people who will deny that Social Security has some problems that we need to take care of in the long run, but it is in the long run not the short run. Including Social Security in a balanced budget amendment may further exacerbate its already identifiable problem. How should we treat Social Security under the Federal budget?

Congress has been struggling with the problems associated with Social Security for many years. Historically, however, Madam President, there seems to be strong congressional intent to protect Social Security. An example of this is how Social Security is treated in the Federal budget.

In 1990, Congress excluded Social Security from calculations of the budget and largely exempted it from the procedures for developing and controlling the budget. Its removal from the budget has not changed how its funds are handled.

Since Social Security's inception, its taxes have been deposited in a Federal Treasury and expenditures have been paid from the Treasury. The surplus is credited to trust funds.

As I have already mentioned, Social Security has not always been considered off budget. In 1969, Social Security and other programs that operated through trust funds were counted officially in the budget. It was a tax bookkeeping gimmick. This was done administratively and not by an act of Congress because we did not have a budgetmaking process at the time. Today, there is strong speculation that the reason it was placed on budget is the reason I have already stated, that in 1969 when the Vietnam war was escalating and it was costing a lot of money, we needed to mask that deficit.

There were new changes in how Social Security was treated under the budget in 1974. Under the Congressional Budget Impoundment and Control Act, Congress adopted procedures for setting budget goals through passage of an annual budget resolution. Like the budgets prepared by the President—like the one that we received yesterday or the day before—these resolutions were to reflect a unified budget that included trust fund programs such as Social Security.

By the late seventies, Social Security, as we already talked about, faced some new financial problems, and Congress had to deal with the increasing cost to the program. So in 1980, 1981, and ultimately in 1983, there were benefit cutbacks. At the same time, though, the Federal budget deficit remained very large. There was growing concern that the cuts in Social Security were being proposed for budgetary purposes rather than for programs that needed to be maintained.

Congress responded to these concerns by passing a series of measures in 1983, 1985, and 1987. In addition to other things, we made Social Security a more distinct part of the budget. Points of orders were allowed to be raised against budget bills containing Social Security changes. This was a large step forward.

By the end of the eighties, Social Security began realizing surpluses, as we talked about earlier today. As a result, Congress passed the Omnibus Reconciliation Act of 1990. This excluded Social Security from the calculations of the budget and exempted it from procedures for controlling spending.

The 1990 Budget Enforcement Act put an end to abuse of Social Security trust funds by declaring them off budget.

I think it is interesting to note, Madam President, that that legislation to exclude Social Security trust fund calculations from deficit calculations passed by a vote in this body of 98 to 2. That is not a close call. This body went on record in October 1990 to exclude Social Security trust funds from the deficit calculations by a vote of 98 to 2.

Putting Social Security on budget contradicts clearly Congress' intent. It is clear that Social Security's treatment under the Federal budget has been complex; I acknowledge that, and at times confusing; I acknowledge that, but Congress has recognized that it is a misuse of the Social Security trust fund to place it on budget. It is a misuse because it jeopardizes the integrity of the program.

Now, off-budget status of these funds is clearly set forth in the 1990 Budget Act that notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts or deficit or surplus for purposes of anything we deal with regarding money, in effect. So it is difficult to examine this section plus the 98-to-2 vote and House Joint Resolution 1, the underlying legislation that is before this body, and not conclude that Social Security is being placed back on budget.

Let me tell you why I say that. We are going to have a chart here, Madam President, that will show what House Joint Resolution 1 says. And if you look at that, it says in section 7 and section 8:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.

That is about as clear as it can be, that this should not be exceeded.

Does this not necessarily include Social Security? If so, does this not run against Congress' historical treatment of Social Security off budget? Would it not overturn Congress' recent decision to confirm the off-budget status of Social Security? This overturns the vote we took by 98 to 2 to keep Social Security from any way of determining what the deficit is. I respectfully submit that the underlying legislation will force Congress and the President to include Social Security in balancing the budget. I believe that any court reading this all-inclusive language would have to conclude that Social Security would be on budget and thus fair game for being used to balance the budget.

The only way to guarantee the integrity of the Social Security trust fund is to exempt it from this balanced budget amendment. We would not have to worry about any of these questions if we passed the balanced budget amendment and excluded Social Security. That is the amendment now pending before this body.

I believe this would be consistent with Congress' previous actions including the 98-to-2 vote in October 1990. It would be a reaffirmation of Congress' intent to guarantee the integrity of the trust funds.

Conversely, the absence of an expressed exemption would result in inclusion of the trust funds in the calculation of the deficit. It would yield a radical departure from Congress' longstanding defense of the integrity of the trust funds. I do not want to be a part of that. We must exempt expressly Social Security to ensure that that fund is maintained in its entirety. So that there is no ambiguity, every Member of this body needs to support the specific exemption for Social Security. It is the only way we can ensure that there will not be an injustice perpetrated on the American people.

I also want to preempt something that I know will come up because I have heard some comments on this floor about this, that my amendment will create a loophole in the Constitution.

That is poppycock. That is diversionary. It will do no such thing. This amendment is narrowly drawn. It is an exemption that applies to a readily identifiable program. So do not be fooled by those who scream and shriek and yell and say you are placing the statute in the Constitution. Once it becomes part of the Constitution, it is no longer a statute.

If we are all in agreement that Social Security should not be included for purposes of balancing the budget, then where better to enshrine the commitment than in the amendment itself. The fact is there is no other alternative. If we leave this out of the balanced budget amendment, it will go on budget. That is a fact. It will assuredly be looted, and that is a fact.

Exemption in enabling legislation is insufficient protection. There are some opponents who have stated on this floor previously and who will argue that they, too, oppose balancing the budget by including Social Security trust funds. They believe and they will state that the proper place to address this issue is in implementing legislation. Let us think about that. We have a constitutional amendment that scholars like the senior Senator from Alabama and others say, if it passes as it is written, Social Security will have to be part of the balance. It will not be discretionary with the Congress. It will have to be used to balance the budget.

But let us assume that we are not going to use that, we are not going to present that argument. What we are going to say is that we are going to have a statute that will say you are not going to touch Social Security.

Well, you have two problems. One, it does not supersede what is in the Constitution that says you must include it. And secondly, that statute can be changed any time. We can pass a bill in this body today and we can repeal it tomorrow. We can pass a bill in this body today and change it next year, the year after. So implementing legislation will not do it.

I respectfully suggest that passing a balanced budget amendment to the Constitution is unprecedented. They are talking about offering my amendment as being unprecedented. All we are dealing with in this body until we dispose of this balanced budget amendment is unprecedented. This is the first time we have put fiscal policy in the Constitution. So we better get it right.

It is unprecedented to place our Nation's fiscal policy in our Constitution. If we are going to do so, we must recognize that Social Security is also part of our Nation's fiscal policy. We are binding ourselves to a commitment that will require drastic changes in the immediate future. As a matter of equity, as a matter of fairness, we cannot bind ourselves to a commitment that puts at great risk a trust fund that millions of Americans have paid into all their working lives.

Advocates of addressing this issue in enabling legislation contend that the trust funds will be adequately protected if we proceed statutorily. This, Madam President—I do not know how to say it any differently—is not true. What about future Congresses?

If my friend who is managing the bill today at this time, the junior Senator from Utah, gave me his word he would not violate Social Security, I would take him at his word. He is a man of integrity. But what about his successors? They are not bound by any statement that he makes or any oath that he takes or any commitment he makes. The fact is this resolution as it is presented in this body presents no protection for Social Security. The only way to give it protection is to vote for this amendment that is presented by the Senator from Nevada and 14 others. Assuming, though, that those who say they are going to protect it follow through on their words, there is nothing to prevent, as I have already indicated, another Congress from coming along and amending the statute that they have already passed to say you cannot use Social Security.

I believe that there are some who are going to go after Social Security. I know it to be the case. I was on a national program yesterday with former Senator Tsongas, and he candidly stated Social Security moneys should be used to balance the budget.

It is unfortunate but true, there are some who believe, to paraphrase our former colleague, Senator Goldwater, that extremism—this is a play on words on something that Senator Goldwater said on one occasion, that: Extremism in defense of balancing the budget is no vice.

I do not believe that. Some do.

As I mentioned, I am in favor of balancing the budget. However, a line in the sand must be drawn on the issue of Social Security. I am willing to go back to the people of the State of Nevada and say I voted against a balanced budget amendment because it did not exclude Social Security. I believe in the integrity of the Social Security System enough to take that chance. I believe if we do not do that, we are taking a chance on Social Security, and that is not a chance I want to take. I believe if we do not separate Social Security, it would put us on a road toward undermining one of the most fundamental agreements we have with the American people. Again, we can only avoid this by passing the amendment before this body.

Advocates of a rigid balanced budget amendment say, "Trust us. We will take care of Social Security in the implementing legislation." I have been through that. It will not happen. You cannot do that in the enabling legislation or in the implementing legislation. What if a challenge is made a few years down the road and the court looks into congressional intent? What will they see?

If my amendment is defeated, a court will probably make the determination that Congress intended Social Security to be kept on budget. Why? Because specific proposals to exempt Social Security were voted down. They would not even have to look at the implementing legislation. Congressional intent would be evidenced by these votes. That is why it is even more important that this amendment pass. A vote against it sends the courts a message that congressional intent was to allow Social Security to be included in the budget.

It would appear we all agree, I hope—I should say the vast majority agree. We know over 90 percent of the American public agree that Social Security should be exempt from the balanced budget amendment. There are a few, including Republican strategist William Kristol, who conceded the other day on Fox Morning News that there should be an inclusion of Social Security to balance the budget. But the record of support for protecting Social Security is overwhelmingly bipartisan in spite of Mr. Kristol and in spite of Mr. Tsongas.

Again, I think this may well be due to the recognition that Social Security represents an unbreakable contract with the American people. This also explains why the issue is considered to be the third rail of politics.

I do not wish to impugn the statements of those who publicly state they oppose touching Social Security but are unwilling to support an express exemption. They are Members of the freshman class in the other body, and I read the names of some of them, who are literally trampling over themselves to announce their opposition to including Social Security in the budget. The strong rhetoric emanating from the mouths of many should be matched, I believe, by unconditional support for legislation that expresses their concern.

The only thing we have had that will exempt Social Security from this balanced budget amendment is the amendment that is being offered by the Senator from Nevada with 14 others.

Those who are watching this debate should not be under any illusions. There is a significant difference between exempting Social Security in the balanced budget amendment and exempting it in the enabling legislation. The former means you get a new car, fully loaded with all the warranties. The latter is like buying a used car without even looking under the hood.

My point, then, is that this is not some arcane legal distinction. Exempting Social Security in the enabling legislation is not without merits. What it offers is protection of a political kind, and I can understand that. It is a fig leaf for those who wish to publicly defend Social Security, and I understand that. They know as far as perceptions are concerned, supporting this fig leaf allows them, perhaps, to have their cake and eat it, too.

My friend, the senior Senator from Utah, mentioned on this floor last week that he supported this because placing an exemption in the amendment itself would result in the creation of an enormous loophole. He suggested if my amendment were included, the balanced budget amendment would not be worth the paper it is printed on. Senator HATCH, the senior Senator from Utah, I know what a fine trial lawyer he was. I know, in trying cases, sometimes the best defense is a good offense. I recognize that is probably what my friend from Utah was doing.

I disagree with his statement. I disagree with this, and respectfully suggest it is just the opposite. The real loophole would be created unless this issue is addressed in the amendment. It is a loophole that will allow future Congresses to loot the Social Security trust funds. The only thing that will not be worth the paper it is written on is the Social Security cards that American workers carry around with them. The real Contract With America, the Social Security agreement we all participate in throughout our working lifetimes, will be worth very little. If you really want to close the loopholes, if you really want to ensure the continued viability and value of the Social Security System, then you will support the amendment expressly exempting Social Security.

To accept anything less is an attempt to pull the wool over the eyes of the American public.

I do not think many people will be hoodwinked by these types of maneuvers. I am confident they will recognize this enabling legislation for what it really is, and that is something to cover, a fig leaf. The stakes are very high here for people who are involved in these programs. To understand the importance of this debate, we have to move forward beyond all our talk of the Constitution and all the legal arguments associated with this debate. I am referring now to senior citizens and the groups that represent them.

I have here a number of letters from various groups, advocating on behalf of senior citizens. I have here a letter from the National Alliance of Senior Citizens. This letter states, among other things: "On behalf of the National Alliance of Senior Citizens, this letter is to express our strong support for the Reid balanced budget amendment."

This was written last year. I have here a letter from the American Association of Retired Persons. They, too, Madam President, state their support. The American Association of Retired Persons believes the amendment I am offering is a step in the right direction. They are opposed to the balanced budget amendment. But they recognize that a step in the right direction is my amendment.

We also have the Committee to Preserve Social Security, which strongly supports legislation that is now before this body.

The American Association of Retired People states that, "We applaud your commitment to protecting Social Security." This letter is addressed to me.

We also have a statement from the National Committee to Preserve Social Security, and they state without reservation or hesitation that this amendment should be passed.

These three letters that I have referred to from these interest groups represent millions of senior citizens. I respectfully suggest that we should listen to what they are saying in behalf of their constituents. These people who are receiving these benefits are playing by the rules. Their lifetime of labors went into making this Nation the envy of the world not only for today but for generations past. They have contributed to the Social Security System throughout their lives, and they do not deserve to have the rug, in effect, pulled out from under their feet.

For many of our Nation's seniors, Social Security is the sole source of their income. For some it is supplemental, but for many it is all they have. We have all had instances where seniors are depending on Social Security, and literally every penny is of importance to them. We have been through the debates where we have had seniors who are depending on Social Security who are eating cat food, who are really desperate for money. We must protect this Social Security trust fund. The contribution made by employers and employees is something that we must protect.

Madam President, I am not going to go into a lot of detail. I have already told my friend, the senior Senator from Utah, that I spread on the RECORD on a previous occasion my remarks about the seniors' coalition. If in fact the seniors' coalition gets involved in this debate, I will refer in more detail to the seniors' coalition, and I will reserve the right at some subsequent time to seek the floor to talk about them, if necessary, in some detail, a group that does not truly represent the seniors of this country.

Madam President, I voted in favor of the amendment that was just defeated because I would like to have known where these cuts are going to come from. I, in fact, cosponsored the amendment that was put forward by the Democratic leader.

I am concerned, however, for a balanced budget. As of today we have not seen the hard numbers of evidence of a working formula for getting us into balance. But I am willing to accept that. It was an up-or-down vote, and we lost. But I am not willing to accept a defeat of this amendment unless I can certainly spread on the RECORD of this body that I cannot, in good conscience, support a balanced budget amendment that includes Social Security moneys to balance the budget. Without a detailed formula, I have no idea what is going to happen to Social Security. So why not just exclude it?

Without a detailed formula, there is no guarantee that a restricted enforcement of the balanced budget amendment will not result in the wholesale looting of the Social Security trust funds. I believe there will be no choice but to lose the trust funds. In the absence of the details, I suggest emphatically that it is even more imperative that we expressly exempt Social Security from the balanced budget amendment. Without truth in budgeting, we are placing at risk the entire Social Security program. Promises are not sufficient. We are talking about amending the U.S. Constitution. Promises will always be preempted by the Constitution, and that is why my amendment ought to be supported.

I repeat that 1935 was the beginning of this Contract With America, the original contract with America. We have established in the Social Security legislation a trust fund that must be protected. We have a fiduciary relationship. We have an obligation of trust to make sure that those moneys are collected and that they are disbursed for the purposes for which they were collected. Social Security does not contribute one iota to the Federal deficit.

Mr. President, I ask unanimous consent to include Senator FEINGOLD as a sponsor of this amendment.

The PRESIDING OFFICER (Mr. CRAIG). Without objection, it is so ordered.

Mr. REID. Mr. President, there are these huge surpluses that are building up in the Social Security trust fund that I believe we must protect. Failure to save the surplus could undermine Social Security. We must be concerned how Social Security is treated in the budget. We know that just a few years ago we, by a vote of 98 to 2, said we are not going to put Social Security in any of the problems we have with deficit spending. We cannot reverse that now. That would be unfaithful on our behalf. We would be unfaithful. Social Security will be treated very stringently in this budget. That is why it is important that Social Security be excluded.

I see in this Chamber the junior Senator from South Carolina, a man with a wide range of experience, who was Governor of a State. He understands budgeting. If our side had seniority, he could be chairman of the Budget Committee as we speak; a man who I remember when running for President talked about budget deficit problems, many years ago. He is someone who has a lot of wisdom about numbers. But I would bet, although I am not certain, the great southern State of South Carolina would have the ability when they balance their budgets to have some things off budget. They can have some capital expenditures that are done through bonding at the State level.

Mr. President, this budget, if it passes, likely will not have a capital budget in it. It is, therefore, all the more important that we protect Social Security because this balanced budget amendment that is before this body is the strictest I have ever seen. It is a lot stricter than most everyone treats their own budget because in your own budget you have your house off budget. You make payments on that. You have your car off budget. You make payments on that, and the refrigerator and other large items. They now have programs where you can have your children's education off budget. You can make payments on that.

So this balanced budget amendment that is now pending before this body—and I accept it—is going to be very stringent and tough. But let us exclude Social Security because putting Social Security on budget contradicts congressional intent. Expressed exemption is the only guarantee. Exemption in the enabling legislation simply is insufficient.

We must do this to protect the integrity of the Social Security trust fund. We have heard a great deal about our responsibilities, Mr. President, to future generations. All of us are aware of our moral obligation to provide our children and our grandchildren with a healthy economy free of debts, especially which they did not incur.

This, in part, is why I support the idea of amending the Constitution to balance the budget. Another obligation we all share, however, is to ensure that we provide for the younger generation of yesterday, or, more accurately, today's senior citizens. We must ensure that they too be treated in an equitable manner. We honor their lifelong sacrifices of honoring the Social Security agreement we made, the original contract with America. We honor their sacrifices by ensuring that the trust funds they paid into all their working lives are not used for other purposes. We must honor their sacrifices by exempting the Social Security trust fund from the balanced budget amendment.

I plead with my colleagues to listen to the debate that will ensue in the next couple of days, and to have this vote take place not only with your heart, but with your head. The Social Security trust fund should be exempted from the balanced budget amendment.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I have listened to my colleague from Nevada give his statement, and tell us again and again and powerfully of his commitments to protect the Social Security trust fund.

As I have listened to him, I have come to the conclusion that there could be nothing more devastating to the stability and the future of the Social Security trust fund than the amendment offered by the Senator from Nevada. I will share that reasoning with you.

I know that is not his intent. I know he is acting out of the purest of motives. But I must say as strongly as I can in response to what he has said that the route he is suggesting that we go in an effort to support the Social Security trust fund is indeed the most dangerous way we could possibly go, if we in fact want to preserve that trust fund.

Before I give that detail, let me make this comment about the overall debate. I remember last Congress the then-majority leader, the Senator from Maine, Mr. Mitchell, made one of his typically well-reasoned and eloquent statements in defense of the purity of the Constitution. He reminded us all that we were taking an oath to uphold and defend the Constitution when we entered this body, and he said in a pleading voice: Do not do anything that would jeopardize the Constitution. You are writing into the Constitution—I am paraphrasing rather than a direct quote—you are writing into the Constitution matters that should be left to policy, that should be left to legislation, and you are changing the nature of the Constitution, which is our basic law, by proposing this amendment. He pled with us not to do that, on the basis of sound constitutional theory.

Frankly, Mr. President, I was somewhat moved by the majority leader in that case, and I found myself questioning whether or not we really did need to amend the Constitution to get this taken care of. I have talked about how I resolved those differences at another time on the floor, so I will not repeat them here. But I find it very interesting that when we had, as the principal reason why we should defeat this amendment last year, the plea to keep policy matters out of the Constitution, we now have before us, as the principal thing that we must do in order to make this amendment viable, an amendment that writes policy matters into the Constitution, that flies right in the face of the advice of the former Senator from Maine, Mr. Mitchell, when he was opposing this 2 years ago.

We are going to write statutory language into the Constitution if we adopt the Reid amendment and it gets ratified by the States. I think that is foolish. I think that changes the nature of the Constitution tremendously and, as I say, I think it is tremendously dangerous to Social Security. Why? Well, I have before me the language of the Reid amendment, and let us read it. It is very simple, very straightforward. It says:

> The receipts and outlays of the Federal old age and survivors insurance trust fund and the Federal disabilities insurance trust fund used to provide old age survivors and disability benefits shall not be counted as receipts or outlays for the purpose of this article.

My colleague, the senior Senator from Utah, has already talked about the inappropriateness of writing into the Constitution titles of existing legislation. Let us assume for just a moment, however, that that is an appropriate thing to do. I do not believe for a moment that it is, but let us assume that it is. Then we say, all right, "the funds used to provide old age survivors and disabilities benefits shall not be counted for the purposes of this article."

Mr. President, what is a survivor? The answer to that is very clear. A survivor is whatever Congress says it is. So if we want to, in the language of the senior Senator from Nevada, use the implementing language of statutes to change the system, Congress can change the definition of survivor and be within the Constitution and loot the trust funds. Suppose Congress says a survivor, for the purpose of this amendment, is anyone who is alive. You have survived and, by definition, therefore, we can give you any benefit we want out of this fund and we are not violating the Constitution, we are not violating the Reid amendment to the balanced budget amendment. Congress can define a survivor as anyone who is over 21. Congress can define as a survivor anyone who has a driver's license and who has lived for 6 months after having driven. Having driven with some teenagers, I can accept that definition. Maybe you are a survivor if you stay alive for 6 months after receiving your license.

Disability benefits. Mr. President, what is a disability? The answer is very clear. A disability is whatever Congress decides a disability would be. So Congress could decide, as indeed some groups in our society already have, that to be a woman is a disability in our society. Therefore, the money that is in this fund which under the Constitution is to be used for disability benefits can be spent on behalf of women and not men. There are others who will then say, oh, no, it is not a disability to be a woman, it is a disability to be overweight. So we are going to use the money to take care of everybody who is fat. No, it is a disability if you are too short. It is a disability if you are too tall. We have the American With Disabilities Act that outlines a whole bunch of disabilities, none of which are currently covered under Social Security or the disability insurance trust fund. If you are in a wheelchair, we are going to use the funds out of this fund to take care of you. We are going to use these funds to buy you a wheelchair or build you a ramp in your house, or whatever it is Congress decides to do.

Mr. President, obviously, the examples I am giving are outlandish; I realize that. I make the point to show that there is, in fact, no restriction whatsoever on future Congresses to make whatever outlandish definitions they may choose. The one we think we all know is old age. What is old age? Old age is whatever Congress says it is. Right now, Congress says old age is 65—unless you happen to be a Federal employee with a sufficient amount of service to your credit, and then you can retire at age 50. Suppose some future Congress says that old age, to keep it all straight, is 50. We can go into the Federal disability insurance trust fund and the old age and survivors insurance trust fund and we can take that money to do things for anybody who is 50.

The Senator from Nevada has said implementing legislation will not do it, we can pass a bill to change it. Yes, we can pass a bill to change the definitions that are under this proposed amendment, and we can, if we want to, gut the Social Security trust fund any time we want to. To hold out to somebody the promise that passage of the Reid amendment will guarantee that Social Security will never change and will never be in jeopardy is to hold out a promise that is false. To hold out that idea, which is well-intentioned, Mr. President, frankly, is misleading.

The Senator from Nevada tells us that this is narrowly drawn and says that it will preserve the Social Security trust fund because it is narrowly drawn. I have not gone to law school, so I suppose I cannot argue with him in legal terms. But I do understand the English language, and I do believe that which I have said demonstrates that it is not narrowly drawn; indeed to the contrary, it leaves the door wide open for future Congresses to do all of the things that the Senator from Nevada suggested that some future Congress might do. He said if we just leave it as it is, future Congresses could raid the fund. That is true. Future Congresses could also abolish it. That is true. Future Congresses could, under his amendment, say that there will be no taxes connected with and no outlays made from the Federal old age and survivors insurance trust fund and cut it off at that point and leave these lines a dead letter in the Constitution. Future Congresses could do all of these things. There is simply no assurance in the Reid amendment that future Congresses will behave as he believes they will.

Now he has said to us—and I accept it in the spirit in which it is offered—that those of us who say we do not want to attack Social Security in the present circumstance are acting in good faith and have good motives. And I am grateful to him for his willingness to accept our good faith. I accept his good faith.

But he raises the specter of future Congresses acting irresponsibly. And I suggest to you, Mr. President—indeed, I am convinced, Mr. President—that if future Congresses do decide to act irresponsibly, they can do so just as easily under his amendment as they can now. And, indeed, in the matters I have pointed out, they have a greater temptation to do so if the Reid amendment is adopted, because all they need to do, as I have said, is change the definition of a disability, change the definition of a survivor, change the definition of old age, and they have those funds then available to them to do with whatever they see fit.

Mr. President, I would like to return to the basic issue that I raised in the beginning before I got that specific about the Reid amendment. I wanted to be specific about the Reid amendment because of the time and care with which he took to address his argument and I wanted to respond as quickly as I could.

Let us go back to the comments that I recall being made by the then majority leader, George Mitchell, when he pleaded with us not to fool around with the Constitution on this matter, when he told us, in effect: We can do this by statute. If we had the political will, we could balance the budget without changing the Constitution. Why do we want to put a policy matter, a normal legislative issue, into constitutional language?

Well, Mr. President, I have been troubled by that argument, as I have said. I was moved by Senator Mitchell and his comments in that regard. I have such tremendous regard and respect for the Constitution that I think it should be amended only rarely and only in extremis.

I agree with the argument that we could do this without a constitutional amendment requiring it. Why am I, therefore, standing here as a convert to the balanced budget amendment and defending it?

I have resolved this issue in my mind from this analogy.

As you know, Mr. President, and as Members of this body probably get tired of hearing me say, I am a businessman and I come out of the business environment. That is where I get most of my analogies.

When a business is established, the first thing that is required, at least under the laws of the States where I have established businesses, is the filing with the State authorities of the bylaws. The bylaws lay out in clear pattern the constitutional authority, if you will, of the business. It says what management can do and cannot do. It lays out the structure. Just as the Constitution of the United States says there will be two Houses of Congress and how many Members there will be in each House, two from each State for the Senate, by population for the House, and so on, the bylaws of the business say how many members there will be on the board of directors, what the power of the board of directors shall be, and so on and so forth.

It is never contemplated in the bylaws that the organizers of the business will lay out a specific business plan. That is left up to management. The idea is always that annual projections will be made by management. Management will be held accountable. Management will have to file appropriate accounting reports. Management will have to file tax returns and do all of the other things. The bylaws of the business say how management is to operate, but never get into the specifics of the business plan.

What we are talking about here is an amendment to the bylaws. And, once again, we find a disconnect, we find an interesting paradox. We are being told, on the one hand, we cannot adopt this particular bylaw—this particular amendment to the Constitution—unless it is accompanied by a detailed business plan, stretching out for 7 years, giving to the last dollar everything that will be done.

If you were to say that to an organizer of business, "We are going to require you, before you amend the bylaws of the corporation, to give us a 7-year business plan showing how you will operate under this new amendment," management would resign. It would say, "Under no circumstances can we live with that kind of a requirement."

Now, what is this bylaw saying? Is it indeed a policy statement that belongs in the area of management that should be kept out of the Constitution?

We are hearing a lot of concern over the three-fifths requirement; over the requirement that Congress has to vote three-fifths if it is going to have a budget that is not in balance. And we are being told, indeed, I have been told in hearings before the Joint Economic Committee by Members who are opposed to this amendment, "No business in the world would ever adopt anything like the balanced budget amendment. No business would ever put its management in that kind of a straitjacket where a minority could block the business plan."

Well, I said in the Joint Economic Committee, and I repeat here, I think I know something about business, and I can identify plenty of businesses who do indeed put themselves into this kind of circumstance.

Again, the analogy, Mr. President: Suppose you had a business and it adopted as one of its bylaws that the business could not go into long-term debt without the approval of 60 percent of the members of the board of directors. That would not be an unusual kind of circumstance. The shareholders would feel they would be more protected if the members of the board had to come up with not just a majority to put the corporation into debt but a supermajority to put the corporation into debt. That would be an appropriate bylaw. If it were adopted, eyebrows would not go up.

Indeed, I have served in circumstances where the board of directors did not require a supermajority before going into an area of long-term debt, they required unanimity. That is unusual, but it exists. We are not asking for that here.

We are simply saying the board of directors—in this case, the two Houses of Congress—must have a sufficient level of support to gain 60 percent of both Houses before that board of directors will allow the corporation to increase its long-term debt, a very reasonable requirement in a set of corporate bylaws.

So, once again, the arguments come in and they do not connect with each other, the first one saying, "You shouldn't be putting anything like this in the Constitution at all."

"Why?"

"Because this is something that is taken care of through legislation."

And then there is the other argument, saying, "Oh, no; you should not adopt this amendment unless it has legislation in it." The two simply do not match.

Then the statement, "Oh, you cannot adopt this balanced budget amendment until you give us all of the details." And then, back on the first amendment, "But the Constitution is not the place where you talk about details."

What comes through to me, Mr. President, is that these arguments that are being raised against it have the flavor of an old story that I remember where two neighbors in a frontier circumstance were meeting. The first neighbor said to the second: "I have some work to do around my place. I have dropped my ax on a rock and it cut a chip out of the blade of the ax and it is worthless to me. I would like to borrow your ax to help me break up some wood."

The second neighbor thought for a minute and said, "I am sorry, I can't loan you my ax. I need it to shave with." The first fellow went away. After he was gone, the wife of the second fellow said, "What did you tell him that for? That is a silly excuse. You do not shave with your ax." And he said "Well, I didn't want to loan it to him because I was afraid I wouldn't get it back. But I didn't want to offend him so I did the next best thing."

I think many of the arguments that are being raised are, in fact, being raised because some of the people raising them really do not want to put the Government in a circumstance where it is forced to confront the reality of a balanced budget discipline. But rather than offend their voters by being upfront about it, they are looking around for excuses like, "I'm going to use the ax to shave with."

Now, I do not suggest that that is the case with my friend from Nevada. I think he genuinely and with good intentions supports this amendment and believes that it would, indeed, help save the Social Security system. I hope I have made it clear that it would not save the Social Security system from the things that he has suggested.

Now, Mr. President, we will address the basic question of whether or not balancing the budget makes sense. There are those who say this is one of those mirages that is always in the future and no matter how far you move toward it, you never get to it. The balanced budget will always be in the future; we will never, ever, want to do it.

I have spoken about this before, but I return to it because it is the fundamental question underlying this whole debate. As I have said, I am a reluctant convert to this debate. I am very reluctant to make changes in the Constitution. I look back on our history and say we have gone for over 200 years without a balanced budget amendment. We have done just fine. Why do we need it now?

Further, I accept the idea that it does come close to introducing legislative and policy issues into the Constitution rather than dealing strictly with fundamental law. I hear all those arguments. I am sympathetic to many of them. I come to the conclusion that we must have a statement in our basic bylaws—in our case, in our Constitution—that says we will resist the historic destabilizing influence in all democracies. The Senator from Arizona [Mr. KYL] quoted the historian who said that democracies ultimately disintegrate when the people discover that they can vote themselves largess. That is, when people discover that they can use their power in a democracy to use Government power to pay themselves more than is really there, they ultimately destroy their country.

We are not at that point yet. But we are beginning to get so far down that road that I am getting nervous. We need a statement in the Constitution that says we will not do that. Thomas Jefferson was afraid of that. That is why he raised the balanced budget amendment as an idea back in the beginning. They shied away from it. As I say, we have gone for 200 years without needing it. But we are getting there and we are getting there more and more as we go down this slippery slope to entitlements.

Mr. President, I suggest that we can have entitlements and we can have a balanced budget. The two can coexist. But it will take a redefinition of the word "entitlement" in order to get America there.

Let me share this observation that comes out of my personal experience. I hesitate to raise it, lest some misunderstand its source, but I raise it nonetheless because commentators outside of Utah who have had no religious backing to their point of view have raised it. I think, therefore, it is appropriate.

I want to talk briefly about the welfare program of the Church of Jesus Christ of Latter-day Saints, of which I am a member. We have an entitlement as members of the church under the welfare program. Any member of the church who falls in need is entitled to receive help from the church. As an official of the church, I have been involved in dispensing that help. I have seen how it works. I have given vouchers to members of my congregation who turned those vouchers into food and clothing. I have signed checks to members of my congregation who have turned those checks into rent payments or money for their children or other vital necessities in their lives.

If anything should ever happen to me, I am entitled to go before my church leaders and say, "I want some food. I want some clothing. I want some cash to take care of my shelter." I am entitled to that as a member of the church if I need it. That is the qualifying phrase to that—entitled. I am entitled to it if I need it.

Where does the entitlement come from? The same place that the Senator from Nevada spoke of—the people who pay into Social Security. I am entitled to that from my church because I have gone down to the cannery on my own, without being paid for it. I have canned peaches. I have cut up pears. I have peeled tomatoes. Frankly, I did not do it very expertly, to be sure, but I have done it, and my family has done it. I have gone to the farm out here in Maryland and I have worked on the farm and I have shoveled hay and I have shoveled what was politely called "used hay."

I have participated in the programs, and that has created for me a sense that I am entitled. I would walk in and face my Mormon bishop without a moment's hesitation and say to him, this is what has happened to me. I am in need. I am entitled to help. And I would walk out with my head held high. If I received that help I would not consider it charity. I have paid into that. I have contributed to it. I am entitled to receive it.

The difference between that attitude and what we have going on in the Government is this. What is happening to the entitlement programs in the Government is we are saying, "You are entitled to it whether you need it or not."

We are in the midst of a baseball strike. We see baseball players whose average salary is $1 million a year. One of those baseball players could receive disability insurance even if his contract continued to pay him $1 million a year, because under our program he is entitled to it. And because we provide it for him, we cannot provide it in the degree, perhaps, that we should to other people who need it far more.

We have reached the point where we have said, "You are going to be paid back out of your own funds in the name of entitlement programs, Government largess, if you just vote for us." This is the pattern that has been established years ago. No one Congress is solely responsible. No one Member of Congress is solely responsible. It has built up over the years. It has gone forward over the years.

Eventually we get into a circumstance where people are saying, "I want mine. I want it now." You look at them and say, "Wait a minute, you do not need it. Why do we not save that for someone who does?" And they say, "I want it because I am entitled to it whether I need it or not."

That, Mr. President, I think, is the key to getting the budget under control. Yes, we have to cut defense. Yes, we have to get rid of the waste, fraud, and abuse in the Government. Yes, we have to have leaner and tighter departments. Yes, we have to do a whole number of things to get the Government smaller.

But if we learned nothing from the entitlement commission—and Senator KERREY of Nebraska has courageously and honestly and forthrightly portrayed this in his statements that have been reported clearly in the press—we have learned that if we do not get the overall entitlement monster under control, we will succumb to the fate that was outlined for us by that historian. Democracy fails when people discover they can vote themselves largess, and when we get in that context and in that circumstance, we are going to be in trouble.

How do we deal with it? As I say, I have come to the conclusion, after thinking it through, that the way we deal with it is to put into our basic bylaws—in our case, our Constitution—a statement that says we will not go down that road. I am not sure that if I were acting alone I would have drafted the balanced budget amendment as it is currently worded. The democratic process requires that we all get together and we get a consensus or we at least get a majority as to how it is done.

I might argue with this phrase or that phrase, but I cannot, finally, argue with the notion that it does, indeed, belong in the Constitution.

Indeed, I have come to the conviction that it belongs nowhere else, because if the Constitution is going to lay down the fundamental concepts of our country and what we believe, it is going to lay down our fundamental rights as individuals in this country and the fundamental structure of our Government in this context; it is flawed and diminished if it does not have in that list of fundamental structural patterns and fundamental rights a statement that says we will not allow the Government to spend ourselves into bankruptcy.

I can think of nothing more fundamental. I can think, as I say, of no place more logical for that statement to be than in the Constitution.

So, Mr. President, I have wandered from responding to the senior Senator from Nevada and his amendment, which is before us, to an overall statement of the underlying resolution that is before us and given you my reasons as to why I am in support of that.

I conclude by returning to the issue that is directly before us and summarizing, once again, my conviction that adoption of the Reid amendment would create the temptation on the part of future Congresses to do the very thing that the senior Senator from Nevada is concerned about: That it would create the temptation for future Congresses to give us legislation that would raid the Social Security trust funds.

He said our successors are not bound. Absolutely our successors are not bound. Our successors might easily decide to redefine what is a survivor, redefine what is a disability benefit, redefine what is old age in such ways as to use those trust funds for virtually any purposes.

My colleague, the senior Senator from Utah, Senator HATCH, calls this a giant loophole. The senior Senator from Nevada refers to that as poppycock. I will let the two senior Senators argue that one back and forth on a semantic level, but I find myself persuaded that the language in the Reid amendment does, indeed, provide such wide latitude for future Congresses that I would come down in agreement with my senior colleague from Utah that it would, indeed, be a huge loophole through which future Congresses could drive gigantic appropriations if they were so inclined.

So, Mr. President, I leave the issue with these observations and trust that they will have contributed something to this particular debate. I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN] is recognized.

Mr. MOYNIHAN. Mr. President, I would like to speak briefly to the amendment that has been offered by my good friend and colleague, the Senator from Nevada, Senator REID, which states that receipts, including attributable interest and outlays of the Federal old age and survivors insurance trust fund and the Federal disability insurance fund, shall not be counted as receipts or outlays for the purposes of this article—that being the proposed amendment to the Constitution.

In what I hope will not be the outcome of this debate, which is to say the Senate approving such an amendment to the Constitution, at the very least, the Reid provision provides hope for the Social Security system. It is a slim prospect, given the extraordinary fiscal turmoil and tumult, that will follow the adoption of this proposed amendment to the Constitution. But it does declare the interest of the Congress and then of the States in the preservation of Social Security, an issue which becomes—in my time in the Senate, I have seen one fully-agreed-upon, solidly financed, well-administered program, the most successful social program in the 20th century go from being a given to being a problem and to being problematic. We refer to it as an entitlement.

I make the point that the very able majority leader of the House, Mr. ARMEY, corrects us all when he says it is a "fiduciary responsibility" of the Federal Government, which is to say these funds are not ours to dispose of as we will. We hold them in trust. They are called trust funds.

The revenue stream will continue in surplus—cash surplus—until the year 2012, as we now expect. We can add a year, plus or minus; there is that possibility. Social Security began as a pay-as-you-go system in the depth of the 1930 depression. That you take more out of the economy than you put in seemed to be unwise and it would have been, and we had difficult consequences even so.

The 1937 recession was probably, in part, triggered by the 1935 payroll tax. But in any event, near a half-century goes by and the Social Security amendments of 1937. Seeing the peculiar demography of the baby boomers and their eventual retirement, that great increase in births that followed the long, slow level of the 1930's and the Second World War, we put in place a partially funded system. I was a member of the Finance Committee. I was a member of the committee on conference.

We put in place, Mr. President, a cash surplus which, over the period, would extend—to give you a sense of the proportion, it would buy the New York Stock Exchange. It still flows in cash surplus and will for the better part of 15 to 20 years, in prospect. So great praise and thanks to the Senator from Nevada for his effort in this regard—reserving always the point that I would like to make at some time that the amendment itself is a huge mistake that I hope we will not make.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me compliment our distinguished colleague from Utah. He certainly attracted my attention when he spoke of the Mormon Church. I had the distinct pleasure, with a group of Senators, of visiting with his revered father, former Senator Wallace Bennett, to the Mormon Temple here in Washington, DC.

Various members of my staff have been members of the Mormon Church. Their dedication and hard work have been a tremendous inspiration to me. A female staffer of mine was making good money, but left to fulfill her 2-year commitment to the church by going overseas. She paid for her own transportation and, at a very young age, solicited membership for the church for 2 years. I would have hesitated allowing my daughter to do that, but she did and did it with courage and commitment.

So I have the greatest respect for the comments of the Senator from Utah, but I do find them in some measure strange.

For example, when he claims that the Reid amendment creates a loophole by allowing Congress to redefine the word "survivor." If that is true, can't we change what is an "outlay," what is a "receipt," what is an "estimate," what is "appropriate legislation"? These phrases are already in House Joint Resolution 1, the joint resolution proposing a balanced budget amendment to the Constitution of the United States. All of the terms in the underlying joint resolution can be changed. There is no question about that.

The balanced budget amendment to the Constitution is really proposed as a sort of gun to the head of the Congress to bring about discipline. As experience has told me and much to my dismay, Mr. President, it brings about creativity.

This morning at the Budget Committee I had the pleasure of questioning the distinguished Director of the Office of Management and Budget, Dr. Alice Rivlin. I noted that Dr. Rivlin, as the Director of our Congressional Budget Office, had been the one individual who more than any other gave integrity and credibility to the budget process. She did an outstanding job then, and I think she is doing an outstanding job in the Clinton administration. But I noted that even with her watchful eye, there is a penchant in budget process for creativity.

For example, in the President's budget, the majority of proposed tax cuts are paid for by cuts in discretionary spending. Under existing budget law, tax cuts can only be offset either by tax increases or by entitlement cuts. Thus, the President's budget would cause OMB to initiate a sequester.

Additionally, the President's budget counts the sale of assets as receipts. Under procedures that the Congress uses in scoring, using assets sales to comply with pay-as-you-go laws subjects a budget resolution to another point of order.

Third, the President's budget artificially adjusts the discretionary caps upward for inflation and then claims savings by lowering the caps to their existing levels. In contrast, the Congressional Budget Office in the past has not interpreted the law in this way and may not recognize these savings.

Lastly, the reestimation of Medicare and Medicaid outlays in the President's budget seems overly optimistic. In fact, their estimate by 2000 is $54 billion less than the level projected by CBO. In raising these issues, I am not trying to criticize the President's budget, I am merely trying to talk about the slippery game of budget estimates from a standpoint of experience.

When the distinguished Senator from Utah cites Jefferson, it brings to mind another quote by James Madison in The Federalist Papers. He said:

> But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place oblige it to control itself.

Thus, 207 years ago, Madison saw the very evil that brings us to the floor of the Senate today. We are out of control. I congratulate my distinguished colleague, the Senator from Nevada, Senator HARRY REID. He brings up an important and absolutely necessary amendment to this joint resolution.

As Governor of South Carolina, I had to struggle to balance the budget. I knew in the early days that industry was not going to come from New York and invest in Podunk unless our fiscal house was in order. We had to pay the bills. I put in a device which was the forerunner of Gramm-Rudman-Hollings whereby expenditures had to be within receipts with quarterly reports to the Governor. If we failed to meet these targets, we would cut straight across the board. With this discipline, I got the first AAA credit rating of any State, from Texas right on up to Maryland.

Since then I have continued to work in the vineyards. In 1984, I ran for President on the "FRITZ freeze," as many called it. My colleague, Senator Alan Cranston, ran on the nuclear freeze. We had to tell him that down home in South Carolina, they thought that the nuclear freeze was a dessert.

The people of America know what is needed in our land. If you talk to your pollster, they scream:

"Oh, don't bring up deficits. The people don't want to hear about it. It is confusing. There's no story. They're not interested."

Thus, we have tax increases that no one wants to speak about—a tax increase of $1 billion a day on automatic pilot. The debt has gone up to $4.804 trillion. Before long, it will be $5 trillion. The gross interest cost for 1995 will be $339 billion and by next year will surpass $1 billion for every day.

There are two things you cannot avoid. One is death and the other is taxes. As far as this Congress and this Senate and this Government goes, you cannot avoid those interest costs. They are the first thing off the table that we spend.

Incidentally, I might well mention that the gross interest cost in 1981, when President Ronald Reagan was elected, pledging to balance the budget and put us in the black in 1 year, was $95 billion. As I said earlier, it is now in excess of $339 billion. If you subtract it, you have $244 billion added to the interest costs. The deficit this year has been scheduled for $244 billion. Thus, without this tremendous overhang of debt, the Federal budget would be in balance.

The Republicans talk about promises. If the distinguished former President had carried through on his promise, we would not be in this pickle. He came to town and said: "Whoops, I never realized it was as bad as this. I cannot do it in a year. It is going to take 2 or 3 years." that is how we moved from 1-year to 3-year budgeting. Gramm-Rudman-Hollings pushed us out to 5-year budgets. And now, you ought to talk about creativity. Now, in the balanced budget amendment we are talking about 7 years. The next Congress will talk about 10 years.

Mister President, HARRY REID, the Senator from Nevada, has a very, very important provision here—one that sheds some light on the enormous challenges we face in balancing the budget. I started down this road of a balanced budget amendment with the distinguished Senators from Texas and New Hampshire in Gramm-Rudman-Hollings. That was a balanced budget amendment. We got a majority of the Democrats on 14 up-and-down votes to go along with the Republican leadership at that time in 1985. We reduced the deficit in the first full year of Gramm-Rudman-Hollings from $221 billion down to $150 billion. We were supposed to reduce the deficit further by increments of $36 billion. But then, we began to stray from the targets until in 1990 we did away with fixed targets.

Likewise, a balanced budget amendment to the Constitution does not give discipline; it gives creativity. That is the hard experience of this gentleman.

Now, I wish to yield. I wish to hasten along because really the authority on the subject of Social Security, none other than our senior Senator for New York, Senator MOYNIHAN knows the subject intimately. He has a tremendous sense of history, which I admire.

He and I realized that many were tempted by the tremendous surpluses in the Social Security trust fund. So the distinguished Senator from New York authored, even though I offered it as an amendment, in the Budget Committee and in later in the Chamber, what we called a Social Security Preservation Act—take it off budget. In 1990, we had a vote in the Budget Committee, and the vote was 20 to 1, the 1 being my leader under Gramm-Rudman-Hollings, Senator GRAMM from Texas.

I can say advisedly I was not surprised, because I went to Senator GRAMM in the initial stages of Gramm-Rudman-Hollings when his initial proposal was to cut all entitlements including Social Security.

I said, wait a minute. No. 1, you are cutting the program that we just voted the taxes to pay for. It is paid for and is in the black. No. 2, it breaches the trust that we created in 1935 and that we have represented to the senior citizens of America. I am not going to breach that trust, and furthermore, you will not get a single Democratic vote to sequester Social Security.

We got him to change his tune on that point. But when he voted against my amendment in the Budget Committee, and when he introduced his own legislation to balance the budget, he went back to his former position. On February 16, 1993, he introduced legislation which, in one pertinent section, read:

> Exclusion From Budget, Section 13301 of the Budget Enforcement Act of 1990, as amended, by adding at the end thereof the following: "This subsection shall not apply to fiscal years beginning with fiscal year 2001."

He had taken the section that I enacted into statutory law by a vote of 98 to 2 and attempted to change it in order to use the trust funds to lessen the chore of balancing the budget.

We act like we are not the Government. It is like the San Francisco 49ers coming into Miami, running up into the grandstand, and hollering, "We want a touchdown, we want a touchdown."

It is incumbent upon them to get down on the field and score the touchdown. It is incumbent on Members of Congress to stop the charades.

So, when the distinguished majority whip, the distinguished Senator from Mississippi, just 2 days ago says, and I quote, "Nobody—Republican, Democrat, conservative, liberal, moderate—is even thinking about using Social Security to balance the budget."—I say, respectfully: False.

The experience of this Senator is Members of Congress will try to find a way to use these funds. If you do not include this amendment in the balanced budget amendment, you have effectively voided the Hollings statute. That is the statute on books this minute. But I have found out the hard way now, after 5 years, that it is sometimes easier to get a statute on the books than to get people to follow it. It is like old John Mitchell, the Attorney General, used to say, "Watch what we do, not what we say." That is the situation we are in.

So I would say to my colleagues that I strongly support the Reid amendment. It is very simple. It is very clear. We have a contract, as of 1935. It is an original contract predating Speaker GINGRICH's Contract With America. We have one of Roosevelt's contracts for America, back since 1935, that we must honor.

Before I close, Mr. President, I ask unanimous consent to have printed in the RECORD this document, including the different cuts, spending cuts and receipts and all for the 7-year budget.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATOR HOLLINGS ON TRUTH IN BUDGETING

Reality No. 1: $1.2 trillion in spending cuts necessary.

Reality No. 2: Not enough savings in entitlements. Yes, welfare reform but job program will cost; savings questionable. Yes, health reform can and should save some, but slowing 10 percent growth to 5 percent—not enough savings. No, none on social security; off-budget again.

Reality No. 3: Hold the line budget on Defense—no savings.

Reality No. 4: Savings must come from freezes, cuts in domestic discretionary—not enough to stop hemorrhaging interest costs.

Reality No. 5: Taxes necessary to stop hemorrhage in interest costs.

	1996	1997	1998	1999	2000	2001	2002
Deficit CBO Jan. 1995 (using trust funds)	207	224	225	253	284	297	322
Freeze discretionary outlays after 1998	0	0	0	−19	−38	−58	−78
Spending cuts	−37	−74	−111	−128	−146	−163	−180
Interest savings	−1	−5	−11	−20	−32	−46	−64
Total savings ($1.2 trillion)	−38	−79	−122	−167	−216	−267	−322
Remaining deficit using trust funds	169	145	103	86	68	30	0
Remaining deficit excluding trust funds	287	264	222	202	185	149	121
5 percent VAT	96	155	172	184	190	196	200
Net deficit excluding trust funds	187	97	27	(17)	(54)	(111)	(159)
Gross debt	5,142	5,257	5,300	5,305	5,272	5,200	5,091
Average interest rate on the debt (percent)	7.0	7.1	6.9	6.8	6.7	6.7	6.7
Interest cost on the debt	367	370	368	368	366	360	354

Note.—Does not include billions necessary for middle class tax cut.

Here is a list of the kinds of nondefense discretionary spending cuts that would be necessary now as a first step to get $37 billion of savings and put the country on the road to a balanced budget:

Nondefense discretionary spending cuts	1996	1997
Cut space station	2.1	2.1
Eliminate CDBG	2.0	2.0
Eliminate low-income home energy assistance	1.4	1.5
Eliminate arts funding	1.0	1.0
Eliminate funding for campus based aid	1.4	1.4
Eliminate funding for impact aid	1.0	1.0
Reduce law enforcement funding to control drugs	1.5	1.8
Eliminate Federal wastewater grants	0.8	1.6
Eliminate SBA loans	0.21	0.282
Reduce Federal aid for mass transit	0.5	1.0
Eliminate EDA	0.02	0.1
Reduce Federal rent subsidies	0.1	0.2
Reduce overhead for university research	0.2	0.3
Repeal Davis-Bacon	0.2	0.5
Reduce State Dept. funding and end misc. activities	0.1	0.2
End P.L. 480 title I and III sales	0.4	0.6
Eliminate overseas broadcasting	0.458	0.570
Eliminate the Bureau of Mines	0.1	0.2
Eliminate expansion of rural housing assistance	0.1	0.2
Eliminate USTTA	0.012	0.16
Eliminate ATP	0.1	0.2
Eliminate airport grant in aids	0.3	1.0
Eliminate Federal highway demonstration projects	0.1	0.3
Eliminate Amtrak subsidies	0.4	0.4
Eliminate RDA loan guarantees	0.0	0.1
Eliminate Appalachian Regional Commission	0.0	0.1
Eliminate untargeted funds for math and science	0.1	0.2
Cut Federal salaries by 4 percent	4.0	4.0
Charge Federal employees commercial rates for parking	0.1	0.1
Reduce agricultural research extension activities	0.2	0.2
Cancel advanced solid rocket motor	0.3	0.4
Eliminate legal services	0.4	0.4
Reduce Federal travel by 30 percent	0.4	0.4
Reduce energy funding for Energy Technology Develop	0.2	0.5

Nondefense discretionary spending cuts	1996	1997
Reduce Superfund cleanup costs	0.2	0.4
Reduce REA subsidies	0.1	0.1
Eliminate postal subsidies for nonprofits	0.1	0.1
Reduce NIH funding	0.5	1.1
Eliminate Federal Crop Insurance Program	0.3	0.3
Reduce Justice State-local assistance grants	0.1	0.2
Reduce Export-Import direct loans	0.1	0.2
Eliminate library programs	0.1	0.1
Modify Service Contract Act	0.2	0.2
Eliminate HUD special purpose grants	0.2	0.3
Reduce housing programs	0.4	1.0
Eliminate Community Investment Program	0.1	0.4
Reduce Strategic Petroleum Program	0.1	0.1
Eliminate Senior Community Service Program	0.1	0.4
Reduce USDA spending for export marketing	0.02	0.02
Reduce maternal and child health grants	0.2	0.4
Close veterans hospitals	0.1	0.2
Reduce number of political employees	0.1	0.1
Reduce management costs for VA health care	0.2	0.4
Reduce PMA subsidy	0.0	1.2
Reduce below cost timber sales	0.0	0.1
Reduce the legislative branch 15 percent	0.3	0.3
Eliminate Small Business Development Centers	0.056	0.074
Eliminate minority assistance, score, Small Business Institute and other technical assistance programs, women's business assistance, international trade assistance, empowerment zones	0.033	0.046
Eliminate new State Department construction projects	0.010	0.023
Eliminate Int'l Boundaries and Water Commission	0.013	0.02
Eliminate Asia Foundation	0.013	0.015
Eliminate International Fisheries Commission	0.015	0.015
Eliminate Arms Control Disarmament Agency	0.041	0.054
Eliminate NED	0.014	0.034
Eliminate Fulbright and other international exchanges	0.119	0.207
Eliminate North-South Center	0.002	0.004
Eliminate U.S. contribution to WHO, OAS, and other international organizations including the U.N.	0.873	0.873
Eliminate participation in U.N. peacekeeping	0.533	0.533
Eliminate Byrne grant	0.112	0.306
Eliminate Community Policing Program	0.286	0.780
Moratorium on new Federal prison construction	0.028	0.140
Reduce Coast Guard 10 percent	0.208	0.260

Nondefense discretionary spending cuts	1996	1997
Eliminate Manufacturing Extension Program	0.03	0.06
Eliminate Coastal Zone Management	0.03	0.06
Eliminate National Marine Sanctuaries	0.007	0.012
Eliminate climate and global change research	0.047	0.078
Eliminate national sea grant	0.032	0.054
Eliminate state weather modification grant	0.002	0.003
Cut Weather Service operations 10 percent	0.031	0.051
Eliminate regional climate centers	0.002	0.003
Eliminate Minority Business Development Agency	0.022	0.044
Eliminate public telecommunications facilities, program grant	0.003	0.016
Eliminate children's educational television	0.0	0.002
Eliminate National Information Infrastructure grant	0.001	0.032
Cut Pell grants 20 percent	0.250	1.24
Eliminate education research	0.042	0.283
Cut Head Start 50 percent	0.840	1.8
Eliminate meals and services for the elderly	0.335	0.473
Eliminate title II social service block grant	2.7	2.8
Eliminate community services block grant	0.317	0.470
Eliminate rehabilitation services	1.85	2.30
Eliminate vocational education	0.176	1.2
Reduce chapter 1, 20 percent	0.173	1.16
Reduce special education, 20 percent	0.072	0.480
Eliminate bilingual education	0.029	0.196
Eliminate JTPA	0.250	4.5
Eliminate child welfare services	0.240	0.289
Eliminate CDC Breast Cancer Program	0.048	0.089
Eliminate CDC AIDS Control Program	0.283	0.525
Eliminate Ryan White AIDS Program	0.228	0.468
Eliminate maternal and child health	0.246	0.506
Eliminate Family Planning Program	0.069	0.143
Eliminate CDC Immunization Program	0.168	0.345
Eliminate Tuberculosis Program	0.042	0.087
Eliminate Agricultural Research Service	0.546	0.656
Reduce WIC, 50 percent	1.579	1.735
Eliminate TEFAP—Administrative	0.024	0.040
Commodities	0.025	0.025
Reduce Cooperative State Research Service 20 percent	0.044	0.070
Reduce Animal Plant Health Inspection Service 10 percent	0.036	0.044
Reduce Food Safety Inspection Service 10 percent	0.047	0.052

Nondefense discretionary spending cuts	1996	1997
Total	36.941	58.402

Note.—Figures are in billions of dollars.

Mr. HOLLINGS. Mr. President, I ask the Senator from Utah to come forward, or any Senator to come forward with a 1-year budget that puts us on a glide path to zero. Earlier today, Republicans were berating Dr. Rivlin, the Director of the Office of Management and Budget for her lack of budget cuts in the President's 1996 budget. But back on December 18, when they were feeling real bullish, Mr. KASICH, the distinguished chairman of the House Budget Committee now, said: "In January we will really spell this out. In January I am going to bring to the floor a revised budget resolution." Further down he says: "We will provide spending savings. You already have outlined them. In the menu list we already have two or three budgets."

They did not care about President Clinton or what the Director of the Office of Management and Budget was even thinking about. And then he continues:

> When that is done * * * at the same time we are going to move on the glidepath to zero * * * We will take the savings by cutting spending first and we are going to put them in the bank so nobody across the country, nobody on Main Street, no one on Wall Street is going to think we are going to do is we're going to give out the goodies without cutting government first.

So I look in the bank, in the lock box. And there is one thing I find, Mr. President. I have the lock box that the chairman of the Budget Committee referred to. But the only thing it contains so far are a pile of Social Security IOU's.

Mr. President, let us do like Madison admonished, let us begin to control ourselves. We can begin.

As President Reagan said: If not us, who? If not now, when?

I yield the floor.

Several Senators addressed the Chair.

Mr. D'AMATO. Mr. President, I know my distinguished colleague, the senior Senator from New York, is waiting to speak. I think he is going to yield me up to 10 minutes?

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I know my distinguished friend, the chairman of the Committee on Banking and Urban Affairs, has an important statement he wishes to make. I know it is not directly on our subject, but I know it is important. I want to hear him. I am sure the Senate will as well.

I am happy to yield my place to him at this point.

The PRESIDING OFFICER. The Senator from New York has the floor.

MEXICO

Mr. D'AMATO. Mr. President, last week, the President of the United States went around the will of the people to bail out a mismanaged Mexican Government and global currency speculators. That was wrong.

I am outraged that American taxpayers are being forced to do something they did not want to do. The President went around the people knowing that Congress would not approve a $40 billion bailout of Mexico.

Never before has a president used $20 billion from our exchange stabilization fund to bail out a foreign country. The ESF is not the President's personal piggy bank. This fund is supposed to be used to stabilize the dollar, not the peso. The President was wrong, and I am outraged.

The President has used scare tactics to justify going around Congress to bail out Mexico. The President claimed that world stock markets would crash and floods of illegal immigrants would cross our borders. The President was wrong, and I am outraged.

As former FDIC Chairman Bill Seidman testified last week, Mexico's credit crunch can be solved by letting the market work. Mexico and its creditors should be forced to renegotiate its debt. That's the capitalist way. Investors in Mexico might get 50 or 60 or even 70 cents on the dollar. That is fair. Investors in Mexico took a gamble. If they wanted a United States-guaranteed investment, they should have put their money into a 6-percent C.D., not a 20-percent Mexican pesobono.

The President has given in to economic blackmail. Will American taxpayers have to send Mexico $40 billion next time to protect our borders from illegal immigration? I am outraged that the President has used our exchange stabilization fund to pay blackmail to Mexico.

The President has set a terrible precedent. What happens next time the peso collapses? What happens when some other country's currency collapses? The American taxpayer cannot afford to be the world's banker. We cannot afford to bail out global currency speculators every time a foreign currency collapses.

The President should not be sending $20 billion to Mexico when Congress must cut United States domestic programs to put our own economic house in order. The Governor of my home State has to cut $5 billion from the state budget. We should send $20 billion to New York or Florida or California or other States that are in need before we send it to Mexico.

Make no mistake about it. Two years from now. Five years from now. I predict that this bailout will go down as one of the President's biggest blunders.

I predict that this bailout will not work. It is a quick fix and will come back to haunt American taxpayers. They will wind up paying.

Let us look at the facts.

Mexican political bosses got into this mess to win the August 1994 election. They printed pesos at an outrageous rate. They created the illusion that the Mexican economy was still thriving, and then they devalued the peso. That was wrong. It hurt poor and middle-class Mexicans. We should not bail out mismanaged foreign governments.

The President's plan will not force Mexico's ruling party to make needed economic or political reforms. Once our money is shipped to Mexico, we will have no leverage.

Let us look at some of the promises Mexico has made for the $20 billion of American taxpayers' money—promises Mexico cannot keep.

Mexico has promised to keep inflation low. But they cannot do that. The peso's devaluation has set off 20 to 30 percent inflation, and the Mexican Government will have to keep printing pesos to prevent more unrest in Chiapas.

Mexico has promised to cut spending and to maintain a budget surplus. But that is impossible. Mexico must pay sky-high interest on more than $160 billion in debt and faces a recession.

Mr. President, let me ask the question. If we cannot balance our budget here, here we are promising $20 billion to Mexico, not a loan guarantee. We are going to give it to them. We say as one of the conditions we expect you to have a budget surplus. I ask, is that realistic? We cannot balance a budget here. We are not saying Mexico is going to have a budget surplus. That is ridiculous. It is ludicrous. And no one could promise you that would take place.

Mexico has promised to raise $12 to $14 billion through privatizations. But who is going to invest in Mexico now? How are they going to bring about privatization?

I am outraged that the President's bailout of Mexico will leave American taxpayers holding the bag. Now, when we have to make painful cuts in the Federal budget, is not the time to be risking American taxpayers' money.

The administration assumes that Mexico will pay off its debt. But Mexico could not pay back United States banks in 1982.

The President claims that assured sources of repayment exist. But if assured sources of repayment really existed, banks and private investors would provide money to support Mexico's debt.

The President has not obtained real collateral. Mexico has already pledged its oil reserves as collateral for its existing debt.

The President relies solely on a security mechanism involving the New York Fed. But this security mechanism is a mirage. It goes into effect only after a default. Mexico can sell oil only to customers who do not pay through the New York Fed.

When Congress provided $1.5 billion in loan guarantees to New York City and Chrysler, Congress demanded much more collateral. I am shocked and outraged that the President has not demanded more collateral from Mexico for $20 billion.

What will the President do if Mexico refuses to pay us back? Will the President send in the 82d Airborne to seize the oilfields? Of course not. It is preposterous. Will he try to raise U.S. taxes to replenish our exchange stabilization fund?

The President's bailout will not win us friends south of the border. Already the Mexican people resent the fact that we are making those moneys available on conditions that they speak about. Most Mexicans oppose the $40 billion bailout.

The administration says that it was taken totally by surprise when Mexico set off this crisis by devaluating the peso on December 20. But the signs of serious trouble in Mexico were present months ago. Congress must determine what the administration knew about Mexico and when.

The New York Times, January 24, 1995, reports that the CIA advised the administration in July 1994—6 months before the peso's devaluation in December—that Mexico's ruling party was borrowing and spending at a furious pace.

We have an obligation to investigate whether the administration's inaction or silence caused this crisis. We must find out if the administration advised Mexico to devaluate the peso. Devaluation was a terrible mistake. We all admit that now. But who was there and when? What advice did this administration give, if any, to the Mexican Government?

On January 26, Senators DOLE, LOTT, MACK, and ABRAHAM asked for documents concerning the administration's advice to Mexico on currency devaluation. Twelve days later, we still have not received these critical documents.

Why have we not received these documents? When will we get them? What is the administration hiding? The American people have a right to know.

The Banking Committee will hold oversight hearings on the administration's use of the ESF to bail out Mexico.

Senator MACK and I will introduce a sense-of-the-Senate resolution that the Treasury should, in conjunction with the minority reports required by the ESF statute, provide the Banking Committee with monthly information on: First, economic conditions in Mexico, and second, how Mexico is spending the $20 billion.

American taxpayers have the right to know whether their money is being wasted in Mexico. They have the right to know if the Mexican Central Bank has slowed the peso printing press. They have a right to know if Mexico has stopped spending and balanced its budget.

We must hold the administration's feet to the fire. We must blow the whistle if the administration does not make Mexico live up to its commitments—to stop the peso press, to balance its budget and to privatize. We must fight for middle-class American taxpayers, not for mismanaged foreign governments and global currency speculators.

Thank you, Mr. President. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Massachusetts.

Mr. KENNEDY. I thank the Chair.

(The remarks of Mr. KENNEDY pertaining to the introduction of S. 376 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. HATCH. Mr. President, opponents of the balanced budget amendment have raised the specter that the balanced budget amendment may somehow endanger Social Security. This simply is wrong.

First, the balanced budget amendment does not write any particular mix of spending cuts or tax increases into the Constitution. It merely forces Congress to come up with a plan to balance the budget by a date certain and to continue to balance the budget yearly in the future.

Why do we need to do that? Because if you look at the Balanced Budget Amendment Debt Tracker—this chart right here—just look at what has happened during these 10 days we have been on the amendment. We have gone from $4.8 trillion of national debt with an increase the first day of $829 million and each day thereafter right up to where we are now up to $8,294,400,000 additional debt from when we started on day 10. While we are debating this amendment, the debt is going up almost $1 billion a day.

(Ms. SNOWE assumed the chair).

Mr. HATCH. Madam President, I have to tell you if we keep doing that, Social Security is going to be very, very badly harmed.

I have always maintained that I would personally oppose Social Security benefit cuts. I believe we have made an obligation to our retirees that we must keep.

What the balanced budget amendment does is to force Congress to choose between spending options constrained by the amount of available funds. This means Congress will have to set priorities in a way it does not now do. I have no doubt that Social Security is well protected in today's political world and would compete well against all other spending.

But the balanced budget amendment does not require any particular cuts. Suggestions that it would result in Social Security cuts are simply scare tactics by those who wish to defeat the balanced budget amendment by any means.

Second, those worried about the security of the Social Security trust fund should support the balanced budget amendment. Robert J. Myers, who has worked in many capacities for the Social Security Administration for nearly four decades, including Chief Actuary and Deputy Commissioner said, "the most serious threat to Social Security is the government's fiscal irresponsibility." Mr. Myers suggests our current profligacy will result either in the Government raiding the trust fund or printing money, either of which will reduce the real value of the trust funds.

The real threat to Social Security, our mounting national debt, is the problem we have to face. Although the trust fund is running a surplus now, it will not for long. Under current projections, the trust fund will grow until the year 2019, at which point it will begin to deplete its savings. At that point the fund begins living on the principal and interest built on past principal. In the year 2029, the trust fund will be completely insolvent, having used up all capital and interest earned. At that point Social Security will worsen the national deficit picture substantially and seniors will either have to receive benefits from increased payroll taxes or from general Treasury funds, or simply go without. If Congress continues to borrow at current rates, it is not clear how able it would be able to borrow or tax enough more to cover Social Security deficits.

Furthermore, seniors or others living on fixed incomes would be hardest hit if the predictions of many noted economists result from our huge national debt. If the country should ever decide to monetize the debt, that is, simply print more money to cover its interest payments, the resulting inflation would hit hardest those living on fixed incomes. The Federal Reserve Board would probably avoid that, but if we should ever go down that path, seniors would bear a large part of that burden. If inflation returns in any other form because of our debt burden, seniors would again be hit very hard.

Third, the money in Social Security trust funds is invested in Government bonds. What this means is the trust fund is simply full of IOU's from Congress's increasing debt. In other words, the Government is using Social Security taxes to fund our growing deficits, and leaving the IOU's in the trust fund. The trust fund reserves are in large degree only a claim on the general Treasury funds, with no capital backing up that claim. If the country ever gets to the point of defaulting on its debts, the Social Security trust fund would be one of the hardest hit.

The country will not be able to pay off that stack of paper that builds up every day and every month as we borrow from the trust funds to pay for the daily running of Government programs. For this reason alone Social Security recipients, both current and future, and those who are concerned about them, should strongly support this balanced budget amendment—the only opportunity we have, and frankly the only real opportunity in history to really do something about these budgetary deficits that are running us into bankruptcy.

We must get our entire fiscal house in order and keep it that way for seniors, for their children, and for their grandchildren.

Mr. President, I would now like to address the exemption proposed by the Senator from Nevada. As politically attractive as this exemption amendment may be—I am talking about the Reid amendment—it will harm, rather than help, senior citizens and thwart the balanced budget amendment. So I urge its defeat for five reasons.

First, the Constitution is not the place to set budget priorities. A constitutional amendment should be timeless and reflect a broad consensus, not make narrow policy decisions. We should not place technical language or insert statutory programs into the Constitution and undercut the simplicity and universality of the amendment.

Second, exempting Social Security would open up a loophole in the amendment, which could avoid the purpose of the amendment or endanger Social Security. What do I mean by that? Congress could pass legislation to fund any number of programs off-budget through the Social Security trust fund. The budget could be balanced simply by shifting enough programs into the Social Security trust fund. Moreover, if this amendment succeeded in exempting Social Security from the balanced budget rule, as the trust funds begin running deficits, as they are projected to do, there would be no requirement that the trust fund remain solvent and no incentive to make it solvent. Under a balanced budget requirement, however, the trust funds would be protected because the Government would be required to have enough revenues to meet its obligations, including those who rely on the trust funds.

Third, exempting Social Security would tempt Congress and the President to take irresponsible actions that threaten the integrity of Social Security. If Social Security is off-budget, Congress would be tempted to slash Social Security taxes to trade off other taxes hikes or shift the cost of other programs into the Social Security Program to avoid a three-fifths vote to unbalance the budget. Exempting the Social Security trust fund would create an incentive for Congress to use the trust fund as an instrument of countercyclical stimulus or social policy or other uses other than as a retirement program, threatening the ability of the trust fund to fulfill its obligations to retirees.

Fourth, Exempting Social Security from the amendment is unnecessary because it preserves the ability of Congress to protect Social Security, which is politically well-protected.

Does anybody doubt that Social Security would compete with any and all other Federal programs? I do not think anybody doubts that.

The current statutory protections for Social Security would not be eliminated by the amendment. Congress would be able to further protect Social Security in implementing legislation. Given political realities, Congress almost certainly would choose to protect Social Security.

The fifth reason why we should not go this route is that the concerns underlying this exemption are misplaced. The motivation for exemptions like this is to ensure that Social Security benefits will not be cut. This concern is misplaced for two reasons. First, passage of the balanced budget amendment does not in any way mean Social Security benefits will be reduced. It only requires Congress to choose among competing programs, and Social Security will compete very well. Second, the biggest threat to Social Security is our growing debt and concomitant interest payments, both because the effects of debt-related inflation hurt those on fixed incomes and because the Government's use of capital to fund debt slows productivity and income growth. They way to protect Social Security benefits is to support the balanced budget amendment and balance the budget so that the economy will grow, thereby fostering growth in Social Security tax revenues, and by requiring that the government have revenues to meet its obligations, including obligations to retirees.

For these reasons I urge the amendment be defeated.

Mr. MOYNIHAN. Mr. President, on Monday I spoke to the Senate at some length describing the economic policies of the Kennedy, Johnson, and Nixon administrations which were directed to the problems associated with persistent budget surpluses. It will no doubt surprise many persons now proposing to amend the Constitution so as to deal with the problem of persistent budget deficits to learn that only a few decades ago our tendencies appeared to be just the opposite of those of the last decade or so.

On Monday, I spoke to the long tradition that democracies were inherently disposed to vote themselves largess, a majority would abuse its responsibilities in one way or the other. But, in fact, two centuries of the American experience has not produced that, save for this particular time. It happened that, this morning, our hugely gifted Secretary of the Treasury, Mr. Robert Rubin, came before the Finance Committee with the President's budget and he showed the effect of the deficit reduction program which we put in place in this floor in moments of high drama in July, 1993, when we provided $500 billion in deficit reductions which, in turn, brought about a lowering of the deficit premium that had been riding on top of interest rates, such that in the end we had a cumulative effect of about $625 billion in deficit reduction.

That effect could be shown right here. This is Secretary Rubin's chart. It says, "Spending on Government programs is less than taxes for the first time since the 1960's." A large event.

Now, when he says spending on Government programs, that is all Government programs excepting payment on the debt, which is not a program but a requirement.

With that provision, in 1994 to 1995, we will have a budget surplus of a little less than 1 percent, six-tenths of 1 percent, but a surplus for the period.

Now, that is in blue, as the distinguished Presiding Officer can see, as are these two blue bars over on the left side of the chart, which is the surplus of 1962 to 1965 under Presidents Kennedy and Johnson; 1966 to 1969, and that is President Johnson; and there was a slight surplus and then a slight deficit in the period 1970 to 1973 under President Nixon.

Our Government then ran surpluses, which its principal financial officer considered to be a major problem to the economy, that being an obstacle to full employment, which, under the Employment Act of 1946, was to be the largest economic goal of the country.

On Monday, I cited the Office of Management and Budget's explanation of the budget for fiscal 1973. This was written by George P. Schultz, then director of the newly established OMB, George Shultz, who was later a most eminent Secretary of the Treasury and Secretary of State. He stated as such:

> Budget policy. The full-employment budget concept is central to the budget policy of this Administration. Except in emergency conditions, expenditures should not exceed the level at which the budget would be balanced under conditions of full employment.

Which is to say he had built a deficit into the budget which was the difference between outlays and that would equal revenues at full employment and the actual revenues which came in from less than full employment. We were coping with surpluses, a lag in the revenues that come into the Government in the upward slope of the business cycle, and our disposition to spend, if you will, those revenues here in the Congress.

And once again this surplus in revenues as against programs has appeared. It comes miraculously, if you will, but not accidentally. That seems an oxymoron. But I do now know how many really believe that what we did in 1993 would have this result. But it has done, and there it is.

And my purpose in all this has been plain enough. I make the point that there is nothing inherent in American democracy that suggests we amend our basic and abiding law to deal with the fugitive tendencies of a given moment.

These are the tendencies, Mr. President. And, again, by sheer happenstance, I prepared these remarks to be given this afternoon. This morning the Secretary of the Treasury presented us this chart which shows us these tendencies. Right here goes the deficit of the period from the late 1970's to the early 1990's.

I rise today to provide documentation as to how a series of one-time events of the 1980's led to our present fiscal disorders even as events in the 1990's point to a way out of them; and, again, to state I prepared these remarks before I saw this chart. And, indeed, there you see that emergent surplus.

On January 26, at the request of Chairman BOB PACKWOOD, the Congressional Budget Office, in the person of Director Robert D. Reischauer, presented the Finance Committee with data comparing current economic forecast and budget projections with those made by CBO before the enactment of the Economic Recovery Tax Act of 1981, ERTA as it is generally known. Here is Dr. Reischauer's testimony.

> Unlike the current "Economic and Budget Outlook", CBO's budget reports issued before enactment of the 1981 tax cuts routinely projected that a continuation of current tax and spending laws would lead to large budget surpluses. CBO also warned that such levels of taxes and spending would act as a drag on the economy.

Mr. President, that is a direct continuation, that view, of the view that went from Walter Heller, as chairman of the Council of Economic Advisers in 1961 under President Kennedy, to Arthur Okun, as chairman under President Johnson, to Herbert Stein, as chairman under President Nixon, and budget directors such as Kermit Gordon and George Shultz. They saw the problems of the American Government very much in terms of persisting surpluses that depressed economic growth.

I continue Dr. Reischauer's testimony:

> The primary reason for those projections was that high inflation was expected to drive up revenues dramatically. Because key features of the Federal individual income tax were not automatically adjusted for inflation, periods of high inflation—such as the late 1970s and early 1980s—pushed individuals into higher tax rate brackets and caused revenues to increase rapidly. In response, policymakers cut taxes every few years on an ad hoc basis—five times in the 1970s, for instance.

Again, to try to reach back to a period which we seem to have forgot—and, in fairness, probably no more than a fifth of the Members of the House right now and somewhat more of the Senate were here in the 1970's who could remember that—but we cut taxes five times in the 1970's just to keep the surplus from growing too large.

Note the continuity of the problems faced by our analysts at the outset of the 1980's with those faced at the outset of the 1960's. The Federal Government was running an unacceptable surplus; a sure remedy was to cut taxes. Dr. Reischauer continued:

> Illustrating this dilemma, in its February 1980 report Five-Year Budget Projections: Fiscal Years 1981–1985, CBO projected that revenues collected under current tax law would climb from about 21 percent of GNP in 1981 to 24 percent by 1985. Simple arithmetic pointed to enormous surpluses in the outyears. For example, current-law revenues exceeded outlays by a projected $98 billion for 1984 and $178 billion for 1985. Similarly, in its July 1981 report Baseline Budget Projections: Fiscal Years 1982–1986, CBO projected budget surpluses of between $148 billion and $209 billion for 1986, depending on the economic assumptions used.
>
> In the same report, CBO estimated that the 1981 tax cuts and other policies that were called for in May 1981 budget resolution would generate a balanced budget or a small deficit, roughly $50 billion by 1984—again, depending on the economic assumptions employed.
>
> That budget background led to the 1981 tax cuts. Given the best information available at that time, the Congress and the Administration reasonably thought that significant budget surpluses loomed under current law. Analysts differed, however, on whether the 1981 tax cuts would put the government on a balanced-budget footing or would lead to small budget deficits.

The Economic Recovery Tax Act of 1981 passed the Senate by an overwhelming 67-to-8 vote. I voted for it with the same measure of confidence that had led me to support earlier tax cuts. This was a familiar situation; well enough understood.

So I and others thought. We were ruinously wrong. At a hearing of the Finance Committee on January 31, Dale Jorgenson, professor of economics at Harvard University, called the 1981 tax cut a fiscal disaster because the Federal Government stopped raising the revenue it needed.

In an instant, deficits, not surpluses, became our problem.

For certain, two things happened—beyond the bidding war that accompanied the enactment of ERTA, with Democratic Members of Congress seeking to outdo the new Republican administration. The first is the action of the Federal Reserve designed to bring down the double-digit inflation of the late 1970's. In a not unfamiliar sequence, the Fed brought down the economy with it. A deep, deep recession commenced. In 1982, the unemployment rate reached 9.7 percent, the highest rate recorded since the Employment Act of 1946. Revenues fell off precipitously, largely the result of recession, but more steeply owing to the 1981 rate cut.

Now to a second, and to my view, more important event. Beginning in the 1970's a body of opinion developed, principally within the Republican Party, which held that Government at the Federal level had become so large as to be unacceptably intrusive, even oppressive. There is a continuity here. All those years trying to spend down surpluses had indeed brought about a great increase in the size of Government. Of a sudden, deficits, if sizeable enough, gained a new utility. They could be used to reduce the size of Government.

This was a powerful idea. Indeed, in July 1980, I contributed an article to the New York Times which argued that, the Republicans had become the party of ideas and thus that "could be the onset of the transformation of American politics." I argued:

> Not by chance, but by dint of sustained and often complex argument there is a movement to turn Republicans into Populists, a party of the People arrayed against a Democratic party of the State.
>
> This is the clue to the across-the-board Republican tax-cut proposal now being offered more or less daily in the Senate by Dole of Kansas, Armstrong of Colorado and their increasingly confident cohorts.
>
> * * * * *
>
> The Republicans' dominant idea, at least for the moment, seems to be that the social controls of modern government have become tyrannical or, at the very least, exorbitantly expensive. This oppression—so the strategic analysis goes—is made possible by taxation, such that cutting taxes becomes an objective in its own right, business cycles notwithstanding.
>
> Similarly, "supply-side" economics speaks to the people as producers, as against the Government as consumer.
>
> Within the Republican Party this is put forth as populism and argued for as such * * *. Asked by a commentator whether an across-the-board tax could really lead to the needed increase in savings, a Republican Senator replied that he took for granted that the people would know what to do with their own money.

Then came the revolution.

Some 4 months after I wrote that article, a new Republican President was elected, himself much committed to this view, and his White House staff fair to obsessed with it. They welcomed deficits for reasons wholly at odds with their Democratic, or for that matter, Republican predecessors.

From the early 1980's, I found myself often on this Senate floor, and on several occasions in print, making the point that in the Reagan White House and Office of Management and Budget, a huge gamble was being made. A crisis was being created by bringing about deficits intended to force the Congress to cut back certain programs.

I encountered great difficulty getting this idea across. No one believed what I was saying. The intentional nature of the Reagan deficits was not understood or admitted at the time, nor has it been very widely acknowledged since. Yet it did happen, and it has been well documented.

> By the mid-1980's the Reagan transportation budget in constant dollars topped Jimmy Carter's best year by 15 percent, Johnson's by about 40 percent, and Kennedy's by 50 percent. Big Government? That was something for the speechwriters to fight as long as they didn't mention any names * * *. Spending continued largely unabated in all cases.

In a television speech 16 days after his inauguration, President Reagan clearly stated it:

> There were always those who told us that taxes couldn't be cut until spending was reduced. Well, you know we can lecture our children about extravagance until we run out of voice and breath. Or we can cut their extravagance by simply reducing their allowance.

The person principally involved, Mr. David Stockman, who was President Reagan's Director of the Office of Management and Budget, wrote a memoir of his time in Washington entitled, "The Triumph of Politics." He described in detail what happened and how it went wrong: how the Reagan Revolution—as based on the immutability of the Laffer curve—had failed. According to Stockman, President Reagan's top economic advisers knew from the very beginning that supply-side economics would not and could not work.

That superb journalist and historian, Haynes Johnson, wrote of this in his wonderful book, "Sleepwalking Through History: America Through the Reagan Years," published in 1991. Johnson writes that the Reagan team saw:

> * * * the implicit failure of supply-side theory as an opportunity, not a problem * * *. [The] secret solution was to let the federal budget deficits rise, thus leaving Congress no alternative but to cut domestic programs.

I will simply quote a footnote on page 111, where Johnson says of this Senator:

> [Stockman's] former mentor Moynihan was the first to charge that the Reagan Administration "consciously and deliberately brought about" higher deficits to force congressional domestic cuts. Moynihan was denounced and then proven correct, except that the cuts to achieve balanced budgets were never made and the deficits ballooned even higher.

David Stockman writes in his book, "If I had to pinpoint the moment when I ceased to believe that the Reagan Revolution was possible, September 11, 1981 * * * would be it." It was then that Stockman realized that no huge spending cuts would ever come. He pleaded with the President and his colleagues in the Cabinet to do something. But nothing was done. The President had claimed he would use his pen to veto big spending appropriations bills. But of the reality, Stockman wrote:

> * * * the President's pen remained in his pocket. He did not veto a single appropriations bill * * *. Come to think of it, he did use his pen—to sign them * * *. The 1983 deficit had * * * already come in at $208 billion. The case for a major tax increase was overwhelming, unassailable, inescapable, and self-evident. Not to raise taxes when all other avenues were closed was a willful act of ignorance and grotesque irresponsibility. In the entire twentieth-century fiscal history of the Nation, there has been nothing to rival it.

And so, President Reagan became the biggest spender of them all.

I recall George Will speaking to a group of businessmen at breakfast in about 1984 and saying, "I have a door prize of a toaster for anyone who can name one program that President Reagan promised to cut during his 1984 Presidential campaign." Everyone in the room started looking around at his or her neighbor, clearly wondering, "Why can't I remember one?" Whereupon Mr. Will came to their rescue, "Don't feel bad about your memory. There was none."

They created a crisis. We indulged ourselves, in the early 1980's, in a fantasy of young men who perhaps had too much power and too little experience in the real world. They thought they could play with fire, create a crisis. Well, the fire spread, and the numbers—the damages—are well known to all of us. On January 20, 1981, the Federal debt stood at $940.5 billion, which was no great cause for concern. Eight years later, it was $2.86 trillion. What had taken our Nation nearly two centuries to amass had been tripled in just 8 years. By the end of 1992, it was just over $4 trillion.

On December 31, 1983, I published an article in the New Republic entitled, "Reagan's Bankrupt Budget," in which I noted, "The projected 8-year growth is $1.64 trillion, bringing us to a total debt, by 1989, of $2.58 trillion." As it turned out, the total debt in 1989 was $2.86 trillion. Not bad shooting. Four years later it was a little over $4 trillion.

I have spoken of two events of the 1980's. First, the tax cuts of 1981 followed by the severe recession of 1982. Next, the development within the incumbent administration of a grand strategy of using deficits to bring about a reduction in the size of Government, followed by a disinclination to cut specific programs. Mr. Stockman's memoirs provide graphic examples of this latter development, including the celebrated counsel he gave the President on how much to cut them. Let me in passing mention a possible third event which led in part to the great increase in debt during the 1980's. This was recently alluded to by Lawrence J. Korb in an article in the Washington Post. Mr. Korb, now at the Brookings Institution, contends that "the Reagan buildup" of the military was part of a deliberate strategy of engaging the Soviet Union in an arms race that would leave them bankrupt. The buildup, Mr. Korb continues:

> * * * was based not on military need but upon a strategy of bankrupting the Soviet Union. If the Reagan administration had budgeted only for military purposes, the 1985 budget would have been some $80 billion less. The 1995 defense budget is still at about 85 percent of its average Cold War level, and actually higher [even in inflation adjusted dollars] than it was in 1955 [under Eisenhower] and in 1975 [under Nixon], when the Soviet Empire and Soviet Union were alive and well.

It is difficult to have been in Washington in those times and not to have been aware of such thinking in the environs of the White House. For the first 4 years of the Reagan administration, I was vice chairman of the Senate Select Committee on Intelligence, and one heard such thoughts. By this time, I was convinced that the Soviet Union would soon break up along ethnic lines and largely in consequence of ethnic conflict, and so was perhaps more attentive than some. Certainly, Raymond L. Garthoff, in his study, "The Great Transition, American-Soviet Relations and the End of the Cold War" [Brookings, 1994] holds to the view that something of this sort took place.

He writes:

> A final element in President Reagan's personal view was that not only was the Soviet system ideologically bankrupt and therefore vulnerable, but that it was also stretched to the utmost by Soviet military efforts and therefore unable to compete in an intensified arms race. As he put it in a talk with some editors, "They cannot vastly increase their military productivity because they've already got their people on a starvation diet . . . if we show them [we have] the will and determination to go forward with a military buildup . . . they then have to weigh, do they want to meet us realistically on a program of disarmament or do they want to face a legitimate arms race in which we're racing. But up until now, we've been making unilateral concessions, allowing ours to deteriorate, and they've been building the greatest military machine the world has ever seen. But now they're going to be faced with [the fact] that we could go forward with an arms race and they can't keep up." The Soviet system was indeed under growing strain, as would become increasingly evident throughout the 1980s. But most of the premises underlying Reagan's viewpoint were highly questionable: that the United States had not also been active in the arms competition and had been making unilateral concessions, that the Soviet Union was unable to match adequately a further American buildup, and that the Soviet Union would respond to such a buildup by accepting disarmament proposals that the United States would regard as "realistic" (that is, would favor the United States more than the SALT II Treaty that had been produced under the strategic arms limitations talks [SALT] conducted by the three preceding administrations but not ratified). But whatever their merit, they represented the thinking of the new president and his administration.

Just how much this thinking deepened the deficits of the 1980's is difficult to assess. It is now more a matter for historians. But it can hardly have helped. And so we come to a compound irony. The great struggles over the nature of the American economic system that dated from the Progressive Era to the New Deal ended in a quiet acceptance of the private enterprise economy so long as government could pursue policies that produced relatively full employment. Hardly a revolutionary notion, but surely an honorable undertaking. Even so, for the first time, it disposed American government toward deficit financing. Nothing huge; nothing unmanageable; but real.

In 1965, in the first article in the first issue of The Public Interest entitled, "The Professionalization of Reform," I set forth the now somewhat embarrassing proposition that Keynesian economics in combination with the statistical feats such as those of the National Bureau of Economic Research, founded by Wesley C. Mitchell at Columbia University, invested us with unimagined powers for social good. I was not entirely wrong.

> Governments promise full employment—and then produce it. (in 1964 unemployment, adjusted to conform more or less to United States' definitions, was 2.9 percent in Italy, 2.5 percent in France and Britain, and 0.4 percent in Germany. Consider the contrast with post-World War I.) Governments undertake to expand their economy at a steady rate—and do so. (In 1961 the members of the Organization for Economic Cooperation and Development, which grew out of the Marshall Plan, undertook to increase their output by 50 percent during the decade of the 1960's. The United States at all events is right on schedule.)
>
> The ability to predict events, as against controlling them, has developed even more impressively—the Council of Economic Advisers' forecast of GNP for 1964 was off by only $400 million in a total of $623 billion; the unemployment forecast was on the nose.

And yet I did not entirely see—did not at all see—the serpent lurking in that lovely garden.

> The singular nature of the new situation in which the Federal Government finds itself is that the immediate supply of resources available for social purposes might actually outrun the immediate demand of established programs. Federal expenditures under existing programs rise at a fairly predictable rate. But, under conditions of economic growth, revenues rise faster. This has given birth to the phenomenon of the "fiscal drag"—the idea that unless the Federal Government disposes of this annual increment, either by cutting taxes or adding programs, the money taken out of circulation by taxes will slow down economic growth, and could, of course, at a certain point stop it altogether.

Which is to say, deficit spending as public policy. How that would have troubled FDR. On election night of 1936, he was at Hyde Park surrounded by friends and overwhelmed by the electoral returns. The New Deal was triumphant. And so, as Alan Brinkley notes in his forthcoming study, "The End of Reform: New Deal Liberalism in Recession and War," a few days later, boarding a train to return to Washington, he told well-wishers, "Now I'm going back * * * to do what they call balance the budget and fulfill the first promise of the campaign," which in 1932 had been to balance the budget.

In much this manner, the great struggle with the Marxist-Leninist vision of the future, and its concrete embodiment in the Soviet Union, ended with the most assertively conservative administration of the post-New Deal, assertively opposed to deficit spending of any kind, more or less clandestinely pursuing just the opposite course.

And yet, may we not agree that both these tendencies are now abated, if not altogether spent? A post-Keynesian economics is no longer as confident of fiscal policy as was an earlier generation. A post-cold-war foreign policy has no need to concern itself with bankrupting the Soviet Union: the region is quite bankrupt enough, and indeed, receives American aid. Can we not then look upon our present debt much as the Truman and Eisenhower administrations looked upon the debt incurred during World War II. Pay it off and get on with the affairs of the Nation. World War II, and the cold war were fought, in a legitimate sense, to defend the Constitution of the United States against all enemies, foreign and domestic. It would be awful if in this moment of victory we should choose to mutilate the basic law of the land for which so much was sacrificed.

Mr. HATCH. I have much more to say. But I am prepared, if the majority leader is willing, to bring the Senate today to a close.

So I will suggest the absence of a quorum and see if we can get that done.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. HATCH. Madam President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE NATIONAL EMERGENCY WITH IRAQ—MESSAGE FROM THE PRESIDENT—PM 12

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of August 2, 1994, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution No. 778 requires U.N. Member States temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions on Iraq, to finance Iraqi's obligations for U.N. activities with respect to Iraq, such as expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. Member States also may make voluntary contributions to the account. The funds placed in the escrow account are to be returned, with interest, to the Member States that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the U.N. Security Council. No Member State is required to fund more than half of the total transfers or contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos. 12724 and 12817 (the "Executive orders"). The report covers events from August 2, 1994, through February 1, 1995.

1. There has been one action affecting the Iraqi Sanctions Regulations, 31 C.F.R. Part 575 (the "Regulations"), administered by the Office of Foreign Assets Control (FAC) of the Department of the Treasury, since my last report on August 2, 1994. On February 1, 1995 (60 Fed. Reg. 6376), FAC amended the Regulations by adding to the list of Specially Designated Nationals (SDNs) of Iraq set forth in Appendices A ("entities and individuals") and B ("merchant vessels"), the names of 24 cabinet ministers and 6 other senior officials of the Iraqi government, as well as 4 Iraqi state-owned banks, not previously identified as SDNs. Also added to the Appendices were the names of 15 entities, 11 individuals, and 1 vessel that were newly identified as Iraqi SDNs in the comprehensive list of SDNs for all sanctions programs administered by FAC that was published in the Federal Register (59 Fed. Reg. 59460) on November 17, 1994. In the same document, FAC also provided additional addresses and aliases for 6 previously identified Iraqi SDNs. This Federal Register publication brings the total number of listed Iraqi SDNs to 66 entities, 82 individuals, and 161 vessels.

Pursuant to section 575.306 of the Regulations, FAC has determined that these entities and individuals designated as SDNs are owned or controlled by, or are acting or purporting to act directly or indirectly on behalf of, the Government of Iraq, or are agencies, instrumentalities or entities of that government. By virtue of this determination, all property and interests in property of these entities or persons that are in the United States or in the possession or control of United States persons are blocked. Further, United States persons are prohibited from engaging in transactions with these individuals or entities unless the transactions are licensed by FAC. The designations were made in consultation with the Department of State. A copy of the amendment is attached to this report.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. The FAC continues its involvement in lawsuits, seeking to prevent the unauthorized transfer of blocked Iraqi assets. There are currently 38 enforcement actions pending, including nine cases referred by FAC to the U.S. Customs Service for joint investigation. Additional FAC civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and the Regulations with respect to transactions involving Iraq. Four penalties totaling $26,043 were collected from two banks, one company, and one individual for violations of the prohibitions against transactions involving Iraq.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to FAC's listing of individuals and organizations determined to be SDNs of the Government of Iraq.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution No. 778, on October 26, 1992, FAC directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On October 5, 1994, following payments by the Governments of Canada ($677,756.99), the United Kingdom ($1,740,152.44), and the European Community ($697,055.93), respectively, to the special United Nations-controlled account, entitled "United Nations Security Council Resolution 778 Escrow Account," the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $3,114,965.36 from the blocked account it holds to the United Nations-controlled account. Similarly, on December 16, 1994, following the payment of $721,217.97 by the Government of the Netherlands, $3,000,891.06 by the European Community, $4,936,808.84 by the Government of the United Kingdom, $190,476.19 by the Government of France, and $5,565,913.29 by the Government of Sweden, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $14,415,307.35 to the United Nations-controlled account. Again, on December 28, 1994, following the payment of $853,372.95 by the Government of Denmark, $1,049,719.82 by the European Community, $70,716.52 by the Government of France, $625,390.86 by the Government of Germany, $1,151,742.01 by the Government of the Netherlands, and $1,062,500.00 by the Government of the United Kingdom, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $4,813,442.16 to the United Nations controlled account. Finally, on January 13, 1995, following the payment of $796,167.00 by the Government of the Netherlands, $810,949.24 by the Government of Denmark, $613,030.61 by the Government of Finland, and $2,049,600.12 by the European Community, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $4,269,746.97 to the United Nations-controlled account. Cumulative transfers from the blocked Federal Reserve Bank of New York account since issuance of Executive Order No. 12817 have amounted to $157,542,187.88 of the up to $200 million that the United States is obligated to match from blocked Iraqi oil payments, pursuant to United Nations Security Council Resolution 778.

5. The Office of Foreign Assets Control has issued a total of 533 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 37 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, food intended for humanitarian relief purposes, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq, and the protection of preexistent intellectual property rights in Iraq.

6. The expenses incurred by the Federal Government in the 6-month period from August 2, 1994, through February 1, 1995, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national, emergency with respect to Iraq are reported to be about $2.25 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East Affairs, the Bureau of Organization Affairs, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

7. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions. Security Council resolutions on Iraq call for the

elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access of international relief organizations to all those in need in all parts of Iraq. More than 4 years after the invasion, a pattern of defiance persists: a refusal to account for missing Kuwaiti detainees; failure to return Kuwaiti property worth millions of dollars, including weapons used by Iraq in its movement of troops to the Kuwaiti border in October 1994; sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons inspectors; and ongoing widespread human rights violations. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continues to violate basic human rights of its own citizens through systematic repression of minorities and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not be bound by United Nations Security Council Resolution 688. For more than 3 years, Baghdad has maintained a blockade of food, medicine, and other humanitarian supplies against northern Iraq. The Iraqi military routinely harasses residents of the north, and has attempted to "Arabize" the Kurdish, Turcomen, and Assyrian areas in the north. Iraq has not relented in its artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring States.

In 1991, the United Nations Security Council adopted Resolutions 706 and 712, which would permit Iraq to sell up to $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. The resolutions also provide for the payment of compensation to victims of Iraqi aggression and other U.N. activities with respect to Iraq. The equitable distribution within Iraq of this humanitarian assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. More than a year ago, the Iraqi government informed the United Nations that it would not implement Resolutions 706 and 712.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions require that the Security Council be assured of Iraq's peaceful intentions in judging its compliance with sanctions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

REPORT ON THE OPERATION OF THE ANDEAN TRADE PREFERENCE ACT—MESSAGE FROM THE PRESIDENT—PM 13

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Finance.

To the Congress of the United States:

I hereby submit the first report on the Operation of the Andean Trade Preference Act. This report is prepared pursuant to the requirements of section 203 of the Andean Trade Preference Act of 1991.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

MESSAGES FROM THE HOUSE

At 11:43 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 665. An act to control crime by mandatory victim restitution.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 665. An act to control crime by mandatory victim restitution; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–391. A communication from the chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice relative to a lease with the Government of Brazil; to the Committee on Armed Services.

EC–392. A communication from the Deputy Assistant Secretary of Defense (Installations), transmitting, pursuant to law, a report entitled "The Performance of Department of Defense Commercial Activities"; to the Committee on Armed Services.

EC–393. A communication from the Secretary of Housing and Urban Development's Designee to the Federal Housing Finance Board, transmitting, pursuant to law, the annual report on enforcement for calendar year 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC–394. A communication from Secretary of Transportation, transmitting, pursuant to law, the report of recommendations from the National Transportation Safety Board; to the Committee on Commerce, Science, and Transportation.

EC–395. A communication from the Administrator of the Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report entitled "Train Dispatchers Follow-up Review"; to the Committee on Commerce, Science, and Transportation.

EC–396. A communication from the Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of the official boundary for the Clarks Fork Wild and Scenic River; to the Committee on Energy and Natural Resources.

EC–397. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–398. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the annual report of activities under the requirements of the Architectural Barriers Act; to the Committee on Environment and Public Works.

EC–399. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on implementation of the Support for East European Democracy Act for fiscal year 1994; to the Committee on Foreign Relations.

EC–400. A communication from Director of the Office of Personnel Management, transmitting, pursuant to law, the report on locality pay for officers of the Secret Service Uniformed Division; to the Committee on Governmental Affairs.

EC–401. A communication from the Special Assistant to the President for Management and Administration, Director of the Office of Administration, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–402. A communication from the Executive Director of the National Capital Planning Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–403. A communication from the Vice Chairman and Chief Financial Officer of the Potomac Power Company, transmitting, pursuant to law, the report of the uniform system of accounts for calendar year 1994; to the Committee on Governmental Affairs.

EC–404. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–405. A communication from the Secretary of Labor, transmitting, pursuant to law, the report on the administration and enforcement of the Job Training Partnership Act for the period July 1, 1993 through June 30, 1994; to the Committee on Labor and Human Resources.

EC–406. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, the report on the American Red Cross for the period July 1, 1993 through June 30, 1994; to the Committee on Labor and Human Resources.

EC–407. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report of proposed regulations; to the Committee on Rules and Administration.

EC–408. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report of recommendations for legislative action; to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEFLIN:

S. 369. A bill to designate the Federal Courthouse in Decatur, Alabama, as the "Seybourn H. Lynne Federal Courthouse", and for other purposes; to the Committee on Environment and Public Works.

S. 370. A bill to provide guidelines for the membership of committees making recommendations on the rules of procedure appointed by the Judicial Conference, and for other purposes; to the Committee on the Judiciary.

S. 371. A bill to make administrative and jurisdictional amendments pertaining to the United States Court of Federal Claims and the judges thereof in order to promote efficiency and fairness, and for other purposes; to the Committee on the Judiciary.

S. 372. A bill to provide for making a temporary judgeship for the northern district of Alabama permanent, and creating a new judgeship for the middle district of Alabama; to the Committee on the Judiciary.

By Mr. BREAUX:

S. 373. A bill to amend the Solid Waste Disposal Act to provide for State management of solid waste, to reduce and regulate the interstate transportation of solid wastes, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KOHL:

S. 374. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

By Mr. ABRAHAM:

S. 375. A bill to impose a moratorium on sanctions under the Clean Air Act with respect to marginal and moderate ozone nonattainment areas and with respect to enhanced vehicle inspection and maintenance programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KENNEDY:

S. 376. A bill to resolve the current labor dispute involving major league baseball, and for other purposes; read the first time.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEFLIN:

S. 369. A bill to designate the Federal Courthouse in Decatur, AL, as the "Seybourn H. Lynne Federal Courthouse," and for other purposes; to the Committee on Environment and Public Works.

SEYBOURN H. LYNNE FEDERAL COURTHOUSE

Mr. HEFLIN. Mr. President, I rise today to introduce legislation designating the Federal courthouse in Decatur, AL, as the "Seybourn H. Lynne Federal Courthouse." Judge Seybourn Harris Lynne was appointed to the Federal bench by President Harry S. Truman in 1946, and he is the most senior judge in the Federal court system. He has dedicated over 53 years of distinguished service to the judicial system, with 46 of those years spent on the U.S. District Court for the Northern District of Alabama.

Judge Lynne is a native of Decatur, AL, and Auburn University—at that time known as the Alabama Polytechnic Institute—where he graduated with highest distinction. He earned his law degree from the University of Alabama in 1930. While in law school, he served as track coach and assistant football coach at the university. Upon graduation from law school, Judge Lynne practiced law in a partnership formed with his father, Mr. Seybourn Arthur Lynne.

In 1934, Seybourn Lynne was elected judge of Morgan County court. He remained in that position until January 1941, when he took over the duties of judge of the Eighth Judicial Circuit of Alabama. In December 1942, he resigned from the bench to voluntarily enter the military. After earning the rank of lieutenant colonel, he was relieved of active duty in November 1945 and awarded the Bronze Star Medal for gallant service against the enemy.

When an opening occurred on the Federal bench, Alabama Senators Lister Hill and John Bankhead were called up to recommend an appropriate individual to be considered by the White House for judgeship. In January 1946, President Truman appointed Judge Lynne to the U.S. District Court for the Northern District of Alabama. In 1953, he became the chief judge, and in 1973, the senior judge.

As chief judge for the northern district of Alabama, Judge Lynne has been known as an outstanding leader. His knowledge and management skills ensured a solid, working relationship between the Federal bench and the bar. The northern district has not been burdened with a stale and over-ripe docket, and the court's caseload was kept timely and current, thanks to the Judge Lynne's leadership.

In addition to his leadership responsibilities, Judge Lynne worked hard and carried a full caseload. In fact, even in senior status, he continues to work long hours and keeps a complete docket of cases. Over the years, Judge Lynne has been recognized as an outstanding mediator who often was able to reconcile competing interests in order to forge a thoughtful compromise. A number of businesses and individuals in Alabama are growing and thriving today due to his abilities as an arbiter who was able to settle complex and difficult disputes.

The judge has also been a notable community leader, serving in church, civic, and professional activities. He is a lifetime deacon, Bible class teacher, and a trustee of Southside Baptist Church. He has served both the crippled children's clinic of Birmingham and the Eye Foundation Hospital of Birmingham as trustee. In 1967, he served as the president of the University of Alabama's Alumni Association.

Mr. President, it is indeed fitting to honor Judge Lynne for his many years of tireless work on behalf of the State and Federal benches. He shines as a living example of the late President Truman's rich legacy, and designating the Federal courthouse in Decatur, AL in his honor will remain generations to come of his service to our country.

By Mr. HEFLIN:

S. 370. A bill to provide guidelines for the membership of committees making recommendations on the rules of procedure appointed by the Judicial Conference, and for other purposes; to the Committee on the Judiciary.

U.S. JUDICIAL CONFERENCE LEGISLATION

Mr. HEFLIN. Mr. President, sections 2071 through 2077 of title 28 of the United States Code are the cluster of statutory provisions authorizing the Supreme Court to issue the rules under which the various Federal courts function. While there have been many amendments to these sections over the years, the group is commonly referred to as the Rules Enabling Act. The original act, adopted in 1934, did not provide for committees to aid the Supreme Court in exercising this responsibility, but Chief Justice Hughes decided to appoint an advisory committee, whose original membership consisted of 13 members. Former Attorney General William Mitchell chaired the committee, which contained four law professors and eight very distinguished lawyers, including the president of the American Bar Association and the president of the American Law Institute. Between 1935 and the final promulgation of the rules in 1938, there were some changes in the personnel. Four practicing lawyers, two professors, and one district court judge became members of the committee. For the stupendous impact on the legal system of America, no subsequent rules have had the dynamic quality of those original rules.

Over time, Congress has refined the system. The assistance of the committees is now regularized by statute—see 28 U.S.C. section 2073(a)(2)—and this section of the statute provides that the various committees, like the early committee, "shall consist of members of the bench and the professional bar and trial and appellate judges." The members are appointed by the Chief Justice of the United States.

The rulemaking system, as spread over the various branches of the court system with rules of civil, criminal, appeals, evidence, bankruptcy, and so forth, has on the whole worked fairly well. Suffice it to say that today the rules pass from advisory committees to a central standing committee, and from there go to the Judicial Conference of the United States, which does in fact exercise a meaningful supervisory function. For example, last year the conference deleted a rule which had been recommended to it by the committee structure in the civil field. After the conference approves a rule, it then passes to the Supreme Court of the United States, whose members have somewhat differing views as to what function they can be expected actually to perform; there is some sentiment for letting the process stop with the Judicial Conference. Next, the rules pass to Congress, and if it does not disapprove them within 180 days, they become effective.

I turn now to the exact matter at issue. I can most easily do so by quoting from a statement by the American Bar Association, dated March 28, 1994, to the relevant committee of the Judicial Conference:

> In 1935, when work was begun on the Federal rules, the advisory committee that did the drafting was comprised of nine lawyers and four academics; there were no judges involved. In 1960, when the advisory committee was reconstituted, a majority of its members were practicing lawyers. As late as 1981, 40 percent of the advisory committee were practitioners. Today, no more than 4 members of the key panel of 13 civil rules drafters are trial lawyers. While the inclusion of judges in the process has had undoubted benefit, the near-total exclusion of practicing trial lawyers has skewed the process and its product. We are not confident, as a consequence, that the process has produced rules that respond to the concerns of litigants and the lawyers who represent them in court. This trend must be reversed and lawyers restored to a position of real responsibility in the rules drafting process. In order to do this most effectively, and to benefit from the positive and valuable contributions of practicing lawyers to the rules process, the membership on all the advisory committees should be expanded to include more bar representation.

I believe this position is well taken. Clearly a gulf has arisen between the rulemakers and the bar, which must live under those rules. In connection with the civil rules of last year, the Judiciary Subcommittee on Courts and Administrative Practice, which I chair, held hearings on the proposed rules changes, and we were overwhelmed by representatives of the bar strenuously objecting to several of the proposed rule changes. Both the House and Senate relevant committees concluded that the bar protests should be honored and that the rules should be changed; however, tangles in our own procedures prevented the more objectionable proposals from being deleted and all of the proposed changes went into effect on December 1, 1993.

The bill I offer today will restore the composition of these committees which existed from the original rules in 1935 until approximately 1980 and which have been altered only in very recent times.

This bill provides that a majority of all the rules committees shall be drawn from the practicing bar. It by no means diminishes the valuable role of academics and of judges, but it would restore to the bar a voice of responsibility.

At the present time, under our statutes, the rules committees conduct extensive hearings. These become so crowded that individual presentations are necessarily brief, but they are balanced in the sense of giving broad scope to those who may participate. What is presented at those hearings, what is developed by the committee reporters and staff, and what is proposed by the various committee members themselves are all put into a mix which must be finally shaped by the committee itself. In my judgment, those committees are seriously lacking in balance. Their work product goes to the Judicial Conference, by definition composed entirely of judges; and assuming that the Supreme Court stays in the process, then to that body which is of course composed entirely of judges. Somewhere in the process, making rules under which the courts shall function and the bar of the country shall do its business, there should be more room for the effective voice of the bar itself.

My proposal does not limit the broad discretion of the Chief Justice of the United States, who will continue to select the membership of the various committees subject only to the restriction that a majority should be members of the bar. I comfortably leave it to his good judgment as to how to achieve balanced committees.

I offer this bill, to provide that the majority of the various committees shall be composed of practicing lawyers, in order to restore that balance, and I urge its consideration by my colleagues in the Senate. Mr. President, I request unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEMBERSHIP OF COMMITTEES MAKING RECOMMENDATIONS ON RULES OF PROCEDURE.

Section 2073(a)(2) of title 28, United States Code, is amended by striking out the second sentence and inserting in lieu thereof "Each such committee shall have a majority of members of the practicing bar, and also shall have members of the bench (including trial and appellate judges) and academics.".

By Mr. HEFLIN:

S. 371. A bill to make administrative and jurisdictional amendments pertaining to the United States Court of Federal Claims and the judges thereof in order to promote efficiency and fairness, and for other purposes; to the Committee on the Judiciary.

FEDERAL CLAIMS ADMINISTRATION ACT

Mr. HEFLIN. Mr. President, I rise today to introduce legislation to amend title 28 of the United States Code to improve the Federal Claims litigation process before the United States Court of Federal Claims and to assist the court in providing complete justice in cases that come before it. This legislation will also insure fair treatment for the regular and senior judges of the court by providing certain benefits equivalent to those available to other Federal trial judges. Enactment of this bill will provide the citizens of the United States with a more fair and complete remedy and the United States with a more effective forum for the resolution of claims against the Government.

The Court of Federal Claims is the Nation's primary forum for monetary claims against the Federal Government. The court has jurisdiction to entertain suits for money against the United States that are founded upon the Constitution, an act of Congress, an Executive order, a regulation of an executive department, or contract with the United States and that do not sound in tort. The court hears major patent cases, Government contract suits, tax refund suits, fifth amendment takings cases and Indian claims, among other types of lawsuits. This national court and its judges hear cases in every State and territory of the United States for the convenience of the litigants, the witnesses and the Government. This benefits our judicial system and Nation by making the promise of fair dealing a reality.

The legislation that I am introducing today will make administrative and jurisdictional changes with the result that the court's resources are preserved and utilized to the maximum extent and the jurisdiction of the court is clarified for the benefit of all. The ultimate result will be a more user-friendly forum which gets to the merits of controversies faster. In a moment, I will comment on all of the various sections of the bill, but first I would like to take this opportunity to comment on the need for the jurisdictional provisions of the bill.

A potential litigant should be able to examine chapter 91 of title 28, United States Code, which commences with the Tucker Act, section 1491, and to determine whether the court has jurisdiction of his claim and what relief is available. Of course, there are miscellaneous other provisions extending jurisdiction to the Court of Federal Claims, for example, 28 U.S.C. section 1346(a)(1), tax refund suits; 42 U.S.C. section 300aa-11, Vaccine-injury compensation cases; and 50 U.S.C. app. section 1989b-4(h), Japanese internment compensation appeals.

Chapter 91 of title 28 should be sufficiently clear so that even lawyers throughout the country who rarely handle claims against the Government could consult the code and find reliable answers. Regrettably, this is not the current situation. Instead, a typical claimant is met with a barrage of assertions that the court lacks jurisdiction to address the claim and/or lacks power to award relief requested even in those cases where jurisdiction is conceded.

The amendments relating to jurisdiction in section 8 of the bill will result in clarity that will make access to the courts less costly by permitting the court to get to the real merits of the cases, rather than waste resources dealing with preliminary and peripheral issues, and these changes will result in real civil justice reform.

The legislation that I am introducing today will repeal 28 U.S.C. 1500, which has heretofore denied Court of Federal Claims jurisdiction over any claim with respect to which the plaintiff has pending a suit in any other court. Although, on its face, section 1500 may appear to prevent wasteful duplication, in practice it has had precisely the opposite effect. Elimination of this jurisdictional bar to suits related to cases in other courts will eliminate much wasteful litigation over nonmerits issues and will leave the court free to deal with potential duplication through the discretionary means of staying arguable duplicative litigation, if the matter is being addressed in another forum, or of proceeding with the case, if the matter appears to be stalled in the other forum.

As currently construed section 1500 does not permit duplication of suits even if the Court of Federal Claims action was filed first and has received concentrated attention over a number of years. This situation can result in a major waste of resources by litigants and the court. Repeal of section 1500 will also allow the plaintiff to protect itself against the running of the statue of limitations by the wrong initial choice in this confusing area.

In this day of electronic communication, computer tracking of cases and centralized docket control by the justice department, the Government will always know if a related claim is pending in two different courts and can request exercise of discretion by one or both courts to prevent duplicative litigation. Repeal of section 1500 would save untold wasted effort litigating over such marginal issues as whether a claim in the district court really is the same as one in the Court of Federal Claims.

Further, in cases which constitute review of administrative agency action, the potential litigant should be able to know with absolute certainty what standard of review will be applied. In the proposed bill, the standard of review in the Administrative Procedure Act of 1946 will be made explicitly applicable. Although one would naturally assume from the face of 5 U.S.C. section 706 that these standards already apply in the Court of Federal Claims, there is some doubt and confusion over precisely which standards apply and the source of such standards. The proposed bill will end this confusion so that potential and actual litigants can know with certainty which standards will apply and where to find them.

No legitimate interests are served by having the parties guess and litigate about the extent of the court's jurisdiction and powers or over the standard of review applicable in agency-review cases. Enactment of this bill will end such waste and keep everyone's focus on the merits of a given case and effective steps toward resolution of controversy. It will instill confidence that in the Court of Federal Claims, and every litigant, including the Government, will receive prompt and efficient justice.

Let me provide a brief summary of my bill:

Section 1 states that this act shall be cited as the "Court of Federal Claims Administration Act."

Section 2 will provide that in the event a judge is not reappointed, the judge will nonetheless remain in regular active status until his or her successor is appointed and takes office, thus insuring that the court will always have a full compliment of regular active judges.

Section 3 will provide that judges of the Court of Federal Claims shall have authority to serve on the territorial courts when, and only when, their services are needed and are requested by or on behalf of such courts.

Section 4 will simply clarify what is already assumed by all concerning the official duty station of retired judges on senior status. It will provide that the place where a retired judge of the Court of Federal Claims maintains his or her actual residence shall be deemed to be his or her official duty station. This is consistent with the current provision applicable to other Federal trial courts.

Section 5 will provide for Court of Federal Claims membership on the Judicial Conference of the United States. Currently, there is no Court of Federal Claims representation on the judicial conference, even though the court is within the jurisdiction of the conference and derives its funding and administrative support from the administrative office of the U.S. courts which in turn operates under the supervision and direction of the judicial conference.

Section 6 will provide that the chief judge of the Court of Federal Claims may call periodic judicial conferences, which will include active participation of the bar, to consider the business of the court and improvements in the administration of justice in the court. This will make explicit the authority which has traditionally been assumed and exercised by the court in conducting its business.

Section 7 will amend section 797 of title 28 to provide that the chief judge of the Court of Federal Claims is authorized to recall a formerly disabled judge who retires under the disability provisions of court's judicial retirement system if there is adequate demonstration of recovery from disability. This provision will match one currently applicable to formerly disabled judges of other Federal courts and will ensure maximum use of all available resources to deal with the court's caseload.

Section 8 makes several modifications to statutory provisions pertaining to Court of Federal Claims jurisdiction in order to save recurring litigation regarding where claims should be filed, to define what judicial powers the court may exercise, and to specify what standards of review will apply in certain cases. Together, these changes will save untold resources of litigants and the court, and will make the court a more efficient forum for lawyers and parties to litigate their monetary claims against the Government.

In addition, this section would extend to the court ancillary jurisdiction under the Federal Tort Claims Act when such a claim is directly related to one otherwise plainly within the subject-matter jurisdiction of the court. This will avoid wasteful and duplicative litigation by authorizing the Federal Claims Court to address and dispose of the entire controversy in cases within its jurisdiction when a related claim, although sounding in tort, may fairly be deemed to arise from the same operative facts as the primary claim within the court's jurisdiction.

Section 9 will ensure that Court of Federal Claims judges over age 65 who are on senior status will receive the same treatment as other Federal trial judges on senior status insofar as Social Security taxes and payments are concerned.

Section 10 amends title 28 to clarify that the judges of the Court of Federal Claims are judicial officers eligible for coverage under annuity, insurance, and other programs available under title 5 of the United States Code and will extend to those judges the opportunity to continue Federal life insurance coverage after retirement in the same manner as all other Federal trial judges in the judicial branch.

In summary, this bill will make the Court of Federal Claims more efficient and productive, resulting in benefits to the litigating public, the Government and the country as a whole. The United States Court of Federal Claims is an important part of the Federal court system. The creation of this court by the Congress responds to a very basic democratic imperative—fair dealing by the Government in disputes between the Government and the private citizen. As Abraham Lincoln noted: "It is as much the duty of the Government to render prompt justice against itself, in favor of citizens, as it is to administer the same, between private individuals." These amendments will allow it to better comply with its mandate and assist it in providing improved service to litigants and to the entire country.

I urge my colleagues to support this legislation.

Mr. President, I request unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Court of Federal Claims Administration Act of 1995".

SEC. 2. EXTENDED SERVICE.

Section 172(a) of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "If a judge is not reappointed, such judge may continue in office until a successor is appointed and takes office.".

SEC. 3. SERVICE ON TERRITORIAL COURTS.

Section 174 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Upon request by or on behalf of a territorial court and with the concurrence of the chief judge of the Court of Federal Claims and the chief judge of the judicial circuit involved based upon a finding of need, judges of the Court of Federal Claims shall have authority to conduct proceedings in the district courts of territories to the same extent as duly appointed judges of those courts.".

SEC. 4. RESIDENCE OF RETIRED JUDGES.

Section 175 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Retired judges of the Court of Federal Claims are not subject to restrictions as to residence. The place where a retired judge maintains the actual abode in which such judge customarily lives shall be deemed to be the judge's official duty station for the purposes of section 456 of this title.".

SEC. 5. JUDICIAL CONFERENCE PARTICIPATION.

Section 331 of title 28, United States Code, is amended—

(1) by inserting in the first sentence of the first undesignated paragraph "the chief judge of the United States Court of Federal Claims," after "Court of International Trade,";

(2) by inserting in the first sentence of the third undesignated paragraph "the chief judge of the United States Court of Federal Claims," after "the chief judge of the Court of International Trade,"; and

(3) by inserting in the first sentence of the third undesignated paragraph "or United States Court of Federal Claims," after "any other judge of the Court of International Trade,".

SEC. 6. COURT OF FEDERAL CLAIMS JUDICIAL CONFERENCE.

(a) IN GENERAL.—Chapter 15 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 336. Judicial Conference of the Court of Federal Claims

"(a) The chief judge of the Court of Federal Claims is authorized to summon annually the judges of such court to a judicial conference, at a time and place that such chief judge designates, for the purpose of considering the business of such court and improvements in the administration of justice in such court.

"(b) The Court of Federal Claims shall provide by its rules or by general order for representation and active participation at such conference by members of the bar.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections of chapter 15 is amended by adding the following new item:

"336. Judicial Conference of the Court of Federal Claims.".

SEC. 7. RECALL OF JUDGES ON DISABILITY STATUS.

Section 797(a) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Any judge of the Court of Federal Claims receiving an annuity pursuant to section 178(c) of this title (relating to disability) who, in the estimation of the chief judge, has recovered sufficiently to render judicial service, shall be known and designated as a senior judge and may perform duties as a judge when recalled pursuant to subsection (b) of this section.".

SEC. 8. JURISDICTION.

(a) CLAIMS AGAINST THE UNITED STATES GENERALLY.—Section 1491(a) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "for monetary relief" after "any claim against the United States"; and

(B) by striking out "or for liquidated or unliquidated damages";

(2) in paragraph (2)—

(A) by inserting "(A) In any case within its jurisdiction, the Court of Federal Claims shall have the power to grant injunctive and declaratory relief when appropriate." after "(2)";

(B) by striking out the last sentence; and

(C) by adding at the end thereof the following new subparagraph:

"(B) The Court of Federal Claims shall have jurisdiction to render judgment upon any claim by or against, or dispute with, a contractor arising under section 10(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 609(a)(1)), including a dispute concerning termination of a contract, rights in tangible or intangible property, compliance with cost accounting standards, and other nonmonetary disputes on which a decision of the contracting officer has been issued under section 6 of that Act (41 U.S.C. 605)."; and

(3) by adding at the end thereof the following new paragraphs:

"(4) In cases otherwise within its jurisdiction, the Court of Federal Claims shall also have ancillary jurisdiction, concurrent with the courts designated in section 1346(b) of this title, to render judgment upon any related tort claim authorized by section 2674 of this title.

"(5) In cases within the jurisdiction of the Court of Federal Claims which constitute judicial review of agency action, the provisions of section 706 of title 5 shall apply.".

(b) PENDING CLAIMS.—(1) Section 1500 of title 28, United States Code, is repealed.

(2) The table of sections for chapter 91 of title 28, United States Code, is amended by striking out the item relating to section 1500.

SEC. 9. SENIOR STATUS PROVISION.

Section 178 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) For the purposes of applying section 3121(i)(5) of the Internal Revenue Code of 1986 and section 209(h) of the Social Security Act (42 U.S.C. 409(h)), the annuity of a Court of Federal Claims judge on senior status after age 65 shall be deemed to be an amount paid under section 371(b) of this title for performing services under the provisions of section 294 of this title.".

SEC. 10. MISCELLANEOUS PROVISION.

(a) IN GENERAL.—Chapter 7 of title 28, United States Code, is amended by adding after section 178 the following new section:

"§ 179. Court of Federal Claims judges as officers of the United States

"(a) For the purpose of applying the provisions of title 5, a judge of the United States Court of Federal Claims shall be deemed to be an "officer" as defined under section 2104(a) of title 5.

"(b) For the purpose of applying chapter 87 of title 5, a judge of the United States Court of Federal Claims who is retired under section 178 of this title shall be deemed to be a judge of the United States as defined under section 8701(a)(5)(ii) of title 5.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"179. Court of Federal Claims judges as officers of the United States.".

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

By Mr. HEFLIN:

S. 372. A bill to provide for making a temporary judgeship for the northern district of Alabama permanent, and creating a new judgeship for the middle district of Alabama; to the Committee on the Judiciary.

JUDGESHIPS FOR U.S. DISTRICT COURTS LEGISLATION

Mr. HEFLIN. Mr. President, I rise today to offer a bill to provide for making a temporary judgeship for the northern district of Alabama permanent, and creating a new judgeship for the middle district of Alabama. The need for these judgeships has arisen pursuant to an increase in cases filed in both of these districts, as well as the filings as projected in the future. Further, the need is intensified by the judges, who are currently in a senior status in these districts, reducing their caseloads as they move toward full retirement.

Currently the 2 districts are served by 10 permanent district judges; 7 in the northern district and 3 in the middle district. The bill I am introducing would make permanent a temporary judgeship, authorized in 1990, in the northern district. This conversion from a temporary judgeship to a permanent position was approved by the Judicial Conference in September 1994. The addition of one more permanent position to the middle district of Alabama's district court is warranted, among other factors, due to the increased case filings which have been experienced in that district over the past several years.

In the past few years the increasing case filings and caseloads of all of the district court judges has been managed well by the courts using their available judicial resources. As the senior judges take on less cases, the remaining judges find themselves in situations in which they find it more and more difficult to manage their growing dockets in a timely manner. This not only affects the day-to-day operations of the court, but it also will inevitably affect litigants, by lengthening the time for disposition of a case, from what is now one of the fastest disposition periods in the Nation to a significantly slower pace.

I would like to identify several factors which are similar in both districts and will result in loss of judicial expediency unless addressed. First, the reduced role of senior judges has increased the actual volume of cases which each district judge must handle; each district judge will have less time available to spend on each assigned case. Second, the increasing number of case filings will further reduce the capacity of the judges to devote time and attention to each case. And finally, both districts forecast an increase in the total number of criminal felony cases as well as the number of multi-defendant criminal felony cases. To maintain the outstanding case management that litigants have come to expect in these courts, and rightly deserve in the all Federal courts, the factors stated above can be dealt with by making permanent the position in the northern district and by creating one new position for the middle district.

Although these two districts have many concerns which are similar, they also are facing problems unique to each respective court. In the northern district of Alabama, we are asking that the temporary judgeship, authorized in 1990, be made permanent. This district had the highest pending cases per judge, according to the latest official data. Furthermore, it had the highest civil filings in the Nation for the 12-month period ending in September 1993. This high number of case filings along with the previous caseloads, actually support a request for a ninth judgeship, but we believe that the conversion of the temporary judgeship to the eight permanent judgeships will enable the district to competently handle its caseload.

The middle district faces substantial problems in caseloads per judge. For the year ending June 30, 1994, the weighted case filing per judge had increased to 556, representing a 12.5-percent increase over a 5-year period. Weighted case filings of 556 cases per judge places that court second within the eleventh circuit and ninth in the Nation. During the statistical year ending June 30, 1994, the judges of the middle district averaged 650 case terminations per judge, which places that court first in the circuit and first in the Nation. With only three full-time judges and the near full retirement of the two senior judges the middle district may soon face dire consequences.

The judges in both the middle and northern districts of Alabama have proven, that even with what some court would consider impossible caseloads, they have had the ability to dispose of cases in periods equal or better than the national average. To allow these district courts to continue their work and avoid substantial impairment in their ability to deliver justice we need to be assured that they have the necessary judicial resources. My bill, which provides for a fourth judgeship in the middle district and conversion of the northern district's temporary judgeship to a permanent position, supplies these resources.

By Mr. BREAUX:

S. 373. A bill to amend the Solid Waste Disposal Act to provide for State management of solid waste, to reduce and regulate the interstate transportation of solid wastes, and for other purposes; to the Committee on Environment and Public Works.

THE STATE REGULATION AND MANAGEMENT OF SOLID WASTE ACT OF 1995

• Mr. BREAUX. Mr. President, I am today introducing—for the fourth Congress in a row—legislation that would grant States the authority to regulate the flow of solid waste across their borders and meet the environmental objectives of increased recycling and waste reduction.

In 1978, the U.S. Supreme Court ruled that the shipment of garbage across State lines for the purposes of disposal is a form of commerce and thus entitled to protection under the commerce clause of the Constitution. Due to the fact that States cannot control shipments of imported garbage, the States have no ability to plan for the disposal of solid waste generated within their own borders or to preserve landfill capacity for their own future needs. The only way for States to regulate the flow of garbage is for Congress to explicitly grant them that authority. That is what the legislation I am introducing today would do.

For years now, the United States overall landfill capacity has been shrinking. From 1988 to 1991 the number of operating landfills dropped from 8,000 to 5,812, a 27-percent decrease. At the same time, the amount of solid waste that is shipped across State borders for disposal has grown. The more heavily populated regions of the country produce more solid waste and have less capacity for additional landfill sties. These States have been shipping solid wastes out of their own jurisdictions and into landfills in States, like my State of Louisiana, which, for the moment, have some capacity to receive it. However, this capacity will continue to disappear so long as States have no ability to control the amount of waste that comes into their territory for disposal.

My State of Louisiana has had some experiences of its own related to the interstate shipment of municipal wastes. The most infamous incident was that of the so-called poo poo choo choo that brought 63 carloads of municipal waste—in this case stinking sewage sludge—from Baltimore to railroad sidings near Shriever, Labadieville, and Donaldsonville, LA in 1989. These 63 open cars full of rehydrated sludge were to be disposed of in a landfill. Instead, they sat on sidings near these towns for weeks. Finally, the private landfill operator in question found an alternative disposal site and the train cars headed out of town.

The legislation I am introducing today would provide States with the authority they need to regulate incoming shipments of garbage in return for a commitment by the States to plan for the disposal of their own wastes and a commitment to increased recycling and waste reduction efforts. Each State would be required to develop a solid waste management plan that would include a 20-year projection of how solid wastes generated within their own borders would be managed. The plan must demonstrate that solid waste will be managed in accordance with the following priorities; First, States must take steps to reduce the amount of waste generated within their own borders; second, States must encourage recycling, energy and resource recovery. Only as a third and final option should States consider landfills, incinerators and other options of disposal.

Each State will be required to demonstrate that is complies with this waste management hierarchy and has issued all appropriate permits for capacity sufficient to manage their own solid wastes for a rolling period of 5 years.

The Federal Government, working with the States, will be required to provide technical and financial assistance to local communities to meet the requirements of the plan. Any out-of-State wastes must be managed in accordance with State plans and may not impede the ability of States to manage their own solid waste.

Only after a State has an approved plan in place, will it be granted the authority to refuse to accept waste from out-of-State sources and to charge higher disposal fees for a load of garbage based on its State of origin. Half of the proceeds from high out-of-State fees will go the locality where the garbage is being disposed of and may only be used for solid waste management activities.

Mr. President, a number of similar bills have been introduced on this same subject over the last several years. Most of these measures did not adequately address all of the issues surrounding the disposal of solid waste and shipments across State borders. I strongly believe that a planning process and the priorization of waste reduction, recycling and disposal options on a State-by-State basis should be a part of the solution to the ongoing controversy over interstate garbage shipments.

I hope that we will be able to finally dispose of this issue this year. I encourage my colleagues to address it in the comprehensive manner outlined in this legislation. I ask unanimous consent that a copy of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Regulation and Management of Solid Waste Act of 1995".

TITLE I—GENERAL AMENDMENTS

SEC. 101. FINDINGS.

(a) SOLID WASTE.—Section 1002(a)(4) of the Solid Waste Disposal Act (42 U.S.C. 6901(a)) is amended to read as follows:

"(4) that while the collection and disposal of solid waste should continue to be primarily the function of State, regional, and local agencies, the problems of waste disposal described in this subsection have become a matter national in scope and in concern and necessitate Federal action by—

"(A) requiring that each State develop a program for the management and disposal of solid waste generated within each State by the year 2015;

"(B) authorizing each State to restrict the importation of solid waste from a State of origin for purposes of solid waste management other than transportation; and

"(C) providing financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the quantity of waste and unsalvageable materials and to provide for proper and economical solid waste disposal practices.".

(b) ENVIRONMENT AND HEALTH.—Section 1002(b) of the Solid Waste Disposal Act (42 U.S.C. 6901(b)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking paragraph (8) and inserting the following:

"(8) alternatives to existing methods of land disposal must be developed, because it is estimated that 80 percent of all permitted landfills will close by the year 2015; and"; and

(3) by adding at the end the following new paragraph:

"(9) the transportation of solid waste long distances across country for purposes of solid waste management and, in some cases, in the same vehicles that carry consumer goods is harmful to the public health and measures should be adopted to ensure public health is protected when the goods are transported in the same vehicles as solid waste is transported.".

SEC. 102. OBJECTIVES AND NATIONAL POLICY.

(a) OBJECTIVES.—Section 1003(a) of the Solid Waste Disposal Act (42 U.S.C. 6902(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) ensuring that each State has a program to manage solid waste generated within its borders and providing technical and financial assistance to State and local governments and interstate agencies for the development of solid waste management plans (including recycling, resource recovery, and resource conservation systems) that will promote improved solid waste management techniques (including more effective organization arrangements), new and improved methods of collection, separation, and recovery of solid waste, and the environmentally safe disposal of nonrecoverable residues;";

(2) by striking "and" at the end of paragraph (10);

(3) by striking the period at the end of paragraph (11) and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

"(12) promoting the use of regional and interstate agreements for economically efficient and environmentally sound solid waste management practices, and for construction and operation of solid waste recycling and resource recovery facilities; and

"(13) promoting recycling and resource recovery of solid waste through the development of markets for recycled products and recovered resources.".

SEC. 103. DEFINITIONS.

Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended—

(1) by striking paragraph (12) and inserting the following:

"(12) The term 'manifest' means the form used for identifying the quantity, composition, and the origin, routing, and destination of solid and hazardous waste during its transportation from the point of generation to the point of disposal, treatment, storage, recycling, and resource recovery.";

(2) in paragraph (28), by inserting "recycling, resource recovery," before "treatment,";

(3) in paragraph (29)(C), by inserting "recycling," before "treatment";

(4) in paragraph (32)—

(A) by striking "means any" and inserting "means—

"(A) any";

(B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(B) refuse (or refuse-derived fuel) collected from the general public more than 30 percent of which consists of paper, wood, yard wastes, food waste, plastics, leather, rubber, and other combustible materials and noncombustible materials such as glass and metal including household wastes, sludge and waste from institutional, commercial, and industrial sources, but does not include industrial process waste, medical waste, hazardous waste, or 'hazardous substance', as those terms are defined in section 1004 or in section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901)."; and

(5) by adding at the end the following new paragraphs:

"(42) The term 'recycling' means any use, reuse or reclamation of a solid waste.

"(43) The term 'State of final destination' means a State that authorizes a person to transport solid waste from a State of origin into the State for purposes of solid waste management other than transportation.

"(44) The term 'State of origin' means a State that authorizes a person to transport solid waste generated within its borders to a State of final destination for purposes of solid waste management other than transportation.".

TITLE II—STATE SOLID WASTE MANAGEMENT PLANS

SEC. 201. OBJECTIVES OF SUBTITLE D.

Section 4001 of the Solid Waste Disposal Act (42 U.S.C. 6941) is amended to read as follows:

"SEC. 4001. OBJECTIVES OF SUBTITLE.

"(a) IN GENERAL.—The objectives of this subtitle are to reduce to the maximum extent practicable the quantity of solid waste generated and disposed of prior to the year 2015 by requiring each State to develop a program that—

"(1) meets the objectives set out in section 102;

"(2) reduces the quantity of solid waste generated in the State and encourages resource conservation; and

"(3) facilitates the recycling of solid waste and the utilization of valuable resources, including energy and materials that are recoverable from solid waste.

"(b) MEANS.—The objectives stated in subsection (a) are to be accomplished through—

"(1) Federal guidelines and technical and financial assistance to States;

"(2) encouragement of cooperation among Federal, State, and local governments and private individuals and industry;

"(3) encouragement of States to enter into interstate or regional agreements to facilitate environmentally sound and efficient solid waste management; and

"(4) approval and oversight of the implementation of solid waste management plans.".

SEC. 202. STATE SOLID WASTE MANAGEMENT PLANS.

(a) MINIMUM REQUIREMENTS.—Section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "each State plan must comply with the following minimum requirements—" and inserting "each State Solid Waste Management Plan must comply with the following minimum requirements:";

(B) by striking paragraphs (5) and (6) and inserting the following:

"(5) The plan shall identify the quantities, types, sources, and characteristics of solid wastes that are reasonably expected to be generated within the State or transported to the State from a State of origin during each of the 20 years following the year 1995 and that are reasonably expected to be managed within the State during each of those years.

"(6) The plan shall provide that the State acting directly, through authorized persons, or through interstate or regional agreements, will ensure the availability of solid waste management capacity to manage the solid waste described in paragraph (5) in a manner that is environmentally sound and that meets the objectives of this subtitle."; and

(C) by adding at the end the following new paragraphs:

"(7) When identifying the quantity of solid waste management capacity necessary to manage the solid waste described in paragraph (5), the State shall take into account solid waste management agreements in effect upon the date of enactment of this paragraph that exist between a person operating within the State and any person in a State or States contiguous with the State.

"(8) The plan shall provide for the identification and annual certification to the Administrator concerning—

"(A) how the State has met the objectives of this subtitle;

"(B) whether the State has issued permits consistent with all the requirements of this Act for capacity sufficient to manage the solid waste described in paragraph (5) for an ensuing 5-year period; and

"(C) identification and approval by the State of the sites for capacity described in paragraph (5) for an ensuing 8-year period.

"(9) The plan shall provide that all solid waste management facilities located in the State meet all applicable Federal and State laws and for the enactment of such State and local laws as may be necessary to fulfill the purposes of this Act.

"(10)(A) The plan shall provide for a program that requires all solid waste management facilities located or operating in the State to register with the State and that only registered facilities may manage solid waste described in paragraph (5).

"(B) Registration of facilities for the purpose of subparagraph (A) shall at a minimum include—

"(i) the name and address of the owner and operator of the facility;

"(ii) the address of the solid waste management facility;

"(iii) the type of solid waste management used at the facility; and

"(iv) the quantities, types, and sources of waste to be managed by the facility.

"(11) The plan shall provide for technical and financial assistance to local communities to meet the requirement of the plan.

"(12) The plan shall—

"(A) specify the conditions under which the State will authorize a person to accept solid waste from a State of origin for purposes of solid waste management other than transportation; and

"(B) ensure that the waste is managed in accordance with the plan and that acceptance of the waste will not impede the ability of the State of final destination to manage solid waste generated within its borders."; and

(2) by adding at the end the following new subsection:

"(e) Prohibition.—Upon the expiration of 180 days after the date of approval of a State's Solid Waste Management Plan required by this section or on the date on which a State plan becomes effective pursuant to section 4007(d), it shall be unlawful for a person to manage solid waste within that State, to transport solid waste generated in that State to a State of final destination, and to accept solid waste from a State of origin for purposes of solid waste management other than transportation unless the activities are authorized and conducted pursuant to the approved plan.".

(b) Procedure.—Section 4006 of the Solid Waste Disposal Act (42 U.S.C. 6946) is amended by adding at the end the following new subsection:

"(d) Submission of Plans.—Not later than 4 years after the date of enactment of this subsection, each State shall, after consultation with the public, other interested parties, and local governments, submit to the Administrator for approval a plan that complies with the requirements of section 4003(a).".

(c) Approval.—Section 4007 of the Solid Waste Disposal Act (42 U.S.C. 6947) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

"(1) it meets the requirements of section 4003(a);".

(B) by striking the period at the end of paragraph (2) and inserting "; and";

(C) by inserting after paragraph (2) the following new paragraph:

"(3) it furthers the objectives of section 4001."; and

(D) by striking the third sentence and inserting the following: "Upon receipt of each State's certification required by section 4003(a)(8), the Administrator shall determine whether the approved plan is in compliance with section 4003, and if the Administrator determines that revision or corrections are necessary to bring the plan into compliance with the minimum requirements promulgated under section 4003 (including new or revised requirements), the Administrator shall, after notice and opportunity for public hearing, withhold approval of the plan."; and

(2) by adding at the end the following new subsection:

"(d) Failure of the Administrator To Act on a State Plan.—If the Administrator fails to approve or disapprove a plan within 18 months after a State plan has been submitted for approval, the State plan as submitted shall go into effect at the expiration of 18 months after the plan was submitted, subject to review by the Administrator and revision in accordance with section 4007(a).".

TITLE III—INTERSTATE TRANSPORT OF WASTE

SEC. 301. AUTHORITY OF STATES TO CONTROL INTERSTATE SHIPMENT OF SOLID WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new sections:

"SEC. 4011. AUTHORITY TO RESTRICT INTERSTATE TRANSPORT OF SOLID WASTE.

(a) In General.—Upon the expiration of 180 days after the date on which the Administrator approves a Solid Waste Management Plan required by section 4003 or after the date a State plan becomes effective in accordance with section 4007(d), a State with an approved or effective State plan may prohibit or restrict a person from importing solid waste from a State of origin for purposes of solid waste management (other than transportation).

"(b) Limitation.—A State may authorize a person to import solid waste from a State of origin for purposes of solid waste management (other than transportation) only in accordance with section 4003(a)(12).

"SEC. 4012. FEES.

"(a) In General.—A State may levy fees on solid waste that differentiate rates or other aspects of payment on the basis of solid waste origin.

"(b) Allocation.—At least 50 percent of the revenues received from the fees collected shall be allocated by the State to the local government of the jurisdictions in which the solid waste will be managed. The fees shall be used by local governments for the purpose of carrying out an approved plan.".

TITLE IV—FINANCIAL ASSISTANCE

SEC. 401. FEDERAL ASSISTANCE.

Section 4008(a) of the Solid Waste Disposal Act (42 U.S.C. 6948) is amended—

(1) in paragraph (1), by striking "appropriated" and all that follows through "1988" and inserting "appropriated $100,000,000 for each of fiscal years 1996, 1997, and 1998"; and

(2) by adding at the end of paragraph (2) the following new subparagraph:

"(E) There are authorized to be appropriated $25,000,000 for each of fiscal years 1996 through 1998 for the purposes of providing grants to States for the encouragement of recycling, resource recovery, and resource conservation activities. The activities shall include licensing and construction of recycling, resource recovery, and resource conservation facilities within the State and the development of markets for recycled products.".

SEC. 402. RURAL COMMUNITIES ASSISTANCE.

Section 4009(d) of the Solid Waste Disposal Act (42 U.S.C. 6949) is amended—

(1) in subsection (a), by striking "section 4005" and inserting "sections 4004 and 4005"; and

(2) by striking subsection (d) and inserting the following:

"(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1996, 1997, and 1998.".●

By Mr. KOHL:

S. 374. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

THE COURT SECRECY ACT OF 1995

Mr. KOHL. Mr. President, I rise to introduce legislation that I first presented in the last Congress, legislation that addresses the troubling use of secrecy in our courts, which we have been studying in the Judiciary Committee since 1990.

Far too often, the court system allows vital information that is discovered in litigation, and which directly bears on public health and safety, to be covered up: to be shielded from mothers, fathers, and children whose lives are potentially at stake, and from the public officials we have appointed to protect our health and safety.

This happens because of the use of so-called protective orders—really gag orders issued by courts—that are designed to keep information discovered in the course of litigation secret and undisclosed.

Mr. President, these secrecy arrangements are far from benign. Last year, the manufacturers of silicon breast implants agreed to a record $4 billion settlement of product liability claims. Most Americans do not know that studies indicating the hazards of breast implants were uncovered as early as 1984 in litigation. But the sad truth is that because of a protective order that was issued when that case was settled, in the mid 1980's this critical knowledge remained buried, hidden from public view, and from the FDA.

Ultimately, it wasn't until 1992—more than 7 years and literally tens of thousands of victims later—that the real story about silicon implants came out. How can anyone tell the countless thousands of breast implant victims that court secrecy isn't a real problem that demands our attention?

And there are other unfortunate examples of court secrecy. For over a decade, Miracle Recreation, A U.S. playground equipment company, marketed a merry-go-round that caused serious injuries to scores of small children, including severed fingers and feet.

Lawsuits brought against the manufacturer were confidentially settled, preventing the public and the Consumer Products Safety Commission from learning about the hazard. It took more than a decade for regulators to discover the defeat, and for the company to recall the merry-go-round.

There are yet more cases which we have detailed in past hearings. But perhaps the more troubling question is, What other secrets, currently held under lock and key, could be saving lives if they were made public?

Having said all this, we must in fairness recognize that there is another side to this problem. Privacy is a cherished possession, and business information is an important commodity. For this reason, the courts must, in some cases, keep trade secrets and other business information confidential.

But, in my opinion, today's balance of these interests is entirely inadequate. Our legislation will ensure that courts do not carelessly and automatically sanction secrecy when the health and safety of the American public is at stake. At the same time, the bill will allow defendants to obtain secrecy orders when the need for privacy is significant and substantial.

The thrust of our legislation is straightforward. In cases affecting public health and safety, courts would be required to apply a balancing test: They could permit secrecy only if the need for privacy outweighs the public need to know about potential health or safety hazards.

Moreover, courts could not, under the measure, issue protective orders that would prevent disclosures to regulatory agencies. In this way, our bill will bring crucial information out of the darkness and into the light.

I should note that we have made progress in this issue in the past year. A majority of members of the Judiciary Committee voted last year for a court secrecy proposal that was essentially identical to the bill we introduce today. And even the Federal judiciary has attempted to tackle the problem, through the proposal they are now advancing is, in my view, an incomplete solution.

To attack the problem of excessive court secrecy is not to attack the business community. Most of the time, businesses seek protective orders for legitimate reasons. And although some critics may dispute that businesses care about public health and safety, as a former businessman, I know that they do.

In closing, Mr. President, let me note that we in the country take pride in our judicial system for many good reasons. Our courts are among the finest, and the fairest in the world. But the time has come for us to ask: Fair to whom?

Yes, the courts must be fair to defendants, and that is why I support product liability reform. But because the courts as public institutions, and because justice is a public good, our court system must also do its part to help protect the public when appropriate, and not just individual plaintiffs and defendants.

The bill we introduce today helps achieve this important goal; it helps ensure that the public and regulators will learn about hazardous and defective products.

So I look forward to the support of my colleagues—on both sides of the aisle—who believe, as I do, that when health and safety are at stake, there must be reasonable limit to the use of secrecy in our courts.

By Mr. ABRAHAM:

S. 375. A bill to impose a moratorium on sanctions under the Clean Air Act with respect to marginal and moderate ozone nonattainment areas and with respect to enhanced vehicle inspection and maintenance programs, and for other purposes; to the Committee on Environment and Public Works.

CLEAN AIR ACT SANCTIONS MORATORIUM LEGISLATION

Mr. ABRAHAM. Mr. President, today I am introducing a bill that provides a much needed respite for the States from the onerous and inappropriate sanctions of the Clean Air Act. In its bureaucratic fervor to implement regulations and administrative procedures, the EPA has shown a near complete disregard of the States' interests or the actual facts of the situation at hand. This bill prohibits the implementation of these draconian sanctions and will give us time to analyze more fully the Clean Air Act and the method of its implementation.

The Clean Air Act is a well-intentioned attempt to resolve the competing interests of ecological preservation and economic growth. But as is usually the case with complex and patronizing Federal attempts to solve local problems from Washington, it misses the mark. Throughout this country communities are revolting against the EPA's enforcement of the Clean Air Act and their edicts that States and localities must implement a series of centralized automobile tailpipe testing procedures. Unfortunately, the EPA has allowed its enforcement bureaucrats concentrate solely on the means of this act rather than the ends.

A particularly egregious good example of this lock of regulatory good sense occurred in my State of Michigan. Three western Michigan counties were previously found by EPA to exceed the national ambient air quality standards for ozone, which is a product of chemical reactions between volatile organic compounds such as petroleum vapors, and oxygenated nitrogen, with summer sun and heat acting as the catalyst. Now I am heartened by EPA Administrator Browner's decision last night to redesignate these counties as in attainment. But I believe it was only the threat of legislative action like this that forced the EPA to revisit its strategy of enforcement.

Because of these ozone levels, the EPA previously directed Michigan to implement by July 1995 an ozone reduction plan that would reduce by at least 15 percent the ozone producing volatile organic compound emissions. As part of this reduction plan, the EPA determined that only centralized automobile tailpipe exhaust inspection and maintenance procedures—otherwise known as IM240 tests, because the test takes 240 seconds to administer—are 100 percent effective in reducing emissions. These tests require the local citizens to travel as far as 50 miles to testing facilities, then to another facility to repair the exhaust system determined by this test to be defective, and then back to the first testing facility for another test, possibly to start the whole process again.

The EPA unilaterally decided that any State's testing procedure that allows for testing and repair at the same facility is only 50 percent as effective as test-only facility procedures. Their decision was based upon the idea that test-and-repair facilities are rife with corruption and therefore pass automobiles which have defective exhaust systems. But the evidence shows otherwise. In Georgia, where both test-and-repair and test-only facilities operate, the two procedures were shown to have nearly identical rates of properly identifying vehicles with faulty exhaust systems, tampered exhaust systems, and that the test-and-repair facilities effectively discovered tampered vehicles. Furthermore, the General Accounting Office reported in 1992 that 25 percent of the vehicles tested by EPA using the IM240 procedures failed an initial emissions test but passed a second, even though no repairs were made to the vehicles. This phenomenon of flipper vehicles, where the same vehicle can have radically differing emission levels at different times, contributes as much as 20 percent of overall tailpipe emissions. As Douglas Lawson of the Desert Research Institute has determined through exhaustive analysis of I&M procedures, "As long as there are vehicles with emissions variability on the road, an I/M program that relies upon scheduled testing is likely not be very effective." Which brings me to the critical point of analysis which EPA consistently missed: how much do test-only facility procedures actually reduce emissions over test-and-repair facility procedures?

The answer is "not much." In fact, Mr. Lawson's previous comment is consistently supported by the evidence at hand, including a very comprehensive policy analysis by the Rand Corp. It states:

> Existing national data, limited as it is, suggest little difference in measures of effectiveness between centralized and decentralized I/M programs. There is no empirical basis to choose between different program types. And, no single component, be it centralized IM240 or remote sensing technology is likely to be the "silver bullet" that lowers emission levels for a significant faction of gross polluting vehicles.

It goes on to point out: "The centralized/decentralized debate is less significant than a serious effort to rethink the entire Smog Check system and more generally, all programs to enhance Inspection and Maintenance." It is not an issue of test-and-repair facilities versus test-only facilities, but rather an issue of the whole inspection and maintenance process mentality.

The EPA nevertheless stuck doggedly by its centralized test-only procedures. When my staff requested a summary of EPA's analysis of this issue, EPA sent 28 pages of data analyzing the differing rates of tampering detection and testing efficiency between centralized and decentralized programs. Only one-half page, however, examined the crucial issue of whether test-only procedures reduced overall emissions. EPA's analysis compared Arizona's emission levels under test-only procedures to Indiana's emission levels with no I&M procedures at all. From the data that Arizona has lower emission levels, the EPA concludes test-only is superior to test-and-repair. These leaps of logic, although convenient for pressing forth undesirable regulations, make for poor public policy.

Such serious breaks in logic highlight the EPA's inability to view this issue in its totality. It is apparently paralyzed in its analysis by an overwhelming desire to implement centralized I&M procedures. Assistant EPA Administrator for Air Mary Nichols said as much before my senior Michigan colleague's hearing on this issue last fall. She stated:

> . . . anybody who has bothered to buy a car that meets current emissions standards is owed an opportunity to have a good inspection test done to make sure that car is maintaining the emissions that it was designed to meet, because if it is not, it should be getting repaired, and if it is repaired, they are likely to experience better performance and better fuel economy.

To the EPA, the only way to create such an opportunity is for the Federal Government to force all car owners to have their cars tested and repaired, so that they can rest assured their cars are operating properly. Once again, members of the Clinton administration are out of touch and are missing the point. We must protect our constituencies and take the action necessary to stop this patronizing and intrusive behavior in the future.

As a result of this convoluted logic, States are forced to adopt centralized test-only programs because the EPA halves the emission reduction credits for decentralized test-and-repair programs within the State's emission reduction programs. If they do not adopt these centralized procedures, the EPA will reject their emission reduction plan and place sanctions on the State. These sanctions include the withholding of millions in Federal highway funds and Federal pollution reduction program grants, Federal takeovers of State emission reduction plans, and two-for-one emission offset requirements where no new emission producing facilities can be constructed unless the expected new emissions are offset by two times that level of emissions at other facilities in the area. I assume no facility operates and produces emissions unless it does so at a profit, so I seriously doubt any facility will be shut down to make way for new facilities. These offsets would have effectively halted industrial growth in the area, and all because EPA wrongly wanted cars tested and repaired at separate facilities.

This situation may even have seemed reasonable, given the existing law, if these areas were at fault for their allegedly high levels of ozone, but that was not the case. Because the emissions that chemically react to create ozone can travel in the air stream, the ozone levels experienced in one area may be the result of emissions from hundreds of miles away. Such was the case with the three counties in western Michigan. The three western Michigan counties of Kent, Ottawa, and Muskegon were all found by EPA to have ozone levels above the national ambient air quality standard of 120 parts per billion. The ozone contributions from the northern Indiana, northern Illinois, and Wisconsin, however, provided over 98 percent of the ozone that resulted in nonattainment. In fact, even if these three counties were to reduce their emission levels to zero, the ozone levels would actually increase as the overwhelming ozone transport from the West drifted into the region. Furthermore, even though the EPA claimed reducing western Michigan emissions would reduce ozone levels in northern Indiana during that four per cent of the year when winds are from the northeast, such emissions are irrelevant to that area. The Lake Michigan Air Directors Consortium executive director Stephen Gerritson told my colleague Senator LEVIN in hearings last fall that western Michigan emissions did not cause ozone nonattainment in northern Indiana. In fact, the area impacted by these very infrequent western Michigan transported emissions is currently in attainment. The regulatory actions of the EPA, in their misguided attempt to solve western Michigan's supposed ozone problem, would have actually made it worse.

In light of this action, the Governor of Michigan halted the further implementation of such an unnecessary program last month. In the face of similarly bold exercises of States' rights, the EPA's Administrator reached out to the Governors in what I believe was an attempt to save the Clean Air Act from full congressional review. The EPA knows it is in trouble. When our loyal opposition held control of the Congress, the EPA would brook no complaints from the States that the EPA's tyrannical regulatory measures were unnecessary or ineffective. Instead, the EPA marched forward with an agenda to impinge States' rights, halt economic growth and force the citizenry to abide by their ideas as to what was in the citizenry's collective best interest.

We must review the Clean Air Act in it totality. It is based upon bad science, bad procedures, and focuses on the wrong issues. The technology of emission detection, control, and abatement advances exponentially, and any legislation that attempts to protect our environment through invasive command and control techniques favored by anti-industrialist, anti-growth, anti-business forces in the EPA is bound to fail. Such a review, however, will not be quick. The Clean Air Act is the longest, most complex piece of legislation ever passed, and took years to develop. It will take time to develop feasible replacements. Furthermore, as I have stated on this floor before, environmental legislation such as the Clean Air Act is one of the most notorious examples of an unfunded mandate. We must establish a window in which we can review this act and know that our constituents will be safe from egregious EPA action.

This bill establishes such a window. Upon its enactment, the EPA will be prohibited, for 2 years, from imposing sanctions under sections 110(m) or 179 of the Clean Air Act, withhold pollution abatement grants section 105, or federalize a State's program under section 110(c). I explained the sanctions and enforcement actions before, but quickly, the section 100(m) and 179 sanctions include the loss of Federal highway funds and two-for-one emission offsets. These moratoria will apply to actions taken in response to a State's failure to submit or implement a pollution reduction plan in response to marginal or moderate ozone nonattainment. It will also prohibit both the EPA and the Highway Administration from taking similarly adverse action, such as withholding Federal highway funds, for failure to implement enhanced automobile inspection and maintenance procedures. The moratoria would exist for 2 years from enactment but would not apply to sanctions already applied. While these moratoria are in effect, we will have the time and liberty to analyze closely the Clean Air Act, and secure the assurances that our States will not be subject to these outrageous sanctions and actions. Last month, a bipartisan group of 33 State environmental directors, working through the National Association of Governors, called for such a moratorium while the States work with the EPA to define a more workable solution. Governor Engler of Michigan has fully supported such a moratorium.

Although the EPA rectified the problem for my constituents last night, it still remains for other areas, such as in Virginia, Texas, and Rhode Island. Furthermore, there is no assurance that the EPA could not just as easily reverse this decision and put my constituents back in exactly the same quandary as before. I recommend that my colleagues join with me in preventing such a thing from happening.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OZONE NONATTAINMENT AREAS.

(a) IN GENERAL.—During the 2-year period beginning on the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall take no enforcement action with respect to an area designated nonattainment for ozone that is classified as a Marginal Area or Moderate Area under section 181 of the Clean Air Act (42 U.S.C. 7511).

(b) DEFINITION.—In this section, the term "enforcement action" means—

(1) the withholding of a grant under section 105 of the Clean Air Act (42 U.S.C. 7405);

(2) the promulgation of a Federal implementation plan under section 110(c) of the Clean Air Act (42 U.S.C. 7410); and

(3) the imposition of a sanction under section 110(m) or 179 of the Clean Air Act (42 U.S.C. 7410(m), 7509).

(c) APPLICABILITY.—Subsection (a) does not preclude the continued application of a sanction that was imposed prior to the date of enactment of this Act.

SEC. 2. ENHANCED VEHICLE INSPECTION AND MAINTENANCE PROGRAMS.

During the 2-year period beginning on the date of enactment of this Act, the Administrator of the Environmental Protection Agency and the Administrator of the Federal Highway Administration of the Department of Transportation may not take any adverse action, against a State with respect to a failure of an enhanced vehicle inspection and maintenance program under section 182(c)(3) of the Clean Air Act (42 U.S.C. 7511a(c)(3)), under—

(1) section 176 of the Clean Air Act (42 U.S.C. 7506);

(2) chapter 53 of title 49, United States Code;

(3) subpart T of part 51, or subpart A of part 93, of title 40, Code of Federal Regulations (commonly known as the "transportation conformity rule"); or

(4) part 6, 51, or 93 of title 40, Code of Federal Regulations (commonly known as the "general conformity rule").

By Mr. KENNEDY:

S. 376. A bill to resolve the current labor dispute involving major league baseball, and for other purposes; read the first time.

BASEBALL STRIKE LEGISLATION

Mr. KENNEDY. Mr. President, President Clinton has submitted legislation to Congress to resolve the baseball strike by establishing a fair and equitable procedure for binding arbitration of the dispute.

The legislation would establish a National Baseball Dispute Resolution Panel composed of three impartial individuals, appointed by the President, with expertise in the resolution of labor-management disputes. The panel would be empowered to take testimony, conduct hearings and compel the production of relevant financial information from all parties. At the conclusion of that process, the panel would issue a decision setting forth the terms of an agreement that would be binding on both sides of this dispute.

Under the terms of the proposed legislation, the panel would be required, in making its decision, to take into account a number of factors, including the history of collective bargaining agreements between the parties, the owners' ability to pay, the impact on communities that benefit from major league baseball, the unique status of major league baseball, and the best interests of the game.

President Clinton and his special baseball mediator, William J. Usery, deserve great credit for the efforts they have made in recent months, and especially in recent days, to achieve a satisfactory resolution of this long and bitter controversy.

Clearly, at this moment in time, Members of Congress are divided about whether legislation is appropriate. A great deal will turn on developments in coming days, especially whether baseball fans across the country feel that action by Congress is needed.

All of us hope that a way can still be found for the parties to resolve this controversy themselves. It is too early to tell whether the events of recent days have given enough new impetus to the parties to reach such a resolution.

If not, then I believe Congress should act, and I look forward to working with others in the Senate and House to achieve the goal that all of us share—to save the 1995 baseball season, to do so in a way that is fair to owners and players alike, and do so in time for opening day—on schedule. Red Sox fans want baseball to begin on opening day as fans do all around the country. We should do all we can to make sure America's pastime goes on as scheduled.

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. BREAUX, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 104

At the request of Mr. D'AMATO, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 104, a bill to establish the position of Coordinator for Counter-Terrorism within the office of the Secretary of State.

S. 198

At the request of Mr. CHAFEE, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 198, a bill to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes.

S. 241

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 241, a bill to increase the penalties for sexual exploitation of children, and for other purposes.

S. 275

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 275, a bill to establish a temporary moratorium on the Interagency Memorandum of Agreement Concerning Wetlands Determinations until enactment of a law that is the successor to the Food, Agriculture, Conservation, and Trade Act of 1990, and for other purposes.

S. 281

At the request of Mr. D'AMATO, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 281, a bill to amend title 38, United States Code, to change the date for the beginning of the Vietnam era for the purpose of veterans benefits from August 5, 1964, to December 22, 1961.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect elections for Federal, State, and local office.

AMENDMENTS SUBMITTED

BALANCED BUDGET AMENDMENT

REID (AND OTHERS) AMENDMENT NO. 236

Mr. REID (for himself, Mr. DASCHLE, Mr. DORGAN, Mr. CONRAD, Mrs. FEINSTEIN, Mr. FORD, Mr. HARKIN, Mr. HEFLIN, Mr. GRAHAM, Mr. KOHL, Mr. BAUCUS, Mrs. BOXER, Mr. HOLLINGS, Ms. MIKULSKI, Mr. FEINGOLD, and Mr. LEAHY) proposed an amendment to the joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States; as follows:

On page 3, line 8, after "principal." insert "The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article.".

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding an oversight hearing on Thursday, February 9, 1995, beginning at 10 a.m., in room G–50 of the Dirksen Senate Office Building on challenges facing Indian youth.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Wednesday, February 8, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on the President's tax proposals in the fiscal year 1996 budget and the administration's views on the Contract With America.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent, on behalf of the Governmental Affairs Committee, to meet on Wednesday, February 8, 1995, at 9:30 a.m. for a hearing on the subject of regulatory reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, February 8, 1995, at 2 p.m. to hold a nominations hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 376

Mr. REID. Madam President, I understand that S. 376, Major League Baseball Restoration Act, introduced earlier in the day by Senator KENNEDY, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read the bill for the first time.

Mr. REID. Madam President, I now ask for its second reading.

Mr. HATCH. I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read on the next legislative day.

ORDERS FOR TOMORROW

Mr. HATCH. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. on Thursday, February 9, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak for not to exceed 5 minutes each, with Senator HATFIELD to be recognized for up to 10 minutes and Senator BIDEN to be recognized for up to 30 minutes; further, that at the hour of 10 a.m., the Senate resume consideration of the House Joint Resolution 1, the balanced budget constitutional amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL THURSDAY, FEBRUARY 9, 1995, AT 9:15 A.M.

Mr. HATCH. If there is no further business to come before the Senate and no other Senator is seeking recognition, I now ask that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:22 p.m., recessed until Thursday, February 9, 1995, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate February 8, 1995:

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

ALTON W. CORNELLA, OF SOUTH DAKOTA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS, VICE PETER B. BOWMAN, TERM EXPIRED.

REBECCA G. COX, OF CALIFORNIA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS. (REAPPOINTMENT.)

GEN. JAMES B. DAVIS, U.S. AIR FORCE, RETIRED, OF FLORIDA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS, VICE BEVERLY BUTCHER BRYON, TERM EXPIRED.

S. LEE KLING, OF MARYLAND, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS, VICE HANSFORD T. JOHNSON, TERM EXPIRED.

BENJAMIN F. MONTOYA, OF NEW MEXICO, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS, VICE ARTHUR LEVITT, JR., TERM EXPIRED.

WENDI LOUISE STEELE, OF TEXAS, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS, VICE HARRY C. MCPHERSON, JR., TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS TO TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

RONALD W. YATES, [redacted]

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

HENRY VICCELLIO, JR. [redacted]

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

BILLY J. BOLES [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

BILLY J. BOLES [redacted]

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

EUGENE E. HABIGER [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LAWRENCE P. FARRELL, JR. [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

DONALD F. HAGEN, [redacted]

THE FOLLOWING-NAMED CAPTAINS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral (lower half)

MICHAEL LYNN COWAN, [redacted]

SUPPLY CORPS

To be rear admiral

RAYMOND AUBREY ARCHER III [redacted]

JUSTIN DANIEL MC CARTHY [redacted]
PAUL OSCAR SODERBERG [redacted]

CIVIL ENGINEER CORPS

To be rear admiral (lower half)

ROBERT LEWIS MOELLER, [redacted]
MICHAEL WILLIAM SHELTON, [redacted]

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

HAROLD EDWARD PHILLIPS [redacted]

IN THE AIR FORCE

THE FOLLOWING-NAMED AIR NATIONAL GUARD OFFICERS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 12203 AND 12212, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES AS INDICATED.

MEDICAL CORPS

To be lieutenant colonel

THOMAS A. WORK, [redacted]
QUAY C. SNYDER, JR. [redacted]

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 12203 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER).

LINE OF THE AIR FORCE

To be lieutenant colonel

LAWRENCE R. DOWLING [redacted], 9/21/94
DEBBIE L. HENSON [redacted], 9/10/94
DAVID C. MOREAU [redacted], 9/14/94
PHILIP B. SANSONE [redacted], 9/30/94

JUDGE ADVOCATE GENERALS DEPARTMENT

To be lieutenant colonel

JOAN A. LAWRENCE [redacted], 9/24/94
STEPHIE K. WALSH [redacted], 9/15/94

CHAPLAIN CORPS

To be lieutenant colonel

RICHARD C. BEAULIEU [redacted], 9/9/94
WILLIAM F. EVANS [redacted], 9/11/94

NURSE CORPS

To be lieutenant colonel

SHARON L. HINKINS [redacted], 9/18/94
JASPER R. JONES [redacted], 9/11/94
ELLEN N. THOMAS [redacted], 9/10/94

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 12203 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER).

LINE OF THE AIR FORCE

To be lieutenant colonel

MICHAEL M. ADKINSON [redacted], 10/19/94
ARNOLD W. BALTHAZAR [redacted], 10/14/94
ARCHIE D. CUMBEE [redacted], 10/1/94
NEIL A. CURRIE [redacted], 9/10/94
ALAN T. GRANGER [redacted], 10/26/94
RICHARD W. GUNGEL [redacted], 10/1/94
TERRY K. HARDY [redacted], 10/15/94
ARTHUR S. HARRISON [redacted], 10/1/94
HAROLD J. HUDEN [redacted], 10/21/94
RONALD F. JONES [redacted], 9/15/94
ROBERT T. KARSLAKE, [redacted], 10/1/94
RICHARD L. MARSH, [redacted], 10/5/94
JOHN M. MURRAY [redacted], 10/17/94
WILLIAM S. O'KEEFE [redacted], 10/26/94
PAUL N. PAQUETTE [redacted], 10/1/94
RICHARD J. RACOSKY [redacted], 9/24/94
MARTHA V. SMYTH [redacted], 10/1/94
DANIEL P. SWIFT [redacted], 9/15/94
STEVEN M. WEDE [redacted], 10/1/94
ARTHUR N. WERTS [redacted], 9/10/94
WILLIAM D. WILEY [redacted], 10/1/94

BIOMEDICAL SERVICES CORPS

To be lieutenant colonel

JEFFREY E. SAWYER [redacted], 8/17/94

MEDICAL CORPS

To be lieutenant colonel

RICHARD H. WHITE [redacted], 10/23/94

NURSE CORPS

To be lieutenant colonel

TERESA A. WALLACE [redacted], 9/29/94
SANDRA J. HIGGINS [redacted], 9/29/94

DENTAL CORPS

To be lieutenant colonel

SHELDON R. OMI [redacted], 10/2/94

HE FOLLOWING OFFICERS, U.S. AIR FORCE OFFICER TRAINING SCHOOL, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

NORMAN W. ANDERSON, [redacted]
BRADFORD C. BABINSKI, [redacted]
WILLIAM C. BAILEY, [redacted]
DIANE L. BROWN, [redacted]
WAYNE A. CHALK, [redacted]
JEFFREY P. DEJOANNIS [redacted]
LAMAR A. EIKMAN, [redacted]
PETER V. ELLUM [redacted]
JOHN F. GILLESPIE, JR. [redacted]
JEFFRY W. GLENN [redacted]
JUAN M. HIDALGO, [redacted]
GRANT L. IZZI, [redacted]
GARY L. JACKSON, [redacted]
JAMES C. JONES [redacted]
LAURIE D. JURASZEK [redacted]
DAVID D. KELLEY [redacted]
DAVID D. KRETZ [redacted]
KELLY A. LITVIAK [redacted]
JAMES L. MATNEY [redacted]
DOUGLAS E. MC CLAIN, [redacted]
BRETT L. MERS [redacted]
CARLOS R. MESSER, JR. [redacted]
RODNEY H. NICHOLS, [redacted]
MICHAEL J. RICHMAN [redacted]
CHAD A. RIDEN, [redacted]
STEVEN M. ROARK, [redacted]
ALAN B. SANDERS [redacted]
ROBERT D. SANDOVAL [redacted]
LAWRENCE J. SCHUH [redacted]
LONES B. SEIBER III [redacted]
MARCIA C. SMITH, [redacted]
PAUL P. SMITH, JR. [redacted]
JENNIFER M. STOCK [redacted]
PHILLIP A. SUYDAM [redacted]
PAUL R. TAYLOR, JR. [redacted]
KEVIN V. THOMPSON [redacted]
MICHAEL C. WALTERS [redacted]
DARIN L. WILLIAMS, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be colonel

JAMES M. CORRIGAN, [redacted]
LELAND D. COX, [redacted]
CYNTHIA A. DEESE [redacted]
JOSEPH D. YOUNT [redacted]

To be lieutenant colonel

GREGORY A. BROWN [redacted]
ERIC H. CAPPEL, [redacted]
STEVEN A. COHEN [redacted]
JEFFREY G. HOOPER [redacted]
DAVID P. KAHLE [redacted]
RICHARD J. LAVELLE [redacted]
FRANK R. LITAKER [redacted]
EUGENE P. SCHEMPP [redacted]
ROBERT A. STRINI [redacted]
THOMAS H. UDALL [redacted]

To be major

VIVIAN C. EDWARDS III [redacted]
GAIL A. FISHER, [redacted]
THOMAS G. GAGES, [redacted]
DARRELL A. LIVINGSTON, [redacted]
JESSE G. MONTALVO [redacted]
MICHAEL W. PELTZER, [redacted]
BRUCE D. TOWNSEND, [redacted]
KEITH A. VRAA, [redacted]
MONICA A. WILSON, [redacted]

MEDICAL SERVICE CORPS

To be major

KATHRYN S. MANCHESTER [redacted]

NURSE CORPS

To be lieutenant colonel

JANA L. CAMPBELL [redacted]
DENISE A. MOORE [redacted]

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

LINE OF THE AIR FORCE

To be captain

BRUCE D. GREENWALD [redacted]
JAMES P. HENDRICKS [redacted]
CHARLES D. HOWLAND [redacted]
BENJAMIN WHAM II, [redacted]

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

NURSE CORPS

To be captain

ILENE ANDERSON, [redacted]
JUANITA ANDREWS [redacted]
PATRICIA C. BLAKE, [redacted]
MARK J. BROWN, [redacted]
MARK J. GRENIER, [redacted]
CHRISTINE L. HALE [redacted]
SUSAN L. HEGLAR, [redacted]
BILLYE G. HUTCHISON, [redacted]
SARAH E. IDDINS [redacted]
KAREN M. KINNE, [redacted]
DEBORAH J. MARSHALL, [redacted]
KIRK MARTIN, [redacted]
DEBORAH K. MILANO, [redacted]
DONNA L. MILLER, [redacted]
CORINNE MARTIN OMEARA, [redacted]
CHERYL A. REILLY [redacted]
PAULA R. RICK, [redacted]
DAVID T. SAYLE [redacted]
BONNIE A. SAYLOR, [redacted]
LIZANNE SLAYTON, [redacted]
ALISON L. SOLBERG [redacted]

BIOMEDICAL SCIENCES CORPS

To be captain

KATHERINE A. ADAMSON, [redacted]
STANLEY D. BRUNTZ, [redacted]
BERNADETTE M. BYLINA, [redacted]
GORDON H. CAMPBELL, JR., [redacted]
JACKIE H. CLARK, [redacted]
DANNY L. DAVIS, [redacted]
MICHAEL L. EARL, [redacted]
DEBORAH L. ELLIOTT, [redacted]
DAVID A. KULESH, [redacted]
LESLIE G. LOVE [redacted]
LUCIA E. MORE, [redacted]
STEVEN P. NIEHOFF [redacted]
BRIAN V. ORTMAN, [redacted]
GEORGE M. PRASCSAK, JR. [redacted]
ORAZIO F. SANTULLO, JR. [redacted]
WILLIAM K. SKORDOS, [redacted]
BETTY M. SMITH, [redacted]
LESLIE A. SPANGLER, [redacted]
JOHN M. SPILKER, [redacted]
JOHN A. STAHL, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be colonel

RICHARD G. AUSTIN, [redacted]
DAVID L. CAIN, [redacted]
CLIFFORD L. CHILDERS [redacted]
ROBERT N. CLEMENT, [redacted]
DENNIS L. GEORGE, [redacted]
WILLIAM J. GREINER, [redacted]
CHARLES V. GUY, JR. [redacted]
TERRY L. HALES [redacted]
DENNIS J. MANNING, [redacted]
CHARLES F. MARTIN [redacted]
LARRY E. MATCHETT [redacted]
JULIUS E. MATHIS [redacted]
RAYMOND L. MC BRIDE, [redacted]
GERVIS A. PARKERSON, JR. [redacted]
FRANK J. SHARR [redacted]
PAUL D. VIOLA, [redacted]

THE JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

RICHARD D. EDWARDS [redacted]

DENTAL CORPS

To be colonel

JOHN B. THORNTON, JR., [redacted]

MEDICAL SERVICE CORPS

To be colonel

BILLY A. GARNER [redacted]
ERNEST J. REINERT [redacted]
ANNA R. WEST, [redacted]

CHAPLAIN CORPS

To be colonel

DEAN E. BAER [redacted]
ARIEL R. MATIENZO-LOPEZ [redacted]

WILLIAM D. MCGOWIN, JR. [redacted]

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be lieutenant colonel

GARY D. BRAY, [redacted]
NELSON J. CANNON, [redacted]
TIMOTHY D. DONOVAN, [redacted]
GARY J. DUNN [redacted]
RICHARD W. FOX, [redacted]
ALVIE L. KEASTER [redacted]
IVAN S. KUNKEL, [redacted]
JOSEPH A. MATCZAK [redacted]
TIMOTHY R. MEYER, [redacted]
JOHN B. MILLER, [redacted]
MICHAEL J. MURPHY, [redacted]
KENNETH E. MUSSER [redacted]
ROBERT D. O'BARR [redacted]
DONALD J. ODERMANN [redacted]
ROBERT J. O'NEILL [redacted]
PATRICK P. PNACEK [redacted]
MICHAEL A. QUARTANA, [redacted]
DONNA L. RIX, [redacted]
CHARLES M. SINES [redacted]
DONALD C. STORM, [redacted]
CAREY G. THOMPSON, [redacted]
VERLYN E. TUCKER, [redacted]
MELVIN D. TWITTY [redacted]
KINGSLEY R. VAN DUZER [redacted]
CHARLES M. WAGNER, [redacted]
GERARD W. WEISS, [redacted]
CHESTER L. WHITE, [redacted]

THE JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

DONALD W. FETT, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

KATHLEEN S. CARLSON [redacted]

MEDICAL CORPS

To be lieutenant colonel

STEVEN R. ANDERSON [redacted]

CHAPLAIN CORPS

To be lieutenant colonel

ROBERT D. ALSTON [redacted]
WILLIAM T. SHERER III [redacted]

IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANT COMMANDERS AND LIEUTENANTS IN THE LINE AND STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADES OF COMMANDER AND LIEUTENANT COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 628, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

CHAPLAIN CORPS

To be commander

KERBY E. RICH, [redacted]

MEDICAL CORPS

To be commander

MARTIN L. SNYDER [redacted]

UNRESTRICTED LINE

To be lieutenant commander

JOSEPH G. O'BRIEN [redacted]
JOSEPH B. WIEGAND [redacted]

MEDICAL SERVICE CORPS

To be lieutenant commander

JUNIUS L. BAUGH [redacted]
JOHN C. DRAGON, [redacted]
LAWRENCE W. WIGGINS, [redacted]

THE FOLLOWING-NAMED NAVAL RESERVE OFFICER TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531.

ERIC R. VICTORY, [redacted]

THE FOLLOWING-NAMED NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

KELLY V. AHLM [redacted]
MICHAEL ANSLEY, [redacted]
JAMES R. BRYAN [redacted]
TY G. CHRISTIE [redacted]
MARVIN W. CUNNINGHAM, [redacted]
JAMES A. DUTTON [redacted]
KEVIN L. ETZKORN, [redacted]
DAVID C. GARCIA, [redacted]
JOSEPH T. HANSEN, [redacted]
JOHN W. HAYES, [redacted]
RYAN J. HEILMAN, [redacted]
TRENTON D. HESSLINK, [redacted]
CLARENCE J. KIMM [redacted]
STEPHEN D. MOSER [redacted]
MICHAEL R. SOWA, [redacted]
LANCE E. THOMPSON, [redacted]
STEVEN R. VONHEEDER, [redacted]
WAYNE C. WALL, [redacted]
BRYAN D. WATERMAN, [redacted]

THE FOLLOWING-NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

JEFFREY D. BLAKE [redacted]
CARTER H. GRIFFIN [redacted]
KEITH T. HURLEY, [redacted]
MARK A. JONES, [redacted]
RICHARD W. MEYER, [redacted]
WILLIAM A. SPRAUER, [redacted]

THE FOLLOWING-NAMED FORMER U.S. NAVAL RESERVE OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

RICHARD A. COULON, [redacted]

THE FOLLOWING-NAMED FORMER U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

STEPHEN S. FROST [redacted]

THE FOLLOWING-NAMED U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

MARILYN BOITANO, [redacted]

THE FOLLOWING-NAMED MEDICAL COLLEGE GRADUATES TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

STEPHEN I. DEUTSCH [redacted]
GREGORY DOWBACK, [redacted]
RICHARD J. MULLINS, [redacted]
ROBERT L. STEWART [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED AIR FORCE ACADEMY GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 541:

MARINE CORPS

To be second lieutenant

BRANDON D. BROWN, [redacted]
BRIAN E. CARBAUGH, [redacted]
CHRISTOPHER KOELZER, [redacted]
JASON D. LEIGHTON, [redacted]
STEVEN M. WOLF, [redacted]

HOUSE OF REPRESENTATIVES—*Wednesday, February 8, 1995*

The House met at 11 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, for all those people who see in their daily tasks the opportunity to serve people in their needs, and by such service are following Your command. As we seek to be faithful with our own responsibilities by being good stewards of the resources of our land, help us to see that we are doing Your will. May Your purposes be accomplished, O God, as we dedicate our abilities to Your service by being faithful in our daily tasks.

In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BONIOR. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BONIOR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 346, nays 69, answered "present" 1, not voting 18, as follows:

[Roll No. 100]

YEAS—346

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Cox
Coyne
Cramer
Crapo
Cremeans
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fattah
Fawell
Fields (LA)
Fields (TX)
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kelly
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Miller (FL)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Studds
Stump
Talent
Tanner
Tate
Tauzin
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Tucker
Upton
Velazquez
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—69

Abercrombie
Ackerman
Becerra
Boehlert
Bonior
Browder
Brown (CA)
Chapman
Clay
Clyburn
Coleman
Costello
Crane
Deutsch
Dicks
Evans
Fazio
Filner
Foglietta
Frank (MA)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefley
Hefner
Hilliard
Hinchey
Jacobs
Jefferson
Kaptur
Kennedy (MA)
Klink
LaFalce
Lantos
Lewis (GA)
Lipinski
McKinney
Menendez
Mfume
Miller (CA)
Mineta
Neal
Ortiz
Owens
Pallone
Payne (NJ)
Pelosi
Pickett
Pombo
Pomeroy
Roemer
Rush
Sabo
Schroeder
Skaggs
Stark
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Towns
Traficant
Vento
Visclosky
Volkmer
Waters
Wolf
Yates

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—18

Andrews
Collins (MI)
Cubin
Durbin
Emerson
Frost
Furse
Houghton
Kasich
Kennedy (RI)
Minge
Orton
Quinn
Reynolds
Smith (NJ)
Stockman
Stupak
Torricelli

□ 1122

Mr. HILLIARD changed his vote from "yea" to "nay."

Mr. LoBIONDO, Ms. SLAUGHTER, and Messrs. BARCIA, WISE, and SERRANO changed their vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. LAZIO of New York). Will the gentleman from Washington [Mr. WHITE] come forward and lead the House in the Pledge of Allegiance.

Mr. WHITE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 10 1-minutes on each side. Further 1-minutes will be entertained after the end of the legislative business tonight.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, our Contract With America states the following: That on the first day of Congress a Republican House will force Congress to live under the laws as everyone else, that we will cut committee staff by one-third and cut the congressional budget. And we have done this, and much, much more.

It goes on to state that in the first 100 days we will vote on the following items: A balanced budget amendment, and we have done this; unfunded mandates legislation, and we have done this; line-item veto legislation, and we have also done this; a new crime package to stop violent criminals that we are in the process of now; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for families to lift Government's burden from middle-income Americans; national security restoration to protect our freedoms; Senior Citizens Equity Act to allow our seniors to work without Government penalty; Government regulatory reform; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature once again.

My colleagues, this is our Contract With America.

BASEBALL IS NOT JUST A GAME

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, baseball is not just a game of Mantle and Ruth and DiMaggio.

Baseball is a game of that working mother who sells peanuts outside Camden Yards.

It is a game of that father who ushers people to their seats at Tiger Stadium.

Baseball is a game of tens of thousands of working men and women like them who clean the seats and drive the buses and work in the restaurants and hotels outside the stadium, often for very little pay.

And today, as we watch millionaires fight with billionaires to come to an agreement, it is those average Joes who are being hurt most by this strike.

Mr. Speaker, baseball is not a small industry.

It is part of the rhythm of America.

It brings balance to a time of chaos and change.

Today, America is not turning its lonely eyes to Joe DiMaggio.

It is turning its eyes to us.

And it is time we join the President, step up to the plate, and help put an end to this baseball strike.

AFTER THE CONTRACT

(Mrs. SMITH of Washington asked and was given permission to address the House for 1 minute.)

Mrs. SMITH of Washington. Mr. Speaker, this has been a dynamic month as a freshman. It is just a little over a month ago that we came with a lot of promises to the American people. We promised a balanced budget amendment, line-item veto, and we are marching on.

I was just interviewed by a newspaper and asked, "What do you think?"

I said, "Well, I said I would never run because this Congress will never do anything, and just 6 months ago I was a write-in candidate, and I was recruited, and I said, 'O.K., I'll go for 2 years.'"

I have to stand before my colleagues today and say, "This Congress has done more than I have seen any Congress do in 2 years."

After the contract, Mr. Speaker, we are going to do more, and we are going to take up some of the tough issues.

Today we have introduced a bill, a group of freshmen, that will eliminate gifts and trips. This will be a tough one to take on, but both our leadership, the committee chairs, and all of us believe that it is time that we take on this issue. It will be heard right after the contract. It is something very, very important that we do.

This Congress is not only good, but we also have a high integrity, and we are going to make sure that the American people understand that.

MR. ARMEY'S WARDROBE AND THE MINIMUM WAGE

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, I do not mean to harangue the distinguished major leader. However, I heard Mr. ARMEY say that he would fight an increase in the minimum wage with "every fiber in his body."

Well, I want him also to consider the fibers on his body: the fibers that make up his shirt, his suit, his socks, his tie.

If his clothes were made here in USA, then I would bet that some of those fibers were sewn together—by workers earning the minimum wage.

As public servants, we should be willing to give our constituents the shirts off our back.

Instead, in Mr. ARMEY's world, we take the shirts that they make for us, put them on our backs, and then tell them that they are not even worth the $4.25 an hour that they got making that shirt. Mr. ARMEY may be the majority leader in this House, but he does not speak for the majority of Americans, most of whom want us to honor our workers with a decent, liable wage.

We have all heard the story of the "Emperor who had no clothes." Well, if it were not for minimum wage employees, we would hear the story—the true story—of the majority leader who had no clothes.

Let us keep that in mind as we debate the minimum wage.

□ 1130

INTRODUCTION OF TRAVEL AND TOURISM LEGISLATION TO BE FORTHCOMING

(Mr. ROTH asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, we in Congress need to give additional attention to the American travel and tourism industry. Do Members know that travel and tourism creates a $63 billion business, and that it is the Nation's second largest employer?

Last year in Wisconsin, for example, tourism brought in some $6 billion. That is more than $17 million a day, and it creates jobs for some 128,000 workers. In my district, people vacationing or traveling for business spent $700 million and created 18,000 new jobs. And that is true of just about every single congressional district in America.

Restaurants, hotels, service stations, gift shops, rental services, and taverns all rely on the tourism dollar. We in Congress need to recognize this industry for the jobs and prosperity it creates.

Mr. Speaker, I ask the Members to call my office to sign on as original cosponsors on far-reaching travel and tourism legislation that I will be introducing.

U.S. TRADE POLICY SEES NO CHANGE, AMERICAN JOBS STILL THREATENED

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, everybody was cheering because the Trade Representative finally stood up to those Chinese dictators. Not for long. At this moment they are negotiating a $8 billion energy deal with China. Beam me up. John Wayne is rolling over in his grave.

When will we learn, Congress, that from Nixon to Clinton this policy of engagement is nothing more than a policy of surrender that is killing the American workers. I say enough is enough. No more wimp-outs, no more deals, no more promises. Congress should strip China of its most-favored-nation trade status or Congress has no anatomy at all.

Mr. Speaker, the last I heard, it was still Uncle Sam. Let us not treat him like Uncle Sucker anymore.

THE ONGOING RECORD OF THE 104TH CONGRESS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, I hope the American people listening note the contrast between what the Democrats are talking—trivial, mean-spirited nonsense—and what we are talking about—the important issues facing America. It is a pity that they have nothing worthwhile to say.

If there is one thing the American people appreciate is hard work. After all, we are a nation built on hard work.

Well, Mr. Speaker, I am proud to report that the statistics are in, and this January was the most productive since before 1981. Let's compare some average numbers for the first January in each Congress from 1981 to 1993 with the January just ended.

Number of hours in session—1981–93: 28. This Congress: 115.

Number of votes—1981–93: 9.3. This Congress: 79.

Number of committee/subcommittee sessions—1981–93: 25.4. This Congress: 155.

Number of measures reported out of committee—1981–93: 1.6. This Congress: 14.

Mr. Speaker, the numbers speak for themselves. This has been the most productive Congress in recent history.

SUPPORT URGED FOR RAISING THE MINIMUM HOURLY WAGE

(Mr. FIELDS of Louisiana asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. FIELDS of Louisiana. Mr. Speaker, I rise today to commend the President on recommending a minimum wage increase for the hard-working people of this country.

There are people who wake up every single morning in this country, go to work every day, and at the end of the day they are still poor, not because they are lazy but because we need to raise the minimum wage.

It is an absolute shame, Mr. Speaker, that there are people who walk into this Chamber making $550 a day and tell people who are making a mere $680 a month that they are not entitled to a cost-of-living adjustment. I find that to be absolutely outrageous at best.

Mr. Speaker, we have not raised the minimum wage since April 1991; according to the Bureau of Labor Statistics, there are an estimated 11 million workers who earn the minimum wage, two-thirds of which are adults.

Sixty percent are women, many are heads of the households.

Finally, Mr. Speaker, what better way to get people off of the welfare rolls, than by giving them a chance to be on a payroll that pays a decent wage.

Mr. Speaker, I urge my colleagues to stand up for the working people in the country and vote "yes" to a minimum wage increase, so that people can get paid for the hard work that they do every single day of their life.

THE HOUSE SETS A NEW RECORD FOR PRODUCTIVITY

(Mr. MARTINI asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MARTINI. Mr. Speaker, correct me if I am wrong, but was it not Casey Stengel who often said, "You could look it up"?

Well, you could look it up, Mr. Speaker. When we have our 100th vote sometime today, we will have set a new record for productivity. Not only have we had 100 votes earlier than any other Congress in the last 15 years, but we have also had more votes.

Yes, Mr. Speaker, it has been hard work. But look at what we have to show: A balanced budget amendment, a line-item veto, an unfunded mandates bill, and maybe most important, a reformed Congress that is restoring the faith of the American people in their Government. After 40 years of one-party rule, this is no small achievement. It comes from working hard and keeping promises.

Today we will keep another promise when we continue work on the crime package. So far we have provided restitution for victims of crime. By the close of business today, we will have put an end to technical loopholes and established an effective death penalty.

Mr. Speaker, it is all part of the real change America wants.

MANDATORY BINDING ARBITRATION RECOMMENDED TO SETTLE THE BASEBALL STRIKE

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS. Mr. Speaker, big league ball players, managers, league owners, play ball.

In the last Congress, last September, I introduced a mandatory binding arbitration bill to try to save this year's season for the national pastime. I reintroduced that bill in this Congress last month.

I have been working with the President and the Secretary of Labor, and the President is writing and will send up this week his preference for binding arbitration, and I will be introducing that. Let us hope that the leadership of this House will play ball with the President. Let us save the 1995 baseball season.

SUPPORT URGED FOR BILL TO LIMIT FEDERAL APPEALS FOR CONVICTED FELONS

(Mr. WHITE asked and was given permission to address the House for 1 minute.)

Mr. WHITE. Mr. Speaker, in 1982, in my district, a man named Charles Campbell slit the throat of an 8-year-old girl, her mother, and a next-door neighbor. He was convicted by a county jury, and under elaborate procedures designed to give him every benefit of the doubt, he was sentenced to the death penalty by a separate jury. Yet last April, 12 years after his sentence, the sentence had still not been carried out.

Why? He had spent his time in five separate appeals, three Federal appeals, trying to evade his sentence. None of the appeals had any merit, and he was finally executed last May.

Mr. Speaker, none of us is happy when a criminal has to be executed, but the present system makes a mockery not only of the death penalty but of our entire system of criminal justice. We have to be clear that when we impose a sentence, we are going to carry it out, and that is why I hope every Member of this House will give serious consideration to the bill we will consider this afternoon that will limit the number of Federal appeals for convicted criminals.

RAISE THE MINIMUM WAGE

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, there has been much rhetoric in this House about helping working families. Yet that rhetoric rings hollow when there is vocal opposition to raising the minimum wage.

Where I come from, if you work full time making only $4.25 an hour, you are living in poverty. The current minimum wage offers little incentive to go off welfare and find a job.

Some say that increasing the minimum wage will cost jobs, but study after study shows that is just not true. The minimum wage is at its lowest real level in 40 years. But some in the majority seem out of touch with just how little the minimum wage buys.

If I were to propose that Members of Congress make only $4.25 an hour, people would call that proposal ridiculous.

It is ridiculous. Members of Congress cannot live on $4.25 an hour, and neither can anyone else.

Have a heart, raise the minimum wage.

□ 1140

SUPPORT H.R. 729

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, last week the State of North Carolina executed Kermit Smith for the brutal kidnaping, rape, and murder of a college cheerleader in 1980. Because of the burdensome appeals process, the case dragged on for 14 years, going before 46 judges and the U.S. Supreme Court 5 times. The victim's family suffered each and every time the case was brought up for review.

Why must we penalize the victims and their families? Haven't they gone through enough. Honest taxpaying citizens question why criminals spend an average of 15 years on death row appealing their cases. They question the enormous cost of the appeals process. They question the amount of time courts spend hearing these cases, while in turn ignoring other pressing matters.

We, as Members of Congress, have the obligation and responsibility to streamline this process for the victims' families and the law-abiding citizen. The Effective Death Penalty Act is a step in the right direction. It sets time limits for the appeals process. We must support H.R. 729.

TRUTH NEEDED ABOUT SURGEON GENERAL NOMINEE

(Mr. McINNIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McINNIS. Mr. Speaker, well, we have another issue boiling out there. It is the issue of the appointment of the Surgeon General, and this issue is about credibility, credibility, credibility, credibility.

This is how the story goes so far. The Surgeon General has the administration supply information to the chairwoman of the Senate committee which will hear the confirmation. That information is that he had only performed one abortion.

Later in the day that is revised by the nominee, who says, "Well, it was not really one. I think it was less than a dozen."

Now all of a sudden out there it was not one, it was not a dozen, it is 700.

What is the truth? I am very concerned that we will get a Surgeon General nominee out there who is going to draw away and distract from the real issues of health care in this country and make the focus his credibility. If he is not telling the truth, if the administration is not giving us the truth, he ought to step out and let somebody else in.

APPOINT OUTSIDE COUNSEL TO INVESTIGATE GOPAC

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, according to the Los Angeles Times a Wisconsin couple gave $700,000 to GOPAC between 1985 and 1993. That is a lot of money.

The cornerstone of Federal election law is disclosure, full disclosure. Within the past 5 years, GOPAC has raised more than $7 million. The American people should know where this money came from, did these donors get anything in return, and are there any conflicts of interest?

Mr. Speaker, these are important questions, but we cannot get answers because GOPAC refuses to provide a list of its past contributors and how much they contributed. What we know is that many of GOPAC's current donors have issues pending before the Congress. In light of these potential conflicts of interest, an outside counsel should be appointed to investigate these matters.

The time has come for the House of Representatives, especially the new majority, to live up to their own rhetoric and call for an outside counsel to investigate where GOPAC's money has come from and how it has been used. The American people deserve to know.

A NEW CONGRESS

(Mr. GANSKE asked and was given permission to address the House for 1 minute.)

Mr. GANSKE. Mr. Speaker, the eyes of the American people are on the House of Representatives, and for a change they like what they are seeing. Recent polls show that the job approval rating for Congress has more than doubled since we began work in January, and the operative word is "work."

The 104th Congress is working hard, keeping its promises, and making real changes. Congress matters again. The House of the people is getting on with the business of the people at a pace unprecedented in modern history.

But make no mistake, we are not confusing effort with results. Here are some of the things we have done: We have reformed the rules of Congress; we passed a balanced budget amendment; we passed the line-item veto; we passed the unfunded mandates restriction; and we are well on the way to passage of a vastly improved crime bill.

This is a new Congress, Mr. Speaker, a can-do Congress that is worthy of the people that we were sent here to serve.

MINIMUM WAGE NOT TIED TO MEXICO

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK of Massachusetts. Mr. Speaker, I am glad to hear the Republicans talk about how they want us to be able to work, because I take that to mean that they will not try to bottle up the President's thoughtful, compassionate proposal to raise the minimum wage.

Now, I was a little concerned when I read the Speaker's opposition to it. I was especially puzzled when I saw that he said that one reason we could not afford to raise the minimum wage of American workers to a living wage, and it is well below that now, is that wages are so low in Mexico.

I am puzzled because when we were dealing with the question of an American guarantee for Mexican loans, many of us on the Democratic side felt that we should address in that context wages in Mexico, and we made the point that we wanted to insist on mechanisms in Mexico that would no longer arbitrarily depress the wages of Mexican workers, but allow them to rise. We were told that that was really none of our business.

But now the Speaker tells us that precisely because Mexican wages are so low, he cannot support giving American workers $5.15 an hour. This is validation of the point we made with regard to Mexico, and it is further argument for raising the American minimum wage.

MAKE WELFARE A CASHLESS SYSTEM

(Mr. FRANKS of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of Connecticut. Mr. Speaker, we must take cash out of our current welfare system and replace it with a debit card. Welfare dollars are taxpayers' dollars, and we need and deserve to have a proper accounting of these funds.

A Columbia University study claimed that 25 percent of welfare recipients are drug abusers. If you have high unemployment, high drug trafficking, and high welfare use in our cities, where is the money coming from? It is obvious that we, as taxpayers, are inadvertently fueling our criminal drug industry by welfare.

A picture debit card system will help solve this problem, since drug dealers do not take American Express or any other form of plastic. The proper dispensing of welfare funds by electronic transfer will improve our housing stock in our cities, lower our utility bills for our elderly, help make the banking industry more efficient, and, most importantly, allow our children to receive their due assistance. This could be the best form of eradicating welfare fraud.

INSTITUTIONAL AND POLITICAL DISCRIMINATION ALIVE AND WELL IN BUTLER, GA

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute.)

Ms. MCKINNEY. Mr. Speaker, while many people in this House feel that institutional and political discrimination are a thing of the past, I would like to draw their attention to the tiny town of Butler, GA. After 10 years of no elections, the town of Butler will finally have free and fair elections which do not exclude its 46 percent black population from being represented.

The Eleventh U.S. Circuit Court of Appeals had to order the town's all-white council to open its polls and put an end to rigging elections that kept African-Americans off the town council.

To my Republican colleagues who are anxious to repeal motor-voter, the Americans With Disabilities Act, and the voting rights acts, I say beware. We spend billions of dollars every year to protect and promote democracy abroad, and you want to spend billions more for a star wars defense of democracy at home.

Mr. Speaker, the bottom line is that we are yet to achieve democracy and equality right here at home, and the last thing we need is a bunch of politicians saying that inequality and injustice at home are all right with them.

□ 1150

REQUEST FOR ESTABLISHMENT OF PROCEDURES FOR CONSIDERATION OF A CERTAIN AMENDMENT TO H.R. 666, EXCLUSIONARY RULE REFORM ACT OF 1995

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that when the House resolves itself into the Committee of the Whole and takes up H.R. 666, there be a time limitation on my amendment of 50 minutes, divided equally between myself and an opponent to the amendment, and that no amendments be permitted to my amendment.

The SPEAKER pro tempore (Mr. LAZIO of New York). Is there objection to the request of the gentleman from Missouri?

Mr. DELAY. Mr. Speaker, reserving the right to object, and I do intend to object, mainly because I do not mind negotiating on limiting time on an amendment, but I do mind limiting the ability for Members to amend the gentleman's amendment.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I just want to bring up the fact that the gentleman from Missouri has raised two questions: A motion to limit time and a motion to make his own amendment unamendable. I wonder if the gentleman could explain why the second portion of that request is there.

Mr. DELAY. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I had not planned to. When I first negotiated the time limit, I was going to make it in the Committee of the Whole. And it was only going to be basically on 45 minutes. And then I thought 50 minutes was easier to divide than 45.

But from that side of the aisle I heard that some member of the committee from that side of the aisle may even try to preempt me on this amendment or there may be amendments to my amendment or there may be other things to take away my amendment.

Now, I have worked up this amendment, and I would like to have the opportunity to offer it. I am just trying to preclude that and restate my stand on one issue, and that is the BATF. I would just talk about that and limit the time.

I am willing to limit the time as long as we can do that, but if we are going to be getting into a wrangle on this thing, then I am not going to agree to a time limit.

Does the gentleman understand that? We may be here 3 or 4 hours.

Mr. DELAY. Mr. Speaker, continuing my reservation of objection, I understand the gentleman's concern about the time limit. And I might concur and negotiate with the gentleman over a time limit, but if the gentleman would have consulted with the majority on his amendment, I think the majority could have worked with him.

There are many Members on our side that do not want to be limited in being able to amend the gentleman's amendment or even substitute for the gentleman's amendment, or in some cases members of the committee may want to offer the gentleman's amendment, members who are in agreement with the gentleman.

I think it is the privilege of the majority to ask for cooperation and ask for negotiation on unanimous-consent requests.

Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, several things the gentleman said made some sense to me, but then I thought I heard the gentleman say some members of the majority might want to offer the gentleman's amendment. That one seemed a little disturbing. The gentleman from Missouri has been working on this amendment. The gentleman is saying that some members of the majority have plans to sort of show the respect for intellectual property rights of the Chinese Government and steal the gentleman's amendment.

Mr. DELAY. Mr. Speaker, I would not characterize it, in responding to the gentleman, as stealing the gentleman's amendment. There are many on our side of the aisle that feel like they could support the gentleman's amendment if it was changed in certain ways. We want the opportunity to investigate that and to do that. To just arbitrarily say that we cannot amend the gentleman's amendment or substitute for it or do something else with it, we just cannot agree to that.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will continue to yield, then I misunderstood. There is no effort to try to preempt the gentleman's right to offer that amendment as his amendment since he is the one who came up with it.

Mr. DELAY. Mr. Speaker, I think those Members that are on the Committee on the Judiciary, by the rules and by tradition, have the right to be recognized before the gentleman from Missouri. And whether a Member from that committee offers whatever amendment that may pertain to the substance of the gentleman's amendment, we are not prepared right now to say whether that is going to happen or not.

Mr. FRANK of Massachusetts. So the gentleman would have to satisfy himself with that flattery which imitation is the sincerest form of?

Mr. DELAY. Mr. Speaker, I am not sure I understood the gentleman's question.

Mr. FRANK of Massachusetts. I apologize for being unclear. The gentleman from Missouri, having come up with this, the notion that he has to come up with the amendment, having put it forward, and then loses it because somebody else decides to put his name on it, seems to me unfortunate. But if the gentleman insists that that is what the rules allow, I suppose that is what happens.

Mr. DELAY. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I recognize that that is what the rules allow. If the gentleman wishes to object, let him object.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. DELAY. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

EXCLUSIONARY RULE REFORM ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 61 and rule

XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 666.

□ 1156

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 666) to control crime by exclusionary rule reform, with Mr. RIGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, February 7, 1995, the amendment offered by the gentleman from North Carolina [Mr. WATT] had been disposed of and the bill was open for amendment at any point.

Are there further amendments to the bill?

Mr. SCHIFF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not rise at this time to offer an amendment. I rise to comment on apparently a news broadcast that occurred last night with respect to the bill, H.R. 666. I cannot tell my fellow Members where this news report took place. I did not see it. But I received some calls this morning which indicated that there was some rendition of what we were doing on the House floor yesterday and today with respect to this good faith exception to the exclusionary rule.

I think, Mr. Chairman, that it is just important to make a point here, and that is, we are proposing to make and broaden an exception to the exclusionary rule which already exists in law. Apparently, the reports were that we are trying to repeal legislatively the entire exclusionary rule, as it was enunciated by the U.S. Supreme Court, first in Federal cases in 1914 and, second, as applied to the States in 1961.

I certainly acknowledge, Mr. Chairman, that, and anyone could tell it from some of the remarks that were made, that there are Members on our side who feel that the entire exclusionary rule should be repealed. There may even be, though we have not heard from them, I would not be surprised if there are Members on the other side who believe that, too.

There is always the argument that no matter how evidence was seized that, if it points to guilt, it should be used. I do not personally share the view of repealing entirely the exclusionary rule. I think the point that the Supreme Court made in the Mapp versus Ohio opinion of 1961 was also important.

In that case of a total disregard of constitutional protections based upon search and seizure, the Supreme Court said, we have tried everything else, now we will try to suppress evidence as a means of encouraging law enforcement officers to comply with the fourth amendment, which we do place on them through the fourteenth amendment.

PARLIAMENTARY INQUIRY

Mr. COLEMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Will the gentleman from New Mexico [Mr. SCHIFF] yield for a parliamentary inquiry?

Mr. SCHIFF. I yield to the gentleman from Texas.

Mr. COLEMAN. Mr. Chairman, I thank the gentleman for yielding to me.

My inquiry, Mr. Chairman, is to get an understanding of what place we are in the procedure before the committee. Is it correct that any of us could now rise and seek recognition in order to speak on the overall issue of the exclusionary rule or the fourth amendment or the bill, H.R. 666, without dealing with an amendment? In other words, any of us could now rise and speak on the issue?

The CHAIRMAN. That is correct. The bill is open to amendment at any point under the 5-minute rule.

Mr. COLEMAN. But this is not an amendment.

The CHAIRMAN. The gentleman from New Mexico [Mr. SCHIFF] was recognized and was proceeding for 5 minutes.

Mr. COLEMAN. But not on an amendment, am I correct?

The CHAIRMAN. The gentleman from New Mexico has offered a pro forma amendment.

Mr. COLEMAN. I thank the Chair.

□ 1200

Mr. SCHIFF. Mr. Chairman, as indicated, I am not offering an amendment at this time. I have just sought recognition on the 5-minute rule, and I will conclude in a moment here.

Mr. Chairman, I just want to point out exactly where we are. I understand that there are Members who may still, because they so indicated, oppose this particular bill, H.R. 666. I just wanted to emphasize what this bill does and what this bill does not do.

This bill does not repeal legislatively the entire exclusionary rule, or anything even that comes close to it. Speaking for myself, I would not support a bill that would entirely repeal the exclusionary rule.

I think the Supreme Court had a logic in saying that there was a reason to exclude evidence in certain cases that they enunciated, I thought very well, in the Mapp versus Ohio decision of 1961. Rather, we are taking an exception to the exclusionary rule which already exists. It has already been stated by the Supreme Court in the Leon case.

In that case the Supreme Court said that where police officers make an honest error, a good-faith error, that in that particular case it made no sense under the theory of the exclusionary rule, under the theory of trying to motivate law enforcement logic, to suppress that evidence.

We take that a little bit further. In the area of searches without a search warrant, and there are legal searches without a search warrant, a search warrant is not required under constitutional law for every search, any more than it is required for every arrest. There can be arrests without a warrant.

My point is that we are making an extension of an exception that already exists, and I just want to conclude by saying that we are not repealing the entire exclusionary rule, and further, we are not broadening the exception that much.

I understand that Members, when we get to final passage, will vote yes or no as they see fit, but I just wanted to explain exactly what we were doing.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would ask the gentleman, is this an amendment that has been printed in the RECORD?

Mr. CONYERS. This amendment has not been printed in the RECORD, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 3, line 14, strike the close quotation mark and the period which follows:

Page 3, after line 14, insert the following:

"(d) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Bureau of Alcohol, Tobacco, and Firearms.".

Mr. CONYERS. Mr. Chairman, this amendment is offered by myself, the gentleman from Missouri [Mr. VOLKMER], and the gentleman from Michigan [Mr. DINGELL].

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I wish to take this time to thank wholeheartedly the gentleman from Michigan [Mr. CONYERS] for offering this amendment on my behalf.

I will not take a lot of time because I will let the gentleman from Michigan go back, and then we will take a couple hours, three hours to debate this. I would just like to have plenty of time.

Mr. Chairman, I would like to point out that the gentleman from Michigan [Mr. CONYERS] has offered this amendment on my behalf because of what I heard on the Republican side earlier today, this morning, that one of their Members on the Committee on the Judiciary may, may supplant my opportunity to offer this amendment by offering it themselves, or offering a similar amendment or something that has changed.

As a result of that, and not knowing what was going on on the Republican side, and whether they were going to do it or not do it, as a result, in order to preempt them, I asked the gentleman from Michigan [Mr. CONYERS] to join with me in this amendment, which he has been willing to do so that we at least have the opportunity on this side to offer our amendment.

Mr. Chairman, I hate to see, I really do, this type of activity, because I do not believe this type of activity is very conducive to comity in this House and the running of this House.

In my 18 years, Mr. Chairman, in my 18 years I have never known of anybody in our party after an amendment has been noticed, an amendment had been notified and people have all been notified, that Members of the other party, this party, when the minority party has done that, no Member, no Member ever in 18 years has ever said We may offer an amendment ourselves to preempt you the right to offer that amendment.

Mr. Chairman, what is going on? I thought just yesterday we started out and we had good comity. The gentleman from Texas [Mr. ARMEY], their leader, had been able to work with our leader and people and work out the time frames on these crime bills. Then they come up with some little dig like this.

Mr. Chairman, I think it is really beneath anybody as a Member of this House to come up with such a strategy. It is childish, immature, and I cannot understand their leadership and whoever came up with that strategy at all. I am really disappointed that some people on that side would even think of doing such an insidious tactic.

Mr. SCHIFF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to say, although it is certainly true that the gentleman from Missouri [Mr. VOLKMER] has worked on this amendment for quite some time, I want to say that the accusations of some kind of insidious kind of motivations I think go past where the situation calls for.

The fact of the matter is that we are proceeding under an open rule. This, of course, among other things, means that unlimited amendments can be offered. Those of us who are presently monitoring this bill on the majority side, speaking especially of myself at this moment, have a grave reservation about the gentleman's amendment, despite the fact that a great deal of information has come out that is very questionable, I am sorry to say, about the Bureau of Alcohol, Tobacco and Firearms, which I hope will be explored even further through the committees of this House.

I want to say that I have a reservation about excepting an entire police agency in this bill over certain incidents. It is a matter of fact that there are still, even though I have this reservation, there are members of my party who are more strongly agreed with the gentleman's amendment, and they wanted their opportunity to present a similar view.

Therefore, I do not think that is the same as some plot here to keep the gentleman from Missouri from being acknowledged for his role in this amendment.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the basic legislation before us is bad legislation. It would cause a raid by the BATF or any other agency of Government, to be presumptively valid if there was any property which was seized pursuant to the warrant.

That means any firearms owner, owner of a shotgun, sporting ammunition, sporting weapons of any kind, or target weapons in this country is subject to being raided without the slightest semblance of a defense as to the illegality of the search or seizure, whether the law enforcement authority has a warrant or not.

Mr. Chairman, let me read some words from William Pitt which I think we should keep in mind as we consider the fourth amendment, which is at least as precious as the first and the second.

Here is what William Pitt had to say, a great British parliamentarian:

> The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail, its roof may shake; the wind may blow through it: the storms may enter, the rain may enter, but the King of England cannot enter; all his forces dare not cross the threshold of the ruined tenement!

What I am saying, Mr. Chairman, is that in this country, until this legislation, under interpretations of the Constitution by conservative courts, not by a congregation of radicals, the ordinary citizen was able to assume that he was protected in his home against improper raids and against improper procedures under warrants, or lacking warrants, by law enforcement persons entering his home. Under this legislation that will no longer be so.

□ 1210

A man had a right to assume that he was secure in his person, in his property, in his home, and he had the right to know that he was protected by the courts.

H.R. 666 would do away with those protections, and particularly so in the case of owners of firearms and sportsmen in this country who use their firearms solely for law-abiding purposes, legitimate sporting and hunting and self-defense purposes.

Now, having said those things, let us look a little bit at what it is that BATF has done over their history. I want my colleagues to go back with me to the raid that was performed on the home of a law-abiding citizen by the name of Kenyon Ballew. BATF first entered an apartment upstairs where they held a shotgun at the head of some 8-year-old children. When they found they had raided the wrong place, they then went downstairs, and they broke through a back door in the man's home which was never used. It was essentially a back door. They seized the man's wife and threw her into the hall in only her underpants. Mr. Ballew was coming out of the shower with a cap and ball revolver seeking to defend his home and his wife against a noisy band of intruders who bore no indicia of their service as law enforcement officers.

Indeed, the event was classed as a training exercise. Mr. Ballew was shot in the head, and he is today, if not dead, still a cripple and still partially paralyzed, incapable of speech.

This whole unfortunate matter was covered up under the aegis of Mr. Connelly, the then-Secretary of the Treasury. My colleagues on the majority side of the aisle will remember Mr. Connelly.

I want to tell you about what they did after the raid was concluded. They went outside, still dressed as hippies with beards and in scruffy clothes, and at which time they first put on their BATF armbands to show that they were law enforcement officers engaged in proper exercise of their legal authority, and that they had given proper warning to the individual of their authority which, in fact, they had not.

I want to tell you a couple of other things about the BATF. BATF ran a citizen of the State of New Jersey off the road while he was driving down the road in New Jersey with his wife and kids. They beat him up. Then they found that they had attacked the wrong citizen, and then they said, "If you report this to anyone, we will be back and give you some more."

Now, I want to tell you about an innocent collector, whose home they raided. They seized all of his valuable firearms, all legal, took them, put them in barrels, damaged them, that is the firearms. The citizen then had to sue to recover the firearms which were his lawful property, and whose proper ownership was never contested by the BATF or anybody else. But the law-abiding citizen had to go to court to sue, to recover property improperly taken from him.

The records of BATF are rich with this sort of abuse of the rights of citizens.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 4 additional minutes.)

Mr. DINGELL. The consequences of the behavior of the BATF in these kinds of cases is that they are not trusted. They are detested, and I have described them properly as jackbooted American fascists. They have shown no concern over the rights of ordinary citizens or their property. They intrude without the slightest regard or concern.

Now, if you want a more recent event, take a look at what they did in Waco, TX. Is that a defensible event? Scores of Americans were killed because of ineptitude by BATF acting under legal process, as they said, and that whole matter is going to be suppressed after scores of Americans have been killed because of the ineptitude and crass misbehavior of the BATF.

Now, let us take a look at what this legislation does. H.R. 666 says that there is no defense in the courts against that kind of behavior by BATF or anyone else. The amendment offered by the gentleman from Missouri says that BATF is not included within that rubric. They are not protected in their misbehavior and they must defend their cases on the basis of the propriety of their behavior as now defined under law.

Remember, all that the law now says is that before you raid a man in his home you have to do it incident to a valid arrest or you have to do it with a arrest or search warrant. I do not think that is excessive in a free society, in one where we expect the ordinary citizen to be secure and protected in his home.

Now, what is a citizen to do if he is improperly raided under H.R. 666? There is nothing, literally nothing, that the ordinary citizen can do. The only defense which a citizen has under this kind of improper raid by BATF or by any other agency, State or Federal, was to have the information and the evidence improperly seized suppressed. H.R. 666 sanctifies misbehavior, and it makes such yard, and such seizure of property presumptively valid. It eliminates any question of propriety by the authorities.

Now, it is fair to say that with regard to criminal misbehavior, that law enforcement agencies are able to and have consistently watched wrongdoers over a long period of time. They built their cases with care. Having built their cases with care, they then go to court and get a proper warrant. Then they would proceed to execute the warrant.

H.R. 666, if enacted, will be applied to the ordinary citizen, not to the hardened criminal, but rather to the law-abiding citizen who has a rifle or shotgun in his closet or hanging over his mantlepiece or under his bed, and he is going to be the victim of this kind of legislation. His protection of home, property and personal security will be ended.

This is bad legislation. It has been said today it does not affect the fourth amendment. In point of fact, it blows a huge hole in the fourth amendment. What it says is that a raid conducted improperly without proper warrant, or without warrant at all, is presumptively valid, and the burden then shifts on to the defendant who has been wronged by his Government, by the agencies of his Government, acting under either no process or improper process to defend himself. The wronged citizen is compelled to retain a lawyer. He is compelled to go through a long and costly court procedure, and he cannot, under H.R. 666, get protection afforded him by the requirements for a proper search. He cannot have property seized under an imperfect search warrant, or no search warrant excluded from the trial. That is literally the only defense that a citizen has against improper behavior in terms of search and seizure by law enforcement personnel.

The attack on H.R. 666 is not an attack on law-abiding citizens. It is an attack on wrongdoers. It is a bad piece of legislation.

I urge the legislation be rejected, and I urge the amendment offered by the gentleman be adopted.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

I must say I was pleased to hear the gentleman from Michigan quote William Pitts. We were thinking of Billy Pitts on our side whom we all miss, and I am glad, but I guess it was an earlier William Pitts to whom he referred.

Waco suppressed: Gee, I remember sitting through an exciting 1-day hearing under the aegis of the former chairman of the House Commitee on the Judiciary where we heard all and sundry witnesses on the Waco situation. I do not think it was suppressed, at least insofar as that 1-day hearing was concerned.

But I will just point out that the Bureau of Alcohol, Tobacco and Firearms is an executive agency. It is part of the Treasury. Former Senator Bentsen, who was the Secretary of the Treasury, was its commander in chief. The present Secretary of the Treasury is the commander in chief, for want of a better title, of the Bureau of Alcohol, Tobacco and Firearms.

And so this attack on an executive agency is interesting. I would suggest if it is so horrible, let us get rid of it. I would suggest the gentleman introduce legislation to dissolve the Bureau of Alcohol, Tobacco and Firearms.

Instead, you want to make an exception to a general rule which we are trying to adopt, modifying the exclusionary rule so guilty people who possess evidence, contraband, when they are arrested, that it gets admitted into evidence. To make an exception for a single agency of Government is really foolish.

It would seem to me, if the Bureau of Alcohol, Tobacco and Firearms is so oppressive, we ought to get rid of it. Let us attack it head on. Let us hold hearings. I want to tell the gentlemen on the other side, we are going to hold hearings. We are going to hold hearings on the excessive use of force as alleged in Idaho, as alleged in Waco and other places.

☐ 1220

We are going to look at that, absolutely. We are not going to sit passively by or have 1-day hearings but to carve out an exception to the exclusionary rule for one agency of Government which is an executive agency of Government makes no sense.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I express great affection and respect for my friend.

Mr. HYDE. And it is mutual.

Mr. DINGELL. I am just curious. The gentleman is chairman of the Committee on the Judiciary. I am curious why he is in such a rush to get this bill on the floor before he has looked at the kind of misbehavior that I have described or the kind of misbehavior that the gentleman is now describing.

Mr. HYDE. Well, all I can say is I do not recall the gentleman introducing legislation to dissolve, to dissolve the Bureau of Alcohol, Tobacco and Firearms. I would think that would be the way to go if what the gentleman is half true.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I thank the chairman for yielding to me.

Mr. Chairman, I oppose this amendment also, and I do so because, as I understand the arguments that are being made, they come down to this: The argument is that the Bureau of Alcohol, Tobacco and Firearms is riding roughshod over the rights of innocent law-abiding people, and I want to point out that this was the testimony at our hearing on the exclusionary rule that the exclusionary rule does not protect honest citizens from a law enforcement agency or law enforcement officers who are bent on ignoring constitutional rights. And the reason for that is law-abiding citizens are not going to have any evidence of crime in their possession which can be suppressed under any version of the exclusionary rule.

That is why this amendment is misdirected to this bill. But the chairman's suggestion to look more closely at the Bureau of Alcohol, Tobacco and Firearms for other action is quite appropriate.

Mr. LIGHTFOOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment that is being offered here this afternoon, for a number of reasons. I think that the amendment is probably motivated by legitimate questions and concerns about ATF's involvement in a couple of incidents.

But as Treasury, Postal Service's chairman and former ranking member, we have had an opportunity to review these incidents and work with ATF and a number of other people. Not being the boot-jacked Gestapo, as they were described earlier, they are good, hard-working Federal employees who have families, men and women with children, who are trying to make a living and do what they think is right.

Earlier reference was made to the situation at Waco, TX, and I would suggest to my colleague from Missouri and others who are so incensed about the Waco issue that rather than respond to all the editorial vitriol that we have read, which much of it is based in untruths and innuendoes and hearsay, that they take an actual look at the case.

If you look at the Waco situation, the warrant that was used initially was a valid warrant. Eleven people were charged. Eight of those people have been convicted and are now in jail.

There were fully automatic weapons in the Davidians' compound, fully in violation of the 1938—1934—law, which prohibits use of ownership of fully automatic weapons in this country. It was a valid warrant.

I also suggest to the gentleman there were other law enforcement agencies involved in the Waco situation, as was there was in Idaho. In fact, the fire was not the result of the ATF, it was a result of the FBI. Attorney General Reno, if you will remember, stood up and said, "I take the heat for this. It was my decision."

ATF is not a part of the Justice Department; they are under the Treasury Department. It was two separate law enforcement agencies.

In the situation in Idaho, the ATF had made a clean arrest. But when it got into the fire fight, it was the U.S. Marshall Service involved in that incident.

So I would just suggest, as the chairman of our subcommittee, we have hearings that are coming up and if the gentleman would like to withdraw the amendment, we certainly would make available for him the opportunity, or anyone else who would like to be there, to talk to ATF to bring this thing down.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Chairman, I am not about to come and testify and talk to the gentleman's subcommittee because it appears to me, from just listening to the gentleman's statement, that the gentleman is completely in agreement with whatever Bureau of Alcohol, Tobacco and Firearms has done in the past, including keeping law-abiding citizens' guns from them after they have executed a search warrant, no charges ever filed. They have kept those guns and still, even after filing suit, spent all kinds of money to get them back. The gentleman is saying that is good stuff.

Mr. LIGHTFOOT. Reclaiming my time, I say to the gentleman from Missouri I have stood shoulder to shoulder with him fighting for second amendment rights. I own guns. I used to be a gun dealer. I am a hunter. I will go to the wall protecting the second amendment rights to own a firearm. I think it is important. It is part of the Constitution. I think we should do that.

ATF has been charged with the responsibility of enforcing our Federal gun laws. It is not a popular thing to do. I would suggest, from comments the gentleman from Michigan, [Mr. DINGELL] made, there is probably not a law enforcement agency in this country that you cannot go into and find one of these anecdotal stories where someone was mistreated. Unfortunately, that is the nature of the business because a lot of decisions have to be made under pressure, and sometimes those decisions are not correct, and we will admit they are not correct.

I only say, to single one agency out, as we are doing here, is poorly misdirected. If the gentleman persists with his amendment, I am considering offering an amendment to the amendment which would include in this exclusion the FBI and U.S. Marshals Office. Let's include them all. The gentleman is totally off base. The whole purpose of the exclusionary bill that we are offering anyway does not allow anyone to go in on a raid without just cause. You still have to have a warrant, you still have to do it right. It only addresses the fact that if, during the process of executing that maneuver, you can obtain evidence which later is valuable, it was obtained in good faith, then it would be allowed to be admissible in courts. It does not exempt anyone's rights or cause anyone to be under undue pressure from law enforcement people. If you talk with law enforcement people, every day those people work very hard. A lot of times they do things that are very much done in good faith, but it gets kicked out in the courtroom, some criminal goes free, and we really do not solve the problem.

I really think we have a bit of a witchhunt here.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to share my sense of happiness that my Republican colleagues have succeeded so soon in improving American Government. We have just heard virtually every one on the Republican side rise to speak in praise of the Bureau of Alcohol, Tobacco and Firearms, to defend the actions in Waco, to defend the actions in Idaho.

Now, it had not previously been my experience that Republicans were as supportive of the law enforcement efforts of the Clinton administration. And I guess Republicans said that once they got into the majority, things would get better. Well, they have apparently gotten better more quickly than I had thought, because we have been hearing from our Republican colleagues today words of praise and support for the law enforcement Federal agencies that I had not previously heard. I appreciate this.

The simple act of the Republicans switching from minority status when they got to offer amendments and be critical, to majority status where they are now really responsible has apparently had the wondrous byproduct of improving the quality of the executive branch.

Republicans, who on the whole when they were in the minority were quite critical of virtually all the actions of the administration, now they are in the majority, with the responsibility for running this operation, find virtues heretofore unchronicled in various of the Clinton administration entities.

I want to say that I am pleased to welcome this spirit of constructiveness. There is a higher degree of support coming forward than I have heard before. I am glad they have found on a second look that there is a lot more to be supported.

I have myself not been critical of the Bureau of Alcohol, Tobacco and Firearms. I had not previously recollected such Republican support. I hope it will be noted the extent to which the Republican leadership finds that the Federal law enforcement people at Waco and Idaho should be praised.

I thank the gentleman.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman from Massachusetts for yielding to me.

Mr. Chairman, in the interest of comity, I ask unanimous consent to withdraw the amendment and that the gentleman from Missouri [Mr. VOLKMER] be recognized immediately to offer the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. SCHIFF. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FRANK of Massachusetts. Mr. Chairman, I will reclaim my time to say that I am sorry that the people on the other side continue to want to deny Mr. VOLKMER the credit to which he is entitled for bringing this amendment forward.

But I do think that it is clear enough to say that this was the idea of the gentleman from Missouri. Apparently, respect for law and order does not extend far enough to not try to steal credit from the gentleman from Missouri.

□ 1230

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, could I ask the gentleman from New Mexico [Mr. SCHIFF], my friend, what the basis of his objection is? We have already worked in comity during this bill and during the committee. I am puzzled about this. This is a very small technicality, and would the gentleman just tell us what is on his mind?

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I am not sure how parliamentary it is to ask for a reason for objection to unanimous consents. I do not recall their side ever having to explain, but I will be happy to.

The gentleman from Michigan stood up to offer the amendment. I guess their side thought we did not know what amendment it was they were going to offer. The gentleman from Missouri [Mr. VOLKMER] did not offer the amendment; the gentleman from Michigan offered the amendment.

I say to the gentleman, "It is your amendment, and it should stay your amendment. We did not determine the order in which your side stood up to offer this amendment."

Mr. FRANK of Massachusetts. Reclaiming my time, Mr. Chairman, I would just ask my friend, "This unwillingness to let the gentleman from Missouri take credit for his amendment; was it something he said?"

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. May I point out to my friend, still my friend, that the gentleman from Missouri [Mr. VOLKMER] is one of the cosponsors of the amendment with the gentleman from Michigan [Mr. DINGELL]. We are not adding anything, and it may not come as news to my colleague that he had worked on this amendment, not only now, but for quite a while.

Mr. FRANK of Massachusetts. Mr. Chairman, I will yield to the gentleman from Missouri [Mr. VOLKMER] in the first place, but I suggest, to economize, maybe the gentleman from Michigan can ask unanimous consent to change his name to VOLKMER.

Mr. Chairman, I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would just like to point out to the gentleman from New Mexico [Mr. SCHIFF] that we have 2 years in which to operate in less than a little over a month, is what we have to operate under. If the gentleman persists in making such what I call minuscule objections, objections for minuscule reasons, I would say to him, "You can rest assured, gentlemen, that this gentleman knows how to make objections to unanimous-consent requests also."

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent once more to withdraw the amendment, and that the gentleman from Missouri [Mr. VOLKMER] be recognized immediately to offer the same amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. SCHIFF. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BARR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have some remarks that go to the substance of the amendment which every person on the other side is the author of it.

I have listened very carefully to the learned remarks, to the gentleman from Illinois, the distinguished chairman of this committee, and I think they are very well spoken and very appropriate.

As the distinguished chairman noted, all of us who care about effective law enforcement, who care about the abuses that all of us have seen in law enforcement over the years, including in recent years, are very concerned and are committed to addressing those problems. Mr. Chairman, there are, however, effective and appropriate ways to address them, and then there are ineffective and inappropriate ways, such as this amendment, Mr. Chairman, which do not really get to the heart of the matter and, in fact, may provide window dressing and refuge for those who really do not want to address the problems.

In addition, Mr. Chairman, with regard to the amendment itself, as a former U.S. attorney and somebody very familiar, I think, with the sorts of joint law enforcement efforts that are extremely important, particularly, but not exclusively, in the area of attacking organized crime and drug trafficking in our country, it is frequent that we in law enforcement, or those who are still in law enforcement, find ourselves involved in trying to orchestrate very complex types of law enforcement activities, and sometimes infrequently those involve the Bureau of Alcohol, Tobacco and Firearms, the FBI, DEA, IRS, State and local agencies; and if in fact, as it is, the intent of those of us who support H.R. 666 to strengthen the role of law enforcement in legitimately carrying out those specific and important types of criminal/anticriminal activities and to ensure that evidence that should be admitted into court is in fact admitted into court under appropriate safeguards which are included in our system of justice, even under H.R. 666, when in fact there may have been a technical violation, but again everything has to satisfy the standard of reasonableness; then I can foresee very clearly and reasonably situations in which the rights of victims and the rights of society in general are going to be harmed if this amendment passes.

For example, Mr. Chairman, if we do have a joint operation involving BATF as well as other agencies, State and/or local and/or Federal, and there is a question that arises as to whether or not evidence should be admitted under the terms of H.R. 666, the fact that ATF may have had some role, whether it is minor or major in that operation, could provide an exception through which a Mack truck could be driven, and we would have in effect defeated the intent of H.R. 666.

So, while I share the gentleman from Missouri's very eloquent statements on this issue, as well as the gentleman from Michigan's very eloquent statements on this issue, I think it does not address the underlying issue that the gentleman from Missouri raised both today and yesterday with regard to the second amendment which I, despite his intimation yesterday, cherish, and know about, and cherish as well as any amendment to the Constitution, but this is not the appropriate vehicle with which to address those very fundamental concerns, and I agree they ought to be addressed, and I do think that this amendment, if it were to go forward, would have the effect of defeating in some instances, but perhaps in very important instances involving major drug trafficking cases, that our Government may choose to bring on behalf of the citizens. This amendment could have the effect of having evidence that really ought to be admitted not admitted, and it could have, therefore, Mr. Chairman, an adverse impact and one that I do not think the gentlemen on the other side of the aisle who are proposing really intend for it to have.

Mr. HOYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in the strongest possible opposition to this amendment. Its premise is slanderous to 2,700 of our fine law enforcement officers. It is a bigoted statement I say to my friends who have been the subject of bigotry. An NRA letter says that somehow ATF agents, unlike all the other agents, cannot be trusted. There is no evidence of that. Two hundred sixty-six of those agents since 1920 have lost their lives. Do my friends on this side of the aisle want those agents to believe that somehow they are less trustworthy than other law enforcement agents in this country? I think not. The chairman of the Committee on the Judiciary is correct. If that is our premise, then let us abolish ATF.

My friends in this House, we are talking about crime bills. We are talking about safe streets, and safe schools, and safe communities, and safe neighborhoods. They are threatened today by some of the most violent, vicious people in America who traffic in guns that will kill people very fast, and a lot of them, not to hunt, not to shot at targets, and they traffic in explosives. We just had a plea by somebody in New York who wanted to blow up the United Nations, undermine the security of the international community. Who investigated and found that conviction? An ATF agent.

Now I think this bill can be argued one way or the other on its merits as to whether you want to extend the exclusionary rule good-faith to warrantless searches or not. I think that is a legitimate debate, but I say to my friend on this side of the aisle: Let us not slander some very good people who daily we ask to go up against some of the most dangerous, deranged criminals in this land who threaten the stability of this Nation.

There is no evidence to support the contentions of the NRA that, unlike all others, and I presume that they would like to see this exclusionary rule applied to the Los Angeles Police Department, or the New York Police Department, or the Dallas or Miami Police Department; they would like that.

□ 1240

Their premise presumably is that they are perhaps not as well-trained or as carefully or as closely supervised as the agents of ATF, and they are wrong—dead wrong. I say to my friend, the chairman of the committee, for whom I have great respect and with whom I am probably going to vote at the conclusion of the consideration of this bill, do not besmirch these officers, do not single them out. There is no evidence on which to say that they are less competent or less concerned with constitutional protections.

They protect our country. We have asked them to do so. We have asked them to do one of the most difficult jobs of law enforcement in this country—dealing with those who traffic in illegal guns and explosives that can kill a lot of people very quickly.

Do not pretend that the debate on this floor is simply in a vacuum to make political points against our friends on that side of the aisle, that we will embarrass them for voting against the NRA this time, and that those 2,700 agents and all their predecessors and that organization will somehow be oblivious to the debate on this floor that intimates that they are less worthy of being extended this authority than some other law enforcement agents charged by the Government of the United States to protect the welfare of this Nation.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I am glad to yield to my very good friend, the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I am just curious. Did the gentleman vote against the amendment offered by the gentleman from Michigan yesterday?

Mr. HOYER. No, I voted for it.

Mr. VOLKMER. What did that do? It did the same thing for all law enforcement as what this does for BATF.

Mr. HOYER. I understand that. That was on the merits.

Mr. VOLKMER. Yesterday the gentleman said it was OK, and today he said it is not.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. HOYER] has expired.

(By unanimous consent, Mr. HOYER was allowed to proceed for 2 additional minutes.)

Mr. HOYER. Mr. Chairman, to respond to my friend, the gentleman from Missouri [Mr. VOLKMER], as I said at the beginning, that is on the merits of this issue. I think this is a serious issue. There are a lot of Members on this floor who are very concerned about the fourth amendment, which is an amendment that sets us apart from much of the world. It was an amendment that the forefathers thought was critically important so that the King Georges to come in future generations could not simply say, "I'm going to come into your house; I'm going to come into your private spaces to investigate" absent probable cause and a magistrate supposedly and in most instances objectively making a determination that there is probable cause.

That is, I say to my friend, the gentleman from Missouri, the objective issue. This amendment does not deal with a substantive issue. It deals with politics, and in the process of politics and posturing it deals with trying to embarrass the other side. I understand that. But my concern with it is that in the process of doing that it slanders a group of people that we ask to do one of the most dangerous jobs in America.

Mr. Chairman, I ask my colleagues on both sides of the aisle to reject this amendment and then vote on the policies raised by the substantive bill itself.

Mr. BRYANT of Tennessee. Mr. Chairman, I move to strike the requisite number of words.

At this point, Mr. Chairman, I would join in the remarks and ask to be associated with the remarks of the gentleman from Missouri [Mr. VOLKMER] as pertains to his regard for the BATF, the Bureau of Alcohol, Tobacco and Firearms.

As a former U.S. attorney, like the gentleman from Georgia [Mr. BARR], I had experience dealing with the ATF on a daily basis and found that they feel very strongly about their mission, and, No. 2, they support by and large as individuals, as I do, the second amendment right to bear arms. I do not think there is anyone any stronger than I am in that regard, as are the Members standing up and talking at this point. And that is not the issue here. The real issue is, what do we do with fighting those criminals who carry guns and use those weapons in the commission of crime?

During my tenure as U.S. attorney there was a project called Project Trigger Lock that focused on aggressive prosecution of those criminals who used guns in the commission of those crimes. It was the prosecution of existing Federal laws, not new laws but laws already on the books, prosecuting felons in possession of weapons. And that program was primarily the result of the work of the ATF.

In our area we had one of the most outstanding Trigger Lock programs throughout the country, one which formed a coalition between ATF and local authorities, including sheriffs, deputies, and police chiefs, in ferreting out again those violent people, those criminals who use guns in the commission of crime. This is what everyone says we ought to do, and that is lock up the people who commit the crimes using the guns, but protect the rights of those innocent law abiding citizens who own and possess these weapons.

My experience with the ATF was that they worked hand in hand with other agencies very well. And as the gentleman from Georgia [Mr. BARR] said earlier, to amend this proposal, this bill, would weak havoc on the law enforcement activities of the ATF as well as all the other agencies they work with.

We had task forces, as I described earlier, that involved local law enforcement authorities in joint operations. Just as a practical matter, to hamstring the ATF with this type of amendment, it would be an impossible task for them to be functional. But I think, more importantly, as the gentleman from Maryland [Mr. HOYER] pointed out, to label one agency with perhaps mistakes made by some and those yet to be decided—and I am sure they will be fully aired as we progress into our Judiciary Committee—but to label one group and to focus on them and exempt them from this bill, I think, is unfair to the many outstanding agents of the ATF.

My experience has been that they were a well-trained, professional organization, trained on a par with other Federal agencies, the FBI, the DEA, Postal, Customs, INS, the whole works. Without exception, I found they were excellent officers. I think such an exemption from this bill is unwarranted and ill-conceived.

I think if we are going to do anything, if there is a problem with ATF, then let us look at it and see if the agency should even exist. But again to hamstring them with this type of amendment is not a good idea, and I would strongly oppose it.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Tennessee. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I just want to say briefly that we have heard some impassioned opinions about the Bureau of Alcohol, Tobacco and Firearms, both in their favor and in their opposition. I want to point out, however that I do not think this is going to be an amendment that will be decided on whether we approve of how the Bureau of Alcohol, Tobacco and Firearms by itself operates.

The issue is, will this amendment, if it passes, affect those issues that the sponsors and proponents have offered? And the fact of the matter is, if in fact any officer or group of officers—and I say, "if"—have made a conscious decision to deliberately violate the constitutional rights of any of our citizens, the fact of the matter is that the exclusionary rule of evidence does not protect honest citizens anyway in that circumstance because honest citizens will not have the evidence of crimes which can be suppressed and not used against them at the time of trial. There will never be any kind of criminal conduct, and that is why in my judgment this amendment is misapplied, and if there are problems with the Bureau of Alcohol, Tobacco and Firearms, as suggested, I think other remedies could be brought to bear by this Congress.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to withdraw the amendment, and that the gentleman from Missouri [Mr. VOLKMER] be recognized immediately to offer the same amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The amendment has been withdrawn, and the gentleman from Missouri [Mr. VOLKMER] is recognized.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: Page 3, line 14, strike the close quotation mark and the period which follows.

Page 3, after line 14, insert the following:

"(d) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Bureau of Alcohol, Tobacco and Firearms.".

Mr. VOLKMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Since this is a new amendment, the Chair is inclined to recognize the gentleman from Missouri [Mr. VOLKMER] for the purposes of explaining his amendment.

☐ 1250

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent that the gentleman from North Carolina [Mr. WATT] be allowed to continue and address the committee for 5 minutes.

The CHAIRMAN pro tempore (Mr. BURTON of Indiana). Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. WATT of North Carolina. Mr. Chairman, I hope my colleagues and the American people have been listening to this debate on the underlying bill. I do not want to deal with the amendment itself. I want to talk about the bill that has been offered, because what this bill forces us to do is exactly what we have seen happen on the Floor of this House for the last 2 days. It forces us to try to decide who is good and who is bad.

If I hear one more time during the course of this debate that this is not about innocent people, that this is about guilty people, I think I will throw up. This is about the American people and the Constitution of the United States. It is about innocent people who own guns, who might have them in a closet somewhere and have their door kicked in, which is why this amendment was offered. It is about innocent people like the gentleman from Illinois [Mr. RUSH], who might have bird seed in their closet, and have their doors kicked in because some police officer thought he had some cause to do it and could not go down to the courthouse and get a warrant.

It is about innocent people like the gentlewoman from Colorado [Mrs. SCHROEDER], who had a button, a campaign button in her house, and had her whole being violated by the FBI, who came in, in violation of her rights.

It is about innocent people who own homes, who have the right to be secure in those homes. And we cannot afford as America to turn the questions about who is good and who is bad in our society over to a police officer on the street, whether that police officer is from the ATF, the FBI, the CIA, the Atlanta police, the Raleigh police, the New York police. We cannot make those choices, and the Constitution of the United States put us in a position where we did not have to make those choices.

This debate points up exactly what point I am making, because here we are now talking about whether the ATF is good or whether the FBI is good, or whether this police department is good or that police department is good. But that misses the whole point. It misses the point that every citizen in this country is presumed to be good, presumed to be innocent, until they have had their day in court, and that we ought not allow a police officer in the heat of the moment to kick somebody's door in and make that decision on the spot.

The first amendment, as I indicated yesterday, is not about people who engage in mainstream speech. It is about protecting the rights of the people to say what they want when we do not like what they are saying.

The fourth amendment is not about protecting the guilty or the innocent. This is not about whether we like criminals or not. Nobody in this House likes criminals. I do not want the police officers out there on the street to decide on the spot whose door they are going to kick in and whose rights they are going to violate, even if they are 99 percent right and there is just that 1 percentage point of people out there whose rights they violated. Because that 1 percent, that 1.3 percent we have heard talked about here on this floor, is what the fourth amendment was designed to protect.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

(By unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 1 additional minute.)

Mr. WATT of North Carolina. Mr. Chairman, this bill puts us in a position of sitting here on this floor and getting into these kinds of irrelevant debates. I agree with my friend, the gentleman from Maryland [Mr. HOYER]. We ought not exempt this one agency without exempting other agencies. We ought to exempt the entire American people from the effects of this bill. That is what the amendment ought to say. If we believe in the Constitution this demon bill, 666, ought to be withdrawn and go back where it came from and never see the light of day again.

Give me the Constitution, drawn by the Founding Fathers, not some version of rights thought up by the Republican Contract for America. I will take the Constitution any day.

Mr. VOLKMER. Mr. Chairman, I rise in support of my amendment.

The CHAIRMAN pro tempore. The gentleman from Missouri is recognized for 5 minutes.

Mr. VOLKMER. Mr. Chairman, I have been listening to the debate here, and what I hear concerns me greatly. Because what I hear is that we have nothing but praise almost by the speakers, especially the gentleman from Illinois, the gentleman from Iowa, the gentleman from New Mexico, the gentleman from Georgia, about one of the most Rambo-rogue-law enforcement agencies in the United States.

I say that this amendment is not political, Mr. Chairman. This is something that HAROLD VOLKMER has been working on because I believe strongly not only in the fourth amendment, but every amendment to the Constitution, including the second amendment. And if there has ever been a violation by any agency of this government of the second amendment right of the people and gun owners and hunters and sportsmen of this country, it is by the Bureau of Alcohol, Tobacco and Firearms.

I as a member of the board of the Firearms Civil Rights Legal Defense Fund can tell you that this is not something that just happened at Waco, folks. It is not something that just happened in Idaho, folks. Those are the big ones that got the news. The little ones that we are working on right now, this day, and been working on continuously since I came to this Congress off and on, it depends on who is running the BATF, we have got them going on right now, violations of individuals' rights to own guns.

Well, how would you like it if you had a gun collection and you were a part-time law enforcement officer and you did something that the BATF agent just didn't like, and he did not like you, and he went and got a search warrant and he went in and took all of your guns, every one of them out of your house, about 55 of them, and to the gentleman from Ohio, I say, it happened in Ohio, and they took them away. Never an indictment, never a complaint. Three years ago. And guess what, folks? He still has not got his guns back. He has a lawsuit over it, and we are helping him on it.

Mr. Chairman, I can tell you more. How about places getting broken in by BATF, and, "I am sorry, folks, after we have torn up the place, we did not find anything." "I am sorry, folks, wrong address."

What is going on with this Rambo outfit? This is not something that just started this year. When I first came to this Congress I was a member of the Committee on the Judiciary. I heard about instances of BATF and how they were trying to put gun dealers out of business. And that is going on right now, and I can tell you another instance about that right now.

□ 1300

They are trying to put dealers out of business so they cannot sell the guns that our people should have. That was going on because they said there were too many dealers that we have got to get rid of them, and we have got to get rid of the little ones because we cannot investigate them all. That was their excuse for their attitudes.

As a result of that, starting in 1978, in my freshman year, I started working on what became known in Missouri as the Volkmer-McClure bill. In Idaho, it is known as the McClure-Volkmer bill. That bill corrected at that time many of those abuses that were taking place. And for a while it was awful quiet and they behaved themselves. But right now they are right at it again.

It is not much different when I first came here; in fact, it is sometimes worse.

This bill, without this amendment, the gentleman from New Mexico, when we were discussing it yesterday, said, well, all it means is, if the difference is that if they do not find anything, it does not make any difference; if they do not find anything illegal, it does not make any difference if you have a warrant or you do not have a warrant.

Gentlemen, we all know that. That is silly. What this bill does to the BATF is give them a green light. They do not have to go to the magistrate and get a warrant for anything. They just go right in there and bust those doors down.

The CHAIRMAN pro tempore (Mr. BURTON of Indiana). The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 5 additional minutes.)

Mr. VOLKMER. Just bust the doors down and go in and take the guns and if they find something illegal, they say, "Hey, we gotcha." And if they do not find anything illegal, they say, "Sorry." Sometimes they do not even say that, folks.

Right now they have guns in their possession and some of them, by the way, when they have been forced to return them, forced by court orders to return them, they are not worth a darn anymore. They are damaged. They are rusted. They make sure that our gun owners do not have any guns. There is not any other Federal agency or local agency anywhere in this country that is about this business, but this agency is.

Now, they may do some good things down the road, but they also do some terrible things. I do not believe that the civil rights, and I call them civil rights, under the Constitution of my gun owners, my hunters and my sportsmen, should be put in jeopardy by this bill giving those very same agents the right to go in and take them away. And what I am amazed at, there has not been one Member from that side of the aisle to stand up in favor of sportsmen, hunters, and gun owners.

Who has stood up? I will tell my colleagues who has stood up. Not just Members on this side, the National Rifle Association of America. What does it say?

Just yesterday, "The National Rifle Association of America would like to express our strong support for your amendment exempting the Bureau of Alcohol, Tobacco, and Firearms from a relaxation of the new exclusionary rule standard as embodied by H.R. 666. The slipshod regard and generally low esteem that ATF has traditionally shown for the constitutional rights of law-abiding Americans indicates that the term 'good faith' has little meaning for them in the context in which they conduct their investigations. We would be remiss in our responsibility to our members and to the rights of all law-abiding Americans were we to allow a further relaxation of the fourth amendment standards to which ATF already gives short shrift to go unremarked and unopposed. We urge all Members of the House to vote in support of your amendment."

Also I would like to read from the Gun Owners of America. They, too, today delivered a letter to me.

"I urge you to support the Volkmer amendment to H.R. 666. This amendment simply states that the bill will not apply to any searches and seizures carried out by the Bureau of Alcohol, Tobacco, and Firearms. BATF has developed a torrid history when it comes to violating people's gun rights. And thus, Gun Owners of America will score the Volkmer amendment as a gun vote. That is, a vote for the Volkmer amendment will be scored as a pro-gun vote."

I just want to let all of my colleagues know that what I have heard today on this amendment really bothers me, because I know what BATF is doing out there to our people. And yet I am not going to have any avenue in this Congress to do anything about it except through this amendment. Because it is very apparent to me that the chairman of the Committee on the Judiciary, the majority members of that Committee on the Judiciary think that BATF is a wonderful agency. And they are going to go out and protect that agency. So when I ask for hearings to look into these abuses by BATF, they are going to tell me, forget it, because we are going to protect them. We are not going to do anything to hurt that agency. That is a wonderful agency. That is what I hear from that side.

I was prepared, we are watching some right now, I was waiting just for the opportune time to come to them and say, we need to have some hearings. We need to look into what this agency is doing. Now I am not going to have that avenue.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I thank the gentleman from Missouri for yielding.

I do not know if the gentleman recalls, but to the best of my recollection, on each of the firearms-related bills that have been introduced on the House floor, I believe the gentleman and I have been on the same side of the argument each and every time. That is my best recollection.

Second of all, I will join the gentleman in seeking hearings on the issues that have been raised concerning the Bureau of Alcohol, Tobacco and Firearms on this floor.

My opposition to the gentleman's amendment very simply is his amendment and this bill have nothing to do with what the gentleman is talking about. I would like to explain it two ways.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has again expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 3 additional minutes.)

Mr. SCHIFF. Mr. Chairman, if the gentleman will continue to yield, we have the exclusionary rule intact now, and it has not prevented any of the incidents that the gentleman has described. And it will not protect anyone in a situation where, if as alleged by the gentleman from Missouri, an agency or even an officer, one officer, have become, to use the gentleman's words, a rogue officer, a rogue institution. Those individuals who choose to abuse their law enforcement power and do so for the purpose of harassing law-abiding citizens are not going to be deterred by the exclusionary rule because they are not looking for evidence to use in a criminal case in the first place.

To turn it further the other way, this offers a good faith exception. If ATF or any other agency breaks down a door without a search warrant to someone's house, in a situation where they needed a search warrant, it is not good faith, even if they happen to find something that is illegal. It would not be allowed under this bill. So with the utmost respect, again, I suggest that the gentleman's amendment, which he obviously feels so very passionate about because of his view of this agency, is not applied correctly toward this bill.

I thank the gentleman from Missouri for yielding to me.

Mr. VOLKMER. I quite disagree with the gentleman from New Mexico that what I said before, it does not change maybe what BATF is doing at the present. But I still say, because they can go on reasonable belief that what they are doing is right without a warrant, which they cannot do today. They have to get the warrant today. If they are going to go in and take somebody's guns away from that house, they better get a warrant.

Mr. SCHIFF. Mr. Chairman, if the gentleman will continue to yield, again, there must be an objectively reasonable belief that a search without a warrant was in fact constitutional at that time. If it is not supported when that matter is reviewed by a magistrate, the evidence would still be suppressed and it does not protect innocent citizens no matter what kind of exclusionary rule standard we have.

Mr. VOLKMER. Let us talk about that just for a minute. We have a little case not far from right out here in Virginia. We talk about all these things that these magistrates are going to do and everything. How about when a magistrate does not even know what the law is and the agent does not know what the law is. And he goes in and asks for a search warrant to go into somebody's business and take away the guns because he says that these guns are illegal, the magistrate does not know that they are not illegal, that they are legal, and he issues the search warrant and they go get it.

Now, what happens is that he gets sued, and he is going to get sued, that agent is. Now, the thing is that under this, he would not have to go to that magistrate.

☐ 1310

That agent based that on erroneous information that an informant had supposedly told him, and the magistrate issued a warrant on that basis.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(At the request of Mr. SCHIFF and by unanimous consent, Mr. VOLKMER was allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. Under this bill, Mr. Chairman, after that informant had told that agent that information, he could have gone down there and took guns without a search warrant. For that reason, I say if you want to protect your gun owners from these rogue people, I would say Members had better vote for this. This will be the last chance, the only chance Members as gun owners, people protecting gun owners, will have the right to do that.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I thank the gentleman one more time for his courtesy.

Mr. Chairman, I want to point our that the gentleman's premise is what I believe is incorrect in this debate. There is nothing in this bill that changes the law as to when a search warrant is needed or is not needed. It deals only with those situations where, when a search is made without a warrant, if there was a good-faith error, then the evidence can be considered. It expands an exception that already exists in the law for search warrants.

In all of the examples the gentleman from Missouri [Mr. VOLKMER] has given, he has described anything but good faith. Therefore, there is not protection to honest citizens by the gentleman's amendment. Honest citizens, in fact, are not even protected by the exclusionary rule. If a law enforcement officer wants to go through that door, with the power of his immediate armament, and seize something, he or she is going to do it. If so, the exclusionary rule is not going to stop them, because that is an after-the-fact determination when someone is believed to be guilty.

Mr. VOLKMER. Mr. Chairman, I disagree with the gentleman.

Mr. MCCOLLUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think there are a couple of points that need to be made to put all of this in perspective.

First of all, as chairman of the Subcommittee on Crime of the Committee on the Judiciary, I want to make sure everyone is aware that it is our intention to hold hearings in the next couple of months on the Bureau of Alcohol, Tobacco and Firearms, and on firearms issues generally, and on some of these alleged rights violations, which may be very real or maybe are not, but we are going to explore that.

There will be opportunities, I would present, not only there but probably through legislation that will come out here on firearms in May or June that will give the Members the opportunity to debate all kinds of issues related to this.

Second, what we are doing today, it needs to be stated what it is not, rather than what it is, sometimes. What it is not, it is not a relaxation of the fourth amendment protections against unlawful search and seizures.

We are doing absolutely nothing in the underlying bill today that would in any way affect a person's right to be protected from unlawful search and seizure by police, BATF, or anybody else.

Second, Mr. Chairman, what we are not doing is destroying the exclusionary rule. I heard one of the major networks this morning on one of its morning shows state that this bill would abolish the exclusionary rule of evidence which the Supreme Court established in 1914.

The legislation that we are presenting here today does nothing of the sort. It does not abolish that rule. What we do today, what we are about to do if we pass this bill is to make it very clear that where the Supreme Court itself has carved out what it calls the good faith exception to its own rule of evidence that was designed to deter police from doing things that might violate the Constitution by saying "If you do it, naughty boys, we are not going to let your evidence in that you get there," where it has modified itself and says, "Look, the police really would have done this anyway."

There would not be any deterrent there because they had a reasonably objective belief that what they were doing was right in the cases of the warrants which have been presented to them; where there was a search warrant, the court said "We are not going to let this rule apply. We are going to have a good faith exception, let the evidence in, let the conviction, if the court can get a conviction, stand against the bad guys."

The court has never faced the situation of a warrantless search, though there are many of them that are perfectly constitutional, with the question of the exception we are proposing today.

However, there have been two Federal circuit courts that have, in the fifth and eleventh. They have embraced what is in this bill. That is what we are doing today. We are saying "Let us make this nationwide, so we do not have any loopholes involving this question and letting more criminals off the hooks than already have gotten off the hooks in the past."

If we look at the Arizona case I cited out here in debate yesterday, I think it is illustrative to put to rest the concerns that the gentleman from Missouri [Mr. VOLKMER] has with respect to BATF or any other law enforcement agency.

The type of example we have a concrete example of is an Arizona case in which there was an arrest warrant, not a search warrant, which had been issued on somebody who was stopped by the police out there.

It turns out that 17 days before they stopped this fellow that warrant, that arrest warrant, had been quashed. It had been done away with. It was not any good anymore, but their computers did not show it.

The police, because the computers had not had this input put in this, stopped this fellow. They searched him and they found evidence of additional crime, marijuana, and I don't know what else.

The courts, because of the rule that the Supreme Court has no exception for cases that do not involve search warrants, threw out this evidence and said this was an unconstitutional search because there was no arrest warrant, and they had no right to make this search, but the police legitimately thought they were.

There was absolutely no deterrent effect on their behavior or would not be any by throwing out the evidence and losing a potential conviction of a bad guy.

The same thing would be true in a case involving weapons, whether it is the Bureau of Alcohol, Tobacco and Firearms, or the FBI or local law enforcement. There is no change in it at all. The illustrations the gentleman from Missouri has given out here today would not be appropriate, in my judgment, to what this legislation we have today affects.

We are affecting a very small situation, but sometimes a critical one, where the police honestly believe that they are doing the right thing when they do it, whatever police agency it is, and I do not think that the amendment is appropriate to give an exception to any police agency and say what we are doing does not apply.

It should apply to all of them. We should address the abuse that any agency has outside of the context of this in some other forum, and we will do that in the future, but not in this bill, because there is no way that excepting BATF from this particular bill, we are going to correct any problems that they may have had in the past or may have in the future.

The BATF, if they are abusing the law and the constitutional rights and doing something illegal or improper, are going to do it just as much in the future after this bill because law as they have done in the past, because what we are passing out here would have no impact whatsoever with respect to what they do or do not do, since it requires what we are requiring for any exception for evidence to come in, a judge finding a reasonably objective basis on the part of whatever police officer it is, including BATF, that what they are doing, they did in the believe that they were acting——

The CHAIRMAN. The time of the gentleman from Florida, [Mr. MCCOLLUM] has expired.

(By unanimous consent, Mr. MCCOLLUM was allowed to proceed for 1 additional minute.)

Mr. MCCOLLUM. Mr. Chairman, that is because the police, the BATF, or whoever it is, is going to be acting in order for evidence to be allowed, whatever it is, in this bill, in order to get convictions, they are going to have to be acting in the reasonably objective belief that they were correct, that there was no problem, as in the arrest warrant case I just gave as a real illustration in a real case in Arizona that has gone before the Supreme Court.

So I do not see any harm, Mr. Chairman, in what we are doing at all. We have two Federal circuits that already have permitted this for all Federal agencies, be that BATF, FBI, or anybody else, and no ill will has come from this, no bad results, and I do not think there should be any exceptions to this, as I say, including the gentleman's effort.

Many of us who may agree with him on other matters relating to firearms simply cannot support this amendment today, even though we understand he is trying to make a protest vote out here on BATF. Unfortunately, it undermines the very basic law we have.

There may be many cases where BATF, FBI, et cetera, work in concert, and you can just mess up the whole evidentiary train if you affect one agency.

Mr. HAYWORTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in reluctant opposition to the Volkmer amendment to H.R. 666, the Exclusionary Rule Reform Act.

I am a strong supporter of second amendment rights. Like the gentleman from Missouri [Mr. VOLKMER], I have serious concerns about the Bureau of Alcohol, Tobacco, and Firearms. On numerous occasions it is my belief, and certainly the headlines have reflected, that the BATF has overstepped its jurisdictional boundaries and trampled on the rights of law-abiding citizens.

Clearly, we must seriously examine the reckless actions of this agency and work to eliminate the BATF by consolidating its legitimate functions with other agencies. Congress needs to thoroughly review every aspect of the agency's operation and its inefficiencies.

In the interim, strong congressional oversight and congressional control over BATF's budget is the best way to influence BATF management and decisionmaking and safeguard the rights of America's gun owners.

Passage of this amendment, Mr. Chairman, is not a solution to the problems with the BATF.

□ 1320

Congress has a responsibility to maintain strict oversight of this agency. Creating an exemption for the BATF from the reform of this exclusionary rule will not stop the BATF from committing unreasonable searches. It will make it easier for hardened criminals to walk on a technicality.

I urge my colleagues to defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. VOLKMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 198, answered "present" 3, not voting 5, as follows:

[Roll No. 101]

AYES—228

Ackerman
Allard
Baldacci
Barcia
Barrett (WI)
Bartlett
Bass
Becerra
Bevill
Bilirakis
Bishop
Bliley
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Bryant (TX)
Bunn
Burton
Callahan
Camp
Chapman
Chenoweth
Chrysler
Clay
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
de la Garza
DeFazio
Dellums
Dicks
Dingell
Dooley
Doolittle
Doyle
Duncan
Dunn
Durbin
Edwards
Emerson
Engel
Ensign
Evans
Farr
Fattah

Fazio
Fields (LA)
Fields (TX)
Filner
Foglietta
Foley
Forbes
Franks (CT)
Frisa
Funderburk
Furse
Gejdenson
Gephardt
Geren
Gilman
Gonzalez
Gordon
Graham
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harman
Hastings (FL)
Hayes
Hefner
Herger
Hilliard
Hinchey
Holden
Hunter
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson, E.B.
Johnson, Sam
Kanjorski
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Klink
Klug
LaHood
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Martinez

Mascara
Matsui
McCarthy
McDermott
McHugh
McInnis
McIntosh
McKinney
Meehan
Meek
Menendez
Metcalf
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moorhead
Murtha
Myers
Nadler
Ney
Oberstar
Obey
Olver
Ortiz
Orton
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Poshard
Quillen
Rahall
Rangel
Reed
Richardson
Riggs
Roberts
Roemer
Rogers
Rose
Roth
Roybal-Allard
Sabo
Salmon

Sanders
Scarborough
Schaefer
Schroeder
Scott
Seastrand
Serrano
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith (WA)
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torres
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt (NC)
Waxman
Whitfield
Wicker
Williams
Wilson
Wise
Woolsey
Wynn
Young (AK)

NOES—198

Abercrombie
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barton
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunning
Burr
Buyer
Calvert
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Clinger
Coble
Collins (GA)

Cox
Coyne
Cunningham
Davis
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dixon
Doggett
Dornan
Dreier
Ehlers
Ehrlich
English
Eshoo
Everett
Ewing
Fawell
Flanagan
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Greenwood

Gunderson
Hansen
Hastert
Hayworth
Hefley
Heineman
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Johnson (CT)
Johnson (SD)
Johnston
Jones
Kaptur
Kasich
Kennelly
Kim
King
Kingston
Kleczka
Knollenberg
Kolbe
LaFalce
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)

Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
McCollum
McCrery
McDade
McHale
McKeon
McNulty
Meyers
Mfume
Mica
Miller (FL)
Molinari
Moran
Morella
Myrick

Neal
Nethercutt
Neumann
Norwood
Nussle
Owens
Oxley
Packard
Pallone
Paxon
Porter
Portman
Pryce
Quinn
Radanovich
Ramstad
Regula
Rivers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Sanford
Sawyer
Saxton
Schiff
Schumer
Sensenbrenner

Shadegg
Shaw
Shays
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Talent
Taylor (NC)
Thomas
Torkildsen
Torricelli
Upton
Waldholtz
Walker
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wolf
Wyden
Yates
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—3

Collins (IL)
Reynolds
Rush

NOT VOTING—5

Brown (FL)
Flake
Frost
Hastings (WA)
Solomon

☐ 1340

Mr. MARKEY, Ms. RIVERS, and Messrs. PALLONE, MANZULLO, and FRANK of Massachusetts changed their vote from "aye" to "no."

Ms. McKINNEY, Mr. FRANKS of Connecticut, Mr. DURBIN, Ms. HARMAN, Mr. GONZALEZ, Ms. McCARTHY, Ms. DUNN of Washington, and Mr. OLVER changed their vote from "no" to "aye."

Mr. REYNOLDS changed his vote from "aye" to "present."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, because of an unavoidable detainment on the way from the White House, I missed rollcall vote no. 101. Had I been present, I would have voted "yes."

☐ 1340

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 3, line 14, strike the close quotation mark and the period which follows.

Page 3, after line 14, insert the following:

"(d) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Internal Revenue Service."

Mr. TRAFICANT. Mr. Chairman, I want this amendment to be understood. I want it to be debated.

The House has evidently reviewed behavior. I want all the Members in the back to hear this amendment, and I want your vote. The American people want your vote.

Evidently, we have discussed conditions under which some of us may, in fact, in some areas support the bill and in other areas where Congress has some significant reservations.

My amendment is not reactive. My amendment is strictly prevention. Now, I would like to urge the Members of Congress to consider that an ounce of prevention is worth a whole pound of cure.

My amendment states that this section shall not apply with respect to a search or seizure carried out by the Internal Revenue Service.

Ladies and gentlemen, we have an Internal Revenue Service that has taken license and has, in fact, intruded the kitchens and the family rooms of the American people on many cases. Those cases are now legendary.

In the matter of Alex and Kay Council of North Carolina, their accountant advised them under a windfall profit they made on the sale of a business that there was a legitimate tax shelter for a specific investment; they took it. The IRS found difficulty and ruled that the tax shelter was not allowed.

And the case was finally adjudicated, the notice of deficiency was sent to the wrong address. The IRS said they have no bounds by the Congress of the United States to prove they made a proper notice.

In the case of Alex and Kay Council, Alex Council, completely frustrated, finding no other ways to fight this large agency that he reported to that was out of control, took his life and left instructions how his life insurance policy will allow for, in fact, that death benefit on his suicide, and how she could apply that insurance policy, that life insurance policy, to fight the Internal Revenue Service, and she did.

It has come to the point where the Internal Revenue Service is certainly charged with an important task by our Government, Mr. Chairman, but Congress, through a lack of oversight, has allowed this agency to become a little intrusive, even to the point where they enjoy the only exemption under the burden-of-proof statutes of the Bill of Rights which I want to commend the majority party for giving an opportunity for a hearing for that in the future.

My amendment basically says, "Look, the IRS has so much intrusive power now that to give any more further license would be not in good conscience of the Congress of the United States of America," understanding the legendary behavior of this agency.

☐ 1350

Now I am not talking about FBI, DEA, ATF, that I recommend to the Congress that all those agencies be put up under one. There is no coordination, as a former sheriff, there is no, or very little, coordination of them anyway. I would not be surprised to have the CIA and DEA thrown up under the FBI, too, with an international section.

But I am not talking about that now. I am talking about a taxpayer who is at the mercy, some of them have taken their own lives, and Congress has been silent for too long.

Now, yes, we have taken these technicalities and these pursuits of criminals, and we have weighed them heavily on the side of the criminals, and there is a debate in this House that perhaps was long overdue regardless of how you will vote on this issue.

But what the Traficant amendment says is this is not normal business, even under this particular law that is being debated.

If we continue to open up and give more license to an agency that has already turned their back on the Congress, I believe we will fail each and every one of our constituents here today. I do not know how many of your constituents are going to have their door kicked in or are going to be blown up in Waco, TX, and I certainly do not like that, and I agree there should be a hearing on what happened to the Weaver family in Idaho and what happened out there in Waco.

The CHAIRMAN pro tempore (Mr. BURTON). The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 4 additional minutes.)

Mr. TRAFICANT. But what I am talking to you about today is your mother, your father, your grandparents, your children, your neighbor, your mailman, the truck drivers, the clearly, and every business, big or small, in your district. Every American that is afraid, and even afraid to say they are afraid, for every American who has been intimidated in some back room, it is legendary.

So I am not here today citing abuses, and I am not taking off on the IRS. What I am saying to you, though, is there is a reasonable level of prevention that is necessary when you establish law. And there is a prevention element that necessitates this amendment.

I am asking for your vote. The American people are looking for some support from the Congress of the United States, and the American people in poll after poll say they cannot recognize and understand or fathom the thought of Members of Congress wanting to be anonymous, having made the statement that, "It does not pay to go after the IRS." If you are a Federal judge, why should you? That is a lifetime job. Why get the IRS mad?

"If you are a Member of the Congress, why get the IRS mad?" Well, damn it, let me tell you the way it is: I am mad as hell. I am prepared not to stand for it any longer, and I think every one of your constituents feels that way. And I think there are some justifiable reasons to vote for this amendment.

So I am asking the gentleman from West Virginia, the gentlemen from Connecticut and Vermont, the gentlewoman from Colorado, the general, the gentleman from California [Mr. CONDIT], the gentleman from Florida [Mr. MCCOLLUM], the gentleman from Illinois [Mr. HYDE]—because you can stand up and probably muster up enough partisan votes to defeat this—I am asking you not to do that and to make a sincere effort to keep this amendment in conference. I believe the American people deserve this.

The IRS has taken too much license with regulations that they have turned their back on already.

So with that, I am going to ask this House to give a vote of affirmation. I want to place on the record through the legislative history that I do not want it to be just an exercise on the floor of Congress, that I do want a commitment on the vote of this Congress, if it is an affirmation that, as a tenacious bulldog, we will save that amendment and keep it in that final law if in fact this becomes final law. No reason to obstruct; that is not my purpose. I believe it makes good sense. I urge the Members of the Congress of the United States to do what is right today and to vote for this amendment.

Mr. MCCOLLUM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I must reluctantly oppose today this amendment offered by the gentleman from Ohio.

The reason why is not because I do not think there are problems with IRS abuses. The Internal Revenue Service is well known to have had its share of those abuses. I am not here to debate the merits or not of that question.

But I oppose this amendment because I think, just as on the previous amendment offered here on the floor, there is a great deal of misconception about what the effects of the proposed bill and the law changes that we are offering in this bill that underlies the debate today does and does not do.

I do not believe that there is any sense whatsoever in making exceptions for one Federal law enforcement agency or another in respect to what we are doing today that would make any difference at all in the conduct of how they carry out the their business.

In fact, the very point and essence of a lot of debate over this exclusionary rule exception is to make clear that there is absolutely no change in the constitutional requirements that say that we shall not engage in any unlawful search and seizures if we are police of any type; there is nothing in this legislation today that is a bit of a retreat from that, no relaxation of the general principle of excluding from evidence anything where a police officer, knowingly or by anybody's objectively reasonable test of that, as a judge in a court decides that they violated the Constitution in their proceedings and in their actions.

The whole point of this today is to say, "Look, if you have done a search, whether it is with a warrant or without a warrant, and you with a reasonable belief really believe, Mr. Police Officer of any type, that what you were doing was legitimate and not a violation of someone's constitutional rights, if you believe you followed all the steps in the rules and you got a warrant and you thought the warrant was good and the warrant was necessitated or you thought that you were making a search because on its plain face that that search was authorized by the clear precedents of the law in cases where warrants are not required under the fourth amendment of the Constitution, if you really, according to the judge's view in a case when he is deciding whether to admit evidence or exclude it, if he says you exercised a reasonably objective belief that what you were doing was right," then why exclude the evidence? Why exclude the evidence, whether that evidence is gathered by the Federal Bureau of Investigation or the IRS or the Drug Enforcement Administration or anybody else?

Everybody should be treated the same. The evidence of somebody's crime, if they committed a crime or the evidence that would go before a court or a jury to decide whether a crime has been committed, should be allowed in in every single case if that is valid evidence on the merits of the case itself, and let the court decide the guilt or innocence of somebody unless—unless the exclusion of that evidence would in some way, in some way deter a police officer, IRS officer, a Drug Enforcement Administration officer, FBI officer from doing something he should do. And there is absolutely nothing whatsoever suggested here by what we are doing today that would modify that in any way, that principle.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I would be glad to yield to the chairman, the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman from Florida for yielding to me.

Mr. Chairman, I just want to say, implicit in this amendment as well as in the last one, is a denigration of the Federal bench; an assertion that they are incapable of judging whether an acquisition of evidence was in good faith, by an objectively reasonable standard; or whether the public, the long-suffering, victimized public, is better served by the admission of this evidence of guilt or not.

But to carve out exceptions for various Federal agencies not only is insulting to those agencies—and that may or may not be true, but this is not the place to direct those insults—but it also demeans the bench, the Federal bench. I do not think we should overlook that.

Mr. MCCOLLUM. Reclaiming my time, Mr. Chairman, I believe the gentleman is right. I would concur wholeheartedly.

The whole point of the exercise today in passing this legislation is to give relief to the American public in situations where technicalities have been throwing out evidence where people otherwise should have been given the chance and court should have been given the chance to convict the bad guys.

It is not to try to open the door in any way to reduce or relax the standards of the fourth amendment protections against unlawful search and seizures. It does not do that. What is good for the goose is good for the gander, what is good in one Federal district circuit court should be good in another one in this country. There should be uniformity. There is not presently.

□ 1400

Mr. Chairman, for us to come out and make exceptions for one Federal agency or another is just plain nonsense, so I urge a "no" vote on this amendment. I know it is offered in good faith, but I urge "no" vote.

Mr. CONYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

Mr. Chairman, I say to the Members, this amendment, the closer you scrutinize it, the more you can get to like it, and I would like to ask my colleagues to look very carefully at this amendment.

Mr. Chairman, the gentleman from Ohio is known for his very strong comments and commentary on the floor, but, if my colleagues examine this amendment, they will begin to see what I see in here, that he is attempting a carve-out on the McCollum bill, H.R. 666.

My first amendment to the bill was an attempt at a codification of a U.S. Supreme Court decision, a very modest one, when we had begun, and they are both working toward the same objective.

Now the chairman of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], said that this vote, a vote for this amendment, would denigrate the Federal bench. The Federal bench never gets to hear about these cases of doors being kicked down or IRS harassing people who are trying to settle their accounts.

Now in my office I have constituents who have been trying to settle their accounts, admittedly delinquent, and if there is somebody here that has never heard of this, I say to them, you can share some of my case load with me. They have been trying to settle their accounts, and they will get a call from the agent at IRS telling them that, if they do not pay in full, immediately, in 30 days, they are going to padlock their dentistry office or they are going to padlock their business, which of course is the only way that they can possibly ever pay back on installments. I have had that repeatedly brought to my attention, so much so that the senior Senator from Michigan has worked with me on hearings in previous Congresses and meetings with IRS officials in our region.

So, on behalf of all African-Americans and working class people who cannot retain a CPA or an attorney, Mr. Chairman, this carve-out to limit this untrammeled authority for an agent to objectively use reasonable good faith when he decides whether he is going to padlock someone or kick their door down is a very late-coming one, and I am sorry that I had not risen to this occasion earlier. The IRS cannot be allowed this kind of activity.

Mr. Chairman, I hope this will spur an investigation in the appropriate committee, and I hope it is the Committee on the Judiciary, but at the same time let us recognize that if BATF can evade this amendment by joining with the FBI or the DEA, would it not be logical that we should extend the carve-outs to those other agencies as well, because if we do not, Alcohol, Tobacco and Firearms will be getting around it by merely cooperating with someone else, including, perhaps, the IRS, perhaps not.

But this amendment on its face, Mr. Chairman, is one that merits our colleagues' support. It speaks to a history of misconduct and wrongdoing, and I think that it is a commendable amendment, and as the ranking member of the Committee on the Judiciary, I am very proud to attach my support to it.

Mr. FIELDS of Louisiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment and yield to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman from Louisiana [Mr. FIELDS], and I listened to the debate of the distinguished chairman and subcommittee chairman of the Committee on the Judiciary, and I saw that we just passed a pretty much politically charged vote, and I must say the American taxpayers do not have too many powerful lobbyists down here. Most people are afraid of the IRS, and most average Americans are more or less at their mercy.

But there is an incident, just occurred here this past month out in the district of the gentlewoman from California [Ms. ESHOO], and the IRS basically came to the office of one of the dentists in her community and said they were with the IRS, and they wanted to see the doctor. They were asked if the doctor was expecting them, and they said, "No, not at all."

Mr. Chairman, in the midst of the day's business, the dentist office's business, the IRS completely disrupted it, had taken that dentist away from where he is doing significant work on the dental needs of one of his patients. The IRS has almost limitless powers.

There are very few opportunities for the Congress of the United States to lend a helping hand to these taxpayers. So, Mr. Chairman, yes, I could see where a lot of people crossed over and voted on that issue that surrounds guns, but there is just not enough advocates for the American taxpayer, there is no powerful support for the American taxpayer, and that is why I say to my colleagues, to the Congress, that the last center of possible support, the last board of grievance and appeal, is the Congress of the United States of America, and if the Congress of the United States of America can make exception for guns, and the popularity of that issue, and the politics of that issue, then Congress could do the right thing and support this amendment that in fact safeguards the interests of all of our taxpayers, each and every one of them.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to give the same speech I gave the last time, although it would be equally applicable in the context of this amendment. But we are making a mockery of the Constitution, and we just did it again when we passed the last amendment. It is not that the amendment was bad, but now we have got a different standard applying to one law enforcement agency, constitutional standard presumably, than we have applying to all other law enforcement agencies, and I have got nothing against the Internal Revenue Service, but it seems to me that the Internal Revenue Service makes more sense to be exempted than the ATF, or whatever it was called, because there are less circumstances under which they need to go and kick somebody's door in than the other agency.

The point is it is the underlying bill that is the problem here. It is not exempting ATF, or the Internal Revenue Service, or the Immigration and Naturalization Service, or the city of Atlanta, or New York, or the FBI. The standard ought to be the same, and that standard was articulated in 1791 when we passed the first 10 amendments to the Constitution. That is the standard that ought to apply, and that is the problem that we are into here, and that is the reason that we are getting all these inconsistencies, because what we did in 1791 was to make one consistent standard, and what my colleagues on the other side are trying to do is to get at the bad guys.

□ 1410

Well, who are the bad guys?

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Ohio.

Mr. TRAFICANT. With that, let me say the gentleman makes a point about bad guys, and this bill is targeted toward bad guys. Keep in mind that much of the activity covered by this amendment covers civil procedures. They are not coming for bad guys. They are using an awful lot of law and a lot of leniency under that law in civil proceedings, and many times the burden of proof is even on the taxpayer to prove they are innocent.

This is an unbelievable tenet of opposition. Clearly if there is an exception, it should deal with the preponderance of the facts that the civil proceedings involved here are clearly outside of the view of what the main thrust of this bill deals with. You are concerned about criminals. We are talking about license in civil process. I think that goes too far, which lends to a rational for support for the amendment.

Mr. WATT of North Carolina. Mr. Chairman, reclaiming my time, the gentleman makes the very point that I am trying to make. This is not about bad guys and good guys. What we do when we subvert the Constitution of the United States to try to get some bad guys is that we subvert the Constitution of the United States for the good guys also. We cannot afford to do that. The rules cannot be different for one group and another group, because then we have to decide which one falls into each of those groups.

Mr. Chairman, I want to call upon my colleagues to withdraw this bad bill. Bet us out of this pointing of fingers and talking about who is bad and who is good. All of the American citizens are good, until the law says they are bad. We cannot let the police officers on the street make that determination, whether they are with the Internal revenue Service, the ATF, the Atlanta police office, the D.C. police office, whatever. This is about the Constitution. This is not about bad guys and good guys.

Mr. WISE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Traficant amendment. I do want to say and to note that while various agencies such as the BATF are being asked to abide by higher standards, this is not a commentary on the thousands of good, hard-working employees of many of those agencies, the DEA, the FBI, the BATF and the Internal Revenue Service, because indeed there are thousands of well-meaning, hard-working personnel, many of them in the enforcement divisions.

But unfortunately, occasionally you have a bad apple, and that bad apple can spoil the whole barrel and can be the one that brings that agency, despite all the hard work that goes in, can bring that agency and its employees into disrepute.

So what this tries to do and what the fourth amendment tries to do is say we do not want to make it harder for those genuinely doing their work. We also want to make sure there cannot be the occasional abuse, or at least we try to limit it as much as possible.

The distinguished chairman of the full committee, the gentleman from Illinois [Mr. HYDE], pointed to Federal judges as being the safeguard and said why would you denigrate Federal judges? No one is denigrating the Federal judiciary. As the gentleman from Ohio [Mr. TRAFICANT] pointed out, many of these cases do not even get there.

You are trying to devoid those cases getting to the Federal judiciary. You are trying to have the occasional Federal judicial officer have in the back of their mind this is something you don't do, there are sanctions, and it is something prohibited from the beginning in the mental process. So that is one reason.

The second thing is you want to set a standard so you do not get these problems to the judiciary, and that standard is what is trying to be set here. In the case of the IRS there have been occasional abuses. There are a lot of people working hard and doing the processes of raising the revenues of our country the way they should, but there have been occasional abuses. I have one in my district as well that we have worked on for 2 years now.

But you are saying because there can be the chance for the abuse and because it does not handicap the ongoing work of that agency 99 percent of the time, then indeed they should abide by that higher standard. This body has already said there should be a higher standard in the case of BATF. The IRS, which reaches every one of our constituents in some way, needs to have that higher standard, not to denigrate the work of the IRS or the men and women of the IRS, but to say where there are occasionally a few bringing down the reputation of an agency, that will be reined in and this Congress will demand that they abide by that higher standard. That is what this amendment is about, and I would urge its adoption.

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to share in the sentiments of the gentleman from North Carolina that it is not a question of this amendment or any exceptions. The problem is the undermining legislation.

Any nation, Mr. Chairman, can fight crime, can secure its streets and its cities, if it is prepared to compromise the rights of its citizens. No totalitarian or authoritarian government has ever feared the problems of crime on its streets.

But the goal has never been simply to secure the streets. It is also to have its people secure in their homes, and from their government, not just from criminals.

So the United States has always been different. We have sought to protect the innocent while we were prosecuting the guilty. That balance has made the United States unique. It is also now at question.

The underlying legislation, if it means anything, would violate the sanctity of the home, the privacy of the family, the right to have a wall of protection in the front door of your own house between you and the government, to ensure that the only judgment is not the police officer as to whether or not your home should be violated, but a judge issuing a warrant on probable cause. The very Constitution of the United States. And the irony of it is, is that this was one of the motivating factors that led to our own revolution, the insistence on the part of the British Government of breaking down the doors and violating the property rights of our citizens 200 years ago.

But to add insult to injury, now we are creating two different levels of privacy and property rights. If your violation is for tobacco, alcohol, or on guns, your rights will be secured. The BATF will not get in your home, because the gun lobby would have it be so. But if you are a citizen of no particular offense, your wall of privacy is being lowered. What a statement to the American people, and what a violation of the historic trust and commitment of this institution to our constitutional principles.

Mr. Chairman, our Republican colleagues in the last election have had every reason to be proud. They won a tremendous victory. But they did not receive a mandate to change the Constitution of the United States, to rearrange its powers, or to make our people less secure from a government that would abuse their rights.

Mr. Chairman, I cannot claim to ever have been a conservative Member of this House, but I have always respected tenets of Republican philosophy, limited government, power in the hands of people, controlling the excesses of government authority. Allowing a government to enter a home or seize property without warrant, expanding the police powers of the government, is an invitation to abuse.

□ 1420

It is not simply a violation of some of our historic commitments. Ironically, it is a departure from the conservative philosophy of the very Members who have now won electoral control of this institution.

Mr. Chairman, our leaders may have failed us in protecting us in recent years from crime and the problems of our country, but it is our leaders who have failed, not our Constitution. If the country is in need, it is our leaders who should change, not our Constitution.

Because if, my colleagues, we succeed in defeating crime on the streets at the cost of criminal activity by our government, then we have achieved nothing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. Traficant].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. CONYERS. Mr. Chairman, I withdraw my point of order and my demand for a recorded vote.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. FIELDS OF LOUISIANA

Mr. FIELDS of Louisiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fields of Louisiana: Page 2, line 10, after "United States" insert "if the evidence was obtained in accordance with the fourth amendment to the Constitution of the United States".

Mr. FIELDS of Louisiana. Mr. Chairman, yesterday we debated for some time the Watt-Fields amendment as it relates to the fourth amendment of the Constitution. This amendment is similar to that amendment, but, Mr. Chairman, I want to make a couple of comments about the amendment before I proceed.

First of all, under the fourth amendment of the Constitution, it says in no uncertain terms that "the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated."

It does not say "should not be violated" or "ought not be violated." It says in no uncertain terms that it "shall not be violated."

The fourth amendment to the Constitution further states, Mr. Chairman, that no warrant, not some warrants, not two or three warrants, but it says "no warrant shall," again, the Constitution deals with not the permissive language but the mandatory language, "shall issue but upon probable cause supported by an oath of affirmation and particularly describing the place to be searched and the persons or things to be seized."

Now, I did a little further research, Mr. Chairman, and Members, to get a good understanding of what shall actually means. According to the Webster dictionary, shall is very simple. Shall means will have to. Shall means must. Shall means used in laws to express what is mandatory.

So I rise today, Mr. Chairman, to suggest to the House that this amendment is a very basic amendment. It simply says that any evidence obtained "in accordance with the fourth amendment of the Constitution."

If we are going to pass this legislation and allow law enforcement officers to go out into the world and break down people's homes without a warrant and say, I am operating with reasonable expectations or reasonable belief that there is something wrong taking place in the household, then we shoot a big bullet in the center of the fourth amendment to the Constitution. Not only that, Mr. Chairman, we basically silence the fourth amendment of the Constitution.

So if Members support the fourth amendment of the Constitution, and I think we all do, because we all by law, when we took the oath of office, said we would, we would support this amendment. It is a very simple amendment. If we want someone, a law enforcement officer, to be able to walk into our constituent's home by breaking down the doors, showing, flashing his or her badge or badges and saying, I am the law enforcement officer of this particular city, move over, I am going to search all of your personal effects, then vote against this amendment. It is very simple. Nothing complicated about it, nothing difficult about it.

But if Members want that law enforcement officer to go to a judge which is clothed with the responsibility of looking at the probable cause to see if there is enough evidence to support a warrant to be issued to search a person's home, then vote for this amendment. It is a very simple amendment, nothing complicated about it.

If we want to go back to the western days, where people break down doors and take people's assets and nothing is done about it, then I would suggest that Members not vote for this amendment.

Let me make another point, Mr. Chairman. Someone made the statement that, well, if someone breaks in a person's home and they find no evidence and they have not violated any law, then no harm is done. I beg to differ with my colleagues on that.

There is a lot of harm that is being done when you break down a person's home and go through all their personal effects, finding evidence or not finding evidence. You have violated somebody's right to privacy. That is one of the most sacred amendments to this Constitution. And to allow law enforcement officers to do that and then exempt one or two agencies to me is asinine, unconscionable, unbelievable, to say the least.

So I would certainly urge my colleagues, in the interest of justice and fair play, please, the worst thing we want to do this session of Congress is to violate our own contract, our own Constitution, the one we held our hands up before the American people and said we will uphold. This bill destroys the fourth amendment of the Constitution. There is no question about that.

I want to be able to leave this institution, leave this Congress and go home tonight and have a sense of security in my own home and not worry about some Rambo cop busting down the door and saying this Congress gave them the right to do it. That is wrong. There is not a Member on this side or the other side that can argue the fact that this amendment does not do that.

Now, they may argue, well, if it is unconstitutional, the courts will hold it to be unconstitutional. Why would we pass a law that we know good and well is unconstitutional. Why would we even opine the thought that the American people ought not have the rights that are afforded them under the Constitution of the United States of America.

I beg of my colleagues on the other side of the aisle, if they really want to do something to secure people in their homes, yes, we have a crime problem in America. There is no question about it. There is a crime problem in my own district, in my own State, but it is not to the extent that we ought to take away people's individual constitutional rights.

Mr. McCOLLUM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think the gentleman is onto something we all would agree with in principle, but I think how he has crafted this amendment makes it fatally defective or at least it makes it ambiguous enough that this side cannot accept it.

What I have stated in the past and did yesterday to the gentleman from Louisiana as well as to others is that I would have no problem accepting and our side would have no problem accepting what was printed in the Record as amendment No. 1 by the gentleman from Michigan [Mr. Conyers] that would read at the end of the bill "nothing in this section shall be construed so as to violate the fourth article of the amendments to the Constitution of the United States."

That would be perfectly acceptable. This particular amendment being placed where it is in the context of the lines that read, evidence which was obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States, and then with these words "if the evidence was obtained in accordance with the fourth amendment of the Constitution of the United States," and then goes on and on and on and leaves the clear implication that there can be no exclusionary rule because the very nature of the rule is to apply in situations where there has been a violation of the fourth amendment.

That is why we need it. That is why we need a good faith exception to this whole process.

It would in essence nullify the good faith exception in warrant cases, in my judgment.

□ 1430

We would have an exclusionary rule that excluded it clearly from day one, and there would be no exceptions to it. One could go on and read the rest of it, since it is placed in the middle of it and nothing is stricken, as saying that it is then further modified. But I would suggest that the fact that there was such ambiguity here, courts could interpret this any number of ways, that it makes no sense to posture this in the location the gentleman from Louisiana [Mr. FIELDS] that I presume in good conscience is attempting to do.

I do not understand why we do not offer the original language of the gentleman from Michigan [Mr. CONYERS] if the gentleman wants to do that, at the end of the legislation where he places it that does what I think the gentleman wants us to do.

Mr. Chairman, I would suggest that this amendment be withdrawn and that the other one be substituted in its place, but I am not going to offer anything out here today to do it. I am going to oppose this amendment in its present form, but I would accept, as I say, the words "Nothing in this section shall be construed so as to violate the fourth article of amendment of the Constitution of the United States" if it were offered at the end of the bill, as the gentleman from Michigan [Mr. CONYERS] does in what he printed in the RECORD a few days ago.

Without that, Mr. Chairman, I just think the gentleman created an ambiguity that could defeat the whole good faith language that the courts already adopted for warrant searches, searches with warrants, as well as searches without them. For that reason, Mr. Chairman, I am opposed to the amendment.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, almost 24 hours ago I stood in the well of this House and I talked about an amendment that would take us back to the fourth amendment to the Constitution. Colleagues on the other side said "No, we cannot support you, because you strike the rest of our bill out. If you would just craft this in such a way that you did not strike the rest of the bill, this would be acceptable to us."

They voted against the wording of the fourth amendment to the U.S. Constitution.

Mr. Chairman, almost 24 hours later, we are back here having essentially the same debate, different language. This language does not strike one word out of the underlying bill. All it says is it is going to be subject to the fourth amendment to the U.S. Constitution.

However, again, my colleagues are back saying "Oh, no, picky, picky, picky. I can't agree with that either, it has to be drafted some other way."

Mr. Chairman, this is an open rule we are operating under, they say. Anybody who wants to come in and offer an amendment can offer an amendment to say whatever they wanted to say. Yet, my colleagues on the other side say "Oh, no, you have not been able to draft it in such a way that is satisfactory to us yet. There is some language out there somewhere that will satisfy us," but 24 hours almost has passed and they have not drafted it. All they want to do is come back in and say "Oh, no, your language is not good enough."

Mr. Chairman, Madison and Webster drafted the language of the fourth amendment, or whoever the Founding Fathers were who were working on that particular portion of it. I wish that these new masters of the Constitution, these master draftspersons who drafted this artistic Contract With America, would draft some language that would be satisfactory to them, that would not trample on the Founding Fathers' language.

It is not doing my constituents or the American people any good to say "Oh, no, this is not good enough, we need a comma here or a period there, or a T crossed here or an I dotted there." If they believe in the Constitution, draft the language, give it to us. I invited them to do it yesterday. I have not seen it yet.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, the language I do not have to draft. I read it to the gentleman, and it is printed in the CONGRESSIONAL RECORD.

Mr. WATT of North Carolina. Mr. Chairman, I would say to the gentleman, offer it. I reclaim my time, Mr. Chairman.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman will yield, I will do it.

Mr. WATT of North Carolina. If the gentleman offers it, if he votes this one down, let him offer some amendment that will make this constitutional, and then maybe we can talk about supporting it, Mr. Chairman.

However, do not come in here and say "Oh, no, yesterday you struck the rest of my bill." This does not strike one iota of his bill, yet it is still not satisfactory to him. If he wants something, draft it and put it in and let us talk about it. That is what this House is all about. That is what we came here for. But do not be picayune with me.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I also rise in vehement opposition to H.R. 666, the exclusionary rule, and urge my colleagues to reject such a blatant attempt to eradicate one of the most fundamental constitutional protections afforded all Americans, the prohibition against unreasonable searches and seizures by the Government that is so precisely spelled out in our fourth amendment.

This misguided bill highlights the GOP's disconnect with the American people, and it is just one more example that the leadership's so-called contract is, to borrow a phrase from well-known cereal advertisers, chock full of nuts.

Under this bill, as astonishing and unbelievable as it may seem, evidence that is illegally obtained by law enforcement officials without the aid of a search warrant would be admissible in Federal trial proceedings.

If this not a complete and total affront to both the spirit and intent of the founding document of our great democracy, I do not know what is.

Let me give the Members an example of what I am talking about. About a year or so ago in my district the BATF and some local law enforcement officials entered into some HUD-owned Chicago Housing Authority property in my district in the city of Chicago and knocked down the doors. They said they were looking for guns.

What happened as a result of that? They found a number of assault weapons that they were looking for, but in addition to that, they went into the homes of a number of people, and they did not find any weapons there. What they found instead was terrified children.

Imagine, here you are in your home, little kids running around in there, somebody comes in and knocks on your door, bursts their way in with "ATF" on the back, with "Chicago Police" on their shoulders, et cetera, guns all ready to be drawn, little kids sitting there screaming, and law enforcement officers are running through people's houses, ransacking through their dresser drawers, through their closets, up under their beds and anyplace else they thought there might be a weapon to be found.

Mr. Chairman, this is a tremendous amount of terror that you can give anybody, but particularly to young children. To have this kind of thing happen without a search warrant, without cause, was beyond all realism whatsoever. I just could not believe it was happening, but it did happen. It happened in my district of Chicago.

Mr. Chairman, we are talking about a crime bill here, yes, but we are also talking about crimes that the Federal Government and others can perpetrate on people. It is not right for the police to do that. It is not right for the IRS to do that. It is not right for agencies to do that.

If it is a crime, it is a crime for them to commit a crime as well, without probable cause.

Mr. Chairman, the U.S. Supreme Court has continually and consistently refused to adopt such sweeping exceptions to the exclusionary rule as those that are embodied in this legislation before us today.

H.R. 666 would not only render the exclusionary rule, and therefore, the most basic rights of all of our citizens, moot, but also provide a disincentive for police officers to follow the dictates of the law.

By allowing courts to admit evidence gathered in the case of warrantless searches, this body would be giving law enforcement officials the mere option of following legal search and seizure requirements or not.

In fact, there would be much less incentive on the part of officers to even obtain warrants, knowing that the courts would be lenient, as far as they are concerned.

As the high court has so eloquently stated, and as so many of my colleagues have so eloquently stated on this floor yesterday and today, a strong exclusionary rule is required to enforce the right of all Americans "to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures."

□ 1440

Sweeping exceptions to this rule would, quoting again the Supreme Court, "permit that right to remain an empty promise," an empty promise.

Mr. Chairman, the absolute last thing I would want to see is our Constitution reduced to an empty promise.

It strikes me as peculiar that the GOP, the Republican majority, will shroud itself in the second amendment as a defense to the weak, tired, wornout line that all Americans have an unrestricted right to own a deadly arsenal of assault weapons, but then will turn right around and support legislation such as H.R. 666 which so obviously guts the fourth amendment's civil liberties protections upon which all our citizens have come to rely.

Mr. Chairman, it is becoming increasingly clear that my Republican colleagues are quick to invoke the constitutional principles and the wisdom of the Founding Fathers whenever it suits their political whims but completely disregard it when the rights of average Americans like my constituents and like yours, Mr. Chairman, and all the rest of our constituents are at stake, as in this case. This is no way to legislate and the citizens of the country I believe clearly see through this charade.

I would again urge my colleagues to vote no on this turkey, thereby preventing unfounded invasions of privacy and constitutional rights violations against all our constituents. We cannot and simply must not allow this 100-day agenda to undo 200 years of democracy.

AMENDMENT OFFERED BY MR, MCCOLLUM AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FIELDS OF LOUISIANA

Mr. McCOLLUM. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM as a substitute for the amendment offered by Mr. FIELDS of Louisiana: Page 3, line 12, strike "Rule" and insert "Rules".

Page 3, line 14, after "proceeding." insert "Nothing in this section shall be construed so as to violate the fourth article of amendments to the Constitution of the United States.".

Mr. McCOLLUM. Mr. Chairman, this does what we said we would do all along if the gentleman from Michigan [Mr. CONYERS] had offered it. It is what he had printed in the RECORD a couple of days ago.

It provides what seems to me to be on its face the clear language that any of us would know is true and, that is, that nothing in this legislation that we are proposing in any way violates the fourth amendment to the Constitution. We have no problem with that. That is all that this amendment says. It does not say anything more, it does not say anything less. It should not be construed as saying anything more or anything less, but it is placed in simple language, it is placed at the end of the bill. It does not mess up the rest of it. It keep the good faith exception expansion that we want in this bill intact.

Mr. Chairman, I would encourage my colleagues to accept this, I hope the gentleman from Louisiana [Mr. FIELDS] could accept it and we could move on.

Mr. FIELDS of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Louisiana.

Mr. FIELDS of Louisiana. Can the gentleman explain what is the difference between the two amendments, because it appears, based on his dissertation, there is no difference between the amendment that I have and the substitute amendment that he just introduced.

Would the gentleman please explain?

Mr. McCOLLUM. If I can reclaim my time, I would be glad to. There is no real difference in intent. I am sure you intend to do exactly as I have suggested. It is just that where you had placed what you had written could be construed in my judgment and by others over on this side of the aisle in a way that you did not intend, in a way that would actually end, by some court interpretation in the future, those kinds of good-faith exceptions we already have in search warrant cases. I do not think you intended that. If you do it this way, then there is no ambiguity, there is no question for the courts to interpret. It is just a lot cleaner.

That is what I think the gentleman wants and I do not have a problem with what you want to do if that is what you want, as I believe it is.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. I am very appreciative of the accord here. Could this be known as the McCollum-Fields substitute amendment?

Mr. McCOLLUM. I would be delighted if it were known as the McCollum-Fields-Conyers substitute amendment.

Mr. CONYERS. I did not suggest that.

Mr. McCOLLUM. Mr. Chairman, the gentleman from Michigan wrote it, so I would be glad to give him credit.

Does anyone else want time? Otherwise, I hope the gentleman would accept this.

Mr. FIELDS of Louisiana. Mr. Chairman, will the gentleman yield further?

Mr. McCOLLUM. I yield to the gentleman from Louisiana.

Mr. FIELDS of Louisiana. I have not had an opportunity to see the amendment, but it is the exact amendment that we had on this side of the aisle?

Mr. McCOLLUM. Reclaiming my time, it is the exact amendment that was published by your side of the aisle under the name of the gentleman from Michigan [Mr. CONYERS] as amendment No. 1 in the CONGRESSIONAL RECORD of February 6, 1995.

Mr. FIELDS of Louisiana. I thank the gentleman.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I was just looking at the language, and it refers to section rather than bill. There are several sections in this bill, and what I am trying to be clear on is that your language applies to the entire bill, not just to one particular section of the bill.

Mr. McCOLLUM. Well, this entire bill refers to an entirely new section of the code, section 3510, and I think that that is the key to this and that is what this applies to. That is virtually the entire bill. What we talking about is amendment chapter 223 of title 18 and this is an entirely new section, section 3510, we are creating by this piece of legislation. That is what this applies to, the entire new section.

Mr. WATT of North Carolina. I thank the gentleman for yielding.

Mr. SCHUMER. Mr. Chairman, I ask unanimous consent that on all subsequent amendments to this one, for the remainder of the bill, there be a time limit of 5 minutes of debate on each side.

The CHAIRMAN. On this amendment and any subsequent amendments thereto?

Mr. SCHUMER. Not on this amendment but on any subsequent amendment.

The CHAIRMAN. And on all amendments thereto?

Mr. SCHUMER. Correct.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM] as a substitute for the amendment offered by the gentleman from Louisiana [Mr. FIELDS].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. FIELDS], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. SERRANO

Mr. SERRANO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SERRANO: Page 3, line 14, strike the close quotation mark and the period which follows.

Page 3, after line 14, insert the following:

"(e) LIMITATION.—This section shall not apply with respect to a search or seizure carried out by, or under the authority of, the Immigration and Naturalization Service.".

The CHAIRMAN. The gentleman from New York [Mr. SERRANO] will be recognized for 5 minutes on his amendment, and a Member in opposition will be recognized for 5 minutes.

Mr. MCCOLLUM. I claim the time in opposition, Mr. Chairman.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for that purpose.

The Chair recognizes the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we can notice by the amendments that have been submitted here today, there are two issues that are being discussed. One is the belief by many of us that in fact the bill presented by the majority strikes down most if not all of the protections of the fourth amendment. But in addition, some agencies have been singled out by these amendments because they are, unfortunately, agencies with either a reputation of misusing their power or, and in most cases, a reputation of striking fear into the hearts of hard-working, law-abiding American citizens and in many cases, or in most cases, both.

There is no reason that one can imagine why an American citizen or a resident of this country should be afraid of any of its Federal agencies. Yet that is the case in so many instances. That is why today you have seen people discussing so many different agencies.

The INS is, in many neighborhoods in this country, at the top of the list of the kind of an agency that can strike fear into the hearts of people. Because when the INS decides that it has cause to believe that there is illegal immigration taking place or has taken place in a certain neighborhood, the INS does not stop to ask questions and to determine who they should go after and who should be protected under our Constitution. What the INS usually does is walk into a neighborhood where the color of the people's skin or the language they speak appears to indicate that illegal immigrants could be in fact living in that community, and they will tear down a business door, they will tear down a home, they will tear down the privacy of a family or an individual searching, if you will, searching for illegal immigrants.

We have seen this throughout our communities, most recently in the northern Manhattan section of Washington Heights where reports took place, where bodego owners, grocery store owners were illegally confronted by the Immigration Department in a desire to determine whether or not there were illegal immigrants, undocumented immigrants, in that community.

So for anyone in my community, whether they were born American citizens or not, this Federal agency is one that strikes fear into our hearts. And incidentally, someone may say, "Well, if you've got nothing to hide, you should not be afraid."

□ 1450

That is not the case. If you look like a certain person, if you have the first name of Jose, you can be sure that you will run into the INS at one time in your life and they will not give you any way to explain yourself. They will just ask you some very hard questions.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from Michigan.

Mr. CONYERS. If the gentleman will yield, Mr. Chairman, the Government Operations Committee had hearings on the INS in the last Congress with harassed African-American and other minorities and women officers, and the gentleman's amendment and the discussion that surrounds it flows exactly with what we heard. I would refer every Member here to the Government Operations hearings on INS in the 103d Congress. It is a very dangerous instrumentality.

There are a lot of good people. I love the commissioner, the director, but it still is not under control and the gentleman's amendment is very good and I accept it on this side.

Mr. SERRANO. I thank the gentleman very much.

The gentleman's comments obviously fall right to the point that there has been ample proof that this Federal agency has not carried out its duties in a proper way, and when they do not carry them out in a proper way, I think it becomes the role of this body to protect our citizens. I think that is a point that should be made.

In many instances the violation of rights and privileges are committed upon citizens of the United States, the illegal searches, the fear, the attacks, the midnight raids, the middle of the night raids, the lack of respect for individual rights.

If the folks on the other side really believe that their bill is a good bill, and if they believe that they have not in fact trampled, as I believe, on the fourth amendment, there should be no problem in accepting this amendment. This amendment simply will strengthen their belief that the fourth amendment is still intact, and I would urge a "yes" vote on this amendment.

The CHAIRMAN pro tempore (Mr. HOBSON). The gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes in opposition to the amendment.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I cannot accept this amendment. I did not accept the other two amendments that were passed that exempted a whole host of Federal law enforcement officials from the opportunity to have the Federal court exclude evidence that they obtain which may be in violation of the fourth amendment but was obtained without any intent on their part to violate, without any knowledge they were doing it, and with no good reason that I can think of for us to be excluding it from court proceedings where convictions could otherwise be obtained for bad guys and people who have committed major crimes in this country. There is no reason to want to exempt these folks.

We are not doing anything with this bill that would in any way reduce protections individuals have from illegal searches and seizures. We may all be angry at some of these agencies for one reason or another, because they have overstepped their bounds. I do not think there is a single police agency in this country that has not had somebody at some point overstep their bounds in the history of these agencies. It probably has happened more than once for most of them, and in some too frequently, and nobody condones that, not good police, not you, not the President, not the Governors of the States, nobody condones them overstepping the bounds and violating the protection of our citizenry under the fourth amendment.

The question is what is the best way to proceed to correct those problems, and it certainly is not in keeping out evidence of criminals that will prohibit their being convicted when they should be, when the evidence is perfectly good itself.

Why do we want to prohibit somebody from going to jail who has committed a bad crime in the name of stopping something that is not going to be stopped? If a police officer, INS or anybody else does not know they are doing anything wrong and a judge decides that they do not know, and they could not know, and there is no reason for a reasonable person to ever know they did anything wrong, then there is no deterrent whatsoever to the behavior they have done. They are going to do it every time. We need to find other ways to stop it, but the only way we want to stop is where it is antagonizing being done in violation of the Constitution and trampling, and as the Founding Fathers wanted us to do to protect it. It makes no sense to penalize the general public of the United States by allowing more criminals out on the streets as are now being allowed on technicalities by the situation that exists today.

We need to carve out an exception to the exclusionary rule that is even broader than the courts have accepted today. That is what this bill does. Where a police officer of any type, be he INS or otherwise, acts in good faith and believes, and reasonably and objectively by a judge's decision believes, and is determined to believe that what he is doing is right and correct and not violative of the fourth amendment, and why in the world would anybody want to exclude any evidence? The gentleman has every right to protest INS like others protested other agencies of the Federal Government.

I submit this bill is not the place for that. It does not do us any good and it does damage to the fundamental underlying principle of this bill, this effort to create a better protection of our American citizenry.

I urge a "no" vote.

Mr. SERRANO. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from New York, the author of the amendment.

Mr. SERRANO. With all due respect to the gentleman, the reason for the protection that I try to put forth, a reason that the gentleman may probably never experience or has ever experienced in his life, is the fact that there are some Federal authorities that upon looking at some American citizens determine, assume that that person does not belong in this country, simply by the way they look, simply by their first name or their last name or the fact that they may not have fully mastered the English language. This simply says give me the protection that I deserve as an American citizen.

Mr. McCOLLUM. If I can reclaim my time, I would simply say to the gentleman no, fortunately I have not had that personal experience. I do not doubt for a moment that goes on but that is not a remedy for that.

What the gentleman is doing makes an exception to this bill of a whole entire agency and their efforts at law enforcement. That makes no sense whatsoever. It undermines the purposes of this bill and it is not in the interests, as far as I am concerned, of the general public where we are trying to get more convictions where somebody commits a crime. And I do not care, if they have committed a crime, we ought to get them convicted and we have the evidence to do it. We have no business excepting an agency, particularly INS, from that, particularly where we have alien smuggling and all kinds of stuff the Immigration Service is having to investigate. I would suggest it is not in the best interest of aliens, legal aliens coming here to have this provision, and those who would be citizens and would make great contributions to this country, it is not in their best interests to allow the criminals in the world to prey on those who are unfortunately in their midst.

So I urge a rejection of this amendment, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. SERRANO].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 103, noes 330, not voting 1, as follows:

[Roll No. 102]

AYES—103

Barrett (WI)
Becerra
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Bryant (TX)
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
Dellums
Dingell
Durbin
Engel
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Jackson-Lee
Jefferson
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kildee
Levin
Lewis (GA)
Lofgren
Martinez
Matsui
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Rangel
Reynolds
Richardson
Rose
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Skaggs
Stark
Stokes
Studds
Thompson
Thornton
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—330

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth

Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Dooley

☐ 1516

Messrs. MONTGOMERY, ACKERMAN, and DE LA GARZA, Mrs. LOWEY, and Mr. GONZALEZ changed their vote from "aye" to "no."

Ms. FURSE and Mr. FIELDS of Louisiana changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Ms. PELOSI. Mr. Chairman, I rise in strong opposition to H.R. 666, the Exclusionary Rule Reform Act. While its supporters would have us believe that this bill will simply broaden a previously existing exception to the fourth amendment, it will, in reality, seriously damage a constitutional amendment that has protected Americans from unreasonable searches and seizures for over 200 years.

Simply put, Mr. Chairman, the fourth amendment places a check on the ability of the Government to arbitrarily search a person's home or person by requiring that a search warrant be issued by a neutral and detached magistrate. Since 1914, the Supreme Court has held that evidence obtained as the result of an illegal search must be excluded at trial.

Mr. Chairman, H.R. 666 removes this important constitutional safeguard by virtually eliminating the warrant requirement that the American Colonists demanded of the Constitution's Framers following their occupation by British soldiers. In spite of these origins, the fourth amendment has, in no way, lost its historical or legal relevancy. We need only look at the documented abuses from law enforcement jurisdictions all over the country to reaffirm the inherent protective value of the fourth amendment.

If by congressional mandate, the courts begin to admit evidence gathered in good faith but without a search warrant, there would be much less incentive for the police to obtain search warrants at all—thereby undermining the fundamental protection of the fourth amendment to the Constitution.

Mr. Chairman, the exclusionary rule is what protects all Americans against unreasonable searches and seizures and the invasion of privacy by law enforcement officers. It does not undermine the ability of the police to enforce the law; indeed, it has been part of the training given to all Federal law enforcement agents since 1914. The Directors of the FBI have endorsed the exclusionary rule and have stated that the rule does not hinder the FBI's work.

Mr. Chairman, the exclusionary rule works because it creates an incentive for law enforcement officers to know legal search and seizure standards. By passing this bill, law enforcement will actually have an incentive not to know the law.

In the rush to pass their legislative agenda in the first 100 days, the authors of this bill are asking us to sacrifice the constitutional safeguards that have protected all Americans for 207 years.

I urge all of my colleagues to oppose this attack on the fourth amendment and vote "no" on H.R. 666.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 666, the Exclusionary Rule Reform Act of 1995. Let me state from the beginning that I recognize the challenge we face in curbing crime in our Nation. In fact, I have been a longstanding advocate for substantial congressional action to reduce and prevent violence and crime. Nonetheless, Mr. Speaker, I cannot support this measure before us today because the very belief upon which our judicial system was created—protection of individual constitutional rights balanced with society's right to be free from harm—has yet to be achieved for many Americans.

Over the years, I have been a staunch supporter of crime control measures. I have patrolled our streets as part of Neighborhood Watch efforts. I have seen firsthand the effects that drugs and violence have had on our neighborhoods. Before I came to Congress I was blessed with the opportunity to practice law in this great Nation. I have litigated civil rights issues before many courts. One of my most memorable experience is having argued *Terry* v. *Ohio,* 392 U.S. 1 before the U.S. Supreme Court in 1968. Because of these experiences, I feel that I cannot support the unbalanced approach that H.R. 666 represents.

While I agree that strong measures must be taken to curb the crime epidemic, I do not believe that such measures should undermine any individual's basic rights and constitutional liberties. My duty as a Member of Congress requires that I act in the best interest of the people I represent and in the best interest of the U.S. Constitution I have sworn to uphold. We cannot, and should not, in an attempt to facilitate the prosecution of alleged criminals, be unfaithful to our responsibility to act in the best interest of the American people by disrespecting the founding document of this Nation—the fourth amendment of the U.S. Constitution. This shortsighted legislation will not only compromise Americans' constitutional rights, but will actually do very little to reduce crime or enhance the prosecution of crimes.

Mr. Chairman, the exclusionary rule was created in *Weeks* v. *United States,* 232 U.S. 383 (1994), where Justice William Day's opinion for a unanimous court concluded that the use of illegally obtained evidence by the Government was a clear "denial of the constitutional rights of the accused" (p. 398). The exclusionary rule was fashioned by the Supreme Court as the enforcement mechanism of the fourth amendment, which protects citizens against unreasonable searches and seizures. The exclusionary rule embodies our national principle of respect for the fundamental inalienable rights of all our citizens under the U.S. Constitution.

Since 1914, the exclusionary rule as we know it today is a mere shadow of the rule envisioned in the Weeks opinion. Over the years, the U.S. Supreme Court has established exceptions to the rule that have permitted more and more illegally obtained evidence to be used against accused criminals. One of the most prominent exceptions to the exclusionary rule is the good faith exception created by the court in *United States* v. *Leon,* 468 U.S. 897 (1984).

We must all remember that the fourth amendment, working in conjunction with the exclusionary rule, represents significant constitutional protection for anyone accused of a crime. As you know, being accused does not mean that you are guilty. Yet, the drafters of this current legislation, in their haste to sweep up criminals, have presented a law that treats the accused as if they were guilty. No American deserves to be treated as a criminal without the benefit of a trial.

Contrary to the assertions of the proponents of this legislation, the application of the exclusionary rule almost never prevents the prosecution of a case against an accused. A 1983 study by Thomas Y. Davies, entitled, "A Hard Look at What We Know (and Still Need To Learn) About the 'Costs' of the Exclusionary Rule" (1983), estimates that only 0.6 to 2.35 percent of all felony arrests are lost as a result of this rule. Thus the challenge to the exclusionary rule based on the risk of lost arrests is fueled by an ideological agenda that is hostile to our freedoms ensured by the fourth amendment.

Mr. Chairman, the bill before us today, the Exclusionary Rule Reform Act of 1995, codifies the good faith exception to the exclusionary rule, but will also make it more broad. Such an abdication of congressional responsibility will certainly undermine many of our most important efforts to protect the constitutional rights of all Americans.

The stated purpose of the Exclusionary Rule Reform Act is to provide a statutory basis for the good faith exception in cases of searches with and without warrants. Under the good faith exception, evidence obtained in a search or seizure that violates constitutional protections would not be excluded if "the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment" to the Constitution.

The legislation to limit citizens' fourth amendment rights warps the Constitution to such an extent that the constitutionality of this provision is seriously in question. While I agree that Congress should continue to make significant strides to reduce crime, this proposed measure goes well beyond the legitimate objective of crime prevention and prosecution enhancement. In fact, this bill is specifically designed to inhibit the constitutional rights of the people of America by violating their fourth amendment rights. Justice Douglas eloquently warned us of the dangers involved in compromising the fourth amendment in his dissenting opinion in Terry versus Ohio:

> To give the police greater power than a magistrate is to take a long step down the

totalitarian path. Perhaps such a step is desirable to cope with modern forms of lawlessness. But if it is taken, it should be the deliberate choice of the people through a constitutional amendment.

Millions of arrests and searches are carried out by police each year in the United States. The fourth amendment, with its ban on unreasonable searches and seizures, is the constitutional provision that, more directly than any other, governs police conduct. This amendment is designed to preserve the most cherished values of a free society by striking a fair balance between society's demand for order, and individual rights.

It is my belief that our judicial system's major focus should be to protect its citizens from crime and violence. However, as a nation, we cannot afford to compromise our constitutional rights in exchange for unconstitutional, excessive police state tactics. We all have an obligation to uphold the Constitution and protect the rights of all Americans to be free from unreasonable searches and seizures. I urge my colleagues to uphold our Constitution, protect the American people, and vote down this unconscionable invasion upon one of their most priceless constitutional guarantees.

The CHAIRMAN. If there are no further amendments, under the rule the Committee now rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HOBSON) having assumed the chair, Mr. RIGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 666) to control crime by exclusionary rule reform, pursuant to House Resolution 61, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate voice demanded on any amendment?

If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

Mr. CONYERS. Mr. Speaker, I withdraw the request for a recorded vote.

□ 1520

The SPEAKER pro tempore (Mr. HOBSON). The Chair advises the gentleman from Michigan [Mr. CONYERS] that a recorded vote has already been ordered.

The vote was taken by electronic device, and there were—ayes 289, noes 142, not voting 3, as follows:

[Roll No. 103]

AYES—289

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Cremeans
Cubin
Danner
Davis
de la Garza
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—142

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chenoweth
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Crapo
DeFazio
DeLauro
Dellums
Dingell
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson, E.B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Kolbe
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Maloney
Markey
Martinez
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Metcalf
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Pickett
Poshard
Rangel
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stockman
Stokes
Studds
Taylor (NC)
Thompson
Thornton
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Williams
Woolsey
Wynn
Yates

NOT VOTING—3

Cunningham
Dixon
Gekas

□ 1537

Mr. NEAL of Massachusetts changed his vote from "aye" to "no."

Mr. SAM JOHNSON of Texas and Mr. COSTELLO changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DIXON. Mr. Speaker, during rollcall vote 103 on H.R. 666, I was unavoidably detained. Had I been present, I would have voted "no."

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

EFFECTIVE DEATH PENALTY ACT OF 1995

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to the order of the House of Tuesday, February 7, 1995, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 729.

□ 1539

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 729) to control crime by a more effective death penalty, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

□ 1540

The CHAIRMAN. Pursuant to the order of the House of Tuesday, February 7, 1995, the bill is considered as having been read the first time.

The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes and the gentleman from New York [Mr. SCHUMER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM]

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 729, the Effective Death Penalty Act of 1995, is one of the most important pieces of crime legislation that the 104th Congress will consider. It offers relief to State law enforcement officials, comfort and a chance for healing to crime victims, and enhanced credibility for the criminal justice system. And this bill even offers something for criminals, if we want to look at it that way.

By curtailing the seemingly endless appeals of death-row inmates, particularly those who have been there for a long period of time, H.R. 729 sends the clear message to criminals that the criminal justice system is not a game. It sends the message that if you do the crime, you do the time. It sends the message of swiftness and certainty of punishment that has been missing from our criminal justice system for some time, and it goes a long way to restoring deterrence to the criminal justice system, which is a corner, a pillar of our entire criminal justice system, deterrence. Nothing is more important for public safety than to reaffirm that message, because far too many of today's criminals think that they can beat the system if they are ever caught.

Congress has been considering this reform for several years. Despite victories in the House and Senate going back as far as 1984, supporters of habeas corpus reform have not been able to overcome the well-positioned minority of Members who oppose reform. Mr. Chairman, it is my strong hope that those days are now finally over.

It is often said that the public does not understand what is meant by the term "habeas corpus." And that may be true to some extent. But the public does understand this: that convicted murderers on death row regularly make a mockery of the criminal justice system by using every trick in the book to delay imposition of their sentences. In many cases where the people's elected representatives have passed capital punishment laws, executions never occur because of endless appeals and lawsuits. People are sick and tired of the legal maneuvers of violent criminals. They want accountability.

H.R. 729 stands for the clear and simple proposition that there must be finality and accountability. The voices of victims have been heard. When this bill becomes law, no longer will the victims of horrible violent crimes wait for a decade or more for justice to be served. Victims will no longer experience the revictimization caused by endless litigation which continuously stirs up memories of the pain and agony caused by the original crime.

The bill before us today balances the need for finality and accountability with a firm regard for due process of law and full constitutional protections. Federal and State prisoners will have ample opportunity to challenge their conviction and sentence in both direct appeals and in collateral attacks.

The difference, however, would be this. Convicted criminals, particularly murderers on death row, will generally get only one opportunity to raise their claims in Federal court using habeas corpus petitions. Once the first petition is disposed of, further legal challenges must be based on newly discovered evidence pertaining to the prisoner's actual innocence of the crime.

The essence of H.R. 729 comes from the recommendations of the Habeas Corpus Study Committee, chaired a few years ago by retired Supreme Court Justice Lewis Powell. The Powell Committee established the basic quid pro quo approach to this bill with regard to death row inmates. If States provide legal counsel in State habeas review to indigent convicted murderers, even though such provision of counsel is not required by the Constitution according to the Supreme Court, then the States will receive the benefits of limited and expedited habeas corpus procedures when such prisoners bring their claims to the Federal courts.

These procedures could help insure that defendants are given competent counsel in postconviction proceedings. If States enact these provisions, the time in which a habeas corpus petition must be filed following the conclusion of direct appeal of the conviction is reduced to 180 days. This portion of the bill would also require that Federal courts could not entertain any claims not raised in the prior State court proceedings unless certain exemptions apply.

These optional provisions also certify that executions will be stayed while a habeas corpus petition is pending, but limits the granting of further stays if the petition is denied by the district court and the court of appeals.

Additionally, this portion of the bill would require Federal district courts to decide habeas corpus petitions within 60 days from the date of any hearing on the petition, and also requires the courts of appeal to decide an appeal from the decision of the district court within 90 days of the last brief in the case being filed.

Aside from capital cases, State prisoners will have a 1-year period of limitation for filing habeas corpus petitions after they have been convicted of a State crime. Federal prisoners would have a similar 2-year period of limitation for initiating a habeas proceeding when they have been convicted of a Federal crime.

Federal judges would be prevented from granting relief on a habeas petition filed by a person convicted in State court unless the person exhausts his State remedies first.

Finally, H.R. 729 modifies existing law to insure that a Federal death sentence is imposed in certain cases where the death penalty is an appropriate punishment.

Under current law, the jury in a capital case is given the complete discretion to impose the death penalty, life imprisonment, or some lesser penalty regardless of the severity of the facts found to exist. Under this title of this bill, juries would be required to impose a sentence of death in cases where they determine that aggravating factors outweigh mitigating factors or where at least one aggravating factor exists but no mitigating factor exists. If the jury does not find that these conditions exist, they are prohibited from imposing the death penalty.

H.R. 729's habeas corpus reform provisions are supported by nearly every major law enforcement organization in the country. These protectors of public safety, victims of crime, and the general public have waited a long, long time for these reforms.

I urge in the strongest of terms that my colleagues support this bill, that we get it passed and put it into law this year, 1995.

Mr. Chairman, I reserve the balance of my time.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Chairman, I thank the gentleman for yielding time to me.

I would address my comments not on the subject necessarily but to the Chair and to the distinguished gentleman from Florida both. I would hope that they would relay these comments in the good faith that they are given to the appropriate Members within their party structure. We have had today a series of problems with the Committee on Science. I raise this just to alert my friends that we feel on our side of the aisle that our committee members have not been treated fairly. Let me be very specific.

The committee is marking up the risk assessment bill. It is a very important bill affecting the health and the safety of all Americans. And that bill, the draft of that bill was made available last night but was not available to our Members until 11:20 today, when they went in to meet to do the bill in committee.

In addition to that, just a few minutes ago, prior to coming here for this last vote, they were taking a rollcall vote in the committee on this important bill on an important amendment that I think passed only by two or three votes, while a vote was going on on the floor here in the Committee of the Whole, excuse me, I think we were in the full House at that time moving to final passage.

What occurred was two or three of our Members missed that vote because they were here. The bells had gone off.

I am requesting in a civil way this afternoon that that type of behavior cease and that our Members be given the courtesy to participate and to vote and to express themselves in a legitimate, fair, and open manner in that committee and that we be given notice on the bills that are pending before that committee while the committee is considering it, not after the bills have been brought up.

I thank the Chairman for his indulgence, and I would hope those messages would get relayed to the proper people, the gentleman from Pennsylvania [Mr. WALKER] and the gentleman's leadership.

Mr. SCHUMER. Mr. Chairman, I reserve the balance of my time.

□ 1550

Mr. McCOLLUM. Mr. Chairman, while we may have not have a lot of speakers on this our side, we are going to spend a lot of hours debating habeas corpus reform. I have no knowledge whatever about the leadership comments on the other side of the aisle, about the Committee on Science today, but I would like to bring us back, so we do not close on the topic of something that happened in another committee, to the fact that what we are going to consider is a provision that should have been offered in the last Congress, but we were not permitted to do so by the other side when they were in the majority.

That is a provision that will ultimately end the seemingly endless appeals of death row inmates and get on with the carrying out of their sentences. It is something the public has wanted for a long, long time.

We should be excited about the fact that it is here today, that we have a chance to finally vote on this and get it reformed, and we are going to have a series of important amendments to consider.

I urge my colleagues to listen attentively to these amendments, but during the course of the several hours of debate on them, in the end we need to vote for this bill, get it on to the Senate, the other body, and let us get in this calendar year finally, after all these years, relief for the States, relief for the public, relief for the victims, and end the seemingly endless appeals of death row inmates. That is what this bill is all about.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to the Effective Death Penalty Act of 1995. Let me state from the beginning that I have consistently, throughout my career, believed in and fought for the protection all Americans rights under habeas corpus. As Chief Justice Salmon P. Chase described it in ex parte Yerger U.S. (1868), habeas corpus is "The most important human right in the Constitution" and "The best and only sufficient defense of personal freedom". Therefore, I cannot support this measure before us today because the very belief upon which our judicial system was created—the protection of an individual's fundamental constitutional rights balanced with society's right to be free from harm—is at risk if H.R. 729 becomes law. I cannot and will not support the anti-human rights and anti-Constitution provisions of H.R. 729.

It is my belief that our judicial system's major focus should be to protect its citizen's fundamental constitutional rights. As a nation, we cannot afford to compromise the cherished habeas corpus protections guaranteed each of us in the U.S. Constitution. Rooted in the Magna Carta (1215), the writ of habeas corpus is as Justice Brennan pointed out in Fay versus NOIA (1963).

> * * * Inextricably intertwined with the growth of fundamental rights of personal liberty * * * its root principle is that in a civilized society, government must always be accountable to the judiciary for a man's imprisonment: if the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release."

Mr. Chairman, the arbitrary 1-year limitation on the filing of general Federal habeas corpus appeals after all State remedies have been exhausted entirely fails to address the true cause of any delay in the capital system. The lack of competent counsel at the trial level and on direct appeal constitutes the primary basis for the delay of many appeals. Provision of competent counsel at the trial and appellate stages of capital litigation would eliminate the need for many of the habeas appeals currently in our court system. Despite the fact that this is the case, H.R. 729 merely offers counsel for State postconviction proceedings, and only to capitally sentenced petitioners in States that happen to select the counsel plan of this law. Even if counsel is provided at this late date, no time savings advantage will be achieved. This counsel plan is too little too late.

It is no secret that I am opposed to the death penalty. H.R. 729, among other things, would greatly expand the reach of the Federal death penalty, and fails to include any provisions to end the repugnant practice of the disproportionate application of the death penalty on minorities. In fact, the bill specifically makes it easier to impose the Federal death penalty by reducing the discretion of a Federal jury in deciding whether to recommend the death penalty. While I agree that strong measures must be taken to curb the crime epidemic, I do not believe that any actions should be taken to the detriment of an individual's basic rights and constitutional liberties.

When closely examined, the sentencing history of the death penalty has generally been arbitrary, inconsistent, and racially biased. It is my belief that the Federal death penalty is overly harsh, particularly because it fails to address the economic and social basis of crime in our most troubled communities. The fact is that there has always been a racial double standard in the imposition of capital punishment in the Untied States. Even after the black codes of the 1860's were abolished, blacks were more severely punished than whites for the same offenses in our penal system. By the time the U.S. Supreme Court deemed the existing process for imposing the ultimate penalty unconstitutional in 1972, more than half of the persons condemned or executed were African-American—even though they were never more than 15 percent of the population. The advances in statistical analysis of the last 20 years have allowed numerous experts to test the raw data with disturbingly consistent results.

Mr. Chairman, in 1990, after 29 studies from various jurisdictions were reviewed, the General Accounting Office confirmed that there is a consistent pattern of disparity in the imposition of the death penalty in the United States and that race is often a crucial factor that determines the outcome. Since the resumption of executions in 1977, of the 236 persons who have been executed, 200 persons, or an alarming 85 percent, were executed for the murder of white victims. In fact, statistics show that blacks convicted of killing whites are 63 times more likely to be executed than whites who kill blacks.

In 1991, the U.S. Justice Department's Bureau of Justice Statistics reported that African-Americans accounted for 40 percent of prisoners serving death penalty sentences. In my home State of Ohio, of the 127 people on death row, 62—nearly 50 percent—are African-Americans. These statistics reflect how the African-American community is disproportionately affected by the death penalty. Furthermore, in a nation where the No. 1 leading cause of death for young African-American males is homicide, further disproportionate application of the death penalty will not resolve the epidemic of violence in our Nation.

Regardless of whether this double standard is intentional or not, the result clearly establishes that there continues to be an impermissible use of race as a key factor in determining imposition of the death penalty. Because of the disproportionate number of minorities serving death sentences, it is of great concern to me that H.R. 729's death penalty provisions force juries to render death sentences where they might not have without H.R. 729.

Mr. Chairman, it is my belief that we cannot afford to compromise our fundamental rights in exchange for excessive discriminatory tactics. We all have an obligation to uphold the Constitution and protect the rights of all Americans to be free from unjustified imprisonment. I urge my colleagues to uphold our fundamental rights, protect the American people, and vote down this unconscionable invasion upon one of our most important guarantees.

Mr. YOUNG of Florida. Mr. Chairman, I rise today in support of H.R. 729, the Effective Death Penalty Act. This legislation represents title I of the Taking Back Our Streets Act, 1 of the 10 points of the Republican Contract With America, and is the third of the six bills we will consider which compose this important crime legislation.

Today's legislation changes the laws affecting the death penalty in an effort to create consistent and fair procedures for its application, and to streamline the current appeals process. The habeas corpus writ, originally designed as a remedy for imprisonment without trial, has become a tool of Federal and State defendants who have been convicted and have exhausted all direct appeals. Most of the petitions are totally lacking in merit, clog the Federal district court dockets, and allow prisoners on death row to almost indefinitely delay their punishment. The bill before us today will help put an end to this travesty of justice.

Specifically, H.R. 729 establishes a 1-year limitation period for filing a Federal habeas corpus petition contesting a State court conviction and a 2-year limitation period for a Federal conviction. This measure limits the granting of stays when prisoners have failed to file a timely appeal, and imposes a 60- and 90-day deadline for district courts and appeals courts respectively to decide an appeal. Finally, the bill authorizes funds to help States defend their convictions against these appeals and allows juries far greater latitude in deciding whether to apply the death penalty.

Under current law, there are virtually no limits or restrictions on when prisoners can file habeas corpus appeals. Thanks to last year's so-called crime bill at least two lawyers must be appointed to represent the defendant at every stage of the process, and a defendant can appeal anytime there is a change in the law or a new Supreme Court ruling. In this environment it is not surprising that delays of up to 14 years are not uncommon. This abuse of the system is the most significant factor in States' inability to implement credible death penalties.

Mr. Chairman, the death penalty is now unworkable and must be reformed. It is encumbered with nearly endless—and often frivolous—appeals that delay punishment. The Effective Death Penalty Act upholds a simple rule of law—those who kill must be prepared to pay with their own life, and I urge its support.

Mr. MFUME. Mr. Chairman, today we are deliberating whether or not we will make it easier for the Government to kill. The bill we have before us will limit the ability of State prisoners to challenge the constitutionality of their conviction or sentence. It also reduces the discretion of a Federal court jury in deciding whether or not to recommend the death penalty.

It has been said that this bill is necessary in order to stop "the pattern of litigation abuse and endless delay that has thwarted the use of the state death penalty." This, however, is untrue. The number of State executions have increased in the past few years. Since the death penalty was reinstated in 1976, Texas has executed 90 defendants; Florida has executed 33; and Virginia has executed 25. There have been over 100 State executions in the past 3 years. There have been seven executions so far in 1995. The pace of State executions is not stalled. To the contrary, it has dramatically increased.

History shows that minorities have received a disproportionate share of society's harshest punishments, from slavery to lynchings. Since 1930 nearly 90 percent of those executed for rape were African-Americans. Currently, about 50 percent of those on the Nation's death rows are from minority populations representing 20 percent of the total population.

Three-quarters of those convicted of participating in a drug enterprise under the general provisions of Anti-Drug Abuse Act—the Drug Kingpin Act—have been white and only about 24 percent of the defendants have been black. Of those chosen for death penalty prosecutions under this act, 78 percent of the defendants have been black and only 11 percent of the defendants have been white.

Federal prosecutions under the death penalty provisions of the Anti-Drug Abuse Act of 1988 reveal that 89 percent of the defendants selected for capital prosecution have been either African-American or Mexican-American. Judging by the death row populations, no other jurisdiction comes close to the Federal 90 percent minority prosecution rate.

The proportion of African-Americans admitted to Federal prison for all crimes has remained fairly constant between 21 percent and 27 percent during the 1980's, while whites accounted for approximately 75 percent of new Federal prisoners.

The General Accounting Office stated in its report "Death Penalty Sentencing"

> [The] race of the victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty, i.e., those who murdered whites were found more likely to be sentenced to death than those who murdered blacks. Last year, 89% of the death sentences carried out involved white victims, even though 50% of the homicides in this country have black victims. Of the 229 executions that have occurred since the death penalty was reinstated, only one has involved a white defendant for the murder of a black person.

A large body of evidence shows that innocent people are often convicted of crimes, including capital crimes, and that some of them have been executed. Since 1970, 48 people have been released from death row because they were found to be innocent.

In February 1994, Justice Harry A. Blackmun stated:

> Twenty years have passed since this court declared that the death penalty must be imposed fairly, and with reasonable consistency or not at all, and, despite the effort of the states and courts to devise legal formulas and procedural rules to meet this daunting challenge, the death penalty remains fraught with arbitrariness, discrimination, caprice and mistake.

Now, in spite of the studies, in spite of the evidence, and in spite of the dramatic increase in executions in recent years, some still want to make it easier to impose the death penalty and execute the defendant. Is it really justice we are after? Or is it revenge?

Mr. STENHOLM. Mr. Chairman, I rise in strong support of H.R. 729, the Effective Death Penalty Act.

H.R. 729 establishes new and greatly needed restrictions on the use of habeas corpus petitions. This bill would limit the endless appeals process and set fair time limits for the filing of habeas appeals. Not only does this bill place time limits on filing habeas petitions, but also on complete consideration of habeas petitions in death penalty cases by the Federal courts.

Furthermore, this bill would generally limit State prisoners under a sentence of death to a single Federal habeas petition. In order to file another petition, the prisoner would need to show through clear and convincing evidence that, without the constitutional error, the defendant would not be found guilty by a reasonable jury. This provision will help close the loopholes that have allowed prisoners to have their cases reviewed time and time again. The abuse of habeas appeals has had a significant effect on the enforcement of the death penalty in States, and this bill appropriately addresses these abuses.

This bill also simplifies the process of imposing the Federal death penalty by reducing the discretion of the jury in deciding whether to recommend the death penalty. This bill not only eliminates life imprisonment without parole as a possible sentence for the specified Federal crimes subject to the death penalty, but it requires that juries in Federal courts be instructed to recommend a death sentence if the aggravating factors outweigh the mitigating factors.

For far too long now the American taxpayer has footed the bill while death row prisoners have filed appeal after meaningless appeal. It is time for Congress to provide sound guidelines to the appeals process. Those who have been victimized by violent criminals have a right to expect timely justice, and this bill will help to ensure that they receive nothing less. I strongly urge my colleagues to support H.R. 729.

Mr. CONYERS. Mr. Chairman, H.R. 729 is the latest in a series of legislative proposals dating back a decade that have attempted to speed up the execution of the more than 2,300 people on death row in this country. The common thread in these proposals is imposing a time limit on filing the habeas petition, typically set at 6 months to 1 year, and restricting the number of appeals a prisoner can make, that is, one bite at the apple.

The McCollum bill follows this approach, with a few variations, one of which is worth supporting. That is the section providing for automatic stays of execution while a habeas petition is pending. This is a much needed improvement on the current system where the fate of a condemned man hangs in the balance while lawyers scramble at the last minute to find a judge who will issue a stay of execution.

In all other respects, H.R. 729 combines the worst of the habeas bills, for instance, by setting a 6-month deadline for habeas petitions instead of 1 year, or it fails to make meaningful changes.

Thoughtful reformers like my former colleague, Representative Kastenmeier, the American Bar Association, and the Judicial Conference, have suggested that the goals of streamlining the process and eliminating uncertainty could be achieved if the States agreed to adopt measures that would ensure fairness. That is a good tradeoff, in my view.

The McCollum bill, however, imposes all the deadlines and restrictions without any of the fairness. In that sense, it is more of a political statement than a serious attempt to reform the process. The bill may achieve the goal of speedier executions but the cause of justice will not be served. It is an admission of failure to pursue one without the other.

What is missing is any attempt to remedy the most pressing problem at the source: poorly represented defendants at trials where almost all the constitutional errors that are later reversed on appeal occur. The reason for incompetent representation is simple: Many States pay less than $1,500 for trials—not enough to defend a drunk driver, let alone a capital defendant.

When you consider that retrials have been ordered by the Federal courts in 40 percent of the habeas cases since 1976, the McCollum bill's failure to require competent counsel at State trial proceedings is a fatal flaw that makes me unable to support this legislation.

There is another omission in the bill that is even more glaring. It goes to the heart of due process and fundamental fairness: An innocent man should never be executed.

The McCollum bill permits habeas claims only in the difficult-to-imagine situation where there is "clear and convincing" evidence of innocence and "no reasonable juror" would find the petitioner guilty. I will be supporting an amendment that will substitute "preponderance of the evidence" instead of the more restrictive standard.

This amendment simply states that the Federal courts should always be available to hear claims of innocence when based on newly discovered evidence. Representative MCCOLLUM's standard is far better suited to dispose of the claim rather than a standard of whether to hear the claims in the first place.

Mr. PORTMAN. Mr. Chairman, every year nearly 5 million people are victims of violent crime. Despite this, only 65 percent of all reported murders, 52 percent of reported rape, and 56 percent of reported aggravated assault result in the arrest of a suspect. Every year, 60,000 criminals convicted in a violent crime never go to prison. Given these facts, it is easy to understand why crime, especially among young offenders, is increasing. Without an effective criminal justice system, there is no meaningful deterrent to crime.

This is especially the case when you look at death penalty procedures. The death penalty should be the most extreme deterrent against crime. In many countries around the world it has this effect. In the United States, however, it has become so mired in convoluted proceedings, that it has lost its significance as a credible punishment and deterrent to crime. Death row prisoners routinely take advantage of an endless appeals process to delay punishment indefinitely. Since 1991, Federal habeas corpus cases have more than doubled. Thousands of frivolous petitions clog the Federal court system, making it virtually impossible to complete the process and deliver punishment. It is not uncommon for proceedings to take up to 14 years, or more; 14 years from the time a person is sentenced for committing a violent crime until the time he receives his punishment—hardly a credible deterrent. In 1994, district courts fully dismissed only 2 capital habeas corpus petitions, out of the hundreds that were filed to delay the process further. This undermines our whole system of justice.

Today we have the opportunity to remedy this serious problem within our criminal justice system. The Effective Death Penalty Act will streamline the habeas corpus process and reform death penalty procedures, reaffirming the commitment of Congress to ensure swift and effective punishments for perpetrators of the most egregious crimes. I urge my colleagues to support meaningful reform to the habeas corpus process and give the American people a reason to put their faith back into our criminal justice system.

Mr. CUNNINGHAM. Mr. Chairman, I rise in strong support of H.R. 729, the Effective Death Penalty Act. This legislation is long overdue. I am pleased that the House has moved so quickly to bring it to the floor.

A majority of Americans believes that certain crimes are so vicious and heinous that capital punishment is appropriate. Most of the States have enacted laws to conform with the Supreme Court's opinion on when capital punishment is constitutional.

In August 1989, a commission chaired by Justice Powell concluded that the Federal habeas corpus process "has led to piecemeal and repetitious litigation," "years of delay between sentencing and judicial resolution," and an "undermining of public confidence in our criminal justice system."

But the efforts of the States and the Congress to make capital punishment more than a paper tiger have been frustrated by endless habeas corpus appeals by prisoners on death row. The bill before us changes laws affecting the death penalty in an effort to create consistent and fair procedures for its application and to streamline the appeals process.

Our current system doesn't work. There are endless and often frivolous appeals, with few limits on prisoners raising the same issues repeatedly. Today, prisoners on death row can appeal whenever there is a change in the law or a new Supreme Court ruling. This endless litigation costs the taxpayers millions of dollars and more importantly, denies justice to the victims of crime.

H.R. 729 establishes strict, but fair limits on appeals. It creates a 1-year limitation period for filing a Federal habeas corpus petition contesting a State court conviction and a 2-year limitation period for a Federal conviction. The bill outlines special habeas corpus procedures that States may adopt for capital cases and limits the granting of stays when prisoners have failed to file a timely appeal. The bill also directs the courts to accelerate the process, by imposing a 60-day deadline for Federal district courts to decide a habeas corpus petition and a 90-day deadline for appeals courts to decide an appeal. Finally, in keeping with this Congress' commitment to stop passing mandates on the States, H.R. 729 will help States pay for the costs of defending their convictions against habeas corpus claims in capital cases.

Mr. Chairman, this legislation is in line with the 1991 ruling of the Supreme Court that death row prisoners may file only one habeas corpus petition in Federal court unless there is a sound reason why any new constitutional claim was not raised the first time.

I note that the California District Attorneys Association unanimously adopted a resolution in support of H.R. 729, calling it a significant step in the right direction.

Let us heed the advice of those who know best—the district attorneys, the Powell Commission, and leading constitutional experts. Lets pass H.R. 729 and enact meaningful capital punishment reform.

Mr. BONILLA. Mr. Chairman, I rise today in support of H.R. 729, the Effective Death Penalty Act. I join all Americans in urging my colleagues to support this measure, which is common-sense reform. For capital punishment to be an effective deterrent to criminals it must be enforced swiftly and consistently. Presently, it takes years for the courts and defense attorneys to act upon rulings of the lower courts. This is unacceptable and change is long overdue.

The essence of our criminal justice system is justice. A system of appeals is imperative to ensure that the rights of the accused are not violated in any manner. However, this Nation's appellate system is absurdly slow, complicated, and overwhelmingly redundant. H.R. 729 will place necessary limits on habeas corpus appeals, and thus limit the number of appeals and time permitted for the entire process.

Mr. Chairman, violent crime in America continues to increase, and the Federal response has been minimal. This bill would establish a 1-year limitation for filing habeas corpus appeals of State court convictions. Additionally, this bill will limit stays of execution for inmates who have not filed for appeal in a timely manner. Most importantly, Mr. Chairman, H.R. 729 would impose a 60-day deadline for Federal district courts to rule on a habeas corpus petition, and calls for a 90-day deadline for Federal district court decisions. This is precisely what is needed to streamline the appellate system, while ensuring that the appropriate safeguards are maintained.

Under current laws, there are practically no limits or restrictions on filing habeas corpus appeals. It is about time that the Government end the continued filing of dilatory appeals that have no merit or evidence to establish a need to address the offender's confinement or execution. The American people are sick and tired of convicted violent felons using this process to delay justice. Moreover, such a provision will help relieve the ever increasing crowding of Federal court dockets across the Nation.

Mr. Chairman, I also rise in support of provisions that provide funding for States to defend convictions obtained in State courts. The Federal Government currently provides funding for defense actions on behalf of convicted death row offenders. I strongly support measures to provide similar funding for States defending their right to sentence convicted felons to death.

Mr. Chairman, this reform has been necessary for quite some time. I urge my colleagues to support H.R. 729, which will help this country serve justice.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the order of the House of Tuesday, February 7, 1995, the committee amendment in the nature of a substitute is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Effective Death Penalty Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HABEAS CORPUS REFORM

SUBTITLE A—POST CONVICTION PETITIONS: GENERAL HABEAS CORPUS REFORM

Sec. 101. Period of limitation for filing writ of habeas corpus following final judgment of a State court.

Sec. 102. Authority of appellate judges to issue certificates of probable cause for appeal in habeas corpus and Federal collateral relief proceedings.

Sec. 103. Conforming amendment to the rules of appellate procedure.

Sec. 104. Effect of failure to exhaust State remedies.

Sec. 105. Period of limitation for Federal prisoners filing for collateral remedy.

SUBTITLE B—SPECIAL PROCEDURES FOR COLLATERAL PROCEEDINGS IN CAPITAL CASES

Sec. 111. Death penalty litigation procedures.

SUBTITLE C—FUNDING FOR LITIGATION OF FEDERAL HABEAS CORPUS PETITIONS IN CAPITAL CASES

Sec. 121. Funding for death penalty prosecutions.

TITLE II—FEDERAL DEATH PENALTY PROCEDURES REFORM

Sec. 201. Federal death penalty procedures reform.

TITLE I—EFFECTIVE DEATH PENALTY

Subtitle A—Post Conviction Petitions: General Habeas Corpus Reform

SEC. 101. PERIOD OF LIMITATION FOR FILING WRIT OF HABEAS CORPUS FOLLOWING FINAL JUDGMENT OF A STATE COURT.

Section 2244 of title 28, United States Code, is amended by adding at the end the following:

"(d)(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(A) The time at which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review.

"(B) The time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action.

"(C) The time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable.

"(D) The time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"(2) Time that passes during the pendency of a properly filed application for State review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.".

SEC. 102. AUTHORITY OF APPELLATE JUDGES TO ISSUE CERTIFICATES OF PROBABLE CAUSE FOR APPEAL IN HABEAS CORPUS AND FEDERAL COLLATERAL RELIEF PROCEEDINGS.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§2253. Appeal

"(a) In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"(b) There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"(c) An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause. A certificate of probable cause may only issue if the petitioner has made a substantial showing of the denial of a Federal right. The certificate of probable cause must indicate which specific issue or issues satisfy this standard.".

SEC. 103. CONFORMING AMENDMENT TO THE RULES OF APPELLATE PROCEDURE.

Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate of probable cause is not required.".

SEC. 104. EFFECT OF FAILURE TO EXHAUST STATE REMEDIES.

Section 2254(b) of title 28, United States Code, is amended to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State. A State shall not be deemed to have waived the exhaustion requirement, or be estopped from reliance upon the requirement unless through its counsel it waives the requirement expressly.".

SEC. 105. PERIOD OF LIMITATION FOR FEDERAL PRISONERS FILING FOR COLLATERAL REMEDY.

Section 2255 of title 28, United States Code, is amended by striking the second paragraph and the penultimate paragraph thereof, and by adding at the end the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) The time at which the judgment of conviction becomes final.

"(2) The time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action.

"(3) The time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable.

"(4) The time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

Subtitle B—Special Procedures for Collateral Proceedings in Capital Cases

SEC. 111. DEATH PENALTY LITIGATION PROCEDURES.

(a) IN GENERAL.—Title 28, United States Code, is amended by inserting the following new chapter after chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2258. Filing of habeas corpus petition; time requirements; tolling rules.

"2259. Scope of Federal review; district court adjudications.

"2260. Certificate of probable cause inapplicable.

"2261. Application to State unitary review procedures.

"2262. Limitation periods for determining petitions.

"2263. Rule of construction.

"§2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation

expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court;

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable fact finder would have found the petitioner guilty of the underlying offense.

"(d) Notwithstanding any other provision of law, no Federal district court or appellate judge shall have the authority to enter a stay of execution, issue injunctive relief, or grant any equitable or other relief in a capital case on any successive habeas petition unless the court first determines the petition or other action does not constitute an abuse of the writ. This determination shall be made only by the district judge or appellate panel who adjudicated the merits of the original habeas petition (or to the district judge or appellate panel to which the case may have been subsequently assigned as a result of the unavailability of the original court or judges). In the Federal courts of appeal, a stay may issue pursuant to the terms of this provision only when a majority of the original panel or majority of the active judges determines the petition does not constitute an abuse of the writ.

"§2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within one hundred and eighty days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed sixty days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§2259. Scope of Federal review; district court adjudications

"(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

"(1) the result of State action in violation of the Constitution or laws of the United States;

"(2) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(3) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review.

"(b) Following review subject to the constraints set forth in subsection (a) and section 2254(d) of this title, the court shall rule on the claims properly before it.

"§2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

"§2261. Application to State unitary review procedure

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the one hundred and eighty day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

"§2262. Limitation periods for determining petitions

"(a)(1) A Federal district court shall determine such a petition or motion within 60 days of any argument heard on an evidentiary hearing, or where no evidentiary hearing is held, within 60 days of any final argument heard in the case.

"(2)(A) The court of appeals shall determine any appeal relating to such a petition or motion within 90 days after the filing of any reply brief or within 90 days after such reply brief would be

due. For purposes of this provision, any reply brief shall be due within 14 days of the opposition brief.

"(B) The court of appeals shall decide any petition for rehearing and or request by an appropriate judge for rehearing en banc within 20 days of the filing of such a petition or request unless a responsive pleading is required in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The time limitations contained in paragraphs (1) and (2) may be extended only once for 20 days, upon an express good cause finding by the court that the interests of justice warrant such a one-time extension. The specific grounds for the good cause finding shall be set forth in writing in any extension order of the court.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the redetermination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

"(f) The adjudication of any petition under section 2254 of this title that is subject to this chapter, and the adjudication of any motion under section 2255 of this title by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

"§2263. Rule of construction

"This chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by inserting after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases .... 2256".

Subtitle C—Funding for Litigation of Federal Habeas Corpus Petitions in Capital Cases

SEC. 121. FUNDING FOR DEATH PENALTY PROSECUTIONS.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new section:

"FUNDING FOR LITIGATION OF FEDERAL HABEAS CORPUS PETITIONS IN CAPITAL CASES

"SEC. 523. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after the item relating to section 522 the following new item:

"Sec. 523. Funding for litigation of Federal habeas corpus petitions in capital cases.".

TITLE II—FEDERAL DEATH PENALTY PROCEDURES REFORM

SEC. 201. FEDERAL DEATH PENALTY PROCEDURES REFORM.

(a) IN GENERAL.—Subsection (e) of section 3593 of title 18, United States Code, is amended by striking "shall consider" and all that follows through the end of such subsection and inserting the following: "shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants. The jury shall be instructed that its recommendation concerning a sentence of death is to be based on the aggravating factor or factors and any mitigating factors which have been found, but that the final decision concerning the balance of aggravating and mitigating factors is a matter for the jury's judgment.".

(b) CONFORMING AMENDMENT.—Section 3594 of title 18, United States Code, is amended by striking "or life imprisonment without possibility of release".

The CHAIRMAN. Pursuant to a previous order of the House, the bill shall be considered for amendment under the 5-minute rule for a period not to exceed 6 hours.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM: Page 20, line 6, strike "shall" and insert "is authorized to."

Mr. MCCOLLUM. Mr. Chairman, this is purely a technical amendment. We had unintentionally done an appropriations and authorization bill, and we simply needed to change the language to make sure that, in the section of the bill dealing with the funding portions of this with respect to the director providing grants to the States for prosecution and litigation pertaining to habeas corpus, we do not actually direct the funding, but rather, we authorize it. It is a technical amendment.

Mr. Chairman, I do not have anything else I can say except we need to do this. I urge the adoption of the amendment.

Mr. SCHUMER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I have seen the gentleman's amendment. It is truly a technical amendment. I have no objection to that. I believe our side has no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to the bill?

AMENDMENT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHUMER: After subtitle B of title I insert the following:

Subtitle C—Competent Counsel in Death Penalty Cases in State Court

SEC. 121. COMPETENT COUNSEL IN STATE COURT.

(a) IN GENERAL.—Title 28, United States Code, is amended by inserting after the chapter added by section 111 the following:

"CHAPTER 154A—COMPETENT COUNSEL IN STATE COURT

"Sec.
"2263. Competent counsel in State court.

"§2263. Competent counsel in State court

"(a) If an action under section 2254 of this title, brought by an applicant under sentence of death, the court determines that—

"(1) the relevant State has established or identified a counsel authority which meets the requirements of subsections (b) through (e) of this section, to ensure that indigents in capital cases receive competent counsel and support services at trial in State court and on direct review in the appropriate State appellate courts;

"(2) if the applicant in the instant case was eligible for the appointment of counsel and did not waive such an appointment, the counsel authority actually appointed an attorney or attorneys to represent the applicant; and

"(3) the counsel so appointed met the qualifications and performance standards established by the counsel authority;

then the court shall not apply subsection (f) of this section to the claims presented in the application.

"(b) The counsel authority may be—

"(1) the highest State court having jurisdiction over criminal matters;

"(2) a committee appointed by the highest State court having jurisdiction over criminal matters; or

"(3) a defender organization.

"(c) The counsel authority shall publish a roster of attorneys qualified to be appointed in capital cases, procedures by which attorneys are appointed, and standards governing the qualifications, performance, compensation, and support of counsel; and, upon the request of a State court before which a death penalty is pending, shall appoint counsel to represent the client.

"(d) An attorney who is not listed on the roster shall be appointed only on the request of the client concerned and in circumstances in which the attorney requested is able to provide the client with competent legal representation.

"(e) Upon receipt of notice from the counsel authorized that an individual entitled to the appointment of counsel under this section has declined to accept such an appointment, the court requesting the appointment shall conduct, or cause to be conducted, a hearing, at which the individual and counsel proposed to be appointed under this section shall be present, to determine the individual's competency to decline the appointment, and whether the individual has knowingly and intelligently declined it.

"(f) Except as provided by subsection (a) of this section, in an action under section 2254 of this title, brought by an applicant under sentence of death, the court shall not decline to consider a claim on the ground that it was not previously raised in State court at the time and in the manner prescribed by State law and, for that reason, the State courts refused or would refuse to entertain it.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by inserting after the item relating to the chapter added by section 111 the following new item:

"154A. Competent Counsel in State Court .... 2263".

Redesignate succeeding subtitles and sections (and any cross references thereto) accordingly.

Mr. SCHUMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SCHUMER. Mr. Chairman, as I have mentioned before, I favor the procedural form in the bill before us as it was reported, because I take the need for these reforms seriously. I support the death penalty in appropriate cases, and I believe that it should be carried out when the time comes.

I believe that the time for this ultimate penalty should not be delayed over and over and over again by repeated, redundant, and frivolous petitions. Those who bring the petitions are morally opposed to capital punishment. I respect that view. However, their view is not the prevalent law of the land in most of the States, and they should not be allowed to use that moral preference to just delay and delay and delay.

Mr. Chairman, I think that the general proposal made by the gentleman from Illinois is a fair one. I supported it in committee and intend to support it on the floor of the House, at least as it was reported. I do not know what amendments will come from the other side.

However, Mr. Chairman, I also strongly believe that to put people on trial for their very lives without giving them good counsel is fundamentally unfair and ultimately outrageous. It is not worthy of all the good and decent and fair things that make us proud of our country and of our unique system of justice. Unfortunately, Mr. Chairman, the sad truth is that we do just that in far too many cases.

The greatest single cause of error in death penalty cases is poor counsel at trial. Let me be blunt, Mr. Chairman, about what the words "poor counsel" mean. They mean lawyers who are drunk at trial. They mean lawyers who openly speak of their clients in racially insulting terms. They mean lawyers who do not have a clue about how to stand up to the emotion and community pressure that is inevitably generated in every death penalty case. This is a national disgrace. Yet, this reform bill before us contains not one word, not one single word, to ensure that people put on trial for their lives have good lawyers at trial.

Mr. Chairman, my amendment would correct this important omission. Of course, the States are already required by the Constitution to provide some kind of counsel to all criminal defendants, but that is not the point. The point is whether they provide good, competent lawyers who know how to handle death penalty cases and are willing and able to do so. Unfortunately, the evidence is that in all too many instances, lawyers are appointed who are incompetent, who are overworked, who are cronies of trial judges, or, most shameful of all, are actually prejudiced against their clients.

Mr. Chairman, my amendment does not require the States to do anything. It is not a mandate of any form. It does not dictate standards from Washington. It simply gives every State a simple choice. It may choose to set up an independent counsel authority, and that authority can be the highest court, a committee appointed by that court, or a defender organization.

There is wide latitude in that part of the choice. It will be up to the State authority to set standards of competence for counsel, means of appointing counsel, and adequate pay for counsel. If the State chooses to set up an authority, then Federal courts will not review claims that should have been raised in State courts but were not. To a large extent, that is the law that now exists.

On the other hand, Mr. Chairman, if a State chooses not to set up a counsel authority, then Federal courts will consider claims that petitioners fail to raise in State court but did not. It is a very simple choice. It is saying,

> If you provide adequate counsel, without we, the Federal Government, dictating what adequate counsel is, then you don't have to have full Federal review of your claims. However, if you don't, there ought to be a full Federal review.

That makes eminent sense to anyone, it seems to me, who is fair-minded and looks at capital punishment fairly. I say that again as somebody who supports capital punishment.

Let me give the Members a few examples, all from within the last 10 years of how it happens that these claims are not raised.

A lawyer in Florida admitted to the trial judge in chambers that, "I am at a loss," he told the judge. He said, "I really don't know what to do in this type of proceeding. If I had been through one, I would, but I have never handled one except this time."

A lawyer in an Alabama trial asked for time between the guilt phase and the death penalty phase to read the Alabama death penalty statute. A lawyer in Pennsylvania built his client's defense around a statute.

The CHAIRMAN. The time of the gentleman from new York [Mr. SCHUMER] has expired.

(By unanimous consent, Mr. SCHUMER was allowed to proceed for 3 additional minutes.)

Mr. SCHUMER. Mr. Chairman, the lawyer from Pennsylvania billed his client's defense around a statute that 3 years earlier had been declared unconstitutional. These are only a few cases of many, many examples that show bad lawyers are appointed to death penalty cases.

If a person has a bad lawyer, that lawyer obviously will fail to raise issues that should be raised when they should be raised. When that happens, Mr. Chairman, the only place they can be effectively heard is in Federal court on a habeas petition.

If one has a good lawyer, however, that will raise all the important issues, so that they are heard of and disposed of in States courts, there is no need to review them in Federal court unless the State court has made a mistake in law.

In other words, it will be done right the first time, and for so many of the members on that side of the aisle and on this side of the aisle who really feel that there is too much delay and too much appeal, the best way to ensure that there is not that delay, not only on a statutory but on a constitutional basis, is to make sure in this way that there is adequate counsel at trial.

□ 1600

The amendment will help make sure we do it right the first time. It is fair, it is just, it is needed.

I urge every member, whatever their view is on the ultimate bill, to support this very reasonable amendment.

Mr. MCCOLLUM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment. The gentleman I am sure is sincere about what he wishes to accomplish but quite frankly if this amendment is adopted, it is going to destroy the underpinnings of this bill to speed up the process of carrying out the death sentences in this country.

Right now the way the bill works is that you have to have as a State an agreement to appoint certain counsel as prescribed in the legislation, certain attorneys or lawyers, for defendants in State habeas proceedings, not at the trial level.

If you opt to do that, then the time limits come down for taking the appeals to the Federal court to 180 days instead of the lengthy time that is otherwise in the bill, and you would otherwise be subjected to. You gain the limits on successive petitions so that there is no right to have these successive petitions, and you engage the timetables in this bill that are designed at every stage of the proceeding to reduce the amount of time involved in death row cases.

What the gentleman is suggesting is that essentially this be expanded, this right to counsel, this provision of opting in, that the States in order to be able to be eligible for all of the kinds of changes in the law we are going to enact today if we pass this bill must provide counsel under the procedures that he has described at the trial level, at the original trial level.

I think everybody needs to understand that under the laws of this country, since Gideon versus Wainwright, every accused has the right to counsel and the State must provide that counsel, adequate counsel, to the accused in any case, be that a death penalty case or otherwise. If inadequate counsel is provided and sometimes unfortunately that has happened and the gentleman is quite right on that point, then in that particular case there is a grievance that is appropriately presented in the court system and sometimes that is presented in the habeas corpus petitions that we are discussing today in Federal court, and if indeed that is upheld that somebody did not have the proper counsel, did not have adequate counsel, then he is entitled to have his entire case retried, and that certainly would not be something we would particularly want to have happen.

But the truth of the matter is that we do have a procedure for adequate counsel and all kinds of protections for the accused that are built into that system at the trial level.

What the gentleman wants to do and what he does by his amendment today is to add a series of things that people have to go through, a roster has to be formed, a State has to pass a counsel authority in one of three or four forms and you have to comply with all of these procedures and in the end the expense and the problems and the difficulty of going through this in my judgment and many others' who have looked at this will mean that most States will choose not to do this. They will simply choose to not opt in. Therefore, we will not have an effective bill. We will not shorten the time death row inmates have for carrying out their sentences that we want to do. The underlying bill will indeed fail in its objective if this indeed occurs.

Right now, under current law in most Federal cases, a court cannot hear a claim on Federal collateral review that was not first raised in State collateral review. This is known as a procedural default.

The purpose of this rule is to ensure that State courts first have an opportunity to correct constitutional errors. It discourages sandbagging of claims and encourages the orderly consideration of claims by State and Federal courts.

The Schumer amendment in addition to everything else I have said will gut this important rule if States do not adopt his counsel requirements. His amendment puts States in a no-win situation. Either they adopt his expensive requirements of counsel, which I do not think many will do, at all stages of State review, for the first time in history putting counsel in State capital trials under the thumb of Congress, or face more delays in litigation in Federal court.

Under the Schumer amendment, States can choose between an unfunded mandate or greater delay for capital cases.

Our bill gives States the option of continuing to litigate cases under current law or getting stronger rules of finality as the benefit for having provided counsel on collateral review, the State habeas proceedings that we are talking about rather than the requirements at the trial level that the gentleman from New York [Mr. SCHUMER] is talking about.

We do not punish States that want to impose the death penalty as the Schumer amendment would do and the amendment as I view it is insulting to victims and to States. It would not result in reform. It would be a retrogression, and it should be rejected.

Mr. FOGLIETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to oppose the Effective Death Penalty Act, and in favor of the Schumer amendment.

Earlier today we pulled the teeth out of the fourth amendment. Now we are continuing our assault on the Constitution by making it near to impossible for a prisoner sentenced to death to seek justice. The Framers said in Article I, section 9 that "the privilege of the Writ of Habeas Corpus shall not be suspended." Today, we are not just suspending it. We are ripping it to shreds.

Like so many things in the contract, we resort to coping with genuine problems with artificial deadlines, gimmicks and smoke and mirrors—instead of effective solutions.

Make no mistake, there are problems with the way the courts are required to handle habeas corpus petitions. If you talk to the lawyers and the judges who deal with this every day, you will know what the problem is. It is that many of the attorneys trying death penalty cases are not qualified. I am not saying that we should pay Johnny Cochran or Robert Shapiro to represent every accused killer. But, to really solve this problem, we have to improve the caliber of attorneys in death cases. That way, a prisoner could not come back to the court on countless occasions and say that their attorney was ineffective in his case.

That is why the Schumer amendment makes so much sense. This strategy would allow us to balance the need to preserve the Constitution, with better efficiency in our courts.

There are so many things that are unfair about the Effective Death Penalty Act. The sole incentive for a state to provide counsel at the habeas stage is to reduce the statute of limitations. But that is grossly unfair to the prisoner. Just think about it. How can a new lawyer, however competent, freshly investigate the case, develop legal arguments and effectively prepare a petition in just 6 months. This law begs for the very ineffectiveness of counsel we are trying to end.

Further, the standard for filing a second habeas petition is so tough that it renders habeas a constitutional memory. How could a prisoner like Walter McMillan seek justice? This is a man who was finally able to convince a court that he was the wrong man, but only after four habeas petitions. We must allow prisoners to present newly discovered evidence in a habeas petition.

The title of this bill is the Effective Death Penalty Act. But it is anything but effective. It is unfair, unjust and unconstitutional.

A lot of my colleagues on the other side of the aisle have cited Jefferson and Madison in these debates. They assure us that they would approve of what we are doing. But they do not cite their words.

The fact is that we know precisely what the Founders have said. They said, "no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

They said, "The Privilege of the Writ of Habeas Corpus shall not be suspended."

This is what they said. This is our Constitution. Let's begin to pay attention to it. Let us not tear it up.

Mr. CHABOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Latin phrase habeas corpus may cause people's eyes to glaze over, but the reforms in this bill begin to address what I consider to be the biggest problem in the Federal justice system, the seemingly unending string of appeals that convicted criminals may file to postpone again and again the day of final judgment.

Mr. Chairman, there is no good reason for the taxpayers in my community, Cincinnati, or anywhere else to foot the bill for the John Wayne Gacys and other criminals in this world who have taken human life, innocent human life so they can play games with our legal system from their prison cells for year after year after year.

There ought to come a point, Mr. Chairman, after a trial by a jury of one's peers and after going through the appeals process in the State court system and then finally the Federal court system where enough is finally enough.

By moving forward on this bill, the Effective Death Penalty Act, we are fulfilling another element of the Contract With America. In doing so, we are also attempting to ensure that the death penalty is of more than academic interest to jailhouse lawyers.

□ 1610

If the death penalty is to serve as a real deterrent, we must see that it is imposed fairly and surely—and reasonably swiftly. This bill is just a start, but it is a good start.

Our colleagues should understand that the statutory habeas corpus provisions we are reforming today are not related to the habeas corpus protections contained in the Constitution. The constitutional protections apply to remedy lawless incarcerations by the executive without court authority; they do not deal with imprisonment ordered by State officials pursuant to court order after conviction at trial. But confusion over the shared Latin title should not confuse the issue: Our Constitution does not mandate, nor does common sense decree, today's system of virtually unlimited frivolous Federal appeals.

Unlike the valuable protections our Constitution provides, today's statutory scheme as interpreted by the courts allows endless appeals after endless delays. If a decision ever is reached, the convicted criminal simply starts the process all over again on some other point. In effect, there is now no statute of limitations, and no finality of Federal review of State court convictions. The statutory habeas system is not rational, it's not just, and it's not followed by any other civilized nation.

As former Supreme Court Justice Lewis Powell said in his review of our flawed process: "I know of no other system of justice structured in a way that assures no end to the litigation of a criminal conviction."

Mr. Chairman, this bill makes a start toward bringing victims of crime some closure to their ordeals. Some may not believe that this reform goes far enough, but it is reform, and I urge the bill's adoption and I urge defeat of the Schumer amendment.

Mr. CONYERS. Mr. Chairman, Sixty-three years ago, in Powell versus Alabama, the case involving the Scottsboro boys, the Supreme Court established as a constitutional principle that indigent defendants would not be sentenced to death unless they were represented by competent counsel.

That promise remains unfulfilled to this day and it is one of the most glaring omissions in the McCollum bill.

Having competent counsel is so important because failure at the front end, that is, the trial stage, leads to the delays and multiple petitions at the back end that resulted in retrials being ordered in 40 percent of all habeas petitions filed since 1976. Without competent counsel at trials any reform is meaningless.

Leaving it to the States to appoint counsel is no solution because the current system is a disaster: in Kentucky, attorneys who represented a quarter of the State's 26 death row inmates have since been suspended, disbarred, or convicted of crimes.

In Mississippi and Arkansas, compensation for death row attorneys was limited by statute to $1,000, though hundreds of hours of work are involved.

In one judicial district in Georgia, capital cases were awarded to the lowest bidder.

South Carolina pays $10 per hour for out-of-court work and $15 for in-court work.

That is the system the McCollum bill would seek to preserve: uncompensated, ill-prepared and inexpert counsel for those whose lives are hanging in the balance. Surely, we can do better.

Habeas cases are among the most complex in all litigation. In addition to the highest stakes possible—life or death—there is a very complex body of constitutional law and unusual procedures that do not apply in other criminal cases. There are often two separate trials with very different sets of issues. Jury selection standards are different. The penalty phase requires in-depth investigation into personal and family history.

The McCollum bill is woefully inadequate in providing counsel and I urge my colleagues to support the amendment to require counsel at the trial as well as postconviction phase.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SCHUMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WATT of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 282, not voting 3, as follows:

[Roll No 104]

AYES—149

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—282

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder

Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—3

Collins (MI)
Frank (MA)
Radanovich

□ 1631

The Clerk announced the following pair:

On this vote:

Miss Collins of Michigan for, with Mr. Radanovich against.

Messrs. ROSE, SPENCE, KLINK, MURTHA, ORTIZ, and DOYLE changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina: Page 4, line 26, strike the period and insert the following:

"or a substantial showing that credible newly discovered evidence which, had it been presented at trial, would probably have resulted in an acquittal for the offense for which the sentence was imposed or in some sentence other than incarceration."

Page 4, line 26, Strike the entire sentence beginning with the word "The" and ending with "standard."

Page 15, line 7, delete the period and insert "; or"

Page 15, after line 7 add:

"(4) the facts underlying the claim consist of credible newly discovered evidence which, had it presented to the trier of fact or sentencing authority at trial, would probably have resulted in an acquittal of the offense for which the death sentence was imposed."

Mr. WATT of North Carolina. Mr. Chairman and colleagues, we have heard, again, the Constitution of the United States is under attack in this bill.

There is only one place in the United States Constitution where the words habeas corpus are written. It is Article I, section 9, clause 2, which says, "The privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion the public safety may require it."

As much as I have looked for rebellion or invasion in our streets, among all the crime I have not found it. Yet here we are attempting to undermine the provision in the Constitution again.

In the committee, Mrs. SCHROEDER brought in some evidence, a letter which was a letter of support from a number of different people and groups. And one of those groups was some people who felt strongly about supporting the Constitution because they had been involved with the Civil War issue. And the question was raised: Why would they have an interest in this? And I went back and looked, and I pointed out to the committee members that the reason that somebody who had some interest in slavery would have an interest in this bill was because the provisions, original provisions in the Constitution having to do with slavery, are in article I of the Constitution also.

That provision in the Constitution says, and this is section 9, clause 1 of article I of the Constitution, says, "The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808," and then it goes on.

My colleagues, we fought a Civil War a hundred years later in this country over this provision in the Constitution. A hundred years after the year 1808, southerners were still claiming that they had the right to bring slaves into the South. And a whole war was fought about this single line in the Constitution.

And in 1 day in our Judiciary Committee, and apparently in less than 2 hours or so of debate on this floor, we are getting ready to do essentially what a civil war was fought about in our country.

We are undermining a simple provision in the Constitution, not the same provision, but I would submit to you that if that language 100 years after the prohibition in the Constitution had expired, clearly based on the language was worth fighting for, surely the right of habeas corpus in this country ought to be worth fighting for.

But here we are again, conservatives saying, "This is a conservative group of people, we have a conservative Contract With America, we are conservatives, but we don't believe in the most conservative document that our country has ever had, and we would undermine it."

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

(By unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 4 additional minutes.)

Mr. WATT. Mr. Chairman, the language is simple. It says, point blank, this is the only place you will find these words in the Constitution, there being no other reference to habeas corpus in the entire Constitution, and listen, let them resonate in this body, if they will, if anybody will listen to them. This is the Constitution of the United States that we are talking about.

It simply says the privilege of the writ of habeas corpus shall not be suspended unless when in the cases of rebellion or invasion the public safety may require it. There is no rebellion or invasion. There may be a bunch of crime in the streets, but I "ain't" seen a rebellion and no invasion.

□ 1640

And here we are, undermining the writ, and I say to my colleagues, "Mind you, it doesn't say we can suspend it if we find probable cause. That's not here. That's what the language of the bill says, but that's not here in the Constitution. Nothing about probable cause. Probable cause is what we were arguing about in the last assault on the Constitution just a couple of hours ago that these conservative Members would have us do away with."

Well, what does my amendment do? It says, "At least, if somebody comes forward with credible evidence of innocence, at least they ought to be guaranteed the protections that our Constitution provides to us."

And we are seeing it every day now. Advances in technology have given us DNA testing that allows us to run specific DNA testing to determine whether a person is guilty or innocent, and in a number of cases where this sophisticated technology—cases where people have been in jail for 20 years, been on death row—this DNA technology is coming forward now and saying we went back, and we checked that blood sample, or that hair strand, or that fingerprint, or that little piece of clothing, and this person could not have been the perpetrator of this crime. Yet they sat in jail. They have been subjected to facing the death penalty.

Mr. Chairman, all this amendment would do is preserve that right for them to raise credible evidence of innocence. We are talking about protecting people who can come in with credible evidence of innocence at any time during the proceeding.

My colleagues, I am the last person who is going to get into an argument about who is the most conservative person in this body. I think I have demonstrated, when it comes to the Constitution, though not bragging rights in my district to go home and say I am a conservative, but, my colleagues, it is a conservative principle to uphold the Constitution of the United States. This is not radical liberal stuff. This is the stuff that our country is made of.

So, Mr. Chairman, I ask my colleagues, in their haste to undermine habeas in a general way, at least preserve the rights and protections to those people who can still come forward with credible evidence of their own innocence. We should never, never, ever, put a person to death in this country when they are innocent because of procedural technicalities. In the last bill they were arguing all these procedural technicalities. Well, look. Give me a break. Give the people a break. We should never put anybody to death on a procedural technicality, and that is what this bill does. It poses an additional procedural technicality.

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from North Carolina [Mr. WATT].

Mr. Chairman, on the face of what the gentleman from North Carolina says and offers, one might make the assumption that it sounds perfectly reasonable. He says he wants somebody to have a shot at habeas corpus petitions and to appeal his conviction if he has newly discovered evidence which, had it been presented at trial, would probably have resulted in acquittal for the offense for which the sentence was imposed or in some sentence other than incarceration. That sounds reasonable, however it is contrary to existing law. It is contrary to existing court interpretation.

I say to my colleagues, "The standard for review of the question of whether or not you get a chance to set aside your death penalty case today on the basis of newly discovered evidence of guilt or innocence is that the petitioner, in the absence of constitutional error, which is other stuff, must show that the new factual evidence that he has presented unquestionably establishes innocence." That is a 1993 recent decision of the U.S. Supreme Court. Consequently what the gentleman offers would weaken the current law with respect to these processes.

I would like to remind all of my colleagues that we are now not talking about somebody who has not gone through the due process considerations. We are not even talking about whether he had a competent counsel or not. We are talking about somebody who has been to trial, gone through a jury trial, been found guilty of some heinous crime that merits at least in the abstract principle the death penalty on the books of a State or the Federal Government, has taken an appeal of that undoubtedly all the way through the State, if it is a State case, the State supreme court, perhaps the U.S. Supreme Court, probably has gone through one or at least numerous appeals in Federal court under the habeas corpus statute, and I would commend the gentleman to technically observe, and it is just a technical question, that the habeas corpus we are talking about today is statutory, not the great writ in the Constitution. But he has probably taken several statutory habeas corpus appeals, perhaps State habeas, certainly Federal, and he has been denied. Somebody has found him to all the procedures to have been fine. He is found guilty the first time around. He was sentenced properly, et cetera, and now he comes up and comes up with some new standard that is going to be put in law that says for the first time, different from anything that we have done before in the history of the country on these cases, that, "If you find new credible evidence that would probably have resulted in an acquittal for the offense for which the sentence is imposed, then a Federal court judge can set aside the case and sentence in the conviction and require a new trial." It means that there is going to be a relitigation virtually in front of this Federal judge because that Federal judge has got to make a decision that the new evidence would probably have resulted in an acquittal in the first place.

This is a new complexity. It will give new opportunities for appeals. Most of these probably will be denied, and we would have lots more time dillydallying around before these sentences are carried out.

So, as well-meaning as the gentleman's amendment may be on the surface, it actually undermines the very effort we are about to hear today, which is to speed up the process of carrying out the death sentences in this country.

We have a process now, I think that process is very, very fair. We do not alter it except in timetable sequence here today. We are not changing the underlying law and the rules that we play by in reviewing cases and death penalty cases. But the gentleman from North Carolina's amendment would change the underlying law. He would give another bite at the apple in the conditions and circumstances today the Supreme Court says, "You don't have that right," and even establish an entirely new standard that does not presently today exist for appeals of death penalty cases.

So, for all of those reasons I would oppose this amendment.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Let me be sure that the gentleman understands my amendment because I think he has a misconception of my amendment or he has a misconception of the law.

My amendment only gets the person who is filing the habeas in the courthouse. This is not the standard for determining whether he wins or loses the case. This is the standard for determining whether the court will hear the case.

I say to my colleague, "If you look at page four where I have amended the bill, it says, 'An appeal may not be taken to the Court of Appeals unless certain things apply,' and that's where my amendment comes into play. It allows him to take appeal. It doesn't set a different standard for that appeal once it is taken."

□ 1650

If you look on page 14, it says, "The District Court shall only consider a claim." And then it spells out certain circumstances.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has expired.

(At the request of Mr. WATT of North Carolina and by unanimous consent, Mr. McCOLLUM was allowed to proceed for 3 additional minutes.)

Mr. McCOLLUM. Mr. Chairman, I continue to yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. In that section it says, "The court shall only consider a claim under certain circumstances."

I agree with the gentleman that this is not the standard for an ultimate disposition of the case, but it is the prevailing standard for determining whether one gets review or not. That standard was set out very recently by the court again in the case of Schlup versus Delo, January 23, 1995. This is the standard for getting a review. It is not the standard for determining whether somebody gets off or not.

In that case, the court says, "The standard requires the habeas petitioner to show that 'a constitutional violation has probably resulted in the conviction of one who is actually innocent.'" That is the same language that I have picked up.

So I just wanted to make sure that the gentleman understands. I am not trying to change the ultimate standard on which the person wins or loses. All this does is get the person into the courthouse so the court can evaluate the evidence.

Mr. McCOLLUM. Mr. Chairman, reclaiming my time, I understand the point of the gentleman. But he changes the rules of how you get into the courthouse in the first place by striking out the current standards of having to have a constitutional infirmity. You do not have to have a constitutional infirmity after you have put your provision in. All you have to show is there is a probability that if you retry the case, you would be found innocent.

In fact what the net result or net defect of this is going to be is that you have established a new process. You may technically say the standards have not changed in the sense that ultimately somewhere down the road the Supreme Court rulings would not be overturned, but the fact of the matter is you have given another bite of the apple to somebody on death row that he does not today have because today you have gained access under this process under something less heavy, a burden on him, than a burden that requires that you show a constitutional defect to get there.

Mr. WATT of North Carolina. If the gentleman will yield further, I am not disputing what the gentleman says. Your bill says you have to raise a constitutional issue.

Mr. McCOLLUM. So does current law.

Mr. WATT of North Carolina. My amendment says that if you show that you are probably innocent, you should not have to raise a constitutional issue.

If you can come into court at the outset and show there is evidence that you are probably innocent, why should we be telling somebody that they have got to raise a constitutional claim if they are probably innocent?

The CHAIRMAN. The time of the gentleman from Florida [Mr. MCCOLLUM] has again expired.

(By unanimous consent, Mr. MCCOLLUM was allowed to proceed for 1 additional minute.)

Mr. MCCOLLUM. Mr. Chairman, I just want to explain to the gentleman and anybody else here listening to this, other Members, that the current standard, the current threshold for all of this, is either that you have a constitutional infirmity of some sort that gets you into the habeas corpus setting, and your appeals are then heard on that basis, you did not have the proper lawyer or whatever, or the factual evidence is that you are unquestionably innocent. And that is the standard, the Herrera case, a 1993 case. It has been confirmed in the Schlup case in January of this year.

I would submit to the gentleman, while he may be intending to do something less than it is perceived by me to be doing, it seems on its face that he is making a weaker and less stringent standard in terms of getting to the appeal process, and thereby undermining what we are trying to do, to carry out sentences more quickly, and I urge the defeat of his amendment.

Mr. SCOTT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I understand the amendment, and the gentleman from North Carolina [Mr. WATT] can correct me if I am wrong, this is for people who are alleging that they are innocent and they are asking for an opportunity to be heard, and they have evidence that would show that they will probably be found not guilty if the evidence were to be heard.

It seems to me that we have an unfortunate situation in that we have to have the same procedure for those that are in fact guilty and those that are in fact innocent, and we do not know until they are heard which category they fit in. So we have to have one procedure. So we are going to have the procedure for people that are innocent, and the gentleman's amendment would allow the person that is innocent to be heard.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I think the gentleman from Florida [Mr. MCCOLLUM] is debating a different amendment than the one I offered. I am not trying to change the standard by which somebody wins or loses ultimately. What I am trying to do is make sure that somebody who has a credible claim of innocence does not sit in jail for 30, 40, or 50 years without any remedies or rights; that somebody who has been sentenced to death does not go to the gas chamber or be put to death without being able to come into court and at least present their evidence. Once they present their evidence, the standard of whether they win or not is still going to be the same as the one that the gentleman from Florida [Mr. MCCOLLUM] has talked about.

I cannot be any more blunt. I mean, the Supreme Court has said this is the exact standard, and they said it as recently as January 23, 1995.

So on the last bill we were trying to codify case law. This time we are trying to keep from codifying case law, because we do not care whether somebody is innocent or guilty; we just do not want them in our court system.

Mr. Chairman, I cannot believe we would stand in this body and talk about some kind of procedural technicality to put somebody to death and not give somebody the opportunity if they have got credible evidence of innocence to present that evidence. Have we become absolutely inhumane in our society and in our quest to deal with the crime problem in this country?

Mr. HEINEMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let us enter into this debate with a little practicality and a little what really happens out there in the street. We will walk the walk a little bit.

On December 3, 1980, Kermit Smith kidnaped Whellette Collins and two of her girlfriends. He kidnaped them from Hallifax, NC. He robbed, raped, and murdered Whellette Collins. He attempted to rob her two girlfriends. They escaped.

Mr. Kermit Smith was apprehended at the scene of the crime. He was tried and convicted of murder and sentenced to death.

Despite the conviction, this case dragged on for 14 years, going before 46 judges and to the U.S. Supreme Court 5 times. Over 150 different writs, stays, and motions were filed during these 14 years. Each delay caused the family of Whellette Collins horrendous pain, and justice was denied them over and over again. And just yesterday we were talking about victims compensation.

Worse still, Smith should have been in prison at the time of the murder for an earlier offense. Not only do we have a problem with outrageous numbers of appeals on death row, but we also are turning criminals loose from a revolving door criminal justice system. I wish this was an isolated incident, but I am willing to wager that every Member in this distinguished body has a Kermit Smith in his or her district.

In the course of ensuring the rights of criminals, we are throwing away the rights of the victims and the victims' families from these painful, extended habeas corpuses.

□ 1700

The current appeals process takes far too long and ties up our court system. Right now State courts hearing death penalty appeals are taking as long as 2½ years. When the Federal appeals process is factored in, an appeal can take as long as 15 years.

Over 300,000 Americans have been murdered since the Supreme Court decision reinstating the death penalty. Approximately 250 criminals have been executed for those crimes. Some say the death penalty is not a deterrent. It would be a deterrent if it were carried out with surety and swiftness. Part of the reason it is not being used is because of the continual unending appeals process. Today we will change that.

The public's safety is the first duty of government. It is why governments were created in the first place, to protect us from predators, both foreign and domestic.

We are, in essence, all victims of government's inept handling of its first duty. Costs of victimization far outweigh the costs of incarceration. Violent crimes are escalating exponentially, despite the good intentions of the administration's hug-a-thug approach to criminal justice. According to the Department of Justice, if something drastically different is not done to reduce crime, five out of six of today's 12 year olds, your children and mine, will be victims of a successful or at least attempted violent crime in their lifetimes. That is five out of six.

As a former chief of police with 38 years of law enforcement experience, I am deeply disturbed by these trends in our criminal justice system. As a father and grandfather, I am outraged.

As the Congressman from the Fourth District of North Carolina and a member of the Committee on the Judiciary, I intend to take action. In this bill the Effective Death Penalty Act, we will return to the notion of deterrence. The only deterrence to criminal activity is punishment. Criminals, by their very definition, do not obey the law. We need to play hard ball so. So far we have not.

More laws will only help if they affect the way the system works. This bill will change the way punishment is meted out. It creates consistent and fair procedures for the application of the death penalty and streamlines the appeals process. In America it seems we try anything once, except criminals.

Over and over and over again criminals play the courts like the lottery, hoping to escape punishment on technicalities.

I strongly urge my colleagues to vote for the Effective Death Penalty Reform Act.

STATE OF NORTH CAROLINA,
Raleigh, NC, January 27, 1995.

Hon. FRED HEINEMAN,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN HEINEMAN: I urge you to push for action in Congress this year to reduce the time for appeals in capital murder cases to the minimum required by the Constitution.

You may have read about the case of Kermit Smith, executed this week for the brutal kidnapping, rape and murder of a college cheerleader. Despite Smith's conviction, this case dragged on for 14 years, going before 46 judges and to the United States Supreme Court five times. As the victim's family and friends told me, each delay caused new anguish. This is not right.

The current appeals process takes far too long and ties up our court system. Right now, state courts hearing death penalty appeals are taking as long as 2½ years. When the federal appeals process is factored in, an appeal can take as long as 15 years. I have included for your review, a procedural outline of the Smith case.

In the last two years, North Carolina has taken significant steps to combat violent crime. We have built or authorized the construction of more than 12,800 new prison beds, built prison work farms and boot camps, and toughened punishment for violent offenders. However, there is still much more to be done to fight crime and protect the citizens of North Carolina. I look forward to working with you on this important issue.

My warmest personal regards.

Sincerely,

JAMES B. HUNT, Jr.,
Governor.

Enclosure.

PROCEDURAL OUTLINE ON KERMIT SMITH

12-3-4-80—Kermit Smith kidnapped Whellette Collins, Dawn Killen and Yolanda Woods. He robbed, raped and murdered Whellette Collins, he attempted to rob Dawn Killen and Yolanda Woods. Smith was apprehended and arrested at the scene.

12-09-80—Halifax County Grand Jury returned true bills of indictment charging Kermit Smith with murder, (Whellette Collins) in Case #80 CRS 15266, Robbery with a Dangerous Weapon, (Whellette Collins) in Case #80 CRS 15271 and First Degree Rape (Whellette Collins) in Case #80 CRS 1565.

04-30-81—Trial in Halifax County Superior Court, before the Honorable George M. Fountain; Smith was found guilty of second degree rape, common law robbery, first degree murder, and received the Death Penalty for the first degree murder conviction.

04-30-81—Notice of Appeal to North Carolina Supreme Court.

10-07-81—Motion to By-Pass the Court of Appeals for second degree rape and common law robbery was granted.

01-29-82—Defendant-Appellant's Brief was filed in the North Carolina Supreme Court.

02-18-82—State's brief was filed in the North Carolina Supreme Court.

06-02-82—Opinion by the North Carolina Supreme Court, affirming convictions and sentences. *State* v. *Smith*, 305 N.C. 691, 292 S.E.2d 264 (1982).

08-22-22—Petition for Writ of Certiorari filed by Smith in United States Supreme Court, No. 8205335.

11-29-82—Certiorari was denied by the U.S. Supreme Court. *Smith* v. *North Carolina*, 459 U.S. 1056, 103 S.Ct. 474, 74 L.Ed.2d 622 (1982).

06-06-83—Motion for Appropriate Relief filed by Smith in Halifax County Superior Court.

08-19-83—Order by Judge Frank R. Brown, limiting issues for hearing. D.A. to file answer to claim V in 20 days.

11-23-83—Amendment to Motion for Appropriate Relief filed by Smith in Halifax County Superior Court.

11-30-83—Answer to Motion for Appropriate Relief by State.

12-5-16-83—Evidentiary hearing. State's proposed Findings of Fact and Conclusions of Law.

12-16-83—Order denying Motion for Appropriate Relief by the Honorable Donald L. Smith, Halifax County Superior Court.

12-16-83—Order setting new date for execution. Date of execution is March 9, 1984.

01-30-84—Order Staying Execution of Death Sentence by Honorable Joseph Branch, Chief Justice of the North Carolina Supreme Court.

08-14-84—Petition was filed by defendant to the North Carolina Supreme Court for certiorari to review the denial of his Motion for Appropriate Relief.

08-13-85—Order by the North Carolina Supreme Court denying Petition for Writ of Certiorari to review the Superior Court of Halifax County. *State* v. *Smith*, N.C. 333 S.E.2d 495 (1985).

10-15-85—Petition for a Writ of Certiorari filed in the Supreme Court of the United States.

11-12-85—Brief in opposition to petition for writ of certiorari to the North Carolina Supreme Court.

12-09-85—Order by the Supreme Court of the United States denying certiorari. *Smith* v. *North Carolina*, 474 U.S. 1026, 106 S.Ct. 582, 88 L.Ed.2d 565 (1985).

01-30-86—Renewed Petition for Certiorari and Alternative Motion to Reconsider denial of certiorari filed by Smith to the North Carolina Supreme Court.

02-11-86—Order in response to Smith's renewed petition; dismissed without prejudice to allow Smith to file a motion for appropriate relief on the issue in the Superior Court of Halifax County.

04-04-86—Second Motion for Appropriate Relief by defendant to Halifax County Superior Court.

04-04-86—Brief in support of Motion for Appropriate Relief by defendant.

09-26-86—State's answer to Smith's Motion for Appropriate Relief filed April 4, 1986.

10-10-86—Smith's reply to the State's answer.

10-16-86—Brief in opposition to Kermit Smith's Motion for Appropriate Relief by the State.

03-02-87—Oral argument scheduled for hearing on defendant's Motion for Appropriate Relief.

03-06-87—Defendant's proposed Findings of Fact.

03-06-87—Motion for Appropriate Relief denied by Order of Superior Court Judge I. Beverly Lake, Jr.

06-01-87—Petition to the North Carolina Supreme Court for certiorari to review the order of Judge Lake.

02-05-88—Certiorari denied by the North Carolina Supreme Court by the Honorable J. Whichard. *State* v. *Smith*, N.C. , 364 S.E.2d 668 (1988).

02-25-88—Motion for Stay of Execution of Death Sentence, execution scheduled for April 26, 1988; Motion Denied.

03-01-88—Motion for Stay of Execution to the North Carolina Supreme Court.

03-09-88—Stay of Execution denied by Order of the Court in conference, Honorable J. Whichard, North Carolina Supreme Court.

04-15-88—Petition for Writ of Certiorari filed in United States Supreme Court seeking review of the Superior Court of Halifax County, North Carolina.

04-19-88—Motion for stay of execution pending disposition of Petition for Writ of Certiorari and filing of petitions for Writ of Habeas Corpus.

04-20-88—Response to Smith's motion for a Stay of Execution.

04-21-88—Order Staying execution of death sentence.

04-27-88—Order by United States Supreme Court denying certiorari. *Smith* v. *North Carolina*, 485 U.S. 1030, 108 S.Ct. 1589, 99 L.Ed.2d 903 (1988).

05-20-88—Petition for Writ of Habeas Corpus filed by Smith pursuant to 28 U.S.C. §2254.

06-30-88—Answer to Petition for Writ of Habeas Corpus—Habeas Corpus Rule 5, 28 U.S.C. 2243.

12-15-88—Motion for evidentiary hearing. (Rule 8, Rules Governing §2254 cases in the United States District Courts.

12-15-88—Request for Discovery. (Rule 6, Rules Governing §2254 cases in the United States District Courts.

12-15-88—Memorandum in support of Petitioner's Motion for Evidentiary Hearing.

12-15-88—Memorandum of Law in Support of Petitioner's request for discovery.

12-22-88—Memorandum in Opposition to request for discovery, Habeas Rule 6(a), Local Rules 4.05 and 5.01—Denied.

01-23-89—Memorandum in Support of Petition for Reconsideration/Request for Reconsideration.

01-31-89—Request for Reconsideration denied.

02-16-89—Request to expand the length of Petitioner's brief.

02-22-89—Request to expand both petitioner and respondent's brief is allowed.

02-28-89—Brief in Support of Petition for Writ of Habeas corpus by Petitioner.

03-28-89—Motion for Extension of Time to file respondent's brief.

03-30-89—Order granting extension of time to file brief in response to Petitioner's brief is allowed. Brief should be filed by May 1, 1989.

04-21-89—Brief in support of respondent's answer to petition for Writ of Habeas Corpus.

04-24-89—Motion for extension of time within which to file petitioner's reply brief and for permission to file a reply brief in excess of their pages.

05-30-89—Memorandum in support of renewed motion for evidentiary hearing, discovery, and expert assistance.

05-30-89—Renewed motion for evidentiary hearing, discovery and expert assistance.

10-11-89—Order from United States District Judge, W. Earl Britt, reference decision in *State* v. *McKoy*.

11-27-89—Reponse to Motion for Authorization to obtain services of Resource Counsel.

04-27-90—Order allowing extension of time by petitioner. Motion to defer further proceedings is denied by Judge Britt, United States District Judge.

05-04-90—Petitioner's brief on the applicability of the Supreme Court's decision in *McKoy* v. *North Carolina*, 494 U.S. 433 (1990).

07-06-90—Motion to remand to the Superior Court of Halifax County for the imposition of a life sentence, or, in the alternative, petition for writ of certiorari.

07-06-90—Memorandum in Support of Motion to Defer Further Proceedings pending Re-exhaustion in the Courts of North Carolina.

07-06-90—Motion to Defer further proceedings pending re-exhaustion in the Courts of North Carolina.

07-31-90—Memorandum in opposition to Petitioner's motion to defer further proceedings pending re-exhaustion in the Courts of North Carolina.

08-09-90—Order—Petitioner's motion is allowed and further consideration of petition by the Court is deferred pending ruling by the North Carolina Supreme Court of petitioner's "Motion to Remand to the Superior Court of Halifax County for the Imposition of a Life Sentence", or, in the alternative, Petition for Writ of Certiorari.

09-24-90—Reponse in Opposition to Petitioner's Motion to Remand to the Superior Court of Halifax County for the Imposition of a Life Sentence, or, in the Alternative, Petition for Writ of Certiorari.

11-01-90—Order—the motion by respondent for leave to amend his answer to the petition is allowed.

11-07-90—Reply (Traverse) to amended answer to petition for Writ of Habeas Corpus.

12-10-90—Brief in support of Respondent's Amended Answer to Petition for Writ of Habeas Corpus. Habeas Rule 5, 28 U.S.C. §2243.

12-11-90—Motion to suspend page limitation of local rule 5.05.

12-12-90—Motion to extend page limitation.

12-13-90—Motion to suspend page limitation of local rule 5.05 for supporting memorandum is granted.

12-13-90—Petitioner's supplemental brief on the issue of retroactively.

06-10-91—Memorandum Opinion: For reason stated in Section III.C. of this opinion Kermit Smith's petition for a Writ of Habeas Corpus is hereby granted, subject to further review by the North Carolina Supreme Court. Petitioner is not entitled to any relief on the remainder of his claim.

06-10-91—It is ordered that for reasons stated in Section III.C. of the Memorandum Opinion filed on June 10, 1991, the petition for a writ of habeas corpus is hereby granted subject to further review by the North Carolina Supreme Court and the petitioner is not entitled to any relief on the remainder of his claim. *Smith* v. *Dixon*, 766 F.Supp. 1370 (E.D.N.C. 1991).

06-20-91—Respondent's Motion for Amendment of Judgment, Fed.R.Civ.Proc. 59(e).

06-20-91—Memorandum in support of respondent's Motion for Amendment of Judgment, Local Rules 4.04 and 5.01.

06-24-91—Memorandum in support of Petitioner's Motion to alter or to amend the Judgment.

06-24-91—Petitioner's Motion to Alter or to Amend the Judgment.

07-15-91—Petitioner's response to respondent's Motion for Amendment of Judgment.

08-14-91—Order: It is ordered and adjudged that for the reasons stated in Section III.C. of the Memorandum Opinion filed on June 10, 1991, the petition for a writ of habeas corpus is hereby granted and defendant is ordered discharged from his sentence of death to be re-sentenced to life imprisonment unless the State of North Carolina shall conduct a resentencing hearing pursuant to N.C.Gen.Stat. §15A-2000 within 180 days of the entry of judgment. Entry of this judgment is stayed for 90 days to permit respondent to seek further review in the North Carolina Supreme Court in accordance with *Clemons* v. *Mississippi*, 494 U.S. 738 (1990). If such review is not obtained by November 15, 1991, this judgment will then become effective. If such review is obtained during this time period, entry of judgment will remain stayed until the stay is lifted by this court on motion by either party. Petitioner is not entitled to any relief on the remainder of his claims.

08-19-91—Corrected Amendment: that for reasons stated in Section III.C. of the Memorandum Opinion filed on June 10, 1991, the petition for writ of habeas corpus is hereby granted and defendant is ordered discharged from his sentence of death to be resentenced to life imprisonment unless the State of North Carolina shall conduct a resentencing hearing pursuant to N.C.Gen.Stat. §15A-2000 within 180 days of the entry of judgment.

10-01-91—Petition for Writ of Certiorari filed by State in North Carolina Supreme Court requesting clarification of basis for finding on direct appeal that "especially heinous, atrocious, or cruel" was supported by evidence, and whether instructional error was harmless.

11-14-91—Order: The stay in the entry of the Court's judgment is hereby extended from its current expiration date of November 15, 1991 until seven days followed the denial of the petition or seven days following a decision on the merits in the event that the State of North Carolina grants certiorari.

11-15-91—North Carolina Supreme Court denied State's petition, believing it did not have appellate jurisdiction. *State* v. *Smith*, 330 N.C. 617, 412 S.E.2d (1991).

12-02-91—Order: The Clerk is hereby directed to enter the corrected amended judgment which was filed on August 18, 1991.

12-13-91—Motion for stay of order granting writ of habeas corpus Fed. R. App. P. 8(a).

12-13-91—Notice of Appeal: State enters notice of appeal to the United States Court of Appeals for the Fourth Circuit from the final judgment entered June 10, 1991, modified August 19, 1991, and ordered into effect on November 30, 1991 issuing a writ of habeas corpus to Kermit Smith, Jr. requiring resentencing.

12-13-91—State's Memorandum in support of motion for stay of writ of Habeas Corpus.

12-24-91—State's Appeal docketed in the United States Court of Appeals for the Fourth Circuit.

12-27-91—Notice of Smith's Cross-Appeal to the United States Court of Appeals for the Fourth Circuit.

12-27-91—Response to respondent's motion for stay of order granting writ of habeas corpus.

12-27-91—Memorandum in support of Petitioner's request for issuance of a certificate of probable cause.

12-30-91—Smith's Cross-Appeal docketed in Fourth Circuit.

01-03-92—Order: August 19, 1991 judgment is hereby stayed until further order of this Court; respondent is not required to post a supersedeous bond. The court finds that petitioner does have probable cause for his cross appeal and therefore grants a certificate of probable cause.

01-11-92—Fourth Circuit appoints C. Frank Goldsmith, Jr., of Marion, N.C., and Martha Melinda Lawrence of Raleigh, N.C., as counsel, and the North Carolina Resource Center as "consultant."

01-11-92—Fourth Circuit's Briefing Order, directing State's opening Brief and Appendix to be filed by 2-20-92.

01-16-92—State's Letter to Smith's counsel designating Appendix.

01-31-92—Smith's designations for Appendix.

02-18-92—Order Appointing Counsel *Nunc Pro Tunc*.

02-20-92—The State timely filed its opening Brief of Appellant in Fourth Circuit.

03-02-92—District Court Order approving CJA Form 20 payment for counsel's requesting hours; and in addition, reimbursement for expenses incurred.

03-06-92—Smith's motion to exceed page limitation for his Brief.

03-10-92—Order by Fourth Circuit granting Smith leave to file Brief not to exceed 100 pages.

03-24-92—Smith first submitted to Fourth Circuit his 100-page Brief of Appellee/Cross-Appellant.

03-26-92—Brief returned to Smith because of improper material in the addendum; Smith was directed to resubmit his Brief in proper form on or before April 6, 1992; State's time not to begin running until Smith's Brief resubmitted and filed.

04-05-92—Smith refiled Brief of Appellee/Cross-Appellee.

04-22-92—State filed motion to suspend page limitation, seeking leave to file a Brief not to exceed 100 pages.

04-27-92—Order by Fourth Circuit granting State leave to file Brief not to exceed 100 pages.

05-08-92—State filed its Brief of Appellant/Cross-Appellee.

05-12-92—Smith's motion to exceed page limitation for his Reply Brief.

05-18-92—Order by Fourth Circuit granting Smith leave to file Reply Brief not to exceed 50 pages.

05-26-92—Smith filed his Reply Brief.

05-27-92—State's Letter of Additional Authorities.

09-22-92—Smith's Letter of Additional Authorities.

09-23-92—Smith's Motion for Additional Time for Oral Argument.

09-28-92—State's Letter of Additional Authorities, citing *Nickerson* v. *Lee*, 971 F.2d 1125 (4th Cir. 1992), CERT. DENIED, U.S. , 113 S. Ct. 1289 (1983).

09-28-92—Smith's Letter of Additional Authorities.

09-29-92—Order by Fourth Circuit denying Smith's motion for additional oral argument time.

09-30-92—Argument heard in Fourth Circuit before Wilkins, Butzner, and Sprouse.

05-10-93—State's Letter of Additional Authorities.

06-11-93—Fourth Circuit 2-to-1 panel decision affirming District Court's grant of resentencing, but otherwise denying relief on remaining grounds. *Smith* v. *Dixon*, 996 F.2d 667 (4th Cir. 1993).

06-22-93—State filed Petition for Rehearing and Suggestion for Rehearing *In Banc*.

06-25-93—Letter from Fourth Circuit to Smith's counsel requesting answer to State's Petition for Rehearing and Suggestion for Rehearing *In Banc*, and that answer be filed by 7/6/93.

07-06-93—Smith's Response to Petition for Rehearing and Suggestion for Rehearing *In Banc*.

07-19-93—Order by Fourth Circuit making technical amendments to opinion filed 6/11/93.

07-23-93—Order by Fourth Circuit granting rehearing *In banc*, calendaring case for October session, and directing additional copies of briefs and appendix to be filed.

08-23-93—Smith's Motion for Leave to File Supplement Brief.

09-03-93—Order by Fourth Circuit granting "the parties leave to file supplemental briefs not in excess of 25 pages each"; required Smith's brief to be filed on or before 9-13-93, and that State's responsive brief, if any, be filed on or before 9-21-93.

09-08-93—Smith filed motion seeking to reorder the supplemental briefing schedule so that briefs to be filed simultaneously, or he be granted extension of time.

09-08-93—State's Response to Smith's motion to reorder briefing/for extension of time.

09-09-93—Order by Fourth Circuit extending time for Smith to file his supplemental brief until 9-17-93, and directing that any responsive brief by the State be filed on or before 9-24-93.

09-20-93—Smith's Supplemental Brief received by Fourth Circuit.

09-21-93—State was notified by Henderson Hill of North Carolina Resource Center that Kenneth J. Rose, counsel for David Huffstetler, would be submitting a motion for leave to file an *amicus curiae* brief in Smith's appeal.

09-22-93—State was served with copies of Huffstetler's motion, *amicus curiae* brief, and attachments, along with a motion for leave to file the attachments to the *amicus curiae* brief.

09-23-93—State's Supplemental Brief forwarded to Fourth Circuit by facsimile, with originals sent to Fourth Circuit by Federal Express.

09-23-93—State filed motion for leave to file attachments to its Supplemental Brief, and Attachments under separate cover.

09-24-93—State filed Response in Opposition to Huffstetler's motions for leave to file *amicus curiae* brief and for leave to file attachments.

09-24-93—Smith's Letter of Additional Authorities.

09-28-93—Argument on Rehearing *in Banc*.

01-21-94—Fourth Circuit decision reversing district court's grant of rescentencing, 9-to-5, *Smith* v. *Dixon*, F.2d. (4th Cir., Jan. 21, 1994) (*In Banc*).

02-04-94—Smith's Petition for Rehearing.

02-28-94—Fourth Circuit Order denying Smith's Petition for Rehearing.

03-93-94—Smith's Motion for Stay of Mandate.

03-14-94—Fourth Circuit Order granting Smith's Motion and staying issuance of mandate for 30 days.

05-27-94—Smith's Petition for Writ of Certiorari filed in United States Supreme Court seeking review of Fourth Circuit's *en banc* decision on appeal. No. 93-9353.

08-22-94—State's Brief in Opposition to Petition for Writ of Certiorari filed in United States Supreme Court.

10-03-94—Certiorari denied by the United States Supreme Court. *Smith* v. Dixon, U.S. , 115 S.Ct. 129, 130 L.Ed.2d 72 (1994).

10-27-94—Hearing held in Halifax County Superior Court, and Superior Court Judge James C. Spencer, Jr. Rescheduled Smith's execution for Tuesday, January 24, 1995.

12-09-94—Smith's filed Motion for Consideration of untimely Petition for Rehearing, along with Petition for Rehearing in United States Supreme Court.

12-19-94—Smith filed Third Motion for Appropriate Relief in Halifax County Superior Court.

12-29-94—State filed Answer to Smith's Third Motion for Appropriate Relief.

01-03-95—Hearing held before Superior Court Judge J.B. Allen, Jr. in Halifax County Superior Court on Smith's Third Motion for Appropriate Relief, and Memorandum Opinion and Order Denying Motion.

01-04-95—Clemency Hearing held before Honorable James B. Hunt, Jr., Governor of North Carolina.

Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding. He is my colleague from North Carolina. Both of us represent different parts of the State, and I have the utmost respect for him. He has been involved in law enforcement for a number of years.

I am not going to try to take issue with the fact that everybody could come to this floor and bring an example where the process has been abused.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. HEINEMAN] has expired.

(On request of Mr. WATT of North Carolina, and by unanimous consent, Mr. HEINEMAN was allowed to proceed for 1 additional minute.)

Mr. HEINEMAN. Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, there is one part of what the gentleman said that I just want to make sure that everybody understands. He talked about being a father and being a grandfather and doing what is necessary to protect his children and grandchildren.

I want to make sure that I am clear that the gentleman would not go out, a father and grandfather, and avenge a crime committed against his child or his grandchild by shooting somebody who is innocent. And that is what this amendment deals with.

I have no problem with the gentleman taking out whatever animosity or whatever frustration he has against victims, against a person who is guilty. But if a person is innocent, we do not sanction in this country going out and taking the life of somebody else just because the gentleman is frustrated.

Mr. WYNN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Watt amendment and perhaps unlike some other supporters, I am not, I repeat, not an opponent of the death penalty. But I felt I had to rise today to remind my colleagues, some of whom are on the other side, that the issue is not speed, the issue is justice. And the distinguished gentleman from Florida said that in looking at this amendment, we are creating another way to get to court. And the only way that the defendant ought to get to court is if he alleges under current law that there is some sort of constitutional infirmity with his conviction.

I understand that. I have practiced a little law in my time. But the point, Mr. Chairman, is this, that, yes, you ought to be able to get into the courthouse if you have a constitutional infirmity in your case. You ought to be able to make your case. But you also ought to be able to get into the courthouse if you are innocent.

If you have evidence of probable innocence, our American judicial system ought to say, the courthouse door swings open for you. You can come through the door and present that evidence.

Now, the gentleman may suggest, well, that is a radical change. I am not going to debate that point. I would suggest, maybe it is. In the State of Maryland we recently had a man who sat on death row for 8 years for a rape-murder, probably as tragic and horrific as any of my colleagues can imagine. After 8 years, through DNA evidence, it was determined he was in fact not the perpetrator. Thankfully, he had not been executed.

That evidence should be available to the court. That at least ought to get him in the courthouse door.

There have been other cases throughout the country in which recantations of testimony have resulted in the determination that the accused sitting on death row was in fact an innocent man.

As I said, Mr. Chairman, it is not a question of speed, it is a question of justice. And justice demands that if someone can prove or establish the probability of their innocence, they ought to at least be allowed to come through the courthouse door. There will be time to conduct the execution, if that is merited, if that is the case, but certainly, we ought to seek justice before we seek speed.

Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, just for the brief purpose of assuring the gentleman that this is not a radical change. January 1995, January 23, 1995, this year, the Supreme Court said that this is the law. And all I am trying to do is stop them from changing the law.

I want them to put the law in as the Supreme Court has said it is. This is not a change from existing law. I assure the gentleman.

Mr. WYNN. Reclaiming my time, Mr. Chairman, I want to thank the gentleman for pointing that out and also commend him for the thoroughness of his research. To the extent it is not a radical change, I do not even believe the opposition can rely on that argument.

We are simply attempting, according to the sponsor, to codify existing law which has been well reasoned by the higher courts in determining that once again justice takes precedence over expediency.

Mr. CHABOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from North Carolina is very articulate and obviously feels very strongly about this particular subject. Many of us on this side of the aisle, however, feel very strongly as well.

To address the issue of habeas corpus, the allegation is made that many on this side of the aisle want to attack the Constitution and that we are not really conservative because we are attacking the constitution. That is inaccurate. And there is a report that I would like to refer to at this time, the Supreme Court Justice Lewis Powell recently chaired an ad hoc committee of Federal habeas corpus in capital cases. I would like to read a couple of sentences from that, because I think it really clears up some of the things that have been said here today.

What it says is that, "contrary to what may be assumed, the Constitution does not provide for federal habeas corpus review of state court decisions."

The Constitution does not provide that.

"The writ of habeas corpus available to state prisoners is not that mentioned in the Constitution. It has evolved from a statute enacted by Congress, now codified in section 28 U.S.C. section 2254."

So it is not an attack on the Constitution. What we are talking about is a revision, a change in statute that was enacted by this body. So this body is now taking appropriate action to change a previous statute.

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Mr. Chairman, let us look at what is really happening here. The people of this country feel very much the way I do, that the death penalty in this country is not being used to the degree that most people want it to be used. We have a death penalty on the books. There are many people, particularly of a liberal persuasion, who will say that the death penalty is not a deterrent to murder, it is not a detterent to crime.

I would submit, Mr. Chairman, that if that is true, and I do not agree that that is true, but if it is true, it is because of the way the death penalty in this country has been carried out. That is, that people remain on death row for years and years and years.

Let us just look at the case of John Wayne Gacy in Chicago. John Wayne Gacy, the killer clown who killed dozens of people and was stuffing them underneath his porch, underneath his basement, this man was on death row for 16 years, so for 16 years the taxpayers are keeping this gentleman alive, providing him with television, providing him with food, providing him with an attorney. It took 16 years to execute this individual. That is not that unusual in this country. People are on death row for 10 years, 12 years.

The last execution we have had in my State, the State of Ohio, was in the early sixties. It has been over 30 years. I will sometimes have people in Ohio say, generally, again, of the liberal persuasion, they will tell me that the death penalty is not a deterrent. If it is not, it is because of the way that it has been carried out in this country.

Mr. Chairman, I would submit that what we need to do is to have a fair appeals process, but an appeals process that is much shorter than what we have right now. I would submit that sometime in the near future I would like to see the death penalty process dramatically reduced to a year, 2 years, something like that. Even whether with what we are proposing here today it is still going to be much longer than what I would like to see it, but it is an improvement over what we have now. That is why I strongly support this measure and believe that it is time that we made the death penalty work in this country. If it does not work right now, it is because of the length of time that people remain on death row at taxpayer expense. The people in this country are sick and tired of paying for cable TV and paying for the food and lawyers for those that have killed innocent people.

One final point I would like to make. The people it is really not fair to are the victims, those families of the people that were murdered, those innocent victims that have the appeals process come up, they have to go in and testify. It is like ripping open that wound, until the person is finally executed. It is time we had a fair and fast appeals process so that the death penalty really will be a deterrent. Then we are really protecting life in this country.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. CHABOT. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I appreciate the gentleman yielding.

Mr. Chairman, I want to make sure the gentleman is clear. This is not about whether we support the death penalty or not. There is nothing in this that deals with the death penalty. It is not about the length of appeals. It is about how you get your foot in the door to raise an issue, whether if you have credible evidence that you did not commit the crime, credible evidence of innocence, that you can go through the same process that you go through that you set up in the bill.

Mr. CHABOT. Reclaiming my time, let us also be clear as to what has happened. A jury of one's peers has already convicted this person beyond reasonable doubt.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. CHABOT] has expired.

(By unanimous consent, Mr. CHABOT was allowed to proceed for 1 additional minute.)

Mr. CHABOT. Mr. Chairman, let us also be clear that the person who is on death row, if we are talking the death penalty, and I am in this particular instance, that person was already convicted by his or her peers at a fair trial beyond a reasonable doubt. It has already gone through a fairly extensive appeals process.

We are talking about another layer after they have gone through the State appeals, they are at the Federal appeals. I think the gentleman from North Carolina [Mr. WATT] would probably agree that it does not make any sense for people to remain on death row for 10, 12, 16 years.

Mr. WATT of North Carolina. If the gentleman will continue to yield, Mr. Chairman, I just want to make sure that the process that the gentleman has set up for raising constitutional issues is the same process within which this language would fit.

It does not change that process. It does not prolong it any longer than raising a constitutional claim prolongs it.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. CHABOT] has expired.

(At the request of Mr. MCCOLLUM and by unanimous consent, Mr. CHABOT was allowed to proceed for 2 additional minutes.)

Mr. WATT of North Carolina. If the gentleman will continue to yield, Mr. Chairman, it is not about the death penalty procedure, it is about somebody coming in with credible evidence of innocence. I just wanted to make sure the gentleman understands.

Mr. CHABOT. Reclaiming my time, Mr. Chairman, I yield to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the point of this is that by doing this new procedure that the gentleman wants us to put into this law today, the gentleman would extend the opportunity for delay, because he would extend the opportunity for another bite at the apple.

Granted, it is not a constitutional right. The gentleman is creating a new one here, to come in under a probably innocent standard of some sort to get into the door for another appeal.

As the gentleman from Ohio [Mr. CHABOT] has stated, somebody might have had 10 or 15 appeals already on a constitutional basis and then they come up with new affidavit, some missing aunt or uncle comes in and says "At 10 o'clock that night, by golly, I saw him down on Park Avenue, instead of where the crime was committed."

Here is new evidence. If it had been admitted, maybe a Federal judge will say it is probably something the court would have considered and found the guy innocent for. By golly, they have a new appeal, and it does delay the carrying out.

That is why the District Attorney's Association nationally has said that the Watt amendment would dramatically expand death row inmates' opportunities to relitigate their convictions, and opposes this. That is why they say that the amendment of the gentleman from North Carolina [Mr. WATT] would make it easier for death row inmates to reopen their cases and delay the caseload of death row inmates, delaying their sentences.

Mr. Chairman, I think the gentleman has made a point, the gentleman from Ohio [Mr. CHABOT]. I understand the point of the gentleman from North Carolina [Mr. WATT], but I think the gentleman's point is equally and I believe preferentially made, and I believe this amendment should be defeated, because it would delay further the carrying out of sentences on death row inmates, and not do anything more than add a new door, a new avenue to that appellate process.

Mr. FATTAH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not going to participate in this discussion, but I think it is important that voices be raised on this subject. Seemingly, to me, since I have come to Washington, people have spent a lot of time trying to make simple things complex.

The gentleman from North Carolina [Mr. WATT] has offered a very simple amendment that says that if there is evidence of innocence that an objective court would consider as a circumstance in which the person would probably be found innocent, then that should allow them an opportunity to bring that matter before the court.

We are off talking about how quickly people should be put to death and all these other matters. Now we have the gentleman who just previously spoke talking about aunts and uncles.

We should not trivialize the matter of innocence in terms of people who should not be victimized in terms of imprisoned in our land, or suffer the ultimate penalty, the death penalty, if in fact they are innocent.

Mr. Chairman, just as the case has been made that there are people who have strung these things out who were obviously guilty, I think that in almost every state of the union we could find examples of people who have been found innocent who have been in prison for long periods of time, and who have been put under the death penalty.

Whether we come to the floor and parade horrendous crimes that have been committed on one hand, and people seemingly have not suffered the appropriate punishment, or rather, whether we would take the time and look at the cases of people who have been jailed year in and year out, some for decades, almost lifetimes, who were absolutely innocent, that the same D.A. associations and others would be just as concerned for innocent Americans being wrongfully convicted and being locked out of an opportunity to present their cases to the court.

Mr. Chairman, the preamble to our Constitution requires us to, in part, participate in the process of creating a justice system in our land. That is our responsibility. It is not our responsibility to join the mob out in front of the jailhouse asking that someone be hung, or killed that night, before a trial and a jury have found them to be absolutely guilty beyond a reasonable doubt.

Mr. Chairman, I would say, finally, being not a lawyer, I am constantly interested in these matters, nonetheless. Reading the trade journal of the American Bar Association in January 1994, January a year ago, there were two interesting articles.

One was about a young man in one of our 50 States who was on death row, and because of some procedural circumstances, could not get his case back before the court, who appeared to be innocent based on all of the evidence now available.

□ 1720

There was another case this same magazine had in it in the same month of a young man who admitted, confessed that he had killed two people in the process of a drug transaction who had now served some 10 years and had been let go and was then a student at that time in law school in another one of our 50 States.

This is an interesting circumstance that now the Congress tonight, after disposing, after voting against the notion of competent counsel for people would now suggest that even if there is probable cause of innocence that that is not in and of itself enough to give them an opportunity to present their case.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from North Carolina [Mr. WATT] and in opposition to H.R. 729, the Effective Death Penalty Act. I do not believe that this debate is whether we should have a death penalty under circumstances under which it should be imposed. Rather it is about whether a person who is innocent can be spared from having a capital punishment exacted upon them.

The amendment of the gentleman from North Carolina [Mr. WATT] is more necessary now than before, because this crime bill, the series of bills being put together now continues what I consider to be the unfortunate trend of last year's crime bill which made more crimes punishable by the death penalty.

One would think that if one were a strong advocate for capital punishment that one would also be a strong advocate for competent counsel, as the amendment offered by the gentleman from New York [Mr. SCHUMER] proposed, or the amendment offered by the gentleman from North Carolina [Mr. WATT] to make sure that an innocent person did not receive the death penalty.

A majority of the people in this House clearly believe that procedures governing habeas corpus may need reform, Mr. Chairman, but this bill goes too far in limiting the fundamental right of appeal which is to protect innocent people from being executed and that is why it is so very important that the Watt amendment be given every consideration by this body, hopefully favorable.

What it says, and I think it is very important for our colleagues to understand, as the gentleman from North Carolina [Mr. WATT] has explained what it says, and that it is very important for all of the people of our country to understand what it says, because it affects each and every one of them, every person sitting at home watching this debate has to know that if he or she or any member of their families is ever convicted unjustly and incorrectly of a crime, especially a crime that calls for capital punishment, that he or she would not be able to have recourse should a witness come forward, or DNA evidence prove, or a confession come forward to prove that person's innocence.

The Watt amendment says, and it relates to credible, newly discovered evidence, which had it been presented to the trier of fact or sentencing authority at trial would probably have resulted in the acquittal of the offense for which the death sentence was imposed.

So, my friends, if you are sitting at home on your sofa and one of your children is accused and convicted of a crime and sentenced to the death penalty and has exhausted his habeas corpus procedures, and someone confesses to that crime, tough luck. That is not the American way.

Mr. Chairman, I would like to engage the gentleman from North Carolina [Mr. WATT] in a colloquy to ask him precisely these questions. if someone is convicted of a capital offense and sentenced to death, and a witness comes forward who can prove, who can give credible evidence that the person is probably innocent, would that person not have that opportunity for that witness to come forward?

Mr. WATT of North Carolina. Will the gentlewoman yield?

Ms. PELOSI. I am happy to yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. If this bill passes they would not have that opportunity.

Ms. PELOSI. And if someone made a confession to the crime?

Mr. WATT of North Carolina. Let me go back because the gentleman from New York [Mr. SCHUMER] has reminded me that under present law they actually would have the right to raise it, but once this bill is passed, they will not have the right to raise it.

Ms. PELOSI. The same thing for any advances in technology; for example, what is happening with DNA, et cetera, that kind of evidence and that opportunity would not be available to the person convicted?

Mr. WATT of North Carolina. Under current law they would have the right to do it, but under this bill they would not have the right to raise it.

Ms. PELOSI. Mr. Chairman, I ask the gentleman from Florida [Mr. MCCOLLUM], would he answer those same questions? If this bill passes would a person not be able to use DNA evidence or new evidence, new technology?

Mr. McCOLLUM. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Florida.

Mr. McCOLLUM. Of course he could if it was clear and convincing evidence, he could. That is the standard in our bill, if he could present them with the situation where it would be unquestionable innocent status; if that were the case.

Mr. WATT of North Carolina. If the gentlewoman would yield, before he can ever get to the clear and convincing standard, he has to get into court by raising some constitutional claim, different from innocence. So the gentleman from Florida [Mr. MCCOLLUM] is right, that would be the ultimate standard, but it would not even be able to get into the court.

The CHAIRMAN. The time of the gentlewoman from California [Ms. PELOSI] has expired.

(At the request of Mr. MCCOLLUM, and by unanimous consent, Ms. PELOSI was allowed to proceed for 2 additional minutes.)

Mr. McCOLLUM. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I do have something else I want to say because I contend what the gentleman is putting forth here today in this rush for 100 days, in your 100-day agenda, is trampling on over 200 years of the rule of law in our country, protecting the rights of the innocent, and people can get up here all day and talk about anecdotes that are devastating and terrible and we all have those stories to tell about people who are guilty, and who abuse the process.

This is not what the Watt amendment is about. The Watt amendment is about protecting the innocent, and the overwhelming number of people in our country I believe want to protect the innocent.

Mr. McCOLLUM. Mr. Chairman, would the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I just want to make the point that the gentleman from North Carolina is incorrect that we have to have a constitutional infirmity. You have to have clear and convincing evidence and be able to show ultimately that you have an unquestionable innocence and you can get in. You do not have to have both. It is one or the other; it is not both.

It is basically current law that we have established in here with respect to what we have done in this bill, and the gentleman wants to retreat a little bit from it. We have changed one standard to clear and convincing. There is doubt whether it would be preponderance or clear and convincing. So, we have lowered the standard a little. The gentleman lowers the standard on present law considerably on how you get in on the innocent.

Mr. WATT of North Carolina. Mr. Chairman, would the gentlewoman yield?

Ms. PELOSI. I am pleased to yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I want to be clear on exactly what the gentleman from Florida [Mr. MCCOLLUM] said. The standard is convincing evidence, he says.

Mr. McCOLLUM. Clear and convincing.

Mr. WATT of North Carolina. That is the ultimate standard we are talking about; that is not the standard for review. The standard for review, based on the Supreme Court's recent ruling, is the standard that I have picked up in my amendment.

Ms. PELOSI. I thank the gentleman from North Carolina for his leadership on this issue.

I urge my colleagues to support the Watt amendment.

The CHAIRMAN. The Chair wishes to inform Members that all remarks are to be addressed to the Chair and not to anyone outside of the Chamber.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Watt amendment.

Mr. Chairman, the problem with the Watt amendment is it vitiates the very purpose of habeas corpus reform. It makes an already endless, interminable process increasingly subject to more and more delay.

The fair administration of justice means these matters have to finally come to closure.

John Wayne Gacy spent 14 years appealing, appealing, appealing from the time of his conviction of murdering 27 young men until the time he was executed. These matters have to be brought to closure, not as a matter of statistics, but as a matter of justice to the families of the victims and as a matter of justice to the law itself.

☐ 1730

One of the weaknesses of the Watt amendment is there is no requirement of showing due diligence in discovering this new evidence. If one sleeps on his or her rights and years go by and then something turns up that probably would result, probably, in an acquittal, it seems to me that does not rise to the level of the deprivation of the constitutional right such as would make the reopening of these trials appropriate. This goes on endlessly, endlessly, endlessly; and so without a showing of due diligence that you looked for all the evidence you could and there was a reason why you could not find this—which is not a requirement in this amendment—and probably would be acquitted by virtue of that evidence, rather than unquestionably just does not seem just.

We have Supreme Court cases, Herrera versus Collins, and Schlup versus Delo, both capital cases, that stand for the principle that if you do not show a constitutional error then you have to show that you would unquestionably be released. But, bring these habeas corpus matters to closure. Have the trial as good as you can and then exercise due diligence.

If there is evidence that was not presented at the trial but just 15 years later and say here is new evidence that probably would result, means there is never any finality to these matters and that in and of itself is unjust.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding. I understand his frustration with the law, and the Gacy case has been cited by both the gentleman from Ohio and the gentleman from Illinois, the chairman.

And I agree with them on the Gacy case, and I agree with them that there have been too many appeals. What I would simply say to the gentleman is the law that you are proposing, other parts of it that deal with the 1 year and the timeliness of appeal and all of these other things deal with cases like Gacy.

Whether the Watt amendment were accepted or not, the Gacy case could not exist if the bill, H.R. 729, were to pass, and, in fact, as I understand it, and the gentleman can correct me, Gacy was from his State and he probably has more familiarity with the specifics of the case than I do, new evidence showing innocence was never one of the reasons that Gacy was able to extend the appeal after appeal after appeal.

Mr. HYDE. My recollection is he had 52 separate appeals.

Mr. SCHUMER. None were on the issue of the Watt amendment. All were on other issues.

Mr. HYDE. Is my figure too high? A staff person of the gentleman from North Carolina [Mr. WATT] was shaking her head.

Mr. WATT of North Carolina. If the gentleman will yield, I was not responding to that. I do not know how many appeals he had. None of them were based on a claim of innocence. That is the point the gentleman from New York [Mr. SCHUMER] is making, and if a person is probably innocent, which is, I mean, that is what your words are, probably innocent, I submit to you he should be given a shot, and that is all this amendment says.

Mr. HYDE. I submit to you he should exercise diligence in finding this new evidence, and absent a showing of due diligence, it is an imposition on the whole judicial system and on justice itself because there is merit, real merit, in bringing these matters to finality and to closure. They would endlessly be open under the gentleman's amendment.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. SCHUMER. I agree with that. Maybe the gentleman from North Carolina [Mr. WATT] does not. I do. Many do, even on this side of the aisle.

But that is not the issue of the Watt amendment, and what I would say to the gentleman, in all due respect, is the Gacy case and the endless appeals are not what Watt is trying to do. If somebody knew that they had new evidence relating to innocence——

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

(At the request of Mr. SCHUMER and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. If the gentleman will continue to yield to me, I would say why, in God's name, would someone who had been convicted and was waiting on death row delay bringing up the fact that there was new evidence that they were innocent. There have been too many appeals. I do not dispute that. But I would say that there are certain exceptions.

I make one other point to the gentleman, the Schlup case was decided January 23, 1995, after the contract was issued, and the election, and I do not mean this as political, but I mean, after all of this happened.

The case, in my judgment, reading the case, requires a standard of probable, probably resulting in conviction of one who is innocent.

To quote on page 28 of the case, "the Carrier Standard," which is what the court decided should be used not the more stringent Sawyer standard, "Requires the habeas petitioner to show that 'a constitutional violation has probably resulted in the conviction of one who is actually innocent.'"

On page 24, the court states that, "This is, indeed, a constitutional standard."

So in addition to the practical arguments I would make to the gentleman, who is a fine constitutional lawyer, that the Schlup case, in a sense our new evidence, would render this part of H.R. 729 unconstitutional, and the Watt standard, by simply just reechoing what is existing law as newly done by the Schlup case, does not do damage to the gentleman's general claim that, A, there have been too many appeals, and, B, that we ought to limit it.

Mr. HYDE. Let me just say this: I wish you would help us bring these cases to closure. When you have had a trial, a trial that is error free, when you have been convicted beyond all reasonable doubt, and then years later evidence turns up and you are not required to even show that you diligently did everything you could to get whatever evidence you could, it seems to me you are opening the door for never ending these appeals.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has again expired.

(At the request of Mr. ACKERMAN and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Pennsylvania.

Mr. FOGLIETTA. I think our objective here in passing this legislation is not to expeditiously execute people but to execute only those that we are sure are guilty of the capital crime.

Mr. HYDE. How many years does it take? How many years do we wait to find out?

Mr. FOGLIETTA. I do not care how long it takes. We should not be executing innocent people because we want to do it expeditiously.

Mr. HYDE. Do you support the death penalty?

Mr. FOGIETTA. Yes, I do, in certain cases.

Let me ask you, is it correct, I understand your position is that if a person is, or it is determined that a person who is facing execution has cause to believe that he or she is probably innocent that that person should not have an opportunity to present that evidence in court.

Mr. HYDE. I am saying the rule ought to require you to have exercised due diligence to get all of the evidence that leads to your innocence. That is my point.

Mr. FOGLIETTA. Suppose you have not exercised due diligence but you are probably; probably an innocent person should go to jail, should be executed because they did not execute due diligence?

Mr. HYDE. I do not want any innocent person to go to jail, but it seems to me——

Mr. FOGLIETTA. How about a probably innocent person?

Mr. HYDE. The rule of right reason would say at some point we have to have finality.

Mr. FOGLIETTA. Even if the person is probably innocent?

Mr. HYDE. I do not think it is fair to impose on the system and the families of the victims to have an open-ended appeals process, and that is what the Watt amendment does.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has again expired.

(At the request of Mr. ACKERMAN and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. ACKERMAN. The gentleman from Illinois is no doubt among the fairest Members that I have ever seen in this House, and certainly one of the most compassionate. It seems to me we are talking sort of at different levels over and each other on different issues here.

Whether one is for or against the death penalty, I think most people would agree that this is not a debate on whether or not there are endless appeals and there should be limits for the kinds of the appeals that are going on and things of that nature. I think you could find some general agreement on all sides here.

The question really is this: Supposing somebody has been found guilty and is on death row, who has been convicted and suddenly some evidence does appear that did not exist; there are all sorts of scientific things now, and suppose you and I and somebody with the wisdom of Solomon, maybe even JERRY SOLOMON——

Mr. HYDE. How many years would you permit to elapse between the trial and surfacing of this newly discovered evidence?

Mr. ACKERMAN. If the person is still alive, living, breathing, innocent human being and you would look at the evidence, and you and I and a thousand judges unanimously would say, "My God, look what happened here, this man is innocent," and he was condemned to death.

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And he was condemned to death. How would you propose that he get back before the court? That is really the question. The gentleman put closure to nothing but executing an innocent person.

Mr. HYDE. I yield to the gentleman from Florida.

Mr. McCOLLUM. I thank the gentleman from Illinois for yielding to me.

Mr. Chairman, I think we need to come up with some clear explanation; that is, here is this section. It says, first of all, that on the first appeal, that you take under habeas corpus, you do not have to have the probable cause certificate that the gentleman from North Carolina wants to amend. You do not have to have it at all the first time. So, if have a guilt or innocence question the first time you go to Federal court after you finish your State lines of appeal or other lines and you petition the first time, guilt or innocence, you do not have to have—guilt or innocence—you do not have to have prerequisites that are in the bill. In addition to that——

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

(On request of Mr. MCCOLLUM and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. HYDE. I yield further to the gentleman from Florida.

Mr. MCCOLLUM. I thank the gentleman for yielding further.

Mr. Chairman, it is only when you get into the successive petitions after you have already had regular appeals and you have already had your first-time shot at this on guilt or innocence or anything else that the issue arises that the gentleman is making all the noise about.

And in that situation, for the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth appeal, whatever it is, there are three things you have to show. You have to show the basis for the stay and request for relief is not a claim, not previously presented in State or Federal courts. That would certainly qualify if you have new evidence. Or you have to show the failure to raise the claim is, (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or, (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal prosecution review.

That is where that point comes in. Reasonable diligence on the second, third, fourth, fifth petitions. And there is a third condition, that facts underlying this claim of new facts, new evidence, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the petitioner guilty of the underlying offense.

The problem here is real clear. We want to stop these successive petitions. If you go through it on newly found evidence for second, third, fourth, or fifth, you have to go through what I just described. It seems eminently fair. It involves clear and convincing evidence, et cetera. The first time around, you do not have the same standard. And that is not what the gentleman is amending.

Mr. HYDE. Reclaiming my time, in the Herrera case, the accused's relative 6 years later came up with an affidavit that said, "He was with me that night." So that was supposed to reopen the case, and that would fit in with Mr. WATT'S amendment. The court said, "No, that is not enough."

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has again expired.

(On request of Mr. ACKERMAN and by unanimous consent, Mr. HYDE was permitted to proceed for 2 additional minutes.)

Mr. HYDE. I will yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, we are trying to work together to remedy some inequities in the system. I think that the frustration of the American people, as has been expressed here, goes to the point that so many technicalities are raised wherein guilty people are extended indefinitely on death row. And that has caused a major frustration, which many of us can understand; that is, guilty people who are finding technicalities.

What is happening here, in trying to remedy that, we have an amendment that goes to a court issue. What happens when it is an innocent person? What we are doing here is not addressing that problem.

Mr. HYDE. The gentleman from Ohio will address that problem.

Mr. ACKERMAN. The question, if I can phrase it, is: Why are we looking to put technicalities in the way of an innocent person coming before the court? That is just as wrong. That is even worse because you are taking away a life.

Mr. HYDE. You would think it is the exclusionary rule, with all these technicalities getting in the way.

Mr. Chairman, I yield to the gentleman from Ohio.

Mr. CHABOT. Mr. Chairman, one point—and many points have been made on both sides—one point that has not been made is that every State has a Governor and the Governors have the final ability to commute a sentence. So if, in fact, one is arguing that at some point there is clearly an innocent person, the Governor can always commute the sentence.

I would also submit that in many instances these folks that are dragging out this death penalty process kill other inmates, kill guards, and ultimately end up on the streets, sometimes, and kill innocent people.

Mr. ACKERMAN. If the gentleman would make a leap of faith and say that we have one innocent person, how does that one innocent person present his case that you and I might agree and everybody might agree is innocent? You are going to kill somebody because we are dealing with other cases that say this is not expedient now——

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has again expired.

Mrs. MINK of Hawaii. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment which has been offered expresses the fundamental belief that people in this country have about our courts and the judicial system. And that goes to the belief that somehow the system of justice will protect those who are innocent. And what we are doing here today is trying to insert into legislation which has been proposed that fundamental principle of making sure that no matter how we tamper with the law, no matter what restrictions we put on the right of habeas corpus, no matter what limits we put to it, that if the defendant has newly found evidence that goes to prove his innocence, he ought to have an opportunity to raise that issue before the court and to take it back for a trial. That is all we are saying.

This is not a debate about the death penalty. This is not a debate about whether or not we ought to have greater restrictions on the use of the writ of habeas corpus. This is not even about a question of abuse.

This admits all of the necessities that have been found in the majority's legislation and says, "Yes, but wait a minute, if we put all of these new restrictions into the law, what is going to happen to an individual who might be found innocent because of newly found evidence?"

We are not saying that these defendants have a right to try the case all over again de novo. We are just saying that if there is newly found credible evidence, it gives the courts a point to decide whether this issue is genuine or not genuine, is a technicality or contrived. And that is why the importance of the word "credible" evidence, newly discovered.

Certainly, every one of us has a firm understanding of what the court system is, what the guarantees of due process are in this country and what the symbol of justice is for every American. And that is, if you are innocent, no law, no contrived limitation, no restrictions put on by the Congress is going to take that life if there is credible evidence that that individual is innocent.

So I am saying to the majority that has put forth this bill, accept this amendment. It does no harm to the basic tenets that you are trying to impose for all of these other criminals that you do not want to have these endless appeals on technicality.

Innocence is not a technicality. It is basic to our understanding of what the courts are supposed to protect.

Individuals, perhaps, could not come before the courts of law in a timely way. Due diligence for a defendant is not the same as due diligence for the prosecutor or for the State. It is extremely difficult to come up with evidence to prove your innocence. But when they do, they ought to have their day in court.

So I urge this House to accept the Watt amendment and perfect it so that we do not have to go back and say we passed a law today in the Congress that does not protect the rights of the innocent in this country.

Mr. Chairman, I rise in opposition to habeas corpus reform in the Effective Death Penalty

Act, H.R. 729, which would severely diminish the constitutional rights of State prisoners. Habeas corpus is the only means by which State prisoners who believe they have been wrongly or unconstitutionally convicted may appeal to the Federal courts to review their convictions. Particularly in cases where the death penalty is rendered, it is unquestionable that full opportunity for judicial review must be conferred upon the accused.

I am particularly concerned that H.R. 729 would strictly limit the time period during which habeas corpus petitions could be filed, and confines each individual to a single appeal. With the intricacies and numerous requirements in capital cases, 1 year is an inadequate period of time for recruitment of attorneys willing to handle Federal death penalty cases and subsequent preparation and filing of habeas petitions. To additionally limit those convicted to a single appeal unrightfully circumscribes the fairness of the judicial process in these cases. I agree that valuable time in the courts must not be occupied by unreasonably persistent cases, but discretion should remain with the courts with regard to availability of habeas corpus appeals.

The reasoning behind these unnecessary provisions is that prisoners on death row allegedly delay the filing of habeas petitions and file petitions that are frivolous. However, facts from the Judiciary Committee show that from 1976 to 1991, Federal habeas courts granted relief in more than 40 percent of death penalty cases on the basis of serious constitutional error. These decisions reconfirm our essential constitutional rights.

If the problem is that habeas appeals hamper the business of Federal courts, why does H.R. 729 fund the use of competent counsel in postconviction proceedings and not actual death penalty trials? Federal funding to States for counsel in death penalty cases should compel States to appoint attorneys proficient and experienced in death penalty cases. To require quality representation only after the death penalty has been rendered presents a grave inequity that harms the judicial process.

I am also concerned that H.R. 729 narrows the claims that a Federal court can consider in death penalty cases to claims previously raised and rejected in State courts, even if State decisions were incorrect. Eliminating Federal review of such claims would result in differential enforcement of constitutional rights from State to State, potentially producing 50 different explanations of Federal constitutional provisions. The American Bar Association has lodged its "vigorous opposition" to this provision which it predicts will "insulate virtually all State criminal proceedings from Federal review." It is paramount that Federal court access to meaningful review in death penalty cases be preserved.

H.R. 729 will greatly compromise constitutional rights of prisoners, judicial fairness, and jurisdiction of Federal courts in serious death penalty cases. This bill would irresponsibly speed up habeas corpus appeals without ensuring that those on death row have full access to judicial review, safeguards against wrongful executions, and access to qualified counsel. I strongly urge my colleagues to cast a vote in opposition to H.R. 729.

Mr. SCHUMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just would like to make a couple of points on this debate, just to take up where we left off before.

I think, again, just to reiterate: The issue in the Watt amendment is not endless appeals. There are other parts of H.R. 729, a bill I supported when we voted it out of subcommittee, that deal with the endless appeals.

□ 1750

In my judgment I would concede the point. I think it is right that defense lawyers have used appeal, after appeal, after appeal. They are morally opposed to capital punishment, and so they feel they should use every means to prevent it from happening, something I disagree with, and that is why I support 729.

But the issue the gentleman from North Carolina brings up is not related to that. It is not related to endless appeals. It deals with the rare instance where there is new evidence, and not just any new evidence, not just something out of a lawyer's head, but something that on initial review by a judge would probably change the result of the trial. Therefore, the new evidence cannot be relatively immaterial, nor can it be not credible. It has to be credible evidence that is material so that the jurors would have said, "When the judge looks at the new evidence, there would be a reversal." That is a pretty high standard.

In fact, and this is the point I would like to make to the gentleman from Florida, the gentleman from Ohio, and the others, it is such a relatively tough standard that a recent case, the Schlup case, said that that was the standard based on not any statute, but based on the Constitution. The standard that the gentleman from North Carolina has wisely incorporated in his amendment is the exact standard found in the Carrier case as cited in Schlup. I ask, "Do you know what that means, ladies and gentlemen? It means we could reject the Watt amendment, and it would still be required constitutionally."

This is not an issue up for legislative discretion. This is an issue in the Constitution.

I say to my colleagues, "I don't blame the other side for not putting the Watt amendment in their bill. Their bill was first drafted before this case, but, fellows and ladies, show a little flexibility. The Supreme Court has made a ruling. You shouldn't be fighting a ruling that is going to exist whether you like it or not, and I don't think, as somebody who believes that there have been too many appeals, I don't think it's going to do damage to that. But don't fight it for the sake of fighting it."

There is a case. There is something that was issued only—today is February 8? It was 3 weeks ago, on January 23, 1995, an opinion by Judge Stevens joined in by the majority of the court that says, quote, the Carrier standard requires the habeas petition to show that, quote, a constitutional violation has probably resulted in the conviction of one who is actually innocent.

The point made by the gentlewoman from Hawaii [Mrs. MINK] and my colleague, the gentleman from New York [Mr. ACKERMAN], and others is this: If the new evidence is significant enough that it would probably change the jury.

I say to my colleagues, "You can't make this stuff up. It's got to be real. Then why not?"

Those of us who believe in capital punishment; I am among them; were criticized last year for putting in a bill that had 60 new capital punishments. Those who believe in capital punishment want to make sure that it is done fairly and equitably, want to make sure that, if there is overwhelming new evidence, say the DNA evidence that the gentleman talks about, so it is almost crystal clear that the wrong person is on death row; it does not happen that often, but it does happen; is not executed. Those of us who believe that the ultimate sanction is sometimes called for should want to make sure that, when there is credible new evidence that would in a judge's mind, and most of the judges are appointees of Ronald Reagan and George Bush, in that judge's mind mean that the jury would probably, not possibly, but probably, overturn the case, would support this simple amendment. It would eliminate most of the endless appeals. The amendment would not eliminate most of the endless appeals; you know that, and I know that; it would simply provide a small, tightly constructed and constitutionally required window when there is new evidence.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just heard my good friend, the gentleman from New York [Mr. SCHUMER] talk about that they do not make it up. In California, we had a judge named Rose Bird who was opposed to the death penalty and found every single thing that she could to stop the death penalty, even of those that were guilty.

I have also heard the gentleman from Florida [Mr. MCCOLLUM] state that there are processes which, if they find new evidence, that they can bring this forward. I have heard him state it on the floor, and I also heard that they have a Governor that can take a look at the case, and so there are several mechanisms that enable, if someone is innocent, either new evidence, or the Governor, or due process, that that can be brought forward.

And I agree. We did have the Alton Harris case of a person who was guilty, and I appreciate it because of the sympathy, because it does drag out a process where the guy admitted, yet we kept on going, and I understand that is not what we are talking about.

But this gentleman feels that we do have a process in which someone that is innocent could bring that new evidence forward and that, if we allow the gentleman's amendment, we have got a hundred Rose Birds out there that will oppose any death penalty.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I just make two quick points.

First, if there is a judge who is opposed to the death penalty and refuses to implement the law of the land, we should not eliminate any change that an innocent person has a right to some appeal. We should get rid of the judge, and, as I understand it, that is just what the people in California did in the case of the judge the gentleman is talking about. That was the appropriate remedy. Because there are some judges who either go too far one way or the other, Mr. Chairman, we should not change the law for them. We should change them.

The second point I will make to the gentleman is this one:

If there is no Watt amendment, and if 729 passes, there will be no route after the first appeal for evidence of innocence to enter into the case.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, I would like to have the gentleman from Florida [Mr. McCOLLUM] explain again. As I understand it, there is that route.

Mr. SCHUMER. Not after the first appeal.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, there is a way after the first appeal and successive petition. I read it earlier in the RECORD. I am not going to reread the whole thing again, but:

> If you can demonstrate there is newly discovered evidence which you couldn't have easily and reasonably discovered the first time around, and if it's clear and convincing evidence that if it goes before a court would result in innocence, then you can go produce that.

Mr. Chairman, it is clearly written into our bill.

What we say here is based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review the first time around, and the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error no reasonable factfinder would have found the petitioner guilty of the underlying offense.

Mr. CUNNINGHAM. I have a question for the gentleman from Florida, and let me ask a question.

If, say, for example, DNA results came up of just recent technology that proved that the individual was innocent? Would they have a right to retrial or to be——

Mr. McCOLLUM. Mr. Chairman, would the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Florida.

Mr. McCOLLUM. Certainly they would, if it is clear and convincing evidence.

Mr. CUNNINGHAM. What happens if someone comes up and admits to the crime? Would that person also have the same rights?

Mr. McCOLLUM. If that was clear and convincing evidence, it was very clear that would have found the petitioner, would not have found the petitioner, guilty the first time around.

Mr. CUNNINGHAM. So there is surely a way in which, if a person is innocent and evidence appears, that person has many motives to——

Mr. McCOLLUM. Absolutely and unquestionably so, and in addition to that I might add to the gentleman that a Governor of a State could always commute. That power exists.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

Mr. SCHUMER. We are back where we were in the discussion previously, I believe, between the gentleman from North Carolina and the gentleman from Florida.

I say to my colleagues, It is true, as the gentleman from Florida states, that if you were already in the door, he had appealed for some other reason that was recognized, the clear and convincing standard would be allowed.

But I would ask the gentleman to pose the question this way:

If we found the petitioner had undergone the first appeal, had been found guilty, and let us say a year later, because under the new law it would not be 10 years or 8 years; a year later they found the DNA evidence, but there is no route——

The CHAIRMAN. The time of the gentleman from California [Mr. CUNNINGHAM] has expired.

(On request of Mr. SCHUMER and by unanimous consent, Mr. CUNNINGHAM was allowed to proceed for 1 additional minute.)

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

□ 1800

Mr. CUNNINGHAM. Mr. Chairman, I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, if there was no other way for this person to get back into that court, then it is my understanding that the capital sentence would have to be taken, even with the DNA evidence, even with the clear and convincing evidence, for the very reason that the standard for review which the gentleman from North Carolina [Mr. WATT] puts in his amendment is not in H.R. 729 or existing law.

So there would be no way, I must sincerely disagree with my friend from Florida, there would be cases where this new evidence would occur.

Mr. CUNNINGHAM. Say Elton Harris, who admitted to his guilt after 14 years and said that he admitted he was guilty, and all of a sudden it proved that he was not guilty. You are telling me there is no way that if we had DNA evidence or if someone admitted to the guilt, that he would not be protected?

Mr. SCHUMER. I am not familiar with the details of the Harris case. But, yes, I would say to the gentleman that if in that case Harris had no other way to beg back into court, then, yes.

Ms. NORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to respond to a number of issues that have been raised in this debate. First of all, the Watt amendment does not talk about innocence, but uses a word which is much stricter in the law, and that is that the matter would probably have resulted in an acquittal. That is a very high standard. We are not using the more amorphous word "innocent" here.

Moreover, you have just rejected the Schumer amendment. More than half of all attorneys handling capital trials have had no previous death penalty experience. So the probability of finding newly discovered evidence is great, and we are not even willing to say that a man or woman standing on trial for his or her life should have competent counsel.

At the very least then we ought to say if incompetent counsel has not found evidence, newly discovered evidence can be brought forward.

There was discussion of due diligence here. It may be in the bill, but the fact is it is a judge-made rule in any case, and probably the court would find, based on the way courts have looked at these matters in the past, that if due diligence had not been exercised, the court would be more likely to find this was not newly discovered evidence at all.

We are dealing with a situation where 40 percent of death penalty cases heard in the Federal courts have been granted relief because of significant constitutional error. I submit to you, Mr. Chairman, judges have been sitting all these years, where they detest these cases and would love not to find relief, and have been easily finding relief.

We have a problem here. The problem we have is that these cases have been tried, often by people who are not competent to try them. At the very least you would think if newly discovered evidence overlooked by such counsel could be found, that the person would get a second petition.

The 40 percent of the cases I speak of where significant constitutional error was found have been found in the last few years, since 1976. And we are talking about judges appointed by the two previous Presidents.

We are talking in the last 10 years about petitions representing only 4 percent of all civil filings. Whatever is the problem in the Federal courts, it is not presented by habeas corpus petitions. And while I can understand the need to reduce the number, surely given this new rule for truly exceptional cases, for cases that can find their way through this narrow hole where the person probably would have been acquitted—and we are not talking about innocence, we are talking about acquittal, and that has a fixed meaning in the law—surely, that person should be able to get into court.

This does not open a large hole. I am left to ask, what are the Federal courts for if not for looking at cases where newly discovered evidence means that the person would probably have been acquitted?

As to Governors, I say to you, this is not a country where Governors or Members of Congress ought to judge whether constitutional rights have been violated. So it is certainly not the appropriate remedy to move from the courts to the Governor, who will look to the polls and decide whether he ought to exercise a remedy that is almost never exercised. That is no remedy. That is not a remedy at law; that is a political remedy. There should not be a political remedy for a constitutional right.

This is the death penalty we are talking about. This is the great habeas corpus remedy we are talking about. The bill more than protects the rights of the victims and their families. We create here the kind of right that I believe the average American would want us to protect.

Mr. GUTIERREZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my colleague, the gentleman from North Carolina [Mr. WATT], has offered a reasonable and sensible amendment to this very unreasonable bill today, and I congratulate my friend and colleague for his spirited defense of the Constitution.

Standing up for the Constitution puts you in a minority in this body these days. Standing up for the ideas of our forefathers is considered a radical idea in this body these days.

Looking to the sacred document that has guided our ideas for what is right and wrong for more than 200 years is apparently no longer part of our contract with the people anymore.

So I thank the gentleman from North Carolina [Mr. WATT], for this important amendment, and for reminding us that the Constitution still matters.

This amendment simply states that prisoners sentenced to death will be able to file a second habeas petition if newly discovered evidence shows that the person is likely to be found innocent.

Let me repeat, because this should sound so logical to everyone that you might think that I have somehow misstated the Watt amendment: newly discovered evidence that shows that a person is likely to be innocent.

Now, I understand the desire to get tough on crime and criminals. I share the desire to crack down on crime. I believe we should get tough on criminals. I was proud to support a crime bill during the last session that moved our Nation toward that goal. It made it harder to get military-style weapons. It increased funding for prisons. It increased preventive measures. It was an important start, Mr. Chairman.

We should continue to build on that start. I think we should do more to make criminals pay for their crimes. I think we should do more to protect our families from criminals.

That is the real purpose, or should be, of anticrime legislation. Yet my colleagues have lost sight of the true goal of anticrime legislation. The goal is to protect our families, Mr. Chairman, to protect our homes, to protect our neighborhoods. I challenge any of my colleagues who support this measure to demonstrate to me how this bill helps us reach any of those goals I just stated.

How have we reached a point in our anticrime debate that we have lost interest in the Constitution? Have we reached a point in our anticrime debate that newly discovered, clear, credible evidence of innocence does not win you the opportunity in America, just the opportunity for a new trial, in this, the greatest country in the world?

□ 1810

How does denying the possibility, the mere possibility of a new trial for a person who may be innocent, Mr. Chairman, help us make our families and streets safer? How does it make our families feel safer in their homes? How does it make our kids feel safer on the way to school? We all know the answer. Denying habeas when new evidence suggests innocence does not protect our communities. We all know it. It merely gives us a sound bite for the news this evening. It gives us a headline to cheer about tomorrow morning. It merely allows us to pat ourselves on the back and convince ourselves that we are doing something to protect the neighborhoods that we are all so concerned about.

But we are not, Mr. Chairman. This is not, and I repeat, this is not about the right of criminals. This is about the right of all of us, including the Members in this body, all of us in this room, all of our families, all of the people that we represent, their right, their fundamental right, their constitutional right as Americans not to be punished for a crime that they did not commit. Their right, our right to have a chance, a fair chance to prove our innocence.

Justice and fairness can be frustrating at times. Sometimes justice and fairness takes a little more time than we want it to take. But what separates us from nations that value vengeance over justice, revenge over fairness? It is this, that we have a way of doing things differently in this country. That is what this amendment is all about.

Mr. FOX of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the call has come out as to how we make the streets safer in the United States. We make the streets safer by making sure we have swift justice with certainty when it comes to capital offenses. The U.S. citizens are asking who protects the victims from murder? The deceased victims cannot speak but their families can. And they have told us in great numbers that they want to make sure there is certainty that sentences, especially where dealing with a capital offense like murder.

As a former Montgomery County assistant district attorney in Pennsylvania, I can tell my colleagues when I worked on the crime victims bill of rights in Pennsylvania, the people of this country and of my commonwealth want to make sure there is certainty when it comes to the offense of murder.

Habeas corpus relief is a concept whose time has arrived. The endless appeals are inappropriate. The proposed amendment would drastically expand the possibilities for death row inmates to reopen cases where there was no trial that had any kind of constitutional error.

I urge my colleagues to adopt this habeas corpus reform. It is a step in the right direction to protect crime victims.

Mr. CONYERS. Mr. Chairman, there is a major omission in the bill that goes to the heart of due process and fundamental fairness: An innocent man should never be executed.

The McCollum bill gives a criminal defendant "one bite at the apple" but would not permit any appeals after the 6-month deadline has passed except in the difficult-to-imagine situation where there is clear and convincing evidence of innocence and no reasonable juror would find the petitioner guilty.

The amendment that we are considering will substitute preponderance of the evidence instead of the more restrictive standard in the McCollum bill.

This amendment simply states that the Federal courts should always be available to hear claims of innocence when based on newly discovered evidence. Representative MCCOLLUM's standard is far better suited to judge and dispose the claim rather than a standard of whether to really hear the claims in the first place.

If this is intentional, then it is a sly smokescreen to cut off all claims based on innocence. I would hope that is not the case and that the majority is willing to support this amendment.

Claims of innocence in habeas proceedings are not part of a far-fetched scenario that can never happen in this day and age. The truth is this is all too common. In fact, the Supreme Court decided a case just this January 23, 1995, that shows how easily this can occur.

The facts in Schlup versus Delo are that a prison inmate accused of murder argued that a videotape and interviews in the possession of prosecutors showed he could not have committed the murder but in the information was not revealed to him until 6 years after his conviction. The Court ruled that Mr. Schlup should be allowed to raise his claims of innocence.

There is case after shocking case of similar horror stories:

James Dean Walker had served 20 years in prison when one of his codefendants confessed that he had pulled the trigger that killed a Little Rock police officer. Walker's gun had not been fired but he had been convicted on the testimony of a witness who said she had seen him shoot the officer. The eighth circuit, which had denied his first habeas petition 16 years earlier, agreed in 1985 that he should be freed.

Rubin "Hurricane" Carter was convicted of murder in 1967 and served in prison for 18 years even though the witnesses whose identification led to their convictions later recanted their identifications. The conviction was reversed after a Federal judge ordered prosecutors to turn over evidence, including failed polygraph tests, which showed the witnesses were lying. Carter was set free.

Robert Henry McDowell was almost executed for a crime that the victim initially told police was committed by a white man. McDowell was black. The North Carolina supreme court reversed a trial court order granting him a new trial but the fourth circuit ordered him to be released after the police reports were made public.

False identifications, witnesses recanting, death-bed confessions, these are all too familiar to those who defend death row inmates. Access to Federal courts is vital.

This bill may achieve the goal of speedier executions but the cause of justice will not be served. It is an admission of failure to pursue one without the other. Support the amendment that prevents executing an innocent person.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. WATT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 280, not voting 3, as follows:

[Roll No. 105]

AYES—151

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—280

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—3

Andrews
Sisisky
Talent

☐ 1831

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. COX OF CALIFORNIA

Mr. COX of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cox of California: Strike section 104 and insert the following:

SEC. 104. EFFECT OF PRIOR STATE CONSIDERATION.

(a) EXHAUSTION OF REMEDIES.—Section 2254(b) of title 28, United States Code, is amended to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State. A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless through its counsel it waives the requirement expressly.".

(b) STANDARD OF DEFERENCE TO STATE JUDICIAL DECISIONS.—Section 2254 of title 28, United States Code, is amended by adding at the end the following:

"(g) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was decided on the merits in State proceedings unless the adjudication of the claim—

"(1) resulted in a decision that was based on an arbitrary or unreasonable interpretation of clearly established Federal law as articulated in the decisions of the Supreme Court of the United States;

"(2) resulted in a decision that was based on an arbitrary or unreasonable application to the facts of clearly established Federal law as articulated in the decisions of the Supreme Court of the United States; or

"(3) resulted in a decision that was based on an arbitrary or unreasonable determination of the facts in light of the evidence presented in the State proceeding.".

In the proposed new section 2259(b) of title 28, United States Code, added by section 111, strike "section 2254(d)" and insert "subsections (d) and (g) of section 2254".

Mr. COX of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. COX of California. Mr. Chairman, I also ask unanimous consent that debate be limited on both sides, for purposes of this amendment and any amendment thereto, to 10 minutes on each side.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. WATT of North Carolina. Mr. Chairman, reserving the right to object, I am trying to figure out why we want to limit debate. Could the gentleman enlighten us? I just want to find out what the amendment does and what is the justification for limiting debate on it.

Mr. COX of California. Mr. Chairman, if the gentleman will yield, in informal discussions on the floor prior to offering the amendment, our side was asked whether we would be agreeable to a limitation on debate. It is not my personal intention in any way to limit debate, but there were Members on the Democratic side who were interested in proceeding in a timely fashion. That is the only purpose for the unanimous consent request that is now on the floor.

Mr. WATT of North Carolina. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. CONYERS. Mr. Chairman, reserving the right to object, could I ask, are there more than two amendments on the gentleman's side? It seems to me that there is only one amendment on our side. Can the gentleman give us an idea on that?

Mr. COX of California. Mr. Chairman, if the gentleman will yield, for that purpose I would defer to the gentleman from Florida [Mr. MCCOLLUM].

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman will yield, I believe there are two amendments altogether. There may be three. It seems to me the gentleman from Texas, Mr. FIELDS on our side, and also the gentleman from Texas, Mr. LAMAR SMITH, each had amendments. I do not know of any others, and I do not know their intent about offering those amendments.

Mr. CONYERS. If they are going to offer them, would the gentleman just ask them to provide copies to this side, please?

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California [Mr. COX] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. COX].

Mr. COX of California. Mr. chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer a simple common sense amendment to H.R. 729. My amendment, which I am calling the Harris amendment, provides that a habeas writ will not be granted when State court decision reasonably interprets and Federal law reasonably interprets the facts of the case and reasonably applies the law to the facts, or to put it simply, State decisions that are reasonable on the law and the facts will be upheld by a habeas review.

The purpose of my amendment is to prevent the use of endless appeals to frustrate the punishment of already convicted criminals, including first degree murders. We do not have a Federal Criminal Code. We have a State criminal justice system. When one commits murder, rape, robbery, and so on, all of these are offenses against State law.

Our Federal criminal jurisprudence is a gloss on that State criminal justice system. The Federal procedural rules, in fact, operate in many cases as a frustration to the State system. So we find that there are egregious cases, and all too many of them, of convicted first degree murderers who have run all of their appeals in the State criminal justice system, who then get another bite, and another bite at the apple, seemingly endlessly in the Federal system, and who have been able, through the abuse of the habeas device, to postpone their executions, seemingly indefinitely.

I said I am calling this the Harris amendment. It is so named after Robert Alton Harris, the notorious first degree murderer who postponed for well over a decade his own execution through the abuse of the device of Federal habeas corpus, statutory habeas corpus.

Harris, even before the murder conviction that was the subject of that long legal odyssey, was already a murderer. He had been convicted of murdering a 19-year-old boy in California. For this he served 2 years and 5 months, and he was out on parole, went out on parole, and he and his brother decided that they ought to rob a bank.

They went after the San Diego Trust and Savings Bank. They decided they needed to steal a getaway car. So they headed out for the Jack-in-the-Box, in San Diego, and they spotted two high school sophomores, John Mayeski who was 15, and Michael Baker was 16, sitting in their Ford LTD eating Jack-in-the-Box hamburgers.

Let me quote from the January 17, 1990, San Francisco Chronicle article about this terrible crime.

> Armed with a 9mm Luger automatic pistol, Robert Harris commandeered Mayeski's car and ordered the two boys to drive him to a wooded area near Miramar Lake. He promised them no one would be hurt.
>
> Daniel Harris, who later became the chief prosecution witness against his brother, followed in another car. He testified that they drove to the lake, where Robert Harris fired two rounds into Mayeski, then went after Baker, who was running for his life.
>
> "I went over to John after he was shot. I looked at him for three or four seconds, I guess. I heard some screaming from the bushes, then three or four shots," said Daniel, who served three years in Federal prison for his role. Later after he was arrested, Robert Harris boasted to his cellmate that he told the terrified Baker boy to quit crying and die like a man. When the boy started to pray, Harris said, "God can't help you now, boy. You're going to die." After the murders, Robert Alton Harris and his brother finished the boys' half-eaten hamburgers. They then went on to rob the bank. In one of the great ironies of this case, one of the police officers who ended up apprehending Robert Alton Harris was the father of one of the murdered boys.

□ 1840

Unfortunately, this case is not unique. There are many, many cases like this. But Robert Alton Harris' case took a long time to lead to his conviction.

It was 1979, a year later, when the Superior Court pronounced judgment on him. It was years later when finally the Governor denied his application for clemency. It was years later when he filed his ninth State habeas corpus petition, and he was already then on his fourth Federal habeas corpus petition. In 4 days, Harris filed a fifth and sixth Federal habeas corpus petition. He was not executed, even though this crime occurred in 1978, until 1992.

To repeat, this crime that I have described in some detail occurred in 1978. The judgment was pronounced in 1979, but it was not until 1992, a total delay of 13 years from judgment, that Robert Alton Harris finally finished abusing Federal habeas corpus and was executed. That made him only the second person executed in California under our death penalty since 1978.

We have 400 prisoners sentenced to death in California since the State reinstated the death penalty in 1978. Only two, Robert Alton Harris and David Mason, have been executed.

Today there are 125 California death penalty cases before the Federal courts, and because of the abuse of Federal statutory habeas corpus and this device of endless appeals, we will never perhaps be able to execute these convicted first-degree murderers.

As the Powell Commission wrote, "The relatively small number of executions as well as the delay in cases where an execution has occurred makes clear that the present system of collateral review," referring to statutory habeas corpus, "operates to frustrate the law."

Opponents of reform correctly state that our whole system of criminal justice rests on the premise that it is better for 10 guilty men to go free than for one innocent man to suffer, and for that reason, the Constitution requires the States and the Federal Government to provide every criminal defendant the full panoply of protections assured by the Bill of Rights, an unrivaled arsenal of procedural and substantive rights. And that is why, after cases have been fully litigated through the State judicial system, habeas corpus review is available in Federal court, a duplicative system of review that, as Justice Lewis Powell has written, "is without parallel from any other system of justice in the world."

The question before us today is not the availability of that habeas review, but, rather, the standard that the Federal courts will use so that we can avoid the kind of repetition and abuse that we saw in the Robert Alton Harris case and that we see in so many cases throughout the country.

The reasonableness standard that I am proposing is already used for factual determinations in habeas cases pursuant to statute and for legal determinations in many cases. This reasonableness standard respects the coordinate role of the States in our constitutional structure, while assuring ample Federal review of State determinations of law and fact.

It strikes a sensible balance that is consistent with the interests of defendants, victims, and States. It is supported by crime victims and law enforcement professionals around the country, including the National District Attorney's Association, which has written to all of us in this Chamber about urging our support for what they call the Cox amendment, what I am calling the Harris amendment, the California District Attorneys' Association, my home State, DA's around the country through the National DA's Association, and as I mentioned, Citizens for Law and Order, and victims' rights groups from across the country and coast to coast, Democrat and Republican attorneys general alike, including the AG's in Texas and California, Democrat and Republican.

I urge your strong support for this strong habeas reform.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member who wishes to speak in opposition to the amendment?

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] is recognized for 10 minutes in opposition of the amendment.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

What we have here in this full and fair concept is a throwback to an outmoded idea first advanced in the other body that would effectively end all rights of habeas corpus, if minimal State guarantees are satisfied. In other words, there would be no right of Federal review unless the State court decision is totally arbitrary. This makes the previous one-bite-of-the-apple position of the gentleman from Florida [Mr. MCCOLLUM] of which we argued about and against, look absolutely great.

This is probably the throwback amendment to habeas corpus of all throwbacks. I mean, this would effectively end habeas corpus today at the Federal level. It almost says that: Let each State do their own thing on habeas corpus and forget Federal habeas review. That's a totally untenable position that I am surprised my friend, the gentleman from California, would even drag it out on the floor at this late hour.

This would end even the very modest advances in the McCollum bill, which are very few, indeed.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. LIGHTFOOT) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

PARLIAMENTARY INQUIRY

Mr. WATT of North Carolina. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WATT of North Carolina. How can we rise out of the Committee of the Whole without a motion to that effect? I did not hear anybody make a motion. It is strictly a technical point, but there are some procedural rules that apply in this body, I thought.

The SPEAKER pro tempore. The Chair will inform the gentleman from North Carolina the Committee of the Whole can rise informally just for the purpose of receiving a message.

Mr. WATT of North Carolina. Informally.

The SPEAKER pro tempore. Yes. A motion is not required just for the purpose of receiving a message.

Mr. WATT of North Carolina. I thank the Chair for enlightening me.

The SPEAKER pro tempore. The Committee will resume its sitting.

EFFECTIVE DEATH PENALTY ACT OF 1995

The Committee resumed its sitting.

Mr. CONYERS. Mr. Chairman, in continuing my opposition against the biggest throwback amendment of all, I must express my shock and disappointment at the gentleman from California for really attempting to end Federal habeas corpus, if even the most minimal State guarantees are satisfied.

Presumably the bill, the crime bill, has been reported by the subcommittee, the full committee, it is now on the floor, and now from the Republican ranks we now have another amendment that even vitiates the provisions, the very modest provisions, in the McCollum bill, and so we would end up with not even one bite at the apple which I thought was awfully scarce, no right to counsel even in a postconviction proceeding.

So the result with the 50 States would have 50 different standards for protecting Federal constitutional rights. I do not think that we would want this kind of provision put in the bill under any circumstances.

□ 1850

The full and fair issue was deadlocked in the other body last year, and this amendment is another attempt to pass it again.

I urge overwhelming rejection of this amendment.

Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. I thank the gentleman for yielding this time to me, although I doubt I will take 4 minutes.

I do not know what I can say about this. I just want to make sure people understand what it is we are doing here.

All of my colleagues and the American people are getting, if this amendment passes, the Federal courts completely out of the habeas business. You will not have any Federal habeas rights if this bill passes, because in order for you to get in the Federal court, the Federal court would have to find that a decision that was rendered in the State court was arbitrary or unreasonable interpretation of clearly established Federal law, resulted in a decision that was based on an arbitrary and unreasonable application to the facts, resulted in a decision that was based on an arbitrary and unreasonable determination of the facts in light of the evidence presented in the State proceeding. And what you are doing, really, is inviting rock-throwing between the Federal courts and State courts.

Now, we know how gentlemanly and cordial the courts have been with each other. Federal courts never ever say to a State court that, "Court, you have been arbitrary and unreasonable." That would not even be gentlemanly, would not even be proper protocol, almost, in a Federal court.

I have never seen a Federal court say to a State court, "Judge, you have been arbitrary and unreasonable." That is the kind of stuff that we say to claimants when they file lawsuits.

So here we are now inviting the Federal courts to start throwing rocks at the State court and the State court to start throwing rocks back at the Federal court and doing away with even the one opportunity that was guaranteed, or at least provided in the underlying bill. And we are doing it, I would add, without the benefit of one iota of discussion in committee about it.

I have been banging my head against this wall all day, and I am sure you are going to do whatever you want to do. But at least if you are going to do this, have somebody came in and present some evidence that it makes sense. Ask Federal judges if they think it is a good idea for them to start saying to State judges that, "You are arbitrary and unreasonable." It just does not happen.

So the practical effect of what you are doing is to say that you are never going to have any rights in the habeas arena in Federal court.

I encourage my colleagues to be reasonable and defect this proposed amendment.

Mr. CONYERS. I thank the gentleman from North Carolina, my colleague.

Mr. Chairman, may I remind my friends on the other side on the Committee on the Judiciary that this matter has never come up before that I can recall, before the Committee on the Judiciary. The gentleman from California [Mr. COX] has never appeared before the committee.

Mr. McCOLLUM. Not in this Congress, but it certainly came up in other Congresses.

Mr. CONYERS. Just a minute, please. I will be happy to yield time. We have never considered this matter in this 104th Congress. It has never come up, was never the subject of an amendment.

Mr. Chairman, I will give the gentleman from Florida [Mr. McCOLLUM] a chance to correct anything he would like to correct. But this has never been put before the Committee on the Judiciary for a vote, and the gentleman from California [Mr. COX] has never presented this subject matter before, and we are literally blind-sided in the last hour of this debate on this very important part where you have advanced the habeas part of the Contract With America, and now we have another amendment that goes in a completely different way.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I would yield to my friend, the chairman of the Subcommittee on Crime.

Mr. McCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, I would just like to point out to the gentleman that at hearings of the subcommittee, on January 19, 1995, we had two panels on habeas corpus reform, and both panels addressed this question. One panel involved the Attorney General of California, Daniel Lungren. Attorney General Lungren spent a great deal of time discussing and arguing for the full and fair concept that Mr. COX is advocating here tonight.

Mr. CONYERS. Mr. Chairman, I was there. He did mention, it was rather fulsome testimony on a great range of subjects. But I could hardly consider that that was the notice that we needed to come here tonight. In the markup, it was never mentioned at all. As a matter of fact, it was the gentleman's provisions on habeas that we gave great attention to.

Mr. Chairman, I yield further to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I would like to inquire of the gentleman from Florida [Mr. McCOLLUM] if, in fact, testimony was presented and the committee then dealt with this and thought it was a wonderful idea, why was it not in the original bill? Why are we coming to the floor with it at the 99th hour on this bill and dealing with it in 10 minutes of debate?

If you all thought it was a great idea, I would have thought you would have incorporated it into the bill.

Mr. McCOLLUM. If the gentleman will yield further.

Mr. CONYERS. Briefly.

Mr. McCOLLUM. I thank the gentleman.

Briefly, the idea of 10 minutes of debate was by unanimous consent request. We did not have to follow that.

Second, it has come to the floor the way it has. The gentleman from California [Mr. COX] is not a member of the committee. We did not bring it up, the committee did not bring it up. He has a right to bring it up, to bring it forward, and he has.

The CHAIRMAN. The time is controlled by the gentleman from California [Mr. COX], who has 1½ minutes remaining.

Mr. COX of California. I thank the Chairman.

Mr. Chairman, I just point out that the language of the amendments says reasonable. It also says arbitrary. But a separate standard is reasonable. It is arbitrary or unreasonable.

Obviously, the reasonableness test is the more difficult to meet.

Simply stated, the Federal courts will defer to reasonable decisions on the facts, reasonable decisions on the law, and reasonable decisions on mixed questions of law and fact made at the State courts.

That is exactly what they should do because after all we are already requiring in this bill that criminal defendants exhaust all of their State remedies, if they go through trial, if they have an appeal, if they have another appeal, and so on. All of this within the State court system.

But if habeas corpus, statutory habeas corpus is available simply to throw out the whole State judicial system, why do we have it in the first place? If we are going to look at all of these questions from scratch, de novo, facts, evidence, law, the whole thing, as if the State proceeding had never happened, then Robert Alton Harris would be able to, in the future, to be able to delay his execution for 13 more years.

(The letter referred to by Mr. COX of California is as follows:)

FEBRUARY 8, 1995.

HON. HENRY HYDE,
Chairman of the House Judiciary Committee,
Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN HYDE: We would first of all like to thank you for your tireless effort on behalf of habeas corpus reform. As Attorneys General for our respective states we are confronted with a system of federal habeas review that is often intrusive, cumbersome, and time consuming. It also imposes a great cost on victims of crime and undermines finality in our criminal justice system.

The central problem underlying federal habeas corpus review is a lack of comity and respect for state judicial decisions. The lower federal courts should simply not be relitigating matters that were handled properly and reasonably by the state judicial systems. This not in any way a criticism of those who serve in the federal judiciary, but rather a demonstration of the need for Congressional action to reform the federal statutory scheme.

In this regard, we strongly support an amendment that will be offered by Congressman Christopher Cox to title I H.R. 729, which would give deference to state court decisions on federal habeas review, as long as the state courts acted reasonably in their adjudication of the case. Specifically, the amendment would provide:

An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a state court shall not be granted with respect to any claim that was decided on the merits in state proceedings unless the adjudication of the claim:

1. resulted in a decision that was based on an arbitrary or unreasonable interpretation of clearly established federal law as articulated in the decisions of the Supreme Court of the United States;

2. resulted in a decision that was based on an arbitrary or unreasonable application to the facts of clearly established federal law as articulated in the decisions of the Supreme Court of the United States; or

3. resulted in a decision that was based on an arbitrary or unreasonable determination of the facts in light of the evidence presented in the state proceeding.

We believe that meaningful habeas corpus reform must contain such a standard of deference to reasonable state court decisions. This is essential if the trial of criminal defendants is to be the "main event" rather than a sideshow for ultimate resolution of the case on federal habeas corpus review.

Thank you again for your continued effort on behalf of prosecutors and crime victims. We look forward to working with you on this and other issues in the future.

Sincerely,

Dan Morales, Attorney General of Texas; Grant E. Woods, Attorney General of Arizona; Franie Sue Del Papa, Attorney General of Nevada; Daniel E. Lungren, Attorney General of California; W. A. Drew Edmondson, Attorney General of Oklahoma; Joseph P. Mazurek, Attorney General of Montana; Pamela Carter, Attorney General of Indiana, Jeff Sessions, Attorney General of Alabama; Ernest D. Preate, Jr., Attorney General of Pennsylvania.

THE HARRIS CASE FOR HABEAS CORPUS REFORM

On July 5, 1978, Robert Alton Harris murdered two teenage boys in San Diego. Two days later, he was arraigned.

On March 6, 1979, the San Diego Superior Court pronounced judgment on Harris, following a trial in which the jury convicted him of two counts of first degree murder and returned a death sentence.

Five days before execution, Gov. Wilson denied Harris's application for clemency. Harris filed his 9th state habeas corpus petition and 4th federal habeas corpus petition.

In the next four days, Harris filed his 5th and 6th federal habeas corpus petitions.

Harris was even the named plaintiff in a class action filed in U.S. district court on behalf of all California death-row inmates. The suit alleged that the gas chamber was a cruel and unusual means of execution and sought a stay on Harris' execution.

On April 21, 1992, Harris was finally executed.

The total delay from judgment to execution was 13 years.

In all, Harris filed 6 federal habeas corpus petitions.

69% of the 141 significant events in the Harris proceedings occurred in federal court. Only 31% occurred at the state level.

THE HARRIS CASE IS NOT UNIQUE—THAT'S THE TRAGEDY

One Ninth Circuit Judge has called the Harris case, even before its particularly egregious final rounds of litigation, "a textbook example" of the abuse of federal habeas corpus.

While 400 prisoners have been sentenced to death in California since the state reinstated the death penalty in 1978, only Robert Alton Harris and David Mason have been executed.

Today, there are 125 California death penalty cases before the federal courts.

A similar case in Washington state: 4 federal habeas corpus petitions dragged out for 12 years the execution of Charles Campbell. Campbell was a convicted rapist who murdered 3 people while on work furlough from prison. The victims were his earlier rape victim, a neighbor who had testified against him, and her 8-year-old daughter. The 9th Circuit took 5 years to resolve must one of the habeas corpus petitions.

Mr. Chairman, I yield to the gentleman from Florida [Mr. McCOLLUM] to close.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding, and I would like to say that everything we are doing here is reasonable. If there is a full and fair review of the provisions by the courts, the Federal courts, of what is going on underneath, and if the lower courts have made this decision, why should one Federal judge overturn the rulings of the State court judge, five State intermediate appellate courts, and perhaps nine Supreme Court justices.?

The CHAIRMAN. All time has expired.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to proceed for 30 additional seconds.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

☐ 1900

Mr. CONYERS. Mr. Chairman, I just want everybody in this Chamber to know that, as opposed as I am to this Draconian amendment offered by the gentleman from California [Mr. COX], ironically, if adopted, it may be the kiss of death for any habeas corpus reform since we know that the Senate is almost sure to deadlock.

So, Mr. Chairman, I say to my colleagues, Have it your way, gentlemen. The McCollum habeas and the Cox habeas are in direct contradiction, and you——

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. COX].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 291, noes 140, not voting 3, as follows:

[Roll No 106]

AYES—291

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Menendez
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)

Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—140

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Collins (IL)
Conyers
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Houghton
Hoyer
Jackson-Lee
Jacobs
Johnson (CT)
Johnson, E. B.
Johnston
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Thompson
Thornton
Thurman
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—3

Andrews
Collins (MI)
Metcalf

□ 1919

Ms. FURSE, Mr. POMEROY, and Mr. RAHALL changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1920

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. FIELDS OF LOUISIANA

Mr. FIELDS of Louisiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FIELDS of Louisiana: In the matter proposed to be inserted in section 3593(e) of title 18, United States Code, by section 201, insert "or a sentence of life imprisonment without the possibility of release" after "shall recommend a sentence of death".

Strike subsection (b) of section 201 and eliminate the subsection designation and heading of subsection (a).

Mr. FIELDS of Louisiana. Mr. Chairman, I ask unanimous consent that time on my amendment and all amendments thereto be limited to 10 minutes, equally divided on both sides.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The CHAIRMAN. The gentleman from Louisiana [Mr. FIELDS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Does the gentleman from Pennsylvania [Mr. GEKAS] wish to manage the opposition to the Fields amendment?

Mr. GEKAS. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. FIELDS].

Mr. FIELDS of Louisiana. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, today my Republican friends continue along with their stampede to undo over 200 years of constitutional rights and protections afforded all of our citizens. I have decided that the GOP should rename their 100-day legislative agenda the Assault on America.

I am truly disturbed with the short-sighted and politically misguided attempts by those on the other side of the aisle to limit individual liberties and establish an eye-for-an-eye justice system in the United States. Their irrational cries for vengeance as a form of crime control do nothing but blind society to the real solutions to the problems with which we are confronted and inevitably heighten divisiveness among varying races and socioeconomic classes across our Nation.

We have a perfect example of this, Mr. Chairman, in the bill before us, H.R. 729, the Effective Death Penalty Act. The title of this legislation is an absolute oxymoron. No study that I am aware of has ever proven the deterrent effect of the death penalty, and yet the leadership wants to accelerate the rate of executions in this country while at the same time greatly curtailing the rights of defendants to receive not only adequate representation and fair trials, but also sufficient protections against wrongful executions.

No matter what your stance on the death penalty, I firmly believe that few in America wish to run the risk of putting an innocent person to death. However, this bill clearly heightens that risk.

Not only does H.R. 729 fail to require that States provide defendants with competent lawyers at the critical trial stage of death penalty cases, it also effectively bars defendants from second habeas corpus petitions even where newly discovered evidence shows that the defendant is most likely innocent of the charges leveled against him or her.

I am particularly alarmed because, as Supreme Court Justice Harry Blackmun stated last year, "the death penalty experiment has failed * * * it remains fraught with arbitrariness, discrimination, and caprice, and mistake." Given that this is the case, why in the world would the GOP want to expand its use?

It is becoming increasingly clear, Mr. Chairman, that the Republicans believe the Constitution applies only selectively to those individuals and groups that they deem acceptable or deserving—poor, underserved, minority Americans need not apply.

Mr. Chairman, the fate of our system of justice rests on the citizenry believing that it is fair. Whenever that fairness is lost, so follows the justice. Unfortunately, the bill before us would only bring greater unfairness to the system.

I urge my colleagues to vote no on this nonsensical attempt to accelerate government-sanctioned executions in the United States.

Mr. FIELDS of Louisiana. Mr. Chairman, I yield myself such time as I may consume. Let me briefly explain the amendment.

The amendment under the present piece of legislation that is before us—it provides in no uncertain terms that the jury or, if there is no jury, the court shall recommend a sentence of death. What this amendment simply would do is not take out, it would not take out the sentence of death, as much as I would want to do that, but it would maintain that language, but it would add to, to give the jury and the court the opportunity of not only being able to recommend a sentence of death but give them the option to either recommend a sentence of death or a sentence of life in prison without the possibility of release.

That is all the amendment does.

Now, philosophically, I am very strongly and adamantly opposed to capital punishment, but it does not do away with capital punishment in the bill. But I do think if we leave the bill as it is in its present form, we will have a bill that would give the judge and would give the jury no option whatsoever. Due to the fact that many of the people who are victims of capital punishment are the people who do not have capital, many times he who does not have the capital normally get punished.

So this amendment certainly gives us an opportunity to give the judge and the jury the option of either imposing capital punishment or giving a person life in prison without parole.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if the gentleman's amendment should be accepted by the House, it would in effect make the present bill that calls for instructions to the jury to carry a certain essence with them, would make those provisions unconstitutional.

We have to recall that in the crime bill that is now the law of the land the flawed language, which we consider to be flawed, calling for instructions to the jury that no matter what the aggravating circumstances and mitigating circumstances might be, no matter what weight is placed on them allowing the jury to find life or the sentence of death is clearly unconstitutional.

What we do is implant language into the bill which makes it mandatory to find the death penalty, if a jury, in the second hearing, in the bifurcated hearing, determines that the aggravating circumstances outweigh the mitigating circumstances.

That conforms with many of the States who have crafted death penalties of their own with respect to the jury instructions, and the Supreme Court has blessed the language of at least 15 States who have similar mandatory language, finding that the aggravating circumstances outweighing the mitigating circumstances requires a death penalty.

Now, what this gentleman's amendment does is allow another alternative to the jury, as I understand it, life imprisonment without patrol, which means that the mandatory feature, that which the Supreme Court has found to be constitutional and which forms the bedrock of the provisions in the present legislation, which we are offering to the House, would render it unconstitutional.

We have gone through this road many times. In a strange way, adopting this amendment would be like repeating last year's error in the crime bill, which itself took us back to prior to 1974, before the Supreme Court struck down the death penalty. And provides for a jury deliberation on the death penalty that allows for so much discretion that discrimination or racial or gender basis or age or any of those things could enter into the picture, where in our language, in our bill, because of the mandatory features, if aggravating circumstances outweigh mitigating, the chances for discrimination, bias, gender, race, all of those are eliminated.

So we would ask that the gentleman's amendment be defeated.

Mr. Chairman, I reserve the balance of my time.

Mr. FIELDS of Louisiana. Mr. Chairman, this amendment has nothing to do with race. There is not race in the bill. It has nothing to do with race.

Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding time to me.

I think the Fields amendment is eminently sensible.

At a time when many of our friends are saying, get the big, bad Federal Government off the backs of local communities, what the Fields amendment says to judges and juries all over America, if they understand what the circumstances are in the case and if they want to rule for the death penalty, OK, they can do that, but if they want to rule for life imprisonment, they also have that right.

□ 1930

It is flexible, it is consistent with local control.

In a more general sense, Mr. Chairman, I get a little bit nervous with the fervor that we hear here about the death penalty. I would point out to my friends that to the best of my knowledge, the United States of America remains the only major industrialized nation on Earth that allows for the death penalty in all circumstances other than war crimes and in treason. Our friends in Canada do not have the death penalty. Our friends south of us in Mexico do not have the death penalty.

What the amendment of the gentleman from Louisiana [Mr. FIELDS] says is, give juries and give judges the option. I think it is a sensible proposal.

The CHAIRMAN. The Chair will inform the gentleman from Louisiana [Mr. FIELDS] that he has 2 minutes remaining, and the gentleman from Pennsylvania [Mr. GEKAS] has 2 minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

It is well-known, and it is so well-embedded in the CONGRESSIONAL RECORD in previous sessions and in newspaper reports, television reports, and in every poll known to mankind that the American people, by a wide margin, 75, 80 percent, favor the imposition of the death penalty in a proper case. They do not exactly favor the imposition of the death penalty, they favor the concept of allowing a jury that hears the facts to have the option of listening to whether aggravating circumstances appear in a particularly vicious case to determine that a death penalty is the proper sentence.

Mr. Chairman, the amendment that we have here returns us to the stone age of the death penalty, where discretion was so freakishly applied by the jury, and that word "freakishly" is in the Supreme Court opinion that struck down the death penalty, that we cannot be certain that bias and prejudice would not enter into the final decision made by the jury.

The amendment that we have at hand would do much of the same. In giving unfettered discretion to the jury to determine, regardless of the aggravating circumstances or the mitigating circumstances, that they could find death or life throws us back to the unconstitutional days of the death penalty, which we are trying to avoid, and which this bill corrects and brings into play language already approved by the Supreme Court. Thereby we avoid the possibility of the death penalty. The Supreme Court has said that this language, as it appears in the State criminal statutes in 10, 12, 15 States, is sound, is constitutional, is proper, and we are lifting it from a Supreme Court opinion already in existence, so that we would be safe in assuming that this language cures our constitutional problems with the imposition of the death penalty.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GEKAS] has expired.

Mr. FIELDS of Louisiana. Mr. Chairman, I yield 30 seconds to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, the gentleman is correct, I think, in saying that polls in America support the death penalty. People want judges and juries to have the option to use the death penalty. I think the gentleman will not disagree with me that polls and studies also indicate that the public wants judges and juries to have the option to use the death penalty or not to use the death penalty to allow for life imprisonment. That is precisely what the Fields amendment is.

Mr. FIELDS of Louisiana. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. DURBIN] to close the debate.

Mr. DURBIN. Mr. Chairman, I thank my colleague, the gentleman from Louisiana, for yielding time to me.

Mr. Chairman, I would say to the committee that I have a different position on the death penalty than the gentleman who has offered the amendment. I favor the death penalty, he opposes it, but I still believe he offers a valuable amendment.

If Members believe in the bedrock of the American judicial system, it is trial by jury. It is a decision by America's citizens as to the guilt or innocence of an individual.

What the gentleman from Louisiana [Mr. FIELDS] is suggesting is that that jury, under the most heinous crimes and heinous circumstances, would be given two options and not one. Under the bill, they have only one option, the death penalty. Under the amendment offered by the gentleman from Louisiana [Mr. FIELDS], they have a second option of life in prison without parole.

It strikes me we are dealing with factors that are somewhat subjective, aggravating and mitigating factors. I think that if we believe in the Constitution and the bedrock of our judicial system, we give to that jury these two options.

Both options protect society from those individuals who have committed such violent crimes that we no longer want to see them on the streets or in our neighborhoods, but I think it is reasonable to offer this option. I salute my colleague, the gentleman from Louisiana, for offering that option.

I hope that my colleagues, despite their fervor over the death penalty, will understand that this gets to the bedrock principle of justice in this country, whether or not a decision is to be made by a jury of a person's peers.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Louisiana [Mr. FIELDS].

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEKAS. Mr. Chairman, I demand a recorded.

A recorded vote was ordered.

The CHAIRMAN. This is a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 139, noes 291, not voting 4, as follows:

[Roll No 107]

AYES—139

Abercrombie
Ackerman
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Chapman
Clay
Clayton
Clyburn
Collins (IL)
Conyers
Coyne
de la Garza
DeFazio
Dellums
Dingell
Dixon
Doggett
Duncan
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gonzalez
Green
Gutierrez
Gutknecht
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kennedy (MA)
Kennelly
Kildee
Kleczka
LaFalce
LaTourette
Laughlin
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
McNulty
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reynolds
Rivers
Roemer
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (MI)
Spratt
Stark
Stokes
Studds
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—291

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Menendez
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

Andrews
Collins (MI)
Metcalf
Wilson

□ 1951

Mr. SMITH of Michigan changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Texas: Proposed section 2257 of title 28, United States Code, in section 111 of H.R. 729, is amended—

(1) in subsection (b)—

(A) by striking ", or fails to make a timely application for court of appeals review following the denial of such a petition by a district court" in paragraph (1);

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2);

(D) by striking the period at the end of paragraph (2) as so designated and inserting "; or"; and

(E) by adding a new paragraph (3) as follows:

"(3) a State prisoner files a habeas corpus petition under section 2254 within the time required in section 2258 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review."; and

(2) in subsection (c), by striking "If one of the conditions in subsection (b) has occurred, no Federal court thereafter" and inserting "On a second or later habeas corpus petition under section 2254, no Federal court".

Proposed section 2260 of title 28, United States Code, in section 111 of H.R. 729, is amended to read as follows:

"§ 2260. Certificate of probable cause

"An appeal may not be taken to the court of appeals from the final order of a district court denying relief in a habeas corpus proceeding that is subject to the provisions of this chapter unless a circuit justice or judge issues a certificate of probable cause. A certificate of probable cause may only issue if the petitioner has made a substantial showing of the denial of a Federal right. The certificate of probable cause must indicate which specific issue or issues satisfy this standard.".

In the table of sections for proposed chapter 154 of title 28, United States Code, in section 111 of H.R. 729, the item relating to proposed section 2260 of title 28, United States Code, is amended by striking "inapplicable".

Mr. SMITH of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Chairman, I ask unanimous consent that debate on my amendment and all amendments thereto be limited to 10 minutes, 5 minutes per side.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the committee bill provides for an automatic stay of execution throughout all stages of federal review for the first federal habeas petition for states that provide counsel on state collateral review. Some States had raised concerns that this provision may have the unintended effect of prolonging litigation by allowing a stay of execution even where the federal habeas petition presents no substantial claim for the federal court to consider.

This amendment has bipartisan support.

I would like to read an excerpt from a letter from the attorney general of Texas, a Democrat, Dan Morales. This letter reads in part,

Providing for an automatic stay regardless of the merit of the issues raised is inconsistent with the purpose of federal habeas review, and as a practical matter, will lead to unwarranted delay in the imposition of valid sentences. The goal of affording death sentence inmates "one bite of the apple" should at the very least be accomplished without staying an execution while a petitioner pursues frivolous appeals.

Mr. Chairman, the amendment before us provides that the automatic stay will terminate once State court review is completed if that petitioner fails to make a substantial showing of the denial of a Federal right or a denied relief on his petition in the Federal district court or at a later stage of Federal habeas review. Under current law, Federal courts routinely must evaluate whether an issue exists to warrant review in granting of a stay, so the rights of the inmate are still protected.

This amendment improves the legislation, Mr. Chairman, and I urge its adoption.

OFFICE OF THE ATTORNEY GENERAL
Austin, TX, February 7, 1995.

Hon. LAMAR S. SMITH,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE SMITH: The recently introduced House of Representatives Bill 729 raises significant concerns for the State of Texas in the post-conviction litigation of capital cases. Specifically, I am concerned with the provision of proposed §2257 for an automatic stay of execution while a death-sentenced inmate litigates a complete round of federal habeas review, from district court through the circuit courts of appeals and the Supreme Court and the provision of proposed §2258 eliminating the certificate of probable cause requirement for appeals. Providing for an automatic stay, regardless of the merit of the issues raised, is inconsistent with the purpose of federal habeas review and, as a practical matter, will lead to unwarranted delay in the imposition of valid death sentences. The goal of affording death-sentenced inmates "one bite of the apple" should at the very least be accomplished without staying an execution while a petitioner pursues frivolous appeals. I urge you to support a floor amendment eliminating these two provisions.

As I'm sure you are aware, death-sentenced petitioners pursuing federal habeas review have, virtually without exception, pursued a direct appeal to the state's highest court of the review, and, in most instances, sought certiorari review of the state court's disposition of the direct appeal. Further, most if not all such petitioners have litigated at least one complete round of state habeas review. Under these circumstances, if a petitioner cannot satisfy the standard of *Barefoot* v. *Estelle*, 463 U.S. 880 (1983), which requires a substantial showing of the denial of a federal right, then a stay is unwarranted. As demonstrated by existing practice, United States district courts, circuit courts of appeals and the Supreme Court are fully able to evaluate whether there exists an issue which warrants review and a stay.

Notably, the certificate of probable cause requirement was originally enacted to eliminate or reduce the number of unwarranted stays of execution entered while death-sentenced inmates pursued frivolous appeals. *Barefoot* v. *Estelle*, 463 U.S. at 892 n.3 (and citations therein). Thus, the proposed automatic stay, which would extend through the appeal and disposition of a petition for certiorari review, represents a step backward rather than forward in the goal of expediting post-conviction review. Indeed, the automatic stay is an unwarranted step in the opposite direction from the "full and fair" provisions that have garnered so much support in the past. Rather than deferring to a state court's reasonable disposition of constitutional issues, the automatic stay provisions disregard the significant amount of review that precedes federal habeas review. The "full and fair" concept aside, the current practice of allowing each federal court from the district court through the Supreme Court to determine whether a stay is warranted is preferable.

The effect of the automatic stay is not ameliorated by the time limits imposed on adjudication at each stage or by the designation of a finite period of time to go from state review into federal habeas review. The time limits imposed do very little, if anything, to streamline the process of the United States District Courts in Texas, the Fifth Circuit Court of Appeals, or the Supreme Court. For example, a death-sentenced inmate has normally delineated his grounds for relief in state court and exhausted state remedies with respect to those grounds. It simply does not require 180 days to transform a state petition into a federal petition founded on the same legal bases and, in practice, federal district courts in Texas normally require a petition to be filed if the petitioner has been allowed, on the average, 60 or more days following state habeas review. Similarly, the time limits imposed for adjudication at each stage do not impose real limitations. For example, allowing the district court 60 days after argument to rule does not limit the time a petition may languish on the court's docket before argument.

Finally, by staying an execution until the Supreme Court denies a petition for certiorari review, the legislation almost assures additional litigation by death-sentenced inmates. Capital litigation will expand to fill anytime allowed. If an execution date cannot be set until after the Supreme Court's disposition of a certiorari petition, the time between the vacating of the stay and the scheduled execution date will afford a petitioner the opportunity to formulate a second round of review, which will have to be resolved regardless of the limitations imposed on successive petitions. By contrast, if a state is able to schedule an execution date to coincide approximately with the filing of a certiorari petition, the initial round of review is likely to be the only round.

In short, I urge you to support an amendment to the expedited procedures providing for the retention of the certificate of probable cause requirement for the first tour of federal habeas review and eliminating the automatic stay. The provisions of the "expedited" federal habeas procedures would lengthen the time between conviction and imposition of sentence beyond the current 8.5 year average for Texas. Indeed, although it is expected that the Texas legislature will, in the immediate future, enact habeas reform that fully complies with the requirements of proposed §§2256–2262, federal habeas review would be expedited by Texas choosing not to "opt in" to those provisions.

In addition, I urge you to support the amendment sponsored by Representative Cox which would require federal habeas courts to defer to state court decisions as long as the state courts acted reasonably in their adjudication of the case and application of federal law. As I noted earlier, the State of Texas expends considerable judicial and law enforcement resources assuring that capital convictions comply with the constitutions of the United States and Texas. Relitigation of issues fully and fairly resolved by the state courts is unnecessary and inappropriate unless those issues have not been reasonably resolved by the state courts in accord with federal constitutional principles.

Very best wishes,
Sincerely,

DAN MORALES,
Attorney General.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member who wishes to speak in opposition to the amendment?

Mr. CONYERS. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, I yield myself 1½ minutes.

The gentleman from Texas, with this amendment, has unerringly gone to the one part of the McCollum habeas reform matter that we could have complimented him on, because he institutes an automatic stay of execution while the habeas petition is pending.

By honing in on this one provision, we are now saying that there will not be any need for Federal habeas because the petitioner may be executed while his petition is pending. He might not ever live to find out that he was granted habeas.

This is the most ultimately inhumane proposal that we have heard tonight.

It is amazing that we have had these contradictory provisions coming from the side of the aisle that wrote the habeas bill that we do not like, and now we have these worsening amendments as the night goes on.

I urge the strong strenuous rejection of this proposal by the gentleman from Texas.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

As has been the case so often this evening, the real question is whether we are going to allow those who have been convicted of capital crimes to indulge themselves in almost endless appeals. I think the American people would answer "no" to that question. I think Congress should answer "no" to that question.

Mr. Chairman, I yield the balance of my time, 3 minutes, to the gentleman from Florida [Mr. MCCOLLUM], the chairman of the subcommittee.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding me this time.

I simply wanted to point to everybody here, and I will not consume the entire 3 minutes, but the amendment before us provides the automatic stay that we are going to routinely have in the bill underlying will terminate once State court review is completed, if the petitioner fails to make a "substantial showing of the denial of a Federal right" or is denied relief on his petition in the Federal district court or at a later stage of Federal habeas review.

It really is only a statement of what the law truly is and is intended to be in a codified form. If somebody does not make a substantial showing after denial of a Federal right, there should not be any stay. It seems self-evident, but we have had problems technically with this during the courts and the process.

If there is an appeal ongoing and there obviously is a request for a stay, if the appeal has any meaning at all, the Federal court is going to grant the stay.

This does not say you cannot have it. It just is not going to be automatic. There can be somebody who stops that stay along the process before you go through a whole bunch of hoops to go in there and say, "Look, this is not a substantial showing of the denial of a Federal right. Let's go on and get the execution carried out" instead of having automatic stuff that the statute would otherwise require.

I think what we did when we wrote this bill was probably err in going overboard on these automatic stays, so the gentleman from Texas is correcting a flaw in the underlying bill.

I urge my colleagues to vote for it.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield for a question?

Mr. McCOLLUM. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, the question here is, and again being mindful of the fact that we do not want to allow endless appeals, but let us say that the defendant is in the process of going to the judge to ask for an appeal, can the State rush him to execution before that appeal is adjudicated one way or another?

□ 2000

As I understand it, that is the purpose of the automatic stay, that you do not have this sort of very obscene sort of beat-the-clock game, "we can rush him to do it before you can rush to the judge." An automatic stay, my understanding has always been, usually works for a very short period of time. Again, the great length of appeals that we have heard in the cases has been dealt with in the main body of the bill, something that I agree with. Now answer that question.

Mr. McCOLLUM. Reclaiming my time, I would simply say the difference is that the stay is not automatic.

Mr. Chairman, I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for his continued generosity in yielding.

My specific question is that: While the defendant's attorney is making a petition to the judge, a motion to the appellate judge for appeal, could the State execute that gentleman while they are trying to get that appeal, under the gentleman from Texas' amendment?

Mr. McCOLLUM. Theoretically, I suppose that could occur, but it would be an awfully fast execution because you could certainly get that effort up there very quickly to the courts. That is the way that things work. You have people working the midnight oil in all the courts in the country and certainly in that State during the time under consideration.

I urge a "yes" vote on the gentleman's amendment.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. I thank the gentleman for yielding. I will not take a minute.

I would just rise in opposition to this amendment and say that this bill already speeds up the appeals process. My amendment that I offered that would have tried to redeem people who come forward with evidence of innocence was defeated, and now we are going to rush to judgment without any stay, and this is just criminal.

I urge strongly that this amendment be defeated.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, just summing up to my colleagues on both sides of the aisle what the gentleman from Florida, Mr. McCOLLUM's answer to the question would mean: It would indeed mean that there could in case after case be a sort of rush, petitioners' attorneys rushing to get a judge to authorize a stay and the State, in many cases, rushing to execute the defendants.

That kind of result, those of us who are for the death penalty, those who are against the death penalty, that is not the kind of result we would want. And there are better ways to cure the endless appeals that have gone on than this. I think this amendment deserves to be defeated in a bipartisan way. It just besmirches some of the food efforts the gentleman from Florida [Mr. McCOLLUM] is trying to do.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining and is entitled to close debate on this amendment.

Mr. CONYERS. Ladies and gentlemen, we are now taking out the one redeeming feature in McCollum habeas reform. I want to just point out that the section providing for automatic stays of execution while a habeas is pending was a much needed improvement on the current system where the fate of a condemned man hangs in the balance while lawyers scramble at the last minute to find a judge that will stay the execution. We had corrected that.

Why on Earth he got talked into having that undone at the last minute of the final minutes of debate on the floor amazes me. It was the gentleman's amendment all the time. Mr. McCOLLUM literally wrote this bill. He put in the stay. Now it is being taken out.

Did we do something wrong? Have we disappointed you in some way?

Please let us keep the automatic stay feature in. It will not make this habeas bill much better, but it will certainly be a lot better than going back to the system of lawyers scrambling around looking for judges before a person is executed, who may find out or who may never find out that his habeas was in fact granted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 189, not voting 4, as follows:

[Roll No. 108]

AYES—241

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Klug

Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—189

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn

NOT VOTING—4

Andrews
Collins (MI)
Frank (MA)
Yates

☐ 2021

Messrs. DEFAZIO, BEVILL, and JOHNSON of South Dakota changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Pursuant to the order of the House of yesterday, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. QUINN) having assumed the chair, Mr. DREIER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 729) to control crime by a more effective death penalty, pursuant to the order of the House of Tuesday, February 7, 1995, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the order of the House of yesterday, the previous question is ordered.

The previous question was ordered.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The CHAIRMAN. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 297, noes 132, not voting 5, as follows:

[Roll No. 109]

AYES—297

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich

Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—132

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Bonior
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Clay
Clayton
Clyburn
Collins (IL)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Dixon
Doggett
Durbin
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Thompson
Thornton
Thurman
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn

NOT VOTING—5

Andrews
Clinger
Collins (MI)
Houghton
Yates

□ 2041

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ANDREWS. Mr. Speaker, due to circumstances beyond my control I was called away from the floor of the House on February 8, 1995 and missed several votes. Had I been here, I would have voted as follows:

Rollcall No. 109—yes.
Rollcall No. 108—yes.
Rollcall No. 107—no.
Rollcall No. 106—yes.
Rollcall No. 105—no.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 665, THE VICTIM RESTITUTION ACT OF 1995, H.R. 666, THE EXCLUSIONARY RULE REFORM ACT OF 1995, AND H.R. 729, THE EFFECTIVE DEATH PENALTY ACT OF 1995

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that in the engrossment of the bills, H.R. 665, H.R. 666, and H.R. 729, the Clerk be authorized to make such clerical and technical corrections as may be required.

The SPEAKER pro tempore (Mr. QUINN). Is there objection to the request of the gentleman from Florida?

There was no objection.

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 666 and H.R. 729, the bills just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 667, THE VIOLENT CRIMINAL INCARCERATION ACT

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104-25) on the resolution (H. Res. 63) providing for the consideration of the bill (H.R. 667) to control crime by incarcerating violent criminals, which was referred to the House Calendar and ordered to be printed.

NOTICE OF CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC NO. 104-29)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of August 2, 1994, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution No. 778 requires U.N. Member States temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions in Iraq, to finance Iraqi's obligations for U.N. activities with respect to Iraq, such as expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. Member States also may make voluntary contributions to the account. The funds placed in the escrow account are to be returned, with interest, to the Member States that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the U.N. Security Council. No Member State is required to fund more than half of the total transfers or contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos. 12724 and 12817 (the "Executive orders"). The report covers events from August 2, 1994, through February 1, 1995.

1. There has been one action affecting the Iraqi Sanctions Regulations, 31 C.F.R. Part 575 (the "Regulations"), administered by the Office of Foreign Assets Control (FAC) of the Department of the Treasury, since my last report on August 2, 1994. On February 1, 1995 (60 Fed. Reg. 6376), FAC amended the Regulations by adding to the list of Specially Designated Nationals (SDNs) of Iraq set forth in Appendices A ("entities and individuals") and B ("merchant vessels"), the names of 24 cabinet ministers and 6 other senior officials of the Iraqi government, as well as 4 Iraqi state-owned banks, not previously identified as SDNs. Also added

to the Appendices were the names of 15 entities, 11 individuals, and 1 vessel that were newly identified as Iraqi SDNs in the comprehensive list of SDNs for all sanctions programs administered by FAC that was published in the *Federal Register* (59 Fed. Reg. 59460) on November 17, 1994. In the same document, FAC also provided additional addresses and aliases for 6 previously identified Iraqi SDNs. This *Federal Register* publication brings the total number of listed Iraqi SDNs to 66 entities, 82 individuals, and 161 vessels.

Pursuant to section 575.306 of the Regulations, FAC has determined that these entities and individuals designated as SDNs are owned or controlled by, or are acting or purporting to act directly or indirectly on behalf of, the Government of Iraq, or are agencies, instrumentalities or entities of that government. By virtue of this determination, all property and interests in property of these entities or persons that are in the United States or in the possession or control of United States persons are blocked. Further, United States persons are prohibited from engaging in transactions with these individuals or entities unless the transactions are licensed by FAC. The designations were made in consultation with the Department of State. A copy of the amendment is attached to this report.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. The FAC continues its involvement in lawsuits, seeking to prevent the unauthorized transfer of blocked Iraqi assets. There are currently 38 enforcement actions pending, including nine cases referred by FAC to the U.S. Customs Service for joint investigation. Additional FAC civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and the Regulations with respect to transactions involving Iraq. Four penalties totaling $26,043 were collected from two banks, one company, and one individual for violations of the prohibitions against transactions involving Iraq.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to FAC's listing of individuals and organizations determined to be SDNs of the Government of Iraq.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution No. 778, on October 26, 1992, FAC directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On October 5, 1994, following payments by the Governments of Canada ($677,756.99), the United Kingdom ($1,740,152.44), and the European Community ($697,055.93), respectively, to the special United Nations-controlled account, entitled "United Nations Security Council Resolution 778 Escrow Account," the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $3,114,965.36 from the blocked account it holds to the United Nations-controlled account. Similarly, on December 16, 1994, following the payment of $721,217.97 by the Government of the Netherlands, $3,000,891.06 by the European Community, $4,936,808.84 by the Government of the United Kingdom, $190,476.19 by the Government of France, and $5,565,913.29 by the Government of Sweden, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $14,415,307.35 to the United Nations-controlled account. Again, on December 28, 1994, following the payment of $853,372.95 by the Government of Denmark, $1,049,719.82 by the European Community, $70,716.52 by the Government of France, $625,390.86 by the Government of Germany, $1,151,742.01 by the Government of the Netherlands, and $1,062,500.00 by the Government of the United Kingdom, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $4,813,442.16 to the United Nations-controlled account. Finally, on January 13, 1995, following the payment of $796,167.00 by the Government of the Netherlands, $810,949.24 by the Government of Denmark, $613,030.61 by the Government of Finland, and $2,049,600.12 by the European Community, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $4,269,746.97 to the United Nations-controlled account. Cumulative transfers from the blocked Federal Reserve Bank of New York account since issuance of Executive Order No. 12817 have amounted to $157,542,187.88 of the up to $200 million that the United States is obligated to match from blocked Iraqi oil payments, pursuant to United Nations Security Council Resolution 778.

5. The Office of Foreign Assets Control has issued a total of 533 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 37 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, food intended for humanitarian relief purposes, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq, and the protection of preexistent intellectual property rights in Iraq.

6. The expenses incurred by the Federal Government in the 6-month period from August 2, 1994, through February 1, 1995, lthat are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about $2.25 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East Affairs, the Bureau of Organization Affairs, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

7. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions. Security Council resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access of international relief organizations to all those in need in all parts of Iraq. More than 4 years after the invasion, a pattern of defiance persists: a refusal to account for missing Kuwaiti detainees; failure to return Kuwaiti property worth millions of dollars, including weapons used by Iraq in its movement of troops to the Kuwaiti border in October 1994; sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons inspectors; and ongoing widespread human rights violations. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continues to violate basic human rights of its own citizens through systematic repression of minorities and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not be bound by United Nations Security Council Resolution 688. For more than 3 years. Baghdad has maintained a blockade of food, medicine, and other humanitarian supplies against northern Iraq. The Iraqi military routinely harasses residents of the north, and has attempted to "Abrabize" the Kurdish, Turcomen, and Assyrian areas in the north. Iraq has not relented in its artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring States.

In 1991, the United Nations Security Council adopted Resolutions 706 and 712, which would permit Iraq to sell up to $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. The resolutions also provide for the payment of compensation to victims of Iraqi aggression and other U.N. activities with respect to Iraq. The equitable distribution within Iraq of this humanitarian assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. More than a year ago, the Iraqi Government informed the United Nations that it would not implement Resolutions 706 and 712.

The policies and actions to the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions require that the Security Council be assured of Iraq's peaceful intentions in judging its compliance with sanctions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

FIRST REPORT ON THE OPERATION OF THE ANDEAN TRADE PREFERENCE ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

I hereby submit the first report on the Operation of the Andean Trade Preference Act. This report is prepared pursuant to the requirements of section 203 of the Andean Trade Preference Act of 1991.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

MAJOR LEAGUE BASEBALL RESTORATION ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104-30)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Economic and Educational Opportunities:

To the Congress of the United States:

I am pleased to transmit for your immediate consideration and enactment the "Major League Baseball Restoration Act." This legislation would provide for a fair and prompt settlement of the ongoing labor-management dispute affecting Major League Baseball.

Major League Baseball has historically occupied a unique place in American life. The parties to the current contentious dispute have been unable to resolve their differences, despite many months of negotiations and the assistance of one of this country's most skilled mediators. If the dispute is permitted to continue, there is likely to be substantial economic damage to the cities and communities in which major league franchises are located and to the communities that host spring training. The ongoing dispute also threatens further serious harm to an important national institution.

The bill I am transmitting today is a simple one. It would authorize the President to appoint a 3-member National Baseball Dispute Resolution Panel. This Panel of impartial and skilled arbitrators would be empowered to gather information from all sides and impose a binding agreement on the parties. The Panel would be urged to act as quickly as possible. Its decision would not be subject to judicial review.

In arriving at a fair settlement, the Panel would consider a number of factors affecting the parties, but it could also take into account the effect on the public and the best interests of the game.

The Panel would be given sufficient tools to do its job, without the need for further appropriations. Primary support for its activities would come from the Federal Mediation and Conciliation Service, but other agencies would also be authorized to provide needed support.

The dispute now affecting Major League Baseball has been a protracted one, and I believe that the time has come to take action. I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now take 1 minute requests.

CONGRESSIONAL INVOLVEMENT IN BASEBALL'S LABOR DISPUTE

(Mr. LUCAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUCAS. Mr. Speaker, I would like to step to the plate and take a few swings at the baseball strike. The Natural tendency for all baseball fans is, I think, to urge Congress to involve itself in this labor dispute which impacts all of us beyond the Major Leagues.

Unfortunately, I am not inclined to believe it is our place to send these players back to their field of dreams.

As it stands now, if something is not done, we may have a 1995 Rookie of the Year from the Little Big League.

I would strongly urge that both sides stop slinging the Bull Durham that we have endured for the past several months, and send Eight Men Out to negotiate a workable agreement, or The Pride of the Yankees will be playing for the Bad News Bears this summer.

REQUEST FOR CERTAIN COMMITTEES AND SUBCOMMITTEES TO SIT ON TOMORROW DURING THE 5-MINUTE RULE

Mr. FOX of Pennsylvania. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Agriculture; Banking and Financial Services; Commerce; Economic and Educational Opportunities; International Relations; Resources; Transportation and Infrastructure; and Veterans Affairs.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the request of the gentleman from Pennsylvania?

Mr. BONIOR. Mr. Speaker, reserving the right to object, we have in the last couple of weeks, I think, worked with the minority in a cooperative manner to facilitate the needs of the committees meeting.

In every case, we have been able to come up with an agreement, a bipartisan agreement, I might add, to the issues that we face. However, we are troubled here on this side of the aisle over what occurred today in the Committee on Science.

Mr. Speaker, the members of that committee, we believe, were not provided in a timely manner with the bill which they marked up, a very important bill. Secondly, we were not accommodated in terms of voting.

There were votes going on in the Committee on Science while there were votes going on directly here on the floor. Of course, without proxy voting and the other reforms that we initiated at the beginning of the Congress, it is impossible for people to be in two places at one time. In fact, Mr. Speaker, there were a number of votes today, I understand, that were taken in that committee that occurred while Members were on the floor here, and they were not able to register their votes when they returned back to the committee.

Therefore, Mr. Speaker, I just mention that for the second time on the floor, and I did it earlier this afternoon, just to alert my friends in the majority that if this type of activity continues, we will be constrained to object in the future. I hope, Mr. Speaker, that this type of behavior will be corrected and that we can work amicably so we can move this agenda, which I do not agree with in many instances, but nonetheless, take it up and discuss it in a fair and open manner in which the American people can have some pride and respect for our work.

With that, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 2050

CONGRATULATIONS TO THE MIGHTY MARYLAND TERRAPINS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, This morning there is a cloud in the Carolina blue sky. Last night, as the final buzzer sounded and the frenzied fans spilled onto the basketball court, the scoreboard flashed—No. 1 North Carolina 73, and the mighty Maryland Terrapins 86.

With Smith slam-dunking, Simpkins soaring, Booth blasting-off, Hipp hopping and Rhodes rising to the occasion, the Terps beat an equally impressive North Carolina team.

Under the amazing coaching of Gary Williams, the Terrapins beat the top-ranked team in the Nation for the first time since 1986. We play them at least two times every year. They beat a North Carolina team, coached by the legendary Dean Smith, who, year after year, has produced champion basketball players.

From last year's sweet sixteen team to this year's top ten rankings and a tie for first place in the Atlantic Coast Conference, there is only one word to describe Maryland basketball—awesome.

Michael Wilbon of the Washington Post called it a night to remember. If last night's caliber of play by the mighty Maryland Terrapins is any indication of what we will be seeing in the near future, there are going to be many nights to remember for the players and fans of Maryland basketball.

Mr. HAYES. Mr. Speaker, if the gentleman will yield, is this an apology to the District for redistricting Mr. McMillen out of Congress?

Mr. HOYER. Mr. McMillen has been redistricted out of Congress, but he was five seats from me cheering on the Terrapins.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, I move that these slanderous words be immediately taken down.

Mr. Speaker, I withdraw my motion.

THE TRUTH ABOUT FEDERAL PAYMENTS TO ALABAMA

(Mr. BROWDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWDER. Mr. Speaker, I know it is difficult to correct a piece of misinformation once it is published, but I am going to try. Much attention has been directed in recent weeks to the impact of the balanced budget amendment on the finances of the various States. In that vein, several national publications have reported that my home State of Alabama led the nation, with 58 percent of its 1993 budget coming from the Federal Government.

That figure is amazing, but it is not true. The confusion results from a difference in Alabama's accounting system that was not adequately explained when the State's budget figures were reported in the national survey.

Mr. Speaker, I will include for the RECORD a letter from the Department of Finance of the State of Alabama showing that Federal funds accounted for 32 percent, not 58 percent, of Alabama's budget for fiscal year 1993.

STATE OF ALABAMA,
DEPARTMENT OF FINANCE,
Montgomery, AL, January 27, 1995.

Hon. GLEN BROWDER,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN BROWDER: Recent news articles published by Newsweek and by Time on January 23, 1995, analyzed the Federal Balanced Budget Amendment and its effects on state finances. Both articles reflected that 58% of Alabama's Budget for fiscal year ending 1993 was received from the Federal Government. This information is not correct. Actual Federal revenues received by Alabama for the fiscal year ending in 1993 were $2.74 billion and compared to total revenues received (from all sources) of $8.52 billion is approximately 32 percent.

This confusion has been brought on by the data supplied to Newsweek and Time by the National Association of State Budget Officers in their "NASBO 1994 State Expenditure Survey—Fiscal Years 1992-94." Alabama provided data for the referenced NASBO survey, but our data was not adequately explained. Alabama included in the section for Federal Funds, expenditures from Federal funds, local funds, state earmarked funds, tuition, fees, grants and, contracts with a footnote to that effect. This footnote was included because expenditures are made from fund accounts made up of these various revenue sources thus precluding actual identification of each expenditure by source of funding. A reasonable estimation of the Federal percentage can be made from the revenue perspective of Alabama's accounting system and for FY 1993 is approximately 32 percent.

I wanted to clarify this data for you, so you would not base your vote on this issue on incorrect data.

Sincerely,

BILL NEWTON,
Assistant Finance Director.

CRIME LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, as a former prosecutor in Pennsylvania, I found today's discussions about addressing crime most illuminating. I have spent much of my life battling criminals in our courts and trying, in my own way to make the streets of my home—Montgomery County, PA—a little bit safer.

I have had the opportunity to witness the frustration of police officers, prosecutors, and judges as skillful defense attorneys have manipulated the system to place violent repeat criminals back on the streets despite overwhelming evidence against them.

I've seen families terrorized by the very memory of the unspeakable crimes against them and the reality that the perpetrators may be released by the system.

The bills considered by this body today will take a dramatic step forward to end the terror of victims and the frustration of law enforcement officials who are hamstrung by technicalities. H.R. 666, the Exclusionary Rule Reform Act is important and long-overdue legislation which will ensure that those guilty of violent crimes against other persons get exactly what they deserve, and that is time in prison.

Current law provides that a guilty defendant may be set free to again terrorize innocent victims based upon the exclusion of evidence seized by law enforcement officers who have acted in the good faith belief that their conduct did not violate the defendant's constitutional rights.

In such cases, the conduct of a police officer does not involve coercion of a confession or other wrongful conduct, but technical errors that have nothing to do with the defendant's guilt or innocence. The release of guilty defendants on technicalities makes a mockery of our society's laws. We need to place the rights of the victims above all else. When I served in the district attorney's office I prosecuted a case where a 12-year-old young lady was viciously and forcibly raped. She and her family were so traumatized by the violence of the crime that they never returned to that house.

My fellow members, I do believe that a person is innocent until found guilty but I don't believe in placing impediments to prosecution which have no basis in fact or law. H.R. 666 removes those impediments.

Finally, I would say the Effective Death Penalty Act H.R. 729 has been strongly endorsed by the National District Attorneys Association. It will provide the kind of habeas corpus reform that will stop the endless appeals of capital cases where a defendant has been found guilty of murder, the death penalty sentence was issued, and there was no trial error or constitutional infirmity.

By passing this kind of tough anticrime legislation like the exclusionary rule modifications and habeas corpus reform we will send a clear message to those who would break our laws that crime does not pay, and the victims will find a measure of protection that can come from Congress.

INCREASING THE MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. HILLIARD] is recognized for 5 minutes.

Mr. HILLIARD. Mr. Speaker, I rise today to address the issue of increasing the minimum wage.

We the Members of the U.S. Congress have a moral obligation simply to ensure that the working men and women of this country are granted the ability to live on the wages that they earn. We are speaking about Americans who have chosen to live and to work and to try to raise a family.

I tell my colleagues we are not talking about the wealthy, we are not talking about the corporate executives. We are talking about people who are common like I am, like you are, people who should have the opportunity to live the American dream.

The ones who end up losing, of course, when the minimum wage does not keep up with the rising costs of inflation are the real Americans. They are the people that make this country as strong as it is today. These are the men and women who have rejected welfare, who have rejected subsidies from this Government like the corporate executives and the farmers. These are men and women who work 8-hour shifts every day, 40 hours a week. These are men and women who truly are the real working poor, the real working Americans. These are the men and women who work sometimes two jobs in order to provide their children with an education. Yes, Mr. Speaker, sometimes they work two jobs in order to meet the minimum necessities of living. Yes, sometimes they work just to be able to put food on the table, to provide a comfortable place for their families. They work two jobs, 12 hours a day, sometimes 16 hours a day.

We must not forget these real Americans.

□ 2100

They have committed themselves to work within the system, and they give all that they have to make sure that their families are taken care of. We should not penalize them.

But today's minimum wage is not sufficient for the needs of today's families. At the current rate, these families can barely make it. If the minimum wage had increased with inflation after the year 1970, the current rate would be $5.54 an hour. That is still low, but it is a long ways from where we are now. It would give them the opportunity to make sure that their children have the right, and perhaps have the opportunity, to live the American dream.

While the wages have lagged behind the times, minimum wage earners have decreased especially when you consider the erosion caused by inflation. Between the years 1979 and 1992, the number of working poor people have increased 44 percent. These are people who live below the poverty level, not because they are on welfare, not because they do not work, but because they do not earn a sufficient amount of money to be classified by this government above the level of poverty.

Yes, we recognize that they make enough money to live below the poverty level. That is a shame and a disgrace, especially for a country as wealthy as this. We must address these issues. We must raise the minimum wage to a livable level. We must index the rate for inflation so that we will take care of these injustices now and make sure that it will not occur ever again in the future, plus it will save us the choice of constantly coming back and trying to keep up with inflation for those real Americans who work every day.

All of the hard-working men and women of this country should be able to live without the woeful poverty on their doorsteps daily. We are talking about men and women who are gainfully employed. They are those who are trying to live and, yes, sometimes they barely make it.

Well, I say to those of you who criticize the welfare state, I say to those of you who criticize those who have not had the opportunity to live the American dream, that we must realize that we cause many of their problems. Since 1970, there have been constant increases in local taxes and, yes, in taxes that we in the U.S. Congress have passed. We have taken money from them.

Since 1990, we have taken more than $500 billion. The only way we can make up for it is for us to help the working Americans. Mr. Speaker, today we must commit ourselves to raise the minimum wage.

QUESTION ON CONSTITUTIONALITY OF THREE-FIFTHS VOTE FOR TAX RATE INCREASE BILLS

The SPEAKER pro tempore (Mr. QUINN). Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, it is my understanding that a lawsuit is being filed by the former counselor to Presidents Jimmy Carter and Bill Clinton over the constitutionality of the new House rule that requires a three-fifths vote to pass tax rate increases, and I guess we know on whose behalf it is being brought, for the tax-and-spend Democrats of this Congress, no doubt.

Mr. Speaker, while I do not pretend to be a constitutional lawyer, as the chairman of the Committee on Rules, I do have enough understanding of the constitutional rulemaking authority of Congress to assert that this new rule is on all fours with the Constitution. I am not alone in that assertion. I am backed by the Supreme Court itself in previous decisions.

The constitutionality of such lies in article I, section 5, which states that each House may determine the rules of its proceedings. If the House majority decides to adopt rules requiring a super majority on certain classes of bills, it may do so. That same majority at any time can repeal or waive that same rule.

The Supreme Court in the case of the United States versus Ballin, in 1892, way back then, indicated that the only constraints on the rulemaking power of this Congress are that Congress may not ignore constitutional constraints or violate fundamental rights, but within these limitations, all matters of method are open to the determination of the House, that means this House of Representatives. The power to make rules is not one which, once exercised, is exhausted. It is a continuous power always subject to be exercised and, within the limitations suggested, absolute and beyond the challenge of any other body or tribunal.

Ironically, this case was about what constituted a quorum of the Congress for conducting business. The Court upheld a ruling of the Speaker that as long as a majority of the body was present, it did not matter whether the number of Members actually voted added up to a majority.

Some have used the Court's findings that a majority quorum must be present to assert that nothing more than a simple majority may be required to pass legislation. That is not what the Court said in that case. All the Court said was that the act of a majority of the quorum is the act of the body.

The requirement in the new House rule that a super majority of three-fifths must vote in favor of any income tax rate increase does not violate the constitutional requirements that a majority must be present to do business.

The bottom line is this: A majority of the House, under the Constitution, may determine the rules of the proceedings including a requirement that a larger majority may be required to do certain things. For instance, for 125 years in this body we have required a two-thirds vote to suspend House rules and pass legislation under this procedure. No one has ever challenged that rule.

This House has also adopted a rule that says it does not even want to have introduced, let alone considered, certain commemorative bills. We banned bills by the rules of this House, and it was a very good rule which I helped to put in.

So long as no basic constitutional principle or rights are being violated, which they are not in any of these rules, a House majority may adopt the rules of its proceedings regarding the introduction, consideration, or passage of legislation.

So, Mr. Speaker, that is something which, according to the Supreme Court, cannot be challenged in any other body or any other tribunal. A court challenge to our new rules will be dismissed on these very grounds, and thank goodness for the American taxpayer.

POSSIBLE EFFECTS OF THE PERSONAL RESPONSIBILITY ACT ON THE STATE OF TEXAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GENE GREEN] is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I take the floor to discuss again the possible effects of the Personal Responsibility Act, the PRA, on the State of Texas. This measure reforms welfare in many ways. Unfortunately, it also repeals a number of nutrition programs such as the school nutrition program and also the senior citizens lunches which, for Texas, would be disastrous.

A recent USDA study says this PRA reveals Texas would lose over a billion dollars in fiscal year 1996 alone. The reduction in funding for Texas represents a 30-percent reduction in funding for school lunches and senior citizens lunches.

Under the block grant arrangement, Federal funds would first be awarded to the State and then allocated to the programs throughout the State. However, many nutrition programs, such as the school lunch, already go directly to the school districts.

Adding an additional bureaucracy to funnel funds appears contradictory to the premise of the block grants, when everyone agrees we need to cut the layer of bureaucracy not increase, but this Personal Responsibility Act is another layer to take away funding directly to the school children and seniors.

Local school districts could take deep cuts in funding. The Aldine Independent School District, where my children went to school, will have their food budget reduced by over $2 million and require a lunch costing $1.35 now to be increased to $1.75 and maybe even more. This could mean thousands of students in the Aldine area might not to be able to afford a nutritious lunch.

The Pasadena School District in Harris County that I also represent part of, 50 percent of their meals are served this year by a free or reduced price of lunches. The number of free meals have tripled in the past 6 years.

The Houston Independent School District provides 118,797 free or reduced meals every year, and they would be reduced.

Tufts University Center for Hunger states that iron deficiency anemia affects nearly 25 percent of the poor children in the United States and impairs their cognitive development.

The Tufts study further states that the longer a child's nutritional and emotional and educational needs go unmet there is a greater overall cognitive deficit.

While I think we can all agree that reforming welfare is needed, the needs of the school children are of paramount importance. This may not be how the people of Texas thought how welfare reform would begin, but it currently is written into this Personal Responsibility Act and will increase the hunger for Texas children and senior citizens.

I would like to paraphrase a letter from the Aldine Independent School District from our executive director of Food Services that says, "We are proud of what we do. Last year we received $7,900,000 from the Federal Government for reimbursement for free and reduced, prepaid mails and food commodity programs."

□ 2110

They serve an average of 12,000 breakfasts a day and 24,000 lunches a day to Aldine children. They are proud of what they do, and many students in Aldine get their nutrition from the school cafeteria which enables them to perform better academically in the classroom. The food served at the schools goes directly to that child. It does not go to their parent. It goes to that child, and a hungry child cannot learn. These children are already here, so we need to nurture them and educate them so they can become healthy and productive members of society. We do not need to turn our backs on society's most least fortunate, our children, our senior citizens. Mr. Speaker, I ask that the House change this Personal Responsibility Act to reflect the needs that are reflected in our children.

FEBRUARY 8, 1995.

The Hon. GENE GREEN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GREEN: Aldine ISD provides an excellent education to children in middle to lower income families. There are 46,000 students enrolled in Aldine ISD. The Aldine Food Service department received $7,947,557.71 from the federal government in reimbursements for free, reduced-price, and paid meals and food commodity value in the 1993–94 school year. We serve an average of 12,000 breakfasts a day, and 24,000 lunches a day to Aldine children.

If the block grant proposal is passed as is, with a 30% reduction in the funds provided to Texas, impact on the Aldine Food Service department would be a loss of $2,384,267.30. This reduction in funds would mean a large increase in breakfast and lunch prices, reduction in labor, and reduction in spending to businesses in this area. Many children in Aldine would not be able to afford the increase in price for lunch and breakfast. Our department has always operated in the black with all excess funds being reinvested into the Child Nutrition Program to benefit students. These cuts would most likely throw us into the red.

We are proud of what we do. Many of the students in Aldine get their best nutrition in the school cafeteria which enables them to perform their best academically in the classroom. The food served at schools goes directly to the child, not through a parent or guardian. A hungry child cannot learn!

These children are already here, so we need to nurture and educate them so that they become healthy, productive members of society. Your support in our endeavor will benefit us all.

Thank you!

Sincerely,

JOYCE H. LYONS,
Executive Director of Food Services Aldine ISD.
MELANIE B. KONARIK,
Assistant Director of Food Services Aldine ISD.

UNDER THE CONTRACT WITH AMERICA WORK IS A PENALTY RATHER THAN A PRIZE

The SPEAKER pro tempore (Mr. QUINN). Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the Contract With America proposes to put 1.5 million welfare recipients to work by the year 2001.

On its face, that proposal is appealing. Many of us support welfare reform.

The current system does not encourage self-sufficiency and does not always work well.

Reform, however, does not mean change for the sake of change. Reform means change for the sake of improvement.

Improvement in our welfare system is best accomplished by rewarding work—by making work a prize rather than a penalty.

Work is a prize when a full-time worker can earn enough to pay for life's necessities. Work is a penalty when a person cannot earn enough to pay for food, shelter, clothing, transportation, medical care, and other basic needs.

That is why any discussion of welfare reform must also include a discussion of minimum wage reform.

Under the Contract With America, work would be a penalty rather than a prize.

The work slots proposed to be created by the Personal Responsibility Act would pay $2.42 an hour for a mother in a family of three.

That hourly wage is almost $2.00 below the current minimum wage of $4.25. In Mississippi, pay under the Contract With America would equal just seventy-nine cents per hour.

That is a penalty. That is not a prize.

It is noteworthy, Mr. Speaker, that the vast majority of those who will be forced to work at below minimum wage earnings are women.

It is also noteworthy that 6 out of 10 of all minimum wage workers are women.

And, contrary to a popular misconception, most minimum wage earners are adults, not young people.

In addition, many of the minimum wage workers are from rural communities. In fact, it is twice as likely that a minimum wage worker will be from a rural community than from an urban community.

Most disturbingly, far too many minimum wage workers have families, spouses, and children who depend on them.

That is disturbing, Mr. Speaker, because a full-time worker, heading a family of three—the typical size of an American family today—and earning a minimum wage, would fall below the poverty line by close to $2,500 dollars.

In this country, a person can work, every day, full-time, and still be below the poverty level. Work, in that situation, is a penalty.

A review of the history of the minimum wage is revealing. First implemented in 1938, with passage of the Fair Labor Standards Act, the minimum wage covers 90 percent of all workers.

Between 1950 and 1981, the minimum wage was raised 12 times. During the 1980's, however, while prices were rising by almost 50 percent, Congress did not raise the minimum wage.

I spoke yesterday, Mr. Speaker, of the impact of a frozen minimum wage during the decade of the 1980's when income dropped and costs escalated.

While the minimum wage stood at $3.34 an hour, the average cost of a domestic automobile increased from less than $9,000 to more than $16,000.

The average cost of local transit went from thirty cents to seventy cents.

While the poor got poorer and the minimum wage stood stagnant, the average per capita cost of health care more than doubled, from $1,064 per person annually to $2,601.

From 1980 to 1990, the average cost of a half gallon of milk went from ninety-six cents to a dollar and thirty-nine cents.

The average retail cost of bread went from forty-six cents to seventy cents during this period.

And, a dozen of eggs, which cost 85 cents in 1980, cost more than $1 by 1990.

In short, Mr. Speaker, while the bottom 20 percent of America lost income and got poorer, the minimum wage was frozen, and cost climbed.

Low income workers are yet to recover from that period. They are still far behind the cost of living and further behind high income workers.

Most importantly, raising wages does not mean losing jobs. Recent, comprehensive study dramatically demonstrates this conclusion.

In my State of North Carolina, for example, a survey of employment practices after the 1991 minimum wage increase is instructive.

That survey found that there was no significant drop in employment and no measurable increase in food prices.

Indeed, the survey found, workers' wages actually increased by more than the required change. The State of Mississippi was also the subject of that study.

When a person works, he or she feels good about themselves. The contribute to their communities, and they are in a position to help their families. Work gives a person an identity.

Our policies, therefore, should encourage people to work. We discourage them from working when we force them to work at wages that leave them in poverty.

When Congress has the opportunity to raise the minimum wage, let's make rewarding work and wage reform an essential part of welfare reform.

Let's encourage people to work. And, let us insure that they can work at a livable wage.

Mr. Speaker, we support a minimum wage that affords every American a livable wage.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Ohio [Mr. HOKE] is recognized for 60 minutes as the designee of the majority leader.

REVIEW OF LEGISLATION ALREADY PASSED IN THE 104TH CONGRESS

Mr. HOKE. Mr. Speaker, tonight I have asked some of my good friends in the House to join me in a special order where what we are going to do is review some of the legislation that has already been passed in the 104th Congress, and then we are going to continue to talk about some of the things that have not been passed yet but that we are working on. It is all part of the program that we call our Contract With America.

I have asked the gentlewoman from Washington [Mrs. SMITH] the gentleman from Georgia [Mr. KINGSTON], and the gentleman from Tennessee [Mr. BYRANT] to join me in this, and what I wanted to do first is I have got a nice chart here that is courtesy of the gentleman from Georgia [Mr. KINGSTON], and I want to use this red pen to talk about some of the things that we have done already.

What we have done is on the very first day of Congress we had promised that a Republican House would, first of all, require Congress to live under the same laws as every other American. We have done that.

We also said that we are going to cut one out of every three congressional committee staffs. We have done that.

And we said that we would cut the congressional budget. We did that as well.

In addition, Mr. Speaker, we promised the American people that we are going to pass a balanced budget amendment and a line-item veto, and we said that we would give relief to our States, counties and local cities on unfunded mandates, and we have done that as well.

Now I think one of the things that I want to point out this evening about everything that we have done is because there is so much partisanship that happens on this floor that we see every single day, one would think that there was an open battle going on between the minority and the majority, the Democrats and the Republicans, on a daily basis. Let us review the bidding for just a moment because I think that maybe, Mr. Speaker, you will find these numbers rather surprising:

First of all, the Congressional Accountability Act requiring that every single law of the land also require, be applied, to Congress. Two hundred Democrats joined every single Republican in voting for that.

□ 2120

It was completely unanimous. When it came to the unfunded mandates bill that we passed last Thursday, 130 Democrats joined us to pass that bill. The line-item veto, 71 Democrats joined us. The balanced budget amendment, 72 Democrats joined us. We passed just yesterday and today, three important crime bills that Mr. BRYANT is going to tell us about, habeas corpus reform, the exclusionary rule reform, and Victims' Restitution Act. We had 71, 71, and 133 Members of the minority join us in that.

What does that prove? Clearly, it proves that this is a bipartisan effort.

If you say to yourself as you listen to this, you say, "If that many Democrats were voting for them, why on earth did you not bring these things to the floor and pass them previously. What is going on?"

Well, what it does show you is two things: First, there is absolutely bipartisan support, in some cases overwhelming bipartisan support, for all of these bills. The other thing it tells you is that some of these bills were never allowed to come to the floor of Congress because the previous leadership refused to allow them to see the light of day to ever get a vote.

We made the pledges that we would bring these things to the floor. We made pledges that we would have votes on them. And we have in fact passed them all. I am not saying we are going to pass everything that comes up under the Contract With America, but we are going to try to.

It has proven to be a remarkable road map for Republicans and for this Congress to stay very focused on the agenda that America wants. And it has also proven, I think, very importantly to be a way for us to reinstill confidence of the American people in what we are doing as a Congress, and their confidence in their ability to elect officials that will actually deliver what they promise.

One of the ways that you can see that is that in the Washington Post survey or poll that was taken last week, we find that confidence in the Congress has doubled, doubled, just since January 4 when we were sworn in. And that is the first time in the 15 years that that particular polling question, how do you feel about Congress, favorable, unfavorable, that has doubled, it is the first time it has ever happened since they have been doing that kind of polling.

Luckily, we have with us two freshmen Members, Mr. BRYANT and Mr. SMITH, who are part of the revolution, and they are going to be talking to us about the crime bill.

Mr. BRYANT of Tennessee. I appreciate the very fine introduction of what this Congress is about from the gentleman from Ohio. I just wanted to add a remark or two to what you are saying about the popularity increase on the part of the Congress.

I tell you, we are all having trouble getting back to our districts because of the hectic pace that we are involved in. I heard today that we have already voted more than 100 votes in this month of January and the early part of February, and I think last year we reached that mark of 100 votes somewhere in May. So that is some indication to the viewers of the pace at which we are moving.

Mr. HOKE. The gentleman is completely correct. In fact, we are on track for doing more in the first 100 days of this Congress than has ever been achieved in the history of our Congress if we keep up at this rate. We had through the end of January been in session 115 hours. The average for the previous 10 Januarys was 28. We had had 79 votes on the floor up until then. The average had been 9.

Mr. KINGSTON. If the gentleman will yield, I think, though, what is really important is as we talk to our two freshmen that are with us, is that this spirit of change really was affected by your election. It would not have happened. We would be continuing at the status quo of year after year everybody signs the balanced budget amendment, year after year everybody signs the line item veto, and a couple of these other hero bills, and you go back home and tell your Rotary Club, "I sponsored a bill, but doggone it, those rascals in Washington will not get it to the floor." The time for that kind of talk is over with, because of the huge new freshman class, and a freshman class who as candidates went out on a limb, most I think signed the Contract, but they said, "This is my agenda. If you elect me, this is what I am going to go for." And instead of throwing away that brochure on an election night, they are coming back day after day and reminding the voters what they said, instead of waiting for the voters to invite them.

With that, I think we owe them a lot of this credit, just to get the chance to vote. You may want to comment on, you know, what it is like. Because Mr. HOKE and I served under a previous regime, and it was not as fun and certainly it was not as vigorous as what we are doing now.

Mrs. SMITH of Washington. If the gentleman will yield, I think what we have turned the American people into is C-SPAN junkies. I am having friends that didn't even have TV's who are getting up each morning so they can see what we did today. They got rid of the idea of Congress as a slow moving process, and they are saying, "We want to see what they did today." I think the freshmen came with the belief that we would do something everyday, but we did not realize when we got here that people would say, "Do you realize this is fast?" And when you look at what they used to do, we would not have barely got started. My understanding is it took way into February before we would actually even gear up very much.

Mr. HOKE. Generally speaking, we did not even come to Washington until the last week of January previously.

Mrs. SMITH of Washington. I was trying to do a summary of what we had done thus far, and I could not do a newsletter with enough in it, it would have had to have been so big. I said, you know, that is really something. I said I was never coming to Congress. My polls were very high for the last 6 years, nearly 90 percent, I said I am not going because those guys are not doing anything. I am pretty glad to say not only are we doing something, but I am actually not sleeping more than 4 or 5 hours a night. It is pretty exciting. We came to a whole bunch of people ready to do action. We might be the steam, the freshmen, but there certainly was a train on its way. We are just pushing it along a little.

Mr. HOKE. We gave a great American a wonderful birthday present on Monday. Mr. KINGSTON, I wonder if I might ask you to talk a little bit about what that birthday present was, how it came about, and what it does for the American people.

Mr. KINGSTON. Of course, the great American you are speaking of is Ronald Reagan, and he was a man even before he was elected President who talked about the concept of the line-item veto. And the analogy that I have given my voters is just imagine if you are in a grocery store and you are buying your meat and potatoes, your fruit and your vegetables, and you are in the checkout line and the cashier says buy some caviar for me. You say I don't owe you any caviar. I don't eat caviar, it is too expensive. He says if you want your meat and potatoes, you have got to buy me caviar.

That sounds bizarre, but that is how the Congress has treated the American people, and the American presidents, for all these years. That anytime the President would go into an area like a flood disaster or something like that, we would always go in there and tack on our latest social program, our new little warm and fuzzy midnight basketball of the month or whatever it was. We say OK, we know you want to take care of the California earthquake victims, but in addition to this I want a little research money for the university back my way.

This gives the President the actual ability to take a pen and line item that out, that pork out of there, and say we do not need it anymore.

Mr. HOKE. Is that something that Governors have in most States or many States?

Mr. KINGSTON. Forty-three Governors have it. We have it in our State of Georgia. It has worked effectively. The Governor does not overuse it. But what it does is it puts him back in the process.

Mrs. SMITH of Washington. That is something that amazed me when I got here. I was in the State Senate and the House and we always had a balanced budget amendment, and we had line-item veto. In fact, we not only had line-item veto for the budget, we had it for every bill, and the Governor could go in and take out pork and things that did not work. Now, sometimes we were a little irritated at the Governor, but the reality was it brought a great balance to some of us that might want to kick in a little pork for our district.

We had to think about a check and balance of the Governor. So I think that most States have something like this. For the Federal Government not to have it, seems a little ridiculous.

Mr. HOKE. Maybe one of the greatest reflections for the need for this is we seem to have an absolute inability to balance our budget. This is one more tool to try to get specifically to that. And Mr. KINGSTON, maybe you could illuminate this a little bit. It seems to me when we saw the people opposing it, were these the fiscal conservatives, the deficit hawks, the tightwads, or the big spenders in Congress?

Mr. KINGSTON. The people who opposed it generally used this philosophical argument that it tipped the balance of power. But what they were really saying is I want my pork. And I think we saw, for example, getting back to the earthquake, on the earthquake we sneaked into the budget or had sneaked in $1.3 million for the Hawaiian sugar cane mills.

□ 2130

We have $1.5 million to convert a nuclear power commercial ship into a museum, or $10 million for a new train station in New York.

Mr. HOKE. Why is that not appropriate as a Federal expenditure?

Mr. KINGSTON. Well, there is certainly a philosophical question that these should probably not be things that the Federal Government is involved in. But more importantly than that, we have got people who have health care emergencies because of the earthquake, business emergencies, lives literally at stake. We need to get the money out to help the earthquake victims. We do not need to be spending it for train stations. The list goes on and on. But remember, it is every single appropriation bill has this little Christmas tree, what is in it for me, and if you want something in Ohio, then you are going to take care of me in Georgia. That is one reason why we have a national debt approaching $5 trillion right now.

Mr. HOKE. And it got nearly 75 percent of the votes in this Congress. It had never previously been allowed to even come to the floor. Yet we got 301 votes.

Mr. BRYANT of Tennessee. One of the things that we, a couple of things that we campaigned on heavily during our election process, were the line-item veto and the balanced budget amendment. And I used to say, after I had signed this Contract With America, one of the hidden pearls in this contract, not necessarily each and every item might be passed, but that we are calling forth from everyone that is in Congress a vote. We are making them vote up or down on each one of these issues. And if an item did not pass, then the people back in the district would understand that and how their Congressman voted. And they would have the opportunity next election to decide if they wanted to retain that Congressman.

But everywhere I went, the people back in west Tennessee felt that these two items, the line-item veto and the balanced budget amendment, were required because of the forced discipline. I have heard that term used an awful lot up here, but I am convinced that not only at the State level but at the Federal level, we need to force discipline by law. But we have to balance the budget.

The Chief Executive, the President, whoever, the Governor has a right to the line-item veto. And I think we have taken the correct steps. And once we got those bills out of the committee, up on the House floor for the first time probably, at least the line-item veto, I think maybe the balanced budget amendment was up a couple times, but we were forced, the Members, to vote and to show our cards. And I think that is why you saw the large amount of votes in support of each of these.

Mr. KINGSTON. One of the many votes on this was rejection of what I would call the light-item veto, l-i-g-h-t.

Mr. HOKE. Line-item veto light.

Mr. KINGSTON. That says that when the President does this, then it comes back to the Congress and we sit on it. And what he actually vetoed out does not take place, but we do not ever have to vote on it again. It is just the same old——

Mr. HOKE. That is pretty much the rescission package that we have got now.

Mr. KINGSTON. We rejected that. This package, what is so different about it, he sends it back to us. We have 20 days to say yes or no or to modify it or pass part of it or not, but if we do not take action, it is automatically in effect. So the ball is in our court.

It is not this, oh, well, we just kind of look the other way and pretend it does not count. The clock starts and we have got 20 days.

Mr. HOKE. I know it is a little technical, but I wonder if you could just share with me how the process works. We pass a bill. The Senate passes a bill, comes out of conference, goes to the President for a signature. What happens next?

Mr. KINGSTON. Let us just say it is an education bill, health care, welfare reform, and we stick in there, as are actual cases in years past, $58 million for the American Shipbuilding Co. in Tampa, FL, $11 million for a powerplant modernization for a naval shipyard that is about to be closed in Philadelphia. And we stick in another $1 million for plant stress studies in Texas.

The President gets the health care bill. He says, wait, these three items, I do not like them. And so he circles them so to speak sends them back to Congress. He has got to do that within 10 days. He cannot just sit on it.

Mr. HOKE. He has 10 days to make those line items, to veto those particular lines.

Mr. KINGSTON. That is right. He sends it back, submits it to us. And incidentally, he can say, look, I do like the New York Yankees, and I am going to give them a little bit of sweetener for the shipyard down in Florida, and there is a relationship. So instead of giving them $50 million, he decides to give them $25 million. He does not even have to zap it out. He can just reduce it.

Then we get it back within 10 days. We have 20 days to vote on it. If we decide not to vote on it, it is law.

One other thing that is important to know, this is on spending, but if we pass a sweetheart tax deal and it only benefits less than 100 people or 100 or less specific corporations, just a clear conflict, because some powerful committee chairman says, look, I want you to take care of my little buddies over here, the President can also veto those out. People complain all the time about tax loopholes. This gives the President and, in this case, the Democrat President the chance to stand up to those.

Mr. HOKE. So let us say, for example, that some of our Democrat friends would put together a loophole to sweeten the pie for some of their fat-cat contributors with a tax loophole. If it is fewer than 100 people, the President can X that out and veto it. The thing that we do joke about Democrats, but you know, we did get into this situation from Democrats and Republicans. And the beauty of this that I like is that we have got a bipartisan Congress with Republican control passing a bill for a Democrat President. So we are giving him a very powerful tool to turn around and use, if he chooses to do so. I hope he will not be partisan about it and will be responsible.

I wanted to get a little bit to the balanced budget amendment, but I see we are running out of time here. I wanted to ask the gentleman from Tennessee [Mr. BRYANT], who is the former U.S. attorney from the western district of Tennessee, and, therefore has, I would say, a fair amount of expertise with respect to crime, to talk about the crime bill.

We passed two things today. One was habeas corpus reform and the other was exclusionary reform. I have to tell you that to most Americans who are not lawyers, of course, you and I are both on the Committee on the Judiciary. We are very much involved with all of this, but to most Americans who are not lawyers, the words "habeas corpus reform" mean absolutely nothing. Exclusionary rule reform means absolutely nothing.

What is going on here? Can you bring it down to Earth for us?

Mr. BRYANT of Tennessee. Let me try to give a primer on this. As far as the exclusionary rule, that is a judicial court creation. It appears nowhere in the Constitution. We have heard that bantered about in our arguments, that it violated the Constitution, what our forefathers wrote, those kinds of things. Actually, it is a rule that was crafted by the courts to in effect punish police officers for unlawful conduct. And over the years, there has been a constant balancing act between the rights of society as opposed to the rights of the criminal.

And over the past number of years, many of us feel that that pendulum has swung too far over in favor of the rights of the criminal and, in some cases, has actually resulted in the exclusionary rule being applied in trials that guilty people have gone free or, even before that, you recognized you have got a bad case because of this. You would have to plea bargain out or even dismiss a case.

Mr. HOKE. Where does this name "exclusionary rule" come from? What are we excluding?

Mr. BRYANT of Tennessee. Actually, it is excluding evidence from the trial. That is the remedy that the Court has foisted upon us. If it was deemed illegal evidence, then it is actually kept away from the jury.

A classic example is the ongoing trial in California and the issue of the glove that the police officer found at the home of Mr. Simpson. That was the subject of a lengthy suppression hearing to exclude that glove. And in that case, the judge did allow it into evidence.

But there is a great deal of confusion over the law in all these situations involving search warrants and even the warrantless searches. And I used to marvel, as a prosecutor, how, as in the case of Mr. Simpson in California and in other cases where you could spend hours and days, even longer periods of time, with law-school-trained prosecutors and defense counsel and judges arguing over the merits of this issue in a sanitized situation, a courtroom, with law clerks writing briefs and so forth for you.

□ 2140

Yet, on the other hand, we asked police officers, law enforcement officers who were in a tough situation out in the field, in less than sanitary conditions, often life-threatening situations, to make those kinds of decisions on the spot: "Do I seize this evidence or do I not seize this evidence?" Again, the lawyers and judges argue over these things for hours and days and cannot reach a conclusion.

Mr. Speaker, for too long I think we have not allowed for a reasonable mistake. Nobody expects perfection from our law enforcement, or from anything in our lives. I mentioned earlier to someone that Ken Griffey hits the ball safely 3 times out of 10 and he is a superstar in baseball.

Mr. HOKE. We certainly hope he will be hitting the ball 3 times out of 10 this summer.

Mr. BRYANT of Tennessee. We hope, soon.

Mr. HOKE. What is it exactly we are talking about reforming here in this exclusionary rule?

Mr. BRYANT of Tennessee. In this body we are talking about following what the courts are already beginning to do as the pendulum swings back toward a fair balance in protecting not only, again, not only the criminals' rights, but the victims' rights.

Mr. HOKE. We are talking about the Supreme Court, now?

Mr. BRYANT of Tennessee. The Supreme Court. We are just expanding what they are doing to allow for this reasonable mistake on the part of the police officer in gathering evidence. If he makes a reasonable mistake in good faith, that is subject to the same exclusionary rule possibility, but a third party, a judge, provides an objective standard and decides whether that comes in or not. But again, it allows for a reasonable mistake and does not punish society by excluding or keeping away that evidence from the jury.

Mr. HOKE. Who has asked that this rule, that this change that has been made by the Supreme Court, actually be codified into Federal law? Who has been supporting this?

Mr. BRYANT of Tennessee. Of course, there has been a number of prosecutors, people involved in the legal system, but I would suspect both JACK and LINDA have seen demands from their constituents, as I did, that we ought to make some changes here in our judicial system and swing that balance back more toward society.

Mrs. SMITH of Washington. Will the gentleman yield?

Mr. BRYANT of Tennessee. I yield to the gentlewoman from Washington.

Mrs. SMITH of Washington. I just reverted into being a mom and a grandma, but I was a senator, too, and I think it seems worse to me than ridiculous rules, letting a rapist off, or letting someone that violently hurt someone off.

I think what we have done in this is common sense. That is the part about the Contract that I liked the most when I saw it, when I was first drafted as a write-in candidate in September. I saw this and I thought why would anybody not support this? It is common sense. That is one of those things that just came up as common sense to me.

Mr. KINGSTON. If the gentleman will yield, I think one of the problems is that the American people just get so frustrated when we cannot get control of everything, and it seems that time after time, we are forgetting the victim, we are forgetting what is in the best interests of society, and we are going to the extreme to protect or defend some thug, and we are beating the law in his favor. As a result, we are not getting the convictions we need. These people are getting out. It is all a case of who can find the best technicality, and it does not really change the fact that this person may have committed murder, may have raped somebody, may have kicked the door in and beat some people up.

That seems to be secondary to finding the technicality to getting them off. I am glad we are correcting this.

Mr. BRYANT of Tennessee. Mr. Speaker, as the gentleman well knows, on the Committee on the Judiciary we are not doing away with the exclusionary rule completely. There are still certain protections out there. The law enforcement, although they do not do this anymore, they may have done this back in 1914 when this was necessary to formulate this rule, but people do not beat folks in back rooms with rubber hoses to extract confessions anymore. However, if they did, certainly the exclusionary rule would still be available.

Mr. Speaker, what we are simply saying is that folks make mistakes. As long as they act in good faith, and a judge has to make that determination from an objective third party standpoint, that evidence ought to come in and not punish society because of a mistake. There are other avenues that that can be addressed in.

However, we did, once we came to the House floor, we had a good, healthy debate, but we had truly bipartisan support on this, and the bill passed, as I recall, overwhelmingly.

Mr. HOKE. Mr. Speaker, the gentleman is absolutely correct. We had, I think, 300 votes or 298 votes, again 75 percent or 70 percent of the House voting in favor of it. Clearly, what we are seeing here is the pendulum swinging back, so that we can take back our streets, so that victims will have the rights that they need and that society will not become the victim of the criminal. If Members will look at the figures on this, fewer than 4 out of 100 crimes at this time, and I'm talking violent felonies, result in incarceration. Now, if the criminal justice system is going to act as a deterrent, then you have to do the time if you commit a crime. Otherwise it simply does not work as a deterrent. That is not the only purpose of the criminal justice system, but that certainly is an important one. For somebody contemplating criminal activity, they have to know that they are going to get caught, that when they are caught they are going to be convicted, and when they are convicted they are going to be incarcerated. They are going to be confined.

Mr. Speaker, let me move, if I could, from the exclusionary rule issue to this thing called habeas corpus. Now, habeas corpus, what on Earth does it mean? What are we doing? What is going on?

Mr. BRYANT of Tennessee. Literally, "habeas corpus" means "you have the body." It started out in the 1800s, as I remember reading, where people who were wrongfully convicted, or even perhaps kept in jail without a trial, used that as a mechanism to have a hearing to get out of jail.

What has developed over the years, though, has been a system of, I believe, abuse by people in the jail who filed habeas corpus petition after petition over a period of years, with the net effect of being able to, particularly in death penalty cases, to delay the implementation of their death sentence effectively.

Mrs. SMITH of Washington. Mr. Speaker, will the gentleman yield? I am confused. Does that mean they just appeal over and over again, based on what statute? How do they do that? "You have got the body." You have me confused. Try that again.

Mr. KINGSTON. Tom, she does not mean you have the body.

Mrs. SMITH of Washington. Remember, we are not all attorneys. I didn't quite understand that.

Mr. BRYANT of Tennessee. There are at least three avenues that people sentenced to the death penalty can travel. Of course, they have their natural State appeals. Then there is a habeas corpus procedure within the State, and then the Federal habeas corpus procedure.

People that are on death row and their attorneys are experts at maximizing these appeals, and in many cases, going back, and not necessarily appealing the same issues, but raising new issues each time to delay, as we all know, and we heard so often on the campaign trail from our constituents, delaying it 15, 20 years or more. That was probably, again, one of the major complaints that I heard.

As I look there on the Contract that you are checking off, on Number 2, we are getting very close, because today not only did we work on the exclusionary rule, and yesterday on victims' compensation, but we did pass this fairly severe modification, changes to the habeas corpus proceedings.

The two things I talked about were limiting the numbers of these appeals and the timeliness of them, and we did exactly that today.

Mr. HOKE. Can you flesh that out a little for us, ED? How much time does somebody have now, after they have been convicted of a capital crime, and I mean convicted through the entire appellate process, so I think people should understand that we are not talking about—habeas corpus does not begin upon conviction at trial.

You are convicted at the trial level, and then typically there is an appeal to the first appellate level, and then there is another appeal to the second appellate level, which would probably be the State Supreme Court. Am I correct on that?

Mr. BRYANT of Tennessee. As there should be.

Mr. HOKE. As there should be, absolutely.

Mr. BRYANT of Tennessee. Like any trial, they are entitled to fair appeal decisions.

Mr. HOKE. Then there is a final order of the highest court in that particular State?

Mr. BRYANT of Tennessee. That is correct. Then they usually begin the habeas corpus process.

Mr. HOKE. At that point they have already had two appeals process. This is not from the trial court, this is already after a final adjudication from the highest court in that particular State?

Mr. BRYANT of Tennessee. That is right. Generally under the law that we passed today, if it is a State appeal, a State conviction they are appealing from, they have 1 year in which to file their habeas corpus petition. If it is a Federal appeal in which they are applying for habeas corpus, then they have 2 years.

It is on a faster track now, and I think as this bill works its way over, up the process, I think you are going to see some improvement.

Mr. HOKE. Right, it is on a faster track, but just so we get a real idea, a faster track, for a U.S. attorney to say that, it may seem like a faster track to you, but I don't know if it seems like a very fast track to the public.

If you are talking about the trial, the trial could take 3 to 6 to 12 months, even, but let's say it just takes 6 months, and then how long would the first appellate procedure usually take?

Mr. BRYANT of Tennessee. Of course, that depends on the States. But I think you are looking, as opposed to the 10 to 15 years that are probably average today, you are looking at a much shorter period of time. If you could keep it under 5 years and work down from that, I think that is a fairly fast track for this type of case.

Mr. HOKE. Who is paying for the attorney's fees for the capital inmates at this point?

Mr. BRYANT of Tennessee. Probably 100 percent of them are being paid by taxpayers at either State expense, or certainly at Federal expense.

Mr. KINGSTON. Mr. Speaker, I would ask the gentleman from Tennessee [Mr. BRYANT], how much are we paying for these guys to stay in jail? I have noticed on my tours, they all have air conditioning, they all have television, they all have weight-lifting rooms and gymnasiums, and they are not required to work, so they get to watch TV. What does that cost?

Mr. BRYANT of Tennessee. You all know, literally it costs millions and millions of dollars.

Mrs. SMITH of Washington. In our State, over $30,000 a year.

Mr. KINGSTON. $30,000 to $50,000 per year per prisoner.

□ 2150

While some wealthy law firm is going around with endless appeals, not worrying about the victim, not worrying about the detriment to society and just having a good time at it.

Mr. BRYANT of Tennessee. They are usually specific lawyer capital resources centers that are publicly funded that are the experts from the defense standpoint and are able to use the system of appeal that we have just talked about in an effort to get a new trial, but also, concurrent with that, to delay the execution of cases.

So again, it is a hot button item. I think what we did do today, I want to commend our leadership, and all of those people who voted for this bill. It is a major step toward alleviating this type of problem and complaint.

Mr. HOKE. The gentleman from Tennessee has worked as a U.S. attorney. That is a big responsibility. I assume the gentleman has prosecuted capital cases.

Mr. BRYANT of Tennessee. I have not, but I have certainly been around those who have.

Mr. HOKE. Are we effectively tightening up the habeas corpus process in a way that will shorten the time frame? Are we doing anything in this process to in any way undermine the rights of defendants in this process? Do they still have the ability to make these appeals in a timely and effective way?

Mr. BRYANT of Tennessee. That is a concern. It is probably not a popular one to talk about on the campaign trail, but you have to look at it from the standpoint too of the person who is charged. And of course, by this point they have been convicted, they have had due process of law, they have had a full, good attorney, full-blown trials and they have had appeals. But they still have certain rights, especially when we are talking about the ultimate penalty, the death penalty.

But as we talked before, this bill that we passed today I think brings the pendulum back, the balance back into the system, particularly in capital cases, particularly in the time and economics of it and the actual deterrence of it. That is something that is very frequently talked about, that really the death penalty is not a deterrent. I do believe it is a deterrent, but to be an even better deterrent it has to be done like any punishment, swiftly. Those are the two things, it has to be certain punishment and swift punishment to be an effective deterrent. We have lost that in our society, particularly with the death penalty, and I think once we get this process going and up to speed, as it should be, while protecting the rights of the defendant, which I think it does, I think we will have an effective deterrent.

Mr. HOKE. I think that is important to emphasize, that defendants' rights are clearly being protected, but at the same time society's rights to have a timely resolution, a final resolution, an execution of its will, of society's will, the carrying out of its will, that that will be possible now with this habeas reform.

Mr. BRYANT of Tennessee. We are not talking about everybody that is convicted of a crime that has to do this, but you know I always talked about on the campaign trail that we had I believe about 300 people on death row in Tennessee. And I told everybody if they could go back and look at each one of those individual cases and the underlying facts of the case, you know, each one of those is a death penalty case and when you read about it in the newspaper, it just hits you in the stomach, what an atrocious, horrible, heinous crime it is. These are the types of cases we are talking about, not just everything that comes along.

Mr. HOKE. We are talking about the tremendous frustration that society feels as a whole, that the community feels and that victims' families feel with the inability of our justice system to actually come to final resolution in these things, and the anger that is the result of that. So that this thing continues to turn and turn and turn and go on and on. I am glad the gentleman clarified that. I very much appreciate it.

I learned something tonight about the gentlewoman from Washington. I did not know that she only decided to get involved in a race for the U.S. Congress in September, literally 2 months before the election, or it must have been an even shorter time, 6 weeks. How long?

Mrs. SMITH of Washington. Nine weeks.

Mr. HOKE. The gentlewoman is not exactly a newcomer to politics.

Mr. BRYANT of Tennessee. Do I understand that the gentlewoman won by a write-in?

Mrs. SMITH of Washington. I went away for a weekend and came back after Labor Day, and there was a write-in going on, and 2 weeks later I was the person on the ballot with the most votes. But they were write-in votes.

Mr. KINGSTON. I would like to register a protest. That is a little unfair. The rest of us started 2 years, and the gentlewoman just 2 months. I am sure she blitzed it.

Mrs. SMITH of Washington. You know, it is women, they are just more efficient.

Mr. KINGSTON. I will yield the floor then.

Mr. HOKE. The gentlewoman is not exactly a newcomer to politics. But to jump into this with 9 weeks, I wish I had only 9 weeks. That is fantastic.

What was it that motivated the gentlewoman to want to be a part of this, to get involved with the U.S. Congress? We had talked earlier and the gentlewoman said something about welfare. What are your feelings there?

Mrs. SMITH of Washington. First of all, when I first went in office in the early 1980's in the State, what happened was I saw people go on welfare as our State doubled for my business, I ran a corporation, doubled the taxes in 1 year. And I laid people off, and I saw people go on to welfare who used to work for me as secretaries and receptionists, at the entry level mostly, mostly women, and it got my attention that government could put people out of work.

So the point on the contract that I have been focusing on is the item of welfare and job creation. You know, the best welfare is a job. I cannot think of any family, any single mom, any family of any kind that would not just as soon take care of themselves. Welfare is where we do not want to be, or we want to get off.

So when I looked at the contract I saw that they did several things in the contract that I liked. I saw capital gains. I used to teach tax law changes and I saw people not sell because if they sold they lost everyting in taxes, and it tied up their money, and it tied up their jobs. And so I looked at the capital gains portion of the contract which we are coming up against and I saw it as jobs. If that money is released, I had money to hire people.

Then I looked at the small business section.

Mr. HOKE. Could I ask the gentlewoman a question about the capital gains thing, because our friends from the other side of the aisle, as soon as they hear the words capital gains, the accusation is oh, that is for rich people, that is just something that is designed to help them pay lower taxes. Is that what is going on? Who gets, who gains the most from reductions in capital gains?

Mrs. SMITH of Washington. The people I saw were the people I did the tax returns for, and I had about 400 clients as well as the company I ran, and most of them were small business owners. They were families that were investing in property or equipment or whatever. And they would benefit or they would lose everyting. And what I would see is when we had a high capital gains tax they would hold on, and they would not sell, and they would not buy new equipment, and they might not upgrade, they might not do anything with their business to grow, and they would not create jobs. If we had a reasonable capital gains they would turn over equipment, they would buy, they would hire more people, and they would grow. And I did tax returns for 15 years and worked with small businesses and corporations and it never changed. I did not work with the big guys. I worked with the people that provide in my State 80 percent of the jobs, and that was small business.

Mr. HOKE. In Germany there is no capital gains tax. In Japan there is a capital gains tax of 5 percent, which I understand from accountants gets zeroed out with some exemptions, so there is effectively a zero capital gains tax.

It is by creating more jobs, by having that money that would have been locked in because people are afraid to sell, they are reluctant to sell because of high taxes, that money getting recycled through the economy in a way that creates more commerce, creates more enterprise, creates more jobs, that is the bottom line of reducing the capital gains tax, is it not?

Mrs. SMITH of Washington. Yes. And you know what was really something, was for years I sat there running a corporation and not realizing until one day when they doubled my tax, and the Federal Government messed around with the capital gains again and raised it that it was affecting me, and I connected it to jobs like that. And I think what is happening around the Nation, and why November was so significant is small business people all over the Nation really spoke. I really believe that. I know in my district I was a write-in candidate, and in 2 weeks the people, nearly 40,000 came together and wrote in my name.

That was fueled by entrepreneurs. It was not fueled by a Boeing or Weyerhaeuser, and these people know that they had better change the policymakers here. And when you look at this contract I think it gave them hope.

□ 2200

I see it as a key ingredient to us producing jobs.

Mr. KINGSTON. There is another angle to this, too. In my area, for example, Bulloch County, GA, Statesboro, GA, Georgia Southern University has a lot of growth. There are a lot of ladies who are widows now but they live on a family farm which is in a growth area. The city is sprawling, and they want to sell that property. They have owned it for 30 years. They may have bought it for $10,000. Now it is worth a half-a-million dollars. But they are in their seventies or eighties. They cannot farm it. They have trouble getting somebody to lease it out. They want to sell it. Their fixed income on Social Security and whatever benefits may be $12,000 or $15,000, but if they sell that farm, then all of a sudden they are in the highest tax bracket.

Mrs. SMITH of Washington. Worse than that, they have the inheritance tax in some cases, depending on when their spouse dies.

Mr. KINGSTON. That is right.

Mr. HOKE. Let me ask you a question, if I could, I say to the gentleman from Georgia [Mr. KINGSTON]. What is that tax on from $10,000 to a half-a-million dollars, is that on what is really being taxed there with this capital gains tax?

Mr. KINGSTON. It is not the tax of the income but the $500,000 sales value is treated like income for that year. For that year she might as well be a stockbroker on Wall Street.

Mr. HOKE. She is being taxed on inflation, is she not? Is that not really what is being taxed?

Mr. KINGSTON. That is right. Also what we are doing is we are making her dependent, because she may want to sell that farm so she can go into a long-term care home. We are saying you cannot do that. She wants to be independent. That is why she held onto the property, and now we are denying her that option.

Mrs. SMITH of Washington. You know, what you have also led to is another part of the contract. We deal with inheritance tax reform in the contract, and I would like to go even further, whether it is a small business person, usually it is, or the tree farmer in my area. They are having to actually sell their small businesses to pay the inheritance tax. By the time they get done, they can pay nearly 70-some percent in taxes, and they literally are often cash poor. In our area now they are mowing down trees on these family farms. We grow trees in Washington. They have to cut them down prematurely so they can pay inheritance tax to barely hold onto the property. That is pitiful.

In the contract we say middle America should not have to give away the farm to the Government. It is unfair. They have paid taxes on that. It goes to their families. It should not be lost to Government.

And so this contract has a great amount of compassion for middle-class America in it, and that is what made it attractive to me as a candidate to be able to talk about it, and now as a policymaker, it is in my mind a gift we can give to the American people that we will be able to be proud of for many years to come.

Mr. HOKE. Did I understand that you, as a freshman Member of this Congress, are chairing a subcommittee in the Small Business Committee?

Mrs. SMITH of Washington. Yes. I think it is fantastic, because my background is taxation and finance for small business. You know, that was my life before this. I ran a tax preparation business and a management business and was a licensed tax consultant, so it fits well, and that is what is wonderful about this contract.

Mr. HOKE. What else do we have in the Contract With America that is designed specifically, aimed at job creation?

Mrs. SMITH of Washington. Regulation, regulation reform. You take a look at it.

Mr. HOKE. You want to regulate more?

Mrs. SMITH of Washington. No. We need to regulate right. When a regulation is needed, it is needed, and sometimes we have to say there needs to be some rules, but the reality is the Federal Government is regulating where it is not necessary. So we put some accountability into this for businesses and communities.

A lot of the regulation is raising people's water bills, and so by the time we get done making it more job friendly, we are also making it more friendly to the families that are trying to get jobs.

I do not see business as anything more than a job creator, and this contract has a section that says we are going to create jobs, and that is our best welfare system.

Mr. HOKE. You know, what I hear in everything that is being said tonight is that it sounds to me like we have got a pendulum that has been way out here, and it is moving back. It is moving back in a lot of different ways. It is moving back with respect to reform of our criminal justice system so that the victim gets an even break instead of just the criminal. It sounds like we are moving back toward the center in our way of regulating enterprise so that the enterprise gets a break, the farmer gets a break, the person that is creating jobs so that he or she can create more jobs, is getting a break, and we are swinging back that way.

And it sounds like with respect to the regulation of Government itself, we are giving tools in this case to our executive branch with the line-item veto, to the Congress itself with respect to the balanced budget amendment. So there can be some fiscal sanity, some basic common sense in the way we spend the taxpayers' money.

And it seems to me that this is a theme that we have seen in terms of what the American people want repeated over and over and over again, and I believe that is why they gave us the honor of having a majority, and it is our job, it is our job to keep the promises that we made to the American people and to fulfill them in a way that gives them confidence in our ability to govern and to bring about the kind of commonsense legislation in governing that they expect, demand, and deserve.

I happen to see the gentleman from California [Mr. CUNNINGHAM], my good friend. It looks like you wanted to say something.

Mr. CUNNINGHAM. I do not want to take a whole bunch of time. We are marking up an education bill tomorrow which is part of the contract. We are not talking too much about that; also the defense side. But we have got the freshmen represented here. Most of them we campaigned for. We have got sophomores.

I just wanted to let you know how proud that we are that for 4 years, many of us sat here on the House floor and were rolled over day after day. The Committee on Rules determined every piece of legislation that came to the floor.

In 20 years, the Republicans only had one motion to recommit passed. The King-of-the-Hill rules, we never won a single one, and for the first time, I heard the gentleman from Georgia [Mr. KINGSTON] bring it up, that there are many of the Members on the other side of the aisle that really want to work and do the people's business, but the leadership, the liberal leadership, in the past has prevented that either from twisting arms or preventing it by the rules on the House floor, and I think we are seeing by the numbers of these votes that we can do these things in a very bipartisan way in which the American people are asking.

You look at 290 votes or 300 votes on an amendment or against an amendment, that I think that shows bipartisanship, and I think that it shows people that this House can work, and after the contract is over in 100 days, I hope we can continue to do the same thing.

I just wanted to thank you. I am over there working on this markup for tomorrow. I want to thank all of you.

Mr. HOKE. Thank you very much.

Mr. KINGSTON. If the distinguished fighter pilot and American hero will yield, what we feel so good about, I think being sophomores, the gentleman from Ohio [Mr. HOKE] and I am, to be on the team with the freshmen, but really to follow in the footsteps of people like you who have been out fighting the battle, yet we seem to add more and more who are concerned about the future of America.

You know, none of us are really career politicians. We are going to try to do this. We are going to try to get the contract passed. We are going to try to change America, but we can also go back home if somebody better can do it, if somebody can do a better job, and you know, we are not up here so that we are going to be here for 30 or 40 years and build our own little empires, and Representatives like you who have helped us along the way have made it possible, I think, for the changes that are taking place to occur.

Mr. HOKE. My hat is absolutely off to every senior Republican Member in this Congress. I am amazed; I mean it, I know what it was like the last 2 years. Never having been in a legislative body before, I know what it is like just getting beat up every day and losing and feeling, frankly, not very proud of that work that is being done in this body, and the difference to have something that we feel we ourselves can feel proud of, of what we are doing, and we hope, we hope to goodness that the

American people feel proud of what we are doing.

My indications from what I understand and from my constituents, and if you look at this poll, doubling the approval rating of Congress, I mean, where they are feeling confidence once more.

Mr. CUNNINGHAM. That is Republicans and Democrats, the approval of Congress, what we are doing.

Mr. HOKE. Is bipartisan. As you point out, I said it earlier, we have strong, strong bipartisan support on every single measure we passed. You remember, what was the toughest victory for the Democrats in 1993?

Mr. CUNNINGHAM. The tax package.

Mr. HOKE. The tax package. In August 1993, one vote here, one vote in the Senate. It took the Vice President of the United States to break that vote. That is because Democrats voted against it. The only reason they finally passed it was because they could not abandon their President who then at that point had only been in office for about 8 months.

What have we seen on this package? We have seen a very positive bipartisan cooperative effort notwithstanding the kind of ugly partisanship that you see from time to time on the floor.

The fact is, look at these numbers, and you will see that we have had tremendous bipartisan support on every single one of these bills. This is Americans thinking of not being Republicans first or Democrats first but being Americans first and doing what is best for America. I am excited. I am proud to be a part of it. I really am proud to be a part of it. I cannot say that I was proud to be a part of the 103d Congress. I made no bones about it. I let my constituents know that as well.

Mr. CUNNINGHAM. You should be proud of what you are doing, but being held down and getting beaten down every day makes it kind of tough.

Mr. HOKE. I wonder if I could ask the gentleman from Tennessee and the gentlewoman from Washington and the gentleman from Georgia if there are any final thoughts you wanted to share?

Mr. BRYANT of Tennessee. Well, I had mentioned in my first remarks that I had not had a chance to be home that much because of this hectic pace here. I have gone home every weekend though for short periods of time, and this Contract With America is great. People are still talking about it. They know what are doing up here. They are pleased with what we are doing. They know we are making progress, and what I tell them is that we are in essence simply doing what we said we would do.

□ 2210

Now I got to admit that is unusual for somebody in politics to do that, but that is our motto, we are actually doing what we said we would do. We are holding ourselves out as responsible, as accountable, to the American public.

We put it down in writing. It was published in TV Guide. People out there know what it is, and I am pleased to stand up and say, "Yes, hold us accountable, make us do what we said we would do, make us bring these bills up onto the floor, have a full and open debate, which we are having," and again, as I say, the hidden peril in this is make us all vote up or down on those, and, if you don't like the way we voted on it, then you can bring us home the next time you have a chance, in 2 years.

So, I, too, am pleased to be with all of you. I cannot imagine what it is like to toil in the trench like you have. We are spoiled, and I would not have it any other way.

Mrs. SMITH of Washington. As my colleagues know, I think he started something that makes me think about the word I used so much in the campaign, short as it was, and that was the word commitment. I was actually—I came home from vacation after 3 days of vacation, and people wanted me to run, and so they did a write-in, and I said,

> I tell you what I'll commit to do: the same thing I've always done, and that's smaller government. I'm going to say no a lot, and I'm going to keep my commitments to you as I always have.

Well, that is the word this contract represents to me, and that is keeping my commitment to the American people. People really like that. They do not seem to expect me to dot every i and cross every t, but they want us to try very hard to keep our commitments.

While I have been here a month, and I did serve in the Senate in Washington State for several years, so I have some experience, I have never had the experience of people working so hard to keep their word to the American people. Because I think we all know that in November people said, "Go do what you said, and, if you don't, we're going to get some others."

We know that, but we also are driven by the fact that we understand we are servants, we are messengers from the people, and I think most of us understand it, and I got here in a whole bunch of people that have been here before me, and they were just ready to deliver that message, too.

The freshmen have been the steam, again, but the train was going down the track, and we were able to jump on and be a part, and we have not been excluded. I am not LINDA SMITH, a freshman here. I am LINDA SMITH, an integral part of a complete change that is going to be written in history as a turning point of America.

Mr. HOKE. What do you think, Mr. KINGSTON?

Mr. KINGSTON. I say this, Mr. HOKE and Mr. CUNNINGHAM, we heard Mr. BRYANT and Mrs. SMITH talk tonight. As she said many times, they are the team. I would say they are also the fuel and a little more volatile than steam in many respects.

The changes are real though. We are not turning back. America is going to change, I hope, because Congress has changed. We have left the foxhole. We are advancing. We are going to take the hill or we are going to get shot, and that is still up to the American people, but we cannot turn back at this point.

I will caution this:

There is talk, the Senate today. I understand that the balanced budget amendment might not pass. They are against the line-item veto. We are going to be passing a spending cut bill which the Senate has already said they are not going to do.

So I would say to people, let's keep this revolution going, the revolution is alive and well in the House. Let's wake up the folks over in the other body by phone calls and letters. But we're going to keep moving, and I'm proud to be with you, and I'm proud to be serving with people like Mr. BRYANT and Mrs. SMITH.

Mr. HOKE. Well, we are going to keep moving, and I think it is important, and you are absolutely right. We ought to encourage our constituents to do that.

Mr. CUNNINGHAM, do you want to add anything?

Mr. CUNNINGHAM. I would like to say one thing:

I see my distinguished colleague, the gentleman from New York [Mr. OWENS], here, and even though in many of the economic issues we disagree, I want to point out something, that on the floor, when the leadership of his party was blasting Christians, two of the Members of the Black Caucus came up to me, MAJOR, and they grabbed me by the arm and said, "DUKE, don't you ever lose your Judeo-Christian values," and they stick tight, and they believe in those values, and I would like to thank my friend, Mr. OWENS.

Mr. HOKE. Thank you very much. Thanks for participating. I particularly want to thank the gentleman from Tennessee [Mr. BRYANT] and the gentlewoman from Washington [Mrs. SMITH] and the gentleman from Georgia [Mr. KINGSTON] for their participation tonight. This is great, to be able to share with each other our thoughts on these things and to keep track because I think the fact is that we are right on track, we are right on target. We are using this as a roadmap to stay the course and to do exactly what we said we would do.

We said it before, we will say it again, and you know how true it is in terms of how hard we are working, but we are working hard to keep the promises that we have made for real changes. We are going to continue to do that.

It certainly makes for long days, and it is making for some rings under people's eyes, but it is very exciting.

I appreciate your input, and I appreciate your sharing this special order with me tonight.

WILL WE BE BETTER OFF WHEN THE CONTRACT WITH AMERICA HAS BEEN PASSED?

The SPEAKER pro tempore (Mr. QUINN). Under the Speaker's announced policy of January 4, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, jobs, the No. 1 concern of the overwhelming majority of Americans. Jobs are the No. 1 concern of the people, but you do not see that same concern reflected here in Washington around the floor of this House. The question that most Americans are asking is will we be better off when the 100 days are ended and the Contract With America has been passed. Does it matter one way or the other with respect to our concern about jobs and income? Will we be better off, those who have lost wages over the last 10 years? They have jobs, but the jobs are not paying as much as they paid before. So, will they have higher paid jobs after the Contract With America is passed? Will they be better off?

No.

There is a tremendous amount of downsizing that is taking place. Corporations are maximizing their profits. Profits are escalating, getting greater and greater all the time. The wealth of the country is increasing dramatically. You know, we talk about taxes being too high, regulations being too great, and yet corporations are thriving, great profits are being made.

We are the wealthiest country, the wealthiest Nation, that ever existed in the history of the world, and yet people are worried about losing their jobs. Those who have jobs are not being paid enough. Those who have jobs often fear that downsizing is going to lead to an end to those jobs, and there are large amounts who are unemployed. Unemployment now is officially at 5.7 percent. That is the official rate.

If you add those people who have been out of work for a long time and stopped looking, it is even higher than that. If you add those people that are working part time, it is even higher than that. Most people calculate the real unemployment rate as between 9 and 10 percent. Millions of Americans are out of work, about 12 million out of work.

The welfare recipients will have to go to work at the end of 2 years. Most of them would love to have jobs. Most of them would be very willing to take jobs, but when they have to go to work in 2 years they will find there are no jobs out there because we have no policies here which are dedicated to dealing with the primary concern of Government that ought to be to manage and to influence the economy in a way that guarantees that every person can survive, and survival means jobs. If you have a job, when you provide jobs, you feed the hungry. But when you provide jobs, you take care of the sick. When you provide jobs, you make certain that people are not homeless. The highest of our Judeo-Christian values, the highest of our family values, are reflected in the way we deal with the provision of jobs in our society.

But here in Washington you do not hear any talk of any great amount of job creation in the Contract of America or even among the Democrats from the White House. We hear no realistic attempt to provide the kind of jobs that must be provided during this very critical period where Americans have expressed great stress.

□ 2220

We hear no realistic attempt to provide the kind of jobs that must be provided during this very critical period where Americans have expressed great stress. They have great anxiety about losing jobs, about jobs that are not paying well, and about the ongoing increase and escalation in the unemployment rate.

Of course, the unemployment does not bother our official agencies like the Federal Reserve Board. The Federal Reserve Board seems to think unemployment is very good for people, it is good for the economy. So they take steps and promulgate policies which encourage unemployment. Whenever we have a great decrease in the amount of unemployment, they see that as a threat to the economy because it may raise inflation, and they cut off the supply of money so that those who create jobs through investment cannot create more jobs. They will hold down the employment so that labor will not be able to bid up its demand for higher wages, and therefore they will curb inflation.

Mr. Greenspan of the Federal Reserve Board is the author of this. I very much strongly would like to recommend to Mr. Greenspan that if he thinks unemployment is good for the Nation's economy, he should do his patriotic duty and take off 1 month every month. Take his turn unemployed along with the millions of others so our economy can prosper.

There are many other ways in which we show a callous disregard for the need to create employment opportunities for Americans. We have tremendous amounts of money that we are wasting that could be used in job creation.

The previous speakers on the floor talked about what they were going to do to cut the budget of the United States. In several ways, they are going to cut it short term and cut it long term through a balanced budget amendment. I welcome the opportunity. I would like to join with them in cutting some of the waste out of our Government.

Let us start with the agribusiness. Let us start with the agribusiness, which gets handouts from the Government of billions of dollars: $149 billion over the last 10 years has been poured into crop subsidies; $149 billion over the last 10 years.

Take the State of Kansas alone: $8 billion in the State of Kansas has been received from the Government. A handout, a dole to the farmers; $20,000 to $40,000 annually goes to the average Kansas family.

I welcome the opportunity to join with my colleagues in those kinds of cuts so the money can be transferred into job-creating programs that are being suggested, that are programs that really do something for the economy and for individuals.

If we had a school building program, billions of dollars being spent for school building, instead of paying farmers not to grow grain, then the benefit received from the school would last for decades, because the school would be there to serve as part of the educational facilities network. You know that kind of benefit would be gained.

If you use the money that you are wasting, giving a way to farmers not to grow grain, then of course you could also build some of the roads and the bridges that we need, which could be used for many decades to come, improving our transportation arteries and helping the economy overall.

So we have a problem in that we refuse to look at the problem that is the real and most important problem. The problem should be the No. 1 priority, and that is the creation of jobs so people have the opportunities to earn income and earn a living.

This evening we would like to talk about the job situation from three basic viewpoints. We would like to show that the economic picture is much bleaker than what it shows on the surface. It is important for us to understand the current Bureau of Labor Standard estimates of the unemployment rate, first of all, are way, way off. They underestimate unemployment at least by 3.3 percent. As I said before, instead of a 5.7 percent unemployment rate, if you looked at all of the people out of work and who stopped working, and the people who are working but working only half-time, then you would get an unemployment rate of 9 percent.

The No. 1 priority in America should be the creation of jobs, because we cannot stand a 9 percent unemployment rate. It hurts us in many ways. One of the ways it hurts us is just automatic common sense will tell you when people are working, they pay income taxes. When people are working, they do not have to be using unemployment insurance, they do not have to be using food stamps, or go on welfare. The Congressional Budget Office estimates for every 1-percent reduction in the amount of unemployment, the Government, the Treasury, will benefit by receiving $40 to $50 billion.

In income tax they take in and the money they do not have to send out, it all adds up to a 1-percent increase in employment equals a $40 to $50 billion gain for the Treasury. That is common sense.

But nobody wants to look at that kind of common sense. We are instead ready to propose to $50 billion increase in defense. We declared there is a military threat at this particular time in the history of America and we must have $50 billion more over the next 5 to 6 years. We must build some more *Seawolf* submarines. I see in the budget the President asked for another *Seawolf*. Who needs that? I see we need more F–22's built at Marietta, GA. They may provide some employment, but for every dollar you spend on military spending, you could create twice as many jobs for the dollars spent on military spending. If you take the dollars you spend on military spending and put it into civilian jobs, you would create twice as many jobs. Study after study confirms that.

We look at the picture, and the fact that the situation is such that it demands we take more aggressive action and make jobs the No. 1 priority.

We are also going to examine how the Republican plan for welfare forces people out of work after a 2-year time limit and creates a situation which is inhumane. Because if there are no jobs there, then we are forcing people into involuntary servitude. It is a form of slavery. Every person of African descent like myself will tell you we all know that slavery provided jobs for everybody. There was no unemployment. In the state of slavery, everybody had a job. But who wants a job at that cost? That is what we are saying when we say that we are going to provide welfare for people.

The highest benefits are received in my State probably and a few others. A family of three may get $6,000 or $7,000 a year from welfare, versus a farm family in Kansas that gets $20,000 to $40,000 a year for not growing grain from the same Government. But never mind. They will get $6,000 a year and be asked to work 40 hours a week in order to receive $6,000 a year. That is not a form of slavery, when you force that kind of situation on people?

So unless we have jobs, unless the whole job market is dealt with so that not only do you have jobs for welfare recipients, but also for the people who have been unemployed for a long time and for people losing their jobs as a result of the downsizing, we cannot create just a group of jobs for welfare people and say we are going to provide jobs for people coming off welfare. That means everybody will want to get on welfare and will line up and be able to get a job. No, you have to improve the situation for the whole economy by creating thousands of new jobs.

The Republican welfare reform proposal, folks, focuses too much attention on one kind of welfare, as I said before, and we missed the point by focusing in and bullying mothers who are taking care of children who receive aid to dependent children. Yes, that is a high cost; yes, most of them who are able-bodied should go to work. Nobody quarrels with that, and neither do the mothers themselves. They would love to go to work if they had a job that would pay a decent wage and also provide health care.

It is the Medicaid, the health care, that keeps most people tied to the welfare system. There is nothing to be gained by accepting a minimum-wage job and losing the health care benefits for your family, and finding that as soon as someone gets sick, you will have to come back and go on welfare again.

So by focusing on the aid to dependent children, you may save $16.5 billion. If every one of them could miraculously be taken off welfare in 2 years, there would be a huge savings. On the other hand, we have far more costly forms of welfare through the dependent corporations, including the agribusinesses which I mentioned before.

Let us deal with the kind of handouts, the doles that are being received by American corporations, and let us deal with the kind of dole that is being received by the American farmers if we really want to deal with waste in Government. I think if we dealt with it realistically, we would have the money we need to create a jobs program which would have an escalating effect. You provide a job opportunity to people who make salaries, and they go forward from there in order to take care of their own needs.

□ 2230

They will feed themselves or clothe themselves and you will have a much healthier economy and a healthy society.

Mr. Speaker, I yield to my colleague, the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. I thank the gentleman for yielding, and I thank him for his comments. I look forward to engaging the distinguished gentleman from New York [Mr. OWENS] and the gentleman from Vermont [Mr. SANDERS] who was joined us as well in this discussion as it relates to our economy today.

It was that great statesman Yogi Berra who once said that when you come to the fork in the road, you should take it.

Thank you, Mr. BURTON. The gentleman from Indiana [Mr. BURTON] has a great sense of humor. He is on the other side of the aisle. It is 10:30 in the evening, and he is laughing at my jokes. I appreciate it.

Clearly, I think we have come to the fork in the road in this society. We are living through a time of great change, great change in this country. And I think the theme that my friend from New York has talked about this evening is one which is at the heart of what we as Democrats believe in. And that theme is that if you work hard, if you play by the rules, take responsibility for your own personal actions, you should be rewarded. And that belief is really central to what the Democratic Party is all about. You should be rewarded if you work hard.

There are too many working people in this country today who feel like they are part of that old Abbott and Costello routine, where Bud Abbott says to Lou Costello, if you had 50 cents in one pocket and 75 cents in the other pocket, what would you have. And Costello says, somebody else's pants.

I mean, people feel like they are working hard, but they are not being rewarded.

We pointed with pride during this last campaign, I am going to be self-critical here, if I could, for a moment because I think we need to, as a party, that we created 5 million jobs. Well, we did create 5 million jobs in this country, but what kind of jobs were they? They were not the kind of jobs that the American people wanted; 5 million jobs, and yet 60 percent of the people who were interviewed a week after the election said they thought they were in a recession. To some extent they were right. They were in a recession, because their wages had either been frozen or had declined since about 1985.

None of us can be satisfied with the fact that the job leader in this recovery is not IBM. It is not General Motors; it is not Wal-Mart; it is a company called Manpower Services. Ever hear of Manpower Services? It is a company that offers jobs with no benefits, no health insurance, no retirement.

How does that reward work? Economists like to point with pride to the fact that productivity and profits are reaching all time highs. but you cannot talk increased productivity and explain that as long as stockholders are making money, it is OK for them to ignore the rest of America. And that is exactly what is happening today in American society.

When I grew up as a kid in the Detroit area in the 1950's and 1960's, if you went to work for GM or Ford or Chrysler, like many of my friends did, and you helped boost the profits of those companies, you got a piece of the pie.

That is the way it worked. You got decent salary increases. You got decent benefits. But not today. Let me illustrate that.

From 1947, right after the Second World War, to 1973, American workers gave their companies almost 90-percent increase in productivity. From 1947 to 1973, 90-percent increase in productivity. And in turn, they got back 99-percent increase in wages. Look at the figures from 1973 to 1982. Workers only got about half as much. From 1982 to 1994, they got about one-third as much.

So what is happening is that workers are working harder. They are working longer. They are as productive and, in many instances, more productive, and yet they are not seeing their standard of living increase.

In fact, if you look at where all the increase in income has come into America in the last 10 years specifically, you will find that 97 percent of income increases in America have gone to the top 20 percent of the population in terms of income-earning ability.

The rest, 80 percent, the rest, 80 percent of America, has either stayed frozen or their wages have decreased.

Despite a bumper last year in terms of jobs in our society, we have the slowest increase in wages since we have historically begun to keep track.

The fact is, hard work has not been rewarded. And yet we give these people $225 billion a year in corporate welfare, as my friend from New York has pointed out.

If we are really going to renew America civilization, we have got to focus on renewing the contract between employers and workers and not just the Contract With America. We have to renew that basic contract that if you put in a good day's work, you should be rewarded for it. There is some reciprocity there.

Mr. OWENS. We heard previous speakers give us a progress report on the Contract With America. Do you see, after that contract is fulfilled at the level of the House of Representatives, and assuming that they pass most of the legislation related to the contract, do you see any impact on the lives of American working people? Will they be better off then than they are now?

Mr. BONIOR. It is interesting, I listened to their special order, and a couple of things that were mentioned. First of all, not to the point that you mentioned—well, I will get to the point that you mentioned, then I will return to my other point.

I do not. I do not know how these process votes, line item veto, balanced budget amendment, which will not spell out where they are going to go with the balanced budget, some of the amendments that we considered in bills that we considered today, how they will have a specific effect on increasing people's living standards and increasing the spiritual awareness and the spirituality of their lives. I do not see any of that really having a direct effect on people's lives.

The other point I wanted to make, in the special order that our colleagues gave this evening, they talked about how we had bottled up a lot of this legislation. Not so. Four of the pieces of legislation that we have passed so far we had on this very floor. We talked about the Congressional Accountability Act. In fact, it was our bill. We passed it. It was killed in the Senate by a Republican right before the end of the session. We brought line item veto to this House floor last year. We brought the balanced budget amendment to the floor last year. It did not pass. Both of them did not pass. So the question that we have been bottling things up is absolutely inaccurate.

One thing that you will not find in the contract is the word "jobs." Another thing you will not find in the contract, two words, "good wages." You will not find that in their contract. Their contract does nothing to mention the question of minimum wage, which my friend from New York talked about a little earlier this evening. The minimum wage is a very important issue for this country, and it is not just teenagers we are talking about, who are trying to earn a few bucks on the side. We are talking about working people.

Most people on minimum wage are over 26 years of age, and they represent in their earnings about 40 percent of the incomes of their families; 60 percent of these people are mothers. Most of them have kids that they are trying to provide for.

If we are really going to renew this American civilization, we have got to get back to the contract between workers and their employers. And one of the first things we can do is increase the minimum wage.

Now, we are not alone. The gentleman from Vermont [Mr. SANDERS], the gentleman from New York [Mr. OWENS], the gentleman from Michigan [Mr. BONIOR], we are not alone in calling for this. We have about 80 percent of the American people think that we should increase the minimum wage. You will not live on $8,600 a year, especially if you have children.

□ 2240

It is virtually impossible. It is below the poverty level. In fact, the poverty level line in this country has been going up steadily as our society expands, but the cost on the minimum wage has been going down, so there is a deepening gap between those who are working and those who are collecting welfare, in many instances. That is not rewarding work. We have to get back to rewarding work. If you work, you are going to be rewarded for it.

It was a Republican, Christine Todd Whitman, who said it best. The day after she delivered the Republican response to the State of the Union, she said, and I quote, "Obviously, in my State, if you try to live on a national minimum wage you couldn't do it. It is a sustenance wage." The minimum wage in her State is $5 an hour. Nationally, it is $4.25, which is about $8,600 a year. The average Member of Congress makes that much in 28 days. The average CEO of a Fortune 500 company makes that much in 28 hours, 28 hours.

Mr. Speaker, these are the people who work in our hospitals, who change our bedpans, who do tough, often dirty, often demanding work, and they ought to be compensated for it.

Mr. Speaker, as I said before, the average minimum-wage worker is not some pimply faced teenager who is trying to earn money for the weekend. Two-thirds of them are adults, and many of them with families. People have to ask themselves, "Could you keep a family on $9,000 a year?" These are the people who are working 40 hours a week, sometimes more, yet they are living in poverty today.

What does that say about rewarding work? We are going to be doing welfare reform soon. It seems to me if we are going to be serious about it, we have to face this basic issue. When we raise this issue, some of our friends on the other side of the aisle say "Well, we will trade you. We will make you a swap." It is like you are collecting baseball cards as kids, I will give you a Mickey Mantle for a Ted Williams, or if you are lucky enough to have a Mickey Mantle or a Ted Williams, it is a swap. What they want to trade, BOB DOLE said it last week on one of those Sunday talk shows, he said: "We will consider it if they give us a reduction in the capital gains tax." So basically he wants to swap raising the minimum wage for the people who make the least in our society for a tax cut for those who are making the most in our society. That is what we are dealing with here.

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, it is a pleasure to be here with my friend the gentleman from Michigan [Mr. BONIOR], and my friend, the gentleman from New York [Mr. OWENS].

We have heard a whole lot about the November 8 election and the so-called mandate. I would say that the most interesting aspect of the November 8 election is that 62 percent of the American people did not vote. We do not discuss that. Always, it seems to me that the more important the issues are, the less discussion takes place here on the floor of the Congress. With 62 percent of the people not bothering to vote on election day, Mr. Speaker, with poor people virtually not voting at all, many working people not bothering to participate, what that tells me, Mr. Speaker, is that the ordinary American is by and large giving up on the political process, does not have very much faith that the U.S. Government is capable of responding to the terrible pain and to the terrible problems those people have.

What in fact the ordinary people see, I think, is a lot of talk going on here in Congress, the White House, the Senate, and meanwhile the rich get richer and the poor get poorer, and the middle-class shrinks. Forty million Americans continue not to have any health insurance.

As the gentleman from Michigan [Mr. BONIOR] and the gentleman from New York [Mr. OWENS] said, the minimum wage in terms of real purchasing power continues to decline. More and more of our young people are unable to get a college education. We have the dubious distinction of having the highest rate of childhood poverty in the industrialized world. Twenty-two percent of our kids are living in poverty. Five million of our children are hungry. We hear here on the floor of the House, at a time when the richest 1 percent of the population owns more wealth than the bottom 90 percent, what we are hearing here on the floor of the House, we have to cut back on Medicare, we have to cut back on Medicaid, we have to cut back on veterans' programs, we have to cut back on nutrition programs for the elderly and for hungry children. That is what the Republican contract is about.

In the meantime, as the gentleman from Michigan [Mr. BONIOR] and the gentleman from New York [Mr. OWENS] have indicated, it is absolutely imperative that within that context, with the wealthiest 1 percent owning 37 percent of the wealth in America, obviously what we must do is give them more tax breaks. That is only fair. You cut back on nutrition programs for hungry children and you give the wealthiest people in this country more tax breaks, and of course, at the same time as we significantly expand military spending. That obviously makes sense to somebody, I am not sure to whom, but it must make sense to somebody.

Mr. BONIOR. If the gentleman will yield, I have heard that formula before. Could the gentleman from Vermont maybe refresh our history and tell us, where have we seen that defense increase formula, tax cut formula, and what was the result of that?

Mr. SANDERS. Obviously, that is what Reagonomics was about. That is what the 1980's was about. During the 1980's, the richest one-half of 1 percent owned 55 percent of the total wealth that was created in that period. In the midst of all of this discussion, however, what frightens me the most is that ordinary people look out, and they are hurting very, very badly, as both of you have already talked about. The new jobs that are being created are low wage jobs, part-time jobs, temporary jobs without benefits. Yet, I do not hear a whole lot of discussion about those issues on the floor of the House. We spend weeks and weeks discussing this, and we discuss that, but suddenly, somehow, we do not talk, in my view, about the most important issue. In my humble opinion, the most important issue facing this country is the role of big money. Big money, and I must say, in all due respect to my friends, controls not only the Republican Party, has tremendous influence over the Democratic Party, has tremendous influence over the mass media.

Interestingly enough, when we hear about the Contract With America and how they want a citizen legislature, they forget to talk about campaign finance reform.

To the best of my knowledge, and maybe my friends here can correct me if I am wrong, my understanding is that today, or before the last election, some 20 percent of the Members of Congress were millionaires. Does that sound right to my friends?

Mr. OWENS. I think the gentleman is correct, but the important thing is that on election day, even though there was a turnover, and the 36 percent or 37 percent who went out to vote did vote for a major change, the exit polls, the interviews at the exit polls, indicated that people were voting because of their anxieties and their concern about their own incomes and their jobs.

We have not addressed that, as you said. Millionaires are obviously the favored concern here. We have just gone through a situation where, you know, when Congress refused to consider or indicated that it would not favorably consider a $40 billion bailout for Mexico, a $20 billion bailout was voted from the White House, and millionaires obviously are a great concern here, because we hear much more talk about a capital gains tax cut than we hear about a program to create jobs.

Millionaires are obviously in favor here, because it took some coaxing to get a proposal on the table for a minimum-wage increase. At least we have that and we are going forward. Most Americans agree, over 80 percent agree, that a minimum-wage increase is very much in order, but there seems to be no great deal of enthusiasm in the leadership of our party.

We are in a situation where the people who are controlling the greatest part of the wealth, and getting wealthier at a faster rate all the time, are the people who seem to be of greatest concern to Congress, while those who have the greatest anxieties about their jobs and are worried about losing their jobs and not earning adequate income are being ignored totally.

Mr. SANDERS. If the gentleman will yield, let me just pick up on that perceptive point. We hear over and over again about welfare reform. We all agree that welfare reform is important. What we do not hear a whole lot is corporate welfare, the well over $100 billion in Federal subsidies that are going to large corporations and wealthy people.

We hear about street crime, which is a very serious problem, but we do not hear a whole lot about corporate crime, about price-fixing, about monopoly power in this country.

Right now, at a time when the wages, the real wages of American workers are in decline, interestingly enough, what is happening to the income of the CEO's? The reality is, of course, that the CEO's are earning significant increases in their income, at the same time as they are cutting back on jobs in America's major corporations.

One of the interesting facts, to my mind, that we do not talk about enough is the fact that CEO's in America today, the heads of the largest corporations, are earning 149 times more than the average worker in their company. What about justice? What about family values? What about morality?

□ 2250

In fact, there was an interesting study done recently which showed that some of the highest paid CEO's who received the most significant increases in their incomes were precisely those CEO's who laid off the most workers. They seemed to get more money, they get incentives to lay off workers.

Mr. OWENS. Will the gentleman slow down for a minute and explain what a CEO is, and let the American people understand what we are talking about in terms of the kinds of salaries or the kind of what they call a total remuneration package we are talking about? The average American CEO I understand makes no less than $1 million and some of them make above $20 million. People ought to understand we are talking about $20 million in total compensation packages, salary, pension, et cetera.

Mr. SANDERS. If the gentleman will yield, a recent study showed that the CEO's of 23 of the Nation's 27 top job destroyers, these are the large corporations who are downsizing, who are throwing workers out onto the street, those particular CEO's received raises last year averaging 30 percent. So in other words, it is good for business. We are going to really reward you, give you a major increase for throwing workers out on the street. The more you throw out, the bigger the increase would be.

Mr. OWENS. Thirty percent equals what? Give us some examples in terms of the kind of amounts.

Mr. SANDERS. We are talking about people like Mr. Eisner of Walt Disney earning well over I believe $100 million in income a year.

Let me mention something else, because the problem goes well beyond just the United States. There was a study also done recently, when we talk about the world economy, if you can believe this, that 358 billionaires worldwide have a combined net worth of $760 billion, which is equal to that of the bottom 45 percent of the world's population. That is 358 people who could sit, probably not so comfortably, but we could get them into this room right now, own more wealth than several billion people who constitute the bottom 45 percent of the world's population.

Again, in our country the richest 1 percent of the population owns more wealth than the bottom 90 percent.

Now I have not heard too much in the Contract With America about that. Maybe I missed it, but I do not think I heard that. Did the gentleman hear that?

Mr. OWENS. The Contract With America does not talk about a number of things that ought to be put on the table. It certainly does not talk about the tremendous wealth of this country and how the wealthy are increasing at an escalating rate, increasing their profits while we cannot contemplate an increase in the minimum wage to $5.15 an hour. The contrast is overwhelming. We are the richest country that ever existed in the history of the world, and we take the position, or the position is taken in the contract for America that there is no room in there to provide a job for everybody, there is no room in there to provide health care, there is no room in this Nation and no resources to provide health care. And we do have 12 million people who are unemployed workers. And we said before the official statistics at 5.7 percent would give us 7,498,000 unemployed workers. That is what we admit officially that we have. If you take those part-timers who are looking for full-time work, and you just count half of them because they are only working half time, you have another 2,346,000 people who are out of work. Discouraged workers who have not been looking for work for the past week are 1,783,000. Discouraged workers not looking in the past year, 440,000.

These are figures that come from the Economic Policy Institute and they all add up to about 12 million people who are unemployed in this Nation.

There is work to be done. It is not that there is no work to be done. We do need to build schools. We do need to take care of our infrastructure in terms of roads and highways. We do need to have workers in programs like Head Start and some other programs of the kind that were mentioned in the stimulus package that the administration introduced last year and it was passed on the floor of this House. Those kinds of programs are still needed to put people to work.

It may be that there is some great adjustment taking place in the global economy and that private enterprise will be able to provide all of the jobs we need by the year 2000. But right now there is a lack of jobs, and there is a need to address the problem of people's anxiety about jobs and those, of course, who are unemployed by the fact that they do not have any jobs. So we need a program right now to deal with the needs of 12 million people.

Mr. SANDERS. I would just like to make a couple of points. Our Republican friends raise important issues and I think good issues and they talk about values, and values, in fact, are a very important part of what human life is. Life is not just dollars and cents; it goes deeper than that. But I have to raise the question about what kind of value system are we operating under when the very wealthiest people become wealthier, when we see a growth of billionaires at exactly the same time as we see more children in America who are hungry. What about those values? I yield to my friend.

Mr. BONIOR. And what about the values of a society that fails to adequately reward work for those who are working and trying to work their way up in our society today? What does that say about a family, for instance, where because both parents might be working, one might be working at a minimum wage job, the other working at a regular, full-time job, perhaps on a different schedule, a different shift, one is working 7 to 3, the other one is working maybe 4 to 11 in the evening and they do not see each other. The husband and wife do not see each other. They do not have a decent relationship because of it, and they do not spend time with their children. I saw a recent study that came out that said that people who are in that particular situation, the mother comes home and she spends 20 minutes with the children. The father comes home, he spends 5 minutes, and the rest of the time the kids are in front of the TV set, 3 or 4 hours a day. And they are not really getting very good quality stuff. I mean, they are tuned in to stuff where the kids are killing kids, and there is violence to an over extent even on the news. It is just not a good environment, and it does not facilitate the values of family, of love, of dignity, of working together as a unit. And it certainly does not speak well of our inability to try to help families like that in terms of their income and making their lives more decent.

Mr. OWENS. I yield to the gentleman from Vermont. We also have been joined by the gentleman from California [Mr. BECERRA], if he would like to take the other mike over here.

Mr. SANDERS. All of us are members of the Progressive caucus, and some of those issues have already been raised, some of the ideas we are bringing forth that we think this Congress must deal with. As both the gentleman from Michigan [Mr. BONIOR] and the gentleman from New York [Mr. OWENS] have said, it is very clear we need to raise the minimum wage; $4.25 does not make it. We need to raise the minimum wage.

The President has come out with a proposal raising it 90 cents over 2 years. I think that is the minimum we should do, but we have to move quickly and raise the minimum wage.

The gentleman from New York [Mr. OWENS] has been talking about a very, very important issue. He points out we have billions of people who are unemployed. We have an infrastructure in this country that is crumbling. It makes no sense at all not to invest in our infrastructure, put over a million people to work rebuilding our physical and human infrastructure through a federally funded jobs program. We need to move in that direction.

I think we four are in agreement that one of the reasons that the standard of living of working people is in decline has to do with our trade policy, which seems to be exporting jobs rather than product. We now have $150 billion in trade deficits this year which could equate to some 3 million jobs. Many of us in Congress are concerned about the impact of the NAFTA, GATT, most-favored-nation status with China. We want a fair trade policy, one that does not force American workers to compete against Chinese workers who make 20 cents an hour or the desperate people of Mexico who make $1 an hour.

□ 2300

Further, at a time when there are some people who are talking about cutbacks in Medicare and Medicaid, most of us believe that it is absolutely insane now that the cold war is over to be talking about a $50 billion increase in military spending. We are now spending $100 billion a year defending Europe and Asia, and many of the countries in Europe are now wealthier than we are. Against whom? Whom? One hundred billion dollars a year. We must cut military spending, reinvest in America.

And I think the last two points that I would make, and this chart deals with one of them, the Republicans have been very successful in making everybody antitax. The real question that we should be asking is, who is paying the taxes, who gets the tax breaks?

Many of us support a tax cut for middle-income people. But we do think that the wealthiest people in this country who have gotten wealthier, we think that in terms of the corporate income tax, what you can see from this chart is that the percentage, the contribution, the corporations are making to the Federal coffers have declined precipitously over the last 50 years, and that means middle-income people are making up the difference. We want to make a progressive tax.

Mr. BONIOR. The chart shows that in 1945 corporate, as a percent of Federal receipts from corporate income tax, was about 35 percent in 1945. In 1985, it looks like from the chart it went down to about 10 percent. Is that correct?

Mr. SANDERS. That is correct.

Mr. BONIOR. That is an amazing decrease. I mean, it is more than double the percent in decrease from 35 to about 10 or 12 percent now, back up to that in 1990. As a result of that, that has to be made up somewhere either in reduced services, which we certainly have had, but also in increased revenues that have been made up by the middle class. That is one of the reasons you have seen the stagnation in living standards of middle-income people.

Mr. OWENS. We need a total overhaul of the tax structure. The personal income tax pits one group of Americans against another. Corporate income tax makes a great deal of sense. Taxes which are focused on businesses which are accumulating wealth and on individuals accumulating wealth are the taxes that ought to be raised to take care of our needs, and there are many needs that must be met with taxes, but the personal income tax should not bear the bulk of the burden as they are at present.

I think the gentleman from California [Mr. BECERRA] would like to show us a little bit more about taxes and the kind of swindle that is being proposed by the Contract on America.

Mr. BECERRA. I thank the gentleman for yielding to me. I am glad I have a chance to engage in the conversation with the three gentlemen who have spoken eloquently on this issue.

It seems to be absurd. We are talking so much these days about reforming welfare, and we always seem to forget that welfare comes in many shapes and in many sizes and in some cases big sizes.

When you take a look at the fact that welfare, as most people think of it, welfare to a woman and her children who cannot afford to live without some assistance from the Government, we are talking about something in the order of about $16.5 billion is what we give out to people who are poor and who need some assistance.

Contrast that to welfare that we do not think of very often, but welfare that we give to corporations, welfare to the tune of about $225 billion per year, money that we pay out as taxpayers by giving corporations tax breaks, letting them off from paying certain taxes. We have to make that up.

So in this whole discussion that I hear going on about the minimum wage, about welfare reform, about trying to do something for the working man and the working woman, I think it is interesting to note a program that helps 10 million children that are in poverty is being discussed for radical, in many cases, reform, but programs that help corporations to the tune of $225 billion are not touched. In fact, Secretary Reich, from the Department of Labor, was criticized because he recently talked about reforming corporate welfare and the discussion about all of welfare reform.

It seems to me even more difficult to comprehend this whole debate about reform when you look at the Republican Contract With America, and one of its proposals not only of reforming, so-called radical reforming, welfare, but also cutting the capital gains that will go mostly to wealthy Americans.

And there I would refer my colleagues to chart. We want to find out what the Contract With America really does. Well, first, it guts welfare for the 10 million children who are in poverty, and at the same time, of course, the Contract With America says let us cut or let us give a tax break to those who have capital gains. In other words, if you own stock or if you happen to have a stamp collection or priceless art, and you want to sell that, you do not want to pay certain taxes on that capital gain, you want to be able to write some of that off.

Mr. OWENS. I earn wages, and all of the wage earners of America pay taxes on their wages. Do they pay the same, pay taxes at the same rate that are currently on capital gains?

Mr. BECERRA. Not at all.

Mr. OWENS. Capital gains are a form of income also, by the way.

Mr. BECERRA. That is correct.

Mr. OWENS. It is mostly income you do not work for on an hourly basis. Is it presently taxed at the same rate as wages are taxed?

Mr. BECERRA. Drastically differently. Wages are fully taxed. Capital gains are not. The proposal that the Republicans have in their Contract With America says let us give them a further break in their capital gains, but the interesting thing about this is who benefits, and if you look at the charts, you see really who will benefit. As Laura D'Andrea Tyson said, and she is the President's Chief of the Council of Economic Advisers, fully 75 percent of those capital gains will go to the 10 percent richest Americans.

Mr. OWENS. Will the gentleman repeat that? Seventy-five percent?

Mr. BECERRA. Seventy-five percent; the 10 percent of richest Americans in this country will receive 75 percent of the tax cuts in the capital gains proposal in the Contract With America, and you can take a look. If you happen to earn somewhere between $30,000 and $40,000, every American family that has income of about $30,000 to $40,000 stands to get about 2½ percent of those capital gains cuts. That is sharing the wealth under the Contract on America.

Mr. BONIOR. In the Contract on America, also the tax cut package that the Republicans are advocating, I wonder if the American people understand what that will cost in terms of revenue to the Federal Government.

Mr. BECERRA. There are estimates it might be over $250 billion over 5 years. The capital gains program alone will cost about $55 billion the first 5 years. There are some estimates that after 10 years that goes up to about $210 billion.

Mr. BONIOR. On the capital gains portion.

Mr. BECERRA. On the capital gains portion of the proposed tax cuts only.

Mr. SANDERS. Are these the same group of people who are talking about cutting back on nutrition programs for hungry people and senior citizens because we have a terrible deficit? I just wanted to be clear. I was a little bit confused. Are these the same folks?

Mr. BECERRA. That is correct. These are the same folks, too, who are saying we cannot afford to increase the minimum wage from $4.25 an hour.

Mr. BONIOR. Are these the same folks that want to cut back veterans' benefits as well?

Mr. BECERRA. The same ones that would probably cut veterans' benefits. Somehow we are going to have to balance the budget and give these tax cuts and still raise spending for defense, for military, and somehow with what is left in the budget to look at, not cut Social Security, not cut Medicare.

Mr. BONIOR. There is a rumor going around here they also want to cut Medicare as well significantly for the elderly.

Mr. BECERRA. That is right; that is right. You know, we should look at something here. Right now, the capital gains that we have in law right now costs this country between now and the next 5 years about $94 billion. We are already paying $94 billion for that. That, if you think about it, amounts to about $362 for every man, woman, and child in this Nation, $362 that each American has to somehow make up for either through other taxes, personal income taxes or cuts in programs like Social Security, Medicare, Head Start, job training. Somehow we have to make up that $94 billion over 5 years. It does not just come freely.

Either that or you increase the size of the deficit.

So we have to take all of those things into consideration. Then you look at the minimum wage, and it is interesting, over the weekend on some of the TV talk shows, we heard a number of Republicans say that they opposed raising the minimum wage. They thought it was a job killer. They did not want to see it happen.

But then all of a sudden you ask them, well, what happens if you get the capital gains tax cuts in exchange? All of a sudden they change their tune. All of a sudden, well, maybe they are willing to trade. Sure, would you not be willing to trade if you could get a $94 billion tax break and increase that to about $55 billion for the next 5 years, and up to $208 billion for the next 10 years, in exchange for 90 cents an hour more for people who are low income and barely surviving at the poverty level?

Mr. OWENS. I thank the gentleman. I hope at this point each one of you could sort of sum up and show how all of this ties together, when you give the multibillion dollar tax cuts, and you have to go and cut something out of the budget, and what we have here is a display by what I call some high-technology barbarians who are approaching the situation without any heart at all. They want to throw a large part of American humanity overboard and just say we do not care; we do not care whether they have homes, we do not care whether they have food, we do not care whether they have medical care, we are going to help the rich get richer.

It all ties together. They cannot help the rich get richer without committing these atrocities against the poor and atrocities are committed these days in ways where you do not have blood. When you refuse to raise the minimum wage, that is a kind of an atrocity. When you are going to force welfare mothers to get off welfare after 2 years and not bother to try to create an economy which is going to produce jobs for them to step into, those are atrocities without blood.

□ 2310

We have to see how it all holds together and make the American people understand that the Contract With America, which many of us call the Contract on America, is a very deadly approach indeed. We are dealing with a deadly approach to government which runs counter to the whole principle of government and the fact that society exists to take care of everybody, not just a few. The social order is threatened when you refuse to recognize the need to take care of all of the people.

I yield to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. It think maybe we all want to summarize our views, and the fear that I have is that this country increasingly is moving away from our democratic traditions into an oligarchy, and all that those tax breaks for the wealthy do is they make the people on the top that much wealthier, and with that money what they do is buy television networks.

I understand that the Speaker last night was at a fund raiser, a nice little dinner, I guess, and it only cost $50,000 a plate to go to that dinner in order to contribute to a TV network which will further propagate the rich person's point of view.

Mr. BONIOR. And the gentleman should note that those $50,000 contributions to that dinner were tax deductible because they went to a foundation that promoted this program that we have been criticizing.

Mr. SANDERS. And the rich get richer, and meanwhile with that money they can contribute huge amounts of money to both political parties.

This institution itself, 20 percent of the Members at least are millionaires. We expect that with the high cost of elections more and more millionaires will write out their own campaign checks and run for office.

The answer, I think, is that working people, middle income people, low income people all over America, have got to stand up and say, "Excuse me. This country belongs to all the people and not just the very wealthy. You can't not vote. You can't not participate in the political process."

The big money people are here every single day. I say, "We need your help. Stand up. Fight back."

Mr. OWENS. I yield to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. I just want to thank my friend, the gentleman from Vermont [Mr. SANDERS], and the distinguished gentleman from New York [Mr. OWENS], and the gentleman from California [Mr. BECERRA] for participating in this hour and for allowing me to share some thoughts with them.

I guess in summation I would say that we live in a society with relatively limited resources with respect to how we operate here at the Federal Government level, and it seems to me, and I think it was demonstrated well by the discussion we have had and the charts that we have seen, that the very wealthy in our society have done extremely well, the most comfortable people in America have done incredibly well, particularly since 1979 when the rest of America had basically held on or their standard of living has decreased.

The question is how do we bring some equity into this equation? How do we deal with bringing people into the middle class who are not there, bringing people off welfare and into a work situation where they can have some pride, dignity and raise their kids with a decent future ahead of them? How do we provide for the middle income people to put money into their pocket with respect to providing tax cuts for them and not for the wealthiest in our society?

I think that is the challenge that we have. The goal in this country often for many people is to have some, to acquire some sort of wealth, and there is nothing wrong with that, but when you are dealing with limited resources, you have to make sure that those who need it the most have the opportunity to share in those resources.

So, I thank my colleagues for yielding, and I look forward to working with them on these issues.

Mr. OWENS. Mr. Speaker, I thank the gentleman from Michigan [Mr. BONIOR].

I yield to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I will be brief because I think my two colleagues preceding me did a very fine job of summarizing what we are trying to say. All I would like to say is that we should take a little bit of time and think about what we mean by reform regarding welfare. You know, what is it and who really gets it? Then, once we do that, once we think about it, let us reform welfare, let us reform it so that we get people and corporations off of welfare, and let us make sure that our policies reward working people and not continue to lavish very costly tax breaks on the rich, and we should remember that the rich are the only group of people who made off like bandits during the Reagan years when we had exorbitant spending, and now we should come back and look at 1995 and say, "It's time to reform, but what is reformed, let's do it right."

Mr. OWENS. I thank the gentleman from California [Mr. BECERRA] for the closing remarks.

Mr. Speaker, I submit two articles, one which appeared in the New York Times on February 6 entitled "Farmers Brace for Stormy Debate over Subsidies" which contains many of the facts concerning agribusinesses on the dole, and a second article that appeared on Tuesday, February 7, entitled "Now, After $36 Billion Run, Coming Soon: 'Star Wars II'—The New G.O.P. Plan Is Smaller but Still Costly." It also gives facts about increasing defense expenditures at a time when we are cutting programs for the poor.

The articles referred to are as follows:

NOW, AFTER $36 BILLION RUN, COMING SOON: "STAR WARS II"—NEW G.O.P. PLAN IS SMALLER, BUT STILL COSTLY

(By Eric Schmitt)

WASHINGTON, February 6.—Twelve years after President Ronald Reagan first proposed his "Star Wars" antimissile system that ultimately cost $36 billion, provoked much debate and built nothing, Republicans are pressing to revive it, although in a vastly different form.

Mr. Reagan's dream of erecting an impregnable astrodome to shield the United States against an onslaught of Soviet nuclear-tipped missiles dissolved with the end of the cold war. But in its place has risen a smaller, but still very costly, plan to defend the continental United States against a nuclear, chemical or biological attack from more than a dozen rogue nations like Iraq or an accidental strike from Russia.

"One day, mathematically, something bad can happen and you ought to have a minimum screen on a continentwide basis, and that's do-able," Speaker Newt Gingrich of Georgia told reporters last month. "And I think compared to the loss of one city, it is clearly a very small investment, although it's a lot of money over time."

Republicans want to more than double what the Clinton Administration is spending to develop a national missile defense, to at least $1 billion a year from $400 million a year now. At a time of exceedingly tight budgets, experts say such a network would cost $5 billion to $35 billion, depending on its coverage and complexity, and could never guarantee complete protection.

The new "Star Wars" debate puts Republicans on a collision course with the Administration over how quickly and at what cost the United States should deploy a national system. The Pentagon is developing national defenses, but at a slower pace than Congress wants. Given that senior American intelligence officials say a serious long-range missile threat from countries other than Russia or China is still 10 years away, President Clinton's priority has been to build better defenses for troops overseas to shoot down shorter-range missiles similar to the Scud rockets that Iraq launched against Israel and Saudi Arabia in the Persian Gulf war.

Hanging over the growing debate is a sore reminder of past mistakes: So far, the United States has spent $36 billion on ballistic missile defenses since 1984 without one working system to show for it. Billions were poured into exotic space weapons and laser beams that gave the program its fanciful "Star Wars" nickname. Even the most hawkish generals at the Pentagon fear that ratcheting up financing for national defenses will only bleed away dwindling money for training, new barracks and advanced fighter jets and warships.

Representative Curt Weldon, a Pennsylvania Republican on the House National Security Committee, is one of many missile-defense supporters who say the painful debate of the 1980's taught some hard lessons. "The problem with 'Star Wars' was we gave the program a large blank check without holding the appropriate officials accountable," Mr. Weldon said. "That's not going to happen again. This will not be a black hole."

While Republicans express general support for a national missile defense, there is no consensus among them on important issues like cost, when to put such a system in place or what technical design it should have.

"There are still a lot of outstanding questions," acknowledged Senator Daniel R. Coats, an Indiana Republican on the Armed Services Committee.

Legislation that carried out the Contract With America, the House Republicans' political manifesto, directs the Administration to field "a highly effective defense" of the United States "at the earliest practical date," but offers no other details.

"This proposal is broad and vague," Representative John M. Spratt, Jr., a South Carolina Democrat who is a leading Congressional authority on missile defenses, said at a hearing of the National Security Committee last week. "Is it ground-based? Space-based? You haven't defined deployment. I don't think you've laid down a policy here."

Indeed, the legislation, which the House will most likely approve later this month and send to the Senate, leaves it up to Defense Secretary William J. Perry to draft a deployment plan within 60 days after the bill becomes law.

After the pitched battles between the Reagan and Bush administrations and Congress, the debate over missile defenses died down when Mr. Clinton took office two years ago. Republicans and Democrats alike agreed to improve the country's battlefield, or theater, missile defenses after Iraq fired dozens of Scud rockets in the Persian Gulf war.

Indeed, when Mr. Perry's predecessor, Les Aspin, declared the "Star Wars" program dead in 1993, it was already moribund. The Administration merely made it official, and earmarked two-thirds of the $3 billion annual missile-defense budget to battlefield defenses like improved Patriot missiles and the new Theater High-Altitude Area Defense, or Thaad, which intercepts incoming missiles at even higher altitudes and greater distances than the Patriot.

But the Administration did not entirely give up on a national missile defense. The Pentagon scaled it back to a research program that would be developed by the year 2000 and deployed depending on the threat.

"If the decision is made at that time to deploy, the deployment will be made very rapidly, within another few years," Mr. Perry said last month. Pentagon officials say the projected threat over the next 10 years does not warrant speedier deployment.

But Republicans have seized on the Central Intelligence Agency's estimate that 15 nations now have ballistic missiles, and perhaps 20 will have them by the end of the decade, to push for a faster timetable to put national antimissile defenses either on the ground or in space.

As Senator Strom Thurmond, the South Carolina Republican who heads the Armed Services Committee, put it, "Defense of our homeland against direct attack is a priority enshrined in the Constitution, yet it is an aspect of our national defense that has been woefully neglected."

Mr. Perry has said that one quick option would be to spend $5 billion over the next five years to field a ground-based system using existing sensors, radars and missiles to defend against a "thin attack," a relatively small number of missiles fired at once.

Some Republicans, like Senator Jon Kyl of Arizona, favor waiting, as long as the threat is low, to develop the most technologically advanced system possible, one that could include space-based sensors and interceptors.

But most Republicans say their first step will be to revive efforts to deploy 100 missiles at one site—near Grand Forks, N.D.—which is allowed under the 1972 Antiballistic Missile Treaty. The site could protect the United States' midsection, but not the coasts. The Administration had largely abandoned this option.

In 1993 the Ballistic Missile Defense Organization, the successor to the Strategic Defense Initiative Organization, which embodied the "Star Wars" program, said it would cost $21.8 billion to develop and build a single site at Grand Forks by the year 2004. To cover the entire 50 states would require building five additional sites for an additional $12.5 billion, the agency estimated.

Ultimately, budget pressures may dictate the size and deployment date of a national system.

"The budget hawks are prevailing," said Lawrence F. Di Rita, a senior official at the Heritage Foundation, a conservative research organization in Washington. "So whatever is proposed has to be technically feasible soon enough so that the cost is bearable. This can't be a science project."

FARMERS BRACE FOR STORMY DEBATE OVER SUBSIDIES

(By Keith Schneider)

ARLINGTON, KAN., Feb. 1—This wind-bullied land, the center of America's wheat empire since the late 19th century, is bracing for a political fight over farm subsidies like none before.

Of the 73 new Republicans in the House, 33 are from rural agricultural districts and have been at the vanguard of the movement to cut the Federal budget, curb regulations, and limit the Government's authority to interfere in business.

This more conservative Congress is writing a new farm policy law this year, the first since 1990. In every previous law since the first one was written during the Great Depression, the paramount provision has been a contract in which the Government helps to decide how much a farmer can grow in exchange for guaranteeing to pay farmers a set price for their crops.

Now, the central question is: What arguments will farmers and their conservative champions in the House and Senate use to win support for one of the most costly and intrusive Government programs of all?

Here in Reno County and in more than 2,000 other rural counties across the country, perhaps the only thing as enduring as the great vaulted sky is the money that blows out of Washington to support farm incomes. In the last 10 years, $149 billion has been spent on crop subsidies nationwide, nearly $8 billion of that in Kansas alone. Farm economists say Kansas farmers typically gain $20,000 to $40,000 annually, far more than is received by families on welfare.

Those indisputable facts of economic life in Kansas and other farm states are now fueling a battle in Congress that is being sharpened by deepening concern about costs.

Senator Bob Dole, the Kansan who is majority leader, and Representative Pat Roberts, the Kansan who is chairman of the House Agriculture Committee, have both been advocates for cutting the Government, returning more power to the states and balancing the Federal budget. But both lawmakers have protected farm subsidies for years, particularly for growers of wheat, the state's most important crop.

In a speech last month in St. Louis to the American Farm Bureau Federation, Mr. Dole, who has helped shape farm policy since he entered Congress in 1961, was guarded as he discussed the coming debate, saying only that "some cuts will be made" in farm programs.

Mr. Roberts has been more voluble. In an interview, Mr. Roberts defended the subsidies, saying that nationwide they had decreased to $10.2 billion last year from $25.8 billion in 1986. Still, Mr. Roberts's 66-county Congressional district, which includes Reno County, received $5.45 billion in farm subsidies over the last decade, more than any other, according to the Environmental Working Group, a policy analysis organization in Washington.

Mr. Roberts vowed to defend those payments and his constituents from being a target for budget cutters. "Farmers have already given at the office," he said. "I will make sure that if there are additional cuts, they are not disproportionate on farmers."

Opposing the Kansas lawmakers is Senator Richard G. Lugar, Republican of Indiana and chairman of the Senate Agriculture Committee. He said in an interview that farm subsidies were justifiably seen as a test of Republican resolve.

"We are being taunted with it almost daily," said Mr. Lugar, who owns a farm. "Will we act? I would guess that subsidies will be cut at least in half over the next five years. But I also see phasing out subsidies in five years, if not completely then in such a way that there is only some minimal safety net."

Here in Reno County, where most of the 1,540 farms receive crop subsidies, growers are nervous even as they acknowledge being somewhat embarrassed about accepting Government handouts.

"It's like insurance," said Ronald Jacques, who votes Republican and raises wheat and other crops on a 2,000-acre farm 10 miles west of here. "It's not all of your income by any stretch, but it's a help. It's something you can count on."

Budd Fountain, a retired employee of the United States Department of Agriculture who raises 1,100 acres of wheat here and received $14,000 last year in subsidy payments, said: "If they totally did away with the program, there would be some problems. As long as Government is involved in setting the supply, then the farmer has no choice because he can't make his money from the market. The price is too low."

Whatever decisions are made by Congress this year, the outcome will have a significant effect in counties like this one, which received $148 million in farm program payments over the last decade, according to the Environmental Working Group.

No policy ever devised by Congress has such power to shape so much land and so many lives. It is a policy that farmers eagerly accept even as they complain about the rules, the bureaucracy and the Government's control of grain markets.

When the Government called for maximum production of grain in the 1970's, farmers here cut down trees that served as wind breaks in order to plant every available acre.

In the 1980's, when storehouses bulged with surpluses, the Government paid farmers to plant grass to conserve topsoil, making a quarter of the flat land here look like it did over a century ago, before the prairie grasses were plowed under.

But taking so much land out of production also reduced the amount of seed, fertilizer and farm equipment being used, and limited the demand for storage space in the big white grain elevator hugging the railroad tracks here. Farm supply stores went out of business, and the grain elevator was sold.

In interviews here this week, farmers said they would gladly give up subsidies if the Government also agreed to withdraw from setting supplies. By controlling the supply, the program controls demand and thereby prices.

Without being able to control supply, they said, farmers have little choice but to take the handouts because the prices they have received at the market for wheat—from $3.02 to $3.72 over the last decade—are below the cost of producing it.

The program for wheat, which is similar to those for corn, feed grains, rice and cotton, pays farmers the difference between the market price for their crop, and a higher "target" price that is set by Congress. Last year, the difference was at times as much as 80 cents a bushel. The wheat program cost taxpayers $2 billion, about a fifth of which went to Kansas growers.

As political pressure mounts to dismantle the programs, farmers say, consumers do not recognize the advantages of having stable grain supplies—and therefore stable prices—for such items as meat, bread and milk in the supermarket. If the programs were ended, they add, grain supplies and prices would be much more erratic.

"One thing overlooked by Democrats and Republicans in this debate is that farm programs are really designed to give consumers cheap food," said Jim French, who with his wife, Lisa, raises cattle and wheat on a 1,200-acre farm in Partridge, just north of here. "But we've seen the handwriting on the wall. In the early 1980's, we earned $25,000 one year from the program, the most we've ever had. That was our profit. Last year, our check was a little over $6,000."

Farmers in this region offer many ideas about how to alter the farm programs to reduce their costs and make them more useful.

Nathan Stillwell, a cattle rancher and wheat farmer who lives just outside town urges the Government to relax the strict rules, and give farmers more flexibility to decide what to plant and how much. That will save money, he says, and produce benefits for the environment because it will allow farmers to rotate crops more easily, a soil-saving practice that the programs have discouraged.

Others, like Mr. Jacques, said that dismantling the programs altogether would be possible as long as other countries also ended the practice of subsidizing their farmers. Grain markets are influenced by international factors and as long as other countries continue to subsidize their farmers, Americans will be at a disadvantage, he said.

Mr. STOKES. Mr. Speaker, I believe in the same basic tenets that the Founders of the Republic believed in. America needs to live up to its pledge of being one nation that will provide every American an opportunity to earn a decent living. In today's society there can be no advancement without a decent job and a decent wage. We live in a nation which has veered away from its creed—from its pledge to all Americans—and is now called to conscience.

President Clinton has submitted to Congress his budget proposal for fiscal year 1996. Unlike the budgets submitted by Presidents Reagan and Bush, which were dead on arrival in Congress, I applaud President Clinton for presenting a budget that demonstrates his continued commitment to improving the lives of working Americans. His proposal would raise the current $4.25 hourly minimum wage to $5.15 over a 2 year period.

I support the President's position that the minimum wage should be increased. At a time when we are considering the reform of our Nation's welfare system, and putting more individuals to work, we need to be able to guaranteed our workers a wage they can live on.

Mr. Speaker, in the United States, we continue to make strides toward full economic recovery, with 1994 noted as the best year for economic growth in 10 years. Yet, we continue to have a permanent class of working poor—individuals who go to work every day but find it impossible to make ends meet. These are the individuals who must choose between health care and day care; food for their children or electricity; warm clothing for their children or mortgage payments. It is these individuals for whom this modest increase in the minimum wage will make a significant difference.

In my home district of Cuyahoga County, the percentage of households living below the poverty level is 20 percent. I therefore realize from firsthand experience why it is so imperative that we support the President's call for a minimum wage increase. I will certainly do all that I can to advance this important effort to improve the conditions of working Americans.

Mr. Speaker, in Dr. Martin Luther King's lifetime, America needed a war on poverty. It is my hope that with this small step we will fulfill Dr. King's mission to end poverty for all Americans.

GENERAL LEAVE

Mr. OWENS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. QUINN). Is there objection to the request of the gentleman from New York?

There was no objection.

THE CONTRACT WITH AMERICA IS GOOD FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 30 minutes.

Mr. BURTON of Indiana. Mr. Speaker, let me just start off by saying that I have spent the last hour listening to my distinguished colleagues from the Democrat Party talking about the Contract With America and what is wrong with it. Let me start off by saying, before I get into my special order, that the capital gains tax cut that they maligned so viciously over the past hour would end up probably bringing $2 to $3 trillion of investment into the economy which would create jobs, $2 to $3 trillion.

Mr. OWENS. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am very sorry. I only have a half hour, but I would be happy to have a colloquy with the gentleman at a different time.

But when people sell a farm, when people sell stocks, when people sell a business, that money just does not disappear. That money is reinvested in our society, and we are talking about two to three thousand, thousand, million dollars that would be reinvested in new plants, and equipment, and job expansion in this country. That is one of the things that they discounted.

Now their party had control of this place for the last 40 years, and during those 40 years we saw the great War on Poverty that Lyndon Johnson talked about that was supposed to eradicate poverty in one decade end up being an abject failure, and the people of this country have said, "Enough welfarism, enough socialism. We want to get back to the free enterprise concepts that made this country great," and that is why the Republican Party won the majority in both the House and Senate in the last election.

Now they talked about corporate taxes. "Let's soak the corporations."

Corporations do not pay taxes. Those taxes are added to the price of the product. If you raise corporation taxes on the automobile industry, for instance, then they add that to the price of a car. It is the cost of doing business, and when you go to buy a car, you pay more money for that car because the corporation has a fixed profit margin in their books.

So, when you raise corporate taxes, that means the consumer is going to pay more for that car, so they in effect are paying the tax when you raise corporate taxes. The consumer always pays, and the tax and spend policies of the Democrats are the reason for their demise in the last election, and I think that everybody in the country now realizes that, at least a majority.

They talked about the Contract With America being bad for America. The fact of the matter is every one of the 10 items in the Contract With America was approved by more than 70 percent of the American people. In polling data that we got before we came up with the Contract With America, Mr. Speaker, we found the top 10 items that Americans were concerned about, and many of those items were approved or requested by more than 70 percent of the people of this country. The problem is they do not have any ideas. They are attacking our Contract With America, and they are going to lose that battle because the American people simply want the things that we put in that Contract With America to be passed by this Congress.

They want a balanced budget amendment. They want a line-item veto. They want tax fairness for seniors. They want to stop violent criminals. They want welfare reform. They want to protect our kids. They want a strong national defense. They want to roll back government regulations. All these things we are going to bring to the floor for a vote, which they would not do over the past 40 years.

□ 2320

I think the American people will see the difference very clearly in the weeks and months to come. They are seeing it already, because polling data shows American people support what the Congress of the United States is doing under the new Republican leadership.

Tonight I want to talk briefly about some unethical contacts that have taken place in the Whitewater debacle that has taken place over the last several years we have been talking about in this body and the other body, unethical contacts between the White House and the Treasury Department.

Mr. Speaker, last November 7 members of the Senate Banking Committee asked Independent Counsel Kenneth Starr to investigate possible perjury charges by two high-ranking White House officials, White House senior advisor George Stephanopoulos and deputy chief of staff Harold Ickes.

Members of the committee believe these two men lied under oath to the Banking Committee during hearings last August about Whitewater and unethical contacts between the White House and the Treasury Department. The charges against Mr. Stephanopoulos and Mr. Ickes are a very serious matter. However, this only touches the tip of the iceberg of how improper conduct within the Clinton administration was to slow down and coverup the White House investigation. Tonight I would like to review this whole matter, and the best place to start is at the beginning.

Criminal referrals from the RTC, the Resolution Trust Corporation: When Madison Guarantee Savings & Loan in Little Rock failed, its debts and its assets were inherited by the Government-run Resolution Trust Corporation.

Madison Guarantee was owned by then Gov. Bill Clinton's business partner, James McDougal, and the Governor. In March 1992, the RTC began an investigation of possible criminal activity at Madison after the New York Times broke a major story about the Whitewater Development Corp. In September 1992, the RTC sent a criminal referral, criminal investigation request, to the Justice Department. The RTC urged a thorough investigation of a "check kiting scheme" in which over $100,000 in Madison funds were alleged to be illegally funneled into the Whitewater Development Corp. to pay its bills. President and Mrs. Clinton were named as potential beneficiaries of this scheme.

A year later the Resolution Trust Corporation sent a second criminal referral to the Justice Department regarding Madison Guarantee. This referral contained nine specific allegations of criminal wrongdoing. The second referral named President and Mrs. Clinton as possible witnesses.

The U.S. attorney in Little Rock, Paula Casey, had been appointed by President Clinton. She let the first referral sit on her desk for over a year without taking any action on it. She should have recused herself, excused herself from acting in that capacity in this case because she was a friend and political ally of the President of the United States. In October 1993 she formally declined to investigate any of the allegations in the first referral.

Later in October the second referral was reported in the press, and only then did Paula Casey excuse herself from the entire matter.

Here are some questions that need to be answered. Why did the Resolution Trust Corporation's first referral sit on Paula Casey's desk for over a year? Was that because of her connections with people at the White House? Why did she refuse to open an investigation into the serious charges raised by the Resolution Trust Corporation? Why did Paula Casey wait until the criminal referrals became public knowledge before she recused herself? As a friend of President Bill Clinton and one of his campaign workers, she should have recused herself immediately because of that connection. Are Paula Casey's actions being investigated by the Justice Department's Ethics Office?

Let's talk about Roger Altman and his Senate testimony. In March 1993, Roger Altman, Deputy Secretary of the Treasury, became the acting chief of the Resolution Trust Corporation. This became necessary when Treasury Secretary Lloyd Bentsen forced out the RTC chief Albert Casey. At the time, the first RTC referral involving Whitewater and Madison Guarantee was sitting on Paula Casey's desk gathering dust for over a year.

In a routine hearing in February 1994, Roger Altman testified before the Senate Banking Committee that he had participated in one substantive meeting with White House officials about the RTC referrals. Under questioning from the Senators, he testified that he could not recall, remember, any other substantive contacts. In fact, from September 1993 to February 1994, there had been a flurry of improper meetings, phone calls, and faxes between the White House and the Treasury Department about this case. Treasury Department general counsel Jean Hanson has testified that she prepared talking points for Mr. Altman—this is unethical—outlining all of the contacts that he took, outlining all those contacts, and he took those talking points with him to the hearing. Mr. Altman denied he ever saw those talking points.

The full scope of these contacts became clear when the Senate Banking Committee held full hearings on the issue last August. After the hearings, even Democrat Senators criticized Mr. Altman and his counterparts at the White House because of this involvement, one with the other,

Senator CHRIS DODD said, "In my view, there were far too many meetings, there were far too many people involved, and the testimony gets just too cute for my tastes, quite frankly."

Senator SHELBY. "I think he, Roger Altman, has been less than candid. He has been very selective in his answers." Senators Reigle and SARBANES told Lloyd Bentsen they no longer had confidence in Mr. Altman.

On August 17, Roger Altman resigned his position after his testimony. The next day general counsel Jean Hanson also resigned her post.

Here are some questions that need to be answered. Did Roger Altman lie to the Banking Committee during the February hearings, or did he actually forget all but one of the contacts between the Treasury Department and the White House?

It seems farfetched to me he would forget all of those meetings. Did Roger Altman read the talking points Jean Hanson prepared for him before the February hearing? These talking points listed the contact.

Three, were there any other meetings or contacts that we still do not know about?

Four, how much information about the investigation of Madison Guarantee did the Treasury Department give to the White House? And this would be unethical, very unethical.

No. 5, was the RTC or the independent counsel's investigation jeopardized by these contacts?

Now, why were the contacts improper? When the Resolution Trust Corporation investigates a failed savings and loan that the taxpayers are going to have to bail out, it has two avenues it can pursue. First, it can recommend investigation of criminal wrongdoing to the Justice Department. That is called criminal referrals. Or, second, it can file civil suits against people who are responsible for the S&L's failure and try to recover some of those losses. When the RTC is in the middle of an investigation, it is very important that the details remain confidential. So if Mr. Altman was talking to Treasury and the White House about these things, he sure was not keeping these things confidential.

If information about an investigation is leaked to a potential target of the investigation, that person could potentially destroy evidence, like shred files, hide assets, or take other actions to impede the investigation. If a police department investigates a bank robbery, it does not share any of the information it has with any of the suspects. And that is exactly the kind of thing that was taking place between Mr. Altman, Treasury, and the White House.

Neither of the criminal referrals from the RTC accuses the Clintons of wrongdoing. However, the Clintons are named as potential witnesses in one and potential beneficiaries in the other. Many of the top officials at the White House were from Arkansas and friends of the President. Some were probably friends and political allies of targets of the investigation. Any details of the investigation could have been leaked from the White House to people being investigated in connection with the failure of Madison Guaranty which cost the taxpayers, get this, $47 million.

Now, here is the chronology of events and contacts between Treasury and the White House. In March of 1993, after becoming Acting Chief of the Resolution Trust Corporation, Roger Altman was briefed on the first criminal referral by RTC vice president William Roelle. Altman faxed a copy of the New York Times article which broke the Whitewater story to White House counsel Bernie Nussbaum, Mr. Nussbaum was the chief counsel to the President of the United States.

He later testified that he does not remember either being briefed or sending the article to Nussbaum. However, the fax cover sheet, which is a document that tells when it was sent, the fax cover sheet confirms that it did come from Mr. Altman's office.

□ 2330

So once again, he conveniently forgot something that came from his office to the White House, to Bernie Nussbaum, the chief legal counsel to the President.

September 1993, the Resolution Trust Corporation is preparing its second criminal investigation or referral. Treasury Department General Counsel Jean Hanson briefs Altman on the confidential referral. According to Hanson, Roger Altman then directed her to brief the White House on the situation, which was against RTC procedure. That, once again, is letting people who may be under criminal investigation knowing what the investigation is about. You just do not do that. Mr. Altman denies this.

September 29, 1993, Jean Hanson initiates the first formal contact with the White House. At a White House meeting, she briefs Chief Counsel to the President, Bernie Nussbaum, in detail on the referral. Also at the meeting was Clifford Sloan, a lawyer on Nussbaum's staff. Nussbaum appoints Clifford Sloan to be Hanson's designated White House liaison on the issue. She should have not been talking to the White House and here they are setting up an official liaison.

During the next several days, Hanson and Sloan have several follow up conversations on the phone.

October 4, 1993. Senior White House aide Bruce Lindsey, who is traveling with the President, informs President Clinton about the RTC referrals.

October 7, 1993, Jean Hanson calls Clifford Sloan at the White House to tell him about press inquiries into the Whitewater investigation.

October 14, 1993, a full-fledged meeting is called at the White House to discuss the RTC investigation. Attending from the Treasury Department, Communications Director Jack DeVore, General Counsel Jean Hanson, Chief of Staff Joshua Steiner, and attending from the White House was White House Counsel to the President, Bernie Nussbaum and Senior Advisor, Bruce Lindsey. They should not have even been talking about this. Here they are having a full-scale meeting.

February 2, 1994, the second full-fledged meeting on the Whitewater investigation is held at the White House. This meeting was reportedly called to discuss potential civil claims against Madison and people associated with Madison by the Resolution Trust Corporation. Attending this meeting from the Treasury Department, Deputy Treasury Secretary Roger Altman, General Counsel Jean Hanson. Attending from the White House again, White House Chief Counsel Bernie Nussbaum, Chief Counsel to the President, Deputy Chief of Staff Harold Ickes, Hillary Clinton's Chief of Staff, Margaret Williams comes. According to those in attendance, the substance of the case was not discussed, only procedures. But once again, a formal meeting involving this investigation which should not have been discussed between those doing the investigating and those who are being investigated.

February 24, 1994, as I mentioned earlier, on this day, Roger Altman appeared before the Senate Banking Committee at an RTC oversight hearing. He testified that he attended one meeting concerning the White House investigation and denied any recollection of any other contacts. He had a lot of failures of memory.

March 4, 1994, then independent counsel Robert Fiske subpoenaed 10 Treasury and White House officials who participated in the contacts and questioned them before a grand jury. Here are some questions that need to be answered.

Did Roger Altman order Jean Hanson to brief the White House about the first criminal investigation or referral in September 1993 as Hanson alleges? Would Hanson go and brief the White House officials without approval from higher up? I do not think so. Why would she go over there and start briefing them unless somebody asked her to do it?

Number 2, why was it necessary for Jean Hanson to have a liaison at the White House with whom to discuss the Resolution Trust Corporation's investigation of Whitewater and Madison? She was not even supposed to be discussing the investigation with the White House.

Number 3, did officials from the Treasury Department who had attended the three White House meetings discuss only procedures and policies of the RTC as they have claimed or did they reveal substantive information about the Madison Guarantee case as well? And how can we ever know for sure.

Number 4, did White House officials share any of the information they received through these meetings and phone conversations with any potential targets of the investigation, and how can we know about that for sure?

All of the details about these meetings that I have been just discussing became public knowledge during the Senate and House Banking Committee hearings last August. And additional detail that was revealed at that time concerned White House efforts to stop Roger Altman from excusing, recusing himself from the Whitewater investigation?

In January 1994, Altman was considering recusing himself, stepping aside, from the entire Madison-Whitewater case because of his close friendship with President Clinton. They had attended college together at Georgetown University and had been friends ever since. Treasury Department General Counsel Jean Hanson advised Altman that he should recuse himself, step aside, according to her testimony. Prior to the February 2 meeting at the White House, Altman reportedly had decided to step aside and recuse himself. However, during the meeting, the Chief Counsel to the President, Bernie Nussbaum, talked Altman out of it.

Nussbaum testified that he simply asked Altman to reconsider his decision. However, Treasury Department Chief of Staff Josh Steiner tells a different story in his personal diary. Steiner's diary says that Nussbaum told Altman this his decision to excuse himself or step aside was "unacceptable". They didn't want him stepping out of the picture because there might be some incriminating evidence that he could stop. At least that is what it appears to be.

After the meeting Jean Hanson spoke to White House Deputy Chief of Staff Harold Ickes. According to Hanson's testimony, Ickes asked her who else knew that she had advised Altman to step aside or recuse himself. Hanson told him that only three people knew. According to her testimony, Ickes told her that that was good that nobody else should know about it. According to Jean Hanson's testimony at the hearings last August, Mr. Ickes asked me, this is her quote, "Mr. Ickes asked me who else knew that I had recommended to Mr. Altman that he recuse himself, and I gave him three names. He said, 'that's good, because if it gets out, it will look bad.'".

When Harold Ickes testified before the Senate Banking Committee in August, he denied ever making such a statement. Ickes maintains that all he said to Hanson at the meeting was, hello, nice to see you and goodbye.

At the beginning of my statement, I said that the 7 Members of the Senate Banking Committee have asked the independent counsel to investigate possible perjury by Mr. Ickes. The Senators were particularly concerned about his statements about his conversation or lack of conversation with Jean Hanson. The whole episode raises a number of questions.

First, why would Jean Hanson lie about her conversation with Harold Ickes?

Two, why would Bernie Nussbaum, legal counsel to the President, try to talk Roger Altman out of stepping aside, recusing himself, when Altman was clearly such a close personal friend of President Clinton?

Three, how forcefully did Chief Counsel to the President, Bernie Nussbaum, discourage Mr. Altman from recusing himself? Is Nussbaum lying or is Josh Steiner lying?

Four, did Bernie Nussbaum, Chief Counsel to the President, take this action on his own or did someone higher up in the White House urge him to do so?

Now, let us talk about Jay Stephens. As I mentioned earlier, the Senators also asked the independent counsel to investigate the testimony of George Stephanopoulos from the White House. Stephanopoulos' alleged perjury involved the hiring of Jay Stephens from by the Resolution Trust Corporation as an outside counsel in the Madison Guarantee case. Jay Stephens was hired by an independent board at the Resolution Trust Corporation for the Whitewater investigation. Stephanopoulos and other officials at the White House were really upset. They were furious because Stephens was a Republican and had been a U.S. Attorney under President Reagan.

In his testimony before the Senate banking committee in August, Stephanopoulos testified about a conversation he had with Treasury Department Chief of Staff Josh Steiner. He said that he complained about Stephens to Josh Steiner, but he denied trying to get rid of him. Mr. Stephanopoulos testified, and I quote, "I did blow off steam in the conversation, based on my belief that Mr. Stephens could not be an impartial investigator. Mr. Steiner informed me that the decision had been made by an independent board. That ended the conversation. I took no further action." That is what Stephanopoulos testified. However, Josh Steiner's personal diary tells a different story.

The February 27 entry reads: "Stephanopoulos and Ickes also asked about how Jay Stephens had been hired to be outside counsel on this case. Simply outrageous, they said, that RTC had hired him, Stephens, but even more amazing when George Stephanopoulos then suggested to me that we needed to find a way to get rid of him." Obviously because he did not want him to go on and conduct an investigation. "Persuaded George," he persuaded George Stephanopoulos, "that firing him would be incredibly stupid and improper."

Stephanopoulos's testimony was also contradicted by Roger Altman.

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Altman testified that in a phone call on February 25, Stephanopoulos and Ickes complained about Stephens being hired by the RTC. Altman testified that he told Josh Steiner that he thought it was unwise for them to be complaining so vocally about Jay Stephens, because he was a Republican and he might get too deeply involved in the investigation.

Stephanopoulos was also contradicted by Jean Hanson.

Here are some questions:

No. 1, did George Stephanopoulos and Harold Ickes lie to the Senate Banking Committee, and if they did, should they be prosecuted for it?

Two, what motive could Josh Steiner, Roger Altman, and Jean Hanson all have to falsely contradict their testimony? Why would they do that?

Three, how many other people did George Stephanopoulos call to attempt to get Jay Stephens fired?

All of these questions need to be thoroughly investigated and answered by the independent counsel. There is so much that smells about what has gone on between the RTC, Mr. Altman, Treasury, and the White House that a full and thorough investigation needs to be conducted, not only by the independent counsel but by the committees of jurisdiction in this House and in the other body, and possibly hiring other people to conduct this investigation.

The House, the Senate, and the independent counsel need to thoroughly investigate this. If there is lying, if people have committed perjury before the House and Senate Banking Committees, they need to be brought to justice. We need to follow this all the way to its final conclusion. There are all kinds of questions about shredded documents involving Whitewater and Madison that go all the way to the top.

We need to get to the bottom of it for the benefit of the American people. We are talking about $47 million of taxpayers' money that has been squandered or stolen. We need to get to the bottom of it, no matter where it leads us.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT) for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WATT of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. GUTIERREZ, today, for 5 minutes.
Ms. KAPTUR, today, for 5 minutes.
Mr. SKAGGS, today, for 5 minutes.
Mr. HILLIARD, today, for 5 minutes.
Mr. LAFALCE, today, for 5 minutes.
Mr. HOYER, today, for 5 minutes.
Mr. GENE GREEN of Texas, today, for 5 minutes.
Mrs. CLAYTON, today, for 5 minutes.
Mr. CLYBURN, today, for 5 minutes.

(The following Member (at the request of Mr. FOX of Pennsylvania) to revise and extend his remarks and include extraneous material:)

Mr. SOLOMON, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WATT of North Carolina) and to include extraneous matter:)

Mr. MANTON.
Mr. HAMILTON in three instances.
Mr. DINGELL in two instances.
Mr. SKELTON.
Mr. WARD.

Mr. MENENDEZ in two instances.
Mr. TRAFICANT.
Mr. STOKES in two instances.
Ms. KAPTUR.
Mr. ENGEL.
Mr. RAHALL.
Mr. ORTON.
Mr. FAZIO.

(The following Members (at the request of Mr. FOX of Pennsylvania) and to include extraneous matter:)

Mr. PACKARD.
Mr. SMITH of New Jersey.
Mr. HOUGHTON.
Mr. GINGRICH.
Mr. KOLBE.
Mr. DUNCAN.
Mr. CAMP.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. DE LA GARZA.
Mr. HOYER.
Mr. RICHARDSON.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, Thursday, February 9, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

339. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notice that the Navy intends to renew the lease of the *Albert David* (FF 1050), pursuant to 10 U.S.C. 7307(b)(2); to the Committee on National Security.

340. A letter from the Secretary of Health and Human Services, transmitting a copy of the fiscal year 1993 report on the Native Hawaiian Revolving Loan Fund [NHRLF], pursuant to 42 U.S.C. 2991–1; to the Committee on Economic and Educational Opportunities.

341. A letter from the Secretary of Labor, transmitting a report on the enforcement activities of the Directorate of Civil Rights concerning the nondiscrimination and equal opportunity provisions of the JTP act, pursuant to Public Law 97–300, section 167(e); to the Committee on Economic and Educational Opportunities.

342. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–382, "Maurice T. Turner, Jr., Education and Training Center Designation Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

343. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–383, "Privatization of Government Services Task Force Establishment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

344. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–385, "Anti-Sexual Abuse Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

345. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–386, "Probate Reform Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

346. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–387, "Clean Air Compliance Fee Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

347. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–388, "District of Columbia Housing Authority Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

348. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–390, "Washington Metropolitan Area Transit Authority Compact Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

349. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–391, "Closing of a Public Alley in Square 750, S.O. 94–123, Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

350. A letter from the Acting Inspector General, Federal Communications Commission, transmitting the annual report regarding an evaluation of the compliance by the FCC with, and the effectiveness of, the requirements imposed by 31 U.S.C. 1352 on the FCC and on persons requesting and receiving Federal contracts from the FCC using appropriated funds, pursuant to Public Law 101–121, section 319(a)(1) (103 Stat. 753); to the Committee on Government Reform and Oversight.

351. A letter from the Secretary of Veterans Affairs, transmitting a report on contract care and services furnished to eligible veterans, pursuant to Public Law 100–322, section 112(a); to the Committee on Veterans' Affairs.

352. A letter from the Chairman, Advisory Council on Unemployment Compensation, transmitting their second annual report, pursuant to Public Law 102–164, section 303 (105 Stat. 1060); to the Committee on Ways and Means.

353. A letter from the Director, Office of Civilian Radioactive Waste Management, transmitting the 10th annual report on the activities and expenditures of the Office of Civilian Radioactive Waste Management, pursuant to 42 U.S.C. 10224(c); jointly, to the Committees on Commerce and Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. McCOLLUM: Committee on the Judiciary. H.R. 729. A bill to control crime by a more effective death penalty; with an amendment (Rept. 104–23). Referred to the Committee of the Whole House on the State of the Union.

Mr. McCOLLUM: Committee on the Judiciary. H.R. 728. A bill to control crime by providing law enforcement block grants; with an amendment (Rept. 104–24). Referred to the Committee of the Whole House on the State of the Union.

Mr. QUILLEN: Committee on Rules. House Resolution 63. A resolution providing for the consideration of H.R. 667, The Violent Criminal Incarceration Act (Rept. 104–25). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DINGELL (for himself, Mr. CONDIT, Mr. MOORHEAD, and Mr. OXLEY):

H.R. 857. A bill to require the disclosure of service and other charges on tickets, and for other purposes; to the Committee on Commerce.

By Mr. HOYER (for himself, Mrs. MORELLA, Mr. BOEHLERT, Mr. FILNER, Mr. MORAN, Mr. WYNN, Mr. FAZIO of California, Mr. GILMAN, Mr. CUNNINGHAM, Mr. HUNTER, Mr. LANTOS, and Mr. LEWIS of California):

H.R. 858. A bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. GUNDERSON:

H.R. 859. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of emergency care and related services furnished by rural emergency access care hospitals; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DORNAN:

H.R. 860. A bill to terminate the Office of the Surgeon General of the Public Health Service; to the Committee on Commerce.

By Mr. CUNNINGHAM (for himself and Mr. HUNTER):

H.R. 861. A bill to amend title 10, United States Code, and title XVIII of the Social Security Act to permit the reimbursement of expenses incurred by a medical facility of the uniformed services or the Department of Veterans Affairs in providing health care to persons eligible for care under medicare; to the Committee on National Security, and in addition to the Committees on Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DORNAN (for himself, Mr. DOOLITTLE, Mr. BARTLETT of Maryland, Mr. BURTON of Indiana, and Mr. MANZULLO):

H.R. 862. A bill to prohibit the use of Federal funds to promote homosexuality; to the Committee on Government Reform and Oversight.

By Mr. HAMILTON:

H.R. 863. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of necessaries to impoverished families and individuals; to the Committee on Reform and Oversight.

By Mr. HOUGHTON (for himself, Mr. PAYNE of Virginia, Mrs. JOHNSON of Connecticut, Mr. MCCRERY, Mr. COYNE, Mr. BREWSTER, Mr. WELDON of Pennsylvania, and Mr. ENGLISH of Pennsylvania):

H.R. 864. A bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules; to the Committee on Ways and Means.

By Mr. ORTON:

H.R. 865. A bill to amend part A of title IV of the Social Security Act to offer States the option of replacing the Job Opportunities and Basic Skills Training [JOBS] Program with a program that would assist all recipients of aid to families with dependent children in achieving self-sufficiency, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, Commerce, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RAHALL:

H.R. 866. A bill to make a technical correction to section 601 of the Federal Aviation Administration Act; to the Committee on Transportation and Infrastructure.

By Mr. SANDERS (for himself, Ms. KAPTUR, Mr. DEFAZIO, Ms. DANNER, Mr. TAYLOR of Mississippi, Mr. KLINK, Mr. TRAFICANT, Mr. ROHRABACHER, and Mr. EVANS):

H.R. 867. A bill to amend title 31, United States Code, to provide that certain budget authority and credit authority provided to the exchange stabilization fund shall be effective only to the extent provided in appropriation acts; to the Committee on Banking and Financial Services.

By Mrs. THURMAN:

H.R. 868. A bill to amend the Fair Labor Standards Act of 1938 to provide an exemption from that act for inmates of penal or other correctional institutions who participate in certain programs; to the Committee on Economic and Educational Opportunities.

By Mr. TRAFICANT:

H.R. 869. A bill to designate the Federal building and U.S. courthouse located at 125 Market Street in Youngstown, OH, as the "Thomas D. Lambros Federal Building and U.S. Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. WILLIAMS (for himself and Mr. BONIOR):

H.R. 870. A bill to resolve the current dispute involving major league baseball, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. FRANK of Massachusetts:

H.J. Res. 68. Joint resolution proposed an amendment to the Constitution of the United States to repeal the 22d amendment relating to Presidential term limitations; to the Committee on the Judiciary.

By Mr. COMBEST (for himself and Mr. DICKS):

H. Res. 64. Resolution providing amounts for the expenses of the Permanent Select Committee on Intelligence in the 104th Congress; to the Committee on House Oversight.

By Mr. GINGRICH:

H. Res. 65. Resolution naming certain rooms in the House of Representatives wing of the Capitol in honor of former Representative Robert H. Michel; to the Committee on House Oversight.

By Mrs. SMITH of Washington (for herself, Mr. BROWNBACK, Mr. FOX, Mr. CHRYSLER, Mr. WELDON of Florida, Mr. HOSTETTLER, and Mr. METCALF):

H. Res. 66. Resolution to amend the Rules of the House of Representatives to ban gifts, and for other purposes; to the Committee on Standards of Official Conduct, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ROTH introduced a bill (H.R. 871) for the relief of Eugene Hasenfus; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. SOUDER.

H.R. 26: Mr. WELDON of Pennsylvania, Mr. BARTON of Texas, Mr. HOSTETTLER, Mr. HANSEN, Mr. CHRYSLER, Mr. HEFNER, Mr. CLEMENT, and Mr. PAXON.

H.R. 28: Mr. CALVERT.

H.R. 47: Mr. CALVERT and Mr. KIM.

H.R. 70: Mr. BOEHNER, Mrs. SEASTRAND, Mr. KLUG, and Mr. ROYCE.

H.R. 76: Ms. SLAUGHTER.

H.R. 95: Ms. LOFGREN, Mr. MARTINEZ, Mr. MARKEY, Mr. ACKERMAN, Mr. HOYER, Ms. JACKSON-LEE, and Mr. FOGLIETTA.

H.R. 104: Mr. BALLENGER and Mr. NETHERCUTT.

H.R. 112: Mr. COOLEY, Mr. ACKERMAN, Mr. NEY, and Ms. SLAUGHTER.

H.R. 159: Mr. RAHALL, Mr. ROHRABACHER, Mr. STUMP, Mr. KING, Mr. BLUTE, Mr. SENSENBRENNER, and Mr. ACKERMAN.

H.R. 201: Mr. FOX, Mr. SMITH of New Jersey, Mr. GENE GREEN of Texas, Mr. PETRI, Mr. HUNTER, Mr. BEREUTER, and Ms. PRYCE.

H.R. 281: Mr. WALSH.

H.R. 259: Mr. HASTINGS of Washington.

H.R. 325: Mr. LIPINSKI, Mr. SCHAEFER, Mr. EVERETT, Mr. ACKERMAN, and Mr. GOODLATTE.

H.R. 328: Ms. MOLINARI.

H.R. 357: Mr. HILLIARD, Mr. YATES, Mr. MEEHAN, Mr. FATTAH, Mr. GUTIERREZ, Mr. KENNEDY of Rhode Island, Mr. BEILENSON, Mr. WAXMAN, Mr. FRANK of Massachusetts, Ms. SLAUGHTER, Mr. MARKEY, Mr. HORN, and Mr. SCHUMER.

H.R. 367: Mr. FRAZER, Mr. LAFALCE, Mr. MARTINEZ, Mr. MINETA, Mr. NADLER, Mr. SANDERS, Mrs. SCHROEDER, Ms. VELAZQUEZ, Mr. VENTO, and Ms. WOOLSEY.

H.R. 394: Mr. MCDERMOTT and Mr. EMERSON.

H.R. 404: Mr. CALVERT.

H.R. 436: Mr. HASTERT, Mr. HOSTETTLER, Mr. POSHARD, Mr. LATHAM, Mr. FLANAGAN, and Mr. ZELIFF.

H.R. 450: Mr. PARKER and Mr. MONTGOMERY.

H.R. 452: Mr. SANDERS.

H.R. 463: Mr. TANNER.

H.R. 488: Mr. ENGEL.

H.R. 520: Mr. BARRETT of Nebraska.

H.R. 556: Mr. FROST, Mr. BRYANT of Texas, Mr. TORRES, Mrs. SCHROEDER, Mr. GENE GREEN of Texas, Mr. GONZALEZ, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. CHAPMAN.

H.R. 557: Mr. FROST, Mr. BRYANT of Texas, Mr. TORRES, Mrs. SCHROEDER, Mr. GENE GREEN of Texas, Mr. GONZALEZ, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. CHAPMAN.

H.R. 558: Mr. STENHOLM.

H.R. 571: Mr. THOMAS, Mr. HAYES, Mr. UNDERWOOD, Mr. CONDIT, Mr. ORTON, Mrs. SEASTRAND, Mr. CHRYSLER, Mr. TORRICELLI, Mr. EMERSON, Mr. DOOLEY, Mr. COBURN, Mr. BACHUS, Mr. RADANOVICH, Mr. LUCAS, Mr. RIGGS, Mrs. VUCANOVICH, and Mr. CHRISTENSEN.

H.R. 579: Mr. ROHRABACHER.

H.R. 612: Mr. BARRETT of Wisconsin, Mr. FOGLIETTA, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. GENE GREEN of Texas.

H.R. 645: Mr. FLAKE, Mr. GENE GREEN of Texas, Mr. PETE GEREN of Texas, Mr. TORRES, and Mr. WARD.

H.R. 662: Mr. COLLINS of Georgia.

H.R. 663: Mr. BARR and Mr. HASTINGS of Washington.

H.R. 697: Mr. HASTINGS of Washington, Mr. SOLOMON, Mr. ROYCE, Mr. BUYER, Mr. THORNBERRY, Mr. WALSH, Mr. SMITH of Texas, Mr. NETHERCUTT, Mr. LIVINGSTON, and Mr. SHADEGG.

H.R. 707: Mr. CALVERT and Mr. FIELDS of Texas.

H.R. 739: Mr. SAM JOHNSON.

H.R. 810: Mrs. MEYERS of Kansas.

H.J. Res. 3: Mrs. MYRICK.

H.J. Res. 24: Mr. GOODLATTE.

H. Con. Res. 12: Mr. SMITH of New Jersey.

H. Res. 40: Mr. VENTO, Mr. NADLER, Ms. HARMAN, and Mr. POSHARD.

H. Res. 54: Ms. DANNER and Mrs. THURMAN.

H. Res. 57: Mr. ROHRABACHER and Mr. BURTON of Indiana.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 667

OFFERED BY: MR. BERMAN

AMENDMENT NO. 10: Page 9, after line 6, add the following:

(c) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of this Act, of the funds made available under subsection (a) the following amounts shall be available only to carry out section 242(j) of the Immigration and Nationality Act:

(1) $330,000,000 for fiscal year 1996.
(2) $310,000,000 for fiscal year 1997.
(3) $305,000,000 for fiscal year 1998.
(4) $320,000,000 for fiscal year 1999.
(5) $340,000,000 for fiscal year 2000.

H.R. 667

OFFERED BY: MR. BERMAN

AMENDMENT NO. 11: Page 8, strike lines 7 through 11 and insert the following:

"(1) $667,500,000 for fiscal year 1996;
"(2) $1,020,000,000 for fiscal year 1997;
"(3) $2,222,000,000 for fiscal year 1998;
"(4) $2,340,000,000 for fiscal year 1999; and
"(5) $2,413,100,000 for fiscal year 2000.".

At the end insert the following new title:

TITLE V—COMPENSATION FOR INCARCERATION OF UNDOCUMENTED CRIMINAL ALIENS

SEC. 501. COMPENSATION FOR INCARCERATION OF UNDOCUMENTED CRIMINAL ALIENS.

(a) FUNDING.—Section 242(j) of the Immigration and Nationality Act (8 U.S.C. 1252(J)) is amended by striking paragraph (5) and inserting the following:

"(5) The Attorney General shall pay to each State and political subdivision of a

State which is eligible for payments under this subsection the amounts to which they are entitled under paragraph (1)(A) in such amounts as in the aggregate do not exceed—

"(A) $630,000,000 for fiscal year 1996;

"(B) $640,000,000 for fiscal year 1997;

"(C) $655,000,000 for fiscal year 1998;

"(D) $670,000,000 for fiscal year 1999; and

"(E) $680,000,000 for fiscal year 2000.

"(6) RATABLE REDUCTION RULE.—If the sums available under paragraph (5) for any fiscal year for making payments under this subsection are not sufficient to pay in full the total amounts which all States and subdivisions of States are entitled to receive under this subsection for such fiscal year, the amount which each State and political subdivision of a State is entitled to receive under this subsection for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.".

(b) TERMINATION OF LIMITATION.—Section 20301(c) of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking "2004" and inserting "2000".

H.R. 667

OFFERED BY: MR. BERMAN

AMENDMENT NO. 12. Page 8, strike lines 7 through 11 and insert the following:

"(1) $667,500,000 for fiscal year 1996;

"(2) $1,020,000,000 for fiscal year 1997;

"(3) $2,222,000,000 for fiscal year 1998;

"(4) $2,340,000,000 for fiscal year 1999; and

"(5) $2,413,100,000 for fiscal year 2000.".

Page 10, after line 10, insert the following new subsection:

(c) COMPENSATION FOR INCARCERATION OF UNDOCUMENTED CRIMINAL ALIENS.—Section 242(j)(5) of the Immigration and Nationality Act (8 U.S.C. 1252(j)) is amended by striking all after subparagraph (A) and inserting the following:

"(B) $630,000,000 for fiscal year 1996;

"(C) $640,000,000 for fiscal year 1997;

"(D) $655,000,000 for fiscal year 1998;

"(E) $670,000,000 for fiscal year 1999; and

"(F) $680,000,000 for fiscal year 2000.".

H.R. 667

OFFERED BY: MR. BERMAN

AMENDMENT NO. 13. Page 2, strike lines 8 and 9 and insert the following:

"TITLE V—TRUTH IN SENTENCING AND CRIMINAL ALIEN GRANTS"

Page 8, strike line 5 and all that follows through line 6 on page 9 and insert the following:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title and section 242(j) of the Immigration and Nationality Act—

"(1) $997,500,000 for fiscal year 1996;

"(2) $1,660,000,000 for fiscal year 1997;

"(3) $2,877,000,000 for fiscal year 1998;

"(4) $3,010,000,000 for fiscal year 1999; and

"(5) $3,093,000,000 for fiscal year 2000.

"(b) LIMITATION OF FUNDS.—

"(1) USES OF FUNDS.—Subject to subsection (c), funds here after made available under this title may be used to carry out the purposes described in section 501(a).

"(2) NONSUPPLANTING REQUIREMENT.—Funds made available under this section to carry out sections 502 and 503 of this title shall not be used to supplant State funds, but shall be used to increase the amounts of funds that would, in the absence of Federal funds, be made available from State sources.

"(3) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds available under this section to carry out sections 502 and 503 of this title may be used for administrative costs.

"(4) MATCHING FUNDS.—The Federal share of a grant received under this title to carry out sections 502 and 503 may not exceed 75 percent of the costs of a proposal as described in an application approved under this title.

"(c) ALIEN INCARCERATION.—Of the funds appropriated under subsection (a) for each fiscal year, the Attorney General shall first reserve $650,000,000 which shall be available only to carry out section 242(j) of the Immigration and Nationality Act.

H.R. 667 OFFERED BY: MR. BERMAN

AMENDMENT NO. 14: Title V should be amended to read—

"TITLE V—TRUTH IN SENTENCING AND CRIMINAL ALIEN GRANTS"

Amend Section 507 to read as folllows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title and Section 242(j) of the Immigration and Nationality Act—

"(1) $232,000,000 for fiscal year 1995;

"(2) $997,500,000 for fiscal year 1996;

"(3) $1,660,000,000 for fiscal year 1997;

"(4) $2,877,000,000 for fiscal year 1998;

"(5) $3,010,000,000 for fiscal year 1999;

"(6) $3,093,000,000 for fiscal year 2000;

"(b) LIMITATION ON FUNDS.—

"(1) USES OF FUNDS.—Funds made available under this title may be used to carry out the purposes described in Section 501(a).

"(2) NONSUPPLANTING REQUIREMENT.—Funds made available under this section to carry out sections 502 and 503 of this title shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

"(3) ADMINISTRATIVE COSTS.—Not more than three percent of the funds available under this section to carry out sections 502 and 503 of this title may be used for administrative costs.

"(4) MATCHING FUNDS.—The Federal share of a grant received under this title to carry out sections 502 and 503 may not exceed 75 percent of the costs of a proposal as described in an application approved under this title.

"(c) ALIEN INCARCERATION.—

"(1) USES OF FUNDS.—Of the funds made available under this title, no less than $650 million shall be made available each year to carry out Section 242(j) of the Immigration and Nationality Act (8 U.S.C. 1252).

"(2) ALLOCATION.—No funds made available under this title shall be used to carry out sections 502 and 503 until each state that has applied for funds under Section 242(j) has received such funds."

H.R. 667

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 15: Page 6, line 14, after "general" insert "including a requirement that any funds used to carry out the programs under section 501(a) shall represent the best value for the state governments at the lowest possible cost and employ the best available technology."

H.R. 667

OFFERED BY: MR. CANADY OF FLORIDA

AMENDMENT NO. 16: Page 18, line 11, after "agreements" insert "(except a settlement agreement the breach of which is not subject to any court enforcement other than reinstatement of the civil proceeding which such agreement settled)".

H.R. 667

OFFERED BY: MR. CANADY OF FLORIDA

AMENDMENT NO. 17: Page 1, after line 22, insert the following:

"Such grants may also be used to build, expand, and operate secure youth correctional facilities."

Page 6, after line 2, insert the following (and redesignate any subsequent subsections accordingly):

"(b) JUVENILE JUSTICE INCENTIVE.—Beginning in fiscal year 1998, 15 percent of the funds that would otherwise be available to a State under section 502 or 503 shall be withheld from any State which does not have an eligible system of consequential sanctions for juvenile offenders."

Page 10, line 7, delete "and" at the end of the line.

Page 10, at the end of line 10, strike the period and insert ";", and add the following:

"(4) the term 'an eligible system of consequential sanctions for juvenile offenders' means that the State or States organized as a regional compact, as the case may be—

"(A)(i) have established or are in the process of establishing a system of sanctions for the State's juvenile justice system in which the State bases dispositions for juveniles on a scale of increasingly severe sanctions for the commission of a repeat delinquent act, particularly if the subsequent delinquent act committed by such juvenile is of similar or greater seriousness or if a court dispositional order for a delinquent act is violated; and

"(ii) such dispositions should, to the extent practicable, require the juvenile delinquent to compensate victims for losses and compensate the juvenile justice authorities for supervision costs;

"(B) impose a sanction on each juvenile adjudicated delinquent;

"(C) require that a State court concur in allowing a juvenile to be sent to a diversionary program in lieu of juvenile court proceedings;

"(D) have established and maintained an effective system that requires the prosecution of at least those juveniles who are 14 years of age and older as adults, rather than in juvenile proceedings, for conduct constituting—

"(i) murder or attempted murder;

"(ii) robbery while armed with a deadly weapon;

"(iii) battery while armed with a deadly weapon;

"(iv) forcible rape;

"(v) any other crime the State determines appropriate; and

"(vi) the fourth or subsequent occasion on which such juveniles engage in an activity for which adults could be imprisoned for a term exceeding 1 year;

unless, on a case-by-case basis, the transfer of such juveniles for disposition in the juvenile justice system is determined under State law to be in the interest of justice;

"(E) require that whenever a juvenile is adjudicated in a juvenile proceeding to have engaged in the conduct constituting an offense described in subparagraph (D) that—

"(i) a record is kept relating to that adjudication which is—

"(I) equivalent to the record that would be kept of an adult convicted for that offense;

"(II) retained for a period of time that is equal to the period of time records are kept for adult convictions; and

"(III) made available to law enforcement officials to the same extent that a record of an adult conviction would be made available;

"(ii) the juvenile is fingerprinted and photographed, and the fingerprints and photograph are sent to the Federal Bureau of Investigation; and

"(iii) the court in which the adjudication takes place transmits to the Federal Bureau of Investigation the information concerning the adjudication, including the name and birth date of the juvenile, date of adjudication, and disposition.

"(F) where practicable and appropriate, require parents to participate in meeting the dispositional requirements imposed on the juvenile by the court;

"(G) have consulted with any units of local government responsible for secure youth correctional facilities in setting priorities for construction, development, expansion and modification, operation or improvement of juvenile facilities, and to the extent practicable, ensure that the needs of entities currently administering juvenile facilities are addressed; and

"(H) have in place or are putting in place systems to provide objective evaluations of State and local juvenile justice systems to determine such systems' effectiveness in protecting the community, reducing recidivism, and ensuring compliance with dispositions.".

H.R. 667

OFFERED BY: MR. CHAPMAN

AMENDMENT NO. 18: Page 2, after line 3, insert the following:

"SEC. 2. CONDITION FOR GRANTS.

"(a) STATE COMPLIANCE.—The provisions of title V of the Violent Crime Control and Law Enforcement Act of 1994, as amended by this Act, shall not take effect until 50 percent or more of the States have met the requirements of 503(b) of such Act.

"(b) REPORT.—Beginning in fiscal year 1996, the Attorney General shall submit a report to the Congress not later than February 1 of each fiscal year regarding the number of States that have met the requirements of section 503(b) of the Violent Crime Control and Law Enforcement Act of 1994, as amended by this Act.

"(c) EFFECTIVE DATE.—Begininng on the first day of the first fiscal year after the Attorney General has filed a report that certifies that 50 percent or more of the States have met the requirements of section 503(b) of the Violent Crime Control and Law Enforcement Act of 1994, as amended by this Act, title V of such Act shall become effective.

"(d) PRISONS.—Until the requirements of this section are met, title II of the Violent Crime Control and Law Enforcement Act of 1994 shall remain in effect as such title was in effect on the day preceding the date of the enactment of this Act."

H.R. 667

OFFERED BY: MR. CHAPMAN

AMENDMENT NO. 19: Page 2, lines 24 and 25, strike "either a general grant" and insert "general grants".

Page 2, line 25, strike "or" and insert "and".

H.R. 667

OFFERED BY: MR. CHAPMAN

AMENDMENT NO. 20: Page 2, lines 24 and 25, strike "either a general grant" and insert "general grants".

Page 2, line 25, strike "or" and insert "and".

Page 6, line 6, strike "title, if the State" and insert "title if,"

Page 6, line 7, strike "title—" and all that follows down through "the" on line 9, and insert "title, the".

H.R. 667

OFFERED BY: MR. CHAPMAN

AMENDMENT NO. 21. Page 7, line 8, strike "or compact," and all that follows down through "States" on line 12, and insert the following: "in the ratio that the number of part I violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part I violent crimes reported by all States to the Federal Bureau of Investigation for 1993".

H.R. 667

OFFERED BY: MR. DOGGETT

AMENDMENT NO. 22. Page 5, after line 2, add the following (and redesignate any subsequent sections accordingly):

"SEC. 504. GRANTS FOR THE CONFINEMENT OF VIOLENT YOUTH OFFENDERS.

"(a) IN GENERAL.—Notwithstanding the provisions of section 501(a) and 502(a), the Attorney General is authorized to provide grants to a State or States organized as a regional compact, and to a unit of local government or to a consortium of units of local government to build, expand, and operate temporary or permanent correctional facilities for youth offenders and violent youth offenders, including secure correctional facilities, boot camps, and detention centers. Funds received under this section may also be used to convert military bases to correctional facilities for youth offenders.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an applicant shall submit an application to the Attorney General which—

"(1) provides assurances that the applicant has increased, since 1993, mandatory lengths of stay for youth offenders;

"(2) provides assurances that the applicant has implemented policies that recognize the rights of crime victims;

"(3) provides evidence of a comprehensive correctional plan for youth offenders;

"(4) provides assurances that funds received under this section will be used to supplement not supplant other Federal, State or local funds, as the case may be, that would otherwise be available in the absence of such Federal funds;

"(5) provides documentation, if applicable, of a multi-State compact or local consortium agreement; and

"(6) provides a statement regarding eligibility criteria for participation in alternative correctional facilities such as boot camps.

"(c) DEFINITIONS.—For purposes of this section—

"(1) 'youthful offender' means an adjudicated juvenile delinquent and juveniles prosecuted as adults; and

"(2) 'unit of local government' has the same meaning given such term in section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

"(d) ALLOCATION OF FUNDS.—25 percent of the funds made available to carry out section 502(a) for each of fiscal years 1996 through 2000 shall be made available to carry out the purposes of this section.".

Page 2, line 26, insert "or discretionary grants for youth offenders under section 504" before the period.

Page 7, line 15, insert ", a unit of local government or a consortium of units of local government" after "compact".

Page 7, line 19, insert "or unit of local government or a consortium of units of local government" after "State".

Page 8, line 15, insert "and 504(a)" before the period.

H.R. 667

OFFERED BY: MR. SCHUMER

AMENDMENT NO. 23. Page 4, after line 22, insert the following:

"(c) TRANSFER OF UNUSED FUNDS.—On September 30 of each of fiscal years 1996, 1997, 1998, 1999, and 2000, the Attorney General shall transfer and make available any unexpended funds under this section to carry out section 502."

Page 8, strike lines 1 through 4.

H.R. 667

OFFERED BY: MR. SCHUMER

AMENDMENT NO. 24. Page 2, strike line 4 and all that follows through the matter preceding line 1, page 12, and insert the following:

TITLE I—PRISON BLOCK GRANT PROGRAM

SEC. 101. LOCAL CONTROL PRISON GRANT PROGRAM.

Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"Subtitle A—Prison Block Grants

"SEC. 201. PAYMENTS TO STATE GOVERNMENTS.

"(a) PAYMENT AND USE.—

"(1) PAYMENT.—The Attorney General shall pay to each State which qualifies for a payment under this title an amount equal to the sum of the amount allocated to such State under this title for each payment period from amounts appropriated to carry out this title.

"(2) USE.—Amounts paid to a State under this section shall be used by the State for confinement of persons convicted of serious violent felonies, including but not limited to, one or more of the following purposes:

"(A)(i) Building, expanding, operating, and maintaining space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony.

"(ii) Building, expanding, operating, and maintaining temporary or permanent correctional facilities, including boot camps, and other alternative correctional facilities, including facilities on military bases, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing space for the confinement of persons convicted of a serious violent felony.

"(iii) Contributing to funds administered by a regional compact organized by two or more States to carry out any of the foregoing purposes.

"(b) TIMING OF PAYMENTS.—The Attorney General shall pay to each State that has submitted an application under this title not later than—

"(1) 90 days after the date that the amount is available, or

"(2) the first day of the payment period if the State has provided the Attorney General with the assurances required by section 203(d),

whichever is later.

"(c) ADJUSTMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Attorney General shall adjust a payment under this title to a State to the extent that a prior payment to the State was more or less than the amount required to be paid.

"(2) CONSIDERATIONS.—The Attorney General may increase or decrease under this subsection a payment to a State only if the Attorney General determines the need for the increase or decrease, or if the State requests the increase or decrease, not later than one year after the end of the payment period for which a payment was made.

"(d) RESERVATION FOR ADJUSTMENT.—The Attorney General may reserve a partnership of not more than 2 percent of the amount under this section for a payment period for all States, if the Attorney General considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the States.

"(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

"(1) REPAYMENT REQUIRED.—A State shall repay to the Attorney General, by not later than 27 months after receipt of funds from the Attorney General, any amount that is—

"(A) paid to the State from amounts appropriated under the authority of this section; and

"(B) not expended by the unit within 2 years after receipt of such funds from the Attorney General.

"(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payment in future payment periods accordingly.

"(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to States.

"(f) NONSUPPLANTING REQUIREMENT.—Funds made available under this title to States shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of funds under this title, be made available from State sources.

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title—

"(1) $232,000,000 for fiscal year 1995;

"(2) $997,500,000 for fiscal year 1996;

"(3) $1,330,000,000 for fiscal year 1997;

"(4) $2,527,000,000 for fiscal year 1998;

"(5) $2,660,000,000 for fiscal year 1999; and

"(6) $2,753,100,000 for fiscal year 2000.

"(b) ADMINISTRATIVE COSTS.—Not more than 2.5 percent of the amount authorized to be appropriated under subsection (a) for each of the fiscal years 1996 through 2000 shall be available to the Attorney General for administrative costs to carry out the purposes of this title. Such sums are to remain available until expended.

"(c) AVAILABILITY.—The amounts authorized to be appropriated under subsection (a) shall remain available until expended.

"SEC. 203. QUALIFICATION FOR PAYMENT.

"(a) IN GENERAL.—The Attorney General shall issue regulations establishing procedures under which a State is required to give notice to the Attorney General regarding the proposed use of assistance under this title.

"(b) GENERAL REQUIREMENTS FOR QUALIFICATION.—A State qualifies for a payment under this title for a payment period only if the State submits an application to the Attorney General and establishes, to the satisfaction of the Attorney General, that—

"(1) the State will establish a trust fund in which the State will deposit all payments received under this title;

"(2) the State will use amounts in the trust fund (including interest) during a period not to exceed 2 years from the date the first grant payment is made to the State;

"(3) the State will expend the payments received in accordance with the laws and procedures that are applicable to the expenditure of revenues of the State;

"(4) the State will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General after consultation with the Comptroller General and as applicable, amounts received under this title shall be audited in compliance with the Single Audit Act of 1984;

"(5) after reasonable notice form the Attorney General or the Comptroller General to the State, the State will make available to the Attorney General and the Comptroller General, with the right to inspect, records that the Attorney General reasonably requires to review compliance with this title or that the Comptroller General reasonably requires to review compliance and operation;

"(6) a designated official of the State shall make reports the Attorney General reasonably requires, in addition to the annual reports required under this title; and

"(7) the State will spend the funds only for the purposes authorized in section 201(a)(2).

"(c) SANCTIONS FOR NONCOMPLIANCE.—

"(1) IN GENERAL.—If the Attorney General determines that a State has not complied substantially with the requirements or regulations prescribed under subsection (b), the Attorney General shall notify the State that if the State does not take corrective action within 60 days of such notice, the Attorney General will withhold additional payments to the State for the current and future payment period until the Attorney General is satisfied that the State—

"(A) has taken the appropriate corrective action; and

"(B) will comply with the requirements and regulations prescribed under subsection (b).

"SEC. 204. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Except as provided in section 203(c), of the total amounts appropriated for this title for each payment period, the Attorney General shall allocate for States—

"(1) 0.25 percent to each State; and

"(2) of the total amounts of funds remaining after allocation under paragraph (1), an amount that is equal to the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

"(b) UNAVAILABILITY OF INFORMATION.—For purposes of this section, if the data regarding part 1 violent crimes in any State for 1993 is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for 1993 for such State for the purposes of allocation of any funds under this title.

"SEC. 205. UTILIZATION OF PRIVATE SECTOR.

"Funds or a portion of funds allocated under this title may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the purposes specified under section 201(a)(2).

"SEC. 206. PUBLIC PARTICIPATION.

"(a) IN GENERAL.—A State expending payments under this title shall hold at least one public hearing on the proposed use of the payment from the Attorney General.

"(b) VIEWS.—At the hearing, persons, including elected officials of units of local government within such State, shall be given an opportunity to provide written and oral views to the State and to ask questions about the entire budget and the relation of the payment from the Attorney General to the entire budget.

"(c) TIME AND PLACE.—The State shall hold the hearing at a time and place that allows and encourages public attendance and participation.

"SEC. 207. ADMINISTRATIVE PROVISIONS.

"For the purposes of this title:

"(1) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as one State and that, for purposes of section 104(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

"(2) The term 'payment period' means each 1-year period beginning on October 1 of any year in which a grant under this title is awarded.

"(3) The term 'part 1 violent crimes' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.".

H.R. 667

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 25: In the matter proposed to be added by section 101 of the bill by section 503(b)(2) of the Violent Crime Control and Law Enforcement Act of 1994, insert "victims of the defendant or the family of such victims, the local media, and the convicting court" after "notify".

H.R. 667

OFFERED BY: MR. VOLKMER

AMENDMENT NO. 26: Page 2, line 10, Strike, and all that follows through Page 7, line 12.

Page 9, line 7, Strike and all that follows through Page 10, line 10.

Page 2, line 10, insert the following:

"SEC. 501. GRANTS AUTHORIZED.

"(a) GRANT AUTHORIZATION.—The Attorney General shall make grants to individual States to construct, expand, and improve prisons and jails.

"(b) AMOUNTS AUTHORIZED.—Grants totalling $3,000,000,000 shall be made to each State not later than October 30, 1995, and grants to each State totalling $3,000,000,000 shall be made annually thereafter in each of the years from fiscal year 1996 through fiscal year 1998.

"(c) GRANT ALLOCATION.—All such grants shall be made without conditions imposed by the Federal Government, not withstanding any other provision of Federal law, except to comply with the provisions of this title and that the use of such funds shall be exclusively for the construction of prisons and jails. States shall be encouraged to allocate appropriate portions of their grants to local governments within their jurisdictions for the construction of jails.

"(d) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this title $3,000,000,000 for each of fiscal years 1995, 1996, 1997, and 1998. All such moneys shall be appropriated from the Violent Crime Reduction Trust Fund.

"(e) DISTRIBUTION OF FUNDS IN FISCAL YEAR 1995.—Of the total amount of funds appropriated under this title in fiscal years 1995, 1996, 1997 and 1998 there shall be allocated to each State an amount which bears the same ratio to the amount of funds appropriated pursuant to this title as the number of part I violent crimes reported by the States to the Federal Bureau of Investigation for the preceding year which appropriated bears to the number of part I violent crimes reported by all States to the Federal Bureau of Investigation for such preceding year.

"SEC. 502. LIMITATIONS OF FUNDS.

"(a) NONSUPPLANTING REQUIREMENT.—Funds made available under the title shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from States sources.

"(b) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds available under the title may be used for administrative costs.

"(c) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this title shall be 75 percent of the total costs of the program as described in application.

"(d) CARRY OVER OF APPROPRIATIONS.—Any funds appropriated but not expended as provided by this section during any fiscal year shall be carried over and will be made available until expended.

"SEC. 503. DEFINITIONS.

"For purposes of this title—

"(1) the term 'violent crime' means—

"(A) a felony offense that has as an element the use, attempted use, or threatened use of physical force against the person of another, or

"(B) any other offense that is a felony and that, by its nature, involves substantial risk that physical force against the person of another may be used in the course of committing the offense;

"(2) the term 'serious drug offender' has the same meaning as that is used in section 924(e)(2)(A) of title 19, United States Code;

"(3) the term 'State' means any of the United States and the District of Columbia;

"(4) the term 'convicted' means convicted and sentenced to a term in a State corrections institution or a period of formal probation; and

"(5) the term 'part I violent crimes' means murder, rape, robbery, and aggravated assault as those offenses are reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports."

And renumber "SEC. 506" as "SEC. 504" and "SEC. 507" as "SEC. 505".

H.R. 667

OFFERED BY: MR. WELLER

AMENDMENT NO. 27: On page 6, after line 20, insert the following new subsection (c):

"(c) FUNDS FOR JUVENILE OFFENDERS.—If a State which otherwise meets the requirements of the section certifies to the Attorney General that exigent circumstances exist which require that the State expend funds to confine juvenile offenders, the State may use funds received under this title to build, expand, and operate juvenile correctional facilities or pretrial detention facilities for such offenders."

H.R. 667

OFFERED BY: MR. WYDEN

AMENDMENT NO. 28: Page 1, after line 22, insert the following:

"Such grants may also be used to build, expand, and operate secure youth correctional facilities."

Page 6, after line 2, insert the following (and redesignate any subsequent subsections accordingly):

"(b) JUVENILE JUSTICE INCENTIVE.—Beginning in fiscal year 1998, 15 percent of the funds that would otherwise be available to a State under section 502 or 503 shall be withheld from any State which does not have an eligible system of consequential sanctions for juvenile offenders.

Page 10, line 7, delete "and" at the end of the line.

Page 10, at the end of line 10, strike the period and insert ";", and add the following:

"(4) the term 'an eligible system of consequential sanctions for juvenile offenders' means that the State or States organized as a regional compact, as the case may be—

"(A)(i) have established or are in the process of establishing a system of sanctions for the State's juvenile justice system in which the State bases dispositions for juveniles on a scale of increasingly severe sanctions for the commission of a repeat delinquent act, particularly if the subsequent delinquent act committed by such juvenile is of similar or greater seriousness or if a court dispositional order for a delinquent act is violated; and

"(ii) such dispositions should, to the extent practicable, require the juvenile delinquent to compensate victims for losses and compensate the juvenile justice authorities for supervision costs;

"(B) impose a sanction on each juvenile adjudicated delinquent;

"(C) require that a State court concur in allowing a juvenile to be sent to a diversionary program in lieu of juvenile court proceedings;

"(D) have established and maintained an effective system that requires the prosecution of at least those juveniles who are 14 years of age and older as adults, rather than in juvenile proceedings, for conduct constituting—

"(i) murder or attempted murder;

"(ii) robbery while armed with a deadly weapon;

"(iii) battery while armed with a deadly weapon;

"(iv) forcible rape;

"(v) any other crime the State determines appropriate; and

"(iv) the fourth or subsequent occasion on which such juveniles engage in an activity for which adults could imprisoned for a term exceeding 1 year;

unless, on a case-by-case basis, the transfer of such juveniles for disposition in the juvenile justice system is determined under State law to be in the interest of justice;

"(E) require that whenever a juvenile is adjudicated in a juvenile proceeding to have engaged in the conduct constituting an offense described in subparagraph (D) that—

"(i) a record is kept relating to that adjudication which is—

"(I) equivalent to the record that would be kept of an adult convicted for that offense;

"(II) retained for a period of time that is equal to the period of time records are kept for adult convictions; and

"(III) made available to law enforcement officials to the same extent that a record of an adult conviction would be made available;

"(ii) the juvenile is fingerprinted and photographed, and the fingerprints and photograph are sent to the Federal Bureau of Investigation; and

"(iii) the court in which the adjudication takes place transmits to the Federal Bureau of Investigation the information concerning the adjudication, including the name and birth date of the juvenile, date of adjudication, and disposition.

"(F) where practicable and appropriate, require parents to participate in meeting the dispositional requirements imposed on the juvenile by the court;

"(G) have consulted with any units of local government responsible for secure youth correctional facilities in setting priorities for construction, development, expansion and modification, operation or improvement of juvenile facilities, and to the extent practicable, ensure that the needs of entities currently administering juvenile facilities are addressed; and

"(H) have in place or are putting in place systems to provide objective evaluations of State and local juvenile justice systems to determine such systems' effectiveness in protecting the community, reducing recidivism, and ensuring compliance with dispositions.".

H.R. 667

OFFERED BY: MR. WYNN

AMENDMENT NO. 29: Page 9, after line 6 insert the following:

"(6) DEFICIT REDUCTION.—Notwithstanding any other provision of this title, any funds that are not distributed pursuant to this title to carry out section 503 shall, in the fiscal year following the fiscal year that such funds were made available, revert to the Department of Treasury to reduce the deficit.".

H.R. 667

OFFERED BY: MR. ZIMMER

AMENDMENT NO. 30: Add at the end the following new title:

TITLE —PRISON CONDITIONS

SEC. . PRISON CONDITIONS.

(a) IN GENERAL.—The Attorney General shall by rule establish standards regarding conditions in the Federal prison system that provide prisoners the least amount of amenities and personal comforts consentent with Constitutional requirements and good order and discipline in the Federal Prison system.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to establish or recognize any minimum rights or standards for prisoners.

SEC. . ANNUAL REPORT.

The director of the Bureau of Prisons shall submit to Congress on or before December 31 of each year, beginning on December 31, 1995 a report setting forth the amount spent at each Federal correctional facility under the jurisdiction of the Bureau of Prisons for each of the following items:

(1) The minimal Requirements necessary to maintain Custody and security of prisoners.

(2) Basic nutritional needs.

(3) Essential medical services.

(4) Amenities and programs beyond the scope of the items referred to in paragraphs (1) through (3), including but not limited to—

(A) recreational programs and facilities;

(B) vocational and education programs; and

(C) counseling services, together with the rationale for spending on each category and empirical data, if any, supporting such rationale.

H.R. 728

OFFERED BY: MS. JACKSON LEE

AMENDMENT NO. 2: Page 6, after line 10, insert the following:

"(g) APPORTIONMENT REQUIREMENT.—Funds made available under this title to units of local government shall be equitably apportioned between the categories of programs set forth in sections (2) (A–C), above. Under no circumstance should 100% of any allocation be expended on only one category of programs listed above."

H.R. 728

OFFERRED BY: MS. JACKSON LEE

AMENDMENT NO. 3: Page 4, after line 5, insert the following:

"(D) Establishing the programs described in the following subtitles of title III of the Violent Crime Control and Law Enforcement Act of 1994 (as such title and the amendments made by such title were in effect on the day preceding the date of the enactment of this Act):

"(i) Assistance for Delinquent and At-Risk Youth under subtitle G.

"(ii) Urban Recreation and At-Risk Youth under subtitle O which made amendments to the Urban Park and Recreation Recovery Act of 1978.

"(iii) Gang Resistance and Education Training under subtitle X."

Page 6, after line 24, insert the following (and redesignate any subsequent subsections accordingly):

"(c) PREVENTION SET-ASIDE FOR YOUTH.—Of the amounts to be appropriated under subsection (a), the Attorney General shall allocate $100,000,000 of such funds for each of fiscal years 1996 through 2000 to carry out the purposes of subparagraph (D) of section 101(a)(2)."

H.R. 729

OFFERED BY: MR. FIELDS OF LOUISIANA

AMENDMENT NO. 2: In the matter proposed to be inserted in section 3593(e) of title 18, United States Code, by section 201, insert "or a sentence of life imprisonment without the possibility of release" after "shall recommend a sentence of death".

Strike subsection (b) of section 201 and eliminate the subsection designation and heading of subsection (a).

EXTENSIONS OF REMARKS

NATIONAL GOVERNORS' ASSOCIATION SUPPORTS FLOW CONTROL

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. SMITH of New Jersey. Mr. Speaker, last week, the National Governors' Association passed an important resolution in support of congressional restoration of flow control authority to State and local governments.

When the Supreme Court rejected such authority in its May 1994 decision in Carbone versus Clarkstown, New York, it struck a devastating blow to the financial stability of thousands of communities nationwide. Justice Sandra Day O'Connor reminded Congress of its part in developing these circumstances. You see, although Congress had implied that States and localities had the authority to use flow control; Congress had never granted the authority explicitly. We now have not only the opportunity, but the responsibility to finish what we started.

It is imperative that we do so with all due speed because communities nationwide have amassed an outstanding debt of more than $10 billion purely by meeting its traditional responsibilities of picking up the trash.

Congress held hearings and markups and debates on this issue throughout 1994. The divergent interests of local governments, the private sector waste companies, and Wall Street came together through months of intense negotiations. The product of these efforts was a compromise proposal which passed the House by unanimous consent on October 7, and nearly passed through the Senate before it adjourned the next day.

On January 4, I reintroduced this exact text as the Community Solvency Act (H.R. 24) with a bipartisan group of cosponsors. I encourage my colleagues to read the persuasive and well-reasoned arguments of the Governors' resolution and to join them in their fight to meet the public health and safety needs of our constituents in a cost-effective and environmentally sound way. In short, I encourage my colleagues to cosponsor H.R. 24.

NATIONAL GOVERNORS ASSOCIATION RESOLUTION

3.4.1 Each State, Alone or in Cooperation with Other States, Should Manage the Waste Produced Within Its Borders in an Environmentally Sound Manner. This goal requires states to take responsibility for the treatment and disposal of solid waste created within their borders to eventually eliminate the transportation of unwanted waste sent over state lines for treatment or disposal.

It should be the national policy for each state to promote self-sufficiency in the management of solid waste. States should be allowed to use reasonable methods to achieve their goal of self-sufficiency, including the use of waste flow control. Self-sufficiency is a reliable, cost-effective, long-term path and generally reflects the principle that the citizens ultimately are responsible for the wastes they create.

As states phase in programs to ensure self-sufficiency, Congress should require the federal government to pursue aggressively packaging and product composition initiatives and to identify and foster creation of markets for recyclable or recycled goods. Federal assistance in these waste reduction endeavors is critical to developing national waste reduction and recycling programs to achieve self-sufficiency.

Similarly, the federal government must mandate national minimum performance standards for municipal solid waste disposal facilities. Otherwise, some states may resolve capacity crises brought about by export limitations by keeping open landfills that otherwise should be closed. Also, the lack of minimum standards may encourage exports, because it might be cheaper, even taking into consideration transportation costs, for a community in a state with stringent regulations to ship to nearby states that do not have the same requirements.

The development of solid waste management plans should be the primary responsibility of the states and local governments, and the Governors urge EPA to assist states in the development of comprehensive and integrated planning and regulatory programs through financial and technical assistance. Such plans should include a ten-year planning horizon and should be updated at least every five years. These plans should include a description of the following:

The waste management hierarchy that maximizes cost-effective source reduction, reuse, and recycling of materials;

The planning period;

The waste inventory;

The relationship between state and local governments;

Municipal solid waste reduction and recycling programs;

A waste capacity analysis for municipal solid waste (which in no way should resemble a capacity assurance requirement similar to Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act, or CERCLA);

The state's regulatory program;

The process for citizen participation; and

Self-certification that the state has necessary authority to implement these program elements.

EPA review of plans should be limited to a check for completeness based on elements specified in this policy and raised by EPA during the public comment period of the draft plan. EPA does not have the ability or the resources to take on the solid waste planning and management responsibilities that fall under the historical and rightful domain of state and local governments. Moreover, EPA's intrusion into the planning process (in a manner similar to Subtitle C of the Resource Conservation and Recovery Act, or RCRA) would frustrate and impede the planning process already underway in many states.

States should retain authority to implement and enforce Subtitle D programs upon passage of legislation reauthorizing RCRA, and new program elements in this legislation should be automatically delegated to states. Should a state fail to submit a complete plan, EPA should assume responsibility for the permitting and enforcement portion of a state solid waste management program after the state is given the opportunity to appeal and correct any deficiencies.

THE BALANCED BUDGET AMENDMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, February 8, 1995, into the CONGRESSIONAL RECORD.

THE BALANCED BUDGET AMENDMENT

In Late January, with my support, the House passed a balanced budget constitutional amendment by a vote of 300–132. Several different versions were considered. The one that passed would require the President to propose a balanced budget each year, and it would take a ⅗ vote of both the House and Senate to pass an unbalanced budget.

It may well be that nothing short of a constitutional amendment will force Congress and the President to confront the tough choices necessary to balance the budget. We have simply had great difficulty in coming to consensus on specific increases in taxes or cuts in government spending. The result is an institutional bias toward running a deficit. An amendment could very well force the government to set priorities, a key task that has not been done very well in the past.

PROBLEMS

Although the amendment was broadly supported in the House, there are problems with using a constitutional amendment to balance the budget. First, a balanced budget amendment could reduce the government's flexibility to deal with national emergencies such as war or recession. It could force the government to raise taxes or cut spending to cover the increasing deficit that a slowing economy was generating. Fiscal policy then would exaggerate rather than mitigate the swings in the economy, and recessions would tend to be deeper and longer. Second, a balanced budget amendment puts off tough decisions and delays action until ratification by the states, which could take many years. Postponing the tough choices could make them much harder in the long run. Third, a balanced budget amendment could draw the courts into budget policy. If Congress failed to pass a balanced budget, unelected judges might have the power to raise taxes or cut programs. Fourth, a balanced budget amendment is an incentive for Congress and the President to evade the requirements. They could do that by imposing or withdrawing regulations, placing new requirements on states or business, saying that certain kinds

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of spending is off budget, setting up quasi-government authorities to borrow money, or scores of other ways. Finally, a balanced budget amendment should distinguish between general operating expenses and capital investments (such as bridges, research, or education). Indiana has operated under a similar system for years. Like a homeowner taking out a mortgage, borrowing for long-term investments can make sense.

REASONS TO SUPPORT

Despite these concerns, I do support a balanced budget amendment. For years Congress has tried new ways to reduce the deficit, including caps on spending, across-the-board cuts, and pay-as-you-go requirements. These measures have had some effect, and the deficit is down from a record $290 billion in 1992 to some $176 billion this year—a cut of 40%. But the longer-term outlook for the deficit—particularly because of rising health care costs—is not good. Particularly disturbing are recent projections by the Congressional Budget Office that show the deficit could rise to as high as $421 billion in 2005. This trend is unacceptable.

Although I would prefer that Congress and the President face the tough choices and balance the budget on their own, there is little evidence this will be done. Large deficits drain national savings and investment in long-term economic growth, and yearly interest payments prevent policymakers from responding to new challenges. A balanced budget amendment would force us to better reconcile our investment priorities with our economic means.

THE DETAILS

The House considered six versions of a balanced budget amendment. I supported several versions that protected Social Security from being cut to balance the budget and a version that would distinguish between capital investment and general operating costs. I also voted for a version that would require Congress to spell out the difficult choices necessary to balance the budget in the next seven years. We have an obligation to tell the American people how we intend to get the budget into balance. Too many amendment supporters are unwilling to give us specifics on cutting the budget. The cuts necessary will be far deeper than most people have acknowledged, and important programs like Medicare and student aid would be heavily impacted.

I opposed a version that made it easy to waive the balanced budget requirement—in any year when unemployment was above 4%—and also did not support a version requiring a separate 3/5 vote to pass any bill that raised revenue. We should not confer on a congressional minority a veto power over what should be a majority decision to increase revenues. Such a veto power was deliberately rejected by the founding fathers.

A broad coalition of members from both parties were able to put aside their differences and agree on the final version of the amendment. This amendment would be tough on deficit spending. It would require the President to submit a balanced budget every year, and Congress would need a 3/5 vote in both the House and the Senate to pass an unbalanced budget or to raise the federal debt limit. A majority of Congress could waive this requirement in time of war or imminent military threat. The amendment now goes to the Senate, which is expected to take action later this year. If the House and Senate agree on identical language, thirty-eight states will have to ratify the amendment before it becomes part of the Constitution. The states will be taking a careful look at the balanced budget amendment. It could well hurt them. Drastic reductions in federal spending would leave states with the burden of dealing with those who fall through the safety net.

CONCLUSION

I still have reservations about the House version, and would prefer greater flexibility to deal with national emergencies, protections for Social Security, and requirements that we spell out to the American people what it would take to balance the budget. I believe the House-passed version was good enough, and the need for a balanced budget amendment strong enough, that the process should go forward. I am hopeful that the Senate can address some of my concerns. I will want to see what happens in the Senate before making a final decision on the balanced budget amendment.

TRIBUTE TO THE CLARE ROTARY CLUB

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. CAMP. Mr. Speaker, I rise today to honor the Rotary Club of Clare, MI. On February 11, 1995, members and friends will gather to celebrate the Clare Rotary's 50th golden anniversary. The Clare Rotary Club has enjoyed a long and distinguished history during which they helped and improved many lives. They may proudly look back on their history and take pride in the many events they have sponsored and the assistance they have provided.

The Rotary Club plays a vital role in the development of our families and communities. By selflessly giving of themselves, members have demonstrated the rewards we reap when we help others in need. The time and effort the members have devoted to improving the community illustrates the sensitivity and caring that makes the Rotary Club of Clare the wonderful organization it is.

Their work and accomplishments provide a sterling example of what deeds can be performed with dedication and contribution. Everyone involved with their efforts lives by the motto, "He Who Profits Most * * * Serves Best" and more recently, "Service Before Self." These are words that, when taken to heart, can help raise people, families, and communities to new levels of achievement. The Rotary Club members have not only embraced these words but acted to help others and inspired us all to help our fellow citizens.

Mr. Speaker, I know you will join my colleagues and I in commending the work of the Rotary members and their 50 years of giving. It is this sense of philanthropy, the cornerstone of our Nation, which has made this Nation and community such an exceptional place to live. I wish them continued success and look forward to another 50 years of service.

LEGISLATION TO NAME YOUNGSTOWN COURTHOUSE AFTER THOMAS D. LAMBROS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. TRAFICANT. Mr. Speaker, today I am reintroducing legislation to name the Federal building and U.S. courthouse in Youngstown, OH after retired U.S. District Court Judge Thomas D. Lambros. Throughout his distinguished career, Judge Lambros embraced the rule of law, human rights, and social justice for all our citizens. I can't think of a more appropriate way to honor his service than to name the U.S. courthouse and Federal building in Youngstown, OH after this great American jurist.

The bill would designate the Federal building and U.S. courthouse located at 125 Market Street in Youngstown as the Thomas D. Lambros Federal Building and U.S. Courthouse.

Thomas D. Lambros was born on February 4, 1930, in Ashtabula, OH. He graduated from Ashtabula High School in 1948. Upon graduation from high school, he attended Fairmont State College in Fairmont, WV, from 1948 to 1949, and received his law degree from Cleveland Marshall Law School in 1952. From 1954 to 1956 he served in the U.S. Army. In 1960, Lambros was elected judge of the court of common pleas in Ohio's Ashtabula County. In 1966, he was reelected to a second term without opposition.

In 1967, in light of Judge Lambros' excellent record as a fair and dedicated jurist, President Lyndon B. Johnson nominated him to the Federal bench in the U.S. District Court in the northern district of Ohio. As a district court judge, Judge Lambros was responsible for many important reforms such as the voluntary public defender program to provide indigent criminal defendants with free counsel. His groundbreaking work in this area preceded the landmark U.S. Supreme Court decision, Gideon versus Wainwright, which guaranteed free counsel to indigent criminal defendants. In 1990, Judge Lambros became chief judge in the northern district of Ohio. He officially retired from that post earlier this month. Judge Lambros currently resides in Ashtabula, OH.

Judge Lambros received numerous honors and awards throughout his career, including the Cross of Paideia presented by Archbishop Iakovos of the Greek Orthodox Archdiocese of North and South America, and an honorary doctorate of law from Capital University Law and Graduate Center.

Mr. Speaker, I would like to also add that it was Judge Lambros' commitment and vision that was the driving force behind the construction of the Federal building and U.S. courthouse in Youngstown. He recognized that the people who live in the Youngstown area—regardless of their station in life—deserve to have adequate and direct access to the U.S. court system. Prior to the opening of the U.S. courthouse building in Youngstown in December of 1993, my constituents had to travel at least 65 miles to Cleveland, OH if they had business in the Federal court system. Judge

Lambros recognized the hardship this imposed on many people, especially senior citizens and the indigent. His commitment to equal justice and equal access for all played an important role in building the Youngstown courthouse. My constituents and I will be forever grateful to Judge Lambos for his broad vision and commitment to justice.

I urge all my colleagues to support this legislation, the text of which appears below.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 125 Market Street in Youngstown, Ohio, shall be known and designated as the "Thomas D. Lambros Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Thomas D. Lambros Federal Building".

IN HONOR OF FORMER CONGRESSMAN JOSEPH A. LEFANTE WHO WAS RECOGNIZED BY IRELAND 32

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. MENENDEZ. Mr. Speaker, I am pleased to take this opportunity to recognize the accomplishments of former Congressman Joseph LeFante, who was honored on January 20, 1995 by Ireland 32. He is an outstanding citizen and his service to the American people is second to none.

Mr. LeFante was born in Bayonne to Thomas and Rose LeFante. He was raised in Bayonne and attended St. Peter's College in Jersey City. He has been married for 46 years to his high school sweetheart, the former Florence Behym. They have three beautiful children Janice, Tom, and Diane, and five grandchildren.

His achievements and his awards are numerous and exemplary. Mr. LeFante was a member of the U.S. House of Representatives in 1977–78. He served on the Committee on Education and Labor and Small Business Committee. His expertise was crucial in drafting important legislative proposals in these areas. He was the only freshman member to serve on the Select Committee on Welfare Reform.

Prior to his congressional career, Mr. LeFante distinctly served on the New Jersey General Assembly. He was an assembly speaker in 1976, majority leader in 1974–75, chairman of the joint appropriations committee in 1973 and chairman of the assembly appropriations committee in 1972–73. He was commissioner of the New Jersey Department of Community Affairs. In 1990 for 2 years he served as director at the Office of Intergovernmental Affairs at the New Jersey Department of Environment Protection and Energy.

Mr. LeFante has also been a member of several commissions, such as the Bayonne Charter Commission and was the director of the Hackensack Meadowlands Development Commission. In addition, he was a member of the Bayonne Municipal Council where he served as chairman of the urban renewal program, the code enforcement committee, and the drug abuse committee.

Mr. LeFante has received countless honors and awards for his outstanding work and dedication. He has been honored by St. John's University with an honorary doctorate of humane letters, Jaycees Distinguished Service Award, and the Dr. Benjamin Rush Humanitarian Award just to name a few.

It is impossible to state all of Mr. LeFante's achievements. He has served his community with dignity and respect. He has been a great humanitarian by serving and helping the public. He is a distinguished gentleman respected by all. I commend him for his countless efforts to help others and for giving his time to help and aid the community.

CLEANING UP THE WELFARE SYSTEM

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. ENGEL. Mr. Speaker, we've heard a lot about the tough decisions that need to be made in order to clean up the welfare system and put our economy back on track. Cutting off payments to families or putting funding into State block grants are not the tough solution to our welfare problems. I often make note of the fact that, as a State legislator I had to deal with block grant issues. Most often, it is only a way of moving the responsibility for painful cuts to the States. The block grants proposed by the Republicans drastically reduce funding for these programs but these proposals oversimplify a very complex problem and do not sufficiently address the factors that contribute to unemployment and welfare dependency.

Yes, we should cut the waste and abuse in the system. I agree that we should root out the fraud in our welfare programs. But, the fact is that real welfare reform must also address job creation, job training, and an increase in the minimum wage. I'm very glad to be participating in this special order this evening, organized by Mr. SANDERS and Mr. OWENS. These are issues that must be addressed in any welfare reform bill and they must be addressed by any government that hopes to lower its unemployment level while raising the standard of living of its people.

I do not know anyone in this House, Republican or Democrat, who would argue with the premise that our ultimate goal in welfare reform is to move people off of the welfare roles and into jobs. We must, however, make sure that people are getting good jobs that provide a livable wage. I believe that the majority of people on welfare right now would jump at the opportunity to work and provide for themselves and their families. What, then, is preventing a welfare recipient from finding a decent job? Those jobs that are within a person's grasp do not pay enough to sustain a family and due to lack of training, higher paying jobs are also not within their reach.

Earlier this week, I spoke on the House floor about the choices a single mother on welfare would face. If she goes on welfare, she can get comprehensive health care and a monthly check from the Government. If she goes to work at a minimum wage job she earns only $8,800 a year, and her family loses their health coverage. She must find a way to care for her children while she is at work. That is not much of a choice. Throwing these women off the welfare roles will not erase these problems. That is a smoke and mirrors reform.

The Republican approach to welfare reform limits benefits to 2 years, and only 2 years. I have no problem with moving people into the work force as soon as possible, but we must face the fact that, if the jobs are not there, no punitive measure will change the welfare recipient's behavior. The Economic Policy Institute estimates that there are over 12 million unemployed people in this country. These people must be trained for jobs which will raise them up out of poverty and give them stable income.

Today's minimum wage is worth 30 percent less than what it was worth in the 1970's. An increase in the minimum wage is a necessary step in providing people with the tools they need to bring themselves out of poverty. We cannot move welfare recipients into a position where they join the growing number of working poor. Of all poor children, 38 percent under 6 years old have parents who work full or part time. They are working to support their families but cannot make enough money to live above the poverty line. In 1992, a full-time worker only grossed $8,800, that is $3,500 below the poverty line for a family of three: $11,186. How can we expect to move welfare recipients into this subsistence level of employment with no health care and no job training?

We must create a system that rewards work and does not punish someone for trying to be independent. We must make the tough decisions. We must say that job creation, training, and increased wages are national priorities. We must commit to programs that will help us reach a goal of a stable, self-sufficient employment for all Americans.

INTRASTATE MOTOR CARRIER TRANSPORTATION TECHNICAL CORRECTIONS ACT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. RAHALL. Mr. Speaker, last year Congress passed H.R. 2739, the Federal Aviation Administration Authorization Act of 1994, which included a provision in section 601 to preempt State economic regulation of intrastate trucking. Today, I am introducing a technical corrections bill to address an item which I do not believe Congress intended to be within the scope of section 601.

The primary thrust of section 601 is to address issues relating to the transportation by motor carrier of general freight and express small packages. The act clearly provides for continued State regulation of safety requirements and the transportation of household goods.

During consideration of this legislation, however, nobody with the exception of myself raised the question of how it could affect other types of motor carriers, such as tow trucks. And indeed, today, many police departments and municipalities are faced with a great deal of uncertainty over the effect the legislation will have on what is known as nonconsensual towing, that is, that towing which is conducted without the vehicle owners consent. This is the type of towing that occurs when a vehicle is illegally parked on private property, or the vehicle is towed by order of the police.

In this regard, some local public entities believe that they can engage in contractual relationships with one or more tow truck operators for the purpose of providing nonconsensual towing services. Others contend this practice would represent the regulation of rates and services prohibited by the new Federal law. The only fact of the matter is that nobody can provide any clear guidance on this issue.

The technical corrections bill I am introducing today would provide for continued State or local economic regulation of intrastate nonconsensual tow services. This bill is very similar to the measure recently introduced by the distinguished Senator KAY BAILEY HUTCHISON and is supported by many State towing associations, including those in Texas and California.

Again, in my view, the intent of section 601 was to address issues relating to the transportation by motor carrier of general freight and express small packages. I do not believe there was any intent to affect the ability of a police department or municipality to regulate tow truck operations in order to protect citizens from the occasional instances of unscrupulous pricing practices that give the entire industry a black eye.

Mr. Speaker, I do not believe this legislation should pose any controversy. Again, it simply clarifies the intent of Congress in enacting section 601 of the Federal Aviation Administration Authorization Act of 1994.

ADMINISTRATION IGNORED PESO WARNINGS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. HAMILTON. Mr. Speaker, I would like to call to the attention of Members a column published in last Sunday's Washington Post that highlights the foresight of our colleague, JOHN LAFALCE, in raising the issue of the exchange rate of the Mexican peso during the United States debate on NAFTA. As the column makes clear, Congressman LAFALCE presciently warned in May and June 1993 that the benefits to the United States of expanded trade with Mexico could be threatened by a devaluation of the peso. Congressman LAFALCE's suggestion that the United States consider a supplemental NAFTA agreement on exchange rate coordination seems very wise in retrospect.

The Post article raises several other important questions about the United States plan to help stabilize the Mexican economy. These questions deserve consideration by all Members, including those whom support U.S. assistance.

The Washington Post article follows:

[From the Washington Post, Feb. 5, 1995]

ADMINISTRATION IGNORED PESO WARNINGS

(By Hobart Rowen)

Rep. John J. LaFalce (D-N.Y.) has a right to say, "I told you so." At a May 20, 1993, congressional hearing on NAFTA, LaFalce warned that the expected benefits to the U.S. economy from the new trade treaty with Mexico and Canada could go up in smoke if the Mexican government devalued the peso.

Supported by a number of prominent U.S. and Mexican economists who predicted that peso devaluation was inevitable, LaFalce—who had wide experience in this field—begged the Clinton administration to recognize that the North American Free Trade Agreement provided no method to coordinate the two countries' monetary policies.

On June 9, 1993, LaFalce wrote President Clinton (and separately, Treasury Secretary Lloyd Bentsen and other Cabinet members): "I believe it imperative that the United States pursue a fourth supplemental agreement that recognizes the importance and impact of exchange rates on the operation of NAFTA . . . perhaps creating a mechanism that would allow for consultation, coordination, and corrections if necessary."

It made good sense, but Clinton & Co. didn't listen. When consulted, the Federal Reserve Board, the World Bank and the International Monetary Fund pooh-poohed the possibility of a peso devaluation. White House political aides, already flustered by the need to get side agreements for NAFTA on the environmental and labor conditions, didn't want further complications.

Failure to stabilize the dollar-peso rate may prove to be the worst mistake so far of the Clinton presidency. The Institute for International Economics, which issued a highly influential pro-NAFTA report, also missed the boat. IIE senior fellow John Williamson, who like LaFalce agreed something should be done to ensure a stable peso-dollar rate, admitted that when the IIE reported on NAFTA was published, the monetary issue "slipped through the cracks."

If Clinton and his advisers had paid attention to LaFalce and his supporters, he might not now be engaged in an indefensible bailout of Wall Street investors, including major mutual fund managers who made greedy, high-yield gambles in Mexico after the passage of NAFTA.

Clinton's revamped $53 billion rescue plan for Mexico, which he can put through on his executive authority, may be worse than the original plan for $40 billion in loan guarantees, because it would appear that there will be more pure loans and fewer guarantees. But as former FDIC chairman L. William Seidman wisecracked, "at least we're in for $20 [billion] instead of $40!"

Among investments that will be bailed out are those that offered interest returns of 15 percent to a reported 50 percent in peso-denominated bonds. But these bonds crashed when the peso dropped more than 40 percent against the dollar, just as LaFalce had warned could happen. But now the peso bonds will be propped up by Clinton's $53 billion, made up of $20 billion from the Treasury's stabilization fund, $17.5 billion in loans from the IMF and the rest from other global lenders, notably $10 billion from the Bank for International Settlements in Europe.

The operative result of dumping all this money into Mexico is that foreign investors, including the Wall Streeters, can collect their huge interest payments, then get out while the getting is good. Mexico won't be paying the bill. Clinton and U.S. taxpayers will pick up the check.

"This is basically what everyone on Wall Street was after all along—a vehicle to get out of their peso-denominated assets at a preferential rate," Walter Todd, a former Fed official told The Washington Post. "Clinton has provided it to them."

Senate Majority Leader Robert J. Dole (R-Kan.), who is backing the Clinton plan, said last week that if the money is paid out and doesn't come back, "we'll have to make an appropriation to replace it."

In an extraordinary column in the Wall Street Journal on Jan. 26, New York financier Henry Kaufman hinted at a huge Wall Street coverup, in which the entire financial community was engaged in "suppressing critical evaluation" of Mexico's true economic condition.

Mutual funds became an especially important conduit [for investor-speculators], without calling attention to the potential volatility in their emerging market portfolios, should liquidity problems develop," Kaufman said.

In other words, many small investors were suckered into Mexico, through mutual funds, lured by the promise of double-digit returns there and in other "emerging markets." No one—not in the Treasury, the IMF, the Fed, the SEC—issued a word of caution.

But the first rule of investing is that if an abnormal return is promised, there must be an abnormal risk.

LaFalce told me at the end of the week that the administration had refused to acknowledge the palpable deterioration of the Mexican economy all through 1994 because it was fearful of exacerbating the Chiapas rebellion; because of Clinton's effort to push former president Carlos Salinas de Gortari as the head of the new World Trade Organization; and because it might jeopardize the then-upcoming vote on GATT.

So the administration didn't tell the truth about Mexico.

LaFalce believes that tapping the Treasury's stabilization fund "stretches the president's authority to the outer limits." But, he sighs, "it's a fait accompli and I won't quarrel with him."

POLITICAL PRISONERS RELEASED IN BURMA

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. RICHARDSON. Mr. Speaker, I would like to draw my colleagues attention to the fact that over the past 2 days the ruling military government in Burma, the State Law and Order Restoration Council [SLORC], has released many prisoners of conscience. In particular, I was pleased to know that on February 6 SLORC released Win Thein, a former political adviser to Aung San Suu Kyi. I met with Win Thein at his prison complex last February and I am heartened to know that he was released on the eve of the anniversary of my trip to Rangoon and my meeting with Aung San Suu Kyi.

I believe that the release of Win Thein and the many other political prisoners is a positive step in Burma. I continue to hold out hope for the release of Aung San Suu Kyi and all prisoners of conscience in Burma.

INTRODUCTION OF THE TICKET FEE DISCLOSURE ACT OF 1995

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. DINGELL. Mr. Speaker, I am pleased to introduce today, along with my colleagues, Mr. CONDIT, Mr. MOORHEAD, and Mr. OXLEY, the Ticket Fee Disclosure Act of 1995. This legislation, if enacted, will provide American consumers appropriate and timely disclosure of convenience fees, service charges, and other amounts often added to the face value of entertainment and sporting event tickets, including huge profit markups by so-called ticket brokers and others who sell tickets on the secondary market. It also will result in a comprehensive report to the Congress from the Federal Trade Commission on practices by and the relationships between promoters, owners, and operators of facilities, performers, and sellers and resellers of entertainment and sporting event tickets, along with recommendations to achieve better ticket disclosure, information, access, and value for consumers.

The number of entertainment and sporting event tickets sold in the past few years has escalated rapidly. Based on testimony our committee received last year, the number of such tickets sold annually easily exceed 2 billion. As ticket sales have increased, so too have the methods used to sell and market such tickets. Indeed, with the advent of the communications superhighway, sellers of entertainment tickets likely will create additional avenues for selling tickets that are not feasible today.

This legislation does not inhibit these new and innovative approaches nor does it inhibit the growth of the entertainment and sporting industries or of the marketing and ticketing service industries that support them. This legislation creates no new regulations nor does it impose unreasonable burdens on business. Rather, this simple legislation merely seeks to inform the ordinary consumer who contemplates purchasing these tickets of any additional fees or charges that are added on to ticket prices.

This legislation makes it unlawful for persons who sell or resell entertainment or sporting event tickets: First, to fail to disclose to the purchaser—prior to the purchase of any such ticket—any fee, charge, or other assessment to be imposed in excess of the face amount of the ticket, and second, to fail to have the amount of any such fee, charge, or assessment printed on the ticket or on a receipt evidencing any such ticket sale.

Under the bill, this requirement will be enforced by the Federal Trade Commission, an independent agency that has authority over unfair and deceptive commercial practices under the Federal Trade Commission Act (15 U.S.C. 45, et seq.). As well, State attorneys general are empowered under the bill to enforce the requirement on behalf of affected residents in their States. In this regard, the bill parallels other commercial practices legislation developed by the Committee on Energy and Commerce during the past few years, including the Telephone Disclosure and Dispute Resolution Act, enacted in 1992, and the Telemarketing and Consumer Fraud and Abuse Prevention Act, enacted last year. Under the Federal Trade Commission Act, the FTC is authorized to issue cease and desist orders in appropriate cases and to impose civil penalties for each violation of the law.

I also have modified last year's bill by adding an important provision that directs the Federal Trade Commission to conduct a study of ticketing practices, including an examination of relationships between and practices of various persons involved in entertainment and sporting events. I believe an indepth examination of ticketing practices by the FTC is clearly warranted, based on testimony and evidence presented to the Subcommittee on Transportation and Hazardous Materials at its September 29, 1994, hearing on this subject. For example, I have real concerns about the impact on ticket consumers of exclusive contracts between building owners and others that limit options of potential competing services. As well, I have many questions about the manner in which tickets are held back by many participants in the ticket food chain, so that consumers are denied any opportunity to purchase many tickets through conventional means—that is, the box office or through authorized ticket sellers—or are forced to pay exorbitant prices from ticket brokers or scalpers who mysteriously acquire the best seats in the house. If tickets are made available to the public, why are so many tickets simply unavailable to the normal consumer who cannot afford scalper's fees? This long-overdue report from the Commission should inform the Congress whether further action is necessary to provide consumers of entertainment tickets with better disclosure, information, access, and value.

At the subcommittee's hearing last fall, representatives of consumer interests and of ticket sellers indicated their support for the disclosure provisions in the bill. Unfortunately, because of the press of other business, no further action was taken with respect to the legislation. I look forward to prompt consideration and enactment of this modest legislation so that American consumers will be better informed about add-on charges they pay for entertainment and sporting event tickets and so all of us will be informed about how to achieve better disclosure, information, access, and value for ordinary consumers who seek to purchase such tickets.

TRIBUTE TO MAYOR JIM SCRIVNER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. SKELTON. Mr. Speaker, it has come to my attention the Versailles, MO, Chamber of Commerce will soon bestow the honor of citizen of the year on former Mayor Jim Scrivner. I want to use this opportunity to call the attention to my fellow Members of Congress to the outstanding record of public service demonstrated in the life of this citizen of Missouri.

Jim Scrivner would have been considered successful if viewed only from the perspective of his business and lifelong career as an undertaker with three funeral homes in rural Missouri. He provided a home for his wife, Honey, and their daughters, and is respected in his community.

Through the years he added an ambulance service to the business. It was not financially successful, but he subsidized the service to his neighbors and the surrounding area. The nearest hospital was 40 miles from his hometown and ambulance service was a necessity.

In 1973, Jim Scrivner was elected mayor of Versailles. His term of office was marked by a series of progressive ventures. A new sewage plant, replacement of failed sewerlines in a large section of the town, new housing for low-income and elderly residents and development of a successful industrial park all were accomplished in his tenure as mayor. The people trusted his leadership to the extent that a 1-percent sales tax was passed to provide for funding for future city development.

It is fitting and proper that the people of Versailles recognize Jim Scrivner and his years of service. In doing so they focus a spotlight on the life and career of an outstanding individual. He has been successful as a family man, a businessman, and as an elected official.

I am proud to call him my friend and to take this opportunity to enter into the CONGRESSIONAL RECORD my agreement with and support for the decision to honor him. His record is one we should all note and seek to emulate.

TIME TO TAKE BACK OUR STREETS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. PACKARD. Mr. Speaker, the statistics paint a grim picture. In the past 30 years violent crime increased threefold. The American people are afraid to go out at night. Our children are afraid to go to school. It is time to take back our streets.

On November 8, Americans made it clear they did not think much of last year's liberal, hugs for thugs crime bill. They endorsed the Republican get tough approach to crime fighting. Our crime package strikes at the heart of our violent crime problem by deterring criminals from committing crimes in the first place.

No more hugs for thugs; no more phony prevention programs; and no more endless appeals or technical loopholes. Our Republican crime bill holds criminals accountable for their actions, not hold their hand. We need a criminal justice system that protects the victim, not the criminal.

Republicans are working hard to fight crime by giving police the tools to catch, convict, and confine criminals. The streets across America belong to the people, not to the thugs. Mr. Speaker, I urge my colleagues to join me in the fight to take back our streets.

BIRDS OF A FEATHER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. MANTON. Mr. Speaker, I rise to bring to the attention of my colleagues a tragic story of loss that struck New York and, indeed, the Nation during this part weekend's snowstorm. On Saturday, February 4, 1995, the outdoor aviary at the Bronx Zoo collapsed under the weight of a foot of snow allowing dozens of exotic birds to escape. The Harry de Jur Aviary was built in 1899 and was one of the first animal shelters built at the Bronx Zoo.

Saturday's snowstorm was wet and heavy and the foot of snow on the aviary's arch probably weighed several tons. A strong gust of wind caught the structure like a sail which caused the collapse. Although many of the birds were caught under the wire mesh, at least 33 rare birds were carried away on high winds. The zoo has asked local birders to be on the lookout for these rare arian species.

The aviary was the home to the largest breeding colony in North America of the inca terns, a South American sea bird. Also lost were grey gulls, andean gulls, and a bandtail gull. These birds have a slim chance of survival in the urban wild due to their sheltered upbringing. Zookeepers hope that some of these birds will return to the familiar site of the aviary due to their hunger, but fear that the winds may have carried them too far away.

Mr. Speaker, the Bronx Zoo aviary was an historic landmark which generations of New Yorkers and visitors enjoyed. I commend to my colleagues' attention the New York Times article of this tragedy. The zoo will celebrate its centennial next year and zoo officials hope to rebuild the aviary, despite the cost of such a project at a time of tight budgets.

[From the New York Times, Feb. 6, 1995]

BIRDS FLEE WRECKAGE OF BRONX ZOO AVIARY

(By Robert D. McFadden)

The gracefully arched, 19th-century aviary at the Bronx Zoo—home to a colony of 100 South American sea birds and a landmark to generations of New Yorkers and visitors—collapsed in a gust of wind under the weight of a foot of snow during Saturday's storm, and dozens of rare, exotic gulls and terns flew away, zoo officials said yesterday.

No people were in the aviary at the north end of the zoo near Fordham Road when the huge cage of torn, twisted wire mesh crashed down on a coastal habitat of rock outcroppings, murky pools, pebble beaches and island nesting nooks at 10:45 A.M. No birds were killed and only one was known to have been injured.

And many birds were trapped under the tangle of wire and saved, officials said. Ten flightless Magellanic penguins waddled into their rookeries, guanay cormorants and other survivors, including an oystercatcher, took cover in nesting cavities. Zoo keepers quickly rushed in with nets, trying to minimize the loss.

But at least 33 birds—8 Grey gulls, 12 Andean gulls, one Band-Tail gull and 12 Inca terns—escaped and were carried away on high winds from the small artificial realm where they had been hatched, fed and protected into a harsh world where they may have to compete with city sea gulls, crows and other toughs of the air.

"It's a very sad day," Dr. Donald Bruning, the zoo's curator of birds, said in an interview yesterday. "The aviary was beautiful and has been around for almost a century. And the birds would be very difficult to replace. The Inca terns were by far the largest breeding colony in North America, and we've lost almost half of them."

Zoo officials asked bird-watchers and the public to be on the lookout for the escaped birds, whose native habitats are the coasts of Peru and Chile, and issued descriptions and other advice about how to spot, capture and report them. To avoid being swamped by calls from everyone who sees a nonexotic gull or a tern, the zoo issued a list of "bird rehabilitators," licensed experts in aiding wildlife, to serve as intermediaries.

But Dr. Bruning said the chances of recovering the birds seemed slim. He noted that high winds, which gusted up to 50 miles an hour, could have carried them by late yesterday across most of the New York metropolitan area and New Jersey, and that the likelihood of finding and recapturing them appeared to be as dubious as their chances of survival in the urban wild.

"Most of them were hatched and raised in the aviary and have no experience outside," he said. "The cold will not bother them, but it will not be easy for them to find food. They will have to compete with local gulls and other birds, and this is not the best time of the year for trying to find food."

Since the flyaways were accustomed to shelter and regular feedings of fish, Dr. Bruning said the best hope for their recovery was that some had resisted the high winds and taken shelter nearby and would return to the aviary ruins in search of a meal.

"They know food is available and would come back to that," Dr. Bruning said, "We're hoping that when they get hungry and can't find a supply of fish, they may start looking to come back to the cage—that is, if the wind hasn't blown them too far away. If they find themselves in a completely strange area, they won't know how to find their way back."

Pans of smeltlike capelin and other small fish were put out at the aviary wreckage yesterday to lure any nearby fugitives back, but the only taker seen at dusk was a strutting crow.

The structure that collapsed, known as the Harry du Jur Aviary, was built in 1899, three years after the founding of the New York Zoological Society. It was one of the first animal shelters built at the Bronx Zoo, then still in the midst of farms and now a 265-acre tract of hilly parkland bounded by Fordham Road, Southern Boulevard, East 180th Street and the Bronx River Parkway.

The aviary was unique at the time—a huge cage topped with an arch of wire mesh 80 feet high, 150 feet long and 90 feet wide—where birds could live and fly about in a habitat that simulated nature's, and where the people could enter through double wire doors and walk unobtrusively among them.

In the early 1980's, Dr. Bruning said, the aviary was remodeled and a new wire mesh arch was installed, along with a redesigned interior habitat. But the pipelike supports for the arch were not replaced, and after the collapse many of these pipes—96 years old—were found to be rusted where they joined the wire mesh of the arch, about 15 feet above the foundation, Dr. Bruning said.

"You could see the rust once it broke off," he said. "All of the pipes broke at the same joint all the way around the cage."

Saturday's snow was wet and heavy, Dr. Bruning noted, and when it ended at midmorning the foot of snow that spread over the arch must have weighed many tons. It became even heavier as sleet and rain began falling and were absorbed into the snow. But it was not mere weight that brought the aviary down, he said.

"Apparently there was a strong gust of wind that caught the whole structure like a sail," he said. "The entire cage collapsed on the interior. All the arch members broke apart and separated. There were cables that went across for support and they came down too. It was a mass of twisted and torn mesh, and there were gaps in it—very large holes where some of the birds escaped."

The only immediate casualty of the collapse was a cormorant that sustained a slight cut. Many of the birds were trapped under the mesh. Some took refuge in their nesting areas, others were saved by keepers, who were next door in the Aquatic Bird House and rushed out with nets after hearing the roar. Survivors were taken to other bird shelters at the zoo.

Zoo officials asked bird-watchers and the public for help in finding the escapees, and they provided brief descriptions:

Inca tern adult has a dark blue-gray body, white mustache, red bill and feet and is 14 to 17 inches long, while the juvenile has a black bill and feet and no mustache.

Andean gull has a white head with crescent black earmarks, light gray upper body with white underparts and a 22-inch length.

Grey gull is uniformly slate gray with black bill, faint eye rings and is 19 to 20 inches long.

Band-Tail gull is white with yellow bill and feet, a white body and black wings.

All but the Band-Tail and some of the Andean gulls have leg bands. Zoo officials asked anyone who spots one of these birds to contact the zoo or one of the bird rehabilitators whose names and numbers it made public. They noted that it was unlikely that anyone could catch one of the birds, but if a bird is caught, it should not be taken indoors, but kept in a well ventilated cardboard box. The birds are not dangerous, but can bite if grabbed.

Dr. Bruning said he hoped the aviary would be rebuilt, especially in time for the zoo's centennial next year. He noted that it might cost several hundred thousand dollars and that there was little money for such a project at a time of tight budgets. But he called it an important facet of the zoo.

"It is tragic to lose this beautiful landmark aviary," the curator said.

THE NORTH KOREAN NUCLEAR ACCORD—DOES IT MATTER?

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. HAMILTON. Mr. Speaker, I would like my colleagues to turn their attention today to the nuclear accord signed last October with North Korea.

As Members know, this is a complex agreement that will be implemented in stages over a 10-year period. At its simplest, this agreement constitutes a trade. On one side, North Korea will halt and eventually dismantle its nuclear weapons program, accepting extensive international inspections to verify its compliance. In exchange, the international community has agreed to provide the North with alternative energy sources, initially in the form of heavy fuel oil, and later with proliferation-resistant light-water reactor technology.

The agreement also provides for movement toward the normalization of relations between the United States and North Korea, and for resuming a dialog between the two Koreas.

In evaluating this accord, it is instructive to compare what we get from this agreement with what we have agreed to give North Korea. On the positive side of the ledger, the benefits to us and our friends, including South Korea and Japan, are substantial. The agreement calls for:

An immediate freeze on the North Korean nuclear weapons program—a step the North has already taken.

Immediate international and United States inspections of the North's principal nuclear facilities—which are now being carried out on a continuing basis.

The promise of the eventual elimination of the entire North Korean nuclear weapons program.

A commitment by North Korea not only to live up to its obligations under the Nuclear Nonproliferation Treaty, but to accept restrictions that go well beyond the treaty.

The beginnings of a process that could dampen tensions along the demilitarized zone separating the two Koreas and reduce the chances of the outbreak of a new Korean war.

A North Korean commitment to resume a political dialog with South Korea.

And what does North Korea get in return for these significant concessions?

Interim shipments of heavy oil in quantities equal to the energy it has given up by shutting down its graphite moderated nuclear reactors—roughly 3.5 percent of its electrical generation capacity.

Two light-water reactors, to replace the graphite moderated reactors it has forsworn.

The gradual lifting of United States sanctions against North Korea.

Political dialog and the beginnings of a process that could eventually lead to the normalization of diplomatic relations with the United States.

Certainly this agreement does not address every concern we have about North Korea—its conventional military might, ballistic missile program, or deplorable human rights record. Even in the nuclear sphere, we will have to wait some 5 years before we are permitted to carry out the special inspections that will reveal whether the North has secret stocks of plutonium.

What this agreement does is provide us with an opening—one that did not exist before—to lift the specter of a nuclear arms race from the Korean Peninsula, begin a process of meaningful dialog between the two Koreas, and come to grips with the other problems that continue to concern us.

Mr. Speaker, four decades ago more than 30,000 brave Americans gave their lives in Korea for the cause of freedom. They succeeded in turning back North Korean aggression. But their larger purpose—to lay the groundwork for a Korean Peninsula free from the threat of war—remains unfulfilled.

This agreement represents a giant step toward the achievement of that larger purpose. It does not resolve all outstanding issues between North Korea and the rest of the world. It does not guarantee that future relations with the North will be without tensions and difficulties.

But, if fully implemented, the Geneva accord will advance our national interests and those of our allies, while holding out the promise of a better, more peaceful life to the people of Korea, both South and North.

THE INTRODUCTION OF THE SELF-SUFFICIENCY ACT

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. ORTON. Mr. Speaker, there are few things that more people agree upon than the fact that our welfare system is a failure. No one likes it. Taxpayers don't like it, politicians don't like it, and most of all—welfare recipients don't like it.

Our welfare system often provides people who choose not to work with a better deal than those who choose to take a job. We need to create a system where work is not penalized, and where the logical choice for parents is to work to provide for their children.

For this reason, I am pleased to reintroduce the Self-Sufficiency Act, a bill aimed at encouraging the welfare reform efforts that States already have underway. The Self-Sufficiency Act uses a commonsense approach to welfare that provides assistance to participants who are working toward self-sufficiency, promotes work, and gradually eliminates benefits to those who have chosen not to participate in a self-sufficiency plan.

Moreover, the Self-Sufficiency Act may serve as a necessary transition to a welfare system that provides States with even greater control over the welfare system.

Many of the reform plans that are on the table right now are based on controversial assumptions. For example, while block grants sound like a good idea, there are serious concerns about whether most States have the capabilities and resources to take over the reins of a social welfare system that spans some 350 programs. The Self-Sufficiency Act provides for the coordinated services and State flexibility necessary to shape welfare systems that reflect the unique needs of each State population. This bill provides a middle ground for those States that have reservations about other reform proposals.

This bill is based upon a program, the single parent employment demonstration program, that decreased the Aid to Families with Dependent Children caseload in the Kearns demonstration area 33 percent in just 2 years. The best part is that the decrease in the number of participants is due to success in assisting people in finding jobs that exist in the labor market.

Amazingly, 44 Federal Government waivers had to be approved before Utah could begin using this approach to welfare. Other States seeking to improve upon the current system have encountered similar obstacles. This plan allows States to forgo the redtape and get on with helping people enter the labor market.

Under this act, States may choose an approach to the Aid to Families with Dependent Children [AFDC] program that requires participants to work toward self-sufficiency. This approach requires every participant to negotiate a self-sufficiency plan with a caseworker. Each plan specifies an employment goal.

Under this approach, participants will have 25 percent of benefits reduced for the first month and a gradual complete phase-out of benefits over the course of 2 years if they do not follow their self-sufficiency plan.

Once a State receives approval to use the self-sufficiency approach, it must phase-in 25 percent of the State recipients at the end of 3 years, 50 percent at the end of 5 years, 75 percent at the end of 8 years, and 100 percent at the end of 10 years. In other words, the State must be committed to transforming its welfare system into a self-sufficiency based system.

States that choose this approach are required to coordinate self-sufficiency activities with programs operated under the JTPA and any other relevant programs.

States that choose this approach must provide child care for those participants that require child care assistance. This provision ensures that children will not be neglected due to the activities required of a parent participating in the self-sufficiency program. In order to lessen the financial burden for States that choose this approach, Federal matching rates for AFDC, transitional, and at-risk child care are increased by 10 percent for these States.

In order to encourage States to continually increase the efficiency and effectiveness of their welfare program, States may receive half of any estimated AFDC grant savings to use to improve their self-sufficiency programs.

In addition, certain AFDC eligibility requirements are altered or eliminated for States using this approach in order to decrease administrative burdens and discourage long-term welfare dependency:

(1) The requirement that families must have received AFDC for a minimum period before becoming eligible for transitional Medicaid and child care benefits is eliminated. This provision served as an incentive for families to stay on welfare for a certain minimum amount of time even if they had to turn down employment opportunities.

(2) Transitional Medicaid benefits and transitional child care benefits are allowed without regard to type of income that would otherwise make the family ineligible for benefits. This is a deletion of a well-meaning regulation that has resulted in administrative time needlessly being spent to determine how the last dollar of income was received by a participant.

(3) The current requirement that minor parents and pregnant minors without children must live with a responsible adult is strengthened.

Finally, the Secretary of HHS and other specified entities are called upon to develop performance standards appropriate to judge the effectiveness of programs developed under this approach. HHS is allowed to modify the AFDC Federal matching rate for participating States to reflect the effectiveness of the State in carrying out the program. State effectiveness will be judged in part on the basis of the number of participants who have become ineligible for AFDC due to earnings.

A State that has been approved to use the self-sufficiency approach may choose any or all of the following options:

(1) Treat two-parent families in the same manner as single parent families—although two-parent families are ineligible for AFDC until 30 days after the loss of employment, and both parents must follow a personal plan or invoke the benefit reduction for the entire family.

(2) Limit family AFDC benefits to the amount for which the family was initially determined eligible—family cap.

(3) Provide a diversion payment of an amount up to 3 months of the benefit for which the family would be eligible if they participated in AFDC. This option can only be used for families that are facing a crisis or need only temporary assistance to prevent them from coming onto AFDC. If the family later decides they must enter the AFDC system, the entire amount is subtracted from payments before they begin receiving assistance. Families that received diversion payments would be eligible for 3 months of transitional child care and Medicaid benefits.

(4) Enhance AFDC payments by not more than $50 per month for participants with a full-time self-sufficiency schedule.

(5) Increase the earned income disregard rate from the current one-third rate to a rate as and high as one-half, or allow income earned by teens in the JTPA summer program to be discounted.

(6) Eliminate the time limit on the earned income disregard.

(7) Increase the cap on asset limitations from $1,000 to $2,000. In addition, allowed to exempt up to one vehicle.

(8) Upon mutual agreement with the participant, use funding from Food Stamps as a wage subsidy for that participant or as a direct cash payment to a participant following a full-time schedule self-sufficiency plan.

(9) Create sanctions based on poor school attendance or failure to immunize children.

In addition, the Self-Sufficiency Act outlines three changes beyond the scope of the Aid to Families with Dependent Children Program:

(1) Allows States to deny any need-based benefits and services to noncitizens.

(2) Mandates that consumer credit reports include information on overdue child support payments.

(3) Provides that quarterly payments of earned income credit and dependent care credit will be made available.

SALUTING ELEANOR J. WILLIAMS DURING BLACK HISTORY MONTH

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. STOKES. Mr. Speaker, each February our Nation celebrates Black History Month. This occasion provides us the opportunity to herald the accomplishments of African-Americans in United States history, and to honor those still setting the pace by which history is both created and measured. Today I rise to recognize one such individual, Eleanor J. Williams, who was selected to be the first black woman manager of an enroute air traffic control center. Ms. Williams oversees the Cleveland Air Route Traffic Control Center in Oberlin, OH, the Nation's second busiest such facility.

Eleanor Williams began her diligent career with the Federal Aviation Administration in 1965 as a clerk stenographer in Anchorage, AK. Those who know her never had any question of how far she would go in her career. Her determination, and sense of self and spirit have marked her personality, as well as her résumé. In 1985, she received the Secretary's Award for Excellence from the Department of Transportation. In 1990, she was a Women in Management Delegate to the Soviet Union with People to People International. And in 1991 she was the recipient of the C. Alfred Anderson Award from the National Black Coalition of Federal Aviation Employees. Eleanor Williams was listed in Who's Who of American Women 4 years in a row.

After her start with the FAA in Alaska, in 1971 she became the first black woman to certify as an air traffic control specialist. By 1979 she had become an area supervisor in San Juan, Puerto Rico before her promotion to staff specialist for the FAA in Atlanta. By the mid-1980's she moved into a staff specialist role at FAA headquarters in Washington, DC before yet another promotion to area manager of the Kansas City region Air Traffic Division Office. Two more promotions followed in Kansas City before she received her historic post in Cleveland last year.

Mr. Speaker, the awards from Ms. Williams' professional life cannot begin to match the rewards of her personal life. Eleanor, the mother of seven and a foster child, is not only a role model to colleagues, but also the employees she supervises, and to the union members she has led. Her commitment to the Air Traffic Control Association, the Gamma Phi Delta sorority, Business and Professional Women, the Second Baptist Church, and the NAACP has left these and many other organizations the richer for her involvement. Eleanor's passion for excellence and ability to reach any goal inspires those around her to strive for the stars. Her powerful spirit is fueled by her faith in God, which enables her to tackle any task before her and has navigated her into uncharted waters.

Mr. Speaker, Eleanor Williams is a perfect example of the opportunity to be won by hard work and ardor in America. Eleanor is someone of whom the African-American community, women, and indeed Americans everywhere should be proud. Let me share with you a portion of a stunning poem written by an eighth-grader named Shondel, which was composed in honor of Ms. Eleanor Williams and her pioneering spirit.

You've accomplished many things all
because in life you've dared and won yourself
wings.
Long ago your wings took flight, never
in darkness being lost, for you saw the
path with inner-sight
Your faith and freedom forever shall live, for
in your life you have never believed in Never.

Mr. Speaker, I ask my colleagues to join me during Black History Month in saluting Eleanor J. Williams, an outstanding individual with a spirit that joins her with outstanding African-Americans of the past and those who will follow.

TRIBUTE TO ORNA SIEGEL

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. ENGEL. Mr. Speaker, I would like to take this opportunity to recognize the efforts of Orna Siegel, a woman whom I admire greatly.

Orna currently serves as the Outreach Chair of the Los Angeles chapter of AIPAC, however her community activities do not start and end with that organization. Orna is deeply committed to the security of the State of Israel but she is equally committed to making a difference in her community and in the lives of individuals.

For years, Orna has been actively involved in Yad B'Yad ("hand in hand"), an organization that takes critically ill people from Israel to any place in the world where they can get the medical care they need—be it transplants, surgeries, or emergency treatment. She has also been an active fundraiser for many other worthy causes in her community.

Although Orna's public service technically began in 1967, when she began a 3-year stint in the Israeli Defense Forces, her personal turning point came in 1990, years after she had married and moved to the United States. Orna witnessed the molestation of a 5-year-old boy in the darkness of a movie theater and followed the criminal out of the building until the police responded to her calls for assistance. She later testified against the culprit, who turned out to be a registered sex offender.

I would like to submit into the RECORD a magazine article detailing Orna Siegel's courageous act. Her story demonstrates that ordinary citizens can affect the lives of their neighbors in a positive way if they only take the time to get involved.

Essentially, that is the story of Orna Siegel's life; she is a person who has chosen to become involved. Her actions have literally saved the lives of people in desperate need of help. It is a story worthy of commendation by this House, and a lesson worth sharing with the American people.

The article follows:

[From the Moxie magazine, September 1990]

JUST A HOUSEWIFE, UNTIL SHE HAD TO BE A HEROINE

(By Mary Ellen Strote)

The 11-year-old boy sitting next to Orna Siegel in the movie theater just wouldn't sit still. He kicked, he jostled, he wriggled. Annoyed, she glanced sideways and saw that the blond, blue-eyed youngster was grimacing. Then she looked down and gasped. The boy's companion, a man in his middle sixties, had his hand inside the boy's shorts.

Orna had brought her children to last summer's opening of Honey, I Shrunk the Kids. The theater was crowded, but she had found a couple of seats five rows from the front. Holding Jonathan, 7, in her lap, and with daughter Shana, 10, on the seat to her left, she had looked forward to the comedy. But the minute the movie had begun, the boy had started with his wriggling. Now she left her children and sought out the manager. "I told him, 'Please call the police. A child is being molested in Row 5,'" Orna remembers. "He promised to call." Orna bought a cup of soda so her kids wouldn't suspect anything, went back to her seat, and took her son in her lap again.

Then she waited for the police. And waited. And waited. All the while the boy kept kicking her. "I watched him, not the movie," Orna says. "the man was molesting him the whole time. And I watched what that son of a bitch was doing.

"Maybe I was in shock," she goes on. "It was a funny movie and everyone was laughing. It was so noisy and Jonathan was heavy on my lap and we were too close to the screen and the lights were changing so fast. I got such a big headache. I was very nervous, not knowing what to do, just waiting for a policeman to come with a flashlight, for someone to get me out of this ordeal."

But suddenly the movie was over. "The crowds were leaving," she says. "I hadn't made up my mind to follow them, but I knew at that moment: If I don't make a move now, it's all over. I told my kids, 'Please be quiet,' and I grabbed their hands and held tight, looking with my eyes straight after the guy. I would let him out of my sight. On the way out the door, I saw the manger. He looked at me and shrugged, as if to say, 'No one showed up * * *.' "

Until that day, Orna, 41, would have described herself as a housewife. More likely, she would have used the words just a housewife. She cooked. She lunched with her friends. She waited for her kids to come home from school. She dressed up to go out with her husband, a successful businessman.

She was such a relentlessly traditional wife and mother that except for the fact that she had been born Orna Tieb in Tunisia, the seventh of eight children in a family that moved to a small town in Israel when she was just four * * * and the fact that she'd joined the Israeli army in 1967, right after the Six Day War, when she was 18 * * * except for that history, she could have passed for June Cleaver.

A pretty, perfectly coiffed redhead with a manicure to match her meticulous makeup, and color-coordinated down to her very toes, Orna at first glance seems too perfect to be real. Indeed, she has lived a Cinderella life: The poverty and hardship of her childhood vanished virtually overnight when she met tall, blond American Saul Siegel. She was 22, a student at a university in Tel Aviv. He asked her to marry him the day they met, and a couple of days later she was on a plane to America.

Today she keeps house in an airy French Normandy-style home that would be called a mansion almost anywhere in the world, although in the guard-gated, upper-class neighborhood in Los Angeles' San Fernando Valley where she lives, it seems almost average. She receives a guest with the gracious ritual that is common in her homeland: cake on the table and an offer of tea. A few minutes sitting at the table in her immaculate kitchen, listening as she fields phone calls from her husband's clients in her rapid-fire Israeli-accented speech, however, less even a casual observer see the rock-hard substance beneath her polished, feminine exterior.

But until that day at the theatre, Orna herself had no idea of her own strength. "I thought I would go after the molester, follow him to his car, get his license number," she remembers, "but instead, the man took the boy next door to the magic store. Now, this happens to be a wonderful store, and my children love it. So we went inside, and I told them to go wander around by themselves."

Orna approached the store manager and asked to use the phone. "I need to call the police," she whispered. "That child was abused," and she nodded toward the boy.

But the manager refused. "I didn't see it happen," she told Orna.

"What is the matter with you people in America?" Orna asked in despair, and she started crying. "Why won't you get involved? I saw it happen! Look at that man! That's not a father-son hug."

And it wasn't. The man was buying presents for the boy and kept his arm around the child all the time. "The manager realized that if I was going to be that upset, she didn't want the trouble, so she told me to go into her office and use the phone there," says Orna.

She called 911, and the operator seemed to ask a hundred questions. What does he look like? What color are his eyes? Orna covered her mouth and the receiver with her hand: "He's only 10 feet away; I can't talk loud."

By the time Orna got off the phone, even the manager had noticed that the man was behaving oddly. He was about to buy an Indiana Jones hat and whip for the boy, so Orna suggested to the manager that she try to get a name when he paid.

The manager asked, "May I have your name and phone number?" Before the man could stop him, the boy gave a name—Richard—and a number.

"What do you want that for?" the man asked suspiciously.

The manager was very clever. "You are buying a whip," she replied. "It's like a weapon, so we need a name and number for our records."

Now Orna felt some relief; at least she had a name and a phone number. When the pair left the store, she suggested that the manager follow and get a car license number too, which the woman did. Then Orna went into the back office and called the number the boy had given her.

A woman answered. "I was very emotional," Orna says. "My hands were trembling. I was crying. I didn't want to scare her; I didn't want her to misunderstand and think her son was dead or something, so I said, 'I'm, sorry, but I was at the movies. Do you have a son named Richard?'—I gave the name the boy had said."

The woman replied no, that her son was named ——. Orna was confused—whose name had the boy given?—but she went on: "I was at the movies, and your son was molested throughout the movie."

The woman became very upset and asked Orna a string of questions: "Where is he now? Can I see you? Can I talk to you?"

Orna just repeated, "I wanted you to know that I was there and I saw it."

The mother protested, "But that man is his Uncle Richard." (Aha, Orna realized, the boy had given the man's name. * * *) He took my son to the movies for his eleventh birthday. * * *"

Just then, at long last, the police walked into the magic store. Orna was finally able to make her report, and the police told her the man would be apprehended when he took the boy home.

"I was still so upset," she remembers. I couldn't breathe properly, I couldn't take a regular breath. I was in the army for three years, but nothing had ever been this hard for me. Oh, it was a terrible thing to see," she says, closing her eyes at the memory.

But now it was over. She had gone as far as she could go. She had told the police. She had told the mother, Now no one could say it wasn't true.

"Then I took my two babies and went to my car," she says. "I couldn't wait to get there. I just wanted to sit in my car with them for a while." Her children were frightened; they had thought she was crying because their car had been stolen. "I had to tell them what had happened," says Orna. "They wouldn't let go of me until I did, I reminded them of what they'd been told at school: that no one else was supposed to touch their privates. Then I told them what the man had done."

The children were shocked. Her daughter asked what would happen to the man.

"He will probably go to jail," Orna said.

"Isn't that sad?" asked Shana.

"No," Orna reassured her, "they will help him there."

When Orna returned home, there was a message from the police on her answering machine. The message was very short. It went: "Thanks to your efforts, you've saved the life of a little boy. The man has been arrested."

Orna remembers feeling very high, but also scared. "It wasn't that I had done all that and nothing came of it—the man had been arrested. But I started having flashbacks, and in my mind I saw my own son having that happen to him."

She agreed to testify against "Uncle" Richard, a registered sex offender, now charged with nine new counts of child molestation. In court, she met the boy's parents and learned that Richard had been a trusted family friend who helped with carpools and babysitting. He had been molesting the boy and his older brother for about three years. She was told that the boys had been placed in therapy immediately. She also learned that the movie theater manager never had called the police. "The manager had a theater full of customers," say Orna, still angry at the thought. "He didn't want a scene." (The theater management later sent her some complimentary tickets, but she returned them.)

The boy's mother invited Orna to come home for lunch during the court's noon break. Once there, the woman called to her younger son, "Come meet the lady who saved your life * * *."

"The whole family was very open about it," says Orna. "I admired them; they were so honest. They appreciated what I did * * *. Instead of just sending me a bouquet of flowers, the mother wanted to be close. We still call each other."

So. What started out as a horror story had a true happy ending. But for Orna, this story provided not just an ending, but a beginning.

Aside from five years as a part time volunteer at a local hospital, Orna had never done anything outside her home. Even after 18 years in America, she didn't feel comfortable expressing herself in English, her second language. "I never worked since I married my prince; I never got myself out of this package deal I got myself into," she says.

Needless to say, she never did public speaking. Whenever she even thought about speaking in front of people she didn't know, she blushed so red she glowed.

But now, suddenly, this quiet little housewife was famous. A heroine! The police department honored her with a citizen's recognition award. This led to publicity, newspaper articles, and an invitation to address the Julia Ann Singer Center, a community treatment center for children and families in Los Angeles.

"There I was," says Orna, talking in front of all the therapists and Ph.D.s." She was terrified. "Who the hell am I?" she wondered. "I'm nobody with the authority to speak. But I just told them what happened, and they gave me a standing ovation."

The talk at the Singer Center was important, but it was the day that Orna received the award from the chief of police that permanently changed her view of herself. "All of a sudden I wasn't just a wife, a mother, a friend," she says. "I had done something that outsiders noticed. I was recognized! I felt taller, bigger, stronger than I thought I ever could be.

"People called, they sent notes. I have been thanked by everybody: the police, the county supervisors, the city council, the state assembly, the district attorney, the district this, the district that. . . ."

She pulls the awards down from the shelves in her den—the plaques, certificates, framed letters, and laminated newspaper clippings, all adorned with brass and seals and calligraphy and fancy signatures, and lines them up on a seven-foot sofa until they cover the cushions.

What the awards said to her, Siegel realizes now, was: You are capable. You can do something. You can save a life. "I grabbed these awards," she says with a smile. "I said thank you, and I just grabbed them."

Then she went out and started doing things; the awards had triggered more than feelings, they had triggered action. She helps with fund raising for the charity Yad Byad ("hand in hand"), an organization that takes sick people from Israel to wherever in the world they can get the medical care they need—transplants, surgeries, emergency treatment. "With 24 hours' notice, we can organize a dinner, a luncheon, an auction * * * whatever it takes to get the money to handle the emergency," she says proudly.

Her other new activities also revolve around charitable fund raising, and they all require that she speak up and speak out.

It is so easy to make a difference in the lives of others, Orna says in amazement. She often wonders why she had never done anything like this before. "I was not involved," she says. "I was nothing. I was blah. Now I'm someone who changes things for the better. Sure, the changes are tiny in the larger scheme of things, but it feels so good."

At a recent Yad Byad fundraiser dinner for which Orna was a primary organizer, an 11-year-old boy made a speech. He told how a bone marrow transplant paid for by Yad Byad had cured his leukemia. "He got up in front of the 350 guests," Siegel recalls, "and we were all crying. And he said. * * *" Siegel stops and looks away in an attempt to compose herself, but her eyes fill with tears anyway. "And he said to us, 'You saved my life' "

CLINTON POLICIES ON HUMAN RIGHTS MARRED BY INCONSISTENCY, FLIP-FLOPS, WEAKNESS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. SMITH of New Jersey. Mr. Speaker, it is particularly fitting that the first hearing of the new Subcommittee on International Operations and Human Rights, which was held last February 2, was for the purpose of receiving and beginning to analyze the 1994 Country Reports on Human Rights Practices.

The subcommittee, which I chair, is an amalgamation of two Foreign Affairs subcommittees from the previous Congress. In addition to our substantial legislative responsibilities, including the crafting of the Foreign Relations Authorization Act for fiscal years 1996 and 1997, last week's proceeding marked the beginning of an extensive series of hearings, briefings, and reports by the Subcommittee on Human Rights and humanitarian concerns around the globe.

I am delighted to have my good friend TOM LANTOS serving as ranking member of the Subcommittee on International Operations and Human Rights. Previously, TOM had chaired the Subcommittee on National Security, International Organizations, and Human Rights and was eminently fair, consistent, and effective. During my 15 years in Congress, I have had the privilege to fight alongside TOM in numerous human rights battles from Romania to the former U.S.S.R. to the People's Republic of China.

It is my intention and sincere hope to leave no stone unturned in the attempt to expose, scrutinize, and seek remedies for man's inhumanity to man, wherever and however it occurs. In like manner, our subcommittee will endeavor to recognize and encourage improvements in human rights practices. Above all, I will insist that objectivity, fairness, and the pursuit of trust be at the core of our work.

In the weeks and months ahead, the subcommittee will explore policy options designed to mitigate the seemingly endless suffering and abuse endured by so many.

In my view, the Country Reports are among the most important work the Department of State does. They allow the United States Government an opportunity to bear witness, to reassert fundamental principles, and also to examine its own conscience about whether its foreign policy comports with these principles.

Mr. Speaker, let me make some general observations about human rights.

First, the very idea of human rights presupposes that certain rights are fundamental, universal, and inalienable: they are too important to be taken away or circumscribed by governments.

Second, the United States has a commitment to human rights that is unique in the history of the world. It is no accident that the signers of our Declaration of Independence rested their resistance to tyranny not on tradition, self-interest, or the balance of power, but on the conviction that all human beings are "endowed by their Creator with certain inalienable rights." More recently, President Ronald Reagan reminded us that it is the destiny of the United States to be a "shining city on a hill," a living monument to the idea of freedom.

Human rights are indivisible, mutually reinforcing, and all-inclusive. Human rights cannot be abridged on account of race, color, creed, gender, age, or condition of dependency. Inclusiveness means everyone, and perhaps especially the inconvenient: the unborn child, or the dissent, or the believer in another religious tradition.

The right to life, religion, speech, assembly, and due process are the pillars of a free, sane, and compassionate society. The moral character and depth of soul of any society is measured not by its military might, technological prowess, athletic excellence or GDP, but on how well or poorly it treats its weakest and most vulnerable members.

It is particularly ironic that the subordination of human rights to other concerns, such as trade, immigration control, or congenial relations with other governments, is often justified on the ground that these are U.S. interests. This formulation misses the point: the most important U.S. interest is the promotion of freedom and of decency. We are strong enough and prosperous enough that we have no need to accept blood money, or to send refugees back to persecution, or to seek our alliances among regimes that murder and torture their own people.

Immediately prior to Thursday's hearing I received portions of the reports and had the opportunity to read the findings concerning about 10 countries. I have some reservations concerning certain portions of the reports, which I would like to state briefly.

First, I hope that in the State Department's effort to keep pace with what it calls "the changing nature of human rights problems," you do not lose sight of the fact that some rights are fundamental. Every year the reports seem to tell us more about the extent to which various societies have developed such institutions as collective bargaining and one-person-one-vote democracy. I do not mean to suggest that these things are not important. They are. They tell us much about a society. However, we must not allow their presence or absence to deflect attention from extrajudicial killing, torture, and imprisonment on account of religious or political beliefs.

Second, and even more troubling, on some issues in some countries the 1994 reports seem to acknowledge, yet minimize, human rights abuses. In a few cases the reports seem almost to suggest excuses or justifications for such abuses. At least three instances of this forgiving approach involve cases in which the foreign policy of the present administration has also given too little attention to egregious and well-documented human rights abuses. I refer to the harsh measures taken by the Chinese Government against those, especially women, who resist its coercive population control program, and by both China and Cuba against people who try to escape from these countries.

Finally, the reports raise deep concerns about the half-hearted and inconsistent human rights policy of the present administration. On ethnic cleansing in Bosnia and the brutal killings in Chechnya, the reports fully state the extent of the human rights abuses. Unfortunately, the administration has not given sufficient weight to these abuses in formulating its policy toward the nations in question. Human rights appears not to have been the primary concern.

CHINA: FORCED ABORTION AND STERILIZATION

The 1994 report acknowledges that forced abortions have been reported in China. Indeed, it acknowledges that "most people still depend on their government-linked work unit for permission to have a child," and that the "highly intrusive one-child family planning policy * * * relies on * * * propaganda, and economic incentives, as well as more coercive measures including psychological pressure and economic penalties * * * [including] fines, withholding of social services, demotion, and other administrative punishments such as loss of employment * * *. The report also clearly states that "penalties for excess births can be levied against local officials and the mothers' work units * * * providing multiple sources of pressure * * *."

The report, however, then seems to accept blindly and uncritically the Chinese Government's oft-stated lie that "physical compulsion to submit to abortion or sterilization is not authorized" by the government. This is the same story the Chinese Government has been telling for years. The 1994 report also continues—as in past years—to suggest that the one-child policy is not even enforced in rural areas of the country. This ignores the 1991 country-wide tightening of enforcement of the coercive population control program. The pervasive use of forced abortion and sterilization, particularly since 1991, has been well documented by demographers, dissidents, journalists, and human rights activists. Most recently, a series of articles in the New York Times in April 1993 showed clearly that forced abortion in China is not rare, not limited to economic coercion or social pressure, not confined only to urban areas or to certain parts of the country, and definitely not unauthorized by those in power.

The report, as in past years, also seems to excuse the excesses of the brutal People's Republic of China policy by pointing with alarm to the size of China's population and with evident approval to the general thrust of the regime's effort to minimize population growth.

Forced abortion was properly construed to be a crime against humanity at the Nuremberg war trials. Today it is employed with chilling effectiveness and unbearable pain upon women in the People's Republic of China. Women in China are required to obtain a birth coupon before conceiving a child. Chinese women are hounded by the population control police, and even their menstrual cycles are publicly monitored as one means of ensuring compliance.

The 1993 New York Times articles pointed out that the People's Republic of China authorities, when they discover an unauthorized pregnancy—that is, an illegal child—normally apply a daily dose of threats and browbeating. They wear the woman down and eventually, if she does not succumb, she is physically forced to have the abortion.

The 1994 report also barely mentions the brutal eugenics policy under which the People's Republic of China regime has undertaken to reduce the number of defective persons. In December 1993 the Chinese Government issued a draft law on eugenics that would nationalize discrimination against the handicapped. That law is now going into effect. This policy of forced abortions against handicapped children, and forced sterilization against parents who simply do not measure up in the eyes of the state, is eerily reminiscent of Nazi Germany.

CHINA: REPRISALS AGAINST FORCED REPATRIATES

The report on China also states that escapees who are forcibly repatriated "are often detained for a short time to determine identity and any past criminal record or involvement with smuggling activities." The report adds that "[a]s a deterrent and to recover local costs incurred during the repatriation, the authorities in some areas levy a fine of $1,000 or more on returnees."

This appears to be a deliberate attempt to put government reprisals against escapees in the most favorable possible light—perhaps because these reprisals have frequently been conducted against people who were forcibly repatriated by the United States Government. The report fails to mention that a $1,000 fine amounts to several times the per capita income in rural areas of China. A fine of this amount is a clear indication that the People's Republic of China regime regards these people as its enemies, not as routine offenders. Nor does the report say what happens to people who are unable to pay these oppressive fines. Newspaper reports during 1993 state that hundreds of people repatriated by the United States have been imprisoned for more than a brief period and have been forced to serve on prison work gangs. The report does not say whether any of these people remained incarcerated during 1994.

CUBA: MASSACRES OF PEOPLE ATTEMPTING TO ESCAPE

Similarly, the report on Cuba describes two well-documented instances in which the Cuban border guard deliberately killed people who were trying to flee the country. These are the sinking of the *Olympia* and of the *13th of March*. The report goes on to state, however, that there have been no reports of such killings since the September 9 Clinton-Castro immigration agreement. The reports do not state how we would know whether such killings have taken place since the agreement, or what steps—if any—we have taken to make sure they do not. Rather, it leaves the clear impression—without any supporting evidence—that the Castro regime quickly changed its ways upon signing the agreement.

OTHER COUNTRIES: DISCONNECT BETWEEN HUMAN RIGHTS CONCERNS AND U.S. FOREIGN POLICY

I have already stated my concern about the incongruity between the well-documented human rights abuses in Bosnia and Chechnya and our policies toward those countries. The 1994 reports confirm the atrocities in these countries: In Bosnia, concentration camps, routine torture, and rape as an instrument of government policy; in Chechnya, the killing of thousands of civilians and the destruction of hospitals and an orphanage. The director of the Washington office of Amnesty International has commented that the administration's policy toward Chechnya amounted to giving Russia a green light to commit the brutality that is so well documented by the report. I raised this same concern last month to an administration official who testified before the Helsinki Commission, which I chair. He dismissed it out of hand. This is part of an unfortunate pattern: After an initial period of encouraging rhetoric, the Clinton administration's human rights record has been marked by broken promises, weakness, retreat, inconsistency, and missed opportunities.

There is a similar incongruity between the administration's new friendship with the Government of North Korea and the 1994 report about the situation on the ground in that country. This is a rogue government that not only detains an estimated 150,000 political prisoners in concentration camps, but, also kidnaps citizens of other nations and causes them to disappear. The reports also state that "Political prisoners, opponents of the regime, repatriated defectors, and others * * * have been summarily executed." This is the regime to which the administration, amid much self-congratulation, recently arranged a $4 billion multilateral aid package.

Other abuses, well documented in the 1994 reports, to which our Government's response has been inadequate or nonexistent include the "extrajudicial executions, torture, and reprisal killings" by Indian security forces fighting separatist insurgents in Kashmir, and the brutal persecution of Christian missionaries and others by the Government of Sudan.

CONCLUSION

Future country condition reports will be far more useful to Congress, to the executive, and to the American people if they take care never to understate the extent of human rights abuses—especially when a thorough and honest account of such abuses might compel the reconsideration of United States Government policy toward the perpetrators. We must also work together to ensure that these reports are not just published and then forgotten. Rather, they must be regarded by those who conduct our foreign relations as an indispensable guidebook for a foreign policy worthy of the United States.

HISTORY STANDARDS ARE BUNK

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. GINGRICH. Mr. Speaker, I respectfully submit an article from the February 6, 1995, U.S. News & World Report entitled "History Standards Are Bunk," to be included in the CONGRESSIONAL RECORD.

HISTORY STANDARDS ARE BUNK

A funny thing happened to the National History Standards on their way to a famous forum: They were denounced by the United States Senate by a vote of 99 to 1.

This is a major turning point in the debate. The standards are, as Washington Sen. Slade Gorton said, a "perverse" document, loaded up with crude anti-Western and anti-Americans propaganda, but until now, the authors of this mess have been able to pose as bewildered moderates, set upon by a pack of crazed right-wingers.

A new spin will be needed now that the pack of irrational right-wingers includes Ted Kennedy, Carol Moseley-Braun and the entire Senate.

During a debate on other legislation, Gorton introduced an amendment to pull the plug on funds for the history standards. That probably would have passed fairly easily in a closer vote. But several senators were queasy about pre-empting other concerned groups, including the nation's governors, who have led the effort to set voluntary standards. So a "sense of the Senate" condemnation was voted on instead and passed without dissent. Even the one "No" vote, by Louisiana Democrat Bennett Johnston, was a "Yes" in disguise. He wanted stronger action than simple condemnation.

How do you get all 100 senators to repudiate your standards? Easy. Just do it the way the major perpetrators, historians Gary Nash and Charlotte Crabtree, did it at UCLA's National Center for History in the Schools. Start the standards with the "convergence" gambit: America is not a Western-based nation but the result of three cultures (Indian, black and European) "converging." This subliminally puts the Founding Fathers, and whites in general, in their place as mere founders of a third of a nation.

TRASHING EUROPEAN CULTURE

Though two of these three founding cultures were preliterate, depict all three as equal in value and importance, except for the fact that European culture was worse and dedicated largely to oppression, injustice, gender bias and rape of the natural world.

Carry this theme through, trampling moderate opinion to the point where Albert Shanker of the American Federation of Teachers says: "No other nation in the world teaches a national history that leaves its children feeling negative about their own country—this would be the first."

Connecticut Sen. Joseph Lieberman took up this theme in the Senate debate, calling the standards "a terrific disappointment." We don't need "sanitized history," he said, but we certainly don't need to give our children "a warped and negative view" of America and the West, either.

How did these standards get to be so bad? After all, historians and teachers of all political persuasions (and none) took part in the discussions. But most of the power, and control of the drafting process, stayed in the hands of academics with a heavy ideological agenda.

Earl Bell, head of the Organization of History Teachers, and one of four K-through-12 teachers on the panel, felt run over by the ideological academics. He hates the view of the cold war in the standards as a clash that wasn't really about anything, just a quarrel between what he called "equally imperialistic nations." The companion World History Standards, he says are even worse, "unrelentingly anti-Western."

The fiasco over the American and Western history standards is a reflection of what has happened to the world of academic history. The profession and the American Historical Association are now dominated by younger historians with a familiar agenda: Take the West down a peg, romanticize "the Other" (non-whites), treat all cultures as equal, refrain from criticizing non-white cultures.

The romanticizing of "the Other" is most clearly seen in the current attempt to portray American Indian cultures as unremittingly noble, mystical, gender-fair, peace-loving and living in great harmony with nature. All the evidence that doesn't fit is more or less ignored. The premise of the exercise makes it profoundly dishonest and propagandistic.

In the World History Standards, as Senator Lieberman noted in the Senate, slavery is only mentioned twice, and both times as practices of white cultures: in ancient Greece and in the Atlantic slave trade. The long and well-documented worldwide slave trade, including Muslim and black slave traders, is not mentioned. It doesn't fit the agenda.

History textbooks, curricula and museum displays are becoming the carriers of the broad assault against American and Western culture. The same kind of gratuitous touches that turned up in the Enola Gay exhibit text (e.g., Japanese brave and noble, Americans racist and destructive) show up in many other Smithsonian exhibits now, and, to nobody's surprise, in the proposed history standards, too.

Don't be fooled by the argument that these standards are voluntary and nonbinding, so not much is at stake. Over 10,000 copies have already been distributed, and textbook publishers are poised to make them the basis of new texts. Any approval of these standards by a public body would give them more momentum. They are beyond salvage and need to be junked.

SO YOU WANT TO BE A DOCTOR

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. DUNCAN. Mr. Speaker, almost everyone today agrees that our health care system requires some reform and that encouraging more young people to choose a career in medicine, particularly primary care medicine, is a critical element of that reform.

One family physician in my district, Dr. Fred Hurst, is proving that we can pursue this goal without relying on the heavy hand of the Federal Government to set quotas for various medical specialties.

Last year, Dr. Hurst started a program called FuturDOCS, which enables talented high school students interested in medicine to get first-hand experience working with patients at St. Mary's Medical Center in Knoxville.

These students have the opportunity to observe and participate in various different types of treatments, from prenatal care to helping heart attack victims recover to complicated surgeries. This unique experience not only provides them with valuable insight into a potential future career, but also benefits the patients at St. Mary's, who clearly enjoy having them around.

FuturDOCS has been such an unqualified success that numerous other hospitals, both in Tennessee and across the country, are designing similar programs of their own. In my view, FuturDOCS is a perfect example of what enterprising individuals who care enough to make a difference can do without turning to the Federal Government to solve all of our problems for us.

I commend to my colleagues and other readers of the RECORD the following article describing the FuturDOCS program, which appeared in the Knoxville News-Sentinel's Sunday magazine on Christmas Day.

SO YOU WANT TO BE A DOCTOR

(By Michael Ryan)

When I was in high school, I wanted to be a doctor," Fred Hurst told me. "But nobody in my family had ever been a physician, and I lived in a small town about 40 miles from Knoxville." Hurst wanted to learn more about what a doctor does, but he was stymied. "To gain entry to the local hospital, I had to join the Future Nurses' Club," he recalled. "I decided then that, if I ever had the chance, I would start a program to interest young people in primary care."

Encouraged by his parents, Hurst went to college, then medical school. Last year, at age 46, Dr. Hurst fulfilled the commitment he'd made as a youth. The need, as he saw it, was obvious: Only about one-third of the doctors in America today are primary-care physicians; almost two-thirds are specialists. The federal government and the American Medical Association agree that at least half of our physicians should be primary-care doctors. But four-fifths of today's medical students are planning to specialize, which will make the imbalance even worse.

"We had to show young people that they can have a gratifying future in service to their fellow humans—and handle 95 percent of the ailments of their patients—as primary-care physicians,"' said Hurst

His solution was FutrDOCS, a program that brings talented high school juniors and seniors into St. Mary's Medical Center in Knoxille, where he is chief of staff. They see what doctors actually do and later serve in summer internships, where they "shadow" primary-care physicians in all of the many tasks doctors perform.

Last year, Trang Nguyen, 18, helped administer a sonogram at St. Mary's after Annette Neubert, a pregnant patient who is also a nurse, encouraged her to try her hand at the painless, risk-free procedure. Nguyen handled the sophisticated equipment as if she had performed the procedure before. "Can you find the baby's head?" asked Dr. Paula Peeden, 36, an obstetrician/gynecologist. The student expertly located the tiny head moving back and forth deep within Neubert's womb.

"Have you chosen a name yet?" Nguyen asked with an easy bedside manner. "Courtney," Neubert said with a smile.

Since FutrDOCS began last year, 125 students have completed the program. This year, about 70 Knoxville-area students took part. Each participating high school nominates four outstanding students, based on their academic record, their interest in pursuing a career in medicine and their desire to help people. FutrDOCS is funded solely by St. Mary's Medical Center.

I went to St. Mary's on a day when eight FutrDOCS were visiting. I was surprised to learn that these young people saw all sides of the medical practice—its failures and limits as well as its successes. They accompanied Dr. Hurst on his rounds, meeting a heart-attack victim headed for full recovery but also seeing a man who had been left semi-comatose and incoherent by a stroke, beyond the help of modern medicine. In an operating room, they watched surgeons struggle to repair the body of a drunk driver with a damaged kidney, pelvis, bladder and spleen. "Medicine isn't always glamorous," FutrDOC Emily Herbert, 17, a senior at Karns High School in Knoxville, told me after that experience. "But ultimately it's about helping people."

The patients seem to enjoy having the teenagers around. "Without a doubt," said Dr. Hurst, "the patients are thrilled to be visited by and see the concern of these students." Diane Holloway, the surgical nursing supervisor at St. Mary's, also thinks highly of FutrDOCS—even though it obliges her to shoehorn visitors into her crowded operating rooms. "It's good for them to get this kind of experience early," she said.

Students in the program also learn what doctors think. The group sat down for a meeting with Dr. Douglas Leahy, 46, an internist who began his medical career the hard way—as an orderly at St. Mary's 30 years ago. Doctors make a decent income, but there are a lot of things you can make a lot of more money in," he told the students. "Medicine is an opportunity to be a part of people's lives. You can make their lives better. I think that's what drives most doctors."

FutrDOCS offers students a chance to see what they, as tomorrow's physicians, might want to do with their own careers. "It helped me to focus," said Mark Buckingham, 18, now a freshman at Notre Dame. For Trang Nguyen, FutrDOCS provided insight into a long-cherished dream. "I came to this country when I was 5, from Vietnam," she said.

"It was my parents' dream that I become a doctor, and that was a challenge to me. This has helped me discover that I really want to be a pediatrician. I just love kids," Nguyen, now 19, is a freshman at the University of Tennessee.

Fred Hurst has received at least 100 inquiries about the program from more than 35 states. Next year, 15 additional schools in suburban and rural areas of Tennessee will join FutrDOCS. Institutions in New York and Pennsylvania, as well as several Tennessee medical centers, may start their own programs. "My goal is to expand this program throughout the nation," said Dr. Hurst.

Early in my visit, Bryce Bowling, a FutrDOC, approached me to say how terrific he thought the program was. Bowling, 18, is now a freshman at the University of Tennessee. "My dad has had two surgeries on his heart," he told me. "I owe a debt to medicine. Doctors saved his life." That, I realized, was the greatest thing FutrDOCS has to offer young people: It shows them a way to give something back.

IN HONOR OF JOHN T. BRENNAN WHO WAS RECOGNIZED BY IRELAND 32

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to congratulate John T. Brennan who was being honored by Ireland 32 at a dinner. He has been and continues to be an outstanding citizen. As fire chief of the Bayonne Fire Department he has served his community with much bravery and determination.

Mr. Brennan is the son of two Irish immigrants, Michael and Mary Brennan. He is married to the former Meg Connolly with whom he raised six children. They are also the proud grandparents of 13 grandchildren. Mr. Brennan joined the Bayonne Fire Department on December 18, 1943 and has served proudly and courageously for 45 years.

Mr. Brennan always put the lives of the people ahead of his own. His heroic deeds are hallmarks of his career. When I think of heroism I am reminded of the time that Mr. Brennan risked his life when he ran through an inferno of flames after a propane storage plant had exploded. He managed to reach the propane gas valve that was feeding the fire while his firefighters were using high powered hoses to water him down.

Mr. Brennan was the youngest firefighter, at the age of 38, to be named fire chief in Bayonne and in the State of New Jersey. In February 1974 he was named Irishman of the Year for the 12th annual Hudson County St. Patrick's Day Parade in Jersey City. Also he received a service award for making it possible to speedily apprehend criminals by the Bayonne Police Department.

Mr. Brennan has been a faithful member of St. Vincent's Parish and a member of the 3d and 4th Degree of the Knights of Columbus. He is also a member of several associations such as the New Jersey Paid Fire Chiefs Association, the National Fire Protection Association, the Hudson Country Fire Chief's Association and the New Jersey State Exempt Fireman's Association just to name a few.

Mr. Brennan has served his community with much courage and bravery. His valor and dedication is appreciated by the citizens of Bayonne. I am proud to have him as a constituent. I ask that my colleagues join me in honoring this great and brave man.

INTRODUCTION OF THE FIREFIGHTERS PAY FAIRNESS ACT OF 1995

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. HOYER. Mr. Speaker, as a dedicated member and former chairman of the fire services caucus, I am proud to introduce the Firefighters Pay Fairness Act of 1995.

Mr. Speaker, every day over 10,000 Federal firefighters around the country put their lives on the line to protect our lives and property. They work exhausting shifts and take on the greatest of physical and mental challenges. We have an obligation to properly compensate them for their work.

For far too long, our Federal firefighters have received significantly inadequate pay for their hard work. Under the present system, Federal firefighters work over 25 percent more hours a week, yet earn nearly 44 percent less per hour than the average municipal firefighter. Furthermore, the average Federal firefighter is also paid significantly less per hour than their Federal employee counterparts.

Mr. Speaker, Federal firefighters currently work an average of 72 hours, while there municipal counterparts work an average of 50 hours. Meanwhile, Federal firefighters are paid an average hourly rate of $7.34, while the municipal firefighters earn an average of $12.88.

I introduced this legislation to correct the inequities that exist under the present system. This is not an issue about rewarding firefighters for their hard work. Moreover, this should not be viewed as a complimentary pay raise. Rather, this is an issue surrounding fairness comparability. These firefighters work endless work days, put their lives on the line for our constituents, and deserve to have a fair and equitable pay system.

This bill does nothing more than seek fair and equal pay rates for Federal firefighters. It will employ the existing statutory provisions of the Federal general schedule pay system to compute their hourly pay. Thus, Federal firefighters will earn equal pay as compared to their Federal employee counterparts. It also seeks to pay all firefighters, including those who are not defined solely as Federal firefighters, including forestry technicians. These forestry firefighters have braved the brushfires in California and throughout the West over the past several years and thus, deserve adequate compensation.

Mr. Speaker, far too many Federal firefighters have had to work under the inequitable pay system that we presently have. Moreover, upon completion of their required training, many Federal firefighters leave for the private sector where they can earn a larger salary. Thus, this lengthy, expensive training process goes for naught when a firefighter leaves the Federal fire system. It is our duty and responsibility to both those firefighters and the people they protect and serve, to reverse the ills of this system. We should not let another day go by where our Federal firefighters are put in an unfair position as compared to other municipal firefighters and Federal employees.

Mr. Speaker, I hope that my colleagues will join with me in support of this legislation to replace the present inequities of this pay system with a fair, comparable pay structure for our Federal firefighters.

DEATH OF DR. RAYMOND C. BUSHLAND

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. DE LA GARZA. Mr. Speaker, it was with the most profound regret that I learned recently of the death of my long-time colleague and dear friend, Dr. Raymond Bushland. For decades, I have had both the pleasure and privilege of working with Dr. Bushland in his capacity as a senior research scientist with the U.S. Department of Agriculture. During his long and distinguished career, Dr. Bushland's prodigious research armed the battle against insect-borne diseases of humans, animals, and plants, thereby making a significant contribution to human health and nutrition worldwide.

The internationally acclaimed screwworm eradication program will be a lasting tribute both to him and his friend and colleague Dr. E.F. Knipling. The most successful research program in USDA's history, it was a pioneering effort among Federal and State officials, producers, and the private sector to eliminate a serious scourge.

During his 38-year career with USDA, he was the author of over 70 scientific papers on the biology and control of insects, and pioneered numerous insect research methods. Dr. Bushland was a member of several scientific societies and received many honors and awards including: the USA Typhus Commission Medal, the gold medal of the National Hide Association, the Distinguished Service Award of the Texas, and Southwestern Cattle Raisers Association, and Progressive Farmer magazine honored him as Man of the Year in service of southern agriculture. He was jointly recognized, with Dr. Knipling, with the Hoblitzelle National Award in 1960 and the John F. Scott Medal in 1961. Also in 1992, Dr. Knipling and Dr. Bushland were awarded the World Food Prize. The USDA Agricultural Research Service's U.S. Livestock Insects Research Laboratory in Kerrville, TX bears his name.

Our prayers and those of all who knew or worked with him are with his family and many friends during this period of mourning.

FEDS SHOULD LET STATES HANDLE ENVIRONMENTAL ISSUES

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. KOLBE. Mr. Speaker, more and more people across this Nation are voicing their vehement opposition to the Federal Government's continued intrusion upon their individual rights. Leading this authoritarian onslaught upon the public are the cumbersome and often frivolous regulatory actions that have become part of our environmental policy. These regulations have become so pernicious that they actually prevent any sensible or rational interpretation/implemetation of our environmental laws. This does not, however, have to be the case.

The following article by a Tucson, AZ resident, Mr. Hugh Holub, illustrates the absurdity of some of these regulations. But Mr. Holub also touches upon a key element to any prudent environmental strategy: That we must have confidence in and trust the local people to protect the environment in which they live.

The article appeared in the Tucson Citizen on January 30, 1995.

FEDS SHOULD LET STATES HANDLE ENVIRONMENTAL ISSUES

(By Hugh Holub)

The rapidly spreading revolt against federal environmental regulation being led by state governors such as Fife Symington is not an attempt to degrade our environment.

State and local governments are seeking the opportunity to prioritize risks so limited financial resources can be applied to obtain the maximum public benefit, and to fashion their own ways to accomplish environmental goals without being told how to do it by Washington.

The greatest threat to our environment today is not the Republican Congress, or state governors fed up with unfunded federal mandates. The greatest threat is the federal regulatory system itself, which has lost sight of the relationship between cause and effect, which bases regulatory mandates on junk science, which ignores the human and economic consequences of regulatory mandates, and which increasingly demands specific actions that strain the credibility and pocketbooks of the public.

The Endangered Species Act is probably the most controversial expression of federal power yet devised in Washington. Recently, the U.S. Fish and Wildlife Service proposed the listing of the pygmy owl as an endangered species, and proposed various urban rivers in Phoenix and Tucson as "habitat recovery areas."

Included as a "habitat recovery" area in Tucson is the Santa Cruz River flood plain from the I-19 bridge to the Avra Valley Road bridge. What this means is that federal mandates will follow, if the pygmy owl is listed, to prevent groundwater pumping in Phoenix and Tucson and the restoration of riparian forests along the Salt and Santa Cruz Rivers.

Since the time of the Hohokam Indians, there probably hasn't been a riparian area along the Salt and Santa Cruz rivers through Phoenix and Tucson because the rivers were diverted for agricultural uses and the flood plains were irrigated. However, since these rivers theoretically could become habitats for the owls, the federal government claims the authority to make us re-create habitat for the owls, notwithstanding the absurdity of the goal, and the cost.

It is also very arguable that there is no credible scientific evidence that pygmy owls normally lived in these areas, at least according to the Arizona Game and Fish Department.

Since the listing argument is based on the need for forests to provide nesting sites for the owls, it is conveniently ignored that there are more trees on the valley floors of the Salt River valley and the Santa Cruz River valley today than since the end of the last ice age. However, these trees are on residential lots, in city parks, and around commercial and industrial properties and thus aren't "natural."

The U.S. Fish and Wildlife Service has, by their interpretation of the Endangered Species Act, the power to play God, and restore habitats for what they believe to be endangered. There is obviously a not so hidden agenda with the pygmy owl listing, as the target really is to usurp state water law.

One of the elements of the habitat recovery program is the limitation of groundwater pumping in the valleys of the Salt and Santa Cruz rivers. All of this conveniently ignores—at least in the Tucson area—recent changes to Pima County's flood control laws to protect riparian areas, and serious proposals to restore river flows with CAP water for recharge projects.

According to one of the advocates of the listing of the pygmy owl, protecting this owl under the Endangered Species Act is the last, best chance to save the owl. Like the state and local governments can't do more and better to restore riparian areas without having the Endangered Species Act used as a club to beat Arizona's management of water into submission.

The message to be gleaned from the growing conflict over federal environmental regulation is that while the overwhelming majority of Americans support protection of the environment, we do not want to sacrifice our homes and our jobs to federal environmental mandates.

We want a balance—a win-win solution. We want environmental protection and economic prosperity. We haven't been able to get that from the federal level of government.

Besides being governor of the state of Arizona, Fife Symington is also a serious trout fisherman. He shares a brotherhood and sisterhood of people who really go out into the environment, and who appreciate the spiritual value wild places give us.

Symington is every bit as much an environmentalist as any federal official. The salient difference, which is the bedrock of the revolution that is growing in America today, is that Fife and a lot of people such as him—Republican and Democrat—have confidence in local people being able to protect the environments they live in and depend on without someone in Washington telling them how to do it.

AMERICAN FARM PROTECTION ACT OF 1995

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

Mr. HOUGHTON. Mr. Speaker, I am joined today by several of my colleagues, including Mr. PAYNE of Virginia, Mrs. JOHNSON of Connecticut, Mr. MCCRERY, Mr. COYNE, Mr. BREWSTER, Mr. WELDON of Pennsylvania, and Mr. ENGLISH, in introducing legislation to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to the alternative valuation rules.

The bill, to be titled "American Farm Protection Act of 1995," offers direct relief from the burden of the Federal estate tax to the families of the owners of these farms and other rural families, while insuring the future agricultural use of their land.

The best caretakers of America's land are the farm and ranch families who have owned and cared for it for generations. Once these families are displaced from their land, no amount of regulation or tax spending can replace their productive stewardship of the land. According to "The Second RCA Appraisal," published by the Department of Agriculture in 1989,

> 1.5 million acres of agricultural land, most of them prime farmland, are irreversibly removed from production and converted to nonagricultural use each year.

The problem is especially acute near metropolitan areas. Here development pressure has caused the value of farm and ranch land to escalate dramatically over the past several decades. Yet this is some of our most productive agricultural land.

An important factor contributing to the displacement of America's farm and ranch families is the Federal estate tax. That is because rural land is valued for estate tax purposes, not necessarily at a value representing its actual rural use as a farm, but at its potential value as development property. The tax can force families to sell land on which they have lived and made their living, sometimes for generations. Once farm and ranch families are gone the cycle of speculation, sprawl development, and overregulation often takes over.

The bill removes this problem for America's rural families and lets them do what they can do better than anyone else: take care of the land. For rural landowners who voluntarily and permanently provide for the commitment of their land to rural uses through the donation of a qualified conservation easement, the act will exempt that land from the Federal estate tax.

The concept embodied in the bill has been endorsed by the American Farm Bureau Federation and the National Farmers Union, as well as many other local, regional, State, and national forestry and land conservation organizations. We welcome other Congressmen as cosponsors of this legislation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, February 9, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 10

9:00 a.m.
Judiciary
To hold hearings on the national drug control strategy.
SD–226

9:30 a.m.
Budget
To hold hearings on the President's proposed budget request for fiscal year 1996 for the Department of Defense.
SD–608

10:00 a.m.
Small Business
To hold hearings on the future of the Small Business Administration.
SR–428A

FEBRUARY 14

9:00 a.m.
Judiciary
To hold hearings to examine Federal crime control priorities.
SD–226

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine how to reduce excessive government regulation of agriculture and agribusiness.
SR–332

Armed Services
To resume hearings on proposed legislation authorizing funds for fiscal year 1996 for the Department of Defense and the future years defense plan, focusing on the military strategies and operational requirements of the unified commands.
SR–222

Indian Affairs
To hold hearings on proposed legislation authorizing funds for fiscal year 1996 for Indian programs.
SR–485

2:30 p.m.
Environment and Public Works
Water Resources, Transportation, Public Buildings, and Economic Development Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Water Resouces Development Act and the President's proposed budget request for fiscal year 1996 for the U.S. Army Corps of Engineers.
SD–406

FEBRUARY 15

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for defense programs, focusing on Pacific issues.
SD–116

Energy and Natural Resources
To hold hearings on the President's proposed budget request for fiscal year 1996 for the Forest Service.
SD–366

Labor and Human Resources
To hold hearings on S. 141, to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on federal construction contracts, promote small business participation in Federal contracting, and reduce unnecessary paperwork and reporting requirements.
SD–430

2:00 p.m.
Environment and Public Works
To hold hearings on the President's proposed budget request for fiscal year 1996 for the Environmental Protection Agency.
SD–406

Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine the court imposed major league baseball antitrust exemption.
SD–226

FEBRUARY 16

9:30 a.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1996 for Indian programs.
SR–485

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance, focusing on U.S. policy toward Russia and the New Independent States.
SD–192

Labor and Human Resources
Children and Families Subcommittee
To hold hearings to examine the effectiveness of the Federal child care and development block grant program.
SD–430

2:00 p.m.
Small Business
To hold hearings on the small business owner's perspective on the Small Business Administration.
SR–428A

FEBRUARY 23

2:00 p.m.
Indian Affairs
To hold oversight hearings to examine the structure and funding of the Bureau of Indian Affairs.
SR–485

MARCH 1

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Disabled American Veterans.
345 Cannon Building

MARCH 2

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Transportation.
SD–192

MARCH 7

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

10:00 a.m.
Indian Affairs
To hold oversight hearings to review Federal programs which address the challenges facing Indian youth.
SR–485

MARCH 9

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Transportation Safety Board.
SD–192

MARCH 16

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Highway Administration, Department of Transportation.
SD–192

MARCH 23

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Railroad Administration, Department of Transportation, and the National Passenger Railroad Corporation (Amtrak).
SD–192

MARCH 30

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of AMVETS, American Ex-Prisoners of War, Vietnam Veterans of America, Blinded Veterans Association, and the Military Order of the Purple Heart.
345 Cannon Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Aviation Administration, Department of Transportation.
SD–192

APRIL 27

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Transit Administration, Department of Transportation.
SD–192

MAY 4

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Coast Guard, Department of Transportation.
SD–192

SENATE—*Thursday, February 9, 1995*

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rabbi Joshua O. Haberman, of the Washington Hebrew Congregation.

PRAYER

The guest Chaplain, Rabbi Joshua O. Haberman, offered the following prayer:

Dear God, we pause in this assembly of lawmakers to acknowledge Thee as the fountainhead of all law. Thine are the laws that govern physical reality; even so, Thou hast ordained the principles by which human beings must interact in order to prosper and live securely with one another.

Enlighten our minds so that our manmade laws conform to the God-given designs for humanity. Give us the sensitivity to detect and remove injustice and the good sense to temper legislative zeal with humility to listen to colleagues of either party, to those who agree as well as those who disagree with us. Let mercy and kindness neither blind us nor altogether forsake us as we counsel and act together for the good of our country. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, this morning, the time for the two leaders has been reserved and there will now be a period for the transaction of morning business until the hour of 10 a.m., with Senators permitted to speak for up to 5 minutes each, with Senator HATFIELD to speak for up to 10 minutes and Senator BIDEN for up to 30 minutes.

At the hour of 10 a.m., the Senate will resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

I yield the floor, Mr. President.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. The distinguished senior Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the Chair.

(Mr. ASHCROFT assumed the chair.)

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. HATFIELD. Mr. President, the American people elected the Republican Congress with the expectation that we show leadership and a willingness to make difficult decisions. In my view, the public shares the point of view that Government has grown too expensive. It has become bloated and ponderous. I believe that the programs of the New Deal and the Great Society put safety nets in place for those who are in greatest need, but those nets now strangle the Federal Government by tying up precious funding in a knot of regulations and poor management.

As I explain my thoughts on the balanced budget amendment, I want to make it very clear that I believe the deficit must be reduced and that a balanced budget is worth achieving. It is possible that I will be the lone Republican to vote against the balanced budget amendment, but I say now to my colleagues that I share my party's goals, but happen to disagree on the means.

The debate on the balanced budget amendment is not about reducing the budget deficit, it is about amending the Constitution of the United States with a procedural gimmick. This amendment that is before Members now puts new Senate and House rules regarding voting procedures into the Constitution. It does not balance the budget and gives no indication of how this might be done. Furthermore, it will not force Congress to budget responsibly. If indeed this is an amendment requiring a balanced budget, then how can we allow Congress to essentially suspend the Constitution with a three-fifths vote? This was a dangerous idea last year, and it is a dangerous idea this year as well. What other constitutional requirements would we like to waive with a three-fifths vote? Freedom of religion? Free speech? What other civil liberties shall we waive? A balanced budget amendment would allow the Congress to ignore the requirement for a balanced budget and to ignore the Constitution. This idea of Congress suspending a constitutional requirement cuts against the separation of powers principle so crucial to the foundation of the Constitution.

Given the make-up of the 104th Congress, passage of the balanced budget amendment may seem inevitable to some. Many people attribute this increased likelihood to the elections which occurred in November of last year. The election has been interpreted by some as proving that the American people are demanding that Congress balance our Federal budget. Or it may be interpreted by some who say that the Congress now has the political will to make the hard choices to make Federal revenues match Federal outlays. This is an important point, because Congress does not have the political will to tackle the budget deficit, a balanced budget amendment to the Constitution is nothing more than an empty promise.

As optimistic as I am about the opportunities this Republican Congress has before it, I am sobered by a recent event. I want to underscore this because I believe many have lost sight of it; that is, the demise of the Bipartisan Commission on Entitlements and Tax Reform. The Commission set out to tackle an enormous task. That task was to address the Federal Government's long-term spending commitments and to determine what the fiscal impact would be if this spending were left unchecked.

According to the Commission's report, the Commission was created,

> * * * to frame the long-term issue, educate the American people and policy leaders about the problem and potential choices, and to make specific recommendations on how to bring our future entitlement commitments and revenues into balance.

Now, Mr. President, the Commission, despite the dedication of all of its participants, was unable to agree on a specific set of recommendations on how to address these issues. In explaining the inability of the Commission to come to a consensus on this issue, a letter signed by the chairman, Senator KERREY, and the vice-chairman, Senator DANFORTH, states,

> * * * this result should not be surprising in an environment where political leaders in both parties are focusing more on short-term initiatives than on long-term, politically sensitive economic and social issues that sit on the horizon.

I submit that the inability of the Commission to reach a consensus on these very important issues is proof that the Congress still does not yet have the political will to tackle the tough issues which it will need to balance the budget.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. President, that statement attributed to the Commission was made after the November elections.

It is also important to note some statistics which are contained in the budget just submitted by the President which relate to the proposal to exempt certain Federal programs from being covered by this amendment. According to the President's budget, interest on the debt, defense, and mandatory spending combined make up 82 percent of the Federal budget in 1995, and this percentage will grow to 85 percent of the budget by the year 2000. Unless reform of all aspects of Federal expenditures occurs, projected outlays for entitlements and interest on the debt will consume all revenues of the Federal Government by the year 2012. That is only 17 years away. With those facts looming before us, how can the Congress decide today what should and should not be taken off the table during the debate on balancing the budget. The Congress must look at every aspect of the budget, politically sensitive items included.

A balanced budget can come only through leadership and compromise. This compromise must come from each one of us. But, more importantly, it must come from those we represent—those who do not want their taxes raised any more than we want to raise them—those who do not want their benefits cut any more than we want to cut them. In the end there is no easy answer, and there never will be. Regardless of the procedural restraint in place, where there is political will to create a balanced budget we will create one, where there is will to avoid one, we will avoid it. The finding of the Bipartisan Commission I mentioned earlier indicates that the Congress still does not have the will to address the tough issues. As I stated during the debate on a balanced budget amendment last year, a vote for this balanced budget constitutional amendment is not a vote for a balanced budget, it is a vote for a fig leaf.

If I am skeptical about the ability of a gimmick to fix our budget, I am not skeptical about the ability of the people to demand and keep demanding that we respond to the budget challenge with real action. Real action is not a vote for an amendment to the Constitution which calls for a balanced budget by the year 2002. Real action is rolling up our sleeves and getting our fiscal house in order. Real action is working together, in a bipartisan fashion, to create a balanced budget, not to simply promise one. Real action means ending some programs—programs with popular appeal and vocal constituencies. Balancing the budget will result in an impact on each and every one of us—do we have the will to do that?

Bipartisan negotiation, leadership, and compromise have been the cornerstones upon which we have built all effective decisions on tough issues since the formation of our Government. Compromises are difficult to reach, but they are not impossible to reach. We have all just received the President's budget. The ensuing debate on the budget will provide the chance for the Congress to work together to balance the Federal programs of this budget. I hope the Congress does not miss this opportunity to debate the real issue of balancing the budget. Voting for a balanced budget amendment is easy, working to balance the budget will not be.

Although I will not support the legislation put before the Senate promoting a balanced budget amendment, I stand ready to get to the necessary work of crafting a long-term, sound fiscal policy which addresses the need to balance the budget. As chairman of the Senate Appropriations Committee I am committed to a thorough review of Federal programs to determine if they are wisely spending the taxpayers' money and whether or not programs have outlived their usefulness. Some programs are undoubtedly in need of reduction, and a few should be abolished.

But successful, long-term fiscal responsibility will not only depend upon program cuts. It demands a radical transformation in the way we do business as a government. My home State of Oregon has embarked upon a truly exciting effort to end the obsession with program compliance—and all the paperwork and bureaucracy which comes with that obsession—and instead making success government's goal. Success in training workers for new jobs. Success in getting families off public assistance. Success in reducing teen pregnancies. Government can and should do more with less. It is my hope that Congress will lead the way in making this a reality.

The Congress should not promise to the people that it will balance the Federal budget through a procedural gimmick. If the Congress has the political will to balance the budget, it should simply use the power that it already has and do so. There is no substitute for political will and there never will be. I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

TRIBUTE TO J. WILLIAM FULBRIGHT

Mr. PRYOR. I thank the Chair for recognizing me this morning.

Mr. President, we, in the U.S. Senate, are often very fortunate to be witnesses to history as it is being made, and we often talk of the need to have a vision for America, for the country, for our Government, for our world and for our people. But very few of us ever, in and among ourselves, make history—very few of us. We often fall short of articulating a true vision, settling instead to seize upon symbols as a substitute.

With that in mind, Mr. President, this morning I rise to pay tribute today to a former Member of this body who has repeatedly made history in his lifetime and who dare to articulate a vision throughout his lifetime. That man is J. William Fulbright, a native son of Arkansas, who served with the with distinction in the Congress for 32 years, 30 of those years as a Member of this body, the U.S. Senate.

He loved this body. Senator Fulbright died early this morning, and I would like to take a few moments of the Senate's time to remind the people of this body and the people of this Capitol and certainly the people of this land of the significant impact this remarkable human being had on the lives of Americans.

J. William Fulbright was born in the year 1905 to a family that became quite prominent in northwestern Arkansas. His father was a banker, a successful businessman, while his mother ran the Northwest Arkansas Times, the newspaper in Fayetteville. In fact, Mr. President, the public library in Fayetteville, AR, bears the name of Roberta Fulbright Library.

After graduating from the University of Arkansas at Fayetteville, Bill Fulbright attended Oxford University on a Rhodes scholarship, an experience that we will see later having a profound effect upon his life and his philosophy and, yes, upon his vision.

After earning his law degree from George Washington University, he joined the antitrust division in the Justice Department where Senator Fulbright, or Bill Fulbright at that time, helped to prosecute the landmark Schechter case, the "chicken case," as we call it, which helped establish the boundaries of Federal authority to regulate interstate versus intrastate commerce. It was a landmark case.

In 1936, Bill Fulbright returned to his native State of Arkansas to teach law at Fayetteville and there, 3 years later, he was appointed president of the University of Arkansas. At age 34, he was the youngest university president in America, and he gained national attention at that time for his efforts to raise the educational standards of not only the University of Arkansas but all educational institutions in America.

In 1943, Bill Fulbright won a seat in the U.S. House of Representatives, and he was appointed to the House Foreign Affairs Committee. He wasted little time making history.

In the spring of that year, he introduced a resolution that, even by today's standards, was remarkable for its brevity and its directness. Yet, it was powerful as a vision of young Bill Fulbright. The resolution read as follows, and it is one sentence:

> *Resolved*, That the House of Representatives expresses itself as favoring the creation

> of an appropriate machinery with power adequate to prevent future aggression and to maintain lasting peace, and as favoring participation of the United States therein.

Mr. President, this was the Fulbright resolution. It became known as that and soon it passed overwhelmingly by both Houses of the Congress.

This Fulbright resolution is credited as being one of the very major stepping stones that led to the creation of the United Nations. And with this resolution, a very young Bill Fulbright brought an official end to longstanding American policies of isolationism and made our country formally commit to becoming a willing, ongoing partner in global affairs.

Bill Fulbright did not stop there. The very next year, he served as a delegate to an international conference, at which officials from 17 nations sought to find a way to reconstruct the educational institutions of the world in the wake of the ravages of World War II. Congressman Fulbright then was unanimously named as chairman of this Congress, and he presented a four-point proposal that became the foundations for the U.N. Economic and Social Council.

In April 1945, Mr. President, delegates of 50 nations gathered in San Francisco to draft a charter of the United Nations Approval by the U.S. Senate became critical at that point, so critical that President Harry Truman came to this body and stood in the well of the U.S. Senate and pled with his former colleagues in the Senate on July 2, 1945, to persuade this body to adopt this charter. President Truman briefly sketched the history of the U.N. effort, and he mentioned the passage of the Fulbright resolution.

President Truman said that this resolution had played a major part in shaping certain proposals, and the Senate approved the charter by an 89 to 2 vote. It took effect October 24, 1945.

I might add, Mr. President, that this year in June in San Francisco, 50 years later, there will be a commemoration, or a birthday, an anniversary of the founding of the United Nations.

By this time, Congressman Fulbright had become Senator Fulbright, after winning a Senate seat in the 1944 elections. He did not rest upon his laurels, and despite being named to the Banking and Currency Committee instead of the Foreign Relations Committee, he did not abandon his interest in global relations.

During his very first year in the Senate, Senator Fulbright sponsored legislation that became one of the major accomplishments of his distinguished legislative career. This bill established a program that exchanged scholars, students, and educators between the United States and other countries, and the program eventually was called the Fulbright Scholarship Program. It drew heavily from Senator Fulbright's experiences as a Rhodes scholar and from his belief and deep feeling that academic exchange would contribute to better understanding among all countries.

Foreign students coming to the United States received money for travel and sometimes received an allowance, modest as it might be, while tuition and books were provided through scholarships from American colleges and universities.

While he fervently believed in the value of such exchange programs, Senator Fulbright also knew full well that his plan had a number of hurdles to overcome—financial, governmental, partisan. The U.S. Treasury was not in a position to directly finance such a venture at a time of massive war debts.

Meanwhile, the State Department voiced its reservations, as had Senate Republicans. But Senator Fulbright was undaunted, and he persevered. He came up with a very novel way of financing this venture by combining the need to fund it with the problem of disposing of surplus U.S. equipment overseas that had been left behind.

Under Senator Fulbright's plan, any country that purchased part of the U.S. surplus would then be eligible to participate in the exchange program. He won the support of the State Department by giving the State Department greater control over the program disbursements. He won the support of the Congress by getting an endorsement from former President Herbert Hoover. President Truman signed the Fulbright Scholarship Program into being August 1, 1946. It was another tribute to the vision and to the brilliance and to the perseverance of J. William Fulbright and his fervent belief that education and communication hold the power to save man from himself.

Bill Fulbright's career was not without controversy, Mr. President. He certainly did not shrink from it. He once suggested that President Truman resign from office, but soon he suggested that President Truman was absolutely correct, even a year later, and he defended Harry Truman in the wake of President Truman's firing of Gen. Douglas MacArthur and bringing him back from the Far East. He sparred repeatedly with Joseph McCarthy, a former Member of this body, defending against McCarthy's attacks on the Fulbright Scholarship Program and then defending himself from McCarthy's attacks and charges that he, Senator Fulbright, might be subversive because Senator Fulbright's first wife belonged to and was active in, of all things, the Red Cross.

Ultimately, Senator Fulbright led the way in getting the Senate to condemn Senator McCarthy in 1954 for his red-baiting tactics. In doing so, he helped deliver this body out of one of its sadder chapters in history.

In 1959, Mr. President, Senator Fulbright became chairman of the Senate Foreign Relations Committee, and by the time he left the Senate in 1974, he had held the title of chairman of the Senate Foreign Relations Committee longer than any previous Senator.

Yes, he was controversial. He was a controversial chairman, and he dared to insist that cold war relations should not be dictated solely by militarism. He warned all of us in 1961 that our efforts in Vietnam were doomed to failure as long as we placed our stress on military rather than long-term economic and educational assistance, a warning that now seems prophetic. He placed his reservations aside to support the Gulf of Tonkin resolution when he felt that American soldiers were threatened and then had the courage to publicly call that action his most humiliating experience. He became one of the country's most vocal critics of that war even though it cost him his long-time friendship with Lyndon B. Johnson, and many believe it ultimately might have cost him his seat in the Senate.

J. William Fulbright did not believe that his return to private life meant the end of his need to articulate a vision for his beloved America. He continued to write books and to give lectures about how he felt government could be run more effectively, how countries could better deal with one another, and about the arrogance of power.

Those of us who were fortunate to know him and even to be close to him during some of his life during those years knew him as a man of continued brilliance, of foresight and wisdom, and he continued to command our respect.

Mr. President, when the Fulbright Program was threatened, when it was endangered by cuts, he took to the phones in recent years to galvanize support. He roamed the Halls of the House of Representatives and the Senate for his beloved Fulbright Program. After all, all over the world, many leaders of the free world had been called Fulbright scholars.

We will miss this great man, Mr. President. I first met him when he was speaking at the Ouachita County Courthouse in Camden, AR. The year was 1944, and he was seeking his seat in the Senate. I was 10 years old at that time, but I could still take you to that corner in Camden, AR, where I first had the opportunity and the privilege of meeting J. William Fulbright. I just knew that I had met a great person. And through these many years, I was never quite able to ever bring myself to call him "Bill." To me, he was and he will always be Senator Bill Fulbright.

He spent his life attempting to end the obsession with war. He spent his life attempting to educate us that using war as the solution for our conflicts was a course of action that would bring us nothing in the end but sorrow. We will miss this great man, this great

Senator, and this great person who has contributed so much to peace in the world and understanding among all men.

Mr. President, I thank the Chair. I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware, under the previous order, is recognized to speak for up to 30 minutes.

Mr. BIDEN. I thank the Chair.

Before I begin what I wish to speak to, let me compliment my friend from Arkansas. I had the great privilege of being a young Senator serving with Chairman Fulbright. I did not know him nearly as well, nor was I as close to him, by any stretch of the imagination, as my friend from Arkansas, but it was a real honor and privilege and, let me say, something that I tell my children and will tell my grandchildren and I am sure they will tell their children, that their father and grandfather had a chance to serve with such a great man.

I will tell you one anecdote in my relationship with him. I remember him as a young man. I had just been elected. I was 29 years old. I had not turned 30 yet. I came down here to meet with what was then referred to as the old bulls of the Senate. I went around and made my obligatory stops at the offices. Senator Fulbright asked me what I wanted to do, and I said how very much I would like to be on the Foreign Relations Committee.

I say to my friend from Arkansas, back in those days I do not think there was anybody on the committee under the age of 55 and it was only senior Senators, very senior Senators who were on the committee, made up of great men like Jack Javits and Mike Mansfield, Bill Fulbright, Stuart Symington, Hubert Humphrey, et cetera. And I realized it was a reach, and I did not expect to get on as soon as I did. But I just wanted to let him know.

He said, "Why do you want to be on the Foreign Relations Committee?" I said, "Mr. Chairman, one of the great concerns I have is our foreign policy, American foreign policy. It is my avocation, my interest. Quite frankly," I said, "Mr. Chairman, if as a Senator I would not be able to deal with foreign policy, there would be no reason to run for the U.S. Senate; I might as well run for Governor. But the reason I am here is because I care about that."

He looked at me, and he said, "Well, I understand your sincerity. Let me think about it." So I saw him coming over on the subway a little while later, a week later, and he said, "I thought about it." He said, "You really want to affect foreign policy?" I said, "Yes, I would like to eventually, Mr. Chairman." He said, "Why don't you go see my colleague, Senator McClellan." I said, "I beg your pardon, Mr. Chairman. He is the No. 2 man"—then was about to be the chairman—"of the Appropriations Committee." And I said, "That's appropriations." He said, "Yes, but that's where foreign policy is made."

I will never forget that.

Mr. PRYOR. A good story.

Mr. BIDEN. And he did support me, I might add, to go on Foreign Relations. But he told me if I really wanted to affect foreign policy, I should go with the other Senator from Arkansas, the chairman of the Appropriations Committee.

TRIBUTE TO J. WILLIAM FULBRIGHT

Mr. BUMPERS. Mr. President, I come this morning sadly to eulogize one of the truly great political and intellectual giants of my home State of Arkansas. In a way, it is especially difficult for me because in 1974 I ran against him for the Senate.

J.W. "Bill" Fulbright had been a Congressman, president of the University of Arkansas, U.S. Senator, chairman of the Foreign Relations Committee, and an icon to millions of people, not just in Arkansas, but all over the world.

In 1974 Senator Fulbright had served in the Senate for 30 years and was prepared to run for his sixth term. I was Governor of my State, completing my second term, and I can tell my colleagues that being a Senator is infinitely more enjoyable and less stressful than being Governor. I was not interested in running for the House of Representatives, nor was I particularly interested in returning to the practice of law.

While I had been a great fan of Bill Fulbright's, I was late in opposing the war in Vietnam, long after he opposed it. I had admired his courage in speaking out against that war almost from its inception. I suppose now would be a good time to say that he once told me that his vote on the Gulf of Tonkin resolution was the worst vote he ever cast, and that he regretted it.

But I had to make a decision about the Senate race, and I had to make it by March 1974. So I made what was one of the most difficult decisions of my life—to run against him in the Democratic primary. There are people, needless to say, who never forgave me for it, and I understand that.

I do not mean this to sound self-serving, but it is not terribly uncommon for people to come up to me and say, "How does Arkansas elect the quality of people that it does?" And they always include Bill Fulbright's name. We have a saying in Arkansas that we defeat better men than most States have a chance to vote for.

So while our relationship was not close even before that primary election, it was certainly not close afterward. Happily, about 5 years ago, we had a 2-hour luncheon, which I would have to say was one of the highlights of my life. It was not spectacular from a content standpoint, but we obviously liked each other and regretted that we had not been closer the first 15 years I was here.

Out of that luncheon grew a very, very warm friendship, not only with him, but with his beloved wife Harriet, who is one of the truly superior people I have ever known.

I might say at this point that Harriet has been as loyal, faithful, caring, and compassionate during Senator Fulbright's illness as anybody could possibly be.

Mr. President, I will introduce more formal remarks into the RECORD sometime in the near future, but I hastened here this morning after his death last night to say that I know I speak for all of the people of my State in expressing our genuine sadness at the loss of this truly great man.

Bill Fulbright believed in public service. I was just a youngster when he was first elected to the Senate, but in the time I did know him, while I was Governor and in the past few years, I never heard him express any idea that was not noble, an idea that was not motivated by his commitment to his country, or an idea that would not inspire our young people to choose politics as a career. Though he did not suffer fools gladly, he was not a cynical man.

I came here to say he was a great icon, a great public servant, and a brilliant man who loved his country beyond the love of anything else. I will personally miss him and the warm relationship we had been enjoying.

I yield the floor, Mr. President.

CRIME AND JUSTICE IN AMERICA

Mr. BIDEN. Mr. President, I rise this morning to begin speaking on the issue of crime and justice in America and the Democratic crime bill, the Clinton crime bill that was passed last year, and the proposals to change that crime bill. I realize there is sort of a frenzy underway here where, to use the old expression, the freight train is rolling down the tracks, the contract is underway, and we are in a great hurry to change everything here.

I am going to spend a half hour or so this morning, and then future mornings, as we approach the debate on the Senate floor on the changes in the Biden crime—in the crime bill, and try to lay out some of at least what I see to be the facts.

Last year, Congress completed a 6-year effort and enacted a major anticrime law in which the Federal Government launched a bold and multifaceted attack on violent crime and its roots back in our communities, not here at the national level. For the first time, the Federal Government made major commitments to help States and localities, the places where 95 percent of all the crimes are committed and all the crimes are prosecuted. We got involved, to help them redress the greatest shortcomings in our system. And after years of study and overwhelming consensus, it was agreed what those shortcomings in our criminal justice system were and are.

No. 1, first and foremost, there is a shortage of police out on the streets of our communities. That is number one.

No. 2, the shortage of prison space and the need for sentencing reform at the State level.

No. 3, the shortage of effective responses to drug offenders.

No. 4, the lack of serious response to rape and family violence.

No. 5, the lack of safe places and positive activities for those children referred to as at-risk children, who grow up surrounded by illegal drugs, crime, and violence.

Everybody I am aware of agrees these were the problems we had to speak to. I might point out we pretty well have taken care of—which is a much easier problem to take care—the Federal side of that equation. We have enough Federal prison space in the Federal prison system. When you get sentenced, you go to jail for the totality of that term. I was the coauthor of that bill. In the Federal courts, if a judge says you are going to go to prison for 10 years, you know you are going to go to prison for at least 85 percent of that time—8.5 years, which is what the law mandates. You can get up to 1.5 years in good time credits, but that is all. And we abolished parole. So you know you'll be in prison for at least 8.5 years.

But in the States, the average amount of time people serve once sentenced in the State court is 43 percent of the time. So on average, in the States—my State being one of the exceptions, the State of Delaware, which essentially has the same records as the Federal Government; they keep people, on average, 85 percent of the time—but most States keep people in jail, if they get sentenced to 10 years in the State court, they only serve 4 years 2 months in a State prison.

So we fixed it at the Federal level. This was to help begin to not send rules or regulations or mandates to the States, but to send them money to fix the problems. It was to help them fix the problems I have stated, which everyone agreed on: Lack of police, lack of serious response to rape, et cetera.

Now, in its breadth, the crime bill we passed reflects the lessons learned over the past decade as we studied crime and law enforcement and worked on passing this law; namely, that all of the shortcomings have to be addressed at one time. Correcting one without the other is futile because crime knows no easy single answer. What we found out in the States and what we found out in our earlier experience in the Federal Government is when you increase penalties and you do not increase the number of prison spaces, you do not do much. If you put more cops on the street, they make more arrests, you increase the penalties, and you do not have places to put the felons, then the people just walk. So now you have convicted felons who are out on the street, not having served their time. So we learned we cannot just deal with one piece of it.

The anticrime law we passed last year addressed each of these shortcomings, as I will detail in a moment. In its approach, as well as in many specifics, the law was a result of bipartisan efforts—at least at the outset.

The law is already at work; $1 billion has already been awarded to the States and localities to put almost 15,000 new police officers on the streets in the community policing program. That is already done. The law only passed last fall and already almost 15,000 cops, new cops, brand new—not supplanting cops that were on local forces, almost 15,000 new local cops that were not there before—within the next several months, after they finish their training, are going to be on the streets in the United States of America because of this crime bill. Dollars, under the drug court program, the Violence Against Women Act, are going to be awarded over the next few months.

I hoped I could spend the next several months watching over the smooth and speedy implementation of this law, as well as turning my focus to the substantial issues that still lie before us. Just to name two priorities, we must turn all our talk about our war on drugs into a real battle, and we have to reform our juvenile justice system as it struggles to deal with violent, youthful offenders unlike any the current system was designed to handle.

That is work still to be done. I thought we would be on the floor here this next year and the following year, dealing with finally doing something real about the drug problem and doing something more about juvenile justice because when I wrote the crime bill, I never advertised it as—as my grandfather would say, this is not a horse to carry the sleigh. The whole sleigh on crime is more than what the crime bill was about, and we have said that, frankly, from the beginning. What we did, we thought we were going to have in place; we thought we were going to be just implementing.

Very soon, the Senate will embark on a debate, not about new challenges, but of the anticrime law we just enacted last fall. The House is already taking apart this law piecemeal.

What is motivating a retreat on the bill that contained so many provisions drafted and once supported by Republicans, as well as Democrats, quite frankly, escapes me. I will let you draw your own conclusions. But I ask you to walk with me through the changes the Republican leadership seeks to make in the anticrime law. I suspect the merits will speak for themselves.

At the same time, I want to make clear what I will fight for and what I will fight against, as we revisit the issues debated in the crime bill last year so thoroughly. Let me turn first to the central provision of the present new crime law, a program designed to address the first major law enforcement shortcoming I mentioned, a program that deserves, in my view, to be preserved and one I will fight to save from the Republican chopping block. Let me speak first about that program.

That program puts 100,000 new police on the street. I do not know a responsible police leader, an academic expert, a public official who does not agree that putting more police officers on our streets back home and in our neighborhoods is a good idea, a good idea that goes by the name of community policing. The true innovation of community policing is that it enables police officers to pursue dual goals. They are better positioned to respond to and apprehend suspects when crime occurs. But they are also better positioned to keep crime from occurring in the first place.

Today, too many police officers are strangers in their own communities. From headquarters or cruisers, they respond to radio calls only after crime has occurred, forever behind the curve. Police officers are a part of their community. Community police officers will be a part of their community. They know their community—the hot spots, the troublemakers, the gang members—and they can work to prevent crime in the first place.

I do not want to go back to a nostalgic and romantic view of what used to be the case. But most of us who grew up in anything that remotely resembles a city or a town that had an identity when we were kids, those of us in this Chamber, when we were kids, we knew the local cop. He walked down the street. He knew everybody. He knew who owned what store. He knew the kids who were troublemakers and those who were not. We knew if we got into trouble, he would call our mothers or call our fathers.

Things have not been working too well is for a whole range of reasons—mainly the shortage of bodies—but one of the reasons is that we have moved away from community policing. In my own State, community policing took the form of foot patrols with a particular focus on breaking up street-level drug dealing that had turned one of Wilmington's neighborhoods into a crime zone. These efforts successfully suppressed drug activity without displacing it to another part of the city. The Wilmington example fits the shorthand description often used for community policing; that is, putting cops on the streets to walk the beat. But in practice, community policing takes on many forms, depending on the needs of any particular community.

The form of community policing takes various forms. From community to community, the results coming in from the field are all the same: Community policing works. In New York City, a place where crime can seem insurmountable, the police commissioner began an aggressive community policing program that contributed to a significant decrease in serious offenses last year.

EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. THOMAS). The time for morning business has expired.

Mr. BIDEN. Mr. President, I do not want to ask unanimous consent to continue morning business if my friends are ready to go on the bill. I do not want to do that. But, if they are in no hurry, I would ask unanimous consent to continue for another 15 minutes.

Mr. CRAIG. Mr. President, there others who are seeking time for morning business, including myself.

How much more time does the Senator feel he needs?

Mr. BIDEN. About 15 minutes.

Mr. CRAIG. All right. Mr. President, I ask unanimous consent that we be in morning business until 10:45 with 15 minutes allotted to the Senator from Delaware and 15 minutes allotted to the Senator from North Dakota, and the balance of the time for this side, until the hour of 10:45.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Delaware.

Mr. BIDEN. I thank my colleague from Idaho.

Mr. President, with the New York City community policing, since they instituted community policing, murders have dropped 19 percent, robberies have dropped 16 percent, burglaries went down 11 percent, and auto thefts were reduced to 15 percent.

In Tampa, FL, police committed themselves to moving crack dealers off the street corners and forged an unprecedented alliance with the citizens of the community to achieve that. Through a combination of standard buy-bust operations, new outreach to the community involvement of other city agencies and local media, the dealers have been driven off within a year and the streets within the targeted area returned to normal.

In New Haven, CT, one of the most innovative police chiefs in the Nation, Nick Pastore, with his aggressive community policing effort, led to a 10-percent drop in serious crime in the year 1992, the last time we have the figures.

Policing community techniques were introduced in the New York subway system 4 years ago, and the results have been phenomenal. Robberies have fallen by 52 percent. In the Inglewood section of Chicago, community policing is credited with a 6-percent decrease in violent crime last year.

The new anticrime law enacted last year targets $8.8 billion in funds to State and local law enforcement to be used specifically to train and hire 100,000 community police officers across the Nation. Like community policing itself, this program works. Already, the Justice Department has awarded almost 15,000 new officers to State and local communities.

All of these are local officers with no Federal control, no Federal mandate. These are local cops for which the Federal Government is kicking in $70,000 per cop.

In short, in only the first 6 months following the passage of the new crime law, almost 15,000 new police officers will be on the street. So much for the critics who claim that the new crime bill would fund only 22,000 police officers in 6 years. We have almost 15,000 that will be on the streets, new ones, in 6 months; not 22,000 in 6 years as our critics say. In fact, the law will fund 15,000, as I said, in the first 6 months alone, and we will be well on the way by the time the first year is over to surpassing the 20,000 mark.

The effectiveness of the cops program derives from its design. The cops program is a result of setting a precise goal, and enacting in a responsible program to achieve a precise goal. When he took office, President Clinton called on us to put 100,000 more police on the streets over the next 6 years.

To put it another way, we have roughly 530,000 local police officers in all of America, State cops to town cops to county cops. At the end of the process, there will be 630,000 cops on the streets of America. Already, that number will be up by 15,000 at the end of the first 6 months.

So he asked us to put 100,000 cops on the street. We then designed a program that funds that effort and that effort alone. The Federal dollars were awarded for the sole purpose of hiring new police officers so that in 6 year's time America will have 635,000 police doing community policing.

The position of this program stands in stark contrast to the Republicans' new law enforcement block grant which would spend roughly the same amount of Federal funds—to be specific, $8.5 billion—without guaranteeing a single, solitary additional cop back home. Read their proposal. Money is sent, not like it is now directly to a police department to hire a cop locally. Money will be sent to Governors back in our home States. With that money the Governor, out of that $8.5 billion we are going to send to the Governors now—not to the police—they will be able to hire or pay overtime to undefined law enforcement officers, or to procure equipment, technology or other material that is directly related to basic law enforcement functions, such as the detection or investigation of crime or the prosecution of criminals.

That may sound fine on the surface. But let us look at it a little bit closer. Let us call this what I call the first weakness of the Republican change. I call it the officer loophole because the Republicans do not define law enforcement officers as career officers dedicated to enforcing the criminal laws, as it is defined in the Biden crime bill. Indeed, the Republicans do not define law enforcement officer at all in their new crime bill.

Let us call the second weakness what I call the equipment loophole. The Republican proposal would fund any equipment or technology related to law enforcement functions, and those functions are specifically defined to include prosecution.

These two loopholes mean that the Governor of a State who will get the money now—it will not go to your local police department. It is the same old bureaucracy that is going to be set up. Right now all the police department has to do, they do not have to go to get anybody's permission. They can make an application. Once they check with their local government, their local civilian officials and send an application directly to the Attorney General of the United States, and the Attorney General of the United States can send back directly the money to hire those new local cops. But now we are going back to the bad old days, which is the Governors sit there and say, This is what I want to do with the money. Send me the money. I will take care of it. The two loopholes I mentioned means that the State can spend all of their money to hire prosecutors, all their money to improve the court systems or anything related to law enforcement. Arguably, the money could even be used to hire officers to enforce the civil laws as well as the criminal laws in the State. For example, the Governor could use the money to hire public health officers; they could use the money to hire the public health officers to inspect restaurants and businesses.

Equipment as defined by the Republicans could include not merely police equipment, which the new anticrime law already grants a portion of funds to provide for new equipment, but it could—in this case, they could use this money, which was heretofore only to be used to hire a cop, to buy computers for prosecutors or judges or telephone booths or lighting or whatever the Governor decided would relate to law enforcement functions. And 100 percent of the Federal funds could be used for this equipment, or to fund prosecutors, or to pay judge's salaries, without one single penny having to go to hire an additional cop.

I support many of these functions. In the crime bill, for example, we provide for a significant amount of money to the States to hire State judges. We put in money for new equipment. But we segregate, in the present crime law, almost $9 billion. It says you must hire a sworn officer, that is somebody who is a criminal law enforcement officer. That is all you can do with the money now.

This new law proposed by the Republicans will, in fact, guarantee that we will not get 100,000 cops on the street. I am opposed to replacing the program that guarantees 100,000 new cops on our streets with the proposal that could spend over $8 billion in Federal funds, without putting any new cops anywhere.

The Republican proposal suffers from an additional fatal flaw. It requires no fiscal accountability or responsibility. I find this fascinating. They are talking about tightening the budget, tightening spending. Here they are going to take over $8 billion, with no accountability, and send it back to the States. Why do we not just have plain old revenue sharing? Why call this a crime bill? The bill uses a formula to simply hand out Federal funds to officials, with no strings attached and no accountability. That sounds great, does it not?

Well, the anticrime law requires that States and localities match Federal grants with their own money. And this match requirement is not born out of a lack of generosity on the part of the author of the bill, me or anybody else who voted for it. The offer of $8.8 billion in Federal funds to assist what is purely a State and local function can hardly be characterized as not being generous. No, the reason I wrote in a match was to require accountability, a match required born out of experience.

I started my career as a county councilman, and I know how local officials work. God bless them, they have a tough job. We would sit there in budget meetings when I was a county official, councilperson, and somebody would say, well we are going to buy a new park, or do this in the park, or we are going to add two more police, and I or somebody else would say, how much is that going to cost? I am not exaggerating when I say the answer would come back that it will not cost anything. Wait a minute, you just said we are going to hire two new cops. They said, that is Federal money. That is Federal money, and it is not going to cost anything. Well, it is my tax dollars.

So I found when a county or city has to put up some money for a program, they think twice about whether or not they really want it. Remember the allegations in the old LEAA Program, where police departments are out buying Dick Tracy wristwatches, purchasing riot control gear in small towns that never even thought about a riot? In the LEAA Program, we went a long way to begin to work toward using our money wisely. We built in three key concepts. We targeted law enforcement to aid specific programs; required a match of one State or local dollar for every three Federal dollars that we spend, and required extensive State plans to explain what they are going to use the Federal dollars for. We do not demand that they do anything, except tell us what they are going to use them for.

The resulting law was what we called the Byrne Grant Program, which is a predecessor to this crime bill, a fiscally responsible, well-run program that continues today. The same concept marks the essential elements of the anticrime law for 100,000 cops. In fact, we even improve the Byrne concept in one respect. We permit localities, not just Governors, to apply directly for the funds to ensure that the money gets where it is most needed.

I think my Republican colleagues should go back and look at the experience of LEAA before they pursue their proposal of block grants for police and any other purpose. Their proposal is an $8.5 billion giveaway of Federal dollars with no specific goals, with loopholes, and loose language that would permit every cent to be spent without any increase in police on the streets to show for our investment at the end of the 5 years.

In contrast, the anti-crime law enacted last year, which was bipartisanly constructed in the first instance, builds on the LEAA lessons. It sets specific goals, provides a simplified application, requires accountability for evaluation and matching requirements. In addition, the matching requirement is set up so the local share increases from year to year. In this way, we ensure that local dollars are to be used responsibly.

I see my time is coming to a close. Those who say, wait a minute now, BIDEN, under your bill that is now law, you required the States to kick in money. I say, yes, that is right. They say, well, in our bill we do not. Well, I ask a rhetorical question. This bill they are going to offer is a block grant for 5 years. Say they go out and hire cops for the local communities with block grant money and we pay for all of it for 5 years; what happens at the end of 5 years? The Federal Government is guaranteeing that we are going to take over local law enforcement costs for the rest of eternity? Is that what we are saying? No. In 5 years, the mayor has to go back to the taxpayers and say, hey, now we have 50 cops on the street, 10 are being paid for by Federal dollars. We no longer have those Federal dollars. Now I have to raise your taxes or cut the 10 cops.

Is it not wiser to make that decision at the front end, where you have to go to the voters or your community and ask, do we want more cops? The Federal Government will give us $70,000 to start off here, to keep this cop for 5 years, and we are going to have to kick in probably $50,000 over that 5-year period. At the end of the process, we have to pick it up. What do you want to do? I think it is time we asked citizens to be as responsible as legislators should be and are not. That is, if you want to have more cops, it costs money, flat out. It costs money.

The local officials should have the guts to go to their constituency and stop talking about how tough they are.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho [Mr. CRAIG] is recognized.

FEDERAL LANDS ACT FOREST HEALTH AMENDMENTS OF 1995

Mr. CRAIG. Mr. President, along with Senators HEFLIN, MURKOWSKI, GORTON, DOMENICI, BURNS, PACKWOOD, KEMPTHORNE, and a statement of support from the minority leader, Senator DASCHLE, I will, in the near future, introduce the Federal Lands Act Forest Health Amendments of 1995.

Mr. President, for some time I have attempted, along with others, to bring to the attention of this Senate the serious deterioration of this country's forest lands from a variety of ills, including drought, insect and disease attacks, and natural wildfires. We have come to understand that these problems, in combination, affect millions of acres of Federal, State, and private forest lands, and they have advanced to a point that they simply demand the attention of this Congress.

It should be no surprise to any of us. Numerous recent reports from the scientific community, one of them called "Assessing Forest Ecosystem Health in the Inland West" and the "Report of the National Commission on Wildfires," predicted intense wildfire events as a consequence of the forest health problems that this legislation will speak to. Many believe these costly fires will continue, unless there is an aggressive action by man to work with Mother Nature in attempting to deal with this situation. Scientists and forest managers met in Sun Valley in my State in 1993, and warned us with a very terse message, that we had "A brief window of opportunity, perhaps 15–30 years in length"—and in the life of a forest, that is but the blink of an eye—to reverse this very unnatural cycle of fire that we were moving into.

And, of course, last summer, it was so vividly dramatized in the inland West, as 4 million acres of unhealthy timber burst into fire, killing people, destroying homes, destroying ecosystems and wildlife and damaging riparian areas, and at a cost of $1 billion to the Federal Government in its attempt to suppress these fires, when, in many instances, they simply had to back away and watch the violence of the fires and the destruction that occurred.

Do not be misled by those who proclaim that wildfire is beneficial to the environment because of a natural mosaic of vegetation that would be created. The 1994 fires were way outside the normal and the historic range. Damage to every component of the environment was so extensive that it will really cost us hundreds of years to begin to repair that kind of damage. A draft environmental impact statement just released by the Boise National Forest in my State documents long-term, severe damages to watersheds, soils, fisheries, and wildlife from last summer's fires that will be, as I mentioned, decades and decades and decades in repair.

The only way we can deal with this serious problem is to develop and implement equally serious management strategies and allow our national forests, our foresters in the scientific community to break the cycle of the forests that are in decline with this kind of mortality as a result of the disease, the insects, and the drought.

My bill, titled the "Federal Lands Act Forest Health Amendments of 1995," is an attempt to do just that. It is now gaining bipartisan support. We will want to move it very rapidly through the two committees of jurisdiction and bring it to the floor of this Senate for debate, while a similar bill will move in the House.

This bill will set the management procedures in place to identify the highest priority forest health problem areas on the national forests, the public lands managed by the Bureau of Land Management and the public domain wildlife refuges. Once the areas are identified, this bill requires the agencies to take aggressive action to restore forest health. Most notably, the legislation would relieve some of the procedural impediments which have tied the agencies' hands. Our aim will be to alter unhealthy forest vegetation through thinnings and other cultural practices so the forest more nearly conforms to the historic patterns which once prevailed. Once there, the forest ecosystem can be maintained through scientific management.

I see this forest health legislation as a long-term solution to the problem at hand. Years of concentrated effort will be needed to treat millions of acres now in trouble and restore them to conditions which are within the expected natural patterns and cycles. Though our western forests are in particular crisis now, forest health problems have surfaced in southern forests as well as in the northeastern and Lakes States, and this legislation would be very useful in those circumstances.

As with most difficult situations, there is an opportunity here. As forest health activities are implemented, benefits will be gained for fish and wildlife habitat, water quality, scenic values and for all components of the ecosystem. That is the end result we want. At the same time, the activities needed to accomplish that end will generate forest products, jobs, and economic returns to the local economies which have been badly hurt by the shrunken timber supply.

We do not need to be risking lives and property fighting these unnatural wildfires. We don't need to be spending a billion dollars on fire suppression when we could be taking effective preventive action to reduce risk. We do not need to watch our natural resources go up in smoke when there is a critical need for wood fiber to sustain our industry and communities. Forest health crises are preventable, and I am committed to bringing solutions before the Congress. That is why I will introduce this legislation.

Our time, our window of opportunity, as I mentioned, is very narrow. I hope that my colleagues will join with me in a serious effort at working with the Forest Service to resolve the crisis that our forests are now in.

Yes, for the time being, we are receiving abnormally high moisture levels in the inland West. But still, over the long period of drought, the accumulated moisture continues to decline, and along with that is the direct decline of the forests' health. Clearly next year, we would set ourselves up for another summer of fire and destruction and, tragically, the possibility of life lost, the kind that we saw in Colorado, in my State of Idaho, in Oregon, in Montana, and certainly in Washington and California this past year.

Something has to be done. I believe my legislation will start us in that direction. And it would be foolish for this Senate, this Congress, this administration to simply sit idly by and say, "Oh, but it is Mother Nature at her finest." It is Mother Nature at her worst, because part of the problem that we are dealing with is the result of our inability to manage fires over the years and our failure to recognize that there was a national ebb and flow of the ecosystem that we have severely damaged and it will take our work, our efforts, and our cooperation with Mother Nature to begin to right this process.

So I hope my colleagues will join with me in this effort and become cosponsors of the legislation that we will be introducing.

Mr. GORTON. Mr. President, legislation will be introduced soon that takes our Nation an important step closer to avoiding devastating wildfires in our national forests. I am proud to be an original cosponsor of the legislation to be introduced by the senior Senator from Idaho—the Forest Health Amendments of 1995.

Last year, wildfires raged across the Western United States. The fire season started in early summer and by the time the smoke had cleared nearly 3 million acres of land in the Western United States had burned—double the amount of 1993. In the States of Washington and Oregon alone, nearly 1.4 billion board feet of Federal timber burned.

Last summer, after listening closely to the concerns of Washington State residents, I offered an amendment during the House-Senate Interior Appropriations conference to provide the Forest Service with the authority to expedite these salvage sales. Unfortunately, I could not convince the members of the conference committee to include my amendment in the report. And, unfortunately, the burned timber is still sitting on the ground.

Today, most, if not all, of the 1.4 billion board feet remains on the ground in Oregon and Washington. Obviously not all of the 1.4 billion board feet of timber that burned last summer would be eligible for harvest. According to the Forest Service calculations, usually 50 percent of the total volume burned in a wildfire can be salvaged. Consequently, roughly 700 million board feet is eligible for some type of salvaging activity. But, once again, the Forest Service has made only token efforts to prepare the sales necessary to get in and get up this valuable timber. The urgency is based upon the fact that burnt, dead, or dying timber loses its value rapidly.

The ramifications of inaction by the Forest Service in preparing these sales is twofold: These sales will provide small sawmills and logging companies in the Northwest—literally on verge of going out of business—some much needed wood supply. Beyond this, it is critical to remember that if the timber is left to rot on the forest floor it will be setting the stage for yet another devastating fire season this coming summer. Mr. President, inaction on the part of the Forest Service not only hurts working people, but it also hurts the environment.

Regrettably, inaction is exactly what we are getting from the Forest Service. In response to the wildfires from last summer the Forest Service began to study the forest health issue. Last December the Service issued a report on its study entitled the "Western Forest Health Initiative." The report highlighted 330 forest health-related projects in the Western United States. The majority of these projects, however, were not developed in response to the wildfires of the summer. For instance, in Washington and Oregon, only 40 projects were identified in response to the summer fires. Of the 40 projects, only a few were actual salvaging operations.

Mr. President, the people in my State are asking themselves "why?" Why isn't the Forest Service going into the burned out areas and getting up the timber? Why isn't the Forest Service restoring the health of our forests, and putting people back to work? The answer is, of course, in large part driven by the fact that the Forest Service will most likely go to court if it begins even a modest effort to conduct salvage operations.

Mr. President, the people in my State are frustrated. They are frustrated with a Federal Government that is so petrified by the potential filing of law suits that it will not undertake even the most limited of management activities in our Nation's forests.

The legislation to be introduced by the Senator from Idaho would ease some of this frustration. The Forest Health Amendments of 1995 would require the Secretaries of Interior and Agriculture to conduct a yearly review on the status of the health of our Nation's forests. The bill would continue to grant the right to appeal a project, but would limit the timeframe for such an appeal. The bill grants the authority to allow for an environmental assessment on an individual project versus the more costly and time consuming environmental impact statement. The bill would also allow for the Forest Service to prioritize forest health needs as an emergency or high-risk area.

The legislation to be introduced will not be enacted soon enough to conduct salvage operations in response to last year's wildfires. This Senator has already begun to work with his colleagues in the Northwest congressional delegation to put together an amendment that will address the salvage sitting on the ground from last year's fires, and other short-term timber supply issues for the region.

Mr. President, this legislation will provide the Forest Service with some much needed direction. We cannot, and should not, stop managing our forests because of the obstructionist tactics of a few groups and individuals. If we do, we will be confronted with devastating wildfires—like last year—on an annual basis. I encourage my colleagues to work with this Senator and the Senator from Idaho to enact this legislation, and bring some common sense back to the management of our Nation's forests.

Mr. DOMENICI. Mr. President, my colleagues should be well aware of my sentiments toward a runaway train, known as the Federal bureaucracy, and its effect on individuals and small businesses in this country through the regulatory process. I have spoken of this situation, here on the floor of the Senate, in the past. My colleagues should also be well aware of my commitment to the principle of multiple-use regarding Federal lands. This principle was established in the Federal Lands Policy and Management Act of 1976, known as FLPMA.

Today, I am here to support an effort to streamline a part of the regulatory and decisionmaking process regarding the management of federally controlled forest lands. In the course of this section, I am also hopeful that we will aid individuals and small businesses whose livelihoods depend on the sustainable development of our forest resources.

Mr. President, I am here today as a cosponsor of the Federal Lands Act Forest Health Amendments of 1995, to be introduced by Senator CRAIG. These amendments are, indeed, needed, as we all witnessed the tragic losses of life and property to fires that devastated many areas in the Western United States this last year, including parts of New Mexico.

In regard to the issue of forest health addressed by these amendments, I have read report after report, each describing how the state of affairs in the forests administered by the U.S. Forest Service and the Bureau of Land Management are in decline. At the same time, I have heard over and over how every step that the professional land managers we have entrusted with the care of these treasured lands is challenged through either administrative appeals or in the courts. These endless challenges, no matter how well intentioned, have tied the hands of the land management agencies to the point that almost every activity related to scientifically supported treatment of even the most devastated areas is effectively halted.

Mr. President, this must stop. I believe that this legislation will be a significant benefit to our forests, and the people who live and work in and around them. It will establish criteria that will allow the responsible agencies to place areas most in need of corrective management in a high priority designation of either emergency or high-risk forest health areas. Further, when we say emergency, we mean emergency. One of the criteria for designation as an emergency area is that 50 percent of the trees are either dead or will likely die within 2 years. Let me repeat that standard for emergency designation: half of the trees are either dead or will soon die.

Included in the decision to designate an area as a forest health emergency or high-risk area will be a listing of the authorized corrective activities that will be undertaken to improve conditions in the affected areas. None of these management activities will be beyond the scope of actions already approved in the appropriate land management plan.

This is an innovative approach to expedite the bureaucratic process, and one that will create a finite time from proposal to actual on-the-ground activities. This should, by no means, indicate that we here in Congress are trying to keep the public from participating in the process. We provide for a public comment period following the publication of the proposal in the Federal Register. We are also not attempting to cut off the opportunity for appeals. A period during which appeals can be filed is also required. We are quite simply providing a process by which constructive and corrective actions can be applied in the most dire of circumstances, where the continued inaction that occurs under the current system can only result in further degradation of our treasured forest resources.

Finally, Mr. President, this legislation will require the Secretaries of Agriculture and the Interior to report annually to the Congress on activities carried out under this provision. In this report, the Secretaries will also inform the Congress of the current status of forest health on Federal lands, describe problems that have been encountered over the previous year, and indicate initiatives expected for the next year.

In closing, I want to commend Senator CRAIG for his commitment to resolving the problems faced by the Federal land management agencies, and for his leadership in bringing the issue of forest health to the forefront here in the Senate.

Mr. KEMPTHORNE. Mr. President, first, I would like to commend my colleague, Senator CRAIG, for bringing this issue to the floor of the Senate for debate.

As some of you will remember, last summer catastrophic forest fires swept across the west. Governors were forced to declare states of emergency. We saw devastating loss of life—and I ask you to recall for a moment the 14 firefighters who lost their lives in Colorado, there were other as well—of property, of habitat, and of economic resources that rural communities in States like Idaho depend on.

Some of these fires burned so wild and so hot that we could only wait for winter snows to put them out. But when the final fires were controlled, and the tallies taken, the numbers showed that my State of Idaho suffered the most timber lost of any State—over 1.5 billion board feet—enough timber to build over 137,000 homes, and to provide jobs for up to 35,000 people.

Idaho was not alone. Our neighboring States suffered as well. The Forest Service alone spent $757 million fighting fires across the west. That does not include the expenses by BLM, the States, and other agencies.

I would like to be able to tell you that this past summer was a fluke and that it hadn't happened before, and won't happen again. But that is not the case. These forest fires will come again. High fuel loads, long-term drought that made our forests susceptible to disease and insect infestations are all still threatening our forests. Huge stands of dead and dying timber are ready and waiting to go up like a tinderbox again next summer or the summer after that.

We cannot bring the rain to end the drought—that talent is in higher hands than ours. But we can take action with the tools that were given to us. We can manage those forests so that they provide the timber, the habitat, and the recreation opportunities that we depend on. This bill will give the Forest Service the flexibility to manage forests in a timely manner to get salvage sales out within the window of opportunity.

Keep in mind that not all of that 1.5 billion board feet of timber damaged in the fires had been approved for timber harvest. Far from it. The local forest supervisors have taken into consideration habitat and other environmental requirements, and have set aside possibly as much as 90 percent of the timber that was burned to meet other needs besides economic ones. But the remaining timber is harvestable, and if we do not expedite the handling of that timber, and harvest it within the limited 2-year window of opportunity, then the value of that wood is lost.

Rural communities of Idaho and other western States depend on the income from these Federal sales, for direct revenue and income for schools and county roads. This letter from the Cambridge School District explains the need of Idaho schools for a dependable, steady timber supply. I ask unanimous consent that the letter be made part of the RECORD.

It is Congress' responsibility to ensure that Federal agencies are serving the public efficiently and effectively. The timeclock is ticking. Let's serve the public we were sent here to work for, and pass this bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CAMBRIDGE SCHOOL DISTRICT #432–J,
November 15, 1994.

DIRK KEMPTHORNE,
Senate Office Building,
Washington, DC.

DEAR MR. KEMPTHORNE: The summer of 1994 saw catastrophic fires in many of our forests and a great deal of salvageable timber remains in areas burnt over. That salvage timber deteriorates rapidly if not recovered and it is in the best interests of our society to avoid waste of natural resources. Many of Idaho School Districts receive significant revenues from the sale of timber resources from the federal forests in Idaho to fund educational programs.

The Cambridge School Board would like to join and support a position calling for the salvage of recoverable timber in a manner consistent with sound environmental practice and to encourage the Forest Service and the Idaho Department of Lands to expedite that salvage to maximize local government revenues and to provide citizens of Idaho with expanded job opportunities.

Education funding in Idaho is greatly influenced by the use of natural resources in our state.

Sincerely,

CYNTHIA K. JONES,
Chairman.
SHARON M. STIPPICH,
Vice Chairman.
KATHRYN WERT,
Trustee.
DOUGLAS HANSEN,
Trustee.
ELLIS E. PEARSON,
Trustee.

Mrs. MURRAY. Mr. President, I rise today to speak about a very important issue in the Pacific Northwest: inland forest health. Earlier today, my colleague form Idaho, Senator CRAIG, spoke about legislation to address a serious forest health problem plaguing forests throughout the inland west. He very accurately described the problems of disease, insect infestations, and drought that are prevalent in many such forests, and which can lead to serious forest fires.

I commend Senator CRAIG for his work on this issue. He is correct that serious forest health problems exist in many areas, and he is correct that we should try to do something about it. The reasons are very simple. Healthy forests are essential to ensuring long-term economic sustainability in rural communities; they are essential to our standard of living; and they are essential to maintaining a healthy environment.

Growing trees provide many benefits. They shade spawning streams, they stabilize soil and prevent erosion, they provide wildlife habitat, they consume carbon dioxide and produce oxygen. They also provide wood for our home, paper for our schools, shelter for our communities, and recreation for the people. In short, they are many things to many people. If we strengthen our forests, we strengthen our communities. Of course, the reverse is also true. If we weaken our forests, we weaken our society in many ways.

So it is important that we do what we can to keep our forests as healthy as possible.

I would like to support a forest health bill. Given the passions inflamed when Congress starts legislating forest policy, I believe it is incumbent on us to proceed cautiously if we hope to achieve any results. Above all, we must not go too far. We need a forest health bill that addresses legitimate problems and reflects the public's view regarding management of our public lands.

I have already talked about some of these problems. What about the public view? We know the public enjoys its parks and wilderness areas. We know the public appreciates aesthetic, wildlife, roadless, and old growth values. But we also know the public has a voracious appetite for wood products. So, as is so often the case, our challenge and our responsibility as legislators is to strike the right balance.

I have a few concerns I hope can be addressed as we enter the forest health debate. I have touched on a few already: We need to make sure we are taking steps to address legitimate, serious problems. We need to avoid costly, catastrophic fires. The fires we saw last summer ravaged thousands of acres, cost a billion dollars to fight, and did no one any good. We need to avoid diseases and inspect problems as well.

We also need to keep in mind what's going on downstream. People in the Pacific Northwest have spent the last few years trying to refine the concept of watershed-based management. In Tacoma last year, Representative NORM DICKS any myself convened a conference of nearly a thousand people to discuss watershed issue. Agency managers, fishers, private land owners, wildlife specialists, water users, conservationists, and citizens of all types came together to recognize the importance of watersheds as a resource management unit.

We are finding more often than not many land-use questions are becoming aquatic questions. In other words, what happens downstream is quite often affected by what happens upstream. Our entire resource-based economy is connected one way or another by the streams and rivers that criss-cross the region.

I believe there is ample room for proactive management of forest health problems and consideration of aquatic issues. The connection between these two issue sets is a concept I would like to introduce in the debate over Senator CRAIG's upcoming legislation.

We also need to make sure management actions are science-based. The good news is that very few people in the scientific community disagree over management prescriptions that can help improve forest health. Just the same, I think it is important to make it clear that the goal of achieving good forest health, and the steps taken to reach it, are based in sound science.

Finally, I want to say a few words about the broader issue of ecosystem management. This is a concept that has been very popular in recent years. It suggests that active resource management and usage can be reconciled with strong conservation goals. It suggests we can make decisions on a broad basis so we can avoid stumbling into problems on a case-by-case basis. These are goals that I strongly support.

But the problem remains that ecosystem management is still just loosely defined. And of course, the devil is always in the detail. Last year, Senator HATFIELD introduced legislation that I cosponsored to define the concept of ecosystem management more clearly. The goal is to arrive at a set of principles or standards that can guide long-term resource management decisions.

I believe this is still the proper course of action. Until we have a clear goal in sight, it is not necessarily wise to proceed quickly with rifle-shot solutions to short- or intermediate-term problems that may not repeat themselves. So I encourage my colleagues, and people from the region, to consider some of the threshold questions that remain unanswered.

Mr. President, there are other issues that I have not touched on but which I hope can be discussed in the context of forest health. Again, I commend the Senator from Idaho for his work. I hope to work with him and other Senators from the region in a bipartisan way to come up with solutions that work for the people.

FEDERAL LANDS ACT FOREST HEALTH AMENDMENTS OF 1995

Mr. DASCHLE. Mr. President, Americans rely on the national forests for a wide variety of activities, ranging from timber harvesting to recreation and the conservation of wildlife. It is incumbent upon us to maintain those forests in the healthiest condition possible.

Unfortunately, throughout the country, and particularly in the intermountain west, forests are in poor shape. Persistent drought, disease, and insect infestation have created stands of dead and dying trees that pose a serious risk of fire. The forest fires that last summer burned thousands of acres of forest throughout the West and claimed the lives of men and women of the Forest Service provide bleak evidence of the problem. If we are to manage national forest ecosystems in ways that provide the services that Americans have come to expect, supply them in a sustainable manner and support the diversity of habitat needed to maintain fish and wildlife, then we must confront the forest health issue squarely.

Senator CRAIG will soon introduce the Federal Lands Act Health Amendments of 1995, which is intended to establish a more deliberate and timely process for dealing with forest health problems. I commend Senator CRAIG for focusing attention on forest health and look forward to continuing our collaborative effort on this issue and on the broader issue of ecosystem management. As a result of the Craig bill and the forthcoming discussions that it will generate, I expect Congress to develop a reasonable and effective response to this problem.

Over the last 2 years, as chairman and ranking member of the Senate Subcommittee on Agricultural Research, Conservation, Forestry, and General Legislation, Senator CRAIG and I held hearings on the management of the Federal lands. The subcommittee held two hearings on ecosystem management, a third on the new appeal process, and a fourth on the issue of forest health.

From those hearings, and through my experiences in working with wildlife managers, members of the timber industry and environmentalists, it has become clear that federally managed forests in some areas of the country suffer from problems related to drought, past mismanagement, and insect infestation and disease. The high incidence of tree mortality and fires in some national forests suggest that we still have much to learn about the causes of these problems and how to manage these complex systems.

The Forest Service and Bureau of Land Management should place a higher priority on dealing with forest health problems before they become worse. To do so effectively, several important steps should be undertaken.

First, forest health problems need to be better defined. We must develop a shared vocabulary so that all those interested in maintaining healthy forests can work together in common cause.

Second, scientific research should be conducted to identify problems and evaluate options. Only by relying on sound scientific data can we hope to proceed in an effective and defensible manner.

Third, and perhaps most importantly, we must set priorities. We must focus our attention on areas of greatest need, while ensuring that other issues are managed to prevent future problems.

And fourth, solutions must be developed and implemented in a timely manner.

Again, I appreciate Senator CRAIG's foresight and diligence in bringing to the attention of Congress the issue of forest health. This is a complicated issue that involves important objectives such as maintaining species habitat, ensuring that insect infestations and diseases are within a natural and healthy range, preventing soil erosion, and safeguarding the overall long-term sustainability of forest ecosystems.

The bill to be introduced by Senator CRAIG provides a valuable framework for addressing these critical issues. It will force Federal agencies to identify lands at risk and take concrete steps to improve forest health on those lands. In the long-run, the public should benefit by management activities taken as a result of this bill.

Senator CRAIG has expressed a desire to move this legislation through the necessary committees as expeditiously as possible. I support this goal, and look forward to participating in Agriculture Committee hearings on the bill. Concern has been raised that the legislation as currently written may provide overly broad discretion to the Federal agencies and that it may in some cases overburden those agencies with new responsibilities at a time when budget cuts hinder their ability to accomplish existing responsibilities. These issues merit further attention. Also, it is my hope that the Senate will examine the question of whether the bill assures sufficient opportunity for deliberation and analysis by the agencies and input by the public.

I look forward to working with Senator CRAIG to examine these questions and to move this bill through the appropriate committees and to the floor this year, so that we can begin to address forest health in a systematic, deliberate, thorough, and effective manner.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

REID AMENDMENT TO THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. CONRAD. Mr. President, I rise today in strong support of the amendment to the balanced budget amendment to the Constitution that has been offered by the senior Senator from Nevada, Senator REID, and others of us. The purpose of the amendment is to protect the Social Security trust fund from being looted as part of an effort to balance the budget.

Mr. President, I think it is important for people to ask when we are considering a balanced budget amendment to the Constitution: What budget is being balanced? That is what this first chart asks. What budget is being balanced?

In order to answer that question, I think it is helpful to go to the actual language of the balanced budget amendment that is before us. And if you look at the language, it says very clearly:

> Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

So, Mr. President, it is very clear that what we are dealing with with respect to the balanced budget amendment to the Constitution is that all of the moneys coming into Federal coffers are being jackpotted. They are all being put in the same pot. Whether they are trust funds or not trust funds, it is all being put in the same pot. And then we are going to look at those total receipts and compare it to total outlays.

I prepared this chart. This is kind of the teapot of the Federal Government budget. It shows the revenue that goes into the pot, and the revenues are the individual income taxes that are raised. That provides about 45 percent of the revenue of the Federal Government. All social insurance taxes go into this pot, including the revenue that is taken out of people's paychecks every month that is supposed to be for Social Security. All of that money is going into the pot. Social insurance taxes are about 37 percent of the revenue of the Federal Government. Corporate income taxes go into the pot. That is about 10 percent of the revenue of our Government. All other taxes are 8 percent.

And then we look on the other end of the ledger. We look at what comes out of the spending spout of the Federal Government. And here is the spending breakdown. About 22 percent of the outlays of the Federal Government go for Social Security, 16 percent is interest on the debt, 16 percent for defense, 14 percent for Medicare, 7 percent for Medicaid, and other, 25 percent.

So one can see in the balanced budget amendment that is before us what goes into the pot is all of the revenue and what goes out the spending spout are all of the outlays.

The problem with this balanced budget amendment is that in using all of the Social Security income in counting whether or not you are balancing the budget, Social Security is not contributing to the deficit. Social Security is in surplus. And Social Security is in surplus for a reason. The reason is to prepare for the time when the baby boom generation retires. Because then these Social Security surpluses are going to turn to massive deficits. And so the reason for accumulating surpluses is to prepare for the time when the baby boomers retire.

The problem is, the money is not being saved. The problem is, under the balanced budget amendment that is before us, we are going to put into the Constitution of the United States that those Social Security surpluses, instead of being saved, will be looted in order to give us a balanced budget or contribute to balancing the budget.

Mr. President, this chart shows, just over the 7 years that the balanced budget amendment is to lead us to a balanced budget, how much of the Social Security surplus will be taken each and every year.

This is the amount of Social Security trust fund money that will be looted in order to balance the budget.

In 1996, $73 billion of Social Security surplus will be taken. We can see each and every year those surpluses are mounting. They are increasing. Under the terms of the balanced budget amendment that is before this body today, unless it is altered by the Reid amendment, every one of these dollars is going to be taken. Every one of these dollars will be looted in order to contribute to balancing the budget. That is profoundly wrong, Mr. President.

We can see, as I said, $73 billion of surplus from Social Security in 1996, $78 billion in 1997, $84 billion in 1998, $90 billion in 1999, $96 billion surplus in the year 2000, $104 billion of Social Security surplus in the year 2001, and $111 billion of surplus in the year 2002.

Every nickel of that surplus taken, not to have a fund that is available when the baby boomers retire; but no, every penny taken in order to contribute to balancing the budget.

Mr. President, let me just say that if any chief executive in this country stood up before his board of directors and announced that in order to balance the operating budget of the company, he was intending to loot the retirement funds that were held in trust for his employees, he would be headed for a Federal facility, and it would not be the Congress of the United States.

I said the other day that this amendment, as drafted, the balanced budget amendment before Members, as drafted, would make the Rev. Jim Bakker proud. Remember Rev. Jim Bakker? He went to a Federal facility, the Federal prison. He went to Federal prison for fraud. The fraud he was conducting was to raise money for one purpose and to use it for another. That is precisely what is being contemplated in the balanced budget amendment to the Constitution that is before Members today. That is fraud. It is fraudulent to tell people you are raising money for one reason, namely, to build a trust fund surplus that is available for them when they retire, but on the other hand not to create the surplus at all but to loot the fund and to use it for other spending.

We would be putting in the Constitution of the United States that that is what would be done. Mr. President, that is so profoundly wrong I cannot even fathom how those who have written this amendment think it ought to be included.

There is not any financial institution in this country that would accept for one moment the notion that we should take trust fund moneys and use them to balance an operating budget.

Mr. President, I showed the surpluses, $636 billion, that are contemplated under the balanced budget amendment that is before Members today to be used to help balance the budget over the next 7 years. That is a small part of the story. That is just the next 7 years. The real larceny, the real theft, the real fraud, is far in excess of $636 billion. That is just what will be taken in the next 7 years.

We know Social Security is going to be running surpluses for much longer than the next 7 years. In fact, it will be running surpluses out past the year 2020. When we look at the projected size of the Social Security trust funds out until the time the baby boomers have retired and start to draw down those surpluses, what one sees is simply staggering.

These bars on this chart show the Social Security surplus as it accumulates. It shows by the year 2000, there will be almost $1 trillion of surplus. By the year 2010, $2.1 trillion—not million, not billion—trillion. This is real money, 2.1 trillion of surplus; $2.8 trillion by 2015; $3 trillion of surplus by the year 2020.

Mr. President, when the baby boomers go to the cupboard to get their surplus, their retirement, they will find the money is all gone. It has all been used. It has all been looted to help balance the rest of the budget of the United States.

This will create a financial catastrophe for the future. That financial catastrophe will be when the baby boomers retire. Having been made a promise, they will find no one can keep the promise, because in order to pay back this money, the tax increases would have to be so draconian, or the cuts in benefits so draconian, that the people of the United States would simply revolt.

Mr. President, this chart shows what has happened in terms of the growth of payroll taxes both for Social Security and Medicare from 1940 out until the present. What one can see is that these regressive taxes have been increased very dramatically over this period of time in order to make these funds supposedly add up.

The problem again, of course, is that these increases, these increased taxes that have been levied on the American people, have been used. And they have been used to balance other parts of the Federal budget. Or at least to reduce the deficit of other parts of the Federal budget.

One reason that this is profoundly unfair is because, in essence, what has happened is people are being taxed on their payroll, on the amount of their wage earnings, and they are having an increasing amount taken out. They are being told, "We are taking this increasing amount because we have to run a surplus; we have to get ready for the time when those of you who are in the baby boom generation retire." That makes sense.

Unfortunately, what we say and what we do are two completely different things. We are not running surpluses in order to prepare for the time when the baby boomers retire. Instead, we are taking that money, we are taking those surpluses, and we are using it to offset other spending. So, in effect, what we are doing is levying a regressive payroll tax and using part of it, the part that makes up the surplus, to fund the other operations of Government.

In fact, 73 percent of all taxpayers today are paying more in payroll taxes than they are paying in income taxes. I think this may come as a shock to many people. It is true: 73 percent of all taxpayers are paying more Social Security payroll taxes than they are paying in income taxes. They are doing it because we have told them the money is needed to create surpluses to prepare for the time when the baby boomers retire. The fact is that that is not what we are doing. We are taking the Social Security surpluses, we are looting them, in order to reduce the deficit.

Now we have a proposal before Members in the balanced budget amendment to the Constitution of the United States, the organic law of this country, that would take this practice and enshrine it in the Constitution of our country. I cannot think of anything more inappropriate than to put into the Constitution of the United States that we are going to take trust fund surpluses and use them to help balance the operating budget of this country.

Mr. President, I come from a financial background. If anyone, as I was being schooled and taught how to properly manage finances, had told me, "You take trust fund money and you use that to balance other parts of a budget," that person would have been run out of the financial institution because everyone understands that that is absolutely inappropriate.

For Members to put into the Constitution of the United States that we will take trust fund surpluses and use them to balance the other parts of the budget is profoundly wrong. That is the reason the Reid amendment is so important, because it gives Members the chance to protect Social Security trust funds from being looted for other purposes.

Mr. President, I do not know of anything more basic than this concept. I do not know of anything that is more important when we are considering a balanced budget amendment to the Constitution than to make certain the trust fund moneys, Social Security trust fund surpluses, are not looted in order to balance other parts of the budget.

So, Mr. President, let me just conclude by thanking my colleague, Senator REID from Nevada, for offering this amendment. There are others of us who have joined with him in offering this amendment, and I urge my colleagues to support it. I thank the Chair and yield the floor.

Mr. CRAIG. Mr. President, I yield the remainder of my time to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I thank the Senator from Idaho for yielding this time. What is the order of business?

The PRESIDING OFFICER. Morning business under the current order is until 10:45.

FOREST HEALTH PROTECTION AND RESTORATION ACT

Mr. BURNS. Mr. President, I rise today in support of the Forest Health Protection and Restoration Act, to be introduced by Senator CRAIG, myself, and others. This is a bill that is very important to my State of Montana and whose time has come. Forest health and management is paramount to the economic stability and future of Montana and, of course, our neighbors who depend on these renewable resources which support our smaller communities in Idaho and Montana.

For too long, the various land managing agencies in the Federal Government have been telling us that there is not a problem with the health and vitality of our national forests and Federal lands. On January 20, I had a report placed in the CONGRESSIONAL RECORD regarding this very topic. It appears that the Forest Service had requested a report on the state of the health of western forests, and after review decided that the report did not meet the standards that they had desired, changing the report before its publication could reach Congress and the public. It is the intent of this legislation to make the Forest Service, the Bureau of Land Management, and all organizations more responsive to the oversight of Congress. I do not think that was the intent of the legislation. I am sure it was not.

This act, the Forest Health Protection and Restoration Act, recognizes the removal of the problems that crept into our forests as essential to the future of our Federal lands. This act acknowledges the plain and simple truth that overgrowth in our forests is a problem that must be faced in our lifetime. The removal of old and heavy undergrowth is essential to sustaining and developing a healthy forest for the future. The purpose of this legislation is to provide for the future through proper management and the authority to adapt a flexible decisionmaking process to our Federal lands for forest health.

We looked at our forests in the northern part of Idaho and the northwestern corner of Montana and advised the Forest Service and land managers years ago that if we did not do something with the biomass that was created by some dead and dying trees—we had a moth up there that killed a lot of trees—if those diseased trees could not be removed from our Federal lands, all we need is a dry year and a high lighting year, and we are going to experience the biggest fire season that we have ever had.

I am here to tell the American people, last summer we had that fire season. There were millions and millions of dollars in fire suppression spent, lives were lost and there was an estimate that there was enough timber lost to build thousands and thousands of homes in this great country, of which we still have a housing shortage.

I joined in sponsorship of this measure so that the citizens of Montana can have an opportunity to address their future. This bill when enacted will provide this chance. No longer will Montanans be at the mercy of the actions and whims of people many miles away, with no vested interest in the forests, lands that they tie up with numerous nuisance lawsuits. Under the powers granted within this measure, we will provide safety to those people under emergency designations that will allow forest management the ability to open, for health reasons, forests to treatments. This legislation will expedite the manner in which resource managers will be allowed to assist in therapy for the forests, which for years, have been left to their own devices, namely fire and disease, for treatment.

Last summer I saw in Montana the results laying in waste and ash, of the disregard that many have for proper forest health. Earlier in the year, during an Appropriations Committee hearing, I warned the leadership of the National Forest Service of the pending disaster waiting to occur in the forests of northwestern Montana. A disaster, which highlighted the occurrences if proper forest health issues were not addressed immediately. During one of the most costly fire seasons in history millions of dollars of taxpayer money was expended, and millions of feet of timber, to were lost to the fires that ravaged our national forests last summer. Lives were lost, private property destroyed or damaged; all because we did not address the need to maintain the health of our national forests.

We cannot return the forests to what they once were, hundreds of years ago before man set foot among the trees. The time has come when we can no longer allow fires to cure the needs of the forests of this country. There are many ills that can attack and destroy the trees and the beauty and health of our publicly owned lands. Nature can and will work to care and clean up the messes that we create, either through our own ignorance or neglect. The implementation of this legislation will provide us the working tools to begin to look after the future health and welfare of our public lands. The work we are seeking to develop here is not to promote the wholesale depletion of the land, but to allow the country to use and develop a healthy forest using the renewable resources that are at hand.

This piece of legislation is very important to Montana, to the West and the Nation. For under this act we can, and will provide for the future of our national forests and Federal lands. By opening our eyes to the problems that lay among our forests we will see a cleaner, more vibrant and stable forest than we have for years. I ask my fellow Senators to act quickly on this measure and let us repair and rehabilitate the great forests of our country.

I congratulate my friend from Idaho for his work in drafting this piece of legislation because the time has come when we have to look at the way Mother Nature takes care of our forest and the way the forest has to be managed so that those resources can be enjoyed by all of America. We cannot afford another 1988, nor can we afford another 1994 when it comes to saving that great renewable resource that it takes to supply the vast majority of shelter in this country.

So I congratulate my friend from Idaho who has introduced this legislation. I hope that it will be considered in the committee very quickly and brought to this floor and passed out of the Senate for House consideration.

I would like to see this legislation become law this year because we still have diseased forests that are in danger to, yes, yet another year of drought and maybe disease that should be worked on right now. This is a renewable resource. It is a resource that is America's, and we cannot let it just to be wasted away.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BURNS. I thank the Chair. I yield the floor.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let's do that little pop quiz again: How many million dollars are in $1 trillion? When you arrive at an answer, bear in mind that it was Congress that ran up a debt now exceeding $4.8 trillion.

To be exact, as of the close of business yesterday, Wednesday, February 8, the total Federal debt—down to the penny—stood at $4,805,605,149,692.51—meaning that every man, woman, and child in America now owes $18,242.16 computed on a per capita basis.

Mr. President, again to answer the pop quiz question, How many million in a trillion? there are a million million in a trillion; and you can thank the U.S. Congress for the existing Federal debt exceeding $4.8 trillion.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the joint resolution.

Pending:

Reid amendment No. 236, to protect the Social Security system by excluding the receipts and outlays of Social Security from balanced budget calculations.

AMENDMENT NO. 236

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, what is the status of the Senate? Are we on the Reid amendment at this point?

The PRESIDING OFFICER. The Chair did not hear the Senator.

Mr. DORGAN. Is the Senate now considering the Reid amendment?

The PRESIDING OFFICER. Yes, we are under consideration of the amendment. There is no time controlled.

Mr. DORGAN. Mr. President, I come to the floor today to offer words of support for the Reid amendment. I intend to vote for it, and I hope the Senate will vote for it in sufficient numbers to add this to the constitutional amendment to balance the budget.

(Mr. KYL assumed the chair.)

Mr. DORGAN. Let me this morning begin by talking about a woman who many of you know; the story, of course, is legend. On December 1, 1955, in an Alabama city, a woman had just finished her work for the day. She was a seamstress. She was about 40 years old. She was tired, her feet hurt; she had worked a long day, and she was on the way home.

She went back and forth to her job by bus. And on this day, at the end of the workday, with tired feet, this woman boarded a bus and took the first available seat. And as the bus traveled down the avenue, the bus began to fill up. And on this day, December 1, 1955, as the last seat was taken on the bus, a white male passenger boarded the bus and looked at this woman, Rosa Parks, and said, "You must leave your seat and move to the back."

She refused to do so. At that point in the life of this country, she was required to ride in the back of the bus. Her dignity that day, as well as the fact that she had worked a long day and was tired, but her dignity especially, persuaded her to say, "I'm not moving," and she remained in her seat. Others around her began to curse her, as the story is told. The bus driver stopped and refused to move the bus because this woman would not move to the back of the bus and give her seat to a white passenger.

The police were called, and Rosa Parks was arrested and thrown in jail. Her indiscretion? She refused to give up her seat and refused to move to the back of the bus.

Well, it is some 40 years later now, and I guess all of us would say we are proud to understand that the quiet dignity and strength of Rosa Parks lit a fuse that caused an explosion of understanding and, yes, tension—but most especially understanding—that has changed things in this country for the better. The avenue where that bus traveled on that December day in 1955, and where that arrest was made, is now named Rosa Parks Avenue.

Sometimes one can force change by simply refusing to move. Some say, "Well, don't just sit there." Rosa Parks just sat there because she felt she was entitled to do that, and that single act by that courageous woman, who will live in our history, has caused substantial change in our country.

So when they say, "Don't just sit there," I think sometimes on some issues some of us say, "Well, wait a second; where we sit is important."

On this issue today of Social Security, some of us believe that where we are in this country, with a program that is, I think, the most significant and the most remarkable program of its kind anywhere in the world, it is one that ought not be trifled with. It ought not be threatened. It ought not, in our judgment, be in any way changed so that the American people will not have confidence that Social Security will be there when they need it.

That is why many of us feel at this point in this debate on the constitutional amendment to balance the budget we ought not move forward on this issue without the Reid amendment. We should add the Reid amendment to the constitutional balanced budget amendment so that we do not jeopardize the Social Security trust fund.

Why is it important to us? Too many Americans do not even understand the consequences of the Social Security system or what makes it unique. We just take it for granted.

I told my colleagues before about an experience I had one day that I shall never forget. Some years ago, I ran out of gas in a helicopter. I quickly learned one of the immutable laws of flying: If you are in the air and you run out of fuel, you will land very quickly.

I, with a colleague of mine, landed in a helicopter in the jungle terrain between Nicaragua and Honduras. Congressman GEJDENSON, from Connecticut, and I were actually down in a Contra camp, and touring refugee camps in Central America.

We were traveling by helicopter one day. It was in August, and there were big thunderstorms. We were over mountains and jungles, and we were going down mountain passes, and then a big thunderstorm cell would loom up in front of us and we would backtrack and go down another valley, and we would backtrack again. We had been flying a long while, and the pilot had some lights go on and some bells go off and we were running out of fuel. They had to put the helicopter down, right now. There we were, out of radio contact, somewhere in the mountains and jungles of Honduras, right by the Nicaraguan border.

We were unhurt, but for a number of hours we did not know where we were. Nor did anyone else. Other Army helicopters eventually searched for us and found us. We were pulled out of there by other helicopters.

The point of the story is this. As we sat there on the ground, some of the campesino families and others began walking toward us. A group gathered to try to figure out who on Earth had come down here in this rural stretch, in the mountains of Honduras. We had an interpreter with us who spoke fluent Spanish. And as we were there—because no one knew where we were, we were going to be there for awhile, and we did not know exactly what was going to happen—we began, through the interpreter, to talk with these people who came around to figure out who had come down there. People I talked to—and this is something I discussed with the interpreter during this conversation—told me something I had never even thought about before.

I was visiting with a young woman, I guess probably 23 or 24 years old, who had come walking through the underbrush there with some children with her. We were just talking through an interpreter. There was kind of a little crowd, maybe six or eight people.

I said, "How many children do you have?"

And this very young woman said, I believe, "Only three. Only three."

I said to the interpreter, "Gee, she sounds disappointed. Lord, she cannot be over 22 or 23 years old, and she sounds disappointed she has only three children."

The interpreter said, "You do not understand. You come from a country that has all these things—Social Security. Down here, there is none of that. Down here there is no Social Security program. If you grow old in some of these countries, you want to have had as many children as you could have, so maybe enough of them will live so when you become old, if you are lucky enough to grow old, you will have some children surviving you who can help you in your old age. That is Social Security."

It was the first time I had ever thought about it. I never thought about that before because I grew up in a country where Social Security was just there. It was a part of our lives. We understood: When you work, you pay in. The person who employs you pays in. And when you retire, it is there. It is just taken for granted. We do not even think much about the connection. Who made it, who created it, who caused it, how it works—we do not think much about that. It is just part of American life.

I mention the story today simply because there are other parts of the world where this is a totally foreign notion. That you would have some basic device at the end of your working life that allows you to have a decent retirement is a novel idea in some places. That is what Social Security is. The Social Security system is the fabric of that guarantee.

How did we get it? How did we create it? Through a massive public debate, during which many people said: This is socialism, this is pure socialism. This is the worst instincts of the Democratic Party, this Social Security nonsense.

Of course, it was not. And it has always been there. It was a useful, necessary, important program for America's elderly that has, I think, grown in the right way. It is now a compact between those who work and those who retire, and it has made life in this country better for tens of millions of Americans, year in and year out. We ought to be proud of this program. This program works. This program worked in the past, and it will work in the future for this country. We always ought to understand that.

We come to this point in America's history after a couple of hundred years of self-government—and incidentally, a couple of hundred of the most successful years of any similar attempt at government known to humankind. There is no other reasonably similar approach to government that has been tried as successfully as this anywhere in human history.

In a couple of hundred years, we have had fights about public policy back and forth, and during this time we created some things, one of which was Social Security. During the last 15 or 20 years or so, this country's fiscal policy, that is the spending and taxing decisions and the system by which we decide how much to spend and how much to tax, has gotten off track and out of balance. And this country has begun to run up very large budget deficits. The budget deficits are not accidental. They are a function of the Congress and the President proposing to spend what the people largely want spent, and the Congress and the President being reluctant to tax what the people largely don't want taxed. So what has been the result?

The result has been that the Congress and the Presidents in about the first 200 years or so, up until 1980, had spent $900 billion more, over all of the years in this country's existence, $900 billion more than it had taken in. In other words, it charged to a charge account $900 billion, because it spent money that it did not have, starting with the beginning of the United States of America to the year 1980.

From the year 1980 to the year 1995, in the month of February, this country added to that charge account. It is not any longer $900 billion. It is now nearly $4.8 trillion. So in nearly 200 years, the country spent $900 billion it did not have and charged it to future generations. And then, in 15 years, it added somewhere around $3.9 trillion and said: By the way, charge this, too. Put it on the same account.

What do we face in the future? If you look at what the Government does—Medicare, Medicaid, and a whole series of spending decisions and revenues—and take a look at what the Congressional Budget Office says will be the consequence of the current system and the current spending levels, you will find that we will add, if nothing is done, about $4.4 trillion to the same charge account in the next 10 years. Except it will be more than $4.4 trillion, because we have some in this Chamber who say let us do two additional things. Let us increase defense spending and build star wars—which is one of the goofiest ideas I have ever heard in my entire life; that is now resurrected—let us resurrect the strategic defense initiative or star wars at a time when there is no Soviet Union. But leaving that aside, increase spending or cut revenue.

So it will not be $4.4 trillion added to this charge account, added to the already $4.8 or $4.9 trillion, so you are talking close to $10 trillion. It will be more than that. Does anybody think that represents the right future for this country? I do not. Most of the constituents I know do not believe it does.

So the question is, What will intervene to change it? Will it be six people of good will finding a vacant room back here with a clean sheet of paper and making plans, scurrying around making little plans on how to balance the budget? I do not think so. It has not happened in the past.

It will be people representing what their constituents are saying: Make sure you keep these programs, now. We do not want to lose programs. But we do not want to pay taxes, either. We do not want you to increase them. In fact, we would like you to cut taxes.

So we have the Republican Contract With America saying let us cut taxes. In fact, let us do it a little better; let us cut taxes mostly for the well-to-do. Then we have some Democrats saying, let us also have a middle-income tax cut, slightly less and differently targeted, but the same approach, basically. It is the same approach basically.

In the midst of all of this comes the notion that we should amend the U.S. Constitution to require a balanced budget. I did not come here thinking that was the necessary thing to do. I think it is pretty hard for us to improve on the work of Washington, Mason, Franklin, Jefferson, and others. So I did not think we should amend the Constitution for the first few years I came to Washington. But I have changed my mind about that. I do not think for a moment that it will cause one penny's difference in our future budgets by itself. It is a bunch of words that someone is going to write into the Constitution. Everybody here who will vote for this understands it will not cause one penny's difference in the budget deficit. It may ratchet up slightly more pressure for decision making in both the House and the Senate that will lead we hope toward a balanced budget. That may be what happens. If that happens, then I am for anything that turns up the heat, anything that ratchets up the pressure, because frankly, we cannot continue going down this road.

There must be a reconciliation in this country between what we spend and who we spend it for, and what this country is willing to pay for. You just cannot keep having Government that we are not willing to finance.

I know polls show the American people think half of the money spent by the Federal Government is wasted. It is not. This is not money someone buries in their backyard or puts in a sock under a mattress. Most of this money goes out in the form of entitlement programs one way or the other or goes to pay for defense. If you take Medicaid, Medicare, interest on the national debt, defense, and Social Security, you have three-fourths of every dollar the Federal Government spends. So we have to force a reconciliation of what we spend and what kind of resources we have so that we get back some notion of fiscal policy balance to assure this country's economic future.

Why is it important to put an amendment in this that says let us not raid the Social Security trust funds as we do that? For this simple reason: Not one penny of the Federal deficit has been caused by the Social Security system; not one. This year the Federal budget is going to have a significant deficit but the Social Security system is going to collect nearly $70 billion more than it spends. Why?

I was a part of the group that in 1983 wrote the plan that required this surplus. I helped write the Social Security reform plan. We wanted to enforce national savings so that when the baby boomers retire after the turn of the century we would have savings accumulated to deal with that. After the folks came home in the Second World War, not surprisingly, I guess, we had the biggest baby crop in the history of this country called the war babies. When that generation begins to retire, we will have maximum strain on the Social Security system.

The point of the 1983 reform bill was to force some national savings to be available for the baby boomers' retirement. If we do not put the Reid amendment in this constitutional amendment, the potential will exist that those who want to balance the budget by using the Social Security trust fund will simply raid the fund to balance the budget.

The problem about that is it breaks the fundamental promise, that we take the money from paychecks of the people who work, we put it in a trust fund dedicated for only one purpose. The tax is dedicated. The trust fund is dedicated, and that is to pay for the Social Security system. If we have to at some point adjust the Social Security system, it ought to be adjusted based on the internal mechanics of the system. Is it well financed or not? If not, let us deal with it based on the actuarial notion of the system. But let us not decide to raid this enormously successful program, which needs all these savings for the time when the baby boomers retire, and decide to use that money to balance the budget. That breaks the promise it seems to me that we have with the American people.

Let me mention one other thing because we talk about this always in such an antiseptic way. It is always policy and numbers. I mean, it sounds like it is all sterilized. This is about people. It is about how people live. Every single one of us have constituents who tell us stories that bring tears to our eyes as we leave a meeting or leave a discussion with someone.

I once spoke with a woman who is 82 years old, who has diabetes and heart trouble, and whose only revenue and only resource in life is the Social Security check she gets. The Social Security check is somewhere around $380, I think she told me. Then she has to buy a medicine to deal with her heart problem and her diabetes, pay rent, and buy groceries. She said to me, "I cannot afford to buy the medicine for my diabetes and the heart trouble." So the doctor prescribed it. And she said, "I have to take it. So I buy the medicine. Then I cut the pills in half and take half as much as he recommends so the medicine will last twice as long. It is the only way I can afford my medicine. Otherwise, I cannot eat."

Your heart bleeds for someone who is 82 and finds herself in that circumstance. Think of how important that Social Security check is. It is her lifeline. It is the only thing she has. Before Social Security, people like her were just desperately poor, consigned to poorhouses or consigned to begging for food or shelter.

The Social Security system, as inadequate as it might be to deal with all the problems, is something that is enormously important in this country. And we must, all of us, make certain that system is protected and available with its resources for the future. I have heard dozens of times people say, "The Social Security system will not be there when I retire." They have said that every decade since the 1930's. It has been there in every decade, and it will be there in every decade in the future. That is a plain fact.

I hope that, as we consider this amendment, we will have an up-or-down vote on the merits of this amendment. I am not asking for five reasons someone would want to vote against it. Just give me one good reason. There could only be one good reason that one would not want to support the Reid amendment, and that is because someone does not want to use those massive amounts of dollars we are accumulating to be available for the baby boomers. They want to use them for some other purpose. That is the reason this is a critically important amendment.

I know others want to speak. I have gone on at some length. I hope that we will have an up-or-down vote on this amendment, and I hope Members of the Senate will come to this Chamber and register yes or no. This is not rocket science. This question does not require a great deal of understanding to understand the implications.

Do you want to use the revenue that is in the Social Security trust funds to balance the budget? Do you want to break the promise? Do you want to raid the trust funds, or do you not? If you do not, then vote for the Reid amendment. If you do, then find devices to try to defeat this thing. But then understand what the purpose of trying to defeat it really is.

If you decide you want to keep a promise—and we should in this country—then let us pass the Reid amendment. Then let us pass this Constitutional amendment to balance the budget. I know it is not going to balance the budget. It will require more than that. But it if turns up the pressure some, I am for it. But let us do it the right way, and let us do it soon.

I hope when the vote is complete we will find in a bipartisan way Members who will answer this simple question with a simple answer. No. We do not intend to raid the Social Security trust funds to deal with this budget deficit because it will not be fair, and it will not be the right thing to do for this country's future.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I am moved by the eloquence of our colleague from North Dakota. He is talking about the way in which our elderly were treated prior to the establishment of programs such as Social Security and Medicare, programs that gave the elderly dignity and respect.

I was born in November 1936. My father was elected to the Florida State Senate in November 1936. The reason that he ran in that year was in large part because he had the occasion to visit some of the Florida State mental hospitals. The term mental hospital was a misnomer for those Florida institutions in the mid-1930's. They were really places where people put their aged, those who they could not afford to maintain, those who needed special help more than mental health concerns. They were warehoused in our State's mental institutions. The words "snake pit" were appropriately applied to those institutions.

One of his goals in running for the State Senate was to bring some greater degree of dignity to indigent older Floridians by providing them a somewhat adequate monthly stipend in their old age.

That limited effort was then subsumed in the national effort to create social security, which has, in a period of now almost three generations, given what had been the poorest group of Americans, older Americans, the ability to live the balance of their lives with some degree of dignity and respect.

We should be proud with what we have accomplished since 1935 in terms of making that kind of opportunity available for millions of Americans, and the prospect of it being available for millions of Americans in the future.

But before turning to the specific issues that I think are raised in this constitutional amendment as it relates to Social Security, I would like to make a few comments on the underlying amendment itself. I have in the past spoken and voted in favor of propositions which would provide for a constitutional requirement that there be a balanced Federal budget. I shall do so again with the same degree of disappointment that I have done in the past.

Passing a constitutional amendment to require us to balance the Federal budget is a blatant statement of failure. We are admitting our inability, without this type of discipline, without this constitutional shackle, to do what we should have done and what, frankly, most generations of Americans have done, and that is, to exercise fiscal responsibility.

Up until 1980, the U.S. Government had accumulated a national debt of slightly over $900 billion. We fought World War II, World War I, we lived through the Great Depression, just to mention three events of this century. We lived through all of these events and accumulated a national debt of $900 billion. Since 1980, we have added to the national debt approximately $4 trillion. We will soon be asked to vote on a national debt limit that would allow us to exceed the $5 trillion level in terms of national indebtedness. We have had a free-fall of excess in terms of our national fiscal policy. I wish I could say that I saw something on the horizon that indicated we were about to reverse that pattern, and that we would not need a constitutional amendment to require us to do what our forefathers had been able to do without a constitutional amendment. I am afraid, however, Mr. President, that I do not see any indication that we are about to reverse this policy of the last 15 years.

In fact, to the contrary, I see new evidences of irresponsibility. To mention one, the Contract With America contains provisions for a series of tax reductions; each one of which is popular. Everyone would like to pay less toward the cost of Government. It has, however, been a pleasant period in the United States, in which Americans have experienced high levels of services, relatively moderate levels of taxation, and a series of tax cuts over the past 15 years, all while letting our grandchildren pay the bills. The Contract With America would continue that. It calls for over $700 billion of additional tax cuts in the next 10 years; $700 billion would be added to our already staggering estimated deficits for the next 10 years. To me, that is just one indication of the fact that we do not have any reason to believe that we are about to exercise voluntary discipline. Therefore, it will be necessary for us to impose upon ourselves and the future of America a constitutional requirement to do what we ought to be doing. It is a matter of our generation's responsibility.

I believe that there are several important objectives to be accomplished by this constitutional amendment. One of those is to reestablish the principle of generational responsibility. When I was born, we were not leaving to our future generations massive debts. Our parents and grandparents and great-grandparents had paid their own bills. They believed in the principle of generational responsibility. That will be reestablished with this constitutional amendment. We will also heighten our sense of accountability, that it is our responsibility to be accountable for how we handle the Nation's fiscal affairs.

How do these principles, these goals, relate to the issue of how Social Security should be treated in a balanced budget amendment? As previous speakers have so appropriately and eloquently stated, Social Security is a contract, a contract between the Government of the United States and the people of the United States. It is a very solemn trust that we hold. The lives of millions of Americans are affected very directly by their belief in our trusteeship and how, in fact, we carry out that trusteeship.

Giving Social Security special treatment within this constitutional amendment would be a statement to the American people of our understanding of that trusteeship.

Mr. President, there is also another factor—I apologize if what I am about to say is a little bit tedious and technical, but I think it bears repeating—and that is the special financial structure that we have created for Social Security and how that financial structure relates to the issue of the appropriateness of having Social Security excluded, treated separately, for the purposes of the balanced budget amendment.

Prior to 1983, Social Security was like most other trust funds in the United States. It was a pay-as-you-go system. As, for example, with the highway trust fund, dollars are collected each year based on the amount that is paid in gasoline tax. That money goes into a trust fund. Those trust funds are then appropriated to States or to specific transportation projects. There is an in-go and out-go that is balanced almost on an annual basis. That was the way Social Security was treated up until 1983.

In the years prior to 1983, there was a recognition that Social Security was facing some very serious financial problems. One of those problems was that the Social Security system was very much the captive of the change in the U.S. birthrate. I happen to have been born in 1936, a period of relatively low births in the United States. Not very many babies were born proportionately during the Depression. Therefore, as my generation enters the time when it will become eligible for Social Security benefits, we are not going to impose a very heavy burden on the Social Security system. Conversely, when my children, who were born in the 1960's, a time with a relatively high birthrate, enter Social Security, there will be a very heavy demand imposed on the system. And so the fundamental change made in 1983 was to move Social Security from a pay-as-you-go system to what is referred to as a surplus system, much like other forms of life insurance or annuities. That is, dollars were to be built up during the period of low demand on Social Security, so that when we reach the point that there would be heavy demand, there would be the resources available to pay those benefits.

This chart, Mr. President, illustrates how that Social Security surplus system is intended to work. Beginning with this year, 1995, we will have a surplus of something in the range of $70 to $80 billion. We have had a surplus built up since 1983 of approximately $400 billion. We are going to be adding substantially to that amount over the next 20 or so years, reaching a peak of having a surplus of approximately $3 trillion.

Then, in about the year 2019, we will start a rapid draw-down. In a period of a decade, we will deplete that $3 trillion of surplus and zero out the account to meet the demands of that large group of Americans who will reach retirement age in approximately 2019 forward.

Now what is the significance of this structure of Social Security financing, which represents approximately 25 percent of the expenditures of the Federal Government? What are the implications of this financing structure to the balanced budget amendment?

I describe the implication as being the mask and then the hammer. From now until the year 2019, because the way our deficit is reported, where annual surpluses constitute a subtraction from our stated deficit, the surpluses will mask the Federal deficit.

We talk about the deficit in the current budget as submitted by the President as being approximately $190 billion. That is not totally correct. Actually, the deficit for the Federal Government in 1995–96 will be $190 billion plus $80 billion, the Social Security surplus. Because the way we report under our accounting system, that $80 billion of surplus in the Social Security trust fund is subtracted from the overall deficit.

It would be somewhat like a family which had an income of, let us say $40,000, but had expenditures of $50,000. It would appear as if they were running every year $10,000 in the red. But they had a rich uncle who had died and left them a trust fund which each year gave them for the next 10 years $20,000 out of that trust. If they reported in their accounting that they made $40,000, spent $50,000, but had $20,000 in the trust fund, it would appear as if they actually had a $10,000 positive each year. Of course, the problem is, when the trust fund runs out in 10 years, they are going to be back to where they were initially, except probably worse off because they had become accustomed to having this $20,000 trust fund.

We are somewhat in that same situation. We are masking the real extent of our fiscal problem by every year pumping in the novocaine of a substantial Social Security surplus.

And what is the hammer? The hammer is what happens after the year 2019 when every year we are going to start our Federal accounts with a deficit of, in some years, in the range of $350 to $400 billion.

How would you like to be sitting here in the year 2023 with a constitutional amendment that says you have to balance your books every year and you begin the process with a deficit of $350 to $400 billion because of the enormous outflows from the Social Security trust fund?

I believe, Mr. President, that if we write into the Constitution that we must have a budget system that consolidates Social Security, representing 25 percent of our expenditures, into all the rest of the financial activities of the Federal Government, that under this structure, we are going to be leaving our future generations with an enormous, impossible task, particularly in these outyears.

And let me point out, this is not an aberration. This outline of surpluses and then deficits of Social Security is not a mistake. This is the way the system was planned to operate. It mirrors the demographics of the country—relatively low numbers of persons in retirement age at the beginning of the 21st century and large numbers of persons in retirement age in the second quarter of the 21st century. This is the way the system is supposed to work.

When you apply that against the mandate of a balanced budget, if Social Security is consolidated into every other account in the Federal Government, you will create a fiscal impossibility.

Next, if Social Security is on budget, it is going to create a temptation to manipulate Social Security for the purpose of further masking the extent of our financial problems.

To use one example. It was only a couple of years ago that there was serious discussion in this Chamber of eliminating the cost-of-living adjustment for Social Security beneficiaries. I think, wisely, that proposal was rejected. But why was it being proposed? It was being proposed because, if you eliminated the cost-of-living adjustment, which amounts to approximately $20 to $30 billion a year in terms of Social Security expenditures, if you eliminated that cost-of-living adjustment, you would have artificially made the surplus appear that much larger.

If we did not pay a COLA out in 1995, we would not be talking about a surplus of $80 billion. We would be talking about a surplus of close to $100 billion. That would mean that our stated deficit would be $20 billion less.

So with that one action, we would have cut the reported Federal deficit, the deficit for purposes of meeting this constitutional requirement, by $20 billion.

That is the temptation that we are going to have because it will be such an easy, disguised way, in which to meet the standard that we are setting for ourselves of a balanced Federal budget.

Next, I think that the consequence of what I just described—the temptation to use Social Security with this kind of a financing system to artificially reduce the stated Federal deficits—the consequence of that is to increasingly shift the cost of other areas of Federal responsibility to the Social Security financing system, which means shifting it to one of the most regressive sources of Federal revenue—the payroll tax.

The payroll tax is a straight tax on the payroll of most Americans, without regard to their ability to pay or other considerations. There are no deductions, there are no credits, there are no other recognition of special circumstances with the payroll tax. And as we give into the temptation to use Social Security as a means of meeting our other responsibilities, we continue to add to the extent by which Government is being financed by its most regressive form of revenue.

Next, I believe that one of the positive benefits of taking Social Security out of the general revenue budget of the United States—doing as Senator REID proposes—is that we will have the happy prospect of actually running a surplus in terms of our overall Federal condition once we are able to balance our general revenue books. Once we are able to get the rest of the Federal Government into a balance situation, with Social Security operating at a surplus, then we will be able to begin to reduce the amount of the national debt which is held by the general public.

We will begin to get some of those benefits that a positive surplus in our fiscal accounts will bring, such as lower interest rates, or stable interest rates, the benefits that will come in terms of stronger economic growth.

Finally, Mr. President, I believe it is important that we separate Social Security from the general revenue because we have a lot of work to do on Social Security. I have outlined briefly what the structure is.

There is an implicit assumption in that structure; that is, that the surplus funds that we are accumulating, what will eventually amount to $3 trillion of surplus, is being invested in an area that will be available for liquidation and used to pay these benefits that are going to be due after the year 2019, just as a private pension fund takes the money that it collects every year from employers and employees, however it is structured, and invests it in stocks, bonds, public instruments, or private funds so that when people retire there will be some real money there to pay their pension. The assumption is that something like that has happened with Social Security. Wrong. What is happening with the Social Security surplus is it is being used to finance the very deficits that we are trying to eliminate.

One of the benefits of having Social Security and the rest of the Federal Government's financial problems separated is it allows the Senate to focus attention on dealing with Social Security, making it the kind of solid, predictable, reliable, sustainable source of economic security for older Americans that we have represented it to be.

As long as the two are melded together, I think we will be constantly under the microscope of suspicion that we are doing it not to help Social Security but to raid Social Security.

We, as good physicians who need to make accurate diagnoses and prescriptions for Social Security, need to be in a surgery ward where we are not subject to the attack or criticism or suspicion that we are not doing this out of the desire to raid Social Security, that we clearly are doing it for only the purpose of making Social Security strong, healthy, vigorous, and able to carry out its contractual responsibilities.

Mr. President, I believe this is an extremely important issue that we are discussing and that it is imperative that we adopt the amendment as offered by the Senator from Nevada if we are to carry out our responsibilities not just for today, but particularly for the long future.

We have only amended the U.S. Constitution a few times in our 200-plus year history. It is interesting that only one of those amendments, once adopted, was repealed. That was the amendment on prohibition. Every other amendment, once adopted, has stayed in the Constitution and stayed in the original form. We are not doing this just for 1996 or 1997; we are doing this for the years 2096, 2097.

What is in the best interest of Americans over that long, indefinite future? I believe it is in the best interest of Americans to adopt the discipline of a balanced budget amendment, but to exclude the one-fourth of our Federal expenditures that represent Social Security, for the reasons that I have outlined, but particularly for the mask and the hammer we are about to leave for future generations if we require, constitutionally, that Social Security be consolidated with the rest of the Federal Government.

Let me conclude with a few recommendations. One, if we exclude Social Security from the consolidated budget, I think that we need to look at the question of whether the year 2002 is still an appropriate year for a mandated balanced budget. I believe that we should stretch that period out probably an additional 2 to 4 years, recognizing the fact that we are not going to have the Social Security surpluses as a means of offsetting deficits, and that we do not want to create an undue shock to our economic system and create the possibility of unintentionally putting the United States into a recessionary period.

If we do not adopt Senator REID's amendment, I think we will need to think seriously about going back to the pay-as-you-go approach to Social Security that we had prior to 1983. I do not believe that the current system is sustainable within a consolidated Federal budget and a constitutional mandate that budget be balanced beginning in the year 2002.

Mr. President, I appreciate the opportunity to make these remarks. I commend the Senator from Nevada and also the Senator from California and others who have brought this matter so appropriately and so vigorously to our attention. It is an extremely important matter. It is not one that needs to be treated as if it can be dealt with by a cosmetic or other surface resolution.

This is a fundamental issue of our future ability to treat Americans who have relied upon the "Contract With America"—that is, Social Security—and to be able to give to our future generations a financial plan for which they will be able to achieve the objectives, including balancing the general revenue budget of the Federal Government, the benefits of having the surplus from the Social Security fund to be used to invigorate our economy rather than to mask our profligate spending, and to give Members an environment in which we can do those things which will be necessary to assure the long-term strength of Social Security.

Mr. President, I urge my colleagues to adopt the amendment.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, this constitutional balanced budget amendment is a very big issue. Its impacts are enormous. Its results, if passed and enacted, will be large and long remembered.

SUPPORT FOR A BALANCED BUDGET AMENDMENT

There are two reasons I want to vote for a balanced budget amendment. The first is my own life experience. I shared this once before and I will do it once again. The year I was born, 61 years ago, the entire Federal debt amounted to just $25 billion. When my daughter was born, the entire Federal debt amounted to $225 billion. And 2 years ago, when my granddaughter, Eileen, was born, the entire Federal debt was 150 times greater than when I was born. It was nearly $4 trillion at that time.

So my life experience shows me that with business as usual, the Congress is not going to be able to deal with the deficit unless it is forced to.

The second reason is my Senate experience. In 2 years in the Senate, through my observation of the budget's authorization and appropriation processes, I have become convinced that a balanced budget amendment is in order. In short, current operating procedures will not, in my view, produce a balanced budget. The amendment, therefore, is necessary to face reality and make the difficult decisions.

In a nutshell, those are the reasons I want to support a strong balanced budget amendment. But I want to support the right balanced budget amendment. And I have a hard time agreeing with those who have deemed it must have exactly only certain words in it; and only those words.

Last year, I supported the Reid balanced budget amendment on Social Security, as I am today.

Mr. REID. Mr. President, will the Senator from California yield for a brief question?

Mrs. FEINSTEIN. Yes, I will.

Mr. REID. Mr. President, I want to make sure that the RECORD is complete and my words are on the RECORD while the Senator from California is speaking.

The Senator has done a remarkably good job keeping this issue before the public. The Senator, as a member of the Judiciary Committee, singlehandedly brought this to the Senate a few weeks ago, where it was fully debated in the Judiciary Committee.

As a result of the work the Senator has done, my work here, and that of those other cosponsors, including the Senator from California, has been made a lot easier.

I wanted to publicly commend and applaud the Senator from California for her yeoman's work in regard to excluding Social Security from the balanced budget amendment.

Mrs. FEINSTEIN. I thank the Senator from Nevada for those very generous words. I appreciate them very much.

Mr. President, last year I supported both these amendments. In the ensuing year, I have come to think a lot about it. It is a long time before ratification, even if a balanced budget amendment is passed. And when people, beginning with 40 million and then 60 million, then 70 million, then 80 million Americans on Social Security understand what the impact of this amendment is, it is my very deep belief that it will not be ratified. I view the use of Social Security surplus revenues as a major flaw in the balanced budget amendment, but it is a flaw that can be corrected by this amendment.

In 1990, this very body, by a vote of 98 to 2, voted to take it off budget. They said:

> Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of
>
> (1) the budget of the United States,
>
> (2) the congressional budget, or,
>
> (3) the Balanced Budget and Emergency Deficit Control Act of 1985.

This body voted for it 98 to 2. And in the ensuing days, this body is going to reverse their opinion. One must ask why? Why are we doing this?

FICA TAXES

Let me talk for a moment about FICA taxes and what they are.

By the year 2017, $3 trillion of FICA tax reserves meant to pay for the retirements of American workers will be used instead to balance the budget. This is unconscionable.

If Congress is going to use FICA taxes that are meant for retirements for another purpose other than retirements, we should cut the FICA tax to eliminate the surplus so people do not see their FICA taxes misused.

FICA taxes were raised in 1977 and 1983 so the Social Security system would run surpluses. It was changed at that point from a pay-as-you-go system to a system that would bank surpluses for the future.

Why was that done? It was done because the actuarial tables showed there was going to be a major baby boomer generation retiring in the not to distant future and the revenues, as projected, would not be adequate to meet their retirements. Therefore, it was thought by this esteemed body that we should increase retirement taxes so that moneys could accrue and there would, therefore, be enough money to meet the retirement needs of the baby boomer generation.

What has changed is we found that even without this amendment, downstream, after the year 2018, the Social Security system will run into trouble. There still will not be enough money. But, if these dollars are used to balance the budget, the system is going to run into trouble much more rapidly. By 2002 nearly $1 trillion will be used and by 2017, nearly $3 trillion if we don't start saving these Social Security surpluses.

There are those who say, "That's OK, we'll use the revenues. It will force us to make necessary changes in the system." I agree we have to make some changes in the system. If you raise FICA tax, if you means test it, whatever you do with it, some changes are going to happen.

But to use the reserves to fund health, to use FICA taxes to fund the Interior Department, the Agriculture Department, defense, and interest on the debt and other Government programs, is just plain wrong.

Over 58 percent of working Americans today pay more in FICA taxes if you put in the employer share than they do in Federal taxes. This is not a small amount. This tax is not adjusted by salary. Everyone pays a flat tax of 6.2 percent up to $61,200 of income and the employer matches it with 6.2 percent. For a worker who makes $25,000, his share is $1,550. Combined with the employer tax, it is $3,100. For a worker who makes $35,000, when you combine it with the employer's share, it is $4,340. Go up another $10,000 to $45,000 and combine it, it is $5,580. Go up another $10,000 to $55,000 and combine it and it begins to grow, it is $6,000 a year. And for every worker who makes more than $61,200, combined it is $7,588.

That is a lot of money at any income level. If it is being saved for retirement, then it is like an annuity: That's fine. You pay in funds and you get them out when you retire. But if it is being spent on Government, then it is just another expensive tax on working Americans, and then we ought to do the right thing and reduce the FICA tax if we are going to do this.

SOCIAL SECURITY AMENDMENT

The debate over this amendment to exclude Social Security from the constitutional balanced budget amendment is not complicated. It is very simple. The issue is: Does Congress want to take the funds generated by the FICA tax for Social Security, meant for a worker's future retirement, and use it to balance the budget? Or does Congress want to balance the budget honestly?

I hope that whatever else our disagreements are, we can all agree that Social Security revenues from the FICA tax should not be misused to balance the budget.

My problem with this constitutional amendment is that by including Social Security in the amendment, it does not only permit the use of the Social Security trust funds to balance the budget, but it mandates it by including those funds in the budget calculations. The amendment before us, in effect, enshrines the use of Social Security to balance the budget in the Constitution of the United States. Do we really want to do that? I think not.

So the debate really is not over who wants to protect Social Security and who does not. It is about who wants to be honest with the American people in our budgeting and our fiscal policy and who does not. Because to be honest, Social Security should remain off budget.

Ninety-eight Members of this very body voted to do that in 1990. Including it in the budget would be an enormous loophole. It is not the Federal Government's money, and it should not be used as if it were.

REBUTTALS

Let me respond to four arguments raised against this Social Security amendment.

CHARGE ONE

Excluding Social Security would make it harder to balance the budget.

That is true. Taking Social Security off budget does require more spending cuts, about $3 trillion of them by the year 2017, because all of this money will be used to balance the budget. But the alternative of leaving it on budget is basically stealing from Social Security to avoid spending cuts.

There is nothing magical, as the distinguished Senator from Florida pointed out, about the year 2002. Somebody just sat down and decided we have to do this by the year 2002. The Sun is not going to refuse to come up in the year 2003 or 2004 or 2005 or 2006 or 2007. If people are really concerned that we need to use Social Security revenues or you cannot balance the budget, then it is simple: Extend the time line out to 2005 or 2007 rather than loot Social Security.

If a man runs short on money one month, the law does not allow him to steal from his neighbor to make ends meet. But this amendment allows the Federal Government to steal from Social Security to meet its obligations. How is that right?

CHARGE TWO

It is unprecedented to put a statute in the Constitution of the United States.

I have heard that mentioned time and time again on this very floor.

Now, of course, it is true, it is unprecedented. It is also true that it is unprecedented to put the Nation's fiscal policy into the Constitution. And if we decide that this Nation needs the strong medicine of a balanced budget amendment, then we better be sure that the amendment is drawn deeply enough and widely enough to represent some of these concerns.

The legislation before you is narrowly drawn, and it specifies that only those funds used to provide old age and survivors and disabilities benefits are involved. So it is not a loophole.

The distinguished chairman of the Judiciary Committee, whom I deeply respect, has said, well, a game will be played if we put the words Social Security in the Constitution. Education moneys will be called Social Security moneys. The amendment is drafted to be specific, to prevent this from happening, and it does.

Now, Chairman HATCH has also said that no one wants to use Social Security revenues to balance the budget, and we could protect them in implementation legislation or by some other resolution.

I initially thought, well, maybe that is a great idea. If we can do it that way, why not do it. And so we asked the Congressional Research Service, if that could be done.

I wish to read the reply I received. This is what it says:

> If the proposed amendment was ratified, then Congress would appear to be without the authority to exclude the Social Security trust funds from the calculations of total receipts and outlays under section 1 of the balanced budget amendment.

Mr. President, I ask unanimous consent that the communication from the American Law Division of the Congressional Research Service be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, February 6, 1995.

To: Senator Dianne Feinstein (Attention: Mark Kadesh).

From: American Law Division.

Subject: Whether the Social Security trust funds can be excluded from the calculations required by the proposed balanced budget amendment.

This is to respond to your request to evaluate whether Congress could by statute or resolution provide that certain outlays or receipts would not be included within the term "total outlays and receipts" as used in the proposed Balance Budget Amendment. Specifically, you requested an analysis as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund could be exempted from the calculation necessary to determine compliance with the constitutional amendment proposed in H.J. Res. 1, which provides that total expenditures will not exceed total outlays.[1]

Section 1 of H.J. Res. 1, as placed on the Senate Calendar, provides that total outlays for any fiscal year will not exceed total receipts for that fiscal year, unless authorized by three-fifths of the whole number of each House of Congress. The resolution also states that total receipts shall include all receipts of the United States Government except those derived from borrowing, and that total outlays shall include all outlays of the United States Government except for those used for repayment of debt principal. These requirements can be waived during periods of war or serious threats to national security.

Under the proposed language, it would appear that the receipts received by the United

States which go to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund would be included in the calculations of total receipts, and that payments from those funds would similarly be considered in the calculation of total outlays. This is confirmed by the House Report issued with H.J. Res. 1.[2] Thus, if the proposed amendment was ratified, then Congress would appear to be without the authority to exclude the Social Security Trust Funds from the calculations of total receipts and outlays under section 1 of the amendment.[3]

KENNETH R. THOMAS,
Legislative Attorney, American Law Division.

FOOTNOTES

[1] H.J. Res. 1, 104th Congress, 1st Sess. (January 27, 1995) provides the following proposed constitutional amendment—

Section 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

Section 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

Section 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

Section 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

Section 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

Section 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

Section 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.

[2] House Rept. 104-3, 104th Congress, 1st Session states the following:

The Committee concluded that exempting Social Security from computations of receipts and outlays would not be helpful to Social Security beneficiaries. Although Social Security accounts are running a surplus at this time, the situation is expected to change in the future with a Social Security related deficit developing. If we exclude Social Security from balanced budget computations, Congress will not have to make adjustments elsewhere in the budget to compensate for this projected deficit * * *. Id. at 11.

It should also be noted that an amendment by Representative Frank to exempt the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund from total receipts and total outlays was defeated in committee by a 16–19 rollcall vote. Id. at 14. A similar amendment by Representative Conyers was defeated in the House, 141 Cong. Rec. H741 (daily ed. January 23, 1995), as was an amendment by Representative Wise. Id. at H731.

[3] Although the Congress is given the authority to implement this article by appropriate legislation, there is no indication that the Congress would have the authority to pass legislation which conflicts with the provisions of the amendment.

Mrs. FEINSTEIN. This means then that Congress does not have the option of later excluding Social Security in implementation language. We simply do not have it. Therefore, unless Congress enacts this amendment, Social Security funds will be used to balance the budget.

No other way around it. No talk is going to change it. No pounding the breast is going to change it. No vows taken with blood or wine or anything else is going to change it. It will be enshrined in the Constitution of the United States and $3 trillion of money paid in FICA taxes by young people in this country, working men and women, will be used to pay for agriculture, to pay for HUD, to pay for education, to pay for this highway project or that highway project.

I believe that is violative of a public trust, and I believe that what this amendment is all about should not be to gut Social Security, and that is exactly what we would be doing, if we don't exclude Social Security.

So we have taken care of that argument. Congress does not have the option of later excluding Social Security in implementation language.

It is very clear. A vote for a balanced budget amendment that does not have this amendment in it is clearly a vote that puts Social Security on budget and takes its surplus. Let there be no doubt about it.

CHARGE THREE

Exempting Social Security could create a Social Security deficit.

Actually, the exact opposite is true. Excluding Social Security from the balanced budget amendment protects it while including it in the balanced budget amendment guts it. If you put Social Security in the budget, it is not to protect it. It is to use its revenues and thus increase its insolvency.

In 60 years of Social Security history, the trust funds have never run a deficit. They cannot. If trust funds run out of money, benefits cannot be paid. It is that simple and straightforward.

CHARGE FOUR

Excluding Social Security would allow the Government to gamble with Social Security funds.

According to the Republican policy committee report, and I quote,

> Congress might stop using Social Security surpluses to buy Government securities and let the Social Security trustees try their hand in the private market. They could start gambling with trust fund reserves by acquiring industries, buying up real estate, taking a chance on cattle futures or speculating on foreign currencies.

Mr. President, to that I say nonsense. To that I say baloney. That is pure flimflam. Social Security is off budget today, and the trust funds are not allowed to be invested anywhere except U.S. Treasury bonds. And they are the safest investment in the world. If they go, our Government goes.

Social Security has never been allowed, nor will it ever be allowed under this amendment, to use trust fund reserves to buy up real estate or cattle futures or to speculate on foreign currencies. This charge is pure obfuscation. It is pure fantasy.

Under this amendment, Social Security would still be required to invest in U.S. Treasury bonds, and there is nearly $5 trillion today of Federal governmental debt. The U.S. Treasury will continue to issue bonds and Social Security will continue to purchase those bonds.

The biggest difference between the practice today and the practice if the balanced budget amendment excluding Social Security is adopted is that when the constitutional amendment takes effect, the U.S. deficit will actually shrink—shrink—for nearly the next two decades, not grow.

And to my mind that is fiscally prudent. As the debt shrinks, interest rates drop. This means businesses can expand and hire new workers, Americans can afford new homes and pay for college for their children. Shrinking the debt is the right objective, and that will happen under this amendment for the next two decades.

Mr. President, in conclusion. I have listened to all the arguments about what is wrong with our amendment to exclude Social Security, but they all boil down to one thing: Members of Congress simply want to use the money to balance the budget.

That is not a real argument. That is a failure to deal truthfully with the American people. To loot Social Security is morally wrong and I cannot support it.

I want to support, as I said before, a balanced budget amendment and I am prepared to do so if Social Security is excluded. Rather than argue about this amendment, my colleagues who support a constitutional balanced budget amendment as I do, why not do the right thing and accept this amendment to exclude Social Security? Then we can move forward in a bipartisan way and get this country back on the right track again.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, as I have heard my friend from Florida and the Senator from California make their arguments on this balanced budget amendment, if there is ever an argument that they have made that has been powerful it is this one, but it is an argument why we should have a balanced budget amendment so these trust funds can stay viable, so we can live up to our obligations. It was a wonderful argument for them. And I do not think we should lose the spirit of just exactly why we have to have it.

If we go far back in our history to the ratifying of our Constitution and read the argument that was made then, when we formed this country, there was a very deep concern from the Framers of this Constitution about our ability to create national debt. I think it was Thomas Jefferson himself who made the statement that still was one of his concerns when the Constitution was ratified. I know it was a concern of the first President of this United States, George Washington.

If we read our history, those concerns have lasted as long as our Constitution has lasted. So the argument they make is a very persuasive one for, and a good reason why we need, a balanced budget amendment at this time.

I yield the floor.

Mr. HATCH. Mr. President, opponents of House Joint Resolution 1, the balanced budget amendment, are expected to support an amendment unsuccessfully offered in the Judiciary Committee by Senator DIANNE FEINSTEIN to specifically exclude Social Security from the calculations used to determine if the Federal Government's budget is in balance. A slightly modified version of this amendment has been introduced on the floor by Senator HARRY REID.

The consequence of its passage would be cataclysmic for millions of middle-class Americans who are counting on Social Security to supplement their retirement income in the future. At best, the Reid amendment is a jobs program for constitutional lawyers who would keep the matter tied up in the courts for years, if not decades.

The Reid amendment is just the sort of protection today's senior and tomorrow's retirees don't need. By requiring the Government to ignore Social Security receipts and expenditures in balancing its books, the Reid amendment would threaten the future of a program on which tens of millions of Americans rely.

HOW SOCIAL SECURITY WORKS

Consider how the Government collects payroll or Federal Insurance Contribution Act [FICA] taxes and pays Social Security benefits. Social Security payroll taxes—like Federal income, corporate, and excise taxes—are collected by the U.S. Treasury. Unlike other Treasury receipts, however, FICA revenues are used to back monthly Social Security checks. The House Ways and Means Committee's Overview of Entitlement Programs [the "Green Book"] describes the transaction this way:

> The trust funds are given IOUs when [FICA] taxes are received by the Treasury, and those IOUs are taken back when the Treasury makes expenditures on the program's behalf. This handling of [Social Security] finances goes back to the inception of the program and has not been altered by the inclusion or exclusion of the [Social Security] trust funds in or from the federal budget. [1994 Overview of Entitlement Programs, p. 91]

Throughout most of the program's history, the Treasury has collected more in FICA taxes than it has needed to pay Social Security benefits. The trust funds are thus stockpiling IOU's from the Treasury and are expected to do so for nearly two more decades. This year, for example, the Congressional Budget Office [CBO] estimates that Social Security receipts will exceed outlays by $69 billion. Over the 5-year period from 1996–2000, CBO projects that Social Security will take in $421 billion more than it will spend.

The Reid amendment would require Congress, when it hammers out annual Government budgets, to pretend that these billions of dollars simply do not exist. The Treasury would continue to collect hefty payroll taxes from working Americans, but these revenues could not be counted when determining whether the Federal budget was in balance.

WHAT THE REID AMENDMENT WOULD DO

The Reid amendment, as it was offered in—and tabled by—the Judiciary Committee, would add a new sentence at the end of section 7 of House Joint Resolution 1, the balanced budget amendment. The Nevada Senator's amendment reads:

> The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disability benefits shall not be counted as receipts or outlays for purposes of this article.

In order to bring revenues into line with expenditures under the bizarre accounting system necessitated by this amendment, Congress would have to choose from at least four major options, each of which would hurt the economy and imperil the Social Security system.

REID OPTION 1: RUN GOVERNMENT SURPLUSES

The first option would be for the Federal Government to run annual surpluses—collecting more in taxes than it spends—equal to the value of Government securities purchased by the trust funds.

This year, for example, the Social Security trust funds will buy $69 billion in Government securities from the Treasury. If a balanced budget amendment with the Reid provision were in effect, the Treasury would have to make believe that it never received this $69 billion. Thus, Congress would have to raise taxes or cut spending by $69 billion just to keep the deficit at its current level—$176 billion, according to CBO's most recent estimate. In order to balance the fiscal year 1995 budget under the Reid amendment, the Government would have to eliminate the $176 billion deficit and then come up with an additional $69 billion.

The Reid amendment thus would make it harder to achieve a balanced Federal budget, unless Congress resorted to one of the other options described in this paper. Ironically, many advocates of the Reid amendment oppose the balanced budget amendment because they believe that it would require tough decisions on cutting Federal spending. The balanced budget amendment with the Reid provision could actually make these decisions tougher than would an amendment without that provision.

REID OPTION 2: EXPAND THE DEFINITION OF "SOCIAL SECURITY"

While Congress is unaccustomed to passing balanced budgets, much less running surpluses, the Reid amendment would present lawmakers with another option, one with which it is more familiar—spending taxpayers' money.

The Reid amendment would effectively create two Federal budgets: One bound by rules of sound fiscal discipline and another in which Congress could spend as it pleased. The former budget would include all non-Social Security programs; the latter, all programs defined as "Social Security."

It wouldn't take long before Congress started to redefine its favorite programs as "Social Security." For example, the Supplemental Security Income Program [SSI], a welfare program for indigent aged, blind, and disabled people, is administered by the Social Security Administration, though it is financed by general revenues rather than through the payroll tax.

Spending on SSI has grown rapidly in recent years, and the program has been plagued by scandal. There has been a sizable increase in the number of alcoholics and drug addicts who qualify for benefits on the basis of their addiction. Critics also say that the steep rise in the number of children on the SSI rolls is due in large part to the mischaracterization of behavioral problems as disabilities. And many legal aliens have begun to collect monthly SSI checks when their sponsors—usually family members—withdraw financial support.

A balanced budget amendment would force Congress to take a hard look at the SSI Program and institute reforms to control costs. But if the Reid provision were added to the amendment, Congress could take the easy way out by using the FICA tax to pay SSI benefits. Other welfare programs—like Medicaid, food stamps, and scores of others—also could escape reform by being reclassified as "Social Security." This would drain resources intended for seniors and impair Government's ability to pay retiree benefits.

REID OPTION 3: CREATE A SOCIAL SECURITY DEFICIT

The Reid amendment would require only part of the budget to be in balance—non-Social Security spending would have to equal non-Social Security revenues. But the Reid amendment would permit part of the budget to be wildly out of balance—the part that seniors rely on for their monthly Social Security checks.

Because Congress would be prohibited from counting revenues from FICA taxes as Government receipts in determining whether the budget is balanced, lawmakers could drastically reduce these taxes without increasing the deficit. Increases in income taxes, however, would reduce the deficit. Thus, even if revenues from Federal income taxes were increased by the same amount that revenues from FICA taxes were decreased, the deficit actually would be reduced under the Reid amendment's twilight zone accounting.

The Reid amendment thus would create a perverse incentive for Congress to create huge Social Security deficits in order to balance the Federal budget. Replacing FICA revenues with other Federal tax revenues would be an easy means of helping to balance the non-Social Security portion of the budget, which is all the amendment would require.

Of course, the FICA taxes would no longer fully fund Social Security benefits, threatening the program with bankruptcy. The Social Security trustees could borrow money from the public in order to cover monthly checks to retirees, a step unprecedented in the program's history. But these Social Security deficits wouldn't matter under the Reid amendment. In the twisted logic of the amendment, the Federal budget would be considered balanced as a matter of constitutional law, even as the Federal Government plunged deeper into debt, a debt that would fall on future generations.

REID OPTION 4: GAMBLE WITH SOCIAL SECURITY FUNDS

Congress could avoid these problems by changing the way that proceeds from the FICA tax are spent. Current law permits these funds to be used only to pay benefits and to purchase government securities. It also accounts for these intergovernmental transactions in a commonsense way: The Treasury is credited with the revenues not needed to pay benefits, and the trust funds receive an equal amount in Government securities. Since the Government is borrowing money from itself, this transaction has no net effect on the deficit.

The Reid amendment would change the way these transactions are accounted for. While the trust funds would continue to count their Government securities as assets, the Treasury would have to pretend that it received nothing of value in return. Thus, in the bizarre world created by the Reid amendment, every time the Treasury issued a Government security to the trust fund, the deficit would increase, just as the Government's debt increases when it sells bonds to the general public.

Since the Reid amendment would treat these intergovernmental transactions as it would public bond issues, Congress might stop using Social Security surpluses to buy Government securities, and let the Social Security trustees try their hand in the private market. They could start gambling with trust fund reserves by acquiring industries, buying up real estate, taking a chance on cattle futures, or speculating on foreign currencies.

HOW TO SAVE SOCIAL SECURITY

Far from saving Social Security, the Reid amendment would threaten the program, driving Congress to pursue policies that would bleed the system and damage the economy in the process.

It also would tie the hands of lawmakers who want to restore the Federal Government to fiscal soundness. Congressional Budget Office Director Robert Reischauer, during his January 26 appearance before the Senate Finance Committee, was asked by Senator DON NICKLES whether he thought a balanced budget amendment should include exceptions for Social Security or other Federal programs. Dr. Reischauer replied:

> I would say the most comprehensive treatment of the budget would be the most desirable. And what you want is a situation where all activities of the Federal Government are on the table to increase or decrease all of the time in the future. We do not know how this country is going to evolve. * * * In 1920, there was no such thing as Social Security. Now there is. Who knows what the world will look like in 2020?
>
> If you are going to lock something into the Constitution, you want to do what our founding fathers did, which was provide guidance, general guidance, not nitty gritty specificity, so that the amendment will have enduring value.

The best way to assure that the Social Security system will have enduring value is for Government to get its own financial house in order. Rising Federal debt, and the interest payments it entails, threaten Social Security and stunt economic growth. Robert Myers, Social Security's former chief actuary and deputy commissioner, has stated:

> If we continue to run federal deficits year after year, and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the trust funds to pay for our current profligacy, or we will print money, dishonestly inflating our way out of indebtedness. Both cases would devastate the real value of the Social Security trust funds.

A government crippled by debt can't keep its promises. The balanced budget amendment—without the Reid provision—will help Congress make good on its pledge to seniors and to millions of working Americans to preserve Social Security.

Mr. President, I referred yesterday to a thoughtful article on this subject by Mr. David Keating, published in the Washington Times. I would ask that this be included in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Feb. 8, 1995]

SOCIAL SECURITY AND THE BALANCED BUDGET

(By David Keating)

During the Vietnam war, an American officer was quoted saying we had to destroy the village in order to save it. Now the U.S. Senate may apply similar logic when it votes on a proposal to add a huge loophole to the Balanced Budget Amendment, supposedly to save Social Security.

Although the Social Security system currently collects more in taxes than it spends in benefits, this will change early in the next century. If Social Security is exempt, the balanced-budget rule would quickly become worthless. Consider this: In the year 2050, this exemption would legalize an annual total budget deficit of over $2 trillion. That $2 trillion annual deficit will occur under current Social Security policies as today's children retire. This loophole would give Congress yet another excuse to stall any action to address these huge Social Security deficits.

The balanced-budget amendment simply requires that Congress take a three-fifths vote in order to pass a bill to borrow more money. Excluding Social Security sounds nice, but it would actually create a huge flaw in the amendment. As Congress chafes under the balanced-budget rule, it would likely use the Social Security loophole to fund other programs, leading in turn to the destruction of Social Security as it works today.

Congress would probably first add other programs that aid the elderly into Social Security. Obviously candidates include veterans' benefits and pensions, which total more than $20 billion a year. Supplemental Security Income, which is used to aid the elderly poor and costs over $25 billion a year, is another likely candidate. Then there is the approximately $175 billion in Medicare and Medicaid spending that benefits the aged. A portion of funds spent on the retired poor by Food Stamps, low-income home energy assistance, housing subsidy and other social service programs might be transferred to newly exempt Social Security trust funds. Some or all of federal employee or military retirement programs may also become part of Social Security.

A future Congress that wished to bypass the balanced-budget amendment could also, by a simple majority vote, authorize deficits as large as current Social Security spending. How? By reducing Social Security trust-fund taxes and revenues and increasing "operating" fund taxes and revenues by an equal amount. This has the potential to be as much as a $330 billion loophole, the current cost of the Social Security program.

It also increases the danger of granting further "exemptions" to the provisions of a balanced budget amendment. If Social Security is declared exempt, advocates of other causes—from highway builders to teachers—would demand their own exemptions. Or, Congress could simply begin funding everyday programs under the guise of "Social Security." Sound implausible? Who ever thought the Disability Insurance part of the Social Security System would pay benefits, as it does now, to young drug addicts and alcoholics who then use the money to sustain their habits?

There is nothing in the proposed exemption that would prohibit spending money from the Social Security trust funds for non-retirement programs. A future Congress and president that wished to circumvent the balanced-budget rule could do so simply by funding non-Social Security programs from trust fund accounts. A simple majority of Congress could thus effectively get around the balanced budget amendment and its limit on new debt.

In 1974, the federal debt was $483.9 billion. Today it's over $4.8 trillion, thanks to federal spending growth of twice the rate of inflation. Fifty-two cents of every personal federal income tax dollar now goes to pay interest on the national debt. Not only will interest begin to crowd out Social Security, but the continued buildup of debt will impair the ability of future taxpayers to refund moneys borrowed from the trust fund. Only an all-inclusive Balanced-Budget Amendment will force Congress to balance the budget and create a sound environment for the future of Social Security.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise today in support of the Reid-Feinstein amendment to exempt Social Security in any balanced budget amendment to the Constitution of the United States. I want to be absolutely clear. I will not vote for a balanced budget amendment to the Constitution that does not exempt Social Security. I will defend that principle in the Constitution. I will defend it on the Senate floor. And I will make sure to do all I can to exempt it in the balanced budget amendment.

Social Security is our primary contract with America. Social Security is a sacred and legal trust between the people and the U.S. Government. It is a social contract that was established more than 60 years ago and I believe promises made should be promises kept. We said to the American people if you practice self-help, if you contribute to a Social Security trust fund, we will make available to you a safety net and a floor on which you can build your retirement.

I believe this is a promise that needs to be kept. It was made in the New Deal. It was made in the Fair Deal. It was made in the New Frontier. It was made in the Great Society. It was reaffirmed by Ronald Reagan and George Bush and we should reaffirm it here. Social Security should be a sacred trust among the American people and should not be subjected to the vagaries of the U.S. Congress.

Republican colleagues say, "Do not worry. We all like Social Security. It is probably the one thing the Democrats did that we really do like. We do not want to touch Social Security and we can balance the budget without it."

That is like hearing somebody say, "Do not worry, Honey, I will take care of you." But then we all know that does not happen.

If in fact my colleagues on the other side of the aisle believe that Social Security should not be touched, let us not wait, then, for some mysterious enabling legislation. Let us put it in writing now and then let us put it in the constitutional amendment.

We talk a lot about the Contract With America and there is much about it that I support: the Congressional Accountability Act, the unfunded mandate legislation, the fact that we need to reform welfare to make sure we reward work, support families, and move people to self-sufficiency.

I also want to go back to the original contract, which is the Social Security contract. We need to honor work. We need to honor sweat equity. We need to continue to give help to those who practice self-help, those people who put money into the Social Security trust fund, believing it would be there for them and not be subject to whatever the Congress wants to do on any given year with the budget.

My contract with the American people and the people of the State of Maryland is I will not vote to cut Social Security and I will not vote for a balanced budget amendment that does not exempt Social Security. I will not vote to balance the budget on the backs of the generation that saved Western civilization.

Right now we have wonderful, ordinary men and women who did extraordinary things during World War II who are now in their seventies and eighties, who absolutely rely on Social Security. Eleanor Roosevelt called that generation who mobilized for the war, for World War II, she called them to something, and said it was no ordinary time and no ordinary solutions would be sufficient to defeat those enemies of America and Western civilization.

Not only was it no ordinary time, they were no ordinary generation. Now we cannot make them pay for the red ink that has been run up in the Federal deficit.

Social Security is not the cause of the Federal deficit. It is an independent, self-financed and a dedicated fund. In the early 1980's we all took tough medicine in order to make the Social Security trust fund solvent. Today the Social Security has a reserve, it has a surplus because we anticipate the needs of an aging generation. Older Americans who survive on Social Security plus a small pension are not responsible for this Federal budget deficit and should not pay the price for the balanced budget amendment.

This is not just a senior citizen issue. This is a family issue. Right now there are many families in my age group who are called the sandwich generation. They are helping support their mother and father—or in many instances their family is self-sufficient because of Social Security combined with a private pension plan—but this sandwich generation is helping mom and dad and paying for the kids in college. They deserve the fact that their mother and father should get the Social Security check that they planned for and that they thought would be there for them.

I will not let those families down. I am on their side, standing up for the principles of family responsibility, self-help and believing when your U.S. Government makes a contract with you it will not change the rules of the game in the midst of debates on the budget.

Let us be clear. Social Security is not welfare. It is not a line item in the appropriations process. It is not something we decide on every year. It is an independent self-financed solvent trust—underline the word "trust"—fund. It is the foundation of retirement security and family security.

If we do not exempt it from the balanced budget amendment I predict it will be cut. I predict it will be cut severely. This will mean that millions of families could see their incomes sink, and older Americans and disabled Americans will be placed at risk.

We hear a lot about angry taxpayers, but they are not angry at Social Security. Americans know that Social Security works, and 79 percent of the American people want to see Social Security exempted from the balanced budget amendment. I stand with those Americans. Count me as part of the 79 percent.

Count me as being 100 percent with that percentage of the American people who want Social Security exempted in the balanced budget amendment. Let us protect and preserve and defend that social contract with them and let us protect, preserve, and defend the Constitution of the United States of America.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Utah.

Mr. HATCH. Mr. President, I think this has been a reasonable debate. It has been civil. The debate has been so for both sides of this issue, and both sides have been well-represented. Naturally I feel our side is correct. I would not be here if I did not, working day in and day out. But the American people voted for change. They thought they were going to get it when they voted for President Clinton. And to a degree they have gotten change, but not the change they thought they were going to get. They thought he would lead the fight for a balanced budget. In a sense, with increasing taxes and doing some budgetary cuts in the last year, I guess you could give him some credit for that, except that under that budget that he passed with 100 percent Democrats and no Republicans, the Vice President having to break the tie, that budget has deficits shooting up in 1996 to as high as $400 billion-plus shortly after the turn of the century.

This year the President has brought his budget forward, and I really believe he has just thrown in the sponge because this year's budget has $200 billion deficits ad infinitum just on and on well into the next century, certainly for the next 12 years. And those are based on his rosiest assumptions. He just plain did not do anything about persistent yearly deficits. That is not change. That is business as usual. And $200 billion deficits are very, very high.

The American people voted for change, and the balanced budget is part of that change. I think we have to overcome this deficit problem.

This chart here shows the President's projections. Calculating the deficit under President Clinton, we started with a $4.8 trillion national debt, and between 1994 and the year 2000, 5 years, he will spend $1.39 trillion more than we are currently spending.

The deficits will be $103.2 billion for 1994; $129.5 billion in 1995. Then they go up from there. But they average well over $190 billion a year. This chart only shows projections to the year 2000. They have projected up to the year 2007. Every one of those years has $190 billion-plus deficits. That is assuming that the optimistic economic assumptions of the President will be valid, even though we may have some downturns and upturns and everything else during that time. I do not think that these optimistic assumptions will hold, especially if you do not have a balanced budget amendment to get the Government to live within its means.

The American people want change. They are not going to be satisfied with business as usual. What I hear from the opponents, sincere as they may be, is that we are going to have business as usual. They know full well the American people support a balanced budget amendment—and the other body passed this amendment overwhelmingly. It was kind of a miracle really because we have been fighting for the balanced budget amendment ever since I came here. We passed the balanced budget amendment in 1982 by the requisite 67 votes plus 2. We had 69 votes. It went to the House, and we got 60 percent of the House to vote for it but it was not the two-thirds. Tip O'Neill beat us over there. Then we were beaten again over there. But this year, in a vote of 300 to 132, I believe, they overwhelmingly passed the balanced budget amendment.

So for the first time in history, the Senate, which has a history of previously having passed the balanced budget amendment, has a chance to pass it on to the States and make this a very pivotal year in U.S. history by putting the discipline in the Constitution that will help us to get spending under control.

I think the people out there know full well that since the other body passed this amendment overwhelmingly with strong bipartisan support despite the President's opposition—I have to say that I do not think the President is opposing this very strongly. Sure, he does not want it to pass. His budget makes that clear. But I think deep down he probably wishes it would pass because then it would provide the fiscal discipline that his party and our party need in order to get spending under control.

I would like to take a few minutes to define some of the reasons the American people need a balanced budget amendment. The Tax Foundation, in its April 1994 special report, calculated that an American worker worked 125 days last year just to pay taxes. That means from January 1 to May 5, working Americans earned absolutely nothing for themselves. Every dime they earned—working Americans between January 1 and May 5—went to taxes for the Federal Government. Put another way, in an 8-hour day, a working American spends the first 2 hours and 45 minutes working for the Government. That is wrong. The hard-working Americans who grant us the privilege of serving them deserve better than this. The American people have earned this amendment. It would be a shame for us, after the House bit the bullet and passed this amendment and after they have taken the lead, to deprive our citizens any longer.

By the way, it was a bipartisan vote in the House, as it has to be in either body. It was not a Republican victory. This is not a Republican amendment. This is a bipartisan, consensus amendment. I know. I have worked on it and have helped write it now for all of these last 19 years, and certainly since 1982. And we have worked with our Democratic counterparts year in and year out, and 72 terrific, courageous Democrats voted for this over in the House of Representatives. It would not have passed without them. We all know that. So there is no reason for either side to claim victory here, if this passes, as I think it will. There is every reason for us to continue to work together.

Hard-working Americans who grant us the privilege of serving them deserve a better break than they are getting. The American people have earned this amendment. It would be a shame for us to deprive them of this.

Those of my colleagues who believe Americans are getting their money's worth for their tax dollars should oppose the balanced budget amendment. But if any of them believe that, I would be surprised. Those Senators who believe otherwise should support it.

Mr. President, the size of our bureaucracy is out of control, and wasteful spending continues. We are actually paying Federal bureaucrats to frustrate private initiative. Let me get into that in a minute. But before I do, let me go back to our balanced budget debt tracker and the growth of the national debt as we debate.

Mr. President, when we started the debate on day one, the national debt was $4.8 trillion, and is represented by this red line. We are now in the 11th day. We are now up to $9,123,840,000 in increased debt just in the 11 days since we started this debate.

It is going up every day that we debate. We are standing here seeing the sinking of the *Titanic*, and just whittling—I guess fiddling would be a better word—while Washington is sinking American taxpayers deeper day in and day out. Just look at how the debt grows. That is going to go up every day this debate continues. It is time for us to do something about it. The bureaucracy is out of control. Wasteful spending continues. We are actually paying Federal bureaucrats to frustrate private initiative.

Let me mention some of the details of our current plight.

I am grateful for the National Taxpayers Union for compiling some of these points. No. 1, the fiscal year Federal budget deficit was $203.4 billion. No. 2, the Federal Government has run deficits in 33 of the last 34 years and has run a deficit every single year for the past 25 years. No. 4, last year, gross interest payments alone on the national debt were just under $300 billion. These gross interest payments were the second largest item in the Federal budget, and they were more than the total revenues of the Federal Government in 1975. In other words, what we are paying for interest, which just goes down the drain, totaled nearly $300 billion, and that figure is more than the total Federal budget was in 1975, just 20 years ago.

It took our Nation 205 years, from 1776 to 1981, to reach $1 trillion in national debt. It took only 11 years to reach $4 trillion. On the last day of 1994, the total Federal debt had reached $4.8 trillion. That means that I was a little wrong here when I started my chart behind me as having a $4.8 trillion national debt the day we began the debate. That was the debt January 1. So we were actually higher than that when we began the debate. But, having used that as a rounded baseline figure, we are now another $9 billion, going on $10 billion, in debt just in the 11 days this debate has been going on.

The country is suffering. I have to say that despite claims of drastic deficit reduction with the 1993 passage of one of the largest tax increases in American history, the Congressional Budget Office predicted deficits will exceed $300 billion in less than 10 years from now.

Mr. President, I understand the distinguished Senator from Wisconsin wants to speak. If I could take maybe a couple of more minutes, I will be glad to yield.

Even the President's budget, as I mentioned, just sent to Congress, as optimistic as it is, predicts about $200 billion in deficits every year through the year 2002 when our amendment will go into effect. This is another $1.4 trillion in debt over those 7 years. That is almost certainly a vast understatement. Think of the increase in yearly interest payments that will add to the

Federal budget every year just from that.

The Washington Post headline on Saturday said a great deal about the President's budget proposal: "New Budget to Continue U.S. Deficits; Clinton Proposal Due Monday Produced Amid Staff Doubts." The article reports that the President's budget "left some administration officials doubting the President's commitment to his campaign vow to halve the deficit by 1996." The headline over the continuation of the Post story on page 4 aptly reads: "Clinton's Proposed Budget Continues Deficits He Pledged to Cut."

Some who are cynical believe he has done that so that the Republican Congress will have to make the cuts, and then they can criticize the Republican Congress for having done so. I hope that is not the case. Nevertheless, it is apparent that he has not been doing what he promised to try to do. Is there any doubt that we cannot keep spending this way and racking up these huge deficits? Is there any doubt that the politics as usual, represented by the President and his budget proposals, do not serve the best interest of our hard-working taxpayers? Federal spending and debt crowds out free enterprise. When the Federal Government spends and borrows, it soaks up resources that private business might otherwise use to build or expand factories, showrooms, and stores, and the ability to employ many Americans at better wages.

Deficit financing is hurting the chances that our children and grandchildren will have financial security. Each one of them owes $18,500 in national debt as of right now—in fact, each American citizen, man, woman and child. Each year we are going to add, under the President's budget, $200 billion to the national debt, from here on in, ad infinitum. Each year we do that, we cost the average child just over $5,000 in extra taxes over his or her working lifetime, just to pay interest costs.

The President is proposing to do just that, year after year. I know it is tough to be President and I know it is tough to make these decisions. But future generations are going to face higher interest rates, less affordable homes, fewer consumer conveniences, fewer jobs, lower wages, and a loss of economic sovereignty, unless our fiscal house is brought into order. So it is time we face these facts, Mr. President. It is time to make the commitment to balance the Federal budget, and we need this constitutional mandate.

So I urge my colleagues in the Senate to please consider this and please support us in fighting for and voting for the balanced budget amendment.

I have more to say, but I will say it at another time, because the distinguished Senator from Wisconsin desires to speak.

I yield the floor.

Mr. FEINGOLD. Mr. President, we are doing something very unusual here. We are working on a constitutional amendment. We know that has not happened many times in our history, and so when you deal with a constitutional amendment, you have to take an even tougher attitude about what you are doing. I think you have to consider that two different things can happen, obviously. One is that the amendment may be defeated which, in this case, I happen to prefer. As we go through the amendments, we also have to be responsible about the amendments we put on, because whether I like it or not, this may become the law of the land, part of the Constitution.

So the amendments that are offered become particularly important. What we are doing here is to decide whether or not this balanced budget amendment should become the law of the land and possibly a straitjacket and a problem for a Federal Government from which it will be very difficult to extricate ourselves. So it is in that spirit that I address the amendment of the Senator from Nevada.

I want to take this opportunity to commend the Senator from Nevada for his eloquent leadership on this issue of the Social Security aspect of the balanced budget amendment—his leadership last session and his leadership now. I also commend the senior Senator from California, who took the lead in the Judiciary Committee on which I serve in trying to provide at least this exemption for Social Security from the balanced budget amendment.

The Senator from California did such a good job, and I was happy to be able to help her. We had a very close vote; we were only one vote off in the Judiciary Committee from defeating a motion to table the amendment.

I see this amendment both in the committee and here on the floor as not only serious, but as a sincere and constructive amendment, even though I have reservations about the balanced budget amendment itself. I especially speak at this time because even though I think there is a chance the balanced budget amendment will not pass this body, and even though I think there is a possibility that even if it goes through the Congress it will not be approved by the States, the fact is that it may well do that.

We may well be faced with the possibility that the U.S. Constitution will have a balanced budget amendment that provides no protection for the Social Security program. Listening to the debate in committee and in listening to the debate yesterday on the floor, I realized again that when you look at the Social Security amendment, it really depends on how you look at the Social Security fund itself. How one comes down on this amendment depends on how you look at the contributions people make to the Social Security system.

One group of people see the Social Security fund as a distinct and separate fund, based on a contract. They think they paid in the money, that a deal was made, that they are entitled to their Social Security benefits, and that it is not subject to congressional whim.

There is another group that sees this as just another program, albeit a worthy program. I know of no Member of the Senate or any Member of the other body who does not think Social Security is a worthy program. But this other group just sees it as a program, something that may make sense, something that is expensive, something that we may have to move around and take some money from, but something that is worthy nonetheless. Those are really the two different ways to look at Social Security. It is because of this distinction—the differences between the way people look at Social Security—that people come down on different sides on what the chairman of the Judiciary Committee called in the committee the loophole.

The chairman, the Senator from Utah, said that putting this amendment into the balanced budget amendment and into the Constitution would create a loophole; that the Members of Congress could take basically anything they wanted and label it Social Security and use it as a way to get out from under the amendment. That was the chairman's view of how this would create a loophole.

But I think I look at the Social Security fund a little differently than the chairman—and I acknowledge that a lot of people support him in his view. But I look at the Social Security system as a contract. And so for me, the loophole is not the amendment that the Senator from Nevada is proposing; the loophole is the past and inappropriate use of the Social Security fund to mask the deficit and the debt. That has been the loophole that has been used in the Congress.

We should not suggest even for a minute—and apparently it went a lot longer than that—that somehow the Social Security fund is part of that money that comes into the Federal Government and that we can use it in our budget calculations, as, in fact, it has been used in the past to mask just how big the deficit really is. I know that the Congress in recent years has recognized that this is inappropriate, but it was done—that is the dangerous loophole; that the Social Security fund can be regarded as a cookie jar, a slush fund, whatever you want to call it, to solve our problems that we have failed to solve. In my mind, that is the loophole, not the risk that the Constitution would say do not touch Social Security.

I think the amendment of the Senator from Nevada and the amendment in committee of the Senator from California are critical because they permanently close the loophole as we move in the balanced budget era.

In fact, I would say, based on a few years of listening to folks all over my State, that the use of the Social Security fund to mask the deficit and the debt is one of the really strong reasons people mistrust the Federal Government. They are troubled by their belief that we are willing to engage in gridlock and avoid solving our Nation's problems. But, they are also angry that we can be so arrogant as to consider Social Security system funds not to be part of a contract with the people who have paid into the system, but money that we can use to solve problems that we have not been willing to solve in the past.

The amendment of the Senator from Nevada is responsible as to the future, as well. It is highly responsible, because what it does is address the future solvency of the Social Security fund.

Just as the Social Security fund is not the reason we have a deficit today—we know that the fund is solvent—it is still the case that the Social Security fund faces an extremely likely, if not certain, strain in the future. It must remain intact as a separate system with a separate, credible, long-term financing plan so that Social Security will be there for those of us who come along in the future. Without the amendment of the Senator from Nevada, the balanced budget amendment becomes not a friend to the future, but a continuing threat to the integrity of the Social Security system.

Now, that is not to say—and I think this is important—that there cannot be changes on the table for Social Security. I think there should be. Everything needs to be improved over time and, especially when you are facing future insolvency, we have to consider some changes.

In fact, maybe we should look at some of the changes proposed by the so-called Entitlements Commission, the Kerrey-Danforth Commission. They put some ideas on the table that had to do with Social Security, such as whether or not we should raise the retirement age, whether or not there should be some different assumptions made in terms of how the Consumer Price Index is calculated as it relates to the cost-of-living increases.

I am willing to consider those changes, but only if those changes are used to make sure that the money goes into the Social Security fund to make sure it is solvent for the future. Without the amendment of the Senator from Nevada, these tough changes, which are going to be controversial no matter what, will be changes that the American people may see as ways not to make the fund solvent for the future, but to take care of pork projects somewhere else out of their State so that Members of Congress do not have to balance the budget directly. I think that is a valid fear, not only for seniors, but for all the people who come after them and who hope that they have not paid into the Social Security system in vain.

Mr. President, in this context, I am troubled not only by the notion that somehow we are creating a loophole in the Constitution, but I am especially troubled by the notion that I have heard expressed in committee and on the floor—I do not know whether it is a notion or a reassurance or a wish—which is this: The statement that somehow Social Security will compete well. It is going to do really well, we are told. It has a lot of support. There is nothing to worry about. Nobody is going to hurt Social Security.

That is what the proponents of the balanced budget amendment tell us. That is what people say when they say we do not need the amendment of the Senator from Nevada.

But I think that is troubling. I am afraid that the Social Security system may not fare so well in the brave new world of the balanced budget amendment or in this new marketplace of budgetary suitors. I think that the language of the marketplace in saying that Social Security will compete well is a direct breach of the whole concept of Social Security and the promise that was made to all those hardworking Americans who paid into the system over the years, understanding and believing in their Government that nobody would monkey around with their retirement money.

Mr. President, we are not talking here about just another kind of tax revenue. Nobody likes taxes. Nobody likes April 15. But the understanding is, when you send in that money on April 15, or you have to send in a little extra amount because your withholding was not quite right, that it goes into a big pot out here and these Members of Congress get to decide, along with the President, what is done with it. People do not like it, but they understand that is our system.

But that is not their understanding when it comes to Social Security. For 50 years, that is not what the American people have been told Social Security is all about.

To put it another way, I do not think the American people think they should be part of, in effect, a large block grant that the Federal Government has where they have to compete against other programs, and that they hope they do well in this new block grant after the balanced budget amendment, and they hope there will be enough money there so they can get their Social Security benefits. That is not the understanding.

Mr. President, words of "competition" and "free market" are almost always appropriate. That is what our system is based on. The words of "free market" and "faring well" and "competing" with other worthy programs are not appropriate when it comes to Social Security.

The final point I would like to make, because I think this is often overlooked in attempts to minimize the importance of this amendment, is that there is an implication that this is just about senior citizens. Somehow, this is pandering to older Americans who want their Social Security benefits, as if there was something wrong with that. There are constant references to the power of the senior lobby, how we are pandering to older people. This is what we hear all the time.

But I will say that I agree with the sentiments of the proponents of the balanced budget amendment who say that nobody is going to mess around with the seniors today. That is politically explosive. That is not going to happen. We are not going to take away from the benefits of senior citizens today. They are not, if you will, the at-risk population when it comes to the balanced budget amendment.

I would like to identify three generations that are far more at risk because of this constitutional amendment than the seniors of today.

The first generation is my generation, the baby boomers.

Do not accuse me of pandering to seniors. Accuse me, if you will, of worrying about my own Social Security benefits. I am concerned. I am concerned that, if this institution has the right to mess around with Social Security funds, when my wife and I get up to be that age, there is not going to be anything there. And there are a lot of us in our generation. You bet, we have a lot of votes. But we also have a right to the benefits that we paid for and we were told we were going to get by participating in this system. Clearly, my generation is concerned.

There is another generation that I know is concerned and they have become very vocal. They are called generation X, kids in their late twenties or early thirties. They actually have articulated a philosophy for which I do not pretend to be the spokesman. Obviously, I am too old. I have read the articles and heard the statements and seen them on TV. What they are saying is, we are not sure that the older folks—and now I am in that group—who are running the show in Washington care at all if Social Security is solvent when we get there.

They know there are seniors today. There is a huge group of baby boomers that will eat up all kinds of benefits when they get there. They, I think, kind of smell a rat. When they get there, they are very concerned that this system that they are now paying into in their younger years, when they would probably like to get a house, buy another car, they are worried we are spending.

There is a third generation, the age of my kids. People who are 14, 11, 9. People that do not understand this. Yet some are figuring out that we have an awful big Federal deficit here, and they will realize shortly as they graduate from high school and go into the work force, if we do not protect Social Security, they will be the ultimate victims of our fiscal irresponsibility of recent years.

I conclude, Mr. President, noting that the people that we are always talking about with regard to the deficit and the balanced budget amendment are the children and the grandchildren. Would it not be ironic if, in the name of helping the children and the grandchildren, we take away forever the possibility that those same people would have the opportunity to have Social Security? That is ultimately what is going on here. We are taking away potentially, without this protection, the same rights and privileges that so many of us hope to enjoy, because there just will not be any money left in the fund.

Mr. President, this is a sincere amendment. Whether the balanced budget amendment passes or not, it is absolutely essential that we keep it separate, that we keep our promise not only to those who have worked and paid in, but that we keep our promise to those who come after.

I urge my colleagues to regard this as an important amendment. I strongly urge support for the motion of the Senator from Nevada. I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Kentucky.

Mr. FORD. Mr. President, I take the floor to join my colleague from Wisconsin and my other colleagues in support of their attempt to ease our seniors' fears and to help set some parameters for the debate on the balanced budget amendment.

The fact is, the Social Security system is not causing the deficit. Its revenues and surpluses should not be used to mask the deficit nor should its outlays be counted as part of expenditures. Because of these very compelling facts, it is clear to me that Social Security should be exempted from the balanced budget amendment.

Unfortunately, as has been pointed out by various Senators, there is a great deal of confusion in the country over what the balanced budget amendment will mean. The Members on the other side of the aisle have recently voted down the right-to-know amendment that would have gone a long way to answer these difficult and important questions that are confusing the American people. I think this is unfortunate. Throughout the debate in the House and here in the Senate, Members from the other side of the aisle have continued to say "everything is on the table." Asked if that included Social Security, most have tried to be reassuring. Well, when someone tells me that everything is under consideration and then adds that we'll protect Social Security only after being prompted, forgive me for not being too heartened by their words.

I say as my father used to say, put it in writing. Put your money where your mouth is and continue to keep the Social Security system in its protected position as a trust fund, separate and distinct from the rest of the Federal budget.

The many proposals to balance the budget being circulated are scaring people living on Social Security and scaring those who expect the U.S. Congress, to abide by our contract, our promise, that the funds will be there when they need them. The conflicting statements in the press and the speculation on the political talk shows is feeding the confusion about what will happen to Social Security. So, Mr. President, I believe it is high time that Senators go on record stating flatly where we stand with respect to Social Security.

Oh, no, do not come up with this "We will take care of it in the implementing language." That does not buy it. Trust, but verify. We heard that. I trust, but I want to verify it in writing.

I am not afraid to say where I stand. I think those who are supporting the balanced budget amendment are scared to death over this one. We have not had to have a caucus on what to do about the vote on Social Security. We have not had to have a caucus saying we want to develop a second-degree amendment or a substitute that puts Members in a position that when we get to the implementing language we cannot touch Social Security.

I have an answer for that one, I think. Many years ago our Nation made a pact with its people that their payroll contributions—and we make them pay—would be available when needed, whether in old age or because of disability.

When I say "protect" I mean protect, without a doubt. Some have advocated dealing with Social Security issues, as I say, in the implementing language of the balanced budget amendment. I say to my colleagues and the Nation that that will not cut it. Legislation can be changed at the whim of this Congress or the next Congress.

Our amendment is different. By actually writing the protection into the Constitution it truly protects the Social Security contract. We have heard a lot about contracts in the last 35 to 40 days. We had heard a lot of it last year. Now we have a contract we want to break.

"Oh, we are not going to break it. We are going to take care of it in implementing language." Well, how are we going to take care of it? We can change it any week we want to, any month we want to, any year we want to, any Congress we want to. So we do not take care of it. We can change it.

In fact, this amendment reinforces our position, makes it stronger, makes Social Security safer and more secure. Neither receipts nor outlays will be counted as part of the budget under this provision.

The facts in this case bear repeating, I think. The Social Security system is not causing the deficit. Our proposal protects the sanctity of this most vital program.

I hope and trust that most of our colleagues will join in protecting Social Security. We need to go on record—not some vague time in the future—to put our seniors' fears to rest.

If we say we want to safeguard Social Security, remember that actions speak louder than words. Support the Reid-Feinstein amendment to the balanced budget amendment. Support this measure. Support for this measure is the only way to truly guard the trust fund. I hope my colleagues will support it.

Opponents argue on this issue that statutes never have been incorporated in the Constitution and this would be an unprecedented constitutionalizing of a statute.

The response to that is, this is the first time that we have ever tried to do an amendment to the Constitution fixing fiscal policy. So if this is the first time we have done that, we can do something else for the first time.

So if we are talking about fiscal policy, should we not be concerned about one of the largest fiscal elements of our society; namely, Social Security?

I know there are a lot of people here just as sincere about supporting the constitutional amendment as they can be. I support it. I voted for a constitutional amendment to balance the budget. You are going to need my vote, but you know, they say, whichever way it goes, Democrats lose on this. If you pass a balanced budget amendment, the Republicans win. If they lose, they beat the heck out of us for the next 2 years politically, and there will be fewer Democrats here 2 years from now than there are now. I see the President smiling. He would like that. That is all right. I am going to do what I think is best whether I get to come back or not, and I will defend my position with anyone on the other side any time you want to have that debate.

But there are some people around this Chamber I respect. I respect them personally and for their judgment and experience and knowledge. One of those is the distinguished Senator from Alabama, Senator HEFLIN. I do not think anybody in this Chamber disputes his legal and constitutional knowledge.

So let us just look at this for just a moment, where he is coming from. Opponents of this amendment argue that we will use implementing legislation to exempt Social Security from the Balanced Budget Act calculations. That is what we hear. We hear it every day from my learned friend from Utah—I heard it, he just keeps repeating it, and I almost believe it he has repeated it so much. But let us listen to the distinguished Senator from Alabama. This refutes the ability to do something about Social Security in the implementing language that we hear about.

Here is what Senator HEFLIN says:

> Attempts to protect Social Security through implementing language would be futile.

Futile, and I underscore that.

> Once the Constitution is amended to require that total outlays for any fiscal year shall not exceed total receipts for that fiscal year, Social Security is in danger.

That is what Senator HEFLIN says. And he goes further to say:

> This means that there will be a constitutional requirement that Social Security funds be considered on budget, because the language says all receipts, all revenues.

All receipts, all revenues. So when that balanced budget amendment is passed, that includes Social Security, and this is by a man I believe has as good a knowledge of the Constitution as anyone in this Chamber.

He goes on further to say:

> If the balanced budget amendment is adopted as presently worded, it would prohibit—

Let me repeat that.

> it would prohibit Congress from legislatively taking Social Security funds off budget

Because you have included them—

> and would nullify the provisions of the 1990 Budget Enforcement Act which requires Social Security funds to be considered off budget.

That balanced budget amendment says it is all receipts, all revenues, and here is a fellow I think you have to respect, a Senator, I better be careful. Senator BYRD will be up here in a minute if I call him "fellow." He is a Senator. So I want to be sure I say it right.

Here is a Senator we all respect. He thought about this for weeks, and he would not have made that statement publicly if he did not believe he was legally and constitutionally correct. When he makes that statement, after thoughtful consideration, I have to believe it.

We have others from the American Law Division who agree with Senator HEFLIN. They put out their statements. Once you put "all receipts" in that amendment to the Constitution, you eliminate the ability under the legislative implementation of that budget of trying to exclude Social Security.

If you are willing to take that chance, and if you are willing to take that chance, go ahead and vote against it. But I will tell the Senate and the American people, here is one Senator who is not going to vote to include Social Security. I have too many in my State, and you have too many in your State and there are too many across this country who have a contract with us.

"Oh, it's all right, old FORD is down there flapping his lips. It's not going to make any difference, they already have the votes." They at least start out with 53—maybe 52. You did lose one. One on that side is all right, up until now.

But when it comes to the point of whether you want to believe the constitutional scholars that once you pass this balanced budget amendment Social Security is excluded from the implementation of that budget by this body, then you have said one thing and you are unable to do it.

I do not want the courts to start telling me to cut the budget, to raise the taxes, you cannot do this and you cannot do that. And we are getting very close to saying to the courts, "You are going to run this country." I am not ready for the courts to tell me how to vote in the legislature, in the Congress, and I do not think you want to vote to give that much power to the courts.

We are on the verge of saying that the courts will be all powerful over our fiscal policy. Line-item veto—we are going to give that to the Executive. We can just get us a plastic card and vote from home, and a lot of people would probably like for us to do that. But we are slowly but surely saying to our forefathers that you made the best judgment of any country in the world when you put together the Constitution, but we are saying now we are going to give a piece of the legislative prerogative to the courts, we are going to give another piece of legislative prerogative to the President.

I believe Senator HEFLIN when he says that if you say "all receipts" and the constitutional amendment passes, you will not be able to get Social Security and those people out there now drawing Social Security will be in deep trouble. A $702 billion surplus in 2002 in Social Security. A $780 billion surplus in Social Security in 2002 and you want to take that and reduce the deficit.

Now, if I did not have to pay it, it might be a different deal, but I have to pay it. I look forward to it because it is a contract. How many people get out of paying Social Security? I do not know. Unless you do not make anything, you pay Social Security. It is planned to go up and have a surplus. That is the plan. We do not even have a means test. I have not even heard it suggested.

I see a lot of people taking notes while I am talking. Maybe they want to think about this constitutional question a little bit.

But I just say to my colleagues and to those who may be watching—once they started listening to me talk, they probably turned on the local news or something—but you better be careful about allowing the Social Security amendment to fail because if that balanced budget amendment passes—and I suspect it will and the States will ratify it—then Social Security is part of the deficit reduction, regardless of our implementing language.

Oh, I will hear good legal words. I am not a lawyer. Therefore, I am not a word merchant, and I cannot take my words and make it sound good. You have both sides. You have both sides. And it is good to argue that way.

But the only thing I know is I listen to people I trust, people I think are intelligent, people I think thought this part of the amendment through thoroughly and have now made their judgment. That judgment has been supported by the American Law Division of the Congressional Research Service. They all concur with Senator HEFLIN's statement. If that is true, all of us in this Chamber better take a step back and look at where this has taken us, particularly as it relates to Social Security.

Mr. President, I say to my colleagues I hope that the 17,000 calls per minute being made around this country as it relates to Social Security begin to burn between now and the time that they have this vote, and that we can at least save Social Security in our haste to have a drag race and accomplish things and put it on the 30-second sound bite.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I agree with three-fourths of what Senator FEINGOLD said before and what Senator FORD has said. I believe we do have a contract with people who have signed up for Social Security. As a matter of fact, I do not remember when it was, but about 10 years ago, when I introduced a balanced budget amendment, I had an exemption for Social Security.

I finally withdrew that for two reasons. First, I believed that we better protect Social Security by not having it in, and I will explain that in a few moments. Second, we have a contract with a lot of other people, too. And if you put in this exemption for those on Social Security, what about Federal employees? What about veterans? What about railroad employees? What about other trust funds we have set up where we have a contract—for aviation, for highways, for other things?

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. SIMON. I will be pleased to yield.

Mr. FORD. I understand what the Senator is saying about these other contracts. But in the military, we appropriate funds every year for the retirement of the military. The airport improvement trust fund, if you fly an airplane, you pay the tax. If you do not fly, you do not. Then you are going to see that we can reduce those taxes. Therefore, you will not have a trust fund. Under the highway trust fund, you have gasoline taxes. If you reduce those taxes, you do not have a trust fund. Here it is mandatory that you pay under Social Security, and that is a trust fund with a contract. Will the Senator agree with that?

Mr. SIMON. I agree they are different. But what about railroad employees, if I may ask?

Mr. FORD. Railroad employees are under Social Security. They have been transferred to the Social Security. The railroad retirement system has been merged with Social Security, and Social Security is the railroad retirement fund.

Mr. SIMON. I differ with my colleague on that.

Mr. FORD. My father-in-law is a railroad retiree, and he gets his check from Social Security. Now, Mr. President, I do not know what it is, what kind of fund he has, but they did not have enough funds to take care of it and they turned it over to Social Security, and Social Security is now taking care of those retired railroad people.

Mr. SIMON. The Senator is partially correct in that.

Mr. FORD. At least that is better than being all wrong.

Mr. SIMON. Mr. President, let me just add, we have a contract not only with people who are on Social Security today. We have a contract with those three groups that Senator Feingold mentioned in the future. And how is the Social Security trust fund protected? It is protected by U.S. bonds.

If you take a look at the history of nations, when nations get around 9, 10, or 11 percent of deficit versus national income, with the exception when you are in a war, then nations start printing money. What the economists say is they monetize the debt. The latest CBO projection is we are going to end up, in the year 2030, with 18 percent. That suggests that the only way we can protect Social Security is to make sure that debt does not rise, and that we do not monetize the debt, because if the dollar is only worth 25 cents, those bonds are only worth 25 cents on the dollar.

Senator Ford is correct. Social Security is not causing the deficit. I have voted for statutory provisions, and I will again as we move ahead. But we also have to recognize that if we separate Social Security and say this is not our direct responsibility, starting in the year 2012 or 2013, Social Security starts to go into a deficit situation.

What we ought to be doing, if this passes, is sitting down with senior groups right now and saying how do we plan for this? Do we have to have a half-percent increase in Social Security in the FICA tax to pay for it? Should we, over a period of 12 years, each month increase the retirement that you need to have?

I do not know what the answers are, but I know that if we just put this off and say this is not our direct responsibility, we are asking for trouble.

Here let me just add, we ought to be listening to Bob Myers, for 21 years the chief actuary of the Social Security System. He says it is absolutely essential for the future of our system that we pass the balanced budget amendment. I hope we do that.

Let me just add one other point. There are those who philosophically just are opposed to a balanced budget amendment, period. My friend, Senator Byrd, is one of those. Senator Feingold is one of those. But let no one use the defeat—and I think this amendment will be defeated—let no one use that as political cover and say, well, I cannot do this because I want to protect Social Security recipients. The only sure way to protect Social Security recipients is, as Bob Myers has pointed out, to pass the balanced budget amendment. And that is what I hope we will do and do in a responsible way.

The Reid amendment, in my opinion, should be defeated. Then we should do the right thing by those who are on Social Security now and will be on Social Security in decades to come by adopting the balanced budget amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Senator from Illinois has referred to Mr. Bob Myers on two or three occasions. On another day I will take the time to read into the Record what Mr. Robert Ball had to say about Mr. Myers' statement and had to say about Social Security and had to say about the balanced budget amendment, so that the record will be balanced.

I thank the Senator.

Mr. President, when former President John F. Kennedy wrote "Profiles in Courage," I believe he wrote about Edmund G. Ross, of Kansas, during the debate in 1868 on the impeachment of Andrew Johnson. At the conclusion of the trial when the vote was taken, the first vote was on article 11. That was a test vote. The House managers felt that was kind of a catch-all provision on which the guilty verdict would most likely be rendered—would have its best chance. But on that vote, 7 Republicans voted with 12 Democrats to acquit President Andrew Johnson. Thirty-six votes were needed for a guilty verdict, for a conviction; 36 votes. The vote was 35 to 19. And so those who sought to convict President Johnson failed by one vote, and President Kennedy mentions the name, I believe, of Edmund G. Ross, of Kansas, who was one of the Republicans who cast a vote for acquittal and thus, apparently, sealed his political doom in so doing.

But there was another Senator who cast such a vote and that was Peter G. Van Winkel, of West Virginia. Peter G. Van Winkel was from Parkersburg, and he voted to acquit President Johnson. In so doing, Peter G. Van Winkel closed the escape door and sealed his doom politically. The West Virginia Senate, in that year of 1868, passed a resolution condemning—I believe the vote was 18 to 3—condemning Johnson. So the pressure was on because most of the West Virginians were Unionists. The pressure was on Peter G. Van Winkel to vote guilty. Waitman T. Willey, the other West Virginia Senator, voted guilty. But Peter G. Van Winkel voted not guilty.

Edmund G. Ross went on to switch from the Republican Party to the Democratic Party in later years. He, I believe, was Democratic candidate for Governor of his State later. He had a continuing political career as a Democrat.

But not so with Van Winkel. He was finished. He looked down into the open political grave and knew that was where he was going to his final rest.

So there were two profiles in courage.

I was visiting with Senator Pell recently and I saw on his office wall a framed article, I believe it is from the New York Tribune. The headline was as follows.

> Pell Will Vote Against Bonus; Means His End.
>
> New York Representative Says Act Will Be Political Suicide But He Can See No Other Course.

And reading from that May 1 story of 1919 or 1920, I forget which it was, dateline Washington, May 1.

> Representative Herbert C. Pell, Jr., Democrat, who was elected to the House from the Fifth Avenue District, (17th of New York), announced today in a speech on the floor that he would vote against the soldier's bonus bill despite his belief that to follow such a course would be political suicide.
>
> Explaining his conviction later, Mr. Pell said that although most of his constituents might mildly approve his stand he believed several hundred returned soldiers of Democratic sympathies would cross the party line and assure his defeat in a district which was normally Republican.
>
> "I intend to vote against the bonus," Mr. Pell said in his speech. "I am doing this in the full realization that it means the end of my political career, and I can tell you frankly that it is a painful thing to commit suicide, but I do not think that honor will permit me to follow any other course."

I will not read the rest of the article. But here was a profile in courage, Herbert C. Pell, Jr., father of our own illustrious colleague, Claiborne Pell, who knew that he was closing the door forever to any future in politics but who stood upon principle. He put principle above party; principle ahead of expediency, and cast that vote. So I asked Senator Pell to give me a copy of that newspaper story.

I ask unanimous consent it be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Tribune]

PELL WILL VOTE AGAINST BONUS; MEANS HIS END

NEW YORK REPRESENTATIVE SAYS ACT WILL BE POLITICAL SUICIDE, BUT HE CAN SEE NO OTHER COURSE

TAX METHODS ASSAILED

WOULD PARALYZE INDUSTRIES AND CREATE THE WORST PANIC IN HISTORY; IS BELIEF

(From The Tribune's Washington Bureau)

WASHINGTON, May 1.—Representative Herbert C. Pell Jr., Democrat, who was elected to the House from the "Fifth Avenue District" (17th, of New York), announced today in a speech on the floor that he would vote against the soldiers' bonus bill despite his belief that to follow such a course would be political suicide.

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"I intend to vote against the bonus," Mr. Pell said in his speech. "I am doing this in the full realization that it means the end of my political career, and I can tell you frankly that it is a painful thing to commit suicide, but I do not think that honor will permit me to follow any other course.

THINKS INDUSTRIES WOULD BE PARALYZED

"Of course I shall vote for the most generous treatment possible for men that have been injured in the service of the United States, and also for proper care of the dependents of those men who have been killed, but I cannot bring myself, merely for consideration of political advantage, to vote for a bill which would impose a tax of $20 a head on every man, woman and child in the country. There is no conceivable way, or at least no way has been suggested, by which such an amount of money could be raised which would not paralyze the industries of the United States and precipitate such a crisis as we have never seen in our history.

"Hard times unquestionably are coming, whatever we may do, but while we cannot avert difficulties we can tremendously aggravate them. So far there have been three plans suggested for raising the money.

"First, by the issue of $2,000,000,000 of bonds which, obviously could not possibly be marketed at a rate very much under 8 per cent, which would promptly knock twenty points off the price of Liberty bonds and make any private borrowing by business men practically impossible.

TAX METHODS ARE ASSAILED

"Second, a retroactive tax on incomes for at least three or four years. Ordinary common sense will show any man that this money has not been kept by the individuals who acquired it, in the form of cash in their stockings, but has been spent or invested, and to raise the tax money every business man in the country would be obliged to go into the money market and borrow on his own credit. This also would run the price of money up to such an extent that the permanent investment rate in the United States would remain somewhere around 8 per cent for a great many years. Of course, I mean non-speculative investments—the class of thing that before the war paid from 3½ to 4½ per cent.

"The third plan is a general sales tax of one-half of 1 per cent on all sales made in the country. The argument for this is that it would take the money from the people in such small installments that they would not notice it, but it would be impossible to take such an enormous sum from the community without very seriously affecting all business throughout the country, and, of course, it would wreck the financial district of New York, and with it the hope of commercial preëminence of the world.

MONEY WOULD DRIFT TO LONDON

"An American stock exchange would probably be opened in London, on which all stocks listed on New York would be dealt in. This would mean that London would become the great market of the world for call money, and would end any hope that we may have held in the past of New York becoming the financial capital of the world.

"Considering the low purchasing power of money to-day and also the general tendency of all classes toward extravagance, $500 means about as much to a man to-day as $75 or $100 used to mean to us, and we may rest assured that nine-tenths of the men receiving this money will spend it on a good time and not work until it is all gone. After that they will try to get back the jobs they held and find that they no longer exist, so that their last state will be worse than the first."

Representative Johnson, of South Dakota, insisting that the bonus bill "must pass," proposed in the House to-day the elimination of the tax on sales, which was criticized severely by Republican members in conference last night, and the substitution of a tax on war profits.

Chairman Fordney of the House Ways and Means Committee, announced that sessions of the committee would be held late next week, at which the elimination of the sales tax provision would be considered.

Mr. BYRD. Mr. President, earlier we witnessed here in the Senate one of those vital moments of historic drama for which the U.S. Senate was created, that moment during which our friend and colleague, Senator MARK HATFIELD from Oregon rose and announced his opposition to the proposed balanced budget amendment to the Constitution. When he did that he wrote on this very day his own profile in courage.

Senator HATFIELD and I are both standing in this debate on principles that transcend both party allegiances and personal quirks. Our position is against vilifying the sacred document on which this Republic is based with parochial conceits and economic policies that will surely be viewed in the future as an anachronism—if this amendment is ever adopted in the country.

Our position on this matter reflects a conservative stance on the Constitution, based on the "strict constructionism."

Where are all these conservatives we hear about? Like Disraeli, I am a conservative: To retain all that is good in the Constitution. And the radicals remove all that is bad. This position of strict construction is rooted in American history and in constitutional traditions.

But one thing highlights Senator HATFIELD's position and differentiates that position from my own position. Senator HATFIELD is swimming against the inclinations of the majority of his caucus. It may very well turn out to be almost a unanimous caucus except for his vote. Senator HATFIELD is swimming against the inclinations of the majority of his caucus and against the directives of the so-called Contract With America, of which the House Members of Senator HATFIELD's own party are so enamored.

Senator HATFIELD's stand on the issue of the balanced budget amendment is a stand which should make every Senator proud, even those who differ with Senator HATFIELD and with me on this issue. Senator HATFIELD's position on this matter suggests those instances —and I have referred to a few earlier—those instances of character and distinction cited in "Profiles in Courage," one of those defining moments for which the Founding Fathers created the Senate as "the place to send legislation so that it might cool down."

Mr. President, I again commend my friend and colleague Senator HATFIELD for his courage and his demonstrated leadership on this issue, and in this body. He has stood on the unfailing foundation of principle.

He has lived up to his oath to support and to defend the Constitution of the United States against all enemies, foreign and domestic. He has put his vote behind reserving that grand document —and here it is, the Constitution of the United States—for future generations. He has stood against the political winds of expediency, and the people of Oregon should be proud of him, and the American people should be proud of him. Regardless of their viewpoint on this particular issue, they should be proud of him.

Mr. President, it seems that we live in an age of little reverence and less patience. It is an era of fast food and slick advertising slogans, of instant analysis and rapid information. In politics, it is a time of sound bites and media men.

The practical application of democracy as it has evolved, with its condensed messages and its blow-dried candidates, stands in stark contrast to the carefully crafted, intricate, thoughtful system envisioned by the Framers and given form by the written document known as the Constitution of the United States of America.

Representative democracy is a slow, complex, and cumbersome way of governing. Its strong point is not speed, and not efficiency but stability. In a world enamored of instant gratification, 30-second political ads, 30-minute press conferences, rapid transit, fax machines, satellite communications, and a whole host of lifestyle subtleties that peddle speed and simplicity as invaluable commodities, I sometimes wonder if, as a people, we have somewhere lost the patience for representative democracy.

It is as if the perseverance to examine issues with meticulous care, considering and publicly debating all aspects until a solid consensus emerges, has gone out of style. Perhaps our ability to concentrate—the American attention span, if you will—has been shortened, rather like a child who has watched too much bad television. And there is all too much of that to watch.

Given our national fascination with time-saving devices that simplify our lives, it becomes easy to understand why intractable problems, without quick or obvious solutions, are especially frustrating to the American people. In many American families, both parents have to work just to make ends meet, and then struggle to parcel out any leftover time, if there is any left over, to raise their children. The American people, frankly, are distracted by their own overly busy, fractured lifestyles, and the simple, quick solution is currently at a premium value. The simple, quick solution is at a premium value.

Some in the political sphere have seized upon that distraction and have made hay out of offering one-liner solutions to the Nation's most complex problems. Some have discovered that the simple, the catchy, the obvious, the easy will sell like hot cakes to an American public frustrated by the demands of making a living and disappointed by a political system that no longer seems to matter in their own daily lives.

Is the American public weary of budget deficits? You bet they are. Well, then, pass a constitutional amendment to balance the budget; it is just that simple.

Our forefathers did not intend that the Constitution never be amended for all time. They provided an article, Article V, which provides for the amending of that document if two-thirds of both Houses and three-fourths of the States give their approval to amending the Constitution. It can be done; it has been done. We have 27 amendments, 17 since the original 10 that we refer to as the Bill of Rights. I, myself, voted for five of those amendments here in this body.

But here, we are talking about an amendment that would burst at their seams the very pillars on which this constitutional system rests: The separation of powers and checks and balances. That is what it amounts to. I will go into that with greater particularity on another day. But the Framers in writing the Constitution intended that it endure for ages to come, and that, consequently, it be adapted to the "various crises of human affairs." Those of the words of John Marshall. So in the midst of all of this hustle and bustle, and the search for expediencies, easy answers, why do we not just throw out the Constitution and start all over? Or perhaps we should do it by stealth—do it by stealth—under the cloak of a balanced budget amendment to the Constitution.

Mr. President, that is why the American people have a right to know what this amendment will do. Let us take a close look at House Joint Resolution 1.

I want to appeal to that jury out there, that jury which during this debate is viewing the electronic eye. And among that jury, I am appealing to Senators, Senators perhaps in particular at this moment. I want to make my case before that jury, and I hope that with a little patience, because talk becomes tedious at times, especially on this occasion when I will be explaining the flaws in this amendment—it may become a little tedious. May I say to the men and women of the jury, please be patient, because I am going to prove beyond a reasonable doubt that this constitutional amendment to balance the budget is filled with flaws, that it will not work, that it cannot work and that the committee in its committee report admitted essentially that there were problems with it and sought to provide the escape doors through which we might run from that problem.

I am going to prove that beyond a reasonable doubt, for all those who will take the patience to listen. Bring on your ready response team. I saw on television one evening on the evening news that my friend, Mr. DOLE, had brought out, I believe, 9 or 10 Senators from the other side of the aisle—and maybe 1 from this side, I am not sure—and it was a ready response team. They were going to "wear him out," talking about ROBERT BYRD. They were going to wear him out. Well, bring on your ready response team now, while I am speaking. Bring them on. I will yield for questions. I will yield for statements by unanimous consent. But do it now. You remember the little ad on TV, "Do it here, do it now." Well, do it here, do it now. All right. To the ready response team I say, "come on, do it here, do it now, while I am on the floor. Bring out your 9 or 10.

I want to focus on this measure, because just as Toto pulled back the curtain to expose the not-so-mighty Wizard of Oz, the curtain must be pulled back on this resolution so that the American people, too, can see that it is political sorcery, political witchcraft, political black magic.

Section 1 of the proposed constitutional amendment on this chart to my left, so that the jurors can read it for themselves, reads:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

I will speak at a later time about this clause which deals with the supermajorities that are built into this amendment. There are 9 supermajorities in the Constitution of the United States and the amendments thereto. Six supermajorities are provided for in the original Constitution, one supermajority is provided for in the 12th amendment, one in the 14th amendment, one in the 25th amendment, making a total of 9 supermajorities built into the Constitution and amendments thereto. I will talk about that.

I will repeat this first quote from Section 1: "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *." That means that total Government spending for any fiscal year shall not exceed total receipts—"* * * shall not exceed * * *" the money taken in by the Government.

That language probably sounds fairly straightforward. It should be easily understood: "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *." But if we accept that requirement, if we rivet that quack nostrum into the Constitution of the United States, then the obvious question is, can we ensure that, in fact, outlays do not exceed receipts? That is what the mandate says here. How are we supposed to comply with that constitutional mandate? Simply stating that outlays shall not exceed receipts is nothing more than an empty incantation; just to say it is more than an empty incantation. Stating it will not automatically make it happen, any more than if we said there will be no more poverty, no more crime, or no more pollution. There would still need to be some sort of mechanism to carry out the goal. That, of course, is also true of balancing the budget.

Everyone should realize that there has to be a plan in order to actually get the budget into balance. That is what many of us have been trying to get the proponents of the amendment to tell us. Show us the plan. Let the American people see your plan for balancing the budget. The people have a right to know.

But, Mr. President, proponents of the amendment tell us not to worry. They say that a constitutional amendment is not the place to put the particulars, or details, or how we achieve a balanced budget. They say that section 6 of the proposed amendment requires Congress to develop its own enforcement mechanism by passing implementation legislation—by passing implementing legislation. Congress will enforce it, says section 6 of this constitutional amendment. If that is the case, then the American people have a right to know what that section says.

Section 6—here it is on the chart to my left—reads as follows: "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts."

For the public to understand what kind of wonder drug they are being asked to swallow, they need to fully understand that specific section of the resolution. And once they do understand it, Mr. President, I believe they will know that this amendment is nothing more than political witchcraft.

Section 6 of the resolution, of the balanced budget amendment, states that "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts."

Again, Mr. President, such language would appear rather uncomplicated. But if we take a closer look, especially at the latter half of that sentence, we will see that the entire premise of this amendment is as shaky as a house of cards. Indeed, in one single word—the word "estimates"—we find the Achilles heel of the whole balanced budget amendment concept, be it House Joint Resolution 1 or some other version. The Achilles heel is the word "estimates."

Following that, let us zero in on the word "estimates." If we follow the directive of section 6, then the central tenet of our enforcement mechanism, we would see, is to be based on "estimates of outlays and receipts." Now get that. "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

What the public needs to know, but what they are not being told, is that, unlike most individuals who will receive a set salary or wage for the year and whose expenses are relatively stable, total outlays and total receipts of the Federal Government are never, never, never known—and in fact they cannot be known—at the beginning of any given fiscal year. It is impossible for the total receipts and the total revenues to be known at the beginning of any given fiscal year. All the President and Congress have to work with, when they begin to put the budget together, are estimates provided to them by the Office of Management and Budget and the Congressional Budget Office—estimates, nothing more.

If we have learned nothing else over the past 15 years, it is that actual outlays and actual receipts in any given year can, and generally do, vary from those estimates by billions of dollars—not millions, but billions of dollars. In fact, in most years, actual outlays and actual receipts do not even come close—do not even come close—to what the experts projected at the beginning of the fiscal year.

Estimates are not accurate. They never are. And if they ever will be, it will be pure happenstance and it will not happen often.

As these charts to my left will show, outlays, receipts, and deficits have consistently been misestimated in every one of the 15 years from fiscal year 1980 through fiscal year 1994, inclusive. No exception. In every one of those 15 years—from fiscal year 1980 through fiscal year 1994—the outlays, receipts and deficits have been misestimated.

Mr. President, before turning to the specifics of these charts, let me emphasize that the data presented here come from the independent and nonpartisan Congressional Budget Office. That office, created by the 1974 Congressional Budget Act, is charged with the job of assisting Congress in the preparation and analysis of the budget by providing us with the economic and budget data we need throughout the year. As part of those duties, they are responsible for closely monitoring the Government's deficits. But, as we shall see, despite all the expertise of the individuals who work in that office, they remain powerless—absolutely powerless—to provide the accuracy that would be required under this amendment. They are the best in the business, but they will never, never be able to produce what this amendment calls for.

Let us look at the first chart. This first chart shows the difference between revenues, as estimated in the first budget resolution for each of fiscal years 1980 through 1994, versus what those revenues actually turned out to be.

The estimate of the revenues versus what the revenues actually turned out to be.

Starting on the left, the viewer's left, on your left out there looking through that electronic eye, starting on your left with fiscal year 1980, we can see that actual revenues collected by the Federal Government were $11.1 billion more than what had been forecast in the budget resolution for that year. Eleven billion dollars, Mr. President. Then in fiscal year 1981, revenues fell short of the estimate by $11.3 billion. In fiscal year 1982, revenues fell short of the estimate by $40 billion. For fiscal year 1983, revenues fell short of the estimate—in other words, the income of the Government, the actual income of the Government for that fiscal year fell short of the estimate—by $65.3 billion.

Now I will not take each year, but the viewers can see that in only 1 year were the estimates really close. In that year, they missed the estimate by $1.7 billion. But look at the other wide ranges—$55 billion in 1991, $77.5 billion in 1992. The actual revenues missed estimated revenues by $77 billion in that year.

The point I am making here is that in no year, in no year, were the estimates accurate—not one year—and range as far off, as I say, as $65 billion in fiscal year 1983 and, in 1992, $77.5 billion, the errors between the actual revenues and the estimates.

Now we are talking about the word "estimates" in this constitutional amendment, in this balanced budget constitutional amendment. I want to keep our attention on the word "estimates" and I am showing that the historical record here clearly, clearly, is convincing that estimates are always wrong. They have always been wrong.

So all in all, those who have done the estimating have not produced a very good record.

Now this next chart shows for the same 15 fiscal years the difference between estimated outlays—that is the money the Government spends out—the difference between the estimated outlays, as contained in the first budget resolution, and what those outlays actually were. In other words, the difference in what the Government actually spent, as against the estimates of what the Government would spend.

So what was estimated on the one hand and what the outlays were on the other hand was a vast difference.

So, starting again on the viewer's left, with fiscal year 1980, we can see that outlays were actually $47.6 billion more than what the budget resolution had estimated. If we were to pass a budget resolution, we should pass it by May of each year for the following fiscal year. This year, 1995, we should expect to pass a budget resolution by May for the next fiscal year, which begins on October 1 this year and goes through September 30 next year.

In fiscal year 1981, outlays were $47 billion greater; in fiscal year 1982, the outlays were $33 billion greater. And so on and so on.

The point I am making here, and the viewers can see for themselves from the chart the errors between the actual outlays, the actual spend-out by the Government as against the estimated outlays, the estimated Government spending, and the viewers will see, again, that in no year was there an accurate estimate.

The green line here, represented by "0," represents a situation in which the estimates and the actual outlays would be right on, so that the "zero miss," a "zero miss" estimate—because the estimate would be accurate—hit the nail right on the head. That is the green line.

Therefore, the bars represent in each year how much the estimates were off, one way or the other. In some years, the actual outlays were more than the estimated outlays represented by the red line. In a few years, the actual outlays were less than the estimates; in one instance, $91.9 billion less than the estimates. That was in 1993, when we adopted the budget reduction package for which not a Member on that side, not one, not a Republican Senator, not a Republican House Member, voted for that budget deficit reduction measure.

The point again, as I say, looking at the zero line, meaning absolute accuracy, one can see how much in each year the estimate missed the point.

What I am showing here is, if we keep our eye on that word "Estimates," we will see that the estimates are always off, one way or the other.

Now, chart 3 gives the differences between the actual budget totals and the first budget resolution estimates for fiscal years 1980-94, the same period that was addressed by the preceding two charts. The error between the actual and the estimated deficits in billions of dollars—again, the source of the information is the Congressional Budget Office, the office we depend upon here as we formulate our budget. Since the difference between the revenues and the outlays—one chart I have already shown dealt with revenues, the money taken in; the other chart I have used dealt with outlays, the money that the Government spent.

This chart, then, combines the two, in essence, and gives us the difference between the actual budget totals and the first budget estimated deficit for fiscal years 1980-1994—the actual deficits. Since the difference between the revenues and the outlays, the difference between what the Government takes in on one hand and what the Government has to spend on the other is what makes up the deficit, this third chart shows the difference between what the deficit was estimated to be and what it actually turned out to be for those fiscal years 1980-1994. Again, the green line represents "zero miss," meaning the estimate was right on target, the actual was right on target with the estimate. It was not missed.

For fiscal year 1980, the deficit was $36.5 billion—$36.5 billion. Now, I see the response team gathering. I am glad. For fiscal year 1980, the deficit was $36.5 billion, greater than had been estimated. For the next year, 1981, the deficit was $58.3 billion larger than had been estimated. For fiscal year 1982, $73 billion larger. For fiscal year 1983, the deficit was $91.4 billion greater than had been estimated.

Keep your eye on the word "Estimates." Skip over here to 1990; the budget deficit was $119.1 billion greater than had been estimated, and so on. Those who are viewing the chart to my left can see for themselves.

In 2 years, the deficit was less than the estimate. But the point is that in no year was there accuracy. Almost accuracy, very close, in 1984—missed by $3.7 billion. In 1987, it was missed by $6.2 billion. But look at the range: From $36 billion to $91 billion to $119 billion to $71 billion—off. That is not an inconsequential error. That is not an inconsequential figure.

So the point is that in all of these years covered by the chart, the estimates were off. The point of these charts is to show that all efforts to estimate outlays and receipts accurately have repeatedly failed—repeatedly failed. Every single year for the past 15 years, the estimators have failed to accurately estimate what the deficit would be.

In addition, I would also make the point that we do not know if the CBO's estimate is off, or if it is, by how much. Get this: We do not know if the CBO's estimate is off, or if it is, by how much until after the fiscal year has been completed. There is no way in God's Heaven, with all of His troops of angels that one—I should not say that about God. I suspect He can foresee these things. But there is no way on Earth that we can know what the revenues will be, that we can know what the outlays will be, until the fiscal year is over and gone, until after September 30. We will not know how much the outlays are off, how much the receipts are off about this particular fiscal year we are in, until after next September 30 is gone, gone with the wind, and we will not even know it then because the Treasury probably will not have its final receipts and outlays until October 15, or some such.

We simply cannot know with any exactitude what the deficit will be during that fiscal year. By the time we do know, though, it will be too late to correct the problem, at least under the balanced budget amendment. It will be too late to correct the problem, because what was the instruction in Section 1?

The instruction was, in section 1—the mandate:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.

We will not know what the total outlays are. We will not know what the total receipts are for this fiscal year until it is gone, until the fiscal year is gone, marked off the calendar. In other words, using estimates of revenues and outlays—the money that comes in and the money that goes out—it is virtually impossible to determine whether or not the budget will be in balance until after the fiscal year is over, after the horse is out of the barn; the doors are open and out go the horses. Too late. In 11 of the past 15 years, revenues have been lower than expected, and in 10 of the 15 years, outlays have been greater than expected.

Let me say that again. In 11 of the past 15 years, revenues have been lower than the estimates, and in 10 of the 15 years, outlays have been higher than the estimates. And there is nothing in this resolution—nothing in this resolution—or in any other resolution or in any other version of the balanced budget amendment that can correct that problem. Nothing. There is not one among the 100 Senators who can come up with a version that will correct it. Not one. Not 100 working together can correct, can find a way to accurately estimate what the revenues will be, what the outlays will be, what the deficit will be in any fiscal year. You cannot do it until the chapter is closed, the receipts and the outlays are in and, by then, the door on the fiscal year is gone, closed.

How then are we going to come forth with this mandate: "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.* * *"?

Yet, Mr. President, despite knowing that the estimates we must work with will inevitably be in error—inevitably—they are exactly what this balanced budget amendment would have us rely on, the word "estimates." Remember, it says, right there in section 6, that we "may rely on estimates of outlays and receipts."

> Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates.

That is weak, it has no foundation.

> may rely on estimates of outlays and receipts.

If you cannot rely on the estimates, then how can you help but violate this mandate? If estimates cannot be relied upon, then how can we avoid violating this section 1:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.* * *

It does not say "may not." It says "shall not."

So it says there in section 6 that Congress "may rely on estimates of outlays and receipts." That is it.

> The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

Now, what does that mean? What are we talking about? As I say, section 1 states:

> Total outlays for any fiscal year shall not—

Shall not, shall not, shall not—

> exceed total receipts for that fiscal year.

No ifs, ands, buts or maybes—"shall not."

> Total outlays shall not exceed total receipts for that fiscal year.* * *

Then how will it be done? How will it be done? The magic incantation in section 6 is that the "Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts" even though we know, by the record, that the estimates we must work with will inevitably be in error. They are exactly what this balanced budget amendment would have us rely on. It says so. That is what it says. I did not say it. It says so. It says we may rely on estimates of outlays and receipts in balancing that budget. We already have a process for estimating revenues, outlays, and deficits prior to each fiscal year, and as we have seen by the evidence that I have shown, it is far from perfect.

So what is Congress to do? It is ludicrous to think that just because we adopt this balanced budget amendment we will somehow come up with a new system that will accurately predict balanced budgets in advance of each fiscal year. As I say, it cannot be done. Einstein could not do it. Worse than that, Mr. President, is that we will never know if our estimates are off or how much they are off until it is too late to correct that problem. We will not know it, at least not in time to fix the imbalance. These revenue and outlay numbers cannot be calculated until after a fiscal year is over. Therefore, we have no way of knowing during the fiscal year whether or not outlays are going to exceed receipts until it is too late.

Yet, the clear language of the amendment states in no unmistakable terms, in simple, down-to-Earth English: Outlays "shall not" exceed receipts. That is what the amendment says. I did not write it. I did not write that amendment, but that is what it says: Outlays "shall not." No ifs, ands, buts, maybes—outlays "shall not" exceed receipts.

Of course, it would be easy to say that all we needed to do to correct the dilemma is to find more competent budget analysts. Let us throw the rascals out and hire a whole new batch of analysts. Unfortunately, it is not that simple. The plain truth is that the men and the women who helped put these figures together each year are not at fault. They are not at fault. They are as good as one could find anywhere in the four winds.

If not the analysts, then who is this culprit? In simple terms, the miscalculations that we have seen displayed on these charts can be put into three categories: Policy miscalculations, economic miscalculations, and technical miscalculations. Those are the terms used by the Congressional Budget Office to explain the differences between the budget estimates and what actually occurred each year: Policy, economic, and technical.

The first of these terms, policy, refers to any portions of these differences that can be attributed to the Congress' passing legislation that was not accounted for in the estimates.

However, over the 15 fiscal years represented on these charts, policy differences accounted for the smallest amount of estimation error. In fact, enactment of legislation by the Congress since 1990 has been but a very small portion of the deficit error. The reason for that, Mr. President, is the pay-as-you-go requirement and the spending caps that were instituted with the 1990 Budget Enforcement Act—which I insisted on in talking to Mr. Darman right down in my office—the pay-as-you-go requirement, the spending caps that were instituted with the 1990 Budget Enforcement Act and extended in the summer of 1993 through the Omnibus Budget Reconciliation Act. Those caps are tough new requirements that have worked to restrain spending, because the only way around them is with the designation of an emergency.

The second reason for the difference between actual versus estimated revenues, outlays and deficits, is attributed to the failure of budget analysts to anticipate the actual performance of the economy.

I know that some Americans may not be aware of the fact that when the budget is put together, it is based on certain economic assumptions. Factors such as the gross national product, the unemployment rate, the inflation rate, and interest rates must be assumed for the upcoming year. They have to be assumed because they cannot be known.

Therefore, if more Americans are unemployed than had been anticipated, the Government will have larger outlays for unemployment insurance benefits, food stamps, and so on, than originally thought. This larger payout for these benefits would then be categorized as an economic error. Likewise, if interest rates unexpectedly go up, then the amount of interest we have to pay on the national debt would be higher. This, too, would be considered as an economic error. Nobody can help it, and no one could foresee it. It just happens.

Mr. President, to illustrate the point, we can look to the recent recession. Because that recession was deeper than expected, and the recovery weaker, revenues unexpectedly fell in fiscal year 1992. As a consequence, lower-than-projected revenues, due to the economy's failure to perform as expected, caused the fiscal year 1992 budget deficit to exceed the budget resolution's deficit estimate by $11.4 billion.

Finally, the third reason why estimates are inaccurate is due to what CBO calls technical differences. This category contains a number of items. Most notable among these are the miscalculations due to rising health care costs associated with the Medicare and Medicaid programs.

Mr. President, I know all of these explanations and numbers must be mind-numbing to the American people, but they should not be mind-numbing to Senators. The fact that this material may be dry does not make it any less true or important. What is most critical, though, is that the public understands that errors attributable to economic factors—things like higher-than-expected interest rates, or higher-than-expected unemployment—accounted for 64.2 percent of the $28 billion average error in the deficit projection. What that means, simply, is that of all of the factors that account for deficit estimates being out-of-sync with reality, nearly two-thirds of the average error over the past 15 years was due to factors that we will never be able to correct, unless, of course, someone has a crystal ball that can accurately tell us at the beginning of each year what the unemployment rate, the interest rate, the inflation rate, and the gross domestic product will be throughout that year. It cannot be done.

Mr. President, this is why I refer to the word "estimates" as being the Achilles' heel of the balanced budget amendment. On the one hand, under this resolution we would be constitutionally bound—bound—to balance the Federal budget every year.

That is what it says. I did not write it. That is what the amendment says. "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year."

But while we struggle with that difficult task, the economic information we have at our disposal will inevitably be in error, and two-thirds of that error will be due to factors beyond anyone's control.

Here comes the response team.

Is this the response team?

Here they are. All right, I am ready to yield any time any one of them wants to ask me a question or make a correction if I am wrong.

What a balanced budget amendment amounts to, then, is like telling someone that they must drive their car 100 miles, but only giving them 80 miles worth of gas. No matter how hard they try, or how well-intentioned they may be, there is just no way on God's green Earth that they can make up that last 20 miles.

If we know, then, that we must balance the budget—and that is what the balanced budget amendment says, we must balance it, no ifs, buts, whereases or why, no excuses. If we know that we must balance the budget, and we also know that it is impossible to know what it would take to do that at the beginning of the year, it should be obvious to everyone that Congress will be forced to pull out its old bag of tricks and bring back the same old smoke and mirrors and rosy scenarios and hidden asterisks to make this amendment appear to work. In other words, we will cook the numbers—cook the numbers—and massage the estimates in order to be able to try to live up to the new constitutional mandate. That will not make the new amendment work, but it may, for a little while, make it appear to work. Rather than rely on my own imagination, I would now like to read to the Senate and to the American people a few suggestions for getting around this amendment that come from the Senate Judiciary Committee's own report that accompanies Senate Joint Resolution 1, the balanced budget amendment.

So I have already shown beyond a reasonable doubt to those who have patiently listened that this constitutional amendment mandating a balanced budget every year cannot work, and it will not work because it is based on an uncorrectable flaw, that flaw being the word "estimates." And Congress is to enforce this amendment by relying on that Achilles' heel, that uncorrectable flaw, the word "estimates."

So beyond any reasonable doubt, to any reasonable man, it is obvious, it is plain as the nose on your face that it is flawed, that it cannot work, because it is based on the word "estimates."

So then what are we going to do? I said I would also prove beyond a reasonable doubt that the committee report recognizes this is not going to work. The committee report recognizes that. How many of you have read that report? Here it is. This is the committee report by the Committee on the Judiciary when it reported out Senate Joint Resolution 1. This is the committee report that accompanied the resolution, when the resolution was reported.

So the committee report itself comes up with some suggestions as to how we might get around it. Why would the committee do that? Why would the committee itself come up with some suggestions as to how we might avoid the strict mandate, if the committee itself did not recognize that there is an uncorrectable flaw? Why would the committee itself recommend certain suggestions by which we may have escape hatches—the committee itself?

So, rather than rely on my imagination, I would now like to read to the Senate and to the American people a few suggestions for getting around this amendment that come from the Senate Judiciary Committee's own report that accompanies Senate Joint Resolution 1—the balanced budget amendment.

Before proceeding, Mr. President, I want to explain that I am reading from the Senate Judiciary Committee's report on the balanced budget amendment. On page 19—I will even give you the page number, page 19. Hear me now. The response team—sit up in your seats. Listen. I am going to expect you to tackle me while I am on the floor, now. Look on page 19 of the committee report.

On page 19 of the Senate's report—get it and read it—Senate report 104-5, it is stated that this provision gives Congress—"this provision" meaning section 6.

What does section 6 mean? "This provision"—meaning section 6—"gives Congress an appropriate degree of flexibility in fashioning necessary implementing legislation." What is meant by "flexibility?"

The report continues:

> For example, Congress could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable and made in good faith.

Read that again. For example, Congress could use estimates."

There is that Achilles heel.

> . . . could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable and made in good faith.

Does this mean that, if we pass a budget that is balanced at the beginning of the year, at least on paper, we need not worry if the budget becomes unbalanced during the course of the year? Is that the ideal we are supposed to include in our implementing legislation? Is that what the sponsors of this amendment have in mind? I think that is a very different approach than what the American people are expecting from a balanced budget amendment.

We have already seen that estimates of revenues and outlays are invariably wrong, and that is understandable, as we have explained. But the committee report says:

> Congress could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable and made in good faith.

Who knows what reasonable is? Who will be the judge? As Alexander Pope said, "Who shall decide when doctors disagree?" So, who shall decide what "reasonable" is? What may appear to be reasonable in my thinking may not appear to be reasonable in the next person's thinking. Who decides what is reasonable? Who will make that decision?

It goes on to say: "* * * so long as the estimates were reasonable and made in good faith."

Who knows what "good faith" is? How do we know whether the estimates were made in good faith? How do we know? Who is to say? Who is to know whether they were made in good faith? Who is the judge? This is plainly an escape hatch and it is in the committee report by the Judiciary Committee. Did the Judiciary Committee not know about the inconsistencies in the estimates between outlays and receipts? Was there not anyone on that committee who knew that estimates are invariably wrong when produced by the CBO, estimates of the revenues and receipts and deficit? Did anyone ever think of it?

The next sentence states: In addition, Congress could decide that a deficit caused by a temporary, self-correcting drop in receipts or increase in outlays during the fiscal year would not violate the article.

Congress could decide that. Mr. President, what that sentence says to me, is that, at the same time that the proponents of this amendment are telling the American people that a constitutional amendment will bring about balanced budgets, they are telling the Congress that they do not expect us to practice what we preach. That is just incredible. If we followed this advice and the Congress codified a broad definition of the words "temporary" and "self-correcting," then we will have found another escape hatch—aha, there it is, this is another escape door that we all know will be needed under this amendment. But will that be what the American people expect from this amendment?

The proponents have trumpeted from the Atlantic to the Pacific, from the Canadian border to the Gulf of Mexico: This is the wonder cure. This is the wonder drug, a prescription for budget deficits. A politician appearing before an audience, can ask the question—I have been out there on those hustings a few times—"How many of you believe that we ought to have a balanced budget amendment to the Constitution?" All hands will go up. "Well, I want to tell you, ladies and gentlemen, you elect me, and I will vote for a constitutional amendment to balance the budget."

Get your applause meters going. That is a sure way to ring the bell. This wonder drug is the way to get votes. It is not a sure cure—it may be a cure that kills—but it is a sure way to get votes.

Reading again from the committee report—that the Judiciary Committee wrote for our edification when it reported the constitutional amendment to balance the budget to the Senate floor—the next sentence states: "Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1 ."

Now get that. Let us read that again. "Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1"—which says total outlays, total Government spendout, shall not exceed total Government income in any fiscal year.

How small is small? How small is a negligible deviation? Is the term deficit now a variable which Congress can manipulate by saying that a deficit is not a deficit is not a deficit?

It reminds me of Abraham when he intervened on behalf of the city of Sodom. He asked God, if perchance there were 50 good men in Sodom, would God destroy Sodom. God said no. Well, perchance there were five less than 50, perchance there were 45, would God destroy Sodom. God said no. Well, perchance there were 40 good men, would God destroy Sodom. God said no. Perchance if there were 30? God said no. Well, even if there were just 20? God said no, he will not do it. Well, even if there were just 10? God said no, if there were just 10, he would not destroy Sodom. So God answered that if there were 10 righteous men in Sodom, he would spare the city.

This is the same thing in a reverse sort of way.

If Congress could state that very small, or negligible, deviations from a balanced budget would not represent a violation of section 1, how small is small? Is it $5 billion? Will you spare us if it is just $5 billion? Well, they will spare it. Well, what if it is $10 billion? Will you spare us? May we consider that we balanced the budget if we only miss it by $10 billion? Well, we may.

How about $20 billion? How about $30 billion? How about $50 billion? What is wrong if it is $11 billion? How about $12 billion? If $12 billion is only a "negligible" deviation, how about $20 billion, $30 billion, $50 billion? Is $75 billion a negligible deviation? How about $175 billion?

So here, Mr. President, one has to ask the question. Where do we stop? What is "negligible?" What is "small?"

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes. I will be glad to.

Is the Senator from one of the renowned "special response" teams?

Mr. SANTORUM. I am not sure. I asked to come to the floor——

Mr. BYRD. Now is a good time to find out.

Mr. SANTORUM. To listen and to learn. I was just questioning——

Mr. BYRD. I wonder if the Senator would wait until I finish, if we could.

Mr. SANTORUM. You said "interrupt me" any time for questions. So I thought I was free to do so.

Mr. BYRD. This is really one of the "ready response" teams.

Mr. SANTORUM. I was just questioning. Are you suggesting that negligible amounts could mean rather extraordinary amounts? You are not suggesting that a Member of the Senate would violate his constitutional oath of office to uphold the Constitution which requires a balanced budget? You would not be suggesting that someone would deliberately violate their oath of office by allowing a large deficit to occur when the Constitution says that cannot occur?

Mr. BYRD. It depends on what the Senator means. When he said would a Senator "deliberately violate his oath of office," I am looking at what the amendment says. I did not write it, Senator. I did not sign onto that Contract With America. I have not gone around the country saying that the answer to our deficit problem is a constitutional amendment to balance the budget. You perhaps did. I did not.

I am pointing out that that constitutional amendment to balance the budget, which you swore to vote for, probably has flaws. Unless you rewrite that language that is in that constitutional amendment, which I did not write, you are not going to correct that flaw, and it is going to be based on estimates which I have already said are invariably wrong. It is not whether a Senator would knowingly violate his oath. It is what the amendment says, that your party for the most part wrote. I did not write it. I am looking at the language. It is plain, unmistakable, clear English language.

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for an additional question?

Mr. BYRD. Yes.

Mr. SANTORUM. Mr. President, does the plain, unmistakable, clear language say the budget "shall" not? I mean, is not that very clear from the language, that it "shall" not be?

Mr. BYRD. Read it, in case the Senator has not read it.

Mr. SANTORUM. I have read it on many occasions, just here today.

Mr. BYRD. The Senator has not read it all. It says "shall not exceed total outlays for any fiscal year"—"shall not." It does not say "may not."

Let me respond. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year. That leaves no wiggle room. You ought to read that. You and your colleagues who are proponents of this language ought to take a microscope and look at that language.

Mr. SANTORUM. If the Senator from West Virginia will yield.

Mr. BYRD. It is plain, it is simple. Yes.

Mr. SANTORUM. That is exactly my point. It is very clear that it says it "shall not exceed" and the suggestion that you have made is that a $75 billion deficit would be permitted under the Constitution, it seems to me.

Mr. BYRD. No. No. I did not say it would be permitted. I did not say it would be permitted. I said under the Constitution no missed estimates would be permitted. It says what it says. The total outlays for any fiscal year shall not exceed total receipts for that fiscal year. I did not say we would permit $5 billion, permit $10 billion or $75 billion. The Senator was not listening to me. I was talking about Abraham, and how he approached God, and said, well, if there are 50 men, righteous men, in Sodom, would you spare them? God said yes. What about 45? Yes. What about 50? Yes. What about 35, 30, 20, 10?

So where do we stop here? That is what I am saying. If you are going to say in this section 6, the Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts, and if you are going to say in the committee report, the Congress could state that very small or negligible deviations from a balanced budget would not represent a violation, what is "small?" What is "very small?" I was saying is 75 very small? Is that negligible? Is 50 small? So you tell me. What is small in that context? What is small?

Mr. SANTORUM. Mr. President, if the Senator from West Virginia will yield for a question.

Mr. BYRD. Yes. I yield.

Mr. SANTORUM. My question to you, Senator, is the language from the constitutional amendment is very clear, that at the end of the fiscal year revenues will not exceed—excuse me. Expenditures will not exceed revenues. That is very clear.

Mr. BYRD. It does not say "at the end." You might want to read what the constitutional amendment says. "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year." How are you going to know until the fiscal year is behind you?

Mr. SANTORUM. That is exactly right. That was my point. You will not know whether you have met the charge of the constitutional amendment until the end of the year.

Mr. BYRD. Until the end of the year.

Mr. SANTORUM. That is correct. At that point we will have to have satisfied that condition. Correct?

Mr. BYRD. The year is gone.

Mr. SANTORUM. That is correct. I am sure the Senator knows that does not mean that all expenditures or outlays have been in fact expended. So we could rescind. We could, as has been done here, retroactively tax. There are all sorts of options available to satisfy that amendment after the fact.

Is not that the case?

Mr. BYRD. No. Let me finish, will you?

Mr. SANTORUM. You asked me. You permitted me to ask questions. So I was complying.

Mr. BYRD. I want to answer your question.

Mr. SANTORUM. Thank you.

Mr. BYRD. You stay around.

Mr. SANTORUM. I am not moving.

Mr. BYRD. Mr. President, we have the suggestion that the Congress could just stand up and declare that certain amounts of the deficit, as long as we determined them to be "negligible," they are not in violation of the amendment.

A $25 billion deviation—Congress could say it is OK. It is small. It is small in comparison to what? When considered in the context of a budget that is $1.5 trillion, it is negligible. But if we were to constitutionalize the mandate that outlays must not exceed receipts—outlays must not exceed receipts, let me say that to my friend—if we were to constitutionalize the mandate that outlays must not exceed receipts, a congressional attempt to deviate from that requirement would bring the moral authority of the entire Constitution into question. I will say that again. If we were to constitutionalize a mandate that outlays shall not exceed receipts—that is what the amendment says. I did not write it. I do not subscribe to it.

Mr. CRAIG. Will the Senator from West Virginia yield?

Mr. BYRD. It does not say "may not." The amendment mandates that outlays "shall not exceed receipts." If we were to constitutionalize the mandate, any attempt to deviate from that requirement would bring the moral authority of the entire Constitution into question. If the Congress can violate this amendment with impunity, then what other provisions of the Constitution might be in peril?

Finally—and then I will be glad to yield; we now have two members of the response team here, and I see another one on the far side of the enemy territory—if Congress can violate this amendment with impunity, then what other provisions of the Constitution might be in peril? Finally, the last sentence in this paragraph states, "If an excess of outlays over receipts"—I think this gets to the question of the Senator from Pennsylvania [Mr. SANTORUM]—"were to occur, Congress can require that any shortfall must be made up during the following fiscal year."

So there you have it. Now I will take the question of the Senator. But, you see, this is the final escape hatch that I will mention today:

> If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

Mr. SANTORUM. If the Senator will yield, in the last sentence, the operative underlined that I see is the word "can" require. They do not have to do so. But they can. They also have the option, if I understand, to rescind, retroactively tax, or "by a three-fifths vote"—and you did not read the rest of that, but "by a three-fifths vote impose a balanced budget."

So there are options available, are there not, to the Congress and to the President under the balanced budget amendment?

Mr. BYRD. There we have it. A member of the response team is saying, "There are options, are there not?" Let us read this first paragraph of the balanced budget amendment:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . .

It does not give you any option. It does not give me any option. The American people out there can read and they can understand.

Senator, you can say all you want to, and you can weasel around the word "can."

> If an excess of outlays over receipts were to occur, Congress can require . . .

Well, that is an escape hatch. It can require——

Mr. SANTORUM. Will the Senator yield for a question?

Mr. BYRD. Mr. President, I will yield to the Senator, but I do not want to be interrupted in the middle of a sentence. I will read it again:

> If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

That is an "option," the Senator says. The American people out there who are reading do not see that option. In the plain, simple English words of the constitutional amendment to balance the budget:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . .

It does not say anything about an option.

I yield.

Mr. SANTORUM. There is a dependent clause after "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . ."

It then says " . . . unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote."

So there is an option clearly stated in the constitutional amendment; is there not?

Mr. BYRD. The Senator was not here when I said earlier that at a later date, I will talk about the supermajorities. I read it when I first brought the chart out. The Senator was not here. I first brought this out, and I read the entire thing, laid it all out. Every time I raised it to the public view, they could all see the remaining clause. I said that I will only deal with this first clause.

Yes, it provides for an additional supermajority in the Constitution, which will raise to 10 the total number of supermajorities that are in the original Constitution and the amendments thereto. It will be raised to a new level when we get down to the raising of the statutory debt limit. So much for supermajorities today. The Senator may say what he wishes about the supermajority.

Mr. SANTORUM. Mr. President, will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. SANTORUM. I would like to refer to your charts talking about the deficit estimates and that they are unreliable. You say they are estimates at the beginning of the fiscal year. By the Congressional Budget Office?

Mr. BYRD. Yes.

Mr. SANTORUM. When you say at the beginning—my understanding is that the Congressional Budget Office issues two reports, one in August and one in January. Which one does that refer to?

Mr. BYRD. You are talking about the midsession review, the one in August. But, Senator——

Mr. SANTORUM. Is this the January report you are referring to?

Mr. BYRD. It has to be, which you will learn after a while. I welcome this exchange. I think that is what has been missing in so much of this. We all get on the floor and make our speeches, but we do not debate. So I welcome this exchange and I congratulate the Senator and commend him. But I happen to be on the Appropriations Committee, so I know a little about what I am saying. I helped to write the 1974 Budget Act.

The resolution on the budget should be enacted by May of each year. And it is only after that budget resolution is enacted that the chairmen of the Appropriations Committees of the two Houses allocate those funds to their subcommittees. And it is only after that that the appropriations bills start coming through.

But prior to the budget resolution in May, the Congressional Budget Office prepares its estimates of revenues and receipts and deficits for the forthcoming fiscal year and projects those 5 years down the road.

What I have been saying is that, in addition to the flaw, the word "estimates," which by these charts—and which you are going to ask me about in a moment—have been shown to be invariably wrong. The Congress, the House, and the Senate have to depend on those CBO estimates in enacting the budget resolution, after which, as I say, the allocations of funds and then the appropriations of moneys come to pass. But all that is in advance of the fiscal year. It is in advance of the beginning of the next fiscal year. And we have shown by the charts that those estimates are invariably wrong.

Now the question.

Mr. SANTORUM. If I may, my question is—and I think you have answered it in part—that these estimates on your chart reflect an estimate that was done some 6 months prior to the fiscal year; is that correct?

Mr. BYRD. Yes.

Mr. SANTORUM. Are there not subsequent updates by the Congressional Budget Office, the Office of Management and Budget, and reports from the Treasury as to actual receipts and revenues that one could, if one were in Congress or the Senate, adjust to meet the updated projections so we would have a better idea where we were going to be by the time we reach the end of the year?

Mr. BYRD. There is the midsession review. But, I say to the Senator, that midsession review still is going to be based on estimates. It cannot actually foresee what the revenues will be for the remaining months, or what the outlays will be.

Mr. SANTORUM. Mr. President, will the Senator yield further for a question?

Mr. BYRD. Besides, the nearer we get to the end of that fiscal year, the greater is the pain if one tries to make a correction in the remaining 6 months, 5 months, 4 months, 3 months, 2 months, 1 month.

Mr. SANTORUM. Mr. President, will the Senator continue to yield for a question?

Mr. BYRD. Yes.

Mr. SANTORUM. Is it not possible, under implementing legislation, for us to require the Congressional Budget Office or the Office of Management and Budget to put forth a monthly calculation of what the deficit will be so we have our finger on the pulse of what the revenues and outlays will be so that, in fact, farther out from that final end of fiscal year, we might be able to adjust if we see from those estimates that we are going to run into trouble? In fact, is that not one of the problems now that we do not do that;

we do not react based on what we know from continuing estimates?

Mr. BYRD. I have two or three things I would like to say in response to that question. Is the Senator suggesting monthly budget resolutions?

Mr. SANTORUM. No, I am not. I am suggesting that the Congressional Budget Office could do monthly estimates as to what the deficit will be for that fiscal year so we might have a better understanding of what we are going to be faced with at the end of that fiscal year.

Mr. BYRD. It is going to be pretty difficult for the Congressional Budget Office to anticipate what interest rates may be a month from now, 2 months from now. We do not know what Mr. Greenspan is going to say. The Senator knows that.

Mr. SANTORUM. Mr. President, if the Senator from West Virginia would yield, they do that now as part of the estimate process.

All I am suggesting is they do it every month as opposed to twice a year so we have a better idea what we will be facing at the end of that year.

Mr. BYRD. Once the Senator has been here to see and hear the prolonged and sometimes bitter debate on the budget resolution—I hope he would not be suggesting that we are going to have subsequent budget resolutions every month or so. There can be a substitute one under law. But here he comes talking about implementing legislation. Who is going to pass the implementing legislation? Congress, right?

Now, how can the Senator say that 10 years out implementing legislation will do thus or so, or it will not do thus and so? He may be here. I doubt that I will be.

Mr. SANTORUM. I hope so.

Mr. BYRD. But nobody can promise what implementing legislation will do or what it will not do. Nobody can say "Well, this is not the intention." "This is not the intention." "That is not the intention."

Those are the words of a Senator at a given time here during this debate. That is not his intention, but nobody can say what the intention of Senators will be 10 years from now. We are talking about implementing legislation.

Here we are talking about a Constitution that does not change from month to month or year to year. It may be here for decades or centuries if it is not repealed.

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes, I yield.

Mr. SANTORUM. Is it not customary that constitutional amendments, after the passage of that amendment, there is usually some legislation enacted to implement that legislation? Is that normally the course?

Mr. BYRD. Some constitutional amendments state that.

Mr. SANTORUM. It is not unprecedented that we would have an implementing piece of legislation.

Mr. BYRD. It is not. Some amendments, especially those that were passed during the Civil War and the Reconstruction era, specifically provide for implementing legislation.

Mr. SANTORUM. In fact, would you not suggest that with this constitutional amendment it would be incumbent upon us to pass some sort of implementing legislation?

Mr. BYRD. Well, it says that Congress shall enforce the act in section 6, Congress shall enforce it by appropriate legislation.

Mr. SANTORUM. So would you suggest that requires us to pass an implementing piece of legislation?

Mr. BYRD. I am suggesting that that legislation may rely on estimates of outlays and receipts, and I am saying that the estimates are invariably wrong. Consequently, it is an uncorrectable flaw in the amendment. Consequently, the American people cannot depend upon this amendment to balance the budget.

And I am saying also that the Judiciary Committee must have known that when they wrote the committee report to give us several scapegoats.

Mr. SANTORUM. If I could reiterate my question, does section 6, in your opinion, require us to pass some sort of implementing legislation?

Mr. BYRD. I will read you what it says. "Congress shall"—not maybe, but shall—"enforce and implement this article by appropriate legislation which may rely on estimates of outlays and receipts."

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a further question?

Mr. BYRD. Yes.

Mr. SANTORUM. The next chart that you brought up after those was the committee report which talked about implementing legislation.

Mr. BYRD. Yes.

Mr. SANTORUM. And from what you read in the plain language of the constitutional amendment, we are under some obligation to implement this act by some form of implementing legislation.

Mr. BYRD. We are under an obligation to make that amendment work. And I am saying we cannot, do not have any intention of making it work, because the committee is giving us a way out when it says we can rely on estimates.

Mr. SANTORUM. Would we not have the opportunity to require the Congressional Budget Office, the Treasury Department, the Office of Management and Budget, whatever, to come up with more current monthly, maybe even more often, deficit projections to guide the hand of the Congress in trying to meet the stated purpose of the constitutional amendment, which is that expenditures do not exceed revenues? Could we not do that?

Mr. BYRD. Yes, I hope we would. I hope we would.

Mr. SANTORUM. Would that not at least ameliorate the problem of an estimate 6 months prior to the fiscal year, fully 18 months before the end of that fiscal year, which arguably is not going to be exactly accurate? But, as we all know, as we get closer to the fiscal year and in the fiscal year, we would have a much better idea of what the final outcome of that year would be. So we would be able to react.

Mr. BYRD. Senator, it will not work.

Suppose you have a disaster in June, July, August, September, a disaster that costs $10 billion? You cannot foresee that. You cannot depend on estimates, if you want to be accurate. And the first section, section 1, does not give you any room to be inaccurate.

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes.

Mr. SANTORUM. I go back to this clause, "unless three-fifths of the whole number."

I was looking the other day at the emergency supplemental appropriations that we have passed in this Congress that violate the caps, and I noticed an amazing thing. That almost all of them passed by more than three-fifths of the whole number of the House and Senate. So we seem to be able to, when faced with some structure of the budget, to come to a consensus and pass it, in very large numbers, with very large pluralities, to respond to a national emergency.

(Mr. GRAMS assumed the chair.)

Mr. BYRD. Senator, we do. Sometimes we do not.

But you still add to the deficit, no matter whether you call it an emergency or not.

I am glad the Senator raised that point, because it does raise some questions in my mind as to whether that is actually going to be the case.

Let me read a letter to the President, dated February 7, signed by the leadership of the other body, NEWT GINGRICH, Speaker of the House; RICHARD ARMEY, majority leader of the House; JOHN KASICH, chairman of the Committee on the Budget; and BOB LIVINGSTON, chairman of the House Committee on Appropriations. Here is what it says:

> DEAR MR. PRESIDENT: The fiscal year 1996 budget which you transmitted to Congress contains an additional $10.4 billion in supplemental budget requests for fiscal year 1995. Your budget submission further reflects only $2.4 billion in rescissions and savings for FY 1995. Most of these requests are for emergencies.
>
> The House Appropriations Committee will proceed to review and act on these requests but highest priority will be given to replenishing the accounts in the Department of Defense badly depleted by contingencies in the Persian Gulf, Somalia, Rwanda, Haiti and

> other activities. The committee and the House, in turn, will act only after offsets for these activities have been identified. However, we will not act on the balance of the request until you [meaning the President] have identified offsets and deductions to make up the balance of the funding. Whether these activities are emergencies or not [this is the House leadership writing to the President] it will be our policy to pay for them rather than to add to our already immense deficit problem.
>
> We therefore ask you to identify additional rescissions as soon as possible so we can move expeditiously on your supplemental request.

Now, there is no guarantee there. There is no guarantee as I read there from the letter written by the leadership of the other body, no guarantee that they will agree that such expenditures for disasters will be considered as emergencies and, therefore, not charged against the budget caps.

Mr. REID. Mr. President, would the Senator from West Virginia yield for a question?

Mr. BYRD. Mr. President, I yield.

Mr. REID. Mr. President, I have been listening to the conversation between the Senator from West Virginia and the Senator from Pennsylvania, and I would be interested in whether or not the statement I am making is true. It is my understanding that interest rates have been raised the past year six or eight times. Does the Senator from West Virginia know that to be accurate?

Mr. BYRD. Mr. President, they have been raised several times.

Mr. REID. Would that have some bearing on making estimates?

Mr. BYRD. Mr. President, there is no question.

Mr. REID. Mr. President, in fact, as the Senator from Nevada, it is my understanding, if we were going to make estimates a year ago not knowing if the interest rates would be raised, they would be totally off base as to the estimates because they have been raised a significant number of times this past year, is that not right?

Mr. BYRD. Absolutely.

Mr. REID. Now, it is my understanding the interest on the debt yearly payment is over $300 billion a year; is that about right?

Mr. BYRD. About $235 billion.

Mr. REID. And going up as the Fed raises interest rates, so that would affect your estimates, would it not?

Mr. BYRD. That would.

Mr. SANTORUM. Mr. President, will the Senator yield?

Mr. BYRD. Mr. President, I ask unanimous consent that I, who hold the floor, may ask the Senator a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, can the Senator—he was talking about disasters and how normally there are the votes here in the House and Senate to respond to supplemental requests for disasters and thereby waive this deficit requirement as it would appear in the new constitutional amendment. Does he feel he can assure the Senate that the House leadership will back off in this statement that they made to the President in the letter which I read?

Mr. SANTORUM. Mr. President, as the Senator from West Virginia knows and as we discussed, the three-fifths override provision in the constitutional amendment is but an option available to this body to fund emergencies.

Another option that is available is the one that is detailed in that letter which is to rescind obligated moneys from the prior year.

So that is what they have suggested in that letter, which I think, given our deficit state at this point, is the most responsible way to do it. I wholeheartedly support that effort, and I think it is the responsible way to do it. It can clearly continue to be an option under the constitutional amendment.

Mr. BYRD. Does the Senator feel that with the House majority leadership taking a clear and strong position against supplemental appropriations for this purpose, is the Senator about to tell me that three-fifths of the House would vote to waive it, with the Republican majority over there against such a waiver?

Mr. SANTORUM. Mr. President, I suggest to the Senator from West Virginia that the majority of the Members of the House would vote for a rescission package to fund it, which would accomplish the same thing.

Mr. BYRD. The Senator is not talking about a majority. He earlier was talking about a supermajority.

Mr. SANTORUM. I was talking options available. One is a supermajority, one is a simple majority of rescissions.

Mr. BYRD. I go back to this plain and simple language, Senator. You can argue with me as long as you want to argue, until you are blue in the face, but your argument does not, in plain, simple English language—and that is your amendment; that is the amendment which you told the voters of Pennsylvania you would support.

Mr. SANTORUM. I suggest that that is exactly what they are doing.

Mr. BYRD. Wait, just wait, Senator. I was not born yesterday.

I am directing your attention to this language. This is the language. This is what we will vote on. Not what somebody is talking about in West Virginia or Pennsylvania or anywhere else.

This is the language. "Total outlays for fiscal year shall not"—shall not—"exceed total receipts for that fiscal year." There is no option mentioned in that amendment. The option is mentioned in the committee report.

Mr. SANTORUM. Are we still under the unanimous consent which he has yielded to me so I can respond, or do I need to ask?

Mr. BYRD. You do not have to ask unanimous consent to ask me a question.

Mr. SANTORUM. So we are past the point in which you asked me a question.

Mr. BYRD. Oh, yes, you are on the response team. I am just going to try to answer your question.

Mr. SANTORUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Mr. President, I yield.

Mr. SANTORUM. You held up the letter from the House Republican leadership talking about an emergency supplemental appropriation. That would be an appropriation above what is normally budgeted for?

Mr. BYRD. That is right.

Mr. SANTORUM. What the House leadership responded was, they would be happy to comply with the request but we want to find other measures within that budget to offset those expenditures.

Mr. BYRD. As I read, they said they would be happy to comply with the request as it pertains to defense.

Mr. SANTORUM. But they also said—did they not ask the President to find rescissions to offset those expenditures?

Mr. BYRD. They did.

Mr. SANTORUM. Which would then comply with the balanced budget amendment, would it not?

Mr. BYRD. The balanced budget amendment does not say anything about that.

Mr. SANTORUM. Mr. President, would it not be in keeping with the balanced budget amendment that they would offset so that the deficit would show zero based on that particular transaction?

Mr. BYRD. The balanced budget amendment requires a balanced budget, no matter how you reach it. Got to hit it on the head. There is no wiggle room, Senator.

Mr. SANTORUM. I am not suggesting there is. I am suggesting what they are doing is the responsible thing.

Is it not your understanding that what they are saying is that they want to offset new expenditures with spending cuts from someplace else in the budget?

Mr. BYRD. That is what they are saying with respect to the disaster or to those parts of the supplemental requests that do not deal with defense.

I am not arguing whether they are reasonable or whether they are not.

Mr. SANTORUM. Are you arguing that is outside the purview of the balanced budget amendment—what they are doing is outside? That would be violative of the balanced budget amendment.

Mr. BYRD. No, I am not arguing that at all. This is my argument. I want the Senator to keep in view in his mental vision what the amendment says. "Total outlays shall not exceed total receipts for any fiscal year."

Mr. SANTORUM. If the Senator from West Virginia will yield for a question, Mr. President, does that letter that you read to me as an example violate the constitutional amendment?

Mr. BYRD. Mr. President, no, no. Does the Senator think it does?

Mr. SANTORUM. I do not.

Mr. BYRD. I do not either, but that is beside the point, as to whether it violates the Constitution.

Does the Senator have any further questions?

Mr. SANTORUM. I am sure I will. Thank you.

Mr. BYRD. I thank the Senator for his question. I would much rather have an exchange out here than just standing and reading a speech. I really mean that. I would like to see more of an exchange rather than just written speeches. So I am not perturbed by it. I am encouraged by it. At least somebody is listening.

At least somebody is paying attention, and that somebody is giving me a chance to answer some questions. I would be happy if the response team would continue to gather. Let us have more of an exchange. I apologize to other Senators who may want to speak.

So there you have it. What a prescription for a balanced budget. That is a massive loophole. Let me read it again. "If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year."

Now, there is another scapegoat. That is a loophole that, if adopted by the Congress as part of its implementing legislation, would be big enough for Attila, the king of the Huns, and the scourge of God, to drive his 700 Scythian horsemen through.

What the sponsors of the amendment are telling us is that, if Congress cannot figure out what to do, if Congress runs into options too difficult to swallow, Congress can just require that the shortfall be made up the next year. Just put it off until the next year.

Now what kind of fiscal shenanigan is this? If you cannot balance one year, just roll it over to the next? That is not what that constitutional amendment mandates in the first section; that is not what the American people are being told. Just roll it over until the next year. Mr. President, what kind of fiscal witchcraft is this?

Let me emphasize again, these suggestions for dealing with the deficit under a balanced budget amendment come from the committee's report. Every Senator, every Senator's office should get that report. Read the escape hatches for yourselves, and then ask yourself, am I going to vote for that kind of a sham? Am I going to fool the American people when they can read, they can see, they can know that amendment has uncorrectable flaws in it. And the Judiciary Committee must have understood that when it came through with its committee report providing for some escape hatches.

As such, these suggestions in the committee report would not become part of the underlying resolution if it were to pass. They are not going to be incorporated into the constitutional amendment. They would not have any force of law. But, nevertheless, they give the American people some idea of the kinds of gimmicks and evasions the people can expect to see if this constitutional amendment is adopted by the Congress and ratified by three-fourths of the States.

The American people are being sold a bag of budget tricks. Is this what the American people want? Is that what you want, Mr. and Mrs. America? Are the American people being told about the realities of what it would take to balance the budget each and every year? The people have a right to know these things.

As I listen to those who speak in favor of a balanced budget amendment, I do not hear them telling the public that we really intend just to carry the deficit over into the following year.

Let us take a look at that chart again. What this committee report is telling us is that Congress may roll over this deficit from one year to the next.

> If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

That means taking the year 1980, for example, when there was a shortfall between the actual and estimated deficit of $36 billion. So what this committee report is saying is, "Senators, just vote it over to the next year, don't worry about it."

The next year, we see that it misses by $58 billion and the next year by $73 billion and the next year over $91 billion.

Mr. SANTORUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Will the Senator allow me to finish? I do not have much further to read, and I will be happy to yield.

So what they are saying is, "Roll it over, roll it over to the next year, that is OK." That is not what the American people out there are expecting from those who are the proponents of this balanced budget amendment.

The proponents are saying, "Let's have a constitutional amendment to balance the budget. Let's do it like you do, Mr. and Mrs. America, you and your families, you do it every year. We ought to have to do it."

That is saying we ought to do it like the States have to do it. They have constitutional amendments to balance their budget. Well, I will talk more about those pretenses at some other point. But this is what you are being told; the American people are being told that if there is an excess in the deficit one year, it can be rolled over to the next.

Senators ought to read this constitutional amendment. They ought to read the committee report by the Judiciary Committee in the Senate which accompanied the resolution when it was reported to the floor. They ought to read it. It will not work. The Judiciary Committee knows it will not work. One only needs to read the report to understand that the Judiciary Committee saw there were going to be problems with it.

You will not hear the proponents telling the public that the Congress will just stand up and declare the deficit "negligible," and so we are not going to deal with it.

I do not hear them telling the American people that, if this measure is passed and ratified, the implementing legislation will only require that the budget be balanced on paper at the beginning of the year. That is not what the American people are being told.

Tell them the truth. And Senators know they are not being told that. Senators know or ought to know what this amendment says, what the words plainly state.

Senators ought not be willing to hoodwink the American people into supporting something that the American people can read and can understand. And it is not going to work. The committee report just as plainly states that.

Mr. President, if this matter were not so serious, if it were not so dangerous to the delicate separation and balance of powers that were put in place more than 200 years ago, and if it would not have such cataclysmic effects on the economic well-being of the American people, what we have seen today, with respect just to section 6 would be laughable. It would be laughable. But it is really not laughable. And the sooner the American people begin to understand that, and the sooner the Members of this body understand that, the sooner we will realize the serious policy choices that must be made if we are to put our fiscal house in order.

Mr. President, how much confidence do even the authors of this amendment have, if right in the committee report, they start figuring out ways to get around this amendment? How much confidence do the proponents have—the sponsors of the amendment—if right in the committee report they start figuring out ways to get around the amendment? No, Mr. President, this amendment is not worthy of being enshrined in our Constitution. It is little more than political catnip offered to disguise the real difficulty of getting our budgets in balance. I do not think we should perpetrate this charade upon the American people. That is what it is.

I want to see our deficits reduced as much as any Senator here wants to see them reduced. I voted for a package to reduce them in 1990. I voted for a package to reduce the budget deficits in

1993. So I believe we ought to get control of them. But not a single Republican Senator, not one of those who are proponents of this constitutional amendment to balance the budget voted for that budget deficit reduction measure in 1993. Not one Member of the House, not one Republican Member did that. And yet today they say we need a balanced budget amendment to the Constitution.

If it were simply a political sham, which it is, if it were just a political dodge, which it is, it would be regrettable and unwise to adopt. But it is much, much worse than those things.

This proposal is dangerous. Within its murky appeal and unsound formula for budget balance lie the seeds for the further diminishment of the trust of the people in their Government. They do not trust the Government much now. They do not trust politicians much now. They do not trust Members of Congress much now. The legislative branch can ill-afford any more cynicism and loss of trust. And this Senator worries as much about the trust deficit as he does about the budget deficit.

Often Members believe that doing what seems to be the safe thing—in other words, the popular thing—will prove also to be the right thing. Political correctness is supposed to be the order of the day, I guess. I believe that endorsing this balanced budget amendment has taken on the aura of a politically correct act. It has become a litmus test of sorts—the right choice to make the political proprietary meter register 100 percent in one's favor.

But whether or not we amend the Constitution in this damaging way is far too important for us to take the temporarily easy way out. The American people must be made to understand that once they take a closer look at this amendment—and I believe that Senators, once they take a closer look at the amendment and once Senators read the committee report—they will find that this amendment is far from what it seems.

I hope each Senator will carefully study this amendment before voting on it. I believe close and open-minded scrutiny of this proposal shreds it—cuts it to pieces; it will not work; it is quack medicine—reveals its many shortcomings and unmasks its benign countenance to reveal the sinister seeds of a constitutional crisis in the making.

Surely we will not travel this road if we are fully aware of where it may lead. In the days ahead, let us be very sure of just what it is we propose to do to our country and to our Constitution before we act.

Now, I understand the Senator from North Carolina, my friend from the State in which I was born, wants to make a speech as soon as I finish. But before he does, the distinguished Senator from Pennsylvania [Mr. SANTORUM] had asked me to yield. I asked that he wait until I finish my speech, and I thank him for that. I am glad to yield to him.

Mr. SANTORUM. I thank the Senator from West Virginia.

I wish to go back to that chart and again try to find out specifically what data the Senator is referring to there. I just had someone look up the 1974 Budget Act and the 1985 Gramm-Rudman-Hollings Budget Enforcement Act to find out what the timeframe was for estimates to be given. And my understanding is that—I am sure the Senator knows the 1974 Budget Act; he was one of the principal writers of it—the Office of Management and Budget submits a beginning-of-the-year budgetary assessment on February 1, which just occurred the other day. They make a midseason review in July or August. That is under the Budget Act of 1974. The Congressional Budget Office makes a beginning-of-the-year—which is the end of January—assessment after OMB makes its assessment and then an end-of-July reassessment.

My question is, the Senator referred to this data being May, roughly May, springtime, after all the budget resolutions were passed. I do not see any requirement for a report here, and I am wondering if in fact this data is not February data as opposed to May or June data.

Mr. BYRD. Yes, it is.

Mr. SANTORUM. It is February.

Mr. BYRD. It is not May. What I said about May was that under the 1974 act, Congress is supposed to pass a budget resolution which lays out the anticipated outlays, the anticipated receipts and the anticipated deficits, and then, only after then can the Appropriations Committee of the Senate—the House committees can go before that, but only after that budget resolution is passed and sent to conference and agreed upon can the Senate appropriations committees begin their work. Sometimes, I guess, we complete the budget resolution perhaps before May, sometimes we may not, but that was what I alluded to in the case of May.

Mr. SANTORUM. Mr. President, if the Senator from West Virginia will continue to yield for a question, so the numbers that the Senator is saying are in error, the inaccurate estimates, are estimates that were made 21 months prior to the end of the fiscal year, correct?

Mr. BYRD. Whatever, 21 or 20 or 18 or 19. The point I am saying is the estimates simply do not work out. They are always wrong. And in this constitutional amendment here, that is the Achilles' heel. The word "estimates" is the Achilles' heel. They are always wrong. Consequently, we can never base our actions on those estimates and expect to balance that budget.

Mr. SIMON. Would my colleague from West Virginia yield for a question?

Mr. BYRD. Yes, I will be glad to.

Mr. SIMON. First of all, as he knows, I have great respect for him. He is an extremely valuable Member of this body.

I will tell you what I think is the error of the Senator's assumption here. First, we can build in, as has been recommended by former Assistant Secretary of the Treasury Fred Bergsten, among others, about a 2-percent surplus. That on a $1.6 trillion budget would be about $32 billion.

Second, because we do have to rely on estimates somewhat, we have talked about having a 3-percent leeway so that you could go 3 percent below and then that would automatically transfer to the next fiscal year. That would be $48 billion. Right now, the combination of those two things would be $80 billion. That would take care of all but two fiscal years the Senator has on the board there. In those two fiscal years——

Mr. BYRD. What does the Senator mean by saying it would take care of all of them, all but two? What does the Senator mean?

Mr. SIMON. Every one of those except two is less than $80 billion.

Mr. BYRD. What is the Senator saying?

Mr. SIMON. Let me go over this again. The recommendation of several people, including Alan Greenspan and former Assistant Secretary of the Treasury Fred Bergsten, a recommendation that I concur in, is that we build in about a 2-percent surplus when we put together a budget. In terms of our $1.6 trillion budget, that would be about a $32 billion surplus. Then because no one, as the Senator points out, can know for sure down to the dollar or even the $1 billion where we are going to come out, we have made clear in committee that there can be up to a 3-percent deficit that would be transferred to the next fiscal year. That would be $48 billion. The $32 billion and the $48 billion combine to $80 billion. That, every one of those, is less than an $80 billion differential except for 2 years.

In those 2 years, the procedure would be for Congress to say we can either, with 60 votes, create a small deficit—but it would be small indeed, compared to the deficits today—or we could authorize putting it in the next fiscal year.

It is something that we would have to face. But it is a practical way of facing this problem.

Mr. BYRD. The Senator said "something we would have to face?" The Senator will not be around here after next year to face it. And I will not be around here many more years to face it. How do we know what future Congresses will say? We say we will say that. We say it is not the intention to do thus and so. How do we know what the intention of a future Congress will be?

Also, may I say this?

Mr. SIMON. You have the floor.

Mr. BYRD. Please take a look at the amendment which you are supporting. It does not say anything about building up a surplus in 1 year. It does not say anything about 3 percent or 2 percent or 10 percent or 20 percent. It says, "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *"

Napoleon said that on his council there were men who were far more eloquent than he, but he always stopped them by saying 2 and 2 equals 4.

So I am going to say to you, Senator—and I say this with great respect, and the Senator from Pennsylvania, and any other Senators on the response team—2 and 2 makes 4.

Read it. Read what your amendment is saying. "Total outlays for any fiscal year shall not * * *." It does not say may not. "* * * shall not exceed total receipts for that fiscal year."

Now, 2 and 2 makes 4. Do not come at me with all implementing legislation, "We might build up a surplus."

We will not be around here. How do we know what a future Congress will do?

"We will do this and we will do that in implementing legislation. We will build up a surplus. We can roll that over if we hit a year in which there is a deficit. We can just roll it over next year."

Suppose there is a deficit next year? "Well, we can roll it over."

Suppose there is a deficit next year? "Well, we can roll it over."

That is not what those people over there are being told. And you know it. And you know it, Senator. We all know it. Read it for yourselves. I did not write it. I am not going to support it.

Mr. SIMON. Will my colleague yield?

Mr. BYRD. I support getting to a balanced budget. But not this. Not this way.

Yes, I yield.

Mr. SIMON. Mr. President, I thank him for yielding.

You have to put that together with the language about estimates, together.

Mr. BYRD. That is just what I did just earlier. I put them together and came out wrong every time.

Mr. SIMON. All right. And the reality is we do not know—when we come to September 30, we do not know what the deficit is, or what it is precisely.

Mr. BYRD. We will not know it.

Mr. SIMON. We do not know that until sometime later. That is why we make this adjustment. And that is when we will make the adjustment.

I think—and I respect——

Mr. BYRD. This does not say anything about an adjustment.

Mr. SIMON. Pardon?

Mr. BYRD. This amendment? What are we talking about here? I thought we were debating a constitutional amendment to balance the budget. It does not say anything about an adjustment.

Mr. SIMON. We are. Well, what I am simply saying is we have built into this the flexibility to take care of the kind of unknown kind of situations that you are talking about.

Mr. BYRD. Senator, you say "we have built into this." Where does it say that in the amendment? Where does it say it?

Mr. SANTORUM. Mr. President, if the Senator from West Virginia will yield for a question?

Mr. BYRD. I am yielding right now to the Senator. Then I will be glad to yield.

Mr. SANTORUM. I was going to answer his question.

Mr. SIMON. Just a response to this question, and then I will yield to my friend from Pennsylvania.

Mr. BYRD. I know what the Senator from Pennsylvania is going to say. He will say look at that supermajority we provide in there. That is what he was going to say? Was that not what you were going to say?

Mr. SANTORUM. I would suggest to the Senator from West Virginia he read section 2 of the article, which requires a three-fifths vote to increase the debt limit.

Mr. BYRD. Yes, another supermajority. That is the 11th one.

Mr. SANTORUM. That is the safeguard against deficits. We cannot just incur a deficit because we have to raise the debt limit. We cannot raise the debt limit without a three-fifths majority. Thereby we are bound to do something about the deficit. So we will be forced, as the Senator from Illinois was saying—here is the enforcement. Here is the teeth right within the constitutional amendment. Section 2 requires us to have a vote on debt limit increase, and when we get to zero we will have the debt limit and we should not have to change it ever.

That is the enforcement mechanism. That makes us come here and do something about it to comply with section 1 of the constitutional amendment.

Mr. BYRD. The Senator is now talking about providing for a minority veto, a minority veto. The Framers provided for a majoritarian, democratic rule. The Senator is now talking about reverting to nondemocratic supermajority rule.

I was going to wait until another day to talk about these supermajorities.

Mr. SIMON. Will my colleague yield?

Mr. BYRD. And I will. But what he is saying here is that any Senator can, as a ticket for his vote—as a ticket for his vote to raise the debt limit, as a ticket for his vote to waive the deficit requirements—may say to the majority, "I want mine. I want my special project. I want my special program. That is my ticket, Mr. Majority. I will give you my vote and help you get that two-thirds, but I want mine." As a consequence, we will end up adding to the deficits rather than reining them in.

Is it a little hard to understand? Maybe.

Mr. SIMON. Will my colleague yield on that question, on that point?

Mr. BYRD. Oh yes, yes.

Mr. SIMON addressed the Chair.

Mr. BYRD. Let me say just another word about these supermajorities.

Mr. SIMON. Is it not true that there are eight provisions in the Constitution right now requiring a supermajority?

Mr. BYRD. No, that is not true.

Mr. SIMON. I beg to differ with my colleague.

Mr. BYRD. I will show you the Constitution.

Mr. SIMON. On most things, he is correct.

Mr. BYRD. In this, I am correct. In the original Constitution, there are six. In the 12th amendment, there is one dealing with the election of the Vice President by the Senate. In the 14th, there is one dealing with the waiving—in the case of individuals who have taken oaths of office and who participate in a rebellion against the country, two-thirds of the Congress may waive that and allow the person—two-thirds may waive that disability. And in the 25th amendment, where it talks about the disability of the President, there is a supermajority.

So, Senator, when you start talking about the Constitution, let us both sit down and read it together. There are not eight, or whatever the Senator said. There are six in the original, one in the 12th, one in the 14th, and one in the 25th amendments to the Constitution, making a total of nine.

That is a minor matter.

Mr. SIMON. I will take your word it is nine rather than eight. But the point is, this is not something startlingly new. Those provisions are in to prevent Government abuse. And I think we have had Government abuse.

The second point I ask——

Mr. BYRD. Wait just a minute. The Senator is not going to get off with that. I am going to yield to him. I am not going to shut him off. He is not going to get away with that.

Most supermajorities are in the Constitution to protect the structure of that Constitution. Let us talk about expulsion, the expulsion of a Senator, or the conviction of a President in an impeachment trial. They are there to protect individual rights. Those two supermajorities are there to protect individual rights.

In the case of a veto, the exercise of a Presidential veto, that supermajority is to protect one branch against another.

As a matter of fact, it was stated at the Constitutional Convention by one of the Framers that one of the reasons the President ought to have a veto was to protect himself against the legislative branch. There are various others that are claiming to protect individual rights. They are not supermajorities to nail down some fiscal policy. The Constitution does not embrace somebody's fiscal policy. So there were good reasons. Those are not the reasons these two new supermajorities that we are about to inscribe in the Constitution are for.

Mr. SIMON. But one of the things those who founded our Government talked about is taxation without representation. And one of the reasons that Thomas Jefferson favored a balanced budget amendment to the Constitution is he said one generation should no more be obligated to pick up the debt of a previous generation than to pick up the debt of another country.

Mr. BYRD. Thomas Jefferson was not at the Constitutional Convention, as the Senator knows. He was the President of the United States from 1801 to 1809, and when he was President, why did not he ask the Congress to adopt a constitutional amendment to do that? Why did not he? He did not do it. No constitutional amendment was ever sent. Why did not Jefferson do that?

Mr. SIMON. I would be pleased to respond, because George Washington operated this country very frugally. Then, in his Farewell Address, George Washington warned do not get the country into debt. We followed that advice, really followed it up until not too many years ago. Then we lost that sense of responsibility. But it is very interesting in Thomas Jefferson's first term he reduced the small Federal debt we had in this country by 50 percent.

Mr. BYRD. It was also interesting that Jefferson took advantage of the opportunity—I am glad he did—to buy the Louisiana Territory, 1,827,000 square miles for $15 million; less than 2½ cents per acre, extending from the Gulf of Mexico to the Canadian border, from the Mississippi to the Rockies. I am glad he did. He went into debt for it. Where did he get the money? He borrowed it from the banks. That debt, $15 million in that day, was 1.9 times the total budget for that year. If that were to happen in this year, when we have a budget of $1.6 trillion, and if we bought the Louisiana Territory and it cost us 1.9 times the amount of the Federal budget, you could figure that for yourselves. That has to be something like, about $3.1 trillion. I am glad he did. I am glad he went into debt. When going into debt, he benefited all of the ensuing generations from then until kingdom come.

Mr. SIMON. My colleague is absolutely correct. In fact, he illustrates the point that this constitutional amendment has that flexibility.

Mr. BYRD. Wait a minute. It also illustrates that Jefferson was embarrassed by what he had said, and later he said he was embarrassed by it. But he said because of the laws of necessity the means sometimes are worthy of the end.

Mr. SIMON. Let me add that the treaty was signed in Paris in May. In those days you did not find out what had happened for a while. When word got to Washington, DC, in July—and I apologize to my colleague from North Carolina—when word got to Jefferson in July in Washington, DC, he was as startled as anyone else by the Louisiana Purchase.

Our Secretary of the Treasury at that point was a man named Albert Gallatin, many States have Gallatin counties named for him. Most people do not know for whom Gallatin is named. Albert Gallatin objected to the Louisiana Purchase, or part of it, because part of the agreement was that the bonds were 5 percent. They could not pay back any of it for the first 15 years. He wanted to pay it off very, very quickly. But the really important point here is that there were two votes in the U.S. Senate on the Louisiana Purchase. There was one vote in the House of Representatives on the Louisiana Purchase. I do know the precise totals. It was something like 26 to 3, or something like that, in the Senate, and all of them were far more than the 60 percent required by this constitutional amendment.

So this amendment would not have blocked the Louisiana Purchase, I want to assure my colleague from West Virginia.

Mr. BYRD. I did not say the amendment would have blocked the Louisiana Purchase. I am saying, like Napoleon did, that two plus two equals four. Read it.

Mr. SIMON. I do not disagree.

Mr. BYRD. "Total outlays for any fiscal year shall not exceed total receipts for any fiscal year." You cannot get away from it. It has you by the neck.

Mr. SIMON. The Senator and I differ. But I thank him for yielding to me.

Mr. BYRD. I thank the Senator.

Mr. FAIRCLOTH addressed the Chair.

Mr. BYRD. Mr. President, I apologize to my friend from North Carolina. I thank the Senator from North Carolina. Let me thank the Senator from Pennsylvania. He made a good try.

I have not yielded yet. I have not yielded the floor yet.

Mr. FAIRCLOTH. I thank the Senator.

Mr. BYRD. I will in just a moment.

I want to commend and compliment the Senator from Pennsylvania. He did the right thing. He raised his questions. I learn when people ask me questions. And I hope that the listening audience learns. That is the purpose of this, that others who may have a chance to listen, hopefully will listen, may learn something from the questions and from the answers. I do not know all the answers. I do not claim to know that. But I fervently believe the position I am taking, and I think that a clear reading of the amendment supports me.

I thank my Senator from North Carolina for yielding. I beg his pardon for delaying him.

I yield the floor, Mr. President.

Mr. FAIRCLOTH. I thank the Senator from West Virginia. I thought he had yielded the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I ask for 20 minutes to discuss the Reid amendment.

Mr. REID. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from North Carolina yield for a parliamentary inquiry?

Mr. FAIRCLOTH. I yield the floor for 1 minute to the Senator from Nevada.

Mr. REID. I did not hear. Is the Senator from North Carolina speaking on the matter before the Senate?

The PRESIDING OFFICER. The Senator has been recognized to speak.

The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I will address the Reid amendment. But there are other things I am going to say first with reference to it.

Mr. President, I rise today in strong support of the balanced budget amendment to the Constitution. Mr. President, quite simply, no other legislative issue the Senate will consider is more important than this one. I know this is a broad statement. But the economic future of the United States rests entirely with this amendment. The future of the United States, the well-being of our children, grandchildren and children yet unborn rests entirely of whether we pass this amendment or not.

Mr. President, if we fail to enact this amendment, this country is headed irrevocably toward an economic calamity. Our national debt will soon consume us. We are taking the same path as Mexico, but unlike Mexico, there will be no one that can bail us out.

Mr. President, I have heard a lot of talk on the Senate floor about how we have to find a lot of cuts in order to balance the budget. Senator DASCHLE had a right-to-know amendment that we defeated yesterday. He wanted to know where the spending cuts will be made over the next 7 years.

But the most important thing that we can do is declare that we will balance the budget, show the fortitude to balance the budget, and then once we are bound by the Constitution, we will find a way to keep the budget in balance.

This brings me to the point I want to make and the point of the speech. It will only take 50 votes plus 1 in this Senate to raise taxes. Any Senator that cannot bring it upon himself to vote for cuts can stand up and vote for a tax increase. Any Senator that wants to go back to his constituents and tell them that he is raising their taxes by another 15 percent or more, taking another 15 percent or more out of the gross profits of the small businesses that are struggling already to keep buckle and tongue together, any Senator that wants this extra money to pay for more foreign aid, more welfare, a bigger Department of HUD, and more farm subsidies, he can do that. All he has to do is vote for a tax increase. He can go back to his constituents and tell them that he voted for a tax increase because he thinks these things are more important than the taxpayers keeping more of their own money.

Senators are saying that we cannot deny money to the helpless in our society. I say that the most helpless in our society are our grandchildren, our children, and the progeny not yet born, upon whom we are placing an enormous debt. If our generation wants greater Government, more giveaways, then it is the duty of this Congress to step up to the plate and pay for it now, to face the voters and say: I increased your taxes because I am for more giveaway programs and more spending.

I am tired of those that say they may not vote for the constitutional amendment because they do not know where the cuts will come from. If they have the courage, they simply can vote a tax increase and there will not have to be any cuts. For me personally, I will not be telling anyone in North Carolina that I need 15 percent more of their income to pay for more Government. I do not think we need more foreign aid, more welfare, more money for HUD, or more money for farm subsidies. In fact, what I can tell them is if we simply stop spending more money each year, we would have a balanced budget, with no cuts.

When I ran for the Senate, I said I would not vote for a tax increase. I have not, nor will I ever. The Federal Government needs to change its spending habits, not impose a burden of higher taxes upon the working people and taxpayers of this country. If we froze Federal spending to the levels that are in the fiscal year 1994 budget, we would not only have a balanced budget in 1997, but we would have a surplus of $10 billion. Instead, we just pour more money into more giveaway programs, with no end in sight.

Mr. President, the message the American people sent to us on November 8 was that they want less Government, not more; less regulations, not more; and more freedom to earn a living and generate a profit and spend their own money. I ran on that message in 1992, and I have not changed to this day.

Mr. President, finally, let me talk about the national debt that is consuming us. It took this country nearly 200 years—from its founding until 1983—to accumulate a national debt of $1 trillion. But since then, in just the last 12 years, we have added $2 trillion more to our debt. Today, our national debt stands at $3.6 trillion.

Under the 1996 budget that the President just released, our national debt will grow to $4.8 trillion by the year 2000. In other words, in just 4 years, our national debt will grow by another trillion dollars.

Every person who has ever gone into debt knows that interest is a piranha and it will eat you alive. The same thing is happening to the U.S. Government today. Interest is starting to destroy the Federal budget.

Mr. President, all of this is taking its toll on our economy and the ability of the U.S. Government to function. In the 1996 budget, 16 cents of every tax dollar will be spent just to pay the interest on the debt. But to put it in real and, I think, more impressive terms, when taxpayers file their income tax returns this year, they should know that 41 percent—41 percent—of all the income taxes that they send to Washington will be used for the sole purpose of paying interest on the money we have already borrowed. In other words, 41 percent of all the individual income taxes collected this year will go to pay interest on the debt.

By the year 2000, our national debt will be equal to 52 percent of the gross national product. In 1980, the figure was exactly half that. In 1996, for the first time, we will spend more on interest on our debt than we will on our military. And we are supposed to be the preeminent military power in the world, and should remain so.

Not only is our debt burden hurting us at home, but it is hurting us abroad. The dollar has fallen against every major currency of the industrialized nations of the world.

Mr. President, some might ask, how did we get ourselves into this mess? We got into this condition not because the working people are taxed too little, but because the Congress spends too much. In 1996, Americans will send $1.4 trillion to the Federal Government. Regrettably, this is not enough for Congress. There is never enough.

If we could just control Federal spending, we might not have to consider this amendment. But for 35 years, this Congress has been unable to muster the fortitude to control Federal spending. It is amazing to think that just since 1982, the Federal budget has doubled. Are we, as a country, better off today than we were in 1982 because we have doubled Federal spending? The answer is simple: We are deeper in debt and have little to show for it, but the interest will be with us to infinity.

Mr. President, we know what the problem is. The question is, what are we going to do about it? The answer is that we must pass the balanced budget amendment. We need to leave our children a clean balance sheet, not a lifetime of debt, excessive taxes and a contingent liability of $7 trillion.

Mr. President, in speaking of the national debt, and its impact upon us, I ask your indulgence to tell a very quick story from my early business career.

As a 21-year-old man, I was trying to buy some new trucks and equipment, and the banker would not consider the loan unless my mother endorsed the paper. Well, she was a very, very stingy Scottish lady and looked things over well before she signed them. This had gone on for a couple of weeks, and I went in the house for lunch one day and I asked her to talk about it. She had the liability and the debt service written on a handkerchief, and the proposed income that I said I was going to make on the same handkerchief on the other side, just a ledger sheet of income and debt service. And she asked me if her figures were right, and I told her they were. She picked it up, handed it to me and said, "Go and wash it." When I stuck it under the spigot and the water hit it, I saw what she had done. She had placed my debt, and had written that in indelible ink. She had written my income in fruit dye. Her words were—and I will never forget them, and the country needs to remember them, too—"When you make a debt, it will be with you always until you pay it, plus interest. Your income can go in a flash."

Mr. President, I yield the floor and the rest of my time.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I made my comments this morning on the Reid amendment. I very strongly support it and I pointed out my rationale for so doing.

Since then, we have been reading the committee report, Mr. President, and something has come to my attention. In the spirit of debate and discussion which was so prevalent on the floor between the Senator from Pennsylvania and the distinguished ranking member of the Appropriations Committee, I would like to continue that spirit, and if the bill manager, the Senator from Pennsylvania, would be prepared to answer a question on the majority report, I would appreciate it very much.

In this report, on page 19, it is pointed out that some programs are exempted from this resolution and some are not. Now, this is news to me, because, as a member of the Judiciary Committee that considered this, that was not the case.

I would like to read the exact language. It reads:

Among the Federal programs that would not be covered by S.J. Res. 1 is the electric power program of the Tennessee Valley Authority. Since 1959, the financing of that program has been the sole responsibility of its own electric ratepayers—not the U.S. Treasury and the Nation's taxpayers. Consequently, the receipts and outlays of that program are not part of the problem S.J. Res. 1 is directed at solving.

Now, this is very strange to me. Social Security is put on budget and its receipts and outlays are subject to Senate Joint Resolution 1, but we suddenly find that the Tennessee Valley Authority is not. And not only is it not, but the words prefacing the statement say "Among the Federal programs that would not be covered by Senate Joint Resolution 1 * * *"

My question to the distinguished Senator from Pennsylvania is: A, are you aware of this, that the TVA is being exempted; and, B, what other programs are being exempted from Senate Joint Resolution 1?

Mr. SANTORUM. I am trying to find the page which the Senator is citing.

Mrs. FEINSTEIN. Page 19 of the committee report, about two-thirds of the way down the page. It says "Total outlays," and then the second paragraph there, which begins "Among the Federal programs that would not be covered by Senate Joint Resolution 1 * * *"

Mr. CRAIG. Will the Senator from California yield?

Mrs. FEINSTEIN. I certainly will.

Mr. CRAIG. Mr. President, I am glad the Senator found and brought that issue up, because it is critical only in the context of understanding how it fits. I say that as an individual who helped craft this amendment and believes in the logic and in the appropriateness of the words "Everything that is in the general fund budget is on the table," and everything that the general fund budget and the Senate or the Congress of the United States have authority over in decisionmaking for the purposes of appropriations, allocation of resources, or the establishment of funding levels is on the table.

The Tennessee Valley Authority, like other PMA's, or power management Authorities, are not on the Federal budget. They have a Federal obligation and that is to return revenue to the Government for the money that was used to finance them.

But the Federal Government does not establish their budgets, nor does the Congress of the United States. And that is what is directed in this program.

So it is not a loophole. Everything that is in the budget is on the table. This is a revenue source. It is the board of this particular PMA, or power management authority, that establishes their own budgets and they look at their obligation to the Federal Government as a debt payment obligation. They are not a part of general fund budgeting, nor can they either be called off budget, because they are a quasi-independent Federal agency nontied to the general fund budget.

Mrs. FEINSTEIN. Senator, this is exactly my point, because in 1990, this body took Social Security off budget by a vote of 98 to 2. Social Security draws its revenues from its own specific FICA tax, not from the income tax or any other tax of Government.

Mr. CRAIG. Will the Senator yield?

Mrs. FEINSTEIN. I certainly will.

Mr. CRAIG. I agree the Congress did that. But you and I both know that the Congress of the United States every year includes in the final budget of this country and the budget that you and I will decide in the coming months Social Security expenditures. We are allowed by the law and the Social Security law to make decisions on Social Security. The term "off budget" for Social Security is an accounting terminology that separates it from the general fund budget or, if you will, the all-inclusive Federal budget that we have been operating on since the Johnson years.

The power authority is not something on whose budget we decide. That is decided by a separate board. It is only the amount of obligation of payment that power authority is tied to.

So if I may politely say, you cannot compare an apple to an orange. And in this example, that is exactly what I believe you are attempting to do. They are uniquely different entities under the law and under the budget process of our Government.

Mr. SIMON. Will my colleague yield?

Mrs. FEINSTEIN. I certainly will.

Mr. SIMON. I thank the Senator.

If I may make another comparison. It is like Fannie Mae or Sallie Mae. They are entities created by the Federal Government. Their boards are appointed by the President of the United States. But if Fannie Mae gets into some difficulty, they have to raise their own revenue. We are not going to come along and help them.

I do not want Social Security to be in that situation. I want us to feel an obligation to make sure that we fund Social Security.

So I think we are not just talking about something that is off budget where we have an obligation. In this case, we are talking about something that is a Federal Government-created entity, but they have to take care of their own revenue. And if they run into some financial difficulties, they have to raise power rates or, in the case of Fannie Mae, may have to raise interest rates or something else. But we are not going to come along and bail them out.

Mr. REID. Will the Senator from California allow the Senator to ask a question?

Mrs. FEINSTEIN. I certainly will.

Mr. REID. I would be interested if the Senator from California could answer a question based on what the Senator from Illinois said.

Why, then, was not Sallie Mae and Fannie Mae excluded? Why is it only the Tennessee Valley Authority?

Mrs. FEINSTEIN. Mr. President, this has piqued my curiosity as to what is excluded because, if we just follow the logic of the distinguished Senator from Illinois, I stretched my memory back to see if there was a time when the Federal Government ever bailed out Social Security. I do not believe there was. There were times when the Federal Government, the Congress, has raised the FICA tax, but the FICA tax is a compulsory dedicated tax that goes for retirements.

I find it somewhat interesting that some programs—and it does refer to quasigovernmental programs in this as well—some programs are exempted under this bill and others are not.

Of course, the program which is most important to the American people is Social Security. It is not exempted. It is not exempted because there will be 3 trillion dollars' worth of surplus revenues that are going to be taken from Social Security and used to balance the budget.

That is what Senator REID and I do not think is right. I would just like very much to obtain a full list from the committee and from the authors of this as to precisely which programs are being exempted from the balanced budget amendment.

Mr. CRAIG. Will the Senator yield?

Mrs. FEINSTEIN. I will yield.

Mr. CRAIG. Mr. President, no program of the Federal Government is being exempted. These are not Federal programs. These are independent entities that are known as quasi-governmental because it took a Federal act to create them. They are not on budget. They have never been on budget. This is the same report language that was filed a year ago and 3 years ago as we worked this very issue.

So I appreciate your concern because I, too, strongly believe exactly the way the Senator from California believes—that the trust fund of the Social Security system should never be used to balance the budget.

I have one of these entities in my area known as the Bonneville Power Administration. We do not establish their budget here. You have never voted on it. Neither have I. They are a Federal power-marketing agency. They establish their budget just exactly the way the Senator from Illinois said—by rates, and by rate increases if they need to increase their budgets. They have but one obligation to the Senate and to the Government of our country, and that is to return a revenue, based on their debt obligation.

That becomes part of this revenue flow that becomes part of the budget. That is not even like Social Security. Social Security does not return a revenue to the Government following an expenditure. It is a tax flowing in to service the obligations of Social Security and Social Security recipients.

The Tennessee Valley Authority does not flow money to the Government for purposes of obligation other than debt structure, and they are not a part of the unified Federal budget. Simply are not and never have been.

Mrs. FEINSTEIN. Mr. President, let me make this point, if I may, because the Senator from Idaho has just said these are not Federal programs.

The majority report says these are Federal programs. The majority report says: "Among the Federal programs that would not be covered by S.J. Res. 1 is the Electric Power Program of the TVA." Now you are saying it is not only TVA, it is Bonneville as well.

Now, maybe to some the argument can be made that there is no Federal responsibility for these. But if something happened with these programs, I think we would bail them out very rapidly. I do not accept the argument that they are not Federal programs, and the majority report does not accept that argument.

I yield to the Senator from Nevada.

Mr. REID. Mr. President, I appreciate the Senator yielding for a question.

Mr. President, if the Senator from California would look at page 19, the paragraph that begins "Total outlays," right above where the Senator has been reading, it stands on its head what my friend from Idaho said.

Listen: "Total outlays is intended to include all disbursements from the Treasury of the United States"—listen to this—"either directly or indirectly through Federal or"—listen to this—"quasi-Federal agencies created under the authority of the acts of Congress and either on budget or off budget."

So that, I say respectfully to my friend from Idaho through my friend from California, that is directly opposite what he said. Is that not what the English language says?

Mrs. FEINSTEIN. That is exactly right, Mr. President. Something is wrong. Something is fishy, I think. And I think we ought to find out what it is, because what is sauce for the goose is sauce for the gander.

I am happy to yield to the Senator from Illinois.

Mr. SIMON. Mr. President, let me just say if we were to rephrase this, I would say the first paragraph we are talking about "among the federally created programs" would have language that is more clear.

If my colleague from California wants to vote against the report for that reason, that is fine but just vote for the constitutional amendment.

Let me respond to my friend from Nevada, because the paragraph that he quotes is correct.

The REA serves people in Nevada, California, Idaho, and Illinois. We do permit Government-backed bonds. Now, when we put out those REA bonds we put a little bit into the Treasury. Whatever CBO determines is a risk factor, that is put there.

Now, when my colleague from California says, well, if Bonneville went down the tube, we probably would rescue them, I think that is correct. I would just remind the Senator that we also rescued Lockheed. We also rescued Chrysler. We will not put any more in here from Michigan for Chrysler or Ford or General Motors, but we do put whatever risk factor we have to when there are federally backed bonds.

Mrs. FEINSTEIN. I am happy to yield to the Senator.

Mr. CRAIG. Mr. President, thank you.

We can play semantics with the report language if you wish and we can ask a variety of questions of the report language. I do not dispute the legitimacy of asking the questions.

The report language is not the amendment. What is in the amendment and which is key, and I think the Senator in searching for the Government programs that would meet the definition, needs to look at section 1 of the amendment.

It says "Total outlays for any fiscal year." That is the operative word, Senator. Now, the Senator used the example if my power authority, Bonneville, got in trouble, would we bail them out. I do not know. We would have to decide that at the time. That would become an outlay at that moment in time.

We would have to fit that into the context of a balanced budget because we would decide collectively that maybe it was necessary to do it—it was going to damage the region. Your State of California buys a lot of power out of the Bonneville power grid. If the Bonneville power grid was going down, we might become allies. We would want to save it so that my State would not go dark and your State would not go dark.

But the point is, does it become an outlay? That is all you and I for the purpose of a balanced budget amendment have a responsibility for. It is at this time not an outlay. TVA does not come to the Federal budget. It is not an outlay of the Federal budget. If it got in trouble—and I think your analogy is fair, as the Senator from Illinois mentioned the analogy of Chrysler and the New York City bailout. New York City is not an outlay today and should never appear on the budget, should not be considered.

But if New York came, like they did years ago and said, "We are near bankruptcy. Help us," they become an outlay. They become a part of the unified budgets of the Federal Government, and it is at that time that we would have to make a decision.

So, whether the report language is right or wrong, the ultimate test and a legitimate question to ask, I sincerely believe, is what segments of the Federal Government manifest an outlay to the unified budget of the Federal Government? While we took Social Security off budget and away from the unified budget, which is merely an accounting word for total expenditure, total receipts, in the end we bring it back. We bring it back and we put it in to the total budget of the Federal Government, and you and I vote annually on the expenditures of Social Security.

We do not on TVA, we do not on Bonneville Power, we do not in this operative section—not operative, but descriptive section. Report language is never operative. It is only descriptive. It expresses general intent. It is only at that point that I think your concern deserves an answer, and I would like to try to put a list together for you.

But if you are basing it on your reason to vote because it is off, the test is: Does it manifest by its presence an outlay to the unified budget of the Federal Government? And the very simple answer to that is no, it does not.

I thank the Senator from California for yielding.

Mrs. FEINSTEIN. Mr. President, I appreciate that and I thank the Senator. It is just that I think I find a conflict in this because, after all, Social Security, although there is an outlay every year, is running well in surplus. By the year 2002 when this is operative, there will be $705 billion plus another $300 billion, it is my understanding, becoming available for retirements. But because they are not needed, this amendment would automatically use those revenues to balance the budget. That is my problem with this.

The fact that—let us say it is Federal or quasi-Federal—this is still an entity that is the product of the Federal Government whose full faith and credit at one point built it, et cetera, and whose full faith and credit would sustain it if it fell into tough years.

I look at Social Security as important as TVA, it is as important as Bonneville if you are a senior who is depending on it or a working person who is paying the FICA taxes with the expectation that the Government is going to make those revenues available. This amendment does not make those revenues available for retirements.

So all we are saying is, just as you have excepted Bonneville, TVA, and some other things yet unknown to some of us, we say exempt Social Security, and then we can all march forward together.

Mr. CRAIG. If the Senator will yield.

Mrs. FEINSTEIN. I yield the floor, and I thank the Senator very much.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, only briefly to respond to the Senator from California. She and I are clearly on the same wave length. We do not want to see the trust funds and the revenues that build up to support future generations Social Security checks used to balance the budget. The tragedy is today they are. Today the surpluses are spent through the general fund and notes are deposited in the trust funds, interest bearing notes. This is a requirement of the law, the law that created Social Security. That is what goes on today.

So the Social Security stability, while there are revenues coming in in the form of taxes, has always been based on the willingness of the Congress of the United States, the Senator from California and the Senator from Idaho for assuring its stability because we, by voting every year to pass a unified Federal budget, vote on the expenditure of moneys from the trust fund to things other than Social Security because the money is borrowed from the trust fund and expended out through the general fund. That is part of the financing of our Government, whether you and I disagree with that or not.

It is not a separate pool of money setting to the side bearing interest. It is working money and, of course, it comes in the form of Treasury notes and interest bearing at the time. That is how it works. I think that is a reasonably good description of how it works and certainly one that will not change.

I think the argument that all of us have had is, if you are going to balance the budget, you look at all of the Federal budget, all of it that is currently inside the unified Federal budget and in the calculations that we make on an annual basis from a budgetary point of view.

While the Senator from California has expressed her concerns here, let me close this thought by simply saying, what is now not currently on budget or a requirement that the Senator from California or the Senator from Idaho deal with it at all, unless it got in trouble, as she makes out, that would be then the point that we would be responsible for it, and it would fit under the definition and the clear examination of article I which says, "total outlays." There is the key, total outlays for any fiscal year. Right now TVA is not an outlay nor are those other entities.

Mr. President, one other item that I thought was interesting this afternoon in the debate and the discussion as it relates to the Senator from West Virginia when he was breaking out different portions of the budget and he was dealing with sections that talked about revenues and how we would handle them, it was interesting to me that he was only willing to deal with pieces and not the whole.

It is most unfair, in my opinion, to examine the amendment in pieces and say, and, therefore, that piece is operative exclusively under a certain manner. Let me give an example of what I think I am concerned about when he said, "The limit on debt of the United States held by the public shall not be increased, unless three-fifths" vote. He talked about revenues and the ability to evaluate those and, again, it was an operative factor of three-fifths vote.

We understand that the art of projecting revenue in a gross domestic product as large as the United States is not a perfect art, and while our very best minds at the Office of Management and Budget, or the Congressional Budget Office, or Treasury might come up with a fixed revenue for the year over which we budget, it would not be unreasonable, based on cyclical patterns, for that revenue to be off by $10, $12, $14, or $20 billion.

The Senator from West Virginia is absolutely right. We are never accurate to within the cent or the dollar or even the hundreds of millions of dollars.

But what it then says is that, by a three-fifths vote, other things are allowed to happen and that remains the key operative. What the process does is that it causes us for the first time to try to live within the revenue projection. And certainly the Senator from West Virginia, who for years has been chairman of the Appropriations Committee, knows that this Congress and probably few that he has ever been involved in ever consciously created a budget to live within the revenue projections. It was always take that revenue and borrow a heck of a lot more.

Now what we are saying is that as we work over the next 7 years to bring this budget into balance, from that point forward we will live within the best guesstimates possible by the professionals, and we will project spending levels on an annualized basis on those projections, on those averages, on those summaries. And if we miss them, then through the implementing language and a new budget process that would be created growing out of this, we would deal with them.

Would it be to lift the debt ceiling by three-fifths vote and move them into debt? Yes, that could be done. That would then clear out the budget for the year.

Would it be to raise revenue to offset it? Yes, that could be done.

Would it be possible to spin it into the next fiscal year as a debt to be paid immediately because of a projected surplus in the next year? Yes, that, too, could be done.

This amendment does not restrict those kinds of actions. What it does say and what is important to say is you look at the total of the argument, read the whole amendment, do not examine the pieces. Put it all together, make it a whole body, make it a whole document because that is how we will all have to look at it and that is how we will have to operate as a Congress under the 28th amendment to the Constitution, the one that we are now debating. We will not operate exclusively by the pieces or the parts. It will be a whole document that will cause us to react that will create the implementing language which will be probably a new Budget Act and a new process.

What it does disallow, and that is, of course, where this Congress has found itself in real trouble over the years, it disallows the ability to micromanage in a way that has created the kind of debt structure that we have. It simply puts us within parameters, very strict parameters, and it gives, I think, the American people for the first time a sense of confidence that we actually are trying to stay within our limits and balance the Federal budget.

I would like to try to do that. I think most Americans want us to do that. I am privileged to be serving my 15th year in the U.S. Congress, and never in those 15 years has this Congress consciously tried to live within its revenue or live within a balanced budget. It always figures we will take what we can get and we will borrow the rest to meet our political desires and not our fiscal responsibility.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. REID. I would ask my friend to yield, if I could talk to either Senator SANTORUM or Senator CRAIG, whoever is managing the bill now?

Mr. SANTORUM. Is the Senator asking me to yield?

Mr. REID. Yes.

Mr. SANTORUM. I ask unanimous consent that I may yield to the Senator from Nevada.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. It is late in the day, and I am wondering if at least for the next hour or so we could get some idea if we have some speakers. I have someone who is tentatively scheduled to come at 5 o'clock, the Senator from Alabama. It is just so people are not necessarily waiting around. I see the Senator from Michigan is here.

Mr. SANTORUM. I do not think we have anyone lined up at this point to speak. I was going to speak for about 5 minutes and then I am going to sit.

Mr. REID. I thank the Senator.

Mr. SANTORUM. Mr. President, I wanted to finish up what little colloquy and discussion we had just a short while ago with the distinguished Senator from West Virginia. I wanted to continue that debate, but in deference to my colleague from North Carolina, I allowed him to make his presentation. But there was a couple of things I just wanted to bring closure to before we move on to the next round.

The point the Senator from West Virginia was alluding to was section 1 of the bill:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *

It is unenforceable, unworkable; these estimates will throw you all off; the estimates do not work; they are not reliable. And as a result this is an unenforceable constitutional amendment that is going to cause all sorts of unconstitutional activities in this Chamber.

I mentioned to him that we must look down to the next section, section 2, which states:

> The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for an increase, for such an increase by rollcall vote.

There is the enforcement; that once we get to the balanced budget, or once we get to where the debt limit is, that we cannot increase that debt limit without a three-fifths vote. That means we cannot incur a debt or a deficit from any year because if we incur a debt and do not raise the debt limit, then we cannot issue obligations to pay for that deficit, which means that would be in a sense a default of certain obligations.

Now, that is the enforcement. That is the mechanism that drives section 1, that makes us get better estimates.

I believe, as I am sure the Senator from West Virginia believes, that we will get better estimates and they will be more ongoing, they will not be every 6 months but will be on a more frequent basis so we can calculate what the correct number will be at the end of the fiscal year so we can hit pretty close to zero and hopefully hit a surplus.

That is the enforcement. That is what makes all of this discussion about estimates, frankly, irrelevant to the enforcement of this act because the enforcement is the debt limit provision. That is what forces us to come in with a balanced budget, irrespective of what the estimates say.

The response then was, well, you are creating a minority veto; that the minority is going to have all this power because it is going to be a supermajority that is going to be required to raise the debt limit.

I would just suggest I have the distinct feeling that we are here because we have a minority veto, that we have been talking about this bill for 2 weeks because of a minority veto; that we will be filing a cloture motion soon and we will find out whether there is a minority veto.

This place runs on minority veto. The minority veto is the hallmark—as the Senator from West Virginia said during his discussion, things come over here to cool down a little bit, to cool down.

I saw a movie the other day, "Encino Man," not exactly the greatest movie that was ever made, but Encino Man was about a Cro-Magnon man and his spouse who were hit by an avalanche. Now, that is cool down. And they were encased in ice. And the Encino Man as a result of an earthquake was uncovered, and the ice block that he was encapsulated in thawed, and he came to life.

My concern is that in this body we are getting avalanched to the point where we are going to be encapsulated in ice and not be able to act and do anything on this balanced budget amendment, and when we wake up it will not be as happy a world as what the Encino Man faced. When we wake up, we may have desperation, despair, and economic collapse in this country because we simply chose to cool things off.

We cannot afford to cool things off any more. The more we cool things off here, the hotter it gets out there. We have an obligation to act.

Do not talk about minority vetoes. We have seen plenty of that around here on this issue. And I suspect the Senator from West Virginia likes that fact, of having that minority veto. As the Senator from Kansas, Mrs. KASSEBAUM, said, maybe it is a bad idea whose time has come, but it is a necessary evil that we have to put on to this country to get our financial act in order for the next generation of Americans.

I do not want to be the first generation of American leaders to leave the next generation worse off than we are and worse off than my grandparents were, and that is what we are standing on the precipice of if we do not act today.

I am hopeful we will. I am confident we will. I do trust the better angels of our nature in this place. I know there is a lot of activity going on that is trying to cloud this issue, but I fundamentally believe that people in this Chamber will do the right thing when called upon and they will stand up for the future of this country.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business for no more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEVALUATION OF THE MEXICAN PESO

Mr. BENNETT. Mr. President, I thank my colleagues for indulging me in this matter and I will attempt to be as brief as I can.

Yesterday, at this time, the chairman of the Banking Committee, my friend, AL D'AMATO from New York, took the floor and made a strong statement with respect to the peso situation in Mexico and the proposed solution to that situation from our Government. I wish to take the floor and respond and expand upon the statements made by my distinguished chairman.

I agree basically with the position that he took. I do not share some of the outrage that he expressed with respect to the administration's action. I took the floor after the administration had announced their action and generally praised it because I do believe that if we had not taken some kind of action the Mexican economy in an atmosphere of panic would, indeed, have spun out of control and the Mexican Government would have been in default on their bonds within some 48 hours of the time the administration acted.

However, I do not want to leave the impression that with my support of the administration's actions I support the notion that the Mexican Government acted wisely when they devalued the peso in the first place. And the outrage suggested by the chairman of the Banking Committee was appropriately placed when it goes to the question of those who planned this devaluation, those who approved of the devaluation, and those who took the position that the devaluation was inevitable and that it was proper.

In the Wall Street Journal yesterday, Robert Bartley, the editor of the Journal, wrote a somewhat lengthy but in my view very perceptive summary of this situation called "Mexico: Suffering the Conventional Wisdom." I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENNETT. The reason I praised the administration action when it was announced was that unlike the original proposal, the administration action called for entry into the circumstance of the Federal Reserve Board. I have enormous respect for Alan Greenspan, the Chairman of the Federal Reserve Board, who has an understanding of the evils of devaluation that I think goes beyond that held by some policymakers at the International Monetary Fund and the World Bank.

Devaluations are not inevitable. Devaluations are not good policy. Devaluations are usually an attempt on the part of one government to, in the phrase that's become known, beggar thy neighbor—punish another government on their borders, either physically or by trade.

We went through the circumstance of passing NAFTA in this body and in the other body. I was a strong supporter of NAFTA for a variety of reasons that I will not review here.

One of the fundamental pillars of NAFTA was that we would establish free trade between these nations, and the assumption was very specific that this free trade would continue on a dependable exchange rate between countries. For Mexico, once the free trade zone was established, to violate that assumption and say, "Well, now we have free trade in our countries but we are going to try to make our goods more attractive in your country by devaluing the peso and thereby making our exports cheaper," was a violation of that agreement, certainly of its spirit if not its letter.

The fact that the markets reacted so violently to the devaluation, catching the experts at the IMF by surprise with that violence, demonstrates the fact that moving away from the 3.5 relationship between the dollar and the peso was, indeed, a violation of the whole spirit of the NAFTA debate and represented a betrayal of those who had supported NAFTA.

Conventional wisdom, as Mr. Bartley points out, says "No, no, you can devaluate a little bit and everything will be fine." The reaction in this circumstance said you cannot devalue a little bit when the devaluation is a betrayal. You have destroyed the whole relationship that existed between the two countries. That, in my view, was what was wrong.

Now, in the package put together by the administration, there is the opportunity for Alan Greenspan and his opposite number in Mexico, Miguel Mancera, to get together and say we will use these funds that are now available to us by virtue of the decision of the President of the United States, not to bail out investors in Mexico but to start to extinguish pesos. We can acquire pesos by virtue of the money that we have and then extinguish them—tear them up, if you will—and reverse the monetary policy that flooded the Mexican economy with too many pesos, which is what led to the devaluation in the first place.

We can use this money, these two gentlemen can, because they have the expertise, they have the ability, and if the Treasury Department will back them, they will have the support they need to say we can use this money over time to reverse the betrayal of the devaluation. And if that is the approach, I am convinced we will see the Mexican crisis resolve itself happily.

Unfortunately, if that is not the approach, if the money is used in the conventional wisdom fashion of trying to see to it that all of the investors in Mexico are made whole, then I think the dire predictions that we have heard on this floor will indeed come true.

So, I salute the chairman of the Banking Committee. I am a member of that committee, and I look forward to the hearings that he has told us he will schedule. I think it is very appropriate for him to take on this watchdog role that he outlined for us in his floor statements yesterday.

But I hope the administration will recognize that those of us who supported what they proposed are looking to them to try to move to undo that which triggered the crisis in the first place, which was the act of betrayal, the devaluation.

It was not the trade deficit. This country had a trade deficit, the United States, until 1914. The part of the country from which I come, the West, was built by trade deficits. The railroad that linked the West to the East and created all of the economic opportunities that came in its wake was built with British money, not American.

Trade deficits are normal and healthy in developing countries. No, this devaluation was caused by overprinting of pesos, and it can be solved by using the breathing time purchased for it by the administration to extinguish those pesos and move back to the time where two trading partners who have joined hands in good faith under the umbrella of NAFTA can once again say: We can trust each other. There will be no future betrayal. We will stand as we have stood in the past.

It cannot be done overnight. But it can be done if it is announced as a goal, if it is announced as an open target, and the two central bankers, Mr. Greenspan and Mr. Mancera, then set about to find a program to have it come to pass in a legitimate, orderly and proper fashion.

This is the way to get the Mexicans back on their feet and this is the way to protect the American taxpayer. I salute Chairman D'AMATO in his vigilance to hold hearings to see to it that this is carried out in that fashion.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, Feb. 8, 1991]

Mexico: Suffering the Conventional Wisdom

(By Robert L. Bartley)

Confusion number one is that the best exchange rate is one that produces the "right" trade balance. With the collapse of the Marxism now behind us, this has become the most pernicious idea loose on the earth today.—"Dollar Turmoil," Review & Outlook, The Wall Street Journal, May 23, 1989.

So some 93 million Mexicans are learning to their sorrow. But perhaps there is something to be redeemed from their misery. Just possibly the debacle will spell the end of devaluation as a policy instrument, not only in Mexico but around the world.

The initial conventional wisdom is quite the opposite, of course. With the peso devaluation providing an utter calamity, financial sophisticates have decided the mistake was not doing it sooner. To the untutored, this logic may not be intuitively obvious. Indeed, taxpayers who've ponied up some $50 billion in guarantees may be relieved to discover there is another view: that the Dec. 20–22 devaluation was a dreadful mistake, though one in which the Mexicans merely followed prevailing conventional wisdom.

That wisdom holds, for example, that Mexico was "forced" to devalue, which is myth number one. A collapsing currency is usually the sign of a economy with an inflationary spiral and an uncontrolled fiscal deficit. But the Mexican budget was nearly in balance, and the ratio of its debt to GDP was below the OECD average. Inflation has subsided to single digits. Exports were surging, up 35% to the U.S., scarcely the sign of an "overvalued" currency. Growth, while not as vigorous as some developing nations, was picking up in the wake of the North American Free Trade Agreement. The real sector of the economy was not sick but healthy.

FOREIGN EXCHANGE LEGACY

In the financial sector, the incoming Zedillo administration did inherit a problem: Foreign exchange reserves were declining. As recorded in the graphs Bank of Mexico Governor Miguel Mancera published on this page Jan 31, adapted alongside today, they'd fallen from a peak of nearly $30 billion before the March assassination of Presidential nominee Donaldo Colosio to about $12 billion at the Zedilo inauguration Dec. 1.

In dealing with this problem, however, the incoming administration had a choice. The road not taken was simply to tighten monetary policy. In the conventional view, this means raising interest rates to attract dollar inflows and thus stabilize reserves. In the more modern and more helpful monetary approach to the balance of payments, the same actions would be viewed as reducing the supply of pesos. A lower supply of pesos relative to the supply of dollars would increase the value of the peso, and a higher exchange rate would reduce the incentive to cash peso for dollars. Reducing the supply of pesos would also be likely to boost short-term interest rates, though this is a side-effect, and long-term rates might actually benefit.

Instead the Mexicans chose to devalue, widening the bands on the exchange rate on Dec. 20 and going to a freely floating rate on Dec.22. The latter decision really was forced because the earlier one collapsed investor confidence in the peso. Widening the bands clearly presaged devaluation and led to a massive flight from the peso, and the loss of half of the remaining reserves in one day. Judging by their public economic plans, the Mexican authorities had in mind an exchange rate of 4.5 pesos to the dollar, a 22 percent devaluation from the earlier 3.5 floor. But with confidence imploding, the peso dropped immediately to 5.5 then as low as 6.33, a 45% devaluation. With more than $50 billion in guarantees from the U.S. Exchange Stabilization Fund, international financial institutions and commercial banks now announced, the peso recovered to 5.335 yesterday, devalued 35%.

Meanwhile, interest rates surged. In the wake of devaluation, the rate on 28-day cetes, peso-denominated Treasury bills, reached 39%, up from 13.75% in the Dec. 14 action. Even with the support package, the 28-day cetes rate was 32.75% at the most recent auction Feb. 1. Foreign exchange reserves were almost exhausted before the bailout package, and the Mexican economy is visibly collapsing into recession. The argument that Mexico was "forced" to devalue rests on the notion that otherwise it would have vanished foreign exchange reserves, a recession and soaring interest rates. With devaluation more than doubling interest rates, it' absurd to suggest that the same rates would not have been enough to defend a 3.5 peso exchange rate when the former level of confidence still prevailed.

What's more, in all likelihood the damage has only begun. Mexican living standards already are plunging. The devaluation will surely result in a major surge of inflation, which will offset any imagined trade advantages to a lower exchange rate. The combination of inflation and recession will throw the government budget into chaos. The economic turmoil, especially the devastation of the nascent middle class, will in turn produce political turmoil. Much of the hard-won progress of the last 12 years will be reversed.

The Mexican outcome provides a particularly clear empirical test of a set of conventional wisdoms about economic policy, trade and exchange rates. For this was not some backwater decision. The key decision-makers in Los Pinos (the White House) and Hacendia (the Treasury) boasted Ph.D.s in economics from Yale and Stanford. Devaluation has long been urged by important business sectors in Mexico, and advocated/predicted by various commentators on Mexico, in particular journalist Christopher Whalen and MIT economist Rudiger Dornbush. When the action was taken, U.S. Treasury Secretary Lloyd Bentsen immediately said it "will support the healthy development of the Mexican economy."

The arguments of this illustrious group are familiar: Exchange rate pressures are caused and cured by trade deficits. Thus the Mexican authorities thought their fundamental problem was not purely monetary, but rather a high current account deficit. And further that the deficit could be cured by devaluation; a lower exchange rate would make Mexican goods cheaper north of the Rio Grande and U.S. goods more expensive south of the border. So Mexicans would sell more and buy less, and the trade account would come into balance, or at least to a "sustainable" level. Many economists and such institutions as the International Monetary Fund have long given the same advice to every troubled economy in the world. It was the conventional wisdom preached even to the U.S. in the 1980s, the occasion of the "Dollar Turmoil" editorial quoted above.

Yet in fact trade deficits are perfectly normal, if not indeed a sign of health. The international balances are an accounting identity, and trade deficits and investment inflows are two sides of the same coin. So any developing nation that succeeds in attracting capital must by definition run a trade deficit. Or to put it another way, a rapidly growing economy will attract more than its share of the world's investment and require more than its share of the world's goods.

The key, then, is not to balance the current account with the rest of the world, but to balance trade deficits with voluntary investment inflows. Mexico ran current account deficits of $25 billion in 1992 and $23 billion in 1993, and during this time not only maintained the peso at around 3.1, but accumulated large foreign reserves. In 1994, the current account deficit was only slightly higher—$27 billion after 11 months. The problem came with the inflows, as political turmoil shook investor confidence.

The biggest shock was the Colosio assassination. The Salinas administration responded by devaluing the peso to 3.4 from 3.1, within the previously announced bands. It also used some of its foreign exchange hoard to buy pesos and engineered a sharp boost in interest rates, taking 28-day cetes to around 18% from 9.6%. This mix succeeded in stabilizing foreign reserves from April to November, with a blip over the threatened but ultimately aborted resignation of Jorge Carpizo McGregor, widely seen as the Mexican government's badge of integrity. In November, reserves resumed their fall with the angry resignation of Deputy Attorney General Mario Ruiz Massieu, who had been investigating the assassination of his brother, Jose Francisco Ruiz Massieu, secretary general of the ruling Institutional Revolutionary Party (PRI) who had tried to fight party corruption. The resigning official repeated his suspicions that drug dealers were working with elements of the PRI, and charged that high party officials had obstructed his probe.

Clearly these political events were shocks to monetary policy and the exchange rate, as Governor Mancera argued in his article here. He added, however, that in line with standard central bank practice around the world, the resulting foreign exchange transactions had been "sterilized," or offset with domestic transactions. The idea is to insulate domestic monetary policy from the impact of international markets (though in fact both turn on the same money supply). So the central bank would sell its dollar reserves, thus withdrawing pesos from circulation, but then would buy domestic notes and bonds, putting the same pesos back in circulation.

So internal measures of "the money supply," the monetary base for example, displayed their usual growth path with their usual seasonal variations. But the point was that the political shocks changed the demand for money; the supply was not allowed to adjust. In effect, the central bank created the pesos used to buy away its dollar reserves. With a large stock of reserves and a store of credibility earned with the Salinas reforms, the sterilized interventions did buy time for a monetary correction, but instead the new administration decided to devalue. The $50 billion support package has restored some stability, but without policy changes Mexico could sterilize its way through $50 billion as it just sterilized its way through $30 billion.

A CONTRARY PRINCIPLE

It would be quite another matter if some of the $50 billion were used for unsterilized intervention, buying pesos and extinguishing them. And while sterilization is indeed standard policy under the international conventional wisdom, it is not the only possible one. Indeed, the currency board policies adopted in Hong Kong, Argentina and Estonia operate on a contrary principle. Local currency is issued only when new foreign exchange reserves are earned, and is extinguished when reserves fall. Interestingly, Argentina reacted to the Mexican crisis by eliminating its remaining bands, not widening them. Finance Minister Domingo Cavallo clearly has not adopted the conventional wisdom; indeed, he consummated his currency board by inviting IMF advisers out of his nation.

The currency board arrangement is reminiscent of the classical gold standard before World War I, when the domestic monetary base automatically rose or fell with the gain or loss of gold reserves. The currency boards use foreign currency instead of gold, of course. This means that while all nations could use the gold standard, with currency boards one central bank, presumably the Federal Reserve, would have to use some other outside signal in setting the pace of money creation.

The new Republican Congress is gearing up for hearings about what went wrong in Mexico, which promise to become a reexamination of the prevailing conventional wisdom. Clearly the Republicans recognize the devaluation as a mistake, as Senate Majority Leader Bob Dole has plainly stated. What advice, Republican committees want to know, did the Mexicans get from the IMF and U.S. Treasury? And what advice will they give the future Mexicos?

When the GOP won in November, who would have guessed that one of the first effects would be a far-reaching examination of international monetary policy? Even for us who thought its arcane mysteries were as dangerous as they've now proved in Mexico, it seemed too much to hope.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

AMENDMENT NO. 236

Mr. HEFLIN. Mr. President, I rise in support of the amendment to the resolution offered by Senator REID which would protect the Social Security system. I am a cosponsor of the amendment to balance the budget and a strong believer in it. But I feel the Social Security program is such that it ought to be off budget and that we ought to have truth in regard to budgeting.

I am a cosponsor of the Reid amendment, which is designed to ensure that the budget is not balanced on the backs of hard-working Americans who have contributed toward their retirement with a portion of each paycheck. This is not only a protection for retirees but also a protection for all Americans who pay into the program.

The amendment is simple. It protects the Social Security system by excluding the receipts and the outlays of the Social Security program from the budget. The present system of collecting FICA payments from employees' paychecks, as well as a matching contribution from employers, is used to fund a Social Security trust fund. Currently, the payments to the Social Security recipients out of this trust fund are less than the amount taken in through the FICA payments. This surplus in contributions to the fund was created by Congress in the early 1980's to account for the increase in the payout which will occur in the future as the baby boomers begin to retire and draw upon Social Security, and was also done for the purpose of making the Social Security system at that particular time stable, and to try to make it actuarially sound for a great number of years.

We can liken the Social Security trust fund to the traditional savings account most Americans have in the bank. By putting a little money into a savings account each month, and forgetting it is there, it will eventually build up and become substantial by the time it is needed. We do not include the savings account in our monthly operating budget in our checking account, which is used to pay monthly bills and expenses. As I read it, under the language in the balanced budget resolution now pending here in the Senate, this Social Security savings account would no longer be completely safe to build up the surplus which will be needed to pay retiring baby boomers in the 21st century.

Next, I will turn to what are potential problems, which may arise under the current language of the balanced budget resolution.

If at some time the payments to Social Security beneficiaries should be greater than the receipts from the FICA tax revenues, a deficit would occur. According to figures supplied by the Social Security Administration this should occur starting in the year 2013. At this point it is not clear what effect this deficit would have on Social Security payments. As part of a unified budget, would the deficit which would begin to occur with respect to Social Security tax funds require a drastic cut in other non-Social Security programs to make up the trust fund deficit? Or would Congress change the formula for benefits and thus reduce those benefits?

A scenario, which could occur under the balanced budget amendment as currently drafted, concerns the ability of the Government to repay to Social Security trust fund the interest owed from its Government investments. It seems that the intent of section 7 of the amendment is to exempt from total outlays the repayment of debt principal. Those words seem to be carefully chosen of "debt principal." The unintended consequence—I hope it is unintended; it may not be unintended—to Social Security may be that should outlays exceed receipts from the general Treasury funds then, according to section 7, no interest payments would be made to the Social Security trust fund.

What happens is that under the Social Security trust fund, we invest in Government securities. Those Government securities are not transferable. Those Government securities are particularly Social Security trust fund investments. They draw interest. That is part of the effort that was made to make the Social Security fund actuarially sound. But pursuant to the definitions under section 7 of outlays and of receipts, the definition of receipts, includes all receipts except those obtained from borrowing.

The Social Security funds are in effect invested in Government securities and, therefore, they are borrowed money.

Then we find that in the outlays, the definition is that it includes all outlays that the Government is obligated to pay with the exception of the payments to the debt principal. Therefore, it does not include the payments which we classify as interest. Since interest payments will be on budget, that causes a problem relative to whether or not interest payments will be paid back.

The result of this nonpayment of interest due on principal debt could substantially affect the stability of the bonds, which secure the debt and the trust fund. If this should happen the bonds would probably go into default and thus have little value. This would cause a destabilization in the funds invested with Social Security trust fund dollars, and a loss of faith by the American people.

To show what could happen, we look ahead and see what is the amount of money we are referring to and what could possibly be involved with this amendment. According to the Social Security Administration, they anticipate that by the year 2003 there will be $1,151,300,000,000 in assets of the Social Security fund. And, under the law, those assets, a surplus, will be invested in Government securities. If the interest could not be paid on those because of the operation of on-budget activity, then you would have $1 trillion that is in some bonds in which the Government has invested with no interest paid, and therefore causing serious problems, and certainly this would deprive the Social Security funds of the interest that has been accrued in the event that the on-budget does not pay them back.

This could be averted through challenges in courts, but that raises questions of interpretation under the principles of constitutional construction.

Generally, constitutional provisions have received a broader and more liberal construction than statutes. The Supreme Court in *Kansas* v. *Colorado*, 206 U.S. 46, 88 (1906), upheld this general rule stating "the Constitution is not to be construed technically and narrowly, like an indictment, * * *, but as [a document that creates] a system of government whose provisions are designed to make effective and operative all the governmental powers granted." The balanced budget amendment presently contains exceptions which raise issues as to how broadly it should be interpreted.

Section 7 of the balanced budget resolution contains language which creates exceptions to what shall be counted as receipts and outlays of the U.S. Government. The provision which pertains to outlays, specifically excepts from the calculation of outlays the repayment of debt principal. How broadly this exception may be interpreted raises great concern. The Supreme Court has addressed the issue of statutory exceptions and has held that "in construing provisions * * *, in which a general statement of policy is qualified by an exception, we usually read the exception narrowly in order to preserve the primary operation of the provision." *Commissioner* v. *Clark*, 489 U.S. 726, 739 (1989); "where Congress explicitly enumerates certain exceptions to a general prohibition, additional exceptions are not implied." The Supreme Court in a 1991 case of United States versus Smith, and then in the case of Citicorp Industrial Credit, Inc. versus Brock, a 1987 case—held similarly to the previous courts, although this case dealt particularly with the Fair Labor Standards Act, it follows the statutory interpretation principle for a narrow interpretation of statutory exemptions. This textual principle of construction regarding the narrow construction of exceptions is included in the Canons of Construction, which are now followed by the U.S. Supreme Court, which we generally refer to as the Rehnquist court.

We need to make sure that the scenarios that I have described do not happen. To do so will require an amendment to the present balanced budget resolution being offered. We should keep in mind that Social Security is a program self-financed from contributions by employees and employers, which does not contribute 1 penny to the deficit. In fact, Congress, realizing this fact, included in the 1990 Budget Enforcement Act, a provision that declared that the funds were off budget. Unfortunately, the current resolution would clearly put Social Security on budget and thus overturn our recent decision to affirm the off-budget status of Social Security.

I have supported a balanced budget amendment since my first days in the Senate. There have been several times in the past where the passage of an amendment was close but failed for one reason or another. But now that the amendment has passed the House, there is renewed momentum which I believe will carry the amendment successfully through the Senate. But as we debate and develop the balanced budget amendment, we need to be sure that we also protect the integrity of the Social Security System and maintain truth in budgeting. The protection of the self-funded system can be maintained by keeping it off budget and out of the balanced budget process.

Mr. President, there has been raised the issue of whether or not the Reid amendment is proper in that it contains language which, in effect, refers to existing statutes. Some say this should not be included in the Constitution. However, it has been done before, in the 21st amendment. It was the 21st amendment that repealed the 18th amendment. The 18th amendment, as you remember, dealt with intoxicating liquors, and the 21st amendment repealed it. But in section 2 of the 21st amendment, it has this language:

> The transportation or importation into any State, territory, or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof is hereby prohibited.

What we were stating in that amendment was a reference to laws of States—not just the United States, but the laws of the States in its reference, and that, in my judgment, is a precedent for including the language that is included in the Reid amendment.

Another source for precedent is in the 14th amendment—the 14th amendment, of course, is one of the amendments that was adopted following the

War Between the States. In section 4 of that amendment, it makes reference to existing statutes. In that section it states:

> The validity of the public debt of the United States authorized by law, including debts incurred for the payment of pensions and bounties for services in suppressing insurrection or rebellion shall not be questioned.

Again, it is referring to existing debts that were created under laws of the United States for the payment of pensions and bounties for services in suppressing insurrection or rebellion. And then it goes forward in that section,

> * * * but neither the United States or any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void.

So we have seen reference to statutory language in the Constitution on at least two occasions.

I think others are seeking the floor. I am glad to yield if the Senator from South Carolina wishes to speak.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. HOLLINGS] is recognized.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague. It should be noted that the law in the Constitution is being cited not only by the distinguished Senator, but by a former Chief Justice of the Supreme Court of the State of Alabama, Senator HEFLIN. He has studied the law and legal precedence—particularly constitutional provisions. I compliment him for speaking out on this particular occasion.

It is not my intent to belabor the point, but I certainly want to emphasize that there is no alternative other than including the REID amendment. Why do I say that? Section 13301 of the Budget Enforcement Act, says, thou shalt not use Social Security funds with respect to receipts, outlays, or concerning the deficit.

That law passed this particular body on a vote of 98–2, in 1990, and was signed into law by President George Walker Herbert Bush on November 5, 1990. It is the law, and it has been reiterated again and again. On Monday of this week, Mr. President, it was cited by the distinguished majority whip—the distinguished Senator from Mississippi. When asked about specific cuts, he said:

> Nobody—Republican, Democrat, conservative, liberal, moderate—is even thinking about using Social Security to balance the budget, to pass the joint resolution for the balanced budget amendment to the Constitution.

They are not thinking about it, they are doing it. You actually repeal section 13301 of the Budget Enforcement Act that says: Thou shalt not use Social Security trust funds for deficit purposes.

Why is that, Mr. President? It clearly states in section 7 of the resolution:

> Total receipts shall include all receipts of the United States Government, except those derived from borrowing.

The Social Security receipts in the Social Security trust fund is included in deficit calculations under this definition. Some on the other side have said, "Do not worry, we will legislate later."

But I recall that none other than President George Washington, in his Farewell Address, said:

> If in the opinion of the people the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this is one instance of good, it is the customary weapon by which free governments are destroyed.

The Father of this Country knew that you could not change the Constitution by statute.

I have been in favor of balancing the budget. I helped the distinguished Senator from Utah [Mr. HATCH] in 1982 when the balanced budget amendment received the two-thirds required, the 67 votes.

We tried again with my distinguished senior colleague, Senator THURMOND, in 1986 but we did not get two-thirds required.

We tried last year under the distinguished leadership of the Senator from Illinois, Senator SIMON, but again failed.

We have been in the vineyards working on this particular problem, but part and parcel of the problem is another contract with America—the contract we made with the senior citizens of America back in 1935.

We felt so keenly about honoring that contract, that we raised taxes in 1983, under the Greenspan commission, to keep the program fiscally sound and to maintain that solemn trust. To maintain that contract with our senior citizens—not for defense, not for welfare, not for foreign aid, not for other Government programs—but for the Social Security trust fund.

If you had said at that time that we were raising taxes for welfare, foreign aid, defense or other spending, I would have voted no and other Senators would have voted no. But instead, we said, "This is a trust fund and we must continue to keep that trust."

Like the Senator from Mississippi has said, no one is thinking about violating that trust, but yet we are constitutionally dissolving it by including revenues from the Social Security trust in the definition of total receipts. Legislative fixes will not work. As George Washington said, you cannot amend the Constitution except as the Constitution itself designates.

I am a reasonable man—as Rex Harrison said in "My Fair Lady," an ordinary man—just trying to get along on the floor of the Senate, certainly supporting a balanced budget, but feeling compelled to take issue here having established a record in protecting Social Security.

In the Budget Committee in 1990, I proposed the Social Security Preservation Act. It stipulated that Social Security trust funds should not be used in calculating the deficit. It was reported out 20 to 1, and on the Senate floor passed by a vote of 98 to 2. And still, I see administrations, Republican and Democrat; I see Congresses, Republican and Democrat, violating the law.

Unfortunately, it does not surprise me. Former Senator Harry Byrd shepherded his own statute through the Congress which said, in essence, "Thou budget shall be balanced." It was the law, and yet we never adhered to it. I do not know how we get away with this thievery. But I know that something is amiss when honest public servants say that no one is considering using Social Security to balance the budget when, on the face of the legislation, it would require it. At that point, I have to speak out.

As a result, I have written a letter to all the Senators to put to rest ideas about changing it by legislation later on. You cannot amend the Constitution by legislation. You have to get a joint resolution, have three readings in the Senate, and have an affirmation of 37, or two-thirds, of the sovereign States of America. So even if I wanted to protect Social Security by statute, I could not do what they say can be done.

I will read the letter. This is to every one of my colleagues in the Senate.

> In 1983, the Congress made the Social Security fund fiscally sound by programmed tax increases. Naturally, the Congress would never have supported these tax increases if the monies were to be used for foreign aid, defense, welfare or the deficit costs of government. But violating the truth-in-budgeting principle, the Administrations and Congresses continued to use the Social Security trust fund to obscure the size of the deficit. Annoyed with this violation, the Budget Committee voted nearly unanimously in 1990 and the United States Senate with a vote of 98–2 joined the House in the now formal statutory law of the United States in section 13301 of the Budget Enforcement Act, forbidding by law the use of the Social Security fund for the deficit. The violation continues. Now comes the balanced budget amendment to the Constitution requiring that, "Total receipts shall include all receipts of the United States Government except those derived from borrowing." Left alone, this provision would repeal Section 13301 and constitutionally endorse the violation. The REID amendment presently under consideration corrects this unintended repeal by stating that the Social Security trust fund, "* * * should not be counted as receipts or outlays for the purpose of this article."
>
> John Mitchell, the former Attorney General was known for the axiom, "Watch what we do, not what we say." It should be made crystal clear that we mean what we say. If you want to continue to use the trust fund and breach the trust, vote against the Reid

> amendment. There it is clear and simple, so everyone understands.
>
> If you want to maintain the trust—the Contract with America made back in 1935—then please support the Reid amendment.

If this Reid amendment is allowed, there is no misunderstanding that we will maintain the trust.

If the Reid amendment is defeated, we will be taking $636 billion away from the trust fund in order to obscure the size of the deficit.

Mr. BIDEN. Will the Senator yield?

Mr. President, is it not true—and I am not being solicitous. No one knows more about the budget process on this floor than the distinguished Senator from South Carolina, and no one has more credentials for making the tough decisions about what we should do to cut the budget than the Senator from South Carolina. He has always put his vote where his mouth is on this issue which, I might say, very few Members of either party have done in the past.

The Senator just pointed out that we are talking about the difference between, for this next year, $600-some billion—not this year—$600-some billion, between now and the time it comes time to balance the budget, additional, we have to find, if the Reid amendment passes.

Is it not true that in addition to that, what is likely to happen is that our friends, who are going to find increasing pressure to balance the budget and who have never been great friends of the trust fund to begin with, are going to, in the next year or 2 or 3, as we move toward the year 2003, since most young people the age of your children and mine believe they are not going to get Social Security, anyway, is it not likely that we will see a movement that we will cut Social Security benefits; that we will either raise the retirement age or cut benefits, further increasing the surplus that Social Security will generate between now and the year 2014, and further making the deficit look smaller, so that it is easier to meet the balanced budget requirement by the year 2003?

Does the Senator think that is as likely a scenario as any other we are likely to see?

Mr. HOLLINGS. Mr. President, the distinguished Senator from Delaware and former chairman of the Judiciary Committee knows it well. He is a constitutional expert, and is right on target as to the practical result.

We see several Senators trying to avoid the problem and not engage in truth in budgeting. We have truth in packaging and truth in lending, but we do not have truth in budgeting. It was not in the Contract With America and it is not in the current version of this balanced budget amendment.

Mr. BIDEN. If the Senator will yield for an additional question, as I understand it, the distinguished majority leader is going to come to the floor at some point and offer a legislative fix for this constitutional dilemma, to try to convince all the American people that the Republicans or those who are for the balanced budget do not want to cut Social Security and are not going to be using Social Security trust fund moneys to reduce the deficit.

Now, we both know that we cannot alter—the Senator said it more eloquently than anyone thus far—we cannot alter the Constitution other than by the rules the Constitution sets out.

We will assume for just a moment the distinguished Senator from Kansas, if that is what he decides to do, comes along and says we will pass a resolution promising we will not do that. Is it the understanding of my friend from South Carolina that means, for calculation purposes of what constitutes the deficit, that between now and the year 2000, we will not count the $60 billion surplus this year and the $100 billion surplus in the year 2000, toward reducing the deficit?

Is that what he is going to do?

Mr. HOLLINGS. There can be no legislative fix. Constitutionally you are mandating Social Security receipts as part of total receipts. If the distinguished majority leader wants to put in a separate constitutional amendment, that may be different. I am not trying to tear down House Joint Resolution 1, the balanced budget amendment to the Constitution. I voted for it three times. I would like to vote for it a fourth time, but I cannot in good conscience repeal my own statute.

Mr. BIDEN. Will the Senator yield for another question?

Mr. HOLLINGS. Yes.

Mr. BIDEN. When we debated this in the Judiciary Committee, and this legislation came out of the committee, I, along with Senator FEINSTEIN and others, argued for this amendment in the committee. One of our senior Republican colleagues was very blunt about this issue. He said, along with former Senator Tsongas of the Concord Coalition, who came in to testify, the following:

That if you take Social Security out of the mix here and set it aside so it is not covered by a constitutional amendment, we are not likely to do anything to fix it.

What they mean by "fix it" is change Social Security; that is, either raise the retirement age, cut the benefits or increase the taxes, because everybody knows that by the time—I am 52—by the time it comes time for me to collect Social Security, there are not going to be enough of your children and my children to pay for my Social Security benefits. So something is going to have to be done.

Unrelated to the balanced budget amendment and the impact of the Reid amendment on the balanced budget amendment or the impact of the balanced budget amendment on Social Security, unrelated to the balanced budget amendment, just Social Security all by itself, does the Senator from South Carolina see any way in which Social Security can be protected from significant change if, in fact, it is included as part of the balanced budget amendment?

Mr. HOLLINGS. No, taking it off-budget is the only way to protect it. That is the only way that we can be sure that Social Security funds are not being used to mask the size of the deficit.

Mr. BIDEN. Right.

Mr. HOLLINGS. You can still go in and change the age if you wanted to or raise the FICA tax. I do not want to.

Mr. BIDEN. Absolutely.

Mr. HOLLINGS. But I think the Reid amendment is very clear. It states that the receipts, "including attributable interests and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age survivors and disability benefits shall not be counted as receipts or outlays for the purpose of this article."

It does not say that you have to have a trust fund. They can go in and repeal the 1935 Roosevelt Social Security if they wanted to.

Mr. BIDEN. Will the Senator yield for 30 seconds more?

Mr. HOLLINGS. Yes.

Mr. BIDEN. I want to thank the Senator for allowing me to interrupt him with all these questions. It seems pretty clear to me this is about two things: One, they need the Social Security dollars to make the deficit look like it is less than it is, and then the next step is they are going to need to try to deal with changing it to increase the amount of money they get in the trust funds to make the deficit look even less, which means that Social Security is going to get hit.

But I will withhold my statement on this until tomorrow. I thank my colleague for letting me interrupt.

Mr. HOLLINGS. I thank the distinguished Senator from Delaware. I yield the floor.

Mr. HATCH. Mr. President, I cannot emphasize enough, that the surest way to harm Social Security, the surest way to deplete the trust fund, the surest way to open a loophole which will swallow the balanced budget amendment is to pass this exemption.

If we open up this loophole it will be big enough to drive a truck through, and it will not be long before the convoy starts rolling.

If we keep the balanced budget amendment whole, however, we will protect Social Security. Several of my colleagues appear to misunderstand how the trust fund works. The extra money in the trust fund is borrowed by the Treasury, not stolen but borrowed. And just like any other loan in the country, it must be repaid. The trust fund loses nothing. In fact, it gains the interest which the Treasury has to pay on the loan. That will not change under the balanced budget amendment.

The integrity of the trust fund is furthered by the balanced budget amendment. Any money the Treasury may borrow, must be repaid. Just because a balanced budget rule is adopted, there is no reason to think the status of the trust fund will change. It is a complete non sequitur, Mr. President. There is absolutely nothing in the balanced budget amendment which says the funds designated for the Social Security trust fund will not remain so dedicated. They will. So let me say it again, as clearly and concisely as I possibly can—the trust fund is not harmed in any way, shape, or form by the balanced budget amendment.

Unfortunately, the trust fund will not fare so well under the Reid exemption. If the loophole goes into effect, all kinds of unrelated spending programs will suddenly be redesignated as Social Security and will soak up the Social Security surplus. That means the Treasury will not have to borrow money from Social Security because the new programs will be Social Security. What an insidious turn of events. Under the proposed exemption, the trust fund will actually be depleted years before it would without the exemption.

I want to respond briefly to the notion that we cannot protect Social Security through the implementing legislation. The balanced budget amendment requires that the whole budget be balanced. Surpluses are certainly permitted, and nothing in the balanced budget amendment discourages us saving for a rainy day, as the Social Security system now does. None of the statutory protections that are now enacted will be brushed aside, and nothing keeps us from keeping the accounts segregated and accounting in a way that shows what is dedicated to Social Security. Nothing will change in the way we segregate Social Security if the balanced budget amendment is adopted.

It is true that the budget must be balanced. But this will help protect Social Security recipients who rely on those moneys after 2029, when the trust funds are projected to be insolvent. At that point, the balanced budget amendment will require that there be sufficient money to pay those benefits. And a balanced budget rule will help those who rely on Social Security after 2019, when the trust fund will begin to redeem its loan to the Federal Government. To the extent that the Federal Government is in a better position to repay this debt, the Social Security recipients are more strongly protected. And to the extent that the Government continues its profligate ways, it will be less, not more, able to repay the debt to the trust fund.

So the best way to protect Social Security recipients in the long run is to adopt a balanced budget amendment so that the Government will be able to pay its debt to retirees.

Mr. DOLE. Mr. President, I thank my colleagues.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I will take a moment and then be happy to yield the floor.

MOTION TO REFER

Mr. President, I send a motion to refer to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

> The Senator from Kansas [Mr. DOLE] moves to refer H.J. Res. 1 to the Budget Committee with instructions to report back forthwith H.J. Res. 1 in status quo, and at the earliest date possible report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal.

Mr. DOLE. I ask for the yeas and nays on the motion to refer.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 237

Mr. DOLE. Mr. President, I send an amendment to the desk to the motion to refer.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 237 to the instructions of the motion to refer H.J. Res. 1 to the Budget Committee.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> In lieu of the instructions, and after the words "Budget Committee" on page 1, lines 1 and 2 insert: "that for the purpose of any constitutional amendment requiring a balanced budget, the Budget Committee shall report back forthwith H.J. Res. 1 in status quo, and at the earliest date practicable they shall report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal."

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 238 TO AMENDMENT NO. 237

Mr. DOLE. Mr. President, I send an amendment to the desk in the second degree to my amendment and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> THe Senator from Kansas [Mr. DOLE] proposes an amendment numbered 238 to amendment No. 237.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

THe PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Strike all after the first word and insert the following: ", for the purpose of any constitutional amendment requiring a balanced budget, the Budget Committee of the Senate shall report forthwith H.J. Res. 1 in status quo and at the earliest date practicable after February 8, 1995, they shall report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal."

Mr. DOLE. I thank my colleague from South Caroline and other colleagues for yielding to me.

MORNING BUSINESS

REPORT OF PROPOSED LEGISLATION ENTITLED "MAJOR LEAGUE BASEBALL RESTORATION ACT"—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS OF THE SENATE—PM 14

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate on February 8, 1995, received a message from the President of the United States; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I am pleased to transmit for your immediate consideration and enactment the "Major League Baseball Restoration Act." This legislation would provide for a fair and prompt settlement of the ongoing labor-management dispute affecting Major League Baseball.

Major League Baseball has historically occupied a unique place in American life. The parties to the current contentious dispute have been unable to resolve their differences, despite many months of negotiations and the assistance of one of this country's most skilled mediators. If the dispute is permitted to continue, there is likely to be substantial economic damage to the cities and communities in which major league franchises are located and to the communities that host spring training. The ongoing dispute also threatens further serious harm to an important national institution.

The bill I am transmitting today is a simple one. It would authorize the

President to appoint a 3-member National Baseball Dispute Resolution Panel. This Panel of impartial and skilled arbitrators would be empowered to gather information from all sides and impose a binding agreement on the parties. The Panel would be urged to act as quickly as possible. Its decision would not be subject to judicial review.

In arriving at a fair settlement, the Panel would consider a number of factors affecting the parties, but it could also take into account the effect on the public and the best interests of the game.

The Panel would be given sufficient tools to do its job, without the need for further appropriations. Primary support for its activities would come from the Federal Mediation and Conciliation Service, but other agencies would also be authorized to provide needed support.

The dispute now affecting Major League Baseball has been a protracted one, and I believe that the time has come to take action. I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

REPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR CALENDAR YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 15

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I am pleased to present to you the Twenty-ninth Annual Report of the National Endowment for the Humanities (NEH), the Federal agency charged with fostering scholarship and imparting knowledge in the humanities. Its work supports an impressive range of humanities projects.

These projects can reach an audience as general as the 28 million who watched the documentary Baseball, or as specialized as the 50 scholars who this past fall examined current research on Dante. Small local historical societies have received NEH support, as have some of the Nation's largest cultural institutions. Students from kindergarten through graduate school, professors and teachers, and the general public in all parts of the Nation have been touched by the Endowment's activities.

As we approach the 21st century, the world is growing smaller and its problems seemingly bigger. Societies are becoming more complex and fractious. The knowledge and wisdom, the insight and perspective, imparted by history, philosophy, literature, and other humanities disciplines enable us to meet the challenges of contemporary life.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 9, 1995.*

REPORT OF PROPOSED LEGISLATION ENTITLED "THE OMNIBUS COUNTERTERRORISM ACT OF 1995"—MESSAGE FROM THE PRESIDENT—PM 16

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Omnibus Counterterrorism Act of 1995." Also transmitted is a section-by-section analysis. This legislative proposal is part of my Administration's comprehensive effort to strengthen the ability of the United States to deter terrorist acts and punish those who aid or abet any international terrorist activity in the United States. It corrects deficiencies and gaps in current law.

Some of the most significant provisions of the bill will:

—Provide clear Federal criminal jurisdiction for any international terrorist attack that might occur in the United States;

—Provide Federal criminal jurisdiction over terrorists who use the United States as the place from which to plan terrorist attacks overseas;

—Provide a workable mechanism, utilizing U.S. District Court Judges appointed by the Chief Justice, to deport expeditiously alien terrorists without risking the disclosure of national security information or techniques;

—Provide a new mechanism for preventing fund-raising in the United States that supports international terrorist activities overseas; and

—Implement an international treaty requiring the insertion of a chemical agent into plastic explosives when manufactured to make them detectable.

The fund-raising provision includes a licensing mechanism under which funds can only be transferred based on a strict showing that the money will be used exclusively for religious, charitable, literary, or educational purposes and will not be diverted for terrorist activity. The bill also includes numerous relatively technical, but highly important, provisions that will facilitate investigations and prosecutions of terrorist crimes.

It is the administration's intent that section 101 of the bill confer Federal jurisdiction only over international terrorism offenses. The administration will work with Members of Congress to ensure that the language in the bill is consistent with that intent.

I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 9, 1995.*

MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 666. An act to control crime by exclusionary rule reform.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 666. An act to control crime by exclusionary rule reform; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-409. A communication from the Secretary of the Army, transmitting, pursuant to law, the report on the Washington Aqueduct; to the Committee on Environment and Public Works.

EC-410. A communication from the Secretary of Labor, transmitting, pursuant to law, notice of the award of a sole-source contract for the Cleveland Job Corps Center; to the Committee on Governmental Affairs.

EC-411. A communication from the Secretary of Veterans' Affairs and the Secretary of Defense, transmitting, pursuant to law, the report on the implementation of the health resources sharing portion; to the Committee on Veterans' Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 377. A bill to amend a provision of part A of title IX of the Elementary and Secondary Education Act of 1965, relating to Indian education, to provide a technical amendment, and for other purposes; to the Committee on Indian Affairs.

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 378. A bill to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. EXON:

S. 379. A bill for the relief of Richard W. Schaffert; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. SIMON):

S. 380. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HELMS (for himself, Mr. DOLE, Mr. MACK, Mr. COVERDELL, Mr. GRAHAM, Mr. D'AMATO, Mr. HATCH, Mr. GRAMM, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GREGG, Mr. INHOFE, Mr. HOLLINGS, and Ms. SNOWE):

S. 381. A bill to strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba, and for other purposes; ordered held at the desk.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, Mr. SIMON, Mr. PELL, and Mr. DORGAN):

S. 382. A bill to establish a Wounded Knee National Tribal Park, and for other purposes; to the Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself and Mr. INOUYE:)

S. 377. A bill to amend a provision of part A of title IX of the Elementary and Secondary Education Act of 1965, relating to Indian education, to provide a technical amendment, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN EDUCATION TITLE TECHNICAL CORRECTION ACT OF 1995

• Mr. McCAIN. Mr. President, I introduce a bill to make a technical correction to the Indian title in the Improving America's Schools Act. I am pleased that Senator DANIEL INOUYE, vice chairman of the Committee on Indian Affairs, has joined me as a cosponsor of this measure.

The technical corrections bill would correct a minor oversight in language which could have major ramifications in the education of American Indian and Alaska Native children. The law currently states that in order for a school to be eligible for an Indian Education Act formula grant, it must have 10 eligible students and have 25 percent of its student population eligible for the program. This language unnecessarily restricts a school's eligibility for grant funding by requiring schools to meet both criteria. I have been informed that the intent of the conferees was to include the word "or" rather than "and" thereby creating the potential for American Indians and Alaska Natives to have a greater opportunity to benefit from the Improving America's Schools Act. This amendment is intended to correct this oversight and fulfill the true intent of the act, to improve schools for all Americans, including Indians and Alaska Natives.

Mr. President, time is of the essence with regard to this legislation. I understand that the Department of Education is currently drafting regulations to implement the new provisions of the Indian Education Act. Unless this technical oversight is not immediately fixed, the existing language will result in the disqualification of many schools serving American Indians and Alaska Natives through the promulgation of regulations which do not accurately reflect the intent of Congress. Therefore, I hope that the Senate will act quickly on this amendment in order to prevent unnecessary hardships for the many American Indian and Alaska Native students which stand to benefit from this act.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL AMENDMENT.

Section 9112(a)(1)(A) of the Elementary and Secondary Education Act of 1965 (as added by section 101 of the Improving America's Schools Act of 1994 (Public Law 103-382)) is amended by striking "and" and inserting "or".•

• Mr. INOUYE. Mr. President, even though technical correction bills are ordinarily not drafted until late each session of Congress, I cosponsor a bill, introduced by the chairman of the Committee on Indian Affairs, Senator JOHN McCAIN of Arizona, to make a one word technical correction to the Indian title in the Improving America's Schools Act. I do so because the Department of Education is now drafting regulations to implement new provisions of the Indian Education Act, and unless corrected promptly, the program for Indian children will be limited in ways that the 103d Congress did not intend.

Let me provide a context for the technical correction to Public Law 103–382 that would be accomplished by enactment of this bill. Among other things, the Indian Education Act provides for formula grants to schools to enable them to operate small supplemental programs for Indian children. In its version of the reauthorization, the House of Representatives would have required that a school have 20 Indian children or that the Indian children make up 25 percent of the student body of the school. The Senate, on the other hand, would have required a minimum of 10 children or that they make up 25 percent of the student body of the school. Conferees agreed upon the Senate version: 10 students or 25 percent of the school's enrollment.

Mr. President, the issue before the conferees was only whether a minimum of 10 or 20 Indian children would be required for eligibility. The conjunction "or" was not ever an issue, and that it was not is testified to by the side-by-sides prepared for the Senate and House conferees. But, the final document prepared by the Senate Legislative Counsel substituted the word "and" for "or." And that final document was enacted into law.

What this bill would do is correct the technical error. I have consulted conferees and their notes verify that the word "or" was in both House and Senate versions of the bill. The effect of the bill I am introducing would be to restore language intended by both the House and Senate.

Mr. President, if this bill should not be enacted, hundreds of classrooms with Indian children would lose the supplemental programs, all because of a drafting error. In reauthorizing the Indian Education Act, this was emphatically not the result intended by the Congress, and I hope that I may count on my colleagues to support enactment of this technical corrections bill.•

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 378. A bill to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

THE BOISE CASCADE LAND EXCHANGE ACT OF 1995

• Mr. GORTON. Mr. President, today, together with Senator MURRAY, I introduce a bill to authorize a land exchange between the Bureau of Reclamation and the Boise Cascade Corp. Unfortunately for its proponents, this legislation has been introduced during both the 102d and 103d Congress. This year, Senator MURRAY and I will work to pass this legislation and finally get it signed into law.

Boise Cascade's plywood and sawmill operations in Kettle Falls, WA, are adjacent to 26 acres of land owned by the Bureau of Reclamation. The Bureau land provides a buffer between scenic Lake Roosevelt and Boise Cascade's operations. The National Park Service, which manages the Bureau's land, historically has issued a special-use permit allowing Boise Cascade to operate along the edge of the land. However, the Park Service has indicated that it may not reissue the permit when it expires in 1995, and has stated conclusively that the permit will not be reissued upon expiration in 2000. Consequently, passage of this legislation this year is crucial.

Without a special use permit, Boise Cascade would not be able to continue its operations at Kettle Falls. Thus, 350 mill jobs would be lost and the community would be devastated. To prevent such a catastrophe, Boise Cascade has proposed exchanging 138 acres of land it owns for 6 of the 26 acres it needs to continue operating. The 138 acres is primarily wildlife habitat located along Lake Roosevelt and the Colville River, and would be conveyed to the

Bureau of Reclamation upon passage of this legislation.

This land exchange is supported by the Bureau of Reclamation, the Park Service, and Boise Cascade. In addition, a local citizen's group concerned with Columbia River water quality issues has negotiated a series of mitigation measures with Boise Cascade, and has given its full support to the land exchange.

Mr. President, this exchange makes good sense and will avoid a potentially severe problem. Last year the Energy Committee reported out of committee the exact legislation that I am introducing today. I urge the committee to promptly review this legislation, and I will work with them on this issue. I thank my colleagues for their consideration.●

Mrs. MURRAY. Mr. President, I want to say a few words about an important bill for Washington State. Today, I join my colleague, the senior Senator from Washington [Mr. GORTON] introducing legislation to authorize a land exchange between Boise Cascade Corp. and the Bureau of Reclamation.

Boise Cascade operates a sawmill adjacent to the Lake Roosevelt National Recreation Area near Kettle Falls, WA. The land located between the mill and the lake is owned by the Bureau of Reclamation. However, it is managed by the National Park Service under its authority over the Lake Roosevelt unit. Unfortunately, the proximity of the mill to the recreation area has led to concerns within the Park Service about potential effects of Boise operation on the public.

Mr. President, Boise Cascade has been a stellar corporate citizen in this area. The company has absolutely no desire to adversely affect the recreation area. In fact, given their druthers, they'd like to enhance the area. That's why this bill is so important.

If we enact this bill, we will ensure Boise's ability to continue its mill operation. In addition, we will add significant benefit to Lake Roosevelt. That's because this bill seeks to implement a land exchange that will add 132 acres to the national recreation area. Here's how it works: Boise Cascade owns 138 acres along the lake near the Colville River. This land provides excellent wildlife forage habitat. The Bureau owns 26 acres between the mill and the lake. In exchange for 6 of these acres, Boise will deed its 138 to the Government for incorporation into the recreation area.

Mr. President, this is a great deal for the taxpayers and the citizens of Kettle Falls: 138 acres for just 6. There are 350 jobs at the Boise mill. Needless to say, it's the major employer in that area. The terms of this exchange have been mutually agreed to by the agencies, the company, the local citizens, and conservation groups concerned with protecting the lake. It's good for the community, and it's good for the resource. I hope all my colleagues will recognize this, and support our efforts to move the bill toward passage.

By Mr. FEINGOLD (for himself and Mr. SIMON):

S. 380. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE ANTI-REDLINING IN INSURANCE DISCLOSURE ACT OF 1995

Mr. FEINGOLD. Mr. President, today I am pleased to reintroduce legislation that I originally introduced in the Senate last year, the Anti-Redlining in Insurance Disclosure Act of 1995. Although the House of Representatives was able to pass a more limited disclosure bill during the 103d Congress, I was disappointed that the Senate was unable to address what I see as not only a critically important civil rights issue, but also an issue essential to any hopes of revitalizing the struggling economies of our inner cities.

In recent years, this Nation has made tremendous strides in fighting various forms of discrimination, particularly in terms of employment and educational opportunities. Unfortunately, the progress we have made in combating these forms of discrimination has not lessened the need to exercise the same level of persistence in extinguishing equally offensive, less subtle forms of racism and bigotry.

The term redlining actually evolved from the practice of particular individuals in the banking industry using maps with red lines drawn around certain neighborhoods. These individuals would then instruct their loan officers to avoid offering their financial services to residents of these redlined neighborhoods. These red lines typically encircled low-income and minority communities, resulting in the unavailability of the financial services necessary to purchase a home, a business, or an automobile. But even as Congress identified and moved to curb these discriminatory practices in the banking industry, a disturbing and growing level of discrimination was emerging from the insurance industry that would continue to deny certain individuals the opportunity to own their own home or start a small business.

Home ownership is an aspiration that transcends the artificial boundaries of race and income in America. As anyone who has secured their first home loan can attest, there is an extraordinary feeling of prestige and sense of self-worth that accompanies home ownership. But for those individuals that reside in the economically depressed inner-city neighborhoods of Milwaukee, Chicago, and other such cities, these feelings of pride and accomplishment are even further intensified. It is tragic that redlining practices exist, and unless the Federal Government takes forceful action we will continue to send the wrong message to those who seek to stabilize and stimulate these inner-city economies. We must expose and eliminate these appalling redlining practices that prevent hard-working, fully qualified individuals from pursuing their dream, and their right, to obtain a home or business loan.

Though it may seem obvious to some, we must recognize that any serious effort to rebuild the economies of these inner-city communities must have minority home and small business ownership as their cornerstones. There are many well-motivated individuals in these communities that are committed to economic revitalization—whether it is purchasing a home for their family or starting a small business and creating jobs. It is heartening that there are both Democrats and Republicans, conservatives and liberals who recognize the need to revitalize our inner cities, and yet it seems fruitless to discuss ideas such as enterprise zones and community development block grants without addressing a glaring problem that prevents an otherwise qualified individual from owning their own home or business.

Several years ago Congress reacted to reports and studies that an element of the financial services industry was preventing residents of minority and low-income communities from obtaining home loans. In response, Congress passed the Home Mortgage Disclosure Act [HMDA] which required banks and thrifts to report their lending practices using a set level of criteria. This legislation, which contrary to dire predictions has had a nominal impact on the vitality and prosperity of the lending industry, has provided Federal and State regulators in the mortgage financing field with detailed information to identify mortgage redlining. This critical piece of legislation was passed for precisely the reason of enhancing the power of State and Federal authorities to determine if banks and other lending institutions were discriminating in their lending practices. But as effective as disclosure requirements have been in exposing these abuses in the banking industry, it is clearly not enough.

Property insurance, as we all know, is almost a prerequisite to obtaining a home loan. This was best illustrated by Judge Frank Easterbrook of the U.S. Seventh Circuit Court of Appeals in that court's ruling that redlining practices are illegal and a violation of the Fair Housing Act. Speaking for a unanimous court, Judge Easterbrook observed that "lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable." Judge Easterbrook's remarks underscore the need to place people of all racial and ethnic backgrounds on a level playing field when it comes to the opportunity to purchase insurance. In short, denying an individual access to affordable and adequate property insurance is essentially denying that individual access to home ownership.

The key question, of course, is do redlining practices exist? Countless new reports and studies indicate that there is a prevalent and growing level of discriminatory underwriting in the insurance industry. Studies such as the 1979 report of the Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin Advisory Committees to the U.S. Commission on Civil Rights and the recent study on home insurance in 14 cities released by the community advocacy group ACORN have pointed out that insurance redlining practices are widespread in America. These reports highlight the fallacies in the contention that lack of adequate insurance in many of these communities is due to economics and statistically based risk assessment. In addition, there is substantial anecdotal evidence that suggests individuals residing in minority and low-income communities are systematically denied affordable or adequate homeowners insurance.

I was shocked and outraged when I first saw the extensive media reports of the statements made by a district sales manager of a large insurance company which serves the city of Milwaukee. The sales manager was recorded saying to his insurance agents:

> Very honestly, I think you write too many blacks * * *. You gotta sell good, solid, premium paying white people * * *. They own their homes, the white works * * *. Very honestly, black people will buy anything that looks good right now * * * but when it comes to pay for it next time * * * you're not going to get your money out of them * * *. The only way you're going to correct your persistency is get away from blacks.

This policy of denying affordable insurance to minorities was also illustrated when the manager showed one agent how to accomplish this goal by stating that

> * * * if a black wants insurance, you don't have to say, just tell them, because based on this kind of policy, the company will only allow me to accept an annual premium. Do it that way.

Mr. President, Milwaukee, WI is truly a wonderful city. It has midwestern charm, a strong work ethic and like many other of our Nation's urban communities, a large inner-city population that is struggling to become economically vibrant and prosperous. But what redlining practices do is deny those who are playing by the rules the opportunity to own their own home or business. Again, there are those who will assert that insurance is less available in these areas because of risk-assessment and other economic principles. But according to a study by the Missouri insurance department, data comparing low-income minority areas with low-income white areas in St. Louis and Kansas City showed that low-income minorities on average paid higher premiums for homeowners insurance than white homeowners of similar means for comparable coverage. On top of this, actual losses were lower in the minority areas. Clearly the problem of discrimination exists and is widespread. The question now is what can we do about it.

Redlining practices are illegal. This was established by Judge Easterbrook and the Seventh Circuit Court of Appeals in NAACP versus American Family Insurance, when the court ruled that the Fair Housing Act also applies to the underwriting of homeowners insurance. The problem is with the inability of some regulators and the unwillingness of others to enforce the law. In powerful testimony before several congressional committees, it has been stated over and over that to enforce the law greater disclosure of crucial information is needed from the insurance industry. Assistant Secretary Roberta Achtenberg, head of the Department of Housing and Urban Development's Division of Fair Housing and Equal Opportunity testified to this, as did Deval Patrick, assistant attorney general for civil rights. It was also expressed by numerous State insurance commissioners including those from Texas, California, and Missouri, as well as several civil rights and community groups.

As clear as the problem of insurance redlining has become, so has the solution. Public disclosure can serve multiple purposes in combating insurance discrimination by allowing for an accurate assessment of the extent and nature of the problem, as well as assisting Federal and State regulators who are charged with enforcing the antidiscrimination laws that currently exist. The Home Mortgage Disclosure Act has been effective, but passing disclosure laws that only apply to banks and thrifts is like throwing out a life preserver with rope that is several feet short. We must go further, and pursue disclosure regulations that will provide Federal and State insurance regulators the same tools that Federal and State banking regulators have, and allow them to detect and expose any incidence of discrimination in the availability of homeowners insurance.

The bill I am introducing today, the Anti-Redlining in Insurance Disclosure Act, would require insurance companies to disclose information regarding where they write property insurance and is closely patterned after the requirements in the Home Mortgage Disclosure Act. The bill would require the Secretary of Housing and Urban Development to establish requirements for insurers to compile and submit policy information annually. The information that the bill requires to be disclosed must be reported along census tract lines, and must include the number and types of policies written, the race of the applicants, whether the applicant was accepted or rejected and the loss data for the specified area. This information would be collected in the 50 largest metropolitan statistical areas [MSA's] and an additional 100 MSA's based on geographic diversity and size of MSA populations. These disclosure requirements are almost identical to those recommended by the General Accounting Office in their investigation of this issue last year. Providing this extensive and detailed information will enable regulators to analyze and compare the availability, affordability, and quality of insurance coverage for property, casualty, and homeowners insurance.

Insurance redlining is a national phenomena that demands a Federal response. In the insurance industry, enforcement by State officials of existing antidiscrimination statutes has proven to be difficult for one principal reason; though many State insurance commissioners have been forceful and aggressive in exposing and sanctioning appropriate parties, other State insurance commissioner offices lack the necessary resources to collect and compile data information adequately. In many markets this data is simply unavailable. And critical to this effort is the need to collect claims and other loss data which is central to determining if the unavailability of adequate and affordable insurance is due to sound economic underwriting principles, or to reprehensible factors such as the race and ethnic background of the applicant.

Last year, the efforts of Representatives CARDISS COLLINS, and JOSEPH KENNEDY resulted in the House of Representatives passing a disclosure bill similar to the bill I have introduced today. My colleague from Wisconsin, Representative TOM BARRETT, has also been actively involved with the insurance redlining issue. Just last year, Representative BARRETT chaired a field hearing in Milwaukee where first-hand testimony was given about the extent of these discrimination abuses in Milwaukee and other cities plagued by similar problems.

In addition, it is my understanding that due to the leadership of Secretary Cisneros and Assistant Secretary Achtenberg, HUD is considering the promulgation of disclosure requirements similar to the reporting requirements in the bill I have introduced today. Although some have suggested that HUD lacks the necessary authority to pass such regulations, it is important to note that HUD has been identified by a Federal court in Ohio as legally authorized to enforce the Fair Housing Act as it relates to homeowners insurance. This was affirmed in Nationwide Mutual Insurance Company versus Cisneros, when the U.S. District Court upheld HUD's regulatory authority, noting that HUD's contention that it had been delegated authority under the Fair Housing Act was "reasonable and entitled to substantial deference." I look forward to monitoring the development of HUD's actions, and will certainly lend my support and assistance to their efforts to curb redlining practices.

Mr. President, Voltaire once said that "Prejudices are what fools use for reason." It is clearly one thing to underwrite insurance policies based on sound economic factors and principles—it is another thing to deny adequate or affordable insurance based on an individual's race or ethnic background. We should be very proud of the civil rights accomplishments our society has made in the last 30 years. But as many potential homeowners in my State and across the country have discovered, too many individuals in the insurance industry have used their prejudices to determine the economic and social future of communities that are on the brink of collapse. Passing this legislation would represent marked progress in the pathway to offering all of our citizens, regardless of racial or ethnic background, equal access to social justice and economic opportunity.

I would like to conclude, Mr. President, by asking unanimous consent that several items be printed in the RECORD. These items include the text of the bill, a letter I received from several organizations supporting the legislation, a letter that I, Senator SIMON, and several member of the House sent to Roberta Achtenber, Assistant Secretary for Fair Housing and Equal Opportunity as well as a response I received from that Department, and finally, two editorials from the Houston Post and the Dallas Morning News on the issue of insurance redlining.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Anti-Redlining in Insurance Disclosure Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Establishment of general requirements to submit information.
Sec. 4. Reporting of noncommercial insurance information.
Sec. 5. Study of commercial insurance for residential properties and small businesses.
Sec. 6. Reporting of rural insurance information.
Sec. 7. Waiver of reporting requirements.
Sec. 8. Reporting by private mortgage insurers.
Sec. 9. Use of data contractor and statistical agents.
Sec. 10. Submission of information to Secretary and maintenance of information.
Sec. 11. Compilation of aggregate information.
Sec. 12. Availability and access system.
Sec. 13. Designations.
Sec. 14. Improved methods and reporting on basis of other areas.
Sec. 15. Annual reporting period.
Sec. 16. Disclosures by insurers to applicants and policyholders.
Sec. 17. Enforcement.
Sec. 18. Reports.
Sec. 19. Task force on agency appointments.
Sec. 20. Studies.
Sec. 21. Exemption and relation to State laws.
Sec. 22. Regulations.
Sec. 23. Definitions.
Sec. 24. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are disparities in insurance coverage provided by some insurers between areas of different incomes and racial composition;

(2) such disparities in affordability and availability of insurance severely limit the ability of qualified consumers to obtain credit for home and business purchases; and

(3) the lack of affordable and adequate commercial insurance for small businesses severely curtails the establishment and growth of such businesses.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a nationwide database for determining the availability, affordability, and adequacy of insurance coverage for consumers and small businesses;

(2) to facilitate the enforcement of Federal and State laws that prohibit illegally discriminatory insurance practices; and

(3) to determine whether the extent and characteristics of insurance availability, affordability, and coverage require public officials to take any actions—

(A) to remedy redlining or other illegally or unfairly discriminatory insurance practices; or

(B) regarding areas underserved by insurers.

(c) CONSTRUCTION.—Nothing in this Act is intended to, nor shall it be construed to, encourage unsound underwriting practices.

SEC. 3. ESTABLISHMENT OF GENERAL REQUIREMENTS TO SUBMIT INFORMATION.

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to compile and submit information to the Secretary for each annual reporting period, in accordance with this Act.

(b) CONSULTATION.—In establishing the requirements for the submission of information under this Act, the Secretary shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents), representatives of property and casualty insurers, and community, consumer, and civil rights organizations, as appropriate.

SEC. 4. REPORTING OF NONCOMMERCIAL INSURANCE INFORMATION.

(a) IN GENERAL.—The requirements established pursuant to section 3 to carry out this section shall—

(1) be designed to ensure that information is submitted and compiled under this section as may be necessary to permit analysis and comparison of—

(A) the availability and affordability of insurance coverage and the quality or type of insurance coverage, by MSA and the applicable region, race, and gender of policyholders; and

(B) the location of the principal place of business of insurance agents and the race of such agents, and the location of the principal place of business of insurance agents terminated and the race of such agents, by MSA and applicable region; and

(2) specify the data elements required to be reported under this section and require uniformity in the definitions of the data elements.

(b) DESIGNATED INSURERS.—

(1) AGGREGATE INFORMATION.—The regulations issued under section 3 shall require that each designated insurer for a designated line of insurance under section 13(c)(1) compile and submit to the Secretary, for each annual reporting period—

(A) the total number of policies issued in such line, total exposures covered by such policies, and total amount of premiums for such policies, by designated line and by designated MSA and applicable region in which the insured risk is located;

(B) the total number of cancellations and nonrenewals (expressed in terms of policies or exposures, as determined by the Secretary), by designated line and by designated MSA and applicable region in which the insured risk is located;

(C) the total number and racial characteristics of—

(i) licensed agents of such insurer selling insurance in the designated line, by designated MSA and applicable region in which the agent's principal place of business is located; and

(ii) such agents who were terminated by the insurer, by designated MSA and applicable region in which the agent's principal place of business was located; and

(D) for such designated line of insurance, information that will enable the Secretary to assess the aggregate loss experience for the insurer, by designated MSA and applicable region in which the insured risk is located.

(2) SPECIFICATION OF INFORMATION FOR ITEMIZED DISCLOSURE.—

(A) IN GENERAL.—The regulations issued under section 3 regarding annual reporting requirements for designated insurers for a designated line of insurance under section 13(c)(1) shall, with respect to policies issued under the designated line or exposure units covered by such policies, as determined by the Secretary—

(i) specify the data elements that shall be submitted;

(ii) provide for the submission of information on an individual insurer basis;

(iii) provide for the submission of the information with the least burden on insurers, particularly small insurers, and insurance agents;

(iv) take into account existing statistical reporting systems in the insurance industry;

(v) require reporting by MSA and applicable region in which the insured risk is located;

(vi) provide for the submission of information that identifies the designated line and subline or coverage type;

(vii) provide for the submission of information that distinguishes policies written in a residual market from policies written in the voluntary market;

(viii) specify—

(I) whether information shall be submitted on the basis of policy or exposure unit; and

(II) whether information, when submitted, shall be aggregated by like policyholders with like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported;

(ix) provide for the submission of information regarding the number of cancellations and nonrenewals of policies under the designated line by MSA and applicable region in which the insured risk is located, by race and gender of the policyholder (if known to the insurer), and by whether the policy was issued in a voluntary or residual market; and

(x) provide for the submission of information on the racial characteristics and gender of policyholders at the level of detail comparable to that required by the Home Mortgage Disclosure Act of 1975 (and the regulations issued thereunder).

(B) RULES REGARDING OBTAINING RACIAL INFORMATION.—With respect to the information specified in subparagraph (A)(x), applicants for, and policyholders of, insurance may be asked their racial characteristics only in writing. Any such written question shall clearly indicate that a response to the question is voluntary on the part of the applicant or policyholder, but encouraged, and that the information is being requested by the Federal Government to monitor the availability and affordability of insurance. If an applicant for, or policyholder of, insurance declines to provide such information, the agent or insurer for such insurance may provide such information.

(3) RULE FOR REPORTING BY DESIGNATED INSURERS.—A designated insurer for a designated line shall submit—

(A) information required under subparagraphs (A), (B), and (D) of paragraph (1) and information required pursuant to paragraph (2), for risks insured under such line that are located within each designated MSA, any part of which is located in a State for which the insurer is designated; and

(B) information required under paragraph (1)(C) for agents within such designated MSA's.

(c) NONDESIGNATED INSURERS.—The regulations issued under section 3 shall require each insurer that issues an insurance policy in a designated line of insurance under section 13(c)(1) that covers an insured risk located in a designated MSA and which is not a designated insurer for the line in any State in which any part of such MSA is located, to compile and submit to the Secretary, for each annual reporting period—

(1) the total number of policies issued in such line;

(2) the total exposures covered by such policies; and

(3) the total amount of premiums for such policies;

by designated MSA and applicable region in which the insured risk is located.

SEC. 5. STUDY OF COMMERCIAL INSURANCE FOR RESIDENTIAL PROPERTIES AND SMALL BUSINESSES.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

(b) SUBMISSION OF INFORMATION.—To acquire information for the study under this section, the Secretary shall, by regulation, establish requirements for insurers providing commercial insurance for residential properties and small businesses to compile and submit to the Secretary on an annual basis information regarding such insurance, as follows:

(1) MSA'S.—The Secretary shall carry out the study only with respect to the 25 MSA's having the largest populations, as determined by the Secretary and specified in the regulations under this section.

(2) INSURERS.—For each of the MSA's specified pursuant to paragraph (1), the Secretary shall designate the insurers required to submit the information. The Secretary shall designate a sufficient number of insurers to provide a representative sample of the insurers providing such insurance in each such MSA.

(3) LINES OF INSURANCE.—The Secretary shall require the submission of information regarding such lines, sublines, or coverage types of commercial insurance as the Secretary determines are necessary or important with respect to establishing, operating, or maintaining residential properties and each type of small business selected under paragraph (4), and shall require submission of such information by such lines, sublines, or coverage types.

(4) SMALL BUSINESSES.—For purposes of paragraph (3), the Secretary shall determine the types of businesses that are typical of small businesses and shall select a representative sample of such types.

(5) DATA ELEMENTS.—The Secretary shall identify the data elements required to be submitted.

(6) SUBMISSION BY LOCATION.—The Secretary shall require the information to be submitted by designated MSA and applicable region in which the insured risk is located.

(7) SUBMISSION BY INSURER.—The Secretary shall require the submission of information on an individual insurer basis and shall specify whether information, when submitted, shall be aggregated by like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported.

(8) SUNSET.—The Secretary shall require the submission of information under this section only for each of the first 5 annual reporting periods beginning more than 3 years after the date of enactment of this Act.

(c) CONSIDERATIONS.—In establishing the requirements for submission of information under this section, the Secretary shall—

(1) take into consideration the administrative, paperwork, and other burdens on insurers and insurance agents involved in complying with the requirements of this section;

(2) minimize the burdens imposed by such requirements with respect to such insurers and agents; and

(3) take into consideration existing statistical reporting systems in the insurance industry.

(d) REPORT.—Not later than 6 months after the expiration of the fifth of the 5 annual reporting periods referred to in subsection (b)(8), the Secretary shall submit a report to the Congress describing the information submitted under the study conducted under this section and any findings of the Secretary from the study regarding disparities in the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

SEC. 6. REPORTING OF RURAL INSURANCE INFORMATION.

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to annually compile and submit to the Secretary information concerning the availability, affordability, and quality or type of insurance in designated rural areas in the lines designated under section 13(c)(1).

(b) CONTENT.—The regulations under this section shall provide that—

(1) the information to be compiled and submitted under this section by designated insurers and insurers that are not designated insurers shall be of such types, data elements, and specificity that is as identical as possible to the types, data elements, and specificity of information required under this Act of designated and nondesignated insurers, respectively, for designated MSA's and shall be subject to the provisions of section 4(b)(2)(B); and

(2) the information compiled and submitted under this section shall be compiled and submitted on the basis of each 5-digit zip code in which the insured risks are located, rather than on the basis of designated MSA and applicable region (as otherwise required in this Act).

(c) DESIGNATION OF RURAL AREAS.—For purposes of this section, the term "designated rural area" means the following:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this section apply, any of the 50 rural areas designated by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance. The Secretary shall (to the extent possible) designate one rural area under this paragraph in each State of the United States.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, a rural area for which a designation made by the Secretary under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate 50 rural areas as designated rural areas for each such 5-year period and shall designate such rural areas based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of rural areas for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 18(b) relating to such period.

(D) The designations of rural areas for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of a rural area shall remain in effect until a succeeding designation of rural areas under paragraph (2) takes effect.

SEC. 7. WAIVER OF REPORTING REQUIREMENTS.

(a) WAIVER FOR STATES COLLECTING EQUIVALENT INFORMATION.—

(1) AUTHORITY.—Subject to the requirements under this section, the Secretary shall provide, by regulation, for the waiver of the applicability of the provisions of sections 4, 5, and 6 for each insurer transacting business within a State referred to in paragraph (2), but only with respect to information required to be submitted under such sections

that relates to agents or insured risks located in the State.

(2) REQUIREMENTS.—The Secretary may make a waiver pursuant to paragraph (1) only with respect to a State that the Secretary determines has in effect a law or other requirement that—

(A) requires insurers to submit to the State information that is the same as or equivalent to the information that is required to be submitted to the Secretary pursuant to sections 4, 5, and 6;

(B) provides for adequate enforcement of such law or other requirements;

(C) provides for the same annual reporting period used by the Secretary under this Act and for submission of the information to the Secretary in a timely fashion, as determined by the Secretary; and

(D) provides that, to the extent statistical agents are permitted to submit information to the State on behalf of insurers, such agents are subject to the same or equivalent requirements as provided under section 9(b).

(3) DURATION.—A waiver pursuant to paragraph (1) may remain in effect only during the period for which the State law or other requirement under paragraph (2) remains in effect.

(b) MULTIPLE-STATE MSA'S.—In the case of any designated MSA that contains area within—

(1) any State for which a waiver has been made pursuant to subsection (a); and

(2) any State for which such a waiver has not been made;

the provisions of this Act requiring submission of information to the Secretary regarding such MSA shall be considered to apply only to the portion of such MSA that is located within the State for which such a waiver has not been made.

(c) AUTHORITY FOR SECRETARY TO OBTAIN INFORMATION DIRECTLY FROM INSURERS.—If the State for which a waiver has been made pursuant to subsection (a) does not submit to the Secretary the information required under subsection (a)(2)(A) or submits information that is not complete, the Secretary shall require the insurers transacting business within the State to submit such information directly to the Secretary.

SEC. 8. REPORTING BY PRIVATE MORTGAGE INSURERS.

(a) HMDA REPORTING.—On an annual basis, the Federal Financial Institutions Examination Council (hereafter in this section referred to as the "Council") shall determine the extent to which each insurer providing private mortgage insurance is making available to the public and submitting to the appropriate agency information regarding such insurance that is equivalent to the information regarding mortgages required to be reported under the Home Mortgage Disclosure Act of 1975.

(b) REPORTING UNDER THIS ACT.—

(1) CERTIFICATION OF NONCOMPLIANCE.—If, for any annual period referred to in subsection (a), the Council determines that any insurer providing private mortgage insurance is not making available to the public or submitting the information referred to in subsection (a) or that the information made available or submitted is not equivalent information as described in subsection (a), then the Council shall notify the insurer of such noncompliance. If, after the expiration of a reasonable period of time, the insurer has not remedied such noncompliance to the satisfaction of the Council, then the Council shall immediately certify such noncompliance to the Secretary.

(2) REQUIREMENT.—Upon the receipt of a certification under paragraph (1), the Secretary shall, by regulation, require such insurer to submit to the Secretary information regarding such insurance that complies with the provisions of section 4 that are applicable to such insurance. Such regulations shall be issued not later than 6 months after receipt of such certification and shall apply to the first succeeding annual reporting period beginning not less than 6 months after issuance of such regulations and to each annual reporting period thereafter.

SEC. 9. USE OF DATA CONTRACTOR AND STATISTICAL AGENTS.

(a) DATA COLLECTION CONTRACTOR.—The Secretary may contract with a data collection contractor to collect the information required to be maintained and submitted under sections 4, 5, 6, 7, and 8(b), if the contractor agrees to collect the information pursuant to the terms and conditions of such sections and this Act and the regulations issued thereunder. Information submitted to such contractor shall be available to the public to the same extent as if the information were submitted directly to the Secretary.

(b) USE OF STATISTICAL AGENTS.—

(1) IN GENERAL.—The Secretary shall provide, by regulation, that insurers may submit any information required under sections 4, 5, 6, and 8(b) through statistical agents acting on behalf of more than one insurer.

(2) PROTECTIONS.—The regulations issued under this subsection shall permit submission of information through a statistical agent only if the Secretary determines that—

(A) the statistical agent has adequate procedures to protect the integrity of the information submitted;

(B) the statistical agent has a statistical plan and format for submitting the information that meets the requirements of this Act;

(C) the statistical agent has procedures in place that ensure that information reported under the statistical plan in connection with reporting under this Act and submitted to the Secretary is not subject to any adjustment by the statistical agent or an insurer for reasons other than technical accuracy and conformance to the statistical plan;

(D) the information of an insurer is not subject to review by any other insurer before being made available to the public; and

(E) acceptance of the information through the statistical agent will not adversely affect the accuracy of the information reported.

(3) DISCONTINUANCE OF ACCEPTANCE OF INFORMATION.—The Secretary may discontinue accepting information reported through a statistical agent pursuant to this subsection if the Secretary determines that the requirements for such reporting are no longer met or that continued acceptance of such information is contrary to the goal of ensuring the accuracy of the information reported.

(4) GAO AUDITS.—The Comptroller General of the United States shall, at the request of the Secretary, audit information collection and submission performed under this subsection by data collection contractors or statistical agents to ensure that the integrity of the information collected and submitted is protected. In determining whether to request an audit of a statistical agent, the Secretary shall consider the sufficiency (for purposes of this Act) of audits of the statistical agent conducted in connection with State insurance regulation.

(5) LIABILITY.—Notwithstanding any use of a statistical agent as authorized under this subsection, an insurer using such an agent shall be responsible for compliance with the requirements under this Act.

SEC. 10. SUBMISSION OF INFORMATION TO SECRETARY AND MAINTENANCE OF INFORMATION.

(a) PERIOD OF MAINTENANCE.—Each insurer required by this Act to compile and submit information to the Secretary shall maintain such information for the 3-year period beginning upon the conclusion of the annual reporting period to which such information relates. The Secretary shall maintain any information submitted to the Secretary for such period as the Secretary considers appropriate and feasible to carry out the purposes of this Act and to allow for historical analysis and comparison of the information.

(b) SUBMISSION.—The Secretary shall issue regulations prescribing a standard schedule (taking into consideration the provisions of section 12(a)), format, and method for submitting information under this Act to the Secretary. The format and method of submitting the information shall facilitate and encourage the submission in a form readable by a computer. Any insurer submitting information to the Secretary may submit in writing to the Secretary any additional information or explanations that the insurer considers relevant to the decision by the insurer to sell insurance.

SEC. 11. COMPILATION OF AGGREGATE INFORMATION.

(a) INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile, for each designated MSA, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information submitted under sections 4, 5, 7, and 8(b) and loss ratios (if the submission of loss information is required), aggregated by applicable region for all insurers submitting such information; and

(B) such information and loss ratios (if the submission of loss information is required), aggregated by applicable region for each such insurer; and

(2) produce tables based on information submitted under sections 4, 5, 7, and 8(b) for each designated MSA, by insurer and for all insurers, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods; and

(B) loss ratios based on the information obtained pursuant to sections 4, 5, 7, and 8(b) (if the submission of loss information is required), aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods.

(b) AGENT INFORMATION.—For each annual reporting period and for each designated MSA, the Secretary shall compile, by designated line, the information submitted under section 4(b)(1)(C)—

(1) by designated insurer by applicable region;

(2) by designated insurer aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics; and

(3) for all designated insurers that have submitted such information for the designated MSA, aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics.

(c) RURAL INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile for each applicable 5-digit zip code, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information regarding insurance in rural areas submitted under sections 6 and 7 and loss ratios, for all insurers for which such information is submitted; and

(B) such information and loss ratios, for each such insurer; and

(2) produce tables for each 5-digit zip code based on information regarding insurance in rural areas submitted under sections 6 and 7, by insurer and for all such insurers for which information is submitted under such sections, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available); and

(B) loss ratios, based on the information obtained pursuant to sections 6 and 7, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available).

SEC. 12. AVAILABILITY AND ACCESS SYSTEM.

(a) Availability to Public.—

(1) In general.—The Secretary shall maintain and make available to the public, in accordance with the requirements of this section, any information submitted to the Secretary under this Act and any information compiled by the Secretary under this Act.

(2) Timing.—The Secretary shall make such information publicly available on a timetable determined by the Secretary, but not later than 9 months after the conclusion of the annual reporting period to which the information relates, except that such information shall not be made available to the public until it is available in its entirety unless not all the information required to be reported is available by such date.

(b) Public Access System.—

(1) Implementation.—The Secretary shall implement a system to facilitate access to any information required to be made available to the public under this Act.

(2) Bases of availability.—The system shall provide access in the following manners:

(A) Access to itemized information.—To information submitted under sections 4, 5, 6, 7, and 8(b) on the basis of the insurer submitting the information, on the basis of designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code), and on any other basis the Secretary considers feasible and appropriate.

(B) Access to aggregate information.—To aggregate information compiled under section 11, on the basis of—

(i) the insurer submitting the information;

(ii) designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code); and

(iii) any other basis the Secretary considers feasible and appropriate.

(3) Method.—The access system shall include a toll-free telephone number that can be used by the public to request such information and the address at which a written request for such information may be submitted.

(4) Form.—The Secretary shall, by regulation, establish the forms in which such information may be furnished by the Secretary. Such forms shall include written statements, forms readable by widely used personal computers, and, if feasible, on-line access for personal computers. The Secretary shall provide the information available under this section in any such form requested by the person requesting the information, except that the Secretary may charge a fee for providing such information, which may not exceed the amount, determined by the Secretary, that is equal to the cost of reproducing the information.

(5) Analysis software.—The Secretary shall make available to the public software that can be used on a personal computer to analyze the information provided under this section. The software shall be capable of analyzing the information by insurer, designated line, race, gender, MSA, and applicable region. It shall also contain data compiled by the Secretary for each MSA and applicable region on income levels, age of property, and racial characteristics that can be used to evaluate the information provided under this Act by insurers. The software and any accompanying data shall be made available to the public without charge, except for an amount, determined by the Secretary, which shall not exceed the actual cost of reproducing the software and the accompanying data.

(c) Protections Regarding Loss Information.—

(1) Prohibition of disclosure of loss information.—Notwithstanding any other provision of this Act, the Secretary may not make available to the public or otherwise disclose any information submitted under this Act regarding the amount or number of claims paid by any insurer, the amount of losses of any insurer, or the loss experience for any insurer, except—

(A) in the form of a loss ratio (expressing the relationship of claims paid to premiums) made available or disclosed in compliance with the provisions of paragraph (2); or

(B) as provided in paragraph (3).

(2) Protection of identity of insurer.—In making available to the public or otherwise disclosing a loss ratio for an insurer—

(A) the Secretary may not identify the insurer to which the loss ratio relates; and

(B) the Secretary may disclose the loss ratio only in a manner that does not allow any party to determine the identity of the specific insurer to which the loss ratio relates, except parties having access to information under paragraph (3).

(3) Confidentiality of information disclosed to governmental agencies.—The Secretary may make information referred to in paragraph (1) and the identity of the specific insurer to which such information relates available to any Federal entity and any State agency responsible for regulating insurance in a State and may otherwise disclose such information to any such entity or agency, but only to the extent such entity or agency agrees not to make any such information available or disclose such information to any other person.

SEC. 13. DESIGNATIONS.

(a) Designation of MSA's.—For purposes of this Act, the term "designated MSA" means the following MSA's:

(1) First 5 years.—With respect to the first 5 annual reporting periods to which the reporting requirements under this Act apply (pursuant to section 24), any of the 150 MSA's selected as follows:

(A) The Secretary shall select the 50 MSA's having the largest populations, as determined by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance.

(B) The Secretary shall select 100 additional MSA's, on a basis that provides for—

(i) geographic diversity among the designated MSA's under this paragraph; and

(ii) diversity in size of the populations among such MSA's.

(2) After first 5 years.—With respect to annual reporting periods thereafter, an MSA for which a designation under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate not less than 150 MSA's as designated MSA's for each such 5-year period and shall designate such MSA's based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of MSA's for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 20(b) relating to such period.

(D) The designations of MSA's for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of an MSA shall remain in effect until a succeeding designation of MSA's under paragraph (2) takes effect.

(b) Designation of Insurers.—The Secretary shall designate, for each designated line and each State, insurers doing business in the lines as designated insurers in the State for purposes of this Act, subject to the following requirements:

(1) Highest aggregate premium volume.—

(A) General rule.—For each State, the Secretary shall designate, for each designated line, each of the insurers and insurer groups included in the class established under this paragraph for the State.

(B) Determination.—In each State, the Secretary shall rank the insurers and insurer groups in each designated line from the insurer or group having the largest aggregate premium volume in the State for such line to the insurer or group having the smallest such aggregate premium volume and shall include in the class for the State only—

(i) the insurer or group of the highest rank;

(ii) each insurer or group of successively lower rank if the inclusion of such insurer or group in the class does not result in the sum of such aggregate premium volumes for insurers and groups in the class exceeding 80 percent of the total aggregate premium volume in the State for the line; and

(iii) the first such successively lower ranked insurer or insurer group whose inclusion in the class results in such sum exceeding 80 percent of the total aggregate premium volume in the State for the line.

(2) Minimum aggregate premium volume.—For each State, the Secretary shall

designate, for each designated line, each insurer and insurer group not designated pursuant to paragraph (1) whose premium volume in the State for the designated line exceeds 1 percent of the total aggregate premium volume in the State for the line.

(3) FAIR PLANS AND JOINT UNDERWRITING ASSOCIATIONS.—For each State, the Secretary shall designate, for each designated line—

(A) each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements; and

(B) each joint underwriting association; that provides insurance under such line.

(4) DURATION.—The Secretary shall designate insurers under this subsection once every 5 years. Each insurer designated shall be a designated insurer for each of the first 5 successive annual reporting periods commencing after such designation.

(c) DESIGNATION OF LINES OF INSURANCE.—

(1) IN GENERAL.—The Secretary shall, by regulation, designate homeowners, dwelling fire, and allied lines of insurance as designated lines for purposes of this Act, and shall distinguish the coverage types in such lines by the perils covered and by market or replacement value. For purposes of this Act, homeowners insurance shall not include any renters coverage or coverage for the personal property of a condominium owner.

(2) REPORT.—At any time the Secretary determines that any line of insurance not described in paragraph (1) should be a designated line because disparities in coverage provided under such line exist among geographic areas having different income levels or racial composition, the Secretary shall submit a report recommending designating such line of insurance as a designated line for purposes of this Act to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate.

(3) DURATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall make the designations under this subsection once every 5 years, by regulation, and each line and subline or coverage type designated under such regulations shall be designated for each of the first 5 successive annual reporting periods occurring after issuance of the regulations.

(B) ALTERATION.—During any 5-year period referred to in subparagraph (A) in which designations are in effect, the Secretary may amend or revise the designated lines, sublines, and coverage types only by regulation and only in accordance with the requirements of this subsection. Such regulations amending or revising designations shall apply only to annual reporting periods beginning after the expiration of the 6-month period beginning on the date of issuance of the regulations.

(d) TIMING OF DESIGNATIONS.—The Secretary shall make the designations required by subsections (b)(4) and (c)(3)(A) and notify interested parties during the 6-month period ending 6 months before the commencement of the first annual reporting period to which such designations apply.

(e) OBTAINING INFORMATION.—The Secretary may require insurers to submit to the Secretary such information as the Secretary considers necessary to make designations specifically required under this Act. The Secretary may not require insurers to submit any information under this subsection that relates to any line of insurance not specifically authorized to be designated pursuant to this Act or that is to be used solely for the purpose of a report under subsection (c)(2).

SEC. 14. IMPROVED METHODS AND REPORTING ON BASIS OF OTHER AREAS.

(a) DEVELOPMENT OF IMPROVED METHODS.—The Secretary shall develop, or assist in the improvement of, methods of matching addresses and applicable regions to facilitate compliance by insurers, in as economical a manner as possible, with the requirements of this Act. The Secretary shall allow insurers, or statistical agents acting on behalf of insurers, to match addresses and applicable regions through the use of 9-digit zip codes if the Secretary determines that such use will substantially reduce the cost and burden to insurers of such matching without significant adverse impact on the reliability of the matching.

(b) ADDRESS CONVERSION SOFTWARE.—The Secretary shall make available, to any insurer required to provide information to the Secretary under this Act, computer software that can be used to convert addresses to applicable regions within designated MSA's. The software shall be made available in forms that provide such conversion for designated MSA's on a nationwide basis and on a State-by-State basis. The software shall be made available not later than 6 months before the first annual reporting period to which the reporting requirements under this Act apply (pursuant to section 26) and shall be updated annually. The software shall be made available without charge, except for an amount, determined by the Secretary, which shall not exceed the actual cost of reproducing the software.

(c) CONVERTIBILITY.—

(1) AUTHORITY.—The Secretary may, by regulation, provide for insurers to comply with the requirements under sections 4, 5, and 8(b) by reporting the information required under such sections on the basis of geographical location other than MSA and applicable region, but only if the Secretary determines that information reported on such other basis is convertible to the basis of MSA and applicable region and such conversion does not affect the accuracy of the information.

(2) LIMITATION.—With respect to any information submitted on the basis of geographical location other than designated MSA and applicable region pursuant to paragraph (1), the Secretary may disclose the information only on the basis of designated MSA and applicable region.

SEC. 15. ANNUAL REPORTING PERIOD.

(a) IN GENERAL.—For purposes of this Act, the annual reporting periods shall be the 12-month periods commencing in each calendar year on the same day, which shall be selected under subsection (b) by the Secretary.

(b) SELECTION.—Not later than the expiration of the 6-month period beginning on the date of enactment of this Act, the Secretary shall, by regulation, select a day of the year upon which all annual reporting periods shall commence. In determining such day, the Secretary shall consider the reporting periods used for purposes of State and other insurance statistical reporting systems, in order to minimize the burdens on insurers.

SEC. 16. DISCLOSURES BY INSURERS TO APPLICANTS AND POLICYHOLDERS.

(a) IN GENERAL.—The Secretary shall, by regulation, require the following disclosures:

(1) APPLICANTS.—Each insurer that, through the insurer, or an agent or broker, declines a written application or written request to issue an insurance policy under a designated line shall provide to the applicant at the time of such declination, through such insurer, agent, or broker, one of the following:

(A) A written explanation of the specific reasons for the declination.

(B) Written notice that—

(i) the applicant may submit to the insurer, agent, or broker, within 90 days of such notice, a written request for a written explanation of the reasons for the declination; and

(ii) pursuant to such a request, an explanation shall be provided to the applicant within 21 days after receipt of such request.

(2) PROVISION OF EXPLANATION.—If an insurer, agent, or broker making a declination receives a written request referred to in paragraph (1)(B) within such 90-day period, the insurer, agent, or broker shall provide a written explanation referred to in such subparagraph within such 21-day period.

(3) POLICYHOLDERS.—Each insurer that cancels or refuses to renew an insurance policy under a designated line shall provide to the policyholder, in writing and within an appropriate period of time as determined by the Secretary, the reasons for canceling or refusing to renew the policy.

(b) MODEL ACTS.—In issuing regulations under subsection (a), the Secretary shall consider relevant portions of model acts developed by the National Association of Insurance Commissioners.

(c) PREEMPTION.—Subsection (a) shall not be construed to annul, alter, or effect, or exempt any insurer, agent, or broker subject to the provisions of subsection (a) from complying with any laws or requirements of any State with respect to notifying insurance applicants or policyholders of the reasons for declination or cancellation of, or refusal to renew insurance, except to the extent that such laws or requirements are inconsistent with subsection (a) (or the regulations issued thereunder) and then only to the extent of such inconsistency. The Secretary is authorized to determine whether such inconsistencies exist and to resolve issues regarding such inconsistencies. The Secretary may not provide that any State law or requirement is inconsistent with subsection (a) if it imposes requirements equivalent to the requirements under such subsection or requirements that are more stringent or comprehensive, in the determination of the Secretary.

(d) IMMUNITY.—In issuing regulations under subsection (a), the Secretary shall specifically consider the necessity of providing insurers, agents, and brokers with immunity solely for the act of conveying or communicating the reasons for a declination or cancellation of, or refusal to renew insurance on behalf of a principal making such decision. The Secretary may provide for immunity under the regulations issued under subsection (a) if the Secretary determines that such a provision is necessary and in the public interest, except that the Secretary may not provide immunity for any conduct that is negligent, reckless, or willful.

(e) ENFORCEMENT.—The Secretary may authorize the States to enforce the requirements under regulations issued under subsection (a).

SEC. 17. ENFORCEMENT.

(a) CIVIL PENALTIES.—Any insurer who is determined by the Secretary, after providing opportunity for a hearing on the record, to have violated any requirement pursuant to this Act shall be subject to a civil penalty of not to exceed $5,000 for each day during which such violation continues.

(b) INJUNCTION.—The Secretary may bring an action in an appropriate United States district court for appropriate declaratory and injunctive relief against any insurer who violates the requirements referred to in subsection (a).

(c) Insurer Liability.—An insurer shall be responsible under subsections (a) and (b) for any violation of a statistical agent acting on behalf of the insurer.

SEC. 18. REPORTS.

(a) Annual Report.—The Secretary shall annually report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate on the implementation of this Act and shall make recommendations to such committees on such additional legislation as the Secretary deems appropriate to carry out this Act. The Secretary shall include in each annual report a description of any complaints or problems resulting from the implementation of this Act, of which the Secretary has knowledge, made by (or on behalf of) insurance policyholders that concern the disclosure of information regarding policyholders and any recommendations for addressing such problems. Each report shall specifically address whether granting property and casualty insurance powers to other financial intermediaries would significantly reduce redlining and other discriminatory insurance practices and the Secretary shall consult with the appropriate financial institution regulators regarding such issues in preparing the report.

(b) GAO Reports.—

(1) In general.—The Comptroller General of the United States shall submit a report under this subsection to the Secretary and the Congress for each 5-year period referred to in sections 6(c)(2) and 13(a)(2), which contains information to be used by the Secretary in implementing this Act during such period.

(2) Timing.—The report under this subsection for each such 5-year period shall be submitted not later than 18 months before the commencement of the period to which the report relates.

(3) Contents.—A report under this subsection shall include the following information:

(A) An analysis of the adequacy of the implementation of this Act and any recommendations of the Comptroller General for improving the implementation.

(B) The costs to the Federal Government, insurers, and consumers of implementing and complying with this Act.

(C) Any beneficial or harmful effects resulting from the requirements of this Act.

(D) An analysis of whether, considering the purposes of this Act, insurers are required by this Act (or by implementing regulations) to submit appropriate information.

(E) An analysis of whether sufficient evidence exists of patterns of disparities in the availability, affordability, and quality or type of insurance coverage to warrant continued applicability of the requirements of this Act.

(F) An analysis of whether the group of designated MSA's in effect at the time of the report are appropriate for purposes of this Act.

(G) Specific recommendations, for use by the Secretary in designating MSA's for the 5-year period for which the report is made, with regard to—

(i) the characteristics of MSA's that should be included in the group of designated MSA's;

(ii) the number of MSA's that should be included in the group;

(iii) the number of MSA's having each particular characteristic that should be included in the group; and

(iv) the characteristics of MSA's, and number of MSA's having each such characteristic, that should be removed from the group of designated MSA's in effect at the time of the report.

(H) With respect only to the first report required under this subsection, recommendations of whether the study conducted under section 5 should be continued beyond the date in section 5(b)(8) and, if so, whether the requirements regarding the submission of information under the study should be expanded or changed with respect to insurers, MSA's, lines, sublines or coverage types of insurance, and types of small businesses, or whether the study should be allowed to terminate under law.

(I) An analysis of whether the group of designated rural areas in effect at the time of the report are appropriate for purposes of this Act.

(J) Specific recommendations, for use by the Secretary in designating rural areas for purposes of section 6 for the 5-year period for which the report is made, with regard to—

(i) the characteristics of rural areas that should be included in the group of designated rural areas under such section;

(ii) the number of rural areas having each particular characteristic that should be included in the group; and

(iii) the characteristics of rural areas, and number of rural areas having each such characteristic, that should be removed from the group of designated rural areas in effect at the time of the report.

(K) Any other information or recommendations relating to the requirements or implementation of this Act that the Comptroller General considers appropriate.

(4) Consultation.—In preparing each report under this subsection, the Comptroller General shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents) and property and casualty insurers, and community, consumer, and civil rights organizations.

SEC. 19. TASK FORCE ON AGENCY APPOINTMENTS.

(a) Establishment.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a task force on insurance agency appointments (hereafter in this section referred to as the "Task Force"). The Task Force shall—

(1) consist of representatives of appropriate Federal agencies, property and casualty insurance agents, including specifically minority insurance agents, property and casualty insurers, State insurance regulators, and community, consumer, and civil rights organizations;

(2) have a significant representation from minority insurance agents; and

(3) be chaired by the Secretary or the Secretary's designee.

(b) Function.— The Task Force shall—

(1) review the problems inner-city and minority agents may have in receiving appointments to represent property and casualty insurers and consider the effects such problems have on the availability, affordability, and quality or type of insurance, especially in underserved areas;

(2) review the practices of insurers in terminating agents and consider the effects such practices have on the availability, affordability, and quality or type of insurance, especially in underserved areas; and

(3) recommend solutions to improve the ability of inner-city and minority insurance agents to market property and casualty insurance products, including steps property and casualty insurers should take to increase their appointments of such agents.

(c) Report and Termination.—The Task Force shall report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate its findings under paragraphs (1) and (2) of subsection (b) and its recommendations under paragraph (3) of subsection (b) not later than 2 years after the date of enactment of this Act. The Task Force shall terminate on the date on which the report is submitted to the committees.

SEC. 20. STUDIES.

(a) Study of Insurance Prescreening.—

(1) In general.—The Secretary shall conduct a study to determine the feasibility and utility of requiring insurers to report information with respect to the characteristics of applicants for insurance and reasons for rejection of applicants. The study shall examine the extent to which—

(A) oral applications or representations are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(B) written applications are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(C) written applications are submitted after the insurer or agent has already made a determination to provide insurance to a prospective insured or has determined that the prospective insured is eligible for insurance; and

(D) prospective insured persons are discouraged from submitting applications for insurance based, in whole or in part, on—

(i) the location of the risk to be insured;

(ii) the racial characteristics of the prospective insured;

(iii) the racial composition of the neighborhood in which the risk to be insured is located; and

(iv) in the case of residential property insurance, the age and value of the risk to be insured.

(2) Report.—The Secretary shall report the results of the study under paragraph (1) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 2 years after the date of enactment of this Act. The report shall include recommendations of the Secretary—

(A) with respect to requiring insurers to report on the disposition of oral and written applications for insurance; and

(B) for any legislation that the Secretary considers appropriate regarding the issues described in the report.

(b) Study of Insurer Actions To Meet Insurance Needs of Certain Neighborhoods.—The Secretary shall conduct a study of various practices, actions, and methods undertaken by insurers to meet the property and casualty insurance needs of residents of low- and moderate-income neighborhoods, minority neighborhoods, and small businesses located in such neighborhoods. The Secretary shall report the results of the study, including any recommendations, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 2 years after the date of enactment of this Act.

(c) Study of Disparate Claims Treatment.—

(1) In general.—The Secretary shall conduct a study to determine whether, and the extent to which, insurers engage in disparate treatment in handling claims of policyholders under designated lines of insurance based on the race, gender, and income level of the policyholder, and on the racial characteristics and income levels of the area in which the insured risk is located. In conducting the study, the Secretary shall specifically consider whether residents of low-income neighborhoods or areas and minority neighborhoods or areas are more likely than residents of other areas to have their claims contested or their insurance coverage canceled.

(2) Report.—The Secretary shall submit a report on the results of the study to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 2 years after the date of enactment of this Act.

(d) Study of Rating Territories.—The Secretary shall conduct a study to determine whether the practice in the insurance industry of basing insurance premium amounts on the territory in which the insured risk is located has a disparate impact on the availability, affordability, or quality of insurance by race, gender, or type of neighborhood. The Secretary shall submit a report on the results of the study to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 12 months after the date of enactment of this Act.

(e) Study of Insurer Reinvestment Requirements.—

(1) In general.—The Secretary shall conduct a study to determine the feasibility of requiring insurers to reinvest in communities and neighborhoods from which they collect premiums for insurance and whether, and the extent to which, community reinvestment requirements for insurers should be established that are comparable to the community reinvestment requirements applicable to depository institutions. The Secretary shall consult with representatives of insurers and consumer, community, and civil rights organizations regarding the results of the study and any recommendations to be made based on the results of the study.

(2) Report.—The Secretary shall report the results of the study, including any such recommendations, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 6 months after the conclusion of the first annual reporting period to which the reporting requirements under this Act apply (pursuant to section 26).

SEC. 21. EXEMPTION AND RELATION TO STATE LAWS.

(a) Exemption for United States Programs.—Reporting shall not be required under this Act with respect to insurance provided by any program underwritten or administered by the United States.

(b) Relation to State Laws.—This Act does not annul, alter, or affect, or exempt the obligation of any insurer subject to this Act to comply with the laws of any State or subdivision thereof with respect to public disclosure, submission of information, and recordkeeping.

SEC. 22. REGULATIONS.

(a) In General.—The Secretary shall issue any regulations required under this Act and any other regulations that may be necessary to carry out this Act. The regulations shall be issued through rulemaking in accordance with the procedures under section 553 of title 5, United States Code, for substantive rules. Except as otherwise provided in this Act, such final regulations shall be issued not later than the expiration of the 18-month period beginning on the date of enactment of this Act.

(b) Burdens.—In prescribing such regulations, the Secretary shall take into consideration the administrative, paperwork, and other burdens on insurance agents, including independent insurance agents, involved in complying with the requirements of this Act and shall minimize the burdens imposed by such requirements with respect to such agents.

SEC. 23. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) Agent.—The term "agent" means, with respect to an insurer, an agent licensed by a State who sells property and casualty insurance. The term includes agents who are employees of the insurer, agents who are independent contractors working exclusively for the insurer, and agents who are independent contractors appointed to represent the insurer on a nonexclusive basis.

(2) Applicable region.—The term "applicable region" means, with respect to a designated MSA—

(A) for any county located within the MSA that has a population of more than 30,000, the applicable census tract within the county; or

(B) for any county located within the MSA that has a population of 30,000 or less, the applicable county.

(3) Commercial insurance.—The term "commercial insurance" means any line of property and casualty insurance, except homeowner's, dwelling fire, allied lines, and other personal lines of insurance.

(4) Designated insurer.—The term "designated insurer" means, with respect to a designated line, an insurer designated for a State by the Secretary under section 13(b) as a designated insurer for such line or any insurer that is part of an insurer group selected under such section.

(5) Designated investment.—The term "designated investment" means making or purchasing a loan for the purchase of commercial real estate, making or purchasing a mortgage loan for the purchase of a 1- to 4-family dwelling, making or purchasing a commercial or industrial loan.

(6) Designated line.—The term "designated line" means a line of insurance or bid, performance, and payment bonds designated by the Secretary under section 13(c).

(7) Exposures.—The term "exposures" means, with respect to an insurance policy, an expression of an exposure unit covered under the policy compared to the duration of the policy (pursuant to standards established by the Secretary for uniform reporting of exposures).

(8) Exposure units.—The term "exposure units" means a dwelling covered under an insurance policy for homeowners, dwelling fire, or allied lines coverage.

(9) Insurance.—The term "insurance" means property and casualty insurance. Such term includes primary insurance, surplus lines insurance, and any other arrangement for the shifting and distributing of risks that is determined to be insurance under the law of any State in which the insurer or insurer group engages in an insurance business.

(10) Insurer.—Except with respect to section 8, the term "insurer" means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is authorized to transact the business of property or casualty insurance in any State or that is engaged in a property or casualty insurance business. The term includes any certified foreign direct insurer, but does not include an individual or entity which represents an insurer as agent solely for the purpose of selling or which represents a consumer as a broker solely for the purpose of buying insurance.

(11) Issued.—The term "issued" means, with respect to an insurance policy, newly issued or renewed.

(12) Joint underwriting association.—The term "joint underwriting association" means an unincorporated association of insurers established to provide a particular form of insurance to the public.

(13) Mortgage insurance.—The term "mortgage insurance" means insurance against the nonpayment of, or default on, a mortgage or loan for residential or commercial property.

(14) MSA.—The term "MSA" means a Metropolitan Statistical Area or a Primary Metropolitan Statistical Area.

(15) Private mortgage insurance.—The term "private mortgage insurance" means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(16) Property and casualty insurance.—The term "property and casualty insurance" means insurance against loss of or damage to property, insurance against loss of income or extra expense incurred because of loss of, or damage to, property, and insurance against third party liability claims caused by negligence or imposed by statute or contract. Such term does not include workers' compensation, professional liability, or title insurance.

(17) Residual market.—The term "residual market" means an assigned risk plan, joint underwriting association, or any similar mechanism designed to make insurance available to those unable to obtain it in the voluntary market. The term includes each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements.

(18) Rural area.—The term "rural area" means any area that—

(A) has a population of 10,000 or more;

(B) has a continuous boundary; and

(C) contains only areas that are rural areas, as such term is defined in section 520 of the Housing Act of 1949 (except that clause (3)(B) of such section 520 shall not apply for purposes of this Act).

(19) Secretary.—The term "Secretary" means the Secretary of Housing and Urban Development.

(20) State.—The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 24. EFFECTIVE DATE.

The requirements of this Act relating to reporting of information by insurers shall take effect with respect to the first annual reporting period that begins not less than 3 years after the date of enactment of this Act.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 28, 1994.
Assistant Secretary ROBERTA ACHTENBERG,
Division of Fair Housing and Equal Opportunity, Department of Housing and Urban Development,
Washington, DC.

DEAR SECRETARY ACHTENBERG: We understand you have recently received a letter from the ranking Republican member of the House Subcommittee on Commerce, Consumer Protection and Competitiveness, regarding the Department of Housing and Urban Development's (HUD) advance notice of proposed rulemaking (ANPR) on discrimination in property insurance. We are writing to inform you that we take a different view from this letter and we would like to encourage you to proceed as scheduled with the ANPR.

We are concerned with several of the letter's assertions, particularly the contentions that insurance underwriting is unrelated to the Fair Housing Act and that HUD is not the proper agency to oversee a federal data collection effort. We respectfully disagree with these notions, as do the federal courts.

Insurance redlining abuses are widespread and well documented. In addition to the countless studies and reports that have verified discriminatory underwriting practices, field hearings such as the recent Chicago hearing sponsored by HUD's Fair Housing and Equal Opportunity Division and the hearings in House and Senate committees have clearly demonstrated that property and other lines of insurance have become unaffordable or unavailable in many minority and low-income communities. Such discriminatory practices are not confined to one insurance company, one community or one state—redlining is a national phenomena that requires an appropriate federal response.

Redlining practices are illegal. This was established in NAACP v. American Family Insurance when the Seventh Circuit Court of Appeals ruled unanimously that the underwriting of homeowners insurance falls under the umbrella of the Fair Housing Act. Judge Frank Easterbrook, speaking for a unanimous Court, stated that "lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable." As you know, HUD has also been identified by a federal court in Ohio as legally authorized to enforce the Fair Housing Act as it relates to homeowners insurance. This was affirmed in Nationwide Mutual Insurance Company v. Cisneros, when the U.S. District Court upheld HUD's regulatory authority, noting that HUD's contention that it had been delegated authority under the Fair Housing Act was "reasonable and entitled to substantial deference".

It is also clear that greater disclosure is a key element in combating redlining. The Home Mortgage Disclosure Act (HMDA) has provided federal and state regulators in the mortgage financing field with detailed information to identify mortgage redlining. As you know, this legislation has been effective and has had little, if any, adverse impact on the vitality and prosperity of the banking industry. This critical piece of legislation was passed for precisely the reason of enhancing the power of state and federal authorities to determine if banks and other lending institutions were discriminating in their lending practices. As needed and effective as that legislation is, we know that it is difficult, if not impossible as noted by the Seventh Circuit Court of Appeals, to obtain a home loan without the necessary insurance. Thus, seeking this sort of disclosure only from the lending industry is like throwing out a life preserver with a rope that is several feet short. We must go further.

In the insurance industry, enforcement by state officials of existing anti-discrimination statutes has proven to be difficult for one principal reason; though many state insurance commissioners have been forceful and aggressive in exposing and sanctioning appropriate parties, other state insurance commissioner offices lack the necessary resources to collect and compile data information adequately. In many markets this data is simply unavailable. And critical to this effort is the need to collect claims and other loss data which is central to determining if the unavailability of adequate insurance is due to sound economic underwriting principles, or to reprehensible factors such as the race and income status of the applicant.

In powerful testimony before several Congressional committees, it has been stated over and over that to enforce the law greater disclosure of crucial information is needed from the insurance industry. This was included in your testimony, Secretary Achtenberg, as well as the testimony of Deval Patrick, Assistant Attorney General for Civil Rights. It was also expressed by a number of state insurance commissioners from across the country.

The letter you received also expressed concerns about the possibility that HUD may promulgate data reporting requirements stronger than those contained in H.R. 1188, the Anti-Redlining in Insurance Disclosure Act. These reporting requirements, such as the collection of claims and loss data, including a large number of Metropolitan Statistical Areas (MSAs), and collecting this data by census tract as opposed to zip codes, have all been recommended by the General Accounting Office, numerous consumer and civil rights groups and various state insurance commissioners. We join these voices in urging you to adopt these strong reporting requirements.

Finally, we would like to commend you, Secretary Achtenberg, as well as Secretary Cisneros and other officials in the Clinton Administration for your forceful stand against discriminatory redlining practices. Although it is disappointing that Congress was unable to pass anti-redlining legislation this year, we are heartened by the Administration's willingness to initiate efforts to curtail and root out discrimination in the insurance marketplace. We look forward to following your progress and invite you to contact us if we can be of any future assistance.

Sincerely,

RUSSELL FEINGOLD,
PAUL SIMON,
Senators.
JOSEPH P. KENNEDY II,
THOMAS BARRETT,
CLEO FIELDS,
HENRY B. GONZALEZ,
LUCILLE ROYBAL-ALLARD,
ESTEBAN EDWARD TORRES,
Representatives.

U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, DC, December 20, 1994.
Hon. RUSSELL D. FEINGOLD
U.S. Senate, Washington, DC.

DEAR SENATOR FEINGOLD: Thank you for your letter of October 28, 1994, expressing your concerns and constructive recommendations on the issues of insurance redlining and discrimination. Let me assure you that the Department of Housing and Urban Development (HUD or the Department) is proceeding as scheduled with the promulgation of a regulation applying the Fair Housing Act (the Act) to property insurance. A similar letter has been sent to Senator Paul Simon, Congressman Joseph P. Kennedy II, Congressman Henry B. Gonzalez, Congressman Thomas Barrett, Congressman Cleo Fields, Congresswoman Lucille Roybal-Allard and Congressman Esteban Edward Torres.

Clearly, the Department shares your view that HUD has authority, and indeed the responsibility, to enforce the Act (Title VIII of the Civil Rights Act of 1968, as amended) in the area of property insurance. Several Administrations, beginning with a HUD General Counsel opinion in 1978, have concluded that the Act prohibits discrimination in the provision of property or hazard insurance. All the court decisions that have addressed this issue, with one exception which was decided prior to the Fair Housing Amendments Act of 1988, have drawn this same conclusion. Because HUD is the primary Title VIII law enforcement agency, and the only agency with authority to promulgate regulations under that Act, the Department will fulfill its obligation to issue rules applying the Act to property insurance.

As you know, in 1989 HUD issued regulations implementing the Fair Housing Amendments Act of 1988. In these regulations, the Department determined that the Act prohibits "refusing to provide . . . property or hazard insurance . . . or providing such . . . insurance differently because of race, color, religion, sex, handicap, familial status, or national origin" (24 C.F.R. Section 100.70(a)(4). HUD intends to go beyond this general prohibition and provide more detailed guidance regarding the types of practices and circumstances under which violations of the Act occur.

The Department also shares your viewpoint on the value of greater disclosure of crucial information. The Department was also disappointed that Congress was unable to pass anti-redlining legislation this year. HUD looks forward to working with you to achieve this objective in the next session of Congress.

Your contributions to the public meetings that HUD held during the past few months were most helpful in shaping the Department's thoughts on how HUD should approach the regulation. The hearings you have held on insurance discrimination generated substantial information that will be tremendously beneficial to HUD's rulemaking process. Your specific recommendations on the rule and the public attention that you have stimulated have assisted HUD and many others in cities throughout the country who are attempting to resolve these serious problems.

Any further detailed recommendations or general observations you could share with the Department would be greatly appreciated.

Thank you for your interest in the Department's programs and for the guidance you have provided HUD and your concerted efforts to combat the national problems of insurance redlining and discrimination.

Sincerely,

WILLIAM J. GILMARTIN,
Assistant Secretary.

February 8, 1995.
Hon. RUSS FEINGOLD,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINGOLD: We write to offer our endorsement of the "Anti-Redlining in

Insurance Disclosure Act of 1995." This legislation represents a critical first step towards addressing the serious problem of unfair discrimination and redlining in the provision of homeowners insurance in a simple yet effective way—through the power of sunshine.

Hearings in both the House of Representatives and the Senate last year as well as numerous studies and lawsuits have shown that residents of low-income, predominantly minority areas have a harder time obtaining insurance coverage for their homes. Most recently, the National Association of Insurance Commissioners (NAIC) released the results of its study of homeowners insurance in more than 40 urban areas in 20 states. In its report, the NAIC concluded that "[t]here is considerable evidence that residents of urban communities, particularly residents of low-income and minority neighborhoods, face greater difficulty in obtaining high-quality homeowners insurance through the voluntary market than residents of other areas."

Availability and affordability problems for these communities contributes to and furthers urban decay and disinvestment. The lack of affordable insurance is a material deterrent to homeownership and economic development in low income and minority communities. Without insurance, people simply cannot buy homes. And without high-quality insurance, homeowners in these areas are forced to cover much of their loss out of their own pockets—losses they had hoped insurance would cover.

The legislation provides the tools to better understand the extent of the problem and help develop solutions by simply requiring insurers to begin to make public information as to where and at what price they write insurance. It also would collect data on insurer losses which is extremely important data in assessing the underlying causes for these problems. The data collected by this legislation will go a long way to shedding light on the debate over insurance redlining and will be a valuable tool for enforcement of civil rights laws at the state and federal level.

Your legislation incorporates 4 key elements that are essential to advancing fair and equal access to insurance:

First, the bill calls for the collection of data on the cost and type of insurance policies written by the census tract (or zip + 4's) where the policy is issued. Only census tracts provide the kind of relevant demographic data needed to gauge the extent of disparities created by insurance redlining on minority and low-income neighborhoods. The Home Mortgage Disclosure Act requires banks to report loan information on a census tract basis, and this standard should apply to the insurance industry as well.

Second, the bill includes the collection of data on insurance losses and claims. While insurers claim disparities in prices between different neighborhoods are solely based on loss experience, evidence suggests the opposite. Data analyzed by the Missouri Department of Insurance, for example, indicated that residents of minority neighborhoods pay more in premiums, but incur fewer losses, than residents of comparable white neighborhoods. Only through the collection of loss data can we conclusively resolve the debate about whether these disparities are due to risk or prejudice.

Third, the bill would collect this data in 150 Metropolitan Statistical Areas (MSA's). The NAIC data suggest that availability and affordability problems are widespread across the nation. In order to obtain information on all of those areas that may be experiencing such problems, data needs to be collected from as many MSAs as possible. Furthermore, the data will be invaluable as a civil rights enforcement tool, and that tool should be available to the greatest number of communities and citizens.

Fourth, the bill provides for the reporting of the race and gender by policyholders on a voluntary basis. Such data has been collected under HMDA and other federal, state and private entities for years and is essential to assist efforts to enforce state and federal laws prohibiting discrimination in the provision of insurance.

We are eager to work with you to obtain passage of the "Anti-Redlining in Insurance Disclosure Act of 1995," and commend you for your leadership on this important issue.

Sincerely,

Alliance to End Childhood Lead Poisoning.
American Civil Liberties Union (ACLU).
American Planning Association.
Association of Community Organizations for Reform Now (ACORN).
Center for Community Change.
Consumer Federation of America's Insurance Group.
Consumers Union.
Jesuit Conference, USA, Office of Social Ministries.
National Council of La Raza.
National Fair Housing Alliance.
National Neighborhood Coalition.
NETWORK: A National Catholic Social Justice Lobby.
United Methodist Church, General Board of Church and Society.
United States Public Interest Research Group (US PIRG).

[From the Dallas Morning News, Jan. 9, 1995]

Insurance Reform; The Important Thing Is to Get it Done

Call it redlining. Call it lack of availability. Call it what you want to call it. The fact remains that too many risk-worthy Texans are unable to obtain automobile and homeowners insurance at the best rates.

The problem is real, and it is serious. Not even the insurance industry denies that a problem exists, though it vehemently disputes accusations that it denies insurance to consumers because of where they live, their skin color or other factors unrelated to risk.

Nonetheless, compelling evidence compiled by the Texas Insurance Department indicates that a disproportionate number of the Texans unable to obtain affordable insurance are racial or ethnic minorities living in lower-income neighborhoods.

The insurance industry may resent the charges of unfair discrimination being hurled by consumer groups, state regulators and some state legislators. However, it is impossible to ignore that most victims of what may be charitably called flaws in the marketplace are neither white nor wealthy.

The issue has come to a head because Texas Insurance Commissioner Rebecca Lightsey, an appointee of Democratic Gov. Ann Richards, must decide whether to enact new anti-discrimination rules before her term expires Feb. 1. Republican Gov.-elect George W. Bush wants her to wait so that the issue may be addressed by his nominee to the post, Elton Bomer.

Mr. Bush's request is reasonable. It would be decent of Ms. Lightsey to comply.

But more important than protocol or deference to an incoming governor is attention to the issue. Denying insurance abets poverty. It is immoral. It is unfair. It makes no economic sense.

In such areas as Oak Cliff and South Dallas, there are many automobiles and homes worth insuring. No insurer should have to provide preferred or standard-rate insurance to a consumer who constitutes a bad risk. But neither should he deny it because of inappropriate or prejudicial notions of insurability.

There are two acceptable courses. Ms. Lightsey can enact the rules, in which case Mr. Bush could refine them later as he sees fit. Or she can let Mr. Bush handle it.

If Ms. Lightsey acts, she should do so because the problem should not fester a moment longer. There should be no implication that Mr. Bush would not act; his good record of support for civil and equal rights indicates quite the contrary.

[From the Houston Post, Jan. 19, 1995]

Outgoing Texas Insurance Regulator Unintimidated

Despite criticism, outgoing Texas Insurance Commissioner Rebecca Lightsey has courageously promulgated rules to stop neighborhood "redlining" and other discrimination against automobile and property insurance buyers.

The decision was ripe for making on her watch and she made it, undaunted by sniping from the insurance industry and new Republican Gov. George Bush's camp that she was inappropriately acting on her way out.

The insurance industry has been fighting to block antidiscrimination rules for two years or more. And Bush, who had campaign backing from insurance industry leaders, urged Lightsey to let Bush's new commissioner, former state Rep. Elton Bomer, decide whether such rules should be adopted. There appeared a strong likelihood that if Lightsey had acquiesced, we'd have no rules.

Lightsey, an interim appointee of Democratic Gov. Ann Richards, succeeded J. Robert Hunter, another Richards appointee. Hunter resigned after Bush defeated Richards. Lightsey's term ends Feb. 1.

An attorney, former Texas Consumer Association executive director and an aide to Gov. Richards, Lightsey has more insurance regulatory experience than Bomer.

As a Richards staff attorney, she worked on insurance matters, including development of a comprehensive insurance regulation reform law in 1991. She earlier dealt with insurance matters for the consumer association.

Before succeeding Hunter, Lightsey also was executive director of the Texas Insurance Purchasing Alliance. It was created by the Legislature to make health insurance more obtainable for small employers.

The non-discrimination rules she adopted—after holding a Jan. 4 public hearing that Bush wanted canceled—were not hastily written. They were developed by the Texas Department of Insurance after about 18 months of studies and earlier hearings under Hunter and the three-member State Board of Insurance that preceded him. The rules are modified replacements for similar 1993 rules the board adopted, which the insurance industry got a court to throw out.

Although the insurance industry claims the rules are not needed because discrimination is already against state and federal laws, studies by the insurance department and the Office of Public Insurance Counsel indicate discrimination is occurring. It is keeping poor people, particularly in minority neighborhoods, from obtaining house and car insurance or forcing them to pay higher rates. This should not be allowed.

The new rules will prohibit:

Consideration of insurance customers' race, color, religion or national origin. Discrimination based on geographic location, disability, sex or age also will be banned unless companies show they cause extra risk.

Use of underwriting guidelines (secret policies as to who will be insured) not directly related to the risk of extra losses and claims.

Charging of higher rates or denial of coverage to those wanting only the minimum amount of car insurance to satisfy state law.

Consumers can sue for triple damages if the rules are broken.

None of these rules is unreasonable. If the industry is not violating them, it should have no cause for alarm. If it is, such practices should be stopped.

There was no good reason to put off the rules' adoption so the Bush administration could go over the same ground and give the industry more time to fight them.

Lightsey has ordered the rules to go into effect June 1. This gives the Legislature—or Bomer and Bush, who have indicated they don't even know much about the rules—time to review and possibly cancel them.

If the rules are killed, however, those responsible had better be able to show good cause.

By Mr. HELMS (for himself, Mr. DOLE, Mr. MACK, Mr. COVERDELL, Mr. GRAHAM, Mr. D'AMATO, Mr. HATCH, Mr. GRAMM, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GREGG, Mr. INHOFE, Mr. HOLLINGS, and Ms. SNOWE):

S. 381. A bill to strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba, and for other purposes; ordered held at the desk.

THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

Mr. HELMS. Mr. President, the day following the 1994 elections, I met with reporters in Raleigh to discuss in some detail the priorities I intended to pursue as chairman of the Senate Foreign Relations Committee. High on my list of priorities was to do everything possible as chairman to help bring freedom and democracy to Cuba.

Fidel Castro's brutal and cruel Communist dictatorship has persecuted the Cuban people for 36 years. He is the world's longest-reigning tyrant.

That is why I am introducing today a bill titled the "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act" as my first piece of legislation as chairman of the Foreign Relations Committee.

Let me be clear: Whether Castro leaves Cuba in a vertical position or a horizontal position is up to him and the Cuban people. But he must—and will—leave Cuba.

There are some voices murmuring that the United States should lift the embargo and begin doing business with Castro. I categorically reject such suggestions, because for 36 years, both Republican and Democratic Presidents have maintained a consistent, bipartisan policy of isolating Castro's dictatorship.

There must be no retreat in that policy today. If anything, with the collapse of the U.S.S.R.—and the end of Soviet subsidies to Cuba—the embargo is finally having the effect on Castro that has been intended all along. Why should the United States let up the pressure now? It's time to tighten the screws—not loosen them. We have an obligation—to our principles and to the Cuban people—to elevate the pressure on Castro until the Cuban people are free.

The bi-partisan Cuba policy has led the American people to stand together in support of restoring freedom to Cuba. As for the legislation I am offering today, it incorporates and builds upon the significant work of the two distinguished Senators from Florida, CONNIE MACK and BOB GRAHAM, and of three distinguished Members of the House of Representatives: LINCOLN DIAZ-BALART, BOB MENENDEZ, and ILEANA ROS-LEHTINEN.

The Cuban Liberty and Democratic Solidarity Act:

Strengthens international sanctions against the Castro regime by prohibiting sugar imports from countries that purchase sugar from Cuba and then sell that sugar in the United States by instructing our representatives to the international financial institutions to vote against loans to Cuba and to require the United States to withhold our contribution to those same institutions if they ignore our objections and aid the Castro regime, by urging the President to seek an international embargo against Cuba at the United Nations, and by prohibiting loans or other financing by a United States person to a foreign person or entity who purchases an American property confiscated by the Cuban Government.

Reaffirms the 1992 Cuban Democracy Act;

Revitalizes our broadcasting programs to Cuba by mandating the conversion of television Marti to ultrahigh frequency [UHF] broadcasting.

Cuts off foreign aid to any independent State of the Former Soviet Union that aids Castro, especially if that aid goes for the operation of military and intelligence facilities in Cuba which threaten the United States;

Encourages free and fair elections in Cuba after Castro is gone, and authorizes programs to promote free market and private enterprise development; and

Help U.S. citizens and U.S. companies whose property was confiscated by Castro. The bill denies entry into the United States of anyone who confiscates or benefits from confiscated American property; and it allows a U.S. citizen with a confiscated property claim to go into a U.S. court to seek compensation from a person or entity which is being unjustly enriched by the use of that confiscated property.

The Cuban people are industrious and innovative. Where they live and work in freedom, they have prospered. My hope is that this bill will hasten an end to the brutal Castro dictatorship and make Cuba free and prosperous. Libertad Para Cuba.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

Sec. 101. Statement of policy.
Sec. 102. Enforcement of the economic embargo of Cuba.
Sec. 103. Prohibition against indirect financing of Cuba.
Sec. 104. United States opposition to Cuban membership in international financial institutions.
Sec. 105. United States opposition to readmission of the Government of Cuba to the Organization of American States.
Sec. 106. Assistance by the independent states of the former Soviet Union for the Government of Cuba.
Sec. 107. Television broadcasting to Cuba.
Sec. 108. Reports on commerce with, and assistance to, Cuba from other foreign countries.
Sec. 109. Importation sanction against certain Cuban trading partners.

TITLE II—SUPPORT FOR A FREE AND INDEPENDENT CUBA

Sec. 201. Policy toward a transition government and a democratically elected government in Cuba.
Sec. 202. Authorization of assistance for the Cuban people.
Sec. 203. Implementation; reports to Congress.
Sec. 204. Termination of the economic embargo of Cuba.
Sec. 205. Requirements for a transition government.
Sec. 206. Requirements for a democratically elected government.

TITLE III—PROTECTION OF AMERICAN PROPERTY RIGHTS ABROAD

Sec. 301. Exclusion from the United States of aliens who have confiscated property claimed by United States persons.
Sec. 302. Liability for trafficking in confiscated property claimed by United States persons.
Sec. 303. Determination of claims to confiscated property.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of approximately 60 percent in the last 5 years as a result of—

(A) the reduction in its subsidization by the former Soviet Union;

(B) 36 years of Communist tyranny and economic mismanagement by the Castro government;

(C) the precipitous decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba predominantly on commercial terms.

(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of Cuba's economic decline and the refusal of the Castro regime to permit free and fair democratic elections in Cuba or to adopt any economic or political reforms that would lead to democracy, a market economy, or an economic recovery.

(3) The repression of the Cuban people, including a ban on free and fair democratic elections and the continuing violation of fundamental human rights, has isolated the Cuban regime as the only nondemocratic government in the Western Hemisphere.

(4) As long as no such economic or political reforms are adopted by the Cuban government, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

(5) Fidel Castro has defined democratic pluralism as "pluralistic garbage" and has made clear that he has no intention of permitting free and fair democratic elections in Cuba or otherwise tolerating the democratization of Cuban society.

(6) The Castro government, in an attempt to retain absolute political power, continues to utilize, as it has from its inception, torture in various forms (including psychiatric abuse), execution, exile, confiscation, political imprisonment, and other forms of terror and repression as most recently demonstrated by the massacre of more than 70 Cuban men, women, and children attempting to flee Cuba.

(7) The Castro government holds hostage in Cuba innocent Cubans whose relatives have escaped the country.

(8) The Castro government has threatened international peace and security by engaging in acts of armed subversion and terrorism, such as the training and arming of groups dedicated to international violence.

(9) The Government of Cuba engages in illegal international narcotics trade and harbors fugitives from justice in the United States.

(10) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts to escape from Cuba to freedom.

(11) Attempts to escape from Cuba and courageous acts of defiance of the Castro regime by Cuban pro-democracy and human rights groups have ensured the international community's continued awareness of, and concern for, the plight of Cuba.

(12) The Cuban people deserve to be assisted in a decisive manner in order to end the tyranny that has oppressed them for 36 years.

(13) Radio Marti and Television Marti have both been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the Cubans living under tyranny.

(14) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in isolating the totalitarian Castro regime.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to strengthen international sanctions against the Castro government;

(2) to encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers;

(3) to provide a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba; and

(4) to protect the rights of United States persons who own claims to confiscated property abroad.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) CONFISCATED.—The term "confiscated" refers to the nationalization, expropriation, or other seizure of ownership or control of property by governmental authority—

(A) without adequate and effective compensation or in violation of the law of the place where the property was situated when the confiscation occurred; and

(B) without the claim to the property having been settled pursuant to an international claims settlement agreement.

(3) CUBAN GOVERNMENT.—The term "Cuban government" includes the government of any political subdivision, agency, or instrumentality of the Government of Cuba.

(4) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term "democratically elected government in Cuba" means a government described in section 206.

(5) ECONOMIC EMBARGO OF CUBA.—The term "economic embargo of Cuba" refers to the economic embargo imposed against Cuba pursuant to section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)), the International Emergency Economic Powers Act, and the Export Administration Act of 1979.

(6) PROPERTY.—The term "property" means—

(A) any property, right, or interest, including any leasehold interest,

(B) debts owed by a foreign government or by any enterprise which has been confiscated by a foreign government; and

(C) debts which are a charge on property confiscated by a foreign government.

(7) TRAFFICS.—The term "traffics" means selling, transfering, distributing, dispensing, or otherwise disposing of property, or purchasing, receiving, possessing, obtaining control of, managing, or using property.

(8) TRANSITION GOVERNMENT IN CUBA.—The term "transition government in Cuba" means a government described in section 205.

(9) UNITED STATES PERSON.—The term "United States person" means

(A) any United States citizen, including, in the context of claims to confiscated property, any person who becomes a United States citizen after the property was confiscated but before final resolution of the claim to that property; and

(B) any corporation, trust, partnership, or other juridical entity 50 percent or more beneficially owned by United States citizens.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

SEC. 101. STATEMENT OF POLICY.

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek within the Security Council a mandatory international embargo against the totalitarian government of Cuba pursuant to chapter VII of the Charter of the United Nations, which is similar to consultations conducted by United States representatives with respect to Haiti; and

(3) any resumption of efforts by any independent state of the former Soviet Union to make operational the nuclear facility at Cienfuegos, Cuba, will have a detrimental impact on United States assistance to such state.

SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.

(a) POLICY.—(1) The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992, which states the President should encourage foreign countries to restrict trade and credit relations with Cuba.

(2) The Congress further urges the President to take immediate steps to apply the sanctions described in section 1704(b)(1) of such Act against countries assisting Cuba.

(b) DIPLOMATIC EFFORTS.—The Secretary of State should ensure that United States diplomatic personnel abroad understand and, in their contacts with foreign officials are—

(1) communicating the reasons for the United States economic embargo of Cuba; and

(2) urging foreign governments to cooperate more effectively with the embargo.

(c) EXISTING REGULATIONS.—The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

(d) VIOLATIONS OF RESTRICTIONS ON TRAVEL TO CUBA.—The penalties provided for in section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16) shall apply to all violations of the Cuban Assets Control Regulations (part 515 of title 31, Code of Federal Regulations) involving transactions incident to travel to and within Cuba, notwithstanding section 16(b)(2) (the first place it appears) and section 16(b)(3) and (4) of such Act.

SEC. 103. PROHIBITION AGAINST INDIRECT FINANCING OF CUBA.

(a) PROHIBITION.—Effective upon the date of enactment of this Act, it is unlawful for any United States person, including any officer, director, or agent thereof and including any officer or employee of a United States agency, knowingly to extend any loan, credit, or other financing to a foreign person that traffics in any property confiscated by the Cuban government the claim to which is owned by a United States person.

(b) TERMINATION OF PROHIBITION.—The prohibition of subsection (a) shall cease to apply on the date of termination of the economic embargo of Cuba.

(c) PENALTIES.—Violations of subsection (a) shall be punishable by the same penalties as are applicable to similar violations of the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

(d) Definitions.—As used in this section—

(1) the term "foreign person" means (A) an alien, and (B) any corporation, trust, partnership, or other juridical entity that is not 50 percent or more beneficially owned by United States citizens; and

(2) the term "United States agency" has the same meaning given to the term "agency" in section 551(1) of title 5, United States Code.

SEC. 104. UNITED STATES OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) Continued Opposition to Cuban Membership in International Financial Institutions.—(1) Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against the admission of Cuba as a member of such institution until Cuba holds free and fair, democratic elections, conducted under the supervision of internationally recognized observers.

(2) During the period that a transition government in Cuba is in power, the President shall take steps to support the processing of Cuba's application for membership in any international financial institution, subject to the membership taking effect after a democratically elected government in Cuba is in power.

(b) Reduction in United States Payments to International Financial Institutions.—If any international financial institution approves a loan or other assistance to Cuba over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to such institution an amount equal to the amount of the loan or other assistance, with respect to each of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) Definition.—For purposes of this section, the term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

SEC. 105. UNITED STATES OPPOSITION TO READMISSION OF THE GOVERNMENT OF CUBA TO THE ORGANIZATION OF AMERICAN STATES.

The President should instruct the United States Permanent Representative to the Organization of American States to vote against the readmission of the Government of Cuba to membership in the Organization until the President determines under section 203(c) that a democratically elected government in Cuba is in power.

SEC. 106. ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION OF THE GOVERNMENT OF CUBA.

(a) Reporting Requirement.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing progress towards the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba.

(b) Criteria for Assistance.—Section 498A(a)(11) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(a)(1)) is amended by striking "of military facilities" and inserting "military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos,".

(c) Ineligibility for Assistance.—(1) Section 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

(A) by striking "or" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

"(5) for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within the 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Government of Cuba; or".

(2) Subsection (k) of section 498B of that Act (22 U.S.C. 2295b(k)), is amended by adding at the end the following:

"(3) Nonmarket based trade.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

"(A) exports to the Government of Cuba on terms that involve a grant, concessional price, guarantee, insurance, or subsidy;

"(B) imports from the Government of Cuba at preferential tariff rates; and

"(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs.".

(d) Facilities at Lourdes, Cuba.—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.

(2) Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

"(d) Reduction in Assistance for Support of Military and Intelligence Facilities in Cuba.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance allocated for an independent state of the former Soviet Union under this chapter an amount equal to the sum of assistance and credits, if any, provided by such state in support of military and intelligence facilities in Cuba, such as the intelligence facility at Lourdes, Cuba.

"(2) Nothing in this subsection may be construed to apply to—

"(A) assistance provided under the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228) or the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160); or

"(B) assistance to meet urgent humanitarian needs under section 498(1), including disaster assistance described in subsection (c)(3) of this section.".

SEC. 107. TELEVISION BROADCASTING TO CUBA.

(a) Conversion to UHF.—The Director of the United States Information Agency shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) Periodic Reports.—Not later than 45 days after the date of enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

SEC. 108. REPORTS ON COMMERCE WITH, AND ASSISTANCE TO, CUBA FROM OTHER FOREIGN COUNTRIES.

(a) Reports Required.—Not later than 90 days after the date of enactment of this Act, and every year thereafter, the President shall submit a report to the appropriate congressional committees on commerce with, and assistance to, Cuba from other foreign countries during the preceding 12-month period.

(b) Contents of Reports.—Each report required by subsection (a) shall, for the period covered by the report, contain—

(1) a description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance;

(2) a description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade;

(3) a description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved;

(4) a determination as to whether or not any of the facilities described in paragraph (3) is the subject of a claim against Cuba by a United States person;

(5) a determination of the amount of Cuban debt owed to each foreign country, including the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in Cuba involving foreign nationals or businesses; and

(6) a description of the steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals or businesses do not enter the United States market, either directly or through third countries or parties.

SEC. 109. IMPORTATION SANCTION AGAINST CERTAIN CUBAN TRADING PARTNERS.

(a) Sanction.—Notwithstanding any other provision of law, sugars, syrups, and molasses, that are the product of a country that the President determines has imported sugar, syrup, or molasses that is the product of Cuba, shall not be entered, or withdrawn from warehouse for consumption, into the customs territory of the United States, unless the condition set forth in subsection (b) is met.

(b) Condition for Removal of Sanction.—The sanction set forth in subsection (a) shall cease to apply to a country if the country certifies to the President that the country will not import sugar, syrup, or molasses that is the product of Cuba until free and fair elections, conducted under the supervision of internationally recognized observers, are held in Cuba. Such certification shall cease to be effective if the President makes a subsequent determination under subsection (a) with respect to that country.

(c) Reports to Congress.—The President shall report to the appropriate congressional committees all determinations made under subsection (a) and all certifications made under subsection (b).

(d) Reallocation of Sugar Quotas.—During any period in which a sanction under subsection (a) is in effect with respect to a country, the President may reallocate to other countries the quota of sugars, syrups, and molasses allocated to that country, before the prohibition went into effect, under chapter 17 of the Harmonized Tariff Schedule of the United States.

TITLE II—SUPPORT FOR A FREE AND INDEPENDENT CUBA

SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.

It is the policy of the United States—

(1) to support the self-determination of the Cuban people;

(2) to facilitate a peaceful transition to representative democracy and a free market economy in Cuba;

(3) to be impartial toward any individual or entity in the selection by the Cuban people of their future government;

(4) to enter into negotiations with a democratically elected government in Cuba regarding the status of the United States Naval Base at Guantanamo Bay;

(5) to restore diplomatic relations with Cuba, and support the reintegration of Cuba into entities of the Inter-American System, when the President determines that there exists a democratically elected government in Cuba;

(6) to remove the economic embargo of Cuba when the President determines that there exists a democratically elected government in Cuba; and

(7) to pursue a mutually beneficial trading relationship with a democratic Cuba.

SEC. 202. AUTHORIZATION OF ASSISTANCE FOR THE CUBAN PEOPLE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President may provide assistance under this section for the Cuban people after a transition government, or a democratically elected government, is in power in Cuba, as determined under section 203 (a) and (c).

(2) EFFECT ON OTHER LAWS.—

(A) SUPERSEDING OTHER LAWS.—Subject to subparagraph (B), assistance may be provided under this section notwithstanding any other provision of law.

(B) DETERMINATION REQUIRED REGARDING PROPERTY TAKEN FROM UNITED STATES PERSONS.—Subparagraph (A) shall not apply to section 620(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)(2)).

(b) RESPONSE PLAN.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan detailing the manner in which the United States would provide and implement support for the Cuban people in response to the formation of—

(A) a transition government in Cuba; and

(B) a democratically elected government in Cuba.

(2) TYPES OF ASSISTANCE.—Support for the Cuban people under the plan described in paragraph (1) shall include the following types of assistance:

(A) TRANSITION GOVERNMENT.—Assistance under the plan to a transition government in Cuba shall be limited to such food, medicine, medical supplies and equipment, and other assistance as may be necessary to meet emergency humanitarian needs of the Cuban people.

(B) DEMOCRATICALLY ELECTED GOVERNMENT.—Assistance under the plan for a democratically elected government in Cuba shall consist of assistance to promote free market development, private enterprise, and a mutually beneficial trade relationship between the United States and Cuba. Such assistance should include—

(i) financing, guarantees, and other assistance provided by the Export-Import Bank of the United States;

(ii) insurance, guarantees, and other assistance provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(iii) assistance provided by the Trade and Development Agency;

(iv) international narcotics control assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961; and

(v) Peace Corps activities.

(c) CARIBBEAN BASIN INITIATIVE.—(1) The President shall determine, as part of the plan developed under subsection (b), whether or not to designate Cuba as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act.

(2) Any designation of Cuba as a beneficiary country under section 212 of such Act may only be made after a democratically elected government in Cuba is in power. Such designation may be made notwithstanding any other provision of law.

(3) The table contained in section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended by inserting "Cuba" between "Costa Rica" and "Dominica".

(d) TRADE AGREEMENTS.—Notwithstanding any other provision of law, the President, upon transmittal to Congress of a determination under section 203(c) that a democratically elected government in Cuba is in power, should—

(1) take the steps necessary to extend nondiscriminatory trade treatment (most-favored-nation status) to the products of Cuba; and

(2) take such other steps as will encourage renewed investment in Cuba.

(e) COMMUNICATION WITH THE CUBAN PEOPLE.—The President should take the necessary steps to communicate to the Cuban people the plan developed under this section.

(f) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

SEC. 203. IMPLEMENTATION; REPORTS TO CONGRESS.

(a) IMPLEMENTATION WITH RESPECT TO TRANSITION GOVERNMENT.—Upon making a determination that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and should, subject to the availability of appropriations, commence the provision of assistance to such transition government under the plan developed under section 202(b).

(b) REPORTS TO CONGRESS.—(1) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance described in section 202(b)(2)(A) to the transition government in Cuba under the plan of assistance developed under section 202(b), the types of such assistance, and the extent to which such assistance has been distributed in accordance with the plan.

(2) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall transmit the report in preliminary form not later than 15 days after making that determination.

(c) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The President shall, upon determining that a democratically elected government in Cuba is in power, transmit that determination to the appropriate congressional committees and should, subject to the availability of appropriations, commence the provision of assistance to such democratically elected government under the plan developed under section 202(b)(2)(B).

(d) ANNUAL REPORTS TO CONGRESS.—Not later than 60 days after the end of each fiscal year, the President shall transmit to the appropriate congressional committees a report on the assistance provided under the plan developed under section 202(b), including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

(a) TERMINATION.—Upon the effective date of this section—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking "Republic of Cuba";

(3) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations, shall cease to apply; and

(4) the President shall take such other steps as may be necessary to rescind any other regulations in effect under the economic embargo of Cuba.

(b) EFFECTIVE DATE.—This section shall take effect upon transmittal to Congress of a determination under section 203(c) that a democratically elected government in Cuba is in power.

SEC. 205. REQUIREMENTS FOR A TRANSITION GOVERNMENT.

For purposes of this Act, a transition government in Cuba is a government in Cuba that—

(1) is demonstrably in transition from communist totalitarian dictatorship to representative democracy;

(2) has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades;

(4) has publicly committed itself to, and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights, to which Cuba is a signatory nation;

(C) effectively guaranteeing the rights of free speech and freedom of the press;

(D) permitting the reinstatement of citizenship to Cuban-born nationals returning to Cuba;

(E) organizing free and fair elections for a new government—

(i) to be held within 1 year after the transition government assumes power;

(ii) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time for such access and the times of day such allotments are given; and

(iii) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other elections monitors;

(F) assuring the right to private property;

(G) taking appropriate steps to return to United States citizens and entities property taken by the Government of Cuba from such citizens and entities on or after January 1, 1959, or to provide equitable compensation to such citizens and entities for such property;

(H) having a currency that is fully convertible domestically and internationally;

(I) granting permits to privately owned telecommunications and media companies to operate in Cuba; and

(J) allowing the establishment of an independent labor movement and of independent social, economic, and political associations;

(5) does not include Fidel Castro or Raul Castro;

(6) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people; and

(7) permits the deployment throughout Cuba of independent and unfettered international human rights monitors.

SEC. 206. REQUIREMENTS FOR A DEMOCRATICALLY ELECTED GOVERNMENT.

For purposes of this Act, a democratically elected government in Cuba, in addition to continuing to comply with the requirements of section 205, is a government in Cuba which—

(1) results from free and fair elections—

(A) conducted under the supervision of internationally recognized observers;

(B) in which opposition parties were permitted ample time to organize and campaign for such elections, and in which all candidates in the elections were permitted full access to the media;

(2) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(3) has established an independent judiciary;

(4) is substantially moving toward a market-oriented economic system based on the right to own and enjoy property;

(5) is committed to making constitutional changes that would ensure regular free and fair elections that meet the requirements of paragraph (2); and

(6) has returned to United States citizens, and entities which are 50 percent or more beneficially owned by United States citizens, property taken by the Government of Cuba from such citizens and entities on or after January 1, 1959, or provided full compensation in accordance with international law standards and practice to such citizens and entities for such property.

TITLE III—PROTECTION OF AMERICAN PROPERTY RIGHTS ABROAD

SEC. 301. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY CLAIMED BY UNITED STATES PERSONS.

(a) ADDITIONAL GROUNDS FOR EXCLUSION.—Section 212(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended by adding at the end the following:

"(D) ALIENS WHO HAVE CONFISCATED AMERICAN PROPERTY ABROAD AND RELATED PERSONS.—(i) Any alien who—

"(I) has confiscated, or has directed or overseen the confiscation of, property the claim to which is owned by a United States person, or converts or has converted for personal gain confiscated property, the claim to which is owned by a United States person;

"(II) traffics in confiscated property, the claim to which is owned by a United States person;

"(III) is a corporate officer, principal, or shareholder of an entity which the Secretary of State determines or is informed by competent authority has been involved in the confiscation, trafficking in, or subsequent unauthorized use or benefit from confiscated property, the claim to which is owned by a United States person, or

"(IV) is a spouse or dependent of a person described in subclause (I), is excludable.

"(ii) The validity of claims under this subparagraph shall be established in accordance with section 303 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.

"(iii) For purposes of this subparagraph, the terms 'confiscated', 'traffics', and 'United States person' have the same meanings given to such terms under section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals seeking to enter the United States on or after the date of enactment of this Act.

SEC. 302. LIABILITY FOR TRAFFICKING IN CONFISCATED PROPERTY CLAIMED BY UNITED STATES PERSONS.

(a) CIVIL REMEDY.—(1) Except as provided in paragraphs (2) and (3), any person or government that traffics in property confiscated by a foreign government shall be liable to the United States person who owns the claim to the confiscated property for money damages in an amount which is the greater of—

(A) the amount certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949, plus interest at the commercially recognized normal rate;

(B) the amount determined under section 303(a)(2); or

(C) the fair market value of that property, calculated as being the then current value of the property, or the value of the property when confiscated plus interest at the commercially recognized normal rate, whichever is greater.

(2) Except as provided in paragraph (3), any person or government that traffics in confiscated property after having received (A) notice of a claim to ownership of the property by the United States person who owns the claim to the confiscated property, and (B) a copy of this section, shall be liable to such United States person for money damages in an amount which is treble the amount specified in paragraph (1).

(3)(A) Actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of enactment of this Act.

(B) In the case of property confiscated before the date of enactment of this Act, no United States person may bring an action under this section unless such person acquired ownership of the claim to the confiscated property before such date.

(C) In the case of property confiscated on or after the date of enactment of this Act, in order to maintain the action, the United States person who is the plaintiff must demonstrate to the court that the plaintiff has taken reasonable steps to exhaust all available local remedies.

(b) JURISDICTION.—Chapter 85 of title 28, United States Code, is amended by inserting after section 1331 the following new section:

"§ 1331a. Civil actions involving confiscated property

"The district courts shall have exclusive jurisdiction, without regard to the amount in controversy, of any action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.".

(c) WAIVER OF SOVEREIGN IMMUNITY.—Section 1605 of title 28, United States Code, is amended—

(1) by striking "or" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; or"; and

(3) by adding at the end the following:

"(7) in which the action is brought with respect to confiscated property under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.".

SEC. 303. DETERMINATION OF CLAIMS TO CONFISCATED PROPERTY.

(a) EVIDENCE OF OWNERSHIP.—For purposes of this Act, conclusive evidence of ownership by the United States person of a claim to confiscated property is established—

(1) when the Foreign Claims Settlement Commission certifies the claim under title V of the International Claims Settlement Act of 1949, as amended by subsection (b); or

(2) when the claim has been determined to be valid by a court or administrative agency of the country in which the property was confiscated.

(b) AMENDMENT OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949.—Title V of the International Claims Settlement Act of 1949 is amended by adding at the end the following new section:

"ADDITIONAL CLAIMS

"SEC. 514. Notwithstanding any other provision of this title, a United States national may bring a claim to the Commission for determination and certification under this title of the amount and validity of a claim resulting from actions taken by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a United States national at the time of the Cuban government action, except that, in the case of property confiscated after the date of enactment of this section, the claimant must be a United States national at the time of the confiscation.".

(c) CONFORMING REPEAL.—Section 510 of the International Claims Settlement Act of 1949 (22 U.S.C. 1643i) is repealed.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title and Table of Contents

Section 2. Findings

Details findings regarding Cuba, including the decline of the Cuban economy, the substantial deterioration of the health and welfare of the Cuban people, Castro's refusal to adopt any economic or political reforms, and the continuing repression of the Cuban people.

Section 3. Purposes

States general purposes of the Act, including strengthening international sanctions against the Castro government, encouraging the holding of free and fair elections, providing a policy framework for U.S. support to a transition government and a democratically-elected government in Cuba, and protecting the rights of U.S. persons who own claims to confiscated property abroad.

Section 4. Definitions

Defines terms used in this Act.

TITLE I: STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

Section 101. Statement of Policy

Expresses the sense of Congress that (1) the acts of the Castro government, including human rights violations, are a threat to international peace, (2) the President should instruct the U.S. Permanent Representative to the United Nations to seek, in the Security Council, an international embargo against the Castro dictatorship (similar to consultations conducted with respect to

Haiti), and (3) there will be a detrimental impact on United States assistance to any independent state of the former Soviet Union which resumes efforts to make operational the nuclear facility at Cienfuegos, Cuba.

Section 102. Enforcement of the Economic Embargo of Cuba

(a) Reaffirms the Cuban Democracy Act of 1992 [section 1704(a)], which states that the President should encourage foreign countries to restrict trade and credit relations with Cuba, and urges the President to take immediate steps to apply sanctions described in section 1704(b)(1) of such Act against countries assisting Cuba.

(b) Calls on the Secretary of State to direct U.S. diplomatic personnel to communicate to foreign officials the reasons for the U.S. economic embargo on Cuba and to urge foreign governments to cooperate more effectively with the embargo.

(c) Requires the President to instruct the Secretary of the Treasury and Attorney General to fully enforce the Cuban Assets Control Regulations.

(d) Subjects to criminal penalties under the Trading with the Enemy Act persons violating travel restrictions imposed by the Cuban Assets Control Regulations (part 515 of title 31, Code of Federal Regulations). Penalties include fines and/or imprisonment of a person or official of a corporation.

Section 103. Prohibition Against Indirect Financing of Cuba

(a) Prohibits any loans, credits, or other financing from a U.S. person or agency to a foreign person who knowingly purchases a U.S. property confiscated by the Cuban government.

(b) Terminates this prohibition on the date of termination of the economic embargo of Cuba.

(c) Makes violations of this provision punishable by the same penalties that are applicable to similar violations of the Cuban Assets Control Regulations.

Section 104. United States Opposition to Cuban Membership in International Financial Institutions

(a) Requires the Secretary of the Treasury to instruct the U.S. executive director of each international financial institution to vote against the admission of Cuba as a member until Cuba has held free and fair internationally supervised elections.

(b) Directs the President to take steps during the period that a transition government is in power in Cuba to support the processing of Cuba's application for membership in any international financial institution, to take effect after a democratically-elected government is in power in Cuba.

(c) Requires the United States to withhold payment to any international financial institution that approves a loan or other assistance to Cuba in an amount equal to the amount of the loan or assistance provided to Cuba.

Section 105. United States Opposition to Readmission of Cuba to the Organization of American States (OAS)

States that the President should instruct the U.S. Permanent Representative to the OAS to vote against the readmission of Cuba to membership in the OAS until a democratically-elected government exists in Cuba.

Section 106. Assistance by the Independent States of the Former Soviet Union for the Government of Cuba

(a) Requires the President to submit to Congress a report detailing progress towards the withdrawal of personnel of any independent state of the former Soviet Union [including advisers, technicians, and military personnel] from the Cienfuegos nuclear facility in Cuba.

(b) Amends the criteria for providing U.S. assistance to the independent states of the former Soviet Union to specify that the President shall take into account the extent to which a state is acting to close military and intelligence facilities in Cuba, including the military and intelligence facilities at Lourdes and Cienfuegos. [Section 498(a)(11) of the Foreign Assistance Act currently does not mention intelligence facilities or specify the facilities at Lourdes and Cienfuegos].

(c) Prohibits the President from providing assistance for the government of any independent state that the President has determined and certified to Congress is providing assistance for, or engaging in nonmarket based trade with, the Government of Cuba. Nonmarket based trade includes exports, imports, exchanges, or other arrangements that are provided for goods and services on terms more favorable than those generally available in applicable markets or for comparable commodities.

(d) Express strong disapproval by Congress for $200,000,000 in credits from Russia to Cuba in support of the intelligence facility at Lourdes, Cuba, and requires the President to withhold assistance to any state of the former Soviet Union in an amount equal to the sum of such state's assistance and credits for military and intelligence facilities in Cuba. Funding for Nunn-Lugar denuclearization programs and humanitarian assistance is exempt.

Section 107. Television Broadcasting to Cuba.

Instructs the Director of USIA to implement the conversion of Television Marti to Ultra-High Frequency (UHF) broadcasting, and to submit quarterly reports to Congress on progress made in carrying out the conversion until it is fully implemented.

Section 108. Reports on Commerce with and Assistance to Cuba from Foreign Countries

Directs the President to submit an annual report to Congress on assistance to and commerce with Cuba from foreign countries. Each report shall contain: (1) a description of all bilateral assistance, including humanitarian assistance; (2) identification of Cuba's trading partners and the extent of such trade; (3) a description of joint ventures completed or under consideration by foreign nationals and business firms involving facilities in Cuba; (4) a determination as to whether any facilities are claimed by a U.S. person; (5) a determination of the amount of Cuban debt owed to each foreign country and business, including the amount of debt exchanged, forgiven, or reduced; and (6) steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals or businesses are not entering the U.S. market.

Section 109. Importation Sanction Against Certain Cuban Trading Partners

(a) Prohibits importation into the United States of any sugars, syrups, or molasses that are the product of a country that the President determines has imported sugar, syrup, or molasses from Cuba. The intent of this section is to prevent indirect support of the Cuban sugar industry through countries that buy Cuban sugar for either domestic consumption or reprocessing for export and sell their own or the reprocessed sugar to the United States.

(b) Provides for the removal of the sanction in subsection (a) if the country certifies to the President that the country will not import sugar, syrup, or molasses that is the product of Cuba until free and fair elections are held in Cuba. Such a certification would cease to apply if the President makes a subsequent certification under subsection (a).

(c) Instructs the President to report to Congress all determinations in subsections (a) and (b).

(d) Allows the President to reallocate to other countries the quota of sugars, syrups, and molasses allocated to a country subject to sanction under subsection (a).

TITLE II: SUPPORT FOR A FREE AND INDEPENDENT CUBA

Section 201. Policy Toward a Transition Government and a Democratically-Elected Government

States that U.S. policy is to: (1) support the self-determination of the Cuban people; (2) facilitate a peaceful transition to representative democracy and a free market economy in Cuba; and (3) be impartial toward any individual or entity in the selection by the Cuban people of their future government. Once the President has determined that a democratically-elected government exists in Cuba, the U.S. policy shall be to: (4) enter into negotiations regarding the status of the U.S. Naval Base at Guantanamo; (5) restore diplomatic recognition and support the reintegration of Cuba into entities of the Inter-American System; (6) remove the economic embargo; and (7) pursue a mutually beneficial trading relationship.

Section 202. Authorization of Assistance for the Cuban People

(a) Authorizes the President to provide assistance for the Cuban people after a transition government or a democratically-elected government is in power in Cuba, as determined under section 203. Assistance may be provided under this section notwithstanding any other provision of law, except that no assistance may be given until the President determines that a transition or democratically elected Cuban government has "taken appropriate steps according to international law standards" to return or compensate for property taken from US citizens and entities on or after January 1, 1959 [section 620(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2379(a)(2))].

(b)(1) Directs the President to develop a plan detailing the manner in which the United States would provide assistance to the Cuban people in response to the formation of a transition and a democratically-elected government in Cuba.

(2) Limits assistance to a transition government to such food, medicine, medical supplies and equipment, and other assistance as may be necessary to meet the humanitarian needs of the Cuban people.

(3) Specifies that assistance under the plan for a democratically-elected government shall consist of assistance to promote free market development, private enterprise, and mutually beneficial trade; such assistance should include assistance provided by the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency, international narcotics control assistance, and Peace Corps activities.

(c) Requires the President to determine as part of the assistance plan whether to designate Cuba as a beneficiary country under section 212 of the Caribbean Basic Economic Recovery Act once a democratically-elected government is in power in Cuba.

(d) Authorizes the President, upon determining that a democratically-elected government is in power in Cuba, to extend most-favored-nation (MFN) status to Cuba and to otherwise encourage renewed investment in Cuba, notwithstanding any other provision of law.

(e) Directs the President to take the necessary steps to communicate this plan to the Cuban people.

(f) Requires the President to transmit to Congress, not later than 180 days after the enactment of this Act, a detailed report on the plan developed under this section.

Section 203. Implementation; Reports to Congress

(a) Authorizes the President to begin assistance to Cuba upon transmittal to Congress of a determination that a transition government is in power in Cuba.

(b) Requires the President to transmit to Congress a preliminary report, within 15 days of such a determination, setting forth the strategy and implementation of assistance, followed by a full report not later than 90 days after making the determination.

(c) Authorizes the President to begin assistance to Cuba upon transmittal to Congress of a determination that a democratically-elected government is in power in Cuba.

(d) Requires an annual report, within 60 days of the end of each fiscal year, on the assistance to be provided under the plan developed under section 202(b) and the assistance to be provided in the current fiscal year.

Section 204. Termination of the Economic Embargo on Cuba

Terminates the economic embargo on Cuba upon transmittal to Congress of a presidential determination that a democratically-elected government is in power in Cuba.

Section 205. Requirements for a Transition Government

Defines a transition government in Cuba as one which (1) is demonstrably in transition from communist totalitarian dictatorship to democracy; (2) has released all political prisoners; (3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior; and (4) also "makes public commitments" to (A) establishing an independent judiciary, (B) respecting internationally recognized human rights and basic freedoms, (C) guaranteeing the rights of free speech and freedom of the press, (D) permitting the reinstatement of citizenship to Cuban-born nationals returning to Cuba, (E) organizing free and fair elections for a new government, (F) assuring the right to private property, (G) taking appropriate steps either to return to U.S. citizens property taken by the government of Cuba on or after January 1, 1959 or to provide equitable compensation to U.S. citizens for such property, (H) having a currency that is fully convertible domestically and internationally, (I) granting permits to privately-owned telecommunications and media companies to operate in Cuba, and (J) allowing the establishment of an independent labor movement and of independent social, economic, and political associations. Other provisions include that the transition government: (5) does not include Fidel Castro or Raul Castro; (6) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people; and (7) permits the deployment throughout Cuba of independent and unfettered international human rights monitors.

Section 206. Requirements for a Democratically-Elected Government

Defines a democratic government in Cuba as one which, in addition to the requirements in section 205, (1) is the product of free and fair elections in which opposition parties had sufficient time to organize and were permitted full access to media; (2) is showing respect for basic civil liberties and human rights; (3) has established an independent judiciary; (4) is moving toward a market-oriented economic system based on the right to own and enjoy property; (5) is committed to making constitutional changes that would ensure regular free and fair elections; and (6) has returned to U.S. citizens, and entities which are 50 percent or more beneficially-owned by U.S. citizens, property taken by the Government of Cuba from such citizens and entities on or after January 1, 1959, or provides full compensation in accordance with international law standards.

TITLE III: PROTECTION OF AMERICAN PROPERTY RIGHTS ABROAD

Section 301. Exclusion from the United States of Aliens Who Have Confiscated Property Claimed by United States Persons

Denies entry into the United States to any alien (including a spouse or dependent of that person) who has confiscated, has directed, or has overseen the confiscation, of U.S. property abroad. This provision is applicable to corporate officers, principals, or shareholders of an entity that has been involved in the confiscation, purchase, or receipt of a confiscated property.

Section 302. Liability for Trafficking in Confiscated Property Claimed by United States Persons

(a) Holds any person or government which traffics in property confiscated by a foreign government liable for money damages to the U.S. claimant of the confiscated property. Treble damages are authorized in cases where the person or government trafficking in confiscated property has received notice of a U.S. person's claim of ownership. If property was confiscated before the date of enactment of this Act, no U.S. person may bring an action unless such person acquired ownership of the claim to the confiscated property before such date. If a property is confiscated on or after the date of enactment of this Act, the U.S. person who is the plaintiff must demonstrate to the court that the plaintiff has taken reasonable steps to exhaust all available local remedies.

(b) Gives Federal district courts exclusive jurisdiction over any actions brought under this section.

(c) Waives sovereign immunity for any actions brought under this section.

Section 303. Determination of Claims to Confiscated Property

(a) Provides that conclusive evidence of ownership by a U.S. person to confiscated property is established when the Foreign Claims Settlement Commission certifies the claim or when the claim has been determined valid by a court or administrative agency in the country in which the property was confiscated.

(b) Amends the International Claims Settlement Act to allow a U.S. national to bring a claim to the Commission for determination and certification of the amount and validity of a claim against the Cuban government of confiscation of property.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, Mr. SIMON, Mr. PELL, and Mr. DORGAN):

S. 382. A bill to establish a Wounded Knee National Tribal Park, and for other purposes; to the Committee on Indian Affairs.

THE WOUNDED KNEE NATIONAL TRIBAL PARK ESTABLISHMENT ACT OF 1995

Mr. DASCHLE. Mr. President, today I am joining with my colleague from South Dakota, Senator PRESSLER, and Senators CAMPBELL, SIMON, PELL, and DORGAN to introduce legislation that would establish the Wounded Knee National Tribal Park in the State of South Dakota. The purpose of this effort is to acknowledge the armed struggle between the Plains Indians and the U.S. Army that culminated in the death of over 300 Lakota Sioux men, women, and children at Wounded Knee, SD, on December 29, 1890.

There is no question about the historical significance of the Wounded Knee tragedy. Wounded Knee not only signaled an end to a chapter in American history often referred to as the "Indian Wars" but it also marked a change in national policy that once forced Indian tribes to locate on smaller and smaller reservations.

History books show that on December 15, 1890, Federal agents, concerned about the potential ramifications of a spiritual movement among the Sioux Indians, attempted to arrest Chief Sitting Bull. When one of his followers shot at the agents, they returned gunfire, mortally wounding Sitting Bull.

Sitting Bull's half-brother, Chief Big Foot, took in Sitting Bull's followers. The band fled from the Bad Lands toward the Pine Ridge Indian Reservation. The U.S. Army intercepted the party and accepted an unconditional surrender from Chief Big Foot. The entire band was escorted to a military camp at Wounded Knee Creek.

At Wounded Knee, a single gunshot was fired. It is not known to this day whether the shot was fired by a member of the Sioux Tribe or the U.S. Army. What is known is that the gunshot led to a largely one-side volley of bullets leaving approximately 350 to 370 Sioux men, women, and children dead or wounded. The U.S. Army suffered 60 casualties, many of whom reportedly were hit by bullets fired by their comrades.

These are the tragic facts of what is known as the Wounded Knee Massacre. One hundred years later, in 1990, the 101st Congress passed Senate Concurrent Resolution 153, which acknowledged the carnage at Wounded Knee and expressed "congressional support for the establishment of a suitable and appropriate memorial to those who were tragically slain at Wounded Knee."

The bill we are introducing today gives substance to the sentiment expressed by the resolution.

Mr. President, considerable time and thought has been given to the Wounded Knee memorial project by descendants of the victims and survivors of the Wounded Knee tragedy, by the Oglala Sioux and the Cheyenne River Sioux tribal governments, and by Members of

Congress, the State of South Dakota, and the Department of the Interior.

The effort to establish a memorial goes back even further than 1990. Since 1950, Wounded Knee has been studied six times by the National Park Service and has been identified as a prime candidate for addition to the National Park System. Since 1987, the Lakota Tribes of South Dakota have been working with the National Park Service to plan for the preservation of Wounded Knee.

In Congress, the Senate Indian Affairs Committee held hearings on proposals to establish a Wounded Knee Memorial and Historic Site on September 25, 1990 in Washington, and on April 30, 1991 at the Pine Ridge Indian Reservation in South Dakota.

In May 1991, at the request of the Lakota Sioux and with the support of the Secretary of the Interior, the National Park Service began to explore management alternatives for the Wounded Knee site. The process included strong public participation from the Oglala Sioux Tribe, the Cheyenne River Sioux Tribe, and the Wounded Knee Survivors Association.

Those hearings enabled all the parties involved to discover much common ground and strengthened our shared resolve to move forward with the establishment of the Wounded Knee National Tribal Park.

The step we are taking today is not an end, but a beginning.

Many issues remain to be addressed, including land acquisition for the Wounded Knee National Park, design of the memorial, and management of the National Tribal Park. I welcome debate on these and other matters, and look forward to participation in the debate.

By passing this legislation, we will clear the way for resolution of those issues. More important, we will preserve for future generations an important chapter from the text of America's past.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wounded Knee National Tribal Park Establishment Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) in December of 1890, approximately 350 to 375 Sioux men, women, and children under the leadership of Chief Big Foot journeyed from the Cheyenne River Indian Reservation to the Pine Ridge Indian Reservation at the invitation of Chief Red Cloud to help make peace between the non-Indians and Indians;

(2) the journey of Chief Big Foot and his band of Minneconjou Sioux occurred during the Ghost Dance Religion period when extreme hostility existed between Sioux Indians and non-Indians residing near the Sioux reservations, and the United States Army assumed control of the Sioux reservations;

(3) Chief Big Foot and his band were intercepted on the Pine Ridge Indian Reservation at Porcupine Butte by Major Whitside, surrendered unconditionally under a white flag of truce, and were escorted to Wounded Knee Creek, where Colonel Forsyth assumed command;

(4) on December 29, 1890, an incident occurred in which soldiers under the command of General Forsyth killed and wounded over 300 members of the band of Chief Big Foot, most all of whom were unarmed and entitled to protection of their rights to property, person, and life under Federal law;

(5) the 1890 Wounded Knee Massacre is a historically significant event because the event marks the last military encounter of the Indian wars period of the 19th century;

(6) in S. Con. Res. 153 (101st Cong., 2d Sess.), Congress apologized to the Sioux people for the 1890 Massacre;

(7)(A) paragraph (2) of such concurrent resolution provides that Congress "expresses its support for the establishment of a suitable and appropriate Memorial to those who were so tragically slain at Wounded Knee which could inform the American public of the historic significance of the events at Wounded Knee and accurately portray the heroic and courageous campaign waged by the Sioux people to preserve and protect their lands and their way of life during this period"; and

(B) paragraph (3) of such concurrent resolution provides that Congress "expresses its commitment to acknowledge and learn from our history, including the Wounded Knee Massacre, in order to provide a proper foundation for building an ever more humane, enlightened, and just society for the future";

(8) the Wounded Knee Massacre site, and sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion on the Cheyenne River Indian Reservation and Pine Ridge Indian Reservation, are nationally significant cultural and historic sites that must be protected through the designation of the sites as a national tribal park; and

(9) the Wounded Knee Massacre is a nationally significant event that must be memorialized by establishing suitable and appropriate memorials to the Indian victims of the Massacre, located on the Cheyenne River Indian Reservation and Pine Ridge Indian Reservation.

(b) PURPOSES.—The purposes of this Act are to—

(1) establish the Wounded Knee National Tribal Park consisting of—

(A) sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion located on the Cheyenne River Indian Reservation; and

(B) the 1890 Wounded Knee Massacre Site and sites relating to the Massacre and Ghost Dance Religion located on the Pine Ridge Indian Reservation;

(2) establish suitable and appropriate national monuments within both units of the Wounded Knee National Tribal Park to memorialize the Indian victims of the 1890 Wounded Knee Massacre; and

(3) authorize feasibility studies to—

(A) establish the route of Chief Big Foot from the Cheyenne River Indian Reservation to Wounded Knee as a national historic trail; and

(B) establish a visitor information and orientation center on the Cheyenne River Indian Reservation.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the Wounded Knee National Tribal Park Advisory Commission established under section 8(a).

(2) NORTH UNIT.—The term "North Unit" means the area of the Park comprised of the sites referred to in section 2(b)(1)(A).

(3) PARK.—The term "Park" means the Wounded Knee National Tribal Park established under section 4.

(4) REAL PROPERTY.—For the purposes of this Act, the term "real property" includes lands, and all mineral rights, water rights, easements, permanent structures, and fixtures on such lands.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) SOUTH UNIT.—The term "South Unit" means the area of the Park comprised of the sites referred to in section 2(b)(1)(B).

SEC. 4. ESTABLISHMENT OF WOUNDED KNEE NATIONAL TRIBAL PARK.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a national tribal park to be known as the "Wounded Knee National Tribal Park", as generally described in the third alternative of the report completed by the National Park Service entitled "Draft Study of Alternatives, Environmental Assessment, Wounded Knee, South Dakota," and dated January 1993, and as more particularly described in this Act.

(2) AREA INCLUDED IN PARK.—The Wounded Knee National Tribal Park shall consist of—

(A) a North Unit that may include—

(i) such sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion, including the campsite of Chief Big Foot at Deep Creek, as the Cheyenne River Sioux Tribe, in consultation with the Director of the National Park Service, considers necessary to include in such unit;

(ii) a cultural center and museum complex;

(iii) projects described in section 9(b)(2); and

(iv) a suitable and appropriate national monument to memorialize Chief Big Foot and his band of Minneconjou Sioux; and

(B) a South Unit that may include—

(i) the 1890 Wounded Knee Massacre site, as generally described in the 1990 boundaries studies authorized by the National Park Service, and such other sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion as the Oglala Sioux Tribe, in consultation with the Director of the National Park Service, considers necessary to include in such Unit;

(ii) a cultural center and museum complex at or near the Wounded Knee Massacre site;

(iii) projects described in section 9(b)(2); and

(iv) a suitable and appropriate national monument to memorialize the Sioux Indians involved in the 1890 Wounded Knee Massacre.

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with each of the Cheyenne River Sioux Tribe with respect to the North Unity, and Oglala Sioux Tribe with respect to the South Unit to carry out planning, design, construction, operation, maintenance, and replacement activities, as appropriate, for the units.

(2) REQUIREMENTS FOR COOPERATIVE AGREEMENTS.—A cooperative agreement entered into under paragraph (1) shall set forth, in a manner acceptable to the Secretary—

(A)(i) the responsibilities of the parties referred to in paragraph (1) with respect to the North Unit and the South Unit; and

(ii) the manner in which contracts to carry out such activities will be administered;

(B) the procedures and requirements for the approval and acceptance of the design of, and construction of the North Unit and South Unit;

(C) such Federal management policies described in the publication entitled "Management Policies, U.S. Department of the Interior, National Park Service, 1988" as the Secretary considers necessary to qualify both units of the Park for affiliation;

(D) a general management plan for each unit of the Park that shall include plans—

(i) to protect and preserve the religious sanctity of the Wounded Knee Massacre site and other religious sites located within each unit;

(ii) to restore the Wounded Knee Massacre site, and other important historic sites located within the units, to the original condition of the sites at the time of the Massacre, including the removal of all buildings and structures that have no historical significance;

(iii) for the enactment of tribal zoning ordinances to protect areas surrounding each unit from commercial development and exploitation;

(iv) for the implementation of a continuing program of public involvement, interpretation, and visitor education concerning Lakota Sioux history and culture within each unit;

(v) to protect, interpret, and preserve important archaeological and paleontological sites within each unit;

(vi) for visitor use facilities, and the training and employing of tribal members within each unit, as provided in subsection (e); and

(vii) to waive or require entrance fees at the Wounded Knee Massacre site; and

(E) the role and responsibilities of the Advisory Commission established under section 8(a) in relation to both units.

(c) TITLE.—

(1) PROPERTY ACQUIRED FOR THE NORTH UNIT.—Title to all real property acquired for the North Unit of the Wounded Knee National Tribal Park shall be held in trust by the United States for the Cheyenne River Sioux Tribe.

(2) PROPERTY ACQUIRED FOR THE SOUTH UNIT.—Title to all real property acquired in the South Unit of the Wounded Knee National Tribal Park shall be held in trust by the United States for the Oglala Sioux Tribe.

(d) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide technical assistance to the Cheyenne River Sioux Tribe and Oglala Sioux Tribe for carrying out the activities described in subsection (b)(1).

(2) TRAINING.—In addition to providing the assistance described in paragraph (1), the Secretary may train and employ members of the tribes concerning the operation and maintenance of both units, including training in—

(A) the provision of public services, management of visitor use facilities, interpretation and visitor education on Sioux history and culture, and artifact curation at both units; and

(B) the interpretation, management, protection, and preservation of other historical and natural properties at both units.

(e) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT.—Except as otherwise provided in this Act, the activities described in subsection (b)(1) shall be subject to the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

SEC. 5. ACQUISITION OF LANDS FOR WOUNDED KNEE NATIONAL TRIBAL PARK.

(a) IN GENERAL.—The Cheyenne River Sioux Tribe and Oglala Sioux Tribe may acquire by purchase from a willing seller, by gift or devise, by exchange, or in other manner—

(1) surface and subsurface rights to any tract of fee-patented or trust land; or

(2) easements that cover such lands,

that those tribes, in consultation with the Secretary, consider necessary for inclusion in the North Unit or the South Unit of the Wounded Knee National Tribal Park.

(b) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe to acquire land and any interest in land or other real property that is necessary for a unit of the Park.

SEC. 6. MANAGEMENT.

(a) MANAGEMENT OF NORTH UNIT.—

(1) IN GENERAL.—The Cheyenne River Sioux Tribe, or a designated agency or authority of that tribe, shall operate, maintain, and manage the North Unit pursuant to the terms and conditions contained in a cooperative agreement between the Secretary and the Cheyenne River Sioux Tribe entered into by the Secretary and the tribe pursuant to section 4(b).

(2) EXCLUSION.—The Cheyenne River Sioux Tribe shall have no jurisdiction or authority over the South Unit.

(b) MANAGEMENT OF SOUTH UNIT.—

(1) IN GENERAL.—The Oglala Sioux Tribe, or a designated agency or authority of such tribe, shall operate, maintain, and manage the South Unit pursuant to the terms and conditions contained in a cooperative agreement between the Secretary and the Oglala Sioux Tribe entered into by the Secretary and the tribe pursuant to section 4(b).

(2) EXCLUSION.—The Oglala Sioux Tribe shall have no jurisdiction or authority over the North Unit.

SEC. 7. PLANNING AND DESIGN OF NATIONAL MONUMENTS; FEASIBILITY STUDIES.

(a) MONUMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the national monuments on the North Unit and South Unit authorized by subparagraphs (A)(iv) and (B)(iv) of section 4(a)(2) shall be planned, designed, and constructed by the Secretary, after consultation with an advisory committee that the Secretary shall appoint in consultation with—

(A) the Wounded Knee Survivors Association of the Cheyenne River Indian Reservation;

(B) the Wounded Knee Survivors Association of the Pine Ridge Indian Reservation; and

(C) direct descendants of the band of Minneconjou Sioux of Chief Big Foot.

(2) AUTHORITY OF THE CHEYENNE RIVER SIOUX TRIBAL COUNCIL AND THE OGLALA SIOUX TRIBAL COUNCIL.—(A) The Cheyenne River Sioux Tribal Council and the Oglala Sioux Tribal Council shall have no authority to plan and design the monuments referred to in paragraph (1).

(B) The Cheyenne River Sioux Tribal Council and the Oglala Sioux Tribal Council shall have the authority to enter into contracts for the construction, operation, maintenance, and replacement of the monuments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

(b) FEASIBILITY STUDIES.—

(1) IN GENERAL.—The Secretary shall complete feasibility studies to—

(A) establish and mark the route taken by Chief Big Foot and his band from the Cheyenne River Indian Reservation to Wounded Knee as a national historic trail; and

(B) establish a visitor information and orientation center on the Cheyenne River Indian Reservation.

(2) REPORT.—Not later than 1 year after funds are initially made available to the Secretary for a feasibility study conducted under this subsection, the Secretary shall complete the study and submit a report that contains the findings of the study to Congress.

SEC. 8. WOUNDED KNEE NATIONAL TRIBAL PARK ADVISORY COMMISSION.

(a) IN GENERAL.—There is established within the Department of the Interior the Wounded Knee National Tribal Park Advisory Commission. The Commission shall advise regularly the Cheyenne River Sioux Tribe and Oglala Sioux Tribe, or any designated agency or authority of either tribe, concerning the management and administration of the North Unit and South Unit.

(b) ROLE AND RESPONSIBILITIES.—The role and responsibilities of the Commission shall be defined in the cooperative agreements that the Secretary shall enter into with the Cheyenne Sioux Tribe and Oglala Sioux Tribe under section 4(b). The Cheyenne River Sioux Tribe and Oglala Sioux Tribe, or any designated agency or authority of either such tribe, shall consult with the Commission not less frequently than 4 times each year.

(c) PERIOD OF OPERATION.—The Commission shall exist for such time as either the North Unit or the South Unit is in existence.

(d) MEMBERSHIP.—The Secretary shall appoint 17 members of the Commission. In addition, the Director of the National Park Service or a designee of the Director shall serve as an ex-officio member of the Commission. The Secretary shall appoint the members of the Commission after consulting with, and soliciting a recommendation from each of the following:

(1) The Chairman of the Cheyenne River Sioux Tribe.

(2) The President of the Oglala Sioux Tribe.

(3) The Chairman of the Wounded Knee Community Council on the Pine Ridge Indian Reservation.

(4) The Chairman of the Wounded Knee Subcommunity Council on the Pine Ridge Indian Reservation.

(5) The Chairman of the White Clay Community Council on the Pine Ridge Indian Reservation.

(6) The Chairman of District No. 3 on the Cheyenne River Indian Reservation.

(7) The Chairman of Red Scaffold Community on the Cheyenne River Indian Reservation.

(8) The Chairman of Cherry Creek Community on the Cheyenne River Reservation.

(9) The Chairman of Bridger Community on the Cheyenne River Reservation.

(10) The Chairman of the Board of Directors of the Oglala Sioux Parks and Recreation Authority.

(11) The President of the Wounded Knee Survivors Association of the Cheyenne River Indian Reservation.

(12) The President of the Wounded Knee Survivors Association of the Pine Ridge Indian Reservation.

(13) The Secretary of the Smithsonian Institution.

(14)(i) The Governor of the State of South Dakota and the historic preservation officer of such State.

(ii) The Governor of the State of Nebraska and the historic preservation officer of such State.

(e) CHAIR.—The offices of Chairman and Vice Chairman of the Commission shall be rotated between the Chairman of the Cheyenne River Sioux Tribe (or a designated representative of the Chairman) and the President of the Oglala Sioux Tribe (or a designated representative of the President) on a year-to-year basis. If both the Chairman and Vice Chairman are absent from any meeting, the members of the Commission who are present at the meeting shall select a member who is present to serve in the place of the Chairman for the meeting.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members. In a manner consistent with the public meeting requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall from time to time meet with persons concerned with Park issues relating to the North Unit or South Unit. The Commission shall record all minutes and resolutions of the Commission and make such records available to the public upon request.

(g) ADMINISTRATIVE DIRECTOR.—

(1) IN GENERAL.—The Secretary, in consultation with the Commission, shall employ an Administrative Director for the Commission and define the duties of the Administrative Director. The Administrative Director shall be paid at a rate not to exceed the annual rate of basic pay payable for grade GS–12 of the General Schedule under subchapter IV of chapter 53 of title 5, United States Code, without regard to—

(A) the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) the provisions of chapter 51, and subchapter III of chapter 52 of that title relating to classification and General Schedule pay rates.

(2) OFFICE.—The office and staff of the Administrative Director shall be located at such location as the Secretary considers appropriate.

(h) SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a nonreimbursable basis, such administrative support services as the Commission, in consultation with the Secretary, may request.

(i) EXPENSES.—Members of the Commission who are not otherwise employed by the Federal Government, while away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel and all other related expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(j) APPLICABILITY OF FEDERAL ADVISORY ACT.—Except with respect to any requirement for reissuance of a charter, and except as otherwise provided in this Act, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission established under this Act.

SEC. 9. FUNDRAISER AGREEMENTS WITH NONPROFIT CORPORATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe, or a designated agency or authority of either tribe, may, with the approval of the Secretary, enter into an agreement with a nonprofit corporation to raise funds from private sources to be used in lieu of, or supplement, any Federal funds made available by appropriations pursuant to the authorization under section 11.

(b) NEW PROJECTS.—The Cheyenne River Sioux Tribe and the Oglala Sioux Tribe, or a designated agency or authority of either tribe, shall have the power and authority to enter into a separate agreement with a nonprofit corporation to—

(1) raise funds from private sources to pay for all obligations, costs, and fees for professional services contracted, incurred, or assumed by the tribe, or a designated agency or authority of the tribe, that are related, directly or indirectly, to the development or establishment of the Park; and

(2) raise funds from private sources to plan, design, construct, operate, maintain, and replace—

(A) an international amphitheater dedicated to the Indigenous Peoples of the Americas to be located at or near the Wounded Knee Massacre site, which, if constructed, shall become the permanent home of the Francis Jansen sculpture; and

(B) any other project that the Cheyenne River Sioux Tribe or the Oglala Sioux Tribe may, in consultation with the Secretary, choose to include within the North Unit or South Unit.

SEC. 10. DUTIES OF OTHER FEDERAL ENTITIES.

The appropriate official of any Federal entity that conducts or supports activities that directly affect the Park shall consult with the Secretary and the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe with respect to such activities to minimize any adverse effects on the Park.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 12. RULE OF STATUTORY CONSTRUCTION.

Nothing contained in this Act is intended to abrogate, modify, or impair any rights or claims of the Cheyenne River Sioux Tribe or Oglala Sioux Tribe, that are based on any treaty, Executive order, agreement, Act of Congress, or other legal basis.

Mr. PRESSLER. Mr. President, I am pleased to join my colleague from South Dakota, Senator DASCHLE, as well as Senators CAMPBELL, SIMON, PELL, and DORGAN in introducing legislation to establish the Wounded Knee National Tribal Park in the State of South Dakota. The purpose of our legislation is to acknowledge, preserve and protect the historically significant sites of the Wounded Knee tragedy of 1890. National recognition of this area is long overdue.

The legislation we are introducing today is the product of our cumulative efforts over the past several sessions of Congress to properly recognize the Wounded Knee tragedy. Indeed, Wounded Knee has been the subject of Senate consideration for a number of years. Let me highlight some of this activity:

During the 101st Congress, the Senate Select Committee on Indian Affairs held hearings to discuss the historical significance of Wounded Knee. Also during the 101st Congress, the Senate adopted Senate Concurrent Resolution 153, recognizing the 100th anniversary of the Wounded Knee Massacre. This resolution, which I cosponsored, also expressed support for the establishment of a suitable and appropriate memorial to those who were slain at Wounded Knee in 1890.

Late in the 102d Congress and again in the 103d Congress, Senator DASCHLE and I introduced legislation (S. 3213 and S. 278) to establish the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial.

During the 103d Congress, the Senate Energy Committee's Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 278 (July 29, 1993).

In addition to this congressional activity, the National Park Service has studied the historical significance of Wounded Knee six times since 1950. The Park Service consistently has reaffirmed it as a nationally significant area. In fact, our bill is in part based on one of the proposed alternatives mentioned in a January 1993 NPS report on Wounded Knee.

Mr. President, I hope the Senate will agree during this 104th Congress to ensure the protection and preservation of the historical sites at the Wounded Knee tragedy. I look forward to working with my colleagues, members of the Cheyenne River and Oglala Sioux Tribes, the Governor of South Dakota, the National Park Service, and other organizations to move this legislation forward. Above all, we must ensure this legislation is implemented with proper consultation with the Indian communities. It is imperative that Indian perspectives be included in developing the memorials' interpretive sites.

Enactment of our legislation will promote a greater understanding of the events associated with the Wounded Knee tragedy. In addition, appreciation of Indian culture, heritage, and history will be enhanced through establishment of these memorials.

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. LOTT, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 50, a bill to repeal the increase in tax on social security benefits.

S. 104

At the request of Mr. D'AMATO, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 104, a bill to establish the position of Coordinator for Counter-Terrorism within the office of the Secretary of State.

S. 191

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 191, a bill to amend the Endangered Species Act of 1973 to ensure that constitutionally protected private property rights are not infringed until adequate protection is afforded by reauthorization of the act, to protect against economic losses from critical habitat designation, and for other purposes.

S. 219

At the request of Mr. NICKLES, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 219, a bill to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes.

S. 307

At the request of Mr. LEAHY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 307, a bill to require the Secretary of the Treasury to design and issue new counterfeit-resistant $100 currency.

S. 324

At the request of Mr. WARNER, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 324, a bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes.

S. 327

At the request of Mr. HATCH, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 348

At the request of Mr. NICKLES, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 348, a bill to provide for a review by the Congress of rules promulgated by agencies, and for other purposes.

SENATE JOINT RESOLUTION 17

At the request of Mr. KEMPTHORNE, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of Senate Joint Resolution 17, a joint resolution naming the CVN-76 aircraft carrier as the U.S.S. *Ronald Reagan*.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. SIMON, the names of the Senator from Minnesota [Mr. GRAMS], the Senator from Texas [Mr. GRAMM], the Senator from Ohio [Mr. DEWINE], the Senator from Virginia [Mr. ROBB], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Indiana [Mr. COATS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of Senate Concurrent Resolution 3, a concurrent resolution relative to Taiwan and the United Nations.

AMENDMENT NO. 236

At the request of Mr. BRYAN his name was added as a cosponsor of amendment No. 236 proposed to House Joint Resolution 1, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

AMENDMENTS SUBMITTED

BALANCED BUDGET AMENDMENT

DOLE AMENDMENT NO. 237

Mr. DOLE proposed an amendment to the instructions to refer House Joint Resolution 1 to the Committee on the Budget; as follows:

In lieu of the instructions, and after the words "Budget Committee" on page 1, lines 1 and 2, insert: "that for the purpose of any constitutional amendment requiring a balanced budget, the Budget Committee shall report back forthwith H.J. Res. 1 in status quo, and at the earliest date practicable they shall report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal."

DOLE AMENDMENT NO. 238

Mr. DOLE proposed an amendment to amendment No. 237, proposed by him, to the instructions to refer House Joint Resolution 1 to the Committee on the Budget; as follows:

Strike all after the first word and insert the following: ", for the purpose of any constitutional amendment requiring a balanced budget, the Budget Committee of the Senate shall report forthwith H.J. Res. 1 in status quo and at the earliest date practicable after February 8, 1995, they shall report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, February 9, 1995, in open session, to receive testimony on the Defense authorization request for fiscal year 1996 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, February 9, 1995, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of the hearing is to receive testimony on the President's fiscal year 1996 budget for the Department of Energy and the Federal Energy Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BURNS. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Thursday, February 9, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on individual retirement accounts, 401K plans, and other savings proposals.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, February 9, 1995, beginning at 10 a.m., in room G-50 of the Dirksen Senate Office Building on challenges facing Indian youth.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, February 9, 1995, to consider Senate Joint Resolution 19 and Senate Joint Resolution 21, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on employee involvement and worker management cooperation, during the session of the Senate on Thursday, February 9, 1995 at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RULES OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES

• Mrs. KASSEBAUM. Mr. President, the rules of the Senate Committee on Labor and Human Resources were approved in an executive session held on January 18, 1995. Pursuant to rule XXVI, section 2, of the Standing Rules of the Senate, I submit the rules of the committee for publication in the RECORD.

The rules follow:

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

(Nancy Landon Kassebaum, Chairman)

RULES OF PROCEDURE (AS AGREED TO)

Rule 1.—Subject to the provisions of rule XXVI, paragraph 5, of the Standing Rules of the Senate, regular meetings of the committee shall be held on the second and fourth Wednesday of each month, at 10:00 a.m., in room SD–430, Dirksen Senate Office Building. The chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2.—The chairman of the committee or of a subcommittee, or if the chairman is not present, the ranking majority member present, shall preside at all meetings.

Rule 3.—Meetings of the committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate.

Rule 4.—Subject to paragraph (b), one-third of the membership of the committee, actually present, shall constitute a quorum for the purpose of trnasacting business. Any quorum of the committee which is composed of less than a majority of the members of the committee shall include at least one member of the majority and one member of the minority.

(b) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a minority member, the measure or matter shall lay over for a day. If the presence of a member of the minority is not then obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(c) No measure or matter shall be ordered reported from the committee or a subcommittee unless a majority of the committee or subcommittee is actually present at the time such action is taken.

Rule 5.—With the approval of the chairman of the committee or subcommittee, one member thereof may conduct public hearings other than taking sworn testimony.

Rule 6.—Proxy voting shall be allowed on all measures and matters before the committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

The committee may poll any matters of committee business as a matter of unanimous consent; provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

Rule 7.—There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate, unless a majority of said members vote to forgo such a record. Such records shall contain the vote cast by each member of the committee or subcommittee on any question on which a "yea and nay" vote is demanded, and shall be available for inspection by any committee member. The clerk of the committee, or the clerk's designee, shall have the responsibility to make appropriate arrangements to implement this rule.

Rule 8.—The committee and each subcommittee shall undertake, consistent with the provisions of rule XXVI, paragraph 4, of the Standing Rules of the Senate, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9.—The committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the chairman and the ranking minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the committee or a subcommittee. The committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10.—Should a subcommittee fail to report back to the full committee on any measure within a reasonable time, the chairman may withdraw the measure from such subcommittee and report that fact to the full committee for further disposition.

Rule 11.—No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12.—It shall be the duty of the chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13.—Whenever a meeting of the committee or subcommittee is closed pursuant to the provisions of subsection (b) or (d) of rule 26.5 of the Standing Rules of the Senate, no person other than members of the committee, members of the staff of the committee, and designated assistants to members of the committee shall be permitted to attend such closed session, except by special dispensation of the committee or subcommittee or the chairman thereof.

Rule 14.—The chairman of the committee or a subcommittee shall be empowered to adjourn any meeting of the committee or a subcommittee if a quorum is not present within fifteen minutes of the time schedule for such meeting.

Rule 15. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the committee or a subcommittee for final consideration, the clerk shall place before each member of the committee or subcommittee a print of the statute or the part or section thereof to be amended or replaced showing by stricken-through type, the part or parts to be omitted and in italics, the matter proposed to be added.

Rule 16.—An appropriate opportunity shall be given the minority to examine the proposed text of committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the majority to examine the proposed text prior to filing or publication.

Rule 17.—(a) The committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the committee.

(b) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the committee or subcommittee shall constitute a quorum: provided, with the concurrence of the chairman and ranking minority member of the committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(c) The committee may, by a majority vote, delegate the authority to issue subpoenas to the chairman of the committee or a subcommittee, or to any member designated by such chairman. Prior to the issuance of each subpoena, the ranking minority member of the committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the chairman of the committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the committee requesting same, or to any assistant to a member of the committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the rules of the Senate. Such information, to the extent that it is relevant to the investigation shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the chairman of the committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

(d) Any witness summoned to testify at a hearing or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(e) No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the committee or subcommittee.

Rule 18.—Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, on a form approved by the committee which shall be sworn to as to its completeness and accuracy. The committee form shall be in two parts—

(I) information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, and which is to be made public; and

(II) information relating to financial and other background of the nominee, to be made public when the committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Information relating to background and financial interests (parts I and II) shall not be required of (a) candidates for appointment and promotion in the Public Health Service Corps; and (b) nominees for less than full-time appointments to councils, commissions or boards when the committee determines that some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests (part II) shall not be required of any nominee when the committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the chairman, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19.—Subject to statutory requirements imposed on the committee with respect to procedure, the rules of the committee may be changed, modified, amended or suspended at any time; provided, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20.—In addition to the foregoing, the proceedings of the committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

[Excerpts from the Standing Rules of the Senate]

RULE XXV—STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(m)(1) Committee on Labor and Human Resources, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Measures relating to education, labor, health, and public welfare.
2. Aging.
3. Agricultural colleges.
4. Arts and humanities.
5. Biomedical research and development.
6. Child labor.
7. Convict labor and the entry of goods made by convicts into interstate commerce.
8. Domestic activities of the American National Red Cross.
9. Equal employment opportunity.
10. Gallaudet College, Howard University, and Saint Elizabeths Hospital.
11. Handicapped individuals.
12. Labor standards and labor statistics.
13. Mediation and arbitration of labor disputes.
14. Occupational safety and health, including the welfare of miners.
15. Private pension plans.
16. Public health.
17. Railway labor and retirement.
18. Regulation of foreign laborers.
19. Student loans.
20. Wages and hours of labor.

(2) Such committee shall also study and review, on a comprehensive basis, matters, relating to health, education and training, and public welfare, and report thereon from time to time.

RULE XXVI—COMMITTEE PROCEDURE

Each[1] standing committee, including any subcommittee of any such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such testimony and to make such expenditures out of the contingent fund of the Senate as may be authorized by resolutions of the Senate. Each such committee may make investigations into any matter within its jurisdiction, may report such hearings as may be had by it, and may employ stenographic assistance at a cost not exceeding the amount prescribed by the Committee on Rules and Administration.[2] The expenses of the committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

* * * * *

5. (a) Notwithstanding any other provision of rules, when the Senate is in session, no committee of the Senate or any subcommittee thereof may meet, without special leave, after the conclusion of the first two hours after the meeting of the Senate commenced and in no case after two o'clock postmeridian unless consent therefor has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leaders, from his designee). The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget. The majority leader or his designee shall announce to the Senate whenever consent has been given under this subparagraph and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

(b) Each meeting of a committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the member of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance of any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

(e) Each committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting or conference whether or not such meeting or any part thereof is closed under this paragraph, unless a majority of its members vote to forgo such a record.

* * * * *

GUIDELINES OF THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES WITH RESPECT TO HEARINGS, MARKUP SESSIONS, AND RELATED MATTERS

HEARINGS

Section 133A(a) of the Legislative Reorganization Act requires each committee of the Senate to publicly announced the date, place, and subject matter of any hearing at least one week prior to the commencement of such hearing.

The spirit of this requirement is to assure adequate notice to the public and other Members of the Senate as to the time and subject matter of proposed hearings. In the spirit of section 133A(a) and in order to assure that members of the committee are themselves fully informed and involved in the development of hearings:

1. Public notice of the date, place, and subject matter of each committee or subcommittee hearing should be inserted in the Congressional Record seven days prior to the commencement of such hearing.

2. Seven days prior to public notice of each committee or subcommittee hearing, the committee or subcommittee should provide written notice to each member of the committee of the time, place, and specific subject matter of such hearing, accompanied by a list of those witnesses who have been or are proposed to be invited to appear.

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[1] As amended S. Res. 281, 96–2, Mar. 11, 1960 (effective Feb. 28, 1961).

[2] Pursuant to section 68c of title 2, United States Code, the Committee on Rules and Administration issues Regulations Governing Rates Payable to Commercial Reporting Farms for Reporting Committee Hearings in the Senate. Copies of the regulations currently in effect may be obtained from the Committee.

3. The committee and its subcommittee should, to the maximum feasible extent, enforce the provisions of rule 9 of the committee rules as it relates to the submission of written statements of witnesses twenty-four hours in advance of a hearing. When statements are received in advance of a hearing, the committee or subcommittee (as appropriate) should distribute copies of such statements to each of its members.

EXECUTIVE SESSIONS FOR THE PURPOSE OF MARKING UP BILLS

In order to expedite the process of marking up bills and to assist each member of the committee so that there may be full and fair consideration of each bill which the committee or a subcommittee is marking up the following procedures should be followed:

1. Seven days prior to the proposed data for an executive session for the purpose of marking up bills the committee or subcommittee (as appropriate) should provide written notice to each of its members as to the time, place, and specific subject matter of such session, including an agenda listing each bill or other matters to be considered and including:

(a) two copies of each bill, joint resolution, or other legislative matter (or committee print thereof) to be considered at such executive session; and

(b) two copies of a summary of the provisions of each bill, joint resolution, or other legislative matter to be considered at such executive session; and

2. Three days prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or subcommittee (as appropriate) should deliver to each of its members two copies of a cordon print or an equivalent explanation of changes of existing law proposed to be made by each bill, joint resolution, or other legislative matter to be considered at such executive session.

3. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, each member of the committee or a subcommittee (as appropriate) should provide to all other such members two written copies of any amendment or a description of any amendment which that member proposes to offer to each bill, joint resolution, or other legislative matter to be considered at such executive session.

4. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or a subcommittee (as appropriate) should provide each member with a copy of the printed record or a summary of any hearings conducted by the committee or a subcommittee with respect to each bill, joint resolution, or other legislative matter to be considered at such executive session.

COMMITTEE REPORTS, PUBLICATIONS, AND RELATED DOCUMENTS

Rule 16 of the committee rules requires that the minority be given an opportunity to examine the proposed text of committee reports prior to their filing and that the majority be given an opportunity to examine the proposed text of supplemental, minority, or additional views prior to their filing. The views of all members of the committee should be taken fully and fairly into account with respect to all official documents filed or published by the committee. Thus, consistent with the spirit of rule 16, the proposed text of each committee report, hearing record, and other related committee document or publication should be provided to the chairman and ranking minority member of the committee and the chairman and ranking minority member of the appropriate subcommittee at least forty-eight hours prior to its filing or publication.•

IT'S DRUGS, STUPID

• Mr. SIMON. Mr. President, one of the finest public servants in my years in Congress was Joseph Califano, who headed what was then known as Health, Education and Welfare for President Carter. He wrote a story in the Sunday New York Times on the drug problem that makes eminent good sense.

Recently, the Chicago Sun-Times had a front-page story saying that 95 percent of those who apply for drug treatment are being turned down. I visited Cook County jail with 9,000 inmates. In a minimum security barracks, with about 45 men sleeping on cots, one of the prisoners told me he wanted to get into drug treatment. I turned to the assistant warden who was with me and asked why he could not get in, and the warden said they had only 120 spots for drug treatment for 9,000 prisoners. I turned to the rest of the men and asked how many of them would like to get into drug treatment and about 30 raised their hands.

Our failure to provide drug treatment for people who need it is short-sighted. We demagog on the crime issue and pretend we are really doing something when we create 60 new causes for capital punishment and set more mandatory minmums. The reality is, we are doing nothing through those things to reduce the crime rate.

Senator KENNEDY uses the figure that 75 percent of those who do receive drug treatment while in prison do not come back, and 75 percent of those who do not, do come back. I don't know if those statistics are precisely accurate, but the general principle is clearly accurate. I am grateful to Joe Califano for providing sensible leadership once more.

At this point, I ask that his statement be printed in the RECORD.

The statement follows:

[From the New York Times, Jan. 29, 1995]

IT'S DRUGS, STUPID

(By Joseph Califano)

Despite all the Republican preening and Democratic pouting since Nov. 8, neither political party gets it. If Speaker Newt Gingrich is serious about delivering results from his party's "Contract With America" and if President clinton means to revive his Presidency, each can start by recognizing how fundamentally drugs have changed society's problems and that together they can transform Government's response.

For 30 years, America has tried to curb crime with more judges, tougher punishments and bigger prisons. We have tried to rein in health costs by manipulating payments to doctors and hospitals. We've fought poverty with welfare systems that offer little incentive to work. All the while, we have undermined these efforts with our personal and national denial about the sinister dimension drug abuse and addition have added to our society. If Gingrich and Clinton want to prove to us that they can make a difference in what really ails America, they should "get real" about how drugs have recast three of the nation's biggest challenges.

Law, Order and Justice—In 1960 there were fewer than 30,000 arrests for drug offenses; in 30 years, that number soared beyond one million. Since 1989, more individuals have been incarcerated for drug offenses than for all violent crimes—and most violent crimes are committed by drug (including alcohol) abusers.

Probation and parole are sick jokes in most cities. As essential first steps to rehabilitation, many parolees need drug treatment and after-care, which means far more monitoring than their drug-free predecessors of a generation ago required, not less. Yet in Los Angeles, for example, probation officers are expected to handle as many as 1,000 cases at a time. With most offenders committing drug- or alcohol-related crimes, it's no wonder so many parolees go right back to jail: 80 percent of prisoners have prior convictions and more than 60 percent have served time before.

Congress and state legislatures keep passing laws more relevant to the celluloid gangsters and inmates of classic 1930's movies than 1990's reality. Today's prisons are wall to wall with drug dealers, addicts, alcohol abusers and the mentally ill (often related to drug abuse). The prison population shot past a million in 1994 and is likely to double soon after the year 2000. Among industrialized nations, the United States is second only to Russia in the number of its citizens it imprisons: 519 per 100,000, compared with 368 for next-place South Africa, 116 for Canada and 36 for Japan.

Judges and prosecutors are demoralized as they juggle caseloads of more than twice the recommended maximum. In 1991 eight states had to close their civil jury trial systems for all or part of the year to comply with speedy trial requirements of criminal cases involving drug abusers. Even where civil courts remain open, the rush of drug-related cases has created intolerable delays—4 years in Newark, 5 in Philadelphia and up to 10 in Cook County, Ill. In our impersonal, bureaucratic world, if society keeps denying citizens timely, individual hearings for their grievances, they may blow off angry steam in destructive ways.

Health Care Cost Containment.—Emergency rooms from Boston to Baton Rouge are piled high with the debris of drug use on city streets—victims of gunshot wounds, drug-promoted child and spouse abuse, and drug-related medical conditions like cardiac complications and sexually transmitted diseases. AIDS and tuberculosis have spread rapidly in large part because of drug use. Beyond dirty needles, studies show that teenagers high on pot, alcohol or other drugs are far more likely to have sex, and to have it without a condom.

Each year drugs and alcohol trigger up to $75 billion in health care costs. The cruelest impact afflicts the half-million newborns exposed to drugs during pregnancy. Crack babies, a rarity a decade ago, crowd $2,000-a-day neonatal wards. Many die. It can cost $1 million to bring each survivor to adulthood.

Even where prenatal care is available—as it is for most Medicaid beneficiaries—women on drugs tend not to take advantage of it. And as for drug treatment, only a relatively small percentage of drug-abusing pregnant mothers seek it, and they must often wait in line for scarce slots. Pregnant mothers' failure to seek prenatal care and stop abusing drugs accounts for much of the almost $3 billion that Medicaid spent in 1994 on impatient hospital care related to drug use.

The Fight Against Poverty.—Drugs have changed the nature of poverty. Nowhere is this more glaring than in the welfare systems and the persistent problem of teen-age pregnancy.

Speaker Gingrich and President Clinton are hell-bent to put welfare mothers to work. But all the financial lures and prods and all the job training in the world will do precious little to make employable the hundreds of thousands of welfare recipients who are addicts and abusers.

For too long, reformers have had their heads in the sand about this unpleasant reality. Liberals fear that admitting the extent of alcohol and drug abuse among welfare recipients will incite even more punitive reactions than those now fashionable. Conservatives don't want to face up to the cost of drug treatment. This political denial assures failure of any effort to put these welfare recipients to work.

The future is not legalization. Legalizing drug use would write off millions of minority Americans, especially children and drug-exposed babies, whose communities are most under siege by drugs. It has not worked in any nation where it's been tried, and our own experience with alcohol and cigarettes shows how unlikely we are to keep legalized drugs away from children.

Drugs are the greatest threat to family stability, decent housing, public schools and even minimal social amenities in urban ghettos. Contrary to the claim of pot proponents, marijuana is dangerous. It devastates short-term memory and the ability to concentrate precisely when our children need them most—when they are in school. And a child 12 to 17 years old who smokes pot is 85 times as likely to use cocaine as a child who does not. Cocaine is much more addictive than alcohol, which has already hooked more than 18 million Americans. Dr. Herbert D. Kleber, a top drug expert, estimates that legalizing cocaine would give us at least 20 million addicts, more than 10 times the number today.

It's especially reckless to promote legalization when we have not committed research funds and energies to addiction prevention and treatment on a scale commensurate with the epidemic. The National Institutes of Health spend some $4 billion for research on cancer, cardiovascular disease and AIDS, but less than 15 percent of that amount for research on substance abuse and addiction, the largest single cause and exacerbator of those diseases.

Treatment varies widely, from inpatient to outpatient, from quick-fix acupuncture to residential programs ranging a few weeks to more than a year, from methadone dependence to drug-free therapeutic communities. Fewer than 25 percent of the individuals who need drug or alcohol treatment enter a program. On average, a quarter complete treatment; half of them are drug- or alcohol-free a year later. In other words, with wide variations depending on individual circumstances, those entering programs have a one-in-eight chance of being free of drugs or alcohol a year later. Those odds beat many for long-shot cancer chemotherapies, and research should significantly improve them. But a recent study in California found that even at current rates of success, $1 invested in treatment saves $7 in crime, health care and welfare costs.

Here are a few suggestions for immediate action to attack the dimension drugs have added to these three problems:

Grant Federal funds to state and Federal prison systems only if they provide drug and alcohol treatment and after-care for all inmates who need it.

Instead of across-the-board mandatory sentences, keep inmates with drug and alcohol problems in jails, boot camps or halfway houses until they experience a year of sobriety after treatment.

Require drug and alcohol addicts to go regularly to treatment and after-care programs like Alcoholics Anonymous while on parole or probation.

Provide Federal funds for police only to cities that enforce drug laws throughout their jurisdiction. End the acceptance of drug bazaars in Harlem and southeast Washington that would not be tolerated on Manhattan's Upper East Side or in Georgetown.

Encourage judges with lots of drug cases to employ public health professionals, just as they hire economists to assist with antitrust cases.

Cut off welfare payments to drug addicts and alcoholics who refuse to seek treatment and pursue after-care. As employers and health professionals know, addicts need lots of carrots and sticks, including the treat of loss of job and income, to get the monkey off their back.

Put children of drug- or alcohol-addicted welfare mothers who refuse treatment into foster care or orphanages. Speaker Gingrich and First Lady Hillary Rodham Clinton have done the nation a disservice by playing all-or-nothing politics with this issue. The compassionate and cost-effective middle ground is to identify those parents who abuse their children by their own drug and alcohol abuse and place those children in decent orphanages and foster care until the parents shape up.

Subject inmates, parolees and welfare recipients with a history of substance abuse to random drug tests, and fund the treatment they need. Liberals must recognize that getting off drugs is the only chance these individuals (and their babies) have to enjoy their civil rights. Conservatives who preach an end to criminal recidivism and welfare dependency must recognize that reincarceration and removal from the welfare rolls for those who test positive is a cruel Catch-22 unless treatment is available.

Fortunately, the new Congress and the new Clinton are certain not to legalize drugs. Unfortunately, it is less clear whether they will recognize the nasty new stain of intractability that drugs have added to crime, health costs and welfare dependency, and go on to tap the potential of research, prevention and treatment to save billions of dollars and millions of lives.

If a mainstream disease like diabetes or cancer affected as many individuals and families as drug and alcohol abuse and addiction do, this nation would mount an effort on the scale of the Manhattan Project to deal with it.•

AMERICA'S GOLD-STAR MOM: ROSE

• Mr. SIMON. Mr. President, I am asking that a column written by Steve Neal, in tribute to the mother of our colleague, EDWARD KENNEDY, be placed into the RECORD.

It is a great tribute to Mrs. Kennedy. I did not have the privilege of knowing her well, but I wish I had.

In addition to what is said in the Steve Neal column, I believe it is not an exaggeration to say that no mother has contributed as much to the Nation in our 206 year history as Rose Kennedy.

Her life was a story of tragedy and triumph and a brilliant spirit, despite all the tragedies. The remarkable contributions that TED KENNEDY makes to this body and to the Nation are one of many tributes to Rose Kennedy.

At this point, I ask that the Steven Neal column be printed in the RECORD.

The column follows:

[From the Sun-Times, Jan. 24, 1995]

AMERICA'S GOLD-STAR MOM: ROSE

(By Steve Neal)

Rose Fitzgerald Kennedy had style. She spoke on her son's behalf at a Veterans of Foreign Wars hall in Brighton, Mass. It was John F. Kennedy's first campaign. He was running for Congress in 1946. Mrs. Kennedy, who had lost her eldest son Joseph in World War II and had nearly lost another, didn't talk about her family's tragedy. She dazzled the crowd with her wit. As the daughter of a former Boston mayor, Rose Kennedy was a political natural. When she finished her talk at the VFW hall. Mrs. Kennedy got a rousing ovation. Then she introduced the young JFK.

Dave Powers, JFK's war buddy, recalled that Kennedy was "slightly over-whelmed that his mother could talk that well to an audience." As Mrs. Kennedy made her exit, her son stopped her and said, "Mother, they really love you."

So did the world.

Rose Elizabeth Fitzgerald Kennedy, who died Sunday at 104, was America's gold-star mother and one of the more extraordinary women of the 20th century. She taught JFK how to give a political speech and how to work a crowd. He couldn't have had a better teacher.

Three of her sons were elected to the U.S. Senate and her son John won the presidency of the United States. She took pride in their accomplishments.

"As Jack's mother, I am confident that Jack will win because his father says so, and through the years I have seen his predictions and judgments vindicated almost without exception," Mrs. Kennedy wrote in her diary in June, 1960. "And so, I believe it. He also says, and has said all along, that if Jack gets the nomination he can beat Nixon."

Mrs. Kennedy had a long memory. "We are all furious at Governor [Pat] Brown of California and Governor [David] Lawrence of Pennsylvania because they will not come out for Jack now. Their support would clinch the nomination for him. Joe has worked on Lawrence all winter but he still can't believe a Catholic can be elected."

Mrs. Kennedy wrote of JFK's first debate: "I watched Jack last night on the debate, praying through every sentence, as I had prayed during the day. He looked more assured than Nixon and looked better physically. Jack seemed to have the initiative and once or twice rose to inspiring heights of oratory." But she noted that he could improve: "People think that Jack speaks too fast. I agree and have already told him."

Four of her children had tragic deaths. She said that the wounds of those tragedies never healed. But her courage and faith kept her going. "One of the best ways to assuage grief is to find a way to turn some part of the loss to a positive, affirmative use for the benefit of other people," Mrs. Kennedy wrote in her memoirs. "I do believe that God blesses us for that and the burden is lightened."•

ANGUISH IN RWANDA

• Mr. SIMON. Mr. President, recently, the Washington Post had an interesting editorial titled, "Anguish in Rwanda."

It speaks of the need for the United Nations to have a few troops, to give some stability to a nation that is teetering on the edge of instability. Perhaps even that is a too favorable description of the situation.

I introduced legislation in the last session, which I will be reintroducing this session, to authorize the United States to have up to 3,000 troops that would be available to the United Nations for their efforts, subject to the approval of the President of the United States. We should call on other nations to do the same.

The great threat to U.S. security and the security of other nations today is instability. By having a small force, a group of volunteers from within our Armed Forces available, we could do much to provide stability in places like Rwanda.

I ask that the Post editorial be printed in the RECORD.

The editorial follows:

[From the Washington Post, Jan. 25, 1995]

ANGUISH IN RWANDA

To protect a million-plus Rwandan refugees in Zaire, the United Nations appealed to 60 nations for peace-keepers. All 60 said no. The secretary general then asked for a few dozen U.N. officers to support soldiers from Zaire. Again the answer was no. Falling back, U.N. Secretary General Boutros Boutros-Ghali now simply asks the Security Council to make available some Zairian troops assisted by civilian refugee officials. The prospects are uncertain.

In the camps there is no uncertainty, only desperation. The Hutus who perpetrated genocide in Rwanda last spring lost to the Tutsi-minority rebels and then carried many of their people, with their supporting community structures, into exile in Zaire. The international relief agencies found these structures essential to funnel in quick aid. But that gave new power and coin to the old Hutu hierarchy, including war criminals, who steal the aid and keep refugees from going home. A moral dilemma has split the agencies: Stay and sustain a regime of killers, or leave and let suffering refugees suffer more. This is the context in which the United Nations seeks to build an alternative security structure.

Last year's television pictures of the genocide publicized the need for emergency supplies, and many responded. But the humanitarian needs of the camps merge into an obscure zone of political struggle, and many lose interest. Dozens of countries were ready to send material aid. None is ready to expose its soldiers to risk for the Hutus. Nor is the problem confined to Rwanda. Its descent to a hollowed-out chaos where it can no longer order its own affairs is typical of the ethnic and national disputes that now disfigure world politics. Expect more in humanitarian crises, the CIA warned last month, and less in international relief.

So many things remain to be done. Right at the top ought to be the establishment of a standby humanitarian food-and-police service, run out of the Security Council, where the United States has a veto, so that when the next quaking call comes, the secretary general does not have to run around begging 60 distracted countries to help in vain.•

GOOD MORNING, VIETNAM

• Mr. SIMON. Mr. President, a few weeks ago, Senator FRANK MURKOWSKI and I had the chance to visit Vietnam. And shortly after we got back, I read the column by Tom Friedman in the New York Times about Vietnam, which makes so much sense.

We are now inching toward full diplomatic relations that should have occurred years ago. Sixteen years ago I had lunch with the Vietnamese delegation at the United Nations and urged full diplomatic recognition at that time. We should do it now—the sooner, the better.

I ask that the Tom Friedman column be printed in the RECORD.

The column follows:

[From the New York Times, Jan. 18, 1995]

GOOD MORNING, VIETNAM

(By Thomas L. Friedman)

HANOI, VIETNAM.—In 1966, at the height of the Vietnam War, Senator George Aiken became famous for suggesting that we simply declare victory and bring American troops home. That victory was phony, but 29 years later we truly have one in Vietnam, if winning is measured by a Vietnam that is economically, politically and strategically pro-Western. Yet despite that victory, Washington is reluctant to open full diplomatic relations with Hanoi and consolidate its tentative move into America's orbit. It's time. It's time we started relating to Vietnam as a country, not a conflict. It's time that we declare victory and go back to Vietnam to reap it.

President Bush should have been the one to open relations. He knew it was the right thing to do, and he had the credibility with veterans' groups to do it. But he didn't. (Wouldn't be prudent.) President Clinton, despite his problems with Vietnam vets, has inched closer to Hanoi, by lifting economic sanctions last year and agreeing to a low-level liaison office this year. For months the State Department has been quietly recommending full normalization, but after the midterm Republican rout the White House said "Forget it." (Wouldn't be prudent.) That is America's loss.

Vietnam's 72 million industrious, literate people are building a market economy from the ground up. Because U.S. diplomats and businesses are not here in force as the foundation stones are laid and the legal system is reformed, this means U.S. standards, regulations and laws are not being wired in. Australia already dominates the phone system, British Petroleum has the oil sector and Singapore advises on the legal code.

I was riding in a taxi here the other day and the driver was studying English from BBC tapes. For 30 minutes I had to listen to a repetition of: "I like football. I like Manchester United," the prominent British soccer team. When they think football here they don't think Dallas Cowboys, and when they think telephones they don't think AT&T.

Strategically, the big issue in Asia will be the containment of China, whose military might, and appetite, will grow as China grows. There is no more powerful counterweight to Beijing than Hanoi, whose tiny army bludgeoned China's in their 1979 border war. China is Vietnam's historical enemy. Most of Hanoi's boulevards are named for heroes of the wars against China. The biggest display in the Hanoi Army Museum is not of Vietnam's victory over the U.S. in 1975, but its victory over the Mongols from the north in 1288. A U.S.-Vietnam entente would get China's attention—and keep it.

As for our M.I.A's, every U.S. official dealing with this issue says Vietnamese cooperation has improved (not diminished, as opponents of relations predicted) since we lifted the economic embargo. The reason is not anything the Hanoi Government is doing, but because the Vietnamese people, villagers and veterans, are now coming forward with information about graves and bones that they were holding back as long as America was embargoing them economically. U.S. M.I.A. officials say normal relations and more Americans traveling here would only elicit more grass-roots cooperation, which is the only way the 1,621 remaining M.I.A. cases will be resolved.

It is pathetic that a small, vindictive cult of M.I.A. activists in America—who broadcast U.F.O. sightings of P.O.W.'s roaming the Vietnamese countryside and demand we withhold normalization to punish Hanoi for war we never should have fought—have intimidated Washington into a Vietnam policy that is bad for M.I.A.'s and bad for America.

The Vietnamese, who have 300,000 M.I.A.'s, have let the future bury the past. As Deputy Foreign Minister LeMai told me: "If we nursed all of our grudges with all the powers that we have fought against, we wouldn't have relations with anyone. The war divided your society; recognizing Vietnam would put this behind you. It would heal your own wounds."

He's right. It's time we too buried the past. Hue today is a cuisine, not a battle; Tet is a New Year's celebration, not an offensive; Haiphong is a harbor, not something to be bombed at Christmas; and Highway 1 is where they run the Hanoi Marathon, not the military artery of an enemy nation. President Clinton didn't start this war, and he didn't fight this war, but with a little bit of courage, he could finally end this war.•

A FRACTURED COMMUNITY AND SHORT OF PERFECTION

• Mr. SIMON. Mr. President, recently, the annual Man of the Year Award in St. Louis was given to two people rather than one, our two former colleagues, Tom Eagleton and Jack Danforth.

They are both among our finest.

I am pleased that the citizens of St. Louis appropriately honored both of them.

The St. Louis Post-Dispatch published their comments on that occasion, and because of our association with the two of them and because of what they say about government and our attitudes toward one another in this excessively partisan climate, I urge my colleagues to read their comments.

I ask that their remarks be printed in the RECORD.

The remarks follow:

[From the St. Louis Post-Dispatch, Jan. 10, 1995]

A Fractured Community

(By Thomas F. Eagleton)

I recently attended a meeting of St. Louis businessmen and heard Charles "Chuck" Knight, chairman and CEO of Emerson Electric, say the following: "Downtown's top attractions—the Arch, Busch Stadium, Kiel Center, Union Station, the convention center, the new football stadium, the casinos—will draw in excess of 12 million visitors annually. That's more than Disneyland."

Chuck Knight is correct in his enthusiasm for downtown St. Louis, Downtown St. Louis has been revived. Downtown St. Louis is being rescued.

But the city of St. Louis as a whole has not. The Arch does not a city make. Busch Stadium does not a city make. The Kiel Center does not a city make. A football stadium does not a city make.

A city is people. A city is neighborhoods. A city is the interrelation of people with common concerns and common hopes. A city is the cohesive interaction of its peoples and its purposes. A city is the sum of its treasured pact and its capacity to flourish in the future.

Today's city of St. Louis can glory in its past as one of America's great cities, but as presently structured, it is a fading city with a troubled future.

When I entered politics, the city of St. Louis had 850,000 people. Today it is 380,000. The 1994 official State of Missouri demographic report says that in 2020 the population of St. Louis will be between 225,000 and 275,000—much smaller than the Wichita of 2020.

There is a structural noose around the St. Louis region's neck. We don't discuss it much, but the St. Louis metropolitan area is the textbook example of the most politically fragmented, disarrayed urban region in the nation. We are America's worst-case governance scenario. When we succeed, we do so in spite of our structural handicaps.

Back in 1876, the voters approved the separation of the city from the county. There were five municipalities in St. Louis County at that time. There are now 90. One has 11 residents. There are 21 St. Louis County cities with under 1,000 people. Only nine exceed 20,000.

There are 43 fire protection units and 62 police departments.

In the St. Louis metropolitan region, resource disparities are staggering. The city has been tax-abated to excess. In the county, there continues a frenetic, never-ending "land rush" to capture tax base in unincorporated portions of the county.

I realize we live in a time when it is out of fashion to discuss the impact of government on private decision-making. I also realize that we like to cling to the sentimental notion that somehow quaint Webster Groves and Ladue, for example, are so self-sufficient as to have no need of interaction and interconnection with governmental conditions around them.

Just as the city of St. Louis has outlived its history, St. Louis County has outgrown its sentimental quaintness. Our city and our county are an aggregation of jerry-built, haphazard, fragmented, disconnected governmental units, many barely treading water. We have had a succession of Boards of freeholders, a Board of Electors, and a Boundary Commission. All have attempted to tinker with the governmental structure and for one reason or another have made no discernable improvement.

We have tried some targeted remedies, such as a Sewer District, Junior College District, Zoo and Museum District, and joint support for a hospital. We have Bi-State. These regional efforts have helped, but the city-county disunion persists.

St. Louis and St. Louis County still remain as the foremost textbook example of how free people can misgovern themselves on the local level.

Enough handwringing. What do we do?

We have two choices.

Creeping incrementalism. Deal with the situation at the margins—tinkering with charter reform—go to the Missouri legislature or voters for non-controversial changes.

Cold bath. Just as the end of communism required a bold, total leap into capitalism, so too the end of St. Louis-St. Louis County disunion will require a bold, total immersion. St. Louis, like Berlin, would be whole again.

I fervently believe in the latter precept. Incrementalism won't go to the root of the distress. I'll give an example. Whether the St. Louis Police Board is appointed by the governor or the mayor will not have an overwhelming, decisive impact on the destiny of St. Louis. Only the boldness of urban consolidation—one city—will be meaningful.

Let me be clear. I am not alleging that solving the governmental barriers of the St. Louis region will alone create a spontaneous regeneration of a new and greater St. Louis with unfettered decency and personal responsibility reigning supreme.

Eliminating the Berlin Wall has not as yet equalized East and West. Eliminating Skinker Boulevard as our own Berlin Wall between poverty and prosperity will not by itself ensure an instantaneous panacea.

It would allow for local government to do its part of the societal job at its united best rather than at its fragmented worst. It would allow for a consolidation of effort and a focus of responsibility that simply isn't possible when political authority is fragmented into bits and pieces.

The day should come when St. Louis recaptures its population, its tax base and its greatness.

To paraphrase a famous Jewish sage, if not now, when? If not us, who?

[From the St. Louis Post-Dispatch, Jan. 10, 1995]

Short of Perfection

(By John C. Danforth)

It is a most special honor to be joined in anyone's mind with Tom Eagleton. For all of my political life, Tom has been for me the model of what a public servant should be—smart, energetic, dedicated, always committed to the principles in which he believed. It never mattered to me that his positions were not exactly my own. He was a very fine Senator, and he is a very good friend, and I am proud to share this honor with him.

I don't know whether I am making much more out of it than was intended, but it seems to me that there is a message in this dual award—a message from St. Louis to the country—that it is St. Louis' own answer to the meanness and the anger that is the politics of the 1990s. The message is that politics does not have to be as mean and as angry as is now the rule.

I don't say this only because of the personal relationship between Tom and me. But beyond recognizing our good relationship, there is something more in the message of today's awards.

Consider what it means when there are two men of the year who made careers in politics, when one is a Democrat and the other a Republican, one a liberal, the other a conservative, one a supporter of Carter and Mondale, the other a supporter of Reagan and Bush. Consider what it means when there are two men of the year, who often disagreed, who often canceled one another's votes in the Senate.

For those citizens who are in a constant state of rage about government, it would be difficult to honor either Tom or me; it would be impossible to honor both of us at the same time. It would be difficult to honor either of us because, with the thousands of Senate votes we cast, each of us has done enough controversial things to make every Missourian mad at least some of the time.

And if it would be difficult for an outraged citizen to honor either one of us separately, it would be absolutely impossible to honor both of us together. Even those who agreed with one of us could not have agreed with both of us at the same time.

If it is essential to you that your politicians reflect your views, and if it angers you when they don't, then Tom, or I, and certainly both of us together, must have made you very angry very often. Many people have theories to explain the general sense of outrage felt against politics and politicians. Some point to the media generally, or more specifically to talk radio or Rush Limbaugh. Some point to negative election campaigns and unprincipled political consultants. All of that deserves attention, but I think there is something more—something broader than the latest trends in the media or in campaigning. It has to do with what people expect from government.

When expectations are unrealistically high, outrage at failure is sure to follow. When we believe that government should have all our answers, we are angry when it has none of our answers. And unrealistic expectations of government are the order of the day. This is true on both the left and the right. On the left, it is thought that government can manage the economy and cure the ills of society. On the right it is thought that government can deter crime and restore personal and religious values. In each case, platforms and programs are thought to hold the key to success, if only the right law is enacted, if only the right people are in charge.

We attribute our failures as a country to failures of our government. We say that our politicians are out of touch. They don't do things our way. They are incompetent, maybe even corrupt.

Our problems are not of our making, but of their making. If only right thinkers were in power, we could get on with the people's business—the business of balancing the budget and cutting taxes and retaining all the benefits we demand.

It is no wonder that we are so angry at government when our expectations are so high. If government has the power to make things right for us and simply doesn't do so, of course we should be mad.

But we have got it wrong, wildly wrong by any historic standard. It is not that government is bad, only that it is government. As such it is limited, not by accident, but by design, not because it is poorly run, but because it is run as our founders intended it to be.

Government is not perfect, and it was not supposed to be perfect. It is not omnipotent, because it was not intended to be omnipotent. It was not intended to rule the economy or our health care system or our families or our values. It never had the total answer, it never had total power—it had limited power and the limited capacity to make things better.

It makes sense to honor Tom Eagleton and Jack Danforth with the same award only if there is a high level of tolerance for each of us, only if you see that each of us was off the mark, that neither of us had all the answers, that it was enough to make a good try.

The business of government is not to reach perfection, for perfection is not reached in this world. Marxism's lesson is that when government attempts to reach perfection, it must be totalitarian.•

RECALLING A MAN WHO STAYED THE COURSE

• Mr. SIMON. Mr. President, one of the gems in our society today is Jack Valenti, president of the Motion Picture Association of America and former assistant to Lyndon Johnson.

Recently, I saw his op-ed piece in the Los Angeles Times on the 30th anniversary of the inauguration of Lyndon Johnson as president.

His article reminded me what I heard on the radio recently that our statistics on the children who live in households below the poverty level has risen to 26 percent. I did not hear the source for that, I do not know if it is accurate. The traditional measurement we have been using is 23 percent. And what a tradegy that is. No other Western industrialized democracy comes anywhere near a figure like that, a figure that is totally and completely preventable.

While the Vietnam war marred the record of Lyndon Johnson, what he accomplished in the domestic field—in helping people who desperately need help—should jog our conscience today. There is so much mean-spiritedness and lack of concern for the poor. It appalls me.

All Americans need hope and instead of giving many of them hope, we are giving them jail cells or desperate poverty.

I ask that the Jack Valenti item be printed in the RECORD.

The editorial follows:

RECALLING A MAN WHO STAYED THE COURSE

(By Jack Valenti)

On this day 30 years ago, Lyndon B. Johnson was inaugurated in his own right as the 36th President of the United States. He has been elected President the previous November in a landslide of public favor, with the largest percentage of votes in this century, matched by no other victorious President in the ensuing years. This day plus two is also the 22nd anniversary of his death.

Is it odd or is it merely the lament of one who served him as best I could that his presidency and his passing find only casual regard on this day?

He was the greatest parliamentary commander of his era. he came to the presidency with a fixed compass course about where he wanted to take the nation, and unshakable convictions about what he wanted to do to lift the quality of life. Against opposing forces in and outside his own party, in conflict with those who thought he had no right to be President, contradicting conventional wisdom and political polls, he never hesitated, never flagged, never changed course. He was a professional who knew every nook and cranny of the arena, and when he was in full throttle, he was virtually unstoppable.

He defined swiftly who he was and what he was about. He said that he was going to pass a civil-rights bill and a voting rights bill because, as he declared, "every citizen ought to have the right to live his own life without fear, and every citizen ought to have the right to vote and when you got the vote, you have political power, and when you have political power, folks listen to you." He promptly told his longtime Southern congressional friends that though he loved them, they had best get out of his way or he would run them down. He was going to pass those civil-rights bills. And he did.

He made it clear that he was no longer going to tolerate "a little old lady being turned away from a hospital because she had no money to pay the bill. By God, that's never going to happen again." He determined to pass what he called "Harry Truman's medical-insurance bill." And he did. It was called Medicare.

He railed against the absence of education in too many of America's young. He stood on public rostrums and shouted, "We're going to make it possible for every boy and girl in America, no matter how poor, no matter their race or religion, no matter what remote corner of the country they live in, to get all the education they can take, by federal loan, scholarship or grant." And he passed the Elementary and Secondary Education Act.

He was in a raging passion to destroy poverty in the land. He waged his own "War on Poverty," giving birth to Head Start and a legion of other programs to stir the poor, to ignite their hopes and raise their sights. Some of the programs worked. Some didn't. But he said over and over again, "If you don't risk, you never rise."

He often said that no President can lay claim to greatness unless he presides over a robust economy. And so he courted, shamelessly, the business, banking and industrial proconsuls of the nation and made them believe what he said. And the economy prospered.

On the first night of his presidency, he ruminated about the awesome task ahead. But there was on the horizon that night only a thin smudge of a line that was Vietnam. In time, like a relentless cancer curling about the soul of a nation, Vietnam infected his presidency.

If there had not been 16,000 American soldiers in Vietnam when he took office, would he have sent troops there? I don't believe he would have. But who really knows? What I do know is that he grieved, a deep-down sorrow, that he could not find "an honorable way out" other than "hauling ass out of there."

I think that grieving cut his life short. Every President will testify that when he has to send young men into battle and the casualties begin to mount, it's like drinking carbolic acid every morning.

But it was all a long time ago. To many young people not born when L.B.J. died, he is a remote, distant figure coated with the fungus of Vietnam. They view him, if at all, dispiritedly.

But to others, to paraphrase Ralph Ellison, because of Vietnam, L.B.J. will just have to settle for being the greatest American President for the undereducated young, the poor and the old, the sick and the black. But perhaps that's not too bad an epitaph on this day so far away from where he lived.•

YOU CAN'T LEAD BY FOLLOWING

• Mr. SIMON. Mr. President, in going over some old newspapers that I missed while I was in Illinois over the Christmas/New Year holiday, I came across an op-ed piece by Robin Gerber, a senior fellow at the University of Maryland's Center for Political Leadership and Participation.

It comments on what I consider to be a fundamental weakness in our political process today, that people are trying to follow the polls in how they respond to problems.

There is a great quote in the op-ed piece from our House colleague, STENY HOYER, for whom my admiration has grown through the years. Congressman HOYER states: "What polls do is confuse us. We're not trying to figure out what's right but what is the passion of the day. Polls make us sloppy intellectually. They are a substitute for thinking."

I ask that the Robin Gerber item be printed in the RECORD.

The editorial follows:

YOU CAN'T LEAD BY FOLLOWING

(By Robin Gerber)

There is much talk now of governing from the "center," of how centrist politics can overcome the debacle of the Nov. 8 election and put the president and his party on a true course for reelection in 1996. But it is the moral center that must be found before the political one can be explored.

This quest for defining political vision is imperiled by the misplaced reliance by politicians of both parties on public opinion polls.

Pollsters' authoritative declamations and directions, gleaned from the complex science of gauging the public interest, corrupt the straightforward instincts needed to govern from the gut. Rep. Steny Hoyer, past chairman of the Democratic Caucus, puts it this way, "What polls do is confuse us. We're not trying to figure out what's right but what is the passion of the day. Polls make us sloppy intellectually. They're a substitute for thinking."

In an unprecedented effort to lead by following, politicians of the 1990s use polls to support a new form of hyper-interactive governing. Like some collective psychoanalysis on living room couches across the nation, Americans are being probed and prodded as never before. But you can't legislate by the numbers. From the field of war to the football field, no general or quarterback has led by following the combined opinions of the troops or the tight-ends.

Pollsters argue that polls are valuable market assessment tools, a means to focus policy and message on voters' concerns. Even the Founders acknowledged that candidates who depend on the suffrage of their fellow citizens for election should be informed of those citizens' "dispositions and inclinations and should be willing to allow them their proper degree of influence." But polling in 1994 has gone beyond an ancillary tool for governing or campaigning. Rather than a point of departure for sensitive and thoughtful leaders, polls have become a point of no return that overshadows the imperative for leadership. As James MacGregor Burns wrote in his classic text on leadership, "the transforming leader taps the needs and raises the aspirations and helps shape the values—and hence mobilizes the potential—of followers." To be transforming leaders, today's politicians cannot afford to drift, absent the anchor of ideals, in a sea of percentage points.

Two hundred years ago, the Federalist papers expressed our belief as a nation that "the public voice pronounced by the representatives of the people, will be more consonant to the public good, than if pronounced by the people themselves." Measuring and articulating substantive discontent should serve the purpose of keeping elected representatives' debate and decisions in tune with their constituency, not in automatonic lock-step. Pollster Celinda Lake reads the electorate as wanting to raise the pitch of technologically steered democracy so that citizens could directly bestow their opinion on major legislative issues. In that case, perhaps we should give up on our founding ideal of a republic and elect the pollsters directly.

Representative democracy is our greatest national heritage and gives us our greatest national challenge. We seek leaders who will listen and interpret sometimes incoherent, sometimes inchoate messages into policies greater than the sum of our collective consciousness. Political leaders who will transform this country, rather than be transfixed by shifting techno-derived edicts, must lead and govern from the center of their own hearts and minds. No poll has yet been devised that can substitute.•

EDUCATION CHIEF DECLARES WAR ON TV VIOLENCE

• Mr. SIMON. Mr. President, the problem of television violence, which I have addressed on a number of occasions in committee and on the floor of the Senate, has recently been addressed by a group of psychiatrists and other social leaders in Great Britain, where the standards are appreciably tighter than ours. And in reading the Jerusalem Post the other day, I came across an article titled, "Education chief declares war on TV violence."

The reaction in Israel to too much violence on the television screen is like ours and the British reaction.

At this point, I ask that the Jerusalem Post article be printed in the RECORD. The article follows:

EDUCATION CHIEF DECLARES WAR ON TV VIOLENCE

(By Liat Collins)

Education Minister Amnon Rubinstein last week declared war on TV violence, telling the Knesset that if networks do not demonstrate self restraint in screening movies, he would submit a bill to the cabinet.

Rubinstein's statements came at the end of a discussion on the distribution of "snuff" and violent movies in Israel. "Snuff movies" document the deliberate torture and murder of a victim for "entertainment."

"This type of film goes beyond all acceptable moral boundaries; we're talking about an evil and sick phenomenon. Therefore we must enforce the existing laws, and if need be I will equip myself with extra penal measures," Rubinstein said.

"Freedom of expression and civil liberties do not stretch to filmed murders and violence as entertainment," he added.

The discussion was initiated by MKs Anat Maor (Meretz), David Mena (Likud), Elie Goldschmidt (Labor) and Shlomo Benizri (Shas), who filed motions for the agenda following an interview in *Yediot Aharonot* with two youths who collect and view these films.

The two adolescents laconically describe how victims have been disembowelled and dismembered alive. One noted that one of the two teenaged killers of taxi driver Derek Roth had seen such movies. He also said he regretted not being awake in time to see the screened footage of the Dizengoff bus bomb.

While condemning the movies, Rubinstein warned of trying to turn two adolescents into representatives of an entire generation.

Benizri, on the other hand, called the phenomenon "the result of a sick society." All the MKs spoke of the need for police cooperation in rooting out the films, and called for strict punitive measures against both distributors and viewers of these movies.•

P.S./WASHINGTON

• Mr. SIMON. Mr. President, for more than 40 years, since I was a young newspaperman in suburban St. Louis, I have written a weekly newspaper column on the topics of the day.

I hope my colleagues will find the newspaper columns I wrote in January of interest, so I ask that they be printed in the RECORD.

The columns follow:

THE VALUE OF THE CARTER MISSIONS

There has been some editorial sniping—as well as criticism from political leaders, most of it not in public statements—about former President Jimmy Carter's efforts in North Korea, Haiti and Bosnia.

"We can have only one person making foreign policy for the United States—and that should be the President, is the argument.

What these nay-sayers miss is the reality that Jimmy Carter does not make any pretense of speaking for the United States. If he were to travel abroad and claim to speak for the President when he has no authorization to do so, that would be wrong.

In the case of Haiti, he went on the mission at the request of the President.

But Jimmy Carter is a person of international stature who can do more to bring people together than any person other than Secretary General Boutros Boutros Ghali of the United Nations.

Carter is regarded as well-motivated and not trying to promote any private agenda or any national agenda other than helping to bring about a world of peace and stability.

When he has gone at the request of other nations to be an observer of elections, where countries are moving to democracy, there has been no criticism.

When he helps bring the two sides of a civil war together in Liberia in Africa, no one pays any attention.

At the Carter Center in Atlanta, he gets people from various nations together to discuss frictions and hopes, and there is hardly a paragraph in any newspaper about it.

But when he moves onto a more visible problem, then the critics emerge.

Part of this is because foreign policy has not been a strong suit of President Clinton. He is better at foreign affairs than he was a year ago and a year from now he will be still better.

It is difficult to move from being Governor of Arkansas to overnight being the most influential person in the world on foreign policy.

Because of a partial foreign policy vacuum in the current administration, some believe that the visibility of a former President doing creative things causes Clinton political embarrassment.

My strong belief is that President Clinton should continue to welcome Jimmy Carter's leadership, as he does that of the United Nations Secretary General, but simply make clear that ordinarily Jimmy Carter is acting on his own, not speaking for the United States.

Whether the former President's activities in Bosina will produce long-term gains is still unclear. But they have done no harm, and may do great good.

In North Korea and Haiti there is no question of the significant contribution of Jimmy Carter.

With the possible exception of John Quincy Adams, no former President has served as effectively as has Jimmy Carter. I would also give high marks for post-president leadership to Thomas Jefferson and Herbert Hoover—Jefferson largely through correspondence and Hoover in a variety of public endeavors.

My hope is that Jimmy Carter will ignore the critics and continue to serve the cause of world peace.

We are indebted to him.

INCHING TOWARD A BALANCED BUDGET AMENDMENT

The nation is inching toward having a balanced budget amendment to the U.S.Constitution, and that is good news for the generations to come.

We have been living on a huge credit card and when the time comes to pay for it, we say blithely: "Send the bill to our children and grandchildren." It is morally indefensible.

Both political parties share the blame.

For 26 years in a row we have been spending more than we take in, and we are already paying for it. A New York Federal Reserve Bank study shows that between 1978 and 1988 the deficit cost us 5 percent of our national income. The Congressional Budget Office suggests that the loss of 1 percent of our national income means the loss of 600,000 jobs.

The deficit has eaten away at our savings, sending interest rates up, reducing our productive capacity because it makes investment too expensive, ultimately reducing the growth of our national income. As late as 1986, the average manufacturing wage per hour was higher in the United States than any other nation. Now 13 nations have exceeded us.

Studies indicate that between 37 percent and 55 percent of our trade deficit has been caused by the budget deficit. That means that the single biggest cause of sending our jobs overseas has been the budget deficit, but the issue is complicated enough that it is not generally understood.

The General Accounting Office in 1992 reported that if we continue on the course of deficit spending we would have a gradual decline or stalemate in our standard of living, but if by the year 2001 we would balanced the budget, by the year 2020 the average American would have an increased income of 36 percent.

Worst of all, the history of nations is that if we continue piling up debt, eventually we will do what the economist call "monetizing the debt." That means that to "solve" our problem we will start printing more and more money and our dollars would be less and less valuable. Among other things, that would devastate all private savings as well as things like Social Security.

On top of all that, more and more of our debt is owed to other nations. We now owe more than $800 billion to people outside the United States and that makes our international situation somewhat precarious. The greater our debt, the less independent we can be. It's true of a family; it's true of a country.

It now looks like the proposal, narrowly defeated in the past, will pass. It has been advocated by many people over the years, the first being Thomas Jefferson.

It will include a provision that if there is a 60 percent vote of the House and Senate, we can have a deficit, for there are years in a recession or war when it may be necessary.

Today interest spending by the federal government is ballooning, squeezing out our ability to respond to great needs. In 1949 we devoted 9 percent of the federal budget to education; today it is 2 percent. In 1950 we were paying interest on the debt of World War II and we spent $5.8 billion. This year we will spend more than $300 billion.

To their credit, President Clinton and a bare majority in Congress reduced the deficit in 1993, but that was only the first step needed.

If we adopt the balanced budget amendment and it is approved by 38 state legislatures, we will all have to sacrifice a little.

But I face a choice of sacrificing a little, or harming the future of my three grandchildren. I don't have a difficult time making that choice, and I don't believe most Americans do.

CULTURAL CHASMS THAT DIVIDE US

Madeleine Doubek, political editor of the Daily Herald, the widely circulated newspaper based in the northern and western Chicago suburbs, noted that at a recent news conference I answered a reporter's question by saying: "We have to reach . . . across the borders of race and religion and ethnic background and economic barriers. We have to communicate to people in the suburbs that they have something at stake in the fate of those who are less fortunate in our society."

She called me and asked whether that implied racism and classism in the suburbs, and I responded that it did.

I do suggest that those evils are a monopoly of the suburbs. Prejudice rears its ugly head in the central cities, and in the rural areas, as well as in the suburbs.

But there has been a flight from the problems of the cities, a flight to better schools and less crime. Sometimes those two understandable causes have also been confused with flight from African Americans and Latinos.

But whatever the cause, the result is a growing gulf between urban America and suburban America, and that's not good for anyone. We don't want this nation to develop into a Bosnia or Northern Ireland. The harm that comes from the deepening divisions in our society should be obvious.

What can we do about it? More specifically, what can suburbanites and all of us do about it? Let me suggest a few things:

(1) Religious institutions play a powerful role in American life. Ask the question at the appropriate meeting, or to the right people, what your church or temple is doing to bring greater understanding across the barriers that divide us. I would be interested in hearing of specific actions that are planned or are being taken.

(2) Rotary Clubs, business and professional women's groups, teachers' associations and other civic and business-related groups can sponsor programs that help to create greater sensitivity. The myths that are believed about another race or religion or ethnic group often can be demolished in this type of setting. When business and professional people understand that it is good economics not to discriminate, everyone wins.

(3) Individuals can make sure that their children are exposed to people of differing cultural backgrounds in a positive way. Too few white families have ever had an African American or Latino or Asian American family to their homes for dinner. Too few African American families have ever had a white family to their home for dinner. The same can be said across too many ethnic and religious barriers. What seems like a small thing for your family to do can be immensely important for the future of your children, and the future of your community and our nation and our world.

I spoke at three events honoring Martin Luther King Jr.'s birthday this year, and what disturbed me about two of them is that I spoke only to African Americans.

Dr. King wanted us to reach out to one another, understand one another, and replace hatred and prejudice with love and understanding.

That message is needed in the suburbs, but also in our cities and rural areas.

"One nation, indivisible" we recite when we say the pledge of allegiance to our flag.

Do we mean it? Are we willing to do concrete things to make it a reality?

RELIGIOUS ZEALOTRY CAN TURN GOOD INTO EVIL

There is much that is good about people who have religious beliefs and practice their religion, however imperfectly we all do it. But religion can be abused when people are too zealous—and can be abused when there is a shell of religion that translates into hostility to others.

Almost all religions, if not all, suggest that we should be concerned about those less fortunate. According to a poll conducted for the Center for the Study of American Religion at Princeton University, those who attend religious services weekly in the United States are significantly more likely to think seriously about their responsibilities to the poor.

Many other examples of the good that religious belief provides our society should be given.

But when people are so zealous that they kill people at abortion clinics, or try to impose their beliefs on others, then what is good can become an evil. Many of the most bloody wars have been conducted in the name of religion, usually simply used as a tool by ambitious rulers, but sometimes out of genuine belief by the leaders.

There is also the problem where faith has almost diminished to nothing, except hostility to others who do not share the same religious heritage.

My impression is that most of those involved in the violence of the Protestant-Catholic struggle in Northern Ireland are not necessarily people of deep religious commitment, but people who have grown up with one heritage and have learned to hate the other side.

During my years in the Army I was stationed in Germany, and I remember the young German who told me with great pride that no one in his family had married a Roman Catholic for over a century. I asked what church he attended, and he told me that while he was proud of being a Protestant, he didn't attend any church.

But he had learned to hate.

Hitler had only nominal Christian ties. He believed little, and practiced nothing in the way of religion, but his religious heritage somehow left him with a hatred of Jews.

In Bosnia, nations with strong Orthodox ties are generally much more sympathetic to the Serbian cause than other nations, not for genuine religious reasons but for heritage reasons. Serbia is largely Orthodox Christian.

Muslim countries believe that the reason Europeans and Americans have not responded more to the plight of the Bosnian Muslims is precisely because they are Muslims. I do not believe that is true for the United States, but unfortunately it contains some truth for the more tradition-bound European nations, even though the actual practice of religion is much less evident in Western Europe than in the United States. The empty shell of Christianity too often only has hostility toward non-Christians.

One of several good things about what we did in Somalia (incorrectly labeled a disaster by those who look at it superficially), in addition to preventing starvation by hundreds of thousands of people, is that a Nation labeled by the world as Christian/Jewish, the United States, came to the rescue of a people almost totally Muslim. How would we have looked if the world's most powerful Nation had done nothing about massive starvation in a desperate country! But many Muslim nations were permanently surprised that we responded.

The lesson of history is that the genuine practice of religion is wholesome, good for the individual and good for a community and nation. But extreme caution is in order when leaders try to impose their beliefs on others through government.

And the "stop" sign should go up when political leaders who share a heritage call on others to hate or kill those who do not share the same faith.●

NOMINATION OF DR. HENRY FOSTER, TO BE SURGEON GENERAL OF THE UNITED STATES

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to speak briefly about two important issues facing the Senate. The first is the nomination of Dr. Henry Foster, to be Surgeon General of the United States, and the second is the continuing impasse over the baseball strike.

With respect to the Foster nomination, Dr. Henry Foster has had an extraordinary, distinguished career in medicine and public health. And I believe that the forthcoming hearings on his nomination will demonstrate that he is well qualified to be Surgeon General.

I would like to take this opportunity to make three brief points. First, and most important at this stage of the debate, I reject the view that Dr. Foster's participation in abortions should disqualify him from this high position. Abortion is not a numbers game. It is a legal medical procedure and a constitutionally protected right.

Second, the American Medical Association enthusiastically supports Dr. Foster's nomination because of his distinguished service as Dean of Meharry

Medical College, his record of achievement in medical research, his impressive leadership on issues such as preventive health care for women and children, for reducing infant mortality and teenage pregnancy and fighting drug abuse.

Third, Dr. Foster has had and deserves to continue to have strong bipartisan support. As recently as 1991, he was honored by President Bush as one of the President's Thousand Points of Light for his innovative I Have A Future Program to reduce teenage pregnancy. I look forward to the consideration of Dr. Foster's nomination by the Senate Labor Committee.

BINDING ARBITRATION TO SETTLE BASEBALL STRIKE

Mr. KENNEDY. Mr. President, yesterday, I introduced legislation proposed by President Clinton to require the major league baseball players and owners to submit to binding arbitration to settle the baseball strike.

Generally, Congress is reluctant to inject itself in labor disputes. All of us hope that the parties will find a way to end the impasse and settle their differences voluntarily. But there are rare instances in which Congress has a role to play in settling such disputes, and this may well be one of those times.

There is no doubt that Congress' constitutional authority to regulate interstate commerce gives us the power to enact legislation to settle this dispute. Many aspects of major league baseball affect commerce between the States. The strike has caused significant disruptions, especially in the cities where the 28 major league teams play and is about to cause significant additional disruption in Florida and Arizona where spring training is supposed to begin next week.

The U.S. Conference of Mayors estimates that the major league cities lost an average of $1.16 million per home game and 1,250 full- and part-time jobs because of the strike in 1994. Hard-pressed cities with substantial investments of tax dollars in municipal stadiums are losing substantial revenues. The cancellation of the 1994 league playoffs and the World Series was especially damaging to whichever cities would have hosted the playoff games and the World Series.

Obviously, Congress does not intervene in every labor dispute that burdens interstate commerce, but baseball is different and unique. It is more than a nationwide industry. It is our national sport. Baseball is part of American life.

We in Congress as representatives of fans throughout the country should not remain silent while baseball is damaged by a strike that the owners and players seem unable to resolve themselves. Clearly, Congress has the power to act. The question is who speaks for Red Sox and millions of other fans across America. At this stage in the deadlock, if Congress does not speak for them, it may well be that no one will.

For all these reasons, Congress can act and should be prepared to act. Legislation to end the strike would not set a precedent for injecting Congress into other labor disputes. There is still time for the owners and players to resolve this dispute on their own or to act voluntarily to establish a safety mechanism for doing so. The players union is willing to agree to voluntary binding arbitration. It is hard to see why the owners are not willing to do so as well. In that event, Congress would not have to be involved.

The parties can quickly agree to a process that would result in a settlement. If both sides are confident that the merits are on their side, they should be willing to submit to binding arbitration and do it now so that spring training can begin on schedule next week. If the parties do not agree on such a mechanism, it is reasonable and appropriate for Congress to act.

We in Congress may be the last and best hope to salvage the game that means so much to Red Sox fans of all ages in Massachusetts and to the fans of all the other teams in all parts of the Nation.

I ask unanimous consent that a table prepared by the U.S. Conference of Mayors on the economics of the strike may be printed in the RECORD.

There being no objection, the data were ordered to be printed in the RECORD, as follows:

BREAKDOWN OF ECONOMIC IMPACT BY MAJOR LEAGUE CITY

City, State	Team name	Total loss per game	Stadium revenues	Local taxes	Local business revenues	Jobs lost	Stadium ownership
Anaheim, CA	Angels	$1.9 million	$61,000	$441,000	$1.417 million	600	city.
Arlington, TX	Rangers	2 million	private	incl. in total	incl. in total	2,500	private.
Atlanta, GA	Braves	3 million	2 million	incl. w/stad	1 million	6,350	county.
Baltimore, MD	Orioles	1.2 million	100,000	incl. in total	1.1 million	2,000	commission.
Boston, MA	Red Sox	50,000	private	10,000	40,000	400	private.
Chicago, IL	Cubs	736,181	636,000	30,000	70,000	1,000	commission.
Chicago, IL	White Sox	852,038	780,000	39,000	33,157	1,000	commission.
Cincinnati, OH	Reds	700,000	76,416	10,138	640,700	600	city.
Cleveland, OH	Indians	2.04 million	1.2 million	600,000	240,000	2,000	commission.
Denver, CO	Rockies	2.04 million	43,000	39,600	1.96 million	1,944	city.
Houston, TX	Astros	1.04 million	400,000	40,000	600,000	1,000	county.
Kansas City, MO	Royals	540,740	265,000	23,456	250,000	350	commission.
Minneapolis, MN	Twins	922,600	282,600	366,000	640,000	900	commission.
New York, NY	Mets	2.06 million	2 million	52,500	incl. in total	850	city.
New York, NY	Yankees	2.06 million	2 million	62,500	incl. in total	850	city.
Oakland, CA	Athletics	986,197	32,395	9,358	944,444	438	county.
Philadelphia, PA	Phillies	250,000	125,000	42,000	83,000	500	state.
Pittsburgh, PA	Pirates	460,000	20,000	20,000	400,000	350	city.
St. Louis, MO	Cardinals	432,480	private	30,320	402,160	1,180	private.
Seattle, WA	Mariners	204,745	101,245	23,500	80,000	327	county.
San Diego, CA	Padres	203,000	18,000	5,000	180,000	825	city.
San Francisco, CA	Giants	1,766,000	535,000	136,000	1,095,000	800	city.

Cities not responding: Detroit, Los Angeles, Miami (Dade County), Milwaukee.
Canadian cities not surveyed: Montreal, Toronto.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DANGER OF RENEWED WAR IN CROATIA

Mr. PELL. Mr. President, I am very concerned about the situation in Croatia, where the Krajina Serbs have refused to consider an international peace plan for the country, and where President Tudjman has indicated that he will ask UNPROFOR troops to leave when their mandate expires in March. Last weekend in Munich, Bosnian Croats and Moslems, with the support of the Croatian Government, agreed to bolster their federation agreement. This good news is overshadowed, however, by dangerous developments in the Croatian peace process.

Last week, Serbian nationalists who control one-third of Croatia declined to consider a plan to resolve the status of Croatia's U.N.-protected area [UNPA's] prompting fears of a renewed Croatian war. The plan was developed by the Zagreb Four—or Z-4—consisting of the United States, Russia, the United Nations, and the European Union. It ought to have been the last step in an otherwise successful process to reduce tensions and normalize relations between Croatia and the Serbs living in the UNPA's.

I would particularly like to commend our Ambassador to Croatia, Peter Galbraith, the United States representative to the Z-4 process—who was a senior staff member with the Senate Committee on Foreign Relations during my tenure as chairman—for his efforts in this regard. A Z-4-negotiated ceasefire is in place, and the parties have agreed to confidence-building measures that include opening transportation and communications links between Croatia and the U.N. zones. These are important gains which I hope will not be lost by last week's setback with regard to a political settlement.

By all accounts, the Z-4 plan goes a long way to address the concerns of both the Croatian Government and the Krajina Serbs. It calls for the restoration of Croatian sovereignty to all the U.N areas, with considerable autonomy for the local Serbian population.

As I said, the Krajina Serbs have not even deigned to look at the plan; the Croatian Government has not yet responded to it. President Franjo Tudjman's decision not to renew the mandate for UNPROFOR, the 15,000-troop U.N. force in Croatia, has dangerous repercussions for the Z-4 process. The threat of withdrawal has provided a convenient, though unacceptable excuse for the Serbs to ignore the peace process.

To my mind, it would be a grave mistake for UNPROFOR to withdraw at this time. Frankly, I am concerned that the U.N. withdrawal will precipitate renewed fighting between the Serbs living in Croatia and the Croatian Government, and indeed, even between Serbia and Croatia. While the United Nations does not have a flawless record in Croatia, UNPROFOR's presence since early 1992 has prevented the reemergence of full-scale war. Without UNPROFOR to patrol the demilitarized zones, the current ceasefire negotiated by the Z-4 is likely to collapse. UNPROFOR's withdrawal could very well offer an opportunity for the Serbs to attack, and Croatia's intentions regarding Serb-controlled areas in the wake of a U.N. withdrawal are unclear.

A new war in Croatia, by all estimates would make the horror in Bosnia pale in comparison. Mr. President, I hope the parties to the conflict wake up; see the treacherous path on which they are headed; call off the U.N. withdrawal; and seriously consider the Z-4 peace plan.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUTTE, MONTANA

Mr. BAUCUS. Mr. President, this is my third statement this week on why Micron Technologies should come to Butte, MT.

I would like to talk this evening about a topic that is very dear to my heart; that is, fishing in the great State of Montana.

The first line in Norman Maclean's famous book "A River Runs Through It" reads: "In our family, there was no clear line between religion and fly fishing."

Our friend and former colleague Jack Danforth has always told me that he thought that was the most beautiful sentence in the English language. We all know that Senator Danforth is an ordained minister. But what many may not know is that he is also an avid fly fisherman.

And any avid fly fisherman knows that fishing in Montana's blue ribbon streams is something close to a religious experience. It is one of the things about Montana that makes it a truly special place to live.

Moreover, any successful business looking to relocate or expand puts a high quality of life at the top of their list.

Micron, being a successful company, wants its employees to be as productive as possible. And the best way to be productive in your job is to have a good quality of life.

For many Montanans, quality of life is measured by how many days they can fish. And the Butte area is right in the middle of some of the best trout fishing in the world. Rivers like the Big Hole, Ruby, Beaverhead, Missouri, and the Clark Fork are on any serious fisherman's wish list, and Butte is only an hour or so away from each of these rivers.

George Grant, a renowned fly-tier and lifelong resident of Butte, once wrote:

> In the nine great trout States of the Western United States it would be difficult to find a single stream that exceeds the overall quality of the Big Hole River. The Big Hole rises at high altitude and flows clear and cold through wide valleys and narrow canyons seldom presenting similar water or scenery throughout its entire 150 fascinating miles.

Having spent a little time on the Big Hole myself, I have got to agree.

Finally, the folks at Micron are used to the language of the semiconductor industry—words like D-RAMs, C-MOS, kilobits, dice, and E-PROM's.

Well, Montana fisherman have their own language. We talk about pupas, nymphs, emergers, and mayflies. We tell stories—and sometimes they are even true—about rainbows, browns and cutthroat hitting on PMD's, san juan worms, wooly buggers, and Joe's Hoppers.

Fortunately, the folks at Micron should not feel too intimidated. There are plenty of guides, fly shops and friendly locals in Butte who will help translate.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING SENATOR J. WILLIAM FULBRIGHT

Mr. PELL. Mr. President, the United States lost a great and distinguished citizen today with the death of former Senator J. William Fulbright.

Senator Fulbright was a giant in the Senate. He became a person of international reknown and reputation during the period of his chairmanship of the Committee on Foreign Relations from 1959 until his defeat in 1974. I came to know him very well after I joined the Committee on Foreign Relations in 1969 and came to admire very much his careful and thorough approach to issues of tremendous national importance, most especially the war in Vietnam.

William Fulbright was born in Missouri and grew up in Fayetteville, AR. He attended pubic schools, graduated from the University of Arkansas in 1925, as a Rhodes Scholar from Oxford University England in 1928, and from the Law Department of George Washington University in 1934. In 1939 he became president of the University of Arkansas—the youngest in its history. He served one term in the House of Representatives from 1943–1945 and went on to election to the Senate in 1944. He was reelected in 1950, 1956, 1962, and 1968.

William Fulbright brought to his political career a great love and understanding of the responsibilities of an educator. His experience as a Rhodes Scholar taught him the value of international exchanges and led him to conceive of the Fulbright Scholars Program in the period immediately following World War II, which he described as "a modest program with an immodest aim." Since the program's establishment in 1946, more than 100,000 people from abroad have studied in the United States and more than 65,000 U.S. students and professors have studied overseas in what is undoubtedly the largest and most successful international exchange program in existence.

Earlier, as a freshman member of the U.S. House of Representatives, Senator

Fulbright offered a resolution setting forth U.S. support for an international peacekeeping organization. This resolution, the first to be passed by the U.S. Congress since the League of Nations debacle following World War I, set the stage for establishment of the United Nations in 1945.

He was a maverick during much of his time in the Senate and was known for taking positions he believed in regardless of their level of popularity. For instance, in 1954, he cast the single Senate vote against funding Senator Joseph R. McCarthy's investigative subcommittee.

Senator Fulbright's period of greatest prominence was that of the Vietnam war. He introduced the Tonkin Gulf Resolution, which gave President Johnson virtually free rein in the early stages of the Vietnam war. Only two Senators opposed the resolution and Senator Fulbright later made it clear he wished it had been three, including himself. "Not that it would have made the slightest difference in the course of affairs, but I'd feel better about myself."

Senator Fulbright was one of the earliest critics of the war. Under his stewardship the Committee on Foreign Relations conducted extensive investigations of involvement in Vietnam, held numerous hearings and was the fountainhead of legislative initiatives beginning in 1969 to restrict United States activities in Vietnam. In 1973, a Fulbright-Aiken amendment stopped direct involvement of United States combat forces in Vietnam.

Through the committee's intensive work on the war, Senator Fulbright tried steadfastly to educate his colleagues, the Senate, the Congress, and the public as to the tremendous folly of the Vietnam involvement.

I can well remember watching Senator Fulbright facing down hostile witnesses while chairing hearings of great thoroughness and steadily and calmly posing questions until the truth of various problems was there for all to behold.

His widow, Harriett, recalled that the Senator deeply believed "that in order to ensure prosperity for all members of a free country, those who live in a democracy must be educated," In fact, education ran through the heart of whatever he said and did. His speeches he wrote himself on yellow pads in pencil, full of lines through any fuzzy phrase. He worked them over until he was satisfied that every sentence was not only perfectly understandable but devoid of hyperbole. They were meant to clarify and persuade; in other words to educate—to educate audiences around the world as well as constituents.

One of the finest writers in the history of the Washington Post, the late Henry Mitchell, wrote a profile of William Fulbright in 1984. He pointed out that, despite Senator Fulbright's concerns over the arrogance of power:

> He does not say a nation can forget self-respect in the world or allow its citizens to be run over roughshod by others.
>
> "But dignity has nothing to do with domination, nor is self-respect the same thing as arrogance. A nation can take pride in its accomplishments without taking on a missionary role in the world. . .
>
> "Which is the greater legacy any generation of leaders can bequeath, a temporary primacy consisting of the ability to push other people around, or a well-run society of cities without violence of slums, of productive farms and of education and opportunity for all citizens?"
>
> To ask it is to answer it.

Mr. President, the Vietnam war made the Nation very much aware of the efforts of William Fulbright and of the Committee on Foreign Relations. To many in official Washington, he was anathema. But to others who saw Vietnam as a quagmire he was simply a hero. A leader who gave legitimacy, respectability and honor to opposition to the war and what it was doing to the United States. At the time there were many who were quite disdainful of William Fulbright and who disliked him intensely. I remember well how he would sometimes conclude that his sponsorship of a measure would cost votes rather than gain them. This was a price that he felt he had to pay.

In 1993 Senator Fulbright's fellow Arkansan, President Clinton, awarded the Medal of Freedom to the Senator. President Clinton said at that time "Senator Fulbright has long been known as a patriot and a realist. He has never been one to waste time and energy cursing the darkness; he is far too busy seeking and finding lamps to be lit."

William Fulbright has been gone from this body for over 20 years. The controversy surrounding him has certainly abated and many more have come to appreciate the intelligence and care he brought to his assessment of public issues. His reputation has grown over the past two decades rather than dwindled. And his term as chairman of the Committee on Foreign Relations is now regarded as a halcyon period for the committee and the Senate.

There were many challenges to be faced in the period of his chairmanship and he did not shirk from taking those challenges on and doing his best to meet them. His central interest was never personal aggrandizement but rather the discovery of the best way for the Nation to proceed. He is gone now but his legacy is powerful and he will live on as Fulbright Scholars are trained and educated and return to their countries and to the United States better able to play meaningful and productive roles.

Our deepest sympathy goes to his widow, Harriett and his family.

MEASURE TO BE HELD AT THE DESK

Mr. HELMS. Mr. President, if the Senator will yield, I would be so grateful.

I need under the rules to ask unanimous consent concerning holding of a bill until tomorrow.

Let me do it this way. I am advised we have to check with both sides. I think it would be agreeable to both sides, Mr. President. I send to the desk a bill, and I ask that it be appropriately referred tomorrow, and I send a statement herewith to that bill.

The PRESIDING OFFICER. Without objection, the bill will be received today and referred today.

Mr. HELMS. If the Chair will withhold, I have three unanimous-consents. One is required to be made orally. Let me do that.

I further ask unanimous consent that this bill be held at the desk until the close of Senate business tomorrow, February 10, so that Senators wishing to do so may become original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair, and I thank the Senator.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 1

Mr. HATCH. Mr. President, I ask unanimous consent that at 11 a.m. on Friday, February 10, there be 30 minutes remaining for debate on the pending motion to refer and amendments thereto, with the first 15 minutes under the control of Senator DASCHLE and the second 15 minutes under the control of Senator DOLE.

I further ask unanimous consent that at 11:30 a.m. on Friday, the Senate proceed to vote on or in relation to the second-degree amendment to the motion to refer, and that immediately following the disposition of the second-degree amendment, no further amendments be in order to the motion to refer, and the Senate proceed to then vote on the first-degree amendment, as amended, if amended, to be followed immediately by a vote on the motion to refer, as amended, if amended.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I reserve the right to object. It is my understanding that there will not be a vote before 5 p.m. on Monday next on or in relation to the Reid amendment and the committee funding resolution.

Mr. HATCH. That is my understanding. I believe the majority leader will agree to that; that there will be no vote on the Reid amendment before 5 p.m., but a time will be set either that evening or the next day for a vote on the Reid amendment.

Mr. REID. I withdraw the reservation.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 73

Mr. HATCH. Mr. President, I ask unanimous consent that, immediately following the disposition of the Dole motion to refer, the Senate temporarily lay aside House Joint Resolution 1 and proceed to the consideration of Calendar order No. 17, Senate Resolution 73, the committee funding resolution, and it be considered under the following time agreement:

One hour on the resolution, to be equally divided between Senators STEVENS and FORD, or their designees; that no amendments be in order to the resolution; that no motions to recommit be in order.

I further ask unanimous consent that, if a vote is requested on adoption of the resolution, that vote occur on Monday at a time to be determined by the majority leader after consultation with the Democratic leader.

Mr. REID. Reserving the right to object, Mr. President, based on our prior unanimous-consent agreement, the vote on the committee funding resolution would not occur before 5 p.m. on Monday?

Mr. HATCH. That is my understanding.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, it is so ordered.

ORDERS FOR FRIDAY, FEBRUARY 10, 1995

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Friday, February 10, 1995; that following the prayer, the Journal of proceeding be deemed approved to date and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak for not to exceed 5 minutes each, with the following Senators to speak for up to the designated times: Senator THURMOND, 15 minutes; Senator CAMPBELL, 10 minutes; and Senator ROBB, 5 minutes.

I further ask unanimous consent that at the hour of 10 a.m. the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment, and at that time Senator PACKWOOD be recognized for up to 60 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, so ordered.

Mr. HATCH. Mr. President, for the information of all of my colleagues, under the previous order, there will be a rollcall vote at 11:30 a.m. tomorrow on the second-degree amendment to the motion to refer the balanced budget constitutional amendment.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, and no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:39 p.m., recessed until Friday, February 10, 1995, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, February 9, 1995*

The House met at 10 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, to whom we address our prayers and petitions and from whom comes every good gift, we pray for the strength of mind and body and spirit so we will do the works of justice and mercy. As the prophet Isaiah has reminded us, we can grow weary and tired in our labors and yet we are comforted by the prophet's words that they who wait upon the Lord shall renew their strength, they shall mount up with wings like eagles, they shall run and not be weary. We pray for Your strength, O God, that sustains in all the seasons of our lives, so we will do Your good work this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentlewoman from Ohio [Ms. KAPTUR] will lead the House in the Pledge of Allegiance.

Ms. KAPTUR led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive 15 1-minute speeches on each side.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, it is my happy privilege today to recount our Contract With America and where we are in its fulfillment. Our Contract With America states the following:

On the first day of Congress, a Republican House will: Force Congress to live under the same laws as everyone else; cut committee staffs by one-third; and cut the congressional budget. We have done this.

It goes on to state that in the first 100 days, we will vote on the following items: A balanced budget amendment—we have done this; unfunded mandates legislation—we have done this; line-item veto—we have done this; a new crime package to stop violent criminals—we are now doing this; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for families to lift Government's burden from middle-income Americans; national security restoration to protect our freedoms; Senior Citizens' Equity Act to allow our seniors to work without Government penalty; Government regulatory reform; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature.

This is our Contract With America, and this is why Americans feel better and better about their Government.

BASEBALL FANS LOSE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, greed has won and America and baseball fans have lost. Baseball has become just another big faceless conglomerate and no longer the national pastime. The owners won't give. The players won't give. The White House tried its best. Now it's time for the Congress to step up to the plate and not stay in the bleachers.

Let us support the President and his call for binding arbitration. That doesn't mean taking sides between these two Goliaths. This is just a dispute about money and the heck with everyone else.

On behalf of America's fans, we should not stand for this.

And who will stand for the hot dog vendors and the ushers and the concessionaires and all of those who depend on baseball for a job?

Can we imagine even another summer without baseball? For many of us, that is a matter of national security that requires us to intervene.

OMISSIONS FROM THE PRESIDENT'S BUDGET

(Ms. MOLINARI asked and was given permission to address the House for 1 minute.)

Ms. MOLINARI. Mr. Speaker, rock-a-bye baby in the tree tops, thanks to the President's budget, your cradle you all going to have to hock.

It appears that the White House left out an important section of their 1996 budget, the section called generational accounting detailing how much future generations must cough up in taxes to pay for his budget priorities.

It's no wonder he forgot it. It seems, Mr. Speaker, that the budget plan submitted by the White House this week would force taxpayers born after 1993 to bear an 84-percent average lifetime tax rate.

If that is not bad enough, the real reason why this figure was not included in the President's budget is because this year, despite administration promises, this tax rate is 2-percent higher than it was last year. The tax rate rises along with the deficit.

No wonder they chose to forget it. Perhaps they were troubled by what one of their own economists said: "Levying such high net taxes on future Americans is not only unconscionable, it's also economically unfeasible."

Mr. Speaker, the President's budget will rob future generations of their hard earned money, not to mention their cradle and all.

MOST AMERICANS FAVOR A MINIMUM WAGE INCREASE

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, we hear daily updates on the Contract With America.

But my colleagues omit the fact that this contract was built by pollsters and consultants. It was designed for easy popularity, not for the American people.

Well, their consultants must have forgotten to ask about minimum wage.

Because when NBC News asked the American people, 78 percent said they favored an increase.

I guess 78 percent of America was not around when our opponents took their poll.

I think I know who they missed.

They missed the 78 percent who carry around something other than the contract in their back pocket.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

They missed the 78 percent who instead carry a lunch pail to their work site, who carry their children to day care, who carry a bus token so they can get to work, who carry a Medicare card for their health care.

So the next time our Speaker waves around a piece of paper and a hole puncher, remember that until we honor the hard work of every person in our Nation with a decent, livable minimum wage, all he is waving is an exclusive contract with some of America.

CONGRESS SHOULD NOT INTERVENE IN THE BASEBALL STRIKE

(Mr. LAHOOD asked and was given permission to address the House for 1 minute.)

Mr. LAHOOD. Mr. Speaker, the President sent a message to the House last evening asking Congress to pass legislation to establish a 3-person panel to arbitrate the baseball strike.

I say there is no role for Congress in the baseball strike. But I do have a suggestion. How about we get the millionaire owners and the millionaire players to sit around a table and talk to one another so the average person can go see a baseball game?

This is ridiculous for Congress to be involved when we have all of these high-paid people who are supposed to be pretty smart and they can sit down and solve this thing. Congress should not be involved. I do not agree with the President on this.

Have them sit down at a table and solve it all so that all of the average folks out there can watch baseball this spring and this summer.

INTRODUCTION OF LEGISLATION TO REDIRECT FOREIGN AID TO AMERICANS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Congress borrows money from Japan and Germany and then Congress pays interest on that borrowed money to Japan and Germany. Then Congress takes that borrowed money and gives it back to Japan and Germany to protect them.

Now we give money, our borrowed money to Germany to protect them from an invasion from Russia. But then we give money to Russia so that Russia does not have to invade Germany.

If any of this makes sense, beam me up. The only good thing about it, evidently, is that the Russians could not overwhelm the Capitol Police.

But the bottom line is we borrow money to help everybody all over the world, but we cannot come up with money to help our own people. I have a little bill, H.R. 782. It would take $5 billion of foreign aid and transfer it to revenue sharing for cities and counties. I think Members should take a look at that, Democrats at least.

CURING THE CRIME EPIDEMIC

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, if there were a disease in this country that affected Americans of all races, ages, and sexes, a disease of epidemic proportions that touched the lives of each American citizen every single day, an epidemic that took over America's streets and literally held our citizens hostage in their homes—if there were a disease such as this in our country, wouldn't this Congress do everything in its power to find a cure?

Mr. Speaker, there is such a disease in this America today—the epidemic of crime—and the American people are crying out for a cure. Republicans are working hard to find a cure. Our crime bill answers the citizens' pleas by forcing criminals to pay and pay dearly for their crimes. It's time that the criminal element in this country take responsibility and blame for spreading the disease of crime. It's time to stop punishing the victim and start punishing the criminal.

Mr. Speaker, this crime bill is the best cure for the epidemic of crime in America. I urge my colleagues in this Congress to give the American people a cure that is tough and effective. Give them a real crime bill.

□ 1010

THE NAFTA ANNIVERSARY

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, incredible as it may seem, certain promoters still claim NAFTA to be a success.

Eighteen thousand United States workers have already lost their jobs to Mexico with thousands more surely to be lost as more plants relocate to that cheap wage environment.

Our trade advantage with Mexico wiped out last year, and red ink is ahead of us as far as we can see.

A 50-percent peso devaluation in Mexico will dry up our consumer market for exports down there, and the $47 billion taxpayer backed bailout of Mexico and its Wall Street friends.

Tuesday's New York Times tells the story of Tracy Bartrom of Indiana. A former maintenance worker for Magnatek in Huntington, IN, she recalled a meeting she had in Mexico as she trained her replacement worker. Through a translator, she asked how much he was paid. He told her $1 an hour. And for him, the job is certainly not desirable as strong fumes cause nausea and vomiting.

The true story of NAFTA needs to be told, but it will never get the coverage that the O.J. Simpson trial gets on U.S. television.

COMMON SENSE AND YOUR TAX DOLLARS

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, last week Congressman KOLBE and I introduced the Common Sense Welfare Reform Act.

The American people are frustrated with dependency-fostering federal welfare programs. They realize that the War on Poverty has failed and are demanding real welfare reform.

Our bill turns the reins of welfare reform over to the people who pay the Federal Government's bills—the American taxpayers. We would allow each American to direct up to ten percent of their Federal taxes to charities engaged in fighting poverty instead of sending that money to Washington.

We believe that giving taxpayers the freedom to determine how their welfare dollars are spent will spur interest in antipoverty efforts and enhance the role of private charities. Replacing traditional self-help networks with Government checks has failed.

Mr. Speaker, it is time for the Federal Government to step aside and allow caring individuals and community based organizations to begin attacking poverty in a meaningful way.

I urge my colleagues to take another bold step to change the way Government works and to cosponsor the Common Sense Welfare Reform Act.

RAISE THE MINIMUM WAGE TO A DECENT LEVEL

(Mr. EVANS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS. Mr. Speaker, the same old story still applies: The harder working Americans work the farther they fall behind. That is why it is so important to raise the minimum wage to a decent level.

The Republican response to this problem is to argue that trickle down proposals will create better paying jobs.

But corporate welfare does not lift all boats equally.

Business Week has pointed this out in an article called "Plumper Profits, Skimpier Paychecks."

According to this article, only 81 percent of corporate incomes go to salaries and benefits,

The lowest since 1969.

Corporate America needs to adopt a new social contract with its workers, and so does the Republican Party.

The first step is to support a fair and livable wage for all Americans.

SUPPORT THE VIOLENT CRIMINAL INCARCERATION ACT

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, yesterday, I spoke about Kermit Smith, the individual who spent 14 years on death row for the brutal kidnaping, rape, and murder of a college cheerleader in North Carolina. However, I forgot to mention that he was on parole during the time of the murder. Two years prior, he was convicted of a violent crime and spent 1 year and 8 months in prison—less than 50 percent of his sentence.

According to the Justice Department, a violent criminal serves roughly 42 percent of his prison term which breaks down to an average of 24 months in jail.

The American people are fed up with this. Congress needs to send a strong message to criminals. We must increase the amount of time spent in prison. Criminals must receive harsh punishments, not merely a slap on the wrist.

The Violent Criminal Incarceration Act does exactly this. It allows States to strengthen its sentencing policies by providing grants to expand prisons. Let us work together to put these violent criminals away and end the revolving door policy at our prisons.

SUPPORT SLAUGHTER AMENDMENT TO H.R. 667

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, how many more headlines like these do we have to read, and how many more times do we have to hear abut a sexual predator who was released from jail and then terrorized new victims?

Just yesterday, the New York Times and the New York Post reported another instance of where a paroled rapist returned to his former tactics. According to the reports, the New York police had just arrested Johnny Rosado for 8 rapes in 1 month. He had been out of jail for a year. All that time he was visiting his parole officer and attending required rape counseling sessions.

But the parole officer and the counseling provided no protection for 8 victims, women between the ages of 16 and 28.

What is worse, Mr. Speaker, is the parole officers in the State of New York did not want to let Johnny Rosado go free at all. He was denied parole four times before being released on good behavior because there were no women or children to rape in prison.

The State parole board told reporters, "Under our law, he was held as long as he could be. There was nothing we could do."

If that is the best we can do, Mr. Speaker, we need a new law. I urge my colleagues to support my amendment to H.R. 667 later today so that States will not allow second-time sex offenders to go free to pounce again.

THREE-FIFTHS MAJORITY PROTECTION AGAINST TAXATION

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, the tax-and-spend Democrats are at it again. They are suing us Republicans, do you believe it, to overturn our rules change that requires a three-fifths majority vote to raise taxes. Can you believe it? These Democrats will stoop to anything to continue their hell-bent-for-leather ways of taxing and spending this Nation into bankruptcy.

Mr. Speaker, you tell them for me, it is not going to work. Article I, section 5 of the Constitution, read it, clearly gives us the right to set the rules of this House.

The three-fifths majority vote to raise taxes will stand as a hindrance to any Democrat attempt to foist more taxes on the American people. There ain't going to be any more.

BIPARTISAN APPROACH NEEDED FOR WELFARE REFORM

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, the key test of any welfare reform is how quickly and how effectively people on welfare move into work. The main objective must be not to penalize children but help put to work their custodial parent and hold both of their parents responsible for their welfare.

According to press reports, Republicans are unveiling their welfare reform plan this morning. I have two major concerns, among others. One is that it appears that the Republican proposal will be strong on punishing children and will be weak on getting their parents into work.

Washington, our responsibility is more than just doing this, punting, paying, and then praying.

I favor State flexibility, but this must be within a new partnership with the States.

A second concern I have is the lack of bipartisanship. The Republicans are making the same mistake as the Democrats did on health reform, going it alone. As we on the Human Resources Subcommittee begin to mark up the bill next week, I hope there will be a more bipartisan approach. Welfare reform deserves it.

THIS CONGRESS IS DOING THE BUSINESS OF THE PEOPLE

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, for the first time in a long time, Congress is setting records that it can be proud of, and records apparently the American people are proud of, too, by the result of a poll that was released last week indicating that the approval rating of Congress has doubled in the last month.

In only 36 days, the House has gone from being a do-nothing Congress to being a can-do Congress. We are working hard to keep our promise to produce real changes, and we are moving forward at a record pace.

In the first 36 days, this Congress has spent more hours in session, taken more votes on the floor, held more committee meetings, and reported more legislation than any previous Congress in at least 15 years. We have passed seven major bills, and contrary to the sniping that you might hear from the other side and the impression that it might create, every single one has been passed with broad, broad bipartisan support including, in some cases, every single Democrat as well as every single Republican voting in favor of those bills.

If we continue working at this pace and with this rate of success, this will be the most productive 100 days in the entire history of the U.S. Congress. We are proving Congress can make a difference. This Congress can rise above partisanship. This Congress can do the business of the people.

□ 1020

RAISE THE FEDERAL MINIMUM WAGE

(Mr. ROMERO-BARCELÓ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROMERO-BARCELÓ. Mr. Speaker, I rise today in strong support of the President's initiative to raise the Federal minimum wage. This is an initiative that will benefit millions of American workers throughout the Nation.

The President's proposal for a moderate 90 cent increase in 2 years is needed since workers at the minimum wage level have actually seen their real incomes decrease in the last decades. For example, in 1968, the minimum wage was the equivalent of about $6.30 per hour in 1994 dollars.

Real wages and the purchasing power of millions of families have become stagnant. We must maintain the incentives that reward hard work. The minimum wage is one such incentive.

When I was Governor of Puerto Rico, I took the bold and unprecedented step of asking the Federal Government to extend minimum wage laws to Puerto

Rico, where at the time they did not apply. Special interests and many corporations complained and objected to the move. They lobbied hard against it predicting economic havoc and job displacement.

Such bleak scenarios did not materialize. In fact, the minimum wage has been a blessing for the 3.7 million American citizens of Puerto Rico. It raised the standard of living of thousands of working class families, took tens of thousands of working families out of welfare and brought added dignity to their daily endeavors at their job sites.

Both sides of the aisle should seek every instrument to promote and assure a decent standard of living for all Americans. The President's move is a wise one, based on solid economic policy and common sense.

I urge our colleagues to support raising the minimum wage to $5.15 an hour over the next 2 years, it is the right thing to do. Millions of hard working Americans who deserve better economic opportunities will appreciate our leadership.

WITHDRAW YOUR NOMINATION, DR. FOSTER

(Mr. McINNIS asked and was given permission to address the House for 1 minute.)

Mr. McINNIS. Mr. Speaker, credibility, credibility, credibility. Here was the story yesterday: The nominee for the Surgeon General of the United States of America advised the White House, the U.S. Senate, that he had performed only one abortion. Within hours he changed his story and gave a written statement that in fact it was less than 12 abortions. Then the pro-life group, some pro-life group came out and said it looked more, based on an excerpt from testimony of this gentleman from years back that it was 700 abortions. That was the story yesterday.

Today, last night or last night's news makes today's story. It was not 1, it was not 12, it is now 39.

The issue is not abortion. The issue is credibility. Where is the credibility of this nominee for Surgeon General? Can he devote the time necessary for rural health and other key issues?

It sound like another story of, "I didn't inhale."

Do yourself a favor, do your country a favor, "Withdraw, your nomination, Dr. Foster."

LIVABLE WAGE ACT

(Mr. CLYBURN asked and was given permission to address the House for 1 minute.)

Mr. CLYBURN. Mr. Speaker, there has been much talk about reforming welfare; about getting people off the Government dole and on to the payrolls.

Well, Mr. Speaker, if we expect people to work, these jobs should at least provide a livable wage.

While it is true that the economy is growing, the deficit is falling and unemployment is declining, many American are still finding it difficult to make ends meet.

The current minimum wage is $4.25 an hour, or $8,500 a year. You tell, me, Mr. Speaker, how can one person live off such an income, much less a family?

The President has introduced a proposal to raise the minimum wage to $5.15 an hour. I would take that one step further.

I have introduced a bill, H.R. 768, the Livable Wage Act, which would raise the minimum wage to $5.30 an hour by the year 2000.

Mr. Speaker, if we truly want welfare reform let us put the Livable Wage Act into law.

VIOLENT CRIMINAL INCARCERATION ACT

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Mr. Speaker, I rise today in support of the Violent Criminal Incarceration Act. In support, I will cite three statistics. Two-thirds of all violent crimes are committed by 7 percent of criminals; 51 percent of violent criminals are released within 2 years. We have 65 murders a day; 30 percent of all murders are committed by people on probation, parole, or bail. Mr. Speaker, we are abdicating our responsibility to protect society. By passing this act, we provide States with the incentive to keep violent criminals in prison, and we provide the support for them to do so. We cannot expect to deter crime in this country if we do not have serious punishment. This bill makes a real change in how we attack the problem of crime in America. If we cannot do this much to protect society, then we have no business being here.

WE NEED MORE COPS ON THE BEAT

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, yesterday I was able to call mayors and police chiefs of over 40 small communities in my district. I told them they would be getting a grant to hire a cop because of last year's crime bill, the Anti-Crime Act of 1994. Some will get two, and one will get even three.

Chief MacDonald, in Townsend, said it would help him and his small town. And in Williamstown, at the other end of my district, Chief Kennedy said he would assign a cop where kids gather and make trouble.

Mr. Speaker, we agreed, Democrats and Republicans, on one thing during last year's crime bill debate: We need more cops on the beat.

So why does the Republican contract cut funds for new police? That is right, the block grant shell game in the Republican contract would cut funds for community policing.

That means less money to help us feel more safe in our neighborhoods, and it kills the chances for small town police chiefs to get the cops that they need.

This is not smart, this is not savings. Wake up, America, "Don't fall for the shell game."

IT IS TIME FOR DR. FOSTER TO STEP ASIDE

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, President Clinton's nominee for Surgeon General, Dr. Henry Foster, is having a hard time remembering how many babies he has aborted. Last week, he said it was around a dozen. Yesterday, he thought it was more like 39. Now, to some folks who think that abortion is not such a big deal, I guess it would be easy to forget a few unborn babies here and there. But to those of us who put a higher value on human life, Dr. Foster's latest revelations are very disturbing.

It's time for Dr. Foster to step aside. His evolving revelations of the last few days have destroyed his credibility with this Congress and with the American people. Should his nomination remain in place, the debate will only become more acrimonious. And, frankly, after the embarrassing reign of Surgeon General Jocelyn Elders, this country deserves better.

Mr. Speaker, Dr. Foster should do the right thing and withdraw his name from consideration immediately. And, if he chooses not to, President Clinton should do the right thing and withdraw it for him.

I WILL NOT BE SILENCED

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to tell my Republican colleagues from Georgia that I will not be intimidated. I will not be cowed and I will not be silenced.

Yesterday's Atlanta Constitution reported that Republican members of our delegation are threatening retribution against me and another member of our delegation because of our calls for an outside counsel to investigate Speaker GINGRICH. According to the article the Atlanta Federal Center, the King Historic Site and even funding for the 1996 Olympic Games may be jeopardized because we have dared to speak out.

My Republican colleagues should have more courage. Do they really think they can silence me with their threats. If they want to confront me, they should take me head on, man to man. The nerve, the gall, Mr. Speaker, to hold the people of Atlanta, the citizens of Georgia, and the athletes of the world hostage in their attempt to silence the legitimate calls for an investigation of Speaker GINGRICH.

Is there nothing this new Republican majority will not do to silence the voices of dissent? Well, Mr. Speaker, I will not be silenced, I will not be intimidated. We need an outside counsel to investigate this Speaker and we need one right now.

WE NEED WELFARE REFORM NOW

(Mr. FRANKS of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANKS of Connecticut. Mr. Speaker, I would also like to wish the Speaker pro tempore [Mr. BARRETT of Nebraska] a happy birthday today.

Mr. Speaker, every day there are dreadful examples of why it is so important to take cash out of our welfare system and replace it with a debit card.

In Chicago, 20 people were living in a 2-bedroom apartment, 5 families used the address to qualify for welfare. Thus, $4,500 in welfare benefits were going to the adults in the apartment.

□ 1030

All five adults were alleged drug abusers. The adults were using the children to feed their drug habits. Their children were being abused, and we, the taxpayers, were inadvertently assisting.

Mr. Speaker, it is our welfare system that helps create this problem. A welfare debit card instead of cash payments will help prevent child abuse, help us with our war on drugs, and, finally, give the taxpayers an accounting of their hard-earned tax dollars.

I encourage my colleagues to join the bipartisan supported welfare debit card bill.

MORE IMPORTANT NEWS THAN SHREDDING THE FOURTH AMENDMENT?

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, yesterday the House of Representatives concluded a long and heated debate on the exclusionary rule. It was not on the evening news. I mean who knows or cares about obscure legal arguments? There was more important news: The OJ trial, 10 minutes on the pitiful howls of the dog, the baseball strike. Well, after all, the actions taken here on the floor only shredded the fourth amendment to the Constitution:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause supported by oath or affirmation particularly describing the place to be searched and the persons or things to be seized.

America, bar your doors, they do not need warrants anymore.

INTRODUCTION OF THE CHILD CARE AVAILABILITY INCENTIVE ACT

(Ms. PRYCE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE. Mr. Speaker, today, I join with my colleague, the gentleman from Indiana [Mr. ROEMER] to introduce the Child Care Availability Incentive Act, a bill that will increase access to affordable, quality child care for America's working families.

Today, few parents have the luxury of foregoing an income to stay at home with their children. There has been a dramatic rise in single-parent households, and dual-income families have become the norm. Unfortunately, the supply of child care has not kept up with the demand, and the care that is available is often inadequate.

Our bill addresses this crisis by offering tax incentives to businesses to provide licensed, on-site or site-adjacent care to their employees. Both the employer and the employee benefit from this approach. Child care convenient to the workplace increases productivity, improves worker morale, and cuts down on absenteeism and provides for better overall employment relations.

The Child Care Availability Incentive Act does not create another Government program or offer a new Federal mandate. Instead, it provides a simple way Government can encourage business to address a growing societal need.

I invite my colleagues to cosponsor this urgently needed legislation.

SUPPORT THE CHILD CARE AVAILABILITY INCENTIVE ACT

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, I rise as a cosponsor with my colleague, the gentlewoman from Ohio [Ms. PRYCE] to address a serious concern facing single-parent households and dual-income families, finding affordable, safe, and educational child care. The Child Care Availability Incentive Act which we are introducing helps to solve this very problem.

We can all share stories of constituents who grapple with the problem of child care. With the high cost of care, many single mothers receive a higher income on welfare than from working. Our bill would provide tax credits to businesses which offer on-site child care services to their employees.

Studies have shown that on-site care increases worker productivity and combines high quality care. According to a study released last week, 40 percent of centers for infants and toddlers provide mediocre to poor care. Seventy-six percent of these studies showed that health and safety needs are met, but growth and developmental needs are not.

I encourage my colleagues to support in a bipartisan way this very constructive legislation.

INTRODUCTION OF H.R. 862

(Mr. DORNAN asked and was given permission to address the House for 1 minute.)

Mr. DORNAN. Mr. Speaker, I introduced a piece of legislation yesterday, H.R. 862, that is really going to help Bill Clinton. Our distinguished colleague and leader of the minority, the gentleman from California [Mr. FAZIO], is here. He may appreciate this. This may be a first, Mr. Speaker.

The show "Nightline" last night showed a very nice man and probably a very good doctor, Dr. Henry Foster, trying to get himself out of the position he described of the inside-the-beltway climate of speaking before really researching something, and he tells us now that he has performed 89 abortions, not the 700, but it still has given him such a truthfulness problem that here is how we solve the problem:

We roll the job back into Health and Human Services. The Assistant Secretary of Health, prior to President Ronald Reagan, always wore both hats. It has become not a bully pulpit, but a pulpit of political correctness. He is on a hot seat. If President Clinton withdraws this nomination, then he is in trouble, and how is anybody going to get through the nomination process after this?

Put it back where it belongs, in the Assistant Secretary of Health. Solves problems for everybody.

SUPPORT THE INCREASE IN THE MINIMUM WAGE

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute.)

Mr. FAZIO of California. Mr. Speaker, yesterday marked the fifth year in a row that the productivity of the American worker has increased. But despite this good news, most American workers have had no real increase in earnings in over 15 years.

In the last Congress, we gave a tax cut to help those Americans who were working hard but falling behind. Now, President Clinton has endorsed a small increase in the minimum wage to reward Americans who choose work, not welfare.

At the current minimum wage—just $4.25 an hour—someone working day-in and day-out would bring home just $8,500 a year. A family of four trying to live on this wage—just $700 a month—would find it nearly impossible to pay the rent, buy groceries, or purchase clothes for school. If the minimum wage is increased by just 90 cents over 2 years—we can provide working Americans with additional rewards for their work.

And while we are at it, let's arbitrate an end to the baseball strike. Democrats are worried about minimum wage workers selling peanuts in the bleachers—not about multi-millionaire ballplayers and owners who can afford to sit out another season.

CONGRATULATIONS TO HARD-WORKING CONTRACT WITH AMERICA SUPPORTERS

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I think it is 36 days ago the 104th Congress convened, and on opening day we passed nine major reforms. We turned around the way this place does business by eliminating committees and making this place more accountable and deliberative in many ways. We passed the Congressional Accountability Act. In the last 4 weeks we have passed legislation that makes it much tougher to impose unfunded mandates on States, the balanced budget amendment to the Constitution, line item veto authority for the President, which is what he has asked for, and we are now in the midst of working on a wide range of legislation which has been discussed for years that will finally focus a little more attention on the victim than the perpetrator.

It seems to me that, if we look at what is talking place over the past few weeks, we clearly have been able to proceed effectively in a bipartisan way, gaining support from Democrats for these Republican initiatives in the Contract With America, and I would simply like to extend congratulations to those who have worked so hard to make it happen.

THE SWEETHEART DEAL OF THE CENTURY

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, today's Washington Times has an article that provides a fascinating window on how the special interests and policy are intertwined in this Republican Congress.

Now the Speaker has mounted a consistent attack on the Corporation for Public Broadcasting, and at times he has even called for funding to be reduced to zero. Today we find out that the Speaker's close friend and ally, Vin Weber, who has, according to the Times, and I quote, frequently been in the Speaker's office the past 6 weeks, often working in his shirt sleeves, has signed a $250,000 contract with the Corporation for Public Broadcasting, and guess what the contract was for? To plot out the future for the Corporation.

In other words, in one room Mr. Weber was engaged in discussions with the Speaker on how to do away with the Corporation, and in the other room he is telling the Corporation that for a cool quarter of a million dollars he can help salvage what the Speaker is trying to do away with.

□ 1040

Mr. Speaker, it is appropriate that we are less than 1 week away from Valentine's Day because this is the sweetheart deal of the century.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). This will conclude the 1-minutes for the morning, and the Chair will take the liberty at this time of recognizing the gentleman from Arkansas [Mr. THORNTON] for the purpose of making an announcement.

THE LATE HONORABLE J. WILLIAM FULBRIGHT

Mr. THORNTON. Mr. Speaker, I ask unanimous consent to speak out of order for 1 minute in order to make an announcement of interest to the Members of this institution.

The SPEAKER pro tempore. Without objection, the gentleman is recognized.

There was no objection.

Mr. THORNTON. Mr. Speaker, I come before the House today to make an announcement that is sad, not only to the Members of this institution but to all those who love freedom throughout the world.

This morning, at 89 years of age, with his wife Harriet at his side, Senator J. William Fulbright died. Our condolences and thoughts are with his family.

Senator Fulbright came to this House in an election in 1942 and as a freshman Member of this House introduced and passed the Fulbright resolution, which was the foundation and the architecture for the postwar peace effort. Moving from this House to the Senate, he compiled an extraordinary career. Throughout the world Fulbright scholars will be in mourning today as the man who gave his name to the greatest exchange of students in the history of the world departs from the world.

He never lost confidence in America. He will be remembered as one of our Nation's greatest statesmen, a leader, not a follower, who significantly influenced the course of human events.

Senator Fulbright was not afraid to challenge the conventional wisdom. We will miss his courage, his intellect, his competence, and his character.

Mr. Speaker, there will be a service in Washington, DC, as well as at the University of Arkansas, whose College of Arts and Sciences bears the Senator's name, and in due course there will be an opportunity for a special order in this body for all those who knew and revered Senator J. William Fulbright.

VIOLENT CRIMINAL INCARCERATION ACT OF 1995

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 63 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 63

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 667) to control crime by incarcerating violent criminals. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with clause 2(l)(2)(B) or clause 2(l)(6) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed ten hours. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 7 of rule XCI or clause 5(a) of rule XXI are waived. During consideration of the bill for amendment, the chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] is recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume.

During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 63 is a modified open rule, providing for the consideration of H.R. 667, the Violent Criminal Incarceration Act of 1995. The rule makes in order the judiciary amendment in the nature of a substitute as an original bill for purpose of amendment which shall be considered as read.

House Resolution 63 provides 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate, the bill shall be considered for amendment under the 5-minute rule. The rule does provide a 10-hour limit on the amendment process and affords the Chairman of the Committee of the Whole the option of granting priority recognition to those Members who have caused their amendments to be printed in the CONGRESSIONAL RECORD prior to their consideration. This rule also provides certain waivers necessary to allow for the expedient consideration of this bill.

Specifically, the rule waives clause 2(l)(6) and clause (2)(l)(2)(B) of rule XI pertaining to the 3-day availability of committee reports and the inclusion of rollcall votes in Committee reports. The rule also waives clause 7 of rule XVI because of the nongermane relationship of the Committee substitute to the introduced bill and waives clause 5(a) of rule XXI pertaining to appropriations in a legislative bill. Finally, the rule provides one motion to recommit with or without instructions.

The Violent Criminal Incarceration Act will enable States to deal more effectively with violent crime by repealing the Truth-in-Sentencing Incarceration Grant Program and the Drug Court Grant Program included in last year's crime bill.

The bill authorizes $10.5 billion for two new incarceration grant programs. Half of these funds will be allocated to States that are making progress in punishing violent criminals, and the other half will be allocated to States that enact truth-in-sentencing laws which require violent felons to serve not less than 85 percent of the sentence imposed.

Additionally, the bill addresses prisoner litigation through various reforms and would permit Federal courts to limit the relief awarded prisoners in certain civil actions, including attorney's fees. H.R. 667 also bans weight lifting and other strength training for Federal inmates.

This measure authorizes a net increase over the 1994 crime bill of $1.9 billion over 5 years. Crime is one of the biggest problems facing our Nation today, and this is money well spent. We made a commitment to the American people in the Contract With America to build more prisons, make sentences longer, and keep violent criminals in jail so that our streets will be safer.

I urge my colleagues to adopt this rule so we can proceed with the consideration of this important piece of crime legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1050

Mr. BEILENSON. Mr. Speaker, I thank our friend, the gentleman from Tennessee [Mr. QUILLEN] for yielding the customary half hour of debate time to me, and I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the consideration of H.R. 667, the Violent Criminal Incarceration Act.

Unfortunately, the bill itself, as our colleagues on the minority side on the Judiciary Committee noted in their dissenting views in the committee report on the bill, is so poorly drafted in concept and in its language that many who support the stated purpose of the bill, to control crime by incarcerating violent criminals, are unable to support the legislation as it is being presented to us.

While I shall not oppose the rule, I am concerned about the nature of the rule—it is not the type of open rule the new majority has been promising, especially for legislation as significant as H.R. 667.

First, the rule provides for several waivers of points of order, including one for the requirement that a committee report be available for 3 days. The advisability of this waiver should be questioned when it is for a piece of legislation that represents a dramatic shift in national policy, setting back, as H.R. 667 would, the ambitious prison program we enacted just last year in the Congress.

As with other major legislation that we have been required to consider so that the Contract With America can be fulfilled within an artificial time period, many of the problems with this bill could have been averted had the bill been given proper committee consideration. As it is, the bill was rushed through committee with neither adequate hearings nor the kind of deliberate evaluation it demands.

More important, the Republicans on the committee also included a 10-hour time limit on the amendment process. My colleagues should fully understand the implications of this restriction. This limit is not applied to debate time. It is, instead, an entirely new invention: It is a restriction on all time, including the time required for voting itself. It will reduce actual debate time to obviously less than 10 hours.

I repeat, this is an altogether new type of constraint on debate and, in the opinion of this gentleman and many others, an extremely objectionable restriction that I hope we will not be asked to accept again. Unfortunately, the attempt of the gentleman from Massachusetts [Mr. MOAKLEY] to strike this time limit was defeated yesterday in the Committee on Rules.

Mr. Speaker, I am disturbed about the disingenuous nature of this rule. In fact, we are beginning to detect the development of a pattern in the majority's attempt to delivery the open rules it has long advocated and promised, but rules that are open in name only. Our colleagues on the other side of the aisle cannot have this both ways—they cannot claim, as they have been doing, to be providing open rules when the result is in actuality a process that closes down and restricts debate.

We saw this pattern in the debate on unfunded mandates and on the line-item veto. In each of those instances, the rule was in effect modified after the fact. The debate on each started under an unfettered rule, only to end with time restrictions on amendments.

I am only suggesting that the majority be straightforward from the start in describing the terms of debate and that they not make a habit of changing the rules in midcourse. Members have a right to know from the beginning how they will have to deal with the bills before us.

Unfortunately, H.R. 667 itself, which places greater restrictions on funding for the prison construction grant program while also increasing the funding level, begins the process of eliminating the newly enacted community policing grant program and crime prevention programs—including the acclaimed drug courts program which reduces the recidivism rate of participants dramatically. Given the proven level of success of this prevention program, which costs about $800 per participant as opposed to $20,000 or more for the cost of a year in prison, the cut in funding in this area will result in substantially higher costs and more crime victims.

Ironically, it appears that States would be eligible for more funding under the provisions of the 1994 crime bill. We are told that as few as three States—North Carolina, Arizona, and Delaware—can currently qualify for funding under either of the two pools of funds that the bill establishes. In any case, it is clear that these funds will go to only a very small minority of the States in the foreseeable future. So, for those of us who support more prison cells for violent crime, this legislation is not the promised solution.

Mr. Speaker, the programs we enacted just last year have only begun to work—we should allow them to continue so that more police will be on the streets of our communities and more criminals are locked up.

If I might, I would like to discuss briefly one significant issue that we discussed in the Rules Committee. The gentleman from California [Mr. BERMAN] testified, requesting that he be allowed to offer an amendment to address another very significant problem—reimbursing States and localities for the costs of imprisoning criminal illegal aliens.

In today's Los Angeles Times, the Speaker was quoted as declaring that the cost of imprisoning illegal immigrants is a "Federal responsibility" and calling on Congress to approve $630 million in reimbursement to States. I could not agree more with our distinguished Speaker, and I am glad the Speaker has finally decided to champion this issue which several of us from affected communities have been arguing for quite some time now. I am still concerned, however, that full funding for State reimbursement will not be forthcoming.

Congress recognized the unfairness of this situation and acknowledged the Federal Government's responsibility for the criminal alien population as far back as 1986, when we approved the Immigration Reform and Control Act. Section 501 of that act specifically authorizes the reimbursement of States of costs incurred in the imprisonment of illegal aliens. Unfortunately, no funds were appropriated for that purpose until just last year, under an amendment which this gentleman carried on the floor and which was supported by colleagues from both sides of the aisle. The amounts recently appropriated will not even cover one-third of the costs. In addition, no funds have been made available for local governments, which also incur huge costs in this regard.

During the current fiscal year, California alone will spend nearly $400 million to incarcerate illegal alien felons. With that $400 million, California could instead build and operate two prisons housing 4,400 criminals each; put more than 2,400 highway patrol officers on our streets; and provide drug rehabilitation programs for 3,400 inmates.

In short, this is as members know, a serious problem for many States and one for which the Federal Government has the primary responsibility. We will have the opportunity to hasten the work we began on that last year, when Mr. BERMAN offers an amendment to this bill today, and I urge my colleagues to support Mr. Berman's amendment at the appropriate time.

To repeat, I shall not oppose this rule and urge my colleagues to approve it so that we may consider this important legislation today.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Chairman, I thank the chairman emeritus of the Committee on Rules.

Mr. Chairman, I would just say to my good friend from California Mr. BEILENSON, that I sort of take exception to the word of my colleague when he used the word "disingenuous."

This Committee on Rules has been overly fair to this body, even to the point that we are being criticized for being so open and so fair by Members of the Democrat party who want us to move legislation along and not take so much time on the floor.

The gentleman mentioned the line-item veto, which was not a constitutional amendment but was in fact a proposed statute. At the request of the minority leader, I think his name is RICHARD GEPHARDT, he suggested on the final day of the 3 days debate we had been on that bill that we close down debate and move it along.

We have taken exception to that. We have tried to be as open and fair and accountable as we possible can. As a matter of fact, look at the bills that came on this floor that we have considered during this first 5 weeks, when the Congress is normally not even in session. Boy, what we have accomplished in this first 5 weeks is just so exciting I can hardly stand it some times. But we put out an unfunded mandate bill, a very complex piece of legislation, and we spent days on this floor. And Republicans and Democrats, conservatives and liberals, all had the opportunity to do what I have yelled about for so many years here. They had the ability to work their will on the floor of this Congress. That, to me, is just so terribly important.

The line-item veto, open rule. Victims Restitution Act, open rule. Exclusionary rule, where we had really, I think, effective debate yesterday on that bill. All of these were handled under open rules.

As a matter of fact, the only restricted debate that we have had at all was on a proposed constitutional amendment. And that was of course, the constitutional balanced budget amendment.

I would just point out that even with the restrictions that were placed on that debate, that it was more open and fair than at any other time when we debated the balanced budget on this floor. I am sure the gentleman from California, I think the gentleman told me that. The Democrats had twice as many alternate substitutes than we did.

So I would just take exception to the question of it being disingenuous.

☐ 1100

Also, the gentleman mentioned the fact that we did not have the normal 3-day layover. It was necessary to waive clause 2(l)(2)(B) of rule XI against consideration of the bill because the rule prohibits the consideration of a bill until the third day of which a report is available to House Members.

And again, I would call attention to the fact that although this report was filed on Monday, February 6, it did not become available to Members on Tuesday from the Government Printing Office, as we anticipated. Instead, it was not delivered to the House until early on Wednesday, meaning that the third day of availability under the rules would be Friday. So with consultation with the minority, they agreed to waive the extra day so that we only had availability for 2 days and so that we could bring the bill to the floor and have meaningful debate on it today.

I think when it comes to the question of how long we will spend on this bill, there is 1 hour available on the rule, which we are debating now. There is 1 hour on general debate, and then 10 hours of consideration for amendments.

That will take up 2 days in this body, and that is what was suggested by the minority. We acceded to their wishes and gave the 10 hours of debate. I just wanted to clear the air.

Mr. Speaker, I yield to the gentleman from Boston, MA [Mr. FRANK].

Mr. FRANK of Massachusetts. Not from Boston. That is a lesser inaccuracy. Under the circumstances, let us get to the more substantive ones.

Mr. SOLOMON. Careful now.

Mr. FRANK of Massachusetts. "Inaccuracy" is a perfectly acceptable word under the rules.

The first point I would make is that the balanced budget constitutional amendment was not the only bill we considered under a restricted rule. We considered on the first day a statute dealing with compliance of Congress with the laws which was considered under a totally closed rule.

Mr. SOLOMON. I am the chairman of the Committee on Rules, and the Committee on Rules did not put out a rule on that bill. That was not a rule.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will continue to yield, the gentleman makes a distinction that is absolutely without any point or purpose whatsoever. The fact is, if the gentleman wants to take this personally as a commentary on his record, he is free to do that on his own time. But the question is, how has the House considered things? And in fact, under the Republican leadership's direction, the House considered an important piece of legislation, the compliance bill, under a total closed procedure.

Mr. SOLOMON. Reclaiming my own time, Mr. Speaker, so that the gentleman can get his time and then I would be glad to respond to him. The gentleman says if I would do it on my own time. He is on my time. I reclaim my time and would then ask the ranking member over there to yield time to the gentleman. Then we can have a meaningful discussion on his time.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the point I was making is that the gentleman's concern with his own personal reputation did not seem to me to be all that relevant to the debate.

The question is, what has the House been able to do? And the compliance bill was considered under a procedure which allowed no amendments whatsoever. Similarly on the balanced budget amendment, which the gentleman talks about, some amendments were allowed and some were not.

I went to the Committee on Rules with an amendment which got the most votes of any amendment offered in the Committee on the Judiciary. It is the one that allowed a full debate on the question of separating out the receipts and outlays of Social Security from the balanced budget. And the Committee on Rules, under the gentleman's direction, refused to allow that amendment, a freestanding Social Security amendment, not linked with other things, to be voted on.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just say to the gentleman, first of all, his amendment was offered, I think, in a motion to recommit. But we had given the minority the opportunity to select any of the amendments that they wanted to make in order. They did not select his amendment.

Mr. FRANK of Massachusetts. I would have to disagree with the gentleman. First of all, Members should understand that, yes, there was a motion to recommit, which the minority has, which allowed for 10 minutes of debate rather than what would have been an hour. And the minority was not able to present that view.

Second, it has been my information, with the ranking minority member, that we did ask that my amendment be made in order. And the fact is that the Committee on Rules did not want it made in order. When we dealt with the compliance bill, what was kept off the floor was the question of frequent flier miles, because the Speaker does not want us to be able to vote on preventing Members from using frequent flier miles for personal purposes when they are acquired with Government funds.

On the balanced budget, the majority did everything it could to keep the minority from voting and fully debating the Social Security question. The amendment that got the most votes in committee, in fact the one amendment that drew some Republican support, was given by the majority the shortest shrift possible. We did choose to use the recommit for it, but that is, as I said, a 5-minute debate on each side as opposed to an hour.

So the record is very clear that when the majority anticipates that an issue will be troublesome, they do what they can to keep it off the floor. They are perfectly willing to have us debate issues that are not going to be troublesome to them politically.

Finally, I want to agree with what the gentleman from California said when he talked about the haste, and we have a majority operating under a self-imposed campaign promise of 100 days to bring out a large amount of legislation. It is proving harder for them to do than they had anticipated. They are running in strains. They are running into strains in the committee process. They are running into strains on the floor. Yesterday we had the bill on habeas corpus amended with the author of it, the chairman of the subcommittee, agreeing that he had made a major error in the bill he had brought forward and agreeing that it had to be corrected. We do not know what other major errors are there.

To meet a political pledge, the majority is doing violence to the procedures, in many cases, and committee meetings have been cut off without amendment process action, and the open rules have not been open. A 10-hour limitation on some of these major things is not a completely open rule and is intended, in fact, to cut down on the debate. And we have had more need for the majority itself to amend and correct its own legislation on the floor.

There are strains that have gone on in virtually every committee, in the Committee on Government Reform and Oversight, in the Committee on Science, in the Committee on the Judiciary, there have been these problems. So what Members should understand is that we have got a series of difficulties, procedural and substantive, because of this haste.

I will repeat again, to my knowledge, there are two issues I wanted to see fully debated on this floor, separating out the Social Security receipts and outlays from the balanced budget, and the Committee on Rules would not allow that as a freestanding amendment, required us to do it only in the recommit because they could not stop that one. They would have liked to, and we only had, of course, a very small amount for debate. And the compliance bill came out in a form in which the Speaker was able to keep us from debating the question of whether or not Members should be restricted from, with public funds, acquiring frequent flier miles and using them for their personal advantage.

And so, in fact, the pattern is this, where nothing turns on it, where there is no potential embarrassment, the majority will be for an open rule. But where they have something that might be politically troublesome, they are going to do what they can to try to restrict the debate.

Mr. SOLOMON. Mr. Speaker, if the gentleman from Newton, MA, will continue to yield.

Mr. FRANK of Massachusetts. I just asked the gentleman if he wanted me to yield and I will.

Mr. SOLOMON. I am looking at the first 10 rules that were issued by the gentleman's majority Democrats 2 years go, all restricted and closed. Here is the record. The gentleman never had it so good.

Mr. FRANK of Massachusetts. I agree. I had thought, just as the gentleman did with me, I had thought that the gentleman on the other side was talking about how much better they would be. The point is——

Mr. SOLOMON. Absolutely.

Mr. FRANK of Massachusetts. That they are in fact using their power to restrict debate a little bit more technically than we did. We did tend to overuse it. The gentleman on the other side only shuts off debate if it is going to be embarrassing to them, I acknowledge that. Where in fact nothing turns on it and there is no problem, they will have debate. But where we talk about restricting frequent flier miles used with public funds for personal purposes, a pet project of the Speaker's, apparently, then, no, we cannot debate that.

Where we talk about separating out Social Security in the balanced budget, no, we cannot debate that. Where the gentleman from California had an amendment that passed in the Committee on the Judiciary that would give us a chance to give to California and other States the relief the Speaker says he wants to give them, the Committee on Rules makes that impossible. So, in fact, we have a pattern.

Mr. SOLOMON. Wait a minute. We have rules of the House that we have to abide by. And I have great respect for my friend, the gentleman from California, [Mr. BERMAN], and for what he is trying to do. As a matter of fact, it affects my State of New York very much so. But the question—that was a budget waiver and creating a new entitlement program—the question was one of germaness. The gentleman is going to have his opportunity on this bill today, and we better kind of take it easy and not get Members all shook up.

Mr. FRANK of Massachusetts. I understand that the gentleman does not want members shook up on certain issues. Fortunately, he does not have the power to stop that.

The amendment the gentleman offered in committee is not going to be able to be offered because the Committee on Rules would not give them a waiver and there are other waivers in this bill. The notion that the rules cannot be waived is silly. There are four waivers in this bill. There are not five. Because the fifth would have been embarrassing. So four waivers they can give, but the fifth they cannot give because, as with the Social Security relevance to the balanced budget; as with frequent flier, it would be troublesome.

□ 1110

Mr. Speaker, I acknowledge that the gentlemen are very clever about it. They do not get caught restricting the rules when there is no political problem, but as soon as the issue gets tough, down go the bars.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield, just briefly?

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I understand that the managers of the Judiciary Committee bill that has come before the floor are now in the Chamber, so I am not going to take up any more time.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to the gentleman from Illinois.

Mr. HYDE. I just want to comment, Mr. Speaker, on the recent remarks of the gentleman from Massachusetts [Mr. FRANK] about frequent fliers.

I must say, it is an issue that has troubled me. I accumulate them, and there is a concern, because they are acquired by flying with Government-paid airfare. However, in 20 years here, I have noticed that this job, this work, creates an awful strain on the family.

Sometimes Members like to have their spouses fly with them to see what they are doing and where they work. Sometimes the children like to fly with them. We are trying to establish a family-friendly place.

I must say, Mr. Speaker, I am torn about the uses of these frequent fliers miles. If it can keep a family sharing the work that is done, the issues, the responsibilities, I do not think it is all a bad thing. That is all I want to say.

Mr. FRANK of Massachusetts. Will the gentleman yield, Mr. Speaker, just to respond to the gentleman from Illinois?

Mr. SOLOMON. Since the gentleman yielded to me, I yield to the gentleman from Massachusetts briefly, Mr. Speaker, because we have to get on with this work.

Mr. FRANK of Massachusetts. Mr. Speaker, I will not engage the gentleman on the merits, because I think he has some points, although I disagree with him.

My point is that it is precisely this kind of thoughtful debate that we have not been able to have on the floor. I would like to have a chance to explore all the issues, but by the procedure that was used, the whole issue was kept off the floor, and it is that procedural objection, not the substantive one, that I am making.

Mr. HYDE. Mr. Speaker, would the gentleman yield 15 seconds more?

Mr. SOLOMON. Mr. Speaker, I yield for 15 seconds, and then that is it. We are going on to debate on this bill.

Mr. HYDE. I understand. I am overly grateful, Mr. Speaker, to the gentleman for yielding to me.

I just want to say to my friend, the gentleman from Massachusetts, that recognizing the practice of the former majority party in the Committee on Rules, I would just say that he does hold us to a higher standard, and he is right in so doing.

Mr. FRANK of Massachusetts. Mr. Speaker, that was debated on the floor last year.

Mr. SOLOMON. Mr. Speaker, I would hope that we can move this rule.

Mr. QUILLEN. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished ranking minority member of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from California for yielding time to me.

Mr. Speaker, this is not a wide open rule. There are four waivers of points of order. This is not even close. This is a backhanded gag rule that waives not one, not two, not three, but four points of order, something the Republicans used to say was a horrible thing to do.

I would like to quote this great man who made the statement on March 31, 1993: "Mr. Speaker, waiving the 3-day rule, the 3-day layover requirement, is never a good idea, never."

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would ask the gentleman from Massachusetts, who was that great man?

Mr. MOAKLEY. That great man was the gentleman from New York [Mr. SOLOMON]. I just want to show the Members, whatever side one is on, this thing cuts both ways.

Mr. SOLOMON. Mr. Speaker, if the gentleman will continue to yield, I would ask, did the gentleman vote for this rule up in committee?

Mr. MOAKLEY. Yes, Mr. Speaker. However, I am here showing the American people and the people here that the statements made by the gentleman from New York [Mr. SOLOMON], are not being carried out: "We are going to have the wide open rules."

We had three open rules this year that we put through on suspension last year. We will have open rules when they figure it is noncontroversial. When the Republicans were in the minority, they complained loud and long about what they called closed rules.

If there was a time cap, the rules were closed. Anything but a wide open rule they considered closed. Now they say "Well, this is almost an open rule." There is no such animal. It is closed or it is open. All have to play by the same rules.

Mr. Speaker, that was then, and now is now. These days the Republicans are passing out closed rules like Fenway franks at a Red Sox game. Today's rule is no exception.

In fact, Mr. Speaker, this rule counts votes on amendments toward the 10-hour time cap. In the end the 10 hours goes pretty quickly when every three votes eat up an hour. This bill needs all the help it can get.

Mr. Speaker, I cannot understand why Republicans would not want all the improvement that they could get. I do not know why on Earth they would take money from the Cops on the Beat Program, which has provided over 16,000 new police officers to American communities in the last 5 months, and had it over to just three States to build prisons.

Mr. Speaker, a lot of those communities that have gotten no police officers, are represented by my Republican friends, but they are saying they have had enough. They have had enough of new police officers in their cities and towns, and they want to provide money for fancy helicopters and tanks and prisons for North Carolina, Arizona, and Delaware.

Mr. Speaker, the last time I counted, we had 50 States in the Union, not 3. I think every single one of them deserves to be able to apply this prison money, and I think the Democrats should be able to offer amendments to that effect.

However, Mr. Speaker, they will not be able to, because using the Republicans' own definition, the rule is closed and the Members of Congress are gagged.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

(Mr. BERMAN asked and was given permission to revise and extend his remarks.)

Mr. BERMAN. Mr. Speaker, the issue is, for me, far less the question of whether or not the rule is open than the question of whether there is fundamental fairness in the operation. I think what happened to me with respect to my amendment yesterday in the Committee on Rules was not fundamentally fair.

In this case, by refusing to give an essentially technical waiver, four of which were already given in this rule, as has been previously discussed, by refusing to give me an essentially technical waiver from the Budget Act, an amendment that I had that would have addressed the question of the unfair situation where States and local governments in many parts of this country, particularly on the border, but also in New York and in Illinois and in other areas, are shouldering the entire burden of the cost of incarcerating undocumented immigrants who have been convicted of felonies and who are housed in State and local prisons as a result of those convictions, people who should not have been in this country or in those States, except for the failure of the Federal Government to enforce the laws that we are supposed to enforce, and we have pledged to enforce.

I proposed an amendment to provide a capped entitlement to guarantee to the State and local governments that they would be reimbursed for the properly expended costs submitted to the Justice Department. After a review of the Justice Department, and within the terms of the amendment, I proposed payment for that capped entitlement, a capped entitlement of $650 million, by reducing proportionally the existing authorization, which everyone intends to fund, they claim, for reimbursement for the States under last year's crime bill, and by reducing the amount of the authorization in the prison bill that is up before us today that is going to be made in order by virtue of this rule.

Technically, Mr. Speaker, because it was enhanced, it was a capped entitlement, a Budget Act point of order stood against it, but in terms of the amendment, the amendment paid for itself.

The four members of the minority on the Committee on Rules all supported granting that technical waiver. The eight members of the majority, each of whom expressed tremendous sympathy for the amendment, understood the inequity that exists, indicated their intention to do something about it, recognized that my amendment paid for itself, each of them expressed those sentiments, and then proceeded on a rollcall vote to deny me the waiver which would have allowed me to offer that amendment.

□ 1120

The issue to me is not whether this rule is open or not. I understand the need of the majority to try and manage the business of the House. The question is whether the rules process is used to fundamentally tilt the process one way or another.

We have a situation with this whole issue. I listened to the Speaker this morning in his morning press conference, and he spoke eloquently about the propriety and the legitimacy of the claims of both States that are shouldering the costs of the incarceration of undocumented criminal aliens and their rightful need to be reimbursed.

Two weeks ago we passed a balanced budget constitutional amendment. States and local governments raised a question. They said are you going to cut Federal spending by shifting to the States, or are you going to cut Federal programs, and without exception the chief proponents of the constitutional amendment said we are not going to be doing it by shifting the cost to the States and local governments, we are going to do it by cutting Federal programs.

Let me tell my colleagues, the biggest cost shift of all is the cost shift that comes by forcing the State and local governments to pick up the cost of incarcerating people who should not be in this country, except for the failure of the Federal Government to enforce its own laws.

A week ago we passed the unfunded mandate bill. We are not going to do this anymore, we are not going to shift the costs to the State and local governments, we are not going to decide what is happening. The biggest unfunded consequences, in effect a mandate as the Speaker himself referred to it, that goes on now is this shifting of costs to the States and local governments. Let me say to my colleagues, were the Federal Government to pick up the obligation we would then have an incentive, the same incentive that the chairman of the crime committee says is the justification for conditioning prison grants to the States on their sentencing, we would have the incentive to do something.

The President of the United States, President Clinton, is the first President to actually propose trying to help the States in this area and we appropriated $130 million last year, but that is far short of what the actual costs are. The CBO suggests they are $650 million.

I am just going to take one moment here to read a little bit from the computer printout of the AP wire story. It says,

> House Speaker Newt Gingrich says the Federal Government should help border States pay for imprisoning illegal immigrants, but the proposal still faces resistance from other senior Republicans.
>
> Gingrich said he supports the provision in the crime bill,

That is the provision that I put into the bill in the Judiciary Committee on the alien deportation bill, which I have been told very clearly is going to be ruled out of the order by the Rules Committee, GINGRICH says he supports that provision and supported it even before a meeting with California Governor Pete Wilson.

> Texas Governor George Bush and officials of other States also have sought the reimbursement, contending immigration is a Federal problem.
>
> Arizona, California, Texas, Florida and other States have sued the government in an effort to recoup billions of dollars spent on illegal immigrants, contending the costs arose because of the Federal Government's failure to enforce its immigration laws.
>
> "I am very sympathetic to Governor Wilson and to Governor Bush and others who have made this case," Gingrich said. "The Federal Government has failed to secure the American borders and the Federal Government is dumping on our border States an entirely inappropriate problem."
>
> The proposal part of a larger crime package now before the House could cost Federal taxpayers about $640 million in the first year.
>
> Senior Republicans, such as Representative Henry Hyde,

And it hurts me, but it says it here,

> Henry Hyde, chairman of the House Judiciary Committee, John Kasich, chairman of the House Budget Committee oppose the measure because of the costs.
>
> "More money for California. What else does California want?" Kasich exclaimed. "Tilt the Treasury this way," he said, gesturing to signify dumping Federal dollars toward the West Coast,

As if this is some benefit where the supplicant Californians and Floridians and Texans and New Yorkers are coming to say, "Please, Federal Government, help us out with our problem." This misunderstands the fundamental nature of this issue. It belies all of the rhetoric that was given when we passed a constitutional amendment to balance the budget. It undercuts everything that was said when we passed the notion of no more unfunded mandates to States and local governments through Federal action.

They are in those States. They have committed those crimes. They have been convicted of those crimes and they are imprisoned at a cost in New York of $24,000 per individual per year, California $20,000, Florida $16,000 per year, each of them because the Federal Government failed to enforce this.

This is the most compelling case for automatic reimbursement of the legitimate costs that the States and locals spend. It will help us focus our attention on solving the problem.

It was wrong to deny me that technical waiver in an amendment that would have paid for itself and not added a penny to the Federal deficit. And I think that question should be brought to the House only because again, I am not yelling about whether the rule is open or not, I just think in this case a waiver was not granted to keep a particular issue from coming to the floor in a way that unfairly deprived one Member and a number of States and a number of other colleagues who support this measure of a chance to raise the issue in this fashion.

I have an amendment which I will be offering which will seek to do the same thing. It will seek to reserve the first $650 million of the appropriated moneys for the prison programs for reimbursement for the States. Before we start putting money on the States for new prison construction, according to our notion of social engineering, and it is interesting how social engineering was so bad last year, but now, depending on who is in, the different notions of social engineering are more appropriate, but before we start spending that money, let us pay for the costs that the States and local governments now face because of the Federal failure to enforce the immigration laws.

That amendment will be before us. But let me tell my colleagues that that amendment seeks to try and bring this money to the State and local government through a reservation of funds. In other words, no funds may be appropriated for other parts of the prison bill until that $650 million is given back to the States and local governments.

But the Appropriations Committee can say when they go through that process, notwithstanding if this amendment would pass, notwithstanding this provision of the law, "We hereby appropriate the following moneys." Let me tell my colleagues, the Appropriations Committee I understand has all of these pressures, and I understand only certain States are affected. I understand it is not a national problem in one sense of the word. But the Appropriations Committee will be very tempted to include that language, and then they will be legislating on an appropriation bill. Then I suggest the Rules Committee may very well grant that waiver, and that will be the question that they will have to face then.

So I think the Rules Committee did me an injustice yesterday by not granting the waiver. But I think, and more important to me, I think they did a very legitimate cause that is consistent with their own rhetoric on the unfunded mandates bill and the balanced budget constitutional amendment by denying that kind of a capped entitlement program to be offered on the House floor and to be debated on the House floor.

I am not going crazy on the rule because we will offer this other amendment on the floor that will be in order. It is not as good. It does not work as well. It does not fit the terms of what the Speaker himself supports, and I believe him, because I know he cares. But I think he is getting a lot of pressure from inside the ranks, particularly from Members who are focused very narrowly on the Federal budget and not on the concept of State and local unfunded mandates and the legitimacy of specific expenditures.

I want to add one last thing, and then I will yield back the time that the gentleman from California [Mr. BEILENSON] has given me, and who led this cause and got the initial language into the bill last year which allowed for the first money to be appropriated.

The Speaker appointed a task force on California and named very competent and distinguished colleagues of mine to lead that task force, indicating an understanding that the problems of California are not just isolated to California, that the country and the Congress should not turn its back on the problems of the largest State. At the same time that all of this is happening and that we are being kept from offering the kind of amendment which would deal with the problem most effectively, I find that the Speaker, the majority leader, the chairman of the Committee on Appropriations and the chairman of the Committee on the Budget have sent a letter to the President, who submitted a supplemental appropriation request to continue to finish the funding for the devastating earthquake we faced in southern California, to provide the budget funding for the floods that northern and southern California faced, as well as additional money for the floods in other parts of the country.

□ 1130

And they said for the first time, of any time I can remember in terms of congressional leadership, "We are not going to take up your supplemental for these federally-declared natural disasters until you find offsets for each and every one of these expenditures." When I take that together with this, I wonder about the whole meaning of that task force.

These are positions that, if held onto, will work very much to the detriment of my State, and I think people should think twice about that.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DREIER], a distinguished member of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I feel compelled to rise not only wearing my hat as a member of the Committee on Rules, but also as chairman of the task force to which my good friend, the gentleman from California [Mr. BERMAN], referred.

The issue of unfunded mandates is one we addressed earlier. Quite frankly, I would say to my friend, with whom I am working very closely on this issue, along with our Governor, along with a wide range of Republicans and Democrats in this House, I have to say that this problem was created under the watch of the majority, the former majority, which had a pattern of saying to State and local governments that they have the responsibility of financially shouldering what is clearly, clearly a Federal issue and should be a Federal responsibility.

Speaker GINGRICH, in appointing this task force when he asked me to chair this, said obviously the issue of illegal immigration is going to be one of the priority items we are going to address.

I would say to my friend, as we begin the second month of the 104th Congress, we have, in fact, Mr. Speaker, proceeded with dealing with this issue in a very responsible way. We are dealing with it in a responsible way, because we reported out of the Committee on Rules by a unanimous vote last night a rule which does not waive the Budget Act. One of the things that has been very frustrating for many has been this pattern of waiving the Budget Act, and it seems to me that as we look at our attempt to deal with this, there are going to be amendments offered which will address that responsibility in which States like California, Texas, New York, New Jersey, Florida, Illinois, those priority States that are shouldering the responsibility which should be Federal are facing, and it seems to me that as we look at this question, we are doing it in a fair way under the standing rules of the House.

Now, my friend, the former chairman of the committee, the gentleman from Massachusetts [Mr. MOAKLEY], said that if we would have had a rule like this when they were in the majority we would have called this a gag rule, we would have called it a rule that was restrictive, a closed rule. I would challenge my very dear friend to find a time when a rule came down allowing for the 5-minute rule, whereby Members were able to stand up, offer amendments that were printed in the RECORD and amendments that were not printed in the RECORD, where we would call it a gag rule, restrictive rule, a closed rule. I have not done the research on it, but I cannot imagine that gentleman from New York [Mr. SOLOMON], or the gentleman from Pennsylvania [Mr. WALKER], or the gentleman from Tennessee [Mr. QUILLEN], or the gentleman from Florida [Mr. GOSS], or any of our Members would have called a rule that allowed for the 5-minute rule would have been considered restrictive or closed or gag.

What we are trying to do here is we are trying to work in a bipartisan way. While I was here in the chair last night when this rule was reported out, the gentleman from New York [Mr. SOLOMON] has told me it was handled unanimously upstairs, and what that means is that we worked in a bipartisan way, or the committee worked in a bipartisan to come to some kind of consensus and as well as possible to comply with the standing rules of the House.

So it is a new day. There is a new Committee on Rules. We are going to be able to address the issue of reimbursement on the incarceration of illegals. We are going to be able to address a wide range of provisions as we move ahead with this very responsible bill, and I hope very much that we will be able to pass this rule, proceed with this legislation which has been discussed for years and years and years, and we are finally moving ahead with what the American people want and what I am happy to say a new majority of this institution would like.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I am happy to yield to my friend, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

I just want to emphasize the point he is making about the 5-minute rule and the way in which the kinds of rules are being admitted here do, in fact, I think, enhance debate of the House of Representatives.

In the past, the problem with the limitations that were put on many of these rules was they basically stifled debate. What you had was limitations on the offering of amendments, and then time limitations which assured that what happened on the House floor was that Members would offer the amendment and then, because of the time allocations, each Member would get allocated 1 minute or 2 minutes to get up and speak. As a result, the debate always went past each other. A Member would stand up and talk about cats. The next Member would stand up and talk about dogs. The next guy would stand up and talk about elephants. No one could understand what we were doing as a result of that kind of debate.

Under the 5-minute rule, Members are permitted to yield to each other. They can get their time extended. The fact is you get real debate on the House floor.

I think what we have seen happening out here on the floor in the last couple of weeks has, in fact, been impressive. People have actually engaged each other in real debate. That is what the floor of the House of Representatives should be all about, and it seems to me that the rules that we are bringing forward that allow debate under the 5-minute rule preserve that kind of tradition in the House of Representatives.

I want to congratulate the gentleman and his colleagues for the kinds of things that they are doing to assure that we have real debate on real issues in the House of Representatives.

Mr. DREIER. I thank my friend for his contribution. I would very simply say that I am very pleased that there is a lot more focus on elephants today than has been the case in the past.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. COMBEST). Pursuant to House Resolution 63 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 667.

□ 1136

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 667) to control crime by incarcerating violent criminals, with Mr. KOLBE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we come now to the first of two bills that will address what we on this side of the aisle, as well as many on the other side, believe are some of the major deficiencies of last year's crime bill. H.R. 667 deals directly with what America's criminal justice system needs most—accountability for violent criminals. Titles I and II are nearly identical to titles V and VII of H.R. 3, the Taking Back Our Streets Act of 1995.

Mr. Chairman, the American people understand what is wrong with our criminal justice system. For too long it has failed to hold law-breakers accountable. Criminals learn that a confrontation with the criminal justice system is nothing to be feared. As a result, a group of violent offenders keep cycling through the system. They get arrested, sometimes convicted, occasionally sent to prison, and then they're almost always released after serving only a small fraction of their sentences. This is the revolving door of justice, and it must stop.

H.R. 667 provides more than $10 billion to enable States to expand their prison capacity for incarcerating violent criminals. It does this in two ways. First, it rewards States that are trying to get serious with violent criminals, helping them to defray the costs of getting tough with dangerous criminals. Second, it provides additional support to States that take the bold but right step of enacting truth-in-sentencing and require violent criminals to serve at least 85 percent of their sentences.

This bill does not dictate sentencing policy to the States. It merely rewards States that are doing the right thing—getting and keeping violent criminals off the streets.

My friends on the other side will say that last year's crime bill already addressed this problem. They are mistaken. Last year's crime bill is a clear example of misguided micro-management from Washington, and a lack of truth-in-legislating. What was called by some a tough-on-crime bill was in reality a missed opportunity to put accountability back into our system of justice.

It rewards States for maintaining the status quo;

It encourages States to enact programs for getting offenders out of prison not into them; and

It shifts funds away from truth-in-sentencing incentives and into a general fund available to States that do not make any special effort to incarcerate violent Criminals.

Mr. Chairman, we now have the chance to right those wrongs with H.R. 667, and to support sensible reforms that are long overdue. To be specific, Mr. Chairman, H.R. 667 includes the following:

Title I provides nearly $10.3 billion in funding to enable States to expand their prison capacity. Half the funds are available to States that are making progress in holding violent criminals accountable. Such States can qualify for funds if they can assure, the Attorney General that, since 1993, they are:

First, incarcerating a higher percentage of violent offenders;

Second, requiring that violent offenders serve a higher percentage of the sentences they receive; and

Third, increasing the actual time violent offenders will be serving in prison.

Now you will hear the charge made today that these three assurances will be difficult for States to make. And that is clearly false. States know enough about their own corrections systems to predict time served averages for violent criminals—they do it everywhere as a simple matter of planning for the future. They know how many violent criminals get sentenced to prison, and they know the averages for expected time served. This is all we are asking of them.

The other half of the funds are available for States that enact truth-in-sentencing laws which require violent criminals to serve at least 85 percent of their sentences. Title I also requires States to enact laws requiring notification of victims or families of victims concerning the release of offenders and provide the victims an opportunity to be heard.

Title II—Stopping abusive prisoner lawsuits—places sensible limits on the ability of prisoners to challenge the legality of their confinement. Too many frivolous lawsuits are clogging the courts, seriously undermining the administration of justice.

Title II requires that all administrative remedies be exhausted before a prisoner can bring a civil action in Federal court. The title also requires Federal courts to dismiss any prisoner lawsuit that fails to state a claim for which relief can be granted, or if the suit is frivolous or malicious.

Finally, Mr. Chairman, few problems have contributed more to the revolving door of justice than Federal court-imposed prison population caps. Cities across the United States are being forced to put up with predators on their streets because of this judicial activism. Title III provides much needed relief by providing reasonable limits on the remedies available in prison crowding suits—yet with complete deference to the Bill of Rights and civil rights laws.

The title limits court-ordered relief to those specific conditions affecting the individual plaintiff, and requires courts to consider the potential impact of such relief on public safety. The title includes provisions that will guard against court-ordered caps dragging on and on, with nothing but the whims of Federal judges sustaining them. It grants standing to officials who arrest, prosecute, or incarcerate criminals to challenge any prospective relief if that relief was granted in the absence of an actual finding by the court that the conditions violated a Federal right. And it places reasonable restrictions on attorney's fees.

It is my belief that the Violent Criminal Incarceration Act of 1995 will do more to stop the revolving door of justice than anything this Congress has done in recent memory. I urge my colleagues to support this bill.

□ 1140

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the new majority has succeeded in turning a silk purse into a sow's ear, in terms of our crime bill efforts. I would just like to take a few minutes to recall what the contract has been doing to us in the crime area.

First of all, we have just said, as of this week, that law enforcement officers can kick the doors down on our houses at any time for any reason without a warrant. Magistrate requirement? Oh, yes; you go to a magistrate afterward to determine if the officer was acting in good faith or not, instead of going before to have it determined by an arbiter in the court.

They have also created a system so that a defendant, a criminal defendant, can be executed even though he may have an appeal pending before he ever knows whether the appeal has been disposed of or not.

Then the new majority, for partisan reasons, wants to eliminate one of the great features of the 1994 crime bill, namely the promise of 100,000 new community policemen on the beat, and replace it with a wasteful revenue sharing program that harks back to the eighties that has failed miserably. We have had so many horror stories that we understand why eventually the plug was pulled on that old program.

Now that the Republican majority has actually done all these things, they are going to provide less money for prisons while trying to pretend that they are going to be providing more. How? Because the cumbersome truth-in-sentencing requirements in which the Federal Government paternalistically tells States how to run their criminal justice systems will tie the States up in such knots that they will not be able to qualify. It is to this point on prison funding that we will be examining this in greater detail.

Mr. Chairman, study the new majority proposal closely. First, it takes away the $2.5 billion from the "cops on the beat" program and puts it into what is already a $10 billion pot for new prison construction. Only then it says to States, "You can't have half of that unless you do it our way," which most States tell us they cannot. In fact, we cannot count more than three that can.

So the Republican program decreases the money both for police and for prisons, so the truth-in-sentencing fiasco is in some ways the ultimate hypocrisy.

At a time when there is wide consensus that we need to return power to communities, this bill says that the Federal Government in Washington will dictate to the local communities what to do with crime. Simply put, it is paternalistic.

If the balanced budget amendment was the mother of all unfunded mandates, this prison proposal might be a close second cousin because the truth-in-sentencing requirements will create enormous costs to State Governments that are not offset with the $6 billion dangled in front of them in the name of truth-in-sentencing.

And so we got it right when they proposed realistic truth-in-sentencing last year. We provided flexibility to States and allowed the truth-in-sentencing monies to roll over to a general prison fund in the event that it was not drawn down.

This bill, however, forces States to make promises about how long prisoners will serve before they have served their entire sentence. How can a State prove that?

And, puzzingly, it says that for States with indeterminate sentencing, that the average time served for violent crimes must exceed the national average by 10 percent. Only one problem: No such average exists. State criminal statutes define crimes differently. So we have ambiguities that would require sometimes dozens of criminal law changes in each State to qualify for this madcap scheme that is before us.

But we on the Democratic side have a different program. We want to codify what the Supreme Court has said when it comes to the fourth amendment. We want to put 100,000 community police on the street. We want to tell the States that their judgment is the best on how to use their prisons and the scarce space that they need, and not tie them up with paternalistic dictates from Washington.

And we want to replace the new majority revenue sharing program with a crime prevention program that we know works.

Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. I thank my colleague, the gentleman from Florida, for yielding this time to me.

Mr. Chairman, I want to thank him also for the outstanding leadership he has shown on this important issue as we have been moving these bills to the floor.

Mr. Chairman, I rise today in strong support of H.R. 667, the Violent Criminal Incarceration Act of 1995. This bill represents an important opportunity for us to help the States keep violent offenders off the streets by providing them with prison grants.

The bill also provides much needed relief for States dealing with the problem of frivolous litigation by prisoners and unreasonable Federal court intervention in the operation of jails and correctional facilities.

Title I of the bill provides that States that have enacted truth-in-sentencing laws in States that have significantly increased the time violent offenders spend behind bars will receive $10 billion over the next 5 years.

□ 1150

Title II of the bill will significantly curtail the ability of prisoners to bring frivolous and malicious lawsuits by forcing prisoners to exhaust all administrative remedies before bringing suit in Federal court. In doing so it will save States and local governments millions of dollars in helping ensure that taxpayer money is not wasted. There is no reason that, as happened in an actual case, a prisoner should bring a lawsuit in Federal court because he requested chunky peanut butter for a sandwich and he was given creamy instead.

Title II also requires a Federal court to dismiss on its own motion claims which do not state a claim upon which relief may be granted or are frivolous or malicious. In addition, title II will require prisoners who file lawsuits in federal court to pay at least a nominal filing fee if the prisoner has sufficient assets. These reasonable requirements will not impede meritorious claims by inmates but will greatly discourage claims that are without merit.

Mr. Chairman, I would also like to speak about title III of the bill.

Title III contains the provisions of H.R. 554, which I, along with the gentleman from Texas, Mr. PETE GEREN, introduced earlier this year. These provisions of the bill will substantially improve the provision contained in last year's crime bill to restrict judicial interference in the management of jail and correctional facilities, as well as to stop the release of dangerous criminals from prison. This provision will ensure that relief granted goes no further than necessary to remedy the deprivation of an individual plaintiff's rights, and it will make clear that imposing a prison or jail population cap should absolutely be a last resort and that the court should take into account the import such caps will have on the public safety.

The bill also contains provisions which will prevent permanent court supervision of correctional facilities by placing a 2-year time limit on prospective relief provided by the court and providing for immediate termination of relief if there has been no prior finding that prison conditions violated a Federal right of an individual inmate.

The bill establishes additional requirements to ensure that prison condition litigation is conducted in a manner which is not unduly burdensome. These requirements include requiring the court to rule promptly on motions to modify provisions of consent decrees and placing common sense limitation on the recovery of attorney fees in prison litigation.

Finally, the bill gives standing in prison conditions litigation to prosecutors and other elected officials. For too long the courts have attempted to micromanage correctional facilities throughout the country. Unnecessary judicial intervention in our jails and prisons has often resulted in the release of dangerous criminals.

Title III will help stop the abuses and thereby protect the public. Titles II and III will help ensure that actions in the Federal courts do not require States and local governments unnecessarily to spend precious taxpayer resources.

I am very pleased that these provisions have been included in the bill.

Mr. CONYERS. Mr. Chairman, I yield 6 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS] for his leadership for the gentleman from New York's legislation, and I must say I find this a rather sad day.

I come from a State where we are growing like mad. Colorado is just exploding. In fact, just this week we had our Denver Bar Association just want to do a Proposition 187 to keep Californians in California because we are exploding with them coming over the border. They meant that kiddingly. But as a consequence, the pressure on trying to build enough prisons, trying to keep up with the whole law enforcement requirement, has really been stressful on our State government.

We all know that it costs a lot to build prisons, and I say, "You don't want to just slam-bam them up because what people want is something that's going to hold dangerous criminals, and unfortunately we are here today forced to debate an empty prison promise. Let's call this the empty prison promise bill because this is a very empty promise if you are waiting for prisons because you aren't going to get any money if you are under the pressure that States like mine are under. In fact, no State in the Union is going to get any money out of this bill because, as the attorney general says, none of them qualify."

Under the bill that we passed last year, Mr. Chairman, my State would get help. Under the bill that we passed last year, every State would get help. But the way this bill is crafted is no State will get help until they reach the ceiling that the Federal Government has put in there.

Now think about that. We just finished talking about unfunded mandates on this House floor, and everyone tells us that for all the States to reach this level and build a number of prisons required to hold prisoners for 85 percent of their sentence they will have to spend $70 billion before $1 of this bill kicks in.

Now, if that is not an unfunded mandate, I have never heard of one. In other words, how soon we forget what our promises were just a week ago as this body passed on unfunded mandates.

We need prison building help now, and I say to to my colleagues:

"Look. You don't have to be a rocket scientist to know that even if my wonderful State of Colorado got a check tomorrow under the old bill, which I would hope it would, but even if it did, it would still take years to get these prisons placed and to get them built. So it still would be a time lag before we would see help. But what will happen now is my State is going to have to figure out where it's going to get all this money to go it alone, to go it alone to build more prisons so we can hold the number of people we need to hold to get to 85 percent of the prison sentence, and then the Federal Government, under this bill, will give them some money, and what will that be for? That will be to alleviate prison crowding at that point."

Mr. Chairman, that is not the people of Colorado's priority. We want to get on with this program now. There is a reason we cannot hold people that long, and that is we do not have the space, and we need help with the space because these things are not cheap. There is no way we can have a stealth prison. We got to have money. It takes money, Mr. Chairman, and it takes time to build them, and until we have that, we are forced to try and figure out who to put out early.

Now we at least did one thing in committee to make this bill a little bit better, and that is to at least allow localities to try and do boot camps as an alternative way. When this was first written, we could not even do boot camps, so it is a little teeny bit better.

But I rise today to say, as my colleagues know, what I heard the main problem to be last year, we fixed last year, and I never heard of anything taking something that was just fixed and proceed to break it, especially after we just said to the States, "We're not going to keep doing these things to you," and then we turn right around, and do it to them, and do it to them big time.

I think Americans are so tired of politicians trying to outdo each other, and I understand what the outdoing is on this bill. What we are saying is the price tag on this bill is much higher than the one we did last year. Last year we committed $7.9 billion for immediate beginning of grants and prison building. Under this bill it will be over $10 billion.

So, last year's was $7.9 billion, and if we pass this one, it is supposed to be $10.5 billion. So we are supposed to say, "Great, we are going to spend more on prisons, we're going to do more." That sounds wonderful, but do not be fooled, Mr. and Mrs. America. The Federal Government would not be putting one dollar out. We may have put $10.5 billion in a pot, which is more than the almost $8 billion we did last year, but nobody can make a claim on that pot because that pot has been put on such a high shelf that no one State meets the standard according to the Justice Department who will be monitoring.

Now that makes no sense. We ought to be helping the States get up so they meet that standard. We ought to be helping the States with this incredibly expensive problem of building prisons. That is what is there now. If we vote for this today, we will be robbing the prevention funds, robbing the funds for cops, and putting in prisons that no one can get to.

Please, please vote against this bill.

□ 1200

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Chairman, before I begin my comments in support of H.R. 667, I wish to commend my colleague, the gentleman from Illinois [Mr. HYDE] and my colleague, the gentleman from Florida [Mr. MCCOLLUM] for their leadership in bringing forward legislation which has earned bipartisan support.

This crime problem in our country is out of control. I believe we must do everything we can to protect our children and our communities, and I believe that a combination of more police officers, more prison space, and longer sentences will send a clear message to criminals that they will be caught and that they will serve time. The middle class working families of my district have made it very clear to me that they want hard-core, violent criminals off the streets.

We need more prison space so we can bring an end to the revolving door policy that moves criminals in and out of the justice system. The recidivism rate among violent offenders is extremely high. In fact, 60 percent of convicted felons will be rearrested within three years of their release. Eighty percent of all violent crimes are committed by 20 percent of criminals. If we keep letting them out of prison early, we are only subjecting ourselves to the continuing threat of violence in our neighborhoods and our society.

The Violent Criminals Incarceration Act authorizes $10.5 billion to provide grants to the States to build and operate prisons. Half of this money will be provided on the basis of the implementation of "truth-in-sentencing laws." This means that the felon must serve 85 percent of his or her sentence, more than twice the average time they currently serve.

Think of it in this way: In my State of Illinois the average murderer serves less than 10 years, and I find it hard to believe there are some who believe they should serve no longer.

It is also my hope that we can include language in this bill which will make funds available specifically for juvenile facilities, and shortly I will be offering an amendment for this purpose.

Americans are ready for real crime-fighting legislation. The Violent Criminals Incarceration Act is just that. Not only is this crime-fighting legislation, it is an investment in our society and deserves the same kind of bipartisan support that every crime initiative or every anticrime initiative in the Contract With America has received.

Mr. Chairman, I urge full support of H.R. 667.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, in this bill, in section 503(b)(2), it would require that the sentencing and releasing authorities notify and allow the victims of the defendant or the families of such victims the opportunity to appear before those authorities and give reasons why they should not be released. I do not oppose that.

But I am offering an amendment that was printed in the RECORD, although it was not printed in the guide for the Members. It says this: There are individuals who get convicted, for example, on a drug offense, and when they are convicted, they look at the victim who turned the evidence—it might have been somebody who helped get the conviction, somebody who got immunity—and they say, "When I get out of here, I'm going to hurt you."

The Traficant amendment says that the releasing authorities shall upon release notify the families of the victims and the victims and the convicting court that that felon is going to be released. We have many cases where individuals who have been convicted by the testimony of witnesses say to those witnesses, "I'm going to hurt you," and they come back and they hurt those witnesses or those individuals who helped with that conviction.

So it is not necessarily an amendment that is going to require a whole lot of brain surgery, but it is a safeguard for the victims, the families of victims, the courts, the officers of the courts who made those arrests, and the policeman who may have been involved in an undercover sting when they made the arrest, and that person looks at that police officer and says, "When I get out of here, I'll deal with you."

This gives them notification. It gives the courts such notification. It is something we should do, and it is in fact something that is remiss from this bill. It makes this bill a better bill.

Mr. Chairman, I appreciate the time given to me by the gentleman from Michigan [Mr. CONYERS] and all the effort he has given to this bill and other bills.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the distinguished gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want the gentleman to know that this is a very real life, commonsense, practical amendment that I hope both sides can agree to, because it is really important to know that out there in the world there are these kinds of threats of "what will happen when I get out."

We have got to curb that. We have got to curb jury intimidation, we have got to curb witness intimidation, and we have got to make the courts safe for people to go in and give testimony and believe that they are going to live a safe, honorable, reasonable life after they have done their duty.

Mr. TRAFICANT. Mr. Chairman, let me say in response to the gentleman that we appreciate the leadership he has given over the years to help a lot of people. I believe that he has helped, and I do not believe my amendment hurts anybody who is getting released or keeps them from getting a job. I do not want to do that. I do not want to hurt that person who has paid his dues. I just want a safeguard to make sure that someone does not live up to a promise they made when they were being convicted, one that says, "I'm going to hurt you," and then live up to it.

So with that, Mr. Chairman, I thank the gentleman, and I hope the majority party will look at the amendment with favor.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want to alert my colleagues that later today I will be introducing a "no frills" prison amendment to this legislation.

Simply put, this amendment will provide that prisoners in Federal prisons will be provided no more than the least amount of amenities and personal comforts consistent with constitutional requirements and good order and discipline in the Federal prison system.

Too often sight has been lost of the fact that prisons should be places of punishment, that prisons should be places where you do not want to go and to which you do not want to return.

There are amenities in our Federal prison system. There are amenities in many of our State and county prisons. This amendment would deal only with the Federal prisons, and there are some real examples of Federal prisons which do earn the nickname, "Club Fed."

For instance, in Lomboc, CA, the Federal penitentiary there offers all-channel cable TV, movies 7 days a week, pool tables, handball, tennis, and miniature golf.

The Federal prison in Estill, SC, has dormitories with cathedral ceilings, carpeting, skylights, checker and chess tables, and it offers basketball and handball courts.

Prison perks are wrong in two respects: No. 1, they undermine the theory of prisons as places of punishment, and No. 2, they waste taxpayers' money. Professor John DiIulio of Princeton has estimated that roughly 40 percent of what we spend on prisons nationwide is for expenses that are not necessary to secure the prisoners and not required by the Constitution. Roughly speaking, he says, half the money we spend on prisons is spent on nonessentials. This is a huge amount of money when we consider that nationwide we spend $20 billion per year on prisons.

So, Mr. Chairman, I urge my colleagues to support the "no frills" prison amendment when I offer it later today.

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Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. SCHUMER]. No one has worked harder on the crime bill than the former chairman of the Subcommittee on Crime.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding and for his guidance and leadership on this proposal and last year's proposal, through the arduous days of working it through.

Mr. Chairman, I would like to make two points on this bill. The first is that it sounds good, but will not do much. It will not do hardly anything at all.

In the State legislature we had a word for these kinds of bills. They were called rain dance. You know, the rain dance that the Native Americans did? They made a lot of dancing, a lot of noise: No rain. Same thing with this bill. It sounds great: Make sure all prisoners serve 85 percent of their maximum sentence, or you will not get any money. Make sure the actual time served is on the increase dramatically, or you will not get any money.

Sounds great. The only problem is, by the Attorney General's own estimate, and it is she who will administer this bill if it is passed, guess how many States will get money to build prisons? None. And if the bill is amended to change some of the words that are technically deficient, guess how many States will qualify under our estimates? Three.

So if you are from Delaware, North Carolina, or Arizona, you should welcome this bill, because you will get to divide up all of this $10 billion in prison money. But if you are from the other States, forget it.

This bill is basically a false promise. It is a hoax. It will not build any prisons. And for the few States that are very close, it may give them the money. But the point has been made, and this one really sticks with me, why give it to the States that are already doing a good job? Why not give it to the States that are not incarcerating the violent criminals? Because once a State meets the very tough and high standard in this bill, they do not need the money. It is the States that have not met that standard, such as my own, that need the help.

So I would say to my colleagues, look at the amount of money that will be available to your State under present law. And that amount of money is not available 5 years from now or 3 years from now, which it would be even under the best of circumstances in the H.R. 3 bill. Look at how much is available this year.

Mr. Chairman, I feel the anger and anguish of my constituents as they talk about crime. I feel the real frustration of police officers who say they arrest people and then they are convicted of violent crimes and they are out much too quickly.

I feel the anguish of families who see that those perpetrators of vicious crimes against a loved one is not punished long enough. If you feel those things, then you cannot vote for the bill before us, because the bill before us does nothing.

I must say, it seemed to me that H.R. 3 and its six components were not designed very carefully. Other parts of the contract, there is a real ideological divide; should we have a balanced budget amendment, should we have a line-item veto, should there be unfunded mandates. But this part of the contract, H.R. 3, the philosophical differences with the present law are not very great.

Oh, yes, you might fine tune it here, there, or the other way. What was done in H.R. 3 and in this prison section and the prevention and police section we will do in the future, seems to me, to be different. When the contract was put together last year, it seems to me, those who did it said "Well, the Democrats have done a good job on crime. We have to show that we can do more, we can do better." So they rip up something that just about every law enforcement agency supported, something that many Members on that side of the aisle supported, and most Members on this side of the aisle supported, and said "Let's start over."

Why? Why? When our streets are savaged by crime. When the anguish of people in communities, from the poorest to the richest, is heard by us. Why rip up a bill that is going to get money out there immediately and start over with a bill that is a false promise and a hoax?

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF], a member of the committee.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, a great deal of discussion has already started with respect to the idea of truth in sentencing that is represented in H.R. 667. But I think there is another reason to support H.R. 667, and that is it represents the idea of truth in legislation.

During the consideration of the crime bill which was enacted last year, from the beginning all the way through to the time the President signed it last September, news report after news report in all aspects of the media said this bill includes $7.9 billion for prisons. I saw that in newspapers, I heard that on the radio, I saw it in TV programs. Over and over and over again, the American people were told that the previous crime bill contained a certain amount of money for prisons.

The only problem with that representation is, it is not true. The crime bill as written and enacted last year, does not guarantee that a dime of that money goes to prisons. The actual wording of the legislation says that the money can go for prisons or for alternatives to prisons, including keeping convicted criminals right there in the community.

Now, is there a time when alternative sentencing is appropriate? I think so. Though I was a career prosecutor before having the privilege of serving in Congress, I never felt that every single criminal convicted of every offense should go to prison. I did not think that was always necessary as a punishment or always necessary as deterrence. But I think those who should be in prison ought to go to prison, and the prisons need to be built to house them.

The representation was made, in my judgment falsely, in the media when it said over and over again, American people, you should support the crime bill, because the crime bill guarantees that money will go to prisons.

The crime bill that was enacted said no such thing. But this bill, H.R. 667, certainly does. All of the money authorized here is for prisons, and therefore that is a reason why we should adopt this legislation this week.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I thank the minority member for yielding time to me.

Mr. Chairman, I guess I should be happy to be able to come to the floor for a change and not argue that a bill that we are considering is unconstitutional. I do not come to make that argument today, although there are some very serious constitutional questions about a part of this bill. But the bulk of the bill I would concede is constitutional, so I guess I should be relieved that I am not here raising the constitutional arguments today.

What I say to you instead about this bill is that it may be constitutional, but it makes absolutely no sense. And that is just as unforgivable in the legislative context, it seems to me.

Mr. Chairman, I do not know why, even though I am from the State of North Carolina, which is one of the 3 States that would qualify for funds under this bill, why a Congress of the United States that is representative of 50 States would pass a piece of legislation that can benefit only 3 States.

I guess I ought to be quiet as a person from North Carolina, which is one of the 3 States that can benefit under this legislation, but it just seems to me to be irrational to be talking about passing a piece of legislation that can benefit only 3 out of the 50 States in this country.

Second, it seems to me to be irrational to be passing a whole new set of laws about the award of attorneys fees, when for years and years and years we have been litigating about the standards that are applicable in the award of attorneys fees in these kinds of cases, and all of a sudden again the Republicans have decided, as they did in prior bills, that they are smarter and more articulate than the Founding Fathers.

☐ 1220

Now they have decided they are smarter and more articulate than reams and reams and reams of case law that has interpreted the attorney's fees provisions in civil rights laws. And so we have new words. I do now know that changing the wording of an attorney's fee statute is going to do anything other than set off years and years and years of more litigation about what those words mean. It is kind of like yesterday we put a new standard in for the exclusionary rule, when we have been litigating for over 200 years about what the words we already had meant.

Finally, it seems to me that it is irrational in the face of evidence that was presented at committee level that weight lifting can enhance the self-esteem and self-image and deterrence of crime to come and say to the American people that we are going to be so naive and so shortsighted as to pass a statute that prohibits people in prison from engaging in weight lifting. It makes no sense. And I submit to my colleagues and to the American people that this is irrational and we should defeat this bill.

Mr. McCOLLUM. Mr. Chairman, at the present time, I have no other requests for time other than the closing speaker.

Mr. CONYERS. Mr. Chairman, how much time is remaining on our side?

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] has 6 minutes remaining, and the gentleman from Florida [Mr. MCCOLLUM] has 12½ minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, there are several problems that I have with the bill. I just want to point out a couple of them. The first, Mr. Chairman, is the fact that we are taking $2.5 billion out of the 1994 crime bill from the programs that actually work. That $2.5 billion added to prisons will be a drop in the bucket for the prison expenditures.

We already have an incarceration rate five times that of the rest of the industrialized world. Putting $2.5 more billion into it will do very little good at all. We heard evidence that the city of Philadelphia could use almost $2.5 billion itself. Texas and California are going to spend tens of billions of dollars. Virginia, if they fund the present program that we passed last August, will spend about $7 billion in the next 10 years on prisons.

Our share of this $2.5 billion will be about 1 percent of what we are already spending, so it will not make any difference, but it will take money away from what works. Drug courts have been studied. We can have, in lieu of an incarceration strategy, going to a treatment strategy, Mr. Chairman. We can have a drop in crime of 80 percent at a cost of one-twentieth of what it costs to lock people up. If you eliminate that program, and we have $1 billion in the present crime bill, but not in the crime bill that is before us, if we eliminate that, we will spend 20 times more money and end up with about 5 times more crime.

We can do better than that.

Mr. Chairman, I think there is another problem, and that is the so-called truth-in-sentencing. Eighty-five percent, there is no rational basis for 85 percent. We ought to focus on the time actually served, 85 percent of 5 years or half of 20 years. We want to spend twice the money on where we actually need the money to go.

We also need to research the expenditures we are making, and we will have amendments along those lines.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], a member of the committee.

Ms. JACKSON-LEE. Mr. Chairman, I thank my colleague, the gentleman from Michigan [Mr. CONYERS]. I am grateful that we had a process in the Judiciary Committee that would allow us to speak for States and counties and cities that right now might be abandoned in this whole process of prison building. I am appreciative of the acceptance of the gentleman from Florida [Mr. MCCOLLUM] of my amendment that allowed for these moneys to also go to boot camps which have proven to be successful all over the country in so many of our jurisdictions. But I am unhappy that we are facing a time now when States like Texas and other large States are working so very hard to ensure that those who do the crime pay the time, to now be penalized and not be subject to being able to receive these very important prison building funds.

Likewise, I raise another grave concern that rather than accept the acknowledgement by law enforcement officers across this country that crime prevention is also incarceration, it is prevention and it is supporting police on the street, this new bill now abolishes the opportunities for cops on the street and prevention dollars.

I clearly think that what we are doing in this particular legislation is penalizing law-abiding citizens and providing punishment to the States who are trying to be more effective in incarcerating those who committed the violent crime. I still believe, as Attorney General Reno has joined in to say, that there is an opportunity to strike a chord of bipartisanship, not one that follows the political road but takes the best road to make sure that we ensure that we save the citizens of the United States of America, we save them from the burdens of not being able to build prisons, because we put such strict strictures on top of them which they cannot meet.

Why penalize a State who right now, like Texas, is striving to get 40 percent even 50 percent of those who are violent criminals to be incarcerated? Why tell them they cannot get prison dollars to build more to ensure that those violent criminals are in fact incarcerated? Now, as well, why tell them that they cannot use prevention dollars to save our children?

Mr. Chairman, I think it is time for a bipartisan accord to fight for the people of the United States of America.

Mr. CONYERS. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] has 2 minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I thank the gentleman for yielding time to me.

As we begin this debate here on the prison and how we are going to fund it, I wish we would take into account a number of things that are going on. Having been a police officer for many years, it frustrated me to no end to find that after you do a thorough investigation, you get a conviction, you send them to prison, and there is no prison space and there are early release programs, we need more prisons. This is true. But every State, every geographic location in this country should be allowed to participate in such a program. It does us who are police officers no good to do our work, get them ready to go to prison, and there is nothing there.

The Republican alternative that we are dealing with here today simply says 3 States will get half of the money; the other 47 States, they will receive their money when their prison population serves 85 percent of its time, when the actual prison population serves it.

Michigan just passed a truth-in-sentencing law in the last few years. It is going to take probably 8 to 10 years for our current prison population to reach that 85 percent level. What do we do for 8 to 10 years?

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What do we do that it is going to take 2 or 3 years to build those prisons? What we are doing, in the Taking Back the Streets Program, is giving the streets back to the criminals. The money is not allocated appropriately. In the crime bill last year, every State received money. In the proposal before us today, three States will receive money. The other 47 States will have to wait their turn after their prison population actually serves their time to meet the magic numbers.

Mr. Chairman, this is nothing new. The Committee on the Judiciary pointed that out, but because Members are so focused on moving this bill forward, they are not giving us the flexibility that States and local governments need.

The CHAIRMAN. All time on the minority side has expired.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I simply want to take this time to respond to a number of statements that have been made, I think quite erroneously, on the other side of the aisle with regard to who is eligible and who will not be eligible for money under this $10.3 billion bill.

Mr. Chairman, it is very clear if we read the language that for the half of the money involved for the first part of this bill, half of that, over $5 billion, virtually every State of the Union, and I would think every State in the Union, would be qualified, because all that is required is that the State provide some assurances to the Attorney General that since 1993, that the State has increased the percentage of convicted violent offenders sentenced to prison, No. 1; No. 2, has increased the average prison time served in prison by convicted violent offenders, that are to be served by convicted violent offenders; and, No. 3, increased the percentage of the sentence actually served in the prison by violent offenders sentenced to prison.

None of that is hard to do. They keep the statistics on this. Virtually all States do. They only have to increase these things by 1 day. It is not difficult to do. We want to see, and what we are encouraging in this, we want to see States actually increase the people who go to jail.

There is a substantial percentage, as shocking as it is, of violent felons out there every year who never receive a single day of jail time in their sentence. That simply should not be.

However, we are not requiring the State actually put every single violent offender behind bars. We are not requiring that they do that, but we are requiring them to demonstrate, to get the money, that they show some increase in the percentage overall in their prison population of convicted violent offenders, that there is an increase in the percentage that are actually sentenced to some prison time.

Second, the increase in the average prison time actually to be served in prison by a convicted violent offender means, for example, if we give somebody a 6-year sentence and the average in that State is a 2-year sentence that they are serving, that they are really serving 2 years of the 6 years; that we want to see it increased to whatever number of years, or to 3 years, or some increase in the amount of time that is to be served by the person who is receiving the sentence, who is a violent offender. That is not hard to demonstrate, either.

Third, Mr. Chairman, we want to increase the percentage of the sentence to actually be served by the offender who is sentenced to prison, the percentage of the sentence. So if you have a 6-year sentence, you can have a percentage of that sentence increased and demonstrated. None of that is difficult to do. I dare say that every State in the Union probably since 1993 has indeed done that, or it would be very, very simple to accomplish, to qualify for this pool of money.

I might add, Mr. Chairman, that these very requirements were in the bill that had passed into law in the last Congress as part of the qualifying materials that was drafted by the other side of the aisle. This is not language that we created, this is language the Democrats created, actually. It is supposed to be simple. I dare say that it is.

At any rate, this simple qualifying procedure, once accomplished, will entitle any State to money in the first pool of $5 billion-plus for prison grants.

Now, the second one is more controversial, I will grant. Only those States which pass laws that say that they are going to have violent felons actually serve 85 percent of their sentences are going to qualify to get at that $5 billion, but that is the reason for it. We know there are a lot of States that have not qualified, the vast majority have not. It is an incentive grant program to encourage them to take these violent felons off the streets and lock them up and throw away the keys.

We want them to change their laws. This is a carrot approach. I might add, Mr. Chairman, that there is nothing about this that is an unfunded mandate. This is not an unfunded mandate under what we passed before. This is a carrot grant program that clearly is not part of what we describe or define as an unfunded mandate.

This simply says to the States:

> Look, we have a reason to want you to go where we want you to get the violent felons off the streets that are going through the revolving door. If you do that, then you can have a lot of money. Not only that, not only can you have a lot of money to build these prisons, we will give you a 3-year grace period. If you pass a law under this bill that says in your State that you will get to the 85 percent requirement for violent felons in your State 3 years hence, and it will not be effective for 3 years, you can get money under this grant program under the second pool of money to build the prison beds necessary to complete the actual imprisonment of the people whom you have passed the law concerning.

It makes sense. It is a good incentive grant program.

North Carolina, Arizona, and Delaware are the three States the Justice Department said at the present time already qualify. We believe there is a clearly arguable case for California, Missouri, Virginia, and Kansas, and I believe they would qualify based on what we have examined of their laws, if they applied to the Justice Department, though the Justice Department has not precertified those particular States already.

My State of Florida currently is a good example of what we want to see happen and what is happening around the country right now by the State legislatures. The State Senate and the State House are prepared to make a truth-in-sentencing provision at the 85-percent level for violent felons and others, as a matter of fact, the first order of business when they convene their session of the legislature this year.

It is already out there. I talked to the Senate President today. It is his No. 1 priority, and his first bill. Mr. Chairman, I think lots of States will make this their first bill. That is the idea; not that they already have qualified, but that during the duration of the 5-year life of this legislation they will.

The purpose, again, is to get States to move to change their laws to qualify in order to get the repeat violent felon off the street and locked up, and keep him there for a long period of time so the revolving door stops, and we take that 6 percent of those criminals in the population that are committing about 70 percent of the violent crimes off the streets and stop the revolving door today, where they are only serving about a third or so of their sentences.

At any rate, that is what the bill is about. The arguments, I think, are nonsense to the contrary, that "Gee, this is terrible, nobody qualifies." The idea is not for a lot of people to qualify. Some already have. Many more will soon. That is for the second pot, the incentive grant program, the $5 billion.

Again, the first pot is 5 billion additional dollars, and that is available to the States with actually very little, if anything, that any of them would have to do to qualify.

Therefore, Mr. Chairman, I urge the adoption of this bill. It is common sense, it is good policy. It is the heart of the Contract With America crime legislation on our side of the aisle, and it is what we thought needs to be corrected, we thought all along needed to be corrected, to make some teeth put into the law that was passed last year.

Mr. YOUNG of Florida. Mr. Chairman, I rise today in support of H.R. 667, the Violent Criminal Incarceration Act. This legislation represents titles V and VII of H.R. 3, the Taking Back our Streets Act, 1 of the 10 points of the Republican Contract With America, and is the fourth of the six bills we will consider which compose this important crime legislation.

Today's legislation boosts the State prison grants in the 1994 Crime Control Act from $8 to $10.5 billion over 5 years while increasing the incentives for States to curtail early parole for violent offenders. In addition, the bill places restrictions on the ability of prisoners to challenge the constitutionality of their confinement and limits remedies that may be granted in a prison conditions suit.

Half of the funds available each year under this act would go to States that have worked to toughen their incarceration records over the years, while the other half goes to States that have enacted "truth in sentencing" and victim notification laws. The bill also amends the Civil Rights of Institutionalized Persons Act [CRIPA] to make maximum use of administrative rather than judicial procedures and to compel judges to dismiss frivolous, false, or weak lawsuits brought by inmates. H.R. 667 also limits the remedies that can be granted or enforced in prison conditions suits, and prevents judges from placing arbitrary caps on prison populations.

Finally, in response to the rising tide of violence in our Nation's prisons, and the concern about inmates who spend their time simply strength training, H.R. 667 bars prisoners from engaging in physical activities designed to increase their strength or fighting ability, and orders the immediate removal of all exercise training equipment, except for those specifically authorized for medical reasons.

Mr. Chairman, statistics indicate that a small percentage of criminals commit the vast majority of violent crimes. Just 7 percent of criminals commit two-thirds of all violent crime, including three-fourths of rapes and robberies, and virtually all murders. To make matters worse, many of these criminals either are never caught, or, if caught and found guilty, do not serve their entire prison sentence. Every year, more than 60,000 criminals convicted of a violent crime never serve time—for every 100 crimes reported only 3 criminals go to prison. The Bureau of Justice Statistics has found that only 45.4 percent of court-ordered confinement is served on average, and 51 percent of violent offenders sent to prison are released in 2 years or less.

These numbers are even more telling in light of the fact that at least 30 percent of the murders in this country are committed by people on probation, parole, or bail. Faced with prison overcrowding, 17 States have begun emergency release programs. Overall, the risk of punishment has declined in the past 40 years while the annual number of serious crimes committed has skyrocketed.

All this has led to public calls for "truth in sentencing" laws which require criminals to serve a significant percentage of their sentences without chance of parole, and "three strikes, you're out" statutes requiring life in prison for repeat offenders convicted of their third violent felony. Opponents of strict sentencing laws like these argue that locking people up does not address the problem of why crimes are committed in the first place. Evidence suggests, however, that there is a strong correlation between increased incarceration and lower crime rates. In fact, from 1990–91, States with the greatest increases in criminal incarceration rates experienced, on average, a 12.7-percent decrease in crime, while the 10 States with the weakest incarceration rates experienced an average 6.9-percent increase in crime.

Mr. Chairman, the time for coddling the criminal has passed. The American people are crying out for us to put away—and keep away—America's violent criminals. They have tasked us with putting an end to the frivolous inmate law suits and the seemingly pleasant treatment of murderers, rapists, drug dealers, and the like. We have made substantial efforts this week to help our police and prosecutors capture and prosecute these heinous individuals. Today we give them a place to put them behind bars and the tools to keep them there. I urge the support of this important legislation.

Mr. PACKARD. Mr. Chairman, Republicans are keeping their promises and working to pass the Republican crime fighting agenda. Our message is clear. Criminal behavior will no longer be tolerated. Punishment must be certain, swift, and severe. Criminals are not victims of society, they victimize society and belong behind bars.

Today's criminal justice system distorts common sense and puts criminal's rights far out ahead of victim's rights. The result, criminals running rampant on our streets and law-abiding citizens afraid to go outside. The Republican crime fighting agenda seeks to turn this distortion around and make criminals afraid to break the law.

The best crime fighting tool is a criminal justice system which sends criminals the message that your chances of being caught are high. Once we catch you, you will be punished quickly and severely. The Violent Criminal Incarceration Act works to do just that. It breaks the gridlock in our criminal justice system which gives legal escape routes to repeat violent offenders.

Criminals will finally have to face the consequences of their actions. They will do the time for committing the crime. Violent criminals belong behind bars, not behind the coat tails of expensive lawyers clogging up our overburdened judicial system with endless baseless appeals.

Mrs. COLLINS of Illinois. Here we go again, Mr. Speaker. For the second time in the last 6 months, I come to the floor of this body totally perplexed by the mistaken belief of my Republican colleagues that throwing billions more taxpayer dollars down the prison-building sinkhole will somehow miraculously solve the crime problems we face in this country. In the words of Bart Simpson, Mr. Speaker, "Aye Carumba!"

H.R. 667, the Violent Criminal Incarceration Act, strips $2.5 billion in already scarce and long-awaited police and prevention dollars from last year's Crime Control Act without a second thought. You know it's funny that the GOP vehemently rejects targeting Federal grants for these particular initiatives, but doesn't even flinch in deciding to impose an overwhelming number of Federal conditions for prison building grants included in H.R. 667.

What is even more confusing to me is the fact that, after the last few weeks of spirited rhetoric from the other side of the aisle about the inherently evil nature of unfunded mandates, we have a bill before us today which would impose just such mandates on many States.

Under H.R. 667, the awarding of prison grants is contingent upon States meeting extremely stringent and largely unworkable sentencing requirements. States would be required either to show that, since 1993, their correctional policies have increased the percentage of convicted violent offenders sentenced to prison, increased the average time actually served by prisoners, and increased the percentage of sentences actually served or they would have to mandate that those convicted of a violent felony serve at least 85 percent of the sentences ordered by the court.

Those States that could not meet these requirements would then either have to spend millions of dollars simply to build the necessary additional prisons to handle the overcrowding that would result from having to house prisoners for a longer period of time—an unfunded mandate which my GOP friends all love to hate—or forgo prison grants altogether. In this second instance then, H.R. 667 would actually provide less funding for prison construction than there was under last year's crime bill that was derided as too soft on crime by my Republican colleagues.

Moreover, the prison construction grants under this legislation are targeted to States based on their population rather than on their rate of violent crime—in direct contradiction to the language included in last year's crime bill. This doesn't seem to jive with rationality, Mr. Speaker.

Meanwhile, as precious Federal dollars are being wasted pouring concrete and forging steel bars, our communities which so vociferously called out for more cops, more control, more resources on the local level to provide greater social and economic opportunities for underserved youth and their families will be once more neglected, left holding the bag. Welcome back to the 1980's, Mr. Speaker.

I would, however, like to at least give credit to the leadership for formulating a crime policy that is in keeping with its Contract on America. Yesterday the GOP in this body passed legislation that would allow evidence illegally obtained by law enforcement officials to be admitted as evidence in Federal trial proceedings, thereby effectively gutting the fourth amendment's constitutional protections against improper searches and seizures. Today, they will more than likely pass this bill to increase prison construction to incarcerate those Americans convicted with the use of illegally obtained evidence. If anything the GOP has been consistent in its assault on the Constitution and all the ideals of equality and justice that this country has stood for over the years. You've got to respect that, Mr. Speaker—not.

I strongly urge my colleagues to rise up and reject this politically-motivated, ill-conceived, wrong-headed approach to the substantive crime problems that exist in our Nation and to continue with the more reasonable and balanced program that both the President and my Democratic colleagues and I worked so tirelessly to enact last year.

Mr. QUINN. Mr. Chairman, I rise in opposition to legislation before the House of Representatives today, the Violent Criminal Incarceration Act. This measure is one of six crime bills that the House will consider to chart the Nation's course to fight crime.

Although I oppose the overall measure, I support many of the provisions in this legislation. For example, I support the bill's provision to increase the incentives in last year's bill for the States to curtail early parole for violent criminals.

It is about time that we encourage the States to require the courts to put criminals away for the full term of their sentence. Truth-in-sentencing is long overdue.

This legislation employs another well needed and long overdue measure. That is, to stop abusive prisoner law suits. Specifically, title II of H.R. 667 places certain restrictions on the ability of detained persons to challenge the constitutionality of their confinement. I strongly support that provision as well.

Nevertheless, I oppose this legislation. The Violent Crime Incarceration Act boosts the State prison grants from $8 billion to $10.5 billion over 5 years at the expense of prevention measures like community policing.

As written, therefore, H.R. 667 unravels the balance of the funding for police, prisons, and prevention, which I fought so hard for during the implementation of the Omnibus Crime Control Act of 1994.

Last year's Crime Act clearly shows that community policing works. The communities throughout western New York asked for it and now there are 53 more policemen on the streets because of it.

Furthermore, I supported the Scott amendment to reduce the bill's prison grants by $2.5 billion, back to last year's funding level of $8 billion.

Mr. SAM JOHNSON of Texas. Mr. Chairman, as it stands now, current law defines overcrowding in prisons as a form of cruel and unusual punishment. Based on this decision the Federal courts have been able to place stringent standards regarding prison conditions that take power away from the States.

In my home State of Texas, our State comptroller conducted an audit of the State's prison system. He found that as a result of Federal court rulings, on any given day, 6,100 beds, 14 percent of total space available, is vacant.

In addition, there is drastic overcrowding at the county level, early release of violent criminals, and taxpayer dollars being needlessly wasted.

The State audit also found that the State of Texas alone can save $610 million over the next 5 years by changing these federally mandated requirements.

The Federal Government has no right to tell States that a cell with two beds can only support one criminal.

I believe that every State knows best how to operate their prisons.

I ask Members to vote against this amendment and support the provision in the bill.

Mr. HEINEMAN. Mr. Chairman, according to the FBI, the rate of violent crime in the United States is the worst for any developed western country. A murder occurs every 21 minutes. A rape every 5 minutes. A robbery every 46 seconds. An aggravated assault every 29 seconds.

These are not the statistics of a country where people have just gone mad and are creating mayhem. After all, just 7 percent of the criminals commit nearly two-thirds of all crime. These are the statistics of a country that has failed to deal with a criminal justice crisis.

It's very simple. Put criminals in jail and keep them there. The Bureau of Justice Statistics found that criminals serve only 45.4 percent of their jail time; 51 percent of violent felons are released in 2 years or less; 30 percent of all murders in this country are committed by individuals on probation, bail, or parole.

Cops are doing the best job they've ever done. They're catching the bad guys. Prosecutors are convicting and judges are sentencing. The problem is that prisons aren't keeping them. There is no room.

Age is the key factor in predicting whether the serious criminal of today will repeat their offenses. The younger a criminal is when first arrested, the higher the rate of repeat offending. The older a prisoner is when released, the lower the rate of repeat offending. Instead of keeping criminals in prison, we are turning them loose younger and younger during their crime spree years.

Imprisoning and incapacitating the serious criminals being released early today throughout America would cost far less than releasing them. A study by the National Institute of Justice concluded that offenders on the loose cost society over 17 times as much as it would cost to keep them behind bars.

Patrick Langan, a noted criminologist wrote:

> Rising incarceration rates reduce crime in two ways. Through their deterrent effect, would-be offenders are deterred from committing crimes by the growing threat of a prison sentence. Through their incapacitative effect, increasing numbers of offenders are physically prevented from committing new crimes because they are behind bars.

That's not even counting the increasing numbers of victims.

The criminal knows the system. He has no fear that he will do jail time. He knows there is no room at the inn.

Since the 1960's, we have conducted the largest prison alternatives program in the history of the world. And it has failed miserably. It is time to put criminals in prison. It is also time to return to the concept of prisons that punish, rather than providing recreational opportunities for its occupants. Prison should be an experience that no one wants to repeat.

Evidence suggests that there is a strong correlation between increased incarceration and lower crime rates: from 1990 to 1991, States with greatest increases in criminal incarceration experienced an average decrease of 12.7 percent in crime. On the other hand, those States with the weakest incarceration rates experienced a 6.9 percent increase in crime on the average.

Once again, it's very simple. Put the criminals in jail and keep them there.

The Violent Criminal Incarceration Act will do just that. States can challenge their nonsensical consent decrees that force counterproductive prison caps on their prisons. Prison funding is increased from $8 billion to $10.5 billion. Additional prison construction funding is authorized for those States that require criminals to serve 85 percent of their sentences. If we need more prisons, so be it. The lives of our families and our neighbors' families should outweigh the needs of criminals.

There is a fire on the streets of America today. Crime is that fire. We need to put out that fire. Then we need to concentrate on the long-term meaningful programs to prevent crime. In the long run, prisons are definitely not the answer. We must delve into the difficult arena of welfare reform, education reform, and other societal needs, but for those of us in the homes and on the streets of America today, we need relief. Construct prisons and put criminals where they can't commit crimes. The people of America deserve no less.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Criminal Incarceration Act of 1995".

TITLE I—TRUTH IN SENTENCING

SEC. 101. TRUTH IN SENTENCING GRANT PROGRAM.

Title V of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"TITLE V—TRUTH IN SENTENCING GRANTS

"SEC. 501. AUTHORIZATION OF GRANTS.

"(a) IN GENERAL.—The Attorney General is authorized to provide grants to eligible States and to eligible States organized as a regional compact to build, expand, and operate space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony and to build, expand, and operate temporary or permanent correctional facilities, including facilities on military bases and boot camp facilities, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a serious violent felony.

"(b) LIMITATION.—An eligible State or eligible States organized as a regional compact may receive either a general grant under section 502 or a truth-in-sentencing incentive grant under section 503.

"SEC. 502. GENERAL GRANTS.

"(a) DISTRIBUTION OF GENERAL GRANTS.—50 percent of the total amount of funds made available under this title for each of the fiscal years 1995 through 2000 shall be made available for general eligibility grants for each State or States organized as a regional compact that meets the requirements of subsection (b).

"(b) GENERAL GRANTS.—In order to be eligible to receive funds under subsection (a), a State or States organized as a regional compact shall submit an application to the Attorney General that provides assurances that such State since 1993 has—

"(1) increased the percentage of convicted violent offenders sentenced to prison;

"(2) increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison; and

"(3) increased the percentage of sentence to be actually served in prison by violent offenders sentenced to prison.

"SEC. 503. TRUTH-IN-SENTENCING GRANTS.

"(a) TRUTH-IN-SENTENCING INCENTIVE GRANTS.—50 percent of the total amount of funds made available under this title for each of the fiscal years 1995 through 2000 shall be made available for truth-in-sentencing incentive grants to each State or States organized as a regional compact that meet the requirements of subsection (b).

"(b) ELIGIBILITY FOR TRUTH-IN-SENTENCING INCENTIVE GRANTS.—In order to be eligible to receive funds under subsection (a), a State or States organized as a regional compact shall submit an application to the Attorney General that provides assurances that each State applying has enacted laws and regulations which include—

"(1)(A) truth-in-sentencing laws which require persons convicted of a serious violent felony serve not less than 85 percent of the sentence imposed or 85 percent of the court-ordered maximum sentence for States that practice indeterminate sentencing; or

"(B) truth-in-sentencing laws which have been enacted, but not yet implemented, that require such State, not later than three years after such State submits an application to the Attorney General, to provide that persons convicted of a serious violent felony serve not less than 85 percent of the sentence imposed or 85 percent of the court-ordered maximum sentence for States that practice indeterminate sentencing, and

"(2) laws requiring that the sentencing or releasing authorities notify and allow the victims of the defendant or the family of such victims the opportunity to be heard regarding the issue of sentencing and any postconviction release.

"SEC. 504. SPECIAL RULES.

"(a) ADDITIONAL REQUIREMENTS.—To be eligible to receive a grant under section 502 or 503, a State or States organized as a regional compact shall provide an assurance to the Attorney General that—

"(1) to the extent practicable, inmate labor will be used to build and expand correctional facilities;

"(2) each State will involve counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation, or improvement of correctional facilities designed to ensure the incarceration of offenders, and that each State will share funds received under this title with any county or other unit of local government that is housing State prisoners, taking into account the burden placed on such county or unit of local government in confining prisoners due to overcrowding in State prison facilities in furtherance of the purposes of this Act; and

"(3) the State has implemented or will implement, not later than 18 months after the date of the enactment of the Violent Criminal Incarceration Act of 1995, policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled.

"(b) INDETERMINANT SENTENCING EXCEPTION.—Notwithstanding the provisions of paragraphs (1) through (3) of section 502(b), a State shall be eligible for grants under this title, if the State, not later than the date of the enactment of this title—

"(1) practices indeterminant sentencing; and

"(2) the average times served in such State for the offenses of murder, rape, robbery, and assault exceed, by 10 percent or greater, the national average of times served for such offenses.

"(c) EXCEPTION.—The requirements under section 503(b) shall apply, except that a State may provide that the Governor of the State may allow for earlier release of a geriatric prisoner or a prisoner whose medical condition precludes the prisoner from posing a threat to the public after a public hearing in which representatives of the public and the prisoner's victims have an opportunity to be heard regarding a proposed release.

"SEC. 505. FORMULA FOR GRANTS.

"To determine the amount of funds that each eligible State or eligible States organized as a regional compact may receive to carry out programs under section 502 or 503, the Attorney General shall apply the following formula:

"(1) $500,000 or 0.40 percent, whichever is greater, shall be allocated to each participating State or compact, as the case may be; and

"(2) of the total amount of funds remaining after the allocation under paragraph (1), there shall be allocated to each State or compact, as the case may be, an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State or compact, as the case may be, bears to the population of all the States.

"SEC. 506. ACCOUNTABILITY.

"(a) FISCAL REQUIREMENTS.—A State or States organized as a regional compact that receives funds under this title shall use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General.

"(b) REPORTING.—Each State that receives funds under this title shall submit an annual report, beginning on January 1, 1996, and each January 1 thereafter, to the Congress regarding compliance with the requirements of this title.

"(c) ADMINISTRATIVE PROVISIONS.—The administrative provisions of sections 801 and 802 of the Omnibus Crime Control and Safe Streets Act of 1968 shall apply to the Attorney General in the same manner as such provisions apply to the officials listed in such sections.

"SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $997,500,000 for fiscal year 1996;

"(2) $1,330,000,000 for fiscal year 1997;

"(3) $2,527,000,000 for fiscal year 1998;

"(4) $2,660,000,000 for fiscal year 1999; and

"(5) $2,753,100,000 for fiscal year 2000.

"(b) LIMITATIONS ON FUNDS.—

"(1) USES OF FUNDS.—Funds made available under this title may be used to carry out the purposes described in section 501(a).

"(2) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

"(3) ADMINISTRATIVE COSTS.—Not more than three percent of the funds available under this section may be used for administrative costs.

"(4) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of a proposal as described in an application approved under this title.

"(5) CARRY OVER OF APPROPRIATIONS.—Any funds appropriated but not expended as provided by this section during any fiscal year shall remain available until expended.

"SEC. 508. DEFINITIONS.

"As used in this title—

"(1) the term 'indeterminate sentencing' means a system by which—

"(A) the court has discretion on imposing the actual length of the sentence imposed, up to the statutory maximum; and

"(B) an administrative agency, generally the parole board, controls release between court-ordered minimum and maximum sentence;

"(2) the term 'serious violent felony' means—

"(A) an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another and has a maximum term of imprisonment of 10 years or more,

"(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense and has a maximum term of imprisonment of 10 years or more, or

"(C) such crimes including murder, assault with intent to commit murder, arson, armed burglary, rape, assault with intent to commit rape, kidnapping, and armed robbery; and

"(3) the term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.".

SEC. 102. CONFORMING AMENDMENTS.

(a) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—

(1) PART V.—Part V of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is repealed.

(2) FUNDING.—(A) Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking paragraph (20).

(B) Notwithstanding the provisions of subparagraph (A), any funds that remain available to an applicant under paragraph (20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 shall be used in accordance with part V of such Act as such Act was in effect on the day preceding the date of enactment of this Act.

(b) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—

(1) REPEAL.—(A) Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is repealed.

(B) The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to subtitle A of title II.

(2) COMPLIANCE.—Notwithstanding the provisions of paragraph (1), any funds that remain available to an applicant under subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 shall be used in accordance with such subtitle as such subtitle was in effect on the day preceding the date of enactment of this Act.

(3) TRUTH-IN-SENTENCING.—The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to title V and inserting the following:

"TITLE V—TRUTH-IN-SENTENCING GRANTS

"Sec. 501. Authorization of grants.
"Sec. 502. General grants.
"Sec. 503. Truth-in-sentencing grants.
"Sec. 504. Special rules.
"Sec. 505. Formula for grants.
"Sec. 506. Accountability.
"Sec. 507. Authorization of appropriations.
"Sec. 508. Definitions.".

TITLE II—STOPPING ABUSIVE PRISONER LAWSUITS

SEC. 201. EXHAUSTION REQUIREMENT.

Section 7(a)(1) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) by striking "in any action brought" and inserting "no action shall be brought";

(2) by striking "the court shall" and all that follows through "require exhaustion of" and insert "until"; and

(3) by inserting "are exhausted" after "available".

SEC. 202. FRIVOLOUS ACTIONS.

Section 7(a) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(a)) is amended by adding at the end the following:

"(3) The court shall on its own motion or on motion of a party dismiss any action brought pursuant to section 1979 of the Revised Statutes of the United States by an adult convicted of a crime and confined in any jail, prison, or other correctional facility if the court is satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious.".

SEC. 203. MODIFICATION OF REQUIRED MINIMUM STANDARDS.

Section 7(b)(2) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

SEC. 204. PROCEEDINGS IN FORMA PAUPERIS.

(a) DISMISSAL.—Section 1915(d) of title 28, United States Code, is amended—

(1) by inserting "at any time" after "counsel and may";

(2) by striking "and may" and inserting "and shall";

(3) by inserting "fails to state a claim upon which relief may be granted or" after "that the action"; and

(4) by inserting "even if partial filing fees have been imposed by the court" before the period.

(b) PRISONER'S STATEMENT OF ASSETS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following:

"(f) If a prisoner in a correctional institution files an affidavit in accordance with subsection (a) of this section, such prisoner shall include in that affidavit a statement of all assets such prisoner possesses. The court shall make inquiry of

the correctional institution in which the prisoner is incarcerated for information available to that institution relating to the extent of the prisoner's assets. The court shall require full or partial payment of filing fees according to the prisoner's ability to pay.".

TITLE III—STOP TURNING OUT PRISONERS

SEC. 301. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

(a) IN GENERAL.—Section 3626 of title 18, United States Code, is amended to read as follows:

"§3626. Appropriate remedies with respect to prison conditions

"(a) REQUIREMENTS FOR RELIEF.—

"(1) LIMITATIONS ON PROSPECTIVE RELIEF.—Prospective relief in a civil action with respect to prison conditions shall extend no further than necessary to remove the conditions that are causing the deprivation of the Federal rights of individual plaintiffs in that civil action. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn and the least intrusive means to remedy the violation of the Federal right. In determining the intrusiveness of the relief, the court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

"(2) PRISON POPULATION REDUCTION RELIEF.—In any civil action with respect to prison conditions, the court shall not grant or approve any relief whose purpose or effect is to reduce or limit the prison population, unless the plaintiff proves that crowding is the primary cause of the deprivation of the Federal right and no other relief will remedy that deprivation.

"(b) TERMINATION OF RELIEF.—

"(1) AUTOMATIC TERMINATION OF PROSPECTIVE RELIEF AFTER 2-YEAR PERIOD.—In any civil action with respect to prison conditions, any prospective relief shall automatically terminate 2 years after the later of—

"(A) the date the court found the violation of a Federal right that was the basis for the relief; or

"(B) the date of the enactment of the Stop Turning Out Prisoners Act.

"(2) IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF.—In any civil action with respect to prison conditions, a defendant or intervenor shall be entitled to the immediate termination of any prospective relief, if that relief was approved or granted in the absence of a finding by the court that prison conditions violated a Federal right.

"(c) PROCEDURE FOR MOTIONS AFFECTING PROSPECTIVE RELIEF.—

"(1) GENERALLY.—The court shall promptly rule on any motion to modify or terminate prospective relief in a civil action with respect to prison conditions.

"(2) AUTOMATIC STAY.—Any prospective relief subject to a pending motion shall be automatically stayed during the period—

"(A) beginning on the 30th day after such motion is filed, in the case of a motion made under subsection (b); and

"(B) beginning on the 180th day after such motion is filed, in the case of a motion made under any other law;

and ending on the date the court enters a final order ruling on that motion.

"(d) STANDING.—Any Federal, State, or local official or unit of government—

"(1) whose jurisdiction or function includes the prosecution or custody of persons in a prison subject to; or

"(2) who otherwise is or may be affected by; any relief whose purpose or effect is to reduce or limit the prison population shall have standing to oppose the imposition or continuation in effect of that relief and may intervene in any proceeding relating to that relief. Standing shall be liberally conferred under this subsection so as to effectuate the remedial purposes of this section.

"(e) SPECIAL MASTERS.—In any civil action in a Federal court with respect to prison conditions, any special master or monitor shall be a United States magistrate and shall make proposed findings on the record on complicated factual issues submitted to that special master or monitor by the court, but shall have no other function. The parties may not by consent extend the function of a special master beyond that permitted under this subsection.

"(f) ATTORNEY'S FEES.—No attorney's fee under section 722 of the Revised Statutes of the United States (42 U.S.C. 1988) may be granted to a plaintiff in a civil action with respect to prison conditions except to the extent such fee is—

"(1) directly and reasonably incurred in proving an actual violation of the plaintiff's Federal rights; and

"(2) proportionally related to the extent the plaintiff obtains court ordered relief for that violation.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'prison' means any Federal, State, or local facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law;

"(2) the term 'relief' means all relief in any form which may be granted or approved by the court, and includes consent decrees and settlement agreements; and

"(3) the term 'prospective relief' means all relief other than compensatory monetary damages.".

(b) APPLICATION OF AMENDMENT.—Section 3626 of title 18, United States Code, as amended by this section, shall apply with respect to all relief (as defined in such section) whether such relief was originally granted or approved before, on, or after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The item relating to section 3626 in the table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended by striking "crowding" and inserting "conditions".

TITLE IV—ENHANCING PROTECTION AGAINST INCARCERATED CRIMINALS

SEC. 401. PRISON SECURITY.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

"§4048. Strength-training of prisoners prohibited

"The Bureau of Prisons shall ensure that—

"(1) prisoners under its jurisdiction do not engage in any physical activities designed to increase their fighting ability; and

"(2) all equipment designed for increasing the strength or fighting ability of prisoners promptly be removed from Federal correctional facilities and not be introduced into such facilities thereafter except as needed for a medically required program of physical rehabilitation approved by the Director of the Bureau of Prisons.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 18, United States Code, is amended by adding at the end the following new item:

"4048. Strength-training of prisoners prohibited.".

The CHAIRMAN. The bill will be considered for amendment under the 5-minute rule for a period not to exceed 10 hours.

During consideration of the bill for amendment, the chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as having been read.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. Mr. Chairman, I offer an amendment, amendment No. 16, which has been printed in the RECORD.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CANADY of Florida: Page 18, line 11, after "agreements" insert "(except a settlement agreement the breach of which is not subject to any court enforcement other than reinstatement of the civil proceeding which such agreement settled)".

Mr. CANADY of Florida. Mr. Chairman, this is a technical amendment, and is intended to clarify the definition of the term "relief" as used in title III of the bill, the provisions of the bill relating to prison conditions litigation.

The amendment makes clear that any prison conditions litigation may be settled between the parties without the involvement of the Federal court. There should be no question that this bill allows parties to settle prison condition cases out of court.

Through this clarifying amendment, settlement agreements that do not require court enforcement are explicitly removed from the definition of the term "relief" contained in the bill.

Mr. Chairman, I urge the passage of the clarifying amendment, and I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me just engage my colleague in a colloquy to get a better understanding of what he is trying to do.

Mr. Chairman, the gentleman says that he is exempting from the attorney's fees provisions for any private settlement. I guess the concern I have is I am not aware of any prison litigation which is taking place which has been settled without either court approval or court involvement of some kind.

□ 1240

These cases simply do not resolve themselves in the way that an automobile accident resolves itself. In fact, every prison litigation involves a public issue which typically is brought as a class action and under the rules of civil procedure cannot be settled without court involvement.

I am trying to get a better understanding of what you think you are accomplishing. I do not really think this amendment accomplishes anything based on my understanding of the way these kinds of litigation cases play themselves out.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. I thank the gentleman for yielding.

Mr. Chairman, let me say this. I think the gentleman is correct in stating that in most cases, court involvement is required to settle prison condition litigation. I do not think there is any dispute about that. There are circumstances, however, in which particular matters, particular cases can be settled without the involvement of the court.

In this amendment we are just trying to make absolutely certain that in those cases, none of the provisions of this bill would have to come into play.

I understand that you have an underlying problem with the provision of the bill that requires that in order for the court to order any relief, there must have been a specific finding that an individual was deprived of his constitutional rights, and I understand that you believe that that——

Mr. WATT of North Carolina. Mr. Chairman, just reclaiming my time, that is not the focus of my concern about this amendment. I think the focus of my concern is that the gentleman is covering cases that do not exist. So the need for this amendment, I just do not understand.

Can the gentleman cite one case that he is aware of, a prison litigation case or a prison condition case where the case has been resolved by private settlement? I take it that would be the only situation that the gentleman's language would apply to.

Mr. CANADY of Florida. Mr. Chairman, if the gentleman would yield, this specifically would also apply in circumstances where there was a class action and the class action was going to be dismissed. In order to dismiss any class action, the court must approve the dismissal and that will come into play potentially in these circumstances, and this definition would take that circumstance into account and would allow the dismissal of such class actions with the court's approval without any specific finding of any particular facts with respect to constitutional deprivations.

Mr. WATT of North Carolina. I am not necessarily going to speak in opposition to the gentleman's amendment, but I think the gentleman is not going to be able to override the Federal Rules of Civil Procedure and the body of case law that has to do with the lawyers' and the courts' responsibility to members of a class of people who are not even before the court by sticking this little amendment into the bill.

I think while it may not do any harm, I hope the gentleman is not going to go out and tell anybody that this solves any kind of problem that exists.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. I understand the gentleman's concerns. I understand that the gentleman views our approach as fundamentally flawed. I believe that this does address some of the concerns that other people have raised, and I believe it does so in a way that is efficient.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. CANADY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CHAPMAN

Mr. CHAPMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CHAPMAN: Page 2, after line 3, insert the following:

SEC. 2. CONDITION FOR GRANTS.

(a) STATE COMPLIANCE.—The provisions of title V of the Violent Crime Control and Law Enforcement Act of 1994, as amended by this Act, shall not take effect until 50 percent or more of the States have met the requirements of 503(b) of such Act.

(b) REPORT.—Beginning in fiscal year 1996, the Attorney General shall submit a report to the Congress not later than February 1 of each fiscal year regarding the number of States that have met the requirements of section 503(b) of the Violent Crime Control and Law Enforcement Act of 1994, as amended by this Act.

(c) EFFECTIVE DATE.—Beginning on the first day of the first fiscal year after the Attorney General has filed a report that certifies that 50 percent or more of the States have met the requirements of section 503(b) of the Violent Crime Control and Law Enforcement Act of 1994, as amended by this Act, title V of such Act shall become effective.

(d) PRISONS.—Until the requirements of this section are met, title II of the Violent Crime Control and Law Enforcement Act of 1994 shall remain in effect as such title was in effect on the day preceding the date of the enactment of this Act.

Mr. CHAPMAN. Mr. Chairman, I want to begin by thanking the majority, the gentleman from Florida [Mr. MCCOLLUM], the chairman, for all his hard work and the work we did last year on truth-in-sentencing.

I must take just a minute to remind my colleagues and remind the House of where we are on this issue of prisons and how current law works.

The 1994 crime bill, clearly the toughest provision of it was the truth-in-sentencing provisions. Those provisions assume, one, that our prison systems are overcrowded and, two, that if we want violent criminals to go to prison and stay there longer, we need to assist the States.

We created in that legislation two pots of money: One in which at the discretion of the Attorney General based upon violent crime rates in the country, assistance from the Federal level would go to build new State prisons to incarcerate violent criminals if the State made a good-faith effort to change or comply its laws to qualify for the second pot. The second pot quite honestly and very simply just said, "You've got to put more violent criminals in prison more often, for longer periods of time, and we will measure each of those standards in such a way that if you qualify, then you are eligible for the prison construction funds."

I think it is great to get as tough as we can on violent criminals. It is not so great to change the law today in such a way that the vast majority of the States cannot qualify for the prison funds. We cannot lock up violent criminals if we do not have a place to put them.

Current law, the 1994 crime bill, gives us a reasonable way to do both, get violent criminals in prison and a carrot, as the gentleman has suggested, to get the States to continue to get tougher and tougher and tougher each year on violent crime.

My first amendment bringing us up to the current point does simply this. It leaves in place current law. It leaves in place current law; that is, the financial resources there to assist the States for new prison construction and to incentivize the States to toughen their sentencing, toughen their prosecutions and lengthen the sentence for violent criminals. But it does so by saying that until at least half, 25 States can qualify under the new law, we do not stop the progress we have made, we do not cut off the spigot, we do not deny the States the ability to continue constructing prisons and moving forward. We will move forward under current law until half the States as certified by the Attorney General can qualify under this new bill.

In my discussions today on the floor of the House, I understand perhaps as few as only 3 States and at the most 6 States can qualify under this new legislation for prison construction funds. Forty-four States at the minimum are going to be shut out of this prison construction money, are going to be denied the fiscal resources to do the things that we ask them to do to lock up violent criminals, if we pass this bill.

Mr. Chairman, this amendment simply says we should not do that until we know at least half of our States can qualify for this funding, and that we continue the present program until the Attorney General can so certify.

With the notion here today or at least the belief that as many as 44 States cannot qualify under this bill, we will literally stop the good work of the last Congress, stop the good work of the gentleman from Florida, stop the work of getting violent criminals off our streets, stop the work of building new prisons, stop the work of incentivizing our States.

I will tell you, my State of Texas has said that there is no way that they can comply with a hard 85-percent rule, and that is from a State which currently is constructing or is under the largest prison construction period in the history of the country, Federal or State system.

We are building the prisons, 77,000 new prison beds in Texas, and even with those new prison beds added to the 40,000-plus prison beds we already have, we cannot comply with a hard and fast 85 percent rule. We cannot do it. And we are spending $2 billion, with a "B", $2 billion of Texas taxpayers' money for these new prisons.

Mr. Chairman, why would we want to pass a bill in the House today when Texas is doing what we have asked them to do? When Texas has doubled its sentences in the last 5 years for violent crime, why would we say now, "We're cutting you off, Texas"? And not only Texas, we are cutting off perhaps as many as 43 other States.

I ask my colleagues, we had better check with our prison authorities back at home. We had better check with our department of corrections officials. We better find out what this bill does to us. We ought to pass this amendment to keep current law in place until we know the States can qualify for the funding.

☐ 1250

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I recognize that Texas does not qualify for the second pool of money, and I know quite a number of other States do not. We debated that and I concur.

What the gentleman wants to do wrecks the incentive program to get them to qualify. They could qualify any number of different ways, if they manage to lower the amount of sentence, if they want to qualify so that 85 percent of whatever it is, if they need to do that, then just lower the maximum sentence down in those areas. The statutes can be changed in all kinds of ways to qualify, if that is what is needed.

Of course, I want to see them serve 85 percent of real sentences, so if we have truth-in-sentencing, whatever it is the States are saying out there, let us at least let them serve 85 percent of whatever sentence is awarded.

The fact of the matter is the gentleman wants us to say we have to wait until 50 percent of all 50 States qualify to pass any money out. That destroys the incentive. That undermines the very premise of this pool of money that is out there, $5 billion, dangling as a carrot to get the States to make the changes, to get the revolving door, the repeat violent felons off the streets. So it really undermines the essence of the bill to make the change the gentleman wants.

I would add one other caveat. I think the gentleman from Texas, having worked with me in good faith for a long time on this matter over a period of several years, understands fully that his State, as do virtually all of the States of the Union, qualifies for the first pool of money. There is another pot of $5 billion out there that Texas will be able to draw from to help it assist in building its prisons immediately and in each fiscal year, and I daresay that the Attorney General will grant Texas, who needs the assistance in this regard, money to do that until such time as it feels it can pass the laws to make it qualify for the second pool of money.

I would further remind the gentleman that we have a 3-year grace period of once Texas gets to the point of saying look, within 3 years we get more money than we could get under the second pool of money, we can qualify to build the necessary beds that will get us to the 85 percent rule, at the level of the sentencing length that we want to be at for these serious, violent felons, then Texas can go ahead and get the money to be able to qualify at that point in time. They do not have to actually implement.

So there are all kinds of opportunities out there for the gentleman's State as well as others to meet the needs of that State in building prisons to take these violent felons off the streets.

Mr. CHAPMAN. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from Texas.

Mr. CHAPMAN. Mr. Chairman, I appreciate the gentleman recognizing that our State has, which it has, and I appreciate the gentleman recognizing that our State has taken the initiative legislatively to qualify for the first pot of money, the $5 billion.

But I would say to the gentleman, and would suggest that not every State has taken those steps, and not every State can qualify for that first pot of money if this legislation as currently drafted passes.

So while Texas has taken those initiatives, we still cannot qualify for the second pot, and I would suggest to the gentleman it is very likely, if not guaranteed, that not all States can qualify for even the first pot.

Mr. McCOLLUM. Reclaiming my time, it may be that not all States can qualify for the first pot, but I would guess that most do at this point, because it only requires minimum advancement of 1 day in the averages that are there. But I would suggest what we are dealing with here now again is a destruction by the gentleman's amendment of the very underlying premise of why truth-in-sentencing grants are out there, to offer the carrot that would get the job done in order to encourage States to make the motion to get to the 85-percent rule, to take these repeat felons off the streets.

If we do not keep those provisions in the bill the way they are today, we are not going to get States to take that step. They are never going to expend the money that is needed.

Do not forget that this is a 75-25 match. When they do take the steps under the first pool of money they get 75-percent grants from the Federal Government and only have to put up 25 percent. Boy, that is a good deal for States like Texas that are in need of building more prisons and are going to do it anyway. So they are going to get Federal assistance in doing it. That will move them a long way toward the golden rainbow they want to get to.

The other point we can make is our provision allows them to build not the most expensive type of prisons, but alternatives, boot camps even that might alleviate already existing hardened prison cells where they can put the violent felons, and that will again help them get there for the purposes of our bill, which does not cover truth-in-sentencing or all types of prisoners and criminals, only the most violent felons that are really the bad, bad apples that we are talking about in order to qualify.

So I am not in support of the gentleman's amendment. I must oppose it. I think that it is a gutting amendment for the purposes of the truth-in-sentencing bill.

Mr. CRAMER. Mr. Speaker, I move to strike the last word, and I want to speak in strong support of my colleague from Texas's amendment here. I want to say I represent the State of Alabama, one of 44 of 47 States that likely would not qualify under this current approach to building prisons.

In my former life I was the president of the Alabama District Attorneys Association. I spent 10 years prosecuting violent offenders, violent juvenile offenders, and just this week I was checking on three of those who are in prisons where they will have to be released because there simply is not enough bed space or places to incarcerate those prisoners.

I think the 1994 crime bill made sense. I think we started an effective partnership with the States where we gave the States a hand in building prisons, and we told them that we wanted to be part of the solution, not part of the problem.

I think it is only fair and this amendment seeks to address that, that we amend this incarceration provision so that we do allow States to begin gaining in this partnership with us, and I think it is only fair that we rectify this by saying that when 50 percent of them reach this level then we will provide prison grants for the States.

Mr. SCHIFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment and I do so with a certain degree of reluctance because the gentleman from Texas who has offered this amendment has been a leader in trying to establish truth-in-sentencing laws in his own State and throughout the country. Nevertheless, I must agree with the views of the gentleman from Florida, the subcommittee chairman, that what we are tying to do there is to help those States which are going to move ahead to protect their citizens by keeping confined the most violent of criminals. And we do not want to penalize those States willing to move ahead now because other States, for whatever reason, are not willing to move. And, as has already been pointed out, half of this money is most likely going to be available to virtually every State immediately. That is over $5 billion, but I suggest we want to make the other half of this fund the other approximately $5 billion available immediately to those States that say yes, we are going to confine our worst offenders for as long as possible.

I would again reiterate the fact that in this bill there is a 3-year grace period, that if a State does not have a provision that requires the serving of a minimum of 85 percent of a prison term for a serious violent felon now, if they enact it, it does not have to go into effect in their States for 3 years before they are still eligible now for those funds to assist them at that time.

I think we want to help those States move forward now. Several States obviously already have. I am convinced other States will if they get some further assistance on what everyone acknowledges is going to be an expensive but a necessary undertaking.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

This is an amendment that truly goes halfway to the other side, and is one that I commend the gentleman from Texas [Mr. CHAPMAN] for and our colleague on the committee, the gentleman from New York [Mr. SCHUMER].

The country has a violent offender program that is working at this minute, and it is in the 1994 crime bill prisoner grant program.

We know that this program works, we know that most of the States choose to take advantage of it and those that can, do. But, H.R. 667 would totally disrupt the program and it will replace the carefully negotiated, well-known conditions of the 1994 crime bill being implemented as we speak and replace it with different formulas and different conditions.

The people at the Department of Justice and elsewhere believe that perhaps three States could qualify for one-half of the funds under the present funding scheme in H.R. 667.

□ 1300

But this amendment simply says let us keep the program that we have now, one that we know that works and is working until such time it is clear the new program will work. That is about all that we are doing here is forming a bridge to make sure that there is continuity and coordination until half the States would qualify under 667.

And the point that we are making is that if the new majority is right and 667 should kick in real soon, fine, but if they are not, with this 50 percent or more requirement that the States are meeting the so-called truth-in-sentencing, we will be able to have something during the time that we are waiting until more States are able to qualify under the very complex provisions of the proposals that are in 667.

So let us be smart and bipartisan and support Chapman-Schumer at the same time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. CHAPMAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CHAPMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 261, not voting 4, as follows:

[Roll No. 110]

YEAS—169

Abercrombie
Ackerman
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Conyers
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hayes
Hilliard
Hinchey
Hoekstra
Holden
Hoyer
Jackson-Lee
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Knollenberg
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Tucker
Upton
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NAYS—261

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (LA)
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman

Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Vucanovich
Waldholtz
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

Collins (MI)
Rose
Smith (MI)
Walker

□ 1320

The Clerk announced the following pair:

On this vote:

Miss Collins of Michigan for, with Mr. Walker against.

Mr. SKELTON and Mr. CALLAHAN changed their vote from "aye" to "no."

Mr. HOEKSTRA, Mrs. MEEK of Florida, and Messrs. KENNEDY of Rhode Island, KLINK, DOYLE, MASCARA, HALL of Texas, McHALE, BARRETT of Wisconsin, and PAYNE of Virginia changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1320

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 4, line 21, strike ", and" and insert a semicolon.

Page 5, line 2, strike the period and insert "; and".

Page 5, after line 2, insert the following paragraph:

(3) laws requiring that the releasing authority notify the victims of serious violent felons or the family of such victims and the convicting court regarding the release of a defendant.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, my amendment says that, when a serious violent felon is being released from prison, the releasing authority shall notify the victims, the family of the victims and the convicting court of that release.

Many of these prisoners when convicted say, "When I get out, I'm going to hurt you." This will prevent that.

Mr. Chairman, it is a good measure. It is accepted by both sides.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, the gentleman's amendment is a good amendment. It is an amendment which would say that, as he has stated, "that if you have a serious violent felon out there that has committed a very serious crime, you have to notify the victims and the convicting court when you release him from jail."

It seems like a good thing to do for anybody, and it is a condition that adds to the already existing conditions on victims rights in this bill, and I would be more than happy to accept the amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Michigan [Mr. CONYERS], the distinguished ranking member.

Mr. CONYERS. The gentleman's amendment, Mr. Chairman, is a very practical one that requires notification in those instances where someone is being released and that the victim's family would be able to know about it, or police officers, or others. We have had a number of cases of intimidation, and sometimes actual violence that has occurred, and this kind of notification would work no harm on anyone in or out of the court system, and it does follow along with the protection for victims that we have examined before.

I commend the gentleman from Ohio [Mr. TRAFICANT] for offering the amendment and applaud the fact that we have received the support of the other side.

Mr. TRAFICANT. Mr. Chairman, I think all these comments explain it very well, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCHUMER: Page 2, strike line 4 and all that follows through the matter preceding line 1, page 12, and insert the following:

TITLE I—PRISON BLOCK GRANT PROGRAM

SEC. 101. LOCAL CONTROL PRISON GRANT PROGRAM.

Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"Subtitle A—Prison Block Grants

"SEC. 201. PAYMENTS TO STATE GOVERNMENTS.

"(a) PAYMENT AND USE.—

"(1) PAYMENT.—The Attorney General shall pay to each State which qualifies for a payment under this title an amount equal to the sum of the amount allocated to such State under this title for each payment period from amounts appropriated to carry out this title.

"(2) USE.—Amounts paid to a State under this section shall be used by the State for confinement of persons convicted of serious violent felonies, including but not limited to, one or more of the following purposes:

"(A)(i) Building, expanding, operating, and maintaining space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony.

"(ii) Building, expanding, operating, and maintaining temporary or permanent correctional facilities, including boot camps, and other alternative correctional facilities, including facilities on military bases, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing space for the confinement of persons convicted of a serious violent felony.

"(iii) Contributing to funds administered by a regional compact organized by two or more States to carry out any of the foregoing purposes.

"(b) TIMING OF PAYMENTS.—The Attorney General shall pay to each State that has submitted an application under this title not later than—

"(1) 90 days after the date that the amount is available, or

"(2) the first day of the payment period if the State has provided the Attorney General with the assurances required by section 203(d),

whichever is later.

"(c) ADJUSTMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Attorney General shall adjust a payment under this title to a State to the extent that a prior payment to the State was more or less than the amount required to be paid.

"(2) CONSIDERATIONS.—The Attorney General may increase or decrease under this subsection a payment to a State only if the Attorney General determines the need for the increase or decrease, or if the State requests the increase or decrease, not later than one year after the end of the payment period for which a payment was made.

"(d) RESERVATION FOR ADJUSTMENT.—The Attorney General may reserve a partnership of not more than 2 percent of the amount under this section for a payment period for all States, if the Attorney General considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the States.

"(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

"(1) REPAYMENT REQUIRED.—A State shall repay to the Attorney General, by not later than 27 months after receipt of funds from the Attorney General, any amount that is—

"(A) paid to the State from amounts appropriated under the authority of this section; and

"(B) not expended by the unit within 2 years after receipt of such funds from the Attorney General.

"(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payment in future payment periods accordingly.

"(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to States.

"(f) NONSUPPLANTING REQUIREMENT.—Funds made available under this title to States shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of funds under this title, be made available from State sources.

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title—

"(1) $232,000,000 for fiscal year 1995;

"(2) $997,500,000 for fiscal year 1996;

"(3) $1,330,000,000 for fiscal year 1997;

"(4) $2,527,000,000 for fiscal year 1998;

"(5) $2,660,000,000 for fiscal year 1999; and

"(6) $2,753,100,000 for fiscal year 2000.

"(b) ADMINISTRATIVE COSTS.—Not more than 2.5 percent of the amount authorized to be appropriated under subsection (a) for each of the fiscal years 1996 through 2000 shall be available to the Attorney General for administrative costs to carry out the purposes of this title. Such sums are to remain available until expended.

"(c) AVAILABILITY.—The amounts authorized to be appropriated under subsection (a) shall remain available until expended.

"SEC. 203. QUALIFICATION FOR PAYMENT.

"(a) IN GENERAL.—The Attorney General shall issue regulations establishing procedures under which a State is required to give notice to the Attorney General regarding the proposed use of assistance under this title.

"(b) GENERAL REQUIREMENTS FOR QUALIFICATION.—A State qualifies for a payment under this title for a payment period only if the State submits an application to the Attorney General and establishes, to the satisfaction of the Attorney General, that—

"(1) the State will establish a trust fund in which the State will deposit all payments received under this title;

"(2) the State will use amounts in the trust fund (including interest) during a period not to exceed 2 years from the date the first grant payment is made to the State;

"(3) the State will expend the payments received in accordance with the laws and procedures that are applicable to the expenditure of revenues of the State;

"(4) the State will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General after consultation with the Comptroller General and as applicable, amounts received under this title shall be audited in compliance with the Single Audit Act of 1984;

"(5) after reasonable notice from the Attorney General or the Comptroller General to the State, the State will make available to the Attorney General and the Comptroller General, with the right to inspect, records that the Attorney General reasonably requires to review compliance with this title or that the Comptroller General reasonably requires to review compliance and operation;

"(6) a designated official of the State shall make reports the Attorney General reasonably requires, in addition to the annual reports required under this title; and

"(7) the State will spend the funds only for the purposes authorized in section 201(a)(2).

"(c) SANCTIONS FOR NONCOMPLIANCE.—

"(1) IN GENERAL.—If the Attorney General determines that a State has not complied substantially with the requirements or regulations prescribed under subsection (b), the Attorney General shall notify the State that if the State does not take corrective action within 60 days of such notice, the Attorney General will withhold additional payments to the State for the current and future payment period until the Attorney General is satisfied that the State—

"(A) has taken the appropriate corrective action; and

"(B) will comply with the requirements and regulations prescribed under subsection (b).

"SEC. 204. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Except as provided in section 203(c), of the total amounts appropriated for this title for each payment period, the Attorney General shall allocate for States—

"(1) 0.25 percent to each State; and

"(2) of the total amounts of funds remaining after allocation under paragraph (1), an amount that is equal to the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

"(b) UNAVAILABILITY OF INFORMATION.—For purposes of this section, if the data regarding part 1 violent crimes in any State for 1993 is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for 1993 for such State for the purposes of allocation of any funds under this title.

"SEC. 205. UTILIZATION OF PRIVATE SECTOR.

"Funds or a portion of funds allocated under this title may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the purposes specified under section 201(a)(2).

"SEC. 206. PUBLIC PARTICIPATION.

"(a) IN GENERAL.—A State expending payments under this title shall hold at least one public hearing on the proposed use of the payment from the Attorney General.

"(b) VIEWS.—At the hearing, persons, including elected officials of units of local government within such State, shall be given an opportunity to provide written and oral views to the State and to ask questions about the entire budget and the relation of the payment from the Attorney General to the entire budget.

"(c) TIME AND PLACE.—The State shall hold the hearing at a time and place that allows and encourages public attendance and participation.

"SEC. 207. ADMINISTRATIVE PROVISIONS.

"For the purposes of this title:

"(1) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as one State and that, for purposes of section 104(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

"(2) The term 'payment period' means each 1-year period beginning on October 1 of any year in which a grant under this title is awarded.

"(3) The term 'part 1 violent crimes' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.".

Mr. SCHUMER. Mr. Chairman, this is the block grant amendment to H.R. 667. It is a very, very simple concept. It says, "Let the money for building prisons be distributed to the States on a block grant basis without any formula that stands in the way of the States getting the money." We take the language; the block grant language is the very same language in H.R. 3 that applies to the police and the prevention parts of the bill; and what we do is we distribute the money to the States and say, "As long as you're building and operating prisons, you may use that money."

What is the difference? My colleagues, the difference is very simple:

"If you are in any of these States, which is all of them, under this amendment your State will get money, millions of dollars, to build prisons. If you vote no on this amendment and keep the very complicated formula now in H.R. 3, your State will get no money."

H.R. 3 sounds good, but according to the attorney general, just as recently as this morning—who is in charge of administering H.R. 3, should it become law, not a single State will get money.

Now we make a very simple argument:

The other side has argued that block grants are the way to go. It certainly is the way to go for police, as in the bill that will be before us Monday. It certainly is the way to go for prevention, which is the bill that will be before us Monday. Why in God's name is it different for prisons?

We are making H.R. 3 consistent. We are saying very simply:

> If you want your State to get money and build the prisons that are needed, support the block grant. If you're from California, New York, Texas, Illinois, Michigan, any of the States in this country, your State will get real dollars under the block grant.

Many objected to the formula in the crime bill last year. This amendment takes out that formula. Many object to the formula in H.R. 3. It takes out that formula. It simply says, if the States know what they are doing, if we want to return responsibility for fighting crime back to the States, then give them the money, and let them build.

I say to my colleagues, "If you vote for this amendment, that's what will happen."

I say to my colleagues, Yes, we want the States to incarcerate more violent criminals. No question about it. But under the present law your State will not get the money—you're from Illinois, you're from Pennsylvania, you're from Louisiana, you're from Florida; your State won't get money, at the very best, for 3 years, and at the very worst, for 20 years, under H.R. 3, but under the block grant you will.

So what are we doing here, my colleagues?

I hear the anguish of my constituents when they complain about crime. I hear the plaintive cry of police officers who say they arrest criminals and they are back out on the streets. I care about that, and that is why I have proposed this amendment. I propose this amendment because instead of a lot of verbiage and a very complicated formula that at best is under dispute as to how much it gives to each State, give them a block grant.

What about the language for how the money is distributed under the block grant? It is the very same language proposed by the majority, the gentleman from Illinois [Mr. HYDE], the gentleman from Florida [Mr. MCCOLLUM], that distributes the money for police, that distributes the money for prevention.

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So I say to my colleagues very simply, if you want to get tough on crime, put your money where your mouth is. A no vote on this amendment will deprive your State of millions of dollars of badly needed prison building dollars.

So it is a simple amendment, my friends. It is not complicated. It is not what you would say is the old way, which means lots of formulas, lots of Federal intervention. It simply says States, here is your money; go build the prisons.

The public will be watching. They will want to see if we really want to get tough on crime, or if we just want fidelity to some document that was poorly written and poorly planned. I urge a "yes" vote on the block grant amendment.

Mr. SCHIFF. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is an extension of a debate that, of course, began in the Committee on the Judiciary, and I understand the position of the gentleman from New York. But let me take this a step further.

What the gentleman from New York is essentially arguing is if our side has proposed a block grant approach to assist State and local law enforcement with police and prevention programs, why then would we propose grants that have certain conditions with respect to prisons? The gentleman is essentially asking, is there not a contradiction somewhere?

Well, if there is a contradiction, Mr. Chairman, it is not at that point. If there is any contradiction at all with what the majority is proposing, it is the fact that we propose identifiable prison grants. Because it could be argued why not give the money to the States to choose whether or not to build prisons? Maybe some States do not want to build prisons.

Now, the problem with that hypothetical is it does not fit any realistic situation. The gentleman from New York has recognized that, because his amendment to this bill is also a prison grant proposal.

So what we have in common here is that both those of us who authored the original bill and the gentleman from New York's amendment are for prison grants. We are both making the assumption that every State has made a decision that it needs a prison system of some kind.

So there really is no debate here about are we in some way infringing upon State and local judgment by offering prison grants, because we both know that prison grants are necessary and we both have offered prison grants. So that is not the difference between us.

The difference between us, Mr. Chairman, with respect to this amendment is that under the amendment offered by the gentleman from New York [Mr. SCHUMER], it will be business as usual in the prison systems throughout much of the United States. It will be the continuation of revolving door justice. It will be the continuation of as soon as the police complete a case and go on to the next case, they find in a relatively short period of time they have got the same violent offender back to deal with again.

What the bill says as written is that we recognize those States that are seeking to improve their system, which is to extend the time of incarceration of serious violent felons. And this is in two ways. One way is the truth in sentencing approach, but that is half the money. The other half of the money is for simply an increase in the incarceration of serious violent criminals, without the specificity of serving 85 percent of the maximum.

We are saying that we understand that those state legislatures which have undertaken to protect their citizens from violent criminals will within their prison systems absorb greater costs, because there is no doubt, there is no hiding from the fact, the longer a prison sentence is, the more costs there will be to the State.

Now, the States that are recognizing that the cost is worth it, that the protection of their citizens is not only worth the expenditure in and of itself, but it saves money, because criminals, especially career criminals, will cost the taxpayers more money on the outside than the wildest imagined cost of their incarceration, we recognize those States will spend more money to incarcerate serious violent criminals longer. And as an incentive to help those States improve the prison system and the revolving door justice, we have written the bill with these incentives. To go to the block grant system at this point would be to say to the States that have a revolving door now, "You can keep it. You can pretend like you are doing something to protect your citizens, when you are not doing enough."

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Illinois.

Mr. HYDE. It is not enough to arrest violent criminals. It is not enough to convict them. It is not enough to lock them in jail. You have got to keep them in jail. If there is one thing that offends the public, it is knowing that you get a 10-year sentence and you are out in 3.

This bill provides the incentive necessary to have the States elevate their sentencing to 85 percent of the years granted. That is what the public wants. We would be very foolish just to say build more prisons, if the same 5 to 7 percent of the hardened criminals that commit 70 percent of the crime go in and come out, go in and come out.

We can kill two birds with one stone here by providing the resources to build the badly needed prisons, but at the same time make sure that these violent, and we are talking about violent felons, get locked up for a decent term, at least 85 percent of their sentence.

So we would be just foolish to give the money and say do the right thing. We are going to goad them to do the right thing by providing this carrot, this incentive.

So I reject the amendment, however much I am warmed by the fact the gentleman from New York [Mr. SCHUMER] likes the block grant approach.

Mr. SCHIFF. Mr. Chairman, reclaiming my time, I would just like to say, and this may or may not be significant, but I would note in the gentleman's amendment he has added a word which does not appear in our bill. The amendment says that "The funding can be for expanding, operating, and maintaining temporary or permanent correctional facilities, including boot camps and other alternative correctional facilities."

The word "alternative" does not appear in our bill. The word "alternative" has come to mean something other than confinement. I wonder if the gentleman can explain if that is in fact what he means.

Mr. VOLKMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have been sitting here listening to this debate, and I just really wonder how many Members of this body have done as I have done? I have been working with the State of Missouri for some time now because we have been trying to comply with and work with the present law, the 1994 crime bill, to get additional money to build prisons for our criminals. Not only that, the State of Missouri, under the leadership of our Governor, has this year proposed in their budget a large increase for prison construction, because we know that we need to have that prison construction, because last year the general assembly and our Missouri Governor did a truth-in-sentencing law.

So you think, hey, we are doing good. We are taking criminals and putting them in prisons, making them serve longer sentences, and we have got a truth-in-sentencing law. So we ought to comply under the 1994 act.

Well, under the general provisions, we do. Under the truth-in-sentencing, we do not. Under this bill we get nothing. Under this bill we get nothing. Under this bill we get nothing.

Why do we not get it? For the simple reason that our truth-in-sentencing law is not in compliance with last year's law because we did not use the words "violent criminals."

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We used a definition that does not comply, and we actually set, the Missouri General Assembly actually set up the criminal actions, the crimes that could be punishable, that were severe enough. And they do not qualify as all total encompassing.

As a result, we are not going to be in compliance with the present law under the truth-in-sentencing. That is a little silly. It is a little bit silly.

Now, what do we do under the bill? We do not keep that terminology. We change it to violent felonies. Now we are going to have a new definition of what they have to comply with. And as a former member of the Missouri General Assembly, I want my colleagues to know, those that have served in a State legislature, how many times did they object to the Federal Government telling them how to write in detail the laws of the State of Texas, the State of Illinois, the State of Georgia, or any other State? But that is what we are doing in this bill. We are trying to tell the State legislative bodies that this is the way they have to write it in detail, if they want these penitentiary moneys, if they want to build prisons.

I have been corresponding with my department of corrections head, with my Governor's office about this quandary, because we want to build prisons. We want to put criminals, violent criminals, behind bars. We want to keep them there for 85 percent of their time. But they are not going to help us one bit.

To the gentleman from Illinois, I say, "When you threw that rock, you didn't get two birds, you got none. You didn't get any with this bill. You are going to miss the whole mark."

That is why I support the amendment of the gentleman from New York, because for sure, I am going to have prisons under a block grant. There are not all of these onerous conditions on my State legislature and my Governor.

I said that this would come up, this debate would occur back when we were talking about the unfunded mandates. I had an amendment to that, which I withdrew, but I wanted to discuss it. And this is it.

Sometimes we think we know it all. We know it all. Well, they are trying it right now. They are saying they know what is good for the States, they know how they should have to write their legislation in order to get this money.

Where did the money come from? It did not grow on trees out here. It did not float from the sky. That money came from right back home, folks. It sure did, and what is that? I thought we had Members up here that believed in States rights.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 3 additional minutes.)

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I remember the gentleman was a leader in resisting the 55-mile-an-hour speed limit that was imposed by the Federal Government on the States, and the gentleman was in violent opposition to the Highway Beautification Program. The gentleman is a crusader for States rights. He speaks with some credibility. I just suggest that you do not need to be a nuclear physicist to understand that we ought to lock these people up and not kid the people that 10 years means 3 years. And the gentleman ought to help us do that.

Mr. VOLKMER. Mr. Chairman, what I am trying to tell the gentleman is that the State legislatures that want to do it, like Missouri wants to do it, we are doing it. We have got to build new prisons. We are taking money away from higher education, from mental health and everything to build those prisons, right now in this year's budget. We already have truth-in-sentencing. It just does not meet the little bit of criteria that the gentleman writes, so we do not get any of the Federal money. But we are going to do it on our own anyway.

Mr. HYDE. Mr. Chairman, if the gentleman will continue to yield, he can meet it and get his share.

Mr. VOLKMER. No. We cannot get it. Under this bill, I get some money. It is going to help my State. And maybe under that, maybe Missouri's higher education will be able to get a little more of the budget because they will get a little bit of their money back from the Federal Government that they send here anyway. That is what the Schumer amendment does.

I strongly support it. If Members really believe in States rights, if they really believe in building prisons and letting the legislature decide, I hope they have as good sense as the State of Missouri and a few other States that have truth-in-sentencing, because I believe in truth-in-sentencing. But I do not believe that I should dictate it to anybody, especially a State legislative body. I believe that that State legislative body and that Governor should be able to decide on its own what is good for their own State. I do not believe that I should make that decision for them.

I do not believe that I have all the answers, that I am smarter than they are. That is what the bill says. You are smarter than the State legislative bodies and governors.

I object to it. I feel strongly, I urge everybody to support the amendment of the gentleman from New York.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for those who doubt that there is progress, they should have been at the Committee on the Judiciary markup on this bill. Because there is the most blatant, glaring, irreconcilable inconsistency in approach between this bill, which dictates to the States, which assumes that the State legislatures are not smart enough or courageous enough or courageous enough to deal with sentencing, and we have heard Members on the other side say, in effect, we cannot trust the State legislatures to do this on their own so we have to tell them how to do it. That is a total inconsistency between this and the bill we will see on Monday, where in fact they say, we will give things to the States and we should not proscribe anything because that would be an interference with States' rights.

At the committee session, the best answer we got to that was the chairman citing Ralph Waldo Emerson that a foolish consistency is the hobgoblin of small minds, which I pointed out is a remark everybody says when they get caught in an inconsistency and cannot come up with an answer. They have had a few days so they have elaborated a rationale to try to explain it. But it makes no sense.

Today they will be telling us that we cannot trust the State legislatures, that we must dictate to them and dictate to them, it seems to me foolishly, as I will get into.

Then on Monday they will tell us that we must give everything to the States and make no Federal proposals.

What holds these two together, and I think it is very clear, what motivates the Republicans here is clearly no consistent philosophy about deferring to the States, because they will dictate to the States today and denigrate their capacity for self-determination. And then on Monday they will defer to it. What they have in common is this.

Last year, over the opposition of most of the Republicans, the Democratic Congress and the Democratic President passed a good, tough crime bill that had sensible prevention funds, that had money for prisons, that had money for police.

Now, when the Democrats do something that is wrong, my Republican friends are a little unhappy. But when the Democrats do something that is manifestly right, they are very, very unhappy. They cannot tolerate the notion that we would have been as successful as we were. And, therefore, they have come forward with legislation which would interrupt a process that is well along of getting crime fighting funds out to the States.

They are doing it today, and they will do it on Monday. They will take absolutely inconsistent positions. They will be Federalists today and States' rights people on Monday. And the only common thread is that they want to undo what we did last year. Having lost last year, they are not prepared to abide by that, and they will disrupt the processes. Police officers who are being hired will now face an uncertain future if their bill passes and becomes law, because they do not like the notion that the Democrats might have gotten credit for putting out more police.

The States will be told, and here is the degree of proscription, it says to a State, you get money if you have increased the extent to which you were sentencing violent criminals. So if you are a State which had already been sentencing violent criminals to long sentences, you will lose money to a State that still sentences them to less than you do because they have gotten less than you do. If you have been doing it for 10 years and they have been doing it for 6 and they get up to 8, 8 will be more than 10 by the peculiar arithmetic that the Republicans have been driven to by their desire to mess this thing up. Because what they will measure is not how long you sentence people but whether or not you increased it.

Similarly, they will be told that they have to serve 85 percent of their sentence. If in fact people are sentenced to 15 years and serve 10 of those 15 years, that is only two thirds, they do not qualify. But if they were in fact sentenced to 8 years and serve 7 of the 8, that will be more than 85 percent, and they will qualify. They use meaningless items. States that in fact have tougher sentencing will manifestly lose out under this bill to States that have less sentencing because the Republicans needed to come up with a way to undo what we had done.

□ 1350

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

As I understand it today, Mr. Speaker, just to underscore the gentleman's points, the point we have been making, the Speaker, at his morning press conference said that his Members would vote for this bill whether their States got money or not. I would suggest that is not a way for people to vote, particularly those of us who want to incarcerate more violent criminals.

Mr. FRANK of Massachusetts. I would not want to get between the Speaker and his troops, Mr. Chairman. If the gentleman so instructed them or advised them, that is his prerogative. We should be very clear, though, that this bill is premised on the notion that, left to their own decisionmaking process, the States of this Union will not adequately deal with violent criminals. Therefore, the Federal Government must prescribe, but not only prescribe, prescribe foolishly; tell them that they must have 85 percent of the sentence served, no matter what that length of time is.

I hope the Schumer amendment is adopted and sense prevails over partisanship.

Mr. GALLEGLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to respectfully take this from the top. First of all, Mr. Chairman, this amendment is being presented to us as basically a mirror image of what is in the bill, with the exception that the proponents of the amendment offer a block grant approach, rather than the bill's provisions, which encourage greater sentences for those who commit serious violent crimes.

I have to go back again and say I am at least not certain that that is correct, Mr. Chairman. It may well be, but the language that is in the amendment adds a word when it talks about funding correctional facilities; it adds the word "alternative," that under the amendment the funds can go to alternative correctional facilities. The word "alternative" was used all throughout the last crime bill to mean alternatives to confinement.

The fact of the matter is, Mr. Chairman, that is the reason why, although the media announced over and over again how much money in the last crime bill would go to prisons, not a dime has to go to prisons. It could go into community situations for those who have committed serious crimes, and there may be, for other individuals, a place for community corrections, but a confinement bill should be a confinement bill. A prison bill basically should be a prison bill.

Second of all, Mr. Chairman, I want to say, again, that the contradiction, if we are offering it, is not the one argued by the gentleman from Massachusetts, [Mr. FRANK]. The contradiction, if offered, in theory is the fact that we would offer a prison grant. What right do we have to tell the States, "You should be interested in prisons"? But their amendment is a prison grant amendment, too, so that is not the difference. The difference is our encouraging and wanting to assist those States which have come to the realization that they want to do more to lock up violent criminals longer.

Mr. Chairman, I suggest that the amendment offered by the gentleman from New York [Mr. SCHUMER] is going to keep the same revolving door that has so disgusted the American people throughout this country.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. The gentleman from New Mexico [Mr. SCHIFF] is trying too hard to reconcile the irreconcilable, but he is unsuccessful. He says it is inconsistent just to even talk about prison grants. What he is apparently arguing is that either you say that everything the Federal Government provides to States goes in one undifferentiated huge revenue-sharing pot, or else you have no difference between categorical programs and specificity in the categorical programs.

In other words, we have generally said there was general revenue-sharing, then there were categorical programs which say "for health," which say "for prisons," et cetera. The question then becomes do you overprescribe in the category.

It is one thing to say, "We will give you money for prisons and we will give you money for crime fighting." It is another to say, "We will give you money for prisons if, in fact, you do 85 percent and if, in fact, you do all these specific things." The gentleman is wrong when he says this is meant to encourage the States. This does not encourage, this says to the State, "You will meet the rather contorted definitions we have or you get nothing." That is much more than encouragement. That is coercion, and it is a perfectly valid point.

However, to say, as he has said, "Well, under the amendment of the gentleman from New York [Mr. Schumer], we will go back to the revolving door" is to say that the State legislatures and Governors of this country cannot be trusted, because what the amendment of the gentleman from New York does is to leave it up to the States.

When we say that is going back to the revolving doors, as the gentleman says about this amendment, as his amendment said, "You cannot trust the States, they will not do it right, we know better," that is a perfectly valid position, but take off your Thomas Jefferson costume when you are saying it and put on your Alexander Hamilton mask.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I just want to come down to the central issue. Once we have decided it is all right to offer States prison grants, and that by offering that, it is not a violation of federalism, as long as we seem to be both on board on that, the major issue in prisons, of all the issues, is what is the length of time served by those who have been committed to prisons.

Mr. Chairman, our bill offers to help those States which are trying to keep the serious violent criminals off of the streets longer.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, I would simply answer to my friend, the gentleman from New Mexico, if he surveyed the 50 States, probably every one of them wants to keep the criminal in jail longer.

The States, probably on this issue, probably more so than on the other issues that the gentleman is for a block grant on, agree.

The CHAIRMAN. The time of the gentleman from California [Mr. GALLEGLY] has expired.

(By unanimous consent, Mr. GALLEGLY was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, every State wants to incarcerate more violent criminals. The question is simple on this; that is, do we give the States the money to do it.

Under the formula in the base bill, under the best of estimates, only three States, Delaware, North Carolina, and Arizona, would be eligible for the money.

Mr. Chairman, I have a Governor in my State who is very tough on crime, the newly elected Governor. He would not be getting a nickel of money to build the more prisons that he promised in his campaign under this formula. We know that for a fact.

I would say what he is going, Mr. Chairman, is, quite frankly, taking some people out of jail, but because the bar that the gentleman has set is so unrealistically high that the Governors of most States, after all, 30-some-odd of the Governors are Members of the gentleman's party, would not be able to use the money at all, so the issue, Mr. Chairman, is not who wants to incarcerate. Just about every State does. My State does, and I do.

The issue, Mr. Chairman, is will the formula in the bill or a block grant that automatically gives the money better serve the State in doing it?

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, some States are, through their legislature, showing the priority of passing laws which will incarcerate their serious violent criminals longer. It is the purpose of this bill to assist those States.

There are two pots of money, and we believe that virtually every State, if not in fact every State, would qualify under the first.

□ 1400

Mr. HYDE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if the States were doing everything right, we would not have all this furor about truth-in-sentencing. The truth of the matter is, 10 years does not mean 10 years; 15 years does not mean 15 years. The public thinks it does, but they are learning that it does not.

We are trying to use a concept that is alien to some people in this Chamber. It is called incentives. It works in economics, and it works in crime fighting.

The gentleman from Massachusetts said somehow a pall of depression falls over us Republicans when the Democrat administration does something right. I would just tell the gentleman: NAFTA and GATT. When the administration does something right, and it does—it does—they get support from this side of the aisle. But the romance with categorical grants has been on their side.

I recall the last crime bill, the so-called omnibus crime bill, if you wanted to get a piece of that $50 million, you had to have midnight basketball. You had to shoot free throws, because that was a Federal program and you had to participate. We were telling communities. "If you want some of this money, then here's a program where you can get it."

But what we are doing here is saying here is money to build prisons. If you want to build prisons, let us have truth-in-sentencing. That is a simple exchange. It is not asking too much.

I think this is what the public wants. They want tougher sentences, and we are going to help them impose the tougher sentences by giving them the resources to build prisons. That ought not to be too difficult.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

But I must say I was disappointed when the gentleman from Illinois said under the bill we passed last year, if you wanted part of the $50 million pot, you had to do midnight basketball. That is not in the bill. It was permissive, just as it is in their bill that they are going to bring up on Monday. Midnight basketball was an option. To say that under the bill we passed you had to do midnight basketball is simply a misstatement.

Mr. HYDE. Reclaiming my time, is it not true that there was a $50 million program for midnight basketball?

Mr. FRANK of Massachusetts. Not as I understand it.

Mr. HYDE. Was it $49 million?

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. SCHUMER. No; in the original bill there was such a proposal. Many people said that that is not a good idea and it was block-granted. So in the crime bill that is now law, there is no pot of money for midnight basketball. It is the same as the gentleman's bill, H.R. 729.

Mr. FRANK of Massachusetts. Permissive.

Mr. SCHUMER. It is one of the many options under a block grant.

Mr. HYDE. That is an improvement.

Mr. SCHUMER. It is now law.

Mr. HYDE. May I ask the gentleman, were there any categorical grants in that omnibus crime bill?

I wanted to ask the gentleman from New York [Mr. SCHUMER] because he is an expert on this: Were there any categorical grants?

Mr. SCHUMER. There were certain large programs that had categorical grants.

Mr. HYDE. Are those where we tell the States what they must do to get the money?

Mr. SCHUMER. Yes.

Mr. HYDE. I thank the gentleman.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I just want to congratulate the gentleman for the nimbleness with which he skipped away from his error, in which he said that you had to do midnight basketball when in fact you do not.

Mr. HYDE. I appreciate the congratulations. I usually disappoint the gentleman.

Mr. FRANK of Massachusetts. That is true. That is true. Therefore, it seemed to me, it behooved me to give credit where credit was due. But the point I would make is that, yes, we have had some categorical programs. We have never claimed or pretended that we were against some direction to the States. It is the gentleman on the other side who had made that point, and it is that point which they are directly, blatantly, and thoroughly contradicting today.

If I could make one last sentence, I will give the gentleman one more credit. He began by saying if the States were doing the right thing. Yes, that is exactly the point. This is a bill from people who do not agree with choices the States are making, and they are going to coerce them to make other ones. That is valid. But do not pretend to be the Articles of Confederation when you are in the process of doing that.

Mr. HYDE. Coerce? Reclaiming my time, coerce is not the same as incentive. And we are providing incentives for them to have—does the gentleman not agree that sentencing someone to 10 years and they get out in 3 is a fraud?

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Of course. How could the gentleman answer if I do not yield?

Mr. FRANK of Massachusetts. Under the gentleman's bill, if you sentence them to 10 years and they serve 3, there are two ways you can qualify. You can make them serve 8 or 9, or you can cut the sentence to 4. The gentleman's bill does not require you to increase the time served. It simply says it has got to be 85 percent of the sentencing.

So the gentleman's bill is flawed even in trying to do what he says he is trying to do.

Mr. HYDE. Reclaiming my time, the gentleman's conversion to block grants is indeed reassuring.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

(At the request of Mr. SCHUMER and by unanimous consent, Mr. HYDE was allowed to proceed for 1 additional minute.)

Mr. HYDE. I yield to my friend the gentleman from New York.

Mr. SCHUMER. I thank the chairman, and I always do. He is always very courteous and generous in the yielding.

Let me just say that the gentleman's colleague, the gentleman from Florida, just before made the very point the gentleman from Massachusetts made.

He said, and we sort of let it go by, but he said, and check the record, "Well, the States could qualify for this. They can reduce the maximum sentence."

This bill does not require an increase in the maximum sentence. It simply requires that truth——

Mr. HYDE. Truth-in-sentencing.

Mr. SCHUMER. Exactly.

Mr. HYDE. Right. Honor. Integrity.

Mr. SCHUMER. I would say to the gentleman, a far more important argument than truth-in-sentencing, important as that is, is having people serve, violent criminals serve a long time in jail. Our proposal makes that happen much more than the gentleman's.

Mr. HYDE. Reclaiming my time, if someone is sentenced to a term of years, the public is entitled to know that term of years is pretty close to what he is going to serve. If it is too low a term of years, they will get new judges. But I welcome the gentleman's conversion to block grants.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, when I hear the chairman of the Committee on the Judiciary tell me that midnight basketball is some Democratic prerogative, I would be otherwise proud of it, but the fact of the matter is in the block grant program combining prevention and police programs coming up Monday, midnight basketball is as permissible in their program as it would be and is in ours, in the 1994 crime bill, and we are proud of that.

But to come on the floor and continually deride it, and this being one of the most economical investments that we can make in prevention programs, I mean, how much cheaper can you get than a hoop, a net and a basketball?

So it seems to me very, very important when we recognize that it is in both of our programs and it was started in the former President Bush's 1,000 points of light.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. I do not criticize midnight basketball at all. I think it is a great way to spend your hours from midnight till 3 a.m. I do wonder how you get up and go to school the next day, but I will leave that to deeper thinkers than I am.

Mr. CONYERS. I think that you are criticizing midnight basketball, if you think it keeps people from going to school.

The people in the cities that are using it happen to think that it keeps people from doing activity that might otherwise bring them in connection with the law.

So I think that the gentleman cannot have it both ways. He cannot continually deride midnight basketball, and then tell me in the next breath that he really likes it, but he thinks they ought to be getting ready for school.

My larger consideration here today is that if you wanted to relieve the number of people that are in prison so that you could keep the violent offenders, how about overcrowded State prisons that had releases that would not occur if we had boot camps, drug courts and prevention programs that were keeping minor offenders and young people from taking up all of this space?

We have the largest and most infamous lockup rates in the world in this country. In the inner cities of the United States, it is 3,000 people per 100,000 that are in prison. So there are no circumstances that I will ever advocate building more prisons to lock up more people. I would advocate, however, building more prisons to contain violent offenders and support the block grant program as opposed to a program that the States clearly will never qualify for.

It is in that spirit and that limited spirit only that I support a block grant program. It is not that I have just converted or changed my position incredibly for the purposes of this debate.

The fact of the matter is there is flexibility in block grant programs in this bill and the one we consider next that allows for boot camps, allows for drug courts, allows for prevention programs, and, yes, allows for night basketball.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, I would just make one other point to my colleagues, particularly on the other side of the aisle.

If this amendment is voted down and H.R. 3 is passed and becomes law, the gentleman will find out a year from now how many prison spaces his State will be able to build. My guess is a year from now, the vast majority of us will find that our State has not gotten a nickel from the bill and has not built a single prison space, whereas under our proposal the States get anywhere from $10 million to $400 million to build prisons.

Mr. CONYERS. In addition, look what we have done just in today's debate alone. We have rejected the only amendment that would give us a carryover that would allow a few years for the States to get ready for your draconian proposal because you have rejected allowing a bridge in which until 50 percent of the States could qualify, we could at least use the 1994 crime bill distribution of prison construction funds.

What you have done is you have blown up any possibility of us getting any money to the States, and now you are saying that the block grant program itself which you cited is now going to be ineffective.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CONYERS] has expired.

(At the request of Mr. SCHIFF and by unanimous consent, Mr. CONYERS was allowed to proceed for 2 additional minutes.)

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I thank the gentleman from Michigan for yielding.

I just want to ask of the gentleman from Michigan, I thought I heard the gentleman from Michigan say that he favored the block grant approach because it offered flexibility to the States in terms of whether to use funds for prisons or other kinds of programs.

Mr. CONYERS. It would allow boot camps, not prevention programs but at least boot camps for helping relieve those who would be coming in as nonviolent offenders and youthful people.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

□ 1410

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding. In my State the Governor, again, a get-tough-on-crime Governor, because the prisons are filled with low level drug offenders and the violent criminals get out more quickly, wants to build boot camps. Under the proposal on the other side he would not be allowed to. But in our proposal he would, and that would in effect incarcerate the violent criminals much longer.

This is a conservative Republican Governor who called for this, and that is what the gentleman from Michigan is talking about.

Mr. SCHIFF. Mr. Chairman, will the gentleman from Michigan yield?

Mr. CONYERS. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I appreciate the gentleman yielding. I want to say I think we are getting at a part of this amendment now that I raised and which has not been really developed by the other side until right now.

There is a difference here between a block grant approach and between our proposing to help those States that want to incarcerate violent criminals longer. We have debated that and I presume in a few minutes we are going to vote.

But the gentleman from Michigan's reference to alternative confinement that might be allowed under the bill, that is the language that was used in the crime bill to mean other than confinement such as community corrections. And I have suggested twice, and I am now suggesting a third time, that really may be the bigger difference in the amendment in this bill, that the amendment would allow block grants for nonconfinement alternatives.

Mr. ROTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when the Federal Government gives money to the States in the form of block grants to build prisons, I think the Federal Government should have something to say about how this money is used and what kind of prison we are going to build, what length people should be incarcerated for. I think this is an important issue.

The lawyers here may argue the nuances of the legislation, but I would like to address this bill on people's terms for a minute.

Last summer a man in Oklahoma raped a 3-year-old girl. The people were so outraged they did not give him 100 years, they did not give him 200 years, or a 1,000 years, or 5,000 years; they gave him a 30,000-year sentence.

But the outrage of it all is this: That he is eligible for parole in 15 years.

I, as a Member of this body, when I vote to give money to the States, I want to have something to say about these paroles and about these issues. And that is why this amendment, in my opinion, is not appropriate.

I want the people who are building prisons in the States, I want those Governors, if they are giving harsh sentences, I want those people to get additional block grants. I want to give them incentives to be hard. I do not want a person who gets 30,000 years, because the people of that State are so outraged, to be walking the streets in another 10 or 12 years. That is what the people of America are saying, and that is why the amendment of my friend from New York is not a proper amendment.

If we have some liberal Governor or State legislature who says let us let him out in 5 years or 10 years, I do not want that State to get these block grants.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I am happy to yield to the gentleman from New York.

Mr. SCHUMER. I very much sympathize with the case from Oklahoma, and I think someone who did something like that ought to serve his life in jail. But under the gentleman's proposal, unless that gentleman served 25,000 years, 85 percent of the 30,000-year sentence, they would not qualify under H.R. 3. And that is just the reason we would like to give the State of Oklahoma, a nice get-tough State, money with no strings attached so we could build prisons and build them quickly.

Mr. ROTH. Mr. Chairman, reclaiming my time, that is not the way I read this amendment. What the gentleman's amendment would do would be to gut the tough provisions of this bill. We would be going right back to again having a social welfare bill and not a real crime bill, and that is why we cannot accept the gentleman's amendment.

I want this person, I want this criminal, for example, who raped this 3-year-old girl, I do not want him out in 15 years. And I, as a Member of this Congress, want to have something to say about that, and I think the people in the States who are tough on those criminals ought to get more of the grant money and not less. And that is why I am opposed to the gentleman's amendment and why I am for this bill.

Mr. CRAMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment and say we are making this issue unfortunately the way we do many issues, a lot tougher than it has to be.

I want us to build prisons right now; I do not want to see the prisoners in my State eligible to be released who are today being released. They are being released because we do not have enough room for them.

So, again, I think this amendment makes sense. We cannot have it both ways. We cannot say we are going to block grant this money which later we will say we are not going to block grant this money here today.

Our States are dealing with a lot of tough offenders. I was happy that the committee chose to accept the youthful offender issue in terms of a boot camp, the amendment offered by the gentlewoman from Texas [Ms. JACKSON-LEE], which will allow States to build the youthful offender incarceration programs that we need, because I think we have to form a more effective partnership with the States and allow the States to build these facilities.

If we want to incarcerate these criminals and we want to do it now, vote for this amendment. This is a States rights amendment and it will allow the States to deal effectively today with those violent offenders that are out there that we want to put away.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I am happy to yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for his courtesy. I just want to point out that it is true that the majority accepted the amendment offered by the gentlewoman from Texas [Ms. JACKSON-LEE] of your side which allowed some funding for boot camps for certain individuals who were appropriate for it, because boot camps at least are still a type of confinement the way they are set up, the way I am familiar with them for a confinement facility, maybe a fence, not a wall. But we accepted that.

This amendment uses different language. This amendment offered by the gentleman from New York talks about boot camps, and I am quoting here: "Other alternative correctional facilities," and the key word here is "alternative." The key word here is that has come to mean in the crime bill we passed as nonconfinement alternatives.

So this amendment is more a philosophical difference about block grants. Ours is a confinement bill and the amendment is not.

Mr. CRAMER. Reclaiming my time, I would assert this amendment would allow the States the flexibility to build all kinds of facilities. I will support later amendments to this bill that will allow other kinds of juvenile incarceration facilities to be built, but I think the block grant approach is the way to go.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, it is just such an anomaly from the gentleman from New Mexico. We heard on the block grant proposal that the States know best from everyone on that side, except on this issue. There is no provision here for any prevention or social welfare. Everything that must be built must be a correctional facility, confinement, nothing else.

What I would say is that the vast majority of money will be used, indeed, for building maximum security facilities. But boot camps, the gentleman admitted that was all right, and other kinds of facilities that the States may have in mind, that we do know that would be all right as well, and the real issue here, the gentleman, in all due respect, is throwing up a smokescreen because he knows darn well there is going to be far more dollars to build prisons, hard core, barbed wire prisons under this bill than under the bill there, that he is hooking on a word that is no mandate, that is no anything.

I have faith in my Governor, I do not know if the gentleman does in his, to use the money for the toughest type facilities possible.

Mr. CRAMER. Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, I think we have had a very heated debate about something I have heard a lot about in the past, and it is very straightforward. What the gentleman from New York wants to do is gut and completely eliminate the truth-in-sentencing provisions in this bill, the whole purpose for creating the bill from my standpoint, I think, and should have been the whole purpose last year of creating the entire bill.

The truth in sentencing is to provide incentives in Federal laws for grants to States to change their laws. That is what the purpose of the bill is. The purpose of the bill is in order to establish incentives for States to change their laws to make sure that we incarcerate, for long periods of time, violent offenders, very serious violent offenders, who right now are going through the revolving door and serving only a fraction of their sentences, and they are creating most of the violent crimes out there in the country today, a comparately, relatively small number of people.

□ 1420

We want to get them off the streets. We want States to take the steps necessary to do this, and yet we know there is an emergency in the States right now that the States do not have the resources to be able to build enough prison beds on their own to do it, and we are providing the supplement to get this to happen.

It is absolutely utter folly for us to put money out there on the table that does not provide this conditionality. This is a carrot. This is not an unfunded mandate that we have in this bill. This is a carrot. This is saying, "Look, we would like to see this accomplished like we know you do." Those good States, those States that are willing to take the steps necessary to make the matching grants in here, the 25 percent versus 75 percent, those that are willing to get out and do it, then we are going to provide you the money, and we are going to be so liberal in this that we are even going to set aside half the money, $5 billion, for States that all they have to do is just barely bump up the length of time somebody serves a sentence and assures that violent felons actually get increased time in their jail. They do not even have to go to the so-called 85-percent rule. They do not have to abolish parole to get half the money in this bill.

I have heard an awful lot from the gentleman from New York today and in debate. I am sure he is sincere about it, about how no State can qualify for the first set of grants. I believe that is nonsense. I strongly disagree with his interpretation of this. The statistics, the data we have, show that virtually every State can qualify for the first $5 billion. It is no big deal to demonstrate, since 1993, you have increased the length of time somebody who is a violent felon is serving the actual sentence in your State. This is essentially all that that does.

That is what the pattern is, the average person.

And as far as the second pot of money is concerned, the extra $5 billion, you destroy in this completely the incentive grant program, because we want, the objective of this bill is that, to put the pot out there and say, "Look, change your laws and you get the money. You do not change your laws, the money is not there." It is as simple as that.

The gentleman's amendment guts that, and as I understand it, it also strikes out from the bill the Kennedy-Geren language. It is a substitute. I want the people to understand this, who are watching, Members who are paying attention and listening to the floor debate, this amendment is a complete striking substitute amendment for the underlying bill. It would put a block grant program in that has no strings attached to it whatsoever; no truth-in-sentencing would be provided by this proposal. We would give money out to States to spend that money as they want, States that have not been doing the law changes that we would like to see them do, and the gentleman will probably say, well, heck, that is inconsistent with the position of the gentleman from Florida, that he takes on the block grant program for prevention and cops, and to a certain extent, he is right. It is inconsistent. Because I see two different purposes. I see the purposes in the cops on the street and the prevention grants programs as being something where the Federal Government cannot begin to see what is the best interest to be done in each of these cities from Spokane to Key West or wherever.

There are so many different prevention programs. Some cities can use cops and some cannot, and so on. In the case of the prisons, we know exactly what is wrong. We know exactly what needs to be done, and so do the States. They need the resources to build prison beds to take the violent offenders off the streets, abolish parole, and lock them up for long periods of time. If they are not willing to change their laws to do this, they should not be getting the money. That is the whole purpose.

So there is a big difference.

I urge in the strongest of terms a "no" vote to this gutting amendment that the gentleman from New York offers.

Mr. MOLLOHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope that all Members of this body are really listening carefully to this debate.

And what really is at stake here is how much money, what additional resources, each and every of your respective States are going to receive under each of these proposals. States are starved for resources to fund prisons, both construction and for operating those prisons.

We have a number of States right now, as we sit debating this issue, that do not have enough money to operate the empty prison beds that they already have. Some States it is not a question of building the prisons. They do not even have enough money to operate the prisons, so the real question is under which version of this bill do we get the State money for prison construction and operation. Under which provision, which proposal do we do that?

And I submit to you, and I rise in support of the amendment offered by the gentleman from New York which gets the fastest, the most money to all of the States to operate and build prisons.

Now, under last year's bill, my colleagues, every State was eligible for prison funding, for construction or operation, meeting those dire needs, every single State in the Nation under the general provisions. Under the proposal offered in the majority's bill, as it appears in our legislation before us, that is not true.

So which one of your States is not going to receive any money under this legislation? Which ones of your States are going to suffer, are going to have money that is under current law available to them, which ones of your States are going to have that money taken away by this legislation? You better look at that, each one of my colleagues, because your constituents are going to be looking at it. Your constituents are going to ask the question, "Did you vote for legislation that took money that was already available to us away?"

Second, I think you need to ask, after you get beyond that, under which of the two provisions before us today are your States going to get more money? And I submit to you it is under the block grant amendment offered by the gentleman from New York [Mr. SCHUMER]. Every State is going to receive dollars and more dollars than in this bill or even last year's bill for prison operation and construction, and that is the need. You can get esoteric about sentences and incentives, but the real question is for resource-starved States, under which proposal do they get the money, do they get it faster? It is under the amendment offered by the gentleman from New York [Mr. SCHUMER].

I would like to engage the gentleman from New Mexico [Mr. SCHIFF] in a colloquy if he would accommodate me, please, because I really am not sure, under the general grant provisions here, any State is going to be eligible for resources under the gentleman's legislation, and I just read to you, and what does this mean, it says:

> That a State or organization shall submit an application to the Attorney General that provides assurances that such States, since 1993, have more violent offender sentencing time, increased the sentences, and increased the percentage of the sentences served.

Which States have, since 1993, met those qualifications and would receive any funding under this provision? Could you tell me?

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I would just point out specifically the wording that if any State, in fact, has not made changes in their law, all a State has to do is to increase the average prison time actually to be served. In other words, any State that increases the time to be served for the violent criminals compared with 1993.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman will yield to me, I will be glad to explain this to him.

Mr. MOLLOHAN. My question is, which State right now would qualify for money under general grant provisions?

Mr. MCCOLLUM. Let me explain that every 2 years the Department of Justice issues a study on exactly these points. That is why these are in here this way. It is why it was in last year's crime bill, by the way. This is not new language.

Mr. MOLLOHAN. What language applies to the general grants program?

Mr. MCCOLLUM. If the gentleman will yield further——

Mr. MOLLOHAN. Reclaiming my time a moment, every State was eligible under the general grants provisions for dollars.

Mr. MCCOLLUM. If the gentleman will yield, I would like to explain which States. You asked that question. All I wanted to say to you is that the trend, every time we have seen those statistics for the last umpteen years, shows a lot of States qualify. Each year States increase their time, most of them do.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. MOLLOHAN] has expired.

(By unanimous consent, Mr. MOLLOHAN was allowed to proceed for 2 additional minutes.)

Mr. CHAPMAN. Mr. Chairman, will the gentleman yield to me?

Mr. MOLLOHAN. I yield to the gentleman from Texas.

Mr. CHAPMAN. Mr. Chairman, I appreciate the gentleman yielding.

I want to answer your question, because you asked the key question as it applies to my State, because you asked under the 1994 crime bill, what is at stake here, and you made the point correctly, so that all States were eligible to begin their prison construction programs or to apply for grants to operate those prisons that they are unable to operate now.

Let me tell you about Texas. In Texas we lose $215 million. That is what we lose. The gentleman from Florida loses, according to the Department of Justice, the gentleman from Florida loses $230 million. California loses $475 million.

□ 1430

So the gentleman asked the key question. The truth of the matter is, under current law, this program is in place, people have the ability to begin prison construction, and there is a truth-in-sentencing component to apply. But you asked the key question. I hope our colleagues are listening to this debate because they are losing this money in every State in America and in every congressional district if this bill passes.

Mr. MOLLOHAN. That is the key question. I would ask my colleagues consider carefully under which provision is their State most benefited.

Mr. EDWARDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if there is anything the American people are crying out for these days, it is for common sense. I think this amendment ought to be called the commonsense prison amendment of 1995. This is a truth-in-serving amendment, maybe more so than a truth-in-sentencing amendment. I am much more concerned about truth in serving time in jail than in some sort of notion of truth-in-sentencing.

Let me put in very simple terms this complicated debate.

Let us take Texas, for example. I served in the Texas Senate for 8 years. We have very tough sentencing requirements for crimes and felons in our State. Take an example: Texas gives a sentence for a serious felony of 100 years. That inmate, that felon serves 80 years. Another State, for the exact same crime, sentences someone to 20 years in prison, and they serve 17 years. So the inmate serves 80 years in prison in Texas, they only serve 17 years in the other State, but the other State gets the prison money and Texas does not.

Now, where is the common sense in that?

Would you not rather have somebody serve 80 years in prison if he raped a three-year-old child than to serve 17 years in another State and be rewarded for that?

The way the bill reads without this amendment, you could actually be rewarding States who have a rapist serve 17 years rather than 80 years. That is pretty simple to understand, and it just does not make common sense.

I would like to be very specific in my remaining time and ask the question of the gentleman from West Virginia as to what each State will lose. I would pose this to my Republican colleagues as well as my Democratic colleagues, that, in effect, if you vote "no" on this commonsense prison amendment, this is what you are voting to cut your own State out of in terms of new prison funding: Alabama will lose $56 million; Alaska, $12 million; Arizona might actually qualify for $44 million, one of the 3 States that might qualify.

If you are from Arkansas and you vote against this amendment, you are taking $28 million out of your prisons in Arkansas. If you are from California and you vote again this amendment, you are taking $475 million our of your State prison system. In Colorado you are taking $35 million out. Connecticut would lose $32 million. Delaware is a lucky State, they may gain $14 million, even if this amendment does not pass.

Florida, as has been mentioned, will lose $230 million. Georgia would lose $77 million, Hawaii would lose $12 million, Idaho would lose $12 million, Illinois would lose $175 million if our colleagues defeat this amendment.

Indiana would lose $48 million, Iowa $20 million, Kansas $25 million, Kentucky $30 million, Louisiana would lose $64 million, Maine would lose $10 million. If our friends from Maryland vote against this amendment, their State will lose $73 million in prison construction money. Massachusetts would lose $69 million, Michigan $110 million, Minnesota $27 million, Missouri $63 million, Mississippi $22 million. We would lose $15 million from Nebraska. Nevada would lose $20 million; New Hampshire would lose $9 million if you vote against this amendment.

New Jersey, if our Republican friends from New Jersey vote against this commonsense prison amendment, their State would lose $77 million. That is extra money that will have to come out of their State taxpayers' pockets to build the prisons that could be built with this amendment.

New Mexico would lose $26 million, New York, New York would lose $300 million. I would be amazed, I could not understand any Republican or Democratic Member from the State of New York would vote against this amendment and say to the taxpayers of New York, "We are going to take $300 million out of your pockets that you are going to have to find if you want to be tough on these criminals."

North Carolina, one of those three lucky States, may get $70 million regardless. North Dakota would lose $8 million. Ohio, $90 million, Oklahoma $34 million, Oregon $29 million, Pennsylvania $83 million, Rhode Island $14 million, South Carolina $56 million, South Dakota $9 million, Tennessee $58 million.

I hope someone else will finish this list.

The CHAIRMAN. The time of the gentleman from Texas [Mr. EDWARDS] has expired.

(On request of Mr. SCHUMER and by unanimous consent, Mr. EDWARDS was allowed to proceed for an additional 30 seconds.)

Mr. EDWARDS. I thank the gentleman.

Texas, $215 million, Utah, $15 million, Vermont $9 million, Virginia $41 million, Washington State $45 million, West Virginia $12 million, Wisconsin $27 million, Wyoming would lose $10 million.

Mr. Chairman, it defies common sense to say that these millions of dollars out of prison money in 47 States would somehow be tough on criminals.

Vote "yes" on the commonsense Schumer prison amendment.

Mr. BRYANT of Tennessee. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, during the course of my campaign last year, the people that I dealt with, the voters in Tennessee, wanted to make sure that people who committed violent crimes, and let me underline the words violent crimes, violent criminals spent their time in jail. I very strongly support this bill because what it does is gives a strong incentive to build those prisons to find ways to lock up the violent criminals, not in a revolving, endless cycle of putting one bad guy in and letting one bad guy out; but to lock them up for the full amount of their sentence, or 85 percent of their sentence. I think this bill accomplishes that, and it does it in such a way that these States can have the prison spaces available to keep the violent criminals locked up in jail.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Tennessee. I yield to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. I thank the gentleman from Tennessee for yielding to me.

Mr. Chairman, I think the gentleman made absolutely the correct statement about why we need to keep the bill as it is instead of having this gutting amendment. What the gentleman who just spoke in the well, the gentleman from Texas, and I know he was sincere about what he was doing, but what he was saying, though, in my judgment, misses a couple of points.

One of the points is that absolutely no money was appropriated for fiscal year 1996. So that is the fiscal year we are in now. Nobody is going to lose anything, any money, no matter what, from the standpoint of anything that has been appropriated, because it is not out there.

Second, nobody is going to lose any money anyway in the future if we change the law, the bill and so forth, like we have in the underlying law, because those States that he listed out there, I will guarantee you 99 percent of them, probably 100 percent of them, will qualify for the first pool of money under the $5 billion simple grant program where you just have to show that since 1993 you have increased the percentage of violent offenders sentenced to prison. That is not hard to show. Almost every State has been doing that; reference to the Bureau of Justice statistics shows that fact. Most every year they are submitted every year and complied and printed every 2 years. We have seen the records, you see a whole list of the history of that.

In addition to that, they have to show that they increased the average prison time actually to be served. That is if they have increased the time they are going to require somebody to serve on the average who are serious violent felons in those States, and that is not hard to see accomplished, because State after State is doing that. Again, the statistics show that, the pressures of the public are very, very great to do that.

They have increased the percentage of sentences actually served in prison, the percentage served in this case.

The statistics also bear out that every time these reports come out, virtually every State in the Union has been on the march for a number of years doing that. This is a very simple matter of encouraging the States to be on the path they been doing for some time in increasing the time that people are actually incarcerated for really bad crimes. It is nothing more or less than that.

You do not have to increase it by one day. Nobody has to increase it by one day. Nobody has to increase it for a year or 6 years or anything else.

So it is a phony argument to say that the whole list of States he reeled off out here will lose money if the underlying bill passes. They will not lose any money. They will gain at least as much money, if not more, because we are adding more money to this prison bill, including more money to part A, by a couple of billion dollars than the present law has. So they are going to have a larger pool of money to get at than they had before.

In addition to that, of course, what we said before, the gentleman made such an eloquent point about, the gentleman from Tennessee, this also destroys, in addition to the underlying incentive grant program, which he and I think this bill ought to be here in the first place, to get the States to change their laws.

□ 1440

So, I thank the gentleman from Tennessee [Mr. BRYANT] for yielding to me and giving me a chance to respond to that list of States that the gentleman, I am sure in good sincere conscience, says is going to lose money, but they really are not.

Mr. FOGLIETTA. Mr. Chairman, I move to strike the requisite number of words.

I rise to speak in favor of the Schumer amendment. Yesterday, I spoke in favor of another Schumer amendment because it dealt with revolving door habeas motions in the most effective way, instead of the arbitrary means of the legislation passed by the committee.

I support this amendment for the same reason. It is smart and effective.

The bill we consider today devotes $5 billion in prison spending to a program that only three States can use. How is that effective?

I am the chairman of the Urban Caucus, and it is no secret that I favor a balance when it comes to fighting crime. We have to spend Federal dollars to prevent crime so we can steer violent offenders, especially the young ones, away from prison. But, make no mistake, we must put the most violent criminals in prison, for good, long sentences. And, we must give States and cities the resources to build and operate new prisons.

The question is not, "Should we." The question is "how."

Let us not squander $5 billion of the people's money on a program that will not work.

The Schumer amendment makes sense. It sends exactly the message that the contract is supposed to be spreading: Let us give States and cities flexibility to deal with their problems. It creates one block grant with maximum flexibility. It also corrects a mistake I believe we made last year—it removes the match requirement which has caused many local governments to say no to Federal crime money because they just cannot afford it.

If we really want to move forward we would be continuing the progress we made last year. Let us build more prisons—but let us do it in the right way.

Let us keep the right balance between prevention and punishment.

One of the things the voters said to us last November was, "Listen to us." Let us listen to our constituents, our cops, and our mayors. Support the Schumer amendment.

Mr. SCOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for the money we are—if we are going to put money into prisons, the Schumer amendment will put the money into prisons. The underlying bill; we do not know what is going to happen or who qualifies. Furthermore, Mr. Chairman, the 85 percent rule has been referred to as truth-in-sentencing. It is actually half truth in sentencing. It is true that people cannot be let out early, but under the whole truth in sentencing we have to acknowledge that we cannot hold people longer.

The gentleman that was described from Wisconsin that had all the numbers of years and would be eligible for parole, well, he could be denied parole and held for a long time.

In Virginia, we went to the 85 percent rule, and to do that we had to reduce the sentence by 50 percent. It cost $7 billion, and, to put that number in perspective, Mr. Chairman, on a national basis we are about 2 or 2½ percent of the national population. That would translate to $250 and $300 billion to get to the 85 percent rule even after we have reduced the sentences 50 percent.

Mr. Chairman, with parole a person with the 10 year sentence, that puts the numbers in perspective. A person with a 10-year sentence would serve anywhere between 2 and 10 years.

Mr. Chairman, those with a 10-year sentence, to put some numbers in perspective under the present law in Virginia—under the previous law in Virginia, would serve between 2 and 10 years. Those that got out in 2 were not randomly released. They had gotten education and job training. They have a home to go back to. They have a job waiting for them. They would get out early. Those with no job, no job training, nowhere to go, those that would say they want to go out and commit more crimes, they would serve longer.

Mr. Chairman, under the so-called truth-in-sentencing or the half truth in sentencing, those with the longer sentences, those who have actually served the 10 years, would not be getting out in 5 years.

Why should we dictate to the States a situation where there will actually be serving—the worst will be serving less time, and those least at risk will be serving significantly more time?

Mr. Chairman, the half truth in sentencing eliminates the ability for States to use their prison space effectively by reserving it for those that are really truly dangerous, relieving the flexibility of letting those out early who are less risk.

We need the whole truth in sentencing, so those who are seriously at risk can serve the full sentence without the reduction of one half, as we have in Virginia.

Mr. Chairman, I would hope that we would adopt this amendment for the money that we are going to spend, for prisons, to go to prisons across the board, not so that States can reduce the amount of time that the most dangerous criminals are serving.

Mr. STUPAK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I sat on the floor here for the last half hour, I have listened to the gentleman from Florida say that we are going to get the Truth in Sentencing Act, and I hear the gentleman from my neighbor State of Wisconsin say we have to put a human face on this bill in what we are trying to do here today. Let us put it in people terms, as they have said:

"If you take a look at the example that the gentleman from Wisconsin brought up, that the individual from Oklahoma got 30,000 years, let's put that in human terms. Who is going to live 30,000 years, serve 85 percent of that time, as the bill requires, as the GOP bill requires? Eighty-five percent of 30,000 years is 25,000 years. It's not realistic. It's not going to happen. The bill, as written right now, says, 'When you get 85 percent of the actual prison time, 85 percent of the actual prison time, you qualify for money underneath this bill.'"

The Schumer amendment, in which I am proud to support, says on page 8—go to page 8. The bill is right there. Each State shall receive 25 percent, 0.25 percent, for the most violent criminals, and we define what the most violent criminals are.

Go to page 10. The most violent criminals are murderers, nonnegligent manslaughter, forcible rape, robbery, aggravated assault. Those are the people we have to get off the street.

So the Schumer amendment allows every State to receive money not just to build prisons, but to operate and maintain prisons.

My State of Michigan, this past year we had four prisons that were built, ready to go, but we had no money to operate, no correction officers, no one to prepare the food, no one to provide the services in those prisons. They sat empty, and the latest Department of Justice report shows Michigan, Georgia, Connecticut, with the most heinous criminals. We need space; there is nothing there. We have places to hold them, but we cannot operate them. So the Schumer amendment not only allows us to build them, the Schumer amendment allows them to operate, it allows them to maintain their prison population.

There are no prevention programs in here. This is not a social welfare. This is exactly what they say they want to do. They want to get tough on criminals, they want to lock them up, and we have to have the means to provide for correction officers and for the maintenance of those prisons. That is what the Schumer amendment does.

Mr. Chairman, I say to my colleagues, "When you take a look at it, the State of Georgia alone on the Department of Justice facilities, they have over 3,200 criminals that they cannot lock up, over 3,200. This bill would help alleviate that by building the prisons and by also allowing the operation and maintenance."

□ 1450

This is no social welfare program. We take the money, make it available right now. Underneath the Republican plan, only when your prison population actually serves 85 percent will you then get the money. Is that going to be 3 years from now, 8 years from now? We do not know. The Schumer amendment makes the money available right now to build prisons for the operation and maintenance of the prisons. I urge my colleagues to support the Schumer amendment.

Mr. ZIMMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, some of my colleagues on the other side of the aisle are having some difficulty determining how truth in sentencing would apply to a 30,000-year term. It reminds me of the judge who sentenced a defendant to serve 100 years. The defendant said, "But, Judge, I will never live that long." The judge said, "Well, you just do the best you can." It is quite clear that a 30,000-year sentence would result in a life term for a prisoner.

What this is about is gutting truth in sentencing. What this is about is prisoners who are sentenced ostensibly to 20 years who serve 3 years. The public does not want this, their Representatives in Congress do not want this. That is why I believe this amendment will fail.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. ZIMMER. I yield to the gentleman from New York.

Mr. SCHUMER. I would just make two points. Certainly we want to see as long a sentence as possible. But what the bill does, it does not simply say 20,000 years is too long. It does not. It says your proposal on your side that you are supporting, would say if the person did not serve 25,300 and some odd years, the State would fall below the 85-percent goal.

The second point I would make is this, and this one I think is very important. On both sides of the aisle we want to incarcerate people longer. That is the purpose of my amendment, that is the purpose of this amendment. The argument is not over who wants to do it. And I think for the other side to say oh, we do; you do not, is really an unfair form of argument. We do, too. That is why I derived it, and my record shows it since I have been here. But which amendment will do it better, I would submit ours does it better than yours.

Mr. ZIMMER. Mr. Chairman, reclaiming my time, if a prisoner dies before he fulfills his sentence, it does not disqualify that sentence under truth-in-sentencing.

Mr. KLECZKA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I review the legislation before us, I at first blush thought it was an unfunded mandate bill on the States. But as I have listened to the debate and as I have studied the bill, I find that it is not only an unfunded mandate bill, but it is also a blackmail bill.

We have been told for years that the attitude that Congress knows best and one size fits all, and we should tell the locals what to do because we are smarter, has to end. With some of the legislation we already passed this session, we indicated it is a new day, those things are going to end.

But now that same attitude has reared its ugly head in this legislation. What we are calling for here is longer sentences, the 85 percent goal. And my friends, it is not only on Federal crimes, which we have a right and responsibility to legislate and dictate, but it is on State violations of their criminal law.

We are telling the State legislatures and the Governors, who are up here all the time hugging the Republicans, that when it comes to welfare block grants and Medicare block grants, you can have all the latitude you want, including millions and billions of dollars. But when it comes to your legislature handing out prison sentences to your inmates in violation of your State crimes, which the Republican Congress know best, I think that is phony. I think that is hypocrisy, and I will tell you where the mandate comes in.

Now we are going to, with the carrot and the blackmail, give the States the bricks and mortar. We know full well, and I know full well in Wisconsin, we need the construction dollars. We are overcrowded. But we are going to have to change our State law to further exacerbate the crowding problem, and then the unfunded mandates come, my friend, when the Feds leave town after they dump the bricks and mortar and the State and the taxpayers and the State legislatures have to cough up the State-raised funds to house the inmates, to provide security for three shifts a day, just like a hospital, to provide all the other maintenance efforts. And at that point, my friends, are you going to help the States continue that expenditure, or help pay for it?

So, Mr. Chairman, this is not only an unfunded mandate bill, but it is also a blackmail bill. Blackmail today and tomorrow. Once the States have incurred the costs, we are going into another area of trying to help the States out. That is their problem. Sorry, States.

I urge the Members to support the Schumer amendment.

Mr. ROEMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I cannot help, in listening to the debate, but be reminded of a great line from a great movie which happens to take place in a prison. The name of the movie is "Cool Hand Luke." He is incarcerated in prison, and the warden is punishing Cool Hand by making him dig holes. And he is out there digging a hole. He gets done digging this hole, and the warden comes out and says, "Luke, you got a hole in the yard. Fill it up." The warden goes back inside. Luke has to fill the hole back up. The warden goes back outside and says, "Luke, where did that hole go? I want you to dig another one." This goes back and forth. Finally, the warden goes out and says, "Luke, what we have here is a failure to communicate."

That is what we are doing right here with the language in this bill. It is a failure to communicate on the part of the Federal Government and our States. Under this bill, the Federal Government is saying to the States, "You either dig this hole or you dig this hole, the way we want you to do it. And if you don't do it our way, then either this pot of money for $5 billion or this pot of money for $5 billion, you are not going to get anything."

What have we been doing for the past month? I just voted to prohibit unfunded mandates. I have been working with many of my colleagues on the Republican side to try to provide more flexibility for our States, to do what they see is the right thing, to both prevent crime, to incarcerate people, and then to keep them there for a long time.

But the Federal Government should not be going about telling each and every State, my State of Indiana, you either do it precisely the way we mandate it in Washington, DC, or you are not going to qualify for anything.

Now, current law probably has it best. I am not particularly enamored 100 percent with the way the gentleman from New York [Mr. SCHUMER] wants to do this, in a flexible block grant. I would like to see some standard set, but not the standard set and mandated under this bill.

I think we can do it better. Forty Republicans voted in the last session of Congress for us to do it by funding police on the streets, where many of these Republicans just qualified to get police on the streets under the Cops Fast Program. I think we can do it by helping our States build prisons, such as Indiana, where we are over capacity. We do not want to be cut over $48 million with this unfunded mandate from the Federal Government under this bill. Give us some more flexibility. Do not do what the warden did to Luke in the movie "Cool Hand Luke," you either dig it here or dig it there. Let us communicate with our States more effectively and with more flexibility.

□ 1500

Ms. JACKSON-LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we sat for a number of days of hearings and markups concerning the proposed changes of this crime bill in the Committee on the Judiciary. I listened, hopefully, again, in the spirit of bipartisanship, to my Republican colleagues promote their arguments on the many reasons why money allocated for crime prevention programs should be placed in block grants to the States with no delineation. Their reasoning, States know better how to spend this money to meet their specific needs. But now I am in a fog of inconsistency.

We are all seeing a mirage. We are not understanding the direction in which the majority party is going. The existing program that is being planned now provides for disbursement of the funds to eligible States for prison construction primarily in proportion to part 1 violent crimes. In contrast, the proposed new program, meaning the one that is now on the table, provides for the disbursement of such funds primarily in proportion to the general population.

This approach of disbursing funds for violent offenders incarceration, under the prison funding bill in proportion to general population without regard to the incidence of violent crimes in the affected areas will produce gross misallocations of resources in relation to actual needs. We will not be targeting the problem. That is to incarcerate violent offenders. This rewriting of the prison program has aggravated the case. As we spoke earlier today, it is fixing what is not broken.

These, Mr. Chairman, are inconsistencies in the majority's arguments. And while they push to provide fewer to no prevention dollars, which those of us who have come most recently from our local communities can attest do work, they put restrictions on prison building dollars. Just a while ago I was on the telephone talking about the urban scouting program, a program that has put in my community more than 12,000 boys in the urban scouting program, a prevention program of the Boy Scouts of America, using parks and recreation staff, using police staff, a real prevention program.

Now such dollars will go to block grants and not be used in prevention dollars. Also we now are going to throw all that into prisons, but yet we are going to tell the States how to use such dollars.

They are moving to increase prison dollars while dictating spending guidelines for their use.

The reasoning is not fluent. It is not clear. It is cloudy. It is fixing what is not broken.

Why should dollars be sent in block grants for prevention, to help the urban scouting program, the Boy Scouts program, the boys and girls program, the children-at-risk program, and, yes, midnight basketball, among others and then have requirements for prison dollars? What is this? We first say States know best and now we are saying, no, they do not.

Perhaps my colleagues on the other side of the aisle will be willing to agree that if States do know best and, therefore, seek their input and blanket authority to spend Federal tax dollars which could potentially put programs at risk during tough fiscal years, then they would agree that if block grants are good enough for prevention dollars, they should be good enough for prisons, too.

I support the Schumer amendment because I believe we should not play favorites among crime dollars. Block grants for one, block grants for all.

Mr. Chairman, I would simply say that States will be losing the opportunity to incarcerate violent criminals. Texas will lose $215 million. Let us go to block grants in a fair and bipartisan way to truly incarcerate violent offenders and truly emphasize that we are trying to work to prevent crime together.

PARLIAMENTARY INQUIRY

Mr. SCHUMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SCHUMER. Mr. Chairman, who gets the right to conclude?

The CHAIRMAN. We are operating under the five-minute rule.

Mr. SCHUMER. I would ask, if there are any speakers on the other side, for them to go because the gentleman from Texas [Mr. BRYANT] is our concluding speaker and we have had about 10 in a row.

Mr. CHABOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we had some figures that were thrown out before that allegedly indicated that a number of States would lose money, would lose prison money under this particular bill.

Those figures are not accurate. Most of the States would actually gain a significant amount of money under this bill, and, therefore, we oppose the Schumer amendment.

I think we also have to look at what is happening right now. Right now violent criminals are only serving one-third of their sentence, one-third. Murderers, what is happening with murderers in this country? Are most of them getting the death penalty? No. Are most of them getting life? Maybe they get the sentence but how much of the time do they actually serve? On average a little over 8 years, for murder in this country.

So what this bill will do will help the States and encourage the States to incarcerate prisoners for a longer period of time because when these criminals are behind bars, they are not out on our streets terrorizing our citizens and committing more and more crimes.

For that reason, I would strongly encourage that we vote down the Schumer amendment, that we pass this particular bill.

Mr. Chairman, I yield to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding to me.

I think we are to wrap up the debate that has been going on on this amendment. I would just like to reiterate before the closing argument, I would just like to conclude the thoughts over here and let the proponents have the last word on this, even though the rules do not say who has the last word.

I am quite sure that we will hear again in the closing comments that somehow States are going to lose under the underlying bill and that we are going to have to have this bill preserved through the current law in order for States to get the money for prison programs.

That, in my judgment, is just not so. as I have said before, and I will not go into a long discussion of it again, under the truth-in-sentencing concept that is out here today in the bill that underlies this, we have two pots of money, $5 billion is very easy for States to qualify to get the money for, $5 billion plus set aside for those States that are willing to change their laws. Most of them have not yet but that is why it is there. We want them to change their laws, to make sure that violent felons, serious violent felons serve at least 85 percent of their sentences.

In other words, abolish parole and get these violent felons off the streets, lock them up once and for all and throw away the key.

The whole purpose of this legislation is to accomplish that. That is the singular purpose of why we would have a grant program in the first place, is to get that to happen, not just to give money to states.

But I would submit regardless of that being the purpose, that anybody who says that this language that is in the first part of this bill that deals with the first $5 billion is tough to qualify for does not understand the simplicity with which it is written, has not researched the statistics at the Department of Justice that clearly demonstrate that year after year as these statistics for the three provisions that come in as statistics to be recorded downtown, they have shown historically a trend up in ever increasing severity of sentences and time served in all three of these things so that it is unquestionable that 99 percent if not all States will qualify for the first $5 billion pool. The arguments are spurious to the contrary.

I would urge my colleagues to defeat the Schumer amendment when the vote comes in a few minutes, because it is truly a killer amendment. It destroys completely the underlying truth-in-sentencing provisions of this bill. It just guts the bill altogether.

Mr. BRYANT of Texas. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, I thank the gentleman for yielding to me. I have a point I think is very important to make. Under last year's crime bill, as it applied to prisons, we authorized $10.5 billion, and I ask the chairman of the committee to make sure I am right about this. We authorized $10.5 billion, but that was not funded in the 1994 act. We only actually funded $7.9 billion from the standpoint of the 1994 act. But under the gentleman's bill, under H.R. 667, as I understand it, there is a $5 billion, in effect, pot A, a $5 billion pot B. States cannot under any circumstances apply for both. They apply for a grant either under pot A or pot B.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, they can apply for both. They can qualify either way.

Mr. CHAPMAN. That is not what the gentleman's bill says.

Mr. MCCOLLUM. The plain language does not say they cannot.

Mr. CHAPMAN. Mr. Chairman, if the gentleman will continue to yield, I would just make the point that as I read the gentleman's bill, and I just read it about a minute ago, it says they can apply for a grant under one or the other. If that is the case, the gentleman's bill actually has less money, substantially less money for prisons than the 1994 crime bill.

Mr. BRYANT of Texas. Mr. Chairman, reclaiming my time, I think the decision that we are about to make on the Schumer amendment really is a very fundamental decision that goes even beyond the details of this bill. That is, whether we are going to continue campaigning and continue sounding campaign themes or, in the second month of this Congress, we are going to begin to govern. And my appeal, and I think the appeal of our side with regard to this amendment is, to our friends on the other side, let us join together and begin governing this country. It is time to end the campaign. It ended last November.

The fact is that they have brought a bill to the floor that is filled with flaws, as would any bill be that is essentially a campaign slogan.

The fact is that they have brought a bill to the floor that has the crazy, almost totally unexplainable, anomalous result of only three States being able to fully participate in a $10.5 billion bill. That is the facts.

The gentleman from New York [Mr. SCHUMER] brought an amendment to the floor that fixes that in a way that is good for all of our States, it lets every State participate. That is what is at stake here.

If we go without the Schumer amendment, Mr. Chairman, and we go with your version, it is going to require that States prove somehow that they are making their inmates comply with 85 percent of their sentences. That means that every State is going to have to enact a multitude of new laws.

As Members know, at the State level that takes at least 18 months. Many of these States only meet every 2 years in their legislature. They then have to build prisons using their own money, so they can keep everybody in prison that they are now having to let out because they are overcrowded, so they can meet the 85-percent rule.

Third, they have to then keep them in for an undetermined number of years to prove they had met the 85-percent requirement, and the bill does not say how in the world you calculate whether they have met it or not.

The fact of the matter is that the guy with the 30,000-year sentence would have to stay there for 25,000 or 28,000 years to meet it. It is a preposterous result. It is an accidental result. It is the result of a campaign slogan, as opposed to a bill that has been brought out here to govern this country.

Mr. Chairman, the fact of the matter is that the Schumer proposal gives block grants to the States to build prisons based on the number of violent crimes in the States. It lets all of our States participate. It increases prison capacity. In short, it governs this country.

Mr. Chairman, to conclude this debate today, I would simply say that it is time for us to quit campaigning, quit talking about campaign slogans, and start governing this country.

Vote for the Schumer amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SCHUMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SCHUMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 179, noes 251, not voting 4, as follows:

[Roll No. 111]

YEAS—179

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Cramer
de la Garza
Deal
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hayes
Hilliard
Hinchey
Holden
Hoyer
Inglis
Jackson-Lee
Jacobs
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—251

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (LA)
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Istook
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

Boucher
Collins (MI)
Frost
Souder

☐ 1530

The Clerk announced the following pair:

On this vote:

Miss Collins of Michigan for, with Mr. Souder against.

Messrs. WHITFIELD, MANZULLO, and DUNCAN changed their vote from "aye" to "no."

Messrs. HAYES, SPRATT, and WILSON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1530

AMENDMENT OFFERED BY MR. WELLER

Mr. WELLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WELLER: On page 6, after line 20, insert the following new subsection (c):

"(c) FUNDS FOR JUVENILE OFFENDERS.—Notwithstanding any other provision of this title, if a State which otherwise meets the requirements of this section certifies to the Attorney General that exigent circumstances exist which require that the State expend funds to confine juvenile offenders, the State may use funds received under this title to build, expand, and operate juvenile correctional facilities or pretrial detention facilities for such offenders."

Mr. WELLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. WELLER. Mr. Chairman, I am here to offer an amendment by Mr.

HASTERT and myself today, that would permit States to use funds from this bill to build, expand, or operate juvenile correctional facilities or pretrial detention centers. If a State can certify to the Attorney General that they are experiencing exigent circumstances, that is that they are in severe need of space, then the State may use funds received under this bill for juvenile facilities.

First of all, I would like to say that I am very pleased with H.R. 667. My amendment only seeks to improve on it. It is a positive step forward from last year's social spending bill. I believe that if we are going to spend billions of dollars on stopping crime, we should spend the money wisely on prisons and police officers. By increasing police presence and adding prison space, we will send a message to criminals that violence and crime will not be tolerated.

Our country is facing a crisis. We do not have enough prison space, and as a result, we continue to release criminals early. By doing so we are facilitating the revolving door policy that moves criminals in and out of the justice system. Too often criminals go free because there is not place to put them.

The same problem applies to our juvenile offenders. My amendment seeks to correct this problem. This amendment would allow States to utilize funding from this legislation for the construction of juvenile correctional facilities or juvenile detention centers.

The increase in recent years of crime committed by juveniles is astounding. Juveniles have committed several thousand murders a year. These youth are at risk of becoming products of the system; repeat violent offenders who are in and out of prison.

In my State of Illinois, as I've learned in the case in many States, we face a severe shortage of beds in the juvenile detention system. If you disregard Cook County, there are only 351 beds for the entire State. Because there are no beds to put these juvenile offenders, they are transported all over the State—wherever a bed becomes available. If the next night, the county needs the bed for one of their own, the youth will either be transferred somewhere else in the State or released. Police officers are playing chauffeur, driving these kids back and forth across the State, when they could be using their time much more effectively patrolling the streets. Another problem we face is the mixing of severely violent youths in pretrial detention, with nonviolent youths. It is in the best interest of kids if we separate kids with a bad attitude from violent murderers and rapists.

I have a letter from the sheriff of Will County, Brendan Ward, expressing great concern with prisoner overcrowding and lack of appropriate juvenile detention space. A Department of Justice study shows that more than 75 percent of the confined juvenile population were housed in facilities that violated one or more standards for detention living space. So as you can see, this is not just a local problem. There has been a significant increase in juvenile crime across the Nation. According to the same U.S. Department of Justice study, the number of delinquency cases handled by juvenile courts increased 26 percent between 1988 and 1992. During these 5 years, cases of robbery and aggravated assault grew 52 percent and 80 percent respectively. In the State of Illinois, over approximately the same time span, the number of juveniles arrested for violent offenses increased 16 percent. The rate of juvenile crime is constantly increasing. We need to take this into account when we consider the Violent Criminal Incarceration Act, and make funding available for juvenile facilities.

This situation is also very discouraging because we are forced to release these juveniles when there is no facility in which to put them. Kids are not dumb. They realize that there is nothing that we can do to them; they know that they can continue to get away with their actions. With the amount of crime committed by youth gangs today, it is imperative that they know that they will have to pay the price for their actions, or there is no reason for them to stop. The amount of crimes committed by juveniles is staggering. The FBI reports that in 1992, juveniles were involved in 15 percent of all murder arrests, 16 percent of all forcible rapes, 26 percent of robberies, and 23 percent of weapon and drug law violations. The recidivism rate among these types of offenders is very high. If we can show them that they will be locked up, maybe they will realize that there are consequences to their actions, and think before they commit their next crime. However, without the proper facilities, we cannot keep these kids in custody. We need to make sure that some of the $10.5 billion dollars in this bill are used for juvenile detention centers.

I urge your full support for this very important amendment.

Mr. Chairman, I also want to thank the chairman of the committee, the gentleman from Illinois [Mr. HYDE] my colleague from the great State of the Land of Lincoln, and I ask the Members for their full support for this very important amendment.

AMENDMENT OFFERED BY MR. DOGGETT TO THE AMENDMENT OFFERED BY MR. WELLER

Mr. DOGGETT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. DOGGETT to the amendment offered by Mr. WELLER: On line 2, insert "or unit of local government located in a State" after "State".

On line 3, strike "this section" and insert "section 502 or 503".

Mr. DOGGETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1540

Mr. DOGGETT. Mr. Chairman, I commend the gentleman from Illinois on his amendment, and I offer this further strengthening amendment, just as he attempts to strengthen the original legislation to strengthen, in our effort, what we are trying to do about the serious problem of juvenile offenders, because the same problem that plagues Illinois plagues in the State of Texas my hometown of Austin, TX.

Mr. Chairman, I would much rather prevent a crime with an effective local crime prevention program than to confine a child. I would much rather deter a crime with 100,000 police on our streets added under the crime bill rather than to confine a child.

But in truth and fact, whether it is in Illinois or Texas or any other part of this country, there are some young people who do need to be confined and that is what this amendment and this amendment to the amendment is really all about. There are young people out today who are terrorizing our neighborhoods, and the only thing, after all else has failed, that we can do with them is to confine them and to prevent them from causing further destruction of the neighborhood.

The legislation that is now before us, as originally presented by the committee, dealt with the problem of adult corrections and adult offenders. It did not address this problem of juvenile offenders.

The gentleman from Illinois was thinking very much along the same lines as I was thinking in a similar amendment that I have offered. In lieu of that amendment, I am offering this amendment to the amendment. The amendment on which I had worked also seeking to deal with the problem of juvenile offenders is one that was drafted with the participation and the cosponsorship of the distinguished gentleman from Michigan, [Mr. STUPAK], a former police officer and State trooper, and the distinguished gentleman from Alabama [Mr. CRAMER], a former prosecutor. All are front line officials in the fight on crime, and whether it is Alabama or Michigan or Illinois, we agree that there is a serious problem with juvenile offenders.

What this amendment to the amendment seeks to do, and I understand that it is acceptable to the sponsor, having worked with him and the distinguished chairman of the Committee on the Judiciary in this regard, is to provide access for local governments to this same group of funds.

Let me tell you why that is so important to those in the State of Texas. We have seen the effect of violence right there in the capital city of the State of Texas. In our community in 1988, there were 307 juveniles that had been certified to the juvenile court four or more times in just a single year. Now, that is a tremendous amount. But by last year, that amount had increased 538 percent, so that we have almost 2,000 juveniles being certified to the juvenile court four or more times. That means too often that the first time they got down there they only got a slap on the wrist, and the same thing happened the second and the third and maybe even the fourth time. They are back out setting an example, a very bad example, for other young people in the community, because we simply have not had the capacity for pretrial detention there at the Gardner-Betts Center in our community.

Indeed, last week, we had such a serious problem there was no longer enough capacity in the local facility, the Gardner-Betts facility, and 15 of these people were turned out back on the street again.

This problem is exacerbated by the fact that in the State of Texas our county, a growing county, has only 50 beds allocated in the State correctional facility for the entire year. Unfortunately, we have got more than 50 young people that are involved in violent offenses, that are involved in serious property offenses, and rapes and murders and aggravated assaults, and without the amendment offered by the gentleman from Illinois, as we have modified it now to include local governmental units, we would not be addressing that problem at all in this piece of legislation.

I will tell the gentleman from Illinois, also, that I have visited, in drafting my own amendment along the same lines, with the officials at the Texas Youth Council who handle statewide, as you have in Illinois, all of our juvenile offenders, and they were quite concerned that this legislation, as originally proposed, did not deal with this problem of juvenile offenders.

I think by working together as we have with this amendment and the amendment to the amendment in a bipartisan fashion we have tried to address this problem of the fact that, frankly, there really are some young thugs out there that somehow we missed on prevention and somehow we missed on education. I wish we could have taken care of that problem. Now it is time to see that they no longer continue to do damage within their neighborhoods and threaten the millions of Americans who are hard-working, who are honest, and who are trying to make a go of it without this example of dangerous young offenders.

Mr. WELLER. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I am happy to yield to the gentleman from Illinois.

Mr. WELLER. My colleague from Texas, I would like to just confirm that the language of the amendment that you are offering to our amendment is language that we discussed and that was agreed to?

The CHAIRMAN. The time of the gentleman from Texas [Mr. DOGGETT] has expired.

(By unanimous consent, Mr. DOGGETT was allowed to proceed for 2 additional minutes.)

Mr. WELLER. I would ask the gentleman from Texas if he would confirm the amendment to our amendment which he is offering is the language that we discussed and agreed to in consultation with the chairman of our committee.

Mr. DOGGETT. It is. I appreciate your agreement. I appreciate your initiative on this. Because the effect, as I understand your amendment now as amended, is by the States or the localities within a State that is certified meeting the other requirements could apply directly to the Attorney General of the United States and indicate that there are exigent circumstances, and heaven knows there are exigent circumstances right now in Illinois, in Austin, TX, and across this country with a large volume of juvenile offenders not being adequately housed.

Mr. WELLER. If the gentleman will yield further, I support and accept your amendment to our amendment. One of the reasons is I think of an example in the State of Illinois, in Will County, which is the largest county in my district, a county without a juvenile detention center. Of course, they are anxious to construct, because they are overcrowded, and they need a place to put bad kids and get them off the street and keep them off the street until they have the opportunity to go to trial, for a juvenile detention facility.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Illinois.

Mr. HYDE. I just want to congratulate the gentleman from Texas [Mr. DOGGETT], the gentleman from Illinois [Mr. WELLER], and the gentleman from Illinois [Mr. HASTERT] for this initiative. I think it improves the bill. It is very useful, and it certainly is acceptable to our side.

Mr. DOGGETT. I thank the chairman.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Michigan.

Mr. CONYERS. On this side of the aisle, we are delighted that the gentleman from Texas and the gentleman from Illinois have crafted together a smart and tough amendment that allows us to deal with boot camps and other facilities for youthful offenders. It is a very important part of the bill, and it will not just help Texas and Illinois, believe me. We need this all over, and I congratulate you all, including the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the Weller-Hastert amendment, as amended by the Doggett-Cramer-Stupak amendment.

Mr. Chairman, it is refreshing to see that ideas from both parties can be melded together here on the House floor to make a stronger amendment to achieve the purposes of what we all want to achieve, and that is to provide prisons for youthful offenders.

When I was a police officer, all too often most of the people I would arrest for crime, whether it be breaking and entering to murder, was usually young people.

What would we do in today's society is take these young people and put them in prisons with many members of our society who are there for heinous crimes, and they are 20 and 30 years their senior, and they are treated the same in a judicial system which is insensitive to the needs of young people.

Juveniles go into these prisons, young people; a few years later I would see them out on the street. They may be a little bit older chronologically, but they were much, much wiser in the ways of the crime.

If we are ever going to help young people overcome their responsibilities to society, if we are going to help them be rehabilitated, we should try to isolate them in youthful offender prisons and not imprison them with hardened criminals.

So I am pleased to stand today to say that both sides of the aisle have been able to work together. I thank the gentleman from Illinois [Mr. WELLER] and the gentleman from Illinois [Mr. HASTERT] and the gentleman from Illinois [Mr. HYDE] for their cooperation and guidance in putting together these two amendments, and my congratulations to the gentleman from Texas [Mr. DOGGETT] in his first amendment on this House floor, and hope there will be many more, and the same to the gentleman from Illinois [Mr. WELLER].

Mr. HASTERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, just very briefly, I want to congratulate the gentleman from Illinois [Mr. HYDE] in helping us come together, but the genesis amendment came a year ago after the crime bill was passed, very serious problems, especially in counties where there was simply not enough room to take care of juvenile offenders in a pretrial situation, and they are jockeying these young offenders across county lines, back and forth. We needed to find a way to solve the problem.

So again, with the gentleman from Illinois [Mr. WELLER] and myself and the gentleman from Texas across the aisle, this does solve the problem. It takes care of those juvenile offenders that by law that you cannot intermingle with hardened criminals and those adult criminals waiting for trial.

□ 1550

This is a good piece of legislation. Again, there is bipartisan cooperation, and I thank the gentleman from Illinois [Mr. HYDE] and the gentleman from Illinois [Mr. WELLER] for putting this together.

Mr. CRAMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to quickly congratulate the authors of these amendments, the amendment itself, and amendment to the amendment.

As I said earlier, I thought we would be making a mistake if we left the juvenile issue out of the incarceration issue. I think it is very important. One of the plagues on our local communities is the violent juvenile offenders. While we are talking about violent offenders, we should in fact be talking about violent juvenile offenders as well.

So I want to thank the Members for working in a bipartisan way together. I think this is a terrific improvement in this legislation, and I think it will help the local and State communities realize they have a more effective partnership with the Federal Government.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DOGGETT] to the amendment offered by the gentleman from Illinois [Mr. WELLER].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from Illinois [Mr. WELLER].

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. Mr. Chairman, I offer amendment No. 17.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CANADY of Florida: Page 1, after line 22, insert the following:

Such grants may also be used to build, expand, and operate secure youth correctional facilities."

Page 6, after line 2, insert the following (and redesignate any subsequent subsections accordingly):

"(b) JUVENILE JUSTICE INCENTIVE.—Beginning in fiscal year 1998, 15 percent of the funds that would otherwise be available to a State under section 502 or 503 shall be withheld from any State which does not have an eligible system of consequential sanctions for juvenile offenders."

Page 10, line 7, delete "and" at the end of the line.

Page 10, at the end of line 10, strike the period and insert ";", and add the following:

"(4) the term 'an eligible system of consequential sanctions for juvenile offenders' means that the State or States organized as a regional compact, as the case may be—

"(A)(i) have established or are in the process of establishing a system of sanctions for the State's juvenile justice system in which the State bases dispositions for juveniles on a scale of increasingly severe sanctions for the commission of a repeat delinquent act, particularly if the subsequent delinquent act committed by such juvenile is of similar or greater seriousness or if a court dispositional order for a delinquent act is violated; and

"(ii) such dispositions should, to the extent practicable, require the juvenile delinquent to compensate victims for losses and compensate the juvenile justice authorities for supervision costs;

"(B) impose a sanction on each juvenile adjudicated delinquent;

"(C) require that a State court concur in allowing a juvenile to be sent to a diversionary program in lieu of juvenile court proceedings;

"(D) have established and maintained an effective system that requires the prosecution of at least those juveniles who are 14 years of age and older as adults, rather than in juvenile proceedings, for conduct constituting—

"(i) murder or attempted murder;

"(ii) robbery while armed with a deadly weapon,

"(iii) battery while armed with a deadly weapon,

"(iv) forcible rape;

"(v) any other crime the State determines appropriate; and

"(vi) the fourth or subsequent occasion on which such juveniles engage in an activity for which adults could be imprisoned for a term exceeding 1 year; unless, on a case-by-case basis, the transfer of such juveniles for disposition in the juvenile justice system is determined under State law to be in the interest of justice;

"(E) require that whenever a juvenile is adjudicated in a juvenile proceeding to have engaged in the conduct constituting an offense described in subparagraph (D) that—

"(i) a record is kept relating to that adjudication which is—

"(I) equivalent to the record that would be kept of an adult conviction for that offense;

"(II) retained for a period of time that is equal to the period of time records are kept for adult convictions; and

"(III) made available to law enforcement officials to the same extent that a record of an adult conviction would be made available;

"(ii) the juvenile is fingerprinted and photographed, and the fingerprints and photograph are sent to the Federal Bureau of Investigation; and

"(iii) the court in which the adjudication takes place transmits to the Federal Bureau of Investigation the information concerning the adjudication, including the name and birth date of the juvenile, date of adjudication, and disposition.

"(F) where practicable and appropriate, require parents to participate in meeting the dispositional requirements imposed on the juvenile by the court;

"(G) have consulted with any units of local government responsible for secure youth correctional facilities in setting priorities for construction, development, expansion and modification, operation or improvement of juvenile facilities, and to the extent practicable, ensure that the needs of entities currently administering juvenile facilities are addressed; and

"(H) have in place or are putting in place systems to provide objective evaluations of State and local juvenile justice systems to determine such systems' effectiveness in protecting the community, reducing recidivism, and ensuring compliance with dispositions."

Mr. CANADY of Florida. Mr. Chairman, this amendment, which was crafted with my good friend, the gentleman from Oregon [Mr. WYDEN] deals with the same issue that we have been discussing, juvenile justice.

I want to commend the sponsors of the previous amendment for their work on this issue. I also want to thank the gentleman from Texas [Mr. PETE GEREN] who has, in the last year, worked with me on legislation on the same subject, a major portion of which is incorporated in this amendment.

This amendment is submitted to encourage the States to implement a serious system of consequential sanctions for juvenile offenders.

Mr. Chairman, we have heard very much in the last few minutes about the serious problem of juvenile crime.

The statistics, indeed, tell a chilling tale. The juvenile violent crime index rose 68 percent between 1988 and 1992, and since then it has been going up. In the past decade, the number of juveniles arrested for murder increased by 93 percent. In 1992 juveniles were responsible for nearly 13 percent of all crimes cleared by police, including 9 percent of all murders, 41 percent of all forcible rapes, 16 percent of all robberies, and 12 percent of all aggravated assaults.

Clearly, the States need resources to fight juvenile crime. I believe we need a major initiative to reform our juvenile justice system in this country. The juvenile justice system is failing in a monumental way. This amendment allows the States to address this problem and provides them with incentives to address this problem. Under the amendment, beginning in fiscal year 1998, 15 percent of the funds which would otherwise be available under the grant program will be withheld if a State does not have in place by that time a system of consequential sanctions for juvenile offenders. A system of consequential sanctions for juvenile offenders would include: a system of increasingly severe sanctions for juveniles who commit repeat offenses; an effective system for prosecution of juveniles as adults for juveniles 14 years of age or older who have committed serious violent crimes; a requirement that parents participate in meeting the sentences imposed on juveniles, and a requirement that juveniles who commit serious violent felonies have their fingerprint and other identification records sent to the FBI to insure that we can track them on the Federal level.

Mr. Chairman, this amendment represents a commonsense, bipartisan approach to the spiraling problem of juvenile crime. I want to thank the gentleman from Oregon [Mr. WYDEN] and the gentleman from Texas [Mr. PETE GEREN] for their vital contributions to this effort.

I also want to thank the gentleman from Illinois, [Mr. HYDE] and the gentleman from Florida [Mr. MCCOLLUM] for their assistance in this matter.

For too long we have only paid lip service to the problem of juvenile crime. It is time we do something serious about it. This amendment is a practical first step, and I urge my colleagues to vote in favor of this amendment.

Mr. WYDEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and colleagues, what the gentleman from Florida [Mr. CANADY] and I have been working on together to do is essentially promote a new philosophy with respect to juvenile justice in our country.

What we are seeing in community after community is that violent juveniles commit one offense after another and face absolutely no consequences whatsoever.

for example, at home in Oregon it was recently reported that a violent juvenile committed 50 crimes, 32 of which were felonies, before the juvenile system took any action to protect the community. The problem has essentially been that the juvenile justice system has been built on the medical model, the notion that even though you are dealing with a repeat violent offender, somehow the offender could be rehabilitated.

I think a number of our leading criminologists—and I would refer specifically to the work of James Q. Wilson of Los Angeles—have indicated that the challenge with respect to juvenile justice is to replace this medical model, which is now in place, with a system of accountability.

And so what we seek to do in this amendment is to, through this Federal legislation, promote the philosophy wherein violent young offenders who commit crimes will face real consequences each time they commit an offense and those consequences will increase each time they commit an additional offense.

Now, I would like to, in closing, particularly commend the Attorney General of my State, Ted Kulongoski. He has been an advocate within the Association of Attorneys General for an approach that would involve graduated sanctions for each offense.

I would also like to thank the gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] for their help.

This amendment complements the earlier one, but our colleagues should make no mistake about it, what we would like to do through this amendment is promote a new philosophy of accountability, a philosophy that insures there are consequences every time a young person commits a criminal act.

I particularly want to thank my friend, the gentleman from Florida [Mr. CANADY] who has been so patient in working through this effort.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before we rush to judgment on this, I think we ought to at least let our colleagues and the American people know what we are doing here. In the spirit, whether it is bipartisanship or whatever, the American people deserve the right to know that we are saying, out of one side of our mouth, that we should be staying out of the States' business and we have now set upon a series of amendments that inject the Federal Government further and further and further into the business that has typically been the reserve of the State.

I will say to my colleagues that the Federal Government has no juvenile law. We do not deal with juveniles in the Federal system. We do not have laws in Federal system that deal with juvenile delinquency. Most States have a whole system that they have put in place over years and years and years to deal with juvenile delinquents.

And while we gloss over what we are doing here, embedded in the body of this amendment is a provision that requires, or at least says, "If you are going to have any of the benefits of these funds, you have got to have established and maintained an effective system that requires the prosecution of at least those juveniles who are 14 years old or older as adults under certain circumstances."

□ 1600

Well, I would presume, if that is a good idea, the States in their infinite wisdom would have thought about it, and some of them have, but I do not know that we, as a Federal Government, ought to start moving into an area that we have never been involved in before in this way.

I mean I am resigned, I think, that this will pass, as just abut everything else that comes forward that I think is outrageous seems to be passing, but the American people need to understand that our colleagues here are trying to have it both ways. They are saying, "Look, we believe in States rights," out of one side of their mouth, and they are saying out of the other side of their mouth, "Let me tell you what Big Brother Federal Government would like for you to do, not only in areas that we have been involved in historically, but in areas that we have never ever had any Federal policy discussions about, involvement in or even any connection to."

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, I would point out that the Federal Government has been involved in juvenile justice policy for a long time. We have been providing grants to the States with respect to the juvenile justice systems—

Mr. WATT of North Carolina. Reclaiming my time, let me just make sure; do we have any juvenile facilities at the Federal level?

Mr. CANADY of Florida. No, that is not the point, that is not the point.

The Federal Government has been involved in the area of juvenile justice policy and in trying to encourage the States to do certain things in their juvenile justice system.

Now another thing that I think is important to understand about this amendment:

This compliance with these provisions is not a requirement for participation and receiving grant funds. All we are doing in this is——

Mr. WATT of North Carolina. I take the gentleman to mean, reclaiming my time briefly, that this is not a Federal mandate.

I say to the gentleman, anytime it's good for all of you to call something a mandate, you call it a mandate, and it's not convenient this time to call this a mandate; OK, I understand that.

I yield to the gentleman.

Mr. CANADY of Florida. As the gentleman from Illinois [Mr. HYDE] discussed earlier, this is an incentive. It is a modest, quite frankly a very modest, incentive for States to set up systems in which they are going to be serious about dealing with violent juvenile offenders and creating——

Mr. WATT of North Carolina. Reclaiming my time, let me just suggest to the gentleman that, if he truly believes in States rights, there is no requirement that we suggest to the States how they deal with juveniles and get ourselves involved in these issues.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

(By unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 1 additional minute.)

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield back to the gentleman.

Mr. CANADY of Florida. I appreciate that.

I think there is an important Federal interest. We have seen cases in which a juvenile who committed murder in one State and was slapped on the wrist has been let out on the streets and has moved to another State. Now let me tell the gentleman that implicates a Federal interest, and I think, when we see circumstances like that, it is appropriate for the Congress to address it and provide a modest incentive, as we are doing in this bill.

Mr. WATT of North Carolina. Reclaiming my time, let me just be clear with the gentleman from Florida [Mr. CANADY] and say, there is not a law that you can come in here with that you can't point out some kind of abuse, some kind of anecdote, that would get the Federal Government involved. Last time, last session, it was carjacking because they were taking the cars across Federal—we never have been involved in that in our lives at the Federal level. There is always some kind of exception that will get the public outraged.

But this is a public policy debate. Should the Federal Government be involved in trying to tell the States, when we are at the same time saying to the States we are getting further and further out of the States' way and yielding back to the States——

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words because a number of concerns have arisen here as the debate goes on.

As my colleagues know, in most States, in most cities, juveniles are being waived over to be tried as adults. I do not see any place where that is not happening. So the violent crimes now are not being slapped on the wrist. They are being sent to the criminal circuit to be tried as adults, and I do not know if my colleagues have taken that into account.

The second thing that is important to me is that, if there were a Federal involvement, what would it be to do?

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Oregon.

Mr. WYDEN. Mr. Chairman, the view of the gentleman from Florida and myself is that the juvenile justice system does not work. We see these young people committing offense after offense after offense, and there are absolutely no consequences.

What we are seeking to do with a very small portion of Federal funds is try over the next few years to get States to adopt a new philosophy with respect to juvenile justice so that, when a young person commits their initial offense, the punishment will be specific, but it will not be the most severe——

Mr. CONYERS. Reclaiming my time——

Mr. WYDEN. Offense. They will face additional punishment

Mr. CONYERS. Reclaiming my time, this puts us into the business of creating Federal law for juveniles in every city across America——

Mr. WYDEN. Will the gentleman yield further?

Mr. CONYERS. And the other thing that bothers me:

The gentleman raised the name of Professor Wilson, who is a great scholar of criminal justice but whose ideas and mine occasionally comport, and just as often they probably do not.

So, as my colleagues know, what they are asking us to do is adopt a new philosophy, and I am sure when they say the juvenile system does not work, they mean some parts of it do not work, and there are in many instances for many youngsters that do not keep repeating crimes where the juvenile system has been very successful. But in some instances it has not been, but it is not a total failure, like other systems.

So what I am suggesting here respectfully is:

Shouldn't this matter be considered in the committee? It's an incredibly important event, but now the gentleman from Oregon is asking me to accept a new philosophy on the floor. He's mentioned a professor's name, and that's supposed to do it. I don't know what that philosophy is. It's not clear to me exactly where we are going here.

Mr. WYDEN. Mr. Chairman, would the gentleman yield further?

Mr. CONYERS. Briefly, yes.

Mr. WYDEN. All we are saying is over the next 3 years let us give an incentive to States. It is not a matter of changing the Federal criminal code. No criminal law at the Federal level will be changed, but because there are such serious problems with lack of accountability at the State level, let us encourage States in a modest way to try this out in——

Mr. CONYERS. Mr. Chairman, I have to reclaim my time because what we are doing again is that we at the Federal level are now telling local government how to treat juveniles. Juveniles are under the State and local criminal law, and so, if we do not create Federal law, we are telling the States and other localities how they have got to operate under this new theory that we have trotted out this afternoon with respect to juveniles.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I just want to make the point that at least they could try to be consistent about this. I mean my colleagues say the juvenile laws are not working, therefore the Federal Government is going to get further involved in the process. The welfare laws are not working, therefore we are going to give all responsibility to the State.

□ 1610

You cannot have it both ways. That is what we kept saying to you in the last debate, on the amendment of the gentleman from New York [Mr. SCHUMER]. You say out of one side of your mouth, we want a block grant, and get out of the way. Then you say out of the other side of your mouth, we want to control what you are doing at the State level. You cannot have it both ways. Be consistent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. CANADY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment which is at the desk and which has the words, "New A," marked on it.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM: Page 9, line 7, strike "508" and insert "509".

Page 9, after line 6, insert the following new section:

"SEC. 508. PAYMENTS TO STATES FOR INCARCERATION OF CRIMINAL ALIENS.

"(a) RESERVATION OF FUNDS.—Notwithstanding any other provision of this title, for each of the fiscal year 1996, 1997, 1998, 1999, and 2000 from amounts appropriated under section 507, the Attorney General shall first reserve an amount which when added to amounts appropriated an amount which when added to amounts appropriated to carry out section 242(j) of the Immigration and Nationality Act for such fiscal year equals $650,000,000.

"(b) PAYMENTS TO ELIGIBLE STATES.—

"(1) Notwithstanding any other provision of this title, for each of the fiscal years 1996, 1997, 1998, 199, and 2000 from amounts reserved under subsection (a), the Attorney General shall make a payment to each State which is eligible under section 242(j) of the Immigration and Nationality Act and which meets the eligibility requirements of section 503(b), in such amount as is determined under section 242(j) and for which payment is not made to such State for such fiscal year under such section.

"(2) For any fiscal year, payments made to States under paragraph (1) may not exceed the amount reserved for such fiscal year under subsection (a).

"(c) USE OF UNOBLIGATED FUNDS.—For any fiscal year, amounts reserved under subsection (a) which are not obligated by the end of that fiscal year under subsection (b) shall not be available for payments under this section for any subsequent fiscal year, but shall be available, in equal amounts, to the Attorney General only for grants under sections 502 and 503.

"(d) REPORT TO CONGRESS.—Not later than May 15, 1999, the Attorney General shall submit a report to the Congress which contains the recommendation of the Attorney General concerning the extension of the program under this section.".

Page 2, line 6, insert "(a) IN GENERAL.—" before "Title".

Page 10, after line 10, insert the following:

(b) PREFERENCE IN PAYMENTS UNDER SECTION 242 (J) OF IMMIGRATION AND NATIONALITY ACT.—Section 242(j)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(j)(4)) is amended by adding at the end the following:

"(C) In carrying out paragraph (1)(A), the Attorney General shall give preference in making payments to States and political subdivisions of States which are ineligible for payments under section 508 of the Violent

Crime Control and Law Enforcement Act of 1994.''.

Mr. McCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Chairman, this amendment is an amendment that has been a work product we have been doing for quite some time with the gentleman from California [Mr. BERMAN], the gentleman from California [Mr. GALLEGLY], and other people from around the country interested in the question of whether or not we as a nation can and should and in what manner reimburse the States for the cost of incarcerating criminal aliens. There are enormous expenses out there, varying, depending upon who is making the projections as to how much it costs States, particularly Florida, California, Texas, and also New York and Illinois. Every State in the union has criminal aliens occupying their bedspace and doing things we would prefer they were not there doing, costing money to those States.

You will see us with a bill out here on the floor tomorrow, I believe, that will attempt to address speeding up the process, expediting the process of deporting these criminal aliens, and getting this moving, so we do not have them clogging it up with the expense and clock running. But the States and Governors of many States have asked us to try to find a way to fund the cost of this. In many ways the burden that is there because of illegal immigration, criminal alien problems, are really and truly Federal responsibilities.

They have asked us to find a way to solve cost of the problem to the States of this mandate out there. If there is anything involved in any of the crime bills we bring up that deals with an unfunded mandate in the more traditional sense that we spoke of the other day when we passed the unfunded mandate legislation, this is it.

A lot of this is grandfathered in so time has passed and it is not appropriate to redebate this issue. But today we have an opportunity to rectify this problem through a method that can be paid for fully and a method that I believe everybody in this Congress would like to do.

No. 1, what this amendment will do is it will protect an existing provision of law that was passed last Congress that provides beginning next year approximately $330 million a year in authorization to reimburse the States for the cost of incarcerating criminal aliens. It will cordon that off and give a preference for that money to those States that do not qualify for some additional moneys we are going to give under the prison bill today, so there will be no question that anybody who would have been eligible or is eligible today for those funds put in last year, any State, will continue to be eligible for that $330 million.

But the Congressional Budget Office estimates that on an annual basis for the next 5 years, 6 years, or whatever, until we get this under control, the cost to the States nationwide will be about $650 million per year. So there is a difference, a shortfall, even if all the money under the trust fund moneys we envision for the crime legislation. And that was part of what was passed last year, was to cover the $330 per year for the purpose of reimbursing States for the incarceration of these criminal aliens. Even if we can cordon off enough money in addition to that $330 million to meet the $650 million, we figure we will fully reimburse the States having this problem for the costs of incarcerating these criminal aliens.

What my amendment does is say we will protect and give preference to everybody who is eligible right now who would not be eligible under this new provision. But then for those States who meet the test of the 85-percent rule under this bill, who qualify as to who are able to meet truth-in-sentencing requirements as they come on line, and many of our larger States will, California, Florida, Texas, et cetera, over the next couple of years, for those States there will be made available preferentially under this grant program, prison grant program, from dollar one, preferentially will be made available sufficient money in order to be able to make up that difference.

So there will be another roughly $320 million a year that will be made available that the Attorney General will have to offer out of the first priority under the prison grant moneys, whether that is prison grant moneys in A or B pot, whatever, the $10.5 billion in this bill.

I think this is a way to fully compensate the States. It is a positive reinforcement method to what is being offered in the bill. It does not disrupt the qualification of any State under the existing law and the roughly $330 million that is there.

I want to compliment the gentleman from California for having created the effort that was put forward in our committee, which did not stand the germaneness test because it was an entitlement. We have come out today with an authorization program which he worked hard on, and I want to thank him for his participation in that effort to accomplish what we are doing today.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has expired.

(At the request of Mr. BERMAN and by unanimous consent, Mr. McCOLLUM was allowed to proceed for 3 additional minutes.)

Mr. McCOLLUM. Mr. Chairman, I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding. I thank him for his kind words, and more importantly, I thank him for offering this amendment because, let us make it clear, what this amendment does is it recognizes the priority of funding. Before we start appropriating funds for new prison construction, we deal with reimbursing the States and localities for the costs they are now expending incarcerating undocumented criminal aliens who are convicted of felonies, who would not be in those States were it not for the Federal failure to enforce the immigration policy.

So the gentleman's amendment, while I would have preferred the amendment I drafted and had preprinted in the RECORD, because that was not tied in any part to the Truth in Sentencing Act, the fact is the gentleman, by giving preferential treatment to the States that do not comply with the Truth in Sentencing Act for the money appropriated under last year's crime bill, and then reserving no less than a total of $650 for this cause, has accepted the preeminent priority of funding this unfunded consequence, if we want to call it that, that now exists in an unfair fashion. So I compliment the gentleman.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has expired.

(At the request of Mr. BERMAN and by unanimous consent, Mr. McCOLLUM was allowed to proceed for 2 additional minutes.)

Mr. McCOLLUM. Mr. Chairman, I continue to yield to the gentleman from California.

Mr. BERMAN. I want to ask a couple of questions to make sure we have full understanding.

In the underlying bill for Federal assistance for prison construction, you have three requirements. You have a nonsupplanting requirement, a limit on administrative costs, and a requirement for matching funds.

Mr. McCOLLUM. Yes, that is correct.

Mr. BERMAN. My question is, to just make clear, my understanding is this amendment, if adopted, will not require or put any of those three limitations on. In other words, by definition this is supplanting money. The States are now spending money to operate their prisons.

Mr. McCOLLUM. If the gentleman will allow, I will reclaim my time. The gentleman is 100 percent correct, because the language that begins this provision says "notwithstanding any other provision of this title," and it is obvious on the face of what we are doing today this is intended to be supplanting money. It is supplanting what the States are paying out today, which they should not be paying out, because this is a Federal responsibility.

Mr. BERMAN. If the gentleman will yield further, the same with respect to the 3 percent limit on administrative costs. That was for a new prison construction program. This provision is a reimbursement provision. By definition, 100 percent of these costs are for operating costs of existing State and local prisons and jails.

Mr. McCOLLUM. Reclaiming my time, the gentleman is correct.

Mr. BERMAN. And there is no matching requirement for the States or local under this program.

Mr. McCOLLUM. Reclaiming my time, the gentleman is 100 percent correct about that.

Mr. BERMAN. And we have had a problem this year with the appropriated moneys, the $130 million. I do have to point out that President Clinton was the first President ever to propose funding for this, and Congress appropriated $130 million, first time ever, last year.

□ 1620

But we have had a problem in that even though we think the language of the existing crime bill is clear, no local governments have been eligible for that. It is our intention, under the underlying crime provisions that exist in existing law, that local governments be eligible for that portion of the money, even though they are not eligible for the Truth-in-Sentencing Act money that is provided for in the gentleman's amendment; is that correct?

Mr. McCOLLUM. The gentleman is correct. I think the gentleman has made excellent points about this particular proposal today. It is very, very unique and well-crafted. The gentleman and I have worked very hard on it. Governor Wilson of California has worked on it with us. We have had a number of inputs from other State leaders. And the gentleman from California [Mr. GALLEGLY].

Mr. BERMAN. Mr. Chairman, if the gentleman will continue to yield, if I could just make two points. First of all, I think my colleague from California, who authorized the original program in last year's crime bill, the gentleman from California [Mr. BEILENSON], through his amendment that program stays intact. It is very important for us to watch the appropriations process, particularly for certain States that do not qualify for the Truth-In-Sentencing Act.

I am told by the Governor of California, even though the Justice Department does not confirm that, but I am told without qualification by the Governor of California that California qualifies under the Truth-In-Sentencing Act and, therefore, will be eligible for this new prison money that is being reserved for this program. It is on that basis and on those assurances that I am supporting the gentleman's amendment.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has again expired.

(By unanimous consent, Mr. McCOLLUM was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. Mr. Chairman, if the gentleman will continue to yield, those States like Texas and New York, which do not now comply with the Truth-In-Sentencing Act, will still be better off on this amendment because they will have a preference under the Beilenson language, any money appropriated under that provision. So while they are not going to be as well off as they would have been under the amendment I had intended to offer, they will be better off than they are under existing law.

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, they are going to be actually better off because they are going to have a separate pool of money to draw from that the gentleman's State of California will not be able to dig into for better than half of the money available here and all of the money that is available under current law. So consequently in many ways those States will be better off because they are not affected in any way by this than they are presently. In other words, there is more money out here and the gentleman's State and any other qualifying State will have absolutely no divvies on the existing funds after this is passed, that which is out there.

They will have your own pool of money to go to if they qualify.

Mr. BERMAN. Mr. Chairman, if the gentleman will continue to yield, he is right, assuming that these States file enough claims to take up that appropriated money. If not, then the States who do qualify can dip into that money. And so I guess we have covered the ground.

I thank the gentleman for showing the flexibility to take care of this and, more importantly, to start this in fiscal year 1996. The States who are facing these costs are in a crisis in their budgets. They need the money this coming fiscal year.

Mr. McCOLLUM. Mr. Chairman, reclaiming my time, I would like to say in conclusion that this is a very good, fair proposal for every State involved that has any criminal alien whatsoever in a jail. They are going to get compensation this way and the dollars work out well. The formula works out well. And I would be glad to answer other Members' questions as the afternoon and the debate, if there is any more, progresses so we can clarify that for anybody. But we worked very hard to do this. I want to thank the gentleman for asking those questions so we could clarify as much as possible.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has again expired.

(On request of Mr. DE LA GARZA, and by unanimous consent, Mr. McCOLLUM was allowed to proceed for 1 additional minute.)

Mr. McCOLLUM. Mr. Chairman, I yield to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, mention was made of State and local. I want to know the extent of the local? Did this cover our county jails, our city?

Mr. McCOLLUM. If there would be the opportunity to gain that through the States to cover those, yes. There is no restriction on that whatsoever in what we are offering. So the gentleman would be able to get that kind of pipeline.

Mr. DE LA GARZA. Mr. Chairman, if the gentleman will continue to yield, but do we leave it then up to the option of the State? There is no guarantee here that my local county jail, who houses the same type of aliens, is getting any assistance.

Mr. McCOLLUM. The gentleman is leaving it up to his Governor under this proposal. But the State, the counties, and the cities would be eligible. We do not divvy it up here and say *x* amount of dollars. But the Attorney General is deciding this and it is for each of the fiscal years, she shall first reserve the amount and then she shall make payments to each State which is eligible. So it goes to the State but the States have the power and are not restricted in any way from providing this money for the jails. And as the gentleman knows, a lot of the restrictions in this bill on prisons are strictly for State prisons. This has no such restriction. This can go to jails.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has again expired.

(On request of Mr. BERMAN, and by unanimous consent, Mr. McCOLLUM was allowed to proceed for 1 additional minute.)

Mr. BERMAN. Mr. Chairman, if the gentleman will continue to yield, as I read the gentleman's amendment, the new moneys that come, that are tied to the Truth-In-Sentencing Act, only go to the States. But what this does clarify is that notwithstanding the Justice Department position, the Beilenson bill and the clarifications offered by this amendment to that make it clear that county jails that are housing undocumented criminal aliens who are convicted of felonies, and Los Angeles, it is $34 million a year, are eligible to claim that money. So this improves, this gives them a crack at what they were not able to get this past year.

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, the gentleman is absolutely right. It is confusing only because we are dealing with two different bills, one in law already and what we are doing today. We are trying to supplement last year's and clarify it. But under the new money for those States that have to get to truth-in-sentencing in order to qualify for it, like California, there would have to be the money going to, directly to the States, not so the old pot.

Mr. GALLEGLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment merely reimburses the States for the failure of the Federal Government to enforce its borders. The cost of this failure to California alone is well in excess of $100 million a year. Clearly, California and States that are impacted by this policy cannot afford to continue to pick up the tab for the fact that the Federal Government has shirked its responsibility to enforce its borders and the law.

Mr. Chairman, while I wholeheartedly support this amendment, I certainly do not want it, at least my position, to be construed that this should be an substitute for aggressively enforcing the issue of unchecked illegal immigration into our country. I think as the debate goes on in the days and weeks to come, Members are going to find that this Congress is going to very aggressively tackle that issue. But on this amendment, I would ask my colleagues to strongly approve this amendment.

Mr. Chairman, I yield to the gentleman form California [Mr. DREIER].

Mr. DREIER. Mr. Chairman, I thank the gentleman for yielding to me.

I would like to rise in strong support of the McCollum-Gallegly amendment and state that the gentleman from California [Mr. GALLEGLY] is chairman of a new task force that was put together by the Speaker, charged with looking at this issue of illegal immigration. As he says, this is not the sole solution to the problem of illegal immigration.

Quite frankly, we believe very sincerely that if we take this step, it is one of several which will turn the corner on the problem of illegal immigration so that as we look at the end of this decade, we will, we hope, in a large way have actually brought about a solution to the problem of illegal immigration so this funding, which is going to be provided through this amendment, which is going to be provided through this amendment, will not be necessary in the out years.

Now, as we look at this challenge, there are some who might conclude that this is simply a border State issue. We have got people form California and Texas and Florida and others that are impacted. But quite frankly, the issue of illegal immigration is a nationwide problem, and it is a nationwide problem that must be addressed by the Federal Government.

As the gentleman from California [Mr. GALLEGLY] said, the coauthor of the amendment, this is an issue of the Federal Government not policing its borders. The magnet which has drawn people across those lines into California, into Texas, into Arizona, and into Illinois, and to New York and other States is a problem which has been created by the Government services which we have had as the magnet and our inability to provide this kind of policing on the border.

Governor Wilson has worked diligently on this, but he has joined with other Governors from throughout the country who recognize the need to have the Federal Government tackle this.

□ 1630

That is why all we are doing here is not providing relief, necessarily, to States. We are simply meeting our obligation. Our obligation is very clear and forthright, and I hope very much that the McCollum-Gallegly amendment will pass with an overwhelming bipartisan level of support, which can once again state that we are going what we should do.

Mr. CONDIT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I may, I would like to engage the gentleman from Florida [Mr. McCOLLUM] in a colloquy.

Mr. Chairman, I would like to clarify, last year we passed the 1994 Obligation Act on Reimbursement. My understanding is that when we passed that, the target date for reimbursement was 2004.

If we pass this amendment today, I would ask the gentleman, does that change that? Are we starting reimbursement sooner?

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONDIT. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, we do not change the law for last year at all. It stays the same. The year 2004 in entitlement would kick in automatically for full reimbursement. I would expect that having done what we are doing out here today and tomorrow, we will not have need for that, but nonetheless, we do not change that provision. There is, however, a huge gap in the amount of money that would be available between now and then that is being made up by this bill, in large measure, because only $330 million a year is authorized for the next 5 years under that law, and there is an additional roughly $320 million a year that will be available with this bill, if it passes.

Mr. CONDIT. Reclaiming my time, Mr. Chairman, so I interpret that to mean if we pass this legislation, then that period of time between now and 2004, we can use this money to supplement that period of time?

Mr. McCOLLUM. If the gentleman will continue to yield, for the next 5 years, to the year 2000, yes, but since none of the legislation in this bill or any of the other crime bills or what we passed last year in any other respect except the trigger mechanism for 2004 went beyond the year 2000, there will be a gap of 3 years in which we would have to come back, if we need to, and address this matter.

That is why, in what I proposed and put out here today, there is a requirement that we get a report no later than May 15, 1999, for the Attorney General as a recommendation concerning the extension of this program. So there may be a gap, but it is only because of the nature of this legislation. It has a finite limit.

Mr. CONDIT. Mr. Chairman, I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Chairman, I appreciate the gentleman yielding.

I do want to thank my colleague, the gentleman from California [Mr. BERMAN] whose initiative in the Committee on the Judiciary really brought about this ultimate amendment which has now been made in order and is now being presented to the House.

This was clearly not part of the contract, Mr. Chairman, but it is a contract that we ought to keep with the American people. I am glad to see that the gentlemen from California, Mr. DREIER and Mr. GALLEGLY, have joined the gentleman from Florida, Mr. McCOLLUM, and that it is not overlooked and passed over in our zeal to pass the contract unamended.

It is obvious to me that the gentleman from California [Mr. BERMAN] struck a nerve. That nerve is one that we all ought to feel. That is that we have traditionally neglected the seven States that have the biggest burden of incarcerating illegal aliens.

I think it is entirely appropriate that the Republican majority has decided that the contract is not perfect as it was written and that it ought to be adjusted whenever a good argument could be made. But I want Mr. BERMAN and his friends on the Committee on the Judiciary to get the credit for the addition they provided.

Mr. FAZIO of California. Mr. Chairman, if the gentleman will continue to yield, I really believe if it had not been for that sort of leadership, we would not have been here today. I appreciate the gentleman yielding me this time.

Mr. Chairman, most of those who enter our country, legally or illegally, are law abiding. But the small number that commit serious crimes place an overwhelming burden on the seven States that must address this problem.

The plea for assistance with the costs of incarcerating felons who are in this country illegally comes from all of those States that are unfairly forced to share the disproportionate burden for this responsibility—the confinement of America's illegal immigrant population.

For example, in 1993, the 16,000 illegal immigrants incarcerated in California's prisons accounted for 13 percent of our prison population. Our annual cost of incarcerating illegal immigrant felons is $368 million.

Adequate reimbursement to affected States would not only help with shortages in personnel, training, and equipment. It would also ensure—and maybe improve—safety levels in our jails and prisons, and in our communities.

Mr. DREIER. Mr. Chairman, will my friend from the Central Valley yield?

Mr. CONDIT. I yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, I would just say to my friend from Sacramento that he is right on target when he refers to the fact that the contract was put into place so that we could allow, through the standing rules of the House, to work our will on legislation.

In fact, Mr. Chairman, that is what we said on September 27 when we stood on the West Front of the Capitol and made that argument, so I appreciate the gentleman's support of the goals of the Contract With America.

Mr. CONDIT. Reclaiming my time, Mr. Chairman, I would like to close, because I am in support of the amendment.

I think what this amendment is about, Mr. Chairman, and what this whole issue is about, and what the gentleman from California [Mr. BERMAN] has brought to our attention is the fact that once again we on the Federal level have to be accountable.

This is one of those mandates on a group of States throughout the country that is burdensome. We need to find a way to resolve that in a bipartisan way. I think this is a way to do this.

We will have to revisit this again, Mr. Chairman, when that time period is over. However, I think this amendment is worthwhile. I think the efforts of the gentleman from California [Mr. BERMAN] ought to be acknowledged, and that we ought to pass the amendment and do the right thing.

The responsibility is ours. The Federal Government runs IMS. We run immigration. States have very little flexibility with immigration, so I support the amendment.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. CONDIT. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, I think any reasonable person is going to recognize that the issue of giving grants out is quite appropriate, but that debts owed should be taken care of first. Any responsible person would always say that debts should be paid before you start giving out funds.

The CHAIRMAN. The time of the gentleman from California [Mr. CONDIT] has expired.

(By unanimous consent, Mr. CONDIT was allowed to proceed for 1 additional minute.)

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. CONDIT. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, any reasonable person would say you pay off your debts before you start giving out loans. Any person would recognize that there has been an outgoing debt that is continuing to be placed across this country that the Federal Government has walked away from.

In fact, this body has talked last year very strongly about the issue of deadbeat dads, and making people live up to their responsibility, and not allowing individuals to walk away from their responsibilities, not just to be punitive, but to bring people to face their responsibilities for everybody concerned.

Mr. Chairman, this issue really addresses the biggest deadbeat dad in the country, and that is the Federal Government of the United States. It has walked away from our baby, the Federal Government's baby, illegal immigration.

What this says is that now we must pay child support for the responsibilities that we have out there. It is not just for those of us that are in States that are impacted severely. Across the board, Mr. Chairman, that will help us address this issue.

The CHAIRMAN. The time of the gentleman from California [Mr. CONDIT] has expired.

(By unanimous consent, Mr. CONDIT was allowed to proceed for 30 additional seconds.)

Mr. CONDIT. Mr. Chairman, I yield to the gentleman from California.

Mr. BILBRAY. In closing, Mr. Chairman, as somebody who has had to fulfill these obligations, I think all of us will recognize that this will help us fulfill one of the items in the contract, and that is for the Federal Government to address this issue comprehensively.

Until we address the responsibility that we are placing on other people, but with the irresponsibility of the Federal Government, we are not going to really grapple with the reality of what is out there. I think this amendment really does make us responsible to the responsibility and the problems we have committed before and allows us to address those in an appropriate way.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to enter into a colloquy with the gentleman from Florida [Mr. McCOLLUM], the sponsor of the amendment.

Mr. Chairman, I would say to the gentleman that in the Committee on Rules a few minutes ago we reported a rule which we will put on the floor of this House tomorrow morning, the Alien Deportation Act, which does contain the original Berman amendment.

We chose not to waive a point of order on the Budget Act because that amendment in that bill, which will be on the floor tomorrow morning, in our opinion created a new entitlement program. In other words, the amendment would not have been paid for.

Consequently, under the rule that will bring that bill to the floor, the Berman language will be struck from that bill, the new entitlement program.

My question to the gentleman is, in his amendment, does that create a new entitlement program, not paid for?

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Florida.

Mr. McCOLLUM. No, Mr. Chairman, it does not create an entitlement program. It is an authorization, strictly an authorization of an amount of money that is the difference between $650 million and the amount of money that is each year for the next 5 fiscal years in present law as an authorization, so there is no entitlement program created by what we are offering in this amendment whatsoever. It is strictly an authorization.

Mr. BERMAN. Mr. Chairman, will the gentleman from New York yield on that issue?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, it is an authorization. The reason I am supporting this amendment is because it tracked the language that we had in the amendment that I was going to offer. It reserves the first $650 million that is appropriated, either out of the Beilenson language in existing law, or the new prison money, if this bill were to be signed into law, it reserves the first $650 million for reimbursements to the States for the costs of incarcerating undocumented criminal aliens.

No other money can be spent on this prison program until that money is paid, so it is an authorization plus.

Mr. SOLOMON. Reclaiming my time, Mr. Chairman, I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I think the gentleman from California [Mr. BERMAN] has explained an additional comment correctly, but it does not make it an entitlement correctly. It is not at all inconsistent with what he stated. He is correct that we could cordon off money to give it priority in the spending, but it is all authorizing language.

Money must be appropriated under the traditional methods to get the funding out there that is asked for, so there is no entitlement, I would say to the gentleman from New York.

Mr. SOLOMON. Therefore, no monies will go forward to the States or counties that has not been appropriated?

Mr. McCOLLUM. That is correct.

Mr. SOLOMON. One last question which is of great concern to many of us. Many of the new Members do not understand, and the viewing audience, I am sure, the truth-in-sentencing provision.

□ 1640

Can the gentleman explain how that will apply to this bill and to the funds that will go forward to the States?

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Florida.

Mr. McCOLLUM. What that is meaning is that we are going to require a State in order to be eligible for this as well as half of the money in the underlying prison grant money bill to have in place a law that essentially abolishes parole for serious violent felons in their State. That is, that they have to have a law that says that that type of defined felon must serve at least 85 percent of his or her sentence in order to be eligible to get the new money that is put forward for criminal alien incarceration reimbursements in this bill.

It, however, has no effect whatsoever on the moneys that would be appropriated under the authorization under the existing laws, which is roughly $330 million a year.

Mr. SOLOMON. And that they would have to serve 85 percent of the sentenced time?

Mr. McCOLLUM. The gentleman is correct. That is right. For a State to qualify to get any money under part (b) of the underlying bill for prison grants or for the new money for reimbursing the States for the incarceration of criminal aliens, the new money in this bill.

Mr. SOLOMON. Or for the new money. That is the point I wanted to get across. That means that California, Texas, Florida, and my own State of New York had better carry out the truth-in-sentencing and the 85-percent clause or they are not going to get any money.

Mr. McCOLLUM. Under this bill, if the gentleman will yield. But under the existing law, they still have a pot of money they can draw on if they do not qualify.

Mr. SOLOMON. I appreciate the gentleman's clarification.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California, my fellow member of the Committee on Rules.

Mr. DREIER. I thank the gentleman for yielding.

I would like to say that it is very appropriate having here the gentleman from Tennessee [Mr. QUILLEN] the chairman emeritus of the Committee on Rules, and the chairman of the Committee on Rules.

Mr. SOLOMON. And the vice chair.

Mr. DREIER. Because as we look at the issue of dealing with this problem, we are doing it under the standing rules of the House. We are not establishing a new entitlement program as was just said in a colloquy between the author of the amendment and the chairman of the Committee on Rules.

What we are doing now is we are coming together with funds that are appropriated and we are simply saying that it is a priority responsibility of the Federal Government regardless of what State you come from to meet that Federal obligation.

I know we have a wide range of support that has come from the Speaker of the House and others to deal with this in a responsible way. I would like to congratulate the chairman of the Committee on Rules for realizing that we can, in fact, deal with serious issues like this without imposing waivers of the budget act and other provisions.

I believe that the McCollum-Gallegly amendment will go a long way toward addressing——

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The time of the gentleman from New York [Mr. SOLOMON] has expired.

(At the request of Mr. DREIER and by unanimous consent, Mr. SOLOMON was allowed to proceed for 2 additional minutes.)

Mr. SOLOMON. Let me just say, "I was glad to see the gentleman rise with the gentleman from California [Mr. FAZIO] concerning the Contract With America."

It is a new day in this Chamber because in the past we have helter-skelter just waived the budget rules of this House and we have created these huge deficits. We are not going to do that anymore. Here is a situation where we could have, without much effort at all, created a new entitlement program. We are not going to do that today. We are going to start cutting these entitlement programs and not creating others. And yet through cooperation on both sides of the aisle, I might add, we have resolved this problem without having busted the budget. I commend all of you.

Mr. DREIER. If my friend would yield one more time, I would like to underscore again something that the Speaker of the House has said. That is, that as we look in a comprehensive way, and it was just reiterated by my friend the gentleman from San Diego, CA [Mr. BILBRAY] a few minutes ago, as we look in a comprehensive way in the out years to deal with this issue of illegal immigration, I am convinced that this responsibility will not be nearly as great for those States which are shouldering it at this point because we plan to have tough laws, toughening up the border patrol to ensure that we do not have that magnet through unfunded mandates drawing people illegally across the border from other countries into this country. I thank my friend for yielding.

Mr. SOLOMON. Right on.

Mr. BEILENSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this McCollum-Berman amendment which does address the serious burden placed on States and localities by the Federal Government's failure thus far to adequately meet its responsibility to fully pay for the costs of incarcerating illegal aliens.

I also want to take this opportunity to thank our colleague, the gentleman from California [Mr. BERMAN] for successfully pressing this matter to this conclusion. I want to thank the gentleman from Florida [Mr. McCOLLUM] for his enormously helpful help. Without his help obviously this could not be done.

I want to thank a good many other colleagues, most especially if I may, two friends, the gentleman from California [Mr. CONDIT] and the gentlewoman from Florida [Mrs. THURMAN] for their help in years past as well as this year, and the gentleman from California [Mr. GALLEGLY] and a number of others. I do not want to leave people out.

But many of us as Members know who have been working on this for some time, this does, in fact, build successfully on the effort, at least partially successful effort that 4 or 5 of us together made last year, to which the gentleman from California [Mr. BERMAN] and others have already alluded, for all of the reasons given in earlier speeches in the past half hour or so, this is something that should be done. I am delighted that we seem to be on the verge of virtually total success in this matter.

I thank our colleagues for their support on this very important matter.

The McCollum-Berman amendment simply provides that before the Department of Justice spends any funds appropriated under the authority of this bill for prison construction, the Attorney General must reimburse States for at least $650 million of the cost of incarcerating illegal aliens convicted of felonies. In other words, it makes reimbursement of States, for the cost of imprisoning criminal aliens a priority over spending for new prison construction.

This amendment follows on action Congress took last year at the behest of several of us from States with large populations of criminal aliens. Our amendment to last year's anticrime bill provided an authorization for State reimbursement from the crime control trust fund of $1.8 billion for the first 6 years, and made that reimbursement mandatory beginning in fiscal 2004. In response to that amendment, the President requested about half the amount needed for such reimbursement in this fiscal year, and Congress approved $130 million, or one-fifth of what is necessary. This amendment is an effort to ensure the appropriation of the full amount States and localities need.

Criminal aliens are people who have entered our country in violation of Federal laws; that makes their incarceration a Federal responsibility, and thus a cost that should be borne by all U.S. citizens, not just those who live in regions with large numbers of illegal immigrants. As the House of Representatives recognized with the recent passage of unfunded mandate legislation, the Federal Government should not continue to pass the costs of Federal actions—or in this case, lack of effective Federal action—onto State and local governments. Yet that is precisely what we have been doing by making States and localities pay for the Federal Government's failure to stop illegal immigration.

While State and local governments have the responsibility for incarcerating criminal aliens and processing their cases, they have no jurisdiction over the enforcement of immigration laws, no authority to deport aliens who are convicted of crimes, and no authority to ensure that those deported are not permitted to re-enter the country.

Congress recognized the unfairness of this situation and acknowledged the Federal Government's responsibility for the criminal alien population in the 1986 Immigration Reform and Control Act [IRCA]. Section 501 of the act specifically authorizes the reimbursement to States, of costs incurred in the imprisonment of illegal aliens. Unfortunately, no funds were appropriated for this purpose until last year, and the amount appropriated was not nearly enough to cover the full costs.

In today's Los Angeles Times, Speaker GINGRICH was quoted as declaring that the cost of imprisoning illegal immigrants is a "Federal responsibility," and calling on Congress to approve $630 million in reimbursement to States. I could not agree more, and I am glad that the Speaker decided to champion this issue that some of us from affected communities have been arguing for quite some time. However, unless we adopt this amendment, we will have no real assurance that full funding for State reimbursement will be forthcoming.

There are between 23,000 and 35,000 undocumented aliens incarcerated in State prisons. The States which have significant numbers of criminal aliens in their prisons—that is, over 2 percent of their prison population—include not just California, Florida, Texas, and New York, as one might expect, but also Alaska, Arizona, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Massachusetts, Nevada, New Jersey, Oregon, Pennsylvania, and Washington.

From 1988 to 1995, the number of illegal alien felons in California State facilities has soared by 235 percent, from 5,700 to an estimated 19,200 by the end of this year. During the same period, the total annual cost of incarcerating and supervising this population has skyrocketed from $122 million to an estimated $503 million by the end of the next fiscal year, a 310-percent increase. The cumulative cost during this 7-year period is in excess of $2.5 billion.

In Los Angeles County alone, the overall cost of deportable criminal aliens to the county's criminal justice system amounts to $75 million per year, out of a $683 million budget.

Although this amendment does not actually make Federal reimbursement for these costs mandatory, as many of us would like, it goes a long way toward guaranteeing these payments. If Congress wants to fund new prison construction, then, under this amendment, we will have to first ensure that there is sufficient funding for criminal alien reimbursement.

I would only add that this amendment is a responsible measure that pays for State reimbursement with appropriated funds, and is not a violation of our budget rules. Its cost—$650 million per year—is, relatively speaking, a modest amount for the Federal Government. On the other hand, for State and local governments, this is quite a significant amount, and relieving them of this expense will free up revenues for other necessary public purposes.

Mr. Chairman, because Congress has been unable, or unwilling, to meet its full responsibility to the States with respect to criminal aliens, it is imperative that we ensure reimbursement to the greatest extent possible. By passing this amendment, we will be relieving State and local governments of the unfair burden they are currently bearing with respect to criminal aliens, and freeing up their limited resources for other essential purposes, including of course, prison construction, the very purpose of this bill.

I urge my colleagues to support this amendment.

Mr. BENTSEN. Mr. Chairman, I move to strike the requisite number of words. I do so to enter into a colloquy with the chairman, the manager of the bill.

It is my understanding, I apologize for not being down here, but I was in a Banking Committee hearing where we were discussing the Mexico peso devaluation crisis, the gentleman is a member of the committee, but I have a question.

As I understand your amendment, it would provide for half the funding, half of the authorization of the funding to come from last year's bill and the other half pursuant to the truth-in-sentencing act; is that correct?

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from Florida.

Mr. MCCOLLUM. What we do is we simply do not disturb the funding that is already in the law from last year's bill. It will be unfettered. People will have it available easily. There will be no conditions to getting it. Except that there will be a preference then given to the States that do not qualify for the new pool of money we are creating today to get that money. So a State that qualifies for money under truth-in-sentencing will not have the same rights to that existing pool of money. So that States that are not eligible for this new pool will have full sway with the underlying moneys.

Thereby, we thought this was being extremely fair to everybody concerned, since California, which is the largest State affected by the criminal alien situation, your State and mine being not far behind, would have early on full sway on the new money.

My State is moving to truth-in-sentencing very rapidly. It is supposed to pass this year, and I believe will become law. And so States that do not qualify for it will be the ones to get preference for the existing money under the existing law.

Mr. BENTSEN. Reclaiming my time, I would ask, is it conceivable or is it possible that a State that does not meet the test as provided under the truth-in-sentencing, that they somehow would not get sufficient moneys for a full reimbursement?

Mr. MCCOLLUM. If the gentleman will yield, I do not believe so. What has been represented to us in the studies we have looked at, what the CBO has presented and so forth—I truly believe and honestly represent to you that I do not think that any State would come up short. There will be a very large pool of money for States to draw on in the $330 million a year roughly that is there for each of the next several years under the existing law for States that do not qualify for truth-in-sentencing, and since California has $300 million or so a year, maybe larger, that it itself says that it is concurring right now, it is going to eat up most of the truth-in-sentencing money, anyway, and I would say that the total amount, which is $650 million that CBO estimates for the entire Nation, is covered by us today. So everybody should be able to get money.

Mr. BERMAN. Mr. Chairman, will the gentleman yield just on that one point?

Mr. BENTSEN. I yield to the gentleman from California.

Mr. BERMAN. I think we should be very careful not to overpromise here. Assuming, for example, Texas does not meet the truth-in-sentencing law requirements. They would not be eligible for the money appropriated out of the prison funds, the first portion of which is reserved for this program. It then will depend, for Texas, on there being an adequate appropriation in the Beilenson program that was enacted last year as part of the crime bill so that you can go there where, as the gentleman from Florida pointed out, you have preference.

So it is just very important to watch the appropriation process and make sure. The $650 million total is what CBO says will be full reimbursement for States and local governments for the costs.

The potential for everybody to be covered is there. But it very much depends on the balance of appropriations between the two accounts.

Mr. MCCOLLUM. If the gentleman will yield to me further on that, all of this is subject to appropriations. What is underlying and the new money, all of it is. But we on our side are committed to fully appropriating the money for this.

Our Speaker has said in his words just in the past day that he wants to have this his top priority. This in his judgment and in ours is an unfunded mandate that is intolerable to the States right now and the sooner we recognize the illegal alien problem and the criminal alien problem and resolve it federally and nationally, the better off.

I think the gentleman has a great deal of assurance that our side, who now has the majority in the appropriations process, will make this top priority.

□ 1650

Mr. BENTSEN. Reclaiming my time, I will tell the gentleman my concern. My State, as other States very much believing in States rights and feeling that since most crime and criminals are under their jurisdiction, and as the gentleman knows, immigration is the sole jurisdiction of the Federal Government, and my State does house a large number of alien, undocumented criminals, the problem that I foresee is for some reason, for instance, in Texas we have 4,000 beds that are taken up as a result of that. That may bring us under the requirements under the Truth in Sentencing Act, so we are sort of in a double jeopardy situation where we may not be able to get at that funding because of the problem that already existed. So it is a concern to me, and I would want the gentleman's assurances that that would be something that would be looked at.

Mr. MCCOLLUM. If the gentleman will yield, I think he will be better off in Texas if they do not qualify initially for the truth-in-sentencing money as far as the criminal alien dollars are concerned.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The time of the gentleman from Texas has again expired.

(On request of Mr. MCCOLLUM and by unanimous consent, Mr. BENTSEN was allowed to proceed for 2 additional minutes.)

Mr. BENTSEN. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Because there will be States like California and my State of Florida that are in the process of qualifying for the truth in sentencing this year, and within a year will be qualified, because I spoke to our State Senate president today. I know it is a top priority in our legislature to qualify for the truth in sentencing. Once that happens for any State that qualifies for the truth in sentencing grant program for Federal prison money, that State is going to dip into that money and then under that bill they will be ineligible for any additional, and so those States that are qualified for the truth in sentencing will not be able to get it, but the gentleman's State will be fighting with fewer States after that point in time for the money.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding. I think he makes a very important point. This is a burden that these States are saddled with through no actions of their own or fault of their own, and now what we are doing is when they had access to money under the Berman amendment, what we are now suggesting is that the States have to jump over an unrelated hurdle to get access to the money. The point is the problem that the States have had is that they are saddled with the burden day in and day out through no choice of their own, and yet if they do not change their laws they cannot get access to the money. I appreciate the gentleman has a theoretical formula worked out about what pool of money States will go to and whether that money will be there. It is not an entitlement, so we do not know that it will be there at the end of this budget process. But the fact is the burden goes on in any case, and that is what the States are complaining about.

So now the gentleman is erecting these hurdles, and it has nothing to do with the fact that they have thousands of beds taken up with illegals through a failure of Federal policy.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I am glad to yield for a short time to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I would just like to make the point that you are no worse off or better off with regard to the underlying law no matter what happens to the truth in sentencing. It is new money being added, and it is only the new money being added that you did not have before today in this provision of this amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Texas [Mr. BENTSEN] has again expired.

(On request of Mr. MCCOLLUM and by unanimous consent, Mr. BENTSEN was allowed to proceed for 1 additional minute.)

Mr. MCCOLLUM. If the gentleman will continue to yield, you have new money being added today that you did not have before, and it is only that new money that has any conditionality to it at all. We do not place conditionality on the existing funding mechanism that is there today and, therefore, there is no reason for anybody to feel upset about the conditionality, because we are not doing anything with that. It is still there, unfettered completely, and as a whole we are all better off since we are adding more money today.

Mr. COLEMAN. Mr. Chairman, will the gentleman from Texas yield?

Mr. BENTSEN. I am glad to yield to my colleague from Texas.

Mr. COLEMAN. Mr. Chairman, my only question that I have, and I appreciate the comment of the gentleman from Florida about getting the funding, and he said his side of the aisle was going to work very hard to get the full funding for this amendment, I wonder whether or not, since I represent Texas, you are going to work just as hard to get full funding for what has become known as the old statute, the Beilenson part of the crime bill?

Mr. MCCOLLUM. If the gentleman would yield, absolutely. We are committed to full funding for both of them, for the whole $650 million to reimburse everybody. That is the commitment, and there is no problem making that statement out here on the floor.

Mr. COLEMAN. I thank the gentleman for his answer, and thank the gentleman for yielding.

Mr. BENTSEN. Let me just say I think this is an unfunded mandate on the States.

The CHAIRMAN pro tempore. The time of the gentleman from Texas [Mr. BENTSEN] has again expired.

(By unanimous consent, Mr. BENTSEN was allowed to proceed for 2 additional minutes.)

Mr. BENTSEN. It is not inconsistent with what this Congress has done in the past. In 1985 we passed the Emergency Immigrant Education Act to deal with the 1981 Supreme Court ruling that affected our school districts, so we have taken action in the past to have the Federal Government step in and make reimbursements for costs which should be borne by the Federal Government.

Here today we are talking about taxpayer money from the States, and turning around and saying how we are going to allocate it back to the States under certain sorts of mandates. I understand what the bill is trying to achieve, but we have to remember those are the same taxpayers who are shelling out millions of dollars in order to build prison after prison, as we have in Texas probably more that just about any State in the Union. So at the same time we are coming back, and I am a little concerned we may be penalizing States that are trying to address this problem, and at the same time this is a problem that is beyond their control. It is the responsibility of the Federal Government.

Mrs. THURMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all let me thank the Members of this debate, because last year I know it was the Beilenson, Berman, Condit amendment which started this debate, which is what we are going to see coming out in the appropriation. I also want to thank the gentleman from Florida [Mr. MCCOLLUM] for the work he has done in the deportation, which is also an extremely big issue for our State, making sure we can send them back so that we do not have to have all of those costs all of the time.

However, I do need some clarification, because I do rise to support this amendment but want to make sure that I understand it, and since we are colleagues from Florida and it is a big issue for us.

When the gentleman talks about the 85 percent truth in sentencing, do the States just have to pass a piece of legislation, or do they have to meet the requirements under that?

Mr. McCOLLUM. Mr. Chairman, will the gentlewoman yield?

Mrs. THURMAN. I yield to my colleague from Florida.

Mr. McCOLLUM. Mr. Chairman, to me they have to meet the requirements ultimately, but they have to pass it, and they have to have an implementation time to begin no later than 3 years after they pass that act.

Mrs. THURMAN. If the gentleman will yield back, I will take back my time. During that 3-year period of time, would they be able to receive, if they passed that legislation, would they be able to receive the dollars that will be appropriated under this bill?

Mr. McCOLLUM. If the gentlewoman will yield, the answer is yes, because they would be eligible for these dollars under the criminal alien reimbursement provisions, just as they would be eligible for dollars under the truth in sentencing prison grant money.

Mrs. THURMAN. If I can take back my time, is there any penalty at the end of that 3-year period of time if they were not able to meet that 85-percent truth in sentencing?

Mr. McCOLLUM. If the gentlewoman will yield, the answer is if they are not eligible any longer at the end of 3 years, which would be quite a ways into this legislation, they would slip back into the category of those States that would have to compete for the moneys in the existing law, that is the $330 million, and they would have a preference as a nonparticipant State in the other pool of money, they would have a preference in the non-truth in sentencing money.

Mrs. THURMAN. Reclaiming my time, the question then that occurs to me, and the gentleman and I both know that we have numbers from the State of Florida talking about I think it is $1.37 million that we have spent just in Florida since 1988 in incarceration of illegal criminals, I guess the concern is because that has been our burden which we have not lived up to at the Federal level, and because they have had to implement and construct and operate prisons in the State of Florida, that I hope that we can look at some language. I mean I understand where the gentleman is coming from on the 85-percent truth in sentencing. That is a big issue for all of us, and we all want that to happen, and all of our State legislatures want that to happen. But I do have to agree with the gentleman from California, because we have not lived up to this responsibility, and it has put our States at a disadvantage, not only at the disadvantage of incarceration, but all of the other services that we are providing that are taking away from that construction for prison moneys because we are having to pay for a lot of other expenses too, and I hope that we figure out a way that we do not penalize those folks because they are trying to do a good job just because they cannot reach that point.

Mr. McCOLLUM. If the gentlewoman will yield, I recognize that she has had only a little while to look at this, but I have had a lot of time to study this, I guess, as being the author, and having had time to look at it and study it. I am convinced, and I believe she will be too when she has the time to digest this, that actually States that do not qualify for the truth in sentencing will be better off after this provision passes than they are today in terms of getting at the existing $330 million, because there are going to be fewer people, fewer States, if you will, fighting over that money. Therefore, there is no money all together and they will have a preference.

So whether Florida passes a truth in sentencing provision or not, it is going to be better off after we get this amendment in law than it is today.

□ 1700

But I, of course, share your wishes that we pass truth-in-sentencing. As I said earlier, our Senate president, Jim Scott, today assured me that is his No. 1 priority. I understand it is the number one priority in the State house to get a bill out this year that goes to truth-in-sentencing.

Mrs. THURMAN. Reclaiming my time, I just want to ask my colleagues to support this, because I, like many who have spoken before me, recognize this as an issue that faces the National Government, not our State governments, and we are all in this together, and for those that are going to support it, we thank you very much, because it is a big help for us.

Mr. HASTINGS of Florida. Mr. Chairman, I move to strike the requisite number of words.

I just thought it would be wise to wade in with my colleague from Florida since there were so many Members from California here just a moment ago, and then there were those Texans here as well.

As one of those seven States that bears the brunt of the kind of discussion that we are having regarding illegal immigrants in our jails, I certainly want to compliment the gentleman from Florida and the gentleman from California and all those associated with them in crafting this legislation.

I do make a very simple appeal though, and that is that somehow or another, centered around criminal activity, we can come up with the most brilliant manner of going forward as legislators in finding money all over the budget, and in the Immigration and Education Act, that was mentioned by my colleague and friend, the gentleman from Texas, I remind everyone that President Reagan zeroed out the budget funding for the Immigration and Education Act, and no offense meant to the former President, but the simple fact of the matter is that if this money is not appropriated, all they are doing is some kind of fancy dance trying to give our constituents the notion that we are doing something about this problem.

Let me tell you something. I am concerned about us paying a debt to the State of Florida, the State of California, the State of Texas, the State of Arizona, New York, all of the States that have this problem, and it is a debt owed because it is a national problem, and it is not one that is a State problem.

But at the very same time, if I had to place my eggs in a basket whether or not to take care of an illegal immigrant in prison and a debt owed to a State, I would much rather that this legislature be about the business of trying to fund measures that will take care of children who are entering our States in vast numbers, such that one educator in Dade County reminded me that every month the equivalent of a school enters their school system who are folk from outside this country, and in my base county, every 3 months a whole school is formulated.

It is nice to find money for prisoners, but we had better find some money for schools.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from California.

Mr. BERMAN. You raise an interesting point on empty authorizations. This program has been authorized since the 1986 law. Until President Clinton proposed money last year and the Congress appropriated $130 million, we never funded $1.

As you mentioned for the program of health and education, reimbursements to the States for the cost of the legalization program, nearly every single year President Reagan or President Bush sought to rescind that entire fund. Congress kept it, fortunately, but there is a logic to this in the sense that with the pressure and interest in funding new prison construction, the requirement that this money be appropriated first probably forces this not to be an empty authorization, and it is the basis upon which I think it probably makes some sense.

Mr. HASTINGS of Florida. I want my friend from California to know that while I stand with you almost all of the time, I am going to try to get close to my friend from Florida who seems to know the Senate President well enough to know what we are doing.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not use the 5 minutes, because I know many of my colleagues from Florida and other affected States have spoken on this. I wanted to get up and also join the applause for those who have worked out this very complex and difficult solution to what is a very important problem, obviously the chairman, the gentleman from Florida [Mr. McCOLLUM], and the gentleman from California [Mr. BERMAN], for the work he has done, the gentleman from California [Mr. DREIER] on the Committee on Rules, and many others who have labored long and hard.

We are a little bit in the situation that probably a lot of American households find themselves when you do not have enough money to the end of the month to pay all the bills. You sort of stack them up. You say, "Well, I don't have enough money to do all of these bills so I am just going to do this one and this one; I will do the butcher, the baker, and the candlestick maker this month, but will let the gas company wait." What happens is sort of the wheel that does not squeak is always the one that stays in the pile that does not ever get paid off, and over the years the Federal Government has just been a giant household that has run up a big debt and has not paid all of its bills, and it seems that every year the good guys who do not make a big enough squeak are the ones who do not get paid for what they have done.

This is a piece of legislation that finally tries to deal with that. It does not solve the whole problem, and it is not retrospective, of course, but it does try to say to folks who are doing the right thing out there on the front lines and say, "Hey, we know we owe you, and we are going to start paying the bills, at least some of the bills." And I am very thankful that we have gotten to this point under the leadership so far to carry this thing forward.

Yes, we could have done this a lot of different ways. There is no question about it. This was not easy to craft, I know, but I think we have come to something that is pretty good. We have got assurances it is going to work, and I think the people who have been bearing the disproportionate burden of the cost over the years can look and smile and say, "We are making some progress on this thing."

I am sure the statistics have been made about my State of Florida; the load we are carrying down there has gotten so out of control that 10 percent of our overall prison population is what we are talking about here, more than 5,000 people, and we are talking about not a few dollars. We are talking about hundreds of millions of dollars, even so much so that the Governor of our State has felt the necessity to bring a suit against the Federal Government for a billion dollars to get some claim on back money. Now, that suit did not get very far, but at least we now have something that says we are going to start setting up the system that is going to allow for the great household that is the Federal Government to start paying more of its bills more equitably, and that folks who have waited the longest and perhaps for the most money finally see some relief in sight.

I want to again congratulate those involved and thank you for the opportunity to say these things.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The amendment was agreed to.

Mr. McCOLLUM. Mr. Chairman, at this time I would like to ask unanimous consent that for all amendments that remain to be offered and are offered on this bill today or tomorrow, or whenever, until we complete consideration of it, the entire time for debating any individual amendment be limited to no more than 20 minutes, divided 10 minutes to a side, 10 minutes for the proponent and 10 minutes for any opponent.

The CHAIRMAN. And every amendment thereto?

Mr. McCOLLUM. And every amendment thereto.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. CHAPMAN. Mr. Chairman, reserving the right to object, I ask the gentleman, is he talking all amendments on the bill including time we spend tomorrow?

Mr. McCOLLUM. Mr. Chairman, reserving the right to object, that is correct, all amendments remaining on this bill, not any other bill, just this bill. The reason why is that we need to progress through this legislation in order to do the criminal alien bill tomorrow and have time on Monday and Tuesday, as the gentleman's side wants, for us to be able to devote to the remaining block grant bill which is part of the effort to be bipartisan about how we consider this. There are a lot of amendments left on this bill.

Mr. CHAPMAN. Mr. Chairman, I will not object, but I would ask the gentleman, I know I have one additional amendment to come up tomorrow, and I would ask the gentleman if, in fact, we are in debate and there appears to be substance to that debate, I would like to be asking unanimous consent for perhaps some additional time on that amendment. I will not object to the gentleman's request today.

Mr. McCOLLUM. If the gentleman will yield further, I will certainly consider it. I cannot promise the gentleman what the result will be since I obviously cannot control, nor can the gentleman, the unanimous-consent request.

Mr. CHAPMAN. Further reserving the right to object, Mr. Chairman, I think there are some important amendments to go. If we cannot have some understanding to try to work together, I will have to object.

Mr. McCOLLUM. We will work together. I assure the gentleman we will work together.

Mr. CHAPMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. CONYERS. Reserving the right to object, Mr. Chairman, I understand what motivates the gentleman from Florida. I agree to it subject to the fact that there may be a couple of amendments on which we may have to ask unanimous consent to go a little bit longer than this.

Mr. McCOLLUM. If the gentleman will yield, I certainly do not have a problem working with the gentleman on that. I know he wants to strive, as I do, to try to have good limits. If we are only talking another 5 or 10 minutes in addition or something like that, and I think that is what both gentlemen, are thinking, I do not have a problem. What I am really concerned about is you do not get maybe an hour out here.

Mr. CONYERS. Further reserving the right to object, what I am saying to the gentleman is that we can agree to this subject to the fact that there may be several that we would ask unanimous consent to move ahead.

With that, Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1710

AMENDMENT OFFERED BY MR. GALLEGLY

Mr. GALLEGLY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GALLEGLY: Section 505 (2) of H.R. 667 is amended to read as follows:

"(2) of the total amount of funds remaining after the allocation under paragraph (1), there shall be allocated to each State or compact, as the case may be, an amount equal to the ratio that the number of part 1 violent crimes reported by such state or states to the Federal Bureau of Investigation for the most recent calendar year for which the data is available."

Mr. GALLEGLY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Pursuant to the unanimous consent request, the gentleman from California [Mr. GALLEGLY] will be recognized for 10 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Chairman, this amendment is really just a commonsense change in the legislation that would ensure that prison construction grants wind up in the areas that have the greatest need for them.

As currently written, the legislation distributes these grants based solely on population and not on the violent crime rate. This amendment would change that, and allocate these funds to the areas that are facing the greatest challenge in terms of violent crime and in keeping violent criminals behind bars.

H.R. 667 is designed to reduce crime in our communities by ensuring that we have enough room in our prisons to house the violent felons who belong there. Surely, it makes sense to base the level of funding to any one area on the level of violent crime occurring there.

I think we all share the desire to make the most of these grants and to make the streets as safe as we possibly can through the prison construction they will support. It only makes sense to add prison capacity where a clear need has been established rather than simply as a virtue of how many live in any one State.

Mr. Chairman, these grants are intended to help us fight violent crime by locking up violent criminals. They are not just another feel-good Government entitlement to be blindly doled out.

When we are confronting an issue of such tremendous concern to the American people, an extremely challenging issue that poses such a serious threat to our very way of life—we have to be a little smarter with our resources than we sometimes are around here.

This is not the time for us to indiscriminately hang a sign on the government trough reading, "Open for business." It is time for us to do the work necessary to insure that these precious funds wind up in the hands of those who have the greatest need for them. It is in that spirit I urge support of this simple, commonsense amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. I thank the gentleman for yielding.

Mr. Chairman, I join in support of the gentleman's amendment. I did not find his amendment printed in the RECORD. It is identical to an amendment we filed yesterday and had printed in the RECORD, and I would, since it is identical to the one that we filed, say that we think it is a good one. I compliment the gentleman on his offering the amendment and tell him I think it does target—and I tell my colleagues—I think what it does is make a small, but very significant, change in how the grant funds are allocated. It does that by targeting the funds to those areas where the problem is the greatest and it bases the allocation upon the incidence of violent crime, not on population.

Mr. Chairman, the Department of Justice, in analyzing the Republican bill under the contract, made the following analysis, and I read from their analysis:

> The approach in the original bill of disbursing funds for violent offender incarceration in proportion to general population without regard to the incidence of violent crime in the affected areas will produce gross misallocations of resources in relation to actual need.

This amendment, Mr. Chairman, will reinstate the law as it currently exists, will put back in place the allocation of the formulas of the 1994 crime bill. It is one way to target the resources to where the need is greatest.

So I enthusiastically support the gentleman's amendment because it remarkably resembles the one I filed yesterday in the RECORD. I compliment the gentleman for his vision and look forward to supporting him.

Mr. GALLEGLY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman for his kind words and also recognize his great wisdom.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding this time to me.

Very quickly, I do not think this takes a lot of time.

We have an assistance program for low-income people to get subsidies on energy. We do not apportion that based on population. We focus that on States where cold weather requires people to have extraordinary high heating bills. We have crop subsidy programs and we do not base that on population, but we do base that on areas where the crops are growing.

The whole logic of this program is to deal with the—try to assist the States with the costs of dealing, particularly, with the high rates of violent crime. This amendment makes perfect sense. I cannot understand why the formula would be on any other basis, and I urge its adoption.

Mr. CONYERS. Mr. Chairman, I yield myself as much time as I may consume.

I commend both gentlemen, particularly my colleague from Texas [Mr. CHAPMAN], who, although he is not a member of the committee, had his amendment printed in the RECORD. We are in accord.

I like the idea of revisiting the 1994 crime bill. I think this is a good formula to take out of it and put in here.

We have no further requests for time.

Mr. Chairman, I yield back the balance of my time.

Mr. GALLEGLY. Mr. Chairman, we have no other Members seeking time. I would urge support and yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. GALLEGLY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN. Is the gentleman's amendment No. 15?

Mr. BURTON of Indiana. It has a No. 2 at the top, Mr. Chairman. We had to make a clerical change.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Indiana [Mr. BURTON].

The Clerk read as follows:

> Amendment offered by Mr. BURTON of Indiana: Page 7, line 18, after "general" insert "including a requirement that any funds used to carry out the programs under section 501(a) shall represent the best value for the State governments at the lowest possible cost and employ the best available technology."

The CHAIRMAN. Pursuant to the unanimous-consent request, the gentleman from Indiana [Mr. BURTON] will be recognized for 10 minutes.

Is there a Member who rises in opposition to the amendment and wishes to be recognized? If not, the gentleman from Michigan [Mr. CONYERS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, the gentleman from New Jersey [Mr. TORRICELLI] and I are cosponsors of this amendment. It a very simple and straightforward amendment designed to make sure that the latest and best technology is used in building prisons and prison cells. It mandates that the States look into this to make sure they are using taxpayer dollars as wisely as possible in the construction of new prisons. That is basically all the amendment does.

I think it is an important amendment. It will help control costs of new prison construction. I think the people of this country want that kind of scrutiny of construction of new prison facilities in this country.

Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. I thank the gentleman from Indiana for yielding to me.

Mr. Chairman, I am very proud to join with the gentleman from Indiana [Mr. BURTON] in offering this amendment. It is not, Mr. Chairman, simply a question of how much we spend for prison construction, but what value we receive; whether indeed we get the added capacity that is required to prevent the early release of felons onto our streets and insure that there is just and fair punishment.

Much has been learned about prison construction and ways to reduce those costs and the time that is required for construction. Many States and localities have learned that by prefabrication, indeed in the very manufacturing of prison cells, often with steel in a factory setting, these costs can be dramatically reduced. Indeed in a soon to be released independent national report by the Kitchell Consulting & Engineering Co., of California, it is believed that both the quality can be increased and the costs can be reduced by a significant percentage by these modular steel cells. They are prefabricated, they can be brought to the site and then put together. Indeed at times in the future when prison populations might change, they can even be disassembled and moved.

Our hope is that the experience of some States in using this technology can be duplicated around the country.

All we ask is that the States and the Federal Government, as they look at prison construction, break out of their own methods, be creative about it, use their best judgment to get the best value for their dollars.

□ 1720

With that I want to thank the gentleman for yielding. I also want to thank the chairman of the subcommittee, the gentleman from Florida, for his support for the amendment.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I ask, "By reducing the costs, does that also enable you to go in and reduce the requirements for Davis-Bacon?"

Mr. BURTON of Indiana. I would presume that it might. That has not been a consideration in the amendment, but I presume it would.

Mr. CUNNINGHAM. Since the higher costs come along with Davis-Bacon, under construction under Davis-Bacon, I think it ought to seriously be looked into.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Chairman, I think an answer to the gentleman's question might be, "First, because you're reducing construction time, there certainly is an impact on construction costs. Second, while obviously the fabrication at the site continues Davis-Bacon protection because it is construction, the cells themselves are manufactured off the site. Therefore they would probably not be included under construction at prevailing wage. They would be manufactured."

Mr. BURTON of Indiana. Mr. Chairman, it ought to be pointed out, and I think the gentleman did that, and that is, if they are constructed off site, it is going to cut down construction costs——

Mr. TORRICELLI. If the gentleman would yield, I think that is the savings, reducing time, that these are coming off an assembly line and only to be put together at the site.

Mr. BURTON of Indiana. As I yield back, let me say this in conclusion, Mr. Chairman:

This modular cell construction we are talking about is one new technology. There will be others in the years to come, and we believe every Governor of every State should be looking into these new technologies to cut down the cost of these new prisons that are going to be constructed.

Mr. Chairman, I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am impressed that we want to be as efficient as possible, and I do, too, because it will save money. I want to make a couple of points.

The first is that this is probably the fastest growing industry in our economy, building prisons. We now have cities and towns. It is a fast growing industry because we are putting literally billions of dollars in the 1994 crime bill and now billions of dollars additionally, at least two and a half, into this one, and so I rise to join with every efficiency that we can obtain.

But I think we want to keep in mind that we want to also ensure that there is an effectiveness coming out of this great new industry that we are building in the United States, namely building prisons which does not make the happiest commentary in the world in what direction we are going since we incarcerate more people than any other industrial country that I know of.

So, I would urge all of my colleagues and those who have spoken in favor of this to support the Scott amendment that will be coming up that will ask that we also set aside a fraction of the amount of money merely to determine and study the effectiveness of this enormous new industry that we have spawned at the Federal level. It will be a fraction of an amount of money, be immeasurably tiny. It is so small it is almost beyond calculation. We would urge that we would consider both these amendments as both moving in a very important direction.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, one of the ways in which we can do, I think, both and not even have to build prisons in the future:

In the State of California we have got 16,000 Federal felons that are illegal immigrants. There are 84,000 nationwide. That is a lot of room at the inn. If the gentleman would help us make sure that those folks are repatriated from whatever country they came from, maybe we would not have to spend as much money on our present——

Mr. CONYERS. Reclaiming my time, beyond that I will say to my colleague I think we ought to have immigration laws that prevent people from effectively coming in illegally as opposed to what we do with them after they get in——

Mr. CUNNINGHAM. I agree with the gentleman.

Mr. CONYERS. And then run up the bill.

Mr. CUNNINGHAM. I will help the gentleman do that, too.

Mr. CONYERS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM: Page 9, after line 6, insert the following:

"(6) TRANSFER OF UNALLOCATED FUNDS.—After making the distribution to all eligible States required under section 503, the Attorney General may transfer as provided in this paragraph, in such amounts as may be provided in appropriations acts, any remaining unallocated funds which have been available for more than two fiscal years, but all such funds shall be available for the purposes of this paragraph after fiscal year 2000. Funds transferred under this paragraph may be made available for expenses of the Immigration and Nationalization Service for investigators and for expenses of the Bureau of Prisons, the Federal Bureau of Investigations and the United States Attorneys for activities and operations related to the investigation, prosecution and conviction of persons accused of a serious violent felony, and the incarceration of persons convicted of such offenses."

Mr. MCCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. If I might, this is a very technical amendment. It does something with the funds that might not be allocated, and what it simply says is that, if at the end of 2 years after this legislation is in existence, every 2 years, money then begins to flow that is not utilized, not taken up in the grant programs from certain specified purposes dealing with prisons and law enforcement activities for violent felonies and so forth to go to the appropriations that may be determined by the appropriators to fight crime, and it is a way to capture this money in the trust funds.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?.

Mr. McCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, can I get a copy of the amendment?

Mr. McCOLLUM. Absolutely; we got a copy here. I thought the gentleman had one; I apologize.

What it does is it says, and since the gentleman does not have one, I will be glad to read these provisions, that any remaining unallocated funds which have been available for more than 2 fiscal years shall be transferred by the Attorney General as provided by the appropriators for the purposes of the expenses of the Immigration and Naturalization Service for investigators or for expenses of the Bureau of Prisons, the Federal Bureau of Investigation and U.S. attorneys for activities and operations related to investigation, prosecution, and conviction of persons accused of a serious violent felony and the incarceration of persons convicted of such offenses. I doubt seriously we are going to have any money left over. I say to my colleagues, I think by the time you get through the period of time we are talking about, you're going to have every penny of this scoffed up, but this allows for us to keep the moneys that are cordoned off in the trust funds, which we all want to keep, from the moneys that came out last Congress in our desire to dedicate these moneys and these resources to law enforcement and to fighting the purposes intended. This allows us to not lose those moneys should the grants not be allocated, should there not be enough applications for them, or qualifications, or whatever.

So, we are trying to keep the money for law enforcement purposes and for the purposes intended in this bill. I am sure the Bureau of Prisons alone, the Federal Bureau or Prisons, could probably consume the balance of any funds that are here, but we tried to make this broad enough to give the appropriators a chance to work their will, but narrow enough, I say to the gentleman from Michigan, that we are able to keep it in our domain so that it is used for the purposes intended.

This is of course again assuming that the grants are not fully awarded. I got a feeling they will all be fully awarded, but there is no escape valve, no carryover provision, no nothing now in the law either in this bill or what was passed in the last Congress to take care of that eventuality.

And so that is all that this does. It does no more than that. We have been requested to try to do things of this nature to protect our interests in the past, and the committee feels very strongly that that is what it is.

When he gets here, and I think he is headed to the floor, the gentleman from Kentucky [Mr. ROGERS] who is our appropriator for State, Justice Appropriations Subcommittee on the Committee on Appropriations, the chairman of that subcommittee would undoubtedly like to address this issue and encourage it because it is something that I think he would favor as well in order for us to be sure that we do not miss out on any moneys. In the end they go back to some general pot somewhere for gosh knows what purpose that might be, general whatever, and I think again that this is a very important amendment but is not one which should be at all controversial, and I assumed the gentleman from Michigan had a chance to examine it before. I apologize that he had not. But in any event I do not think he will find this to be a difficult amendment.

Again all it is is a transfer of unallocated funds for the purposes as may be appropriated by the Committee on Appropriations as long as they are for the purposes specified in here, Bureau of Prisons, FBI, U.S. attorneys, Immigration and Naturalization Service.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, the question I wanted to ask about this is whether this might have the effect of encouraging agencies to come up with programs that have not been thought through, and that is one part of the question, and the second part of the question is, given the choice between having this money be forced into some other law enforcement purpose that may or may not be worthy certainly would not have been addressed directly by this Congress.

□ 1730

Might it not be better to direct the money to the reduction of the deficit, since we are all very concerned about that?

Mr. McCOLLUM. Mr. Chairman, reclaiming my time, it has been impressed upon me by the appropriators and the gentleman from Kentucky [Mr. ROGERS] who will be here in a moment, the chairman of the subcommittee, that we in reducing the overhead and trying to balance the budget, may be putting the committee in a very difficult position to fund, for example, the investigators we need for the criminal law enforcement positions of INS, that your administration just requested a 73-percent increase in their current budget.

We may have trouble funding the Bureau of Prisons, which is our Federal responsibility, where we do not allocate any money under any of these major bills and certainly not under this $10.5 billion bill.

So if there is anything left over, it is not going to be under somebody's creative scheme. We really need that to run our prisons and do the things that the bipartisan group of people want to do here. No, we are not suggesting any great devious methodology is involved.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, having looked this over, having examined the question between putting this to the deficit balance, I would prefer that it go into the following programs and the following departments included in the amendment. So I would support the amendment.

Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am not sure I have strong objections to this. Could I just address another question to the gentleman from Florida [Mr. McCOLLUM]?

Is there a sufficient flexibility built into this language that would allow the use of these funds for prevention kinds of programs as opposed to just building more prisons? I honestly have not had a chance to look at language.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I do not think the prevention type programs would fit under it, but it would be up to the appropriators to decide. The way it is cordoned off, it would be up to the Federal Bureau of Prisons, the Federal Bureau of Investigation, the United States attorneys, and for the limited purposes of Immigration and Naturalization Service investigators. It is a very narrow law enforcement area.

It is not inconceivable that somebody could come up with a prevention program the FBI would want to run. But barring that, that is not the intent. The reason why is because we just simply are worried about adequate resources for our own Federal purposes here. Prevention programs would normally be the kind of programs we are going to deal with on Monday and Tuesday for money going to the States.

None of this money would go to the States. It would be recaptured, and it would be recaptured in any event by the Federal Government. It would simply go into some big hole that we would not have any control over. But doing this we control it to the extent we force it into the workings that this Committee on the Judiciary would want it to be, and for Federal purposes, as long as it is Federal purposes.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I do not know if this will make my colleague from North Carolina more comfortable or less, but it is our prediction that this will be a large amount of money that will be reserved, because I do not believe the States are going to qualify for it. So we are talking about billions, maybe billions and billions of dollars, all the way up to $5 billion. So I just want to make sure that not only the Members on the committee, but all the Members in the House understand that this little document of 10 lines contains quite a bit of change in it. Of course, this will be revisited in conference. So I just want us to all be aware of it.

Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I make two comments in response to the gentleman's statement. No. 1, he underestimates the will of my Governor, since North Carolina is one of the three States to that qualifies to get these funds under this bill currently. I think you are underestimating the will of my Governor and his pursuit of these funds, first of all.

Second of all, that raises even more the concern I have that since some subsequent bills that are coming to the floor will have the effect of reducing prevention dollars, that I am wondering whether the gentleman might entertain the idea of including specifically some language in this amendment that might allow those dollars to go to fund prevention programs that some of the subsequent bills are going to have under attack which are coming to the floor.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I do not believe that would be appropriate. I understand what the gentleman is getting at. But the moneys were pretty evenly divided at about $10 billion each to the prevention and cops under our construct, and for prisons and law enforcement basically under this kind of legislation here today. And I think in a moment, once the gentleman from North Carolina and Michigan have finished their colloquy and time, I am going to yield to the gentleman from Kentucky [Mr. ROGERS], who I think can explain exactly why we need to do this for the purposes we put in this amendment, so he is the appropriator, and being the chairman of the subcommittee that oversees our program.

Mr. CONYERS. Mr. Chairman, reclaiming my time, let me pursue the idea raised by my colleague from North Carolina [Mr. WATT]. What about some prevention money or some programs that go to those that will be dealing with it? There is a gang resistance program in Treasury. There are all kinds of prevention programs. Because it does raise a difficult point. We are taking, in your bill, $2.5 billion out of prevention, and now we are taking what may well be, based on my estimates, an even larger amount, and transferring back to very important law enforcement agencies and departments of the Federal Government.

Mr. McCOLLUM. Mr. Chairman, if the gentleman will yield further, I really do not know the parameters of the powers we are giving to the appropriators here, but I suspect they are pretty broad in the areas we are giving it to them, though they are constrained here. Perhaps the gentleman would like to direct some of his time to the gentleman from Kentucky, who has that knowledge. I do not have it. I do not wish to personally add to the litany here, because I fear that our money is going to be constrained enough as it is. But, nonetheless, the gentleman thinks there is going to be more here than I think there is.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 3½ minutes to the gentleman from Kentucky [Mr. ROGERS], the chairman of the Subcommittee on State, Justice, and those things that concern us here today.

Mr. ROGERS. Mr. Chairman, I thank the gentleman for yielding, and I appreciate the chairman from Florida for offering this amendment.

Mr. Chairman, I hope this is the beginning of a long and productive relationship between the Committee on the Judiciary and the Committee on Appropriations, both of which are under new management. I originally suggested a version of this amendment that the chairman is offering back when the bill was marked up in committee, and we have been working together on it since that time.

This amendment will assure that in the event States cannot use these resources within a reasonable period of time, that those unallocated resources can be appropriated for unmet Federal law enforcement needs. Resources are just too tight to allow pots of money to accumulate unused.

We have a challenge this year and the years ahead. As criminals are increasingly apprehended, tried, and sentenced, Federal law enforcement agencies must grow. New cases mean new FBI agents, new U.S. attorneys, new judges, new marshals, new courthouses, new prisons, new probation officers, and on and on and on.

For instance, in the new 1996 budget—proposed by the budget, there are three new Federal prisons, seven completed prisons that will come on line, and five prison expansions.

□ 1740

Just for the annual cost of the seven prisons coming on line this year, of which five will be operated by private contractors, we will need to find $200 million to operate those on an annualized basis.

Similarly, this year there will be 31 new courthouses coming on line, 150 new courthouses planned over the next decade. Each new courthouse requires rent payments, furnishings, new personnel, and so forth that add substantially to the funding we need to provide just to keep up with the country.

These are examples of the resource requirements that are coming due on the Federal level while overall we are trying to reduce the size of the Federal budget.

I appreciate the gentleman working with us on this amendment and in offering it in his name. I hope to continue to work with him on it to perfect it, and I hope to work with him when he goes to conference on the crime bill to assure that the conference report will adequately reflect the needs of the Federal law enforcement agencies.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Let me point out to the gentleman that has just spoken that this is a heck of a way to run a railroad. We legislate $10 billion for prisons and then we say, well, if there is any left over, let us use it for courthouses and other expenses that we need. Those have to stand on their own merit, sir. We cannot start, if we authorize a courthouse or a prison, it has got to have money coming for it to be built. It cannot be money left over in case it is not used. So I am quite unimpressed about why we need the money in that regard.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Chairman, if I can engage the gentleman from Kentucky for just a moment, I heard the gentleman say that the unused funds were because of the fact that we may very well have the courthouses and court personnel. Can the funds be used for that purpose?

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, they cannot be used for courthouses. That comes, of course, under another part of the Government.

Mr. HASTINGS of Florida. Mr. Chairman, let me put two or three additional questions. Is there any provision, perhaps the gentleman from Florida [Mr. McCOLLUM] might join in, that would allow for the addition of Federal judges? And I notice in the litany that was offered of things that it could be used for, absent from that were Federal public defenders and provisions for attorneys for that indigent. Can it be used for that purpose?

Mr. ROGERS. Mr. Chairman, if the gentleman will continue to yield, the amendment specifies what the additional unallocated moneys can be used for.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

What I would like to find out from my friend from Florida, if a very small amendment would be permissible by unanimous consent and it would read at the end of the last sentence, "of such offense" we would put a comma "or to the Department of Health and Human Services for programs to prevent crime."

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, unfortunately, that would not be german to yield to the money here. We had to draft this very technically. That is why it all related to serious violent felons, incarceration, investigators, this sort of thing.

I would suggest to the gentleman that would be too broad. If the gentleman wanted to specify something that fits into the area, we did not want to get too much spreading this out, DEA or something like that, we probably could do it. But I tried to draw it narrowly. The gentleman from Kentucky wanted to broaden it even more. We sort of settled on this.

I am open but not that broad.

Mr. CONYERS. Mr. Chairman, let me point out to the gentleman that a point of order could have lain against this whole amendment. So I am sorry. A point of germaneness could have lain against this amendment itself and was not raised. And so I would ask the gentleman if that is his only problem, that he would use the same comity with us that we used with him.

Mr. McCOLLUM. Mr. Chairman, if the gentleman will continue to yield, it is not my only problem, because obviously, if there is a germaneness, and I do not know where it may be in here, it would be all still in the area of law enforcement, all still in the area of Federal domain dealing with that, the Justice Department matters, all of the Justice Department.

The gentleman is asking me to unanimously consent to putting in a whole different department and functions. I am reluctant to amend this in any way other than a very minor way that might deal with something that maybe we have not thought of and we did not mean to overlook in terms of something, some function related to one of the law enforcement areas.

Mr. CONYERS. Mr. Chairman, I yield to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Chairman, if the gentleman says that he is amenable and he talks in terms of areas of responsibility, then would not the Federal courts and public defenders and moneys for attorneys for indigent defenders contemplate that?

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CONYERS] has expired. The gentleman from Florida [Mr. McCOLLUM] has 1½ minutes remaining.

Mr. WATT of North Carolina. Mr. Chairman, I ask unanimous consent that the gentleman from Michigan [Mr. CONYERS] be granted 3 additional minutes.

The CHAIRMAN. The Chair can only entertain such a request if it is 3 minutes additionally on both sides.

Mr. WATT of North Carolina. Mr. Chairman, I ask unanimous consent that each side be yielded 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] will be recognized for 3 additional minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 3 additional minutes.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

I would like to explain, I do not have any problem, perhaps, as we go through, if the public defenders would balance off U.S. attorneys or something. But I do not think that was the intent.

Mr. Chairman, I yield to the gentleman from Kentucky [Mr. ROGERS] to explain why this is drawn as narrowly as it is, why going into courthouses or courtrooms—and maybe he mentioned that—would be too broad for what is available. I feel that there will not be enough money, but I want him to talk about why.

Mr. ROGERS. Mr. Chairman, mentioning courthouses was a mistake. It does not fund courthouses. It mentioned the personnel that use courthouses. That is what I intended to try to say. Another section of the appropriations bill deals with money for public defenders and the Legal Services Corporation. It is not in the bill. We can deal with that on another day, and we can debate that all day long.

The problem here is, we do not have enough money, as it is, to fund the existing Federal law enforcement agencies that I think we all want to fund, the FBI and the Drug Enforcement Administration, the war on drugs and all of that.

I want to try, if we run short there, to have access to the Crime Trust Fund in case it is not all used up under its State prison construction uses. And that is the reason I would like to have this amendment as it is.

I asked for more, frankly. We have to wait 2 years under this amendment for this unallocated money to show it. I would like to have had it this year, because we are going to run short this year, for the Federal law enforcement agencies. And this is the only reason that I wanted to have that kind of an access to this unallocated money.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to my friend, the chairman of the Subcommittee on Crime, I would like to point out that we would be willing to agree with this reluctantly if we would add, instead of Health and Human Services, the National Institute of Justice for law enforcement technology programs.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I personally am interested in seeing the National Institute of Justice protected. I have no problem with that. I would like to have the gentleman ask on his time, while he is asking the gentleman from Kentucky, whether or not that is within the purview that he would agree to. He is our appropriator. I am trying to help honor his request, too.

Mr. CONYERS. Mr. Chairman, I yield to the gentleman from Kentucky, [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I have a problem with that on this bill.

Mr. CONYERS. Mr. Chairman, the gentleman says he has a problem with that.

Mr. ROGERS. Mr. Chairman, if the gentleman will continue to yield, yes, I do. We can talk about that on another bill, if the gentleman would care to. But not on this bill. It is just not possible on this bill.

Mr. CONYERS. Mr. Chairman, reclaiming my time, first of all, we have a measure here before us that gives money for things other than building prisons. I agreed to it. I asked that we include crime prevention programs.

I am told that that is not germane. I asked for adding the National Institute of Justice for law enforcement technology, which the members of our committee are very familiar with.

□ 1750

Now I am told that "We are sorry, that will not work." I think I get the idea, Mr. Chairman. This amendment is very unacceptable to me for the reason that I cannot get one small program into it, so it is clear what I will be urging Members on my side to do.

The CHAIRMAN. The Chair will advise Members that the gentleman from Michigan, [Mr. CONYERS], has 30 seconds remaining, and the gentleman from Florida, [Mr. McCOLLUM], has 3 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I would ask the gentleman from Michigan, before he makes a declaratory statement with his last 30 seconds, if he would reserve it and let me have my time.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am curious, does the gentleman from Kentucky, [Mr. ROGERS], if he would answer this for me, have jurisdiction over the National Institute of Justice, his subcommittee?

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, I would tell the gentleman that it is in the Justice Department, so we do have jurisdiction, yes.

Mr. McCOLLUM. So the gentleman would have absolute discretion as a subcommittee, then, Mr. Chairman, over how this money is divided up, whether it goes to the National Institute of Justice or the U.S. attorneys or the Bureau of Prisons in his subcommittee, of course, subject to the approval of Congress, of the body voting on it, would he not?

Mr. ROGERS. We would, Mr. Chairman, and we do, I would tell the gentleman.

Mr. McCOLLUM. Although the gentleman would prefer not to add it in here, there would not be any real harm in that, because it would just be part of the pot? There is no division of the amount of money here. This would still be within the gentleman's subcommittee and within the discretion of the Committee on Appropriations, would it not?

Mr. ROGERS. If the gentleman will continue to yield, Mr. Chairman, frankly, I do not like specifying anything in the amendment. When we start specifying some items, then we say "Why not do so-and-so and so-and-so." There are 10,000 things we could specify in the amendment.

I think it would be best for the body, including the gentleman's interests, if we leave that unspoken so we can deal with it in the appropriations process. The gentleman will have a chance at that time, if he is unhappy with it.

Mr. McCOLLUM. If I could reclaim my time, Mr. Chairman, I think it would probably be in everyone's interest not to keep having a worry over this, if we could amicably offer it. There is not going to be any skin off anyone's teeth with this, because there is nothing that is going to be allocated.

Mr. Chairman, if I acquiesce to the gentleman's request to include the National Institute of Justice, I think that is probably in the best interest of everybody here today. It is not going to make much difference from the gentleman's standpoint. He does not like any of it.

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, I will defer to the chairman on this bill. This is his bill. This is his amending process. I am going to take his judgment on it. I would prefer it not be there, but if the gentleman is happy with it, I will manage to try to be happy.

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, if the gentleman from Michigan still wishes to agree with this, I ask unanimous consent, if he is agreeable to the proposal, to amend my amendment to add "The National Institute of Justice" for the activities and operations related, as the gentleman requested.

The CHAIRMAN. The Chair will state that it would prefer to have the amendment reduced to writing, in order to have it at the desk. We will suspend for 1 minute while it is being put in writing.

Does the gentleman from Michigan [Mr. CONYERS] offer the amendment that is at the desk?

AMENDMENT OFFERED BY MR. CONYERS TO THE AMENDMENT OFFERED BY MR. McCOLLUM

Mr. CONYERS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS to the amendment offered by Mr. McCOLLUM: Strike out the period at the end of the amendment offered by Mr. McCOLLUM, and insert ", including the National Institute for Justice for law enforcement technology programs."

The CHAIRMAN. The Chair would state that the amendment is not separately debatable, and comes under the time limit.

The gentleman from Florida [Mr. McCOLLUM] has 1 minute remaining, and the gentleman from Michigan [Mr. CONYERS], has 30 seconds remaining.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I think what we ought to do is accept this amendment to my amendment, and pass the whole thing. I think it is an amicable thing. I think the gentleman from Michigan [Mr. CONYERS] wishes to do that.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, may I just ask the gentleman from Michigan [Mr. CONYERS] the name of the agency again? I heard it wrong, I thought.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, the name that the gentleman will come to love is the National Institute of Justice for law enforcement technology programs.

Mr. ROGERS. Mr. Chairman, if the gentleman will continue to yield, could the gentleman from Michigan explain what that agency does?

The CHAIRMAN. The time of the gentleman has expired.

Mr. WATT of North Carolina. Mr. Chairman, I ask unanimous consent that each side be granted 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Each side will be granted 2 additional minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I believe this has been written incorrectly. If I am not mistaken, what the gentleman intends is the National Institute of Justice, and it is for law enforcement technology programs, but "law enforcement technology programs," should not be capitalized. I think the gentleman is really talking about those types of programs that the National Institute of Justice has, is that not correct?

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, the gentleman is correct, absolutely correct.

Mr. McCOLLUM. Would the gentleman from Michigan agree to amend his amendment to put the word "of" in between the "Institute" and "Justice", instead of as it is?

Mr. CONYERS. Mr. Chairman, that is exactly what we intended.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Michigan [Mr. CONYERS] to the amendment offered by the gentleman from Florida [Mr. McCOLLUM] shall be modified as suggested.

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment, as modified offered by Mr. CONYERS to the amendment offered by Mr. McCOLLUM: Strike out the period at the end of the amendment and insert ", including the National Institute of Justice for law enforcement technology programs."

Mr. McCOLLUM. Mr. Chairman, I have no further desire to debate this. I think we have it correct technically now.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman fro yielding time to me.

Mr. Chairman, I am not going to ask for a vote on this, but I will say I am deeply troubled by this. Of all of the complaints that I get in my district, the one that I hear more than any other is that at the end of every fiscal year Federal agencies go rushing to the pot to spend every conceivable amount of money that they can spend on any thing, and never turn anything back to be applied, and our deficit keeps getting bigger and bigger and bigger.

Mr. Chairman, it just seems to me that we are falling prey to that very thing in this amendment. I appreciate the gentleman yielding to me.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Michigan [Mr. CONYERS] to the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The amendment, as modified, to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from Florida [Mr. McCOLLUM].

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Chairman, I offer an amendment, amendment No. 8.

The Clerk read as follows:

> Amendment offered by Mr. SCOTT: Page 8, after line 3 insert the following:
>
> "(d) EVALUATION.—From the amounts authorized to be appropriated under subsection (a) for each fiscal year, the Attorney General shall reserve 1/10 of 1% for use by the National Institute of Justice to evaluate the effectiveness of programs established under this title and the benefits of such programs in relation to the cost of such programs.".

The CHAIRMAN. The gentleman from Virginia [Mr. SCOTT] will be recognized for 10 minutes.

Does the gentleman from Florida [Mr. McCOLLUM], the chairman of the committee, seek recognition in opposition to the amendment?

Mr. McCOLLUM. I am in opposition, Mr. Chairman.

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM], will be recognized for 10 minutes.

The Chair recognizes the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, this amendment simply requires that we use a minuscule portion of the funding for programs under this chapter to determine whether or not the billions of dollars authorized under this bill, plus the hundreds of billions of dollars the prison grants program will encourage the States to spend, whether or not those expenditures actually reduce crime.

Mr. Chairman, I will submit a similar provision to evaluate programs funded under the Police and Prevention Block Grant when we take up H.R. 728. The amendment will set aside one-tenth of 1 percent for research and evaluation of the effectiveness of expenditures under the bill for crime reduction.

Mr. Chairman, this amendment assures that we will try to add not only truth-in-sentencing, but also truth in legislating, as we approach the attack on crime. We need to know whether or not the expenditures are actually having an effect.

Mr. Chairman, we have seen programs evaluated, like drug courts, that cost about one-twentieth of other initiatives and have an 80 percent reduction in crime.

We have seen studies of Head Start, Job Corps and other primary prevention programs that save more money than they cost and reduce crime.

We have even seen recreational programs studied, and significant reduction of crimes are found.

□ 1800

Mr. Chairman, according to the National Academy of Sciences, in various studies of potential years of life lost, violence prevention gets a small portion of the research. We spend $441 for heart, lung, and blood research for each potential year of life lost, $697 for AIDS research, $794 for each potential year of life lost for cancer, but only $31 for each potential year of life lost in research for violence.

Mr. Chairman, we should invest one-tenth of 1 percent of the funds under this bill to see whether we have wasted our money or whether the money could have been allocated better. Five years from now after we have spent $30 billion, we would then be considering spending another $30 billion or more, it would be nice to know what parts of the $30 billion actually had the effect of reducing crime and what part of the $30 billion had no effect at all.

This minuscule investment can give us the answers, and therefore I hope the House will adopt the amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] is recognized for 10 minutes in opposition to the amendment.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

If I might, Mr. Chairman, I wish to oppose this amendment, and I would like to argue in that behalf very briefly simply to state that what I am concerned about at this point in time is the fact that we already know that 30 percent of those who are convicted of all violent crimes in this country are on probation or parole at the time they are convicted. There is no question that prison time is a great solver in deterring crime. If somebody is in prison they cannot commit crimes, for gosh sakes. We do not need to spend one dime of research to determine that. I cannot imagine the value of it, and I cannot, as much as I respect the gentleman from Virginia, and know he is in good conscience offering this, I cannot for the life of me see why we should do it.

With all due respect, I am going to oppose the amendment. It just does not make any sense to me and I do not think there is much more I need to debate about it. I just do not have any reason to support it and I cannot.

So, Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The SPEAKER pro tempore [Mr. CUNNINGHAM] assumed the Chair.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

VIOLENT CRIMINAL INCARCERATION ACT OF 1995

The Committee resumed its sitting.

The CHAIRMAN. Does the gentleman from Virginia seek recognition?

Mr. SCOTT. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from Virginia has 7 minutes remaining.

Mr. SCOTT. Mr. Chairman, I yield 1 minute to the ranking member of the committee, the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, if we are not willing to spend one-tenth of 1 percent to find out where $10 billion is going in terms of programs, construction, and effectiveness, I do not know how anybody could support this program without having this one safety corrective.

We just passed slightly earlier an amendment that would allow for evaluating and mandating the efficiency of the construction of prisons, and prison construction. Now we are saying to look at the efficacy of this entire program, the construction and the prisons and the programs contained within this bill is unnecessary because we already know, it is the height of arrogance on our part. If we already knew this we would have built prisons a long time ago. As a matter of fact, the debate is very much in doubt as to how much effectiveness building prisons really is.

So I urge the support of the Scott amendment as being very vital to this bill.

Mr. McCOLLUM. Mr. Chairman, I do not seek recognition. I have no other speakers that I know of except me as a closing speaker.

Mr. SCOTT. Mr. Chairman, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I support the Scott amendment. I support the Scott amendment basically because it questions the blind drive without further study toward incarceration over prevention. Why should we not spend a small amount of money to determine the effectiveness of incarceration?

The bill assumes a government block grant, H.R. 728, will pass next week, and so therefore if it passes it will have an opportunity to eliminate many of the programs that will help policing and community prevention.

I support community policing and prevention programs and therefore I certainly intend to vote against that bill. But at least we should—fiscal responsibility would say we should set aside a small amount to determine if we are spending all of this money in the right way and to what extent it is being effective.

Therefore, State and local governments that have been very supportive with community policing and having resources to prevent crime will find they will be far more vulnerable if the block grants pass and assuming they will be most vulnerable, the likely community policing and technology that should be there will not be available. This simply gives an opportunity to study the effectiveness of incarceration.

I urge my colleagues to support this amendment.

Mr. Chairman, I support the Scott amendment. The amendment requires that 0.1 percent of all prison funding be used for studying the effectiveness of prisons as a crime control device. In other words Mr. Speaker, the Scott amendment questions the blind drive toward incarceration over prevention as an approach to law enforcement in America.

This bill assumed that the Local Government Block Grants Act, H.R. 728, will pass next week. That act will eliminate community policing and the crime prevention programs that we passed last year. I support community policing and prevention programs, and I therefore intend to vote against this bill.

When we passed the crime bill last year, we were comforted by the prospect of putting another 100,000 police on the streets. Those police were expected to help stem the rising tide of crime and to make our streets safe again. State and local governments have responded enthusiastically to community policing.

More than 8,000 applications have been made for grants to put more police on the streets. Last year's crime bill made sure that the resources would be used for more police and police related activities, such as new technology and overtime pay. The language of H.R. 728, which allows for block grants, would broaden the use of the funds. That broader use will effectively dilute resources for community policing and would allow funds to be used for such things as street lights and disaster preparation. Those are important uses, but those uses are not as important as more police.

There is absolutely no requirement in this bill or in H.R. 728 that the funds authorized must be used for police. Last year's bill gave sufficient flexibility to the State and local governments while ensuring that the police would be hired to patrol our streets. This bill and H.R. 728 provide no such guarantees. In addition, any block grant funds that might be used for police under this year's bills, may well be threatened by the budget axe under the mandate of a balanced budget constitutional amendment. Block grant funds are far more vulnerable to such a result.

We may not have any new police on the streets, if these bills pass. More importantly, under block grant funding, the critical prevention programs we passed last year are at risk.

Over the next 5 years, under last year's bill, my State of North Carolina would receive millions of dollars in funds to help prevent violence against women. Twenty-seven million dollars would have gone for police, prosecutors, and victims services. And $9 million would have gone to grants for shelters for battered women and their children. There is doubt that those funds will be available under these bills.

Under last year's bill, North Carolina would have received $6 million to treat some 5,400 drug-addicted prisoners, housed in our prisons. We would have received $21 million, over the next 5 years, for afterschool and in-school safe havens for our children. All of those funds will be in doubt, with passage of these bills. We would have received $39 million in direct grants for a variety of local programs for education and jobs programs. And, we would have been eligible for millions more in discretionary grants, money for boys and girls clubs, and antigang grants. Those funds are now in doubt.

Mr. Chairman, it is by now well established that it is far more costly to incarcerate an individual than it is to train or educate him. Prisons are warehouses and training grounds for further criminal activity. If we are serious about crime prevention, we should put more police on the streets and provide resources for programs that discourage crime. The Scott amendment keeps us moving in that direction.

I urge support for the Scott amendment.

Mr. SCOTT. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman from Virginia for yielding me this time. I rise in support of this amendment.

One of the concerns I had about last year's crime bill and about every crime bill that we have considered since we have been here is that we seem to be in a posture where we are just throwing money out there at crime without any real assessment of whether that money is really having any impact on the crime rate. I do not support throwing money at anything without having some reasonable evaluation of whether it is working, whether it is crime or any other thing. This is the people's money that we are using and it is our responsibility as responsible legislators to use it in a responsible way. And whether it is a prevention program, the building of prisons, the increasing of sentencing, whatever we are doing in the crime context, however frustrated we are in trying to address crime, we still have a responsibility to know that what we are doing is working to actually have some impact.

I do not know how anyone could object to trying to go through some process, setting aside some small amount of funds to make a determination of whether a program or a set of programs or a series of programs is actually having an impact on the crime rate.

For the life of me, I cannot understand why anybody could be in opposition to this amendment, and I encourage my colleagues to support it.

Mr. SCOTT. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER], the Show-Me State.

Mr. VOLKMER. Mr. Chairman, I rise in strong support of the gentleman's amendment, because it is very obvious to me when you read this bill we are not going to build any prisons. And that has happened as a result of the Rogers amendment, we are going to be diverting money that should go to the cops on the beat, on the streets in our local communities and we are going to give it to FBI and DEA and BATF and all of these other agencies, so that they could have money when we cut back on spending in a couple of years.

I never saw such a diversion as I just saw from my office in the Rogers amendment. Anyhow, they admit they are not going to spend the money on prisons. Otherwise, they would not use that amendment.

So I would rather use it for cops on the beat any day, and I think that is right there locally where they need to fight crime, and I support the gentleman's amendment.

□ 1810

Mr. SCOTT. Mr. Chairman, just in closing, we have heard a lot of rhetoric on the floor about how safe we are going to be if we build these prisons. Let us see it. Let us study one-tenth of 1 percent of the billions of dollars we are going to spend on the bill, hundreds of billions of dollars that we are going to encourage States to spend. Let us see if it made any difference.

I can understand how people would not want to study it so that they can hide behind the rhetoric.

If these expenditures, if these tens of billions of dollars we are going to spend are doing any good, let us see it. Let us spend one-tenth of 1 percent to evaluate the effectiveness of these programs.

Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume. I assure you, I will not consume much.

I just want to reiterate the opposition that we on our side have to this amendment. It is not that the gentleman wants to do anything all that egregious. It is the expenditure of money on proving something that I think is self-evident, already known to us, and that is, by golly, with the high rate of recidivism we have got out there, if you keep people in prison longer, you are going to have a better crime statistic. You are going to have fewer crimes committed. We are having this revolving door and the repeat of violent offenders going through this process, and that is the reason why we are here having the money and trying to build the prisons we have to build to keep them off the streets and lock them up.

There may be some merit to the fact that there are some root causes of crime out there, some need-to-address poverty or causes that are perhaps in the communities around the country, but that is not something we can address tonight. That is not something that is our province to do in this crime legislation.

What we are about tonight is to try to produce a bill that provides enough resources to the States through grant programs so they can build sufficient prison beds to take off the streets and incarcerate for at least 85 percent of their sentences, in other words, abolish parole, for those committing serious violent felonies and getting out again and going around the horn and coming back and committing more of them again.

I just think it is self-evident we do not need to spend any of this bill to find out if it is true or it is not true if that would help the problem.

I, again, reiterate my opposition.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. SCOTT].

The amendment was rejected.

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina: Page 3, line 11, strike the word "assurances" and insert in lieu thereof the word "confirmation."

Page 3, line 17, strike the word "and".

Page 3, line 20, strike the period and add "; and".

Page 3, after line 20, insert the following:

"(4) decreased the rate of violent offenses committed in the State, taking into account the population of such State, at a level at least equivalent to the lesser of the percentage increase confirmed in sections (1), (2) or (3) above."

Page 4, line 7, strike the word "assurances" and insert in lieu thereof the word "confirmation".

Page 4, line 21, strike the comma and replace it with a semicolon.

Page 4, after line 21, insert the following:

"(C) procedures for the collection of reliable statistical data which confirms the rate of serious violent felonies after the adoption of such truth-in-sentencing laws."

Page 6, line 7, strike the "—" and insert instead "confirms that".

Page 6, line 8, strike the word "and".

Page 6, line 12, strike the period and insert instead "; and (3) the rate of violent felony offenses committed in such State has decreased since such State commenced indeterminant sentencing for such offenses."

The CHAIRMAN. The gentleman from North Carolina [Mr. WATT] will be recognized for 10 minutes.

Does the gentleman from Florida [Mr. MCCOLLUM] seek time in opposition?

Mr. McCOLLUM. Indeed I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

This amendment is very similar to the Scott amendment which was just considered. However, Mr. Chairman, under the amendment offered by the gentleman from Virginia [Mr. SCOTT], he would have allocated a small amount of funds under this bill in a fund at the national level to make an assessment of whether the bill was having any impact on violent crime in this country. This amendment gives that responsibility to the States or the localities which are applying for funds under this bill.

Basically what it says is if you have an 85-percent service requirement, your prisoners have to serve 85 percent of their time, give us what indication you have that that has had some impact on the incidence of violent crime in your State; do not ask us to just throw money out there after this problem. If the purpose of your building new prisons or increasing sentencing or providing for longer sentencing is in fact to reduce crime, tell us that that is what has happened in your State, taking into account the increase in population.

The second part of the bill requires that the States track the incidence of violent crime and keep statistical information so that that information can be available to the residents of that State and to the American people, that we are not wasting $10 billion, $12 billion, $15 billion of their money on something that is really not having any impact on violent crime.

So instead of accepting that responsibility, taking it out of the fund at our level, this imposes on the States, which will be applying for funds under this bill, to have an assessment process and present some indication that this money that we are giving them is having some impact on violent crime.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is totally unacceptable to this side, because, frankly, what it does is it makes it next to impossible, I would suggest impossible, for some States to ever get any money under this bill. It makes the standard and the conditions for getting it increased. If somebody on the other side of the aisle was complaining about never getting any money under the bill as it exists now, you sure as heck would not get it after it is amended by this amendment.

You have got to prove as a State your crime rate will actually drop as a result of getting money under here, and the crime rate will actually have to go down, and you will have to show the Attorney General it is going down as a result of getting money and building more prisons.

The truth of the matter is States like Florida and other growth States may very well have their crime rate go up no matter what they do simply because there is an influx of people, because we do not have barriers from people moving from one State to another, and while per capita or whatever, maybe the crime rate is going down, but if you kept it the same and did not have more criminals moving in, but it presents an impossible situation, a condition that a State has got to show its crime rate in fact is dropping.

It is something the gentleman offered in committee. I opposed it, and we defeated it there. I have to oppose it again here today.

I hope the gentleman does not seek a recorded vote on this if he loses, but if he does, I want to announce to everybody here we will rise at that time. I will move to rise, and we will not have any more recorded votes out here tonight.

If the gentleman's amendment does not have a recorded vote ordered on it, then at that point in time we might proceed to a couple of other amendments that are not likely to have recorded votes, but there will be no more recorded votes here tonight. So no one has to worry about it.

But, again, I want to reiterate my opposition to this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I rise in support of the Watt amendment, and I find it absurd that accountability or how you plan to address crime is asking any State too much.

It is, indeed, for the very reason we are appropriating these monies that this amendment makes abundantly good sense. It simply says that there should be an assessment by the applicants themselves so as to how they propose, indeed, that crime can go down.

□ 1820

Second, statistical data is always helpful in determining if in fact you have been effective. So, to suggest that a State could not be accountable when they make an application seems absurd. It flies in the face of reality and certainly flies in the face of logic of this Member.

I would assume that this is simply to suggest that States who have a commitment to address the issue of crime are willing to say how they propose to do it in their assessment. These are the methods and this is the strategy.

Further, they would be required to give statistical data showing that they indeed shall be successful in using that money. Accountability is what is at the back of this issue, simply saying we are not throwing money and we are also asking them to be responsible, and I think most States would be responsible.

Mr. MCCOLLUM. Mr. Chairman, I have no more speakers at this time, and I would reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself 30 seconds in order to say that I understand the resolution of this may have been worked out. I yield 1 minute to the ranking minority member of the committee, the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. I thank the gentleman for yielding this time, and I compliment the gentleman for his amendment because it has led to the possible resolution of the objective sought by the gentleman from North Carolina [Mr. WATT] and the gentleman from California.

If we do have an agreement on a subsequent amendment known as the Zimmer-Scott amendment, I would implore my colleague from North Carolina [Mr. WATT] to withdraw this amendment and we would move forward.

Mr. MCCOLLUM. Mr. Chairman, would the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. MCCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, we do have an agreement about both the Scott proposal and the Zimmer proposal. It just has been pointed out to me, since we have discussed this, I say to the gentleman from Michigan [Mr. CONYERS] that the Scott amendment should stand on its own as a separate amendment. We have no objection to it. We would suggest both be offered, both Zimmer and Scott, and we will accept both of them.

Mr. CONYERS. We will do this.

Mr. WATT of North Carolina. Mr. Chairman, I ask unanimous consent I be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. ZIMMER

Mr. ZIMMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ZIMMER: Add at the end the following new title:

TITLE—PRISON CONDITIONS

SEC. . PRISON CONDITIONS.

(a) IN GENERAL.—The Attorney General shall by rule establish standards regarding conditions in the Federal prison system that provide prisoners the least amount of amenities and personal comforts consistent with Constitutional requirements and good order and discipline in the Federal Prison system.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to establish or recognize any minimum rights or standards for prisoners.

SEC. . ANNUAL REPORT.

The director of the Bureau of Prisons shall submit to Congress on or before December 31 of each year, beginning on December 31, 1995 a report setting forth the amount spent at each Federal correctional facility under the jurisdiction of the Bureau of Prisons for each of the following items:

(1) The minimal Requirements necessary to maintain Custody and security of prisoners.

(2) Basic nutritional needs.

(3) Essential medical services.

(4) Amenities and programs beyond the scope of the items referred to in paragraphs (1) through (3), including but not limited to—

(A) recreational programs and facilities;

(B) vocational and education programs; and

(C) counseling services, together with the rationale for spending on each category and empirical data, if any, supporting such rationale.

The CHAIRMAN. Pursuant to the unanimous-consent request, the gentleman from New Jersey will be recognized for 10 minutes.

Does the gentleman from Michigan seek to claim the time on this amendment?

Mr. CONYERS. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, prison perks are bad public policy, and they are an abuse of taxpayer money.

My amendment is aimed at eliminating them from Federal prisons. In some prisons, inmate amenities are better than what law-abiding Americans on the outside get, and all this is at taxpayer expense.

At the Lompoc, CA, Federal penitentiary, they offer all-channel cable TV, movies 7 days a week, pool tables, handball, tennis, and miniature golf. The Duluth, MN, Federal prison is called Club Fed. It provides a movie theater, musical instruments, softball field, gamerooms.

The Manchester, KY, Federal prison, in which some former State legislators reside, has a jogging track, several basketball courts, and multiple TV rooms.

Mr. Chairman, prisons should be places of detention and punishment, not vacation spas. Prison perks undermine the concept of jail as deterrence, and they also waste taxpayer money.

My amendment would end the taxpayer abuse by requiring the Attorney General to set specific standards governing Federal prisoners that do not exceed what is necessary for prison order, discipline, and constitutional requirements.

The amendment also requires the Bureau of Prisons to submit an annual audit to Congress listing exactly how much is spent at each Federal prison for basics and how much is spent for extra perks and amenities.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. ZIMMER. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding to me.

Mr. Chairman, I want the gentleman from New Jersey [Mr. ZIMMER] to know that under the constraints of time, we accept his amendment on this side, and I would yield back the balance of our time.

Mr. ZIMMER. I thank all my colleagues who are waiting patiently to speak on behalf of this amendment, and I yield back the balance of my time.

Mrs. LINCOLN. Mr. Chairman, I rise today in support of the No Frills Prison Act as an amendment to the Violent Criminal Incarceration Act of 1995. This legislation would deny Federal funds to States who give inmates special privileges.

I believe that we've lost our perspective in this Nation when prisoners eat better than our children, and inmates enjoy air conditioning while senior citizens in nursing homes swelter. Removing such luxuries as Stairmaster's premium cable TV, and weight rooms is essential to ensuring that our prisons are not country clubs, but are instead true place, of punishment for crime.

I commend Mr. ZIMMER for his good work in creating a bill that is truly tough on crime, and I encourage my colleagues to support this worthwhile amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New Jersey [Mr. ZIMMER].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Chairman, I offer amendment No. 11.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. SCOTT: Page 7, line 24, insert "(1)" before "The".

Page 8, after line 3, insert the following:

"(2)(A) A State that receives funds under this title shall, in such form and manner as the Attorney General determines, and under such regulations as the Attorney General shall prescribe, require that the appropriate public authorities report promptly to the Attorney General the death of each individual who dies in custody while in a municipal or county jail, State prison, or other similar place of confinement. Each such report shall include the cause of death and all other facts relevant to the death reported, which the person so reporting shall have the duty to make a good faith effort to ascertain.

"(B) The Attorney General shall annually publish a report containing—

"(i) the number of deaths in each institution for which a report was filed during the relevant reporting period;

"(ii) the cause of death and time of death for each death so reported; and

"(iii) such other information about the death as the Attorney General deems relevant."

Mr. SCOTT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN. Pursuant to the unanimous-consent request, the gentleman from Virginia [Mr. SCOTT] will be recognized for 10 minutes.

Does the gentleman from Florida [Mr. MCCOLLUM] seek recognition?

Mr. MCCOLLUM. Mr. Chairman, I am not in opposition to the amendment, but I do seek recognition.

The CHAIRMAN. Is there any Member in opposition?

If not, the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very simple amendment.

Mr. Chairman, there have been recent press reports about deaths in local jails and prisons. This merely requires the States and localities, when there is a death in the jail, to report it to the Attorney General so there would at least be somewhere in the U.S. Government a record of the information that is available.

Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have no opposition to this amendment. The gentleman from Virginia is simply asking for States who receive funds under this proposal to report the deaths of those who die in their State prisons to the Federal Government, to the Attorney General, along with any causes.

I think such reporting would, probably be beneficial to our committee and to the Congress, to know the answers to these things so that we can have statistics available. There are a lot of other statistics that are gathered, and they could probably submit this with no undue amount of burden, since they keep those records, along with the other reports they submit.

We would be prepared to accept this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SCOTT. Mr. Chairman, I yield such time as he may consume to the ranking member of the committee, the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. I commend the gentleman from Virginia for his amendment and support it with strong support.

Mr. SCOTT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from Virginia [Mr. SCOTT].

The amendment was agreed to.

Mr. MCCOLLUM. I move that the Committee do now rise.

The motion was agreed to .

Accordingly the Committee rose; and the Speaker pro tempore (Mr. CUNNINGHAM) having assumed the chair, Mr. KOLBE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 667) to control crime by incarcerating violent criminals, had come to no resolution thereon.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that the name of Mr. GORDON be removed as a cosponsor of H.R. 3, a piece of legislation which I sponsored.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REMOVAL OF NAMES OF MEMBERS AS COSPONSORS OF HOUSE JOINT RESOLUTION 3

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that the names of Mr. HANCOCK, Mr. COBURN, and Mr. RIGGS be removed as cosponsors of House Joint Resolution 3, a piece of legislation that I also sponsored.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE HUMANITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Economic and Educational Opportunities:

To the Congress of the United States:

I am pleased to present to you the Twenty-ninth Annual Report of the National Endowment for the Humanities [NEH], the Federal agency charged with fostering scholarship and imparting knowledge in the humanities. Its work supports an impressive range of humanities projects.

These projects can reach an audience as general as the 28 million who watched the documentary Baseball, or as specialized as the 50 scholars who this past fall examined current research on Dante. Small local historical societies have received NEH support, as have some of the Nation's largest cultural institutions. Students from kindergarten through graduate school, professors and teachers, and the general public in all parts of the Nation have been touched by the Endowment's activities.

As we approach the 21st century, the world is growing smaller and its problems seemingly bigger. Societies are becoming more complex and fractious. The knowledge and wisdom, the insight and perspective, imparted by history, philosophy, literature, and other humanities disciplines enable us to meet the challenges of contemporary life.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 9, 1995.*

OMNIBUS COUNTERTERRORISM ACT OF 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–31)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, referred to the Committee on the Judiciary and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Omnibus Counterterrorism Act of 1995." Also transmitted is a section-by-section analysis. This legislative proposal is part of my Administration's comprehensive effort to strengthen the ability of the United States to deter terrorist acts and punish those who aid or abet any international terrorist activity in the United States. It corrects deficiencies and gaps in current law.

Some of the most significant provisions of the bill will:

—Provide clear Federal criminal jurisdiction for any international terrorist attack that might occur in the United States;

—Provide Federal criminal jurisdiction over terrorists who use the United States as the place from which to plan terrorist attacks overseas;

—Provide a workable mechanism, utilizing U.S. District Court Judges appointed by the Chief Justice, to deport expeditiously alien terrorists without risking the disclosure of national security information or techniques;

—Provide a new mechanism for preventing fund-raising in the United

States that supports international terrorist activities overseas; and

—Implement an international treaty requiring the insertion of a chemical agent into plastic explosives when manufactured to make them detectable.

The fund-raising provision includes a licensing mechanism under which funds can only be transferred based on a strict showing that the money will be used exclusively for religious, charitable, literary, or educational purposes and will not be diverted for terrorist activity. The bill also includes numerous relatively technical, but highly important, provisions that will facilitate investigations and prosecutions of terrorist crimes.

It is the Administration's intent that section 101 of the bill confer Federal jurisdiction only over international terrorism offenses. The Administration will work with Members of Congress to ensure that the language in the bill is consistent with that intent.

I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 9, 1995*.

□ 1830

REQUEST FOR PERMISSION FOR CERTAIN COMMITTEES AND SUBCOMMITTEES TO SIT ON TOMORROW DURING THE 5-MINUTE RULE

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: Committee on Agriculture, Committee on Banking and Financial Services, Committee on Commerce, Committee on Government Reform and Oversight, Committee on the Judiciary, Committee on Science, Committee on Small Business, and Committee on Transportation and Infrastructure.

It is my understanding that the minority has been consulted and that there are no objections to these requests.

The SPEAKER pro tempore (Mr. CUNNINGHAM). Is there objection to the request of the gentleman from Arizona?

Mr. WATT of North Carolina. Mr. Speaker, reserving the right to object, I am advised by the leadership on our side that we have agreed to this, notwithstanding the fact that it is contrary to the proxy voting rule that is in effect and will deprive some people of the right to be on the floor and in committee at the same time.

Notwithstanding that, we will not object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. CONYERS. Reserving the right to object, Mr. Speaker, could we get a recapitulation of that? I am sorry to say that we were in a discussion over here, and I did not hear the thrust of the gentleman's request.

Mr. KOLBE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Speaker, is the gentleman seeking to understand which committees are included in the request? Is that correct?

Mr. CONYERS. Mr. Speaker, does the gentleman have a copy of the document?

Mr. KOLBE. Yes, we can provide that to the gentleman, or I can read it to the gentleman again if he prefers.

Mr. CONYERS. Is the gentleman seeking permission for the committees to sit while we are in session on the floor?

Mr. KOLBE. Tomorrow under the 5-minute rule.

Mr. CONYERS. Further reserving the right to object, is the gentleman talking about Friday?

The SPEAKER pro tempore. The Chair will inquire, is the gentleman from Michigan reserving the right to object?

Mr. CONYERS. Yes, Mr. Speaker, I am continuing to reserve the right to object.

Could I ask the gentleman if he is talking about eight committees?

Mr. KOLBE. That is correct.

Mr. CONYERS. To sit during the consideration of the crime bill?

Mr. KOLBE. Tomorrow, Friday, that is correct.

Mr. CONYERS. Could I ask the gentleman where he got the impression that the minority had agreed to this previously?

Mr. KOLBE. I have been advised that staff did consult with the staff of the gentleman from Missouri [Mr. GEPHARDT] on this.

Mr. CONYERS. Reserving my right to object, Mr. Speaker, I would like to point out to the gentleman that as to the Committee on the Judiciary and the Committee on Resources Subcommittee; we would ask that they both be removed form the list.

Mr. KOLBE. I am sorry; the Committee on the Judiciary, and which other committee?

Mr. CONYERS. Committee on Resources is out already?

Mr. KOLBE. The Committee on Natural Resources is not on the list that I read.

Mr. CONYERS. Then I ask that we add the subcommittee of the Committee on the Judiciary, all Judiciary subcommittees, because we are all due here on the floor tomorrow.

So, with that exception I would be willing to withdraw my reservation of objection.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his comment.

Mr. CONYERS. Mr. Speaker, I withdraw my reservation of objection.

Mr. KOLBE. Mr. Speaker, I will revise my unanimous consent request.

Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: Committee on Agriculture, Committee on Banking and Financial Services, Committee on Commerce, Committee on Government Reform and Oversight, Committee on Science, Committee on Small Business, and Committee on Transportation and Infrastructure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REREFERRAL OF TITLES V, VI AND SECTION 4003 OF H.R. 9, JOB CREATION AND WAGE ENHANCEMENT ACT TO COMMITTEE ON SMALL BUSINESS

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that titles V, VI and section 4003 of H.R. 9, the Job Creation and Wage Enhancement Act, be rereferred to the Committee on Small Business as an additional committee of jurisdiction.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 668, CRIMINAL ALIEN DEPORTATION IMPROVEMENTS ACT OF 1995

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–26) on the resolution (H. Res. 69) providing for the consideration of the bill (H.R. 668) to control crime by further streamlining deportation of criminal aliens, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT ON AMENDMENT PROCESS FOR NATIONAL SECURITY REVITALIZATION ACT

(Mr. MCINNIS asked and was given permission to address the House for 1 minute.)

Mr. MCINNIS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute for the purpose of making an announcement.

Mr. Speaker, I wish to announce to Members that the Rules Committee will meet next Monday, February 13, at 2 p.m. to consider a rule for H.R. 7, the National Security Revitalization Act.

The Rules Committee anticipates reporting an open or modified open rule with a possible time limit on the amendment process.

The rule will likely accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD, though this would be optional and not mandatory.

The Rules Committee intends to make in order as base text for amendment purposes the text of H.R. 872 which was introduced today. The new bill reflects a consensus product of the various committees of jurisdiction.

Members should draft their amendments to this new base text and are urged to use the Office of Legislative Counsel to ensure that their amendments are properly drafted to the new base text.

If Members wish to avail themselves of this pre-printing option, amendments should be titled, "Submitted for printing under clause 6 of rule XXIII," signed by the Member, and submitted at the Speaker's table.

Amendments must still be consistent with House Rules since neither the rule nor printing in the RECORD will afford any special protection against points of order for such amendments.

It will not be necessary for Members to submit their amendments to the Committee on Rules or to testify on them.

Mr. DURBIN. Mr. speaker, will the gentleman yield?

Mr. MCINNIS. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. speaker, I may have misunderstood. Would the gentleman please state the date and day of that committee meeting?

Mr. MCINNIS. We have just been advised that the time has just now been changed, so the date is February 10 at 3 p.m.

Mr. DURBIN. That is tomorrow, Friday, February 10?

Monday is February 13.

Mr. MCINNIS. All right; I have got a typographical error. It is Monday, February 13, at 3 p.m.

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SPECIAL ORDERS

The SPEAKER pro tempore (Mr. CUNNINGHAM). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

LAW ENFORCEMENT BLOCK GRANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, the streets of my district are safer today because of the 1994 crime bill. Streets are becoming safer across this country because we are putting more police officers on the beat.

Sadly, in the name of politics, the Republican majority wants to undo our progress. The 1994 crime bill struck the right balance between prisons, police, and prevention. This bill was tough on criminals, as it should be. It also recognized that the best way to deal with crime was to prevent it from happening in the first place. And this means more community policing, more cops on the beat. The 1994 crime bill does it right, with the Public Safety Partnership and Community Policing Act, better known as COPS.

Next week we will consider a bill that would destroy this effective program and replace it with an approach that does not guarantee a single new cop on the beat. This new bill is absolutely unnecessary. Why would we ever want to destroy a program that is working? I can only conclude that it is because of politics, and that is sad, because politics should not be allowed to threaten programs that save lives and improve safety.

Mr. Speaker, when I voted for the 1994 crime bill, I made a promise to the people of the Third District of Connecticut. I promised them that I would help put 1,500 more cops on the streets of our cities, and 100,000 on the streets of this Nation by the year 2000.

The President is doing his part to keep the promise he made when he signed the 1994 crime bill into law. His budget for 1996 includes $1.9 billion to hire 20,000 more police officers and to support community policing programs across this country. When combined with last year's appropriations, there will be 40,000 more police officers hired and trained this year. In my district alone, funding has already been awarded to hire 32 police officers in 10 municipalities.

Like the President, I believe we have an obligation to our communities to continue the Community Policing Program. I know how this program works, because I have seen it firsthand. I have seen the difference that it has made in my district, in cities like New Haven and Stratford, CT.

In 1990, my hometown of New Haven had the unfortunate distinction of having the highest crime rate of any city in Connecticut. Then police and community leaders came together and implemented a Community Policing Program. Three years later, New Haven has a much prouder distinction. Crime was reduced by 7 percent in the first year of the program, and by 10 percent in the second year. In fact, New Haven's Community Policing Program has become a model for this Nation.

But under the Republican bill, other municipalities may never have a chance to replicate this model. The Republican bill destroys the COPS Program. The Republican block bill grant does not guarantee that States and municipalities will ever spend one penny on this kind of crime prevention, and the track record of existing block grant programs is not encouraging. According to the National Association of Child Advocates, the states spend only 7 percent of the money that they receive through the Byrne Law Enforcement Block Grant Program on prevention activities, including community policing expenditures.

I support giving flexibility to local officials and using the resources that we provide. The last year's crime bill did provide flexibility. It struck the right balance between flexibility, accountability, and security. I urge my colleagues to support our police and our communities by keeping our commitment to the COPS Program. Let us put COPS on the beat.

I have walked in my neighborhoods with the police. I have driven around with them. I have seen how its program is working. I want to the businesses with the cop on the beat and have felt their sense of security with the police officers being there.

This is a program that keeps our cities safe, our streets safe, and our businesses more in tune with what they want to do, which is keep their business without being concerned about what crime is going to do.

Let us maintain the Cops on the Beat Program. It is in fact making our streets safer.

U.S. MEXICAN AID SENSIBLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. KOLBE] is recognized for 5 minutes.

Mr. KOLBE. Mr. Speaker, I wanted to take this time today to address the House on a recent crisis that occurred in Mexico. I have not had an opportunity to do it before now, and there has been an awful lot of information and misinformation that has been stated in news media, the floor of this House, by a lot of speakers all over the country, and for that matter, the world.

Let me begin with this observation: What we saw in Mexico I think was a great liquidity crisis, and it was the first one to result from mutual fund redemptions, as opposed to the operation of central banks.

Mutual funds determine their values minute by minute with each and every transaction, so they are vulnerable to very small market ticks which can result in very large scale losses and redemptions.

Banks, on the other hand, report their earnings quarterly. They have wide latitude to hold on to nonperforming loans in their portfolios. This is an important distinction and one which will affect us in the future, because today mutual funds have 90 percent, as much on deposit, as banks do, while only 12 or 14 years ago it was 10 percent of what banks had on deposit.

The bottom line is this: Mutual and pension funds drive the financial markets today. Because of this distinction, the crisis was fundamentally different from the ones we have witnessed before in developing countries, including Mexico.

What would have happened if we had taken no action to meet this stated $40 billion loan commitment that the President and the leadership in this House and Senate gave a few weeks ago? We do not know for sure what might have happened, but there are some facts we do know.

First of all, Mexican reserves were at a perilously low level, and they simply would not have been sufficient to cover the redemption of the treasury bonds called tesobonos. Since loss of confidence had eroded any chance to roll these notes over at virtually any price, the government was resorting to printing pesos to redeem the bonds as they came due. The holders of those bonds were converting them very quickly to dollars, so that resulted in further loss as the peso deteriorated. Unless checked, this combination of events was certain to lead to high inflation and very, very deep recession.

As if these problems were not enough, Mexican private banks were seriously at risk as well. With interest rates soaring to offer 50 percent levels, debtors were simply unable to repay in the short-term. Nonperforming bank loans would have skyrocketed within the Mexican financial system. Widespread bank failures would have been almost inevitable.

The social and political consequences for the United States resulting from such a collapse in the Mexican economy are not too difficult to imagine. Certainly we would have seen the loss of U.S. jobs stemming from the inability of our second largest market to buy our exports, and we would have seen a significant increase in illegal immigration.

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Indeed, some of that is likely to happen because of the contraction that we have seen in the Mexican economy. That has already occurred. But the results of a total collapse could have been catastrophic and impossible to reverse in the short term. It is clear to me that it is in our national interest, our national security and our national economic interest to have a prosperous and stable neighbor on our 2,000-mile common border.

By the end of this year Mexico will have a population of at least 90 million people with a growth of 2 percent a year. With 50 percent of the population under the age of 20 and 25 percent over the age of 56, the Mexican job market over the short and medium term must continue to expand to provide jobs to a very competitive Mexican youth who are coming of age. In addition, 700,000 jobs here in the United States are directly tied to the exports we have to Mexico.

If only Mexico had been at risk in this, it is possible we could have ridden out the crisis, although even then with some considerable difficulty. However, when it became apparent that this crisis was spreading like a huge ink blot across world financial markets and in particular among the emerging markets, it became clear that the economic and national security costs of U.S. inaction were going to be much higher than the risks associated with action.

The collapse in Mexico would have adversely affected our ability to continue steering developing countries on a path to free markets and democratization. Mexico has been viewed as a litmus test for the success or failure in our model of development. It is the largest of the emerging markets, the only one to have joined the 15-member OECD. That this should happen to an OECD country would have been unthinkable just a few months ago.

Second, Mexico has been held up as a model for other developing countries with its privatization, democratization, deregulation, and free-trade orientation. The United States, the OECD, and the IMF have been very public in urging other countries to follow this model. So Mexico's problems become the problems for everyone else.

Finally, let me just speak about the legality of the action. There is no doubt in my mind that the President's actions were within his authority under the law governing the use of the economic stabilization fund.

Mr. Speaker, the President acted when he had to act. The leadership of this body was correct in supporting that action.

It is important, not only the legal correctness of the President's action, but its policy sensibility.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 76

Mr. BARRETT of Wisconsin. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Nebraska [Mr. BEREUTER] be withdrawn as a cosponsor of H.R. 76.

The SPEAKER pro tempore (Mr. CUNNINGHAM). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SHOULD CONGRESS INTERVENE IN BASEBALL STRIKE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. McINNIS] is recognized for 5 minutes.

Mr. McINNIS. Mr. Speaker, tonight I would like to visit with you a little about the baseball strike and the very issue that is addressed or has been brought to us in the last week, should the U.S. Congress deal with the baseball strike? I think in order for us to assess an answer to that question, we need to look at what the historical standards have been in the U.S. Congress or in the White House before we intervene in a labor dispute between two private parties.

First of all, how about Presidential involvement? You should know that in the past, it is very rare for a President to intervene in a labor dispute. It has occurred, but the standard that seems to have been set in the past is that it was necessary for a precedent to occur, and the President was brought in when the strike or the labor dispute would have had a crippling impact on the entire Nation.

I will give you some examples. For example, in 1945, at a time of war, President Truman intervened and ordered the coal miners back to work. In 1946, he did so with the railroads. In 1952, again during a time of major conflict, he ordered the steel workers back to work. President Nixon in 1972 ordered the dock workers back to work, obviously a crippling impact because we were not able to bring imports into the country. President Carter, 1978, with coal, and in 1979 with rail. President Reagan in 1981 intervened with the air traffic controllers. But even that intervention was somewhat unique because it dealt with Federal employees. And President Clinton last August intervened in a labor dispute that involved rails.

But nowhere in our history can we find, especially in a sport or a pasttime, that a President has intervened.

I do commend the President the other day for asking the two parties to come to the White House, although I think the President was overly optimistic on his chances of succeeding in bringing about a solution to this dispute. As a result of that, I think the President made a mistake when he offered to both of those parties congressional assistance.

Should Congress intervene? The answer is clearly no. Baseball, the lack of professional baseball, is not a national emergency. I would like to see baseball. I am a baseball fan; my son is a baseball fan. But it is not going to have a crippling impact on this country if we do not have professional baseball for a few weeks or even this summer. It is not going to cripple the Nation. It is not like our coal or our steel or our dock workers. We should not intervene in a private dispute.

As you can see, where does this lead? Where does it lead if Congress does intervene? We had a bill introduced, a bill in this Congress, this is a bill to establish a new Federal agency, the National Commission on Baseball. Federal employees, seven full-time Federal employees will determine such things as what the price of tickets should be, what the contract should be, individual negotiations of contracts in the minor leagues and the major leagues, and where this baseball stadium should be built. The Federal Government will be negotiating TV rights for the baseball teams. The Federal Government will have the right under its Baseball Commission to subpoena people, as if it is a criminal action. You do not want the Federal Government intervening in the private marketplace. And baseball does not, by the very merits of its sport, does not demand that the U.S. Federal Government intervene in the strike.

I think that it is absolutely necessary, especially when you are talking about two very wealthy parties, nobody is going to go hungry between the owners and the players. Granted, there is a ripple effect for people that work for baseball, but does that upon itself mandate that they come in? It sure does not for Bridgestone Tire Co. down in Oklahoma or Caterpillar. The President has not asked Congress to intervene in those because they do not meet that standard of having a crippling impact.

In conclusion, I urge all of you not to allow Congress to intervene in the baseball strike. Let the titans of money resolve it amongst themselves. And for gosh sakes, do not create a new Federal agency called the Commission on Baseball with full-time employees, another building in Washington, DC, another bureaucracy, the right of subpoena, the right to determine private contracts. We do not need it. Baseball players, baseball owners, go out there and settle it yourselves. It is your fight, not the fight of the U.S. Congress.

We should not give you 1 minute of time by taking it away from the debate on crime, which is a national crisis, on the Federal deficit, which is a national crisis.

Go settle your fight amongst yourselves.

NOMINATIONS OF DR. HENRY FOSTER FOR SURGEON GENERAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. LEWIS] is recognized for 5 minutes.

Mr. LEWIS of Georgia. Mr. Speaker, it is very important that we come here tonight to talk about the President's nominee for Surgeon General, Dr. Henry Foster. Now, a lot has been said about Dr. Foster, but I don't think people truly understand Dr. Foster. Dr. Foster has spent a lifetime making our country a better place.

First, let me say that I think Dr. Foster is a fine choice for Surgeon General. Apparently, many other individuals and organizations do too, including the American Medical Association, which has praised him as "a dedicated teacher, a dependable leader, and a concerned advocate for improving access to quality health care." I would like to include as part of the RECORD some of the letters of endorsement that have been sent on behalf of Dr. Foster.

I believe we need to stop for one moment and rethink this discussion about Dr. Foster. This should not and must not be a discussion about how many abortions Dr. Foster has performed. He performed a legal medical procedure. Those who oppose a woman's right to choose to have an abortion must take that fight somewhere else. Every woman in America has the right to choose—that is the law of the land. Dr. Foster has done nothing wrong.

In fact, Dr. Foster has done a great deal that is right. He is a leading authority on reducing infant mortality and preventing teen pregnancy and drug abuse. He has educated young people about contraception and preventive health care. He has worked to encourage children to quit smoking.

This is a man who has not been content to simply practice medicine, that is in itself a noble profession. Instead, he has looked in his community, seen that there are problems and has tried to help find solutions.

He created the I Have a Future program at Meharry Medical College, where he was dean of the medical school and acting president. Then I Have a Future program was recognized by President Bush as one of his Thousand Points of Light.

This is a program that helps give teenagers hope and steer them toward college instead of teenage pregnancy. This program works. It has changed Tonika East's life. Tonika lives in public housing and joined the I Have a Future program because as she said, "everyone else was doing it." She is now student body president of her school and has traveled around the country visiting colleges she might attend.

Mr. Speaker, this is just one example among many. Dr. Foster has spent a lifetime working to improve the lives of others. Dr. Foster cares about this Nation and about the future of this country—our children.

It is clear to me that Dr. Foster should be confirmed as Surgeon General. There is too much important work to be done in our country to waste any more time on this.

There is no confusion here. There are no more questions that need to be answered. Dr. Foster should be confirmed. And he should be confirmed now.

Mr. Speaker, I include the following material, which is supportive of Dr. Foster's confirmation:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, February 2, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, DC

DEAR MR. PRESIDENT: The American Medical Association enthusiastically supports the nomination of Henry W. Foster, Jr., MD for the position of Surgeon General of the U.S. Public Health Service.

Dr. Foster is a leading expert in the field of reproductive health. As Chief of the Department of Obstetrics and Gynecology at the John A. Andrew Memorial Hospital of Tuskegee University, Dr. Foster developed a program which is a nationally recognized model for regionalized perinatal health care systems. During his tenure at Meharry Medical College, Dr. Foster founded the innovative "I Have A Future" program to address teen pregnancy which brought to focus one of the nation's most pressing public health issues. The "I Have A Future" program provides strategies for at-risk youth to develop positive decision-making in the areas of personal health and responsibility, while enhancing their self-image. With so many of our nation's youth in crisis, we need creative programs like this one to dramatically reduce the alarming rate of teen pregnancy and we applaud Dr. Foster's commitment to this issue. Adolescent health has long been a public health priority for the AMA and we look forward to working with Dr. Foster on this and other critical public health issues.

"Dr. Foster is a dedicated teacher, a dependable leader, and a concerned advocate for improving access to quality health care for women and underserved populations. Dr. Foster has been a longstanding member of the AMA and he brings the requisite experience, knowledge, and commitment to provide effective leadership as the Surgeon General. We firmly believe that Dr. Foster will serve in the position of Surgeon General with distinction and make many positive contributions to the nation's public health.

Sincerely,

JAMES S. TODD, MD.

NATIONAL MEDICAL ASSOCIATION,
Washington, DC, February 2, 1995.

The PRESIDENT,
The White House, Washington, DC

DEAR MR. PRESIDENT: The National Medical Association (NMA) strongly supports the nomination of Henry Foster, M.D. as United States Surgeon General. As an active NMA member, Dr. Foster's service has been exemplary and his work has served as a national model that is being replicated in various segments of health care.

The NMA believes that Dr. Foster's presence as U.S. Surgeon General will greatly enhance the Administration's ability and capacity to protect the health and welfare of our nation and applauds your excellent selection.

Sincerely,

TRACY M. WALTON, JR., M.D.
President.

THE ASSOCATION OF MINORITY
HEALTH PROFESSIONS SCHOOLS,
Washington, DC, February 2, 1995.

The Association of Minority Health Professions Schools (AMHPS) today expressed its support for the nomination of Henry Foster, MD as the Surgeon General of the United States.

AMHPS President, Dr. Henry Lewis stated, "Dr. Foster is a national leader in medicine and research. His efforts to develop programs for the education and academic enrichment of young people, particularly minorities, have been commendable. Dr. Foster's "I Have a Future" program at Nashville's Meharry Medical College is truly a national model."

Dr. Foster is a former acting president of Meharry Medical College. Meharry is an institutional member of AMHPS, which represents the nation's Historically Black medical, dental, pharmacy and veterinary schools.

ASSOCIATION OF SCHOOLS OF
PUBLIC HEALTH,
Washington, DC, February 2, 1995.

Hon. WILLIAM CLINTON,
President,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On behalf of the deans of the 27 graduate schools of public health in the nation, I wish to go on record in support of Dr. Henry Foster as U.S. Surgeon General. Dr. Foster is well known and respected by the academic public health community for his work with the underserved and for his keen understanding the role prevention plays in reducing morbidity and delaying mortality. He is a recognized leader in the health professions education field and will, no doubt, contribute greatly to fulfilling the administration's primary care and public health workforce goals.

The Association of Schools of Public Health (ASPH) is the only national organization representing the deans, faculty, and students of this nation's 27 accredited schools of public health in the United States and Puerto Rico. These schools have a combined faculty of over 2,000 and educate more than 13,000 students annually from every state in the U.S. and most countries throughout the world. The 27 schools graduate approximately 4,000 public health professionals each year.

ASPH's principal purpose is to improve the public's health by advancing professional and graduate education, research and service in public health.

Sincerely,
HARVEY V. FINEBERG, M.D., PH.D.,
President.

AMERICAN COLLEGE OF
PREVENTIVE MEDICINE,
Washington, DC, February 2, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR PRESIDENT CLINTON: The American College of Preventive Medicine is pleased to support the nomination of Henry Foster, MD, for the position of Surgeon General of the United States. Dr. Foster will bring to the position a record of leadership and an understanding of the medical training and health care delivery needs of this nation.

The American College of Preventive Medicine, the national professional society for physicians committed to disease prevention and health promotion, looks forward to working with Dr. Foster on common goals to improve the health of the public.

Sincerely yours,
ROY L. DEHART, MD,
President.

NATIONAL ASSOCIATION FOR EQUAL
OPPORTUNITY IN HIGHER EDUCATION,
Washington, DC.

TO WHOM IT MAY CONCERN: On behalf of the National Association for Equal Opportunity in Higher Education (NAFEO), the membership association of 117 historically and predominantly Black colleges and universities (HBCUs), we are pleased to know that Dr. Henry W. Foster, Jr. has been recommended to become the Surgeon General of the United States of America.

I have known Dr. Foster for many years and have long been impressed by his commitment to the health and well-being of the Americans. He has served in a variety of administrative and professional capacities in the Higher Education community including that of Acting President of Meharry Medical College. In addition, his involvement with several organizations and foundations attests to his being able to keep abreast of issues in the medical areas. These accomplishments should serve him well in his new role as Surgeon General.

On behalf of NAFEO, we wholeheartedly endorse and support the appointment of Dr. Henry W. Foster, Jr. as Surgeon General of the United States.

Cordially,
SAMUEL L. MYERS,
President.

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Norfolk, VA, February 2, 1995.

The PRESIDENT OF THE UNITED STATES,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I would like to wholeheartedly endorse, and commend you for, your nomination of Dr. Henry Foster to be Surgeon General of the United States

I have known Dr. Foster for many years. He is a very intelligent, conscientious, and able physician. His calm well-balanced approach to problem solving will serve him and the people of the United States well in carrying out the duties of the office of Surgeon General.

He is highly qualified, and is an excellent choice for the position.

Sincerely yours,
WILLIAM C. ANDREWS, M.D.,
President.

MOREHOUSE SCHOOL OF MEDICINE,
OFFICE OF THE PRESIDENT,
Atlanta, GA, January 31, 1995.

MSM PRESIDENT ENDORSES SURGEON
GENERAL NOMINEE

Louis W. Sullivan, M.D., President of Morehouse School of Medicine today released the following statement supporting the appointment of Dr. Henry Foster, Jr., as Surgeon General:

"Dr. Foster is a highly qualified physician and administrator who would be an outstanding Surgeon General. He has had a distinguished academic career and has directed numerous successful community outreach ventures, including Meharry's teen initiative, 'I Have A Future Program,' focusing on sexual responsibility, self-esteem and job skills.

"Dr. Foster is a nationally-known, well-respected physician and a great human being who brings a broad perspective and experience to a variety of health and social issues—knowledge, skills and experience that are essential for America's Surgeon General. I am absolutely confident that he would serve with distinction.

"I have known him personally since we were classmates at Morehouse College. I treasure him as a friend and respect him as a colleague.

LOUIS W. SULLIVAN, M.D.,
President."

VANDERBILT UNIVERSITY,
Nashville, TN.

STATEMENT OF SUPPORT FOR DR. HENRY
FOSTER

I have known and worked with Dr. Henry (Hank) Foster for many years. He is a highly qualified and experienced clinician, clinical scientist, educator, medical administrator, and practitioner of problem solving efforts. He is a good friend of good work. He is goal oriented and his goal is a better, healthier life for all Americans. He is a fine choice for Surgeon General.

JOHN E. CHAPMAN, M.D.,
Dean of Medicine.

UNIVERSITY OF PITTSBURGH,
GRADUATE SCHOOL OF PUBLIC HEALTH,
Pittsburgh, PA, February 2, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We, the faculty, staff and students of the Graduate School of Public Health would like to enthusiastically endorse the appointment of Henry Foster, M.D. for the position of Surgeon General.

He brings a broad experience in prevention and public health as well as practice of clinical medicine.

We believe he is an excellent choice.

Sincerely,
DONALD R. MATTISON, M.D.,
Dean.

DEPARTMENT OF PUBLIC HEALTH,
Des Moines, IA, February 2, 1995.

Hon. DONNA SHALALA,
Secretary, U.S. Department of Health and Human Services.

DEAR SECRETARY SHALALA: It has come to our attention that Dr. Henry W. Foster may become our nation's next Surgeon General. On behalf of the Association of State and Territorial Health Officials, I would like to indicate our support for this choice and offer any assistance we can in assuring Dr. Foster's success.

The office of Surgeon General has the conscience of our nation's health system. Surgeon Generals have advanced public awareness of the dangers of smoking, unprotected sex and teen pregnancy. No simple issues with forgone conclusions. Today, with health system changes abroad, the need for the public conscience has never been greater, and the need for public health to support this articulation never more imperative.

Dr. Foster's life experience in both urban and rural settings equip him well to understand the diversity of our nation. Moreover, his clinical, academic and administrative responsibilities have prepared him well to ensure that our nation's response to the issues, particularly, of teen pregnancy and primary care, are appropriate, workable and effective.

As we see a renewed emphasis on state based planning and community delivery of human services, the state health officers and ASTHO recognize the need for a clear articulation of national interests, strategies and objectives. We believe that Dr. Foster can be a positive force in ensuring that this outcome is achieved.

Respectfully,
CHRISTOPHER G. ATCHISON,
Director.

Mr. Speaker, what I would like to do right now is to yield to my good friend, the gentleman from Tennessee [Mr. CLEMENT], from the city of Nashville, who has the great privilege of representing Dr. Foster in this body.

Mr. CLEMENT. Mr. Speaker, I thank the gentleman from Georgia [Mr. LEWIS] for yielding to me. He has been a friend of mine for many, many years. We join in strong support of the President's nomination of Dr. Henry Foster as Surgeon General of the United States.

Mr. Chairman, I brought along a lot of faxes tonight. This is just 1 day of faxes, just tens and hundreds of faxes, letters that we are receiving of people at home in Nashville, TN, that know him the best, I would say to the gentleman from Georgia, and they are very much behind Dr. Foster, because they know him.

For example, there is the example of the fax I received today.

IN SUPPORT OF DR. HENRY W. FOSTER, JR.

The SPEAKER pro tempore (Mr. CUNNINGHAM). Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I yield to the gentleman from Tennessee [Mr. CLEMENT] to complete his remarks.

Mr. CLEMENT. Mr. Speaker, these faxes that I got today are prime examples of those that know Dr. Foster the best. This is just one example. Dr. Henry Foster is a very positive man and doctor. He is a God-fearing man. Dr. Foster cares about people, all people, especially women and children. Dr. Foster said recently that some of his priorities as Surgeon General are teenaged pregnancy, AIDS, low birthweight babies, children that abuse with the consumption of alcohol and tobacco.

He has a lot of priorities, but I think the most we can ask, let Dr. Foster have his day.

We have heard from a lot of people that feel very strongly on issues, and we all feel strongly on issues. We can surely do a lot to divide our country; however, let us find ways to unite the country. Let us at least give Dr. Foster the opportunity to plead his case in the U.S. Senate before the confirmation hearings.

I know, by knowing Dr. Foster on a very personal and professional basis, that when he pleads his case people will listen and understand this man is qualified, this man is compassionate, and this man can serve us well as the next Surgeon General of the United States.

Mrs. CLAYTON. Mr. Speaker, I also want to join in supporting Dr. Foster as the Surgeon General. He is eminently and exceptionally qualified. In fact, his qualifications are not being questioned. His suitability is not being questioned. If there is any question at all, it is just if he had the recall of mind for 30 years of all the details of a very distinguished career.

Mr. Speaker, I would say even those things that he is questioned about, the numbers of, not whether he did anything illegal, he practiced his profession and did it well. He was a researcher. It simply concerned an opportunity to recall something, and he failed to recall the exact number. I question anybody who has not had the opportunity to misstate a number or misstate what they did yesterday.

Certainly, Mr. Speaker, we would not expect, with a man who has had such a distinguished career, that he would be judged for a momentary lapse of a number. In that instant, please understand, Mr. Speaker, there was nothing about anything that he did inappropriately, any violation of the law.

So I honor those persons who say they have legitimate concerns, they have the right to differ, but to deny a person the opportunity to defend himself I think is certainly un-American.

Further, Mr. Speaker, I think there is an erosion of an opportunity to have debate around the issue of abortion. If people really want to have an honest debate about it, they ought to do that, and not find a way to have a way of destroying a man's profession. We can simply be honest in our debate as to where we feel on certain issues, but we ought to be honorable and recognize the service this gentleman has given.

Why I am particularly interested in this gentleman, because he has not only come with a distinguished professional career, but he comes with a service of commitment to the community around teenaged pregnancy and around those issues.

We say we want to do something about welfare reform, so this is an opportunity, I think, to have a gentleman both of the profession and service.

DR. HENRY FOSTER, AN EMINENTLY QUALIFIED SURGEON GENERAL NOMINEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. ENGEL] is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker, when I hear the attacks being made against the President's nominee for Surgeon General, Dr. Henry Foster, I must say that I have never seen such a vicious and mean-spirited mood in this town. This really has to stop. We have to return some civility to the process of confirming nominees.

Mr. Speaker, why would any professional subject themselves to be nominated to serve here in Washington when, by doing so, they know they will be ripped from pillar to post?

It is the right of a President to select nominees, and it is the right of that nominee to get a fair hearing before Congress. Dr. Foster should have an opportunity to lay his record before the Congress and before the American people. I think it is an impressive record that, once aired, will impress many people.

The so-called controversy over Dr. Foster has been fueled by a discussion over one single issue—an issue, I might add, that should not be used as a litmus test. We have hardly heard a word about the decades of caring service Dr. Foster has provided.

Yes, Dr. Foster performed abortions. The last time I looked, Mr. Speaker, abortion was not illegal in the United States. There may be some who do not like the fact that abortion is legal in this country, but Dr. Foster should not be held hostage to their views.

Mr. Speaker, Dr. Foster ran a program called I Have a Future, which urges teenagers to practice abstinence. The program was honored as a Point of Light by President Bush. Why are we not focusing on the positive message that is the heart of Dr. Foster's work?

It is most disturbing that some Members of Congress are looking to score political points on this issue. It appears that they are willing to put their own personal ambitions ahead of the well-being of the American people, especially our teenagers.

I have not seen any evidence that disqualifies Dr. Foster for the post of Surgeon General. In fact, he is eminently qualified for the job. I urge my colleagues to step back and allow the process to proceed. Let Dr. Foster have a fair hearing before Congress. If he has a fair hearing, I have no doubt that he will be confirmed.

Mr. Speaker, I now yield to my colleague and good friend, the gentlewoman from New York [Mrs. LOWEY].

□ 1910

Mrs. LOWEY. Mr. Speaker, the right to terminate a pregnancy is contained in our Constitution, affirmed by our legislatures, upheld by our courts, and supported by the American people. It has been the law of the land in all 50 States for over 20 years, and by vast majorities, the public believes it should remain so.

But today, a war is being waged on that right. For a radical minority, it is a violent war, unleashed on doctors and clinics from Pensacola to Brookline. For others, it is a cold war of intimidation, fought with ugly scare tactics, innuendo, and political pressure.

A new front in the assault on women's health has opened up on the floor of Congress, and its first casualty is the reputation of an outstanding physician ready to serve the public, Dr. Henry Foster.

Dr. Foster is among the most respected citizens of Tennessee. He has had an extraordinary career as an obstetrician and educator, treating literally thousands of patients, counseling teenagers, confronting every kind of social and medical dilemma, and dealing with the human consequences of our public health decisions.

Dr. Foster's commitment to the prevention of teen pregnancy, perhaps the most urgent social challenge facing us today, establishes him as a national authority on the subject.

His passion for the children of America, and his real experience with teenagers in troubled relationships make him ideally suited to be Surgeon General of the United States.

Dr. Foster is the right person, at the right time, for the right job.

And that is why it is so tragic to see his record and character recklessly attacked by individuals who have done nothing to promote our Nation's health, and entirely too much to threaten it.

The antichoice strategy is clear.

Because they cannot achieve their real objective of criminalizing abortion, antichoice forces are instead of pursuing a strategy of de facto abolition—making abortion unavailable by stigmatizing doctors, and by discouraging the study of abortion procedures in medical schools.

Sadly, those tactics have been all too successful. Today, less than 20 percent of the counties in America have an abortion provider—less than 20. For the women who live in the other 80 percent, the right to choose is a paper promise, growing thinner everyday, and threatening to disappear entirely.

It's really quite simple. If you can't make aborition a crime, then just treat abortion providers as though they were criminals. And that is what's happening now.

Make no mistake, this is no numbers game—whether it's 1 or 12 or 40 is irrelevant.

And there is no question about Dr. Foster's character and ability—he has proven both, over and over.

It is the right to choose itself that is under siege, because if a man like Dr. Foster can be denied confirmation on this basis—for engaging in a legal, appropriate, responsible medical practice—then doctors everywhere will shrink from the challenge of reproductive health. And women will return to the back alley and the emergency room.

Opponents of this nomination may not have the guts to spell it out, but they know full well that this is a veiled attack on the right to choose.

I am the mother of three children. And though I have never had to face the trauma of an unplanned pregnancy, I know what it means to raise a family, to care for child, and to assume responsibility for the next generation.

There is no more personal or emotional decision than the one to bring a new life into the world.

Dr. Foster has done a tremendous amount to help young people come to grips with the weight of that decision, and to discourage the irresponsibility and the ignorance which can lead to teen pregnancy and abortion.

Like most Americans, he believes that abortion should be safe, legal, and rare. Unlike so many of his critics, he has actually done something to make that goal a reality.

It would be a disgrace for this Congress to deny to the American people the benefit of Dr. Foster's service simply because he performed his duty as a medical doctor, and obeyed the Constitution of the United States of America.

Mr. Speaker, our children deserve better. We will fight to preserve their health, their rights, and their future.

NO MAXIMUM WAGE FOR CONGRESS WITHOUT A NEW MINIMUM WAGE FOR AMERICA ACT OF 1995

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. GUTIERREZ] is recognized for 5 minutes.

Mr. GUTIERREZ. Mr. Speaker, last week, our President issued a challenge to Members of Congress. He asked that this Congress take a stand for Americans who work and sweat and toil every day, yet earn only $4.25 an hour.

And how have we responded to that challenge?

The majority of my colleagues—colleagues who make $64.40 an hour—have responded with a simple answer—$4.25 is enough; $5.15—the level the President has asked the minimum wage be increased to—is too much; and $5.15 an hour is too much to pay the millions of Americans who carry lunch pails to work every day, who sweep the floors of our hospitals, who crouch behind assembly lines putting together our appliances.

This decision means that more painful decisions will have to be made.

My legislation says that if we dismiss this increase from $4.25 to $5.15, my colleagues and I will feel a little bit of the pain as well. Just a little bit of pain. It isn't the pain that day laborers feel at the end of long hours of manual labor. It isn't the pain that young mothers feel at the end of a long day on the assembly line. It isn't the pain garment workers feel after a long day of piecing together our clothing. It isn't the pain of not having the means to support your family or feed your kids. Almost 5 months of sweat and toil in jobs that most people don't even want.

A Member of Congress has to work from January 1 until January 11 to make $3,500. Eleven days of work.

I am not suggesting that many of my colleagues are not dedicated, hardworking, and conscientious leaders. However, many of those same conscientious leaders simply dismiss the necessity of paying our people a livable wage.

Well, that belief has real effects on real people. For many of my colleagues saying no to a livable minimum wage is simply a sound bite about economic policy and job creation. But for millions of Americans who work hard every day this decision is much more important than any sound bite.

My legislation calls for Member salaries to decrease by 2.6 percent every year until the minimum wage increases to at least $5.15.

Why 2.6 percent? That is the size of the cost-of-living increase Members of Congress were scheduled to receive in 1995.

If Americans earning $4.25 an hour—less than $9,000 per year—can live where their buying power decreases every time the cost of living goes up—then certainly Members of Congress can survive it.

This 2.6 percent pay cut will save the U.S. Treasury almost $2 million. This 2.6 percent decrease comes to about $3,500. The average American earning minimum wage has to work from January 1 until May 18 to earn $3,500.

How easy it is for those of us with salaries that place us in top .5 percent of wage earners in this Nation, to say to millions of Americans who can only dream of someday making our salary—"You earn enough."

Well, I would like to take my colleagues at their word, and issue a challenge of my own.

That is why, today, I introduced legislation tying the salaries of Members of Congress to the action—or lack of action—we take on minimum wage.

If $4.25—$4.25 that in real earning power is less and less every day—is enough for millions of hard-working Americans, then certainly $133,000 is too much for a Member of Congress.

My legislation is clear.

Until we have the courage to join our President and increase the minimum wage to $5.15, then I think Members of Congress should also see their buying power deteriorate.

Even today, 5 years after the last increase in minimum wage, $4.25 is still enough.

Even though the cost of living has increased by more than 10 percent since the last time the minimum wage was increased, we still believe that $4.25 is enough.

The price of homes has increased. The price of bread and milk and eggs has increased. The price of college tuition has increased. The price of rent has increased. The price of clothes has increased.

But the minimum wage has not increased.

And yet a great many of my $65-an-hour colleagues have responded to our President's challenge by saying that $4.25 is enough.

It's just a little bit of pain—pain that will be easily forgotten. Not the pain of working 40 hours a week, and still not having enough money to support your family.

I will be calling on my colleagues in the next few days to support my bill.

I hope every person who is listening tonight who is making $4.25 will call on their Representative to support my bill, because this bill is really about the value of work. The value of the American workers' sweat and sacrifice and pain.

I value the work of my colleagues. But I don't find it 15 times more valuable than that of the people who take care of our children, who tend to our sick, who clean our homes, and build our cities.

So, if my colleagues continue to say no to a livable minimum wage, then I will work to say no to our maximum salaries.

I encourage my colleagues to join me.

I include for the RECORD a copy of my bill.

H.R. —

Be in enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "No Maximum Wage for Congress without a New Minimum Wage for America Act of 1995".

SEC. 2. REDUCTION OF PAY OF MEMBERS OF CONGRESS PENDING INCREASE IN MINIMUM WAGE.

Notwithstanding section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) or any other provision of law, the rate of pay of Members of Congress shall be reduced by 2.6 percent on the date of the enactment of this Act, and by 2.6 percent at the end of each one-year period thereafter, until the effective date of the first increase to at least $5.15 per hour in the minimum wage under section 6(a) of the Fair Labor Standards Act of 1938. On that effective date, the rate of pay of Members shall be restored to the rate in effect on the day before the date of the enactment of this Act.

COMMUNITY POLICING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. OLVER] is recognized for 5 minutes.

Mr. OLVER. Mr. Speaker, on Tuesday, 40 communities in my district got good news. They can hire more cops to fight crime, they can hire these cops because of the community policing program that President Clinton championed and we passed last year.

Community policing is not some new, untried approach. It has been used in many places across the country for some years.

□ 1920

Putting cops on the street makes people safer. Despite this success, or is it because of it, next this House will debate the part of the Republican Contract on America which eliminates the community policing program. Community policing puts police on our streets who know the neighborhoods and are trained to work with residents to prevent crime. Community police work as partners with citizens to make their neighborhoods safer. Community policing takes cops out from behind their desks where they are doing recordkeeping and paperwork and puts them back on the beat downtown in the neighborhood where kids gather at night, wherever there could be trouble.

In my district in the small city of Fitchburg which has just over 40,000 people, a community policing program was started 4 years ago, and it reports dramatic drop in crime. Here is what happened after 4 years of community policing in Fitchburg: 25-percent decrease in assaults, 55-percent decrease in burglary, 55-percent decrease in weapons possession, 23-percent decrease in domestic violence, 67-percent decrease in disorderly conduct.

The mayor of Fitchburg told me, and he will tell anyone, there is no substitute for a consistent police presence in a troubled neighborhood. Community policing has helped make that neighborhood safe for families again.

Now, the Republican bill eliminates the community policing program, and that means fewer police officers catching criminals, fewer patrolling the neighborhoods, fewer building partnerships based on trust, and fewer people safe in their neighborhoods. The community policing program we passed last year ensures funding for small cities and towns.

My constituents know that violent crime is not just a city problem, and the Cops Fast Program was designed specifically to help rural communities and smaller towns. In many of my communities just one or two additional officers can make a world of difference.

In Dalton, a small town in my district, under 10,000 people, the chief of police, Dan Fillio, said that the Cops Fast grant gives him another set of eyes and ears out on the streets.

Community policing works. Now is not the time to break the promise we made to our citizens who live in fear.

Under the Republican bills, small towns in my district will have little chance of getting help.

Mr. Speaker, Republicans and Democrats agree on one thing during last year's crime bill debate. We need more cops on the beat to help keep people safe. So why does the Republican contract cut funds for new police?

The contract combines the tried and true community policing program with a host of crime prevention programs and replaces it with a block grant, and then cuts the funding besides. Mr. Speaker, the block grant, the Republican block grant, is a shell game. Under the Republican bill, police will have to compete with other community groups, even those involved in street lighting, tree removal, and disaster preparedness.

The Republican bill makes no guarantee that money will go for additional cops.

Will America be safer if dollars are used to hire consultants? Will we be safer if the money is used to buy equipment? Will we be safer if it pays for desks? Well, the answer, obviously, Mr. Speaker, is no. People feel safe when they see a cop in their neighborhoods. We helped put them there last year, and this year the other side is taking them away.

My mayors and police and police chiefs lose in the block grant shell game. All the money for new cops will go to big cities with population numbers and crime statistics the Republican contract requires. This is not smart. This is not savings.

Wake up, America. Do not fall for the shell game.

WELFARE REFORM, THE MINIMUM WAGE IN BLOCK GRANTS

The SPEAKER pro tempore (Mr. CUNNINGHAM). Under a previous order of the House, the gentleman from Rhode Island [Mr. REED] is recognized for 5 minutes.

Mr. REED. Mr. Speaker, when we talk about welfare reform, work is and should be the centerpiece. During this welfare reform debate, I have heard many people declare that they find it amazing that so many individuals do not work. What I find equally amazing, however, is that so many individuals work full time, play by the rules, and find themselves below the poverty level.

Currently, there are 2.5 million hourly minimum-wage workers, and 1.5 million more workers are paid less than the minimum wage and depend upon tips. From January 1981 to April 1990, the cost of living increased 48 percent while the minimum wage remained frozen at $3.35 an hour. It is no wonder, then, that the number of working poor in this country has increased 44 percent between 1979 and 1992.

As a first step to giving value to work and to promote individual responsibility, we must increase the minimum wage.

An increase in the minimum wage is also an important component of welfare reform. Real welfare reform has the potential to move individuals and families from dependency toward lasting self-sufficiency. But meaningful welfare reform must be sensitive to both the realities of the job market and the difficulties faced by individuals when an individual is unable to work because of a disability or when dependent children require care.

If the goal of welfare reform is to move individuals from welfare to work, we need to ensure that an individual working full time will not fall below the poverty level. If we want to instill responsibility, we must ensure that the minimum wage is a livable wage.

The minimum wage is not just about our workers, it is also about our children. Some 58 percent of all poor children under six in 1992 had parents who worked full or part-time. The number of children in poverty increased from 5 to 6 million from 1987 to 1992. Some 18 percent of all poor children under 6 in 1992 lived with unmarried mothers who worked full-time.

An increase in the minimum wage is also necessary because the income gap between the wealthiest of our society and working Americans is growing. In fact, income inequality in this country is currently at its highest level since 1947.

As we move into the area of welfare reform, it is time to question old assumptions. We must ask the question: "Can we do it better?" I believe we can.

The majority currently advocates the block grant as a mechanism to reform our welfare system. But let us be very clear, block granting programs do not make the problems go away. It simply shifts responsibility to the States, and if a block grant is a way of simply saving money as opposed to providing adequate assistance to eligible individuals, then we are not doing the Governors any favors. If we adopt a block grant approach, these grants must be flexible to adjust to changing local economic conditions.

Currently, funding for entitlement programs increased to meet demand during economic downturns when State budgets are financially strapped. Under discretionary block grant programs in a recession, sufficient money is unlikely to be available to meet the demand. While the number of people eligible to receive benefits will grow as the economy weakens, they will not necessarily be entitled to receive any support.

Because Federal funding for assistance would no longer automatically increase in response to greater need, States would have to decide whether to cut benefits, tighten eligibility, or dedicate their own revenues to these programs. The demand for assistance to help low-income Americans would be greatest at precisely the time when State economies are in recession and tax bases are shrinking.

A second issue that must be addressed in designing block grants is the formula by which funds are allocated. A formula that is based merely on historical data would not reflect economic and demographic changes. These changes must be reflected.

Another concern I have with block grants is the phenomenon of interstate competition, which may encourage a downward spiral in benefit levels and result in a race between States to the lowest benefit level. More than two dozen States have been granted waivers from the Federal Government to experiment with their welfare programs, and already State officials are expressing concern that welfare recipients will travel to their States if the benefits are reduced in neighboring States, and while we must be careful not to be overly prescriptive when it comes to designing block grants, we have a responsibility to ensure states are moving welfare recipients from welfare to work in providing a minimum level of support for their citizens.

We have begun an important debate. The present welfare system must change, but we must continue our commitment to providing all of our citizens an opportunity to support themselves.

I welcome the challenges in the days ahead during this crucial debate.

TRIBUTE TO KATE HANLEY ON HER ELECTION AS CHAIRMAN OF FAIRFAX COUNTY BOARD OF SUPERVISORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. MORAN] is recognized for 5 minutes.

Mr. MORAN. Mr. Speaker, the first election of any consequence, maybe the only one, but there may be some that I have not heard about, but the first election of any consequence since November 8 occurred this week, and guess what, a Democrat won.

Fairfax County is larger than any of our congressional districts. It has almost a million people. The chairman of the board of Fairfax County had been a Republican. He is now a colleague in the House of Representatives.

□ 1930

So there was a special election to fill his place. Kate Hanely, the Democrat, rose to the position of chairman of one of the largest counties in the country through the usual way. She had no bumper-strip slogans, there were no cliches in the campaign, she had been an officer of her civic association, president of her PTA, she had invested enormous amounts of time in child care, health care, transportation, she chaired the regional body which develops policy on transportation for the Washington region.

In other words, she had invested much of her adult life in serving her community.

She was not an advocate of no government or in any way suggested that government is the problem. In fact, what she would say time and again is that good government is the solution to the problems that we have in developing the kind of quality we want for ourselves and our families.

She was successful in that approach.

Mr. Speaker, this is a county that has one of the highest educational levels in the country, and people who are very much involved in civic activities. They agreed with her message, someone who has devoted themselves to the community, who believes in the spirit of community and believes in the Democratic Party's principles of opportunity, responsibility, and yes, community.

That is the kind of person they want to lead them.

So Kate Hanley was elected to chair the Fairfax County Board of Supervisors, where many of us live.

I know all of us will benefit from the good government that Kate Hanley will bring to Fairfax County.

I do not know whether this is a harbinger of things to come; I would certainly like to think so. But it certainly is a testament to the fact that if you do things right, particularly when you localize elections to the point where you are offering yourself to people who know you, who know how much you care about their community and their quality of life, you can win.

Kate Hanley did win, and I applaud her for her commitment to her community and the fact that she was proud to run as a Democrat on Democratic principles.

She was victorious. I think we are going to see more victories like Kate Hanley's in Fairfax County.

LAWSUIT CHALLENGING THREE-FIFTHS VOTE TO INCREASE INCOME TAX RATES

The SPEAKER pro tempore (Mr. CUNNINGHAM). Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 5 minutes.

Mr. SKAGGS. Mr. Speaker, yesterday 15 Members of this body, including myself, 6 private citizens, and the League of Women Voters filed a lawsuit to overturn as unconstitutional the new House rule requiring a supermajority of three-fifths to pass any legislation raising income tax rates.

Let me make this very, very clear: This lawsuit has absolutely nothing to do with taxes; it has everything to do with the Constitution of the United States.

Last month each and every one of us took an oath to uphold and defend that Constitution. That is our first and our most serious and sacred duty.

Unfortunately, the new House majority seems all too willing to treat the Constitution quite casually.

This new House rule is intended to be a political statement that they are really serious about not raising taxes. We believe that the Constitution is far too important to set aside just for the sake of a political slogan.

The new House rule violates one of the most fundamental principles of our democracy, the principle of majority rule. It sets an extremely dangerous precedent, and we simply believe that it should not be allowed to stand.

This year the supermajority requirement may apply just to income tax rates; but next year—next year it could be international agreements or trade or civil rights or clean air, and perhaps unanimous consent required if this country should have to go to war.

So it is extremely important to act now to purge the House rules of this very bad idea. To do it now, lest it serve as an invitation to some future Congress to do even more mischief with the Constitution, to yield to some temptation to an even greater level of constitutional stupidity.

The Framers of the Constitution were very much aware of the difference between a supermajority and a simple majority. They met in Philadelphia in direct response to the requirement of the Articles of Confederation for a supermajority to raise and spend money or exercise other major powers. It was the paralysis of our National Government in those days, caused by the supermajority requirement of the Articles of Confederation, more than any other single reason, that led to the creation of our Constitution.

In the convention in Philadelphia, the delegates repeatedly considered and rejected proposals to require a supermajority for action by Congress, either on all subjects or on specified ones. In only five instances did they specify something more than a regular majority vote: overriding a veto, ratifying a treaty, removing officials from office, expelling a Member, or proposing amendments to the Constitution itself.

When they wanted to require supermajorities, they knew exactly how to do it. None of these instances have anything to do with the passage of legislation.

Now, some argue that the three-fifths requirement to raise taxes would be like the two-thirds requirement to pass a bill on suspension or 60-vote requirement to end debate in the other body. Wrong. Those rules address procedural steps. A bill not approved under suspension of the rules can be brought back and passed by a simple majority later in the House.

After a debate is over in the other body, the bill still needs to gather only a majority of votes to pass.

The idea of a three-fifths vote to raise taxes was first proposed by the new majority in its so-called contract as part of the balanced budget amendment to the Constitution. For those who are serious about this idea, that is the way to do it, amending the Constitution itself. They cannot use the House rules to amend the Constitution on the cheap.

The Framers had the wisdom and foresight to grant the courts the authority to decide the constitutionality of the acts of other branches of the Government.

The Framers knew there would be times like this, times in our history when elected officials would be unable to resist the temptation to tamper with the Constitution.

Today we have taken advantage of that foresight by asking the Federal District Court for the District of Columbia to strike down this politically motivated House rule and to preserve the integrity of the Constitution.

Filing suit against the Clerk of the House is a step which none of us takes lightly. Last month I took an oath to uphold and defend the Constitution, and it is with deep respect for my colleagues in this body and my commitment to that oath I filed this suit.

Mr. Speaker, yesterday I joined 14 other Members of Congress, 6 interested private citizens, and the League of Women Voters in filing a lawsuit to strike down a new House rule which violates the principle of majority rule. We have asked the U.S. District Court for the District of Columbia to issue a declaratory judgment that the new House rule requiring a three-fifths vote to increase income tax rates is unconstitutional. The new rule violates one of the most fundamental principles of our democracy—majority rule—and it should not be allowed to stand.

I am especially pleased that Lloyd Cutler, Partner at Wilmer, Cutler, and Pickering, and Prof. Bruce Ackerman of the Yale Law School have agreed to represent us in this suit. Their expertise and commitment have been invaluable in making this challenge possible.

Let me make this clear, this case has nothing to do with taxes and everything to do with the Constitution. To make it look like they're really serious about opposing taxes, the new Republican majority is willing to subvert the constitutional principle of majority rule. We believe that the Constitution is too important to set aside for the sake of a political slogan. While this year the supermajority requirement might apply just to taxes, next year it could be trade or civil rights or clean air legislation or even a declaration of war. So, it's extremely important to act now to purge the House Rules of this bad idea, lest it serve as an invitation to some future Congress to do more mischief with the Constitution—to yield to some temptation to an even greater constitutional stupidity.

Filing suit against the Clerk of the House of Representatives is not a step which any of us takes lightly. Unfortunately, the new House majority seems all too willing to treat the Constitution casually. At its insistence, the House voted last month to approve this rule, a frontal assault on the principle of majority rule and one which we believe violates the Constitution. The oath of office my colleagues and I took last month requires us to support and defend the Constitution. That is our first and most serious duty. Our commitment to that oath compels us to take this action.

Our complaint asks the court to declare the new rule unconstitutional on two grounds. First, it unconstitutionally gives effective control of legislation to the minority during House consideration of tax measures. This violates the principle of majority rule embodied in the Constitution, a principle from which Congress is permitted to stray only in situations specifically stated in the Constitution.

Second, the rule's prohibition on the consideration of retroactive Federal income tax increases unconstitutionally restricts the business of the House. The Constitution specifically grants Congress the authority to lay and collect taxes. The House does not have the power to override the Constitution by adopting rules which limit its constitutionally protected authority to act on tax matters, retroactive or otherwise.

During debate on the rule last month, Republicans said this rule change made it clear that they are opposed to tax increases. What it really made clear is that for the sake of political posturing the Republicans are willing to trample on the Constitution which has guided us for 206 years.

The Framers of the Constitution were very much aware of the difference between a supermajority and a simple majority. They met in Philadelphia against the historical backdrop of the Articles of Confederation, which required a supermajority in Congress for many actions, including the raising and spending of money. It was the paralysis of national government caused by the supermajority requirement, more than any other single cause, that led to the convening of the Constitutional Convention.

In that convention in Philadelphia, the delegates repeatedly considered—and rejected—proposals to require a supermajority for action by Congress, either on all subjects or on certain subjects. In only five instances did they specify something more than a majority vote. These are for overriding a veto, ratifying a treaty, removing officials from office, expelling a Representative or Senator, and proposing amendments to the Constitution. Amendments to the Constitution later added two others: Restoring certain rights of former rebels, and determining the existence of a Presidential disability. None of these instances has to do with the passage of routine legislation.

The records of the debates in Philadelphia make it clear that in all other instances the writers of the Constitution assumed that a simple majority would suffice for passage of legislation. The text of the Constitution itself says as much. Why, otherwise, would it provide that the Vice President votes in the Senate only when "they be equally divided?" Because, as Hamilton explained in Federalist No. 68, it was necessary "to secure at all times the possibility of a definitive resolution of the body." Certainly the Framers didn't intend the Senate to operate by the principle of majority rule, but not the House. Majority rule is such a fundamental part of a democratic legislature that the Founders saw no need to state it explicitly.

If the House could adopt its own supermajority requirements to pass unpopular legislation, that would leave a temporary majority of the House free to craft all sorts of voting schemes which would strengthen the power of minorities and make our legislature unworkable. For example, instead of simply requiring three-fifths of the whole House, the rules could say that a bill wouldn't be considered to have passed unless it has the votes of all the House committee chairmen. Or two-thirds of its 100 most senior members. Or the vote of at least one Member from each State. To be sure, these are absurd and cumbersome proposals, but each would be permitted under the Republican's interpretation of the Constitution.

The reason behind the principle of simple majority rule was stated clearly in The Federalist—one of the five books which the new Speaker has urged every Member to read. In Federalist No. 58, James Madison wrote:

> It has been said that more than a majority ought to have been required for a quorum, and in particular cases, if not in all, more than a majority of a quorum for a decision. That some advantages might have resulted from such a precaution, cannot be denied. It might have been an additional shield to some particular interests, and another obstacle generally to hasty and partial measures. But these considerations are outweighed by the inconveniences in the opposite scale. In all cases where justice or the general good might require new laws to be passed, or active measures to be pursued, the fundamental principle of free government would be reversed. *It would be no longer the majority that would rule; the power would be transferred to the minority*. Were the defensive privilege limited to particular cases, an interested minority might take advantage of it to screen themselves from equitable sacrifices to the general weal, or in particular emergencies to extort unreasonable indulgences. [Emphasis added.]

And again, remember that it was a lack of effective national government, produced by the minority-rule effects of the supermajority provisions of the Articles of Confederation, that led to the Convention that wrote the Constitution.

Supporters of the new House rule note that the Constitution says the House may write its own rules. Yes. And the supporters have also cited an 1892 Supreme Court decision United States versus Ballin which says this rulemaking power "is absolute and beyond the challenge of any other body or tribunal" so long as it does "not ignore constitutional constraints or violate fundamental rights."

But there's the rub. The rulemaking power of the House does not give us a license to steal other substantive provisions of the Constitution, especially not one so central as the principle of majority rule.

The advocates of this rule conveniently fail to point out that a unanimous Supreme Court in that very same case determined that one constitutional constraint that limits the rulemaking power is the requirement that a simple majority is sufficient to pass regular legislation in Congress. To quote the Court:

> The general rule of all parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations * * *. No such limitation is found in the Federal Constitution, and therefore the general law of such bodies obtains.

The Court expressed the same understanding as recently as 1983, when, in Immigration and Naturalization Service versus Chadha, it stated:

> * * * Art. II, sect. 2, requires that two-thirds of the Senators present concur in the Senate's consent to a treaty, rather than the simple majority required for passage of legislation.

So, this principle, while not written into the text of the Constitution, was explicitly adopted by the Constitutional Convention. It was explicitly defend in The Federalist, the major contemporary explanation of the Framer's intent. It was followed by the first Congress on its first day, and by every Congress for every day since then. And, this principle has been explicitly found by the Supreme Court to be part of our constitutional framework.

Some argue that a three-fifths requirement to raise taxes would be like a two-thirds vote requirement to suspend the rules and pass a bill, or the 60-vote requirement to end debate in the Senate. Wrong. Those rules address procedural steps. A bill not approved under suspension of the rules in the House can be reconsidered and passed by a simple majority. After debate is over in the Senate, only a simple majority is required to pass any bill.

So this rule is not like any rule adopted in the 206 years in which we have operated under our Constitution. As 13 distinguished professors of constitutional law recently said in urging the House to reject this rule:

> This proposal violates the explicit intentions of the Framers. It is inconsistent with the Constitution's language and structure. It departs sharply from traditional congressional practice. It may generate constitutional litigation that will encourage Supreme Court intervention in an area best left to responsible congressional decision.

So, if this rule is so clearly unconstitutional, why was it adopted? The answer is simple. This rule is a gimmick. It is an act of high posturing. And as much as the Republicans may wish to be seen as opposed to tax increases, to demonstrate their absolute hostility toward tax increases, still it is unseemly to do so at the expense of the Constitution.

Beyond that, if we start down this road of making it harder for Congress to carry out some of its responsibilities, who knows where it will end. In December, Representative SOLOMON sent out a "Dear Colleague" letter enclosing and endorsing a newspaper column saying that this supermajority requirement should be broadened to apply to all taxes and fees; to any spending increase; and to any bill imposing any costs on any type of private business—for example, the Clean Air Act.

So let's be clear that if this supermajority requirement is allowed to stand for one type of legislation, in the future we'll be voting on extending that bad idea to other types of legislation, too. And with it, we slide measurably toward the empowerment of a minority against which Madison warned.

Some question whether the court will even address the merits of our claim. We are confident it will. The U.S. Court of Appeals for the District of Columbia Circuit in Michel versus Anderson reached the merits of a new rule of the House to allow delegates to vote in the Committee of the Whole. There, the court rejected various procedural arguments to dismiss the case, stating that the courts are empowered to act on those House actions which "transgress the identifiable textual limits" of the Constitution. Moreover, the court ruled that private citizens have standing in these kinds of suits because they are being harmed through a dilution of the value of their vote in Congress, but unlike Representatives, they do not have the power to persuade the House to change its rules. The plaintiffs in our case are similarly affected by House rule XXI, a rule which, we argue, clearly exceeds congressional authority under the Constitution.

The idea of a three-fifths majority to raise tax rates was first proposed in the Republican Contract With America as a part of a balanced budget amendment to the Constitution, not as a rules change. For those who are serious about this idea, that is the appropriate and lawful way to do it—through an amendment to the Constitution.

Since the House did not follow that process, my coplaintiffs and I have been forced to involve the courts in this matter. The Framers had the wisdom and foresight to grant the Federal courts the authority to decide the constitutionality of acts of other branches of the Government. The Framers knew there would be times in our history when elected officials would be unable to resist the temptation to tamper with the Constitution for short-term political gain.

Today we take advantage of that foresight by asking the court to strike down a politically motivated House rule and preserve the integrity of the Constitution. Our faith in the strength of the Constitution gives us faith in the process of judicial review, and we feel confident that the court will strike down this House rule.

Mr. Speaker, I include in the RECORD the statement of Ms. Becky Cain, president of the League of Women Voters of the United States, in connection with the lawsuit.

(The letter from Ms. Cain is as follows:)

STATEMENT BY BECKY CAIN, PRESIDENT, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES, FEBRUARY 8, 1995

On the Lawsuit Challenging House Rule XXI:

Good morning. My name is Becky Cain and I'm president of the League of Women Voters of the United States. On behalf of our members and on behalf of all voters, the League is joining in this suit.

Seventy-five years after its founding, the League still believes in the concept of good government. We still believe that maintaining the integrity of our political system is a worthy goal. Call us old fashioned—we still believe that representative government should operate on the principle of majority rule. We oppose the tyranny of the minority.

Good government means representative government. According to the Constitution, majority rule is the keystone of representative democracy. House Rule 21 turns this principle on its head. By enacting a rule requiring three-fifths vote to raise taxes, the two-fifths who oppose the bill gain control. Congress has thus given up the most basic and fundamental power granted by the Constitution—the power to lay taxes—to minority rule. Good government also means responsive government. But under the three-fifths rule, Congress responds to the interests and will of only a minority of its members.

Good government means being able to make decisions—to make hard choices. As we are seeing now, making decisions that meet the needs of this diverse country is already difficult enough. This rule makes tough budget and tax decisions impossible.

In 1951 when President Eisenhower asked Congress to help him raise revenue for the Korean War effort, they did so by a vote of 233 to 160 in the House of Representatives—less than three-fifths. Under House Rule 21, Eisenhower's defense program would have been blocked or the budget busted.

Finally, good government means abiding by the Constitution. The three-fifths rule does not. The Constitution explicitly requires a supermajority in only seven cases.

Requiring supermajorities to pass legislation would, according to James Madison, reverse the principle of free government. In the two centuries since he made this argument, we've seen no evidence that proves him wrong.

Don't be fooled by the term "supermajority." The day the House passed Rule 21, the majority of citizens lost power. Under this rule the votes of some representatives count less than other, and thus the votes of some voters count less than others. This is called vote dilution. We are taking this action, then, on behalf of all those voters whose votes now mean less than they used to.

The League understands the anti-tax sentiment behind this rule. Nobody likes to have their taxes raised. And certainly Congress needs to think long and hard before it enacts any increase. But good intentions do not equal good government. And in those cases where Congress has to evade the Constitution in order to legislate public sentiment, let the voters beware.

With so much at stake, maintaining majority rule is more critical than ever. The League joins this lawsuit to halt the erosion of this constitutional principle.

PERSONAL RESPONSIBILITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise again tonight and take the floor again tonight to continue the discussion of the Personal Responsibility Act.

The Personal Responsibility Act is the Republican majority's welfare reform act. I wish us to take a closer look at the Personal Responsibility Act and how it affects all of us in the United States but particularly the State of Texas.

As I have stated on several occasions before, the Personal Responsibility Act would cut Federal funding in Texas over $1 billion in fiscal year 1996 alone, representing a cut of 30 percent. There are unsubstantiated rumors running through the Capitol that the senior nutrition program has been pulled from the Personal Responsibility Act. If this is true, I congratulate the Republican majority in their recognition of the absurdity that is included in the Republicans' Contract With America, reducing funding for meals-on-wheels and other senior programs. It just does not make sense.

Under the original Personal Responsibility Act, the Houston Harris County Area Agency on Aging provided preliminary numbers last week from which we estimated how many seniors would be denied meals per day in Houston.

□ 1940

After a closer calculation, the Area Agency on Aging has provided me with a letter that says 320 seniors would be denied a meal each day, 80,000, more than 80,000 meals a year if the Personal Responsibility Act passed in its present form. I insert that letter in the RECORD at this point, Mr. Speaker, and I appreciate the opportunity to do that.

The letter referred to is as follows:

CITY OF HOUSTON, HEALTH AND
HUMAN SERVICES DEPARTMENT,
Houston, TX, February 2, 1995.

Mr. GENE GREEN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN GREEN: Per the request from your office regarding the impact of 30% reduction in our USDA Award, the following information is provided:

The 30% reduction in our USDA Award would translate to 80,357 less meals available to our nutrition participants. When further analyzed on a daily basis, this would mean 320 seniors per day would not be served a congregate or home delivered meal.

The Area Agency on Aging serves seniors who are 60 years and older. A dependent child of an eligible senior would also be eligible for our services.

If additional information is required, please contact Charlene Hunter James, MPH, Director, Houston/Harris County Area Agency on Aging at (713)794-9001.

Sincerely,

M. DESVIGNES-KENDRICK, MD, MPH,
Director.

On the front page of today's Washington Post, Mr. Speaker, I saw a headline that said, "Republican officials agree on repealing welfare entitlements." That is like two hyenas fighting over a deer with the grandparents and children seeing what is left for them. Unfortunately over a hundred thousand seniors in Harris County had no voice in that agreement, who may or may not get a hot meal, if these rumors are correct.

The American people, they want results. How can we have the results when 46 percent of the Members of Congress were simply left out of the process between the Republican Governors and the Republican majority?

In that article in the Washington Post, Mr. Speaker, Vermont Governor Dean describes the situation very clearly. He states the agreement is only a deal between the Republicans. Political partisanship must not take precedent over the lives for seniors or, for that matter, children or mothers.

Allow me to remind my colleagues that school breakfast and lunch programs are not included in the rumors that were talked about, removing senior citizens food programs. Thousands of school children are still under this budget ax when school nutrition programs are subject to a 30-percent cut through this personal responsibility, and tonight we still do not know if our senior citizen nutrition programs are exempt.

Congress should end the welfare as it is currently operating, but the Personal Responsibility Act should not include nutrition programs, whether they be for our seniors or for our youngest children in this country.

CRIME PREVENTION PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. ROYBAL-ALLARD] is recognized for 5 minutes.

Ms. ROYBAL-ALLARD. Mr. Speaker, I declare my strong opposition to H.R. 728.

This Republican proposal effectively dismantles the highly successful COPS program and the innovative prevention programs that have been praised by law enforcement agencies throughout the country.

The misguided block grant funding called for in H.R. 728 repeats the mistakes of history by returning to the ineffective use of block grants that were the subject of major abuse and scandal in our recent past.

Let us not forget the shameful instances of taxpayer money used to buy private cars, airplanes, and even an armored tank under the former block grant program L.E.A.A.

H.R. 728 opens the door once again for abuse, while doing nothing to guarantee enhanced public safety. It does not guarantee one single new police officer on our streets or the implementation of one additional prevention program.

I am particularly concerned that under H.R. 728 communities will lose $2.5 billion that would have put more community police officers on the street and would have provided for the additional implementation of crucial prevention programs.

It is significant that the National Association of Counties, whose members would receive the grants, opposes H.R. 728 and supports the President's 1994 crime bill with a balanced approach of funding for both law enforcement and prevention programs.

Those who argue that prevention programs are useless fail to understand the complex causes of crime. They fail to understand that in communities across our Nation, criminal activity occurs primarily where opportunity and hope do not exist.

Supporters of H.R. 728 argue that the prevention programs it repeals are useless fluff and a waste of public funds. They are dead wrong.

In the 1980's communities in my district received Federal and State funds specifically for crime prevention efforts aimed at reducing heavy gang activity.

Programs were initiated to provide at-risk youths with positive alternatives to gangs.

For students, after-school programs including sports, study skill clinics, and mentoring were offered.

For those out of school with no job prospects and clearly the most vulnerable to violent gang participation; programs were offered in basic education, job skills, and self esteem.

These programs not only helped lower crime, but nearly eliminated gang activity in the east Los Angeles community.

Ironically, when the gang activity dropped to such a low level the funds for prevention programs were misguidedly shifted to a different community.

Almost instantaneously, gang violence increased dramatically and has been rising steadily ever since.

Prevention programs work. They work because they give alternatives to individuals who have few options and they work because they give hope to individuals who have none.

If we are to win our struggle against violence and crime in our country, we must have more police on our streets and effective programs that give positive alternatives to crime and provide individuals with hope and opportunity for a better life.

The Republican leadership calls H.R. 728 the taking back our streets act. What this bill takes back, however, is not our streets, but our chance to create safe streets all across America.

Police, parents, and public officials nationwide have proven that community policing and prevention programs are our best hope for eliminating crime in our country.

To make this hope a reality, we must oppose H.R. 728.

COMMUNITY POLICING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Massachusetts [Mr. MEEHAN] is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEHAN. Mr. Speaker, I rise to talk about the issue that we are dealing with in the Congress this week and early into next week, the issue of the crime bill.

Just last September President Clinton signed the most comprehensive, effective, tough crime bill in the history of this country. It was a crime bill that was tough on repeat offenders. It was a crime bill that made a significant contribution to building more prisons across this country, $10 billion. It was also a bill that put 100,000 new police officers on the streets of America.

But I want to talk about two parts of that bill because two important sections of that bill are in serious jeopardy over the next several days in the Congress of the United States; that is, sections of the bill that require and fund 100,000 new police officers across America, partially funded by the Federal Government, community policing.

Let me just say that as a former first assistant district attorney in Middlesex County, one of the largest counties in the country, and having had the experience of overseeing a caseload of over 13,000 criminal cases a year, and having had the experience of working with 54 cities and towns and 54 different police departments across that Middlesex County, I can tell you that community policing is a cutting edge of what works in law enforcement. It is not an accident that we have for the time an Attorney General with vast experience in the front lines of the fight against crime.

This attorney general knows what it is about to manage a case load, knows what it is about to work with police departments, and knows what fighting crime in tough areas is all about. And that is why I believe we have seen this smart, tough, effective crime bill passed into law.

□ 1950

Community policing has worked all over America, and I want to talk for a minute about my hometown, the city of Lowell, MA, where 13 additional police officers and a commitment made by the Federal Government, and a commitment, by the way, made by the Republican Governor of Massachusetts, Governor Weld, a former prosecutor who also understands that community policing works.

Because of that commitment, the city of Lowell has been able to form community partnerships using the Community Policing Program. Community partnerships are the hallmark of police and community oriented proposals. During the last year the Lowell Police Department under the leadership of Police Chief Educate Davis has opened up new community policing precincts in different sections of the city of Lowell, Lower Belvidere, Back Central Street, Lower Highlands. They have established a Team Lowell to go out in the communities and fight crime. They have developed a van plan, getting contributions from toll booths all over the city, to help form their partnership between the school department and the police department. They have a community response team with inspection services. During the first year they have been able to close down more than 150 buildings which are identified as drug houses or identified as structures that were not rehabilitatible.

With the special units, the community response team has been responsible for over 350 arrests. We have had school visits by precinct officers into the community, visiting the schools, forming partnerships with educators and students and guidance counselors. We have established flag football leagues, where police officers donate their time, working with youths in the community. They also have a street worker program basketball league working in the city of Lowell, again forming that partnership, and a DARE summer camp has also provided leadership in the area of cutting drug use among youths.

Just this past week the police chief in Lowell came out with a report showing the city of Lowell crime trends as a result of community policing in that city. The results are very, very important.

These results show how community policing has actually worked in one particular city, Lowell, MA. These results are not the results of a political opinion poll. They are not the results of focus groups. They are not the results are putting one's finger into the political wind to determine what is popular one week or another. Because as I watched the Republican rhetoric coming on the other side of this issue, I see a lack of real understanding of what makes law enforcement ticks, about what works in law enforcement. But I see a lot of good political posturing.

What really concerns me is I see a feeling that many Republicans on the other side of the aisle who supported this crime bill 4 months ago, 5 months ago, supported it on the floor of the House, now are coming in with a new proposal that would not guarantee one community police officer. They allow communities all kinds of discretion to determine whether they want to purchase fax machines, limousines, new police vehicles, with no requirements at all that they engage in a community policing program that has worked.

What seems to be ignored is the fact that these statistics show that community policing works. And there is nothing that could be more dangerous than for us to back out of our commitments that we have made to communities all over America to participate in a 3-year plan to fund community police departments across this country.

But that is what is at risk. And I think it is really unfortunate as a person who has had some experience with crime to watch the rhetoric in the Congress. Many Members of Congress who have a lot to say on quick sound bites about crime have never been in a courtroom, have never prosecuted a case, have never put one criminal in jail, ever. But they have become so-called experts in law enforcement, so-called experts in what the future trends are in this country and what works and what does not. And that is bad news for America, because fighting crime is serious business. You do not learn how to fight crime by reading a political poll or looking at a focus group or determining shifts in the political winds. Fighting crime is serious business.

Mr. STUPAK. Would the gentleman yield?

Mr. MEEHAN. I would be glad to yield to my colleague from Michigan [Mr. STUPAK], who I might add has done tremendous work on the task force on crime and has 12 years experience as a police officer in Michigan. I would be happy to yield.

Mr. STUPAK. I thank the gentleman. I thank the gentleman for once again taking the lead in putting together another special order on crime. But you were commenting a little bit there on statistics in Lowell, MA and what you found with community policing. But through all this rhetoric, I think one part that has been lost is that if you take the last decade, take the last 10 years, crime has tripled. It has gone up, violent crime, part I crime, has tripled in this country. It has gone up 300 percent.

In that same 10-year period, do you realize how many police officers were added to help combat crime, which went up 300 percent in 10 years? A mere 10-percent increase in police officers throughout this country.

So the point that you are making about violent crime and how police officers under a community policing program can have impact, our resources are scarce, crime is soaring out of sight. Like I said, it tripled in the last decade. Yet here we have a program that works, that works, as is shown in your area, and I am from northern Michigan, in Marquette, a city in my State of 17,000 people. But yet we put a community police officer in 1990, and in the last 2 years the crime has dropped 23 percent. The first 2 years it has been in existence it dropped 23 percent.

We were just awarded another police officer because the community policing grant ran out in Marquette, but under the COPS Fast Program which was announced yesterday, they have now received money to fund this program for another 3 years to keep the solid work that is being done in community policing in a small rural community like Marquette. It works.

Mr. MEEHAN. Thank you. The 23 percent figure that you mentioned is consistent with the figures here that are up in the first year of community policing in the city of Lowell. For example, burglaries, down 34 percent; residential burglaries, down 32 percent; business burglaries, and what could be more important in terms of fostering economic development and business growth, down 41 percent; larcenies, down 23 percent. In car thefts in the city of Lowell, they are down 20 percent as a result of community policing. And these are not my figures. They do not come from a political pollster. They do not come from a political group in Washington. They come from the police chief of city of Lowell, MA, a law enforcement professional with years of experience in fighting crime, in a very, very difficult city to fight crime.

When I was a first assistant district attorney in Middlesex County, the first five homicides I attend, and we used to in our office, the first assistant would have to go to a homicide scene to determine what experts needed to come in to investigate a murder, to basically head up that investigation and make sure it was conducted properly.

The first five homicides that I attended in the first few months, three of them were in Lowell, MA. So this is an area really that has been plagued by difficulties in fighting crime. And the statistics that you mentioned are consistent right in this community, dramatic increases in crime in the eighties and into the early nineties.

These figures I think speak for themselves, and they are consistent with my colleagues' experiences as well.

The other thing that I think is important to mention is what community policing is all about. Because sometimes people hear the term and really do not understand what makes community policing work and what actually happens when a community undertakes a competent community policing program.

I know from the rhetoric I have heard on the floor of the House of Representatives, it appears to me a lot of Members of Congress do not know what community policing is all about. I was wondering if you could, given your 12 years of experience, relate what community experience is all about and your experience with it.

□ 2000

Mr. STUPAK. I would be pleased to. Back before I came to Congress, I was in the State legislature back in 1989 and 1990. We wrote the community policing law for Michigan. Community policing is really a concept where the police officer works and lives in the community in which he is policing.

It is usually a small geographic area where the police officer basically befriends the people in which he is serving. Many people refer to community policing probably in the larger cities as walking the beat. While you are walking that beat, you are learning to communicate with the people you are serving. You have built a friendship. You have built a trust. You actually have built a partnership in the community in which you are trying to serve.

Once that partnership is cemented, then the faith, the trust and the confidence in law enforcement comes back. So when there is a crime, when you go to one of the five murders that you went to in Lowell, MA, when you go there, you go there a complete stranger and you try to do an investigation. But if you are a community police officer and a murder or a crime happens in that community, you go there, you have contact. You have seen these people. You are not strangers trying to resolve a heinous crime that may have concern, but rather, you are a community that has come together to focus on this crime, with the faith, confidence, and trust in your police. They are more open. They will assist him in solving this crime.

And once you have built that trust, that relationship, community policing can and will work. You work together as a community. It is a partnership that is formed between the geographic area.

In Michigan, one of the ways we defined the areas in which a community police officer would work would be the density of population in a given area, the crime rate and the juvenile population, since juveniles seem to be the focus of most, a lot of the crime that happens nowadays.

So when you take those three factors, you put a police officer in there. That police officer lives there. He works there. So when that police officer investigates this crime, whatever it might be, whether it is murder in Lowell, MA, or breaking and entering in northern Michigan, the police officer that took the original complaint, started the investigation, is the same police officer that stays through the whole investigation. It is the same police officer that brings the request to the district attorney or the prosecutor for the warrant. It is the same police officer that goes to court with the witnesses or the victim's family, whatever it might be.

Throughout this whole investigation, there is a trust that is being built. There is confidence in the department. Because the way it is right now, without community policing, one police officer takes the initial report. He turns it over to the investigator who goes and sees the family or victim, wherever he does his investigation. Someone else goes to the prosecutor to get the warrant. And when you go to the day of trial, the person who took the initial complaint, you do not remember anymore. You might know the investigator. You never met the prosecutor. There is not that teamwork, that partnership, that relationship, that trust that is needed.

When it is put together, it works, whether it is a rural area or in an urban area.

I know the gentlewoman from Houston, TX [Ms. JACKSON-LEE] wants to jump in here because they have a tremendous community policing program.

Mr. MEEHAN. I might add, our colleague from Texas [Ms. JACKSON-LEE] has been a leader in the Committee on the Judiciary on these issues, has been extremely active and has experience as a Houston city council member, a lawyer, and I have to say has been a very articulate, outspoken advocate on these crime prevention programs, antigang activities. And I am delighted that she could join us tonight because she certainly has made a tremendous impression as a new Member of Congress. And I wonder if she could relate some of the experiences that she has had in Houston.

Mr. Speaker, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman from Massachusetts for his leadership and certainly I thank the gentleman from Michigan [Mr. STUPAK] for really evidencing from a very personal perspective, and as you have evidenced from a very personal perspective what it means to be a police officer and what it means to balance the whole concept of prevention and preventing in law enforcement.

I think one of the things that our colleagues are missing on the other side of the aisle is there is not a conflict with law enforcement and having officers know their communities. You are not inhibited or prevented from being forceful in arresting the bad guy, if you will, and ensuring safety in the streets, if you also have the balance of being able to know the neighborhood.

Coming from the city of Houston and having served, and I thank the gentleman very much, on the city council, being part of the local community, one of the aspects of policing that they were so excited about is what we called neighborhood storefronts. That simply meant that our officers were right in the neighborhood. And believe it or not, we would have a tough time turning away communities who wanted to offer free space so that cops could be on the beat, somewhat similar to the President's programs of cops fast, cops ahead, and cops more.

What it meant is that they would come into the neighborhood, they would be next to the corner ice cream store, the corner grocery store, the neighbor who was going to the cleaner's could go into this neighborhood storefront, share information. The police could share information and there was a complete dialoging. You would be very much pleased with the fact, evidenced in your support for this program and our support for his program, of how many criminal activities were either stopped or how many arrests were made because of that neighborhood influence and because of that interaction between neighbor and police.

I think it is certainly a travesty that we would come this far, hearing the announcement that was just made for this past week where the President was able to announce some 6,600 law enforcement agencies being able to hire 7,110 community police officers under the Cops Fast Program. It is a tragedy to know that what we have on the table now is an effort to go back to the station, if you will. When I say the station, the train station, rather than pulling out and going forward, we are going back to where we started from and to turn back the clock on programs like this.

Mr. MEEHAN. The point that the gentlewoman made relative to getting police officers into the community is important for two respects. One is, you can reduce crime. But my experience has been, we have a DA up in Middlesex County, Tom Riley, who has really been on the cutting edge of priority prosecution programs. And what happens is, a police officer working with the community, the schools, the probation department, they can identify who the worst offenders are, who the gang leaders are, who the ringleaders are, identify them and make them a priority and get them out of that neighborhood. Those who cannot be rehabilitated or those who need to be removed are removed. And you get them out of the neighborhood and then you work with the vast majority of the individuals that are left. That is the type of law enforcement that works. And it is proven all over the country.

Mr. STUPAK. For those who are watching us either in their office or at home, the reason why we are here, this program, community policing, was just started October 1, just over 4 months ago. And on February 7, the Republicans, our friends on the other side of the aisle, brought forth six pieces of crime legislation on February 7. We have been debating it for the last few days. We talk about 100,000 police officers we made a commitment to put on America's streets in the next 5 years. The program is 4 months old. There is overwhelming support throughout this Nation for it from the police officers.

The gentlewoman from Texas mentioned the Cops on the Beat Program, the Cops More Program, the Cops Fast Program, three of the programs that have just started will have 17,000 police officers on the street in the last 4 months.

But why are we here talking about it? Because even though the slogan is, our friends on the other side of the aisle say the slogan is taking back the streets, what they are doing is giving back the streets to the criminals, to the violent perpetrators because they want to scrap this program, this 100,000 cops on the street. I still have not heard a good reason why it should be scrapped, but they want to scrap it for nothing more than political reasons.

They would replace these 100,000 cops on the street and replace them with a massive block grant program. When you look at that massive block grant program, billions of dollars are going to be put into a block grant program. The way that is to help fight crime at the local level; after all, the local people know what is best for them. There is not one police officer earmarked in their plan. There is not any program earmarked in their plan to put police officers on the street. And we have been seen in late 1968, with the Law Enforcement and Administration Agency, LEAA, how the money was squandered, was squandered or as someone said the other day, it reminds you of the pork of Christmas past, what they did with all that money. For every dollar that was spent in the late 1960's and early 1070's, 33 cents on every dollar went for administrative costs, overhead, bureaucrats. We did not see more police officers on the street.

What we are here trying to inform the American people is this unrestrained giving of money back without any conditions will repeat the problems we had in the late 1960's and the early 1970's, the abuses that went into the LEAA Program.

Ms. JACKSON-LEE. Let me just take you up on that point because you make a very valuable point. First of all, I think it is important to note that we come from respectively different parts of the Nation. I think it is a tragedy, again, if our colleagues on the other side of the aisle would pretend to think that this is a big-city problem or it is a big-State problem. What we are finding out is whatever the jurisdiction, the hamlet, a town, a country, the cops program that was passed in the 1994 omnibus crime bill went to seed—that's the heart of the matter.

□ 2010

It went into the places where maybe they had one officer in the town. In the city of Houston, obviously, we are constantly looking to find ways to improve the number of police-to-citizen relationship, to develop the relationship, but also to provide the protection. We needed as much as a smaller city in the State of Texas, or a county, or a hamlet, or a town, than may be in your fair State of Massachusetts.

The issue becomes how do you relate law enforcement to the 21st century; how do you prevent gang violence. What you do, as has been said by the gentleman from Massachusetts [Mr. MEEHAN], is you get those officers who are in plain clothes, who are in the neighborhoods, who are in the schools, to now who the characters are, if you will.

At the same time, and I appreciate the gentleman's response, having served as a police officer for a number of years, you even get those local police officers to participate in Boys Club and Girls Club, and the Boy Scouts.

I have an urban Scouting program, for example, in the city of Houston. Many police officers are involved in that. There is PAL. When you have the officers in the neighborhood, they are able to go into the schools and go beyond the call of city, to a certain extent, and even begin to look these youngsters in the eye and say, "That is not the gang you want to be in," of either gain their confidence and get information that truly helped to, if you will, break the crime cycle.

I think that is very important. This is not an issue that is an issue for large cities, large States, it is an issue of crime prevention for this particular Nation.

Mr. Speaker, I would appreciate the gentleman's response about police involvement in those kinds of activities.

Mr. STUPAK. Mr. Speaker, it is certainly very helpful, because it humanizes police officers. It is not just whether it is a police athletic league or teaching about DARE, DARE to keep the kids off drugs, a program that was developed in L.A., and it is taught nationwide, or whether it is seeing the police officer in the school.

When you put a human being—and it ges back to the community policing concept of building trust, confidence, and respect for law enforcement.

What are we doing here, as we were talking earlier tonight? In the bills that are pending before this floor right now, the Republican crime bill of taking back the streets, there is not one program earmarked to humanize the police, to even provide us one police. instead, they want this massive block grant program.

What happened when we had it back in 1968? Did they form PAL? Did they put police officers in the schools? Here is an example of some of the things they did. The local people said, "We know what is best. Let us do it. We can do it better. We know what works in Houston, Marquette, Michigan, or Lowell MA."

Here is what they did. In 1968 a sheriff in Louisiana purchased a tank—a tank to combat crime. In another State, they used $84,000 to buy an airplane—an airplane. The only value they got out of the airplane, other than to buzz the Governor around the State, was it had a very secret mission.

That airplane came to Washington, DC, picked up some Moon rocks, and went back to the State from whence it had come. That was the only law enforcement function of that airplane you could consider, because that must have been top security, picking up some Moon rocks, but $84,000 went there.

Or how about one of the Southern States, which started a cadet program, a law enforcement cadet program to help out young people, as the gentlewoman suggests? Do you know what the cadet program was? Some $117,000 was spent for that sheriff's family members and friends of his to have a job at the expense of taxpayers.

Or another city, they used $200,000 in LEAA grants to buy property—to buy property. Another city used money to buy an unmarked car, so the mayor could drive around. This is the same type of program that they are telling us: "Take about $10 billion, we will give it to the local communities. They know what is best in fighting crime." Not one police officer.

Thirty-three percent, we have seen, back from the 1968 and seventies program, went to administrative costs, and what for? We did this before, for all of us who were here, but it happened before in 1968 and what was it used for? Tanks, airplanes, limousines, land. It goes on and on and on.

Mr. MEEHAN. Mr. Speaker, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. I would like to point out, my colleague, the gentlewoman from Texas [Ms. JACKSON-LEE], had talked about gang violence and what the difference is when the community police officers get into that community and learn that community.

When I was assistant district attorney in Middlesex County I got a call one afternoon. It was about 2:15 one afternoon, and the State Police informed me that a 15-year-old boy from Lowell, MA, had been shot in the head, a culmination of what was gang activity in the city of Lowell during that time period.

We had had an influx of Asian immigrants into the city, many of whom had been victims of crime, Asian crime on Asian crime, where the people, immigrants from other cultures who came from a culture where they did not necessarily trust authority and did not know what the role of the police department was, whose side the police department was really on.

It was very difficult for us in the DA's office to get witnesses of crime to participate and to tell us what happened in a crime, because they did not know whether to trust us or whether to trust the police, so they did not trust anyone.

In this murder of a 15-year-old boy, it was the culmination of months of gang activity in the city. People were keeping their sons and daughters home from Lowell high school.

We sent a district attorney up to the scene of that. The DA, Tom Reilly, who is a very innovative and hardworking DA, went up to the city. We instituted a priority prosecution program there.

We brought in people from the Asian community to the table of the mayor's office; we brought in the probation department that had the probation records of all the individuals involved. We brought in the school department, which could give us a perspective of who attended school, who did not, who the bad actors were, who the people were who were trying to get headed in the right direction.

We brought the police department to the table. We also brought the DA's office to the table, and the DA met on this task force every single week, every week. We identified over a period of time the 25 ring leaders of these gangs, the individuals who could not be rehabilitated, who had long criminal records, who the school department agreed, the probation department agreed, the police department agreed had to go off and they had to go to prison for as long as we could get them there.

We were able to remove those 25 individuals and get them the toughest sentences we could. The question is, what do you do with the remaining individuals. If you do nothing, in 8 months or 9 months, you have 25 new individuals again ready to be prosecuted and removed from society.

However, we went a step further. The DA, Tom Reilly, established a community-based prosecution team where the police officers played a role in the community, and partnerships were formed in getting the police officers to understand the culture of many of the new immigrants.

We started to get cooperation, because they realized they could trust the prosecutor's office, they could trust the police department. The soccer leagues, the police department, just as the experience in Houston, the police department played a role there.

We had basketball leagues, and they are still going on today. Crime, Asian crime, the victims of crime decreased dramatically in that city.

I know that my colleague, the gentlewoman from Connecticut [Mrs. KENNELLY], is here, the vice chairman of the Democrat Caucus, a member of the Crime Task Force, and also a Member who has had, I know from conversations in committee work, many of these types of problems where you identify a problem, go in and do the cutting edge of what works, so I yield to the gentlewoman from Connecticut, [BARBARA KENNELLY.]

Mrs. KENNELLY. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MEEHAN] and the gentleman from Michigan [Mr. STUPAK].

Mr. Speaker, I came down here this evening as I listened to this conversation and wanted to join in, and say that so many of us who are in public life, or who run for public office, and are in large legislative bodies, such as this House, work for long periods of time on legislation.

Sometimes we see the fruition of that legislation and sometimes we do not. It does not get out of committee or it comes to the floor and it does not go into law.

This year's crime bill was totally different. In this year's crime bill, we really addressed some serious needs in our community. The crime bill came forth. We had crime bills in other years, but this was a good crime bill. Many of this body get behind that crime bill.

What happened was that there was a pledge made by the President, the Attorney General, and Members of this body to put policemen on the streets of our local communities, on our city streets, on our town streets, and in our rural areas.

□ 2020

For me particularly it was an answer to a situation, and the gentlewoman from Texas has spoken about it, and the gentleman from Massachusetts did. We had a troubled city, and we had the formation of a Federal task force, and we all know they can do great good. But we all know it takes a long time to get things done. We had an awful time with the gang situation in the summer 2 years ago where the State police had to come in, and the cost of that was very high to taxpayers, and they could only stay so long. But the problems continued.

We had, like so many cities have had, a terribly, terribly unfortunate situation happen. In fact, the thing that made me know I had to do something—I had to get involved and bring some hope—was a little girl riding in the back seat of a car on the way to see her grandmother, and she was killed, and it was a gang-related shooting, she died, and the community was terribly upset. That is only one example of what happens when these situations get out of control. And in this program, this crime package we had before us it said you could apply for additional policemen for your urban area, for your town, for your city, and that is exactly what we did; we did apply. I had the police chief of Hartford, CT, come down here, I had the mayor of the city come down here and meet with Attorney General Reno. She explained the program. We looked through the legislation and we realized this was tailor made for us. So exactly 5 months from when that crime bill passed, we now have grants that have 17,000 policemen across these United States, and in my own city there were 13 new additional policemen.

I cannot tell my colleagues the hope that that gave to people, saying we understand there is a problem. We know it is going to take time to address this situation. We are continuing to do it. We have still a Federal task force in there. The whole community has rallied around so that the community works with the local police and all sorts of things have happened that have been good. But it was that hope and that understanding that people care and that you could get additional policemen out on the streets.

Then earlier this week, and I am sure my colleagues all had the same situation, in my district six small towns each got one additional policeman, and they had applied through this particular piece of legislation. They applied and got this individual that will be on the streets of these small towns. And yes, the Federal taxpayers pay by sending their taxes in for 75 percent of these additional police, and the local community pays 25 percent.

But the application was one page, just one page, and you did not have to apply. Obviously six of my towns did apply and they each got one policeman.

Maybe for somebody who comes from New York City that is nothing. For somebody in a small town that is a big deal, and as I know the gentleman from Michigan understands because he was a policeman and he knows the difference that one additional policeman can make in a small town.

Mr. STUPAK. If the gentleman will yield on that point, in the Cops Fast Program which was announced yesterday, where you mentioned you had six police officers and they said there was no need for extra police in this country, the statistics that stuck with us yesterday when we reviewed and announced these grants was Cops Fast, which for communities under 150,000, they could apply for one or two police officers or whatever their needs were on a one-page form, eight questions. They filled it out. It had to be in by January 1. They would make announcements in February. The forms were sent out in November.

Half, one-half of all cities under 150,000 people in this country applied to receive a police officer. One-half of all towns, cities, villages, townships under 150,000 applied for these police officers.

As of yesterday the announcement was made that the President and the Attorney General authorize 7,000 more police officers to go and spread out across this great Nation to help fight crime.

In my district, which is a very rural district in northern Michigan, and my largest city is 17,000, which I spoke of earlier, Marquette, they received a police officer. But in my communities throughout my massive district of 23,000 people we had 49 agencies apply and awarded police officers. So in the northern Michigan area we have 49 more police officers, thanks to this program. And whether it is a big city, and Detroit earlier with the Cops More got 96 police officers to do community policing.

So it works and the need is there. Fifty percent of all of the cities under 150,000 in this great Nation applied from Alaska, Florida, Michigan, Connecticut.

Mr. MEEHAN. When was the last time the gentleman saw a program where you could apply for a grant on one sheet, anyone could fill it out, any police department? Not only that, when is the last time the gentleman saw a Federal program produce results so quickly?

Mr. STUPAK. And what do they want to do?

Mrs. KENNELLY. They want to repeal it.

Mr. STUPAK. That is right; eight questions, one sheet. You did not have to hire a consultant or an expert in grants to write a grant. All you had to do was to fill out the form, and they want to repeal it.

Back in the 1970's with the LEAA Program, 33 cents of every dollar went for administrative costs, for the experts and the people to write the grants, and we do it on one page, and it is effective and it is efficient, it is fast and it does the job. It puts the money in the police officers where they belong. And they want to do away with it. Why?

Ms. JACKSON-LEE. The gentleman has a very good point if he will yield for just a moment. As I listened to the discussion, and let me applaud the gentleman from Massachusetts for his creative leadership as a district attorney. I think when we get into this discussion and we move away from the bipartisan spirit, which is what I am hearing from the gentlewoman from Connecticut, that towns and hamlets, and I imagine you could not tell me whether they had a Republican voting population or a Democratic voting population, but they were the far gambit of citizens across the Nation. I think we are going up the wrong road if we begin to separate victims from law enforcement and prevention.

The gentlewoman's detailing of a tragedy that occurred in her community reminded me of a tragedy in mine, as we can all indicate, and likewise the gentleman from Masschusetts, where youngsters were having a birthday party and enjoying a 13th birthday party, and tragically, in a drive-by shooting, gang-related, we lost a teenager. But that parent was so grateful for the police they had developed a relationship with, the officers that were close to the neighborhood, and close to the youngsters, because soon after the culprits, if you will, were immediately targeted because of those officers being close.

It is somewhat similar to the story of the gentleman from Massachusetts about people becoming more comfortable with the officers that they know and being able to bring them together in order to solve crime. And we have a very diverse city, Asians, Hispanics, African-Americans, and Africans, people from east India, a very diverse community, and we have been able to use this program to expand our police department to relate to some of the diverse communities and to be as creative as you have been in Massachusetts to solve crimes.

So I think the real question is, Is the proposed bill prepared to solve crime or is it something that wants to clearly respond to campaign pledges, because if it is on track to solve crimes, and they will listen to the real Americans in these hamlets and towns, in the large urban areas, former police officers, district attorneys, myself having served as a former municipal court judge, to say that it is very important that victims are helped. We do not want them to be victims, but the one thing we sure want to have happen is that that crime be solved, because it is a tragedy. How can you do it without more police officers?

Mr. MEEHAN. The gentlewoman is absolutely right. Someone coming into a district attorney's office with a family member who has been murdered, you do not ask if they are Democrat, Republican, or Independent, and anybody who is for fighting crime, any Governor, whether it is Weld of Massachusetts, or a Republican district attorney in Suffolk, they support community policing and crime prevention because they know what crime is all about.

This should not be a partisan issue. We had bipartisan support for this bill when it passed, bipartisan support, and everyone stood up. I remember the debate on the floor of the House when I stood in the well and I challenged Members of this Congress who did not vote for this on the other side of the aisle that if they were really serious about fighting crime they ought to volunteer for 2 weeks in a district attorney's office in their districts anywhere in America, because all it takes is opening your eyes and going into one of those district attorney's offices, or a police department. And if you go in and find out what is happening with community policing programs, and what has happened in district attorneys' offices anywhere in America, you can never come back and vote to dismantle the program.

☐ 2030

Mrs. KENNELLY. The gentlewoman from Texas, a new Member, just been here a short time this session, but that was such a thrill to see real legislation passed that has real results that people could focus on.

What happened was we identified a problem, and we found a solution, and it was additional policemen in the communities that needed it, and that happened. The results were tangible.

And now what we are seeing, I guess, is a real push to roll this program back, to end this program that has worked, something that you can look at, that you can see, and that you can know that your streets are going to be safer. And we are going to roll it back and say OK, never mind, even though it has worked, never mind, we are going to do some block granting and you can do whatever you want with the taxpayers' money, and maybe you can help your budget to be a better budget, but the point was not that. This was a crime bill last year. We found there was a need for additional policemen in communities. That was addressed. The policemen are now in the communities.

The grant system did work. Janet Reno, our Attorney General, put her whole self behind this, I tell the gentlewoman from Texas; it has been so wonderful to see, not only some bipartisanship, but to see the branches of Government working together, the President calling for this, the Attorney General putting herself and her staff, long hours, to make this work, making the program better as it went along, because this has been round upon round.

I know I see people who want to change it. Of course, this is a legislative body. We should have new legislation. We should have new ideas. But when you just get a good idea last year, and it is working, and everybody is able to say look, this is going to help our communities, they say no, never mind.

So I just wanted to come down tonight and say it is working in my community. I really think the people of my district feel that their taxpayers' dollars are being well spent so that we can deal with the situation in our communities of crime which we wish we did not have but we have found a solution.

So I want to thank the gentleman from Massachusetts for calling this special order, because it was a fine time in this country that we could pass legislation and address the needs of the people of this country. I am just really kind of surprised that we are now going to change our minds and do something different. I just hope we do not.

Ms. JACKSON-LEE. I am listening to you and listening to the intensity of your remarks about how much the communities gravitated to be able to have this opportunity and how much they responded to it.

I had the opportunity to meet with representatives from the International Chiefs of Police and, yes, I meet with the people that are not inside the city of Houston, which is the largest city in the State, but they were from Plano, TX, and Georgetown. They were training to go and meet with all the members of the delegation to simply say that in their respective communities it was important to get that one officer, and they were certainly concerned about this whole issue of dollars going without any direction to a large entity and whether or not you would ever get to this small community to be able to help them out on some of the things they needed, particularly in Houston.

I just wanted to finish on this point about neighborhood policing and the comfort level that communities develop. Minorities, inner-city neighborhoods are in extreme need, if you will, for that kind of relationship with their law enforcement community, and it has worked, and we have done the neighborhood policing or modification thereof or had the officers go into the community or have been able to get, as what happened in Texas, 349 Texas police departments would be allotted some $20 million to fill 366 positions, when we have had those extra positions, we could then look to hiring individuals from diverse minority groups and backgrounds, women, and all of those helped to make a richly diverse and importantly contributing police department.

Because what it says is those people look like you and me and when they go into the neighborhood, it is such a difference, not only prevention and law enforcement but also in solving the crime. That is what you want to have happen, developing the trust and that is why I am flabbergasted as to why we would not continue a program like this.

Mrs. KENNELLY. Am I correct, the gentlewoman not only was a judge, but was also a city councilwoman?

Ms. JACKSON-LEE. Yes; I was.

Mrs. KENNELLY. Well, I think we have a bond here. Because where I learned about the success of the community policing, the cop on the beat, the neighborhood person being able to relate with the policeman who is protecting them, and they are paying their salaries, where all of that happened is right in our cities and our towns. I was a city councilwoman, and I always felt so good about community policing, and I am so delighted it has come into being in this crime package with the additional police. We will have to talk about our days in city hall.

But this is a program that city halls all across the United States are saying it works.

Mr. STUPAK. Not just city halls all the way across the United States, but the other day at the press conference when we announced the Cops Fast Program, you know, we were joined by representatives of the FOP, the Fraternal Order of Police, the National Association of Police Organizations, there was a member there from the International Association of Chiefs of Police, and they said this program works.

Do not go back to what we did in 1968 and the early 1970's with the law enforcement assistance agency, or administration. Let us not go back. Let us not go back. As Chief Vibrette said the other day when she was making an announcement, she said for too long from Washington, the Federal Government, in helping us fight crime was always one way, here is the way you do it, here is the way you do it, here is the way we do it; we always were told, we were always lectured, always preached.

Underneath the crime bill that currently exists, it is a two-way street. It is a partnership. You are giving us what we need, police officers to help fight crimes in our community. We have formed partnership for once, just like community policing is a partnership with the community in which it serves, and let us not go back to those days. You have provided us with the financial incentive on a one-page form. You do not even have to put down the criteria of your community policing, but just have a police officer there.

The purest form of prevention of crime is a police officer open and visible in that community.

Mr. MEEHAN. And when I hear the rhetoric back and forth and all of these theories that seem to come out of political polls, focus groups, here is the evidence that matters: This is community policing in one particular community that shows a dramatic decrease in crime. It happens to be one community, Lowell, MA, police officers in the communities cutting crime.

My colleague, the gentlewoman from Texas [Ms. JACKSON-LEE], mentioned her own city of Houston and the various groups of minorities. Lowell, MA, was a melting pot. I mentioned the Asian community in Lowell who are the most recent immigrants to this city and how difficult it was for them as victims of crime and how important our program was of community policing and priority prosecution, but the Irish settled in Lowell when we had a high French population in Lowell that settled there, Hispanics settled there. It has been a melting pot over a period of time. It is where the industrial revolution was born in this country, and it is always very, very important and critical that when a new group comes into the United States that they all have the communities, they have gone to form the partnership with law enforcement, with the schools, with the probation department. That is the only way that you can cut crime in an area, to form partnerships, to hear the rhetoric relative to the programs with boys' clubs and girls' clubs.

You know, in Phoenix when basketball courts and other recreational facilities were kept open late, juvenile crime dropped 55 percent. It works.

We have 13 new schools in Lowell, MA. Those schools are closed when school is over, beautiful new facilities, gymnasiums. And what do their kids have to do? They are on the streets. OK, that is how crime happens, kids hanging around the street.

We have all of these new schools, and we have an opportunity to put together programs. We have a police department that is willing to volunteer. We need to open these structures up. We need to have the type of programs that involve tough prosecution.

I mentioned the priority prosecution program. I am talking about identifying in this community 20 to 25 of the worst offenders and locking them up for as long as we could get them off the street, remove them.

With the challenge of real law enforcement and really fighting crime is what you do with everyone that is left. That is what it is all about. And anyone who has ever fought crime knows that, and I cannot believe that our friends on the other side of the aisle do not know it as well, and maybe they are hoping that this will die in the other body or the President will veto it and they will not have to mention it, or they can make adjustments and call it their crime bill.

It does not matter to me whether we call it a Democratic crime bill, a Republican crime bill, Clinton's crime bill, Janet Reno's crime bill. It is America's crime bill, and it works, and we should not be getting into partisan politics determining authorship or trying to tinker with the bill so that somebody else can take credit or there is an election coming down the road, and we have got to figure out how many seats for the Democrats and Republicans. All of that is nonsense. When we opened up, I made the point, and it is a very, very important point, fighting crime is serious business. It is really serious business. It is not partisan. It requires professionalism. It requires community involvement. This works.

The last think we need to do is kill the program. Community policing, prevention programs for boys' clubs and girls' clubs and opening of facilities; the worst think we could do is kill this program because of sheer partisan politics.

It is not in the interest of the country. I believe that any law enforcement official, anywhere these programs are working, would tell you the same thing. I mentioned Republicans, prominent Republicans, who are in law enforcement who support this program. Anyone who knows anything about these programs who have been involved, it does not matter whether independents or Republicans, they support these programs.

□ 2040

The last thing we need with America, frankly, looking at both political parties and saying, Please just give me programs that work, I don't want to hear that they are Democrat or Republican, I don't care if Clinton or Reno or somebody else did it. Let's get the job done and make or neighborhoods safe so we can improve our standards of living.

That is what this is all about.

Mr. Speaker, I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE. I thank the gentleman.

Mr. Speaker, clearly none of us is standing here this evening sharing our thoughts because it has happened in Massachusetts or it is happening in Michigan or in Texas. But it is something that is close to our hearts and our homes. Certainly, coming from Houston, a city that has already been postured, if you will, to receive some $9 million on the Cops Ahead Program, to get 123 new officers. But what that translates to, as the gentleman has evidenced, is dealing with youngsters, where you can stop the tide of crime. We have done some of the things the gentleman has mentioned, we have kept city parks open late at night, we have had the good fortune to have police officers volunteer to do that. That has impacted those youngsters by keeping them off the streets. Now, maybe we are spending too much time looking at late-night comedy shows because there was a lot of humor around the program at midnight basketball. I am going to look the American people in the eye and I hope those who look at this politically will really tell the truth. I am not suggesting that all will adhere to the program midnight basketball, but do the know that the program had police officers' involvement, do they know that the individuals participating would have GED degrees or would get the GED's or would get parenting skills?

As the gentleman from Massachusetts said, do they know this is a business and it would be handled that way because of some of the guidelines that this particular program would put in place?

This bill was serious about crime prevention and putting police officers on the streets, the 1994 bill.

It was more serious than in H.R. 728, because what it did was it prepared smaller cities and towns and counties for keeping the police officers.

Mr. Speaker, I served on the National League of Cities board. We had all kinds of cities, 17,000 of them. The issue is, once we get them, how do you prepare so that we can continue to pay their salaries and pension? The bill that they have now our colleagues are supporting on the other side drops the money down and gives no preparation to these cities and towns on how to maintain these officers.

At least, under the program in 1994 you could hire the officers, there were creative ways, a basis upon which those jurisdictions would know how to keep them, even some creativity in using it in overtime.

So I am disappointed that we are not staying on the right path, if you will, that would take all these variables into consideration. I join you in pride of getting away from what party it is or whose President.

I am glad our President was at the forefront of this.

But to see what works for Houston, and I imagine across the country, in this direction it has worked and is working.

Mr. Speaker, I am pleased to participate in this 1-hour special order with my colleague from Massachusetts, and I commend him for bringing us together to speak on this important issue.

The COPS program as authorized in the Violent Crime Control Act of 1994, attempts to place 100,000 more cops on the street by the year 2000. The COPS program is broken down into three grant programs: Cops Fast, Cops Ahead, and Cops More. The crime bill's community policing hiring program provides $8.8 billion in competitive grants for State and local law enforcement agencies to hire community policing officers and to implement community policing. Community policing is designed to complement traditional policing by forging effective, innovative crime prevention partnerships between law enforcement and the community.

These programs are already moving to make their marks on our communities. Just yesterday, President Clinton and Attorney General Reno announced $434 million to help 6,600 law enforcement agencies hire 7,110 community police officers under the Cops Fast police hiring program. Of this, 349 Texas police departments will be allotted $20,909,886 to fill 366 officer positions. Eighty police departments in the southern district of Texas will be allotted $5,151,452 to fill 85 officer positions. Coupled with previous hiring grants, full awards under Cops Fast would bring the total number of new officers funded under President Clinton to 16, 674 in communities across America. And under the Cops Ahead Program, Houston has been awarded $9 million to fund positions for 123 new police officers. This amount will increase when applications for the Cops More Program receive consideration after the March deadline.

We cannot roll back these promises with the changes that are proposed in H.R. 728, the Law Enforcement Block Grant Act.

Mr. MEEHAN. Mr. Speaker, President Bush certainly was a supporter of midnight basketball; so during that period of time it was not so much of a partisan issue.

I think if more people had the experience, those who served had the experience of watching a community, as I did, with 10, 12, 15 home invasions, rapes, robberies, home invasions over a very brief period of time, and watched the devastation that occasioned, and then watch a community-based prosecution program by the district attorney, Tom Riley, an effective district attorney, implemented in a community, and you watch home invasions dramatically decline, there is nothing more rewarding to a prosecutor, to a police officer, than to watch those home invasions develop the strategy that works and see them stop. There is nothing that could be more rewarding to any law enforcement professional but to see the results of professional law enforcement.

I cannot help but believe if more Members in this body, whether they be Democrat or Republican, had that experience and saw the devastation that crime causes firsthand when you are called to a home to see that devastation and to see the difference when you implement a community policing program that works, we would not be having this discussion here tonight.

I think we would all be better off, the country would be better off.

Mr. Speaker, I yield to the gentleman.

Mr. STUPAK. The reason why we are here tonight is because probably on Monday we will have a very critical vote, and it is a vote not just which side is going to win or prevail but whether America wins in keeping police officers on the street, where we need them, to keep community policing viable and working throughout this great Nation.

It is not who wins the most votes at the end of that vote on Monday, whether Democrats carry the day or Republicans carry the day; we want this country to carry the day by being safe in our homes, having more police officers available to them, and a crime bill that the taxpayers, really, are paying for, and then not going back to what happened in 1968. The whole issue here and the reason why we have been here throughout this week is not to allow the current crime bill that is proceeding on this floor, to be debated again tomorrow and again on Monday, to take the money we have available for community policing with 17,000 police officers authorized and we have 83,000 more, and we found a way to pay for it by cutting Federal employees.

So it is paid for in the crime trust fund, not to devastate that program, not to replace it with a program that has block grant after block grant with no guidelines and all the waste we saw in 1968 and in the 1970's. Let us keep the program alive. We need the American people to help us get the message to their Representatives, whoever he or she may be, whether Democrat or Republican. I hope they call them tonight, tomorrow, and over the weekend and tell them to keep the cops program where it does the most good, on the streets, in our communities, whether you are a town of 17,000 or you are the size of Detroit or Houston or Lowell, whatever it is, that you have police officers.

We have responded, the need is there. As the cops fast program proceeded, half of the towns in this great Nation under 150,000 applied for police officers and were helped out.

Mr. Speaker, in summary, we are here because we need the help of the American people to keep cops on the street and not allow it to be devastated by the proposal that our friends on the other side of the aisle will bring to this body either tomorrow or Monday morning—Monday is when I believe the vote will take place. I believe the vote will take place on Monday.

Mr. MEEHAN. Mr. Speaker, I echo my colleague's remarks because this is important. As a freshman Member, having arrived here 2 years ago, oftentimes i voted away from my party leadership. In looking at the vote tallies since we have been here, I see more party discipline than I do looking at issues. I hope Members on the other side of the aisle will vote the issue and not party leadership because that is the only way we are going to save this bill.

I want to thank my colleague from Texas, Ms. JACKSON-LEE, for her eloquent and competent work in the Committee on the Judiciary on this bill and also her input tonight and throughout the session. As I said earlier, she is clearly one of the shining stars of this new Congress, and I appreciate her involvement as well as that of my colleague from Michigan, Mr. STUPAK.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FROST (at the request of Mr. GEPHARDT) for after 2 p.m. on Thursday, February 9 and the balance of the week, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WATT of North Carolina) to revise and extend their remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. ENGEL for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. GUTIERREZ, for 5 minutes, today.

Mr. OLVER, for 5 minutes, today.

Mr. REED, for 5 minutes, today.

Mr. MORAN, for 5 minutes, today.

Mr. FROST, for 5 minutes, today.

Mr. SKAGGS, for 5 minutes, today.

Mr. GENE GREEN OF Texas, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. DURBIN, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. ROYBAL-ALLARD, for 5 minutes, today.

(The following Members (at the request of Mr. KOLBE) to revise and extend their remarks and include extraneous material:)

Mr. MCINNIS, for 5 minutes, today.

Mrs. SEASTRAND, for 5 minutes, on February 10.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HASTINGS of Florida) and to include extraneous matter:)

Mr. RICHARDSON.

Mr. HAMILTON.

Mr. STARK in two instances.

Mr. KANJORSKI in two instances.

Ms. KAPTUR.

Mrs. KENNELLY.

Mr. JOHNSON of South Dakota.

(The following Members (at the request of Mr. KOLBE) and to include extraneous matter:)

Mr. LIGHTFOOT.

Mr. SMITH of New Jersey.

Mr. PACKARD.

Mr. HILLEARY.

Mr. SHAW.

(The following Members (at the request of Ms. JACKSON-LEE) and to include extraneous matter:)

Mrs. COLLINS of Illinois.

Mr. FILNER.

Mr. FAZIO of California.

Mr. STUPAK.

□ 2050

ADJOURNMENT

Mr. MEEHAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, February 10, 1995, at 9 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third and fourth quarters of 1994 in connection with official foreign travel, pursuant to Public Law 95–384, is as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1994

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Bill Richardson	7/16	7/19	Caribbean								
Calvin Humphrey, staff	7/16	7/19	Caribbean								
Total							160.00		462.00		622.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LARRY COMBEST,
Chairman, Jan. 30, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Visit to Germany and Spain, Oct. 12–26, 1994:											
Michael R. Higgins	10/12	10/21	Germany		1,416.00						1,416.00
	10/21	10/26	Spain		650.00						650.00
Commercial airfare							2,175.95				2,175.95
Carey D. Ruppert	10/12	10/21	Germany		1,416.00						1,416.00
	10/21	10/26	Spain		650.00						650.00
Commercial airfare							2,175.95				2,175.95
Roland E. Wilson	10/12	10/21	Germany		1,416.00						1,416.00
	10/21	10/26	Spain								650.00
Commercial airfare							2,175.95				2,175.95
Visit to Italy, Austria, and Germany, Oct. 15–21, 1994:											
Hon. Floyd D. Spence	10/15	10/17	Italy		710.00						710.00
	10/17	10/19	Austria		480.00						480.00
	10/15	10/21	Germany		490.00						490.00
Commercial airfare							3,798.05				3,798.05
Andrew K. Ellis	10/15	10/17	Italy		710.00						710.00
	10/17	10/19	Austria		480.00						480.00
	10/15	10/21	Germany		490.00						490.00
Commercial airfare							3,798.05				3,798.05
Delegation expenses	10/17	10/19	Austria						17.09		17.09
Visit to Korea and Japan, Oct. 15–29, 1994:											
Charles L. Tompkins	10/15	10/19	Korea		1,212.00						1,212.00
	10/19	10/29	Japan		928.00						928.00
Commercial airfare							4,702.75				4,702.75
Cathleen D. Garman	10/15	10/19	Korea		1,212.00						1,212.00
	10/19	10/29	Japan		928.00						928.00
Commercial airfare							4,702.75				4,702.75
Deanna M. Kirtman	10/15	10/19	Korea		$1,212.00						1,212.00
	10/19	10/29	Japan		928.00						928.00
Commercial air fare							4,702.75				4,702.75
Betty J. Wheeler	10/15	10/19	Korea		709.55						709.55
	10/19	10/29	Japan		596.00						596.00
Commericial air fare							4,702.75				4,702.75
Visit to Turkey, Germany, and Pakistan, Oct. 17–26, 1994:											
Warren L. Nelson	10/17	10/19	Turkey		262.00						262.00
	10/19	10/29	Germany		647.00						647.00
	10/22	10/25	Pakistan		334.00						334.00
	10/25	10/26	Germany		237.00						237.00
Commerical air fare							4,143.65				4,143.65
Robert S. Rangel	10/17	10/19	Turkey		262.00						262.00
	10/19	10/22	Germany		647.00						647.00
	10/22	10/25	Pakistan		334.00						334.00
	10/25	10/26	Germany		237.00						237.00
Commercial air fare							4,143.65				4,143.65
Delegation expenses	10/22	10/25	Pakistan				34.83		19.03		53.86
Visit to Russia and United Kingdom, Nov. 11–19, 1994:											
Hon. Glen Browder	11/11	11/18	Russia		1,950.00						1,950.00
	11/18	11/19	Germany		283.00						283.00
Commerical air fare							4,630.82				4,630.82
Hon. Steve Buyer	11/11	11/16	Russia		1,650.00						1,650.00
Commerical air fare							3,424.95				3,424.95
Stephen O. Rossetti	11/11	11/18	Russia		1,950.00						1,950.00
Commerical air fare							3,424.95				3,424.95
Visit to United Kingdom, Belgium, Germany, Italy, Croatia, and Ireland, Nov. 16–28, 1994:											
Hon. Ike Skelton	11/16	11/19	United Kingdom		849.00						849.00
	11/19	11/21	Belgium		624.00						624.00
	11/21	11/24	Germany		558.00						558.00
	11/24	11/27	Italy		1,068.00						1,068.00
	11/27	11/27	Croatia		0.00						0.00
	11/27	11/28	Ireland		231.00						231.00
Hon. Chet Edwards	11/16	11/19	United Kingdom		849.00						849.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994—Continued

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
	11/19	11/21	Belgium		624.00						624.00
	11/21	11/24	Germany		558.00						558.00
	11/24	11/27	Italy		1,068.00						1,068.00
	11/27	11/27	Croatia		0.00						0.00
	11/27	11/28	Ireland		231.00						231.00
Michael R. Higgins	11/16	11/19	United Kingdom		849.00						849.00
	11/19	11/21	Belgium		624.00						624.00
	11/21	11/24	Germany		558.00						558.00
	11/24	11/27	Italy		1,068.00						1,068.00
	11/27	11/27	Croatia		0.00						0.00
	11/27	11/28	Ireland		231.00						231.00
Leonard P. Hawley	11/16	11/19	United Kingdom		849.00						849.00
	11/19	11/21	Belgium		624.00						624.00
	11/21	11/24	Germany		558.00						558.00
	11/24	11/27	Italy		1,068.00						1,068.00
	11/27	11/27	Croatia		0.00						0.00
	11/27	11/28	Ireland		231.00						231.00
Visit to Luxembourg, Dec. 14–17, 1994:											
Hon. Robert K. Dornan	12/14	12/17	Luxembourg		186.68						186.68
Visit to Haiti, Dec. 20, 1994:											
Hon. John M. Spratt, Jr	12/20	12/20	Haiti		11.65						11.65
Committee total					39,594.88		52,737.80		36.12		92,368.80

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RONALD V. DELLUMS,
Chairman, Jan. 31, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Jim Chapman	11/16	11/18	England		849.00		(3)				849.00
	11/19	11/20	Belgium		624.00		(3)				624.00
	11/21	11/23	Germany		558.00		(3)				558.00
	11/24	11/26	Italy		1,068.00		(3)				1,068.00
	11/27	11/28	Ireland		231.00		(3)				231.00
Hon. Norman Dicks	10/1	10/1	Haiti				998.00				998.00
Hon. Julian Dixon	10/1	10/1	Haiti				998.00				998.00
Hon. Jim Kolbe	11/30	12/2	Mexico		552.00						552.00
Commercial airfare							436.45				436.45
Hon. Jerry Lewis	10/1	10/1	Haiti				998.00				998.00
Hon. John Murtha	10/1	10/1	Haiti				998.00				998.00
Hon. Joe Skeen	10/1	10/1	Haiti				998.00				998.00
Hon. Bill Young	10/1	10/1	Haiti				998.00				998.00
Hon. Gregory Dahlberg	10/1	10/1	Haiti				998.00				998.00
Aaron Edmondson	11/8	11/12	England		729.00						729.00
Commerical airfare							4,265.35				4,265.35
Juliet Pacquing	10/1	10/1	Haiti				998.00				998.00
John Plashal	10/1	10/1	Haiti				998.00				998.00
Donald Richbourg	10/1	10/1	Haiti				998.00				998.00
Kevin Roper	10/1	10/1	Haiti				998.00				998.00
William Schuerch	9/27	9/28	England		349.00						349.00
	9/28	10/16	Spain		2,807.00						2,807.00
Commerical airfare							4,039.95				4,039.95
Committee total					7,767.00		19,719.75				27,486.75
Survery and investigation staff:											
Benjamin M. Cass	12/3	12/7	Germany		440.00		3,552.51		76.60		4,069.11
	12/7	12/10	Italy		470.75						470.75
Walter C. Hersman	12/3	12/7	Germany		440.00		3,552.51		28.40		4,020.91
	12/7	12/10	Italy		458.25						458.25
Karen L. Kemper	12/3	12/7	Germany		440.00		3,552.51		97.00		4,089.51
	12/7	12/10	Italy		458.25						458.25
Committee total					2,707.25		10,657.53		202.00		13,566.78

[1] Per diem constitutes lodging and meals.

[2] If foreign currently is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

BOB LIVINGSTON,
Chairman, Jan. 30, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Gary L. Ackerman	11/12	11/19	India		1,418.00						1,418.00
Commercial airfare							8,263.25				8,263.25
Doug Bereuter	12/2	12/4	United Kingdom								
Commercial airfare							4,207.05				4,207.05
Graham Cannon	10/24	10/28	Venezuela		848.00						848.00
Commercial airfare							612.95				612.95
Marian Chambers	10/26	11/8	Estonia/Russia/Georgia		3,900.00						3,900.00
	11/9	11/11	Czech Republic		560.00						560.00
Commercial airfare							2,494.65				2,494.65
Ray Copson	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994—Continued

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Commercial airfare							1,397.25				1,397.25
Ted Dagne	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00
Commercial airfare							6,483.45				6,483.45
Eliot Engel	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00
Commercial airfare							5,457.25				5,457.25
Beth A. Ford	10/26	11/8	Estonia/Russia/Georgia		3,900.00		240.00				4,140.00
	11/9	11/11	Czech Republic		[3]460.00						460.00
Commercial airfare							2,494.65				2,494.65
David Feltman	11/12	11/19	India		[3]1,383.00						1,383.00
Commercial airfare							8,206.25				8,206.25
Alan Fleischmann	11/12	11/17	Ireland		1,199.00						1,199.00
Commercial airfare							6,218.25				6,218.25
David Gordon	11/12	11/21	Germany/Africa/France		1,850.00						1,850.00
Commercial airfare							1,395.25				1,395.25
Kate Grant	10/22	10/26	France		[3]757.40						757.40
	10/26	10/28	Poland		750.00						750.00
Commercial airfare							1,460.00				1,460.00
Bert Hammond	10/1	10/9	Japan		2,600.00						2,600.00
Commercial airfare							4,184.95				4,184.95
Alcee Hastings	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00
Commerical airfare							5,826.25				5,826.25
Robert Hathaway	11/12	11/19	India		1,418.00						1,418.00
Commerical airfare							8,263.25				8,263.25
Deborah Hickey	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00
Comericial airfare							1,392.25				1,392.25
Harry Johnston	11/12	11/21	Germany/Africa/Franc		2,100.00						2,100.00
Commercial airfare							5,826.25				5,826.25
George Ingram	10/22	10/26	Franch		1,009.00						1,009.00
	10/26	10/29	Poland		705.00						705.00
Commerical airfare							1,460.55				1,460.55
Cliff Kupchan	11/13	11/21	Africa/France		2,100.00						2,100.00
			Sudan		816.00						816.00
Commerical airfare							3,462.50				3,462.50
Anne Marea-Griffin	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00
Commerical airfare							1,392.25				1,392.25
					12,348.00		27,623.30				39,971.30
Sally Newman	10/30	11/4	Russia		[3]1,170.00						1,170.00
Commercial airfare							2,784.95				2,784.95
Donald Payne	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00
Commercial airfare							2,937.25				2,937.25
Mara Rudman	11/1	11/7	Israel		[3]1,338.00						1,338.00
Commercial airfare							3,282.75				3,282.75
Daniel Shapiro	11/1	11/7	Israel		[3]1,638.00						1,638.00
Commercial airfare							3,282.75				3,282.75
Robert Torricelli	11/12	11/17	Ireland		1,015.00						1,015.00
Commercial airfare							6,124.24				6,124.24
David Weiner	10/2	10/12	Japan		3,204.00						3,204.00
Commercial airfare							3,515.95				3,515.95
David Weiner	10/2	10/28	Venezuela		848.00						848.00
Commercial airfare							612.95				612.95
Tom Lantos	12/19	12/29	Israel/Hungary/Turkey		1,053.25						1,053.25
Grand total for the 4th quarter											156,018.99

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refunds of unused per diem.

LEE H. HAMILTON,
Chairman, January 27, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. William Jefferson	11/12	11/13	Germany		[3]2,100.00		(4)				2,100.00
	11/13	11/20	Africa								
	11/20	11/21	France								
Commercial airfare							753.25				753.25
Committee total					2,100.00		753.25				2,853.25

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Total per diem given in advance (Travellers checks—$2,100.00).
[4] Military air transportation.

BILL ARCHER,
Chairman, Jan. 25, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994

Name of Member or employee	Date		Country	Per		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Calvin Humphrey, staff	10/1	10/1	Caribbean				(4)				
John Millis, staff	10/23	11/1	Europe		2,324.00		83.53				2,407.53
Commercial airfare							2,590.65				2,590.65
Kenneth Kodama, staff	10/24	11/1	Europe		1,682.00						1,682.00
Commercial airfare							3,331.95				3,331.95

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994—Continued

Name of Member or employee	Date		Country	Per		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Larry Cox, staff	11/14	11/22	Europe		2,100.00		350.00				2,450.00
Commercial airfare							2,825.05				2,825.05
Terry Ryan, staff	11/14	11/19	Europe		1,200.00						1,200.00
Commercial airfare							4,576.55				4,576.55
Caryn Wagner, staff	12/5	12/8	Europe		610.00						610.00
	12/8	12/11	Africa		600.00						600.00
	12/11	12/15	Asia		800.00						800.00
Commercial airfare							4,523.25				4,523.25
Hon. Bill Richardson	12/17	12/23	Asia		(3)						
Commercial airfare							(3)				
Total					9,316.00		18,280.98				27,596.98

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Figures not available at time of filing.

[4] Military air transportation.

LARRY COMBEST,
Chairman, Jan. 31, 1995.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

354. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to the United Nations for use in Rwanda (Transmittal No. 12-95), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

355. A communication from the President of the United States, transmitting the fourth monthly report on the situation in Haiti, pursuant to section 3 of Public Law 103-423; to the Committee on International Relations.

356. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting the Agency's report entitled, "Arms Control Negotiating and Implementation Records," pursuant to section 713(b) of Public Law 103-236; to the Committee on International Relations.

357. A letter from the Executive Director, Pennsylvania Avenue Development Corporation, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

358. A letter from the Director, U.S. Office of Personnel Management, transmitting the Biennial Report to the Congress on the Senior Executive Service, pursuant to 5 U.S.C. 3135 and 5 U.S.C. 4314(d); to the Committee on Government Reform and Oversight.

359. A letter from the Secretary, Department of Commerce, transmitting the 1994 annual report of the Visiting Committee on Advanced Technology of the National Institute of Standards and Technology [NIST], U.S. Department of Commerce, pursuant to Public Law 100-418, section 5131(b) (102 Stat. 1443); to the Committee on Science.

360. A letter from the Director, U.S. Office of Personnel Management, transmitting the Office's report to Congress on locality pay for officers of the Secret Service Uniformed Division and the Bureau of Engraving and Printing Police Force; jointly, to the Committees on Appropriations and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SOLOMON: Committee on Rules. House Resolution 69. Resolution providing for the consideration of the bill (H.R. 668) to control crime by further streamlining deportation of criminal aliens (Rept. 104-26). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SPENCE (for himself, Mr. GILMAN, Mr. BRYANT of Tennessee, and Mr. HAYES):

H.R. 872. A bill to revitalize the National security of the United States; to the Committee on International Relations, and in addition to the Committees on National Security, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COX (for himself, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. BLUTE, Mr. BONO, Mr. CUNNINGHAM, Mr. DEUTSCH, Mr. DORNAN, Ms. DUNN of Washington, Mr. FOLEY, Mrs. FOWLER, Mr. GOSS, Mr. GUTKNECHT, Mr. HASTINGS of Washington, Mr. HEFLEY, Mr. HEINEMAN, Mr. HOLDEN, Mr. HORN, Mr. INGLIS of South Carolina, Mr. JACOBS, Mrs. KELLY, Mr. KING, Mr. KLUG, Mr. KNOLLENBERG, Mr. LEVIN, Mr. LINDER, Ms. LOFGREN, Ms. MOLINARI, Mr. NORWOOD, Mr. QUINN, Mr. PACKARD, Mr. PAXON, Mr. PORTMAN, Mr. ROEMER, Mr. ROHRABACHER, Ms. ROS-LEHTINEN, Mr. ROYCE, Mr. SANDERS, Mrs. SEASTRAND, Mr. SENSENBRENNER, Mr. SPRATT, Mr. STARK, Mr. VISCLOSKY, Mrs. WALDHOLTZ, Mr. WALSH, and Mr. ZIMMER):

H.R. 873. A bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes; to the Committee on Resources.

By Ms. DANNER:

H.R. 874. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in tax on commercial aviation fuel which is scheduled to take effect on October 1, 1995; to the Committee on Ways and Means.

By Mr. PETE GEREN of Texas:

H.R. 875. A bill to amend title XVIII of the Social Security Act to provide for waiver of the Medicare part B late enrollment penalty for certain military retirees and dependents who live near closed military bases and to establish a special enrollment period for such persons under Medicare part B; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTIERREZ:

H.R. 876. A bill to provide that the pay of members of Congress shall be reduced until the minimum wage is raised to at least $5.15 an hour, and that such a reduction shall be equal to an adjustment in the Employment Cost Index; to the Committee on House Oversight, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JOHNSON of South Dakota (for himself, Mr. WILLIAMS, Mr. UNDERWOOD, Mr. RICHARDSON, Mr. FALEOMAVAEGA, and Mr. MILLER of California):

H.R. 877. A bill to establish a Wounded Knee National Tribal Park, and for other purposes; to the Committee on Resources.

By Mr. LIGHTFOOT (for himself and Mr. STUPAK):

H.R. 878. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes; to the Committee on the Judiciary.

By Mr. OLVER (for himself and Mr. NEAL of Massachusetts):

H.R. 879. A bill to amend the Federal Water Pollution Control Act to provide grants for projects that demonstrate technologies and methods for reducing discharges from combined sewer overflows into navigable waters of interstate significance; to the Committee on Transportation and Infrastructure.

By Mr. PARKER:

H.R. 880. A bill to require the Secretary of the Army to carry out such activities as are necessary to stabilize the bluffs along the Mississippi River in the vicinity of Natchez, MS, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. PRYCE (for herself, Mr. Roemer, Mr. Ackerman, Mr. Barrett of Nebraska, Mr. Bereuter, Mr. Bilirakis, Mr. Diaz-Balart, Mr. Doggett, Mr. Emerson, Mr. Filner, Mr. Foglietta, Mrs. Fowler, Mr. Frost, Mr. Greenwood, Mr. Hinchey, Mr. Johnston of Florida, Mr. King, Mr. Knollenberg, Mr. McHale, Mr. McHugh, Mrs. Maloney, Ms. Molinari, Mr. Moran, Mr. Quinn, Ms. Rivers, Mr. Schiff, Mr. Solomon, Mr. Traficant, Mr. Underwood, and Mr. Deutsch):

H.R. 881. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit for a portion of the expenses of providing dependent care services to employees; to the Committee on Ways and Means.

By Mr. QUINN:

H.R. 882. A bill to amend title 38, United States Code, to require the establishment of mammography quality standards to be applicable to the performance of mammograms by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. RANGEL:

H.R. 883. A bill to lift the trade embargo on Cuba, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Ways and Means, Commerce, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RICHARDSON:

H.R. 884. A bill to authorize appropriations for a retirement incentive for certain employees of National Laboratories; to the Committee on National Security, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SERRANO (for himself and Mr. Rangel):

H.R. 885. A bill to designate the U.S. Post Office building located at 153 East 110th Street, New York, NY, as the "Oscar Garcia Rivera Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. WISE:

H.R. 886. A bill to reform the program of aid to families with dependent children; to the Committee on Ways and Means, and in addition to the Committees on Economic and Educational Opportunities, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ZIMMER (for himself and Mr. Klug):

H.R. 887. A bill to amend title 10, United States Code, to require the Secretary of Energy to sell the naval petroleum reserves since such reserves are no longer necessary for the national security of the United States; to the Committee on National Security, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARCHER:

H. Res. 67. Resolution providing amounts for the expenses of the Committee on Ways and Means in the 104th Congress; to the Committee on House Oversight.

By Mr. ROBERTS:

H. Res. 68. Resolution providing amounts for the expenses of the Committee on Agriculture in the 104th Congress; to the Committee on House Oversight.

By Mr. BLILEY:

H. Res. 70. Resolution providing amounts for the expenses of the Committee on Commerce in the 104th Congress; to the Committee on House Oversight.

By Mr. GOODLING:

H. Res. 71. Resolution providing amounts for the expenses of the Committee on Economic and Educational Opportunities in the 104th Congress; to the Committee on House Oversight.

By Mr. HYDE:

H. Res. 72. Resolution providing amounts for the expenses of the Committee on the Judiciary in the 104th Congress; to the Committee on House Oversight.

By Mrs. JOHNSON of Connecticut (for herself and Mr. McDermott):

H. Res. 73. Resolution providing amounts for the expenses of the Committee on Standards of Official Conduct in the 104th Congress; to the Committee on House Oversight.

By Mrs. MEYERS of Kansas:

H. Res. 74. Resolution providing amounts for the expenses of the Committee on Small Business in the 104th Congress; to the Committee on House Oversight.

By Mr. SHUSTER:

H. Res. 75. Resolution providing amounts for the expenses of the Committee on Transportation and Infrastructure in the 104th Congress; to the Committee on House Oversight.

By Mr. SOLOMON (for himself and Mr. Moakley):

H. Res. 76. Resolution providing amounts for the expenses of the Committee on Rules in the 104th Congress; to the Committee on House Oversight.

By Mr. SPENCE:

H. Res. 77. Resolution providing amounts for the expenses of the Committee on National Security in the 104th Congress; to the Committee on House Oversight.

By Mr. STUMP:

H. Res. 78. Resolution providing amounts for the expenses of the Committee on Veterans' Affairs in the 104th Congress; to the Committee on House Oversight.

MEMORIALS

Under clause 4 of rule XXII,

15. The SPEAKER presented a memorial of the Legislature of the State of Minnesota, relative to memorializing the Congress of the United States to continue its progress at reducing the Federal deficit and provide to the State of Minnesota information on the impact that a balanced Federal budget will have on Minnesota; jointly, to the Committees on the Judiciary and Government Reform and Oversight.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. Burton of Indiana, Mr. Moorhead, Mr. Chambliss, Mr. Scarborough, Mr. Norwood, Mr. Walker, Mr. Hunter, Mr. Livingston, Mr. Sam Johnson, Mr. Collins of Georgia, Mrs. Seastrand, Mr. Roberts, Mr. Watts of Oklahoma, Mr. McKeon, Mr. Hefley, and Mr. Schaefer.

H.R. 44: Mr. Cunningham and Mr. Dellums.

H.R. 65: Mr. Rahall, Mr. Fazio of California, Mr. Wynn, Ms. Lowey, Mr. Boucher, Mr. Young of Alaska, Mr. Coleman, Mr. Fields of Texas, and Mr. Jefferson.

H.R. 76: Mr. Moran.

H.R. 96: Mr. Gejdenson, Ms. Lowey, Mr. Serrano, Mrs. Mink of Hawaii, Mr. Owens, Mr. Frost, Mr. Filner, Mr. Gonzalez, Mr. Fattah, Mr. Evans, Mr. Hinchey, Ms. Norton, Mr. Engel, Mr. Foglietta, and Mr. Nadler.

H.R. 103: Mr. Deutsch, Mr. Davis, and Mr. Flake.

H.R. 104: Mr. Underwood.

H.R. 107: Mr. Gillmor.

H.R. 109: Mr. Leach.

H.R. 139: Mr. Sanders.

H.R. 215: Mr. McHugh, Mr. Shaw, Mr. Smith of Texas, Mr. Bartlett of Maryland, Mr. Paxon, Mr. Zimmer, and Mr. Linder.

H.R. 218: Mr. Ramstad and Mr. Ensign.

H.R. 303: Mr. Flanagan, Mr. Rahall, Mr. Fazio of California, Mr. Wynn, Ms. Lowey, Mr. Boucher, Mr. Young of Alaska, Mr. Coleman, Mr. Fields of Texas, and Mr. Taylor of North Carolina.

H.R. 305: Mr. Engel, Ms. McKinney, Mr. Kleczka, Ms. Furse, Mr. Sisisky, and Mr. Shays.

H.R. 359: Mr. Laughlin, Mr. Sanford, Mr. Bachus, Mr. Stockman, Mr. Sanders, and Mr. Shays.

H.R. 426: Mr. Skeen, Mr. Bishop, and Ms. Danner.

H.R. 450: Mr. Cramer, Mr. Hall of Texas, Mr. Hayes, Mr. Minge, Mr. Pickett, Mr. Rose, Mr. Skelton, Mr. Stenholm, Mr. Tanner, Mr. Tauzin, Mrs. Thurman, and Mr. Sisisky.

H.R. 469: Mr. Hall of Texas.

H.R. 490: Mr. Hutchinson, Mr. Fields of Texas, and Mr. Skeen.

H.R. 512: Mr. Ackerman.

H.R. 571: Ms. Dunn of Washington, Mr. Doolittle, and Mr. Schumer.

H.R. 587: Mr. Fox, Mr. Royce, and Mr. Forbes.

H.R. 592: Mrs. Meyers of Kansas.

H.R. 656: Mr. Forbes.

H.R. 698: Mr. Hilleary, Mr. Thornberry, Mr. Hostettler, and Mr. Schiff.

H.R. 753: Mr. Horn, Mr. Hayworth, Mr. English of Pennsylvania, Mr. Calvert, Mr. Upton, and Mr. Linder.

H.R. 768: Ms. Eddie Bernice Johnson of Texas.

H.R. 788: Mr. Bartlett of Maryland, Mr. Andrews, Mr. McKeon, Mr. Baker of California, and Mr. Livingston.

H.R. 789: Ms. Pryce, Mr. Lightfoot, Mr. Calvert, and Mr. Durbin.

H.J. Res. 48: Mr. Andrews and Mrs. Waldholtz.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3: Mr. GORDON.

H.R. 76: Mr. BEREUTER.

H.J. Res. 3: Mr. RIGGS and Mr. COBURN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 667

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 31: Page 7, line 18, after "general" insert "including a requirement that any funds used to carry out the programs under section 501(a) shall represent the best value for the state governments at the lowest possible cost and employ the best available technology."

H.R. 667

OFFERED BY: MR. LATOURETTE

AMENDMENT NO. 32: Page 2, line 20, after "aliens" insert "and for the establishment of community-based correction programs".

Page 10, after line 10, insert the following (and redesignate any subsequent paragraphs accordingly):

"(3) community-based correction programs means electronic monitoring of nonviolent misdemeanants and intensive or enhanced probation supervision for nonviolent felons."

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT NO. 33: Add at the end the following:

TITLE V—REPORTING OF DEATHS OF PERSONS IN CUSTODY IN JAILS

SEC. 501. REPORTING OF DEATHS OF PERSONS IN CUSTODY IN JAILS.

(a) IN GENERAL.—In order to provide information needed to determine whether possible Federal civil rights violations have occurred, the Attorney General shall, in such form and manner as the Attorney General determines, and under such regulations as the Attorney General shall prescribe, require that the appropriate public authorities report promptly to the Attorney General the death of each individual who dies in custody while in a municipal or county jail, State prison, or other similar place of confinement. Each such report shall include the cause of death and all other facts relevant to the death reported, which the person so reporting shall have the duty to make a good faith effort to ascertain.

(b) ANNUAL REPORT.—The Attorney General shall annually publish a report containing—

(1) the number of deaths in each institution for which a report was filed during the relevant reporting period;

(2) the cause of death and time of death for each death so reported; and

(3) such other information about the death as the Attorney General deems relevant.

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT NO. 34: Page 2, strike line 4 and all that follows through the matter preceding line 1, page 12 and insert the following:

TITLE I—PRISON GRANT PROGRAM

SEC. 1. GRANT PROGRAM.

Title V of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"TITLE V—PRISON GRANTS

"SEC. 501. AUTHORIZATION OF GRANTS.

"The Attorney General is authorized to provide grants to eligible States and to eligible States organized as a regional compact to build, expand, and operate space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony and to build, expand, and operate temporary or permanent correctional facilities, including facilities on military bases, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a serious violent felony.

"SEC. 502. GENERAL GRANTS.

"In order to be eligible to receive funds under this title, a State or States organized as a regional compact shall submit an application to the Attorney General that provides assurances that such State since 1993 has—

"(1) increased the percentage of convicted violent offenders sentenced to prison.

"(2) increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison.

"SEC. 503. SPECIAL RULES.

"Notwithstanding the provisions of paragraphs (1) through (2) of section 502, a State shall be eligible for grants under this title, if the State, not later than the date of the enactment of this title—

"(1) practices indeterminant sentencing; and

"(2) the average times served in such State for the offenses of murder, rape, robbery, and assault exceed, by 10 percent or greater, the national average of times served for such offenses.

"SEC. 504. FORMULA FOR GRANTS.

"To determine the amount of funds that each eligible State or eligible States organized as a regional compact may receive to carry out programs under section 502, the Attorney General shall apply the following formula:

"(1) $500,000 or 0.40 percent, whichever is greater shall be allocated to each participating State or compact, as the case may be; and

"(2) of the total amount of funds remaining after the allocation under paragraph (1), there shall be allocated to each State or compact, as the case may be, an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State or compact, as the case may be, bears to the population of all the States.

"SEC. 505. ACCOUNTABILITY.

"(a) FISCAL REQUIREMENTS.—A State or States organzied as a regional compact that receives funds under this title shall use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General.

"(b) REPORTING.—Each State that receives funds under this title shall submit an annual report, beginning on January 1, 1996, and each January 1 thereafter, to the Congress regarding compliance with the requirements of this title.

"(c) ADMINISTRATIVE PROVISIONS.—The administrative provisions of sections 801 and 802 of the Omnibus Crime Control and Safe Streets Act of 1968 shall apply to the Attorney General in the same manner as such provisions apply to the officials listed in such sections.

"SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $497,500,000 for fiscal year 1996;

"(2) $830,000,000 for fiscal year 1997;

"(3) $2,027,000,000 for fiscal year 1998;

"(4) $2,160,000,000 for fiscal year 1999; and

"(5) $2,253,100,000 for fiscal year 2000.

"(b) LIMITATIONS ON FUNDS.—

"(1) USES OF FUNDS.—Funds made available under this title may be used to carry out the purposes described in section 501(a).

"(2) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

"(3) ADMINISTRATIVE COSTS.—Not more than three percent of the funds available under this section may be used for administrative costs.

"(4) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of a proposal as described in an application approved under this title.

"(5) CARRY OVER OF APPROPRIATIONS.—Any funds appropriated but not expended as provided by this section during any fiscal year shall remain available until expended.

"(c) EVALUATION.—From the amounts authorized to be appropriated under subsection (a) for each fiscal year, the Attorney General shall reserve 1 percent for use by the National Institute of Justice to evaluate the effectiveness of programs established under this title by units of local government and the benefits of such programs in relation to the cost of such programs.

"SEC. 507. DEFINITIONS.

"As used in this title—

"(1) the term 'indeterminate sentencing' means a system by which—

"(A) the court has discretion on imposing the actual length of the sentence imposed, up to the statutory maximum; and

"(B) an administrative agency, generally the parole board, controls release between court-ordered minimum and maximum sentence;

"(2) the term 'serious violent felony' means—

"(A) an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another and has a maximum term of imprisonment of 10 years or more,

"(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense and has a maximum term of imprisonment of 10 years or more, or

"(C) such crimes include murder, assault with intent to commit murder, arson, armed burglary, rape, assault with intent to commit rape, kidnapping, and armed robbery; and

"(3) the term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.".

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT NO. 35: Page 2, line 11, strike all before "The".

Page 2, strike line 23 and all that follows through page 5, line 2, and insert the following (redesignate any subsequent sections accordingly):

"SEC. 502. GENERAL GRANTS.

"In order to be eligible to receive funds under this title, a State or States organized as a regional compact shall submit an application to the Attorney General that provides assurances that such State since 1993 has—

"(1) increased the percentage of convicted violent offenders sentenced to prison.

"(2) increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison."

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT No. 36: Page 8, strike lines 7 through 11 and insert the following:

"(1) $497,500,000 for fiscal year 1996;

"(2) $830,000,000 for fiscal year 1997;

"(3) $2,027,000,000 for fiscal year 1998;

"(4) $2,160,000,000 for fiscal year 1999; and

"(5) $2,253,100,000 for fiscal year 2000.

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT No. 37: Page 8, after line 3 insert the following:

"(d) EVALUATION.—From the amounts authorized to be appropriated under subsection (a) for each fiscal year, the Attorney General shall reserve 1 percent for use by the National Institute of Justice to evaluate the effectiveness of programs established under this title by units of local government and the benefits of such programs in relation to the cost of such programs.".

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT No. 38: Page 14, strike line 6 and all that follows through page 18, line 25 (and redesignate any subsequent titles accordingly).

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT No. 39: Page 15, strike lines 12 through 21.

Page 15, line 22, strike "(2)".

EXTENSIONS OF REMARKS

THE POLICEMAN'S BILL OF RIGHTS

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. LIGHTFOOT. Mr. Speaker, I rise to offer an important piece of legislation, the policeman's bill of rights. It is fitting to offer a legislation at this time when the House is focused on the issue of crime control. If we are to successfully combat crime, there is no greater resource than the men and women who put their lives on the line everyday to protect their communities. I'm talking, of course, about our law enforcement officers. We owe it to them to give them every resource necessary to do their jobs well and with a certain level of security. That is the purpose of this bill.

This legislation guarantees basic due process rights to law enforcement officers who are charged with administrative disciplinary infractions. I want to stress this legislation does not apply to criminal matters. I also want to stress that the rights under this measure apply to all law enforcement officers. Furthermore, this measure does not apply to emergency situations where the police officer is suspected of committing a crime or where that officer is a threat to others.

But police officers should have the right to be informed of the charges against him or her, to respond to those charges, and to be represented by a lawyer. These are fundamental rights, and I think this legislation is the least we can give to those who risk their lives for us and I urge Members to support this legislation. Also, I would like to express my thanks to my colleague, BART STUPAK of Michigan for his work on this issue. I hope all Members will give this measure their support.

REPUBLICANS LEAVE WORKING AMERICANS BEHIND

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. STARK. Mr. Speaker, yesterday, in the Ways and Means Committee, the contrast between the Democratic and Republican parties was made clear.

The purpose of yesterday's committee activity was to help expand the net of health insurance coverage to a few more Americans. What began as a bipartisan effort was turned into a purely partisan affair by the new Republican majority.

In vote after vote, the new Republican majority struck down on straight party-line votes measures that would bring fairness and assistance to working Americans. Some measures had no cost to the Government. Others that did were fully paid for.

One amendment I proposed would have removed the time limitations on COBRA health continuation coverage. This would have had no cost to the Government nor to employers, because under COBRA former employees and their family members pay full health insurance premium plus an administrative fee. Our amendment would allow individuals and families to continue coverage at a group policy rate rather than convert to an individual policy rate—the difference is often the difference between having and losing coverage. This was voted down by the Republican majority.

In the clearest example of how Republican partisanship operated without regard to the good of American workers and taxpayers, Republicans unanimously voted down an amendment offered by my colleague from Washington, Mr. MCDERMOTT, to extend deductibility of health insurance costs to employees when an employee is not eligible to participate in employer-sponsored health insurance coverage. Under the bill to be amended, self-employed individuals would be allowed to deduct 25 percent of the cost of health insurance. The cost of this assistance to working Americans was fully paid for—in large part by a change in tax law for individuals who renounce their U.S. citizenship in order to evade paying U.S. taxes.

How anyone can justify creating a new permanent entitlement for the benefit of employers and leave out employees is amazing. But it appears to be the new order of the Republican day.

I hope that before deliberations begin in the full House of Representatives on this bill, Republicans will have rethought their partisanship just long enough to allow the interests of all American workers to prevail.

FAMILY SERVICE ASSOCIATION OF WYOMING VALLEY CELEBRATES 100 YEARS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. KANJORSKI. Mr. Speaker, I rise today to recognize the 100th anniversary of the Family Service Association of Wyoming Valley. I am pleased to join with the community in commending the professionals involved in this vital social service agency for 100 years of caring for those in need.

In 1895, a meeting was held at St. Stephen's Church in Wilkes-Barre in an effort to consolidate charity organizations in the area. The Charity Organization Society of Wilkes-Barre was formed, with George Riddle Wright as its first president. Membership dues were $1. A year later, the group changed its name to United Charities Society, calling it a refuge for the poor, and it undertook the task of feeding and housing the homeless. Moneys were raised by sending donation forms home with school children, a method which was the predecessor to the fair share pledge system used today by the United Way. A building was renovated to be used as its headquarters, and by 1914, electric lights were installed. By this time, the agency was providing lodging for women and children awaiting trial and, at the request of the county commissioners, added a room for wayward women.

In the early 1990's, the agency also obtained work for the unemployed, found foster homes for orphans, and actually oversaw the humane treatment of animals and the proper shoeing of horses. The influenza epidemic of 1918 brought normal operations to a near standstill and the floors of the building were literally lined with the ill and dying. Hundreds of children were orphaned. Over the following years, the agency provided almost every social service to those in need. When the Children's Service Center was formed in 1938, the agency was left with the family as its primary concern. In 1941, the agency became known as the Family Service Association. They moved into new quarters and began providing professional counseling services for members of the community, regardless of economic status.

Mr. Speaker, when the Susquehanna River spilled her banks following Hurricane Agnes in 1972, the need became clear for a central phone number where any and all information could be obtained. Family Services undertook this task and a 24-hour hotline was initiated. Now called Help Line, this division of Family Services handles more than 40,000 phone calls annually. The agency extended its services many times in the following years and today provides family education, assistance, and counseling to thousands each year.

Mr. Speaker, I am proud that the people of Northeastern Pennsylvania have a strong tradition of taking care of each other. From the very beginning, the community has joined together to help those less fortunate and those in need. The Family Service Association today employs the finest professional staff and is funded entirely by donations and foundation sources. This is a true example of the humanity of the American people and I send my sincere appreciation and congratulations to the board of trustees, directors, and the outstanding staff of this historic agency on the occasion of its 100th anniversary.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

SUPPORTING MOVEMENTS FOR FREEDOM, DEMOCRACY, AND HUMAN RIGHTS IN IRAN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. SMITH of New Jersey. Mr. Speaker, it is fitting that today Iranians who hope for freedom and democracy in their own country stood at the Capitol Building of the United States—a symbol of democracy and freedom for millions of people all over the world—to remember that 16 years ago this Saturday the dreams and hopes for democracy and freedom in Iran were destroyed with the creation of the Islamic Republic of Iran.

Since then Iran has unleashed a reign of terror from the streets of Tehran to nations all over the world. Through their support, encouragement and perpetuation of international terrorism the Islamic Republic of Iran has burdened, maimed and stolen the lives of innocent citizens of the world community. In the last 16 years, the Iranian Government has held hostage United States, British, French and other foreign nationals. The government continues to hold its own entire nation hostage with millions of people paralyzed due to fear of imprisonment, torture and death.

The Iranian Government has one of the worst human rights records in the world. They have no desire to join the international community as nations move toward democratic reform and greater freedom and protection of human rights.

In Iran today there is a complete disregard for the dignity of human life. We can see this clearly in the area of religious liberty. A Shari'a court has ruled that the members of the minority Bahai community are "unprotected infidels," not worthy of legal protections. They are described as "misguided" and the Iranian Government persecutes them in an effort to "purify" Islam.

The Christian minorities were shaken last year with the tragic deaths of Bishop Haik Mehr, Mehdi Dibaj, and Tateos Michaelian. All three were giants in Iran's small but vibrant Christian community. Eight converts from Islam were beaten and tortured in an effort to make them deny their Christian faith.

United States resident Hassan Shahjamali, a Christian visiting his family in Iran, was detained by security police and held incommunicado for several days last May. Only after the international community loudly protested and called for his release did the Iranian Government finally release him and allow him to return to the United States.

The Iranian Government's support of terrorism world wide has unleashed a wave of violence and fear. Each year thousands have died because of Iranian supported terrorist activities. Murders and bombings in Germany, Turkey, Switzerland, and Argentina; the direct attack on Americans on Pan Am Flight 103, at the United States Marine Barracks in Beirut and the bombing of the World Trade Center have all been traced to Teheran.

Yet after 16 years of terror, and repression; after 16 years of brutality and systematic abuse, the spirit of the real Iranian people lives on. Thousands of Iranian believers have not given up their dream of freedom and democracy. They continue to raise their voices and they challenge us to do the same.

Just days before his death last January Bishop Haik Mehr predicted his martyrdom. As he departed a conference in Pakistan in December he told Brother Andrew, the champion of religious freedom, justice, and tolerance that "when they kill me it will not be because of my silence." On January 20, 1994 Bishop Haik's body was found. He had been tortured before he was killed. He knew the risks if he acted on his convictions—and he paid the price.

Today we stand with Bishop Mehr and the thousands of others of all faiths and walks of life who have raised their voices for freedom and justice in Iran. We honor them by supporting freedom, democracy and justice. We, too, look to a day when Iran will be free. Only then will the world have an opportunity for peace and stability, free from the fear of terrorism and tyranny.

IN RECOGNITION OF MR. CHESTER "CHET" ZABLOCKI

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Ms. KAPTUR. Mr. Speaker, I rise today to acknowledge an exemplary citizen who has earned the moniker of Mr. Polka in my northwest Ohio district, Mr. Chester "Chet" Zablocki. Chet has been an active leader in our community for many years and in the polka music industry since 1947. Allow me to share with my colleagues just a few of this remarkable and fine gentleman's accomplishments. His voice and name are synonymous with Toledo.

Chet became active in his community at the age of 15 by forming a polka band to entertain his family and friends. After serving in the Air Force, he married his childhood sweetheart, Helen Zdawczyk in 1942. Sharing his love for music, Chet and Helen began the "Polish Festival" radio show on the new local radio station, WTOD. In 1951, Chet recorded his first record for Continental Records, which featured him as the vocalist on "Johnny from Poland." In 1963, Chet began a local polka newspaper called the Polka Star to inform the local patrons about the polka music and dance industry.

In 1968, part of the heart of the "Helen-n-Chet's Polka Party," as the show was known then, was lost with the death of Helen. Chet continued to broadcast the show alone the next 5 years, with the occasional assistance of his sister, Carol. Chet was remarried in 1973 and the show became "Sharon and Chet's Polka Party." The show continues to air every week over northwest Ohio's airwaves reaching into the hones of thousands of listeners.

Along with the radio show, Chet unselfishly conducts benefits for the American Cancer Society, the WTOD Penny Pitch, the Diabetes Foundation and the Polish American Festival. He also serves as the executive director of the Central Lagrange Senior Center. In August, Chet was inducted in the International Polka Association's Polka Hall of Fame in Chicago for his extensive work in our community and in the polka industry.

Mr. Speaker, I know my collleagues join me in recognizing the efforts of Mr. Chester Zablocki, a truly devoted individual who has enriched our lives with his love for his community, family, and the music which has lightened our hearts in northwest Ohio for nearly 50 years.

INTRODUCTION OF MARKET DISCOUNT BILL

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. SHAW. Mr. Speaker, I have joined with my colleague, BEN CARDIN, to reintroduce legislation that would restore the capital gains tax treatment on the sale of market discount bonds. As a result of an amendment contained in the Omnibus Budget Reconciliation Act of 1993, the gain is taxed at the ordinary income rate rather than at the capital gains rate. This bill was originally introduced last June in response to the rise in interest rates that had precipitated, among other things, a noticeable loss of market liquidity for market discount bonds. Since that time, interest rates have continued to climb and there has been a corresponding increase in the volume of market discount bonds in the marketplace. The restoration of capital gains tax treatment for market discount bonds is an appropriate and timely way to reduce the borrowing costs to State and local issuers by improving market liquidity.

As a former mayor, I have a tremendous appreciation for tax-exempt municipal financing and the role bonds play in meeting public needs. In the State of Florida last year, there were over $7.6 billion in long-term bonds issued. Infrastructure requirements like secondary roads, bridges, water and sewer systems, airports, and public schools are all financed and built by State and local governments using tax-exempt municipal bonds. Bonds are used to leverage and argument Federal construction grants, revolving loans and other direct assistance programs. I believe tax-exempt bonds are an important tool in empowering States and localities to address public needs and consistent with the message of "New Federalism" contained in the Contract With America.

Prior to 1993, the proceeds from the sale of a bond purchased at discount were treated as capital gains. The 1993 Budget Reconciliation Act contained the provision that amended the tax treatment of municipal securities purchased at a market discount. As a result, when an investor sells market discount bonds, they now pay the ordinary income tax rates of up to 39.6 percent rather than the maximum capital gains rate of 28 percent.

The sharp rise in interest rates, beginning last February, lead to a dramatic increase in the amount of market discount bonds. Market discount generally exists when a bond is purchased on the secondary market at a price below par, or, in the case of bonds with an original issue discount, below the adjusted issue price. Market discount is the difference between the purchase price of a bond and its stated redemption price at maturity or its adjusted issue price. Since rules took effect in 1993, demand for discount bonds in the secondary market has suffered.

The change in the market discount rules adds significant complexity to reporting by bond dealers. For example, a single zero-coupon bond purchased at a discount could generate tax-exempt income, ordinary income, and a capital gain. Such complicated tax treatment poses problems for dealers and funds which must issue summary reports to the IRS and investors. The market discount rules also have a very real negative effect on market liquidity. For instance, certain tax-exempt mutual funds have simply stopped buying discounted bonds altogether.

In addition, the new market discount rules could result in higher capital costs for State and local municipal bond issuers, raise extremely complex financial consideration that repel investors, and provide little or no revenue gain to the Federal Government. For all of these reasons, I believe repeal of the new market discount rules is appropriate. Such a change would be consistent with efforts for overall capital gains reform.

I urge all of my colleagues to cosponsor this important municipal bond legislation.

NATIONAL LABORATORY EMPLOYEES INCENTIVE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. RICHARDSON. Mr. Speaker, I rise today to introduce legislation to provide a retirement incentive to national laboratory employees who are members of the public employees retirement system [PERS] of California.

These 450 men and women have each given over 30 years of service to the Department of Energy [DOE] and yet they were not offered a retirement incentive when DOE began downsizing staff at national laboratories administrated by the University of California.

The DOE funds three national laboratories through the University of California. From 1940 until October 1, 1961, national laboratory employees enrolled in the PERS of California. In 1961, the University of California established its own retirement system. As a result, employees hired at the national laboratories after October 1, 1961, were enrolled in the University of California Retirement Program [UCRP]. When the University of California established the new retirement system, national laboratory employees were given the option to transfer to the UCRP or remain with the PERS. Most chose to stay with the PERS because they had already accrued benefits in that system.

In 1993 when DOE began downsizing, national laboratory employees with UCRP were offered a retirement incentive package that added 3 years to retirement age, 3 years service credit, and 3 months pay. National laboratory employees with the PERS were not offered any incentive. The result of the University of California's decision to offer retirement incentives only to employees with UCRP was discriminatory against the most senior employees at the labs who were with the PERS of California.

As with any retirement incentive, this bill would have initial costs, but would generate millions of dollars in salary savings each year thereafter. For an initial investment of $14 million we could achieve $32 million in national laboratory salaries savings in the first year alone.

I urge my colleagues to join me in supporting this legislation which brings equality to the scientists and employees of our national laboratories and achieves significant downsizing at the DOE.

ECONOMIC CONDITIONS IN ISRAEL AND EGYPT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. HAMILTON. Mr. Speaker, the United States has a strong interest in the economic conditions and government policies aimed at promoting economic reform in Egypt and Israel. Every year since the signing of the Israeli-Egyptian Peace Treaty in 1979, the Congress has voted to provide these two countries with substantial economic and military assistance. Last year, Congress supported the administration's fiscal year 1995 request of assistance totaling over $5.2 billion. The administration had made the same assistance request to Congress for fiscal year 1996.

Given the importance of the economic conditions in Egypt and Israel to the United States, I would like to place in the CONGRESSIONAL RECORD the summary of USAID's Report on "Economic Conditions in Egypt, 1993–94" and the economic overview of the State Department's fiscal year 1994 Report to Congress on the "Loan Guarantees to Israel Program and Economic Conditions in Israel."

REPORT ON ECONOMIC CONDITIONS IN EGYPT, 1993–94 SUMMARY

During the past three years, Egypt has made progress implementing macroeconomic stabilization measures, such as reducing fiscal and current account deficits and liberalizing interest rates and foreign exchange regulations. It has made much less progress on the broader structural reforms necessary to promote increased economic efficiency and growth. The resultant slow economic growth has a number of explanations. Some reasons are temporary and although critical, should become less constraining over time. These factors include the sharp decline in Egypt's government spending over the last four years, high real interest rates, an overvalued exchange rate, and sluggish foreign demand for Egyptian products due to the uncompetitiveness of the Egyptian private sector.

Unfortunately, other constraints to growth are structural and cannot be changed quickly. Egypt adopted a socialistic and inward-looking approach to economic development in the 1950s. as a result, the country is burdened with public sector enterprises which are inefficient, unprofitable, and contribute very little to output. Millions of Egyptians have jobs with the Government or parastatals which they believe are theirs for life, regardless of the productiveness of the job. Legal, regulatory, and bureaucratic systems restrict business expansion and impose unnecessary costs on business. The judicial process is time-consuming and expensive. High levels of protection hinder international trade and competitiveness. The tax administration is cumbersome. Long term financing at reasonable rates is scarce. Government owned firms dominate the business sector, and they have proven incapable of generating jobs for the Egyptians entering the labor force each year. At this point in time, the private sector is too small to provide jobs for the new entrants to the labor markets.

Private investment and export orientation are the only realistic path to economic development. Unfortunately, Egypt's environment for the private sector is not sufficiently alluring to attract an adequate amount of investment funds from the international financial markets. The task for the Government of Egypt (GOE) is to prepare the private sector business environment so that Egypt can harness the energy of the private sector, direct it down the path of sustainable development, create jobs, and make it easier for Egypt to enhance its role as a model of stability, democracy and prosperity in the region.

Vice President Gore and Egyptian President Mubarak developed an Economic Growth Partnership that focuses precisely on this issue. The Gore-Mubarak Partnership is intended to spur equitable economic growth and job creation in Egypt, especially in the private sector. It is intended to strengthen links between the U.S. and Egyptian private sector, and increase trade and investment. The Partnership reflects a personal effort by the U.S. leadership to help Egypt improve the welfare of the Egyptian people. It reflects the special relationship which exists between the U.S. and Egypt.

STATE DEPARTMENT'S FISCAL YEAR 1994 REPORT TO CONGRESS ON THE LOAN GUARANTEES TO ISRAEL PROGRAM AND ECONOMIC CONDITIONS IN ISRAEL

OVERVIEW

The Loan Guarantees to Israel Program was established to assist Israel in its humanitarian effort to resettle and absorb immigrants into Israel from the republics of the former Soviet Union, Ethiopia, and elsewhere. The guarantees were authorized in recognition that the effective absorption of these immigrants within the private sector requires large investment and economic restructuring to promote market efficiency and thereby contribute to productive employment and sustainable growth. The legislation anticipates that the effect of U.S. loan guarantees will be bolstered by an Israeli economic strategy involving prudent macroeconomic policies, structural reforms designed to reduce direct government involvement in the Israeli economy and measures to promote private investment. Israel presently enjoys the basic preconditions for sustainable medium-term economic growth. These include a skilled and rapidly growing labor force, an environment of macroeconomic stability, and an improved geopolitical situation. A series of economic reforms begun in the late 1980s and early 1990s has continued under the Rabin Government, including measures discussed below to liberalize capital markets, relax restrictions on foreign currency transactions, lower trade barriers and reduce the budget deficit.

Nevertheless, much remains to be done: trade barriers—especially in the agricultural sector—continue to limit international competitiveness; progress has been very slow in privatizing 165 state-owned firms; and fiscal police must fall into step with tighter monetary policy in order to tame inflation. Inflation, an overvalued shekel, and a growing balance of payments gap present serious challenges for the government as it heads into the new year.

UNITED STATES-ISRAEL JOINT ECONOMIC DEVELOPMENT GROUP

Since the mid-1980s, the United States and Israel have engaged in periodic economic consultations under the auspices of the Joint Economic Development Group [JEDG]. This group has a mandate to examine and discuss Israeli economic policy. It played a key role in shaping the successful 1984 economic stabilization program for Israel. The Group is led on the U.S. side by the Under Secretary of State for Economic Affairs and on the Israeli side by the Director General of the Ministry of Finance.

In keeping with the intent of the Loan Guarantees to Israel legislation, the U.S. and Israel revived the JEDG in September 1993 to focus specifically on areas identified in the legislation: economic and financial measures, including structural and other reforms, that Israel should undertake during the duration of the loan guarantee program to enable its economy to absorb and resettle immigrants and to accommodate the increased debt burden that results from the program. The JEDG convened in 1994 on May 26 in Washington and again on October 3 in Madrid. Participants included senior officials of USAID, Commerce, the Council of Economic Advisors, Treasury, and in May, Stanley Fischer from the Massachusetts Institute of Technology. The group discussed in both sessions progress and plans in the areas of fiscal and monetary policy, privatization, trade liberalization, financial and capital markets, and labor markets.

MACROECONOMIC DEVELOPMENTS

Israel, with a population of 5.3 million and a GDP of $72.2 billion in 1993, has a per capita GNP of $13,471. The Government of Israel (GOI) has been relatively successful in stabilizing the economy in the face of a massive inflow of immigrants which has increased the population by over 12 percent since the end of 1989. The general economic picture is relatively good, despite the appreciation of the shekel, rising inflation and a growing trade deficit.

PROSPECTS FOR ECONOMIC GROWTH

The country is in the midst of a four-year economic expansion, with GDP growth expected at 6.5 percent by year-end 1994, and a growth rate of 4.9 percent predicted for 1995. Growth rates of 4-6 percent are projected for the remainder of the decade, relying as in previous years on the productivity of new immigrants (with 70,000 expected to arrive in 1994), structural reforms in the economy, and an opening of new export markets, mostly in Eastern Europe and Asia. In 1994-95, the government faces economic challenges associated with immigrant absorption, the peace process, and unique sectoral requirements. In dealing with the inflow of immigrants, the GOI has appropriately adopted a strategy of abstaining from direct intervention in the labor market and has instead focused on providing the immigrants with housing, subsistence grants and training while encouraging a more favorable environment for private sector investment and expansion.

EMPLOYMENT

Over the past four years, Israel's labor force grew rapidly with the addition of these immigrants and a baby boom generation. Although the rapid economic expansion and a moderation in wages resulted in an average 4 percent overall employment growth rate between 1990 and 1992, the unemployment rate nonetheless increased from 8.9 percent in 1989 to a peak of 11.2 percent in 1992. During 1993, however, despite the relative slowing in the economy, employment growth picked up to 6 percent and unemployment declined to 10 percent. Unemployment has further declined to 7.8 percent in 1994. Immigrant unemployment has fallen even more dramatically, from 38 percent in 1991, 29 percent in 1992, and 19 percent in 1993, to 12 percent in 1994.

BUDGETARY PRESSURES

In meeting the economic demands of the peace process and sectoral shortcomings, the government has met with less success. Indeed, a 5.6 billion New Israeli Shekel (NIS) supplemental budget ($1.87 billion) for 1994 was passed in November to cover public sector wage hikes and unanticipated expenses for implementation of the Declaration of Principles (DOP). The 1995 budget proposal is in keeping with recent fiscal policy, emphasizing investment in infrastructure and education. The GOI proposes $460 million to help cover defense industry losses, the labor federation Histadrut's health insurance fund, and kibbutzim debt rescheduling. The 1995 budget proposal projects a deficit of 2.75 percent of projected GDP, down from 1994's target of 3 percent.

INFLATION

Israel's track record on inflation is mixed. On the one hand, it succeeded in bringing inflation down from 420 percent in 1984 to 9.4 percent in 1992. On the other hand, the rapid increase in the money supply which took place at the end of 1993 marked the onset of an inflationary surge that reached 15.5 percent for 1994, and the Government has not coordinated its fiscal and monetary policies to control this problem. An annual increase of 25 percent in housing costs, and over 35 percent in fruit and vegetable prices, combined with higher than anticipated levels of private consumption and public sector wage raises, have thwarted the government's 8 percent target inflation rate. Furthermore, there is some fear that a new capital gains tax may cause a shift from stocks to real estate, with new demand again pushing housing costs higher.

Some question the need for expansionary policies when annual GDP growth rates averages 4-6 percent. Longstanding structural rigidities in the economy also contribute to inflationary pressures, which could be eased by steps to open the agricultural sector to international competition, deregulate the housing sector and increase the labor market's responsiveness and market forces.

INTRODUCTION OF THE WOUNDED KNEE NATIONAL TRIBAL PARK ESTABLISHMENT ACT OF 1995

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, today I am introducing legislation to establish a Wounded Knee National Tribal Park in the State of South Dakota. The purpose of this memorial is to acknowledge the historic significance of the sites of the 1890 Wounded Knee tragedy.

In December of 1890, Chief Big Foot and his band of Minneconjou Sioux journeyed from the Cheyenne River Indian Reservation to the Pine Ridge Indian Reservation. A tragic incident ensued which claimed the lives of over 300 Lakota—Sioux—Indian men, women, and children, and 31 U.S. soldiers, marking the last military encounter of the Indian Wars period.

During the 101st Congress, the House adopted House Concurrent Resolution 386, which recognized the 100th anniversary of the Wounded Knee tragedy. This resolution also expressed support for the establishment of a suitable and appropriate memorial to those who were so tragically slain. This legislation will bring reality to those words of support.

The Wounded Knee National Tribal Park Establishment Act of 1995 will recognize the sites relating to the 1890 Wounded Knee tragedy and Ghost Dance Religion located on the Pine Ridge Indian Reservation and the Cheyenne River Indian Reservation. The act will establish appropriate national monuments at both units of the Wounded Knee National Tribal Park. In addition, the act will authorize feasibility studies to establish as a national historic trail the route of Chief Big Foot from the Cheyenne River Indian Reservation to Wounded Knee, and a visitor information and orientation center on the Cheyenne River Indian Reservation.

It is my hope that enhancing a national awareness of the Wounded Knee tragedy will promote a greater understanding between Indian and non-Indian cultures and people. This legislation is the culmination of years of study and input from the many interested parties, including the tribes and other supporters of this long-overdue recognition. I appreciate the fact that Congress has shown support for recognizing the historical importance of the Wounded Knee site over the past few years, and I look forward to the continued support of my colleagues and the Congress.

TRIBUTE TO MR. JOHN J. SULLIVAN

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mrs. KENNELLY. Mr. Speaker, I rise today to recognize an outstanding citizen, constituent, and friend, John J. Sullivan, upon his selection as the 1995 Irishman of the Year for the central Connecticut, Greater Hartford area.

It has often been said that there are two kinds of people in the world—the Irish and those who want to be Irish. On Saturday, March 11, 1995, when John J. Sullivan leads the annual St. Patrick's Day parade down Main Street in my hometown of Hartford, we can all enjoy what it means to be Irish. It will be another reminder of the many blessings derived from the great Emerald Isle.

Over the years, John has served the Greater Hartford region as both community servant and friend to many. We have all witnessed his commitment and dedication to civic duty and community responsibility from his memberships on the Irish-American Home Society and the Manchester St. Patrick's Parade Committee; to his dedication to the Connecticut Special Olympics, and Leukemia Society; and to his service as a deputy sheriff.

He has been a member of the Democratic State Central Committee of Connecticut for more than 22 years, and the Manchester Democratic Town Committee for 37 years. John has dedicated himself to all these activities, and received the support of his wife Ada and their daughter Maureen.

Mr. Speaker, I, and all who know him, hold John in the highest regard. He gives tirelessly of himself and is a great citizen. It is only fitting that he lead the annual St. Patrick's Day parade in Hartford, since he has already led so many of us through his example.

MANAGED CARE: DOLLARS FOR MANAGERS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. STARK. Mr. Speaker, managed care can be defined as a system that spends money on managers.

That's OK, if the managed care plans also deliver quality health care to the plan's enrollees. The problem is that we don't have enough consumer safeguards, protections, and information available to the consumer to help the public buy into a good plan. During the 104th Congress, we should enact managed care consumer protections and require disclosure of managed care plan information. Such legislation will help the industry in its dealings with the public and weed out those who are managing people to death through the denial of services.

Health care in America is in a state of tension. Fee-for-service medicine is subject to gross overutilization, abusive unnecessary testing and surgery, and runaway charges. Managed care medicine is subject to gross underutilization, denial of needed, life-essential services, and health care dollars drained away to pay managers, ad-men, and posh corporate overhead. What we need in America is moderation and a good middle ground in both fee-for-service and managed care. We need a system where fee-for-service cannot overutilize and where managed care can't deny necessary services. Achieving this balance will always be a tension and a difficult path to find.

The newest hot solution to the Nation's unacceptable health care inflation, of course, is managed care. Managed care firms have been growing like weeds. Following is a staff review of 15 managed care company financial reports, generally for calendar 1993, that shows the percent they spend on health for their patients, the percent they take for general and administrative expenses, and their profit levels. Roughly 20 percent of every health care dollar in these firms is going for overhead, managers, and profit.

I think the consumer should know how much of his health care dollar is spent on providing health care for himself, and how much is spent making sure he doesn't get unnecessary care—managing or controlling his or her access to doctors, nurses, and hospitals. Each consumer needs to decide for himself where the fine line is between medical efficiency and cost savings versus denial of care and the loss of peace of mind.

These overhead figures are particulary troubling when compared to the overhead figures in a not-for-profit HMO like Kaiser—about 5 percent—and in Medicare—less than 3 percent.

Mr. Speaker, I will provide periodic updates to these figures. In the meantime, caveat emptor.

The table follows:

COMPANIES PROVIDING MANAGED CARE SERVICES

[Dollar amounts in thousands]

Name and period	Enrollees	Gross this yr.	Prior yr.	Net this yr.	Prior yr.	In percent: G&A This yr.	G&A Prior	Health This yr.	Health Prior	Profit This yr.	Profit Prior
1. FHP—7/1/93–6/30/94	1.7M	$2,472,958	$2,005,854	$59,310	$44,166	13.4	13.4	83.2	83.8	2.4	2.2
2. Oxford—1/1/93–12/30/93	217,300	311.938	155,722	14,900	11,289	21.8	21.0	69.8	70.2	4.8	7.2
3. Physicians Health Svcs—1/1/93–12/30/93	158,984	280,230	268,895	11,891	8,561	12.0	10.6	80.7	83.4	4.2	3.2
4. Value Health (9 months)—1/1/94–9/30/94	41M	706,931	499,769	34,009	23,529	10.4	11.6	78.7	78.4	4.8	4.7
5. Foundation Health Corp—7/1/93–6/30/94	3.5M	1,717,821	1,517,339	83,153	61,908	11.6	11.0	77.3	75.9	4.5	4.1
6. Wellpoint—1/1/93–12/31/93	2.3M[1] 2.5M[2]	2,449,175	2,275,155	165,384	174,758	11.2	12.1	73.0	63.6	6.7	7.7
7. Employees Benefit Plan 1/1/93–12/31/93	1.1M	251,618	240,071	5,656	(10,571)	36.9	31.2	56.1	61.5	5.4	(4.6)
8. Caremark—1/1/93–12/31/93	(3)	1,783,200	1,461,200	77,700	27,300	10.8	10.6	77.9	78.2	4.4	1.9
9. Sierra Health Svcs, Inc.—1/1/93–12/31/93	138,356	258,724	234,373	17,433	13,603	20.8	20.2	72.3	74.3	6.7	5.8
10. MidAtlantic Medical Svc—1/1/93–12/31/93	950,000	646.777	579,355	24,833	13,460	8.4	7.5	86.4	90.0	3.9	2.3
11. Maxicare—1/1/93–12/31/93	308,000	440.186	414,454	5,588	(3,071)	9.3	9.2	89.7	87.5	1.3	−.7
12. Healthwise—1/1/93–12/31/93	90,000	119,395	63,526	4,828	3,283	13.2	9.2	76.1	75.6	4.0	5.2
13. United Health Care—1/1/93–12/31/93	36M	2,527,325	1,759,865	194,574	125,657	16.1	17.8	80.8	81.4	12.1	11.1
14. Wellcare—1/1/93–12/31/93	70.2M	75,915	41,380	4,648	2,215	12.7	14.9	77.0	76.3	6.1	5.4
15. Physician Corp of America—1/1/93–12/31/93	472,000	545,967	354,342	40,094	14,437	15.0	14.0	72.8	79.4	7.4	4.1

[1] Medical. [2] Pharm. and dental. [3] Not reported.

QUOTES FROM COMPANIES PROVIDING MANAGED CARE SERVICES

1. FHP International Corp, Fountain Valley, CA:

p. 10: "Take Care's percent of revenue spent on health care *improved* from 82.2% to 80.9%." (emphasis added)

p. 29: "The cost of health care, however, improved to 82.6% as a percent of revenue in the 4th quarter of fiscal year 1993 . . ."

2. Oxford Health Plans, Inc., Norwalk, CN:

p. 22: "The medical loss ratio declined because revenue per member per month increased at a greater rate than medical expenses per member per month. Per member per month revenue increased 8.5% . . . and per member per month medical expenses increased 6.1%."

3. Physicians' Health Services, Trumbull, CN:

p. 16: "Health care expenses as a percentage of premium revenue decreased to 82.9% . . . due to the combined impact of premium rate increases and decreases in inpatient hospital utilization."

5. Foundation Health:

p. 18: "The improvement in the company's HMO medical loss ratio from FY 1992 to FY 1993 resulted from strict underwriting controls and appropriate setting of premium rates, strong utilization review controls and favorable provider reimbursement rates, including an increase in capitation arrangements with physicians." (p.18)

10. Mid Atlantic Medical Services, Rockville, MD:

p. 2: "To this end, we began a review of M.D.IPA's groups and their profitability. Those groups that were marginally profitable or unprofitable were either brought up to par, or not renewed." (M.D. IPA is their federally qualified HMO)

14. The Wellcare Management Group, Kingston, NY:

p. 16: "Medical expenses increased . . . representing a 3.3% increase on a member per month basis, but decreased as a percentage of premiums earned (the medical loss ratio) to 80.2% in 1993...primarily as a result of favorable medical utilization and cost controls."

15. Physician Corporation of America, Miami, FL:

p. 29: "This 5% increase in the weighted average medical costs per member was due to (i) medical cost increases of 7% for commercial members, 27% for Medicare members, and a 6% decrease for Medicaid members, and (ii) the significant increase in Medicaid membership as a percentage of overall membership which has lower per member medical costs than the Company's other membership. As a result of these factors, the Company's medical loss ratio improved to 72.8% from 79.4%" (emphasis added).

TEMPLE B'NAI B'RITH OF WILKES-BARRE CELEBRATES 150TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. KANJORSKI. Mr. Speaker, it is my distinct pleasure to recognize the sesquicentennial of the Temple B'nai B'rith of Wilkes-Barre. I am pleased to join in the celebration commemorating the congregation's 150 years of leadership and community participation in the Wyoming Valley.

Although historical records cannot determine the exact organizational beginning of the temple, it is known that the first Jewish families emigrated to the Wyoming Valley as early as the 1830's. Because the records show its founding to be somewhere between 1840 and 1848, B'nai B'rith has chosen to observe its founding year as 1845. With the support of all denominations, the first temple was erected in Wilkes-Barre and dedicated in 1884. It was northeastern Pennsylvania's first permanent synagogue. An orthodox temple until 1860, the B'nai B'rith became a pioneer in reform Judaism in the United States.

In 1960, a new temple was built across the river in Kingston with modern architecture and furnishings. In 1972, along with most of the Wyoming Valley, the building was devastated by the floods of Hurricane Agnes. The sanctuary was filled with more than 8 feet of water. Many irreplaceable records and objects were lost. Luckily, temple members saved the sacred Torahs just before the Susquehanna River spilled its banks. As was the case throughout the Wyoming Valley following the disaster, the community joined together and helped rebuild and refurbish the temple.

Mr. Speaker, I am extremely proud of the ecumenical unity and spirit which has become a tradition in northeastern Pennsylvania. B'nai B'rith is an active participant in the many interfaith projects which promote the understanding and tolerance for which our area is known. As we pay tribute to B'nai B'rith's founders during this celebration, we also pay tribute to its 275 families who continue to strengthen the tradition of Reform Judaism and who play an active role in the ecumenical spirit and community in the Wyoming Valley.

TURKEY ESCALATES WAR ON FREE EXPRESSION

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. SMITH of New Jersey. Mr. Speaker, last October, a Helsinki Commission delegation met with Turkish officials and others in Ankara. With one exception, each and every official, including the Speaker of Parliament, produced a copy of the pro-Kurdish newspaper Ozgur Ulke and waved it in the air as proof that, despite what critics alleged, free expression was alive and well in Turkey.

Last week, Mr. Speaker, Turkish officials decided that the costs of allowing the paper to air its pro-Kurdish sentiments outweighed its value as a token of free expression. On February 3, a Turkish court forced the paper to shut down. This blatant assault on free speech comes within a week of the decision to prosecute Turkey's most widely known author, Yasar Kemal, for publicly stating his thoughts on the government's handling of the Kurdish situation. He now faces charges of separatist propaganda, and now, even those who favor the government's uncompromising hardline towards the Kurds are beginning to question whether the government hasn't gone too far.

Mr. Speaker, Ozgur Ulke's closure culminates an orchestrated campaign which began as soon as the newspaper appeared to fill the void left when a likeminded predecessor was forcibly closed. Censorship of the paper included violent attacks that left 20 reporters and distributors killed by unidentified death squads. At least four others have been kidnapped. The tortured, bullet-ridden body of one reporter was found weeks after he had disappeared. At least 35 journalists and workers of the newspaper have been imprisoned and 238 issues seized. The campaign against the newspaper went into high gear on November 30, 1994, when Prime Minister Ciller issued a secret decree, which was leaked and published, calling for the complete elimination of the newspaper. On December 3, 1994, its printing facility and headquarters in Istanbul and its Ankara bureau were bombed. One person was killed and 18 others were injured in the explosions.

On January 6, 1995, policemen started to wait outside the printing plant to confiscate the paper as soon as it was printed. Copies were taken directly to a prosecutor who worked around the clock to determine which articles were undesirable. Often some three to four pages of the paper, mostly articles about security force abuses, were censored and reprinted as blank sections. Since December, five reporters, who were detained and later released, spoke of being tortured by police attempting to force confessions against the newspaper's editorial board.

Mr. Speaker, last week, the State Department issued its annual human rights report, and only China had as many pages devoted to it as Turkey. While the report indicated that human rights conditions in Turkey had worsened significantly over the past year, the publication of Ozgur Ulke was cited as a positive example of press freedom. Responding to the report, an official spokesperson dismissed its report as biased and based on one-sided information. The spokesperson, repeating assertions made whenever Turkey is criticized for human rights violations, insisted that significant improvements had taken place and other important reforms were being undertaken. Given the countless times we have heard such assertions, it is a wonder that Turkey is not a model of freedom and democracy.

Mr. Speaker, now that Turkish officials do not have copies of Ozgur Ulke to wave at visiting delegations, they will likely search for other props to convince skeptics of their good intentions. I would suggest, Mr. Speaker, that instead of tolerating certain types of expression in order to placate foreign observers, Turkish officials should take real steps to bring policies in line with stated human rights commitments. Free expression and other rights cannot be viewed simply as products of public relations campaigns. If Turkish officials are unwilling to work seriously towards implementing such rights to bring their laws into conformity with international standards, then they cannot expect their pronouncements on human rights to be viewed sympathetically. In this context, Turkish denunciations of the State Department human rights report are as puzzling as they are absurd.

TRIBUTE TO LAWRENCE J. SCHWARTZ

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. FILNER. Mr. Speaker and colleagues, I rise today to honor a good friend and community leader who passed away this week—Lawrence Schwartz, or Larry to all of his many friends.

I count Larry as one of my closest personal friends and mentors. He was, first and foremost, an educator—like myself, a history professor. He taught U.S. history and political science at San Diego City College from 1966 to 1987, when he left to become president of the San Diego Community College Guild, Local 1931, of the American Federation of Teachers.

As the nation's chief negotiator, Larry established a degree of civility in negotiation that has carried through to today. Faculty salaries at San Diego community colleges increased by 40 percent between 1987 and 1991, due in large part to Larry's rapport and negotiation with administrators.

He never lost touch with students, however. They recognized that Larry's deep involvement with the issues of the day gave depth, conviction, and meaning to his teaching. They responded to the substance of Larry's courses precisely because he gave life to traditionally dry and purely academic exercises.

We both had roots in New York, and our lives converged again in the 1960's when we joined the civil rights movement. Larry was active for years in Democratic political campaigns and served as a delegate to the National Democratic Convention in 1972. He served on the local executive board of the American Civil Liberties Union. He led protests against the Vietnam war.

He was held in high esteem by his students, well respected by his peers, and recognized statewide for his work. He was dearly loved by his friends and his family. My thoughts and prayers are with his wife, Rosalie, and his children.

Educator, union negotiator, activist, husband, father, and friend—Larry had a special bond with everyone he met. He believed, as I do, that one person can make a difference—and his life was a living example of that belief.

We need many more people like Larry Schwartz. He will be missed.

HONORING MORRIS L. SIMON

HON. VAN HILLEARY

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. HILLEARY. Mr. Speaker, I rise today to honor the memory of Mr. Morris L. Simon, cofounder of the Tullahoma News in Tullahoma, TN, and honorary lifetime vice chairman of the University of Tennessee Space Institute Support Council. It is both an honor and a privilege to ask that this body join me in tribute to Morris L. Simon, an extraordinary man who made a very significant impact on the lives of numerous people in middle Tennessee and who served his fellowman so admirably through the years.

Morris L. Simon was born in Bristol, TN, on June 12, 1911. Mr. Simon originally planned to become a lawyer and entered the University of Tennessee at Knoxville when he was 18 years old. But times were rough in east Tennessee and throughout the country, and the Great Depression dealt Morris' father Mr. Jake Simon, a Bristol merchant, a bitter hand.

Eager to help with the family's finances, Morris walked into the newsroom of the Knoxville News-Sentinel and informed the editors that he wanted to learn to be a reporter. Sorry, they said, they were not hiring.

"You don't understand," the young Simon said. "I said I want to learn to become a reporter." They agreed he could go to work, but without pay. As a green reporter, Simon was given night assignments. A lack of sleep and an increasing work load forced him to abandon his studies at UTK after about 2 years.

While at the News-Sentinel, Simon earned a reputation for being an aggressive and competent reporter. By 1945 he was acting managing editor. In spite of his success, he was restless, and the next year he and J. Ralph Harris founded the Tullahoma News, a twice-weekly newspaper that would become the flagship paper of several weeklies started by Simon.

Simon was hard-nosed about news coverage, but he was known as a staunch supporter of projects benefiting the Tullahoma area. After the Air Force established the Arnold Engineering Development Center [AEDC] on the outskirts of town, several efforts were made to establish a graduate school and research institute there. In 1956, UT began a graduate program at AEDC for employees. The success of this program provided the basis for what became the UT Space Institute on September 24, 1964.

When efforts to raise private funds for an institute had failed, Simon became a strong advocate for State involvement. He worked closely with his friend, the late Dr. B.H. Goethert, and community leaders to garner public and political support for the Space Institute. It was Simon's idea to create the UTSI Support Council. He was the group's first vice chairman and now holds the honorary position of lifetime vice chairman.

In addition to supporting the Space Institute financially—he contributed enthusiastically to the establishment of a chair of excellence at UTSI and helped make the B.H. Goethert Professorship a reality—Simon has tirelessly championed causes to foster UTSI's growth and autonomy. In the early 1970's Simon convinced the Tennessee Higher Education Commission to complete the final phase of UTSI's Industry/Student Center. He led efforts in 1975–76 to have the institute recognized as a distinct funding entity within the State's budget process. And in the late 1980's he argued that the institute should be granted full campus status within the university system and that it's chief executive officer be deemed a vice president. in 1987 the UT Board of Trustees approved elevating the institute's chief officer to vice president rank.

UTSI has honored Morris Simon many times over the years. Most recently, the institute's faculty recognized his leadership and vision by contributing more than $20,000 toward establishment of the Morris L. Simon Fellowship. The fellowship announcement at a lecture on November 12, 1993, took Simon by surprise. he accepted the applause in silence, prompting old friends to remark that it was the first time they had seen him speechless. After recovering himself, Simon said simply, "You could not have done anything to please me more."

Mr. Speaker, I thank you for this opportunity to bring to the attention of the House the accomplishments of Mr. Morris L. Simon, a truly extraordinary individual whose legacy runs deep in the State of Tennessee.

THE LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS OF 1995

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. STUPAK. Mr. Speaker, today, Congressman JIM LIGHTFOOT and I are introducing the Law Enforcement Officers' Bill of Rights.

It will surprise some to find that the same law enforcement officials who lay their lives on the line every day in protecting the rights of American citizens are denied many of these same rights in their workplace. Further, the absence of a standard for investigating police officers for non-criminal activities has, in some cases, subjected law enforcement officials to threats and coercion by superiors or internal affairs divisions, and to arbitrary and unfair remedies to any charges.

Mr. LIGHTFOOT's and my bill is very simple: it would set the time and location for interviews regarding violations; it would require the appointment of counsel to represent the officer under investigation; it would mandate that only one interrogator be allowed to question the suspect during any single session—to avoid the questioning method known as Good Cop/Bad Cop; it would mandate that no questions be asked about an officer's family or financial status; it would put forth a system for reviews; and it would require that the officer being investigated be made aware of the charges he or she is facing, among other fundamental due process rights. Again, this legislation would only apply to officers being investigation for noncriminal offenses.

As noncriminal disciplinary procedures vary widely from State to State, I believe that this important piece of legislation will go a long way to ending these ad hoc approaches to such proceedings and the often arbitrary and misplaced remedies that officers face. Under this legislation, States will have a guide path for such investigations and the rights of an officer, guilty or innocent, will be insured.

Mr. Speaker, this bill could not have been introduced today without the hard work of the Fraternal Order of Police and the National Association of Police Organizations, our country's two largest organizations representing law enforcement officials. Their hard work in this effort reiterates the need and widespread support for such an initiative. Furthermore, President Clinton, as Governor of the State of Arkansas, signed similar legislation into law to apply to officers in Arkansas; and Attorney General Janet Reno testified in the Senate in 1993 that such a bill is working effectively in her home State of Florida and that she has seen no disadvantages to it at all.

In a bipartisan effort, Senators MCCONNELL, from Kentucky, and BIDEN, from Delaware, have introduced this proposal in the Senate. Congressman LIGHTFOOT and I are continuing this bipartisan support in the House of Representatives. This is not a partisan issue. This is a constitutional issue. Law enforcement officials facing disciplinary actions deserve the same fundamental protections granted to every American and I believe that the Law Enforcement Officers' Bill of Rights of 1995 will go a long way to ensuring that these rights are protected.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Law Enforcement Officers' Bill of Rights Act of 1995".

SEC. 2. RIGHTS OF LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end the following new section:

"RIGHTS OF LAW ENFORCEMENT OFFICERS

"SEC. 819. (a) DEFINITIONS.—In this section—

"'disciplinary action' means the suspension, demotion, reduction in pay or other employment benefit, dismissal, transfer, or similar action taken against a law enforcement officer as punishment for misconduct.

"'disciplinary hearing' means an administrative hearing initiated by a law enforcement agency against a law enforcement officer, based on probable cause to believe that the officer has violated or is violating a rule, regulation, or procedure related to service as an officer and is subject to disciplinary action.

"'emergency suspension' means temporary action imposed by the head of the law enforcement agency when that official determines that there is probable cause to believe that a law enforcement officer—

"(A) has committed a felony; or

"(B) poses an immediate threat to the safety of the officer or others or the property of others.

"'investigation'—

"(A) means the action of a law enforcement agency, acting alone or in cooperation with another agency, or a division or unit within an agency, or the action of an individual law enforcement officer, taken with regard to another enforcement officer, if such action is based on reasonable suspicion that the law enforcement officer has violated, is violating, or will in the future violate a statute or ordinance, or administrative rule, regulation, or procedure relating to service as a law enforcement officer; and

"(B) includes—

"(i) asking questions of other law enforcement officers or nonlaw enforcement officers;

"(ii) conducting observations;

"(iii) evaluating reports, records, or other documents; and

"(iv) examining physical evidence.

"'law enforcement agency' means a State or local public agency charged by law with the duty to prevent or investigate crimes or apprehend or hold in custody persons charged with or convicted of crimes.

"'law enforcement officer' and 'officer'—

"(A) mean a member of a law enforcement agency serving in a law enforcement position, which is usually indicated by formal training (regardless of whether the officer has completed or been assigned to such training) and usually accompanied by the power to make arrests; and

"(B) include—

"(i) a member who serves full time, whether probationary or nonprobationary, commissioned or noncommissioned, career or noncareer, tenured or nontenured, and merit or nonmerit; and

"(ii) the chief law enforcement officer of a law enforcement agency.

"'summary punishment' means punishment imposed for a minor violation of a law enforcement agency's rules and regulations that does not result in suspension, demotion, reduction in pay or other employment benefit, dismissal, or transfer.

"(b) APPLICATION OF SECTION.—

"(1) IN GENERAL.—This section sets forth rights that shall be afforded a law enforcement officer who is the subject of an investigation.

"(2) NONAPPLICABILITY.—This section does not apply in the case of—

"(A) a criminal investigation of a law enforcement officer's conduct; or

"(B) a nondisciplinary action taken in good faith on the basis of a law enforcement officer's employment related performance.

"(c) POLITICAL ACTIVITY.—Except when on duty or acting in an official capacity, no law enforcement officer shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in such activity.

"(d) RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION.—When a law enforcement officer is under investigation that could lead to disciplinary action, the following minimum standards shall apply;

"(1) NOTICE OF INVESTIGATION.—A law enforcement officer shall be notified of the investigation prior to being interviewed. Notice shall include the general nature and scope of the investigation and all departmental violations for which reasonable suspicion exists. No investigation based on a complaint from outside the law enforcement agency may commence unless the complainant provides a signed detailed statement. An investigation based on a complaint from outside the agency shall commence within 15 days after receipt of the complaint by the agency.

"(2) NOTICE OF PROPOSED FINDINGS AND RECOMMENDATION.—At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

"(e) RIGHTS OF LAW ENFORCEMENT OFFICERS PRIOR TO AND DURING QUESTIONING.—When a law enforcement officer is subjected to questioning that could lead to disciplinary action, the following minimum standards shall apply:

"(1) REASONABLE HOURS.—Questioning of a law enforcement officer shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

"(2) PLACE OF QUESTIONING.—Questioning of the law enforcement officer shall take place at the offices of the persons who are conducting the investigation or the place where the law enforcement officer reports for duty, unless the officer consents in writing to being questioned elsewhere.

"(3) IDENTIFICATION OF QUESTIONER.—The law enforcement officer under investigation shall be informed, at the commencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

"(4) SINGLE QUESTIONER.—During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

"(5) NOTICE OF NATURE OF INVESTIGATION.—The law enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any questioning.

"(6) REASONABLE TIME PERIOD.—Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the law enforcement officer.

"(7) NO THREATS OR PROMISES.—Threats against, harassment of, or promise of reward shall not be made in connection with an investigation to induce the answering of any question. No statement given by the officer may be used in a subsequent criminal proceeding unless the officer has received a written grant of use and derivative use immunity or transactional immunity.

"(8) RECORDATION.—All questioning of any law enforcement officer in connection with the investigation shall be recorded in full, in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

"(9) COUNSEL.—The law enforcement officer under investigation shall be entitled to counsel (or any other one person of the officer's choice) at any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

"(f) DISCIPLINARY HEARING.—

"(1) NOTICE OF OPPORTUNITY FOR HEARING.—Except in a case of summary punishment or emergency suspension discribed in subsection (h) if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the law enforcement officer is entitled to a hearing on the issues by a hearing officer or board prior to the imposition of any disciplinary action.

"(2) REQUIREMENT OF DETERMINATION OF VIOLATION.—No disciplinary action may be taken unless a hearing officer or board determines, pursuant to a fairly conducted disciplinary hearing, that the law enforcement officer violated a statute, ordinance, or published administrative rule, regulation, or procedure.

"(3) TIME LIMIT.—No disciplinary charges may be brought against a law enforcement officer unless filed within 90 days after the commencement of an investigation, except for good cause shown.

"(4) NOTICE OF FILING OF CHARGES.—The law enforcement agency shall provide written, actual notification to the law enforcement officer, not later than 30 days after the filing of disciplinary charges, of the following:

"(A) The date, time, and location of the disciplinary hearing, which shall take place not sooner than 30 days and not later than 60 days. after notification to the law enforcement officer under investigation unless waived in writing by the officer.

"(B) The name and mailing address of the hearing officer.

"(C) The name, rank, and command of the prosecutor, if a law enforcement officer, or the name, position, and mailing address of the prosecutor, if not a law enforcement officer.

"(5) REPRESENTATION.—During a disciplinary hearing an officer shall be entitled to be represented by counsel or nonattorney representative.

"(6) HEARING BOARD AND PROCEDURE.—(A) A State shall determine the composition of a disciplinary hearing board and the procedures for a disciplinary hearing.

"(B) A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include at least 1 law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

"(7) ACCESS TO EVIDENCE.—A law enforcement officer who is brought before a disciplinary hearing board shall be provided access to all transcripts, records, written statements, written reports, analyses, and electronically recorded information pertinent to the case that—

"(A) contain exculpatory information;

"(B) are intended to support any disciplinary action; or

"(C) are to be introduced in the disciplinary hearing.

"(8) IDENTIFICATION OF WITNESSES.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall notify the law enforcement officer, or his attorney if he is represented by counsel, not later than 15 days prior to the hearing, of the names and addresses of all witnesses for the law enforcement agency.

"(9) COPY OF INVESTIGATIVE FILE.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall provide to the law enforcement officer, at the law enforcement officer's request, not later than 15 days prior to the hearing, a copy of the investigative file, including all exculpatory and inculpatory information but excluding confidential sources.

"(10) EXAMINATION OF PHYSICAL EVIDENCE.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall notify the law enforcement officer, at the officer's request, not later than 15 days prior to the hearing, of all physical, nondocumentary evidence, and provide reasonable date, time, place, and manner for the officer to examine such evidence at least 10 days prior to the hearing.

"(11) SUMMONSES.—The hearing board shall have the power to issue summonses to compel testimony of witnesses and production of documentary evidence. If confronted with a failure to comply with a summons, the hearing officer or board may petition a court to issue an order, with failure to comply being subject to contempt of court.

"(12) CLOSED HEARING.—A disciplinary hearing shall be closed to the public unless the law enforcement officer who is the subject of the hearing requests, in writing, that the hearing be open to specified individuals or the general public.

"(13) RECORDATION.—All aspects of a disciplinary hearing, including prehearing motions, shall be recorded by audio tape, video tape, or transcription.

"(14) SEQUESTRATION OF WITNESSES.—Either side in a disciplinary hearing may move for and be entitled to sequestration of witnesses.

"(15) TESTIMONY UNDER OATH.—The hearing officer or board shall administer an oath or affirmation to each witness, who shall testify subject to the applicable laws of perjury.

"(16) VERDICT ON EACH CHARGE.—At the conclusion of all the evidence, and after oral argument from both sides, the hearing officer or board shall deliberate and render a verdict on each charge.

"(17) BURDEN OF PERSUASION.—The prosecutor's burden of persuasion shall be by clear and convincing evidence as to each charge involving false representation, fraud, dishonesty, deceit, or criminal behavior and by a preponderance of the evidence as to all other charges.

"(18) FINDING OF NOT GUILTY.—If the law enforcement officer is found not guilty of the disciplinary violations, the matter is concluded and no disciplinary action may be taken.

"(19) FINDING OF GUILTY.—If the law enforcement officer is found guilty, the hearing officer or board shall make a written recommendation of a penalty. The sentencing authority may not impose greater than the penalty recommended by the hearing officer or board.

"(20) APPEAL.—A law enforcement officer may appeal from a final decision of a law enforcement agency to a court to the extent available in any other administrative proceeding, in accordance with the applicable State law.

"(g) WAIVER OF RIGHTS.—A law enforcement officer may waive any of the rights guaranteed by this section subsequent to the time that the officer has been notified that the officer is under investigation. Such a waiver shall be in writing and signed by the officer.

"(h) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—

"(1) IN GENERAL.—This section does not preclude a State from providing for summary punishment or emergency suspension.

"(2) HEALTH BENEFITS.—An emergency suspension shall not affect or infringe on the health benefits of a law enforcement officer or the officer's dependents.

"(i) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the officer's rights under this section.

"(j) OTHER REMEDIES NOT IMPAIRED.—Nothing in this section shall be construed to impair any other legal right or remedy that a law enforcement officer may have as a result of a constitution, statute, ordinance, regulation, collective bargaining agreement or other sources of rights.

"(k) DECLARATORY OR INJUNCTIVE RELIEF.—A law enforcement officer who is being denied any right afforded by this section may petition a State court for declaratory or injunctive relief to prohibit the law enforcement agency from violating such right.

"(l) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into the file of any law enforcement officer, or possess or maintain control over any adverse material in any form within the law enforcement agency, unless the officer has had an opportunity to review and comment in writing on the adverse material.

"(m) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, sources of income, debts, personal or domestic expenditures (including those of any member of the officer's household), unless—

"(1) the information is necessary to the investigation of a violation of any Federal, State or local law, rule, or regulation with respect to the performance of official duties; and

"(2) such disclosure is required by Federal, State, or local law.

"(n) STATES' RIGHTS.—This section does not preempt State laws in effect on the date of enactment of this Act that confer rights that equal or exceed the rights and coverage afforded by this section. This section shall not be a bar to the enactment of a police officer's bill of rights, or similar legislation, by any State. A State law which confers fewer rights or provides less protection than this section shall be preempted by this section.

"(o) MUTUALLY AGREED UPON COLLECTIVE BARGAINING AGREEMENTS.—This section does not preempt existing mutually agreed upon collective bargaining agreements in effect on the date of enactment of this Act that are substantially similar to the rights and coverage afforded under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. preceding 3701) is amended by inserting after the item relating to section 818 the following new item:

"Sec. 819. Rights of law enforcement officers.".

HOUSE OF REPRESENTATIVES—*Friday, February 10, 1995*

The House met at 9 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Enable us, O Almighty God, to take the heavenly vision of harmony and peace and mercy and truth and translate that vision into the work that we do with our hearts and minds and hands. Encourage to take our ideas and ideals, our hopes and dreams, our faith and our convictions into the realm of daily action and personal responsibility. May we so heed Your word of truth and Your message of justice that Your will may be done on Earth as it is in Heaven. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Iowa [Mr. GANSKE] come forward and lead the House in the Pledge of Allegiance?

Mr. GANSKE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will announce there will be 5 1-minutes on each side.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, our Contract With America states the following:

On the first day of Congress, a Republican House will: Force Congress to live under the same laws as everyone else; cut committee staffs by one-third; and cut the congressional budget. We have done this.

It goes on to state that in the first 100 days, we will vote on the following items: A balanced budget amendment—we have done this; unfunded mandates legislation—we have done this; line-item veto—we have done this; a new crime package to stop violent criminals—we are doing this now; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for families to lift Government's burden from middle-income Americans; national security restoration to protect our freedoms; Senior Citizens' Equity Act to allow our seniors to work without Government penalty; Government regulatory reform; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature.

This is our Contract With America.

APPOINT AN INDEPENDENT COUNSEL

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, today marks the third full week since the naming of the House Ethics Committee. As of now the committee has not discussed any of the very important issues before them involving our Speaker.

Mr. Speaker, there is a cloud hovering over the Capitol, a very dark cloud that will not go away until many questions are answered. As each day passes, this cloud grows larger and darker with new questions of ethics violations.

It should not take 100 days for the Ethics Committee to act. In fact it should not take them long at all to decide that an independent counsel is the only way these questions involving our Speaker can be answered.

If there is nothing to hide, let the independent counsel begin immediately. Only an independent counsel can remove this dark cloud over this great House of Representatives.

FOR THE CHILDREN

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, why are Republicans working to change the way Government works? Why are we working so hard to pass a balanced budget amendment, to enact real anticrime measures, to reform our welfare state? The answer is: for America's children.

We want to get this country in the best possible shape for future generations.

Our democracy must remain strong. We must clean our streets of crime, get our fiscal house in order, and provide every American the greatest opportunity to pursue happiness.

To do these things, we must change direction. We cannot continue to spend and tax our way to financial ruin. We cannot continue a welfare state that destroys opportunity and ruins generations of Americans. We cannot allow lawlessness to rule our streets and thugs to terrorize our citizens.

Mr. Speaker, these are the reasons I support the Contract With America. It represents real change that most Americans can support.

I urge the defenders of the status quo to reflect on one thing: Can our children afford to continue on the path you advocate? For most people, the answer is clearly no.

SOLVING THREE PROBLEMS AT ONE TIME

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, during the course of the last several months, as we have been in the House there have been three issues that have been discussed in some manner, one of them being capital gains breaks for the rich, one of them being adjusting the minimum wage, trying to adjust the wage by which we increase the payments to those who are the working poor, as well as welfare reform.

I come today offering a solution to all of it. Let us give capital gains reductions, let us target it so we give minimum wage to the working poor, while at the same time as we move persons off of welfare give them an opportunity to work at a job that pays a decent wage.

We can solve all three problems if we can work together. Let us remove all the partisanship, let us not look at these issues as being disjointed, let us hook them up together, capital gains, minimum wage increase while at the same time changing welfare. We can solve the problem for everybody.

Win, win, win.

SAFE STREETS FOR AMERICA

(Mr. HEFLEY asked and was given permission to address the House for 1

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, we have all heard the saying, "If you can't do the time, don't do the crime."

Unfortunately, the sad fact is that if you commit a violent felony there is only a 3- to 4-percent chance you will do any jail time. Looking at that another way, 96 to 97 percent of the time a violent criminal never sees the inside of a jail.

No wonder Americans have said that they have had enough and want their streets back.

When people are afraid to step outside their doors at night something is wrong. When people are afraid to sit on their porch, something is wrong. When fear of crime prevents many Americans in our inner-city areas from taking a night job or going to night school, it hurts all of us.

Even the wealthy who live in guarded, gated communities feel an immediate need to do something about violent crime. But for middle class and poorer Americans, who bear the brunt of violent crime, this is a life-and-death issue that affects them every day.

If nothing else, we owe the working men and women of our country, the ones who pay the bills, safe streets.

REINING IN THE IRS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the IRS is loading up. Individual dossiers now on every taxpayer, not just your credit history and your wife's background, your speeding tickets, how about news stories, how about informant's tips and how about rumors, ladies and gentleman.

□ 0910

Now, if that is not enough to pirate your software, check this out: It is not even confidential. Last year they slapped on the wrist 300 agents for snooping through tax returns. Unbelievable, ladies and gentleman.

And the Congress of the United States has allowed this to happen. I say it is time for Congress to act. What makes it even worse, when the IRS comes to the door with their Gestapo file and looks you in the eye, you are guilty and have to prove yourself innocent.

Do yourself a favor, do your constituents a service, and cosponsor H.R. 390 and let us put the IRS where they should be. They work for the American people.

APPROVAL RATING FOR CONGRESS HAS DOUBLED

(Mr. GANSKE asked and was given permission to address the House for 1 minute.)

Mr. GANSKE. Mr. Speaker, there is a new-found respect for Congress in the country. Republicans have only been in charge for 1 month, and the approval rating for Congress has already doubled.

The reason is obvious. Under Republican leadership we are working hard to keep our promises to bring big change to America.

Nowhere is that more apparent than in the crime package we are now debating. We are making tremendous progress in ensuring that the criminal justice system will be more concerned with the rights of victims and society than the rights of criminals.

And who will benefit most from our rough crime package? The middle and lower income classes, who live with violent crime every day. They know what we need to do: catch, convict, and confine violent criminals.

That is what our crime package is all about. And that is why we will continue working hard to see that it is enacted.

INTRODUCTION OF LEGISLATION TO PROVIDE A LIVABLE WAGE

(Mr. THOMPSON asked and was given permission to address the House for 1 minute.)

Mr. THOMPSON. Mr. Speaker, I stand in support of livable wage for all Americans by the year 2000. Congressmen CLYBURN and HILLIARD and I have introduced a bill, H.R. 768, that moves the debate from a minimum wage to a livable wage. Many Americans who work in retail establishments such as McDonald's already earn more than $5 per hour. The current minimum wage of $4.25 per hour amounts to approximately $9,000 a year. No individual or family can live at a decent level on this income. Contrary to popular belief, two-thirds of minimum wage workers are adults and not teenagers.

The minimum wage has not been raised since April 1, 1991, nearly 4 years ago. For the richest country in the world, this is a national disgrace. All of us know that the cost of goods and services have risen over this time period. By supporting a liveable wage, we send a clear signal to the Nation of our support for the working poor.

Let us vote for a livable wage and index future increases so that all American families can keep up with the rising cost of living. My constituents in Mississippi deserve it. Your constituents deserve it. We must demand it.

CONGRATULATIONS TO THE SAN FRANCISCO 49ERS

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, the San Diego Chargers were picked in their division, but then the season started; our Bolts pursued a vision. Often they would fall behind. They bested the toughest teams in the AFC. In the playoffs they beat Pittsburgh and Miami.

Then on Super Bowl Sunday, the 49ers won. I picked the Chargers. The gentlewoman from California, I had a 19 point advantage on her. I thought I had an advantage. Well, us males have thought that for thousands of years, and I guess we will never learn, because here I am to pay off my Super Bowl bet to the gentlewoman from California, the most prized possession that I could possibly own, El Indio chips and Mexican food, salsa and homemade guacamole, fresh from San Diego.

The 49ers are champs, and they will have our respect. But all the NFL will seek the trophy they protect. Should the San Francisco team return next year, I will still bet on my Chargers.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I am happy to yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I congratulate the gentleman for the great, valiant effort of the Chargers. California sent two great teams to the Super Bowl, and I thank the gentleman for his salsa, chips, and guacamole, and give him a T-shirt.

CONGRATULATING TWO GREAT FOOTBALL TEAMS FROM CALIFORNIA

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, I want to congratulate the Chargers and my colleague, all of my colleagues, from San Diego.

We are very proud in California of two great teams.

The gentleman from California [Mr. CUNNINGHAM] is a good sport. I waited awhile for him to pay off on this debt. His "the chips are on their way" became like "the check is in the mail." You know, the Super Bowl has been over awhile, and I thought that as to this concession he was waiting for Michael Huffington to concede before he conceded the Super Bowl loss.

In any event, he is a great Californian, a great sport. I thank him for that.

I also will have to say how proud I am of the San Francisco 49ers, owner Eddie DeBartolo, president Carmen Policy, you know, quarterback Steve Young, Jerry Rice, Rickey Waters, and the list goes on and on.

It was a great Super Bowl. We are very proud. Five trips to the Super Bowl for the 49ers, five championships, five world championships.

Go '9ers.

INTRODUCTION OF RESOLUTION OF INQUIRY CONCERNING TAXPAYER-BACKED MEXICAN RESCUE PACKAGE

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, today with bipartisan cosponsorship, I am introducing a resolution of inquiry concerning the recent U.S. taxpayer-backed Mexican rescue package.

Far too many questions regarding the terms of the financing and the financial risks to our people and our banking system remain unanswered. The purpose of this resolution is to obtain factual information from the Clinton administration on a series of questions contained in the resolution, including the soundness of the collateral backing the agreement, the solvency of PEMEX, the actual terms of the short-, medium-, and long-term loans, and the rate at which funds are being drawn down.

I ask my colleagues to cosponsor this resolution of inquiry and respectfully request the Committee on Banking and Financial Services report it favorably within the 2 weeks required.

VIOLENT CRIMINAL INCARCERATION ACT OF 1995

The SPEAKER pro tempore (Mr. SAM JOHNSON of Texas). Pursuant to House Resolution 63 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 667.

□ 0917

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 667) to control crime by incarcerating violent criminals, with Mr. BARRETT of Nebraska, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, February 9, 1995, the amendment offered by the gentleman from Virginia [Mr. SCOTT] had been disposed of, and the bill was open for amendment at any point.

Four hours and ten minutes remain for consideration of the bill under the 5-minute rule.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment, amendment No. 2, Watt No. 2.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina: Page 17, strike lines 16–23 and page 18, strike lines 1–3.

Page 18, line 4, strike the letter "g" and insert instead the letter "f".

The CHAIRMAN pro tempore. The gentleman from North Carolina [Mr. WATT] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such time as I may consume. This should not take 5 minutes. I actually engaged in some degree of debate on this amendment during the period of general debate.

This amendment simply would strike the provisions in the bill having to do with the award of attorneys' fees.

I now realize that I may have the wrong amendment at the desk.

Mr. Chairman, I ask unanimous consent to substitute amendment No. 3, Watt No. 3, and have that one read instead. I ask unanimous consent that the amendment that was originally read be withdrawn and that the Watt amendment No. 3 be substituted.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN pro tempore. The amendment has been withdrawn.

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer my new amendment.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina: Page 16, strike lines 10–20.

The CHAIRMAN pro tempore. The gentleman from North Carolina [Mr. WATT] will be recognized for 10 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. WATT].

□ 0920

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment actually relates to the procedure by which an appeal is taken from an order in which relief has been granted in a prison lawsuit.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. I thank the gentleman for yielding.

Mr. Chairman, I am uncertain as to what this amendment is. The amendment that was read does not seem to be amendment No. 3 that was printed in the Journal. I would like to understand what amendment we are on at this point.

Mr. WATT of North Carolina. The gentleman's side has a copy of them. We redesignated the amendments because when the bill came out of committee it came out in a different form that the amendments that were printed in the RECORD conform with. So we have gone back and conformed the amendments to comply with the actual printed bill.

Does that address the gentleman's concern?

Mr. CANADY of Florida. It does. I thank the gentleman.

Mr. WATT of North Carolina. I had given the gentleman's side a copy of this amendment and the revised amendments yesterday afternoon.

Mr. Chairman, resuming my time, the bill provides that when an order has been entered by the court and the defendants in the case who have already been found to have violated a constitutional rights by prison overcrowding or in some other way violating a prisoner's rights and an effort has been made to try to correct that, when the motion to revise that order is made, that order continues in effect during the pendency of the motion to revise the court's order. Well, that is exactly what happens in any lawsuit. If the court ever enters an order in a case, that order stays in effect until the court comes back and changes that order or until some higher court changes that order.

The provisions of this bill would say if the court has entered an order, the order is in effect, the defendant files a motion with the court to change that order or to eliminate that order, then simply because the defendant filed a motion to change the order, if the court did not act on that motion within 30 days or some arbitrary time, the defendant would win the motion.

There is absolutely no precedent for this kind of radical change in any area of the law. Basically, what it says is you take overcrowded, overworked Federal courts, and you, without adding any additional personnel, any additional space, any additional opportunity for them to get the aid that they need—and everybody knows the courts are already overworked—and you take that and use it as an excuse to, in effect, change the whole burden of proof and process that we have followed in our country for years and years and years.

Another example of some political sloganeering taking precedence over reasonable public policy and thought in this body.

I would simply submit that this provision makes no sense from a public policy perspective. It may make some sense from an appeal to the political electorate's perspective, but I would even think it does not make any sense once you think about it and talk it out from that perspective.

So I would ask my colleagues to be reasonable, go back to the process that has existed in all other cases in our court system and allow that process to continue to exist in this case.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). Is there a Member in opposition to the amendment of the gentleman from North Carolina?

Mr. CANADY of Florida. Mr. Chairman, may I claim the time in opposition?

The CHAIRMAN pro tempore. The gentleman from Florida [Mr. CANADY] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this provision of the bill which is being attacked by the current amendment is a provision that is simply designed to insure the expeditious consideration of motions for relief filed by States and local governments.

What happens in many of these cases involving prison conditions is, the court, unfortunately, will not expeditiously consider such motions for relief by the States and local governments. In some cases, that can result in dangerous criminals actually being let out on the street.

Now, what we have in the bill is something that is very reasonable; it gives the court adequate time to consider the motions for relief and simply provides that if the court does not act on the motion for relief filed by the State or local government within the time period specified, then there will be a stay.

Now, once the court acts on the motion, the stay goes away. This is simply a mechanism to encourage the court to act swiftly, to consider these matters which are of great public importance. If the court ends up ruling against the State or local government, at that point the State or local government will have the ability to appeal that order of the court.

Now, I think it is important to understand there are two different time periods that are specified in the bill. One time period is for 30 days. That means that a stay will come into effect 30 days after a motion has been filed. But that only happens in circumstances where there has been no prior finding by the court that an individual's constitutional rights have been violated. So that is a very unique circumstance, where there has been an order imposed that is not based on a specific finding of such a constitutional violation.

I believe there is a compelling case in such circumstances for allowing the State or local government to obtain swift relief from onerous impacts of such a court order that is not based on a finding of specific constitutional deprivation.

Now, it is true that other cases, where there may have been a finding of a constitutional deprivation, are subject to the stay provisions, but that stay provision only comes into place after the court has had the motion for more than 180 days.

Now, I believe 180 days is certainly an adequate period of time for a court to consider such a matter, particularly given the fact that these matters involve the public safety and involve the issue in many cases of keeping violent criminals off the street who would otherwise potentially be released under the court's order.

So I believe these are reasonable provisions.

The important thing to understand there is there is nothing, there is absolutely nothing in this bill that keeps the court from keeping in place the provisions of the order. If the court will simply make the findings that are necessary under the law, if the court will simply deal with the matter in an expeditious manner, the court will provide whatever relief is appropriate for a constitutional deprivation.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such additional time as I may consume and would like to address a couple of questions, after I make a comment, to the gentleman from Florida [Mr. CANADY].

Again, this is one of these situations like we saw yesterday and the day before yesterday where I am not sure the other side has read the provisions of its own bill.

Mr. CANADY represents to my colleagues here that under one part of this, the 30-day provision, no order needs to be in effect. But I do not know where he is getting that from if he has read the provisions of his bill.

It says, beginning on the 30th day after such motion is made in the case of a motion made under subsection B. Subsection B of this bill, an order is already in effect by a court because subsection B deals with termination of relief, relief that has already been ordered by the court.

So on that point, I think he is just absolutely wrong in his reading of his own bill.

□ 0930

Second, I would simply ask the gentleman whether he knows of any other situations, legal situations in this country, in which, where an order is in effect by the court, and somebody is trying to get from under that order, and they file a motion with the court to terminate it, a disposition of that motion is made in one way or another without the court having acted on it? Is there any other legal precedent for this that he can cite in any other area of the law?

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. That is the typical situation in the case of appeals from a judgment of the court.

Mr. WATT of North Carolina. We are not talking about appeals. We are talking about going back to the same court that entered the order. This provision has nothing to do with appeals. This has to do with a motion in the court where the relief was granted. Is there any other precedent in the whole body of law in this country where a similar provision exists?

Mr. CANADY of Florida. There are provisions of law that stay certain orders against governmental entities. I am familiar with those in a variety of States where an order may be entered against a particular governmental entity. There is a stay imposed specifically because of the status of the party as a governmental entity. That is something that is found in the law, but let me go back to this point that the gentleman raises about the 30-day stay.

Now this is a conversation, quite frankly, that we had in the Committee on the Judiciary, and I am simply going to repeat it to my colleague.

Mr. WATT of North Carolina. Mr. Chairman, let me reclaim my time because we are operating on my time here, and I will reserve the balance of my time and let the gentleman make his point on his time since I have limited time here.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we discussed at length in the Committee on the Judiciary, the 30-day stay only comes into place in circumstances where there is an absence of a finding by the court that prison conditions violated a Federal right.

I say to the gentleman, if you want to look on page 16 of the bill, beginning at line one, that's where you'll find it.

Now obviously there is going to be a court order in place. I never indicated that the stay only comes in place when there has been no court order. Obviously there is nothing to stay if there is no court order. We are talking about a court order, however where the court order does not have a finding by the court that prison conditions violated a Federal right.

Now all we are saying, it is in those circumstances the local government or the State should be entitled to very swift consideration of a motion for relief from an order that has not been based on the finding it should be based on. That is all that we are providing here.

Now, as I said, this is the same explanation that was provided in the Committee on the Judiciary. The plain language of the bill indicates that that is what we are talking about, and the gentleman can see it there on page 16.

Mr. WATT of North Carolina. How much time remains, Mr. Chairman?

The CHAIRMAN. The gentleman from North Carolina has 2 minutes remaining.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself the balance of my time.

I agree with one thing that the gentleman said. This is the explanation they gave for this provision in committee; that is true.

The explanation in committee was wrong. The explanation they are giving on the floor today is wrong. The wording of this bill specifically says the 30-day provision applies in any civil action with respect to prison conditions in which prospective relief has been granted.

So he has got a 30-day provision for that, and he has got a 180-day provision where retrospective relief has been granted, but in both of those cases relief has been granted.

Now let me just say to my colleagues and to the American people that yesterday or the day before yesterday—I am losing track of time now with all of these bills that keep coming at me—we set up a different standard of law with respect to aliens than we set up with respect to gunowners as far as the fourth amendment is concerned. Under that provision we are treating one part of our population differently than we treat other parts of our population. Here we are today setting a lower standard again for the rights of other citizens simply because we do not like those citizens.

I would say to the gentleman from Florida [Mr. CANADY] and to all of my colleagues, We can't set a different standard of law and decide in advance who is a bad guy and who is a good guy. Our whole criminal justice and court system is designed to make those determinations. We can't make those determinations on the floor of the Congress of the United States. It's the courts' responsibility to make those determinations, and when we start with moving the courts' authority, we are undercutting our rights, and this makes no sense, and I hope my colleagues will join me in opposing it.

Mr. CANADY of Florida. Mr. Chairman, I yield myself the balance of my time just to sum up very quickly.

The issue here is whether we are going to allow courts to continue micromanaging prison facilities and to allow them to delay their consideration of motions for relief from their micromanagement. That is the issue. I believe that we have seen a history of abuses in this area. There is a compelling public interest in ensuring that local governments and the States are able to obtain relief in an expeditious manner.

Now we are not tying the courts' hands here. We are simply saying to the court, "Act, consider these matters, deal with them because they are of public import because they are matters that have a grave impact on the public safety. They're matters that in effect are life-and-death matters."

Let me say this also:

We are not setting a lower standard for anybody's rights here. This bill has been carefully crafted to ensure that people who have a legitimate claim, people whose rights, whose constitutional rights, are in fact being violated, can have a remedy. But what we want to stop is the overinvolvement of the courts in managing the prison systems.

I say to my colleagues, That's what this is about, and, if you want to have a more rational policy in this area, you will oppose this unfavorable amendment.

Mr. WATT of North Carolina. Mr. Chairman, would the gentleman yield just so I can make a point?

Mr. CANADY of Florida. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. The issue is not whether the courts will micromanage prisons. The issue is whether Congress will micromanage the courts, and that is what we are doing by putting this provision in the law.

Mr. CANADY of Florida. I respectfully disagree. I think we are addressing an important public matter here, and this is certainly within the province of the Congress' responsibility, and indeed I believe it is incumbent upon the Congress to address this issue.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. WATT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WATT of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 93, noes 313, not voting 28, as follows:

[Roll No. 112]

AYES—93

Abercrombie
Beilenson
Berman
Bishop
Bonior
Brown (CA)
Brown (FL)
Cardin
Clay
Clayton
Clyburn
Collins (IL)
Conyers
Coyne
Dellums
Dicks
Dingell
Dixon
Durbin
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Gejdenson
Gibbons
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hilliard
Hoyer
Jackson-Lee
Johnson, E.B.
Kennedy (MA)
Kennedy (RI)
Kildee
LaFalce
Lantos
Levin
Lewis (GA)
Lowey
Martinez
Matsui
McDermott
McKinney
Meehan
Meek
Menendez
Mineta
Mink
Mollohan
Nadler
Oberstar
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Reed
Reynolds
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stokes
Studds
Thompson
Towns
Velázquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Williams
Wise
Wynn
Yates

NOES—313

Ackerman
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer

Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wyden
Young (FL)
Zeliff
Zimmer

NOT VOTING—28

Allard
Andrews
Becerra
Boucher
Chapman
Chrysler
Collins (MI)
Deutsch
Ford
Frost
Gillmor
Greenwood
Hayes
Herger
Hinchey
Johnston
Lofgren
Mfume
Miller (CA)
Rangel
Stark
Taylor (NC)
Torres
Tucker
Walsh
Waxman
Weldon (FL)
Young (AK)

□ 0959

The Clerk announced the following pairs:

On this vote:

Miss Collins of Michigan for, with Mr. Chrysler against.

Mr. Johnston of Florida for, with Mr. Weldon of Florida against.

Messrs. POMEROY, FRANKS of New Jersey, and DE LA GARZA, Mrs. MALONEY, Ms. FURSE, and Messrs. COLLINS of Georgia, MARKEY, and ENGEL changed their vote from "aye" to "no."

Mr. FAZIO of California, Mr. MEEHAN, and Mr. STUDDS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DEUTSCH. Mr. Chairman, during rollcall vote No. 112 on H.R. 667 I was unavoidably detained. Had I been present I would have voted "no."

PERSONAL EXPLANATION

Mr. ANDREWS. Mr. Speaker, due to circumstances beyond my control I was called away from the floor of the House on February 10, 1995 and missed a vote. Had I been here, I would have voted as follows:

Rollcall No. 112–no.

□ 1000

AMENDMENT OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RIGGS: After subsection (b) of section 504, insert the following new subsection (and redesignate subsequent subsections accordingly):

"(c) AVAILABILITY OF FUNDS FOR JAIL CONSTRUCTION.—A State may use up to 15 percent of the funds provided under this title for jail construction, if the Attorney General determines that the State has enacted—

"(1) legislation that provides for pretrial release requirements at least as restrictive as those found in section 3142 of title 18, United States Code; or

"(2) legislation that requires an individual charged with an offense for which a sentence of more than one year may be imposed, or charged with an offense involving violence against another person, may not be released before trial without a financial guarantee to ensure appearance before trial.".

The CHAIRMAN. The gentleman from California [Mr. RIGGS] is recognized for 10 minutes.

Mr. RIGGS. Mr. Chairman, my amendment is intended to address the twofold problem of jail overcrowding in many of our communities across the country today, and also it is designed to address the problem of instances where individuals who have been arrested for serious crimes and violent offenders are being released back into our communities after arrest on their own personal recognizance and promise to appear in court.

This has become a particularly exaggerated problem in our communities because in many instances, these individuals are not only failing to appear in court to stand trial on original charges, but too often are going back out into our communities and are committing additional crimes. My amendment might be known as the jail, not bail, amendment to H.R. 667.

Under my amendment, each State would be given the flexibility to use up to 15 percent of its funding under the act for jail construction. However, the chief law enforcement officer of each State, the Attorney General, would have to find that in order for the local communities to utilize these funds, that the State has adopted pretrial release restrictions that are at least as restrictive as those in effect in the Federal system, or that individuals charged with serious offenses or crimes of violence are not released without security. That means without the requirement of posting a commercial bail bond.

Mr. Chairman, I wish to underscore to my colleagues that this is not a mandate, only an additional option for each State that qualifies and utilizes funding under this act.

Let me go back to the original problem that I mentioned, which is the problem of jail overcrowding. There is clearly a need for greater prison capacity in each of our States.

In many instances, and I know this certainly is the case in California, our local jails, and these are the county-run facilities, are often holding individuals who have been convicted of felony charges and are awaiting transfer to State prison, so my amendment is designed to recognize the problem of jail overcrowding and recognize the fact that, again, local correctional facilities are often being used as an adjunct of the State penal system.

Mr. Chairman, we all know that jails are a less secure facility than a prison. Jails are designed to detain temporarily prior to trial those who have been charged with a crime, or to incarcerate minor offenders. Increased enforcement efforts and a heightened public concern about crime have added the pressure on all of our correctional facilities, but certainly, again, our local correctional facilities in communities throughout America.

Let me turn to the other issue, Mr. Chairman, which is the question of requiring secured bail from offenders, and these are individuals who have been charged with crimes, versus free bail, which is the practice of releasing individuals right back out into the community on what is known as OR, their own recognizance, and their personal promise to appear in court at a later date to stand trial on the original charges.

According to the Justice Department's own statistics, 60 percent, 60 percent of State felony defendants who are released prior to trial are not required to post bail. This has created an unintended effect in our local communities, because one-third of these individuals are either rearrested for a new offense before trial, or fail to appear in court as scheduled. Of course, as we all know, failure to appear in court on original charges is in and of itself an additional crime.

Mr. Chairman, of those already on pretrial release, 56 percent are released again when arrested on new felony charges. That literally boggles the mind, the notion that somebody could be released on a felony charge, and this is an initial crime, for an initial crime and an initial arrest, released back into the community, again many times simply on their written promise to appear in court at a later date, and then commit additional felony crimes.

What we know from the research is that those on secured release, that is to say, those who have been required or who have associates or relatives who have assisted them in posting a commercial bail bond, are far more likely to come back to court and answer the charges against them than those who are released on their own recognizance. Fewer people are rearrested while out on secured release.

My amendment, by requiring in most instances the posting of a cash bail, would save the taxpayer money, since private industry is then put in a position of monitoring criminal defendants and not taxpayer-supported officials.

Mr. Chairman, the justice system should favor the victim, not the criminal. That is the common theme that runs throughout our efforts here on the floor over the last few days as we enact the crime provisions, the anticrime provisions, I should say, in the Contract With America.

My amendment, like the rest of the Contract With America, will reduce Government, reduce taxes, and reduce crime.

RIO DELL POLICE DEPARTMENT,
Rio Dell, CA, December 29, 1994.

DEAR CONGRESSMAN RIGGS, I am writing to you on behalf of the Law Enforcement Chiefs Association of Humboldt County. We are facing a critical point in trying to enforce the laws of this state and country. Due to the Humboldt County Jail capacity rating of 200 inmates, we are being forced to cite and release persons for auto theft, persons committing burglary and other types of felonies. All misdemeanors have to be cited and released in the field.

The problem with the cite and release system is that these persons are given a date and time to appear in court. Problem is, they never show up for their court appearance. So then a warrant is issued for them. They are picked up, arrested, and cited and released again. These subjects know they are not going to go to jail, so they don't show up in court, again and again. This goes on and on, month after month, year after year.

It has gotten to the point that it is causing a morale problem with all police officers in all law enforcement agencies in Humboldt County. If a citizen knows that a subject was picked up, arrested, then they think that this person is in jail. So next, they see them on the street the same day and then they come after the officers, wanting to know why the person is not in jail. The officers try to explain to them the way the system is working. But the citizens don't care about that. They blame the police officers and the police departments because these subjects are back out on the street. Ninety five per cent (95%) of the warrants we get from the court state, "Do not cite and release. Mandatory appearance requested." We still have to cite and release these persons because the jail will not take them.

We have a new jail being built that will not be completed until 1997. And even then we will be back to square one again. Within thirty days, we will be facing the same problem again as the new jail will not hold over 250 inmates.

We are losing the streets to these criminals because of the system. They know that if they are arrested, all we can do is cite and release them again. Point. My department arrested the same person three times in one week for burglary. We have had to cite and release persons with over $100,000 in warrants because they did not meet the criteria to be housed in the County Jail.

We are seeking your help in securing the abandoned Navy facility at Centerville Beach in Humboldt County to be used as a County Jail Farm with the following usage; to house all these subjects with these outstanding warrants and persons that are arrested that did not meet the criteria for the main jail.

Also, we wish to establish Project Challenge. At one time, we had Project Challenge but we lost the funds because the state cut funds on us. Project Challenge deals with drug users who will work with us to try to get off drugs, try and make useful citizens out of them.

The Centerville Beach Navy facilities face the Pacific Ocean. It has all the equipment that would be needed. It has its own power system, if needed. It has a large gymnasium that would be beneficial for the inmates, and a large kitchen. There is over 17 acres, nine of those acres could be farmed and used to raise cattle that could be used to feed the inmates at this facility and those at the main jail. They could farm produce.

We, the Chiefs of Law Enforcement of Humboldt County, believe that if we can secure this facility, and if inmates are kept busy and with the clean environment that this location has, it is possible to turn some of these inmates around and make useful citizens out of them. Get these people on the right path and out of the system.

No inmate would be released from this location as it is ten miles out from any city. So all inmates would be transported back to the main jail in Eureka and released from that location.

We, the Chiefs of Law Enforcement Association of Humboldt County, hope that you can help us secure funds, possibly from the new Crime Bill, to secure the facility. We will be forever indebted to you for any help that you can render us.

Sincerely,

G.P. GATTO,
Chief of Police.

[From the Times-Standard, Feb. 8, 1995]

FEDERAL FUNDS FOR POLICE OK'D

(By Kelly Johnson and Christopher Rosche)

Help is on its way in the fight against crime in Eureka, city officials said Tuesday.

Arcata, Fortuna, Rio Dell and the Del Norte County Sheriff's Department also will receive money to cover part of the cost of one new officer each.

The Justice Department announced the grants to the three cities Tuesday as part of anti-crime legislation Congress approved last year. President Clinton, who supported the legislation, had earlier promised federal seed money to put 100,000 more police officers on the nation's streets.

Tuesday's grants went to communities having populations of less than 50,000. California was cleared to receive $16 million to help hire 212 additional officers in cities throughout the state.

Eureka will receive $75,000, Mayor Nancy Flemming told the City Council at a meeting Tuesday night.

Police Chief Arnie Millsap is interviewing officers to fill current vacancies, she said, calling the interviews an "important step forward."

"They're on their way, folks, and it is going to help," she said of the new officers.

Arcata and Fortuna also are eligible for the maximum $75,000. Rio Dell could receive up to $66,883.50, the Justice Department said. Del Norte County's cap is $70,292.25.

The money to all agencies, however, will not be available until the new officers are sworn in.

The communities in line to receive money must also submit budget information and community-policing plans.

In Eureka, Mayor Flemming thanked her City Council colleagues Tuesday night for "moving forward aggressively to get all these frightening numbers down and get our city back the way we want it."

Legislation introduced by state Assemblyman Dan Hauser, D-Arcata, also would help, Councilwoman Jean Warnes said. His bill would require the state to transport Pelican Bay State Prison parolees back to the counties in which they were convicted.

She urged residents to call or write Rep. Frank Riggs, R-Windsor, for help in fighting crime in Eureka. The city can use its high crime statistics to show the state and federal government that Eureka needs even more help, she said.

In a sampling of two dozen California cities, Eureka appeared to have a 1993 per capita crime rate second only to Oakland's. City statistics show that property crimes in Eureka sharply increased from 1993 to 1994.

A big problem, officials said, is Humboldt County's "cite and release" jail policy. People who commit nonviolent crimes are released because the jail is too crowded.

That policy is "scaring us to death," Flemming said.

Councilman Jim Worthen said he personally will ask federal representatives for help when he travels to Washington, D.C., next month on behalf of the National League of Cities.

Eureka also must continue to work with other local cities to find solutions to the crime problem, Councilman Lance Madsen said.

In its fight against crime, Eureka has to do something about the "conspiracy and blackmail by the homeless movement," Councilman Jack McKellar said. But the city is limited in what it can do about the homeless problem by state and federal requirements and possible legal challenges, he said.

On Capitol Hill, the new Republican majority is working on anti-crime bills that would replace the grants earmarked for police hiring, drug courts and social programs with combined block grants. The money would go directly to local officials who would determine, within some limits, how it would be spent.

The new legislation would not, however, cancel police grants already awarded.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I am happy to yield to the gentleman from Florida, the distinguished subcommittee chairman.

Mr. McCOLLUM. I think the gentleman offers an excellent amendment, Mr. Chairman. What he is doing is carving out an ability for the States, if they want to, to use up to 15 percent of their money for jail construction and jail operation, not just State prison moneys; prison construction, provided that they have the same type of strong, tough bonding requirements on pretrial release that the Federal Government has.

I think that is a very constructive amendment. It limits the amount that could be used for the jail purposes, keeps within the concept of what the prison grant program is all about, and it would add a condition which some States will meet. Some States will not, but it is an excellent carrot, as well, for that purpose, so I commend the gentleman on his amendment.

Mr. RIGGS. I would like to point out, to follow up what the subcommittee chairman said, that we do have current statistics or recent year statistics from the Justice Department, and I would like to point out to my colleague on the other side of the aisle that in the calendar year 1992, and this is Justice Department statistics for those arrested on serious charges, 37 percent of those arrested for violent offenses were released on a nonfinancial basis; 24 percent were released simply on their own recognizance and personal promise to appear in court at a later date.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I am happy to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I am curious about the gentleman's amendment. If the court were to devise or a jurisdiction were to devise a system which allowed for a deposit, say, of 10 percent of the amount of bail with the court, refundable if the defendant showed up for trial, would that be an acceptable alternative to buying a bail bond from a private bail bondsman under this proposal?

□ 1010

Mr. RIGGS. Reclaiming my time to respond to the gentleman, because I think that is a very legitimate question, it is the intent of my amendment to let the States develop those standards.

Mr. BERMAN. So one would not be required to utilize a private bail bondsman under this proposal.

Mr. RIGGS. The gentleman is correct, that would not necessarily be the requirement.

Mr. BERMAN. One more question. If the jurisdiction in certain kinds of situations offers a kind of confinement, home monitored confinement or some other alternative to assure themselves the individual's presence, is that a suitable alternative?

It is different, it is more restrictive than OR. It provides security for the law enforcement authorities about where the individual is. Is that an acceptable alternative to buying a private bail bond?

Mr. RIGGS. I think the gentleman makes some very constructive observation and questions, and I appreciate them. As the author of the amendment and maker of the motion I would find that to be an acceptable alternative to simply releasing an offender or defendant on personal recognizance.

Mr. BERMAN. Could I suggest then instead of casting this in terms of without a financial guarantee, strike the word; either put financial guarantee or other suitable guarantee. I think that perhaps will solve the problem, other suitable guarantee.

Mr. RIGGS. Reclaiming my time, I would like to give some further thought to the gentleman's suggestion. What we are striving for here though is a financial guarantee in most instances, not all, but most, because again, the evidence clearly shows that the financial guarantee is much more likely to ensure the defendant's return to court or an appearance in court to stand trial on the initial charges, No. 1, and much less likely to commit a subsequent crime while free on release.

Mr. BERMAN. If the gentleman will continue to yield, and I appreciate him doing so, I do not have my own knowledge of the statistics, but I accept the proposition, and I know that in some jurisdictions there are creative alternatives, electronic monitoring devices that ensure the individual cannot leave the home without the authorities knowing, these kinds of things.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The time of the gentleman from California [Mr. RIGGS] has expired.

(On request of Mr. BILBRAY and by unanimous consent, Mr. RIGGS was allowed to proceed for 2 additional minutes.)

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, I think this issue is the old bracelet concept. As an individual who has operated the system for 10 years, I just would like to point out to my colleague from California that we are really talking about apples and oranges here. This is a great system. We have used it as an alternative to incarceration, but as far as I know they are being used for presentenced individuals, they are not for sentenced individuals, as an addendum to incarceration, not as a guarantee to come back, because there is that issue of processing that has been addressed again and again. We have used that very effectively in San Diego County and across California, but to use it in lieu of bonding, I think we have administrative problems.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. Let me suggest at this point to the gentleman that we can informally meet to discuss this.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding the time. I will just be very quick.

The amendments as proposed is an absolute requirement of a financial guarantee. The gentleman from California, from San Diego spoke about his experiences. He may be right about San Diego. I think there are some other jurisdictions where alternative systems, not simply OR release, but alternative systems are utilized to monitor a defendant in the pretrial phase, and I think providing a little bit of flexibility in this provision so we do not rule out those nonfinancial situations as well as what the gentleman has already done would help to make it clear that you do not have to buy a private bail bond and the gentleman does not intend this to be a bail bondsman bill. This is for law enforcement, and there should be alternatives to the bail bondsman clearly that those are allowed. Those are the only suggestions I would have.

Mr. RIGGS. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. RIGGS. I appreciate the gentleman yielding. Again I would be happy to look at the language that would address, as the gentleman from California put it, alternative arrangements. But I would refer the gentleman to paragraph one under clause c in my amendment which allows the Attorney General to make the determination if States have enacted pretrial release requirements, and that is fairly broad, at least as restrictive as those found in the Federal system. And I think the gentleman may be looking at just the second paragraph which talks about a financial guarantee.

Mr. BERMAN. If I can just reclaim my time, section 3142 is what? In other words, at least as restrictive as those in 4132? Those allow alternatives to financial guarantees.

Mr. RIGGS. If the gentleman would withhold for a moment, we can perhaps go right to the United States Code and find those provisions. Will the gentleman yield?

Mr. BERMAN. I am happy to yield to the gentleman from California.

Mr. RIGGS. Under section 3142, which runs a couple of pages at least, it does speak at the beginning of that section about release or detention of a defendant pending trial, and I quote,

> Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall issue an order that, pending trial, the person be—(1) released on personal recognizance or upon execution of an unsecured appearance bond.

That is under subsection b of the section.

Mr. BERMAN. Just to reclaim my time, if what I hear is correct, since the gentleman is providing in subsection c the alternatives of one or two, then the alternatives described in 3142 are sufficient if they exist at the State level to qualify for this provision?

Mr. RIGGS. The gentleman is correct. I think that would address the gentleman's concern.

Mr. BERMAN. Therefore, it is not an automatic requirement of a financial guarantee?

Mr. RIGGS. The gentleman is correct.

Mr. BERMAN. It is that or the provision set forth in section 3142?

Mr. RIGGS. The gentleman is correct.

Mr. BERMAN. I thank the gentleman.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a disturbing proposal for the following reasons: We are first of all dealing with pretrial and we are requiring cash bail. What if the person does not have cash? What if the person does not have any previous convictions? It is not clear to me at all why we need to be micromanaging into the 50 States in the Union to determine how they ought to have bail requirements in each State, and it is because of that that I do not have any sympathy for creating new micromanaged requirements that would take 15 percent out of the prison construction to allow for jail construction if in fact we merely tighten up the bail requirement by requiring cash at the beginning when guilt or innocence has not yet been proven.

So I am disturbed about this amendment, and since it has not been passed through the Justice Department, they have given us no indication that they would be supportive of it, and I do not remember it coming up in the committee during the discussion of the crime bill, I am very unexcited about here, with a dozen Members on the floor, we are now going to create another micromanagement position for the States.

☐ 1020

And I thoroughly think that we should be getting kind of full of telling States of how to manage their criminal justice system.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Virginia.

Mr. SCOTT. I would like to ask the gentleman: You have indicated we did not have hearings, so we did not have an opportunity to flesh out the constitutional implications.

Do you have any idea how the various States will be affected by this amendment?

Mr. CONYERS. Well, because there was no hearings, we are trying to see how this even fits into the Federal Criminal Code and into the existing sections, and even into the bill itself. So bringing something of this magnitude down on the floor is just to me something that we do not need to deal with now. I mean, maybe there was some reason this did not come up in the hearings, but there is no way that I am going to now suggest that on all of the things that we have put on the States that we are now going to tell them how they ought to handle their pretrial bail circumstances.

You know, can I suggest that may be some bail bondsman's organizations may be, politely, behind some of this emphasize to create new requirements that would need their services? Because I do not know why else we would want to do it this way, and the gentleman is even thinking about the suggestion of the gentleman from California [Mr. BERMAN] that maybe even if it could be paid into the courts would be at least a small amelioration of the problem that I see, and the gentleman is still reflecting on that.

So, as you can tell, there is very little enthusiasm on this side of the aisle for the amendment.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I thank the ranking Member for yielding to me.

I guess my concern goes substantially beyond the ones that have been expressed and back to the provisions of the fourth amendment to the Constitution which says excessive bail shall not be required, and yet here we are kind of micromanaging the State courts again and having it done by a group of people who have told us that they believe in all these States' rights, and all of a sudden we are telling the States what to do in every area of the court system, every area of the incarceration system. That is basically where I am.

I mean, I just cannot understand why States' rights advocates are consistently coming into this body and micromanaging what the States have been doing. We have had no involvement in all of this time. I just have trouble understanding that.

Mr. RIGGS. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. RIGGS. Mr. Chairman, I thank the distinguished ranking Member for yielding to me.

Mr. Chairman, I want to point out again, as I said in my opening remarks, that my amendment will give greater flexibility to States by permitting those that adopt strict pretrial release practices or, speaking to the concern of the gentleman from California, require cash bail for defendants charged with serious and violent crimes to use some of the funds under the act for jail construction.

This is not a new mandate. It is simply an additional option, and I appreciate the gentleman yielding.

Mr. CONYERS. May I suggest that we do not know what the various States are really doing on a State basis, and so we now have another qualification in the prison construction bill that tells the States what they must do to qualify for construction funds, and then we are now telling them how to run bail bonding at the same time, and then the gentleman from California [Mr. RIGGS] is resisting the modest proposal of the gentleman from California [Mr. BERMAN] which might make it at least palatable to the gentleman from California [Mr. BERMAN], even if it is does not for myself.

So I now find myself more often defending States' and local governments' rights to determine what their laws are going to be. Is there some assumption built into this amendment the States do not know when they have a dangerous crime or a person who may not show up in court, and that the only way that we are going to get them to show up in court is that we give a 15-percent set-aside in prison construction money for them to build more jails? And is that the real reason that they are not keeping people who you apparently think ought to be put on bail?

I mean, what are we doing in this process? Why are we here now? Merely because we have a crime bill to tell the courts that they are letting out too many people without getting cash bail and they are not coming back, and they would come back faster if you put bail requirements, cash bail requirements, on them, and to make sure you do that, we will give you some money to build some more county jails or State jails?

I do not think this is something that this committee has investigated sufficiently for us on our side to give any blessing to it in this brief discussion.

Mr. HEINEMAN. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from North Carolina.

Mr. HEINEMAN. Mr. Chairman, I think we have reached an area where we are talking about micromanaging States as it relates to bail and other issues. This is an issue for the Congress to talk about, because it is a national issue; I think just as any other national issue, we do have standing in putting certain qualifications on the States, being it is a country issue, it is an issue of the United States as a whole, and just as there was a bubonic plague in this country at one point, we cannot expect one State to give inoculations and the others not to.

This is just as bad as a disease plague, this crime. We have to treat it across this whole country in the same way in order to have a national effect, and unless I am wrong, I think we do have standing in telling the States that they should be doing this in concert with all the States.

Mr. CONYERS. Reclaiming my time, I am not saying we do not have any right to look into this matter. All I am saying is that we had hearings, witnesses, markup, and now we meet on the floor to pass a pretty complex piece of legislation, and now it comes up, and so it is the timeliness part that I am inquiring into. I need a lot more information.

Mr. RIGGS. Mr. Chairman, I yield myself 1½ minutes, the remainder of my time.

Mr. Chairman, I want to make it very clear to my colleagues, because I think they are expressing genuine concerns, No. 1, I am not acting as a foil for the commercial bail bond industry. I somewhat resent that inference.

I am trying to address, however, a major public safety concern which is related to jail overcrowding and the fact that we have increasingly moved away from financial guarantees or alternative release provisions that will attempt to do two things; first, ensure that that individual appears in court at the scheduled date to stand trial on the original charges, and all the evidence is that they are much less likely to appear in trial if they are released back into the community on their own recognizance and personal promise to appear, much like signing a traffic citation.

And, second, we are attempting to cut down on the immediate recidivism. The criminal justice system should not have a revolving door at the front. These individuals are going right back out into the community, many times beating the arresting officer back on the street, or committing subsequent serious crimes.

So I am addressing a major public safety concern. I am doing it in the form of flexibility to the States that want to, working with the State attorney general, adopt arrangements that will, in fact, lead to pretrial release form across this country.

□ 1030

That is the intent of my amendment.

Mr. CONYERS. Mr. Chairman, one final question, if I may. Will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, why do we assume the State courts cannot figure out that they need more jails to house people?

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. RIGGS].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to the bill?

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment marked B.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM: add at the end, the following new title:

SEC. 1. BUREAU OF PRISONS COMMUNITY SERVICE PROJECTS.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"§ 4047. Community service projects

"(a) Subject to the limitations of subsection (b), the Chief Executive Officer of a Federal penal or correctional facility may, as part of an inmate work program, provide services to private, nonprofit organizations, as defined in section 501(c)(3) of the Internal Revenue Code of 1986, or to a component of any State government or political subdivision thereof. Such services shall be provided pursuant to rules prescribed by the Attorney General.

"(b) Services provided under subsection (a)—

"(1) shall be used only for the benefit of the recipient entity and not for the benefit of any individual or organization other than the recipient; and

"(2) shall not displace an employee of the recipient or result in a reduction in hours, wages, or employment benefits of any employee of the recipient.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 303, title 18, United States Code, is amended by adding at the end the following new item:

"4047. Community service projects.".

Mr. MCCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes.

Does a Member rise in opposition to the amendment?

Mr. CONYERS. Mr. Chairman, I am not in opposition to the amendment, but I would like to use the time allotted.

The CHAIRMAN pro tempore. Without objection, the gentleman from Michigan [Mr. CONYERS] will be recognized for 10 minutes.

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is very simple and straightforward. I hope it is noncontroversial and we can dispose of it.

Mr. Chairman, the Bureau of Prisons has informed me that they have some questions that have been raised about their ability to be involved in community service projects with the 95,000 or so Federal prisoners around the country. This would make it possible for the law to let them go do a lot of community service projects, of course under restrictions, for private, nonprofit organizations or local cities or communities.

Apparently, right now the interpretation of the law is they can only do these community projects and work projects, if there is a Federal hook; that is, a Federal program or some Federal nexus being involved in the money perhaps that goes to the local community service group that they are providing work and assistance to.

This would allow them to go out to whatever nonprofit organization, city or county or political subdivision, whatever it may be, and provide community service.

We have been very careful to restrict this; it does not involve the production of any product that would go out, although that might be an arguable thing that we should allow them to do at some point in time in the prison industry. But this does not get involved in that, not involved in the debate over prison expansion or expansion of prison industries.

What it says is, inmate work programs can go out and help people as a community service, a volunteer thing, in lots of ways they are not now allowed to do.

I would think for the purposes of getting more work out of prisoners and getting them to do, giving them an opportunity to do a public service while they are at it, that this is a very good, simple amendment, appropriate to the bill with which we are dealing today. It is something they badly want.

I would encourage its adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my concern here—and we just received this amendment—is that we are not getting into the very sensitive area of products being produced by inmates. There is a whole area that is very sensitive in this regard, and I am very concerned that that is not happening anywhere throughout this provision.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. MCCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, I have been careful to scrutinize this, very careful. When we saw some language in the Bureau of Prisons they felt was not offensive in that regard because it involved some nature of products which would be exempt normally from all the considerations, I even struck that language from the amendment.

So we are not offering anything that even has the word product in it so we do not get into that kind of debate. We have taken it out of there, any reference to the word product in the original language is gone from this amendment. It is strictly service; literally that is what it is, nothing else. Every reference to any kind of product or prison industry is gone.

What it reads now, so that we will be very clear is: "Subject to the limitations of subsection (b)," which is where we talk about the services provided,

> * * * the chief executive officer of a Federal or penal correctional facility may, as part of an inmate work program, provide services to private, nonprofit organizations, as defined is section 501(c)(3) of the Internal Revenue Code of 1986 or to a component of any State government or political subdivision thereof.

Strictly of services.

(b) talks about the services, what the services can be,

> * * * shall be used only for the benefit of the recipient entity and not for the benefit of any individual or organization other than the recipient and shall not displace an employee of the recipient or result in a reduction in hours, wages, or employment benefits of any employee of the recipient.

It is really what it says it is, pure volunteer-type community service projects without displacing the worker at all.

As far as the section 501(c)(3) organizations, and State or local units of government, so there is no problem.

Mr. CONYERS. I believe this gentleman is satisfied as to the concern that I had. I see nothing but services throughout this, and that is the only word repeated throughout this, and the word "product" is crossed out.

I assume that what we see is what we get, and I am prepared to accept the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CARDIN

Mr. CARDIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CARDIN: Page 8, strike lines 7 through 11, and insert the following:

"(1) $990,300,000 for fiscal year 1996;
"(2) $1,322,800,000 for fiscal year 1997;
"(3) $2,519,800,000 for fiscal year 1998;
"(4) $2,652,800,000 for fiscal year 1999; and
"(5) $2,745,900,000 for fiscal year 2000.

Mr. McCOLLUM. Mr. Chairman, I reserve a point of order on the amendment.

I would like to hear the discussion first before I withdraw or otherwise deal with my point of order.

The CHAIRMAN pro tempore. The gentleman from Maryland [Mr. CARDIN] will be recognized for 10 minutes, and a Member in opposition will be recognized for 10 minutes.

The Chair recognizes the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment I have offered is a modest cut in the dollars that are provided in this bill for additional prison construction. It is a cut of $7.2 million per year. This will allow us flexibility when we consider H.R. 728, to reinstate the funding level for the GREAT program that was enacted in the 1994 legislation.

The GREAT program is the Gang Resistant Education and Training Program. It is a program that has been very successful, operated by Treasury with local law enforcement and school officials. It provides police officers in our 7th grade in our schools in order to work our youth to prevent gangs from developing. It has worked in many of our communities.

What it does is instill a better attitude with young people concerning police officers, which has been proven to deter gang activities.

Let me just cite some of the results quoted from the Arizona GREAT program. As a result of that program, we have seen a drop in the percentage of all ethnic groups who say they belong to a gang, who want to be gang members. The percentage of students who reported getting into various kinds of trouble decreased after participating in GREAT. The percentage of students who know gang members and who want to be gang members decreased after students participated in the GREAT program.

The GREAT program has worked. It currently is a partnership between the Federal Government and local law enforcement, along with our schools.

Mr. Chairman, we have a problem in Baltimore. I did not realize we had a gang problem in Baltimore. I have met with our police commissioner in our city, Mr. Frazier. He has pointed out that we are starting to see more and more gang activity in our cities. As a result of the legislation passed last year by this Congress, Baltimore is now one of the 11 communities which have a GREAT program operating. It is going to provide police officers in our schools in Baltimore, working with our youth to deter gang activities.

Currently, there are nine communities that had GREAT programs, prior to the enactment last year of this legislation. As a result of last year's legislation, 11 more communities have this program. We are doubling the funds for the GREAT program. Originally only Hawaii; Phoenix; Albuquerque; Portland, OR; Kansas City; Detroit, Philadelphia; Tucson; and Prince George's County had GREAT programs.

As a result of the legislation last year, Trenton, NJ; New York City; Washington; Boston; Miami; Memphis; Las Vegas; Los Angeles; Milwaukee; Wilmington; and Baltimore now are in this program.

Mr. Chairman, I am imploring the sense of fairness of all Members of this House. We are here to set priorities.

The amendment that I am suggesting will be a very modest cut in prison construction, $7.2 million. According to the information that has been made available for me, the average cost of a medium-security prison would cost $36 million today, and a maximum-security prison in Florence, CO, costs $66 million. $7 million will hardly build the entrance to these types of facilities or the reception center.

Compare that to building part of a prison, to developing 11 programs in our communities working with the police and students to stop gang activities.

□ 1040

Clearly we are better served by putting the money into our schools, putting the money into prevention. Yes, prevention. Last year we had a good balance between prevention and prison construction. I am just asking that in this one case a program in which the Federal Government has assumed a good deal of responsibility in making funds available to local governments, that we provide the wherewithal through this amendment so that we will be able to continue that program.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I will withdraw the reservation of a point of order.

The CHAIRMAN. The reservation of a point of order is withdrawn.

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Maryland [Mr. CARDIN]. I did not see that there was any problem with this amendment technically. I do, however, oppose the amendment.

What the gentleman is attempting to do is take some money, strike it from this bill, *x* amount of dollars, and then have it reserved or be able to argue next week, presumably when we bring up the prevention and the local block grant programs, that there is some money available to tack on that he saved to tack on some program for gang prevention.

First of all, I do not like the idea of taking any money out of the prison grant program. I think we got the right amount in here. I see no reason to do that, to reduce it by whatever sum, however paltry it may appear. I think these several millions of dollars over the 5-year period is not that paltry. It is pretty significant. It is, I think, $7 million 1 year, a couple million another, and it all adds up to $20 or $30 million more.

But besides that, in principle we are beginning already by this amendment the debate on the local community block grant concept that is going to come up next week in the block grant bill where we are going to provide, or we do provide in that bill that will come out here on the floor, some $10 billion to the local cities and counties to use as they see fit to fight crime. I am quite sure that when we get to that and we have that debate the point will be well made, and everybody here can see it and understand it, that the best arguments that the gentleman is going to make about having gang prevention programs will succeed in many cities. They will succeed, I think, in quite a number of them, probably in Baltimore, near his area, maybe in Orlando, in my city, when the plea is made to the city council or to the county commission who gets the moneys under that bill, but not every community needs gang prevention programs. Not every community has a gang problem, and it seems to me that that is the essence of what that debate next week is going to be.

We should provide resources to the cities and the counties with maximum flexibility to fight crime, to use in the best way they see fit in their particular community, because what is good for somebody in Fresno, CA, might not be good for somebody in New London, CT.

It is an entirely different scenario in each case, and what the gentleman is suggesting doing here today is take some money, let us save some money today, so I can offer a specific, targeted, categorical grant program for gang prevention in a bill that will come up next week that is not even designed for categorical grants. It is designed entirely the opposition direction, for pure block grants with maximum flexibility that does not designate how this money is to be used, nor do you have to say you have to use it for that in order to qualify for it.

So, I have to oppose this amendment, do oppose it for both the reasons of its cutting the money out of this bill and because of the gentleman's stated purpose for doing it.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, the Treasury Department's gang resistance education amendment is a worthy program, and I think the amount is small enough so that, if it is deleted from prison construction legislation, there will be no great harm done. It is not like we have a whole string of these. This is the only one of this kind that I know that has occurred, and I met several times with the Assistant Secretary of the Treasury, Ron Noble, who is fully committed to eliminating the influence of gangs through demonstration projects.

Now we all complain about the increase of gang participation. Here is something that we can do about it, and so I do not want to jeopardize this provision, and I support very enthusiastically the amendment.

Mr. CARDIN. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS] for his comments.

Clearly we are here to make choices, and this is a very minor cut as far as prisons are concerned, cannot even build part of a prison of any significant size.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Chairman, this is a minuscule amount of money, but it is money that will actually work. Gang reduction programs work. A program was studied in a Spokane, WA, school. They used a school to offer at-risk youth a variety of recreational and educational activities just Friday and Saturday nights. There was a volunteer effort of local merchant-donated materials. There was an intense evaluation that found that crime was reduced in the area after the program was implemented. The view of police officers as positive role models by youth was enhanced, and most of the participants recommended the program to their friends.

This will reduce crime. The minuscule amount of money that will get lost in rounding off in the prison construction changed to this kind of program can do the most good. Mr. Chairman, I would hope that we would adopt this very worthwhile amendment.

Mr. CARDIN. Mr. Chairman, it is interesting that my friend from Florida [Mr. MCCOLLUM] cannot point to any harm done by this amendment, yet the absence of enacting this amendment and providing the wherewithal will have severe consequences on communities that are trying to prevent gang activities, working with the police and working with the schools, and I would urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

I just have to point out the fact that this is not minuscule, and any of us who get here and think that a million dollars, and this is much more than that, this is $20, $30 million when it cumulatively is looked upon over the 5-year life of this bill; anybody that thinks this is minuscule has really got blinders on. This is what the public gets outraged about, to think we can come up here and think that a million dollars, or $2 million, or $3 million, or $7 million, or $30 million, is minuscule. It is not. It is something, real money.

And the second point I would like to make is, yes, I do see some harm in this. This is the camel's nose under the tent, sure enough, because what the gentleman is suggesting is that we take this money and allow him then next week in a different bill to say and make the claim that he is using this money for categorical grant programs when this side of the aisle does not believe there ought to be categorical grant programs for prevention in general. We do not believe that the money ought to be designated by the Federal Government to go for gang prevention any more than we believe it ought to be designated to go for cops on the streets. We believe that the moneys that are submitted to the States, actually submitted directly to the counties and the cities in that bill to be offered out here next week, should be given to them to use in their sole discretion to decide whether they want to use it for gang prevention or something else. But we should not create special programs in this area that weed out all whys, and we do not know that.

So I think this is a very significant amendment. I think it is an amendment that thrusts us into the debate next week, and I think the gentleman from Maryland [Mr. CARDIN] knows good and well that it does, and I strongly oppose it for that reason.

Mr. CARDIN. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Chairman, does the gentleman know what an average cost for a maximum security prison is today?

Mr. MCCOLLUM. I do not have it off the top of my head, but I am sure it is more than your bill by quite a lot, or your amendment.

Mr. CARDIN. And the same thing with a medium security prison. We cannot build a prison for the amount of money that is in the amendment that I have brought forward, but yet in the absence of this amendment being made available, 11 communities will go without a program dealing with any antigang activities.

I think it is a clear choice.

Mr. MCCOLLUM. Well, reclaiming my time, I would like to say to the gentleman, I don't believe any community is going to go without a gang prevention program that wants it, and we're going to have a bill out here that provides to the cities and communities of this country over $10 billion next week to use as they want to use. Surely those that want gang prevention programs and think they are important will be able to find a lot more than this gentleman's amendment would provide for that purpose next week.

Mr. WYNN. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Maryland.

Mr. WYNN. Mr. Chairman, I rise because I have to point out that just yesterday, after the gentleman tells us today that this money is for prisons and should only be used for prisons, just yesterday, when we were debating the question of unallocated funds, the gentleman hurriedly put together an amendment to send these unallocated funds back to the Federal Government, not to the local governments that he says ought to be the decisionmaking entities, but rather back to Federal Government to build Federal courthouses——

Mr. MCCOLLUM. First of all, reclaiming my time, we did not send the money back by that amendment to build Federal courthouses. We sent it back for very severe law enforcement purposes, including the FBI, the——

Mr. WYNN. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I will not right now—to criminal investigators of the INS and for purposes of building more Federal prisons, if that is what is needed.

Second, what we are dealing with are apples and oranges here. We are dealing with are apples and oranges here. We are dealing with a question of prevention programs versus prisons. We are dealing with two different things here.

□ 1050

Yesterday we were dealing with a question of the unallocated funds if we do not use them all up. Today we are stripping money out altogether, not designating 36 or however many million dollars for some other purpose if it is not used in this bill. We are actually stripping money out of this bill altogether presumably so the gentleman from Maryland [Mr. CARDIN] can make an argument next week that he saved this money for another amendment that he can offer for a categorical grant program that this side of the aisle simply does not believe with in principle. Not that we do not believe there should be gang prevention programs, but we do not believe that the Federal Government should be dictating through categorical grants that you have got to have a gang prevention program to get *x* amount of money. That is the difference.

Mr. Chairman, I reserve the balance of my time.

Mr. CARDIN. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Maryland [Mr. CARDIN] has 3 minutes remaining, and the gentleman from Florida [Mr. McCOLLUM] has 3 minutes remaining.

Mr. CARDIN. Mr. Chairman, I am glad to yield 1 minute to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to go back to this point, because I was on the floor when we had the debate about unallocated funds, and I want to really heighten the contradiction that has taken place here today.

In point of fact, the gentleman from Florida did allocate money to Federal courthouses and Federal prosecutors, and, by his own statement, INS, another Federal agency. I do not know how we got from local prison funds back to the INS and back to the FBI and back to the Alcohol, Firearms and Tobacco Bureau and back to Federal courthouses, because that was the testimony of the gentleman from Kentucky [Mr. ROGERS] on this floor when he said yes, we need more Federal courthouses and more Federal prosecutors and we need more Federal this and that.

The fact of the matter is the gentleman had no problem taking money out of the program, unallocated funds, and sending them back to the Federal Government, but yet now when we have the very legitimate program that deserves attention, he resists taking a very small amount of money for a very worthwhile cause.

It seems to me that gang prevention is a better use of our dollars than continuing to build these prisons or, as what happened yesterday, sending money back to Federal agencies.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to respond to the gentleman from Maryland [Mr. WYNN] who made the points he did. Yesterday's amendment that he keeps referring to, there was some confusion during the discussion, but there was absolutely no money and is no money being allocated or reserved or blocked off that is not used for the grant programs under the prison program here today for the possible use in constructing or operating a Federal courthouse.

There were several provisions being made though in case the money is not used up in this bill, in case the States do not use it all. I think they will use it all for building prisons or operating State prisons, but if they do not, then the appropriators may use the moneys left from these grant programs at the end of the periods of time out where they are not used, for the purpose of the Federal Bureau of Investigation, INS investigators, U.S. attorneys, as I recall, and the National Institute of Justice for Technology Development.

I believe that was the limit of what we did yesterday. The point is still the same, and that is that Mr. CARDIN's amendment is not designed to tell us where to put unallocated, unused funds in this bill. The gentleman is striking several million dollars from this bill altogether. That is quite a different matter.

I am strongly opposed to that, and I am strongly opposed to the principles being espoused to use that money, to hold it back somehow so it might support an argument on an amendment next week that we set up a new categorical grant program which will be in violation of the basic principles of the bill produced next week.

So I am very strongly opposed to this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CARDIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think the gentleman from Florida [Mr. McCOLLUM] is pretty direct in that there is no money left over, so this is the only opportunity we have to preserve the GREAT anti-gang program.

There are two parts to this program, if I could point out to my friend from Florida. One is yes, it preserves the money, which is absolutely essential if we are going to be able to have the programs continued. But it does a second thing. The GREAT Program is a partnership in more than just dollars with Federal law enforcement. It also is cooperation between Federal law enforcement and local law enforcement. The police officers locally are trained through the National Police Service, so we use the training facilities nationally. Without the Federal program existing, it is going to be much more difficult to be able to continue this type of partnership.

I would urge my colleague to think about what we are doing here today. We are here to make choices. We have passed many amendments that restrict what States can do, how they can receive moneys for prison construction. When it suits us, we have a Federal involvement in micro-managing and establishing national priorities, however you want to characterize it. When it is appropriate for us to say we cannot let people out on their own recognizance, to get Federal funds, we say that. If the locals must have certain guidelines on sentencing, we say that.

But I would hope that we would have a national policy that our law enforcement people would work with local law enforcement to stop juvenile gang activities, to work in our schools. The GREAT Program offers us that opportunity. This amendment preserves it, and I urge my colleagues to support the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume, only to say in closing that this amendment would strike a sizable amount of money, several millions of dollars from the Prison Grant Program. The bottom line of what it does is try to lay a predicate for a debate next week over the whole premise of the local community Block Grant Program.

It would be an undermining amendment. It is a camel's nose under the tent. It is a bad amendment, and I urge a no vote.

Mr. CARDIN. Mr. Chairman, I urge my colleagues to support the amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland [Mr. CARDIN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 129, noes 295, not voting 10, as follows:

[Roll No. 113]

YEAS—129

Abercrombie
Ackerman
Barrett (WI)
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Conyers
Coyne
Cramer
de la Garza
Deal
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Ehlers
Engel
Eshoo
Evans
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)

Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E.B.
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Luther
Markey
Matsui

McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Pelosi
Pomeroy
Porter
Rangel
Reynolds
Richardson

Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Shays
Skaggs
Slaughter
Stokes
Studds
Tejeda
Thompson
Torres
Towns
Tucker
Velázquez
Vento
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wynn
Yates

NAYS—295

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis

DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton

Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Maloney
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt

Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth

Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)

Taylor (NC)
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zimmer

NOT VOTING—10

Becerra
Collins (MI)
Ford (TN)
Frost

Johnston
Lofgren
Martini
Smith (TX)

Stark
Zeliff

□ 1116

The Clerk announced the following pairs:

On this vote:

Miss Collins of Michigan for, with Mr. Martini against.

Mr. Johnston of Florida for, with Mr. Zeliff against.

Mrs. MALONEY and Mr. TALENT changed their vote from "aye" to "no."

Ms. RIVERS, Mr. MORAN, Mr. DOGGETT, Mrs. COLLINS of Illinois, Mrs. MEEK of Florida, and Mr. COLEMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment, marked amendment "A."

The Clerk read as follows:

Amendment offered by Mr. McCollum: Add at the end, the following new title: Section 1. Administration of Federal Prison Commissaries.

Section 4043 of title 18, United States Code, is amended by striking the current language and inserting the following:

"(a) The Director of the Bureau of Prisons may establish, operate, and maintain commissaries in federal penal or correctional facilities, from and through which articles and services may be procured, sold, rendered, or otherwise provided or made available for the benefit of inmates confined within those facilities. Only those articles or services authorized by the Director of the Bureau of Prisons may be procured from or through prison commissaries for the use of inmates.

"(b) There is established in the Treasury of the United States a revolving fund to be called the Prison Commissary Fund which shall be available to the Federal Bureau of Prisons without fiscal-year limitation to carry out the purposes, functions and powers authorized by this section. Funds currently on deposit in the "Commissary Funds, Federal Prisons" account of the Treasury shall be transferred to the Prison Commissary Fund.

"(c) The Director of the Federal Bureau of Prisons may accept gifts or bequests of money for credit to the Fund. The Director may also accept gifts or bequests of other property, real or personal, for use or other disposition by the Bureau of Prisons. A gift or bequest under this section is a gift or bequest to or for the use of the United States under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

"(d) Amounts in the Prison Commissary Fund which are not currently needed for operations shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Prison Commissary Fund.

"(e) There shall be deposited in the Fund, subject to withdrawal by the Federal Bureau of Prisons—

(1) revenues received from the sale of articles through prison commissaries;

(2) revenues received from services rendered by prison commissaries;

(3) a gift or bequest of money for credit to the Fund;

(4) proceeds from the sale or disposal of donated property, real or personal, for credit to the Fund;

(5) earnings or interest which may be derived from investments of the Fund;

"(f) The Fund shall be available for the payment of any expenses incurred by the Federal Bureau of Prisons in establishing, operating, and maintaining prison commissaries and the Prison Commissary Fund, including the employment of personnel, the purchase of equipment, security-related or otherwise, and those expenses incurred in the provision of articles or services procured, sold, rendered, or otherwise provided or made available to inmates.

"(g) The Director of the Bureau of Prisons is authorized to use monies from the Prison Commissary Fund for the general welfare of inmates. No inmate shall be entitled to any portion of the Fund.

"(h) Employees compensated by or through the Prison Commissary Fund may be assigned additional duties other than those directly related to commissary activities.

"(i) The provisions of sections 554 and 555 and 701 through 706 of title 5, United States Code, do not apply to the making of any determination, decision, or order under this section.".

SECTION 2. TECHNICAL AMENDMENT.

Section 1321(b) of title 31, United States Code, is amended by striking "Commissary Funds, Federal Prisons".

Mr. McCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Pursuant to the order of the House of Thursday, February 9, the gentleman from Florida [Mr. McCOLLUM] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, right now under the Federal law there is simply one sentence or two, I guess it is, under section 4043 of title XVIII of the United States Code dealing with prison commissaries.

It simply says: "The Attorney General may accept gifts or bequests of money for credit to the 'Commissary Funds, Federal Prisons.' A gift or bequest under this section is a gift or bequest to or for the use of the United States under the Internal Revenue Code of 1954," et cetera.

☐ 1120

The problem has been expressed to me in the strongest of terms by the Federal Bureau of Prisons and its Director, Ms. Hawk, that we do need to have some clarification of the authority that they have to operate Federal prison commissaries, and this bill is a perfect bill to give that which should be a very noncontroversial opportunity for us to do it.

Right now the prison commissaries are being operated under DOJ circular No. 2126, under which a lot of questions have arisen about the authority of the department and the Director to operate these commissaries for the benefit of the prisoners and to collect funds and receive gifts and whether or not the prison inmates have some right to these funds and so on and so forth.

What this amendment does today is to provide express statutory authority for the Director of the Federal Bureau of Prisons to establish, operate and maintain commissaries within Federal prisons.

It also provides the Director has the exclusive authority to determine which articles or services will be provided by or through the commissaries.

We also have a provision that establishes in the U.S. Treasury a revolving fund which will be used to carry out the establishment, operation, and maintenance of a Federal prison commissary system. It authorizes the Director of the Bureau of Prisons to accept gifts or bequests of money as she can right now for a credit to the fund or gifts of real or personal property for the use or deposition by the Bureau of Prisons as can be done now but clearly clarifies where it goes.

It allows for the investment of these funds prudently and wisely where they are established in the Treasury. It provides for the authorization of departments to effect the revenues from the sale of commissary articles; it authorizes payment of expenses from the fund including the payment of expenses for the operation of prison commissaries and for the operation of a commissary fund and the expenses of commissary employees' salaries and the purchase of security equipment and nonsecurity equipment for the commissaries.

It authorizes the director to use the moneys from the fund for the benefit if inmates, and it specifies that no inmate has any interest, property or otherwise, in the moneys deposited or withdrawn from the fund.

It recognizes that employees compensated through the fund have a responsibility to perform commissary-related duties as well as general institutional and security-related duties, and it provides that judicial review is not available for any decision or determination made by the Federal Bureau of Prisons regarding the maintenance, operation, et cetera of commissaries.

I believe that this is a very necessary thing to do. We are beginning to see through the Federal prison system great questions raised about the authority for commissaries that have existed for years and years, as a matter of fact, since 1930 in our Federal prisons, and they are operating with actually no statutory authority other than the fact that they can receive gifts. It does not make a lot of sense and people want to litigate this now, and quite frankly this is a very straightforward procedure. There are no hidden anything's in it, and this prison bill seems to me to be an excellent opportunity to clarify once and for all the question of prison commissaries.

I would hope the other side would accept this in the noncontroversial intent that it is offered.

Mr. Chairman, I reserve the balance of my time.

Mr. SCHUMER. Mr. Chairman, I yield myself such time as I may consume.

I have only had a brief chance to peruse this. Let me ask the gentleman a couple of questions.

First of all this has been sent over by the Bureau of Prisons and is supported by the administration?

Mr. McCOLLUM. If the gentleman will yield, that is correct.

Mr. SCHUMER. Second of all, it would allow people to give gifts to prisoners?

Mr. McCOLLUM. It would, but the gifts are already permitted under section 4043. That is all that they have, though. We do not have a formal framework for how they utilize it or set it up. This does not add anything new, but it does allow gifts. It does continue that practice.

Mr. SCHUMER. So present law allows gifts?

Mr. McCOLLUM. That is correct. That is correct.

Mr. SCHUMER. What if these gifts were of a nature that conflicted with the amendment of the gentleman from New Jersey, an amendment I supported?

Mr. McCOLLUM. We have restrictive language on gifts that are already going to prohibit them from taking anything that has been passed subsequent to the law that is already on the books, so I would presume the court would interpret the restrictions as applicable that we are passing here today.

Mr. SCHUMER. I take it the gentleman would not characterize this as soft on prisoners in any way?

Mr. McCOLLUM. If the gentleman will yield, absolutely not. This is not in any way soft on prisoners. This is strictly giving the prisoner—in fact the prisoners may have restricted authority here because the Bureau of Prisons has it all. It has the authority over the commissaries.

Mr. SCHUMER. Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina; Page 5, line 21, strike the word "and"

Page 6, line 2, strike the period and add ", and"

Page 6, after line 2, insert the following: "(4) The State has adopted procedures for the collection of reliable statistical data which compiles the rate of serious violent felonies after the receipt of grant funds under Section 502 or Section 503 in comparison to the rate of serious violent felonies before receipt of such funds and will report such statistical data to the Attorney General."

The CHAIRMAN pro tempore. The gentleman from North Carolina [Mr. WATT] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

This simply requires the States to have a process for collecting reliable statistical data regarding the impact of grants that are being made under sections 502 and 503 of this bill on the incidence of violent felonies and reporting that statistical information to the attorney general.

Mr. Chairman, on yesterday afternoon, the gentleman from Virginia [Mr. SCOTT] offered an amendment which would have taken a small amount of funds and allowed a process to be put into place at the Federal level to monitor the impact of these programs on crime. I offered and then withdrew a more aggressive amendment than this one which would have denied funds unless there was a showing that the increased sentencing and the truth-in-sentencing legislation was having some impact on crime, and I withdrew that amendment.

This simply asks the States to have a process for collecting data on the impact that these moneys are having on the incidence of violent crime.

I should point out that on the next bills that are coming, the prevention bills, I intend to offer the same kind of language.

One of the concerns that I really have is that because of the outcry of the public to do something about crime, we are trying to respond legislatively to that outcry, and I commend my colleagues for trying to do that, but in the haste of doing it, we are not providing any process for determining what things are having an impact on crime and what things are not having an impact on crime. So even if we end up reducing the incidence of crime, we are not going to know which programs we should continue to support and which programs we should be pulling back from and withdrawing our support from.

What we should be doing is trying to get some handle on what kind of programs, whether they are Federal programs, State programs or local programs, are in fact having an impact on crime, whether it is prevention, whether it is increased sentencing, whether it is building more prisons, I do not care. All of those things need to have an assessment process built into them and all of them need to have some process for assuring the collection of statistical data that at least allows the government, either State, local or Federal, to make an assessment of their impact. This begins in that direction with respect to the grants only that are made under sections 502 and 503 of this bill, but I would say I am not trying to attach this only to these programs.

□ 1130

I will be offering a similar amendment on the prevention programs, on the cops programs. We ought to be trying to assess what is working and what is not working.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. The Chair would remind the body that we still continue to operate under the 10 and 10 rule, 10 in favor, 10 opposed.

Mr. MCCOLLUM. Mr. Chairman, I rise in opposition to claim that 10 minutes in opposition.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

I am reluctant to support this amendment even though I know what the gentleman wants is data which I think we should have.

The reason I am reluctant is because I believe that data, I say to the gentleman from North Carolina [Mr. WATT], is already available under the uniform reporting acts, the statistical reporting acts, that come in. What you are doing here is conditioning receipt of the grant moneys in this bill on the States providing still a separate type of report.

My judgment is that we can gain this data. We should have this data already available to our subcommittee. I would be glad to work with the gentleman in order to make sure that we bring and highlight whatever data he wants. If we do not have this power or if for any reason we are wrong about it, then we will find a way to get that data and make sure it does come independent of this. Because I do believe our subcommittee ought to have this data. You should have it. I do not think we should add something that messes up, or potentially does, an already working reporting program or add another layer of bureaucracy or restriction on the grant program.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Just for the purpose of inquiring whether you might entertain a revision, this just simply says that if the information has already been checked under some other process, we would exempt that State from it.

Mr. MCCOLLUM. Reclaiming my time, the gentleman has been kind enough to furnish us the amendment this morning which we do have, but it is one of those things which, like some we furnished over there, we have not had time to digest. I would prefer not to put anything in the law right now. I would simply assure the gentleman this type of data is something the chairman of the Subcommittee on Crime wants, would like to have. If we do not have it, I believe we do have it, based on representations made to me in limited resources we have this morning, I would be happy to work with him to make sure we do get it in some other form, but not as a restriction or a caveat as a condition precedent to allowing these grants to flow.

If the gentleman would accept that, I would urge him to withdraw this amendment and let us proceed with the rest of them and we will go forward in the committee and make sure we get this data, but not through the use of this bill or through the restraints he is trying to impose today.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from North Carolina for a response.

Mr. WATT of North Carolina. I appreciate the gentleman yielding. I am not inclined to withdraw it, because if we are already checking the data, it seems to me that this amendment is harmless, because all the State would have to do, and if the gentleman will look at the bill where I have put this, this is under an additional requirement, and all the State would have do, if they are already providing the information, is to assure, and that is the bill's term, now, not my term, is assure that the information is being collected already, and so even if we do have a process already for doing this, all the State would be required to do is give the assurance that there is a process already in effect, and I do not know what harm that would do.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I probably have voted against more of the amendments offered by the gentleman from North Carolina than for, but this one seems to me to be so reasonable. All it is saying is let us measure it. I think we should measure every prevention program. I think we should measure every police program.

One of the reasons perhaps that your side gained the majority is because Government programs were passed without seeing their effect.

What is the harm of this language? It is done. I voted against the gentleman's amendment in committee, because what that did, it said if you measured it and it was negative, you stopped the money, and you would not build any prisons. He has taken that out. All he says is let us measure. How can you be against that? It is sort of Luddite. We ought to see the results of what we are doing.

I would ask the gentleman to reconsider his opposition or perhaps mute it when the vote is called.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from California.

Mr. CUNNINGHAM. I myself am not sure it is that bad of an amendment. Let me tell you what some of my heartburn might be, if I understand it right.

In education or law enforcement, one of the problems we have is too much paperwork. I know when I was in the service, during the war, all our paperwork went in the trash barrel. We went out on the carrier level and did what we had to do, and we were able to be much more effective.

After the war back in the squadrons at the bases, I spent 80 percent of my time filling out Federal reports on what we should be doing and what we should not, and I was not able to do the things I really needed to do to train the unit.

This Member's idea is I do not want the Federal Government, the bureaucracy back here, to have to receive reports. I want the State and local, I want us to have goals and let the State and local establish in their own particular area what they need to do and what those standards should be. What might be good for Tommy Thompson in Wisconsin might not be good for Pete Wilson in California.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I just want to point out to the gentleman from California that this amendment, if the gentleman from Florida [Mr. McCOLLUM] is right, that the States are already required to do it. We are not adding one iota of paperwork other than one page in the grant request that says, "We have a process for doing this," where one sentence in the grant request says that.

But if he is wrong, that we are not collecting it, I cannot believe we would take the position that we are setting up for program grants billions of dollars of money and will not require the States that are applying for the money to at least have in place some process for tracking the impacts on crime.

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, I will ask a question of the author. The gentleman has a handwritten piece of my copy of the amendment. It says, "The state has adopted procedures for the collection of reliable statistical data," and is that "which compiles the rate of serious"?

Mr. WATT of North Carolina. Yes; yes.

Mr. McCOLLUM. I just wanted to make sure the word was compiles, c-o-m-p-i-l-e-s.

If that is the case, if the gentleman would accept a unanimous-consent request, I am going to make it and see if he will agree to add this.

Mr. Chairman, I ask unanimous consent that the gentleman's amendment be modified at the end to add the words "if such data is not already provided," and I will send this down to the desk right now.

Mr. WATT of North Carolina. Mr. Chairman, reserving the right to object, I happily accept that proposed modification.

Mr. Chairman, I withdraw my reservation of objection.

Mr. McCOLLUM. Mr. Chairman, I ask unanimous consent that that modification to the amendment be accepted.

The text of the modification is as follows:

Modification offered by Mr. McCOLLUM to the amendment offered by Mr. WATT of North Carolina: At the end of the amendment offered by Mr. WATT of North Carolina, insert "if such data is not already provided."

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment offered by Mr. WATT of North Carolina, as modified: Page 5, line 21, strike the word "and"

Page 6, line 2, strike the period and add "; and"

Page 6, after line 2, insert the following:

"(4) The State has adopted procedures for the collection of reliable statistical data which compiles the rate of serious violent felonies after the receipt of grant funds under Section 502 or Section 503 in comparison to the rate of serious violent felonies before receipt of such funds and will report such statistical data to the Attorney General, if such data is not already provided.

Mr. McCOLLUM. Mr. Chairman, with the modification, I would agree to concur in the amendment as the gentleman has drafted it. I think he has made a good argument. We want the data. I believe it is already here. If it is not, then we will get it. That is the end of that.

Mr. Chairman, I yield back the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I appreciate the gentleman making my amendment better and clarifying it, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from North Carolina [Mr. WATT].

The amendment, as modified, was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. CHAPMAN

Mr. CHAPMAN. Mr. Chairman, I offer an amendment printed in the RECORD, designated No. 20.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CHAPMAN: Page 2, lines 24 and 25, strike "either a general grant" and insert "general grants".

Page 2, line 25, strike "or" and insert "and".

Page 6, line 6, strike "title, if the State" and insert "title if,"

Page 6, line 7, strike "title—" and all that follows down through "the" on line 9, and insert "title, the".

The CHAIRMAN. The gentleman from Texas [Mr. CHAPMAN] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, I yield myself such time as I may consume.

Once again, I want to take just a couple of minutes and an opportunity to lay the groundwork on where I think we are now in the bill, and I hope my colleagues will pay attention to what the underlying legislation requires and what the amending process to this point has done.

Because what my amendment does is broaden the eligibility of States to apply for grants under H.R. 667. I want to read from the bill as it is filed and as it currently exists, under section 501(b), and the caption of the section is "limitation." What this bill does is say an eligible State or States may receive either, either a general grant under section 502, which is the general grant fund, or, either/or, a truth-in-sentencing incentive grant under 503. Under the section of "limitation," this law will prevent States from applying for both even if those States are meeting the requirements of both sections. That is clearly what the statute says.

What my amendment says it should not be an either/or situation. Those States that are doing the deal and getting the job done and increasing their sentencing in meeting an appropriate threshold ought to be able to apply for all the funds in both pots. That is the current law. That is current law. Even though the current crime bill authorizes slightly less money than this one does, this one divides $10 billion into 2 pots and says the State can only apply for one or the other.

□ 1140

So under this law there is actually less prison money available to States, less prison money available to the States than under current law. Surely that cannot be the intended consequence of the author of the bill, who is wanting to expand prison construction and put more criminals in prison for longer periods of time all over this country. Yet that is the result.

My amendment will change that. It breaks down the wall between two grant funds and says a State doing the job can apply for both grant funds or funds from both pots.

It also says—and it makes a very important change, and I want all my colleagues to understand this change—under this bill the bar is set so high that every State, to be eligible, must meet an 85 percent truth-in-sentencing standard, and my colleague, the friend, the gentleman from Florida, said yesterday that to qualify for that, States may have to lower their penalties. Did I stand up in my chair? Lower their penalties for violent crime so they can qualify for the second pot of money? Is that what this is about, lessening the penalties for violent crime in America so we can meet an 85 percent standard? Surely that is not the intended result.

What my amendment will do, it will say, if you are meeting the criteria of increasing sentences, putting more violent prisoners in prison and doing it longer and you are doing it so good that the entire country moves toward tougher sentencing, you are still 10 percent better than the national average, then you can qualify for the second pot of money even if you have not quite reached the 85 percent standard. Surely, surely no question, no State in America, according to the Department of Justice—arguably, only three—but if you do not live in North Carolina, Arizona or Delaware, you cannot qualify. Your State cannot qualify for the second pot of money.

If you are doing the job, under my amendment, doing it right, moving toward increasing your sentences, and beating the national average every year by 10 percent, then you can. It is a commonsense amendment. It makes sense, and it should be adopted.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CHAPMAN. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, this is a dramatic improvement on H.R. 3. If you want to build more prisons, that is. Yet maybe there was some who did not like the block grant approach because they did want to move the States along rather than give them the money and move along by themselves.

It is a compromise amendment. It is one of these rare instances where you can have your cake and eat it too, because we are encouraging the States, under the Chapman amendment, to have tougher sentences. I think we need that.

We are also saying they have a real chance, if they toughen up their sentences, to get their money. Let us face it, under H.R. 3, as we made the point yesterday, not only the 3 States be eligible, but for the other 47 to be eligible they would have to spend some $60 billion on their own before being able to meet the 85 percent standard.

My colleagues, let us not wish something to be so. The public, the Congress, the legislatures, the mayors, we have been wishing crime to go down for decades. But it keeps going up. It does not go down to the levels where it should. This amendment is not a wishing amendment, this is an actuality amendment. It greatly improves H.R. 3, and I compliment the gentleman for offering it.

Mr. CHAPMAN. Reclaiming my time, let us not ignore what we did yesterday. We plucked the pocket, yesterday, of 47 States. This bill takes money passed by Congress, signed by the President, currently in the law for prison construction to fight violent crime, will rescind money already in the pipeline, it is going to rescind money already in the pipeline going to every State in America.

Surely, if we are serious about wanting to fight violent crime, we need to get the funds out there, and this amendment gets it to States that are doing the job.

If we are going to expand prison construction, let us not trick the American people, let us not trick the Members of Congress by saying we are going to put $10 billion in prison construction funds but you cannot apply for both pots.

Under the statute, that is what this law will do. This is a commonsense amendment that ought to be adopted.

Mr. POMEROY. Mr. Chairman, will the gentleman yield?

Mr. CHAPMAN. I yield to the gentleman from North Dakota.

Mr. POMEROY. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman [Mr. CHAPMAN] for his amendment.

You know, in the 104th Congress so far we have heard an awful lot about giving more flexibility to the States. I find it highly ironic that the bill before us takes flexibility away from North Dakota's prison plan to make people serve 85 percent or greater of their sentences. I might add, North Dakota has people serving a longer portion of their sentence than any other State in the country.

Under the bill passed last year, we were set to get eligible to receive $8.8 million for prison construction, but under the language—this is a quote from the law—"to construct, develop, expand, modify, operate or improve correctional facilities to insure such space is available for violent offenders."

Let me read to you the language in the bill that is before us. It would allow us to take the money to build, expand, and operate. This is a critical distinction. They have taken from North Dakota the ability to advance plans that take prisoners out of the State penitentiary, the nonviolent ones, send them out to county jails, to make bed space for violent offenders in the State penitentiaries, just what we want to accomplish.

But because of a drafting error, they have taken from North Dakota this right to access money for bed space for violent offenders. We have done it because we have been overly prescriptive. We have taken from States flexibility. We have imposed a one-size-fits-all approach out of Washington, DC.

I just wonder how many Members, and goodness knows I will be watching when they vote for this, are going to actually be voting taking money away from their States, money their States would have been eligible for that would not be because they will be voting for language that simply does not work relative to the scheme of State flexibility as we approach the lengthening of time violent offenders serve.

That is why I commend the gentleman for his amendment and yield back to him in this discussion.

PARLIAMENTARY INQUIRY

Mr. CHAPMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The gentleman will state it.

Mr. CHAPMAN. Are we proceeding under the 5-minute rule today?

The CHAIRMAN pro tempore. We are proceeding under the 10-minute rule, 10 minutes for each side.

Mr. CHAPMAN. Then at this point I would like to ask if the gentleman from Florida [Mr. MCCOLLUM] will proceed. I would like to reserve the balance of my time at this time.

The CHAIRMAN pro tempore. A Member opposed to the amendment will be recognized for 10 minutes.

Mr. MCCOLLUM. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN pro tempore. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what the gentleman is doing, make no mistake about it, is to strike the truth-in-sentencing incentive program that is in this bill. The $5 billion setaside is set aside in order to encourage the States to move to the provision we would like for them to do in their laws, of abolishing parole for violent felons in their State, to make them serve at least 85 percent of their sentences.

If you are a serious violent felon, the objective of this whole exercise is to get you incarcerated, locked up, and have the key thrown away so that you are not out there going through this revolving door and preying on a lot of people again and again and again, as has been happening. We will, by passing this gentleman's amendment today, destroy that incentive altogether. The carrot will be gone. The offer of $5 billion out there, if you are just changing your laws, will not be out there anymore. Sure, we know only a handful of States qualify today for that pot of money, but that is the idea, the whole idea behind having that pot of money reserved strictly for those States to change their laws to comply, to get them to change them, to get them to make that step that has been so difficult for them to do, by saying, "Look, we will give you the money to build the prison beds. We will give you 75 percent of the money it takes to build every single prison bed that is required for you to remove every single serious violent felon in your State off the streets and make them serve at least 85 percent of their sentences." It would make the States do this if they are to get the money.

They obviously do not have to do it today or will not have to do it not tomorrow if they do not want this money. But the idea is to build the political pressure in those States. I think once this bill passes, the public in every State in the Union will demand that their legislatures and Governors change their laws immediately to do it and spend whatever State resources are necessary to do that.

□ 1150

Mr. Chairman, it is my judgment, and most Republicans on this side of the aisle agree with me, that this is perhaps the most important thing we could do today in crime fighting at all in this country, is to provide this carrot out there to build the public pressure to get the resources necessary, and we provide most of them probably the vast majority of what is necessary from the Federal end to take the repeat violent felons off the street and stop this revolving door. If the amendment offered by the gentleman from Texas prevails, he will simply have for the whole $10.5 billion the easy requirements. Just making progress toward incarcerating people for longer sentences is good enough to get the entire amount of money, and I would submit that that is a wrong-headed approach, it is not what we should be doing out here today. It destroys completely the effort to control the violent criminal revolving door in this country, and this is, in my judgment, the most serious killer amendment of the day, and I would urge its defeat in no uncertain terms.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. CHAPMAN] for 30 seconds.

Mr. CHAPMAN. Mr. Chairman, at this point I ask unanimous consent to have an additional 5 minutes of debate in addition to 30 seconds.

The CHAIRMAN. Would that be on each side?

Mr. CHAPMAN. Yes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. MCCOLLUM. Reserving the right to object, Mr. Chairman, is that 5 minutes on each side?

We are getting an additional 5 minutes? That, I believe, is the construct; is it not?

The CHAIRMAN. That is the request.

Mr. MCCOLLUM. All right Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas [Mr. CHAPMAN]?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. CHAPMAN] will be recognized for 5 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, let me just say the easy standards that the gentleman from Florida [Mr. MCCOLLUM] talks about, the law requires that to be eligible for even the easy money. States must put more violent criminals in prison every year than they did the year before, States must put them there for longer periods of time every year than they did before, and they must parole them less frequently every year than they did the year before. That is not an easy burden to meet, and to meet under this amendment the second pot of funds, not only do you have to do that, but you must out-reform the national average each and every year by 10 percent. If States are doing that, the very idea that we would tell them they are not eligible for the funding.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. CHAPMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I thank the gentleman from Texas [Mr. CHAPMAN] and want to make a point about how strongly I am in favor of the Chapman amendment because it clarifies the two vital and fundamental weaknesses in the bill before us.

On February 1, 9 days ago, we passed H.R. 5 right here. It prohibited unfunded mandates. We passed this law 9 days ago prohibiting unfunded mandates.

On page 3 of H.R. 5 it says, to begin consideration of methods to relieve States, local governments, of unfunded mandates imposed by Federal court interpretation of Federal statutes and regulations. It says further, to end the imposition by Congress of Federal mandates. It goes on, and on, and on.

I voted for this. Many people on both sides voted for this. Yet in this bill we are providing exactly the kind of unfunded mandates that we just 9 days ago prohibited.

Let me read for my colleagues page 3 of this bill, H.R. 667, page 3. We not only are talking about tougher sentences, which I am for; I voted for the gentleman's tougher habeas corpus and exclusionary rules, but now we are telling the States, "You have to, in order to be eligible to receive funds under subsection A, one, increase the percentage of convicted violent offenders; two, increase the average prison time actually served; three, increase the percentage of sentence to be actually served.

We are mandating down the line not just tougher penalties, percentages, average time, percentage of convicted violent offenders. Are we not saying 9 days ago we are not going to do anything more like this? And we do it.

Second, the fundamental flaw in this bill, in addition to the unfunded mandates, is that this is the bailout bill. This is the bailout bill for States that have not made the tough decisions to build some of these prisons. We are going to funnel money to them. We are going to take the money away from States like Indiana, which will lose $48 million, and States that have made tough decisions and sometimes said to their citizens, "You have to pay up to build these new prisons." Now we are saying with these unfunded mandates we are going to steer moneys to the States that have not made these tough decisions. We are going to provide Federal funds to do it, and we are going to bail these States out.

That is not right.

Mr. Chairman, the amendment offered by the gentleman from Texas [Mr. CHAPMAN] tries to clean up the unfunded mandates and the fairness to different States that is terribly skewed in the formula in this bill. Forty Republicans voted for current law. The Chapman amendment tries to steer us back to current law, and I would encourage some bipartisan support for this amendment. If this does not pass, I would encourage defeat of this bill.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I think everybody has to understand that this is a repeat of yesterday's debate. We have already had a couple of amendments to try to get at the truth in sentencing and knock it out. This is just another effort to do that. That needs to be clearly understood.

I know there are people who do not agree with truth in sentencing, and they obviously strongly do not agree because that is the reason why they are making a third try at this today.

There are over 6 million violent crimes every year in this Nation. Only 150,000 people are convicted of violent crime out of the million crimes that are committed. Now some of them obviously are being committed by the same people. Only 90,000 of the 150,000, that is 60 percent of those convicted, ever go to prison for committing a violent crime, and those who do go to prison of that 60 percent of the 100,000 that are convicted of the 6 million crimes that are committed every year that are violent, they only serve an average of 38 percent of their sentences.

So, what we are saying is here today, in this bill, we want to get these people to serve their time. We want to make sure that the carrot is out for them to do that and that we actually provide the resources to the States to make sure that they have their folks locked up. I doubt if very many States, if any in this Union today, are locking up near enough prisoners in their prisons to comply with this in any sense of the word that we would like for them to do, but what we have set forth, for the first pot of money, the $5 billion that is out there in part A, that is not disturbed in our judgment in any way from last year's bill to amount to a hill of beans, and we are simply going to require three little things to be done by the States to qualify for that money, and virtually every State has already qualified.

Just look back at the statistics down at the Justice Department of the last 10 years that are submitted, published every 2 years, by the State, and my colleagues will see that every State is marching toward increasing the length of time somebody has to serve, increasing the actual sentence for some of these violent criminals, all these violent criminals, and increasing the percentage of time, and there are three separate things, but they are complying. It is not hard to comply with. I would say 99 percent of the States, probably all the States, will receive money under part A without having to do anything more than assure the Federal Government of what they are already doing.

But what this amendment does that is mischievous about it is, first of all, it strikes all three of these requirements. It in essence says, notwithstanding anything else in this bill, all you got to do is show a 10 percent average increase in the time served over the entire course of whatever in your State, and, by God, you get the money for part A, and you get the money for part B because we are going to do away with any qualifications for part B that are different from part A. In other words, you strike truth in sentencing altogether, and you just say, "If you have increased the average times served by 10 percent of your violent felons in your prisons, you can get every penny in this bill," and I think that is absurd. That is precisely why we are having the debate out here today, and it is a very wrong-headed thing to do.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman from Florida [Mr. McCollum].

First of all, of all the amendments that I have had come forward, this one is the most obtrusive. The gentleman fails to see the solution to a very simple problem, that, if you let criminals out early, they are going to commit more crimes. Our intent is to keep them in there for the longest amount of time.

Governor Allen's idea of no parole at all; if you get a sentence, that is what you are going to stay in there for; that is what I would like to see. But, if you let, as James Cagney said, let these low-down, dirty rats back out, they are going to be low-down, dirty rats on our streets, and the gentleman is talking about an unfunded mandate. We are giving the States a positive incentive to do this. This is not an unfunded mandate.

□ 1200

What we want to do is make sure that if someone is sentenced to an amount of time that is a felon, that they are going to serve their time, and not get back out early and do the same thing. Because it is proven by statistics they get back out, and they have not been helped, we want to make sure that is done.

The gentleman says that the law requires that we put them in longer and that we parole fewer. But it is not working again. This again is another positive incentive for the States that are not living up to that to follow through and keep these critters in longer.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I would say to the distinguished gentleman from California that I serve with on the Committee on Economic and Educational Opportunities, that whether you call it a positive incentive or an unfunded mandate, you are stipulating in law three things: From percentage of convicted offenders, to average prison time, to percentage of sentence to be actually served. That is not a positive incentive for some States. That is a very specific mandate.

I am for truth in sentencing, as the gentleman from Florida [Mr. McCollum] knows. But I do not think we should prescribe down to three and four different criterion variables what these States have to do.

Mr. Chairman, if I could ask a question of the gentleman from Florida [Mr. McCollum], he said in his comments that some States will have to change laws, that the people will force the State legislatures to meet and change laws. That will take some time. The gentleman from Florida knows that some States are in short session this next meeting period. Indiana may only meet for a couple of months. Other States may not have the time to qualify for this.

Mr. McCOLLUM. Reclaiming my time, there is no question that States will have to change their laws, most of them will. To get the second pot of $5 billion for truth in sentencing, they will have to go to the 85-percent rule. There is no question about that. That is the idea.

But they will not have to change their laws to qualify for the first pot of money. I believe 99 percent, from what we have seen, already qualify for part A of the money.

I would also like to respond to the gentleman on the unfunded mandate. This is not an unfunded mandate in any way, shape or form. This is a grant program, clearly distinguished from the bills we had out here earlier that ban unfunded mandates.

If the States do not want this money, they do not have to do what we require them to do. We are not mandating they do these things. We simply say if you want to get this money, here is the carrot. You have got to come get it. Unfunded mandates do not yield carrots.

Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. Cunningham].

Mr. CUNNINGHAM. Mr. Chairman, I think the gentleman just made the point. Illegal immigration in our State, we have a policy and the Government does not support it, they do not get the money. It is not an unfunded mandate. They do not have to participate if they do not want. We are not mandating that they do it. But if they do not, they do not get the money.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. CHAPMAN. Mr. Chairman, I yield myself such time as I may consume, to respond briefly.

Mr. Chairman, it is important that I think we understand that this bill picks the pockets of the States of hundreds of millions of dollars that are currently in the pipeline under current law.

The gentleman from California makes a good point. We want folks to put people in prison that are violent criminals and keep them there. That is what last year's crime bill did.

This takes the money back. This sets the bar so high that the progress that is being made cannot be met. I do not understand why the gentleman would want to set a standard that the Attorney General, you say 99 percent of the States meet it. Are you sure? The Attorney General has looked at it and says none of the States meet it.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CHAPMAN. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, first of all, I would just like to point out that there was no money appropriated for prison construction for this fiscal year, so we are not taking any money back in what we are doing.

Second, the statistics that the Attorney General has collected over several years that we have seen shows that progress is being made and States would qualify. So I beg to differ with the gentleman.

Mr. CHAPMAN. Mr. Chairman, reclaiming my time, progress may be being made, but the States do not qualify. They are not going to be eligible under the law, and the gentleman has set the standard so high that he is making it impossible to comply.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. Schumer].

Mr. SCHUMER. Mr. Chairman, I have two quick points. Under the gentleman's own bill, the Attorney General would be the administrator. So even though the gentleman from Florida [Mr. McCollum] may say States qualify, unfortunately, if I were a Governor who wanted to build prisons, I would have to put more stock in what the Attorney General said, because she is giving out the money, not the gentleman from Florida.

Second point: The gentleman from California said we want a carrot to encourage the States to increase sentence time. Agreed. But when you put a carrot out there, you want them to be able to reach it, so they can jump. If you put the carrot up so high that they cannot even see it, they are not going to try to reach for it.

The CHAIRMAN. The time of the gentleman from Texas [Mr. Chapman] has expired, and the gentleman from Florida [Mr. MCCOLLUM] has 5 minutes remaining.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, interestingly enough, I do not see how anyone can argue that under what the gentleman's amendment does, States would qualify who will not qualify for part A of the grant money under what is in the bill. Now, you can debate all you want on part B, the truth in sentencing, 85 percent rule, because I am willing to concede only three or four States, half a dozen States, currently qualify for that. That has never been in question, because the fact of the matter is States are being given this money as the carrot.

But under part A, what the gentleman would have after I read his amendment, what he is doing in striking indeterminate sentencing as an exception out of this, he is saying,

> Notwithstanding the provisions in paragraphs 1 and 2 of section 502(b), a State shall be eligible for grants under this title if, not later than the date of enactment of this title, the offenses of murder, rape, robbery, and assault exceed by 10 percent or greater the national average of time served for such offenses.

Well, that is still going to be a requirement to qualify for part A. It will be the only requirement for parts A or B under your amendment.

What we are suggesting is you do not even have to have a 10-percent variation with regard to the national average. You just have to have some for ours. You have to show an increase since 1993 of the percentage of convicted violent offenders sentenced to prison of the percentage. Just any increase. Not 10 percent, but any increase. Your own State has to show that increase.

Second, you have to show an increase in the average prison time actually to be served, that you bumped up the time under the regulations for sentencing. If somebody got 6 years, the sentence they have been given, and they are serving only two now in your State, you have to show that your actual prison time is going to be 2 years and 1 day. But it does not require a big 10-percent increase.

Third, you have to show an increase in the percentage of the sentence to be actually served, the percentage of the 6 years, from whatever it was before. If it was 2 years, it is one-third, you have to bump up by whatever little fraction that would be; 2.1 years obviously shows an increase in the percentage of the sentence. That is not actually hard to comply with.

What the gentleman is doing by all of the debate and all of what he is saying out here today is simply arguing the same old point he argued yesterday and that we have heard argued on two major amendments out here before, and that is the gentleman does not like the carrot. The gentleman does not like the second pot, which is what you destroy. There is nothing about the first pot that we are doing anything with. It is very easy to get the first pot.

But what we are all arguing about today is whether we set aside $5 billion and say to the States we want you to get this money, to change your laws to make sure that serious violent felons serve at least 85 percent of their sentences. Truth in sentencing. Essentially abolish parole and only have good time.

That is what we want them to do with the 85-percent pot of money, $5 billion. And what the gentleman from Texas [Mr. CHAPMAN] would do by his amendment, make no mistake about it, would absolutely strike that out of this bill. There would be no truth in sentencing requirement whatsoever to get any money in this bill at all. It would disappear, and the whole thrust of the whole truth in sentencing debate would be resolved in favor of those States and those groups that do not want any restrictions and do not want to go to that. And I think that would be absolutely the height of folly. It would be an undermining of a basic principle that the Republican side of the aisle believes deeply in our crime legislation, what we offered last year, and what is part of the Contract With America.

So this is a killer amendment. It strikes the guts out of this bill as we have written it, and I strongly urge a "no" vote.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. CHAPMAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CHAPMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 247, not voting 11, as follows:

[Roll No. 114]

AYES—176

Abercrombie
Ackerman
Baesler
Baldacci
Barrett (WI)
Barton
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Camp
Cardin
Chapman
Clay
Clyburn
Coleman
Collins (IL)
Conyers
Coyne
Cramer
Danner
DeFazio
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Hoekstra
Holden
Hoyer
Inglis
Jackson-Lee
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Longley
Lowey
Maloney
Manton
Markey
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Portman
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Smith (MI)
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Torres
Towns
Tucker
Upton
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOES—248

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson, Sam
Johnson (SD)
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Manzullo
Martinez
Martini
McCarthy
McCollum
McCrery
McDade

McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pombo
Porter
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (NJ)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Becerra
Brown (CA)
Collins (MI)
Frost
Hall (OH)
Johnston
Lofgren
Smith (TX)
Smith (WA)
Stark
Tauzin

□ 1228

The Clerk announced the following pairs:

On this vote:

Miss Collins of Michigan for, with Mr. Smith of Texas against.

Mr. Johnston for, with Mrs. Smith of Washington against.

Mrs. CLAYTON changed her vote from "aye" to "no."

Mr. EDWARDS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1230

PARLIAMENTARY INQUIRY

Mr. COLEMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The gentleman will state his inquiry.

Mr. COLEMAN. I would just inquire of the Chair in terms of statements that had been made earlier in respect to the length of time that we have for votes. I noted, just as a housekeeping matter, that the Chair in my view correctly permitted about 20 minutes, or I assume 20. When I came in, it said zero. We waited another 5 minutes to finish the vote. I think the Chair correctly did that, because of the crowding on the elevators and attempting to get here from committees by many of the Members.

I was just wondering whether or not the Chair would permit an expansion on the statement earlier made by the Speaker with respect to the amount of time we will be allowed to have for votes. We were told 17 minutes would be all we would get. I notice we just got 20, maybe more. I am wondering whether or not we are going to continue to have that kind of leeway in the event crowds occur in coming to the House floor to cast our votes.

The CHAIRMAN pro tempore. The Speaker was very clear when he stated his position that he would not stop a Member from voting who is in the well.

Mr. COLEMAN. Actually that is not my inquiry. I was just wondering whether or not we were going to all be given some additional opportunity in the case of crowding to get here to cast our votes. I think that without any question, statements to the contrary notwithstanding, the Chair correctly handled this vote by allowing at least 20 minutes for us to cast this vote. I am just hoping that the Speaker will be advised of the amount of time it took today and perhaps we can relax the hard-and-fast rule we were told applied on the first day.

The CHAIRMAN pro tempore. The Chair would advise the gentleman that this vote did proceed in conformity with the Speaker's advisement.

Mr. COLEMAN. Well, Mr. Chairman, it was certainly in excess of 17 minutes, was it not?

The CHAIRMAN pro tempore. What the Speaker said about Members proceeding to the well and being allowed to vote still holds.

Mr. COLEMAN. But after 17 minutes they will not be allowed to vote from the well; is that my understanding?

The CHAIRMAN pro tempore. The 17-minute restriction still holds. Members should come to the Chamber and to the well as quickly as they possibly can.

Mr. COLEMAN. But the chair was correct in allowing extra time. I think all of the Members attempted to do that on both sides of the aisle. The attempts, I just advise the Chair, will continue to be made more difficult by having, as you know, more citizens inside the Capitol utilizing many of these same elevators.

I just suggest to the Chairman that he handled it correctly. I hope that we could get the Speaker to agree that the hard-and-fast rule of 17 minutes is going to be very difficult for some Members to make. Out of a mere courtesy to our colleagues, I would hope that we would not hold hard and fast to some of these stated rules that we started the first of the session with.

I thank the Chairman for his consideration.

The CHAIRMAN pro tempore. The Chair thanks the gentleman for his observation.

AMENDMENT OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCOTT:

Page 2, strike line 4 and all that follows through the matter preceding line 1, page 12 and insert the following:

TITLE I—PRISON GRANT PROGRAM

SEC. 1. GRANT PROGRAM.

Title V of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"TITLE V—PRISON GRANTS

"SEC. 501. AUTHORIZATION OF GRANTS.

"The Attorney General is authorized to provide grants to eligible States and to eligible States organized as a regional compact to build, expand, and operate space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony and to build, expand, and operate temporary or permanent correctional facilities, including facilities on military bases, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a serious violent felony.

"SEC. 502. GENERAL GRANTS.

"In order to be eligible to receive funds under this title, a State or States organized as a regional compact shall submit an application to the Attorney General that provides assurances that such State since 1993 has—

"(1) increased the percentage of convicted violent offenders sentenced to prison.

"(2) increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison.

"SEC. 503. SPECIAL RULES.

"Notwithstanding the provisions of paragraphs (1) through (2) to section 502, a State shall be eligible for grants under this title, if the State, not later than the date of the enactment of this title—

"(1) practices indeterminent sentencing; and

"(2) the average times served in such State for the offenses of murder, rape, robbery, and assault exceed, by 10 percent or greater, the national average of times served for such offenses.

"SEC. 504. FORMULA FOR GRANTS.

"To determine the amount of funds that each eligible State or eligible States organized as a regional compact may receive to carry out programs under section 502, the Attorney General shall apply the following formula:

"(1) $500,000 or 0.40 percent, whichever is greater shall be allocated to each participating State or compact, as the case may be; and

"(2) of the total amount of funds remaining after the allocation under paragraph (1), there shall be allocated to each State or compact, as the case may be, an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State or compact, as the case may be, bears to the population of all the States.

"SEC. 505. ACCOUNTABILITY.

"(a) FISCAL REQUIREMENT.—A State or States organized as a regional compact that receives funds under this title shall use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General.

"(b) REPORTING.—Each State that receives funds under this title shall submit an annual report, beginning on January 1, 1996, and each January 1 thereafter, to the Congress regarding compliance with the requirements of this title.

"(c) ADMINISTRATIVE PROVISIONS.—The administrative provisions of sections 801 and 802 of the Omnibus Crime Control and Safe

Streets Act of 1068 shall apply to the Attorney General in the same manner as such provisions apply to the officials listed in such sections.

"SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There are authorized to be appropriated to carry out this title—

"(1) $497,500,000 for fiscal year 1996;

"(2) $830,000,000 for fiscal year 1997;

"(3) $2,027,000,000 for fiscal year 1998;

"(4) $2,160,000,000 for fiscal year 1999; and

"(5) $2,253,100,000 for fiscal year 2000.

"(b) Limitations on Funds.—

"(1) Uses of funds.—Funds made available under this title may be used to carry out the purposes described in section 501(a).

"(2) Nonsupplanting requirement.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

"(3) Administrative costs.—Not more than three percent of the funds available under this section may be used for administrative costs.

"(4) Matching funds.—The Federal share of a grant received under this may not exceed 75 percent of the costs of a proposal as described in an application approved under this title.

"(5) Carry over of appropriations.—Any funds appropriated but not expended as provided by this section during any fiscal year shall remain available until expended.

"(c) Evaluation.—From the amounts authorized to be appropriated under subsection (a) for each fiscal year, the Attorney General shall reserve 1 percent for use by the National Institute of Justice to evaluate the effectiveness of programs established under this title by units of local government and the benefits of such programs in relation to the cost of such programs.

"SEC. 507. DEFINITIONS.

"As used in this title—

"(1) the term 'indeterminate sentencing' means a system by which—

"(A) the court has discretion on imposing the actual length of the sentence imposed, up to the statutory maximum; and

"(B) an administrative agency, generally the parole board, controls release between court-ordered minimum and maximum sentence;

"(2) the term 'serious violent felony' means—

"(A) an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another and has a maximum term of imprisonment of 10 years or more.

"(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense and has a maximum term of imprisonment of 10 years or more, or

"(C) such crimes include murder, assault with intent to commit murder, arson, armed burglary, rape, assault with intent to commit rape, kidnapping, and armed robbery; and

"(3) the term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.".

The CHAIRMAN pro tempore. Pursuant to the order of the House of Thursday, February 9, the gentleman from Virginia [Mr. Scott] will be recognized for 10 minutes, and a Member in opposition will be recognized for 10 minutes.

The Chair recognizes the gentleman from Virginia [Mr. Scott].

Mr. SCOTT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the series of crime bills we have now effectively block-grant the prevention and police money from the 1994 bill and then cut that block of money by $2.5 billion and increase the prison construction money by $2.5 billion.

This amendment restores the $2.5 billion to the prevention and cops block grant.

We have already seen, Mr. Chairman, the good work in getting the police out on the street. Many of the police have already been funded. The bill has only been in effect a few months and police have been funded already. Those cops are on the street practicing community policing and effectively reducing crime.

Mr. Chairman, during the hearings on H.R. 3 and in the Committee on the Judiciary consideration of the bill, we also heard reams of testimony on crime reduction that can be effectuated by primary prevention programs.

Mr. Chairman, we heard testimony that the cost of drug courts was about one-twentieth of what it cost to put people in prison, and the recidivism rate was so low that you cut crime by approximately 80 percent. Head Start and Job Corps both save more money than they cost, Mr. Chairman.

We have testimony in the record showing drug treatment programs which are so effective, they save $7 for every $1 that you put into the program. We have seen recreational programs. Mr. Chairman, where for 60 cents per participant, the crime rate in Phoenix, AZ, was cut significantly. Fort Myers, FL, 28 percent reduction in crime for very minimal expenditures. Gang intervention programs, drug courts, early childhood development, vocational training. Those kind of programs, Mr. Chairman, will reduce crime.

The $2.5 billion that is added to the prisons in this series of bills which we seek to transfer will be an insignificant portion of the money spent on prisons. Virginia has adopted a truth-in-sentencing or so-called truth-in-sentencing provision. The way we got to 85 percent, Mr. Chairman, was to reduce the sentence 50 percent, letting those who could not make parole, the most heinous of our criminals, let them out in 50 percent of the time so that the less risky prisoners could serve more time. That cost us $7 billion

Mr. Chairman, if we are going to spend that kind of money, we ought to put it in programs that will actually work.

Mr. Chairman, the $30 billion crime bill from last year designated 75 percent of the money for law enforcement and prisons, despite all of the overwhelming evidence that vastly more crime reduction can be accomplished through prevention programs. The present bill compounds the problem by increasing the prisons and decreasing the money that could go to police and prevention.

If our goal is to prevent crime, Mr. Chairman, we should take the politics out of crime, spend the money where it will actually do some good, and, that is, on prevention and police officers.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Florida [Mr. McCollum] is recognized for 10 minutes in opposition to the amendment.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume, and I am not going to consume much on this amendment. I think it should be clear that if we voted, as many of us, in fact the clear majority did, a very large majority, against the amendment earlier offered by the gentleman from Maryland [Mr. Cardin], to strike $30 million, $36 million from the prison grant program, we certainly would want to oppose an amendment that would strike $2.5 billion from the program.

The gentleman obviously who is offering this amendment is offering it in sincere concern for the prevention programs which he liked in the last Congress, which this side of the aisle wants to do away with, did not agree with, and does not want to put more money into.

Next week we will have an opportunity to vote on a combination of local block grant programs that will combine the prevention and the cops on the street programs of the last Congress into a $10 billion program to let the cities and the counties of this Nation, their local governments, decide how to best fight crime in their community, whether that be by hiring a new police officer or doing some kind of prevention program, whatever that they may choose to do. I think $10 billion is plenty of money for that. I think most Americans believe that.

Some money has already been granted out this year under the existing law. So actually more than that would be eligible to be spent according to my calculations.

I see no reason whatsoever to take $2.5 billion from the prison program, strike it altogether, to give the gentleman from Virginia an opportunity next week to argue that he has stricken this money, now that he has done that, he has saved it, he can now increase or add to or argue for more money under the $10 billion program. I suspect next week he is going to be opposed based on his arguments in committee to the concept of block grants, anyway, as opposed to doing it under the categoricals that are in current law.

I understand the opposition and the differences of opinion. I just want the Members to understand clearly that what the gentleman wants to do is to strike a very sizable proportion, $2.5 billion, from this prison grant construction and operation program that is designed to take the violent felons off the streets and provide money to the States so that they can build the prison beds necessary to get an end to parole for these serious violent felons. He wants to strike the money that would allow the States to do this, a huge $2.5 billion amount, and I am very strongly opposed and urge the rejection of this amendment.

☐ 1240

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT. Mr. Chairman, could the Chair advise how much time I have remaining?

The CHAIRMAN. The gentleman from Virginia [Mr. SCOTT] has 7 minutes remaining.

Mr. SCOTT. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I would like to thank the gentleman from Virginia for yielding me this time.

Mr. Chairman, I rise today because although I support truth in sentencing, I do not support pork, and that is the problem with the bill as it is currently drafted.

We watched yesterday afternoon when the Republicans basically presented us with a porkfest. We had a lengthy debate, and in the course of that debate it was pointed out that there is a $5 billion pot of money called truth in sentencing incentive grants, $5 billion, but of that $5 billion what we found out was only three States could qualify, and the gentleman suggested, "Oh, no, more States would want to do this." But I checked with my people in Maryland and they said even though we have already doubled our sentencing requirements, the time-served requirements, that even with this bill Maryland would probably not be able to get any money because it would not be cost-effective, it would cost the State too much money to build the prisons even with the grant that we could get from the Federal Government.

So the debate went on and finally the gentleman conceded that yes, there are probably going to be some States that would not be able to take advantage of this money, so the question became what do we do with the unallocated funds? To those of you who are deficit hawks, watch out. Unallocated funds, rather than have these funds go back to the Treasury for deficit reduction, these funds, which could be $2 billion, $3 billion, because remember only three States qualify, the funds would be suddenly given back to the Justice Department for Federal courthouses and Federal magistrates and to the INS Service.

So I see a grave contradiction today, Mr. Chairman. While the Republican chairman suggests we ought to give all of this money to the local governments for prisons, not only is the money not going for prisons, it is not going to the local government, it is reverting back to the Federal Government, not for prisons but for courthouses and INS and other Federal investigatory bureaus.

I do not think that is what the American people want. I think yes, we can have truth in sentencing and yes, serious violators ought to serve more time, no disagreement there.

The issue becomes whether we take the unallocated funds and have a porkfest for Federal investigatory agencies or whether we use unallocated funds and spend it on deficit reduction. I believe we ought to spend it on deficit reduction, which is why I support the amendment of the gentleman from Virginia which suggests that this money ought to be cut.

Mr. MCCOLLUM. Mr. Chairman, I have no requests for speakers, and I reserve the right to close.

Mr. SCOTT. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Chairman, I rise in strong support of the Scott amendment. The people of my district are as concerned about crime as any of my colleagues on the other side of the aisle. In fact, crime is a defining issue in urban centers like the one I represent. Every time I meet with constituents, crime is at or near the top of the agenda. In my district kids grow up on street corners because there are few healthy alternatives. There are no parks, no playgrounds, and no recreational centers, and overcrowded, ill-equipped schools neither prepare nor inspire the children for useful and productive careers.

Prisons alone are not the solution. Without prevention, we will never get control of the crime problem. Punishment and prevention are flip sides of the same coin.

Last year we struck a difficult balance between those two impulses. The Crime Control Act provided for more prisons and stiffer sentences. It also made an investment in proven crime prevention programs for education, recreation, and drug treatment. It offered the kids on the corners alternatives and hope for a better future.

This bill upsets the delicate balance between punishment and prevention. I support this amendment because it helps get us back to the middle ground that we found last year. This bill pledges $12.5 billion for prison construction, $2.5 billion more than was authorized in the 1994 act.

Where will this money come from? From prevention programs? That is $2.5 billion less for our kids. No after-school and summer programs for at-risk youth, no antigang initiatives, no sports leagues or recreational facilities, no drug treatment programs. With this bill we will be saying to your youth, "We don't care about you, we do not expect anything from you. Prison is okay."

Mr. Chairman, I understand that the American people are desperate for urgent action. I understand the temptation to adopt catchy phrases and simple solutions like lock them up and throw away the key. But forget it. It is not about catchy phrases, it is about solutions.

I urge the President and the leadership of this House to maintain the delicate balance that was reached last year. I cannot and I will not support a measure that slashes critical social programs in order to appease the critics on the right. I will not play politics with the future of America's youth.

I urge my colleagues and the American people to see through this Republican charade of deception.

Mr. SCOTT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Florida has indicated that there will be a block grant of $10 billion for localities to decide what they want to do in terms of prevention or police. Obviously they will have the discretion to do what they want, but they will have $2.5 billion less to do it with if the bill is passed without this amendment.

Mr. Chairman, if we had a problem of people falling off a cliff, we could decide to build a fence on the cliff or we could decide to buy ambulances at the bottom of the cliff.

Mr. Chairman, this amendment allows us to build a fence, save money, prevent crime, and I would hope it would be the pleasure of the House to adopt the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, I simply want to make an observation on the comments made earlier by the gentleman from Maryland [Mr. WYNN] only to the extent of explaining once more that the unallocated funds in the prison construction program, if the States do not claim those moneys, which I think they will claim virtually all of them, that is a bone of contention I suppose with some of the others of the other side, but if they do not claim all of the money even under the $10½ billion allocated here, then the moneys here are cordoned off and reserved for use by the appropriators for use in the expenses of the Immigration and Naturalization Service for investigators and for expenses of the Bureau of Prisons, the Federal Bureau of Investigation, and the U.S. attorneys for activities and operations related to the investigation, prosecution, and conviction of persons accused of serious violent felony and incarceration of persons convicted of such offenses.

So it is not court houses and it has very direct preferences related to what we are doing here today in trying to get the kind of money necessary to the States that they can take this group of prisoners, these felons off the streets and lock them up for very extended periods of time. And the gentleman wants to take $2½ billion out of this today so that he can urge you next week that he is going to put that money in prevention programs instead of into building more prisons.

It is just a difference of opinion. But make no mistake, this would take a huge amount, $2½ billion, out of the prison program, $2½ billion that are really needed if we are going to finally stop the revolving door involving serious violent felons who just commit crime after crime in this country.

I urge a "no" vote.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. SCOTT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 268, not voting 11, as follows:

[Roll No. 115]

YEAS—155

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Beilenson
Berman
Bishop
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Burton
Camp
Cardin
Castle
Chapman
Clay
Clayton
Clyburn
Collins (IL)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Dingell
Dixon
Doggett
Dooley
Duncan
Durbin
Ehlers
Ensign
Eshoo
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (TN)
Frank (MA)
Franks (NJ)
Funderburk
Gejdenson
Gephardt
Gilchrest
Green
Greenwood
Gunderson
Gutierrez
Hancock
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoekstra
Hoyer
Hutchinson
Inglis
Jackson-Lee
Jacobs
Johnson (CT)
Johnson, E.B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kleczka
Klug
LaFalce
Lantos
Lazio
Leach
Lewis (GA)
LoBiondo
Longley
Markey
Martinez
Martini
Matsui
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Porter
Quinn
Ramstad
Rangel
Reed
Reynolds
Rivers
Rohrabacher
Rose
Roth
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sanford
Sawyer
Schroeder
Scott
Sensenbrenner
Serrano
Shays
Skaggs
Slaughter
Smith (MI)
Stokes
Studds
Thompson
Tiahrt
Torkildsen
Torres
Towns
Tucker
Upton
Velázquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wynn
Yates
Zimmer

NAYS—268

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doolittle
Dornan
Doyle
Dreier
Edwards
Ehrlich
Emerson
Engel
English
Evans
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Furse
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hyde
Istook
Jefferson
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Radanovich
Rahall
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Ros-Lehtinen
Roukema
Salmon
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Torricelli
Traficant
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff

NOT VOTING—11

Becerra
Collins (MI)
Dunn
Frost
Gibbons
Hall (OH)
Johnston
Lofgren
Smith (TX)
Smith (WA)
Stark

☐ 1306

The Clerk announced the following pairs:

On this vote:

Miss Collins of Michigan for, with Mr. Smith of Texas against.

Mr. Johnston for, with Mrs. Smith of Washington against.

Mr. PALLONE and Mr. SPRATT changed their vote from "aye" to "no."

Messrs. SANFORD, WARD, ENSIGN, GREENWOOD, and ROTH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BLILEY) having assumed the chair, Mr. KOLBE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 667) to control crime by incarcerating violent criminals, pursuant to House Resolution 63, he reported the bill back to the House with an amendment adopted by the Committee of the Whole House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, as amended? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit the bill to the Committee on the Judiciary with instructions to report the bill back to the House forthwith, with the following amendment: Page 9, after line 6, insert the following:

"(7) UNALLOCATED FUNDS FOR PUBLIC SAFETY AND COMMUNITY POLICING.—Notwithstanding any other provision of this title, funds transferred under paragraph (6) may only be made available for the program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1965.

Mr. MCCOLLUM. Mr. Speaker, I reserve a point of order.

□ 1310

Mr. Speaker, I withdraw my reservation of a point of order.

The SPEAKER pro tempore. (Mr. BLILEY). The gentleman from Florida withdraws his reservation of a point of order

The gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes in support of his motion.

Mr. CONYERS. Mr. Chairman and my colleagues of the Congress, this recommit motion takes, perhaps, up to $5 billion in unallocated funds and puts back into the cops on the beat program.

Now, yesterday the new majority whispered a secret about this prison funding proposal on the floor today. They finally admitted that the truth-in-sentencing scheme would probably be so burdensome on the States that most would never qualify for it, and then the gentleman from Florida offered what I call a "cover your back" amendment saying that unexpended funds would be used for Federal law enforcement. This motion to recommit would allow those unexpended funds, which we are all sure will happen, to be used for the most important program we have in the crime bill, the cops on the beat program.

Mr. Chairman, the President's police program is the single most desired crime-fighting response demanded by our citizens across the several States. The Republican majority is proposing to repeal the program and put in its place revenue sharing and a prison funding program that in the end will actually provide less money for prisons and not one guarantee for a single community policeman.

People are afraid to go out of their houses to the corner store. The average response time in our neighborhoods to violent crime is getting longer and longer, and people, are demanding change. We can build all the prisons we want, but without police officers on the beat we will never apprehend them.

So let us do what the police are asking us to do, to get them from behind their desks and on the beat, provide them more resources to fight crime. No one, no one can deny the effectiveness of this program, and this will be the far better place to put those unexpended funds.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentleman from Michigan [Mr. CONYERS] for yielding this time to me. I rise in full support of the motion to recommit.

Let me just recollect to all of my colleagues our view, the attorney general's view, the Justice Department's view, which gives out this money. Under present law, every State qualifies. Under this law, no State qualifies.

Even the gentleman from Florida earlier this morning in the debate admitted that presently, in his views, only three States, three medium and little States, medium sized and little States, would qualify. So, let us assume that we are right. I ask, Shouldn't that money go to put officers on the beat instead of just sitting there? By all means.

I say to my colleagues, If you are right, the money will be spent on prisons, but if this amendment passes, if you're wrong, which most people will look at it and think at least the money will be spent on cops walking the beat.

I say to my colleagues, Don't, sell out your States. Don't for some nice ideological model way up in the sky that's unattainable, tell your States they can't get millions of dollars to build prisons. Don't sell out your police.

Please support the motion to recommit.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I thank the gentleman from Michigan [Mr. CONYERS] for yielding, and I just want to remind the Members of the House that the gentleman from Florida with his amendment last night has readily admitted that we are not going to spend all this money on prisons. Otherwise why would he have offered the amendment that leaves this money, after 2 years, to go to the Department of Justice to be used for their program? Well, if that is the case, and I agree with the gentleman from Florida; I said that before; there are not going to be very many prisons built with this bill. We have a present law that is a lot better than their program, that is a lot better, but if this is going to be the case, instead of putting it all in the FBI, or all in the Department of Justice, can we not use some for cops on the beat? I think that is where crime fighting actually begins, with the policemen on the beat, in our local communities.

I ask, What's wrong with saying that, if we don't spend it on prisons, let's use some of it to help our local law enforcement?

I strongly urge Members to vote for the motion to recommit.

Mr. MCCOLLUM. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, I yield myself such time as I may consume, and I strongly oppose this motion to recommit. I have had some words that I have heard from the other side over there that have misstated at least what I said earlier in the debate and a lot of words that have gone through. I want to make it perfectly clear in my judgment, and the judgment of the vast majority of our side of the aisle, I believe that every State of the Union is going to qualify for part A, the pot that has $5 billion in it with virtually no restrictions on it. Part B, the pot that has the truth in sentencing money in it for requiring the States in order to get it to change their laws to require serious violent felons to serve at least 85 percent of their time, is going to be a carrot where most States will not have, and that is our idea, have not qualified, though I think somewhere in the neighborhood of six or eight States already are in that posture as opposed to the three the gentleman from New York [Mr. SCHUMER] keep stating to us. I believe that virtually all of this money will be consumed, probably all of it, by the States by time the 5 years runs out in both pots, but yesterday we passed a particular amendment which is being proposed today by this motion to recommit with instructions to be changed of what would happen to any moneys that were not actually given out by the Attorney General in these grants because there were not requests for them or whatever, and we said yesterday, and we voted yesterday, to do this in this committee, that the funds, if there were any unused ones, would go for the purposes of Immigration and Naturalization Service investigators, and the expenses of the Bureau of Prisons, the Federal Bureau of Prisons, and Lord knows they need a lot of it, the Federal Bureau of Investigation and U.S. attorneys for activities and operations related to the investigation, prosecution, and conviction of persons accused of a serious violent felony, and the incarceration of persons convicted of such offenses.

It seems to me that that is an appropriate place to place the residual money, if there is any, which I do not think there will be from the prison grant program that is designed to try to get the serious violent felons off the street and solve the revolving door. We do not need to have a big debate out here tonight over cops on the street again.

What the gentleman's motion to recommit would do would be to say every single penny will go, not for the purposes I just enumerated, which is what we passed yesterday, but every single penny, if any is not spent in this bill, would go instead to the President's cops on the streets program which we will address next week.

□ 1320

We on this side of the aisle think that program needs to be merged into a community block grant program. We do not agree with that program. So consequently the purposes for which this is intended are not going to be served by the motion to recommit if it is passed today. So I urge in the strongest of terms a no vote to the motion to recommit.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BLILEY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electornic device, and there were—yeas 193, nays 227, not voting 14, as follows:

[Roll No. 116]

AYES—193

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Bevill
Bishop
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Camp
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
Deal
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—227

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Becerra
Berman
Boucher
Coburn
Collins (MI)
Frost
Gibbons
Hall (OH)
Johnston
Lofgren
Smith (TX)
Smith (WA)
Stark
Thomas

□ 1336

The Clerk announced the following pairs:

On this vote:

Miss Collins of Michigan for, with Mr. Smith of Texas against.

Mr. Johnston of Florida for, with Mrs. Smith of Washington against.

Mr. LOBIONDO changed his vote from "aye" to "no."

Mr. HILLIARD and Mr. PETE GEREN of Texas changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BLILEY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 265, noes 156, not voting 13, as follows:

[Roll No. 117]

YEAS—265

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
Engel
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson, Sam
Johnson (SD)
Jones
Kasich
Kelly
Kennedy (RI)
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski

Livingston
LoBiondo
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Poshard
Pryce
Quillen
Radanovich
Reed
Regula
Reynolds
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torricelli
Traficant
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—156

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Bishop
Blute
Boehlert
Bonior
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Camp
Cardin
Castle
Chapman
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (IL)
Conyers
Coyne
Cubin
Danner
DeFazio
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Doyle
Durbin
Edwards
Ehlers
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gonzalez
Green
Gunderson
Gutierrez
Hamilton
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Holden
Hoyer
Jackson-Lee
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lantos
Levin
Lewis (GA)
Longley
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Payne (NJ)
Pelosi
Pomeroy
Portman
Quinn
Rahall
Ramstad
Rangel
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scarborough
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (MI)
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Torkildsen
Torres
Towns
Tucker
Upton
Velázquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—13

Becerra
Berman
Collins (MI)
Deutsch
Frisa
Frost
Gibbons
Hall (OH)
Johnston
Lofgren
Smith (TX)
Smith (WA)
Stark

□ 1354

The Clerk announced the following pairs:

On this vote:

Mr. Smith of Texas for, with Miss Collins of Michigan against.

Mrs. Smith of Washington for, with Mr. Johnston against.

Mr. Deutsch for, with Mr. Berman against.

Mrs. MALONEY, Mr. LUTHER, and Mr. FORD changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FRISA. Mr. Speaker, on rollcall 117, final passage of the prison construction legislation, I was unavoidably absent.

Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. STARK. Mr. Speaker, on Friday, February 10, 1995, I missed six recorded votes because of a bad case of the flu. Rather than infect the rest of the House, I stayed home.

If I had been present, I would have voted as follows:

On rollcall No. 112, the amendment by Mr. WATTS, to strike the automatic stay provisions relating to relief lawsuits brought by inmates, "aye."

On rollcall No. 113, the amendment by Mr. CARDIN to reduce by $36 million over 5 years the authorization for prison grants, "aye."

On rollcall No. 114, the amendment by Mr. CHAPMAN to make States eligible for both general and "truth in sentencing" prison grants rat her than either one or the other, "aye."

On rollcall No. 115, the amendment by Mr. SCOTT, to decrease by $2.5 billion the total funding for State and regional prison grants, "aye."

On rollcall No. 116, the motion to recommit by Mr. CONYERS, to allocate any unallocated funds for public safety and community policing, "aye."

On rollcall No. 117, final passage, "no."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 667, VIOLENT CRIMINAL INCARCERATION ACT OF 1995

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 667, as amended, the Clerk be authorized to correct section numbers, cross-references, an punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Mr. BLILEY). Is there objection to the request of the gentleman from Florida?

There was no objection.

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 667 and H.R. 668.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISCUSSION OF REGULATORY REFORM BILL IN GOVERNMENT OVERSIGHT COMMITTEE

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute.)

Mr. FAZIO of California. Mr. Speaker, I know we have been able to reach agreement apparently on this rule and I know people would people would like to have no further votes so we can move on. It is after all Friday. But I am told by members of the Committee on Government Reform and Oversight that they have run into a rather difficult problem within their committee. They have been told by the gentleman from Pennsylvania [Mr. CLINGER], the chairman, that they have to put out the regulatory reform bill this afternoon or waive their rights to a 3-day layover if it were to be taken up on Monday.

I think on behalf of the minority, we find that a rather difficult choice to have to make, one that really truncates our ability to have full debate and full consideration of this very important legislation on regulatory relief.

I am wondering if we could hear from those on the majority side about how we could accommodate those concerns. We understand the schedule you are trying to keep, but this is one of the most important bills to come out of that committee in this session. Perhaps the majority leader may wish to respond or the majority whip. I am not sure. I know the majority whip has a great interest in this bill.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I understand the gentleman's concern and as we have during this entire process ever since January 4, we have been diligently trying to, and have protected the rights of the minority. We are running into scheduling problems. We are trying to get this bill out. We do not want to limit any kind of opportunities for Members to offer amendments. But as we have seen on other bills and we feel that at least on this particular bill that there are an inordinate number of amendments to the moratorium bill, a moratorium bill that gives the President the right to actually exempt regulations.

Mr. FAZIO of California. If the gentleman would allow me to reclaim my time, the question of what is an inordinate amount is often in the eye of the beholder.

Mr. DELAY. That is true. And the majority beholder thinks that there are a lot of amendments that really have nothing to do with the bill and could be construed as being a little dilatory. We are just trying to accommodate the minority in trying to say, look, we will go through the whole process and allow you to offer all amendments and keep the process open, but we would appreciate you working with us and maybe, in order to accommodate the schedule and not be here late at night and through weekends, be able to ask the minority if laying the bill out for the 3 days could be accommodated.

Mr. FAZIO of California. If the gentleman would allow me to continue, the Members I think are already expecting to spend Saturdays here in March. That word is all over the institution, so we all know we are running up against deadlines. But we cannot let those deadlines get in the way of due deliberation. To say that that bill has to be put out today I think really stretches.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Texas.

Mr. DELAY. We want due deliberation, but as the gentleman knows, from the time a bill gets out of committee to the time it gets to the floor, it could be 10 days in order to protect the minority's right of allowing a bill to sit around for 3 days for comments before it gets to rules, and then after rules it lays for 3 days before it can come to the floor. We are just saying that maybe we could do a little negotiating here and the committee could deliberate and take all amendments if the minority would only allow it to lay out 2 days.

□ 1400

The SPEAKER pro tempore (Mr. BLILEY). Perhaps the distinguished gentleman from California and the majority whip might retire and negotiate.

Mr. FAZIO of California. Mr. Speaker, if we could proceed for ½ minute, it would seem to me if the leadership would proceed to communicate with our leadership about how we are going to handle this bill in committee, to give our members adequate time to offer amendments that are in fundamental ways important to what is one of the most significant bills we are going to deal with in the first 100 days, let alone this Congress, then I think perhaps we could continue in the commodious way we have been. I am sorry to say that we may have to have votes on this noncontroversial rule if we do not have that kind of a dialog.

Mr. DELAY. If the gentleman will yield briefly, I am looking forward to negotiating with the gentleman. We just thought, maybe wrongly, that the chairman of the committee and the ranking member could do that kind of negotiations for the committee, but if it takes the leadership level of negotiations we are happy to do it.

Mr. FAZIO of California. I think it may have been elevated.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 728, LAW ENFORCEMENT BLOCK GRANTS

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–27) on the resolution (H. Res. 79) providing for consideration of the bill (H.R. 728) to control crime by providing law enforcement block grants, which was referred to the House Calendar and ordered to be printed.

CRIMINAL ALIEN DEPORTATION IMPROVEMENTS ACT OF 1995

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 69 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 69

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 668) to control crime by further streamlining deportation of criminal aliens. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f) or section 303(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified by the amendment printed in section 2 of this resolution. All points of order against the committee amendment in the nature of a substitute for failure to comply with clause 5(a) of rule XXI are waived. Each section of the committee amendment in the nature of a substitute, as modified, shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill is modified by the following amendment: "Strike section 11 and redesignate the succeeding sections accordingly.".

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I might consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, in keeping with our promise to have a more open process in the House, the Rules Committee is bringing to the floor today another open rule.

This one provides for the consideration of H.R. 668, the Criminal Alien Deportation Improvements Act with 1 hour of general debate.

While any Member of the House may offer an amendment under this rule, priority in recognition will be given to those Members who pre-print their amendments in the CONGRESSIONAL RECORD.

This procedure means that Members can be better informed about the issues they will have to vote on, and reduces the possibility of legislation by ambush.

During its consideration of this bill, the Judiciary Committee adopted an amendment by the gentleman from California [Mr. BERMAN] which would have provided a new entitlement which was not paid for.

The Rules Committee was faced with a situation where this bill could not even have been considered unless the Budget Act was waived, and if the original provision had been left in place, the total cost of the amendment would have been added to the deficit.

At the same time, many of us were sympathetic to what the gentleman from California was trying to do—namely reimburse State and local governments for the cost of incarcerating illegal aliens who commit serious crimes.

My State of New York, along with a number of others, has been saddled with heavy financial burdens because the Federal Government has failed to control the Nation's borders effectively.

The compromise solution which was worked out involves two steps.

First, the House agreed to an amendment to the prisons bill, H.R. 667, which would authorize the funds necessary to reimburse States and localities for the cost of incarcerating illegal aliens who have committed serious crimes.

Next the Rules Committee put a provision in this rule which made in order as a new base text the Judiciary Committee amendment in the nature of a substitute minus the Berman amendment which violated the Budget Act.

This took out the budget busting provision from the text that the House will be amending.

However, since the bill reported from the Judiciary Committee still has the language in it which violates the Budget Act, it is necessary to waive two sections of the Budget Act in order to call up the bill. But these are in effect only technical waivers because the offending language is being deleted by the adoption of the rule.

The first technical waiver is included because the Judiciary Committee bill proposed new entitlement authority beyond the committee's allocation. The second technical waiver is necessary because the committee reported bill provides new entitlement authority prior to the adoption of the budget resolution.

I repeat—these Budget Act waivers are necessary only to allow the House to consider the alien deportation bill. The provision which violated the Budget Act is being eliminated by the rule.

There is one other provision adopted by the Judiciary Committee which requires a waiver of points of order.

This provision was offered by the gentleman from California [Mr. MOORHEAD]. It allows reimbursement for the cost of incarcerating illegal aliens to be paid to the localities as well as to the States.

This amendment was adopted by voice vote in the Judiciary Committee and is widely approved. It does not involve any additional cost, but it does require a waiver of the rule prohibiting appropriations on legislation, because technically it is possible that previously appropriated funds could be used for a new purpose.

Finally, the rule provides for one motion to recommit, with or without instructions.

This provides the minority one final chance to offer its best alternative to the bill.

Mr. Speaker, this rule provides a fair process.

It is important to keep in mind, that this is a completely open rule. Any member can offer any amendment that complies with House rules. While there are three waivers that are largely technical, these waivers do not in any way limit a Member's ability to offer his or her ideas to improve the bill.

Mr. Speaker, it is long past time that this Congress started getting serious about the problem of illegal immigration in this country.

The Governor of California has noted, for example, that today in Los Angeles alone illegal immigrants and their children total nearly 1 million. That is more than any congressional district.

Governor Wilson has also noted that two-thirds of the babies born in Los Angeles public hospitals are born to parents who have illegally entered the United States. These are awesome numbers. And the problem is not limited to California, Texas, and Florida. In my own State of New York, the cost of providing services to illegal aliens is a burden on all the taxpayers of the State.

The bill before us now is a first step toward dealing with the larger problem. This bill will streamline the process of deporting illegal aliens who have committed serious crimes. For example, the bill adds a number of crimes for which illegal aliens can be deported.

Crimes such as trafficking in counterfeit immigration documents, serious bribery, and transporting persons for the purpose of prostitution can become a basis for deportation.

The Criminal Alien Identification System is given the mission of assisting Federal, State, and local law enforcement agencies in identifying and locating aliens who may be deportable because they have committed aggravated felonies.

The bill is a good beginning in dealing with a serious problem. There is much more that needs to be done to prevent the illegal immigration in the first place. I support this bill and the open rule which provides for its consideration.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding. I would simply like to rise and congratulate the chairman of the Committee on Rules for underscoring the fact that public-policy questions that in the past have only been dealt with by waiving the rules of the House can in fact be addressed by looking head-on at creative ways to comply with the standing rules of the House and actually solve those problems. That is exactly what we were able to do, and that is exactly what this rule does once again, so we can in fact meet the needs of the American people, the issues that the American people want us to address, and we can do it under the rules that the Founders put in place for this institution.

Again I thank my friend for yielding.

Mr. SOLOMON. The gentleman's points are so well taken. The truth of the matter is that the Committee on Rules has put their foot down on these so-called budget waivers that have gotten us into these problems over the years. We are not going to try to do that anymore, and that is one way that we have stopped a new entitlement program from going through, yet helped those States and municipalities that desperately need the help.

Mr. BENTSEN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to the gentleman from Texas.

Mr. BENTSEN. Mr. Speaker, just so I understand what the gentleman is saying, this rule will effectively knock out the Berman language as it relates to reimbursement to the States?

Mr. SOLOMON. The gentleman is correct, because it has been taken care of in the previous bill.

Mr. BENTSEN. So everything we rely on is what was done in H.R. 667, in the previous bill, and there will be no Berman language in this bill?

Mr. SOLOMON. The gentleman is absolutely correct.

Mr. BENTSEN. I thank the gentleman.

Mr. SOLOMON. I hope we can move this rule through on a voice vote.

Mr. Speaker, I reserve the balance of my time.

☐ 1410

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

The gentleman has fully explained the terms of the rule before us. It is an open rule. We support the rule. We encourage our colleagues to do the same.

Among the waivers provided by the rule, all of which are technical in nature, is a waiver of clause 5(a) of rule XXI prohibiting appropriations in an authorization bill. That waiver was agreed to by the Committee on Rules without objection at the request of this gentleman from California and is needed to protect a provision in the bill as reported by the Committee on the Judiciary. That provision, offered by the gentleman from California [Mr. MOORHEAD], was approved by voice vote in that committee.

The Moorhead amendment seeks to insure funds appropriated for fiscal year 1995 for the purposes of reimbursing States and local governments for the cost of incarcerating illegal aliens convicted of felonies are available to local as well as to State governments. The Moorhead amendment is, in fact, merely a restatement of existing law as approved in last year's crime bill.

No new spending is involved, as the gentleman from New York [Mr. SOLOMON] explained, so the waiver of clause 5(a), rule XXI, is a technical one as well. This is an issue—this particular one of reimbursement to localities—is an issue that this particular gentleman, along with several others, including especially the gentleman from California [Mr. BERMAN], has been working on for some time now.

In fact, my amendment to the 1994 crime bill not only required for the first time that these reimbursement payments be made to the States but also for the first time directed local governments be eligible to receive those funds as well.

Mr. Speaker, H.R. 668, the Criminal Alien Deportation Improvement Act, is intended to strengthen existing laws to ensure the swift deportation of aliens who commit crimes and to crack down on alien smuggling.

For example, the bill expands the number of aggravated felonies for which an alien can be deported and limits the review of deportation orders for criminal aliens.

The rule permits any germane amendments to be offered, so any concerns that our colleagues may have with specific provisions of the bill can be addressed under this rule.

Mr. Speaker, to repeat, we support this rule. It is, in fact, an open rule. We urge our colleagues to approve it so that we may commence consideration of this important legislation today.

Mr. Chairman, I yield such time as he may consume to our distinguished colleague, the gentleman from Massachusetts [Mr. MOAKLEY], the ranking member.

Mr. MOAKLEY. Mr. Speaker, I think the gentleman for yielding me this time.

Mr. Speaker, yesterday in the Committee on Rules a wonderful thing happened. In the interest of bipartisan cooperation, Democrats and Republicans worked out an agreement to allow the Moorhead amendment.

I thank Chairman SOLOMON for his wisdom and for his going beyond the call and also the Republican members on the Committee on Rules for working with us.

Mr. Speaker, I look forward to many, many more of these problems being worked out in the Committee on Rules, and maybe a new day is dawning.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, once again I am delighted to rise in support of a wide open rule that offers all Members the chance to become involved in this important debate. The issue of crime as it relates to illegal immigration is one of great significance to many Americans, and especially to the people of Florida. The statistics tell the story of how illegal immigration and crime have joined together to wreak havoc in States like Florida. In Florida, we would need to build 4 to 5 more prisons just to house criminal aliens—at an estimated cost of $80 to $120 million. By strengthening the laws providing for prompt deportation of criminal aliens and making penalties more certain for deported aliens who return to this country illegally, we take a big step in helping States—especially border States—cope with the complex challenges and of illegal immigration. Obviously Florida will benefit in the long run by a more efficient system for speeding deportations, but in the meantime, the costs continue to mount as we grapple with the fact that approximately 10 percent of our prison population is made up of illegal aliens.

For too long, illegal immigration has been a problem sloughed off onto the States. This is a Federal problem—caused by failures in Federal policies—and it is highly appropriate that the Federal Government step in with solutions. H.R. 668 is just such a step forward.

I am grateful for the bipartisan effort in the Rules Committee—led by Mr. BEILENSON and Mr. DREIER—to come up with a creative way to solve a thorny Budget Act problem posed by language in this bill. In considering the preceding crime bill—the prison bill—yesterday, we demonstrated that the spirit of compromise can lead to a win-win situation. We included important language in the prison bill providing priority in securing crucial resources to States that have been straining to meet the demands of illegal immigration on their prison systems. Deliberative democracy has been working at its best in this House during the course of this debate and I commend all of those involved for their persistence. I urge support of this rule and H.R. 668.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 69 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 668.

☐ 1414

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 668) to control crime by further streamlining deportation of criminal aliens, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 668 makes several amendments to the immigration laws to further address the problem of aliens who commit serious crimes while they are in the United States. While several bills in the last Congress began to address this problem, they have not gone far enough.

Of particular concern is the recent increase in alien smuggling crime. Organized crime rings in this country, with ties to others abroad, have developed to prey upon illegal immigrants who want to come to the United States. These criminals extort large sums from these illegal immigrants in return for passage to the United States and for the fraudulent documents they need to obtain entry. In many cases, these illegal immigrants cannot pay these fees and, once they arrive here, are forced into involuntary servitude, prostitution, and other crimes in order to repay these fees. In some cases, such as the "Golden Venture" in New York City, the attempt to smuggle these illegals goes tragically wrong and people die.

H.R. 668 attempts to deal with this problem by designating a number of offenses common to organized immigration crime as "aggravated felonies." Aliens who commit aggravated felonies can be deported from the country following their incarceration. These changes will enable the Government to deport those aliens who commit alien smuggling crimes after they serve their incarceration.

The bill also strengthens the expedited deportation procedures of existing law. These procedures streamline the deportation process with respect to criminal aliens who are not legal permanent residents. Under H.R. 668, aliens who enter the country as permanent residents on a conditional basis and then commit serious crimes will also be placed into this expedited deportation process.

The bill also tightens one of the defenses to deportation. Under present law, persons who are legal permanent residents and have lived in the country for 7 years may assert their years of residence as a defense to deportation, but this defense does not apply if they have been convicted of an aggravated felony and served 5 years in prison. Unfortunately, for all practical purposes, the Government must wait 5 years to begin deportation proceedings against these criminals. Not only does this result in administrative inefficiency but, on occasion, allows criminal aliens to escape deportation when their incarceration ends before the deportation process is completed. H.R. 668 would remedy these problems by allowing the Government to bring deportation proceedings against the alien whenever the alien is sentenced to 5 or more years in prison, regardless of the time actually served.

H.R. 668 will also allow the Government to deport aliens who have resided in the country for less than 10 years and who are convicted of any felony crime involving moral turpitude. Under current law, persons convicted of crimes of moral turpitude can only be deported if they have been sentenced to, or serve, at least 1 year in prison.

Finally, in order to help Federal law enforcement officials combat organized immigration crime, the bill adds a number of immigration-related offenses as predicate acts under the Rico statute, one of the principal tools that Federal law enforcement officials use to fight organized crime. And to complement this provision, the bill also gives Federal law enforcement officials the authority to utilize wiretaps to investigate certain immigration-related crime.

Mr. Chairman, this bill is modest in length but is a sizable step forward in the Government's effort to fight alien smuggling and to rid ourselves of those noncitizens who commit serious crimes in our country. By removing from our society those aliens who do not respect our laws, we make our streets safer for citizens and noncitizens alike. I urge my colleagues to vote for this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the subcommittee chairman, the distinguished gentleman from Florida, has very adequately described the bill. I agree with his interpretations.

H.R. 668 would amend the Immigration and Naturalization Act and other laws to make it easier to deport aliens who commit crimes in the United States and to provide law enforcement officials with additional tools to fight violations of immigration laws.

The bill would broaden the definition of "aggravated felony" established by the 1994 crime bill so as to expand the reach of the summary deportation procedures that were put into effect last year.

The 1994 act permits the INS to use an abbreviated administrative process with no right to an administrative hearing and with a limited right to judicial review to deport an alien—other than a lawful permanent resident—who commits an "aggravated felony." The Attorney General is specifically denied the ability to withhold deportation of such individual on other grounds; for example, asylum.

The list of offenses that would be considered to be "aggravated" felonies would be expanded to include certain crimes related to gambling, prostitution, document fraud, reentry of deported alien at improper time or place, commercial bribery, counterfeiting, forgery, trafficking in vehicles the identification numbers of which have been altered, perjury, bribery of a witness, and failure to appear to answer charges.

The procedures for removal of such aliens would be further streamlined and their reach extended to include aliens who are admitted to the United States as lawful permanent residents, but on a "conditional bases." Such conditional status is conferred on the spouses—and spouses' children—of citizens and lawful permanent residents as a device to discourage fraudulent marriages and deny participants of such fraudulent marriages the benefits of lawful permanent resident status. The bill also adds a requirement that expedited proceedings be conducted, in or translated for the alien into, a language the alien understands.

In addition, H.R. 668 would amend the Immigration and Nationality Act to extend a restriction that exists on the Attorney General's discretion to provide relief from deportation—under INA section 212(c)—for lawful permanent residents who have committed an "aggravated" felony. Such relief is now limited to individuals who have lived in the United States for more than 7 years, but who have served sentences of less than 5 years. The bill amends the law to deny the availability of section 212(c) relief to lawful permanent residents who are sentenced, rather than serve 5 years.

Other significant provisions of H.R. 668:

Collateral attacks of a deportation order in a subsequent prosecution that is based on violation of the order would be limited;

Certain alien smuggling-related offenses would be added to the list of Rico-predicate offenses;

The Attorney General would be granted authority to seek wiretaps in connection with alien smuggling investigations; and

Aliens who are convicted of a felony crime involving moral turpitude within 5 years of entry—10 years in the case of legal permanent resident aliens—would be deportable, regardless of sentence actually imposed. Under current law, aliens who commit crimes of moral turpitude can only be deported if they are actually sentenced to or serve at least 1 year in prison.

Finally, the Violent Crime Control and Law Enforcement Act of 1994 would be amended to ensure that units of local government are eligible for reimbursement for the cost of incarcerating convicted criminal aliens.

□ 1420

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I have no more requests for time, and I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today to support this legislation. New Jersey's 13th District is the home to many immigrants, immigrants who are proud to reside in this great land and immigrants who abide by her laws.

For most of these individuals, America is an opportunity, an opportunity to work, an opportunity to succeed, and an opportunity to provide a better life for their children.

However, I believe it is time we send the message that America is also a privilege and if you choose to violate her laws, your privileges will be revoked. You will be tried, you will be convicted, and you will be deported.

It is right to seek reimbursement to States for the incarceration of criminal aliens. The burden on the State for the incarceration of criminal aliens is overwhelming, and it is unfair to expect the American people to bear this expense. In June 1989, the GAO estimated that 22 percent of the Federal prison population were aliens and over half had been convicted of a crime for which they could be deported; at a cost of over $15,000 per prisoner per year this is unacceptable. For New Jersey this means annual costs of $6.6 million for the incarceration of criminal aliens. And in New York City, across the Hudson River from my district, in a 15-month period 12,300 aliens were arrested for felonies.

In the same way that we revoke the privilege of freedom from other criminals, we should revoke that which is most sacred to criminal aliens, their residence in the United States.

Mr. Chairman, I join in supporting the deportation of criminal aliens. The American people cannot afford to support the costs of criminal aliens and, more important, they should not have to.

Mrs. FOWLER. Mr. Chairman, I rise today in support of H.R. 668, the Criminal Alien Deportation Improvements Act. As a member of the Florida delegation, I am a strong supporter of legislation which effectively and fairly addresses immigration-related problems. H.R. 668 does just that, by making it easier to deport criminal aliens who have been convicted of a felony. Any Representative who values law and order should be proud to support this bill.

In the past, it has sometimes been difficult for the Government to deport even those aliens who have committed very serious crimes. It is time that we correct this problem. There is absolutely no reason that such people should enjoy the benefits of living in the United States after committing crimes.

H.R. 668 does more than just streamline deportation procedures for criminal aliens. It also establishes a criminal alien identification center which will help law enforcement authorities locate criminal aliens. It is an excellent commonsense bill, and I urge my colleagues to support it.

Mr. KENNEDY of Massachusetts. Mr. Chairman, PETER KING of New York and I have been working hard on a provision of this bill for the past year. This particular provision would apply the RICO statute to alien smuggling crimes. This means that when a criminal act involves the trafficking of human beings, the Department of Justice can use the full scope of the law to prosecute the smugglers by allowing higher fines, longer prison sentences, and seizing the assets of the organized enterprises committing these crimes, not just individuals.

In the past couple of years we have heard about boatloads of Chinese immigrants being brought to the United States under horrifying conditions—weeks with no clean water, minimal food, and unsanitary conditions beyond imagination. The gangs responsible for smuggling these people into the United States then force them into slave labor, working 12- to 14-hour days, 7 days a week in gruesome conditions just to pay off the $30,000 to $40,000 debt they incurred. These horrible abuses at the hands of people willing to profit from the trade of human beings must be stopped.

Mr. Chairman, I want to be perfectly clear. Some people are trying to flee their homelands for legitimate reasons. This country has a longstanding tradition of granting asylum to people who are fleeing their home because of political persecution. I believe very strongly in this policy. What we are talking about here today is very different. The purpose of this provision is to address the problem of slave trade, where traffickers use the dream of America and freedom to lure people into the bondage of slavery for their own profit.

Mr. PACKARD. Mr. Chairman, there are over 450,000 criminal aliens on probation, in prison, or on parole in the United States. Our Federal, State, and county criminal justice systems can no longer bear this awesome burden. The Republican crimefighting agenda seeks to ease this troublesome load by providing more effective crimefighting tools.

The Criminal Alien Deportation Act, H.R. 668, cracks down on criminal aliens by allowing swifter deportation procedures and stiffer smuggling penalties. Speeding up the deportation process frees up more of our scarce prison resource. Currently, criminal aliens constitute one-fourth of our prison population.

Our Republican crime bill recognizes the staggering costs that criminal aliens place on our judicial system. Criminal immigrants cost the State and county criminal justice systems more than $500 million per year. These are costs we cannot sustain.

Mr. Chairman, the Criminal Alien Deportation Act affects every taxpayer in America. Speeding up the deportation process saves American taxpayer dollars and frees up jail space to allow us to keep more criminals off our streets.

Mr. SMITH of Texas. Mr. Chairman, I would like to enter into the RECORD my strong support of H.R. 668, the Criminal Alien Deportation Improvements Act of 1995.

The escalation of crime is robbing Americans of the freedom to walk their neighborhood streets, the right to feel secure in their homes, and the ability to feel confident that their children are safe in their schools.

An increasing amount of crime is being committed by noncitizens: both legal and illegal aliens. About 25 percent of all Federal prisoners are foreign-born. An astounding 42 percent of all Federal prisoners in my State of Texas are foreign-born. Recidivism rates for criminal aliens are high—a recent GAO study revealed that 77 percent of noncitizens convicted of felonies go on to be arrested at least one more time.

The Bureau of Prisons estimates that over 75 percent of noncitizen inmates are confined for drug law violations. Drug law violations are serious and these criminals should be required to serve their full sentences. Because of the porous nature of the border, drug traffickers who are deported before the completion of their sentences often come back across the border into the United States.

The Criminal Alien Improvements Act of 1995 further expedites the deportation of criminal aliens after they have served their sentences. The act contains many of the provisions I sought in an amendment to last year's crime bill and I thank the bill's authors for including those.

This bill increases the list of aggravated felonies for which an alien can be deported. Transportation for the purposes of prostitution, smuggling aliens, counterfeiting, trafficking in stolen vehicles, and bribery of a witness are all very serious crimes. Aliens who commit these offenses should be deported immediately upon the completion of their sentences. Under H.R. 668, the Attorney General will no longer have the ability to grant relief from deportation to aliens convicted of aggravated felonies.

The bill also expands the number of crimes for which failing to appear to serve a sentence qualifies as an aggravated felony. This sanction has only applied in the past to crimes that carry a sentence of 15 or more years. H.R. 668 lowers the floor to 5 years, and will send a strong message to criminal aliens who fail to show up for sentencing.

H.R. 668 allows the INS to exclude aliens who commit serious aggravated felonies, and are sentenced to at least 5 years, but are released in less than 5 years on parole or due to prison overcrowding. Noncitizen aggravated felons should not be admitted to the United States, and those who are here should be deported as soon as possible. This bill significantly strengthens the Government's ability to deport criminal aliens by eliminating the gap between the end of their sentences and the date of deportation.

H.R. 668 also ensures that an alien who illegally reenters the country after being deported, may only challenge the original deportation order after exhausting all administrative remedies, and only if the deportation order was unfair. It further provides that any alien convicted of an aggravated felony who is not a legal permanent resident is presumed to be deportable. Judicial review of a petition to stay the deportation order will be limited only to determining the identity of the alien and confirming that he or she was convicted of an aggravated felony.

Too few criminal aliens are being deported today. The deportation process can be years in length. H.R. 668 will streamline the process by eliminating frivolous challenges to deportation orders. The INS needs all the help they can get in speeding up deportations, and we can give them that help by passing this bill.

Americans should not have to tolerate the presence of those who abuse both our immigration and criminal laws. Criminal aliens should be on the fast track out of the country. This bill addresses the concerns of the American people by giving the INS and prosecutors tools they need to expedite the deportation of criminal aliens.

I am especially pleased that the bill includes provisions granting wiretap authority to assist INS in apprehending alien smugglers. Alien smuggling is a most despicable crime. It hurts Americans by facilitating illegal immigration, and places illegal aliens in human bondage. Those smuggled by organized rings are often required to work off the smuggling fees. Others must sell drugs or their bodies for the smugglers.

These organized smuggling rings are a grave threat to the welfare of all individuals—both Americans and aliens. For this reason, I am also pleased to see a provision that makes alien smuggling a predicate offense for the application of RICO laws. It is imperative that we send the strongest possible message to alien smugglers; a message that will be enforced to the full extent of the law.

Finally, H.R. 668 transfers control of the Criminal Alien Tracking Center created in last year's crime bill from the Attorney General to the INS Commissioner. I believe that this is a positive step toward removing bureaucracy and excessive redtape from the deportation process. I am also pleased that the tracking center, renamed the Criminal Alien Identification System, is directed to work closely with Federal, State, and local law enforcement agencies to identify criminal aliens for deportation.

This Nation can no longer tolerate an increasing population of noncitizen criminals. The American people made it very clear on November 8 that they expect us to eliminate the problem of criminal aliens, and this bill is a significant step toward doing that.

Mr. YOUNG of Florida. Mr. Chairman, I rise today in support of H.R. 668, the Criminal Alien Deportation Act. This legislation represents title VIII of the Taking Back Our Streets Act, one of the 10 points of the Republican Contract With America, and continues our efforts here in the House to address our Nation's crime problem.

The legislation we consider today makes several amendments to the Immigration and Nationality Act and other immigration laws to address the problem of aliens who commit serious crimes while they are in the United States, and gives federal law enforcement officials additional tools with which to combat organized immigration crime.

The most significant provisions of H.R. 668 are intended to accomplish one or both of two broad goals. First, the bill strengthens the Government's ability to efficiently deport aliens who are convicted of serious crimes. Second, the legislation adds immigration crimes to those crimes that the Federal Government may investigate under the Racketeering Influenced Corrupt Organization [RICO] law, and adds certain other crimes to the definition of "aggravated felonies," thereby expanding the number of criminal aliens who can be deported. The bill makes it clear that expedited deportation procedures that currently apply to nonresident aliens also apply to aliens who have been conditionally granted permanent residence.

Finally, in an effort to identify criminal aliens who may flee jurisdiction to avoid deportation, the bill directs the Criminal Alien Identification System, formerly the Criminal Alien Tracking Center created by the Violent Crime Control and Law Enforcement Act, to assist Federal, State, and local law enforcement agencies in identifying and locating criminal aliens who may be deported.

Mr. Speaker, the passage of proposition 187 in California in 1994, was indicative of the frustration of the American people with the number of illegal aliens in this country. Ironically, under the California law, a 7- or 8-year-old child can be deported, yet the Federal Government still has difficulty deporting some criminal aliens. Under current law we may not deport aliens who have been convicted of crimes such as serious bribery, counterfeiting and forgery, perjury or bribery of a witness, or trafficking in stolen vehicles. In addition, aliens who have been sentenced to 5 or more years in prison, but have not served a full 5 years may not be deported. Sometimes they have been released early simply because of prison overcrowding. Furthermore, the INS may not initiate deportation proceedings against a criminal alien in prison until he has served 5 years, which means that sometimes, the criminal alien is released before the deportation order is ready and cannot be captured to be deported.

The costs to States for incarcerating these criminal aliens is a serious matter for our consideration as well. Yesterday, the House, with my strong support, approved an important amendment which would reimburse States with large immigration populations for these costs. The provision, approved as part of our crime legislation, sets aside a total of $650 million annually for the next 5 years. My State of Florida houses over 5,500 criminal aliens within its correctional system. Consequently, criminal aliens are approximately 10 percent of the near 57,000 inmates in Florida's 50 correctional centers. Under this plan, Florida will be eligible to receive more than $80 million to offset these costs.

Mr. Speaker, yesterday we took the first step in paying for the costs incurred by States to house criminal aliens. However, many aliens who commit serious crimes are released into American society before even serving out their sentences—where they continue to pose a threat to the American people. Today we provide our Nation with the means to remove these individuals from our society altogether, and I urge support for this legislation.

Mr. CONYERS. Mr. Chairman, I have no other requests for time, and I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The committee amendment in the nature of a substitute printed in the bill, as modified by the amendment printed in section 2 of House Resolution 69, shall be considered by sections as an original bill for the purpose of amendment, and pursuant to the rule each section is considered as having been read.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Criminal Alien Deportation Improvements Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Additional expansion of definition of aggravated felony.
Sec. 3. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 4. Restricting the defense to exclusion based on 7 years permanent residence for certain criminal aliens.
Sec. 5. Limitation on collateral attacks on underlying deportation order.
Sec. 6. Criminal alien identification system.
Sec. 7. Establishing certain alien smuggling-related crimes as RICO-predicate offenses.
Sec. 8. Wiretap authority for alien smuggling investigations.
Sec. 9. Expansion of criteria for deportation for crimes of moral turpitude.
Sec. 10. Payments to political subdivisions for costs of incarcerating illegal aliens.
Sec. 11. Compensation for incarceration of undocumented criminal aliens.
Sec. 12. Miscellaneous provisions.
Sec. 13. Construction of expedited deportation requirements.

Mr. MCCOLLUM. Mr. Chairman, I ask unanimous consent that debate on any amendment offered to this bill and any amendments thereto be limited to 10 minutes per side for the duration of the consideration of this bill today or should it continue to the following week.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. ADDITIONAL EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (J), by inserting ", or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses)," after "corrupt organizations)";

(2) in subparagraph (K)—

(A) by striking "or" at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or";

(3) by amending subparagraph (N) to read as follows:

"(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;";

(4) by amending subparagraph (O) to read as follows:

"(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;"

(5) in subparagraph (P), by striking "15 years" and inserting "5 years", and by striking "and" at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

"(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;"; and

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

"(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years' imprisonment or more may be imposed;

"(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (a)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

The CHAIRMAN. Are there amendments to section 2? If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A) and inserting "or", and

(B) by amending subparagraph (B) to read as follows:

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.";

(2) in paragraph (3), by striking "30 calendar days" and inserting "14 calendar days";

(3) in paragraph (4)(B), by striking "proccedings" and inserting "proceedings";

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

"(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

"(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;".

(5) by adding at the end the following new paragraph:

"(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.".

(b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended to read as follows:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

"(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

The CHAIRMAN. Are there amendments to section 3? If not, the Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. RESTRICTING THE DEFENSE TO EXCLUSION BASED ON 7 YEARS PERMANENT RESIDENCE FOR CERTAIN CRIMINAL ALIENS.

The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

The CHAIRMAN. Are there amendments to section 4? If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of the enactment of this Act.

The CHAIRMAN. Are there amendments to section 5? If not, the Clerk will designate section 6.

The text of section 6 is as follows:

SEC. 6. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–312) is amended to read as follows:

"(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.".

The CHAIRMAN. Are there amendments to section 6? If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC. 7. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended

(1) by inserting "section 1028 (relating to fraud and related activity in connection with identification documents) is the act indictable under section 1028 was committed for the purpose of financial gain," before "section 1029";

(2) by inserting "section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery)," after "section 1513 (relating to retaliating against a witness, victim, or an informant),";

(3) by striking "or" before "(E)"; and

(4) by inserting before the period at the end the following: ", or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain".

The CHAIRMAN. Are there amendments to section 7? If not, the Clerk will designate section 8.

The text of section 8 is as follows:

SEC. 8. WIRETAP AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

"(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or".

The CHAIRMAN. Are there amendments to section 8? If not, the Clerk will designate section 9.

The text of section 9 is as follows:

SEC. 9. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) IN GENERAL.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

"(II) is convicted of a crime for which a sentence of one year or longer may be imposed,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

The CHAIRMAN. Are there amendments to section 9? If not, the Clerk will designate section 10.

The text of section 10 is as follows:

SEC. 10. PAYMENTS TO POLITICAL SUBDIVISIONS FOR COSTS OF INCARCERATING ILLEGAL ALIENS.

Amounts appropriated to carry out section 501 of the Immigration Reform and Control Act of 1986 for fiscal year 1995 shall be available to carry out section 242(j) of the Immigration and Nationality Act in that fiscal year with respect to undocumented criminal aliens incarcerated under the authority of political subdivisions of a State.

The CHAIRMAN. Are there amendments to section 10? If not, the Clerk will designate section 11.

The text of section 11 is as follows:

SEC. 11. MISCELLANEOUS PROVISIONS.

(a) USE OF ELECTRONIC AND TELEPHONIC MEDIA IN DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien".

(b) CODIFICATION.—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: "Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking "and nothing in" and all that follows through "1252(i))".

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

The CHAIRMAN. Are there amendments to section 11? If not, the Clerk will designate section 12.

The text of section 12 is as follows:

SEC. 12. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this title shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

The CHAIRMAN. Are there amendments to section 12, the last section of the bill?

If not, are there amendments at the end of the bill?

AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment, amendment No. 4.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CUNNINGHAM:

At the end insert the following new section (and conform the table of contents accordingly):

SEC. 14. STUDY OF PRISONER TRANSFER TREATY WITH MEXICO.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty with Mexico (in this section referred to as the "Treaty") to remove from the United States aliens who have been convicted of crimes in the United States.

(b) USE OF TREATY.—The report under subsection (a) shall include the following information:

(1) The number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the Treaty.

(2) The number of aliens described in paragraph (1) who have been transferred pursuant to the Treaty.

(3) The number of aliens described in paragraph (2) who have been incarcerated in full compliance with the Treaty.

(4) The number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty.

(5) The number of aliens described in paragraph (4) who are incarcerated in State and local penal institutions.

(c) EFFECTIVENESS OF TREATY.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the Treaty. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address the following areas:

(1) Changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(2) Changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(3) Changes in the Treaty that may be necessary to increase the number of aliens convicted of crimes who may be transferred pursuant to the Treaty.

(4) Methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty.

(5) Any recommendations or appropriate officials of the Mexican Government on programs to achieve the goals of, and ensure full compliance with the Treaty.

(6) An assessment of whether the recommendations under this subsection require the renegotiation of the Treaty.

(7) The additional funds required to implement each recommendation under this subsection.

The CHAIRMAN. Pursuant to the unanimous consent request, the gentleman from California [Mr. CUNNINGHAM] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, this amendment directs the Secretary of State and the Attorney General to study and report to Congress within 6 months a report on the use and effectiveness of the Prisoner Transfer Treaty with Mexico. The report will be valuable to Congress as we begin a broader overhaul of immigration policy.

Specifically, the report is to outline the number of criminal aliens who have been or are eligible for transfer under the treaty.

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Specifically, the report is to outline the number of criminal aliens who have been or are eligible for transfer under the treaty, the current treaty, and the number who actually have been transferred by Federal, State, and local institutions. The administration is directed to recommend to Congress changes in policy and consult with the Mexican Government to identify where the treaty can be improved. Indeed Attorney General Reno has discussed with her Mexican counterpart to begin looking at ways to improve this treaty.

This amendment is in line with the recommendations of the Jordan Commission, sanctioned by President Clinton, who supports efforts to simplify the process for transferring criminal aliens to prisons in the country of their origin to serve out there terms.

One of the problems we have, Mr. Chairman, is that our system and the treaty has not been working. We are looking for a faster method to transfer prisoners from country to country with the acceptance of both of those countries.

As of June 1994, there were some 8,000 Mexicans in Federal prisons eligible for transfer. There are also a large number serving in State prisons. According to the Urban Institute's 1994 report on the fiscal impact of illegal immigration, there were some 21,395 illegal aliens incarcerated in California, New York, Florida, Texas, Illinois, New Jersey, and Arizona. In California, the Urban Institute concluded the State bears an annual cost of $368 million to incarcerate approximately 15,000 illegal aliens, and I will not go through the rest of it, Mr. Chairman.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I have looked this amendment over, and there is no problem with directing a study to be completed, within 6 months back to us, about the prisoner transfer treaty with Mexico, and so on this side we would be delighted to accept the amendment.

Mr. MCCOLLUM. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, we have examined the amendment as well, and the Crime Subcommittee and others who are involved in this bill and the management of it find it to be a good amendment, and we would urge its adoption.

Mr. CUNNINGHAM. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CUNNINGHAM].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the last section?

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN: Page 14, line 6, insert the following new section (and conform the table of contents accordingly):

SEC. 14. JUSTICE DEPARTMENT ASSISTANCE IN BRINGING TO JUSTICE ALIENS WHO FLEE PROSECUTION FOR CRIMES IN THE UNITED STATES.

(a) ASSISTANCE TO STATES.—The Attorney General, in cooperation with the Commissioner of Immigration and Naturalization and the Secretary of State, shall designate an office within the Department of Justice to provide technical and prosecutorial assistance to State and political subdivisions of States in efforts to bring to justice aliens who flee prosecution for crimes in the United States.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Attorney General shall compile and submit to the Congress a report which assesses the nature and extent of the problem of bringing to justice aliens who flee prosecution for crimes in the United States.

Mr. MORAN. Mr. Chairman, the purpose of this amendment is simple. It establishes an office within the Department of Justice which would provide assistance to State and local governments seeking to try aliens who commit crimes in this country and then flee to their homeland in order to escape justice.

A classical example occurred in Arlington, VA, with an illegal immigrant from El Salvador:

John Douglas was an elderly man. He was walking home from a metro, and he was shot in cold blood. Attempted robbery; I do not think he even had any money on him. But the person who killed him, Mr. Eduardo Lazarios, was an illegal alien from El Salvador. He was indicted, but he could not be prosecuted because he fled to his homeland shortly after the murder. He is not the first to take advantage of the fact that a criminal from El Salvador can flee to El Salvador and escape punishment. The only recourse for the Douglas family was to attempt to try him in his homeland. This, however, is very complicated. The witnesses do not have to be transported necessarily, but all the documents have to be gathered, they have to be translated, they have to be submitted to the nation where the offender resides. Smaller police departments cannot do this.

In fact, I asked how often this occurs. Just in Arlington County alone, which is a relatively small county, there is another criminal who hit and killed a little 3-year-old girl. He was an illegal immigrant from El Salvador. He has escaped justice completely. We have another murderer who escaped justice in this way.

We have two other criminals in Alexandria. We have a similar situation, a list of people who have escaped to El Salvador.

Now these are just two counties that I happen to represent. There must be thousands of people across the country who have escaped prosecution by being able to go to a country that does not have a reciprocal agreement with the United States.

Mr. Chairman, all we are asking that we do is to have the resources within the Justice Department to enable State and local police departments and prosecutorial offices to be able to pursue these people. Ultimately I would like to do something with foreign aid that says that rather than the millions of dollars we are giving to El Salvador and asking for very little in return, that at the very least we ask for reciprocal agreements so they send these people, these criminals, back to this country so they can be prosecuted.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Florida.

Mr. McCOLLUM. I think the gentleman from Virginia [Mr. MORAN] is offering a very constructive amendment to this bill. I wholeheartedly concur in it, and I will join with him in voting for this amendment and encourage my colleagues to do so. It is perfectly acceptable on our side.

Mr. MORAN. Mr. Chairman, I thank the gentleman from Florida.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MORAN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. HORN

Mr. HORN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HORN: At the end insert the following new section (and conform the table of contents accordingly):

SEC. 14. PRISONER TRANSFER TREATIES.

(a) NEGOTIATION.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirements of prisoner consent to such a transfer.

(b) CERTIFICATION.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

Mr. HORN. Mr. Chairman, this proposal is bipartisan in origin. I have nine cosponsors: The gentleman from California [Mr. BEILENSON], the gentleman from California [Mr. BILBRAY], the gentleman from California [Mr. CONDIT], the gentleman from California [Mr. GALLEGLY], the gentleman from Michigan [Mr. KNOLLENBERG], the gentleman from California [Mr. MOORHEAD], the gentleman from New Jersey [Mr. SAXTON], the gentlewoman from Florida [Mrs. THURMAN], and the gentlewoman from California [Ms. WOOLSEY].

What this does is asks the President, advises him, to begin negotiations, renegotiations no later than 90 days after the date of enactment of this act of the bilateral prisoner transfer treaties, and the focus is on expediting the transfer of aliens unlawfully in the United States to ensure that the transferred prisoner goes back to the country from which he illegally came, and that he serves the balance of the sentence imposed by the U.S. courts, and to eliminate any requirement of prisoner consent to such transfer, and then we ask the President, after that negotiation, to submit to Congress annually a certification as to whether or not the prisoner transfer treaties in force are effective in returning aliens unlawfully in this country who have committed offenses for which they are incarcerated in the United States.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. HORN. I yield to the gentleman from Florida.

Mr. McCOLLUM. This is a very good amendment, certainly acceptable on my side. I hope it is acceptable to the gentleman from New York and the gentleman from Michigan. We find this to be a noncontroversial amendment and agree to accept it.

Mr. HORN. Mr. Chairman, I am delighted to say that the gentleman from Michigan [Mr. CONYERS] did consent to this amendment.

Mr. Chairman, at this point in my remarks I submit for the RECORD the text of a statement concerning the amendment.

The statement referred to is as follows:

Mr. Chairman, today, I rise to offer an amendment to H.R. 668, the Criminal Alien Deportation Act. Bipartisan cosponsors include Mr. BEILENSON, Mr. BILBRAY, Mr. CONDIT, Mr. GALLEGLY, Mr. KNOLLENBERG, Mr. MOORHEAD, Mr. SKELTON, Mrs. THURMAN, and Ms. WOOLSEY.

The amendment urges the President to renegotiate the existing bilateral Prisoner Transfer treaties with Mexico and other countries which have large numbers of criminal aliens in United States prisons. Specifically, the President needs to ensure that a transferred prisoner serves out the balance of the sentence imposed by Federal and State courts, and to eliminate any requirement of prisoner consent to such a transfer.

Current treaty language stipulates that incarcerated aliens must consent to their transfer. This is an outrageous option to provide those who have not only crossed our borders illegally but who have also committed crimes while they have been here.

Many States, including California, will no longer release incarcerated aliens for deportation, prior to the completion of their sentence, because there are no guarantees that they will serve out the remainder of the sentence upon transfer. In many cases, these criminals have returned to the United States to commit additional crimes.

Currently, the American taxpayer is paying the toll twice—for the crimes committed here and for the cost of housing alien inmates in our already overcrowded prison system. The Federal Bureau of Prisons reports that approximately 24 percent of those in Federal prisons are non-U.S. citizens, at a cost per inmate of $20,803 per year. Expenses associated with the arrest, prosecution, court proceedings, housing, and parole supervision of these criminal aliens are estimated to cost California approximately $475 million for fiscal year 1995. Last year the estimate was between $350 and $375 million.

Mr. Speaker, the House has debated, at length, the issue of reimbursement to States for the incarceration of criminal aliens. Last year's crime bill authorized a reimbursement plan of $1.8 billion over the next 6 years to offset State costs. As we can see these costs will only continue to escalate. It is futile for Congress to simply react, rather than prevent, the problems resulting from criminal aliens. Without addressing the need to renegotiate the prisoner transfer treaties, all proposed remedies are nothing more than one bag of sand trying to stop the waters released by a ruptured dam.

These treaties have not been addressed since 1976, almost two decades ago. The language that currently exists is insufficient and has not yielded effective results. The treaties are outdated and it is time we change our approach.

I thank the majority and minority leadership for accepting this long overdue proposal.

□ 1440

The CHAIRMAN. Is the gentleman from New York [Mr. SCHUMER] seeking time in opposition to the amendment?

Mr. SCHUMER. Mr. Chairman, I am not opposed, but I wish to seek time.

The CHAIRMAN. The gentleman from New York is recognized for 10 minutes.

Mr. SCHUMER. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, I rise in opposition to this legislation because it is written so broadly that our Government will inevitably use it to send political and religious refugees back to their oppressors. As such, it is at odds with our Nation's highest traditions and goes well beyond what is needed to protect the American people from criminals.

No reasonable person wants to see criminals go free. No citizen wants to see the United States become a haven for criminals from around the world. No taxpayer wants to get stuck with the tab for the upkeep of criminals who come here to prey on Americans.

If this bill provided simply for the detention of criminals, there would be no controversy.

If this bill provided simply for the deportation of violent felons, there would be no debate.

Existing law already provides for this. In fact, criminals are detained and deported every day.

But this bill provides near-summary deportation of people without so much as a hearing to determine whether the individual is a legitimate refugee, that is someone who has fled his or her homeland because of a well founded fear of persecution.

This is something that should be of profound concern to each of us. Many of our families came here fleeing persecution and extermination. As the representative of more holocaust survivors and their children than any Member of this body, I can tell you that the memory of people being sent back to die in the Nazi concentration camps by our Government is still vivid and bitter in the communities I represent.

People should be punished for their crimes, but do we want to have the death penalty for car theft? That is what this bill would do. A person convicted of trafficking in stolen cars could be deported and could not even have a court hear evidence that he would be persecuted or murdered if deported.

Is that really what our constituents want? Send car thieves summarily back to the Nazis? Is that what America stands for?

Sure we want to be protected from criminals. I can tell you that I have to walk on the streets of New York and Washington just like my neighbors. I am not immune from crime. My family is not immune. But there is no need for us to behave in such a senselessly barbarous manner. Let us enforce the laws, but let us do it right and let us not lose sight of who we are or what this country is about.

Mr. SCHUMER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HORN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment of the gentleman from California [Mr. HORN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the last section?

AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment, designated No. 3.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CUNNINGHAM: At the end insert the following new section (and conform the table of contents accordingly):

SEC. 14. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

The CHAIRMAN. The gentleman from California [Mr. CUNNINGHAM] is recognized for 10 minutes in support of his amendment.

Mr. CUNNINGHAM. Mr. Chairman, my amendment requires the Attorney General and the Commissioner of the INS to develop and implement a program for interior repatriation.

This amendment is in line with recommendations of the Jordan Commission which concluded,

> In the case of Mexico, repatriation of deported criminal aliens to the area of Mexico from which they came, rather than simply to the border. Removals should be done in coordination with Mexican authorities who may then determine if there is a warrant for the arrest of the criminal alien for crimes committed in Mexico.

The Jordan Commission concluded that interior repatriation "increases the cost and logistical difficulty to criminal aliens who try to reenter the United States. Interior repatriation can be a deterrent * * *"

One of the biggest problems we face with illegal immigration is that we are fighting the same battle over and over again. Every night, the Border Patrol picks up many of the same aliens, processes them, and drives them to the border gate. Within hours, the same aliens are crossing the border again.

The INS announced this week their intention of establishing a pilot program in the area of interior repatriation. They are planning a limited trial of voluntary interior repatriation, for those involved in deportation hearings. While this is a step in the right direction, I believe we need to be bolder.

My amendment is straightforward. Within 6 months of enactment the Justice Department and the INS need to get a program in place. Aliens from Canada or Mexico who have entered this country illegally at least three times are to be returned to locations not less than 500 kilometers from the border.

In the midst of this larger debate over criminal aliens, we should not forget that illegal immigration is itself a crime. Each and every alien who enters this country illegally has broken our laws and is in fact a criminal alien.

I believe this amendment will help to stem the tide of illegal immigration and I urge its adoption by the Committee.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I rise in support of this amendment. Let me just say as an individual who lives on the Mexican border, or very close, I look out my front doorstep and I can see the bull ring by the sea in Tijuana, the northern side, the fact is that it is very frustrating for everyone, including the law enforcement agencies that have to enforce our laws, but especially the citizens that have chosen their home to happen to be in the corner of our Nation. But too often it is treated almost as if we are not part of this Nation.

Mr. Chairman, I strongly support the Cunningham amendment for the reason that the revolving door that we find on the border has to be stopped. Frankly, I think we could get a lot more attention from our neighbors to the south about this problem if we could make sure that those who are chronic crossers could be returned all the way to the

Federal District so that they would see in Mexico City exactly what we that live along the border have to confront.

Let me close by saying, Mr. Chairman, that this is not just a problem that impacts those of us who live on the north side of the frontier. The citizens of Baja California Norte and citizens of Mexico along the border suffer again and again from the crime and the smuggling activity that this bill is trying to address. I think for those of us that live on both sides of the border along our frontiers, we need to be represented with this amendment, and I strongly ask Members to adopt this amendment.

Mr. CUNNINGHAM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from California [Mr. BILBRAY] was not only a mayor in south San Diego, but also was a county commissioner, and has the expertise in this area and has seen it as well as we have in north San Diego County.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Chairman, I was concerned. Let me first say I am in support of the bill in general, and I am in support of the provisions of having aliens who commit crimes be deported. But I am wondering now on the question of Mexico's sovereignty and how you impose this kind of a situation? Maybe I missed that part of the gentleman's statement. Is this an agreement that you hope will be signed in Mexico determining where the person must be deported to?

Mr. CUNNINGHAM. If the gentleman will yield, first of all, the Jordan Commission recommended that the 500 kilometers be adopted; second, that there would be a negotiation with the host country, whether it be Canada or Mexico, where that would be resolved. I will not restate the problem. All we are trying to do is have them repatriated deep into the interior so they do not turn around and come back the next night.

The CHAIRMAN. If there are no further requests for time, the question is on the amendment of the gentleman from California [Mr. CUNNINGHAM].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FOLEY: At the end insert the following section (and conform the table of contents accordingly):

SECTION 14. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) IN GENERAL.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

"(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

"(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

"(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

"(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense, and (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

"(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly and expanded penalties for aliens deported under paragraph (2)."

(b) REENTRY OF ALIEN DEPORTED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) amended by adding at the end the following new subsection:

"(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.".

The CHAIRMAN. The gentleman from Florida is recognized for 10 minutes in support of his amendment.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I will make the gentleman a deal here. If the gentleman will speak for less than 1 minute, we will not oppose the amendment and we will not call a vote, so we can get Members out of here. It is a bipartisan group asking for that.

Mr. FOLEY. Mr. Chairman, I rise in support of this amendment. I am being supported by my good colleague, the gentleman from North Carolina [Mr. BURR]. We hope to provide for early release and deportation of criminals within our prison system who have committed crimes of a nonviolent manner. Currently we have an overcrowding in all of our prisons, both State and Federal. This would provide the U.S. attorney and the Attorney General to be able to release those and send them home prior to the completion of their sentence.

Mr. Chairman, I rise today to offer an amendment to H.R. 668 with my colleague from North Carolina, Congressman BURR.

The purpose of our amendment is to authorize the Attorney General to deport criminal aliens who have been convicted of nonviolent offenses before the completion of their prison sentence in Federal or State prisons.

This problem is especially pervasive at the State level. For example, the State of Florida has approximately 5,504 criminal aliens in State corrections facilities on any given day, annually costing Florida taxpayers on average more than $14,000 per inmate. Therefore, the U.S. Attorney General will work in conjunction with the States to determine which nonviolent criminal aliens will be deported.

Our amendment also establishes stiff penalties for deported aliens who return to the United States. They will be forced to serve the remainder of their original sentence, plus expanded penalties for reentry under current law, with no possibility of parole or supervised release. Any alien who is deported pursuant to this provision will be notified of these penalties at the time of their deportation.

The reason we are offering this amendment is twofold: to keep violent criminals in jail and to save taxpayer dollars for the incarceration of nonviolent criminal aliens.

In the face of soaring crime rates and overcrowded prisons, law enforcement officials are releasing criminals, many of whom are violent offenders, before they have been justly punished. On average, State inmates who have been convicted of any offense only serve about 40 percent of their sentence. This sobering realization is a tragedy for America.

The question we are asked today is no longer "Do we have to release criminals early?" Rather, it has become, "Which criminals do we release early?" This is a sad commentary on our criminal justice system, but today we have the opportunity to change this mindset and ensure that violent criminals are kept where they belong: behind bars.

Our prison system is failing to adequately protect U.S. citizens from violent criminals.

Revolving door syndrome: releasing murderers, rapists, child molesters back into our neighborhoods before they have served their time, only to commit another crime.

How many times have we heard the consequences of their release on the evening news or in the local newspaper?

I call your attention to a newspaper headline about the senseless murder of a Florida State student and the rape of his sister in Ocala, FL. One of the men charged with the vicious attack was on early release from an overcrowded Florida prison where he was serving time for a grand theft conviction. He had an arrest record dating back to 1985, for charges ranging from contempt of court to burglary and grand theft.

The question we must ask ourselves today is how can we bring some order back to our criminal justice system?

The amendment Congressman BURR and I have offered addresses one aspect of this problem.

As many of my colleagues are aware, criminal aliens have flooded our prisons in recent years. We provide them with clothes, food, and a bed—all at taxpayer expense.

One in four Federal inmates are not U.S. citizens, costing American taxpayers more than $400 million annually. (Justice Department.)

The number of noncitizens in U.S. prisons has nearly tripled in the past 5 years. (U.S. Bureau of Prisons.)

Nonviolent criminal aliens are using scarce prison space which should be used for violent criminals. Under our amendment, approximately 15,774 criminal aliens would be eligible for deportation.

This problem is underscored by the inability of the Immigration and Naturalization Service [INS] to effectively deport criminal aliens after they serve their sentence; under current law, they must complete their sentence before deportation.

Most aliens are notified by mail about their deportation date. Not surprisingly, they rarely show up for scheduled deportation.

In fact, the INS has a list of more than 48,000 fugitives who failed to show up for their scheduled deportation.

Our amendment would expedite the deportation process while they are in prison by authorizing the Attorney General to deport nonviolent criminal aliens following their final conviction and before they have completed their sentence.

UNQUALIFIED SUCCESS OF PILOT PROGRAM IN FLORIDA

Approximately 225 alien inmates were deported from Florida prior to completing their sentence, saving State taxpayers more than $6 million.

Texas comptroller estimates the State could save $10 million over 5 years in prison costs and $42.4 million in construction costs by deporting nonviolent criminal aliens.

In these days where priorities are a buzzword in Congress, I ask my colleagues, is the detention of nonviolent criminal aliens truly a priority when we are releasing violent criminals to continue their assault on society?

It is more sensible to deport nonviolent criminal aliens to their own countries, saving taxpayer dollars and reducing the burdens on our Federal and State prison system.

We have a valuable opportunity to calm the fears of Americans and keep violent criminals behind bars.

I want to thank my colleague from North Carolina. We had similar amendments to address the flood of criminal aliens in our prison system and I am glad we have joined together in this endeavor.

Urge colleagues to support the amendment. I yield back the balance of my time.

AMENDMENT OFFERED BY MR. BURR TO THE AMENDMENT OFFERED BY MR. FOLEY

Mr. BURR. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BURR to the amendment offered by Mr. FOLEY: Strike paragraph (2) of the quoted material in section 14(a) and insert the following:

"(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

"(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

"(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

The CHAIRMAN (during the reading). Without objection, the amendment is considered as read and will be printed in the RECORD.

There was no objection.

□ 1450

Mr. BURR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer a modification to the amendment offered by the gentleman from Florida and myself. In short, this amendment would include alien smuggling in the list of violent offenses that require a criminal alien to complete his sentence prior to execution of a final order of deportation.

I would like to provide you with some facts about criminal aliens you may or may not already know.

Approximately 27 percent of the Federal prison population is considered noncitizens.

The American taxpayer pays almost half a billion dollars per year to feed, clothe, and house these inmates.

Number of noncitizen Federal inmates, 22,326.

Cost per inmate per year, $20,885.

Cost per year for all noncitizen inmates, $466 million.

Number of criminal aliens eligible for early deportation under this amendment, 15,774.

Estimated maximum savings if Attorney General deports all eligible criminal aliens, $329 million.

H.R. 668 is a good bill because it takes major strides toward quick and effective deportation of criminal aliens.

It shortens the Attorney General's time limit for obtaining deportation orders, expands the definition of aggravated felony, and severely limits the types of relief from deportation the Attorney General can provide.

However, it lacks the provisions necessary to deal with the unsettling realities I noted earlier.

Specifically, the Foley-Burr amendment would give the Attorney General the ability, at her discretion, to execute a deportation order of a criminal alien prior to completion of his sentence. However, the Attorney General cannot deport a criminal alien early if the criminal alien has been convicted of a violent offense or, as my modification stipulates, alien smuggling.

By making this distinction, we ensure that the worst of the criminal aliens receive their due punishment while alleviating a weighty financial burden on the taxpayer.

Mr. Chairman, I urge acceptance of this modification which the gentleman from Florida graciously accepts, acceptance of this amendment to H.R. 668, and support for the bill itself.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. BURR. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, we have seen the amendment and can accept it, without any speeches at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. BURR] to the amendment offered by the gentleman from Florida [Mr. FOLEY].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. FOLEY] as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BILIRAKIS) having assumed the chair, Mr. DREIER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 668) to control crime by further streamlining deportation of criminal aliens, pursuant to House Resolution 69, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCOLLUM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 20, not voting 34, as follows:

[Roll No. 118]

YEAS—380

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Browder
Brown (CA)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
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Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Serrano
Shadegg
Shays
Shuster
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—20

Clay
Clyburn
Conyers
Dellums
Fattah
Flake
Greenwood
Hastings (FL)
Hilliard
McDermott
Nadler
Owens
Payne (NJ)
Rangel
Reynolds
Scott
Thompson
Towns
Watt (NC)
Williams

NOT VOTING—34

Ballenger
Becerra
Berman
Bliley
Boucher
Brewster
Brown (FL)
Coble
Collins (MI)
Deutsch
Edwards
Frost
Gejdenson
Gibbons
Goodling
Hall (OH)
Houghton
Johnson, Sam
Johnston
Lantos
Lofgren
McNulty
Meehan
Metcalf
Parker
Quillen
Rose
Shaw
Sisisky
Smith (TX)
Smith (WA)
Stark
Watts (OK)
Woolsey

☐ 1513

Messrs. SHADEGG, COLEMAN, and BARR and Mrs. MEEK of Florida changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. COBLE. Mr. Speaker, I was not present on the floor when the rollcall vote for H.R. 668 was taken, the Alien Deportation Act. Had I been present and on the floor, Mr. Speaker, I would have voted "aye."

PERSONAL EXPLANATION

Mr. SAM JOHNSON of Texas. Mr. Speaker, on rollcall vote 118 on passage of H.R. 668, the Criminal Alien Deportation Improvements Act, I was unable to be here due to travel constraints.

Had I been able to vote, I would have voted "yea."

PERSONAL EXPLANATION

Mr. METCALF. Mr. Speaker, due to prior travel commitments I missed the final vote on H.R. 668. If I had been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, because it was necessary for me to be in Pennsylvania on Friday, February 10, 1995, I regret that I was not present to vote on final passage of H.R. 668, the Criminal Alien Deportation Improvements Act, (Roll No. 118). Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. GREENWOOD. Mr. Speaker, on February 10, 1995, I inadvertently voted "nay" on rollcall vote 118, on passage of the Criminal Alien Deportation Act. I support the bill and intended to vote "yea."

PERSONAL EXPLANATION

Mr. MCNULTY. Mr. Speaker, I was absent from the Chamber for rollcall No. 118 on H.R. 668. Had I been present and voting, I would have voted in the affirmative.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, on February 10, 1995, I was absent for rollcall vote No. 118. Had I been present, I would have voted in favor of final passage of H.R. 668, the Criminal Alien Deportation Improvements Act.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 668, CRIMINAL ALIEN DEPORTATION IMPROVEMENTS ACT OF 1995

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical and conforming changes in the engrossment of H.R. 668.

The SPEAKER pro tempore (Mr. HASTERT). Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR MEMBERS TO FILE AMENDMENTS TO H.R. 728, LOCAL GOVERNMENT LAW ENFORCEMENT BLOCK GRANTS ACT

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that Members have until 7 p.m. today, February 10, 1995, to file amendments in the RECORD to H.R. 728.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON H.R. 889, DEPARTMENT OF DEFENSE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, 1995

Mr. LIVINGSTON, from the Committee on Appropriations, submitted a privileged report (Rept. No. 104–29) on the bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. All points of order are reserved on the bill.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, my request is for the purpose of inquiring about the schedule.

I yield to the distinguished majority leader to inquire about the schedule for the rest of this week and next week.

Mr. ARMEY. I thank the gentleman for yielding. Let me thank the gentleman again, another week, for your patience and for all the cooperation that we have on both sides of the aisle with moving this very difficult agenda.

With respect to next week, on Monday, February 13, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for the legislative business.

We will take up the rule for H.R. 728, the Local Government Law Enforcement Block Grants Act and then move into general debate. We expect no votes before 5 p.m. on Monday. However, Members should be advised that the House may work late on Monday night.

On Tuesday, February 14, the House will meet at 9:30 a.m. for morning hour and at 11 a.m. for legislative business. We expect to complete consideration of H.R. 728 on Tuesday, so Members should be advised that the House may also work late on Tuesday night. However, let me just say that Tuesday is a very special day for many of us and we have high hopes of being out at an early enough hour so that we can go to dinner with that person with respect to whom we hold the greatest affection.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Indiana.

Mr. ROEMER. The gentleman and I had an interesting conversation last week on the family friendly agenda, and he told me that he had a date last Friday with his lovely wife Susan. I hope the gentleman made that date and had a great time, and I hope that he can give the House assurances, concrete assurances on Tuesday night that we will be out by a time certain, such as 7, so that he can enjoy some time with Susan once again and all of us can enjoy some time with our loved ones.

We have a resolution that we put forward:

Roses are red,
Violets are blue,
If we're not home by 7,
We're in deep stew.

We would encourage the gentleman to give us a more definite time on Tuesday night.

Mr. ARMEY. I appreciate the sentiment. Let me just say, I believe that we will probably work hard and late Monday night and I think with good cooperation we can all have a high confidence that we will be able to make what I am sure for all of us will be a lovely dinner on Tuesday night.

Mr. ROEMER. So we still do not have an assurance of 7 yet?

Mr. ARMEY. This gentleman just needs to see how deep it will be, that to which you earlier referred.

Mr. ROEMER. I do not want to be in any.

Mr. ARMEY. I assure the gentleman, I appreciate your point of view. To be as assertive as prudence would allow me to be, let me just say, I have high hopes and great expectations that we will accommodate to an early enough evening on Tuesday so that we can all have a lovely dinner with a lovely person.

Mr. ROEMER. If we do not, you are buying the roses for all of us to get us out of that deep stew?

Mr. ARMEY. I am sure I understand the point.

Mr. ROEMER. I thank the gentleman.

Mr. ARMEY. If the gentleman will continue to yield, now that we have all survived Tuesday, we can move on to Wednesday, February 15.

The House will meet at 11 a.m. and will begin consideration of H.R. 7, the National Security Restoration Act, subject to a rule. Once again Members should be advised that the House may work late on Wednesday night.

On Thursday, February 16, the House will meet at 10 a.m. to complete consideration of H.R. 7. We expect to have Members on their way home around 3 p.m. for the Presidents' Day district work period.

Mr. GEPHARDT. I thank the gentleman.

I have a couple of questions. First, I want to reiterate the 3 p.m. time on Thursday. I know a lot of Members on both sides have travel plans, and so you are really trying as we did today to get done by 3. Is that my understanding?

Mr. ARMEY. Yes, the gentleman is correct.

Mr. GEPHARDT. Could the gentleman give us some sense of what kind of rule? Would there be an open rule providing for consideration of the National Security Restoration Act?

Mr. ARMEY. The gentleman might address the question.

Mr. GEPHARDT. Mr. Speaker, I yield to the gentleman from New York, the chairman of the Committee on Rules.

Mr. SOLOMON. I would be glad to. As a matter of fact, I was just about to enter into consultation with the minority ranking member of the Committee on National Security, the very distinguished and respected gentleman, to talk about that. But we certainly want to consult with the minority. We would like to have an open rule. Because of time constraints, it is going to be necessary to follow the orders of the gentleman from Texas [Mr. ARMEY] over here and move these bills. So that I think you would be happy with the final result and we intend to talk about it and see if we can work out an agreement.

Mr. GEPHARDT. I thank the gentleman. Obviously we want as open a rule I think as can be put together. We would be happy to consult with you. The gentleman from California is well equipped to do that and we will hope for a good result.

Can I just make one other comment and perhaps pose a question. I want to say to the gentleman that we have encountered a continuation of serious problems with committees meeting at the same time that committees are on the floor. I want to commend the gentleman from Illinois [Mr. HYDE] for negotiating with the gentleman from Michigan [Mr. CONYERS] in trying to work out a hearing schedule in their committee that would accommodate both of them and many of their members being on the floor through the continuation of the consideration of these crime bills. But I would say to the gentleman that as you know, having this 100-day calendar requirement, which we do not necessarily share—we understand the majority's desire to meet this promise, but I do not think any of us should believe that meeting that promise should get in the way of what is a reasonable schedule for Members to be able to meet. It is not reasonable if we cannot work out accommodations so that Members can both make their assignments in committee and meet their responsibilities here on the floor.

In that regard, and in a spirit of trying to work this out, it would be very helpful to the minority if the majority when they are able to do it could give us a complete calendar schedule of how you are trying to meet this 100-day requirement so that we can make sensible suggestions to the extent we can for how all of this can work.

□ 1520

I am getting very spirited objections from my Members who are truly distraught because they are not able to meet their responsibilities to vote in the committee, and we all know we banned proxy voting, and that is the regime we are operating under, and also meet the responsibilities on the floor. And the gentleman knows the tension is high on these matters, and we will do everything in our power to work this out. But we need as much advance information as we can get.

Mr. ARMEY. If the gentleman will yield, I thank the gentleman for that observation. Many Members from both sides of the aisle have again brought that to my attention.

Again I think the gentleman has made a good suggestion. We will try to share Monday morning as much information as we can and continue to try to work on that.

However, as I have said before, we are, of course, all of us engaged in hard work, very hard work in a short period of time, and we are trying to make a big change and keep our promises. And while I thank the Members on both sides of the aisle for their patience and their diligence, I agree with the gentleman from Missouri, we need to continue working on finding ways to relieve people of some of these pressures, and we will continue to do so.

Mr. GEPHARDT. Just one additional question. Could the gentleman tell us what time votes will begin on Tuesday, February 21, which is the first day back after the President's Day recess? The schedule says 5 p.m. I am wondering if that is something that we can rely on at this point.

Mr. ARMEY. If the gentleman will yield, yes, we can rely on that, 5 o'clock on Tuesday, the day we return.

If I might bet the indulgence of the gentleman from Missouri, I see Grandfather DELLUMS is with us here on the floor. I hope he did have an opportunity to see his new grandbaby last weekend, and that is in light of the remarks we made earlier here about the things that we hold most dear. And I am proud that the gentleman from California [Mr. DELLUMS] has a grandbaby, and can only wish I had one too.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Indiana.

Mr. ROEMER. Could the gentleman just whisper in my ear or tell me now if he has a reservation. What time that reservation is on Tuesday night so I can make that with my wife Tuesday night for a restaurant?

Mr. ARMEY. If the gentleman will yield, let me say I have just checked with Dan Cupid here, and he has assured me that by 7 o'clock on Tuesday, Valentine's Eve, we should be able to join our loved ones for dinner.

Mr. ROEMER. I thank the majority leader, and we all thank him.

ADJOURNMENT TO MONDAY, FEBRUARY 13, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

The SPEAKER pro tempore (Mr. HASTERT). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUEST FOR PERMISSION TO DISPENSE WITH SPECIAL ORDERS ON TUESDAY, FEBRUARY 14, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that on Tuesday next the House dispense with special orders out of consideration for the loyal staff that all too often have stayed here all too late for Members to have special orders, so on Tuesday next I ask unanimous consent that we dispense with the special orders so they too can join with their loved ones for an evening celebration of Valentine's Day.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. HOYER. Mr. Speaker, reserving the right to object, I would say to the majority leader, as one who for years and years has had very friendly discussions with the gentleman's side of the aisle on consideration for our staff in evenings, particularly as it relates to special orders, I want to say that I certainly will not object to that request, and I admire and congratulate the majority leader for making it.

Mr. ARMEY. I thank the gentleman.

Mr. HOYER. Further reserving the right to object, I apologize, my Majority Leader. I was being somewhat facetious, but I am told that we have a number of Members signed up. Can we maybe wait just a couple of minutes or till Monday and do it on Monday?

Mr. ARMEY. I would be happy to. I was being impulsive, and I thought maybe the staff would have an opportunity to make their dates.

But let us go ahead and check on Monday.

Mr. HOYER. Reclaiming my time, I want to assure the majority leader that I will be lobbying for the staff, but we will check with the Members who have special orders.

Mr. ARMEY. I suppose with the Members we will check on that, but there are at least two Members that will be fighting for the staff to have the night off early.

Mr. Speaker, I withdraw the request.

□ 1530

MANDATED SENTENCING: LISTEN TO THE GOVERNORS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, unfortunately I did not have in my possession a letter which I now have from Governor Carnahan of Missouri and Governor Carson of Minnesota. It deals with H.R. 667, the Violent Criminal Incarceration Act of 1995.

We have just passed that act, and I voted for a couple of amendments that lost. But I would want the Members to have this brought to their attention.

Obviously a Democrat and a Republican Governor in speaking to it, they say, "This would make it difficult for many of our States to participate in the proposed requirements." What they were referring to were the sentencing requirements. The Governors go on to say, and I think this is important for us to note in consideration of the Federal mandate bill that we debated extensively, the govenors say, "Federally mandated sentencing structure could disrupt the State efforts." The efforts to which they were referring was beefing up sentencing.

They conclude by saying, Mr. Speaker, "as Governors, we support maximum flexibility that recognizes the efforts currently in place or under way in many of our States. We urge you to strike the sentencing requirements in H.R. 667 and allow States to utilize Federal funds to establish truth-in-sentencing as it relates to the laws in our individual States."

Mr. Speaker, I believe as that legislation moves further through the process and comes back here, we ought to take into consideration the Governors' words.

LET FARMERS FARM

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, I am pleased to join with my colleague from Indiana, Mr. HOSTETTLER, the American Farm Bureau, the American soybean Association, and the National Pork Producers Council, in supporting the Agricultural Lands Protection Act.

Mr. Speaker, the Second District of North Carolina is the second largest producer of tobacco in America. We also have hundreds of soybean, peanut, and livestock farms. Farmers are the backbone of my district. Unfortunately, Washington treats these hard-working Americans like criminals. Its agents invade their land. Federal bureaucrats tell them what they can and can't do on their own farms. Instead of spending their time in the fields and barns, our farmers are now spending their days filling our forms and applying for permits.

Mr. Speaker, the madness has to stop. The Agricultural Lands Protection Act is a first step in restoring some sanity to agricultural policy. It says that the Federal Government will no longer classify land historically used for farming and ranching as wetlands. No longer will farmers have to bend to the whim of some hard core environmentalist at the Department of Agriculture or the Corps of Engineers. This bill restores fundamental property rights to the men and women who put food on our table. It's long past time that this House put the interests of the farmer above bureaucrats and academics, lets pass the Agricultural Lands Protection Act.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. ZELIFF). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

A TRIBUTE TO ORNA SIEGEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. TUCKER] is recognized for 5 minutes.

Mr. TUCKER. Mr. Speaker, in the past I have stood on the floor of this Chamber to pontificate on matters of local, State, and national importance. In the future, I will stand in this well and articulate the concerns of those in need of a voice to speak for them.

But today, Mr. Speaker, I rise for a different reason. I rise to pay tribute to a very special woman. A woman of substance, style, grace, and an inner beauty that would pale the brightest star. A committed leader in the struggle to enhance the pro-Israel cause; a heroine who speaks out while others remain silent; a wife to the man she calls her prince; a wonderful mother to her daughter Shana and her son Jonathan; a friend to those in need of friendship; she is my friend, the "red-hair," Orna Siegel.

Mr. Speaker, Orna Siegel was born Orna Tieb in Tunisia. She is the seventh of eight children that moved to a small town in Israel when she was four. At the age of 18 she served her country as a member of the Israeli Defense Forces as a sergeant in its' Air Force. She was educated at the Seminar Hakibutzim in Tel Aviv, Israel. There at the university she met her prince charming, American businessman, Saul Siegel. Cupid's arrow hit its' mark and Saul proposed to the lovely red head on the very day the couple met.

A true servant to her homeland, Orna founded the Summit Club, an Israeli-American leadership organization. She was the chairwoman of the annual fundraising gala dinner for the Friends of the Israel Defense Forces, a support group for the Israeli counterpart to the USO. You can find the spirited redhead giving her time to the Jewish national fund as a hostess and fundraiser; the Jewish institute for National Security Affairs as a member and a participant in its national meetings; she is a member of the national executive committee, the Capitol Club and a local officer of the American Israel Public Affairs Committee [AIPAC], a pro-Israel lobby here in our Nation's Capitol. Orna is also a volunteer fundraiser, as well as, the chairwoman of government relations for Yad B'Yad, which means hand in hand, a human life saving fund that takes sick people from Israel to wherever in the world they can get the life saving medical attention they need. At a recent Yad B'Yad fundraising dinner for which Orna was the primary organizer, an eleven year old boy made a speech. He told how a bone marrow transplant paid for by Yad B'Yad had cured his leukemia—he told how this transplant has saved his life.

Mr. Speaker, all to often I hear people say that they wish that they could live a normal life. I have never heard those words uttered by Orna Siegel. Because I think more than anyone Orna knows that in this life there is no normal or abnormal, there is only life, and that we must live our lives to the fullest. More than anyone that I have had the opportunity to meet in recent years, Orna Siegel knows that we must seize each day and cherish the moments that life has to offer us. That we must wake up every morning and face each day unafraid, with a new faith—and the hope that somehow we can positively affect the lives of those we meet from one day to the next. For life has no meaning except for its impact on others. For all of the lives that she has touched, it would be hard to imagine a world without the one that so many affectionately call the "red hair."

Mr. Speaker, to talk about Orna Siegel is to speak in superlatives. She is a woman who has given her heart and soul to the support of her homeland and to affecting positive change in the lives of those that she meets. Her unwavering leadership and commitment goes well beyond the funds that she has raised for the numerous organizations to which she belongs. It goes to the very fiber of who she is, what she stands for, and the type of leadership she believes is important to demonstrate every day, no matter her physical state.

Mr. Speaker, I am honored to know Orna Siegel, she is a leader, a heroine, a wife, a mother, and friend. She is my friend and I am honored to pay tribute to her.

TRIBUTE TO GREGORY CHIEDOZIE ACHOLONU

Mr. Speaker, I rise today to pay tribute to a man each and every one of us can look to as an example of discipline, of strength, of courage, of compassion and most importantly as an example of humility.

Mr. Speaker, I speak of Mr. Gregory Chiedozie Acholonu a native of Washington, DC.

In the world of chess Mr. Speaker, there are few peers to Mr. Acholonu. As a young child Greg was introduced to the world of chess by a family friend.

By 1972 Greg was reading Horowitz's chess theory and practice and Reti's modern ideas in chess.

By 1981 with the help of experts like Emory Tate and Stan Fink, Greg had achieved the rank of master.

In December 1992, Greg won the Maryland closed. In early 1993, at the age of 33, Greg achieved a rating over 2,400 and became a senior master.

In 1988, Greg was hired part-time by the U.S. Chess Center to, among other duties, teach, "the little players program."

With enthusiasm and love for the game Mr. Acholonu's instruction has inspired countless numbers of local kids and adults to strive for the top.

In the month of February, when the achievements and contributions of Americans of African decent are being highlighted to the world, I take pleasure in highlighting Mr. Acholonu's achievements and offer to our children and ourselves, a man worthy of emulating.

□ 1540

H.R. 7, THE NATIONAL SECURITY REVITALIZATION ACT

The SPEAKER pro tempore (Mr. ZELIFF). Under a previous order of the House, the gentleman from California [Mr. KIM] is recognized for 5 minutes.

Mr. KIM. Mr. Speaker, I rise today, as a new member of the International Relations Committee, in support of H.R. 7, the National Security Revitalization Act.

Our committee has passed this legislation and it will be on the floor next week.

For too long the United States has been paying too large a share of the military tab for United Nations peacekeeping missions. This, at a time when this Nation faces its own peacekeeping concerns on our neighborhood streets with the continued increase in violent crime.

I believe it is time that we control in the wild spending of taxpayer dollars on questionable peacekeeping missions abroad.

It is unacceptable to ask the American people to settle for less—through cuts in Federal programs—while at the same time giving disproportionate huge handouts to the United Nations.

Many Americans are being laid off by budget cuts and downsizing in both the public and private sectors while billions of dollars go to the U.N. bureaucracy.

They must stop.

That is why I am in full support of H.R. 7 which will bring an honest public accounting of actual U.S. contributions to U.N. peacekeeping activities.

Today the United Nations does not make a fair and full accounting of our inkind contributions.

These millions of dollars of in-kind contributions that we have made are not credited against U.S. assessments.

Some 90 countries around the world pay less than one-tenth of 1 percent of U.N. peacekeeping costs while only 10 countries pay more than 1 percent of these costs.

The United States pays 32 percent of those peacekeeping costs—32 percent.

That is 2½ times more than the next largest contributor to the United Nations, which is Japan, second highest at 12.5 percent. Out of 186 nations, 160 of them pay less than a fraction of 1 percent. The United States pays 32 percent. And that's just what the United Nations gives us credit for.

In addition, the United States is also paying added Department of Defense in-kind costs of more than $1.5 billion a year for related peacekeeping activities such as foreign troop transportation.

We get no credit for these extra expenditures.

H.R. 7 will require that the United States be credited for our own military expenditures as they relate to such peacekeeping operations. Every day the U.S. military is being called upon to support U.N. military operations.

Most recently, the United States has been called on in Somalia, Rwanda, Iraq, Cambodia, Haiti, and the former Yugoslavia.

Requests for U.N. involvement throughout the world continue to increase.

For example, just in the past couple of days the United States military has been sent again into Somalia to help protect and withdraw other U.N. peacekeepers.

Once again, Uncle Sam to the rescue.

But, if we were not there, most of these U.N. operations would collapse.

H.R. 7 will accomplish two important goals:

First, it will allow the U.S. Congress and the American people to understand how much the United States is actually contributing to support U.N. peacekeeping missions around the world.

Second, it will provide for a more equitable cost sharing of the real cost for such actions which is something that I believe the American people expect and deserve.

I would like to emphasize that this bill is not, an anti-United Nations, anti-peacekeeping measure.

It does not tie the hands of the President in pursuing multilateral U.N. solutions, nor end the United Nation's ability to conduct peace activities.

It does not cut off U.S. support for the United Nations.

All that H.R. 7 does is simply allow Congress to be involved in a comprehensive, rational, decisionmaking process related to the resources expended in the U.N. peacekeeping mission of the United Nations.

Let us see all the costs and determine what we can and cannot afford.

Congress has the constitutional power to control these costs and it should do so when it relates to using taxpayer dollars to finance foreign operations which have limited importance in relation to our own national security.

H.R. 7 does not preclude other members of the United Nations from paying their fair share of United Nations operations that they deem to be important.

What it does do is close the open-ended bank account the United Nations has at the U.S. Treasury.

U.N. peacekeeping has overdrawn.

The United States is the only superpower left, but it is not a nation with an unlimited budget.

There are other wealthy nations that also have direct national interests in global peace and stability.

Japan and Germany are two such nations.

We ought to be encouraging them—strongly encouraging them—to become permanent members of the U.N. Security Council.

That way, these two wealthy countries can justify carrying more of the U.N.'s financial burden.

UPDATE ON REPUBLICANS' CONTRACT WITH AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, in the first week of January the U.S. House of Representatives got rid of 3 standing committees, 25 subcommittees; we fired 682 congressional bureaucrats, and we totally reformed the procedures of the House of Representatives in addition to passing a bill that would make the Members of Congress live under the same laws and rules that we make everybody else in our society live under.

A couple of weeks ago we passed a balanced budget amendment. Week before last we passed legislation to keep the Federal Government from imposing unfunded mandates on the States.

Last Monday, on Ronald Reagan's birthday, we passed the line-item veto.

For conservatives across America, it is beginning to sink in: We won the election last November 8.

I think Republicans now have a great opportunity, but make no mistake, the responsibilities that come with victory are much greater than the responsibilities that come with defeat.

It seems to me we are now at a crossroads where we can change from being a nation at risk to being a nation with a hopeful future. I do hope all Americans realize they are part of a historic group, they are in a historic time as we try to revolutionize the Federal Government's role in our lives.

Thirty-three years ago, when I got out of the Air Force and I bought my farm and I joined the local Hillsdale County Republican Party in Michigan, I was concerned because I was faced with a Federal Government that was telling me how many acres of different crops that I had to plant on my farm. It seemed important that I try to tell the Federal Government that if they want efficient farming, they cannot pass those kinds of mandates, not only on farmers but on all businesses of this country.

I think we all should be energized and excited to have this historic opportunity to bring about what many of us have been fighting for for many years, that is a leaner, more efficient Government, lower taxes, and stronger family values with more control and responsibility over our own lives.

But we can assume it is automatically going to happen. The forces of big government liberalism are stunned and in retreat, but they are not defeated. To make the spending cuts necessary to stop mortgaging our children's future will be very difficult. We are going to have to say "no" to the special interest groups and the lobbyists who fight for their pet projects.

It would seem to me that if we really wanted to look out for the future of this country and for future generations, we Republicans and Democrats and the President's people would get in a room and we would kick out the pollsters and the specialists of the special-interest lobbying groups and we would make the kind of tough decisions that we know must be made if we are going to cut down the overspending and overregulation of this Government.

By cutting some of the programs we can no longer afford, even some of the good ones, Americans will have to make tough sacrifices.

□ 1550

But one lesson we have learned over the last 40 years is that, if we do not have the energy, and ability and willingness to do it today, it is not going to be done. I, for one, am willing to say no to that additional spending.

The time for talking is over. I think the American people will no longer tolerate excuses from Government, and I am giving this speech today because I am already seeing some traditionally conservative Members of this Chamber, even some Republicans, that are talking about backing away from the tough spending cuts. For this Chamber, for this Congress, to be successful, people all over America are going to have to do two things, I think. They are going to have to be willing for Government to do less for them, and they are going to have to be active in helping explain how serious this problem really is.

In conclusion let me challenge you, Mr. Speaker, and the Members of this body with a few statistics:

The interest on the Federal debt this year will be $339 billion. That is more money than we take in, as my colleagues know, in total—one quarter, 25 percent of all the total revenues coming into this national Federal Government will be used, utilized, in paying the interest on the Federal debt. We are mortgaging our children's future, and I hope we will all be industrious and energetic in trying to make the tough spending cuts that we are going to be faced with.

DISCUSSION OF WELFARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Kentucky [Mr. BAESLER] is recognized for 60 minutes as the designee of the minority leader.

Mr. BAESLER. Mr. Speaker, today what I would like to take the opportunity to discuss is the proposed welfare programs that we have been talking about here in the Capitol and throughout the country over the last several months. The question, I think, is why are we discussing welfare reform today in the Capitol and throughout the country? I think there are four basic reasons.

Everybody in the country, from whatever community you might live in, has seen abuses. They follow people through the food lines and see food stamps being used for things they did not think they ought to be used for. They know circumstances where food stamps have been sold for cash, trafficking in different stores throughout the community. They know people who live in section 8 housing who are not supposed to have other people live with them, but they know they are there. They report them, and nothing has happened. They know there are folks who could work that are not working who could do something constructive and are not doing something constructive. They know there are folks that all their life in all the generations have been on food stamps, poverty, other type of welfare programs, and they are frustrated. The public generally is frustrated and angry.

The second reason we are discussing welfare is because most of us understand that a welfare system itself breeds a great deal of crime, a disproportionate amount of crime. People who commit crime are those who are on welfare, more than those who are not.

A third reason that we are discussing welfare today is because we know we have to stop this cycle of poverty, we have to stop this generation, or we are going to have more and more generations going through welfare and becoming dysfunctional in society.

A fourth reason we have talked about is to save money.

Now what are we talking about when we talk about welfare?

Welfare constitutes 13 percent of our Federal budget. Eighty-seven percent of the other spending does not constitute welfare. What makes up that 13 percent? Housing benefits are 11 percent of the 13 percent, food benefits, including food stamps, are 18 percent of the 13 percent, Medicaid is 44 percent, almost half, AFDC is about 1 percent of the total budget, and SSI is 39 percent.

Now why is this chart important? It is important because most all the discussion taking place here in Washington today, whether it, is through the President's program, or through the Republican plan or other plans, are talking about only AFDC.

Now why is that the case? I submit to you the reason we are talking about only AFDC is because that is the easiest group to attack, basically single mothers with children. I ask, Why shouldn't we include as part of our discussion food stamps wherein Kentucky alone we have 500,000 people on food stamps, we spend almost $400 million a year? Why shouldn't that be a topic of our discussion when we are talking about reforming welfare?

Part of the Republican plan does talk about block grants for food programs like child nutrition, WIC programs and so forth. We will talk about that a little bit later, but that will be very difficult to impose on the States because how are we going to guarantee that the young person gets their only warm meal in the morning or at noon at school? A very difficult situation. Why are we not talking about the housing section 8 certificates? Why are we not talking about public housing when we talk about welfare reform? And why are we not talking about Medicaid, which is one-half? And why are we not talking about Social Security insurance, which is rising considerably faster than is AFDC?

I suggest to you all the discussion we are having here in Washington today just on AFDC I think is not—it is appropriate, but it is not complete, and it is only dealing with a very small portion of welfare, and for us to suggest, whether we are Republican or Democrat, that we are going to have welfare reform and deal only with AFDC is very misleading at the least and a travesty to the public, I think, at the most. We cannot just suggest to the public that the only people that are abusing and need to be looked at, the only people, the only system that needs to be reformed, are those that deal with mothers with children, aid for dependent children.

Now what are the general principles when we talk about welfare? I think there are two or three that the public generally will agree upon.

No. 1 is responsibility, whose responsibility? Most everyone will agree that the individual has some responsibility for their family, and they should have responsibility to do something for any benefits they receive, whether it is work, whether it is education, or whether it is just to take care of their family proper.

But there is a second responsibility, the responsibility of government. I think also everyone agrees that government itself has responsibility to take care of those who cannot take care of themselves.

The second word that I think generally describes what people feel is accountability. Most people think, if you receive a cash payment, you should have some accountability on what that cash payment is used for, whether it is in SSI or whether it is in AFDC, and most people feel that the government should be able to hold you accountable, to be able to, if you do not want to participate in the programs available, then the government should have the ability to basically take you off that benefit.

Third, I think most people think work should pay more than welfare. What has frustrated the folks is that they look at people out there, and they are making money, but those on welfare are doing better than they are. Now I guess the working people would say,

> I work every day hard, hard for 20–25 years, and I look over to the next house, and I know people who can work are not working, and they're living better than I do. They drive a better car. They eat better. Their children have better medical care than I do, and I'm trying.

It is that anger and that frustration that most people want to make sure that they can somehow understand it, and that is what welfare is directed at.

☐ 1600

The fourth principle is whatever we do in welfare reform, whether it is in AFDC, Medicaid, food stamps or whatever, we have to do it with the intentions that we want to break the cycle.

If 5 years from now we have had all this great discussion and all this rhetoric, and from this hall and all these other halls we have welfare reform, and if it does not allow us to break the cycle of poverty, we have done nothing. Absolutely nothing. So what do we do? How do we reform it?

First of all, let's just talk about the administration of it. Today, without question, it is the most confusing process in the country to administer welfare, including all of these. The major welfare programs have different rules on income, deductions, resources, and other eligibility criteria, and different application forms.

We should make the requirements for accessing Medicaid, AFDC, food stamps, and public housing all the same. The form that needs to be filled out and the information that needs to be verified should be the same for all these programs as well.

Finally, applicants should be able to go to one stop, one place, to fill out the forms.

You say why is this important? I am worried about the fraud. In food stamps alone, a major portion of the food stamps that go inadvertently and illegally to people is because of the confusion in the forms filled out by the individuals and the people processing them.

Administrative simplification will make it much easier for policymakers to turn the goals of the current welfare nonsystem into an integrated system. Is there any reason whatsoever that these systems should not be integrated? There is none. In certain instances, if you receive housing benefits section 8 has absolutely no influence on whether or not you receive food stamps or not. That is not correct. They are all separate. They should be integrated. The way we do it is basically bring the administration together.

Speaking of administration, I think we are going to have to work with the States in making sure we can share some of the savings. There is a great deal of discussion on food stamps about the electronic transfer. But the problem is basically it will cost the States more money, not less. We have got to make sure they share in any savings that we have.

Let's talk about the program specifically. AFDC. If you look at the short list put out by Personal Responsibility Act No. 4, by the President's program earlier, every entry, every entry, every line except one, deals with AFDC.

It is important that we reform AFDC, but it is equally important that we acknowledge honestly that AFDC does not even cover half the green part of this chart. But every line but one just deals with AFDC. It think that is unfair, and it is unfairly placing all the welfare situation upon single mothers. I think that is incorrect.

When we deal with AFDC, however, I think we need to step back one point. If you look at the proposals before us today, each one of them says you are going to work, you are going to work, you are going to work. It is not bad in its approach. But what we need to say is who would like to go to work today, and what is in your way?

Often it is not the attitude, but the physical circumstances that keep people from working. Let me pose a question. If I am a single mother, I have two kids, I want to go to work. I make $5 an hour, maybe $5.50. Immediately when I do that, the first question that arises is, who is taking care of my children? How much does child care cost?

The second question arises, how am I going to get to work? I can't qualify if I have a car that is valued over $1,500. I probably wouldn't have one.

The third question, if I go to work after a period of time I lose my Medicaid card. I don't have any coverage for my young children.

So how is that individual going to work? They are not. And I will come back to the child care issue and these other issues later in the discussion.

Before we start making rules today that say everybody is to work tomorrow when this program is imposed, why don't we step back and do what many of the States have done and pass legislation that would allow the States, without asking for waivers, to have longer transition periods before the individual would lose their Medicaid card; have longer periods before they would lose a portion of their food stamps, housing benefits, or whatever other benefits they are getting.

I would suggest to you if we did that, we will find there are many more people going onto the work rolls voluntarily tomorrow than there are today.

Now, after that group, we are going to have to address those folks who maybe do not want to go to work. The President's program and the Republican program talk a great deal about eligibility, eligibility of AFDC children.

Let's talk about some myths at AFDC just a little bit. Who are we talking about on AFDC? Most people think you are talking about the momma sitting on the porch that has got three or four kids and wants three or four more. That is not the case.

Most people think we are talking about young ladies, under 20 years old, who have got two kids or more. As a matter of fact, less than 8 percent of the women on AFDC are under 20 years old. Seventy-three percent of the women on AFDC have two kids or less. Most people think we are just talking about basically most people on AFDC are black, not white. In Kentucky, 73 percent of AFDC recipients are white. Nationwide, it is about split even-even.

Most people think they are on AFDC and they want to have more children so they can have more payments. In Kentucky alone, you can get $200 more for the extra child. I will suggest to you not many people have the child just for $200 more.

So all these myths we have about who we are talking about on AFDC, and I am emphasizing it because it is appalling to me that here in Congress that the President and the Republican plan basically initially are only dealing with AFDC.

So let's talk about the AFDC programs that are before us. In Kentucky, $203 million is spent for the benefit of 211,000 people on AFDC. The Federal Government alone is spending 15.5 percent.

Here are some recommendations that I make, that I have, based basically on what both the President's program and the Republicans are talking about.

In order to receive AFDC payments, I believe an unwed parent who is under the age of 18 and has a child should be required to live in the home of the minor's parents under adult supervision. I do not believe, as suggested by the Republican program, if a child is born to a person under 18 that there be no benefits coming forth. Who are we penalizing? The mother? No, we are penalizing the child.

Also if new babies are born to AFDC recipients, States should have the option of saying they will not increase the benefits if they want to. Without question, AFDC recipients should have a requirement, I think, to finish the schooling. I think they should have a requirement if they are able to work, to work in a limited period of time. And there are several other recommendations of AFDC, and I would like to come back to a couple of them.

Recently, it was presented yesterday by the Contract on America plan for welfare reform that we were going to block grant the AFDC payments to the States, and we were going to try to reduce it from $15 billion down to $12 billion.

Let me tell you what we are forgetting here. We are assuming we are going to spend less money on this program by putting more people to work. Let me point out to you very clearly, let's assume there are some working now, they have their child care payments paid for, help with child care. Now we are going to put even another group on. Where is the child care coming from? Where is the transitional expenditure coming for transportation? Not that the program is not good, but if we try to sell to the American public that we are going to increase the rolls of AFDC recipients working, and we are not going to increase child care, we are selling the American public a bill of goods that will come back to haunt us.

☐ 1610

It is not possible, it is not possible for this country or any State to increase the number of folks on AFDC working without having more money for child care. They say, let us block grant child care. What does that mean? If we are just talking about the same amount of money, it means that you could very well be, under the plan presented, taking child care from those who are the working poor presently. So somebody is going to lose. Any program that is passed in this Congress that does not acknowledge and provide for additional child care funding is a fraud to try to say you are going to work and not have more child care. It is a fraud.

Mr. Speaker, when we deal with it, it is not necessarily bad, we do want them to go to work, but when we want them to go to work, let us be brace enough to acknowledge it is going to cost some money to do it. Transportation, child care, and other changes we are going to have to make.

That is what AFDC is, where most of our effort has been made. And I want to reemphasize, that is not welfare reform. That is a portion of welfare reform, but it is AFDC reform, Aid for Dependent Children, the most defenseless group we have in this country today, and we are going to say we are going to have all the welfare reform on their backs alone. Should they be required to do something? Yes. Should they be required to work if they can? Yes. Should they, if they do not want to cooperate, should they be put off the program? Yes.

We also have to acknowledge there are food stamps, housing benefits, Medicaid, all these others, all the people, anybody that abuses it should have the same requirement. You should have requirements for food stamps to work. You should have requirements for housing benefits to do something. And Medicaid, for certain people, to have copayments. But that is not what is proposed today. I think that is shortsighted, and I think it is selling the public short and, more importantly, I think calling it welfare reform, it is not what it is. It is sort of a sheep in wolf's clothing.

Let us talk about SSI—SSI, Social Security insurance. Why should it be talked about? First of all, up until last year, there was a great hue and cry in the country when people found that folks with alcoholic problems and drug addiction problems were receiving SSI payments. Last year there was a change where after the statute runs out, after 3 years you have to go off. Has some tightening up, but no more tightening up. If we are talking about reforming welfare on the backs of AFDC mothers, why should we not be talking about reforming welfare on folks who have alcoholic problems or drug addiction problems? Why should we be paying them a cash payment each month?

We should not. There is no accountability. There was no accountability on how that money was to be used. Now you can require that you have to have treatment. But unfortunately, in several States, Kentucky included, there are very few places that treatment can actually be purchased. So once again, the cash payment sets out, and once again there is no accountability.

Let us talk about SSI with other programs, like attention deficit disorders. Obviously, there are young people throughout this country who deserve Social Security Insurance, but obviously, there are others who do not. And if we just ignore that issue and the rising cost with the cash payment, then we are not doing justice to the other welfare discussions. What can we do with SSI?

First of all, I think it is suggested that we should have a cap on how many SSI payments can go to one family. Second, on the attention disorder, deficit disorder for young people, why should not the parent have to account for how the money is used? It is a cash payment today. You could do what you want to do with it. Nobody comes to check. Nobody cares. You send the cash payment, and that is it. There is no requirement that you even have to get treatment. There is no requirement that you try to turn the young person's situation around so they no longer suffer from that illness.

Should there be a requirement for job responsibility on SSI? I submit there is just as much requirement to be required of those individuals as AFDC. But somehow we want to step back from it. We want to say, no, we want welfare reform but we just want this little green portion, not the whole portion. I also suggest that we should change the cash payment to a voucher which says, particularly in the situation where you might have some treatment available to you, says, here is a voucher. Here is the situation. You go get the treatment, here, because we want to see you get better.

In Kentucky, $45 million was spent on 153,000 beneficiaries for SSI. The Federal Government alone spend $24.5 billion; $10 billion—$10 billion more than we spent on AFDC. Yet we are saying, welfare reform is just AFDC and not SSI, $10 billion. And keep in mind, AFDC is the lowest among program which we spend, the lowest amount of any of these except the housing benefits.

Let us talk about the food programs. The Republican contract has suggested that we are going to block grant the food programs, which are the nutrition programs for, like I said earlier, the WIC Program, programs in the schools and food stamps. Let me tell you what happens in Kentucky under that scenario. We will lose 33 percent of the money we are presently getting, not new money but we are presently getting. Basically we are going to tell the State of Kentucky and also other States which also likewise will lose; fine, you have an option to make, after we block grant it, you can tell folks, you are out, even though you might qualify, you are out, that is tough. And even future ones come on, you cannot even come on, even though they were deserving and not folks who abuse the system.

In food stamps alone, in Kentucky we spent, as I said, $41 million for 524,000 people. The Federal Government spends $24.5 billion this year on food stamps. Without question, the fraud and abuse sometimes runs rampant in the Food Stamp Program. In 1994, food stamps were issued to purchase food to over 207,000 retail stores. I do believe that the inspector general and others of oversight are making some good recommendations on how we should treat the retailers. Congress should authorize the forfeiture of proceeds for materials that facilitate the violation of food stamps. Those retailers who traffic in food stamps should be permanently disqualified from the program. Stores that are disqualified from participation in the WIC Program should also be disqualified from other programs. But that is just the people. What about the people that use them?

Obviously, we have got to have tougher sanctions. We have to stop the trafficking. All of you have seen television shows about the traffic in food stamps. But, again, I come back to my central theme. We have a lot of discussion on welfare reform up here. But the proposals that have been produced to date do not include food stamp reform. Why not? It constitutes a larger portion of the welfare budget than AFDC does, in fact, everything except Medicaid.

Let us talk about related issues. I am going to come back to AFDC one more time. It is easy to pick on the single Mommas and the children. It is easy. People know examples all over the country. Where are the Daddies? Where are the Daddies? Thirty-four billion dollars of uncollected child support today throughout this country—$34 billion. Should not the child support issues be a factor in welfare reform? Should not the missing and absent parent have some responsibility to help us curb the cost of raising their children? Obviously, the answer is yes.

Again, when we talk about welfare. I suggest to you that child support issues need to be made an integral part of the whole package.

□ 1620

We will not just try to get past AFDC and say, "We are there." We are not there. It is my suggestion that all these issues have to be put together in one package to address, if we are going to have true welfare reform, because it is going to be too easy to say after one passes, "We have done our job; we have met our responsibility; we have hit our contract; let's go home." We should not do that.

Mr. Speaker, whatever reform we make—whatever reform we make, it will not work unless we curb the abuse that people experience every day. How do we do that? I suggest that we need to involve the local communities more and more in reporting the abuse and in prosecuting the cases. Some States do this already.

We have to involve the locals. The people next door know who is cheating.

The people next door know who is trying to beat the system. We need to bring them into the discussion. We have to give incentives back to the State to help us collect the money.

For instance, on Medicaid, in the State of Kentucky, the Federal pays 70 percent, the State pays 30 percent of Medicaid. I think it would be pursuant to law if the State of Kentucky increased their enforcement provisions on Medicaid fraud, and give them a larger portion back, so they could do other things with other programs.

We have to have tougher sanctions for the violators. It is not enough to get your hands slapped and say you cannot participate in a program for 6 months. It is not enough to say, "We caught you now. That is tough. We are going to let you go; don't do it anymore." People who violate the system, who do not cooperate with what we are trying to do with our work programs and everything else should be dealt with swiftly and, I think, firmly.

Last, we have to make sure that folks who are enforcing have the tools for enforcement. We talk about welfare and we talk about AFDC. What we really want to accomplish is self-sufficiency.

I submit to you that in every community we have what it takes to make self-sufficiency. We have United Ways, we have the community activities, whether it is tenant services or whatever. We have the housing corporation. We have section 8 certificates. We have hospitals. We have the local governments, State governments. We have colleges of dentistry, home economics, whatever.

The Federal Government, I submit, Mr. Speaker, when we are talking about money, when we decide we are going to spend some money on welfare reform, we need to provide the incentive to suggest to the communities, if you will work with these folks and try to get them toward self-sufficiency, and if you will integrate all the resources available to you in your community, and if you will have housing, child care, transitional help, and you will help provide it, we will help you do that, and it will work.

Our ultimate goal is to take people off of welfare to self-sufficiency. But I submit that ultimate goal has to apply not only to AFDC, it has to apply to SSI, it has to apply to food benefits, food stamps, housing benefits, and I think we have to have some responsibility tied to Medicaid.

In conclusion, Mr. Speaker, there is a lot that has been discussed up here on welfare about the Contract With America, and I understand it and appreciate it. But I would like to submit to you, there is another contract we have to be concerned with.

It is easy to talk about welfare reform, because we are going to have very few people up here talking on the other side. Most of us agree what has to be done. However, we are going to do this and do that with contracts, let us not forget one of the contracts I think we have which is most important of all. That is a contract with our conscience.

THE MEXICAN BAILOUT

The SPEAKER pro tempore (Mr. ZELIFF). Under the Speaker's announced policy of January 4, 1995, the Chair recognizes the gentleman from Mississippi [Mr. TAYLOR] for 60 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, I yield to the gentleman from California [Mr. BROWN], my distinguished colleague.

REMEMBERING CONGRESSMAN CHET HOLIFIELD

Mr. BROWN of California. Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, I would like to draw the attention of the Congress and the Nation for a few moments to the memory of former Congressman Chet Holifield of California, who passed away on February 6 from pneumonia at the age of 91.

Mr. Speaker, Chet Holifield devoted 32 years of his working life to this institution and to serving the American people. To review his accomplishments in Congress is to review some of the key developments in American Government and public policy in the years after World War II.

Chet Holifield was deeply involved in congressional policymaking about the peaceful and military applications of atomic power after the Second World War. He was a vigorous advocate for the peaceful use of atomic power and pushed hard to have the U.S. atomic energy program placed under civilian, rather than military, control.

In 1957, he headed the first full-scale congressional hearings on the implication of radioactive fallout from nuclear testing. At the same time, Chet believed strongly in—and was a strong advocate for—the development of the hydrogen bomb and he was a strong supporter of Adm. Hyman Rickover in his program to build a nuclear navy and submarine fleet. Congressman Holifield's decades of experience and detailed involvement in nuclear policymaking gained him the respect of colleagues in both political parties, the scientific and professional communities, and environmental groups.

During the last 4 years of his congressional service, from 1967 to 1971, Chet Holifield was the chairman of the House Government Operations Committee, the House committee primarily involved in promoting the efficient operation of Federal Government agencies. Chet authored the legislation establishing the General Services Administration, which does most of the purchasing for the civil departments of the Government and manages most Federal buildings. And, during the growth of the Federal Government in the 1960's, Chet Holifield was personally involved in managing legislation that created two Cabinet-level departments: The Department of Housing and Urban Development and the Department of Transportation.

Chet was born in Mayfield, KY, grew up in Arkansas, and spent some of his teen years working in the wheat fields of Kansas and the oil fields of Oklahoma. He later hitchhiked to California where he found a job in a Pasadena cleaning and dyeing shop.

Ultimately, he worked his way up to his own small business: A men's clothing store. Chet was first elected to Congress in 1942 and was reelected 15 times by the people of eastern Los Angeles County, CA, finally becoming the dean of the California congressional delegation.

He voluntarily retired in 1971, and returned to California to run his clothing store in Montebello. After finally retiring from his business work, Chet moved to the beachside community of Balboa, CA.

Through his efforts in Congress and his involvement in the public affairs of our Nation, Chet Holifield's work helped shape modern America, and his life's accomplishments will live on for a long time.

Mr. TAYLOR of Mississippi. Mr. Speaker, I want to begin by apologizing to the approximately 80 House employees who will be kept a little bit late this afternoon as a result of this. What the people in the gallery and many of the folks back home do not realize is that under the present system these employees have to stick around as long as we have special orders. There is a room right up there that has a television camera.

I have asked the previous Speaker, and I'm going to ask that the Speaker try to change that policy. There is really no reason to keep these people around late, but I would not keep them here if it was not worthwhile.

What we have to talk about today is of the utmost importance to our Nation. We are talking about $20 billion for the single largest expenditure on the part of this country that has ever been made without the consent of Congress, and the potential for an additional $15 billion to be spent at any moment by the President of the United States, again without the consent of Congress.

It is particularly frustrating as a Member of Congress that earlier in this week, when the gentlewoman from Ohio [Ms. KAPTUR], seven Republicans, an equal number of Democrats, and the body's only Independent Member offered a resolution to demand of the Comptroller General the information as to whether or not what President Clinton did last week, when he guaranteed the loan to bail out Wall Street, to bail out the Mexican peso, whether or not that was even legal.

Second, we wanted to know how often this fund has been used, and what amounts of money have been appropriated over the past. We also wanted to know who knew that the bailout was going to take place. We know that Speaker GINGRICH knew; we know that President of the Senate, Senator DOLE, knew. We know that the President knew. Who else knew that this was going to take place?

The reason that this is so important is, they knew before the announcement that the value of the peso was going to jump dramatically. It has now been shown that it jumped 20 percent in less than 48 hours. For those who have a small savings account, for those who might own a stock, can they imagine having a guaranteed 20-percent return on their investment in only 48 hours?

That is why it is important, and that is why it was so wrong, that this deal was cut with the Speaker, with the President, with the President of the Senate, in secret, without the approval of Congress to bail out the peso, but most importantly, to bail out Wall Street, the same people who just 15 months ago said "We have to have NAFTA, even if it means that the garment workers down in rural communities like south Mississippi will be thrown out of work, even if it means that the fishermen and the shrimpers down in the Gulf Coast States will be put at a severe disadvantage," because they have to live by all of our laws, our minimum wage laws, our OSHA laws, the pollution laws. They have to pay our taxes.

☐ 1630

And they will be competing with shrimp brought in from Communist China, for which there is no import fee at all. They said it was economic Darwinism and that we had to have NAFTA because the chips are just going to fall where they are.

It is kind of strange, then, that 15 months later when Wall Street is hurting, when Wall Street is losing a few bucks on their investments down in Mexico that they run to this body, that they run to the President and demand to be bailed out. It is not right. It is not fair. And it is your money.

I think the people of America need to realize that these are unsecured loans. Now, the President will tell you and Speaker GINGRICH will tell you that the Mexicans have pledged the oil revenues to pay these loans back. Who's kidding whom? If those oil revenues had not already been pledged in a dozen different places, do you think they would be having to borrow $20 billion? That oil revenue has been pledged long ago and will not be available to repay those loans and $20 billion of your tax dollars have already gone down the rathole.

Some of the older Members of this body tell me that this is much like the S&L crisis where they came to Congress and said, "You know, for $5 billion we can solve the problem," only a few months later to come back and say, "Well, you've now invested $5 billion, you have to invest some more to get your money back." There is not a doubt in my mind that within a certain period of time, the President of the United States will be asking for the remaining $15 billion. And it is your money. And it is the only money spent without the approval of Congress. It is the only money spent without the approval of the Senate. And if you take the time to read our Nation's Constitution, it is very clear in article I, section 9 which says the Congress shall have the power to coin money. No money shall be spent from the Treasury without an appropriation by the Congress. And yet what the President did was completely contrary to that.

He will point to an old law from 1934 that was meant to get us out of the depression, that was meant to prop up our currency, that has never been used for more than $1 billion at a time and say that that $20 billion somehow benefits us. Who's kidding whom?

Who is to bail out Wall Street? And again no one will ever really know if some phone calls were made to some people who happen to be Wall Street buddies and said, "Go out and buy a bunch of pesos because the value's going to go up very quickly and very soon," and your money was used to guarantee that.

It is wrong, and that is why what the gentlewoman from Ohio [Ms. KAPTUR], the gentleman from Vermont [Mr. SANDERS], a number of Republicans including the gentleman from California [Mr. ROHRABACHER], the gentleman from California [Mr. HUNTER], the gentleman from Kentucky [Mr. BUNNING], that is why we are trying to find out what happened and that is why equally importantly we have a bill in the Banking Committee to say that this cannot happen again, that from now on these moneys have to be appropriated by Congress.

At this time I would like to yield to my distinguished colleague, the gentlewoman from Ohio [Ms. KAPTUR], who has been most instrumental in doing the research on this matter.

Ms. KAPTUR. I want to thank Congressman TAYLOR for his extraordinary leadership on this effort and for gaining the special order time this evening. It is my privilege to join him and to thank him so very much for cosponsoring the special resolution of inquiry that was filed today here in the House of Representatives asking the President of the United States to submit information to this House within the next 2 weeks answering questions that we cannot answer for the American people simply because the executive branch chose to take a unilateral action without a vote of the Congress of the United States. Congressman TAYLOR has outlined the amount of money that is on the line initially, money that is flowing out of our Treasury, not just in the form of loan guarantees, although we cannot get specifics on this, but we understand direct loans as well. We do not know for what duration, we do not know what the terms are. We do not know exactly what the purpose is. But we know that part of the money is being used to help Mexico refinance what are called pesobonos, the bonds that she holds, that creditors hold against her that she has to refinance. Approximately 10 billion to 16 billion dollars' worth of those are owed to U.S. investors.

I would just ask our colleagues and people around the country to be aware that this resolution of inquiry asks very specific questions of the administration asking them to give us the assured source of repayment to our country for any of the short, intermediate or long-term credit facilities that were designed by the administration and made available to Mexico, to give us any documents—we are just asking for facts here—concerning the net worth of Pemex, the state-owned oil company, the historical annual revenues of Pemex and as Congressman TAYLOR mentioned, to what other purposes those revenues have already been dedicated, which means that the collateral really is not worth anything.

As one of our colleagues over in the other body said, we may have to send in the 82d Airborne to collect on the oil collateral because it has been so overpledged.

We are asking for other information concerning what criteria the administration used in deciding to make loans from this fund to Mexico when in fact it has refused so many other countries around the world access to funds through that particular credit facility. So why should this situation be different and why should the Executive go around the Congress of the United States?

We are also very interested in knowing what additional replenishment of funds will be required in the International Monetary Fund and Bank of International Settlements, because they have now been drawn into this agreement and the United States does provide some of their working capital. What are the nature of those arrangements and what additional amounts of taxpayer dollars will be required to replenish those funds?

In any case, there are over seven pages of questions here, and this particular resolution was today referred to the Banking Committee. The Banking Committee under the rules of the House has 14 days in which to respond.

If I just might take 2 extra minutes here, I want to say something very important tonight that we did not talk about during the day today. That is, as a result of press clips today in the Washington Post, the New York Times, and other newspapers, the President of Mexico evidently yesterday effectively declared an end to that Government's peace efforts in that country to try to keep the lid on the uprisings that are occurring, particularly in the southern part of Mexico, and I want to say something about this, because it cuts to the quick of what is happening in relations between our two nations.

It is not enough for just the President of the United States to be friends with the President of Mexico or the biggest banks in America to be friends with the biggest banks in Mexico. Good relations between our countries depend on the people of the United States being friends with the people of Mexico. As we watch the people of Mexico stream across our borders, stream across our borders because they are hungry, our response as a nation is, well, we have to close the borders, because the exodus is so huge.

But let me say this: That all the interests on Wall Street that are watching what we do here, and I will call some of them by name, Citibank, Chase Manhattan Bank, the Fidelity mutual funds. Over there in Illinois, Archer-Daniel-Midland, you sell a lot of grain down in Mexico, but I will say this tonight: There is not one share of your stock that is worth the life of one Mexican peasant fighting for enough to eat off their land that they are being divested of. And we have to speak out for those people here in the Congress of the United States. It is not reported in the press, it is not reported on television, it is hardly reported in the newspapers. In fact one of the newspapers says today, many investors in America here have said that continuing political instability in Mexico is the main reason that they are withdrawing their money from Mexico. They have been withdrawing their money from Mexico in recent months.

It is very interesting that they are worried about the political instability. Yet you do not hear one call for democracy building in Mexico.

□ 1640

We do not hear one call out of Wall Street for human rights. We do not hear one call of sympathy for the farmers in Chiapas who literally plant coffee with their hands on the hillsides, and as a result of this NAFTA agreement are being thrown off of their land, and they call it in the paper, they call them rebels, and call them insurrectionists, and make them seem like they are traitors. Well, they are not traitors to the ordinary people of that land, and frankly, I think they had the real true belief in democracy in their hearts.

I would hope that our country would listen to the Catholic prelates who spoke out this morning in the New York Times, Bishop Samuel Ruiz Garcia, who said that this is a very, very serious situation. It is pointing to a solution of war, and it breaks the process of dialog.

This is not a situation that will be solved with guns or with the President of Mexico sending in the federal police. We can take a lot more lives, and I would hate to see the biggest financial interests in this country part and party to killing the common people of Mexico. That will not build friendships over the years.

But the biggest interests in this country, political and economic, ought to be for democracy-building south of our border, because only when the people there have a right to have a decent wage and to own a piece of property and have enough to eat will there be political stability and economic stability in that country and four our own country.

I felt compelled to speak out. I am very worried about what could happen over this weekend when Congress goes home with that cease-fire having been lifted, and at least I wanted to put something on record about my deep concerns, and also that those who have their monied interests at heart would also put to heart the interests of the people of Mexico and be a voice for them.

The SPEAKER pro tempore (Mr. ZELIFF). The Chair would remind Members to address the Chair and not those outside the Chamber.

Mr. TAYLOR of Mississippi. Mr. Speaker, reclaiming my time, I want to thank the gentlewoman from Ohio [Ms. KAPTUR] for her remarks. It is strange that she used the word "rebel." It reminded me of some other people who really need to be commended for what happened earlier here in the week. There was a vote on Tuesday, or at least we had hoped to get a vote on whether or not we could investigate this. If you happen to have been following the House proceedings you would know the majority leader, Mr. ARMEY, stood up and called for tabling of that motion, and what that means is that it cannot even be debated, that the American people would not even have 1 hour to hear what was the information we were looking for, why we were looking for it, and what we hope to do with it and how we hoped to change things. It is interesting that there were 14 Republicans who went out on a limb and opposed their leadership because they knew that what was going on was so wrong that they would not give their blessing to it. I really think those Members, there were about 150 Democrats, and I thank all of them for their help, but in particular I want to thank Congressman BILBRAY, Congressman COBLE, Congressman DUNCAN, Congressman ENGLISH, Congressman HUNTER, Congressman ISTOOK, Congressman KLUG, Congressman LARGENT, Congressman MYERS, Congressman ROHRABACHER, Congressman STEARNS, and my friend but not relative, CHARLIE TAYLOR from North Carolina, Congressman WELDON, and Congressman WHITFIELD.

It was my understanding, as reported today in the Washington Times, that rather than being applauded by their colleagues in the Republican Conference for their brave stand in putting the American people before party politics, and I quote, "they were castigated by House Majority Whip TOM DELAY for opposing Mr. GINGRICH on the vote to bring this before the public."

I want to make it very clear to the Speaker, I want to make it very clear to the American public, this issue will not go away. They hope it will be forgotten. How can you forget $20 billion and how can you forget the potential for this Nation to lose another $15 billion? That is $35 billion, and for those who want to know what that is the equivalent of, that is the equivalent of what this Nation spends on the entire budget for the Veterans' Administration for a whole year, and it is gone, and it is wrong.

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to my colleague, the gentleman from Vermont, the only independent Member of this body, and the gentleman who has introduced legislation to make this fund subject to an annual appropriation process like every other dollar that is in the Treasury.

Mr. SANDERS. Mr. Speaker, I thank the gentleman very much for yielding and congratulate him on his leadership, as well as that of the gentlewoman from Ohio [Ms. KAPTUR]. It is nice to be here this evening with them. I share the concerns they have articulated.

It seems to me to be rather incredible that at a time when we spend huge amounts of time right here on the floor of the House debating the appropriation for the National Council for the Humanities and the National Council for the Arts, and $100 million here and $100 million there, that this institution presumably which represents the American people has not been able to debate and vote on a $20 billion-plus package which puts taxpayers' money at risk. Maybe people agree with what the President and Mr. GINGRICH are doing, maybe they do not. But I cannot believe that many Americans think it proper that the U.S. Congress does not debate that issue and vote it up or vote it down right here on the floor of the House.

As the gentleman from Mississippi [Mr. TAYLOR] indicated, I have introduced H.R. 867. What H.R. 867 does is it says that the world has changed markedly since 1934 when the legislation that the President authorized was first enacted. A lot has changed. Under H.R.

867 loans from the Exchange Stabilization Fund would only be allowed, as the gentleman from Mississippi indicated, to the extent that Congress has previously authorized it in an annual appropriation bill. In other words, like all of the other appropriations in this Congress that come through this Congress, this fund also would have to be appropriated by Congress.

I would point out to my colleagues that this would mean that the fund would be treated in the exact same manner that we treat the funds held by the Export-Import Bank. Both funds are self-sufficient and do not require annual contributions in appropriation bills. However, loans made by the Export-Import Bank are subject to congressional approval given under authorization and appropriation bills. This bill would simply subject the Exchange Stabilization Fund to congressional approval.

We have just introduced this bill on Wednesday, and I am delighted that we have already received significant support for it of both the gentlewoman from Ohio [Ms. KAPTUR] and the gentleman from Mississippi [Mr. TAYLOR], but also on board are the gentleman from Oregon [Mr. DEFAZIO], the gentlewoman from Missouri [Ms. DANNER], the gentleman from Pennsylvania [Mr. KLINK], the gentleman from Ohio [Mr. TRAFICANT], the gentleman from California [Mr. ROHRABACHER], the gentleman from Illinois [Mr. EVANS], the gentleman from Indiana [Mr. VISCLOSKY], the gentlewoman from New York [Mrs. MALONEY], the gentleman from Illinois [Mr. LIPINSKI], and the gentleman from Washington [Mr. METCALF]. Included in those Members are some who consider themselves pretty conservative and some who consider themselves pretty progressive. But I think the bottom line for all of us and for the American people is that at a time when this country has a $200 billion deficit, at a time in which Members of this Congress are talking about cuts in Medicare, Medicaid, veterans' programs, nutrition programs for hungry children, that before $20 billion-plus of taxpayers' money is put at risk, that issue must be discussed and must be debated and must be voted upon on the floor of the House, or else we as Members of Congress are not doing our job.

I thank the gentleman for inviting me. I have to run, but I thank him.

Mr. TAYLOR of Mississippi. Mr. Speaker, I want to thank the gentleman for being here today, and I want to again remind everyone that this was never brought before Congress. The reason it was not brought before Congress is because both sides, the Democrats and the Republicans, knew that had it been brought before Congress, Congress would have voted it down, and that is the greatest outrage of all, that the will of the majority as expressed through their elected representatives was never heard. The gentleman from Vermont [Mr. SANDERS] is trying to correct that. It is a shame that a little-known provision of a law had to be used to thwart the will of the majority.

But I really do want to thank the gentleman for trying to correct that.

Mr. SANDERS. If the gentleman will yield, and not only are a majority of Republicans against this bailout and a majority of Democrats, polls indicate that the vast majority of the American people are in opposition, and as the gentlewoman form Ohio [Ms. KAPTUR] has pointed out on many occasions, a majority of the people in Mexico are in opposition to this bailout.

So who is for it? I think we know who is for it, and that is the people who have the money, and that is the people who have the power in this country, our friends in the large commercial banks and in the investment houses on Wall Street. But we all and many of our colleagues are going to demand that this issue be debated and voted upon here on the floor of the House. We do not intend to abdicate our responsibility.

Again I thank the gentleman for yielding.

Ms. KAPTUR. If the gentleman will yield, I just wanted to say it is rather interesting when you look at who will get the $20 billion as it is drawn down from the Treasury, it will not be the people in the United States who have lost their jobs to Mexico. We have had over 18,000 Americans since January 1, 1994, lose their jobs to Mexico already because the wages down there are so cheap. Our plants, several thousand of them, have been relocating down there over the years, and after NAFTA that exodus accelerated. So our people will not be getting the money. In fact the money is being taken from our taxpayers to bail out the big financial institutions.

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We know the money will not go to feed the people of Mexico. The people of Mexico understand that their government will not help them, because it is in fact a one-party government and an authoritarian state that has been in power since before my grandmother was born. So they know that they will not get assistance from there. So it is interesting to think about who the money is really going to and at the same time as those dollars flow between the central bank of Mexico and its public treasury and Wall Street here in the United States and the central bank of Germany and Japan, when you think about that movement of money, and then you think about the fact that some of those very same institutions, especially the private creditors, have said very quietly to our government it is all right, let Mexico clean up its problems in Chiapas, clean up its problems in Tabasco state, in other words, kill the people of Mexico who are fighting because they basically do not have enough money to survive for life, enough to eat.

I remember one woman said to me when I visited down there, "Well, Ms. KAPTUR, you do not understand. We work for hunger wages." I said, "I beg your pardon? I never heard that term." She said, "People get about 80 percent of the calories that it takes to keep a person's weight in balance," so in the part of the countryside that we were in, the people were very thin, and they were very hungry, and it was very hard to even get tortillas. The children were eating tortillas. They did not have fresh water. It is hard for Americans to imagine if they have not visited the inland area how people are actually living in that nation of nearly 100 million people, yet the dollars will not go to help those people. In fact, the people that are suffering most, the ones who are crying out for their own government, for their own government to help them, are being felled by the federal police.

And so we ask ourselves, what are we doing as a country; what are the major institutions of this country doing, political and economic? Are we standing up for the best ideals that are in the Constitution?

I think not.

And so it is my pleasure to join with the gentleman from Mississippi [Mr. TAYLOR] this evening and to be a voice for people on both sides of the border who feel that this money is being incorrectly used to support a government that does not represent the majority of people in that nation.

Mr. TAYLOR of Mississippi. I say to the gentlewoman from Ohio [Ms. KAPTUR], it has really become apparent to me in phone calls I have had, letters, faxes from around the country that the American people feel powerless against Wall Street. They feel powerless against the people who benefited from this.

You pointed out very well that is not the Mexican people. It is Wall Street. It is the people who reaped tremendous profits down there last year, because they took risky investments. When those risky investments went sour, then they called upon the taxpayers to bail them out, and that is wrong, that is not free enterprise.

Ms. KAPTUR. USA Today last week had a big page in the business section that showed all the different funds, the stock and bond funds, the mutual funds in the United States and what their earnings had been since 1991, and the emerging market fund under which this would fall, investments in Mexico had yielded a 66-percent return over the last 4 years.

So the companies that we are talking about are not poor little lambs. These institutions have made incredible profits, and as they made those profits, why should they not eat their losses? And for the big banks, this has been a great time to be in banking in America. They put a fee on everything, right, if we go down here to the little checking machine and I try to get some money from my bank in Ohio, they charge $2.50 or $3.50 for the transfer. You pay for your checks. You pay for everything. You practically pay to go into the bank. They are making lots of money off of customers.

So this is true. Banking has been very profitable over the last 5 years. Why should they not eat their losses? Why have they come to the taxpayers?

Mr. TAYLOR of Mississippi. Reclaiming my time, I want to thank the gentlewoman for her help.

I would like to encourage those who are listening to get in touch with their elected Representatives. I think a few questions are fair to ask: Who agreed to the bailout? What were the names of the congressional leaders who met with the President and agreed to the bailout? When did they know? Who did they tell prior to the bailout so that people could call and buy millions of pesos and get a 20-percent return on their investment with your money that they get the profits? And above all, what can we do as a Nation to keep this from happening again?

And I hope that the American people will not let this slide. There are still $15 billion in that account that could be spent, and we have already seen the President use it once. It should not be used again.

But until we can pass legislation which is going to take awhile and will only take place if the people of America demand it, then they have to be held accountable by the voice of the American people.

I again want to thank the approximately 80 House employees that we have kept late. It is almost 5 o'clock, Friday afternoon. I would like to let them go home. I thank the gentlewoman from Ohio [Ms. KAPTUR] very much.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Mississippi [Mr. Taylor] for this special order.

RULES OF PROCEDURE FOR THE COMMITTEE ON SMALL BUSINESS FOR THE 104TH CONGRESS

(Mrs. MEYERS of Kansas asked and was given permission to extend her remarks at this point in the Record and to include extraneous matter.)

Mrs. MEYERS of Kansas. Mr. Speaker, pursuant to rule XI, clause 2(a) of the House rules, I am submitting a copy of the rules of the Committee on Small Business to be printed in the Record.

Rules and Procedures of the Committee on Small Business, U.S. House of Representatives, 104th Congress

1. GENERAL PROVISIONS

The Rules of the House of Representatives, and in particular the committee rules enumerated in Rule XI, are the rules of the Committee on Small Business to the extent applicable and by this reference are incorporated. Each subcommittee of the Committee on Small Business (hereinafter referred to as the "Committee") is a part of the Committee and is subject to the authority and direction of the Committee, and to its rules to the extent applicable.

2. REFERRAL OF BILLS BY CHAIR

Unless retained for consideration by the full Committee, all legislation and other matters referred to the Committee shall be referred by the Chair to the subcommittee of appropriate jurisdiction within two weeks. Where the subject matter of the referral involves the jurisdiction of more than one subcommittee or does not fall within any previously assigned jurisdictions, the Chair shall refer the matter as she may deem advisable. Bills, resolutions and other matters referred to subcommittees may be reassigned by the Chair when, in her judgment, the subcommittee is not able to complete its work or cannot reach agreement thereon.

3. DATE OF MEETING

The regular meeting date of the Committee shall be the second Wednesday of every month when the House is in session. Additional meetings may be called by the Chair as she may deem necessary or at the request of a majority of the members of the Committee in accordance with clause 2(c) of Rule XI of the House.

At least three days' notice of such additional meeting shall be given unless the Chair determines that there is good cause to call the meeting on less notice.

The determination of the business to be considered at each meeting shall be made by the Chair subject to clause 2(c) of Rule XI of the House.

A regularly scheduled meeting need not be held if there is no business to be considered or, upon at least three days' notice, it may be set for a different date.

4. ANNOUNCEMENT OF HEARINGS

Unless the Chair, or the Committee by majority vote, determines that there is good cause to begin a hearing at an earlier date, public announcement shall be made of the date, place and subject matter of any hearing to be conducted by the Committee at least one week before the commencement of that hearing.

5. MEETINGS AND HEARINGS OPEN TO THE PUBLIC

(A) Meetings.—Each meeting for the transaction of business, including the markup of legislation, of the Committee or its subcommittees, shall be open to the public, including to radio, television and still photography coverage, except as provided by clause 3(f)(2) of Rule XI of the House, except when the Committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House: *Provided, however*, That no person other than members of the Committee, and such congressional staff and such executive branch representatives as they may authorize, shall be present in any business or markup session which has been closed to the public.

(B) Hearings.—Each hearing conducted by the Committee or its subcommittees shall be open to the public, including to radio, television and still photography coverage, except when the Committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence or other matters to be considered would endanger the national security or would violate any law or rule of the House: *Provided, however*, That the Committee or subcommittee may by the same procedure vote to close one subsequent day of hearings. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the Committee to be present for the purpose of taking testimony, (i) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate clause 2(k)(5) of Rule XI of the House; or (ii) may vote to close the hearing, as provided in clause 2(k)(5) of Rule XI of the House.

No member of the House may be excluded from nonparticipatory attendance at any hearing of the Committee or any subcommittee, unless the House of Representatives shall by majority vote authorize the Committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearing to members by the same procedures designated for closing hearings to the public.

6. WITNESSES

(A) Statement of witnesses.—Each witness shall file with the Committee, forty-eight hours in advance of his or her appearance, fifty copies of his or her proposed testimony and shall limit the oral presentation at such appearance to a brief summary of his or her views.

(B) Interrogation of witnesses.—The right to interrogate witnesses before the Committee or any of its subcommittee shall alternate between the majority members and the minority members. In recognizing members to question witnesses, the Chair may take into consideration the ratio of majority and minority members present. Each member shall be limited to five minutes in the interrogation of witnesses until such time as each member of the Committee who so desires has had an opportunity to question each witness.

7. SUBPOENAS

A subpoena may be authorized and issued by the Chair of the Committee in the conduct of any investigation or series of investigations or activities to require the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers and documents as she deems necessary. The ranking minority member shall be promptly notified of the issuance of such a subpoena.

Such a subpoena may be authorized and issued by the chair of a subcommittee with the approval of a majority of the members of the subcommittee and the approval of the Chair of the Committee.

8. QUORUM

No measure of recommendation shall be reported unless a majority of the Committee was actually present. For purposes of taking testimony or receiving evidence, two members shall constitute a quorum. For all other purposes, one-third of the members shall constitute a quorum.

9. AMENDMENTS DURING MARKUP

Any amendment offered by any pending legislation before the Committee must be made available in written form when requested by any member of the Committee. If such amendment is not available in written form when requested, the Chair shall allow an appropriate period for the provision thereof.

10. PROXIES

No vote by any member of the Committee or any of its subcommittees with respect to any measure or matter may be cast by proxy.

11. NUMBER AND JURISDICTION OF SUBCOMMITTEES

There will be four subcommittees as follows:

Government Programs (seven Republicans and five Democrats).

Procurement, Exports and Business Opportunities (eight Republicans and six Democrats).

Regulation and Paperwork (eight Republicans and six Democrats).

Taxation and Finance (eight Republicans and six Democrats).

During the 104th Congress, the Chair and ranking minority member shall be ex officio members of all subcommittees, without vote, and the full Committee shall conduct oversight of all areas of the Committee's jurisdiction.

In addition to conducting oversight in the area of their respective jurisdiction, each subcommittee shall have the following jurisdiction:

Government programs

Small Business Act, Small Business Investment Act, and related legislation.

Federal government programs that are designed to assist business generally.

Small Business Innovation and Research Program.

Opportunities for minority and women-owned businesses.

Procurement, exports and business opportunities

Participation of small business in Federal procurement.

Export opportunities.

General promotion of business opportunities.

General economic problems.

Regulation and paperwork

Responsibility for, and investigative authority over, the regulatory and paperwork policies of all Federal departments and agencies.

Regulatory Flexibility Act.

Paperwork Reduction Act.

Competition policy generally.

Taxation and finance

Tax policy and its impact on small business.

Access to capital.

Finance issues generally.

12. COMMITTEE STAFF

(A) Majority staff.—The employees of the Committee, except those assigned to the minority as provided below, shall be appointed and assigned, and may be removed, by the Chair. Their remuneration shall be fixed by the Chair, and they shall be under the general supervision and direction of the Chair.

(B) Minority staff.—The employees of the Committee assigned to the minority shall be appointed and assigned, and their remuneration determined, as the ranking minority member of the Committee shall determine.

(C) Subcommittee staff.—The Chair and ranking minority member of the full Committee shall endeavor to ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the Rules of the Committee.

13. POWERS AND DUTIES OF SUBCOMMITTEES

Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it. Subcommittee chairs shall set meeting and hearing dates after consultation with the Chair of the full Committee. Meetings and hearings of subcommittees shall not be scheduled to occur simultaneously with meetings of the full Committee.

14. SUBCOMMITTEE REPORTS

(A) Investigative hearings.—The report of any subcommittee on a matter which was the topic of a study or investigation shall include a statement concerning the subject of the study or investigation, the findings and conclusions, and recommendations for corrective action, if any, together with such other material as the subcommittee deems appropriate.

Such proposed report shall first be approved by a majority of the subcommittee members. After such approval has been secured, the proposed report shall be sent to each member of the full Committee for his or her supplemental, minority or additional views.

Any such views shall be in writing and signed by the member and filed with the clerk of the full Committee within five calendar days (excluding Saturdays, Sundays and legal holidays) from the date of the transmittal of the proposed report to the members. Transmittal of the proposed report to members shall be by hand delivery to the members' offices.

After the expiration of such five calendar days, the report may be filed as a House report.

(B) End of Congress.—Each subcommittee shall submit to the full Committee, not later than November 15th of each even-numbered year, a report on the activities of the subcommittee during the Congress.

15. RECORDS

The Committee shall keep a complete record of all actions which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each subcommittee rollcall vote, together with a description of the matter voted upon, shall promptly be made available to the full Committee. A record of such votes shall be made available for inspection by the public at reasonable times in the offices of the Committee.

The Committee shall keep a complete record of all Committee and subcommittee activity which, in the case of any meeting or hearing transcript, shall include a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved.

The records of the Committee at the National Archives and Records Administration shall be made available in accordance with Rule XXXVI of the Rules of the House. The Chair of the full Committee shall notify the ranking minority member of the full Committee of any decision, pursuant to clause 3(b)(3) or clause 4(b) of Rule XXXVI of the House, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee.

16. ACCESS TO CLASSIFIED OR SENSITIVE INFORMATION

Access to classified or sensitive information supplied to the Committee and attendance at closed sessions of the Committee or its subcommittees shall be limited to members and necessary Committee staff and stenographic reporters who have appropriate security clearance when the Chair determines that such access or attendance is essential to the functioning of the Committee.

The procedure to be followed in granting access to those hearings, records, data, charts, and files of the Committee which involve classified information or information deemed to be sensitive shall be as follows:

(A) Only Members of the House of Representatives and specifically designated Committee staff of the Committee on Small Business may have access to such information.

(B) Members who desire to read materials that are in the possession of the Committee should notify the clerk of the Committee or the subcommittee possession the materials.

(C) The clerk will maintain an accurate access log which identifies the circumstances surrounding access to the information, without revealing the material examined.

(D) If the material desired to be reviewed is material which the Committee or subcommittee deems to be sensitive enough to require special handling, before receiving access to such information, individuals will be required to sign an access information sheet acknowledging such access and that the individual has read and understands the procedures under which access is being granted.

(E) Material provided for review under this rule shall not be removed from a specified room within the Committee offices.

(F) Individuals reviewing materials under this rule shall make certain that the materials are returned to the proper custodian.

(G) No reproductions or recordings may be made of any portion of such material.

(H) The contents of such information shall not be divulged to any person in any way, form, shape or manner, and shall not be discussed with any person who has not received the information in an authorized manner.

(I) When not being examined in the manner described herein, such information will be kept in secure safes or locked file cabinets in the Committee offices.

(J) These procedures only address access to information the Committee or a subcommittee deems to be sensitive enough to require special treatment.

(K) If a Member of the House of Representatives believes that certain sensitive information should not be restricted as to dissemination or use, the Member may petition the Committee or subcommittee to so rule. With respect to information and materials provided to the Committee by the executive branch, the classification of information and materials as determined by the executive branch shall prevail unless affirmatively changed by the Committee or the subcommittee involved, after consultation with the appropriate executive agencies.

(L) Other materials in the possession of the Committee are to be handled in accordance with the normal practices and traditions of the Committee.

17. OTHER PROCEDURES

The Chair of the full Committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee.

The Committee may not be committed to any expense whatever without the prior approval of the Chair of the full Committee.

18. AMENDMENTS TO COMMITTEE RULES

The Rules of the Committee may be modified, amended or repealed by a majority vote of the members, at a meeting specifically called for such purpose, but only if written notice of the proposed change has been provided to each such member at least forty-eight hours before the time of the meeting.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCNULTY (at the request of Mr. GEPHARDT), for today after 2 p.m., on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TUCKER) to revise and extend their remarks and include extraneous material:)

Mr. TUCKER, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

(The following Members (at the request of Mr. SMITH of Michigan) to revise and extend their remarks and include extraneous material:)

Mr. KIM, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. TUCKER) and to include extraneous matter:)

Mr. UNDERWOOD.

Mr. DEUTSCH.

Mr. MCNULTY.

Mr. LUTHER.

Mr. JACOBS.

Mr. KENNEDY of Massachusetts.

Mr. MURTHA.

(The following Members (at the request of Mr. SMITH of Michigan) and to include extraneous matter:)

Mr. PACKARD.

Mr. CUNNINGHAM.

Mr. SMITH of New Jersey in two instances.

Mr. FIELD of Texas.

Mr. MCINTOSH.

Mr. QUINN.

(The following Members (at the request of Mr. TAYLOR of Mississippi) and to include extraneous matter:)

Mr. CLINGER.

Mr. DAVIS.

ADJOURNMENT

Mr. TAYLOR of Mississippi. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 56 minutes p.m.), under its previous order, the House adjourned until Monday, February 13, 1995, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

361. A letter from the Director, Congressional Budget Office, transmitting a report entitled "The Economic and Budget Outlook: Fiscal Years 1996–2000"; jointly, to the Committees on Appropriations and the Budget.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. PRYCE: Committee on Rules. House Resolution 79. Resolution providing for the consideration of the bill (H.R. 728) to control crime by providing enforcement block grants (Rept. 104–27). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 256. A bill to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes (Rept. 104–28, Pt. 1). Ordered to be printed.

Mr. LIVINGSTON: Committee on Appropriations. H.R. 889. A bill making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes (Rept. 104–29). Referred to the Committee of the Whole House on the State of the Union.

Mr. LIVINGSTON: Committee on Appropriations. H.R. 845. A bill rescinding certain budget authority, and for other purposes (Rept. 104–30). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ (for himself, Mr. HINCHEY, Mr. MFUME, Mr. WYNN, Mr. TRAFICANT, Mr. FRANK of Massachusetts, and Mr. DEFAZIO):

H.R. 888. A bill to promote accountability and the public interest in the operation of the Federal Reserve System, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. LIVINGSTON:

H.R. 889. A bill making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations.

By Mr. ANDREWS:

H.R. 890. A bill to provide for economic growth by reducing income taxes for most Americans, by encouraging the purchase of American-made products, and by extending transportation-related spending, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Transportation and Infrastructure, Banking and Financial Services, Government Reform and Oversight, and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS (for himself and Mr. MINETA):

H.R. 891. A bill to acknowledge the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States and the 13 American colonies between 1619 and 1865 and to establish a commission to examine the institution of slavery, subsequent de jure and de facto racial and economic discrimination against African-Americans, and the impact of these forces on living African-Americans, to make recommendations to the Congress on appropriate remedies, and for other purposes; to the Committee on the Judiciary.

By Mr. DICKEY (for himself, Mr. SHAYS, Mr. INGLIS of South Carolina, and Mr. BONILLA):

H.R. 892. A bill to reauthorize the independent counsel statute, and for other purposes; to the Committee on the Judiciary.

By Mr. GILLMOR (for himself and Mr. BONIOR):

H.R. 893. A bill to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the birth of Thomas Alva Edison, to redesign the half dollar circulating coin for 1997 to commemorate Thomas Edison, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MCNULTY:

H.R. 894. A bill to amend title 10, United States Code, to provide military reservists who are retained in active status after qualifying for reserve retired pay credit toward computation of retired pay for service performed after so qualifying; to the Committee on National Security.

By Mr. MCNULTY (for himself, Mr. UNDERWOOD, Mr. ACKERMAN, Mr. SERRANO, Mr. KING, Mr. PASTOR, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PALLONE, Mr. BURTON of Indiana, Mrs. CHENOWETH, Mr. STEARNS, Mr. RANGEL, Mr. EVANS, Mrs. SEASTRAND, Mr. MONTGOMERY, Ms. RIVERS, and Mr. ROYCE):

H.R. 895. A bill to provide for retroactive award of the Navy Combat Action Ribbon based upon participation in ground or surface combat as a member of the Navy or Marine Corps during the period between July 4, 1943, and March 1, 1961; to the Committee on National Security.

By Mr. SCHUMER (for himself and Mr. DICKS):

H.R. 896. A bill to improve the ability of the United States to respond to the international terrorist threat; to the Committee on the Judiciary.

By Mr. TAUZIN (for himself, Mr. PARKER, Mr. HALL of Texas, Mr. PETERSON of Minnesota, Mr. BREWSTER, Mr. CONDIT, and Mr. LAUGHLIN):

H.R. 897. A bill to terminate the Office of the Surgeon General of the Public Health Service; to the Committee on Commerce.

By Mr. YOUNG of Alaska:

H.R. 898. A bill to prohibit high seas fishing vessels from engaging in harvesting operations on the high seas without specific authorization from the Secretary of Commerce, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Alaska (for himself, Mr. Boehner, Mr. Barcia, Mr. Flanagan, Mr. Pallone, Mr. Klug, Mr. Hutchinson, Mr. Costello, Mr. Ney, Mr. Brown of Ohio, Mr. Stump, Mr. Ramstad, Mr. Rohrabacher, Mr. Weller, Mr. Hamilton, Mr. Lightfoot, Mr. Goss, Mr. Hastert, Mr. Manzullo, Mr. Hancock, Mr. Roemer, Ms. Dunn of Washington, Mr. Brewster, Mr. Taylor of North Carolina, Mr. Cunningham, Mr. Pomeroy, Mr. LaTourette, Mr. Orton, Mr. Andrews, Mr. Sensenbrenner, Mr. Souder, Mr. Bilbray, Mr. Longley, Mr. Crane, Mr. Roth, Mr. Peterson of Minnesota, Mrs. Waldholtz, Mr. Hastings of Washington, Mr. Traficant, Mr. Thornberry, Mr. Walsh, Mr. Clinger, Mr. Hoyer, Mr. Weldon of Pennsylvania, Mr. Jacobs, Mr. Kennedy of Rhode Island, Mr. Ehrlich, Mr. Linder, Mr. Lucas, Mr. Poshard, Mr. Shays, Ms. Danner, Mr. Barr, Mr. Norwood, Mr. Schaefer, Mr. LaHood, Mr. McKeon, Mr. Filner, Mr. Gunderson, and Mr. Regula):

H.R. 899. A bill to amend title 23, United States Code, to eliminate the penalties for noncompliance by States with a program requiring the use of motorcycle helmets; to the Committee on Transportation and Infrastructure.

By Ms. KAPTUR (for herself, Mr. Abercrombie, Mr. DeFazio, Mr. Evans, Mr. Hunter, Mr. Klink, Mr. Lipinski, Mr. Rohrabacher, Mr. Sanders, Mr. Taylor of Mississippi, Mrs. Thurman, Mr. Visclosky, and Ms. Danner):

H. Res. 80. Resolution requesting the President to submit information to the House of Representatives concerning actions taken through the exchange stabilization fund to strengthen the Mexican peso and stabilize the economy of Mexico; to the Committee on Banking and Financial Services.

By Mr. WALKER:

H. Res. 81. Resolution providing amounts for the expenses of the Committee on Science in the 104th Congress; to the Committee on House Oversight.

By Mr. YOUNG of Alaska:

H. Res. 82. Resolution providing amounts for the expenses of the Committee on Resources in the 104th Congress; to the Committee on House Oversight.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. FOWLER:

H.R. 900. A bill to direct the Secretary of Transportation to issue certificates of documentation with appropriate endorsement for employment in coastwise trade for each of 2 vessels named *Gallant Lady*, subject to certain conditions, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. TOWNS:

H.R. 901. A bill to renew patent numbered 3,387,268, relating to a quotation monitoring unit, for a period of 10 years; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 24: Mr. Camp.

H.R. 26: Mr. Luther and Mr. Greenwood.

H.R. 29: Mrs. Schroeder.

H.R. 46: Mr. Klink, Mr. Flanagan, Mr. Bass, Mr. Doyle, Mr. Zeliff, Mr. King, Mr. Gene Green of Texas, Mr. Smith of Texas, Mr. Fields of Texas, and Mr. Sisisky.

H.R. 52: Mr. Calvert, Mr. Klink, Mr. Johnson of South Dakota, and Ms. Rivers.

H.R. 70: Mr. Manton, Mr. Hunter, Mr. Combest, Mr. Thornberry, and Mrs. Lincoln.

H.R. 97: Mr. Foglietta.

H.R. 104: Ms. Rivers.

H.R. 122: Mr. Torkildsen and Mr. Hall of Texas.

H.R. 217: Mr. Filner.

H.R. 219: Mr. Filner.

H.R. 246: Mr. Bono and Mr. Paxon.

H.R. 260: Mr. Royce.

H.R. 305: Mr. Castle and Mr. Bereuter.

H.R. 311: Mr. Levin.

H.R. 325: Mr. Fields of Texas and Mr. Tauzin.

H.R. 326: Mr. Fields of Texas.

H.R. 328: Mr. Fields of Texas.

H.R. 354: Mr. Livingston and Mr. Kim.

H.R. 370: Mr. Oxley, Mrs. Waldholtz, Mr. Riggs, Mr. Quillen, Mr. Hastings of Washington, Mr. Thornberry, Mrs. Roukema, Mr. Barr, Mr. Whitfield, Mr. Frelinghuysen, and Mr. Weldon of Pennsylvania.

H.R. 377: Mr. Towns.

H.R. 398: Mr. Conyers, Mr. Frazer, Mr. Hilliard, and Mr. Barrett of Wisconsin.

H.R. 483: Mr. Gunderson, Mr. Dreier, Mr. Roth, Mr. Burr, Mr. McCrery, Mr. Edwards, Mr. Calvert, Mr. McKeon, Mr. Vento, Mr. Bevill, Mr. DeLay, Mr. Traficant, Mr. Hastings of Florida, Mr. Baesler, Mr. Jacobs, Mr. Foglietta, Mr. Engel, Mr. Canady, Mr. Frost, and Mr. Skelton.

H.R. 499: Mr. Dellums, Mr. Williams, Mr. Stark, and Mrs. Chenoweth.

H.R. 514: Mr. Paxon.

H.R. 553: Mr. Deutsch and Mr. Owens.

H.R. 560: Ms. Harman, Mr. Pete Geren of Texas, Mr. Fields of Texas, Mr. Cunningham, Mr. Saxton, Mr. Wilson, Mr. Solomon, Mr. Livingston, Mr. Gordon, Mr. McKeon, Mr. Shays, Mr. Gutknecht, Mr. Calvert, and Mrs. Meyers of Kansas.

H.R. 593: Mr. Fields of Texas.

H.R. 612: Ms. Kaptur.

H.R. 678: Mr. Smith of Michigan.

H.R. 682: Mr. Richardson.

H.R. 692: Mr. Faleomavaega and Mr. Bishop.

H.R. 697: Mrs. Vucanovich, Mr. Orton, and Mr. Fields of Texas.

H.R. 698: Mr. Wise, Mr. Stump, and Mr. Bryant of Tennessee.

H.R. 704: Ms. Molinari, Ms. Rivers, Mr. Shays, Mr. Markey, Mr. Upton, Mrs. Seastrand, Mr. Calvert, and Mr. Boehlert.

H.R. 705: Mr. Stump and Mr. Shays.

H.R. 708: Mrs. Seastrand, Mr. Sensenbrenner, Ms. Pryce, Mr. Livingston, Ms. Lofgren, and Mr. Fields of Texas.

H.R. 726: Mr. Ackerman, Mr. Canady, Mr. Deutsch, Mr. Doolittle, Mr. Dornan, Mr. Gejdenson, Mrs. Maloney, Mr. Parker, Mr. Smith of Texas, Mr. Torres, and Mr. Towns.

H.R. 733: Ms. Pryce, Mr. Bereuter, and Mr. Ehlers.

H.R. 734: Mr. Ehlers.

H.R. 743: Mr. McKeon, Mr. Weldon of Florida, Mr. Funderburk, Mrs. Meyers of Kansas, Mr. Sam Johnson, Mr. Bateman, Mr. Upton, and Mr. Knollenberg.

H.R. 768: Mr. Martinez.

H.R. 783: Mr. Pastor, Mr. Clyburn, Mr. Smith of Michigan, and Mr. Collins of Georgia.

H.R. 789: Mr. Knollenberg.

H.R. 791: Mr. Foley, Mr. Sensenbrenner, Mr. Walsh, Mr. Cox, Mr. Chabot, Mr. Graham and Mrs. Waldholtz.

H.R. 803: Mr. Sensenbrenner, Mr. English of Pennsylvania, Ms. Eshoo, Mr. Gene Green of Texas, Mr. Fox, Ms. Pryce, and Mr. Cox.

H.R. 804: Mr. Radanovich.

H.R. 851: Mr. Hilliard, Mr. Frost and Mrs. Mink of Hawaii.

H.J. Res. 8: Mr. Fields of Texas.

H.J. Res. 64: Mr. Stump, Mr. Shays, and Mr. Bereuter.

H. Con. Res. 12: Mr. Walsh, Mr. Thompson, and Mr. Shays.

H. Con. Res. 22: Mr. Torricelli, Mr. Ackerman, Mrs. Maloney, Mr. Abercrombie, Mr. Frazer, Mr. Hilliard, Mr. Boucher, Mr. Bunn of Oregon, Ms. Woolsey, Mr. Lipinski, Mr. Kleczka, Mr. Moran, Mr. Johnston of Florida, Mr. Reed, Mr. Sanders, Mr. Frost, Mr. Serrano, Mr. Kennedy of Massachusetts, Ms. Roybal-Allard, Mr. Beilenson, Mr. Martinez, Mrs. Meek of Florida, Mr. Foglietta, Mr. Studds, Mr. Manton, and Mr. Rahall.

H. Con. Res. 23: Mr. Richardson, Mr. Foglietta, Mr. Manton, Mr. Mascara, Mr. Frost, Mr. Underwood, Mr. Traficant, Mr. Brown of California, Mr. Leach, Mr. Gejdenson, Mr. Hall of Ohio, Mr. Baesler, and Mr. Kennedy of Rhode Island.

H. Res. 24: Mrs. Meyers of Kansas, Mr. Calvert, Mr. Cox, Ms. Dunn of Washington, Mr. Hoekstra, Mr. Knollenberg, and Ms. Molinari.

H. Res. 40: Mr. Johnson of South Dakota.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7

Offered By: Ms. Harman

(Page and line references are to H.R. 872)

Amendment No. 1: Strike title III (page 13, line 1, through page 21, line 22).

H.R. 7

Offered By: Mr. Menendez

(Page and line references are to H.R. 872)

Amendment No. 2: Strike title III (page 13, line 1, through page 21, line 22).

H.R. 728

Offered By: Mr. Ackerman

Amendment No. 4: Page 9, after line 17, add the following new paragraph (and designate the preceding sentence as paragraph (1)):

"(2) Preference for former members of the armed forces.—As a condition on the provision of funds under section 101, the Director shall require each unit of local government qualifying for such funds to give members of the Armed Forces who, on or after October 1, 1990, were or are selected for involuntary separation (as described in section 1141 of title 10, United States Code), approved for separation under section 1174a or 1175 of such title, or retired pursuant to the authority provided under section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1293 note), a suitable preferene in the employment of persons as additional law enforcement officers or support personnel using such funds. The nature and extent of such employment preference shall be jointly established by the Attorney General and the Secretary of Defense.

To the extent practicable, the Director shall endeavor to inform members who were separated between October 1, 1990, and the date of the enactment of this section of their eligibility for the employment preference.

H.R. 728

OFFERED BY: MS. FURSE

AMENDMENT NO. 5: Page 12, line 4, strike "and".

Page 12, line 7, strike "101(a)(2)." and insert "101(a)(2); and".

Page 12, after line 7, insert the following:

"(10) the unit of local government permits a health care provider who provides medical care in a health care facility immediately after a motor vehicle accident to a person in the accident to notify an officer investigating the accident who was present at the facility (or, if no such officer exists, the law enforcement agency that has jurisdiction over the accident site, if such site is known) that the person's blood alcohol level exceeds the maximum level permitted under State law for the operation of a motor vehicle where—

"(A) the health care facility is subject to regulation by the unit of local government;

"(B) the health care provider becomes aware of the person's blood alcohol level as a result of a blood test performed in the course or providing care to the person;

"(C) the health care provider has been informed by a provider of emergency services at the accident site that the person was the driver of the motor vehicle involved in the accident; and

"(D) the health care provider provides the notice as soon as is reasonably possible.

Page 13, after line 4, insert the following:

"(e) IMMUNITY FOR HEALTH CARE PROVIDERS MAKING CERTAIN REPORTS.—A health care provider who in good faith makes a report to a law enforcement officer or a law enforcement agency under the circumstances described in subsection (c)(10) shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed with respect to the making or the content of such report. Such a health care provider shall have the same immunity with respect to participating in any judicial proceeding resulting from such report.

H.R. 728

OFFERED BY: MR. HYDE

AMENDMENT NO. 6: On page 9, strike lines 3 through 8, and insert the following:

"(b) OVERSIGHT, ACCOUNTABILITY AND ADMINISTRATION.—Not more than 3 percent of the amount authorized to be appropriated under subsection (a) for each of the fiscal years 1996 through 2000 shall be available to the Attorney General for assuring compliance with the provisions of this title and for administrative costs to carry out the purposes of this title. The Attorney General shall establish and execute an oversight plan for monitoring the activities of grant recipients. Such sums are to remain available until expended."

H.R. 728

OFFERED BY: MR. KENNEDY OF MASSACHUSETTS

AMENDMENT NO. 7, Page 25, strike lines 11 through 13 and insert the following:

(j) COMMUNITY-BASED JUSTICE GRANTS FOR PROSECUTORS.—Section 31701 of the Violent Crime Control and Law Enforcement Act of 1994 is amended—

(1) by string "(a) IN GENERAL.—"; and

(2) by striking subsection (b).

H.R. 728

OFFERED BY: MR. MARTINI

AMENDMENT NO. 8: Page 10, after line 24, insert the following (and redesignate subsequent paragraphs accordingly);

"(4) the unit of local government—

"(A) will provide for each payment period non-Federal matching funds equal to not less than 10 percent of the amount paid to the unit under this title for the period;

"(B) will deposit the matching funds for a payment period in the trust fund established by the unit under paragraph (3) on the same day on which the unit deposits the amount paid under this title for the period; and

"(C) will spend the matching funds only for the purposes set forth in section 101(a)(2)

H.R. 728

OFFERED BY: MR. MCCOLLUM

AMENDMENT NO. 9: Page 8, after line 19, insert the following new subsection:

"(h) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 90 percent of the costs of a program or proposal funded under this title.

H.R. 728

OFFERED BY: MR. MENENDEZ

AMENDMENT NO. 10: Page 8, after line 19, insert the following:

"(h) SET-ASIDE FOR COMMUNITY-ORIENTED POLICING.—A unit of local government that receives funds under this title for a payment period shall allocate not less than 50 percent of such funds for the purpose of hiring (or rehiring), training, and employing on a continuing basis law enforcement officers who engage in community-oriented policing by carrying out with members of the community cooperative efforts to address crime and disorder problems or otherwise to enhance public safety.

H.R. 728

OFFERED BY: MR. MENENDEZ

AMENDMENT NO. 11: Page 13, after line 4, insert the following:

"(e) MAINTENANCE OF EFFORT REQUIREMENT.—A unit of local government qualifies for a payment under this title for a payment period only if the unit's expenditures on law enforcement services (as reported by the Bureau of the Census) for the fiscal year preceding the fiscal year in which the payment period occurs were not less than 90 percent of the unit's expenditures on such services for the second fiscal year preceding the fiscal year in which the payment period occurs.

H.R. 728

OFFERED BY: MRS. SCHROEDER

AMENDMENT NO. 12: Section 102. Authorization of Appropriations.

Add (c)

TECHNOLOGY ASSISTANCE

(1) The Attorney General shall reserve $25 million in FY 1996 and $40 million in FY 1997 authorized to be appropriated under subsection (a) for use by the National Institute of Justice to support local units in making fully informed decisions in identifying, selecting, modernizing and purchasing new technologies for use by law enforcement. This may include the development of less than lethal technologies; development of technologies to enhance officer safety; other research and development projects; the development of law enforcement technology standards; establishing test beds involving state or local law enforcement agencies; and development of a national communications infrastructure to disseminate information on law enforcement technologies to state and local law enforcement agencies.

The National Institute of Justice, Office of Science and Technology shall be responsible for providing grants for those projects supported by the Law Enforcement Technology Advisory Council of the National Institute of Justice and the Law Enforcement Advisory Boards of the Regional Law Enforcement Technology Centers of the National Law Enforcement Technology Center system.

H.R. 728

OFFERED BY: MRS. SCHROEDER

AMENDMENT NO. 13: Page 4, after line 5, insert the following:

"(D) Enhancing health care clinic security measures to protect against violence directed against the free exercise of constitutional rights, including—

"(i) overtime pay for law enforcement officers;

"(ii) security assessments by law enforcement officers;

"(iii) when recommended by law enforcement officials, purchases of materials to enhance the physical safety of clinics, including, bulletproof glass and security cameras.".

H.R. 728

OFFERED BY: MR. SCHUMER

AMENDMENT NO. 14: Page 2, beginning on line 21, strike "for reducing" and all that follows through page 4, line 5, and insert the following:

for—

"(A) programs, projects, and other activities to—

"(i) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

"(ii) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

"(iii) procure equipment, technology, or support systems, or pay overtime, if the applicant for such a grant demonstrates to the satisfaction of the Attorney General that expenditures for such purposes would result in an increase in the number of officers deployed in community-oriented policing equal to or greater than the increase in the number of officers that would result from a grant for a like amount for the purposes specified in clause (i) or (ii);

"(iv) hire former members of the Armed Forces to serve as career law enforcement officers for deployment in community-oriented policing, particularly in communities that are adversely affected by a recent military base closing.

"(v) increase the number of law enforcement officers involved in activities that are focused on interaction with members of the community on proactive crime control and prevention by redeploying officers to such activities;

"(vi) develop new technologies to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime; and

"(B) the establishment of crime prevention programs that involve the substantial participation of community-based groups, schools, and local educational agencies, relieve conditions that encourage crime, and provide meaningful and lasting alternatives to involvement of youth in crime, including—

"(i) supervised academic, sports, or extracurricular school, after school, summer and vacation period programs that provide children alternatives to involvement in gangs, drugs, and violent crime;

"(ii) programs for the prevention and treatment of substance abuse, especially among children and youth;

"(iii) programs that provide increased security in and around schools, parks, and other recreational areas that are the site of programs directed toward children and youth;

"(iv) programs to prevent and suppress violent youth gang activity and trafficking of firearms among youths;

"(v) neighborhood programs intended to discourage, disrupt, or interfere with crime, including neighborhood watch, community-based justice, and citizen patrol programs."

"(vi) establishing or supporting drug courts."

Page 6, after line 2, insert: "(c) 'Former member of the Armed Forces' means a member of the Armed Forces of the United States who is involuntarily separated from the Armed Forces within the meaning of section 1141 of title 10, United States Code.

Page 8, strike line 21 and all that follows through page 9, line 2 and insert the following:

"(a) Authorization of Appropriations.—

"(1) Law enforcement programs.—There are authorized to be appropriated to carry out subparagraph (A) of section 101(a)(2)—

"(A) $1,500,000,000 for fiscal year 1996;

"(B) $1,500,000,000 for fiscal year 1997;

"(C) $1,500,000,000 for fiscal year 1998;

"(D) $1,500,000,000 for fiscal year 1999; and

"(E) $1,500,000,000 for fiscal year 2000.

"(2) Prevention programs.—There are authorized to be appropriated to carry out subparagraphs (B) and (C) of section 101(a)(2)—

"(A) $1,000,000,000 for fiscal year 1996;

"(B) $1,000,000,000 for fiscal year 1997;

"(C) $1,000,000,000 for fiscal year 1998;

"(D) $1,000,000,000 for fiscal year 1999; and

"(E) $1,000,000,000 for fiscal year 2000.

H.R. 728

Offered By: Mr. Schumer

Amendment No. 15: Page 2, beginning on line 21, strike "for reducing" and all that follows through page 3, line 7, and insert the following:

for—

"(A) programs, projects, and other activities to—

"(i) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

"(ii) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

"(iii) procure equipment, technology, or support systems, or pay overtime, if the applicant for such a grant demonstrates to the satisfaction of the Attorney General that expenditures for such purposes would result in an increase in the number of officers deployed in community-oriented policing equal to or greater than the increase in the number of officers that would result from a grant for a like amount for the purposes specified in clause (i) or (ii);

"(iv) hire former members of the Armed Forces to serve as career law enforcement officers for deployment in community-oriented policing, particularly in communities that are adversely affected by a recent military base closing.

"(v) increase the number of law enforcement officers involved in activities that are focused on interaction with members of the community on proactive crime control and prevention by redeploying officers to such activities;

"(vi) develop new technologies to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime; and

Page 6, after line 2, insert the following:

"(c) 'Former member of the Armed Forces' means a member of the Armed Forces of the United States who is involuntarily separated from the Armed Forces within the meaning of section 1141 of title 10, United States Code.

Page 8, strike line 21 and all that follows through page 9, line 2 and insert the following:

"(a) Authorization of Appropriations.—

"(1) Law enforcement programs.—There are authorized to be appropriated to carry out subparagraph (A) of section 101(a)(2)—

"(A) $1,500,000,000 for fiscal year 1996;

"(B) $1,500,000,000 for fiscal year 1997;

"(C) $1,500,000,000 for fiscal year 1998;

"(D) $1,500,000,000 for fiscal year 1999; and

"(E) $1,500,000,000 for fiscal year 2000.

"(2) Prevention programs.—There are authorized to be appropriated to carry out subparagraphs (B) and (C) of section 101(a)(2)—

"(A) $500,000,000 for fiscal year 1996;

"(B) $500,000,000 for fiscal year 1997;

"(C) $500,000,000 for fiscal year 1998;

"(D) $500,000,000 for fiscal year 1999; and

"(E) $500,000,000 for fiscal year 2000.

H.R. 728

Offered By: Mr. Stupak

Amendment No. 16: Page 9, after line 2, insert the following (and redesignate any subsequent subsections accordingly):

"(b) Reservation for Byrne Programs.—The Attorney General shall reserve $450,000,000 of the amounts authorized under this section in each fiscal year to carry out the programs under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1965.

H.R. 728

Offered By: Mr. Stupak

Amendment No. 17: Page 16, after line 15, insert the following new paragraph (and redesignate succeeding paragraphs accordingly):

"(6) Minimum allocation to rural areas.—

"(A) In general.—If, but for this paragraph, the rural set-aside requirement of this paragraph would not be met by any State—

"(i) rural areas in such State shall receive an additional allocation of the reserved amount for such State in an amount necessary to satisfy such requirement, and

"(ii) the allocation of all other areas in such State shall be reduced to the extent necessary to accommodate the allocation under clause (i).

"(B) Rural set-aside requirement.—The rural set-aside requirement of this paragraph is met by a State if 30 percent of the amount reserved to such State under subsection (a) is allocated to rural areas.

"(C) Increases and decreases in allocations done on proportional basis.—Any increase or decrease required by subparagraph (A) shall be allocated among the areas to which the increase or decrease applies in the same proportions as the reserved amount would have been allocated but for this paragraph.

"(D) Rural areas.—For purposes of this paragraph, the term 'rural area' means any local governmental unit having a population of less than 50,000.

H.R. 728

Offered By: Mr. Watt of North Carolina

Amendment No. 18: Page 4, after line 5, insert the following:

"(D) Establishing the programs described in the following subtitles of title III of the Violent Crime Control and Law Enforcement Act of 1994 (as such title and the amendments made by such title were in effect on the day preceding the date of the enactment of this Act):

"(i) Ounce of Prevention Council under subtitle A.

"(ii) Local Crime Prevention Block Grant Program under subtitle B.

"(iii) Model Intensive Grant Program under subtitle C.

"(iv) Family and Community Endeavor Schools Grant Program under subtitle D.

"(v) Assistance for Delinquent and At-Risk Youth under subtitle G.

"(vi) Police Retirement under subtitle H.

"(vii) Local Partnership Act under subtitle J which made amendments to chapter 67 of title 31, United States Code.

"(viii) National Community Economic Partnership under subtitle K.

"(ix) Urban Recreation and At-Risk Youth subtitle O which made amendments to the Urban Park and Recreation Recovery Act of 1978.

"(x) Community-Based Justice Grants under subtitle Q.

"(xi) Family Unity Demonstration Project under subtitle S.

"(xiii) Gang Resistance and Education Training under subtitle X.

"(xiii) Any other Crime Prevention Program proposed by a unit of local government and approved by the Director of the Bureau of Justice Assistance which contains a process for assessing such program's impact on the incidence of crime; provided that not more than 25% funds approved under this Bill shall be available for grant under this section.

Page 6, after line 24, insert the following (and redesignate any subsequent subsections accordingly):

"(c) Set-Aside for Prevention.—Of the amounts authorized to be appropriated under subsection (a), the Attorney General shall allocate $1,000,000,000 of such funds for each of fiscal years 1996 through 2000 to carry out the purposes of subparagraph (D) of section 101(a)(2). Any program funded under this Set Aside for Prevention shall contain a component which includes a process for assessing the impact of such program on the incidence of crime.

H.R. 728, AS REPORTED

Offered By: Mr. Wise

Amendment No. 19: At page 4, after line 19, insert:

(G) "Enhance programs under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968.

H.R. 728

Offered By: Mr. Wise

Amendment No. 20: At page 20, after line 16, after "purposes" insert the following:

"Or the designated state agency or its equivalent of state enforcement"

SENATE—*Friday, February 10, 1995*

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, the Reverend Richard C. Halverson, Jr., of Arlington, VA.

PRAYER

The guest Chaplain, the Reverend Richard C. Halverson, Jr., offered the following prayer:

Let us pray:

God of the Nations, Lord of History, Thy Word declares that, "Except the Lord build the house, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain."—Psalms 127:1. Again, it is written, "* * * let every man take heed how he buildeth * * *."—1 Cor. 3:10b.

Though much of the burden for building our Nation rests upon the "council of elders"[1] within this Senate, we know that unless Thy decrees uphold us, the hours we spend in our best legislation are in vain.

In the words of President Lincoln, whose birth we soon celebrate: "Without the assistance of that Divine Being * * * I cannot succeed. With that assistance, I cannot fail. Trusting in Him, let us confidently hope that all will yet be well."[2]

Once again, in the urgency of this hour, we beseech Thee for divine assistance. We pray for a hedge of enlightened restraint around this "necessary fence"[3] of the Senate. For through this body, regulations must pass that will either strengthen or weaken our country.

As pressures mount for instant solutions to complex problems, grant those who hold this "senatorial trust"[4] the calm resolve to be not driven by public restlessness, nor drifting in stubborn idleness, but drawn by Thy vision of righteousness—which upholdeth the Nation.

And if the machinery of government seems to turn too slowly against the tide of national anxiety, may those who labor here take courage from the tortoise who, by perseverance, reached the ark, even in the face of an impending flood. In the name of Jesus Christ, we pray. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning the time for the two leaders has been reserved and there will now be a period for the transaction of morning business until the hour of 10 a.m, with Senators permitted to speak for up to 5 minutes each, with the following Senators to speak for up to the designated times: Senator THURMOND, 15 minutes; Senator CAMPBELL, 10 minutes, and Senator ROBB 5 minutes.

At the hour of 10 a.m, the Senate will resume consideration of House Joint Resolution 1, the balanced budget constitutional amendment, with Senator PACKWOOD to be recognized for up to 60 minutes. At the hour of 11 o'clock, Senator DASCHLE will be recognized for up to 15 minutes, to be followed by Senator DOLE for up to 15 minutes. At the hour of 11:30, the Senate will vote on or in relation to a second-degree amendment to the motion to refer.

Therefore, Senators should be on notice that there will be a rollcall vote at 11:30 this morning.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COVERDELL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina [Mr. THURMOND] is recognized to speak for up to 15 minutes.

Mr. THURMOND. Mr. President, I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 383 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HATFIELD. Mr. President, today, it is my distinct honor to reflect on the accomplishments of Rabbi Joshua O. Haberman, who has been serving as our guest Chaplain for this week. Rabbi Haberman's credentials and accomplishments are numerous, but let me take a minute to highlight some of his achievements.

Rabbi Haberman is the founder and president of the Foundation for Jewish Studies which sponsors a large variety of Jewish Study programs for the Greater Washington community. He is rabbi emeritus of the Washington Hebrew Congregation, the largest and oldest congregation in the District of Columbia and a past-president of the Washington Board of Rabbis.

Rabbi Haberman is a graduate of the University of Cincinnati, he was ordained as rabbi at the Hebrew Union College—Jewish Institute of Religion in Cincinnati, OH, where he also earned the degree of doctor of Hebrew letters. Also of interest regarding his academic background is the fact that he is the last Austrian to be enrolled for rabbinic studies at the Jewish Theological Institute of Vienna and he later left the institute following the Nazi invasion in 1938 and continued his studies in the United States.

He is a member of the board of alumni overseers of the HUC–JIR and he has served on the executive board of the Central Conference of American Rabbis. In addition he was the cochairman of the North American board of the World Union for Progressive Judaism.

Rabbi Haberman's academic accomplishments include authoring a book titled, "The God I Believe In," which is conversations about Judaism with 14 prominent Jews in our society. He has also authored an academic work titled, "Philosopher of Revelation: The Life and Thought of S.L. Steinheim." In addition to being an author, Rabbi Haberman has served as an adjunct professor at many institutions including: Georgetown, Wesley Theological Seminary, American University, and Rutgers.

Rabbi Haberman was also instrumental in developing a very important religious dialog with the Roman Catholic diocese of Washington, DC, and evangelical Christian leaders as well. In addition to his ecumenical work, he initiated a Moslem-Jewish dialog with Imam Wallace D. Muhammad of the World Community of Islam in the West. The two above-mentioned accomplishments demonstrate Rabbi Haberman's dedication to working across religious and cultural barriers. They demonstrate the rabbi's willingness to leave his comfort zone and build bridges with those of different religious and cultural affiliations.

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[1] The word "Senate" is derived from the Latin word, "senatus", "council of elders".

[2] These words were spoken by President-elect Lincoln as he left Springfield, Illinois, for Washington, D.C., in February, 1861 (McCollister, John. "So Help Me God", Landmark Books, p. 81 (1982)).

[3] James Madison referred to the Senate as a "necessary fence" of "enlightened citizens" whose responsibility it was to protect the rights and property of its citizens against "public impetuosity".

[4] Alexander Hamilton spoke of a "senatorial trust."

It is evident by these accomplishments that he is a man who is truly driven by his religious convictions rather than ideological associations. He has demonstrated that his life is wholly affected by his religious commitments. It is an honor to share the floor with him.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I understand the status of the situation on the floor is that we are in morning business; is that correct?

The PRESIDING OFFICER. The Senator is correct.

THE BUDGET AND THE CHALLENGE OF CONTROLLING DEFICITS

Mr. COCHRAN. Mr. President, to put this debate on the budget situation in context, I hope that we will keep in mind the difficulty that Congress has had over the years, and each administration in recent years, in trying to cope with this very, very difficult challenge of controlling deficits.

In 1960, for example, interest payments on our national debt amounted to 6 percent of the Federal budget. Today, that figure has grown to 16 percent. That is the percentage of the total expenditures that will be required to be appropriated and paid in interest on the current debt in the next fiscal year, according to the President's budget.

Last year, the Federal Government paid a total of $203 billion in interest on the existing debt. The budget just submitted by the President calls for spending $257 billion in the next fiscal year on interest on the accumulated debt.

By comparison, Senators might be interested to know that if these interest costs are as they are projected to be next year by the President's budget, we will spend just about as much on interest payments as we will on national defense.

The national defense dollars that are requested by the President to be appropriated for our Nation's security next year are at $262 billion in the President's budget; the interest payments, $257 billion, a $5 billion difference. In a $1.6 trillion budget, the percentage is about the same, 16 percent.

It seems to me that to believe we are going to be able to meet this challenge of controlling deficits more effectively without some requirement to do so or some new procedures in place such as this constitutional amendment to require a balanced budget is a triumph of hope over experience.

One item that I received in my mail this week from a constituent was very interesting from a historical perspective. Andy Halbrook is a resident of Greenville, MS. His father, David Halbrook, has been a member of our State legislature for a number of years and one of our important influences in State government. He sent me a Reader's Digest article of July 1979 which talked about the origin of the movement for State legislators to petition the Government for a constitutional convention to require a balanced budget.

I am going to read the first paragraph and put the rest of it in the RECORD with this letter for the information of Senators.

In Ollie Mohamed's Belzoni, Miss., department store—

Ollie Mohamed was a State Senator at the time—

a group was discussing Federal spending, inflation and Congress's perennial inability to balance the budget. State legislator David Halbrook spoke of his new grandchild: "That baby is going to have to pay for the things I'm enjoying. It ought to be the other way around. I ought to leave the world a little better for him."

This article goes on to talk about the conversation that then led to, well, what are we going to do about it? And one of them got the Constitution down and read here where it is provided the State legislatures can petition the Congress to convene a constitutional convention to amend the Constitution, and they decided that it ought to be done. And so David Halbrook led the effort in the Mississippi legislature to have that resolution passed. Then some other States got involved. The National Taxpayers Union got involved. And according to this article, over a period of years they almost reached the point where they were successful. They were four States short at the time this article was written in 1979.

Andrew—"Andy"—Halbrook, David's son, suggests that we ought to name this legislation the "David Halbrook Act," requiring the Congress to balance the budget as a matter of constitutional amendment. I think it is a good suggestion.

I ask unanimous consent that Andy Halbrook's letter be printed in the RECORD, along with the article from the Reader's Digest.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GREENVILLE, MS,
February 2, 1995.

Hon. THAD COCHRAN,
U.S. Senate,
Washington, DC.

Dear SENATOR COCHRAN: The balanced budget amendment is one of the most important pieces of legislation that will be considered in my lifetime and possibly in the lifetime of my children. It will have a much tougher row to hoe in the Senate than in the House. In light of this I would like to offer a suggestion that could perhaps significantly help to assure its passage.

In positioning for public approval, acceptance and support a product or a service or even a piece of legislation, perception is reality. Unless the populace can be overwhelmingly convinced to support something as broad-ranging as the balanced budget amendment it may be doomed to failure no matter how good its attributes. The way to get the popular support needed to be indomitably successful in this venture is to personalize it and to make everyone realize this is a grassroots idea from outside the beltway. In light of this please consider the following:

The balanced budget amendment was spawned in Belzoni, Mississippi by my father, Rep. David Halbrook and former Senator Ollie Mohamed. Please see the attached Reader's Digest article in testimony to this fact.

Due to his continuity of service in the Mississippi Legislature and active leadership roles in the American Legislative Exchange Council, the National Conference of State Legislators, the Southern Legislative Conference and other organizations, David Halbrook has been the torch-bearer for this idea since its inception.

Based on these facts I am asking that you consider naming the balanced budget amendment "The Halbrook Amendment". This will do many things to accelerate and maintain the momentum of this legislation.

David Halbrook is a life-long Democrat. Putting his name on this amendment could greatly enhance bipartisan support of this endeavor.

David Halbrook is a common man with uncommon talents and ideas, a business man, a farmer and a father concerned about his children's and grandchildren's future. The mainstream will immediately identify with him and his purpose for starting this process.

By putting a name and a face with something that can be as nebulous to the common man as a piece of federal legislation, such as was done with the Brady Bill, the public's perception of the process at hand can be immediately transformed into a tidal wave of support.

David Halbrook is a life-long Mississippian. Mississippi is in the midst of one of the most dynamic economic growth cycles in the nation. These factors could be coupled when titling this legislation the Halbrook Amendment to bring recognition to your leadership in bringing Mississippi to its current status as a good place to do business.

Finally, David Halbrook deserves this honor. He personally laid much of the groundwork for what is being debated today on Capitol Hill. I well remember his many trips to testify before one state legislative assembly after another in order to get them to put forth the call for a constitutional convention to take up this matter. As a seven term Democrat he is the senior member of the Mississippi House of Representatives. This adds credibility to his commonality. Most importantly, he is a loving and devoted father that has always tried to do the right thing by making this world a better place for his children along with everyone else.

In closing, I am requesting this not only because I have been taught to "honor thy father and thy mother", but I have also been taught to do the right thing. In my opinion, a balanced budget amendment is the right thing to do, and by personalizing this piece of legislation, its chances of passage will be greatly enhanced. I appreciate your consideration of my request and ideas.

Sincerely,

ANDREW L. "ANDY" HALBROOK,
Concerned Constituent.

[From the Reader's Digest, July 1979]

A CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET?

(By Eugene H. Methvin)

In OLLIE MOHAMED's Belzoni, Miss., department store, a group was discussing federal spending, inflation and Congress's perennial inability to balance the budget. State legislator David Halbrook spoke of his new grandchild: "That baby is going to have to pay for the things I'm enjoying. It ought to be the other way around. I ought to leave the world a little better for him."

That gave Mohamed, a former legislator, an idea. He found a copy of the Constitution and began to read from Article V: "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case shall be valid * * * when ratified by the Legislatures of three fourths of the several States. * * *"

That day in 1974, a national crusade was born to compel Congress by constitutional amendment to balance the federal budget. (An exception would occur in national emergencies, when both houses could agree by two-thirds vote to permit deficit spending.) A few months later, Representative Halbrook got the Mississippi state legislature to pass a resolution calling for a constitutional convention. Acting independently, lawmakers in Maryland, Delaware and North Dakota passed similar resolutions. The National Taxpayers Union, a feisty new citizens' lobby, took up the cause, and by April 1979 convention-call resolutions had been passed by 30 states. If four more act, Congress will be required to call a constitutional convention.

The pressure is growing. CBS and the New York Times interviewed voters last November and found that 82 percent of Democrats and 86 percent of Republicans favor a balanced-budget amendment. Five Presidential contenders (Republicans Reagan, Connally, Dole, Baker and Democrat Brown) have endorsed it. Observed Oregon senate president Jason Boe, "This thing is coming like a 100-car freight train at Congress, and they haven't done a thing about it."

The realization that the budget-balancers are only four states away from a constitutional convention has startled and disturbed many Washington politicians. Senate Budget Committee Chairman Edmund Muskie (D., Maine) growled that if state legislators continued their rebellion, Congress might balance the budget by cutting the $83 billion in grants and revenue sharing it gives states and localities. House Speaker Tip O'Neill's son Thomas, the Massachusetts lieutenant governor, took the lead in organizing an anti-amendment coalition of the special-interest groups that benefit most from deficit spending, including the AFL–CIO, the National Education Association and other public employee unions. President Carter assailed the proposition as "political gimmickry" and formed a White House task force to lobby state legislators.

Washington mobilization had effect. The Montana senate bowed to lobbying efforts and in March defeated an amendment resolution. And the Administration has promised an all-out fight in each of the 15 state legislatures that have yet to act.

Clearly, the battle lines are drawn between the Washington establishment and a disillusioned grassroots groundswell. Never before in the nation's history has so widespread a movement for constitutional change developed over such fundamental issues as the proper size of government and the way our elected representatives wield the powers to tax and spend. If the convention drive succeeds, says The Wall Street Journal the people would be saying that they have finally decided Congress can't be trusted with their money."

Few even on Capitol Hill dispute that there is genuine ground for wondering these days. Between 1946 and 1961, Congress managed seven deficits and seven surpluses, with an overall approximate balance—and low inflation. But in the 19 years since, Congress has balanced the budget only once, in 1919, and the net deficit over those years has been a aggering $377 billion. Washington has continued the deficits in boom times as well as bust. This year, President Carter offered a 1980 budget with a $29 billion deficit—plus $12 billion more in "off budget items—and called it "austere."

Two decades of Congressional and White House profligacy have helped produce severe inflation that threatens to halve the value of every dollar in five and a half years. Obvious victims include the poor and the elderly, but in the end, everybody suffers. The average family last year paid almost $800 interest on past government deficits, and inflation robbed another $800 from its purchasing power.

In 1976, running against the Washington establishment, candidate Jimmy Carter promised to balance the budget by 1979. Now that President Carter has proffered a $29 billion deficit, the public is turning to the constitutional amendment as a solution. The Associated Press found in a poll last February that "distrust of policitians is so deep that Americans do not believe their elected officials will act. Seventy percent said politicians will not work to wipe out the deficit."

Even without a constitutional convention, the budget-balancers may get what they want. State legislatures have used the convention call in the past to lever balky Congresses into proposing needed amendments. In fact, no amendment has ever come directly from the convention approach. State convention calls have helped prompt Congress to submit amendments to provide for direct election of Senators, repeal Prohibition, limit a President to two terms and provide for Presidential succession in case of disability.

In this session of Congress, 203 Representatives and 39 Senators support a wide variety of amendment proposals which they want Congress to submit directly to the states, circumventing a convention call. (Three-fourths of the state legislature, 38, are required to ratify an amendment.) One group would require a "super-majority" of either two-thirds or three-fourths of the members of Congress, in an emergency such as war or deep depression, to vote for a deficit budget. Otherwise, the legislators would have to match outlays with revenues. If revenues fell short, Congress would have to slash spending or impose a surtax. Knowing they would have to go on record in favor of higher taxes, the legislators would be certain to look harder at some of their spending ideas.

Another proposal has come from Senators Richard Stone (D., Fla.) and H. John Heinz (R., Pa.). Their amendment, drafted by a group including Novel Prize-winning economist Milton Friedman, would limit federal spending increases to the growth in the Gross National Product. If inflation is greater than three percent, the proposal would impose an even tighter limit on spending.

President Carter and Democratic leaders in Congress protest that any constitutional amendment would "tie the hands" of the nation in time of crisis, since a determined minority of either house could block needed appropriations. Proponents respond that a stubborn minority blocking obviously needed action would be swiftly punished at the polls. Congress could still act by majority vote in an emergency by levying taxes to finance needed spending; a minority could only block deficit spending.

Whatever the outcome of these proposed amendments, and the call for a constitutional convention, the balance-the-budget movement has triggered a mighty debate. Says the National Taxpayers Union's Jim Davidson: "As people see their real spending power decline, this issue will not fade away." Adds Sen. Gary Hart (D., Colo.), "It's a sorry state of affairs when the American people are demanding a constitutional convention because they don't trust us, and Congress is saying, 'No, you can't have one because we don't trust you.'"

This contentious scene would not faze the men who wrote the Constitution, for the debate has focused public attention once again on some eternal verities about public power, its exercise, abuse and safeguards. What healthier way for Americans to celebrate the approaching 200th birthday of their Constitution.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. CRAIG. What is the order of business we are in at this time?

The PRESIDING OFFICER. Morning business.

MOVEMENT TO A CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

Mr. CRAIG. Mr. President, I appreciate what the Senator from Mississippi has just spoken of, the issue of the State legislator beginning the movement to petition Congress.

When I was a State senator in Idaho in the 1970's, I became involved in that very movement and actually brought a resolution before the State senate, and it passed the Idaho Legislature, to petition Congress for a balanced budget amendment because clearly at that time, at the State legislative level, as we were looking at what the Congress of the United States was doing and what the Federal Government was doing, we were growing increasingly fearful that debt would continue to mount and power of the Government at the central level in Washington would continue to grow, and it would, if you will, deny or weaken the ability of State legislatures and State governments to act responsibly.

When I then came to Congress in 1980 and started serving in 1981, that movement was well underway. And as the

Senator from Mississippi has just mentioned, we were at that time four States short of the necessary requirements under article V of the Constitution from petitioning and therefore forcing the Congress to bring forth a resolution convening a constitutional convention.

Citizens across the country, though, at that time grew increasingly fearful of a constitutional convention, as to whether you could limit it to a single issue like a balanced budget amendment, and that if you opened up a constitutional convention and Congress in essence handed the power to craft a constitutional amendment to an autonomous body, we might see other issues come forth that many of us would not like.

So that movement stalled out at about a remaining two States and it began to back off. Congresswoman Barbara Conable of New York at that time was a leader. I became a leader involved and traveled around to the States encouraging them to continue to do so, not because I wanted a constitutional convention but because I thought it was terribly important we show that the second portion of article V of the Constitution remains a viable power inside the Constitution but that the alternative—and that is the first portion of article V—would be that Congress can propose amendments to the citizens on the Constitution and that we were in essence the always-standing, always-in-power constitutional convention, that at any time with the necessary supermajority vote, the Congress itself could bring forth an amendment to be ratified by the States.

I say to the Senator from Mississippi, as he well knows, that is exactly what we are doing at this time, and that is why some of us have worked as long as we have to assure that this process go forward and why we are so concerned today we do not put anything in the path of this amendment that could trip it up in what is, I believe, a constitutional responsibility on our part to provide a clean, simply directed amendment to the people.

We have seen an amendment—and thank goodness just this week the Senate has denied it—that would have said prior to sending forth an amendment we have to do the following things. That is not what article V says. It says you put forth an amendment and it goes straight to the States because we can only propose. It is the States that have the responsibility, or in essence the citizens themselves, to ratify an amendment because the Constitution as the organic law of our land is the people's law. We operate under it.

That is why we are here today and will be for the next week or so debating a balanced budget amendment to our Constitution because it is the adjusting, if you will, of the organic law of our land that governs us, that governs the central government, that controls the Congress of the United States, and it is the ability of the people to speak up. So what we are doing here is extending or offering to the people of this country the opportunity to speak on the issue of how the Federal Government manages its fiscal house and its budget. And I wish to thank the Senator from Mississippi for recognizing as he has that on all of these kinds of issues they really begin at the grassroots. It is the people at the very lowest level of our governments stepping forward and saying we believe the central government ought to change; it is doing things in an improper way, and the way we will change them is to adjust the Constitution of our country to cause them to act differently.

That was back in the 1970's, and it has taken now over two decades to bring forth this issue to the point where it has now passed the House of Representatives and we are within weeks of voting on it here with a strong likelihood that it can pass the Congress of the United States and pass the Senate and it will go forth to the people. So those citizens of Mississippi, through their State legislators, will have an opportunity to decide how the central government of our country ought to be run in the area of its fiscal responsibilities and matters.

CFTC REAUTHORIZATION ACT

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar item No. 20, S. 178, a bill to amend the Commodity Exchange Act to extend the authorization for the Commodity Futures Trading Commission; that the bill be deemed read a third time, passed, and a motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

Mr. President, let me say this has been cleared by the minority.

The PRESIDING OFFICER (Mr. INHOFE). Is there objection? Without objection, it is so ordered.

Mr. LUGAR. Mr. President, today, we consider S. 178, the CFTC Reauthorization Act of 1995. This legislation was sponsored by myself and Senator LEAHY, and requested by the Commodity Futures Trading Commission. The only provision of this legislation is to authorize appropriations for the CFTC through fiscal year 2000. While enactment of S. 178 merely continues the CFTC's responsibilities under existing law, it is important that Congress act now to leave no doubt about the continuing role of the CFTC. Further, Congress spent considerable time and effort addressing futures related issues before enacting the Futures Trading Practices Act of 1992. The bill before us will give the Commission adequate time to complete implementation of the 1992 act and allow time for review by Congress of that implementation and the CFTC's overall performance.

A hearing on this legislation was held on Thursday, January 26, to review the CFTC's performance to date in implementing the requirements of the 1992 act, as well as access its operations generally. Testimony was taken from the CFTC, the four largest U.S. futures exchanges, two futures industry trade groups, and the National Futures Association, a self-regulatory organization.

Concerns had been raised by some exchanges about the implementation of the enhanced audit trail requirements in the 1992 act which go into effect in October of this year. However, in the testimony of the CFTC Chairman, and in her responses to questions, it was made clear that the CFTC has not held that an electronic hand-held device is necessary to meet the enhanced requirements. Further, the CFTC Chairman assured the committee that after the exchanges have attained a high level of compliance, further incremental improvements will only be required as practicable and the cost of the improvements will certainly be an issue in determining what is practicable. In short, common sense prevailed. All witnesses at the hearing supported the reauthorization without amendments. In addition to the futures industry, this legislation has received the support of a number of agricultural groups including the American Farm Bureau Federation, the National Grain Trade Council, the American Cotton Shippers Association, and the National Grain and Feed Association. No futures industry groups, or agricultural groups have notified the committee of their opposition to this bill.

The committee held a business meeting on February 1 to consider the bill. No amendments were offered and S. 178 was ordered reported favorably by the committee.

Of course, reauthorization does not preclude other futures-related legislation during the next 5 years. In fact, I expect the committee will want to conduct vigorous oversight and consider futures legislation as needed.

Mr. President, I urge my colleagues to give their approval to S. 178.

Mr. LEAHY. Mr. President, I am pleased to join Senator LUGAR today in supporting the passage of S. 178, which reauthorizes the Commodity Futures Trading Commission [CFTC]. The last authorization for appropriations for the CFTC expired in 1994. An authorization for appropriations through fiscal year 2000 is necessary to continue orderly funding of the Commission and support for its activities.

The CFTC is a small agency with an important mission—protecting the integrity and effective functioning of our

Nation's futures markets. The volume of commodity futures and options contracts traded on the Nation's commodity exchanges exceeded half a billion transactions last year. Since 1974, the year Congress created the CFTC, trading on U.S. futures exchanges has increased by more than 1,500 percent. The pricing and hedging functions of these markets are vital to our economic well-being.

The last reauthorization of the agency occurred only 2 years ago with passage of the 1992 Futures Trading Practices Act [FTPA]. Passage of that bill was one of the outstanding achievements of the Agriculture Committee during my tenure as chairman. The FTPA was the toughest, proconsumer futures reform package in a generation.

The 1992 reforms are the right course for the CFTC and the exchanges to pursue. I am pleased that all witnesses and committee members agreed at the January 26 hearing that no changes to the FPTA are necessary at this time.

The Agriculture Committee will continue its careful oversight of the Commission and the exchanges. Compliance with the enhanced audit trail standard and developments in derivatives markets will receive my close attention.

I expect the exchanges and the CFTC to work diligently to complete the 1992 reforms on a timely basis. With the leadership of the Commission's new Chairman, Mary Schapiro, I am confident this will happen.

So the bill (S. 178) was deemed to have been read three times and passed, as follows:

S. 178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "CFTC Reauthorization Act of 1995".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 1995 through 2000.".

U.S. FOREIGN ASSISTANCE PRIORITIES IN AFRICA

Mrs. KASSEBAUM. Mr. President, I recently received a copy of a speech delivered February 3 by Brian Atwood, Director of the Agency for International Development. He outlines several thoughts on directions for U.S. assistance in Africa.

In light of the current debate over U.S. foreign assistance programs in general, and particularly in Africa, I thought my colleagues would find Mr. Atwood's comments useful. I ask that the text of Mr. Atwood's remarks be included in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF J. BRIAN ATWOOD, SUMMIT ON AFRICA AID

I am pleased to be with you today as President Clinton's representative. I understand that the President has issued a statement that was shared with you. As you heard, it underscores the abiding commitment of this Administration to Africa.

From time to time American ballot boxes produce what are called revolutions. We know about the revolution sparked by the Voting Rights Act. Franklin Roosevelt's election created a revolution. So did Ronald Reagan's.

We are in the early stages of a revolution in Washington today. And, as in every other time in our history, good can emerge from the changes this revolution brings.

Congressional reform—the streamlining of the institution, the increased transparency, open rules—this is all long overdue. A Gore-Gingrich collaboration to reinvent government is something the American people welcome. This is not politics-as-usual, and it can produce positive change.

But in the fervor that accompanies the early stages of a revolution, incautious positions are often asserted. At the least, before such positions become the accepted wisdom, someone must challenge them, civilly, but forcefully. That is the only way we can keep revolution on a healthy course. Indeed, that is the way mandates for change are interpreted and given real meaning.

A case in point is the assertion that we have no national interests in Africa. That we must reduce or eliminate development assistance to that continent. That Africa has neither geopolitical importance for the United States nor economic value.

With all the force we can muster, we say: That is just plain wrong.

Let's examine the question objectively. For just a moment, let's leave out America's humanitarian values. Let's put aside our historic ties to Africa. Let's forget sentimentality. Instead, let's talk about hard economic facts and markets and sales. Let's ask ourselves: is Africa worth the investment? Is a continent of half a billion people worth one-half of one-tenth of one percent of the federal budget, which is what we now spend on it? Is the three dollars and change that each American family pays each year to help several dozen sub-Saharan nations a burden worth the price?

Of course it is. It is not welfare, nor is it charity. It is an investment we make in other people for our own self-interest.

How do we build markets? The answer is simple: we do it by making investments for the future. That is what vision is all about. That is what practical reality teaches us, too. If we want to talk economic rationales, then we must look at Africa as the last great developing market. We must look at it the way we looked at Latin America and Asia a generation ago.

Consider Latin America; today it is the fastest growing market for American goods. This is a huge new middle class market of 350 million people. It got that way because of investments made during the last forty years—$30.7 billion in economic assistance from the United States between 1949 and 1993. Yet our exports to all of Latin America in 1993 alone were more than two-and-a-half times that amount—$78 billion. Quite a payoff in jobs and income, and that was just one year. And the Latin American market is likely to grow three times larger in the next decade.

Where would we be if John F. Kennedy, Lyndon Johnson and Richard Nixon had not committed themselves to the Alliance for Progress and the education programs that helped create a generation of economists and technicians who now lead South America's impressive growth? What kind of customers would we have if we had not supported health and education programs that invested in the human capital of Latin America, an investment that now is producing an educated, healthy workforce that can afford to buy our goods and services? What kind of stability would we have in this market if we had not supported democracy-building programs that have made military juntas and coups a thing of the past?

It is an interesting exercise to compare sub-Saharan Africa today to three of the newest "Asian Tigers"—Malaysia, Indonesia, and Thailand—as they were in 1960: African per capita income is today 80% of what it was in Malaysia, Indonesia, and Thailand 35 years ago. But Africa today has four times the number of people Malaysia, Indonesia, and Thailand had in 1960. Think of the potential of this African market, even at its current stage of development.

The bottom line is that Africa today is not significantly behind where the "Asian Tigers" were in 1960. In the three decades since, Malaysia, Indonesia, and Thailand substantially reduced poverty, their rates of population growth, infant mortality, and illiteracy. These countries are now major players in the world economy. We believe Africa can do as well.

The doubters should not just look at Africa's potential; the market is already significant, and like other developing markets, it is growing far faster than our markets in Europe. In 1992, sub-Saharan Africa imported $63 billion worth of merchandise from the world. African imports have risen by around 7.0% per year for the past decade. At this rate, the African market would amount to $480 billion by the year 2025. That is approximately $267 billion in today's dollars.

The U.S. currently accounts for nearly 10% of the African market. Do the arithmetic. Each American family now spends about $3 annually on aid to Africa. At current growth rates, that will produce something like $50 billion worth of American exports to Africa each year in 30 years. In 2025, the U.S. is projected to have a population of 320 million. Again, do the arithmetic. $50 billion worth of exports would work out to about $600 worth of exports per family, annually, in 2025. And that is if Africa's growth remains at its current level; if we make the investments Africa needs, and if African nations implement the kind of policies that have benefitted Asia and Latin America, the return for each American family in thirty years could be as much as $2000 per year.

These are not trivial amounts. They represent millions of jobs for our children financial health for our nation.

Isn't Africa worth the investments now that we made in Asia and Latin America? Those who argue against such investments are shortchanging the next generation of Americans. There is, of course, no guarantee that our investment will pay dividends, but it is as good a bet as most mutual funds. Moreover, the cost of not acting could overwhelm our treasury, and, I fear, our consciences.

Those who say we have no strategic interest in Africa should understand that if African nations fail to make progress, if they descend into chaos and decay, the tragedy will not take place in a vacuum. Chaos there will affect our interests here. As long as we remain true to our values—and there is a strong bipartisan consensus that suggests we will (even Pat Buchanan supports disaster relief)—the costs of humanitarian operations will continue to be borne in part by the United States. If more African nations fail, we will share the costs of caring for the millions of refugees. We will shoulder the burdens of dealing with endless famine. And we will have to confront the spreading political disorder, the environmental damage, and the consequent loss of markets for our goods.

Parts of Africa are living on the edge. Many African nations face adverse climatic and soil conditions. Each day, people in these countries face problems of poor health and malnutrition and illiteracy that few other people confront.

Yet lost in the apocalyptic descriptions of an Africa seemingly falling apart is genuine reason for encouragement. The headlines rarely report the many positive developments and success stories in Africa. Yet in a number of African nations, democratically-elected, enlightened leaders, committed to broadening participation and undertaking reforms necessary for development, are creating an environment for success. This, too, is the reality of Africa:

USAID today is working in 35 African nations that, in our judgment, are in various phases of consolidating their democracies, creating free markets, and implementing serious economic reforms. Conversely, we have ended our involvement in several nations where the governments refuse to commit themselves to reform or to a development partnership with their own citizens.

A new generation of African leaders is pursuing extensive economic restructuring programs, including privatization of state-owned enterprises, reducing government functions and budgets, stabilizing the economy, and implementing policy changes that help the private sector expand.

New crops and market liberalization are expanding food production, raising farmer income and reducing food prices for consumers.

More children, especially girls, are attending school so that they can become more productive members of society. And we know from our own experience that more than any other factor, improving the education of girls and the status of women enhances the economy, the environment, and the prospects of democracy.

Programs to expand immunization and use of oral rehydration therapy are saving an estimated 800,000 African children each year.

Fertility is starting to fall as more and more parents use family planning services.

I am proud that USAID has played a role in every one of these achievements.

For every Rwanda there is a Ghana—a nation that has begun revitalizing its economy and is intent on being part of the worldwide economic expansion.

For every Somalia, there is a South Africa or a Namibia—nations that have successfully implemented democracy and peaceful change.

For every Angola, there is a Mozambique, emerging now from civil conflict.

For every tragedy, there are a half dozen islands of hope. Progress is still tentative, often fragile. Which is precisely why we must not hesitate now. But this continent is no write-off. It is a good investment.

We have learned from the mistakes we made during the Cold War. We now are concentrating our aid in countries that are implementing sound economic policies, promoting an open and democratic society, and investing their own resources in broad-based development. That is exactly what the Congress wanted to accomplish with the Development Fund for Africa. And that is why this Administration strongly supports the Development Fund for Africa. Under this fund, we have taken a longer-term approach to Africa's development, systematically addressing the root causes—economic, social, and political—of underdevelopment.

In those countries stricken with disaster or famine, we are treating emergency relief as more than an end in itself. Rather, we are structuring it to help nations make the difficult transition from crisis to the path of sustainable development.

President Clinton's Initiative for the Greater Horn of Africa is designed to apply the lessons we learned in the Sahel and Southern Africa is a troubled region that now consumes nearly half of all African relief. By emphasizing regional cooperation and planning, by helping nations acquire the ability to respond to food crises early on, we can prevent droughts from becoming famines. This Initiative, we believe, will save lives and resources. The partnerships it builds will enable the donor community to save billions of dollars in relief assistance over the next fifteen years and focus resources instead on recovery efforts and long-term development.

To prevent more failed nations, the United States must strengthen our efforts to prevent crisis and to encourage others to do so as well. While we only provide five percent of the development assistance that Africa receives, we provide 30 percent of the relief assistance directed at the continent's emergencies. It is a lot less expensive to lead the way on prevention than it is to pay the costs of failure.

I am able to make the case for assistance to Africa today because USAID has reorganized itself to be an effective instrument of development. Many of our reforms were pioneered by the Development Fund for Africa. The DEA forced us to measure results and now we are going to do this everywhere. Our work in Africa has been an essential part of our identity, and must remain so.

So, now we have a fight on our hands. We welcome it. If the revolution has indeed begun, then each of us must do everything we can to ensure that the well-being of our children—and the children of Africa—is advanced by the vision today's revolution produces. We cannot be silent. We cannot wring our hands. The case for Africa gives us the opportunity to be the champions of common sense. This is a battle well worth waging. Not for African Americans, not for historical reasons, not even for our humanitarian values, though we must never forget them. This is a battle worth waging for America's national interests and the future of *our* children. We *will* wage it. And I am confident that, in the end, common sense will prevail.

RETIREMENT OF C. WAYNE HAWKINS

Mr. SIMPSON. Mr. President, I appreciate the opportunity to take a few brief moments of the Senate's time to acknowledge the recent retirement, on January 31, 1995, of Mr. C. Wayne Hawkins from Federal service.

Mr. Hawkins most recently served as the Department of Veterans Affairs' Deputy Under Secretary for Health for Administration and Operations, capping a distinguished Federal career that spanned 37 years. As one of VA's two Deputy Under Secretaries for Health, Mr. Hawkins was the senior non-physician official in the VA's Veterans Health Administration [VHA], the VA organization of 171 hospitals, 353 outpatient clinics, 128 nursing home care units, and 37 domiciliaries. In this capacity, he served as Chief Operating Officer of VHA—an organization which provides health care services to over two million veterans per year, and which is the largest "chain" of health care facilities in the United States.

Mr. Hawkins began his VA career in 1957 as a rehabilitation specialist at the Mountain Home VA Medical Center in Johnson City, TN. From that assignment, he progressed up the VA career ladder, becoming a personnel manager, then an Associate Director at a number of VA hospitals. Ultimately, he was appointed Director of the VA Medical Center in Dallas, TX, a post in which he served for 15 years before coming to Washington to serve as VHA's Deputy Under secretary. Under his steady leadership, the Dallas VA Medical Center became one of VA's flagship hospitals.

Through it all, Mr. Hawkins also served in the military's active and reserve ranks, retiring as an Army colonel in 1987 after 33 years service. He also served in major leadership capacities in the Texas Hospital Association, the American Hospital Association, and the VA Chapter of the Senior Executive Association. In 1991, he was inducted as a fellow, American College of Health Care Executives.

Mr. Hawkins received a B.S. degree in 1957 from East Tennessee State University, and an M.S. degree in 1971 in health care administration from the University of Minnesota. He completed graduate work in health systems management at Harvard University, and is a graduate of the U.S. Army Command and General Staff College. Among other honors, Mr. Hawkins is a recipient of VA's Distinguished Career Award, Presidential Rank Awards for Distinguished Executives and Meritorious Executives, the Ray E. Brown Award for Outstanding Accomplishment in Health Care Management, and numerous other Government, military and civilian awards for excellence in health care management.

Mr. President, VA will truly miss this distinguished and visionary health care executive. We who care about veterans regret that he is retiring from a role of day to day management of VA's health care system. Gladly, Wayne Hawkins is not withdrawing completely from participation in veterans affairs and health care management, so we expect to reap the benefit of his experience, intelligence and integrity for many years to come.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES!

Mr. HELMS. Mr. President, as of the close of business on Thursday, February 9, the Federal debt stood at $4,803,442,790,295.83 meaning that on a per capita basis, every man, woman, and child in America owes $18,233.95 as his or her share of that debt.

SENATOR FULBRIGHT

Mr. HELMS. Mr. President, all of us who knew and/or served with Senator J. William Fulbright were saddened at the news of his passing. I had the privilege of serving my first 2 years in the Senate with this distinguished gentleman. He was an able U.S. Senator.

Senator Fulbright presided over the Senate Foreign Relations Committee with dignity and distinction. I join the American people in extending my deepest sympathies to his family.

TRIBUTE TO BEN R. RICH

Mr. NUNN. Mr. President, I would like for my colleagues in the Senate and my fellow citizens throughout the country to note the passing of Ben R. Rich. Ben was a long-time employee at the famed Lockheed "Skunk Works" in California.

Ben had just recently published a book, "Skunk Works: A Personal Memoir of My Years at Lockheed," with Leo Janos. This book provided us an insight into what was an outstanding career of service and dedication to having our country maintain its technological edge over any potential adversary. During his tenure at the Skunk Works from the mid-1950's until his retirement in 1991, Ben worked on a number of very important aircraft programs, such as the SR–71, the U–2, and the F–104. Perhaps his greatest contribution was to the so-called Stealth fighter program, the F–117. Ben headed the Skunk Works during the development and production of the F–117. We saw the fruits of his leadership on F–117 in the Persian Gulf war, where, more than any other system, the F–117 and its stealth gave our forces the capability to attack any of the Iraqi's highest value targets with impunity. This system is revolutionary, and Ben Rich's leadership was critical to making it a success.

Mr. President, this country will be a poorer place with his loss. We will all sorely miss Ben and his dedication to excellence. Ben Rich made a difference.

WILLIAM Mc. COCHRANE: HISTORICAL CONSULTANT

Mr. PELL. Mr. President, I am very pleased to note that William McWhorter Cochrane, who until this year was one of the Senate's most venerable staff members, is continuing his service to the legislative branch in a new capacity at the Library of Congress.

Bill Cochrane began his Senate service in 1954, thus predating all sitting Members of this body today. Over the years, he has truly become an institution in his own right.

Always faithful to his home State of North Carolina, Mr. Cochrane began his Senate career as counsel to Senator Kerr Scott, and 4 years later became administrative assistant to Senator B. Everett Jordan. In 1972, he joined the staff of the Committee on Rules and Administration, serving as staff director until 1980, a period which included my own tenure as chairman of the committee in the 95th and 96th Congresses.

One of Mr. Cochrane's special areas of interest has always been the Library of Congress, and his knowledge of that institution is encyclopedic. So it is altogether fitting that he has been named Honorary Historical Consultant to the Library, especially at this time when the Library is preparing to observe its 200th anniversary in the year 2000.

I congratulate Bill Cochrane on this occasion and I also congratulate the Librarian of Congress, Dr. James Billington, for making this appointment. I ask unanimous consent that a news release from the Library of Congress on Mr. Cochrane's appointment be printed in the RECORD at this point.

[From the Library of Congress News, Washington, DC]

WILLIAM MCW. COCHRANE NAMED HONORARY HISTORICAL CONSULTANT TO LIBRARY OF CONGRESS

Librarian of Congress James H. Billington announced today the appointment of William McW. Cochrane as the Honorary Historical Consultant to the Library of Congress. Mr. Cochrane's career in the U.S. Senate spanned 40 years.

In making the announcement, Dr. Billington said, "As the Library of Congress approaches its 200th anniversary in the year 2000, we are fortunate to be able to draw on the knowledge and wisdom of this distinguished public servant. Bill's respect for and knowledge of the Congress, and of its Library, will bring a unique historical perspective to our bicentennial planning."

Following service in World War II and administrative and teaching positions at the University of North Carolina, Cochrane came to the Senate in 1954 as counsel to Senator Kerr Scott (D–N.C.). From 1958 to 1972, he served as administrative assistant to Sen. B. Everett Jordan (D–N.C.). From 1972 through the 103rd Congress, he worked for the Senate Committee on Rules and Administration as staff director from 1972–1980, as Democratic staff director from 1981–1986, and as senior advisor from 1987. In addition, he held several senior positions with the Joint Committee on Inaugural Ceremonies. His work with the Joint Committee on the Library of Congress, the oldest continuous joint committee of Congress, totaled more than 30 years.

Among his numerous honors, he has received the Distinguished Alumnus Award for Public Service from the University of North Carolina and the 20th Annual Roll Call Congressional Staff Award. In 1992, he was one of six recipients of the State of North Carolina Award for Public Service.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the joint resolution.

Pending:

Reid amendment No. 236, to protect the Social Security system by excluding the receipts and outlays of Social Security from balanced budget calculations.

Dole motion to refer H.J. Res. 1, Balanced Budget Constitutional Amendment, to the Committee on the Budget, with instructions.

Dole amendment No. 237, as a substitute to the instructions (to instructions on the motion to refer H.J. Res. 1 to the Committee on the Budget).

Dole amendment No. 238 (to amendment No. 237), of a perfecting nature.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon [Mr. PACKWOOD] is recognized to speak for up to 60 minutes.

Mr. PACKWOOD. Mr. President, I had prepared over several days a speech for this morning. But because of a news article this morning on the death of Senator Fulbright the day before yesterday, I decided to change my approach and have thrown away all of the comments I was going to make. I will try to put this debate in a different light.

The Washington Post article on Senator Fulbright is well worth reading, because he was a figure of great consequence here. As we are debating this, another matter of great consequence, I look back at some of the other events that have taken place in my career on this Senate floor. I will not use Yogi Berra's famous expression, "It's déjà vu all over again," because I think a more apt expression might be Justice Holmes' comment about the law, but it really relates to all of us. He said, "The life of the law has not been logic. It has been experience."

I think, as we look at this balanced budget amendment, we are better off to look at it in the light of experience rather than the light of logic.

I mentioned Senator Fulbright because I recall in this Chamber the most extraordinary event—certainly the most extraordinary debate, but extraordinary event—that I have ever witnessed in my life.

It was an unusual situation. It was a closed session of the Senate on the debate—this was in 1969—on the antiballistic missile system. There were two extraordinary Senators who were going to carry the battle for and against that: Senator Symington of Missouri, high up on the Armed Services Committee, was unalterably opposed; Senator Jackson of Washington, high up on the Armed Services Committee, was unalterably in support. These two Senators had access to identical witnesses, identical information, and came down on absolute opposite sides. The antiballistic missile was a touchstone between the so-called hawks and doves.

We were then enmeshed heavily in Vietnam. This, I suppose, would have been the equivalent of the star wars of its day. Could we invent a missile that would go up in the air and shoot down other missiles? We finally agreed, under a unanimous consent, as I recall, to either 6 or 8 hours of debate. And because it was going to be highly sensitive, classified information, the Senate was cleared of all press. The galleries were closed. The staff left. We had all 100 Senators on the floor and the Vice President presiding.

We started the debate. Senator Symington, in opposition, spoke first. He spoke for an hour without notes. The only references he had were some charts behind him, showing the Russian missile system and its progress. When he finished speaking, I thought to myself, that is the end of the ABM, the antiballistic missile. No one can rebut that argument.

Then, Senator Jackson arose and spoke for an hour, without notes. I remember him turning to Stewart Symington and saying: "Let me take you just a few charts further than where my distinguished colleague from Missouri left off." And Senator Jackson went on with his seven or eight charts, taking us up to what was probably the SS–18 or SS–19 at the time—a brilliant argument. And I thought when he finished, that is it. We are going to have an antiballistic missile system. No one can rebut that argument.

Then these two giants began to ask questions of each other. Like great fencers, they parried and thrusted. They each knew the answers to the questions they were asking. They hoped that somehow they could pinion the other. And the reason the questions and answers were so critical is everyone knew this was a close vote, just like this coming vote on the balanced budget amendment. Everyone knew it was one or two votes, one way or the other.

President Nixon desperately wanted the ABM because he needed it as a bargaining chip with the Soviets to attempt to begin arms reduction. Without it, he knew he could not begin. So when the two had finished their speeches and had finished questioning each other, then the rest of us had an opportunity to ask questions.

Again, you have to picture a full Chamber, 100 Senators, in closed session. There was no one here but us: no press, no gallery, no staff. And the third or fourth question was from Senator Fulbright to Senator Jackson.

Senator Fulbright said, "Would my good friend from Washington yield to a question?"

"Yes," Senator Jackson said.

Senator Fulbright said, "Has my good friend had a chance, yet, to digest the remarks of the Russian Foreign Minister, Andrei Gromyko, in Warsaw last week, in which the Soviet Foreign Minister said that the Soviet Union wanted to reach a new era of détente—of cordiality with the United States? And doesn't my friend from Washington think that before we rush pellmell into this unproven missile system, we should give just some little credence to the words of the Russian Foreign Minister?"

Senator Jackson shot back, as if it had been a prompted question. He pointed his finger at Senator Fulbright. I remember the gesture so well. They sat no more than two or three desks apart.

He said, "Let me call to memory for my friend from Arkansas" and then Scoop Jackson moved his hand like this and said to the—others, who were not here at that time—"that morning, when President Kennedy, in October 1962, asked Russian Foreign Minister Gromyko, who had been at the United Nations the day before, to come to Washington to chat with him. Andrei Gromyko flew down from New York and went to the White House."

Scoop Jackson related this scene: "That day, the President asked Gromyko, if there were any Russian missiles in Cuba."

"No, came the answer."

"Were there any Warsaw Pact country missiles in Cuba?"

"No."

"Had any missiles been transported on Russian ships to Cuba?"

"No."

"Were there any Russian troops in Cuba assembling missiles?"

"No."

Then Scoop Jackson made this gesture. He reached down and said—"Then the President opened the drawer of his desk, took out the pictures from the U–2, threw them in front of Mr. Gromyko—showing the missiles, showing the ships, pictures so good that you could see the chevrons on the sleeves of the Russian troops in Cuba assembling the missiles."

Scoop Jackson said, "Andrei Gromyko left that room an acknowledged liar. If my friend from Arkansas wants to rest the security of this country on the truthfulness and credibility of Andrei Gromyko, that's his business. I would not ask a single American to sleep safely tonight based upon the credibility of Andrei Gromyko."

The vote that afternoon was 51 to 50, with the Vice President breaking the tie. And the answer to that question was the difference of one or two votes.

So do we on occasion have the opportunity to participate in great events where we can make a difference? We do. With that vote, President Nixon was able to start negotiations with the Soviet Union, and it was the first of our major negotiations leading to arms reductions over the years.

I cite that moment because I think we are approaching a similar moment again. This time on the balanced budget amendment and just one or two of us may make an extraordinary difference for the future. I have said, quoting Holmes, it is experience, not logic.

Let us take a look at some of our experiences from that time on. In 1972—this was an open debate, it is in the RECORD—we did not have budget bills in those days. We thought we had a terrible budget problem. The deficit was $15 billion. The budget was $245 billion. This is in my lifetime in the Senate; 1972, barely 20 years ago, a budget that was smaller than some of our deficits have been in the last few years. But we thought this was so terrible that we were going to vote on a bill to delegate to President Nixon the power to cut the budget anyplace he wanted—once it exceeded $250 billion. You talk about a line-item veto. This was not just a line-item veto. It was carte blanche power to cut it wherever he wanted it. It had passed the House with Wilbur Mills leading the fight for it. It came to this body. We had an extraordinary debate. There is not even a baker's dozen of us left now from that time. I am not going to read into the RECORD all of the debate. Most of the people who were involved are now gone. But interestingly there are still a few left that opposed that effort. I was one that opposed it. I made what I thought was an extraordinary speech on the history and the power of the purse, going into the parliamentary debates and the fights with the kings' efforts over the centuries to gain power over the purse. Did we want to give to the President a power which the Parliament and the Congress had fought for the better part of 500 years to gain for itself? I said no. And all of us who talked and opted against that legislation said we the Congress can do it. We have the courage in Congress to narrow a $15 billion deficit. We do not need to give away the power to balance the budget.

It is particularly interesting to read the statements of one or two of the Democratic Senators who were in opposition to the balanced budget amendment, speaking in opposition to this particular bill in 1972, as to how we in Congress could do it. That is almost now 25 years ago. The deficit was $15 billion.

In 1978—there have been several people who have made reference to it—we had the Byrd amendment. This is not ROBERT BYRD of West Virginia. This is Harry Byrd of Virginia. We passed it in 1978. It is very simple. All it says is beginning with fiscal year 1981 the total budget outlays of the Federal Government shall not exceed its receipts. It is pretty easy to understand. It is a balanced budget statute. Somehow we did not make it. We did not even come close.

Do you know what the problem with a statute is? Every time you pass another statute later that is in conflict, the later one governs. So we passed a later nonbinding law that says in 3 years we have to balance the budget, and, then, this Byrd law is just irrelevant. We just ignored it. I thought it was ridiculous. It was embarrassing to have it on the books and ignore it year after year. So in essence, we repealed it. Then we knew that we had to face the deficit ourselves. We had the courage to do it. We in Congress could do it. Even then we were starting to talk about constitutional amendments. But we had not quite gotten to there yet.

Now I want to go to 1981, again this experience. It is amazing how myths are perpetrated. "The Reagan tax cuts are what led to the deficits." How many times have we heard that? Again, I was here. I was on the Finance Committee. But sometimes when you hear it long enough your memory plays tricks on you, and you wonder if you remember as it actually happened.

So I had Dr. Reischauer, the head of the CBO, check it for me. And indeed my memory was right. From roughly January 1980 until July 1981, a period of about 18 months, every budget projection we had from the Congressional Budget Office, from the Office of Management and Budget, from the Joint Committee on Taxation and private economists said we were going to have by 1985 between a $150 billion and a $200 billion surplus—not a deficit; a surplus.

So President Reagan proposed tax cuts in 1981. I want to emphasize something. His Treasury Department came and made staging estimates. They assumed that the tax cuts would parallel these projected $150 to $200 billion in deficits. President Reagan correctly understood that if we did not give this money back to the taxpayers, we would spend it; no question about that. Do not worry. We have plenty of experience on that. But they were to parallel the projected surpluses.

Well then, did we ever become generous. The House Ways and Means Committee took the President's bill and added to it more tax cuts. Then it came to the Senate Finance Committee. We added tax cuts to the House version. We even gave real estate 15 years for depreciation. It is no wonder that we had a building boom—built on taxes, not on economics—from 1981 on—when you could depreciate real property over 15 years. You could not lose. You did not even have to rent the building. In fact, many of them were not rented. That is what happened. But that is not the point. They were not being built to be rented. They were built for tax losses. We piled everything on we could. We went to conference, and we took the most expensive provisions of both bills and sent it down to the President. He signed it.

What the economists did not foresee in those 18 months were three things: First, the rapid decline in inflation. This was before we had, indexed, the Tax Code. We had run 4 years of inflation of 13, 14, or 15 percent. We could presume that before we indexed the Tax Code we would get about 1.7 percent increase in revenues for each 1 percent of inflation.

So if you could presume 10 or 11 or 12 percent inflation compounded from 1981 to 1985, it is no wonder we were projecting surpluses. But we did not foresee that inflation would absolutely nosedive, nor did we foresee that recession. It wasn't anybody's fault. It was not President Reagan's fault. It was a rosy scenario. This was everybody's projection. When the recession comes down, revenues go down, expenses go up.

So we had an immense shortfall by 1982. Just to corroborate this, so that those that believe in the myth do not think that I do not know of what I speak, I want to insert two letters from Dr. Reischauer in the RECORD, one of November 8, 1994, and one of December 15, 1994, and then just a portion of his testimony, just 2 weeks ago on January 26, 1995, before the Finance Committee. I will quote just one sentence when he is referring to this period.

> It is reasonable then to ascribe nearly all of the underestimate of deficits during that period to errors in economic forecasts.

Mr. President, I ask unanimous consent that those three documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 8, 1994.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, DC.

DEAR SENATOR: This is in response to your request of November 3, asking CBO to provide additional information about budget projections done almost 15 years ago, before enactment of the Economic Recovery Tax Act [ERTA] of 1981. As you recognize, many changes in budget policy and presentation hamper our ability to answer questions about projections that are so widely separated in time. Nevertheless, we will answer the questions posed in your letter as best we can.

Briefly, before the enactment of ERTA, CBO's budget reports routinely warned that a continuation of current tax and spending laws would lead to a surplus that would act as a drag on the economy. The late 1970s and early 1980s were a period of high inflation. Key features of the individual income-tax—brackets, personal exemptions, and standard deductions—were not indexed for inflation, even though inflation tended to push taxpayers into progressively higher tax brackets. In response, policymakers typically enacted ad hoc tax reductions every few years to keep the revenue-to-GDP ratio from spiraling. Examples are the tax cuts enacted in 1964, 1969, 1971, 1975, 1976, 1977, and 1978. On the spending side of the budget, many entitlement programs (such as Social Security) were automatically indexed to inflation, but discretionary programs had no such automatic feature and relied on the annual appropriation process for funding (if any) to compensate them for inflation.

In doing its pre-ERTA projections, then, CBO faced a dilemma: literal projections of current-law revenues and spending implied a fiscal drag that was viewed as incompatible with long-term growth. Therefore, CBO's economic projections assumed changes in fiscal policy sufficient to offset this effect and were not predicated on unchanged laws. The tax cuts enacted in 1981 and subsequent economic developments, of course, erased projected surpluses from CBO's reports.

CBO FEBRUARY 1980 PROJECTIONS

Illustrating this dilemma, in its February 1980 report Five-Year Budget Projections: Fiscal Years 1981-85, CBO projected that the revenues collected under current tax law would climb from about 21 percent of GNP in 1981 to 24 percent by 1985. Simple arithmetic pointed to enormous surpluses in the outyears. For example, current-law revenues exceeded outlays by a projected $98 billion for 1984 and $178 billion for 1985.

CBO purposely did not, however, publish these surpluses, which it called the "budget margin." The reasons was one of internal consistency. CBO's assumptions of economic performance beyond the two-year forecasting horizon were based on an analysis of historical trends and the economy's long-run growth potential. Thus, the February 1980 report assumed that the economy would grow at a real rate of 3.8 percent a year in 1982 through 1985. Such growth was incompatible with a rising revenue-to-GDP ratio; in fact, the report stated that "fiscal policy changes that would use up most of the burden margin would be required if the economic growth path were to be achieved." The economic assumptions assumed approximately budget balance in 1983 through 1985 but did not assume specific tax cuts or changes in spending.

EARLY 1981 PROJECTIONS

The tax environment changed in 1981. By mid-1981, the Congress and the Administration had agreed on a large multi-year tax cut. The budget resolution prescribing the appropriate size of the cuts was adopted in May, and ERTA itself was enacted in August. Indexing for inflation was not a feature of the Administration's tax proposal submitted in March 1981, but was a part of ERTA. It did not take effect until 1985, after an intervening series of three cuts in individual income taxes effective at the start of calender years 1982, 1983, and 1984.

Economic assumptions. CBO presented its baseline projections in 1981 using two different sets of economic assumptions—those contained in the budget resolution (resembling the Reagan Administration's assumptions), and an alternative set developed independently by CBO. For the reasons described above, economic forecasts require an assumption about fiscal policy; the CBO assumptions explicitly assumed adoption of a package of tax cuts and spending cuts like those advocated by the Administration.

Budget projections. Without the tax cuts, long-run surpluses still appeared likely from the vantage point of early 1981. For example, using the economic assumptions dictated by the budget resolution, OMB envisioned a surplus of $76 billion in 1984 and $209 billion in 1986 if no changes in tax law or spending policy were adopted (Baseline Budget Projections: Fiscal Years 1982–1986, July 1981). Those economic assumptions were rosier than the set developed independently by CBO. Budget projections based on CBO's economic assumptions, which were more fully documented in a March 1981 report (An Analysis of President Reagan's Budget Revisions), foresaw smaller surpluses amounting to $23 billion in 1984 and $148 billion in 1986.

The budget resolution was expected to generate a bare $1 billion surplus in 1984, under the economic assumptions contained therein. That would presumably imply a deficit of roughly $50 billion under CBO's less rosy assumptions.

In sum, given the best information available at the time, the Congress and the Administration reasonably thought that surpluses loomed under current law. Analysts differed, however, on whether following the policies of the first budget resolution would put the government on a balanced-budget footing or would lead to deficits.

POST-1981 DETERIORATION

Economic developments led to far bigger deficits than even relatively pessimistic participants in the 1981 debate envisioned. As you requested, we have prepared a comparison of the economic assumptions contained in the fiscal year 1982 budget resolution with the actual outcomes (see attached Table 1). For completeness, we also include a comparison with the CBO alternative forecast published in March 1981. Revisions by the Department of Commerce to economic data (such as the shift in the base year for measuring real growth) prevent the actuals from being perfectly comparable to the projections, but do not distort the overall story.

Compared with the budget resolution, the most dramatic deviations in economic performance were sharply lower real growth and sharply lower inflation. The economy plunged into recession, registered negative growth in 1982, and then recovered. Even so, real growth over the 1981–1986 period (including recession and recovery years) averaged 2.6 percent, versus the budget resolution's assumption of 4 percent. Inflation was sharply lower than in the budget resolution, averaging 4.9 percent over the 1981–1986 period (when measured by the CPI) versus the 6.6 percent assumed in the resolution. These two factors—lower real growth and lower inflation—caused nominal GNP to be about $700 billion smaller by 1986 than assumed in the resolution, with a corresponding drop in the tax base. Interest rates, however, did not behave very differently than assumed in the resolution—implying that real interest rates (nominal rates adjusted for inflation) were much higher than foreseen.

In one crucial respect, the economy performed closer to CBO's early-1981 alternative forecast. Although CBO did not foresee the recession, it did envision average real growth of 2.8 percent over the 1981–1986 period, compared with an actual rate of 2.6 percent. CBO overestimated inflation, and underestimated real interest rates (as proxied by nominal Treasury bill rates minus inflation).

The post-1981 deterioration in the budget picture cannot be allocated to individual economic variables—real growth, inflation, and interest rates—as you requested. But it is clear that economic factors were mostly responsible, with so-called technical factors running a distant second. In 1986, the deficit was more than $400 billion greater than in the CBO July 1981 baseline projections (see attached Table 2). Policy changes contributed slightly over $100 billion; this figure includes not just the impact of ERTA and other changes adopted in 1981 but also the effects of later changes, such as the Tax Equity and Fiscal Responsibility Act and the 1983 Social Security Amendments, enacted to curb the burgeoning deficit. Economic and technical changes contributed the remaining $300 billion. The deterioration was overwhelmingly in the areas of revenues and net interest and it is reasonable to ascribe nearly all of it to errors in the economic forecast.

Of course, the indexation of the tax system contributed very little to the deterioration in this five-year period, because indexing did not take effect unit 1985. By then, CBO estimated that repealing it would generate a mere $5 billion in fiscal year 1985 and less than $15 billion in 1986. Since 1985, indexation—the annual adjustment to tax brackets and other features of the individual income tax code—has operated, other things being equal, to keep such taxes roughly constant as a share of GDP.

I hope that this information is helpful to you. If you have additional questions, please do not hesitate to contact me. The principal CBO staff contact is Kathy Ruffing (X62880); more detailed questions about revenues can be answered by Rosemary Marcuss (X62680) and inquiries about CBO's economic forecast by Robert Dennis (X627750).

Sincerely,

ROBERT D. REISCHAUER,
Director.

TABLE 1.—ECONOMIC ASSUMPTIONS IN THE FIRST BUDGET RESOLUTION FOR FISCAL YEAR 1982 AND ACTUAL OUTCOMES

[By calendar year]

Nov. 8, 1994	1980	1981	1982	1983	1984	1985	1986
			First Budget Resolution for 1982[1]				
Nominal GNP (dollars)	2,626	2,941	3,323	3,734	4,135	4,641	4,983
Real GNP growth (percentage change)	−0.2	2.0	4.1	5.0	4.5	4.2	4.2
Consumer price index (percentage change)	13.5	11.0	8.3	6.2	5.5	4.7	4.2
Unemployment rate	7.1	7.5	7.2	6.6	6.4	5.9	5.6
3-month Treasury bill rate	11.4	13.5	10.5	9.4	8.2	7.0	6.0
			CBO Alternative Assumptions of March 1981[2]				
Nominal GNP (dollars)[3]	2,626	2,936	3,285	3,663	4,081	4,558	5,055
Real GNP growth (percentage change)	−0.2	1.3	2.5	2.7	3.0	3.8	3.7
Consumer price index (percentage change)	13.6	11.3	9.6	8.9	8.2	7.7	7.1
Unemployment rate	7.1	7.8	7.9	7.8	7.7	7.5	7.2
3-month Treasury bill rate	11.4	12.6	13.7	11.5	10.2	9.7	9.3
			Actual[4]				
Nominal GDP (dollars)	2,708	3,031	3,150	3,405	3,777	4,039	4,269
Real GDP growth (percentage change)	−0.6	1.8	−2.2	3.9	6.2	3.2	2.9
Consumer price index (percentage change)	13.6	10.3	6.2	3.2	4.3	3.6	1.9
Unemployment rate	7.1	7.6	9.7	9.6	7.5	7.2	7.0
3-month Treasury bill rate	11.4	14.0	10.6	8.6	9.5	7.5	6.0

[1] The budget resolution contained assumptions through 1984; assumptions for 1985 and 1986 are a CBO extrapolation. They were published in Baseline Budget Projections: Fiscal Years 1982–1986 (July 1981).

[2] CBO's alternative assumptions assumed fiscal policy changes comparable to those contained in President Reagan's March 1981 budget revisions. These alternative projections were published in An Analysis of President Reagan's Budget Revisions for Fiscal Year 1982 (March 1981) and in Baseline Budget Projections: Fiscal Years 1982–1986 (July 1981).

[3] Nominal GNP was not published; these levels are estimated using the published growth rates.

[4] The actuals are not strictly comparable to the 1981 projections. They reflect the shift in emphasis from GNP to GDP and the redefinition of the base year used in measuring real economic growth (from 1972 at the time of the 1981 projections to 1987 for the most recent actuals). These changes, however, do not seriously distort the comparison.

TABLE 7.—CHANGES IN BUDGET OUTLOOK, 1982–86, FROM CBO JULY 1981 BASELINE

Nov. 8, 1994	1982	1983	1984	1985	1986
			CBO July 1981 Baseline[1]		
Revenue	709	810	920	1033	1159
Outlays:					
Net Interest	72	70	67	62	59
Other[2]	687	742	796	853	911
Total	759	812	863	915	970
Deficit or surplus (-)	50	2	−56	−118	−189

TABLE 7.—CHANGES IN BUDGET OUTLOOK, 1982–86, FROM CBO JULY 1981 BASELINE—Continued

Nov. 8, 1994	1982	1983	1984	1985	1986
			Changes		
Policy changes:					
Revenues	−43	−75	−100	−117	−133
Outlays:					
Net interest	0	1	6	16	29
Other[3]	−40	−39	−36	−15	−51
Total	−40	−38	−30	1	−23
Deficit	3	37	70	118	110

TABLE 7.—CHANGES IN BUDGET OUTLOOK, 1982–86, FROM CBO JULY 1981 BASELINE—Continued

Nov. 8, 1994	1982	1983	1984	1985	1986
Economic and technical changes:					
Revenues	−48	−135	−153	−182	−257
Outlays:					
Net interest	13	19	38	51	48
Other[2]	14	16	−20	−21	−5
Total	26	35	19	30	43
Deficit	75	169	171	212	300

TABLE 7.—CHANGES IN BUDGET OUTLOOK, 1982–86, FROM CBO JULY 1981 BASELINE—Continued

Nov. 8, 1994	1982	1983	1984	1985	1986
Total changes:					
Revenues	−91	−210	−253	−299	−390
Outlays:					
Net interest	13	20	44	67	77
Other [1]	−26	−24	−56	−36	−57
Total	−13	−4	−11	32	20
Deficit	78	206	242	331	410
			Actual Outcomes		
Revenues	618	601	666	734	769
Outlays:					
Net interest	85	90	111	130	136
Other [1]	661	719	741	817	854
Total	746	808	852	946	990
Deficit	128	208	185	212	221

[1] The July 1981 baseline was based on the economic assumptions of the first concurrent resolution, not those of CBO.

[2] Adjusted by approximately $20 billion a year in formerly off-budget outlays (chiefly lending by the Federal Financing Bank).

[3] Includes a one-time cost of about $12 billion for the purchase of maturing subsidized housing notes in fiscal year 1985.

Source: CBO memorandum, "Changes in Budgetary Policies since January 1981" (May 30, 1986), updated for fiscal year 1985 actuals.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 15, 1994.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, DC.

DEAR SENATOR: This responds to your request for additional information about budget projections done before the 1981 tax cuts were enacted. The conclusions that follow were discussed more extensively in my letter to you of November 8, 1994.

Before enactment of the 1981 tax cuts, CBO's budget reports routinely projected that a continuation of current tax and spending laws would lead to large budget surpluses. CBO also warned that such levels of taxes and spending would act as a drag on the economy.

The primary reason for this outlook was that high inflation was expected to drive up revenues dramatically. Because key features of the federal individual income tax were not automatically adjusted for inflation, periods of high inflation—like the late 1970s and early 1980s—pushed individuals into higher tax rate brackets and caused revenues to increase rapidly. In response, policymakers cut taxes every few years on an ad hoc basis—five times in the 1970s alone.

Illustrating this dilemma, in its February 1980 report Five-Year Budget Projections: Fiscal Years 1981–1985, CBO projected that revenues collected under current tax law would climb from about 21 percent of GNP in 1981 to 24 percent by 1985. Simple arithmetic pointed to enormous surpluses in the outyears. For example, current-law revenues exceeded outlays by a projected $98 billion for 1984 and $178 billion for 1985. Similarly, in its July 1981 report Baseline Budget Projections: Fiscal Years 1982–1986, CBO projected budget surpluses of between $148 billion and $209 billion for 1986, depending on the economic assumptions used.

In the same report, CBO estimated that the 1981 tax cuts and other policies that were called for in the May 1981 budget resolution would generate a balanced budget or a small deficit (roughly $50 billion) by 1984—again, depending on the economic assumptions employed.

This was the budget background leading to the 1981 tax cuts. Given the best information available at that time, the Congress and the Administration reasonably thought that significant budget surpluses loomed under current law. Analysts differed, however, on whether the 1981 tax cuts would put the government on a balanced-budget footing or would lead to small budget deficits.

As it turned out, the federal government ran budget deficits of about $200 billion a year from 1983 through 1986. Economic performance was poorer than envisioned in projections of either CBO or the Administration at the time of the 1981 tax bill. The economy plunged into recession, registered negative growth in 1982, and then recovered. The rate of inflation dropped sharply. By 1986 nominal GNP was about $700 billion smaller than assumed in 1981, which caused a corresponding drop in tax revenues. And interest rates remained high despite the plunge in inflation. It is reasonable to ascribe nearly all of the underestimate of deficits during this period to errors in economic forecasts.

Sincerely,

ROBERT D. REISCHAUER,
Director.

STATEMENT OF ROBERT D. REISCHAUER, DIRECTOR, CONGRESSIONAL BUDGET OFFICE, ON THE ECONOMIC AND BUDGET OUTLOOK: FISCAL YEARS 1996–2000, BEFORE THE COMMITTEE ON FINANCE, UNITED STATES SENATE, JANUARY 26, 1995

THE BUDGET OUTLOOK DIFFERS FROM THE OUTLOOK IN 1980 AND 1981

At the request of Chairman Packwood, CBO has also examined how the current outlook compares with the economic forecast and budget projects CBO made before the Economic Recovery Tax Act of 1981 was enacted. The many changes in budget policy and presentation made since 1981 limit our ability to provide a detailed analysis of the differences between projections that are so widely separated in time. Nevertheless, we can explain the primary reasons for the fundamental differences between the outlook now and the outlook then.

Unlike the current Economic and Budget Outlook, CBO's budget reports issued before enactment of 1981 tax cuts routinely projected that a continuation of current tax and spending laws would lead to large budget surpluses. CBO also warned that such levels of taxes and spending would act as a drug on the economy.

The primary reason for those projections was that high inflation was expected to drive up revenues dramatically. Because key features of the Federal individual income tax were not automatically adjusted for inflation, periods of higher inflation—such as the late 1970's and early 1980's—pushed individuals into higher tax rate brackets and caused revenues to increase rapidly. In response, policymakers cut taxes every few years on an ad hoc basis—five times in the 1970s, for instance.

Illustrating this dilemma, in its February 1980 report Five-Year Budget Projections: Fiscal Years 1981–1985, CBO projected that revenues collected under current tax law would climb from about 21 percent of GNP in 1981 to 24 percent by 1985. Simple arithmetic pointed to enormous surpluses in the outyears. For example, current-law revenues exceeded outlays by a projected $98 billion for 1984 and $178 billion for 1985. Similarly, in its July 1981 report Baseline Budget Projections: Fiscal Years 1982–1986, CBO projected budget surpluses of between $148 billion and $209 billion for 1986, depending on the economic assumptions used.

In the same report, CBO estimated that the 1981 tax cuts and other policies that were called for in the May 1981 budget resolution would generate a balanced budget or a small deficit of roughly $50 billion by 1984—again, depending on the economic assumptions employed.

That budget background led to the 1981 tax cuts. Given the best information available at that time, the Congress and the Administration reasonably thought that significant budget surpluses loomed under current law. Analysts differed, however, on whether the 1981 tax cuts would put the government on a balanced-budget footing or would lead to small budget deficits.

As it turned out, the federal government ran budget deficits of about $200 billion a year from 1983 through 1986. Economic performance was poorer than envisioned in projections of either CBO or the Administration at the time of the 1981 tax bill. The economy plunged into recession, registered negative growth in 1982, and then recovered. The rate of inflation dropped sharply. By 1986, nominal gross national product was about $700 billion smaller than assumed in 1981, which caused a corresponding drop in tax revenues. Furthermore, interest rates remained high despite the plunge in inflation. It is reasonable, then, to ascribe nearly all of the underestimate of deficits during that period to errors in economic forecasts.

ILLUSTRATIVE PATH TO A BALANCED BUDGET

A constitutional amendment requiring a balanced federal budget will be considered during the early days of the 104th Congress. If the Congress adopts such an amendment this year and three-quarters of the state legislatures ratify it over the next few years, the requirement could apply to the budget for fiscal year 2002. If the budget is to be balanced by 2002, it is important that the Congress and the President begin immediately to put into effect policies that will achieve that goal. According to CBO's latest projections of a baseline that adjusts discretionary spending for inflation after 1998, some combination of spending cuts and tax increases totaling $322 billion in 2002 would be needed to eliminate the deficit in that year. The amounts of deficit reduction called for in years preceding 2002 depend on both the exact policies adopted and when the process is begun.

Mr. PACKWOOD. It was not President Reagan's fault, not really our fault. We were just wrong. The only reason I say that is because now we are not facing the same situation we were facing on projections in 1981. Now we are projecting $200 billion to $400 billion deficits as far as the eye can see. Could we be wrong? I suppose so. We were wrong in 1981. Should we base the budgeting of this Congress on the assumption that we are wrong, we are not going to have these deficits? I do not think so. I do not think so.

Let us go on to 1982. We have the recession. So a number of people say to President Reagan, we are going to have to increase the taxes to cut this deficit. He was not wild about that. To the best of my knowledge, President Reagan is perhaps the only person that ever lived who actually paid 91 percent in income taxes. He hit it in Hollywood when the rates were 91 percent, and I do not think he had to count. I think he remembered 91 percent. He was reluctant to go back to a tax increase. We promised him—we the Congress—if he will give us $1 in real tax increases, we will give him $3 in real spending cuts. Mr.

President, it is not logic. It is experience. He did not get a dime of those spending cuts. We did not pass them. All he got was a tax increase.

None of us should start down that road again of promises in this Congress. I am not here attacking anybody as being immoral, malevolent, or anything else. We should not accept promises that we do not need a balanced budget amendment and we will pass spending cuts. We have not done it, and we will not do it. Anybody that was here in 1982 and bought that charade maybe can excuse themselves the first time. Remember the old adage, "Fool me once, shame on you; fool me twice, shame on me." That was 1982. That is when we first had the balanced budget amendment vote in this Senate. Up until 1981—or maybe 1982, I cannot remember —I had been opposed to a balanced budget amendment. I believed we could do it. But I realized after 1981 and 1982—and especially 1982—there was never any hope that we would have the courage, and unless we were compelled to do what every city, county, and State has to do, we would never, ever, ever balance the budget. So I voted for the balanced budget amendment in 1982.

Now, let us go forward a bit again, to 1985. I feel privileged to have been a part of the 1985 budget bill. Bob DOLE, in one of the most extraordinary acts of leadership I have ever seen, from a Republican or a Democrat, managed to cobble together the Republicans—because we only got one Democratic vote—on a budget bill that had a 1-year freeze on Social Security COLA's. We were not eliminating them. We were not cutting them back to the Consumer Price Index. A 1-year freeze. It passed by one vote. It passed because we wheeled Pete Wilson into this Chamber—now the Governor of California, then a Senator—who had an appendectomy just 24 hours before and could not walk. We wheeled him in and he voted from a gurney right over there. The controversial part of it was this 1-year freeze on the COLA's on Social Security.

Unfortunately, here I have to be critical of President Reagan. Before it got to the House, he said he would not accept it. That finished it; it was over. The Republicans had to pay for it in 1986. We had already paid for it once, politically, in 1982. Budget Director Stockman, at that time, suggested a modest change in the amount of money you could get in your Social Security benefits if you retired at 62. For that suggestion, we never even got to the place of seriously considering it. For that suggestion, he got unshirted hell. The Democrats used it in 1982 to further their campaign, and they clobbered us.

I remember a cartoon afterward—Tip O'Neill was Speaker at that time—that showed Tip O'Neill and he has his mother there, and it says "Social Security" on her. He is dropping her off at the nursing home, saying, "Good to see you, Ma. I will call you in 2 years when we need you once more." From that day on, the Republicans have been frightened of ever talking about Social Security.

The fright is on both sides. You will recall the 1984 Democratic convention in San Francisco, where Fritz Mondale said, "The President has a secret plan to raise taxes. He will not tell you, but I am courageous enough." And President Reagan says, "There he goes again." For the rest of that campaign, Fritz Mondale was on the defensive about tax increases. So we are all skittish.

It is understandable why we are politically skittish. None of us, Republicans or Democrats, or the President, want to take the step forward that we all know needs to be done. The most freshman Member of this Congress, who has never been in politics before, knows what the problem is. This argument about term limits and that you have to have 8, or 9, or 10 terms to understand the problems—no, no, no. You do not have to be here 10 minutes to understand the problem. Maybe you have to be here 8, 9, or 10 terms to have the courage, when you finally feel safe enough to face the problem and say, let us solve it. We know what the problem is.

Well, where are we now? The President has given up. He, in essence, has thrown in the towel. Last year, when he proposed his health bill, he had $475 billion in Medicare and Medicaid restraints. Someone called them "cuts" because they were not lower than we were, but over the period of 5 years, $475 billion in Medicare and Medicaid restraints. He has no health care in the budget this year and has no restraints of any consequence in Medicare or Medicaid—as if to sort of say it is Congress' problem, or maybe the Republicans' problem, to come up with a budget.

You know, it is funny. It is all right to have those $475 billion in reductions if we were going to spend them, but it is not all right to have them if we are going to save them and apply them to the deficit. At least that is what the President is saying.

Then the critics say, well, we cannot vote for this until we know the direction we are going to go in. I have heard the Senator from Ohio, the Senator from Michigan, the Senator from South Dakota say that, until we know specifically what the roadmap is, we cannot vote for this. I would defy any Governor in this country right now —and nearly all of them operate under a balanced budget requirement—to tell me how they are going to balance their budget in 2002. I bet you they could not. They will have to raise the sales tax, or cut welfare, cut the highway fund and say we can use the State highway funds for the State. They know they have to do it and will do it, and they will do it because they have to do it. And we will do it if we have to do it. But if we use the excuse that because we do not have a roadmap now as to how it is going to be done, we will not vote for this amendment. That is a patsy's way out. That means we do not want to face the problem. This is an excuse to avoid it.

But if they want suggestions, I will give them some. My favorite one that everybody comes up with is that we will tax the rich—however you define who is rich. If we just tax the rich, that will take care of our problem. Well, I had the Joint Tax Committee do a chart for me, an estimate and a letter of how much money we could get. I asked how much money could we confiscate from those earning over $200,000? We will have a 100 percent rate of taxation. We will take it all.

They said they could not quite answer that question. They had never run that on their computers, but they could tell me how much untaxed income there was with people above $200,000. So, they sent me the letter. And this year, if we were to tax all of the rest of the income that is not now taxed above $200,000, 100 percent of it, we would get about $182 billion,—billion, with a "b"—not enough to narrow our deficit.

My hunch is we would never get it again, because I do not think anybody would ever, ever again make over $200,000 if they had to give it all to the Government.

And the Joint Committee had a wonderful paragraph in this letter. I will just read the paragraph and then put the whole letter in. This is the effect of a 100 percent rate of taxation. These effects would be extraordinary.

> If the 100 percent tax rates were to be in effect for a substantial period of time. . . then in our judgment there would be a substantial reduction in income-producing activity in the economy and, thus, a significant reduction in tax receipts to the Federal Government.

I do not know why that should surprise anybody. But so much for the goose and the golden egg. We can get it once, then that deficit problem is right back with us again.

Mr. President, I ask unanimous consent that the text of the letter from the Joint Committee on Taxation be printed in the RECORD.

There being no objection, the text of the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, October 12, 1994.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, DC.

DEAR SENATOR PACKWOOD: This is in response to your letter of September 30, 1994, for revenue estimates of imposing a 100-percent tax on all income over $100,000, and alternatively, income over $200,000. We are unable to provide a revenue estimate for these options for the reasons given below. However, the following table, which gives the amount of taxable income above those levels reduced by the current Federal income tax attributable to such income shows the amount of tax that could be raised by such change assuming no behavioral or macroeconomic responses.

[In billions of dollars]

Item	1995	1996	1997	1998	1999	1999–95
After tax income in excess of:						
100,000	289.1	314.4	342.8	370.1	399.6	1,716.1
200,000	182.3	195.5	212.6	227.0	243.5	1,061.9

As mentioned above, we are unable to provide a complete analysis of the proposal outlined. Our estimating models and methodology incorporate behavioral effects based on available empirical evidence to produce reliable estimates of the effects of tax changes in general. Even when tax rate changes are relatively small, our analyses include significant changes in behavior to account for portfolio shifts and the timing of income realizations. At a proposed tax rate of 100 percent, however, we lack historical experience on which to base an estimate of the significant behavioral effects. One may speculate that these effects would be extraordinary. If the 100-percent tax rate were to be in effect for a substantial period of time, so that taxpayers would have no rational hope of avoiding or evading the 100-percent tax in the outyears by deferring income to lower rate years or using other tax avoidance or deferral plans, then in our judgment there would be a substantial reduction in income-producing activity in the economy and, thus, a significant reduction in tax receipts to the Federal government.

I hope this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

JOHN L. BUCKLEY.

Mr. PACKWOOD. So, let us go on down some other suggestions.

Restrain spending. We all get this from home. If we just spent no more next year than we spend now, in 3 years we will balance the budget. If we spend no more than we spend now, we will balance the budget.

I will give you some problems. You can decide what you want to do with them.

Let us just take Social Security. Let us assume Social Security now spends $1,000. You have 10 recipients and they each get $100 apiece; $1,000, that is all we spend on Social Security.

And let us say there is 10 percent inflation. Under the present law, all of those recipients would get a 10-percent increase. They would all get $110, and we would spend $1,100 on Social Security. But we said we are not going to spend any more than we spend now. Therefore, do they all get just $100 and their purchasing power declines a bit?

Or I will give you another scenario. We are only going to spend $1,000. There are 10 recipients on Social Security. But the population is aging. Let us say next year one more person becomes eligible. Now we have 11, not 10. But we are only going to spend $1,000. Do they all get about $90 instead of the 10 that got $100? When you pose this to people, they say, "Well, we did not think about that. Maybe we can give Social Security recipients their cost-of-living increase and still hold all others."

But now they do not expect to hold all other things this year. You are going to have to spend less this year. Do you know what you get? "Well, we have to spend more for defense. Don't spend any more than we spent last year. Increase defense, increase education, increase health, but don't spend any more than you spent last year and take it out of somebody else. Don't take it out of me."

I was intrigued with a statement in the paper, if quoted accurately, by the American Medical Association the day before yesterday. I like the American Medical Association, but here is the statement.

> AMA leaders said at a news conference here that Medicare needs a major restructuring to save it from bankruptcy, but insisted that should not be achieved by slashing doctors' or other health care providers' fees. The American Hospital Association and others that provide health services have taken a similar position and a coalition is forming to fight such cuts.

Mr. President, there are only two expenses to Medicare. One is we reimburse the patient on occasion and the other is we pay the doctors and hospitals and labs and what not. That is all there is. Those who provide the services say, "Not us," and the beneficiaries say, "Not us, but cut spending."

Well, if you do not cut those who provide the medical services and if you do not cut those who get the medical services, where do you cut the spending? You do not. These are the things we want to gloss over.

The same problem exists if, instead of cutting spending, you say, "Well, let's do it at the Consumer Price Index minus 1 percent or minus 2 percent." You have these same variations all the way through. I am not saying it cannot be done, but you have to realize that while Social Security only goes up with the cost of living each year, plus any new members that come on—it is not just the cost of living; you have more people, more expenses—but Medicaid and Medicare go up anywhere from 7 or 8 percent, at a minimum, to 15 to 16 percent a year—a year.

Do you know what would happen if we take a 15-percent increase and compound it over 5 years? You have more than doubled your spending.

So we say, "Well, still spend the same we spent last year. Spend what we spent last year plus inflation. It is doable and, if we are forced to do it, we will do it and we should do it."

And everybody says the problems are the entitlements. That is a term we use here in Washington. It is not a term any ordinary American uses.

Entitlement means nothing more than a Government program that is passed and put into law and we never have to appropriate the money for it. Again, you get it automatically, unless we change the law. Social Security is the one that is best known. Medicare is one. Unless we change the law—positively vote to change it, the President has to sign it, or if he vetoes it we have to override the veto—this law goes on forever and it spends money forever.

They say, "Take it out of the entitlements." We have about 410 entitlement programs in this country—410—that automatically spend money, so surely we can find some money in entitlements.

So I took a look at some of the entitlements. I have some where we can save some money.

The Canal Zone Biological Area gets $150,000 a year. This is an island in the Panama Canal Zone. The money comes out of the Department of the Interior, administered by the Smithsonian, but it is an entitlement. Well, there is one we could save. There is 150,000 bucks.

The John C. Stennis Center for Public Service Development trust fund. Now this is a big one—$680,000. This program trains State and local public servants to become more efficient. This program ought to be applied to the Federal Government, not the State and local governments. It also "increases awareness about the importance of public service." We all revere John Stennis and we would hate to do anything to demean his memory, but this is $680,000 in spending.

Now, another: The Pershing Hall revolving fund. General Pershing, of course, was the commander of our troops in Europe in World War I. Pershing Hall is a Department of Veterans Affairs building in Paris, France. It does not get many tourists. It is currently being subleased to a hotel firm which is gutting the building and will turn it into a hotel. A hotel firm is going to gut the building, and turn it into a hotel. But it is an entitlement of $114,000 in fiscal year 1996.

Let us take the last one. Payment of Government losses in shipment fund. This is a permanent, indefinite appropriation in the Treasury Department. The fund would cover losses incurred by the Postal Service or any Federal agency in shipping coins, currency, and savings bonds—$500,000.

I have added up these four, and I think they come to a couple million total for these four entitlements. I said we have 410 entitlements. These are four inexpensive ones. But the bottom 400 of them altogether—there are about 410—the bottom 400, in terms of expense, cost about plus or minus $50 billion. Fifty-billion dollars is big money, but it is for 400 of the entitlements—$50 billion.

The top four entitlements, plus interest—and the top three are Medicare, Medicaid, and Social Security, and then fourth is other Government retirements, military, civilian retirements—just those four, plus interest, are $900 billion a year. You know interest is the ultimate entitlement. We have to pay it or we can be sued. The entire cost of the bottom 400, the $50 billion, is less than the amount that these four, plus interest, goes up a year.

You want to get rid of the 400? Go ahead. Save the $50 billion and the deficit, then, instead of being $200 billion will be $150 billion.

The problem is, we are all afraid to approach these big entitlements.

Now what is the old expression? If you want to go duck hunting, you go where the ducks are. The ducks are these big programs.

You think they are growing? Boy, are they growing. You take those four that I mentioned, plus interest, in 1964 those four, plus interest, were 23 percent of all of the money that the Federal Government spends—23 percent. Ten years later, in 1974, they were 39 percent. In 1984, they were 48 percent. In 1994, they were 56 percent. In the year 2004, they will be 67 percent.

One day all the money the Federal Government spends will go for these four programs, plus interest. And we are afraid to touch them.

One of two things happens, or maybe three things, if we do not do something soon. First, as we begin to spend more and more and more on these programs, if we do not increase taxes, all the other programs of Government get squeezed. We spend less on the Coast Guard and less on education and less on environmental protection and less on defense. Less on everything. So we can fund these four.

Or we raise taxes—and I am not suggesting that, and I do not want that—we raise taxes to try to fund the other programs. Do not worry about narrowing the deficit. We will not use the taxes to narrow the deficit. We will spend it if we have it, so we still have a deficit. That is the other alternative.

Or maybe we do nothing and we finally get to the place where there is a cataclysmic catastrophe coming. It is coming first in Medicare. There are two parts to Medicare. One is part A, that is hospital payments; the other is part B, and that is doctor payments.

In the year 2000 to 2001, the part A trust fund is exhausted. The part B portion which is the doctor payment—on which we now spend $47 billion out of the general fund—this is general taxpayers' money. This is not from the beneficiaries' premium that is deducted from a Social Security check.

But this scenario does not hold a candle to where we will be in Social Security in the lifetime of most of the Members of this Senate. At the moment, Social Security is taking in more money than it pays out. We will take in $70 to $80 billion more this year than we take out. That will continue on until about the year 2013.

The reason we are doing that is because we know the baby boomers born from 1945 to 1965 start to retire in about the year 2010. Give or take a few years or so from 2010—2013—the Social Security starts to pay out more than it takes in.

But at the moment it is taking in more money and investing it in Government bonds. That is all we allow it to do, Government bonds. If we had cut them lose and let them invest what they wanted in 1978, they might have invested in Texas real estate and they would be broke now.

Here comes the $70 billion more than we pay out. In it comes. Social Security administration, in essence, gives the $70 billion to the Treasury Department. The Treasury Department gives the Social Security administration a bond for $70 billion, a Government bond. We, thereupon, spend that money now, the $70 billion. We spend it on the Coast Guard, on education. We spend it on defense, we spend it on environmental protection, we spend it on everything Government spends money on. The $70 billion is gone.

This continues, in the next year, the year after that, the year after that until about the year 2013 when I estimate Social Security will probably hold almost 3 trillion dollars' worth of Government bonds. Now, at this stage they start to pay out more than they take in. The Social Security Administrator takes their bond to the Treasurer of the United States and says, "Here, give me some money to pay these benefits." The Treasurer looks at the Administrator and says, "Are you crazy? We spent that money 20 years ago. What do you mean, give you money? I don't have any money."

At that stage we have to start redeeming the bonds. For example, if we keep faith with the recipients we have to raise the taxes to pay those bonds. That is not bad enough. About the year 2013 we start to pay out more money than we take in. By about the year 2029, only 34 years from now—look backward 34 years and that is but a memory. That is not history. Much of it is as clear today as it was 34 years ago. We think that is not a very long time. Yet think ahead and we think it is an eternity.

About the year 2029, not only is Social Security paying out a lot more than it takes in, all of the bonds are gone. They have now redeemed all of the bonds, and by that year Social Security is paying out about $3 trillion a year. Unfortunately, it is only taking in about $2.2 trillion, roughly, $700 to $800 billion shortfall and no bonds to turn in.

At that stage, if we are going to keep faith, and we are going to do it with a payroll tax we will have a whopping increase in the payroll taxes. I cannot even estimate how high it will have to be to pay that kind of a deficit.

What I fear is going to happen is this: Your children or your grandchildren at that stage will say, "I am not going to pay that money. I will not pay that much. And I will not vote for anybody that will tax me that much," and this is where the cataclysmic coalition comes between generations.

We can cure that if we would face the problem now. But we are not going to, I fear. We are not going to unless we pass the balanced budget amendment. Then what does that require of Members? It does not require a cut. We spend, this year, 1995, rounded off to the nearest $100 billion, we will spend this year about $1.5 trillion, $1.5 trillion if we spend in what I referred to earlier as baseline.

If we do not change the laws at all, we do not add new spending, we do not add prescription drugs to Medicare, we do not add long-term care to Medicare, we spend as we are doing under the present law, in 7 years, in the year 2002, instead of spending $1.5 trillion, we will spend $2.2 trillion—$700 billion more.

When people talk about cutting, that is not a cut. We are not talking about cutting. In order to balance the budget in the year 2002, instead of spending $2.2 trillion we might have to spend $2 trillion. Now we are spending $1.5. Now to balance the budget we would have to spend about $2 trillion instead of $2.2. Is that impossible? Can we not do that?

The answer is, based upon experience, no. Better phrase it differently. We will not do that. Because in order to do it, we would have to undertake steps that we do not politically want to undertake and we are afraid.

I talked about some of the significant debates of 20–25 years ago and some of the steps we took and the one-vote margins that made a difference. And yet in my quarter of a century in this Senate there probably will be no more important vote that I have cast, or if I stayed here another quarter of a century, that I ever would cast than the one that says to my kids and my grandkids I was able to help save this country.

Sometimes what you do is a holding action. In the military it is referred to as a holding action. Major Devereux at Wake Island, shortly after the Japanese bombed Pearl Harbor, 200, 225 marines on this atoll, and the Japanese invaded it and we can see the footage of it, men swarming to shore like ants. There is Major Devereux, and his men, holding on, knowing they were defeated, waiting for the time.

Or maybe it was General Wainwright at Corregidor, when we moved in and it was clearly a loss. Or Jack Kennedy, a young PT boat commander being part of that rescue. Or Colonel Travis at the Alamo, extraordinary courage, when

Sam Houston says to him, "We need a holding action until we can get our army organized." And when the siege starts February 23, and the battle is on March 6, for 2 weeks they held out, wiped out the men but gave Sam Houston time to put the army together and win at the battle of San Jacinto. These actions made a major difference in American history.

Well, we are at that point now, but I think it is not a holding action. Every now and then, there is a difference between a holding action and an action you are going to take that is priceless. It is not Corregidor Island or Wake Island or San Jacinto.

Shakespeare said it best in Henry V. You recall the history. The French and the English in the Hundred Years War had been battling. France had clearly the superior position in geography, and they were a unified nation and the biggest nation in Europe. The British had beat them at Poitiers and then at Crecy in the early part of the Hundred Years War. But the final battle was coming at Agincourt, and the English were utterly at a disadvantage—foreign soil, 9,000 troops, the French had 30,000.

Picture Shakespeare's opening scene: Westmoreland is the king's cousin, and Westmoreland comes in. They know the battle is going to take place the next day.

He said:

> O', that we now had here
> But one ten thousand of those men in England
> That do no work today!

And the king responds:

> What's he that wishes so?
> My cousin Westmoreland? No, my fair cousin.
> If we are marked to die, we are enow
> To do our country proud, and if we live,
> The fewer the men, the greater share of honor.

Going on he says:

> This day is called the feast of Crispian.
> He that outlives this day and comes safe home
> Will stand a-tiptoe when this day is named
> He that shall see this day and live old age
> Will yearly on the vigil feast his neighbors
> And say "Tomorrow is Saint Crispian."
> Then will he strip his sleeve and show his scars,
> [And say "These wounds I had on Crispin's day."]
> And gentlemen in England now abed
> Shall think themselves accurs'd they were not here,
> And hold their manhoods cheap whiles any speaks
> That fought with us on Saint Crispin's day.

Today is an interesting day. Fortunately, there is a feast day for almost everyday. Today is Saint Scholastica Day, named after Saint Scholastica. It means "learned."

And we are going to vote on this day on a significant amendment that I think will determine whether or not we pass the balanced budget amendment. Some will flee, some will stand.

I quote one other part from the soliloquy that I left out at the time when Henry turns to his troops and says:

> Let he which hath no stomach for this fight depart.
> His passport shall be made
> And crowns for convoy put into his purse.
> I would not die in that man's company
> That fears his fellowship to die with us.

On this Feast Day of Saint Scholastica, the "learned," we are going to vote. The vote we make will probably have a greater effect on our children and grandchildren than anything else we will ever do, and I would hate to be that man or woman that serves in this Senate whose child or grandchild comes to you 10 or 20 or 50 years from now and says: "Where were you on Saint Scholastica Day?"

And you say: "I fled the battlefield."

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have spoken with the manager of the bill on the other side, and we ask that we go to the constitutional amendment to balance the budget, which will be the order at 11 o'clock, and that we divide the approximately 12 minutes equally between the two sides.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. REID. If the Chair will advise me when I have used 6 minutes, I would appreciate it.

The PRESIDING OFFICER. The Chair will advise you.

Mr. REID. Mr. President, I refer at this time to a statement that is on this chart behind me from the majority leader of the other body in the House of Representatives, the Honorable RICHARD ARMEY.

He said:

> We have the serious business of passing a balanced budget amendment, and I am profoundly convinced that putting the details out would make that virtually impossible.

There has been an attempt to keep from the American people what would happen to Social Security if it is not exempted from a balanced budget amendment. Why? The answer is in another statement made by the same majority leader, Congressman ARMEY, when he was asked the question why they had not produced a detailed plan for balancing the budget, wherein he responded, and I quote:

> Because the fact of the matter is that once Members of Congress know exactly chapter and verse, the pain that the Government must live with in order to get a balanced budget, their knees will buckle.

Mr. President, there are a lot of people whose knees are buckling as a result of the fact that they are going to have to vote whether or not to exempt Social Security from the balanced budget amendment. However, the amendment before this body that we will vote on at 11:30 is a mockery. It is an effort to allow people to walk from this Chamber and say, "I voted to protect Social Security," when, in fact, they did just the opposite.

This fig-leaf amendment that is now before this body will be adopted today, just like it did in the other body. But passage means nothing, just as it meant nothing in the House of Representatives.

What it does provide is a fig leaf, a cover, a sham, a farce, a mockery to cloak, to conceal, to hide and mask the fact that Social Security will never be the same if the Reid amendment is not adopted, and this amendment will do nothing to conceal that, even though there is an attempt to conceal it.

Mr. President, virtually everybody will vote for this weak, infirmed, ineffectual amendment that we will be called upon to cast our ballot at 11:30. We will do it because it is just barely—just barely—better than nothing.

This amendment allows some to go home and say, "I protected Social Security," but all should smile when a Member of Congress uses this amendment to say they protected Social Security because that Member of Congress will have trouble keeping a straight face when those words are spoken: "I protected Social Security."

I repeat, the only way to prevent the raping of Social Security is to vote for the Reid amendment next week. Today's vote is posturing and posturing only.

My amendment excludes Social Security from the general revenues of this country. This forces Social Security into the pot of red ink; that is, the general revenues of the United States. This vote is a fig leaf, but sadly, Mr. President, it does not cover even the bare essentials.

If the balanced budget amendment is ratified, then Congress is without authority to exclude Social Security trust funds from the calculations of total receipts and outlays under section 1 of the amendment, as stated by the Senate's leading legal scholar, Senator HOWELL HEFLIN, of Alabama, and the Congressional Reference Service, a man by the name of Kenneth Thomas.

So this amendment does nothing to change the direct words of the underlying constitutional amendment. Not only do we have the words of the amendment which jeopardize Social Security, but we have the report from the committee of jurisdiction, the Judiciary Committee, which reported the bill. This report is an effort by the committee—it is done on every piece of legislation—to clarify the intent of the legislation. But let us listen to what the report says. On page 19, it states that social insurance should be included in receipts.

The report on the same page excluded, or exempted, the Tennessee Valley Authority but not Social Security. This should give everyone an idea of the priorities of this body: Power over senior citizens. This amendment will do nothing for the tens of millions of Americans who pay their hard-earned money into Social Security and then expect to receive this retirement in their golden years.

No one watching this debate should be mistaken about what is happening in this Chamber this day. It is not the politics of meaning, but the politics of meaninglessness. If it is adopted, which I believe it will be, it will provide meaningless protection to the Social Security trust funds.

On the other hand, it provides meaningful protection to politics. It does not take great courage to vote for this amendment. However, it is a lot like the old beer commercial: Tastes great, less filling. It will do nothing to prevent the future raiding of the escalating surpluses that will be used to pay back the baby boomers. It does nothing to allay the fears of today's senior citizens that they will not receive what is rightfully theirs.

The PRESIDING OFFICER. The Senator has used 6 minutes.

Mr. REID. Could I have 1 more minute?

Mr. DASCHLE. I yield the Senator another minute.

Mr. REID. But it should create a state of despair for all generations, not only my generation, but my children's generation and their grandchildren. I have three grandchildren, all girls: Two age 4, one age 2. I want to protect them, because the real contract with America, the real contract with my grandchildren is not a contract of passing fancy but the Social Security contract. This contract, Social Security, deserves our defense. The vote today is a clever effort to let down our defense, to allow the destruction of the greatest social program the world has ever known, Social Security.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, let me thank the distinguished Senator from Nevada for his statement this morning and for the great leadership he has shown on this issue. This has been an issue that the Senator from Nevada has been associated with now for a long period of time. He has led our caucus, he has led the Senate, and I commend him for the tremendous effort that he has put forth, especially now over the last couple of days.

As our colleagues know, we are about to vote on a motion by the majority leader to request a Budget Committee report on how to protect current Social Security from the effects of a balanced budget amendment. I support that request, but unfortunately, we all know that approach, while well-intentioned, just is not going to get the job done.

First, the request is just that, it is a request. It does not bind the Congress. It does not bind any future Congresses.

Second, the job is more significant than that. It is more significant than simply requesting that somehow at some point in the future we hope that Congresses can protect this important trust fund. The real job is to protect it, and the only way to protect the dedicated funds into which every working American pays to help secure his or her future or the futures of their parents or their children, the only way to do that is to do as the Senator from Nevada has now proposed.

Even if the majority leader's request was binding, which we all know it is not, it would do nothing to protect those funds in the future. There is no way that we can guarantee future Congresses are going to do what we ask them to do this year. And so they remain vulnerable to the inevitable attempts to use these funds in future Congresses as we have used them in past Congresses: To hide the true size of the deficit.

So as we contemplate amending the Constitution, it is essential—it is essential—that we completely be up front with the American people about how we are going to do it. If we want to build a trust, a faith, a confidence in this institution, we have to level with the public and acknowledge that the nonbinding request upon which we are about to vote is fine, but it simply does nothing, nothing to protect Social Security in the future. When we talk about amending the Constitution, it is the future that we are obligated to consider.

The Senate has been debating this issue for some time now, and as it has, many of us have attempted to put teeth and honesty into this particular amendment. We have done so because it is evident from the so-called Contract With America that the only reliable cutting promised by the new congressional majority is going to be made in revenues. The Contract With America promises no spending cuts at all.

Let me repeat that. The Contract With America does not delineate any cuts whatsoever in spending. To the contrary, it would commit the Government to substantial new spending. At the same time, it offers a balanced constitutional amendment—a promise with no hint on how it will be fulfilled. And that responsibility is ultimately passed on to future Congresses in a future year. It avoids the responsibility, it avoids outlining the spending cuts that will be required, and we all know we are going to have to vote for if we are here over the next 7 years.

In November of last year, the majority told us they would show us a budget cutting plan that would establish a glidepath to a balanced budget. Well, we are still waiting.

Then we began to hear that we would reach a budgetary balance painlessly by curtailing program inflation. But we have now looked at the numbers and this easy, pain-free method will not work. It will not work because the numbers do not add up.

Then the idea was to wait for the President's 1996 budget and complain that he did not do what the majority said they themselves would do in November—set out a plan to cut spending and balance the budget by the year 2002.

So since November, we have heard pledges that Social Security will not be touched, promises that a plan will be written, and declarations that it is not fair to ask when.

Current Medicare enrollees were told earlier that Medicare would not be on the chopping block. Now we are hearing complaints that the President did not put it there.

I weigh the promises against the hard facts of budget numbers, and I think a lot of colleagues would share my view that the promises do not add up, but the numbers do. And what the numbers add up to is that these promises are, frankly, unrealistic. The promise to lay out a spending plan has not been kept and apparently will not be.

Intentionally or not, the new majority sent that signal 2 days ago when every single Senator on the other side voted against telling the American people how the budget would be balanced in 7 years' time. And now they want us to accept on faith the promise to protect Social Security.

While I have no doubt that many of my colleagues truly want to keep that promise, the fact is we all know that the pending motion does not bind even this Congress, much less future Congresses. There is no binding way with which we can take this resolution and tell anybody in the future that anything is changed that would give them confidence in knowing their benefits will be there.

So, Mr. President, that is why the Reid-Feinstein amendment is necessary, to ensure that our good intentions will be realized. The amendment solidifies the Social Security promise. It writes into the Constitution, it says to Social Security enrollees, who include virtually all working people in this country, as well as their retired parents, that these trust funds will be protected from ever being used in the future to balance the Federal budget. It is the only thing—the only thing we know of that will absolutely guarantee in writing, in black and white, that Social Security is a trust fund that will always be there. I supported it last year. I will vote for it again this year. It is just as necessary today as it was back then.

Why does it deserve special treatment? Because it is a contract between generations, that is why. Because it protects older Americans against poverty, that is why. Because it protects working families in case of premature death, that is why. Because it protects workers if they are disabled by illness or accident; that is why, too.

It says to every working person: You pay into these trust funds and when it is your turn, when it is time for you to use them—when you are too old, when you are too sick, too disabled to work—your Nation will make sure you do not lose everything, everything that you have worked for.

Today, 60 years after President Franklin Roosevelt sealed the real contract with Americans, Social Security is still a promise that is honored by Government. It is something people can count on to be there when they need it. It is a contract which recognizes that we are all human, that we all grow old, we are all vulnerable to illness and to ill health and to accident. It says that we, as Americans, will not let hard-working people sink into poverty through no fault of their own regardless of the circumstances. And that is a contract.

That is a commitment that has not withstood 1 year, or one election, but generations—lifetimes. From its very creation in 1935 until 1969, everyone here knows that the program was off budget. And then everyone also knows what happened in 1969. In an attempt to mask the costs of the Vietnam war and the growing deficit, guess what happened? Social Security was put back on the budget.

Then, in 1990, Congress again voted to take it off budget. We may have forgotten what that vote was, Mr. President. It was 98 to 2—98 to 2, almost unanimous. The people in this body said Social Security ought to be off budget and not used for other things, not used to mask the debt, not used to pay for other things that may come along, whether foreign or domestic. We said then that Social Security revenues held in trust for retirement should not be used to balance the Federal budget. And we did the right thing.

The flaw in the proposal now before us is that it includes in the budget Social Security surpluses that should be set aside to pay future retirement benefits. That is the flaw. Everybody knows it is there. Everybody knows we do not want it to be there. The question is, How serious are we about taking it out of there?

Social Security is not responsible for one dime of the national debt, and it should not be raided to pay off that debt now. Those who oppose the Reid amendment argue that while Social Security did not cause the deficit, they are very concerned about what happens if we take it off the table to pay down that deficit. They do not want to acknowledge the Reid amendment can be used to ensure we protect it in the future. As long as the trust funds are part of the unified budget, we all know that they help hide the real dimensions of the budgetary imbalance. The program is currently generating a surplus. We all know that, too.

There is a critical reason for accumulating those surpluses. It was laid out very explicitly by the senior Senator from New York just yesterday. Following World War II, the level of Social Security taxes was raised so that adequate funds would be available to pay the retirement benefits that will come due as those of us who are baby boomers retire. Those surpluses are meant to be there as a confidence-building effort to ensure the trust fund meets the predictable benefit payments in the future. If they are not there, from where will they come?

The Federal Government will owe the Social Security system nearly $3 trillion by the year 2017—$3 trillion. That is why we need to preserve the surpluses and protect them, because that $3 trillion is going to come due one day. Whether we have masked the deficit, whether we have used those funds to pay for other things or not, that money will be needed.

So the Social Security system today is taking in far more revenues than it is paying out in benefits for that reason alone. This year it will take in $69 billion more than it pays out. Between now and 2002, when the balanced budget amendment would take effect, Social Security will have amassed $705 billion in additional revenue.

Here is the point. If there is one point to the vote we are about to take, it is this. Without the Reid amendment, every dollar of those revenues will be placed on budget—every dollar—to give the false impression that there is $705 billion in available cash. Future Congresses would be able to avoid reducing the deficit by that amount, by $705 billion, in the next 7 years alone. That is why this issue is so important. The threat of the use of trust funds is a very real one. It is happening right now. It has been tried before. It will be tried again.

Our late colleague, the highly respected Senator from Pennsylvania, John Heinz, used the right word, "embezzlement," when he helped to lead the fight to take Social Security off the budget.

The Senator from New York, the one to whom I have just recently referred, Senator MOYNIHAN, has described it as "thievery."

I have supported a balanced budget amendment because I believe it is completely unfair to leave the current legacy of debt to our children and grandchildren. But what happens if we deplete the Social Security trust fund that they are now counting on for their retirements? We will have failed. It is that simple. We will have failed to live up to our commitment to them.

The Reid amendment would restore budgetary honesty by requiring an accurate accounting of the true size of the Nation's deficit problem. That is what it does. Taking Social Security out of the calculation would protect the fiscal integrity of the Social Security trust funds. It would require us to enact the tough policies needed to eliminate the deficit.

Many of our colleagues argue it is unnecessary, that they will help protect Social Security in the future. But I urge those Senators, if they are truly sincere, to solidify that commitment in the Constitution itself to put an end to public concerns that the budget will be balanced at the expense of trust funds.

So again, I remind everyone that less than 5 years ago, 98 Senators, across party lines, voted to take Social Security off the unified budget. Solemn commitments were made then—no less solemn than today's promises—that the special status of Social Security is acknowledged and, more important, will be respected by this Congress and by future Congresses. But the future is now, and it is again necessary to defend Social Security's unique mission.

So I hope my colleagues will do the only thing that will ensure that Social Security is able to continue that mission into the future. We need to support the Reid amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, may I ask how much time the majority side has?

The PRESIDING OFFICER. The majority side has 17 minutes.

Mr. HATCH. Mr. President, let us just all understand here, the Social Security trust fund is now filled with a bunch of IOU papers because the Federal Government has been borrowing from that trust fund and has been using that money to pay off Federal obligations. By agreeing to the Reid amendment, that does not solve that problem at all. The trust fund is a bunch of IOU's. Frankly, unless we get spending under control, unless we get this Government's fiscal house in order, all that is going to be left is that pile of papers, those IOU's, because all of that money will have been spent.

So this is not that issue. Just look at this debt tracker that we have here. We are now in our 12th day. I might as well put that one up here: 12th day of debate. During these 12 days, we have gone above $4.8 trillion. We are now almost $10 billion in additional deficit in just the 12 days we have been debating this.

This is serious stuff. And, frankly, if we do not keep the balanced budget amendment intact to cover everything in the Federal Government, we will not get this under control.

I would like to congratulate Senator DOLE and all of my colleagues who support offering this motion to refer this measure. This motion requires that the Budget Committee report how, in implementing the balanced budget amendment, Congress will move toward balancing the budget without reducing Social Security benefits or increasing Social Security taxes. Let me repeat that. Congress will neither cut Social Security benefits nor increase Social Security taxes to balance the budget. I have maintained that this is an achievable goal, and now we have the first vehicle to demonstrate it.

The next step, of course, is to pass the balanced budget amendment and start the Nation down the road to fiscal responsibility. This is a very good approach to ensuring that we will not harm either our current or our future retirees as we get this Nation's fiscal house in order. And the only thing that is going to do that is the balanced budget amendment as it is written now. It is bipartisan. It is consensus. It is Democrat-Republican. It is the only one that we can get through, and we should not try to change it with issues that can be solved like this, which does solve them.

For all of our generations this is important. We want to protect Social Security. There is not a person in this body or in the other body who is not going to do that. I do not know of anyone in the House or the Senate who is not going to protect Social Security under the balanced budget amendment. And this measure that Senator DOLE, Senator DOMENICI, and others have helped with will prove it.

But everybody knows that, if we amend the balanced budget amendment to exclude Social Security from its features, the balanced budget amendment will not be worth the paper it is written on. Everybody knows that because that would be the loophole through which they would drive every program there is. We have already seen that with SSI. SSI is paid out of general revenues, but it is part of Social Security. That would be the first thing they would turn over to Social Security revenues. I will say that you can add almost any other social spending program just by calling it Social Security.

So everybody knows what I am talking about, including those who are arguing this issue. Anyone who says otherwise is simply using a scare tactic, trying to scare our seniors into believing that they are going to be hurt by a balanced budget amendment while the exact opposite is true. They are going to be killed if we do not get spending under control, and if we do not get this Government's fiscal house in order. We have to do it. And it is in the interest of our seniors to do it, and I think most seniors understand that, and I think they know these scare tactics for what they are. There is no question that we will protect Social Security as we implement the balanced budget amendment. We provide in the amendment for implementing legislation in which Congress will do that, as Senator DOLE's motion shows today.

We all want to protect Social Security. It holds a special place in our Nation's programs. We will protect Social Security and in an appropriate and reasonable way. The report required by this motion will show that we can do that. It is wholly appropriate. It is the reasonable way to do it. It is wholly reasonable, and it points the way to real protection for those who are relying upon the Social Security trust funds as well as future generations who will depend on our disciplining ourselves and our deficit spending habits.

This provision goes to the heart of the concern of some that Social Security benefit cuts or tax hikes could result from attempts to balance the budget. It shows that, as we move to balancing the budget, we will not cut benefits or raise taxes in the Social Security trust funds in order to balance the budget.

I wholly agree with the intention of this motion, and I urge my colleagues, all those who, like me, support a real balanced budget, and all of those who, like me—meaning everybody—support protecting Social Security, I ask all of them, to vote for this measure. Let us adopt this reasonable and appropriate approach showing that we will protect Social Security as we move toward balancing our Federal budget.

This motion requires simply that the Budget Committee of the Senate report to the Congress how we can balance the budget without touching Social Security. It will show that we can do what we have said we could, and it is the right way to do it without writing a statute into this amendment.

We are talking about the Constitution that we are amending. We do not need a statute, and we need to do something about this ever-increasing debt. This is only a modest illustration. But, in 12 days our debt has gone up $9,953,280,000, in the 12 days that we have been debating this matter and delaying and putting it off. Now we are getting down to brass tacks. It is time to vote for this.

I hope that our colleagues will support the leader, Senator DOLE, and the leadership in doing this.

I yield 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, it is fair and I believe proper that the Senate of the United States speak to the citizens of this country as to our intent about how we plan to handle Social Security as we move toward a balanced budget. Therefore, I strongly support the Dole motion and encourage all Senators to vote for it because it is the appropriate way to express our will and to direct the Budget Committee in its proceedings once we have sent a balanced budget amendment to the States for their consideration and, hopefully, their ratification.

What is important is that it is separate and apart from the amendment itself because it expresses the will of Congress, and it does not clutter up the Constitution the way the Senator from Utah has so clearly spoken. It does not create the massive loophole that the Senator from Nevada is attempting to carve inside the Constitution that would allow future Congresses to drive ever-increasing social programs through the Social Security loophole and, in fact, potentially destroy the Social Security Program.

The strength of the Social Security Program has never been the law itself. The strength of the Social Security Program is right here on the floor of the U.S. Senate. It is the obligation of every Senator to honor what we believe to be a commitment to the citizens of this country who pay into a supplemental income program as to our obligation to ensure that program remain sound and stable throughout all time. There is no statute in the Constitution today singling out any special program of Government guaranteeing to the citizens how that program will be operated for all time. The Constitution has been, and must remain, a code, a sense of principle and an organic act that says here is how the collective government of our country operates. It is then Government's responsibility and this Senate's responsibility, once we have passed legislation and created law as we did with the Social Security System, to honor the commitment of that law so spoken to the American people.

Mr. President, the threat to Social Security is not the Senate of the United States. The threat to Social Security is the debt. It is the debt that is the threat. And if we fail to balance the Federal budget, Social Security will go down in 25 or 30 years. The obligations this Government will have will be so large that the tax increases that will be demanded to stabilize the system will be so large and overpowering that the average taxpayer will not be able to pay them, and by the Office of Management and Budget's own confession, 84 to 85 percent of the gross pay of the average worker out there in the future will have to go to the Government in taxes. You know what is going to happen, Mr. President, if that ever were to occur. They would look at me because, by then I would be on Social Security, and they would say, "I am sorry, LARRY, we cannot afford you because we cannot afford to pay our bills and put our kids through school and buy a home because you are asking too much of us for your own benefit."

That is why this motion is important, to say that it is the sense of the Congress in directing the Budget Committee, as we move to balance the budget, to do so without increasing revenues or depleting the trust funds of Social Security. That is a clear intent, a clear expression of what this Senate will do. It is not unlike what the House did before they voted on the balanced budget amendment by a vote of over 418 to say to themselves and to the American people watching that they will not balance the Federal budget on the backs of the Social Security recipients.

But what they did not do and what we must not do is to clutter up the Constitution of this country by creating political loopholes. The American people are already suspicious of us. They know that we craft laws and we create special exemptions and special and unique opportunities with inside the law. We must never do that within our Constitution. That is why the Dole motion is so important and why I urge all of my colleagues to vote in support of that motion.

The PRESIDING OFFICER. The Senator from Utah controls 5 minutes.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, removing Social Security from the provisions of the balanced budget constitutional amendment misleads the American public and the current and future beneficiaries of the Social Security system. While removing Social Security from the balanced budget amendment is purported to protect its beneficiaries, in effect that action would threaten the long-term viability of the system. As noted in the report to the President from the Commission on Entitlement and Tax Reform, benefit payments under the Social Security system will exceed dedicated revenues for the program by the year 2013. This cash-flow shortfall will result in the Social Security trust fund becoming insolvent by the year 2029. Given these projections, removing Social Security from the table as we debate our Nation's fiscal problems would be irresponsible. The Congress owes it to the current and future beneficiaries of Social Security to address this long-term problem. Removing Social Security from the balanced budget amendment addresses a short-term politically sensitive issue; however, it does not address the long-term facts that reform is needed for this program to remain solvent.

Mr. DOLE. Mr. President, this motion presents us with another opportunity to demonstrate to America's seniors that there is broad bipartisan support for protecting Social Security as we move toward a balanced budget. On January 26, the Senate voted 83 to 16 to adopt a sense-of-the-Senate amendment stating that we intend to protect Social Security. The House of Representatives endorsed a similar concurrent resolution to protect Social Security by a vote of 412 to 18.

Mr. President, we need to put a halt to the scare tactics and reassure America's seniors.

Later this year, Republicans will put forward a detailed 5-year plan to put the budget on a path to balance by 2002. Our plan will not raise taxes. Our plan will not touch Social Security. Everything else, every Federal program from Amtrak to Zebra Mussel research will be on the table.

Mr. President, I urge my colleagues on both sides of the aisle to go on record to reassure America's seniors and vote for this motion.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

Mr. LOTT. I announce that the Senator from Wyoming [Mr. SIMPSON] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 10, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—87

Abraham
Akaka
Ashcroft
Baucus
Bennett
Bond
Boxer
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hutchison
Inhofe
Inouye
Jeffords
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Shelby
Simon
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—10

Biden
Bingaman
Bradley
Byrd
Exon
Hatfield
Hollings
Nunn
Packwood
Sarbanes

NOT VOTING—3

Johnston
Simpson
Wellstone

So the amendment (No. 238) was agreed to.

Mr. CRAIG. Mr. President, I ask unanimous consent that it be in order to vitiate the yeas and nays on the amendment numbered 237.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment, as amended.

So the amendment (No. 237), as amended, was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion to refer, as amended.

So the motion, as amended, was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

HELIUM PROGRAM

Mr. FEINGOLD. Mr. President, Tuesday's business section of the Washington Post had an interesting article in it on the termination of the helium program, which is a target as elusive and difficult to rein in as the helium gas itself. The subheading of the article was entitled, "Helium Bureaucracy Targeted by Clinton Has Survived Many Budget Cutters."

The story in the Post went on to recount how termination of the helium program has been on the target list for elimination by those seeking to find ways to reduce the Federal bureaucracy.

The story talks about how this helium program has been on the list for ways to reduce the Federal bureaucracy and the Federal deficit, but that it has survived many attempts under the Reagan, Bush, and Clinton administrations, precisely because of the usual constituencies and political horse trading that tends to keep these programs alive.

Mr. President, I suggest that this helium program is exactly what this balanced budget amendment debate is all about, or maybe the better way to say it is, is what this balanced budget amendment debate should be about. It should be about how we are actually going to balance the budget.

On January 4, the first day of this Congress, I introduced legislation, S. 45, which would terminate the Federal helium program and sell off the crude helium that the Federal Government has stockpiled to pay off the $1.4 billion in program debt that has accumulated. We have good bipartisan support on the legislation. Senators HARKIN, LAUTENBERG, LEAHY, REID, KYL, BUMPERS, and CAMPBELL have all cosponsored this effort, once again, to try to get rid of the helium program.

It did not happen to be part of the plan I proposed to reduce the deficit during my campaign. But I had not thought about that one. It is important to add new ideas because, obviously, some of the things I wanted to cut, you cannot cut. There are not the votes for it.

So the helium program was a great one to add on because we found out it really does not make sense anymore. I, along with the cosponsors, want to see the 104th Congress be the Congress that finally gets rid of this program.

For this reason, I was delighted when the President highlighted, as the first program he mentioned for a cut in his State of the Union Address on January 24, the helium program. He said it is one of the businesses that the Federal Government ought to get out of running. I was also pleased, of course, to see that the President added this proposal into his budget, and that the President submitted that to Congress on Monday of this week.

In my mind, this is exactly the step-by-step approach that real deficit reduction is all about: Proposing a bill, hoping the President will push for it in his budget, getting it down here, and hoping we will get to work on it right away instead of waiting for the balanced budget amendment to be approved or not and waiting for the States to ratify it or not.

I hope, before this Congress adjourns, we will have completed this task and turned this program over to the private sector. If there is any reality at all to all this talk behind a balanced budget amendment, then surely the helium program should be on its way out.

There is simply no good reason for the Federal Government to continue to stockpile helium or run a public program when a perfectly viable private industry has developed that supply that we need for all of the Nation's helium requirements.

Mr. President, this program, like many of the deficit reduction targets that I have been involved with trying to get rid of—like Radio Free Europe or the wool and mohair program—was begun decades ago, when there was a different need and purpose. These programs, however, seem to survive long after the original purpose, because the constituencies build up that are dedicated to one cause, and that is simply preserving and continuing their existence whether we need the program or not. This is certainly true of the helium program.

This program dates back to the Wilson administration, when observation balloons were thought to have strategic merit. The Helium Act of 1925 authorized the Bureau of Mines to build and operate a helium extraction and purification plant in Amarillo, TX, in 1929.

According to the GAO, a nominal private helium industry existed in the United States before 1937. Between 1937 and 1960, the Bureau of Mines was the only domestic helium producer, selling most of what it produced to other Federal agencies, but also supplying some to private firms.

This program got an additional boost in 1960 when the Eisenhower administration feared there would not be a sufficient supply of helium to meet the demand for strategic blimps to spot enemy submarines in the Atlantic, and for maintaining fuel tank pressure and rocket engines for the fledgling space program at the time.

The 1960 act created incentives for private companies to return to the market and, as a result, we finally did have four private natural gas producing companies building five helium extraction facilities, and they entered the market.

What is happening now, as of 1995, is that 90 percent of the helium produced in this country does come from these private operations.

Unfortunately, though, the 1960 act also led to a growing Government-run operation and the stockpiling of helium purchased by the Federal Government.

The act also stipulated that the Bureau of Mines set prices that would cover all of this Government-run program's costs, including its debt and interest, and that Federal agencies and contractors were then required to buy helium from the Bureau of Mines.

Today, Mr. President, that debt is approximately $1.4 billion, and some have suggested that our current stockpile could supply the Government's needs, if you can believe it, for the next 80 to 100 years. Although the proponents of the program have a complicated argument about how this program does not really cost the Federal Government any money, the point is that the Federal Government does not need to run a helium program anymore. There is a private sector helium industry that can and does provide the necessary helium to the Government.

By terminating the program now, Mr. President, selling off the helium reserves over time to ensure that the taxpayers receive a fair price for the helium they have financed, we can pay off the debt and, according to the CBO, we could recover between $1 and $1.6 billion from the reserves if sold at current prices. CBO also believes that we can double annual revenues from the program by doing this over time.

Mr. President, achieving deficit reduction is a very difficult task. Programs like the helium program were created to meet certain needs. The defenders of the program have a variety of arguments to justify its continued existence, but the reality is that it appears over and over again on target lists for deficit reduction because it no longer makes any sense for the Federal Government to continue to run this program. It has not been terminated despite attempts of the Reagan, Bush, and now the Clinton administration because powerful constituencies fight to keep these types of programs alive.

Mr. President we simply cannot afford to keep these programs going. The 104th Congress should be the place where this program is terminated.

Mr. President, I ask unanimous consent that the article I referred to earlier from the Washington Post February 7, 1995, business section relating to the helium program be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 7, 1995]

ODORLESS, COLORLESS—AND HARD TO KILL

(By Cindy Skrzycki)

Deep in the earth near Amarillo, Tex., the federal government is sitting on a 32 billion-cubic-foot stash of crude helium—enough to last 100 years—and an inflated bureaucracy built on the premise that you can never have too much helium.

President Clinton burst the balloons of the helium reserve program's 195 workers in his budget request yesterday, singling out the federal program as one that had outlived its usefulness and proposing that it be phased out. Estimated savings: $16 million by 2000.

The program dates back to the observation balloons of World War I and got another boost in 1960, when Congress and the Eisenhower administration feared there would not be enough helium for Cold War strategic uses, including the expanding space program. The program's debt to the U.S. Treasury has grown from $252 million to $1.3 billion—just as impressive as the supply of helium in its Texas stockpile.

Yesterday, Clinton proposed canceling the debt, saying that it would not affect the federal budget deficit.

Its tale is one of yet another federal government program that has had more than nine lives. The program has ducked budget cutters in the Reagan, Bush and Clinton administration, allowing employees such as Armond Sonnek, assistant director for helium, and Dale Bippus, the plant's general manager, to amass about 75 years of combined federal service until their recent retirements. Still on the job is John D. Morgan Jr., 74, chief staff officer of the Interior Department's Bureau of Mines, who can trace the origins and applications of helium in his head.

Ironically, the helium program escaped its latest brush with death in the name of stemming the growth of the deficit. Just when it looked like getting rid of the program was what Clinton-style reinvention of government was all about, the now-defeated congressman from Amarillo, Democrat Bill Sarpalius, became a key vote for the president when Clinton was trying to pass his contentious budget bill in 1993.

After Sarpalius voted with the president—providing Clinton's 218 to 216 margin of victory—the program was floating high again. The administration offered legislation to cancel the program's debt and make it more efficient. The measure never got off the ground.

Now, the administration proposes getting out of the helium business, liquidating the stockpile and selling the production facility in Amarillo.

That would end the government's involvement in helium, which began in 1971, when the Bureau of Mines began researching uses of the odorless gas for the military. Research and production continued through World War II, when the government used blimps to spot enemy submarines in the Atlantic Ocean. Even now, though using helium for blimps is a tiny portion of its consumption, the airships are used for surveillance on the U.S. borders and weather observation—and, it has been reported, there may even be a stealth blimp.

The gas, a nonrenewable resource, is more commonly used today for special welding procedures, the fueling process of space shuttles and magnetic resonance imaging. For those applications, it has no replacement.

It wasn't until 1960 that the Cold War scared the government into buying, refining and stockpiling helium. It feared shortages that would leave the National Aeronautics and Space Administration and the Pentagon flat. So the Bureau of Mines became owner and operator of a helium-refining plant, a 425-mile pipeline, railroad cars and an unusual underground helium storage facility.

It filled an underground reservoir called the Cliffside Field, near Amarillo, with helium crude bought from natural gas companies. Helium, which natural gas producers had vented into the air, was being captured and sold to the government.

"It was a good investment," said Carl Johnson, Chairman of the Helium Advisory Council, a trade organization representing the nation's 11 helium producers, refiners and marketers. "Without the helium collected in Cliffside field, the industry wouldn't be as vibrant as it is now."

All this was done with a $252 million loan from the Treasury to the Interior Department—which has never been repaid. With back interest, the debt has grown to $1.3 billion. The program was intended to be self-supporting through the sale of helium, but sales projections proved too optimistic.

In the minds of some, such as officials at the General Accounting Office, the debt doesn't exist—it was merely an intergovernmental transaction between the Treasury and the late Fred Andrew Seaton, President Dwight D. Eisenhower's interior secretary, who signed the note.

Helium program staffers like to think they cost the government no money since the program covers its operating costs and, in 1994, returned $10 million to the federal till. Plus, they point out, the government does own 32 billion cubic feet of crude, unrefined helium which, at current prices, is worth about $600 million.

"Our employees think they are giving money back to the taxpayer," said David Barna, spokesman for the Bureau of Mines. "They feel pretty good about it."

There is some dispute over how the government should phase out the helium program. The companies that now supply 90 percent of the market don't want the government opening the spigot and depressing prices. After all, how many Barney balloons can you sell? There also is a vocal constituency for paying back the loan from the sale of the crude.

An administration source said the government wants to "sell into a rising market" but it needs to start liquidating. The calculation is that the market could absorb 300 cubic feet of crude helium annually and not be the worse for it.

And, the $1.3 billion debt?

Ever heard of forgive and forget?

UNITED STATES-CUBAN RELATIONS

Mr. FEINGOLD. Mr. President, yesterday, the chairman of the Senate Foreign Relations Committee, the Senator from North Carolina, introduced legislation on Cuba which, with all due respect to the chairman, I think is the wrong policy at the wrong time. In seeking to strengthen an already tight trade embargo, punish non-American investment in Cuba, and increase funding for TV Marti, this proposal puts United States policy toward Cuba on the wrong track. While I oppose strongly the totalitarian rule imposed by Cuban President Fidel Castro, I do not see any way that the island Nation of Cuba now poses a military or economic threat to the United States which warrants such a new hostile policy.

I have believed for some time that an expanded dialog with the Cuban Government is in the interest of the United States and Cuba. With the cold war over and little or no Soviet or Russian presence in Cuba, it simply does not make sense to completely ignore a country in our hemisphere because it is nondemocratic. Indeed, discussions and contacts on issues such as human rights, market economies, commercial relations, arms control, Caribbean affairs, the free flow of information, refugee affairs, and family visitation rights could actually help facilitate resolution of these complex problems and, I think, would do it, Mr. President, far better than nonengagement and isolation.

We have ongoing discussions with other nondemocratic countries like Saudi Arabia, Indonesia, and North Korea, and we recently opened a liaison office in Vietnam. Mr. President, we have even granted most-favored-nation status to China, so it makes little sense to outlaw virtually any contact with Cuba.

This proposal also threatens the United States effectiveness in international organizations by requiring the United States representatives to seek a United Nations embargo against Cuba and to oppose Cuban membership in international financial institutions. Mr. President, the United States has more important and pressing problems which require multilateral support and should not be required to pursue an outdated and misguided policy in an international forum.

Finally, Mr. President, I am particularly amused by the support of the Senator from North Carolina for more money for TV Marti. This program has been documented time and time again as ineffective. Certainly in times of serious fiscal constraint TV Marti should be eliminated; it should not be enlarged. It is very ironic that during the debate on the balanced budget amendment, when we are all claiming we are going to identify more specific cuts and cut out the fat in Government, here is a proposal which exemplifies the waste that has helped jack up the Federal deficit in the first place.

Mr. President, the chairman's proposal is provocative but it is unrealistic and shortsighted. I hope the administration will work with partners in the hemisphere to develop a multilateral strategy to promote democracy and human rights in Cuba and prepare for that day to which we all look forward, the transition of power in Cuba.

I thank the Chair and I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I ask unanimous consent that I be recognized to speak as if in morning business for not to exceed 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBB. I thank the Chair.

THE 50TH ANNIVERSARY OF THE INVASION AT IWO JIMA

Mr. ROBB. Mr. President, today marks an important anniversary for all of us who served in the Marine Corps and for freedom-loving Americans everywhere. On this date 50 years ago, the largest force of U.S. marines ever assembled prepared to embark on the most savage and most costly battle in the history of the Marine Corps. Nearly 100,000 troops, American and Japanese, were ready to fight to the death on the most heavily fortified island in the world, 8 square miles of volcanic ash and rock known as Iwo Jima.

Since the turn of the century, marines had pioneered and developed the capability for seizing advanced naval bases. The payoff for those many years of planning and training was seen in the successive, hard-fought victories in the amphibious landings throughout the Pacific in places like Guadalcanal, Bougainville, Tarawa, and New Britain, and on Saipan, Guam, Tinian, and Peleliu.

But now in February 1945 marine forces were approaching within 1,000 miles of the Japanese homeland for the first time and would face a determined, fanatically brave enemy who had constructed the most elaborate and ingenious system of underground fortifications ever devised. Despite thorough allied planning and preparation and all the naval and air support available, it was ultimately the marine on the beach with the rifle who eventually won this critical battle for America.

Mr. President, one out of every three marines who set foot on Iwo Jima was killed or wounded, so great was the price of victory. As Gen. Holland M. Smith, Commanding General, Expeditionary Troops, Iwo Jima, said later of his marines, "They took Iwo Jima the hard way, the marine way, the way we had trained them to take it when everything else failed. They took Iwo Jima with sweat, guts, and determination."

Mr. President, I thank the Chair and I yield the floor.

AUTHORIZING BIENNIAL EXPENDITURES BY COMMITTEES OF THE SENATE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of Senate Resolution 73, which the clerk will report.

The legislative clerk read as follows:

> A resolution (S. Res. 73) authorizing biennial expenditures by committees of the Senate.

The Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, is there a time agreement on this resolution?

The PRESIDING OFFICER. One hour evenly divided.

Mr. STEVENS. I yield myself such time as I may require.

Mr. President, on January 25, the Senate Rules Committee reported a biennial omnibus committee funding resolution. It is Senate Resolution 73 and it is reports No. 104–6.

The Senate has authorized the committee funding on a biennial basis since 1989, primarily due to the good work of my great friend from Kentucky, who is the former chairman of the committee. We have worked together many years now. Senator FORD has insisted on a biennial funding resolution.

The resolution before us today is a biennial funding resolution, and it is consistent with the direction of the conference of the majority to cut committee budgets by 15 percent. Senate Resolution 73 cuts 15 percent from the 1994 total recurring budget authority. It will add 2 percent for a cost-of-living adjustment for the 1995 recurring salaries and authorize a 2.4 percent COLA for 1996 for recurring salaries. There is also a 2.4-percent COLA for January and February 1997. The 1996 and 1997 COLA will be subject to the approval of the President pro tempore of the Senate.

This resolution authorizes $49,394,804 for the period from March 1, 1995, and September 30, 1996, and $50,521,131 between March 1, 1996, and February 28, 1997.

Mr. President, this is a reduction of $7,641,011 from the 1994 funding level.

I have a chart here that shows the change in committee budget authority since 1980, and the Senate will note there has been a considerable shift in budget authority. The real dollar amount is in blue and the dollar amount adjusted for inflation is in orange. You can see that we have maintained a steady decline in the adjusted-for-inflation level of expenditures by the Senate.

We also have a second chart which shows the level of authorized committee staff since 1980. Since last year, the level of committee staff is reduced by 20 percent. In 1994, there were 1,185 authorized committee staff positions, and in 1995 there will be 947.

Again, I wish to point out that we are continuing the good work of my friend, the former chairman, the Senator from Kentucky, Mr. FORD, because these cuts are in addition to the 10-percent decrease that committee budgets took in the last Congress pursuant to his leadership.

Between 1980 and 1994, the Senate committees will have taken a 16.7 percent reduction in staff. I might say the House of Representatives took about a 5 percent reduction during that same time and that fact explains the difference in the amount of reductions currently being taken in the House compared to what we are taking in the Senate this year. But, I believe this additional cut in committee funding is a good faith showing to the American people that we are serious about our partnership with them to reduce the size of Government.

Our people sent us a message in the last election that they want less Government. This resolution is another step toward a reduction in size of Government. This is not a new step, it is an ongoing process. It was something we have been working toward. But it is an example of the Senate's commitment to provide a more effective and efficient Government.

On a deflated basis, the total authorized dollar value in 1996 for Senate committees will be less than in 1980.

Last year all of the Senate committees combined only accounted for 17 percent of the total Senate budget.

Senate Resolution 73 continues the practice of allowing committees to carry over funds from the first year to the second year during the same Congress. This policy provides the committees with added flexibility to meet their anticipated needs and eliminates the incentive to spend or lose their money.

This resolution does not permit committees to carry over unexpended funds from the 103d Congress to the 104th Congress.

Any unexpended balances of the committees after obligations incurred during the funding period ending on February 28, 1995, will be transferred to a special reserve fund which shall be used to provide nonrecurring funds to committees that demonstrate a need for funds to meet an unusual workload or unanticipated issue that comes before them. I urge committees not to race to spend the moneys that are available for them to spend before February 28. That would diminish the special reserve and the reserve fund is of great importance to the Senate.

Last Congress the special reserve fund allowed the Senate to meet additional unforeseen needs of committees without requiring the Senate to spend new funds.

For example, after committee budgets were completed, the Armed Services Committee was required by law to conduct a major series of hearings on the issue of homosexuals in the Armed Forces. Those hearings required the Armed Services Committee to hire additional professional and support staff due to the substantial amount of work involved in the preparation and conduct of those hearings.

The guidelines of the Conference of the Majority provided for a total funding target that is 15 percent below the 1994 level plus COLA with directions that the Rules Committee consider a variety of factors and apply the cuts fairly. I believe this proposal is fair and balanced.

This resolution which was worked out by Senator FORD and myself and adopted by the committee takes into consideration the size of the committees, their workload, the growth that has accompanied the committee during the 1980's, as well as other responsibilities of the committee.

Some committee reductions are more than 15 percent. Labor's is 25 percent. Governmental Affairs, Judiciary and Intelligence are each downsized by 16.5 percent.

The smaller committees—Veterans' Affairs, Small Business, and Aging were cut 10 percent.

There is a big difference between the impact of a 5-percent cut on a $1 budget compared to 2 percent on a $4 million budget.

What I am really saying is the administrative costs of a committee are almost the same. A committee that has a smaller amount of total funds is going to be excessively impacted in their ability to get their substantive work done if we do not recognize the difference between the large and small committees and the impact of across-the-board cuts. We have attempted to recognize, this problem in this resolution.

There are certain minimum administrative costs associated with running a committee. Every committee must have a receptionist, a clerk, a systems administrative person, as well as other positions specific to the duties of that committee.

With that in mind, it was the Rules Committee's determination that the smaller committees should not take a full 15-percent cut but should take only a 10-percent cut.

The impact of the 10-percent cut on those smaller committees is just as severe if not worse than the impact of the 15- and 16.5-percent cuts the larger committees received.

There is one exception to our policy. Senator MCCAIN, the chairman of the Indian Affairs Committee, has informed me he intends to adhere to the 15-percent reduction that applies to all committees as originally submitted. That was his request to the Rules Committee. I am advised Senator MCCAIN was going to make a statement to that effect but that he is not available to do so now. It is my understanding that he intends not to spend the full amount authorized. We commend him on that position. We merely wanted to recognize the impact on small committees by our decision.

A few committees presented cases for including nonrecurring money which was not authorized in their baseline. Only authorized recurring funds were included in the baseline.

Senate Resolution 73 also contains a sense of the Senate that space assigned to the committees of the Senate covered by this resolution shall be reduced commensurate with the reductions in authorized staff.

The Committee on Rules and Administration is expected to recover space for the purpose of equalizing Senators' offices to the extent possible, taking into consideration the population of the respective States according to the existing procedures and to consolidate the space for Senate committees, in order to reduce the cost of moving Senate offices and to reduce the cost of support equipment, office furniture, and office accessories.

I believe this recommendation distributes the Senate's limited resources between the committees in a fair and equitable fashion.

I will soon move its adoption.

Before I yield to my good friend from Kentucky, let me ask for the yeas and nays on this resolution.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, as my good friend from Alaska, the chairman of the Rules Committee, has stated, before the Senate this afternoon is Senate Resolution 73. It is the 2-year budget authorization for Senate committees for the years 1995 and 1996. It continues the policy of biennial budgets established in the Rules Committee in 1989. We have 2-year budgets and we cannot get the Federal Government on 2-year budgets, which I think would save money. It would not balance the budget but it certainly would help us, give us some time for oversight.

But in the Rules Committee, and the committee chairmen have accepted it, where the money would lapse at the end of the first year, it would carry over into the second year of the biennium. The committees were not anxious then to spend the money, come back to us prove they needed it, and then prove they need more. So at the end of this year we had a considerable surplus as a result of the 2-year budget. That was returned. I think the proof is in the pudding and I am very pleased the 2-year budget authorization has worked so well.

The Rules Committee's job in markup was to find the minimum figure—and I underscore minimum figure—that will permit the committees to function effectively and efficiently. The committee conducted a review on a committee-by-committee basis. It was not all thrown in a pot and stirred up and figures pulled out. But my good friend from Alaska went committee by committee, colleague by colleague, and reviewed each committee's request with those chairmen and ranking members very closely.

Reaching a satisfactory compromise on the level of Senate committee funding is never easy. This year the problem was compounded, as my friend has said, by the overall goal of a 15 percent reduction coming on top of a 10 percent reduction last Congress. So, in essence, there was some shock as it related to the two cuts.

Senate Resolution 73 does not cover printing, but the report notes that the various Senate committees cut the cost of printing during the 103d Congress. In the last 10 years, expenses for printing and binding were reduced almost 40 percent. That is a giant step. Expenses for detailed printers were reduced almost 35 percent. We saved, in those two reductions, $5 million. The Rules Committee reduced committee funding 10 percent in 1993, another 15 percent under this resolution, and $5 million was saved in printing costs.

These facts indicate to this member of the Rules Committee that it is doing an excellent job of controlling costs, and thereby saving taxpayers' dollars.

I believe the 15 percent reduction cuts most committees to the bare bone. To cut further would impede, in this Senator's opinion, them from fulfilling their responsibilities to the Senate.

Senate Resolution 73 does not include extra funds that would permit us to add moneys to committees unless funds were reduced from one or more committees.

Mr. President, I have worked with my friend from Alaska now for a good many years. I was chairman, he was ranking. Now it is reversed. I do not see much change in the committee. Our friendship is the same. Our way of working together is the same. The accommodations are the same. We have, I feel, done an excellent job of working with the members of the Rules Committee and then transferring that out to the membership of the various committees. Some did not like the cut, told us so, and asked for something less. But when all was said and done, the 15-percent criteria was adhered to, and I believe it is proper.

But I want to reiterate that, if we cut much more and we have already cut to the barebone, the committees are responsible for certain reports and certain bills to report to the Senate. They have an obligation to their colleagues to do a good job, and I think if we cut more than 15 percent we would have restricted our committees in their ability to do this job as it relate to this institution.

So I am very pleased where we are. I believe the Rules Committee has reached a fair balance in funding Senate committees for 1995 and 1996.

I urge my colleagues to support this resolution. And my chairman has asked for the yeas and nays. It is my understanding, so there will not be any misunderstanding, that under the unanimous-consent agreement yesterday there will be no votes before 5 o'clock on Monday. And, therefore, the vote on this particular resolution will be at some time after 5 o'clock on Monday next.

I thank the Chair. I thank my good friend from Alaska.

I yield the floor.

Mr. STEVENS. Mr. President, I thank my good friend for his comments.

I want to emphasize what he said. It is not pleasant to turn to the colleagues and say that they must cut their staff or expenditures of their committees must be reduced. But that was our task. I think we have done it as fairly as we can. I think the fact that, to my knowledge, no amendments will be offered to this resolution indicates that we have either achieved our goal or intimidated our colleagues. But let history determine which is correct. We were fair. The Senator from Kentucky says we were fair. I think we have been fair. I do believe that it is an indication of what is coming in this Congress; that is, that we are going to be as frugal as possible in carrying out our duties in spending the taxpayers' money.

I do not have any other requests on this side. I might ask my friend if he has any request for time on that side.

CONGRATULATING THE RULES COMMITTEE FOR REDUCING THE SIZE OF SENATE COMMITTEES

Mr. CHAFEE. Mr. President, today we are considering the resolution that authorizes the funding levels for Senate committees for the next 2 years. I would like to offer hearty congratulations to the chairman and ranking member of the Committee on Rules and Administration for making substantial progress in reducing the growth of Senate committees.

The resolution before us authorizes $7.6 million less for this year than the 1994 authorization, and that is a step in the right direction. Most of the committee budgets were reduced by 15 percent plus a 2-percent COLA for salaries. Of particular significance are the cuts in the budgets for the three largest committees: The Committees on Governmental Affairs, the Judiciary, and Labor and Human Resources. The Rules Committee should be commended for reducing the budgets of Governmental Affairs and Judiciary by 1.5 percent above the 15-percent cut received by other committees. The chairwoman of the Labor Committee also deserves enormous praise for submitting a budget that cuts expenses by a whopping 25 percent.

During the 102d and 103d Congresses I offered amendments to reduce overstaffing on these three committees.

In 1991, I proposed capping the number of available committee staff positions at 1990 levels. The amendment I proposed in the 103d Congress would have used the Finance Committee, with its substantial workload, as a benchmark. Each committee's funding level for 1993 would have been the lesser of either 95 percent of the 1992 funding level, or 95 percent of the Finance Committee's funding level—except for the Appropriations Committee, which would be funded at 95 percent of its 1992 level.

Since the beginning of the committee system as we know it today, we have seen a rapid growth in the size of committee staffs. Some of that growth is understandable, but some is not. In 1950, there were 300 committee staff positions. By 1970, that number had more than doubled to 635. It had nearly doubled again to 1,212 by 1990. In 1992, there were 1,257 committee staff positions.

In 1993 some progress was made and the number of committee staff positions for which funding was made available went down to 1,196. Nevertheless, the number of staff positions for the three big committees remained at well over 100 for each—Governmental Affairs at 120, Judiciary at 128, and Labor at 127. This year, there are 947 authorized staff positions, and only one committee has more than 100 authorized positions.

I am very pleased to support this resolution.

Mr. FORD. Mr. President, I say to the Senator from Alaska that I have no requests for statements or amendments. I believe the unanimous-consent agreement last evening prevented amendments. Therefore, I have no one seeking the floor to make a statement today. I am ready and prepared to yield the time that has been allotted to me.

Mr. STEVENS. Mr. President, I yield the time allotted to me.

Mr. FORD. Mr. President, I yield the time allotted to me.

The PRESIDING OFFICER. All time is yielded.

Mr. STEVENS. Mr. President, As I understand it, we are off this resolution, and all time has been yielded on this resolution, and that there will be no further action necessary with regard to Senate Resolution 73. Is that correct?

The PRESIDING OFFICER. The Senator from Alaska is correct.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. STEVENS. Would the Chair report the pending business at this time?

The PRESIDING OFFICER. The pending question is House Joint Resolution 1. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate continued with the consideration of the joint resolution.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I would like to take a few minutes this afternoon, until other speakers come to speak on the matter before this body, to kind of review what has taken place over the last few days in regard to the balanced budget amendment, and, specifically, the amendment that is now pending before this body, namely the Reid amendment to exempt Social Security.

There have been, I think, a number of interesting statements made. The one that has stuck in my mind since it was made is the one made by the Senator from North Dakota [Mr. DORGAN] where he talked about a trip that he took to Central America, and a helicopter in which he was flying ran out of fuel and he landed. While on the ground waiting to be rescued, he spoke to a number of Nicaraguans or Hondurans—I do not remember which—who were native to the area. One of the questions that he asked to a young woman there was, How many children do you have? She said, Three. He noted in the tone of her voice that she was disappointed. As the Senator from North Dakota went on to explain, in many parts of the world a person's security and their golden years is how many children they have been able to have because it is through the network of the children that they hope they will be maintained in dignity.

Mr. President, that is not the Social Security we have in this country. The Social Security that we have in this country is by virtue of an agreement made by the Congress of the United States in 1935 with the people of this country—60 years ago—where a very noble experiment was undertaken. That experiment said let us have an employee contribute a certain amount of their wages along with an equal amount from the employer, and we will put that into a trust fund. When that person, that employee, gets older, and is of retirement age, they will be able to draw in their retirement years money, an old age pension, if you will.

So I think it says a lot. It speaks volumes; that in this country the dignity of a person in their golden years is not determined by how many children they have been able to have but rather the fact that in this country we have a program that is no longer experimental but a program that works which is called Social Security. This, of course, does not take away from the fact that we should all be proud of the children we have. But certainly, this takes a burden away from the children, a burden that certainly becomes too much of a burden on occasion.

As we have proceeded with the debate, one of the things that I have noted with interest is the participation in these proceedings by the junior Senator from South Carolina [Mr. HOLLINGS]. The Senator from South Carolina has been in this body 28 years. He served as Governor of the State of South Carolina. He has been chairman of the Budget Committee. He is now the ranking member of the Budget Committee. He is a person that we look to for fiscal guidance.

I was, therefore, pleased that he joined in support of the Reid amendment, and as the debate has proceeded I think succinctly stated and summarized in a letter his position that he wrote to each U.S. Senator on the 9th of February where he said:

> Left alone, this provision would repeal Section 13301 and constitutionally endorse the violation. The Reid amendment presently under consideration corrects this unintended repeal by stating that the Social Security trust fund ". . . should not be counted as receipts or outlays for the purposes of this article."

Senator HOLLINGS goes on in his letter:

> John Mitchell, the former Attorney General, is known for the axiom, Watch what we do, not what we say. It should be made crystal clear that we mean what we say. If you want to continue to use the trust fund in breach of the trust, vote against the Reid amendment. If you want to maintain the trust—the contract with America made back in 1935—then please support the Reid amendment.

Mr. President, the fact is that in addition to the support of the Senator from South Carolina, we have also received the support of the senior Senator from Alabama [Mr. HEFLIN]. Senator HEFLIN is the Senate's legal scholar and I would like to read a great statement that he made. Senator HEFLIN, a member of the Judiciary Committee, put out this bill with the report attached thereto. He recognized in the report, on page 72—I should tell those watching on C-SPAN, those in the offices who may not know, that a report is put out by the committee of jurisdiction on a particular piece of legislation.

The balanced budget amendment went to the Judiciary Committee. The Judiciary Committee reported out the bill with a report. Every piece of legislation, with rare exception, that comes to this floor is accompanied with a report. The purpose of the report, among other things, is it gives the Senate the views of what the committee meant in passing out the bill.

Senator HEFLIN filed a minority report and, among other things, in this statement he said—as you will recall, Senator FEINSTEIN, a member of the Judiciary Committee, offered an amendment that was the same as mine in the Judiciary Committee, which they turned down. Senator HEFLIN says in the report:

> I also support Senator FEINSTEIN's amendment to exempt Social Security from the balanced budget calculation. In the Budget Enforcement Act of 1990, Congress clearly declared that the Social Security trust fund is offbudget. In the past, surplus which has accumulated in the trust fund has been used to mask the true size of the Federal budget deficit.

I part briefly from the report language of Senator HEFLIN and state that it has been fairly well established on this floor on both sides of the aisle that this started in 1969, during the Vietnam war, when there were efforts made by the Congress and President Johnson to mask the size of the deficit that had accumulated as a result of the Vietnam war. So they started using, at that time, Social Security trust fund moneys to offset the deficit. That is what Senator HEFLIN is talking about here.

He goes on to say:

> Social Security is a self-financing contributory requirement program. Workers must contribute 6.2 percent of their salaries to the program, and employers are required to match that amount. These funds, by law, are held in trust, and the American people have a right to expect that Congress will maintain the integrity of that fund. The funds are now in surplus, and this is expected to continue until 2012.

That is what he said in the report. But he has come to the floor on more than one occasion during the past week and talked about this proposal; namely, that the opponents of my amendment are saying that they can use implementing legislation to exempt Social Security from the balanced budget calculations. Well, it is clear that attempts to protect Social Security through implementing legislation would simply be futile. Once the Constitution is amended to require that "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year," Social Security is certainly in danger. And that is my authority that is renowned in the legal circles—Senator HOWELL HEFLIN, who previously was chief justice of the Alabama Supreme Court.

Senator HEFLIN said:

> This means that there will be a constitutional requirement that Social Security funds be considered onbudget. If the balanced budget amendment is adopted as presently worded, it would prohibit Congress from legislatively taking Social Security funds offbudget and would nullify the provisions of the 1990 Budget Enforcement Act, which requires Social Security funds to be considered offbudget.

Senator HEFLIN is a supporter of the balanced budget amendment, as is the Senator from Nevada, the minority leader, and the minority whip. But we have some significant concerns, Mr. President, about Social Security being used to offset the deficit, especially when we consider, as Senator HEFLIN said in the report, that Social Security moneys are accumulated in a trust fund.

It has been talked about here on the floor lots of times. The Senator from North Dakota [Mr. CONRAD] compared it to Jim Bakker, the infamous clergyman who went to jail because of his misrepresentations. The Senator from North Dakota said that he went to jail—Jim Bakker—as a result of saying he was collecting money for one reason and using it for another reason. Well, that is one way to describe our fiduciary relationship to trust fund moneys accumulated in the Social Security trust fund. We cannot spend those moneys for some other purpose.

Senator HEFLIN talked about implementing legislation, but just so the record is clear, it is not only Democratic Senator HOWELL HEFLIN, a person whose integrity is unmatched, whose legal prowess is unmatched in this body. Let us look to someone else to see if they would come up with the same conclusion. Sure enough, we went to the Congressional Research Service, an arm of the Congress, and one of the attorneys in the law division, Kenneth Thomas, had this to say:

> Under the proposed language——

He is talking about the constitutional amendment.

> ——it would appear that the receipts received by the United States which go to the trust fund and the Federal disability insurance trust fund would be included in the calculations of total receipts, and that payments from those funds would similarly be considered in the calculation of total outlays. Thus, if the proposed amendment was ratified, then Congress would appear to be without the authority to exclude the Social Security . . .

I will read that again:

> Thus, if the proposed amendment was ratified, then Congress would appear to be without the authority to exclude the Social Security trust funds from the calculations of total receipts and outlays under section 1 of the amendment.

That says it real clear—namely, that if House Joint Resolution 1 passes, it does not matter what Congress does with implementing legislation—or any other kind of legislation—to exclude Social Security; they cannot and we cannot. A future Congress cannot, because to do so would violate the Constitution, which would be House Joint Resolution 1. In effect, it says you must include the Social Security trust fund in balancing the budget. So that thing we passed earlier today is not worth the paper it is written on.

It is not worth the paper it is written on. It is only for show that people can go home and say, "I voted to protect Social Security." It cannot happen.

Social Security has to be included. To not do so would be violating the Constitution. I did not write the constitutional amendment that is being sought to be adopted. It was written by someone else. And, sure enough, that is what it says. "Total outlays shall include all outlays of U.S. Government except for the repayment of debt principle." That is what it says.

There has also been statements made from time to time that, "Well, there are other ways we could legislate." Well, according to Senator HEFLIN it simply will not work. In fact, what we have done is made it even worse.

The House has passed a measure that is comparable to what we did here today. We are going to vote on my amendment on Monday or Tuesday. If the same action is taken in the Senate that was taken in the House, that would mean both bodies of this legislature, our bicameral system of government, both bodies turned down exclusion of Social Security. So if any court later considered the constitutionality of implementing legislation, I think they would have to look to the legislative history and they would determine it was not Congress's intent to keep Social Security off budget.

First, the House defeated a proposal to exempt Social Security. And if my amendment does not pass, you would have a second time. So there would be similar authority from this body as in the House. And a court reviewing the legislative history would likely determine that Congress had its opportunity to maintain the Social Security trust funds off budget but refused to do so.

If my amendment does not pass, Social Security trust funds, I believe, are gone. The great experiment that we have had for some 60-odd years will then have failed, not because Social Security has added one penny to the debt, because it has not, but because we in Congress were unwilling to exclude Social Security from trying to balance the budget.

It is really unfair that we would use Social Security receipts—unless there were an effort made really to do that—

that behind all this there is a subtle effort made to get through this part of it and then go use the Social Security moneys.

One day this week, I was on a television program at noon with a little minidebate with former Senator Tsongas. And he was very candid. He said, "Yes, we will use Social Security moneys to balance the budget." He did not mince any words. He was pretty clear.

The L.A. Times set out a little quote that I made here on the floor this week, where I said that there is about as much chance for this body to balance the budget without using Social Security trust funds as Evel Knievel was going to jump the fountain at Caesar's Palace. He just would have a real difficult time doing it. It could be done, but it would be difficult.

So I think we should stop playing games and recognize that there are some who want to use these moneys. I think we should exclude Social Security and then ratchet down to do what we can to balance the budget, which we would be obligated to do under the constitutional amendment.

Opponents of my amendment argue that statutes have never been incorporated into the Constitution and this would be an unprecedented constitutionalizing of a statute. But this is pure poppycock, Mr. President. Because this is the first time, of course, that we have tried to deal with an amendment to the Constitution dealing with fiscal policy. So certainly with a program as large as Social Security, we should understand in the confines of the balanced budget how we are going handle that.

The only way to protect Social Security is to specifically exclude it from the constitutional amendment because Congress would be without authority to attempt to exclude Social Security from the balanced budget calculations for any type of implementing legislation.

The Senator from California, Senator FEINSTEIN, has said the only way to save Social Security surpluses to pay for future retirements is to balance the budget exclusive of Social Security.

Opponents have also argued, Mr. President, if Social Security is put off budget, then Congress would have to raise taxes or cut spending, $69 billion this year alone, just to keep the deficit at the current level. This is what Chairman HYDE of the House Judiciary Committee referred to when he said, "The effect on the other Federal programs will be draconian if Social Security is excluded from the balanced budget amendment."

That is exactly the point that I am making. We are against using Social Security trust funds to balance the budget. We want to exempt Social Security because that is where the money is and that is what we must protect.

I have said a number of different times over this last couple of weeks that famous bank robber Willie Sutton, when released from prison, was asked why he robbed banks. He responded, "Because that's where the money is."

Well, Mr. President, in the next few years the huge amounts of money that will be accumulating in the Social Security trust fund will be where the money is. That is where people will look to balance the budget—this year, $70 billion; next year, $80 billion; the year 2002, over $700 billion; and a few years later $1 trillion and then $2 trillion and it rises to the point where there is $3 trillion in the Social Security trust fund if we do not take those moneys as we have in the past and divert them to deficit reduction.

Fifty-eight percent of all workers pay more FICA taxes than they do Federal income tax. Over half of the people in this country pay more in FICA taxes, that is Social Security taxes, than they do in income taxes.

And, as stated repeatedly, this Social Security is the most important contract we have with America. These surplus funds should be saved and not used to balance the budget.

Opponents also argue, Mr. President, that exempting Social Security in the constitutional amendment would create a loophole. That argument was made by my friend from Idaho this morning; that passing this amendment creates a loophole through which you could add other programs, try to define them in Social Security, and thus would be exempted from the requirements of the balanced budget amendment. That argument makes no sense, no sense, because the amendment offered by the Senator from Nevada is very specific. The argument is an exaggeration that it would create a loophole.

My amendment is intended to safeguard an easily identifiable and narrowly defined program—the old-age pension and disability insurance. Anything that changes the long-term actuarial plan of Social Security is subject to a 60-vote point of order before this body. If someone wanted to place education or foreign aid or aid to families with dependent children with Social Security, it would not work. You would need 60 votes to waive that.

Having Social Security exempted from the balanced budget amendment does not—I repeat, does not—create a loophole.

Legislation which proposes either increased Social Security expenditures or decreased taxes would be in violation of 302(F) and 311(A) of the Budget Act, and thus it would be subject to a budget point of order and require, I repeat, 60 votes to waive the Budget Act.

Some have also argued, Mr. President, that an exemption for Social Security would remove the incentive Congress would have in a balanced budget amendment to provide for a long-term solvency of the trust fund. One of the most interesting—and I cannot say most pleasant, but one of the most interesting—and educational times I have spent in Government was being a member of the Entitlement Commission which completed its work recently.

The Entitlement Commission, chaired by Senators Danforth and KERREY, was a bipartisan commission with an equal number of Democrats and Republicans. The commission was made up of elected Members of Congress, mayors, union leaders, and business leaders. A wide range of people made up that bipartisan commission. During the year we worked on that, it was very clear that the entitlements in existence in this country needed some work done on them.

It is also very clear one of the obligations we have is to look at tax policy in this country. It appears very clear to me that we must also examine tax policy in this country.

So, to say that an exemption for Social Security would remove incentive to strengthen Social Security is wrong. We all know that there has to be some changes made to Social Security. But they should be made separate and apart from the problems we are having with the rest of the Government. The Social Security trust fund should rise or fall on its own merits.

Therefore, Mr. President, I think this argument is fallacious. Social Security has also been funded by FICA tax to which over 95 percent of Americans contribute. These funds are used to pay recipients presently receiving Social Security. In the past, when it appeared to Congress that Social Security might be in jeopardy, we took care of that. We did it in 1977 and 1983. The proposal I have that is appearing before this body would not prevent Congress from making future adjustments in either the benefits or the FICA tax to keep it solvent.

The Republican measure, though, what is called S. 290, would prevent both the benefits and the FICA taxes from being changed. By freezing the levels of the benefits and the taxes, S. 290 guarantees Social Security's insolvency by the year 2029.

With Social Security, I think we can liken it to a ship which keeps itself afloat. Opponents of the Reid amendment tend to want to have the ship at least list if not sink. Social Security is a program that is publicly administered, a compulsory contributing retirement program. Financing to cover the cost of Social Security is provided by the flat tax levied on wages. They are not the Federal Government's funds, but are contributions that workers pay in and expect to get back.

Mr. President, I see my friend, the Senator from Iowa is present in the Chamber. I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Iowa.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I first want to thank my friend and colleague, Senator REID, for his long and diligent efforts to ensure that the Social Security system in America remains sound and separate, to make sure that the people who are now receiving Social Security are not threatened by its reduction, and those who are working hard and paying into the system are assured it will be there for them when they retire. There is no one who has worked harder and longer and fought harder to protect Social Security than Senator REID from Nevada. I am proud to join him as a cosponsor on this amendment.

I am delighted to yield.

Mr. REID. I wanted the Senator to yield for a question or perhaps a statement.

I want to spread across this record one reason this debate has been so fruitful is that during the unfunded mandates debate, the Senator from Iowa offered a sense-of-the-Senate resolution to exclude Social Security from the balanced budget amendment. But for the Senator's aggressiveness on that matter during the days we spent debating that, we would not be in the posture we are today. This Senator from Nevada and the other 14 cosponsors extend to the Senator our appreciation.

Mr. HARKIN. Mr. President, I thank the Senator for those fine words, but I am literally following in his footsteps and proud to be a cosponsor with him on this amendment.

Mr. President, I have long supported a balanced budget amendment. I expect to do so again this year. However, there have been a number of issues raised concerning the amendment. Should there be a supermajority requirement for tax increases? Should there be truth in budgeting to require that the cuts necessary to reach a balanced budget by 2002 be specified? Should we make provision for times of recession when there are more demands on the Federal Government and tax receipts are down?

Each of these questions is very important and should be given the attention they deserve. Mr. President, the one issue that is of greatest concern and one that I think is necessary to address immediately, is whether Social Security should be allowed to be cut as part of the balanced budget amendment. Should Social Security funds be included along with all the receipts and deficits in calculating whether we have a balanced budget?

I have received hundreds of calls and even more letters from older Iowans who are scared to death that their Social Security will be cut to balance the budget. Almost all of these people subsist on little or nothing more than their monthly Social Security checks. They live on fixed incomes and are already struggling to meet the basics to pay for their food, utilities, and medical bills. A cut in their Social Security would literally mean for many not enough to eat or not enough to pay for their heating or phone or their medical bills.

When we talk about the average Social Security recipients, we are talking about people of very modest means. The average monthly Social Security payment to retirees is now $679 a month. That is $8,148 a year, just above the poverty level for a household of one.

Remember, for many senior citizens, Social Security represents 90 percent or more of their entire income. This is particularly true for older widows. For the majority of older widows, Social Security represents the bulk of what they have to live on. So it is perfectly understandable for them to be very fearful of potential Social Security cuts.

Mr. President, I should also note I am not just hearing from senior citizens. I am also hearing from middle-aged workers who are concerned that the surplus in the Social Security trust funds that are necessary to pay benefits when they retire will not be there. They are worried because they know that it may be just too tempting for politicians to dip into the growing Social Security trust fund surpluses to pay down the deficit.

And our workers have every reason to be worried. Today the surplus stands at about one-half trillion dollars. By the year 2010, the Social Security surplus is projected to reach $2.1 trillion. And by 2020 it will grow to an astounding $3 trillion surplus. That surplus is nearly two times the entire Federal budget for this year. It will be very tempting to be used to balance the budget. Some will say, a little bit out will not hurt. But, in fact, Mr. President, we need to not only protect against cuts in Social Security but in the coming years we will have to add to that surplus.

The current projections are that even with a $3 trillion surplus in the year 2020, the system will go bankrupt by around the year 2030, a mere 10 years later. So in the next 25 to 30 years, we are going to have to make some adjustments in the Social Security program to ensure that it remains sound beyond the year 2030.

But that is nothing new, we have made those adjustments in the past, and we will make those adjustments in the future. I will point out one that could be considered. We have a cap on income for those paying into the system. I think it is around $60,000 or $62,000 a year. So if you are making a million dollars a year in income, you pay the same into Social Security as someone making $60,000 a year, and that is not right. I think that level is going to have to be raised. That adjustment alone would help us immensely with the Social Security trust funds.

Mr. President, I hope the Senate does the right thing and adopts the amendment offered by Senator REID. A number of our colleagues, including myself, have cosponsored this. The Reid amendment is simple and straightforward. It is not convoluted. It simply puts in writing what just about everyone in this body says they are committed to. It explicitly exempts Social Security income and outlays from balanced budget calculations in the constitutional amendment.

Now, there will be some who say, Why do we need this? We just adopted the Dole resolution a couple of hours ago. The Dole resolution agrees with the Reid amendment that Social Security is important and deserves to be protected. But, Mr. President, the Dole amendment is only a fig leaf and, I might add, a very small and a very transparent fig leaf. It offers little comfort to the millions of Americans who are so concerned about and dependent upon Social Security. What it says to them is clear: Protecting Social Security is not as important as balancing the budget. It says we need a constitutional amendment to balance the budget, but protecting Social Security, the financial security of millions of Americans, is not deserving of that same kind of protection and elevation in our system.

People who say that the Dole provision is enough are basically saying that protecting Social Security is not important enough to actually include in the Constitution.

The people who support the Dole resolution—I voted for it as a prelude to voting for the Reid amendment—but those who say they voted for the Dole resolution so now they do not need to vote for Reid are basically saying Social Security is important enough only to be protected through legislation to implement the balanced budget amendment, legislation that can be adopted and changed virtually overnight by a simple majority vote in the Congress.

What the Dole amendment says to senior citizens and future Social Security recipients is: Trust us, we'll protect you.

We have heard that one before. We have taken a number of important steps over the past few years to protect Social Security from abuse. In 1990, we took it off budget. This past year, we passed legislation to make Social Security an independent agency, so as to insulate it from politics and other programs. If we fail to specifically exempt Social Security from the proposed balanced budget amendment, we will effectively put Social Security back in the budget, and this would be a great step backward.

So, Mr. President, those who support the Dole amendment and say now they do not have to support the Reid amendment are sort of like a used car salesman that says to a person buying a used car: Well, you don't need a warranty, just trust me. If anything happens to the car, just trust me, but you don't need a warranty. Just as none of us would do that and plunk down cold hard cash to buy something without some kind of warranty, we should not buy just the Dole amendment. We have to pass the Reid amendment to, once and for all, say to the people of this country that Social Security is so important, so important a part of our social and economic system that it deserves to be in the Constitution of the United States.

So let us do the right thing. Let us put our commitment into writing. Let us adopt the Reid amendment and really protect Social Security.

Mr. President, if the proponents of the balanced budget amendment are really serious—if they are really serious, as I am—about passing and getting it out into a form the States can support, then they ought to support the Reid amendment.

I have heard some rumors around here—and I am sure it comes as no surprise to anyone; I have not heard it said in any debate, but I am going to say it—I have heard it said around here that some of our friends on the other side of the aisle, some of the Republicans, are kind of secretly hoping that this does not pass because if it does not pass, then they can blame Democrats for not passing an amendment to balance the budget and use it in upcoming campaigns.

I hope that is not true, but it has been said around here, and I have heard it. I am sure everyone else has heard it, too. I hope that is not the case.

So I say to my friends on the other side of the aisle, especially those who rushed to support the Dole amendment, the fig leaf, if you really want to pass a constitutional amendment to balance the budget, you ought to support the Reid amendment. There are many in this body who, if the Reid amendment is adopted to exempt Social Security from the balanced budget amendment will then vote for the constitutional amendment to balance the budget, and I think then there would clearly be the votes to pass it.

I have heard, again, that there are some games being played. Then again, if the Reid amendment can be defeated, the balanced budget amendment will be defeated and it can be used as a campaign issue. Like I say, I hope that is not true. It is being said around here. We all know it.

So I say to those who like me are truly serious about having a balanced budget amendment, you ought to support the Reid amendment and do not in any way think that by supporting the Dole resolution that the elderly of this country are going to be fooled. There is not a smarter, more intuitively sage voter or citizen than our senior citizens. They have been around the block. They have watched us over the years. They know what happens in this place when Social Security gets a surplus and becomes very tempting to use to balance the budget. They are not going to be fooled by a fig-leaf vote for the Dole amendment.

I say to those who are really, truly serious about, A, protecting Social Security and, B, getting a constitutional amendment to balance the budget, I invite them to support the Reid amendment.

With that, I yield the floor.

Mr. CAMPBELL. Mr. President, I would like to take this opportunity to respond to the amendment introduced by my friend, the Senator from Nevada, Senator REID, and my other distinguished colleagues on this side.

Social Security, as well as Medicare, has been one of the most successful Government-run programs in the history of this country. Every hard-working, tax-paying American participates in these programs—we all have a vested interest in the Social Security program whether we are present or future beneficiaries.

As it stands now, Social Security is set to go bankrupt in 2029. Only a few years ago, the Social Security program was projected to go broke in 2036.

I acknowledge the fact that Social Security may be on the caboose of this balanced budget train because of its current surplus versus other more problematic programs like Medicare and Medicaid, but this program is still connected to the budget as a whole.

This Senator believes Social Security is vital to a high quality of life for all Americans. It is my belief that the Senators who are offering this amendment are doing so because they, too, believe Social Security is vital to our Nation.

There are indications that an exemption for Social Security is the only way to get the balanced budget amendment through the Senate. As a supporter of the balanced budget amendment, I hope that is not the case. Even so, to keep one of the largest programs in our country out of the balanced budget amendment discussion is fiscally irresponsible and wrong.

It's wrong because it would provide constitutional protection to a single statutory program—Social Security. The Constitution should not be used for this purpose. There are sound reasons to consider ways to keep Social Security solvent beyond 2029 in the coming years. Codifying Social Security in the U.S. Constitution prevents Congress from considering anything that may in fact be intended to preserve Social Security for the future.

The Constitution is not the place to set budget priorities, nor to enshrine statutes passed by Congress. Congress can exempt Social Security through statute.

I would also ask why not, if Social Security, any other worthy program? The argument that Americans have paid into Social Security and should not be denied getting those benefits rings hollow when we all know for a fact that a majority of current and past retirees are receiving or will receive far more in benefits than what they paid into Social Security plus interest. Americans also pay into a variety of very good and worthy programs as well, in the form of taxes. Should those worthy programs also be exempted using that kind of argument?

Keep in mind that the balanced budget amendment does not specify where the cuts will take place. This language only forces Congress to balance the budget by the year 2002. Year after year, Congress will have the authority, should this measure pass, to choose what cuts will come from what programs. Social Security would not necessarily have to be cut. This hype we are getting about how necessary it is to have a Social Security exemption in order to preserve benefits is driven by powerful lobbying groups and is unjustified. You and I know that Congress will not vote to cut Social Security benefits to those who need those benefits. There may be trimmings of benefits for the wealthiest of Americans, but we are not about to vote to deny benefits to the millions of Americans who rely on Social Security as their only source of retirement income. So a constitutional exemption is not necessary.

To prioritize which program or programs are worthy of exemption in the balanced budget amendment will only chip away, piece by piece, the value of a balanced budget amendment and pit one program against another.

Let me take just a few more minutes and read to you a couple letters I have received this month from Coloradans regarding the treatment of Social Security and Medicare, the two largest entitlement programs in our Federal budget. Take for example,

Donald Kynion, from Walsenburg, CO, who says "I feel you should do what is best for the country. If changes in Social Security and Medicare are necessary then make them. Cut spending and too much government!"

Or listen to 72-year-old Edith Seppi from Leadville, CO, who says "I hope you will be fair to all Americans and pass legislation that will cut the debt, even if we all must be a part of the cuts. I hope interest groups will not control the decisions you make. I hope you do what you believe is best for our country. So, count me in on the side that says do the best that you can."

Doing the best that we can, is not allowing certain privileged programs to be exempt from this difficult task of balancing our budget.

If a family was forced to balance their budget for the month, could they be successful by omitting their mortgage payments? Where should this family then get the money to make this payment? Where then should Congress find the funds to pay the baby boomers when they retire?

I beg my colleagues not to exempt any program, no matter how successful or useful it is to us, from the balanced budget amendment. If we are forced to balance the budget, all programs on this train, whether they are Medicare, veterans pensions, unemployment compensation, SSI, and Social Security, will have a chance for a better tomorrow if we balance our budget today.

The balanced budget amendment gives this country hope for a better quality of life further down the tracks. Let's not derail this effort.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I would like to address the underlying amendment, the basic resolution seeking to amend the Constitution of the United States to put into the Constitution a provision requiring a balanced budget.

In my view, amending the Constitution would be economically unwise and constitutionally irresponsible. The amendment would have the very substantial risk of promoting economic instability, retarding economic growth and shifting the basis of our democracy from majority to minority rule.

Every time you talk about the problems connected with the implementation of this amendment, things get very fuzzy around here, but I think it is clear that we are inviting fiscal paralysis or court intervention in the conduct of economic policy, or both.

I wish to address two concepts that I think are very important in thinking about this amendment to the Constitution to require a balanced budget. One is the argument that is made and drawing a supposed analogy with the States that State and local governments have to balance their budgets; businesses have to balance their budgets; individuals have to balance their budgets; why does not the Federal Government operate under the same constraint?

Now, not only is this argument wrong factually—most State and local governments actually run deficits if they use the accounting principles which are used to compute the Federal budget—but this argument also fails to recognize the different responsibilities of the Federal as opposed to the State and local governments with respect to the overall functioning of the economy.

The State analogy is superficially attractive. Most States have some form of balanced budget requirement, either statutory or constitutional. But it needs to be clearly understood that many States maintain capital budgets which are not subject to the balancing requirement. Others have developed off-budget funding mechanisms to circumvent the balance requirement, or they use accounting rules which count some borrowing as a form of revenue for the balancing requirement.

Official data on the debt incurred by State and local governments gives a very different picture from this assertion that the States run balanced budgets. This chart shows that State and local government debt has been growing year by year. This chart begins in 1972 and runs out here to 1992, the amount of borrowing has increased steadily since 1972..

Now, how can this be? Everyone says State and local governments have to balance their budgets. Yet the amount of State and local debt has been on the upswing. In fact, we had a hearing before the Joint Economic Committee. Two Governors testified that having a balanced budget requirement in their State which they had to adhere to assured them a good credit rating.

Of course, the question then is why is a good credit rating relevant to you if you are required to run a balanced budget? They need a good credit rating because they do not run a balanced budget. They have a capital budget which they fund by borrowing. So they acknowledge that the balance requirement for the budget is only on their operating budget and that they make active use of a capital budget for which borrowing is allowed.

Now, this proposal before us makes no provision in the Federal accounting regime for a capital budget. It, in effect, would require the Federal Government every year to balance receipts with outlays, and it makes no provision whatever for what in most places is treated as a capital budget. Not only do State and local governments borrow for investment; the same thing is true of businesses and individuals. I could show you a similar chart geared to each of the major corporations in this country which would show that their amount of outstanding debt had increased over the years because they make prudent borrowing in order to enhance the investment capacity of their business and in order to be in a better position to compete.

Individuals do not balance their budgets every year. They run huge deficits in the year they buy a home or a car because they borrow in order to fund it. Yet everyone regards it as a prudent and reasonable practice to borrow on a capital debt, the use of which you then have over an extended period of time and to pay back over the lifetime of that capital asset the amount that you have borrowed and the interest charges upon it. Then you get the use of the capital asset now, in the present, and you amortize its use over time.

That is how people buy houses. The only people in the country who could afford to buy houses, if they were required to do it under the kind of regime you want to impose on the Federal budget, would be the very wealthy, who are in a position to pay for it out of their flow of income. The overwhelming percentage of people in this country are in no position to do that, and of course, what they do is they borrow. They incur a large deficit in the year they make the purchase, but they set it up with a schedule over time in order to make the repayment. As long as the amount they are borrowing is reasonably related to what their income is and their ability to repay it, everyone regards that as a wise and prudent policy to follow.

So the first point I wish to make is that the very concept of a balanced budget amendment is flawed in the sense that we do not have a capital budget at the Federal level. This requirement would require the Federal Government to fund capital expenditures in the operating budget, which, as I pointed out, is not done by State and local governments, it is not done by businesses, and it is not done by individuals.

Now, let me turn from this flaw in terms of not providing for a capital budget to address the fact that it does not allow for the workings of what is called countercyclical fiscal policy. Countercyclical fiscal policy is the effort to ameliorate the ups and downs of the business cycle. The fact is, that in the current budget framework we automatically try to offset the economic downturn. The deficits automatically increase because revenues decrease and the payout of unemployment insurance, food stamps, and other income stabilizers increase. If, in fact, in an economic downturn you try to balance the budget, you would only contribute to the downturn. You would make it worse. You would have deeper cycles of boom and bust. And that, of course, is what occurred throughout a good part of our history.

This chart shows the percentage change in our gross national product, beginning in 1890 and coming forward to today.

What this chart shows—and I think it is very important—is that after World War II we put into place what we called automatic fiscal stabilizers. We broke out of that pattern of thinking where we tried, when we went into a recession or an economic downturn, to balance the budget, thereby driving the economy even further into downturn.

That is what we used to do. And you can see when we tried to balance the budget during recessions we had tremendous fluctuations that took place in the economy. We had these huge swings up and down, and the downturns would go very deep.

During the Great Depression negative growth was 15 percent. As those who have read history know, it was an incredible time in this country. People were selling apples on the street corner, grass was growing in the streets, the wind was whistling through deserted homes in the rural areas of our country. We had other downturns where we had 8-, 10-, 12-percent negative growth in the course of the cycle.

Now, what has happened in large part as a consequence of these fiscal stabilizers is we have to be able to ameliorate the huge swings of the business cycle.

We still get the ups and downs, but they do not have the wild gyrations with all extremely harmful consequences. In fact, since the economic stabilizers have been in place we have rarely gone into a negative growth experience. Most of the fluctuations take place above the negative growth line. So while we get the ups and downs, we still manage to keep it within the positive growth range.

A rigid balanced budget requirement would have its most perverse effect during recessions. It would require the deepest spending cuts or tax increases in recessions, when revenues automatically fall far short of expenditures. We have learned over these last 50 years, as this chart demonstrates, to be more flexible with fiscal and monetary policy in responding to business cycle downturns. As a result, we have experienced less violent downturns than before. This chart clearly illustrates the moderation of downturns that have accompanied the more flexible fiscal policy of roughly the last 50 years.

Just this week, the Chairperson of the Council of Economic Advisers, Laura Tyson, wrote an op-ed piece entitled "It's a Recipe for Economic Chaos," speaking on the proposal to amend the Constitution to require an annual balance budget. I want just briefly to quote some parts of that article.

Mr. President, I ask unanimous consent the full article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Ms. Tyson says:

> Continued progress on reducing the deficit is sound economic policy, but a constitutional amendment requiring annual balance of the federal budget is not. The fallacy in the logic behind the balanced budget amendment begins with the premise that the size of the federal deficit is the result of conscious policy decisions. This is only partly the case. The pace of economic activity also plays an important role in determining the deficit. An economic slowdown automatically depresses tax revenues and increases government spending on such programs as unemployment compensation, food stamps and welfare.

Let me just comment on that. As she points out, an economic slowdown automatically brings about an increase in the deficit because you lose tax revenues and you make payments out of the Treasury in terms of income support programs.

She goes on to note, then:

> Such temporary increases in the deficit act as "automatic stabilizers," offsetting some of the reduction in the purchasing power of the private sector and cushioning the economy's slide. Moreover, they do so quickly and automatically, without the need for lengthy debates about the state of the economy and the appropriate policy response.

In other words, the economic downturn adjusts automatically. You do not have to wait until you are deep into the trough and you recognize that you are deep in the trough to take some action to do something about it. This proposal has a waiver provision in it which requires an extraordinary 60 votes, which of course raises the question: Would you be able to get that vote even if you were in a difficult circumstance? But even if we assume you can, by the time you are aware and perceive that you are in a difficult circumstance, you are well into your downturn. The downward momentum has begun.

The automatic stabilizers check that downward momentum the moment it begins to happen. So they act as a counterbalance. Not completely, because we get the ups and downs. But, as you can see over the experience of the last 50 years, we have markedly improved this performance and we no longer had the very deep dips into negative growth that we used to experience.

These deep dips into the negative represent people out on the street, unemployed. These represent the foreclosures on farms and on homes. These represent the bankruptcy of businesses, small and large. That is what these deep dips represent. They are not just lines on a chart. They represent a lack of activity out in the economy. As I have indicated, we have been able to check a good part of this over the last 50 years.

As Dr. Tyson goes on to say in her article:

> A balanced budget amendment would throw the automatic stabilizers into reverse. Congress would be required to raise tax rates or cut spending programs in the face of recession to counteract temporary increases in the deficit. Rather than moderating the normal ups and downs of the business cycle, fiscal policy would be required to aggravate them.

Let me just repeat that:

> Rather than moderating the normal ups and downs of the business cycle, fiscal policy would be required to aggravate them.

So Mr. President I hope people will think long and hard before we put ourselves back in a box that will return us to the approach that was taken before World War II. This problem extends back into the 19th century. This chart begins in the late 1800's, where we had these tremendous boom and bust swings in the economy, and we paid a very heavy price for that from time to time.

We have a situation now in which these automatic stabilizers work as we go into an economic downturn in order to help ameliorate the volatility of the economy and, as a consequence, we have experienced far less violent downturns in the last 50 years.

Finally, I want to just make reference to the assertions that are made that we can simply waive the balanced budget requirement. We are going to waive the Constitution. That is an interesting concept. There are no other provisions in the Constitution that are waivable. No one talks about waiving the Bill of Rights. I do not quite know how you have waivable principles in your Constitution which is, after all, designed for a statement of fundamental principle, not for matter to be waived away.

We do not put substantive policy into the Constitution. This is what will be happening here. In order to counter that problem, they say we are going to provide for a waiver through a three-fifths override provision. The waiver provision says this requirement is not an enduring principle, it is a matter of current judgment. As I say, no other constitutional principle—free speech, individual rights, or equal protection—can be waived by a three-fifths vote.

Finally, such a provision would permanently shift the balance of power from majorities to minorities in our society, violating the democratic principles upon which our Government is based. A three-fifths supermajority effectively gives control over fiscal policy to a minority in either House, not what the framers of the Constitution had in mind when they established our democratic form of Government.

I just want to quote from James Madison—he is the father of our Constitution—with respect to supermajorities.

This proposal before us has a three-fifths requirement, a 60-vote requirement. It is not three-fifths of those present and voting, it is a flat 60-vote requirement. It also has a requirement of 51 votes—again, not a majority of those present and voting—but of 51. You actually have to produce 51 affirmative votes to invoke other provisions.

Madison, in Federalist Papers No. 58, in addressing questions about supermajorities says, and I am now quoting in Federalist No. 58:

> It has been said that more than a majority ought to have been required for a quorum; and in particular cases, if not in all, more than a majority of a quorum for a decision. That some advantages might have resulted from such a precaution cannot be denied. It might have been an additional shield to some particular interests, and another obstacle generally to hasty impartial measures. But these considerations are outweighed by the inconveniences in the opposite scale. In all cases where justice or the general good might require new laws to be passed, or active measures to be pursued, the fundamental principle of free government would be reversed. It would be no longer the majority that would rule: the power would be transferred to the minority. Were the defensive privilege limited to particular cases, an interested minority might take advantage of it to screen themselves from equitable sacrifices to the general weal, or, in particular emergencies, to extort unreasonable indulgences.

That was James Madison's view of requiring extra supermajorities. In fact, the founders of the Constitution were very careful. They had this debate. It was an extended part of the debates in Philadelphia at the Constitutional Convention in the summer of 1787, and again it was the subject of debate in the ratification process across the States. But in those deliberations in Philadelphia, the founders were very careful. They required supermajorities in certain very, very limited instances. Of course, amending the Constitution itself was one of those very limited instances. Impeachment was another. Ratification of treaty was yet another. But I think it is very important to appreciate what Madison's perception was, and it was this perception that was reflected in the basic document.

I am not going to discuss today the danger that the courts would come in and intervene to implement this requirement although I think it is a very real danger, and I know Robert Bork and other scholars have written expressing that very concern.

We have amended the Constitution only 27 times in the history of the Republic. The first 10 amendments took place almost immediately. Those were the Bill of Rights. So I think it is accurate to say that we have amended it literally 17 times over the life of the Republic, over 205 years.

We have been very careful about amending this Constitution. It has been done only in certain, very limited instances, and I think in situations in which we had a very clear view of what the consequences would be. We lowered the voting age. That was a very clear provision. We provided for the direct election of Senators by the people rather than by the States. We changed the term dates for the President and the Congress. But the basic document has held steady throughout the more than two centuries of our Republic's history.

But putting this balanced budget requirement in the Constitution will undercut countercyclical economic policy, the very policy that has led to this very substantial improvement in economic performance in the post-World War II period. It would burden the Constitution and the courts with issues which should probably be decided by the President and by the Congress.

I think we need to be very careful. The courts have in some instances assumed jurisdiction over what I think are essentially executive and legislative policy matters. They have done that with respect to prison systems, for instance, in some States in the country, and there is a very real possibility that under this proposal they would be assuming an extended authority with respect to budget and fiscal decisions, decisions which should properly in my view be decided by the executive and the legislative branches interacting as provided for in the Constitution. In addition, it would shift the principles of our democracy from majority to minority rule.

The Constitution is a relatively brief general statement defining the political and civil liberties of our citizens and the defining of the framework of our Government. It does not establish any specific domestic policy or foreign policy or economic policy. We do not put the substance of policy into the Constitution out of a belief that you make substantive policy through the interaction of the Congress and the President.

Because of its focus on universal principles, the Constitution has endured for over two centuries despite the dramatic changes in American society.

I think it is clear that we should proceed with great caution any time we come up against amending our basic charter.

The desire to put a balanced budget amendment into the Constitution is frequently justified in the name of political expediency. It is put forward as a way of supposedly addressing the problem of the deficit. I have voted here on occasions for both spending cuts and tax increases in order to bring about a deficit reduction. And I have a concern about placing on future generations the consumption of the current generation. I have a different view when we talk about capital investment, as I indicated at the outset, because I think a very prudent case can be made as to why it is a sensible and wise economic policy to borrow in order to purchase a capital asset which will then be used over an extended period of time.

Enacting a constitutional amendment itself will not bring about that deficit reduction. The deficit reduction will come about through the actual enactment of measures involving expenditures and revenues, as we did in August 1993 when we passed the deficit reduction program which has worked quite well and has brought down the deficit in a very significant and substantial way.

I just want to come back to this point of the fluctuation for a moment. It is very important to understand that if the economy starts downward, and we do not try to offset that as we have done by these fiscal stabilizers, the economy will worsen. As it worsens, your deficit grows. If you take more and more extreme measures to try to bring the deficit under control during an economic downturn, you only drive the economy further down which means your deficit only gets larger. So the problem compounds itself. You in effect end up working at counterpurposes. No one wants to go back to this situation that we used to confront before economic stabilizers were in place. But I say to my colleagues, we have to be exceedingly careful. We may be throwing ourselves right back into the difficulties that we confronted earlier in this century and which were particularly marked with the Great Depression.

Mr. President, you address the deficit by dealing with real measures to address spending and revenues. We ought not to lock into the Constitution a provision which is faulty in its concept since it lacks a capital budget, which all the State and local governments have, and which is faulty in not providing for a way to address economic downturns and, therefore, it carries the risk with it that the economy would be precipitated into very deep downswings in the economic cycle, and we would pay the price across the country of people out of work, the mortgages on homes being foreclosed, small farmers losing their farms, and small businesses going bankrupt.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Washington Post, February 7, 1995]

IT'S A RECIPE FOR ECONOMIC CHAOS

(By Laura D'Andrea Tyson)

Continued progress on reducing the deficit is sound economic policy, but a constitutional amendment requiring annual balance of the federal budget is not. The fallacy in the logic behind the balanced budget amendment begins with the premise that the size of the federal deficit is the result of conscious policy decisions. This is only partly the case. The pace of economic activity also plays an important role in determining the deficit. An economic slowdown automatically depresses tax revenues and increases government spending on such programs as unemployment compensation, food stamps and welfare.

Such temporary increases in the deficit act as "automatic stabilizers," offsetting some of the reduction in the purchasing power of the private sector and cushioning the economy's slide. Moreover, they do so quickly and automatically, without the need for lengthy debates about the state of the economy and the appropriate policy response.

By the same token, when the economy strengthens again, the automatic stabilizers work in the other direction: tax revenues rise, spending for unemployment benefits and other social safety net programs falls, and the deficit narrows.

A balanced budget amendment would throw the automatic stabilizers into reverse. Congress would be required to raise tax rates or cut spending programs in the face of a recession to counteract temporary increases in the deficit. Rather than moderating the normal ups and downs of the business cycle, fiscal policy would be required to aggravate them.

A simple example from recent economic history should serve as a cautionary tale. In fiscal year 1991, the economy's unanticipated slowdown caused actual government spending for unemployment insurance and related items to exceed the budgeted amount by $6 billion, and actual revenues to fall short of the budgeted amount by some $67 billion. In a balanced-budget world, Congress would have been required to offset the resulting shift of more than $70 billion in the deficit by a combination of tax hikes and spending cuts that by themselves would have sharply worsened the economic downturn—resulting in an additional loss of 1¼ percent of GDP and 750,000 jobs.

The version of the amendment passed by the House has no special "escape clause" for recessions—only the general provision that the budget could be in deficit if three-fifths of both the House and Senate agree. This is a far cry from an automatic stabilizer. It is easy to imagine a well-organized minority in either House of Congress holding this provision hostage to its particular political agenda.

In a balanced-budget world—with fiscal policy enjoined to destabilize rather than stabilize the economy—all responsibility for counteracting the economic effects of the business cycle would be placed at the doorstep of the Federal Reserve. The Fed could attempt to meet this increased responsibility by pushing interest rates down more aggressively when the economy softens and raising them more vigorously when it strengthens. But there are several reasons why the Fed would not be able to moderate the ups and downs of the business cycle on its own as well as it can with the help of the automatic fiscal stabilizers.

First, monetary policy affects the economy indirectly and with notoriously long lags, making it difficult to time the desired effects with precision. By contrast, the automatic stabilizers of fiscal policy swing into action as soon as the economy begins to slow, often well before the Federal Reserve even recognizes the need for compensating action.

Second, the Fed could become handcuffed in the event of a major recession—its scope for action limited by the fact that it can push short-term interest rates no lower than zero, and probably not even that low. By historical standards, the spread between today's short rates of 6 percent and zero leaves uncomfortably little room for maneuver. Between the middle of 1990 and the end of 1992, the Fed reduced the short-term interest rate it controls by a cumulative total of 5¼ percentage points. Even so, the economy sank into a recession from which it has only recently fully recovered—a recession whose severity was moderated by the very automatic stabilizers of fiscal policy the balanced budget amendment would destroy.

Third, the more aggressive actions required of the Fed to limit the increase in the variability of output and employment could actually increase the volatility of financial markets—an ironic possibility, given that many of the amendment's proponents may well believe they are promoting financial stability.

Finally, a balanced budget amendment would create an automatic and undesirable link between interest rates and fiscal policy. An unanticipated increase in interest rates would boost federal interest expense and thus the deficit. The balanced budget amendments under consideration would require that such an unanticipated increase in the deficit be offset within the fiscal year!

In other words, independent monetary policy decisions by the Federal Reserve would require immediate and painful budgetary adjustments. Where would they come from? Not from interest payments and not, with such short notice, from entitlement programs. Rather they would have to come from either a tax increase or from cuts or possible shutdowns in discretionary programs whose funds had not yet been obligated. This is not a sensible way to establish budgetary priorities or maintain the health interaction and independence of monetary and fiscal policy.

One of the great discoveries of modern economics is the role that fiscal policy can play in moderating the business cycle. Few if any members of the Senate about to vote on a balanced budget amendment experienced the tragic human costs of the Great Depression, costs made more severe by President Herbert Hoover's well-intentioned but misguided efforts to balance the budget. Unfortunately, the huge deficits inherited from the last decade of fiscal profligacy have rendered discretionary changes in fiscal policy in response to the business cycle all but impossible. Now many of those responsible for the massive run-up in debt during the 1980s are leading the charge to eliminate the automatic stabilizers as well by voting for a balanced budget amendment.

Instead of undermining the government's ability to moderate the economy's cyclical fluctuations by passing such an amendment, why not simply make the hard choices and cast the courageous votes required to reduce the deficit—the kind of hard choices and courageous votes delivered by members of the 103rd Congress when they passed the administration's $505 billion deficit reduction package?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, the debate over the relationship between Social Security and the balanced budget amendment seems now to be drawing to a close. The truly vital vote on the subject was cast just a few hours ago, evidencing the attention this Congress will pay to the security of our Social Security system.

Early next week, I believe the Reid amendment will be tabled. A mention of Social Security will not be added to the Constitution of the United States. I believe that both sides in this debate share a deep and sober dedication to the viability of our Social Security system. I am delighted that we had an opportunity earlier today to vote overwhelmingly our dedication to seeing to it that none of the promises made to our senior community are repudiated in any respect whatsoever.

Now it is only required of us that we deal decisively with this proposed addition to the Constitution on the subject of Social Security and go on to passing a balanced budget itself, the prospects for which, it seems to me at least, have increased dramatically during the course of this week.

Despite the dedication of those who have proposed this addition to the Constitution, in fact, adding this reference to Social Security to the Constitution of the United States would clearly undercut the very security they say they seek. Once you take this large, vital portion of the money which is collected by the Government in the United States and distribute it to beneficiaries by the Government of the United States and place it outside of the constitutional limitations on spending, which we propose, you run the overwhelming risk that some new Congress, faced with the unpleasant task of balancing the budget without ever being able to count Social Security, would simply lower the Social Security payroll tax and substitute for it a new general fund tax to balance an incomplete budget, while at the same time greatly risking the sanctity and the security of the Social Security trust fund.

Or perhaps an equally imaginative Congress, faced with the same difficult choices but with this huge loophole, will simply define other programs for the benefit of the elderly; for veterans; or for that matter, for children; as Social Security, and have them paid for out of the trust fund, therefore saving money on the balance of the budget and making the tasks of those Members of Congress easier than they otherwise would have been.

The common thread running through these and other similar examples, Mr. President, is the fact that we do not treat the budget of the United States as a unitary whole. We give future Members of Congress the ability overwhelmingly to play games—games which have nothing to do with the amount of money the United States is taking in in taxes and fees, or alternatively with the amount of money that is going out, being spent. A simple redefinition of the tax, a simple redefinition of a spending program without any change in substance, could manipulate the impacts of the balanced budget amendment. Almost certainly, any such manipulation would be to the detriment of the Social Security trust fund.

So, Mr. President, rather than buttressing our promises with respect to Social Security, the Reid amendment, over a period of years, will seriously undercut them. Those who drafted and those who most enthusiastically supported the motion of the distinguished majority leader, Mr. DOLE, on this subject are, by and large, those in this body like myself who, 2 years ago, repudiated the President's attempt to limit or even eliminate certain Social Security cost-of-living adjustments. They were those, like myself, who fought—unfortunately, unsuccessfully—against a 70-percent tax increase on a number of Social Security recipients' incomes just 2 years ago. They are, by and large, the people who believe, as I do, that we should reduce or eliminate the earnings test on the earned income of Social Security recipients and encourage them to keep on contributing to our society.

Those of us who wish to protect Social Security by defeating the Reid amendment, who have shown our dedication to Social Security by our enthusiastic support of the Dole motion, and who have shown that in past years by our actions with respect to Social Security are truly those who will protect those whose lives depend on the security and sanctity of that system.

So, as I have said, Mr. President, I believe we are close to the end of this debate and that this debate will end, as it should, in retaining the balanced budget amendment in its original and pristine form, and at the same time providing the highest degree of protection for the Social Security system itself. As a consequence, we will, once again, be back debating the fundamental issue which has been before this body: Are we for the status quo? Do we think the system which has led to a $4 trillion debt, which promises us, through the President's budget, $200 billion, more or less—generally more—in deficits forever; that this is a system with which we should be content; that generalized promises of doing better in the future are all that is required? Or, Mr. President, will we be found with those who say the system is broken down and that only outside discipline, only a discipline which can be provided effectively by the Constitution of the United States itself, will cause Presidents and all Members of Congress, Republicans and Democrats, liberals and conservatives, to operate under the same rules and will require them to exercise the discipline necessary to balance the budget of the United States?

Those who are comfortable with, those who favor, the status quo, those who think that the job that has been done is a fine job will align themselves with the opponents to this constitutional amendment. Those who feel that we need to act differently, that we need to operate under different rules, that we need to be a part of a constructive resolution to do the job this country demands of us will vote in favor of House Joint Resolution 1 and submit this constitutional amendment to the people of the States.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business for not to exceed 10 minutes for the purpose of introducing a bill and making a brief explanation of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON and Mr. DORGAN pertaining to the introduction of S. 387 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(Mr. COCHRAN assumed the Chair.)

Mr. DORGAN. Mr. President, I would like to turn now to the Reid amendment and the constitutional amendment to balance the budget.

Senator REID has done, I think, a great service for this institution to raise this issue, and it is a critically important issue. This is not a debate about whether we should balance the budget. Everyone here in this Chamber understands our responsibilities. This is not a debate about "whether"; it is a debate about "how" we address this crippling fiscal policy problem in this country.

Some have said that there is great uncertainty and it is hard to estimate what a deficit might be. I heard the Senator from Nevada earlier, I believe probably yesterday, in which he talked about one of the reasons for the uncertainty is that we do not always know what will happen to change the deficit or change the receipts or change expenditures.

He mentioned the Federal Reserve Board. Actually, the Federal Reserve Board has increased interest rates seven times in a year. Seven times the Open Market Committee—paradoxically it is called the Open Market Committee, though it meets in a closed room, behind closed doors. I call it the "closed market committee." They had a national mandate for all Americans. What does it do to the Federal budget? It increases the cost of the Federal budget.

I just received some information that I had asked be developed by a number of sources, and I would like to share it with the Members of the Senate, that respond to some of the points that the Senator from Nevada made.

First, let me talk about the national costs. The Federal Reserve Board-imposed interest rate hikes in the last year or so have been the following:

Home mortgages will be increased by $35 billion over the next 5 years. That is what people will pay additional on their home mortgages. In other words, the Fed has said to people out there who own homes, we will send you a bill for $35 billion more dollars. No democracy there. There is no debate about that. That is what the Fed said: We will send this bill.

Small businesses will pay about $96 billion more in the next 5 years as a result of the seven interest-rate increases.

Home equity and credit card loans will increase $86 billion over the next 5 years.

And especially, the point the Senator from Nevada was making, the Federal Reserve Board by its action has increased the cost to the Federal Government during this coming 5-year budget period, has increased Federal spending by $171 billion. How did it do that? The Federal Government will pay now $171 billion more to finance its debt than it was estimated to have to pay under the old interest rates.

So, when we talk about balancing the budget in revenues and expenditures, here is something the Fed did that says we will ask the Federal Government to assume $171 billion in higher deficits over the next 5 years because we are imposing higher interest rates.

I suppose one could say this ought not be criticized if one thought that the Fed was doing it in a justifiable way. The fact is, there is no credible evidence of inflation on the horizon. They are fighting a phantom, nearly invisible, opponent and, in my judgment, they simply believe they are a set of human brake pedals whose sole design is to bring the economy to a standstill. They apparently believe their mission in life is making sure unemployment never goes below 5 percent and making sure economic growth never goes above 3 percent.

I have no idea how they came up with those economic theories. I have no idea which schools teach that. Obviously, they collected it from somewhere and they are able to impose it because the Federal Reserve Board is unaccountable to virtually anyone at this point.

The point the Senator from Nevada made is that some things are very hard to predict. And $171 billion added to the deficit in 5 years is hard to predict, especially if no one is able to determine what the Federal Reserve Board is going to do.

I feel very strongly, as I think do many Republicans and Democrats in this Chamber, that if you were to rank the challenges we face in this country, near the top of that list—maybe at the top of the list—is the challenge of bringing this crippling fiscal policy problem under control. These budget deficits threaten this country's future. It is very simple. Everybody says it. Nobody ever does much about it.

All of us—I say us—want to appear to be the ones to have the answer and the others do not. The conservatives especially say, "We're, the conservatives, and it's the other people's fault." We say, "Gee, it's—." It is everybody's fault. Republicans and Democrats, Presidents and Congresses, have been unable to come to grips with a budget which links entitlement programs to inflation so they continue to increase automatically, and links taxes to inflation the other way so it holds them down and you have a disconnection; therefore, you have very significant budget deficits. And it does threaten this country's future.

So the question we come to the floor with today is, how do we respond? Not whether—how? The Senator from Utah asked the question whether some want to respond to this by raiding Social Security trust funds, a program which, incidentally, does not cause one cent of the Federal budget deficit. This year the Social Security System will take in nearly $70 billion more than it spends, so it is not causing one penny of the Federal budget deficit. That is by design. We want to save by design right now to be able to pay for the baby boomers when they retire.

So the question the Senator from Nevada asks is a simple question: Do those who want to balance the Federal budget want to break the promise and go into the Social Security trust funds, yes or no? It is like the old binary system, you have two choices, yes or no. It is not difficult. It is not rocket science. One can answer that yes or no.

I want to tell a brief story about something that happened in North Dakota in the year 1867. In the year 1867, the Philadelphia Inquirer, a newspaper in Philadelphia, published a story in their newspaper about how the military garrison at Fort Buford, ND, had been wiped out. This Philadelphia Inquirer story said the military garrison under the command of Col. William Rankin up at Fort Buford, northwestern North Dakota, had fallen. Thousands of Indians, they said in their story, swept down and took over that Fort Buford and wiped it out. It said Rankin actually shot his wife rather than let her be captured during that siege. Then it said Colonel Rankin himself, who led that military outpost, was burned at the stake.

President Andrew Johnson, President at the time, came under attack by political foes, and congressional investigations were called, wondering how could this happen in our country. General Sherman said that he was embarrassed that he had no firsthand information about it.

And then later the truth.

The story was an April fool's story. It never happened. It just did not happen. The worst episode at that Fort had been a single cannon shot which had scattered a small band of Indians. So this story about massacre that spread across the Nation, had the President responding, generals embarrassed, and Congress calling for investigations during a time, of course, of slower communications, radically slower communications in 1867, never happened. It was a hoax. The massacre hoax at Fort Buford, ND.

Well, we have seen a lot of hoaxes. The American people have seen a lot of hoaxes. The question, I suppose, one might ask now is: What is the hoax here? Is it a hoax for people to believe that maybe we can deal with these budget deficits and try and respond to our children's future in a positive way, or is it a hoax? Is it just one more empty promise, one more promise to make and then break? That is the question.

I have spoken several times on this, and I have not been one who said if this amendment does not pass, I am going to vote this way or that way on the underlying constitutional amendment. I have avoided saying that for a very specific reason. Because I view this as a very solemn responsibility.

The U.S. Constitution, which I brought to the floor before, is quite a sacred document. It says, "We the people." That is the way it starts, "We the people." Senator BYRD says this is "my contract with America," the American Constitution. It is a pretty good contract to start with and to end with. "We the people."

What can "we the people" in this country expect from our leaders? The senior Senator from Utah, Senator HATCH, for whom I have great affection, says, "Let's pass an amendment to change the U.S. Constitution." The senior Senator from Maryland, Senator SARBANES, someone for whom I have great respect, says, "No, that would be the wrong thing to do." There is real division in this Chamber about what to do. Not whether it is a good idea to bring into balance the budget deficits, to strive to stop spending money we do not have, often on things we do not need and mortgaging our children's future. It is not a question of whether or a difference on whether, it is a question of how.

I take a look at what we face in the coming years, and I see enormous deficits in the out years, under virtually everyone's proposals.

I have said, and I do not mean this in a pejorative way, the conservatives say, "Gee, we have this Contract With America and here is what our plan is: We want to increase defense spending, we want to cut taxes and we want to balance the budget."

And we said, "Gee, we know you are people of good faith, but could you share with us how that is all possible? Haven't we heard this before? How could you possibly do that? How do you cut your revenue, increase one of the largest areas of spending and balance the budget?"

So we offer a right-to-know amendment, and they say, "No, we do not want to get into details and make people's legs buckle." A Congressman in the other body said, "If we provide the details, it would make people's legs buckle." What would make them buckle? We would like to understand how you get from here to there, because we want to get there as well. We share the desire to get to the same destination.

The question that Senator REID is asking with his amendment is not whether we should pass this constitutional amendment to balance the budget. I have voted for one in the past and may vote for one again. The question he asks is how, in doing so, will the Social Security funds be treated? Will we decide on the one part of the Contract With America to increase defense spending, at a time, incidentally, when the U.S.S.R. is gone, there is no Soviet Union, the Berlin Wall is down, the cold war is largely over? Will we increase defense spending and resurrect Star Wars, one of the goofiest gold-plated weapons systems, so out of step with reality and so unnecessary for this country? Will we do that? And if we do that, how will we pay for it?

Will some decide, "Well, there is one way to pay for it. There is $70 billion in the Social Security trust funds just this year we raised but did not spend. That is sitting there. We can pay for it that way." Except, that is a contract. We said to the American people we are going to collect more from your paychecks in order to save it, and those who say let us balance the budget and increase defense spending and cut taxes, who might look at that Social Security trust funds as one giant golden goose, they, I think, will be breaking a promise with the American people.

So we are saying in this amendment we would like to see if everyone here will pledge to keep the promise.

I would not suggest that there should not ever be changes in the Social Security system. Any changes in that system ought to be made for one reason, and that is to make the system whole. The Social Security system ought to be made viable, and it ought to be made solvent for the long term. But changes in Social Security must be made for its own sake, for the sake of preserving that system, not because someone wanted to do something else to cut taxes or increase defense spending.

We face staggering challenges in this country, and I could list some of them. I do not have to do that at great length. But all of us understand how difficult these challenges are. The challenges include environmental challenges, clean air, clean water. Does anyone here not want clean air to breathe or clean water to drink? Of course, we do. The epidemic of teenage pregnancies among unwed mothers; a welfare system that seems out of whack, has the wrong incentives; a staggering number of people who are left behind in our country.

Two days ago I saw again a press story that said more American children live in poverty today than ever before. More American children are poor than ever before in this country.

These are staggering challenges to which we have a responsibility to respond. The question is, how do we do that? We do that in part with a Federal budget. And there are plenty of needs for which we must make investments. But we must, at the same time we do that, pay for them.

I am not someone who comes here to talk about a balanced budget amendment or the Reid amendment and says, as far as I am concerned, let us fold up the tent and just shut down shop here at the Government.

There are a lot of things we do I am proud of, I care about, and I am going to fight for. A commitment to this country's children is first and foremost. If we are not willing in these discussions, all of these discussions, even as we strive to balance this budget—and I will help do that—if we are not willing to stand up for this country's children, all of us, and say, those of you who are disadvantaged, we are going to give a head start; those of you who need help, we are going to give you an upward bound program; those of you who are hungry, we are going to give you food, we are going to help you find something to eat; those of you who need shelter, we are going to help; those of you suffering abuse—physical abuse, sexual abuse—we are going to help.

Right now there is a place in this country with a stack of files on the floor. As I speak, a stack of files alleging child abuse against young children is lying unexamined because there are not enough people to investigate these charges. Physical violence and sexual abuse files are sitting on the floor. People have alleged that young children are victims, and there is not enough money for those folks out there to investigate them. It just breaks your heart, brings tears to your eyes to hear stories of these kids. And to think somewhere tonight there is a 3-year-old or 4-year-old out there who is going to suffer abuse and someone knew it, because it was complained about before and it did not even get investigated.

My point is this. We must make a commitment to the children in this country. Someone once said 100 years from now it really will not matter how much your income was, it will not matter how big a house you lived in, if the world is a better place because you were important in the life of one child. We can be important in the lives of every child in this country. It is a question of deciding what is important for us. It is important to balance the budget because those children inherit the debt. If we are unwilling to pay for the things we now consume as a country, the children inherit that debt. So it is important to do that.

It is also important with respect to what we spend money on to understand that children come first in this country. This country's future is the future of its children. We are going to have, I think, very substantial debates, fights later this year about what to spend money on.

Let me go back to this issue because it is not an unimportant issue. It is such a clear issue to me. We have people who, at a time when more children are living in poverty than ever before in the history of this country, when we have children who are hungry and homeless, say, well, now is the time for us to rebuild star wars; it is time now; we need a new gold-plated weapons program in defense; we need to build star wars.

I do not even understand what kind of thinking produces that sort of nonsense, but people believe it. Some people do. If they propose it, they will fight for it. And do you know, it is a lot easier to get money for a weapons program, a lot easier to get money to build a weapons program, than it is to get money to try to investigate charges of child abuse. I tried last year to get $1 million to help those people to investigate those charges.

We have to do better than that. We have to change. We have to change with respect to the priorities we decide are important in this country's future, what we invest in, what makes us a good country with a good future. But we also have to change.

The Senator from Utah and others are absolutely right; we have to change, change this stream of deficits that hurt this country. And we can do it. There is nobody better qualified to do it than the American people now today, to start today. And it may be the constitutional amendment is the way to do that. If it ratchets up even with a small percent the chance of doing it, then I think we will have served some good purpose. But not if while serving that good purpose we break another solemn promise of saying we are going to raid the Social Security trust fund to do it.

Some people in here, it seems to me, are afraid to ask for responsible choices from the American people. I think it is reasonable to ask the people to make choices.

Let me give you an example. In this country, we spend nearly $400 billion on gambling. We gamble more in this country than we spend on defense, which is one of the largest items in the Federal budget. So someone says well, gee, if you propose a 1-cent gas tax, people get all upset. Sure, I understand that. But the fact is we must force people to make choices. Some choices are very hard to make. Nobody would ever want to pay an increased tax and no one wants spending cuts in areas where spending benefited them. And yet the solution, it seems to me, is probably going to have to in the long run be both, in one measure or another.

We cannot continue to ignore the problem, and I say to those who bring this to the floor I think they do justice to this country's agenda because it is something we ought to be debating and we ought to force the Congress to deal with it.

I do hope, however, that as we do this we will do it the right way. And the right way, it seems to me, would be, when we vote on Monday on the Reid amendment, to decide to vote yes, to tell the American people we have a number of contracts going on around this country. One is a political contract called the Contract With America. Another is the fundamental contract called the U.S. Constitution, which supersedes it all and has made it all possible.

Under the Constitution we have made a promise, probably one of the most successful promises ever made and a promise that I expect to be kept for decades to come, and that is the promise of Social Security.

The Senator from Nevada I guess mentioned this morning again the story I told yesterday about landing in a helicopter that was out of gas in Nicaragua. I was up in the mountains actually by Honduras, between the border of Nicaragua and Honduras, and discovering up there for the first time what Social Security meant. I was talking to the people, campesinos, and discovered that they do not have Social Security. They have as many children as they can have during the childbearing years and hope that maybe, if the children are lucky enough to grow old, the children will provide for the parents who raised them. If you are lucky enough to have children grow up with you, that is your Social Security. I had not even thought about it before, until that day out in the jungle of Honduras talking to some of the campesinos.

This is an enormously fortunate Nation, to have had some people to make tough choices but to develop approaches that have been very, very good for this country, one of which is Social Security.

I know we had people who, when it was constructed, said, Gee, this is socialism. What on Earth are we doing?

It is not socialism. Not at all. It has been the most successful program, I think one of the most successful programs, in this country's history. It has been there for every generation and will be there for every generation.

Now, some will say, well, why are you doing this? Why do you raise the question of Social Security, Senator REID? The answer is that just today in The Washington Post and the New York Times, once again there are two more references by public officials who say we are simply going to have to adjust Social Security to deal with the budget deficit.

I say to people, if you adjust Social Security, do it to make the Social Security system solvent if it is necessary, but do not ever do it to deal with the operating budget deficit that this country is running because we cannot reconcile our revenue with things we are spending it on other than Social Security. That really, it seems to me, would be breaking a promise.

So just today, again, with two references, one in the New York Times and one in the Washington Post, again on this subject, it underscores, I think, the need that Senator REID says is foremost here to pass an amendment that simply says when we amend the Constitution that we will continue the promise. The promise is the Social Security system is a trust fund paid for with dedicated taxes, not running at a loss and not contributing one cent to the Federal deficit, and we promise we will not balance the budget by raiding the Social Security trust funds.

I said before I do not ask for three reasons one would not vote for this, just one good reason, one reason someone would decide not to vote for this amendment. The only conceivable reason I can divine is that some way, somehow, someday down the road, someone wants to use this money in order to make it easier to balance the budget. But of course in my judgment that would be breaking a promise.

So, having said all of that, let me again congratulate the Senator from Nevada, Senator REID, and the Senator from Utah. Again, this is a debate we should be having. It is when we should have it. There are a few left who say this does not matter. This matters more than almost anything else because we are spending tomorrow's money today.

I have a 5-year-old young daughter who is going to grow up and inherit a $10 or $12 or $14 trillion debt. Somehow I am going to try to prevent that from happening with every ounce of my energy because it is unfair, unfair to have her do that. So that is what these debates are about.

I appreciate very much the leadership of the Senator from Nevada and I look forward to the vote Monday.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, prior to the Senator from North Dakota leaving the floor, I want to say to him, and to the senior Senator from Utah, and to the American people, I think what has gone on during the last week or so—I should say more than that—what has gone on since we have started this congressional session has been very constructive. We have had some very difficult debates on coverage, unfunded mandates, and now this balanced budget amendment. But I think these debates have been very good. We have debated issues. We have not gotten involved in personalities. We have, on this issue and a number of other issues, a real difference of opinion and we will debate this—as to whether or not there should be an exemption for Social Security—the rest of this day, Monday, and perhaps Tuesday. But this is drawing to a close.

I say to my friend, the manager of the bill, I think this has been, for lack of a better description, a high-class debate. We are, really, talking about issues that are important to the American public. I hope the debate that will transpire the next few hours on this particular amendment will remain constructive and in so doing I think it brings honor to this institution and to the American public.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise in support of the balanced budget amendment.

I have always supported a balanced budget. Montanans want a balanced budget. We must listen to the people and give them a balanced budget. The Federal Government must learn to live within its means—just like the middle-class families we all represent. And I now believe a constitutional amendment is the best way to make that happen.

I questioned this amendment in the past simply because I have a reverence for the Constitution. I do not like the thought of amending it to address any subjects beyond the fundamental questions of our rights and responsibilities as citizens.

There are serious, thoughtful arguments against this amendment, arguments on constitutional principle, and arguments based on its practical effects. But I have seen us evade our responsibility too many times.

Rising interest payments and rising spending are denying our children their shot at the American Dream. They are eating away every essential function of the Federal Government. And when presented last year with a chance to solve part of the problem by containing Government health spending, Congress would not do it.

It is time to send the balanced budget amendment on to the States. It is time to let our Governors, State legislatures, and citizens debate the issue and vote on it. It is time to move beyond the amendment, cut waste in Washington and work with the States to set priorities and control spending. If we work together as a country we can do the job. And if we set our priorities carefully we will find the consequences are not so dire as the opponents of this amendment predict.

Let us begin with a look at the problem we face.

Every year, for the past 14 years, we borrowed $150 or $200 billion. In that time, our national debt grew to its present extravagant size of $4.6 trillion. And not only is debt growing, it is growing faster than our economy.

It rises about 5 percent a year, faster than we can expect GDP to grow in the foreseeable future. That means every year, we give up more of our income to pay interest on the debt.

Each year, more tax dollars go not to useful purposes like defense, fighting crime and drugs, education or promoting public health but to commercial and foreign banks. Our fiscal situation is bad already, and our children will take the worst of it.

Last year, for the first time, Federal net interest payments topped $200 billion. Next year it will be $260 billion, $1,000 for every American man, woman, and child. And without emergency action on the deficit, interest payments will be higher every year from here to eternity.

The question, however, is not whether consistent over-borrowing is wrong. Obviously, there are times—in wars, in depressions—when borrowing is not wrong. But to do it year after year, without any emergency, is scandalous.

Last year the economy grew faster than it has in a decade. Any economist would say that years like 1994 are years in which we should run a surplus and retire some of the debt. Instead we borrowed more.

So we now face two questions.

First is the practical question of how to make enough cuts and raise enough revenue to balance the budget. And the second—the more profound question—is how to establish an ethic that says constant, irresponsible overborrowing is simply wrong.

On the practical side, we have made a start with the normal budget process. In 1993 we made a massive cut in the deficit—$486 billion over 5 years.

That has succeeded. You can see the effects already. In the last year of the Bush administration, the deficit was $222 billion. In fiscal year 1994 it was $203 billion. And this year it will be down to $176 billion. As a percentage of GDP, it has not been this low since 1979.

That is a start, but we must do more. And since the 1993 budget passed, I have kept at it. Last year I looked into overspending on Federal courthouses. And I cut $120 million out of the courthouse construction budgets. Further investigation found judges spending taxpayers' money on private kitchens and rosewood paneled offices.

I worked with Senator DeConcini, then the Intelligence Committee chairman, to cut $50 million from the CIA's National Reconnaissance Office, when we caught them wasting money on a building with a fountain and a sauna.

That is all to the good. But there is more waste to cut.

The Army Corps of Engineers insists on building more and more levees at great expenses to the taxpayer—an expensive, backward policy, which turns damaging floods into disasters like the Missouri flood of 1993.

We cut out the supercollider but we still fund giant boondoggles like the $70 billion space station.

We still pay $12 million a year for an absurdity like TV Marti—the weather balloon unsuccessfully beaming dubbed reruns of "Laverne and Shirley" to Cuba between 3 and 6 in the morning. I have tried to cut both and I will try again.

And on a broader scale, many in Congress like talking about spending cuts in the abstract more then cutting spending in the concrete. Back in 1984, I joined Senators KASSEBAUM, GRASSLEY, and BIDEN in sponsoring an amendment to freeze all Federal spending across the board for a year. It was simple—some said simplistic—but effective. We got just 33 votes.

Last year, I was one of just 31 Senators to support Senator BOB KERRY'S amendment to cut over $94 billion in Federal spending. Its cuts in Public Law 480 Food Aid and the honey program meant pain at home in Montana. Means testing for Medicare part B would have made wealthy senior citizens pay a bit more.

But it was fair. It spread the pain equally around the country, and we cannot afford to reject deep, fair cuts like that one again.

I have seen this happen one time too often. And I do not believe it will stop unless we make a clean break with the past and establish a new ethic of responsibility. And I conclude that the only way to establish such an ethic is through a step as dramatic as a balanced budget amendment.

So, while I respect and at many points agree with the arguments made by the amendment's opponents, I will support this amendment to our Constitution. But I will also try to improve it, because in three critical areas it falls short.

RIGHT TO KNOW

First, the amendment is only a statement that the budget must be balanced. It contains no plan of how to do it.

That is also a question of values. In Montana, you look people in the eye and tell them the truth. You do not promise to fill them in later. Our State government is the country's most open and accessible. Our State constitution guarantees the people access to virtually every official document or meeting.

It should be the same in Washington. A right to know provision, requiring us to spell out a program that balances the budget within 7 years, is an essential part of a balanced budget amendment. And without a detailed, specific plan to cut spending, reduce interest rates and raise revenue, experience tells us that this amendment will fail to do the job.

Why do I say that? Because I remember the Gramm-Rudman-Hollings Act I voted for back in 1986. That act required us to meet a set of progressively lower deficit targets every year, ultimately balancing the budget by 1992.

Well, we all know what happened. Because it lacked a plan to meet the targets, Gramm-Rudman became an annual exercise in gimmicks. Payment dates delayed or moved up, savings double counted, revenue forecasts artificially pumped up and more. It was a well-intentioned failure, and we must not repeat it.

So because of practical necessity as well as old-fashioned Montana honesty, we need full disclosure in this amendment. We have a right to know—the people have a right to know—the consequences before we act. I deeply regret an earlier attempt to add this right to know concept was defeated.

CAPITAL INVESTMENT AND CONSUMPTION NOT THE SAME

Second, when the Federal Government thinks about how to balance the budget, it can take a good lesson from Montana and from some of the other States.

Our State of Montana Constitution requires a balanced budget. But despite that provision, and without violating it in any way, Montana has a State debt of over $400 million.

How did it happen? Simple. Montana balances its operating budget. But Montana can borrow money to support its capital budget, that is the money it uses to build and improve public highways, buildings, and water systems. That is straightforward, sensible policy. It is not a shell game. And, of course, it is also how businesses and families manage their budgets.

Middle-class families watch their money. They stay on a budget and do not spend more than they earn on luxuries like restaurants and CD players. But when they make major, essential purchases, like cars and homes, they carefully, within their means, borrow. Virtually nobody pays cash for a house.

Likewise, most successful businesses strictly avoid borrowing to pay for operating expenses. But they do borrow at times to expand their working space. A farmer on the Hi-Line borrows to buy a new tractor. A small envirotechnical company in Butte borrows to buy a computer system. Businesses borrow to buy essential capital goods that raise their productivity and mean more profits in the long run, and they are right to do so.

The right policy for Montana, small business and families is also right for the country. On critically important capital projects, borrowing is sometimes right.

CAPITAL BUDGETING AND HIGHWAYS

For example, Dwight Eisenhower asked our generation to accept a significant debt burden to fund the Interstate Highway System. In 1956, when he signed the bill creating the Interstate, we had a balanced budget. But beginning in 1958 and throughout the 1960's, we ran deficits.

And since 1956, we have spent $130 billion on the Interstate. If we had spent nothing, the debt would be lower by $130 billion plus interest. But Ike made the right decision.

Through I–15, I–90, and I–94, the Interstate System makes Montana a viable part of the modern economy. Across the country, it eased the flow of commerce, created millions of jobs, and brought us untold additional wealth. Compared to these benefits, some additional debt is unimportant.

We are now beginning its successor, the National Highway System. The NHS will do for our children what the Interstate did for us. It will mean jobs, growth, and higher productivity, and if we need to accept some debt to build it, that is appropriate.

Passing this amendment, without ensuring that we can keep a separate capital budget, risks destroying the National Highway System. Towns like Lewistown, Glasgow, and Kalispell will remain isolated. Our farmers will be at a competitive disadvantage. Our businesses will see transportation costs higher than they should be, and that would be sad and foolish.

A separate capital budget will make sure that wise capital investments like the National Highway System are protected. Thus, I intend to support an amendment to give us a capital budget as well as an operating budget, and allow us to make the wise choice Dwight Eisenhower made 40 years ago.

EXEMPT SOCIAL SECURITY

Finally, we come to an item of great sensitivity. That is, how will a balanced budget amendment affect Social Security?

Social Security is not really a government program at all. It is essentially a pension fund. People who work contribute to it throughout their career. The Federal Government manages the money and returns it to them with interest on retirement.

So it is not Federal money. It belongs to the people who pay into the system. It is wrong to count payments from the Social Security trust fund as spending, or to count Social Security contributions as revenue. To do either is really a breach of contract.

Robert Olandt, from Rollins in the Flathead, expresses it perfectly in a letter he wrote me 2 weeks ago:

> Sir, you and I and countless others are or have been paying Social Security premiums with the expectation that this program will, in fact, not be diminished . . . that quality of life may be preserved as we enter later maturity. Just getting old is bad enough. There has to be some dignity as well.

When this amendment passes, we can pass budget resolutions which do not cut Social Security. I will work very hard to make sure we do that. But the temptation to include Social Security will be great. And the better course is to say now, in this amendment, that Social Security is off the table.

MONTANANS MUST FACE THIS TOGETHER

Mr. President, we must balance the budget. We must learn to live within our means.

On no issue are Montanans more united. When I walk the highways of our State people stop and tell me we have to balance the budget. I listen to them at workdays, when I spend a day at Ribi Immunochem in Hamilton, on Geoff Foote's ranch on the Blackfoot or the Big Spring Water Plant in Lewistown. And I feel the same as any other Montanan.

But feeling is not doing. And doing will hurt. According to the National Association of State Budget Officers, about 28 percent of Montana's State budget comes from the Federal Government. On top of that the Federal Government spends about $330 million to support Montana crop and livestock producers, $30 million at Glacier and Yellowstone National Parks, and $100 million at Malmstrom Air Force Base.

To balance the budget by 2002—without new Federal taxes, without a separate capital budget, and with each State taking a proportionately equal cut—the Treasury Department predicts that the Federal Government will need to cut spending by $277 million in Montana.

That includes $52 million in highway funding—and when we give up $52 million in highway funding, we lose 2,000 high-paying construction jobs and hundreds of miles of road repair. We give up $123 million in Medicaid. And we lose over $100 million in education funding, welfare payments, environmental protection, housing, help for veterans, and more.

So debate in the Senate is only the beginning. Difficult and painful decisions lie ahead for our State. We must set our priorities. We must decide which programs we are willing to pay for and which we are willing to live without. And all Montanans and Americans ought to shape these priorities together—so that we share the stress fairly, and so that we cut as much waste and as few essential services as possible.

But we must make these decisions. We can no longer postpone them. Because at bottom, they are questions that relate more closely to values than to accounting.

I found the essay Prof. James Wilson published in the Wall Street Journal a few weeks ago very perceptive. He said that in years past:

> something akin to a Victorian ethos and restrained our spending. Now that ethos is gone.

That goes for everyone. The Federal Government has evaded the problems at the root of the deficit for a decade. State governments blame Washington for unfunded mandates without admitting how much Washington pumps into their budgets every year. Citizens write letters demanding tax cuts, money for local projects, and a balanced budget.

That is a failure of values. At every level, it is a failure to admit the truth and take responsibility. It shows how far we have come from the ethos Wilson describes.

Whether or not it passes, we must get back to the values we have lost. Like living within our means. Like thinking more about our children than ourselves. So in the coming months I hope to hear from our State's legislators and elected officials, and most of all from ordinary, middle-class Montanans as to how we start. And I will seek their views on where they see waste in Montana, where Federal spending can be eliminated and where Federal support is essential.

This is a heated, spirited, principled debate. But underneath it is a consensus. We need to live within our means. We need to set priorities. And we need to work together to do it.

That is true of the political parties. It is true of the State and Federal levels of government. Most of all, it is true of us all, as ordinary American citizens. And there is no time better than now to begin.

(Mr. KYL assumed the Chair.)

Mr. HATCH. Mr. President, as far as I know, that may be the last set of remarks. There may be one other Senator coming over to speak. We would like to shut the Senate down because I think everybody has really had a good chance. I first pay tribute to my colleague from Montana and tell him how much we appreciate his willingness to support this balanced budget amendment. I know it has been a very difficult decision for all of us because there are arguments on both sides of this issue.

I also have a great deal of affection not only for him but for my colleague from Nevada, who, it seems to me, has conducted this debate on his amendment with about as much dignity and class as anybody I have ever seen in the history of the Senate. I personally appreciate it. So I thank the Senator from Montana and the Senator from Nevada, as well. Both of you are dear friends. Let us keep fighting, because I personally believe we can pass this joint resolution. I think we have to. Even though nothing is perfect, it is a Democratic and Republican, bipartisan opportunity for us to try and do something.

Mr. President, some of my colleagues have argued that the balanced budget amendment is a figleaf. To the contrary, it is the first step toward our country's fiscal atonement. That is a pretty high-flung term to talk about "atonement," but $5 trillion in debt, going to $6.3 trillion within 3 years, spending our children's and grandchildren's future away, I think this is fiscal atonement. That is what we should do.

We have been unwilling to deal with our exploding debt. The few times we have tried, the short-term benefits of partisan politics consumed our institutional duty to attend to our Nation's long-term interests.

If we have learned anything from recent history, we have learned that we lack the fiscal backbone to make the tough decisions, or restrain ourselves from engaging in shortsighted political assaults when some in Congress demonstrate the willingness to do so. I suggest, perhaps that both sides of the aisle are responsible. When Republicans tried to curb the growth in entitlements by changing Social Security back in 1985, Democrats seized on that opportunity and took back the Senate. When Democrats tried to address the deficit by raising taxes last Congress, Republicans jumped into action and, of course, we took back the Senate.

If we have learned anything from the past decade, it is that we should not raise taxes or play with Social Security. But we have also learned that without the balanced budget amendment to give us the fiscal backbone we need, neither party is willing to restrain itself from partisan politics when it comes to budget cutting. Instead of viewing the balanced budget amendment as a reward for congressional cowardice, my hope is that we will begin to see it as a first step toward our own fiscal penance, and I call it fiscal atonement.

The truth is we must act. If we fail to act here, can any of us honestly admit that, without the balanced budget amendment to give us backbone, we will continue business as usual and we believe the Congress will develop the institutional courage to act responsibly any time in the next several years if we pass this amendment?

Teddy Roosevelt said:

> The danger of American democracy lies not in the concentration of administrative power in responsible hands, it lies in having the power insufficiently concentrated so that no one can be held responsible.

Without the balanced budget amendment, we will be content to hold the other party, or the President, or the past Congresses, responsible in lieu of ourselves.

Why act now? Why should we act? Because such an act is important. So much is riding on our vote. If we do not act, just think of the fate we are leaving for our future generations. As Senator DASCHLE said last Congress when he voted in favor of the balanced budget amendment, "We are leaving a legacy of debt for our children and grandchildren. A lot of people have paraphrased that during this debate.

Every child born in America today comes into this world over $18,500 in debt. And that debt is growing. We are concerned about our children and our grandchildren.

In President Clinton's fiscal year 1959 budget, it was estimated that for children born in 1993—these kids right here—the lifetime net tax rate will be 82 percent. The net tax rate is the estimate of taxes paid to the Government less transfers received, if the Government's total spending is not reduced from its projected path and if we do not pay more than projected. The 82 percent figure for our children stands in stark contrast to the 29 percent net tax rate for the generations of Americans born in the 1920's, and the 34.4-percent net tax rate for the generation born in the 1960's.

Now, that is right from the Clinton administration's 1995 budget, generational forecasting.

Each year that we endure another $200 billion deficit will cost the average child—these children right here and all of our children throughout this country and our grandchildren—over $5,000—$5,000—in taxes over his or her working lifetime. And we have, under this budget, 12 straight years of $200 billion deficits. So just add it up—5,000 bucks per child each year that we endure another $200 billion deficit. It is going to cost the average child over $5,000 in taxes over his or her working lifetime just to pay—now get this—just to pay the interest costs on the debt. President Clinton's conservative deficit estimate alone for the next 5 years will mean a total of $25,000 in taxes for these children, just to pay interest on the debt.

A lot is riding on our vote. When this child is 11 years of age in fiscal year 2005, the CBO's conservative projection shows that the deficit will top $400 billion—more than twice today's level. In that year alone, this child right here will be charged and all of our children will be socked with a $10,000 tax bill, just to pay the interest on the deficit. The debt will reach nearly $6.8 trillion, or 58 percent of our GDP.

That is from the "CBO Economic and Budget Outlook, Fiscal Years 1996–2000."

CBO notes that the growing deficits stem from entitlement spending, particularly by major health care programs. Entitlements will grow from roughly one-half to two-thirds of all Federal spending. Spending for both Medicare and Medicaid is still projected to rise by 10 percent per year through the year 2005. These two programs alone will overtake Social Security in the year 2000 and catch up to total discretionary spending by the year 2005. That is just Medicaid and Medicare alone. In the year 2005, the first baby boomers from our generation will be several years away from eligibility for Social Security. The child in this picture will be over 55 years away from eligibility.

Our debt is ballooning. It took our Nation 205 years—from 1776 to 1981—to reach the first $1 trillion national debt. It took only 11 years to quadruple that figure. Today, the national debt stands at over $4.8 trillion and it is only going to take another 3 years to get it up to $6.3 trillion. Today, the national debt stands at almost $5 trillion. Citizens of other nations, like Argentina, Canada, and Italy have faced stagnant or lower living standards when their Governments ran up huge debts. Future generations face higher interest rates, less affordable housing, fewer jobs, lower wages, and a loss of economic sovereignty.

Let me just say this. We have been talking about Social Security. I want to take care of our senior citizens and I intend to do so, and I think everybody else around here does, too, in spite of this debate.

But I have to tell you something that people have to stop and think about. If we keep running this debt up into the air as we have been doing, if we keep accumulating the deficits that we have and paying so much interest against the national debt, I have to tell you we are robbing our children and our grandchildren and our future generations. And it is not right.

When Social Security came into being, there were 46 workers for every person on Social Security. Today, it is a little bit better than three for every person getting Social Security, and by the year 2020 it is going to be two. It is going to be these kids who are going to share the burden. And we have been robbing our kids. Now, it is time for us to talk about the kids and about our grandchildren, at the same time we are trying to take care of our seniors. But we cannot forget them. And if we do, we deserve the condemnation that should come our way.

Let me tell you something. Sooner or later, if we want Social Security to be strong, we have to have a strong economy. If we want a strong economy, we have to get spending under control. We have not been able to do that for 26 years and certainly not for over the last 14 years.

And I have to tell you, it is getting worse and worse. If we want to get our economy under control, we have to pass this balanced budget constitutional amendment. It is one way we can. It is our only hope right now. It is not a Republican amendment. It is not a Democrat amendment. It is both of us. We have worked together. Seventy-two or seventy-three courageous Democrats voted for this in the House, and we will have a number of them here. All we need are 15.

So I hope the folks out there will get with their Democrat Senators and let them know they expect them to vote for this balanced budget amendment, regardless of what happens. And if we pass this, we will be on the way to some fiscal restraint and some fiscal sanity that may save the lives and the futures of these children that are born today.

Mr. CRAIG. Mr. President, I rise to oppose the Reid amendment. Now that the Dole motion has passed, the Senate has expressed its will to protect Social Security.

The best protection we could provide for the Social Security system, and for the welfare of our senior citizens, in general, is to pass the balanced budget amendment and send it to the States for ratification as soon as possible.

Any amendment, such as the Reid amendment, that claims to do both, require a balanced budget and protect Social Security with an exemption, will do neither.

From every proposal like this that we have seen so far, it seems obvious that there is no practical way to do both those things in one constitutional amendment.

On the other hand, the Dole motion, with the amendments proposed by the majority leader, is the real vote on protecting Social Security.

THE REAL VOTE WAS ON THE DOLE MOTION

The Dole motion, combined with the Kempthorne amendment to S. 1 recently, fully commits this Senate to protect the integrity of the Social Security system and the benefits of seniors who are counting on that system.

The Dole motion deals with how we get to a balanced budget by fiscal year 2002. Even if the Reid amendment worked as its author has indicated, it would not be effective until fiscal year 2002 at the earliest.

To get to a balanced budget by 2002, Congress will need to restrain the growth in spending to 3 percent a year. With Social Security off the table, we will have to hold non-Social Security spending to 2.25 percent growth a year.

That is a reasonable glide path, just slowing the growth in spending between now and 2002. After the budget is balanced in fiscal year 2002, spending can resume growing at the same rate as revenues at that time, now projected at more than 5.2 percent a year.

So, obviously, budget discipline will have to be tighter before fiscal year 2002 than after 2002. The Dole motion sets Social Security aside as a priority immediately, while we are on that deficit-reduction glide path, and after 2002, as well.

The Dole motion protects Social Security when it needs protection. A yes vote on the Dole motion is the real vote to protect Social Security, now and later.

THE REID AMENDMENT WILL NOT WORK

The Reid amendment does not even purport to protect Social Security until 7 or 8 fiscal years from now. In reality, careful examination shows that the Reid amendment will never protect Social Security.

These five facts best summarize what is at stake as we debate the Reid amendment:

First, the debt is the threat to Social Security, our seniors, and the economy.

Second, nothing in the language of the Reid amendment provides any protection for Social Security or seniors.

Third, the Reid amendment would create perverse incentives to raid the Social Security trust funds on both the spending and revenue sides.

Fourth, nothing in the underlying House Joint Resolution 1 would overturn present statutes protecting Social Security or prevent future efforts to strengthen its priority status.

Fifth, a Constitution should include timeless principles, not temporary priorities.

Mr. President, let's be realistic: Social Security has 100 friends in this Senate.

I do not doubt that the supporters of the Reid amendment earnestly seek to protect Social Security. I do think some of them want to vote against the balanced budget amendment, and I hope they will not hide behind Social Security as an excuse.

I share the goal of protecting Social Security benefits from being cut, or Social Security taxes from being raised, to balance the budget and pay for other spending.

But the Reid amendment would take us in the opposite direction from that goal. At the same time, it would undermine the basic purpose of the balanced budget amendment itself.

Let us examine these five principal issues one at a time.

First, the debt is the threat to Social Security, our seniors, and the economy.

Some of our colleagues have taken to the floor to remind us that Social Security has not been contributing to the deficit and to the buildup of the national debt.

I agree. It is exactly the other way around—the debt is the threat to Social Security.

Gross interest on the debt is already approaching one-fifth of total Federal spending. It is the second largest item of Federal spending now and, by the end of the decade it will pass up Social Security as the largest item.

As the debt grows, as the cost of servicing the debt grows, it threatens to crowd out all other budget priorities—including Social Security.

The more debt the Government runs up, the more we have to pay out in interest, the less we will have to pay for anything we want.

We know what happens when any debtor racks up too much debt and heads into bankruptcy—every lender who is owed something by that debtor now stands to lose out.

Current Social Security surpluses represent an obligation, a commitment, to pay those dollars back out in benefits tomorrow. But if the debt keeps growing, in the not-too-distant future, there will be so much debt that the Government will not be able to honor all its obligations.

In the year 2013, the Social Security trustees project that OASDI outlays will exceed FICA tax revenues. The trust funds will start to run an operating deficit. In 2019 total OASDI outlays will exceed total income and Social Security will begin to run annual deficits. In 2029, the trustees estimate, the trust funds will be exhausted.

According to the Kerry-Danforth Entitlement Commission, under current trends, at about that same time, by the year 2030, total Federal spending will top 37 percent of GDP, net interest will exceed 10 percent of GDP, and the deficit will be about 19 percent of GDP.

Contrast that with today: For fiscal year 1995, Federal spending is expected to be 21.8 percent of GDP, net interest 3.3 percent of GDP, and the deficit 2.5 percent of GDP.

How much more pressure will those future deficits, that interest burden, place on future Social Security beneficiaries? An intolerable amount.

Those future trends will be unsustainable for the economy and devastating to seniors depending on Social Security.

The best way to protect Social Security is to protect our future ability to meet all our obligations. And the best way to do that is to pass the balanced budget amendment and send it to the States for ratification.

Second, nothing in the language of the Reid amendment provides any protection for Social Security or seniors.

Let us look at the plain meaning of the language in the Reid amendment.

All the Reid amendment does is provide a simple exemption. It simply exempts receipts and outlays for the Old Age, Survivors, and Disability Insurance [OASDI] from the calculations of total Federal receipts and outlays—from the calculation of balanced budgets.

Nothing in the Reid amendment says, Congress shall not cut Social Security benefits.

Nothing in the Reid amendment says, Congress shall not raise Social Security taxes on working class people.

Nothing in the Reid amendment says, you cannot change the actuarial balances in the Social Security trust funds.

Nothing in the Reid amendment requires Congress to do any of the things to protect Social Security that the supporters of the Reid amendment say they want to do to protect Social Security.

At the very best, the Reid exemption is a fig leaf that does not add one layer of protection for Social Security.

At the very worst, this exemption could be disastrous for Social Security and our seniors, as I will explain next.

Third, the Reid amendment would create perverse incentives to raid the Social Security trust funds on both the spending and revenue sides.

The Reid language is a simple exemption. And it is all loophole.

It exempts anything you put into, and anything you take out of, the OASDI trust funds from the discipline of the balanced budget.

In other words, it allows unlimited deficits, as long as the accountants say you are deficit spending only out of the OASDI trust funds.

Supporters of the Reid exemption acknowledge this. They say they have taken care of that possibility by limiting OASDI outlays to "provide old age, survivors, and disabilities benefits."

But most of the problem remains.

In its own terms, the Reid exemption says that OASDI trust funds can be used to pay for any "old age, survivors, and disabilities benefits," in addition to what we currently call "social security" benefits.

Let us add up what is possible to include in this loophole, if the Reid amendment to the balanced budget amendment were in the Constitution today, for fiscal year 1995.

Under current statutory definitions, $334 billion will be spent for Social Security in fiscal year 1995.

In addition to what we currently consider Social Security, here are some of the programs that obviously would qualify to be paid for out of Social Security trust funds under the Reid amendment, that are paid for from other sources today:

	Billions
Medicare	$176
Supplemental security income	24
Federal civilian retirement and disability	42
Military retirement and disability	28
Veterans' benefits and services	38
Other retirement and disability	5
Subtotal	313

Those, obviously, are programs that provide old age, survivors, and disability benefits, and adding these spending programs to the OASDI trust funds would almost double what we currently spend on Social Security.

Then, a reasonable question arises, what else might be considered disability or survivors benefits? When Aid to Families with Dependent Children [AFDC] was first created, it was portrayed primarily as providing for widows and surviving children. And most social programs aimed at disadvantaged populations could be said to prevent or mitigate a disability.

So, Congress could also go into the Social Security trust funds to pay for programs like these:

	Billions
Medicaid	$90
Housing assistance	27
Food stamps	26
Family support	18
Public Health Service	13
Child nutrition	8
Education for the disadvantaged	7
Head Start	4
Dislocated workers and Job Corps	2
Other social services	6
Subtotal	201
Total, newly exempt spending	514
Grand total, potentially exempt spending	848

In other words, the Reid exemption would open at least a half-trillion-dollar loophole for deficit spending for programs that are not currently funded out of the Social Security trust funds.

Other programs may qualify, as well. The list I have given is what seemed obvious after only a cursory examination of the President's new budget and CBO's January Economic and Budget Outlook.

Senator THOMPSON, during the Judiciary Committee markup of Senate

Joint Resolution 1, envisioned that christening a new aircraft carrier the "U.S.S. Social Security" would allow it to sail through this kind of loophole.

Add that $533 billion in loophole deficit spending to the $334 billion in Social Security spending that the exemption supporters say they want to protect, and you can move half the budget offbudget—$867 billion in fiscal year 1995.

But it gets worse.

The Reid amendment merely says that OASDI receipts are exempt from the balanced budget amendment—it does not guarantee that today's FICA taxes will continue to be deposited in the OASDI trust funds tomorrow.

Under the Reid amendment, Congress could simply deposit FICA tax revenues into the General Treasury, to help balance the budget, instead of putting them into the OASDI trust funds. This year, that will amount to $357 billion.

Far from protecting Social Security, the Reid amendment creates a perverse incentive to raid Social Security revenues, to use them for other purposes, and to shift every spending program possible offbudget, and into deficit spending, by paying for them out of the Social Security trust funds.

At best, if Congress did not exploit the loopholes, the perverse incentives, offered by the Reid amendment, that exemption would provide absolutely no additional protection for Social Security.

But we would not be here debating the Balanced Budget Amendment in the first place if deficit spending were not so tempting as to become a permanent, systemic problem. Therefore:

The Reid amendment would be worse for Social Security, and worse for the national debt, than the status quo.

A balanced budget amendment with the Reid amendment would be more likely than the "clean" balanced budget amendment, without the Reid amendment, to result in raiding the Social Security trust funds for other purposes.

To repeat the conclusion I stated before: Any amendment, such as the Reid amendment, that claims to do both, require a balanced budget and protect Social Security with an exemption, will do neither.

This is exactly the problem created when you try to reference a statutory creation in the Constitution.

The revenues that go into, and spending that comes out of, the Social Security trust funds, have been set by statute. New spending can be added or subtracted by statute. Revenues can be redirected by statute.

If you create a loophole in the Constitution that can be exploited by statute, it will be. That is why you do not find problems like Social Security referenced anywhere else in the Constitution.

Fourth, nothing in the underlying House Joint Resolution 1 would overturn present statutes protecting Social Security or prevent future efforts to improve its priority status.

The balanced budget amendment is all about setting priorities.

No supporter of any one program really has anything to worry about unless they fear that most of the American people and most of the Congress will consider their program a low priority.

Realistically, we know that is not going to be the case with Social Security.

Bob Myers, former Deputy Commissioner of the Social Security Administration, said it well at our press conference earlier last week:

> It's my opinion, very strongly held opinion, that if it (the balanced budget amendment) were to go into effect and into operation, Social Security benefits would be cut. . . . Congress would see that this would not be logical, or would not be fair.

Social Security has numerous protections under current law that would not, in any way, be overridden or changed by the balanced budget amendment.

These current protections include the following:

The Social Security Amendments of 1983 removed the OASDI trust funds from the totals of the official budget as of fiscal year 1993 and made them "exempt from any general budget limitation imposed by statute on expenditures * * *."

Gramm-Rudman-Hollings in 1985 accelerated Social Security's off budget status to fiscal year 1986 and exempted it from the automatic spending-cut sequester.

Gramm-Rudman-Hollings made it out of order—subject to a 60-vote waiver in the Senate—to include Social Security changes in a deficit-reduction reconciliation bill or conference report.

The 1990 Budget Enforcement Act removed Social Security from any parts of the budget process designed to reduce and control budget deficits.

The 1990 act excluded Social Security from all spending caps and any pay-as-you-go limitations.

The 1990 act also created a point of order against making changes in the actuarial balance in the trust funds—subject to a 60-vote waiver in the Senate.

Under House Joint Resolution 1, these statutory protections would continue to set aside Social Security as a special case, as a priority, within a balanced budget. They would keep Social Security off the table when it comes to budget discipline and deficit reduction. Nothing would prevent Congress from acting to wall off Social Security further.

Fifth, a constitution should include timeless principles, not temporary priorities.

A constitution is a document that enumerates and limits the powers of the Government to protect the basic rights of the people.

Within that framework, it sets forth just enough procedures to safeguard its essential operations. It deals with the most fundamental responsibilities of the government and the broadest principles of governance.

Our balanced budget amendment fits squarely within that constitutional tradition. It is dedicated to the same kind of fundamental, timeless principles enshrined elsewhere in the Constitution.

The guiding principle of the balanced budget amendment could be summed up as follows: The ability of the Federal Government to borrow money from future generations involves decisions of such magnitude that they should not be left to the judgments of transient majorities.

That principle will never change. If the Framers of the original Constitution had realized how insufficiently they had provided for that principle, the balanced budget amendment would have been included in 1787 or 1789.

Social Security, however important, is a statutory program. It involves obligations that we all agree we must honor. But we already know that it will go through changes in the future, as the population goes through changes.

For the sake of future retirees, we know that Congress may have to address these trends at some time in the future, as the trends themselves become clearer. We also know that Congress will only make changes that our senior citizens and the rest of the American people support.

But we cannot predict what the American people will want in this program 30, 40, and 50 years from now. We do know that we do not want them to have to amend the Constitution to perfect the operation of that statutory program.

Mr. President, I also ask unanimous consent that I may enter additional materials into the RECORD at this point, including: A letter from the 60/Plus Association, endorsing the balanced budget amendment and opposing the Social Security exemption; materials from the Seniors Coalition; and additional fact sheets and information.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TAX FAIRNESS FOR SENIORS,
Arlington, VA, February 9, 1995.

Hon. LARRY E. CRAIG,
U.S. Senate, Washington, DC.

DEAR SENATOR CRAIG: I am writing to you to express the strong support of the 60/Plus Association for the Balanced Budget Amendment to the Constitution, which is now being considered by the U.S. Senate.

The 60/Plus Association is a two-year-old, nonpartisan, seniors advocacy group with more than 225,000 members. For the 103d Congress, we presented the Guardian of Seniors' Rights award to 226 House and Senate Members.

The Balanced Budget Amendment is the best friend the Social Security system and our nation's seniors could have. The Senate should pass H.J. Res. 1, as passed by the House of Representatives in a strong bipartisan vote, and submit it immediately to the States for ratification.

Continued, growing deficit spending is the greatest threat to the integrity of the Social Security system and to the present and future benefits paid from Social Security trust funds. Past deficits have created a national debt of $4.8 trillin—an alarming 70 percent of our Gross Domestic Product. Gross interest payments now consume nearly one-fifth of total federal spending and will surpass Social Security as the largest item of spending by the end of the decade.

This national debt already has depressed the economy and lowered seniors' standard of living. As the costs of servicing that debt continue to climb and to squeeze all other budget priorities, they threaten the very existence of Social Security. Today's Social Security surpluses represent a commitment to seniors tomorrow. But a debtor bankrupted by an excessive debt load is not able to meet any of its commitments. Bitter experience has shown that only the Balanced Budget Amendment can save our nation from that fate.

While well-intentioned, these attempts to exempt Social Security from the discipline of the Balanced Budget Amendment are completely misguided. Instead of protecting seniors, exemptions like that in the Reid Amendment would allow the Social Security trust funds to run unlimited deficits. This would create an irresistible temptation to pay for all sorts of unrelated programs out of the trust funds, completely destroying the unique purpose for which they were created and rendering them insolvent.

The debt is the threat to Social Security and America's seniors. A "clean" balanced budget amendment, such as H.J. Res. 1, is their best protector. The 60/Plus Association urges you and your colleagues to pass this urgently needed legislation and resist the scare tactics of those who create any loopholes that would compromise either balancing the budget or protecting Social Security.

Former Senator Paul Tsongas summed it up best when he said he was "embarrassed as a Democrat to watch a Democratic President raise the scare tactics of Social Security."

In other words, it's "scare us old folks time again" as opponents drag a 30-year-old red herring across the trail.

Many seniors—including this one—vividly remember the scare tactics then—the LBJ TV ad—a giant pair of scissors cutting through a Social Security card—with the clear implication that a vote for Barry Goldwater and Republicans would mean the end of Social Security.

Seniors didn't buy that canard then, nor do they now, 30 years later, judging by the response we get from the vast majority of seniors.

Sincerely,

JAMES L. MARTIN,
Chairman, 60+.

THE SENIORS COALITION,
Fairfax, VA, January 24, 1995.

Memorandum re balanced budget amendment.

To: Senator CRAIG.

Fr: Jake Hansen, Vice President for Government Relations.

The Seniors Coalition has supported a balanced budget amendment for several years. On behalf of our one million members nationwide, I am requesting your support of S.J. Res. 1 in the next few weeks.

It is vital that Congress pass a measure that would require the federal budget to be balanced. Our members feel that if the government were forced to evaluate its spending the way every family in America evaluates their own, this country would not be "heading down the wrong path." While there are a great many factors that contribute to this public perception, the bottom line for many Americans is that the government takes too much from them and spends too much on programs that do not work. The time to end the cycle of taxing and spending has come.

I also want to touch briefly on the role of Social Security in the balanced budget amendment. We feel that there is no reason to exempt Social Security from a balanced budget. In fact, such an exemption would create a serious policy and political crisis for Congress, and would lead to the destruction of the Social Security system.

If Social Security is exempted, the total force of balancing the budget will find its way to Social Security. There will be an overwhelming temptation to either redefine government programs as Social Security programs, or pull money out of the Trust Fund to balance the budget by cutting Social Security taxes to offset tax increases elsewhere. In fact, there would be nothing to stop Congress from "borrowing" as much money as it wanted from the Trust Funds to finance any other government program.

We feel confident that the political climate surrounding Social Security is enough to protect it, thus engaging in destructive policy in the name of protection will only lead us down the path of truly committing damage to the Social Security system.

What is most important is that America be given a serious balanced budget amendment as soon as possible.

THE SENIORS COALITION,
Fairfax, VA, January 26, 1995.

BALANCED BUDGET AMENDMENT—ALERT

This morning the opponents of a BBA launched a full scale attack on the Balanced Budget Amendment with Social Security bombs. Seniors across the country are watching C-SPAN with renewed and unjustified fear. It is vital that their scare campaign be stopped!

EXEMPTING SOCIAL SECURITY FROM THE BALANCED BUDGET AMENDMENT WILL DESTROY THE SOCIAL SECURITY SYSTEM—NOT PROTECT IT

Balancing the budget will create tremendous pressure and that pressure will blow through any available escape hatch. WHATEVER is exempted from the balanced budget requirement becomes that escape hatch!

As the total force of balancing the budget falls on Social Security, there will be overwhelming pressure to redefine many government programs as Social Security programs. This endangers its original purpose. There would be nothing to stop Congress from "borrowing" as much money as it wanted from the trust fund to finance any government program if Social Security is exempted from the Balanced Budget Amendment.

Exempting Social Security from the Balanced Budget Amendment would open a loophole in the requirement that would completely gut its effectiveness by allowing all social welfare and other programs (such as Medicare and Medicaid) to be financed off-budget, in deficit, as the "New Covenant Social Security."

FAILURE TO PASS A BALANCED BUDGET AMENDMENT WILL DESTROY SOCIAL SECURITY

Eventually, $400 billion plus will have to be returned to the Social Security trust fund to pay benefits to retired baby-boomers. Without starting a balanced budget process NOW, the battle over Social Security will be like nothing Congress has ever seen thirty years from now.

Without balancing the budget, Social Security benefits will always be subject to cuts, new taxes and means-testing. This permanently erodes any confidence in discussions of systemic reforms for future generations.

THE SENIORS COALITION,
Fairfax, VA, January 23, 1995.

TESTIMONY OF JAKE HANSEN, DIRECTOR OF GOVERNMENT AFFAIRS, THE SENIORS COALITION, FOR THE JOINT ECONOMIC COMMITTEE, U.S. CONGRESS

BALANCED BUDGET AMENDMENT: IMPERATIVE TO SOCIAL SECURITY

Mr. Chairman, this is not a new issue to The Seniors Coalition. Since our inception we have fought for a Balanced Budget Amendment. We have had experts on Social Security and expert economist look at the issue, as well as hearing from thousands of our members. Their conclusion: give us a Balanced Budget Amendment.

During the elections and in recent debate, we have heard from many politicians that a Balanced Budget Amendment will destroy Social Security. However, the question is not "Will a Balanced Budget Amendment destroy Social Security", but rather "Can Social Security survive without a Balanced Budget Amendment?"

As you know, up until 1983, the Social Security system ran on a pay-as-you-go basis. That is, the amount of money going into the Trust Funds from payroll deductions was basically equal to the amount of money being paid to beneficiaries of the day.

In the late seventies, the economy was a disaster. Inflation was up, leading to higher cost of living payments than had been anticipated. Unemployment was up, meaning that less money was being paid into the system than had been anticipated. The result: Social Security was headed for bankruptcy at break-neck speed.

In 1983, a bi-partisan effort saved Social Security by changing the benefit structure and raising Social Security payroll taxes. This effort created a new—and potentially worse—problem: a rising fund balance in the Social Security Trust Funds. For the past ten years, more money has been pouring into the Trust Funds than is needed to meet today's obligations.

This balance has been "borrowed" by the federal government. Today, the federal government owes the Trust Funds about $430 billion. By the year 2018, according to the Social Security Board of Trustees, that figure will be a shade over three trillion dollars. At that time, the entire federal debt will be—who knows, eight, ten, twelve trillion dollars?

The point is, how will the government ever pay back the Trust Funds? They could: Turn on the printing presses and monetize the debt, so that a Social Security check would buy a loaf of bread; borrow the money—hurting both the economy and the Federal Budget; make massive cuts in benefits; raise taxes, and thus, destroy the economy for everyone; or simply renege on the debt.

Mr. Chairman, The Seniors Coalition doesn't find any of these alternatives acceptable.

The Chairman of our advisory board, Robert J. Myers (often referred to as the father of Social Security) wrote of his support of a Balanced Budget Amendment last year and said:

"In my opinion, the most serious threat to Social Security is the federal government's fiscal irresponsibility. If we continue to run federal defects year after year, and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the trust funds to pay for our current prolificacy, or we will print money, dishonestly inflating our way out of indebtedness. Both cases would devastate the real value of the Social Security Trust Funds."

The bottom line, is that if we want to protect the integrity of Social Security the only way is through a Balanced Budget Amendment.

With that said, the question becomes will just any old Balanced Budget Amendment do? The answer is, some are better than others, and some are absolutely not acceptable.

First, some people are suggesting that Social Security should be exempted. That should be something that an organization like ours would leap at. The fact is, we are concerned that such an Amendment would end up destroying Social Security as more and more government programs would be moved to Social Security to circumvent the Balanced Budget Amendment. We believe this would destroy Social Security, and will not support such an Amendment.

Our first choice would be a Balanced Budget Amendment that controls taxes as well as spending—such as the Amendment that has been presented by Congressman Barton. We support tax limitation and would like to see this Amendment voted on. We would urge every Member of Congress to vote for this Amendment.

If, this Amendment does not pass, then we willingly support a Balanced Budget Amendment such as the one offered by Senators Hatch and Craig. While I am concerned about taxes, I believe that last year's elections showed us that we, the people, do have the ultimate power. And, I believe that had we been forced to pay for all the government we were being given, we would have made massive changes much sooner.

Mr. Chairman, we believe that what is most important is that America be given a serious Balanced Budget Amendment as soon as possible. We will work with you and your colleagues in every way possible to make that happen. Thank you.

Congressional Leaders United for a Balanced Budget [CLUBB] Fact Sheet, January 18, 1995

A Balanced Budget Amendment Exemption Would Increase The Threat To Social Security.

A BBA exemption would threaten the revenues for the Social Security Trust Fund. Placing the OASDI/Social Security trust funds outside the Amendment's deficit restrictions would provide a perverse incentive for a future Congress to shift FICA (and related income) taxes out of the trust funds. Portions of those taxes could be transferred to general Treasury accounts to balance the "operating" budget covered by the BBA, but at the cost of gutting the OASDI trust funds. The current stable revenue stream for Social Security could be critically diverted in small steps which would add up to disaster for the system. A precedent for this already exists: The income taxes on Social Security benefits in the 1983 "bailout" go directly into the trust funds, but higher income taxes imposed on Social Security retirees in 1993 are diverted to general Treasury revenues.

Social Security could easily be overwhelmed by non-Social Security programs moved to Social Security's ledger in an attempt to hide them behind the cloak of its exempt status. It's easy to predict well-meaning efforts to protect a whole range of social programs by arguing they fall under the general intent of Social Security to provide a safety net. Contrary to the claims of those who want an exemption, funding for current Social Security would not be set aside for protection, but would be pilfered by reclassifying more and more programs as Social Security. This is an even greater threat than simply providing a loophole for deficit spending. As other programs intrude on Social Security, its stability will steadily erode.

A Social Security exemption defeats the intent of the BBA by providing the greatest deficit loophole in history. As if the direct threat to Social Security isn't enough, exempting it would create an enclave for additional federal debt while at the same time, government could proudly proclaim a "balanced budget." Projects which risk being assigned a low priority under the BBA could avoid facing scrutiny and be paid for by draining the Trust Funds. The Social Security deficit tomorrow could be bigger than the total deficit today.

The debt is the threat! The greatest threat to Social Security is the federal debt itself. Gross interest payments on the debt already are nipping at the heels of Social Security as the second largest single item in the federal budget. Social Security is in no way immune to the increasing pressure interest payments placed on every single federal spending item as the growing debt forces ever larger debt service costs.

Every current statutory protection for Social Security can continue under BBA. Social Security is the best statutorily protected program in the federal budget. Those laws are perfectly compatible with a BBA and can remain in force, continuing to protect the system. The BBA takes away the major threats to Social Security so existing statutes can do their jobs. But if the federal budget does not have the spending restraint imposed on it by a Constitutional Amendment, we cannot guarantee that the statutes which protect Social Security now can be maintained.

Congressional Leaders United for a Balanced Budget [CLUBB] Fact Sheet

HOW THE BALANCED BUDGET AMENDMENT PROTECTS SOCIAL SECURITY

The BBA would put an end to the rapid growth in interest payments that threaten to crowd out Social Security spending.

Interest payments on the federal debt have nearly quadrupled since 1980. Net interest payments in 1993 were $200 billion and are expected to exceed $300 billion annually by the end of the decade. Until we balance the budget, spiralling interest payments will continue to crowd out other spending, including Social Security.

Balancing the budget would avert the threat of runaway inflation.

No industrialized nation has reached the level of debt we will face next century without monetizing the debt by printing more dollars. Monetizing the debt would lead to explosive inflation. Huge debt burdens contributed to ruinious inflation in Germany in the 1920's and several Third World nations in the 1980's. Runaway inflation would have a particularly severe impact on senior citizens living on a fixed income. It would not do any good to get a $1,000 retirement check if bread costs $100 a loaf.

The BBA would force Congress to deal with deficits in time to prevent a budget crisis forcing draconian cuts each year just to "muddle through."

The General Accounting Office has warned that if the amount of deficit reduction required just to limit the deficit to three percent of GDP would increase exponentially by the year 2005. By the year 2020, Congress would be required to enact a half a trillion dollars of additional deficit reduction each year just to restrain the deficit to three percent of GDP. No program—including Social Security—would be able to escape deep spending cuts under this scenario.

Balancing the budget would promote the economic growth necessary to sustain the Social Security trust funds.

GAO, CBO and most economists warn that continued growth in deficit spending would result in lower productivity and deteriorating living standards. As real wages for tax-paying workers decline, there will be increasing resistance to the taxes necessary to meet the growing commitments of the Social Security program. GAO found that balancing the budget by the year 2001 would lead to the higher productivity and growth in real wages that would be necessary to support our commitments to the growing elderly population.

The amendment would help ensure that Congress takes action before the Social Security trust funds begin running yearly deficits.

Although the Social Security trust funds currently run a surplus, within a generation, they will face cash shortfalls. A balanced budget amendment would provide Congress and the President with the necessary incentive to take corrective action to deal with this threat and provide for the long-term solvency of the trust funds.

The amendment preserve statutory provisions protecting Social Security.

The current statutory protections for Social Security would not be eliminated by the BBA. For example, under current law, any legislation that would change the actuarial balance of the social security trust funds are subject to a point of order which requires a 3/5 vote to waive in the Senate. Under the 1985 Gramm-Rudman-Hollings Act and the 1990 Budget Enforcement Act, Social Security was completely protected from all sequesters. Social Security is not subject to the spending caps in the 1990 budget agreement. Given political realities, Congress would be likely to set budget priorities in such a way that protections for Social Security are maintained or even enhanced.

Exempting Social Security would open up a loophole in the BBA and tempt Congress to defund the trust funds, threatening retirement benefits and the trust fund surplusses.

Exempting the Social Security trust funds from the amendment would create a perverse incentive for Congress to use them as a source to fund new or totally unrelated programs, threatening the ability of the trust funds to fulfill their current obligations to retirees. For example, Congress could pay for current and new non-Social Security spending by simply depositing FICA taxes into general Treasury revenues, instead of into the trust funds. Congress also could pass legislation to shift spending for Medicare, other retirement programs, or any number of programs to the Social Security trust funds to avoid a 3/5 vote to unbalance the budget. Thus, non-Social Security outlays and receipts could be "balanced" simply changing program definitions and draining the Social Security trust funds.

The Constitution is not the place to set budget priorities.

A constitutional amendment should be timeless and reflect a broad consensus, not make narrow policy decisions. As noted above, the financial status of Social Security will change drastically, and perhaps quite unpredictably, in the next century. We should not place technical language or overly complicated mechanisms in the Constitution and undercut the simplicity and universality of the amendment.

SENIORS' SECURITY IN THE BALANCE

(by Larry E. Craig)

SUBMITTED SEPTEMBER 29, 1994, TO UNITED SENIORS OF AMERICA FOR THEIR NEWSLETTER

Early next year, the new Congress will again begin considering the Balanced Budget Amendment to the Constitution (BBA), as well as specific proposals to reduce federal deficit spending. Seniors will be told these efforts are an assault on their rights, economic security, and general well-being.

Don't you believe it.

The BBA and the right package of spending reforms are absolutely critical to preserving not only the well-being of seniors today and tomorrow, but also the American Dream of economic opportunity for our children and grandchildren.

The federal government has spent more than it has taken in for 56 of the last 64 years. The result is a federal debt that now totals $4.6 trillion—more than $18,000 for every man, woman, and child in America—and will reach $9 trillion by the year 2004.

Seniors are paying already, in higher taxes and lower living standards, for the drag this debt puts on our economy. The Federal Reserve Bank of New York estimated that the $3 trillion added to the debt prior to 1990 reduced Americans' standard of living by 5 percent. A General Accounting Office study projected that current trends will reduce our standard of living another 7-to-36 percent by the year 2020.

Gross interest payments on the federal debt now run $300 billion a year, an amount equal to half of all personal income taxes. Every dollar borrowed incurs interest costs that squeeze priority programs—like Medicare—and create pressure for higher taxes—like those raised last year on Social Security benefits. In contrast, if the current federal debt had not been allowed to accumulate, the savings in interest costs would have produced a balanced budget in 1994 and a $64 billion surplus in 1995.

About 10 percent of the federal debt is owed to the Social Security trust funds and is supposed to be paid out eventually in benefits. The more debt the government piles up, the harder it will be to find the cash to honor its obligations.

If the stakes are so high, why has it been so hard to balance the budget? Our system of government has changed fundamentally. While most Americans want a balanced budget, this general public interest is outgunned by the specific demands of mobilized, organized interest groups. The unlimited ability to borrow leads naturally to unlimited demands to spend. If they don't have to say "no," many elected officials see only political peril in doing so.

There's no way to make it a fair fight until we put a balanced budget rule in place that Congress can't ignore, postpone, or repeal at will—and that will be true only if the rule is in the Constitution.

The United Seniors Association endorses the BBA. Unfortunately, however, some groups with an agenda of ever-expanding social programs have resorted to misleading, mass-mail scare tactics claiming the BBA would force severe cutbacks on Social Security.

Nothing could be farther from the truth. The BBA would not change the current statutory protections and priority budgetary status enjoyed by Social Security. It would not prevent Congress from enacting further protections in the future.

Most important, the BBA would do more to protect Social Security than would any other reform, by reversing and reducing the threat now posed by an ever-growing federal debt. Contrary to the alarmist groups' arguments, exempting Social Security from the BBA would not change the government's overall financing needs—it would just shift IOU's from one pocket to the other.

The BBA would be phased in over several years to ease the adjustment. Total federal spending is growing an average of more than 5 percent a year. If we simply held annual spending growth to 2.8 percent a year, we would balance the budget by the year 2001.

In addition to passing the BBA and sending it to the states for ratification, the next Congress should move toward a balanced budget by doing the following:

Give the President a modified line item veto ("expedited rescission") authority, so that billions of dollars in narrow-interest "pork" cannot be hidden away in massive, must-pass pieces of legislation;

Require honesty in budgeting, so technical rules are no longer manipulated to claim that a program's spending has been cut when it actually has been increased;

Cap the overall growth in federal spending, including both the so-called "discretionary" and "entitlement" categories.

Balancing the budget is a key to saving our way of life. No one can be exempt from some belt-tightening once we summon up the discipline to move in that direction. But the Idahoans—and other Americans—I've talked to, from school children to seniors, understand the problem and are willing to bear their share, as long as deficit-reduction is spread out fairly and no one group is singled out. Debt multiplies, but so do savings. The sooner we start, the easier it will be.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, February 14, 1994.

DEAR COLLEAGUE: Recently, certain interest groups have raised fears that the Balanced Budget Amendment to the Constitution somehow threatens Social Security and other important social programs.

Nothing could be further from the truth. The Balanced Budget Amendment will protect the very programs that I have spent my career fighting for: Social Security, health care, education, job training, and other important programs that help people achieve economic security before and after retirement.

The most serious danger to Social Security is our enormous debt burden. If we continue to spend beyond our means, the temptation to pay for our debts by printing more and more money will become irresistible. That remedy, however, would result in the kind of inflation that would devastate the Social Security Trust Fund. After all, what good is a $1,000 social security check if a loaf of bread costs $100?

Dorcas Hardy, the former commissioner of Social Security, emphasized this point in her book "Social Insecurity." Her number one recommendation for protecting the Social Security Trust Fund: balance the federal budget. That is the objective of the Balanced Budget Amendment.

Unfortunately, we still have a long way to go to meet that goal. The budget deficit is projected to remain over $170 billion in 1995. Interest payments on the debt now exceed $290 billion, only a few billion dollars behind social security payments themselves. How can we possibly hope to adequately invest in vital social programs like health care for the elderly if we keep throwing dollars away on interest? Unless we end this trend, federal support for the sick, the poor, and the elderly, as well as programs like education, will indeed be threatened.

The fact that I have spent my legislative career fighting for seniors, for health care, and for other needed social programs would, I hope, at least cause some to pause enough in their passionate rhetoric to listen, and examine. I would not be sponsoring the Constitutional Amendment if it would hurt the investments we need to build a stronger, better nation.

Only with this Amendment can we be confident that all of us will have a secure economic future.

My best wishes.

Cordially,

PAUL SIMON,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, February 16, 1994.

DEAR COLLEAGUE: I recently sent you a "Dear Colleague" letter explaining how the Balanced Budget Amendment will protect Social Security and other important social programs that help people achieve economic security before and after retirement. Unfortunately, the most serious threat to Social Security is our runaway debt.

Subsequent to that "Dear Colleague," I received a letter from Robert J. Myers, a retired public servant who helped write the legislation that created the Social Security system in the 1930's. He worked in the Social Security Administration for a total of 37 years, including 23 years as Chief Actuary and two years as Deputy Commissioner. He was a member of the National Commission on Social Security from 1978–1981 and served as Executive Director of the National Commission on Social Security Reform from 1982–1983. In the past, Mr. Myers worked as a consultant to the American Association of Retired Persons (AARP) on Social Security Issues.

Robert J. Myers is a renowned expert on Social Security matters and is an informed supporter of a sound Social Security program. He has been referred to in this body as a "person of legendary integrity and authority" in this area. His letter succinctly summarizes the real threat to Social Security. Although it speaks for itself, his conclusion bears repeating: "Regaining control of our fiscal affairs is the most important step that we can take to protect the Social Security trust funds." He supports the Balanced Budget Amendment as the appropriate means to exercise that control.

I have enclosed a copy of Mr. Myers letter. I strongly urge you to read it in its entirety.

My best wishes.

Cordially,

PAUL SIMON,
U.S. Senator.

Enclosure.

ROBERT J. MYERS,
Silver Spring, MD, February 15, 1994.

Hon. PAUL SIMON,
U.S. Senate,
Washington, DC.

DEAR SENATOR SIMON: I am pleased to have this opportunity to express my support for the Balanced Budget Amendment.

For 37 years I worked for the Social Security Administration, serving as Chief Actuary in 1947-70, and as Deputy Commissioner in 1981-82. In 1982-83, I served as Executive Director of the National Commission on Social Security Reform. And I continue to do all that I can to assure that Social Security continues to fulfill its promises.

The Social Security trust funds are one of the great social successes of this century. The program is fully self-sustaining, and is currently running significant excesses of income over outgo. The trust funds will continue to help the elderly for generations to come—so long as the rest of the federal government acts with fiscal prudence. Unfortunately, that is a big "if."

In my opinion, the most serious threat to Social Security is the federal government's fiscal irresponsibility. If we continue to run federal deficits year after year, and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the trust funds to pay for our current profligacy, or we will print money, dishonestly inflating our way out of indebtedness. Both cases would devastate the real value of the Social Security trust funds.

Regaining control of our fiscal affairs is the most important step that we can take to protect the soundness of the Social Security trust funds. I urge the Congress to make that goal a reality—and to pass the Balanced Budget Amendment without delay.

Sincerely,

ROBERT J. MYERS.

CRS REPORT FOR CONGRESS—SOCIAL SECURITY: ITS REMOVAL FROM THE BUDGET AND PROCEDURES FOR CONSIDERING CHANGES TO THE PROGRAM

(By David Koitz)

SUMMARY

Social security and other Federal programs that operate through trust funds first were counted officially in the Federal budget in FY 1969. At the time Congress did not have a budget-making process, and the trust fund programs were added to the budget by administrative action of President Johnson. In 1974, Congress began setting budget goals annually through passage of budget resolutions. Like the budgets the President prepared, these resolutions reflected a "unified budget" approach that included trust fund programs such as social security in the budget totals.

Beginning in the late 1970s, financial problems plaguing social security and concern over the program's growing costs and the duplicative role it performed with other programs gave impetus to measure to curtail benefits. Social security cutbacks were included in the Omnibus Budget Reconciliation Acts of 1980 and 1981 and the Social Security Amendments of 1983. However, despite passage of these cost-saving measures, resolution of the program's financial problems, and the eventual buildup of surpluses in the trust fund accounts, interest in other ways to curb social security expenditures continued because of the large Federal budget deficits that arose in the 1980s.

This routine consideration of social security constraints led to concerns that the public's confidence in the program was being eroded and gave impetus to proposals to remove social security from the budget. The result was that although social security continued to be counted in the budget throughout the decade, measures were enacted in 1983, 1985, and 1987 making the program a more distinct component of the budget and imposing potential procedural hurdles for budgetary bills containing social security changes.

Then, in 1990, reacting to criticism that surplus social security taxes were hiding the size of the budget deficits, Congress removed the program from the budget calculations. This was one of the changes in the budget process included in the $500 billion deficit-reduction legislation enacted at the end of the 101st Congress. The legislation also excluded social security from budget procedures designed to discourage tax reductions or spending increases that would increase the size of the deficits. At the same time, however, because of concern that lifting these constraints would encourage proposals that could weaken the financial condition of social security, Congress adopted new procedural hurdles for bills that would erode the balances of the trust fund accounts.

In the House, these procedures permit points of order to be raised against bills that (1) propose more than $250 million in social security spending increases or revenue reductions over a 5-year period or (2) would increase the average cost or reduce the average income of the program over the long run (considered to be 75 years) by at least 0.02 percent of taxable payroll. In the Senate, budget resolutions set specific amounts for social security income and outgo for a 5-year period, and points of order can be raised against measures that would cause income to be lower or outgo to be higher than these amounts. Approval by three-fifths of the Senate is required to waive the objection. These procedures were made effective beginning with FY 1991.

INTRODUCTION

Social security and other Federal programs that operate through trust funds first were counted officially in the Federal budget in FY 1969. This initiative was taken by President Johnson. At the time Congress did not have a budget-making process. Spending and revenue measures were adopted incrementally through appropriations laws and periodic entitlement legislation. In 1974, with passage of the Congressional Budget and Impoundment Control Act (P.L. 93-344), Congress adopted a process for developing budget goals through passage of annual budget resolutions. Like the annual budgets prepared by the President, these resolutions were to reflect a "unified" approach that included trust fund programs such as social security in the budget totals.

Beginning in the late 1970s, financial problems plaguing the social security trust funds and concern over the program's growing costs and the duplicative role it performed with other programs gave impetus to a variety of measures to curtail certain benefits. A number of cutbacks were included in the Omnibus Budget Reconciliation Acts of 1980 and 1981 and the Social Security Amendments of 1983. However, despite passage of these cost-saving measures, resolution of the program's financial problems, and the eventual buildup of surpluses in the trust fund accounts, interest in other possible ways to curb social security expenditures continued because of the large Federal budget deficits that arose in the 1980s.

This routine consideration of social security constraints led to concerns that the public's confidence in the program was being eroded and gave impetus to proposals to remove social security from the budget. The result was that although social security continued to be counted in the budget totals throughout the decade, a series of measures were enacted in 1983, 1985, and 1987 making the program a more distinct part of the budget and permitting floor objections to be raised against budgetary bills containing social security changes.

Then, in 1990, reacting to criticism that surplus social security taxes were masking the size of the budget deficits, Congress removed the program from the budget calculations. This step was one of the budget process changes included in the $500 billion deficit-reduction legislation passed at the end of the 101st Congress (P.L. 101-508, the Omnibus Budget Reconciliation Act of 1990). The new law also excluded social security from the new procedural aspects of the budget process designed to discourage tax reductions or spending increases that would increase the size of the deficits. At the same time, however, because of concern that lifting these constraints would encourage proposals that could weaken social security's financial condition, Congress included measures in that same act to permit additional forms of floor objections to be raised against bills that would erode the balances of the social security trust fund accounts.

SOCIAL SECURITY'S BUDGET TREATMENT UNDER THE SOCIAL SECURITY AMENDMENTS OF 1983

The Social Security Amendments of 1983 (P.L. 98-21) required that beginning with the Federal budget for FY 1993, income and expenditures for social security—Old Age, Survivors, and Disability Insurance (OASDI)—and the Hospital Insurance (HI) portion of the medicare program would be excluded from the totals of the budget formulated by the President and Congress and would be "exempt from any general budget limitation imposed by statute on expenditures. * * *"[1] The Supplementary Medical Insurance (SMI) portion of medicare, although remaining a component of the official budget figures, was to be more prominently displayed in the budget as a separate functional category.

The amendments also required that for FY 1985-1992 the social security and medicare programs be displayed more prominently in both the President's and congressional budgets as separate major functional categories of the budget. Previously social security was displayed in the category labeled *income security*, which included civil service retirement and disability, railroad retirement, unemployment insurance, food stamps, and other public assistance programs. Medicare was displayed in the category for health activities, which included such programs as medicaid, health block grants to the States, biomedical research, and medical education and health training grants.

SOCIAL SECURITY'S BUDGET TREATMENT UNDER THE 1985 GRAMM-RUDMAN-HOLLINGS PROCEDURES

The Balanced Budget and Emergency Deficit Control Act of 1985 (Title II of P.L. 99-177) included several measures further altering social security's budget treatment. This was the original enabling legislation for the Gramm-Rudman-Hollings (GRH) deficit-reduction provisions, the purpose of which was to bring the Federal budget into balance by FY 1991. Among the changes it made to the budget process, the act accelerated the "off-budget" treatment of social security to FY 1986 (from FY 1993, as prescribed by the Social Security Amendments of 1983).[2] However, for the purpose of setting a schedule for eliminating the deficits, it stipulated that the receipts and expenditures of the social security trust funds be counted in calculating the budget deficits and enforcing the deficit goals established under the act and subsequent budget resolutions. In effect, the

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Footnotes at end of article.

1985 law appeared to make contradictory statements about how social security was to be viewed in the Federal budget.

After passage, the only notable manifestation of the off-budget status of the program was that the President's budget and other tabulations of the budget began to show what the figures would be with and without social security.

Congress altered the GRH procedures and extended the time period over which the budget deficits would be eliminated to FY 1993 (instead of FY 1991) in passing Title I of P.L. 100–119, cited as the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987. Except for the 2-year extension in arriving at a balanced budget, the treatment of social security under the budget process was not altered.[3]

Sequestration and reconciliation to enforce the budget targets

A key element of the GRH procedures was a requirement that the President reduce (or sequester) expenditures if projected budget deficits exceeded the targets set in the law. The idea was that if economic or legislative developments did not lead to meeting the targets, across-the-board spending cuts would be triggered. Social security's income and outgo were counted in determining the deficits; however, social security benefits were exempt from any spending cuts that the President was required to make.[4] Social security's administrative expenses were not exempt.

Congress could take action on its own to bring overall spending and receipts in line with the targets (and avoid sequestration) by enacting so-called budget reconciliation legislation. As part of budget resolutions, specific outlays and/or revenue targets were given to each committee, and if a committee could not meet the targets under present law provisions of the programs under its jurisdiction, it was expected to recommend changes. Recommended changes from the various committees would then be joined together by the budget committees in each House and passed as a single budget reconciliation act.[5] Social security benefits were again protected from potential cutbacks through rules that made it out of order for either the House or Senate to take up social security changes in a reconciliation bill, resolution, or conference report thereon. If an objection were raised (a so-called section 310(g) objection) against a bill that did so, a separate vote, suspending the rules under which the respective bodies operate, was required. In the Senate, this required approval by three-fifths of its Members.[6]

Procedures to maintain budget discipline

Also enacted with the GRH procedures were restrictions on bringing up legislative changes that would violate budget resolution totals (including, with respect to the Senate, the GRH deficit target) or the separate spending and revenue allocations made to each committee. Social security was affected by these restrictions in the same way as other programs; points of order (so-called sections 302 and 311 objections) could be raised against social security legislation that violated the resolution totals or committee allocations. These, too, could be overridden only by a vote of three-fifths of the Senate.[7]

SOCIAL SECURITY'S BUDGET TREATMENT UNDER THE 1990 BUDGET ENFORCEMENT ACT

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508) again made substantial changes in the budget process (under Title XIII, entitled the Budget Enforcement Act of 1990). Among them was the removal of the income and outgo of the social security trust funds from all calculations of the Federal budget, including the budget deficit or surplus. This measure applied to the budgets prepared by the President, to the Federal budgets formulated by the Congress (e.g., budget resolutions), and to the budget process provisions designed to reduce and control the budget deficits.[8] In the Senate, budget resolutions were to contain income and outgo targets for social security, but they were to be set separately and not be included in the budget totals themselves.[9]

Exclusion of Social Security benefits from spending limits and deficit-reduction targets

A key element of the current budget process put in place by the Budget Enforcement Act is a set of specific limits on discretionary spending (encompassing most programs requiring annual appropriations) and a "pay-as-you-go" requirement for direct spending (mostly entitlement programs) and revenues. For FY 1991–93, these limits and the pay-as-you-go requirement, for the most part, took the place of the overall deficit-reduction targets established under the former GRH procedures.[10] For FY 1994–95, overall deficit targets again may become critical limits in the process (although it should be noted that a balanced budget is not set forth as the ultimate target, i.e., for FY 1995). Under the old procedures, the income and outgo of social security were included in estimating the budget deficit to determine if the deficit was expected to fall within the targets set under the law. In contrast, under the current procedures social security's income and outgo are excluded from calculations of the limits (including the pay-as-you-go rule) and overall targets, with the exception of administrative expenditures, which are incorporated in a limit on discretionary spending.

As under the old law, if any of the spending limits or the "pay-as-you-go" rule are violated (i.e., breached or exceeded), the President may be required to issue sequestration orders to bring spending down to the prescribed limits. Social security would be exempt as it was under the old law (again, with the exception of administrative expenses).

The 1990 law also continued the old law provision (section 310 (g)) that permits points of order to be raised against reconciliation bills or resolutions that contain social security measures.

Inclusion of Social Security's administrative expenses under the spending limits and deficit-reduction targets

Under the pre-1990 law social security's administrative expenses were subject to sequestration of the GRH deficit targets were exceeded. While the 1990 law stated that social security was not be counted as "budget authority or outlays for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985," there was some ambiguity about how the program's administrative costs were to be treated. The accompanying explanatory statement of the conferees reiterated that social security benefits were exempt from sequestration, but made no mention of administrative expenses. However, social security was listed among the programs subject to the limit on discretionary domestic spending with a footnote stating that portions of the social security accounts are "non-appropriated mandatory." One interpretation is that the only reason social security was listed in the discretionary domestic category was to subject its administrative expenses to the limit, since benefit payments, interest, and payments to the trust funds all were explicitly excluded. An alternative interpretation is that the new provision stating that social security is not to be counted for budget act purposes was sufficient language to exempt all aspects of the program from the discretionary limit. The lack of specificity gave the Office of Management and Budget (OMB) latitude to make either interpretation, and early in 1990 OMB chose to include it in the discretionary category of the budget as domestic spending. Hence, social security's administrative expenses are subject to the 1990 budget rules and the process.[11]

Procedures to protect the Social Security trust funds

The 1990 law also made changes in House and Senate procedures intended to protect the social security trust funds from benefit liberalizations or revenue reductions that would erode their balances. Under the old law, social security's inclusion in the budget had the potential effect of thwarting attempts to increase social security spending or cut its revenue base. Points of order could be raised against such actions for violating the budget resolution totals or spending and revenue allocations if the action would be effective in the year of the budget resolution. Moreover, these violations would have potentially threatened other programs with sequestration, and posed difficulty for Congress and the President in reaching subsequent budget targets. In effect, the former process imposed a fiscal discipline on social security.

Since social security benefits are now not part of the budget, the fiscal constraints of the budget process technically no longer apply. In their place, the 1990 law established separate rules for the House and Senate that attempt to make it difficult to bring measures for a vote in the respective chambers that would weaken the financial condition of the program by reducing revenue or increasing spending without offsetting changes.

In the House, a point of order can be raised against a bill that proposes more than $250 million in social security spending increases or revenue reductions over the 5-year period consisting of the fiscal year in which the legislation becomes effective and the following 4 years, unless the bill also contains other offsetting spending reductions or tax increases that bring the net impact of the measures within the $250 million limit. In calculating the impact, any costs from prior legislation (i.e., enacted in the current or previous 4 years) that fall within the 5-year period would be counted in calculating whether the pending legislation falls within the limit. A point of order also can be raised against a measure that would increase long-range (75 years) average costs or reduce long-range revenues by at least 0.02 percent of taxable payroll. Hence, a bill whose financial impact fell within the 5-year $250 million limit could still be subject to a point of order if its long-range costs were equal to or greater than 0.02 percent of taxable payroll.

In the Senate, budget resolutions must include separate amounts for social security income and outgo for the first year and 5-year period (cumulatively) covered by the resolution. (They are separate in the sense that they are not counted in the budget resolution totals themselves.) These amounts cannot reflect a narrowing in the surplus of income (or larger deficit) from what is projected under current law. Recommended resolutions or amendments that do so could draw an objection that can be overridden only by approval of three-fifths of the Senate.[12] Simply stated, Senate rules preclude consideration of budget resolutions that would erode the "near-term" balances of the social security trust funds. In addition, once a conference agreement on the budget resolution is reached, allocations of the social security amounts included in the resolution must be made to the Finance Committee, and budget act points of order (under sections 302 and 311) can then be brought up against subsequent social security measures that would cause outlays to be increased or revenues to be reduced (without offsetting changes) from those reflected in the allocations to the Committee. To override these objections requires approval by three-fifths of the Senate.

Report to Congress on the actuarial balance of the trust fund by the trustees

The 1990 law also added a provision requiring the social security board of trustees to include in its annual report a statement as to whether the OASI and DI trust funds are in "close actuarial balance." Traditionally, close actuarial balance is said to exist if average income over the trustees' estimating period as a whole (which extends 75 years into the future) falls within 95 percent and 105 percent of the average cost of the program. Over the years, it has been considered a primary indicator of the long-range soundness of the program. Although trustees' reports routinely have made a statement about the program's actuarial balance, the practice of doing so was not required by law. In their 1989 report, the trustees declined to make such a statement (the projections themselves showed that the program was slightly outside the lower limit of actuarial balance with average income projected to be 94.9 percent of average costs). Its absence drew an objection from the chief actuary of the Social Security Administration in his legislatively required certification of the report. The 1990 law required a statement by the trustees about close actuarial balance to be included in each trustees' report.

All reports issued since enactment of this provision have included a substantive analysis of the close actuarial balance of the system and a statement about it by the trustees.

Display of retirement trust fund balances

The 1990 law further required that budget resolutions display the balances of Federal retirement trust fund programs, presumably including social security. This display must show the amount of the securities expected to be recorded to the trust funds.

FOOTNOTES

[1] This provision became section 710 of the Social Security Act.

[2] The measure did not accelerate the "off-budget" treatment of HI (i.e., under the 1983 Social Security Amendments, HI was not to be taken "off-budget" until FY 1993).

[3] The law also contained a provision that stated that no legislation enacted after December 12, 1985, could authorize payments from the General Fund of the Treasury to the OASDI and HI trust funds and vice versa (with the exception of appropriation measures for which authority existed on or before that date). This item did not create any practical changes in the process. Basically, it was a statement of principle that no new provisions should be enacted that would authorize new forms of interfund "payments" between the Government's General Fund and the OASDI and HI trust funds.

[4] Interest earned on the holdings of the social security trust funds and appropriated "payments to the social security trust funds" for military wage credits and benefits paid to certain uninsured recipients also were exempted.

[5] Special procedures also existed in the Senate under which a reconciliation bill could be initiated to alter a sequestration order issued by the President.

[6] The period in which the three-fifths rule would apply was extended through FY 1993 with enactment of P.L. 100–119 (under prior law, the three-fifths rule applied through FY 1991). An additional technical change was included in P.L. 100–119 altering Senate rules that previously had the effect of permitting waivers of the three-fifths requirement as it pertained to the social security and other potential "points of order" authorized in the 1974 and 1985 budget acts.

[7] A section 311 objection existed under the original budget act for violations of the budget resolution totals, although it was modified somewhat by the 1985 act.

[8] It should be noted that removing social security officially from the budget totals does not change how social security funds are actually handled. Social security taxes continue to be deposited in the U.S. treasury (with the appropriate crediting of securities to the trust funds) and social security expenses continue to be paid from the treasury. Hence, those who are interested in the aggregate financial flows of the Government and the impact those flows have on the economy are likely to continue to view the financial affairs of the Government on a unified budget basis (which means they would count social security in computing revenue and spending totals).

[9] These changes did not affect medicare. Although HI is scheduled to be removed from the budget totals in FY 1993 as a result of the 1983 social security amendments, it will be counted in the budget through FY 1995 for purposes of the Budget Enforcement Act rules.

[10] For FY 1991–93, the 1990 law set limits on three categories of discretionary spending: defense, international, and domestic. There is no dollar limit on the "direct spending" category, but it is subject to a "pay-as-you-go" rule requiring that any new spending increases or revenue reductions be offset with spending reductions or revenue increases enacted by the end of the session. Overall deficit targets, such as existed under the former GRH procedures, also were prescribed for these fiscal years, but adherence to the discretionary spending rules and the "pay-as-you-go" requirement, and required economic and technical adjustments to the budget totals made by the Office of Management and Budget (OMB), have basically made them irrelevant.

[11] Note that in FY 1994–1995, the domestic spending portion of the budget is merged with the defense and international spending portions, making a single discretionary category of the budget. Under OMB's 1991 interpretation, social security administrative expenses would be counted in this category.

[12] In its original form, this provision only precluded the Senate Budget Committee from recommending a budget resolution that would reduce the current law balances of the trust funds. It was not out of order to subsequently consider floor amendments to modify the resolution to reflect measures that would reduce the trust fund balances. Such amendments could be passed by a simple majority. In enacting the FY 1992 Budget Resolution, the Senate adopted a rule making it out of order to consider measures (including amendments to budget resolutions) that would erode the balances of the trust funds for the period covered by that resolution (and requiring approval of three-fifths of the Senate to suspend the rules to do so). In enacting the FY 1993 Budget Resolution, the Senate made this a permanent rule.

CHRONOLOGY

1990—P.L. 101–508 enacted, including among its titles, the Budget Enforcement Act of 1990. This law establishes new budget procedures to enforce a 5-year $500 billion deficit-reduction package. It includes provisions officially taking social security out of all calculations of the budget totals and creates new floor procedures (for considering social security legislation) intended to protect the balances of the OASDI trust funds.

1987—P.L. 100–119 enacted, including among its titles, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987. This law makes changes to the Gramm-Rudman-Hollings (GRH) procedures, including extending the point at which a balanced budget would be reached to FY 1993. The financial operations of the social security trust funds remain part of the budget calculations for GRH purposes.

1985—P.L. 99–177 enacted, including among its titles, the Balanced Budget and Emergency Deficit Control Act of 1985, better known as the Gramm-Rudman-Hollings (GRH) deficit reduction law. Although technically removing social security from the budget totals effective for FY 1986, this law includes social security in the budget totals through FY 1991 for GRH purposes.

1983—P.L. 98–21 enacted, the Social Security Amendments of 1983, including a provision calling for removal of the social security and the medicare Hospital Insurance (HI) trust funds from the budget totals beginning in FY 1993.

1974—P.L. 93–344 enacted, the Congressional Budget and Impoundment Control Act of 1974, establishing new procedures to formulate and control the budget that encompass a "unified" approach to the budget that includes social security and other trust fund programs in the budget totals.

1968—President Johnson issued a "unified" Federal budget for FY 1969.

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Budget enforcement act in 1992. CRS Issue Brief No. IB92009, by Robert A. Keith. Washington, 1993 (continually updated).

MY VOTE ON THE DOLE AMENDMENT

Mr. HOLLINGS. Mr. President, I rise today to make a brief comment on the Dole amendment which the Senate agreed to today by a vote of 87–10. I voted against this amendment and was tempted to call it a fig leaf. But upon reflection, I think the Dole amendment is more accurately an octopus amendment: It squirts out dark ink and obscures what's really going on.

The plain language of House Joint Resolution 1 constitutionally requires that the revenues in the Social Security trust fund be included in the sum of total receipts. Neither a report from the Senate Budget Committee nor any other legislative fix can override this constitutional mandate. The Reid amendment would correct this problem by changing the language of the constitutional amendment and removing Social Security from deficit calculations.

Mr. President, if Members wish to see how a balanced budget can be achieved without raiding Social Security, they should not wait on a report from the Senate Budget Committee, but instead should examine the table that I have included in the CONGRESSIONAL RECORD on January 24 and February 7 of this year. We know that we can balance the budget without looting the Social Security trust fund, but no amount of wishing will allow us to override the Constitution if the Reid amendment is rejected.

THE PROSPECT OF STABILITY, 1993–95

IN OPPOSITION TO H.J. RES. 1: THE BALANCED BUDGET AMENDMENT

Mr. MOYNIHAN. Mr. President, this will be the third and last of the papers I have presented to the Senate in opposition to House Joint Resolution 1, Proposing an amendment to the Constitution of the United States to require a balanced budget.

In the first paper I described the development of fiscal policy in postwar America, following the huge swings of the Great Depression and the Second World War. I described an economic profession growing in understanding and reach. I made the point that I saw this happen. In 1961, I joined the Kennedy administration. I became Assistant Secretary of Labor for policy planning and research. Unemployment that year reached 6.7 percent, the second highest it had been since annual rates were first recorded in 1948. There was a sense of emergency. But also a confidence that we knew what to do. The Federal Government was running a surplus. The result was fiscal drag. We would contrive to spend more and tax less, so as to stimulate the economy toward full employment.

We did and it worked. By 1966, unemployment dropped to 3.8 percent and by 1969, it reached 3.5 percent. A level, incidentally, never reached since.

Those were heady days. In 1965, in an article in "The Public Interest" entitled, "The Professionalization of Reform," I noted that the Council of Economic Advisers forecast for GNP for 1964 was off by only $400 million in a total of $623 billion, while the unemployment forecast was on the nose. Recalling events that followed World War II, I noted that in 1964 the unemployment rate in West Germany was 0.4 percent, and not much higher in the rest of Western Europe. Indeed, unprecedented low levels for peacetime.

There had been some social learning. In the first year of the Nixon administration, contractionary fiscal policies were put in place designed to cool off an overheated economy following the buildup for the Vietnam war. Then in 1972 expansionary policies put in place by then-Director of OMB George P. Shultz stimulated the economy following the 1970–71 recession—the first since that which Kennedy inherited from Eisenhower.

In truth, the record is extraordinary. The great issue of the 19th century—the economic swings accompanied by vast unemployment—the issue which gave rise to the radical totalitarian movements that were to prove the agony of the 20th century—that issue has been resolved. A chart prepared by the Joint Economic Committee illustrates this with great clarity. Between 1890 and 1945, real growth in the economy dropped by 5 percent on three occasions, dropped by 10 percent on two occasions, and on two other occasions dropped almost 15 percent. Since 1945, there have been four tiny declines, and only one serious one, that of the recession of 1982, say 2 to 3 percent. Hardly worth noting in the pre-war economy.

We had "fine tuned," as the phrase went. The contractionary policies of 1969 were, in retrospect, a little too large; while the expansionary policy of 1972 came a little too late. But the theories seemed sound and the timing likely to improve.

Both theory and practice centered on the problem of underconsumption and the avoidance of what was seen as the problem of persistent cyclical surpluses in the Federal budget.

Then came the Reagan Revolution. Earlier doctrines were succeeded by supply side economics. To say again, I saw this happen. Huge deficits appeared which were not cyclical, and which were of no possible use. To the contrary, just yesterday at the Finance Committee, Matthew P. Pink, president of the Investment Company Institute testified:

> Government statistics show that personal saving as a percent of disposable personal income has tumbled over the last decade—from a high of 8.0 percent in 1984, to a low of 4.0 percent in 1993. If government deficits are factored in, the situation appears even more bleak: since the 1960s, "net national saving" has dropped from more than 8 percent to less than 2 percent today.

In 1984, the Council of Economic Advisers, then headed by Martin Feldstein, the eminent Harvard economist, now head of the National Bureau of Economic Research, reported the grim news that a structural as against cyclical deficit had appeared and was not going away:

> #### REDUCING THE BUDGET DEFICIT
>
> Despite the dramatic reduction in the share of national income taken by government domestic spending and the fundamental improvement in the character of our tax system, the Nation still faces the serious potential problem of a long string of huge budget deficits. Vigorous economic growth can eliminate the cyclical component of the deficit. But without legislative action, the structural component is likely to grow just as fast as the cyclical one shrinks. The Administration's economic projections imply that the budget deficit will remain roughly $200 billion a year—or about 5 percent of GNP—for the rest of the decade unless there is legislative action to reduce spending or raise revenue. Deficits of that size would represent a serious potential threat to the health of the American economy in the second half of this decade and in the more distant future.
>
> #### DEFICIT PROJECTION
>
> The cyclical component of the budget deficit is the party of the deficit that occurs because the unemployment rate exceeds the inflation threshold level of unemployment, i.e., the minimum level of unemployment that can be sustained without raising the rate of inflation. This excess unemployment raises the deficit by depressing tax revenues and by increasing outlays on unemployment benefits and other cyclically sensitive programs.
>
> The remaining part of the budget deficit, known as the structural component, is the amount of the deficit that would remain even if the unemployment rate were at the inflation threshold level. The Administration estimates that the inflation threshold level of unemployment is now 6.5 percent and will decline in the coming years as the relative number of inexperienced workers declines and as the Administration's employment policies are enacted and take effect.
>
> Table I-2 presents the cyclical and structural components of the budget deficit for 1980 through 1989. The 1983 deficit of $195 billion was divided about evenly between the cyclical and structural components. Because of the lower level of unemployment projected for 1984, a much larger share of the current year's deficit is structural. The projected deficit of $187 billion includes a cyclical component of $49 billion and a structural component of $138 billion. By 1989, the entire projected budget deficit is structural.

TABLE I–2—CYCLICAL AND STRUCTURAL COMPONENTS OF THE DEFICIT, FISCAL YEARS 1980–1989

[In billions of dollars]

Fiscal year	Total	Cyclical	Structural
Actual:			
1980	60	4	55
1981	58	19	39
1982	111	62	48
1983	195	95	101
Estimates (current services):			
1984	187	49	138
1985	208	44	163
1986	216	45	171
1987	220	34	187
1988	203	16	187
1989	193	−4	197

And so the idea of making it go away by amending the Constitution gained greater strength.

This idea was already part of the public discourse. The new economics was hard to understand. It seemed to contradict common sense. To cite the work of Thomas Kuhn, many or most Americans lived within an economic paradigm in which countercyclical spending made no sense whatever. Would it not be agreed that Herbert Hoover had the most practical and governmental experience in national and international economics of any American President? And yet, he did not grasp the new economics. Mind, the new economics had not yet evolved, but the point is that much of President Hoover's instinctive response to the Depression of the 1930's only worsened that Depression. President Roosevelt had more of an excuse, in that he knew nothing of economics, or as near as makes no matter. But his instincts were almost exactly those of his predecessor, even denouncing in 1932 the few countercyclical measures that Hoover has instituted.

In the 1970's a grassroots movement got underway to call a constitutional convention to adopt a balanced budget amendment. In the event, some 30 State legislatures joined in this call, only four fewer than the required two-thirds. Note that the final four were not forthcoming: The prospect of hanging concentrates the minds of legislators along with other folk. But I, for one, grew alarmed. At a meeting of the Budget Committee, I asked the newest Chairman of the Council, the estimable Charles L. Schultze, if he would run the 1975 recession on their computer. He agreed and reported back a while later. They had carried out the simulation. The computer "blew up." I, in turn, reported this in an article in the Wall Street Journal of March, 1981. In specific terms, Dr. Schultze reported that Federal spending dropped something like $100 billion, and GNP dropped 12 percent. Back, that is to the wild swings of the last century. Save. that there might be no upswing.

In the Wall Street Journal, I asked if we really wanted to write algebra into the Constitution.

Obviously, a majority, but not yet two-thirds of the Members of the U.S. Senate are disposed to do just that, And so I have now asked Dr. David Podoff, sometime Chief Economist of the Senate Committee on Finance and now Chief Minority Economist, if he would construct an example of what might occur if we attempted to balance the budget in the middle of a recession.

Dr. Podoff was well trained at M.I.T. by a distinguished faculty, including three Novel laureates, Professors Paul Samuelson, Robert Solow, and Fransisco Modigliani. Not surprisingly, Podoff's analysis brings Schultze's up-to-date, and quite conforms the professional judgment of, well, the profession. It is as follows:

Assume that for 1995 our $7 trillion economy is roughly at full employment—which it is—and that under the requirements of the Constitution the budget is balanced. The economy is then buffeted by external or what economists call exogenous shocks. These shocks, which could be due to financial dislocation in international currency markets which disrupt trade—a second run on the Mexican peso—oil price shocks, or world-wide natural disasters are assumed to result in an increase in the unemployment rate from 5.5 to 8.5 percent. At the height of the 1981-82 recession the unemployment rate reached 9.7 percent, so this is not an implausible level for unemployment.

Most economic models suggest that a 3-percentage point increase in the unemployment rate is associated with a 7.5-percent reduction in GDP. In turn, sensitivity analysis published by CBO in its Economic and Budget Outlook indicate that a reduction in GDP of about $500 billion leads to an increase in the deficit of $150 billion, as tax collections fall and outlays for unemployment compensation and other income maintenance programs increase.

But now the budget must be balanced. Outlays are reduced and/or taxes are increased by a total of $150 billion. This reduction in the deficit leads to further decreases in output which again increase the deficit which cause another round of budget cuts and on and on.

When this so-called multiplier process is finally completed, the downward spiral in economic activity will leave the economy in a new low level equilibrium, with output 18 percent below its potential and an unemployment rate of 12 percent.

Note the symmetry between Schultze's simulation of 1975 and Podoff's of 1995. Schultze projected 12-percent drop of GDP in an economy operating at less than full potential, off about 5 percentage points. In 1995, we are close to full employment, which is a sufficient shorthand for producing at potential GDP. Podoff suggests a drop of 18 percentage points. We may be onto an important economic insight here, but let us hope this remains in the realm of theoretical economics!

Another distinguished economist, Laura D'Andrea Tyson, current Chair of the Council of Economic Advisers, in the Washington Post, February 7, reinforced the perverse nature of balancing the budget in a recession. As she put it:

> A balanced budget amendment would throw the automatic stabilizers into reverse. Congress would be required to raise tax rates or cut spending programs in the face of a recession to counteract temporary increases in the deficit. Rather than moderating the normal ups and downs of the business cycle, fiscal policy would be required to aggravate them.

Monetary policy could moderate the swing in economic activity described in the simulations above. But as Dr. Tyson further notes in her op-ed piece:

> In a balanced-budget world—with fiscal policy enjoined to destabilize rather than stabilize the economy—all responsibility for counteracting the economic effects of the business cycle would be placed at the doorstep of the Federal Reserve.

Compared to fiscal actions, the Federal Reserve monetary actions could be constrained. Concerns about inflation, interest rates and exchange rates may prevent the Fed from acting quickly and forceful. For example, over the last year the Fed has increased short-term interest rates in seven small measured steps; and many analysts believe that the full impact of these contractionary actions have not yet been felt.

However, under the constitutional amendment, required fiscal actions to balance the budget would come quickly, unless waived by a three-fifths vote. The amendment (section 6) states:

> The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

In the absence of a waiver, what legislator would dare not vote quickly to balance the budget using the most up-to-date estimates of outlays and receipts? Indeed, respect for the Constitution, irrespective of the economic consequences, would require quick action.

On February 3, our revered sometime President pro tempore, Senator ROBERT C. BYRD, invited Senator PAUL S. SARBANES, formerly chairman of the Joint Economic Committee, and this Senator to join him in the Mansfield room to hear a number of economists, led by Jeff Faux of the Economic Policy Institute, present their views on the inadvisability and peril of a balanced budget amendment. Dr. Faux, incidentally, correctly predicted the devaluation of the Mexican peso in the course of the debate over the North American Free-Trade Agreement. Among those who spoke, for himself and his fellow Nobel laureate at M.I.T., was Robert M. Solow, who stated in part:

> Many economists have pointed out how perverse the Amendment can be when the economy falls into recession. Then the appearance of a cyclical deficit is a desirable, functional event, not an undesirable one. At such a moment, the higher taxes or reduced transfers or lower expenditures that would be needed to restore balance will worsen the recession and do relatively little to reduce the budget deficit. Of course some escape mechanisms will be built into the amendment. But they will inevitably be slow, uncertain in their scope, and subject to manipulation by a minority. (This would be an obvious occasion for dissidents to challenge the accounting conventions in use.)

As I have remarked earlier, in the early 1980's, deficits were not viewed as a tool to stabilize the economy. Rather, they were used as a way to reduce the size of government. A debt in excess of $4 trillion is the legacy of the misuse of fiscal policy. We should not use the legacy of the 1980's as an excuse to abdicate control of fiscal policy by passing a constitutional amendment to balance the budget. Abdication would, in the words of a statement issued February 3 by several hundred economists of every political persuasion, who joined Senator BYRD, lead to the following results:

> When the private economy is in recession, a constitutional requirement that would force cuts in public spending or tax increases could worsen the economic downturn, causing greater loss of jobs, production, and income.

And, as noted in the examples of Dr. Schultze and Dr. Podoff, that is surely what will happen in a recession if we have a balanced budget amendment.

Not only were the budget policies of the early 1980's an aberration, which should not be used as a justification for adopting a constitutional amendment to balance the budget, but in the last 2 years we have been making progress toward achieving a balanced budget.

In the "Economic and Budget Outlook: Fiscal Years 1994–1998" report of

January 1993, CBO projected that, by the year 2000, the deficit would reach $455 billion and exceed 5 percent of GDP.

In the "Economic and Budget Outlook: Fiscal Years 1996–2000," issued last month, CBO now projects a deficit of $284 billion or about 3 percent of GDP. The proposals recently submitted by the President in his fiscal year 1996 budget message would reduce the deficit below 3 percent of GDP.

What accounts for this remarkable turnaround in the budget?

Two inter-related factors explain the reduction in the deficit. First, the Administration proposed, and Congress adopted a sizable deficit reduction package. Second, the economy performed better than expected, in part, because Congress adopted a creditable deficit reduction plan. In part, also, because, as Secretary of the Treasury Rubin remarked to the Finance Committee this Wednesday, the deficit reduction program squeezed the deficit premium, as he put it, out of real long-term interest rates. If financial markets do not believe the deficit is under control, they will levy a deficit premium on capital lending. In 1993 and 1994, we clearly persuaded the markets that we were finally serious.

I do not wish to be partisan in these remarks, and I hope I have not been. But will not forebear to note that the 1993 deficit reduction program was enacted with Democratic votes and only Democratic votes. I understand that Republican Senators are committed to House Joint Resolution 1, all but one that is, and I do not expect that to change. But I would hope Democratic Senators will recognize what I believe to be the error of the views of the other side of the aisle.

CBO estimated that the deficit reduction package enacted by Congress in August 1993 would reduce the deficit by more than $400 billion over 5 years. The budget resolution adopted by Congress in 1993—which required enactment of the deficit reduction package—anticipated a decrease in the fiscal year 1994 deficit of $33 billion, from an estimated baseline deficit of $287 billion to $254 billion. The actual deficit turned out to be $203 billion, in part because of higher economic growth than projected. CBO estimates that a stronger economy reduced the fiscal year 1994 deficit by $21 billion.

The vigorous expansion was not unrelated to the adoption of a creditable deficit reduction program, which led to a reduction in real interest rates. Again, as Secretary Rubin stated, "the deficit premium—on interest rates * * * is in my judgement largely gone."

As a result of the deficit reduction policies we have had 3 straight years of deficit reduction—the first such string of declines since the administration of President Harry S. Truman. Here are the numbers:

Fiscal year:	*Deficit in billions*
1992	$290.4
1993	255.1
1994	203.2
OMB 1995 est.	192.5
CBO 1995 est.	176

But the legacy of debt for the 12 year period 1980–92 will not go away quickly and can be seen in three aspects of fiscal and budget policy.

First, net interest on the increase in the publicly held debt—accumulated during the 12 year period 1980–1992—is about $180 billion or roughly the size of the annual deficit.

Second, even without a balanced budget amendment fiscal policy remains paralyzed—as long as we are running deficits of $200 billion, for whatever reason, it is difficult to deliberately increase the deficit as an anti-inflationary measure. The public will just not accept that.

Third, the legacy of annual deficits of almost $300 billion must be reduced gradually, so as not to depress the economy. Consequently, we will continue to add to the debt. By the end of the century the gross Federal debt will approach $7 trillion.

But it can be done. Note once more. Spending on Government programs is less than taxes for the first time since the 1960s. If we keep at it, do more, the deficit could start declining in 5 years surely. The decline accelerates as smaller debt leads to lesser borrowing for interest which leads to smaller debt. But can we not do this on our own, of our own free will? I say to Senators that it won't happen otherwise. The Courts, to which all disputes under that misbegotten amendment will be referred, are not capable of making even remotely sensible decisions on fiscal policy.

Some 40 years ago, Guthrie Birkhead, professor, later dean of the Maxwell School of Citizenship and Government at Syracuse University, remarked that Americans are gadget-minded about government. The proposed balanced budget amendment is nothing if not a gadget. Allow me to offer a cautionary tale from New York history. On March 3, 1858, the New York Times reported from Albany that 86 State senators had presented a petition so brief and so explicit that it was given in its entirety:

> The undersigned, citizens of the State, would respectfully represent: That owing to the great falling off of the Canal revenue, as well as the increasing drafts upon the State Treasury, and the large expenses of carrying on the several departments of the State Government, thereby swelling up the taxes; therefore, with the view of relieving the people from the large amount now unnecessarily expended to sustain the Executive and Legislative Departments, and to secure the *honest* and better administration thereof: your petitioners respectfully ask that your Honorable body pass an act for calling a Convention to so alter the Constitution as to abolish both the Executive and Legislative Departments, as they now exist, and to vest the powers and duties thereof on the President, Vice President, and Directors of the New York Central railroad Company.

The Times special correspondent, an early advocacy journalist, explained that the proposal, while intended as a joke, nonetheless conveyed a bitter satire, a satire which is deserved and just, such were the depredations of the ruling Democrats. The time would come, he concluded, when "after long suffering" the people would rise and "retaliate."

They almost did and not long thereafter. Joke or not, the proposal passed the legislature, went on the ballot the next fall, and failed by only 6,360 votes.

The amendment failed, but retaliation came even so. The New York Democrats scarcely held office for the rest of the century. But retaliation has pursued us into the twentieth century, even to this time. The New York Democrats have controlled the New York State legislature for a total of 4 years in the whole of the 20th century so far. Let Republicans beware. This amendment could pass.

Mr. HATCH. Mr. President, I see the distinguished Senator from Oklahoma is here. I am hoping that after he speaks, we will be able to close out the Senate for the day.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOSTER NOMINATION OBJECTION

Mr. NICKLES. Mr. President, over the last 9 days, a firestorm has erupted over President Clinton's announcement that he intends to nominate Dr. Henry W. Foster as the Surgeon General of the United States.

I believe that the President erred when he chose Dr. Foster as Surgeon General, and I believe the President should withdraw his nomination. I would also recommend to Dr. Foster that he withdraw his name from consideration.

Mr. President, much has been made about the fact that Dr. Foster, by his own admission, has performed abortions. President Clinton said yesterday when he was defending Dr. Foster that the only people who are fighting this nomination are people who oppose abortion. I believe the President is wrong.

Mr. President, I might mention that I do oppose abortion. I do not make any qualms about that. I do believe it is the deliberate taking of a human life, and I think it is a mistake to have as our Surgeon General a person who routinely performs abortions. To be named as Surgeon General, you are named as the Nation's No. 1 public health officer.

Some people say, should a person be totally disqualified because of that? I would not vote for him, but that does not mean that this body would not. Likewise, I could not help but think of the reaction of many people in this body and what they would say if the medical researcher for American Tobacco Institute was appointed as Surgeon General. Smoking, like abortion, is legal, but I expect that there would be significant opposition because that is probably, again, not the right person to have as the Surgeon General.

Mr. President, my reason for speaking today and my reason for saying that the President should withdraw the nomination, is not just because Dr. Foster has performed a lot of abortions. It is because in this period of 9 days, there has been a real lack of candor from Dr. Foster. There has been a real misleading of the American people and the American Congress to the facts. I think that alone disqualifies him for this office.

The office of Surgeon General has been referred to as a bully pulpit, and it is. It is an office which gives the Surgeon General the ability to educate and to lead. And it is an office that, if one is going to educate and to lead by speaking, one has to have credibility. I think Dr. Foster has lost that credibility.

Mr. President, this morning's New York Times, in the lead editorial, calls on President Clinton to withdraw the Foster nomination. The editorial states:

> Although Dr. Foster is a highly respected obstetrician, his lack of candor about his abortion record disqualifies him from serious consideration. Misleading statements by candidates for high position cannot be condoned.

The editorial concludes:

> President Clinton promises to fight for his nominee and Dr. Foster pledges to stay the course. But this is a fight that neither the White House nor Congress really wants over a crippled candidacy. It is time to withdraw the nomination.

Mr. President, I ask unanimous consent to have the New York Times editorial printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 10, 1995]

THE TAINTED FOSTER NOMINATION

The nomination of Dr. Henry Foster Jr. to be surgeon general has been so badly bungled, by the White House and by Dr. Foster himself, that there is little choice but to hope it dies quickly. Although Dr. Foster is a highly respected obstetrician, his lack of candor about his abortion record disqualifies him from serious consideration. Misleading statements by candidates for high position simply cannot be condoned.

Of course the chief blame for this debacle lies with the White House, which once again put forth in a nominee without adequately vetting the person's background or knowing the answers to potentially explosive questions. As a result, the Administration put out false information on the number of abortions performed by Dr. Foster. In this as in earlier episodes, White House bungling makes it difficult for President Clinton's natural allies to support him fully. The situation moves from difficult to impossible for pro-choice Republicans like Senator Nancy Kassebaum of Kansas, who cannot reasonably be expected to take a political gamble amid such swirling incompetence.

That is a shame because Dr. Foster, based on his past record, is a good choice to succeed Dr. Joycelyn Elders, who was pushed from the job after her repeated intemperate language made her a target for conservative attacks. Dr. Foster, the acting director of Meharry Medical College in Tennessee, is deeply committed to delaying child-bearing among adolescents, one of the most pressing social issues confronting the nation. He developed a highly successful program, called "I Have a Future," in Nashville that was honored by President Bush as one of his "points of light."

During a 30-year practice Dr. Foster, like many obstetricians, performed a number of abortions. In doing so he was providing a legal, constitutionally protected medical service. If the latest numbers put forth are correct, he performed 39 surgical abortions during his 38-year medical career, a once-a-year rate that seems modest for a very busy practitioner serving a needy population. He was also the titular head of a federally sanctioned test of a potential abortion suppository.

This record would in any case have probably inflamed America's anti-choice minority, which is fierce and well organized and has good friends in Congress. But since most Americans believe that women should retain the right to choose, Dr. Foster's nomination might well have been pushed through the Senate had his record been forthrightly presented. Instead both he and the Administration made it look as if there accounts were unreliable or designed to mask a more troubling history.

President Clinton promises to fight for his nominee and Dr. Foster pledges to stay the course. But this is a fight that neither the White House nor Congress really wants over a crippled candidacy. It is time to withdraw the nomination.

Mr. NICKLES. Mr. President, I do not often agree with the New York Times editorial page, but I think this editorial is correct. President Clinton should withdraw this nomination immediately because Dr. Foster has serious credibility problems.

The New York Times editorial says Dr. Foster is guilty of lack of candor in making misleading statements about his abortion record. They are correct.

In less than a week, he has given three different estimates on the number of abortions he has performed. Initially, he told the administration officials he had performed just one abortion. Then, last Friday, he issued a statement that said:

> As a private practicing physician, I believed that I performed fewer than a dozen pregnancy terminations.

Mr. President, I ask unanimous consent that a statement by Dr. Henry Foster on February 3, 1995, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

PRESS RELEASE: STATEMENT BY DR. HENRY FOSTER, NOMINEE FOR U.S. SURGEON GENERAL, FEB. 3, 1995

My specialty in the practice of medicine is obstetrics/gynecology. I have personally delivered more than 10,000 babies in nearly 30 years of practice including my service in the military.

In that period of almost three decades as a private practicing physician, I believed that I performed fewer than a dozen pregnancy terminations. None were in out-patient settings; all were in hospitals and were primarily to save the lives of the women or because the women had been the victims of rape or incest.

I was also Chief of Service at two major teaching institutions where many physicians held hospital privileges. A wide variety of medical procedures and research was performed at both. To my knowledge, all were in accordance with the law and educational requirements.

I have dedicated my life's work to improving access to medical care and improving quality of life for women and children, a passion rooted in my early years of practice in the rural South. I have placed particular emphasis on prevention, especially in such areas as teen pregnancy, drug abuse and smoking cessation in children. In my work with teenagers, abstinence has always been stressed as my first priority.

Through my long affiliation with Planned Parenthood Federation of America, my person goal has always been to provide education, counseling, preventive health care and contraceptive access to patients needing such services. If abortion is provided, my wish is that it be safe, legal and rare.

I am proud of my affiliation with Planned Parenthood just as I am of my affiliation with many other prestigious organizations such as the March of Dimes Foundation, the American Cancer Society, the Y.W.C.A. and my church.

Mr. NICKLES. Mr. President, on Wednesday, on ABC's "Nightline," Dr. Foster recanted an earlier estimate and provided a new estimate of the number of abortions he has performed.

Dr. Foster said:

> I have worked at George W. Hubbard Hospital. At Meharry Medical College, all of my patient records and all of the operative logs from the time I went to Meharry in 1973 until tonight have revealed that I was listed as the physician of record on 39 of those cases, in 38 years of practice, in 22 years at Meharry.

Dr. Foster's statement on "Nightline" indicates he performed a grand total of 39 abortions in 38 years of medical practice, and all of those abortions were performed since 1973. But the Associated Press today reports that Dr. Foster performed an undetermined number of abortions prior to 1973, abortions that are not included in the 39 abortions he admitted on "Nightline" to having performed.

The article quotes Dr. Calvin Dowe, general practitioner and then a colleague of Dr. Foster at John A. Andrew Hospital in Tuskegee, AL, with William Hill, Dr. Foster's uncle, as saying Dr. Foster performed abortions in Alabama during the period from 1965 to 1973.

The article states:

> Dowe and William Hill, Foster's uncle, said they do not know how many abortions he performed at Andrew Hospital, which closed in 1987. But both said Foster did only what was medically necessary.

The article also quotes Dr. Dowe as saying:

> I don't see how any obstetrician has said he has never done an abortion. It's the nature of the business.

Mr. President, I ask unanimous consent to have printed in the RECORD the article I just referred to.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> [From the Associated Press, Feb. 10, 1995]
>
> FOSTER WAS LONE OBSTETRICIAN FOR EAST ALABAMA'S BLACK WOMEN
>
> (By Jay Reeves)
>
> BIRMINGHAM, AL.—As the lone obstetrician at a black hospital during the days of racial segregation, Dr. Henry Foster was the only source of health care for thousands of poor, pregnant women in rural east Alabama.
>
> Foster delivered hundreds of babies at John A. Andrew Hospital in Tuskegee from 1965 to 1973. When complications left him no other choice, he sometimes did abortions, a colleague and a relative say.
>
> "Back then the medical treatment for Negroes was just deplorable," Dr. Calvin Dowe, a former colleague of Foster, recalled Thursday. "Hospitals in the surrounding areas didn't even consider them people."
>
> While medical services were not segregated by law, Foster cared for almost every pregnant black woman in at least five counties.
>
> Dowe, a general practitioner who is black, said he never referred women to Foster for abortions and did not know anyone who did. Women simply went to him because there was nowhere else to turn.
>
> "Realistically, I don't see how any obstetrician can say he never has done an abortion. It's the nature of the business," Dowe said.
>
> Abortions performed by Foster over his 38-year medical career have become a source of controversy since President Clinton nominated him to replace fired Surgeon General Joycelyn Elders. Foster, 61, initially acknowledged fewer than a dozen of the procedures but now says he did 39.
>
> Dowe and William Hill, Foster's uncle, said they do not know how many abortions he performed at Andrew Hospital, which closed in 1987. But both said Foster did only what was medically necessary.
>
> "He had to perform some for medical emergencies. He wasn't an abortion doctor," said Hill, 90, who still lives in Tuskegee.
>
> Foster moved to Tuskegee in 1965 after completing his residency at Meharry Medical College in Nashville, Tenn. Dowe said the head of obstetrics at Andrew died about the same time, and Foster agreed to take over.
>
> "With the training he had, he could have gone a lot of places. It was a form of mission work," Dowe said.
>
> Foster was a member of a Baptist church in Tuskegee, and he took flying lessons under Charles A. Anderson, leader of the famed Tuskegee Airmen, an all-black squadron during World War II.
>
> Foster also developed what became a national model for regional perinatal health systems. The White House was drawn to Foster by programs he started later in Nashville combatting teen-age pregnancy.

Mr. NICKLES. These statements by Dr. Foster's former colleague and Dr. Foster's uncle indicate he has done more than 39 abortions in his 38-year career.

Again, we are talking about credibility. They indicate that Dr. Foster misrepresented his abortion record three times in the last week, and we still do not know, despite three different estimates supplied by the nominee, how many abortions Dr. Foster has performed.

Mr. President, there is a record that was made on Friday, November 10, 1978, at the Federal Building in Seattle, WA, before the Department of Health, Education, and Welfare, Office of the Secretary, an ethics advisory board.

A list of participants included: Henry W. Foster, M.D., professor and chairman, department of obstetrics and gynecology, Meharry Medical College, Nashville, TN.

Mr. President, on page 180 of this record, under Dr. Foster's name, it says:

> I have done a lot of amniocentesis and therapeutic abortions, probably near 700.

There is a lot in this transcript, Mr. President. There is a lot in this transcript, but this one line, Dr. Foster's words, "probably near 700." Initially from the White House we heard maybe the transcript was a forgery. Then we heard it probably was not this Dr. Foster, maybe it was a different Dr. Foster; maybe he was not there. I think they have recanted those statements and they said this probably is a legitimate transcript and it probably is the same person they nominated to be Surgeon General, but he did not say what the official transcript of the meeting says he said.

Again, credibility. Was it 1 or was it 12 or was it 39 or was it a lot more before 1973? So we do not know how many.

And, oh, yes, in his original comments he forgot that he was chief investigator of a drug, a suppository that would induce abortion that they gave to 60 people that he has written a report on, and I will include that for the RECORD as well. Out of the 60 pregnant women who participated in the study, 55 had their pregnancies aborted by the drug, and those abortions were not medically necessary. I think 58 of those who participated in the study were black women, ages 15 to 32; in 55 of the 60 cases, the drug successfully induced abortion; in 4 other cases, they had to go ahead and complete a surgical abortion procedure; and in one case, the mother changed her mind and carried the baby to term.

There are other things in this report. I am going to include this for the RECORD, not the entire report but I will include about 40 pages.

This transcript includes a discussion about research, trying to do research to determine whether the fetus has a disease called sickle cell anemia and whether or not they can detect that disease prenatally or find out whether the fetus is affected in time so there could be a therapeutic abortion; in other words, abort a fetus because it happens to have sickle cell anemia.

Mr. President, there are millions of Americans, I think it is estimated 2 or 3 million Americans who today have sickle cell anemia, and yet in this research proposal that they are talking to HEW about, they want to determine whether the fetus has sickle cell anemia so it would be in time to find out if the mother, I guess, would like to have an abortion, a therapeutic abortion. Not very therapeutic for the fetus, I might mention.

It even goes on further, and I do not even like talking about this. It talks about research on human ova fertilized in a laboratory setting. Dr. Foster is saying, "Well, if we have spares that are not used for insemination, they could be used for research."

It happens to be against the law right now, but he was advocating they would use fertilized ovum for research. That bothers me. This is a report, this is a transcript of a hearing. Maybe a lot of us speak at hearings and we forget we are recorded. I do not know. But these are statements.

Mr. President, I would like to keep the CONGRESSIONAL RECORD very short, but this is a very controversial nominee and I think people are entitled to find out what the facts are. So I ask unanimous consent this portion of a copy of the ethics advisory board meeting dated November 10, 1978, be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

> DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, OFFICE OF THE SECRETARY, ETHICS ADVISORY BOARD, MEETING V, NOVEMBER 10, 1978
>
> MEMBERS OF THE ETHICS ADVISORY BOARD
>
> Gaither, James C., J.D., Chairman, Cooley, Godward, Castro, Huddleson and Tatum, San Francisco, California.
>
> Hamburg, David A., M.D., Vice Chairman, President, Institute of Medicine, Washington, D.C.
>
> Conway, Jack T., Senior Vice President, Government and Labor Movement Relations, United Way of America, Washington, D.C.
>
> Foster, Henry W., M.D., Professor and Chairman, Department of Obstetrics and Gynecology, Meharry Medical College, Nashville, Tennessee.
>
> Henderson, Donald A., M.D., Dean, The Johns Hopkins School of Hygiene and Public Health, Baltimore, Maryland.
>
> Lazarus, Maurice, Chairman, Finance Committee, Federated Department Stores, Inc., Boston, Massachusetts.

McCormick, Richard A., S.T.D., Professor of Christian Ethics, Kennedy Institute for the Study of Reproduction and Bioethics, Washington, D.C.

Spellman, Mitchell W., M.D., Dean for Medical Services and Professor or Surgery, Harvard Medical School, Boston, Massachusetts.

Williams, Agnes N., LL.B., Potomac, Maryland.

Zwieback, Eugene M., M.D., Surgeon, Omaha, Nebraska.

STAFF MEMBERS

Dr. Charles McCarthy, Staff Director, EAB.

Ms. Barbara Mishkin, Deputy Staff Director, EAB.

Ms. Roberta Garfinkle, Assistant to EAB.

Mr. William Dommel, Special Assistant to Staff Director, EAB.

Mr. Philip Halpern, Special Counsel to Chairman, EAB.

EXCERPTS FROM HEARING

. . . given the risk benefit ratio and whatever—it would not be ethical and moral for the government to pay for that process.

Dr. LEIMAN. So long as we are leaving the conceptus out of the discussion, I think so.

Mr. GAITHER. Dr. Henderson, one last question.

Dr. HENDERSON. Just an observation. I wonder if we are really looking at proceeding on the assumption that there is no additional risk. As one looks at the whole field of medicine, almost any procedure one does, any drug one takes, there is some minimal additional risk. Acceptable minimal additional risk I think is the way we are really looking at this and to say there is probably no additional risk I think is probably not the way we can look at this. I think we must say minimally acceptable additional risk.

Mr. GAITHER. I think the acceptable is still at issue. But I think that the point is well taken.

Rabbi Leiman, thank you very much. We appreciate it.

Let's take a short break and figure out how we can get back to our schedule.

(Brief recess.)

Mr. GAITHER. Needless to say, we have fallen a bit behind schedule, and I would suggest that we postpone for the time being the legal discussion regarding in vitro fertilization, and proceed at this time to a consideration of the research application involving fetoscopy, submitted by the Charles Drew Postgraduate Medical School.

I would like to note at the outset that Dr. Spellman, formerly Dean at that medical school has asked that he be excused from the deliberation on this issue. I hope that you will stay with us and listen to it, but I understand your reluctance to become involved, and we will assume that you will not be involved in either the discussion or the decision on this issue.

Dr. HAMBURG. However, as a point of personal privilege, you may respond to insulting remarks. (Laughter.)

Mr. GAITHER. Mrs. Mishkin, we will let you describe the issue before us, and I would ask that you start by describing why the application is before us and what we are expected to do with it.

Ms. MISHKIN. The HEW regulations governing research involving the human fetus lay down certain conditions which must be met in order for an institutional review board to approve that research. If the institutional review board is not able to determine that all of the conditions have been met, and if it considers that the research nevertheless is important, it may refer that research proposal to this Board for review. And if the Board determines that the research should go on, it may recommend to the Secretary that he waive those parts of the regulations that the research proposal cannot meet.

Now, the proposal before the Board at this point is a proposal to perform fetoscopy on mothers who have elected to have abortions for reasons totally unrelated to the research, in order to discover and to document what the risk to mothers and fetuses might be from the procedure of fetoscopy. The purpose of developing the fetoscopy is to be able to diagnose prenatally certain conditions for which the parents are at risk. In this particular research proposal the focus is primarily on prenatal diagnosis of sickle cell disease.

Now, the reason that this proposal is before the Board is that it cannot meet or at least cannot clearly meet provisions of the HEW regulations set forth in sections 46.206(a), 46.207(a), and 46.208(a) which briefly, taken together, require that the activities in the research proposal be designed to meet the health needs of either the mother or the particular fetus involved, or, if that is not the case, that the procedures present no more than minimal risk to the fetus.

Now, the problem in this proposal is that it is not designed, as written, to provide therapy for the mother, nor is it designed to provide therapy for the fetus, because the purpose is to assess safety of a technique and to do it in mothers who have already elected to undergo abortion. So there is no question as to whether or not it is or not so-called therapeutic research. It clearly is not. Therefore, it does not meet that first condition.

It does not seem to meet the second condition because the risks, I think, must be considered undetermined. Although the HEW regulations do not define minimal risk, it is possible to go and look behind those regulations to the Commission's discussion of what they intended, because the regulations were an attempt by the Department fully to implement the Commission's recommendations on research involving the fetus.

So I am going to offer to you for your guidance what the Commission's intentions were when they made their recommendations to the Secretary. That does not mean that you must follow the Commission's intentions; it is only to elucidate for you somewhat what the Commission had in mind, because the regulations themselves give this Board no guidance. The only guidance in the regulations is to the institutional review boards.

Mr. GAITHER. Let me interrupt for just one second, because I think it is important that we understand the standards which we are to apply. I gather what you are saying is that this particular application is not therapeutic and not clearly within the category or at least so determined by the institutional review board, as involving no more than minimal risk.

Ms. MISHKIN. That is correct.

Mr. GAITHER. Therefore, it can only be funded if this Board determines that it is ethically acceptable? Is that the standard?

Ms. MISHKIN. Essentially, yes. If we recommend to the Secretary that he waive those provisions that we just mentioned because we feel the research is important and justified by the benefits to be obtained from the—the anticipated benefits.

Mr. GAITHER. So there is no particular standard other than for us to say to the Secretary whether or not we feel that he should go ahead despite that provision in the regulations?

Mr. HALPERN. Mr. Gaither, if I could be of help, if you look at subpart 5 under Tab I in our book, giving us the regulation, Section 46.211 provides some guidance as to the standard, at least which will guide the Secretary in his decision to accept our recommendation.

Ms. MISHKIN. At Tab I of your book, we have reproduced the applicable provisions of 45 CFR 46, and it simply says if this Board feels that the risk is justified by the sum of the benefit to the subject, which is not in question here, or the importance of the knowledge to be gained.

Mr. CONWAY. And you are referring us to 46.211?

Ms. MISHKIN. Yes.

Mr. HALPERN. In fact, it doesn't say that the Board should be guided by the risk benefit analysis, it says that the Board should consider whether waiver, which is what we are talking about, is appropriate in this particular instance. Then it says in making the decision the Secretary will consider whether the risks to the subject are so outweighed by the sum of the benefit to the subject and the importance of the knowledge to be gained as to warrant such a modification or a waiver.

Mr. GAITHER. But it seems to me that it is important for us to note that .211 states that the Secretary can only waive, unlike the other situation before us, with our approval. So that is the question, whether we would approve a modification or waiver of these regulations to permit this research to continue. And basically there are no specific standards imposed upon us. Is that correct?

Ms. MISHKIN. That is correct.

Mr. GAITHER. And what you are giving us is the background, now, for these particular regulations why the Commission suggested that a body such as ours be involved in the deliberations.

Ms. MISHKIN. And what the Commission coped with when it discussed the problem of research on fetuses to be aborted, and what standard might be appropriate in considering acceptable risk to fetuses about to be aborted or whose mothers intend to go through with an abortion. It was a very, very difficult problem for the Commission. Any of you who followed the Commission's activities in this area will know they spent a long time on this, and this was one of the areas in which there was not a full consensus among the Commission members.

First of all, let me say that this particular application underwent six reviews prior to coming before this Board. That included reviews by the appropriate IRB at the Drew Center; a review by the community board which is a separate community representative board at the Drew Center; review by the appropriate study section at HEW; review by a site visit team from study section, members ad hoc; review by the National Advisory Council under whose auspices this particular application came—if that is not six I have left one out, but they are all listed there anyway.

The staff of the Board then shipped the whole thing out to two additional people for independent reviews, and those have been mailed to you and are reproduced in your book. Dr. Haig Kazazian at Johns Hopkins University Hospital, and Dr. Dwayne Alexander at the National Institute of Child Health and Human Development.

Dr. Kazazian has done fetoscopy himself; he no longer does so. Dr. Alexander has not done fetoscopy. He was a member of the staff of the Commission and he ran the amniocentesis collaborative research program, and is very familiar with questions of prenatal diagnosis, and the risks of various procedures associated with prenatal diagnosis.

All of the review boards and the individual reviewers have recommended approval of this research application based on the importance of being able to diagnose prenatally certain conditions which, up until now, have not been diagnosable through amniocentesis. Fetoscopy has been the only possible way to diagnose sickle cell disease, among other diseases, in fetuses prior to birth.

Now, there was one problem that we had in reviewing this particular proposal, and that was it was not entirely clear from the proposal, because we had conflicting statements—the site visit review said one thing, and the proposal said something else—as to whether or not the investigators planned to delay abortion for more then 24 hours after fetoscopy. The point of the research is to do the fetoscopy, monitor the women after fetoscopy, and look for complications as a result of fetoscopy. Complications include possible infection of the woman, possible bleeding of the fetus, and subsequent abortion prior to the induced abortion which is anticipated.

What is present in the research application is a plan to perform the fetoscopy, monitor the woman for 24 hours, and then go ahead with the abortion as planned. What is present in the site visit's review, however, is a plan to continue monitoring, if they are satisfied that a 24 hour delay poses no risk, to increase that delay step by step, until they reach, finally, a two-week delay during which they would monitor the woman for two weeks following fetoscopy before going ahead with the abortion.

I called the principal investigator to find out what in fact was their intent, and he said that this does seem—that it is his intent to go incrementally if they are satisfied at any one stage as to the risk to mother and fetus, to go incrementally up to a two-week delay. This raises a very important concern that their subject population is women who are in their 16th to 20th week of gestation. A two-week delay in a woman who presents at 20 weeks would take that woman past 20 weeks gestation before her abortion, and this then would run into the possibility of a viable fetus being aborted, or of having a viable product of the abortion. This is one problem that the Commission was very much concerned about. That is why the staff recommendation on this particular proposal includes the provision that no abortion be postponed for reasons of this research that would then have to be performed after the 20th week of gestation. This is compatible with the regulations that no timing or methodological change be introduced for reasons of research that would add additional risk to the mother or the fetus. And surely the risk of having a viable product of abortion is an additional risk.

The current regulations note that viability is possible at 20 weeks, and that is why the staff recommends that no procedure be delayed beyond the 20th gestational week for purposes of this research.

Now, the whole thing was complicated by an article in the Washington Post that appeared on Saturday, November 4th, while we were in the process of preparing this memorandum of recommendations to you. That article indicates that a physician at the University of California at San Francisco believes he has developed a procedure to diagnose sickle cell disease through amniocentesis, thus avoiding the necessity to go to fetoscopy in order to diagnose sickle cell disease. These findings are supposed to have been in the most recent issue of the journal Lancet. We were unable to find whatever issue that was. It must not be out yet. If it is out it is not available in any of the libraries we had access to in Washington.

We tried very hard to call the investigator at the University of California at San Francisco, and we were unable to reach him. We do, however, have some further information on that. Dr. Alexander was able to reach Dr. Michael Kaback, who is Assistant Professor of Pediatrics and Medical Genetics at the University of California at Los Angeles, and who is familiar with the work of the investigators at San Francisco.

What I am going to give you now is my understanding of Dr. Alexander's understanding of Dr. Kaback's understanding of what they are doing in San Francisco. If all of that is clear, you will know how far we are removed from firsthand information. But nevertheless I will give it to you, because I think it is important.

It goes as follows: 85 percent of sickle cell carriers have an extra large piece of DNA on the gene that has the sickle cell trait. Now, this condition of having the extra large clump of DNA material is calling polymorphism. Thus, it is possible assuming the test works as reported, to diagnose approximately two-thirds or more of sickle cell babies through amniocentesis and looking for this enlarged DNA clump.

Now, let me break that out for you. What they have to do if they identify both parents as carriers, they then look for this polymorphism, in other words, the extra clump of DNA in the parents. If those parents have that extra clump of DNA, that is, if they fall within the 85 percent of sickle cell carriers who have that polymorphism, then it is possible to perform amniocentesis—yes?

Dr. FOSTER. I should clarify something at this point. You are using a medical term, and I am not sure—you are saying "carriers." do you really mean carriers, or do you mean sickle cell disease?

Ms. MISHKIN. No, I mean carriers.

Dr. FOSTER. That is not a person with sickle cell disease.

Ms. MISHKIN. That is correct.

Dr. FOSTER. Okay.

Ms. MISHKIN. But again, this is my understanding from Dr. Alexander through Dr. Kaback. That is the best we can give you.

Dr. FOSTER. Go ahead and let me hear you out, then.

Ms. MISHKIN. My understanding is this is carriers.

Dr. FOSTER. Okay, go ahead. I will hear you out.

Ms. MISHKIN. So if both parents are carriers, either with or without the disease—

Dr. FOSTER. It is the previous I am concerned about.

Ms. MISHKIN. Right. If both parents are carriers and have this trait of the polymorphism, and it is possible to be a—15 percent of carriers do not show this trait. If they are among the 85 percent of carriers who show this trait, then through amniocentesis they can look for the segments in the fetus. If the fetus has two segments showing the polymorphi, that is a child with sickle cell disease. If the fetus has one segment that child is a carrier. If the fetus has no segments, that is a normal child.

Now, I went back and asked again whether that child could be one of the 15 percent that do not show the polymorphism, and the answer was that Dr. Alexander believes not. The answer is if they have done this whole procedure and the child does not carry that polymorphism, that child is not a carrier or a diseased child with respect to sickle cell.

Now, if either parent is not polymorphic, does not have this additional clump, is within that 15 percent of parents who are carriers but do not have this change of the DNA, then it is impossible to diagnose the sickle cell disease in the fetus through this amniocentesis procedure, and that would mean that for those parents the only way to diagnose the sickle cell disease in the fetus would be through fetoscopy, which brings us back to the Drew application.

Now, what all this means is there has been a shift in the risk benefit analysis that all of the reviewers performed on the Drew application, because when they looked at the Drew application fetoscopy was the only method for diagnosing sickle cell disease prenatally. Now it appears, although we do not have the documentation to give you, that it is possible in 85 percent of sickle cell carrier parents to diagnose the presence or absence of sickle cell disease by anmniocentesis which is agreed to be a safer procedure than fetoscopy.

So your job is somewhat more difficult, but I don't think it is impossible. One is left with the question of whether it is appropriate for the investigators at Drew to do the research, to assess the risks of fetoscopy as a tool for prenatal diagnosis of sickle cell disease in their subject population, and the reason I am emphasizing this is that if it were the case that all sickle cell disease could be diagnosed prenatally through any other method, amniocentesis or any other, then the board would have to face the question of whether the subject population which the Drew Medical Center serves is an appropriate population to develop the methods of fetoscopy. Fetoscopy is useful for prenatal diagnosis of other disorders, but not disorders which are disorders of the black population, which is the subject population which the Drew Center serves. So then one would have to question whether the black population is an appropriate subject population for developing fetoscopy if they are not going to be the population which will benefit from the development of that diagnostic tool.

In other words, one wants to have the population that will benefit from the research, participate as subjects and accept the risks of that research if possible.

Mr. HALPERN. Just related to this, are we not also in the position of asking whether or not we should remand this issue to Drew and the community that Drew serves for them to make the risk benefit analysis again, in light of this new data?

Ms. MISHKIN. Absolutely. That is a very viable option, and it certainly has a great deal of merit. I think one might reasonably ask for a total reassessment, by that IRB or by any number of other people, even including the study section that reviewed it, in the light of the new information. But I think we would want to get the actual information documented before we remanded it.

I don't know if this has been clear, and if you want more elucidation of the Commission's intent or of my understanding of the regulations, I would be glad to go forward with more.

Mr. GAITHER. Hank, would you say something about the science of this?

Dr. FOSTER. Yes, I am going to say something about the science and the sociology, if you will indulge me.

I heard of Kan's work just a few days ago, and I knew clearly like a shock wave that it was inevitably going to affect what we have to do, or what we recommended. But I want to say some things as we go through all of this deliberation, which may take me a few moments, but I really want to run through these steps that I have written down here. Some food for thought.

I just have one question. The genetic polymorphism that is necessary in the parents—is it required in both parents? In other words, you know, both parents may be carriers, but only one may show the polymorphism and the other may not. Is it a requirement for both parents? Do you recall?

Ms. MISHKIN. My understanding is that it is not going to be a reliable test through amniocentesis unless both parents show the polymorphism.

Dr. FOSTER. Now, the next question I have—and then I will make my comments—now, I read the research proposal, and I missed this delay. That bothers me a little bit, first. I have got to really clear that in my mind.

I have done a lot of amniocentesis and therapeutic abortions, probably near 700. As I read the protocol, the patient would be brought in the hospital, and that would be a 24 hour delay, which was not inordinate, based on the information that we have. It is very reasonable. But the clinical part, catheter is introduced into the amniotic cavity, and that is the time when the fetus is studied, the blood vessels, and the sample is taken. Then the fetoscope is withdrawn, but the catheter is left in place, which is quite acceptable. In fact, this is one of the techniques we use for continuous prostaglandin infusion.

But there gets to be a real question with regard to infection after a 24 hour period with an indwelling connection to the outside. I missed the entire reviewer's section about some extension beyond 24 hours, and if there is an extension of observation beyond 24 hours, does it involve the catheter being in place? This would be critical in my mind.

Dr. MCCARTHY. Yes, it certainly does.

Dr. FOSTER. I think that is something that really needs to be addressed in terms of the details of the research.

Ms. MISHKIN. I am frankly bothered by anything coming as far as to the Ethics Advisory Board through all those reviews without this being quite clear. It was in the site visit review, and it was because of the ambiquity that I called the principal investigator.

Now, Dwayne Alexander was working on the application in front of him, and so he really addressed only the 24 hour delay. But because of the ambiguities I did call, and the investigators do intend to go to two weeks. I think it might not be inappropriate for the Board to make some strong statement about wanting to be clear on what the procedures proposed are here.

Mr. LAZARUS. I wasn't clear either on the consent procedures.

Dr. FOSTER. That doesn't come through. But the one thing I do want to say, and then I will get to the other points I want to make about what all of the implications of fetoscopy are as I see it. I do think a longer observational period is an acceptable research modality provided safeguards are there. We have already talked about extending beyond the 20 weeks. That can be controlled for fairly well with ultrasonography for establishing fetal age, and a few other things. But I think you might want to consider the observation period without the catheter in place, because repeated amniocentesis has proven to be relatively safe in terms—the danger is in leaving a conduit for bacterial migration.

So what I am really saying is I can see the investigators making a justification for an observation period of longer than 24 hours, but I find it a little difficult at this point to see that justification with an indwelling catheter in beyond this point.

And now I think the things we need to be concerned about irrespective of what we ultimately recommend in terms of going back or whatever. There was very, very strong community support for this proposal. Anyone who read the type of support, and the rather incisive and critical questions, I thought, that the community asked in regard to many of the social and medical implications. I think it is keen that we remember that there have been so many charges of disregard for ethic makeups of our research, genocide and all the issues, if this is an indigenous decision by a community, I think we need to give that great respect, because it is a justification for us to say this is a decision that you made. If we say to the community no, we shouldn't do this, the community in a sense has a right to say you are willing to impose certain things on us externally that we feel are an abridgment, but here when we see something clearly directing us, you deny it. So that is something that has to be considered strongly in terms of sociology.

I think another thing that is very important from what I know about this—Drew has been one of the few centers that had federal support prior to the moratorium in 1973, I believe, involving aborted fetal subjects on the research, has gone through the steps of animal experiments. They have used the ovine model very well with sheep and I think we certainly have to give that some accord. They have gone through all the steps prior to using humans.

Now, the implications of Kan's work I don't need to go over. You have made that very clear. So I will move on to my fourth point.

Mitch Spellman makes this point a lot, and it is a good point. There is a basis for basic research with regard to doing fetoscopy, irrespective of Kan's work. There is a basic need. Now, I am going to go slowly and really try to make this point.

Kan's approach right now is the acceptable one. It is a reaction. It is an after-the-fact approach. It gives us an option simply to abort a defective pregnancy. Basic research will afford us a much broader and brighter horizon, might I add. And that is the possibility of diagnosing the defective fetus and then preventing the development of sickle cell disease in that fetus.

Now, I will try and paint a picture. In utero, for all of us normally, there is a different set of protein in two of the chains of our hemoglobin in early fetal life. The normal hemoglobin molecule has four chains, two upper alpha chains, which are proteins in a set sequence, and two lower, somewhat larger, beta chains in a set sequence.

The only difference between one who has sickle cell hemoglobin and a normal person is out of 184 amino acids in one of those chains, and that is in set sequence, there is an exchange of valine for glutanic acid, in the sixth position from the end. One of 184 chains. That is the only difference. But because of this change in the chain, certain physical and chemical defects, as you may call them, are imparted into the hemoglobin. It makes it less stable. Its ability to hold and release oxygen is affected. The stability of the red cell membrane is affected. It changes its pattern of migration in an electrical field. This is how we do our hemoglobin electrophoresis.

Back to in utero, none of us has these beta chains when we are developing. We have another chain called a gamma chain, and that gamma chain is provided for through a mechanism which we yet do not fully understand, and this is where our basic research should continue. There are repressor genes and activator genes. Rarely, through chance, some people who were destined to have sickle cell disease never develop it. But they continue to make the gamma chains which make fetal hemoglobin throughout life, even in the postnatal period. And these people have absolutely no trouble. That is the ideal situation for the sickle cell person, is to be able to find that mechanism that will prevent the turning on of the activator genes from going from gamma chains to defective beta chains. So there is a clear need for this kind of research in spite of the work by Kahn and his group.

It is at this basic step where not only will we be able to diagnose the child destined to have sickle cell disease, but indeed, to prevent it. So I think that alone justifies continuation of this basic research approach.

Lastly—well, that includes—I wanted to say something about the basic science of the molecule. So there is a real horizon out there that has to be untapped, and that is the ability to diagnose the abnormal hemoglobin but not by default to get rid of the fetus. That is the thinking that if you want to prevent forest fires, cut down all the trees. I want to take a different approach. I want to see can we afford this fetus that was destined to be one thing, that our basic research will continue to allow us to do something about it.

So I just wanted these thoughts to be in the back of our minds, particularly in light of Kan's recent work as to the obsoleteness of this continued basic research approach.

Ms. MISHKIN. Is the research to develop that therapy now ready for pursuing through fetoscopy now, or does one have to wait for more development in animals and other methods before you actually go to fetuses in utero?

Dr. FOSTER. I think I understand your question, Barbara. Are you saying is our technique to such a point that we can go ahead with just the technique of amnioscopy?

Ms. MISHKIN. No, I am asking whether one would endorse the Drew application today on the basis of the need to develop the prenatal therapy, or are we not yet there with respect to the therapy, with the animal work and so forth?

Dr. FOSTER. I think the animal work has been done. I think that has been satisfied.

Ms. MISHKIN. There is one other thing I forgot to mention on the risk benefit analysis, and that is the concern about using fetuses to be aborted. There is not much direction in the HEW regulations on this matter, but the Commission came down to a guideline that may or may not be useful for you, but I think it has some merit. That is, they felt that it was ethically acceptable to perform procedures on a fetus to be aborted if one would feel ready to perform those procedures on a fetus intended to go to term.

In other words, if one had done all of the animal work, including primate work, which they have done in this case, and if they were unable to do it on fetuses to be aborted to further assess the risk, if they would be willing then to go forward therapeutically with it on fetuses going to term. That condition has been met in this case, because there are apparently several groups who are performing amniocentesis on fetuses intended to go to term.

Father McCORMICK. Fetoscopy, you mean?

Ms. MISHKIN. In fetoscopy, yes.

Mr. GAITHER. In somebody's judgment.

Ms. MISHIKIN. I mean the condition of its being performed on fetuses going to term has been met, and the question is whether or not that meets your feeling of acceptability for performing the procedure on fetuses to be aborted. But this procedure is being performed on fetuses going to term.

Mr. GAITHER. Can I just ask for some clarification, first? One, what are the purposes of this particular protocol? Is it particularly experience and safety, or does it get into the basic research questions that Dr. Foster was mentioning?

Ms. MISHKIN. My understanding of the protocol is that it is to assess the risks of infection, of bleeding, of premature abortion, and so forth, that are attendant with fetoscopy. Now, Dr. Alexander also sees an additional benefit, which is developing the competence of the investigators to perform the procedure prior to trying to do it on fetuses going to term. That also is included. That is not the primary purpose of the application as written. The application is to determine with somewhat better certainty the risks involved to mother and fetus.

Dr. FOSTER. And a part of that is improving the technique. It is not basically designed to go into a specific basic research question. As I understand it, it is what Barbara says, to assess the safety and to improve the technique. That is going to evolve from that. And that is one of the reasons I feel they are asking for a somewhat longer observation period, because if you do the procedure and then proceed directly to the termination, you would deny some of the longer term effects, delayed bleeding and the like.

Mr. GAITHER. Two further points of clarification, and then I will open the discussion. The work that is presently going on at Yale and the University of California, has that been subjected to these regulations and approved, the distinction being that it was therapeutic, that is, regarded to be of benefit to a possible child, and that is why it is different, or not? Do you know what the status is?

Ms. MISHKIN. I am not entirely clear. My understanding is probably not with respect to the Yale group, because I do not think that is funded by HEW. I believe that is the information we got from Jerry Mahoney just recently. But as you know, the regulations are somewhat ambiguous with respect to whether or not research conducted at an institution but not funded by HEW must be reviewed by the IRB, and also subject to the same review standards. So it is a somewhat unclear point with respect to the Yale group.

Dr. McCARTHY. It is perfectly clear that the Yale group felt obliged under Section 474(b) of the Public Health Service Act to have Dr. Mahoney's research involving fetoscopy reviewed by the IRB. They also made the interpretation, which I think is a reasonable one, although not the only possible one—they made the interpretation that they need not review according to HEW standards. And in fact, there is some question in my mind as to whether Dr. Mahoney's work would have been acceptable under HEW standards, because I think they regard this as more than minimal risk—not a great deal more, but somewhat more than minimal risk. Therefore, if they had followed our standards, his work would have had to come to the Board. Because it is not funded by HEW, they decided they could make that decision and they have made it and are carrying out that work.

Mr. GAITHER. There would not have been a distinction based on their work being therapeutic and this work not, because of the abortion?

Dr. McCARTHY. No. As I understand it, initially they—and I am not quite sure at what phase they are in. They have planned a series of steps, the later stages of which they intend to be therapeutic. As I understand it, they are still in the diagnostic phase of those steps, but I believe their approval goes all the way to—assuming all the other stages are carried out with no untoward events—they intend to go all the way to applying fetoscopy to therapeutic interventions to try to assist fetuses that are in one way or another abnormal.

Mr. GAITHER. Mr. Lazarus?

Mr. LAZARUS. I think one of the key issues in this request is the problem of risk and how it is presented to the patient. Barbara says in her note that the risk presented by research cannot be characterized as minimal. Rather, it should be considered undetermined. And yet, the patient consent states that "I have been advised that these risks are minimal to me and to my fetus."

I think that one of the items that must be clarified is the whole consent procedure, and the nature of the risk must be spelled out a lot more consistently than they are spelled out under the present consent procedure that has been presented by Drew.

Ms. MISHKIN. I think one of the problems is that minimal risk, as I pointed out, is not defined in the HEW regulations, and in the Commission's report and its deliberations, that was a problem in two areas. At one point they indicate—and they indicate more strongly in subsequent reports—that risk which has not yet been determined should not be classified as minimal, but should remain under the categorization of undetermined.

On the other hand, there were some Commissioners although not all of them—there was a difference of opinion on this point, as to whether when you are talking about a fetus to be aborted, one can consider risk of abortion as a minimal risk to that fetus, whereas one would not consider risk of abortion a minimal risk to a fetus intended to go to term. This was one of the very difficult points where there was a lack of consensus among the Commission members.

So I think that when the IRB and the various people who reviewed the Drew application determined that it was minimal risk, that was not a clearly unacceptable determination. It was simply their interpretation, given very little guidance from the Department as to how to assess and categorize that risk.

Mr. LAZARUS. It would seem to me, though, that a patient's consent is very important with the nature of the risk, which is undetermined. It should be very carefully spelled out.

Mr. GAITHER. Particularly when one is conducting the research for the purpose of finding out how risky the procedure is.

Mr. LAZARUS. Right.

Mr. HALPERN. Underlining the illogic of the word "minimal" where you are saying we don't know what it means, well, the problem is it is in our HEW regulations, and if in fact the risk is minimal as the patient is told, it wouldn't be here.

Ms. MISHKIN. That is right. It would not be before this Board if the risk were minimal. Then the IRB could have approved the project by themselves, although there is another provision that would need a waiver, so it probably would come here anyway. That is, the regulations currently provide that there be no change in timing or procedure of an abortion for research purposes that would add any additional risk, and that provision does not say "that would add more than minimal risk," but that "would add any additional risk." So it might have had to come here even so.

Dr. McCARTHY. But the determination, the very point that Mr. Lazarus made, was picked up in the Office for Protection from Research Risks, which refused to—even though it had been reviewed by all of the subsidiary bodies—refused to go ahead and fund until and unless it has been approved by this Board.

So it is that very point: If you are doing research to assess risk, it does not seem possible then to prejudge the outcome by calling it minimal. It may turn out to be minimal, but there is no justification for the research if you already know it is minimal.

Mr. LAZARUS. And you are getting your consents under a false clause.

Dr. McCARTHY. Yes, and I think the Office for Protection from Research Risks was correct in making the judgment that it should come before this Board to comply with HEW regs.

Mr. GAITHER. Yes, Dr. Henderson?

Dr. HENDERSON. Let me just carry that a little further. One of the important criteria here is that the research is important and justified. I think this is what is indicated. Clearly we have got investigators who are very competent people and they have obviously proceeded step by step in reaching the point they have.

I guess there are a couple of things in my own mind that are rather unclear. There are two centers where the work is being done now, Toronto and New Haven, where the risks now appear to be rather small. I think this is perhaps where the statement is that it is probably a minimal risk, that experienced people following along with two other centers, and doing what I interpret or what I understand is the same procedure that they are doing in New Haven and Toronto.

The question I guess I have, then is is it necessary to fund yet a third center? Should HEW fund a third center to be doing this? What are the advantages?

The initial point here, as they say, initially it is limited to an assessment of the safety. I find that fully justified to go—initially one is doing a study to assess the safety. But then I ask what is the ultimate objective, because we want research which is important and justified. What is it leading to? Obviously there is an objective here.

I believe, as I interpret it, that they would hope to be defining sickle cell disease. Now, I think in talking with you earlier, the question is can you identify either the sickle cell trait or sickle cell disease before 30 weeks? Can you define it at this period in time?

Perhaps we are talking about, as you mentioned earlier, longer term basic research, which requires this technique to be used. Is it enough to say that it is important that we do longer term basic research employing this technique without defining what is that basic long term research, and are we at the point now to approve of this sort of application which is based on safety, for some sort of ill-defined subsequent future, when in fact we are supposed to be judging this that the research is important and justified.

Now, it is obvious that there are a lot of very good people who have looked at this, and I am asking the questions, I would say, out of ignorance, because I found some contradictions here which I am having trouble with.

Father McCARTHY. Do you want to respond to that, because I have got a different point I want to raise.

Dr. FOSTER. Well, yes. I tried to make some of them and I will try again. I think there are quite a number of justifications, Don, for continuing. One of the biggest reasons—I think the assumption is not completely correct that this work is being done at the other centers. I don't think there is anywhere the proportionate interest in sickle cell disease at either other center, nor is there the particular population base in either other center to be able to address this effectively.

Even if Kan's work proves to be what it is purported to be, based on what Ms. Mishkin has said, we are still left with 15 percent of a large population that is at great need, as you are probably aware. About eight percent of the blacks in this country harbor the sickle cell trait, and that is 2.5 million people, and 15 percent of that is a large port of the population.

So I think there is still in our current state of the art to continue to try and be able to diagnose sickle hemogloginopathies prior to the 30th week. I think there may be ways that we can do it. As yet we can't do it very reliably.

So I think the justification for continuing this work is clearly there. The justification may not be as strong as it was, but I certainly think it is within the realm of acceptability. This is what I personally feel.

Let me say one other question while I have the microphone. Let me address one other question regarding therapy versus research. I have not seen the research proposals that John Hobbins had at Yale, or what Kan has done at USC. But I do know that a lot of their fetoscopy work was therapeutic. The work on thalassemia was clearly therapeutic. It was done for the same reasons that we do amniocentesis, to decide whether or not the pregnancy should continue, and to provide a therapeutic abortion. In fact, I know much of that.

Hobbins' most recent article, which I believe was December of last year where he had, as I recall, about six or seven patients with sickle cell disease which he was working with. These were all therapeutic. He had tried to make a determination as to what type of hemoglobinopathy, whether it would be homozygous or heterozygous around the 22nd week, and the results were just inconclusive. His conclusion at the end of the article was that at this point we still can't do it. But that was clearly done to be therapeutic. Had he felt that he could have made the determination, he would have offered therapeutic abortion. So I do know that some of the work has been therapeutic.

Dr. McCARTHY. That is correct. I should amend what I said. I think what Mahoney is doing is now tending to move into the preventive therapy and not—so I would like to amend what I said before about therapy, because it was clearly for the purpose of giving parents the option of a therapeutic abortion. But now they hope to move into preventive therapy, which is the sense in which I was using "therapeutic."

Mr. GAITHER. Is there an answer to Dr. Henderson's question, though? Do we know whether this technique will enable the researcher to determine the presence of the sickle cell disease?

Dr. FOSTER. We never know that until we do the research. I mean, no, I don't think we know it beforehand.

Mr. GAITHER. I think that is kind of a fundamental point here, because implicit in all of these papers, it seems to me, is precisely that, that this technique will enable the discovery of whether or not the disease is present. The question is whether it can be safely done. Now, if that is wrong, my whole reading of all of these papers is very much mistaken. I think it is a very fundamental point.

Either we are dealing with something that we know can help, and the question is whether it is safe, or we are dealing with something that we don't know much about.

Dr. HENDERSON. I am puzzled by your statement that the sickle cell trait is not identifiable before the 30th week. This is what is concerning me at the moment. And if it isn't identifiable before the 30th week, because you do have fetal hemoglobin present, I am not quite sure where this technique leads. I think this is information which we do have a reasonable body of knowledge on, do we not?

Dr. FOSTER. I don't know. The only thing that I do know is that the struggle has been to try and be able to diagnose sickle cell—homozygous sickle cell disease at a point at which therapeutic abortion could be offered. Right now we don't have that capability, and it was my understanding that one of the thrusts of this research proposal was to help to try and find that capability.

I would certainly think that this is an issue that again could be raised with the team, the basic research team who conducted the site visit. I think that these might be some issues that Jim and the staff might wish to bring up.

Mr. HALPERN. Dr. Henderson, it might be helpful.

Mr. NICKLES. Mr. President, we have the nominee saying a week ago Friday he performed less than 12 abortions. On the "Nightline" show, Dr. Foster said he did 39. Now we have the AP report saying that other physicians said he did many more than that in the years prior.

We have a transcript of a meeting where he said he did about 700 amniocentesis and therapeutic abortions. There are a lot of inconsistencies.

Again, I say, this nominee should be withdrawn or he should withdraw himself because of these inconsistencies, because I think there has been a deliberate attempt to mislead Congress.

Finally, I will say a couple of other things. Dr. Foster's credibility has been called into question, not only because of his inconsistent statements about abortion, but also because of other public statements. For example, during the same "Nightline" appearance, Dr. Foster said,

> We have a responsibility in training residents to maintain our accreditation, a very difficult job. I maintained an accredited residence program for 17 years.

But as today's Washington Times reports, the obstetrics residency program at Meharry Medical College lost accreditation in May 1990 when Dr. Foster was department chairman.

I watched a tape of that program, and I heard him say he maintained accreditation for 17 years. He kind of forgot to say that it lost accreditation when he was department chairman. Maybe he just forgot to say that. I do not know why it lost accreditation. I have heard, but I am not even going to mention that. I am not even faulting him for that. I am just saying his record before the public is misleading because he lost accreditation in that program. As a matter of fact, that accreditation, according to this article, has not been recovered, meaning Meharry Medical College cannot place students in hospital residency programs in obstetrics.

I ask unanimous consent to print the Washington Times article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Feb. 10, 1995]

MED SCHOOL FALTERED WITH FOSTER AT HELM

(By Paul Bedard)

The obstetrics and gynecology residency program at Meharry Medical College in Nashville, Tenn., permanently lost its accreditation when surgeon general nominee Henry W. Foster Jr. ran the department—countering his characterization that he kept it operational.

Senate critics of President Clinton's nominee said Dr. Foster misled them on his administration of the department and the college and said it was another example of the gynecologist hiding his record, especially on the number of abortions he has performed.

"He is not being straightforward with the American people and the administration is trying to cover up," said Sen. Dan Coats, Indiana Republican.

Mr. Coats and other Senate Republicans joined Sen. Don Nickles, Oklahoma Republican, in calling on Mr. Clinton to withdraw the nomination because of the differing accounts by Dr. Foster and the White House on the number of abortions he has done in a 37-year medical career.

The growing chorus of GOP voices demanding the withdrawal muted the support for Dr. Foster stated yesterday by six Senate Democrats.

Meanwhile, White House officials vented their frustration with Dr. Foster's inability to settle on a concrete figure on the number of abortions he has performed.

On the same "Nightline" show Wednesday night, the 61-year-old former Planned Parenthood board director said he had done 39 abortions since 1973, but he didn't address his eight-year stint as chief of obstetrics and gynecology at John A. Andrew Memorial Hospital at Tuskegee University in Alabama.

Asked if the White House was satisfied with Dr. Foster's answer that he had performed 39 abortions, White House spokesman Michael McCurry said: "No, we're not satisfied. We will continue to work with Dr. Foster. Many of the records he described last night are only available to him because he's the only person that can request those records."

Dr. Foster had previously said he performed one, then "fewer than a dozen" abortions. He also headed a study on an abortion pill that led to 55 more abortions. And he has disavowed an official government transcript in which he indicates he may have done hundreds more abortions.

Officials at historically black Meharry said that Dr. Foster's obstetrics-gynecology residency program lost accreditation in May 1990 and the withdrawal took place a year later—after Dr. Foster had been promoted to the dean of medicine and vice president of health services.

Several efforts to restore the accreditation have failed. Without accreditation, medical schools can't place students in hospital residency programs, according to the American Medical Association.

Meharry spokeswoman Martha Robinson said the program failed because there weren't enough patients to sustain a residency internship. "It was clearly a numbers problem. It wasn't a quality issue," she said.

Dr. Edward R. Hill, who was vice chairman of Dr. Foster's program from 1982 until it ended in 1991, explained that black patients chose suburban hospitals in the late 1980's. "We lost a very significant market share among the poor who now had a ticket, Medicaid, to more affluent areas," he said in an interview.

But a prominent Nashville doctor familiar with the program and Dr. Foster said the University of Arkansas-trained physician was a poor administrator.

"He's a great idea guy but not with following through or getting the job done," said the doctor, who requested anonymity.

Senate Republicans and a White House team are studying Dr. Foster's management at Meharry, which twice received government financial bailouts while Dr. Foster was associated with the school.

"One day after he goes on 'Nightline' to brag about running his department we learn it crashed on his watch and he failed to get it accredited. He has a very deep credibility problem," said an aide with the Senate Republican Conference.

Mr. Nickles said that termination of the obstetrics-gynecology program clashed with the impression Dr. Foster left "Nightline" viewers with when he explained the reason for accepting a grant to do a study on an abortion pill in the early 1980s.

On that show, Dr. Foster said, "We have a responsibility in training residents to maintain our accreditation. It's a very difficult job. I maintained an accredited residency program for 17 years [1973 to 1990]. We have a responsibility to teach all residents how to manage the complications of abortion."

Dr. Foster's changing stories on the number of abortions he did along with concerns about his management of the Meharry obstetrics-gynecology program sparked moves by Republicans to kill the nomination. Dr. Foster is to replace outspoken former Surgeon General Joycelyn Elders, fired for controversial statements on child masturbation and sexual conduct.

"In the wake of Dr. Joycelyn Elders' discordant and failed tenure, I believe that America deserves to have a surgeon general capable of inspiring Americans on a broad range of public health issues. Plainly, Dr. Henry Foster's background and the White House's mishandling of his nomination renders him incapable of achieving that goal," said Sen. Phil Gramm, Texas Republican.

"As a result, I intend to strenuously oppose the confirmation of Dr. Foster to become surgeon general of the United States," he said.

Mr. Coats, a member of the Labor and Human Resources Committee, which will vote on the Foster nomination said, "There is a litmus test here and it is not abortion. It's the truth."

Liberal groups supporting Dr. Foster have charged that the "radical right" is using the Foster nomination to push its anti-abortion agenda.

But Mr. Coats said that Dr. Foster simply hasn't told the truth about his past. "You make the same accident three or four times and you begin to wonder if it's an accident."

After watching the nominee get hit for eight straight days, Senate Democrats finally began to rally behind Mr. Clinton's choice. The president also used a press conference with German Chancellor Helmut Kohl to speak in favor of Dr. Foster.

"I think he's a good man, I think he'll be a good surgeon general, and I think that that ought to be the issue," he said.

The president also joined with Dr. Elders in bashing Dr. Foster's opponents as ardent anti-abortion radicals.

"Now, I know that those who believe that we should abolish the right to choose and make conduct which is now legal criminal will try to seize upon this nomination to negate the work of a man's life and define him in cardboard-cutout terms, but I think that is wrong," he said.

Sen. Frank Lautenberg, New Jersey Democrat, said, "This is a vendetta, this is a witch hunt."

A day after giving Dr. Foster a 50-50 chance of winning approval by the Senate, Sen. Barbara Mikulski, Maryland Democrat, said: "Unfortunately, the White House did not do the best job in putting doctor Foster's nomination forward. Maybe that's the way the White House does such things."

Mr. NICKLES. Mr. President, Dr. Foster became dean of Meharry Medical College later in 1990. The following year, according to the June 26, 1991, edition of USA Today, two other residency programs at Meharry also lost accredition—pediatrics and surgery. So while he was dean of the medical school, they lost pediatrics and surgery accreditation.

I ask unanimous consent to print the USA Today article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, June 26, 1991]

PROGNOSIS: POOR—MED SCHOOL'S CRITICAL ROLE IS IN PERIL

(By Mark Mayfield)

For 115 years, Meharry Medical College has trained more black doctors than any other school in the nation, earning a reputation for excellence.

But now Meharry's doctors are facing their toughest case: the school itself.

Lack of patients at Meharry's modern, 12-story training hospital is jeopardizing the school's medical residency programs.

And that means trouble for the national health-care system because Meharry is a top provider of doctors for low-income rural areas and medically starved inner cities.

"If the Meharrys and other minority medical schools slide into a crisis situation, it will have a serious long-term impact on health care in low-income areas around the country," says Thomas W. Chapman, president of Greater Southeast Community Hospital in Washington, D.C.

"They play a critical role in continuing to sustain a appropriate levels of health care in low-income communities."

This week, Meharry's obstetrics-gynecology residency program loses its accreditation; residents in pediatrics must transfer to a New York hospital to finish their training. The same problem cost Meharry its surgical training program.

"When you don't have enough patients, you don't have enough cases and not enough experience for your residents," says Dr. Washington Hill, Meharry's chairman of obstetrics and gynecology.

Loss of the school's teaching hospital programs could limit its ability to attract minorities to medical careers.

"When Meharry has a serious problem, that obviously has an impact on the opportunity of black students to go to medical school," says David Denton of the Southern Regional Education Board, which has just completed a study of minority medical student education.

"In absolute terms, if you don't have residency programs in pediatrics or obstetrics-gynecology, two primary health-care fields, * * * it affects the whole teaching atmosphere of a medical school."

But Denton says the school's overall quality isn't a problem.

"People shouldn't confuse the residency problems with the quality of teaching at Meharry. It has been very effective in getting its graduates licensed," he says.

Nearly 40% of the nation's practicing black doctors and dentists are Meharry graduates. Most of them work where doctors are needed the most—poor urban areas and under-served rural towns.

"Our graduates are working in inner cities, in New York, in downtown Detroit, here in downtown Nashville," Hill says. "Nobody wants to practice in inner cities. But our graduates do."

Meharry also has produced four of every 10 black faculty members in the nation's 126 medical schools.

Until the 1970s, Meharry and Howard University School of Medicine in Washington, D.C., trained nearly 80% of the nation's black doctors. But with desegregation of what were once all-white schools, just 20% of the nation's black doctors now graduate from any one of the four black medical schools.

Nevertheless, under 7% of all first-year medical students nationally are black, so educators say Meharry gives opportunity to those who would not otherwise have it. More than 50 of the 80 first-year students enrolled at Meharry this year were accepted nowhere else.

"We take kids knowing they bring (academic) baggage," says Dr. Henry Foster, Meharry's medical school dean. "We know they can catch up. It's not how they enter that counts, it's how they exit. We'll put our graduates up against anybody."

Administrators and students cite a "cultural sensitivity" that graduates may not get elsewhere, based partly on the school being located in a poor, mostly black section of north Nashville."

"Being here is like being in the giant arms of a loving mother," says fourth-year student Andi Coleman, 28, of Greenville, Miss. "Meharry * * * sends its students out to take care of the poor, of the homeless. There is a warmth here you don't find in other programs."

Says Dr. David Satcher, Meharry's president: "African-Americans face a chronic health problem when you look at life-expectancy rates, infant mortality, death rates from treatable health problems. Meharry is not just a black institution. It's the leading hospital for the care of the poor and indigent. In all of our history, we have been involved with people who are disproportionately poor."

Meharry's patient shortage stems from a combination of politics, tough competition for patients in one of the nation's best medically served cities and financial woes inherent to black colleges.

Nashville, with 510,000 residents, has one of the highest per-capita number of hospital beds: 6,000 in 17 hospitals. It is home to the largest private hospital corporation in the nation, HCA, and Vanderbilt University Medical Center, which employs 10,000 people.

To solve Meharry's residency problem, administrators have proposed merging two hospitals—Meharry-Hubbard, where most patients are black, and Metro General, a dilapidated downtown hospital where most patients are white.

Meharry-Hubbard, with 235 beds, rarely has more than 100 patients at a time. "We have a relatively modern, empty plant," says Dr. Rupert Francis, chairman of family and preventive medicine. "We have to get patients back."

The 200-bed Metro General also rarely has more than half its beds filled.

A merger "will benefit people who are using a very antiquated facility, and it will provide more patients in which to train medical students," Hill says.

Among those supporting the merge is Vanderbilt, which now provides most of the doctors at Metro General.

But Nashville's Metro Board of Hospitals, in a 4-2 vote, rejected the merger in February, citing economic reasons.

"Some of us call (the vote) racism. The more dignified way is to call it Southern politics," Francis says.

Meharry administrators are confident they'll get the merger and re-establish accreditation for residency programs.

"Every hospital located in a low-income community is having a problem," Satcher says. "If you're in that business, you take a beating. You're punished for your commitment. We'll struggle to hold on, until one's ability to pay does not control access to health care in this country."

Says Dr. Tim Holcomb, a white Meharry resident in family medicine: "We have an emphasis on care for the poor. If I went to a big-city type of residency, I'd see sniffles and colds. Here, I see people who haven't seen a doctor in 20 years. I have absolutely no regrets coming here."

Mr. NICKLES. Mr. President, in my opinion, this raises further questions concerning Dr. Foster's credibility. On "Nightline," he presented himself as someone who had maintained accreditation at Meharry obstetrics residency program. He neglected to mention that he was department chairman when that accreditation was lost.

In my opinion, this nomination should not go forward. Some people say, "Let's wait until we have a hearing and get all the facts out." But these are statements that came from Dr. Foster himself. This statement came from Dr. Foster himself before a committee. It directly contradicts the statement he made on "Nightline." The "Nightline" statement directly contradicts a statement that he made and gave to the press, which I inserted in the RECORD, that he gave a week ago. Dr. Foster's statements are totally inconsistent. They have been misleading. His statement about the accreditation of Meharry was misleading.

So, Mr. President, I do reluctantly—I do not do this often—but reluctantly, I urge Dr. Foster to withdraw his name from consideration or urge the President to withdraw his name from consideration to be the next U.S. Surgeon General.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR WILLIAM FULBRIGHT

Mr. DASCHLE. Mr. President, the British poet John Donne said that "every person's death diminishes us." That is certainly true, and it is especially true today, for yesterday America and, indeed, the world said goodbye to a man whose death diminishes us all, Senator William Fulbright.

He served in the Senate for 30 years. He served with distinction. Some in this Chamber had the privilege of working with him. But whether or not we knew Senator Fulbright personally, we were all touched by him. Our Nation and our world are better for him having passed through it.

Senator Fulbright understood that the most powerful deterrent to war is not bombs, not some mysterious shield we might try in vain to erect, but simply understanding.

The cornerstone of his legacy, the Fulbright scholars program, has created more than 200,000 ambassadors for peace and for progress throughout the world. These are bright young men and women who have traveled from America to study in 130 nations as well as men and women from around the globe who have come here to our Nation to learn. Our world is safer for the work of these Fulbright scholars and for the vision of the man who made their studies possible.

He was a son of Arkansas, but his influence was felt throughout the world, and it will be, I suspect, for generations to come.

Today, as we remember Senator Fulbright, it is easy to feel diminished by his passing. But let us also remember how enlarged we are by his life. As we struggle to find America's place in the post-cold war world, let us remember the lesson Senator Fulbright taught us about the formidable power of understanding. Let us also remember that America has a responsibility to be not only a military leader in this world, but a moral leader as well. And we must never shrink from either role.

William Fulbright, the "Chairman," as he was fondly known, was a diplomat, an idealist with a strong heart, an uncommon vision, a dogged fighter for what he believed was right. He was unafraid to stand against public opinion when his conscience told him he must.

To the Senator's family, his wife Harriet, his daughters, his grandchildren, and to his great grandchildren, and certainly to all of his many, many friends, we offer our sympathy and our prayers. William Fulbright truly was a gentleman, a scholar, a statesman, a national leader who made a positive and indelible mark on this country. We will never forget him.

THE NOMINATION OF DR. HENRY FOSTER

Mr. DASCHLE. Mr. President, I would like to talk for just a moment about the nomination of Dr. Henry W. Foster, Jr., to be Surgeon General of the United States. No one could deny that Dr. Foster has had a distinguished career both in terms of his service as a practicing physician as well as his contributions as a medical educator and community leader. No one can deny that.

For the last two decades now, Dr. Foster has served in the department of obstetrics and gynecology at Meharry Medical College where he has helped to train some of our Nation's finest doctors. At Meharry, Dr. Foster has demonstrated his vast leadership abilities by serving not only as professor and chairman of the department, but also as dean of the school of medicine and the acting president of the college.

Throughout his distinguished career, Dr. Foster has been a clear voice for personal responsibility. His work on teen pregnancy prevention has been a valuable contribution at a time when we are struggling desperately to identify effective solutions to this nationwide problem.

The "I Have A Future" program which Dr. Foster developed and directed was chosen by President Bush as one of his "thousand points of light." The program stresses abstinence. It engages communities in helping teenagers make positive decisions about their future.

Dr. Foster is endorsed by the American Medical Association, the Association of Schools of Public Health, the National Medical Association, the American College of Obstetricians and Gynecologists. He has been endorsed by Dr. Sullivan, Secretary of Health and Human Services under President Bush.

I have no doubt that this man's background makes him well qualified to be Surgeon General. It is a shame that his distinguished career and many contributions to society have now been clouded by his opponents' attempts to turn this nomination into a debate about abortion. But this debate is not about abortion. No doctor in this country should be disqualified from consideration for the post of Surgeon General for performing a legal medical procedure.

This debate is about qualifications. Dr. Foster is the President's choice for the position of Surgeon General. He is qualified for this position and I daresay most people know that today. Of course, the Senate has a constitutional advice and consent role. Any remaining questions about this nominee should be dealt with during the confirmation process where they belong. This is what we do with every nomination, and it is critically important.

I must say, this town can be pretty mean. I hope, as we consider this nomination, we remember that Dr. Foster is a man who has come forward to serve his country at the request of the President of the United States to serve in an important role. It is a role to help children, to help families, to make as positive a contribution as possible in what time he may have to do it.

We ought to respect that. We ought to be careful about what we say and about asking people to join in public service if every time they accept the call to public service they are beaten down, and ultimately characterized as people they are not. Let us be careful about that.

Let us also recognize if we are going to deal in a bipartisan manner, as we have attempted to do on a whole array of issues, it must be a two-way street. Democrats and Republicans need to work with one another. But if this becomes a one-way street, if this becomes a partisan issue, that sends a clear message, it seems to me, about what expectations the majority may have as they look to us for cooperation on many issues in the future.

This man deserves confirmation. This man deserves our support. And I hope we will all give it to him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for not exceeding 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES REFERRED

The following bill, pursuant to the order of February 9, 1995, was read the first and second times by unanimous consent and referred as indicated:

S. 381. A bill to strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba, and for other purposes; to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself, Mr. KYL, Mr. SMITH, Mr. LOTT, Mr. INHOFE, Mr. MCCAIN, and Mr. KEMPTHORNE):

S. 383. A bill to provide for the establishment of policy on the deployment by the United States of an antiballistic missile system and of advanced theater missile defense systems; to the Committee on Armed Services.

By Mr. BROWN (for himself and Mr. HELMS):

S. 384. A bill to require a report on United States support for Mexico during its debt crises, and for other purposes; to the Committee on Foreign Relations.

By Mr. GREGG:

S. 385. A bill to amend title 23, United States Code, to eliminate the penalties imposed on States for failure to require the use of safety belts in passenger vehicles, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MCCONNELL:

S. 386. A bill to amend the Internal Revenue Code of 1986 to provide for the tax-free treatment of education savings accounts established through certain State programs, and for other purposes; to the Committee on Finance.

By Mr. EXON:

S. 387. A bill to encourage enhanced State and Federal efforts to reduce traffic deaths and injuries and improve traffic safety among young, old, and high-risk drivers; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself, Mr. COHEN, Mr. CAMPBELL, Mr. GRASSLEY, Mr. INHOFE, Mr. ROTH, Mr. GREGG, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mr. KOHL, Mr. BENNETT, Mr. LUGAR, Mr. GRAMS, Mr. THOMAS, Mr. COATS, and Mr. HATCH):

S. 388. A bill to amend title 23, United States Code, to eliminate the penalties for noncompliance by States with a program requiring the use of motorcycle helmets, and for other purposes; to the Committee on Environment and Public Works.

By Mr. JOHNSTON (for himself, Mr. BENNETT, Mr. HATFIELD, Mr. NICKLES, Mr. SHELBY, and Mr. SPECTER):

S. 389. A bill for the relief of Nguyen Quy An and his daughter, Nguyen Ngoc Kim Quy; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. SPECTER, Mr. KOHL, Mr. KERREY, and Mr. D'AMATO) (by request):

S. 390. A bill to improve the ability of the United States to respond to the international terrorist threat; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Mr. HEFLIN, Mr. BURNS, Mr. DOMENICI, Mr. GORTON, Mr. KEMPTHORNE, Mr. MURKOWSKI, and Mr. PACKWOOD):

S. 391. A bill to authorize and direct the Secretaries of the Interior and Agriculture to undertake activities to halt and reverse the decline in forest health on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources, that when reported the bill be referred jointly to the Committees on Agriculture, Nutrition, and Forestry and Environment and Public Works, for a period not to exceed 20 days of session to report or be discharged.

By Mr. GLENN (for himself and Mr. DEWINE):

S. 392. A bill to amend the Dayton Aviation Heritage Preservation Act of 1992 with regard to appointment of members of the Dayton Aviation Heritage Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER:

S. 393. A bill to prohibit the Secretary of Agriculture from transferring any national forest system lands in the Angeles National Forest in California out of Federal ownership for use as a solid waste landfill; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO:

S. 394. A bill to clarify the liability of banking and lending agencies, lenders, and fiduciaries, and for other purposes; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. KYL, Mr. SMITH, Mr. LOTT, Mr. INHOFE, Mr. MCCAIN, and Mr. KEMPTHORNE):

S. 383. A bill to provide for the establishment of policy on the deployment by the United States of an antiballistic missile system and of advanced theater missile defense systems; to the Committee on Armed Services.

BALLISTIC MISSILE DEFENSE LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce legislation that would establish as U.S. policy the goal of developing and deploying as soon as practical defenses to defend the American people and our forces overseas against ballistic missile attack. This bill is identical to a provision recently passed by the House National Security Committee, which will soon be considered by the full House of Representatives.

The administration has proposed a ballistic missile defense program that focuses almost exclusively on theater missile defense. While I strongly support a robust theater program, as reflected in this bill, I believe that the administration's program is not well balanced.

It is my belief that the administration has failed to put together an adequate national missile defense program to defend the American people against the emerging threat posed by long-range ballistic missiles. Today, the United States faces ballistic missile threats, but has no defense. In the future, there will be more countries which will be able to pose such threats to our country. Therefore, we must begin today to plan for the creation of a highly effective national defense that initially will be able to defend against a limited ballistic missile attack.

In the coming months, the Senate Armed Services Committee will be examining a wide range of options for a national missile defense system. Our decisions will become apparent in the fiscal year 1996 defense authorization bill. The purpose of the bill I am introducing today, is to establish a general policy and to require the Secretary of

Defense to establish a plan for developing and deploying a national missile defense system.

I would like to thank Senator KYL for his work in this area and for being a principal cosponsor of this bill. A number of my colleagues from the Armed Services Committee are also joining me in introducing this important legislation, and I thank them all for their support and hard work on this issue.

Mr. KYL. Mr. President, today, along with Senator THURMOND and other Senate Armed Services Committee members, I am introducing the Ballistic Missile Defense Revitalization Act of 1995, for the purpose of requiring the Secretary of Defense to develop for deployment, at the earliest practical date, national and theater ballistic missile defense systems. The companion legislation, section 201 of H.R. 7, has passed the House National Security Committee and will soon be voted on by the full House.

I am submitting this legislation in an effort to get the Pentagon's current ballistic missile defense program back on track. Currently, and in the forseeable future, the United States continues to be woefully unprepared to cope with the threat of ballistic missile attack. This must end; and the bill I have introduced today will help end our vulnerability.

Twelve years ago during his State of the Union Address, former President Ronald Reagan posed a simple challenge to America's scientific community: Find a way to make ballistic missiles impotent and obsolete. Because, he asked, "Is it not better to save lives than to avenge them?" With those words, President Reagan chartered one of the most important and controversial defense programs of the modern age—the strategic defense initiative.

Through the years the SDI program was pushed and pulled in many different directions by both the Congress and administration. No push, however, equalled the shove the Clinton administration gave the program in 1993. With the elimination of key ballistic missile defense programs, the United States is now almost exclusively focused on theater ballistic missile defenses which, hopefully, will be able to defend our troops deployed overseas. But, this limited protection comes at the expense of the development and deployment of national missile defenses.

Focusing only on theater defenses and the threat that is here and now, the administration completely ignores analysis from our Nation's best intelligence experts about the potential future threat to the continental United States.

Intelligence experts have repeatedly warned that terrorism is on the rise, that the quest for nuclear weapons in the Third World has not subsided, and that Russian nuclear materials have shown up on the black market. But, the administration has failed to heed those warnings.

Even the headlines lay bare the future vulnerability faced by the American people.

The Washington Times recently carried the headline "Yeltsin Can't Curtail Arms Spread."

A Clinton administration official recently stated, "The out-of-control weapons of mass destruction industries in Russia are the No. 1 national security issue facing the United States."

China has sold to Saudi Arabia the CSS–2, a medium-range missile capable of reaching any place in Europe.

Iran is desperately shopping the blackmarket for the technology to develop nuclear weapons, and Russia wants to sell to Iran.

The threat is real. As former Director of the CIA, Bob Gates, said, "History is not over. It was merely frozen and is now thawing with a vengeance."

The CIA claims that 25 nations could acquire chemical, biological, and nuclear weapons by the end of the decade. That's 20 more than we have today. And, potentially, 20 nations that are led by despots who see it as their duty to annihilate the United States. One of those leaders could be Abul Abbas, head of the Palestinian Liberation Front, who promised revenge on the United States for attacking Iraq. He said, "Revenge takes 40 years. If not my son then the son of my son will kill you. Someday we will have missiles that can reach New York."

In day-to-day terms, the proliferation of weapons of mass destruction among the Third World and the lack of defenses against those weapons could radically alter the manner in which the United States carries out its foreign policy. Would we have deployed 15,000 troops in Haiti if General Cedras had a weapon of mass destruction and a missile that could reach Florida? Probably not. Would America stand up for human rights and democracy in a starving nation if warlords had stolen nuclear weapons from Russia? Probably not. Would the Persian Gulf war have been fought if Hussein had succeeded in his quest, and acquired a deliverable nuclear weapon? Probably not.

The world will be dramatically different in the 21st century. We cannot predict the future. We don't know who will do it or when it will happen. But, it will happen. Some day, someone, somewhere will launch a ballistic missile at the United States.

When the warning comes, most Americans will believe that we will be able to defend ourselves. We can't. When the codes to launch a nuclear ballistic missile are entered and the keys are turned, there is no way to prevent the missile from reaching its target.

We cannot intercept it. We cannot interfere with its guidance system. We cannot make it self-destruct. There is nothing we can do to stop even one single missile from reaching the United States of America. Nothing.

The Clinton administration won't change the situation either. In fact, it's getting worse. The Clinton administration and congressional opponents have destroyed any future strategic capability to defend the United States and are on their way to destroying potential theater defenses as well.

This is being done by their decision to clarify the ABM Treaty to define our next theater defense missile as an illegal missile. The ABM Treaty, recall, was signed in 1972 by Leonid Brezhnev and Richard Nixon. It shouldn't have been endorsed in 1972, and it shouldn't be reendorsed in 1995, 23 years later. It most certainly should not be redefined.

The threat has changed. Technology has improved. And the Soviet Union doesn't even exist. But, the Clinton team insists on deliberately drawing a distinction between strategic and theater ballistic missiles, something that was left undefined in 1972.

What the administration's negotiators have accomplished is not only to negotiate away strategic systems—which came as no surprise—but, also to negotiate away the only advanced theater systems in research and development in the United States. The Clinton administration has done this by arbitrarily placing speed limits on interceptors. If an interceptor breaks 3km/sec, it is defined as a strategic ABM interceptor and would not be deployable as a theater missile under the new terms of the ABM Treaty. Key theater defense systems, including THAAD and Navy Upper Tier, have capabilities beyond 3km/sec. and, thus, could not be further developed as designed.

Over the last 2 years, the opponents have won significant budget cuts in ballistic missile defenses and have succeeded in canceling all space-based options. This is especially disturbing because space-based sensors and interceptors are critical to the success of any global strategic defense system. They provide worldwide, instantaneous detection of and protection against missiles launched from anywhere in the world, and are both cheaper and more effective than their ground-based counterparts.

During Operation Desert Shield, it took the United States 6 months and 400 airlifts to put in place the Patriot interceptors that were used to shoot down some of the Iraqi Scuds. With space-based interceptors, coverage would be instantaneous. Yet, all systems capable of accomplishing that mission have been zeroed. Zeroed, because using space for military purposes is politically unpopular.

This narrowmindedness and refusal to view space for what it is—the high frontier, boundless in opportunity—

will have serious consequences for our future military successes. Like earlier forays into the air and the sea, the use of space will change the course of warfare. It's already happening. The United States should not deny itself that capability.

The Ballistic Missile Defense Revitalization Act restores the focus of the BMD program to development and deployment of defenses capable of protecting a theater as well as the continental United States. This is an important step in establishing a firm basis for a national response to the growing threat from Third World ballistic missiles.

In closing, I will note that 12 years of ballistic missile defense research has produced a series of successes. There is no longer any doubt that defense against ballistic missiles is feasible. It is my hope that the next few years of ballistic missile defense research will achieve President Reagan's original goal—to make nuclear weapons impotent and obsolete. The moral imperative is, as President Reagan said, that it is better to save lives than to avenge them.

By Mr. McCONNELL:

S. 386. A bill to amend the Internal Revenue Code of 1986 to provide for the tax-free treatment of education savings accounts established through certain State programs, and for other purposes; to the Committee on Finance.

THE TRUST FUND SAVINGS ACT

• Mr. McCONNELL. Mr. President, I introduce a bill that will help Americans defray the costs of a college education. For many, the dream of a college education can never be fulfilled simply because they cannot meet the skyrocketing costs. I am sure all of my colleagues will agree that this Nation's future success is dependent on the education of our children today.

Mr. President, the facts are clear. Education costs are outpacing average wages and this has created a barrier to attending college. Throughout the 1980's education costs have risen 8 percent per year. At this pace, an average tuition bill of $5,000 will be $11,700 in the year 2000. In 1994, the average tuition in America rose by 6 percent. It was also the smallest since 1989 according to the College Board.

In Kentucky last year tuition rocketed 11.2 percent at the University of Kentucky and the University of Louisville. For other regional schools, students and parents only saw their costs rise by 5.3 percent. The largest increase, however, was felt by the students attending community colleges where costs rose 14.3 percent.

As tuition continues to increase, so does the need for assistance. In 1990, over 56 percent of all students accepted some form of financial assistance. The statistic was even higher for minority students. Also on the rise are need-based scholarships and grants. In Kentucky, between 1984 and 1992, need-based scholarships rose by 160 percent.

It is increasingly common for students to study now and pay later. In fact, more students than ever are forced to bear the additional loan costs in order to receive an education. Between 1993 and 1994 Federal loan volume rose by 57 percent from the previous year. On top of that, students have increased the size of their loan burden by an average of 28 percent. So, not only are more students taking out loans, but they are taking out bigger loans as well. Next May at graduation time, nearly half the graduates will hit the pavement with their diplomas and stack of loan repayment books.

I believe that we need to reverse this trend by boosting savings and to help parents meet the education needs of their children. The bill I am introducing today will make changes to the Tax Code maximizing the scope and the investment in State-sponsored education savings plans.

This legislation will permit parents to contribute up to $3,000 annually in after-tax dollars to a State-sponsored plan. Also this amount will be indexed to match the annual growth in education costs. The real benefit of this program will allow earnings to accumulate tax-free when used to meet education costs. Any earnings not used for educational purposes will be taxed at the student's individual rate. I believe this will provide a significant benefit to families and correct, at least in this instance, the unfair tax discrimination toward savings.

For those States that have established programs, whether they are prepaid, savings or bond programs this legislation will provide tax-exempt status to those organizations that administer these programs. In November 1994, the U.S. Appeals Court in Cincinnati ruled that the Michigan Education Trust is not subject to Federal income tax. This language would also remove any misunderstanding regarding the taxation of these investments.

This tax designation will serve two purposes. One, it will send a clear message regarding each organization's mission to help families finance a child's education. Second, it will reduce the administrative expenses, thus increasing the investment in education.

Mr. President, this is not another unfunded mandate. This legislation merely provides States with an option to invest in their most important resource, their children. I am confident that following the passage of this legislation more and more States will seek to establish similar programs to stimulate both education savings and reduce the need for State assistance in the future.

Lastly, this bill would make corporate and individual endowments to the trust fund exempt from Federal taxation when distributed among participants. This will allow corporations to help finance the education of our Nation's future leaders.

This legislation is not a funding cure but is a serious effort to encourage long-term savings. Participants don't have to be rich to participate. In fact, the average monthly contribution in Kentucky is just $47.22. This program will reward an individual's long-term investment in education.

The alternative funding option is to continue in our futile attempt to outpace the rising cost of education through subsidies and aid. More than likely this would exacerbate the dollar chase, driving costs even higher. I am confident that my legislation will take the burden off the Federal and State government to subsidize students.

I hope my colleagues will join me in creating this viable and affordable means of helping families provide for their children's higher education. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX TREATMENT OF STATE EDUCATION SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by adding after section 136 the following new section:

"SEC. 137. EDUCATION SAVINGS ACCOUNTS.

"(a) GENERAL RULE.—Gross income shall not include any qualified education savings account distribution.

"(b) QUALIFIED EDUCATION SAVINGS ACCOUNT DISTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified education savings account distribution' means any amount paid or distributed out of an education savings account which would otherwise be includible in gross income to the extent such payment or distribution is used exclusively to pay qualified higher education expenses incurred by the designated beneficiary of the account.

"(2) ROLLOVERS.—The term 'qualified education savings account distribution' includes any transfer from an education savings account of one designated beneficiary to another such account of such beneficiary or to such an account of another designated beneficiary.

"(3) SPECIAL RULES.—The determination under paragraph (1) as to whether an amount is otherwise includible in gross income shall be made in the manner described in section 72, except that—

"(A) all education savings accounts shall be treated as one contract,

"(B) all distributions during any taxable year shall be treated as one distribution,

"(C) contributions to an account described in subsection (c)(4)(B)(i) shall not be included in the investment in the contract with respect to the account, and

"(D) the value of the contract, income on the contract, and investment in the contract shall be computed as of the close of the calendar year in which the taxable year begins.

"(c) EDUCATION SAVINGS ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'education savings account' means a trust created or organized in the United States—

"(A) pursuant to a qualified State educational savings plan, and

"(B) exclusively for the purpose of paying the qualified higher education expenses of the designated beneficiary of the account.

"(2) QUALIFIED STATE EDUCATIONAL SAVINGS PLAN.—The term 'qualified State educational savings plan' means a plan established and maintained by a State or instrumentality thereof under which—

"(A) participants may save to meet qualified higher education expenses of designated beneficiaries,

"(B) planning and financial information is provided to participants about current and projected qualified higher education expenses,

"(C) education savings account statements are provided to participants at least quarterly, and

"(D) an audited financial statement is provided to participants at least annually.

"(3) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965).

"(4) LIMITATIONS.—A trust shall not be treated as an education savings account unless the following requirements are met:

"(A) No contribution will be accepted unless it is in cash, stocks, bonds, or other securities which are readily tradable on an established securities market.

"(B) Contributions will not be accepted for any taxable year in excess of the applicable limit. The preceding sentence shall not apply to—

"(i) contributions to the qualified State educational savings plan which are allocated to all education savings accounts within the class for which the contribution was made, or

"(ii) rollover contributions described in subsection (b)(2).

"(C) The trust may not be established for the benefit of more than one individual.

"(D) The trustee is the qualified State educational savings plan or person designated by it.

"(E) The assets of the trust may be invested only in accordance with the qualified State educational savings plan.

"(5) APPLICABLE LIMIT.—For purposes of paragraph (4)(B)—

"(A) IN GENERAL.—The applicable limit is $3,000.

"(B) INDEXING.—In the case of taxable years beginning after December 31, 1995, the $3,000 amount under subparagraph (A) shall be increased by the education cost-of-living adjustment for the calendar year in which the taxable year begins.

"(C) EDUCATION COST-OF-LIVING ADJUSTMENT.—For purposes of subparagraph (B), the education cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the higher education cost index for the preceding calendar year, exceeds

"(ii) such index for 1994.

"(D) HIGHER EDUCATION COST INDEX.—For purposes of subparagraph (C), the higher education cost index for any calendar year is the average qualified higher education expenses for undergraduate students at both private and public institutions of higher education for the 12-month period ending on August 31 of the calendar year. The Secretary of Education shall provide for the computation and publication of the higher education cost index.

"(d) TAX TREATMENT OF ACCOUNTS AND STATE PLANS.—

"(1) EXEMPTION FROM TAX.—An education savings account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, any such account or plan shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If the designated beneficiary of an education savings account is established or any individual who contributes to such account engages in any transaction prohibited by section 4975 with respect to the account, the account shall cease to be an education savings account as of the first day of the taxable year (of the individual so engaging in such transaction) during which such transaction occurs.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be an education savings account by reason of subparagraph (A) as of the first day of any taxable year, an amount equal to the fair market value of all assets in the account shall be treated as having been distributed on such first day.

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit an education savings account is established, or any individual who contributes to such account, uses the account or any portion thereof as security for a loan, the portion so used shall be treated as distributed to the individual so using such portion.

"(e) REPORTS.—The Secretary may require the trustee of an education savings account to make reports regarding such account to the Secretary, to the individual who has established the account, and to the designated beneficiary of the account with respect to contributions, distributions, and such other matters as the Secretary may require. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) TAX TREATMENT OF QUALIFIED STATE EDUCATIONAL SAVINGS PLAN.—

(1) TREATMENT AS SECTION 501(C)(3) ORGANIZATION.—Section 501(c)(3) of such Code is amended by inserting "or which is a qualified State educational savings plan (as defined in section 137(c)(2))," after "animals,".

(2) CHARITABLE CONTRIBUTIONS.—

(A) Subparagraph (B) of section 170(c)(2) of such Code is amended by inserting ", or which is a qualified State educational savings plan (as defined in section 137(c)(2))," after "animals".

(B) Section 170(b)(1)(A) of such Code is amended by striking "or" at the end of clause (vii), by inserting "or" at the end of clause (viii) and by inserting after clause (viii) the following new clause:

"(ix) a qualified State educational savings plan (as defined in section 137(c)(2))."

(c) CONTRIBUTION NOT SUBJECT TO GIFT TAX.—Section 2503 of such Code (relating to taxable gifts) is amended by adding at the end the following new subsection:

"(h) EDUCATION SAVINGS ACCOUNTS.—Any contribution made by an individual to an education savings account described in section 137 shall not be treated as a transfer of property by gift for purposes of this chapter."

(d) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR EDUCATION SAVINGS ACCOUNTS.—An individual for whose benefit an education savings account is established and any contributor to such account shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an education savings account by reason of the application of section 137(d)(2)(A) to such account.", and

(2) by inserting ", an education savings account described in section 137(c)," in subsection (e)(1) after "described in section 408(a)".

(e) FAILURE TO PROVIDE REPORTS ON EDUCATION SAVINGS ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement accounts or annuities) is amended—

(1) by inserting "or on education savings accounts" after "annuities" in the heading of such section, and

(2) by adding at the end of subsection (a) the following new sentence: "Any person required by section 137(e) to file a report regarding an education savings account who fails to file the report at the time or in the manner required by such section shall pay a penalty of $50 for each failure, unless it is shown that such failure is due to reasonable cause."

(f) SPECIAL RULE FOR DETERMINING AMOUNTS OF SUPPORT FOR DEPENDENT.—Subsection (b) of section 152 of such Code (relating to definition of dependent) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) A distribution from an education savings account described in section 137(c) to the individual for whose benefit such account has been established shall not be taken into account in determining support for purposes of this section to the extent such distribution is excluded from gross income of such individual under section 137."

(g) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 137 and inserting the following new items:

"Sec. 137. Education savings accounts.

"Sec. 138. Cross references to other Acts."

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out the item relating to section 6693 and inserting the following new item:

"Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on education savings accounts."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 1994.•

By Mr. EXON:

S. 387. A bill to encourage enhanced State and Federal efforts to reduce traffic deaths and injuries and improve traffic safety among young, old, and high-risk drivers; to the Committee on Commerce, Science, and Transportation.

THE HIGH-RISK DRIVERS ACT OF 1995

Mr. EXON. Mr. President, I rise to introduce the High-Risk Drivers Act. Senator Danforth and I worked very hard on this legislation in the last Congress and I hope it can be passed quickly this year.

This is indeed a most appropriate time for introduction and swift passage.

While we have made significant progress in reducing death and injury on America's highways, it is time to build on that success and focus Federal resources on those areas which will produce the highest return on safety for each dollar invested. At this time of scrutiny for all Federal spending, the high-risk drivers bill gives taxpayers a great value.

Three groups of drivers need special attention in our continuing efforts to make the Nation's highways safer. They are young drivers, high-risk drivers or repeat offenders and older drivers.

This legislation encourages the States and the Federal Government to focus attention on all three groups. Even with the great need to reduce the Federal budget deficit, this is one area where we must recognize and take action on the fact that a small investment will yield significant returns. When I chaired a hearing on this important legislation last year, one expert testified that if this legislation were enacted, there would be at least a tenfold return on investment due to reduced costs of death, injury, and loss of productivity.

Of course, no economist can measure the cost of the sorrow, pain, and suffering incurred by parents, friends, and families of those killed and injured in traffic accidents. No economist can measure the value of relief parents feel each and every time their young sons and daughters return home safely.

Even with the long-term decline in traffic fatality rates, too many lose their lives in traffic accidents. In 1993, according to the National Safety Council, over 42,000 Americans died in auto crashes. That's like losing a city the size of Grand Island, NE and its surrounding area.

This legislation focuses attention where it is most needed to reduce the carnage on America's highways.

Motor vehicle crashes are the leading cause of death among teenagers. Teen drivers comprise 7.4 percent of the U.S. population but are involved in 15.4 percent of the fatal motor vehicle crashes. The simple problem is that it takes a great deal of experience, judgment, and maturity to master the operation of a vehicle. Unfortunately, many young drivers are not getting the training they need to master the safe operation of automobiles. In addition, the temptations and pressures faced by today's teenagers sometimes run counter to the skills and the values needed to safely operate a motor vehicle. The high-risk drivers bill attempts to temper those temptations and impulses by putting at risk what many teens value the most, their driver's license, or, in the vernacular, their "wheels."

The High-Risk Drivers Act encourages States through incentive grants to conduct youth-oriented traffic-safety enforcement, education, and training programs, and to adopt a graduated license system where a full unrestricted license is not obtained until a young driver has had a clean driving record for at least 1 year.

The bill focuses heavy attention on drinking and driving. States are encouraged to adopt a zero tolerance policy for underage drinking and driving by adopting, as the State of Nebraska has, a blood alcohol threshold level of .02 percent for drivers under the age of 21. In addition, the bill encourages States to adopt a minimum $500 fine for anyone who sells alcohol to minors, a 6-month suspension for drivers under the age of 21 caught drinking and driving and a prohibition against open containers of alcohol inside automobiles.

The high-risk drivers bill also attempts to get parents involved by providing them with information about the effect that at-fault accidents and traffic violations have on young drivers insurance rates before any tragic and expensive accidents occur.

The second focus area of this legislation is on repeat offenders and high-risk drivers. This section of the bill uses incentive grants to encourage States to maintain better records of serious drivers offenses, to improve the sharing of driver information, and to establish remedial programs for young high-risk drivers.

Perhaps most innovative and effective is an effort to encourage States to adopt vehicle confiscation schemes for repeat drunk drivers. This provision, with appropriate protection for family members, will help crack down on that hard core group of repeat offenders drunk drivers who so endanger every citizen, including themselves.

This legislation also establishes an aggressive research agenda for older drivers. Our Nation's transportation policies must anticipate the mobility needs of the Nation's senior population. This include strategies which use technology and licensing plans which help older drivers keep their independence. I am pleased to report that the American Association of Retired Persons supports the older driver provisions of this act.

Finally, this important legislation boosts the authorization level for the important Anti-Drunk Driving Enforcement Program known as the 410 Program.

This bill embraces the bipartisan compromise Senator Danforth and I crafted last year. Both the House and Senate voted for this legislation but the House-passed vehicle for this bill was blocked in the Senate during the closing hours of the last Congress for reasons unrelated to this important safety program.

To put it another way, Mr. President, this measure has already passed both Houses of Congress and has agreed to, but, because of a technicality at the last minute, it failed to get passage.

Mr. President, I am pleased that my own home State of Nebraska is seriously looking at a number of the proposals included in this and the original high risk-drivers bill Senator Danforth and I introduced in the last Congress.

Mr. President, I ask my colleagues to support swift passage of this important piece of legislation.

I ask unanimous consent that the articles outlining some of Nebraska's efforts and the text of the High-Risk Drivers Act of 1995 be printed in the RECORD at the conclusion of my remarks.

I would simply specify, Mr. President, if I might, the articles that I would like to have printed: "Nebraska Leads in Drunken Driving Control," "Panel Seeks Tougher DWI Law," and "MADD Founder Faults Drunk-Driving Bill."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-risk Drivers Act of 1995".

TITLE I—HIGH-RISK AND ALCOHOL-IMPAIRED DRIVERS

SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) The Nation's traffic fatality rate has declined from 5.5 deaths per 100 million vehicle miles traveled in 1966 to an historic low of an estimated 1.8 deaths per 100 million vehicle miles traveled during 1992. In order to further this desired trend, the safety programs and policies implemented by the Department of Transportation must be continued, and at the same time, the focus of these efforts as they pertain to high risk drivers of all ages must be strengthened.

(2) Motor vehicle crashes are the leading cause of death among teenagers, and teenage drivers tend to be at fault for their fatal crashes more often than older drivers. Drivers who are 16 to 20 years old comprised 7.4 percent of the United States population in 1991 but were involved in 15.4 percent of fatal motor vehicle crashes. Also, on the basis of crashes per 100,000 licensed drivers, young drivers are the highest risk group of drivers.

(3) During 1991, 6,630 teenagers from age 15 through 20 died in motor vehicle crashes. This tragic loss demands that the Federal Government intensify its efforts to promote highway safety among members of this high risk group.

(4) The consumption of alcohol, speeding over allowable limits or too fast for road

conditions, inadequate use of occupant restraints, and other high risk behaviors are several of the key causes for this tragic loss of young drivers and passengers. The Department of Transportation, working cooperatively with the States, student groups, and other organizations, must reinvigorate its current programs and policies to address more effectively these pressing problems of teenage drivers.

(5) In 1991 individuals aged 70 years and older, who are particularly susceptible to injury, were involved in 12 percent of all motor vehicle traffic crash fatalities. These deaths accounted for 4,828 fatalities out of 41,462 total traffic fatalities.

(6) The number of older Americans who drive is expected to increase dramatically during the next 30 years. Unfortunately, during the last 15 years, the Department of Transportation has supported an extremely limited program concerning older drivers. Research on older driver behavior and licensing has suffered from intermittent funding at amounts that were insufficient to address the scope and nature of the challenges ahead.

(7) A major objective of United States transportation policy must be to promote the mobility of older Americans while at the same time ensuring public safety on our Nation's highways. In order to accomplish these two objectives simultaneously, the Department of Transportation must support a vigorous and sustained program of research, technical assistance, evaluation, and other appropriate activities that are designed to reduce the fatality and crash rate of older drivers who have identifiable risk characteristics.

SEC. 102. DEFINITIONS.

For purposes of this title—

(1) The term "high risk driver" means a motor vehicle driver who belongs to a class of drivers that, based on vehicle crash rates, fatality rates, traffic safety violation rates, and other factors specified by the Secretary, presents a risk of injury to the driver and other individuals that is higher than the risk presented by the average driver.

(2) The term "Secretary" means the Secretary of Transportation.

SEC. 103. POLICY AND PROGRAM DIRECTION.

(a) GENERAL RESPONSIBILITY OF SECRETARY.—The Secretary shall develop and implement effective and comprehensive policies and programs to promote safe driving behavior by young drivers, older drivers, and repeat violators of traffic safety regulations and laws.

(b) SAFETY PROMOTION ACTIVITIES.—The Secretary shall promote or engage in activities that seek to ensure that—

(1) cost effective and scientifically-based guidelines and technologies for the nondiscriminatory evaluation and licensing of high risk drivers are advanced;

(2) model driver training, screening, licensing, control, and evaluation programs are improved;

(3) uniform or compatible State driver point systems and other licensing and driver record information systems are advanced as a means of identifying and initially evaluating high risk drivers; and

(4) driver training programs and the delivery of such programs are advanced.

(c) DRIVER TRAINING RESEARCH.—The Secretary shall explore the feasibility and advisability of using cost efficient simulation and other technologies as a means of enhancing driver training; shall advance knowledge regarding the perceptual, cognitive, and decision making skills needed for safe driving and to improve driver training; and shall investigate the most effective means of integrating licensing, training, and other techniques for preparing novice drivers for the safe use of highway systems.

TITLE II—YOUNG DRIVER PROGRAMS

SEC. 201. STATE GRANTS FOR YOUNG DRIVER PROGRAMS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Programs for young drivers

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement programs for young drivers which include measures, described in this section, to reduce traffic safety problems resulting from the driving performance of young drivers. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate estimated expenditures from all other sources for programs for young drivers at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which the High Risk Drivers Act of 1994 is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the young driver program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title. A grant to a State under this section shall be in addition to the State's apportionment under section 402, and basic grants during any fiscal year may be proportionately reduced to accommodate an applicable statutory obligation limitation for that fiscal year.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) IN GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) establishes and maintains a graduated licensing program for drivers under 18 years of age that meets the requirements of paragraph (2); and

"(B)(i) in the first year of receiving grants under this section, meets 3 of the 7 criteria specified in paragraph (3);

"(ii) in the second year of receiving such grants, meets 4 of such criteria;

"(iii) in the third year of receiving such grants, meets 5 of such criteria;

"(iv) in the fourth year of receiving such grants, meets 6 of such criteria; and

"(v) in the fifth year of receiving such grants, meets 6 of such criteria.

For purposes of subparagraph (B), a State shall be treated as having met one of the requirements of paragraph (3) for any year if the State demonstrates to the satisfaction of the Secretary that, for the 3 preceding years, the alcohol fatal crash involvement rate for individuals under the age of 21 has declined in that State and the alcohol fatal crash involvement rate for such individuals has been lower in that State than the average such rate for all States.

"(2) GRADUATED LICENSING PROGRAM.—

"(A) A State receiving a grant under this section shall establish and maintain a graduated licensing program consisting of the following licensing stages for any driver under 18 years of age:

"(i) An instructional license, valid for a minimum period determined by the Secretary, under which the licensee shall not operate a motor vehicle unless accompanied in the front passenger seat by the holder of a full driver's license.

"(ii) A provisional driver's license which shall not be issued unless the driver has passed a written examination on traffic safety and has passed a roadtest administered by the driver licensing agency of the State.

"(iii) A full driver's license which shall not be issued until the driver has held a provisional license for at least 1 year with a clean driving record.

"(B) For purposes of subparagraph (A)(iii), subsection (f)(1), and subsection (f)(6)(B), a provisional licensee has a clean driving record if the licensee—

"(i) has not been found, by civil or criminal process, to have committed a moving traffic violation during the applicable period;

"(ii) has not been assessed points against the license because of safety violations during such period; and

"(iii) has satisfied such other requirements as the Secretary may prescribe by regulation.

"(C) The Secretary shall determine the conditions under which a State shall suspend provisional driver's licenses in order to be eligible for a basic grant. At a minimum, the holder of a provisional license shall be subject to driver control actions that are stricter than those applicable to the holder of a full driver's license, including warning letters and suspension at a lower point threshold.

"(D) For a State's first 2 years of receiving a grant under this section, the Secretary may waive the clean driving record requirement of subparagraph (A)(iii) if the State submits satisfactory evidence of its efforts to establish such a requirement.

"(3) CRITERIA FOR BASIC GRANT.—The 7 criteria referred to in paragraph (1)(B) are as follows:

"(A) The State requires that any driver under 21 years of age with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated for the purpose of (i) administrative or judicial sanctions or (ii) a law or regulation that prohibits any individual under 21 years of age with a blood alcohol concentration of 0.02 percent or greater from driving a motor vehicle.

"(B) The State has a law or regulation that provides a mandatory minimum penalty of at least $500 for anyone who in violation of State law or regulation knowingly, or without checking for proper identification, provides or sells alcohol to any individual under 21 years of age.

"(C) The State requires that the license of a driver under 21 years of age be suspended for a period specified by the State if such driver is convicted of the unlawful purchase or public possession of alcohol. The period of suspension shall be at least 6 months for a first conviction and at least 12 months for subsequent conviction; except that specific license restrictions may be imposed as an alternative to such minimum periods of suspension where necessary to avoid undue hardship on any individual.

"(D) The State conducts youth-oriented traffic safety enforcement activities, and education and training programs—

"(i) with the participation of judges and prosecutors, that are designed to ensure enforcement of traffic safety laws and regulations, including those that prohibit drivers under 21 years of age from driving while intoxicated, restrict the unauthorized use of a motor vehicle, and establish other moving violations; and

"(ii) with the participation of student and youth groups, that are designed to ensure compliance with such traffic safety laws and regulations.

"(E) The State prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway; except as allowed in the passenger area, by persons (other than the driver), of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers.

"(F) The State provides, to a parent or legal guardian of any provisional licensee, general information prepared with the assistance of the insurance industry on the effect of traffic safety convictions and at-fault accidents on insurance rates for young drivers.

"(G) The State requires that a provisional driver's license may be issued only to a driver who has satisfactorily completed a State-accepted driver education and training program that meets Department of Transportation guidelines and includes information on the interaction of alcohol and controlled substances and the effect of such interaction on driver performance, and information on the importance of motorcycle helmet use and safety belt use.

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) EXTENDED APPLICATION OF PROVISIONAL LICENSE REQUIREMENT.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that a driver under 21 years of age shall not be issued a full driver's license until the driver has held a provisional license for at least 1 year with a clean driving record as described in subsection (e)(2)(B).

"(2) REMEDIAL DRIVER EDUCATION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires, at a lower point threshold than for other drivers, remedial driver improvement instruction for drivers under 21 years of age and requires such remedial instruction for any driver under 21 years of age who is convicted of reckless driving, excessive speeding, driving under the influence of alcohol, or driving while intoxicated.

"(3) RECORD OF SERIOUS CONVICTIONS; HABITUAL OR REPEAT OFFENDER SANCTIONS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) requires that a notation of any serious traffic safety conviction of a driver be maintained on the driver's permanent traffic record for at least 10 years after the date of the conviction; and

"(B) provides additional sanctions for any driver who, following conviction of a serious traffic safety violation, is convicted during the next 10 years of one or more subsequent serious traffic safety violations.

"(4) INTERSTATE DRIVER LICENSE COMPACT.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is a member of and substantially complies with the interstate agreement known as the Driver License Compact, promptly and reliably transmits and receives through electronic means interstate driver record information (including information on commercial drivers) in cooperation with the Secretary and other States, and develops and achieves demonstrable annual progress in implementing a plan to ensure that (i) each court of the State report expeditiously to the State driver licensing agency all traffic safety convictions, license suspensions, license revocations, or other license restrictions, and driver improvement efforts sanctioned or ordered by the court, and that (ii) such records be available electronically to appropriate government officials (including enforcement, officers, judges, and prosecutors) upon request at all times.

"(5) For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State has a law or regulation that provides a minimum penalty of at least $100 for anyone who in violation of State law or regulation drives any vehicle through, around, or under any crossing, gate, or barrier at a.railroad crossing while such gate or barrier is closed or being opened or closed.

"(6) VEHICLE SEIZURE PROGRAM.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State has a law or regulation that—

"(A) mandates seizure by the State or any political subdivision thereof of any vehicle driven by an individual in violation of an alcohol-related traffic safety law, if such violator has been convicted on more than one occasion of an alcohol-related traffic offense within any 5-year period beginning after the date of enactment of this section, or has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense;

"(B) mandates that the vehicle be forfeited to the State or a political subdivision thereof if the vehicle was solely owned by such violator at the time of the violation;

"(C) requires that the vehicle be returned to the owner if the vehicle was a stolen vehicle at the time of the violation; and

"(D) authorizes the vehicle to be released to a member of such violator's family, the co-owner, or the owner, if the vehicle was not a stolen vehicle and was not solely owned by such violator at the time of the violation, and if the family member, co-owner, or owner, prior to such release, executes a binding agreement that the family member, co-owner, or owner will not permit such violator to drive the vehicle and that the vehicle shall be forfeited to the State or a political subdivision thereof in the event such violator drives the vehicle with the permission of the family member, co-owner, or owner.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $9,000,000 for the fiscal year ending September 30, 1996, $12,000,000 for the fiscal year ending September 30, 1997, $14,000,000 for the fiscal year ending September 30, 1998, $16,000,000 for the fiscal year ending September 30, 1999, and $18,000,000 for the fiscal year ending September 30, 2000.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 410 the following new item:

"411. Programs for young drivers.".

(c) DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue and publish in the Federal Register proposed regulations to implement section 411 of title 23, United States Code (as added by this section), not later than 6 months after the date of enactment of this Act. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress not later than 12 months after such date of enactment.

SEC. 202. PROGRAM EVALUATION.

(a) EVALUATION BY SECRETARY.—The Secretary shall, under section 403 of title 23, United States Code, conduct an evaluation of the effectiveness of State provisional driver's licensing programs and the grant program authorized by section 411 of title 23, United States Code (as added by section 101 of this Act).

(b) REPORT TO CONGRESS.—By January 1, 1997, the Secretary shall transmit a report on the results of the evaluation conducted under subsection (a) and any related research to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The report shall include any related recommendations by the Secretary for legislative changes.

TITLE III—OLDER DRIVER PROGRAMS

SEC. 301. OLDER DRIVER SAFETY RESEARCH.

(a) RESEARCH ON PREDICTABILITY OF HIGH RISK DRIVING.—

(1) The Secretary shall conduct a program that funds, within budgetary limitations, the research challenges presented in the Transportation Research Board's report entitled "Research and Development Needs for Maintaining the Safety and Mobility of Older Drivers" and the research challenges pertaining to older drivers presented in a report to Congress by the National Highway Traffic Safety Administration entitled "Addressing the Safety Issues Related to Younger and Older Drivers".

(2) To the extent technically feasible, the Secretary shall consider the feasibility and

further the development of cost efficient, reliable tests capable of predicting increased risk of accident involvement or hazardous driving by older high risk drivers.

(b) SPECIALIZED TRAINING FOR LICENSE EXAMINERS.—The Secretary shall encourage and conduct research and demonstration activities to support the specialized training of license examiners or other certified examiners to increase their knowledge and sensitivity to the transportation needs and physical limitations of older drivers, including knowledge of functional disabilities related to driving, and to be cognizant of possible countermeasures to deal with the challenges to safe driving that may be associated with increasing age.

(c) COUNSELING PROCEDURES AND CONSULTATION METHODS.—The Secretary shall encourage and conduct research and disseminate information to support and encourage the development of appropriate counseling procedures and consultation methods with relatives, physicians, the traffic safety enforcement and the motor vehicle licensing communities, and other concerned parties. Such procedures and methods shall include the promotion of voluntary action by older high risk drivers to restrict or limit their driving when medical or other conditions indicate such action is advisable. The Secretary shall consult extensively with the American Association of Retired Persons, the American Association of Motor Vehicle Administrators, the American Occupational Therapy Association, the American Automobile Association, the Department of Health and Human Services, the American Public Health Association, and other interested parties in developing educational materials on the interrelationship of the aging process, driver safety, and the driver licensing process.

(d) ALTERNATIVE TRANSPORTATION MEANS.—The Secretary shall ensure that the agencies of the Department of Transportation overseeing the various modes of surface transportation coordinate their policies and programs to ensure that funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1914) and implementing Department of Transportation and Related Agencies Appropriation Acts take into account the transportation needs of older Americans by promoting alternative transportation means whenever practical and feasible.

(e) STATE LICENSING PRACTICES.—The Secretary shall encourage State licensing agencies to use restricted licenses instead of canceling a license whenever such action is appropriate and if the interests of public safety would be served, and to closely monitor the driving performance of older drivers with such licenses. The Secretary shall encourage States to provide educational materials of benefit to older drivers and concerned family members and physicians. The Secretary shall promote licensing and relicensing programs in which the applicant appears in person and shall promote the development and use of cost effective screening processes and testing of physiological, cognitive, and perception factors as appropriate and necessary. Not less than one model State program shall be evaluated in light of this subsection during each of the fiscal years 1996 through 1998. Of the sums authorized under subsection (i), $250,000 is authorized for each such fiscal year for such evaluation.

(f) IMPROVEMENT OF MEDICAL SCREENING.—The Secretary shall conduct research and other activities designed to support and encourage the States to establish and maintain medical review or advisory groups to work with State licensing agencies to improve and provide current information on the screening and licensing of older drivers. The Secretary shall encourage the participation of the public in these groups to ensure fairness and concern for the safety and mobility needs of older drivers.

(g) INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary shall ensure that the National Intelligent Vehicle-Highway Systems Program devotes sufficient attention to the use of intelligent vehicle-highway systems to aid older drivers in safely performing driver functions. Federally sponsored research, development, and operational testing shall ensure the advancement of night vision improvement systems, technology to reduce the involvement of older drivers in accidents occurring at intersections, and other technologies of particular benefit to older drivers.

(h) TECHNICAL EVALUATIONS UNDER INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.—In conducting the technical evaluations required under section 6055 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2192), the Secretary shall ensure that the safety impacts of older drivers are considered, with special attention being devoted to ensuring adequate and effective exchange of information between the Department of Transportation and older drivers or their representatives.

(i) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized under section 403 of title 23, United States Code, $1,250,000 is authorized for each of the fiscal years 1995 through 1997 to support older driver programs described in subsections (a), (b), (c), (e), and (f).

TITLE IV—HIGH RISK DRIVERS

SEC. 401. STUDY ON WAYS TO IMPROVE TRAFFIC RECORDS OF ALL HIGH RISK DRIVERS.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Secretary shall complete a study to determine whether additional or strengthened Federal activities, authority, or regulatory actions are desirable or necessary to improve or strengthen the driver record and control systems of the States to identify high risk drivers more rapidly and ensure prompt intervention in the licensing of high risk drivers. The study, which shall be based in part on analysis obtained from a request for information published in the Federal Register, shall consider steps necessary to ensure that State traffic record systems are unambiguous, accurate, current, accessible, complete, and (to the extend useful) uniform among the States.

(b) SPECIFIC MATTERS FOR CONSIDERATION.—Such study shall at a minimum consider—

(1) whether specific legislative action is necessary to improve State traffic record systems;

(2) the feasibility and practicality of further encouraging and establishing a uniform traffic ticket citation and control system;

(3) the need for a uniform driver violation point system to be adopted by the States;

(4) the need for all the States to participate in the Driver License Reciprocity Program conducted by the American Association of Motor Vehicle Administrators;

(5) ways to encourage the States to cross-reference driver license files and motor vehicle files to facilitate the identification of individuals who may not be in compliance with driver licensing laws; and

(6) the feasibility of establishing a national program that would limit each driver to one driver's license from only one State at any time.

(c) EVALUATION OF NATIONAL INFORMATION SYSTEMS.—As part of the study required by this section, the Secretary shall consider and evaluate the future of the national information systems that support driver licensing. In particular, the Secretary shall examine whether the Commercial Driver's License Information System, the National Driver Register, and the Driver License Reciprocity program should be more closely linked or continue to exist as separate information systems and which entities are best suited to operate such systems effectively at the least cost. The Secretary shall cooperate with the American Association of Motor Vehicle Administrators in carrying out this evaluation.

SEC. 402. STATE PROGRAMS FOR HIGH RISK DRIVERS.

The Secretary shall encourage and promote State driver evaluation, assistance, or control programs for high risk drivers. These programs may include in-person license reexaminations, driver education or training courses, license restrictions or suspensions, and other actions designed to improve the operating performance of high risk drivers.

TITLE V—ENHANCED AUTHORIZATION FOR 410 PROGRAM

SEC. 501. FUNDING FOR 23 USC 410 PROGRAM.

In addition to any amount otherwise appropriated or available for such use, there are authorized to be appropriated $15,000,000 for each of the fiscal years 1995, 1996, and 1997 for the purpose of carrying out section 410 of title 23, United States Code.

[From the Omaha World-Herald, Dec. 3, 1994]

NEBRASKA LEADS IN DRUNKEN DRIVING CONTROL

Statistics sometimes are deceiving. Such was the case with a recent federal report on drunken driving fatalities. From 1982 to 1993, the report indicated, some neighboring states reduced alcohol-related traffic deaths much faster than did Nebraska.

Does that mean Nebraska has fallen behind? Officials in the State Office of Highway Safety say the answer is no. They say Nebraska was ahead and other states are catching up.

Fred Zwonechek, the state's traffic safety administrator, said that in 1980, Nebraska had 159 alcohol-related traffic fatalities. In 1981, the number rose to 189. At about that time, groups such as Mothers Against Drunk Driving were demanding better enforcement. Attitudes about drinking and driving began to change. In 1982, drunken driving fatalities in Nebraska dropped to 102—a one-year plunge of 46 percent. Since then, the number has remained at around the same level.

Moreover, the percentage of accidents in which alcohol was involved has hovered in the mid-30s in Nebraska, Zwonechek said. Nationwide, the comparable figure was 57 percent in 1982 and 43 percent in 1993.

Zwonechek said all the indicators point to further progress in reducing such deaths.

Even Nebraska's lower drunken driving fatality rate, of course, is still much too high. But it's good to know that progress has been made. It's especially reassuring that the state's top traffic safety official sees further progress ahead.

[From the Omaha World-Herald, Dec. 20, 1994]

PANEL SEEKS TOUGHER DWI LAW

(By Paul Hammel and Bill Hord)

LINCOLN.—A task force of state legislators and law enforcement officials Monday joined

Gov. Nelson in calling for tougher laws on drunken driving.

The task force, however, went beyond ideas endorsed by Nelson last week and proposed a stricter standard for legal intoxication and repeal of a law that wipes out drunken-driving convictions after eight years.

"There are some people who are ticking time bombs out there. We want to be more certain that we'll get them off the road," said State Sen. LaVon Crosby of Lincoln, who organized the task force.

Two key proposals adopted by the 26-member Task Force on Driving While Intoxicated were lowering the minimum blood-alcohol standard for legal intoxication from .10 percent to .08 percent and eliminating the eight-year rule on use of prior drunken-driving convictions.

Neither was among the proposals endorsed last week by Nelson.

"There ought to be some point where someone who hasn't had a problem for a period of time doesn't have it hanging over his or her head," Nelson said Monday.

"I don't want to see us overreach what is necessary to address the problem," he told reporters during his weekly teleconference call.

The Legislature will get a chance to debate drunken-driving laws after it convenes Jan. 4 for a 90-day session.

Drunken-driving convictions that occurred eight years ago or longer cannot be considered when bringing new charges. Thus, a person who had multiple convictions would still be charged with first-offense drunken driving if the other offenses were at least 8 years old.

A 33-year-old Lincoln man, Michael Fogarty, was recently convicted of second-offense drunken driving even though it was his eighth conviction.

Lancaster County Attorney Gary Lacey said the eight-year rule was frustrating.

"It limits a prosecutor's ability to enhance penalties without any logical reason," he said.

"We don't make an exception for habitual criminals, so why should we make an exception for habitual drunk-driving criminals?"

Dropping the minimum blood-alcohol level to .08 percent—the standard in 11 states, including Kansas—has been defeated in Nebraska during the past several legislative sessions.

Sen. Crosby and Sen. Carol Hudkins of Malcolm said the public was beginning to realize that people become impaired by alcohol at levels well below the current .10 percent.

Sen. Crosby said social drinkers would be unaffected by dropping the minimum standard to .08.

"It takes a lot (of drinking) to get to .08," she said. "The average social drinker isn't at .08."

Nelson said there was much disagreement on where to set the threshold. Some people want it at zero, he said.

"Before we move downward to .08, there must be hard and convincing evidence that our streets will, in fact, be safer." Nelson said, "Why don't we go to .05?"

Nelson said last week that he would not push for a .08 level but would sign such legislation if senators passed it.

Sen. Crosby said her task force's work would probably result in proposals to increase treatment of drunken drivers, reinstitute mandatory driver-education courses in high school and levy higher alcohol taxes, among other possible bills.

Some task force members suggested that taxes should rise 5 cents per drink to help fund enforcement and treatment efforts.

"The people who are causing the problems . . . need to be responsible to pay some of the costs," said Sen. Hudkins, who headed the task force's legal committee.

Other recommendations include tougher penalties for procuring alcohol for minors and for third-, fourth- and fifth-offense drunken-driving convictions, as well as making alcohol-dependency treatment mandatory for offenders.

Task force member Diane Riibe of Hooper, past state director of Mothers Against Drunken Driving, said the group's study was the most comprehensive look at drunken-driving laws in recent years.

Ms. Riibe questioned the recommendation of Sen. Don Wesely of Lincoln that drunken drivers undergo and finance mandatory alcohol-counseling programs.

While treatment can be helpful, she said, the primary concern should be getting these drivers off the streets.

"We want to make sure that the policy discussion focuses on the safety of the public," Ms. Riibe said.

Nelson has called for, among other provisions, tougher penalties for minors in possession of alcohol and for first-time drunken-driving offenders.

[From the Omaha World-Herald, Feb. 8, 1995]

MADD FOUNDER FAULTS DRUNK-DRIVING BILL

(By Paul Hammel)

LINCOLN.—The national founder of Mothers Against Drunk Driving told Nebraska lawmakers Tuesday that dropping the legal blood-alcohol level for intoxication does not reduce drunken driving.

Candace Lightner of Alexandria, Va., told the Legislature's Transportation Committee that dropping the legal level of intoxication targets casual drinkers while ignoring the real problem: alcoholics and repeat drunken drivers.

"If I ruled the world, I would make sure that punishment is much swifter and much more sure," she said. "That will be more effective than passing a politically correct bill that is nothing more than a feel-good, do-nothing law."

Ms. Lightner founded MADD in 1980 while living in California after her 13-year-old daughter was killed in an accident caused by a drunken driver. She was one of a handful of opponents during a public hearing on a package of bills designed to toughen Nebraska's drunken-driving laws.

The bills were introduced following a summerlong study headed by State Sen. LaVon Crosby of Lincoln.

Sen. Crosby has fought unsuccessfully to lower the state's legal blood-alcohol level for intoxication from .10 to .08, a level now recognized in 11 states, including Kansas.

Legislative Bill 150, introduced this year, is Sen. Crosby's fourth attempt at reducing the level. Previous bills have failed to advance from the transportation committee.

A parade of speakers disagreed with Ms. Lightner's stand Tuesday, instead urging Nebraska to add the .08 standard to its arsenal of weapons to combat drunken driving.

James Fell of Washington, D.C., chief of the science and technology office for the National Highway Traffic Safety Administration, said the .08 standard is one of three legislative steps that have proved effective in cutting down on drunken-driving accidents.

Nebraska, he said, has already adopted the others: a "zero-tolerance" law on drinking by teen-age drivers and an administrative license revocation act, which takes drivers' licenses immediately from suspected drunken drivers.

"Why don't you go for the hat trick and go for all three," Fell said, "because it will make a difference."

Fell and other LB 150 supporters said that although alcohol consumption and accidents involving drunken drivers have fallen nationally, it is clear that drivers are impaired well before reaching the .10 level for alcohol in the blood.

A typical 170-pound man would require four drinks in an hour to reach the .08 level, he said. A 130-pound woman would need three drinks, Fell said.

"At the .08 level, there's no doubt you're impaired," said Omaha Police Officer Chuck Matson, who also testified in support of the bill.

However, opponents of the bill, which included the state's liquor and restaurant industries, said that no one wants drunken drivers on the state's roads but that dropping the level to .08 was unreasonable and would be ineffective.

"This is fixing the basement when the roof is leaking," said Mike Kelley, an Omaha bar owner and lobbyist for the United Retailers Liquor Association of Nebraska. "This isn't traffic safety, it's temperance."

Brent Lambi, an Omaha businessman, told committee members that he was an alcoholic who would not have been deterred from driving by LB 150.

"I think you need to take away their cars," said Lambi.

Ms. Lightner said better enforcement of existing laws was the answer.

The committee took testimony on several other drunken-driving bills, including a measure that would prohibit drivers on suspension from obtaining provisional licenses to drive to work.

Members took no action on the bills following the hearing.

Sen. Doug Kristensen of Minden, the committee's chairman, said he was unsure whether the .08 proposal would be advanced this year. Kelley gave it a 50-50 chance.

Kristensen said he expected the committee to advance some anti-drunken-driving bills. He said he must be convinced they would be effective before he would support them.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I was not present to hear the entire presentation by Senator EXON from Nebraska but I heard enough to spark my interest. I came here today to speak about the constitutional amendment to balance the budget, especially the Reid amendment on Social Security.

To the Senator from Nebraska, if he is working on issues dealing with drunk driving, I applaud him for it, and I am very interested in working with him on it. I will reintroduce legislation in the Senate that I have introduced previously on the subject of drunk driving.

Two members of my family have been killed by drunk drivers. I expect there is not anyone in this Chamber who has not received a call to tell them a loved one, a neighbor, a relative, or a close acquaintance has been in a tragic accident and has been killed because of a drunk driver.

It is unforgivable in this country that today, in February 1995, there are still nearly 10 States in which a person can get behind a wheel of a car, grab the neck of a fifth of whiskey, put the key in the ignition, drive off and drink, and it is perfectly legal. There ought not to be one instance, anywhere in America, where it should be legal to drink and drive at the same time.

I have tried for 5 years and will try until I get it done to prescribe all across this country one simple proposal: Alcohol and automobiles do not mix. Alcohol turns automobiles into instruments of murder.

We should not tolerate the fact that there are nearly 10 States where a person can drink and drive, and it is legal in another 20 States that, if the driver cannot drink, the rest of the folks in the car can be having a party with beer or whiskey. The fact is we ought not accept that in this country. No family should receive another call at midnight saying their mother, their brother, their father, or their sister is dead because of another drunk-driving accident.

I say to the Senator from Nebraska, I do not know the details of his legislation, but I do know this: As long as I serve in the Congress, I will continue, year after year after year, until all across this country no matter where an American drives, on whichever street or road or highway, that person will have some assurance that it is not legal in that jurisdiction to be drinking while driving and it is not legal in that jurisdiction to have an open container of alcohol in the vehicle. That ought to be the minimum we would expect in this country for the state of all Americans.

Mr. EXON. Mr. President, would the Senator yield for a moment so I might thank him?

Mr. DORGAN. Mr. President I am happy to yield.

Mr. EXON. Mr. President, I listened with keen interest to the remarks of my friend and colleague from North Dakota. I know he has been very much involved in this thing, and I want to thank him now for the support he gave to the Exon-Danforth bill last year. The Senator voted for it.

I think it is the same, as I outlined in my remarks, since it passed the House and the Senate. I see no reason why we cannot expedite passage of this matter. I have delayed introducing it only because there were many other things going on, but I think, even as important as those matters are, that we should get going on this.

Certainly, I was not aware of the sad fact that two members of his family have been killed by a drunk driver. Hardly a week goes by but that something very similar happens in the State of Nebraska, where the population compared with other States is smaller and we hear more about it.

There are some things that we can do, rather than just sit back and wring our hands. There are some things, and I think the Federal Government can legitimately be of assistance to the States.

I must tell the Senator that this piece of legislation was sparked primarily by a typically tragic teenage accident that happened in my State not too many months ago where young people, 16 and 17 years of age, went out for a good time at night. The problem was that the driver had one too many half-cans of beer. It is tragic. I am not saying that this bill will solve all of the problem, but I appreciate the pledge of support from my colleague from North Dakota.

I think that the feelings of this Senator, the Senator from North Dakota, and others are shared broadly on both sides of the aisle on this matter, on this measure. It is not a cure-all, but a significant step in the right direction. I thank my friend from North Dakota for his remarks.

Mr. DORGAN. I thank the Senator. I hope we can go further. I certainly support these efforts. As I said, we will be finished when we have prescribed all across this country an understanding that a person cannot drink and drive in this country.

Again, to me it does not make sense that in England, in European countries, for example, people understand that the consequences of drunk driving are so substantial that a person better not get caught because they will get hit with an enormous penalty. There is a completely different attitude about it in the European countries. Here it has been treated kind of like, Well, old Joe, or old Helen just went out and had too much to drink. That was not a problem.

It was not, unless they murdered with a vehicle. That is what happens in this country. Every 28 minutes, around the clock, somebody gets another call that says your relative died because of a drunk driver. This is not some mysterious illness for which we do not have a cure. This is not beyond the comprehension of humans to deal with. We deal with it by saying to people, Do not even think about driving if you drink. Don't even think about it. The consequences are too great.

The very first step is for governments, every government, to decide that there ought to be a prohibition against open containers of alcohol in vehicles.

By Ms. SNOWE (for herself, Mr. COHEN, Mr. CAMPBELL, Mr. GRASSLEY, Mr. INHOFE, Mr. ROTH, Mr. GREGG, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mr. KOHL, Mr. BENNETT, Mr. LUGAR, Mr. GRAMS, Mr. THOMAS, Mr. HATCH, and Mr. COATS):

S. 388. A bill to amend title 23, United States Code, to eliminate the penalties for noncompliance by States with a program requiring the use of motorcycle helmets, and for other purposes; to the Committee on Environment and Public Works.

MOTORCYCLE HELMET LEGISLATION

• Ms. SNOWE. Mr. President, today I am introducing legislation restoring the rights of States to decide for themselves whether to require the use of motorcycle helmets.

My bill is quite simple: it repeals the penalties specified in section 153 of title 23 of the Intermodal Surface Transportation Efficiency Act [ISTEA], passed in 1991. Section 153 imposed a penalty on those States that had not complied by September 30, 1994. These Federal sanctions forced States without helmet laws to divert 1.5 percent of their fiscal 1995 highway funds from three programs—the National Highway Safety Program, the Surface Transportation Program, and the Congestion Mitigation and Air Quality Improvement Program—and spend those funds instead on section 402 safety programs. For fiscal year 1996, the penalty doubled, taking a 3-percent chunk from the State highway construction account.

This compulsory mechanism has the ironic effect of actually decreasing the safety of some highways, as funds available for needed repairs are diverted for safety education and awareness programs.

Once again, the Federal Government is trying to micromanage State transportation budgets, imposing a heavy-handed Federal mandate upon more than half of our States. And make no mistake, Mr. President: this is no carrot and stick. It is a mandate, and despite the broad reach of Federal law, section 153 has failed in its explicit intent.

Fewer than half of the States are in compliance with this Federal law. Two years into these intrusive Federal sanctions, 28 States remain without helmet laws and are subject to financial penalties. These States disagree with the Federal Government's intrusion into what has traditionally been within the jurisdiction of individual States. And although Federal penalties doubled last year, none of these States have passed laws requiring motorcyclists to wear helmets.

The estimated penalties facing States under section 153 total $106.6 million—$106.6 million that is no longer available to upgrade roads in the National Highway System Program—$106.6 million that is unavailable to construct and maintain highways—$106.6 million that is no longer available to promote mass transit—$106.6 million that is unavailable to make sure that this crucial transportation infrastructure is not only modern but safe.

Instead, these valuable Federal dollars will be spent on highway safety programs, which most States already fund quite generously. States—and motorcyclists in the States—have been at the forefront of highway safety programs. Forty-two States have funded State motorcycle safety programs, most of which are paid for by the motorcyclists themselves, through motorcycle registration and license fees. Motorcyclists understand that their safety is at risk on highways—and they want to make sure that their fellow riders and drivers of passenger cars and trucks have good awareness of motorcycle safety.

Nevertheless, the Federal Government—through section 153—insists of forcing States to redirect their precious Federal resources to programs that are already well-funded. Frankly, I don't believe that we should compel States to direct desperately needed highway construction funds into highway safety programs that are already well funded.

The most recent data shows that States have already been doing an excellent job promoting highway safety. since 1983, the number of accidents has decreased from 3,070 per 10,000 registered motorcyclists to 206. Fatalities have similarly declined from 8 per 10,000 registered motorcyclists to 6 per 10,000 registered motorcyclists. Even without a motorcyle helmet law, the number of motorcycle occupant fatalities declined 58.9 percent, from 5,097 in 1980 to 2,398 in 1992 when no mandatory Federal helmet law existed. Accidents declined by 53.4 percent in this same period. This substantial decline in motorcyle fatalities demonstrates that States are capable of addressing safety issues without intervention by the Federal Government.

It is also interesting to note that of the 10 States with the lowest motorcycle accident rate, 8 had motorcycle rider education programs. In fact, the 10 States with the lowest motorcycle accident rates spent 64.4 percent more on motorcycle rider education programs than States with the 10 highest motorcycle accident rates. Clearly, safety programs do work, and we should allow them to continue to work.

The penalty provisions of section 153 affect States in dire need of their highway construction funds. For my State of Maine, the estimated penalty was $853,194 in fiscal year 1995, increasing to $1,706,387 in fiscal year 1996. I believe that section 153 runs contrary to the principles of federalism, as the Federal Government tries to thwart the efforts of States to rebuild their transportation infrastructure in order to coerce States to pass helmet laws. And it is poor public policy, because poorly-maintained roads are often quite hazardous to the motoring public.

I have always strived to protect the interests of our communities by allowing them and the individual States to make the important decisions on how their affairs should be run. I believe that each State and each community should, to the extent of their ability, be allowed to make their own policy decisions. This is consistent with the ideas of the Founding Fathers.

State governments are closer to their citizens than the Federal Government. Surely, these democratic institutions understand the best interests of their citizens on this important issue, and the Federal Government should respect their decision. Yet section 153 erodes the very freedoms and liberties of our democracy, and on which our Nation was founded. Through provisions such as section 153, we are gradually stripping away the limited autonomy of the States.

Where will we draw the line? How far will Congress go in the debate over State freedoms? The National Conference of State Legislators expressed a clear and solid view during testimony before Congress in 1993: the mandatory helmet and seat belt law provision, it said, is one of the most infringing provisions on the right of individual States included in ISTEA.

Clearly, we must continue to do everything we can to make our roads safer, and to reduce the number of fatalities and severe injuries that occur on our Nation's highways. But I believe there are better ways for us to achieve these goals, without resorting to penalties on our financially burdened States.

At a time when Congress has already acted to eliminate future unfunded mandates on the States, we understand the burden that our actions can impose on the States. Surely, we can remove this unnecessary and intrusive mandate and restore authority to State Governments where they belong.

I will continue to work with my colleagues, however, to support the grant incentive provisions of section 153 and, and to explore additional options for enhancing highway safety. In the meantime, we should give the States some credit for keeping their roads and highways safe and repeal the insulting penalties contained in section 153.

I urge my colleagues to join me in supporting this legislation.•

By Mr. JOHNSTON (for himself, Mr. BENNETT, Mr. HATFIELD, Mr. NICKLES, Mr. SHELBY, and Mr. SPECTER):

S. 389. A bill for the relief of Nguyen Quy An and his daughter, Nguyen Ngoc Kim Quy; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

• Mr. JOHNSTON. Mr. President, I am proud to introduce a bill for the relief of Maj. Nguyen Quy An and his daughter, Nguyen Ngoc Kim Quy.

Major An, a former South Vietnamese helicopter pilot, was awarded the Distinguished Flying Cross for risking his own life to save four American servicemen in Vietnam in 1969. Two years later, his helicopter was hit by enemy fire and went down in flames while he was on a mission in Vietnam's central highlands. Major An managed to land the aircraft safely, saving himself and his crew; however, his arms were severely burned and had to be amputated by American doctors. He was imprisoned in a Vietnamese reeducation camp for 9 weeks, but was released because he was considered worthless without his two hands. Major An attempted to escape Vietnam by boat three times, but each time he was captured, and he spent 17 months in jail for the escape attempts.

Mr. President, last January, Senators SIMPSON, Mathews, HATFIELD, SPECTER, NICKLES, BENNETT, and myself gave Major An and his daughter refuge on an Air Force plane from Ho Chi Minh City to Bangkok. One of the most touching moments I have ever experienced was the thrill of announcing to Major An that our plane had cleared Vietnam's airspace and hearing everyone in our delegation and the military escorts clap and cheer. Major An and his daughter are currently in this country on humanitarian parole.

In the 103d Congress, I introduced legislation cosponsored by Senators Mathews, HATFIELD, SPECTER, NICKLES, and BENNETT for the relief of Major An and his daughter. Unfortunately, this bill was not acted on last year, so I rise today to submit new legislation for their relief. I hope my colleagues will join with me in recognizing the heroic actions of Major An and will reward him for his bravery by giving him and his daughter the opportunity to reside permanently in the United States.•

By Mr. BIDEN (for himself, Mr. SPECTER, Mr. KOHL, Mr. KERREY, and Mr. D'AMATO) (by request):

S. 390. A bill to improve the ability of the United States to respond to the international terrorist threat; to the Committee on the Judiciary.

THE OMNIBUS COUNTERTERRORISM ACT OF 1995

• Mr. BIDEN. Mr. President, at the request of President Clinton, I am introducing today legislation to combat international terrorism. The very grave threat to the United States posed by violent terrorist acts is documented by the events of this week, as well as of the past 2 years.

Two days ago, Ahmed Ramzi Yousef, the alleged mastermind of New York's World Trade Center bombing 2 years ago, was arrested and extradited from Pakistan. Explosives and United and Delta Airlines timetables were recovered from his hotel room in Pakistan.

Even as legal proceedings now begin against him, 11 other men are on trial in Federal court in New York City for conspiracy to commit several heinous acts of terrorism in and around Manhattan—including the World Trade Center bombing.

These incidents demonstrate that the United States and its citizens continue to be the focus of extremists who are willing and able to use violence to advance their cause. The damage this terrorism causes extends beyond the tragic loss of life and damage of the World Trade Center bombing.

Indeed, the revelation that terror networks are operating in our midst undeniably has its intended effect on our national psyche—it undermines the sense of security of all Americans both at home and abroad.

Equally important, the continued operation of numerous terrorist organizations around the globe undermines the stability of key U.S. allies and important foreign policy objectives.

In the Middle East, terrorism perpetrated by groups supported by Iran and Syria pose a grave threat to the already fragile Middle East peace process.

The recent bombing in central Tel Aviv, which killed 19 Israelis—many of them soldiers on leave—was only the latest in a series of attacks carried out by Palestinian extremists since the signing of the Israeli-PLO Declaration of Principles in September 1993.

In South America, terrorists in Colombia and Peru—often in league with narcotics traffickers—attack the very institutions of State, weakening the ability of those governments to confront the drug trade—a trade that continues to plague our own society.

A short time ago, international terrorism seemed to be in decline. But in 1993, the last year for which data are available, the State Department's Office of Counterterrorism reports that there were 427 terrorist incidents, an increase from 364 incidents in 1992.

The main reason for the increase was an acceleration of the campaign conducted by the Kurdistan workers party—known as the PKK—against Turkish interests in Western Europe.

But the raw numbers—and the dry statistics of which group perpetrated what attack—do not even begin to portray the harm caused by the heinous acts of terrorist violence.

Wherever it occurs, the lost lives, broken hearts, and destroyed dreams of the thousands touched by terrorism is tangible, while the fear that grips the citizenry—the fear of the indiscriminate attack that can occur at any time—cannot be quantified. But its effect is all too real.

In the 1980's, Congress and the Reagan administration worked together to empower law enforcement with many tools to counter the men of terror. Last year, President Clinton urged a refocus on terrorism—and sought recommendations from the executive branch agencies on new tools that might be needed in the fight against terrorism.

Now, this bill includes a number of provisions to help in that fight. The bill expands the circumstances in which we can prosecute crimes committed overseas which affect our interests. It also prohibits persons in the United States from conspiring to commit terrorism overseas—and from raising funds for foreign terrorist organizations.

In addition, the bill implements the convention on the marking of plastic explosives for the purposes of detection. That convention was an international response to earlier terrorist bombings of aircraft, requiring manufacturers of plastic explosives to make them easier to detect.

The bill also expands the coverage of the existing statute involving transactions in nuclear materials, to cover materials from the dismantling of nuclear weapons in the former Soviet Union.

It also allows prosecutors to use the Federal RICO and money laundering statutes to attack terrorism, and fills gaps in current law by authorizing wiretaps for investigations of all terrorism offenses. Other more technical changes will also enhance the law enforcement response to terrorism.

Finally, the bill includes a new Federal terrorism offense, with stiff penalties—including a new death penalty for terrorist murders. This is an important, an appropriate, new Federal offense.

The expansion of Federal jurisdiction has been a contested issue in recent years. I have long opposed broad assertions of Federal jurisdiction over offenses which are more appropriately prosecuted in State courts. But, in my view, international terrorism requires a Federal response.

As expressed in its letter transmitting the legislation to the Congress, the administration stated that it intends that section 101 confer Federal jurisdiction only over acts of violence that are, indeed, international terrorism offenses.

I strongly support that intent, but I believe the language of section 101 could be improved to better reflect that intent. The administration has agreed to work with the Congress to make modifications to the legislative language to further that goal.

I must also point out that the bill includes one provision which I strongly oppose in its current form. That is the provision which allows secret evidence to be used in a deportation proceeding against an immigrant—even a legal permanent resident—who is alleged to be a terrorist.

Under current law, any person who is not a citizen—including legal immigrants—is deportable if the person is engaged in terrorist activities, even without a criminal conviction.

This bill would create a new and, in my view, troubling court procedure which would allow the Government to deport an immigrant based on secret evidence, on evidence unknown to the immigrant or his counsel.

The right to see and confront the evidence against oneself is a fundamental premise of the due process clause of the Constitution.

The Supreme Court has held that the due process clause applies to aliens in the United States, and that it applies to deportation proceedings.

Deportation can be a dramatic step. This procedure could be used, for instance, against a legal permanent resident who has lived in the United States with all of his family for 40 or more years.

Deportation could mean separation from family, and could mean removal to a country in which the person has never before lived, since a person is not always deported to the person's country of citizenship.

The use of secret information is unprecedented. Even in other cases where sensitive information is involved, the Government is required to give a defendant a summary of the evidence to be used against him.

The use of secret evidence raises fundamental questions about the accuracy of any determinations made using that procedure. Our system of justice is an adversarial one. It assumes that by allowing defendants to see and challenge the evidence against them, the reliability and truthfulness of that information can be evaluated.

That is what cross-examination is all about—to test the reliability and biases of the witness. That is why the defense is allowed to put on witnesses to rebut evidence presented by the prosecution. If a person does not know what evidence is being used against him, it is simply impossible to subject that evidence to the scrutiny our system requires.

I agree with the administration that we must have the ability to deport aliens involved in terrorist activities. I also agree that we must be able to safeguard classified information. But I am not convinced that nothing short of secret evidence can protect our security. Why, for example, can we not consider applying the Classified Information Procedures Act—a tried and tested process—to deportation proceedings, before we sanction in this country Kafkaesque procedures requiring people to defend against unknown and unseen evidence.

I have introduced this bill at the President's request. I support most of its provisions, as I am sure most Senators will. But as I have said, I will work to modify certain portions of the bill even as we move expeditiously to see it enacted into law.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 390

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Omnibus Counterterrorism Act of 1995."

SEC. 2. TABLE OF CONTENTS.

The following is the table of contents for this Act:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings and purposes.

TITLE I—SUBSTANTIVE CRIMINAL LAW ENHANCEMENTS

Sec. 101. Acts of terrorism transcending national boundaries.
Sec. 102. Conspiracy to harm people or property overseas.
Sec. 103. Clarification and extension of criminal jurisdiction over certain terrorism offense overseas.

TITLE II—IMMIGRATION LAW IMPROVEMENTS

Sec. 201. Alien terrorist removal procedures.
Sec. 202. Changes to the Immigration and Nationality Act to facilitate removal of alien terrorists.
Sec. 203. Access to certain confidential INS files through court order.

TITLE III—CONTROLS OVER TERRORIST FUND-RAISING

Sec. 301. Terrorist fund-raising prohibited.

TITLE IV—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

Sec. 401. Short title.
Sec. 402. Findings and purposes.
Sec. 403. Definitions.
Sec. 404. Requirement of detection agents for plastic explosives.
Sec. 405. Criminal sanctions.
Sec. 406. Exceptions.
Sec. 407. Investigative authority.
Sec. 408. Effective date.

TITLE V—NUCLEAR MATERIALS

Sec. 501. Expansion of nuclear materials prohibitions.

TITLE VI—PROCEDURAL AND TECHNICAL CORRECTIONS AND IMPROVEMENTS

Sec. 601. Correction to material support provision.
Sec. 602. Expansion of weapons of mass destruction statute.
Sec. 603. Addition of terrorist offenses to the RICO statute.
Sec. 604. Addition of terrorist offenses to the money laundering statute.
Sec. 605. Authorization for interception of communications in certain terrorism related offenses.
Sec. 606. Clarification of maritime violence jurisdiction.
Sec. 607. Expansion of federal jurisdiction over bomb threats.
Sec. 608. Increased penalty for explosives conspiracies.
Sec. 609. Amendment to include assaults, murder, and threats against former federal officials on account of the performance of their official duties.
Sec. 610. Addition of conspiracy to terrorism offenses.

TITLE VII—ANTITERRORISM ASSISTANCE

Sec. 701. Findings.
Sec. 702. Antiterrorism assistance amendments.

SEC. 3. FINDINGS AND PURPOSES.

(a) The Congress finds and declares—

(1) International terrorism remains a serious and deadly problem which threatens the interests of the United States both overseas and within its territory. States or organizations that practice terrorism or actively support it should not be allowed to do so without serious consequence;

(2) International terrorism directed against United States interests must be confronted by the appropriate use of the full array of tools available to the President, including diplomatic, military, economic and prosecutive actions;

(3) The Nation's security interests are seriously impacted by terrorist attacks carried out overseas against United States Government facilities, officials and other American citizens present in foreign countries;

(4) United States foreign policy interests are profoundly affected by terrorist acts overseas especially those directed against friendly foreign governments and their people and those intended to undermine the peaceful resolution of disputes in the Middle East and other troubled regions;

(5) Since the Iranian Revolution of 1979, the defeat of the Soviet Union in Afghanistan, the peace initiative in the Middle East, and the fall of communism throughout Eastern Europe and the former Soviet Union, international terrorism has become a more complex problem, with new alliances emerging among terrorist organizations;

(6) Violent crime is a pervasive international problem and is exacerbated by the free international movement of drugs, firearms, explosives and individuals dedicated to performing acts of international terrorism who travel using false or fraudulent documentation;

(7) While international terrorists move freely from country to country, ordinary citizens and foreign visitors often fear to travel to or through certain parts of the world due to concern about terrorist violence;

(8) In addition to the destruction of property and devastation to human life, the occurrence of an international terrorist event results in a decline of tourism and affects the marketplace, thereby having an adverse impact on interstate and foreign commerce and economies of friendly nations;

(9) International terrorists, violating the sovereignty of foreign countries, attack dissidents and former colleagues living in foreign countries, including the United States;

(10) International terrorists, both inside and outside the United States, carefully plan attacks and carry them out in foreign countries against innocent victims;

(11) There are increasing intelligence indications of networking between different international terrorist organizations leading to their increased cooperation and sharing of information and resources in areas of common interest;

(12) In response, increased international coordination of legal and enforcement issues is required, pursuant, for example, to the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

(13) Until recently, United States asylum processing procedures have been complicated and often duplicative, providing a powerful incentive for individuals, including terrorists, without a genuine claim, to apply for asylum and remain in the United States;

(14) The United States Constitution grants Congress the power to establish a uniform rule of naturalization and to make all laws necessary and proper thereto;

(15) Part of that power authorizes the Congress to establish laws directly applicable to alien conduct within the United States that harms the foreign relations, domestic tranquility or national security of the United States;

(16) While the vast majority of aliens justify the trust placed in them by United States immigration policies, a dangerous few utilized access to the United States to carry out their terrorist activity to the detriment of this nation's national security and foreign policy interests. Accordingly, international terrorist organizations have been able to create significant infrastructures and cells in the United States among aliens who are in this country either temporarily or as permanent resident aliens;

(17) International terrorist organizations, acting through affiliated groups and/or individuals, have been raising significant funds within the United States, often through misrepresentation of their purposes or subtle forms of extortion, or using the United States as a conduit for transferring funds among countries;

(18) The provision of funds to organizations that engage in terrorism serves to facilitate their terrorist activities regardless of whether the funds, in whole or in part, are intended or claimed to be used for non-violent purposes;

(19) Certain foreign governments and international terrorist organizations have directed their members or sympathizers residing in the United States to take measures in support of terrorist acts, either within or outside the United States;

(20) Present federal law does not adequately reach all terrorist activity likely to be engaged in by aliens within the United States;

(21) Law enforcement officials have been hindered in using current immigration law to deport alien terrorists because the law fails to provide procedures to protect classified intelligence sources and information. Moreover, a few high ranking members of terrorist organizations have been naturalized as United States citizens because denial of such naturalizations would have necessitated public disclosure of highly classified sources and methods. Furthermore, deportation hearings frequently extend over several years, thus hampering the expeditious removal of aliens engaging in terrorist activity;

(22) Present immigration law is inadequate to protect the United States from terrorist attacks by certain aliens. New procedures are needed to permit expeditious removal of alien terrorists from the United States, thereby reducing the threat that such aliens pose to the national security and other vital interests of the United States;

(23) International terrorist organizations that have infrastructure support within the United States are believed to have been responsible for—

(A) conspiring in 1982 to bomb the Turkish Honorary Consulate in Philadelphia, Pennsylvania;

(B) bombing the Marine barracks in Lebanon in 1983;

(C) holding Americans hostage in Lebanon from 1984–1991;

(D) hijacking in 1984 Kuwait Airlines Flight 221 during which two American employees of the Agency for International Development were murdered;

(E) hijacking in 1985 TWA Flight 847 during which a United States Navy diver was murdered;

(F) murdering in 1985 an American tourist aboard the Achille Lauro cruise liner;

(G) hijacking in 1985 Egypt Air Flight 648 during which one American and one Israeli were killed;

(H) murdering in 1985 four members of the United States Marine Corps in El Salvador;

(I) attacking in December 1985 the Rome and Vienna airports resulting in the death of a young American girl;

(J) hijacking in 1986 Pan Am Flight 73 in Karachi, Pakistan, in which 44 Americans were held hostage and two were killed;

(K) conspiring in 1986 in New York City to bomb an Air India aircraft;

(L) bombing in April 1988 the USO club in Naples, Italy, killing one American servicewoman and injuring four American servicemen;

(M) attacking in 1988 the Greek cruise ship "City of Poros";

(N) bombing in 1988 Pan Am Flight 103 resulting in 270 deaths;

(O) bombing in 1989 UTA Flight 772 resulting in 171 deaths, including seven Americans;

(P) murdering in 1989 a United States Marine Corps officer assigned to the United Nations Truce Supervisory Organization in Lebanon;

(Q) downing in January 1991 a United States military helicopter in El Salvador causing the death of a United States military crewman as a result of the crash and subsequently murdering its two surviving United States military crewmen;

(R) bombing in February 1992 the United States Ambassador's residence in Lima, Peru;

(S) bombing in February 1993 a cafe in Cairo, Egypt, which wounded two United States citizens;

(T) bombing in February 1993 the World Trade Center in New York City, resulting in six deaths;

(U) conspiring in the New York City area in 1993 to destroy several government buildings and tunnels;

(V) wounding in October 1994 two United States citizens on a crowded street in Jerusalem, Israel;

(W) kidnapping and subsequently murdering in October 1994 a dual citizen of the United States and Israel; and

(X) numerous bombings and murders in Northern Ireland over the past decade;

(24) Nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices which are capable of causing serious bodily injury as well as substantial damage to property and the environment;

(25) The potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States;

(26) Due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has strong interest in assuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

(27) The threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially due to international developments in the years since the enactment in 1982 of the legislation which implemented the Convention on the Physicial Protection of Nuclear Material, codified at 18 U.S.C. 831;

(28) The successful effort to obtain agreements from other countries to dismantle and destroy nuclear weapons has resulted in increased packaging and transportation of nuclear materials, thereby creating more opportunities for their unlawful diversion or theft;

(29) The illicit trafficking in the relatively more common, commercially available and usable nuclear and byproduct materials poses a potential to cause significant loss of life and/or environmental damage;

(30) Reported trafficking incidents in the early 1990's suggest that the individuals involved in trafficking these materials from Eurasia and Eastern Europe frequently conducted their black market sales within the Federal Republic of Germany, the Baltic States, and to a lesser extent in the Middle European countries;

(31) The international community has become increasingly concerned over the illegal possession of nuclear and nuclear byproducts materials;

(32) The potentially disastrous ramifications of increased access by terrorists to nuclear and nuclear byproduct materials pose such a significant future threat that the United States must use all lawful methods available to combat the illegal use of such materials;

(33) The United States has an interest in encouraging United States corporations to do business in the countries which comprised the former Soviet Union, as well as in other developing democracies; protection of such corporations from threats created by the unlawful use of nuclear materials is important to encourage such business ventures, and to further the foreign relations and commerce of the United States;

(34) The nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts which constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward non-nationals of the United States;

(35) Plastic explosives were used by terrorists in the bombings of Pan Am flight 103 in December 1988 and UTA flight 772 in September 1989;

(36) Plastic explosives currently can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

(37) The marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

(38) In order to deter and detect the unlawful use of plastic explosives, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

The Congress further finds:

(39) Such international terrorist offenses place innocent lives in jeopardy, endanger national security, affect domestic tranquility, and gravely impact on interstate and foreign commerce;

(40) Such international terrorist offenses involve international associations, communication, and mobility which can often be addressed effectively only at the federal law enforcement level;

(41) There previously has been no federal criminal statute which provides a comprehensive basis for addressing acts of international terrorism carried out within the United States;

(42) There previously has been no federal provision that specifically prohibits fund raising within the United States on behalf of international terrorist organizations;

(43) There previously has been no adequate procedure under the immigration law that permits the expeditious removal of resident and non-resident alien terrorists;

(44) There previously has been no federal criminal statute which provides adequate protection to United States interests from non-weapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials which are held for other than peaceful purposes;

(45) There previously has been no federal law that requires the marking of plastic explosives to improve their detectability; and

(46) Congress has the power under the interstate and foreign commerce clause, and other provisions of the Constitution, to enact the following measures against international terrorism in order to help ensure the integrity and safety of the Nation.

(b) The purposes of this Act are to provide:

(1) federal law enforcement the necessary tools and fullest possible basis allowed under the Constitution of the United States to address, pursuant to the rule of law, acts of international terrorism occurring within the United States, or directed against the United States or its nationals anywhere in the world;

(2) the Federal Government the fullest possible basis, consistent with the Constitution of the United States, to prevent persons and organizations within the jurisdiction of the United States from providing funds, directly or indirectly, to organizations, including subordinate or affiliated persons, designated by the President as engaging in terrorism, unless authorized under this Act;

(3) procedures which, consistent with principles of fundamental fairness, will allow the government to deport resident and non-resident alien terrorists promptly without compromising intelligence sources and methods;

(4) provide federal law enforcement the necessary tools and fullest possible basis allowed under the Constitution of the United States to combat the threat of nuclear contamination and proliferation which may result from illegal possession and use of radioactive materials; and

(5) fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991.

TITLE I—SUBSTANTIVE CRIMINAL LAW ENHANCEMENTS

SEC. 101. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332a this new section:

"2332b. Acts of terrorism transcending national boundaries

"(a) FINDINGS AND PURPOSE.—

"(1) The Congress hereby finds that—

"(A) international terrorism is a serious and deadly problem which threatens the interests of this nation not only overseas but also within our territory;

"(B) international terrorists have demonstrated their intention and capability of carrying out attacks within the United States by, for example, bombing the World Trade Center in New York and undertaking attacks, including assassinations, against former colleagues and opponents who have taken up residence in this country;

"(C) United States foreign policy interests are seriously affected by terrorist acts within the United States directed against foreign governments and their people;

"(D) such offenses place innocent lives in jeopardy, endanger national security, affect domestic tranquility, and gravely impact on interstate and foreign commerce;

"(E) such offenses involve international associations, communication, and mobility which often can be addressed effectively only at the federal law enforcement level; and

"(F) there previously has been no federal criminal statute which provides a comprehensive basis for addressing acts of international terrorism carried out within the United States.

"(2) The purpose of this section is to provide federal law enforcement the fullest possible basis allowed under the Constitution to address acts of international terrorism occurring within the United States.

"(b) PROHIBITED ACTS.—

"(1) Whoever, in a circumstance described in subsection (c),

"(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any individual within the United States; or

"(B) destroys or damages any structure, conveyance or other real or personal property within the United States,

in violation of the laws of any State or the United States shall be punished as prescribed in subsection (d).

"(2) Whoever threatens to commit an offense under subsection (b)(1), or attempts or conspires so to do, shall be punished as prescribed in subsection (d).

"(c) JURISDICTIONAL BASES.—The circumstances referred to in subsection (b) are:

"(1) any of the offenders travels in commerce with the intent to commit the offense or to escape apprehension after the commission of such offense;

"(2) the mail, or any facility utilized in any manner in commerce, is used in furtherance of the commission of the offense or to effect the escape of any offender after the commission of such offense;

"(3) the offense obstructs, delays or affects commerce in any way or degree or would have so obstructed, delayed or affected commerce if the offense had been consummated;

"(4) the victim, or intended victim, is the United States Government or any official, officer, employee or agent of the legislative, executive or judicial branches, or of any department or agency, of the United States;

"(5) the structure, conveyance or other real or personal property (A) was used in commerce or in any activity affecting commerce, or (B) was in whole or in part owned, possessed, or used by, or leased to (I) the United States, or any department or agency thereof, or (II) any institution or organization receiving federal financial assistance or insured by any department or agency of the United States;

"(6) any victim, or intended victim, of the offense is, at the time of the offense, traveling in commerce;

"(7) any victim, intended victim or offender is not a national of the United States;

"(8) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

"(9) the offense is committed in those places within the United States that are in the special maritime and territorial jurisdiction of the United States.

Jurisdiction shall exist over all principals and coconspirators of an offense under subsection (b), and accessories after the fact to any offense based upon subsection (b), if at least one of the above circumstances is applicable to at least one offender.

"(d) PENALTIES.—Whoever violates this section shall, in addition to the punishment provided for any other crime charged in the indictment, be punished—

"(1) for a killing or if death results to any person from any other conduct prohibited by this section, by death or by imprisonment for any term of years or for life;

"(2) for kidnapping, by imprisonment for any term of years or for life;

"(3) for maiming, by imprisonment for not more than thirty-five years;

"(4) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than thirty years;

"(5) for destroying or damaging any structure, conveyance or other real or personal property, by imprisonment for not more than twenty-five years;

"(6) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

"(7) for threatening to commit an offense under this section, by imprisonment for not more than ten years.

Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

"(e) LIMITATION ON PROSECUTION.—No indictment for any offense described in this section shall be sought by the United States except after the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, has made a written certification that, in the judgment of the certifying official, such offense, or any activity preparatory to its commission, transcended national boundaries and that the offense appears to have been intended to coerce, intimidate, or retaliate against a government or a civilian population, including any segment thereof.

"(f) INVESTIGATIVE RESPONSIBILITY.—Violations of this section shall be investigated by the Attorney General. Assistance may be requested from any Federal, State or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

"(g) EVIDENCE.—

"(1) The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

"(2) In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

"(h) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial federal jurisdiction (1) over any offense under subsection (b), including any threat, attempt, or conspiracy to commit such offense, and (2) over conduct which, under section 3 of this title, renders any person an accessory after the fact to an offense under subsection (b).

"(i) DEFINITIONS.—As used in this section, the term—

"(1) 'commerce' has the meaning given such term in section 1951(b)(3) of this title;

"(2) 'facility utilized in any manner in commerce' includes means of transportation, communication, and transmission;

"(3) 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'serious bodily injury' has the meaning prescribed in section 1365(g)(3) of this title;

"(5) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory or possession of the United States; and

"(6) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for Chapter 113B of title 18, United States Code, is amended by inserting after "2332a. Use of Weapons of Mass Destruction." the following:

"2332b. Acts of terrorism transcending national boundaries."

(c) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended by—

(1) striking "any offense" and inserting "any non-capital offense";

(2) striking "36" and inserting "37";

(3) striking "2331" and inserting "2332";

(4) striking "2339" and inserting "2332a"; and

(5) inserting "2332b (acts of terrorism transcending national boundaries)," after "(use of weapons of mass destruction),".

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting "or section 2332b" after "section 924(c)".

(e) WIRETAP AMENDMENT.—Section 2518(11)(b)(ii) of title 18, United States Code, is amended by—

(1) inserting "(A)" before "thwart" and

(2) inserting "or (B) commit a violation of section 2332b of this title" after "facilities".

SEC. 102. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

"956. Conspiracy to kill, kidnap, maim, or injure certain property in a foreign country

"(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnaping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if he or any such other person commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

"(2) The punishment for an offense under subsection (a)(1) of this section is—

"(A) imprisonment for any term of years of for life if the offense is conspiracy to murder or kidnap; and

"(B) imprisonment for not more than thirty-five years if the offense is conspiracy to maim.

"(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to injure or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield or other public utility, public conveyance or public structure, or any religious, educational or cultural property so situated, shall, if he or any such other person commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than twenty-five years.".

(b) The chapter analysis for chapter 45 of title 18, United States Code, is amended by striking "956. Conspiracy to injure property of foreign government." and inserting in lieu thereof "956. Conspiracy to kill, kidnap, maim, or injure certain property in a foreign country.".

(c) Section 2339A of title 18, United States Code, is amended by—

(1) striking "36" and inserting in lieu thereof "37";

(2) striking "2331" and inserting in lieu thereof "2332";

(3) striking "2339" and inserting in lieu thereof "2332a";

(4) striking "of an escape" and inserting in lieu thereof "or an escape"; and

(5) inserting "956," before "1114."

SEC. 103. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) Section 46502(b) of title 49, United States Code, is amended by—

(1) in paragraph (1), striking "and later found in the United States";

(2) amending paragraph (2) to read as follows:

"(2) There is jurisdiction over the offense in paragraph (1) if—

"(A) a national of the United States was aboard the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States."; and

(3) inserting a new paragraph (3) as follows:

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) Section 32(b) of title 18, United States Code, is amended by—

(1) striking ", if the offender is later found in the United States,"; and

(2) adding at the end the following two new paragraphs:

"(5) There is jurisdiction over an offense in this subsection if—

"(A) a national of the United States was on board, or would have been on board, the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States.

"(6) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(c) Section 1116 of title 18, United States Code, is amended by—

(1) in subsection (b), adding at the end a new paragraph (7) as follows:

"(7) 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."; and

(2) in subsection (c), striking the first sentence and inserting the following:

"If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(d) Section 112 of title 18, United States Code, is amended by—

(1) in subsection (c), inserting "national of the United States," before "and"; and

(2) in subsection (e), striking the first sentence and inserting the following:

"If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(e) Section 878 of title 18, United States Code, is amended by—

(1) in subsection (c), inserting "national of the United States," before "and"; and

(2) in subsection (d) striking the first sentence and inserting the following:

"If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(f) Section 1201(e) of title 18, United States Code, is amended by—

(1) striking the first sentence and inserting the following:

"If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."; and

(2) adding at the end thereof the following:

"For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(g) Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting "(A)" before "the offender is later found in the United States"; and

(2) by inserting "; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))" after "the offender is later found in the United States".

(h) Section 178 of title 18, United States Code, is amended by—

(1) striking the "and" at the end of paragraph (3);

(2) striking the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) adding the following at the end thereof:

"(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

TITLE II—IMMIGRATION LAW IMPROVEMENTS

SEC. 201. ALIEN TERRORIST REMOVAL PROCEDURES.

(a) FINDINGS AND PURPOSE.—

(1) The Congress hereby finds that—

(A) international terrorism is a serious and deadly problem which threatens the interests of this nation overseas and within our territory;

(B) until recently, United States asylum processing procedures have been complicated and often duplicative, providing a powerful incentive for individuals, including terrorists, without a genuine claim, to apply for asylum and remain in the United States;

(C) while most aliens justify the trust placed in them by our immigration policies, a dangerous few utilized access to the United States to create significant infrastructures and cells in the United States in order to carry out their terrorist activity to the detriment of the nation's national security and foreign policy interests;

(D) the bombing of the World Trade Center exemplifies the danger posed to the United States and its citizens by alien terrorists;

(E) similarly, some foreign terrorist organizations utilize associated aliens within the United States to raise funds to facilitate their overseas terrorist acts against U.S. nationals as well as against foreign governments and their citizens; and

(F) current immigration laws and procedures are not effective in addressing the alien terrorist problem, as they require the government to place sensitive intelligence sources and methods at risk and allow the alien to remain within the United States for the prolonged period necessary to pursue a deportation action. Moreover, under the current statutory framework a few high ranking members of terrorist organizations have been naturalized as United States citizens because denial of such naturalizations would have necessitated public disclosure of highly classified sources and methods.

(2) The purpose of this section is to provide procedures which, consistent with principles of fundamental fairness, will allow the government to deport alien terrorists promptly without compromising intelligence sources and methods.

(b) ALIEN REMOVAL PROCEDURES.—The Immigration and Nationality Act is amended—

(1) by adding at the end of the table of contents the following:

"TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES.

"Sec. 501. Applicability
"Sec. 502. Special removal hearing
"Sec. 503. Designation of judges
"Sec. 504. Miscellaneous provisions"; and

(2) by adding at the end the following new title:

"TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

"APPLICABILITY

"Sec. 501. (a) The provisions of this title may be followed in the discretion of the Department of Justice whenever the Department of Justice has classified information that an alien described in paragraph 4(B) of section 241(a), as amended, is subject to deportation because of such section. For purposes of this title, the terms 'classified information' and 'national security' shall have the meaning prescribed in section 1 of the Classified Information Procedures Act, 18 U.S.C. App. III 1.

"(b) Whenever an official of the Department of Justice files, under section 502, an application with the court established under section 503 for authorization to seek removal pursuant to the provisions of this title, the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title. Except as they are specifically referenced, no other provisions of the Immigration and Nationality Act shall be applicable. An alien subject to removal under these provisions shall have no right of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 et. seq.) or otherwise for national security purposes. Nor shall such alien have the right to seek suppression of evidence. Further, the government is authorized to use, in the removal proceedings, the fruits of electronic surveillance and/or unconsented physical searches authorized under the Foreign

Intelligence Surveillance Act without regard to subsections 106(c), (e), (f), (g), and (h) of that Act. The provisions and requirements of section 3504 of title 18, United States Code, shall not apply to procedures under this title.

"(c) This title is enacted in response to findings of Congress that aliens described in paragraph 4(B) of section 241(a), as amended, represent a unique threat to the security of the United States. It is the intention of Congress that such aliens be promptly removed from the United States following—

"(1) a judicial determination of probable cause to believe that such person is such an alien; and

"(2) a judicial determination pursuant to the provisions of this title that an alien is removable on the grounds that he or she is an alien described in paragraph 4(B) of section 241(a), as amended.

The Congress furthers intends that, other than as provided by this title, such aliens shall not be given a deportation hearing and are ineligible for any discretionary relief from deportation or for relief under section 243(h).

"SPECIAL REMOVAL HEARING

"Sec. 502. (a) Whenever removal of an alien is sought pursuant to the provisions of this title, a written application upon oath or affirmation shall be submitted in camera and ex parte to the court established under section 503 for an order authorizing such a procedure. Each application shall require the approval of the Attorney General or the Deputy Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. Each application shall include—

"(1) the identity of the Department of Justice attorney making the application;

"(2) the approval of the Attorney General or the Deputy Attorney General for the making of the application;

"(3) the identity of the alien for whom authorization for the special removal procedure is sought; and

"(4) a statement of the facts and circumstances relied on by the Department of Justice to establish that—

"(A) the alien is an alien as described in paragraph 4(B) of section 241(a), as amended, and is physically present in the United States; and

"(B) with respect to such alien, adherence to the provisions of title II regarding the deportation of aliens would pose a risk to the national security of the United States.

"(b)(1) The application shall be filed under seal with the court established under section 503. The Attorney General may take into custody any alien with respect to whom such an application has been filed and, notwithstanding any other provision of law, may retain such an alien in custody in accordance with the procedures authorized by this title.

"(2) An alien lawfully admitted for permanent residence (hereafter referred to as resident alien) shall be entitled to a release hearing before the judge assigned to the special removal case pursuant to section 503(a). The resident alien shall be granted release pending the special removal hearing, upon such terms and conditions prescribed by the court (including the posting of any monetary amount), if the alien demonstrates to the court that the alien, if released, is not likely to flee and that the alien's release will not endanger national security or the safety of any person or the community. The judge may consider classified information submitted in camera and ex parte in making his determination.

"(C) In accordance with the rules of the court established under section 503, the judge shall consider the application and may consider other information, including classified information, presented under oath or affirmation at an in camera and ex parte hearing on the application. A verbatim record shall be maintained of such a hearing. The application and any other evidence shall be considered by a single judge of that court who shall enter an ex parte order as requested if he finds, on the basis of the facts submitted in the application and any other information provided by the Department of Justice at the in camera and ex parte hearing, there is probable cause to believe that—

"(1) the alien who is the subject of the application has been correctly identified and is an alien as described in paragraph 4(B) of section 241(a), as amended; and

"(2) adherence to the provisions of title II regarding the deportation of the identified alien would pose a risk to the national security of the United States.

"(d) (1) In any case in which the application for the order is denied, the judge shall prepare a written statement of his reasons for the denial and the Department of Justice may seek a review of the denial by the United States Court of Appeals for the District of Columbia Circuit by notice of appeal which must be filed within 20 days. In such a case the entire record of the proceeding shall be transmitted to the Court of Appeals under seal and the Court of Appeals shall hear the matter ex parte.

"(2) If the Department of Justice does not seek review, the alien shall be released from custody, unless such alien may be arrested and taken into custody pursuant to title II as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens.

"(3) If the application for the order is denied because the judge has not found probable cause to believe that the alien who is the subject of the application has been correctly identified or is an alien as described in paragraph 4(B) of section 241(a), as amended, and the Department of Justice seeks review, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to title II as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens simultaneously with the application of this title.

"(4) If the application for the order is denied because, although the judge found probable cause to believe that the alien who is the subject of the application has been correctly identified and is an alien as described in paragraph 4(B) of section 241(a), as amended, the judge has found that there is not probable cause to believe that adherence to the provisions of title II regarding the deportation of the identified alien would pose a risk to the national security of the United States, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in section 3142(b) and (c)(1)(B)(i) through (xiv) of title 18, United States Code, that will reasonably assure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the community; but if the judge finds no such condition or combination of conditions the alien shall remain in custody until the completion of any appeal authorized by this title. The provisions of sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom the previous sentence applies and—

"(A) for purposes of section 3145 of such title an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit; and

"(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

"(e)(1) In any case in which the application for the order authorizing the special procedures of this title is approved, the judge who granted the order shall consider each item of classified information the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing and shall order the introduction of such information pursuant to subsection (j) if he determines the information to be relevant. The Department of Justice shall prepare a written summary of such classified information which does not pose a risk to national security and the judge shall approve the summary if he finds the summary is sufficient to inform the alien of the general nature of the evidence that he is an alien as described in paragraph 4(B) of section 241(a), as amended, and to permit the alien to prepare a defense. The Department of Justice shall cause to be delivered to the alien a copy of the summary.

"(2) If the written summary is not approved by the court, the Department shall be afforded reasonable opportunity to correct the deficiencies identified by the court and submit a revised summary. Thereafter, if the written summary is not approved by the court, the special removal hearing shall be terminated unless the court issues a finding that—

"(A) the continued presence of the alien in the United States, or

"(B) the provision of the required summary

would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person. If such finding is issued, the special removal hearing shall continue, the Department of Justice shall cause to be delivered to the alien a statement that no summary is possible, and the classified information submitted in camera and ex parte may be used pursuant to subsection (j).

"(3) The Department of Justice may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

"(A) any determination by the judge pursuant to paragraph (1)—

"(I) concerning whether an item of evidence may be introduced in camera and ex parte; or

"(II) concerning the contents of any summary of evidence to be introduced in camera and ex parte prepared pursuant to paragraph (1); or

"(B) the refusal of the court to make the finding permitted by paragraph (2);

In any interlocutory appeal taken pursuant to this paragraph, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal and the matter shall be heard ex parte. The Court of Appeals shall consider the appeal as expeditiously as possible.

"(f) In any case in which the application for the order is approved, the special removal hearing authorized by this section shall be conducted for the purpose of determining if the alien to whom the order pertains should be removed from the United States on the grounds that he is an alien as described in paragraph 4(b) of section 241(a), as amended. In accordance with subsection (e), the alien shall be given reasonable notice of the nature of the charges against him and a general account of the basis for the charges. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

"(g) The special removal hearing shall be held before the same judge who granted the order pursuant to subsection (e) unless that judge is deemed unavailable due to illness or disability by the chief judge of the court established pursuant to section 503, or has died, in which case the chief judge shall assign another judge to conduct the special removal hearing. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

"(h) The special removal hearing shall be open to the public. The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent him. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged. The alien may be called as a witness by the Department of Justice. The alien shall have a right to introduce evidence on his own behalf. Except as provided in subsection (j), the alien shall have a reasonable opportunity to examine the evidence against him and to cross-examine any witness. A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept. The decision of the judge shall be based only on the evidence introduced at the hearing, including evidence introduced under subsection (j).

"(i) At any time prior to the conclusion of the special removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal evidence or the source of evidence which has been introduced, or which the Department of Justice has received permission to introduce, in camera and ex parte pursuant to subsection (j), and the Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena. If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid for from funds appropriated for the enforcement of title II. A subpoena under this subsection may be served anywhere in the United States. A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States. Nothing in this subsection is intended to allow an alien to have access to classified information.

"(j) When classified information has been summarized pursuant to subsection (e)(1) or where a finding has been made under subsection (e)(2) that no summary is possible, classified information shall be introduced (either in writing or through testimony) in camera and ex parte and neither the alien nor the public shall be informed of such evidence or its sources other than through reference to the summary provided pursuant to subsection (e)(1). Notwithstanding the previous sentence, the Department of Justice may, in its discretion and, in the case of classified information, after coordination with the originating agency, elect to introduce such evidence in open session.

"(k) Evidence introduced at the special removal hearing, either in open session or in camera and ex parte, may, in the discretion of the Department of Justice, include all or part of the information presented under subsections (a) through (c) used to obtain the order for the hearing under this section.

"(l) Following the receipt of evidence, the attorneys for the Department of Justice and for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The attorney for the Department of Justice shall open the argument. The attorney for the alien shall be permitted to reply. The attorney for the Department of Justice shall then be permitted to reply in rebuttal. The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.

"(m) The Department of Justice has the burden of showing by clear and convincing evidence that the alien is subject to removal because he is an alien as described in paragraph 4(B) of subsection 241(a) of this Act (8 U.S.C. 1251(a)(4)(B)), as amended. If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed and, if the alien is a resident alien who was released pending the special removal hearing, order the Attorney General to take the alien into custody.

"(n)(1) At the time of rendering a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (j) shall not be made available to the alien or the public.

"(2) The decision of the judge may be appealed by either the alien or the Department of Justice to the United States Court of Appeals for the District of Columbia Circuit by notice of appeal which must be filed within 20 days, during which time such order shall not be executed. In any case appealed pursuant to this subsection, the entire record shall be transmitted to the Court of Appeals and information received pursuant to subsection (j), and any portion of the judge's order that would reveal the substance or source of such information shall be transmitted under seal. The Court of Appeals shall consider the case as expeditiously as possible.

"(3) In an appeal to the Court of Appeals pursuant to either subsection (d) or (e) of this section, the Court of Appeals shall review questions of law de novo, but a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

"(o) If the judge decides pursuant to subsection (n) that the alien should not be removed, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to title II of this Act as an alien subject to deportation, in which case, for purposes of detention, such alien may be treated in accordance with the provisions of this Act concerning the deportation of aliens.

"(p) Following a decision by the Court of Appeals pursuant to either subsection (d) or (n), either the alien or the Department of Justice may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a writ of certiorari except as provided by the Court of Appeals or a Justice of the Supreme Court.

"(q) The Department of Justice retains the right to dismiss a removal action at any stage of the proceeding.

"(r) Nothing in this section shall prevent the United States from seeking protective orders and/or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and state secrets privileges.

"DESIGNATION OF JUDGES

"SEC. 503. (a) The Chief Justice of the United States shall publicly designate five district court judges from five of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all matters and proceedings authorized by section 502. The Chief Justice shall publicly designate one of the judges so appointed as the chief judge. The chief judge shall promulgate rules to facilitate the functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

"(b) Proceedings under section 502 shall be conducted as expeditiously as possible. The Chief Justice, in consultation with the Attorney General, the Director of Central Intelligence and other appropriate federal officials, shall, consistent with the objectives of this title, provide for the maintenance of appropriate security measures for applications for ex parte orders to conduct the special removal hearings authorized by section 502, the orders themselves, and evidence received in camera and ex parte, and for such other actions as are necessary to protect information concerning matters before the court from harming the national security of the United States.

"(c) Each judge designated under this section shall serve for a term of five years and shall be eligible for redesignation, except that the four associate judges first designated under subsection (a) shall be designated for terms of from one to four years so that the term of one judge shall expire each year.

"MISCELLANEOUS PROVISIONS

"SEC. 504. (a)(1) Following a determination pursuant to this title that an alien shall be removed, and after the conclusion of any judicial review thereof, the Attorney General may retain the alien in custody or, if the alien was released pursuant to subsection 502(o), may return the alien to custody, and shall cause the alien to be transported to any country which the alien shall designate provided such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

"(2) If the alien refuses to choose a country to which he wishes to be transported, or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so selected would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be transported to any country willing to receive such alien.

"(3) Before an alien is transported out of the United States pursuant to paragraph (1) or (2) or pursuant to an order of exclusion because such alien is excludable under paragraph 212(a)(3)(B) of this Act (8 U.S.C. 1182(a)(3)(B), as amended, he shall be photographed and fingerprinted, and shall be advised of the provisions of subsection 276(b) of this Act (8 U.S.C. 1326(b)).

"(4) If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every six months shall provide to the alien a written report on his efforts. Any alien in custody pursuant to this subsection shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate. The determinations and actions of the Attorney General pursuant to this subsection shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates his rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the United States Court of Appeals for the District of Columbia Circuit.

"(b)(1) Notwithstanding the provisions of subsection (a), the Attorney General may hold in abeyance the removal of an alien who has been ordered removed pursuant to this title to allow the trial of such alien on any federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

"(2) Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

"(3) Following the completion of a sentence of confinement by an alien described in paragraph (1) or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to carry out the provisions of subsection (a) concerning removal of the alien.

"(c) For purposes of section 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of felony.

"(d)(1) An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity to communicate with and receive visits from members of his family, and to contact, retain, and communicate with an attorney.

"(2) An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country of citizenship or nationality or of any country providing representation services therefore. The Attorney General shall notify the appropriate embassy, mission, or consular office of the alien's detention.".

(c) ADDITIONAL AMENDMENTS TO INA.—(1) Subsection 106(b) of the Immigration and Nationality Act (8 U.S.C. 1105a(b)) is amended by adding at the end thereof the following sentence: "Jurisdiction to review an order entered pursuant to the provisions of section 235(c) of this Act concerning an alien excludable under paragraph 3(B) of subsection 212(a) (8 U.S.C. 1182(a)), as amended, shall rest exclusively in the United States Court of Appeals for the District of Columbia Circuit.".

(2) Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended by deleting the word "or" at the end of subparagraph (b)(1), by replacing the period at the end of subparagraph (b)(2) with a semicolon followed by the word "or", and by adding at the end of paragraph (b) the following subparagraph: "(3) who has been excluded from the United States pursuant to subsection 235(c) of this Act (8 U.S.C. 1225(c)) because such alien was excludable under paragraph 3(B) of subsection 212(a) thereof (8 U.S.C. 1182(a)(3)(B)), as amended, or who has been removed from the United States pursuant to the provisions of title V of the Immigration and Nationality Act, and who thereafter, without the permission of the Attorney General, enters the United States or attempts to do so shall be fined under title 18, United States Code, and imprisoned for a period of ten years which sentence shall not run concurrently with any other sentence."

(3) Section 106(a) of the Immigration and Nationality Act (8 U.S.C. 1105a(a)) is amended by striking from the end of subparagraph 9 the semicolon and the word "and" and inserting a period in lieu thereof, and by striking subparagraph 10.

(d) EFFECTIVE DATE.—The provisions of this Act shall be effective upon enactment, and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

SEC. 202. CHANGES TO THE IMMIGRATION AND NATIONALITY ACT TO FACILITATE REMOVAL OF ALIEN TERRORISTS.

(a) Section 212(a)3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended to read as follows:

"(B) TERRORISM ACTIVITIES

"(i) IN GENERAL

Any alien who

"(I) has engaged in a terrorism activity, or

"(II) a consular officer or the Attorney General knows, or has reason to believe, is likely to engage after entry in any terrorism activity (as defined in clause (iii)),

is excludable. An alien who is a representative of the Palestine Liberation Organization, or any terrorist organization designated by proclamation by the President after he has found such organization to be detrimental to the interests of the Untied States, is considered, for purposes of this Act, to be engaged in a terrorism activity. As used in clause (B)(i), the term "representative" includes an officer, official or spokesman of the organization and any person who directs, counsels, commands or induces such organization or its members to engage in terrorism activity. For purposes of subparagraph (3)(B)(i), the determination by the Secretary of State or the Attorney General that an alien is a representative of the organization shall be controlling and shall not be subject to review by any court.

"(ii) TERRORISM ACTIVITY DEFINED.—As used in this Act, the term 'terrorism activity' means any activity which is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any State), and which involves any of the following:

"(I) The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

"(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

"(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

"(IV) An assassination.

"(V) The use of any—

"(a) biological agent, chemical agent, or nuclear weapon or device, or

"(b) explosive, firearm, or other weapon (other than for mere personal monetary gain),

with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

"(VI) A threat, attempt, or conspiracy to do any of the foregoing.

"(iii) ENGAGE IN TERRORISM ACTIVITY DEFINED.—As used in this Act, the term 'engage in terrorism activity' means to commit, in an individual capacity or as a member of an organization, an act of terrorism activity or an act which the actor knows, or reasonably should know, affords material support to any individual, organization, or government which the actor knows or reasonably should know has committed or plans to commit terrorism activity, including any of the following acts:

"(I) The preparation or planning of terrorism activity.

"(II) The gathering of information on potential targets for terrorism activity.

"(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false documentation or identification, weapons, explosives, or training.

"(IV) The soliciting of funds or other things of value for terrorism activity or for any terrorist organization.

"(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorism activity.

"(iv) TERRORIST ORGANIZATION DEFINED.—As used in this Act, the term 'terrorist organization' means any organization engaged, or which has a significant subgroup which engages, in terrorism activity, regardless of any legitimate activities conducted by the organization or its subgroups.

"(v) TERRORISM DEFINED.—As used in this Act, the term 'terrorism' means premeditated, politically motivated violence perpetrated against noncombatant targets.".

(b) Section 241(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. §1251(a)(4)(B)) is amended to read as follows:

"(B) TERRORISM ACTIVITIES.—Any alien who has engaged, is engaged, or at any time after entry engages in any terrorism activity (as defined in section 212(a)(3)(B)).".

(c) Section 291 of the Immigration and Nationality Act (8 U.S.C. 1361) is amended by adding after "custody of the Service." this new sentence:

"The limited production authorized by this provision shall not extend to the records of any other agency or department of the Government or to any documents that do not pertain to the respondent's entry.".

(d) Section 242(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1252(b)(3)) is amended by inserting after "Government" the following:

". In the case of an alien who is not lawfully admitted for permanent residence and notwithstanding the provisions of any other law, reasonable opportunity shall not comprehend access to classified information, whether or not introduced in evidence against him. The provisions and requirements of 18 U.S.C. §3504 and 50 U.S.C. §1801 et seq. shall not apply in such cases"."

SEC. 203. ACCESS TO CERTAIN CONFIDENTIAL INS FILES THROUGH COURT ORDER.

(a) Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5) is amended by—

(1) inserting "(i)" after "except the Attorney General"; and

(2) inserting after "Title 13" the following:

"and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used:

"(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(II) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity poses either an immediate risk to life or to national security or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant".

(b)(1) Section 210(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1160(b)(5)) is amended by inserting ", except as allowed by a court order issued pursuant to paragraph (6) of this subsection" after "consent of the alien".

(2) Section 210(b)(6) of the Immigration and Nationality Act (8 U.S.C. 1160(b)(6)) is amended by inserting the following sentence before "Anyone who uses";

"Except the Attorney General may authorize an application to a Federal Court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used:

"(E) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(F) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity poses either an immediate risk to life or to national security or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.".

TITLE III—CONTROLS OVER TERRORIST FUND-RAISING

SEC. 301. TERRORIST FUND-RAISING PROHIBITED.

(a) Chapter 113B of title 18, United States Code, is amended by adding at the end thereof the following new section:

"2339B. Fund-raising for terrorist organizations

"(a) FINDINGS AND PURPOSE.—

"(1) The Congress hereby finds that—

"(A) terrorism is a serious and deadly problem which threatens the interests of the United States both overseas and within our territory;

"(B) the nation's security interests are gravely impacted by terrorist attacks carried out overseas against United States Government facilities and officials, as well as against other American citizens present in foreign countries;

"(C) United States foreign policy interests are profoundly affected by terrorist acts overseas directed against foreign governments and their people;

"(D) United States economic interests are significantly impacted by terrorist attacks carried out in foreign countries against United States citizens and businesses;

"(E) international cooperation is required for an effective response to terrorism, as demonstrated by the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, e.g., hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

"(F) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States or use the United States as a conduit for their receipt of funds raised in other nations; and

"(G) the provision of funds to organizations that engage in terrorism serves to facilitate their terrorist endeavors, regardless of whether the funds, in whole or in part, are intended or claimed to be used for non-violent purposes.

"(2) The purpose of this section is to provide the Federal Government the fullest possible basis, consistent with the Constitution, to prevent persons within the United States or subject to the jurisdiction of the United States from providing funds, directly or indirectly, to foreign organizations, including subordinate or affiliated persons, designated by the President as engaging in terrorism, unless authorized under this section.

"(b) AUTHORITY.—Notwithstanding any other provision of law, the President is authorized, under such regulations as he may prescribe, to regulate or prohibit:

"(1) fund-raising or the provision of funds for use by or for the benefit of any foreign organization, including persons assisting such organization in fund-raising, that the President has designated pursuant to subsection (c) as being engaged in terrorism activities; or

"(2) financial transactions with any such foreign organization,

within the United States or by any person subject to the jurisdiction of the United States anywhere.

"(c) DESIGNATION.—

"(1) Pursuant to the authority granted in subsection (b), the President is authorized to designate any foreign organization based on finding that—

"(A) the organization engages in terrorism activity as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. §1182(a)(3)(B)); and

"(B) the organization's terrorism activities threaten the national security, foreign policy, or economy of the United States.

"(2) Pursuant to the authority granted in subsection (b), the President is also authorized to designate persons which are raising funds for, or acting for or on behalf of, any organization designated pursuant to subsection (c)(1) above.

"(3) If the President finds that the conditions which were the basis for any designation issued under this subsection have changed in such a manner as to warrant revocation of such designation, or that the national security, foreign relations, or economic interests of the United States so warrant, he may revoke such designation in whole or in part.

"(4) Any designation, or revocation thereof, issued pursuant to this subsection shall be published in the Federal Register and shall become effective immediately on publication.

"(5) Any revocation of a designation shall not affect any action or proceeding based on any conduct committed prior to the effective date of such revocation.

"(6) Any finding made in my designation issued pursuant to paragraph (1) of this subsection that a foreign organization engages in terrorism activity shall be conclusive. No question concerning the validity of the issuance of such designation may be raised by a defendant in a criminal prosecution as a defense in or as an objection to any trial or hearing if such designation was issued and published in the Federal Register in accordance with this subsection.

"(d) PROHIBITED ACTIVITIES.—

"(1) Except as authorized pursuant to the procedures in subsection (e), it shall be unlawful for any person within United States, or any persons subject to the jurisdiction of the United States anywhere, to directly or indirectly, raise, receive or collect on behalf of, or furnish, give, transmit, transfer or provide funds to or for an organization or person designated by the President under subsection (c), or to attempt to do any of the foregoing.

"(2) It shall be unlawful for any person within the United States or any person subject to the jurisdiction of the United States anywhere, acting for or on behalf of any organization or person designated under subsection (c), (A) to transmit, transfer, or receive any funds raised in violation of subsection (d)(1) or (B) to transmit, transfer, or dispose of any funds in which any organization or person designated pursuant to subsection (c) has an interest.

"(e) AUTHORIZED TRANSACTIONS.—

"(1) The Secretary shall publish regulations, consistent with the provisions of this subsection, setting forth the procedures to be followed by persons seeking to raise or provide funds for an organization designated under subsection (c)(1).

"(2) Any person within the United States, or any person subject to the jurisdiction of United States anywhere, who seeks to solicit funds for or to transfer funds to any organization or person designated under subsection (c) shall, regardless of whether it has an agency relationship with the designated organization or person, first obtain a license from the Secretary and may thereafter solicit funds or transfer funds to a designated organization or person only as permitted under the terms of a license issued by the Secretary.

"(3) The Secretary shall grant a license only after the person establishes to the satisfaction of the Secretary that—

"(A) the funds are intended to be used exclusively for religious, charitable, literary, or educational purposes; and

"(B) all recipient organizations in any fund-raising chain have effective procedures in place to ensure that the funds (i) will be used exclusively for religious, charitable, literary, or educational purposes and (ii) will not be used to offset a transfer of funds to be used in terrorist activity.

"(4) Any person granted a license shall maintain books and records, as required by the Secretary, that establish the source of all funds it receives, expenses it incurs, and disbursements it makes. Such books and records shall be made available for inspection within two business days of a request by the Secretary. Any person granted a license shall also have an agreement with any recipient organization or person that such organization's or person's books and records, wherever located, must be made available for inspection of the Secretary upon a request of the Secretary at a place and time agreeable to that organization or person and the Secretary.

"(5) The Secretary may also provide by regulation procedures for the licensing of transactions otherwise prohibited by this section in cases found by the Secretary to be consistent with the statement of purpose in subsection (a)(2).

"(f) Special Requirements for Financial Institutions.—

"(1) Except as authorized by the Secretary by means of directives, regulations, or licenses, any financial institution which becomes aware that it has possession of or control over any funds in which an organization or person designated under subsection (c) has an interest, shall—

"(A) retain possession of or maintain control over such funds; and

"(B) report to the Secretary the existence of such funds in accordance with the regulations prescribed by the Secretary.

"(2) Any financial institution that fails to report to the Secretary the existence of such funds shall be subject to a civil penalty of $250 per day for each day that it fails to report to the Secretary—

"(A) in the case of funds being possessed or control at the time of the designation of the organization or person, within ten days after the designation; and

"(B) in the case of funds whose possession of or control over arose after the designation of the organization or person, within ten days after the financial institution obtained possession of or control over the funds.

"(g) Investigations.—

"Any investigation emanating from a possible violation of this section, or of any license, order, or regulation issued pursuant to this section, shall be conducted by the Attorney General, except that investigations relating to (1) a licensee's compliance with the terms of a license issued by the Secretary pursuant to subsection (e) of this section, (2) a financial institution's compliance with the requirements of subsection (f) of this section, and (3) civil penalty proceedings authorized pursuant to subsection (i) of this section, shall be conducted in coordination with the Attorney General by the office within the Department of the Treasury responsible for licensing and civil penalty proceedings authorized by this section. Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

"(h) Recordkeeping and Reporting; Civil Procedures.—

"(1) Notwithstanding any other provision of law, in exercising the authorities granted by this section, the Secretary and the Attorney General may require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this section either before, during, or after the completion thereof, or relative to any funds referred to in this section, or as may be necessary to enforce the terms of this section. In any case in which a report by a person could be required under this subsection, the Secretary or the Attorney General may require the production of any books of account, records, contracts, letters, memoranda, or other papers or documents, whether maintained in hard copy or electronically, in the control or custody of such person.

"(2) Compliance with any regulation, instruction, or direction issued under this section shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this section, or any regulation, instruction, or direction issued under this section.

"(3) In carrying out their function under this section, the Secretary and the Attorney General may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence.

"(4) In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which the subpoenaed person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the agency issuing the subpoena, or other order or direction, to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(i) Penalties.—

"(1) Any person who knowingly violates subsection (d) shall be fined under this title, or imprisoned for up to 10 years, or both.

"(2)(A) Any person who fails to maintain or to make available to the Secretary upon his request or demand the books or records required by subsection (e), or by regulations promulgated thereunder, shall be subject to a civil penalty of $50,000 or twice the amount of money which would have been documented had the books and records been properly maintained, whichever is greater.

"(B) Any person who fails to take the actions required of financial institutions pursuant to subsection (f)(1), or by regulations promulgated thereunder, shall be subject to a civil penalty of $50,000 per violation, or twice the amount of money of which the financial institution was required to retain possession or control, whichever is greater.

"(C) except as otherwise specified in this section, any person who violates any license, order, direction, or regulation issued pursuant to this section shall be subject to a civil penalty of $50,000 per violation, or twice the value of the violation, whichever is greater.

"(3) Any person who intentionally fails to maintain or to make available to the Secretary the books or records required by subsection (e), or by regulations promulgated thereunder, shall be fined under this title, or imprisoned for up to five years, or both.

"(4) Any organization convicted of an offense under (h) (1) or (3) of this section shall, upon conviction, forfeit any charitable designation it might have received under the Internal Revenue Code.

"(j) Injunction.—

"(1) Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act which constitutes, or would constitute, a violation of this section, the Attorney General may initiate civil action in a district court of the United States to enjoin such violation.

"(2) A proceeding under this subsection is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

"(k) Extraterritorial Jurisdiction.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(l) Classified Information in Civil Proceedings Brought by the United States.—

"(1) Discovery of classified information by defendants.—A court, upon a sufficient showing, may authorize the United States to delete specified items of classified information from documents to be introduced into evidence and/or made available to the defendant through discovery under the Federal Rules of Civil Procedure, to substitute a summary of the information for such classified documents, or to substitute a statement admitting relevant facts that the classified information would tend to prove. The court shall permit the United States to make a request for such authorization in the form of a written statement to be inspected by the court alone. If the court enters an order granting relief following such an *ex parte* showing, the entire text of the statement of the United States shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal. If the court enters an order denying relief to the United States under this provision, the United States may take an immediate, interlocutory appeal in accordance with the provisions of paragraph (3) of this subsection. In the event of such an appeal, the entire text of the underlying written statement of the United States, together with any transcripts of arguments made *ex parte* to the court in connection therewith, shall be maintained under seal and delivered to the appellate court.

"(2) Introduction of classified information; precautions by court

"(A) Exhibits.—The United States, in order to prevent unnecessary or inadvertent disclosure of classified information in a civil trial or other proceeding brought by the United States under this section, may petition the court *ex parte* to admit, in lieu of classified writings, recordings or photographs, one or more of the following: (i) copies of those items from which classified information has been deleted, (ii) stipulations admitting relevant facts that specific classified information would tend to prove, or (iii) a summary of the specific classified information. The court shall grant such a motion of the United States if it finds that the redacted item, stipulation or summary will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information.

"(B) TAKING OF TRIAL TESTIMONY.—During the examination of a witness in any civil proceeding brought by the United States under this section, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible. Following such an objection, the court shall take suitable action to determine whether the response is admissible and, in doing so, shall take precautions to guard against the compromise of any classified information. Such action may include permitting the United States to provide the court, *ex parte*, with a proffer of the witness's response to the question or line of inquiry, and requiring the defendant to provide the court with a proffer of the nature of the information he seeks to elicit.

"(C) APPEAL.—If the court enters an order denying relief to the United States under this subsection, the United States may take an immediate interlocutory appeal in accordance with paragraph (3) of this subsection.

"(3) Interlocutory appeal

"(A) An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court authorizing the disclosure of classified information, imposing sanctions for nondisclosure of classified information, or refusing a protective order sought by the United States to prevent the disclosure of classified information.

"(B) An appeal taken pursuant to this section either before or during trial shall be expedited by the court of appeals. Prior to trial, an appeal shall be taken within ten days after the decision or order appealed from and the trial shall not commence until the appeal is resolved. If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved and the court of appeals (1) shall hear argument on such appeal within four days of the adjournment of the trial, (2) may dispense with written briefs other than the supporting materials previously submitted to the trial court, (3) shall render its decision within four days of argument on appeal, and (4) may dispense with the issuance of a written opinion in rendering its decision. Such appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

"(4) Nothing in this subsection shall prevent the United States from seeking protective orders and/or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and state secrets privilege.

"(m) DEFINITIONS.—As used in this section, the term—

"(1) 'classified information' means any information or material that has been determined by the United States Government pursuant to an Executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in paragraph r. of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y));

"(2) 'financial institution' has the meaning prescribed in section 5312(a)(2) of title 31, United States Code, including any regulations promulgated thereunder;

"(3) 'funds' includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing;

"(4) 'national security' means the national defense and foreign relations of the United States;

"(5) 'person' includes an individual, partnership, association, group, corporation or other organization;

"(6) 'Secretary' means the Secretary of the Treasury; and

"(7) 'United States', when used in a geographical sense, includes all commonwealths, territories and possessions of the United States.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 113B of title 18, United States Code, is amended by adding at the end thereof the following:

"2339B. Fund-raising for terrorists organizations".

(c) Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)), as amended by section 202(a) of this Act, is further amended by inserting after the phrase "Palestine Liberation Organization" the following: ", an organization designated by the President under section 2339B of title 18, United States Code".

(d) The provisions of section 2339B(k) of title 18, United States Code, (relating to classified information in civil proceedings brought by the United States) shall also be applicable to civil proceedings brought by the United States under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

TITLE IV—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

SEC. 401. SHORT TITLE.

This title may be cited as the "Marking of Plastic Explosives for Detection Act.".

(a) FINDINGS.—The Congress finds that—

(1) plastic explosives were used by terrorists in the bombings of Pan Am flight 103 in December 1988 and UTA flight 772 in September 1989;

(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation and other modes of transportation;

(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

(b) PURPOSE.—The purpose of this Act is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

SEC. 403. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following new subsections:

"(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

"(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

"(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

"(2) 2, 3-Dimethyl-2, 3-dinitrobutane (DMNB), ${}_6H\ {}_{12}(NO\ {}_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

"(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

"(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

"(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in Part 2 of the Technical Annex to the Convention on the Marketing of Plastic Explosives.

"(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.".

SEC. 404. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding after subsection (k) the following new subsections:

"(l) It shall be unlawful for any person to manufacture any plastic explosive which does not contain a detection agent.

"(m)(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive which does not contain a detection agent.

"(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive which was imported, brought into, or manufactured in the United States prior to the effective date of the Marketing of Plastic Explosives for Detection Act by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

"(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent.

"(2) This subsection does not apply to—

"(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States prior to the effective date of this Act by any person during a period not exceeding three years after the effective date of this Act; or

"(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States prior to the effective date of this Act by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

"(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the effective date of this Act, to fail to report to the Secretary within 120 days from the effective date of this Act the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.".

SEC. 405. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

"(a) Any person who violates subsections (a) through (i) or (l) through (o) of section 842 of this chapter shall be fined under this title or imprisoned not more than 10 years, or both.".

SEC. 406. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "(l), (m), (n), or (o) of section 842 and subsections" after "subsections";

(2) by adding at the end of subsection (a)(1) "and which pertains to safety"; and

(3) by adding at the end the following new subsection:

"(c) It is an affirmative defense against any proceeding involving sections 842 (l) through (o) if the proponent proves by a preponderance of the evidence that the plastic explosive—

"(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

"(A) research, development, or testing of new or modified explosive materials;

"(B) training in explosives detection or development or testing of explosives detection equipment; or

"(C) forensic science purposes; or

"(2) was plastic explosive which, within three years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located. For purposes of this subsection, the term 'military device' includes, but is not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.".

SEC. 407. INVESTIGATIVE AUTHORITY.

Section 846 of title 18, United States Code, is amended—

(1) by inserting in the last sentence before the "subsection" the phrase "subsection (m) or (n) of section 842 or;", and

(2) by adding at the end the following:

"The Attorney General shall exercise authority over violations of subsections (m) or (n) of section 842 only when they are committed by a member of a terrorist or revolutionary group. In any matter involving a terrorist or revolutionary group or individual, as determined by the Attorney General, the Attorney General shall have primary investigative responsibility and the Secretary shall assist the Attorney General as requested.".

SEC. 408. EFFECTIVE DATE.

The amendments made by this title shall take effect one year after the date of the enactment of this Act.

TITLE V—NUCLEAR MATERIALS

SEC. 501. EXPANSION OF NUCLEAR MATERIALS PROHIBITIONS.

(a)(1) FINDINGS.—The Congress finds and declares—

(A) Nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices which are capable of causing serious bodily injury as well as substantial damage to property and the environment;

(B) The potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States;

(C) Due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in assuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

(D) The threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation which implemented the Convention on the Physical Protection of Nuclear Material, codified at 18 U.S.C. 831;

(E) The successful efforts to obtain agreements from other countries to dismantle nuclear weapons have resulted in increased packaging and transportation of nuclear materials, thereby decreasing the security of such materials by increasing the opportunity for unlawful diversion and theft;

(F) The illicit trafficking in the relatively more common, commercially available and useable nuclear and byproduct materials poses a potential to cause significant loss of life and/or environmental damage;

(G) Reported trafficking incidents in the early 1990's suggest that the individuals involved in trafficking these materials from Eurasia and Eastern Europe frequently conducted their black market sales of these materials within the Federal Republic of Germany, the Baltic States, and to a lesser extent in the Middle European countries;

(H) The international community has become increasingly concerned over the illegal possession of nuclear and nuclear byproduct materials;

(I) The potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant future threat that the United States must use all lawful methods available to combat the illegal use of such materials;

(J) The United States has an interest in encouraging United States corporations to do business in the countries which comprised the former Soviet Union, as well as in other developing democracies; protection of such U.S. corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage such business ventures, and to further the foreign relations and commerce of the United States;

(K) The nature of nuclear contamination is such that it may affect the health, environment, and property of U.S. nationals even if the acts which constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward non-U.S. nationals; and

(L) There is presently no federal criminal statute which provides adequate protection to United States interests from non-weapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials which are held for other than peaceful purposes.

(2) PURPOSE.—The purpose of the Act is to provide federal law enforcement the necessary tools and fullest possible basis allowed under the Constitution of the United States to combat the threat of nuclear contamination and proliferation which may result from illegal possession and use of radioactive materials.

(b) EXPANSION OF SCOPE AND JURISDICTIONAL BASES.—Section 831 of title 18, United States Code, is amended by—

(1) in subsection (a), striking "nuclear material" each time it appears and inserting each time "nuclear material or nuclear byproduct material";

(2) in subsection (a)(1)(A), inserting "or the environment" after "property";

(3) amending subsection (a)(1)(B) to read as follows:

"(B)(i) circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property or the environment; or (ii) such circumstances are represented to the defendant to exist;";

(4) in subsection (a)(6), inserting "or the environment" after "property";

(5) amending subsection (c)(2) to read as follows:

"(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;";

(6) in subsection (c)(3), striking "at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and";

(7) striking "or" at the end of subsection (c)(3);

(8) in subsection (c)(4), striking "nuclear material for peaceful purposes" and inserting "nuclear material or nuclear byproduct material";

(9) striking the period at the end of subsection (c)(4) and inserting "; or";

(10) adding at the end of subsection (c) a new paragraph as follows:

"(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.";

(11) in subsection (f)(1)(A), striking "with an isotopic concentration not in excess of 80 percent plutonium 238";

(12) inserting at the beginning of subsection (f)(1)(C) "enriched uranium, defined as";

(13) redesignating subsections (f)(2)–(4) as (f)(3)–(5);

(14) inserting after subsection (f)(1) the following new paragraph:

"(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;";

(15) striking "and" at the end of subsection (f)(4), as redesignated;

(16) striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(17) adding at the end of subsection (f) the following new paragraphs:

"(6) the term 'national of the United States' has the meaning prescribed in section 101(a) (22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, district, commonwealth, territory or possession of the United States.".

TITLE VI—PROCEDURAL AND TECHNICAL CORRECTIONS AND IMPROVEMENTS

SEC. 601. CORRECTION TO MATERIAL SUPPORT PROVISION

Section 120005 of Pub. Law 103-322, September 13, 1994, is amended to read at the time of its enactment on September 13, 1994, as follows:

"(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§2339A. PROVIDING MATERIAL SUPPORT TO TERRORISTS

"(a) DEFINITION.—In this section, 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

"(b) OFFENSE.—A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, in carrying out, a violation of section 32, 37, 351, 844(f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2332a of this title or section 46502 of title 49, or in preparation for or carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than ten years, or both.".

SEC. 602. EXPANSION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended by—

(1) in subsection(a), inserting "threatens," before "attempts or conspires to use, a weapon of mass destruction";

(2) by redesignating subsection (b) as subsection (c); and

(3) by adding the following new subsection:

"(b) Any national of the United States who outside of the United States uses, or threatens, attempts or conspires to use, a weapons of mass destruction shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisonment for any term of years or for life.".

SEC. 603. ADDITION OF TERRORIST OFFENSES TO THE RICO STATUTE.

(a) Section 1961(1)(B) of title 18 of the United States Code is amended by—

(1) inserting after "Section" the following: "32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a federal official by threatening or injuring a family member), section ";

(2) inserting after "section 224 (relating to sports bribery," the following: "section 351 (relating to Congressional or Cabinet officer assassination),";

(3) inserting after "section 664 (relating to embezzlement from pension and welfare funds)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844(f) or (i) (relating to destruction by explosives or fire of government property or property affecting interstate or foreign commerce),";

(4) inserting after "sections 891–894 relating to extortionate credit transactions)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(5) inserting after "section 1084 (relating to the transmission of gambling information)," the following: "section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), section 1203 (relating to hostage taking),";

(6) inserting after "section 1344 (relating to financial institution fraud)," the following: "section 1361 (relating to willful injury of government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(7) inserting after "section 1513 (relating to retaliating against a witness, victim, or an informant)," the following: "section 1751 (relating to Presidential assassination),";

(8) inserting after "section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),"; and

(9) inserting after "2321 (relating to trafficking in certain motor vehicles or motor vehicle parts)," the following: "section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to acts of terrorism transcending national boundaries), section 2339A (relating to providing material support to terrorists),".

(b) Section 1961(1) of title 18 of the United States Code is amended by striking "or" before "(E)", and inserting at the end thereof the following: "or (F) section 46502 of title 49, United States Code;".

SEC. 604. ADDITION OF TERRORISM OFFENSES TO THE MONEY LAUNDERING STATUTE.

(a) Section 1956(c)(7)(B)(ii) of title 18, United States Code, is amended by striking "or extortion;" and inserting "extortion, murder, or destruction of property by means of explosive or fire;".

(b) Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding or retaliating against a federal official by threatening or injuring a family member),";

(2) inserting after "section 215 (relating to commissions or gifts for procuring loans)," the following: "section 351 (relating to Congressional or Cabinet officer assassination),";

(3) inserting after "section 798 (relating to espionage)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844(f) or (i) (relating to destruction by explosives or fire of government property or property affecting interstate or foreign commerce),";

(4) inserting after "section 875 (relating to interstate communications)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(5) inserting after "section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution)," the following: "section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),";

(6) inserting after "section 1203 (relating to hostage taking)" the following: ", section 1361 (relating to willful injury of government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(7) inserting after "section 1708 (relating to theft from the mail" the following: "), section 1751 (relating to Presidential assassination),";

(8) inserting after "2114 (relating to bank and postal robbery and theft)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),"; and

(9) striking "of this title" and inserting the following: "section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code,".

SEC. 605. AUTHORIZATION FOR INTERCEPTIONS OF COMMUNICATIONS IN CERTAIN TERRORISM RELATED OFFENSES.

(a) Section 2516(1) of title 18, United States Code, is amended by—

(1) striking "and" at the end of subparagraph (n);

(2) redesignating subparagraph (o) as subparagraph (q); and

(3) inserting these two new paragraphs after paragraph (n):

"(o) any violation of section 956 or section 960 of title 18, United States Code (relating to certain actions against foreign nations);

"(p) any violation of section 46502 of title 49, United States Code; and".

(b) Section 2516(1)(C) of title 18, United States Code, is amended by inserting before "or section 1992 (relating to wrecking trains)" the following: "section 2332 (relating to terrorist acts abroad), section 2332a (relating to weapons of mass destruction, section 2332b (relating to acts of terrorism transcending national boundaries), section 2339A (relating to providing material support to terrorists), section 37 (relating to violence at international airports),".

SEC. 606. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(B)(1)(A) of title 18, United States Code, is amended by—

(1) in clause (ii), striking "and the activity is not prohibited as a crime by the State in which the activity takes place"; and

(2) in clause (iii), striking "the activity takes place on a ship flying the flag of a foreign country or outside of the United States,".

SEC. 607. EXPANSION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by—

(1) inserting "(1)" before "Whoever"; and

(2) adding at the end thereof this new paragraph:

"(2) Whoever willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made to violate subsections (f) or (i) of this section or section 81 of this title shall be fined under this title or imprisoned for not more than five years, or both.

SEC. 608. INCREASED PENALTY FOR EXPLOSIVE CONSPIRACIES.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 609. AMENDMENT TO INCLUDE ASSAULTS, MURDERS, AND THREATS AGAINST FORMER FEDERAL OFFICIALS ON ACCOUNT OF THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designed in paragraph (1), or" after "assaults, kidnaps, or murders, or attempts to kidnap or murder".

SEC. 610. ADDITION OF CONSPIRACY TO TERRORISM OFFENSES

(a)(1) Section 32(a)(7) of title 18, United States Code, is amended by inserting "or conspires" after "attempts".

(2) Section 32(b)(4) of title 18, United States Code, is amended by inserting "or conspires" after "attempts".

(b) Section 37(a) title 18, United States Code, is amended by inserting "or conspires" after "attempts".

(c)(1) Section 115(a)(1)(A) of title 18, United States Code is amended by inserting "or conspires" after "attempts".

(2) Section 115(a)(2) of title 18, United States Code, as amended by section 609, is further amended by inserting "or conspires" after "attempts".

(3) Section 115(b)(2) of title 18, United States Code, is amended by striking both times it appears "or attempted kidnapping" and inserting both times, "attempted kidnapping or conspiracy to kidnap".

(4) (A) Section 115(b)(3) of title 18, United States Code, is amended by striking "or attempted murder" and inserting, "attempted murder or conspiracy to murder".

(B) Section 115(b)(3) of title 18, United States Code, is further amended by striking "and 1113" and inserting, "1113 and 1117".

(d) Section 175(a) of title 18, United States Code, is amended by inserting, "or conspires to do so," after "any organization to do so,".

(e) Section 1203(a) of title 18, United States Code, is amended by inserting "or conspires" after "attempts".

(f) Section 2280(a)(1)(H) of title 18, United States Code, is amended by inserting "or conspires" after "attempts".

(g) Section 2281(a)(1)(F) of title 18, United States Code, is amended by inserting "or conspires" after "attempts".

(h)(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting "or conspires" after "attempting".

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting "or conspiring to commit" after "committing".

TITLE VII—ANTITERRORISM ASSISTANCE

SEC. 701. FINDINGS.

Congress finds that in order to improve the effectiveness and cost efficiency of the Antiterrorism Training Assistance Program, which is administered and coordinated by the Department of State to increase the antiterrorism capabilities of friendly countries, more flexibility is needed in providing trainers and courses overseas and to provide personnel needed to enhance the administration and evaluation of the courses.

SEC. 702. ANTITERRORISM ASSISTANCE AMENDMENTS.

Section 573 of chapter 8 (relating to antiterrorism assistance), of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa2) is amended by:

(1) striking "30 days" in subsection (d)(1)(A) and inserting in lieu thereof "180 days";

(2) striking the "add" after subsection (d)(1)(B);

(3) striking subsection (d)(1)(B);

(4) inserting "and" after subsection (d)(1)(A);

(5) redesignating subsection (d)(1)(C) as subsection (d)(1)(B);

(6) amending subsection (d)(2) to read as follows:

"(2) Personnel of the United States Government authorized to advise foreign countries on antiterrorism matters shall carry out their responsibilities within the United States when determined most effective or outside the United States for periods not to exceed 180 consecutive calendar days."; and

(7) striking subsection (f).

SECTION-BY-SECTION ANALYSIS

SECTION 1.

Section 1 states that the short title for the Act is "The Omnibus Counterterrorism Act of 1995."

SECTION 2.

Section 2 provides a Table of Contents for the Act.

SECTION 3.

Section 3 sets forth the congressional findings and purposes for the Act.

SECTION 101.

The purpose of section 101 is to provide a more certain and comprehensive basis for the Federal Government to respond to future acts of international terrorism carried out within the United States. The section creates an overarching statute (proposed 18 U.S.C. 2332b) which would allow the government to incorporate for purposes of a federal prosecution any applicable federal or state criminal statute violated by the terrorist act, so long as the government can establish any one of a variety of jurisdictional bases delineated in proposed subsection 2332b(c).

Subsection 101(a) creates a new offense, 18 U.S.C. 2332b, entitled "Acts of Terrorism Transcending National Boundaries." This statute is aimed at those terrorist acts that take place within the United States but which are in some fashion or degree instigated, commanded, or facilitated from outside the United States. It does not encompass acts of street crime or domestic terrorism which are in no way connected to overseas sources.

Subsection 2332b(a) sets forth the particular findings and purposes for the provision.

Subsection 2332b(b) sets forth the prohibited acts which relate to the killing, kidnapping, maiming, assault causing serious bodily injury, or assault with a dangerous weapon of any individual (U.S. national or alien) within the United States. It also covers destruction or damage to any structure, conveyance of other real or personal property within the United States. These are the types of violent actions that terrorist most often undertake. The provision encompasses any such activity which is in violation of the laws of the United States or any States, provided a federal jurisdictional nexus is present.

Subsection 2332b(c) sets forth the jurisdictional bases. Except for subsections (c) (6) and (7), these bases are a compilation of jurisdictional elements which are presently utilized in federal statutes and which have been approved by the courts.

Paragraph (1) covers the situation where the offender travels in commerce. Cf. 18 U.S.C. 1952.

Paragraph (2) covers the situation where the mails or a facility utilized in any manner in commerce is used to further the commission of the offense or to effectuate an escape therefrom. Cf. 18 U.S.C. 1951.

Paragraph (3) covers the situation where the results of illegal conduct affect commerce. Cf. 18 U.S.C. 1365(c).

Paragraph (4) covers the situation where the victim is a federal official. Cf. 18 U.S.C. 115, 1114, 351, 1751. The language includes both civilians and military personnel. Moreover, it also covers any "agent" of a federal agency. Cf. 18 U.S.C. 1114 (*i.e.*, assisting agent of customs or internal revenue) and 1121. It covers all ranches of government, including members of the military services, as well as all independent agencies of the United States.

Paragraph (5) covers property used in commerce (cf. 18 U.S.C. 844(i)), owned by the United States (cf. 18 U.S.C. 1361), owned by an institution receiving federal financial assistance (cf. 18 U.S.C. 844(f)) or insured by the federal government (cf. 18 U.S.C. 2113).

Paragraph (6) provides a jurisdictional base which has not been tested. It should, however, fall with the federal government's commerce power. It is included to avoid the construction, given to many federal interstate commerce statutes, that a "commercial" aspect is required. Paragraph (6) would cover both business and personal travel.

Paragraph (7) covers situations where the victim or perpetrator is not a national of the United States. The victimization of an alien in a terrorist attack has the potential of affecting the relations of the United States with the country of criminal jurisdiction on the involvement of an alien as the perpetrator or victim. *E.q.*, see 18 U.S.C. 1203 and 1116. In addition, aliens are a special responsibility of the federal government, as it is involved in admitting aliens, establishing the conditions for their presence, adjusting them to resident alien status, deporting aliens for violating the immigration laws, and eventually naturalizing aliens as citizens.

Paragraphs (8) and (9) cover the territorial seas of the United States and other places within the special maritime and territorial jurisdiction of the United States that are located within the United States (cf. 18 U.S.C. 7).

Jurisdiction exists over the prohibited activity if at least one of the jurisdictional elements is applicable to one perpetrator. When jurisdiction exists for one perpetrator, it exists over all perpetrators even those who were never within the United States.

Subsection (d) sets forth stringent penalties. These penalties are mandatorily consecutive to any other term of imprisonment which the defendant might receive. Consecutive sentences for "identical" offenses brought in the same prosecution are constitutionally permissible. See *Missouri* v. *Hunter*, 459 U.S. 359, 367 (1983). However, there is no statutory mandatory minimum. The court is given the discretion to decide the penalty for this offense under the sentencing guidelines.

Subsection (e) limits the prosecutorial discretion of the Attorney General. Before an indictment is sought under section 2332b, the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, must certify that in his or her judgment the violation of section 2332b, or the activity preparatory to its commission, transcended national boundaries. This means that the Attorney General must conclude that some connection exists between the activities and some person or entity outside the United States.

Moreover, the certification must find that the offense appears to have been intended to coerce, intimidate, or retaliate against a government or civilian population. This is similar to the certification requirement for "terrorism" found in 18 U.S.C. 2332(d). The term "civilian population" includes any segment thereof and, accordingly, is consistent with the Congressionally intended scope of section 2332(d). The certification requirement ensures that the statute will only be used against terrorists with overseas connections. Section 2332b is not aimed at purely domestic terrorism or against normal street crime as current law, both federal and state, appears to adequately address these areas. The certification of the Attorney General is not an element of the offense and, except for verification that the determination was made by an authorized official, is not subject to judicial review.

Subsection (f) states that the Attorney General shall investigate this offense and may request assistance from any other federal, state, or local agency including the military services. This latter provision, also found in several other statutes, see *e.g.*, 18 U.S.C. 351(g) and 1751(i), is intended to overcome the restrictions of the posse comitatus statute, 18 U.S.C. 1385. It is not intended to give intelligence agencies, such as the Central Intelligence Agency, any mission that is prohibited by their charters.

Pursuant to 28 C.F.R. 0.85(a), the Attorney General automatically delegates investigative responsibility over this offense to the Director of the Federal Bureau of Investigation (FBI). Moreover, under 28 C.F.R. 0.85(l) the FBI has been designated as the lead federal law enforcement agency responsible for criminal investigation of terrorism within the United States. While local and state authorities retain their investigative authority under their respective laws, it is expected that in the event of major terrorist crimes such agencies will cooperate, consult, coordinate and work closely with the FBI, as occurred in the investigation of the World Trade Center bombing in New York City.

Subsection (g) makes express two points which are normally inferred by courts under similar statutes, namely, that no defendant has to have knowledge of any jurisdictional base and that only the elements of the state offense and not any of its provisions pertaining to procedures or evidence are adopted. Federal rules of evidence and procedure control any case brought under section 2332b.

Subsection (h) makes it clear that there is extraterritorial jurisdiction to reach defendants who were involved in crimes but who never entered the United States.

Subsection (i) sets forth definitions, many of which specifically incorporate definitions from elsewhere in the federal code, *e.g.*, the definition of "territorial sea" in 18 U.S.C. 2280(e).

Subsection 101(b) makes a technical amendment to the chapter analysis for Chapter 113B of title 18, United States Code.

Subsection 101(c) amends 18 U.S.C. 3286, which was created by section 120001 of Pub. Law 103–322. Section 3286 is designed to extend the period of limitation for a series of enumerated terrorism offenses from five to eight years. The wording of the section, however, gives rise to a potential interpretation that, with respect to violations of the enumerated offenses that are capital crimes, the same eight-year period applies rather than the unlimited period that previously applied and continues to apply to capital offenses under 18 U.S.C. 3281. Section 3286's introductory language is as follows:

"Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for *any* offense involving a violation of" the enumerated provisions of law (emphasis supplied).

It seems clear that Congress did not intend to reduce the limitations period for offenses under the enumerated statutes that are capital due to the killing of one or more victims. Rather, the intent was (as the title of the section 120001 provision indicates) to enlarge the applicable limitation period for non-capital violations of the listed offenses. Accordingly, the proposed amendment would insert "non-capital" after "any" in the above-quoted phrase. Notably, the drafters were careful to include the word "non-capital" when effecting a similar period of limitations extension applicable to arson offenses under 18 U.S.C. 844(i) in section 320917 of the Pub. L. 103–322.

Subsection 101(c) also corrects certain erroneous statutory references in section 3286 (*i.e.*, changes "36" to "37", "2331" to "2332" and "2339" to "2332a"). Finally, the subsection adds to section 3286 the new 18 U.S.C. 2332b.

Subsection 101(d) amends section 3142(e) of title 18, United States Code, to insure that a defendant arrested for a violation of the new 18 U.S.C. 2332b is presumed to be unreleasable pending trial. The factors, most likely to be present i.e., an alien perpetrator who is likely to flee and who is working on behalf of or in concert with a foreign organization, makes such an individual unsuitable for release pending trial. This presumption, which is subject to rebuttal, will limit the degree of sensitive evidence that the Government must disclose to sustain its burden to deny release.

Subsection 101(e) amends the "roving" provision in the wiretap statute (18 U.S.C. 2518(11)(b)(ii)) so that it can be applied to violations of new 18 U.S.C. 2332b even in the absence of a showing of intent to thwart detection. The development of evidence of such intent could cause a delay which, in the content of a section 2332b violation, could have catastrophic consequences. Further, the secrecy and clandestine movement of terrorists make it extremely difficult to develop advance knowledge of which precise telephones they will use.

SECTION 102

Section 102 is designed to complement section 101 of this bill concerning terrorist acts within the United States transcending national boundaries. Just as a better basis for addressing crimes carried out within the United States by international terrorists is needed, it also is appropriate that there should be an effective federal basis to reach conspiracies undertaken in part within the United States for the purpose of carrying out terrorist acts in foreign countries.

Section 102 covers two areas of activity involving international terrorists. The first is conspiracy in the United States to murder, kidnap, or maim a person outside of the United States. The second is conspiracy in the United States to destroy certain critical types of property, such as public buildings and conveyances, in foreign countries. The term conveyance would include cars, buses, trucks, airplanes, trains, and vessels.

Subsection 102(a) amends current 18 U.S.C. 956 in several ways. It creates a new subsection 956(a) which proscribes a conspiracy in the United States to murder, maim, or kidnap a person outside of the United States. The new section fills a void in the law that exists. Currently, subsection 956(a) only prohibits a conspiracy in the United States to commit certain types of property crimes in a foreign country with which the United States is at peace. It does not cover conspiracy to commit crimes against the person.

Subsection 102(a) thus expands on the current section 956 so that new subsection 956(a) covers conspiracy to commit one of the three listed serious crimes against any person in a foreign country or in any place outside of the jurisdiction of the United States, such as on the high seas. This type of offense is committed by terrorists and the new subsection 956(a) is intended to ensure that the government is able to punish those persons who use the United States as a base in which to plot such a crime to be carried out outside the jurisdiction of the United States.

New subsection 956(a) would apply to conspiracies to commit one of the enumerated offenses where at least one of the conspirators is inside the United States. The other member or members of the conspiracy would not have to be in the United States but at least one overt act in furtherance of the conspiracy would have to be committed in the United States. The subsection would apply, for example, to two individuals who consummated an agreement to kill a person in a foreign country where only one of the conspirators was in the United States and the agreement was reached by telephone conversations or letters, provided at least one of the overt acts were undertaken by one coconspirator while in the United States. In such a case, the agreement would be reached at least in part in the United States. The overt act may be that of only one of the conspirators and need not itself be a crime.

Subsection 102(a) also re-enacts current section 956(a) of title 18 (dealing with a conspiracy in the United States to destroy property in a foreign country) as subsection 956(b), and expands its coverage to other forms of property. The revision adds the terms "airport" and "airfield" to the list of "public utilities" presently set out in section 956(a), since they are particularly attractive targets for terrorists. New subsection 956(b) also adds public conveyances (e.g., buses), public structures, and any religious, educational or cultural property to the list of targets. This makes it clear that the statute covers a conspiracy to destroy any conveyance on which people travel and any structure where people assemble, such as a store, factory or office building. It also covers property used for purposes of tourism, education, religion or entertainment. Accordingly, the words "public utility" do not limit the statute's application to a conspiracy to destroy only such public utility property as transportation lines or power generating facilities.

Consequently, as amended, 18 U.S.C 956 reaches those individuals who have conspired within the United States to commit the violent offenses overseas and who solicit money in the United States to facilitate their commission. Moreover, monetary contributors who have knowledge of the conspiracy's purpose are coconspirators subject to prosecution.

Subsection 102(a) also increases the penalties in current 18 U.S.C. 956(a). The new penalties are comparable to those proposed in section 101 of the bill for the new 18 U.S.C. 2332b. Finally, subsection 102(a) eliminates the requirement that is currently found in 18 U.S.C. 956(b) of naming in the indictment the "specific property" which is being targeted, as this requirement may be difficult to establish in the context of a terrorism conspiracy which does not result in a completed offense. Additionally, even in a completed conspiracy, the parties may, after agreeing that a category of property or person will be targeted, leave the actual selection of the particular target to their conspirators on the ground overseas. Hence, while an indictment must always describe its purposes with specificity, it need not allege all specific facts, especially those that were formulated at a subsequent time or which may not be completely known to some of the participants.

Section 956 is contained in chapter 45 of title 18, United States Code, relating to interference with the foreign relations of the United States. It is not intended to apply to duly authorized actions undertaken on behalf of the United States Government. Chapter 45 covers those individuals who, without appropriate governmental authorization, engage in prohibited conduct that is harmful to the foreign relations of the United States.

SECTION 103

This section would correct a failure to execute fully our treaty obligations and would, in addition, clarify and expand federal jurisdiction over certain overseas acts of terrorism affecting United States interests.

Subsection 103(a) would amend 49 U.S.C. 46502(b) (former section 902(n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(n)). Section 46502(b) currently covers those aircraft piracies that occur outside the "special aircraft jurisdiction of the United States," as defined in 49 U.S.C. 46501(2). It, therefore, applies to hijackings of foreign civil aircraft which never enter United States airspace. As a State Party to the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft, the United States has a treaty obligation to prosecute or extradite such offenders when they are found in the United States. This measure is based on the universal jurisdiction theory. See *United States* v. *Yunis*, 924 F.2d 1086 (D.C. Cir. 1991). However, the present statute fails to make clear when federal criminal jurisdiction commences with respect to such air piracies, absent the actual presence within the United States of one of the perpetrators.

Paragraph (a)(1) would establish clear federal criminal jurisdiction over those foreign aircraft hijackings where United States nationals are victims or perpetrators. While the Hague Convention does not mandate that State Parties criminalize those situations involving their nationals as victims or perpetrators, it does allow State Parties to assert extraterritorial jurisdiction on the basis of the passive personality principle. *See* Paragraph 3 of Article 4. In addition, other recent international conventions dealing with terrorism, such as the United Nations Convention Against the Taking of Hostages and the International Maritime Organization Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, mandate criminal jurisdiction by a State Party when its national is a perpetrator and permit the assertion of jurisdiction when its national is a victim of an offense prohibited by those conventions. Further, experience has shown that it is often the country whose nationals were victims of the hijacking which is willing to commit the necessary resources to locate, prosecute, and incarcerate the perpetrators for a period of time commensurate with their criminal acts. For those foreign civil aircraft hijackings involving no United States nationals as victims or perpetrators, section 46502 would continue to carry out the U.S. obligation under the Convention to prosecute or extradite an alien perpetrator who was subsequently found in the United States.

Under the clarified statute, subject matter jurisdiction over the offense would vest whenever a United States national was on a hijacked flight or was the perpetrator of the hijacking. Where a United States national is the perpetrator, all perpetrators, including non-U.S. nationals, would be subject to indictment for the offense, since these non-national defendants would be either principals or aiders and abettors within the meaning of 18 U.S.C. 2.

Paragraph (a)(2) amends 49 U.S.C. 46502(b)(2) to set forth the three different subject matter jurisdictional bases. It has the effect of repealing the current provision which failed to fully execute our treaty obligation. Presently, paragraph 46502(b)(2) reads: "This subsection applies only if the place of takeoff or landing of the aircraft on which the individual commits the offense is located outside the territory of the country of registration of the aircraft." Paragraph (b)(2) was intended to reflect paragraph 3 of Article 3 of the Hague Convention, which states that the convention normally applies "only if the place of take-off or the place of actual landing of the aircraft on which the offense is committed is situated outside the territory of the State of registration of that aircraft." However, the authors of the original legislation apparently overlooked the obligation imposed by paragraph 5 of Article 3 of the Convention which applies when the alleged aircraft hijacker is found in the territory of a State Party other than the State of registration of the hijacked aircraft. Paragraph 5 states: "Notwithstanding paragraphs 3 and 4 of this Article, Article 6, 7, 8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft."

For example, under the Hague Convention, the hijacking of an Air India flight that never left India is not initially covered by the Convention. (Article 3, paragraph 3.) However, the subsequent travel of the offender from India to the jurisdiction of another State Party triggers treaty obligations. Paragraph 5 makes the obligation of Article 7, to either prosecute or extradite an alleged offender found in a party's territory, applicable to a hijacker of a purely domestic air flight who flees to another State.

Paragraph (a)(3) creates a new section 46502(b)(3) which provides a definition of "national of the United States" that has been used in other terrorism provisions, see, e.g., 18 U.S.C. 2331(2) and 3077(2)(A).

Subsection 103(b) amends section 32(b) of title 18, United States Code. Presently, section 32(b) carries out the treaty obligation of the United States, as a State Party to the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, to prosecute or extradite offenders found in the United States who have engaged in certain acts of violence directed against foreign civil aircraft located outside the United States. The proposed amendment would fully retain current jurisdiction and would establish additional jurisdiction where a United States national was the perpetrator or a United States national was on board such aircraft when the offense was committed. Because subsection 32(b)(3) of title 18, United States Code, covers the placement of destructive devices upon such aircraft and a "victim" does not necessarily have to be on board the aircraft at the time of such placement, the phrase "or would have been on board" has been used. In such instances, the prosecution would have to establish that a United States national would have been on board a flight that such aircraft would have undertaken if the destructive device had not been placed thereon.

Subsection 103(b) is drafted in the same manner as paragraph (a)(2), above, so that once subject matter jurisdiction over the offense vests, all the perpetrators of the offense are subject to indictment for the offense.

Subsections 103(c), (d), (e) and (f) would amend 18 U.S.C. 1116 (murder), 112 (assault), 878 (threats), and 1201 (kidnapping), respectively. The primary purpose of these proposed amendments is to extend federal jurisdiction to reach United States nationals, or those acting in concert with such a national, who commit one of the specified offenses against an internationally protected person located outside of the United States. The invocation of such jurisdiction under U.S. law is required by the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including diplomatic agents. It was apparently omitted as an oversight when the implementing federal legislation was enacted in 1976 (P.L. 94-467).

Additionally, the provisions would also clarify existing jurisdiction. The language used in the first sentence of sections 1116(e), 112(e), 878(d), and 1201(e) is ambiguous as pertains to instances in which the victim is a United States diplomat. The first sentence in each of these provisions now reads: "If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender."

This sentence could be read to require the presence of the offender in the United States even when the internationally protected person injured overseas was a United States diplomat. This would be anomalous and was likely not intended. Accordingly, subsections (c)–(f) rewrite the first sentence to read as follows:

"If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."

The provision is drafted, in the same manner as the aircraft piracy and aircraft destruction measures, so that once subject matter jurisdiction over the offense is vested, all the perpetrators of the offense would be subject to indictment for the offense.

Subsections 103(c)–(f) also would incorporate in an appropriate manner the definition of "national of the United States" in sections 1116, 112, 878, and 1201 of title 18.

Subsection 103(g) contains an amendment similar in nature to those in the preceding subsections. It expands federal jurisdiction over extraterritorial offenses involving violence at international airports under 18 U.S.C. 37. That provision, enacted as section 60021 of Public law 103–322, presently reaches such crimes committed outside the United States only when the offender is later found in the United States. There is, however, good reasons to provide for federal jurisdiction over such terrorist crimes when an offender or a victim is a United States national. In such circumstances the interests of the United States are equal to, if not greater than, the circumstance where neither the victim nor the offender is necessarily a United States national but the offender is subsequently found in this country.

Subsection 103(h) adds the standard definition of the term "national of the United States" to 18 U.S.C. 178. This term is used earlier in the chapter (in 18 U.S.C. 175(a), which provides for extraterritorial jurisdiction over crimes involving biological weapons "committed by or against a national of the United States") but no definition is provided.

SECTION 201

In recent years, the Department of Justice has obtained considerable evidence of involvement in terrorism by aliens in the United States. Both legal aliens, such as lawful permanent residents and aliens here on student visas, and illegal aliens are known to have aided and to have received instructions regarding terrorist acts from various international terrorist groups. While many of these aliens would be subject to deportation proceedings under the Immigration and Nationality Act (INA), these proceedings present serious difficulties in cases involving classified information. Specifically, these procedures do not prevent disclosure of classified information where such disclosure would pose a risk to national security. Consequently, section 201 sets out a new title in the INA devoted exclusively to the removal of aliens involved in terrorist activity where classified information is used to sustain the grounds for deportation.

The new title would create a special court, patterned after the special court created under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 et seq.). When the Department of Justice believes that it has identified an alien in the United States who has engaged in terrorist activity, and that to afford such an alien a deportation hearing would reveal classified national security information, it could seek an ex parte order from the court. The order would authorize a formal hearing, called a special removal hearing, before the same court, at which the Department of Justice would seek to prove by clear and convincing evidence that the alien had in fact engaged in terrorist activity. At the hearing, classified evidence could be presented *in camera* and not revealed to the alien or the public, although its general nature would normally be summarized.

Enactment of section 201 would provide a valuable new tool with which to combat aliens who use the United States as a base from which to launch or fund terrorist attacks either on U.S. citizens or on persons in other countries. It is a carefully measured response to the menace posed by alien terrorists and fully comports with and exceeds all constitutional requirements applicable to aliens.

Subsection 201(a) sets out findings that aliens are committing terrorist acts in the United States and against United States citizens and interests and that the existing provisions of the INA providing for the deportation of criminal aliens are inadequate to deal with this threat. These findings are in addition to the general findings contained in section 3 of the bill. The findings explain that these inadequacies arise primarily because the INA, particularly in its requirements pertaining to deportation hearings, may require disclosure of classified information.

The findings are important in explaining Congressional intent and purpose. As noted above, section 201 creates an entirely new type of hearing to determine whether aliens believed to be terrorists should be removed from the United States. At such a "special removal hearing," the government would be permitted to introduce *in camera* and *ex parte* classified evidence that the alien has engaged in terrorist activity. Such hearings would be held before Article III judges. The *in camera* and *ex parte* portion of the hearing would relate to classified information which, if provided to the alien or otherwise made public, would pose a risk to national security. Such an extraordinary type of hearing would be invoked only in a very small percentage of deportation cases, and would be applicable only in those cases in which an Article III judge has found probable cause to believe that the aliens in question are involved in terrorist activity. Although the bill provides the alien many rights equal to—and in some respects greater than—those enjoyed by aliens in ordinary deportation proceedings, the rights specified for aliens subject to a special removal hearing are deemed exclusive of any rights otherwise afforded under the INA.

It is within the power of Congress to provide for a special adjudicatory proceeding and to specify the procedural rights of aliens involved in terrorist acts. The Supreme Court has noted that "control over matters of immigration is a sovereign prerogative, largely within the control of the Executive and the Legislature. . . . The role of the judiciary is limited to determining whether the procedures meet the essential standard of fairness under the Due Process Clause and does not extend to imposing procedures that merely displace congressional choices of policy." *Landon v. Plasencia*, 459 U.S. 21, 34–35 (1982). Moreover, Congress can specify what type of process is due different classes of aliens. "(A) host of constitutional and statutory provisions rest on the premise that a legitimate distinction between citizens and aliens may justify attributes and benefits for one class not accorded to the other; and the class of aliens itself is a heterogeneous multitude of persons with a wide-ranging variety of ties to this country." *Matthews v. Diaz*, 426 U.S. 67, 78–79 (1976). Because the Due Process Clause does not require "that all aliens must be placed in a single homogeneous legal classification," *id.*, Congress can provide separate processes and procedures for determining whether to remove resident and nonresident alien terrorists.

Subsection 201(b) adds a new title V to the INA to provide a special process for removing alien terrorists when compliance with normal deportation procedures might adversely affect national security interests of the United States. However, the new title V is not the only way of expelling alien terrorists from the United States. In addition to proceedings under the new special removal provisions, aliens falling within 8 U.S.C. 1251(a)(4)(B) alternatively could be deported following a regular deportation hearing. Moreover, like all other aliens, alien terrorists remain subject to possible expulsion for any of the remaining deportation grounds specified in section 241 of the Act (8 U.S.C. 1251). For example, alien terrorists who violate the criminal laws of the United States remain subject to "ordinary" deportation proceedings on charges under INA section 241(a)(2). The special removal provisions augment, without in anyway narrowing, the prosecutorial options in cases of alien terrorists.

The new title V consists of four new sections of the INA, sections 501–504 (8 U.S.C. 1601–1604). Briefly, the title provides for creation of a special court comprised of Article III judges, patterned after the special court created under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 *et seq.*). When the Department of Justice believes it has identified an alien terrorist, that is, an alien who falls within 8 U.S.C. 1251(a)(4)(B), and determines that to disclose the evidence of that fact to the alien or the public would compromise national security, the Department may seek an order from the special court. The order would authorize the Department to present the classified portion of its evidence that the alien is a terrorist *in camera* and *ex parte* at a special removal hearing. The classified portion of the evidence would be received in chambers with only the court reporter, the counsel for the government, and the witness or document present. The general nature of such evidence, without identifying classified or sensitive particulars, would then normally be revealed to the alien, his counsel, and the public in summarized form. The summary would have to be found by the court to be sufficient to permit the alien to prepare a defense.

Where an adequate summary, as determined by the court, would pose a risk to national security, and, hence, unavailable to the alien, the special hearing would be terminated unless the court found that (1) the continued presence of the alien in the United States or (2) the preparation of the adequate summary would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person. If such a situation exits, the special removal hearing would continue, the alien would not receive a summary, and the relevant classified information could be introduced against the alien pursuant to subsection (j).

If, at the conclusion of the hearing, the judge finds that the government has established by clear and convincing evidence that the alien has engaged in terrorist activity, the judge would order the alien removed from the United States. The alien could appeal the decision to the United States Court of Appeals for the District of Columbia Circuit, and ultimately could petition for a writ of certiorari to the Supreme Court.

Use of information that is not made available to the alien for reasons of national security is a well-established concept in the existing provisions of the INA and immigration regulations. For example, section 235(c) provides for an expedited exclusion process for aliens excludable under 8 U.S.C. 1182(a)(3) (providing for the exclusion, *inter alia*, of alien spies, saboteurs, and terrorists), and states in relevant part:

"If the Attorney General is satisfied that the alien is excludable under [paragraph 212(a)(3)] on the basis of information of a confidential nature, the disclosure of which the Attorney General, in his discretion, and after consultation with the appropriate security agencies of the Government, concludes would be prejudicial to the public interest, safety, or security, he may in his discretion order such alien to be excluded and deported without any inquiry or further inquiry by [an immigration judge]."

Thus, where it is necessary to protect sensitive information, existing law authorizes the Attorney General to conduct exclusion proceedings outside the ordinary immigration court procedures and to rely on classified information in ordering the exclusion of alien terrorists.

In the deportation context, 8 C.F.R. 242.17 (1990) provides that in determining whether to grant discretionary relief to an otherwise deportable alien, the immigration judge—

"May consider and base his decision on information not contained in the record and not made available for inspection by the [alien], provided the Commissioner has determined that such information is relevant and is classified under Executive Order No. 12356 (47 FR 14874, April 6, 1982) as requiring protection from unauthorized disclosure in the interest of national security."

The constitutionality of this provision has been upheld. *Suciu* v. *INS*, 755 F.2d 127 (8th Cir. 1985). The alien in that case had been in the United States for 16 years and had become deportable for overstaying his student visa, a deportation ground ordinarily susceptible to discretionary relief. Nevertheless, the court held that it was proper to deny the alien discretionary relief without disclosing to him the reasons for the denial. *Sucia* followed the Supreme Court's holding sustaining the constitutionality of a similar predecessor regulation in *Jay* v. *Boyd*, 351 U.S. 345 (1956).

Section 501 (Applicability)

Section 501 sets forth the applicability of the new title. Section 501(a) states that the title may, but need not, be employed by the Department of Justice whenever it has information that an alien is subject to deportation because he is an alien described in 8 U.S.C. 1251(a)(4)(B), that is, because he has engaged in terrorist activity.

Section 501(b) provides that whenever an official of the Department of Justice determines to seek the expulsion of an alien terrorist under the special removal provisions, only the provisions of the new title need be followed. This ensures that such an alien will not be deemed to have any additional rights under the other provisions of the INA. Except when specifically referenced in the special removal provisions, the remainder of the INA would be inapplicable. For example, under the special removal provisions an alien who has entered the United States (and thus is not susceptible to exclusion proceedings) need not be given a deportation hearing under section 242 of the Act, 8 U.S.C. 1252, and will not have available the rights generally afforded aliens in deportation proceedings (*e.g.*, the opportunity for an alien out of status to correct his status).

Section 501(c) states that Congress has enacted the title upon finding that alien terrorists represent a unique threat to the security interests of the United States. Consequently, the subsection states Congress' specific intent that the Attorney General be authorized to remove such aliens without resort to a traditional deportation hearing, following an ex parte judicial determination of probable cause to believe they have engaged in terrorist activity and a further judicial determination, following a modified adversarial hearing, that the Department of Justice has established by clear and convincing evidence that the aliens in fact have engaged in terrorist activity.

Section 501(c) is designed to make clear that singling out alien terrorists for a special type of hearing rather than according them ordinary deportation hearings is a careful and deliberate policy choice by a political branch of government. This policy choice is grounded upon the legislative determination that alien terrorists seriously threaten the security interests of the United States and that the existing process for adjudicating and effecting alien removal is inadequate to meet this threat. In accordance with settled Supreme Court precedent, such a choice is well within the authority of the political branches of government to control our relationship with and response to aliens.

For example, in *Mathews* v. *Diaz, supra*, the Court held that Congress could constitutionally provide that only some aliens were entitled to Medicare benefits. The Court held that it was "unquestionably reasonable for Congress to make an alien's eligibility depend on both the character and duration of his residence," and noted that the Court was "especially reluctant to question the exercise of congressional judgment" in matters of alien regulation. 426 U.S. at 83, 84; *see Fiallo* v. *Bell*, 430 U.S. 787, 792 (1977) (describing the regulation of aliens as a political matter "largely immune from judicial control"). The specific findings and reference to the intent in adopting the new provisions of title V make clear the policy judgment that alien terrorists should be treated as a separate class of aliens and that this choice should not be disturbed by the courts.

Section 502 (Special Removal Hearing)

Section 502 sets out the procedure for the special removal hearing. Section 502(a) provides that whenever the Department of Justice determines to use the special removal process it must submit a written application to the special court (established pursuant to section 503) for an order authorizing such procedure. Each application must indicate that the Attorney General or Deputy Attorney General has approved its submission and must include the identity of the Department attorney making the application, the identity of the alien against whom removal proceedings are sought, and a statement of the facts and circumstances relied upon by the Department of Justice as justifying the belief that the subject is an alien terrorist and that following normal deportation procedures would pose a risk to the national security of the United States.

Section 502(b) provides that applications for special removal proceedings shall be filed under seal with the special court established pursuant to section 503. At or after the time the application is filed, the Attorney General may take the subject alien into custody. The Attorney General's authority to retain the alien in custody is governed by the provisions of new title V which, as explained below, provide in certain circumstances for the release of the alien.

Although title V does not require the Attorney General to take the alien subject to special removal applications into custody, it is expected that most such aliens will be apprehended and confined. The Attorney General's decision whether to take a non-resident alien into custody will not be subject to judicial review. However, a resident alien is entitled to a release hearing before the judge assigned by the special court. The resident alien may be released upon such terms and conditions prescribed by the court (including the posting of any monetary amount), if the alien demonstrates to the court that the alien, if released, is not likely to flee and that the alien's release will not endanger national security or the safety of any person or the community. Subsequent provisions (section 504(a)) authorize the Attorney General to retain custody of alien terrorists who have been ordered removed until such aliens can be physically delivered outside our borders.

Section 502(c) provides that special removal applications shall be considered by a single Article III judge in accordance with section 503. In each case, the judge shall hold an ex parte hearing to receive and consider the written information provided with the application and such other evidence, whether documentary or testimonial in form, as the Department of Justice may proffer. The judge shall grant an ex parte order authorizing the special removal hearing as provided under title V if the judge finds that, on the basis of the information and evidence presented, there is probable cause to believe that the subject of the application is an alien who falls within the definition of alien terrorist and that adherence to the ordinary deportation procedures would pose a risk to national security.

Section 502(d)(1) provides that in any case in which a special removal application is denied, the Department of Justice within 20 days may appeal the denial to the United States Court of Appeals for the District of Columbia Circuit. In the event of a timely appeal, a confined alien may be retained in custody. When the Department of Justice appeals from the denial of a special removal application, the record of proceedings will be transmitted to the Court of Appeals under seal and the court will hear the appeal ex parte. Subsequent provisions (section 502(p)) authorize the Department of Justice to petition the Supreme Court for a writ of certiorari from an adverse appellate judgment.

Section 502(d)(2) provides that if the Department of Justice does not seek appellate review of the denial of a special removal application, the subject alien must be released from custody unless, as a deportable alien, the alien may be arrested and taken into custody pursuant to title II of the INA. Thus, for example, when the judge finds that the special procedures of title V are unwarranted but the alien is subject to deportation as an overstay or for violation of status, the alien might be retained in custody but such detention would be pursuant to and governed by the provisions of title II.

Subsection 502(d)(3) provides that if a special removal application is denied because the judge finds no probable cause that the alien has engaged in terrorist activities, the alien must be released from custody during the pendency of an appeal by the government. However, section 502(d)(3) is similar to section 502(d)(2) in that it provides for the possibility of continued detention in the case of aliens who otherwise are subject to deportation under title II of the Act.

Section 502(d)(4) applies to cases in which the judge finds probable cause that the subject of a special removal application has been correctly identified as an alien terrorist, but fails to find probable cause that use of the special procedures are necessary for reasons of national security, and the Department of Justice determines to appeal. A finding that the alien has engaged in terrorist activity—a ground for deportation that would support confinement under title II of the Act—justifies retaining the alien in custody. Nevertheless, section 502(d)(4) provides that the judge must determine the question of custody based upon an assessment of the risk of flight and the danger to the community or individuals should the alien be released. The judge shall release the alien subject to the least restrictive condition(s) that will reasonably assure the alien's appearance at future proceedings, should the government prevail on its appeal, and will not endanger the community or individual members thereof. The possible release conditions are those authorized under the Bail Reform Act of 1984, 18 U.S.C. 3142(b) and (c), and range from release on personal recognizance to release on execution of a bail bond or release limited to certain places or periods of time. As with the referenced provsions of the Bail Reform Act, the judge may deny release altogether upon determining that no condition(s) of release would assure the alien's future appearance and community safety.

Section 502(e)(1) provides that in cases in which the special removal application is approved, the judge must then consider each piece of classified evidence that the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing. The judge shall authorize the in camera and ex parte introduction of any item of classified evidence if such evidence is relevant to the deportation charge.

Section 502(e)(1) also provides that with respect to any evidence authorized to be introduced in camera and ex parte, the judge must consider how the alien subject to the proceedings is to be advised regarding such evidence. The Department of Justice must prepare a summary of the classified informaiton. The court must find the summary to be sufficient to inform the alien of the general nature of the evidence that he has engaged in terrorist activity, and to permit the alien to prepare a defense. A summary, however, "shall not pose a risk to the national security." In considering the summary to be provided to the alien of the government's proffered evidence, it is intended that the judge balance the alien's interest in having an opportunity to hear and respond to the case against him against the government's extraordinarily strong interest in protecting the national security. The Department of Justice shall provide the alien a copy of the court approved summary.

In situations where the court does not approve the proposed summary, the Department of Justice can amend the summary to meet specific concerns raised by the court. Subsection (e)(2) provides that if such submission is still found unacceptable, the special removal proceeding is to be terminated unless the court finds that the continued presence of the alien in the United States or the preparation of an adequate summary would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person. If such a situation exists, the special removal hearing would continue, the alien would be notified that no summary is possible, and relevant classified information could be introduced against the alien pursuant to subsection (j).

Section 502(e)(3) provides that, in certain situations, the Department of Justice may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit from the judge's rulings regarding the in camera and ex parte admission and summarization of particular items of evidence. Interlocutory appeal is authorized if the judge rules that a piece of classified information may not be introduced in camera and ex parte because it is not relevant; or if the Department disagrees with the judge regarding the wording of a summary (that is, if the Department believes that the scope of summary required by the court will compromise national security). Interlocutory appeal is also authorized when the court refuses to make the finding permitted by subsection (e)(2). Because the alien is to remain in custody during such an appeal, the Court of Appeals must hear the matter as expeditiously as possible. When the Department appeals, the entire record must be transmitted to the Court of Appeals under seal and the court shall hear the matter ex parte.

Section 502(f) provides that in any case in which the Department's application is approved, the court shall order a special removal hearing for the purpose of determining whether the alien in question has engaged in terrorist activity. Subsection (f) provides that "[i]n accordance with subsection (e), the alien shall be given reasonable notice of the nature of the charges against him and a general account of the basis for the charges." This cross-reference is intended to make clear that subsection (f) is not to be construed as requiring that information be given to the alien about the nature of the charges if such information would reveal the matters that are to be introduced in camera. The special removal hearing must be held as expeditiously as possible.

Section 502(g) provides that the special removal hearing shall be held before the same judge who approved the Department of Justice's application unless the judge becomes unavailable due to illness or disability.

Section 502(h) sets out the rights to be afforded to the alien at the special removal hearing. The hearing shall be open to the public, the alien shall have the right to be represented by counsel (at government expense if he cannot afford representation), and to introduce evidence in his own behalf. Except as provided in section 502(j) regarding presentation of evidence in camera and ex parte, the alien also shall have a reasonable opportunity to examine the evidence against him and to cross-examine adverse witnesses. As in the case of administrative proceedings under the INA and civil proceedings generally, the alien may be called as a witness by the Department of Justice. A verbatim record of the proceedings and of all evidence and testimony shall be kept.

Section 502(i) provides that either the alien or the government may request the issuance of a subpoena for witnesses and documents. A subpoena request may be made ex parte, except that the judge must inform the Department of Justice where the subpoena sought by the alien threatens disclosure of evidence of the source or evidence which the Department of Justice has introduced or proffered for introduction in camera and ex parte. In such cases, the Department of Justice shall be given a reasonable opportunity to oppose the issuance of a subpoena and, if necessary to protect the confidentiality of the evidence or its source, the judge may, in his discretion, hear such opposition in camera. A subpoena under section 502(i) may be served anywhere in the United States. Where the alien shows an inability to pay for the appearance of a necessary witness, the court may order the costs of the subpoena and witness fee to be paid by the government from funds appropriated for the enforcement of title II of the INA. Section 502(i) states that it is not intended to allow the alien access to classified information.

Section 502(j) provides that any evidence which has been summarized pursuant to section 502(e)(1) may be introduced into the record, in documentary or testimonial form, in camera and ex parte. The section also permits the introduction of relevant classified information if the court has made the finding permitted by subsection (e)(2). While the alien and members of the public would be aware that evidence was being submitted in camera and ex parte, neither the alien nor the public would be informed of the nature of the evidence except as set out in section 502(e)(1). For example, if the Department of Justice sought to present in camera and ex parte evidence through live testimony, the courtroom could be cleared of the alien, his counsel, and the public while the testimony is presented. Alternatively, the court might hear the testimony in chambers attended by only the reporter, the government's counsel, and the witness. In the case of documentary evidence, sealed documents could be presented to the court without examination by the alien or his counsel (or access by the public).

While the Department of Justice does not have to present evidence in camera and ex parte, even if it previously has received authorization to do so, it is contemplated that ordinarily much of the government's evidence (or at least the crucial portions thereof) will be presented in this fashion rather than in open court. The right to present evidence in camera and ex parte will have been determined in the ex parte proceedings before the court pursuant to subsections (a) through (c) of section 502.

Section 502(k) provides that evidence introduced in open session or in camera and ex parte may include all or part of the information that was presented at the earlier ex parte proceedings. If the evidence is to be introduced in camera and ex parte, the attorney for the Department of Justice could refer the judge to such evidence in the transcript of the ex parte hearing and ask that it be considered as evidence at the removal hearing itself. The Department might present evidence in open court rather than in camera and ex parte as a result of changed circumstances, for example, where the source whose life was at risk had died before the hearing or if the Department believes that a public presentation of the evidence might have a deterrent effect on other terrorists. In any event, once the Department of Justice has received authorization to present evidence in camera and ex parte, its decision whether to do so is purely discretionary and is not subject to review at the time of the special removal hearing. Of course, the disclosure of any classified information requires appropriate consultation with the originating agency.

Section 502(l) provides that following the introduction of evidence, the attorney for the Department of Justice and the attorney for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the alien's removal. At the judge's discretion, in camera and ex parte argument by the Department of Justice attorney may be heard regarding evidence received in camera and ex parte.

Section 502(m) provides that the Department of Justice has the burden of showing that the evidence is sufficient. This burden is not satisfied unless the Department establishes by clear and convincing evidence—the standard of proof applicable in a deportation hearing—that the alien has engaged in terrorist activity. If the judge finds that the Department has met that burden, the judge must order the alien removed. In cases in which the alien has been shown to have engaged in terrorist activity, the judge has no authority to decide that removal would be unwarranted. If the alien was a resident alien granted release, the court is to order the Attorney General to take the alien into custody.

Section 502(n)(1) provides that the judge must render his decision as to the alien's removal in the form of a written order. The order must state the facts found and the conclusions of law reached, but shall not reveal the substance of any evidence received in camera or ex parte.

Section 502(n)(2) provides that either the alien or the Department of Justice may appeal the judge's decision to the United States Court of Appeals for the District of Columbia Circuit. Any such appeal must be filed within 20 days, and during this period the order shall not be executed. Information received in camera and ex parte at the special removal hearing shall be transmitted to the Court of Appeals under seal. The Court of Appeals must hear the appeal as expeditiously as possible.

Section 502(n)(3) sets out the standard of review for proceedings in the Court of Appeals. Questions of law are to be reviewed de novo, but findings of fact may not be overturned unless clearly erroneous. This is the usual standard in civil cases.

Section 502(o) provides that in cases in which the judge decides that the alien should not be removed, the alien must be released from custody. There is an exception for aliens who may be arrested and taken into custody pursuant to title II of the INA as aliens subject to deportation. For such aliens, the issues of release and/or circumstances of continued detention would be governed by the pertinent provisions of the INA.

Section 502(p) provides that following a decision by the Court of Appeals, either the alien or the government may seek a writ of certiorari in the Supreme Court. In such cases, information submitted to the Court of Appeals under seal shall, if transmitted to the Supreme Court, remain under seal.

Section 502(q) sets forth the normal right the Government has to dismiss a removal action at any stage of the proceeding.

Section 502(r) acknowledges that the United States retains it common law privileges.

Section 503 (Designation of Judges)

Section 503 establishes the special court to consider terrorist removal cases under section 502, patterned on the special court created under the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801 et seq. Section 503(a) provides that the court will consist of five federal district court judges chosen by the Chief Justice of the United States from five different judicial circuits. One of these judges shall be designated as the chief or presiding judge. Should the Chief Justice determine it appropriate, he could designate as judges under this section some of those that he has designated pursuant to section 1803(a) of title 50, United States Code for the Foreign Intelligence Surveillance Court. The presiding judge shall promulgate rules for the functioning of the special court. The presiding judge also shall be responsible for assigning cases to the various judges. Section 503(c) provides that judges shall be appointed to the special court for terms of five years, except for the initial appointments the terms of which shall vary from one to five years so that one new judge will be appointed each year. Judges may be reappointed to the special court.

Section 503(b) provides that all proceedings under section 502 are to be held as expeditiously as possible. Section 503(b) also provides that the Chief Justice, in consultation with the Attorney General, the Director of Central Intelligence and other appropriate officials, shall provide for the maintenance of appropriate security measures to protect the ex parte special removal applications, the orders entered in response to such applications, and the evidence received in camera and ex parte sufficient to prevent disclosures which could compromise national security.

Section 504 (Miscellaneous Provisions)

Section 504 contains the title's miscellaneous provisions. Section 504(a) provides that following a final determination that the alien terrorist should be removed (that is, after the special removal hearing and completion of any appellate review), the Attorney General may retain the alien in custody (or if the alien was released, apprehend and place the alien in custody) until he can be removed from the United States. The alien is provided the right to choose the country to which he will be removed, subject to the Attorney General's authority, in consultation with the Secretary of State, to designate another country if the alien's choice would impair a United States treaty obligation (such as an obligation under an extradition treaty) or would adversely affect the foreign policy of the United States. If the alien does not choose a country or if he chooses a country deemed unacceptable, the Attorney General, in coordination with the Secretary of State, must make efforts to find a country that will take the alien. The alien may, at the attorney General's discretion, be kept in custody until an appropriate country can be found, and the Attorney General shall provide the alien with a written report regarding such efforts at least once every six months. The Attorney General's determinations and actions regarding execution of the removal order are not subject to direct or collateral judicial review, except for a claim that continued detention violates the alien's constitutional rights. The alien terrorist shall be photographed and fingerprinted and advised of the special penalty provisions for unlawful return before he is removed from the United States.

Section 504(b) provides that, notwithstanding section 504(a), the Attorney General may defer the actual removal of the alien terrorist to allow the alien to face trial on any State or federal criminal charge (whether or not related to his terrorist activity) and, if convicted, to serve a sentence of confinement. Section 504(b)(2) provides that pending the service of a State or federal sentence of confinement, the alien terrorist is to remain in the Attorney General's custody unless the Attorney General determines that the alien can be released to the custody of State authorities for pretrial confinement in a State facility without endangering national security or public safety. It is intended that where the alien terrorist could possibly secure pretrial release, the Attorney General shall not release the alien to a State for pretrial confinement. Section 503(b)(3) provides that if an alien terrorist released to State authorities is subsequently to be released from state custody because of an acquittal in the collateral trial, completion of the alien's sentence of confinement, or otherwise, the alien shall immediately be returned to the custody of the Attorney General who shall then proceed to effect the alien's removal from the United States.

Section 504(c) provides that for purposes of sections 751 and 752 of title 18 (punishing escape from confinement and aiding such an escape), an alien in the Attorney General's custody pursuant to this new title—whether awaiting or after completion of a special removal hearing—shall be treated as if in custody by virtue of a felony arrest. Accordingly, escape by or aiding the escape of an alien terrorist will be punishable by imprisonment for up to five years.

Section 504(d) provides that an alien in the Attorney General's custody pursuant to this new title—whether awaiting or after completion of a special removal hearing—shall be given reasonable opportunity to receive visits from relatives and friends and to consult with his attorney. Determination of what is "reasonable" usually will follow the ordinary rules of the facility in which the alien is confined.

Section 504(d) also provides that when an alien is confined pursuant to this new title, he shall have the right to contact appropriate diplomatic or consular officers of his country of citizenship or nationality. Moreover, even if the alien makes no such request, subsection (d) directs the Attorney General to notify the appropriate embassy of the alien's detention.

Subsection 201(c) sets out three conforming amendments to the INA. First, section 106 of the INA, 8 U.S.C. §1105a, is amended to provide that appeals from orders entered pursuant to section 235(c) of the Act (pertaining to summary exclusion proceedings for alien spies, saboteurs, and terrorists) shall be to the United States Court of Appeals for the District of Columbia Circuit. Thus, in cases involving alien terrorists, the same court of appeals shall hear both exclusion and deportation appeals and will develop unique expertise concerning such cases.

Second, section 276 of the INA, 8 U.S.C. §1326, is amended to add increased penalties for an alien entering or attempting to enter the United States without permission after removal under the new title or exclusion under section 235(c) for terrorist activity. For aliens unlawfully reentering or attempting to reenter the United States, the section presently provides for a fine pursuant to title 18 and/or imprisonment for up to two years (five years when the alien has been convicted of a felony in the United States, or 15 years when convicted of an "aggravated felony"); the bill increases to a mandatory ten years the term of imprisonment for reentering alien terrorists.

Finally, section 106 of the INA, 8 U.S.C. §1105a, is amended to strike subsection (a)(10) regarding habeas corpus review of deportation orders. Originally enacted in 1961 to make clear that the exclusive provision for review of final deportation orders through petition to the courts of appeals was not intended to extinguish traditional writs of habeas corpus in cases of wrongful detention, the subsection has been the source of confusion and duplicative litigation in the courts. Congress never intended that habeas corpus proceedings be an alternative to the process of petitioning the courts of appeals for review of deportation orders. Elimination of subsection (a)(10) will make clear that any review of the merits of a deportation order or the denial of relief from deportation is available only through petition for review in the courts of appeals, while leaving unchanged the traditional writ of habeas corpus to examine challenges to detention arising from asserted errors of constitutional proportions.

Subsection 201(d) provides that the new provisions are effective upon enactment and "apply to all aliens without regard to the date of entry or attempted entry into the United States." Aliens may not avoid the special removal process on the grounds that either their involvement in terrorist activity or their entry into the United States occurred before enactment of the new title. Upon enactment, the new title will be available to the Attorney General for removal of any and all alien terrorists when classified information is involved.

SECTION 202

This section makes additional changes to the Immigration and Naturalization Act (INA) besides those contained in section 201. It improves the government's ability to deny visas to alien terrorist leaders and to deport non-resident alien terrorists under the INA.

Subsection 202(a) amends the excludability provisions of the INA relating to terrorism activities (section 212(a)(3)(B) of the INA (8 U.S.C. 1182(a)(3)(B)). Most of the changes are clarifying in nature, but a few are substantive. The changes are:

(1) "Terrorist" is changed to "terrorism" in most instances in order to direct focus on the nature of the activity itself and not the character of the particular individual perpetrator.

(2) Definitions of "terrorist organization" and "terrorism" are added. The definition of "terrorist organization" includes subgroups. Although a terrorist organization may perform certain charitable activities, *e.g.*, run a hospital, this does not remove its characterization of being a terrorist organization if it, or any of its subgroups, engages in terrorism activity. The definition of "terrorism" describes terrorism as the "premeditated politically motivated violence perpetrated against noncombat targets." This is consistent with existing law found elsewhere in the federal code. See, *e.g.*, 22 U.S.C. 2656f(d).

(3) In order to make "representatives" of certain specified terrorist organizations excludable, the term has been expanded to cover any person who directs, counsels, commands or induces the organization or its members to engage in terrorism activity. The terms "counsels, commands, or induces" are used in 18 U.S.C. 2. Presently, only the officers, officials, representatives and spokesman are deemed to be excludable. This change expands coverage to encompass those leaders of the group who may not hold formal titles and those who are closely associated with the group and exert leadership over the group but may not technically be a member. This is not a mere membership provision.

(4) In order to make the "leaders" of more terrorist organizations excludable without having to establish that they personally have engaged in terrorist activity, the revision gives the President authority to designate terrorist organizations based on a finding that they are detrimental to the interests of the United States. (Presently, only the PLO is expressly cited in the existing statute.) Implicit with the right to designate is the authority to remove an organization that the President has previously designated. By giving the President this authority, which is similar to subsection (f) of section 212 (8 U.S.C. 212(f)), the President can impose stricter travel limitations on the leaders of terrorist organizations who desire to visit the United States. For a leader of a designated terrorist organization to obtain a visa, he would have to solicit a waiver from the Attorney General under subsection 212(d)(3) (8 U.S.C. 1182(d)(3)) to obtain temporary admission. In deciding whether or not to grant to waiver, the Attorney General could, should he/she decide to grant a waiver, impose whatever restrictions are warranted on the alien's presence in the United States.

(5) The words "it has been" are inserted in the first sentence of the definition of "terrorism activity" in order to make clear that it is United States law (federal or state) which is used to determine whether overseas violent activity is considered criminal.

(6) The term "weapons" is added to clause (V)(b) in the definition of "terrorist activity" in order to cover those murders carried out by deadly and dangerous devices other than firearms or explosives (e.g., a knife).

(7) The knowledge requirement in clause (III) of the definition of "engage in terrorism activity" was deleted as unnecessary, as similar language has been added in the beginning of the definition.

(8) The term "documentation or" has been added to "false identification" in clause (III) of the definition of "engage in terrorism activity" to encompass other forms of false documentation that might be provided to facilitate terrorism activity. The term "false identification" would include stolen, counterfeit, forged and falsely made identification documents.

Subsection 202(b) amends section 241(a)(4)(B) of the INA (8 U.S.C. 1251(a)(4)(B)) to reflect the change in section 212(a)(3)(B) (8 U.S.C. 1182(a)(3)(B)) from "terrorist" to "terrorism."

Subsection 202(c) adds a sentence to section 291 of the INA (8 U.S.C. 1361) to clarify that discovery by the alien in a deportation proceeding is limited only to those documents in the INS file relating to the alien's entry. Section 291 was never intended to authorized discovery beyond this limited category of documents.

Subsection 202(d) makes an important change to section 242(b)(3) of the INA (8 U.S.C. 1252(b)(3)). First, in the case of non-resident aliens it precludes the alien's access to any classified information that is being used to deport them. Secondly, it denies non-resident aliens any rights under 18 U.S.C. 3504 (relating to access concerning sources of evidence) and 50 U.S.C. 1801 et seq. (relating to the Foreign Intelligence Surveillance Act) during their deportation.

SECTION 203

Section 203 amends the confidentiality provisions contained in the Immigration and Nationality Act (INA) for an alien's application relating to legalization (section 245A(c)(5) of the INA (8 U.S.C. 1255(a)(c)(5)) or special agricultural worker status (section 210(b)(5) and (6) of the INA (8 U.S.C. 1160(b)(5) and (6)). At present, it is very difficult to obtain crucial information contained in these files, such as fingerprints, photographs, addresses, etc., when the alien becomes a subject of a criminal investigation. In both the World Trade Center bombing and the killing of CIA personnel on their way to work at CIA Headquarters, the existing confidentiality provisions hindered law enforcement efforts.

Subsection 203(a) amends the confidential provisions for legalization files. It permits access to the file if a federal court finds that the file relates to an alien who has been killed or severely incapacitated or is the suspect of an aggravated felony. Subsection 203(b) makes comparable amendments to the confidentiality requirements relating to special agricultural worker status.

SECTION 301

Section 301 authorizes the government to regulate or prohibit any person or organization within the United States and any person subject to the jurisdiction of the United States anywhere from raising or providing funds for use by any foreign organization which the President has designated to be engaged in terrorism activities. Such designation would be based on a Presidential finding that the organization (1) engages in terrorism activity as defined in the Immigration and Nationality Act and (2) its terrorism activities threaten the national security, foreign policy, or economy of the United States.

The fund-raising provision provides a licensing mechanism under which funds may be provided to a designated organization based on a showing that the money will be used exclusively for religious, charitable, literary, or educational purposes. It includes both administrative and judicial enforcement procedures, as well as a special classified information procedures applicable to certain types of civil litigation. The term "person" is defined to include individuals, partnerships, associations, groups, corporations or other organizations.

Subsection 301(a) creates a new section 2339B in title 18, United States Code, entitled "Fund-raising for terrorist organizations."

Subsection 2339B(a) sets forth the congressional findings and purposes for the fund-raising statute.

Subsection 2339B(b) gives the President the authority to issue regulations to regulate or prohibit any person within the United States or any person subject to the jurisdiction of the United States anywhere from raising or providing funds for use by, or from engaging in financial transactions with, any foreign organization which the President, pursuant to subsection 2339B(c), has designated to be engaged in terrorism activities.

Subsection 2339B(c)(1) grants the President the authority to designate any foreign organization, if he finds that (1) the organization engages in terrorism activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) and (2) the organization's terrorism activities threaten the national security, foreign policy or economy of the United States. Subsection 2339B(c)(2) grants the President the authority to designate persons who are raising funds for or are acting for or on behalf of a foreign organization designated pursuant to subsection (c)(1).

Such designations must be published in the Federal Register. The President is authorized to revoke any designation. A designation under subsection (c)(1) is conclusive and is not reviewable by a court in a criminal prosecution.

Subsection 2339B(d) sets forth the prohibited activities. Paragraph (1) makes it unlawful for any person within the United States, or any person subject to the jurisdiction of the United States anywhere in the world, to raise, receive, or collect funds on behalf of or to furnish, give, transmit, transfer, or provide funds to or for an organization designated by the President unless such activity is done is accordance with a license granted under subsection 2339B(e). Paragraph (2) makes it unlawful for any person within the United States or any person subject to the jurisdiction of the United States anywhere in the world, acting for or or behalf of a designated organization, (1) to transit, transfer, or receive any funds raised in violation of subsection 2339B(d)(1); (2) to transmit, transfer or dispose of any funds in which any designated organization has an interest; or (3) to attempt to do any of the foregoing. The latter provision serves to make it a crime for any person within the United States, or any person subject to the jurisdiction of the United States anywhere, to transfer, transfer or dispose of on behalf of a designated organization any funds in which such organization has an interest until after a license has been issued.

Subsection 2339B(e) requires that any person who desires to solicit funds or transfer funds to any designated organization must obtain a license from the Secretary of the Treasury. Any license issued by the Secretary shall be granted only when the Secretary is satisfied that the funds are intended exclusively for religious, charitable, literacy, or educational purposes and that any recipient in any fund-raising chain has effective procedures in place to insure that the funds will be used exclusively for religious, charitable, literary, or educational purposes and will not be used to affect a transfer of funds to be used in terrorism activity. The burden is on the license applicant to convince the Secretary that such procedures do in fact exist. A licensee is required to keep books and records and make such books available for inspection upon the Secretary's request. A licensee is also required to have an agreement with any recipient which permits the Secretary to inspect the recipient's records.

Subsection 2339B(f) requires that a financial institution which becomes aware that it is in possession of or that it has control over funds in which a designated organization has an interest must "freeze" such funds and notify the Secretary of the Treasury. A civil penalty is provided for failure to freeze such funds or report the required information to the Secretary. The term "financial institution" has the meaning prescribed in 31 U.S.C. 5312(a)(2) and regulations promulgated thereunder. It is the same definition as utilized in the money laundering statute, see 18 U.S.C. 1956(c)(6).

Subsection 2339B(g) divides investigative responsibility for the section between the Secretary of the Treasury and the Attorney General. This provision thus permits the combination of the administrative and financial expertise of Treasury's Office of Foreign Assets Control (OFAC) and the intelligence capabilities and criminal investigative techniques of the Federal Bureau of Investigation (FBI) to be combined together in a highly coordinated manner in order to effectively enforce the requirements of this section while protecting the equities of the nation's national security intelligence gathering community. The provision reflects, as does section 407 of the bill, the FBI's role as the lead federal agency for the investigation and prosecution of terrorist activity as well as the prime federal intelligence agency for gathering national security information within the United States.

Section 2339B(h) gives authority to the Secretary of the Treasury and the Attorney General to require recordkeeping, hold hearings, issue subpoenas, administer oaths and receive evidence.

Subsection 2339B(i) sets forth the penalties for section 2339B. Any person who knowingly violates subsection 2339B(d) can be fined under title 18, United States Code, or imprisoned for up to ten years, or both. A person who fails to keep records or make records available to the Secretary of the Treasury upon his/her request is subject to a civil penalty of the greater of $50,000 or twice the amount of money which would have been documented had the books and records been properly maintained. A financial institution which fails to take the actions required pursuant to subsection (f)(1) is subject to civil penalty of the greater of $50,000 or twice the amount of money of which the financial institution was required to retain possession or control. Any person who violates any license, order, direction, or regulation issued pursuant to the section is subject to a civil penalty of the greater of $50,000 per violation or twice the value of the violation. A person who intentionally fails to maintain or make available the required books or records also commits a crime subject to a fine under title 18, United States Code, or imprisonment for up to five years, or both. Any organization convicted of an offense under subsections 2339B(i)(1) or (3) shall forfeit any charitable designation it might have received under the Internal Revenue Code.

Subsection 2339B(j)(1) gives the Attorney General the right to seek an injunction to block any violation of section 2339B. An injunctive proceeding is normally governed by the Federal Rules of Civil Procedure, but if the respondent is under indictment, discovery is to be governed by the Federal Rules of Criminal Procedure.

Subsection 2339B(k) states that there is extra territorial jurisdiction over activity prohibited by section 2339B which is conducted outside the United States. This insures that foreign persons outside the United States are covered by this statute if they aid, assist, counsel, command, induce or procure, or conspire with, persons within the United States or persons subject to the jurisdiction of the United States anywhere in the world to violate the fund-raising prohibition (18 U.S.C. 2339B, 2, and 371).

Subsection 2339B(1) sets forth a special process to protect classified information when the government is the plaintiff in civil proceedings to enforce section 2339B.

Subsection 2339B(m) sets forth the definitions of "classified information," "financial institution," "funds," "national security," "person," and "United States." Funds are defined to include all currency, coin, and any negotiable or registered security that can be used as a method of transferring money.

Subsection 301(c) further amends section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) to include leaders of any terrorist organization designated under the fund-raising statute (18 U.S.C. 2339B) as aliens deemed to be excludable under the immigration laws.

Subsection 301(d) makes the special classified information provisions of 18 U.S.C. 2339B(k) applicable to similar civil proceedings under the International Emergency Economic Powers Act (50 U.S.C. 1701 et. seq.).

SECTION 401

This section states that title IV may be cited as the "Marking of Plastic Explosives for Detection Act."

SECTION 402

This section sets forth the congressional findings concerning the criminal use of plastic explosives and the prevention of such use through the marking of plastic explosives for the purpose of detection. This section also states that the purpose of the legislation is to implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991 (the Convention).

SECTION 403

This section sets forth three new definitions for 18 U.S.C. 841. It amends 18 U.S.C. 841 by adding a new subsection (o) which defines the term "Convention on the Marking of Plastic Explosives." The definition provides the full title of the Convention, "Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991." The definition eliminates the need to repeat the full title of the Convention each time it is used in the bill.

Section 403 also amends section 841 by adding a new subsection (p) which defines the term "detection agent." The term has been defined to include four specified chemical substances and any other substance specified by the Secretary of the Treasury by regulation. The four specified chemical substances, ethylene glycol dinitrate (EDGN), 2, 3-dimethyl-2-3-dinitrobutane (DMNB), paramononitrotoluene (p-MNT), and orthomononitrotoluene (o-MNT), are in Part 2 of the Technical Annex to the Convention. The required minimum concentration of the four substances in the finished plastic explosives was also taken from the Technical Annex. The definition of "detection agent" has been drafted to require that the particular substance be introduced into a plastic explosive in such a manner as to achieve homogeneous distribution in the finished explosive. The purpose of homogeneous distribution is to assure that the detection agent can be detected by vapor detection equipment.

New section 841(p)(5) would permit the Secretary of the Treasury to add other substances to the list of approved detection agents by regulation, in consultation with the Secretaries of State and Defense. Permitting the Secretary to designate detection agents other than the four listed in the statute would facilitate the use of other substances without the need for legislation. Only those substances which have been added to the table in Part 2 of the Technical Annex, pursuant to Articles VI and VII of the Convention, may be designated as approved detection agents under section 841(p)(5). Since the Department of Defense (DOD) is the largest domestic consumer of plastic explosives (over 95 percent of domestic production), it is appropriate that DOD provide guidance to the Treasury Department in approving additional substances as detection agents.

Finally, section 403 adds a new subsection (q) to section 841 which defines the term "plastic explosive." The definition is based on the definition of "explosives" in Article I of the Convention and Part I of the Technical Annex.

SECTION 404

This section adds subsections (l)–(o) to 18 U.S.C. §842 proscribing certain conduct relating to unmarked plastic explosives.

Section 842(l) would make it unlawful for any person to manufacture within the United States any plastic explosive which does not contain a detection agent.

Section 842(m) would make it unlawful for any person to import into the United States or export from the United States any plastic explosive which does not contain a detection agent. However, importations and exportations of plastic explosives imported into or manufactured in the United States prior to the effective date of the Act by Federal law enforcement agencies or the National Guard of any State, or by any person acting on behalf of such entities, would be exempted from this prohibition for a period of 15 years after the Convention is entered into force with respect to the United States. This provision implements Article IV, paragraph 3, of the Convention. Section 842(m) is drafted to specifically include the National Guard of any State and military reserve units within the 15-year exemption.

The purpose of the 15-year exemption is to give the military and Federal law enforcement agencies a period of 15 years to use up the considerable stock of unmarked plastic explosives they now have on hand. This exception would also permit DOD to export its unmarked plastic explosives to United

States forces in other countries during the 15-year period.

Section 842(n)(1) would make it unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent. Section 842(n)(2)(A) would provide an exception to the prohibition of section 842(n)(1) for any plastic explosive which was imported, brought into, or manufactured in the United States prior to the effective date of the Act by any person during a period not exceeding three years after the effective date of the Act. This provision implements Article IV, paragraph 2, of the Convention, and provides an exemption from the prohibitions of section 842(n)(1) for any person, including State and local governmental entities and other Federal agencies, for a period of three years after the effective date of the Act.

Section 842(n)(2)(B) would provide an exception to the prohibition of section 842(n)(1) for any plastic explosive which was imported, brought into, or manufactured in the United States prior to the effective date of the Act by any Federal law enforcement agency or the United States military or by any Federal law enforcement agency or the United States military or by any person acting on behalf of such entities for a period of 15 years after the date of entry into force of the Convention with respect to the United States. This provision implements Article IV, paragraph 3, of the Convention. The provision was drafted to specifically include the National Guard of any State and military reserve units within the 15-year exemption.

Section 842(o) would make it unlawful for any person, other than a Federal agency possessing any plastic explosive on the effective date of the Act, to fail to report to the Secretary of the Treasury within 120 days from the effective date of the Act the quantity of plastic explosive possessed, the manufacturer or importer of the explosive, any identifying markings on the explosive, and any other information as required by regulation. This provision implements Article IV, paragraph 1, of the Convention, which requires each State Party to take all necessary measures to exercise control over the possession and transfer of possession of unmarked explosives which have been manufactured in or imported into its territory prior to the entry into force of the Convention with respect to that State. This provision was drafted to specifically include the National Guard of any State and military reserve units as agencies which are exempt from the reporting requirement.

SECTION 405

This section amends 18 U.S.C. 844(a), which provides penalties for violating certain provisions of 18 U.S.C. 842. The amended section would add sections 842(l)-(o) to the list of offenses punishable by a fine under 18 U.S.C. 3571 of not more than $250,000 in the case of an individual, and $500,000 in the case of an organization, or by imprisonment for not more than 10 years, or both.

SECTION 406

This section amends 18 U.S.C. 845(a)(1), which excepts from the provisions of 18 U.S.C. Chapter 40 any aspect of the transportation of explosive materials regulated by the United States Department of Transportation. The purpose of the amendment is to make it clear that the exception in section 845(a)(1) applies only to those aspects of such transportation relating to safety. This amendment would overcome the effect of the adverse decisions in *United States v. Petrykievicz*, 809 F. Supp. 794 (W.D. Wash. 1992), and *United States v. Illingworth*, 489 F.2d 264 (10th Cir.) 1973). In those cases, the court held that the language of section 845(a)(1) resulted in the defendant's exemption from all the provisions of the chapter, including the requirement of a license or permit to ship, transport, or receive explosives in interstate or foreign commerce.

The list of offenses which are not subject to the exceptions of section 845(a) has also been amended to include the new plastic explosives offenses in sections 842(l)-(m).

Section 406 also adds a new subsection (c) to 18 U.S.C. 845 to provide certain affirmative defenses to the new plastic explosives offenses in sections 842(l)-(o). This provision implements Part 1, paragraph II, of the Technical Annex to the Convention, which relates to exceptions for limited quantities of explosives. The affirmative defenses of 18 U.S.C. 845(c) could be asserted by defendants in criminal prosecutions, persons having an interest in explosive materials seized and forfeited pursuant to 18 U.S.C. 844(c), and persons challenging the revocation or denial of their explosives licenses or permits pursuant to 18 U.S.C. 845(c).

The three affirmative defenses specified in section 845(c)(1) all relate to research, training, and testing, and require that the proponent provide evidence that there was a "small amount" of plastic explosive intended for and utilized solely in the specified activities. The respresentatives to the Conference which resulted in the Convention agreed that the amount of unmarked explosive permitted to be used for these purposes should be "limited," but were unable to agree on a specific quantity. The Secretary of the Treasury may issue regulations defining what quantity of plastic explosives is a "small amount" or may leave it up to the proponent of the affirmative defense to prove that a "small amount" of explosives was imported, manufactured, possessed, etc. The statute is drafted to require that the proponent establish the affirmative defense by a preponderance of the evidence.

Section 845(c)(2) would create another affirmative defense to the plastic explosives offenses, which implements Article IV of the Convention, and Part I, Paragraph II(d), of the Technical Annex. This provision would require that proponent to prove, by a preponderance of the evidence, that the plastic explosive was, within three years after the date of entry into force of the Convention with respect to the United States, incorporated in a military device that is intended to become or has become the property of any Federal military or law enforcement agency. Furthermore, the proponent must prove that the plastic explosive has remained an integral part of the military device for the exemption to apply. This requirement would discourage the removal of unmarked plastic explosives from bombs, mines, and other military devices manufactured for the United States military during the three year period. The provision was drafted to specifically include the National Guard of any State and military reserve units within the exemption. The term "military device" has been defined in accordance with the definition of that term in Article I of the Convention.

Requiring that the exceptions of section 845(c) be established as an affirmative defense would facilitate the prosecution of violations of the new plastic explosive provisions by terrorists and other dangerous criminals in that the Government would not have to bear the difficult, if not impossible, burden of proving that the explosives were not used in one of the research, training, testing, or military device exceptions specified in the statute. The proponent of the affirmative defense would be in the best position to establish the existence of one of the exceptions.

The approach taken in section 845(c) is patterned after the affirmative defense provision in 18 U.S.C. 176 and 177, relating to the use of biological weapons.

SECTION 407

This section provides the Attorney General investigative authority over new subsections (m) and (n) of section 842, relating to the importation, exportation, shipping, transferring, receipt or possession of unmarked plastic explosives, when such provisions are violated by terrorist/revolutionary groups or individuals. This authority is consistent with the existing March 1, 1973, memorandum of understanding on the investigation of explosives violations between the Departments of Justice and the Treasury and the United States Postal Service. The section also makes it clear that, consistent with current national policy, the Federal Bureau of Investigation (FBI) is the lead Federal agency for investigating all violations of Federal law involving terrorism when the FBI has been given by statute or regulation investigative authority over the relevant offense. See 28 U.S.C. 523 and 28 C.F.R. 0.85(1).

SECTION 408

This section provides that the amendments made by title IV shall take effect one year after the date of enactment. The one year delay should be adequate for manufacturers to obtain sources of one of the specified detection agents and to reformulate the plastic explosives they manufacture to include a detection agent.

SECTION 501

Section 501 expands the scope and jurisdictional bases under 18 U.S.C. 831 (prohibited transactions involving nuclear materials). It is an effort to modify current law to deal with the increased risk stemming from the destruction of certain nuclear weapons that were once in the arsenal of the former Soviet Union and the lessening of security controls over peaceful nuclear materials in the former Soviet Union. Among other things, the bill expands the definition of nuclear materials to include those materials which are less than weapons grade but are dangerous to human life and/or the environment. It also expands the jurisdictional bases to reach all situations where a U.S. national or corporation is the victim or perpetrator of an offense. The bill expressly covers those situations where a threat to do some form of prohibited activity is directed at the United States Government.

Subsection 501(a)(1) sets forth a series of findings. Subsection 501(a)(2) sets forth the purpose.

Subsection 501(b) makes many technical changes to section 831 of title 18, United States Code. The ones of substance are:

(1) Paragraph (1) adds "nuclear byproduct material" to the scope of subsection 831(a).

(2) Paragraph (2) ensures coverage of situations under subsection 831(a)(1)(A) where there is substantial damage to the environment.

(3) Paragraph (3) rewrites subsection 831(a)(1)(B) in the following ways:

(A) drops the requirement that the defendant "know" that circumstances exist which are dangerous to life or property. If such circumstances are created through the intentional actions of the defendant, criminal sanctions are appropriate due to the inherently dangerous nature of nuclear material and the extraordinary risk of harm created.

(B) adds substantial damage to the environment; and

(C) adds language (i.e., "such circumstances are represented to the defendant to exist") to cover the situation of sales by undercover law enforcement to prospective buyers of materials purported to be nuclear materials. This is comparable to the new 18 U.S.C. 21 created by section 320910 of Pub. L. 103-322 for undercover operations.

(4) Paragraph (4) expands the threat provision of subsection 831(a)(6) to cover threats to do substantial damage to the environment.

(5) Paragraph (5) expands the jurisdiction in subsection 831(c)(2) beyond those situations where the offender is a United States national. As revised, it includes all situations, anywhere in the world where a United States national is the victim of an offense or where the perpetrator or victim of the offense is a "United States corporation or other legal entity."

(6) Paragraph (6) drops the requirement in subsection 831(c)(3) that the nuclear material be for "peaceful purposes", i.e., non-military, and that it be in use, storage, or transport. Hence, the provision now reaches any alien who commits an offense under subsection 831(a) overseas and is subsequently found in the United States. Of course, if the target of the offense was a U.S. national or corporation or the U.S. Government there would be jurisdiction of the offense under another provision cf subsection 831(c), even when the perpetrator is still overseas. The activities prohibited by subsection 831(a) are so serious that all civilized nations have recognized their obligations to confront this growing problem because of its inherent dangerousness.

(7) Paragraph (8) deletes the requirement for subsection 831(c)(4) that the nuclear materials being shipped to or from the United States be for peaceful purposes. Hence, military nuclear materials are now encompassed under subsection 831(c)(4). It also adds nuclear byproduct material to the provision.

(8) Paragraph (10) adds a new paragraph (5) to subsection 831(c) to ensure that there is federal jurisdiction when the governmental entity being threatened under subsection 831(a)(5) is the United States and when the threat under subsection 831(a)(6) is directed at the United States.

(9) Paragraph (11) deletes an outmoded requirement, so that all plutonium is now covered.

(10) Paragraph (14) adds "nuclear byproduct material" to the definitions as a new subsection 831(f)(2). Nuclear byproduct material means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator. This will extend the prohibitions of this statute to materials that are not capable of creating a nuclear explosion, but which, nevertheless, could be used to create a radioactive dispersal device capable of spreading highly dangerous radioactive material throughout an area.

(11) Paragraph (17) adds to subsection 831(f) the definitions for the terms "national of the United States" and "United States corporation or other legal entity."

SECTION 601

This section deletes subsection (c) of the material support statute (18 U.S.C. 2339A(c)) enacted as part of the 1994 crime bill (Pub. L. 103-322). It would also correct erroneous statutory references and typographical errors (i.e., changes "36" to "37," "2331" to "2332," "2339" to "2332a," and "of an escape" to "or an escape").

Subsection 2339A(c) of title 18, United States Code, imposes an unprecedented and impractical burden on law enforcement concerning the initiation and continuation of criminal investigations under 18 U.S.C. 2339A. Specifically, subsection (c) provides that the government may not initiate or continue an investigation under this statute unless the existing facts reasonably indicate that the target knowingly and intentionally has engaged, is engaged, or will engage in a violation of federal criminal law. In other words, the government must have facts that reasonably indicate each element of the offense before it even initiates (or continues) an investigation. The normal investigative practice is that the government obtains evidence which indicates that a violation may exist if certain other elements of the offense, particularly the knowledge or intent elements, are also present. The government then seeks to obtain evidence which establishes or negates the existence of the other elements. If such evidence is found to exist, the investigation continues to obtain the necessary evidence to prove its case beyond a reasonable doubt on every element.

As drafted, however, subsection (c) reverses the natural flow of a criminal investigation. It is an impediment to the effective use of section 2339A. Moreover, the provision would generate unproductive litigation which would only serve to delay the prosecution of any offender, drain limited investigative and prosecutive resources, and hinder efforts to thwart terrorism. It is the position of the Department of Justice that the investigative guidelines issued by the Attorney General adequately protect individual rights while providing for effective law enforcement.

Section 601 deletes subsection (c) retroactive to September 13, 1994, the date that the 1994 crime bill was signed into law. Since subsection (c) is procedural in nature, the retroactive nature of the proposed deletion does not pose a constitutional problem. It should suffice, however, to preclude a defendant from availing himself of subsection (c) in the event that the conduct charged in a subsequent indictment arose between September 13, 1994, and the enactment of section 601.

Section 102(c) of this Act also proposes to broaden the scope of the material support statute by incorporating, as one of the predicate offenses, the proposed statute relating to conspiracies within the United States to commit terrorist acts abroad.

SECTION 602

This section would add coverage for threats to the weapons of mass destruction statute (18 U.S.C. 2332a). The offense of using a weapon of mass destruction (or attempting or conspiring to use such a weapon) was created by section 60023 of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322). However, no threat offense was included. A threat to use such a weapon is a foreseeable tactic to be employed by a terrorist group. Further, it could necessitate a serious and costly government response, e.g. efforts to eliminate the threat, evacuation of a city or facility, etc. Accordingly, it seems clearly appropriate to make threatening to use a weapon of mass destruction a federal offense.

This section amends subsection (a) to include threats among the proscribed offenders. Further, it redesignates subsection (b) of section 2332a as subsection (c) and provides a new subsection (b). The new subsection (b) ensures jurisdiction when a national of the United States outside the United States is the perpetrator of the threat offense.

SECTION 603

Section 603 adds to the Racketeer Influenced and Corrupt Organizations (RICO) statute certain federal violent crimes relating to murder and destruction of property. These are the offenses most often committed by terrorists. Many violent crimes committed within the United States are encompassed as predicate acts for the RICO statute. However, RICO does not presently reach most terrorist acts directed against United States interests overseas. Hence, this section adds to RICO extraterritorial terrorism violations. When an organization commits a series of terrorist acts, a RICO theory of prosecution may be the optimal means of proceeding.

The offenses being added to as predicate acts to RICO are: 18 U.S.C. 32 (relating to the destruction of aircraft), 37 (relating to violence at international airports), 115 (relating to influencing, impeding or retaliating against a federal official by threatening or injuring a family member) 351 (relating to Congressional or Cabinet officer assassination), 831 (relating to prohibited transactions involving nuclear materials as amended by section 501 of this bill), 844 (f) or (i) (relating to destruction by explosives or fire of government property or property affecting interstate or foreign commerce), 956 (relating to conspiracy to kill, kidnap, maim or injure property certain property in a foreign country as amended by section 102 of this bill), 1111 (relating to murder), 1114 (relating to murder of United States law enforcement officials), 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to willful injury of government property), 1363 (relating to destruction of property within the special maritime and territorial jurisdiction), 1751 (relating to Presidential assassination), 2280 (relating to violence against maritime navigation as amended by section 606 of this bill), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to terrorist acts abroad against United States (nationals), 2332a (relating to use of weapons of mass destruction as amended by section 602 of this bill), 2332b (relating to acts of terrorism transcending national boundaries created by section 101 of this bill), and 2339A (relating to providing material support to terrorists as amended by sections 102(c) and 601 of this bill), and 49 U.S.C. 46502 (relating to aircraft piracy).

SECTION 604

18 U.S.C. 1956(a)(2)(A) makes it a felony to transfer funds from the United States to a place outside the United States if the transfer is done with the intent to promote the carrying on of "specified unlawful activity." The term "specified unlawful activity" is defined in section 1956(c)(7)(B) to include an offense against a foreign nation involving kidnapping, robbery, or extortion as well as certain offenses involving controlled substances and fraud by or against a foreign bank. It does not, however, include murder or the destruction of property by means of explosive or fire.

In recent investigations of international terrorist organizations, it has been discovered that certain of these organizations collect money in the United States and then transfer the money outside the United States for use in connection with acts of terrorism which may involve murder or destruction of property in foreign nations.

In order to prevent terrorist organizations from collecting money inside the United States which is used to finance murders and destruction of property, subsection (a) would add "murder and destruction of property by explosive or fire" to the list of specified unlawful activity in section 1956(c)(7)(B)(ii). This amendment would also apply to cases where the proceeds of any such murder or property destruction would be laundered in the United States.

Subsection (b) would add to the definitions of "specified unlawful activity" in section 1956(c)(7)(D) of title 18, United States Code, those violent federal offenses most likely to be violated by terrorists overseas. Hence, if during the course of perpetrating these violent offenses the terrorists transferred funds in interstate or foreign commerce to promote the carrying on of any of these offenses, they would also violate the money laundering statute. The offenses added are the same as those added to the RICO statute by section 603 of this bill, except for 18 U.S.C. 1203 (relating to hostage taking) which is already contained as a money laundering predicate. It should be noted that if section 603 of this bill is enacted, subsection 604(b) need not be enacted because any offense which is included as a RICO predicate is automatically a predicate also under the money laundering statute.

SECTION 605

This section would add a number of terrorism-related offenses to 18 U.S.C. 2516, thereby permitting court-authorized interception of wire, oral, and electronic communications when the rigorous requirements of chapter 119 (including section 2516) are met. Presently, section 2516 contains a long list of felony offenses for which electronic surveillance is authorized. The list has grown periodically since the initial enactment of the section in 1968. As a result, coverage of terrorism-related offenses is not comprehensive. Section 2516 already includes such offenses as hostage taking under 18 U.S.C. 1203, train wrecking under 18 U.S.C. 1992, and sabotage of nuclear facilities or fuel under 42 U.S.C. 2284.

The instant proposal would add 18 U.S.C. 956, as amended by section 103 of this bill, and 960 (proscribing conspiracies to harm people or damage certain property of a foreign nation with which the United States is not at war and organizing or participating in from within the United States an expedition against a friendly nation), 49 U.S.C. 46502 (relating to aircraft piracy), and 18 U.S.C. 2332 (relating to killing United States nationals abroad with intent to coerce the government or a civilian population). It would also add 18 U.S.C. 2332a (relating to offenses involving weapons of mass destruction), 18 U.S.C. 2332b (relating to acts of terrorism transcending national boundaries, which offense is created by section 101 of this bill), 18 U.S.C. 2339A (relating to providing material support to terrorists), and 18 U.S.C. 37 (relating to violence at airports).

Terrorism offenses frequently require the use of court-authorized electronic surveillance techniques because of the clandestine and violent nature of the groups that commit such crimes. Adding the proposed predicate offenses to 18 U.S.C. 2516 would therefore facilitate the ability of law enforcement successfully to investigate, and sometimes prevent, such offenses in the future.

SECTION 606

In considering legislative proposals which were incorporated into the 1994 crime bill (Pub. L. 103-322), Congress altered the Department's proposed formulation of the jurisdictional provisions of the Maritime Violence legislation, the Violence Against Maritime Fixed Platforms legislation, and Violence at International Airports legislation, because of a concern over possible federal coverage of violence stemming from labor disputes. The altered language created uncertainties which were brought to the attention of Congress. Subsequently, the labor violence concern was addressed by adoption of the bar to prosecution contained in 18 U.S.C. 37(c), 2280(c) and 2281(c). With the adoption of this bar, the sections were to revert to their original wording, as submitted by the Department of Justice. While sections 37 and 2281 were properly corrected, the disturbing altered language was inadvertently left in section 2280.

Consequently, as clauses (ii) and (iii) of subsection 2280(b)(1)(A) of title 18, United States Code, are presently written, there would be no federal jurisdiction over a prohibited act within the United States by anyone (alien of citizen) if there was a state crime, regardless of whether the state crime is a felony. Moreover, the Maritime Convention mandated that the United States assert jurisdiction when a United States national does a prohibited act anywhere against any covered ship. Limiting jurisdiction over prohibited acts committed by United States nationals to those directed against only foreign ships and ships outside the United States does not fulfill our treaty responsibilities to guard against all wrongful conduct by our own nationals.

Moreover, as presently drafted, there is no federal jurisdiction over alien attacks against foreign vessels within the United States, except in the unlikely situation that no state crime is involved. This is a potentially serious gap. Finally, until the federal criminal jurisdiction over the expanded portion of the territorial sea of the United States is clarified, there remains some doubt about federal criminal jurisdiction over aliens committing prohibited acts against foreign vessels in the expanded portion of the territorial sea of the United States (*i.e.*, from 3 to 12 nautical miles out). Consequently, striking the limiting phrases in clauses (ii) and (iii) ensures federal jurisdiction, unless the bar to prosecution under subsection 2280(c) relating to labor disputes is applicable, in all situations that are required by the Maritime Convention.

SECTION 607

This section expands federal jurisdiction over certain bomb threats or hoaxes. Presently, 18 U.S.C. 844(e), covers threats to damage by fire or explosive property protected by 18 U.S.C. 844(f) or (i), if the United States mails, the telephone or some other instrument of commerce is used to convey the threat or the false information. Section 607 removes any jurisdictional nexus for the means used to convey the threat or false information. A sufficient jurisdictional nexus is contained in the targeted property itself, *i.e.*, the property (1) belongs to the United States Government, (2) is owned by an organization receiving federal funds, or (3) is used in or affects interstate or foreign commerce. The threat provision has also been drafted to cover a threat to commit an arson in violation of 18 U.S.C. 81 against property located in the special maritime and territorial jurisdiction of the United States.

SECTION 608

This section would amend the explosives chapter of title 18 to provide generally that a conspiracy to commit an offense under that chapter is punishable by the same maximum term as that applicable to the substantive offense that was the object of the conspiracy. In contrast, the general conspiracy statute, 18 U.S.C. 371, provides for a maximum of five years imprisonment. This provision accords with several recent Congressional enactments, including 21 U.S.C. 846 (applicable to drug conspiracies) and 18 U.S.C. 1956(h) (applicable to money laundering conspiracies). See also section 320105 of Pub. Law 103-322, which raised the penalty for the offense of conspiracy to travel interstate with intent to commit murder for hire (18 U.S.C. 1958). This trend in federal law, which is emulated in the penal codes of many States, recognizes that, as the Supreme Court has observed, "collective criminal agreement—partnership in crime—presents a greater potential threat to the public than individual delicts." *Callanan* v. *United States, 364 U.S. 587, 593 (1961);* accord *United States* v. *Feola*, 420 U.S. 671, 693-4 (1975).

Section 608 includes the introductory phrase "[e]xcept as provided in this section" in order to take account of one area where a different maximum penalty will apply. Section 110518(b) of Pub. Law 103-322 enacted a special twenty-year maximum prison penalty (18 U.S.C. 844(m)) for conspiracies to violate 18 U.S.C. 844(h), which prohibits using an explosive to commit certain crimes and which carries a mandatory five-year prison term for the completed crime. Like section 844(m), the proposed amendment exempts the penalty of death for a conspiracy offense.

SECTION 609

Section 609 would cure an anomaly in 18 U.S.C. 115. The statute presently punishes violent crimes against the immediate families of certain former federal officials and law enforcement officers (including prosecutors) in retaliation for acts undertaken while the former official was in office. However, the former official is not protected against such crimes. Federal investigators, prosecutors, and judges who are involved in terrorism cases are often the subject of death threats. The danger posed to the safety of such officers does not necessarily abate when they leave government service. Former United States officials should be protected by federal law against retaliation directed at the past performance of their official duties. Section 609 would provide such protection.

SECTION 610

The changes made by this section are similar to that made by section 608 for explosives conspiracies.

This section adds "conspiracy" to several offenses likely to be committed by terrorists. Conspiracy is added to the offense itself to ensure that coconspirators are subject to the same penalty applicable to those perpetrators who attempt or complete the offense. Presently, the maximum possible imprisonment provided under the general conspiracy statute, 18 U.S.C. 371, is only five years. The offenses for which conspiracy is being added are: 18 U.S.C. 32 (destruction of aircraft), 37 (violence at airports serving international civil aviation), 115 (certain violent crimes against former federal officials, added by section 609, and family members of current or former federal officials), 175 (prohibitions with respect to biological weapons), 1203 (hostage taking), 2280 (violence against maritime navigation), and 2281 (violence against maritime fixed platforms), and 49 U.S.C. 46502 (relating to aircraft piracy).

SECTION 701

This section sets forth the congressional findings for title VII

SECTION 702

Amending subsection 573(d) of chapter 8 of the Foreign Assistance Act of 1961 (22 U.S.C.

2349aa2) would allow more flexibility and efficiency in the Department of State's Antiterrorism Training Assistance (ATA) program by permitting more courses to be taught overseas and allowing for instructors to teach overseas for up to 180 days. Current law allows training overseas for only certain specified types of courses and only for up to 30 days. Deleting subsection (f) of section 573 would allow for some personnel expenses for administering the ATA program to be met through the foreign aid appropriation. Currently, all such costs are paid from the Department of State's Salaries and Expenses account.•

• Mr. SPECTER. Mr. President, as chairman of the Intelligence Committee and the Judiciary Committee's Subcommittee on Terrorism, Technology and Government Information, I am pleased to join with the distinguished ranking member of the Judiciary Committee, Senator BIDEN, the ranking member of the Terrorism Subcommittee, Senator KOHL, the chairman of the Banking Committee, who has a long history of involvement on counter-terrorism activities, Senator D'AMATO, and the ranking member of the Intelligence Committee, Senator KERREY, in introducing the Omnibus Counter-Terrorism Act of 1995. I note that this bipartisan measure was drafted by the Justice and State Departments, and I appreciate their input and actions in support of this bill.

I have been actively involved in the fight against international terrorism for many years. In 1986, I introduced the law that made it a crime to commit an act of terrorism against a U.S. citizen in a foreign country. I also introduced a bill to provide the death penalty for terrorism murderers of U.S. citizens. A terrorist death penalty was finally enacted in 1994 as part of the crime bill.

This bill provides a next, but overdue step. It would, for the first time, make an act of international terrorism committed in this country a violation of Federal law and provide severe punishment, including the death penalty in the case of terrorist murders, against those who would commit acts of violence against people in the United States for political purposes. The legislation will also strengthen the hand of U.S. authorities to attack international terrorists by making illegal conspiracies to plan overseas terrorist acts in this country.

A second vital component of the legislation will make it easier to deport suspected terrorists from the United States. The current procedures of the Immigration and Nationality Act are cumbersome. The procedures outlined in this bill will expedite such deportations. Although I believe we need to study this issue, I am concerned about the due process implications of some of the special procedures that permit secret proceedings. I think the subcommittee will need to hold hearings on this issue and review it very carefully in order to ensure we strike the right balance between our national security needs and the requirements of the Constitution.

The third component of this comprehensive bill will be a restriction on fundraising for international terrorist groups in the United States. While international organizations will still be able to raise funds in the United States for charitable purposes, any fundraising in this country for an organization determined by the President to be engaged in conducting or supporting international terrorism will be barred. Again, we will need to take a very close look at this provision to ensure that it comports with the requirements of the first amendment.

Another important element of this bill is the implementation of the Montreal convention on the marking of plastic explosives to improve detectability. This important international agreement will make it easier to detect plastic explosives to avert tragedies like the bombing of Pan Am flight 103 over Lockerbie.

This legislation will provide additional weapons in our Nation's battle against international terrorism and on behalf of democracy throughout the world. I again wish to thank the administration for its work on the bill and the cosponsors. I urge all Members of the Senate to join with us in supporting this bill and to see to it that this bill is enacted promptly.•

• Mr. KOHL. Mr. President, one need only read the cruel and tragic litany of terrorist incidents detailed in the first few pages of the bill we introduce today, to appreciate the need for—and importance of—this measure.

Though Americans are less at risk of terrorist attack than citizens of other countries, we are not immune, and we never will be, so long as we are a democracy with open borders. The concrete barriers now gracing the entrances to the World Trade Center—and to this very building—are a stark reminder of this reality.

And as a matter of both national security and morality, we cannot ignore the fact that terrorists who strike outside our borders, seek—and receive—aid and comfort within them.

This is simply intolerable. Free and open societies should not be free and open to movements and organizations that facilitate terror and wanton violence—whether in our communities, or across the world.

In the past, the Federal Government has vigorously joined the battle against terrorism. But there is clearly more to be done if we are to unite with civilized countries throughout the world to protect each other and our citizens from those who obey no law.

The legislation we introduce today, crafted by President Clinton, is a crucial next step in bolstering our commitment to fight international terror and politically-motivated violence.

The Omnibus Counter-Terrorism Act contains a number of important provisions. It creates a comprehensive Federal antiterrorism statute with stiff penalties. It clarifies that U.S. antiterrorism laws apply to each and every attack against U.S. nationals, regardless of where in the world an attack occurs.

This bill also solidifies the President's authority to shut down the fundraising activities of terrorist organizations on U.S. soil. And it creates a new mechanism that will facilitate the expulsion of aliens currently in the United States who are, or have, engaged in terrorist activities.

Let me close by noting that the sponsors of this bill are aware that any effort to crack down on terrorism must be sensitive to civil liberties concerns. And we must also be mindful of ethnic communities that may be affected if this legislation were implemented without due care and consideration.

I know that the Department of Justice has tried to keep these concerns in mind in drafting the bill we introduce today. And we stand ready to continue a discussion on this subject to ensure that our fight against terrorism is prosecuted fairly and judiciously.•

Mr. D'AMATO. Mr. President, I rise today to comment on the introduction of the Omnibus Counter-Terrorism Act of 1995. I am pleased to be an original cosponsor of this legislation along with Senators BIDEN, KOHL, SPECTER, and KERREY.

Mr. President, what we are seeing today is an exponential increase in violence across the globe. Acts that were once thought to be implausible are becoming commonplace. We witnessed the bombing of the World Trade Center 2 years ago. What we saw there was something that no sane person could imagine. Unfortunately, six people were killed and over 1,000 were injured. Thankfully, more were not killed and due to quick police work the perpetrators of this horrible act were quickly apprehended. Additionally, special recognition must go out to those responsible for the arrest of Ramzi Yousef, the alleged mastermind of the operation, in Pakistan just this week.

We must prevent another World Trade Center-like operation from taking place. We can no longer rely on luck. The bill we are introducing today will close loopholes and shore up jurisdiction problems and allow us to get our hands on these murdering terrorists before they get a chance to act and if need be, to grab them overseas. It offers us essential legal tools such as the RICO statute and wiretapping capabilities to stop terrorism in its tracks.

If we wish to fight terrorism, we must have the right tools. This bill is a great beginning and will help us to gain the upper hand.

I am pleased to be joining my colleagues in introducing this legislation and I urge my other colleagues in the Senate to join us in supporting this important legislation.

By Mr. GLENN (for himself and Mr. DEWINE):

S. 392. A bill to amend the Dayton Aviation Heritage Preservation Act of 1992 with regard to appointment of members of the Dayton Aviation Heritage Commission, and for other purposes; to the Committee on Energy and Natural Resources.

THE DAYTON AVIATION HERITAGE PRESERVATION ACT

• Mr. GLENN. Mr. President, on behalf of myself and Senator DEWINE, I would like to introduce legislation to correct a concern that was raised after the passage of the Dayton Aviation Heritage Preservation Act, establishing a national park to preserve historic sites in Dayton, OH, that are associated with the Wright brothers and the early development of aviation.

Public Law 102-419 required that members of a commission established by the act to assist in preserving and managing the park would be appointed by the Secretary of the Interior from recommendations made by certain local and State officials. Concerns were raised that the language of the act may not be in accordance with the appointments clause of the Constitution.

The legislation that I am introducing today addresses that concern and provides that the Secretary will appoint the Commission after consideration of recommendations made by those public officials. I hope that the Senate committee will consider this legislation expeditiously so that the Commission can undertake its full responsibilities.•

By Mrs. BOXER:

S. 393. A bill to prohibit the Secretary of Agriculture from transferring any National Forest System lands in the Angeles National Forest in California out of Federal ownership for use as a solid waste landfill; to the Committee on Energy and Natural Resources.

TRANSFERS OF NATIONAL FOREST LAND FOR LANDFILL CONSTRUCTION

• Mrs. BOXER. Mr. President, I am pleased today to introduce a bill to prohibit the Forest Service from transferring land in the Angeles National Forest for the purposes of constructing a landfill.

Three times in the past 25 years the Forest Service has studied the possibility of transferring land in Elsmere Canyon to a private company that wants to build a 190-million-ton landfill on the site. The landfill would destroy the canyon, 1,600 acres of resource rich, publicly owned land held in trust by the National Forest Service.

The proposed landfill would sit atop the aquifer that serves the entire Santa Clarita Valley, posing a considerable risk of contamination to this critical water supply.

Elsmere Canyon is a major wildlife corridor connecting the San Gabriel and Santa Monica Mountains. This corridor serves the needs of deer, bear, and cougars. If the connection were destroyed, many of these animals would end up in residential areas threatening both the animals and local residents.

It is clear that this national forest property is far too valuable to be transferred for the purpose of constructing a landfill. We must also be concerned about establishing a precedent of using national forest lands for this purpose when realistic alternatives exist. It is particularly difficult to justify the loss of this resource in a region with limited open space and recreational facilities.

To its credit, the Forest Service has denied each of the requests that have been made for the transfer of Elsmere Canyon. But the economic and political pressure remains. This bill, introduced in the House by Congress BUCK MCKEON with the support of many of his Republican and Democratic colleagues, takes the landfill option off the table. It takes a strong position in favor of Forest Service management that places the public good before private profit.

I hope my colleagues in the Senate will give this bill their early and favorable consideration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF CERTAIN TRANSFERS OF NATIONAL FOREST LANDS.

(a) PROHIBITION.—The Secretary of Agriculture shall not transfer (by exchange or otherwise) any land owned by the United States and managed by the Secretary as part of the Angeles National Forest to any person unless the instrument of conveyance contains a restriction, enforceable by the Secretary, on the future use of the land prohibiting the use of any portion of the land as a solid waste landfill.

(b) ENFORCEMENT.—The Secretary shall act to enforce a restriction described in subsection (a) as soon as possible when and if violation of the restriction occurs.•

By Mr. D'AMATO;

S. 394. A bill to clarify the liability of banking and lending agencies, lenders, and fiduciaries, and for other purposes; to the Committee on Environment and Public Works.

ASSET CONSERVATION, LENDER LIABILITY, AND DEPOSIT INSURANCE PROTECTION ACT

• Mr. D'AMATO. Mr. President, I am today introducing the Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1995. This bill addresses an urgent issue facing America's banks and lenders today—the imposition of massive liability for the cleanup of property they hold as security interest on a loan, or as the technical owner under a leveraged lease, that is later discovered to be contaminated.

Mr. President, court decisions have eviscerated the "secured creditor exception" currently contained in CERCLA, or as it is more commonly known, the Superfund law. Some courts have scrutinized the oversight activities of creditors, and deemed them responsible for cleanup costs. For instance, the Eleventh Circuit Court of Appeals deemed a secured creditor liable because it exercised authority over the contaminated property "sufficiently broad to support the inference that it could affect hazardous waste disposal decisions if it chose." As a result, lenders risk being targeted as convenient deep pockets, and being forced to foot the cleanup bill for contamination, not because they caused it or did not take precautions, but simply because they hold a security interest or have some other technical indicia of ownership.

Mr. President, this bill will not permit lenders to evade responsibility if they cause environmental contamination. But lenders should not be held liable merely because of their deep pockets. The imposition of culpability based on legal dictates of commercial or fiduciary law is wrong. And, the implications of this legal doctrine extend beyond the finance industry. Why? Because the so-called deep pockets in the banking and finance industries are not bottomless pits. And the ultimate losers in this scheme are not the lenders, but potential borrowers, especially small businesses, who may face liability. Lenders are reluctant to extend credit and face potential liability. Many small businesses and potential homeowners do not receive financing because of potential claims. Without access to credit small businesses can not get off the ground or grow. So, in the final analysis, the victims are economic growth and job creation.

Mr. President, the refinements embodied in this bill are not new. The Senate passed similar legislation in 1991 as part of S. 543, the Federal Deposit Insurance Corporation Improvement Act. The Senate approved a lender liability amendment to the Federal Housing Enterprises Regulatory Reform Act of 1992. Last year, the Banking and Environment Committees worked together and crafted language for inclusion in the Superfund reauthorization bill. This bill is modeled on final language form that bill, with several adjustments. Most significantly, this bill would clarify lender liability rules not only with respect to Superfund, but also with respect to the underground tank provisions of the Solid Waste Disposal Act.

This bill will make clear the potential liability that lenders, acting in their capacity as secured creditors, lessors, or fiduciaries, face for contamination. Lender liability will be limited to the net gain that the lender realizes from the sale of property. Fiduciary liability may not exceed the assets held in that fiduciary capacity. This bill also addresses the liability problems that the FDIC, RTC, and other banking agencies face when they close a financial institution and take over the assets of the failed institution. If these assets include contaminated property acquired through foreclosure, the agency may assume liability for contamination for which it is not responsible. Finally, the bill provides clarity as to when creditors will be deemed to be owners or operators of contaminated property, and excludes federally appointed receivers and conservators, including Federal agencies acting in this capacity, from the definition of owner or operator.

Mr. President, the time has come to make it clear that innocent banks and lenders should not face liability for environmental contamination because they make a loan or protect their security interest. In light of the Supreme Court's denial of certiorari in Kelly versus Environmental Protection Agency, the EPA's ability to effectively address this problem is limited. Congressional action is needed. The Senate has an ambitious agenda set out for this Congress; an agenda that includes regulatory relief and litigation reforms. This bill is consistent with this initiative for economic growth. I offer this bill in the hopes of furthering the process of reform.•

ADDITIONAL COSPONSORS

S. 228

At the request of Mr. BRYAN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 228, a bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress and congressional employees for retirement purposes.

S. 248

At the request of Mr. GREGG, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 248, a bill to delay the required implementation date for enhanced vehicle inspection and maintenance programs under the Clean Air Act and to require the Administrator of the Environmental Protection Agency to reissue the regulations relating to the programs, and for other purposes.

S. 252

At the request of Mr. LOTT, the names of the Senator from South Carolina [Mr. THURMOND], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 252, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 254

At the request of Mr. LOTT, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 256

At the request of Mr. DOLE, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 257

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 257, a bill to amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea.

S. 258

At the request of Mr. PRYOR, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 258, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 381

At the request of Mr. HELMS, the names of the Senator from Arizona [Mr. KYL], the Senator from Wyoming [Mr. THOMAS], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 381, a bill to strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate of Friday February 10, 1995, at 9 a.m. to hold a hearing on "A Review of the National Drug Control Strategy."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet for a hearing on the future of the Small Business Administration, during the session of the Senate on Friday, February 10, 1995, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CANCER RESEARCH

• Mr. GORTON. Mr. President, I have always been a strong proponent of Federal funding for cancer research. As a member of the Labor, Health, and Human Services and Education Appropriations Subcommittee since 1991, I have continually made cancer research one of my highest priorities.

One form of this disease, breast cancer, will affect one in eight women and will kill 46,000 Americans this year alone. Whether you have had a sister, a mother, a spouse, or a friend who has been directly affected by breast cancer, the fear of this disease is instilled in all women.

Conventional treatment for this type of cancer includes surgery, chemotherapy, radiation, and bone-marrow transplants.

With this in mind, I am delighted to share with my colleagues the great strides researchers are making at the University of Washington. The scientists in Seattle have been working on a whole new approach to stopping breast cancer—the use of a vaccine.

The vaccine, which has been under development for more than 3 years, is designed to stop the disease from recurring in many patients who have already been diagnosed and treated.

The research is being financed by a $765,000 grant from the National Institutes of Health and $145,000 from the Boeing Co. The vaccine is now being refined in laboratory animals and the researchers hope to conduct human tests this year.

I am proud of the wonderful work that is being done in Seattle, and throughout the whole country, where research is being conducted daily. With the great technological and research advances our society is experiencing, I am excited to see what innovative therapies tomorrow will bring.•

GREEK INDEPENDENCE DAY

• Mr. SIMON. Mr. President, it is with great pleasure that I am an original cosponsor of a resolution introduced today by the senior Senator from Pennsylvania designating March 25, 1995, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." More than a gesture of friendship and good will, this resolution recognizes the enormous influence Greece and its traditions have had on our Nation.

It is fitting that we honor Greek independence in this Chamber, since the ancient Greeks first created the Athenian Assembly and direct democracy. The Greek word "demokratia" is a compound of "demos," meaning the people and "kratos," meaning power. To the Greeks we owe our most basic concept of democratic government, which our 16th President from Illinois so eloquently referred to in his Gettysburg Address as, "* * * government of the people, by the people, and for the people * * *"

Without Greece, its history, and its democratic traditions, we as a Nation would be lacking a strong foundation. For this inspiration, the people of the United States owe Greece deep gratitude.

This resolution not only honors Greece on its 174th anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire, but also celebrates the historic and close ties between the citizens of Greece and the citizens of the United States. From the Greek philosophical influences on our Founding Fathers, to the neoclassical architecture of our Capitol and many of our State capitols, to Greek support of international struggles against fascism and communism, Greeks through many generations have helped foster and nourish the mutually beneficial ties between Greece and the United States.

I urge other colleagues from the Senate to join in cosponsorship of this worthwhile resolution.•

RULES OF THE COMMITTEE ON VETERANS' AFFAIRS

• Mr. SIMPSON. Mr. President, pursuant to paragraph 2 of rule XXVI, Standing Rules of the Senate, I submit for printing in the CONGRESSIONAL RECORD the Rules of the Committee on Veterans' Affairs for the 104th Congress, as adopted by the committee on February 1, 1995.

The rules follow:

RULES OF PROCEDURE OF THE COMMITTEE ON VETERANS' AFFAIRS

I. MEETINGS

(a) Unless otherwise ordered, the Committee shall meet on the first Wednesday of each month. The Chairman may, upon proper notice, call such additional meetings as he deems necessary.

(b) Except as provided in subparagraphs (b) and (d) of paragraph 5 of rule XXVI of the Standing Rules of the Senate, meetings of the Committee or a Subcommittee shall be open to the public.

(c) The Chairman of the Committee or of a Subcommittee, or the Vice Chairman in the absence of the Chairman, or the Ranking Majority Member present in the absence of the Vice Chairman, shall preside at all meetings.

(d) No meeting of the Committee or any Subcommittee shall be scheduled except by majority vote of the Committee or by authorization of the Chairman of the Committee.

(e) The Committee shall notify the office designated by the Committee on Rules and Administration of the time, place, and purpose of each meeting. In the event such meeting is canceled, the Committee shall immediately notify such designated office.

(f) Written notice of a Committee meeting, accompanied by an agenda enumerating the items of business to be considered, shall be sent to all Committee members at least 72 hours (not counting Saturdays, Sundays, and Federal holidays) in advance of each meeting. In the event that the giving of such 72-hour notice is prevented by unforeseen requirements or Committee business, the Committee staff shall communicate notice by the quickest appropriate means to members or appropriate staff assistants of members and an agenda shall be furnished prior to the meeting.

(g) Subject to the second sentence of this paragraph, it shall not be in order for the Committee to consider any amendment in the first degree proposed to any measure under consideration by the Committee unless a written copy of such amendment has been delivered to each member of the Committee at least 24 hours before the meeting at which the amendment is to be proposed. This paragraph may be waived by a majority vote of the members and shall apply only when 72-hour written notice has been provided in accordance with paragraph (f).

II. QUORUMS

(a) Subject to the provisions of paragraph (b), seven members of the Committee and four members of a Subcommittee shall constitute a quorum for the reporting or approving of any measure or matter or recommendation. Four members of the Committee or Subcommittee shall constitute a quorum for purposes of transacting any other business.

(b) In order to transact any business at a Committee or Subcommittee meeting, at least one member of the minority shall be present. If, at any meeting, business cannot be transacted because of the absence of such a member, the matter shall lay over for a calendar day. If the presence of a minority member is not then obtained, business may be transacted by the appropriate quorum.

(c) One member shall constitute a quorum for the purpose of receiving testimony.

III. VOTING

(a) Votes may be cast by proxy. A proxy may be written or oral, and may be conditioned by personal instructions. A proxy shall be valid only for the day given except that a written proxy may be valid for the period specified therein.

(b) There shall be a complete record kept of all Committee action. Such record shall contain the vote cast by each member of the Committee on any question on which a roll-call vote is requested.

IV. SUBCOMMITTEES

(a) No member of the Committee may serve on more than two Subcommittees. No member of the Committee shall receive assignment to a second Subcommittee until all members of the Committee, in order of seniority, have chosen assignments to one Subcommittee.

(b) The Committee Chairman and the Ranking Minority Member shall be ex officio nonvoting members of each Subcommittee of the Committee.

(c) Subcommittees shall be considered de novo whenever there is a change in Committee Chairmanship and, in such event, Subcommittee seniority shall not necessarily apply.

(d) Should a Subcommittee fail to report back to the Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such Subcommittee and so notify the Committee for its disposition.

V. HEARINGS AND HEARING PROCEDURES

(a) Except as specifically otherwise provided, the rules governing meetings shall govern hearings.

(b) At least 1 week in advance of the date of any hearing, the Committee or a Subcommittee shall undertake, consistent with the provisons of paragraph 4 of rule XXVI of the Standing Rules of the Senate, to make public announcement of the date, place, time, and subject matter of such hearing.

(c) The Committee or a Subcommittee shall require each witness who is scheduled to testify at any hearing to file 40 copies of such witness' testimony with the Committee not later than 48 hours prior to the witness' scheduled appearance unless the Chairman and Ranking Minority member determine there is good cause for failure to do so.

(d) The presiding officer at any hearing is authorized to limit the time allotted to each witness appearing before the Committee or Subcommittee.

(e) The Chairman, with the concurrence of the Ranking Minority Member of the Committee, is authorized to subpoena the attendance of witnesses and the production of memoranda, documents, records, and any other materials. If the Chairman or a Committee staff member designated by the Chairman has not received from the Ranking Minority member or a Committee staff member designated by the Ranking Minority member notice of the Ranking Minority Member's nonconcurrence in the subpoena within 48 hours (excluding Saturdays, Sundays, and Federal holidays) of being notified of the Chairman's intention to subpoena attendance or production, the Chairman is authorized following the end of the 48-hour period involved to subpoena the same without the Ranking Minority Member's concurrence. Regardless of whether a subpoena has been concurred in by the Ranking Minority member, such subpoena may be authorized by vote of the members of the Committee. When the Committee or Chairman authorizes a subpoena, the subpoena may be issued upon the signature of the Chairman or of any other member of the Committee designated by the Chairman.

(f) Witnesses at hearings will be required to give testimony under oath whenever the Chairman or Ranking Minority Member deems such to be advisable. At any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

VI. MEDIA COVERAGE

Any Committee or Subcommittee meeting or hearing which is open to the public may be covered by television, radio, and print media. Photographers, reporters, and crew members using mechanical recording, filming, or broadcasting devices shall position and use their equipment so as not to interfere with the seating, vision, or hearing of the Committee members or staff or with the orderly conduct of the meeting or hearing. The presiding member of the meeting or hearing may for good cause terminate, in whole or in part, the use of such mechanical devices or take such other action as the circumstances and the orderly conduct of the meeting or hearing may warrant.

VII. GENERAL

All applicable requirements of the Standing Rules of the Senate shall govern the Committee and its Subcommittees.

VIII. PRESIDENTIAL NOMINATIONS

Each Presidential nominee whose nomination is subject to Senate confirmation and referred to this Committee shall submit a statement of his or her background and financial interests, including the financial interests of his or her spouse and of children living in the nominee's household, on a form approved by the Committee which shall be sworn to as to its completeness and accuracy. The Committee form shall be in two parts—

(A) information concerning employment, education, and background of the nominee which generally relates to the position to which the individual is nominated, and which is to be made public; and

(B) information concerning the financial and other background of the nominee, to be made public when the Committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Committee action on a nomination, including hearings or a meeting to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the Chairman, with the concurrence of the Ranking Minority Member, waives this waiting period.

IX. NAMING OF DEPARTMENT OF VETERANS AFFAIRS FACILITIES

It is the policy of the Committee that no Department of Veterans Affairs facility shall be named after any individual unless—

(A) such individual is deceased and was—

(1) a veteran who (i) was instrumental in the construction or the operation of the facility to be named, or (ii) was a recipient of the Medal of Honor or, as determined by the Chairman and Ranking Minority Member, otherwise performed military service of an extraordinarily distinguished character;

(2) a member of the United States House of Representatives or Senate who had a direct association with such facility;

(3) an Administrator of Veterans' Affairs, a Secretary of Veterans Affairs, a Secretary of Defense or of a service branch, or a military or other Federal civilian official of comparable or higher rank; or

(4) an individual who, as determined by the Chairman and Ranking Minority Member, performed outstanding service for veterans;

(B) each member of the Congressional delegation representing the State in which the designated facility is located has indicated in writing such member's support of the proposal to name such facility after such individual; and

(C) the pertinent State department or chapter of each Congressionally chartered veterans' organization having a national membership of at least 500,000 has indicated in writing its support of such proposal.

X. AMENDMENTS TO THE RULES

The rules of the Committee may be changed, modified, amended, or suspended at any time, provided, however, that no less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose. The rules governing quorums for reporting legislative matters shall govern rules changes, modification, amendments, or suspension.●

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 73

Mr. HATCH. I ask unanimous consent that the vote ordered on adoption of Senate Resolution 73, the committee funding resolution, occur at 5 p.m. on Monday, February 13.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE REFERRED TO COMMITTEE—S. 391

Mr. HATCH. Mr. President, I ask unanimous consent that a bill introduced by Senator CRAIG, S. 391, the Federal Lands Forest Health Protection and Restoration Act of 1995 be referred to the Committee on Energy and Natural Resources and that when and if the bill is reported by that committee, it be referred jointly to the Committee on Agriculture and the Committee on Environment and Public Works for not to exceed 20 days of session, and if on the 20th day either committee has not reported the bill, the committee's be discharged from further consideration of the bill and the bill be placed on the Senate calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDING THE CHARTER OF THE VETERANS OF FOREIGN WARS

Mr. HATCH. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 257, a bill to amend the charter of the Veterans of Foreign Wars, that the Senate proceed to its immediate consideration; that the bill be deemed read a third time; passed, and the motion to reconsider be laid upon the table.

There being no objection, the bill (S. 257) was considered, deemed read the third time, and passed, as follows:

S. 257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act of May 28, 1936 (36 U.S.C. 115), is amended to read as follows:

"SEC. 5. A person may not be a member of the corporation created by this Act unless that person—

"(1) served honorably as a member of the Armed Forces of the United States in a foreign war, insurrection, or expedition, which service has been recognized as campaign-medal service and is governed by the authorization of the award of a campaign badge by the Government of the United States; or

"(2) while a member of the Armed Forces of the United States, served honorably on the Korean peninsula or in its territorial waters for not less than 30 consecutive days, or a total of 60 days, after June 30, 1949."

ORDERS FOR MONDAY, FEBRUARY 13, 1995

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon on Monday, February 13, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and that following the time for the two leaders that there then be a period for the transaction of routine morning business, not to extend beyond the hour of 1 p.m., with Senators permitted to speak for not to exceed 10 minutes each.

I further ask unanimous consent that at the hour of 1 p.m., the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. HATCH. For the information of all of my colleagues, under the previous order there will be a rollcall vote at 5 p.m. on Monday on adoption of Senate Resolution 73, the committee funding resolution. Senators should also be aware that there is a pending amendment to the constitutional balanced budget amendment, so further rollcall votes are possible on Monday.

RECESS UNTIL MONDAY, FEBRUARY 13, 1995

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, and no other Senator is seeking recognition, I now ask unanimous consent the Senate stand in recess under the previous order.

There being no objection, the Senate, at 3:57 p.m., recessed until Monday, February 13, 1995, at 12 noon.

EXTENSIONS OF REMARKS

S.T.O.P.

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 10, 1995

Mr. CUNNINGHAM. Mr. Speaker, on February 2, 1995, I was pleased to be included in a critically important briefing. I was proud to help cosponsor a Safe Tables Our Priority [S.T.O.P.]—Safe Food Coalition briefing on foodborne illness.

Last Thursday's briefing marked the second anniversary of the 1993 west coast E. coli outbreak. Fortunately, a forum was created to allow the individuals and families who have suffered from the E. coli illnesses to visit Washington, DC, to examine the ongoing epidemic and discuss plans for preventing future outbreaks of foodborne illness.

The tragic events of 2 years ago are still fresh in my mind. While the incident still upsets me, I can only imagine the constant pain endured by the families who lost a child or who experienced the serious illness due to the contamination of ground beef with E. coli 0157:H7 bacteria. That is why I will always be grateful for the organizations, such as S.T.O.P., that seek to change the system in order to right a wrong. When it comes to a life and death situation, every endeavor to correct the system is welcome.

Until the tragedies were highlighted a few years ago, I do not believe that people were aware of the inherent dangers associated with the consumption of raw meat products. It is unfortunate that a number of deaths occurred before significant changes were made to the current food handling processes. Therefore, we must ensure systematic, science-based prevention of harmful contamination into the operation of every meat and poultry plant. Industries must be held accountable for meeting its food safety obligations. I believe that positive steps can be taken by animal producers to processors to retailers to consumers in order to reduce the risk of illness.

The only benefit of this issue is that significant policy changes are being made and will continue to be made as additional information and technology become available. Serious attempts have been made of late to preserve the quality of meat consumption in both our homes and restaurants. I am encouraged that the Department of Agriculture has established the principle that any contamination of raw ground beef with E. coli 0157:H7 is unacceptable. The Department has strictly enforced zero tolerance for visible signs of contamination of beef and poultry carcasses. It is now mandatory to apply safe handling and cooking labels on every package of raw meat and poultry. Antimicrobial rinses and hot water treatments will also be allowed without prior approval of the Food Safety and Inspection Services. After carcasses have passed inspection and prior to their reaching the coolers, last minute rinses and water treatments will further reduce the chance of reducing levels of E. coli 0157:H7.

I urge my colleagues to support organizations such as S.T.O.P., dedicated to the prevention of foodborne illness. We cannot rest until everything is being done to protect the safety of our food, and ultimately provide for the well-being of our loved ones.

TRIBUTE TO JUANITA LOCHNER

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, February 10, 1995

Mr. McNULTY. Mr. Speaker, Mrs. Juanita Lochner is a resident of East Greenbush, Rensselaer County, NY. She is currently serving as president of the American Legion Auxiliary, Department of New York, and as a member of the Gerald O'Neil Unit No. 1683.

As a member of the largest women's patriotic organization in the world, assisting veterans has always been her priority. Her project this year is called Special Touches.

Because of budgetary cutbacks, the hospitalized veterans at VA Hospitals are unable to receive those extra comfort items that were previously provided. Her request to the Auxiliary members throughout the State is that we give veterans our help. "They were there when we needed them, and now it's our turn to help them," she says.

Through her efforts, funds are being collected to benefit each VA Hospital in New York State.

Travelling throughout the 62 counties in the State, Mrs. Lochner also emphasizes strongly the support needed for passage of a constitutional amendment to protect our flag from desecration.

The American flag has long exemplified the spirit of those who lost their lives, as well as those who fought and survived. Our flag is a symbol that unites us, and I am proud to be a cosponsor of House Joint Resolution 14.

I am also honored to represent Juanita Lochner—a dedicated and patriotic American.

TRIBUTE TO JOHN T. McDONOUGH

HON. WILLIAM P. LUTHER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 10, 1995

Mr. LUTHER. Mr. Speaker, on Monday, January 23, the State of Minnesota and the city of Stillwater lost one of our great public servants. The Honorable John T. McDonough passed away at the age of 72 after a full life of dedication to his community. Judge McDonough was born in Stillwater and lived the rest of his life there as a citizen, patriot, legal scholar, and philanthropist.

The Judge was a veteran of World War II and the Korean War. His commitment to our country later led him into public service.

At the age of 26, Judge McDonough was the endorsed candidate for Lieutenant Governor in the State of Minnesota on the 1948 DFL ticket headed by Hubert H. Humphrey. Later, he was appointed Probate-Justice Judge for Washington County by Gov. Orville Freeman in 1956 and served as a judge in Washington County until 1974. He served on the Minnesota Parole Board with distinction for 7 years and was appointed to the Minnesota State Social Services Committee. Judge McDonough was appointed Special Adviser to President John F. Kennedy's Commission on Crime and Delinquency by the late Attorney General of the United States, Robert F. Kennedy.

The Judge was a true philanthropist. He founded the Father Francis J. Miller Memorial Foundation to build a nondenominational chapel at the Minnesota State Prison. He was also a forerunner in the 1960's in recognizing alcohol/drug abuse as a prime contributing factor to crime delinquency, family violence, and divorce.

Since 1980, McDonough served as chief legal counsel to Hubbard Broadcasting, Inc.

The Honorable John T. McDonough was more than an author, veteran, judge, philanthropist, and legal counsel. His neighbors and coworkers will remember him best as a great character. The Judge's combination of enthusiasm and commitment will be greatly missed by the country, State, city, and people he served.

CONCRETE SUPPORT FOR THE WAR CRIMES TRIBUNAL

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, February 10, 1995

Mr. SMITH of New Jersey. Mr. Speaker, next week the United Nations begins another review of the budget needs for the International Criminal Tribunal for the Former Yugoslavia. This tribunal has already faced numerous obstacles to its establishment and considerable bureaucratic and political barriers to its staffing; worse still, it continues to face opposition from those who would rather negotiate with war criminals than see them in jail. In spite of numerous political and procedural roadblocks, the tribunal issued its first indictment in early November, is proceeding with investigations, and is expected to bring cases to trial later this year.

This progress by no means guarantees long-term success, Mr. Speaker. In fact, in an

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

article published in the Washington Post, Tom Warrick, an attorney who assisted the head of the United Nations War Crimes Commission, points out that the results of a relatively obscure U.N. committee may determine "whether those ultimately responsible for ethnic cleansing are ever to be brought to justice." And, as those who oppose this tribunal have learned, what they can't defeat openly through the political process, they may be able to gut in the United Nations closed-door budget negotiations.

Nongovernmental experts have already suggested that the $28 million sought by tribunal officials may be too low, given the costs of gathering testimony from the thousands of victims of the extensive list of deplorable war crimes and in light of the on-site investigations that the effective prosecution of war criminals will require. Nevertheless, it appears that securing even these funds may be an uphill battle with the U.N. bureaucracy.

Accordingly, I have written to the President, along with the Cochairman of the Helsinki Commission, Senator D'AMATO, and Representative STENY HOYER, the former chairman of and now ranking House minority member on the Commission, urging the President to instruct the U.S. delegation to the United Nations to press vigorously at these upcoming budget meetings to ensure adequate funding for the tribunal. The establishment of this body, against so many odds, is a credit to strong U.S. leadership. But, without proper funding, Mr. Speaker, the tribunal will never be able to execute the historic tasks that have been set for it. We have also indicated our support for an additional voluntary contribution to the tribunal by the United States of an amount not less than the $3 million cash contribution provided last year.

Mr. Speaker, as the Bosnian Prime Minister, Haris Silajdzic, stated at the Helsinki Commission's hearing just 2 weeks ago, war crimes and genocide continue in Bosnia even now, during the 50th anniversary of the liberation of Auschwitz. I cannot overstate my conviction that holding war criminals accountable for the heinous crimes they have committed in this conflict will be an essential element for any long-term resolution of this tragedy. If the United States, at this juncture, inexplicably reduces the level of financial support it has provided to the tribunal, it might send a regrettable signal of weakening U.S. resolve to see war criminals held truly accountable. We must not let that happen.

TRIBUTE TO NAOMI FISHER

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 10, 1995

Mr. CLINGER. Mr. Speaker, I rise today to congratulate Ms. Naomi Fisher of Mill Hall, PA, who has been selected as Blind Worker of the Year. I am pleased to have this opportunity to recognize this great accomplishment.

Ms. Fisher was nominated for this award by her coworkers at North Central Sight Services, Inc. I am sure this is quite an honor for Naomi to be recognized by her fellow employees. Her coworkers, however, are not just ordinary colleagues. These individuals have experienced, and will continue to experience, many of the same trials and tribulations that Naomi does. Although every employee in this workplace deserves credit for rising above their physical challenges, Naomi is being recognized for her certitude in accepting diversity. Her ability to inspire and help those who are in a similar situation is a true testimony to her character.

This award, sponsored by the Javits-Wagner-O'Day Program, appropriately reflects the goals of this organization. The JWOD Program is designed to provide employment opportunities and services for thousands of blind Americans throughout the United States. Each year the National Industries for the Blind, the central nonprofit agency for industries participating in the program, selects one outstanding worker for this well-deserved award. The significance of this award is only realized when you consider how many people are worthy of consideration.

Ms. Fisher was selected as the Blind Worker of the Year not only for her outstanding job performance, but also for her activities off the job. She stays very busy at her family farm and also at the local church. As we all can see, she deserves this award for her many accomplishments. I applaud the hard work she has performed both in the work place and in our community. Her determination and dedication is an inspiration to us all.

Mr. Speaker, it is my distinct pleasure to recognize Naomi Fisher for receiving this prestigious award. Once again, I congratulate her and offer my best wishes for continued success.

TRIBUTE TO JOHN A. FLINN

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 10, 1995

Mr. MURTHA. Mr. Speaker, I rise today to pay tribute to a dedicated member of the federal financial management community upon his retirement as Director of Operations for the Department of Defense Comptroller after more than 30 years of service to his country. Mr. John A. Flinn is most deserving of our tribute. He has consistently demonstrated the qualities expected of our finest public servants. His efforts have been a primary factor in the effective formulation and presentation of the Department of Defense Operation and Maintenance budget for more than 20 years, and the fact that our military today is the finest it has ever been is in no small part due to his efforts.

Mr. Flinn's Federal career commenced in 1961 with the Department of the Navy. He served in many responsible positions with the Navy before being selected to work in the Office of the Secretary of Defense in 1974. Since 1986, Mr. Flinn has served as Director of Operations, the primary DOD Comptroller interface with Congress and the Military Departments for the Military Personnel and Operation and Maintenance appropriations. His knowledge and expertise in operating budgets is unequaled in the Defense Department. During his 8 years as Director for Operations, he has gone beyond his regular duties to play a major role in the Department's transition to operations in a post-cold-war environment. The high esteem accorded Mr. Flinn by myself and my colleagues is reflected in the many times he was requested by name to testify before the Defense Appropriations Subcommittee. He always provided candid and accurate testimony.

Mr. Flinn was the primary focal point within the Comptroller for developing budgets to support Desert Shield/Desert Storm. The unprecedented funding mechanism in which many nations provided both financial and in-kind resources, required the establishment of new and innovative approaches to meeting the service's funding requirements. Mr. Flinn was able to develop and implement this innovative funding mechanism because he had the respect and confidence of the Military Departments and our staff. Mr. Flinn's most enduring contribution, however, will always be his steadfast advocacy in support of our soldiers, sailors, airmen and marines, and their families.

Mr. Speaker, it is a great honor for me to present the credentials of Mr. Flinn before the Congress today. It is clear that Mr. Flinn has played a key role in ensuring effective financial management for the Defense Department and for the taxpayers of the United States. We wish him success in his coming endeavors. He will be missed.

SALUTING BILL AND ELLEN CARTER OF HOUSTON, TX

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, February 10, 1995

Mr. FIELDS of Texas. Mr. Speaker, they were not born in Houston, or even Texas, but Bill and Ellen Carter personify the "can do" spirit that has made Houston a great city and Texas a great state. In the 36 years since they moved to Houston—and as a result of their own hard work and sacrifice—Bill and Ellen Carter have enjoyed tremendous success as business owners. Their success demonstrates that even today, Texas remains a place in which a person can advance as far as his talent, dedication and hard work can carry him.

Bill and Ellen Carter were recently profiled in a feature story in the Houston Post that detailed their love of Houston, as well as their amazing business acumen in the 35 years since they scraped together $15,000 to purchase a gun club in north Harris County. Today, the Carters own four retail gun stores, a public shooting range, as well as three commercial game ranches. Carter's Country's sales have increased from $32,000 in the first year of operations to approximately $25 million last year.

Mr. Speaker, as a longtime and loyal Carter's Country customer, I want to add my voice to those paying tribute to this remarkable couple.

Raised in a small farming community in central North Carolina, Bill Carter joined the National Guard when he was just 14 years old—adding a few years to his age in order to enlist. Following his discharge from the National Guard, he enlisted in the U.S. Marine

Corps. In the National Guard and the Marine Corps, his lifelong interest in firearms deepened.

Bill was sent to Korea and briefly considered a military career but ended up leaving the Corps with the intention of getting a college degree. Instead, he became a merchant seaman and, in the course of his travels, visited Houston often. He met his future wife in New Jersey and, eventually, Bill convinced his bride to move with him to Houston.

He worked as an iron worker while Ellen worked as an emergency room nurse at Hermann Hospital. Soon, Bill was making firearms for his coworkers out of a makeshift shop in his garage. Many weekends, in order to test his firearms, Bill would arrive at a local shooting range at sunup. He spent so much time there, in fact, that the owner eventually offered to sell him the shooting range for $15,000. And so was founded the Carter's Country empire.

As a result of their hard work and dedication, Bill and Ellen Carter's business expanded rapidly in the 1970's and 1980's. Today, despite this expansion, Carter's Country remains a family business serving the needs of hunters and sportsmen throughout the greater Houston area. Carter's Country employs 100 associates, who Bill Carter calls "the heart and soul of Carter's Country."

Mr. Speaker, Bill and Ellen Carter's story is the quintessential Texas story of humble beginnings; of hard work and initiative and dedication; and of well-deserved success. I hope you will join with me in saluting Bill and Ellen Carter and wishing them and their family continued success and happiness in the years ahead.

Thank you, Mr. Speaker.

TRIBUTE TO RICHARD L. ROUDEBUSH

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 10, 1995

Mr. JACOBS. Mr. Speaker, Dick Roudebush was the veteran's veteran.

His military record was one of selfless sacrifice and defying danger. He was an extraordinary patriot. And he was a member of the U.S. House of Representatives for 10 years beginning in 1961.

As can be seen by the following, he was also head of the Veterans' Administration. Any veteran who got his disability check on time during the seventies owes some gratitude to the fine administration provided by Dick Roudebush.

More important, he was a nice man, pleasant and friendly.

All Americans are diminished by the passing of the Honorable Richard L. Roudebush. He was my friend.

[From the Indianapolis News, Jan. 30, 1995]

RICHARD L. ROUDEBUSH, CONGRESSMAN, VA CHIEF

NOBLESVILLE, IN.—Richard L. Roudebush, 77, former five-term congressman who became director of the Veterans Administration, died Saturday.

Mr. Roudebush died of complications from pneumonia at Doctors Hospital in Sarasota, Fla., where he also kept a home.

Services will be at 10 a.m. Friday in Randall & Roberts Logan Street Chapel, with calling from 2 to 8 p.m. Wednesday and Thursday.

Burial will be in Arlington National Cemetery.

In 1974, President Gerald R. Ford nominated his former Republican congressional colleague as administrator of veterans affairs. Mr. Roudebush's nomination was confirmed by the Senate Oct. 1, 1974.

The agency served more than 29 million veterans, had 200,000 employees and an annual budget of about $14 billion.

Mr. Roudebush returned to his Noblesville farm in January 1977 after the election of Democratic President Jimmy Carter.

In May 1982, President Reagan signed a law renaming the Veterans Administration Medical Center in Indianapolis as the Richard L. Roudebush Veterans Affairs Medical Center.

Mr. Roudebush graduated from Butler University in 1941 with a degree in business administration. He was a member of Sigma Chi Fraternity. In 1969, he received an honorary doctorate from Butler.

He enlisted in the Army about a month before the attack on Pearl Harbor and was shipped out in September 1942 to Egypt, where he was assigned to the Suez Canal Command and served with British forces during five major battles in North Africa.

In the invasion of Italy, his landing craft was sunk. Mr. Roudebush joined the newly formed 15th Air Force and helped clear explosives from captured enemy airfields.

After his discharge at Camp Atterbury in October 1944, he became a service officer with the Department of Indiana Veterans of Foreign Wars and was stationed at the Indianapolis VA Regional office seven years.

He also served eight years on the Indiana Veterans Commission and chaired that body six years.

He became state commander of the Indiana VFW Department in 1953. In 1954 he became chief of staff in the National VFW and was elected national commander in chief at the VFW convention at Miami Beach in 1957.

Mr. Roudebush first was elected to Congress in 1960.

In November 1970, Mr. Roudebush, the GOP nominee for the U.S. Senate, lost to former Sen. Vance Hartke by 4,000 votes out of nearly 2 million cast.

In the House of Representatives, he was on the House District Committee and the House Un-American Activities Committee. Mr. Roudebush was best known as a ranking member of the House Committee on Science and Astronautics and for his work on countless bills benefiting veterans.

A personal friend of all the early astronauts, Mr. Roudebush was instrumental in pushing through America's early space program from Alan Shephard's pioneering liftoff on through Mercury, Gemini and Apollo efforts. He was awarded the VFW National Space Award in 1971.

He was seriously injured in a private plane crash Aug. 19, 1968, while returning to Indiana from the Republican National Convention at Miami. Campaigning from his hospital bed, he won the November 1968 congressional election by his widest margin ever and led the entire Republican slate in Indiana.

In January 1971, he became a consultant to the administrator of veterans affairs, and on June 7, 1971, he was named to the No. 4 position in the VA as assistant deputy administrator. On Jan. 18, 1974, he was promoted to deputy administrator of the VA.

In September 1979, he was elected chairman of the advisory board for Veterans Insurance Services, a subsidiary of the National Liberty Group of companies in Valley Forge, Pa.

Mr. Roudebush was awarded life memberships in the American Legion, the Disabled American Veterans and AMVETS.

He was a member of Refuge Christian Church, Noblesville.

Memorial contributions may be made to the donor's favorite charity.

Survivors: wife Marjorie Elliott Roudebush; son Roy "Chip" L. Roudebush; daughter Karen Roudebush; brother William Roudebush; a granddaughter.

THE CLINTON ADMINISTRATION'S FAILED BOSNIA POLICY

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, February 10, 1995

Mr. SMITH of New Jersey. Mr. Speaker, 2 years ago today, Secretary of State Christopher unveiled the Clinton administration's Bosnia policy while lamenting the fact that the West had repeatedly missed earlier opportunities to effectively address the conflict and prevent it from deepening.

During his presentation, Christopher outlined United States interests and strategic concerns at stake in Bosnia. "Our conscience revolts at the idea of passively accepting such brutality," he said, and "it tests our commitment to the nurturing of democracy * * *" Recognizing the implications of the Bosnian crisis he warned, "The world's response to the violence in the former Yugoslavia is an early and crucial test of how it will address the concerns of ethnic and religious minorities in the post-cold war world."

One year ago, in the aftermath of the marketplace massacre in Sarajevo, President Clinton echoed this view when he said, "This century teaches us that America cannot afford to ignore conflicts in Europe. And in this case, our Nation has distinct interests." He concluded, "While the cold war may be over, the world is still full of dangers and the world still looks to America for leadership."

President Clinton had it right when he vowed in his inaugural address that, "When our vital interests are challenged or the will and conscience of the international community is defied, we will act, with peaceful diplomacy whenever possible, with force when necessary."

Mr. Speaker, our interests have been challenged.

The will and conscience of the international community have been defied.

Peaceful diplomacy has failed.

And the world still looks to America for leadership * * *.

TRIBUTE TO ANNANDALE ATOMS

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 10, 1995

Mr. DAVIS. Mr. Speaker, I am very proud to rise today to pay tribute to the Annandale

Atoms, a high school football team in the eleventh district of Virginia. The team won its second consecutive State football championship in the AAA division, the most competitive in the State. This is the first time in the school's history and one of the only times in State history that this has happened. The Atoms entered the season with a 12-game winning streak and extended that streak to 26, by winning all 14 games this year.

Over the years Annandale High School has fielded many teams, and has won 2 previous State championships. Annandale also continues to produce outstanding graduates with 80 percent going on to college or post secondary education. The players on this championship team also have additional honors in addition to being State football champions. The honors are as follows:

Patriot District: All District Offense—First Team: Ryan Brooks, TE; Mike Herlands, OT; Maurice Daniels, OG; Jasmin Glenn, RB; and Derrick Crittenden, WR, K.

All District Offense—Second Team: Britton Clarke, OG; Tom Venetsanos, C; Glovannin Santa Ana, RB.

All District Defense—First Team: Sean Mignona, DB; Britton Clarke, DL; Maurice Daniels, LB; Corey Peterson, LB; Donovan Yarbough, DE.

Patriot District Offensive Player of the Year: Jasmin Glenn.

Patriot District Defensive Player of the Year: Maurice Daniels.

Northern Region: All Region Defense—First Team: Ryan Brooks, Maurice Daniels, Jasmin Glenn.

All Region Defense—First Team: Derrick Crittenden, Maurice Daniels, Donovan Yarbough.

All Region Defense—Second Team: Britton Clarke, Sean Mignona, Corey Peterson.

All State—First Team: Maurice Daniels, Donovan Yarbough, Jasmin Glenn, and Derrick Crittenden.

All State—Second Team: Ryan Brooks, Derrick Crittenden.

All-Washington Metropolitan Team—First Team: Maurice Daniels, Derrick Crittendon, Donovan Yarbough.

NBC Channel 4 George Michael's "Golden Eleven" Team: Maurice Daniels, Derrick Crittendon, Sean Mignona.

Gatorade's Circle of Champions Virginia High School Football Player of the Year: Maurice Daniels.

Mr. Speaker, the team as a whole has honors that I would also like to mention as well:

No. 1 ranking in Virginia.

No. 1 ranking in Washington Post.

No. 5 ranking in ESPN.

No. 12 ranking U.S.A. Today.

Twenty-six consecutive game winning streak.

Mr. Speaker, I know that my colleagues join me in congratulating Annandale High School, their coach Richard Adams, their assistant coaches Bob Birmingham, Jamie Carayiannis, Billy Edwards, Marshall Jefferson, Konrad Molter, Bill Curran, Scott Sadowski, Chuck Hoskins, Steve Quesenberry, Bill Maglisceau, Mark Lenert, Rick Baucom, and Dave Kish, their principle Donald Clause, and their remarkable achievement.

10TH NATIONAL HOLIDAY HONORING DR. MARTIN LUTHER KING, JR., CITY OF ANDERSON, IN

HON. DAVID M. McINTOSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 10, 1995

Mr. MCINTOSH. Mr. Speaker, I commend to your attention a speech given by Mr. Rudy Porter, assistant to the mayor of Anderson for community affairs, on the occasion of the 10th national holiday honoring Dr. Martin Luther King, Jr. at the city of Anderson, IN, community-wide celebration. In the following speech delivered on January 16, 1995, Mr. Porter eloquently and plainly shows how the legacy of the late Dr. King empowers and encourages us all to serve our fellow man. Mr. Porter's words remembering Dr. King should be a guide for us throughout the year. Mr. Porter:

I would like to acknowledge The Honorable Mayor J. Mark Lawler, mayor of the great city of Anderson; Dr. Robert Jackson, Pastor First United Methodist Church, Officers and Members; Dick Vannatta, President of UAW Local 662 and Lennon Brown, Principle of Highland Senior High School, co-chairs of this city-wide celebration; Russell B. Johnson, President Paramount Heritage Foundation; and the entire board of directors; Mr. Tom Snyder, President Delco-Remy America; Kim Blagg who works very hard behind the scene to make this service possible; members of the Martin Luther King Memorial Commission; Rev. J.T. Menifee, President; students who participated in the essay contest, and poster contest from our schools parochial, private, and the Anderson community school system.

It is indeed an honor and a privileged pleasure for me to be here to share perspective and participate. I am truly honored. I am a firm believer that the "I will" is greater than the "I.Q." By that statement I mean, I would rather have a person who did not have as much talent, but was willing, than to have a person who possessed enormous talent, but was not willing. As a keynote speaker, I do not possess enormous talent, but I am more than willing.

The city of Anderson, Indiana through our mayor J. Mark Lawler allowed me to attend a national planning retreat September 28–30, 1994 in Orlando, Florida hosted by "The Martin Luther King, Jr. Federal Holiday Commission." This Commission provides guidance to local and State holiday commissions, committees, and organizations. The purpose of this planning retreat was to develop a five-year strategy plan for the Martin Luther King, Jr. Federal Holiday Commission. Mrs. Coretta Scott King and her son Dexter King were present. Also present were representatives from cities all across the country. The general focus was "Help Somebody!" through community service.

Many of the planning sessions centered on how individuals and cities can make a difference. Mrs. Coretta Scott King stated that service, interracial cooperation, nonviolence, is what the King holiday is all about. I learned that Anderson, Indiana was ahead of most cities in the area of total community involvement in the celebration of the national holiday. I was happy to share with the nation's representatives that Anderson, Indiana has a city-wide observance of the King Day celebration; that Anderson, Indiana has a full size bronze statute of Dr. King paid for by total community; that Anderson, Indiana provides scholarships to both needy students and students who have demonstrated academic achievement, service to community; that we have a Martin Luther King Memorial Commission that takes the lead in our city-wide clean-up; scholarship drive; and stop the violence efforts; that in all of our efforts, service, interracial cooperation, nonviolence are priorities. The president of the Indiana Federal Holiday Commission, Z. Mae Jemison, was at this planning retreat and she wanted to learn more about our cooperative efforts in Anderson, Indiana and I was more than happy to share our many accomplishments.

LOOKING AT THIS YEARS THEME: "KINGIAN NON-VIOLENCE IN ACTION: EMPOWERING FUTURE GENERATIONS TO SERVE."

I would like to quote a scripture found in the Book of Nehemiah chapter 4 verse 6 reads: So built we the wall, and all the wall was joined together to half of its height; for the people had a mind to work.

For a few minutes, I'd like to talk briefly on the topic "What Are You Doing to Empower Future Generations to Serve?" If you want to be remembered in history loved and admired by your fellow man you have to "do something." You have to "do something" meaningful and worthwhile and what ever you do should be of benefit to others. Not just for yourself, but for others.

The late Dr. Benjamin E. Mays, president emeritus of Morehouse College in Atlanta, Georgia, who was president when Dr. King was an undergraduate student there wrote and I quote: "To be able to stand the troubles of life, one must have a sense of mission and the belief that God sent him or her into the world for a purpose, to do something unique and distinctive and that if he or she does not do it life will be worse off because it was not done." When Nehemia learned that the walls of Jerusalem were broken down and its gates burned with fire he did something. First he prayed to God, used his influence with the king to receive the necessary materials to rebuild the wall, and he used his God-given talents to unite the people to rebuild the wall. Dr. King was not a dreamer, he was a doer. Dr. King did something. Dr. King was a great student, having skipped both the ninth and twelfth grades. Dr. King entered Morehouse College at the age of fifteen. That's doing something. Dr. King was quoted as saying "Education without social action is a one-sided value because it has no true power potential. Social action without education is a weak expression of pure energy.

Dr. King was committed to the improvement of his community, the "beloved community" for he said, "I can never be what I ought to be, until you are what you ought to be; and you can never be what you ought to be, until I am what I ought to be." This is the interrelated structure of reality. What are you doing to empower future generations to serve? I sincerely believe that "Service to humanity, not self service is the price we pay for the space we occupy." It would not be fair for me to ask such a question without offering a few suggestions.

No. 1. You can work as a committee of one to cultivate "Unity in the community. . ." And by community I am referring to the entire city, where you live, work, play, socialize, worship, everybody matters. Unity has no boundaries, unity excludes no one; is all inclusive; unity in the community is key.

To truly have unity in the community we must strengthen our hands to rebuild walls in Anderson, Indiana torn down by envy . . .

Envy will tear down unity; jealousy . . . jealously will tear down unity; hate . . . hate will tear down unity; lies . . . lies will tear down unity; illegal drugs . . . illegal drugs will tear down unity; apathy . . . apathy will tear down unity; racism . . . racism will tear down unity.

No. 2. Bigotry . . . bigotry will tear down unity. You can work as a committee of one to do those preventative things to help "stop the violence" in our community . . .

A couple of months ago I telephoned the Herald-Bulletin newspaper sound-off number and left this message . . . I feel it is appropriate for this occasion and I will admit publicly that I made the call. End violence now! was the title. It read: There are three words in the English language I would like to use to describe what I would like to see take place in Anderson, Indiana . . . our community.

The first word is all. I would like to see all violence end.

The second word is here. I would like to see all violence end here in Anderson, Indiana, our community.

The third word is now. I would like to see all violence end in our community now. I would like to see all violence end. I want to see it end in Anderson, Indiana, our community, and I want to see it end now.

You can use your influence, energy, talent, resources, in the prevention mode to help "Stop the violence in our community." Young people . . . you have influence—use it to help stop the violence in our community. Adults you can use your wisdom; energy; to help "Stop the violence" in our community. Business community—you have resources and talented employees . . . allow them to help "Stop the violence" in our community. Our city, county, State, national law enforcement agencies have the skills and training but they need our help in the area of community policing . . . give it!

Third, be tolerant of individual differences, recognizing that sociologically speaking different things, have different meaning, to different people, in different places at different times . . . deal with it!

First, unity in the community; second, help stop the violence in our community; third, tolerance of individual differences. Issues may differ, whether we're talking about more recreational activities for youth better paying jobs for parents . . . better education for all students . . . but both the task and the challenge remains ever before each and everyone of us—do something!

Dr. King warned us of "The triple evils . . . the triple evils of poverty, racism, and violence. The triple evils are interrelated and all inclusive. They are barriers that stand in the way of our living in the beloved community. Dr. King taught that if the work to remedy on evil, we effect all evils. The issues change in accordance with the political and social climate of our nation and world, but the model of the interconnected triplets remain true throughout time." What are you doing to empower future generations to serve.

We must take every possible opportunity to remind ourselves and share with young people the words of Dr. King's college president Dr. Benjamin E. Mays "You are what you aspire to be and not what you now are; you are what you do with your mind, and you are what you do with your youth."

We can't all do the same things, nor should we want to but we can all do something to empower future generations to serve. And if we do there is compensation . . . you see millionaires have lived and died and no one ever remembered their names, but just carve you name on human hearts for they alone are immortal. Do something; and remember whatever you do should be of benefit to others, not just for yourself, but for others . . .

COMPENSATION

I'd like to think when life is done
That I had filled a needed post.
That here and there I'd paid my fare
With more than idle talk and boast;
That I had taken gifts divine,
The breath of life and manhood fine,
And tried to use them now and then
In service for my fellow men.
I'd hate to think when life is through
That I had lived by round of years
A useless kind, that leaves behind
No record in this vale of tears;
That I had wasted all my days
By threading only selfish ways,
And that this world would be the same
If it had never known my name.
I'd like to think that here and there,
When I am gone, there shall remain
A happier spot that might have not
Existed had I toiled for gain;
That some one's cheery voice and smile
Shall prove that I had been worthwhile;
That I had paid with something fine;
My debt to God for life divine.

Thank you very, very, much and may God bless each and every one of you.